CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 42

ISSUES: 147-158

pages: 38891-41400

DATE: August 1-16, 1977
Reel 3 of 12

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University Microfilms International, Ann Arbor, Mich.

MICROFILMED – 1978

VOL 42

federal register

index

August 1977

Volume 42—Numbers 147-169

Pages 38891-43955



This INDEX is based on a consolidation of contents entries appearing in this month's issues of the FEDERAL REGISTER together with broad subject references. It is published monthly, quarterly, and annually.

A general index to the entire Code of Federal Regulations, the CFR INDEX, is revised as of July 1 each year.

Numerical Finding Aids. The LSA, a cumulative list of CFR sections affected, is published monthly and is cumulated for 12 months, keyed to the revision dates of the various CFR volumes.

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This publication was prepared under the editorial direction of Rose Steinman, with Judith Craine as Chief Editor.

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Rose Steinman, with Carol Blanchard as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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27	7.70	April 1, 1976
28	3.10	July 1, 1976
29 (Parts 0–499)	7.30	July 1, 1976
(Parts 500–1899)	5.50	July 1, 1976
(Parts 1900–1919)	7.55	July 1, 1976
(Part 1920–End)	4.05	July 1, 1976
30	4.80	July 1, 1976
31	5.65	July 1, 1976
32 (Parts 1–39 (V.I)	5.80	Nov. 1, 1975
(V.II)	7.40	Nov. 1, 1975
(V.III)	5.10	Nov. 1, 1975
(Parts 40–399)	6.50	July 1, 1976
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(Parts 41–69)	4.00	Oct. 1, 1976

*No amendments to this volume were promulgated in the FEDERAL REGISTER in the 1975–1976 revision period. The CFR volume issued in 1974 should be retained.

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50	4.20	Oct. 1, 1976
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(j)(3) added	25870
(a)(5) added	29845
(i)(2) added	32251

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(o)(1) revised	32252
(p) introductory text revised; (p)(2) and (m)(2) added	33712
(a)(3) revised; (m)(3) added	35825
(a)(3) revised; (c)(5) added	38552
(g), (h), and (k) introductory texts and (h)(2) revised	40175
(g)(3) and (j)(4) added	40866
(l) revised	40867
(e)(3) and (k)(3) added; (j)(2) revised; (k)(1) removed	41814
(d) removed; (q) added	42302
213.3394 (a)(21) revised	19854
(a)(47) and (f)(1) revised	29846
(d)(4) added	35142
(h)(8) added	39085
(d)(5) added	40175
213.3396 (a)(2) revised	15053
294.702 Revised	32252
295 Added	13009
295.202 (a)(3) corrected	14083
295.208 Corrected	14083
295.401 (a) corrected	14083
430 Revised	18608
550.301 (m) added	10317
550.312 (a) revised	10317
550.371 (b)(3) revised	23131
550.381—550.583 Undesignated center heading and text added	10317
550.801—550.805 (Subpart H) Revised	16127
610.101 Revised	3297
610.201 Revised	3297
610.202 Revised	3297
713.204 (d)(6) revised	11808
713.212 (b) revised	11808
713.251 Undesignated heading and section revised	11808
713.501 (b)(4) revised	37530
713.512 Revised	37530
Corrected	40175
713.514 Revised	19147
713.601—713.643 (Subpart F) Added	11808
713.601 (d) revised	37530
733.124 Amended	34308
752.104 (a) revised	28516
754.105 Revised	28516
771 Authority citation revised	28516
771.103 (b) revised	28516
771.110 (b)(3) revised	28516
831.801—831.803 (Subpart H) Revised; eff. 10-1-76	6793
831.1301—831.1302 (Subpart M) Added	29846
831.1401—831.1404 (Subpart N) Added	29847
900.604—900.607 Redesignated as 900.605 through 900.608	36989
900.604 Redesignated as 900.605; new 900.604 added	36989

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733	23160
831	29880
890	41866
900	8644
1705	38184

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	Page
1.1—1.16 (Subpart A) Appendix A revised	23597
1.52 (c) revised	10299
1.130—1.151 (Subpart H) Added	743
Technical correction	5341
1.131 (a) introductory text revised	15406
2.4 Revised	35626
2.5 Revised	35626
(a) amended	39669
2.13—2.29 (Subpart C) Heading revised	35626
2.13 Redesignated from 2.15; heading and introductory text revised; (d) removed	35626
2.14 Redesignated from 2.16	35626
2.15 Redesignated as 2.13; new 2.15 added	35626
2.16 Redesignated as 2.14; new 2.16 added	35626
2.17 Heading and introductory text, (b)(28) and (29) and (h) revised; (a)(3) (iv), (xviii), (xix), (xx), (xxvi), (xxviii), (b)(18), (19), (20), and (d) removed; (b)(32) and (c) added	35627
2.18 (d) removed	35627
2.19 (a)(26) added	32254
2.21 (a)(27), (28), (30) and (d)(1), (2), (3), (7), and (16) amended	35627
2.25 (b) and (g) revised; (i) removed	35627

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2.26 (a) through (d) removed 35627
2.27 Heading, introductory text, and (f) revised; (a) through (g) redesignated as (b) through (h); new (a) added; (e) amended 35627
2.28 Revised 35628
2.29 Added 35628
2.33 Revised 35628
2.34 Added 35629
2.35 (a) revised 4395
2.46—2.47 (Subpart E) Heading revised 35629
2.46 (a) introductory text revised 35629
2.47 Removed 35629
2.49—2.54 (Subpart F) Heading revised 35629
2.49 Heading and (a) revised 35629
2.50 (a) and (b) amended; (a)(3)(iv), (xviii), (xix), (xx), (xxvi), (xxviii), and (xxx) removed 35629
2.51 (a) amended; (a)(18), (19), and (20) removed; (a)(28), (29), and (30) revised; (a)(32) added 35629
2.53 Revised 35629
2.54 (a) amended 35629
2.57 (a)(28) added 32254
2.60 (b) introductory text and (1) revised 2968
(b)(2) revised 26645
2.65 (a)(27), (28), and (30) amended 35629
2.66 (a)(6) amended 35629
2.68 (a)(1), (2), (3), and (7) amended 35630
2.75 Revised 35630
2.81 Removed 35630
2.83 Added 35630
2.84 Added 35630
2.85—2.88 (Subpart K) Heading revised 35630
2.85 (a) introductory text revised 35631
2.86 (a) introductory text revised; (b) amended 35631
2.87 (a) introductory text revised 35631
2.88 (a) introductory text and (a)(1) introductory text revised 35631
2.91—2.93 (Subpart L) Added 35631
6.15—6.33 (Subpart) Nomenclature change 9377

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6.16 Revised 22874
6.20—6.33 Appendix 1 amended 22874
6.21 (j) revised 9377
6.23 (b) revised 9377
16 Revised 42841

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26.71 Revised 1019
26.72 Revised 1021
26.73 Revised 1021
26.209 Added 30146
26.257 Revised 30146
26.303 (b) amended 9379
26.307 Revised 30146
26.353 (c) and (d) revised 30146
26.402 (c) added 30146
26.453 (c) revised; (d) added 30146
26.514 Revised 30146
26.558 Revised 30146
26.603 (c) revised; (d) added 30147
26.651—26.659 Undesignated center heading and text added 9377
26.656 Table and footnotes revised 10996
26.657 Revised 30147
27.2 (a), (j), and (k) revised 40677
27.3 Revised 40677
27.4 Amended 40677
27.5 Amended 40677
27.7 Removed 40677
27.14 Amended 40677
27.31 Amended 40677
27.42 Amended 40677
27.43 Amended 40677
27.44 Amended 40677
27.45 Amended 40677
27.47 Amended 40677
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27.63 Amended 40677
27.64 Amended 40677
27.65 Amended 40677
27.73 Amended 40677
27.94 Introductory text revised 40677
27.95 Revised 40677
27.99 Revised 40677
28.2 (l) revised 24711
28.20—28.24 Undesignated center heading and text revised 24711
28.25 Introductory text, (h) and (i) amended 24712
28.31 Revised 24712

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28.906 Revised 24712
28.907 Revised 24712
28.908 (e) and (f) revised 24712
28.911 Revised 24712
29.1 (e) revised 17097
29.2 Introductory text and (a) revised 17097
29.3 (a) revised 17098
29.1001—29.1225 (Subpart C) Revised 21092
42 Redesignated as 2842 32514
43 Redesignated as 2843 32514
51 Redesignated as 2851 32514
52 Editorial changes 22356
Redesignated as 2852 32514
52.2341—52.2352 (Subpart) Revised 33259
(Subpart) Correctly designated as 2852.2341–2852.2352 (Subpart) revised 37968
53.20 Amended 36463
53.29 (a) amended 27208
55 Redesignated as 2855 32514
55.10 Revised 2969
55.80 Amended 2969
55.90 (a)(3) amended 2969
55.170 Amended 2969
55.330 (c) removed; (d) redesignated as (c) 2969
55.500 (a) revised 2969
55.530 Revised 2969
55.560 (a)(4) and (b)(3)(v) removed; (a)(5) redesignated as (a)(4); (b)(3)(iv) revised 2969
56 Redesignated at 2856 32514
56.1 Amended 2970
56.3 (a) revised 2970
56.4 (b) removed; (c) redesignated as (b) 2970
56.10—56.18 Undesignated center heading revised 2970
56.11 Revised 2970
56.13 Revised 2970
56.15 Revised 2970
56.16 Revised 2970
56.20—56.27 Undesignated center heading revised 2970
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56.24 Amended 2970
56.27 Amended 2970
56.30 Revised 2970
56.31 (a)(1)(i) revised 2970
56.35 (a) revised 2970
56.36 (a)(3) revised 2971
56.38 Removed 2971
56.39 Revised 2971

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56.42 (a)(6) removed; (a)(7) redesignated as (a)(6) 2971
56.45 (a) revised 2971
56.49 Revised 2971
56.52 (a) (4) and (7), and (b)(3)(v) removed; (a) (5) and (8) redesignated as (a) (4) and (5); (b)(3)(iv) revised 2971
56.54 (a)(3) and (b)(3)(v) removed; (a)(4) redesignated as (a)(3); (b)(3)(iv) revised 2971
56.210 (g) revised 2971
58 Redesignated as 2858 32514
58.2621—58.2635 (Subpart P) Revised 5968
59 Redesignated as 2859 32514
59.10 Revised 2971
59.119 Amended 2971
59.148 Amended 2971
59.417 (c) removed; (d) redesignated as (c) 2971
68.2 (e), (f), and (u) revised 12033
68.5 Revised 12033
68.42a Revised 12033
68.42c Revised 30599
(f)(1)(i) corrected 34275
68.43 Revised 12035
68.44 Revised 12035
68.45 Revised 12035
68.46 Revised 12035
68.49 Revised 12035
68.201—68.316 Revised 40869
70 Redesignated as 2870 32514
70.11 Removed 2971
70.75 Revised 2971
70.76 (a)(3) removed; (a)(4) redesignatd as (a)(3) 2971
70.77 (a)(4) removed; (a) (5) through (7) redesignated as (a) (4) through (6) 2971
75 Added 19864
102.2 (q) and (r) revised 12143
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102.67 Revised 12143
102.75 Revised 12144
107.2 (m) and (n) revised 26646
107.60 (c) removed; (d), (e), and (f) redesignated as (c), (d) and (e) 26646
107.74 Revised 26646
171 Redesignated as 2871 32514
180.2 (c) revised 9157
180.6 (c) and (d) added 9157
180.7 (a) amended 9157
180.11 (b) revised 9157
180.20 (a) amended 9157
180.22 Amended 9157

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180.101 (b) removed	9157
180.103 Amended	9158
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201.76 Table 5 amended	38573
210 Technical correction	30355
210.2 (n–3) added	2972
210.8 Heading and (e) revised	27565
210.11 (e) and (f) removed; (g) and (h) redesignated as (e) and (f); (b), (c), and (d) revised	2972
210.15 Revised	2972
210.20 (c) and (d) revised; (g) added	15053
215.16 (d) and (e) revised; (g) added	15054
220.16 Nomenclature changed	27565
220.21 (c) and (d) revised; (g) added	15054
225 Revised	11813
225.18 (d) and (e) revised; (g) added	15054
226.9 (b) revised	38573
226.31 (d) and (e) revised; (g) added	15054
226 Appendix C added	1475
230.19 (d) and (e) revised; (g) added	15054
(d) and (e) correctly designated	18587
230 Appendix amended	23155, 36464
245.1 (a) amended	20810
245.4 Added	20810
246 Revised	43212
246.21 (d)(4), (5), (6) and (7) revised	15054
250.11 Amended	15055
270.2 (ll) and (mm) restored to prior status	6817
(u) revised; eff. 10–1–76	14083
270.5 (b)(3) and (4) revised; (b)(7) added	15055
(b)(1) revised	32255
271.1 (n)(2) restored to prior status	6817
(q)(4)(ii) and (iii) redesignated as (iv) and (v); new (q)(4)(ii) and (iii) and (5)(iii) added; (p), (q)(1) and new (q)(4)(iv) (a) and (s)(2) and (4) amended	37966
271.3 Restored to prior status	6817
(d)(8) removed	26409
271.4 Restored to prior status	6817
(a)(3) revised	37966
271.6 Restored to prior status	6817
(d)(2) revised; eff. 10–1–76	14083
271.7 Restored to prior status	6817
271.10 (a) revised	42302
271 Appendixes A through F restored to prior status	6817
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Appendix A table corrected	28516
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Appendix A amended	35827
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Appendix B technical correction	38574
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Appendix E technical correction	38574
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Appendix F technical correction	38574
272.1 (i) added	20283
(g) removed; (h) redesignated as (g); new (h) added	23599
272.2 (e)(8) added	20284
272.3 (b) redesignated as (d); new (b), (c) and (e) added	20284
272.6 (c), (d), and (e) revised	8629
(b) amended	20284
(d) amended	37533
272.7 (f) added	20284
272.8 (a) amended	37533
273.5 (c) revised	37533
273.7 (a) and (d) revised; (b) amended	8629
273.8 (a)(1) and (f) revised	8629
295.3 Amended	23155
295.7 Revised	23155
295.8 (b) and (e) revised; (g) and (h) added	23155
295.9 (a), (b), and (d) revised	23155

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301.80–2a Amended	42303
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318.13–4b (e)(2) amended	41267
354.1 (a) amended	1475
354.2 Revised	15055
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Amended	28989
401.104 (a) corrected	4111
402 Revised	31427
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410 Revised	24713
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610 Added	38169
622.22 Revised	12036
650.1—650.9 (Subpart A) Revised	40115
650.20 Added	40118
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701.2 (f) amended	5970
701.4 (b) and (c) removed; (a) designation removed	5970
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701.6 Text designated as (a); (b) added	5970
701.13 (d) added	5970
701.16 (h) revised	5970
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701.69 Heading revised; text designated as (a); (b) added	5971
701.70 Revised	5971
701.85—701.96 (Subpart) Added; eff. through 9–30–77	22358
718 Revised	2973
722.564 (Subpart) Heading and text revised	1476
722.704 (h) added	18055
722.709 (a) amended	18055
722.805 (b)(1) amended, (b)(2) revised	17414
723.1 Revised	6818
723.2 Revised	6818
723.11—723.12 Undesignated center heading and sections revised	6819
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723.51—723.66 (Subpart) Revised	17414
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724.57 (b)(1)(ii) removed; (b)(1)(iii) redesignated as (b)(1)(ii)	9158
724.69 (t) removed; (f) revised	9158
724.70 (x) removed	9158
724.71 (d) revised	9158
724.72 (a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii), and (iii)	9158
724.73 Amended	9158
724.81 (e)(3)(ii) amended; (e)(3)(iii) removed	9158
724.88 (h) added	9158
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725.4 Removed	10996
725.50 Amended	27566
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725.66 (b) amended; (c) removed	27566
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725.72 (c)(3)(ii) amended; (c)(3)(iv) and (v) added; (l) revised	27566
(c)(3)(ii) amended	40881
725.87 (f) amended; (d) revised; (g) added	27566
725.92 (b) revised	40882
725.95 (b) amended	27567
725.98 (a) amended	27567
(d) amended	40882
725.99 (a)(4)(v) removed; (a)(4)(xvii) undesignated text amended; (a)(8) and (k) revised	27567
725.100 (b)(1)(ii), (c)(3), and (f)(1) revised	27567
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725.116 Added	9159
726.1 Revised	6824
726.11—726.21 Undesignated center heading revised	6824
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726.60 Revised	2300
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726.64 (e) amended	2301
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728.10 Revised	17419
728.301 Added	20811
728.302 Added	20811
729.22 (a) through (c) revised	750
729.43 (b)(5) added	750
729.69 (b) revised; (s) removed	750
729.106 Revised	17419
730.1—730.32 (Subpart) Undesignated heading and text revised	2301
730.1502–730.1504 (Subpart) Revised	30356
731 Removed	13534
775.10 Revised	17420
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(a)(6) revised	9663
(a)(1), (3), (5), (7), (9), and (b)(1), (3), (5), (7), and (9) revised	10833
(a)(7) and (b)(7) revised; eff. 4–1—8–14–77	18271
(a)(9) and (b)(9) revised	24716
(a)(9) and (b)(9) revised	27876
905.565 (a)(2) revised	9663
(a)(4) revised; (a)(5) added	10834
(a)(3) and (4), (b)(3), and (c) revised	14866
(a)(1) and (b)(1) revised; eff. 4–1—8–14–77	18271
(a)(3) and (b)(3) revised	21469
(a)(1) and (3) and (b)(1) and (3) revised	24716
(a) introductory text, (2) and (4) revised	40882
905.566 (a)(2) revised	1023
(a)(2) revised	8361
(a)(1) and (b)(1) revised	10834
905.567 (a)(2) revised	9663
(a)(1) and (b)(1) revised	10834
906.359 (a) introductory text and (2) revised	6363
907.110 (e) corrected	13803
907.214 Added	13012
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907.691 Added	3846
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908.100 (e) revised; (h) added	20473
908.102 (a) introductory text revised	20473
908.108 (a) revised	20473
908.110 (c), (d), and (e) revised; (f) amended	20474
908.112 Amended	20474
908.113 (a) and (c) revised	20474
908.117 (c) revised	20474
908.130 Revised	20474
908.132 Revised	20474
908.133 Heading, (a), and (c) revised	20475
908.141 Amended	20475
908.216 Added	20811

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908.854 Added	21101
909.215 Added	42842
910.180 (d)(3) added	10680
910.392 (b)(1) revised	26410
911.216 Added	34275
911.339 Added	21786
Revised	30148
912.8 Revised	4811
912.24 (b) redesignated as (c); new (b) added	4812
912.25 Revised	4812
912.32 (b) revised	4812
912.41 (a) revised	4811
912.50 Revised	4811
912.124 Added	10299
915.216 Added	35143
915.319 Added	27210
916.110 (b)(5 revised	23157
916.216 Added	34499
916.350 Revised	30491
916.351 Added	24229
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917.116 Revised	3625
917.122 Added	3625
917.143 (b)(5) revised	22875
917.217 Added	37794
917.218 Added	37794
917.219 Added	35828
917.419 (a)(4)(ii), (5), and introductory text of (6) revised	23157
917.442 (b)(3) (i), (ii), and (4) revised; (b)(5) removed; (b)(6) through (8) redesignated as (b)(5) through (7) and revised	23157
917.443 Added	24230
Revised	33023
917.444 Added	26646
Revised	36232
917.445 Added	35973
918.1 Revised	40884
918.10 Revised	40884
918.15 Revised	40884
918.16 Revised	40884
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918.19 Revised	40885
918.21 Revised	40885
918.22 Revised	40885
918.25 Revised	40884
918.26 Revised	40884
918.27 Revised	40885
918.29 (h) amended; (q) removed; (r) redesignated as (q)	40885
918.32—918.38 Removed	40885
918.40 Revised	40885
918.41 Revised	40885
918.44 Revised	40885
918.81 Revised	40885
918.215 Added	29488
918.319 Added	21268
919.318 Added	38576
921.216 Added	36232
921.314 Added	36233
922.217 Added	35144
922.317 Added	30492
Revised	41268
923.217 Added	38576
923.315 (a) and (b) introductory texts revised	27568
923.316 Added	32761
924.217 Added	36990
924.315 Added	38577
926.314 Added	40679
927.316 Added	39670
928.152 (a), (3) and (4) revised	3
Revised	17422
928.206 Added	2665
928.307 Added	2
929.217 (a) revised	40679
929.304 Added	21787
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930.207 Added	38577
930.591 Introductory text revised	3626
931.312 Added	38578
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944.17 Added	27214
944.113 (a)(1) and (2) revised; (3) added	9664
(a)(3) revised; (a)(4) added; eff. 3–11 to 8–14–77	14867
(a)(1) revised	18272
(a)(3) revised	21469
(a)(1) and (3) revised	24717
(a) revised	40886
944.133 (a) (1) through (4) revised	10835
944.205 Added	21787
945.230 Added	43053
945.335 Superseded by 945.336	35145
945.336 Added	35145
Revised	40887
946.230 Added	42679
946.331 (a)(2)(iii) removed; (a)(3), (c), and (d) revised; (e)(5) added	7923
946.332 Added	38381
(e)(1)(ii) corrected	39671
947.335 Removed	41403
947.336 Added	41403
948.277 Added	38579
948.278 Added	39360
948.377 Added	38382

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953.214 Added 25720
958.221 Added 39360
958.322 Added 37967
959.217 Added 2308
(b) revised 22126
959.317 Added 4396
(c)(3) and (f)(4) revised; (f)(5) amended 12412
966.315 (a)(2)(i) revised 5073
967.15 Revised 32763
967.25 Revised 32763
967.26 Revised 32763
967.27 (f) added 32763
967.31 (m) added 32763
967.37 (a), (b) and (d) revised; (e) and (f) added 32763
967.38 (a), (e) and (f) revised 32764
967.44 Heading revised; text amended 32764
967.63 Added 32764
967.313 Added 39361
971.216 (b) revised 2666
971.317 Introductory text amended 3626
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980.115 Revised 10300
980.116 Added 38384
(f)(3) table corrected 40175
980.211 (a)(1) revised 5073
981.48 Removed 19322
981.226 Revised 3847
981.300 Removed 19322
981.441 (b), (d), (e), and (g) revised 5342
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981.442 Added 3160
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981.450 Revised 19322
981.453 Removed 19322
981.455 Revised 19322
981.467 Revised 19322
981.472 (a) amended; (b) revised 19322
981.473 Revised 19322
981.474 Revised 19322
987.224 Added 9160
989.2 Revised 37201
989.6 Removed 37201
989.8 Amended 37201
989.10 Revised 37201
989.13 (f) amended 37201
989.22 Revised 37201
989.24 Heading and (b) revised; (c) and (d) added 37201
989.26 Amended 37201
989.26a Amended 37201
989.58 (a) and (b) revised; (d)(1) amended 37201
989.59 (a) and (b) revised; (f) amended 37202
989.60 (b) note removed; (c) added 37202
989.61 Revised 37202
989.66 (b)(3) amended 37202
989.67 (d)(1), (f), and (j) amended 37202
989.79 Amended 37202
989.80 (a) and (c) amended 37202
989.82 Amended 37202
989.84 Amended 37202
989.96 Removed 37202
989.97 (Exhibit B) and note removed 37202
991.215 Added 18857
999.100 (b)(1) revised 35146

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1002.50a Introductory text and (a) revised 11823
1002.80 (a) through (d) redesignated as (c) through (f); introductory text designated as (a) and revised; new (b) added 11823
1002.85 Revised 11823
1002.86 Revised 11823
1002.90 Revised 11823
1004.7 (a) suspended in part from May to August 1977 29849
1006.7 Introductory text and (b) amended; (c) redesignated as (d); new (c) added 21603
1011.32 Revised 40889
1011.61 Revised 40889
1011.62 Revised 40890
1011.71 (a)(2) (i) and (ii) amended 40890
1011.73 (a) (1), (2) introductory text, (c) (1) and (2) and (d) revised 40890
1011.74 Amended 40890
1011.75 Revised 40890
1011.76 (a)(4) amended 40890
1011.90—1011.94 Undesignated center heading and sections added 40889
1030.4 Revised 38580

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1030.7 (b)(4) and (7)(iii) amended 13103
Revised 38580
1030.9 (h) removed; (f) and (g) amended 38582
1030.12 (b)(5) revised 38582
1030.13 Revised 38582
1030.30 (a) introductory text and (a)(3) revised 38582
1030.32 Revised 38582
1030.40 (b)(1) and (4)(v) revised 38583
1030.41 (a) introductory text and (b)(2) revised 38583
1030.42 (a) revised 38583
1030.43 Revised 38583
1030.44 Introductory text revised 38583
1030.52 Revised 38583
1030.53 Revised 38584
1030.60 Introductory text revised 38584
1030.71 (b)(2) amended 38584
1030.76 (a)(4) and (5) amended 38584
1033.7 Revised 11234
1033.8 Revised 11234
1033.12 (a)(2) (i) and (ii) revised; (a)(iii) added; (b) amended 11235
1033.41 (c)(1) revised 11235
1033.60 (g) amended 11235
1033.72 (c-1) added 11235
1040.7 (c) revised 38585
1040.40 (c)(1)(iv) revised 38585
1040.50 (a)(1) amended 38585
(a)(1) corrected 41604
1040.52 (a)(1) amended 41604
1040.75 (a)(3) amended 38585
1040.93 (d)(3) revised 10680
1063 Removed 17423
1065.7 (d)(3) amended; (b) revised 38171
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1065.41 (b)(1) revised 38171
1065.42 (a)(1) amended; (a)(2) removed; (a) introductory text revised 38171
1065.44 (a)(8)(ii)(b) and (13) revised 38171
1065.45 (d) revised 38171
1065.73 (d)(2) revised 38171
1065.85 (a) revised 38171
1068.73 (a)(4) suspended from May 1977 through Oct. 1977 22360
1070 Removed 17423
1076.7 (c) revised 27215
1078 Removed 17423
1079 Revised 17423

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1205.302 Revised 4813
1205.327 (b) amended 4813
1205.330 Revised 4813
1205.331 Revised 4813
1205.334 (c) amended 4813
1205.402 Revised 41405
1205.500–1205.540 Revised 35974
1207.406 Added 29295
1260.101—1260.187 (Subpart) Added 19876
Referendum 27569
Removed 43054
1260.200—1260.217 (Subpart) Added 25315

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1409 Added 14673
1421.3 (g) revised 40177
1421.50—1421.51 (Subpart) Removed 41269
1421.50 Revised 40178
1421.75 Revised 10997
1421.90 Revised 40185
1421.113 (a) revised 10301
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1421.120—1421.132 (Subpart) Removed 41269
1421.140—1421.143 (Subpart) Removed 41269
1421.150—1421.159 (Subpart) Removed 41269
1421.175—1421.177 (Subpart) Removed 41269
1421.210 Revised 40180
1421.237 (a) revised 10307
(a) corrected 16775
1421.245 Revised 40183
1421.273 (a) revised 10304
1421.280—1421.289 Revised 24231
1421.291—1421.295 (Subpart) Revised 36467
1421.327 Revised 18055
1421.335 Revised 40186
1421.353 (a) revised 10309
1421.420—1421.425 (Subpart) Revised 37354
1421.450—1421.453 (Subpart) Removed 41269
1421.460 Revised 40182

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1421.530—1421.545 (Subpart) Removed ... 41269
1421.550—1421.556 (Subpart) Removed ... 41269
1421.626—1421.642 (Subpart) Removed ... 41269
1421.643 (Subpart) Removed ... 41269
1421.3773—1421.3790 (Subpart) Removed ... 41269
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1427.100—1427.105 (Subpart) Revised ... 40421
1427.101 Corrected ... 42308
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1446.11 (a) revised ... 28990
1446.12 (a) amended; (b) revised ... 28990
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1472.1421 (e) added ... 20114
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91 Revised 28992
92.1 (r) revised 37535
92.4 Heading revised; (a)(2) and (b) amended; (e) added 41849
92.4a Added 37969
92.17 Amended 20813

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92.20 (c)(4) redesignated as (5) and amended; new (4) and (6) added; (c) introductory text, (1) and (3) amended 37535
92.23 Revised 20813
92.24 (a) amended; (c) added 20813
94.1 (a)(2) amended 23131
94.11 (a) amended 23131
97.1 (a) amended; (b) redesignated as (c); new (b) added 1455
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112.2 (a)(10)(i) and (d) revised 11825
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112.7 (c) introductory text, (c)(1) and (2), and (d)(1) revised; (c)(3) and (4), (d)(6) and (7) added 11825
(d)(5) revised 28520
113.3 (b)(2) and (5) revised 1456
113.42 Added 6794
113.52 Introductory text and (b) revised; (g)(5) introductory text and (i) through (iii) redesignated as (h) introductory text and (1) through (3) 751
113.129 a)(3), (b), (c), (d)(1), (2)(ii), and (3) revised 6794
113.147 (a)(3), (b), (c), (d)(1) introductory text and (ii) revised; (d)(1)(iii) added 6795
113.160 (d)(1) revised 43617
113.162 (d)(1) revised 43617
113.163 (d)(2)(i), (ii), and (iii) added, CFR correction; (d)(1) revised 43617
113.164 (d)(1) revised 43618
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160.1 (h) added 41850
161.3 (a) amended 41850
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322.2 Heading, (b), and (h) revised 11826
325.18 Heading and (b) amended 39087
325.20 (d) amended 42309
331.2 Table amended 12178, 12416, 13013, 18610
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381.230—381.236 (Subpart W) Added 10962

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0.735–3 (h) amended 20138
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0.735–40 (a) introductory text, (b), and (g) revised; (a)(2) redesignated as (a)(3); (a)(2), (f), and (h) added 38893

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2.206 (c) added	36240
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9.100—9.109 (Subpart C) Added	12877
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20.405 (a) introductory text revised	20138
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20 Appendix D note removed	25721
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30.71 Note added	25721
31.2 (a) amended	28896
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31.8 (c) amended	28896
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31.10 (b)(3) amended	28896
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31.11 (a)(6) added; (c)(1) and (d)(1) revised	21604
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36.50 Note added	25721
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50.33a (b) amended; (d) added Footnote 1 removed	22887, 25721
50.54 (p) revised; (q) removed	10838
50.55 (a) amended	43385
50.55a (c)(3), (d)(3), (e)(3), (f)(3) and (h) amended and footnote added	22887
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50.65 Footnote 2 removed	25721
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50 Appendixes F and I amended	20139
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55.60 Note added	25721
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70.23 (a)(11) added	17126
70.31 (e) revised	43821
70.53 (a) amended	17100
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212.85 (a) text designated as (a)(1); (a)(2) added; (b)(1), (c)(1) and (2)(ii)(B) and (iii)(A), and (d)(1)(i) through (iii) revised 43056
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211.93 (c)(2)(iv) revised 4424
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3.25 (b) through (g) revised 39659
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3.61 (b) revised 13540
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4.9 (b)(4) revised; (b)(23), (24), and (25) redesignated as (b)(26), (27), and (28); new (b)(23), (24), and (25) added 13540
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571.115 Comment time extended 24254
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601.4 (b) corrected 19142
601.5 (b) corrected 19143
601.7 (a) corrected 19143
610.50 (b) revised 27582
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620 Technical correction 29859
620.14 (c)(2) revised; (c)(3) added 27582
620.24 (c)(2) revised; (c)(3) added 27582
620.35 (e)(3) revised 27582
630 Technical correction 29859
630.66 (e)(3) revised 27582
630.75 (d)(2) revised 27582
630.86 (e)(3) revised 27582
640.50 Revised 21774
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640.51 Revised 21774
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640.52 Revised 21774
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640.53—640.57 Added 21775
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640.53 (c) revised 37546
(c) corrected 43063
640.80—640.86 (Subpart H) Added 27582
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640.90—640.96 (Subpart I) Added 27583
Technical correction 29859
650.6 (b) revised; (c) added 27584
Technical correction 29859
650.11 (c)(4) revised; (c)(5) added 27584
Technical correction 29859
650.14 (c) revised 38567
660.2 (f)(1)(iii) revised 27585
Technical correction 29859
660.15 (c) revised; (d) added 27585
Technical correction 29859
700.16 Added 41376
701.3 Termination of judicial stay of effective date 18061
(c)(1) revised 24255
Technical correction 25855
701.30 Added 24255
701.100 (h)(1) effective date stayed 30361
Technical correction 32229
740.11 (c) added 22033
Technical correction 31449
(c) effective date extended in part to 12-31-77 37546
801.420 Effective date stayed 40215
801.421 Effective date stayed 40215
801.425 Added 22034
Technical correction 31449
801.427 Added 23780, 35155
807 Added 42526
809.20 (a) removed 42530
1002.7 Added 18062
1002.40 Heading and (a) revised; (c) added 18063
1002.41 Heading, (a)(2) and (b) revised 18063
1010.2 (b) revised 18063
1010.3 (a) introductory text revised 18063
1220.40 (a) revised 36996

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1306.22 Existing text designated as (a); (b), (c), and (d) added 28877
Effective date added 30495
1308.15 (c) added 25499
1308.24 (l) table amended 30495, 30496

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2 24536
15 30383
20 36485
25 30383
101 27261, 43095
105 37166, 40921, 43091
108 38608
109 17487, 21816
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131 21295, 29919, 33768, 37006, 37013, 43091
137 27603, 30389, 36487
145 19996, 20009, 25339, 33768, 38609
150 19996, 20009, 25339, 33768, 38609
155 29014, 31812, 32805, 43641
166 27603, 30389
172 19996, 20009, 25339, 27603, 30389, 30390, 33768, 38609, 43092
173 27603, 30389
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184 29925, 30390, 30865, 33770, 38609, 38613, 39117, 41299, 41876, 43092, 43642, 43644
186 30390, 30865, 38611, 41299
189 19996, 20009, 24536, 25339, 33768, 38609
193 32262, 35171
201 19156, 24279, 27262, 27263, 30867
250 20313
310 19996, 20009, 24536, 25339, 33768, 37643, 38609
312 36490, 41301
314 36485
320 39675
330 19156, 24279
342 17642, 21816
343 35346
361 23161
430 19996, 20009, 25339, 33768, 38609
431 18621, 36485, 36492, 42361
500 24536, 27264, 37677, 40217
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510 19996, 20009, 24536, 25339, 29928, 33768, 38609, 43770
514 18621, 36485, 36492, 42361
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589 19996, 20009, 25339, 33768, 38609
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700 19996, 20009, 24536, 25339, 33768, 38609
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808 30383, 34326, 41301
820 32805, 36493
895 42000
1020 17494
1040 17495
1301 35991
1308 32805
1309 28560
1316 31460

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

6a.6 (k) added 18064
6a.7 Revised 18063
6a.8 Redesignated as 6a.9 and (f) introductory text revised; new 6a.8 added 18063
6a.9 Redesignated as 6a.10 and heading, (a) and (d) revised; new 6a.9 redesignated from 6a.8 and (f) introductory text revised 18063
6a.10 Redesignated as 6a.11; new 6a.10 redesignated from 6a.9 and heading, (a) and (d) revised 18064
6a.11 Redesignated from 6a.10 18064
21 Removed 35829
22 Revised 35829
41.1 Amended 32535
41.114 (b) amended 32535
41.115 (a) and (b) amended 32535
41.116 (a) amended 32536
41.117 Amended 32536
41.124 (i) and (j) amended 32536
41.125 (b) and (c) amended 32536
41.128 (b) amended 32536
41.129 (b) amended 32536
41.130 (a) amended 32536
42.61 (a)(3)(ii) and (b)(1) amended 32536
42.62 (b)(2)(i) amended 32536
42.115 (a), (b), and (c) amended 32536
42.116 (a) and (b)(2) amended 32536

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42.117 (b) amended 32536
42.124 (a) introductory text, (a)(6), (b) through (d) amended 32536
42.130 (a) amended 32536
46.3 (k) and (l) removed 19479
51.4 (d) revised 17869
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123.05 (a) revised 42851
123.16 Added 41632
123.31 Suspended temporarily 32770
Revised 39104
124.06 Added 41633
124.12 Added 42852
127 Heading revised 42852
127.01 Revised 42852
127.02 (a) and (b)(14) revised 42852
127.03 Revised 42852
127.07 Added 42852
127.08 Added 42853
127.09 Added 42853
127.10 Added 42853
128 Revised 42853

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202 Revised 40428
214.32 (b)(1) revised 26975
214.33 (b) revised 26975
214.34 (a)(2) and (b) revised 26975

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501.6 (b) revised 35156
501.9 (a) revised 35156
501.13 (c)(1) revised 35156
501.14 (a)(1) revised 35156

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1003.3 (d) revised 37368
1004 Added 20461

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123 28551, 29929, 30391, 32806
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160.103 (d) amended 41279
160.105 Removed 41279
160.203 (f) amended 41279
160.205 Removed 41279
635.104 (b) corrected 30835
645.201—645.209 (Subpart B) Appendix A corrected 30835
646.220 (b)(1) and (2) corrected 30835
650.605 (a)(3) footnotes 1 and 2 corrected 30835
655.603 (c) removed 41280
655.607 (g) revised 41280
655.608 (f) revised 41280
655.801—655.805 (Subpart H) Removed 41634
712.204 (d)(1) revised 26652
720.202 (f)(2)(i) corrected 30835
740.7 (f) corrected 30835
750.304 (c)(4) corrected 30835
771.19 (g) corrected 30835
790.9 (f) removed 26652
922 Added 28537

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1204 Supplement B amended 36250
Supplement C amended 36251

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625 42876
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640 22173
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TITLE 24—HOUSING AND URBAN DEVELOPMENT

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16.2—16.12 Nomenclature changes 30618
16.6 (a)(1) revised 20297
16.12 (a)(3) and (c) revised 29479
16.15 Revised 30618
16 Appendix A nomenclature changes 30618

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20 Revised 43622
25.2 Revised 30361
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200.94 Revised 25724
200.929 (b) revised 33890
201.12 (b) revised 26552, 33883
201.1105—201.1280 (Subpart C) Added 26553
201.1600—201.1695 (Subpart E) Added 33883
203.20 (a) revised 28538
203.43c Added 40431
203.74 (a) revised 28538
203.102 Revised 29303
203.379 (b)(3) amended 29303
203.405 Revised 17452
203.436 Added 40432
203.479 Revised 17452
204.400 (Subpart C) Added 29303
207.259 (e)(6) revised 17452
209.400 (Subpart C) Added 29303
211.400 (Subpart C) Added 29303
213.511 (a) revised 28538
213.514 (b) redesignated as (c); new (b) added 29303
213.516 Revised 29304
213.517 Revised 29304
213.800 (Subpart E) Added 29304
220.251 Amended 29304
220.830 Revised 17452
220.900 (Subpart E) Added 29304
221.251 Amended 29304
221.800 (Subpart E) Added 29304
222.400 (Subpart C) Added 29304
226.300 (Subpart C) Added 29304
227.800 (Subpart E) Added 29304
228.400 (Subpart C) Added 29305
233.950 (Subpart G) Added 29305
234.29 (a) revised 28538
234.46 Revised 29305
234.47 Revised 29305
234.255 Amended 29305
234.260 Amended 29305
234.270 (a) introductory text revised; (a)(2), (b)(3), and (d) amended 29305
234.275 Revised 29305
234.285 (f) revised 29305
234.800 (Subpart E) Added 29306
235.2 (d) revised 22557

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235.35 (a) removed; (b) revised 22557
235.40 Revised 29306
235.201 Amended 29306
235.220 Amended 29306
235.221 (b)(6) added 29306
235.230 (a) introductory text revised; (b)(3) amended; (c) added 29306
235.235 Revised 29306
237.251 (a) amended 29306
237.400 (Subpart D) Added 29306
237.1000 (Subpart G) Added 29306
240.400 (Subpart C) Added 29307
241.125 Corrected; eff. 1–17–77 23601
279.1—279.8 (Subpart A) Heading added 31754
Heading revised 33886
279.10—279.24 (Subpart B) Added 31754
279.60—279.66 (Subpart F) Added 33886
280.7 Revised 35012

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570.200 (a)(2)(xii) revised 20251
570.201 (a)(4) and (6), and (f) revised 20251
570.300 (g) added 31783
570.404 Added 20255
570.503 Revised 33018
570.504 Revised 33018
570.506 (c) revised; (e) added 33018
570.509 (b) revised 33018
570.510 (d) added 33019
570.512 Revised 33019
570.602 (d) revised 33019
570.606 Revised 33020
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570.610 Revised 33020
570.611 Added 33020

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803 Schedule B revised 33922, 42554
811 Revised 39209
812 Added 23583
841 Appendix A amended 33636
860.403 Introductory text revised; (b) through (e) and (j) removed 23584
880.102 Amended 23585
880.106 (a) amended 39212

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880.109 (a) revised; (b), (c), and (d) redesignated as (c), (d), and (e); new (b) added 42292
880.115 (c) added 39212
880.125 (a) revised 39212
881.102 Amended 23585, 34652
881.106 (a) amended 39212
881.109 Revised 42292
881.115 (c) added 39212
881.125 (a) revised 39212
882 Appendixes I through V removed 34653
882.101 (b)(7) amended 34652
882.102 Amended 23585, 34652
882.106 (a)(4) revised 34652
882.206 (a) amended 34652
882.209 (b) introductory text, (b)(1) and (d)(1) amended 34652
882.210 (g) and (h) revised 34652
883.202 Amended 23585
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883.702 Amended 23585
886.102 Amended 23585
888.101—888.103 (Subpart A) Schedule A amended 23364
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890.104 Corrected 18064
890.105 (d)(3) corrected 18064
890.107 (c)(2) corrected 18064
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1914.6 Table amended 19446–19448, 19451, 19452, 19598–19600, 20122, 22866–22868, 24932, 24938, 29428–29431, 30304, 31254, 31257, 33202, 37810, 42313–42318, 43833
1915.3 Table amended 19601, 19604, 24945, 24987, 30306, 42795
1915.4 Revised 33203
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1930.6 Revised 29480
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3282.8 (m) revised 35013
3282.362 (c)(2)(i)(C) revised 35157
3283.1 Revised 33499
3283.3 Revised 33499
3283.52 (a) revised 33499
3500.6 (a) amended 19328

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1921 29692
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TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

12 Revised 21282
43n Added 26652
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114 Added 32230

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141.22 Revised 40194
191 Revised 30362
192—201 Removed 30367
219 Added 22141
221.24 Revised 41116
221.26 Revised 41116
221.28 Revised 41116
221.63 Revised 28539
252.12 Revised 40904
256.11—256.21 (Subpart B) Added 31451
258 Added 40905

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54 ..... 30647, 41435
171 ..... 18093, 37018, 42695
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1.78–1 (a), (e)(1) and (f) amended 20130
(f) revised 30497
(f) corrected 32536
1.401 Removed 42320
1.401–0 Added 42320
1.401(a) Removed 42320
1.401(a)–19 Added 42320
1.401(b) Removed 42320
1.404(a) Removed 42321
1.404(a)–8 Revised 42321
1.404(b) Removed 42321
1.404(c) Removed 42321
1.404(d) Removed 42321
1.404(e) Removed 42321
1.406–1 Added 42321
1.407–1 Added 42323
1.411(a)–1 Added 42324
1.411(a)–2 Added 42325
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1.411(a)–4 Added 42326
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1.411(a)–9 Added 42333
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1.411(d)–1 Added 42339
1.411(d)–2 Added 42339
1.411(d)–3 Added 42340
1.413–1 Added 42340
1.413–2 Added 42340
1.613–2 (c)(2) amended 24263
1.613A–1—1.613A–7 Added 24264
1.801–8 (g) amended 42341
1.805–7 (b)(3) and (4) revised; (b)(5) added 42341
1.901–3 (b)(2)(i), (ii), and (d) amended 20130
1.902 (b), (c)(1)(A), (d) and historical note revised; (c)(1)(B) amended 20124
1.902–1 Revised 20125
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1.902–2 Removed 20129
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1.902–3 Removed 20129
1.902–4 Redesignated as 1.902–2; (a)((b) and (c) amended; new (d) added 20130
1.902–5 Removed 20130
1.904–1 (a)(1) and (b)(1) revised 30497
(a)(1) corrected 32536
1.904–2 (a) revised 30497
1.904–3 (e) revised 30497
1.904–4 Heading, (a)(1), (d)(1), and (e)(2)(i)(*b*) revised; (a)(3), (4), and (5) redesignated as (a)(4), (5), and (6); new (a)(3) added; (e)(1)(iv) and (e)(2)(iii) amended 30497
(d)(1)(i)(*b*), (ii)(*b*) and (iii)(*b*) corrected 32536
1.904–5 Added 30499
(b)(1)(i)(B), (ii)(A), (ii)(B), (iii)(C), (b)(1)(v) and (2)(ii) and (c) corrected 32536
1.954–2 (d)(2(ii) and (iii) and (e)(2) revised 34875
1.960–1 (b)(4) and (h) amended 20130
1.960–3 (a) amended 20130
1.6031–1 (e)(1)(ii) amended 33726
1.6091–2 (d)(1) and (2) revised 33726
7.0 (a) amended; eff. 6–14–76—6–15–81 18276
7.48–2 (b)(1) and (5) amended 19479
7.190–1 Added 17871
Filing date corrected 19479
Hearing 26204

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7.190–2 Added 17871
Filing date corrected 19479
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7.190–3 Added 17873
Filing date corrected 19479
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7.191–1 Added; eff. 6–14–76—6–15–81 18276
7.367–1 Added 33287
7.367–2 Added 33288
7.465–1 Added 42197
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7.465–3 Added 42198
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7.465–5 Added 42198
7.1023(h)–1 Added 39104
7.6041–1 (a) and (b) revised 33286
9.2 Added 42198
11.402(e)(4)(A)–1 Added 27882
11.412(c)(1)–1 Added 39383
11.412(c)(1)–1(b) Corrected 41856
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11.415(c)(4)–1 (b) revised 20297
20.6091–1 (a)(2) revised 33726
25.6091–1 (b) amended 33726
31.3121(k)–1 (c)(4) amended 17874
31.3401(a)–1 (b)(8)(ii)(a) and (b) revised; (b)(8)(ii)(c) and (d) redesignated as (b)(8)(ii)(d) and (e); new (b)(8)(ii)(c) added 33728
31.3401(a)(13)–1 (b) amended 33729
31.3401(a)(14)–1 Revised 33730
31.3401(a)(15)–1 Revised 33730
31.6091–1 (e)(1) and (2) revised 33727
33 Removed 17874
Added 24047
34 Added 21107
46.6091–1 (e)(1) and (2) revised 33727
41.0–3 Revised 42856
41.4481 Removed 42856
41.4481–1 (b), (c)(1) and (2), and (d) amended 42856
41.4482(a) Removed 42856
41.4482(b) Removed 42856
41.4482(c) Removed 42856
41.4482(c)–1 (b) amended 42856
41.6156 Removed 42856
41.6156–1 (f) revised 42856
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49.6091–1 (e)(1) and (2) revised 33727
53.4942(a)–2 (c)(4)(i)(b) added 24265
53.4942(a)–3 (c)(2)(i) and (iv) revised 24265
53.4943–1 Amended 34500
53.4943–2 (a)(1) and (b) revised 34500
53.4943–3 (a), (b)(1), (2), (3), and (4)(i), (c)(2), (3), and (4) revised; (d) amended 34501
53.4943–4 Revised 34503
53.4943–5 Revised 34508
53.4943–6 Revised 34514
53.4943–7 Added 34515
53.4943–8 Redesignated at 53.4943–9 and amended; new 53.4943–8 redesignated from 53.4943–7 and revised 34515
53.4943–9 Redesignated as 53.4943–10 and amended; new 53.4943–9 redesignated from 53.4943–8 and (a)(3) added; (c) revised 34516
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53.4943–11 Redesignated from 53.4943–10 and revised 34516
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54.4975–14 Added 27882
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301.6091–1 (b)(1) and (2) and (c) amended 33727
301.6211–1 (a) amended 35956
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404.6694–1 Added 17453
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601.105 (b)(5)(vi)(f) amended 34280
601.201 (e)(1) revised; (e)(2) and (16) amended 34280
601.204 (d) amended 34280

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178.11 Corrected 20818
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178.125 (a), (b), and (d) through (h) headings and authority citation added; (c) revised; (g) nomenclature change 41117
(c)(1)(vi) table corrected 43833
181.1 (c) revised; effective date postponed to 5–12–77 22144
181.11 Amended; effective date postponed to 5–12–77 22144
181.22 Revised; effective date postponed to 5–12–77 22144
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181.30 Revised; effective date postponed to 5–12–77 22144
181.41 (a)(1) corrected 20818
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181.45 Revised; effective date postponed to 5–12–77 22144
181.105 (g) added; effective date postponed to 5–12–77 22144
181.106 (a) revised; effective date postponed to 5–12–77 22144
181.108 Revised; effective date postponed to 5–12–77 22144
181.109 Revised; effective date postponed to 5–12–77 22144
181.122 (a) corrected 20818
(a) revised; (f) added; effective date postponed to 5–12–77 22144
181.123 (a) revised; (f) added; effective date postponed to 5–12–77 22144
181.124 (a) revised; (g) added; effective date postponed to 5–12–77 22144
181.125 (c) corrected 20818
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181.126 (c) and (f) revised; effective date postponed to 5–12–77 22144
181.130 Added; effective date postponed to 5–12–77 22144
181.141 (a)(5) corrected 20818
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304.25 Revised *26427
304.29 Added *3843
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1060.2–2 Revised *21108
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1067.40–1—1067.40–5 (Subpart) Added *10689
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1068.10–1—1068.10–9 (Subpart) Removed *18038
1068.22–1—1068.22–3 (Subpart) Revised *21485
1068.23–1—1068.23–4 (Subpart) Added *3165
1068.24–1—1068.24–3 (Subpart Added *20469
1069 Heading revised 44860
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1351 Added 54297
1369 Added *15810
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96.20–10 (b) introductory text and (1) revised *35797
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81.203 Redesignated as 81.216; new 81.203 added	*31009, 32540
81.204 Redesignated as 81.217; new 81.204 added	*31009, 32540
81.205 Redesignated as 81.225; new 81.205 added	*31010
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81.208 Redesignated as 81.218 and (d)(3) removed	*31011
81.209—81.214 Redesignated as 81.219—81.224	*31012
81.209 Redesignated as 81.219; new 81.209 added	*31012
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(a) table amended; (b)(63) added	*20137
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(a)(1) and (b) tables amended; (b)(37) and (38) added	*22873
(a)(2) table corrected	*28542
81.314 (a)(14) added	*20137
81.354 (a)(3) amended	*9384
81.355 (c) revised	*38179
81.356 (b)(9) revised	*1474
81.359 (a) introductory text and (c) revised	53327
81.362 (a) removed	*38179
81.708 (a) table amended; (b)(32) added	*9384
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83.6 (k) revised	*1474
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83.22 (a) and (b) revised; (c) and (d) removed	*38179
83.33 (a) revised; (d) and (e) removed	47445
83.40 Revised	*29309
83.103 Revised	*38180
83.107 (a) amended	*38180
83.111 (a), (c), and (d) revised	*38181
83.131 (b) amended	*31012
83.132 Waived in part	*8639
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83.133 (a) table revised	*31012
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83.139 (g) revised	*26656
83.143 (c) revised; (d), (e) and (f) added	*31013
83.155 (d) and (e) revised	*31013
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83.164 Revised	*38181
83.183 (a) designation removed	*9384
83.186 Added	*38180
83.223 (a) and (b) amended	*9384
83.301 Revised	*38180
83.302 Revised	*38180
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83.315 Redesignated as 83.332; new 83.315 added	*31014
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83.317 Redesignated as 83.333; new 83.317 added	*31014
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83.318 Revised	*31015
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83.324 (d) removed; (e) amended	*31019

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83.339 Redesignated from 83.329	*32540
83.340 Redesignated from 83.330	*31020
83.351 (a) table amended; (b)(55) revised; (b)(72) added	54491
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83.354 (b) table amended	*22871
(b) table amended; footnotes added	*22873
83.355 (a)(1) table amended	*22871
83.359 Table amended	54491
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83.364 (f) added	*38180
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83.372 Amended	*38180
83.532 (b) revised	*20301
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87.29 (c) revised	*3168, 36459
87.31 (e) removed	*27895
87.35 (d) revised	*32541
87.65 (a) footnotes 1 and 2 added	*33752
87.67 (b)(1) table amended; footnote added	*3309
87.71 (a) (1) and (3) introductory texts revised; (a) (4) and (5) added	*3309
87.97 Revised	*32801
87.183 (cc) introductory text revised	*20138
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87.603 Amended	44690
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(h) table amended; (i)(21), (22), and (23) added	*30511
89.102 Heading revised; (c) added	*31601
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89.109 (j) added	*31602
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89.124 (k) revised	*31602
89.255 (d) added	*31602
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95.253 Revised ... *11238
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95.641 (c)(4) revised ... *11238
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97.28 (b) introductory text revised ... *29485
97.32 Added ... *3167
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97.185 (b) introductory text revised; (b) table amended ... 44042
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1.23 (a) amended 44042
1.44 (e)(8) added *22366
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1.59 (c)(8) amended; (c)(10) added 45011
(a)(4) added 49487
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(b)(9) added *22366
1.64 Revised 44042
1.65 Removed 44710
1 Appendix A amended 44043
25 Appendix A tables revised *13, 35961
91 Added 54770
99 Revised *3119
99.735–11 (a)(2) amended *5359
99.735–15 (a) and (c)(2) amended *5359
99.735–35 (b) amended *5359
99 735–37 Amended *5359
99 Appendixes B and C amended *5359
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171 Placarding effective date extended to 1–1–78 28888
Technical correction *35653
171.7 (d)(1) amended 52300
(d)(5)(iv) and (v) added *34284,
(d)(5)(vi) and (vii) added *36262
171.8 Amended 57020
171.15 (a)(4) revised 57020
172 Placarding effective date extended to 1–1–78 *28888
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172.101 Revised 57021
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172.201 (a)(1) and (a)(1)(ii) revised 57067
172.203 (e) and (g)(1) revised; (g)(2) removed; (g)(3) redesignated as (g)(2) 57067
172.204 (a) introductory text revised 57067
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172.304 Heading revised 57067
172.306 Heading and (a)(1) revised 57067
172.312 (a) introductory text revised 57067
172.328 Revised 57067
172.330 (a) introductory text, (c)(1) and (2), and (d) revised; (e) added 57067
172.400 (b)(6) revised 57067
172.406 (a) amended 57067
172.407 (a), (d), and (g)(3) revised *34284
172.504 (a) and (c)(1) revised; (a) tables amended 57067
172.508 (a) revised 57068
172.512 (a) revised and table removed; (b) amended 57068
172.514 (a) amended 57068
172.519 (e) revised *34285
172 Appendix B amended 57068
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173 Authority citation revised 55878
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173.8 (b) amended 57068
173.22 (a) revised *2689
173.29 Revised 57068
173.31 (c) table amended *28133
173.33 (c) removed; (d) through (l) redesignated as (c) through (k) 57068
173.63 (e)(2) revised *28133
173.64 (a)(5) revised 55876
173.66 (c) revised 50263
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173.68 (a)(1) revised 50263
173.88 (e)(2)(ii) revised *11239
173.92 (b) revised *11239
173.100 (p) revised 50263
173.107 (d)(1) added *42207

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173.116 (c) removed 57069
173.119 (m)(5) revised 50263
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(a)(27) added *42207
173.124 (a)(3) revised 55876
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173.132 (a)(2) revised *11239
173.139 (a)(4) revised *28133
173.141 (a)(7) revised 50263
173.145 (a)(7) revised 50263
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173.154 (a)(16) added *36262
173.163 (a)(8) revised *11239
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173.182 (c)(3) and (4) added 55877
173.205 (a)(2) added *11239
173.208 (a)(2) added 50263
(b)(4) added *42207
173.214 (c)(5) added *11239
173.217 (a)(5) revised; (a)(6) amended 57069
(a)(6) revised *11239
Heading revised; (a)(7) added *36262
173.219 (a)(1) revised *11239
173.221 (a)(7) revised *11239
173.223 (a)(1) revised; (a)(6) added *11239
173.224 (a)(3) and (4) revised 55877
173.232 (c)(6) revised 57069
173.239 (a)(2) added *42207
173.242 (c) revised *28133
173.244 (c) removed 57069
173.245 (a) (29) and (31) revised 50263
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173.245b (a)(8) revised *28133
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173.247a (a)(3) added 50263
173.249 (b) introductory text amended 57069
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173.252 (g)(1) revised 55877
173.256 (a)(6) added *11240
173.262 (a)(12) added 50263
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173.263 (a)(15) and (17) revised 50263
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173.264 (a)(11) revised; (a)(18) added *11240
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173.265 (b)(3) revised *11240
173.266 (b)(9) added 50264
173.268 (c)(2) revised *28133
173.271 (a)(11) revised 50264
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173.276 (a) introductory text revised 57069
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173.288 (e) added 55877
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173.289 (a)(2) revised 55877
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173.294 Heading and (a) introductory text revised 57069
173.299 (a)(2) revised 50264
173.300 (b) introductory text revised 57069
173.301 (d)(2) revised 55877
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173.304 (a)(2) table amended *28134
(a)(2) table corrected *33293
(a)(2) table amended *42208
173.306 (e)(1)(i) revised 50264
(d)(2) and (f)(3)(i) amended 57069
173.314 (c) Note 12 and (e) revised 55877
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173.315 (a)(1) Note 11 revised 55878
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173.332 (d) revised 57070
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173.343 (a) introductory text revised 57070
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173.357 (b)(2) revised *11240

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173.359 (a)(6) and (b)(5) revised; (a)(15) and (b)(11) added	55878
(a)(16) added	*11240
173.360 (a)(5) added	55878
173.364 (a)(2) revised	50264
(a)(1) amended; (b) revised	57070
173.365 (a)(5) added	*11240
173.366 (b)(3) added	55878
173.370 (a)(2) added	*28135
173.373 (a)(5) added	50264
173.377 (a) (1) and (2) revised; (b)(6) added	*11241
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173.386 (d) introductory text amended	57070
173.392 (a), (c)(7), and (d)(5) amended	57070
173.426–173.432 (Subpart I) Appendix A removed	57070
173.615 (e) added	*5059
173.635 (a)(5) added	55878
173.800 Heading and (a) introductory text amended	57070
173.1025 Revised	57070
173.1200 (a) introductory text, (a)(2)(iii) and (8)(ii) revised: Appendix A amended	57070
174 Heading corrected	*2071
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174.5 Revised	57071
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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federal register

Area Code 202 Phone 523-5240

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.J. Res. 24 ---- Pub. L. 95–72
To provide for the designation of a week as "National Lupus Week". (July 25, 1977; 91 Stat. 282). Price: $.35.
H.R. 5638 ---- Pub. L. 95–73
To amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada. (July 26, 1977; 91 Stat. 283). Price: $.35.
H.R. 7636 ---- Pub. L. 95–74
Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes. (July 26, 1977; 91 Stat. 285). Price: $.40.

Table of Effective Dates and Time Periods—August 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
August 1	August 16	August 31	September 15	September 30	October 31
August 2	August 17	September 1	September 16	October 3	October 31
August 3	August 18	September 2	September 19	October 3	November 1
August 4	August 19	September 6	September 19	October 3	November 2
August 5	August 22	September 6	September 19	October 4	November 3
August 8	August 23	September 7	September 22	October 7	November 7
August 9	August 24	September 8	September 23	October 11	November 7
August 10	August 25	September 9	September 26	October 11	November 8
August 11	August 26	September 12	September 26	October 11	November 9
August 12	August 29	September 12	September 26	October 11	November 10
August 15	August 30	September 14	September 29	October 14	November 14
August 16	August 31	September 15	September 30	October 17	November 14
August 17	September 1	September 16	October 3	October 17	November 15
August 18	September 2	September 19	October 3	October 17	November 16
August 19	September 6	September 19	October 3	October 18	November 17
August 22	September 6	September 21	October 6	October 21	November 21
August 23	September 7	September 22	October 7	October 25	November 21
August 24	September 8	September 23	October 11	October 25	November 22
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August 26	September 12	September 26	October 11	October 25	November 25
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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0–45	5.30
46–51	4.20
52	5.20
53–209	5.80
210–699	6.10
700–749	4.10
750–899	1.80
900–944	4.25
945–980	2.40
981–999	2.50
1000–1059	4.25
1060–1119	4.40
1120–1199	3.20
1200–1499	4.20
1500–end	7.25
8	2.60
9	6.80
10 Parts:	
0–199	4.40
200–end	4.60
12 Parts:	
1–299	7.40
300–end	7.30
13	4.20
14 Parts:	
1–59	6.00
60–199	5.10
200–1199	6.20
1200–end	2.20
15	5.35
16 Parts:	
0–149	5.50
150–999	4.25
1000–end	3.00

CFR Unit (Rev. as of April 1, 1977):

Title	Price
17	$6.75
18 Parts:	
1–149	4.25
150–end	$4.00
19	5.75
20 Parts:	
01–399	3.25
500–end	4.00
21 Parts:	
1–99	3.25
100–199	$4.75
200–299	2.10
300–499	5.00
500–599	4.00
600–1299	3.50
23	5.50
26 Parts:	
1 (§§ 1.501–1.640)	$4.00
300–499	4.35
600–end	2.40

CFR Unit (Rev. as of July 1, 1976):

28	$3.10
29 Parts:	
0–499	7.30
500–1899	5.50
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
34	1.00
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	1.85
8	1.80
9	4.35
10–17	4.15
19–100	3.55
101–end	6.80
CFR Index	3.20

CFR Unit (Rev. as of Oct. 1, 1976):

42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	

Title	Price
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
70–79	4.90
80–end	6.20
48 [Reserved]	
49 Parts:	
1–99	2.05
100–199 (Rev. 12/31/76)	6.50
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 4—Accounts

CHAPTER II—FEDERAL CLAIMS COLLECTION STANDARDS (GENERAL ACCOUNTING OFFICE—DEPARTMENT OF JUSTICE)

PART 105—REFERRALS TO GAO OR FOR LITIGATION

Minimum Amount of Referrals to the Department of Justice

AGENCIES: General Accounting Office, Justice.

ACTION: Final rule.

SUMMARY: This rule raises from $400 to $600, exclusive of interest, the minimum amount of claims for referral by agencies of the United States to the Department of Justice for collection. This increase is based on inflation since 1970 when the existing $400 minimum was established. This is intended to reduce the number of claims referred to the Department of Justice for suit.

FOR FURTHER INFORMATION CONTACT:

Daniel P. Leary, Director of the Claims Division, General Accounting Office (202–275–3102).

Accordingly, 4 CFR Part 105 is revised to read as follows:

Section 105.6 of the Federal Claims Collection Standards (General Accounting Office—Department of Justice), 4 CFR 105.6, is revised so as to read:

§ 105.6 Minimum amount of referrals to the Department of Justice.

Agencies will not refer claims of less than $600, exclusive of interest, for litigation unless (a) referral is important to a significant enforcement policy or

(b) the debtor has not only the clear ability to pay the claim but the Government can effectively enforce payment having due regard to the exemptions available to the debtor under State or Federal Law and the judicial remedies available to the Government.

Dated: July 7, 1977.

GRIFFIN BELL,
Attorney General of the United States.

Approved: May 18, 1977.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.77-21977 Filed 7-29-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 565, Amendment 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 22-28, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period July 22–28, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.865, Valencia Orange Regulation 565 (42 FR 37353) are hereby amended to read as follows:

§ 908.865 Valencia Orange Regulation 565.

* * * * * * *

(b) * * *

(1) * * *

(i) District 1: 273,000 cartons;

(ii) District 2: 427,000 cartons.

* * * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22074 Filed 7-29-77;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Authorization of Officer in Charge Charlotte Amalie, Virgin Islands To Issue Orders To Show Cause

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Immigration and Naturalization Service will authorize the Officer in Charge of this Service at Charlotte Amalie, Virgin Islands, to issue orders to show cause and notices of hearing to commence proceedings to determine the deportability of an alien. The amendment is necessary because Service investigative activity in the Virgin Islands has resulted in the issuance of increasing numbers of orders to show cause. At the present time these documents must be requested by telephone from the District Director at San Juan, Puerto Rico and subsequently confirmed in writing. The Service intends to eliminate the need for and cost of this additional work by amending the regulations to authorize the Officer in Charge at Charlotte Amalie, Virgin Islands to issue orders to show cause and notices of hearing.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. (202–376–8373.)

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 242.1(a) is being published in accordance with section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1.

This amendment will authorize the Officer in Charge at Charlotte Amalie, Virgin Islands to issue orders to show cause in order to commence proceedings to determine the deportability of an alien. Charlotte Amalie is under the administrative jurisdiction of the District Director at San Juan, Puerto Rico and orders to show cause needed to commence deportation proceedings against aliens in the Virgin Islands must now be issued by the District Director at San Juan. The usual practice is for the Officer in Charge at Charlotte Amalie to make the request for issuance of the documents by telephone with subsequent confirmation by mail. This procedure leaves a substantial margin for error especially in these cases where deportation charges involve multiple issues. During the period July 1976 through March 1977 Service investigative activity at St. Thomas and St. Croix, Virgin Islands, generated issuance of 923 orders to show cause. These documents had to be requested by telephone and confirmed by mail because the Officer in Charge at Charlotte Amalie did not have authority to issue orders to show cause. Authorizing the Officer in Charge at Charlotte Amalie to issue orders to show cause will save the time and expense now expended requesting these documents by telephone and awaiting written confirmation by mail from San Juan, and enable the Officer in Charge at Charlotte Amalie to operate more efficiently in this area of Service responsibility. Accordingly, 8 CFR 242.1(a) will be amended by adding the Officer in Charge at Charlotte Amalie, Virgin Islands to the list of Service officers authorized to issue orders to show cause.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations will be revised as set forth below:

In Part 242, § 242.1(a) will be amended by adding Charlotte Amalie, Virgin Islands in alphabetical sequence to the list of offices indicated in the third sentence thereof. As amended, the third sentence reads as follows:

§ 242.1 Order to show cause and notice of hearings.

(a) *Commencement.* * * * Orders to show cause may be issued by district directors, acting district directors, deputy district directors, assistant district directors for investigations, and officers in charge at Albany, N.Y.; Charlotte Amalie, Virgin Islands; Cincinnati, Ohio; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Oklahoma City, Okla.; Pittsburgh, Pa.; Providence, R.I.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

* * * * * * *

(Secs. 103, 242, (8 U.S.C. 1103, 1252).)

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment pertains to agency organization and management.

Effective date: The amendment contained in this order will become effective on August 1, 1977.

Dated: July 27, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-22034 Filed 7-29-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 0—CONDUCT OF EMPLOYEES

Outside Employment and Other Activity

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations pertaining to the "Conduct of Employee." Since it is often difficult for NRC employees to determine what constitutes a conflict of interest with respect to outside employment or other activities, the Commission deemed it appropriate to specify these proscriptions in greater detail as set forth in the amendments which follow.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (301–634–1465).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission gives notice herewith that it has amended 10 CFR 0.735–40. NRC regulations presently prohibit NRC employees from engaging in any employment or outside activity which is not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Since it is often difficult for employees to determine what constitutes a conflict of interest with respect to outside employment or other activities, the Commission deemed it appropriate to specify these proscriptions in greater detail as set forth in the amendments which follow.

Because these amendments relate solely to matters of agency management of personnel, good cause exists for omitting notice of proposed rule making, and public procedure thereon.

Pursuant to section 2201(p) of Title 42 of the United States Code, Executive Order 11222 of May 8, 1965, 5 CFR 735–104, and sections 552 and 553 of Title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Part 0 are published as a document subject to codification.

In § 0.735–40, 1. the prefatory language of paragraph (a) is revised to read as follows: subparagraph (2) of § 0.735–40 (a) is redesignated as subparagraph (3); and a new subparagraph (2) is added as follows; 2. Paragraph (b) is revised to read as follows; 3. A new paragraph (f) is added as follows; 4. Paragraph (g) is revised to read as follows; 5. and paragraph (h) is added to read as follows.

§ 0.735–40 Outside employment and other outside activity.

(a) There is no general prohibition against employees engaging in outside employment or other outside activity; except that no employment or activity may be undertaken which is not compatible with the full and proper discharge of the duties and responsibilities of the employee's Government employment. Incompatible activities include but are not limited to:

(1) * * *

(2) Acceptance of any employment, fee, compensation, or payment of expense, from (i) A Commission licensee; (ii) an applicant for Commission license; (iii) an organization directly engaged in activities in the commercial nuclear field; (iv) a Commission contractor; (v) a Commission supplier; (vi) holder of a license issued by a State pursuant to an agreement between the Commission and the State; (vii) a trade association which represents clients concerning nuclear matters; or (viii) a law firm or other organization which is participating in an NRC proceeding or which regularly represents itself or clients before the NRC, unless written authorization is received pursuant to § 0.735–40(b). Ordinarily, an employee will be authorized to serve as an instructor at an academic institution which holds a Commission license, or to engage in other proposed activities of a similar character.

* * * * * * *

(b) In any case in which there is a question as to the propriety of outside employment in which an employee proposes to engage, or where prior written authorization is required pursuant to § 0.735–40(a)(2), the employee's office or division head shall prepare and transmit the following information to the appropriate individual(s) specified in paragraph (f) of this section: (1) Name and job title of the employee involved; (2) A brief summary of the employee's official NRC duties; (3) A brief description of the proposed employment or outside activity, including the compensation to be received; (4) The name and nature of the business of the employing individual or organization; (5) His views whether the outside employment or activity should be authorized.

* * * * * * *

(f) Employees of offices reporting to the Commission through the Executive Director for Operations must receive the written authorization of the Executive Director for Operations before engaging in activities covered by paragraphs (a)(2) and (b) of this section. The Executive Director for Operations before making his decision shall consult with the head of the employee's office or division and with the counselor or deputy counselor. Employees of boards, panels, and offices reporting directly to the Commission must receive the written authorization of the head of their office before engaging in activities covered by Paragraphs (a)(2) and (b) of this section. The head of the employee's office before making his decision shall consult with the counselor or deputy counselor before making his decision.

(g) Bona fide reimbursements for expenses of travel and such other necessary subsistence may be acepted if (1) It is not prohibited by paragraph (a) of this section, (2) if reimbursement from the government is not received; and (3) it is not proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967, or otherwise prohibited by law. Questions concerning application of the Comptroller General's decision should be referred to the counselor. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(h) An employee is not precluded by this § 0.735–40 or § 0.735–42 from:

(1) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization.

Dated at Washington, D.C., this 27th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22089 Filed 7-29-77;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Crude Oil Prices; Price Schedule for August 1977

AGENCY: Federal Energy Administration.

ACTION: Issuance of crude oil price schedule.

SUMMARY: This action extends for one month, until August 31, 1977, the price ceilings applicable to first sales of lower and upper tier crude oil which have prevailed since March 1, 1977. These price ceilings were intended to compensate by July 31, 1977, for all cumulative receipts in excess of those allowable under the statutory composite price limitation. These price ceilings are being continued in effect for an additional month as a precautionary measure, pending receipt of further actual price data, to assure compliance with statutory composite price requirements.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Edwin Mampe (Regulatory Programs), 2000 M Street NW., Room 2304E, Washington, D.C. 20461, 202–254–7200.

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5140A, Washington, D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION: Crude oil price controls are administered by the FEA under authority of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). Under the EPAA amendments enacted in 1975 by the Energy Policy and Conservation Act ("EPCA"), Congress provided FEA with flexibility to control domestic crude oil prices as long as the national weighted average first sale price (actual composite price) did not exceed $7.66 per barrel applicable to crude oil produced and sold in February, 1976 (statutory composite price). Beginning in March, 1976, FEA was authorized to increase the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price limitation may be adjusted upward at a rate not in excess of 10 percent annually.

Under FEA price regulations adopted to implement the statutory composite price restrictions, domestic crude oil is classified as lower tier (currently about 50 percent of total production), upper tier (about 36 percent) and stripper well (about 14 percent).

Stripper well crude oil, which is production from properties which have declined to a level of 10 barrels per day per well or less for a 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of the statutory composite price computation, stripper well crude oil is given an imputed value which approximates the average upper tier price (Section 121 of the Energy Conservation and Production Act, enacted August 14, 1976.).

Upper tier crude oil generally includes production from properties which first began producing after 1972 (except those which qualify as stripper well properties), plus incremental production from older properties which exceeds a certain base production level. The upper tier price (an average of about $11.00 per barrel currently) is generally designed to stimulate additional production from older properties and to encourage further exploration and development of domestic crude oil resources.

The lower tier price, which currently averages about $5.17 per barrel, applies to all U.S. production which is not exempt or which does not qualify as upper tier crude oil.

Under the two-tier pricing system established by the FEA on February 1, 1976, pursuant to the EPCA (41 FR 4931, February 3, 1976), the situation in February, 1976, was assumed to be as follows: Lower tier crude oil, estimated at 60 percent of total domestic production, was being sold at an average estimated price of $5.25 per barrel; upper tier crude oil (including, at that time, stripper well production), estimated at 40 percent of total domestic production, was being sold at an estimated average price of $11.28 per barrel; and the weighted average of the two tiers equalled the applicable statutory composite price for first sales of crude oil of $7.66 per barrel ($5.25×0.60+$11.26×0.40=$7.66)

FEA's Schedule No. 1 of Monthly Price Adjustments, issued effective March 1, 1976, pursuant to 10 CFR 212.77, provided for monthly increases in lower and upper tier price ceilings (41 FR 15566, April 13, 1976). Under this schedule, the full percentage amounts available to reflect the impact of inflation and to provide a production incentive were initially applied at equal rates to the upper and lower tier prices within the constraints of the adjusted statutory composite limit.

Adjustments to lower and upper tier price ceilings were also based on an estimated national decline rate of eight percent annually relating to lower tier crude oil production. It should be noted that as the percentage of upper tier crude oil increases relative to the percentage of lower tier crude oil, the composite or weighted average price of upper and lower tier crude oil increases automatically, even though there is no change in the upper tier or lower tier ceiling price. To illustrate this effect, a hypothetical lower/upper tier crude oil "mix" of 100 percent/0 percent would result in a "weighted average" price which equals the lower tier price (e.g., $5.25 per barrel) while the extreme opposite "mix" of 0 percent lower tier and 100 percent upper tier crude oil would result in a "weighted average" price which equals the upper tier price (e.g., $11.28 per barrel). Thus, using the foregoing illustrative prices, for each percentage point reduction in the amount of lower tier crude oil, there would be an increase of approximately six cents per barrel in the resulting actual composite price. Depending upon the magnitude of the shift in "mix" from lower tier crude oil toward upper tier crude oil, some or even all of the maximum 10 percent annual increase in the statutory composite price will be needed to account for this factor. Under the assumptions of Price Schedule No. 1, for example, the three percent annual price increase in the statutory composite price as a production incentive was projected increasingly to be accounted for by this shift effect rather than by actual increases in lower tier or upper tier crude oil prices, such that by mid-1978 the projected amount of the adjustments to the actual ceiling prices were reduced to levels which were less than the 6.8 percent rate of inflation then being used for projection purposes.

On June 30, 1976, FEA issued Price Schedule No. 2 which halted further monthly increases in ceiling prices for a period of two months, effective July 1, 1976, (41 FR 27730, July 6, 1976). Under this schedule, upper and lower tier crude oil price ceilings were held at the levels of June, 1976, for the months of July and August, 1976, in order to compensate for actual composite prices in excess of adjusted statutory composite price levels. This action was based primarily on actual preliminary data for February and March, 1976, indicating that the percentage of lower tier crude oil in February, 1976, was in the range of 56–57 percent, rather than 60 percent as previously estimated by FEA, and that the actual average lower and upper tier prices were about $5.07 and $11.44 per barrel, respectively, rather than $5.25 and $11.28 per barrel as estimated earlier. In addition, the applicable rate of inflation dropped from 6.8 percent to 3.5 percent on an annual basis. These factors prompted FEA to halt further monthly crude oil price increases temporarily until additional data could be received and analyzed.

Based on additional data available in August, 1976, FEA extended the freeze on lower and upper tier price ceilings for an additional 3 months, until November 30, 1976, by issuance of Price Schedule No. 3 (41 FR 37311, September 3, 1976). Final data for February–May, 1976, and preliminary data for June, 1976, confirmed the need for restrictions on further price increases in order to offset actual composite price receipts in excess of the statutory composite price limitation. Cumulative excess receipts were then estimated to be $120 million through June, 1976.

On November 6, 1976, FEA issued a notice of proposed rulemaking (41 FR 50960, November 18, 1976), proposing alternative means (including price rollbacks) in order to compensate for cumulative excess receipts, which continued to increase despite the freeze on lower and upper tier price ceilings in effect since July 1, 1976. Shortly thereafter, on November 30, 1976, FEA issued Price Schedule No. 4, extending the crude oil ceiling price freeze for an additional month, until December 31, 1976 (41 FR 53333, December 6, 1976) with a view toward obtaining additional data before considering further corrective action. At the same time, FEA adopted an amendment to § 212.77 providing FEA with authority to reduce ceiling prices to the extent deemed necessary by FEA to achieve compliance with the FEAA.

Under Price Schedule No. 5, effective January 1, 1977 (42 FR 1456, January 7, 1977) FEA extended the freeze applicable to lower tier price ceilings and reduced upper tier price ceilings by 20¢ per barrel. This action was based on actual cumulative excess receipts of about $197 million as of September, 1976, and projected cumulative excess receipts of $270 million by December 31, 1976. The increases in cumulative excess receipts were attributed by FEA largely to a regulatory amendment to the definition of "property" and to a statutory amendment relating to the period for qualification for the stripper well exemption (both effective September 1, 1976) which caused a significant drop in the percentage of lower tier crude oil between August and September, 1976, and which could be expected to cause further greater-than-normal declines in the percentage of lower tier crude oil through November, 1976. (The effect on the actual composite price of such shifts in the proportion of lower tier crude oil was noted above.)

Data available in February, 1977, indicated that cumulative excess receipts were about $320 million as of December, 1976, or about $50 million in excess of the $270 million projected for December at the time of issuance of Price Schedule No. 5, due to a greater decline in the percentage of lower tier crude oil than anticipated. Consequently, Price Schedule No. 6, issued effective March 1, 1977 (42 FR 13013, March 8, 1977) provided for an additional reduction of 45¢ per barrel in upper tier price ceilings, and a continuation of the previous freeze on lower tier price ceilings, both to be continued until July 31, 1977. This action was intended to assure that cumulative excess receipts would be reduced to zero by that date.

The following table summarizes on a monthly basis the status of cumulative excess receipts since February, 1976, as described in the foregoing discussion, including the decline in such receipts since January 1, 1977. Data for April, 1977 are preliminary and data for May through August, 1977 are projected, based on the latest data available to FEA.

Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price [1]	Cumulative excess receipts (in millions)
1976:						
February	56.12	$5.05	$11.48	$7.66	$7.87	$49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	7.88	7.90	123
July	55.58	5.19	11.60	7.93	8.04	152
August	55.68	5.18	11.62	7.98	8.03	164
September	53.41	5.17	11.65	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	228
November	49.94	5.17	11.62	8.17	8.40	282
December	50.07	5.17	11.64	8.24	8.40	322
1977:						
January	50.61	5.17	11.44	8.30	8.28	316
February	49.52	5.18	11.39	8.37	8.33	308
March	49.15	5.15	11.03	8.44	8.19	246
April [2]	49.46	5.15	10.97	8.50	8.14	161
May [3]	49.15	5.17	10.99	8.57	8.18	65
June [3]	48.84	5.17	10.99	8.64	8.20	−30
July [3]	48.56	5.17	10.99	8.71	8.22	−159
August [3]	48.28	5.17	10.99	8.78	8.23	−293

[1] Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA.
[2] Preliminary.
[3] Projected. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, excluded due to uncertainties at this time concerning ANS production volumes and pricing levels for July and August.

As the above table indicates, all excess receipts are projected to have been eliminated as of the end of June, 1977 (final data for a particular month is not available until the end of the third month following that month). FEA has decided that a further one-month extension of the existing crude oil price schedule should be adopted. The reasons for this action include those summarized below.

(1) Experience since regulations to implement the statutory composite price limitation were first adopted has shown that the number of variables which affect the composite price computations pose serious problems for accurate forecasting of compliance with that limitation. This is indicated by the number of price schedules issued by FEA during this period of about a year and a one-half, and by the record of excess receipts as noted in the table above. These variables include, among others, periodic statutory and regulatory amendments which have affected the rate of decline in the percentage of lower tier crude oil (and thus directly affect the actual composite price), as well as changes in the rate of decline of lower tier crude oil which occur from month to month in the absence of any such amendments. This experience argues strongly for a more conservative approach in administering the lower and upper tier price ceilings. Accordingly, today's action is intended to permit FEA to obtain further actual price data to confirm that all cumulative excess receipts have been compensated for. In addition, this action is expected (based on current projections) to result in the accumulation of a reasonable amount of "deficit receipts" by the end of August 1977. FEA has concluded that such an approach to meeting the statutory composite price requirements is preferable, in that it should assist in avoiding the need in the future for any more drastic curative measures, such as price rollbacks. This position is consistent with notification issued on March 1, 1977, in connection with Price Schedule No. 6 (42 FR 13013, March 8, 1977), that FEA planned to accumulate a "bank" of deficit receipts which would be useful in compensating for any future misestimations in connection with compliance with statutory composite price requirements after July, 1977.

(2) The more conservative pricing policy outlined above is intended to further the EPAA goal of maximizing U.S. crude oil production by providing a more stable and predictable basis for future pricing actions than would a more liberal approach which might increase the potential for price freezes or price rollbacks.

The potential for price rollbacks or freezes generally tends to have an unsettling or disruptive effect on future crude oil production programs which should not exist with respect to long-term pricing policy. FEA policy has therefore been to avoid reductions in crude oil price ceilings, if at all possible, in complying with EPAA pricing restrictions.

However, as it was necessary to reduce upper tier price ceilings by 20¢ per barrel effective January 1, 1977, and by an additional 45¢ per barrel effective March 1, 1977, it cannot be assumed that future ceiling price reductions would be avoided simply by continuing to reserve such action as a last resort for achieving compliance with EPAA pricing requirements. This consideration is underscored by the fact that actual pricing data is not available until 3 months after the month in which the crude oil has been sold. The one-month extension of current ceiling price levels should greatly reduce the likelihood that price rollbacks or price freezes would be required to meet the statutory composite price limitation in the future and thus should provide a more stable basis for the implementation of a consistent pricing policy in the future, under the EPAA. This should, in turn, contribute to an improved climate for further development of domestic crude oil resources over the long term.

(3) In accordance with the National Energy Plan and consistent with the National Energy Act now being considered by the Congress, FEA expects in the near future to establish a new category of crude oil ("third tier") which would be permitted to be sold at a price level above the ceiling price of the present upper tier. Inclusion of this new category of crude oil will result in higher actual composite prices. Depending on

the precise definition of the crude oil eligible to be sold at "third tier" price levels, and the extent to which such "third tier" crude oil is produced, actual composite prices may begin to exceed the adjusted statutory composite price level. Thus, in addition to providing a stable basis for implementing the current crude oil pricing regulations under the composite price restrictions of the EPAA, the accumulation of "deficit receipts" will also serve to provide a certain measure of pricing flexibility during the time that the newly established "third tier" pricing category begins to stimulate new domestic production.

In view of the foregoing considerations, FEA has concluded that today's action is a prudent and appropriately cautious approach to the administration of lower and upper tier price ceilings under the composite price limitations of the EPAA.

FEA plans in the near future to issue a notice concerning the resumption of increases in lower and upper tier ceiling prices in September, 1977.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective August 1, 1977.

Issued in Washington, D.C., July 26, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Subpart D of Part 212 is amended to add an Appendix to read as follows:

APPENDIX.—Schedule No. 7 of monthly price adjustments; effective Aug. 1, 1977

Month	Lower tier, May 15, 1973 posted price,[1] plus—	Upper tier, Sept. 30, 1975 posted price,[2] less—
1976:		
February	$1.35	$1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration (FEA) on July 26, 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February, 1976, through July, 1977, as determined under 10 CFR 212.73, 212.74, and 212.77. With respect to crude oil to be produced and sold in the month of August, 1977, this schedule continues to hold lower tier price ceilings at the levels which have prevailed since June 1, 1976 (i.e., at the ceiling price levels for the month of June, 1976) and continues to hold the upper tier price ceilings at the levels which have prevailed since March 1, 1977.

This schedule is effective only through August 31, 1977. Price ceilings for subsequent months will be provided by Schedule No. 8, which FEA plans to issue on or about August 31, 1977.

[FR Doc.77-21948 Filed 7-27-77;11:12 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 317—ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Miscellaneous Amendments

AGENCY: Economic Development Administration, Commerce.

ACTION: Final rule.

SUMMARY: This regulation is an amendment of the Local Public Works Capital Development and Investment Program regulations which appeared in the May 27, 1977, FEDERAL REGISTER. It describes a refinement to the administration of the program necessitated by the revision of planning target figures for some applicants.

DATES: Effective date: July 26, 1977. Comments by August 31, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202–377–5441).

SUPPLEMENTARY INFORMATION: EDA recently announced revised planning target figures affecting various applicants in Round II of the Local Public Works Capital Development and Investment Program. These adjustments corrected errors in the original planning targets and distributed previously unallocated funds. This amendment is designed to allow applicants who received increases in their planning targets to apply such funds to projects for which financing arrangements have been completed.

Because this amendment relates to the EDA grant and loan program, it is exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Accordingly, 13 CFR Part 317 is amended as follows:

1. By revising § 317.13(a)(3) to read as follows:

§ 317.13 Types of grants.

(a) * * *

(3) The Federal share of any project for which a grant is made under this subsection shall be 100 percent of the cost of the project exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant, except to the extent that the Federal share of the project is increased by a change by EDA in the applicant's or endorser's planning target.

* * * * *

2. By revising § 317.35(f) to read as follows:

§ 317.35 Certifications.

* * * * *

(f) It contains certification by the properly authorized official of the Federal agency or State or local government that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished or replaced by funds requested under this part, except to the extent that the Local Public Works program share of the project is increased by a change by EDA in the applicant's or endorser's planning target.

* * * * *

(Sec. 701, Pub. L. 89–136, 79 Stat 570 (42 U.S.C. 3211); Pub. L. 94–369, 90 Stat 999 (42 U.S.C. 6701); Pub. L. 95–28, 91 Stat 116; Department of Commerce Organization Order 10–4 (September 30, 1975) as amended (40 FR 56702, as amended).)

Dated: July 26, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-21978 Filed 7-29-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 77–SW–4, Amdt. 39–2988]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77–10–05 by adding a new paragraph (g) requiring installation of the Bell Blade Inspection System (BIS) in accordance with newly revised procedures and instructions contained in Bell Helicopter Textron Service Instruction No. 212–61, Revision No. 2, dated March 28, 1977. These revised procedures and instructions relocate the BIS conductive paint to improve detection of cracks in the blade retention area. Cracks in the blade retention area may result in loss of the main rotor blade. The amendment also adds a new paragraph (h) excluding recently approved "belted" main rotor blades from the AD requirements.

DATES: Effective date August 31, 1977. If the BIS system is used for frequent inspections, compliance with paragraph (g) is required within 300 hours' time in service after August 31, 1977.

ADDRESSES: Bell Helicopter Textron Service Instructions and Service Bulletins may be obtained from persons or offices noted in AD 77–10–05.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW–212, or Alan G. Sumberg, General Attorney, ASW–7, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone number 817–624–4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 28897 to revise AD 77–10–05 by adding a new paragraph (g) requiring installation of the Bell BIS system in accordance with Revision 2 of Bell Service Instruction No. 212–61 for those blades identified in Bell Service Bulletin No. 212–77–10 that have the BIS installed. Compliance with paragraph (g) was required within 300 hours' time in service if and whenever the BIS system was used for the frequent inspections specified in AD 77–10–05, paragraph (b)(2).

In response to the proposal, two letters were received from helicopter operators objecting to the proposal and one from the National Transportation Safety Board supporting the proposal. A U.S. operator objected to installing the BIS system on the Model 212 helicopters and commented that visual inspections would maintain airworthiness of the blades. The agency notes a visual examination may be conducted, as specified in AD 77–10–05, paragraph (b)(1). The BIS inspection in paragraph (b)(2) may be used as an alternate for the visual inspection. A foreign operator also objected to installing BIS because it was thought the system was not trouble-free and was not durable.

AD 77–10–05 paragraph (b) requires either a visual inspection or an inspection using a properly installed and functioning BIS system. Installation of BIS is not otherwise required by the AD or by the proposal. The foreign operator also noted the blade coning is sometimes impossible to perform in a sensible way due to extreme weather conditions. The agency believes reference is made to the blade coning that is a part of the visual examination procedures referenced in AD 77–10–05. This procedure is a necessary and vital part of the visual inspections.

This foreign operator believes, without submitting any supporting data, that a lack of quality control during blade production has resulted in Model 212 main rotor blade service problems. AD 77–10–05 and the proposal were issued for the reasons noted in the notices and preambles, and lack of quality control was not one of the reasons.

The agency notes that the proposal would have made new paragraph (g) effective on August 15, 1977. To allow for adequate advance notice of the amendment, the effective date will be August 31, 1977.

Interested persons were afforded the opportunity to participate in the making of the amendment. Three letters were received as noted previously, and the amendment is changed from the proposal to clarify the applicability or effectivity of the new paragraph (g). Other changes are not necessary for the reasons indicated. Notice and public procedure of this clarification is not necessary.

The agency also discovered that AD 77–10–05 should not apply to the recently approved "belted" main rotor blade, P/N 212–015–501. Therefore, to limit the applicability of AD 77–10–05, new paragraph (h) has been included in the adopted rule. This particular change provides a limitation for AD 77–10–05 and notice and public procedure of the change made by paragraph (h) is not necessary.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and Alan G. Sumberg, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2893 (42 FR 10653), AD 77–10–05 is amended, effective August 31, 1977, by adding new paragraphs as follows:

(g) Within 300 hours' blade time in service, after August 31, 1977, and before using the BIS noted in paragraph (b)(2) of this AD, modify BIS installations on all main rotor blades, P/N 204–012–001 –23 and –29, and blades P/N 204–012–001–33, S/N's A2–04012, A2–04037 through A2–04042, A2–04045, A2–04046, A2–04134 through A2–04138, A2–04347, A2–04359, A2–04387, A2–04389, A2–04397, A2–04398, A2–04404 through A2–04411, A2–04455, A2–04457, AMR–04001 through AMR–04011, AMR–04013 through AMR–04015, AMR–04017 through AMR–04020, AMR–04023, AMR–04026, AMR–04030, and AMR–54001 through AMR–54011 to comply with Revision 2 of Bell Service Instruction No. 212–61, 204–32, or 205–45, revision of March 28, 1977, or later approved revision.

NOTE.—Bell Service Bulletin No. 212–77–10 lists these blades and serial numbers.

(h) This AD does not apply to Model 212 helicopters equipped with main rotor blades having P/N 212–015–501.

This amendment becomes effective August 31, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Tex., on July 21, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-22002 Filed 7-29-77;8:45 am]

[Docket No. 77–NW–19–AD; Amdt. 39–2989]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77–13–15 which requires inspections of the Body Station 910 floor beam lower flanges on Boeing Model 727 series airplanes. The amendment is necessary to clarify the inspection requirements of that AD.

DATE: Effective date: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206–767–2516.

SUPPLEMENTARY INFORMATION: Amendment 39–2944 (42 FR 33267), AD 77–13–15, was issued on June 22, 1977, to require inspections of the B.S. 910 floor beam lower flanges on affected Boeing Model 727 series airplanes. After issuing the amendment, the FAA became aware that clarification of the inspection requirements of paragraphs D and F, relative to terminating action from the AD, is necessary. Presently, paragraphs D and F state that a one-time inspection must be conducted in accordance with paragraph B. However, the low frequency eddy current inspection method of paragraph B.1 is not effective with the doublers or straps installed as required to achieve terminating action. Also, the low frequency eddy current inspection may not detect initial cracking which may be present at the time of strap installation. Therefore, the AD is being amended to specifically require that the inspections of paragraphs D and F be conducted per paragraph B.2, conventional eddy current or dye penetrant inspections, or paragraph B.3, an alternate method approved by FAA Engineering. Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon

are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39–2944, AD 77–13–15, is amended by striking out the words "paragraph B" from paragraphs D and F and inserting the words "paragraphs B.2 or B.3" in place thereof.

This amendment becomes effective August 1, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Seattle, Wash., on July 21, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77–22001 Filed 7–29–77;8:45 am]

[Docket No. 76–EA–85, Amdt. 39–2993]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing-Vertol Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires the removal and replacement of Forward and Aft Rotor Shaft and carrier assemblies on Boeing-Vertol 107–11 type helicopters. The retirement life of these parts has resulted from the presence of fatigue cracks in parts which caused premature removal for otherwise unlimited life parts.

EFFECTIVE DATE: August 8, 1977. Compliance is required in accordance with various programs within the AD.

ADDRESS: Pertinent Boeing-Vertol telexes and Service Bulletins may be obtained from the manufacturer at P.O. Box 16858, Philadelphia, Pa.

FOR FURTHER INFORMATION CONTACT:

P. Perrotta, Propulsion Section, AEA–214, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212–995–2894.

SUPPLEMENTARY INFORMATION: There had been a report of fatigue cracks being found on planet posts of the forward transmission shaft and carrier assemblies. The shaft had failed causing vibration and required removal at 7,268 hours in service. Lacking a definitive material or processing discrepancy, a life limit of 5,500 hours has been imposed on heretofore unlimited parts. It has been determined that a life limit of 10,000 hours in service is allowable where there had been shotpeening prior to 3,000 hours in service. As a precaution, the same criteria of 10,000 hours has been imposed upon aft shaft and carrier assemblies. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are P. Perrotta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adopting a new airworthiness directive, as follows:

BOEING-VERTOL. Applies to all Model 107–II helicopters (TC No. 1H16) certificated in any category

Compliance required as indicated unless already accomplished:

1. Within 50 hours' service time after the effective date of this AD, remove from further service any unshotpeened P/N A02D1259–3, A02D1269–1 or A07D1269–1 Forward Transmission Rotor Shaft and Carrier assembly which has accumulated 5,500 or more hours total time. Also, remove from further service any P/N A02D1259–3SP, A02D1269–1SP or A07D1269–1SP assembly which was shotpeened after accumulating 3,000 hours total time and which now has accumulated 5,500 or more hours total time. Replacement parts of the same design shall be retired from service prior to accumulating 5,500 hours total time.

2. Within 50 hours' time in service after the effective date of this AD, remove from further service any P/N A02D1259–3SP, A02D1269–1SP or A07D1269–1SP, Forward Transmission Rotor Shaft and Carrier Assembly that was shotpeened prior to 3,000 hours total time and which has accumulated 10,000 or more hours total time. Replacement parts of the same design shall be retired from service prior to accumulating 10,000 hours total time.

3. Within 50 hours' time in service after the effective date of this AD, remove from further service any P/N 107D2419–1 Aft Rotor Transmission Planet Carrier which has accumulated 10,000 or more hours total time. Replacement P/M 107D2419–1 Planet Carriers must be retired from service thereafter prior to accumulating 10,000 hours total time.

4. Rotor craft may be flown to a base where the maintenance required by this AD is to be performed; (Ref. FARs 21.197 and 21.199).

5. Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Chief, Engineer and Manufacturing Branch, FAA Eastern Region, may adjust the specified 50-hour compliance time.

(Boeing-Vertol Company Telex No. 8–1420–1–895 dated October 27, 1976, and Service Bulletin No. A107–335 apply to the Forward Transmission Rotor Shaft and Carrier Assembly only.)

Effective date: This amendment is effective August 8, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Jamaica, New York, on July 25, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–22003 Filed 7–29–77;8:45 am]

[Docket No. 16612; Amdt. 39–2995]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol, Ltd., Type R 245/4–40–4.5/13, R 259/4–40–4.5/17 and R 209/4–40–4.5/2 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial and periodic inspection for cracks and replacement, if necessary, of the pitch lock pistons on Dowty Rotol propellers installed on certain aircraft. Cracks in the pistons could result in the inability to feather the propeller.

EFFECTIVE DATE: August 31, 1977. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Dowty Rotol, Inc., Staverton West, Sully Road, P.O. Box 5000, Sterling, Virginia 22170, telephone 703–450–5930.

A copy of each service bulletin is contained in the Rules Docket Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel: 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an initial and periodic inspection of Dowty Rotol propeller pitch lock pistons was published in the FEDERAL REGISTER at 42 FR 17136. The proposal was prompted by reports of cracks in the pitch lock piston on these propellers that could result in a loss of propeller oil and subsequent loss in the capability to feather the propeller.

Interested parties have been afforded an opportunity to participate in making of this rule and have submitted comments. The major concern of a commenter representing several air carriers was that replacement parts might be unavailable for compliance with the AD in all cases. The FAA has determined that this problem has been resolved and that parts are available.

The British Civil Aviation Authority has advised that one of the Dowty Rotol propellers was incorrectly listed in the proposed AD as type R259/4–40–4.5/2. The proper reference should have been type R259/4–40–4.5/17. Accordingly, this AD will apply to the following propeller types; Dowty Rotol Type R245/4–40–4.5/13, R259/4–40–4.5/17, and R209/4–40–4.5/2.

Since a situation exists, in reference to the misdesignated propeller type number, that requires the immediate adoption of this amendment as to the proper propeller type, it is found that notice and public procedure hereon are impracticable and good cause exists for making this change from the proposed AD, and for making the amendment as to the properly designated propeller type numbers effective without further notice.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and R. J. Burton, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

DOWTY ROTOL. Applies to Dowty Rotol propeller types R245/4–40–4.5/13, R259/4–40–4.5/17 installed on but not necessarily limited to Convair 600 series airplanes and R209/4–40–4.5/2 installed on but not necessarily limited to Nihon YS–11 and 11A airplanes, except those propellers incorporating modification VP 2869 contained in Dowty Rotol Service Bulletin 61–875, Rev. 1, dated October 20, 1976.

Compliance is required as indicated.

To prevent pitch lock piston cracking and subsequent inability to feather the propeller, accomplish the following:

(a) For propeller pitch lock pistons with 19,000 or more flights on the effective date of this AD, before further flight, comply with paragraph (d) of this AD.

(b) For propeller pitch lock pistons with less than 19,000 flights on the effective date of this AD, comply with paragraph (c) of this AD.

(c) For propeller pitch lock pistons, P/N RA 70089:

(1) Prior to the accumulation of 15,000 flights or within the next 100 flights, whichever occurs later, unless already accomplished within the last 900 flights, unless otherwise required by paragraph (e) of this AD, and thereafter at intervals not to exceed 1,000 flights from the last inspection until reaching 19,000 flights, inspect the pitch lock piston for cracks around the outside diameter at the location of the 0.025 inch radius in accordance with the procedures and instructions in Dowty Rotol Service Bulletin 61–873, Revision 1, dated October 20, 1976, or an FAA-approved equivalent.

(2) If a crack is found during an inspection required by paragraph (c)(1), before further flight, comply with paragraph (d) of this AD.

(d) Replace the pitch lock piston with either—

(1) A new zero time part, P/N RA 70089, in accordance with Dowty Rotol Service Bulletin 61–873, Revision 1, dated October 20, 1976, or an FAA-approved equivalent, and thereafter comply with paragraphs (c), (d), and (e) of this AD; or

(2) A new redesigned pitch lock piston and cylinder cover bush in accordance with Dowty Rotol Service Bulletin 61–875, dated October 20, 1976, or an FAA-approved equivalent.

(e) Prior to the accumulation of 19,000 flights on propeller pitch lock piston P/N RA 70089, comply with paragraph (d) of this AD.

(f) For the purposes of this AD, a flight is defined as a single takeoff and landing.

(g) This AD requires no further action after compliance with paragraph (d)(2) of this AD.

This amendment becomes effective August 31, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 25, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–21999 Filed 7–29–77;8:45 am]

[Docket No. 77–EA–33, Amdt. 39–2992]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 77–07–08 applicable to Fairchild Hiller FH–1100 type rotocraft. It has been determined that additional tension torsion bars may be defective and therefore the AD is being amended to include additional serial numbers.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Company, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT:

J. Chrastil, Airframe Section, Engineering and Manufacturing Branch, AEA–212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. Telephone 212–995–2875.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that additional tension torsion bars in the field may be defective. The AD was issued originally to preclude failure of defective tension torsion bars due to improper hole surface finishes. This rule will include an additional 20 serial numbers. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Chrastil, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective August 5, 1977, by amending AD 77–07–08, as follows:

1. Delete the figure 1902 where it appears and insert in lieu thereof the figure 1922.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Jamaica, New York, on July 21, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–21997 Filed 7–29–77;8:45 am]

[Docket No. 15728, Amdt. 39–2996]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. Model DH–104 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which supersedes AD 61–11–3, as amended, to further reduce retirement times for certain structural components of the wings, fuselage, and in some cases, the entire

wing assembly of Hawker Siddeley Aviation, Ltd., Model DH–104 airplanes due to fatigue.

DATES: Effective August 31, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable technical news sheets may be obtained from Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England, AL109TL, Attn: Technical Manuals Distribution Center. A copy of both technical news sheets is contained in the Rules Docket Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal was issued to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) which imposes mandatory retirement times for certain structural components of the wings, fuselage, and in some cases, the entire wing assembly of Hawker Siddeley Aviation, Ltd., Model DH–104 fication. The AD, as proposed, failed to FR 22094. The notice proposed to supersede Airworthiness Directive AD–61–11–3, as amended, to further reduce the retirement lives of the aforementioned components of the Model DH–104 airplanes and to provide for adjustments of the times specified in the AD if justified by the operator.

Paragraphs (c) and (d) of the AD proposed in the notice covered retirement times of the fuselage center section lower spar boom for airplanes which do not incorporate Hawker Siddeley Aviation (HSA) Modification 538, and for those airplanes that do incorporate such modification. The AD, as proposed, failed to note that the retirement times related to HSA Modification 538 also depended upon the subsequent incorporation of HSA Modification 686 within 3600 hours after the initial modification. Accordingly, this AD corrects the omission originally contained in the proposed AD to conform to HSA Technical News Sheet No. 119, Issue 10, dated July 19, 1971, referenced in the notice, by revising paragraphs (c) and (d) in the amendment.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received the FAA has re-evaluated the need for the proposed amendment and determined that it should be adopted.

Since a situation exists that requires immediate adoption of the modifications as set forth in paragraphs (c) and (d), it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service and Mr. R. J. Burton, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to deHavilland Model DH–104 "Dove" airplanes, all series, certificated in all categories.

Compliance is required as indicated.

To prevent possible fatigue failure of the wing structure, accomplish the following:

(a) Irrespective of the incorporation of Hawker Siddeley Aviation, Ltd., (HSA) Modification 539, for wings which have not had HSA Modification 780 incorporated, within the next 25 hours time in service after the effective date of this AD or prior to accumulation of 3400 hours, total time in service on the wing lower spar boom, whichever occurs later, and thereafter, at intervals not to exceed 3400 hours time in service, on the boom, replace it with a serviceable boom of the same part number or an FAA-approved equivalent.

(b) For wings which incorporate HSA Modification 780, replace the wing lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent—

(1) For Series 1A, 2A, 5A, 5BA, 6A airplanes, prior to the accumulation of 20,000 hours total time in service on the wing lower spar boom including the time in service prior to incorporation of the modification; and

(2) For Series 7A and 8A airplanes, prior to the accumulation of 16,000 hours total time in service on the boom including the time in service prior to incorporation of the modification.

(c) For airplanes which do not incorporate HSA Modification 538 in the area of the fuselage center section, or have Modification 538 incorporated but not the associated HSA Modification 686, within the next 25 hours time in service after the effective date of this AD or prior to the accumulation of 1800 hours total time in service on th fuselage center section lower spar boom whichever occurs later, and thereafter, at intervals not to exceed 1800 hours time in service on the boom, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

(d) For airplanes which incorporate HSA Modification 538 in the area of the fuselage center section, provided the associated HSA Modification 686 has been incorporated within 3600 hours time in service on the fuselage center section lower spar boom since incorporating Modification 538, within the next 25 hours time in service on the boom after the effective date of this AD or prior to the accumulation of 6700 hours total time in service on the fuselage center section lower spar boom, including time in service prior to incorporation of the modification, whichever occurs later, and thereafter at intervals not to exceed 6700 hours time in service, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

NOTE.—For airplanes which incorporate HSA Modification 779 in the area of the fuselage center section, no mandatory retirement time is imposed on the fuselage center section lower spar boom.

(e) Upon the request of an operator, the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East region may adjust a replacement interval specified in paragraphs (a), (c), or (d) of this AD, if the request contains substantiating data to indicate that the average operating spectrum of the particular airplane is less severe than the operating spectrum upon which the specified replacement times are based and that the adjustment requested is justified. Forward requests to FAA, Chief, Aircraft Certification Staff, c/o American Embassy, APO New York, N.Y. 09667.

NOTE.—Appendix 1 of HSA Technical News Sheet (TNS) No. 119, Issue 10, dated July 19, 1971, contains information with respect to data needed to determine an average operating spectrum.

(f) Unless already accomplished, on airplanes converted to series 7AXC or 8AXC in accordance with HSA TNS No. 181, Issue 3, dated November 21, 1966, replace the wings prior to the accumulation of one fifth the total hours time in service at conversion plus 16,000 hours time in service as determined in accordance with the instructions in paragraph 7 of HSA TNS No. 181, Issue 3, dated November 21, 1966, or an FAA-approved equivalent.

(g) Operators who have not kept records of time in service on any component to which a provision of this AD applies shall substitute airplane hours time in service in lieu thereof.

This amendment supersedes Amendment 289 to Part 507 of the Regulations of the Administrator (26 FR 4395), AD 61–11–3, as amended by Amendment 585 (28 FR 7394) and Amendment 662 (28 FR 14238).

This amendment becomes effective August 31, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation has determined that this document does lar A–107.

NOTE.—The Federal Aviation Administration has determind that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circu-

Issued in Washington, D.C., on July 21, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–21998 Filed 7–29–77;8:45 am]

[Docket No. 77–EA–30, Amdt. 39–2991]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) provides relief from AD 69–24–4 applicable to Piper PA–30 type airplanes. That AD required an increase in Vmc speed from 80 mph to 90 mph. However, the installation of Piper Kit 760–368 corrected the deficiency in the airplane and would have permitted a return to the original Vmc except for AD 69–24–4. This rule permits such return.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Maher, Airframe Section, Engineering and Manufacturing Branch, AEA–212, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone 212–995–2875.

SUPPLEMENTARY INFORMATION: AD 69–24–4 concerned the need to increase the Vmc (minimum control speed with critical engine inoperative) from 80 mph to 90 mph so as to comply with the applicable certifying regulations. With the installation of Piper Kit 760–368, a counter-rotating engine, the Vmc can be returned to 80 mph. Since this rule is relaxatory, notice and public procedure hereon are unnecessary and the rule (AD) may be made effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Maher, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective August 5, 1977, by amending AD 69–24–4, as follows:

1. Amend AD 69–24–4 by deleting the period and adding the phrase "except aircraft incorporating Piper Kit No. 760 368" at the end of the applicability paragraph.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended by (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Jamaica, New York, on July 21, 1977.

WILLIAM E. MOGRAN,
Director, Eastern Region.

[FR Doc.77–31996 Filed 7–29–77;8:45 am]

[Docket No. 77–SO–13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Marathon, Florida. This action provides necessary controlled airspace for accommodation of IFR operations at the Marathon Flight Strip.

EFFECTIVE DATE: 0901 GMT, August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. Telephone 404–763–7648.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on Thursday, May 26, 1977, (42 FR 26992) which proposed the designation of the Marathon, Florida, transition area. No objections were received from this Notice.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division, and Ronald R. Hagadone, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 11, 1977, by adding the following:

MARATHON, FLORIDA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marathon Flight Strip (Lat. 24°43'33" N., Long. 81°03'05" W.); within 3 miles each side of the 251° bearing from the Marathon RBN, extending from the 6.5-mile radius area to 8.5 miles west of the RBN; excluding the portion outside the continental limits of the United States.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c): (14 CFR 11.-69)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in East Point, Ga., on July 21, 1977.

PHILIP M. SWATEK,
Director, Southern Region.

[FR Doc.77–21995 Filed 7–29–77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS

PART 70—CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

AGENCY: Department of Commerce, Bureau of the Census.

ACTION: Final rule.

SUMMARY: This rule amends regulations of the Census Bureau by providing for cutoff dates for recognition by the Census Bureau of boundaries to be used in the 1980 Decennial Census. The purpose of Part 70 is to encourage municipalities and other units of government to complete any boundary changes sufficiently in advance of the decennial census to allow time for the Census Bureau to incorporate the changes into maps, control records, enumerator materials, computer tapes, and so on.

DATES: Effective on August 1, 1977.

FOR FURTHER INFORMATION:

Jacob Silver, Chief, Geography Division, Room 3203, FB–4, Washington, D.C. 20233, 301–763–5636.

SUMMARY INFORMATION: On May 27, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 27255) inviting written comments for consideration in connection with a proposed regulation which would adjust the cutoff dates for boundary changes from 1970 to 1980, would add a cutoff date for receipt of boundary changes, would define the term "municipality", and would make minor nonsubstantive changes in wording.

Interested persons were given until June 26, 1977, to submit written views and comments. No comments were received.

Therefore, under the authority of 13 U.S.C. 4, 15 CFR, Part 70 is amended to read as follows:

Sec.

70.1 Cutoff dates and effect on enumeration and data tabulation.

70.2 "Municipality" and "county subdivision" defined for census purposes.

70.3 Effect of boundary changes occurring or reported after the cutoff dates.

AUTHORITY: 13 U.S.C. 4; 32 FR 15154; and Department of Commerce Organization Order 35–2A (40 FR 42765).

§ 70.1 Cutoff dates and effect on enumeration and data tabulation.

For the tabulation and publication of data from the 1980 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries that are legally in effect on January 1, 1980 and have been officially reported to the Bureau no later than March 1, 1980. Respondents will be enumerated on the decennial census date as residing within the legal limits of municipalities, county subdivisions, counties, States, and equivalent areas as those limits exist on January 1, 1980.

§ 70.2 "Municipality" and "county subdivision" defined for census purposes.

For the purposes of this part, "municipalities" and "county subdivisions" are defined to include the areas identified by the Bureau of the Census as incorporated places (such as cities and villages) and minor civil divisions (such as townships and magisterial districts). A more complete description appears on pages X and XI of U.S. "Census of Population: 1970", Volume I, Part A.

§ 70.3 Effect of boundary changes occurring or reported after the cutoff dates.

Changes in boundaries that become effective after January 1, 1980, will not be recognized by the Bureau of the Census in taking the 1980 Decennial Census; the residents of any area which is transferred to another jurisdiction after that date will be enumerated in and reported by the 1980 census as residents of the area in which their residences were located on January 1, 1980. Changes occurring on or before January 1, 1980, but not officially submitted to the Bureau of the Census until after March 1, 1980, will not be recognized in the data tabulations prepared for the 1980 census except as necessary by the Bureau for its decennial census operations; only population counts will be reported for such areas.

Dated: July 27, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc.77-22012 Filed 7-29-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13806; File No. S7-603]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: The release (i) makes permanent certain temporary amendments of the rule relating to the application of the alternative net capital requirement to brokers and dealers effecing transactions solely in municipal securities; (ii) extends until March 1, 1978 temporary provisions of the rule relating to the inclusion in net capital of certain good faith deposits and syndicate or joint account receivables arising in connection with municipal securities underwritings and undue concentration deductions, "haircuts," on positions in municipal securities; and (iii) affirms the Commission interpretation with regard to municipal securities which suspends the provision of the uniform net capital rule which requires the deduction from net worth of the carrying value of securities for which there is no ready market. This action is necessary since the temporary amendments noted in (i) and (ii) above will otherwise expire on August 1, 1977. The effect of the amendments is to make permanent certain temporary amendments to the rule and to provide the Commission with additional time to formulate permanent amendments, pertaining to municipal securities, with regard to the treatment of certain receivables, undue concentration deductions and securities for which there is no ready market.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1390.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 13488 (April 29, 1977) (42 FR 23799 (May 11, 1977)) ("Release No. 13488"), the Commission extended until August 1, 1977 the temporary provisions of Rule 15c3-1 (17 CFR 240.15c3-1) ("section 240.15c3-1") under the Securities Exchange Act of 1934 dealing with the items summarized above. The Commission took such action to afford interested members of the public the opportunity to express their views, especially by way of impact studies and other appropriate statistical compilations, concerning the nature of more permanent amendments to the temporary provisions. The Commission is in the process of formulating permanent amendments. In the interim, the Commission has determined that it is appropriate to: (i) make permanent those temporary amendments summarized above; (ii) extend until March 1, 1978, the temporary amendments relating to the treatment of certain receivables and undue concentration; and (iii) affirm the Commission's interpretation regarding positions in municipal securities for which there is no ready market.

The amendments to section 240.15c3-1 adopted herein are framed in light of considerations disclosed in the public's response to that invitation, and do not alter the existing regulatory scheme for such brokers and dealers. The Commission finds, pursuant to 5 U.S.C. § 553(b)(3)(B), that further notice and public procedure respecting these amendments is impracticable and unnecessary to the public interest. The Commission finds further that these amendments relieve regulatory restrictions within the meaning of 5 U.S.C. § 553(d)(1) and may therefore become effective less than thirty days from their publication.

STATUTORY BASIS, COMPETITIVE CONSIDERATIONS AND EFFECTIVE DATE

Pursuant to the Securities Exchange Act of 1934, and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. § 78o (c)(3), w(a), the Commission amends section 240.15c3-1 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective August 1, 1977. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's mandate under Section 15(c)(3) thereof, 15 U.S.C. § 78o(c)(3), to establish minimum financial responsibility standards for all brokers and dealers.

TEXT OF AMENDMENTS TO SECTION 240.15c3-1

The text of the amendments to section 240.15c3-1 is as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in subparagraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and, until March 1, 1978, receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than ninety (90) days from settlement of the underwriting with the issuer, and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than ninety (90) days from settlement of the underwriting with the issuer;

* * * * * * *

(f) *Alternative net capital requirement.* (1)(i)—A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to subparagraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in subparagraph (c)(1) of this section and certain deductions provided for in subparagraph (c)(2) of this section. Provided, that in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to the greater of $100,000 ($25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, 17 CFR 240.-15c3-3a) and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission

in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to the provisions of this paragraph (f), it shall continue to do so unless a change in such election is approved upon application to the Commission.

(ii) In the case of a municipal securities broker, as defined in section 3(a)(31) of the Securities Exchange Act of 1934, who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to subparagraph (k)(1) or (k)(2)(i), and who effects transactions only on a payment versus delivery basis with other brokers or dealers or municipal securities dealers, and who does not hold funds or securities for, or owe money or securities to, customers and does not otherwise carry accounts of, or for, customers, in order to qualify to operate under this paragraph (f) such municipal securities broker shall at all times maintain net capital equal to the greater of $25,000 or 4 percent of aggregate debit items computed in accordance with Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a. *Provided*, That in order to qualify to operate under this paragraph (f), such municipal securities broker shall notify the Examining Authority for such broker and the Regional Office of the Commission in which the broker has its principal place of business, in writing, of its election to operate under this provision. Once a municipal securities broker has determined to operate pursuant to this paragraph (f), it shall continue to do so unless a change in such election is approved upon application to the Commission.

§ 240.15c3-1 [Amended]

In section 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows:

* * * *Provided further*, That until March 1, 1978, this provision shall not apply to municipal securities.

* * * * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 28, 1977.

[FR Doc.77-22121 Filed 7-29-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-031]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Washington, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the periods in the morning and evening when the draw of the Lake Washington pontoon bridge between Seattle and Mercer Island may remain closed to the passage of vessels. This change is being made because of an increase in vehicular traffic. The extended closed periods will provide for a smoother flow of vehicular traffic.

EFFECTIVE DATE: This amendment is is effective on August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On February 28, 1977, the Coast Guard published a proposed rule (42 FR 11251) concerning this amendment. Interested persons were given until March 29, 1977, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Thirteen replies were received. Nine supported this proposal or had no objection thereto. Three objected on the grounds that the regulations, as proposed, were too restrictive. One reply was not relevant to the proposal.

These objections were forwarded to the applicant for consideration. Two objectors to the proposal indicated that weekday closed-periods would be acceptable, provided weekend closed-periods be eliminated. One of the objectors also requested that national holidays be excluded from closed-periods. One objector requested that the proposal be rejected in its entirety. Upon review of objections, the applicant requested that the proposal be modified to eliminate closed periods on weekends and holidays. The Coast Guard feels that the proposed regulations as modified will provide for the reasonable needs of navigation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.800(e)(1) to read as follows:

§ 117.800 Lake Washington, Wash.; pontoon bridge between Seattle and Mercer Island, Wash.

* * * * * * *

(e) * * *

(1) Provided, That the draw need not open from 6:30 a.m. to 9:30 a.m. and from 3 p.m. to 6:30 p.m., Monday through Friday, except holidays, for any vessel of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross ton or over, or a pile driver that is unable to pass the fixed spans, and

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order, as amended, and OMB Circular A-107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-22073 Filed 7-29-77;8:45 am]

[CGD 76-229]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wishkah and Hoquiam Rivers, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revoking the portion of the regulations for the bridge across the Wishkah River at Heron Street and the bridge across the Hoquiam River at Simpson Avenue to eliminate the use of the radiotelephone presently located on the Chehalis River bridge to request draw openings. This is being done because the Federal Communications Commission has advised that Limited Coast Stations operating on 2182 khz and 2738 khz will not be licensed after January 1, 1977, and because the radio telephone serving these three bridges has been used only twelve times to request bridge openings since 1971.

EFFECTIVE DATE: These amendments are effective on August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Since these amendments remove reference to radio frequencies which cannot be used, and relieve the bridge owner of the obligation of maintaining equipment that has not been utilized, notice and public procedures on these amendments are unnecessary.

DRAFTING INFORMATION

The principal persons involved in drafting these amendments are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF AMENDMENTS

The Chehalis River is the main tributary of the Grays Harbor estuary and the Hoquiam and Wishkah Rivers are both tributary to the Chehalis. The Chehalis River highway bridge was selected as the site for the radiotelephone because it has constant attendance (with morning and evening closed periods) whereas the Hoquiam and Wishkah River bridges do not have constant attendance. The Chehalis River is also the

main channel for ocean shipping while the Hoquiam and Wishkah accommodate fishing vessels, log rafts, recreation vessels and maintenance facilities. With constant attendance at the Chehalis River bridge, there have been no radiotelephone requests for operation of this bridge. Of the 12 radio requests for openings, 11 were directed to the Hoquiam River drawbridge and one to the Wishkah River drawbridge.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

1. Deleting the last two sentences in § 117.810(f)(5).

2. Deleting the last four sentences in § 117.810(f)(6).

(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-22072 Filed 7-29-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Address Cards Arranged in Sequence of Carrier Delivery

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby modifies its mailing list sequencing service offered to customers by correcting wrong addresses and providing new addresses if mailers meet certain specific requirements. This change will aid the Postal Service by reducing the volume of costly undeliverable as addressed mail. It will also enable mailers to come to one source for information to correct their mailing lists. For each correction made (an address deletion or addition) the charge will be ten cents.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Gregory Whiteman (202-245-5630).

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER a proposal on the mailing list sequencing service (42 FR 22176). Sixteen comments were received, fifteen of which were favorable, one of which was against the proposal. These comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

Four commenters addressed the requirement that lists, to qualify for the proposed new service, contain at least 90 percent of the addresses within the ZIP code area. One commenter stated that 90 percent was higher than necessary and that 75 percent was a more equitable percentage. The 90 percent was said to be such a high percentage that it might invite "fudging" of lists to reach the 90 percent level and would cause administrative policing problems for the Postal Service. Additionally, this commenter felt that because of the inconsistency of sequencing and correcting lists in the past, most good lists could not meet the 90 percent criterion. The commentor also indicated that the 90 percent figure was so high as to exclude "name" lists from qualifying for the service. A second commenter stated that 50 percent was an acceptable level and that those who need the service most could not qualify at the 90 percent level. A third commenter addressed the need for a grace period to enable mailers to build their lists back to the 90 percent level. The fourth and final comment on the 90 percent issue indicated that 90 percent was exceptionally high and would prove too costly for most mailers.

The Postal Service is satisfied that under good industry practice a well-maintained ocupant list will contain no less than 80 percent to 90 percent of the possible addresses within the geographical area to which the list relates. To maintain the interstitial character of the new service and to ensure that it does not appear inconsistent with the statutory prohibition against making mailing lists available to the public, the Postal Service considers it desirable to set the permanent criterion toward the high side of this range of variation and has determined that it will adopt the 90 percent criterion. In light of the comments, however, the Postal Service has decided that the criterion should be temporarily lowered to 80 percent for the period from August 15, 1977, to January 31, 1978, to provide a grace period in which the owners of well-maintained lists that are currently at the low side of the range may have an opportunity to bring their lists up to the 90 percent standard before it becomes effective.

It is recognized that there may be attempts to inflate the percentage of addresses on an occupant list in order to qualify for the new service and that the higher the criterion for qualifying the greater may be the incentive to inflate, but the Postal Service considers that the administrative procedures which it is establishing for the implementation of these regulations will be adequate to ensure compliance with them.

The Postal Service agrees with the comment that in most situations a name and address list as distinguished from an occupant or street-address-only list, would not have a sufficient number of addresses to qualify. The Postal Service does not regard this as an important limitation, since owners of these lists normally do not want just an address but seek both specific names and addresses.

We considered the comment that the 90 percent figure was exceptionally high and would prove to be costly. In our opinion, the one-time cost of getting the mailing list to the 90 percent level would prove to be a cost-saving device upon future resubmission of lists for updating.

The issue of fees charged for this service also received four comments. Two commenters felt that the 10 cent fee was too high and would discourage mailers from using the service. A second commenter said that a fee for deletions was unwarranted and, during the initial grace period, would prove too costly since lists have deteriorated due to past Postal Service actions. The other comment generally indicated that the fee was excessive.

The Postal Service has concluded that it will adopt the proposed fee of 10 cents for each corrected address, added or deleted. This uniform fee is necessary to cover the costs, primarily employee time, of providing the service, which of course mailers are not required to utilize.

Two commenters addressed the issue of clarity of language. One commenter asked for clarification of procedure and a definition of "address" as it relates to a multi-unit dwelling. The Postal Service has clarified the text of the regulation to provide that a multi-unit dwelling is considered as a single address. The same commenter also suggested that the regulation clearly provide that a list composed of only the residence addresses, or the business addresses, in a ZIP code area, will qualify for the revised service so long as it contains 90 percent of the possible residence or business addresses in the area. This suggestion has been adopted in the final regulation. Also, one commenter asked whether the present list sequencing service for which no fee is charged is to be continued, with the new regulation change as an addition to the service, or if the present system is to be replaced entirely by the proposed service. The Postal Service has clarified this point in the final notice by providing expressly that list owners who do not meet the 90 percent criterion, or who do not wish the additional service, may obtain the more limited, earlier service. A charge will continue to be made for any incorrect addresses deleted but not for blank cards inserted in lieu of new addresses.

One commenter stated, in a separate issue, that the five digit ZIP Code should be replaced in the regulation to include an SCF area. The Postal Service will retain the five digit ZIP code criterion for procedural and operational ease of handling and expediting mailing of lists.

One final issue was addressed by a commenter who favored a discount for carrier walk sequenced mail. Since this comment does not relate to the proposed regulation change, it will not be dealt with here.

The Postal Service makes this regulation change in the full awareness of the provisions of 39 U.S.C. 412 which prohibits the Postal Service from making available to the public by any means or for any purpose any mailing or other list of names or addresses of Postal patrons or other persons. The Postal Service does not believe that this regulation change will be inconsistent with 39 U.S.C. 412, since the requirements that customers must meet to receive this additional service are designed to ensure that the additional street addresses provided do not constitute a list but are rather an interstitial correction of a bona-fide existing list.

Accordingly, the Postal Service hereby adopts the following revisions of the Postal Service Manual effective August 15, 1977, except that the 90 percent criterion of 122.53c is reduced to 80 percent during the period beginning on August 15, 1977, and extending to January 31, 1978.

PART 122—ADDRESSES

In 122.5 revise .53 to read as follows:

122.5 Mailing list services.

* * * * *

.53 Address cards arranged in sequence of carrier delivery.

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them.

Withdraw cards with nonexistent or other undeliverable addresses. Insert a card showing the correct address for each existing address that is not included in the owner's address cards, plates, or stencils and correct cards with incorrect addresses if the owner meets the following requirements:

a. Separate mailing lists must be submitted for each five digit ZIP Code area.

b. A mailing statement must be submitted by the owner showing:

(1) Whether the list is a residence only list, a business only list, or a combination list;

(2) The number of addresses contained in the list; and

(3) The list owner's or designated agent's name, address, and phone number.

c. The mailing list must contain:

(1) 90 percent of all residential addresses within the five digit ZIP Code area if the list is a residence only list, or

(2) 90 percent of all business addresses within the five digit ZIP Code area if the list is a business only list, or

(3) 90 percent of all addresses within the five digit ZIP Code area if the list is a combination list.

In calculating the total number of addresses within a five digit ZIP Code area, apartment units or office buildings with a series of addresses will be treated as one address.

Withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the owner's address cards, plates, stencils if the owner does not meet the requirements specified above. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing.

For each correction (deletion or addition of an address), the charge is 10 cents. For apartment or office buildings with a series of addresses, for which the range of the addresses is given on one card, the charge will be 10 cents for the card.

Local managers must check to see that customers whose lists have been arranged in sequence of carrier delivery ensure that bundles are prepared for each route with the individual pieces in delivery address sequence. This above service shall not be provided to customers who do not ensure the required premailing preparation is made.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

[FR Doc.77-22078 Filed 7-29-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Editorial Amendments in Reference to the Use of Type Approved Antenna Monitors by AM Broadcast Stations Operating Directional Antenna Systems

AGENCY: Federal Communications Commission.

ACTION: Order making editorial deletion in rules for AM broadcast stations.

SUMMARY: Provision in the AM broadcast station operator rules that requires stations with directional antennas and also employing Third Class Licensed Operators have type-approved antenna monitors fed with sampling system installed and maintained according to accepted standards of good engineering practice is being deleted. The provision is superseded by other rules effective June 1, 1977, and therefore unnecessary.

EFFECTIVE DATE: August 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 73 of the Commission's rules and regulations in reference to the use of type approved antenna monitors by AM broadcast stations operating directional antenna systems. Order.

Adopted: July 22, 1977.

Released: July 27, 1977.

1. On April 28, 1977, the Commission adopted an Order in the above-captioned matter making editorial amendments to delete and correct numerous provisions of the Rules that were no longer applicable after May 31, 1977. Specifically, the amended rules were in reference to AM directional antenna stations operating without type approved antenna monitors. Effective June 1, 1977, all AM stations with directional antennas were to have type approved antenna monitors installed and in operation.

2. Subsequent to the release of that Order we have received informal inquiries about the continued application of subparagraph (e)(2) of Section 73.93 concerning the special condition under which AM stations with directional antennas may employ duty operators who hold third class permits. That rule not only requires the stations to have type approved antenna monitors installed, but also requires that the monitor be fed by a "sampling system installed and maintained pursuant to accepted standards of good engineering practice."

3. The subparagraph (e)(2) of section 73.93 as discussed above was adopted by the Report and Order in Docket No. 18930 on June 1, 1972 (37 FR 11538, 35 F.C.C. 2d 290), by which the authority of third class licensed operators holding broadcast endorsements was extended to include operating AM stations with directional antenna systems. On January 29, 1973, the Commission established June 1, 1977, as the date by which all AM stations with directional antennas were to install type approved antenna monitors (38 FR 2689). On February 4, 1976, the Commission terminated Docket No. 19692 (41 FR 7399) by a Report and Order adopting standards for the design and installation of antenna monitor sampling systems. The question has been raised asking if the existing wording of section 73.93(e)(2) requiring the use of a "sampling system installed and maintained according to the standards of good engineering practice" meant that the sampling systems at stations employing third class operators must now meet all the technical specifications as contained in the rule section 73.68.

4. It was not our intention to require stations employing Third Class operators to modify existing sampling systems to meet the standards adopted in February 1976 as a condition for employment of such operators. It is for this reason, together with the unnecessary reference to the special requirement for the use of a type approved antenna monitor, that subparagraph (e)(2) of section 73.93 should be completely deleted. Its retention could result in misunderstanding and unnecessary inconvenience or expense to station licensees.

5. We conclude that, for the reasons set forth above, adoption of this amendment will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(B)(3)(b), inasmuch as this amendment would impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

6. Therefore, *it is ordered*, That, pursuant to sections 4 and 303 of the Communications Act of 1934, as amended, Part 74, Subpart D, of the Commission's Rules and Regulations are amended as set forth below, effective August 1, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

In § 73.93 of Part 73 of the Commission's Rules and Regulations, subparagraph (e)(2) is deleted and marked [Reserved]:

§ 73.93 Operator requirements.

* * * * *

(e)

(2) [Reserved]

* * * * *

[FR Doc.77-22077 Filed 7-29-77;8:45 am]

PART 87—AVIATION SERVICES

Editorial Amendment Concerning Use of Frequency 157.425 MHz in Great Lakes and Along the St. Lawrence Seaway

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Editorial amendment of Part 87 of the Commission's rules to limit the use of frequency 157.425 MHz in the Great Lakes and along the St. Lawrence Seaway to public correspondence. By a previous rulemaking this limitation was placed in Parts 2 and 83. This editorial Order will place a similar limitation in Part 87.

EFFECTIVE DATE: August 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: July 25, 1977.

Released: July 26, 1977.

Order. In the matter of Editorial amendment of § 87.183(j)(2) of the Commission's rules and regulations.

1. In most areas frequency 157.425 MHz is available for intership and commercial communications and may be assigned to ship stations aboard commercial transport vessels engaged in commercial fishing and between these commercial vessels and associated aircraft while engaged in commercial fishing activities (fish spotting).

2. In Docket No. 20838 amending Parts 2, 81 and 83 of the Commission's rules, however, frequency 157.425 MHz was limited in the Great Lakes area and along the Saint Lawrence Seaway to public correspondence use as the ship-to-shore half of VHF duplex Channel 88. It ceased to be available in those areas to ships for intership commercial communications and to ships and associated aircraft for fish spotting.

3. This Order will provide a corresponding amendment to § 87.183(j)(2) of the rules in order that Part 87, Aviation Services, also reflect this limitation on frequency 157.425 MHz in the Great Lakes area and along the Saint Lawrence Seaway. Authority for this amendment is contained in sections 4(i) and 303 (c), (f), (g) and (r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, 47 CFR 0.231 (d). Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. In view of the above: *It is ordered*, That the rule amendment set forth below is adopted effective August 9, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

In Part 87 Aviation Services, § 87.183 of the rules is amended to read as follows:

§ 87.183 Frequencies available.

* * * * *

(j) * * *

(2) Except in the Great Lakes and along the St. Lawrence Seaway the frequency 157.425 MHz is available for assignment to aircraft stations for communication with commercial fishing vessels while engaged in commercial fishing activities.

* * * * *

[FR Doc.77-22037 Filed 7-29-77;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-03; Notice 2]

PART 580—ODOMETER DISCLOSURE REQUIREMENTS

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the odometer disclosure statement that must be executed upon each sale of a motor vehicle. The former statement often proved confusing and was sometimes used in a misleading manner. The amended statement is clearer and less likely to be misused.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Kathleen DeMeter, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1834).

SUPPLEMENTARY INFORMATION: The disclosure statement is required by 49 CFR Part 580, Odometer Disclosure Requirements, a regulation issued by the National Highway Traffic Safety Administration (NHTSA) to implement the requirements of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513, as amended by Pub. L. 94-364; 15 U.S.C. 1901-1991). The regulation, which has been in effect since March 1, 1973, requires each transferor of a motor vehicle to give the transferee a written statement attesting to the accuracy of the vehicle's odometer.

Experience with the regulation has shown several respects in which it should be improved. In response to a petition for rulemaking submitted by the National Automobile Dealers Association, and in recognition of the need for improvements in the disclosure statement, the NHTSA issued a notice on February 9, 1977, (42 FR 9045) which proposed changes in the form and content of the odometer disclosure statement.

Differences between proposed and final rule. The final rule differs from the proposed rule in several respects. The notice had proposed to require the disclosure form to include the last license plate number, State and year. In view of the number of commenters who stated that this information was not needed to identify a vehicle or to trace a vehicle's history, the agency has decided to delete this requirement from the final rule.

The notice proposed a substantial enlargement of the disclosure form, including a certification that the odometer was either not altered, or altered for repair or replacement purposes only. This certification had been proposed in response to the NADA petition, and drew few critical comments. Two commenters raised Fifth Amendment questions concerning these additional boxes. The Department of Health, Education, and Welfare's Office of Consumer Affairs noted that these alternative certifications might give rise to possible violations of the transferor's right against self-incrimination since a wilful false certification may amount to an admission of a violation of the Act. The NHTSA, however, believes that no Fifth Amendment problem could arise. In cases dealing with this issue the Supreme Court has held that where the dominant purpose of a record-keeping requirement is to compel criminals to keep incriminating records, the statute is invalid and the 5th Amendment may be invoked. However, where the record-keeping requirements have an independent purpose and do not involve a selective group which is inherently suspect of criminal activities, the statute is valid and the 5th Amendment may not be invoked. All businessmen, as well as all consumers, who sell automobiles would be required to execute odometer disclosure statements. Statements are not required only of those individuals who are most often found to tamper with odometers. The primary purpose of a statement is to inform a potential buyer of the car's mileage so that he may have an index to the condition and value of the vehicle. The fact that individuals who tamper with vehicle odometers would be executing incriminating records is not the dominant purpose of this requirement. Consequently, these provisions will be retained in the final rule with one minor change suggested by a commenter. In view of the fact that these certifications actually involve three separate statements, instead of two as indicated in the NPRM, the NHTSA had decided to divide the second certification into two: First, that the odometer was altered and the mileage is identical to that before repair; and second, that the odometer was altered and reset to zero, with a statement of the mileage on the original odometer or the odometer before repair.

Several commenters suggested that the transferee's name and address should be provided in a disclosure statement, in addition to his signature. This would provide a useful tool in tracing the vehicle's history and consequently, the NHTSA has decided to require that this information be included.

With the gradual conversion to the metric system now going on in the United States, the regulation has also been changed to provide for odometer readings that are expressed in kilometers where the vehicle records the distance traveled in metric units.

The bulk of the comments received were favorable. The primary objection was that the proposed final effective date of April 15, 1977, did not allow adequate time for new forms to be prepared and printed. In addition, it would have increased costs because it would not have allowed sufficient time for stocks of the present form to be depleted. In response to these comments, the agency has adopted an effective date of January 1, 1978.

One of the original goals of NHTSA was to link the disclosure statement as closely as possible to the documents required for transfer of ownership, so that buyers and sellers would know of the need for disclosure. To accomplish this goal in a manner that would not introduce an additional document into motor vehicle transactions, the agency proposed to use the certificate of title as the document for odometer disclosure.

The comments to that initial proposal persuaded the agency that providing the odometer reading on the title would not be feasible as the sole method of disclosure. NHTSA still believes, however, that placing odometer information on the certificate of title will be useful both to consumers and to law enforcement officials. This belief is substantiated by a recent resolution of the National Association of Attorneys General, which endorsed odometer information on State certificates of title as the most effective means to ensure a permanent record of the mileage history of a motor vehicle, and by the development by the American Association of Motor Vehicle Administrators of model procedures for the disclosure of odometer information on vehicle titles. Such a record would be easily accessible to governmental enforcement agencies as well as prospective purchasers of used motor vehicles.

The notice of February 7, 1977, proposed to allow the use of a State document containing odometer disclosure information if the State document contained "all" of the information required on the Federal form. A comment from the Attorney General of Ohio pointed out that it would be difficult for States to include "all" of the odometer information on their titles because of the limited space available. Consequently, NHTSA has decided to revise § 580.4(f) to accommodate those States that provide odometer information on their titles by establishing a procedure under which States can have their titles approved for use as odometer disclosure statements. In view of the utility of titles and their limited space, the procedure would permit shortening the odometer provisions on the title where necessary. Although a shorter disclosure might sacrifice clarity to a degree, the agency regards this as an acceptable price for gaining the benefits of a combined title and odometer disclosure.

States that wish to have their certificates of title satisfy the Federal odometer disclosure requirements must meet the basic provisions of the Federal requirement, with the following exceptions:

(1) The citation to the Federal law may be deleted in favor of a reference to State law. The reference provisions could then state that "Federal and State regulations require you to state the odometer mileage upon transfer of ownership. (Citation to State law instead of Federal law)."

(2) The initial statement of the odometer reading and the following alternate certifications should be included on the title. States may, however, condense that information as long as none of the certifications are lost. An example of such condensation could be "I certify to the best of my knowledge that the odometer reading is _____ and reflects the actual mileage of the vehicle described herein or (check if applicable).

☐ 1. The amount of mileage stated is in excess of 99,999 miles, or

☐ 2. The odometer reading is not the actual mileage."

(3) The transferee's signature must still appear on the title but it need not expressly indicate acknowledgement of receipt of the disclosures.

(4) The certification that the odometer was either not altered or altered for repair or replacement purposes may be deleted.

All deviations on the certificate of title from the Federal requirements must be approved by the NHTSA prior to the use of State titles as substitutes for the Federal form. The exceptions noted above are to be used by the States only as guides in preparing conforming titles. In order for the citizens of a State to use the certificate of title as their odometer disclosure form, the Administrator of the State Department of Motor Vehicles must first request an exemption from the provision of the disclosure requirement by submitting such request in writing with a copy of the proposed certificate of title. The NHTSA will then notify the Administrator of its decision to accept or refuse the request and the reasons for its decision. Upon receipt of the NHTSA's acceptance of the request for an exemption, the State may proceed with a campaign to notify consumers, dealers and distributors of such acceptance. It shall be the State's responsibility to publicize that its title may be used in place of the odometer disclosure statement.

Additional comments. One commenter asked whether there would be specifications for size. There are none, with the understanding that all print should be legible to the naked eye. Another commenter suggested that section 580.4 (c)(3) be changed to add the word "believed" so that the reading would be "I hereby certify that to the best of my knowledge the odometer reading as stated above is believed NOT to be the actual mileage. * * *" NHTSA considers this addition unnecessary because the certification already states "to the best of my knowledge."

A commenter proposed that the form should be amended to say that the names and addresses of prior owners are available from a State agency. NHTSA has determined that this should not be added. The addresses are not available from some State agencies and such a provision would therefore be of limited utility. Another addition that was suggested was to add a reference to the minimum damages and attorneys fees available under the Federal law. This was proposed to alert consumers to the fact that certain impediments to enforcement, such as the expense of lawyers and proof of actual damages, are removed by the Act. These references, like any other additions desired by the States or transferors, may be added, but will not be required due to space limitations and to a determination that they are not necessary if there is sufficient publicity of the law.

An individual commented that the seller should be allowed to estimate the amount of mileage difference and explain the error. There is certainly no prohibition against a seller doing so, but NHTSA sees no benefit to be gained in requiring this. A buyer can, and certainly should, request such information, but anyone who has violated the Act will, nonetheless, not provide a truthful statement of the mileage difference or the reason for that difference. The result could be that a buyer is unknowingly led into reliance on this false statement, whereas an independent check of his own could have produced the truth.

It was suggested that positive introductory statements be used for the certification sections. The commenter noted that in its experience, when a positive introductory statement is lacking, the seller fails to check any box. Its proposal would modify the statement as follows: "I _____ state that the odometer now reads _____ miles and I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

☐ (1) I hereby certify that the odometer reading reflects the amount of mileage in excess. * * *

☐ (2) I hereby certify that to the best of my knowledge the odometer reading as stated above is NOT * * *"

The NHTSA has not experienced the failure to check a box when a positive introductory statement is lacking and

consequently, will retain the statement in the proposed rule. Should it become evident that a positive introductory statement is needed, further rulemaking will be undertaken. It should be noted that the form suggested by this commenter would significantly shorten the length of this provision, thus it would be an acceptable alternative only where the odometer disclosure is on the certificate of title.

A suggestion was made to provide a notice that an auxiliary odometer had been used in the vehicle. The auxiliary odometer would interrupt the operation of the regular odometer and cause it to register less than the vehicle's actual mileage. The seller would therefore be required by the present language of the regulation to notify the buyer of the odometer error. In view of this, NHTSA considers it unnecessary to refer specifically to an auxiliary odometer.

It was also suggested that the owner of a vehicle be allowed to replace or adjust the odometer to reflect actual mileage. The commenter noted that occasionally odometers jump ahead 10, 20, or 30 thousand miles and if the odometer cannot be altered to read the actual mileage instead of the mileage on the odometer before repair or replacement, the trade-in value would be drastically decreased to the harm of the owner. NHTSA believes that the few cases in which the odometer malfunctions and rolls forward too fast are too slight to justify this provision. Such a provision would create a loophole for those who wanted to roll back their odometer and then claim that it was rolling over too fast and they had to fix it by moving it backward. Anyone whose odometer did jump could replace or repair the odometer, set it to zero so that a buyer would not be misled by the odometer reading, and upon sale provide a statement to the buyer that the mileage is NOT actual and that the actual mileage is less than that shown on the odometer or on the repair or replacement sticker. More importantly, it should be noted that the repair and replacement provisions, wherein the owner is required to reset the odometer to the mileage before repair or replacement or to zero, are part of the Motor Vehicle Information and Cost Savings Act (section 407(a)). Consequently, they are not susceptible to change by NHTSA, but only by Congress.

Requests by commenters that odometer readings be required on registration forms, that statements be required to be retained, and that manufacturers be required to furnish 6 digit odometers are not applicable to this rulemaking action. It should be noted that a retention requirement for odometer disclosure statements will be issued soon and that a proposed rule requiring tamper-proof odometers which indicate when they have exceeded 100,000 miles or kilometers was issued on December 7, 1976. The proposed effective date of the latter rule is September 1, 1979.

In consideration of the foregoing, Part 580, Odometer Disclosure Requirements, is amended to read as set forth below.

The lawyer principally responsible for this rule is Kathleen DeMeter.

Issued on July 25, 1977.

(Sec. 408, Pub. L. 92-513, 86 Stat. 962, as amended by Pub. L. 94-364, 90 Stat. 983 (15 U.S.C. 1988); delegation of authority at 49 CFR 501.8(1).)

JOAN CLAYBROOK,
Administrator.

1. § 580.4, *Disclosure of odometer information* is revised as follows:

§ 580.4 Disclosure of odometer information.

(a) Before executing any transfer of ownership document, each transferor of a motor vehicle shall furnish to the transferee a written statement signed by the transferor, containing the following information:

(1) The odometer reading at the time of transfer;

(2) The date of transfer;

(3) The transferor's name and current address;

(4) The transferee's name and current address;

(5) The identity of the vehicle, including its make, model, year, and body type, and its vehicle identification number.

(b) In addition to the information provided under paragraph (a) of this section, the statement shall refer to the Motor Vehicle Information and Cost Savings Act and shall state that incorrect information may result in civil liability and civil or criminal penalties.

(c) In addition to the information provided under paragraphs (a) and (b) of this section,

(1) The transferor shall certify that to the best of his knowledge the odometer reading reflects the actual miles or kilometers the vehicle has been driven; or

(2) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles/kilometers, he shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading differs from the number of miles/kilometers the vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, he shall include a statement that the odometer reading is not the actual mileage, and should not be relied upon.

(d) In addition to the information provided under paragraphs (a), (b) and (c) of this section, the transferor shall certify that:

(1) The odometer was not altered, set back, or disconnected while in the transferor's possession, and he has no knowledge of anyone else doing so;

(2) The odometer was altered for repair or replacement purposes while in the transferor's possession, and the mileage registered on the repaired or replacement odometer was identical to that before such service; or

(3) The odometer was altered for repair or replacement purposes, the odometer was incapable of registering the same mileage, it was reset to zero, and the mileage on odometer before repair was ____ miles/kilometers.

(e) The transferee shall acknowledge receipt of the disclosure statement by signing it.

(f)(1) If the laws or regulations of the State in which the transfer occurs require the odometer disclosure to be made on the certificate of title, the transferor may make the disclosure required by this section by executing the State certificate of title. In order to utilize the certificate of title as a substitute for the Federal odometer disclosure statement, it must contain essentially the same information required by paragraphs (a), (b), (c), and (e) of this section. If the information contained on the State certificate of title varies in any way from that required for the Federal form, the State must obtain approval from the National Highway Traffic Safety Administration before its title can be used as a substitute for the Federal form. Such approval may be obtained by submitting a copy of the proposed certificate of title to the Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(2) The NHTSA shall respond to the State's request within 30 days of receipt of such request.

(3) If a document, other than the certificate of title, provided under the laws or regulations of the State in which the transfer occurs contains all of the statements required by this section, the transferor may make the disclosure required by this section either by executing the State document or by executing the disclosure form specified in § 580.6.

(g) If there is no State document as described in paragraph (f) of this section, the transferor shall make the disclosure required by this section by executing the disclosure form specified in § 580.6.

2. Section 580.6, Disclosure Form, is revised as follows:

§ 580.6 Disclosure form.

ODOMETER MILEAGE STATEMENT

(Federal regulations require you to state the odometer mileage upon transfer of ownership. An inaccurate or untruthful statement may make you liable for damages to your transferee, for attorney fees, and for civil or criminal penalties, pursuant to sections 409, 412, and 413 of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. 92-513, as amended by Pub. L. 94-364).

I, _____, state that the
(transferor's name, Print)
odometer of the vehicle described below now reads _____ miles/kilometers.

Check one box only.

☐ (1) I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the actual mileage of the vehicle described below.

☐ (2) I hereby certify that to the best of my knowledge the odometer reading as stated above reflects the amount of mileage in excess of designed mechanical odometer limit of 99,999 miles/kilometers of the vehicle described below.

☐ (3) I hereby certify that to the best of my knowledge the odometer reading as stated above is NOT the actual mileage of the vehicle described below, and should not be relied upon.

Make	Model	Body type
Vehicle identification number		Year

Check one box only.

☐ (1) I hereby certify that the odometer of said vehicle was not altered, set back, or disconnected while in my possession, and I have no knowledge of anyone else doing so.

☐ (2) I hereby certify that the odometer was altered for repair or replacement purposes while in my possession, and that the mileage registered on the repaired or replacement odometer was identical to that before such service.

☐ (3) I hereby certify that the repaired or replacement odometer was incapable of registering the same mileage, that it was reset to zero, and that the mileage on the original odometer or the odometer before repair was _____ miles.

Transferor's Address (seller) _____
(Street)
_____
(City) (State) (ZIP Code)
Transferor's Signature (seller) _____
Date of Statement _____
Transferee's Name and Address (buyer) ____
_____
(Street)
_____
(City) (State) (ZIP Code)
Receipt of copy Acknowledged _____
(Transferee's signature, buyer)

[FR Doc.77-21828 Filed 7-26-77;11:37 am]

[Docket Nos. 73-19, 74-11; Notices 19, 22]

PART 581—BUMPER STANDARD

Damageability Requirements: Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to Petitions for Reconsideration; Correction.

SUMMARY: This notice corrects an inadvertent error in the notice that changed the format of Part 581, Bumper Standard, so that its numbering system conformed to the Code of Federal Regulations format (42 FR 24056; May 12, 1977). In that notice, the new numbering was not totally incorporated into the body of the regulation.

FOR FURTHER INFORMATION CONTACT:

Mr. Tim Hoyt, Office of Crashworthiness, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590. (202-426-2264).

SUPPLEMENTARY INFORMATION: On May 12, 1977, the National Highway Traffic Safety Administration published a FEDERAL REGISTER notice (42 FR 24056; FR Doc. 77-13235) responding to petitions for reconsideration of the March 4, 1976, notice (41 FR 9346) establishing a new bumper standard. The May notice also changed the format of Part 581. The text of the bumper standard was previously published in the format of a motor vehicle safety standard. Since the standard is actually an entire part within Chapter V of the Code of Federal Regulations its numbering system was revised in order that it could be properly codified.

When Part 581 was published with its revised format only the section headings were properly renumbered. The texts of the various sections were inadvertently left unchanged. This notice revises the section references in the body of the regulation to conform to the new format.

The principal author of this notice is Karen Dyson, Office of Chief Counsel.

In accordance with the foregoing, the following changes should be made to 49 CFR Part 581, Bumper Standard:

1. Section 581.5(a), (b) and (c)(9) should be changed to read as follows:

§ 581.5 Requirements.

(a) *Vehicles manufactured on or after September 1, 1978.* Each vehicle manufactured on or after September 1, 1978, shall meet the damage criteria of §§ 581.5 (c)(1) through 581.5(c)(9) when impacted by a pendulum-type test device in accordance with the procedures of § 581.7(b) under the conditions of § 581.6 at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of § 581.7(a) at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of § 581.6 at 5 mph.

(b) *Vehicles manufactured on or after September 1, 1979.* Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of § 581.5 (c)(1) through § 581.5(c)(7), and § 581.5 (c)(9) through § 581.5(c)(11), when tested in accordance with the requirements of § 581.5(a).

(c) • • •

(9) Except as provided in § 581.5(c)(8) there shall be no breakage or release of fasteners or joints.

• • • • • •

2. In § 581.6 the introductory paragraph, paragraphs (b) and (b)(1) should be chagned to read as follows:

§ 581.6 Conditions.

The vehicle shall meet the requirements of § 581.5 under the following conditions.

• • • • • •

(b) *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of § 581.7(a) and § 581.7 (b).

(1) The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C." The impact ridge and the surfaces in Planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. From the point of release of the device until the onset of rebound, the pendulum suspension system holds Plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for § 581.7(a), longitudinal; for § 581.7 (b), at an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

• • • • • •

3. Section 581.7(a)(5) should be changed to read as follows:

§ 581.7 Test procedures.

(a) • • •

(5) For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes Plane A of the test device and with the test device inboard of the vehicle corner test positions specified in § 581.7(b).

• • • • • •

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat 947 (15 U.S.C. 1912); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 26, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-21981 Filed 7-29-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Big Lake National Wildlife Refuge, Arkansas, to Squirrel and Raccoon Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Big Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel: October 1, 1977 through November 10, 1977. Raccoon: November 1, 1977 through November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvin L. Nichols, Refuge Manager, P.O. Box 67, Manila, Arkansas 72442. Telephone 501-564-2429.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game hunting is permitted on Big Lake National Wildlife Refuge, Arkansas. The open area comprising 11,035 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Upland game hunting for Squirrel and Raccoon shall be in accordance with all applicable State regulations subject to the following conditions:

1. Both Squirrel and Raccoon Hunting will close at sundown on November 10.

2. Only shotguns or .22 caliber rimfire rifles may be used.

3. Persons are prohibited from possessing, while on the refuge, either on their person or in their vehicle, game for which there is not an open season on the refuge.

4. A special permit is required for each hunt.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21960 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of the Hatchie National Wildlife Refuge, Tennessee, to Public Squirrel and Raccoon Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to the public for squirrel and raccoon hunting of Hatchie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel—August 27 through September 17, 1977. Raccoon—October 14 through October 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis B. Jordan, Hatchie National Wildlife Refuge, P.O. Box 187, Brownsville, Tennessee 38012. Phone 901-772-0501.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special Regulations; upland game hunting; for individual wildlife refuge areas.

Public hunting of squirrels and raccoons is permitted on the Hatchie National Wildlife Refuge, Tennessee, only on the areas designated by signs as being open to hunting. These areas comprising approximately 11,220 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following conditions:

1. All hunters must possess a Refuge Hunting Permit applicable for that particular hunt.

2. Hunters under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

3. Weapons: Only shotguns using No. 2 or smaller shot and .22 caliber rimfire rifles permitted.

4. Camping is prohibited.

5. Dogs are prohibited at all times except they are required during the raccoon hunt.

6. Raccoon hunting is permitted only on Tuesday, Friday and Saturday nights from sunset to midnight.

7. The operation of all motorized vehicles is prohibited in fields and woods and over roads and trails marked "closed". Vehicles may not be parked so as to block any road or thoroughfare.

8. No axes, saws or other cutting implements will be permitted during the raccoon hunt.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11959 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21965 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Lake Isom National Wildlife Refuge, Tennessee, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Lake Isom National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977 through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, P.O. Box 295, Samburg, Tennessee. Telephone 901-538-2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Lake Isom National Wildlife Refuge, Tennessee, only on the areas designated by signs as being open to hunting. These areas comprising 1,850 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977 through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tennessee 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Lake Isom refuge unit during the period(s) of October 3-October 8, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight only)

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tennessee 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21962 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Reelfoot National Wildlife Refuge, Kentucky, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Reelfoot National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977 through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, P.O. Box 295, Samburg, Tennessee. Telephone 901-538-2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Reelfoot National Wildlife Refuge, Kentucky, only on the areas designated by signs as being open to hunting. These areas comprising 2,034 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977 through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tennessee 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Long Point refuge unit during the period(s) of September 26-October 1, 1977 and October 3-October 8, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight)

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tennessee 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-21963 Filed 7-29-77;8:45 am]

PART 32—HUNTING

Opening of Reelfoot National Wildlife Refuge, Tenn., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Reelfoot National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: August 27, 1977, through October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Wendell Crews, Refuge Manager, Reelfoot National Wildlife Refuge, P.O. Box 295, Samburg, Tenn., telephone 901-538-2481.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel and raccoon hunting is permitted on the Reelfoot National Wildlife Refuge, Tenn., only on the areas designated by signs as being open to hunting. These areas comprising 9,585 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations pertinent to the hunting of squirrels and raccoons, subject to the following conditions:

A. SQUIRRELS

1. Squirrels may be hunted on the refuge during the period of August 27, 1977, through September 30, 1977.

2. Only shotguns incapable of holding more than three shells and .22 caliber rifles are permitted.

3. Dogs are not permitted.

4. A free Federal permit is required to enter the public hunting area; these are obtainable either by mail or in person from the Refuge Office, Box 295, Samburg, Tenn. 38254.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

B. RACCOONS

1. Raccoons may be taken, without limit, on the Long Point refuge unit during the period(s) of September 26 through October 1, 1977, and October 3 through October 8, 1977. Raccoons may be taken, without limit, on the Grassy Island refuge unit during the period of September 26 through October 1, 1977.

2. Hunting hours shall be from 7:30 p.m. to 12 a.m. (midnight).

3. The use of dogs and guns is permitted.

4. No axes, saws, or other cutting implements are permitted.

5. All hunters are required to check in and check out at the designated check station, the location of which may be obtained from the Refuge Office, Box 295, Samburg, Tenn. 38254. Hunters will be issued free Federal hunting permits nightly at the check station.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77–21964 Filed 7–29–77;8:45 am]

PART 32—HUNTING

Opening of Wapanocca National Wildlife Refuge, Ark., to Hunting (Squirrels and Raccoons)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Wapanocca National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrels: October 1, 1977, through October 15, 1977. Raccoon: October 15, 1977, through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill A. Grabill, Refuge Manager, Wapanocca National Wildlife Refuge, P.O. Box 257, Turrell, Ark., 72384, telephone 501–343–2595.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting for squirrels and raccoons is permitted on all wooded areas of Wapanocca National Wildlife Refuge, Ark., with the following exception: No hunting is permitted within 100 yards of any refuge building or structure. These areas comprising 3,085 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Public hunting shall be in accordance with all applicable State regulations subject to the following conditions:

SQUIRRELS

1. A special refuge permit is required for each hunter and will be issued in advance at refuge headquarters. Mail applications will be accepted. This permit will be valid for the entire refuge season.

2. Only shotguns and .22 caliber rimfire rifles may be used.

3. Access by vehicles on refuge roads may be restricted during periods of wet weather.

4. Each hunter under age 18 must be under the close supervision of an adult.

5. Cutting or burning trees, fires, camping, and littering are prohibited.

6. Each hunter is requested to complete and return the questionnaire attached to the hunting permit.

7. Use of dogs is prohibited.

8. There will be no limit to the number of hunt permits issued.

9. Use of boats is prohibited.

RACCOONS

1. A special refuge permit is required for each day of hunting. These permits may be applied for in advance. Mail applications will be accepted. All requests for permits must be received by October 6. A maximum of 20 permits will be issued for each night of the hunt. A draw will determine the permittees should more than 20 requests be received for a given day. All permits will be mailed to those hunters selected by the draw prior to the opening of the season.

2. Only shotguns and .22 caliber rimfire rifles may be used.

3. Access by vehicles on refuge roads may be restricted during periods of wet weather.

4. Each hunter under age 18 must be under the close supervision of an adult.

5. Cutting or burning trees, fires, camping, and littering are prohibited.

6. Each hunter is requested to complete and return the questionnaire attached to the hunting permit.

7. Dogs are required; however no more than two dogs per hunter will be permitted.

8. Use of boats is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 25, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77–21961 Filed 7–29–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Notice of Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $16,650 and a rate of assessment of $0.001 per hundredweight of potatoes for the functioning of the Washington Potato Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due August 17, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 113 and Order No. 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 946.230 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $16,650.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-tenth cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during the fiscal period, except potatoes for canning, freezing, and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 946.42(a).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: July 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–22075 Filed 7–29–77;8:45 am]

[7 CFR Parts 1006, 1012, and 1013]

[Docket Nos. AO–356–A16, AO–347–A19, and AO–286–A27]

MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the three Florida Federal milk orders, based on a handler proposal considered at a public hearing in June 1977. The proposed amendments would provide for the use of a single butterfat differential for adjusting the value of producer milk in all uses according to the butterfat content of the milk. This change would improve competitive relationships between milk processors regulated under the Florida orders and those regulated under other nearby orders.

DATE: Comments are due on or before August 11, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250. (202–447–7311).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued June 13, 1977; published June 16, 1977 (42 FR 30627).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas, and of the opportunity to file exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by August 11, 1977. Four copies are required for this proceeding. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the order as amended, were formulated, was conducted at Orlando, Fla., on June 29, 1977, pursuant to notice thereof.

The material issue on the record of the hearing relates to whether the orders should provide a single butterfat differential.

Adoption of a single butterfat differential. A single butterfat differential, 11.5 percent of the Chicago Grade A butter price for the month, should be used to adjust the class prices and the uniform prices of the Upper Florida, Tampa Bay and Southeastern Florida milk orders.

Presently, the Upper Florida and Tampa Bay orders provide for three different butterfat differentials. That for Class I is fixed at 7.5 cents (for each one-tenth percent of butterfat above or below 3.5 percent); for Class II it is 11.5 percent of the Chicago Grade A butter price for the month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the two classes, weighted by the proportion of butterfat in producer milk assigned to each class. The provisions are the same in the Southeastern Florida order, except that a Class III butterfat differential, identical to that for Class II, is provided.

A handler proposed that the Class I butterfat differential be 11.5 percent of the Chicago Grade A butter price for the month, thereby resulting in a single butterfat differential for adjusting the

class prices and the uniform prices of the three Florida orders. This is the same butterfat differential that is applicable to fluid milk products priced under all other Federal orders throughout the eastern part of the United States. No testimony in opposition to the proposal was presented at the hearing.

The proponent operates a plant under each of the Florida orders and distributes a full line of fluid milk products from each. This includes homogenized (whole) milk, at least two kinds of lowfat fluid milk products, skim milk, buttermilk, chocolate milk and chocolate flavored milk drink. The handler operates no retail routes, but disposes of fluid milk products through wholesale customers and institutions, such as chain stores, hospitals, and schools.

The proposal to make the Class I butterfat differential for the Florida orders the same as for most other orders stems from competition experienced with handlers located outside the three Florida markets. Proponent contended that if the three Florida markets operated in a vacuum there would be no particular adverse competitive effect in maintaining the present Class I butterfat differential. As it is, however, proponent supplies its own stores northward along the Georgia coast to Savannah, and inland to Waycross, Ga., from its plant at Jacksonville, Fla., regulated by the Upper Florida order. In doing this, proponent is not competitive with handlers regulated by the Georgia order whose cost for the skim milk component of Class I fluid milk products under such order is significantly less than it is for proponent under the Upper Florida order. In May 1977, for example, the Georgia butterfat differential was 11.6 cents as compared with the 7.5 cent Class I butterfat differential under the Florida orders.

The record establishes, also, that other handlers regulated by the Upper Florida order and located in Tallahassee compete with Georgia handlers both in Georgia and in Florida. In this connection, in April 1977, about 2.3 million pounds of packaged Class I fluid milk products were disposed of by handlers regulated by the Upper Florida order to locations inside the Georgia marketing area. This was about 4 percent of the total Class I sales for the Upper Florida market. Moreover, fluid milk products are distributed in the Upper Florida marketing area from Georgia regulated plants at Columbus, Ga., and Spartanburg, S.C.

In the disposition of Class I fluid milk products in competition with Georgia handlers. Florida handlers do not enjoy any particular offsetting advantage from the fact that the Florida Class I butterfat differential is lower than the Georgia Class I butterfat differential. This stems from the fact that there are no relatively high-fat Class I products any more.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in Federal order marketing areas. In 1967, for example, the average butterfat test in 67 Federal order markets for such sales was 3.46 percent.[1] This percentage declined yearly, and in 1975, the latest full year for which data are available, the comparable average butterfat test for 55 markets was 3.01 percent. On a percentage basis, the average butterfat content of these fluid milk products declined 13 percent from 1967 to 1975.

The declining average butterfat content of packaged fluid milk product sales in the three Florida markets has been similar to the national trend. In 1967, the average butterfat content of fluid milk products in the three markets was 3.58 percent.[2] The comparable average test for 1975 was 3.07 percent, a decline of 14 percent. The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat content of such products under the three Florida orders. Adopting the butterfat differential proposed, as provided in this decision, gives recognition to actual or potential competition in the sale of lowfat fluid milk products between Florida handlers and those regulated by other Federal orders, particularly the Georgia order.

The price difference per gallon of milk between Georgia and Upper Florida handlers increases substantially as the butterfat test of the milk decreases. At a test of 3.5 percent butterfat, the difference is 4.73 cents per gallon, which reflects the difference in the Class I price differentials for the two orders, with Upper Florida having the higher price. For a gallon of skim milk, this difference increases to 17.13 cents, reflecting the differing values for skim milk stemming from the fixed butterfat differential of 7.5 cents provided in the Upper Florida order and the 11.6-cent differential provided in the Georgia order for May 1977.

On the basis of data for April 1977, the butterfat test of packaged Class I disposition for the Upper Florida market averaged 2.76 percent. On this basis, Order 6 handlers were disadvantaged by about 2.6 cents per gallon in competing with Georgia regulated handlers. Proponent emphasized that milk sales are won or lost on the basis of a fraction of one cent. With a disadvantage of the size indicated, the long-term result could be a loss of fluid milk outlets, not only for Upper Florida handlers but for producers in the market as well.

The fixed 7.5-cent butterfat differential was adopted in the Florida orders at a time when the price of butter was substantially lower. The fixed differential was provided in the Upper Florida order about a decade ago. For the other Florida orders, it was provided earlier than that. At the time, the fixed Class I differential was higher than the Class II butterfat differential, and approximated the Class I butterfat differentials then provided in other Federal milk orders. This is no longer the case. For May 1977, for example, the Class I butterfat differential for the Georgia order as well as the Class II differential for the Florida orders, was 11.6 cents compared with 7.5 cents for the Florida orders. The Georgia differential was based on a Chicago Grade A butter price of $1.01 per pound, an increase of 49 percent from even 5 years ago when such price was 67.7 cents per pound.

The Class I butterfat differential adopted herein would provide the same value for Class I butterfat in the Florida orders as is provided in the Georgia order. This will result in placing both Georgia and Florida regulated handlers on a comparable basis in the disposition of fluid milk products.

The record establishes that adverse competitive conditions exist only between handlers regulated by the Upper Florida order and those regulated by the Georgia order. Nevertheless, the single butterfat differential should be adopted for all three Florida orders. If the Tampa Bay and Southeastern Florida orders were not included, the same competitive conditions would be created between handlers regulated by the Upper Florida order and handlers under the other two Florida orders that now exist between handlers regulated by the Upper Florida order and those regulated by the Georgia order.

Since the Class I butterfat differential for each of the Florida orders is fixed at 7.5 cents, it is of course known at the time of the advance announcement of Class I prices. This no longer would be the case. The differential adopted in this decision would be based on the butter price for the current month and thus would not be known until the 5th day of the following month, which is the case now for the Class II butterfat differentials for the three orders and the Class III butterfat differential for the Southeastern Florida order.

Since the same butterfat differential would apply to all classes of milk, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials for adjusting class prices need be set forth as such in the orders, nor is there any need for pooling the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, the orders should be modified to provide only for the announcement and use of a producer butterfat differential.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of an interested party. The brief, proposed findings and conclusions and the evidence

[1] Official notice is taken of the January 1973 and January 1977 Summary of Federal Milk Order Statistics issued by the Dairy Division, AMS, USDA.

[2] Official notice is taken of the Annual Summary for 1969 and 1976, Federal Milk Order Market Statistics, Statistical Bulletins No. 437, 5575 issued by the Dairy Division, C&MS and AMS, USDA.

in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.50, the preamble and paragraph (a) are revised to read as follows:

§ 1006.50 Class prices.

Subject to the provisions of § 1006.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

* * * * *

2. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1006.55 is revoked.

§ 1006.55 [Revoked]

4. In § 1006.60, paragraph (b) is revised to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each Class pursuant to § 1006.44(a)(11) and the corresponding step of § 1006.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1006.74;

5. In § 1006.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1006.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

6. Section 1006.62 is revised to read as follows:

* * * * *

§ 1006.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1006.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1006.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1006.75; and

* * * * *

8. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1006.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1006.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1006.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.50, the preamble and paragraph (a) are revised to read as follows:

§ 1012.50 Class prices.

Subject to the provisions of § 1012.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.95.

* * * * *

2. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1012.55 is revoked.

§ 1012.55 [Revoked]

4. Section 1012.60, paragraph (b) is revised to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.44(a)(11) and the corresponding step of § 1012.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1012.74;

* * * * *

5. In § 1012.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1012.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1012.62 is revised to read as follows:

§ 1012.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1012.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1012.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1012.75; and

* * * * *

8. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1012.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1012.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.50, the preamble and paragraph (a) are revised to read as follows:

§ 1013.50 Class prices.

Subject to the provisions of § 1013.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.15.

* * * * *

2. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

3. Section 1013.55 is revoked.

§ 1013.55 [Revoked]

4. In § 1013.60, paragraph (b) is revised to read as follows:

§ 1013.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1013.44(a)(12) and the corresponding step of § 1013.44(b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1013.74;

* * * * *

5. In § 1013.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1013.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat as follows:

* * * * *

6. Section 1013.62 is revised to read as follows:

§ 1013.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1013.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1013.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of each handler's producer milk at the uniform price, as adjusted pursuant to § 1013.75; and

* * * * *

8. In § 1013.73, paragraph (a)(3) is revised to read as follows:

§ 1013.73 Payments to producers and to cooperative associations.

(a) * * *

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.61 adjusted pursuant to §§ 1013.74 and 1013.75, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

* * * * *

9. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

10. In § 1013.76, paragraphs (a)(2) and (b)(4) are revised to read as follows:

§ 1013.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1013.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

Signed at Washington, D.C., on July 26, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-22013 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17061]

AIRWORTHINESS DIRECTIVES

Dowty Rotol, Ltd., Type R193/4–30–4/50 and R193/4–30–4/61 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of the hub and drive center assembly of certain Dowty Rotol type R193/4–30–4/50 and R193/4–30–4/61 propellers for evidence of corrosion which could result in failure of the hub and driving center assembly and ultimate propeller failure. The proposed AD would affect propellers installed on, but not necessarily limited to, Fairchild Models F27A, F27F, F27J, FH227 and FH227–1; and Fokker F–27 Mks. 200, 400, 500 and 600 airplanes.

DATES: Comments must be received on or before September 13, 1977.

ADDRESSES: Send comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–24) Docket No. 17061, 800 Independence Avenue, SW., Washington, D.C. 20591.

The applicable service bulletin and documents may be obtained from:

Dowty Rotol Inc., Staverton West, Sully Road, Sterling, Virginia 22170, or Dowty Rotol Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

FOR FURTHER INFORMATION CONTACT:

P. A. Cormaci, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Several cases of severe corrosion have been found by the manufacturer on the hub and driving center assemblies of Dowty Rotol type R193/4–30–4/50 and R193/4–30–4/61 propellers.

This corrosion has been attributed to improper cadmium plating of the hub and driving center assemblies and could result in propeller failure and pose a potential hazard to the operation of the airplane.

Since this condition is likely to exist or develop in other products of the same type design, the proposed airworthiness directive would require the inspection of the hub and driving center assembly for corrosion and replacement, if necessary.

DRAFTING INFORMATION

The principal authors of this document are P. A. Cormaci, Europe, Africa, and Middle East Region, N. S. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

DOWTY ROTOL, LTD. Applies to Dowty Rotol Type R193/4–30–4/50 and R193/4–30–4/61 propellers of the following serial numbers which may be installed on, but not necessarily limited to, Fairchild Model F27A, F27F, F27J, FH–227, and FH–227–1; and Fokker F–27 Mks. 200, 400, 500 and 600 airplanes:

DRG/72/63	DRG/60/167
DRG/134/63	DRG/4/61
DRG/136/63	DRG/5/61
DRG/222/63	DRG/6/61
DRG/224/63	DRG/7/61
DRG/226/63	DRG/9/61
DRG/284/63	DRG/13/61
DRG/285/63	DRG/14/61
DRG/286/63	DRG/25/61
DRG/287/63	DRG/26/61
DRG/320/63	DRG/27/61
DRG/321/63	DRG/33/61
DRG/337/63	DRG/34/61
DRG/14/64	DRG/35/61
DRG/17/64	DRG/2/62
DRG/36/64	DRG/3/62
DRG/78/64	DRG/33/62
DRG/79/64	DRG/35/62
DRG/120/64	DRG/36/62
DRG/121/64	DRG/37/62
DRG/122/64	DRG/41/62
DRG/123/64	DRG/42/62
DRG/138/64	DRG/49/62
DRG/141/64	DRG/50/62
DRG/142/64	DRG/66/62
DRG/158/64	DRG/19/63
DRG/207/64	DRG/22/63
DRG/208/64	DRG/24/63
DRG/292/66	DRG/25/63
DRG/296/66	DRG/26/63

Compliance is required as indicated, unless already accomplished.

To reduce the possibility of propeller hub and driving center assembly failure due to corrosion, and subsequent possible propeller failure, accomplish the following:

(a) Within the next 1,000 hours time in service after the effective date of this AD, or at the next scheduled propeller overhaul, whichever occurs first, inspect the propeller hub and driving center assembly in accordance with Dowty Rotol Service Bulletin 61–882, dated March 11, 1977 (hereinafter SB 61–882), and the therein referenced Dowty Rotol Propeller Overhaul Manual Pub. No. 61–2–2, Repair Scheme Manual Pub. No. 923, and Process Specification Manual Pub. No. 872, or FAA-approved equivalents.

(b) If, as a result of the inspection required by paragraph (a) of this AD, propeller hub or driving center assembly corrosion is found to exceed the limits specified in Dowty Rotol Overhaul Manual 61–2–2 and Repair Scheme Manual Publication No. 923 Repair Schemes 650013110 and 650013110, or an FAA-approved equivalent, before further operation, replace the propeller hub and driving center assembly with a serviceable propeller hub and driving center assembly, or an FAA-approved equivalent

(c) The equivalent means of compliance specified in paragraphs (a) and (b) of this AD must be approved by the Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c o American Embassy, Brussels, Belgium.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 25, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-22005 Filed 7-29-77;8:45 am]

[14 CFR Parts 71 and 75]

[Airspace Docket No. 77–SO–28]

PROPOSED ALTERATION OF FEDERAL AIRWAYS AND JET ROUTES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to realign V–56, J–4, and J–20 to extend from Meredian, Miss., direct to Montgomery, Ala., rather than via an intersection of the Cahaba Ala., VORTAC. The proposed action would straighten routes that now have a dogleg configuration and reduce the distance between Meridian and Montgomery.

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77–SO–28, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION, CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before August 31, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The Department of Air Force has advised FAA that they expect to decommission the Cahaba VORTAC on October 1, 1977, so that it could no longer be used as a navigation aid for V-56. This airway must therefore be realigned to eliminate Cahaba in its description. The Craig 2 MOA is expected to be altered to provide additional separation from the realigned airway. Jet Route J-4/J-20 which overlies V-56 must also be realigned if it is to continue to do so. The jet route and airway distance will be reduced by the proposed realignment.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) as follows:

§ 75.100 [Amended]

In § 75.100 (42 FR 707, 55863) Jet Route No. 4 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

In § 75.100 (42 FR 707) Jet Route No. 20 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

§ 71.123 [Amended]

In § 71.123 (42 FR 307) V-56 "Cahaba, Ala.;" is deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 25, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22000 Filed 7-29-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Regs. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Procedures, Payment of Benefits, and Representation of Parties; Consolidation of Hearings in Disability Cases With Common Issues

AGENCY: Social Security Administration, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment to the regulations provides for consolidation of hearings on the issue of medical improvement in cases of dual entitlement under both the Social Security Disability (Title II) and the Supplementary Security Income (SSI) (Title XVI) programs which involve the common issue of cessation of blindness or disability. The regulations applicable to the SSI program already provide for a hearing as the first step in the appellate process for SSI cases. However, the regulations applicable to the other social security programs provide for reconsideration as the initial appellate step in those cases. Current operating procedures provide that in such dual entitlement (Title II/Title XVI) disability claims, the appeal in the Title II case is accelerated to the hearing level. However, this procedure has not been formalized into the Title II Social Security regulations and, as a result, several requests for hearings under Title II in such dual entitlement medical cessation cases have been dismissed. The proposed rule prevents such dismissals.

DATES: Comments must be received on or before September 15, 1977.

ADDRESS: Prior to the final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to the notice will be available for public inspection during regular business hours at the Washington Inquiring Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Marval Cazer, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7463. Mr. Cazer will respond to questions but all comments on this regulation should be in writing as indicated below.

SUPPLEMENTARY INFORMATION: Regulations No. 4 now provide reconsideration review as the first appellate step after the initial decision in all title II disability insurance claims. Regulations No. 16, on the other hand, provide for a hearing as the first appellate step after the initial cessation decision due to medical improvement in supplemental security income disability cases. The amendment to Regulations No. 16 was published in the FEDERAL REGISTER on October 9, 1975 (40 FR 47489). It provided, among other changes, that in initial determinations involving medical cessation of disability or blindness, appeal by the recipient is directed to a statutory hearing before an official of the Bureau of Hearings and Appeals of the Social Security Administration.

Since a concurrent disability beneficiary (i.e., one entitled to benefits based on disability or blindness under both the Federal Old-Age, Survivors, and Disability Insurance program and the Supplemental Security Income Program) meets the needs test of the latter program, it is important to provide him due process protection and decide the issue of medical improvement promptly. While current operating procedures provide that in concurrent title II/title XVI disability claims the appeal in the title II case is accelerated to the hearing level, this administrative decision has not been formalized into the regulations pertaining to title II. In the absence of consistency between the title XVI regulations (§§ 416.1425(a)(4) and 416.1436(b)) and title II regulations (§§ 404.909, 404.910, and 404.917(a)) presiding officers at hearings have in a few instances dismissed requests for hearings under title II in dual entitlement medical cessation cases. By amending § 404.917 to show that the first appellate step in an appropriate dual entitlement case would be the hearing stage, the possibility of dismissal of the title II request will be eliminated and assure a smooth and prompt processing of consolidated hearings. Bypassing the administratively mandated reconsideration step will not adversely affect the rights of any claimant. In these situations, an appeal will merely be expedited to the statutory hearings level. The elimination of the reconsideration step in concurrent title II-title XVI medical cessation cases in no way affects the payment procedures currently in effect. Title XVI payments will continue until the beneficiary is notified of the decision made after the hearing he requested, whereas title II payments will end, as he will be advised in the notice of the initial determination, two months after the month his disability is found to have ceased.

The proposed amendment is to be issued under the authority contained in sections 205, 221(d), and 1102 of the Social Security Act, as amended, 53 Stat. 1362, as amended, 68 Stat. 1081, as amended, 86 Stat. 1432; 42 U.S.C. 405, 421(d), and 1302.

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance Program).

Dated: June 11, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 19, 1977

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart J of Regulations No. 4 of the Social Security Administration, as amended (20 CFR Part 404), is further amended as set forth below:

1. Section 404.910 is revised to read as follows:

§ 404.910 Reconsideration; right to reconsideration.

The Social Security Administration shall, except as provided in § 404.910(d), reconsider an initial determination if a written request for reconsideration is filed, as provided in § 404.911:

(a) By or for the party to the initial determination (see § 404.905).

(b) By an individual as a wife, widow, divorced wife, surviving divorced wife, surviving divorced mother, husband, widower, child, parent, individual alleging equitable entitlement to a lump sum, or representative of a decedent's estate, who makes a showing in writing that his or her rights with respect to monthly benefits, a lump sum, a period of disability, or entitlement to hospital or supplementary medical insurance benefits, may be prejudiced by such determination. Such request for reconsideration is not applicable under this paragraph with respect to the revision of the Social Security Administration's earnings records.

(c) By a person as a widow, divorced wife, surviving divorced wife, surviving divorced mother, widower, child, parent, or individual alleging equitable entitlement to a lump sum, or representative of the decedent's estate relating to the revision of the Social Security Administration's record of the earnings (see § 404.905(g)) of a deceased individual.

(d) When the Social Security Administration has made an initial determination under title II that blindness or disability has ceased due to medical improvement and a hearing or right to hearing is pending under title XVI with respect to the same party and the same issue, appeal of the initial determination under title II shall be made directly to the hearing as provided in § 404.917.

2. Section 404.917(a) is amended to read as follows:

§ 404.917 Hearing; right to hearing.

An individual has a right to hearing about any matter designated in § 404.905, if:

(a) The Social Security Administration has made:

(1) An initial determination and a reconsideration of the initial determination; or

(2) A revised determination of an initial or reconsideration determination as provided in § 404.961; or

(3) An initial determination that blindness or disability has ceased due to medical improvement: *Provided*, That there is also pending a hearing or right to hearing under title XVI with respect to the same party and the same issue; and

* * * * *

[FR Doc.77-22051 Filed 7-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

OIL AND GAS WELLS

Limitations on Percentage Depletion; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to limitations on percentage depletion in the case of oil and gas wells.

DATES: The public hearing will be held on August 31, 1977, beginning at 10 a.m. Outlines of oral comments are due by August 22, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4317, Washington, D.C. 20224. (202-566-3935.)

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 613A of the Internal Revenue Code of 1954 which appear in the FEDERAL REGISTER for May 13, 1977 (42 FR 24279). Section 613A was enacted by the Tax Reduction Act of 1975 and later amended by the Tax Reform Act of 1976. This statutory provision relates to limitations on percentage depletion in the case of oil and gas wells.

A correction notice was published in the FEDERAL REGISTER for May 24, 1977 (42 FR 26437).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by August 22, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-22065 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-051]

BAYOU TECHE, LOUISIANA

Drawbridge Operation

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development, the Coast Guard is considering revising the regulations for the drawbridges across Bayou Teche at mile 75.2, S-96 at St. Martinville, and at mile 82.0, S-350 at Parks, to require that at least 24 hours notice be given. Presently, these drawbridges are required to open on signal from 5 a.m. to 9 p.m., and if at least 12 hours notice is given from 9 p.m. to 5 a.m. This change is being considered because of infrequent requests for openings of these bridges (St. Martinville,

mile 75.2, 1975–5, 1976–15; Parks, mile 82.0, 1975–3, 1976–9).

DATES: Comments must be received on or before August 31, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (202–426–0942).

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal.

The Commander, Eighth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended as follows:

§ 117.540 [Amended]

1. In § 117.540(b)(2), by deleting "Bayou Teche, mile 75.2, S–96 highway drawbridge at St. Martinville." and "Bayou Teche, mile 82.0, S–305 highway drawbridge at Parks." from the listing.

2. By revising § 117.245(j)(10) and deleting § 117.245(j)(11) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * * *

(j) * * *

(10) Bayou Teche, La.

(i) Mile 75.2, S–96 highway drawbridge at St. Martinville, and mile 82.0, S–350 highway drawbridge at Parks. The draws shall open on signal if at least 24 hours notice is given.

(ii) Mile 87.5, S–31 highway drawbridge at Ruth, mile 90.5, S–31 highway drawbridge, and mile 91.0, Southern Pacific Railroad drawbridge (removable span). The draws shall open on signal if at least 48 hours notice is given.

(11) [Deleted.]

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–22071 Filed 7–29–77;8:45 am]

[33 CFR Part 117]

[CGD 77–119]

MISSOURI RIVER, SOUTH DAKOTA

Drawbridge Operation

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Nebraska Department of Roads, the Coast Guard is considering revising the regulations for the drawbridge across the Missouri River, mile 805.7, at Yankton, South Dakota, to allow the bridge to be maintained in a fixed position. The bridge has been opened for the passage of a vessel once in the past five years. The Coast Guard is also considering amending the regulation for the Chicago and Northwestern bridge across the Missouri River, mile 1,066.5, at Pierre, South Dakota, to allow it to be maintained in a fixed position. The bridge has opened for the passage of a vessel once in the past ten years. These changes would provide for decreased costs for maintaining the bridges.

DATE: Comments must be received before August 31, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (202–426–0942).

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal.

The Commander, Second Coast Guard District, will forward any comments received with this recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.560(g)(9) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * * *

(g) * * *

(9) Missouri River at Yankton and Pierre, South Dakota. The draw of the Yankton Highway at Yankton and the draw of the Chicago Northwestern Railroad bridge at Pierre need not be opened for the passage of vessels and paragraphs (b) to (e) of this section shall not apply to these bridges.

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR (c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: July 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–22070 Filed 7–29–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 769–6]

COMMONWEALTH OF VIRGINIA

Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia submitted amendments to the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as a revision to the State Implementation Plan (SIP).

These amendments consist of changes to Part II, Part III, Part V, and Part VII of the Virginia Regulations for the Control and Abatement of Air Pollution.

EFFECTIVE DATE: Public comments must be received on or before August 31, 1977.

ADDRESSES: Copies of the proposed revision and accompanying support material are available for public inspection during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Attention: Mr. Harold Frankford.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street State Office Building, Richmond, Virginia 23219. Attention: Mr. John Daniel, Jr. P.E.

Public Information Reference Unit, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be addressed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Attention: AH012VA.

SUPPLEMENTARY INFORMATION: On March 11, 1977 the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Virginia SIP. The Commonwealth requested these amendments be reviewed and processed as a revision to the Virginia SIP for the attainment and maintenance of National Ambient Air Quality Standards. The amendments consist of the following:

1. Amendments to Part II (General Provisions), § 2.02 (Establishment of Regulations and Orders). The Commonwealth of Virginia requests that amendments with respect to evidential public hearings, previously submitted by the Commonwealth on August 14, 1975 and proposed by EPA on November 19, 1975 (40 FR 53595) and March 28, 1977 (42 FR 16446) be withdrawn from further consideration as a revision of the Virginia SIP.

2. Amendments to Part III (Ambient Air Quality Standards). The amendments incorporate, by reference to § 3.07 (Nitrogen Dioxide), the recently promulgated EPA reference method (Appendix F of 40 CFR Part 50) for monitoring nitrogen dioxide. No changes to the text of § 3.07 have been made.

3. Amendments to Part V (New and Modified Sources), § 5.31 (Designated Standards of Performance) is amended by adding revisions to the New Source Performance Standards for fossil fuel fired steam generators and fluoride emissions.

4. Amendments to Part VII (Air Pollution Episode), § 7.02 (Oxidant Criteria Pollutant Level) is amended to change the photochemical oxidant level for the Alert Stage in State Region 7. (The Virginia portion of the National Capital Interstate Air Quality Control Region.) The change is from the present level of 200 micrograms per cubic meter ($\mu g/m^3$) (equivalent to 0.100 parts per million (ppm)) to a level of 400 $\mu g/m^3$ (or 0.200 ppm) for a one hour average oxidant concentration.

The Alert Stage level of 400 $\mu g/m^3$ (or 0.200 ppm) would then be uniform throughout Virginia. A new Health Advisory Stage of 200 $\mu g/m^3$ (0.100 ppm) has been added in this amendment for State Region 7.

The Commonwealth submitted proof that hearings regarding these amendments as required by 40 CFR 51.4 were held simultaneously on January 17, 1977 in Richmond and at Regional district offices in Abingdon, Radford, Lynchburg, Fredericksburg, Virginia Beach and Falls Church.

The public is invited to comment on whether the amendments to the Virginia Regulations to Control and Abate Air Pollution should be approved or disapproved as a revision to the Virginia SIP. All comments received on or before (30 days after publication of this notice) will be considered.

The Administrator's decision to approve or disapprove this proposed plan revision will further be based on whether these amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

(42 U.S.C. 1857c–5.)

Dated: July 15, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77–21949 Filed 7–29–77;8:45 am]

[40 CFR Part 52]

[FRL 769–5]

TENNESSEE

Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: During the spring of 1975, EPA held discussions with the local air pollution control agencies in Tennessee concerning their program plans for fiscal year 1976. At that time, they were given information intended to help them develop a satisfactory procedure for assuming the implementation and enforcement of the New Source Review provisions of 40 CFR 52.21 (Regulation for the Prevention of Significant Air Quality Deterioration). The Knox County Department of Air Pollution Control responded by adopting, after public notice and public hearing, regulations and by submitting them for approval as a proposed implementation plan revision. The pupose of this notice is to announce these regulations as proposed rulemaking and to solicit public comment on them.

DATE: Comments must be received on or before August 31, 1977, to be considered.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Tom Helms of EPA's Air Programs Branch in Atlanta (see address below). Copies of materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM–213), 401 M Street SW., Washington, D.C. 20460

EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

Knox County Department of Air Pollution Control, 701 E. Vine Avenue, Suite 305B, Knoxville, Tennessee 37915.

FOR FURTHER INFORMATION CONTACT:

Mr. Tom Helms, Chief, Air Programs Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308. (404–881–3043).

SUPPLEMENTARY INFORMATION: On August 12, 1976, the Technical Secretary of the Tennessee Air Pollution Control Board submitted to EPA Region IV, as a proposed implementation plan revision, changes which the Knox County Air Pollution Control Board had made in its regulations with a view to receiving authority to prevent significant deterioration of air quality in Knox County under 40 CFR 52.21. These changes consist of the addition of a new § 41.0, Regulation for the Review of New Sources.

Section 41.0 incorporates, for sources of criteria pollutants which emit 25 tons per year or more, the air quality increment limits of 40 CFR 52.21(c)(2)(i) together with the substance of paragraphs (d) and (e) of 40 CFR 52.21 as they provide for preconstruction review of new or modified sources, the application of best available control technology and public comment procedures.

The public is invited to submit written comments on the proposed Tennessee revision, specifically, on its suitability as an instrument for assuring implementation by the local agency of the new source review requirements of 40 CFR 52.21.

(Secs. 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c–5 and 1857g(a).)

Dated: July 26, 1977.

JOHN A. LITTLE,
Deputy Regional Administrator.

[FR Doc.77–21950 Filed 7–29–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Threatened Status for the Eastern Indigo Snake

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant

to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act), which would determine the eastern indigo snake (*Drymarchon corais couperi*) to be a Threatened species. This snake presently occurs in Georgia and Florida; historically, it is also known from Alabama, Mississippi, and South Carolina.

DATE: All relevant comments and materials with regard to this proposed rulemaking received no later than October 30, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

"General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence."

This authority has been delegated to the Director.

The indigo snake, *Drymarchon corais*, is one of the largest snakes in the United States. The species ranges from the southeastern United States to northern Argentina and eight subspecies are currently recognized. Of these eight, two occur in the U.S. *Drymarchon corais erebennus* is known from Veracruz and Hidalgo, Mexico into southern Texas; *D. c. couperi* occurs only in Georgia and Florida at present although it is historically recorded from South Carolina, Alabama, and Mississippi.

Although *erebennus* and *couperi* are superficially similar, they can be distinguished by the following characteristics: (1) *erebennus* has prominent dark lines downward from the eye whereas *couperi* does not, (2) *erebennus* has a tendency for the forepart of the body to be brownish with some indication of a pattern whereas *couperi* is more uniformly blue-black in color and has no pattern, (3) *erebennus* has the third from last upper labial scale reaching the scale above it where as *couperi* has the third from last upper labial scale wedgeshaped and cut off from above by contact between adjacent labial scales, (4) normally, *erebennus* has 14 dorsal scale rows on the hindmost part of the body whereas *couperi* has 15.

Because of its large size and docile nature and because it makes a good pet, natural population of *D. c. couperi* have been exploited extensively. There is little indication that *D. c. erebennus* populations, or those subspecies occurring outside the U.S., are either declining or significantly in trade. For these reasons, only *D. c. couperi*, the eastern indigo snake, is included in this proposed rulemaking.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the eastern indigo snake are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The eastern indigo snake inhabits a region that is experiencing rapid development resulting in considerable loss of available habitat. Its preferred habitat includes well-drained soils that are ideal for human settlement, resulting in a serious decline in the populations of Eastern indigo snakes in many areas.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—The eastern indigo snake is in great demand by the pet trade with prime specimens selling for as much as $200–$250. The extremely docile nature of the snake and its large size make it highly desirable as a pet and therefore avidly sought by dealers. Commercial trade is probably the main cause for the decline of this species throughout its range.

3. *Disease or predation.*—Unknown.

4. *The inadequacy of existing regulatory mechanisms.*—The eastern indigo snake is strictly protected in both Georgia, Mississippi, and Florida. However, these States cannot effectively control the trade in snakes once they leave the State. If a species is taken in violation of a State's law and moved illegally across a State line, such action becomes a violation of the Lacey Act. However, it has been a common practice to claim that the indigo snakes in trade came from Alabama or South Carolina, where the snake has not been taken by experienced herpetologists in many years. This claim is virtually impossible to completely refute. Therefore, trade in illegally taken indigo snakes can continue in spite of strong State laws. There are no laws to protect the eastern indigo snake in Alabama or South Carolina.

5. *Other natural or manmade factors affecting its continued existence.*—In many areas in the southeast, burrows of the gopher tortoise are gassed in order to drive out rattlesnakes that use the tortoise burrows. Indigo snakes also use gopher tortoise burrows and recent research has indicated that eastern indigo snakes are harmed or killed by this practice.

EFFECT OF THE RULEMAKING

The effects of this determination and rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions that apply to all Endangered species. All of these prohibitions and exceptions also apply to any Threatened species unless a Special Rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and, for the convenience of the reader, are reprinted below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c) (1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c) (1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c) (1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The determination set forth in these rules also makes this species eligible for the consideration provided by section 7 of the Act. That section reads as follows:

INTERAGENCY COOPERATION

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat has yet been determined for this species, the other provisions of Section 7 are applicable.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governors of Florida, Georgia, Alabama, Mississippi and South Carolina, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat, or the lack thereof, to the eastern indigo snake;

(2) The location of and reasons why any habitat of the eastern indigo snake should or should not be determined to be Critical Habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the Eastern indigo snake.

Final promulgation of the regulations on the Eastern indigo snake will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 22, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and Threatened Wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
Reptiles: Snake, Eastern indigo.	*Dyrmarchon corais couperi.*	NA	U.S.A. (Alabama, Florida, Georgia, Mississippi, South Carolina).	Entire	T		NA.

[FR Doc.77-21810 Filed 7-29-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10 a.m., August 16, 1977, at 10 a.m., in the library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to discuss the new FTC trade regulation rulemaking procedures project being conducted by Professor Barry Boyer.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact Joseph B. Scott (202-254-7020). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

JULY 27, 1977.

[FR Doc.77-22004 Filed 7-29-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

COLLECTION AND USE OF FUNDS FOR COST OF SALVAGE TIMBER SALE OPERATIONS PURCHASER DEPOSITS

Adoption of Policy

AGENCY: Forest Service, USDA.

ACTION: Adoption of policy.

SUMMARY: Chief, Forest Service, adopts policies for the administration of deposits by timber purchasers to cover the cost of preparing and administering sales of insect-infested, dead, damaged, or down timber.

EFFECTIVE DATE: Upon publication in the Forest Service Manual.

FOR FURTHER INFORMATION CONTACT:

George Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: The National Forest Management Act of 1976 (Pub. L. 94-588) directs the Secretary of Agriculture to provide for the optimum practical use of wood from the National Forests In order to accomplish this objective in situations involving the salvage of insect-infested, dead, damaged, or down timber, Section 14(h) (90 Stat. 2960) of the Act authorizes the Secretary to require purchasers of such sales to deposit the funds necessary to cover the cost of sale preparation and administration.

On April 12, the Chief, Forest Service, requested comments on a proposed amendment to the Forest Service Manual which would implement this provision of the Act. Substantive comments which were received are summarized below.

DISCUSSION OF MAJOR COMMENTS

It was suggested that the definition of sales which qualify as salvage sales be clarified, particularly with regard to the inclusion of "associated trees for stand improvement." The definitions in FSM 2435.05 were revised in response to this suggestion.

A commentator suggested that overhead charges and related assessments should be charged to the fund "only in proportion to the timber share of all resource benefits to be accomplished." A paragraph was added to FSM 2435.1 to define overhead charges which can be assessed against the fund.

It was suggested that reference should be made in the Manual to the CFR constraint that salvage deposits shall not be permitted to create deficit sales. This is a reference to the provision of 36 CFR 223.4(b) which states: "Minimum rates in timber sale contracts will not be set higher than established minimum rates for purposes other than assuring adequate funds for reforestation." A sentence to this effect was added to FSM 2435.03.

Two commenters expressed concern about the impact of salvage sales on wildlife habitat. They urged that special provision be made for safeguarding and maintaining adequate numbers of dead and dying trees for cavity-nesting birds. This provision of the Act and the implementing Manual instructions deal only with an alternative method of financing salvage sales. It is expected that Forest Officers approving salvage sales will follow procedures for the protection of habitat just as they would for regular timber sales. Basic requirements for all sales are set forth in 36 CFR 223.3. In order to clarify the issue, additional instructions were added to FSM 2435.04.

Forest Service Manual provisions setting forth policy for implementing the salvage fund provisions of the National Forest Management Act are set forth below:

2435 *Collection and use of deposits for salvage sale operations.* Section 14(h) of the National Forest Management Act of 1976 authorizes collection of salvage sale funds to cover the cost to the Forest Service of preparing and administering sales of insect-infested, dead, damaged, or down timber, including necessary engineering work. The salvage sale fund (SSF) is a special fund available for preparing and administering salvage sales. The fund is intended to permit an increase in the volume of salvage sales beyond that normally financed by appropriated funds.

2435.01 *Authority.* Authority for requiring purchasers of salvage sales to make deposits to cover Forest Service costs of engineering, preparing, and administering such sales is given in Section 14(h) of the National Forest Management Act of 1976 (90 Stat. 2960) (FSM 1021) The law provides that amounts collected for salvage sale purposes are (1) to be a part of the payment for the salvable material, (2) deposited into a designated fund and available until expended, (3) not considered as monies received from the National Forests within the meaning of section 500 and 501 of title 16, U.S.C. (which require that 25 percent of monies received from each National Forest go to the States for schools and roads, and that 10 percent be spent for roads and trails in the National Forests), and (4) to be transferred to miscellaneous receipts in the Treasury of the United States when found to be in excess of the costs of accomplishing the purposes for which deposited.

2435.02 *Objective.* The objective is to provide for the optimum practical use of wood material in situations involving salvage, including the promotion of more effective utilization of salvable wood material. Such use and utilization is to be compatible with multiple use objectives, including protection of wildlife habitat, and shall reflect regional conditions and species characteristics.

2435.03 *Policy.*—1. To assist in obtaining optimum practical use of salvable wood material from National Forest lands, a salvage sale fund shall be established on each proclaimed National Forest which has salvage opportunities.

2. Funds authorized to be collected for deposit into the SSF shall only be from salvage sales or from other sales containing a salvable component to be sold.

3. Minimum rates in timber sales contracts shall not be increased to insure the collection of needed salvage funds. (36 CFR 223.4.)

2435.04 *Responsibility.* Two areas of responsibility are identified and assigned

to the officer authorized to approve the timber sale (FSM 2404.13): (1) Determination that the sale qualifies as a salvage sale. The Forest Officer making this determination must be guided by the definition in FSM 2435.05(a). (2) Approval of the SSF plan (FSM 2435.24) and subsequent revisions thereto.

Approval of a salvage sale carries with it the same responsibilities as approval of a normal timber sale. Forest Officers approving salvage sales must insure that the sale is in full compliance with 36 CFR 223.3 and the applicable land management plan. Particular attention needs to be given to retaining adequate habitat for cavity-nesting birds.

2435.05 *Definition of Qualifying Sales.*—1. *Salvage sale.* A salvage sale is one in which the primary reason for entry is to salvage insect-infested, dead, damaged, or down timber. It may also include associated trees for stand improvement, if it is efficient and desirable to include them in order to leave the area in a productive condition. An approved silvicultural prescription shall be prerequisite to including the following types of trees for stand improvement.

a. Trees predicted to be in imminent danger of insect or disease attack or windthrow and other high risk trees that are expected to die from any cause before the next harvest (or compartment) entry. The harvest of high risk trees is applicable only to species, such as ponderosa pine, for which systems of risk or sanitation cutting have been developed.

b. Trees impacted by disease to the extent that their net growth is nominal and diseased trees that, if left in place, would adversely affect the growth of other trees.

c. Trees which because of their species or genetic inferiority are undesirable as a source of natural regeneration on the site.

d. Trees which must be removed for sale access and operations.

e. Trees in understocked stands requiring regeneration, when the agent causing the need for salvage, or the salvage operation itself, would create the understocked condition.

f. Trees in overstocked stands when thinning or release will benefit the vigor of the residual stand.

2. *Other sales.* Ordinarily, collection of salvage sale funds will be limited to salvage sales. Occasionally, however, there may be an identifiable component of a regularly programmed sale which contains a unit of blow-down, insect-infested or other salvage timber. When it is decided to include such salvage opportunities in a regular sale, collections may be deposited to SSF to cover the cost of preparing and administering the salvage component.

In the event timber included in a normal sale area is damaged by fire, insects, windthrow or other agent, salvage sale funds may be collected to cover the costs of preparing and administering the additional salvage volume on the sale.

All deposits to and expenditures from the salvage sale fund must be covered by an approved salvage sale plan (FSM 2435.23).

2435.1 *Authorized work and expenses.*—1. *Sale preparation.* Includes the reconnaissance, silvicultural prescriptions, design of logging systems, volume estimates, marking, associated land line location, compliance with NEPA, other timber support, and all other tasks necessary to prepare a contract for the removal of the timber.

2. *Supervision of harvest.* Includes the administration of contracts, inspection of the contract operations and measurement of the timber to insure proper payment is received for the material. It may also include supervision of force account logging.

3. *Engineering.* Transportation planning, reconnaissance, route location, surveying, materials investigation, compliance with NEPA, and other resource coordination needed to properly plan the needed roads.

4. *Design.* Includes the work necessary to completely prepare project drawings, specifications, and cost estimates.

5. *Construction supervision.* Includes the staking of designed roads on the ground and providing the necessary engineering control to insure proper payment or credit for work accomplished and to insure the project is constructed in accordance with the contract. Also includes supervision of force account construction.

6. *General administrative overhead,* utilities, transportation, supplies, materials and other expenses of similar nature, to the extent that such overhead is assessed against other available funds.

JOHN R. MCGUIRE,
Chief.

[FR Doc.77-22081 Filed 7-29-77;8:45 am]

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at 8:30 a.m. on Thursday, August 25, 1977, at the Deschutes National Forest Headquarters Office, 211 NE Revere, in Bend, Oregon 97701, for a field trip.

The purpose of the field trip is to review and discuss the Forest roads and highways, timber sales and wildlife habitas, recreation use, and their interrelationships to the Forest Land Management Plan.

The field trip will be open to the public. Persons who wish to accompany the Committee should notify the Forest Supervisor or Sandy Fergerson at 211 NE Revere, Bend, Oregon 97701, telephone (503) 382-6922. It will be necessary for the general public to provide their own transportation and lunches.

Written statements may be filed with the Committee before or after the meeting.

Dated: July 25, 1977.

JERRY G. ALLEN,
Acting Forest Supervisor.

[FR Doc.77-22019 Filed 7-29-77;8:45 am]

Soil Conservation Service

TOWN CREEK WATERSHED PROJECT, ALABAMA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Town Creek Watershed project, Lawrence, Franklin, and Colbert Counties, Ala.

The environmental assessment of this Federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. W. B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 2.5 miles of channel work.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 138 South Gay Street, Auburn, Alabama 36830. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation of the proposal will be taken until August 16, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: July 21, 1977.

JAMES W. MITCHELL,
Director, Watersheds Division.

[FR Doc.77-21958 Filed 7-29-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-7-95; Docket 30332, Agreement C.A.B. 26706, R-1 through R-16, Agreement C.A.B. 26719, R-1 through R-11, Agreement C.A.B. 26721, R-1 through R-7, Agreement C.A.B. 26725, R-1 through R-12]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Cargo Rate Matters

Issued under delegated authority July 21, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted at the recent Composite Cargo Traffic Conference held during May in Vancouver, propose new cargo rate structures to apply from October 1977 through September 1979 in the South Pacific, Western Hemisphere, part of the North/Central Pacific, and the Mid Atlantic markets.

SOUTH PACIFIC

Agreement C.A.B. 26706 would hold the minimum charges for any consignment at status quo for U.S. west coast points but would increase such charges by $4 to a level of $25 for all other Western Hemisphere points. Exclusive of the application of any currency-related adjustments, rates for general commodity shipments to/from Hawaii would, in general, be increased by 1.5 to 3.7 percent and by 1 to 2.8 percent to/from west coast points. In addition, rates and charges for containerized shipments would be increased by amounts varying from less than 0.1 to over 8.2 percent with the lesser increases applied to the smaller container types and the greater increases applied to the larger container types. Specific commodity rates (SCR's) from U.S. points would be increased 5 to 7 cents per kilogram and SCR's to U.S. points would be increased 5 to 7 percent. Finally, the agreement includes provisions which would limit the application of the minimum shipment charges and SCR's to traffic moving on direct routes to the Western Hemisphere rather than permitting such traffic to move indirectly via TC2 (Europe/Middle East/Africa) as presently permitted and provides for the equalization by January 1978 of the higher general commodity and container rates from Australia with the corresponding lower rates to Australia.

WESTERN HEMISPHERE (TC1)

In the U.S.-Mexico market, Agreement C.A.B. 26719 would increase the basic charge for minimum-sized shipments by $2 to a level of $23 except in certain instances where special circumstances have resulted in minimum charges set below the basic level. In those cases, the minimum charges would be increased by amounts ranging from $3 to $10. General commodity rates (GCR's) would increase by 6.1 to 13.5 percent; rates for containerized shipments would remain at status quo for certain points and be increased up to 11.2 percent at other points. Finally, specific commodity rates would increase by 7 percent southbound, except from New York where such rates would be increased by 7 cents per kilogram, and 10 percent northbound.

In the U.S.-Caribbean market (which includes Venezuela) the minimum charge would be increased by $2 to $26. However, in those cases where the charge is currently $20, the charge would be increased by 3 to $23. GCR's would be increased by 4.8 to 8.5 percent; rates for shipments tendered in containers would remain at current levels at certain points and take increases of up to 23.3 percent at other points. In general all SCR's would be increased by 10 percent except at Venezuela where such rates would be increased 5 percent northbound and deleted southbound.

Minimum charges in the U.S.-General America market would also be increased by $2 to a level of $26. GCR's would be increased by 2.7 to 5.7 percent with the lesser increases applied to the lower weightbreak rates and the greater increases applied to rates at the higher weightbreaks. Container rates would be increased approximately 24 percent and SCR's would be increased by 7 percent southbound and 10 percent northbound.

For U.S.-South America, including most of Colombia, the minimum charge would be increased by $1 to a level of $30 through June 1978 with an additional $1 increase to apply thereafter. To Barranquilla and Cartagena in Colombia the minimum charge would be increased by $2 to a level of $26. GCR's to markets in South America (excluding Colombia) would be increased by 2.8 to 4.5 percent southbound and by approximately 7 percent northbound. Container rates would take initial increases ranging from 13.5 to 24.1 percent with further increases in 9 month intervals to April 1979, to levels 23.4 to 48.7 percent above those now in effect. SCR's would be increased by 5 to 14 cents per kilogram. U.S.-Colombia GCR's, however, would be increased 5.6 percent southbound and 7 percent northbound. Container rates would remain at present levels through December 1977 and take increases of 1.9 to 4.5 percent effective January 1978. Lastly, SCR's in that market would be increased 5 to 6 cents per kilogram.

NORTH/CENTRAL PACIFIC

Agreement C.A.B. 26721 would establish North/Central Pacific cargo rates between the United States and the Indian Subcontinent only (defined as India, Pakistan, Afghanistan, Nepal, Bangladesh, and Sri Lanka). General cargo rates would be increased in amounts ranging from 2 to 3.5 percent over existing tariff levels, and specific commodity rates would be increased in amounts ranging from 1.1 to 7.8 percent.

MID ATLANTIC

Agreement C.A.B. 26725, which applies in U.S. air transportation only insofar as Puerto Rico/Virgin Islands-Europe rates are concerned, would increase minimum charges in air transportation by $2 to a level of $33. GCR's would be increased by approximately 5 percent and SCR's by 5 to 10 percent. Finally, the agreement would establish rates and charges for shipments tendered in containers to apply between San Juan and Madrid at levels related to the applicable 500 kilogram GCR rate.

CARRIER JUSTIFICATION

The purpose of this order is to establish dates for submission of carrier justification in support of the agreements and comments from interested person. The carriers' justification should include historical data as reported to the Board in Form 41 reports by functional account for total Atlantic, Western Hemisphere or Pacific services for the year ending March 31, 1977, adjusted to exclude operations in market areas not covered by an agreement and all scheduled passenger and charter operations pertaining to the market area covered by an agreement so as to establish the present economic status of cargo services in each market area covered by the subject agreements.[1] The carriers will also be expected to include a forecast for the year ending September 30, 1978, both including and excluding the increased rates for which approval is sought. The carriers are also expected to allocate costs between the passenger and cargo compartments of scheduled passenger aircraft by the "space method" stipulated by the Board in its April 2, 1970, decision in Docket 18381, *Nonpriority Mail Rates*, Orders 70-4-9 and 70-4-10.[2] In addition, the carriers are required to submit detailed traffic data showing revenue tonmiles and revenue by specific rate category as well as capacity and load-factor information both for the historical period and for the forecast period and including and excluding the increased rates for which approval is sought. Capacity, traffic and financial results in cargo operations must be separated into scheduled and nonscheduled services. Lastly, we expect the carriers to comment fully on the disproportionate increases in general commodity container rates contemplated in most markets in the Western Hemisphere with special attention to the staggered increases proposed in those rates in the "longhaul" U.S.-South America market.

Western Air Lines, Inc., a non-IATA carrier, will be required to file data similar to that required by the IATA carriers so that the Board may obtain a full economic picture of U.S. carrier operations in the U.S.-Mexico market and be in a position to make a meaningful disposition of the agreement in that area.

Accordingly, *it is ordered*, That:

1. All United States air carrier members of the International Air Transport

[1] For example, a justification for the South Pacific should exclude total North/Central Pacific operations, the North/Central Pacific justification should exclude total South Pacific operations, the Middle Atlantic justification should exclude North Atlantic operations, and the Western Hemisphere should exclude Puerto Rico. In addition the Western Hemisphere justification should be further broken down into geographic market areas, e.g., U.S.-Mexico, U.S. Caribbean, U.S. Central America and U.S.-South America.

[2] In furnishing the data requested, each carrier should provide complete explanatory notes and supporting detail including statistical data to describe the methods used in making the allocations.

Association shall file within fifteen calendar days after the date of service of this order, full documentation and economic justification for rates, charges and related conditions embodied in the subject agreements;

2. Western Air Lines, Inc., shall file within fifteen calendar days after date of service of this order, data similar to that required of the IATA carriers;

3. Comments and objections from interested persons shall be submitted within twenty-five calendar days after the date of service of this order;

4. Replies to submissions received in response to ordering paragraphs 1 and 2 above and replies to comments received pursuant to ordering paragraph 3 above shall be submitted within thirty calendar days after the date of service of this order; and

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board approval of the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22068 Filed 7-29-77;8:45 am]

[Docket No. 29058]

NORFOLK-ATLANTA SUBPART M PROCEEDING

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on September 13, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., July 26, 1977.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77-22069 Filed 7-29-77;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of Additional System of Records

The purpose of this notice is to adopt in final form an additional system of records.

On May 20, 1977, the Department of Commerce gave notice (42 FR 25900–01) that it proposed to adopt an additional system of records for the National Bureau of Standards, Nuclear Reactor Operator Licensees File, Commerce/NBS–8. The purpose of this system is to provide documentation that operators of the nuclear reactor facility, which NBS operates under license from the Nuclear Regulatory Commission, are trained, tested, qualified, and periodically requalified, as required by the NRC. The principal routine use of information in this system is disclosure to the NRC for the purpose of conducting audits of the qualifications of reactor operators. A new system report, dated May 3, 1977, was submitted to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Interested persons were invited to submit written data, views, or arguments on or before June 20, 1977. No comments were received in response to the notice.

The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB Director Lance in a letter to Secretary Kreps dated May 24, 1977.

Therefore, the Department adopts the additional system effective June 20, 1977. Because the complete text of the new system was published in the FEDERAL REGISTER on May 20, 1977, pages 25900–01, and the system is adopted without change, there is no need to republish at this time.

(5 U.S.C. 552a, sec. 3, Privacy Act of 1974 (Pub. L. 93–579, 88 Stat. 1896).)

ELSA A. PORTER,
Assistant Secretary for Administration.

JULY 22, 1977.

[FR Doc.77-22040 Filed 7-29-77;8:45 am]

PRIVACY ACT

Additional System of Records

The Department of Commerce hereby gives notice, in accordance with 5 U.S.C. 552(e) (4) and (11), section 3 of the Privacy Act of 1974 (Pub. L. 93–579, 88 Stat. 1896), that it proposes to add a system of records to the previously-noticed systems of records. The system of records proposed to be added is Commerce/NBS–9, Participants in Experiments, Studies and Surveys.

This system is designed to encompass all participants in NBS experiments. It is a consolidation of three previously-noticed NBS systems and is an extension of the categories of participants covered in those three systems, by the substitution of general provisions for the more particular provisions of those three systems. The three previously-noticed systems are Commerce/NBS–4, Participants in Clincial Dental Projects; Commerce/NBS–5, Participants in Human Factors Studies; and Commerce/NBS–6, Participants in Psychoacoustic Experiments.

The purpose of information in this system is to provide research data to develop findings or recommendations. This system notice expands the routine uses of these records to allow information in this system to be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routines uses in the Prefatory Statement (41 FR 38953, September 13, 1976) also apply to this system.

The Commerce Department submitted a New System Report dated July 22, 1977, to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Although the Act requires the opportunity for public comment only on the proposed "routine uses", comments regarding any portion of this Notice will be given due consideration before final publication. Any interested person may submit written data, views or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026), U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230, any time on or before August 31, 1977. The comments received will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m. Monday through Friday (except holidays).

This system of records will become effective 60 days from the date of publication, unless the Department notices to the contrary.

(5 U.S.C. 552a(e) (4) and (11), section 3 of the Privacy Act of 1974 (Pub. L. 93–579, 88 Stat. 1896); 15 U.S.C. 271 et seq.; 29 U.S.C. 651 et seq.)

ELSA A. PORTER,
Assistant Secre'ary for Administration.

JULY 22, 1977.

COMMERCE/NBS–9

System name:

Participants in Experiments, Studies, and Surveys—Commerce/NBS–9.

System location:

Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:

Institute for Basic Standards, Room A363, Physics Bldg., NBS, Washington, DC 20234; Room R4011, NBS, Boulder, CO 80302.

Institute for Materials Research, Room B364, Materials Bldg., NBS, Washington, DC 20234.

Institute for Applied Technology, Room B117, Technology Bldg., NBS, Washington, DC 20234.

Institute for Computer Sciences and Technology, Room A200, Administration Bldg., NBS, Washington, DC 20234.

For those portions located with contractors, a complete list of contractors and addresses is available from the Associate Director for Administration, Room A1105, Administration Bldg., National Bureau of Standards, Washington, DC 20234.

Categories of individuals covered by the system:

Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

Categories of records in the system:

Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Authority for maintenance of the system:

15 U.S.C. 271 et. seq.; 29 U.S.C. 651 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in this system may, on occasion, be disclosed to Federal agencies and other outside organizatons which have sponsored the research in connection with which the data were obtained. General routine uses in the Prefatory Statement (41 FR 38953, September 13, 1976) also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, electromagnetic storage material and microform.

Retrievability:

Filed alphabetically by name, or control number or other code identifier.

Safeguards:

During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

Retention and disposal:

Retained in accord with NBS's records control schedule.

System manager:

Director, Institute for Applied Technology, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Notification procedure:

Information may be obtained from: Associate Director for Administration, Room A1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, approximate date, and title of experiment, study or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4.

Records access procedures:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Records source categories:

Subject individuals and those authorized by the individual to furnish information.

[FR Doc.77-22041 Filed 7-29-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

ENVIRONMENTAL DETERMINATION

JULY 22, 1977.

On April 9, 1976 the Department of the Air Force announced in the FEDERAL REGISTER (41 FR 15038) its intent to prepare Environmental Impact Statements (EISs) on certain proposed management actions announced by Secretary of the Air Force Thomas C. Reed on March 11, 1976.

Among the actions for which an EIS was to be prepared was the transfer of KC–135 tankers to the Air Reserve Forces at Phoenix Sky Harbor International Airport, Arizona. After careful review of the Environmental Impact Assessment (EIA) it was determined that the proposed action was not a major Federal action significantly affecting the quality of the human environment nor was it likely to be highly controversial with regard to its environmental impacts. This conclusion is based upon the following:

a. The proposed action will result in an increase of approximately 190 guardsmen including approximately 50 full-time air technicians assigned. This increase is readily absorbable in the Phoenix area. Construction to support the proposed action would amount to approximately $2.8 million.

b. The proposed aircraft operations will comprise about 5 percent of the large jet aircraft events at the airport, will be normally conducted during daytime hours (7:00 a.m. to 10:00 p.m.), and will only very infrequently involve nighttime or Sunday flying.

c. Arrival and departure frequency of KC–135s would be similar to current KC–97 operations. Initial KC–135 launches will average 3.2/day on a 5 day/week basis with initial launch weights up to 240,000 pounds. In addition, touch and go (practice) landings would average no more than 3.6/day and would be performed with a lighter aircraft, 150,000 pounds or less, thus providing for departure climbout performance comparable to most large civilian aircraft.

d. Analysis of the projected new noise patterns, using worst case assumptions, indicates an increase of about 800 acres outside of airport boundaries impacted by noise levels L_{dn} 75 or greater. Seven hundred of these acres are now devoted to uses which the additional noise will not seriously impact. The remaining 100 acres impacted are currently devoted to uses considered incompatible with L_{dn} 75 or greater. This includes 67 acres of residential, 9-commercial, 2-churches, 5-drive-in movie, 8-school, and 10-prison.

e. The City of Phoenix has undertaken a Sky Harbor Development Program to make the city's future aviation needs compatible with sound land use planning to reduce noise exposure and safety hazards. Runway improvements, operational realignments, a land acquisition program and other actions are being contemplated or are underway to contain the 75 L_{dn} contour level within the new airport boundaries by 1985. These actions will decrease the noise impact of the KC–135 as well as that of the commercial airlines. The city's plan also takes into account the retrofitting of engines on the civilian aircraft. The Air Force is also exploring the possible retrofitting of the KC–135 with engines that would improve performance and reduce source noise levels and air pollution emissions.

f. The Phoenix area is in an Air Quality Maintenance Area (AQMA) for carbon monoxide, suspended particulates and photochemical oxidants. Air pollutant emissions data from the Maricopa County Department of Health Services (See table below) shows Sky Harbor Airport to be a minor contributor to Maricopa County pollution emission levels. The 161st ARG is, in turn, a minor contributor to Sky Harbor Airport emission levels.

Maricopa county pollutant emissions

[Tons/year]

Pollutants	County [1]	Sky Harbor [1]	KC–97 [2]	KC–135 [2]
NO_x	71,139	910	22	+16
HC	70,908	221	92	+5
CO	597,029	1,662	908	−831
SO_x	5,149	N.A.	2	+1
PT	N.A.	N.A.	28	−24

NOTE.—N/A means not available.

[1] Source: Maricopa County Department of Health Services, Bureau of Air Pollution Control.

[2] Source: Source Inventory, AFCEC Delta: Refers to the difference in emissions between the KC–97 and KC–135.

The proposed action would insignificantly increase NO_x, HC and SO_x emission levels by 16.38, 5.16 and 1.24 tons/year respectively; hence, a small increase in photochemical oxidants is anticipated. Carbon monoxide would decrease by 831.16 tons/year and particulates by 23.-67 tons/year. Visible emissions would increase.

g. The proposed action has been widely publicized in the local area and has been discussed by Arizona Air National Guard officials with local authorities and civilian groups. No opposition or adverse concern has surfaced from these activities.

For the reasons outlined above, the United States Air Force has decided not to file a Draft Environmental Impact Statement with the Council on Environmental Quality (CEQ) but has prepared an Environmental Determination.

Copies of the Environmental Determination and the supporting documentation are available upon request to the HQ USAF/PREV, Pentagon, Washington, D.C. 20330.

Comments and/or questions may be directed to Colonel Luis F. Dominguez, Environmental Planning Division, Civil

Engineering Directorate, Headquarters, U.S. Air Force (AF/PREV), the Pentagon, Washington, D.C. 20330, telephone 202–695–1422.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77–22022 Filed 7–29–77;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Friday September 9, 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Panel will receive briefings and participate in discussions relative to the Defense Intelligence Agency's assessments of foreign military equipment, operations, and capabilities.

Dated: July 21, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.77–21959 Filed 7–29–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

FOSSIL ENERGY ADVISORY COMMITTEE

Meeting

JULY 26, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given that the Fossil Energy Advisory Committee (FEAC), will hold a meeting on August 25, 1977, at the Lakeview Country Club, Training and Conference Center, Route 6, Morgantown, W. Va. The meeting will be open to the public and will begin at 9 a.m.

The following agenda items will be discussed:

9 to 9:15.—Opening Remarks by Dr. William E. Shoupp, Chairman, Fossil Energy Advisory Committee.

9:15 to 9:30.—Welcoming Remarks by Dr. Philip C. White, Assistant Administrator for Fossil Energy.

9:30 to 10:15.—Market Oriented Program Planning Study (MOPPS) by Harry R. Johnson, Executive Director for MOPPS.

10:15 to 10:30.—FEAC MOPPS Discussion.

10:30 to 11.—Department of Energy—Structure and Status by Dr. Philip C. White, Assistant Administrator for Fossil Energy.

11 to 11:30.—FEAC Department of Energy Discussion.

11:30 to 12.—Fossil Energy Methanol Program by Dr. Brian M. Harney, Chief, Refining and Chemicals Branch, Processes, Fossil Energy.

12 to 12:15.—FEAC Methanol Program Discussion.

12:15 to 1:15.—Recess for lunch.

1:30 to 2.—Fluidized Bed Combustion Overview by Dr. Steven I. Freedman, Assistant Director for Combustion and Advanced Power Development, Fossil Energy.

2 to 2:15.—FEAC Fluidized Bed Combustion Discussion.

2:15 to 3.—Report of Fossil Energy Task Force on Research Review by Dr. Alex G. Mills, Director, Division of Materials and Exploratory Research, Fossil Energy.

3 to 3:15.—FEAC Research Review Discussion.

3:15 to 3:45.—Hot Gas Cleanup Report by Chairman, Subcommittee on Hot Gas Cleanup.

3:45 to 4.—FEAC Hot Gas Cleanup Report Discussion.

4:00 to 4:30.—FEAC General Discussion.

In order to prepare for the Fossil Energy Advisory Committee (FEAC) meeting on August 25, 1977, the Subcommittee on Hot Gas Cleanup Technology will hold its meeting on the same morning of the full FEAC meeting from 7:30 a.m. to 8:30 a.m., in the Training and Conference Center, Lakeview Country Club, Morgantown, W. Va. No agenda is provided for this meeting. However, the Subcommittee on Hot Gas Cleanup will explore the general hot gas cleanup technology area and needs, and provide an independent assessment of ERDA's possible role. Discussion will focus upon: (1) options for Cleanup; (2) obstacles to success; (3) typical process schemes; and (4) preliminary economics.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than August 22, 1977, to Mr. George Fumich, Jr., Secretary, Fossil Energy Advisory Committee, U.S. Energy Research and Development Administration, Fossil Energy, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on August 19, 1977, to the Office of the Secretary of the Committee on 202–376–4644 between 8:30 a.m. and 5 p.m., eastern time.

(c) Questions at the meeting may be propounded only by members of the Fossil Energy Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee, Management Officer.

[FR Doc.77-22066 Filed 7–29–77;8:45 am]

[ERDA–1556–D]

HIGH FLUX NEUTRON SOURCE FACILITY, HANFORD RESERVATION, RICHLAND WASHINGTON

Availability of Draft Environmental Impact Statement

Notice is hereby given that the Energy Research and Development Administration (ERDA) has issued the Draft Environmental Impact Statement, ERDA–1556–D, High Flux Neutron Source Facility (HFNS), Hanford Reservation, Benton County, Richland, Washington, pursuant to ERDA's implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of ERDA's proposed actions to construct and operate the HFNS at the Hanford Reservation. The statement addresses the potential environmental impacts associated with the construction and operation of the HFNS which will be an irradiation facility used to support the materials development effort in the magnetic fusion energy program.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal, Washington State, local, and other public organizations and individuals who are known to have an interest in the project. Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Richland Operations Office, Federal Building, Richland, Washington.
San Francisco Operations Office, 1333 Broadway, Oakland, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be

furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E–201, Energy Research and Development Administration, Washington, D.C. 20545, (301–353–4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of the proposed project, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced public document rooms for inspection and will be considered in the preparation of the final environmental impact statement, if received on or before September 30, 1977.

Dated at Germantown, Md., this 26th day of July 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77–22039 Filed 7–29–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FLR 729–5]

AIR QUALITY

Recommended Policy on Control of Volatile Organic Compounds

Correction

In FR Doc. 19385 appearing in the issue of Friday, July 8, 1977, the 3rd column, the last paragraph, the last four sentences should read as follows:

"* * * Uses, environmental distribution, and effects of perchloroethylene currently are being studied intensively by occupational health authorities and EPA. Findings from these investigations may have major impact on industrial users. In designing control regulations for perchloroethylene sources, particularly dry cleaners, consideration should be given to these findings as well as industry requirements and the costs of applying controls. Available control technology is highly cost effective for large perchloroethylene dry cleaning operations. However, for coin-operated and small dry cleaners, the same equipment would represent a heavy economic burden.".

On page 35315, in the 1st column, in that portion of the document under the heading, "Discussion", in the 3rd sentence, the word, "absorption" should read, "adsorption"; also, in the last sentence, the word, "photo chemical", should read, "photochemical".

In the 2nd paragraph, the fourth sentence, should read, "* * * Three separate forums * * *".

In the paragraph "3", the 15th line, the word, "parchloroethylene" should read, "perchloroethylene".

In the 3rd column, paragraph "16", the small type, the first line should read: "* * * selective regulation of CFM uses * * *".

[FRL 770–3; PP 7G1955 and 7G1959/T127]

ALDICARB

Establishment of a Temporary Tolerance

The Agricultural Research Center, Washington State University, Pullman, WA 99164, and the Agricultural Experiment Station, University of Idaho, Moscow, ID 83843, submitted pesticide petitions (PP 7G1955 and 7G1959) to the Environmental Protection Agency (EPA). These petitions requested that a temporary tolerance be established for combined residues of the pesticide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O* - (methylcarbamoyl) oxime and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or the raw agricultural commodity hops at 50 parts per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with two experimental use permits that have been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permits.

2. Washington State University and the University of Idaho must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The Universities must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration. Since aldicarb is an EPA-registered pesticide being used to conduct an experimental program, the usual requirement for keeping records of production (40 CFR 180.31(e)(4)) does not apply.

This temporary tolerance expires July 1, 1978. Residues not in excess of 50 ppm remaining in or on hops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerance. This temporary tolerance may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH–567), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington DC 20460 (202–755–4851).

Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: July 25, 1977.

MARTIN H. ROGOFF,
Director, Registration Division.

[FR Doc 77–22084 Filed 7–29–77;8:45 am]

[FRL 770–5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Equivalent Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another equivalent method for the measurement of ambient concentrations of ozone (photochemical oxidants corrected for interferences due to nitrogen oxides and sulfur dioxide). The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on chemiluminescence of Rhodamine B organic dye. The method is:

"Philips PW9771 0, analyzer" consisting of the following components:

PW9771/00 0, monitor with PW9724/00 Disc.-set, PW9750/00 Supply cabinet, PW9750/20 Supply unit

operated with a 0.5 ppm range, with or without any of the following accessories:

PW9733/00 Sampler; PW9753/00 Air sampler (manifold); PW9750/30 Frame for M.T.T.; PW9750/41 Control clock 60Hz; PW9732/00 Sampler line heater.

This method is available from Philips Electronic Instruments, Inc., 85 McKee Drive, Mahwah, N.J. 07430, or N. V. Philips Gloeilampenfabrieken, Eindhoven, the Netherlands. A notice of receipt of application for this method appeared at 41 FR 36538, August 30, 1976.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent con-

sistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instructional manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

THOMAS MURPHY,
Acting Assistant Administrator for Research and Development.

JULY 26, 1977.

[FR Doc.77-22083 Filed 7-29-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST SERVICE WORKING GROUP

Schedule of Meeting

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

JULY 27, 1977.

Pursuant to Public Law 92-463, notice is hereby given of the following meeting for August 1977.

WARC-79 AM BROADCASTING SERVICE GROUP

The meeting of the AM Broadcasting Service Group originally scheduled for Monday, August 15, and the possible continuation thereof on Wednesday, August 17, 1977, have been rescheduled for Tuesday, August 23, with a continuation, if necessary, on Friday, August 26, 1977. These meetings will be held in Room A-110 of the Main Commission Building Annex, 1919 M Street NW., Washington, D.C., from 10:30 a.m. until 12:30 p.m.

Chairperson: D. C. Everist.

FCC Liaison: Dennis Williams.

The Agenda for the meeting is as follows:

1. Call to Order by the Chairperson.
2. Approval of Minutes of the previous meeting.
3. Draft reply to Comments of Fifth Notice of Inquiry, Dkt. No. 20271.
4. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22035 Filed 7-29-77;8:45 am]

[Docket No. 21319]

THOMAS A. TWILLEAGER

Citizens Band Radio Station License

Adopted: July 1, 1977.

Released: July 27, 1977.

In the matter of the application of Thomas A. Twilleager, 324 S.E. 27th Avenue, Portland, Oregon 97214, for citizens band radio station license.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-entitled application for a Citizens Band radio station license signed by Thomas A. Twilleager on March 31, 1976.

The applicant is the former licensee of Citizens Band radio station KBY-4860. That license was revoked, effective May 30, 1974, in Docket No. 19803, Thomas A. Twilleager, FCC 74D-24, following a hearing held September 25, 1973. An Initial Decision, issued April 1, 1974, found and concluded, inter alia, that Twilleager had operated his radio station in violation of various Commission Rules and that he had made misrepresentations of material facts, which continued throughout the hearing process. No exceptions were filed to the Initial Decision and it became final on May 30, 1974 (FCC 74R-215, released June 12, 1974). The Initial Decision also ordered Twilleager to cease and desist from violation of Sections 301 and 307(a) of the Communications Act of 1934, as amended.

Twilleager violated the Cease and Desist Order by engaging in the unlicensed operation of radio transmitting apparatus on August 26 and 28, 1974, and January 18, 1976. On October 8, 1976, the United States District Court for the District of Oregon permanently enjoined Twilleager from further violation of the Commission's Cease and Desist Order and from operation of a radio transmitter in violation of Sections 301 and 307(a) of the Communications Act (Civil No. 76-78).

In view of the Findings and Conclusions of the Initial Decision (FCC 74D-24) and his unlicensed radio operation subsequent to an Order to Cease and Desist from such operation, it cannot be determined that a grant of Twilleager's application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the application for hearing. The findings and conclusions of the Initial Decision shall be res judicata as to the applicant and shall not be relitigated in this proceeding. Additionally, Twilleager's unlicensed operation on August 26 and 28, 1974, and January 18, 1976, is conclusively established by the judgment of the United States District Court for the District of Oregon in the above mentioned injunctive proceeding. These matters are also res judicata and will not be relitigated.

Accordingly, it is ordered, Pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Section 1.973(b) of the Commission's Rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent Order, upon the following issues:

1. To determine the effect of the facts and conclusions contained in the prior Initial Decision upon the applicant's requisite qualifications to be a licensee of the Commission.
2. To determine the effect of the applicant's unlicensed operation of radio transmitting equipment subsequent to the release of an Order to Cease and Desist upon the applicant's requisite qualifications to be a licensee of the Commission.
3. To determine, in light of the evidence adduced under the foregoing issues, whether the applicant has the requisite qualifications to be a licensee of the Commission.
4. To determine whether a grant of the captioned application for a Citizens Band radio station license would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-22036 Filed 7-29-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; Hawaii and New York Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Hawaii and New York of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(C), the Federal Energy Administration has determined that an environmental impact statement is not required for either of these plans.

Single copies of the environmental assessments of the State Plans for Hawaii and New York are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box OD, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by August 10, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 26, 1977.

J. PETER LUEDTKE,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-21946 Filed 7-29-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; the Territory of Guam Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the Territory of Guam of its Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the Plan for Guam are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views and arguments with respect to the environmental assessment to Executive Communications, Box OC, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Guam Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by August 10, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 26, 1977.

J. PETER LUEDTKE,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-21947 Filed 7-29-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-709]

CINCINNATI GAS AND ELECTRIC CO.

Order Approving Settlement Agreement and Denying Motion To Vacate Order of June 23, 1976 and To Reject Settlement Agreement

JULY 25, 1977.

On April 19, 1977, the Cincinnati Gas and Electric Company (CG&E) tendered for filing a settlement agreement, along with a motion seeking Commission approval of the agreement, in resolution of all issues arising in these proceedings, with the exception of a fair wholesale electric rate increase for the Village of Georgetown, Ohio (Georgetown).[1] The settlement agreement terminates as to the Union Light, Heat, and Power Com-

[1] The Village of Georgetown participated in settlement negotiations but did not reach agreement with CG&E. The City of Covington did not engage in the settlement discussions, but fully acquiesced in the settlement agreement by a letter dated May 2, 1977 and addressed to the Commission Secretary.

pany (Union) [2] and other intervenors [3] proceedings begun on May 25, 1976, when CG&E filed with the Commission proposed changes in its FPC Electric Tariff, First Revised Volume No. 1 for wholesale electric service to Georgetown and its FPC rate Schedule 36 for wholesale electric service to Union. The proposed changes would increase annual charges to Georgetown by $76,164 and Union by $7,512,390. Pursuant to the Commission's order of June 23, 1976, the proposed changes became effective August 25, 1976, subject to refund. By this order the Commission hereby approves the settlement agreement.

The settlement agreement reduces the proposed annual increase for Union to $4,435,967, based on the estimated twelve month period ending December 31, 1976. In its motion seeking approval of this agreement, CG&E requests an expeditious resolution of this matter independent of the proceedings involving CG&E and Georgetown. Notice of the filing of the agreement was issued on April 26, 1977, providing for comments due on or before May 13, 1977. The Commission Staff and the City of Covington filed comments in support of the agreement. Finding that the settlement agreement complies with the Commission's rules and regulations, the Commission hereby approves and adopts the settlement agreement as it applies to Union.

On May 13, 1977, Georgetown tendered for filing a motion to vacate the Commission's order of June 23, 1976 accepting CG&E's proposed tariff sheets for filing, to reject CG&E's initial filing, to refund with interest revenues collected by CG&E in excess of the settlement rate in Docket Nos. E–8885 and E–8546, to order CG&E to comply with the rate agreed upon in Docket Nos. E–8885 and E–8546, and to protest the motion for approval of the settlement agreement filed in these proceedings, unless the same settlement rate is made applicable to Georgetown. Both CG&E and Staff filed timely reply comments to Georgetown's motion to which Georgetown responded. On June 10, 1977, the Commission filed a notice of its intent to act on this matter. Staff filed additional comments on July 1, 1977.

The Commission's rules and regulations provide for a full and fair hearing of complaints filed with this Commission in protest of applications for wholesale electric rate increases.[4] On June 21, 1976, Georgetown filed a timely complaint in these proceedings, raising substantially the same allegations and issues as it raises in its motion of May 13, 1977. On June 23, 1976, the Commission accepted CG&E's proposed tariff sheets for filing and, in response to the various complaints, protests, and petitions to intervene filed in these proceedings, set the matter for hearing. Georgetown did not seek rehearing of this Commission order.

On July 2, 1976, Georgetown raised several objections to CG&E's initial filing in these proceedings,[5] but did not request the Commissionto reject the initial filing or to vacate the order of June 23, 1976. Nearly eleven months later, on May 13, 1977, Georgetown now seeks to vacate this Commission order and to reject CG&E's initial filing. Staff argues that Georgetown should be estopped by laches from attacking CG&E's filing at this late date. The Commission finds Georgetown motion untimely and accordingly denies it.

Georgetown further requests the Commission order CG&E to refund amounts collected since the effective date of these rates, August 25, 1976, "in excess of the amount that would have been collected under the settlement rate of Docket Nos. E–8885 and E–8546, with interest at nine percent." [6] The proposed tariff sheet originally filed in Docket No. ER76–709 contained the following language:

> Where applicable, the net monthly bill shall be increased to reflect the appropriate amount of Ohio Public Utility Excise Tax and the Public Utility Commission of Ohio Maintenance Tax.[7]

Georgetown claims that the prior Settlement Agreement purports to require CG&E to place both Georgetown and Union on the same rate schedule "at some time subsequent to termination of (Docket Nos. E–8885 and E–8546.)," [8] and that in Docket No. ER76–709 CG&E should charge Georgetown and Union identical rates, as reflected in the settlement agreement. Since Union is not located in Ohio, CG&E's sales to Union are not subject to the Ohio Public Utility Excise Tax and to the Public Utility Commission of Ohio Maintenance Tax. Georgetown and CG&E are in dispute as to whether the company may collect these taxes from Georgetown in Docket No. ER76–709. Staff submits that the prior settlement agreement resolved only [9] the question as to whether Union and Georgetown would be treated differently on the basis of purchase volumes and load characteristics.[9]

In the event that the Commission decides not to reject CG&E's initial filing in Docket No. ER76–709, Georgetown objects to the CG&E motion for approval of the settlement agreement filed in this proceeding, "unless the same settlement rate is made applicable to the Village of Georgetown." The settlement agreement in this proceeding reflects the negotiations between CG&E and Union. Georgetown would have the Commission apply to Georgetown the exact settlement rate which Union has agreed to pay, without a provision to allow CG&E to recover the Ohio taxes for its sales to Georgetown. OG&E did not agree to charge that settlement rate to Georgetown in this proceeding since it does not include this provision.

The Commission is willing to apply the settlement rate in Docket No. ER76–709 to Georgetown, subject to the condition that the rate applicable to Georgetown complies with the Commission's rules and regulations. In Opinion No. 644,[10] the Commission determined that Ohio excise taxes are properly recoverable through wholesale electric rates:

> City argues that the imposition of an excise tax by the State of Ohio on revenues of CEI derived from wholesale business is unconstitutional, even though CEI is, in fact, currently paying the tax and believes it to be legal. All parties recognize that the legality of such a tax is not an issue over which this Commission has jurisdiction. Our Staff urged, however, and the Administrative Law Judge decided, that this cost should be excluded from CEI's rates, to be reinstated only upon a final determination that such tax is legal.
>
> It has been argued that if this tax is eliminated from the presently proposed rates, and if it is found that such tax may be legally collected, CEI may file to adjust its rates prospectively. *We must reject this proposal as being wholly inconsistent with the teachings of Hope, wherein it was stated that a regulated public utility is entitled to recover its reasonably and prudently incurred costs as well as a reasonable return on its investment.* The effect of this proposal would necessarily deprive CEI of the opportunity to recover this cost for the period

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[2] Union is a CG&E subsidiary serving Interlake, Inc., the residents of the City of Covington, and certain residents of the Commonwealth of Kentucky.

[3] Interlake, Inc., the Commonwealth of Kentucky, and the City of Covington, Kentucky.

[4] 18 CFR § 1.6.

[5] The Commission denied the relief request by Georgetown on August 3, 1976.

[6] The Commission assumes that by this particular request Georgetown seeks refunds in Docket No. ER76–709 in the amount Georgetown would have paid if it were subject to Union's rate schedule. Otherwise, Georgetown would be seeking to pay only the amount allowed in Docket Nos. E–8885 and E–8546, without regard to the rate increase proposed in Docket No. ER76–709. This conclusion is deduced from Georgetown's later statement in its May 13, 1977 motion that it is agreeable to paying the increased rates reflected in the settlement agreement filed in Docket No. ER76–709.

[7] FPC Electric Tariff, First Revised Volume No. 1, First Revised Sheet No. 5, Rate WS–P, issued May 25, 1976, effective June 24, 1976.

[8] Paragraph 8 of the Settlement Agreement dated May 14, 1975, in Docket Nos. E–8885 and E–8546 reads as follows:

> 8. Since Georgetown requests the same rate as The Union Light, Heat and Power Company, CG&E shall file, pursuant to § 205(d) of the Federal Power Act, at some time subsequent to termination of these consolidated cases a notice of revised rate schedule for wholesale electric service to both Georgetown and The Union Light, Heat and Power Company. Such revised rate schedule shall be designed to contain a single demand step and a single energy step. Such filing will contain two cost of service studies. One will utilize twelve month average coincidental peak for allocation purposes and the other will be premised upon a single annual coincidental peak for such allocation, with testimony in support of the letter allocation approach. In consideration therefor, Georgetown withdraws its Complaint filed December 5, 1973, and all issues raised thereunder, with prejudice, forever barred from raising or complaining of said issues in any proceeding before the Commission, the foregoing covenants of CG&E being complete and adequate satisfaction for Georgetown in these cases.

[9] Georgetown's original complaint in Docket No. E–8546 protested only the rates and charges to Georgetown, which at the time were different from those charged to Union. Ohio taxes were not at issue in that proceeding.

[10] *City of Cleveland, Ohio* v. *Cleveland Electric Illuminating Company*, Docket Nos. E–7631 and E–7633; and City of Cleveland, Docket No. E–7713, issued January 11, 1973.

until new rates may be put into effect in the event the tax is upheld.

> The Administrative Law Judge would seemingly avoid this result by ordering reparations upon a final determination that the tax may be legally imposed. Such a solution might appear to be equitable to both parties if we were empowered to order such reparations. We doubt, however, that the Federal Power Act grants us that authority. We are, however, fully authorized to condition this order to require CEI to reduce its rates and refund any excessive revenues collected under rates herein ordered in the event that it is subsequently determined that CEI is not legally required to pay this tax. (Emphasis supplied.)

Affirming this part of Opinion No. 644, the United States Circuit Court of Appeals for the District of Columbia stated as follows:

> The petition presents for our decision contentions that the Commission erred (a) in adhering to the rates filed by CEI despite the claims that they did not accurately reflect those previously agreed to; (b) in prescribing permanent rates allegedly lacking substantial supporting evidence; (c) *in including the amount of the Ohio excise tax in the makeup of the permanent rates*; and (d) in sanctioning the charge for late payment. We agree with the City on the first point, and with the Commission on the others." (Emphasis supplied; footnotes omitted.)[11]

Footnote 37 of the court's decision states in pertinent part:

> 37. In calculating the permanent rate, note 20 supra, the Commission made an allowance for Ohio taxes being levied against CEI's gross receipts from the load transfer service. The applicability of the tax to that operation was at the time the subject of litigation in state tribunals, and on that account the City insists that the tax was outlawed for ratemaking purposes. We do not agree. *Taxes, like other necessary operating expenses, may properly be included as rate components*, e.g., Georgia Ry. & Power Co. v. Railroad Comm'n, 262 U.S. 625, 633, 43 S. Ct. 680, 682, 67 L. Ed. 1144, 1148 (1923); Galveston Elec. Co. v. City of Galveston, 258 U.S. 388, 399, 42 S. Ct. 351, 356, 66 L.Ed. 678, 684–685 (1922); City of Chicago v. FPC, 147 U.S. App. D.C. 312, 336, 458 F2d 731, 756 (1971), cert. denied, 405 U.S. 1074, 92 S. Ct. 1495, 31 L. Ed.2d 808 (1972); CEI was paying and had to continue payment of the tax until such time as the proper authorities in Ohio might rule to the contrary. (Emphasis Supplied).

Upon review of the documents filed with the Commission, we find no basis to relieve Georgetown of its responsibility to pay amounts equal to Ohio excise taxes incurred by CG&E in its sales to Georgetown. However, with regard to all other aspects of the settlement agreement, we find that the settlement rates are acceptable to Georgetown. Accordingly, we shall request Georgetown to notify the Commission as to its acceptance of the settlement rate, with a provision to allow CG&E to collect amounts equal to the Ohio excise taxes, within thirty days of the issuance of this order. Should Georgetown reject this proposal, the Commission shall order additional proceedings before the Presiding Administrative Law Judge.

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[11] *City of Cleveland* v. *F.P.C.*, 525 F. 2d 845, (D.C. Cir., 1976).

The Commission further finds that Georgetown has no standing to object to the settlement agreement between CC&E and Union. Georgetown is not harmed by it. The Commission therefore denies Georgetown's motion to reject the settlement agreement as it applies to Union. CG&E's motion for approval of the settlement agreement filed in Docket No. ER76–709 is accordingly granted.

The Commission finds: (1) The motion for approval of the settlement agreement filed on April 19, 1977 in these proceedings should be granted.

(2) Georgetown's motion of May 13, 1977 should be denied in its entirety.

(3) Applicant should be required to refund to Union any amounts reflecting the difference between its proposed rates and the rates required to be filed by this order.

The Commission orders: (A) The motion for approval of the settlement agreement filed on April 19, 1977, in these proceedings are hereby granted.

(B) Georgetown's motion of May 13, 1977, is hereby denied in its entirety.

(C) The Commission hereby orders Georgetown to file a written statement of its election to accept or reject a rate equal to the settlement rate in addition to the applicable Ohio excise tax, within 30 days of the issuance of this order

(D) Within 60 days of the issuance of this order, Applicant shall file revised tariff sheets pertaining to rates applicable to Union, in accordance with the findings and conclusions of this decision and with the Commission's Rules and Regulations.

(E) This order, to the extent that it approves the settlement of issues agreed to by all parties herein, is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against CG&E or any person or party.

(F) Within 30 days of the Commission's approval of Applicant's substitute tariff sheets filed pursuant to Paragraph (D) above, Applicant shall report to the Commission refunds made to Union for the period beginning on August 25, 1976, when these proposed rates became effective, with interest at 9 percent per annum from the date of payment to date of refund, in accordance with the Commission's Rules and Regulations. A copy of the refund report shall also be sent to the State Commission.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–22064 Filed 7–29–77;8:45 am]

[Docket No. G–1704]

CITIES SERVICE GAS CO.

Petition To Amend

JULY 22, 1977.

Take notice that on July 11, 1977, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. G–1704 a petition to amend the Commission's order of October 23, 1951, issued in the instant docket (10 FPC 1461) pursuant to section 7(c) of the Natural Gas Act so as to authorize an increase in the maximum shut-in wellhead pressure in its Colony Storage Field, Anderson County, Kansas, and in its McLouth Storage Field, Jefferson and Leavenworth Counties, Kans., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order issued October 23, 1951, Petitioner was granted authorization to acquire gas storage rights, develop and operate the Colony Storage Field in Anderson County, Kansas, at a maximum storage pressure of 285 psig with a corresponding bottom hole pressure of 291 psig at the average storage reservoir depth of 882 feet, and the McLouth Storage Field in Jefferson and Leavenworth Counties, Kans., at a maximum storage pressure of 500 psig with a corresponding bottom pressure of 518 psig at the average storage reservoir depth of 1427 feet.

Petitioner request authorization herein to (1) increase the maximum stabilized shut-in wellhead pressure of the Colony Storage Field to 433 psig with a corresponding bottom hole pressure of 441 psig at the average storage reservoir depth and (2) increase the maximum stabilized shut-in wellhead pressure of the McLouth Storage Field to 684 psig with a corresponding bottom hole pressure of 714 psig at the average storage reservoir depth.

Petitioner states that withdrawals from the North Welda, South Welda and the Colony Storage Fields feed into a common intake at the Welda Compressor Station where the gas is compressed into Applicant's Welda-Ottawa pipeline system. It is stated that on June 20, 1977, Petitioner was granted authorization to construct, among other things, approximately 4.80 miles of pipeline and appurtenant facilities in North Welda Storage Field and approximately 6.18 miles of pipeline and appurtenant facilities in South Welda Storage Field. Applicant states that this construction would replace deteriorated pipelines which would be abandoned and correct excessive pressure drops, and that it would also increase the peak day deliverability of the North Welda Storage Field from 70,000 Mcf per day to 81,000 Mcf per day and increase the peak day deliverability of the South Welda Storage Field from 72,000 Mcf per day to 92,500 Mcf per day. As a result of the required increased intake pressure of the Welda Compressor Station, the peak day deliverability from the Colony Storage Field would decrease from 108,000 Mcf per day to 91,500 Mcf per day, and this results in a net increased peak day deliverability of 15,000 Mcf per day from the three fields with the same wellhead shut-in pressure and storage inventory, it is said.

Petitioner indicates that this shut-in pressure would result in an increase in

the pressure gradient from approximately .330 psi per foot to approximately .500 psi per foot in the storage reservoir and would increase the storage inventory an estimated 4,500,000 Mcf.

It is stated that in Docket No. G-9887, Petitioner was authorized to drill and equip additional storage wells in McLouth Storage and to install additional horsepower at its Tonganozie Compressor Station, which compresses gas in and out of the McLouth Gas Storage Field. It is further stated that Petitioner was again authorized to install additional horsepower at the Tonganoxie Compressor Station in 1963 in Docket No. CP64-108.

It is indicated that Petitioner was authorized in Docket No. CP76-206 to construct additional looping of existing pipeline in the McLouth Storage Field, and that in Docket No. CP76-335, Petitioner was authorized to install an additional 2400 horsepower at its Tonganozie Compressor Station. Petitioner states that the additional looping in the McLouth Storage Field and the additional horsepower at Tonganozie Station would improve peak day deliverability from the McLouth Storage Field.

Applicant states that the requested shut-in pressure at its McLouth Storage Field would result in an increase in the pressure gradient from approximately .360 psi per foot to approximately .500 psi per foot in the storage reservoir and would increase the storage inventory an estimated 5,700,000 Mcf.

It is stated that the increased pressure at Petitioner's Colony Storage Field and McLouth Storage Field would not impair the integrity of the reservoir. The wells and related pipeline facilities have been designed to withstand an operating pressure in excess of 684 psig, it is said.

Petitioner asserts that authorization for the requested increase in stabilized shut-in wellhead pressure would provide the ability to inject an estimated additional 4,500,000 Mcf in the Colony Storage Field and an estimated additional 5,700,000 Mcf in the McLouth Storage Field and the ability to withdraw during the winter heating season these volumes of vitally needed additional gas to serve the high priority customer demands of customers attached as of January 1, 1978. This pressure would permit additional deliveries from these two storage fields during the winter heating season, offsetting the declining deliverability of wells which supply Applicant's system, it is indicated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22057 Filed 7-29-77;8:45 am]

[Docket No. CP77-474]

COLUMBIA GULF TRANSMISSION CO., AND TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Pipeline Application

JULY 22, 1977.

Take notice that on June 30, 1977, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 22027 and Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), hereinafter jointly referred to as Applicants, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 4,000 horsepower pipeline compressor units in Block 245, Vermilion Area, Offshore Louisiana; authorizing an increase in the compression authorized by the Commission in its order issued June 28, 1976 in Docket No. CP75-262 from 3,550 hp. to 4,000 hp.; and providing for a one-year construction period commencing on the date the above-mentioned facility authorizations are issued.

It is stated that the proposed facilities are required to provide capacity for transportation of 696,600 Mcf of gas per day through the Project 601 facilities.[1] Columbia Gulf would be entitled to 476 Mcfd and Tennessee 220,000 Mcfd of such capacity.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 15, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22056 Filed 7-29-77;8:45 am]

[Docket No. R-478]

EL PASO NATURAL GAS CO.

Payment of Refunds

JULY 25, 1977.

Take notice that on July 15, 1977, El Paso Natural Gas Company ("El Paso"), in compliance with the Commission's letter order issued April 29, 1977, at Docket No. R-478, tendered for filing a Report of Refunds Made on May 11, 1977, to its interstate jurisdictional and non-jurisdictional customers entitled thereto. El Paso states, by said letter order, the Commission accepted El Paso's Report of Intended Disposition of Refunds filed with the Commission on March 4, 1977, at Docket Nos. R-478 and RP72-150, et al., as constituting satisfactory compliance with the Settlement Agreement dated August 6, 1976, approved by Commission order issued February 16, 1977, at Docket Nos. RP72-150 (Rate Design), et al.

El Paso states the Report of Refunds Made encompasses producer-supplier refunds received by El Paso aggregating $30,853,944.12 [1], inclusive of interest. Of said $30,853,944.12 in refunds received, El Paso has distributed to its interstate system customers $30,535,822.88, plus additional accrued interest thereon to the date of distribution aggregating $513,206.49, for a total of $31,049,029.37. Additionally, El Paso, in accordance with the approved Report of Intended Disposition of Refunds, distributed to Northwest Pipeline Corporation, $36,194.51, inclusive of interest, of the total refunds received by El Paso and applicable to El Paso's former Northwest Division System operations.[2]

El Paso states that a copy of the filing has been served upon each of El Paso's interstate affected customers Northwest Pipeline Corporation, El Paso's former Northwest Division customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22067 Filed 7-29-77;8:45 am]

[Docket No. CP77-503]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Application

JULY 25, 1977.

Take notice that on July 11, 1977, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP77-503 an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place of certain facilities which were used to transport gas for the account of Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the Emergency Natural Gas Act of 1977, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that on February 11, 1977, it commenced the emergency transportation of natural gas for the account of Panhandle, and that such emergency transportation would terminate at the expiration of Emergency Natural Gas Act of 1977 on July 31, 1977.

It is stated that Panhandle contracted to purchase certain volumes of gas from Montana Power Company (Montana) and W. A. Moncrief, Jr. (Moncrief) and said gas was delivered to Panhandle through transportation and exchange arrangements with Applicant in Grant County, Kansas.

The gas Panhandle contracted to purchase from Montana and Moncrief was delivered to Northern Utilities, Inc.'s (NU) facilities for Applicant's account in Fremont County, Wyoming, and NU delivered this gas to Applicant at an existing interconnection of NU's and Applicant's facilities located in the vicinity of Casper, Wyoming, it is indicated. Applicant states that Panhandle received said volumes of gas from Applicant at an existing gathering line interconnection in Grant County, Kansas and at the newly constructed emergency interconnection where Panhandle's 20-inch transmission line crosses Applicant's 16-inch transmission line located in Grant County, Kansas.

Applicant and Panhandle propose to use the emergency interconnection in Grant County, Kansas on a contingency or emergency basis to facilitate the transportation and/or exchange of natural gas between the parties should such a need arise in the future. Applicant states that this interconnection would provide it and Panhandle with additional flexibility on their systems should future transportation arrangements need to be arranged.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22066 Filed 7-29-77;8:45 am]

[Docket No. CP77-509]

NORTHERN NATURAL GAS CO.

Application

JULY 25, 1977.

Take notice that on July 13, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-509 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation and delivery of natural gas to Federated Rural Electric Association (Federated), and to abandon measuring facilities located in Jackson County, Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks approval to abandon the transportation and delivery of natural gas to Federated and to abandon and remove certain measuring facilities of Jackson TBS No. 5 which consist of 2 EMCO No. 5 positive displacement meters through which interruptible volumes are delivered to Federated as fuel for electrical generation and 1 rockwell 1600 meter which measures firm volumes of gas delivered to Federated for space heating of a building.

It is stated that Federated has advised Applicant that it no longer desires natural gas service for electrical generation and has requested that the measuring facilities associated with deliveries of gas for electrical generation be removed and that the contract for natural gas service for large volume electrical generation sales be terminated. Applicant further indicated that Federated requests that the small volume firm meter be retained for space heating requirements. The estimated cost of removing the measuring facilities is $700 which would be financed from cash on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

[1] Applicants refer to their pipeline facilities extending from Vermilion Block 245 via West Cameron Block 601 to West Cameron Block 643 and Vermilion Block 245 compression authorized in Docket Nos. CP73-48 and CP75-262, together with the compressor facilities proposed in this application as "Project 601".

[1] In addition to the producer-supplier refunds received by El Paso through April 30, 1977, aggregating $25,471,247.49, that were the subject of El Paso's Report of Intended Disposition of Refunds dated March 4, 1977, El Paso received additional producer-supplier refunds aggregating $5,382,696.63 during the period March 1, 1977, through May 6, 1977. The jurisdictional and non-jurisdictional keyed portions of such additional producer-supplier refunds were included in the total refunds distributed to El Paso's customers entitled thereto on May 11, 1977, as herein described.

[2] On September 21, 1973, the Commission granted approval at Docket Nos. CP74-14, et al., permitting El Paso to abandon the Northwest Division System properties and authorizing Northwest Pipeline Corporation ("Northwest") to acquire such properties. Divestiture of El Paso's Northwest Division System properties to Northwest was consummated as of January 31, 1974. The allocation of the applicable producer refund amounts to the two (2) systems is shown in Schedule D under the Tab denominated Summary of Refunds Received and Distributed.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22062 Filed 7-29-77;8:45 am]

[Docket No. CP77-506]

NORTHWEST PIPELINE CORP.

Application

JULY 25, 1977.

Take notice that on July 13, 1977, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP77-507 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000 and that the cost of any single project would not exceed $500,000. These costs would be financed by Applicant through working funds, supplemented, as necessary, by short-term borrowings, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22060 Filed 7-29-77;8:45 am]

[Docket No. E-6957]

SOUTHEASTERN POWER ADMINISTRATION

Request for Extension of Commission Confirmation and Approval of Rate Schedules

JULY 22, 1977

Take notice that on July 11, 1977, the Department of the Interior (Interior), on behalf of the Southeastern Power Administration (SEPA) filed a request for extension of Commission confirmation and approval of Wholesale Power Rate Schedule JW-1 (Revised), which covers the sale of firm power and accompanying energy generated at the Jim Woodruff Project to preference customers. Request is also made for Commission confirmation and approval of Wholesale Power Rate Schedule JW-2-A which covers the sale of electric energy generated at the Jim Woodruff Project to Florida Power Corporation. Rate Schedule JW-2-A supersedes Schedule JW-2 (Revised) and contains a fuel adjustment clause consistent with Commission Order No. 517. Approval of these rate schedules is requested for a 5 year period beginning August 20, 1977, and ending August 19, 1982.

Any person desiring to comment on said application should file written comments with the Federal Power Commission. All such comments should be filed by August 12, 1977. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22059 Filed 7-29-77;8:45 am]

[Docket No. CI77-298]

TENNECO INC.

Supplemental Order

JULY 25, 1977.

On July 1, 1977, Tenneco Inc. (Tenneco) filed a second supplement to its February 28, 1977, petition for declaratory order as previously supplemented on March 17, 1977. In its pleading Tenneco provides additional information regarding the alleged release of natural gas under dedication to Tennessee Gas Pipeline Company (Tennessee) which is the subject of the investigation instituted in the above referenced docket.

In its petition Tenneco identifies the following additional fields: (1) Decker's Prairie Field, Harris County, Texas (sales by Bonanza Pipe Line Company, Inc.), (2) Agua Dulce Field, Nueces County, Texas (sales by Logue and Patterson), and (3) Flores Field, Starr County, Texas (sales by Corpus Christi Leaseholds, Inc.).

Tenneco also states that in the Seeligson Field, Jim Wells County, Texas, a field previously discussed in Tenneco's pleadings, the Cattle-Land Oil Company acquired, as of October 1, 1967, Shell Oil Company's (Shell) interest in the acreage covered by Shell's contract with Channel Industries Gas Company (Channel). According to Tenneco sales under that contract, which totaled about .2 Bcf, have ceased. Tenneco states that sales by Sun Oil Company (Sun) from this field to Channel are currently being made under a 1965 Sunray-Channel contract and averaged 5,629 Mcf per day in 1976.

Finally, Tenneco notes that in Docket No. CI76-738, there is currently pending an application filed by N. R. Murchison relating to 160 acres in the Stedman Island Field which at one time was covered by a 1952 contract between Aransas Dock and Channel Company (Aransas), as seller, and Tennessee as purchaser. The application in Docket No. CI76-738 requests the Commission to confirm that abandonment authorization was obtained in 1960 when the Commission was informed that production had ceased, or, in the alternative to grant abandonment. The 1952 Aransas-Tennessee contract covered certain acreage subsequently acquired by Mobil Oil Corporation. In 1966 and 1967 Mobil sold to Channel about 2.4 Bcf of gas produced from that acreage. Tenneco requests that any question as to the Mobil acreage be considered in Docket No. CI76-738. Since Mobil has not filed an abandonment application with respect to its acreage in the Stedman Island Field, we do not agree that the question of Mobil's sales to Channel should be considered in Docket No. CI76-738. This issue is properly part of the Tenneco investigation and shall be considered therein.[1]

The issues raised in Tenneco's July 1, 1977, supplemental petition are properly part of the investigation which was set for hearing in the June 6, 1977, order issued in this proceeding. Accordingly, we shall make the additional affected producers respondents to this proceeding.

The Commission orders: (A) Bonanza Pipe Line Company, Inc., Logue and Patterson, Corpus Christi Leaseholds, Inc. and Cattle-Land Oil Company are hereby made respondents in the above-entitled proceeding. The above respondents shall comply with the procedures established in the Commission's June 6, 1977 order herein.

(B) This proceeding is expanded to cover the properties discussed in the body of this order.

(C) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before August 5, 1977, in accordance with the Commission's Rules of Practice and Procedure. Parties who have already filed such notices or petitions in this docket need not again file for intervention.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22063 Filed 7-29-77;8:45 am]

[Docket No. CP77-505]

TEXAS GAS TRANSMISSION CORP.

Application

JULY 25, 1977.

Take notice that on July 12, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP77-505 an application pursuant to section 7(c) of the Natural Gas Act as implemented by section 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction during a three-year period following February 10, 1978, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant states that the total volume of natural gas to be injected into the prospective underground storage projects would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed three-year project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from cash on hand.

Applicant states that upon successful completion of the testing and development of any underground storage reservoir, Applicant would file an application for authorization to utilize said storage reservoir as an integral part of its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22061 Filed 7-29-77;8:45 am]

[Docket No. RI77-105]

TEXAS WELL SERVICE, INC.

Petition for Special Relief

JULY 22, 1977.

Take notice that June 14, 1977, Texas Well Service, Inc. (Applicant), P.O. Box 6432, Corpus Christi, Tex. 78411, filed an application for special relief in Docket No. RI77-105, pursuant to Commission Order No. 481.

Applicant seeks authorization to charge $2 per Mcf for gas sold from the Juan Stillman, Jr., Lease and the Salvador Yzaguirre Lease, Duval County, Tex. Applicant proposes to re-enter and to redrill both the Stillman Lease Well which is presently shut-in and the Yzaguirre Lease Well which is plugged. Applicant further states that unless the requested increase is granted, it will be unable to develop said acreage.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22058 Filed 7-29-77;8:45 am]

[Docket No. ID-1598]

WILLIS S. WHITE, JR.

Application; Correction

JULY 7, 1977.

In FR Doc. 77-17442 appearing on page 30915 in the issue for Friday, June 17, 1977, in the list of positions for which Willis S. White has applied "President" should in each case read "President and Director." This notice in Docket ID-1598 was issued by the Federal Power Commission on June 9, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22065 Filed 7-29-77;8:45 am]

FEDERAL RESERVE SYSTEM

CLEVETRUST CORP.

Proposed Acquisition of Lake Life Insurance Company

CleveTrust Corporation, Cleveland, Ohio, has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Lake Life Insurance Company, Wilmington, Delaware, a proposed de novo subsidiary. Notice of the application was published on March 8, 1977 in The Plain Dealer and The Morning News, newspapers circulated, respectively, in Cleveland, Ohio, and Wilmington, Delaware.

Applicant states that the proposed subsidiary would engage in the activity of underwriting as reinsurer credit life and credit accident and health insurance di-

[1] Mobil was previously made a respondent in this proceeding and therefore there is no need to add them as a respondent, but the proceeding will now also cover the subject properties of Mobil.

rectly related to extensions of credit by the bank holding company system. Such activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 23, 1977.

Board of Governors of the Federal Reserve System, July 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-21861 Filed 7-29-77;8:45 am]

FIRST TEXAS BANCORP, INC.

Acquisition of Bank

First Texas Bancorp, Inc., Georgetown, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank, Belton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1977.

Board of Governors of the Federal Reserve System, July 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-21862 Filed 7-29-77;8:45 am]

NORTHEAST UNITED BANCORP, INC., OF TEXAS

Order Approving Acquisition of Bank

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First State Bank, Bedford, Texas ("Bank").

The subject proposal is an amendment to Applicant's original application to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank through an exchange of shares of Applicant for shares of Bank. That application was approved by the Board by Order of January 19, 1976 (41 FR 3782). Because Applicant was not able to acquire all of the shares of Bank as proposed, Applicant requested the Board to amend its Order to permit Applicant to acquire 75 percent or more of the shares of Bank through an exchange of shares. By Order of November 5, 1976, the Board granted Applicant's request (41 FR 50347). It appears that Applicant is unable to consummate the transaction as amended. Applicant now proposes to acquire 51 percent or more of the voting shares of Bank through cash purchase rather than through an exchange of shares. In view of the length of time that has elapsed since the Board issued its first Order aoproving the application and the substantial amendments that Applicant has made to the proposal, the Board has considered the amended proposal as if it were a new application.

Notice of the amended application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 107th largest banking organization in Texas, controls one bank with aggregate deposits of approximately $50.4 million, representing one-tenth of one percent of the total deposits in commercial banks in the State.[2] Applicant's acquisition of Bank would increase Applicant's share of total State deposits by 0.06 percent and would not result in a significant increase in the concentration of banking resources in Texas. Approval of the subject application would result in Applicant becoming the 62nd largest banking organization in Texas.

Bank holds deposits of approximately $30 million, representing 1.0 per cent of the total deposits in commercial banks operating in the Fort Worth banking market,[3] and ranks as the 17th largest of 51 commercial banks in the market. The three largest banking organizations in the market control, in the aggregate, 63.3 per cent of the market's deposits. Applicant is the ninth largest of 40 banking organizations in the Fort Worth banking market. Its sole subsidiary, Northeast National Bank of Fort Worth, Texas ("Northeast"), holds deposits of $50.4 million, representing 1.6 percent of the market's total commercial bank deposits. To the extent that Northeast Bank and Bank operate in the Fort Worth banking market, some amount of existing competition would be eliminated as a result of the consummation of this proposal. However, Northeast Bank and Bank are located in separate suburbs of Fort Worth seven and one-half miles apart and in view of the sizes of the institutions involved and the large number of banks competing in the market, it does not appear that the effects on existing competition would be significant. Moreover, even after consummation of the proposal, Applicant would control only 2.6 per cent of the market's deposits (about one-third of the deposits held by the market's third largest banking organization, and less than one-tenth of the deposits held by the first or second largest banking organization in the market), and several independent banks in the market would remain available for acquisition by holding companies not presently represented in the market. Accordingly, on the basis of the record, the Board concludes that consummation of the proposal would not have any significantly adverse effects on competition.

The financial and managerial resources of Applicant and its subsidiary bank are considered satisfactory and the future prospects for each appear favorable. In view of Applicant's commitment to inject $200,000 of equity capital into Bank following its acquisition, the same conclusions generally apply with respect to Bank's financial and managerial resources and future prospects. Although Applicant will incur debt of approximately $2.8 million as a result of the acquisition of Bank's shares, it appears that Applicant will be able to service this debt through the earnings of Northeast Bank and Bank, without placing any undue strain upon the capital position of either bank. Thus, the banking factors lend some weight toward approval of the application. Applicant proposes to increase the rates of interest paid on Bank's time and savings deposits, increase the parking facilities

[2] All banking data are as of December 31, 1976, and reflect holding company formations and acquisitions approved through June 30, 1977.

[3] The Fort Worth banking market, the relevant geographic market for purposes of analyzing the competitive effects of this proposal, is approximated by the Fort Worth RMA.

at Bank, and, at a later date, provide trust services for customers of Bank. Therefore, the considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and, in the Board's view, are sufficient to outweigh any slight adverse effects on existing competition that might result from consummation of the proposal. Therefore, on the basis of all of the facts of record, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.[2]

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective July 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22008 Filed 7-29-77;8:45 am]

PEOTONE BANCORP, INC.

Order Approving Formation of a Bank Holding Company

Peotone Bancorp, Inc., Peotone, Ill., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 80 per cent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Ill. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $19.8 million).[1] Upon acquisition of Bank, Applicant would control the 506th largest bank in Illinois, with approximately 0.03 percent of total deposits of commercial banks in the State. Bank is the 9th largest of 22 banks competing in Will Couty, the relevant banking market, holding about 3 per cent of the total commercial bank deposits therein. Applicant's principals are associated with and exert considerable management influence over two other Illinois banks, one in Westville and the other in Cambridge. Since the instant proposal is essentially a corporate reorganization, and because Bank and the other two banks are each located in separate banking markets, consummation of the proposal would neither eliminate existng or potential competition nor increase the concentration of banking resources in any relevant area. Thus, it is concluded that competitive considerations are consistent with approval of the application.

The condition of the two other banks with which Applicant's principals are associated suggests that they will conduct the operations of Applicant and Bank in a satisfactory manner. Although Applicant will incur debt in connection with the proposal, the projected income from Bank should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Therefore, considerations relating to the financial and managerial resources and future prospects of Applicant and Bank are regarded as generally satisfactory and consistent with approval.

Although Applicant proposes no immediate substantive changes in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors, effective July 25, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-22009 Filed 7-29-77;8:45 am]

[2] In its consideration of Applicant's original proposal, the Board considered comments submitted by First National Bank of Euless, Euless, Texas ("Protestant"), regarding the competitive effects of Applicant's proposed acquisition of Bank. Protestant's comments in opposition to approval of Applicant's proposal and the Board's analysis of those comments are set forth in the Board's Order approving Applicant's original proposal (41 FR 3782 (1975)). Upon review of Protestant's comments in light of the subject proposal, the Board is of the view that the facts do not justify altering those findings of record.

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich and Coldwell. Absent and not voting: Governors Jackson, Partee and Lilly.

[1] All banking data are as of December 31, 1976.

FOREIGN-TRADE ZONES BOARD

[Order No. 120]

PORT EVERGLADES AUTHORITY

Approval for Establishment of a Temporary Foreign-Trade Zone Site in Broward County, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Port Everglades Authority, Grantee of Foreign-Trade Zone No 25, has applied to the Board for authority to establish, operate, and maintain a temporary zone site for a period not to exceed three years in the City of Dania, Broward County, Florida;

Whereas, the application was accepted for filing on March 11, 1977, and notice inviting public comment was given in the FEDERAL REGISTER on March 17, 1977 (41 FR 14926);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is needed to provide immediate zone services for the business community until the recently approved permanent zone, which is under construction, is ready for occupancy;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to establish, operate and maintain a temporary zone site in the City of Dania, Broward County, Florida, in conformity with the application filed March 11, 1977, for a period not to exceed three years from the date of this Board Order. The authority given in this Order is subject to local approval of the District Director of Customs and the District Army Engineer regarding compliance with their requirements relating to foreign-trade zones. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the new site.

Signed at Washington, D.C., this 19th day of July 1977.

JUANITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:
JOHN J. DaPONTE,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.77-22026 Filed 7-29-77;8:45 am]

[Order No. 121]

SAN FRANCISCO PORT COMMISSION

Approval of Application To Relocate Foreign-Trade Zone No. 3 to Piers 19 and 23, San Francisco, Calif.

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) has adopted the following Order:

Whereas, the San Francisco Port Commission, Grantee of Foreign-Trade Zone No. 3, has made application (filed May 10, 1977) for authority to relocate Foreign-Trade Zone No. 3 from its present two sites at King Street and Berry Street to a consolidated site at Piers 19 and 23, the Embarcadero, San Francisco, Calif;

Whereas, public notice of the application has been given and full opportunity has been afforded all interested parties to be heard (42 FR 24076, May 12, 1977);

Whereas, an Examiners Committee has investigated the proposal and recommends approval of the application; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Foreign-Trade Zones Board Regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the relocation of Foreign-Trade Zone No. 3 from its present sites at King Street and Berry Street to a new site at Piers 19 and 23, the Embarcadero, San Francisco, Calif. The Grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone.

This order shall be effective as of June 13, 1977.

Signed at Washington, D.C., this 19th day of July 1977.

JUANITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

JOHN J. DAPONTE,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.77-22027 Filed 7-29-77; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: U.S. Office of Education/National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the November 1 Report to Congress Committee of the National Advisory Council on Bilingual Education. The purpose of this meeting is to review and recommend changes for the advisory council's 1977 annual report to Congress. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE: August 22, 1977 November 1 Report to Congress Committee Meeting 9 a.m. to 4:30 p.m.

ADDRESS: Reporter's Building, Conference Room 412, 300 7th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. John C. Molina, Director, Office of Bilingual Education, Reporter's Building, Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The proposed agenda for the meeting on August 22, 1977 includes: review and recommend changes for the advisory council's 1977 annual report to Congress.

Records will be kept of all Council proceedings and shall be available for public inspection 14 days after the meeting in Room 421, Reporter's Building, 300 7th Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on July 27, 1977.

JOHN C. MOLINA,
Director, Office of Bilingual Education.

[FR Doc.77-22038 Filed 7-29-77; 8:45 am]

Office of the Secretary

OFFICE OF HUMAN DEVELOPMENT

Reorganization Order

Under the authority of section 6 of reorganization Plan No. 1 of 1953 and pursuant to the authorities vested in me as Secretary of Health, Education, and Welfare, I hereby order organizational changes in the Office of Human Development as follows:

I. ORGANIZATION

A. The Office of Human Development is redesignated the Office of Human Development Services and will remain as a principal operating component within the Office of the Secretary.

B. The Office of Human Development Services will be headed by the Assistant Secretary for Human Development Services who will report directly to the Secretary. The Deputy Assistant Secretary for Human Development Services will act as the Assistant Secretary in the absence or disability of the Assistant Secretary or in the event there is a vacancy in that position.

C. The Office of Human Development Services will consist of the following principal program elements and headquarters staff units, the heads of which report directly to the Assistant Secretary for Human Development Services:

PRINCIPAL PROGRAM ELEMENTS

Administration for Children, Youth, and Families
Administration on Aging
Administration for Handicapped Individuals
Administration for Public Services
Administration for Native Americans

HEADQUARTERS STAFF UNITS

Office of Planning, Research, and Evaluation
Office of State and Community Affairs
Office of Administration and Management
Office of Policy and Management Control

D. The Office of Human Development Services will have 10 regional offices headed by Regional Administrators for Human Development Services, who report directly to the Assistant Secretary for Human Development Services. The reporting relationships of the regional heads of the rehabilitation services and aging programs are unaffected by this order.

II. ORGANIZATIONAL TRANSFERS

A. To the Administration for Children, Youth, and Families are transferred:

Office of Child Development
Office of Youth Development
That part of Public Services Administration concerned with the Child Welfare Services Program, namely Title IV-B Child Welfare Services and the Child Welfare Services Training Program

B. To the Administration for Handicapped Individuals are transferred:

Rehabilitation Services Administration (the Commissioner of the Administration for Handicapped Individuals also serves as Commissioner of the Rehabilitation Services Administration)
Developmental Disabilities Office
Architectural and Transportation Barriers Compliance Board (the Assistant Secretary will continue to serve as Chairperson)
President's Committee on Mental Retardation
Office for Handicapped Individuals (redesignated as Office for Handicapped Individuals Advocacy which will continue to report directly to the Assistant Secretary)

C. To the Administration for Public Services are transferred:

Public Services Administration (less Child Welfare Services Program)
Office of WIN

D. To the Administration for Native Americans are transferred:

Office of Native American Programs
Intradepartmental Council on Indian Affairs

E. The Administration on Aging is retained as currently constituted.

F. To the Office of Planning, Research, and Evaluation is transferred:

Office of Planning and Evaluation (less the functions related to the Operational Planning System)

G. The Office of Administration and Management is retained as presently constituted (less Equal Employment Opportunity function and certain organization and management analysis responsibilities).

H. To the Office of State and Community Affairs are transferred:

Office of Public Information
Office of Veterans Affairs
Office of Consumer Affairs
Office of Volunteer Development
Office of Rural Development
Office of Manpower
Office of Regional Operations

I. To the Office of Policy and Management Control are transferred:

Executive Secretariat
That part of Office of Planning and Evaluation concerned with the Operational Planning System
That part of Office of Administration and Management concerned with the Equal Employment Opportunity function and certain organization and management analysis functions

J. To the various offices of the Regional Administrators for Human Development Services are transferred the Offices of the Assistant Regional Directors for Human Development and the Regional Manpower Staffs.

III. CONTINUATION OF REGULATIONS

Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy and interpretations with respect to the Office of Human Development and the Office of the Assistant Regional Directors for Human Development, heretofore issued and in effect prior to the date of this Reorganization Order, or to become effective subsequent to said date, are continued in full force and effect.

IV. CONTINUATION OF DELEGATIONS OF AUTHORITY

Pending further delegations and redelegations consistent with this Order, all delegations of authority heretofore made to the Assistant Secretary for Human Development and all redelegations thereunder are continued in full force and effect. Delegations and redelegations by the Commissioner, Rehabilitation Services Administration, and Commissioner, Administration on Aging, are unaffected by this Order.

V. FUNDS, PERSONNEL, AND EQUIPMENT

Transfers of organizations and functions effected by this Order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies, and other resources.

Effective date: This Reorganization Order shall be effective July 26, 1977.

Dated: July 26, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-21979 Filed 7-29-77; 8:45 am]

SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT

Determination of Equivalency

Section 601 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484) amended section 212 of the Immigration and Nationality Act to, among other things, provide that certain aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession or who are coming to participate in a program under which they will receive graduate medical education shall be excluded from entering the United States unless, in addition to other requirements, they have passed Parts I and II of the National Board of Medical Examiners' Examination or an equivalent examination as determined by the Secretary of Health, Education, and Welfare.

For purposes of administration of this section, the Secretary of Health, Education, and Welfare has determined that successful completion of medical school examinations leading to the degree of Doctor of Medicine, awarded by a school of medicine located in the United States or Canada, accredited by a body or bodies approved for this purpose by the Commissioner of Education, will be considered equivalent to the passing of Parts I and II of the National Board of Medical Examiners' Examination.

Dated: June 1, 1977.

R. MOURE,
Acting Assistant Secretary for Health.

Approved: July 26, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-22048 Filed 1-29-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 14347]

FLORIDA

Opportunity for Public Hearing and Republication of Proposed Withdrawal; Correction

JULY 26, 1977.

In 42 FR 36558–36559 of July 15, 1977, paragraph 8 of FR Document No. 77-20371 should read:

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-22025 Filed 7-28-77; 8:45 am]

[ES 14837]

MINNESOTA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Department of the Interior, Fish and Wildlife Service, filed application Serial No. ES 14837 on December 20, 1974, for the withdrawal of the following described land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws:

FIFTH PRINCIPAL MERIDIAN, MINNESOTA

T. 138 N., R. 39 W.,
Tract 37, 5.20 acres;
Tract 38, 0.20 acre.

The applicant proposes to use the land as a refuge for migratory birds and will manage it as a satellite of the Tamarac National Wildlife Refuge located approximately six miles to the North. The land, composed of two islands within a meandered lake, will provide upland nesting cover and a food source for migratory waterfowl and upland game birds.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 10, 1975, Volume 40, page 29095, Document No. 75–17905.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910, on or before September 15, 1977. Upon determination by the Director that a public hearing will be held, a notice of public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. Hearings are scheduled and conducted in accordance with BLM Manual section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the Director, Eastern States Office, Bureau of Land Management at the above address on or before September 15, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on

October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-22024 Filed 7-29-77;8:45 am]

(NM 31141 and 31145)

NEW MEXICO

Applications

JULY 25, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch and one 8⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 5, lot 5;
Sec. 6, lot 12.
T. 32 N., R. 10 W.,
Sec. 28, lots 2 and 3;
Sec. 32, lots 1 and 2.

These pipelines will convey natural gas across 0.522 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22017 Filed 7-29-77;8:45 am]

[NM 29722]

NEW MEXICO

Application

JULY 22, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 13 W.,
Sec. 16, N½NE¼, SW¼NE¼, S½NW¼;
Sec. 17, S½NE¼, E½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 18, SE¼SE¼;
Sec. 19, lot 2, N½NE¼, E½NW¼.
T. 29 N., R. 13 W.,
Sec. 20, N¼SW¼, SE¼SW¼;
Sec. 28, SW¼SW¼;
Sec. 29, S½NE¼, E½SE¼;
Sec. 33, W½NW¼, SE¼NW¼, NE¼SW¼, SW¼SW¼.

This pipeline will convey natural gas across 5.77 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations,

[FR Doc.77-22020 Filed 7-29-77;8:45 am]

National Park Service

CRATER LAKE NATIONAL PARK, CRATER LAKE, ORE.

General Management Plan and Environmental Assessment; Availability

This announcement is to provide public information that the National Park Service has completed a general management plan for Crater Lake National Park, Crater Lake, Oregon, which is now available for review. An environmental assessment was completed on the draft plan and is also available for 30 days from the date of this notice. Both documents are on file for review or may be obtained at the following offices:

Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Washington 98101.
General Superintendent, National Park Service, Box 128, Klamath Falls, Oregon 97601.
Superintendent, Crater Lake National Park, Box 7, Crater Lake, Oregon 97604.

The general management plan is the park-wide plan for meeting the management objectives for the park. It charts a long-range strategy for resource management, visitor use, and development at a level of detail that will facilitate implementation of proposed actions.

The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, and a description of the alternatives selected as the proposed action.

On April 15, 1976, the National Park Service announced in the FEDERAL REGISTER (Volume 41, page 15881) that an environmental impact statement would be prepared for this project. This announcement was made early in the planning process prior to definition of the proposed action. During project planning, alternatives were selected that will produce less impacts than previously contemplated. Upon preparation of this environmental assessment, it is now determined that implementation of the proposed general management plan will not produce a significant environmental impact on the human environment. Therefore, an environmental impact statement is not required, and none will be prepared.

Dated: July 15, 1977.

RUSSELL E. DICKENSON,
Regional Director, Pacific Northwest Region.

[FR Doc.77-21993 Filed 7-29-77;8:45 am]

DEPARTMENT OF JUSTICE

DELMARVA POWER AND LIGHT CO.

Notice of Proposed Consent Judgment in Action To Join Emission of Pollutants

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on July 20, 1977, a proposed consent decree and appended compliance schedule in *United States* v. *Delmarva Power and Light Company* were lodged with the United States District Court for the District of Delaware at Wilmington at the request of the Environmental Protection Agency. The proposed decree and schedule require Delmarva Power and Light Company to achieve compliance at its Indian River Generating Station Unit No. 3 with the Delaware State Implementation Plan regulation for the control of particulate emissions from fuel burning equipment through the institution of a program of inspection, modification and testing of Unit No. 3. The compliance schedule requires the company to install additional equipment on Unit No. 3's existing control technology and to submit a report to EPA showing Unit No. 3's compliance with the particulate regulation by May 8, 1978, and further requires, in the event compliance is not achieved through the use of the additional equipment, that the company use flue gas conditioning treatment or replace its electrostatic precipitators to produce final compliance by February 5, 1981. The consent decree would be in settlement of an action against the company for a violation of Section 113 of the Clean Air Act, 42 U.S.C. § 1857c-8.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments on the proposed decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Delmarva Power and Light Company*, D. J. Ref. 90-5-2-1-68.

The proposed consent decree and compliance schedule may be examined at the office of the United States Attorney, Wilmington, Delaware, at the Environmental Protection Agency, Region III offices, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania, at the office of the Clerk of the United States District Court for the District of Delaware, and at the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, 9th and Pennsylvania NW., Washington, D.C. A copy of the proposed decree may be obtained by mail or in person from the Pollution Control Section.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-22028 Filed 7-29-77;8:45 am]

INTERLAKE, INC.

Notice of Proposed Consent Decree in Action To Enjoin Emission of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 10029, notice is hereby given that on or about July 18, 1977, a proposed consent decree in *United States* v. *Interlake, Inc.*, was lodged with the District Court for the Northern District of Illinois. The proposed decree would require Interlake, Inc. to bring its by-product coke production facility in Chicago into compliance with Illinois Air Pollution Control Regulations on a specific schedule, the final date of which is 34 months from entry of the decree.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Interlake, Inc.*, D.J. Ref. 90-5-2-1-44.

The proposed consent decree may be examined at the office of the United States Attorney, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, Illinois, 60604, at the Region V Office of the Environmental Protection Agency, Enforcement Division, 230 S. Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Department of Justice, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-22029 Filed 7-29-77;8:45 am]

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1977 Aggregate Production Quota Oxycodone for Conversion

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to 0.100 of Title 28 of the Code of Federal Regulations.

On June 7, 1977, a notice of the proposed revised aggregate production quota for 1977 for Oxycodone For Conversion was published in the FEDERAL REGISTER (42 FR 29110-11). All interested parties were invited to comment or object to the proposed aggregate production quota on or before July 5, 1977. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the aggregate production quota for the controlled substance listed below, expressed in grams of anhydrous base, be established as follows:

Basic class:

	Issued 1977
Oxycodone for conversion	8,400

This order is effective upon publication.

Dated: July 25, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-21945 Filed 7-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER AND LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Pennsylvania Power and Light Co., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 12, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Allegheny Electric Cooperative, Inc., as an owner of the Susquehanna Steam Electric Station, Units 1 and 2.

The information was filed by Pennsylvania Power and Light Co. in connection with their application for construction permits and operating licenses for two boiling water nuclear reactors. The Pennsylvania Power and Light Co. was issued two construction permits on November 2, 1973, for their Susquehanna Steam Electric Station, Units 1 and 2. Construction is underway on a site located in Salem Township, Luzerne County, Pa.

The original antitrust portion of the application was submitted on March 23, 1971, and Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on May 7, 1971 (36 FR 8529). The Notice of Hearing was published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20090).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pa. 18701.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attn.: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Allegheny Electric Cooperative, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before August 23, 1977.

Dated at Bethesda, Md., this 16th day of June, 1977.

For the Nuclear Regulatory Commission.

ANTHONY BOURNIA,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-20443 Filed 7-15-77;8:45 am]

NOTE.—This document originally appeared at the 37882 in the FEDERAL REGISTER for Monday, July 25, 1977. It is reprinted in this issue without change.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE VERMONT YANKEE NUCLEAR POWER PLANT

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Vermont Yankee Nuclear Power Plant, will hold an open meeting on August 16, 1977, in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review operating experience and other matters pertinent to the Vermont Yankee Nuclear Power Plant.

The agenda for subject meeting shall be as follows:

TUESDAY, AUGUST 16, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Vermont Yankee Nuclear Power Corporation, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 9, 1977 to Mr. Elpidio Igne, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 2727 H Street NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt. 05301.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 15, 1977, to the Office of the Executive Director of the Committee, telephone 202–634–1919, Attn.: Mr. Elpidio Igne, between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 23 and November 23, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt. 05301.

Copies may be obtained upon payment of appropriate charges.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77 22213 Filed 7-29-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP ON TRANSPORTATION OF RADIOACTIVE MATERIALS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Working Group on Transportation of Radioactive Materials will hold an open meeting on August 23, 1977, at the Sheraton La Guardia Hotel, 90–10 Grand Central Parkway, New York, N.Y. 22369. The purpose of this meeting is for the Working Group to receive an updated briefing on Interim Report, dated April 29, 1977, "Transport of Radionuclides in Urban Environs—Status Report on Assessment Methodology and General Study Development" (hereafter referred to as the Interim Report).

The agenda for subject meeting shall be as follows:

TUESDAY, AUGUST 23, 1977

8:30 A.M.–8:45 A.M.

The Working Group with any of its consultants who may be present will meet in Executive Session to explore their preliminary opinions, based upon their independent review of the Interim Report and associated documents, regarding matters which should be considered.

8:45 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Working Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants.

At the conclusion of this session, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 16, 1977, to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should be based on the Interim Report, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

2. The NRC's five Regional Offices of Inspection and Enforcement:

Region I: 631 Park Avenue, King of Prussia, Pa. 19406.

Region II: Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.

Region III: 799 Roosevelt Road, Glen Ellyn, Ill. 60137.

Region IV: Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.

Region V: Suite 202, 1990 N. California Boulevard; Walnut Creek, Calif. 94596.

3. The four major reference collections of the New York City Public Library.

Copies of the Interim Report may be obtained from:

1. U.S. Environmental Protection Agency, Region II: Regional Office of Radiation Programs. Attn.: Paul Giardina, Chief, Room 9071, 26 Federal Plaza, New York, N.Y. 10007.

2. U.S. Nuclear Regulatory Commission, Office of Standards Development, Transportation and Product Standards Branch, Attn.: Norman A. Eisenberg, telephone 301–443–6910, 5650 Nicholson Lane, Rockville, Md. 20853.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 22, 1977, to the Office of the Executive Director of the Committee, telephone 202–634–1374, Attn.: Mr. Gary Quittschreiber, between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 30 and November 23, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–22215 Filed 7–29–77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Change in Agenda

Item A.(3), Regulatory Guide 1.XX, "Normal Water Level and Discharge at Nuclear Power Plants" has been deleted from the agenda for the meeting on August 10, 1977, of the ACRS Subcommittee on Regulatory Activities.

All other matters pertaining to this meeting remain the same as announced in the FEDERAL REGISTER on July 25, 1977, page 37880.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–22216 Filed 7–29–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 26, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Application of Candidate Form for Internship in Personnel Management, SFP–758, annually, Indians in jurisdiction of San Francisco region, Warren Topellus, 395–5872.

SMALL BUSINESS ADMINISTRATION

Application for Pollution Control Financing Guarantee—Issuer's Request for Guarantee Commitment, SBA–1136, 1136A, on occasion, all small business requesting assistance, Lowry, R. L., 395–3772.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service, Turkey Ham Label and Minimum Count Questions, single time, households in U.S.A., Gaylord Worden, 395–4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Grants for Guidance and Counseling, Programs Pub. L. 94–482, sec. 342(B)(1), OE–578–1, annually, States and territories, Lowry, R. L., 395–3772.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation, Questionnaire—Lake Mead Fishing Survey for Nevada, Department of Fish and Game, single time, fishermen and recreationalists visiting the area, Maria Gonzalez, 395–6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration:

Driving While Intoxicated Arrest Procedures, single time, police officers, Strasser, A., 395–5867.

Minority Business Enterprise Small Business Survey of Sponsors, on occasion, UMTA-assisted transit, agencies and contractors, economics and general government division, Strasser, A., 395–3451.

REVISIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Chromium Ferroalloys—Importers' Questionnaire, single time, importers of high-carbon ferrochromium, Evinger, S. K., 395–3710.

Chromium Ferroalloys—Consumers questionnaire, single time, consumers of high-carbon ferrochromium, Evinger, S. K., 395–3710.

VETERANS' ADMINISTRATION

Application for Residency or Internship, 10–2850B, on occasion, residents and interns, Warren Topellus, 395–5872.

Application for Employment—Professional Nurse, 10–2850A, on occasion, nurse applicants, Warren Topellus, 395–5872.

Application for Physicians and Dentists, 10–2850, on occasion, physicians and dentist applicants, Warren Topellus, 395–5872.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Occupational Wage Survey Program, 2751A, 2752A, 2752B, 2753F, 2753G, other (see SF–83), establishments in specified SIC's and SMSA's, Strasser, A., 395–5867.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, A. Training Activities Information, B Section 402 Record of Completed Training, HS–193, HS–194, annually, State governments, Lowry, R. L., 395–3772.

Federal Railroad Administration, Regulations Governing Proposed Transactions Submitted to the Secretary of Transportation under section 5(3)(F) of the Interstate Commerce Act, on occasion, common carrier by rail, Lowry, R. L., 395–3772.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE SHEARON HARRIS NUCLEAR POWER PLANT

Change of Meeting Location

The August 6, 1977, meeting of the ACRS Subcommittee on the Shearon Harris Nuclear Power Plant, announced in the FEDERAL REGISTER on July 18, 1977, page 36899, will be held at the following location: Mezzanine Auditorium, Insurance Building, Davie and Salisbury Streets (Salisbury Street entrance), Raleigh, N.C.

In addition, paragraph four (4) of the agenda listed in cited FEDERAL REGISTER notice, is hereby corrected to read "* * * the Carolina Power and Light Company * * *" and to delete "* * * the Pacific Gas and Electric Company * * *"

All other items regarding this meeting remain the same.

Dated: July 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–22214 Filed 7–29–77;8:45 am]

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Acceptance and Supplementary Information Report, on occasion, college teachers/professors, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Bureau of Census:
Annual Yarn Production, MA–22–F, annually, yarn producers, C. Louis Kincannon, 395–3211.
Narrow Fabrics (Statistical Survey), MA–22C, annually, producers of narrow fabrics, C. Louis Kincannon, 395–3211.

DEPARTMENT OF LABOR

Employment Standards Administration, Records to be Kept by Employers—Rulemaking, WH–1261, on occasion, employers covered by Fair Labor Standards Act, Warren Topelius, 395–5872.
Employment and Training Administration:
Request for College Advisory Opinion, MA 6–77, on occasion, Job Corps counselors, Marsha Traynham, 395–4529.
Job Corps Placement and Assistance Record, MA 6–78, on occasion, SESAS, Job Corps centers and other placement agencies, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–22160 Filed 7–29–77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON SPACE SYSTEMS

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the Office of Science and Technology Policy announces the following meeting:

NAME: Advisory Group on Space Systems.

DATE: August 25–26, 1977.

TIME: 9:30 a.m. to 5 p.m., August 25, 1977. 8:30 a.m. to 3:30 p.m., August 26, 1977.

PLACE: Room 305, Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500. Telephone 202–395–4692.

PURPOSE OF ADVISORY GROUP: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on achievement of national goals and objectives will be identifying and evaluating the implications of technological advances such as the availability of the reusable space shuttle and other supporting systems on future space applications programs, specifically those related to military systems.

AGENDA: Classified discussion of draft materials prepared as part of the policy review process for the President and the National Security Council.

REASON FOR CLOSING: The Committee will be reviewing sensitive classified national security information involving design and employment of space systems. These discussions come under exemption 1 of the Government in the Sunshine Act, Section 552b(c), Title 5, U.S.C.

AUTHORITY FOR CLOSING: The Director, Office of Science and Technology Policy has determined that this meeting deals with matters classified for national security and therefore should be closed.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77–22018 Filed 7–29–77;8:45 am]

RAILROAD RETIREMENT BOARD

DETERMINATION UNDER SECTION 2(h)(4) OF THE RAILROAD UNEMPLOYMENT INSURANCE ACT OF THE ENDING OF A "PERIOD OF HIGH UNEMPLOYMENT", AS DEFINED IN SECTION 2(h)(2) OF THAT ACT

In accordance with the provisions of Section 2(h)(4) of the Railroad Unemployment Insurance Act (45 U.S.C. § 352(h)(4)) as amended, the Railroad Retirement Board has determined that a "period of high unemployment" (as defined in Section 2(h)(2) of the Railroad Unemployment Insurance Act) shall end with the 20th day after there is a national "off" indicator as defined in section 203(d) of Public Law 91–373, as amended, as proclaimed by the Secretary of Labor at any time in the interval from July 20, 1977 through September 20, 1977, and that a "period of high unemployment" shall begin on the 20th day after there is a national "on" indicator as defined in section 203(d) of Public Law 91–373, as amended, as proclaimed by the Secretary of Labor at any time in the interval from July 20, 1977 through September 20, 1977.

The Secretary of Labor has proclaimed a national "off" indicator for the week ending July 2, 1977. Accordingly, the "period of high unemployment" (as defined in Section 2(h)(2) of the Railroad Unemployment Insurance Act) which began July 1, 1975, shall end with July 22, 1977. Consequently, no extended benefit period under the second proviso of Section 2(c) of that Act shall begin after that date.

Dated: July 25, 1977.

By authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77–22021 Filed 7–29–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13796; File No. SR Amex–77–18]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 20, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange is proposing to amend its listing standards for foreign companies that exceed the Exchange's normal listing criteria for size and earnings, but are unable to satisfy the criterion for domestic share distribution.

The text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The purpose of the proposed amendments to the Company Guide is to provide an alternate set of listing standards for companies organized under the laws of countries other than the Dominion of Canada and the United States or its political subdivisions that meet many times over the normal size and earnings yardsticks for listing on the Exchange. For those companies meeting the prescribed alternate size and earnings yardsticks, the Exchange will consider the acceptability of distribution of the company's shares and shareholders on a worldwide basis.

The adoption of the proposed alternate listing standards for foreign companies will be in the public interest, since eligible companies would be expected to comply with Amex reporting standards and other policies concerning shareholder protection. However, the Amex will exercise some discretion to provide for adequate periods of adjustment with respect to the business practices and other requirements for foreign countries.

The Exchange believes that listing securities of premier foreign companies in accordance with the proposed listing criteria and conformance with Exchange requirements will aid international capital flow and enhance public interest in the market while maintaining customary protection for the investing public.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments

concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street SW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 22, 1977.

EXHIBIT A

TEXT OF PROPOSED RULE AMENDMENTS

It is proposed that Sections 110, 231 and 232 of the American Stock Exchange Company Guide be amended to read as follows:

Brackets [ ] indicate words to be deleted.
Italics indicate words to be added.

§ 110. Securities of Foreign Companies—[Provisional] Alternate requirements for listing shares of foreign companies, other than companies organized under Canadian law, are set forth at § 231-236. [Since conditions vary so greatly in different foreign countries and with respect to different companies in the same country, these requirements serve as a general guide rather than as a set of inflexible rules.] *Foreign companies are required to comply with current Exchange standards and other policies concerning shareholder protection. The Exchange may, however, exercise discretion in providing adequate periods of adjustment to take into account the significant differences in business and disclosure practices and other requirements of foreign countries.*

(c) [PROVISIONAL] REQUIREMENTS FOR LISTING FOREIGN SHARES (§ 231-236).

§ 231. General—[special requirements for listing shares of Companies organized under the laws of countries other than the United States of America or the Dominion of Canada are summarized below.] *The shares of foreign companies other than companies organized under the laws of Canada which meet the public distribution standards for domestic companies in the United States may be considered for listing under § 101. The shares of foreign companies which do not meet the share distribution requirements for domestic companies may be considered for listing under the alternate requirements set forth in § 232.* Since *business practices* [conditions] vary so greatly in different foreign countries, and with respect to different companies in the same country, these requirements are published as a guide to applicants rather than as a set of inflexible rules. [In some cases, the Exchange may determine that additional requirements are necessary in the interest of the public, or that some of the customary requirements are inapplicable.]

Normally, shares of foreign companies are listed as ["American Shares" or] "American Depositary Receipts" (*sometimes designated as "American Shares"*) of an acceptable American bank or trust company, representing the deposit of an equivalent amount of underlying foreign shares. Consideration will be given to the direct listing of actual foreign share certificates only in special cases where the form of the security itself, the facilities for ready transferability in [the] New York City [Metropolitan area (see § 801)], prompt interchangeability with certificates outstanding in the primary foreign market, and arrangements for distributing dividends and other rights and benefits to American holders are equivalent to those provided by the use of American Depositary Receipts.

§ 232. Eligibility—[In determining eligibility for listing, consideration is given to all matters affecting the marketability of the issue, including the total number of shares outstanding, whether there is a broad foreign market, whether foreign shares outstanding are readily interchangeable into American Certificates, the facility with which domestic and international transactions may be effected, and the effect of the Interest Equalization Tax.] *Companies which do not qualify for listing under the requirements set forth in §§ 101 and 102 may be considered for listing under the following alternate requirements.*

Share Distribution		
Round-Lot Shareholders	2,000	Worldwide
Publicly-Held Shares	1,000,000	Worldwide
Aggregate Market Value of Publicly Held Shares	$20,000,000	Worldwide
Size and Earnings		
Net Tangible Assets	$20,000,000	
Pre-Tax Income	$30,000,000	cumulative total for latest 3 fiscal years with minimum of $7,500,000 in each of the 3 years

The purpose of these alternate listing requirements is to provide standards for foreign companies that do not meet the Exchange's share distribution requirements in the United States. For foreign companies meeting the prescribed alternate size and earnings standards, the Exchange will consider the acceptability of distribution of the company's shares and shareholders on a worldwide basis.

The Exchange recognizes, however, that in many foreign countries the use of "bearer" shares is widespread, as contrasted to the practice in the United States of registering shares on the company's books and records. In those situations, it would be difficult for a company to certify that it meets the alternate requirement of 2,000 round-lot shareholders on a worldwide basis. Therefore, when such certification is not possible, the Exchange will require assurance of an Exchange member firm(s) as to the liquidity and depth of the market for the company's shares. The Exchange may also conduct its own investigation to determine whether a broad and independent market exists for the company's shares, and may deny listing where the issue does not appear suitable for auction market trading.

[FR Doc.77–21992 Filed 7–29–77;8:45 am]

[Release No. 34–13803; File No. SR–CBOE–1977–16]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions, italics indicate new material)

Rule 4.11. Position Limits

(a) *Subject to the provisions of paragraph (b) of this Rule,* no member shall make, for any account in which it has an interest or for the account of any customer, *any* [an opening] transaction [on any exchange] in any option contract dealt in on the Exchange *or in any related security if* the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate *option* position in excess of 1,000 option contracts [(whether long or short)] of the put class and the call class on the same side of the market *for* [covering] the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange floor.

(b) *The 1,000 option contract position limit imposed by paragraph (a) of this Rule may be increased by up to an additional 1,000 option contracts on either side of the market at any given time to the extent that each such additional option contract is offset on the other side of the market, on a share-for-share basis, by any combination of (i) a position in the underlying security, (ii) positions in options relating to the same underlying security, or (iii) a position in a security immediately exchangeable or convertible into the underlying security without restriction other than the payment of money.*

* * * Interpretations and Policies

.01 The term "same side of the market" as used in Rule 4.11 may be illustrated by the following table.

SAME SIDE OF THE MARKET	SAME SIDE OF THE MARKET
Long Stock	Short Stock
Long Call	Short Call
Short Put	Long Put
Long Convertible or Exchangeable Security	Short Convertible or Exchangeable Security

[.01 The following examples illustrate the operation of position limits established by Rule 4.11:

(a) Customer A, who is long 1,000 XYZ calls, may at the same time be short

1,000 XYZ calls, since long and short positions in the same class of options (i.e., in calls only, or in puts only) are on opposite sides of the market and are not aggregated for purposes of Rule 4.11.

(b) Customer B, who is long 1,000 XYZ calls, may at the same time be long 1,000 XYZ puts. Rule 4.11 does not require the aggregation of long call and long put (or short call and short put) positions, since they are on opposite sides of the market.

(c) Customer C, who is long 700 XYZ calls, may not at the same time be short more than 300 XYZ puts, since the 1,000 contract limit applies to the aggregation of long call and short put positions in options covering the same underlying security. Similarly, if Customer C is also short 600 XYZ calls, he may not at the same time be long more than 400 puts, since the 1,000 contract limit applies separately to the aggregation of short call and long put positions in options covering the same underlying security.]

.02 Where a position in excess of 1,000 contracts on the same side of the market is permitted to exist by virtue of paragraph (b) of Rule 4.11, no closing transaction or exercise transaction may be made if as a result there would remain outstanding any options in excess of 1,000 contracts on the same side of the market not offset on the other side as required by said paragraph (b).

.03 In the event an exercise notice is assigned to an outstanding short position or an outstanding position expires through the passages of time, and if as a result there remain outstanding options in excess of 1,000 contracts on the same side of the market not offset on the other side as required by paragraph (b) of Rule 4.11, then all such excess unmatched options must be liquidated.

.04 The following examples illustrate the operation of position limits established by Rule 4.11:

(a) Customer A who is long 700 XYZ calls, may at the same time be short up to 300 XYZ puts since the 1000 contract limit paragraph (a) of Rule 4.11 applies to the aggregation of long call and short put positions in options relating to the same underlying security.

(b) If customer A, in addition to being long 700 XYZ calls is also long 500 XYZ puts, then customer A may add to his long call position or may be short XYZ puts such that the aggregate number of long calls and short puts does not exceed 1,500 contracts. The 500 contracts in excess of the standard 1,000 contract position limit are permitted under paragraph (b) of Rule 4.14 by virtue of the 500 contract long put position on the other side of the market.

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule change is to increase the size of permitted options position under certain defined circumstances, while at the same time to retain the essential protection heretofore provided by the position limit rule. This would be accomplished by permitting options positions as large as 2,000 contracts on the same side of the market so long as each contract in excess of the present 1,000 contract limit is either offset by a position in the underlying security (or a security exchangeable or convertible into the underlying security), or represents part of a share-for-share options spread.

The proposed modification to the position limit rule is limited to those circumstances where there is a need for a change in the present limit. Such a need has been identified in the case of Market-Makers, especially those having responsibilities in options where both puts and calls are traded, and in the case of institutional users and potential users of options who are constrained from full participation in the options market by the existing position limit.

In the former case, Market-Makers in puts and calls are confronted with more than double the market-making obligations of Market-Makers in calls only, but with the same 1,000 contract position limit that must be shared between the two classes on account of the aggregation requirements of the position limit rule. As put trading expands to all of the underlying securities on which calls are now available, the demands on Market-Makers will be even greater, reflecting not only the doubling of the number of series of options relating to each underlying security, but also the geometric increase in the number of spreads, straddles and other combinations among the different series. Since Market-Makers often hold options in spread positions, the additional 1,000 contracts permitted by the proposed rule change in the case of spreads would provide put and call Market-Makers with the flexibility needed to meet their additional responsibilities.

In the case of institutional investors and other investors whose interest in options generally relates to writing options against their large stock portfolios, many of these investors cannot today justify engaging in options transactions limited to writing options against a maximum of 100,000 shares of stock. Since the proposed rule change would only apply in respect of what are essentially spread or covered options, it should provide these investors with an opportunity to write against larger stock portfolios without increasing the likelihood that options may be used for manipulative purposes.

In drafting the proposed rule change, it has been recognized that for purposes of compliance and enforcement the position limit rule should not become so complex as to not be understandable by member firms and their customers. For this reason, the rule refers to offsetting positions in general terms, and does not attempt to confine the expanded limit to particular types of spreads or positions in related securities.

For the reasons described above, the Exchange believes that the proposed rule change is consistent with standards of the Securities Exchange Act of 1934, as amended. In this connection it should be noted that the current 1,000 contract position limit was first established several years ago, prior to the commencement of trading of listed options, and the limit was set at an especially conservative level in relation to the eligibility criteria for underlying securities. The past several years of listed options trading experience, in view of the Exchange, has demonstrated that the present 1,000 contract limit can safely be enlarged to the extent proposed herein without any untoward consequences to securities markets, investors or the public interest.

Comments have not been solicited nor received concerning the proposed rule change.

CBOE does not believe that the proposed rule change will impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 31, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 25, 1977.

[FR Doc.77-21990 Filed 7-29-77;8:45 am]

[Release No. 13804; SR-MSE-77-11]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 25, 1977.

On April 29, 1977, the Midwest Stock Exchange, Incorporated, 120 South La Salle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change eliminates the monthly reporting by

member firms of open options exercise positions. According to the Exchange, such information is available to the Exchange from the Options Clearing Corportation, and would be duplicative if also required from the members.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-13645, June 17, 1977) and by publication in the FEDERAL REGISTER (42 FR 31854 (June 23, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on April 29, 1977, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21974 Filed 7-29-77;8:45 am]

[Rel. No. 20117; 70-6031]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock Pursuant to Employees' Share Ownership Plan and Request for Exemption From Competitive Bidding

JULY 26, 1977.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") ity Holding Company Act of 1935 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell from time to time through December 31, 1979, up to 300,000 shares of its authorized but unissued common stock, par value $1, through a NEES Companies Employees' Share Ownership Plan ("Plan"). The proceeds of the sale will be used for investment in NEES' subsidiaries, for payment of NEES' indebtedness, or for general purposes.

Each employee of NEES and its direct and indirect subsidiaries, Granite State Electric Company, Massachusetts Electric Company, Narragansett Electric Company, New England Energy Incorporated, New England Power Company and New England Power Service Company ("Employers") who has completed at least one year of service as of January 1, 1976, will participate in the Plan as of that date. Each other employee will become a participant on the first day of the Plan year in which he completes one year of service. Participation in the Plan will terminate when employment terminates.

The Employers will contribute to a trust ("Trust") in each year an amount equal to the additional one percent investment tax credit allowed for the Plan year under Section 46(a)(2)(B)(i) of the Internal Revenue Code ("Code"). In addition, if an appropriate election is made on the consolidated federal income tax return and to the extent matched by participant contributions, the Employers will contribute to the Trust in each Plan year commencing on or after January 1, 1977, an amount not in excess of an additional one-half of one percent investment tax credit under Section 46-(a)(2)(B)(ii) of the Code. Contributions to the Trust by the Employers will be made for each Plan year on the due date (unless extended) for filing the consolidated federal income tax return for the corresponding tax year. The trustee, the First National Bank of Boston, will purchase common shares of NEES on or before the thirtieth day following the date of the contribution. In the case of Plan years beginning after December 31, 1976, if the full amount of the investment credit is not utilized for a Plan year because the credit is limited on the basis of the tax payable for the year, then that portion of the additional credit not so utilized shall be contributed to the Trust at the time when such portion is so utilized.

Participants shall not be required to make contributions to the Trust. However, if elected by NEES on its consolidated federal income tax return, participants may, for Plan years commencing on or after January 1, 1977, make contributions in an aggregate amount not in excess of an additional one-half of one percent investment credit, which contributions will be matched in a like amount by the Employers. The amount of the contributions to be made by a participant for a Plan year will be based on the ratio of his compensation for the Plan year to the total compensation of all participants making matching contributions. Participant contributions shall be invested by the trustee in NEES common shares within thirty days of payment.

The value of common shares purchased from NEES will be based on the average of the closing prices on the New York Stock Exchange-Composite Transactions listing for the twenty consecutive trading days immediately preceding the purchase date. The trustee will be required to purchase common shares directly from NEES unless the market value of a common share is less than 80 percent of book value, in which case NEES management will instruct the trustee whether to purchase shares from NEES or in the open market.

A separate account for each participant, reflecting the number of common shares credited thereto, will be established and maintained by the trustee. If participant contributions are made to the trust, two accounts shall be maintained for each participant, one for Employer contributions and the other for participant contributions. Contributions to the Trust by the Employers of an amount determined pursuant to Section 46(a)(2)(B)(i) of the Code, less an amount equal to the expenses of the Plan but not in excess of statutory limitations, shall be combined and allocated to the account of each participant based on the ratio of the participant's compensation for the Plan year for which the contribution is made to the total compensation of all participants for such Plan year. Contributions to the Trust by the Employers of an amount determined pursuant to Section 46(a)(2)(B)(ii) of the Code shall be combined and allocated to the contributions of each participant.

Cash dividends received on common shares held by the trustee, less an amount necessary to pay expenses of administering the Plan but not in excess of statutory limitations, will be invested by the trustee in common shares as soon as practicable. Common shares so purchased will be allocated to each participant's account or accounts based on the ratio of the common shares in each account to the total common shares in all participants' accounts.

As soon as practicable after the end of each Plan year, each participant will be furnished a statement showing the status of his account or accounts at the beginning and end of the Plan year, any changes in his account or accounts during the Plan year, and other information that may be pertinent.

A participant's account or accounts shall become distributable to him (or, in the event of his death, to the beneficiary designated by him) upon the determination of his participation. A participant may, subject to certain restrictions, prior to termination of employment apply for a distribution of a portion or all of the balance in his account or accounts, if such portion or balance has been allocated to his account or accounts for a period of at least eighty-four months begining after the month in which the allocation was made. Distributions shall be made in whole common shares. Any fractional share allocated to a participant's account shall be paid in cash. A participant shall at all times have a fully vested and nonforfeitable right to the common shares credited or creditable to his account or accounts.

The Board of Directors of New England Power Service Company shall have the sole authority to appoint and remove the trustee. The trustee shall have the sole responsibility for administration of the Trust and the management of Plan assets held under the Trust, as and to the extent set forth in the Trust. The trustee will accept and hold in the Trust contributions made by the Employers or participants pursuant to the Plan. A committee ("ESOP Committee") shall be the named fiduciary, which shall have authority to control and manage the operation and administration of the

Plan. Among other duties, the ESOP Committee will deliver or cause to be delivered to each participant proxy statements and other communications which are distributed to owners of NEES common shares. Each participant shall have the right to direct the trustee to exercise the voting rights with respect to all the whole and fractions of common shares allocated to his account.

No amendment of the Plan may be made which will (1) deprive any participant or beneficiary of any part of an account existing on the date of such amendment; (2) result in the reversion to an Employer of any part of the funds contrary to the provisions of the Plan; or (3) increase the duties or liabilities of the trustee without its written consent. Any Employer, with the written consent or vote of the board of directors of each other Employer, may terminate the Plan at any time.

NEES requests on exemption from the competitive bidding requirements of Rule 50 under Rule 50(a)(5) for the proposed issuance and sale of common stock to the Plan.

The fees and expenses to be incurred in connection with the proposed sale of the common shares are estimated at $150,000 through 1981. Pursuant to Internal Revenue Service regulations, these fees and expenses will be paid from the Trust. Included in such estimate are fees, in an amount to be specified by amendment, for services to be performed, at cost, by New England Power Service Company (an affiliate of NEES). It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 18, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21975 Filed 7-29-77;8:45 am]

[Release No. 13800; SR-NESDTCO-77-7]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change Relating to Cash Settlement With the Depository Trust Co.

JULY 25, 1977.

On May 24, 1977, the New England Securities Depository Trust Company ("NESDTCO"), 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would enable NESDTCO and the Depository Trust Company ("DTC") to make cash settlement with each other directly upon the receipt and delivery of securities at DTC.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 29991, June 10, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13598, June 6, 1977. No letters of comment were received.

In addition, by letter dated July 22, 1977, which was incorporated in the proposed rule change and included in the public file, NESDTCO provided additional information and made certain representations in connection with the submission.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-7 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-21973 Filed 7-29-77;8:45 am]

[Release No. 34-13795; File No. SR-PSE-77-15]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pacific Stock Exchange Incorporated ("PSE") hereby requests permission to expand by thirty the number of underlying listed stocks in which it may approve trading in options. The accomplishment of such a proposed change in current PSE procedures would expand to a total of eighty the number of options which PSE would be authorized to trade. PSE has had pending since November 1976, a proposed rule change in File No. SR-PSE-76-40 to expand from thirty to fifty the number of options which PSE is authorized to trade.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit an expansion in PSE's program of trading options.

The proposed rule change will enable PSE to increase the number of underlying stocks on which PSE trades options. PSE believes it consistent with the protection of investors and the public interest that it be permitted to expand the number of options it trades. PSE is presently trading call options in the thirty underlying stocks for which it has authorization and contemplates utilization of the additional options for which it seeks trading authority in File No. SR-PSE-76-40 in a relatively short period of time. Accordingly, further progress in PSE's efforts to establish a viable regional options trading facility necessitates the proposed increase in the number of classes of options traded on PSE.

PSE believes that the experience it has gained in its current options trading program, as well as the capabilities it has developed in the areas of data collection, communication systems and surveillance procedures are more than sufficient to accommodate the increased volume of trading which would result from the approval of the requested additional options classes.

Comments were not, and are not intended to be, solicited with respect to the proposed rule change.

The proposed rule change will not impose any burden on competition. Rather, it will encourage competition by contributing to PSE's viability as a competitive options trading facility.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 31, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 22, 1977.

[FR Doc.77-21991 Filed 7-29-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

HOUSTON DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration, Houston District Advisory Council will hold a public meeting at 9 a.m., Tuesday, August 23, 1977, in Gemini Rooms A and B, University of Houston Continuing Education Center, 4800 Calhoun, Houston, Tex., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, One Allen Center, Suite 705, Houston, Tex. 77002 (713-226-4897).

Dated: July 25, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-21952 Filed 7-29-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on August 16, 1977.

The purpose of this meeting is to review and update the list of eligible universities under Title XII; to review a questionnaire to be sent to the university community for expanding the information on university interests and capabilities for participating in the Title XII program; to review current status of Title XII pilot projects; to review progress on preparation of Committee guidelines; to review a draft report on strengthening U.S. universities under XII; to review a draft report on contracting; and to receive an interim report on Committee participation in the AID fiscal year 1979 budget review.

The meeting will begin at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Ramada Inn, Rosslyn, 1900 Fort Myer Drive, Arlington, Va. The meeting room designation will be posted in the lobby of the Inn on the day of the meeting. The meeting is open to the public. Any interested person may attend, may file written statements with the committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher Riggs, Deputy to the Associate Assistant Administrator, Technical Assistance Bureau, is designated as AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: July 27, 1977.

FLETCHER RIGGS,
A.I.D. Advisory Committee Representative Joint Committee for Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc.77-22202 Filed 7-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 17089]

REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES

Request for Recommendations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for recommendations.

SUMMARY: This notice requests recommendations from the users of the national airport and airway system on ways to reduce nonessential Federal expenditures for aviation. Under recently enacted Congressional legislation, the Secretary of Transportation is required to take this action and to consider any recommendations submitted in response to this notice.

DATES: Recommendations must be received on or before August 31, 1977.

ADDRESS: Send recommendations in duplicate to: Federal Aviation Administration, Office of Management Systems, AMS-1, 800 Independence Avenue SW Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

E. Nootenboom, Acting Director, Office of Management Systems (AMS-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8020.

SUPPLEMENTARY INFORMATION Interested users of the national airport and airway system are invited to submit any recommendations they may desire in response to this notice.

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058.

Section 25 of the Airport and Airway Development Act Amendments of 1976 (Pub. L. 94-353; 49 U.S.C. 1704) provides as follows:

> The Secretary of Transportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance, and administrative costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such systems on methods of reducing nonessential Federal expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users

Accordingly, the purpose of this notice is to solicit recommendations from users of the national airport and airway system, as provided in Section 25, for the purpose of reducing nonessential Federal expenditures for aviation. The function of soliciting and considering these recommendations has been delegated to the Federal Aviation Administrator.

The principal authors of this document are Melvin L. Rutt, Office of Management Systems, and Joseph M. Dorsey, Office of the Chief Counsel.

(Sec. 25, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704), sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3); sec. 11.45, Federal Aviation Regulations (14 CFR 11.45).)

Issued in Washington, D.C., on July 11, 1977.

E. NOOTENBOOM,
Acting Director of Management Systems.

[FR Doc.77-21972 Filed 7-29-77;8:45 am]

Materials Transportation Bureau

OFFICE OF HAZARDOUS MATERIALS OPERATIONS

Hazardous Materials Regulations Exemption; Grants and Denials of Applications

Correction

In FR Doc. 77-21008 appearing on page 37893 in the issue of Monday, July 25, 1977, on page 37894, the 10th entry should read as follows:

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
•	•	•	•	•
5643-X	DOT-E 5643	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.315(a)(1)	To ship liquefied helium in an insulated non-DOT specification portable tank. (Modes 1 and 3.)

[Docket No. IP77-4; Notice 2]

C. H. WATERMAN INDUSTRIES

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by C. H. Waterman Industries of Athol, Mass., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 3, 1977 (42 FR 12284) and an opportunity afforded for comment.

Paragraph S4.1.2.3.1 of Standard No. 208 requires passenger cars to be equipped with lap and shoulder belt systems conforming to Motor Vehicle Safety Standard No. 209, Seat Belt Assemblies. Paragraph S4.3 of Standard No. 209 requires such assemblies to incorporate automatic-locking retractors (subparagraph (i)) and emergency-locking retractors (subparagraph (j)). Petitioner is an importer of motor vehicles which it converts to electric propulsion. Seven passenger cars that it brought into the United States in August 1975 lack the emergency, and automatic-locking retractor required of occupant restraint systems. The company argued that the noncompliance is inconsequential because the vehicles' restraint systems comply with all requirements in effect before January 1972, and because the NHTSA has provided it a temporary exemption from the retractor requirements of Standard No. 208, expiring May 1, 1977 (Docket No. EX75-4; Notice 4, 41 FR 53384).

No comments were received on the petition.

In view of the facts that there are only seven passenger cars involved, that the noncompliance is narrow in scope, and that the petitioner has been provided a temporary exemption from the requirements that it did not meet, petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by C. H. Waterman Industries is hereby granted.

(Sec. 102, Pub. L. 93-492, 98 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 26, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-21980 Filed 7-29-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX77-2; Notice 2]

H. C. M. COMPANY, INC.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice denies the petition by H. C. M. Company, Inc. of Yakima, Washington, for a 3-year exemption from 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, Air Brake Systems. The Company had petitioned on the basis that compliance would cause it substantial economic hardship.

Notice of the petition was published on January 27, 1977 (42 FR 5177), and an opportunity afforded for comment.

The petitioner is a manufacturer of "straddle trailers" which it defines as "a specialized agricultural commodity hauling trailer which features 'drive over' hydraulic lifting arms which suspend the load for transit." H. C. M. stated that it manufactured eight straddle trailers in 1975 and "no other vehicles". The vehicles are equipped with air brake systems but, according to petitioner, "there are no manufacturers currently making components which can be adapted to these axles to achieve the requirements of Motor Vehicle Safety Standard No. 121 with regard to 'antiskid'." Further, a mechanical spring parking brake could be added to achieve compliance but that "would cause overwidth of the vehicle" which would mean it could be neither sold nor operated. Petitioner argued that the exemption would be in the public interest since fruit producers and haulers have found the trailer uniquely suitable to their needs. It also argued that an exemption can be viewed as consistent with the objectives of the National Traffic and Motor Vehicle Safety Act since "the (current) air brakes have a safety record of 100 percent." The company had a net income of $16,250 in the fiscal year ending December 31, 1975.

Three comments were received on the petition. It was supported by Fruehauf Corporation and Utility Trailer Manufacturing Co., and opposed by Kornylak Corporation. Freuhauf believes that a limited number of exempted trailers would present no safety problem. Utility argues that H.C.M.'s trailer is similar to a type that is exempted until June 30, 1977, from certain requirements of Standard No. 121 and should also be exempted. Kornylak, however, a competitor of H.C.M.'s who manufactures conforming straddle trailers that do meet Standard No. 121, feels strongly that H.C.M. can and should do likewise, and has asked that it be required to recall and remedy any noncorforming trailers it may have produced.

Pursuant to section 123(a)(1)(A) of the National Traffic and Motor Vehicle Safety Act, the Administrator may temporarily exempt a manufacturer upon a finding

(1)(A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted.

On March 29, 1977, counsel for H.C.M. informed NHTSA that "H.C.M. has now obtained a Kelsey-Hayes antiskid device which can be incorporated in trailers and be operative. All such trailers hereafter manufactured will incorporate the Kelsey-Hayes antiskid device therein." Full conformity is not yet achieved and it appears that an exemption is required because of the lack of a conforming parking brake system.

Dispositive of the petition, however, is counsel's letter which also disclosed that H.C.M. had manufactured 10 nonconforming straddle trailers during 1976. This is significant because on August 13, 1975, NHTSA informed H.C.M. that the straddle trailer was not excluded from Standard No. 121, and must comply with it. H.C.M.'s manufacture of 10 noncomplying trailers after that date with the knowledge that it should have conformed constitutes a wilful violation of the standard, and overrides its arguments of hardship and for good faith efforts at conformity. Accordingly, the petition of H.C.M. for temporary exemption from Standard No. 121 is hereby denied. NHTSA intends to press for notification and remedy with respect to these trailers.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on July 22, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc.77-21827 Filed 7-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MIDLAND NATIONAL BANK

Suspension of Trading

On my opinion that the public interest and the protection of investors so require, trading in the common stock of Midland National Bank, Milwaukee, Wisconsin, is hereby suspended pursuant to section 12(i) and 12(k) of the Securities Exchange Act of 1934 for an additional three-day period, commencing at the opening of business on July 27, 1977.

Dated: July 26, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-22011 Filed 7-29-77;8:45 am]

Office of the Secretary

[Department Circular Public Debt Series—No. 19-77]

7⅝ PERCENT TREASURY BONDS OF 2002-2007

JULY 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,000,000,000 of United States securities, designated 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5) issued under Department of the Treasury Circular, Public Debt Series—No. 4-77, dated January 27, 1977, except that interest will accrue from August 15, 1977, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular. With this exception, the securities are as described in the following excerpt from the above circular:

"2.1. The securities will be dated February 15, 1977, and will bear interest[1] from that date, payable on a semiannual basis on August 15, 1977, and each 6 months thereafter on February 15 and August 15 until the principal becomes payable. They will mature on February 15, 2007, but may be redeemed at the option of the United States on and after February 15, 2002, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"2.4 Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued on denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed."

[1] On February 4, 1977, the Secretary of the Treasury announced that the interest rate on the bonds would be 7⅝ percent per annum.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, August 4, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 3, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price in two decimals of accepted competitive tenders, and competitive tenders at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in

part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Dept, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistance Secretary.

[FR Doc.77-22117 Filed 7-29-77;8:45 am]

[Department Circular Public Debt Series, No. 18-77]

TREASURY NOTES OF AUGUST 15, 1984
Series B-1984

JULY 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of August 15, 1984, Series B-1984 (CUSIP No. 912827 GX 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 15, 1977, and will bear interest from that date, payable on a semiannual basis on February 15, 1978, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000,, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 3, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 2, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1 for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for thi purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commerical banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tends will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-22118 Filed 7-29-77;8:45 am]

[Department Circular Public Debt Series — No. 17-77]

TREASURY NOTES OF AUGUST 15, 1980
Series H-1980

JULY 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Lib-

erty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Notes of August 15, 1980, Series H–1980 (CUSIP No. 912827 GW 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 15, 1977, and will bear interest from that date, payable on a semiannual basis on February 15, 1978, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Tuesday, August 2, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 1, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 15, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, August 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt); or

(b) Wednesday, August 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.5. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and reglations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-22119 Filed 7-29-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 448]

ASSIGNMENT OF HEARINGS

JULY 27, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 57697 (Sub-No. 6), Lester Smith Trucking, Inc.; MC 61592 (Sub-No. 394), Jenkins Truck Line, Inc.; MC 74321 (Sub-No. 125), B. F. Walker, Inc.; MC 82841 (Sub-No. 199), Hunt Transportation, Inc.; MC 83539 (Sub-No. 439), C & H Transportation Co., Inc.; MC 100666 (Sub-No. 329), Melton Truck Lines, Inc.; MC 109397 (Sub-No. 345), Tri-State Motor Transit Co.; MC 124947 (Sub-No. 49), Machinery Transport, Inc.; and MC 140241 (Sub-No. 8), Dalke Transport, Inc., now being assigned for continued hearing on October 12, 1977 (8 days), at Denver, Colo., in a hearing room to be later designated.

MC 142623 (Sub 2), Robert L. Macon, now assigned July 28, 1977, at Washington, D.C., is cancelled.

MC 108811 (Sub-No. 7), Thomas Motor Tours, Inc., now assigned September 27, 1977, at Washington, D.C., is postponed to October 3, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-13164, Overnite Transportation Co.—Purchase—Bonifield Bros. Truck Lines, Inc., and MC 109533 (Sub-No. 85), Overnite Transportation Co., now assigned September 27, 1977, at Evansville, Ind., has been postponed indefinitely.

MC 138875 (Sub-No. 44), Shoemaker Trucking Co., now being assigned September 7, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 141071 (Sub-No. 9), Laraneta Trucking Co., Inc., now being assigned September 8, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 141431 (Sub-No. 2), Cal-Valley Transportation, Inc., now being assigned September 9, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 139618 (Sub-No. 2), Asbury Wright, d.b.a. Wright Trucking Co., application dismissed.

MC 138635 (Sub-No. 32), Carolina Western Express, Inc., now being assigned October 17, 1977 (1 week), at San Francisco, Calif., in a hearing room to be later designated.

MC 114457 (Sub 293), Dart Transit Co., now assigned hearing October 12, 1977 (1 day), St. Paul, Minn., in a hearing room to be later designated.

MC 720 (Sub 29), Bird Trucking Co., Inc., now being assigned October 13, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 134477 (Sub 137), Schanno Transportation, Inc., now being assigned October 14, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 123407 (Sub 343), Sawyer Transport, Inc., now being assigned October 18, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 133189 (Sub 9), Vant Transfer, Inc., now being assigned October 17, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 124813 (Sub 160), Umthun Trucking Co., and MC 127187 (Sub 21), Floyd Duenow, Inc., now being assigned October 20, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

AB 12 (Sub-No. 45), Southern Pacific Transportation Co., abandonment between Biola Junction and Biola, in Fresno County, Calif., now being assigned October 12, 1977 (3 days), at Fresno, Calif., in a hearing room to be later designated.

AB 43 (Sub-No. 30), Illinois Central Gulf Railroad Co., abandonment between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Ill., now being assigned October 12, 1977 (3 days) for hearing in Litchfield, Ill., in a hearing room to be later designated.

MC 123407 (Sub-No. 360), Sawyer Transport, Inc., now being assigned October 17, 1977 (1 day), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 133591 (Sub-No. 33), Wayne Daniel Truck, Inc., now being assigned October 18, 1977 (2 days), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 141779 (Sub-No. 1), Richard Allen Long, d.b.a. Richard's Towing Service, now being assigned October 20, 1977 (2 days), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 113678 (Sub-No. 654), Curtis, Inc., now assigned for October 18, 1977, at Dallas, Tex., is postponed indefinitely.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22053 Filed 7-29-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Docket 30393, Knight Airlines' application to use large aircraft in certain Florida markets (Not. No. 7133, BOR, BIA, OGC).

2. United Air Lines' Transaction Agreement UA-316, relating to joint use by United and its parent holding company, UAL, Inc., of services of Mr. Victor F. Carlino (Memo No. 7301, BOR, BAS, OGC).

3. Docket 23080-2, Priority and Nonpriority Domestic Service Mail Rates Investigation, petitions for the establishment of increased temporary service mail rates and advancement of decision target date (Not. No. 7283, OGC).

4. Docket 30635, Petition for reconsideration and motion to consolidate Arizona Service Investigation, (Memo No. 6907-B, BLJ, BOR, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1012-77 Filed 7-27-77;4:32 pm]

2

NOTICE OF ADDITION OF ITEM TO JULY 28, 1977, MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

SUPPLEMENTARY INFORMATION: It was clear that further discussion of Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales was necessary. However, no additional time for such discussion was available at the July 26, 1977, meeting. So that the Board could continue its discussion of this item at its next session, the following Members voted agency business requires the addition of overbooking to the agenda of the July 28, 1977, meeting and that no earlier announcement of the change was possible.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1011-77 Filed 7-27-77;4:32 pm]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Review of fiscal year 1979 operation plan.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (202-254-6314).

[S-1008-77 Filed 7-28-77;9:46 am]

4

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: August 1, 1977, 4:30 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Continuation and reorganization of Commission State Advisory Committee; (2) a draft letter to the President regarding Federal policy relating to abortion.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202-254-6697).

[S-1006-77 Filed 7-27-77;12:19 pm]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 3, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application for Permission to organize a Federal savings and loan association—Idelio Valdes, et al., Hialeah, Fla.

Application for change of branch office location—Civic Federal Savings and Loan Association, San Francisco, Calif.

Application for increase accounts of an insurable type (merger), cancellation of bank membership and insurance of accounts, transfer of bank stock and approval to maintain branch office—Cedarville Federal Savings and Loan Association, Cedarville, Ohio, into Home Federal Savings and Loan Association, Xenia, Ohio.

Branch office application—Home Federal Savings and Loan Association, Deming, N. Mex.

Branch office application—Westchester Federal Savings and Loan Association, New Rochelle, N.Y.

Branch office application—First Federal Savings and Loan Association of Eau Claire, Eau Claire, Wis.

Limited facility application—Homestead Federal Savings and Loan Association of Dayton, Dayton, Ohio.

Application for bank membership—Banco Regional de Ahorro de Bayamon, Bayamon, P.R.

Satellite office application—Florida Savings and Loan Association, St. Petersburg, Fla.

Consideration of modification of condition—First Federal Savings and Loan Association of Little Rock, Little Rock, Ark., and Arkansas Savings and Loan Association, North Little Rock, Ark.

Application for change of office location—Greater Pottsville Federal Savings and Loan Association, Pottsville, Pa.

No. 56, July 27, 1977.

[S-1009-77 Filed 7-27-77;3:59 pm]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m. on August 3, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, (202-376-3012).

MATTERS TO BE CONSIDERED: Consideration of recommendation to terminate financial assistance agreement at a cost equal to 20.5 percent of remaining assets.

No. 55, July 27, 1977.

[S-1010-77 Filed 7-27-77;4:32 pm]

7

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 2, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Briefing by Director Fitzwater on merger issue papers (discussion only).

2. Briefing on Trans Alaska Pipeline System case (discussion only). Judge Glennon will provide the briefing.

3. Ex Parte No. MC 85—Transportation of "waste" products for reuse and recycling (Schneider Transport, Inc.—Petition for declaratory order) (discussion and possible voting).

4. Motor carrier task force report (discussion and possible voting). Recommendation 19—Blanket grants of temporary authority. Recommendation 25—Emergency temporary authority applications. Recommendation 26—Temporary authority applications.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director (202-275-7252).

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

JULY 26, 1977.

[S-1014-77 Filed 7-27-77;4:32 pm]

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., July 28, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202-634-7970).

Dated: July 26, 1977.

[S-1007-77 Filed 7-27-77;12:19 pm]

Federal Register

MONDAY, AUGUST 1, 1977

PART II



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

STATUS OF MARINE MAMMALS

Report of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

STATUS OF MARINE MAMMALS

Report of the Secretary of Commerce

Section 103(f) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)) states that "Within six months after the effective date of this Act (December 21, 1972) and every twelve months thereafter, the Secretary shall report to the public through publication in the FEDERAL REGISTER and to the Congress on the current status of all marine mammal species and population stocks subject to the provisions of this Act. His report shall describe those actions taken and those measures believed necessary, including where appropriate, the issuance of permits pursuant to this title to assure the well-being of such marine mammals."

Section 3(12)(A) of the Act limits the responsibility of the Department of Commerce to those mammals which are members of the Order Cetacea (whales and porpoises) and members, other than walruses, of the Order Pinnipedia (seals and sea lions). Accordingly, there is published herewith the report of the Secretary of Commerce for the period April 1, 1976, to March 31, 1977, on the administration of the Act with regard to those mammals.

Issued at Washington, D.C., and dated June 20, 1977.

Dated: June 20, 1977.

JUANITA M. KREPS,
Secretary of Commerce.

ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972, APRIL 1, 1976, THROUGH MARCH 11, 1977.

REPORT OF THE SECRETARY OF COMMERCE

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PART I. INTRODUCTION

AUTHORITY FOR THE REPORT AND ADMINISTRATION OF THE ACT

This report to Congress is pursuant to requirements of Section 103(f) of the Marine Mammal Protection Act of 1972 (86 Stat. 1027, hereinafter called the "Act"). The Act, with certain exceptions, placed an immediate moratorium on the taking and importation of all marine mammals and marine mammal products. Under the Act, the responsibility of the Secretary of Commerce pertains to whales, porpoises, seals, and sea lions; the Secretary of the Interior is responsible for all other mammals, specifically sea otters, walruses, polar bears, dugongs, and manatees. On November 30, 1972, the Secretary of Commerce delegated authority for the functions prescribed by the Act to the Administrator of the National Oceanic and Atmospheric Administration (NOAA). On February 9, 1973, the Administrator delegated this authority to the Director of the National Marine Fisheries Service (NMFS). On October 13, 1976, the Administrator redelegated this authority to the Director, NMFS, with clarification of the authority retained by the Administrator to provide policy guidance and to consult with the Director on the execution of the functions delegated.

PROGRAM ACTIVITIES

The principal NMFS activities in administering the Act include: decisions and activities regarding waivers of the moratorium; issuance of permits for scientific research and public display; enforcement of the provisions of the Act; promulgation of regulations to control the taking of marine mammals; research and surveys to determine the status of marine mammal population stocks; cooperation with the States; and international activities and agreements to conserve and manage marine mammals. A close working relationship has been fostered with the Marine Mammal Commission (established under Title II of the Act) and its authorized Committee of Scientific Advisors to facilitate interchange and consultation on substantive program matters.

In addition, meetings were held periodically with interested national conservation groups, fishing industry representatives, zoo and aquarium operators, and individual researchers, to discuss the problems as well as proposed solutions involved in the implementation of the Act.

Porpoise mortality incidental to the U.S. tuna purse-seine fishery remains one of the most significant problems NMFS continues to face in the administration of the Marine Mammal Protection Act of 1972. The Act and the legislative history, taken together, direct that the mortality and serious injury of marine mammals be reduced to insignificant levels approaching a zero mortality and serious injury rate, without closing down or seriously curtailing the fishing industry.

Enactment of the Fishery Conservation and Management Act of 1976 (FCMA) (Public Law 94-265) has expanded the responsibilities of NMFS under the Marine Mammal Protection Act (MMPA). Section 404 of the FCMA amended the MMPA to extend its territorial jurisdiction to the 200-mile Fishery Conservation Zone (FCZ). The moratorium on taking and importing marine mammals, therefore, now applies throughout the FCZ.

SUMMARY OF MAJOR ACTIVITIES

Optimum Sustainable Population

NMFS developed an operational definition of "optimum sustainable population" (OSP) that is broadly applicable to marine mammal population dynamics. OSP is defined as a range within which maximum net productivity of a population is expected to occur. Maximum net productivity is the gross addition to the population less natural mortality.

Incidental Taking of Marine Mammals in the Course of Commercial Fishing Operations

Regulations promulgated on December 5, 1975, to govern the incidental take of marine mammals in the yellowfin tuna purse-seine fishery were voided by Judge Charles Richey, U.S. District Court, on May 11, 1976; however, the effective date was stayed until December 31, 1976.

On October 14, 1976, proposed regulations were published to replace those regulations voided by the U.S. District Court on May 11, 1976. Those proposed regulations were the subject of a public hearing which was held in Washington, D.C., and San Diego, Calif., from November 15, 1976, through December 22, 1976. Based on the Administrative Law Judge's recommendations and the hearing record, the decision was published on March 1, 1977, and, among other things, limited the 1977 porpoise mortality level by U.S. vessels to 59,050, comprised of 12 different individual quotas.

The 1976 estimated mortality by U.S. fishermen was 103,600 through November 11, 1976, when it was prohibited to encircle any more porpoises in 1976. The mortality exceeded the 78,000 quota that had been imposed in 1976 subsequent to the decision by Judge Richey. It was estimated that the quota was reached on October 19; however, court actions delayed imposition of a prohibition until November 11, 1976.

A workshop to assess the stocks of porpoise involved in the eastern Pacific Yellowfin Tuna Fishery was completed. Its report, published in September 1976, established for the first time estimates of the populations of marine mammals involved and estimates of their optimum sustainable population levels.

Waiver of the Moratorium

On February 19, 1976, the moratorium was waived to allow the importation of Cape fur sealskins from South Africa under certain specific conditions. Because of foreign policy considerations, the Director denied importation of skins taken in Namibia (Southwest Africa). Following a review of the South African harvest, it was determined that the conditions that warranted granting the waiver continued to exist. Therefore, the waiver was continued for the 1976 harvest from which 12,471 skins were imported.

In January 1973, the State of Alaska applied to the Department of Commerce and the Department of the Interior asking that the moratorium be waived and regulations promulgated in order to return management of nine species of marine mammals to the State. Having reviewed the State's request over several years, the Directors of NMFS and the U.S. Fish and Wildlife Service (FWS) jointly proposed such a waiver and regulations governing return of management. Formal hearings on the matter were convened on June 29, 1976, in Anchorage, Alaska; July 6, in Nome; July 12, in Bethel; and July 14, in Anchorage. On October 20, 1976, the hearing was concluded in Washington, D.C. A decision will be rendered during 1977.

Public Display and Scientific Research Permits

At the beginning of this report period (April 1, 1976), 16 permit applications were pending action. During the period of this report, 60 permit applications were submitted. Of these 76 applications, 48 have been approved, 1 denied, 1 inactivated because of insufficiency, 2 withdrawn, 1 returned to the applicant, and 23 remain under consideration.

Other Actions in Regulating the Taking and Importing of Marine Mammals

The Hawaiian monk seal (*Monachus schauinslandi*) was designated as a depleted species throughout its range, on the basis that numbers of this species may have declined to a significant degree over recent years, and furthermore, may have declined historically to the point that, if such decline continued, this species would become subject to the provisions of the Endangered Species Act of 1973.

Law Enforcement

The first criminal prosecutions under the Act resulted in convictions of two conspirators involved in the illegal capture, possession, and sale of bottlenosed dolphins.

An investigation into an illegal importation operation was concluded with the seizure of 450 sea lion skins from South America.

Contracts were renegotiated with Alaska, Washington, Oregon, California, and Florida that provide Federal funds to these States for enforcement of the provisions of the Act.

The first administrative hearing for an alleged violation of the Act resulted in a ruling that the native exception of the Act applies only to natives under the jurisdiction of the United States, rather than to all Arctic Eskimos, as the defendant contended.

International Programs

An Ad Hoc Interagency Committee was formed to develop an International Marine Mammal Program. In addition to government representatives, members of the public participated in the Committee meetings.

At the International Whaling Commission meeting in June 1976, the United States continued efforts to have the Commission adopt conservation measures that conform with the Marine Mammal Protection Act. The U.S. efforts were successful in having the Commission adopt several conservation measures.

The Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals was ratified by the four parties to the Convention. The Protocol extends the Convention for an additional 4 years, and modifies a number of the Convention's fur seal conservation measures.

The United States ratified the Convention on the Conservation of Antarctic Seals.

Under the U.S.-U.S.S.R. Marine Mammal Project, Environmental Protection Agreement, three joint research projects were conducted, involving the cooperative exchange of United States and Soviet Marine mammal scientists.

Tuna/Porpoise Research and Development Program

Twenty U.S. vessels voluntarily used experimental gear in a program cooperatively developed by the Porpoise Rescue Foundation and NMFS to facilitate porpoise release. Ten were equipped with Bold Contender Systems, and 10 had Modified Systems with $1\frac{1}{4}$-inch mesh in the safety panel. Each killed fewer porpoises than conventional gear; these tests led to changes in gear requirements. A chartered research cruise using different release methods demonstrated that porpoise kills may be reduced to very low levels. Further testing of the gear and procedures used on this cruise is planned for 1977.

Stock assessment research indicates that populations of spotted dolphins and whitebelly spinner dolphins are within the lower limits of OSP; the eastern spinner dolphin is depleted; and the northern, central and southern stocks of common dolphins and the northern and equatorial stocks of striped dolphins are at or above OSP levels.

Analysis of U.S. tuna fleet performances relative to porpoise kill indicates that, under standardized conditions of numbers of tuna and porpoise, and species of porpoise caught, the kill per porpoise set in 1976 declined 21 percent, compared with 1975.

PART II. NATIONAL MARINE FISHERIES SERVICE ACTIONS TAKEN PURSUANT TO THE PROVISIONS OF THE ACT

OPTIMUM SUSTAINABLE POPULATION

The Marine Mammal Protection Act states that "marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and its is the sense of Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the optimum carrying capacity of the habitat."

The interrelated concepts of optimum sustainable population (OSP) and optimum carrying capacity (OCC), as used in the Act, are basic elements of a management program to carry out the Act's overall objective to protect and conserve marine mammals. The Act defines OCC as the "ability of a given habitat to support the optimum sustainable population of a species or population stock in a healthy state without diminishing the ability of the habitat to continue that function." OSP is defined to mean, "the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element."

The desired goal of marine mammal management in the Act is to maintain each species and population stock at an OSP level, and to restore to an OSP level any population that has declined below

that level. In this regard, a species may be brought within the additional protective measures conferred by designating that species to be depleted, if the number of animals is determined to be below the optimum carrying capacity for the species within its environment. In addition, the Act requires that the effect of any significant management action upon the OSP of the involved species be evaluated prior to implementing the action.

To fully implement these management concepts, NMFS assembled experts in population analysis to hold a workshop on porpoise stock assessment. The workshop was held July 27–31, 1976, at the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, Calif., with the task of producing estimates of existing population levels, OSP levels, and the impact of incidential taking on those levels for each and every species or population stock of small cetaceans involved in the U.S. yellowfin tuna purse-seine fishery. On the basis of the resulting "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" and the Marine Mammal Commission's paper entitled "The Concept of Optimum Sustainable Population," NMFS developed and adopted the following operational definition of optimum sustainable population:

Optimum sustainable population is a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality. (Appendix B–1. Regulations relating to the definition of optimum sustainable population.)

Public comments on the proposed definition from which the above definition was adopted clearly indicated the difficulties involved in defining optimum sustainable population as a single value to be used as a basis for all management decisions under the provision of the Act. The participants in the Workshop on Stock Assessment of Porpoises were unable to agree on a precise point value for the lower end of the range of OSP (some feel that 0.60 is a prudent estimate), but agreed that the value lies within the range of 0.50 to 0.70 of the initial size of the unexploited population. The definition of optimum sustainable population is expected to be modified as knowledge and understanding of the concept evolve.

DEPLETED SPECIES OF MARINE MAMMALS

The Marine Mammal Protection Act acknowledges that certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities. The Act states that "such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock that has already diminished below that population. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions."

One action provided by the Act to further this purpose is the designation of a species to be depleted. The Act defines a depleted species to be a species of marine mammal for which the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals, determines that the number of individuals within the species:

a. Has declined to a significant degree over a period of years;

b. Has otherwise declined and that if such decline continues, or is likely to resume, such species would be subject to the provisions of the Endangered Species Act of 1973; or

c. Is below the optimum carrying capacity for the species within its environment.

Designation of a species to be depleted places the species within the provisions of Section 101(a)(3)(B) of the Act, which states that "Except for scientific research purposes as provided for in paragraph (1) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which is classified as an endangered species or threatened species pursuant to the Endangered Species Act of 1973, or has been designated by the Secretary as depleted, and no importation may be made of any such mammal." NMFS has determined that the Hawaiian monk seal (*Monachus schauinslandi*) and the eastern stock of spinner dolphin (*Stenella longirostris*) are depleted.

INCIDENTAL TAKING OF MARINE MAMMALS IN THE COURSE OF COMMERCIAL FISHING OPERATIONS

The Act provided, in Section 101(a)(2), that during the 24-month period initially following the date of enactment, the taking of marine mammals incidental to the course of commercial fishing operations was permitted. After October 20, 1974, no marine mammals may be taken in the course of commercial fishing operations unless the taking is done under a General Permit and Certificate of Inclusion as specified in regulations. Five categories of General Permit, designed to reduce marine mammal mortality and serious injury, were established by regulations promulgated on September 5, 1974. Five domestic General Permits were issued to allow marine mammals to be taken in the course of commercial fishing operations through December 31, 1976, and again through December 31, 1977: (1) towed or dragged gear; (2) encircling gear, yellowfin tuna purse seining; (3) encircling gear other than yellowfin tuna purse seining; (4) stationary gear; and (5) other gear.

In addition to the five domestic General Permits, six foreign associations, representing fishermen from Japan, Korea, and the U.S.S.R., have submitted eight applications for general permits to take marine mammals during 1977 in the course of fishing operations within the Fishery Conservation Zone established by the Fishery Conservation and Management Act of 1976 (P.L. 94–265). These foreign applications were pending action on March 31, 1977.

Public concern over porpoise deaths occurring incidental to yellowfin tuna purse-seining operations grew significantly during 1976 and resulted in a flurry of activity in the courts, Congress, government, and industry. These actions were in response to 1976 regulations and proposed regulations for the 1977 season.

In announcing 1976 regulations, NMFS indicated that a quota on the incidental kill of porpoise during yellowfin tuna purse seining would be imposed if the U.S. 1976 kill for the January to April 14 period was not lowered to 70 percent of the 1975 kill for the same period. Although the U.S. kill actually dropped to 67 percent for the comparable 1975 period, a suit was filed in the U.S. District Court for the District of Columbia, on behalf of organizations of the environmental community. The resulting court order halted tuna purse seining for tuna associated with porpoise effective May 31, 1976. The basis for the ruling was that NMFS failed to meet certain legal requirements of the Marine Mammal Protection Act in issuing a General Permit to the tuna industry. In appealing the court decision, NMFS announced its intention to impose an incidental kill quota of 78,000 porpoises, to expand its observer program to more effectively monitor the quota, and to expedite efforts to determine the existing and optimum porpoise populations for each species involved in the tuna fishery. A subsequent ruling by the U.S. Circuit Court of Appeals upheld the lower court ban, but ruled that porpoise fishing could continue through 1976. The stay was granted to avoid a disastrous impact on the industry, to allow sufficient time for NMFS to comply with the Act's requirements, and to enable ongoing cooperative gear development studies to be completed throughout the entire fishing season.

Further court action was initiated when the NMFS announced that the 78,000-porpoise quota would be reached on October 19, 1976. Data provided by scientific observers placed aboard 54 U.S. tuna vessels were used to monitor the incidental kill rate and make projections on the closure date. Industry challenges on administrative procedures used to set the quota were overturned, and the prohibition on fishing of tuna associated with porpoise went into effect on November 11, 1976. The preliminary estimated incidental porpoise kill for 1976 was 103,600.

Proposed regulations for 1977 were published on October 14, 1976. The proposed regulations placed emphasis on deficiencies identified in the U.S. District Court ruling and included the establishment of a quota for each of 17 stocks of porpoises involved in the fishery, prohibited encircling pure or mixed schools of certain species or stocks, and required the installation of a 1¼-inch mesh porpoise safety panel in the backdown area of the net (the industry Fine Mesh System). In addition, the regulations proposed to deny entry into the United States all shipments of yellowfin tuna from nations whose vessels participate in the yellowfin tuna seine fishery in the eastern tropical Pacific Ocean unless the Director makes a finding that fishery operations are conducted in accordance with U.S. regulations and standards.

These proposed regulations were the subject of an extensive review process including public hearngs in Washington, D.C., and San Diego, Calif., before an Administrative Law Judge (ALJ). These hearings were concluded on December 22, 1976, and the ALJ made his recommended decision to the Director on January 17, 1977.

Based upon the ALJ's recommended decision and the hearing record, the Director made his final decision which was published on March 1, 1977.

Based on a determination of optimum sustainable population, for all but 5 of 17 species and stocks, a total U.S. take limitation of 59,050 was established for species for which encircling by purse seine net could be permitted. The Eastern spinner dolphin stock was determined to be depleted. The status of the stocks of coastal spotted dolphin, Costa Rican spinner dolphin, and melon-headed and pygmy killer whales are unknown. Therefore, no take was allowed of these five stocks. This take would allow the species and stocks to increase or remain within their optimum sustainable range. NMFS will place an observer aboard each U.S. tuna vessel (400-ton carrying capacity or greater) fishing on porpoise for at least one trip during 1977, contingent upon the availability of manpower and funds. (Appendix B–2. Notice and regulations relating to the incidental taking of marine mammals in the course of commercial fishing operations).

WAIVER OF THE MORATORIUM

South African Fur Seals

The Fouke Company of Greenville, S.C., is the sole processor of fur sealskins in the United States and the largest fur sealskin processor in the world. The Company has processed fur sealskins almost continuously under contract with the U.S. Government for over a half century, and has imported raw sealskins from South Africa for 50 years. Its primary sources of raw product have been northern fur sealskins from the Pribilof Islands, Alaska, and Cape fur sealskins from South Africa.

On February 19, 1976, the NMFS Director published a decision in the FEDERAL REGISTER (41 FR 7537) to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, to allow the importation of up to 19,180 skins of Cape fur seals harvested from each annual harvest commencing with the 1975 harvest within the Republic of South Africa, and promulgated regulations to govern the waiver. (Appendix B–3. Notices and regulations relating to the South Africa fur seal waiver of the moratorium).

The waiver provides for an annual review of the South African management program and a number of activities conducted thereunder. The annual review permits the Director to review relevant information and to determine whether the conditions upon which the waiver was granted continue to exist, and would warrant a continuation of the waiver.

In connection with the annual review for 1976, the Director received information from the Government of the Republic of South Africa that the South African inspection program pertaining to the humaneness of harvests has been expanded to include all rookeries; additional tagging and aerial survey programs have been developed; and, in general, additional means to continue to implement a sound scientific management program consistent with the Act have been provided.

The 1975 South African harvest level of 74,945 Cape fur seals exceeded the level of 70,000 animals established by the waiver. However, the excess harvest (4,945 animals) was not considered significantly adverse from a scientific point of view to constitute evidence of inadequate management practices. There is no evidence that the seal populations will be adversely affected by this one incident of an excess harvest; nor can the excess harvest be viewed as evidence of a disregard for appropriate harvest levels, because the Director's decision on the harvest level was made after the harvest was completed.

The Director determined that conditions upon which the waiver was granted continue to exist; thus, amending or revoking the waiver was unnecessary.

On May 11, 1976, the Fouke Company petitioned to amend the Regulations to raise the maximum annual harvest limitation from 70,000 Cape fur seals to 76,965, thereby raising the maximum number of skins that could be imported from 19,180 to 21,088. The Fouke Company contended that increasing the maximum harvest level was warranted because the pup population had increased.

The petition was denied because the evidence submitted by Fouke was not considered sufficient to support a conclusion that the pup population of the Cape fur seal had increased.

In September 1976, the Director received a petition for Amendment of Rule from the Fouke Company to adjust the total harvest percentage that could be imported from 27.4 to 33.1 percent. Fouke alleged that NMFS failed to consider four islands as part of South Africa, and thereby understated that portion of the total yearly harvests in South Africa. After consulting with the Department of State, the Director decided that an amendment of the waiver was appropriate, and accordingly increased the maximum number of skins that may be imported to 23,170 annually, beginning with the 1976 harvest.

On April 2, 1976, NMFS gave notice (41 FR 14204) of receipt of an application from the Fouke Company for a permit to import 13,883 Cape fur sealskins from the 1975 South African harvest. However, the Company subsequently withdrew its application for a permit when it learned that it could not comply with the requirements of the Regulations for permit issuance.

Following a review of the 1976 South African management program, the Director received an application from the Fouke Company for a permit to import 13,000 Cape fur sealskins from the 1976 harvest and process the skins in accordance with the usual business practice. The application is pursuant to the waiver of the moratorium and the regulations. After reviewing the permit application, the supporting materials from the South African Government concerning the 1976 harvest, and the public comments, the Director granted the permit request on December 10, 1976.

Alaska Marine Mammals

The State of Alaska applied to the Secretary of Commerce in 1973, as stated in previous reports, to waive the moratorium on northern sea lions, harbor and spotted seals, ringed seals, and beluga whales, and return management of these species to the State. A simultaneous request was made to the Secretary of the Interior with respect to walruses, sea otters, and polar bears. NMFS and the U.S. Fish and Wildlife Service (FWS) are jointly considering the request. A draft environmental impact statement (DEIS) and proposed regulations were published in February 1976, as discussed in the June 1976 Report. A hearing on the State's regulation was convened on June 29, 1976, before Hon. Malcolm P. Littlefield, Administrative Law Judge, in Anchorage, Alaska. To obtain the broadest possible testimony of all parties concerned, the hearing was continued on July 6 in Nome, and July 12 in Bethel. On July 14, the hearing was reconvened in Anchorage. On October 19 and 20, the hearing was concluded in Washington, D.C. Based on the recommendation of the ALJ and the hearing record, the Directors of NMFS and FWS are expected to make a decision on the matter later in 1977. (Appendix B–4. Notices and regulations relating to State management of marine mammals.)

PUBLIC DISPLAY AND SCIENTIFIC RESEARCH PERMITS

Section 101(a)(1) of the Act and Section 216.31 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) authorize the NMFS Director (by delegation) to issue permits to take and import marine mammals and marine mammal products for the purposes of scientific research and public display.

Although the Act declares a moratorium on the taking or importing of marine mammals and marine mammal products, the Act included exceptions that allow continuing research on marine mammals and taking of marine mam-

mals for public display, providing that the health and well-being of the marine mammal species and populations involved, as well as the marine ecosystems, are not adversely affected. Permits may, however, be granted only after the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals have reviewed the application.

One of the major considerations in issuing permits, which involve captive marine mammals for either scientific research or public display, is the quality of care provided. Following enactment of the Act, NMFS developed requirements for marine mammal care and maintenance that have since been used as criteria for all permits involving captive marine mammals. These requirements appeared as Appendix C to the July 1973, Report of the Secretary of Commerce on Administration of the Marine Mammal Protection Act of 1972.

Since enactment of the Act, NMFS has worked closely with the Marine Mammal Commission, the Fish and Wildlife Service (FWS) of the Department of Interior, and the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture, as well as representatives of the marine mammal display industry and concerned public groups, to develop more comprehensive standards for the care and maintenance of captive marine mammals. In October 1975, these efforts resulted in a set of standards and guidelines prepared by the Marine Mammal Commission. NMFS, FWS, and APHIS, under the authority of the Animal Welfare Act of 1970, have been developing the means by which these standards and guidelines will be implemented by the involved Federal agencies.

The criteria used by the Director to determine issuance of a scientific research permit include such considerations as whether the proposed taking or importing is consistent with the policies and purposes of the Act, and whether granting the permit is required to further bona fide, necessary, and/or desirable scientific purpose. Further considerations are the benefits anticipated to be derived from the scientific research contemplated and the effects of the proposed taking or importing on the population stocks and the marine ecosystem.

In determining whether to issue a public display permit, the Director considers, among other criteria, whether the proposed taking or importing will be consistent with the Act's policies and purposes; and whether (1) a substantial public benefit will be gained from the display contemplated, considering the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importing on the population stocks of the marine mammals in question and the marine ecosystem on the other; and (2) the applicant's qualifications for the proper care and maintenance of the marine mammal, and the adequacy of the holding facilities.

Appendix A provides an overview of the scientific research and public display permit program, both for the period of this report and for the cumulative period since enactment of the Act. Table 1 of appendix A provides a listing of the common and scientific names of the marine mammal species that may be involved in permit applications. Table 2 provides a summary of the applications received, the number of marine mammals requested, the various actions taken on applications, and the number of marine mammals authorized to be taken and/or imported. Tables 3 and 4 provide analysis of the number of each species of marine mammals requested in permit applications. Tables 5 and 6 provide a similar analysis of the marine mammals authorized to be taken and/or imported under scientific research and public display permits.

Scientific research permit applications have involved the following:

1. Activities requiring the removal of living marine mammals from the ecosystem:
   a. Killing wild animals for the collection of biological materials and measurement data; and
   b. Holding animals in captivity for laboratory-oriented research.
2. Activities requiring the removal of dead marine mammals from the ecosystem:
   a. Collecting biological materials and measurement data from dead marine mammals, not killed by permit holders (i.e., materials obtained from animals killed incidental to commercial fisheries, taken in native harvests, found beached, or floating at sea); and
   b. Importing biological materials taken from previously killed animals.
3. Activities not requiring the removal of marine mammals from the ecosystem, nor involving any significant probability of accidental injury or death:
   a. Capturing, tagging, and/or marking, followed by release of the animals;
   b. Marking and/or tagging by means of a remote technique, not involving capture and release;
   c. Taking skin samples from cetaceans to determine sex;
   d. Collecting measurement data and limited biological material from living, restrained animals (i.e., blood samples, toenails, teeth), followed by release of the animals; and
   e. Taking by actions technically considered as harassment, such as may occur in the course of aerial surveys, population counts, filming and sound recording activities, not involving direct contact with any marine mammals.

The research activities of greatest scope, in terms of the number of animals affected, involved animals that were not removed from the ecosystem.

During the period from April 1, 1976, through March 31, 1977, 60 permit applications have been received, in addition to 178 permit applications previously received (table 2). Of these 238 permit applications, 155 had been forwarded to the Marine Mammal Commission as of March 31, 1976, and 54 were forwarded to the Commission during the period of this report. As of March 31, 1977, the Commission had reviewed and submitted recommendations on 203 of the 209 applications referred to the Commission.

As of March 31, 1976, 162 permit applications had been resolved by means of permit issuance or denial, withdrawal of application, referral of applicants to the appropriate States involved in beached and stranded marine mammals, and through interagency agreements. During the period of this report, an additional 53 applications have been resolved in the following manner: 2 applications have been withdrawn; 1 application has been returned to the applicant because of inappropriate submittal; 1 application has been inactivated because of insufficient response from the applicant to requests for additional information necessary to certify an application complete; 1 application has been denied; and 48 applications have been approved. The 23 remaining applications of the 238 received to date are pending.

The Regulations provide that a permit may be modified, with sufficient prior notification to the permit holder, followed by publication of notice of the modification in the FEDERAL REGISTER. During the period of this report, 22 permit modifications have been proposed and 20 made effective by publication in the FEDERAL REGISTER, in addition to 39 modifications previously proposed and made effective.

All permit holders are required, under permit conditions, to provide a number of reports, which may be any of the following:

1. Reports on the taking of marine mammals;
2. Reports on the importing of marine mammals;
3. Reports on specific aspects of the husbandry of captive marine mammals, such as water quality;
4. Reports on marine mammal mortalities;
5. Monthly, quarterly, semiannual and/or annual reports on the health and condition of marine mammals held in captivity;
6. Reports on activities conducted under scientific research permits;
7. Preliminary reports on the progress of scientific research projects; and
8. Final reports concerning the results of scientific research projects.

During the period of this report, 280 reports were submitted; 25 on the taking of marine mammals; 212 on the health and condition of marine mammals held in captivity; 11 on mortality; 30 on research activities; and 2 on final research. Additionally, 72 permit holders have submitted special reports synopsizing their activities.

The Act and the Regulations provide for charging a reasonable fee to cover the administrative costs of issuing a permit. Public display permit holders fee is $200; scientific research permit holders fee is $25. Such fees are waived for Federal and State agencies. During the period of the report, a total of $4,725 has been collected from permit holders and deposited in miscellaneous receipts of the U.S. Treasury.

REQUESTS FOR CERTIFICATE OF REGISTRATION AS TANNERY OR AS AGENT WITH RESPECT TO MARINE MAMMALS TAKEN BY ALASKAN NATIVES

Section 216.23 of the Regulations provides that marine mammals taken by an Indian, Aleut, or Eskimo resident of the coast of the North Pacific or Arctic Ocean, for the purpose of creating and selling authentic native articles of handicraft and clothing may be transferred to a registered tannery, either directly by the Indian, Aleu, or Eskimo or through a registered agent. Similarly, marine mammals taken by Alaskan Natives for subsistence may be sent to a registered tannery for processing and subsequent return to an Alaskan Native.

Any tannery or person who wishes to act as an agent within the jurisdiction of the United States may apply for registration as a tannery or an agent, and thus, be allowed to possess and process marine mammal products for Indians, Aleuts, or Eskimos. Prior to April 1, 1976, seven tanneries and nine agents had been granted Certificates of Registration as tannery or agent in accordance with Section 216.23 of the Regulations. Two of those registered tanneries have surrendered their certificates. During the period of this report, three additional certificates have been granted to tanneries, and seven to agents.

OTHER ACTIONS IN REGULATING THE TAKING AND IMPORTING OF MARINE MAMMALS

Killer Whales

In the early 1960's, oceanarium operators began to buy live killer whales from the waters of Washington and British Columbia. The killer whale population in the Puget Sound region has provided the people of that area with a unique, esthetic, and recreational pastime, and public sentiment has strongly opposed the capture of killer whales.

Prior to 1971, no State or Federal regulations concerned the capture of killer whales. In 1971, the Washington State Legislature passed a marine mammal protection act with responsibility for management vested in the State Game Department. Under provisions of the Marine Mammal Protection Act of 1972, management responsibility was transferred from the State to the Federal Government and delegated to NMFS. Under authority of the Act, NMFS can grant permits for scientific research and public display. Since the Act became effective, one economic hardship exemption and three permits have been issued, allowing the taking of killer whales in Washington/British Columbia waters and off eastern Vancouver Island.

Public protests over the much-publicized March 7, 1976, capture of six killer whales in Puget Sound by Sea World Inc., operating under a public display permit issued in 1974 by NMFS, prompted the introduction of a bill in the Senate, S. 3130, that would amend the Act to prohibit the issuance of permits to take killer whales, except for certain scientific research purposes. The bill passed the Senate on March 29, 1976.

An identical bill was introduced in the House of Representatives. Hearings on this bill, H.R. 12460, were held before the House Subcommittee on Fisheries and Wildlife Conservation on May 4, 1976.

The Department of Commerce opposed both S. 3130 and H.R. 12460 because available scientific data do not indicate that additional protection is warranted, and sufficient statutory authority now exists to provide whatever degree of protection is, or may become, necessary.

In response to a nomination that Puget Sound be designated a marine sanctuary for killer whales, pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, NOAA's Office of Coastal Zone Management, in consultation with NMFS, has prepared a discussion paper that assesses the potential environmental impacts of the proposed action. The sanctuary nomination is being considered under five possible single or multiple use classifications, i.e., habitat area, species area, research area, recreational and esthetic area, and unique area.

Hawaiian Monk Seals

An NMFS review of the status of the Hawaiian monk seal (*Monachus schauinslandi*) indicated that numbers of this species may have declined significantly over recent years, and may have, furthermore, declined historically to the point that, if such decline continues, this species would become subject to the provisions of the Endangered Species Act of 1973. After consultation with the Committee of Scientific Advisors on Marine Mammals, the Marine Mammal Commission concurred with this assessment, by letter dated December 24, 1975, and recommended that the Hawaiian monk seal be designated as a depleted species.

On June 16, 1976, proposed regulations were published in the FEDERAL REGISTER (41 FR 24393), setting forth the proposed designation of the Hawaiian monk seal as a depleted species throughout its range. The designation was finalized on July 27, 1976 (41 FR 30120) and became effective on September 1, 1976. (Appendix B–5. Regulations relating to the depleted status of Hawaiian monk seals).

PUBLIC HEARINGS

The Act and NMFS Regulations provide for public hearings for several types of actions including: scientific research and public display permit applications, permit modification, regulations, and waiver applications. In addition, meetings are held periodically with interested national conservation groups, fishing industry representatives, public display facility operators, State and Federal agencies, and individuals to discuss the problems as well as proposed solutions involved in the implementation of the Act.

In determining whether to hold a public hearing on an application for public display or scientific research, it is the policy of the Director to consider the following: (1) whether any interested person has requested a public hearing on such application during the time period set for public comment on the application; (2) the views of the Marine Mammal Commission on the desirability of holding a public hearing; (3) the nature of the application and the number of animals and species involved; (4) the extent to which a public hearing would facilitate the processing of the application; and (5) whether the application has aspects that require a major policy decision prior to making a determination on the permit application.

Two public hearings were held during the reporting period. Both hearings were formal hearings on the record, presided over by an Administrative Law Judge. One hearing dealt with the request of the State of Alaska for a waiver of the moratorium and return of management of nine species of marine mammals to the State. The other hearing dealt with proposed regulations governing the issuance of permits for the incidental take of marine mammals in the course of commercial fishing operations.

LAW ENFORCEMENT

The five NMFS regional law enforcement offices reported 20,591 man-hours expended in responding to requirements of the Marine Mammal Protection Act during the reporting period. Although the man-hour figure and the number of investigations are nearly the same as reported for the previous 12-month period, the number of violations detected has increased from 52 percent to 89 percent of the total investigations conducted. This increase indicated an improved efficiency in carrying out enforcement activities under the Act.

Tuna-porpoise responsibilities still form the bulk of the enforcement workload in the Southwest Region. Illegal taking of marine mammals and the illegal importation and sale of marine mammal products remain the focus of attention in the Northeast, Northwest, Southeast, and Alaska Regions.

During the reporting period, NMFS special agents initiated 260 investigations into alleged violations of the Act. From these investigations, 232 actual violations were documented. Seventy-two cases were closed through the assessment of civil penalties and or the forfeiture of seized contraband. One case was closed through successful criminal prosecution. Twelve cases involving insufficient documentation accompanying the items at the time of importation were resolved through substantiation of their pre-Act status or subsequent compliance with necessary certification requirements. About 164 cases are pending. In 198 of the 232 documented violations, seizures involving 793 illegal items were made. The remaining 34 violations involved illegal takings, such as harassment, which generally do not concern a tangible, seizable object. NMFS special agents also monitored the capture of seven marine mammals carried out under permits issued by NMFS and made 167 inspections of marine mammal holding facilities.

Two U.S. citizens were the first persons to be convicted of criminal violations of the Act in the U.S. District Court in Miami, Fla. One was found guilty on June 17, 1976, of 24 counts of illegal capture, possession, and sale of 21 bottlenosed dolphins during the spring and summer of 1974 and of conspiracy to violate the Act. This individual was sentenced to 90 days' imprisonment and placed on 1-year probation. The violations for which these individuals were

prosecuted and convicted involved the capture of dolphins within the territorial waters of another nation, and the subsequent sale of dolphins in international trade.

The successful prosecution of these individuals reinforces NMFS's interpretation of the Act, to the effect that U.S. citizens are subject to the provisions of the Act, regardless of the geographic location of their marine mammal activities, and regardless of the legality of such activities under a foreign state's law.

In December 1976, NMFS special agents seized 420 South American sea lion hides that were illegally imported into the United States by a furrier. The furrier was assessed a civil penalty and forfeited the hides, valued at over $11,000, to the Government.

NMFS special agents seized 17 hair seal garments illegally imported into this country during August 1976. The garments were forfeited, and the importer paid a civil penalty in settlement of this case.

Contracts, which provide funds for enforcement of the Act, were renegotiated with the States of Alaska, Washington, Oregon, California, and Florida at a cost of about $443,000. NMFS has worked closely with the law enforcement agencies of these States toward the goal of achieving nationwide compliance with the Act. State agencies initiated 69 investigations into possible violations of the Act; 7 cases were referred to NMFS for further action, and 43 cases were closed. State officials also monitored 21 marine mammal capture operations performed under permits issued by NMFS and made 34 inspections of marine mammal holding facilities.

The first administrative hearing for an alleged violation of the Marine Mammal Protection Act was heard on May 5, 1976, before an Administrative Hearing Officer, in Terminal Island, Calif. This hearing was requested by a person who had imported a fur seal coat at the Los Angeles, Calif., customs facility. Respondent's principal defense was that the native exception applies to all Arctic Eskimo people, not to Alaskan Eskimos exclusively. On November 22, 1976, the Hearing Officer ruled that the intention of the Act is clear; the native exception applies only to Alaskan Natives. He recommended a civil penalty of $500 for the illegal importation and forfeiture of the sealskin coat. Before the action was removed to the U.S. District Court for forfeiture, the case was settled when the respondent voluntarily forfeited the illegally imported sealskin coat.

LEGAL ACTIONS BROUGHT AGAINST THE DEPARTMENT OF COMMERCE

Committee for Humane Legislation, et al., v. *Richardson et al.* 414 F. Supp 297 (D.D.C., May 1976); aff'd 540 F. 2d 1141 (D.C.C.'s August, 1976)—Civil Action Numbers 74–0227.

Plaintiffs brought action for declaratory judgment and injunctive relief concerning certain regulations adopted pursuant to the Marine Mammal Protection Act of 1972 and the general permit issued under those regulations to the American Tunaboat Association. The Court found that: (1) the regulations were not promulgated under the legal requirements of the Act and thus should be voided; and (2) the permit application failed to demonstrate that the taking under the permit would be consistent with the purpose of the Act. The permit was found to be in contravention of the Act, because it failed to specify the number and kind of marine mammals authorized to be taken. Therefore, the permit for 1976 was voided. The Court of Appeals affirmed the order, but stayed its effect until January 1, 1977. That Court also remanded to the District Court the question of whether an aggregate quota satisfied the requirement of specification of "number and kind." On December 21 and 28, 1976, in the District of Columbia District Court, NMFS requested an extension of the stay of the District Court order, with the intention of imposing an interim regime, until new regulations and a new permit could be issued. The District Court denied these motions and found that the issue remanded to it was moot. On December 30, 1976, the District of Columbia Court of Appeals denied NMFS's motions to grant emergency relief and/or to summarily reverse the District Court.

On January 28, 1977, in response to Judge William B. Enright's Order of January 21, 1977, in the Theresa Ann case, a Motion for a Preliminary Prohibitory Injunction to restrain the taking of porpoise incidental to yellowfin tuna purse seining was filed before the District of Columbia Circuit Court of Appeals. In response, the Court issued Orders on January 28 and February 3 which essentially required the tuna purse-seine fleet to stop fishing on porpoise. The February 3 Order also required the Secretary of Commerce to submit to the Court within 10 days a plan to enforce the Marine Mammal Protection Act. The plan that was submitted consisted, in part, of aerial surveillance and restrictions on the use of operational speedboats in connection with tuna purse seiners.

Soon after this plan was instituted, Attorney General Griffin Bell submitted a Motion for Emergency Relief and/or Immediate Hearing and Ruling on the Appeal before the D.C. Circuit Court of Appeals. On March 8, 1977, the D.C. Court of Appeals issued an Order Staying the Judgment of the District Court invalidating the regulations and general permit as of January 1, 1977, to allow the taking of porpoise incidental to yellowfin tuna purse seining from the date of the Order to April 30, 1977, or until a new permit is issued, whichever comes first. The takings are to be governed by regulations published on March 1, 1977, except as to the term of the permit and the porpoise quotas, both of which are governed by the 1976 amended permit.

On March 30, 1977, the Committee for Humane Legislation filed a Complaint and Motion for a Preliminary Injunction in the District of Columbia District Court seeking to prevent implementation of the regulations published on March 1, 1977, alleging that the regulations do not fully comply with the requirements of the Act.

The Motor Vessels Theresa Ann. et al., v. *Richardson et al.*, Civil Action Number 78–963–E (USDC SD Cal and 9th Cir).

In October 1976, the plaintiffs filed a complaint seeking damages and alleging that the Marine Mammal Protection Act was unconstitutional because it resulted in the taking of property without due process of law. The plaintiff also sought injunctive relief to prevent NMFS from enforcing the ban on setting on porpoise, imposed after the quota for 1976 had been reached. After some temporary relief, the Courts finally denied plaintiffs' requests for injunctive relief on November 10, 1976. On December 31, 1976, the courts also denied a later motion by the plaintiff for a temporary restraining order to prevent NMFS from enforcing the ban on setting on porpoise.

On January 21, 1977, a motion for a preliminary injunction requesting that NMFS be enjoined from enforcing the Act was heard. Plaintiffs argued that their inability to set on porpoise for several critical months of the tuna fishing season until valid 1977 permits could be issued constituted a denial of due process and an inequity demanding redress.

The Court granted the requested preliminary injunction subject to several conditions:

1. The injunction shall remain in effect only until an aggregate take of 10,000 porpoises has been reached, or until the 1977 permits are either granted or denied;

2. The observer program as implemented in 1976 shall be reinstated immediately, and 25 percent of the boats shall be required to carry observers; and

3. Marine mammal logs must be maintained.

On February 24, 1977, the Ninth Circuit Court of Appeals granted the Government's Motion to Stay Judge Enright's Order pending appeal of the case.

Animal Welfare Institute v. *Elliot Richardson, Robert W. Schoning*—Civil Action No. 76–0483 (D.C. D.C. 1976); and *Committee for Humane Legislation Inc., et al.*, v. *Elliot L. Richardson*—Civil Action No. 76–0484 (D.C. D.C. 1976).

These actions sought: (1) a declaratory judgment that the decision of the NMFS Director to waive the moratorium to allow the importation of Cape fur seals from the Republic of South Africa contravenes the Marine Mammal Protection Act and is invalvid, void, and of no effect; and (2) an injunction restraining defendants from taking any steps that give effect to the aforementioned decision.

In December 1976, both the requests for declaratory judgment and the request for an injunction were denied in the District Court by Judge Robinson.

Plaintiffs appealed to the U.S. Court of Appeals for the District of Columbia (Civil Action No. 76–0484). Although plaintiff's motion for an injunction pending appeal was denied, the appeal on the merits of the validity of the waiver and on appellant's standing is still pending and has been expedited.

INTERNATIONAL PROGRAMS

In carrying out the International Marine Mammal Program, NMFS is continuing to pursue the objectives of the Act through international cooperation. The following details the principal thrusts of the international program.

Ad Hoc Interagency Committee on an International Marine Mammal Program

Beginning in April 1976, NMFS and the Fish and Wildlife Service (FWS) convened a public meeting to solicit ideas to be included in an international marine mammal program. An NMFS/FWS task force met for a week to (1) analyze the international problems associated with all species of marine mammals; (2) evaluate ongoing activities as to compliance with the Act; and (3) evaluate all options to fully implement Section 108(a) of the Act. The recommendations of the task force were made available to the public for comment in July. A meeting of the Ad Hoc Interagency Committee on an International Marine Mammal Program was convened in December to make final conclusions on a government-wide program. Present were representatives from NMFS, FWS, the Department of State, the Marine Mammal Commission, the Council on Environmental Quality, the House of Representatives Merchant Marine and Fisheries Committee, and observers from the environmental community and the fishing industry. The report of the Ad Hoc Interagency Committee, with some modifications, was formally adopted by all concerned government agencies in late January 1977.

International Whaling Commission (IWC)

The U.S. Delegation to the 28th Session of the International Whaling Commission contributed to discussions on several conservation measures. The IWC agreed to convene a conference of Plenipotentiaries to renegotiate the International Whaling Convention. It was also agreed to circulate the revised text among a large number of nonmember countries, after IWC Contracting Governments have reviewed it. Revisions to the Convention will be discussed at the 29th Annual meeting.

At the 28th Session, resolutions were adopted that:

a. recommended that all member governments prohibit the sale or transfer of vessels, equipment or supplies likely to be used for whaling operations by nations not members of IWC;

b. encouraged whaling nations not members of IWC to abide by IWC quotas and to become members of the Commission;

c. recommended that the United States as early as possible take all feasible steps to limit the expansion of the effort to take bowhead whales and to reduce the loss rate of struck whales; and

d. recommended that contracting governments (U.S. and Mexico) establish regulations to reduce harrassment of gray whales in breeding areas as soon as possible.

Following the recommendations of its Scientific Committee in accordance with the New Management Procedure the IWC established:

1. A complete moratorium on the catching of: fin whales in the North Pacific (at the 27th Session); fin whales in the Southern Hemisphere; and sei whales in the North Pacific (at the 27th Session).

2. Selective moratoria through the establishment of closed areas and closed seasons on the catching of: sei whales in the Southern Hemisphere; sperm whales in the Southern Hemisphere; fin whales in the North Atlantic; and Bryde's whales in the Southern Hemisphere.

The complete protection from commercial fishing is continued for the blue, humpback, gray, right and bowhead whales.

Additionally, quotas were approved by the IWC for those whale stocks that were found to be sufficiently abundant to permite their harvest under the New Management Procedure. While the 1976 quota for minke whales was increased to 8900 from the 1975 quota of 6810, most other quotas were reduced, resulting in a substantial decline in the allotted catch for 1976 when compared to 1975. Three stocks of whales, previously fished without regulatory restrictions were placed under quotas, thus bringing all commercially harvested whales, except one stock, under IWC management for the first time since the creation of the Commission. Considering these new additions to the quota scheme, the actual net reduction in the permitted harvest of whales between 1975 and 1976 is about 6000 animals, comprised mostly of the large whales such as fin, sei, and sperm whales.

North Pacific Fur Seal Convention (NPFSC)

In accordance with the terms of the Interim Convention on Conservation of North Pacific Fur Seals, the United States shared the harvest of the fur sealskins from the Pribilof Islands with Canada and Japan. Also, the United States continued land research and the analysis of pelagic research data collected in previous years. The moratorium on commercial harvest of fur seals on St. George Island, for the purpose of facilitating intensive study of the factors that govern the survival of fur seals, remained in effect.

The 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals was ratified by the four parties to the Convention, (Canada, Japan, the Union of Soviet Socialist Republics, and the United States) on October 12, 1976. The Protocol extends the 1957 Convention as amended for an additional 4 years, and the Convention will now continue in force for 22 years (until 1979), and thereafter, until the entry into force of a new or revised fur seal convention between the parties, or until the expiration of 1 year after such period of 22 years (1980), whichever may occur earlier.

The Protocol modified the Convention as follows:

1. Revised the definitions of pelagic research responsibilities of the Parties and provisions for research on (a) the relationship among fur seals, other living resources, and commercial fishing, and (b) the effects of environmental changes on fur seals caused by man;

2. Removed the U.S.S.R.'s obligation to suspend sealing in the Commander Islands, if the number of seals falls below 50,000;

3. Provided for the Commission to recommend the suspension or reduction of the fur seal harvest when the population falls below levels of maximum sustainable productivity;

4. Provided for applying subsistence needs for native populations living on rookery islands; and

5. Included a pledge by all parties to seek to ensure humane methods of capturing, killing, or marking seals.

The United States was unable to obtain unanimous agreement on the inclusion of an optimum sustainable population management concept in a revised Convention. Because of the lack of agreement on this issue, the United States supported an extension of the agreement for only 4 years.

In consideration of the need for flexibility in view of possible changes in fisheries jurisdiction in the future, the United States supported the inclusion of language allowing a party to call for a meeting of representatives of the parties within 90 days of such request to consider modifications of the Convention. Following a meeting of the standing scientific committee on March 14–18, 1977, at which research plans and comercial harvest forecasts for 1977 were discussed, the Twentieth Annual meeting of NPFSC was held in Tokyo, Japan, March 22–25, 1977.

Inter-American Tropical Tuna Commission (IATTC)

At the 1976 Annual Meeting of IATTC, the United States continued its efforts to achieve international action to reduce the incidental take of marine mammals. The United States reviewed the general direction of its national policy on the tuna/porpoise problem noting the probability that, beginning in 1977, the American tuna fleet would be subject to quotas on the various porpoise stocks. In addition, the United States noted that standards similar to those applied to U.S. tuna fishermen would be applied to foreign fleet operations involved in the purse-seine tuna fishery. In this respect, the United States indicated that countries desiring to continue importing tuna products into the United States would be required to provide certain information regarding their efforts to reduce the incidental take of porpoise. Copies of the proposed U.S. regulations were distributed, and governments were invited to participate in the hearing on the proposals scheduled for November 15, 1976. Copies of two detailed reports titled "Progress of Research on Porpoise Mortality Incidental to Tuna Purse Seine Fishing for Fiscal Year 1976" and "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" were also distributed.

As instructed by the Commission at its December 1975 meeting, the Director of Investigations presented a paper on the tuna/porpoise problem and the options regarding Commission involvement.

From among the three discussed alternative objectives concerning the problem of porpoise mortality, the Commission agreed on a policy to maintain tuna production at near current levels, and, at the same time, maintain stocks of porpoise at or above levels that would ensure their survival in perpetuity. Such a course would require, at a minimum (a) an estimation of the size of each porpoise stock in the eastern Pacific as well as the level of kill; (b) assessment of the impact of the kill on each stock; and (c) gear research.

The Commission directed that a comprehensive technical review be undertaken of all existing information pertaining to the tuna/porpoise problem (known as Phase I) and that a detailed proposal for Commission porpoise research be prepared.

In connection with the tuna/porpoise program supported by the Commission, the United States offered the following proposals:

1. That the governments agree on a target date to reconvene to consider the proposal prepared by the Director of Investigations;
2. That consideration be given to preparing a resolution concerning the need to begin gathering information immediately on porpoise mortality; and
3. That an international guest scientist program for the purpose of collecting porpoise mortality data be considered for which the United States would contribute $88,000.

The member governments supported the first two proposals. Support, in principle, was voiced for the third proposal, although governments preferred to postpone action pending presentation of the Director of Investigation's report in order to determine how such a program might relate to future Commission efforts. Requesting only minor modifications, governments also supported a U.S. draft resolution incorporating the draft resolution incorporating the proposals.

The Commission agreed to reconvene no later than June 1977.

Convention on the Conservation of Antartic Seals

The Senate ratified the Convention on September 15, 1976, and President Ford signed and declared it ratified on December 28, 1976. The other Antarctic Treaty parties were informed of this action by the Department of State. Those Antarctic Treaty parties who have not ratified the Convention were encouraged to do so. In ratifying the Convention, the United States again pointed out that an inspection or enforcement component is still required to make the Convention provisions effective.

Food and Agriculture Organization (FAO) and the United Nations Environmental Program (UNEP)

The task of the Advisory Committee on Marine Resources Research (ACMRR) Working Party on Marine Mammals, to examine the status of all marine mammals, was completed with the convening of the Scientific Consultation on Marine Mammals in Bergen, Norway, August to September 1976. The reports of the 23 working groups were made available at the conclusion of the Consultation, and a summary report is expected by April 1977. Major assistance was provided by the United Nations Environmental Program (UNEP).

Endangered Species Convention

As a signatory of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the United States proposed listing all stocks of fin and sei whales on either Appendix I or Appendix II of that Convention. The proposal was unanimously supported by all nations present at the First Conference of the Parties to the Convention, Berne, Switzerland, November 2–6, 1976. All stocks of fin and sei whales that receive total protection under conservation measures of International Whaling Commission (IWC) were listed on Appendix I. All other stocks of these species are now on Appendix II. This new action is an aid to the efforts of IWC to encourage nonmember whaling nations to join IWC. As a result, export and import of parts and products from these whales will require Convention permits.

U.S.-U.S.S.R. Marine Mammal Project, Environmental Protection Agreement

The objective of the U.S.–U.S.S.R. Marine Mammal Project is to develop collaborative research on the biology, ecology, and population dynamics of marine mammals of mutual interest to both nations that will contribute toward sound management and conservation of these animals.

In spring 1976, a cooperative ice seal-walrus expedition visited the Bering Sea, March 15 to May 4th. Three U.S. scientists participated in the cruise, which was primarily a U.S.S.R. commercial sealing expedition. The scientific party recorded biological data on age, sex, physical, and reproductive condition of 158 walruses and 84 ice seals (23 ribbon, 59 largha, and 2 bearded). One of the most significant findings during the cruise was the discovery of several hundred breeding walrus females in a more southerly area of the Bering Sea than was previously known. The discovery of this breeding assemblage between Bristol Bay and the Pribilof Islands indicates an isolated breeding unit separate from the main northcentral group (St. Lawrence-St. Matthew Islands area). The ice seal data will be used by scientists in assessing reproductive capacity and other aspects of the population dynamics of these species, information necessary to determine the status of these species under the Act.

During July and August 1976, two Soviet scientists spent 5 weeks working on ice seals in northern villages of Alaska. They sampled over 50 specimens of bearded and ringed seals in the field. The data collected in Alaska will lead to a better understanding of the biology and systematics of these species of seals. They examined about 300 skulls of ringed seals at the Puget Sound Museum of Natural History and the U.S. National Museum on their return trip. Upon examining osteological material from the Canadian Arctic, they were able to draw definite conclusions about the taxonomy of ringed seals on a worldwide basis.

In September, a U.S. scientist visited museums and laboratories in Moscow and Leningrad to examine osteological specimens of dolphins. He was able to examine over 120 specimens of species involved in the worldwide taxonomic revision being done on the genus *Stenella*. This work contributed directly to a better understanding of the taxonomy of the *Stenella* species and their worldwide distribution. He was also able to discuss methods of aging dolphins through sectioning of teeth and received information that may enable development of a technique for marking specimens in the field to create known age marks on hard parts such as teeth.

In January 1977, the fourth meeting of the Marine Mammal Project was held in La Jolla, Calif. Among the meeting's highlights was the general agreement of the scientists on the need for a convention or agreement on the protection and management of marine mammal resources (principally walrus and ice seals) in the Chukchi and Bering Seas and adjacent regions of the North Pacific Ocean. The assembled scientists developed a set of principles that could form the basis of a bilateral agreement. These principles embodied the maintenance of optimum abundance of all species to ensure continuing existence of populations, determining acceptable limits of harvest for each population, developing necessary regulatory measures, establishing a system of marine sanctuaries, and providing a scientific basis for the protection and management of marine mammals through coordinated scientific research on populations, distributions, and the role of the species in the ecosystem.

Another highlight of the meeting was the agreement and preliminary plan for publication of a compendium of papers on the results of the cooperative research under the program since its inception. The first volume will cover pinnipeds and sea otters, and is targeted for draft form by the end of this year. The initial publication is to be printed in the United States, followed shortly by a Russian translation.

TUNA-PORPOISE RESEARCH AND DEVELOPMENT PROGRAM

The marine mammal program at the NMFS Southwest Fisheries Center (SWFC) is concerned with oceanic porpoise populations and their relation to the tuna fishery. The major objective of the program is to carry out NMFS responsibilities under the Marine Mammal Protection Act of 1972, especially in respect to Sections 101(a)(2), 103 (b) and (d), and 111.

The SWFC Porpoise/Tune Interaction Program has three basic objectives:

1. Develop methods and technology to reduce porpoise mortality incidental to yellowfin tuna purse seine fishing;
2. Determine the status of the porpoise stocks; and
3. Monitor the incidental mortality by the U.S. fleet throughout the year.

Present program priorities were developed in consultation with the Marine Mammal Commission, the tuna industry-sponsored Porpoise Rescue Foundation, Naval Undersea Center, environmental groups, Council on Environmental Quality, and other interested parties in a series of meetings in late 1975 and early 1976.

Mortality Reduction Technology

At the start of the reporting period, a major experiment was initiated in cooperation with the Porpoise Rescue Foundation. Twenty vessels were outfitted with experimental gear, and despite interruptions of the study by court actions, sufficient data were acquired to indicate that further reductions in porpoise mortality are possible.

Each of 20 vessels carried a small rubber raft and face mask and snorkel to aid in porpoise hand-release and to signal the captain of the presence of tuna in the release area, a porpoise grabber to reach entangled porpoise, and a 180- by 12-fathom, 1¼ inch stretched mesh porpoise safety panel to prevent entanglement during release operations. In addition, 10 vessels placed a two-step trapezoidal-shaped apron and chute assembly atop the safety panel to reduce canopy formation and form a shallow area to facilitate porpoise release and reduce fish loss. As a direct result of the study, 1¼-inch mesh safety panels will be required on all purse seiners that fish for yellowfin tuna associated with porpoise. Problems in using the apron/chute system, despite its apparent increased capability for porpoise release, have made additional studies necessary.

During a fall 1976 charter, followup gear research has shown that it is technically possible to reduce the kill to very low levels—at least under the conditions found on the charter. During this charter, in 45 net sets on porpoise, over 900 tons of tuna were captured and only 16 porpoises were killed (most were killed accidentally during scientific research). Under average conditions found in the fleet and using conventional gear, about 800 porpoises would have been expected to be killed. During 1977 there will be further testing of this gear, which uses extensive areas of small-mesh webbing (to prevent entanglement) and a large single-step trapezoidal-shaped apron (to shoal up the release area and to reduce canopy formation) in the porpoise release area.

A new study was begun in 1976 to reduce or eliminate the incidence of "roll-ups" (the purse cable turns and winds up webbing). The study involves development of a purse-block suspension system capable of minimizing the induction of turns into the purse line caused by the weight of the block not allowing the cable to run in the center of the block's pulley. A field test of a prototype unit is planned for spring 1977.

Work on the large-volume net, designed to provide less crowding of the animals in the net, was suspended because major repairs were needed to make the net useable. Although the results to date have been inconclusive, a vessel owner has agreed to make necessary repairs and modifications, and testing of the net will resume in 1977.

SWFC is involved in a large research project to document the behavior of porpoise and tuna before, during, and after the set is made. The study has involved photography from a helicopter, from underwater, and from the deck. The underwater acoustic environment was also recorded during the field portion of the study aboard a chartered seiner in the fall of 1976. Major sponsors of this study are the Marine Mammal Commission, National Science Foundation, Porpoise Rescue Foundation, and NMFS.

Additionally, SWFC has contracted a study at the University of Hawaii to determine the odor-detecting capabilities of yellowfin tuna and to develop artificial scents for use in breaking the porpoise/tuna bond and attracting the tuna.

During 1977, most of the gear research budget will be used to field SWFC gear technicians aboard seiners testing solutions to several identified problems.

Also, the use of rafts as porpoise-rescue platforms, conditions that lead to "disaster sets" (sets in which more than 50 porpoise are killed), the effectiveness of porpoise grabbers, and the role of malfunctions in causing porpoise mortality will be investigated more completely. Rollup-prevention research will also continue through evaluation of alternative purse-block designs and further analysis of antitorque purse-line cable.

Biological Stock Assessment Research

During the period, biological research concentrated on estimation of important life history parameters of the major porpoise species involved in the tuna fishery. Using specimens and data collected aboard commercial tuna seiners and standard techniques and analyses, the biological studies staff at SWFC completed estimates of growth and reproduction parameters of the eastern spinner dolphin, *Stenella longirostris* subsp., the second most important species in the tuna fishery, and produced a manuscript for publication. Also completed were preliminary analysis of growth and reproduction of the whitebelly spinner dolphin, *S. longirostris* subsp., an analysis of data for the offshore spotted dolphin, *S. attenuata graffmani*, for the period 1973–75; and a preliminary survey of data for the striped dolphin, *S. coeruleoalba*.

A contract was made to process and analyze the life history data and specimens of the common dolphin, *Delphinus delphis*, by scientists at the Naval Undersea Center, San Diego. Another contract was granted to a private firm for sectioning and reading of a backlog of some 8,000 teeth from spotted and spinner dolphins sampled during the period 1973–76.

A third contract was made with Scripps Institution of Oceanography to develop a technique for aging porpoise teeth that relies on chemical analysis rather than counting of growth rings. This is particularly important because it is still not certain how many growth rings are formed each year.

In stock assessment, the limits of the ranges of the stocks of *Stenella spp.* in the eastern Pacific were investigated in January and February, 1976 using the two NOAA research vessels, R V *Townsend Cromwell*, based in Hawaii, and R V *David Starr Jordan*, based in San Diego. These vessels skirted and transected the known limits of the historical ranges of the species to collect data on (1) limits of occurrence, for use in new population estimates; and (2) physical oceanographic and faunistic correlations of the occurrence of dolphins and the simultaneous occurrence of tuna. Results from these cruises may extend the known range of *Stenella* and also indicate the existence of possible new stocks of spotted and spinner dolphins in the area from 0° to 10°S and west to South America.

The assessment of the impact of incidental mortality on the porpoise stocks was undertaken in July 1976, by a workshop composed of a panel of experts in the areas of population dynamics and the biology of marine mammals. In the report of the workshop (SWFC, 1976), the concept of optimum sustainable population (OSP) as it relates to the tuna-porpoise problem in the eastern tropical Pacific was defined. Combined information collected by (1) a 1974 aerial survey, (2) NMFS observers in 1971–76, and (3) analysis of historical records of the Inter-American Tropical Tuna Commission was used to estimate present stock sizes, incidental mortalities, and to project backward in time to predict the stock sizes at the commencement of exploitation. Results of this work indicated that the spotted and whitebelly spinner dolphins were within the lower limits of OSP whereas the eastern spinner dolphin was close to the lower limit of OSP. Additionally, the northern, central, and southern stocks of the striped dolphin (*Stenella coeruleoalba*) were felt to be at or above OSP.

To obtain more reliable and precise estimates of population sizes, a major aerial survey was initiated in January 1977. This survey will involve 300 hours of flying time, 30,000 track miles, and will encompass the eastern tropical Pacific. The aerial survey will be coordinated with ship surveys aboard the *Townsend Cromwell* and the *David Starr Jordan*. The ships will cover areas that cannot be reached by air. The results of this effort should provide a significant improvement in the reliability of the population estimates, and consequently, in the estimates of the impact of incidental mortality on the porpoise stocks.

Fleet Performance

With the institution of a quota on the number of porpoises that could be killed in 1976 during tuna purse-seining operations by the U.S. fleet, it has become very important to monitor the cumulative mortality during the year and to continue analysis of the kill rate performance of the U.S. fleet.

During 1976, a procedure was designed, published, and followed to monitor the

kill on a monthly basis and predict the date for reaching the 78,000 quota. As a result of the analyses through September 30, 1976, it was calculated that the quota would be reached on October 19, 1976. Subsequent court actions delayed the effective closure date until November 11, 1976.

During the first half of the year (the only part of the year for which a time series of data is available), the U.S. fleet continued to improve its performance in releasing porpoise alive. Under standardized conditions of numbers of tuna and porpoise and species of porpoise caught, the kill per porpoise set fell 21 percent in 1976 from 1975. The overall decline in kill per set from 1973 to 1976 is 55 percent under standardized conditions. A statistical analysis confirmed the need to use standardized conditions in comparing indices of performance from year to year.

RESEARCH ON NORTHERN FUR SEALS, PINNIPEDS, AND CETACEANS

The Marine Mammal Division of NMFS, Northwest and Alaska Fisheries Center, conducted three principal research programs. The northern fur seal program consists of monitoring studies on the status of the fur seal herds, basic population dynamics studies, as well as behavioral and ecological research in accordance with the provisions of the Interim Convention on Conservation of North Pacific Fur Seals. St. George Island has not been established for an indefinite period as a no-harvest research control area for comparative studies with the harvested fur seal population on St. Paul Island.

The pinniped and cetacean programs are aimed primarily at assessing the status of the stocks and obtaining life history information about such species as the bowhead, killer, gray, and humpback whales; commercially harvested species of large whales; and California sea lions. Although the primary geographic area of concern is the North Pacific Ocean including the Bering and Chukchi Seas and the Arctic Ocean, the Marine Mammal Division maintains an interest in marine mammal research throughout the world.

Northern Fur Seal Program

Long-term objectives of the northern fur seal program are to determine what measures may be necessary to make possible maximum sustainable productivity and to determine the relationship between fur seals and other living marine resources.

Population assessment studies being carried out are designed to build a data base on population structure essential to management of the resource. Included are counts of living adult males and of dead pups on land, determination of the number of pups born, and the age composition of harvested seals.

Behavioral research on St. George and St. Paul Islands involves the identification and quantification of behavioral components that may act to control population size. Studies include experiments on the length and regularity of female feeding cycles and on the female estrus cycle. The program is also designed to reveal the optimum ratio of males to females. Radio telemetry is used to define the movement patterns of subadult males on hauling grounds, and the diving and feeding effort of female fur seals on normal feeding excursions is measured using depth-time recorders.

Population assessment and behavioral research are correlated to determine how survival relates to changes in abundance of the fur seal population in order to determine an optimum population level.

Pelagic data collected from 1958 through 1974 are being analyzed. Specific subjects include distribution and abundance, feeding habits, age, growth, intermixture of fur seals of different origins, and age-specific pregnancy rates. The results are essential for calculating the productivity of the fur seal resource and as input into an analysis of ecosystem dynamics.

A program of physiology and medicine involves a determination of causes of death among pups, development of new methods of marking fur seals, and research on the infectious diseases of fur seals.

Pinnipeds of the U.S. Pacific Coast

Biological and population studies are being carried out on the six species of pinnipeds that haul out on San Miguel Island, one of the Channel Islands off Southern California. Special attention is focused on determining the cause of premature births in California sea lions. The number of fur seal pups counted in Adams Cove, San Miguel Island, increased to 417, an increase of 88 over 1975. On Castle Rock, 521 pups were counted, an increase of 125 over the 1975 count.

A long-term study of the Hawaiian monk seal was begun in 1976. Included were studies of behavior and biology, and counts to determine population trends. Two surveys were carried out in 1976 during which 695 animals were counted. Populations at French Frigate Shoals, Laysan Island, and Lisianski Island appear stable; however, those at Pearl and Hermes Reef, Midway, and Kure have declined since the late 1950's.

Marine Mammals of the Arctic Ocean and Bering Sea

Arctic Ocean and Bering Sea studies emphasize assessment of the bowhead whale populations and the effect of the Eskimo harvest on the populations. Information on the distribution and abundance of marine mammals in the Gulf of Alaska, Bering Sea, Chukchi Sea, and Beaufort Sea is collected under the Outer Continental Shelf Environmental Assessment Program sponsored by the Bureau of Land Management.

Cetaceans

Population studies of protected and exploited whales such as sei, minke, and sperm whales, especially in the North Pacific Ocean, are made to develop the data base for management recommendations to the International Whaling Commission. Estimates of stock sizes of large whale species are developed through censuses, whale observation and marking cruises, and analysis of catch and effort statistics. Under this program are the annual gray whale census off Pt. Loma, Calif., the cooperative killer whale survey in Puget Sound, Wash., and humpback whale surveys in southeastern Alaska and Hawaii.

FUNDING

The FY 1977 Marine Mammal Conservation total budget is 97 positions and $5,934,000. The FY 1977 totals include: in MMPA appropriations, 77 positions and $4,445,000 for research, administration, enforcement, and an expanded Tuna-Porpoise Observer Program, in accordance with the provisions of the Act and recent Court Orders; in Fur Seal Act appropriations, 14 positions and $595,000 for research and management associated with the North Pacific Fur Seal herds; in Endangered Species Act appropriations, 6 positions and $294,000 for research and enforcement associated with large whales protected under the Endangered Species Act; and Saltonstall-Kennedy funds in the amount of $600,000 for tuna-porpoise surveillance. Because the MMPA appropriation exceeds the Authorization Limit as stipulated in the Act, NOAA is requesting relief legislation to increase the MMPA Authorization Limit.

The FY 1978 base funding for Marine Mammal Conservation as anticipated will be 97 positions and $5,334,000. Additional positions and funding are being requested for FY 1978 to expand tuna-porpoise research, in the amount of 1 position and $206,000. The anticipated FY 1978 total will include Marine Mammal Protection Act appropriations, 78 positions and $4,651,000; Endangered Species Act appropriations of 6 positions and $294,000; and Fur Seal Act appropriations of 14 positions and $595,000. The FY 1978 total will be 98 positions and $5,540,000 for Marine Mammal Conservation providing that the Increase Request receives favorable Congressional action (appendix C).

PART III. CURRENT STATUS OF STOCKS OF MARINE MAMMALS

INTRODUCTION

Of the approximately 108 species of pinnipeds and cetaceans throughout the world, status reports have been prepared for 69 species which are of primary concern to the United States and which are the responsibility of the Secretary of Commerce under the terms of the Marine Mammal Protection Act. The Act requires a report not only on the status of each marine mammal species, but also on the population stocks. The population stocks of only a few marine mammals have been delineated, and the effort needed to obtain information on most population stocks is beyond the scope of research being carried out at the present time.

Information about each species is summarized under six major headings.

They are distribution and migration, abundance and trends, general biology, ecological problems, allocation problems, and current research. Selected references are listed at the end of each species discussion. Summary information on existing protective regulations for marine mammals is also included.

References are not cited in the report except for the paragraph on abundance and trends. Because of the importance of data on abundance and trends, information in this section is cited and citations are given in the list of references. Data on the abundance of marine mammals are difficult and costly to obtain. Except for a few species which have been harvested commercially, such as large whales and fur seals in the North Pacific Ocean, abundance data are usually inadequate for management purposes.

A list of scientists who have assisted either by providing information or reviewing the status reports is included in this report.

SPECIES LIST

The following species list indicates the scientific and common names of the 69 species of marine mammals for which status reports have been prepared. The common names used by Rice and Scheffer (1968) for pinipeds, mysticete cetaceans and the sperm whale have been adopted for this list. Odontocete cetacean common names (other than the sperm whale) have been adopted from Mitchell (1975).

The scientific names of several species have been changed since publication of the 1976 edition of this report. Three species of seals, formerly placed in separate genera, have been merged with the genus *Phoca* (Burns and Fay, 1970). The spelling of the specific names of four species is corrected to conform with their original spelling, as required under the International Code of Zoological Nomenclature. Accordingly the following changes have been adopted in this report:

Pusa hispida becomes *Phoca hispida*
Histriophoca fasciata becomes *Phoca fasciata*
Pagophilus groenlandicus becomes *Phoca groenlandica*
Arctocephalus philippi becomes *A. philippii*
Ommatophoca rossi becomes *O. rossii*
Phocoenoides dalli becomes *P. dallii*
Berardius bairdi becomes *B. bairdii*

Two scientific names are currently used for the sperm whale (*Physeter catodon* and *P. macroephalus*). While Husson and Holthuis (1974) indicate that *P. macrocephalus* is the valid name, considerable controversy remains. Therefore, for the purposes of this report, *P. catodon* will continue to be used.

ORDER CARNIVORA (INCL. "PINNIPEDIA")

FAMILY OTARIIDAE

Zalophus californianus californianus (California sea lion)
Eumetopias jubatus (northern sea lion)
Callorhinus ursinus (northern fur seal)
Arctocephalus pusillus pusillus (South African (Cape) fur seal)
Arctocephalus australis (South American fur seal)
Arctocephalus philippii (Juan Fernandez fur seal)
Arctocephalus townsendi (Guadalupe fur seal)

FAMILY PHOCIDAE

Phoca hispida (ringed seal)
Phoca vitulina (harbor seal)
Phoca groenlandica (harp seal)
Phoca fasciata (ribbon seal)
Halichoerus grypus (gray seal)
Erignathus barbatus (bearded seal)
Cystophora cristata (hooded seal)
Monachus tropicalis (Caribbean monk seal)
Monachus schauinslandi (Hawaiian monk seal)
Lobodon carcinophagus (crabeater seal)
Ommatophoca rossii (Ross seal)
Hydurga leptonyx (leopard seal)
Leptonychotes weddelli (Weddell seal)
Mirounga leonina (southern elephant seal)
Mirounga angustirostris (northern elephant seal)

ORDER CETACEA, SUBORDER MYSTICETI

FAMILY ESCHRICHTIIDAE

Eschrichtius robustus (gray whale)

FAMILY BALAENOPTERIDAE

Balaenoptera acutorostrata (minke whale)
Balaenoptera edeni (Bryde's whale)
Balaenoptera borealis (sei whale)
Balaenoptera physalus (fin whale)
Balaenoptera musculus (blue whale)
Megaptera novaeangliae (humpback whale)

FAMILY BALAENIDAE

Balaena glacialis (black right whale)
Balaena mysticetus (bowhead whale)

ORDER CETACEA, SUBORDER ODONTOCETI

FAMILY PLATANISTIDAE

Platanista gangetica (Ganges susu, Ganges river dolphin)
Platanista minor (Indus susu, Indus river dolphin)

FAMILY DELPHINIDAE

Steno bredanensis (rough-toothed dolphin)
Tursiops truncatus (bottlenosed dolphin)
Stenella longirostris (spinner dolphin)
Stenella attenuata [*frontalis, graffmani*, and *dubia* (spotted dolphin)]
Stenella plagiodon (Atlantic spotted dophin)
Stenella coeruleoalba (striped dolphin)
Delphinus delphis (common dolphin)
Lagenodelphis hosei (Fraser's (Sarawak) dolphin)
Lagenorhynchus albirostris (white-beaked dolphin)
Lagenorhynchus acutus (Atlantic white-sided dolphin)
Lagenorhynchus obliquidens (Pacific white-sided dolphin)
Lissodelphis borealis (northern right whale dolphin)
Grampus griseus (Risso's dolphin)
Peponocephala electra (melon-headed whale)
Feresa attenuata (pygmy killer whale)
Pseudorca crassidens (false killer whale)
Globicephala melaena (long-finned pilot whale, pothead, blackfish)
Globicephala macrorhynchus (short-finned pilot whale)
Orcinus orca (killer whale)
Phocoena phocoena (harbor porpoise)
Phocoenoides dallii (Dall's porpoise)

FAMILY MONODONTIDAE

Delphinapterus leucas (white whale, beluga, belukha)
Monodon monoceros (narwhal)

FAMILY PHYSETERIDAE

Physeter catodon (sperm whale)
Kogia breviceps (pygmy sperm whale)
Kogia simus (dwarf sperm whale)

FAMILY ZIPHIDAE

Berardius bairdii (Baird's beaked whale)
Ziphius cavirostris (Cuvier's beaked whale)
Hyperoodon ampullatus (Northern bottlenose whale)
Mesoplodon mirus (True's beaked whale)
Mesoplodon europaeus (Gervais' beaked whale)
Mesoplodon ginkgodens (ginkgo-toothed whale)
Mesoplodon carlhubbsi (Hubb's beaked whale)
Mesoplodon stejnegeri (Stejneger's beaked whale)
Mesoplodon bidens (Sowerby's beaked whale)
Mesoplodon densirostris (Blainville's beaked whale)

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STATUS REPORTS

CALIFORNIA SEA LION

(Zalophus californianus californianus)

Distribution and Migration: This subspecies of the California sea lion ranges along the west coast of Mexico from about lat. 19° N. to southern British Columbia, Canada. The California sea lion breeds on some Gulf of California islands northward to San Miguel Island, California, in lat. 34° N. Many adult and subadult males move northward along the California, Oregon, Washington, and British Columbia coasts after the breeding season. Feral animals which have escaped from captivity are being reported in the southeastern U.S. (including the Gulf of Mexico) but there is yet no evidence for breeding (Caldwell, D. K., pers comm., 1974).

Another subspecies occurs on the Galapagos Islands, and still another, formerly found in Japanese waters, from 34° to 37° N. is now extinct.

Abundance and Trends: The California Department of Fish and Game censuses indicate that the California sea lion population reached a low level in the early 1930's in California waters, then made a steady recovery and apparently leveled off about 1961 with little variation in the counts since then (Ripley, Cox, and Baxter, 1962; Carlisle and Aplin, 1971). Rice, Kenyon, and Lluch (1965) counted 16,150 California sea lions on Guadalupe, San Benito, and Cedros Islands, Mexico, in January and February 1965. Orr, Schoenwald, and Kenyon (1970) counted this species in the Gulf of California between 1960 and 1968, and made counts on six islands of about 5,400 animals in April 1966. Brownell, et al. (1974) state they made

counts in 1968 of 15,467 on four islands off Baja California. Odell (1971) obtained minimum counts of 34,382 California sea lions on all Channel Islands in June 1964. Peterson and LeBoeuf (1969) estimated that 40,000 animals were ashore on San Nicholas and San Miguel Islands during the 1967 and 1968 breeding seasons. Carlisle and Aplin (1966) obtained a total count in California of 22,000 animals in 1965, using aerial photography. The preceding figures indicate a total population of about 60,000 with near 20,000 animals in Mexico and 40,000 in the United States.

During the nonbreeding season, 2,500 *Z. californianus* may be found in Oregon, 500 in Washington, and 1,000 in British Columbia (Mate, 1975).

On 25 February 1972, 430 California sea lions were counted in Barkley Sound off Vancouver Island, 35 on Race Rocks off Victoria, B.C., and 10 in Dodds Narrows (lat. 49 07' N.) near Nanaimo, B.C. (Bigg, 1973).

Before passage of the Marine Mammal Protection Act by the U.S. Congress, California sea lions were taken by State permit each year for sale to zoos, oceanaria, and circuses. Daugherty (1972) states that 400 of these animals were taken in 1969 and 580 in 1970.

General Biology: Species Statistics.—The adult male grows to 2.1 m and 273 kg; the adult female to 1.8 m and 91 kg. Newborn pups are about 0.8 m long and weigh 5.4 to 6.4 kg.

Reproductive Data.—On San Nicolas Islands, the pupping season begins about 15 May and lasts about 5 weeks, with the peak during the first week in June. The females usually breed 15 to 30 days after parturition, and the mother and pup may remain together the first year. The males establish and defend breeding territories on land; the females move about freely.

Age-Growth Data.—California sea lions have lived 18 to 20 years in captivity.

Feeding Habits.—The California sea lion's food is squid, octopus, and a variety of fish such as herring, sardines, rockfish, hake, and ratfish.

Parasites and Diseases.—During the past 2 or 3 years an apparent increase in premature births and in the mortality rate of subadults and young adults has occurred. Three potential causes have been isolated: (1) chemical residues (polychlorinated biphenyls, DDT, and metabolites); (2) a bacterium (*Leptospira*); and (3) a virus. The greatest single cause of death in wild and captive animals is lungworm. Animals in captivity have also died from pleuropneumonia, pneumonia, and enteric infections, diseases which may also occur in wild populations.

Ecological Problems: Killer whales and large sharks are known to prey upon sea lions. Possibly there is some competition with other otariids for food and hauling grounds. California sea lions associated with certain hauling grounds and rookeries have practically abandoned these areas because of harassment by man. Although most major populations of sea lions are now on sites not easily reached by the public, a few areas, such as the Monterey Bay breakwater in Monterey, California, are used extensively as hauling grounds by California sea lions and are visited frequently by tour boats. The latter sometimes pass within 10 m of the hauling grounds.

Allocation Problems: A history of conflict exists between people for and against complete protection of this species. Some conservation groups would like complete protection for the California sea lion while some fishermen want the number of California sea lions to be controlled. California sea lions are probably the most widely sought-after species of eared seals in the world for public display.

Current Research: The National Marine Fisheries Service conducts research on this species on San Miguel Island off California. The following organizations are conducting research on the California sea lion: University of California, Santa Cruz, California; University of California, Berkeley, California; California Academy of Science, San Francisco, California; Humboldt State College, Arcata, California; and Fisheries Research Board of Canada, Nanaimo, B.C.; Naval Undersea Center, San Diego, California; Navy Biomedical Research Laboratory, Oakland, California.

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NORTHERN (STELLER) SEA LION

(*Eumetopias jubatus*)

Distribution and Migration: The northern sea lion is found in continental shelf water from the Sea of Japan and northern Honshu, Japan, northward around the North Pacific Ocean rim to the Okhotsk and Bering Seas and southward to the California Channel Islands. Some seasonal movements occur in parts of its range. Examples of such movements are differences in the winter and summer distribution of these animals in the Bering Sea, and the postbreeding movements in central California.

Abundance and Trends: Mate (1976) estimated a world population of 250,000 to 325,000. Alaska has 202 known rookeries and hauling grounds. The Alaska population has increased considerably since the early 1900's and now exceeds 200,000 and may be near maximum levels in many areas (Alaska Department of Fish and Game, 1973). Since 1964, several thousand pups have been harvested annually in Alaska until 1973 when the Marine Mammal Protection Act became effective; 6,546 were taken in 1972.

The population of sea lions in British Columbia waters was estimated at 11,000 to 12,000 from an aerial census in 1956–57. The authorities undertook a heavy reduction program in 1959 and 1960, and the population was reduced to about 4,000 animals in 1969 (Banfield, 1974). The breeding population is estimated to be 5,000 by Fisher and Brenton (cited in Mate, 1976).

Kenyon and Scheffer (1962) made six aerial and one surface survey along the Washington coast between 1949 and 1959 and stated that the population did not exceed 500. Mate (1975) revised this estimate to be 600. Pearson and Verts (1970) estimated the Oregon population at 1,078. Mate (pers. comm., 1975) estimated the Oregon breeding population at about 2,000 animals. The California Department of Fish and Game makes periodic aerial censuses of sea lions in California, Carlisle and Aplin (1971) have given the following figures for sea lions in California north of Pt. Conception: (1958) 7,053; (1961) 6,675; (1965) 4,998; (1969) 7,156, and (1970) 5,189. They consider these to be northern sea lions, although small numbers of California sea lions were known to occur north of Pt. Conception at the time the census was made.

The northern sea lion ranges to the Channel Islands group south of Pt. Conception. In the Channel Islands, the population peaked at about 2,000 in the late 1930's and has declined since (Bartholomew, 1967). In 1975, the San Miguel Island population was estimated by DeLong (pers. comm.) at 30 to 35 plus a few pups.

General Biology: Species Statistics.—The adult males grow to 3.0 m in length and over 900 kg in weight. The adult females reach 2.0 m and almost 300 kg. Newborn pups weigh 16 to 23 kg, are 89 to 102 cm long, and have a dark chocolate-colored pelage.

Reproductive Data.—Northern sea lions favor isolated locations with some shelter, free access to the sea, and freedom from human harassment. Colonies may become established on rock outcrops and boulder, cobblestone, and coarse sand beaches.

Males may mature sexually by age 5 years, but hold breeding territories first at age 7 or 8. Females can first produce young at age 5 or 6, and breed 10 to 14 days after parturition. The adult male maintains a territory 40 to 60 days and fasts throughout the period. The harems consist of 10 to 30 cows. The female is aggressive toward other females for several days after her pup is born.

Age-Growth Data.—The pup sheds its dark chocolate birthcoat for the tan pelage in the autumn of birth. Some pups remain with their mothers the first year. They have been known to live 17 years in the wild.

The northern sea lion has only a few predators besides man—the killer whale and one or two species of large sharks.

Feeding Habits.—The northern sea lion eats a variety of fish and cephalopods. A study of 382 stomachs indicated the following diet: squid, octopus, sand lance, rockfish, clams, crabs, flounder, halibut, greenling, and lumpfish.

Ecological Problems: Northern sea lions in some areas may compete with other pinnipeds for spaces on rookeries and hauling grounds. Some animals have abandoned their rookeries and hauling grounds because of excessive disturbance by humans.

Allocation Problems: Northern sea lions have damaged gear and destroyed fish in the halibut longline, salmon purse-seine, gillnet, and troll fisheries. In recent months, the Alaska Department of Fish and Game has received increasing numbers of gear damage complaints from fishermen with respect to the northern sea lion (J. Vania, pers. comm., 1974). The species has also destroyed herring in herring traps and has been accused of biting and sinking inflated plastic buoys used to mark crab pots. This species has considerable esthetic and recreational value.

Current Research: This species has its center of abundance in Alaska where the Alaska Department of Fish and Game's management and research investigations have been directed primarily at determining abundance and distribution, and the effects of harvesting operations on rookery populations. A marking program began in 1975, and an aerial survey program in 1976. The University of California, Santa Cruz, is also conducting research on the species off California.

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NORTHERN FUR SEAL

(*Callorhinus ursinus*)

Distribution and Migration: Most of the animals are on their breeding grounds from May through November to bear young and to breed. They otherwise are found at sea along the continental shelf from the Bering Sea south along both sides of the North Pacific Ocean to lat. 32° N. Some intermingling of eastern and western Pacific populations occurs at sea and on land, primarily among males younger than age 6 years.

Abundance and Trends: A program of reducing the population of Pribilof Islands fur seals was begun in 1956 with the expectation that the rate of survival would improve (Roppel, et al., 1963) and result in an increased yield of pelts. By 1968, it had become evident that the herd had been reduced to a level somewhat below that of maximum sustainable yield, and that an increase in the number of pups born was desirable. Thus, female fur seals have not been harvested commercially on the Probilof Islands since 1968 with the expectation that the population would increase. However, less than average survival of several year classes, the cause of which is not understood, has prevented the expected increase.[1] In 1975 the number of pups born was estimated to be 361,000, and in the past the maximum yield of furs was produced when about 400,000 pups were born.

Apparently the Commander Islands fur seals have not become reestablished on a considerable portion of their original rookery area. Consequently, this population should increase to a higher level. It is likely that the Robben Island population is near the maximum. Johnson (1972) estimated the abundance of northern fur seals by breeding islands, as follows:

Location of fur seal rookeries:

	In thousands
Pribilof Islands	1,300
San Miguel Islands	2
Commander Islands	265
Robben Island	165
Kuril Islands	33
Total	1,765

General Biology: Species Statistics.—The adult male weighs 227 to 318 kg, and the female 36 to 59 kg. Newborn pups average 4.5 (female) and 5.4 kg (male). The male is polygynous and establishes his territory in late May and early June.

Age-Growth Data: Pups shed their birthcoat in late summer for the adult pelage. The females reach 23 kg. in weight by age 4 years, or 46 percent of their average adult size of 50 kg. They become sexually mature by age 3–5 years.

[1] An average of 48,000 males were harvested annually in 1956–72, while the average was 65,000 annually from 1939 to 1955.

The males weigh 25–35 kg. by age 4 years, then experience major growth adding approximately 200 kg. of weight by age 10. Males are sexually mature as young as age 4–5 years but do not become members of the organized breeding structure until age 10. Females have been observed to reach 22 years, whereas few males live longer than 15 years.

Reproductive Data.—Most of the pregnant females arrive on the rookeries in late June and early July, when they form harems of 1 to 100 females to 1 adult male. Within 3 days of her arrival, the female bears a single pup (twins are rare), breeds 2 to 5 days later, then begins nursing-feeding cycles of 2 days on land and about 8 days at sea within a 200-mile radius. Implantation of the blastocyst is delayed until November. Most of the males first breed a age 10, and few live longer than 15 years.

General Behavior.—Immature fur seals arrive on the breeding grounds in descending order of age, the males beginning in mid-June and the females in late July. Some 1-year-olds haul out in September and October, but most fur seals return first at age 2. Most of the animals have left the rookeries by December. The adult males winter in northern waters, pregnant females usually migrate as far south as southern California, and young animals of both sexes are found throughout that range.

Diseases and Parasites.—The main causes of death among pups on the rookeries are, in order of importance: emaciation-malnutrition syndrome, hookworm disease, bacterial infections, leptospirosis (perinatal hemorrhagic syndrome), and injuries. Pathogenic bacteria thus far isolated include: *Clostridium perfringens, Proteus mirabilis, Salmonella enteriditis,* and *Leptospira* sp. A psittacosis group chlamydia has been reported, but the clinical syndrome caused by the agent has not been described. A calcivirus, indistinguishable from vesicula exanthema of swine virus, has been found associated with vesicles on the flippers and may be related to emaciation syndrome.

The fur seal has filariid worms, stommach ascarids, intestinal flukes, cestodes, hookworms, and acanthocephalans, and nasal mites, but no heart or lungworms. Hookworms and sucking lice parasitize the newborn.

Feeding Habits: The fur seal is an opportunistic feeder taking squid and a variety of fishes including herring, anchovy, salmon, capelin, saury, walleye pollock, and mackerel.

Ecological Problems: Northern fur seals concentrate within their body tissues contaminants such as pesticides and heavy metals. For example, mercury compounds have been found in fur seal liver. The effect of contaminants on the health of fur seals is unknown. Predators include sea lions, sharks, and killer whales. Some competition may exist between fur seals, other pinnipeds and sea birds (Lander and Kajimura, 1976).

Allocation Problems: In the North Pacific Ocean and Bering Sea, fur seals and commercial fisheries may compete for the same species of fish. Harvesting of fur seals on the Pribilof Islands has been criticized in recent years by animal protection organizations that would prefer esthetic and educational rather than economic use of the resource.

Current Research: Long-term research is financed and carried out by the Governments of Japan, Canada, the U.S.S.R., and the United States. Short-term projects are frequently carried out on the Pribilof Islands by university professors or graduate students.

In 1973 St. George Island was designated by the North Pacific Fur Seal Commission as an area of intensive research where no commercial harvest would take place for some years. An expanded research program on St. George Island began in 1973.

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SOUTH AFRICAN (CAPE) FUR SEAL

(Arctocephalus pusillus pusillus)

Distribution and Migration: The South African fur seal breeds on the mainland and coastal islands of southern Africa from Cape Cross (South West Africa) to Algoa Bay (South Africa). This species shows no definite seasonal migration, but disperses widely while feeding. A marked adult was seen in deep-sea trawling grounds 450 miles from its birthplace. Young seals in their first year (November to October) frequent protected bays and areas near their places of birth. (Another race, *A. pusillus doriferus,* occurs in southeastern Australia and Tasmania.)

Abundance and Trends: Rand (1972b) estimates about 19,500 mature territorial males and about 273,000 mature females on mainland and island rookeries of the Republic of South Africa. Best (1973) estimates that from 250,000 to 300,000 South African fur seal pups are born each year in the Republic of South Africa and South West Africa. Shaughnessy (1975) has reviewed the estimates of Best (1973) and revised them downward to between 211,000 and 213,000 pups. Assuming the number of pups to be ¼ the population, Shaughnessy estimates the total population to be 850,000 animals. First-year pups (about 9 months) and a small (unknown) number of second-year animals of either sex are harvested in the winter (June-September), although all cow seals are protected (Rand, 1972b). In 1950 the winter harvest totaled 27,289 pups and has increased to 76,694 in 1971 (Laws, 1973). The summer kill of surplus adult males (October–December) has declined from 3,000 in the early 1950's to 812 in 1969 (Rand, 1972b).

General Biology: Species Statistics.—The adult males weigh 204.2 to 363 kg and grow to 2.3 m long; females weigh 90.7 to 122.0 kg and are 1.5 to 1.8 m long. At birth the pup is about 0.76 m long and averages 6.4 kg.

Reproductive Data:—In late October, when most of the older pups are weaned, the first adult males come ashore to establish territories and harems; pregnant females arrive about a week later. In November and early December, the female bears a single pup (twins are rare), mates 5 to 6 days later, then leaves its pup for the first time and feeds for 1 to 2 days at sea. Subsequent nursing-feeding cycles extend to 4 to 5 days on land and 7 to 10 days at sea. Implantation of the blastocyst in the uterus is delayed until April or May. Thus, gestation is 7 to 8 months, but may be longer for some females that mate for the first time in their second year.

Age-Growth Data.—Adults of both sexes molt on land (14 days duration) a few weeks after the breeding season, usually during March. The pups also shed their natal hair and milk teeth at this time and acquire the olive-gray coat of the yearling. The copper-colored underfur also becomes obvious.

Weaning is well advanced by September and October, although undisturbed mother-pup relationships may prolong weaning.

Feeding Habits.—Food consists of fish, cephalopods, and various small crustaceans.

Ecological Problems: Sharks and killer whales are natural predators. On the desert coast, the black-backed jackal is a predator on pups.

Allocation Problems: Local fishermen engage in scattered and illegal killing of seals, contending that the animals interfere with their expanding purse-seine fishery. Seals occasionally feed on fish protruding through the meshes of otter trawl nets or taken by line fisheries.

Current Research: A recently expanded research program is carried out by the South African government to measure herd size, production, annual recruitment, natural and harvest mortality, and movements.

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SOUTH AMERICAN FUR SEAL

(Arctocephalus australis)

Distribution and Migration: Two major populations of the South American fur seal, identifiable only by size, are found, one on the Falkland Islands (Islas Malvinas) and the other on coastal Uruguayan Islands. Minor populations of this species occur in Argentina, Chile, and Peru. The adults are on the Uruguayan breeding grounds in November and December, and offshore up to 200 miles east on the edge of the continental platform during the austral winter. An extreme northern record for the South American fur seal was of one identified at Rio de Janeiro, Brazil.

Abundance and Trends: In 1972, the Uruguayan population was estimated at 252,000. This population grew from an estimated 129,000 in 1960 to an estimated 174,000 in 1965. According to Strange (1973) the 1965–66 population on the Falkland Islands was 15–Z16,000. From a census taken in 1976, Chile reports a population of 40,000. The data on the Argentine population were collected in 1954 and are given as 2,700. (Advisory Committee on Marine Resource Research, 1976)

General Biology: Species Statistics.—Adult males on the Falkland Islands grow to 159 kg, whereas those in Uruguay reach only 136 kg; the females weigh 33 to 48 kg. The males are blackish-gray; the females and immature animals vary but usually have a silvery-gray neck and back and a yellow tint to the belly.

Reproduction Data.—Males are polygynous and establish territories in early November. Most of the pregnant females arrive on the rookeries in mid-November, and form small harems of about six animals. Within 6 to 7 days, each female bears a single pup and breeds 2 to 3 days later. Most males breed at age 7 years and the females at age 3 years. Uterine implantation of the blastocyst probably occurs in March. Gestation, including the period of delayed implantation, lasts nearly 1 year.

Age-Growth Data.—Most of the animals leave the rookeries during the austral winter. On the rookeries, the fur seals are in close contact with South American sea lions, *Otaria flavescens.* Main causes of death in order of importance are from sporadic storms, which wash large numbers of pups out to sea; the seven-gilled shark; and probably the killer whale, which is common around the larger rookeries.

Feeding Habits.—Brownell cited in Vas-Ferreira (1976) examined 13 stomachs and found remains of anchovies, mackerel, and sea bass.

Parasites and Diseases.—The South American fur seal has nasal mites and 10 species of endoparasites, but no heart or lung worms.

Ecological Problems: Offshore oil wells are planned in the near future and may result in an ecological hazard.

Allocation Problems: The species has esthetic, educational, and economic values. The Government of Uruguay annually harvests about 12,000 male fur seals on the islands.

Current Research: Long-term research on this species is carried out by the Governments of Uruguay and Argentina. In addition, short-term projects are carried out by the Natural History Museum of Montevideo and the Smithsonian Institution.

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JUAN FERNANDEZ FUR SEAL

(Arctocephalus philippii)

Distribution and Migration: This seal is known to occur only on the Islas Juan Fernandez (360 and 440 miles west of Valparaiso, Chile) and Islas San Felix (500 miles west of Caldera, Chile). The two groups are 500 miles apart. It is not known elsewhere, and migratory movements are unknown.

Abundance and Trends: In the late 18th and early 19th centuries the population on the Islas Juan Fernandez may have numbered 3 to 3½ million, but was reduced to the point of commercial extinction. Although there were occasional reports of its existence, the species had been regarded as probably extinct since the early 20th century. In 1965 its survival was confirmed (Aguayo, 1971). Aguayo (1973) estimates 700 to 800 seals now occur in the Islas Juan Fernandez. The trend in numbers is increasing. Seals were formerly common on the Islas San Felix; despite several searches, only two seals have been seen there in recent years (Hubbs and Norris, 1971).

General Biology: The biology of this species is little known. Few specimens have been taken, and no studies made. It is now known to breed only on the Islas Juan Fernandez. Pupping occurs in December. The habitat of the Juan Fernandez seal is similar to that utilized by the Guadalupe seal.

Species Statistics: In the genus *Arctocephalus,* this species is second in size to *A. pusillus.* One male taken in November 1968 was 201 cm long and weighed an estimated 159 kg.

Reproductive Data: No study has been made.

Age-Growth Data: No study has been made.

Ecological Problems: None known.

Allocation Problems: Although the species has been given complete protection by Chilean law since 1965, local fish-

ermen may still kill some seals for lobster bait.

Current Research: None known.

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GUADALUPE FUR SEAL

(*Arctocephalus townsendi*)

Distribution and Migration: The distribution of *A. townsendi* in the 18th and 19th centuries is unknown. The Guadalupe fur seal was believed extinct during two periods (1895–1926; 1928–49). One adult male was observed on San Nicolas Island in 1949, and breeding animals were rediscovered at Guadalupe Island in 1954. Subsequently, individual animals have been reported at Cedros Island, Baja California, and adult and immature males have been sighted on San Miguel Island each year since 1968.

Abundance and Trends: The last Guadalupe fur seal was commercially harvested from the islands of southern California and Baja California in 1894. The populations of Guadalupe fur seals on the Guadalupe and San Benito Islands apparently once numbered in the thousands. Rice, et al. (1965) counted 285 of these mammals on Guadalupe Island and suggested that the population was growing rapidly and may contain as many as 600 animals, including those in the water. Peterson, et al. (1968) counted 372 animals in April 1966. In June 1968, 314 individuals including pups were observed on Isla de Guadalupe (Brownell, et al., 1974). 355 individuals were counted in June and July 1976 by Fleischer (pers. comm.).

General Biology: Biological information on this species is scarce. Specimens have not been collected since their recent rediscovery.

Species Statistics.—The males are almost 1.8 m long and weigh about 136 kg. Males appear somewhat smaller and females considerably larger than *Callorhinus ursinus*. *A. townsendi* can be separated from *C. ursinus* by its narrow, pointed muzzle and the extension of pelage beyond the wrist onto the dorsum of the foreflipper. It is separated from *Zalophus californianus* by its distinctive underfur.

Reproductive Data.—The pups are born in June and July. Although breeding has not been observed, a postpartum estrus probably occurs, which would extend the breeding period into August. The adult males establish territories in isolated caves or recesses that have access to the sea or among large boulders close to the splash zone. Single or small groups of breeding territories are distributed along 20 km of the eastern shoreline of Guadalupe Island. The harems contain 1 to 10 females.

Age-Growth Data.—The adult males apparently spend considerable time at sea; most sightings of males on other islands have occurred during the nonbreeding season, but since 1973 males have been observed at San Miguel Island during the breeding season. The females may not migrate long distances from Guadalupe Island.

Ecological Problems: Increasing numbers of human vistors to Guadlupe Island are subjecting the animals to more disturbance. Because they breed only on Guadalupe Island, the seals need complete protection from undue disturbance and habitat modification.

Allocation Problems: None known.

Current Research: The University of California makes periodic censuses of this species. In 1976, the University of Washington and NMFS, Marine Mammal Division, will begin a study of the species.

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HARBOR SEAL

(*Phoca vitulina*)

Distribution and Migration: The harbor seal is found in the North Atlantic Ocean from the ice pack south to France and Georgia and in North Pacific Ocean waters from the Arctic Ocean south to Baja California and southern Japan and Korea. Populations that breed on the ice in the Bering and Okhotsk seas are distinct from those that breed on land. *Phoca vitulina largha*, the ice inhabiting form, lives in the seasonal pack ice in winter and spring, bearing and nurturing its pup there, and moves toward the coasts when the ice retreats. *P. v. largha* is often regarded as an independent species. The coastal forms (*P. v. richardii* and *P. v. kurilensis* in the North Pacific; *P. v. vitulina* and *P. v. concolor* in the North Atlantic) are more sedentary. The harbor seal is the predominant nearshore seal in ice-free waters north of lat. 35°N.

Abundance and Trends: Overall, the world population of harbor seals appears to be high and stable. About 750,000 are present in the North Pacific area (Alaska Department of Fish and Game, 1973; Bigg, 1969; Chapskii, 1966) and about 150,000 in the European North Atlantic region (Chapskii, 1966). Popov (1976) estimates the Bering Sea supports 135,000 largha seals.

General Biology: Species Statistics.—Harbor seals of all subspecies are of medium size; large adults of both sexes are from 160 to 180 cm long and weigh about 130 to 150 kg. Pups weigh from 9 to 12 kg, and are about 80 to 90 cm long at birth. Pups of ice-inhabiting harbor seals are born with white coats, whereas those of the coastal form possess dark coats. Coloration in the adults varies considerably; the background varies from creamy white to dark brown with irregular dark brown blotches.

Reproductive Data.—Adults of the ice-inhabiting form pair in March for the duration of the breeding season, and a single pup is born to each pair on the ice, usually in March or April. Adults of the coastal form congregate on islets and also bear a single pup, usually in April to July. The pups of each form nurse 4 to 6 weeks, in which time the weight is more than doubled. Males of both forms become sexually mature at 4 to 5 years of age; females at 3 or 4 years. Breeding is annual, and the period of pregnancy (including delayed implantation) is about 10.5 months.

Age-Growth Data.—Adults of both forms are gregarious outside the breeding season. The annual molt occurs between August and early November; it proceeds from the posterior to the anterior parts. Predators include the polar bears, walrus, killer whale, and sharks. Golden eagles have been known to prey upon newborn pups resting on sandbars.

Feeding Habits.—The diet of the harbor seal, which varies according to season and location of specific populations, includes primarily pelagic, demersal, and anadromous fishes, cephalopods, and crustaceans. In captivity a single animal eats about 4 kg of fish per day.

This species has been known to dive as deep as 91.5 m for short periods and can remain under water for as long as 23 minutes.

Parasites and Diseases.—Almost all adult seals have anisakid roundworms and corynosomid acanthocephalans, and occasionally, high infestations of anopluran lice. The latter seem associated with filarial heart worms and may be vectors. Toxoplasma has been reported in captive animals, but its presence in wild seals is not verified.

Ecological Problems: In some parts of its range, the harbor seal contributes to high worm infections in fish, notably codfish. This animal is extremely sensitive to disturbance, and may leave an area temporarily or even permanently after continual harassment by people, equipment, or aircraft. Contamination of the environment with pesticides, heavy metals, and other contaminants may be a problem for the land-breeding harbor seal, because it frequently inhabits the relatively closed waters of bays and estuaries where these contaminants are likely to concentrate.

Allocation Problems: These seals damage commercial fishing gear and compete with man for such fish as herring, smelt, whitefish, and salmon.

According to the Alaska Department of Fash and Game, hunting and the harvest of the harbor seal have declined markedly during the past year because of a reduced market for salable products from these species, mainly skins. In southeastern Alaska, the decreased harvest has resulted in additional conflicts between the harbor seal and the fishermen.

Current Research: Ongoing research in California, Washington, British Columbia, Alaska, the U.S.S.R., and Japan is aimed toward the identification of North Pacific populations and describing their distribution and movements, reproductive biology, feeding habits, growth, physiology, and ecology.

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RINGED SEAL

(*Phoca hispida*)

Distribution and Migration: The ringed seal is circumarctic is distribution in the ice pack. In the North Pacific Ocean it is found in the Bering, Chukchi, and Okhotsk Seas and in the permanent ice pack of the Polar Basin. In winter, most ringed seals occupy areas of landfast ice, but nonbreeding adults and juveniles may be found wherever ice occurs. Apparently, animals wintering in the Bering and Chukchi Seas move northward in spring as the ice recedes and southward in autumn as it advances again, whereas those in the Canadian Arctic may reside year-round in the same locality. In western Alaska, the ringed seal is the dominant near-shore seal during months when sea ice is present and is replaced by the harbor seal during ice-free months. A small proportion of the population, mainly juveniles, remains in ice-free areas of the Bering Sea during summer.

Abundance and Trends: Counts of ringed seals on land-fast ice along the northern coast of Alaska made in 1970 (Burns and Harbo, 1972) indicated that the density of resident animals varies from 5.36 per square mile in the Chukchi Sea between Point Lay and Wainwright, to 1.06 per square mile in the Beaufort Sea between Oliktok and Flaxman Island. Overall, the population in the Bering and Chukchi Seas appears high and is probably stable. Estimates of population size made by the Soviets are difficult to evaluate because they recognize three subspecies with overlapping ranges. The Soviets estimate the total population of *P. hispida* at 5 to 6 million (Chapskii, 1966); *p. h. hispida* (North Atlantic and Arctic Oceans) at 2,500,000; *P. h. krascheninikovi* (western Bering Sea) at 12,000; and *P. h. ochotensis* (Okhotsk Sea) at 800,000 to 1,000,000 animals (Fedoseev, 1969, from Bychkov, 1971). The Alaska Department of Fish and Game (1973) estimates the Bering-Chukchi Seas population at about 250,000 ringed seals. The U.S. harvest is now limited to an aboriginal harvest of 9,000 to 13,000 animals. Soviet pelagic sealing is now prohibited in the Bering Sea and limited to a quota of 18,000 pelagic and 7,000 shore animals in the Okhotsk Sea; harvest in the Bering and Chukchi areas is 2,000 to 3,000 animals annually.

General Biology: Species Statistics.—The ringed seal is the smallest of the northern seals. The adults of both sexes grow to about 125 cm in length and 66 kg in weight. A few individuals, usually females, become much larger. The animals undergo marked seasonal changes in weight, being heaviest in mid- to late winter. Newborn pups are 55 to 65 cm long, weigh about 4.0 kg, and bear white coats. Coloration of the adults is variable. Dorsally they may be brown to blueish-black in background with irregular creamy rings with dark centers. The ventral surface may be silvery white to creamy yellow with scattered black spots.

Reproductive Data.—Males become sexually mature at 6 to 8 years of age, females at 5 to 7 years. The ringed seal breeds annually, has a 10.5-month period of pregnancy (including delayed implantation) and is probably monogamous. The males are sexually active between mid-March and mid-May, but they do not collect harems. The females are monestrous, and the oestrous period is postpartum while the females are still lactating. The pups are born from March to about mid-May in a birth lair within an ice pressure ridge or under drifted snow. The females nurse their pups for a full 4 to 6 weeks. A longer nursing period in sheltered northern bays, where snow and ice remain longer, produces larger pups.

Age-Growth Data.—The weight of the pup triples during the nursing period. The annual molt occurs between mid-May and mid-July, but a few molting individuals have been noted as late as 1 September. Maximum longevity exceeds 35 years, but one individual (a male) was 43 years old according to annuli on the dentine layers of its teeth.

Predators of adults include sharks, killer whales, and polar bears. Polar bears and arctic foxes prey upon newborn "whitecoats" in their natural dens, and even the larger and more powerful gulls attack exposed young pups.

Feeding Habits.—Ringed seals tend to be solitary, but congregate in areas favorable for feeding, along extensive tide cracks in land-fast ice, and during seasonal migrations. The diet of these seals varies considerably, depending on their location and water depth. Their diving potential appears to be a depth of 91.5 m and for as long as 20 minutes. In western Alaska, this seal feeds mainly on mysids, amphipods, euphasiids, shrimps, saffron cod, polar cod, and sculpin. These seals fast from April to late June or July during their reproductive and molting seasons.

Parasites and Diseases.—The mammals commonly have internal parasites, including roundworms, acanthocephalans, and anopluran lice.

Ecological Problems: None known.

Allocation Problems: According to the Alaska Department of Fish and Game, hunting and the harvest of the ringed seal have declined markedly during the past year because of a reduced market for salable products from these species, mainly skins.

Current Research: The State of Alaska monitors the Eskimo harvest and conducts some biological research and conjunction with other programs. Canada conducts research on the ringed seal.

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HARP SEAL

(Phoca groenlandica)

Distribution and Migration: The harp seal occurs in pack ice in the North Atlantic and Arctic Oceans from Europe to eastern Canada. In the spring, it migrates south for breeding to the White Sea, to the Greenland Sea north of 73° N, and to southern Labrador, northeastern Newfoundland, and the Gulf of St. Lawrence.

Abundance and Trends: Three breeding stocks of harp seals are known, the eastern (White Sea), central (Norwegian Sea around Jan Mayen Island), and western (Newfoundland). The last is divided into two substocks, one east of Belle Isle on winter pack ice drifting southward—the "Front," and the other in the southern Gulf of St. Lawrence on winter ice formed in situ—the "Gulf." Sergeant (1973 estimates the total eastern Canadian population at 1.3 million. The number of pups born decreased from about 400,000 in 1960 to 300,000 in 1970. The population size in 1970 was less than that giving maximum production, and estimates indicated the 1970 catch was well in excess of the sustainable yield (International Commission for the Northwest Atlantic Fisheries. 1971. Redbook, Part I, Standing Committee on Research and Statistics Proceedings, annual meeting). From an aerial survey, the west Atlantic stocks were determined to be 630–790,000 animals (Lavigne et al, 1975). Ronald et al, 1976, give the following estimates: White Sea, 600,000; Greenland Sea, 100,000; N.W. Atlantic, 1,000,000.

In 1971 the International Commission for the Northwest Atlantic Fisheries banned seal hunting in the Gulf of St. Lawrence from large vessels and from aircraft and set a quota of 150,000 harp seals for the hunt off Newfoundland and Labrador by Canadian and Norwegian nationals.

General Biology: Species Statistics.—The adults grow to about 1.8 m and 135 kg; newborn pups are about 1.0 m long and weigh 11.8 kg.

Reproductive Data.—The females mature at age 4 to 6 year sand bear a single pup annually after a gestation period of about 7.5 months. The pups are born from late January to early April, and are nursed for 10 to 12 days, by which time they have attained a weigh of 38 to 40 kg. Apparently the female can delay birth until there is suitable ice.

Age-Growth Data.—Molting by the pups is completed at 4 weeks. The maximum life span is about 30 years.

Feeding Habits.—Pups feed in surface waters on small pelagic crustaceans and small fish. The food of adults includes capelin, herring, cod, polar cod, flatfish, redfish, skate, barracudina, and various crustaceans.

Ecological Problems: One species of helminth affecting the harp seal is also found in the muscles of groundfish, particularly cod, necessitating expensive removal by hand.

Allocation Problems: The harp seal may eventually conflict with man over capelin stocks as this fishery expands. Several animal protection societies object to the harvest of harp seals.

Current Research: Canadian, Danish, Norweigian, and Soviet Government scientists are studying the population of harp seals. At the University of Guelph, scientists are studying the biology of this mammal.

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RIBBON SEAL

(Phoca fasciata)

Distribution and Migration: Geographically, the ribbon seal is separable into the Okhotsk and Bering-Chukchi Seas populations, and interchanges between these two groups are not known to occur. In the latter group, the center of abundance is in the central Bering Sea. The ribbon seal bears and nurtures its pup on the sea ice. During winter and spring, the entire population is concentrated along the southern edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge as it retreats northward through Bering Strait. In summer and autumn, ribbon seals are believed to be pelagic, mainly in the ice-free Bering Sea.

Abundance and Trends: The population of ribbon seals is relatively low, having been markedly reduced by commercial sealers of the Soviet Union during the 1960s. In recent years the species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. U.S. citizens harvest very few ribbon seals. The Alaska Department of Fish and Game (1973) estimates that the population probably does not exceed 100,000 animals. Soviet estimates indicate a population of 133,000 in the Okhotsk in 1969 (Popov, 1976). Soviet sealers took less than 3,000 ribbon seals in 1973 from Bering and Okhotsk Seas. In Alaska, the native harvest is usually less than 250 per year.

General Biology: Species Statistics.—Adults of both sexes average 155 cm in length and 80 kg in weight. A very large female was 179.7 cm long with a girth of 114.3 cm, had a blubber thickness of 6.1 cm, and weighed 148.2 kgs. The pups are born with white coats.

Reproductive Data.—Pups are born from late March to mid-April and average about 10 kg and 80 cm. Males become sexually mature between 3 and 5 years of age; females between 2 and 4 years of age. The species breeds annually and pregnancy (including delayed implantation) probably lasts 10.5 months. A very large 23-year-old female (see measurements given above) obtained in March was carrying a near-term fetus.

Age-Growth Data.—The pup nurses for about 4 weeks, during which time its weight triples. Maximum longevity is estimated at 26 years.

Feeding Habits.—The diet of these seals during late winter and early spring (in the ice edge zone) includes mainly pelagic and demersal fishes, cephalopods, and small crustaceans.

Parasites and Diseases.—Ribbon seals host anisakid roundworms in the stomach and corynosomid acanthocephalans in the intestine.

Ecological Problems: None known.

Allocation Problems: None known.

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GRAY SEAL

(Halichoerus grypus)

Distribution and Migration: The gray seal inhabits the North Atlantic Ocean, with major populations in eastern Canada, Iceland, and northwestern Europe. Disperson, particularly by pups, from the Canadian breeding colonies in late spring and summer presumably accounts for most of the gray seals seen scattered along the coast of Maine. The tendency for adults to disperse is far less, although they at times make pronounced local movements. One animal tagged in eastern Canada was recently taken off western Norway.

Abundance and Trends: The world population is estimated at 50,000 to 60,000 animals, with about two-thirds of these animals in the British Isles (Bonner, 1972). Because the population estimates for 1956–71 fit a straight-line projection reasonably well, it can be presumed that the population will continue to expand in this manner (Bonner and Hickling, 1974). Platt, Prime, and Witthames (1974) state that the annual increase in the number of births indicates a similar trend in the total population in the Farne Islands. An estimated 5,000 gray seals inhabit Canadian waters. A small colony of 10 to 15 animals was noted in the 1960's on Muskeget Island, Massachusetts.

General Biology: Species Statistics.—Adult males may reach a total length of 300 cm and weigh 290 kg; females are smaller, up to 230 cm and have a weight of 249 kg. The average weight and length of the newborn pups are 13.6 and 0.9 m, respectively. The adult coat is gray with obscure black blotches on the flanks and back, with lighter underparts. The pups are born in a long white coat which they molt when 3 to 4 weeks old to assume a dark gray, spotted juvenile coat.

Reproductive Data.—Sexual maturity is reported to be reached between 6 and 7 years of age for members of Canadian populations. In the Farne Islands, bulls do not breed until their 8th year, and most do so between 12 and 18 years of age. Cows do not enter the breeding population until their 10th year. The apparent gestation period is 11.5 months, and single births are the rule. Pups of the Canadian and Baltic populations are born mostly in February, whereas most of those in Britain are born in September and October. The pups are weaned in about 3 weeks, at which time mating occurs.

Age-Growth Data.—Following birth, the pup gains about 1.4 kg per day and weighs about 41 to 45 kg when weaned at about 3 weeks. It begins to molt after the third week. When the molt is completed, it makes its way to the sea and disperses. When they are yearlings they have changed little in weight (40 kg), but are 115 to 127 cm long. The cows molt annually between late January and April, and males between late February and May. Estimated by dental rings, captive gray seals have reached an age of 41 to 42 years, and wild seals have reached an age of up to 35 years.

Feeding Habits.—The adult seals feed chiefly on skates, mackerel, flounders, cod, hake, and herring; and occasionally salmon, haddock, sea bass, dogfish, squid, and crustaceans.

Parasites and Diseases—In the Baltic Sea, the seals harbor an anisakine namatode, *Terranova (Porracaecum)* decipines.

Ecological Problems: People occasionally harass the animals and use them for target practice. An oil spill in the Georges Banks area could do irrevocable harm to the only U.S. colony located on Muskeget Island, Massachusetts.

Allocation Problems: A significant indirect cause of damage by gray seals to fisheries in the waters around the British Isles and off Canada is the harboring by the seals of an anisakine nematode, *Terranova (Porracaecum) decipines*, the larvae of which infest cod and other gadids, reducing their commercial value.

Current Research: Research on biology, ecology, and populations continues by Canadian and British Governments and private groups. Some work is also being carried out by the University of Massachusetts on Muskeget Island and by the State of Maine.

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BEARDED SEAL

(Erignathus barbatus)

Distribution and Migration: The bearded seal is found in the North Pacific region in the Bering, Okhotsk, and northern Japan Seas and is circumpolar in the Arctic Ocean. In winter and spring it is found from the southern edge of the seasonal ice pack, north to permanent ice, wherever areas of broken, moving ice exist. During summer and autumn, it occurs along the edge of the permanent polar ice of the Arctic Ocean. Marked seasonal migrations are associated with the advance and retreat of the seasonal ice. The bearded seal is usually solitary, though very loose aggregations are sometimes observed during the breeding season. It does not normally come ashore.

Abundance and Trends: All populations seem to be at high levels and relatively stable. A Soviet estimate places the population of 450,000 animals in the East-Siberian, Chukchi, Bering, Okhotsk, and Japan Seas (Bychkov, 1971). The Alaska Department of Fish and Game (1973) estimates a population of 300,000 animals in the Bering, Chukchi, East-Siberian, and Beaufort Seas. The combined U.S. native and Soviet harvest in the Bering, Okhotsk, and Chukschi Seas is 8,000 to 10,000 seals per year, well within the biological productivity of this species. Hunting loss, however, is high (op. cit.). Soviet pelagic sealing has been prohibited since 1970. Land quotas are 5,000 for Okhotsk Sea and 3,000 for Bering Sea. U.S. subsistence catch has been less than 3,000 animals.

General Biology: Species Statistics.—The bearded seal is the largest phocid of the western arctic and subarctic. Large adults attain a winter weight in excess of 340 kg. From June through September the adults weight from 215 to 240 kg and average 236 cm in length. Some adult females are slightly larger than adult males. The pelage is a smoky-gray with a darker brown cap and dorsum. Newborn pups weigh about 31 kg, are 132 cm long, and have a gray-brown natal coat.

Reproductive Data.—The males become sexually mature at 6 or 7 years. Some females ovulate at age 3 years, but

reproductive maturity is not attained until age 5 or 6 years. Female bearded seals are unique among northern seals in that they possess four mammary teats instead of the usual two, and produce one pup every other year instead of annually. A single pup is born, usually during late April or early May. The female does not ovulate until early June when the males are out of breeding condition; therefore, they must wait a year to be mated again. The period of pregnancy is 10.5 months, including 2.5 months of delayed implantation.

Age-Growth Data.—The weight of the pups triples by the end of the 12- to 18-day nursing period. They then molt their natal coat for one similar to the adult's, although it is sometimes spotted. The adults probably molt shortly after mating. Yearlings are about 160 cm long. Bearded seals attain full growth at about 10 years of age and average 235 cm long in the eastern Canadian arctic and 225 cm at Svalbard. At Svalbard, age groups are fully recruited at age 9 years and live to about 31 years.

Polar bears are a natural enemy of the bearded seal.

Feeding Habits.—The bearded seal consumes several species of invertebrates, principally crabs, shrimps, clams, and amphipods, and some demersal fishes, all from less than 200 meters.

Parasites and Diseases.—Most bearded seals, other than nursing pups, are heavily parasitized by anisakid roundworms in the stomach, acanthocephalans and diphyllobothriid cestodes in the intestine, and lice on the skin.

Ecological Problems: The bearded seal is the final host for anisakid worms that infect fishes, but this problem is unimportant in Alaska at present. About 1% of these animals harbor *Trichinella spiralis*, the cause of trichinosis in man.

Allocation Problems: None known. Bearded seals consume commercially important pandalid and changonid shrimps and lithode crabs; however, they do not compete directly for commercial fishes, nor do they damage fishing gear.

Current Research: None known.

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HOODED SEAL

(Cystophora cristata)

Distribution and Migration: The hooded seal occurs mainly in the east Greenland pack ice from Bear Island and Spitzbergen to Jan Mayen, Iceland, and Denmark Strait. It also occurs off southern Greenland, southeastern Labrador, and the Gulf of St. Lawrence. Stragglers appear on the American coast as far south as Cape Kennedy, Florida, along the Canadian Arctic coast as far west as Herschel Island, and on the European coast as far south as the Bay of Biscay, France. Hooded seals prefer deep water and thick, drifting ice floes.

In March 1974, an aerial survey by the Fisheries and Marine Service of Canada rediscovered a whelping population that had been reported by two different sources, one in 1840 and the second in 1873. The seals were located between 63° 30′ and 64°20′N, 56°00′ and 56°30′W. There were adults, pups, and blood patches,, indicating that births had taken place recently. Total numbers were estimated to be 50,000 animals. This population is believed to be the source of recruitment that maintains the herd of hooded seals at icefields east of Newfoundland where the species is heavily hunted.

Abundance and Trends: Hooded seals of all ages are harvested commercially when the animals are congregated for molting. According to Scheffer (1958) the herds in the middle of the 20th century were estimated 300,000 to 500,000. Sergeant (1965) states that the catch rate of hooded seals has been high. The average annual kill from the Jan Mayen Island heard declined from about 53,000 (1949–53) to about 40.000 (1959–63) (Popov, 1967). Since 1972, quotas of 15,000–30.000 animals have been imposed. Popov, 1976, estimates the population to be between 500.000 and 600.000.

General Biology: Species Statistics.—Adult males grow to 2.7 to 3.0 m and 408 kg; females are slightly smaller. The adult coat is gray, covered with black patches of irregular size. The pups shed their light gray embryonal hair before birth and when born have an exceptionally beautiful silver gray coat dorsally with a creamy white ventral surface.

Reproductive Data.—The pups are born from late March to early April, are 1.1 m long and weigh 23 kg. Seals of both sexes mature at age 4 to 6 years. The adults mate when the lactation period ends (about 2 weeks).

Age-Growth Data.—The pups are nursed about 2 weeks. The adults return to sea after mating, leaving the pups on the ice where they remain an additional 2 weeks before following the adults. Hooded seals of all ages are preyed upon by polar bears.

Feeding Habits.—Hooded seals feed on octopus, squid, rosefish, herring, capelin, cod, shrimp, mussels, and starfish. Capable of deep diving.

Ecological Problems: Oil exploration shows signs of increase on the Labrador shelf and with it the stress on marine mammals may increase. There may also be competition for food with the human fishing industry.

Allocation Problems: None known.

Current Research: Research on the hooded seal is carried out by the Fisheries Research Board of Canada, Denmark (Grönlands Fiskeriundersögelser), Norway (Fiskeridirektöratets Havforsknings Institutt), and the Soviet Union (VNIRO).

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CARIBBEAN MONK SEAL

(Monachus tropicalis)

The Caribbean monk seal is classified as endangered in the Red Book of the International Union for the Conservation of Nature. From 17 to 29 March 1973, the Bureau of Sport Fisheries and Wildlife, Department of the Interior, conducted an aerial survey of this species' former habitat in the Gulf of Mexico and Caribbean Sea. The conclusion is that the Caribbean monk seal is now extinct (Kenyon, in press).

From the 1973 survey and from other field observations, it formerly inhabited shores and islands of the Greater Antilles, Bahamas, Yucatan Peninsula, and Florida Keys. It was reported at Serannilla Bank as late as 1952. A single pup was born, probably in alternate years. The adults grew to 2.4 m in length. The color was a uniform brownish gray above; the underparts were pale yellow or yellowish white. Monk seals were vulnerable to hunters because they were sluggish, unwary, and not easily alarmed.

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HAWAIIAN MONK SEAL

(Monachus schauinslandi)

Distribution and Migration: The Hawaiian monk seal breeds only on French Frigate Shoals, Laysan Island, Lisianski Island, Pearl and Hermes Reef, and Midway and Kure Atolls of the Leeward Hawaiian Islands. The first four of these islands are within the Hawaiian Islands National Wildlife Refuge (HINWR). Rarely do individuals wander southeastward to the main Hawaiian Islands. The species is not known to have a migratory pattern.

Abundance and Trends: The total population was estimated at 1,350 in 1958 (Rice, 1960). It was classified as endangered under the Endangered Species Act of 1973, on November 13, 1976. All monk seals are considered endangered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed 3 March 1973. Counts in the 1960's and 1970's suggest that the population is declining (Kenyon, 1973), owing to human disturbance on pupping and nursing areas. During the 1976 pupping season on two surveys had counts of 695 individuals (R.L. DeLong, pers, comm.).

General Biology: Species Statistics.—An adult female measures 2.3 m, and her estimated weight is 273 kg. On the average, females outweight adult males. A typical male is about 2.1 m long and weighs about 173 kg. The new born pups weight 16 to 17 kg and are about 100 cm long.

Reproductive Data.—Observations of 47 tagged individuals on Kure Atoll indicate an annual reproductive rate of 15 living pups per 100 adults. About 19% of the adult females breed in successive years, and only 56% of the adult females had pups in either of two seasons.

The age at which Hawaiian monk seals of either sex first breed is not known, but they may do so at age 3 years. Pups are born from late December to July, with the peak in April and May. They nurse about 6 weeks.

Age-Growth Data.—The pup grows from 100 to about 130 cm during its first year. The weights of 6 yearlings averaged 45 kg. Two seals tagged as yearlings doubled their weight in their second year, and one increased in length by 36% and the other by 15%. They probably do not attain full growth until at least 4 years of age. A technique developed for determining the ages of these seals by examination of the upper canine teeth indicated an age for one female of about 11 years and about 20 years for a male.

Sharks are serious predators.

Feeding Habits.—Spewings found on haul-out areas included the remains of reef and bottom fishes, eels, and cephalopods.

Ecological Problems: Harassment of the monk seal by humans and dogs on Midway and Kure Atolls may be causing a problem by preventing these animals from using sheltered dry pupping areas.

Allocation Problems: None known.

Current Research: A joint study has been undertaken by NMFS and U.S. Fish and Wildlife Service scientists. During 1976, the first year of the study, all breeding islands were surveyed in March and April. Recommendations were made to conserve and protect the monk seal. In 1977, research teams will intensively study the species on these islands.

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CRABEATER SEAL

(Lobodon carcinophagus)

Distribution and migration: The species is circumpolar and abundant in pack ice of the southern oceans. It is found as a straggler in Uruguay, New Zealand, Australia, Tasmania, and South America. Part of the population moves toward the coasts in summer and away from land in the winter.

Abundance and Trends: The crabeater seal is the most abundant species of seal in the Antarctic, with population estimates ranging from 2 to 5 million (Scheffer, 1958) to 30 million (Erickson, et al., 1971). Laws (1973) believes that the later estimate is unreliable, but that earlier estimates were too conservative. Gilbert (1974) is in general agreement with Laws and provides an estimate of 15.000.000.

Laws (1972) reports that a total of 1.251 crabeater seals were killed or captured in the Antarctic Treaty area during the period 1964–69, which does not pose a direct threat to these seals.

General Biology: Species Statistics.—Adult males grow to a maximum length of about 2.6 m and 270 kg in weight. At birth the pups are about 1.4 m long and the natal color is gray-brown. Color ranges from black to silvery white, depending on the individual, its age, time of year in relation to the molt, and dampness of pelage.

Reproductive Data.—Little information available on the breeding habits; mating has not been observed, but sperm are present in the testes of males in October and November. Single pups are born during the Antarctic spring (mid-September to early November). Available data indicate that the adults attain sexual maturity between the 3d and 6th years.

Age-Growth Data.—By January or February the pups have grown so large that they are difficult to distinguish from adults. The adults molt in January and February while partly fasting. The life span as determined from tooth sections is 29 years or more.

Killer whales and leopard seals are known to prey upon crabeater seals, and may be responsible for the numerous scars on a high proportion of these animals.

Feeding Habits.—The principal food of the crabeater seal is krill.

Parasites and Diseases.—The species has lice on the skin, roundworms in the stomach, and, rarely, tapeworms in the intestine.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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ROSS SEAL

(Ommatophoca rossii)

Distribution and Migration: The species is circumpolar in heavy pack ice of the Antarctic Ocean.

Abundance and Trends: The Ross seal is usually solitary. Scheffer (1958) lists the population at 20,000 to 50,000, but more recent estimates of population size are greater than 100,000 (Hofman et al., 1973) and 220,000 (Gilbert, 1974).

Laws (1972) states that only 23 Ross seals have been killed or captured in the Antarctic Treaty area from 1964 to 1969, and that clearly there is at present no serious direct threat to these animals.

The Ross seals account for 1.0 to 2.0% of the total Antarctic pinniped population (Hofman, et al., 1973).

General Biology: Species Statistics.—The adults reach a length of about 2.4 m. The animal is plump, with a short, wide head, a small mouth, and small teeth. The vocalizations of this mammal are striking and account for the common name "singing seal."

Reproductive Data.—Little is known of its reproduction, and newborn pups have never been seen. The males matures at 3 to 4 years, and the female at 2 to 7 years. Breeding probably takes place in November, and available evidence indicates that the pups are born about 11 months after implantation.

Age-Growth Data.—Molting probably occurs in January and February. These animals may live up to 12 years.

Feeding Habits.—Food consists primarily of fish, cephalopods, and krill.

Parasites and Diseases.—Roundworms are found in the stomach, tapeworms in the intestine, and lice on the skin.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying the population dynamics of Antarctic seals.

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LEOPARD SEAL

(Hydrurga leptonyx)

Distribution and Migration: Leopard seals are circumpolar in Antarctic pack ice and in southern temperature regions and subarctic islands in the winter. They are occasionally seen off the southern tips of New Zealand, Australia, South America, and South Africa.

Abundance and Trends: The leopard seal is a solitary animal. Scheffer (1958) estimated the population at 100,000 to 300,000. More recently, in 1972, Laws (1973) estimated the population at 250,000 to 500,000.

Laws (1972) reports that 140 leopard seals were killed or captured in the Antarctic Treaty area, which does not indicate any threat to the population.

General Biology: Species Statistics.—The adult males grow to 3.0 m in length and 450 kg in weight; adult females reach 3.3 m in length and 500 kg in weight. Leopard seals have a long slim body, large head, and wide gape. Newborn pups are 1.6 m long and weight 29.5 kg. The color of adults is dark gray dorsally and light gray ventrally, and a variable amount of spotting is present.

Reproductive Data.—Males are sexually mature at 3 to 7 years, and females at 2 to 6 years. Analysis of random specimens indicates that parturition occurs between October and December, but, unlike crabeater and Weddell seals, breeding may not occur until January or March. The gestation period is 240 days. Lactation lasts about 2 months.

Age-Growth Data.—The life span for both sexes is judged to be more than 25 years, based on studies of tooth sections.

Feeding Habits.—The leopard seal, largest of the Antarctic seals, is the only seal that regularly feeds on warm-blooded animals. Their food consists of other seals, euphausiids, penguins, whale carcasses, fish, and squid.

Parasites and Diseases.—Leopard seals suffer from diseased teeth, tumors, bony nodules in nasal passages, and stomach carcinomas.

Ecological Problems: Krill harvest could have deleterious effect upon population size.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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WEDDELL SEAL

(Leptonychotes weddelli)

Distribution and Migration: This species is circumpolar in fast ice around Antarctica, occasionally reaching as far north as Uruguay (lat. 35°S). It is littoral in distribution and nonmigratory. Because of its occurrence near scientific stations it is the best known of the Antarctic seals.

Abundance and Trends: The population was estimated to be 200,000 to 500,000 by Scheffer (1958) and 250,000 to 500,000 by Laws (1973). Recent investigations (Erickson and Hofman, 1974) suggest a total population in excess of 756,000. Gilbert (1974) estimated 730,000 in pack ice alone (excluding animals in shore-fast ice).

Laws (1972) reports that a total of 893 Weddell seals were killed or captured in the Antarctic Treaty area during the period 1964–69, which poses no threat to the population.

General Biology: Species Statistics.—Adult males grow to 3.2 m in length and may reach 450 kg in weight. Females are slightly larger than males. Newborn pups are 1.5 m long, weigh 29 kg, and have permanent dentition. Coloration of adults is dark brown to black, conspicuously mottled with white spots.

Reproductive Data.—Males reach sexual maturity at 6 to 8 years; females at 3 years of age. The average age of breeding females is 9 years. Pregnancy lasts 9 to 10 months. The pups are born from September to early November on fast ice, usually close to the Antarctic continent. The mating period has not been defined, but males with sperm and females that had ovulated have been collected between late November and mid-December. Lactation lasts 6 to 7 weeks, and pups are weaned at 6 weeks. The females protect their pups and are aggressive toward intruders.

Age-Growth Data.—The pups molt their natal fur and replace it with the adult pelage by the 44th day. Initial weight gains are dramatic: the pups gain an average of 12 kg or more per week for the first 6 weeks and weigh as much as 135 kg by the time the molt is completed. The life span, as determined by the teeth, is not over 20 years.

Tooth wear asociated with maintaining breathing holes may be a mortality factor.

Feeding habits.—Weddell seals feed on mysids, decapod crustaceans, amphipods, cephalopods, euphausiids, and various species of fish.

Parasites and Diseases.—Wounds inflicted on this mammal heal slowly, and festering sores are common. Kidney stones and uterine fibroids have been found. Weddell seals are heavily infested with tapeworms, trematodes, and roundworms.

Ecological Problems: Local populations are discrete breeding units which could be eliminated by oil slicks.

Allocation Problems: None known.

Current Research: The University of Minnesota is studying population dynamics of Antarctic seals.

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SOUTHERN ELEPHANT SEAL

(Mirounga leonina)

Distribution and Migration: The southern elephant seal is circumpolar on subantarctic islands, south to the ice edge of lat. 78° S. It breeds on the continental coast of Argentina and on subantarctic islands.

Abundance and Trends: The population of the southern elephant seal has been estimated at 600,000±100,000 (Laws, 1960). This species was once sought for its oil. It was nearly extinct by 1900, but since that time regulations have allowed the herds to increase. At South Georgia the average annual kill between 1952 and 1964 was 6,000 animals. There has been no commercial sealing there since 1964, although licenses to harvest these animals have been offered (Laws, 1973).

Laws (1972) reported a total of 25 southern elephant seals killed or captured in the Antarctic Treaty area during the period 1964–69, and states that clearly there is at present no serious direct threat to these seals, although one cannot rule out the possibility of restricted overexploitation of some local populations.

General Biology: Species Statistics.—The southern elephant seal is the largest pinniped. Males grow to 5.5 to 6.1 m in length and 3,628 kg in weight; females reach 3.1 to 3.7 m and 907 kg. The newborn pups are 1.2 m long and weigh from 37.6 to 49 kg.

Reproductive Data.—Males are sexually mature at 4 years, and hold harems at 5 to 7 years in commercially utilized populations. The females mature at age 2 years and bear single pups at age 3. In unutilized populations, the females mature at age 3 to 6 years, but the males do not reach harem status until 12 years old. The breeding season varies with locale and occurs from August through November. Most harems contain 20 to 40 females, but up to 100 have been counted. The pups are born in October, about 1 week after the females haul-out, and nurse about 23 days. The females mate about 18 days after their pups are born.

Age-Growth Data.—The pups weigh 113 to 181 kg at weaning. The molt usually starts in early November, when the pups, then 2 to 3 weeks old, shed their natal fur and older immature seals begin to haul-out to molt. Mature females begin their molt in late December or January and mature males in late January or February. The molt requires about 18 days to complete. After the molt, they return to the sea and probably spend the winter feeding near pack ice.

The females live about 12 years and the males up to 20 years.

The leopard seal and killer whale are natural enemies of the southern elephant seal.

Feeding Habits.—Shortly after weaning the pups feed on amphipods for a time, after which they feed primarily on cephalopods and fish.

Ecological Problems: None known.

Allocation Problems: According to Laws (1973), the southern elephant seal may become threatened because they compete with Soviet fishermen for commercial species of fish in the vicinity of Kerguelen Islands.

Current Research: The University of Minnesota makes incidental observations of this mammal while studying the Antarctic seal species.

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NORTHERN ELEPHANT SEAL

(Mirounga angustirostris)

Distribution and Migration: This species originally occupied rookeries and hauling grounds on the mainland and islands from Cabo San Lazaro, Baja California, northward to Pt. Reyes, just north of San Francisco. Nonbreeding animals range at least as far north as southeastern Alaska.

This species is now known to breed on Isla San Benito, Islas Los Coronados, Isla Cedros, San Miguel Island, Santa Barbara Island, San Nicolas Island, and Ano Nuevo Island. Also, a northern elephant seal was born on southeast Farallon Island January 20, 1972, indicating that this species is continuing to expand its breeding range northward since its near-extermination during the last century (LeBoeuf, et al., 1974).

Abundance and Trends: By 1890 the population had been reduced to 100 or fewer animals found only on Guadalupe Island, but this number increased to an estimated 15,000 animals by 1960 (Bartholomew and Hubbs, 1960). A total of 10,581 were counted in April 1968 on the six Mexican islands off Baja California (Brownell, et al., 1974). Peterson and LeBoeuf (1969) estimated a population of about 30,000 in 1969. This species has reoccupied most or all of its historic rookeries and hauling grounds.

The California Department of Fish and Game has counted elephant seals during sea lion censuses in early June since 1965 (Carlisle and Aplin, 1971). Carlisle (1973) has counted *Mirounga* on San Miguel Island each year from 1965 through 1973 except 1968. Carlisle counted 3,600 *Mirounga* on San Miguel in 1973.

Odell (1974) believes that the San Nicolas Island population is increasing. The largest California population of *Mirounga* is found on San Miguel Island where DeLong and Johnson (in press) estimate the total island population to be 16,000.

General Biology: Species Statistics.—Maximum body lengths are about 5 m for adult males and 3.3 m for adult females. Newborn pups are about 1.2 m long and have black natal pelage.

Reproductive Data.—The adult males usually arrive first on the rookeries in November, followed by the pregnant females in December. Dominant adult males occupy choice locations within the breeding colonies and do most of the mating. The female usually bears a single pup about 7 days after her arrival and weans it about a month later. The female is bred during her last few days ashore. Most pups are born January 1 to February 10.

Age-Growth Data.—On San Nicolas Island most pups have molted their black natal pelage for the gray pelage of older animals by 1 March. The age at which the pups go to sea is not firmly established, but they spend at least 2 to 3 months ashore. Older animals return to shore to molt beginning with the females about 1 April, followed by immatures of both sexes, and the males are the last to return.

Feeding Habits.—Little information on the feeding habits of *Mirounga* is available. The stomach of one elephant seal contained seven ratfish, one 66.0 cm California dogfish shark, one swell or puffer shark, three skates, and four squids. The species apparently can feed at considerable depths, as indicated by prey species and the fact that three young *Mirounga* were taken on hooks set at about 100 fathoms. The stomach of a subadult male found dead in California contained the remains of cusk eels, toadfishes, scorpionfishes, flounder, cat sharks, and segments of undetermined teleosts and elasmobranchs.

Ecological Problems: Oil from the Santa Barbara spill of 28 January 1969 coated about 100 elephant seal pups ashore on one area of San Miguel Island. The pups had been weaned and apparently suffered no ill effects.

Allocation Problems: None known.

Current Research: Scientists from the University of California at Santa Cruz, California, are studying this species.

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GRAY WHALE

(Eschrichtius robustus)

Distribution and Migration: The gray whale is now restricted to the North Pacific Ocean, although it once occurred in the North Atlantic Ocean.

Two geographically isolated populations are recognized: (1) the eastern Pacific ("California") stock, which spends the summer in the Chukchi, western Beaufort, and northern Bering Seas (and rarely along the coast as far south as central California), and migrates to the west coast of Baja California and the southern Gulf of California for the winter; and (2) the western Pacific Ocean ("Korean") stock, which spends the summer in the northern Sea of Okhotsk and migrates to the southern coast of Korea for the winter.

Abundance and Trends: Eastern North Pacific Ocean—contrary to earlier published estimates, the original population was almost certainly less than 15,000 (Henderson, 1972). During the late 18th and earlier 19th centuries the population was greatly reduced. Since complete protection was given the stock in 1947, the population has increased to about 11,000 and has remained stable since 1967 (Rice and Wolman, 1971). An average of about 160 gray whales are killed each year in a subsistence fishery on the Chukotski Peninsula of Siberia. In Alaska, no more than five per year have been taken by Eskimos in recent years.

Western North Pacific Ocean—in 1910, the population probably numbered between 1,000 and 1,500. The status of this population is uncertain at the present time, but it appears to be nearly extinct.

General Biology: The gray whale is identified by its mottled gray color and low hump in place of a dorsal fin. It feeds on benthic amphipods and other benthic invertegrates on the summering grounds, and fasts during migrations and on wintering grounds. Sexual maturity is attained at an age of 5 to 11 years, at a mean body length of 11.0 m for males and 11.6 m for females. The mating season is in late November and early December while the animals are on their southward migration. The calf is born following a 13-month gestation period after the pregnant females have arrived in certain shallow lagoons on the west coast of Baja California. The female bears a calf only once every 2 or more years. The calves average about 5.0 m long at birth and are weaned 7 months later when they are about 8.0 m long.

Ecological Problems: The gray whale is now valuable as a tourist attraction, and it supports a rapidly increasing cruise-boat industry, including ½-day cruises off San Diego and Los Angeles, and week-long cruises from these ports to Scammons Lagoon.

These activities have generated a problem of increasing harassment of the whales. In 1972, the Mexican Government declared Scammons Lagoon a whale refuge, so the cruise boats are now partly regulated.

Allocation Problems: None known.

Current Research: Studies on gray whales are being made by the National Marine Fisheries Service and the Soviet Union's Far Eastern Institute of Marine Fisheries and Oceanography.

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MINKE WHALE

(Balaenoptera acutorostrata)

Distribution and Migration: The minke whale inhabits all oceans of the world, except equatorial regions, and ranges into the polar pack ice zones in the Northern and Southern Hemispheres. It makes extensive seasonal migrations between high-latitude summering grounds and low-latitude wintering grounds.

At least three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. The affinities of the minke whale stocks in the northern Indian Ocean are unknown.

In the eastern North Pacific Ocean, the minke whale ranges from the Chukchi Sea south to northern Baja California during the summer, and from central California south to within 2 degrees of the Equator during the winter.

In the western North Atlantic Ocean, it ranges from Baffin Bay south to Chesapeake Bay during the summer, and from the eastern Gulf of Mexico and northeastern Florida south to Puerto Rico and the Virgin Islands during the winter.

Abundance and Trends: The exploitable population in the Southern Hemisphere originally numbered about 183,000 and currently numbers about 157,000. For the North Atlantic there is no estimate of the original population, but the present population is about 80,000. No estimates are available for the North Pacific.

The minke whale has long been an important species in the "small whale" fisheries of the world. In 1975 (including the 1975/76 Antarctic season), catches were over 9,522, distributed as follows:

North Atlantic	1,969
Japan	370
Korea	(1)
Brazil	1,039
South Africa	110
Antarctic	6,034

[1] No data (566 in 1974).

General Biology: The minke whale is the smallest member of the genus *Balaenoptera*, not exceeding 10 m in length in the Northern Hemisphere. The northern animals are distinguished by a white band on the flipper; individuals from the Southern Hemisphere average about a meter longer, and usually lack the white flipper band. The minke whale feeds mainly on euphausiids, but also takes some small fishes. In the Northern Hemisphere, it attains sexual maturity at an age of 7 to 8 years and an average body length of 7.0 m in males and 7.9 m in females. The female bears a calf only once every 2 years (rather than annually, as once believed). During the summer, pregnant females migrate to much higher latitudes than do the lactating and immature females.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on minke whales is being conducted by the Japanese Far Seas Fisheries Research Laboratory, the South African Division of Sea Fisheries, and the Norwegian State Institute for Whale Research.

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BRYDE'S WHALE

(Balaenoptera edeni)

Distribution and Migration: Bryde's whale is found in tropical and warm temperate waters around the world. In the western Atlantic Ocean, it ranges from Maryland south to Cabo Frio, Brazil, and in the eastern Atlantic Ocean from Morocco south to the Cape of Good Hope. In the Indian Ocean, it ranges from the Cape of Good Hope north to the Persian Gulf, east to the Gulf of Martaban, Burma, and thence south to Shark Bay, Western Australia. In the western Pacific Ocean, it is distributed from northern Hokkaido, Japan, south to Victoria, Australia, and North Island, New Zealand; in the eastern Pacific Ocean, it ranges from central Baja California, Mexico, south to Iquique, Chile.

At least some of the temperate zone populations (Japan, South Africa) make limited seasonal migrations. The tropical populations may be sedentary.

Abundance and Trends: The population in the western North Pacific, north of lat. 20°, originally numbered about 20,000, and has now been reduced to about 16,000. No estimates are available of population sizes elsewhere in the world.

Until recently, Bryde's whales have been of minor importance in the modern whaling industry, and only a few were taken by shore stations in Japan, South Africa, and rarely elsewhere. Since 1970, however, increasing numbers have been harvested by pelagic expeditions in the western North Pacific Ocean, as these expeditions have shifted operations more to the south. In 1975, 1,433 were killed there—1,317 by Japanese and Soviet pelagic expeditions, and 116 by Japanese shore stations. The only ones reported taken in the Southern Hemisphere were three taken by the shore station at Durban, South Africa. However, it is belived that most of the 151 "sei" whales taken by the combination catcher-boat/factory-ship *Sierra* (registered in Somalia) off Angola were actually Bryde's whales.

General Biology: Bryde's whales is similar in appearance to the sei whale, and the two species were formerly confused. The Bryde's whale is slightly smaller—usually less than 13.5 m long; its throat grooves extend posteriorly beyond the umbilicus, and it has a pair of lateral ridges on top of its snout, one on each side of the median ridge. The fringe on its baleen plates is much coarser than that of the sei whale. It feeds mainly on small schooling fishes, and also takes some euphasiids and other crustaceans. Males attain sexual maturity at an average length of 12.2 m and females at 12.5 m. The mating and calving season is usually during the winter, but in some areas—South Africa, for example, they breed year-round. The gestation period is about 1 year. The female does not bear a calf 2 years in succession.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on whale is being conducted by the South African Division of Sea Fisheries and the Japanese Far Seas Fisheries Research Laboratory.

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SEI WHALE

(*Balaenoptera borealis*)

Distribution and Migration: The Sei whale is nearly worldwide in distribution. In the eastern North Pacific, it summers from California to the Gulf of Alaska and Aleutian Islands; in the North Atlantic, from New England and British Isles to the Arctic Ocean. It winters at low latitudes. In Southern Hemisphere this species summers in all oceans from lat. 30°S southward, and in winter it is generally found north of lat. 40°S.

Abundance and Trends: Information in this section is from the annual reports of the International Whaling Commission and from recent reports of the Bureau of International Whaling Statistics. The number of sexually mature animals originally numbered about 217,000 (excluding the North Atlantic, for which no estimates are availble), and has now been reduced to about 110,000, distributed by major ocean areas as follows:

Ocean	Original population	Current population
North Atlantic	(1)	(1)
North Pacific	12,000	9,000
Southern Ocean	175,000	101,000

[1] No data.

Inclusion of sexually immature whales would increase these estimates by roughly 50 percent. The sei whale is the second most valuable baleen whale, and populations appear to be near the level of maximum sustainable yield. Catches of sei whales in recent seasons have been:

Season	North Pacific	North Atlantic	Southern oceans (south of 40° south) [1] [2]	Southern land stations
1969	5,158	2222	5,857	917
1970	4,593	139	6,153	465
1971	2,993	476	5,452	446
1972	2,357	375	3,816	[3] 316
1973	1,856	130	4,392	[3] 30
1974	1,280	9	3,859	[3] 354
1975	504	138	1,820	[3] 49

[1] Southern oceans catches are for the seasons 1969–70 through 1976–76.
[2] No data from Chile.

General Biology: The species resembles the fin whale but is slightly smaller, with less white underneath, and a large dorsal fin. In the far north of the Northern Hemisphere it feeds mostly on copepods. The diet is much more varied in lower latitudes—including euphausiids, copepods, sauries, anchovies, herring, sardines, and jack mackerel. Sei whales usually travel in small pods of 2 to 5. They attain sexual maturity at 6 to 12 years of age, at a body length of about 13.1 m (males) and 13.7 m (females). Females bear calves every 2 or 3 years. The mating and calving season occurs in winter in the respective hemispheres. Gestation lasts 1 year, and the calf is weaned when about 7 months old.

Seven percent of the sei whales taken off California have been infected with a unique disease that causes progressive shedding of the baleen plates and their replacement by an abnormal papilloma-like growth.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is conducting population and biological studies of this species. Other organizations carrying out research on this species are the Japanese Whale Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), Norwegian State Institute for Whale Research (Antarctic), South African Division of Sea Fisheries (South Africa), and Soviet All-Union Research Institute of Marine Fisheries and Oceanography.

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FIN WHALE

(*Balaenoptera physalus*)

Distribution and Migration: The fin whale is worldwide in distribution. In the eastern North Pacific it summers from California into the Chukchi Sea, and in the North Atlantic from Cape Cod and Spain into the Arctic Ocean. The fin whale migrates to more southern latitudes in winter. In the Southern Hemisphere it is generally found at lat. 47° to 60° south in summer and from 20° to 40° south in winter.

Abundance and Trends: Information in this section is from the annual reports of the International Whaling Commission and from the report of the Bureau of International Whaling Statistics, Sandefjord. The stocks available for commercial harvest originally numbered about 470,000, but have now been reduced to about 107,000. These are distributed by major ocean areas as follows:

Ocean	Original population	Current population
North Atlantic	25,000	10,000
North Pacific	44,000	17,000
Southern Ocean	400,000	80,000

Inclusion of immature whales shorter than the legal length limit would increase these estimates by roughly 50 percent. Recent catches from the stocks have been:

Season	North Pacific	North Atlantic	Southern oceans [1]	Southern land stations
1969	1,276	[2] 800	3,002	224
1970	1,012	1,063	2,890	135
1971	802	751	2,683	104
1972	758	689	1,761	[4] 61
1973	440	342	1,288	[4] 32
1974	413	346	979	[4] 26
1975	508	[3] 245	206	[4] 26

[1] Southern ocean catches are for the seasons 1969–70 through 1975–76.
[2] An additional 122 "baleen whales" taken off Spain were probably fin whales.
[3] No data from Spain.
[4] No information from Chile.

The fin whale is commercially the most valuable baleen whale. Stocks in the North Pacific and southern oceans are below maximum sustainable yield levels.

General Biology: This species is second in size only to the blue whale; in the Northern Hemisphere it grows to at least 23.2 m and is distinguished by a gray back, white belly, and well-developed dorsal fin. Fin whales feed mostly on euphausiids, but often eat fish—especially anchovies in the North Pacific and capelin in the North Atlantic.

They usually travel in small pods of 2 to 5 animals. Fin whales are sexually mature at 6 to 12 years, and at a body length of about 17.7 m (males and 18.3 m (females). Females bear calves every 2 to 3 years. The mating and calving season occurs in winter in respective hemispheres. Gestation lasts 1 year, and the calf is weaned at about age 7 months.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is conducting population and biological studies of this species. Other organizations carrying out research on this species are the Japanese Whales Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), British National Institute of Oceanography (South Africa and Antarctic), South African Division of Sea Fisheries (South Africa), and Soviet All-Union Research Institute of Marine Fisheries and Oceanography (North Pacific and Antarctic).

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BLUE WHALE

(*Balaenoptera musculus*)

Distribution and Migration: The blue whale is found throughout all oceans from the Equator to the polar pack ice zones in the Northern and Southern Hemispheres. It makes seasonal migrations between rather restricted high-latitude summering grounds and low-latitude wintering grounds.

At least three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. Each population is probably comprised of several more or less discrete stocks. The "pygmy blue whale" of the southern Indian Ocean is morphologically distinct from the stocks which spend the summer in Antarctic waters. The affinities of the blue whale populations in the Arabian Sea and Bay of Bengal are unknown.

In the eastern North Pacific Ocean, blue whales range from the Aleutian Islands and Gulf of Alaska south to central California during the summer, and from central Baja California south to within 8 degrees of the Equator during the winter.

In the western North Atlantic Ocean, they range from Davis Strait south to the Gulf of St. Lawrence during the summer and spend the winter in the waters east of the West Indies.

Abundance and Trends: During the first half of the 20th century, the blue whale was one of the most important cetaceans to the whaling industry, but it is now so rare that it will require probably half a century of complete protection to restore the stocks to a significant level. In the North Pacific Ocean, the population, which once numbered about 5,000, now contains about 1,700 individuals (Wada, 1975). This species apparently has been slowly increasing since 1966, the year it was first given complete protection.

The population in the western North Atlantic (off eastern Canada), which originally numbered about 1,100 (Allen, 1970), now numbers only a few hundred. Estimates of the eastern North Atlantic population have not been made.

The Southern Hemisphere population originally numbered about 200,000 (Chapman, Allen, and Holt, 1964), but was severely depleted before complete protection was given the stock in 1965. The present population is estimated at about 9,000, half of which are pgymy blue whales (Masaki, 1975).

General Biology: The blue whale is the largest mammal that ever lived on Earth, reaching a known length of 29 m and a weight of 136 tons. It is distinguish from the fin whale by its mottled blue-gray color dorsally and ventrally, its smaller dorsal fin, its broad flat snout, and its black baleen plates. Blue whales feed exclusively on euphausiids during the summer and fast during the winter. They become sexually mature at an average age of about 10 years, when males of the Antarctic stocks average 22.5 m and females 24.0 m; whereas the "pygmy blue whales" of the southern Indian Ocean average about 2 m less in length. Every 2 or 3 years during the winter the female gives birth to a calf after a 12-month gestation period. At birth the calf is about 7 m long; when weaned 8 months later it is about 15 m long.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Observers aboard whaling and research vessels record sightings of blue whales and routinely report them to the International Whaling Commission.

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HUMPBACK WHALE

(*Megaptera novaeangliae*)

Distribution and Migration: The humpback whale is found in almost all oceans from tropical waters to the edge of, but not into, the polar pack ice zones in the Northern and Southern Hemispheres. It makes extensive seasonal migrations between high-latitude summering ground and low-latitude wintering grounds—the latter along continental coasts or around islands.

Three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere. Each population is comprised of several almost entirely discrete stocks.

In the eastern North Pacific Ocean, the humpback whale ranges from the Chukchi Sea south to southern California during the summer, and from southern California south to the Islas Revillagigedo and Jalisco, Mexico, and also around the Hawaiian Islands, during the winter.

In the western North Atlantic Ocean it ranges from Disco Bay in western Greenland south to Massachusetts during the summer, and from Hispaniola and Puerto Rico south to Trinidad during the winter.

Abundance and Trends: The humpback whale was important, especially to shore stations, during the first half of the 20th century. Now, however, this mammal is so scarce that it will require a half century of complete protection for it to increase to a significant level. A few are killed in subsistence fisheries in Greenland, the Lesser Antilles, and the Tonga Islands. It has a minor value as a tourist attraction in Hawaii and southeastern Alaska. The original population size of the North Pacific Ocean is unknown, but is now severely depleted to about 2,500 individuals (Wada, 1975). A summer resident population of about 60 animals occupies the inside waters of southeastern Alaska. The population has apparently not increased since complete protection was given the species in 1966.

The original population size of the North Atlantic Ocean is unknown, and the western North Atlantic Ocean stock is now reduced to about 1,000 animals (Winn, Edel, and Taruski, 1975). A small increase may have occurred in recent years. Estimates of the eastern North Atlantic Ocean population have not been made.

The original population of the Southern Hemisphere, which probably numbered about 100,000, now contains about 2,500 individuals (Masaki, 1975). The stock has apparently not increased since complete protection was given the species in 1964.

General Biology. The humpback whale is much more heavy bodied than members of the genus *Balaenoptera*, and is characterized by its extremely long flippers. It feeds mainly on euphausiids, but also eats anchovies and sardines when available. The species attains sexual maturity at an age of 6 to 12 years, when males average 11.6 m long and females 11.9 m. The mating and calving season is from October to March in the Northern Hemisphere, and April to September in the Southern Hemisphere. The gestation period is 12 to 13 months, and the calf nurses for about 11 months. The female rarely bears a calf 2 years in succession.

The humpback whale is heavily infested with three species of ectocommensal barnacles and with whale lice.

Ecological Problems: None known.

Allocation Problems: None at present.

Current Research: Observers aboard research vessels and foreign whaling ships record sightings of humpback

whales and routinely report them to the International Whaling Commission. The National Marine Fisheries Service is conducting research on the summer grounds in southeastern Alaska and the winter grounds around the Hawaiian Islands.

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BLACK RIGHT WHALE

(Baaena glacialis)

Distribution and Migration: This right whale inhabits all temperate waters of the world. It migrates between summering grounds in cool temperate waters and wintering grounds in warm temperate waters; the wintering grounds are mostly along continental coasts or around islands.

Three geographically isolated populations are recognized, one in the North Pacific Ocean, another in the North Atlantic Ocean, and a third in the Southern Hemisphere.

In the eastern North Pacific Ocean, the right whale ranges from Bristol Bay and the Gulf of Alaska south to lat. 50°N during the summer, and from Oregon south to central Baja California during the winter.

In the western North Atlantic Ocean, it ranges from Labrador south to the Bay of Fundy during the summer, and Massachusetts south to Florida and Bermuda during the winter.

Abundance and Trends: The right whale was originally very abundant, but heavy exploitation, mostly during the 19th century, reduced all populations nearly to extinction by the turn of the century. At least some local stocks have increased in recent years. Present numbers are: North Pacific Ocean—about 220 (Wada, 1975). North Atlantic Ocean—no estimate; Southern Hemisphere—about 3,200 (Masaki, 1975).

General Biology: The black right whale is a heavy-bodied animal up to 18.0 m long and is characterized by lack of a dorsal fin and by a large head with a narrow arched rostrum. It feeds mainly on copepods. The reproductive biology is poorly known. Body length at sexual maturity is about 15.2 m in males and 15.8 m in females. Mating and calving occur in the winter so the gestation period is probably about 1 year. The female probably bears a calf only once every 2 (or more) years.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on the black right whale is being carried out by the South African Division of Sea Fisheries and off Argentina by a joint project of the National Geographic Society and the New York Zoological Society. Observers aboard whaling and research vessels record sightings of right whales and routinely report them to the International Whaling Commission.

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BOWHEAD WHALE

(Balaena mysticetus)

Distribution and Migration: The bowhead whale inhabits arcitic and subarctic waters in four principal areas: (1) from Spitzbergen west to east Greenland; (2) in Davis Strait, Baffin Bay, James Bay, and adjacent waters; (3) in the Bering, Chukchi, Beaufort, and East Siberian Seas; and (4) in the Okhotsk Sea. They migrate with ice movements.

Abundance and Trends: All bowhead whale populations were decimated by the end of the 19th century because of the great value of this species for oil and baleen (Tomilin, 1957). No commercial whaling for bowheads has taken place since about 1915. Bowhead whales have been completely protected from commercial whaling by the International Convention for the Regulation of Whaling since 1947, and, subsequently, by the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. These acts allow for a subsistence harvest of these whales by the Indians, Aleuts, and Eskimos. In the last two decades the take of bowhead whales by Eskimos in Alaska has varied between 1 (1959) and 48 (1976) (Maher and Wilmovsky, 1963; Marquette, unpublished records). Much of this variation in take is because of variation in hunting conditions, although in recent years an increase in hunting intensity may have taken place. Bowhead whales are taken only occasionally by USSR nationals (Zemsky, 1973, pers. comm.). The bowhead whale population of Canada and the Bering, Chukchi, and East Siberian Seas appears to be increasing (Mansfield, 1971; Burns, pers. comm.). The stocks in the Spitzbergen area and the Okhotsk Sea are nearly extinct, but there have been a few sightings in these areas in recent years.

General Biology: Species Statistics.—The bowhead whale grows to 18 m in lenght. The color is generally black or dark graw, marked by some white, generally on the chin but sometimes also on the belly.

Reproductive Data.—Sexual maturity is reached at 11.6 m and 12.2 m in males and females, respectively. Mating probably occurs in early April or earlier. Gestation lasts 12 to 13 months, with a single calf (3–4.5 m long) born in April–May. The reproductive cycle is apparently 2 years long.

Age-Growth Data.—The calf is weaned at 6 months. Yearlings are from 6.7 to 7.9 m long. These whales travel singly, in pairs or threes during the spring. In autumn they are generally scattered, but may occur in groups of up to 50.

Feeding Habits.—The species feeds mainly on euphausiids and other krill, but occasionally on bottom-dwelling invertebrates.

Parasites and Diseases.—Bowhead whales appear to be remarkably free of external and internal parasites.

Ecological Problems: The north-slope oil project might alter the inshore southward migration should fall steamer and barge traffic increase to force the whales farther offshore.

Allocation Problems: Some conflict of interest may exist between the people who would like complete protection for bowhead whales and Eskimos who hunt these whales.

Current Research: The National Marine Fisheries Service contracted with the University of Southern California to gather biological data on bowhead whales in 1973. In the spring of 1973 a group of scientists from United States and Canadian universities attempted to record underwater sounds of the bowhead whale. The Fisheries Research Board of Canada makes annual surveys from planes of bowhead whales in Canadian waters. In the spring of 1974 the National Marine Fisheries Service reinstituted a research program on bowhead whale.

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GANGES SUSU

(GANGES RIVER DOLPHIN)

(Platanista gangetica)

Distribution and Migration: This species (with which the Indus dolphin, *P. minor*, was formerly thought to be identical) is confined to the Ganges-Brahmaputra river system of India and Bangladesh, from tidal limits to the foothills, and the Karnaphuli River, a small river that empties into the Bay of Bengal east of the mouth of the Ganges. During the summer monsoon season, these dolphins extend their distribution up stream into the smaller tributaries; during the winter dry season they retreat into the larger main streams.

Abundance and Trends: No data are available on population size, but the species is still fairly numerous, and there is no indication that it is currently endangered. A few are captured incidentally in seines by fishermen, who attempt to release the dolphins alive.

General Biology: Sexual maturity is attained at an average age (estimated from growth layers in the teeth) of 10 years, when females have attained a body length of 170 to 200 cm, and males a length of 170 cm. Physical maturity is attained at an age of about 20 years, and a body length of 250 cm for females and 200 to 210 for males. Mating is said to occur from July to September; and the single calf, 70 to 75 cm long, is born between April and July after an apparent gestation period of 8 to 9 months. Such a short gestation period is highly questionable, and Pilleri (1971) suggests evidence for mating in April. The calves are weaned by the beginning of the next winter. The mean interval between successive calves is at least 2 years. These dolphins, which are blind, feed on shrimps and mud-frequenting fishes which they apparently catch by probing about in the bottom of the rivers.

Ecological Problems: None known.

Allocation Problems: None at present.

Current Research: Several field studies have recently been made by biologists from the University of Tokyo, the Bangladesh Agricultural University, and the University of Berne.

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INDUS SUSU

(INDUS RIVER DOLPHIN)

(Platanista minor)

Distribution and Migration: This species (which until recently was thought to be the same as the Ganges dolphin, *P. gangetica*) is confined to the Indus River system of Pakistan and India. It originally occurred throughout the system from tidal limits to the foothills, but is now absent from many sectors. Its movements have been restricted by the construction of many dams ("barrages"), which have split it into several separate populations.

Abundance and Trends: In 1974 the total population was estimated to be between 450 and 500 animals; most (350–400) inhabited the 100 mile (160-km) sector of the lower Indus between the Sukkur Barrage and Baddu Barrage. The population appears to be decreasing at a rate of about 10 percent per year (Kasuya and Nishiwaki, 1975). These dolphins are captured with hoop nets by the local people who eat the meat and use the oil for its alleged medicinal properties.

General Biology: Almost nothing is known of the life history and ecology of this species, but it is presumably similar to the Ganges dolphin. The gestation period is said to be 1 year, with mating and calving in March and April. The annual reproductive rate has been roughly estimated at 0.05, and the annual mortality rate at 0.16.

Ecological Problems: The habitat has been greatly altered by the construction of barrages as part of the extensive irrigation systems in Pakistan.

Allocation Problems: The marked lowering of the water during the dry season greatly limits the area available to the dolphins. The dolphins would be benefited by more economical use of the water for irrigation, so as to maintain water levels above a certain minimum in the reservoirs and main river channels.

Current Research: Several field studies have recently been made by biologists from the University of Tokyo, the University of Berne, the California Academy of Sciences, and the International Union for the Conservation of Nature and Natural Resources.

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ROUGH-TOOTHED DOLPHIN

(Steno bredanensis)

Distribution and Migration: The rough-toothed dolphin inhabits tropical and warm temperate seas. It ranges in the western Atlantic Ocean from Virginia south. In the North Pacific Ocean it ranges north to southern Japan (35° N) where it is rare, and to the Hawaiian Island where it is fairly common. It is known in the eastern Pacific from strandings near San Francisco and in the Galapagos Islands, and from several records in the tropical tuna fishery where it occasionally is captured together with bottlenosed, spotted, and spinner dolphins.

Abundance and Trends: The rough-toothed dolphin is uncommon, but not rare throughout most of its range. It is caught infrequently in the Japanese dolphin fishery (Ohsumi, 1972).

General Biology: Age-Growth Data — This dolphin grows to about 2.4 m.

Feeding Habits.—Very little is known about feeding habits of this species. The stomachs of specimens captured in the tuna fishery contained remains of fish and squid.

Ecological Problems: None known.

Allocation Problems: Rough-toothed dolphins are occasionally trapped accidentally in commercial fishing gear. In this way, a small number are lost in the eastern Pacific international tuna seine fishery.

Current Research: The Oceanic Institute in Hawaii is studying this species in the wild and had a *Steno-Tursiops* hybrid in captivity. Specimens retrieved from the incidental kill in the eastern Pacific international tuna fishery are examined at the Southwest Fisheries Center, La Jolla, California.

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BOTTLENOSED DOLPHIN

(Tursiops truncatus)

Distribution and Migration: The bottlenosed dolphin is widely distributed in temperate and tropical waters, but strays into much colder latitudes. In the western North Atlantic, it ranges at least as far north as Nova Scotia and southern Greenland, but is best known from New England southward to Florida, westward throughout the Gulf of Mexico, and thence throughout the West Indies and Caribbean to Venezuela. From about North Carolina northward this species begins to distribute offshore, and southward its members are nearshore, riverine, and estuarine with far fewer distributed to the edge of the continental shelf. In the eastern Atlantic, it is found from the northeast Scandinavian coast to South Africa. In the eastern north Pacific it infrequently occurs in offshore currents, perhaps as far north as southern Oregon, but is far more common south of Point Conception, where individuals may be encountered primarily within the coastal zone but also less frequently on the continental slope and beyond. The species is probably continuous to central Chile. In the western Pacific, it is found north to Japan and south to Australia and New Zealand. Its Pacific range includes the Hawaiian Islands, where it is said to be common. Nominal species have been named from the tropical IndoPacific (*T. aduncus*), and the northern Gulf of California and waters along the west coast of Baja California and southern California (*T. gilli*). The geographical ranges characters delimiting these named forms are still poorly defined. The Small Cetaceans Subcommittee of the International Whaling Commission commented on the taxonomy of *Tursiops*, as follows: "The necessary taxonomic work has not yet been done, it seems likely that there is only one species of *Tursiops*, with sharply-defined geographical races varying in body size and tooth size and distributed differentially relative to sea temperature and depth. There is great need to gather materials that will allow definitive examination of the nominal species *T. aduncus*, *T. gilli*, and *T. nunanu*, and materials from as many other populations as possible. These names are currently used by some workers." Subjective impressions and limited data from regional surveys and radio and static tagging programs suggest that populations are localized within about a 100-mile radius and that this species does not make long migrations. Bottlenosed dolphins are often seen in large loose schools of several hundred animals, which appear to consist of aggregations of small groups of no more than a dozen individuals. Humpback and right whales traveling along the Atlantic coast of Florida and pilot whales off the southern California coast are almost always accompanied by bottlenosed dolphins. Gray whales along southern and Baja, California are also frequently accompanied by one or more *Tursiops*.

Abundance and Trends: In 1974–75, populations from Mobile Bay to western Louisiana alone were estimated from aerial surveys to number 3,500 to 10,000 animals (Leatherwood and Evans, 1976). Population estimates currently are not available for other areas.

In North Carolina, from 500 to 1,500 animals were killed annually during the early 20th century (Townsend, 1914). A few bottlenosed dolphins are now taken for food in small open-boat pilot whale fisheries in the Lesser Antilles (St. Vincent, St. Lucia, Dominica), and some are harvested by Venezuelan fishermen. In the past, several hundred bottlenosed dolphins have been taken each year off Florida, Mississippi, and Texas for display in marine aquariums and for research. Based on subjective data it is believed that local populations of the southwestern United States are not now being significantly affected by these activities (D. K. Caldwell, pers. comm.).

Small numbers are taken for food off Baja California and mainland Mexico, in the nets of tuna fishermen in the eastern tropical Pacific, and for aquarium display in southern California and Hawaii.

General Biology: Reproductive Data.—Gestation lasts about 1 year, and calves may nurse for 1.5 to 2 years, although they begin to take solid food at age 6 months. Breeding apparently occurs throughout the year, but the fact that most of the young are born during a certain time of year suggests that breeding, as well as calving, takes place in the spring and summer.

Age-Growth Data.—Bottlenosed dolphins are 1.0 m long at birth and grow to 3.6 m in length and 650 kg. in weight. Captive animals have become sexually mature at 6 years, but recent evidence suggests that this species normally breeds at about 12 years. The estimated life span for this species is about 25 years, but it may be longer indicating that natural mortality is low.

Feeding Habits.—Bottlenosed dolphins feed on several species of fish, squid, and a few crustaceans. In many areas they are catholic in their food selection, seasonally capitalizing on the most abundant or accessible food species.

Ecological Problems: None known.

Allocation Problems: Some fishermen state that bottlenosed dolphins harass fishing efforts by biting fish and shrimp nets, and some attempt to drive them away. Bottlenosed dolphins are occasionally traped accidentally in commercial fishing gear. In this way, a small number are lost in the eastern Pacific international tuna seine fishery. As indicated in the *Tursiops truncatus* Assessment Workshop (Odell, et al., 1975), the effect on the population of taking these animals for display and research off the southeast United States requires further study.

Current Research: Several agencies and institutions conduct or support research on the bottlenosed dolphin. Included are the Office of Naval Research, National Institutes of Health, and the National Science Foundation. The University of Florida concentrates its research on general life history, intraspecies communication, and ecological studies. The U.S. Fish and Wildlife Service is conducting similar detailed studies of the life history of the animals near Tampa Bay, Florida. The Florida State Museum is studying systematics. Research on physiology, echolocation, anatomy, life history, and the behavior of captive and wild individuals has been done at the Naval Undersea Centers in San Diego and Hawaii. These laboratories are also assessing numbers and viability of regional stocks. Texas A&M University is conducting a detailed population study of Aransas Bay, Texas. Studies on vision are being carried out by scientists from the University of Miami. The Dolfinarium at Hardewijk, Netherlands, has recently conducted studies of the physiology and handling of these animals. Specimens retrieved from the incidental kill in the eastern Pacific international tuna fishery are examined at the Southwest Fisheries Center, where studies are underway on their systematics, distribution, life history, and feeding habits.

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SPINNER DOLPHIN

(Stenella longirostris)

Distribution and Migration: The spinner dolphin inhabits tropical inshore and offshore waters around the world. In the United States, it has been recorded on the Gulf of Mexico but not on the U.S. Pacific Coast. In the eastern tropical Pacific, this species commonly associates with the spotted dolphin in mixed aggregations of up to several thousand animals. It is involved in the international tuna fishery in the eastern tropical Pacific, from Cabo San Lucas to Peru and west to about long. 145°W. Little is known of its migrations.

There are at least three races of spinner dolphin in the eastern Pacific and one in Hawaiian waters, differing modally in several characters. One form that occurs very near the coast of Central America, referred to below as the "Costa Rican" form, is relatively long, slender, and gray.

A second race, called "eastern spinner" occurs along the coast of Mexico and seaward about 800 km and is relatively short, slender, and gray. A third, called "whitebelly spinner," occurs in far offshore waters west to about long. 145°W and is relatively short, robust, and white below. A fourth form, relatively long, robust, and white below, occurs in Hawaiian waters and possibly to the south and west. The ranges of the eastern and whitebelly forms overlap. In the area of overlap, the two forms are occasionally captured together. A few apparent intergrades have also been collected. The eastern and whitebelly forms are involved in the international tuna fishery.

The maximum recorded straight-line movement of a single animal is 280 miles (448 km) in 396 days.

Abundance and Trends: The size of the population of eastern spinner dolphin was estimated to be 1.2 million as of January 1, 1974. Projecting ahead to the beginning of 1976 on the basis of net reproductive rate and annual kills of 22,000 and 26,000 in 1974 and 1975, the population size was 1.248 million, indicating a recent annual increase of 2%. This population size was determined to be 54% of the pre-exploitation size in 1976 and, therefore, very near the lower limit of optimum sustainable population (SWFC, 1976).

The population size of whitebelly spinner dolphin was estimated to be 566,400 (78% of initial) as of January 1, 1976. This estimate was determined using the ratio of sightings of whitebelly spinner dolphin and offshore spotted dolphin in 1976 and the estimate of spotted dolphin population size in 1976. The annual kills in 1974 and 1975 were 18,000 and 39,000, respectively. Thus, it was determined that the population size of whitebelly spinners is decreasing at a rate of about 3% per year. Exploitation of whitebelly spinners have not been subjected to incidental mortality as long as the other forms of *Stenella;* therefore, the expected increase in reproduction due to a decreasing population size probably has not fully occurred yet.

Data to be obtained from the aerial survey should improve the above estimates, especially for whitebelly spinners. The survey data will provide considerable information from the geographical areas where no information was previously available.

General Biology: Average length at birth is 77.0 cm. Gestation is 10.6 months. Average length of males at attainment of sexual maturity is 170 cm. Average length of adult males is 175.5 cm (range 160 to 192 cm). Average length of females at attainment of sexual maturity is 165 cm. Average length of adult females is 171 cm (range 152 to 187 cm). Approximately 1% of adult females are postreproductive. Estimates of annual pregnancy rate range from 0.450 (based on 1973 data) to 0.474 (based on 1974 data). The pooled estimates for all years' data si 0.461. The corresponding estimates of calving interval (reciprocal of pregnancy rate) are 2.22 years, 2.11 years, and 2.17 years. Estimates of gross annual reproductive rate based on the 1973, 1974, and 1975 data are 0.099, 0.103, and 0.105, respectively. The estimate based on pooled data for the 3 years is 0.102.

Feeding Habits.—The spinner dolphin feeds on small pelagic fishes and squids.

Ecological Problems: None known.

Allocation Problems: Because of its association with yellowfin tuna, this species is taken incidentally by fishermen from the United States, Canada, France, Japan, Mexico, Panama, and other countries in coastal and international waters of the eastern tropical Pacific.

The foreign share of the tuna catch has been increasing in recent years resulting in an increasing proportion of the total incidental kill being caused by foreign fishermen. The increase is expected to continue.

Current Research: The National Marine Fisheries Service and the tuna fishing industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. No other nation involved in the Pacific tuna fishery is conducting research aimed at improving rescue methods and gear to eliminate porpoise losses associated with the tuna harvest.

Other research includes systematics and ecological studies by P. J. H. van Bree at the Zoological Museum in Amsterdam, W. Dawbin at Sydney University, and E. D. Mitchell at the Arctic Biological Station of the Fisheries Board of Canada in Ste. Anne de Bellevue, Quebec; and ethological studies by K. S. Norris at the University of California at Santa Cruz.

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SPOTTED DOLPHIN

(Stenella attenuata, S. frontalis, S. graffmani, S. dubia)

Distribution and Migration: Knowledge of the spotted dolphins is scanty, and their taxonomy is confused, but two species probably exist. The taxonomy used here is provisional. One form is confined to warm waters of the Atlantic and probably is *Stenella plagiodon*, which is discussed in a separate status report. The other apparent species occurs in all tropical waters of the world, including the Atlantic Ocean, and has been identified as belonging to the four above-listed nominal species. Taxonomists do not agree on the taxonomy. The two apparent species are different in basic color pattern, but both have spots.

The spotted dolphin occurs in the Gulf Stream adjacent to the U.S. east coast. Nothing is known of its migrations. It has not been recorded from the U.S. Pacific coast, but it is the primary cetacean species involved offshore in the international yellowfin tuna fishery in the eastern tropical Pacific, from Cabo San Lucas to Peru and west to approximately long. 145° W. In the eastern tropical Pacific, this species commonly associates with the spinner dolphin in mixed aggregations of up to several thousand animals.

Skull measurements and other features indicate that there are at least two races of spotted dolphin in the eastern Pacific and another in Hawaiian waters. They differ in several features. A coastal form is relatively large and robust, has heavy jaws and teeth, and is restricted to onshore waters from Guaymas, Sonora, Mexico, to northern Peru. An offshore race is relatively small and slender, has lightly built jaws and teeth, is spotted to varying degrees, and occurs in offshore waters west to about long. 145° W. The races of the two forms may overlap, or the boundary between them may move seasonally or from year to year. They have not been observed or captured together, but in the central latitudes of the range the coastal form has been collected as far offshore as 50 km and the offshore form as far inshore as 20 km from the coast. The offshore form predominates in the eastern tropical Pacific yellowfin tuna fishery. Another race inhabits the waters around Hawaii and may extend into the South Pacific and to the west. This form is also small and slender, but relatively lightly spotted.

Abundance and Trends: The size of the offshore spotted dolphin was estimated by a stock assessment workshop (SWFC, 1976) to be 3.5 million animals at the start of 1974. Projecting forward on the basis of net reproductive rate and annual mortalities of 25,000 and 106,000 in 1974 and 1975, respectively, the population size as of January 1, 1976, was estimated to be 3.598 million (64% of initial size) with a range of 2.417 to 4.865 based upon two standard errors of the parameters. Using the above midpoint estimates, a recent annual increase in population size of 1.4% is indicated. Additionally, the population was determined to be within the lower end of the range of optimum sustainable population (SWFC, 1976).

The above statistics are based upon assumptions of (1) geographical range of the spotted dolphin, (2) average school size estimates being unbiased, (3) the composition of the kill in relation to age, sex, and species to be representative of the populations, (4) foreign kill rates being equal to the average 1972–1973 U.S. kill rate, and (5) nonregulated trips having the same kill rates as regulated trips. The planned aerial survey in January-March 1977 should provide data for testing the first two assumptions, while data from nonregulated trips in 1976 should test the last asumption.

General Biology: Average length at birth is 82.5 cm. Gestation is 11.5 months. Average length at 1 year is 138 cm. Age is estimated from dentinal layers in thin sections of teeth. A two-phase Laird-Gompertz growth model has been fitted to layer-length data. Direct calibration of the dentinal layers beyond the first year (two layers) is not possible, and three alternative hypotheses are considered: (1) Two layers per year, until pulp cavity occluded, (2) two layers per year in first year, and then one per year thereafter, and (3) two layers per year until puberty, and one per year thereafter. The second alternative is most probably the correct one, but reproductive parameters below are estimated in terms of layers. Breeding is diffusely seasonal, with prolonged calving seasons in spring and fall and a pronounced low in winter. A third calving season may exist in the summer. Average age at attainment of sexual maturity of males is approximately 12 layers (average length about 195 cm and average weight about 75 kg). Females attain sexual maturity on the average at about 9 layers and 181 cm. Apparently post-reproductive females are encountered in the samples. Corpora albicantia of ovulation and pregnancy persist indefinitely in the ovaries. It is not possible to distinguish between the two types of corpora. Ovulation rate changes with age, from about four per layer in very young adult females to about one per layer in older females. The average reproductive cycles lasts 26 months and consists of 11.5 months of pregnancy, 11.2 months of lactation and 3.3 months of "resting" (not pregnant or lactating). About 4% of lactating females are pregnant. Pregnancy rate decreases with age, from about 0.6 per year at 8 to 10 layers, to about 0.3 at 16 layers. The sex ratio in the population overall is 44.9% males and 55.1% females. Sex ratio changes with age, from near parity at birth, indicating higher mortality rates for males. Average gross annual production of calves, 1973–1975, based on age and sex structures of the sample and the estimated pregnancy rate, is 13.1% of the population per year. No evidence has been found of age or sex segregation in schooling. The estimated parameters differ in a consistent way from those estimated for a population of *Stenella attenuata* in the western Pacific, possibly reflecting the exploitation in the eastern Pacific.

Feeding Habits.—Spotted dolphins feed on small mesopelagic and epipelagic fishes and squids.

Ecological Problems: None known.

Allocation Problems: Because of their association with yellowfin tuna, many of these mammals are taken incidentally during tuna harvesting operations by fishermen from the United States, Canada, France, Japan, Mexico, Panama, and other countries in coastal and international waters in the eastern tropical Pacific.

The foreign share of the tuna catch has been increasing in recent years resulting in an increasing proportion of the total incidental kill being caused by foreign fishermen.

Current Research: The National Marine Fisheries Service and the tuna industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. No other nation involved in the Pacific tuna fishery is conducting research aimed at improving rescue methods and gear to eliminate porpoise losses associated with the tuna harvest.

Other research includes systematic and ecological studies by P. J. H. van Bree at the Zoological Museum in Amsterdam, W. Dawbin at Sydney University, and E. D. Mitchell at the Arctic Biological Station of the Fisheries Research Board of Canada in Ste. Anne de Bellevue, Quebec.

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ATLANTIC SPOTTED DOLPHIN

(Stenella plagiodon)

Distribution and Migration: The Atlantic spotted dolphin (exact taxonomic position not yet known) is probably confined to tropical and subtropical waters of the Atlantic Ocean. It occurs on the U.S. Gulf coast and off the east coast in Gulf Stream waters, and may be restricted to continental waters, being replaced in the West Indies by some other species in this genus (probably *Stenella frontalis*). Seasonal inshore-offshore migrations occur in Florida waters, perhaps elsewhere in the Gulf of Mexico, with animals moving close to shore in late spring.

Abundance and Trends: Population estimates have not been made for this species. The only known fishery for the species has taken 12 or fewer animals per year for display; however, these animals do not easily withstand handling and captivity. Thus, an increased fishery for display animals is not likely.

General Biology: The newborn are about 0.8 m long, and the adults reach 2.0 to 2.2 m in length. Little is known of the life history of this species. Except for the annual spring migrations to near shore, this species is considered a mammal of the outer continental shelf or adjacent high seas. Spotted dolphins appear to feed primarily on squid in the wild, but they readily adopt to a fish diet in captivity. Newborn and young animals are not spotted, but progress through a series of color changes until the adults become spotted all over except for the ventral surface near the belly. This species is subject to infestations externally by barnacles and whale lice, internally by trematodes in the stomach, liver, and pancreas, and nematodes in the lungs and stomach. In captivity and in cold weather, these animals easily contract pneumonia.

Ecological Problems: Little is known about the ecology of this dolphin, but because it normally lives well offshore, it seems likely that it is little affected by man.

Allocation Problems: None known.

Current Research: Some information on this species has been gathered incidental to studies by the Office of Naval Research on the bottlenosed dolphin. Most of the recent research has been on various aspects of sound production by this species. However, David K. and Melba C. Caldwell have long been gathering general biological information at the Marine Mammal Center of the Communication Sciences Laboratory of the University of Florida located at Marineland, Florida (near St. Augustine).

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STRIPED DOLPHIN

(Stenella coeruleoalba)

Distribution and Migration: The striped dolphin inhabits temperate and tropical waters around the world, and has been recorded from both U.S. Coasts. Nothing is known about the movements of striped dolphins in waters contiguous to the United States.

Abundance and Trends: Population estimates were made for the striped dolphin involved in the eastern tropical Pacific yellowfin tuna fishery (SWFC, 1976). The estimate was 248,000. The annual kill averages about 700 in this area, indicating no major impact.

General Biology: (Biological data are based on studies carried out on the population off Japan.

Reproductive Data.—The gestation period is 12 months long. Lactation lasts about 18 months, and the mean length of the reproductive cycle is about 3 years. Schools of striped dolphins segregate somewhat by age and sex.

Age-Growth Data.—The mean length of the newborn is 1 m. The mean age at sexual maturity in males and females is 9 years at 2.2 and 2.1 m, respectively.

Feeding Habits.—The stomachs of 27 speciments taken off Japan contained remains of mesopelagic fishes, squids, and crustaceans; myctophid fishes dominated.

Ecological Problems: None known.

Allocation Problems: The striped dolphin is involved in the eastern Pacific international tuna fishery to a minor extent.

Current Research: A Federal program of research recently begun by Japan is expected to yield an estimate of population size in the northwestern Pacific Ocean. Studies of striped dolphins incidentally killed in the international tropical tuna fishery are underway at the Southwest Fisheries Center.

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COMMON DOLPHIN (WHITEBELLY PORPOISE)

(Delphinus delphis)

Distribution and Migration: This species is worldwide in distribution in temperate to tropical waters of from 12°–28°C. There may be more than one species; pronounced variation in size, shape, and coloration has been demonstrated for three distinct populations in the eastern Pacific (W.E. Evans, pers. comm.). In the northwestern Atlantic Ocean, where this animal is also known as the saddleback dolphin, this mammal ranges from Newfoundland to the Caribbean Sea. In the northeastern Pacific Ocean, the primary distribution of this species is from the California-Oregon border to Costa Rica, but one stranded animal was found in British Columbia. Large populations occur off southern California (Santa Barbara to San Diego), the west coast of Baja California, Mexico (Cedros Island to Cape San Lucas), and Costa Rica. A relatively large population also occurs in, and may be a resident of, the Gulf of California. In southern California waters *Delphinus* is present throughout the year, but is most abundant from August to January. An observed decrease in herd size during the spring and summer may be due primarily to the animals breaking up into small subgroups of 50 to 200 animals, and a general movement offshore and northward.

Abundance and Trends: Population estimates were made for the common dolphin involved in the eastern tropical Pacific yellowfin tuna fishery (SWFC, 1976). The estimate was 1.4 million. The average annual kill of common dolphin in this area is about 9,600 animals. This indicates that there is probably no major impact.

General Biology: Reproductive Data.—Males and females may segregate between mating seasons, especially when the latter are nursing calves or are about to bear their young. The gestation period lasts 10–11 months with a postparturition estrus. The young dolphin is weaned at about age 5–6 months (110–120 cm overall length), but may stay with the female up to 1 year. In the northeastern Pacific Ocean, this species appears to have two mating seasons (January-April and August-November), and two calving seasons (March-May and August-October).

Age-Growth Data.—The young are 75–85 cm at birth. The males grow to 2.6 m and are an average of 14 cm longer than females. The average individual of the northeastern Pacific Ocean is larger than that of the Black and Mediterranean Seas. The largest known specimen from the Black Sea was 212 cm; however, in the northeastern Pacific Ocean a male 259 cm long was taken.

Parasites and Disease.—Parasitism has been implicated in natural mortality. The brains of 12 stranded specimens contained flukes and their eggs, which in most cases had caused abscesses and lesions.

Feeding Habits.—This species is seldom found inside the 100-fathom line, but it frequents seamounts, escarpments, and other prominent offshore features. The animal makes most of its dives in excess of 10 fathoms after sunset. The deepest dive recorded is 140 fathoms, but the average dive is to 30 fathoms. During feeding the animals stays under water for 2 to 3 minutes, but dives of 5 minutes have been recorded. It feeds mainly on anchovy, sprat, pelagic pipefish, and cephalopods in the Black Sea; whiting, horse mackerel, sardine, and hake in the Atlantic Ocean; and anchovy, cephalopods, myctophids, and hake in the northeastern Pacific Ocean.

Ecological Problems: None known.

Allocation Problems: Because the northern anchovy and squid constitute the bulk of this mammal's diet in the northeastern Pacific Ocean, a substantial increase in the fishery for these resources might have a noticeable effect on the porpoise populations. *Delphinus* is the third most important species of porpoise taken incidentally in the eastern tropical Pacific international tuna purse-seine fishery.

The final estimated incidental kill in the international tuna fishery during 1974 was 4,000 animals. Estimates of incidental kills in previous years are 4,000 animals in 1971, 9,000 animals in 1972, and 22,000 animals in 1973.

Current Research: The National Marine Fisheries Service and the tuna fishing industry are assessing the effects of porpoise mortality and improving rescue methods and gear to eliminate losses associated with the tuna harvest. Studies of behavior, distribution, and abundance have been conducted by the Naval Undersea Center, San Diego, California, since 1968. This research terminated at the end of FY '73 at NUC, but will continue at the Southwest Fisheries Center.

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FRASER'S (SARAWAK) DOLPHIN

(*Lagenodelphis hosei*)

Distribution and Migration: Only a single specimen of Fraser's dolphin, from Borneo, was known to science until 25 of the mammals were taken in a tuna purse seine in the eastern tropical Pacific. Since then, it has been recorded from several widely separated localities in the Pacific and Indian Oceans: Durban, South Africa; near Sydney, Australia; Tokyo, Japan; and the Central Pacific south of Hawaii.

Abundance and Trends: The animal is rare in collections and presumably not common in its habitat (Perrin, et al., 1973.)

General Biology: Age-Growth Data.—Length at birth is about 1 m, and the adults are about 2.5 m long.

Feeding Habits.—This dolphin feeds on deep-living fishes and squids.

Ecological Problems: None known.

Allocation Problems: Loss of Fraser's dolphins in the eastern Pacific international tuna fishery is minor in terms of absolute numbers, but may be significant considering the apparent extreme rarity of the animal. Of 34 indentified specimens worldwide, 29 have been taken incidentally by tuna seiners.

Current Research: None.

References

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WHITE-BEAKED DOLPHIN

(*Lagenorhynchus albirostris*)

Distribution and Migration: The white-beaked dolphin inhabits the coastal waters of the North Atlantic Ocean from the Barents Sea and Davis Strait to France and Massachusetts. It is most common in the North Sea from the east coast of the United Kingdom to the Faroe Islands, and may winter in the southerly parts of the North Atlantic Ocean. It appears in Davis Strait in the spring and summer after the beluga and narwhal migrate north and leaves in autumn sometimes as late as November. It apparently ranges farther north into Arctic waters than its relative, the white-sided dolphin.

Abundance and Trends: This species is one of the more abundant of North Atlantic toothed whales. Schools of as many as 1,500 have been reported from the coast of Norway where it is attracted by herring (Fraser, 1949).

Tomilin (1957) reports schools of several hundred and states that this species is taken commercially in Norway, but gives no statistics on the catch. He also mentions that it was once taken commercially in Davis Strait. Mitchell (1975) summarized a small-scale harvesting in Newfoundland.

General Biology: This gregarious species grows to 3.0 m and matures at 2.0 m or larger; the calves are as long as 1.2 m when born. The mating period is long, but limited to the warmer half of the year. Most of the calves are born during midsummer. Food is mainly fish such as herring, cod, whiting, and capelin, but also crustaceans and mollusks such as hermit crabs, whelks, and squids.

Ecological Problems: Strandings of schools of up to 30 animals have been reported.

Allocation Problems: None known.

Current Research: None.

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ATLANTIC WHITE-SIDED DOLPHIN

(*Lagenorhynchus acutus*)

Distribution and Migration: The Atlantic white-sided dolphin ranges the coastal waters of the North Atlantic Ocean from the Barents Sea and Davis Strait south to France and Cape Cod.

Abundance and Trends: The status of this species is unknown. According to Tomilin (1957), "this dolphin is taken only in summer in the waters of Norway: the animals are trapped in the fjords, which they enter in vast schools pursuing herring. The take may reach 1,500 individuals at a time." It is sometimes taken in association with pilot whales in Newfoundland drive fisheries (Sergeant and Fisher, 1957).

General Biology: This species grows to 3.0 m. Gestation is 10 months. The young are born mostly in midsummer and are about 1.0 m long. The age of a 1.5-m animal was estimated at 3 years (Sergeant and Fisher, 1957). It feeds mostly on squid, pelagic and benthopelagic fish such as mackerel, salmonids, and herring, and some crustaceans and mollusks such as *Pagurus* and *Buccinum*. Schools in excess of 1,000 animals have been reported while they were feeding; groups of 10 to 50 are normally seen.

Ecological Problems: Stranded schools of up to 30 have been reported.

Allocation Problems: None known.

Current Research: None.

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PACIFIC WHITE-SIDED DOLPHIN

(*Lagenorhynchus obliquidens*)

Distribution and Migration: The Pacific white-sided dolphin ranges the northern North Pacific from the coast of Japan and Baja California northwood. It is found year-round off California and Washington and in Alaska and Kurile Islands waters during the summer, but has not been reported from the Bering Sea. It frequents the waters of the continental shelf and slope, but on occasion has been sighted in large schools in offshoe waters. Small numbers, which are "resident" from Point Conception south to Cedros Island, appear to be morphologically different from northern forms (being larger and more robust). These resident stocks are supplemented in southern California and Baja California by migrants coming south and inshore. Inshore migrations into Monterey Bay and the central California continental shelf also apparently occur during midwinter.

Abundance and Trends: Norris and Prescott (1961) report the species as common off southern California in inshore waters in winter and spring and offshore in summer and fall. According to sighting reports in the files of the National Marine Fisheries Service, Seattle, the University of California, Santa Cruz, and the Naval Undersea Center, San Diego, as reported by Pike and MacAskie (1969), this species may be the most abundant dolphin north of southern California. No estimate of the size of the population along the west coast of North America has been made.

Nishiwaki (1972) estimates the population in Japanese waters to be between 30,000 and 50,000. Klumov (1959) reports that the Pacific white-sided dolphin is one of the two most numerous dolphins found in the late summer and fall in the Kurile Islands area, and forms schools of up to several thousand animals.

A few of these animals are taken for display in ocean aquaria.

General Biology: This species grows to 2.3 m. and weighs up to 181 kg. A male 1.2 m long with milk in its stomach was taken off Washington. It probably breeds in late spring to autumn, with a gestation period of 10 to 12 months. Schools of thousands are seen, often together with common and right-whale dolphins and less frequently with Grampus. It is active day and night, frolics, follows ships, dashes across ships' bows, and occasionally jumps clear of the surface. It adapts well to captivity. This dolphin feeds primarily on cephalopods and small fish such as herring, sardine, anchovy, and saury.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: A study of the natural history and behavior has been funded by the Marine Mammal Commission.

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NORTHERN RIGHT WHALE DOLPHIN

(*Lissodelphis borealis*)

Distribution and Migration: Little is known about the distribution of the northern right whale dolphin other than that it inhabits temperate waters of the North Pacific Ocean.

In the western North Pacific Ocean, the northern right whale dolphin is found from Cape Inubo, Japan, north as far as Etorofu and Paramushir Islands, from which it apparently migrates southward in autumn or winter to near the southern Kurils and is common, at least seasonally, in the northern Sea of Japan.

In the eastern North Pacific, this species has been reported from lat. 29° to 50°N, though mostly from California. It occurs in the southern California continental borderland only from October or November to about April.

Though it is also oceanic, the right whale dolphin has been observed most frequently along the continental slope and near such features as seamounts and banks. It has been seen close to the California Channel Islands and the mainland coast near San Diego and Palos Verdes. Two sightings and one specimen from the central Pacific suggest that the species may be continually distributed across the temperate North Pacific.

Abundance and Trends: Groups of 200 are most common, but herds of an estimated size of from 300 to 1,000 off Japan and up to 2,000 off southern California have been seen. Although the species was once thought to be uncommon, aerial surveys have revealed that it is abundant off the Pacific Coast of North America (Leatherwood, pers. comm.). This species is reportedly common in the northern Sea of Japan (Okada and Hanaoka, 1940), where it is harvested.

General Biology: Newborn animals are about 0.6 m long and generally lighter in color than adults. They grow to 3.1 m. The species is gregarious and is frequently reported in close association with the whitesided dolphin, with which it shares an extensive common range.

Right whale dolphins may reach speeds in excess of 25 knots in bursts. One entire herd averaged over 15 knots for 30 minutes while attempting escape from a helicopter. When approached, the animals may move away quietly or in a series of low angle leaps, each covering as much as 7 m. Individuals that are widely scattered when approached bunch together tightly while fleeing from the cause of their disturbance.

Food is primarily squid, but also miscellaneous fishes, including myctophids and engraulids. Parasites include trematodes and cestodes.

Ecological Problems: If migrations are food dependent, as they appear to be, decimation or contamination of food supplies in the southern end of its range could adversely affect the species.

Allocation Problems: None known.

Current Research: The only research known is an unfunded examination of all museum materials, collection of beached specimens, and survey of literature being conducted by J. S. Leatherwood, NUC, San Diego, R. F. Green, Ventura College, California, and W. A. Walker, Palos Verdes, California.

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RISSO'S DOLPHIN

(Grampus griseus)

Distribution and Migration: Risso's dolphin ranges through all temperate and tropical seas. In western North America its northern limit is British Columbia, and it is sighted during the winter in central California. In the eastern United States it ranges from Massachusetts south. Strandings in Britain are most common during the summer. The species probably migrates to higher latitudes in the warmer months.

Abundance and Trends: Risso's dolphin was described in 1894 as "abundant" near Monterey Bay, California (Daugherty, 1972). The species is uncommon but not rare throughout most of its range. Over 200 of these animals were sighted in one group during 1972 off the Washington Coast (Fiscus, Unpublished field notes, 1972)

General Biology: Risso's dolphin grows to 3.6 to 4.0 m. Its skin commonly has long, narrow, white marks believed to be scars caused by others of the same species. Solitary animals or schools of 12 or less are generally observed. This species is frolicsome, and sometimes leaps clear of the water. Known foods are almost exclusively cephalopods.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Studies of distribution and abundance in the eastern Pacific are currently underway by K. S. Norris and a group of co-workers at University of California, Santa Cruz, and by J. S. Leatherwood of the Naval Undersea Center, C. S. Hubbs of Scripps Institution of Oceanography, and the Southwest Fisheries Center.

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MELON-HEADED WHALE

(Peponocephala electra)

Distribution and Migration: ***Peponocephala*** **inhabits the tropical Atlantic, Indian, and Pacific Oceans.**

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Nishiwaki and Norris, 1966).

General Biology: Unknown.

Ecological Problems: None known.

Allocation Problems: A few are taken annually in the eastern Pacific international purse-seine fishery for tuna. This small take is probably insignificant.

Current Research: None.

References

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PYGMY KILLER WHALE

(Feresa attenuata)

Distribution and Migration: The pygmy killer whale probably inhabits most tropical waters.

Abundance and Trends: The status of this species is unknown except that it is apparently rare (Caldwell and Caldwell, 1971). The species has been captured for exhibit in the oceanaria of Hawaii and Japan. In the continental U.S. it has been recorded only three times, twice in Florida, once in Texas.

General Biology: The adults reach about 2.4 m. In appearance they resemble a small false killer whale. They are aggressive in captivity, with captives of other species showing fright reactions to them.

Ecological Problems: None known.

Allocation Problems: This species has been reported as captured to a very minor extent in the yellowfin tuna fishery in the eastern tropical Pacific.

Current Research: None.

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FALSE KILLER WHALE

(Pseudorca crassidens)

Distribution and Migration: The false killer whale ranges through all temperate and tropical seas. It is an oceanic form, found on the Atlantic side of the United States from North Carolina south, and on the Pacific side from the Aleutian Islands south.

Abundance and Trends: This species is uncommon throughout most of its range. It is seldom caught in the Japanese small-whale fishery, but is common on the Pacific side of Honshu (Ohsumi, 1972).

General Biology: The males grow to 6.1 m and the females to 4.9 m; adult animals weigh up to 1,360 kg. Mating appears to be over a protracted period, with young born at about 1.8 m. False killer whales are found in schools of both sexes and all ages. They have been seen eating dolphinfish (mahimahi) off Hawaii.

Ecological Problems: Schools of up to 835 of these animals have stranded.

Allocation Problems: The Japanese state that a toothed whale (shachi), which may or may not be the false killer whale, does much damage to their long-line tuna industry by feeding on hooked fish.

Current Research: None.

References

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LONG-FINNED PILOT WHALE

(Globicephala melaena)

Distribution and Migration: This pilot whale ranges from Greenland, Iceland, and the Barents Sea south to Virginia and the Mediterranean. It is a schooling mammal and appears regularly off the Canadian and United States coasts. It also inhabits temperate waters of the Southern Ocean. It generally favors pelagic regions, but often moves close to shore in search of food.

Abundance and Trends: Mercer (1975) estimates the original Newfoundland stock prior to 1947 at less than 60,000. There are no estimates for other parts of its range. About 40,000 were killed from 1951 to 1959 in local Newfoundland fisheries (Sergeant, 1962), but only 6,902 have been taken between 1962 and 1973. About 177,000 were taken in the Faeroe Islands from 1584 to 1883 (Tomilin, 1957), and 16,564 were taken by Norway and Denmark between 1962 and 1973 (Christensen, 1975). A total of 468 were driven ashore in Ireland in 1840, 1844, 1851, 1853, and 1957; one school of undetermined number was taken in 1965 (O'Riordan, 1975).

General Biology: **The adults grow to about 6.5 m; females are usually mature at age 6 to 7 years and males at about**

age 12. Calves are about 1.8 m long at birth, in July to August, although full-term fetuses have been found year-round. Cows probably bear calves every 3 years, gestation period is about 16 months, and lactation lasts about 2 years. Pilot whales are gregarious, and occur in schools of hundreds and thousands. They have a distinct social organization; however, the sex ratio is not always equal in stranded groups. They are believed polygynous, with bachelor males sometimes forming separate schools. They travel in tight schools when not feeding, and disperse into scattered groups when on feeding grounds. Captive pilot whales feed at night and sleep days. They have a top swimming speed of over 25 mph, and a longevity of about 50 years. They feed almost exclusively on squids, but also eat small fish such as clupeids and gadids. Sergeant (1962) estimates food intake per year at about 11.5 times the weight of the animal.

Ecological Problems: Whole schools sometimes strand.

Allocation Problems: None known.

Current Research: None.

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SHORT-FINNED PILOT WHALE

(Globicephala macrorhynchus)

Distribution and Migration: In the North Atlantic Ocean, this pilot whale has been reported from New Jersey (though it is far more common south of about Cape Hatteras) and Madiera and ranges south to at least northern Brazil and Dakar, Senegal. In the North Pacific Ocean it is found from Japan and the Aleutian Islands to probably Peru. It is an oceanic species with a very wide range. Schools of pilot whales appear regularly off U.S. coasts. It generally favors offshore waters, but often moves closer to land in search of food. Greatest numbers are seen in the eastern North Pacific in winter, fewer in summer.

Abundance and Trends: The status of this species is unknown except that it is fairly abundant around the California Channel Islands (Norris and Prescott, 1961). The population of pilot whales around the Channel Islands has been fished for live specimens to supply U.S. oceanaria since about 1955. Many pilot whales are taken in the Japanese small-whale fishery. This species is also taken in the lesser Antilles.

General Biology: The adults grow 4.6 to 6.7 m. Little work has been done on this species, but indications are that the general biology is similar to *G. melaena*.

Ecological Problems: Schools of this species often strand.

Allocation Problems: None known.

Current Research: The taxonomy of Pacific *Globicephala* is being studied by R. L. Brownell and D. K. Caldwell in the United States, and T. Kasuya and M. Nishiwaki in Japan. The U.S. Naval Undersea Center is studying the behavior and distribution of the pilot whale in southern and Baja California.

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KILLER WHALE

(Orcinus orca)

Distribution and Migration: The killer whale is worldwide and ranges north and south to polar ice. It is more common in cooler waters, and in more productive coastal areas. The Strait of Georgia in British Columbia, Prince William Sound in Alaska, and Puget Sound in Washington State are areas of concentration. Migratory habits probably depend on food supply, and killer whales are most numerous in Puget Sound in November and late summer. In Japan, most of these mammals are taken from April to November, with the greatest number from August to November. In the Norway fishery, killer whales seem dependent on distribution and migration of herring, capelin, and cod.

Abundance and Trends: Authoritative estimates of the world population are not available. A limited cooperative effort of the Fisheries Research Board of Canada and the Washington State Department of Game primarily in the inside waters of Washington and British Columbia gave counts of 459 killer whales in 1971, 255 in 1972, and 249 in 1973. About 65 individuals have been removed from inside waters of British Columbia and northern Washington State since 1962 for display by marine aquariums in 25 captive operations. Eleven of these whales were killed during U.S. capture operations, mostly during the early years. Two killer whales were killed in Canadian capture operations. The Japanese fishery took 1,439 killer whales from the Okhotsk Sea to south of Japan from 1948 to 1974. Norwegians harvested 2,096 in the northeastern North Atlantic between 1938 and 1974. The USSR took 444 animals in the Antarctic and North Pacific between 1958 and 1974. South Africa took 27 whales from 1972 to 1974.

General Biology: Species Statistics.—Females grow to 7.0 m and males to 8.2 m. Males weigh up to about 8,000 kg, with about 4,000 kg the apparent limit for females. An adult male dorsal fin may be 1.8 m high, considerably higher than that of the female. The body has conspicuous white markings on a black background.

Reproductive Data.—Breeding appears to occur year-round although it may peak in May to July; gestation lasts 13 to 16 months. In the Northern Hemisphere births occur mostly in autumn.

Age-Growth Data.—Newborn calves are about 2.4 m long and weigh about 180 kg.

Feeding Habits.—Killer whales usually are found in groups of 10 to 100 or even more. The males are probably polygynous. Killer whales hunt successfully in packs, but there are no records of attacks on people.

The stomach contents of 364 killer whales taken off Japan from 1948 to 1957 included (in order of occurrence): fish (mostly cod, flatfish, and sardines), squid, octopus, dolphins, whales, and seals. Salmon constituted 1.6% of all stomach contents. Soviets in the Kurils recorded "fish and squid" but no marine mammal remains in 10 animals. Of eight killer whales examined by the National Marine Fisheries Service, Seattle, six adult males had only marine mammal remains except for one squid; one adult female and one immature male had only fish remains. Food consumption has been estimated at 4% of the body weight per day.

Parasites and Diseases.—The most common diseases are those caused by wearing of tooth crowns and denudation of the pulp cavity, which results in abscesses. Other diseases include bony outgrowths and bone tumors. Parasites include nematodes, cestodes, and trematodes. One Puget Sound killer whale stomach contained 5,000 nematodes.

Ecological Problems: This species has no natural enemies except man. Stranding probably is the greatest nonhuman hazard.

Allocation Problems: Public interest in killer whales was stimulated by the first live capture in 1964 in British Columbia. Growing public interest is increasing in killer whales as a recreational resource, especially in Puget Sound (Haley, 1970). The animals are commercially valuable in the United States for display in oceanariums. United States, Japanese, and Canadian fishermen contend that the the whales cause gear damage and interfere with salmon and tuna longline fisheries. Many consider killer whales an important predator of salmon and herring; others defend them as the natural enemy of other fish eaters, includ-

ing harbor seals and sea lions. Some sports salmon fishermen claim their presence spoils fishing.

Current Research: The National Marine Fisheries Service and the Fisheries Research Board of Canada are studying killer whale distribution in western United States and Canadian waters.

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HARBOR PORPOISE

(*Phocoena phocoena*)

Distribution and Migration: The harbor porpoise is cirmumpolar in distribution in ice-free seas, ranging south in the Atlantic Ocean to the Delaware River and the Mediterranean Sea. In the Pacific Ocean it is found south to Japan and southern California, although it is not abundant south of San Francisco.

The harbor porpoise is an inshore species, frequenting coastal waters, the mouths of large rivers, harbors, and bays, and sometimes ascending freshwater streams.

Abundance and Trends: The harbor porpoise is especially abundant in the waters of Washington (Scheffer and Slipp, 1948) and western Canada (Pike and MacAskie, 1969). It is common at certain sites off the coast of Maine during the summer (Gaskin, Arnold, and Blair, 1974). Tomilin (1957) reports single catches of 2,000 to 2,500 harbor porpoises at the time they migrate between the Sea of Azov and the Black Sea.

Mohl-Hansen (1954) reporting on biological investigations of the harbor porpoise in Danish waters examined 188 harbor porpoises in 1941–42, 230 in 1942–43, and 212 in 1943–44, so at least those numbers were commercially harvested in Denmark during those years. He also states that these harbor porpoises were from the Baltic Sea populations.

Catches of *P. phocoena* in west Greenland recently have averaged over 2,500 annually. During 1972, an estimated 1,500 animals were taken in the non-Greenlandic salmon driftnet fishery. No estimates are available for Greenlandic driftnetters. In addition, about 1,000 are taken annually in direct catches (Kapel, 1975). In the Black Sea, where a moratorium has existed since 1967, an estimate of the present population is 25,000 to 30,000. Incidental catches of *P. sinus* have ranged from tens to the low hundreds annually.

General Biology: This species grow to 1.8 m, and weights up to 72 kg. The females are sexually mature at about age 3 to 4 years. Newborn calves are half the length of the mother. They breed annually during late spring and summer. The gestation period is 10 to 11 months, and the calves nurse up to 8 months. Harbor porpoises travel in pairs and schools of up to 200 or more, especially on the feeding grounds. This species is less playful than most dolphins or porpoises; they seldom jump out of the water, and usually ignore passing boats. Schools containing all "bachelors" are common; the females stay in groups of mixed sex. Usually they swim just below the surface, rising about four times per minute to breathe when not feeding. They feed mainly on bottomfishes such as cod, herring fry, flounder, and occasionally on invertebrates such as squids, clams, and crustaceans. Parasites of the alimentary canal and respiratory system are common (Gaskin, Arnold, and Blaire, 1974).

Ecological Problems: These animals occasionally strand for unknown reasons, and because of their feeding habits, a few tend to get trapped in fishermen's nets. (See Abundance and Trends.) They are preyed upon to an unknown degree by Greenland sharks, great white sharks, and killer whales. Significant residues of chlorinated hydrocarbon insecticides and PCB's have been recorded from the Baltic, United Kingdom, and Bay of Fundy.

Allocation Problems: None known.

Current Research: None.

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DALL'S PORPOISE

(*Phocoenoides dallii*)

Distribution and Migration: The Dall porpoise inhabits the North Pacific Ocean from Japan and central Baja California north into the Bering and Okhotsk Seas. In both areas the southern limits of distribution appear to expand with the cooling of waters to at least 56°F, and individuals are seen in areas having surface temperatures of up to 62°F. It has been observed in the Bering Sea in locations and at periods when surface waters were 36°F. In the northeastern Pacific, Dall porpoises are year-round residents as far south as the northern Channel Islands, but are found further south and further inshore, as far as Cedros and Guadalupe Islands, from about October to late May. They are observed off Monterey Bay throughout the year, though there appears to be a separation of smaller juveniles inshore from more heterogenous groups offshore, and apparent inshore migrations tend to increase numbers of all animals there during winter and early spring. Dall porpoises are reported off San Francisco Bay from at least March through November. The southern and inshore movements appear closely related to movements of squid, a primary food item. The species is found offshore of the eastern Pacific coast to at least 1,047 km. The Marine Mammal Division has many records of Dall porpoise ranging from the Bering Sea and the eastern Aleutian Islands south to lat. 34° in California waters (MMD files, Marine Mammal Observations, 1958–72). The NMFS Southwest Fisheries Center and the Naval Undersea Center, San Diego, have similar detailed records of occurrences south to Cedros and Guadalupe Islands.

Abundance and Trends: The Dall porpoise is one of the most abundant small cetaceans found in Alaska inside waters (U.S. Forest Service) and in British Columbia waters (Pike and MacAskie, 1969). It is commonly seen off northern California (W. J. Houck, pers. comm.). The species appears to be abundant throughout its range. Kasuya (1974) also stated that between 4,500 and 7,500 are caught annually in coastal eastern Japan waters, but there has been a decrease in catch per unit effort in recent years.

General Biology: There may be two forms of Dall porpoise (*P. dallii* and *P. truei*). They grow to lengths of about 2.2 m and weights of about 218 kg. They and the killer whale have the most conspicuous color patterns among cetaceans. Calves are born in the spring and summer, and young are observed in August. These animals are usually found in groups of 2 to 20, but occasionally 200 or more are seen on favorable feeding grounds. It plays in the bow waves of ships, and is among the swiftest of all marine mammals. This mammal consumes squid and such fish as saury, hake, herring, jack mackerel, and bathypelagic and deepwater benthic fish.

Ecological Problems: None known.

Allocation Problems: Kasuya (1974) reports on annual accidental catch of more than 20,000 Dall porpoises in the Japanese high-seas salmon gillnet fishery in the northern North Pacific and Bering Sea west of long. 175°W.

Mizue and Yoshida (1965) state the Dall porpoise is abundant east of long. 175°W but that the Japanese fishing fleet does not operate east of the boundary.

Current Research: W. J. Houck is studying *P. dallii and P. truei* at Humboldt State College in California, and M. Nishiwaki is studying these species in Japan. G. V. Morejohn is studying feeding habits, migration, behavior, and morphology of the species at the Moss Landing Marine Station, California. S. Leatherwood is monitoring seasonal movements of the species into waters of southern and Baja California.

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WHITE WHALE

(*BELUGA, BELUKHA*)

(*Delphinapterus leucas*)

Distribution and Migration: The beluga inhabits the Arctic Ocean and adjacent seas, including the Okhotsk and Bering Seas, Cook Inlet, Hudson Bay, and Gulf of St. Lawrence. Belugas ascend several hundred miles up the large rivers of Siberia and Alaska. Populations of white whales from different areas show marked size differences through the Arctic. Three races are recognized by some authorities: *dorofeevi* from the Okhotsk Sea, *marisalbi* in the Barents and White Seas, and *leucas* in the rest of the range. In the Pacific, belugas are common along Alaska as far south as Bristol Bay; the population found in Cook Inlet is apparently separate.

Abundance and Trends: The population in the Soviet Arctic and Far East is estimated at between 32,000 and 58,000 (Yablokov, 1974). The population in the Canadian Arctic numbers at least 30,000 animals (Sergeant and Brodie, 1975). The Cook Inlet, Alaska, population is estimated at 300 to 500; in Bristol Bay the population is estimated at 1,000 to 1,500 and is considered stable; the size of the beluga population in Alaska north of Bristol Bay is unknown, but is much greater than that residing in Bristol Bay (Alaska Department of Fish and Game, 1973). In Alaska belugas have been used as a source of muktuk, meat, and oil for both people and dogs by residents of villages on the Bering Sea and Arctic Ocean coasts and along rivers that belugas periodically ascend. Belugas also provide a significant amount of fresh and preserved food for native peoples in the Mackenzie River delta region and Baffin Island, where beluga hunting is culturally and economically important (Brodie, pers. comm.). In recent years the demand for beluga products has been reduced in the Arctic. In Bristol Bay only a few belugas are now taken, and the estimated annual harvest of the Bering Sea and Arctic Ocean coasts of Alaska is 150 to 300 (Alaska Department of Fish and Game, 1973). Sergeant (1962) states that from 1948 to 1960 the catch of belugas in the Canadian Arctic averaged 1,200 annually. The present catch in Arctic Canada averages 500 animals per year (Sergeant and Brodie, 1975). A few animals are occasionally taken from the St. Lawrence River estuary population, which number 500–1,000 animals. In the late 1950's the annual catch of belugas averaged 3,000 to 4,000 in the U.S.S.R., 500 to 800 in Greenland, and 100 to 200 from Spitsbergen (Kleinenberg, et al., 1964). Present catches in the Asian Arctic range from 530 to 825 annually.

General Biology: Males grow to 4.6 m and the females to 4.0 m in the Beaufort Sea, and to 5.2 m and 4.6 m, respectively, in the Soviet Arctic. The beluga is polygamous, breeds in the spring, and has a gestation period of 15 months; newborn are about 1.5 m long. Lactation lasts about 20 months, with a 3-year reproductive cycle. They are gregarious and travel in groups of two or three to hundreds. Belugas feed from midwater to the bottom, with a diet including fish such as salmon, capelin, cisco, pike, char, cod, squid, crustaceans, and nereid worms.

They frequently occur in shallow areas with a bottom of mud, sand, and stones. The beluga produces high-pitched whistles and squeals, ticking and clucking sounds, and have been given the name "sea-canary." Animals break the ice with their backs to reach air for breathing.

Parasites include nematodes in the respiratory organs, ears, circulatory system, intestine, and urogenital system; trematodes are found in the intestine, as well as cestodes and acanthocephalans. Helminths are apparently one cause of mortality.

Ecological Problems: Known natural enemies include the killer whale and polar bear.

Allocation Problems: These mammals take salmon at the mouths of large Alaska rivers, and are important predators of salmon smolt in Bristol Bay, Alaska. Recorded killer whale sounds have been used experimentally to prevent beluga predation in the Kvichak River.

Current Research: Research on the beluga is being conducted by the Fisheries Research Board of Canada.

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NARWHAL

(*Monodon monoceros*)

Distribution and Migration: The narwhal is the most northern cetacean and occurs in north polar seas, mainly in the North Atlantic sector. It is most common in northwestern Greenland and the eastern Canadian Arctic, particularly Jones and Lancaster Sounds, the north and east coasts of Baffin Island, Repulse Bay, and occasionally in northern Foxe Basin and Hudson Strait. Narwhals also occur near Franz Josef Land and Novaya Zemlya. They are rare in the Laptev, East Siberian, Chukchi, and Beaufort Seas.

Abundance and Trends: The Canadian and northwest Greenland population is at least 10,000 (Mansfield, 1975). Numbers elsewhere are unknown. Rare occurrences in Great Britain (4) and Holland (1) are documented. Narwhals are hunted in Greenland and the eastern Canadian Arctic for dog food, muktuk, sinew, and ivory.

General Biology: Females attain a length of 400 cm and a weight of 900 kg. Each female bears a single calf about once every 3 years. Mating takes place in April, and the 1.5-m-long young are born in July after a 14.5-month gestation period. Lactation probably lasts about 20 months. Narwhals are gregarious, forming schools of up to 1,000 to 2,000, and made up of small groups of up to about 20 (Mansfield, pers. comm.). Food of the narwhal consists mainly of cephalopods, Arctic cod, Greeland halibut, and shrimps.

Ectoparasitic whale lice occur in cuts, skinfolds, and around the base of the tusk. Endoparasitic nematodes occur occasionally in the stomach, and frequently in basicranial sinuses..

Ecological Problems: Narwhals are occasionally trapped in large numbers by rapid freeze-up. In such situations, Greenlanders may kill entire groups of these mammals. Although it is not adapted to drift ice areas, the killer whale probably occurs there and may be a natural enemy of the narwhal.

Allocation Problems: None known.

Current Research: The narwhal is being studied by the Fisheries Research Board of Canada.

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SPERM WHALE

(Physeter macrocephalus)

Distribution and Migration: The sperm whale is nearly worldwide in distribution except for the pack ice of the polar regions. Females and immature animals are generally found between lat. 40° S and 50° N. Sperm whales appear to migrate north during the northern summer and south during the northern winter. In the North Pacific, male sperm whales are found as far north as the Bering and Okhotsk Seas; in the North Atlantic they move into Davis Strait and near Spitsbergen.

Abundance and Trends: In 1946, the world stock of exploitable males (i.e., males over the legal length limit of 9.2 m) and sexually mature females was over one million, of which almost half were males. The present stock is about 700,000, of which only about one third are males. These are distibuted by major ocean areas as follows (Mitchell, 1974; Chapman, 1976; International Whaling Commission, 1977):

Ocean	1946 population (In thousands)	Current population (In thousands)
North Atlantic	[1] (227)	[1] 22
North Pacific	400	300
South Atlantic	139	90
Indian	220	140
South Pacific	360	180

[1] Estimate of total population, including immature animals.

The total populations of each sex, including undersized males and immature females, are approximately 2.5 times the number of exploitable males and 1.67 times the number of mature females (Gambell, 1976).

The sperm whale is currently the most important species of the world whaling industry. Stocks in most areas are at or above maximum sustainable yield levels. Catches of sperm whales in recent seasons have been:

Season	North Pacific	North Atlantic	Southern oceans, pelagic [1]	Southern land stations
1970	11,815	649	5,891	4,135
1971	10,860	531	7,335	4,198
1972	6,323	691	8,172	2,695
1973	8,567	613	9,394	2,632
1974	8,127	[2] 238	8,930	[3] 2,891
1975	7,859	[4] 37	7,046	[3] 3,701

[1] Southern ocean catches are for the seasons 1970–71 through 1975–76.
[2] No data from Azores or Madeira.
[3] No data from Chile.
[4] No data from Azores, Madeira, or Spain.

In most areas, males dominate the catches, and in the Antarctic (south of lat. 40°S) the catch is almost exclusively males.

General Biology: Species Statistics.—The sperm whale's large squarish head is distinctive because it bears a tanklike "case" containing spermaceti. The lower jaw is long and narrow, and has about 25 pairs of teeth. Females reach 11.6 m in body length, males 16.8 m.

Reproductive Data.—The females mature sexually about age 8 to 11 years when body length is about 8.5 to 9.1 m, physically at 25 to 30 years and body length of 11.0 m. Males are not sexually mature until about 10 years and 11.9 m, and are not "socially" mature until about age 25 years. Females and juveniles of both sexes form schools of 10 to 50 animals, averaging about 25. Younger, sexually mature males (ca. 11.0–13.4 m, age 15–25 years) form "bachelor" schools usually containing not more than 10 animals. Older males (13.7 m, 22–27 years) are usually solitary except when with schools of females for breeding for about 5 months in the spring and early summer. The female bears a calf (about 4.0 m) once every 3 to 5 years. Gestation lasts 14 to 15 months, and the calf nurses 1 to 2 years and is weaned at about 6.7 m long.

Age-Growth Data.—Newborn calves are about 3.5 to 5 m, and weigh about 1,000 kg. Growth of males continues until they are 45 to 60 years old, and about 15.5 m long.

Feeding Habits.—This species dives to at least 1,000 m, can remain submerged for about an hour, and feeds mainly on large squid. It also consumes significant quantities of octopuses and demersal and mesopelagic fishes.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: The National Marine Fisheries Service is studying the life history of the sperm whale. Other organizations carrying out research on this species are the Japanese Whales Research Institute and Japanese Far Seas Fisheries Research Laboratory (North Pacific and Antarctic), Fisheries Research Board of Canada (North Atlantic), British National Institute of Oceanography (South Africa and western South America), South African Division of Sea Fisheries (South Africa), Australian Commonwealth Scientific and Industrial Research Organization (Australia), the University of Chile (Chile), the Marine Institute of Peru (Peru), and the Marine Department of New Zealand (New Zealand).

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PYGMY SPERM WHALE

(Kogia breviceps)

Distribution and Migration: The pygmy sperm whale occurs in all the warmer seas of the world. In the Pacific Ocean it ranges north to Washington and Japan; in the Atlantic Ocean it ranges north to Nova Scotia and the Netherlands. Its southern range limit is not well known.

Abundance and Trends: The status of this species is unknown other than the fact that it is apparently rather rare. There are many more records of stranding than there are for *Kogia simus*, the dwarf sperm whale (C. O. Handley, Jr., pers. comm.). This species is occasionally taken in the Japanese small-whale fishery (Yamada, 1954).

General Biology: Adult pygmy sperm whales are 2.7 to 3.4 m long. Their dorsal fin is low and posterior to the center of the back. This species was long confused with the dwarf sperm whale, and the following composite statement is based on both species. They are usually solitary or in small pods. They feed mostly on squids, but also take pelagic crustaceans such as shrimps and giant mysids. Females simultaneously pregnant and lactating have been found, suggesting that they may bear a calf 2 years in succession.

Parasites include tapeworm cysts in the blubber, roundworms in the stomach, and giant kidney worms.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: D. K. Caldwell and M. C. Caldwell have been gathering data on the life history in Florida (D. K. Caldwell, pers. comm., 1974). D. K. Caldwell, M. C. Caldwell, and C. O. Handley, Jr., have been working on the distribution (seasonal as well as geographical) in southeastern U.S. (Caldwell, pers. comm., 1974).

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DWARF SPERM WHALE

(Kogia simus)

Distribution and Migration: The dwarf sperm whale apparently has a discontinuous distribution around the world. It has been found in the seas adjacent to South Africa, India, Ceylon, Japan, Hawaii, South Australia, and the west and east coasts of the United States. On the west coast it has been recorded only from Cabo San Lazaro, Baja, California, and San Luis Obispo County, California. On the east coast it ranges from Cape Henry, Virginia, south and west to Texas.

Abundance and Trends: The status of this species is unknown other than the fact that it is apparently rather rare over much of its range. However, it strands rather frequently on the southeast coast of the United States and is taken in the Japanese small-whale fishery (Yamada, 1954).

General Biology: Adult dwarf sperm whales are 2.1 to 2.7 m long. Their dorsal fin is high and near the center of the back. This species was long confused with the pygmy sperm whale, and the following is a composite statement based on both species. They are usually solitary or in small pods. They feed mostly on squid, but also take pelagic crustaceans such as shrimps and giant mysids. Females simultaneously pregnant and lactating have been found, suggesting that they may bear a calf 2 years in succession.

Parasites include tapeworm cysts in the blubber, roundworms in the stomach, and giant kidney worms.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: D. K. Caldwell and M.C. Caldwell have been gathering data on the life history in Florida (D. K. Caldwell, pers. comm., 1974). D. K. Caldwell, M. C. Caldwell have been gathering data have been working on the distribution (seasonal as well as geographical) in southeastern U.S. (Caldwell, pers. comm., 1974).

References

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BAIRD'S BEAKED WHALE
GIANT BOTTLENOSE WHALE

(Berardius bairdii)

Distribution and Migration: The giant bottlenose whale is endemic to the North Pacific Ocean, where it ranges from St. Matthew Island in the Bering Sea south to central Honsuh on the western side and southern California on the eastern side. Its migrations are poorly known.

Abundance and Trends: The status of this species is unknown except that it is uncommon but not rare. According to information taken from the Bureau of International Whaling Statistics, between 100 and 400 giant bottlenose whales have been taken annually in the Japanese small-whale fishery during the past 20 years.

General Biology: This species is the largest of the beaked whales. Males attain a maximum length of 11.9 m and females 12.8 m. Their long narrow beak, bulging forehead, and size distinguish them from other species of beaked whales in the North Pacific Ocean. They usually travel in tight schools of up to 30 individuals. Their main foods are deepwater fishes and squids. Males attain sexual maturity at a length of about 10.0 m, and females at about 10.3 m. Sexual maturity is not attained earlier than age 3 years, and probably much later. Mating takes place mostly in February, and calves are born in December.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on this species has been conducted incidentally to other studies in Japan by the Whales Research Institute and the Ocean Research Institute; in California by the National Marine Fisheries Service; and in British Columbia by the Fisheries Research Board of Canada.

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CUVIER'S BEAKED WHALE

(Ziphius cavirostris)

Distribution and Migration: The goose-beaked whale is found in all oceans except Arctic and Antarctic waters. In the North Pacific Ocean it ranges north to Hokkaido, the Commander and Aleutian Islands, and the Queen Charlotte Islands. In the North Atlantic Ocean it ranges north to Cape Cod, Massachusetts, on the western side and the Shetland and Orkney Islands on the eastern side. Its migrations are not understood.

Abundance and Trends: The status of this species is unknown. The goose-beaked whale is the most frequently observed ziphiid, at least in the eastern North Pacific Ocean, and throughout its range has been found stranded far more often than any other species of the family (Mitchell, 1968). Between 13 and 16 goose-beaked whales have been taken annually in the Japanese small-whale fishery during a recent 5-year period Nishiwaki and Oguro, 1972).

General Biology: The goose-beaked whale is distinguishable from other ziphiids by its relatively short beak, the dorsal profile of which forms an almost straight line with the steeply sloping forehead, and by its brown coloration; older males have snow-white heads. The maximum body length in both sexes is about 7.0 m. These whales usually travel in tight schools of up to about 10 individuals, but old males are often solitary. Their main foods are squids and deepwater fishes. Sexual maturity is attained at a length of about 5.5 m in both sexes.

Ecological Problems: None known.

Allocation Problems: None known.

Current Research: Research on this species has been conducted incidentally to other studies in Japan by the Whales Research Institute and the Ocean Research Institute.

References

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NORTHERN BOTTLENOSE WHALE

(Hyperoodon ampullatus)

Distribution and Migration: This species of bottlenose whale is endemic to the colder waters of the North Atlantic Ocean. On the western side it ranges from Davis Strait south to Rhode Island; on the eastern side it ranges from Novaya Zemlya south to the Azores and English Channel. It migrates south in the autumn and north in the spring.

Abundance and Trends: The initial population in all waters east of Greenland is estimated to have been between 40,000 and 100,000; by 1915 it was reduced to about half its initial size (Christensen, 1974). It is not known whether it has since increased. Norwegian catches in the North Atlantic ranged from 2,000 to 3,000 annually between 1890 and 1900. Catches ranged from 20 to 100 per year from 1920 to 1954. From 1955 to 1971, a few hundred have been caught annually, peaking at about 700 in 1965. Catches have been near zero since then. A few individuals are sometimes taken by whalers operating from Nova Scotia and the Faeroe Islands.

General Biology: The bottlenose whale is easily recognized by a conspicuous beak that is sharply demarked from the high bulging forehead which, in old males, becomes almost vertical and flattened in front and slightly overhangs the

base of the beak. Bottlenose whales are black when young, turn brown when adult, and almost yellow with a white head when very old. Males attain a maximum length of 10.7 m, and females 9.7 m. Females attain sexual maturity at about 9 years, males at 9 to 11 years. Mating occurs in April, and the 3.0-m calf is born about 12 months later. Bottlenose whales usually travel in small herds of 4 to 10, but the adult males are often by themselves. Their food appears to be mainly squids. Females attain sexual maturity when about 6.5 m long. The calves are born from early spring to early summer.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: This species is being studied by the Statens Institute for Hvalforskning, Oslo, Norway.

References

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Murray, J., and J. Hjort. 1912. The depths of the ocean. MacMillan and Co., London. 821 p.

TRUE'S BEAKED WHALE

(Mesoplodon mirus)

Distribution and Migration: The True's beaked whale has been found in the western North Atlantic Ocean from Nova Scotia south to Northern Florida, and in the eastern North Atlantic Ocean from the Outer Hebrides south along the west coast of Ireland. There is another population off the coast of South Africa. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None.

References

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GINKGO-TOOTHED WHALE

(Mesoplodon ginkgodens)

Distribution and Migration: The ginkgo-toothed whale has been recorded from Ceylon, in the western North Pacific Ocean from Taiwan to the Sanriku coast of Hokkaido, and in the eastern North Pacific Ocean at Del Mar in southern California. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it may not be so rare in the western part of the North Pacific as once thought (Nishiwaki, et al., 1972).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None. Present knowledge is based on opportunistic examination of specimens.

References

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GERVAIS' BEAKED WHALE

(Mesoplodon europaeus)

Distribution and Migration: The Antillean beaked whale ranges from Trinidad, Jamaica, and the Gulf of Mexico, north to Long Island, New York. One record for the English Channel has been obtained. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Problems: None.

References

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HUBB'S BEAKED WHALE

(Mesoplodon carlhubbsi)

Distribution and Migration: The arch-beaked whale has been recorded only in the North Pacific Ocean, from the Sanriku coast of Hokkaido on the western side and from British Columbia south to southern California on the eastern side. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None.

References

Moore, J. C. 1963. Recognizing certain species of beaked whales of the Pacific Ocean. Am. Midl. Natur. 70:396-428.

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STEJNEGER'S BEAKED WHALE

(Mesoplodon stejnegeri)

Distribution and Migration: The Bering Sea beaked whale is endemic to the North Pacific Ocean. It ranges from the Commander and Pribilof Islands, Bristol Bay, and the northern Gulf of Alaska south to the Sea of Japan on the western side and Oregon on the eastern side. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966; 1968).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None.

References

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SOWERBY'S BEAKED WHALE

(Mesoplodon bidens)

Distribution and Migration: The North Sea beaked whale ranges mostly from the western Baltic Sea and central Norway south to the Bay of Biscay. It has been recorded in the western North Atlantic Ocean from Newfoundland and Massachusetts. Its migrations are unknown.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Moore, 1966).

General Biology: This species is the only one of its genus for which even rudimentary life history data are available. The beaked whales attain a maximum length of 5.5 m for males and 4.9 m for females. Mating and birth usually take place in late winter and spring. The gestation period is about 1 year. At birth the calf is between 1.8 and 2.1 m long, nurses for about 1 year, and at weaning is probably about 3.0 m long.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None.

References

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BLAINVILLE'S BEAKED WHALE

(Mesoplodon densirostris)

Distribution and Migration: The dense-beaked whale is widely, but perhaps discontinuously, distributed in tropical and warm temperate waters around the world. In the North Pacific Ocean it has been recorded from Taiwan, Japan, and Midway Island. In the North Atlantic Ocean it has been recorded from Nova Scotia south to the Bahamas on the western side, and from Madeira on the eastern side.

Abundance and Trends: The status of this species is unknown, except that it is apparently rare (Besharse, 1971; Moore, 1966).

General Biology: These whales are known mostly from stranded individuals, which suggest that they are usually solitary. Otherwise, nothing is known of their biology.

Ecological Problems: None known.
Allocation Problems: None known.
Current Research: None.

References

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LAWS AND TREATIES GOVERNING THE PROTECTION OF MARINE MAMMALS

Each marine mammal of U.S. concern is protected by one or more U.S. laws or acts, and the conservation of some species is at least partially assured by international treaty or law. A summary of the various laws, conventions, and commissions designed and enacted to protect marine mammals follows:

1. *Marine Mammal Protection Act of 1972:* A U. S. Federal law that prohibits U.S. citizens from taking, harassing, or importing any marine mammal or its by-products into the United States, except when authorized to do so by special permit. Indians, Eskimos, and Aleuts of the North Pacific and Arctic Oceans can take marine mammals for subsistence, and for creating and selling handicraft items and clothing as long as the stocks can support the harvest.

2. *Endangered Species Act of 1973:* The purpose of this U.S. Federal law, which became effective Decemebr 28, 1973, are to provide a program for the conservation of species that are either endangered (presently) or threatened (within the foreseeable future) with extinction and their dependent ecosystems, and implement certain international conservation conventions (including the Convention on International Trade in Endangered Species of Wild Fauna and Flora). Marine Mammals, under the jurisdiction of NMFS, which are listed as endangered species are the blue whale, bowhead whale, gray whale, humpback whale, right whales, fin whale, sei whale, sperm whale, Mediteranean monk seal, and Hawaiian monk seal. No marine mammals are listed as threatened species.

3. *International Whaling Convention:* The International Whaling Commission was established under a convention signed in Washington, D.C. in December 1946. The membership includes all countries that catch significant numbers of whales except Spain, Portugal, Chile, Peru, and Brazil. The IWC is responsible for whale conservation worldwide. Since 1964, the IWC has acted to bring world whaling under control by prohibiting the taking of some species, sharply reducing the authorized catches of species in certain areas, establishing catch quotas by species, and implementing an international observer plan for policing quotas and regulations at land stations and on factory ships. The IWC appears to be extending its authority to cover all cetaceans and to implement regulations for threatened species. The IWC now regulates the harvest of fin, sei, Bryde's, minke, and sperm whales. A subcommittee of the IWC may be established to improve data collection on small cetaceans and review problems. The gray, bowhead, right, blue, and humpback whales are completely protected, except for some hunting by aboriginals.

4. *International Convention on Trade in Endangered Species of Wild Fauna and Flora:* This Convention, which entered into force on July 1, 1975, provides additional protection for the following marine mammals under the jurisdiction of NMFS: Appendix I—blue whale, bowhead whale, gray whale, humpback whale, right whales, certain stocks of fin and sei whales, Ganges River dolphin, Mediterranean monk seal, Hawaiian monk seal, Caribbean monk seal, and northern elephant seal; Appendix II—certain stocks of fin and sei whales,

southern elephant seal, Galapagos fur seal, Guadalupe fur seal, Juan Fernandez fur seal, southern (South American) fur seal, Amsterdam Island fur seal, Kerguelen fur seal, New Zealand fur seal, and South African fur seal. Trade is more strictly controlled for Appendix I animals than for Appendix II animals. The import, export, re-export, and introduction from the sea of convention animals are controlled by the U.S. management authority for the Convention (U.S. Department of the Interior) by a system of permits and enforcement. Implementation by regulating commerce began in February 1977.

5. *Interim Convention on North Pacific Fur Seals:* This convention prohibits most citizens of Japan, Canada, the U.S.S.R., and the United States from taking northern fur seals. The exceptions are aboriginal Indians, Aleuts, and Eskimos, who may take them only at sea and by primitive methods. The convention also provides for intensive research on this species by the four countries. The economic utilization of northern fur seals on their breeding grounds is conducted by the respective governments and is regulated on a scientific basis.

6. *International Convention for the Northwest Atlantic Fisheries:* Under terms of a convention signed in 1949, ICNAF is responsible for the investigation, protection, and conservation of the fisheries of the Northwest Atlantic in order to make possible the maintenance of a maximum sustained catch from these fisheries. The harp seal harvest is regulated by ICNAF, which imposes quotas for the taking of these mammals.

7. *International Convention for the Conservation of Antarctic Seals, 1972:* The purpose of this convention is to safeguard all species of Antarctic seals and to ensure that, if commercial sealing begins on floating ice of the Southern Ocean, the killing of certain species will be prohibited and the taking of other species will be subject to strict limitations. Measures adopted under the Antarctic Treaty of 1959 provide only for the protection of seals and other animals around the shoreline of the Antarctic Continent, but not on floating ice. The convention of 1972 may be applicable to any crabeater, and Ross seals, and southern fur seals.

8. *Canadian-Norwegian Agreement on Sealing:* On December 22, 1971, these two governments ratified an agreement on sealing and the conservation of seal stocks in the Northwest Atlantic. The agreements applies to the harp seal, but provision is made for extension to hooded and bearded seals and to the walrus.

9. *Miscellaneous regulations and agreements of some U.S. interest:* a. Harp seal—The U.S.S.R. and Norway signed an agreement in 1958 entitled "Preservation of Seals in the Greenland Sea." The agreement provides for the regulation of harp seal catches by these two nations. The U.S.S.R., however, has not hunted harp seals since 1965.

b. Gray seal.—The U.S.S.R. has prohibited (since 1970) the hunting of gray seals for sport and by amateurs, but permits the taking of these animals for subsistence. Canada uses an 1886 law for authority in regulating the take of gray seals. England has prohibited the hunting of gray seals on the Farne Islands since 1932 and on Orkney Island since 1923. Norway has forbidden hunting at Sör Trondelag (since 1923). Finland and Sweden offer bonuses for gray seals taken.

c. Hooded seal.—Canada and Norway prohibit the taking of hooded seals near Newfoundland before 10 March, near Jan Mayen Island before 13 March, in Denmark Strait from 15 June to 15 July, and in northern waters from 20 March to 5 May. The U.S.S.R. and Norway in 1958 agreed to prohibit the harvest of hooded seals near Jan Mayen Island before 13 March, and banned hunting in Denmark Strait.

d. Bearded seal.—The U.S.S.R. has, since 1970, banned the commercial hunting of bearded seals from vessels, and regulates the take of this species by aborigines and the harvest from shore by others.

e. Ribbon seal.—Since the 1960's, the U.S.S.R. has forbidden the hunting of ribbon seals at sea from 1 March to 1 September, and in 1970 stopped hunting by amateurs.

f. Ringed seal.—The U.S.S.R. banned sport hunting of *Pusa hispida hispida* beginning in 1970. Sport hunting of another subspecies (apparently accepted by the U.S.S.R. as *P. h. krascheninikovi*) was also banned by the U.S.S.R. In that year, local harvests were regulated, and hunting of the subspecies between 1 March and 1 September was prohibited. The U.S.S.R. has also, since 1970, prevented commercial hunting of *P. h. ochotensis* from vessels, and regulated the take of this subspecies by aborigines and the harvest from shore by others.

g. Harbor seal—Ice-dwelling populations.—The U.S.S.R. has prohibited sport hunting of these populations of the harbor seal since 1970, protects its rookeries from harassment and pollution, and regulates the harvest.

Land-dwelling populations. — The U.S.S.R. has prohibited the sport hunting of these populations since 1970, and regulates the take of harbor seals from the White and Barents Seas.

h. Northern sea lion.—The U.S.S.R. regulates the harvest of northern sea lions and protects its rookeries from harassment.

i. Walrus.—In 1958, the U.S.S.R. and Norway agreed to ban the hunting of walrus except to satisfy local needs and those of expeditions.

j. Guadalupe fur seal.—Mexico has safeguarded the breeding grounds of the Guadalupe fur seal on the Guadalupe Islands by making this island a wildlife refuge.

k. South American fur seal.—The Uruguayan and Argentinian Governments protect the South American fur seal on land and out to 200 miles at sea. In addition, the Uruguayan Government regulates the harvest by protecting all female seals except the 1-year-olds, controlling take of pups by season restrictions, and imposing quotas in some instance.

l. South African fur seal.—The harvest of South African fur seals is largely a state enterprise in South Africa, however, the system includes one of control and leasing of rookeries to private contractors. The South West African Administration has not entered the harvesting business, but licenses private firms, restricts gear to be used, establishes closed seasons, and places limits on sex and condition of catch.

m. Narwhal.—Canada allows its Eskimos to take five narwhals annually for personal use and issues permits to capture this mammal for exhibition.

n. Killer whale.—Canada allows this species to be taken under a permit system.

PART IV—APPENDIXES

APPENDIX A—PERMIT STATISTICS TABLES

Table I—Common and Scientific Names of Marine Mammals Involved in Scientific Research/Public Display Permit Applications.
Table II—Synopsis of Permit Applications
Table III—Number of Cetaceans Requested in Scientific Research/Public Display Permit Applications.
Table IV—Number of Pinnipeds Requested in Scientific Research/Public Display Permit Applications.
Table V—Number of Cetaceans Authorized to be Taken or Imported Under Scientific Research/Public Display Permits; and
Table VI—Number of Pinnipeds Authorized to be Taken or Imported Under Scientific Research/Public Display Permits.

TABLE I.—*Common and scientific names of marine mammals involved in scientific research/public display permit applications*

CETACEANS

Common name:	*Scientific name*
Black Right Whale	*Balaena glacialis.*
Bowhead Whale	*Balaena mysticetus.*
Gray Whale	*Eschrichtius robustus.*
Minke Whale	*Balaenoptera acutorostrata.*
Bryde's Whale	*Balaenoptera edeni.*
Sei Whale	*Balaenoptera borealis.*
Fin Whale	*Balaenoptera physalus.*
Blue Whale	*Balaenoptera musculus.*
Humpback Whale	*Megaptera novaeangliae.*
Rough-toothed Dolphin	*Steno bredanensis.*
Bottlenosed Dolphin	*Tursiops truncatus.*
Risso's Dolphin	*Grampus griseus.*
Lagenorhynchine Dolphins	*Lagenorhynchus* sp.
White-beaked Dolphin	*Lagenorhynchus albirostris.*
Atlantic White-sided Dolphin.	*Lagenorhynchus acutus.*
Pacific White-sided Dolphin.	*Lagenorhynchus obliquidens.*
Dusky Dolphin	*Lagenothynchus obscurus.*
Fraser's Dolphin	*Lagenodelphis hosei.*
Stenelline Dolphins	*Stenella* sp.
Spinner Dolphin	*Stenella longirostris.*
Spotted Dolphin	*Stenella attenuata.*
Striped Dolphin	*Stenella coeruleoalba.*
Common Dolphin	*Delphinus delphis.*
Northern Right Whale Dolphin.	*Lissodelphis borealis.*

CETACEANS—Continued

Common name:	*Scientific name*
Melon-headed Whale	*Peponocephala electra.*
Pygmy Killer Whale	*Feresa attenuata.*
False Killer Whale	*Pseudorca crassidens.*
Pilot Whales	*Globicephala* sp.
Long-finned Pilot Whale	*Globicephala melaena.*
Short-finned Pilot Whale	*Globicephala macrorhynchus.*
Killer Whale	*Orcinus orca.*
Harbor Porpoise	*Phocoena phocoena.*
Cochito	*Phocoena sinus.*
Finless Porpoise	*Neophocoena phocaenoides.*
Dall's Porpoise	*Phocoenoides dalli.*
White Whale	*Delphinapterus leucas.*
Sperm Whale	*Physeter catodon.*
Pygmy Sperm Whale	*Kogia breviceps.*
Dwarf Sperm Whale	*Kogia simus.*
Blainville's Beaked Whale.	*Mesoplodon densirostris.*
Hubb's Beaked Whale	*Mesoplodon carlhubbsi.*
Cuvier's Beaked Whale	*Ziphius cavirostris.*
Baird's Beaked Whale	*Berardius bairdii.*
Bottlenose Whales	*Hyperoodon* sp.

PINNIPEDS

South American Sea Lion	*Otaria flavescens.*
California Sea Lion	*Zalophus californianus.*
Northern Sea Lion	*Eumetopias jubatus.*
Arctocephaline Fur Seals	*Arctocephalus* sp.
Antarctic Fur Seal	*Arctocephalus gazella.*
South African Fur Seal	*Arctocephalus pusillus.*
Northern Fur Seal	*Callorhinus ursinus.*
Pacific Harbor Seal	*Phoca vitulina richardii.*
Ice-breeding Harbor Seal	*Phoca vitulina largha.*
Atlantic Harbor Seal	*Phoca vitulina vitulina.*
Western North Atlantic Harbor Seal.	*Phoca vitulina concolor.*
Ringed Seal	*Phoca hispida.*
Gray Seal	*Halichoerus grypus.*
Ribbon Seal	*Phoca fasciata.*
Bearded Seal	*Erignathus barbatus.*
Hawaiian Monk Seal	*Monachus schauinslandi.*
Crabeater Seal	*Lobodon carcinophagus.*
Ross Seal	*Ommatophera rossii.*
Leopard Seal	*Hydrurga leptonyx.*
Weddell Seal	*Leptonychotes weddelli.*
Southern Elephant Seal	*Mirounga leonina.*
Northern Elephant Seal	*Mirounga angustirostris.*

TABLE II.—*Synopsis of permit applications*

	As of Mar. 31, 1976			Apr. 1, 1976 to Mar. 31, 1977			As of Mar. 31, 1977—cumulative total
	Scientific research	Public display	Scientific and public display	Scientific research	Public display	Scientific and public display	
Number of applications submitted	79	99	0	17	39	4	[1] 238
Number of animals requested (total)	57,270	707	0	11,530	165	168	[1] 70,040
Of these:							
Taken by killing	4,731	0	0	9,009	0	0	13,740
Taken and kept alive	300	657	0	96	165	33	1,251
Killed in captivity	57	0	0	0	0	0	57
Taken and released	50,850	0	0	2,625	0	135	53,610
Found dead	1,332	50	0	0	0	0	1,382
ACTION TAKEN							
Number of applications forwarded to Marine Mammal Commission	71	84	0	17	34	3	209
Number of applications reviewed by Marine Mammal Commission	65	81	0	22	33	2	203
Number of applications withdrawn	4	8	0	0	2	0	14
Number of applications referred to States	3	1	0	0	0	0	4
Number of applications resolved through interagency agreement	1	0	0	0	0	0	1
Number of applications returned due to inappropriate submittal	0	5	0	0	1	0	6
Number of applications inactivated	1	5	0	1	0	0	7
Number of applications denied	2	5	0	0	1	0	8
Number of applications approved	60	67	0	19	27	2	175
Number of animals approved (total)	50,109	331	0	17,754	106	152	68,452
Of these:							
Taken by killing	4,027	0	0	9,739	0	0	13,766
Taken and kept alive	353	331	0	0	106	23	743
Killed in captivity	49	0	0	0	0	0	49
Taken and released	44,978	0	0	7,465	0	129	52,572
Found dead	772	0	0	550	0	0	1,322

[1] Included in the application totals above are 42 applications in which no numbers of animals are specified. The total number of animals requested, therefore, does not include the animals which would be taken under these applications.

TABLE III.—*Number of Cetaceans requested in scientific research/public display permit applications*

Common name [1]	Requested (As of Apr. 30, 1976) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Requested (Apr. 1, 1976, through Mar. 31, 1977) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Cumulative total requested [2]
Black Right Whale				645							645
Bowhead Whale				130	40						170
Gray Whale				324	11						336
Minke Whale				1,359	3				50		1,412
Bryde's Whale				930							930
Sei Whale				935					100		1,035
Fin Whale				875					125		1,000
Blue Whale				625					25		650
Humpback Whale				735	30				100		865
Rough-toothed Dolphin	7			100		410	2				519
Bottlenosed Dolphin	265			801	3	410	99		120		1,710
Risso's Dolphin				174		410	6				592
Lagenorhynchine Dolphins				50							50
White-beaked Dolphin				24			2				26
Atlantic White-sided Dolphin	6			24							30
Pacific White-sided Dolphin	23			521	3		6				553
Dusky Dolphin				61							61
Fraser's Dolphin				100		410					510
Stenelline Dolphins				174							174
Spinner Dolphin		17		4,500		3,269			530		8,316
Spotted Dolphin				8,500	3	5,265			530		14,298
Striped Dolphin				100		110					510
Common Dolphin		6		1,011	3	495	2		530		2,047
Northern Right Whale Dolphin				130	3						135
Melon-headed Whale				100		385	1				486
Pygmy Killer Whale		1		100		385	4				493
False Killer Whale		7		74			9		6		96
Pilot Whales				160							160
Long-finned Pilot Whale		2		24	60						86
Short-finned Pilot Whale		23		11	3	110	2				482
Killer Whale		8		134					50		217
Harbor Porpoise				50	3		1	—	100		154
Cochito					2						2
Finless Porpoise							6				6
Dall's Porpoise				330	3				280		613
White Whale	55	1			50		6				115
Sperm Whale				1,475					225		1,700
Pygmy Sperm Whale					3						3
Dwarf Sperm Whale											
Blainville's Beaked Whale											
Hubb's Beaked Whale					3						3
Cuvier's Beaked Whale											2
Baird's Beaked Whale									25		25
Bottlenose Whales				25							25
Total [2]	55	85	0	20,222	240	8,889	149	0	1,805	0	31,721

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE IV.—*Number of Pinnipeds requested in scientific research/public display permit applications*

Common name [1]	Requested (As of Mar. 31, 1976) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Requested (Apr. 1, 1976 thru Mar. 31, 1977) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Cumulative total requested [2]
South American Sea Lion		9									9
California Sea Lion	600	414	20	1,036	243	80	117				2,510
Northern Sea Lion	360			12,500	3						13,133
Arctocephaline Fur Seals									65		65
Antarctic Fur Seal	8			100	550						658
South African Fur Seal									10		10
Northern Fur Seal		12			3						15
Pacific Harbor Seal	946	207	20	3,160	3	40	2				4,378
Ice-breeding Harbor Seal	170	6		300							476
Atlantic Harbor Seal		1									1
Western North Atlantic Harbor Seal		35		145	20		21				221
Ringed Seal	1,220	4			25						1,249
Gray Seal		28					2				30
Ribbon Seal	140										140
Bearded Seal	800				10						900
Hawaiian Monk Seal		2							880		882
Crabeater Seal	24			300							324
Ross Seal	8			106							114
Leopard Seal	24	2		200							226
Weddell Seal	18		37	3,653							4,969
Southern Elephant Seal	8			100							108
Northern Elephant Seal		141		9,046	276		3				9,466
Total	4,676	605	57	30,628	1,133	120	145	0	955	0	38,319

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE V.—*Number of cetaceans authorized to be taken or imported under scientific research/public display permits*

Common name [1]	Authorized (As of Mar. 31, 1976) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Authorized (Apr. 1, 1976 through Mar. 31, 1977) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Cumulative total authorized
Black Right Whale				50	40				120		170
Bowhead Whale				200	10				80		300
Gray Whale				774					100		874
Minke Whale				350					70		420
Bryde's Whale				330					170		500
Sei Whale				230					220		450
Fin Whale				30					70		100
Blue Whale				30					240		300
Humpback Whale				30	20						50
Rough-toothed Dolphin		7		100		410					517
Bottlenosed Dolphin		151		694		410	4		320		1,579
Risso's Dolphin				124		410			70		584
Lagenorhynchine Dolphins									50		50
White-beaked Dolphin				24							24
Atlantic White-sided Dolphin		6		24							30
Pacific White-sided Dolphin		15		521							536
Dusky Dolphin				61							61
Fraser's Dolphin				100		410					510
Stenelline Dolphins				124					50		174
Spinner Dolphin		11		4,500		3,269			530		8,310
Spotted Dolphin				8,500		5,465			530		14,295
Striped Dolphin				100		440					540
Common Dolphin		6		993		495			580		2,041
Northern Right Whale Dolphin				130							130
Melon-headed Whale				100		385					485
Pygmy Killer Whale				100		385					485
False Killer Whale		5		24					50		81
Pilot Whales				110					50		160
Long-finned Pilot Whale		2		24	60						86
Short-finned Pilot Whale		17		44		410	3				472
Killer Whale		4		25	20				100		183
Harbor Porpoise					2				150		152
Cochito											
Finless Porpoise				330					280		610
Dall's Porpoise		2			50						52
White Whale	15	4		630					350		1,000
Sperm Whale											
Pygmy Sperm Whale											
Hubb's Beaked Whale											
Cuvier's Beaked Whale											
Bottlenose Whales											
Unidentified	25			200							225
Total [2]	90	262	0	19,277	203	9,089	58	0	3,909	0	32,887

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research, Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for that species. However, the total number given for a category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

TABLE VI.—*Number of Pinnipeds authorized to be taken or imported under scientific research/public display permits*

Common name [1]	Authorized (As of Mar. 3, 1976) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Authorized (Apr. 1, 1976 through Mar. 31, 1977) Taken by killing	Taken and kept alive	Killed in captivity	Taken and released	Found dead	Cumulative total authorized
South American Sea Lion	9										9
California Sea Lion	600	308	12	1,635	240	80	52		2,400		2,327
Northern Sea Lion	380			10,000		250			65		13,130
Arctocephaline Fur Seals											65
Antarctic Fur Seal	8			100						550	658
South African Fur Seal									10		10
Northern Fur Seal											
Pacific Harbor Seal	846	155	12	880		120	4		2,400		4,217
Ice-breeding Harbor Seal	70	6		360		100					476
Atlantic Harbor Seal											
Western North Atlantic Harbor Seal		25		145	20		10				200
Ringed Seal	1,120	4			25	100					1,249
Gray Seal		22									24
Ribbon Seal	40					100					140
Bearded Seal	750				10	100					860
Hawaiian Monk Seal				74					450		524
Crabeater Seal	30			400							430
Ross Seal	9			226							235
Leopard Seal	25	2		300							328
Weddell Seal	50		37	3,635							3,722
Southern Elephant Seal	8			100							108
Northern Elephant Seal		131		9,440	25		3				9,455
Total [2]	3,937	412	49	25,701	370	850	71	0	5,525	550	37,665

[1] Please refer to table I of this appendix, entitled "Common and Scientific Names of Marine Mammals Involved in Scientific Research, Public Display Permit Applications," for the appropriate scientific names.

[2] In some cases, permit applications or permits specify a number of animals to be taken, without specifying the numbers to be taken from a particular species or population stock. Therefore, the figures given for a particular species represent the total number of animals which might be taken if all possible alternatives were selected for the species. However, the total number given for a Category of taking activity represents the maximum number of animals which might be taken, discounting any multiple takings arising from the identification of more than one species. As a result, taking category totals may be less than the sum of the individual entries for that category.

APPENDIX B—NOTICES AND REGULATIONS

B-1—REGULATIONS RELATING TO THE DEFINITION OF OPTIMUM SUSTAINABLE POPULATION

a. Proposed rulemaking, October 6, 1976, FEDERAL REGISTER reference 41 FR 44049.

b. Final rulemaking, December 21, 1976, FEDERAL REGISTER reference 41 FR 55536.

B-2—NOTICES AND REGULATIONS RELATING TO THE INCIDENTAL TAKING OF MARINE MAMMALS IN THE COURSE OF COMMERCIAL FISHING OPERATIONS

a. Final rulemaking, September 5, 1974, FEDERAL REGISTER reference 39 FR 32117.

b. Amended rulemaking, September 25, 1974, FEDERAL REGISTER reference 39 FR 34417.

c. Amended rulemaking, December 5, 1975, FEDERAL REGISTER reference 40 FR 56899.

d. Notice of methodology to be used in determining whether to impose a quota, April 5, 1976, FEDERAL REGISTER reference 41 FR 14401.

e. Amended rulemaking to implement the Order of a U.S. District Court, May 28, 1976, FEDERAL REGISTER reference 41 FR 21782.

f. Correction to amended rulemaking, June 4, 1976, FEDERAL REGISTER reference 41 FR 22,565.

g. Amended rulemaking to implement the Order of a U.S. Court of Appeals, June 9, 1976, FEDERAL REGISTER reference 41 FR 23205.

h. Amended rulemaking establishing a quota, June 11, 1976, FEDERAL REGISTER reference 41 FR 23680.

i. Proposed amended rulemaking, July 27, 1976, FEDERAL REGISTER reference 41 FR 31227.

j. Rulemaking on expedited procedures for consideration of proposed regulations for calendar year 1977, October 1, 1976, FEDERAL REGISTER reference 41 FR 43550.

k. Amended rulemaking, October 4, 1976, FEDERAL REGISTER reference 41 FR 43726.

l. Proposed rulemaking for calendar year 1977, October 14, 1976, FEDERAL REGISTER reference 41 FR 45015.

m. Amended rulemaking, October 15, 1976, FEDERAL REGISTER reference 41 FR 45569.

n. Proposed rulemaking, interim regime, November 11, 1976, FEDERAL REGISTER reference 41 FR 49859.

o. Final rulemaking, interim regime, January 5, 1977, FEDERAL REGISTER 42 FR 1034.

p. Final rulemaking for calendar year 1977, March 1, 1977, FEDERAL REGISTER reference 42 FR 12009.

q. Notice of decision for calendar year 1977, March 1, 1977, FEDERAL REGISTER reference 42 FR 12015.

B-3—NOTICES AND REGULATIONS RELATING TO THE SOUTH AFRICAN FUR SEAL WAIVER OF THE MORATORIUM

a. Final rulemaking, February 19, 1976, FEDERAL REGISTER reference 41 FR 7510.

b. Notice of waiver, February 19, 1976, FEDERAL REGISTER reference 41 FR 7537.

c. Notice of supplemental decision, March 15, 1976, FEDERAL REGISTER reference 41 FR 10940.

d. Notice of correction, April 13, 1976, FEDERAL REGISTER reference 41 FR 15437.

e. Rulemaking, notice of annual review of management program, July 23, 1976, FEDERAL REGISTER reference 41 FR 30337.

f. Rulemaking, notice of decision, August 30, 1976, FEDERAL REGISTER reference 41 FR 36496.

g. Proposed rulemaking, September 17, 1976, FEDERAL REGISTER reference 41 FR 40167.

h. Amended rulemaking, November 24, 1976, FEDERAL REGISTER reference 41 FR 51795.

i. Amended rulemaking, December 16, 1976, FEDERAL REGISTER reference 41 FR 54946.

B-4—NOTICES AND REGULATIONS RELATING TO STATE MANAGEMENT OF MARINE MAMMALS

a. Proposed rulemaking regarding approval and monitoring of State laws, and regarding the taking and importing of marine mammals for which the moratorium has been waived, April 9, 1976, FEDERAL REGISTER reference 41 FR 15173.

b. Revised notice of public hearings; revised pre-hearing order; May 28, 1976, FEDERAL REGISTER reference 41 FR 21832.

c. Final rulemaking regarding approval and review of State laws and regulations, August 31, 1976, FEDERAL REGISTER reference 41 FR 36659.

B-5—REGULATIONS RELATING TO THE DEPLETED STATUS OF HAWAIIAN MONK SEALS

a. Proposed rulemaking, June 16, 1976, FEDERAL REGISTER reference 41 FR 24393.

b. Final rulemaking, July 22, 1976, FEDERAL REGISTER reference 41 FR 30120.

APPENDIX C—FUNDING TABLE

The table which follows details the status of authorization and funding for fiscal year 1977–78.

APPENDIX C.—*Marine mammal conservation—status of authorization and funding—fiscal year 1977 and 1978*

Authorizing legislation	Fiscal year 1977 Base+increase		Fiscal year 1977 Requested authorization		Fiscal year 1978 Base funding		Fiscal year 1978 Increase request		Fiscal year 1978 Requested total		Fiscal year 1978 Requested authorization	
	Positions	Funding	Amount	Expiration date	Positions	Funding	Positions	Funding	Positions	Funding	Amount	Expiration date
Marine Mammal Protection Act of 1972 (Public Law 92-522, Oct. 21, 1972):												
Sec. 110 research grants	0	$1,667,000	$1,667,000	Sept. 30, 1977	0	$1,667,000	0	0	0	$1,667,000	$1,667,000	Sept. 30, 1980
Sec. 114 administration, enforcement and research	77	2,778,000	4,000,000	do	77	2,778,000	1	$206,000	78	2,984,000	8,000,000	do
MMPA—Subtotal	77	4,445,000	5,667,000	do	77	4,445,000	1	206,000	78	4,651,000	9,667,000	do
Endangered Species Act of 1973	6	294,000	2,000,000	do	6	294,000	0	0	6	294,000	2,000,000	do
Fur Seal Act of 1966	14	595,000	(1)	(1)	14	595,000	0	0	14	595,000	(1)	(1)
Saltonstall Kennedy funding	0	[2] 600,000									(1)	(1)
Other authorizations—Subtotals	20	1,489,000			20	889,000	0	0	20	889,000		
Marine mammal conservation—total	97	5,934,000			97	5,334,000	1	206,000	98	5,540,000		

[1] Open.
[2] One-time funds made available by the Office of Management and Budget solely for support of the enforcement plan submitted to the U.S. Circuit Court of Appeals for the District of Columbia Circuit, February 1977.

[FR Doc.77-21718 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977

PART III



COMMODITY FUTURES TRADING COMMISSION

■

CHIEF OF THE OPINIONS SECTION

Delegation of Authority

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Delegation of Authority to the Chief of the Opinions Section

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of final rule delegating authority to Chief of the Opinions Section to grant or deny certain procedural motions.

SUMMARY: The Commodity Futures Trading Commission has delegated to the Chief of the Opinions Section, or to such person or persons under his direction as he may designate from time to time, the authority to consider and grant or deny motions for procedural orders directed to the Commission in adjudicatory proceedings and in reparations proceedings conducted under the Commodity Exchange Act by parties seeking review by the Commission after the initial decision has been filed in these proceedings by the Administrative Law Judge.

This delegation reserves to the Commission the right to revoke the delegated authority at any time and specifically empowers the Chief of the Opinions Section to submit matters to the Commission for its consideration whenever he believes it to be appropriate. The delegation will enable the Commission to handle these procedural motions much more expeditiously than in the past, due to the more abbreviated nature of the decisional process.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Graham, Chief, Opinions Section, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202–254–7602).

SUPPLEMENTAL INFORMATION: The Commission has determined to authorize the Chief of the Opinions Section to consider and grant or deny procedural motions which otherwise would of necessity have to be entertained by the Commission itself. In the past, nearly all of these procedural motions have involved requests for extensions of time in filing briefs before the Commission and for waivers of page limitations for briefs to be submitted. Only on rare occasions have the motions been contested by the parties. Nevertheless, a considerable number of these motions are made and the Commission's consideration of these motions requires a rather significant amount of Commission time. Since the number of reparations and enforcement cases requiring Commission review is increasing dramatically, consideration of such motions would require a great deal more of the Commission's time in the future.

In order to eliminate this pressure upon the Commission, except in rare cases deemed either by the Commission or by the Chief of the Opinions Section to warrant Commission consideration, the Commission has delegated the authority to decide such matters on a day-to-day basis to the Chief of the Opinions Section.

Based on the foregoing, the Commission hereby amends Part 140 of Chapter 17 of the Code of Federal Regulations by adding a new § 140.71 to read as follows:

§ 140.71 Delegation of authority to Chief of the Opinions Section.

Pursuant to the authority granted under sections 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Chief of the Opinions Section, to be performed by him or by such person or persons under his direction as he may designate from time to time:

(a) (1) With respect to proceedings conducted pursuant to the Commodity Exchange Act, as amended, 7 U.S.C. 1 et seq., and subject to the Commission's Rules of Practice as set forth in Part 10 of this chapter, to consider and grant or deny such motions submitted under § 10.26(c) of the Rules of Practice as may be directed to the Commission pursuant to § 10.26(a) of the Rules of Practice after the initial decision has been filed in the proceeding.

(2) With respect to reparation proceedings conducted pursuant to Section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18, and subject to the Commission's reparation rules as set forth in Part 12 of this chapter, to consider and grant or deny such motions submitted under § 12.26(c) of the reparation rules as may be directed to the Commission pursuant to § 12.26(a) of the reparation rules after the initial decision has been filed in the proceeding.

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the Chief of the Opinions Section believes it appropriate, he may submit the matter to the Commission for its consideration.

(Pub. L. 93–463 Sec. 101(a)(4) and 101(a)(11), 88 Stat. 1391 (7 U.S.C. 4a(c) and 4a(j) (Supp. V, 1975)).)

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C., on July 26, 1977.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-21951 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

COMMODITY FUTURES TRADING COMMISSION

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MINIMUM FINANCIAL REQUIREMENTS

Proposed Adoption and Monitoring

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

MINIMUM FINANCIAL REQUIREMENTS

Proposed Adoption and Monitoring

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rule would require all self-regulatory organizations under the jurisdiction of the Commodity Futures Trading Commission ("Commission") to adopt minimum financial and related reporting requirements with respect to their member futures commission merchants ("FCM's"). The proposed rule also would permit the responsibility for monitoring and auditing any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. This proposed regulation is intended to accomplish the Commission's goal of industry self-regulation by increasing regulatory efficiency, facilitating the reduction of the undue burden of multiple financial monitoring, auditing, and reporting imposed upon FCM's which are members of more than one self-regulatory organization, and facilitating the development of a registered futures association under section 17 of the Commodity Exchange Act, as amended.

DATES: Comments on the proposed rule should be submitted by November 1, 1977.

ADDRESS: Send comments to Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202–254–5218.)

SUPPLEMENTARY INFORMATION: The Commission is proposing the fourth and final stage of its proposed revisions to Commission regulations dealing with the minimum financial and related reporting requirements imposed upon FCM's. The proposed regulation requires each self-regulatory organization to adopt minimum financial and related reporting requirements with respect to its member FCM's. The proposed regulation also would permit the responsibility for monitoring and auditing the financial status of any FCM which is a member of more than one self-regulatory organization, and for receiving such FCM's related financial reports, to be delegated to a single self-regulatory organization. Such a delegation would not relieve the self-regulatory organization of its duty to enforce its regulations, but would relieve the self-regulatory organization of its duty to maintain a continuing affirmative action program to secure compliance with such regulations under § 1.51 of this part. The first three stages were proposed as follows: On October 6, 1976, the Commission proposed extensive revisions in the financial reporting requirements imposed upon FCM's under Commission regulations. 41 FR 45706 (October 15, 1976). On May 17, 1977, the Commission proposed substantial amendments to the minimum financial standards to which FCM's are subject under its regulation 1.17. 42 FR 27166 (May 26, 1977). On June 14, 1977, the Commission proposed an improved early warning system based upon the proposed amendments to its regulation 1.17. 42 FR 31740 (June 22, 1977).

SELF-REGULATION

In the October 15, 1976 FEDERAL REGISTER release announcing the proposal of revised financial reporting requirements for FCM's, the Commission stated that

> (I)t is Commission policy to encourage contract market self-regulation. In this regard, the Commission anticipates requiring all contract markets to adopt and to enforce uniform minimum financial and related reporting requirements. Such requirements would be subject to the same active oversight regulation as are the other rule enforcement programs of the contract markets. However, because of the common interest of the contract markets in the financial integrity of their member FCM's and because of the uniform applicability of the minimum financial and related reporting requirements envisioned by the Commission, it may be advantageous for the contract markets to engage in a joint enforcement or audit program to monitor compliance with such uniform minimum financial and related reporting requirements. Such a joint program or an alternative program through a national futures association, as provided for in Title III of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 21, could meet the anticipated Commission requirements. 41 FR 45706.

The Commission believes it is the responsibility of the contract markets, as quasi-public institutions, to insure the financial integrity of their member FCM's, thereby insuring the integrity of the marketplace itself, as well as protecting the funds of customers who use that marketplace. This belief is in keeping with the self-regulatory responsibilities of the commodity futures industry envisioned by the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 1–22 (Supp. V. 1975)). Further, recent and anticipated changes in the size and nature of the commodity futures industry and the increase in the number and types of activities subject to Commission regulation under the Act have made it appropriate for the Commission to place a significantly greater emphasis on industry self-regulation under the oversight surveillance of the Commission.[1]

Section 4f(2) of the Act and regulation 1.17 provide that an FCM must at all times meet the minimum financial and related reporting requirements established by the Commission unless the FCM is a member of a contract market and conforms to the minimum financial and related reporting requirements set by that contract market and approved by the Commission. At present, only 2 of the 10 contract markets have adopted minimum financial and related reporting requirements which have been approved by the Commission under section 4f(2) of the Act. In order to have self-regulation in the area of financial responsibility, it is necessary for all self-regulatory organizations to adopt rules requiring their member FCM's to maintain an adequate minimum level of net capital and adhere to adequate related financial reporting requirements.

UNIFORM COMPUTATIONAL CRITERIA

If the Commission were to require all self-regulatory organizations to adopt and enforce minimum financial and related reporting requirements for their member FCM's without requiring the computational criteria contained in those rules to be uniform throughout the industry, it is possible that ten different computational criteria could result. The burden of learning and complying with such divergent rules would be placed upon the approximately 110 FCM's which are currently members of more than one contract market.

The existence of different minimum financial regulations would also hinder the development of an effective financial surveillance program by a Title III Association. If an FCM were a member of two contract markets, each having a different minimum financial rule, a Title III Association delegated the responsibility for monitoring the financial status of that FCM by both contract markets would have to learn and apply the different rules of each contract market to that FCM.

In addition, for the same reasons described in the preceding paragraph, unless the self-regulatory organization's minimum financial requirements contained uniform computational criteria, it would not be feasible to delegate the responsibility for monitoring the financial status of an FCM which is a member of more than one self-regulatory organization to a single contract market or other self-regulatory organization. Further, if the self-regulatory organizations' minimum financial requirements contained uniform computational criteria, each FCM could compute its net capital for one self-regulatory organization and have that computation be valid for any other self-regulatory organization of which it is a member.

In order to avoid the necessity of complying with divergent financial regulations, to facilitate the development of a Title III Association, and to facilitate the delegation of financial oversight responsibility, the Commission is proposing that each of the minimum financial regulations adopted by the self-regulatory organizations contain uniform computational criteria.

[1] See the Commission's May 26, 1977, FEDERAL REGISTER release (42 FR 27166) for a further explanation of the changes in the size and nature of the commodity futures industry and the increase in the number and types of activities subject to Commission regulation.

DELEGATION OF RESPONSIBILITY

The uniformity described above will enable the responsibility for the financial oversight of an FCM which is a member of more than one self-regulatory organization to be delegated to a single contract market or other self-regulatory organization. The Commission is proposing to permit such a delegation of responsibility. This delegation would permit the FCM's which are members of more than one self-regulatory organization to be monitored and audited for compliance with such self-regulatory organizations' minimum financial and related reporting requirements by a single contract market or other self-regulatory organization. It also would enable such FCM's to submit the financial reports necessitated by such minimum financial and related reporting requirements to a single contract market or other self-regulatory organization.

The self-regulatory organizations will also benefit from this delegation of responsibility. They will have fewer FCM's to audit and monitor, yet they still will receive the necessary financial information with which to protect the integrity of the marketplace, fulfill their responsibilities to the customers that use that marketplace, and enforce their minimum financial regulations.

The Commission has elected to permit the contract markets to develop their own plans for the delegation of oversight responsibility for FCM's which are members of more than one self-regulatory organization to a single contract market or other self-regulatory organization. This approach was taken in the belief that the reduction of costs to the contract markets and the relieving of the unnecessary burden placed upon FCM's would be enough incentive for the contract markets to come to agreement on plans for the delegation of this oversight responsibility. An alternative to this approach would be for the Commission to allow the contract markets to develop their own plans within a specified time period, but at the end of that time period, if plans are not developed to delegate the financial oversight responsibility for all FCM's which are members of more than one self-regulatory organization to a single contract market or other self-regulatory organization, then the Commission would act to insure such a delegation. The Commission specifically requests comments on this alternative.

FCM/BROKER-DEALER

As these financial surveillance systems are implemented, cooperative efforts will also continue between the Commission and the Securities and Exchange Commission with regard to a uniform financial surveillance system between the two industries. Eventually, FCM's which are also broker-dealers could save even more time and money through this increased uniformity between the commodity futures industry and the securities industry. The implementation of this regulatory efficiency program in the commodity futures industry is a vital first step towards such a goal.

PROPOSED DEFINITIONS

The Commission is proposing the adoption of definitions for the terms "self-regulatory organization" and "designated self-regulatory organization". "Self-regulatory organization" would mean a contract market, domestic commodity option exchange, or a registered futures association under section 17 of the Act. "Designated self-regulatory organization" would mean the self-regulatory organization of which an FCM is a member, or if the FCM is a member of more than one self-regulatory organization and is the subject of an approved plan under proposed regulation 1.52, then a self-regulatory organization delegated oversight responsibilities under proposed regulation 1.52.

SUMMARY OF PROPOSED REGULATION 1.52

Regulation 1.52(a) would require each self-regulatory organization to adopt minimum financial and related reporting requirements for all of its member FCM's. The computational criteria used to determine compliance with such requirements would have to be the same as that set forth in proposed regulation 1.17(c), as ultimately adopted after due consideration of public comment. These minimum requirements must be the same as, or more stringent than, those contained in proposed regulations 1.10[2] and 1.17,[3] as ultimately adopted after due consideration of public comment. For example, a self-regulatory organization might reasonably conclude that a higher minimum net capital should be necessary for membership in that self-regulatory organization. This would be consistent with this regulation.

Proposed regulations 1.52(b) (1) and (2) permit any two or more self-regulatory organizations to establish a plan or plans for delegating financial oversight responsibility to a designated self-regulatory organization with respect to any FCM which is a member of more than one self-regulatory organization. This delegation of oversight responsibility should result in considerable savings to the industry. For example, the Chicago Board of Trade and the Chicago Mercantile Exchange have approximately fifty-five joint FCM members. If these two self-regulatory organizations alone shared financial oversight responsibility through such a delegation, considerable time and money could be saved.

Commission regulation 1.51(a)(3) requires each contract market to maintain a continuing affirmative action program for the examination of the books and records kept by its members relating to their business of dealing in commodity futures and cash commodities, insofar as such business relates to their dealings on such contract market. An adequate program includes periodic examinations to determine compliance with exchange recordkeeping requirements and compliance with contract market rules in certain areas such as handling of discretionary accounts, margins, and handling of customers' orders. Proposed regulation 1.52(b) would permit the various self-regulatory organizations, if they believe it appropriate, to delegate these examination functions to a designated self-regulatory organization for any FCM which is a member of more than one self-regulatory organization.

The Commission wishes to emphasize that in order for a plan submitted by two or more self-regulatory organizations to be approved, it would not be necessary for all their FCM's which are members of more than one self-regulatory organization to be included. For example, assume that self-regulatory organizations A and B have twenty members in common, and have five additional joint members which are also members of self-regulatory organization C. If agreement could be reached between A and B on only fifteen of their twenty joint members, and between A, B and C for only three of their five members in common, then a plan could be submitted for those eighteen FCM's. In addition, if self-regulatory organization C would not agree to a plan for the delegation of responsibility for the two remaining FCM's it has in common with A and B, but A and B could agree on such a delegation, then self-regulatory organizations A and B could still submit their plan for those FCM's.

Proposed regulation 1.52(c) would permit a sharing of the expenses reasonably incurred by a designated self-regulatory organization due to a plan's operation. This sharing of expenses could assist certain designated self-regulatory organizations which may find their costs increased slightly due to the implementation of a delegation plan. To offset such costs the other self-regulatory organizations in the plan may want to share part of these costs.

Proposed regulations 1.52(d) and 1.52(e) provide a structure for the dissemination of information from a designated self-regulatory organization to the other self-regulatory organizations in a plan. These provisions authorize access to the information that such a self-regulatory organization would have been obligated to obtain itself were it not for the implementation of this regulatory efficiency system. A self-regulatory organization may then use this information to protect the integrity of the marketplace and to meet its rule enforcement obligations.

Commission regulation 1.51 requires each contract market to maintain an affirmative action program to secure compliance with such contract market's rules and regulations. Once responsibility for certain financial surveillance programs has been delegated to a designated self-regulatory organization under this proposed regulation 1.52, the self-regulatory organization which has delegated such responsibility shall be considered to have met its affirmative action responsibilities under regulation 1.51, to the extent of such a delegation.

[2] 41 FEDERAL REGISTER 45706 (October 15, 1976).

[3] 41 FEDERAL REGISTER 27166 (May 26, 1977).

When an FCM ceases to be a member in good standing of any self-regulatory organization, proposed regulation 1.52(i) requires notification to be sent to the Commission by both the FCM and the self-regulatory organization of which it is no longer a member in good standing. This notification is necessary because such an occurrence may require a re-delegation of responsibility under a plan or result in the Commission becoming the primary regulator of the FCM.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 as follows:

1. By amending § 1.3 to include new paragraphs (ee) and (ff) to read as follows:

* * * * *

(ee) "Self-regulatory organization." This term means a contract market, a domestic commodity option exchange, or a registered futures association under section 17 of the Act.

(ff) "Designated self-regulatory organization." This term means a self-regulatory organization of which a futures commission merchant is a member or, if the futures commission merchant is a member of more than one self-regulatory organization, and is the subject of an approved plan under § 1.52 of this part, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such a futures commission merchant for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant.

2. By adding a new § 1.52, reading as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) Each self-regulatory organization must adopt minimum financial and related reporting requirements for all its member futures commission merchants. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17 of this part, and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c) of this part.

(b) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any futures commission merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this § 1.52; and

(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Such a plan may also delegate the responsibility of examining the books and records kept by such futures commission merchant relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3) of this part.

(c) Any plan filed under this § 1.52 may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(d) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibility to monitor, audit or examine has been delegated to such designated self-regulatory organization under this § 1.52.

(e) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary financial or related information.

(f) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part thereof: is necessary or appropriate to serve the public interest; is for the protection and in the interest of customers; reduces multiple monitoring and auditing for compliance with the minimum financial rules of the self-regulatory organizations submitting the plan for any futures commission merchant which is a member of more than one self-regulatory organization; reduces multiple reporting of the financial information necessitated by such minimum financial and related reporting requirements by any futures commission merchant which is a member of more than one self-regulatory organization; fosters cooperation and coordination among the contract markets; and does not hinder the development of a registered futures association under section 17 of the Act.

(g)(1) Upon the approval of a plan or part thereof under § 1.52(f), a self-regulatory organization which is included in such a plan shall be considered to have met its affirmative action responsibilities under § 1.51 of this part to the extent that such responsibilities have been delegated to a designated self-regulatory organization.

(2) After the Commission has approved a plan or part thereof under § 1.52(f), a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan: (A) of the limited nature of its responsibility for such a member's compliance with its minimum financial and related reporting requirements; and (B) of the identify of the designated self-regulatory organization which has been delegated responsibility for such a member.

(h) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part thereof established under this § 1.52, if such plan or part thereof ceases to adequately effectuate the purposes of section 4f(2) of the Act or of this § 1.52.

(i)(1) If a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such futures commission merchant must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C.

(2) Whenever a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C., send a copy of that notification to such futures commission merchant, and notify such futures commission merchant of its responsibilities under this § 1.52(i).

(j) Nothing in this § 1.52 shall preclude the Commission from examining any futures commission merchant for compliance with the minimum financial and related reporting requirements to which such futures commission merchant is subject.

(7 U.S.C. 6c, 6f, 7a and 12a).

Issued in Washington, D.C., on July 27, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-22052 Filed 7-29-77;8:45 am]

federal register

MONDAY, AUGUST 1, 1977
PART V



FEDERAL TRADE COMMISSION

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HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

FEDERAL TRADE COMMISSION

[16 CFR Parts 801, 802, 803]

HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Proposed rulemaking.

SUMMARY: These proposed rules prescribe reporting and waiting period requirements for persons who intend to make certain acquisitions of assets or voting securities. The rules are needed in order to implement Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, which relates to Premerger Notification. The intended impact of these rules is to explain which persons and transactions are subject to the statute (Part 801), which persons and transactions are exempt from the requirements of the statute (Part 802), and how persons who are subject to the statute shall comply with its requirements (Part 803).

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, D.C. 20580 and (2) Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580. Telephone: 202–523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, requires persons contemplating certain direct or indirect mergers or acquisitions to give the Federal Trade Commission (hereafter referred to as the Commission) and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to as the Assistant Attorney General) advance notice and to wait certain designated periods before consummation of such plans. The transactions to which the advance notice requirement is applicable and the length of the waiting periods required are set out in the Act, the complete text of which is reprinted below. The amendment to the Clayton Act does not change the standards to be used in determining the legality of mergers and acquisitions.

Section 7A of the Amended Clayton Act, 15 U.S.C. 18A, provides:

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

Sec. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"Sec. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce:

"(2) (A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

"(b)(1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereinafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance,

from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e)(2) or (g)(2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the FEDERAL REGISTER a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount of percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisitions;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 408 and 408(e) of the National Housing Act 12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

"(9) acquisition, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer;

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisitions may, if consummated, violate the antitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b)(1) of this section, or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e)(2), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e)(2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to comply substantially with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of Law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section."

EFFECTIVE DATES

Sec. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

Subsection 7A(d)(1) of the amended Clayton Act, 15 U.S.C. 18A(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. 553, to require that the notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Subsection 7A(d)(2) of the amended Act, 15 U.S.C. 18A(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. 553, the authority (A) to define the terms used in the amendment; (B) to exempt additional persons or transactions from the Act's notice and waiting period requirements; and (C) to prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

On December 20, 1976, the Federal Trade Commission published proposed rules and a proposed notification form in the FEDERAL REGISTER and invited written comments on those rules and form prior to January 19, 1977. The comment period was subsequently extended to February 18, 1977. More than 120 comments were received from interested persons; many were lengthy and detailed. Study of these comments and of the proposed rules by the staffs of the Commission and the Antitrust Division of the Department of Justice resulted in a very large number of substantive changes in individual rules, although the basic requirements embodied in the originally proposed rules were retained.

In an effort to make the order and numbering of these rules somewhat more logical, the Commission has renumbered many of the proposed rules. The following table indicates the number of the revised rule corresponding with the number of each rule originally published in the Federal Register on December 20, 1976.

As originally proposed, section:	*As revised, section*
801.05	801.1.
801.10	801.2.
801.15	801.3.
801.20	801.10.
801.25	801.11.
801.30	801.12.
801.35	801.13.
801.40	801.15.
801.45	801.20.
801.50	801.21.
801.55	801.40 and 802.41.
801.60	801.30.
802.05	802.70.
802.10	802.60 and 802.62.
802.15	802.61.
802.20	802.30.
802.25	803.32.
802.30	802.40.
802.35	802.50, .51 and .52.
802.40	802.20.
802.45	802.21.
802.50	Deleted.
802.75	802.6.
802.85	802.9.
802.90	802.10.
802.95 [Reserved]	802.64 and .64a.
803.05	803.1.
803.10	803.10.
803.15	803.4.
803.20	803.5.
803.25	803.3.
803.30	803.20.
803.35	802.11.

The following revised rules have been added:

Sec. 801.4, 801.14, 802.8, 802.22, 802.23, 802.31, 802.63, 802.71, 803.2, 803.30.

There are three areas in which the originally proposed rules generated significant comment, but where the Commission has made no basic changes in the revised rules. In addition, significant changes from or additions to the rules

originally proposed have been made in about a dozen areas. The reasons for the Commission's actions are briefly explained below, in order to highlight significant areas for possible additional comment.

Areas in Which No Significant Changes Have Been Proposed

1. definition of "person"

Among the provisions in the proposed rules which drew widespread comment was the definition of "person" (proposed § 801.05(a)). The definition of this term has a significant impact upon both the coverage of the statute and the specific reporting requirements imposed by the rules. The problem arises from the fact that the statute does not refer to companies or firms, but instead speaks of "persons". Moreover, it uses the single term "person" in at least two different senses.

Section (a) of the statute says that, providing three conditions are satisfied, "no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons * * * file notification pursuant to rules (promulgated by the Commission) and the (prescribed) waiting period * * * has expired * * *." The first of these three conditions (subsection (a)(1)) is that either of the parties to the transaction be engaged in commerce or in any activity affecting commerce. The second (subsection (a)(2)) requires basically that one of the parties have annual net sales or total assets of $100 million or more and that the other have annual net sales (if engaged in manufacturing) or total assets of $10 million or more. The third (subsection (a)(3)) specifies that as a result of the transaction the acquiring person would hold either 15 percent of the voting securities or assets of the acquired person or an aggregate total amount of the voting securities and assets of the acquired person in excess of $15 million.

It seems obvious, for purposes of testing the subsection (a)(2) size criteria of the Act, that the relevant "person" must be the entire corporate structure, rather than just the company or perhaps the particular subsidiary which is making the acquisition. In other words, whether the size criteria are met should depend upon the size of the overall corporate structure, rather than on the form of corporate organization that is acquiring legal title as a result of the transaction.

The 15 percent test in subsection (a)(3) raises a different problem. For example, suppose the transaction involves the purchase by a large corporation of a subsidiary of another large corporation. The definition of "person" as the entire corporate structure would dictate that the selling corporation's entire corporate structure be considered the "acquired person" for purposes of the $100 million or $10 million size criteria. But if the selling corporation and its subsidiary each issue their own stock, then a specific number of the subsidiary's shares cannot conveniently be expressed as a percentage of either the shares of the parent, or the combined shares of the parent and its subsidiary corporations. The problem is not as acute when the acquisition is of assets rather than voting securities, since assets could be valued without reference to the corporate forms.

There is, however, the anomaly that, in a statute designed to reach acquisitions by, and mergers between, large entities, the larger the acquired person, the more of its assets can be sold without reporting. This anomaly would be magnified if the acquired person were always the entire corporate structure of the seller.

The proposed rules sought to deal with this problem by defining "person" in two different ways. Each separate corporation or other entity was a "person," but all such persons controlling, controlled by, or under common control with another corporation were also collectively defined as a single, larger "person". In that way, any particular "person" could be used for purposes of the 15 percent criteria, but the collective "person" could be used for the size criteria. Although this approach was slightly awkward, the awkwardness stemmed from the statute itself, and the approach seemed to achieve the intent of the drafters.

The revised rules retain this basic approach but seek to clarify it by introducing a new term "entity" (§801.1(a)(2)) to describe and distinguish the component parts of the larger "person" (§ 801.1(a)(1)). For purposes of the subsection (a)(2) size criteria the rules look to the acquiring and acquired "persons," while for the 15 percent tests in subsection (a)(3), they look to the specific entity whose voting securities or assets are being acquired.

One specific alternative that was rejected envisioned that for all purposes the acquiring person would consist of the entire corporate structure, while the acquired person would always consist of the specific entity whose voting securities or assets were being acquired, along with any other entities which it controlled. The major disadvantage of this proposal is that it unnecessarily limits coverage of the Act. A very large corporation might sell the voting securities or assets of one of its subsidiaries and escape reporting, whereas the same transaction would have been reportable if the corporation had sold its own voting securities or assets. Apart from the problem of inconsistency, this arrangement would invite the possibility that a large corporation might transfer assets to one of its small subsidiaries and then sell them to another large corporation without reporting. Rather than bifurcating the definition of person between acquired and acquiring persons, the Commission determined in the revised rules that "persons" would be used for subsection (a)(2) size criteria, and "entities" would be used for subsection (a)(3) transaction criteria. This formula follows the basic approach of the originally proposed rules.

2. coverage of joint ventures

The basic policy decision, reflected in § 801.55 of the originally proposed rules, to require reporting and waiting by persons forming certain joint ventures, generated substantial comment. Numerous comments insisted that, since the legislative history is silent on joint ventures, they may not appropriately be included within the scope of the rules. The Commission's determination to include coverage of joint ventures in the rules was, however, unanimously supported by the comments received from members of Congress. The Supreme Court opinion in *United States* v. *Penn-Olin Chemical Co.*, 378 U.S. 158 (1964), supports the position that at least some types of joint ventures should be subject to antitrust scrutiny prior to formation. The Commission has determined that acquisitions of voting securities or other interests in connection with the formation of joint ventures are to be treated like other acquisitions subject to the Act.

In order to implement this approach in a manner consistent with the Act, both the proposed and revised rules (§ 801.40) define the joint venturers as "acquiring persons" (since they acquire shares or other interest in the joint venture), and the venture itself as the "acquired person" (since its shares or assets are being acquired). Thus, no change in the basic approach to coverage of joint ventures is embodied in the revised rules.

3. basic concept of the report form

The most significant comments relating to the Notification and Report Form focused on the degree of detail demanded by the form. The general thrust of many of the comments was that the proposed form requires more data than Congress intended. It was argued that the statutory term "notification" implies a much less burdensome submission than the proposed form. Some maintained that the initial notification should do little more than inform the antitrust enforcement agencies of the participants to the transaction, the projected date of consummation, and other noncontroversial and generally uninformative data. After this initial notification, if the agency determined that the transaction may violate the antitrust laws, the transaction could be investigated in detail by requesting additional information from the reporting companies, as is provided by the Act.

This position fundamentally misconceives the amount of information necessary to make even a tentative determination whether a transaction may violate the antitrust laws. The information requested by the proposed form is necessary to a determination whether to issue a request for additional information, and what information to request at that time. The legislative history suggests that Congress did not intend these reports to be vehicles to amass an economic data base for generalized research, and they are not intended to be. The reports are designed to provide data needed to evaluate the legality of particular transactions. Congress also intended that the reports would consist of data and documents reasonably available to reporting companies, and some revisions have been made in response to specific suggestions of this type in the comments.

Beyond these two criteria, the Commission does not believe that the legislative history contemplated any particular level of detail. Rather, the statute explicitly leaves to the Commission and the Antitrust Division the task of specifying what "documentary material and information relevant to a proposed acquisition * * * is necessary and appropriate to enable the * * * Commission and the [Division] to determine whether such acquisitions may, in consummated, violate the antitrust laws * * *."

Another reason for the decision to retain the overall approach to the Notification and Report Form embodied in the proposed rules is that it may permit a larger number of mergers and acquisitions to be consummated without extensions of the waiting period. Section (e) of the statute permits either the Commission or the Antitrust Division to request additional information. The waiting period may be extended during the time that a response to that request is being prepared, and for as long as twenty days after the response has been received. The greater the extent to which requests for data are deferred from the initial report until the request for additional information, the more likely it becomes that a second request may be necessary in order to satisfy an agency that no antitrust violation is likely. If second requests are issued more frequently, the average waiting period may be longer, rather than shorter, than it would be with a more comprehensive initial notification procedure. The requirements of the initial report will be publicly available, and companies will be able to begin compiling required data in advance of the transaction. By contrast, the second request and its content will not be regularly anticipated, and the reporting company will have to begin compiling the data during the waiting period, thus lengthening, possibly substantially, the time required for full compliance. Moreover, a second request after receipt of a sketchy initial report is likely to be more detailed and may require an even larger amount of time for preparation of a response.

In response to requests that the Notification and Report Form be made less burdensome, the Commission has made the following revisions.

1. With respect to assets being acquired, the revised form requests only a description of the "general classes of assets," rather than a description of all the assets required by Item 2(e) of the proposed form. In addition, the revised form does not request detailed information relating to the value of the assets, the method of valuation, date of valuation, or dollar sales or revenues attributable to the assets.

2. Both the proposed and revised form request copies of the contract or agreement embodying the proposed transaction, but in lieu of the request in Item 2(g) to furnish copies of all contracts, options and agreements relating to the proposed transaction, the revised form requests only an index of the ancillary documents or classes of such documents.

3. In lieu of that portion of Item 2(h) which required submission of all studies, surveys, analyses, and reports which contain *any* information relevant to market shares, competition, competitors, markets, etc., the revised form requests only those documents prepared for the purpose of evaluating or analyzing the proposed transaction, along with a narrative description of the planning process and persons responsible for planning within the reporting person, so that meaningful second requests can be formulated where appropriate.

4. No 7-digit SIC-based produce data is requested in the revised form with respect to activities other than manufacturing, and no reporting companies are required to submit any 7-digit data for any year other than 1972, when such information would have been prepared for the Census of Manufactures. In lieu of the latter, companies engaged in manufacturing must report their revenues for the most recent year by 5-digit product class, which most large companies already prepare for purposes of the Annual Survey of Manufactures.

5. No export or import data is required on the revised form as such. However, manufactured products which are exported will be included (without separate identification) in the value of shipments of domestic producers, and imported products which are resold will be included upon resale in the United States (again without separate identification) in domestic sales figures. This treatment conforms with that of the Census Bureau.

6. The requirement in Item 6(c), for state-by-state breakdowns of shipments in 4-digit SIC code industries in which both the acquiring and acquired companies derive revenues, has been replaced. Companies must list instead the locations of establishments from which dollar revenues in such industries were derived, and, for 2-digit SIC major groups of industries for which it is appropriate, list the states which comprise the ultimate market for the product or service. In addition, Item 6(d), which requested state-by-state data when there was a 7-digit overlap, has been deleted.

7. Item 6(e), which required reporting companies to list their five most significant competitors for each of their ten largest selling product groups, has been deleted.

8. Items 8(a) and 8(b), which requested data relating to all products which either company could have sold to the other, have been substantially streamlined. The revised form requires identification of products as to which the parties had a vendor-vendee relationship during the most recent year.

Although information requests in several items have been somewhat expanded, the basic thrust of the proposed Notification and Report Form has not been changed in the revised rules, and compliance with its requirements should be considerably less burdensome for reporting companies by reason of the above changes.

Areas in Which Significant Changes Have Been Proposed

1. definition of "control"

Definition of the term "control" is crucial, because control is the concept used to link up the entire corporate structure which constitutes a "person" for purposes of testing the size criteria of the statute. The definition in the proposed rules (§ 801.05(b)) recognized that ownership of 50 percent or more of the outstanding voting securities of an issuer constituted control. That definition also sought to formulate a subjective test by focusing on the fact of control. A great many comments were critical of this wholly subjective standard, not only because it may be difficult to determine the precise percentage of voting securities which constitutes control of a particular enterprise, but also because many types of relationships may confer upon persons other than shareholders different kinds of "powers" which may resemble control.

The 50 percent stock ownership test has been retained (§ 801.1(b)), and a narrow additional test (where one party has a contractual power presently to designate a majority of the directors of another) has been added. The Commission is considering adoption of a further test, which would define "control" to include the holding of sufficient voting stock or the possession of sufficient voting power to designate or elect a majority of the directors. Where this type of "control" would arise at some future time or upon the happening of some contingency, one person would "control" another only from the time that such power vests. This result might be accomplished by changing the last clause of § 801.1(b) to read:

(B) Power to presently designate or elect a majority of the directors or trustees of an entity.

The Commission considered adoption of a percentage smaller than 50 as a wholly objective criterion for control. In some situations, particularly with relatively large corporations, there is no doubt that de facto control arises at some point below, sometimes well below, 50 percent. Because it is difficult to devise a test which determines an appropriate percentage based solely on objective criteria, the Commission may adopt a test which focuses on the objective factors of voting control (or contractual power), without relying on a specific percentage of voting securities held. Comments relating to these alternatives are especially invited.

2. convertible securities

Subsection (b)(3)(A) of the statute provides:

The term "voting securities" means any securities which at present or upon conversion entitle the owner or holder thereof to

vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions. (emphasis supplied)

The proposed rules provided no detail concerning the manner in which convertible securities were to be treated, either when acquired or when held. The revised rules contemplate that the acquisition of convertible securities may be a reportable transaction and that convertibles are valued like other voting securities. Because the acquisition of convertibles is the point at which the reporting and waiting period requirements attach, the subsequent conversion of such securities into voting stock is exempted from these requirements (§ 802.31). An exception is created for options, warrants, and other rights to purchase voting securities upon payment of additional consideration; these are excluded from the definition of "voting securities" (§ 801.1(f)(1)) and their exercise is excluded from the definition of "conversion" (§ 801.1(f)(2)). The result is that these types of securities or rights can be acquired without reporting, but are subject to reporting and waiting period requirements at the time of their exercise.

Where convertible securities are acquired or held, the revised rules also clarify the procedures for calculating the percentage of the issuer's voting securities which the acquiring person will hold as a result of the transaction (§ 801.12). The rule provides that all securities held by the acquiring person which are convertible upon the happening of an event certain to occur within five years, plus all securities which are convertible at the option of the acquiring person, are treated as though they were presently entitled to vote. The purpose is to assess the maximum voting power that the acquired person could achieve for himself within a reasonable period of time by means of conversions; this projection is required by reason of the fact that a subsequent conversion of voting securities is an exempt transaction.

3. JOINT VENTURE EXEMPTIONS

The specific exemptions contained in proposed § 802.30 have been restated as coverage criteria and are embodied in § 801.40 of the revised rules. One exemption has been added in § 802.40 of the the revised rules for tax-exempt nonprofit corporations, which seemed unlikely in most cases to pose significant antitrust problems.

The Commission received a large number of comments describing a variety of joint ventures which are frequently utilized in a number of industries. The comments uniformly asserted that these types of joint ventures were unlikely to violate the antitrust laws or were not intended to be covered by the Act, or that reporting and waiting period requirements would impose substantial burden on these industries because of the frequency with which joint ventures are utilized.

The Commission does not believe that, simply because joint ventures are widely utilized in certain industries, the likelihood of their possible anticompetitive consequences is necessarily small. The Commission is particularly concerned that the formation of joint ventures contemplating ongoing manufacturing or service functions or of ventures in which two or more of the venturers are actual or potential competitors or could have a customer-supplier relationship may raise possible antitrust problems. Moreover, both the scope and duration of a proposed joint venture may affect the extent of the possible anticompetitive consequences raised by its formation.

The Commission invites comment in several specific areas. First, the Commission desires to learn the number of joint ventures, formed each year in each industry, which would be reportable under the revised requirements of § 801.40. With respect to these joint ventures, it would be helpful for comments to indicate:

(a) Who the joint venturers generally are;

(b) What the purposes of such ventures are;

(c) Whether the ventures are typically incorporated;

(d) Why a joint venture, rather than individual participation by the venturers, is typically used;

(e) Whether the venture engages in marketing of any product or service or derives any revenues from its activity, and, if so, who its "customers" are;

(f) The value of assets typically contributed by the venturers; the sources and magnitude of other assets obtained by the joint venture; and the extent to which the commitment of such assets is typically arranged at or prior to formation of the venture;

(g) A description of the lines of business and geographic areas in which the venture typically does business;

(h) Whether any of the venturers are typically competitors of one another in any market;

(i) Whether any of the venturers are typically customers or suppliers of one another in any market;

(j) The number of competitors and the degree of concentration in the industries in which the joint venturers and the joint venture do business;

(k) The duration of the joint ventures and the events upon which or conditions under which any of the ventures are typically dissolved; and

(l) Whether there are any limitations on the scope of the individual joint ventures;

Second, the Commission would like to know in greater detail the reasons that formation of specific types of joint ventures might be unlikely to violate the antitrust laws, as many of the comments have alleged. Given the fact that some judgment concerning the possible anticompetitive impact of a joint venture must be made by the enforcement agencies at the time of its formation, the Commission specifically invites comments concerning appropriate tests that would prospectively distinguish ventures which might raise possible anticompetitive consequences from those that are unlikely to do so.

The Commission has difficulty with the suggestions, made in a significant number of comments received in response to the originally proposed rules, that narrow exemptions relating to specific types of joint ventures in particular industries would be appropriate. The Commission invites specific suggestions concerning principles of general application to broad classes of joint ventures, regardless of the specific industry or particular purpose of the venture, which may serve to distinguish those ventures raising little likelihood of antitrust problems. The Commission is not inclined to grant exemptions absent clear indication that they are warranted under the Act. Comments which do not attempt to relate suggested exemptions to the underlying purposes of the Act are not likely to be helpful to the Commission.

4. ACQUISITIONS OF VOTING SECURITIES FROM THIRD PARTIES

Except with respect to tender offers, the proposed rules focused upon acquisitions of voting securities only from the issuers of those securities, or from other related sellers such as the parent of the issuer. No provision was made, however, for two other common types of transactions: the acquisition of blocks of stock from third parties unrelated to the issuer and the acquisition of stock through a securities exchange or other open market transaction. The major policy consideration which arises in connection with these transactions concerns the starting of the waiting period. Should the waiting period begin to run when the acquiring company files notification, as it does in the case of a tender offer? Or should the issuer have to file its notification within some time period (e.g., fifteen days) after filing by the acquiring person, before the waiting period begins to run?

The latter course would permit a hostile or indifferent issuer to block the proposed acquisition by simply refusing to file its notification, since it could effectively prevent the waiting period from ever beginning. However, the threat of civil penalties under subsection (g)(1) might deter such recalcitrance. On the other hand, the former approach appears inconsistent with the statutory language of subsections (a) and (b)(1) which are limited only in the case of tender offers. Section (a) states in part:

• • • no person shall acquire • • • any voting securities • • • of any other person, *unless both persons* (or in the case of a tender offer, the acquiring person) file notification • • • and the waiting period • • • has expired • • • (emphasis supplied).

Moreover, subsection (b)(1) of the statute states in part:

The waiting period required under subsection (a) shall—

(A) begin on the date of receipt • • • of • • • completed notification required under subsection (a) • • • *from both persons*, or, in the case of a tender offer, the acquiring person • • •. (emphasis supplied)

The Commission's view is that, notwithstanding the language of subsections (a) and (b)(1), any third party (including an open market) transaction is more closely analogous to a tender offer than to a traditional two-party acquisition, although the market impact of the latter may be different from that of a public tender offer, and, of course, the Williams

Act does not apply. Under the broad rulemaking authority of subsection (d)(2)(C), §§ 801.30(b) and 803.10(a) of the revised rules thus provide that the waiting period begins to run upon the filing by only the acquiring person in any acquisition from a third party (including both tender offers and open market transactions).

It should be noted that while under subsection (e)(2) of the statute a request for additional information may be made of an issuer in a tender offer, such a request does not serve to extend the waiting period. The Commission felt that there was no reason to extend this specific form of special treatment to third party or open market transactions other than tender offers (as to which the statute is silent). Thus, in a third party transaction the waiting period begins to run when the acquiring person files; the issuer then has fifteen days within which to file its report (§ 801.30(c)); a request for additional information may be made to either the acquiring person or to the issuer, or to both, and the waiting period is extended in the event of any such request (§ 803.20(c)). Moreover, the waiting period, here as elsewhere, may upon request be terminated by the Commission and the Assistant Attorney General in advance of its normal expiration (§ 803.11).

5. INDIRECT ACQUISITIONS

When an acquiring person purchases a controlling interest in a corporation which holds 50 percent or more of the stock of another corporation, both the proposed and the revised rules treat that subsidiary as part of the acquired person. But where the acquiring person obtains control of a corporation which holds 15 percent or $15 million worth of the stock of another corporation but does not control that other corporation, the indirect acquisition of that 15 percent or $15 million block of stock would seem, logically, to fit within the statutory scheme. The proposed rules did not explain whether this transaction was separately reportable, but § 801.4 of the revised rules makes clear that it is. An indirect acquisition of the second corporation cannot occur, however, until the purchaser acquires control of the first corporation. Revised § 801.4 also specifies that if the direct acquisition transaction is exempt from reporting and waiting period requirements, the indirect acquisition may nevertheless be reportable, unless there is an independent basis for exemption of the indirect acquisition under the statute or the rules.

6. ADVISORY OPINION/BUSINESS REVIEW LETTER EXEMPTION

Subparagraphs (c) and (d) of proposed § 802.05 provided exemptions from the requirements of the statute if the acquiring person had obtained a favorable Advisory Opinion from the Commission or a favorable opinion under the Business Review Procedure of the Antitrust Division. Both exemptions have been deleted from the revised rules. The reason is that, since the statute envisions that either the Commission or the Antitrust Division may investigate or seek to enjoin a projected acquisition, both agencies must receive completed Notification and Report Forms from the parties to the transaction. Even if one agency or the other were able to determine ahead of time that it would not investigate or challenge a particular transaction, the Commission feels that the other agency should be able to obtain sufficient information to permit its own informed judgment on the possible anticompetitive consequences of that transaction.

7. FOREIGN COMMERCE EXEMPTIONS

The proposed rules (§ 802.35) stated a single exemption for transactions involving insufficient relation to United States foreign commerce. That involvement was measured, in the case of an issuer whose voting securities were being acquired, by looking at its annual domestic import and export sales in U.S. commerce over the preceding three years, and at any assets that issuer may have held in the United States. In an assets acquisition, the involvement was measured by the annual domestic import and export sales in U.S. commerce attributable to those assets. The threshold level of involvement, below which the exemption applied, was $10 million. The comments generally suggested that threshold was too low.

The revised rules contain three types of exemptions applicable to foreign commerce. First, as to acquisitions of assets located in a foreign country or of voting securities of a foreign issuer, § 802.50 provides an exemption where the assets do not generate significant sales in or into the United States or where the issuer does not make significant sales in or into the United States and does not hold significant assets in the United States. Each of these thresholds is $10 million. Second, where the parties to a transaction are not U.S. companies, § 802.51 exempts an acquisition of either assets or voting securities unless one or both parties have substantial sales in or into or assets located in the United States, and unless either significant assets in the United States or the stock of a U.S. company will be acquired in the proposed transaction. The threshold for substantial sales is reached when the combined sales of the acquiring and acquired persons in or into the United States reach $110 million; the same figure is used to measure substantial assets in the United States held by the parties. The threshold applied to the assets or voting securities being transferred is $10 million for all purposes under this rule, assuming the criteria of subsection (a)(3) are otherwise met.

Finally, where an acquisition involves only assets located in a foreign country or only voting securities or an issuer located in foreign country, and where either the acquiring or the acquired person is a corporation controlled by the government of that country, § 802.52 exempts the transaction from reporting and waiting period requirements. The Commission is considering the appropriateness of limiting this exemption where assets located in the United States or voting securities of a U.S. issuer are indirectly acquired from a foreign government-controlled corporation.

For purposes of testing whether any foreign assets or foreign issuer, or any foreign purchaser or seller, is responsible for generating significant sales in U.S. commerce, all three of these revised rules look to sales made in or into the United States, but not to export sales made outside the United States.

These exemptions are somewhat complex because the underlying rationale involves superimposing upon the statutory tests of subsections (a)(2) and (a)(3) a similar set of tests which look to the sizes of the parties and the size of the transaction from the perspective of their impact on U.S. commerce. The Commission considered and rejected a simpler scheme along the lines of the proposed rule, but with a higher threshold such as $50 million or $100 million, because it is not clear that all transactions below those thresholds are unlikely to violate the antitrust laws.

8. SUBSEQUENT ACQUISITIONS AFTER ONE REPORT

Once a notification report has been filed in connection with an acquisition of voting stock, the proposed rules (§ 802.45) permitted the acquiring person to purchase up to 5 percent more of the voting securities of the same issuer without reporting. But for each transaction involving the purchase of 5 percent or more of the voting securities of that issuer, a separate report and waiting period was required. (Once the acquiring person reaches 50 percent, any subsequent acquisition of voting securities is exempt under subsection (c)(3).)

The revised rules seek to reduce the burden of reporting these subsequent acquisitions of the same issuer's stock. Revised § 802.21 provides essentially that, within the six-month period after notification has been filed, the purchaser must again file notification and observe the waiting period only when his holdings would reach 25 percent and 50 percent of the outstanding voting securities of that issuer. In other words, the first report is required at either 15 percent or $15 million, whichever is smaller, and subsequent reports are required within six months only when the purchaser would reach 25 percent, and again when the purchaser would control the issuer. If more than six months have elapsed since an earlier notification, any additional purchase would be subject to reporting and waiting period requirements. The revised rule also permits the acquiring person to cross two or more of these three reporting thresholds at once by stating in his notification the intention to make such additional acquisitions within 180 calendar days. Finally, under revised § 802.22 if an acquiring company crosses a threshold and files notification, then sells some of that stock (or for some other reason falls below the same threshold), and within 180 days of the first

filing makes a purchase which results in crossing the same threshold, a new notification is not required.

The Commission believes that the 180-day time periods in §§ 802.21(b)(3)(A) and 802.22(b)(3) may be shorter than necessary to implement the underlying purposes of the Act. The Commission specifically invites comment on the length of time during which the information contained in the earlier notification remains reasonably current and is thus reasonably likely to reflect the sizes and operations of the acquiring and acquired persons.

9. INSTITUTIONAL INVESTORS

The entire subject of financial institutions is complex. The "Statement with Respect to Certain Financial Transactions and Institutions," which was published with the proposed rules, was meant to evoke comments indicating the types of transactions in which financial institutions normally engage, which might fall within the ambit of the statute. The comments were helpful, but they did not provide sufficient information to permit the Commission systematically to identify the transactions unlikely to pose any potentially significant antitrust problems.

The revised rules contain a series of five related exemptions (§§ 802.60 through 802.64), one of which is also stated in the alternative (§ 802.64a). Revised § 802.60 exempts certain persons, rather than certain transactions from reporting and waiting period requirements. Where a broker or dealer in securities, a trustee or fiduciary, or any agent makes an acquisition on behalf of, and at the specific direction of another person, this rule, in effect, obligates the beneficial owner to file any notification which the statute may require. (In contrast to the originally proposed rules, a broker, trustee, or agent who purchases stock for the benefit of another person, but not at his specific direction, would be subject to the requirements of the Act.) Revised § 802.61 exempts acquisitions in escrow and essentially embodies § 802.15 of the proposed rules. Revised § 802.62 exempts acquisitions by securities underwriters, on the theory that their holding of any voting securities is temporary; purchases from an underwriter are treated like any other acquisition from a third party. Revised § 802.63 exempts acquisitions of collateral by creditors and acquisitions by creditors in foreclosure or upon default, so long as the creditor relationship arose from a bona fide credit transaction in the ordinary course of the creditor's business. The rule also exempts acquisitions by insurance companies pursuant to a surety contract or through subrogation. All of these appear to be temporary situations, where the acquiring person seems unlikely to be interested in retaining control or in exercising continuing influence over management.

The rules that have caused the greatest difficulty are the alternative §§ 802.64 and 802.64a. These rules deal with organizations which regularly buy and sell voting (and non-voting) securities in the ordinary course of business, usually for investment purposes only. The Commission believes that some type of exemption for these transactions in addition to subsection (c)(9) of the Act may be appropriate, but invites comment on three problems which remain unresolved: (1) The specific types of investors which ought to be able to take advantage of the exemption; (2) appropriate limits of such an exemption where it applies; and (3) appropriate exceptions where the exemption should not apply at any level.

The Commission has proposed §§ 802.64 and 802.64a as alternative exemptions, in an effort to stimulate comments that will clarify the problem and shed additional light on whether other types of investors should also be listed, whether any types of investors are inappropriately included, or whether greater precision is needed adequately to define any of the categories listed. It is the intention of the Commission to include a version of either § 802.64 or § 802.64a in the final rules, but not both.

Both alternative rules have three important limitations. No exemption from the reporting or waiting period requirements applies if (1) the acquisition is not made in the ordinary course of business, (2) the acquisition is not made solely for investment purposes, or (3) if as a result of the acquisition the acquiring company would control the issuer whose stock is being acquired.

Both alternative rules also have two significant exceptions. First, if the acquiring entity is an institutional investor controlled by another entity which is not an institutional investor, the exemptions do not apply. For example, an insurance company controlled by a company engaged in manufacturing is not an institutional investor for purposes of these exemptions. Second, if the acquisition is of the voting securities of another institutional investor, whether directly or through a person who controls another institutional investor, then the exceptions do not apply. These broad exceptions are designed to encourage institutional investors to provide comments which will help clarify which transactions are covered by which statutory exemptions, and which transactions not covered by those statutory exemptions nevertheless are unlikely to violate the antitrust laws.

For the acquisitions by institutional investors which meet all of the above criteria, two alternative exemption schemes are proposed. Revised § 802.64 exempts such transactions unless they result in the acquiring person's holding both 15 percent and $25 million of the voting securities of the issuer. If those thresholds (which essentially supersede subsection (a)(3) of the statute for this limited purpose) are exceeded, the transaction would be subject to both reporting and waiting period requirements.

The reporting requirements triggered at 25 percent and at 50 percent would apply to subsequent acquisitions by institutional investors, just as they do to acquisitions by other types of purchasers.

Alternate § 802.64a would continue to use the subsection (a)(3) criteria, but would exempt all acquisitions by institutional investors meeting the above tests, on condition that such investors file an annual report summarizing the transactions as to which the exemption had been claimed during the previous year. The Commission is hopeful that additional comments will indicate a preference as between these alternatives, and will explain the reasons for such preference.

10. FILING NOTIFICATION IN TENDER OFFERS

Proposed § 803.15 stated that the notification required by the statute in a tender offer situation must contain an affidavit attesting that the tender offer had been published, sent or given to security holders of the issuer whose voting securities were sought to be acquired. Numerous comments pointed out that statutes in a number of states require that persons who intend to make certain tender offers must file notice of their intentions significantly in advance of the time when those offers will be made. The comments objected to the "tacking" of a waiting period under this statute onto the waiting period required by a state statute, and requested that an acquiring person be permitted to file notification at any time after a state filing or after the intention to make the tender offer has been made public.

The reason for the proposed rule was to assure, before notification would be permitted, that the tender offer would be made. The Commission wanted to avoid requiring the target to report unnecessarily and sought also to avoid reviewing hypothetical transactions and perhaps giving even an informal indication of concern (or lack of it) by the enforcement agencies before the acquiring person had actually decided whether to make its tender offer. The comments appear convincing that the likelihood of receiving notification reports with respect to hpyothetical transactions is relatively low after the prospective tender offeror has filed under a state statute or publicly announced the intention to make the tender offer. Thus revised § 803.4(a)(2) permits the filing of notification at any time after the intention to make the tender offer has been publicly announced (which presumably occurs as soon as a filing is made under a state statute). Subparagraph (a)(1) of revised § 803.4 also requires that the acquiring person in any acquisition from a third party, including tender offers, file an affidavit attesting that he issuer has been previously (or is being contemporaneously) served with a written statement containing information which the issuer will need in order to comply with its reporting requirements.

In permitting the acquiring person to file notification under this statute prior to the time when the tender offer has been published, sent or given to security holders of the issuer, the Commission takes no position on the question whether any state statute requiring any

type filing by the acquiring person at any time may be pre-empted by Federal statute or regulations, or may be otherwise unlawful, and the Commission specifically does not endorse or oppose the principle of required disclosure of planned tender offers which underlies such statutes.

11. SUBSETION (C)(9) EXEMPTION

Subsection (c)(9) of the statute exempts acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer.

Proposed § 802.85 purported to condition this statutory exemption upon the filing, by an acquiring person, of a certified statement containing certain information relating to such transactions. In its place, revised § 802.9 seeks to interpret the statutory exemption, but does not require any type of filing when the exemption applies, although the Commission is continuing to consider a filing requirement of the type contained in § 802.-85 of the originally proposed rules. The Commission specifically invites comments concerning the circumstances under which a person may hold securities solely for investment purposes and may nevertheless vote for the election of directors. Where a person claims to be holding voting securities "solely for the purpose of investment," but nevertheless votes that stock for election of directors, the Commission believes it may be "necessary and appropriate to carry out the purposes" of the Act to obtain further information from the person as a condition of the person's claiming exemption under subsection (c)(9) of the Act.

Because of the difficulty in establishing criteria for determining when voting securities are held "solely for the purpose of investment," the Commission also invites comment on the desirability of exempting from the reporting requirements all acquisitions of voting securities which do not result in the acquiring person holding more than 10 percent of the outstanding voting securities of the issuer regardless of the acquiring person's intent.

The requirement that holdings of voting securities be "solely for investment purposes" also appears in §§ 802.64 and 802.64a. Because the exemption contained in subsection (c)(9) does not apply to any holdings of the stock of an issuer after 10 percent of the issuer's stock is held, the Commission is considering the possibility of changing the 15 percent figure in § 802.64(b)(5)(A) to 10 percent, so that the conditional exemption and reporting requirements for institutional investors would apply to any holdings which are too large to qualify for exemption under subsection (c)(9). The Commission specifically invites comment concerning whether the $25 million figure in proposed § 802.64(b)(5)(B) should be changed in this event, and, if so, what figure would be appropriate and why.

The Commission is also considering whether assets may ever be held "solely for investment purposes" (see proposed § 802.51) and may delete this reference.

12. SPECIAL REPORTS CONCERNING CERTAIN GROCERY AND MILK PRODUCTS ACQUISITIONS

Under the Commission's Special Order of February 14, 1973 (pursuant to its Resolution of November 29, 1967), certain persons contemplating acquisitions of voting securities or assets of a person engaged in whole or in part in wholesale or retail grocery distribution (SIC Groups 514 and 541, respectively), are required to file FTC Forms 1859 A and B with Supplement. Under the Commission's Special Order of October 7, 1974 (pursuant to its Resolution of October 7, 1974), certain persons contemplating acquisitions of voting securities or assets of a person engaged in whole or in part in the processing or distribution of Class I milk products (SIC product classes 20262 and 20264) are required to file an FTC Special Report on Acquisitions and Mergers by Corporations in the Fluid Milk Products Industry. Under each of these programs, the required reports must be submitted under a timetable different from that required for the Notification and Report Form under these rules.

In order to obtain the information requested in these special reports at the same time that the Notification and Report Form is submitted, § 803.1 (b) and (c) require that the special reports be filed simultaneously with the Notification and Report Form by those companies subject to both the Act and either of these special reporting programs. At the time that final rules are promulgated, the Commission intends to modify these reporting programs so that duplicative filings of the special reports will not be required.

13. STATEMENT OF REASONS FOR NONCOMPLIANCE

Under the Act, a person required to file notification by section (a) or to provide additional information or documentary material pursuant to a supplemental request under section (e) is required to provide a "complete response" or, if the response is not complete, to provide a "statement of the reasons for such noncompliance." Subsection (g)(2) of the Act states that in the event a person fails substantially to comply with either of these requirements, a U.S. district court may order compliance and (except where the issuer in a tender offer has failed substantially to comply) shall extend the waiting period until there has been substantial compliance.

The Commission has taken the position, in § 803.3, that a complete response within the meaning of the Act is one which includes all requested information. When the person filing notification cannot supply a complete response, § 803.3 requires further information concerning the reasons for noncompliance. In the event that an enforcement agency believes that an incomplete response does not constitute substantial compliance, it may seek civil penalties under subsection (g)(1) or an order requiring compliance, an extension of the waiting period, and other equitable relief under subsection (g)(2). The meaning of "substantial compliance" may thus be determined by the district courts when such relief is sought.

PROPOSED RULEMAKING

The Commission believes it desirable to invite additional comments on these revised proposed rules, because of their complexity and because of the number of changes from the originally proposed rules. During the period prior to promulgation of final rules, the Commission's Transitional Rule, published in the FEDERAL REGISTER of February 2, 1977 (Volume 42, number 22, at pages 6365–6366) remains in effect. The Commission does not intend to alter the filing requirements under its existing premerger notification program (pursuant to its Resolution Requiring Notification and Submission of Special Reports Relating to Corporate Mergers or Acquisitions, dated August 15, 1974) until after these rules become effective and are in operation.

The Commission proposes the following amendment to Title 16, Chapter I, by adding a new Subchapter H—Rules, Regulations, Statements, and Interpretations under the Hart-Scott-Rodino Antitrust Improvements Act of 1976—and Parts 801, 802, and 803 under the Subchapter (Part 800 would be reserved).

PART 801—COVERAGE RULES

Sec.

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§ 801.1 Definitions.

When used in this section and these rules—

(a)(1) *Person.* Except as provided in § 801.12, the term "person" means an entity together with any and all other entities controlled by, controlling, or under common control (by an entity) with, such entity.

Examples: 1. In the case of corporations, "person" encompasses the entire corporate structure, including all parent corporations, subsidiaries and divisions (whether consolidated or unconsolidated, and whether incorporated or unincorporated), and all related corporations under common control with any of the foregoing.

2. Corporations A and B are each controlled by the same foreign state. They are not included within the same "person," although

the corporations are under common control, because the foreign state which controls them is not an "entity" (see § 801.1(a)(2)). Therefore, the corporations are not "under common control (by an entity)" within the meaning of this subparagraph. Corporations A and B, however, each constitute a separate "person" which includes any entities each may control.

3. Since a natural person is an entity (see § 801.1(a)(2)), a natural person and a corporation which he or she controls are part of the same "person." If that natural person controls two otherwise separate corporations, both corporations and the natural person are all part of the same "person."

(2) *Entity.* The term "entity" means any natural person, corporation, company, partnership, joint venture, association, joint-stock company, trust, foundation, found, institution, society, union, club or other group organized for any purpose whether incorporated or not, wherever located and of whatever citizenship or domicile; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his or her capacity as such; or any joint venture which has not been formed but the acquisition of the voting securities or other interest in which would require notification under this section and these rules: *Provided however,* That the term "entity" shall not include any foreign state, foreign government, or agency thereof (other than a corporation or other business or commercial operation engaged in commerce), nor any of the United States, or any political subdivision or agency thereof (other than a corporation engaged in commerce).

(3) *Ultimate parent entity.* The term "ultimate parent entity" means that entity included within a person which is not controlled by any other entity, and which controls directly or indirectly all other entities included within such person.

Examples: 1. If corporation A holds 100 percent of the stock of subsidiary B, and B holds 75 percent of the stock of its subsidiary C, corporation A is the ultimate parent entity, since it controls subsidiary B directly and subsidiary C indirectly, and since it is the entity within the person which is not controlled by any other entity.

2. If corporation A is controlled by natural person D, natural person D is the ultimate parent entity.

(b) *Control.* (1) The term "control" (as used in the terms "control," "controlling," "controlled by," and "under common control * * * with") means either (A) holding (excluding any holdings of affiliates) 50 percent or more of the outstanding voting securities of an issuer; or (B) contractual power to presently designate a majority of the directors or trustees of an entity.

Example: Corporation A holds 100 percent of the stock of corporation B, 75 percent of the stock of corporation C, 50 percent of the stock of corporation D, and 30 percent of the stock of corporation E. Corporation A controls corporations B, C, and D, but not corporation E. Corporation A is the ultimate parent entity of a person comprised of corporations A, B, C, and D, and each of these corporations (but not corporation E) is "included within the person."

(c) *Hold.* The term "hold" (as used in the terms "hold," "holds," "holding," and "held") means record or beneficial ownership, whether direct, or indirect through agents, brokers, nominees, controlled entities, or other means. The holdings of the spouse and minor children of a natural person shall be deemed holdings of that person.

Example: If a stockbroker holds stock in "street name" for the account of a natural person, both the stockbroker (who has record title) and the natural person (who has beneficial ownership) "hold" that stock. (But the acquisition of the stock by the broker may be exempt; see § 802.60.)

(d) *Affiliate.* A person is an "affiliate" of another person if either (1) the entities included within such person hold an aggregate total of at least 25 but less than 50 percent of the outstanding voting securities of the ultimate parent entity of such other person; or (2) the entities included within such other person hold an aggregate total of at least 25 but less than 50 percent of the outstanding voting securities of the ultimate parent entity of such person.

Examples: 1. Corporation A is the ultimate parent entity within person A; corporation B is the ultimate parent entity within person B. Person A is an "affiliate" of person B if the aggregate holdings of the voting securities of corporation B by corporation A (and all other entities included within person A) are equal to or exceed 25 percent, but are less than 50 percent, of the outstanding voting securities of B. (If the holdings equal or exceed 50 percent, then A controls B and they are not affiliates.) Person A may also be an affiliate of person B if the aggregate holdings of the voting securities of corporation A by person B amount to at least 25 percent, but less than 50 percent, of the outstanding voting securities of corporation A.

2. Corporation C is controlled by corporation D. Corporation C cannot itself be an "affiliate" of anyone else, because "entities" cannot be affiliates of other "entities." Only "persons" may be affiliates, and they may be affiliates only of other "persons." The holdings of corporation C must be aggregated with those of its ultimate parent and of all other entities within that person, for purposes of determining whether that person is an affiliate of any other person.

3. A partnership, a natural person, or any other entity which does not issue voting securities can be an "affiliate" of another person only by reason of its holdings (or the holdings of any entities it controls) of the stock of the ultimate parent entity of that other person.

(e) *Security.* The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral-trust certificate, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or to purchase, any of the foregoing.

(f) (1) *Voting securities.* The term "voting securities" means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

(2) *Conversion.* The term "conversion" means the conversion, without the payment of additional consideration, of securities not presently entitled to vote into securities entitled to vote. Transfer costs and fees, and any payments made to complete fractional shares, shall not be deemed additional consideration.

Examples: 1. The acquisition of convertible debentures which are convertible without the payment of additional consideration is an acquisition of "voting securities." Notification must be filed prior to acquisition of such securities if the criteria of subsection (a) are satisfied.

2. Options and warrants are not "voting securities" for purposes of this section, since the payment of additional consideration is necessary to exercise the options or warrants. Notification need not be filed prior to the acquisition of such securities, but may be required prior to exercising the options or warrants, if the criteria of subsection (a) are otherwise satisfied at that time.

(g) *Tender offer.* The term "tender offer" means any offer to purchase voting securities which is a tender offer within the meaning of section 14 of the Securities Exchange Act of 1934, 15 U.S.C. 78n.

(h) *Cash tender offer.* The term "cash tender offer" means any tender offer in which cash is the only consideration offered to the holders of the voting securities sought to be acquired.

(i) *Solely for investment purposes.* Voting securities are held or acquired "solely for investment purposes" if the person holding or acquiring such voting securities has no intention of participating in the formulation, determination or direction of the basic business decisions of the issuer.

Example: If a person holds stock "solely for investment purposes" and thereafter decides to influence or participate in management of the issuer of that stock, the stock is no longer held "solely for investment purposes."

(j) *Engaged in manufacturing.* A person shall be deemed to be "engaged in manufacturing" if it produces and derives annual sales or revenues in excess of $1 million from products within industries 2000-3999 as coded in the Standard Industrial Classification Manual (1972 edition) published by the Executive Office of the President, Office of Management and Budget.

(k) *United States.* The term "United States" shall include the United States, the commonwealths, possessions and territories thereof, and the District of Columbia.

(l) *Commerce.* The term "commerce" shall have the meaning ascribed to that term in section 1 of the Clayton Act, 15 U.S.C. 12, and 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

(m) *This section.* References to "this section" refer to section 7A of the Clayton Act, 15 U.S.C. 18A, as added by section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435. References to specific subsections refer to subsections thereof.

§ 801.2 Acquiring and acquired persons.

(a) Any person who is acquiring voting securities or assets (other than cash), either directly or indirectly, or through one or more agents, brokers, or other entities acting on behalf of and at the specific direction of such person, shall be deemed an acquiring person.

(b) Any person whose voting securities or assets (other than cash) are being acquired shall be deemed an acquired person.

(c) For purposes of this section and these rules, a person may be both an acquiring person and an acquired person in a single transaction.

Example: Corporation A plans to transfer certain of its assets to corporation B in return for voting securities of B. Since corporation A is acquiring voting securities, A is an acquiring person; since corporation B is acquiring assets, B is also an acquiring person. In addition, both A and B are acquired persons, since the assets of A are being acquired, and the voting securities of B are being acquired.

(d) A merger, consolidation, or other transaction combining all or any part of the business of two or more persons shall be deemed to be an acquisition subject to this section, and each party to such a transaction shall be deemed both an acquiring and acquired person.

§ 801.3 Activities in or affecting commerce.

Subsection (a)(1) is satisfied if any entity included within the acquiring person, or any entity included within the acquired person, is engaged in commerce or in any activity affecting commerce.

Examples: 1. A foreign subsidiary of a United States corporation seeks to acquire a foreign business. The acquiring person includes the United States parent corporation. If the United States corporation, or the foreign subsidiary, or any entity controlled by either one of them, is engaged in commerce or in any activity affecting commerce, the acquisition satisfies subsection (a)(1). Note, however, that §§ 802.50-802.52 may exempt certain acquisitions otherwise within subsection (a)(1).

2. Even if none of the entities in example 1 is engaged in commerce or in any activity affecting commerce, the acquisition nevertheless satisfies subsection (a)(1) if any entity included within the acquired person is so engaged.

§ 801.4 Indirect acquisitions.

(a) *Indirect acquisitions.* If the acquiring person prior to an acquisition did not, but as a result of an acquisition would, control the issuer whose voting securities are being directly acquired, and such issuer (and all entities it controls) hold an aggregate amount of the voting securities of another issuer insufficient to control such other issuer, then such voting securities of such other issuer shall be deemed indirect acquisitions of the acquiring person. Such indirect acquisitions shall be subject to the requirements of this section if the criteria of subsection (a) are satisfied with respect to such acquiring person and the person within which such indirectly acquired issuer is included.

(b) *Indirect acquisitions: Exemptions.* (1) No indirect acquisition shall be exempt from the requirements of this section solely because the direct acquisition of which it is a part is exempt from the requirements of this section.

(2) An indirect acquisition may be exempt from the requirements of this section under subsection (c) or any of these rules.

Examples: 1. Acquiring person A proposes to acquire the voting securities of corporation B's wholly owned subsidiary, corporation S, and the requirements of subsection (a) are otherwise satisfied. The voting securities of issuers held but not controlled by S and all entities which it controls are being acquired indirectly by A. Thus, if S holds $15 million of the voting securities of corporation X, and A and X also satisfy subsections (a)(1) and (a)(2), A must file notification separately with respect to its indirect acquisition of voting securities of X. X must file notification within fifteen days after A files pursuant to § 801.30.

2. In the previous example, if A's acquisition of the voting securities of S is exempt, A may still be required to file notification with respect to its indirect acquisition of the voting securities of X, unless it is also exempt.

3. In the previous example, assume that A's acquisition of S was exempt, but that A's indirect acquisition of X was not exempt. If A wishes to acquire S prior to the expiration of the waiting period with respect to X, S must place its holdings of X into escrow, or A must otherwise refrain from acquiring the holdings until the expiration of the waiting period.

§ 801.10 Value of voting securities and assets.

The value of voting securities and assets, except as provided in § 801.13, shall be determined as follows:

(a) *Voting securities.* (1) If the security is traded on a national securities exchange or is authorized to be quoted in an inter-dealer quotation system of a national securities association registered with the United States Securities and Exchange Commission—

(i) And the acquisition price has been determined, the value shall be the market price or the acquisition price, whichever is greater; or if

(ii) The acquisition price has not been determined, the value shall be the market price.

(2) If subparagraph (1) of this paragraph is inapplicable—

(i) But the acquisition price has been determined, the value shall be the acquisition price; or if

(ii) The acquisition price has not been determined, the value shall be the fair market value.

(b) *Assets.* (1) The total assets of a person shall be as stated in accordance with § 801.11.

(2) For all purposes other than determining the total assets of a person, the value of assets shall be the fair market value of the assets, or, if determined and greater than the fair market value, the acquisition price.

(c) For purposes of this rule and § 801.13(a)(2):

(1) *Market price.* The market price shall be the closing quotation on the last business day of the week prior to the filing of the notification required by this section. If such closing quotations are available in more than one market, the person filing notification may select any such quotation.

(2) *Acquisition price.* The acquisition price shall include the value of all consideration to be received for such voting securities and or assets.

(3) *Fair market value.* The fair market value shall be determined in good faith by the board of directors of the entity controlling the acquiring person, or, in the case of unincorporated persons, officials exercising similar functions; or by a person delegated that responsibility by such board or officials. In all cases, such determination must be made as of any day within fifteen calendar days prior to the filing of the notification required by this section.

§ 801.11 Annual net sales and total assets.

(a) The annual net sales and total assets of a person shall include all sales and assets, whether foreign or domestic, except as provided in paragraph (d) of this section.

(b) The annual net sales and total assets of a person shall be as stated on the most recent financial statement of that person; *Provided:*

(1) That the annual net sales and total assets of each entity included within such person are consolidated therein. If the annual net sales and total assets of any entity or entities included within the person are not consolidated in such statement, such annual net sales and total assets of the person filing notification shall be computed in accordance with generally accepted accounting principles to include the non-duplicative annual net sales and non-duplicative total assets of each such entity or entities; and

(2) That the annual net sales and total assets of the person shall be restated, in accordance with generally accepted accounting principles, to reflect all significant acquisitions and dispositions (exept dispositions of assets which continue to be attributed to an acquired person pursuant to § 801.13(b)) by any entity included within the person which have occurred since the date of the most recent financial statement.

Examples: 1. Person A is composed of entity A, subsidiaries B1 and B2 which A controls, subsidiaries C1 and C2 which B1 controls, and subsidiary C3 which B2 controls. Suppose that A's most recent financial statement consolidates the annual net sales and total assets of B1, C1, and C2, but not B2 and C3. In order to determine whether person A meets the criteria of subsection (a)(2), whether as an acquiring or acquired person, A must restate its annual net sales and total assets to reflect a consolidation into A's financial statement of the non-duplicative annual net sales and non-duplicative total assets of the previously unconsolidated subsidiaries, B2 and C3. This consolidation must be performed in accordance with the generally accepted accounting principles used by A to consolidate the annual net sales and total assets of B1, C1 and C2.

2. In example No. 1, if, since A's most recent financial statement, A has made a significant acquisition of assets, the total assets of A must be restated to reflect this acquisition. If the acquisition is of assets which have a significant amount of sales attributable thereto, the net annual sales of A must be restated to reflect the annual net sales attributed to those assets in accordance with generally accepted accounting principles.

(c) The financial statement used for purposes of determining annual net sales and total assets must have been prepared in accordance with the generally accepted accounting principles normally used by such person and shall be as of a date not more than fifteen months prior to the date of notification under this section.

(d) No assets of any natural person, other than voting securities and income-producing property, shall be included in determining the total assets of a person.

§ 801.12 Calculating percentage of voting securities or assets.

(a) *Voting securities.* Any issuer whose voting securities are being acquired shall be deemed an "acquired person" in calculating the percentage of voting securities to be held or acquired for purposes of subsection (a)(3)(A).

Example: Person A is composed of entity A and subsidiary A1; person B is composed of entity B and subsidiary B1. Assume that A1 proposes to sell assets to B1 in exchange for common stock of B1. Under this paragraph, for purposes of calculating the percentage of voting securities to be held, the "acquired person" is B1. (For all purposes, the "acquiring persons" are A and B.)

(b) *Percentage of voting securities.* (1) Whenever this section or these rules require calculation of the percentage of voting securities of an issuer to be held or acquired by a person, the percentage shall be the ratio, expressed as a percentage, of:

(i) The sum of the number of votes for directors of the issuer presently entitled to be cast by the voting securities to be held or acquired by such person, plus the votes which such person would be entitled to cast upon conversion of all voting securities to be held or acquired by such person which are not presently entitled to vote, but which are convertible upon the occurrence of an event certain to occur within five years or convertible at the option of the holder; to

(ii) The sum of the number of votes for directors of the issuer presently entitled to be cast by all outstanding voting securities, plus the votes represented by conversion of voting securities of the issuer which are included in the numerator by reason of paragraph (b)(1)(i) of this section.

(2) Authorized but unissued voting securities and treasury securities shall not be considered securities presently entitled to vote for directors of the issuer.

Example: In the example to paragraph (a), to determine what percentage of B1's voting securities will be held by A after the transaction, all voting securities of B1 held by A, the "acquiring person" (including A1), and by A's affiliates, must be aggregated. See also § 801.14. In addition, if A holds convertible securities of B1 which meet the definition of voting securities in § 801.1(f), and which are convertible at A's option or which automatically convert within five years, then in calculating the percentage of voting securities held by A these securities must be treated as though converted.

(c) *Assets.* Any entity whose assets (other than cash) are being acquired shall be deemed an "acquired person" in calculating the percentage of assets to be held or acquired for purposes of subsection (a)(3)(A).

Example: In the example to paragraph (a), for purposes of calculating the percentage of assets to be held, the "acquired person" is A1.

(d) *Percentage of Assets.* Whenever this section or these rules require calculation of the percentage of assets of a person to be held or acquired, the percentage shall be the ratio, expressed as a percentage, of:

(1) The value of the assets to be held or acquired, stated in accordance with § 801.10(b)(2); to

(2) The total assets of the entity whose assets are being acquired (including all entities controlled by such entity), determined in accordance with generally accepted accounting principles.

Example: In the example to paragraph (a), the percentage of the assets of A1 to be held or acquired by B, the "acquiring person," is the following percentage fraction. The numerator is the value of all assets to be acquired in the transaction, valued in accordance with § 801.10(b)(2). The denominator is the total assets of A1, prior to the acquisition, determined in accordance with the generally accepted accounting principles.

§ 801.13 Voting securities or assets to be held as a result of acquisition.

(a) *Voting securities.* (1) All voting securities of the issuer which will be held by the acquiring person after the consummation of the acquisition shall be deemed voting securities held as a result of such acquisition. The value of such voting securities shall be the sum of the value of the voting securities to be acquired, determined in accordance with § 801.10, and the value of the voting securities previously held by the acquiring person, determined in accordance with subparagraph (2) of this paragraph.

(2) The value of voting securities of the issuer held prior to an acquisition shall be:

(i) If the security is traded on a national securities exchange or is authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission, the market price calculated in accordance with § 801.10(c)(1); or

(ii) If subdivision (i) is not applicable, the fair market value as provided in § 801.10(c)(3).

(b) *Assets.* (1) All assets being acquired from the acquired person shall be assets held as a result of the acquisition. The value of such assets shall be determined in accordance with § 801.10.

(2) Assets which were acquired by the acquiring person from the acquired person within 180 calendar days preceding the date of filing of the notification required by this section:

(i) Shall be deemed assets of the acquired person held by the acquiring person as a result of the acquisition for purposes of subsection (a)(3)(B), but not for purposes of subsection (a)(3)(A). The value of such assets shall be determined in accordance with § 801.10(b)(2), as of the time of their acquisition;

(ii) Shall be deemed assets of the acquired person for purposes of subsection (a)(2), but not for purposes of subsection (a)(3)(A) or § 801.12(d)(2). Such assets shall not be deemed "dispositions" of the acquired person for purposes of § 801.11(b)(2);

(iii) Shall be deemed assets of the acquired person held by the acquiring person as a result of the acquisition for all purposes under this section and these rules not specified in subdivisions (i) or (ii) of this subparagraph.

Example: Acquiring person A makes two acquisitions of assets from person B, ninety days apart, and wishes to determine whether notification is necessary prior to the second acquisition. For purposes of the percentage test of subsection (a)(3)(A), A would hold only the assets it acquired in the second acquisition. For purposes of the $15 million test of subsection (a)(3)(B), however, A must aggregate both of its acquisitions and must value each as of the time of its acquisition. The total assets of B, for purposes of subsection (a)(2), shall be the total assets of B prior to the first acquisition by A; for purposes of the denominator in the percentage test of subsection (a)(3)(A), the total assets of B may reflect the earlier sale as a "significant disposition"; see § 801.11(b)(2). The total assets of A do not include the assets acquired by A in its first acquisition from B.

§ 801.14 Holdings of affiliates.

(a) Pursuant to subsection (b)(3)(B), the amount or percentage of voting securities or assets of a person which are acquired or held by an acquiring person, whenever required to be determined by this section or these rules, shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such acquiring person and each affiliate thereof.

Examples: 1. In the examples of §§ 801.12, 801.13, 801.15, 801.20, and 801.21, and any other rules which refer to an acquiring person, the amount or percentage of voting securities or assets held by the acquiring person, for purposes of subsection (a)(3), should be determined by aggregating the holdings of the acquiring person with those of its affiliates.

2. Person A is composed of corporation A and subsidiaries B1 and B2. Corporation B1 proposes to acquire voting securities of corporation T. B1 and B2 together hold 25 percent of the voting securities of corporation F. If corporation F is the ultimate parent entity within another person, then person F is an affiliate of person A. See § 801.1(d). Subsection (b)(3)(B) requires that A aggregate F's holdings in T with its own holdings in determining whether the test of subsection (a)(3) is satisfied.

(b) For purposes of subsection (b)(3)(B), the holdings of an affiliate shall not include the holdings of any affiliate of such affiliate.

Example: In example No. 2 to paragraph (a) of this rule, if corporation F and the entities it controls hold 25 percent of the outstanding voting securities of corporation N, and N is an ultimate parent entity, then N is an affiliate of F. Paragraph (b) of this rule provides that N's holdings of T's voting securities need not be aggregated with the holdings of F for purposes of A's proposed acquisition of the voting securities of T. Only the voting securities held by A's own affiliate F (and the entities controlled by F), and not the holdings of F's affiliates, must be aggregated with the holdings of A.

§ 801.15 Aggregate total amount of voting securities and assets.

For purposes of subsection (a)(3)(B), the aggregate total amount of voting securities and assets shall be the sum of:

(a) The value of all voting securities of the acquired person, calculated in accordance with §§ 801.10(a) and 801.13(a), which the acquiring person would hold as a result of the acquisition; and

(b) the value of all assets of the acquired person, calculated in accordance with §§ 801.10(b)(2) and 801.13(b), which the acquiring person would hold as a result of the acquisition.

Examples: 1. Acquiring person A and its affiliates previously acquired $6 million of the voting securities of corporation X. A now intends to acquire $8 million of X's assets. Pursuant to § 801.13(a), A must determine the present value of the previously acquired securities in order to determine whether the proposed acquisition is subject to the requirements of this section. If these securities have a present value of more than $7 million, the acquisition is subject to the requirements of this section since, as a result of it, A would hold an aggregate total amount of the voting securities and assets of B in excess of $15 million.

2. In the previous example, assume that the assets acquisition occurred first, and that the acquisition of the voting securities is to occur more than six months after the first acquisition. Since the assets are no longer to be considered assets of B, see § 801.13(b)(2), they need not be aggregated with the second acquisition. Therefore, the second acquisition would be subject to the requirements of this section by reason of subsection (a)(3)(B) only if the acquisition price or market value of the securities to be acquired exceeds $15 million.

§ 801.20 Incremental acquisitions prior to exceeding threshold.

Any particular acquisition, even though part of a sequence eventually attaining a threshold level of subsection (a)(3), is not subject to the requirements of this section unless as a result of the acquisition the acquiring person's holdings would meet or exceed a threshold level of subsection (a)(3).

§ 801.21 Acquisitions subsequent to exceeding threshold.

Example: Corporation A plans to acquire $16 million of corporation B's voting securities in a series of four equal acquisitions, and the requirements of subsections (a)(1) and (a)(2) are satisfied. The requirements of this section need be observed only with respect to the fourth acquisition.

Acquisitions meeting the criteria of subsection (a), and not otherwise exempted by subsection (c) or § 802.21 or any other of these rules, are subject to the requirements of this section even though:

(a) Earlier acquisitions of assets or voting securities may have been subject to the requirements of this section;

(b) The acquiring person's holdings initially may have passed a threshold level of subsection (a)(3) before the effective date of these rules; or

(c) The acquiring person's holding initially may have passed a threshold level of subsection (a)(3) by increases in market values or other events other than acquisitions.

Examples: 1. Person A acquires $10 million of the voting securities of person B before the effective date of these rules. If A wishes to acquire an additional $6 million of the voting securities of B after the effective date of the rules, notification will be required under subsection (a)(3)(B) if the other criteria of subsection (a) are satisfied.

2. In example #1, assume that the value of the votign securities of B originally acquired by A has reached a present value exceeding $15 million. If A wishes to acquire *any* additional voting securities or assets of B, notification will be required if the other criteria of subsection (a) are satisfied. See § 801.13(a).

§ 801.30 Tender offers and acquisitions of voting securities from third parties.

In the case of all transactions other than mergers or consolidations, but including tender offers, in which securities are to be acquired from a holder other than the issuer (or an entity included within the same person as the issuer, or any agent or broker for the issuer or any such entity):

(a) The person within which such issuer is included shall be deemed the acquired person.

(b) The waiting period required under this section shall commence upon the filing of notification by the acquiring person as provided under §§ 803.1 and 803.10.

(c) The acquired person shall file the notification required by this section, in accordance with these rules, no later than 5 p.m. Eastern Time on the fifteenth (or, in the case of cash tender offers, the tenth) calendar day following the date of receipt, as defined by § 803.10(a), by the Federal Trade Commission and Assistant Attorney General of the notification filed by the acquiring person. Should the fifteenth (or, in the case of cash tender offers, the tenth) calendar day fall on a weekend day or federal holiday, the notification shall be filed no later than 10 a.m. Eastern Time on the next following business day.

Examples: 1. Acquiring person A proposes to acquire the voting securities of corporation B's wholly-owned subsidiary, corporation S, and the criteria of subsection (a) are otherwise satisfied. Since A is acquiring the shares of S from B, an entity controlling S, this rule does not apply and the waiting period does not begin until both A and B file notification.

2. Acquiring person A proposes to acquire $20 million of the voting securities of corporation X on a securities exchange, and the criteria of subsection (a) are otherwise satisfied. The waiting period begins when A files notification. Corporation X must file notification within fifteen calendar days of A. The seller of the X shares is not subject to any obligations under this section.

§ 801.40 Formation of joint ventures.

(a) Persons who contribute to the formation of a joint venture in return for voting securities or other interests in the joint venture shall be deemed acquiring persons. The joint venture to be formed shall be deemed the acquired person.

(b) Unless otherwise exempted by this section or these rules, in the formation of a joint venture, an acquiring person otherwise meeting the criteria of subsections (a)(1) and (a)(3) shall be subject to the requirements of this section if:

(1)(i) Such acquiring person has annual net sales or total assets of $100 million or more;

(ii) The joint venture will have assets of $10 million or more; and

(iii) At least one other acquiring person has annual net sales or total assets of $10 million or more; or

(2)(i) Such acquiring person has annual net sales or total assets of $10 million or more;

(ii) The joint venture will have total assets of $100 million or more; and

(iii) At least one other acquiring person has annual net sales or total assets of $10 million or more.

(c) The assets of the joint venture shall be deemed to include:

(1) All assets which any persons (whether or not subject to the requirements of this section) contributing to the formation of the joint venture have agreed to contribute at any time;

(2) All assets for which agreements have been secured for the joint venture to obtain at any time; and

(3) Any amount of credit or any obligations of the joint venture which the persons contributing to its formation have agreed to guarantee, at any time.

(d) The commerce requirement of subsection (a)(1) shall be deemed satisfied if:

(1) The activities of any acquiring person are in or affect commerce, or

(2) It is contemplated by the joint venture agreement among the acquiring persons that the activities of the joint venture will be in or will affect commerce.

Example: Corporations A, B, and C agree to enter into a joint venture V. A has more than $100 million in annual net sales. B has more than $10 million in total assets. Both C's total assets and its annual net sales are less than $10 million. All of the corporations are engaged in commerce. The corporations have agreed to make a total initial contribution to the joint venture of $6 million in assets and to make contributions of an additional $6 million in each of the next three years. Under paragraph (c), the assets of the joint venture are $24 million. Under paragraph (b), only corporation A must file notification, and only then if corporation A meets a criterion of subsection (a)(3)—that is, if it will be acquiring 15 percent or $15 million of the voting securities of the joint venture. The joint venturers need not file notification on behalf of V, but V will be subject to the waiting period; see § 802.41.

PART 802—EXEMPTION RULES

Sec.

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§ 802.6 Federal agency approval.

For the purposes of subsections (c)(6) and (c)(8), the term "information and documentary material" includes all documents, application forms, and all written submissions of any type whatsoever. In lieu of providing all such information and documentary material, or any portion thereof, an index describing such information and documentary material may be provided, together with a certification that any such information or documentary material not provided will be provided within ten calendar days upon request by the Federal Trade Commission or Assistant Attorney General, or a delegated official thereof.

§ 802.8 Certain supervisory acquisitions.

Pursuant to subsections (c)(12) and (d)(2)(B), a merger, consolidation, purchase of assets, or acquisition requiring agency approval under section 403 or 408 (e) of the National Housing Act, 12 U.S.C. 1726, 1730a(e), or under section 5 of the Home Owner's Loan Act of 1933, 12 U.S.C. 1464, shall be exempt from the requirements of this section, including specifically the filing requirement of subsection (c)(8), if the agency whose approval is required finds that approval of such merger, consolidation, purchase of assets, or acquisition is necessary to prevent the probable failure of one of the institutions involved.

§ 802.9 Acquisitions solely for investment purposes.

No acquisition of voting securities shall be exempt from the requirements of this section under subsection (c)(9):

(a) Even though as a result of the acquisition the holdings of the acquiring person would not exceed 10 percent of the outstanding voting securities of the issuer, unless such acquisition is solely for investment purposes; or

(b) If as a result of the acquisition, the acquiring person would hold more than 10 percent of the outstanding voting securities of the issuer.

Examples: 1. Acquiring person A acquires 6 percent of the voting securities of issuer X, solely for investment purposes, and the requirements of subsection (a) are satisfied. The acquisition is exempt under subsection (c)(9).

2. After the acquisition in example #1, A decides to acquire an additional 7 percent of the voting securities of X. Regardless of A's intentions, the acquisition is not exempt under subsection (c)(9).

3. After the acquisition of example No. 1, acquiring person A decides to participate in the management of issuer X. Any subsequent acquisitions of X stock by A would not be exempt under subsection (c)(9).

4. The affiliates of acquiring person B hold an aggregate total of 10 percent of the voting securities of issuer X. If B makes any acquisition of the voting securities of X, it cannot be exempt under subsection (c)(9).

§ 802.10 Stock dividends and splits.

The acquisition of voting securities, pursuant to a stock split or pro rata stock dividend, or pursuant to an issue of new shares offered proportionally to all shareholders, shall be exempt from the requirements of this section under subsection (c)(10).

§ 802.20 Minimum dollar value.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition (other than in connection with the formation of a joint venture) which would be subject to the requirements of this section and which satisfies subsection (a)(3)(A), but which does not satisfy subsection (a)(3)(B), shall be exempt from the requirements of this section if as a result of the acquisition the acquiring person would not hold:

(a) Assets of the acquired person valued at more than $10 million;

(b) Voting securities of the issuer valued at more than $10 million; or

(c) Any lesser amount of voting securities which confers control of an issuer with annual net sales or total assets of $10 million or more.

Examples: 1. Acquiring person A intends to acquire 16 percent of the voting securities of corporation X. If the value of A's holdings in X (including all voting securities of X held by the entities included within person A prior to the acquisition, or by affiliates of A) would be $10 million or less, the acquisition would be exempt under this rule.

2. Acquiring person B holds voting securities of corporation X valued at $9 million. B now intends to acquire assets of X valued at $7 million. Since the aggregate total amount of voting securities and assets of X to be held by B would exceed $15 million, subsection (a)(3)(B) is satisfied, and the acquisition cannot be exempt under this rule.

§ 802.21 Acquisitions of voting securities after exceeding notification threshold.

(a) For purposes of this rule and § 802.22, the term "notification threshold" means:

(1) (i) For all acquisitions other than those subject to § 802.64, 15 percent of the outstanding voting securities of an issuer, or an amount of such securities valued at $15 million; or

(ii) In the case of an acquisition subject to § 802.64, the least amount of voting securities exceeding both 15 percent of the outstanding voting securities of an issuer and $25 million;

(2) 25 percent of the outstanding voting securities of an issuer; or

(3) 50 percent of the outstanding voting securities of an issuer.

(b) Pursuant to subsection (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section if:

(1) The acquiring person and all other persons required by this section and these rules to file notification previously filed notification with respect to an earlier acquisition of voting securities of the same issuer;

(2) The acquisition will be consummated within 180 days of the date of filing of the acquiring person's earlier notification; and

(3) (i) The acquisition will not increase the holdings of the acquiring person to reach or exceed a notification threshold; or

(ii) The acquiring person declared its intention, in an affidavit filed with the earlier notification, to increase its holdings to reach or exceed such notification threshold.

Examples: 1. Corporation A acquires 15 percent of voting securities (or $15 million in value of such securities) of corporation B and files notification as required. Within 180 days, A acquires additional voting securities of B but not in a sufficient amount to reach 25 percent of the voting securities of B. No additional notification is required for these subsequent acquisitions.

2. In example No. 1, A continues to acquire B's securities. Before A's holdings exceed 25 percent of B's outstanding voting securities, A must file notification and wait the prescribed period before making the next acquisition.

3. In example No. 2, within the 180 days after notification A continues to acquire voting securities of B. No further notification is required until A plans to make the acquisition that will give it 50 percent ownership of B. (After acquiring 50 percent further acquisitions of voting securities are exempt under subsection (c)(3).)

4. In examples No. 2 and No. 3, A may avoid the need to file reports at the 25 and 50 percent levels, or to observe a waiting period, by stating in the affidavit filed with its initial notification that it intends to acquire 25 (or 50) percent or more of B's voting securities within the next 180 days. No affidavit would be necessary if A stated in its initial notification that it would acquire 25 (or 50) percent or more of B's voting securities in the original, single, acquisition.

§ 802.22 Acquisitions of voting securities recrossing same notification threshold.

(a) For purposes of this rule, the term "notification threshold" shall have the meaning assigned by § 802.21(a).

(b) Pursuant to subsection (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section if:

(1) The acquiring person and all other persons required by this section and these rules to file notification previously filed with respect to an earlier acquisition of voting securities of the same issuer;

(2) The acquisition will increase the holdings of the acquiring person to reach or exceed the same notification threshold with respect to which the earlier notification was filed, but not to reach or exceed any greater notification threshold; and

(3) The acquisition will be consummated within 180 days of the date of filing of the acquiring person's earlier notification.

Example: This rule allows a person to cross any of the three threshold notification levels—15 percent/$15 million, 25 percent and 50 percent—any number of times within 180 days of the filing of notification for that level. Thus, if an example No. 1 to § 802.21, A had disposed of some voting securities so that it held less than 15 percent and $15 million of its voting securities of B, and then had increased its holdings to more than 15 percent but less than 25 percent of B, notification would not be required if the increase occurred within 180 days of filing its original notification. Similarly in examples No. 2 and No. 3 to § 802.21, A could decrease its holdings below, and then increase its holdings above, 25 percent and 50 percent, respectively, without filing notification, if done within 180 days of the respective earlier notifications.

§ 802.23 Amended or renewed tender offers.

Pursuant to subsections (c)(12) and (d)(12)(B), an acquisition of voting securities pursuant to a tender offer shall be exempt from the requirements of this section if:

(a) Within 180 calender days prior to the consummation of such acquisition, the acquiring person previously filed the notification required by this section, with respect to a tender offer for the same class of the voting securities of the same issuer;

(b) Any voting securities which are to constitute consideration for such acquisition also constituted consideration for such previous tender offer; and

(c) (1) The percentage of the class of voting securities to be held or acquired by the acquiring person as a result of such acquisition does not exceed the percentage to be held or acquired pursuant to the previous tender offer; or

(2) The acquisition of any voting securities in excess of the amount to be held or acquired pursuant to such previous tender offer would be exempt under § 802.21 or subsection (c)(3) had the acquisition of voting securities pursuant to the previous tender offer been consummated.

Examples: 1. Acquiring person A makes a tender offer for voting securities of B, and files notification. Before A makes any acquisitions, person C makes a competing tender offer for B's voting securities. In response to C's offer, A amends its offer to raise its price, or if its offer has expired, makes a second tender offer at a higher price. A need not file a second notification, or observe any waiting period, by reason of its amendment or the renewal of its tender offer, provided that the acquisition is to be consummated within 180 calendar days of the earlier notification.

2. In example No. 1, if A's original tender offer had offered only cash as consideration, and its subsequent tender offer offers both cash and voting securities of A as consideration, the acquisition of voting securities of B would not be exempt under this rule.

3. If in example No. 1 A's original notification had stated its intention to acquire 30 percent of the outstanding voting securities of B by a tender offer, under this rule A may acquire any amount up to 50 percent of the voting securities of B, if paragraphs (a) and (b) of the rule are satisfied. The reason is that if A had acquired 30 percent of B's voting securities as a result of the tender offer described in the earlier notification, § 802.21(b)(1)(B) would exempt acquisitions not raising A's holdings to or above 50 percent. The result is the same whether or not A actually acquired any shares in response to its earlier tender offer.

§ 802.30 Repurchase of own voting securities.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition by a corporation of its own voting securities, including redemption and retirement of such voting securities, shall be exempt from the requirements of this section.

§ 802.31 Conversion of voting securities.

Pursuant to subsections (c)(12) and (d)(2)(B), the conversion of voting securities not presently entitled to vote into voting securities entitled to vote shall be exempt from the requirements of this section.

Example: Acquiring person A previously acquired convertible debentures of issuer B. If the debentures may be converted into securities presently entitled to vote without the payment of additional consideration, then the debentures are voting securities, see § 801.1(f), and their conversion would be exempt under this rule. If, however, A must pay additional consideration to convert these securities, then the debentures are not "voting securities," as defined, and their conversion is not exempt under this rule. The exercise of options or warrants is not exempt under this rule.

§ 802.32 Intra-enterprise transactions.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition (other than in connection with the formation of a joint venture) to which only entities included within the same person by reason of holdings of voting securities are party, or of voting securities of a new corporation which at the time of the acquisition will hold only assets or voting securities acquired from the acquiring person, shall be exempt from the requirements of this section.

Examples: 1. Corporation A merges its two wholly-owned subsidiaries S1 and S2. The transaction is exempt under this rule.

2. Corporation B creates a new wholly-owned subsidiary which it furnishes with $50 million of assets of B. The transaction is exempt under this rule.

3. Corporation A, which controls corporation B by a contract giving A the power to name a majority of B's directors, proposes to acquire a majority of B's voting securities. The transaction is not exempt under this rule.

§ 802.40 Exempt joint ventures.

Pursuant to subsections (c)(12) and (d)(2)(B), acquisitions in connection with the formation of a joint venture shall be exempt from the requirements of this section if the joint venture will be not for profit within the meaning of sections 501 (c) (1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

§ 802.41 Joint ventures at time of formation.

Pursuant to subsections (c)(12) and (d)(2)(B), whenever any person(s) contributing to the formation of a joint venture are subject to the requirements of this section by reason of the formation of the joint venture, the joint venture need not file the notification required by this section and § 803.1 with respect to the acquisition of its voting securities by any such persons or its acquisition of assets or voting securities from any of them, in the transaction forming the joint venture.

Examples: 1. Corporations A and B, each having sales in commerce of $100 million, each propose to contribute $10 million in cash in exchange for 50 percent of the voting securities of a joint venture, V, which will also engage in commerce. V need not file notification under this section, although both A and B must do so prior to receiving any voting securities of V.

2. In addition to the facts in example #1 above, A and B have agreed that upon creation, V will purchase 100 percent of the voting securities of corporation C for $15 million. Because C is not a contributor to the formation of V, V must file with respect to the proposed acquisition of C and must observe the waiting period. Note that C would be required to comply with this section and these rules in any event.

§ 802.50 Acquisitions of foreign assets or of voting securities of a foreign issuer.

(a) *Assets.* Pursuant to subsections (c)(12) and (d)(2)(B), in a transaction in which assets located outside the United States are being acquired:

(1) The acquisition of assets located outside the United States, to which no sales in or into the United States are attributable, shall be exempt from the requirements of this section; and

(2) The acquisition of assets located outside the United States, to which sales in or into the United States are attributable, shall be exempt from the requirements of this section unless as a result of the acquisition the acquiring person would hold assets of the acquired person

to which such sales aggregating $10 million or more in the most recent calendar or fiscal year were attributable.

Examples: 1. A and B are both United States corporations, and the requirements of subsection (a) are satisfied. A proposes selling to B a manufacturing plant located abroad. Sales in or into the United States attributable to the plant totaled $8 million in the most recent calendar or fiscal year. The transaction is exempt under this paragraph.

2. Sixty days after the transaction in example #1, A proposes to sell B a second manufacturing plant located abroad; sales in or into the United States attributable to this plant totaled $5 million in the most recent calendar or fiscal year. Since B would be acquiring the second plant within 180 days of the first plant, both plants considered assets of A now held by B. See § 801.13(b)(2)(C). Since the total sales in or into the United States of $13 million exceeds $10 million, the acquisition of the second plant would not be exempt under this paragraph.

(b) *Voting securities.* Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities of an issuer domiciled outside the United States shall be exempt from the requirements of this section unless the issuer (including all entities controlled by the issuer) either:

(1) Holds assets located in the United States (other than assets held solely for investment purposes) having an aggregate book value of $10 million or more; or

(2) Made aggregate sales in or into the United States of $10 million or more in the most recent calendar or fiscal year.

Example: A, a United States corporation, acquires the voting securities of C, a foreign corporation, and the criteria of subsection (a) are satisfied. C has no assets in the United States, but made aggregate sales into the United States of $12 million in the most recent calendar year. The transaction is not exempt under this rule.

§ 802.51 Acquisitions involving only foreign persons.

(a) Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition by a person not domiciled in the United States from another person also not domiciled in the United States shall be exempt from the requirements of this section unless:

(1) The aggregate annual sales of the acquiring and acquired persons in or into the United States or the aggregate total assets of the acquiring and acquired persons located in the United States (other than assets held solely for investment purposes) exceed $1.0 million; and

(2) Either $10 million or more of assets located in the United States (other than assets held solely for investment purposes) or $10 million or more of voting securities of an issuer domiciled in the United States (other than voting securities held solely for investment purposes) will be acquired directly or indirectly.

(b) For purposes of this rule, the domicile of a person shall be the domicile of the pre-acquisition ultimate parent entity. If under these rules more than one entity controls a person, this rule shall not apply unless each such controlling entity is domiciled outside the United States.

Examples: 1. A and B are both corporations domiciled in a foreign country. A's aggregate annual sales into the United States are $80 million, B's aggregate annual sales into the United States are $50 million. If A acquires B, and no assets in the United States or voting securities of an issuer domiciled in the United States will be acquired, the transaction is exempt under this rule.

2. In example 1, assume that B has a subsidiary C domiciled in the United States, and that voting securities of C (held by B) are valued at $12 million. The transaction is not exempt under this rule.

§ 802.52 Acquisitions by or from foreign governmental corporations.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if:

(a) Either the acquiring person or the acquired person is a corporation more than half the voting securities of which are held by a foreign state, foreign government, or agency thereof, and

(b) The acquisition is solely of assets located within that foreign state or of voting securities of an issuer domiciled in that state.

Examples: 1. The government of foreign country X has decided to sell assets of its wholly-owned corporation, B, all of which are located in foreign country X. The buyer is A, a United States corporation, and the criteria of subsection (a) are satisfied. Regardless of the aggregate annual sales in or into the United States attributable to the assets of B, the transaction is exempt under this rule. (If such aggregate annual sales were less than $10 million, the transaction would also be exempt under § 802.50.)

2. In example No. 1, the assets of corporation B are located in part in foreign country Y. The transaction is not exempt under this rule.

§ 802.60 Acquisitions by agents.

An acquisition by an agent on behalf of and at the specific direction of another person shall be deemed an acquisition by such other person. Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), such agent shall be exempt from the requirements of this section as to such acquisition. Nothing in this paragraph shall exempt the person on whose behalf the acquisition is made from any requirement under this section, with respect to any acquisition attributed to such person by this section and this rule. For purposes of this rule the term "agent" shall be deemed to include brokers and dealers in securities, trustees, and fiduciaries.

Example: Broker B purchases $15 million of the voting securities of X for the account of C at C's specific direction. The acquisition is to be held in "street name" by B. If C and X otherwise satisfy the criteria of subsection (a), notification must be filed by C and X, but not by B.

§ 802.61 Acquisitions in escrow.

Pursuant to subsections (c)(12) and (d)(2)(B):

(a) An acquisition in escrow by an escrow agent pursuant to a written escrow agreement shall be exempt from the requirements of this section. Except as provided in paragraph (b) of this section, nothing in this rule shall exempt any acquisition from an escrow agent from any requirements under this section.

(b) If, pursuant to a written escrow agreement, the same voting securities or assets revert from the escrow agent to the original holder, such acquisition shall be exempt from the requirements of this section.

Example: In the example to § 802.60, broker B may acquire the voting securities of X in the capacity of an escrow agent, pursuant to a written escrow agreement. The voting securities of X may be transferred to the benefit of C (whether in C's name or B's "street name") upon notification by C and X and expiration of the waiting period.

§ 802.62 Acquisitions by underwriters.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities by a person acting as an underwriter, in the normal course of business and solely for investment purposes, for its own account and in the process of underwriting, shall be exempt from the requirements of this section.

§ 802.63 Certain acquisitions by creditors and insurers.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if made:

(a) By a creditor in a bona fide credit transaction entered into in the ordinary course of the creditor's business, of collateral, or in foreclosure, or upon default; or

(b) By an insurer in the ordinary course of business, pursuant to a suretyship contract or in the exercise of a right of subrogation.

Examples: 1. A bank makes a loan and acquires collateral in any form. The bank's receipt or holding of collateral is not subject to the requirements of this section. If upon default on the loan, the bank takes legal title to the collateral, the transaction is also exempt.

2. The rule exempts only the acquisition by the creditor or insurer, and not the subsequent disposition of the assets or voting securities. If a creditor or insurer sells voting securities that have come into its possession through foreclosure or subrogation, the requirements of this section may apply. Assuming that all other criteria of this section are met, the acquiring person and issuer of the voting securities must file notification prior to the transaction. The creditor or insurer, however, would not be required to file notification. See § 801.30.

§ 802.64 Acquisitions of voting securities by certain institutional investors and others.

(a) *Institutional investor.* For purposes of this rule, the term "institutional investor" shall include any bank, banking association, savings and loan company or association, trust company, insurance company, mutual fund, investment company registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), finance company, broker or dealer in securities, trust (including a pension or benefit plan qualified under section 401(a) of the Internal Revenue Code), foundation, or non-profit entity within the meaning of sections 501(c), (1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

(b) *Exemption.* Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section, except as provided in paragraph (c) of this section, if:

(1) Made by an institutional investor;

(2) Made in the ordinary course of business;

(3) Made solely for investment purposes;

(4) As a result of the acquisition the acquiring person would not control the issuer; and

(5) As a result of the acquisition the acquiring person would hold either:

(i) Less than 15 percent of the outstanding voting securities of the issuer; or

(ii) Voting securities of the issuer valued at less than $25 million.

(c) *Exception to exemption.* Notwithstanding paragraph (b) of this section:

(1) No acquisition or indirect acquisition of voting securities of an institutional investor shall be exempt under this rule; and

(2) No acquisition by an institutional investor which is controlled directly or indirectly by an entity other than an institutional investor shall be exempt under this rule.

Examples: 1. Assume that A and its subsidiary, B, are both institutional investors as defined in paragraph (a) of this rule, that X is not, and that the conditions set forth in subparagraphs (2), (3) and (4) of paragraph (b) of this rule are satisfied. Either A or B may acquire voting securities of X worth in excess of $25 million as long as the amount held as a result of the acquisition does not equal or exceed 15 percent of X's outstanding voting securities. If the holdings would exceed 15 percent, B may acquire no more than $25 million worth without being subject to the requirements of this section.

2. In example No. 1, assume that B plans to make the acquisition, and that corporation B's parent, corporation A, is not an institutional investor. Acquisitions by B can never be exempt under this rule. The exemption does not apply to acquisitions by institutional investors controlled by entities which are not themselves institutional investors.

3. In example No. 1, assume that A is an institutional investor and that B plans to make the acquisition. Corporation B must also be an institutional investor in order for the exemption to apply. The fact that B is controlled by an institutional investor is insufficient. The acquiring entity must satisfy the conditions set forth in paragraph (b)(1).

4. In example No. 1, the exemption does not apply if X is also an institutional investor.

§ 802.64a Acquisitions of voting securities by certain institutional investors and others—Alternate Rule.

(a) *Institutional investor.* For purposes of this rule, the term "institutional investor" shall include any bank, banking association, savings and loan company or association, trust company, insurance company, mutual fund, investment company registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), finance company, broker or dealer in securities, trust (including a pension or benefit plan qualified under section 401(a) of the Internal Revenue Code), foundation, or non-profit entity within the meaning of sections 501(c)(1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

(b) *Exemption.* Pursuant to subsections (c)(12), (d)(2)(B) and (d)(2)(C), an acquisition of voting securities shall be exempt from the requirements of this section, except as provided in paragraph (c) of this rule, if:

(1) Made by an institutional investor;

(2) Made in the ordinary course of business;

(3) Made solely for investment purposes;

(4) As a result of the acquisition the acquiring person would not contol the issuer; and

(5) The acquiring person files with the Federal Trade Commission and Assistant Attorney General, within sixty days after the end of its fiscal year, a report containing the following information:

(i) The ending date of the fiscal year covered by the report;

(ii) The identity of the issuer and class of voting security for which exemption is claimed;

(iii) The aggregate total number of each such class of voting security (a) held at the beginning of the fiscal year; (b) acquired during the fiscal year; (c) disposed of during the fiscal year; and (d) held at the end of the fiscal year;

(iv) A statement that all such voting securities, whenever held during the fiscal year, were held solely for investment purposes; and

(v) A certification in the same form as that appearing in the Notification and Report Form, completed in accordance with § 803.5.

(c) *Exception to exemption.* Notwithstanding paragraph (b) of this section:

(1) No acquisition or indirect acquisition of voting securities of an institutional investor shall be exempt under this rule; and

(2) No acquisition by an institutional investor which is controlled directly or indirectly by an entity other than an institutional investor shall be exempt under this rule.

Example: In example #1 to § 802.64, the acquisition would be exempt regardless of the amount of voting securities acquired (short of control), so long as the annual report required by subparagraph (b)(5) is filed. Examples #2, #3, and #4 to § 802.64 remain applicable.

§ 802.70 Acquisition subject to order.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if:

(a) The voting securities or assets are to be acquired from a person ordered to divest such voting securities or assets by order of the Federal Trade Commission or of any federal court in an action brought by the Federal Trade Commission or the Department of Justice; or

(b) The acquiring person is subject to an order of the Federal Trade Commission or of any federal court requiring prior approval of such acquisition by the Federal Trade Commission, such court, or the Department of Justice, and such approval has been obtained.

§ 802.71 Acquisitions by gift, succession, or devise.

Pursuant to subsections (c)(12) and (d)(2)(B), acquisitions resulting from gifts, intestate succession, or testamentary devise shall be exempt from the requirements of this section.

PART 803—TRANSMITTAL RULES

Sec.
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§ 803.1 Notification and Report Form.

(a) *All acquisitions.* Except as provided in paragraphs (b) and (c) of this section, the notification required by this section shall be the Notification and Report Form promulated by the Federal Trade Commission, as amended from time to time. All persons required to file notification by this section and these rules shall do so by completing and filing the Notification and Report Form, or a photostatic or other equivalent reproduction thereof, in accordance with the instructions thereon and these rules. Copies of the Notification and Report Form may be obtained by hand from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C., or by writing to the Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580.

(b) *Certain grocery acquisitions.* Persons required to file the notification required by this section who are to acquire voting securities or assets of a person engaged in whole or in part in wholesale or retail grocery distribution (SIC Groups 514 and 541, respectively) shall, in addition to the notification required by paragraph (a) of this section, simultaneously file FTC Forms 1859 A and B, completed in accordance with the instructions thereon. The requirement of this paragraph shall not constitute a request for additional information within the meaning of subsection (e) and § 803.20.

(c) *Certain milk products acquisitions.* Persons required to file the notification required by this section who are to acquire voting securities or assets of a person engaged in whole or in part in the processing or distribution of Class I milk products (SIC product classes 20262 and

20264) shall, in addition to the notification required by paragraph (a) of this section, simultaneously file FTC Special Report on Acquisitions and Mergers by Corporations in the Fluid Milk Products Industry, completed in accordance with the instructions thereon. The requirement of this paragraph shall not constitute a request for additional information within the meaning of subsection (e) and § 803.20.

§ 803.2 Instructions applicable to Notification and Report Form.

(a) The notification required by this section shall be filed by the pre-acquisition ultimate parent entity, or by any entity included within such person authorized by such pre-acquisition ultimate parent entity to file notification on its behalf. If under these rules more than one entity controls a person, all such entities must file notification. In the case of a natural person required by this section to file notification, such notification shall be filed by such natural person, or by his or her guardian or conservator: *Provided, however,* That notification with respect to an acquisition of voting securities in trust for one or more natural persons shall be filed either by such natural persons or by the trustee(s) for such natural persons.

(b) Except as provided in paragraph (c) of this section, items 5–7 and the Appendix to the Notification and Report Form must be completed—

(1) By acquiring persons, with respect to all entities included within the acquiring person;

(2) By acquired persons, in the case of an acquisition of assets, only with respect to the assets to be acquired;

(3) By acquired persons, in the case of an acquisition of voting securities, only with respect to the issuer whose voting securities are being acquired, and all entities controlled by such issuer;

(4) By persons who are both acquiring and acquired persons, separately in the manner that would be required of acquiring and acquired persons under this paragraph, if different.

(c) In response to items 5–7 and the Appendix to the Notification and Report Form—

(1) Information shall be supplied only with respect to operations conducted within the United States; and

(2) Information need not be supplied with respect to assets or voting securities to be acquired, the acquisition of which is exempt from the requirements of this section under this section or these rules.

(d) The term "dollar revenues," as used in the Notification and Report Form, means value of shipments for manufacturing operations, and sales, receipts, revenues, or other appropriate dollar value measure for operations other than manufacturing, f.o.b. the plant or establishment less returns, after discounts and allowances and excluding freight charges and excise taxes. Dollar revenues including delivery may be supplied if delivery is an integral part of the sales price. Dollar revenues include interplant transfers.

§ 803.3 Statement of reasons for noncompliance.

A complete response shall be supplied to each item on the Notification and Report Form and to any request for additional information pursuant to subsection (e) and § 803.20. Whenever a complete response cannot be supplied, the person filing notification shall provide for each item for which less than a complete response has been supplied a statement of reasons for noncompliance which includes at least the following information:

(a) Why a complete response could not be given;

(b) What information would have been required for a complete response;

(c) Who, if anyone, has the required information.

§ 803.4 Affidavits required.

(a) *Tender offers and other acquisitions of voting securities from third parties.* (1) The notification required by this section from the acquiring person(s) shall contain an affidavit, attached to the front of the notification, attesting that the issuer whose voting securities are sought to be acquired has been or is being contemporaneously served, in writing by any means permitted under rule 4(d) of the Federal Rules of Civil Procedure, at its principal executive offices, with a written statement containing the following information:

(i) The identity of the acquiring person;

(ii) The fact that the acquiring person intends to acquire voting securities of the issuer;

(iii) The specific classes of voting and nonvoting securities of the issuer, and the number of such securities of each class sought to be acquired;

(iv) The fact that the acquisition may be subject to this section, and that the acquiring person will file notification under this section with the Federal Trade Commission and Assistant Attorney General;

(v) The anticipated date of receipt of such notification under § 803.10(a)(1) of these rules; and

(vi) The fact that the issuer may be required to file notification under this section.

(2) In the case of a tender offer the affidavit required by this paragraph must also state the good faith intention of the person filing notification to make the acquisition, and that the intention to make the tender offer has been publicly announced.

(b) *Other acquisitions, mergers or consolidations, and joint ventures.* The notification required by this section shall contain an affidavit, attached to the front of the notification, attesting that a contract or an agreement in principle to merge or acquire has been executed.

Examples: 1. Subparagraph (a)(2) of this rule permits the tender offeror to file notification at any time after the intention to make the tender offer has been publicly announced.

2. In the example to § 801.20, corporation A signs a contract to make the same sequence of acquisitions. Although A need only file notification with respect to the fourth acquisition, it may do so at any time after executing its contract.

§ 803.5 Certification.

(a) The notification required by this section shall be certified:

(1) In the case of a partnership, by any general partner thereof;

(2) In the case of a corporation, by any officer or director thereof;

(3) In the case of persons lacking officers, directors, or partners, by any individual exercising similar functions;

(4) In the case of a natural person, or trustee(s) for natural persons pursuant to § 803.2(a), by such natural person or trustee(s).

(b) In all cases, the certifying individual must posses actual authority to make the certification on behalf of the person filing notification.

§ 803.10 Running of time.

(a) *Beginning of waiting period.* (1) The waiting period required by this section shall begin on the date of receipt by both designated offices (Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580, and Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530) of the notification required by this section, in the manner provided by these rules (or, if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance in accordance with § 803.3) from:

(i) In the case of acquisitions from third parties, other than mergers or consolidations, but including tender offers, the acquiring person;

(ii) In the case of all other acquisitions, all persons required by this section and these rules to file notification.

The date of receipt shall be the date on which delivery is effected to the designated offices during normal business hours. Delivery effected after 3 p.m. eastern time on a regular business day, or at any time on any day other than a regular business day, shall be deemed effected on the next following regular business day. If delivery of all required notifications to the two offices is not effected on the same date, the date of receipt shall be the latest of the dates on which delivery is effected. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail.

(2) Any additional waiting period, pursuant to subsection (e) and § 803.20(c)(2), shall begin on the date of receipt of the additional information or documentary material requested (or, if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3), by the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material, at the office designated in subparagraph (1) of this paragraph. The

date of receipt shall be the date on which delivery is effected to the designated office during normal business hours. Delivery effected after normal business hours, or at any time on any day other than a regular business day, shall be deemed effected on the next following regular business day. Delivery should be effected directly to the designated office, either by hand or by certified or registered mail.

(b) *Expiration of waiting period.* (1) For purposes of subsection (b)(1)(B), the waiting period shall expire at 5 p.m. eastern time on the thirtieth (or in the case of a cash tender offer, the fifteenth) calendar day after the date of receipt as defined in this rule, unless extended pursuant to subsection (e) and § 803.20, or subsection (g)(2), or unless terminated pursuant to subsection (b)(2) and § 803.11.

(2) Any additional waiting period, pursuant to subsection (e)(2) and § 803.20, shall expire at 5 p.m. eastern time on the date to which extended pursuant to § 803.20(c), unless further extended pursuant to subsection (g)(2), or terminated pursuant to §§ 803.20(c)(4) and 803.11.

§ 803.11 Termination of waiting period.

(a) The waiting period required by this section, and any extension thereof pursuant to subsection (e) and § 803.20, shall not be terminated before its expiration date pursuant to subsection (b)(2) or § 803.20(c)(4), unless at least one person required to file notification under this section submits the following documents to both designated offices listed in § 803.10(a), or, in the case of an extension of the waiting period pursuant to subsection (e) and § 803.20, only to the designated office of the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material:

(1) A written request for termination of the waiting period, signed by an individual authorized to do so by the requesting person; and

(2) An affidavit, attesting that copies of the request have been or are being contemporaneously served, by any means permitted under rule 4(d) of the Federal Rules of Civil Porcedure or by registered or certified mail, upon all other persons required to file notification under this section, including, in the case of acquisitions from third parties (including tender offers), the issuer whose voting securities are sought to be acquired, and in addition, in the case of joint ventures, all other acquiring persons, whether or not filing notification. The request shall be served upon such persons at their principal executive offices, and the affidavit shall list all such persons and the address at which each was served.

A request for termination of the waiting period and its accompanying affidavit may be filed with the notification or at any time during the waiting period.

(b) In any case in which the Federal Trade Commission and Assistant Attorney General authorize the termination of the waiting period before its expiration date, the Federal Trade Commission and Assistant Attorney General, or their designee, shall:

(1) As promptly as possible so notify by telephone each individual identified pursuant to § 803.20(b)(2)(B);

(2) Confirm in writing notice of such terimnation to each person listed in the affidavit required by paragraph (a)(2) of this section, at the address listed in the affidavit: and

(3) Publish a notice in the FEDERAL REGISTER in accordance with subsection (b)(2).

The termination of the waiting period shall be effective as to each acquiring person upon communication by telephone pursuant to subparagraph (1) of this paragraph.

§ 803.20 Requests for additional information or documentary material.

(a) *Persons subject to request.* Pursuant to subsection (e)(1), the submission of additional information or documentary material relevant to the acquisition may be required from any person filing notification, or from any officer, director, partner, agent, or employee thereof, or from more than one of the foregoing if so required by the same request.

Example: A request for additional information may require a corporation and, in addition, a named officer or employee to provide certain information or documents, if both the corporation and the officer or employee are named in the same request.

(b) *When request effective*—(1) *Who may require submission.* A person filing notification, or an officer, director, partner, agent, or employee thereof, may be required to submit additional information or documentary material with respect to an acquisition by the Federal Trade Commission or its designee, or by the Assistant Attorney General or his or her designee, but not by both.

Example: If the Federal Trade Commission issues a request for additional information or documentary material to a person, the Assistant Attorney General may not thereafter issue another such request with respect to the same acquisition to that person, or to any officer, director, partner, agent, or employee of that person.

(2) *When request effective: Person.* A request that a person (other than a natural person) submit additional information or documentary material shall be effective—

(i) Upon receipt of a written request, by the person to which the request is directed, within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period; or

(ii) When communicated in person, or by telephone and a written request is mailed, within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period. The person filing notification shall keep a delegated individual reasonably available during normal working hours throughout the waiting period through the telephone number supplied on the certification page of the Notification and Report Form. A request for additional information or documentary material need be communicated only to that individual.

(3) *When request effective: Individual.* A request that an individual submit additional information or documentary material shall be effective upon receipt of a written request within the original thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period. The request shall be served upon the individual by any means permitted under rule 4(d) of the Federal Rules of Civil Procedure, or by registered or certified mail at his or her home or business address.

(c) *Waiting period extended.* (1) During the time period when a request for additional information or documentary material remains outstanding to any person other than, in the case of a tender offer, the person whose voting securities are sought to be acquired (or any officer, director, partner, agent, or employee thereof), the waiting period shall remain in effect, even though the original thirty days (or, in the case of a cash tender offer, fifteen days) or more may have elapsed from the date of receipt of the original notification.

(2) Pursuant to subsection (e)(2), a request for additional information or documentary material to any person other than, in the case of a tender offer, the person whose voting securities are being acquired (or any officer, director, partner, agent, or employee thereof) shall in every instance extend the waiting period for an additional period of twenty (or, in the case of cash tender offers, ten) calendar days from the beginning of such additional waiting period pursuant to § 803.10(a)(2).

Example: Assume that a request for additional information is issued to a person (in a transaction other than a tender offer) on the twentieth day of the waiting period, and that that person supplies the response to the request fifteen days later. The waiting period remains in effect from the thirty-first to the thirty-fifth day, and is extended twenty days beyond the thirty-fifth day.

(3) If more than one request for additional information or documentary material has been issued with respect to an acquisition, the waiting period shall not expire until the latest date to which it is extended under subparagraph (2) of this paragraph.

Example: In the example to subparagraph (c)(2), if a request for additional information had also been issued to another person filing notification, and if that person did not supply the additional information until the thirty-eighth day, then the waiting period would be extended for twenty days beyond the thirty-eighth day.

(4) Pursuant to subsection (d)(2)(C), any extension of the waiting period pursuant to this paragraph may be terminated by the Federal Trade Commission or Assistant Attorney General, whichever required the submission of additional information or documentary material, or by the designee of whichever required the submission, in the manner prescribed by § 803.11.

(d) *Request for clarification.* No request for clarification or amplification of any response to any item on the Notification and Report Form, whether communicated in writing, in person, or by telephone, shall be considered a request for additional information or documentary material within the meaning of subsection (e), unless specifically so identified and transmitted in accordance with this rule.

§ 803.30 Formal interpretations of requirements under this section.

Formal interpretations as to the obligations under this section of, or application of these rules to, any party to or participant in an acquisition, or to the acquisition itself, may be obtained upon application to the Federal Trade Commission. The application shall be made by submission to the offices designated in § 803.10(a), and shall state the reasons why the requirements of this section are or may be applicable and state the question or questions that the applicant wishes resolved. The Federal Trade Commission, with the concurrence of the Assistant Attorney General, may inform the applicant of its views as to the questions raised and publish a summary thereof in the FEDERAL REGISTER, or may decline to render a formal interpretation.

ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM
FOR CERTAIN MERGERS AND ACQUISITIONS

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person who, by reason of a proposed merger, consolidation or acquisition, is subject to § 7A of the Clayton Act, 15 U.S.C. § 18A, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, P.L. 94-435, and rules promulgated thereunder (hereinafter referred to as "the rules"). The statute and rules are set forth in the Federal Register at page _____. The statute and rules may also be found at 16 C.F.R. Parts 801-03. Failure to file this Notification and Report Form, and to observe the required waiting period before consummating the transaction, in accordance with the applicable provisions of the rules, subjects any "person," as defined in the rules, to liability for a penalty of not more than $10,000 for each day during which such person is in violation of 15 U.S.C. § 18A.

All information and documentary material filed in or with this form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Complete and return two notarized copies (with one set of documentary attachments) of this Notification and Report Form to Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, and three notarized copies (with one set of documentary attachments) to Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530. The central office for information and assistance with respect to matters in connection with this Notification and Report Form is Room 301, Federal Trade Commission, Washington, D.C. 20580, phone (202) 523-3894.

AFFIDAVIT

Be sure that the affidavit required by § 803.4 of the rules is attached to this page.

CASH TENDER OFFERS

If this transaction is a cash tender offer, check: [ ]

DEFINITIONS

The definitions and other provisions governing this Form are set forth in the rules, 16 C.F.R. Parts 801-03.

NAME AND DATE

Enter the name of the pre-acquisition ultimate parent entity of the person filing notification and the date on which this Notification and Report Form is being completed:

Name_____ Date_____

In addition, enter the above name and date at the top of each page of this Form, at the top of any additional sheets attached to complete the response to any item, and at the top of the first or cover page of each documentary attachment.

If this Form is being filed on behalf of the above entity by another entity authorized by it to file notification on its behalf pursuant to § 803.2(a) of the rules, give the name of the entity preparing and filing this form.

Name_____

INSTRUCTIONS

Each answer should identify the item to which it is addressed. Attach separate additional sheets as necessary in answering each item; each additional sheet should identify the item to which it is addressed. If unable to answer any item fully, give such information as is available and explain why the answer is incomplete, as provided by § 803.3 of the rules. If books and records which provide accurate answers are not available, enter best estimates and indicate the sources or bases of such estimates. Estimated data should be followed by the notation, "est." All financial information should be rounded to the nearest thousand dollars.

All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

This Notification and Report Form requests information regarding dollar revenues and lines of commerce at three levels. All persons must submit certain data at the 4-digit (SIC code) industry level (establishment basis). To the extent that dollar revenues are derived from manufacturing operations (SIC major groups 20-39), data must also be submitted at the 5-digit product class and 7-digit product levels (SIC-based codes). In reporting by "4-digit (SIC code) industry (establishment basis)" you should refer to the 1972 edition of the Standard Industrial Classification Manual published by the Executive Office of the President, Office of Management and Budget. In reporting information by "5-digit (SIC-based code) product class," and by "7-digit (SIC-based code) product," you should refer to one or both of the following reference publications published by the U.S. Bureau of the Census: (a) Numerical List of Manufactured Products, 1972 Census of Manufactures (MC72-1.2) (New 1972 SIC basis); (b) Volume II, "Industry Statistics," 1972 Census of Manufactures. In reporting information by "5-digit (SIC-based code) product class" you may also refer to the code appearing in the "Product Class Reference List" shown in the Instruction Manual for the Annual Survey of Manufactures. In reporting information by "7-digit (SIC-based code) product" you may also refer to the applicable "Product Reference Lists" appearing in the Instruction Manual of the various Current Industrial Reports surveys (monthly, quarterly, or annual) conducted by the U.S. Bureau of the Census. For product codes ending in 00, submit information by product as listed in Appendix A to the Numerical List of Manufactured Products cited above.

In responding to items 5-7 and the Appendix --

-- supply information only with respect to operations conducted within the United States, including its commonwealths, territories, possessions and the District of Columbia. See §§ 801.1(k), 803.2(c) of the rules;

-- information need not be supplied with respect to assets or voting securities currently being acquired, the acquisition of which is exempt under the statute or rules. See § 803.2(c) of the rules;

-- limited or separate responses may be required of a person filing notification. See § 803.2(b) of the rules.

Notification and Report Form Continued

Name_____ Date_____

1.(a) Check whether the transaction is (check all boxes that apply to the person filing notification):

an acquisition of assets /_____/

an acquisition of voting securities /_____/

a merger or consolidation (see § 801.2(d) of the rules) /_____/

a tender offer or acquisition from third parties (see § 801.30 of the rules) /_____/

formation of a joint venture (see § 801.40 of the rules) /_____/

other (specify)_____ /_____/

(b) Check whether the person filing notification is:

acquiring person /_____/

acquired person /_____/

both an acquiring and an acquired person (see § 801.2 of the rules) /_____/

(c) Name of ultimate parent entity of person filing notification:_____
Address of headquarters office:_____

(d) Check whether entity in item 1(c) is a:

corporation /_____/ partnership /_____/ other (specify)_____ /_____/

If Corporation: State of incorporation_____

Date of incorporation_____

If partnership or other: Jurisdiction under which formed:_____

Date of formation:_____

Notification and Report Form Continued

Name_____ Date_____

(e) Check whether data furnished by: calendar year /_____/ fiscal year /_____/

If fiscal year, specify period: from_____(month/day) to_____(month/day).

(f) If the person filing notification is an acquiring person, and if the entity making the the acquisition is different from the entity listed in item 1(c) above, provide the information requested below with respect to the entity making the acquisition.

If the person filing notification is an acquired person, and if the entity whose assets or voting securities are being acquired is different from the entity listed in item 1(c) above, provide the information requested below with respect to the entity whose assets or voting securities are being acquired.

(i) Name and mailing address of its headquarters office;

(ii) If a corporation, the date and date of incorporation;

(iii) The percentage of its voting securities held by the entity named in item 1(c) above. (If control is effected by means other than the direct holding of the entity's voting securities, describe the intermediaries or the contract through which control is effected; see § 801.1(b) of the rules.)

(g) If the person filing notification is an acquiring person, supply the following information for each of its affiliates (as defined in § 801.1(d) of the rules) which presently holds assets or voting securities of the acquired person (see § 801.13 of the rules), or which, to the knowledge and belief of the person filing notification, derived dollar revenues of $1 million or more in the most recent calendar or fiscal year in any 4-digit (SIC code) industry in which the acquired person also derived dollar revenues of $1 million or more in the most recent year:

(i) name of affiliate;

(ii) mailing address of headquarters office;

(iii) if a corporation, state and date of incorporation;

(iv) if the affiliate holds voting securities of the ultimate parent entity of the person filing notification, the aggregate percentage held;

(v) if the person filing notification holds voting securities of the ultimate parent entity of the affiliate, the aggregate percentage held;

(vi) supply the 4-digit code and description for each industry in which the affiliate and the acquired person each derived dollar revenues of $1 million or more in the most recent year.

PROPOSED RULES

39063

Notification and Report Form Continued

Name_____ Date_____

2(a) Description of transaction. List the name and mailing address of each person which is party to the transaction, whether or not required to file notification, and briefly describe the voting securities or assets to be acquired by, and/or the consideration to be received by, each. If voting securities are to be acquired from a holder other than the issuer (or an entity included within the same person as the issuer, or any agent or broker for the issuer or any such entity), separately identify (if known) such holder and the issuer of the voting securities. Acquiring persons in tender offer transactions should describe the terms of the tender offer.

2(b) State the scheduled consummation date of the transaction.

2(c) Describe the manner in which the transaction is to be carried out. The description should include the expected dates of any major events required in order to consummate the transaction, such as stockholders' meetings, filing of requests for approval, other public filings, terminations of tender offers, etc.

2(d)(i) Description of assets to be held. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction, with approximate dollar value thereof, including, if the transaction is the formation of a joint venture, assets to be acquired by the joint venture. Examples of general classes of assets other than cash and securities are land, merchandise inventory, manufacturing inventory, manufacturing plants (specify location and products produced), retail stores, etc. For each general class of assets, indicate the page and/or paragraph number of the contract or other document submitted with this Form in which the assets are more particularly described.

2(d)(ii) Description of assets held by acquiring person or affiliates. If the person filing notification is an acquiring person, and if assets of the acquired person (see § 801.13 of the rules) are presently held by the person filing notification or by affiliates of the person filing notification, (see § 801.1(d) of the rules), furnish a description of each general class of assets in the manner requested by item 2(d)(i), the name of the affiliate if held by an affiliate, and the dollar value at the time they were acquired.

Notification and Report Form Continued

Name_____ Date_____

2(e)(i) Description of voting securities to be acquired. Furnish the following information separately for each issuer whose voting securities will be acquired in the transaction:

A. List each class of voting security which will be outstanding after the transaction has been completed; also list each class of non-voting security which will be acquired in the transaction; 1/

B. Total number of each class of security listed under part (A) above which will be outstanding after the transaction has been completed;

C. Total number of each class of security listed under part (A) above which will be acquired in this transaction; 2/

D. Identity of each person acquiring any securities of any class listed under part (A) above; 2/

E. Dollar value of securities of each class listed under part (A) above to be acquired in this transaction (see § 801.10 of the rules); 2/

F. Total number of each class of security listed under part (A) above which will be held by acquiring person(s) (excluding holdings of affiliates) after the transaction has been completed; 2/ and

G. Percentage of each class of security listed under part (F) above which will be held by acquiring person(s) after the transaction has been completed (see § 801.12(b) of the rules). 2/

2(e)(ii) Description of voting securities held by affiliates. If the person filing notification is an acquiring person, and if voting securities of the acquired person are presently held by affiliates (as defined by § 801.1(d) of the rules) of the person filing notification, for each such affiliate furnish the name of the affiliate, the class(es) of voting securities, the number and percentage of each class held, and the dollar value (see § 801.13(a) of the rules) of the holding.

1/ If there is more than one class of voting security, include a description of the voting rights of each class.

2/ If there is more than one acquiring person for any class of security, show data separately for each acquiring person.

Notification and Report Form Continued

Name_____ Date_____

2(f)(i) Contract. Furnish copies of final or most recent versions of all documents which constitute the agreement among the acquiring person(s) and the person(s) whose voting securities or assets are to be acquired.

2(f)(ii) Index to ancillary documents. Furnish an index containing a brief description sufficient to identify each ancillary document or class of documents related to this agreement, such as those relating to personnel matters (union contracts, employment agreements, etc.); third-party financing agreements; leases, subleases and other documents relating to the transfer of realty, etc.

3(a) Percentage holdings to be held by acquiring persons.

State: (i) the percentage of the assets;

(ii) the percentage of the voting securities; and

(iii) the aggregate total dollar amount of voting securities and assets

of the acquired person to be held by each acquiring person, excluding holdings of affiliates, as a result of the transaction. (See §§ 801.12, 801.15 of the rules.)

3(b) Percentage holdings held by affiliates. If the person filing notification is an acquiring person, state the aggregate:

(i) percentage of assets;

(ii) percentage of voting securities; and

(iii) the aggregate total dollar amount of voting securities and assets

of the acquired person presently held by all affiliates of the person filing notification. (See § 801.14 of the rules.)

Notification and Report Form Continued

Name_____ Date_____

4. Documents prepared by person filing notification. Furnish one copy of each of the following documents of the person filing notification. For each entity named in item 1(f) which has prepared its own such documents different from those furnished by the person filing notification, furnish in addition one copy of each document from each such other entity. Furnish copies of:

(a) all of the following filed (or to be filed in connection with this transaction) with the United States Securities and Exchange Commission within three years prior to the date of filing of this notification: all registration statements, the most recent proxy statement, most recent Form 10-K, all Forms 10-Q and 8-K filed since the date of the most recent Form 10-K, and, if the transaction is a tender offer, Form 13D (or Form 14D-1 if then in effect);

(b) the most recent annual reports and most recent annual audit reports of the person filing notification and of each unconsolidated entity included within such person;

(c) all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) for the purpose of evaluating or analyzing the transaction with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation and the name and title of the person who prepared each such document;

(d) a narrative description of the person's (and, if applicable, the entity's) planning process, and individuals responsible for planning, insofar as pertaining to possible entry into any line of products or geographic areas in which any other party to the transaction is known or likely to be engaged. Such narrative description should identify, and describe the role of, the planning committees or other offices, and direct supervisors thereof by job titles, that are, or have been during the past three years, responsible for analysis of market shares, competition, competitors, markets, potential for sales growth or the expansion into such types of products or geographic areas. If the transaction is the formation of a joint venture, furnish the description only with respect to types of products and geographic areas in which the joint venture will engage.

Notification and Report Form Continued

Name_____ Date_____

5(a) Dollar revenues by industry. Provide the following information on the aggregate operations of the person filing notification for 1972 for each 4-digit (SIC code) industry in which the person engaged. Insurance carriers (2-digit SIC major group 63) should supply the information requested only with respect to industries not within 2-digit SIC major group 63. Credit agencies other than banks; security and commodity brokers, dealers, exchanges, and services; and holding and other investment offices (2-digit SIC major groups 61, 62, and 67) and real estate companies (2-digit SIC major group 65) should identify or explain the dollar revenues reported.

4-DIGIT (SIC CODE) INDUSTRY		1972 TOTAL DOLLAR REVENUES
INDUSTRY CODE	DESCRIPTION	

Notification and Report Form Continued

Name_____ Date_____

5(b)(i) Dollar revenues by manufactured product. Provide the following information on the aggregate operations of the person filing notification for 1972 for each 7-digit (SIC-based code) product of the person within 2-digit SIC major groups 20-39 (manufacturing industries):

7-DIGIT (SIC-BASED CODE) PRODUCT		1972 TOTAL DOLLAR REVENUES
PRODUCT CODE	DESCRIPTION	

5(b)(ii) Identify each type of product of the person filing notification within 2-digit SIC major groups 20-39 (manufacturing industries) added or deleted subsequent to 1972, indicate the year of deletion or addition, and give total dollar revenues for the most recent year for each product that has been added.

Notification and Report Form Continued

Name_____ Date_____

5(b)(iii) Dollar revenues by manufactured product class. Provide the following information on the aggregate operations of the person filing notification for the most recent year for each 5-digit (SIC-based) product class of the person within SIC major groups 20-39 (manufacturing industries). If such data have not been compiled for the most recent year, estimates of dollar revenues by 5-digit product class may be provided if a statement describing the method of estimation is furnished.

5-DIGIT (SIC-BASED) PRODUCT CLASS		TOTAL DOLLAR REVENUES (SPECIFY YEAR:_____)
PRODUCT CLASS CODE	DESCRIPTION	

Notification and Report Form Continued

Name_____ Date_____

5(c) Dollar revenues by non-manufacturing industry. Provide the following information on the aggregate operations of the person filing notification for the most recent year for each 4-digit (SIC code) industry in SIC major groups other than 20-39 in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 4-digit industry may be provided if a statement describing the method of estimation is furnished. Industries for which the dollar revenues totaled less than one million dollars in the most recent year may be omitted.

Insurance carriers (2-digit SIC major group 63) should supply the information requested only with respect to industries not within SIC major group 63, and, if voting securities of an insurance carrier are being acquired directly or indirectly (see § 801.4 of the rules), should complete the Appendix to this Form. Credit agencies other than banks; security and commodity brokers, dealers, exchanges, and services; and holding and other investment offices (2-digit SIC major group 61, 62, and 67) and real estate companies (2-digit SIC major group 65) should identify or explain the dollar revenues reported.

4-DIGIT (SIC CODE) INDUSTRY		TOTAL DOLLAR REVENUES (SPECIFY YEAR: _____)
INDUSTRY CODE	DESCRIPTION	

Notification and Report Form Continued

Name_____ Date_____

5(d) Holdings of institutional investors. For each institutional investor, as defined in § 802.64(a) of the rules, included within the person filing notification, provide the following information:

(i) name and address of headquarters office;

(ii) principal business (i.e., bank, insurer, etc.);

(iii) percent of voting securities held by ultimate parent entity, or, if control is effected by means other than the direct holding of the institutional investor's voting securities, describe the intermediaries or the contract through which control is effected; and

(iv) for each issuer the voting securities of which are held by the institutional investor, list (A) the name of the issuer; (B) the class of voting security held; and (C) the number held. Holdings of voting securities should be listed as of the close of business on the last business day of the week prior to the filing of this notification. Holdings in issuers which the person filing notification controls, see § 801.1(b) of the rules, must be omitted; holdings of less than five percent of the outstanding voting securities of an issuer may be omitted.

Notification and Report Form Continued

Name_____ Date_____

5(e) Supply the following information only if the transaction is the formation of a joint venture.

(i) List the name and mailing address of the joint venture, and specify whether the joint venture is to be a corporation, partnership, etc.

(ii) (A) List the contributions that each joint venturer has agreed to make to the joint venture, specifying when each contribution is to be made and the value of the contribution as agreed by the joint venturers.

(B) Describe any contracts or agreements whereby the joint venture will obtain assets or capital from sources other than the joint venturers.

(C) Specify whether and in what amount the joint venturers have agreed to guarantee the credit or obligations of the joint venture.

(D) Describe fully the consideration which each joint venturer will receive from the joint venture in exchange for its contribution(s).

(iii) Describe generally the business in which the joint venture will engage, including location of headquarters and principal plants, warehouses, retail establishments or other places of business; its principal types of products or activities; and the geographic areas in which the joint venture will do business.

(iv) Identify each 4-digit (SIC code) industry in which the joint venture will derive dollar revenues. If the joint venture will be engaged in manufacturing, also specify each 5-digit (SIC-based) product class in which the joint venture will derive dollar revenues.

Notification and Report Form Continued

Name_____ Date_____

6. If, to the knowledge or belief of the person filing notification, the person filing notification derived dollar revenues from operations in any 4-digit (SIC code) industries in which any other person party to the transaction also derived dollar revenues in the most recent year (or in which a joint venture will derive dollar revenues), for each such 4-digit (SIC code) industry:

(a) supply the 4-digit code and description for the industry;

(b) provide the address of each establishment from which dollar revenues were derived in the most recent year by the person filing notification (or from which a joint venture will derive dollar revenues); and

(c) (i) for each 4-digit industry within SIC major groups 20-39 (manufacturing industries) listed in item 6(a) above, list the states or portions thereof in which the products produced in each of the establishments listed in item 6(b) above are sold in substantially the same form, whether by the person filing notification or by others to whom such products have been sold or resold;

(ii) for each 4-digit industry within SIC major groups 01-17 and 40-49 (agriculture, forestry and fishing; mining; construction; transportation, communications, electric, gas and sanitary services) listed in item 6(a) above, list the states or portions thereof in which the person filing notification conducts such operations;

(iii) for each 4-digit industry within SIC major groups 50-51 (wholesale trade) listed in item 6(a) above, list the states or portions thereof in which the customers of each establishment listed in item 6(b) above are located; and

(iv) for each 4-digit industry within SIC major group 63 (insurance) listed in item 6(a) above, list the state(s) in which the person filing notification is licensed to write insurance.

Notification and Report Form Continued

Name_____ Date_____

7. Did the acquired person and the acquiring person maintain a vendor-vendee relationship during the most recent year with respect to any manufactured product (or, if the transaction is the formation of a joint venture, will the joint venture supply to any of the joint venturers any manufactured product which such joint venturer purchased from another joint venturer during the most recent year) which the vendee either resells or consumes in or incorporates into the manufacture of any product? If so, persons filing notification which are vendees of such product(s) should list each product purchased, identify the vendor from which it was purchased, and state the dollar amount of each such product purchased from that vendor during the most recent year.

Manufactured products are those within 2-digit SIC major groups 20-39. Any product purchased from the vendor in an aggregate annual amount not exceeding $1 million, or the manufacture of which is not attributable to the assets to be acquired, or to the issuer whose voting securities are to be acquired (including entities controlled by the issuer), may be omitted.

Notification and Report Form Continued

Name_____ Date_____

- - - -

Notification and Report Form Continued

APPENDIX TO NOTIFICATION AND REPORT FORM: INSURANCE

Insurance carriers (2-digit SIC major group 63) are required to complete this Appendix if voting securities of an insurance carrier are being acquired directly or indirectly (see § 801.4 of the rules).

1. Life Insurance

A. Provide for the most recent year the amount of premium receipts (calculated on an accrual basis) for each of the following lines:
   1. Life Insurance:
      a. Ordinary life insurance;
      b. Group life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
      c. Industrial life insurance;
      d. Credit life insurance;

   2. Annuity Considerations:
      a. Individual annuity considerations;
      b. Group annuity considerations;

   3. Health Insurance:
      a. Individual health insurance;
      b. Group health insurance.

B. Provide for the most recent year the amount of new life insurance business issued in the United States during the calendar year (exclusive of revivals, increases, dividend additions and reinsurance ceded) for each of the following lines:
   1. Ordinary life insurance;
   2. Group life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
   3. Industrial life insurance;
   4. Credit life insurance.

Notification and Report Form Continued

2. Property Liability Insurance

A. Provide for the most recent year the amount of direct premiums written during the calendar year in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

B. Provide for the most recent year the amount of net premiums written during the calendar year in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

3. Title Insurance

A. Provide for the most recent year the amount of net direct title insurance premiums written in the United States during the calendar year.

B. Provide for the most recent year the amount of direct title insurance premiums earned in the United States during the calendar year.

The Federal Trade Commission and the Assistant Attorney General invite and encourage the filing of written comments upon the proposed notification form and proposed rules in order to assure that the final versions thereof will satisfy the law enforcement concerns of the two agencies while, at the same time, not being unduly cumbersome or burdensome. Written comments on the proposal by an interested person could carry the subject "Title II—Premerger Notification." Written comments should be submitted to both addresses listed at the beginning of this notice. All written comments received on or before August 31, 1977, will be considered. Comments and other written materials with respect to the proposed notification form and proposed rules will be available for examination by interested persons in Room 130 of the Public Reference Branch, Federal Trade Commission, 6th Street at Pennsylvania Avenue NW., Washington, D.C., and will be considered by the Federal Trade Commission and the Assistant Attorney General in the Commission's determination (with the concurrence of the Assistant Attorney General) to issue a final version of the notification form and rules. All interested persons are urged to express their approval or disapproval of the proposed notification form and proposed rules, or to recommend specific revisions, and to give a full statement of their views thereon. Comments previously submitted in response to the proposed rules published in the FEDERAL REGISTER of December 20, 1976, will be considered by the Commission and the Assistant Attorney General in connection with the promulgation of final rules. Thus the content of these earlier comments need not be repeated or resubmitted.

Issued July 25, 1977.

By the direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-21767 Filed 7-29-77;8:45 am]

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TUESDAY, AUGUST 2, 1977

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules Going Into Effect Today

HEW/FDA—Drugs and cosmetics; color additives; B-Carotene.... 33722; 7–1–77
Drugs and cosmetics; color additives; bronze and copper powder. 33723; 7–1–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 186.....Pub. L. 95–75
International Navigational Rules Act of 1977.
(July 27, 1977; 91 Stat. 308)
Price $.35

presidential documents

Title 3—The President

Executive Order 12006 • **July 29, 1977**

Exemption of G. Joseph Minetti From Mandatory Retirement

G. Joseph Minetti, Member, Civil Aeronautics Board, will become subject to mandatory retirement for age on July 31, 1977, under the provisions of Section 8335 of Title 5 of the United States Code unless exempted by Executive order.

In my judgment, the public interest requires that G. Joseph Minetti be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of Section 8335 of Title 5 of the United States Code, I hereby exempt G. Joseph Minetti from mandatory retirement until September 30, 1977.

Jimmy Carter

THE WHITE HOUSE,
July 29, 1977.

[FR Doc.77-22353 Filed 8-1-77;10:51 a.m.]

Memorandum of July 20, 1977

Determination Under Section 103(d)(3) of the Agricultural Trade Development and Assistance Act of 1954, as Amended (Public Law 480)—Morocco

[Presidential Determination No. 77-15]

Memorandum for the Secretary of State, the Secretary of Agriculture

THE WHITE HOUSE,
Washington, July 20, 1977.

Pursuant to the authority vested in me under the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter "the Act"), I hereby determine that a waiver of the exclusion provided by Section 103(d)(3) of the Act, for the purpose of selling to Morocco up to 100,000 metric tons of wheat/wheat flour, worth approximately $11 million, is in the national interest of the United States and I do waive that exclusion.

Jimmy Carter

STATEMENT OF REASONS THAT A SALE TO MOROCCO UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED (PUBLIC LAW 480), IS IN THE NATIONAL INTEREST

In response to Morocco's need for imports of wheat/wheat flour, which have been increased by a drought which has severely reduced domestic production, the United States Government proposes to sell that country up to 100,000 metric tons of wheat (grain equivalent), worth approximately $11 million, under the provisions of Title I of Public Law 480.

Morocco trades with Cuba. Section 103(d)(3) of Public Law 480 prohibits supplying commodities under Title I to a nation which maintains such trade unless the President determines that so doing would be in the national interest of the United States. The United States and Morocco have traditionally enjoyed cordial relations. The strategic importance of Morocco at the entrance to the Mediterranean Sea is evident. The Government of Morocco is moderate and in international fora normally exercises a positive influence on other non-aligned Arab and African states. A concessional wheat sale will help Morocco to cover its domestic grain shortfall without excessively overburdening its foreign exchange reserves and will demonstrate continued American support for this moderate and friendly country.

The proposed assistance is, therefore, in the national interest of the United States.

[FR Doc.77-22305 Filed 7-29-77;3:38 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Administrator for Public Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3394(h)(8) is added as set out below:

§ 213.3394 Department of Transportation.

* * * * *

(h) *Federal Aviation Administration.* * * *

(8) One Special Assistant to the Assistant Administrator for Public Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22108 Filed 8–1–77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 102, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 24–30, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period July 24–30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION. (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 70,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.402 Lemon Regulation 102 (42 FR 37533) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period July 24, 1977, through July 30, 1977, is established at 365,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–22133 Filed 8–1–77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 443.2]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Subpart B—Soil and Water Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation to implement authorities given to the Bureau of Reclamation, Department of the Interior, for the purpose of making loans to irrigators under Section 8 of the 1977 Drought Emergency Act (Pub. L. 95–18) (43 U.S.C. 502 Note). This amendment is intended to provide the Bureau of Reclamation with the services of FmHA in making and administering Soil and Water (SW) loans. The Bureau of Reclamation has procured the services of FmHA since there is an existing SW loan program in FmHA which will enable the FmHA to more efficiently administer the provisions of Section 8 of the 1977 Drought Emergency Act.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Denton E. Sprague, 202–447–4597.

SUPPLEMENTARY INFORMATION: Subpart B of Part 1821; Title 7, Code of Federal Regulations (31 FR 14165 and redesignated as 32 FR 7171) is amended in § 1821.51 to make cross-reference to new Exhibit B, "Bureau of Reclamation Loans to Irrigators administered by Farmers Home Administration" and Attachment 1, "Memorandum of Understanding between the Bureau of Reclamation, Department of the Interior and the Farmers Home Administration of the Department of Agriculture," which provides procedure for making and servicing SW type loans to individuals located within reclamation projects; the Memorandum of Understanding outlines the working relationship between the two Agencies.

The Table of Sections is amended as follows:

Exhibit A—[Reserved]
Exhibit B—Bureau of Reclamation Loans to Irrigators Administered by Farmers Home Administration. Attachment 1—Memorandum of Understanding Between the Bureau of Reclamation, Department of the Interior and the Farmers Home Administration, Department of Agriculture.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to expedite loans and services to irrigators where there are severe problems resulting from water shortage from the 1976–1977 drought period, and therefore, any delay would be contrary to the public interest. Accordingly, § 1821.51 as amended; Exhibit B and Attachment 1 thereto are set forth below:

§ 1821.51 General.

* * * Exhibit B prescribes the procedure and authority for making Bureau of Reclamation loans to irrigators.

(U.S.C. 1989; 31 U.S.C. 686; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 26, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

EXHIBIT B—BUREAU OF RECLAMATION LOANS TO IRRIGATORS ADMINISTERED BY FARMERS HOME ADMINISTRATION

I. *General.* This Exhibit provides additional procedures for making and servicing Soil and Water (SW) type loans to individuals located within Reclamation Projects. Attachment 1 is a Memorandum of Understanding between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) outlining the working relationship between the agencies for these loans. The Memorandum of Understanding establishes eligibility requirements, sets loan terms, and indicates the purposes for which these loans may be made. The FmHA County Supervisors can resolve any questions about project boundaries, acreage limitations, loan purposes or eligibility requirements by contacting the BR office having jurisdiction over the project area.

II. *Objectives.* Provides BR financial assistance to irrigators as defined in Attachment 1 and for the purposes outlined therein.

III. *Procedures.* This Subpart B and other related FmHA regulations will be used in processing and securing the BR loans. Applicable FmHA forms will be used with the following modifications required:

Form FmHA 410–1, "Application for FmHA Services"—In section 24 and after "Type of Service Applied For" complete "other" by inserting "SW–BR".

Form FmHA 427–1, "Real Estate Mortgage"—Wherever reference is made to "the Consolidated Farm and Rural Development Act" insert "and Pub. L. 95–18".

Form FmHA 440–1, "Request for Obligation of Funds"—Loans will be identified by typing "43" in block 7 of Part I.

Form FmHA 440–2, "County Committee Certification or Bicommendation"—In the block entitled "type of assistance" check the block "other" and specify "SW–BR"

Form FmHA 440–15, (State) "Security Agreement (Insured Loans For Individuals)" where reference is made to rates of interest, insert "zero". In the center of page 1, strike "the Consolidated Farmers Home Administration Act, 1961, or Title V of the Housing Act of 1949; and" and insert "Pub. L. 95–18 and".

Form FmHA 440–16, "Promissory Note" in the block "Kind of Loan" and after "type" insert "SW–BR"; after "Pursuant to" insert "Pub. L. 95–18". Where reference is made to the percent of interest insert "zero". In the last paragraph on page 2, delete "the Consolidated Farm and Rural Development Act or Title V of the Housing Act of 1949" and insert "Pub. L. 95–18".

Form FmHA 441–1, "Promissory Note"—In the block "Kind of Loan" insert "SW–BR". Where reference is made to the rate of interest, insert "zero". In the next to the last paragraph on page 2, delete "subtitle B or C of the Consolidated Farm and Rural Development Act" and insert "Pub. L. 95–18".

IV. *Servicing.* These loans will be serviced by FmHA in accordance with servicing instructions applicable to Individual SW loans.

V. *Reimbursement.* BR shall pay to FmHA a charge of 5 percent of principal of each loan. The 5 percent charge shall be disbursed to FmHA by the Finance Office at the time of each loan advance.

ATTACHMENT I

MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR AND THE FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

Whereas, under section 8 of the 1977 Drought Emergency Act (Pub. L. 95–18), hereafter referred to as "the Act," the Bureau of Reclamation (BR) is authorized to make loans to irrigators for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976–1977 drought period;

Whereas, the Farmers Home Administration (FmHA) has an existing soil and water program (SW) authorized by section 304 of the Consolidated Farm and Rural Development Act for loans to individuals that accomplish purposes similar to those of the Act;

Whereas, it is more efficient and in the best interest of the United States, and in accordance with section 6 of the Act, for the BR to procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by the Act.

Now therefore the parties agree:

1. For purposes of this Memorandum the term "irrigators" shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

2. FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

3. The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instruction 443.2, IV A1, A8, B1, B2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

4. Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

5. Three million dollars shall be transferred to FmHA by Standard Form 151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

6. *Monthly Report:* FmHA shall submit a Standard Form 133, Report on Budget Execution, in accordance with OMB Circular A–34, to the Bureau of Reclamation, Washington, DC 20240, attention code 370.

7. *Accomplishment:* FmHA shall submit to the Bureau of Reclamation, Washington, DC 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978.

Date of June 29, 1977.

BUREAU OF RECLAMATION,
DEPARTMENT OF THE INTERIOR,
(S) R. KEITH HIGGINSON,
Commissioner.

Date of July 15, 1977.

FARMERS HOME ADMINISTRATION,
DEPARTMENT OF AGRICULTURE,
(S) MARTY HOLLERAN,
(For Gordon Cavanaugh,
Administrator,

[FR Doc.77–22196 Filed 8–1–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 325—TRANSPORTATION

Change in Notification Concerning Vehicle Emergencies

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This change in the regulations requires the carrier, in case of a wreck or similar extraordinary emergency, to report the facts by telephone or telegraph to the Regional Director of the region in which the wreck occurred rather than the Deputy Administrator, Meat and Poultry Inspection Program, Field Operations, as now required. This change will enable the Program to respond more promptly to these emergencies, inasmuch as the information need not be relayed from the Washington office to the region where the appropriate action is taken, in any case.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. James P. Lyons, Chief Staff Officer, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, telephone 447–7435.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Section 325.18(b) of the Federal meat inspection regulation (9 CFR 325.18(b)) is to ensure that in case of vehicle emergencies, the appropriate information is promptly and accurately relayed to the office which must respond to the emergency. It has been determined that the "Regional Director in the area in which the emergency occurs" should be contacted in such cases rather than the Deputy Administrator, Meat and Poultry Inspection Program, Field Operations, whose office is located in Washington, D.C. This change eliminates an unnecessary step in communicating information to the region where the appropriate action is taken.

"Regional Director" is defined in Section 301.2(iii) of the Federal meat inspection regulations (9 CFR 301.2(iii)) as the official in charge of the Meat and Poultry Inspection Program within each of the following five regions:

Northeastern Region—The States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia.

Southeastern Region—The States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

North Central Region—The States of Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin.

Southwestern Region—The States of Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

Western Region—The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and Guam.

The addresses of the Regional Directors, set forth in the Federal Meat Inspection Regulations at Section 301.2(iii), footnote 1, are as follows:

Northeastern Region—Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102.

Southeastern Region—Room 216, 1718 Peachtree Road NW., Atlanta, GA 30309.

North Central Region—Room 419, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, IA 50309.

Southwestern Region—Room 5–F41, 1100 Commerce Street, Dallas, TX 75201.

Western Region—Room 102, Building 2C, 620 Central Avenue, Alameda, CA 94501.

Accordingly, the Federal meat inspection regulations are amended as follows:

1. In the Table of Contents under § 325.18, delete the word, "Administrator," and replace it by the words, "Regional Director."

2. In the Section heading of § 325.18, delete the word, "Administrator," and replace it by the words, "Regional Director."

3. In § 325.18, paragraph (b), delete the words, "Deputy Administrator, Meat and Poultry Inspection, Field Operations, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250," and replace them by the words, "Regional Director in the area in which the emergency occurs."

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621.)

This amendment involves a minor procedural change only. Therefore, public participation with respect to this action is unnecessary.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., on July 28, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77–22272 Filed 8–1–77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 213—OIL IMPORT PROGRAM

AGENCY: Federal Energy Administration (FEA).

ACTION: Final rule.

SUMMARY: These regulations update sections 213.33 and 213.36, providing for fee-exempt allocations of unfinished oils from Canada into Districts I–IV and V respectively, in accordance with the terms of the latest rulemaking updating the Oil Import Regulations generally (42 FR 20813, April 22, 1977). These sections were inadvertently omitted from the text of that rulemaking.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel (202–566–9380).

SUPPLEMENTARY INFORMATION: Under the Mandatory Oil Import Program established pursuant to Proclamation No. 3279, as amended, the current allocation period for imports not subject to license fees under section 3(a)(1)(i)–(ii) of the Proclamation began on May 1, 1977. Section 8 of the Proclamation provides that for this allocation period, the maximum levels of imports subject to allocation and license, to which license fees under section 3(a)(1)(i)–(ii) shall not be applicable, shall be reduced to fifty percent of the levels established during the calendar year 1973. The rulemaking issued April 15, 1977, implemented these provisions, but omitted to amend sections 213.33 and 213.36. Accordingly, FEA hereby issues a corrective rulemaking containing the omitted amendments, effective May 1, 1977. Since the reduction in allocations is mandatory under Proclamation No. 3279, which is controlling notwithstanding its regulatory implementation, this correction does not alter any outstanding import rights. Moreover, since §§ 213.33 and 36 are relatively insignificant, no licenses have actually been issued thereunder. Importers should, however, note the reporting deadline for imports made under these sections during the previous allocation period, which is August 31, 1977. Finally, the deadline for applying for licenses under these sections has been extended to July 29, 1977.

(Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87–794, as amended; Proclamation No. 3279, as amended.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., July 22, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 213.33 is amended in paragraphs (c), (d), (f), and (h) to read as follows:

§ 213.33 Imports of unfinished oils from Canada—Districts I–IV.

* * * * *

(c) The Director shall, in accordance with the terms of paragraph (d)(1) of this section, make allocations for the allocation period May 1, 1977, through April 30, 1978, such that the amount of such allocations, plus the amount of allocations under § 213.36 and § 213.28 (a) and (c), shall not exceed 620,000 average barrels per day per year.

(d) (1) The Director shall make allocations not subject to license fees of Canadian imports to eligible applicants who received allocations of such imports for the period May 1, 1975, through April 30, 1976, pursuant to § 213.33. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

$$\left(\begin{array}{c}\text{Eligible applicant's Canadian imports into Districts I–IV during the period May 1, 1973, through Apr. 30, 1974, expressed in barrels per day}\end{array}\right) \times 0.50$$

(2) The Director shall issue not later than July 29, 1977, to each eligible applicant a license equal to the total of the allocation calculated pursuant to subparagraph (1). Such licenses shall expire on April 30, 1978.

* * * * *

(f) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, not later than August 31, 1977, (1) the total quantity of Canadian imports which that person imported during the period May 1, 1976, through April 30, 1977, pursuant to an allocation made under § 213.28 and (2) the quantity of such imports that were processed in his facilities before July 1, 1977. The amount so reported and cer-

tified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by August 31, 1977, the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received. For the purpose of this paragraph only, "Canadian imports" shall mean both imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

* * * * *

(h) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 19267, Washington, D.C. 20036, unless an application has been previously filed. Applications must have been received by July 28, 1977. An application must contain the following information which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of Canadian imports imported into Districts I–IV during the period May 1, 1973, through April 30, 1974, expressed in barrels per day.

2. Section 213.36 is amended in paragraphs (c), (d), (f), and (h) to read as follows:

§ 213.36 Imports of unfinished oils from Canada—District V.

* * * * *

(c) The Director shall, in accordance with the terms of paragraph (d)(1) of this section, make allocations for the allocation period May 1, 1977, through April 30, 1978, such that the amount of such allocations, plus the amount of allocations under § 213.33 and § 213.28 (a) and (c), shall not exceed 620,000 average barrels per day per year.

(d) (1) The Director shall make allocations not subject to license fees of Canadian imports to eligible applicants who received allocations of such imports for the period May 1, 1975, through April 30, 1976, pursuant to § 213.36. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

$$\left(\begin{array}{l}\text{Eligible applicant's Canadian imports into District V during the period May 1, 1973, through Apr. 30, 1974, expressed in barrels per day}\end{array}\right) \times 0.50$$

(2) The Director shall issue not later than July 29, 1977, to each eligible applicant a license equal to the total of the allocation calculated pursuant to subparagraph (1). Such licenses shall expire on April 30, 1978.

* * * * *

(f) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, not later than August 31, 1977, (1) the total quantity of Canadian imports which that person imported during the period May 1, 1976, through April 30, 1977, pursuant to an allocation made under § 213.28 and (2) the quantity of such imports that were processed in his facilities before July 1, 1977. The amount so reported and certified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by August 31, 1977, the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received. For the purpose of this paragraph only, "Canadian imports" shall mean both imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

* * * * *

(h) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 19267, Washington, D.C. 20036, unless an application has been previously filed. Applications must have been received by July 28, 1977. An application must contain the following information which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of Canadian imports imported into District V during the period May 1, 1973, through April 30, 1974, expressed in barrels per day.

[FR Doc 77-22157 Filed 8-1-77;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 77-474]

PART 545—OPERATIONS

Individual Retirement Accounts

JULY 27, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: Federally-chartered savings and loan associations, which had previously been authorized by statute to serve as trustees of Individual Retirement Accounts, were given additional authority to serve as custodians of those retirement funds by Public Law 94-60 on July 25, 1975. This final rule amends the Board's regulations to implement that statutory change.

The reader may be interested in a proposed regulation affecting insurance of these accounts which is being published concurrently with this final rule as companion Resolution No. 77-475.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202-376-3556).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board considers it desirable to amend § 545.17-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545.17-1) for the purpose stated in the summary.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11 because this amendement relieves restriction, and (2) publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 554(d) prior to effective date is unnecessary for the same reason.

Accordingly, the Board hereby amends §545.17-1 to read as set forth below.

§ 545.17-1 Stock bonus, pension, or profit-sharing plan.

A Federal association which has a charter in the form of Charter K (rev.) or Charter N may act as trustee, and may receive reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954, and may act and receive reasonable compensation for so acting, as trustee or custodian of an individual retirement account within the meaning of section 408(a) of such Code, if the funds of such trust or account are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. * * *

(Pub. L. 94-60, 89 Stat. 301 (12 U.S.C. 1464); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-22163 Filed 8-1-77;8:45 am]

SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

[No. 77-173]

PART 563b—CONVERSION FROM MUTUAL TO STOCK FORM

Offers for and Sale of Securities of Converting Associations; Correction

AGENCY: Federal Home Loan Bank Board.

ACTION: Correction.

SUMMARY: A regulation recently adopted by the Board as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC") requires approval of the FSLIC of any offer or announcement of an offer for any equity security of an FSLIC-insured institution for three years following its conversion from mutual to stock form of ownership. The regulation contained a limited exception from this requirement for offers which would, if consummated, result in acquisition by a person of not more than one percent of any class of equity security of the institution. The word "not" was inadvertently omitted from this regulatory exception, and this action corrects that omission.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, at 320 First Street NW., Washington, D.C. 20552 or telephone number 202-376-3556.

SUPPLEMENTARY INFORMATION: In FR Document 77-7586 appearing at pages 14085-86 in the FEDERAL REGISTER of March 15, 1977, the final clause of subparagraph (e)(3) of § 563b.9 appearing on page 14086 is corrected by adding the word "not" immediately following the word "of" and immediately before the word "more". As corrected, subparagraph (e)(3) conforms to the preamble of said document on page 14085, which states in part that "subparagraph (e)(3) only excepts offers which would if consummated effect acquisition by a person of not more than one percent of any class of equity security of a converting institution."

Dated: July 27, 1977.

DANIEL J. GOLDBERG,
Acting General Counsel.

[FR Doc.77-22164 Filed 8-1-77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Interim Rules of Practice for Adjudicative Proceedings Under Consumer Product Safety Act and Flammable Fabrics Act; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: In this document, the Commission extends, from July 21, to August 22, 1977, the time during which comments may be submitted on its Interim Rules of Practice for Adjudicative Proceedings under the Consumer Product Safety Act and the Flammable Fabrics Act. The Commission is taking this action at the requests of several interested persons who were unable to prepare comments by July 21.

DATE: Comments on the Interim Rules should be received by August 22, 1977. The rules became effective, on an interim basis, on June 21, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Winston M. Haythe, Directorate of Compliance and Enforcement, CPSC, 5401 Westbard Avenue, Washington, D.C. 20207, 301-492-6632.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 21, 1977 (42 FR 31431), the Commission published Interim Rules of Practice for Adjudicative Proceedings under the Consumer Product Safety Act and the Flammable Fabrics Act. The rules became effective on an interm bases on June 21, the date of publication, but the Commission solicited public comment for 30 days, until July 21.

A number of interested persons have requested an additional 30 days to comment on the rules, since they were unable to provide comments within the time originally provided. The Commission has decided to grant the requests and extend the comment period for 30 days, until August 22, in the interest of obtaining broad public comment on the rules. In addition, since the rules are now effective on an interim basis, the Commission's granting the requests for a thirty-day extension of the comment period will not result in a prolonged period without applicable procedural rules.

Therefore, interested persons may submit written comments on the interim rules until August 22, 1977. Comments received after that date will be considered if practicable. Comments and any accompanying data or material should be submitted, preferably in 5 copies to the Office of the Secretary, CPSC, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments and accompanying data may be seen in the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

Dated: July 28, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22131 Filed 8-1-77;8:45 am]

PART 1026—RULES OF PRACTICE FOR EXPEDITED PROCEEDINGS

Proposed and Interim Rules of Practice for Expedited Proceedings Under the Consumer Product Safety Act; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: In this document, the Commission extends, from July 21, to August 22, 1977, the time during which comments may be submitted on its Interim Rules of Practice for Expedited Proceedings under the Consumer Product Safety Act. The Commission is taking this action at the requests of several interested persons who were unable to prepare comments by July 21.

DATE: Comments on the Interim Rules should be received by August 22, 1977. The rules became effective, on an interim basis, on June 21, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Gwendolyn Crockett, Directorate of Compliance and Enforcement, CPSC, 5401 Westbard Avenue, Washington, D.C. 20207, 301-492-6632.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 21, 1977 (42 FR 31446), the Commission published Interim Rules of Practice for Expedited Proceedings under the Consumer Product Safety Act. The rules became effective on an interim basis on June 21, the date of publication, but the Commission solicited public comment for 30 days, until July 21.

A number of interested persons have requested an additional 30 days to comment on the rules, since they were unable to provide comments within the time originally provided. The Commission has decided to grant the requests and extend the comment period for 30 days, until August 22, in the interest of obtaining broad public comment on the rules. In addition, since the rules are now effective on an interim basis, the Commission's granting the requests for a thirty-day extension of the comment period will not result in a prolonged period wtihout applicable procedural rules.

Therefore, interested persons may submit written comments on the interim rules until August 22, 1977. Comments received after that date will be considered if practicable. Comments and any accompanying data or material should be submitted, preferably in 5 copies to the Office of the Secretary, CPSC, Washington, D.C 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments and accompanying data may be seen in the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

Dated: July 28, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22130 Filed 8-1-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-13807; File No. S7-641]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Extension of Temporary Rule for Submission of Price Quotations to Inter-Dealer Quotation System

AGENCY: Securities and Exchange Commission.

ACTION: Extension of temporary rule provision.

SUMMARY: The Commission has extended the expiration date of paragraph (f)(4)(T) of § 240.15c2-11, a rule which presently requires market-makers to obtain certain basic information on the issuers of securities for which they publish price quotations in the over-the-counter markets. Paragraph (f)(4)(T) extends exemptive provisions of § 240.-15c2-11 to broker-dealers who submit quotations to weekly inter-dealer quotation systems on the basis of previous price quotations appearing regularly in such a system.

DATES: The expiration date of paragraph (f)(4)(T) of § 240.15c2-11 has been extended to January 31, 1978.

ADDRESSES: All communications on this matter should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-641 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard M. Smith, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-7918).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") announced today the extension of temporary paragraph (f)(4)(T) of § 240.15c2-11[1] to January 31, 1978, pursuant to the Securities Exchange Act of 1934 (the "Act"),[2] particularly sections 2, 3, 11A, 15, and 23 of the Act.[3] Paragraph on July 15, 1976.[4] Its expiration date was later extended by the Commission to February 28, 1977,[5] to April 30, 1977,[6] and subsequently to July 31, 1977.[7] Temporary paragraph (f)(4)(T) of § 240.15c-11 exempts from the provisions of that Section the publication and submission of quotations respecting securities traded over the counter which have been the subject, at least once each fifth business day, of both bid and ask quotations at specified prices, reported to, and published by, an inter-dealer quotation system.

The staff of the Commission has continued to explore in discussions with those persons directly affected by § 240.15c2-11 and other interested persons the effectiveness of the temporary exemption and the operation of § 240.15c2-11 generally and has determined that a number of significant questions still remain as to the ultimate course which the Commission should take concerning those matters. Until such time as those questions are resolved, the Commission believes it is consistent with the public interest and the protection of investors to extend the expiration date of temporary paragraph (f)(4)(T) of § 240.15c2-11 to January 31, 1978.

The pertinent text of the rule, as amended temporarily, is as follows:

§ 240.15c2-11 Initiation or resumption of quotations without specific information.

* * * * *

(f) The provisions of this section shall not apply to:

* * * * *

(4)(T) The publication or submission of a quotation respecting a security which, at least once each fifth business day, has been the subject of both bid and ask quotations at specified prices reported to, and published by, an inter-dealer quotation system:

(i) Which has reported to the broker or dealer who wishes to submit such a quotation that records of the system reflect that at least one registered broker or dealer has made, or

(ii) To which a registered broker or dealer who wishes to submit such a quotation has reported or represented that he has made both bid and ask quotations at specified prices on each of at least 12 business days within the previous 30 calendar days, with no more than 4 business days in succession without a reflection of the existence of such a two-way quotation.

This temporary subsection shall expire on January 31, 1978.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 28, 1977.

[FR Doc.77-22159 Filed 8-1-77;8:45 am]

[1] 17 CFR 240.15c2-11(f)(4).

[2] 15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975).

[3] 15 U.S.C. 78 (b), (c), (k-1), (o), and (w).

[4] Exchange Act Release No. 34-12630 (July 15, 1976), 41 FR 30008 (July 21, 1976), 9 SEC Docket 1114 (July 28, 1976).

[5] Exchange Act Release No. 34-12969 (November 15, 1976), 41 FR 50646 (November 17, 1976), 10 SEC Docket 953 (November 30, 1976).

[6] Exchange Act Release No. 34-13310 (February 28, 1977), 42 FR 13109 (March 9, 1977) 11 SEC Docket 1880 (March 15, 1977).

[7] Exchange Act Release No. 34-13544 (May 16, 1977), 42 FR 27880 (June 1, 1977), 12 SEC Docket 431 (May 31, 1977).

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM76-15; Order No. 568]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its Regulations to reduce uncertainties, promote efficiency in the processing of applications, and reduce small producer filing requirements. A principal goal of the revised regulations is to make clear just who may be classified as a "small producer" and for how long. In addition to refining the definition of small producers and small producer reserves, this order:

(1) Includes emergency, limited-term, and optional procedure sales in computing a producer's total annual jurisdictional sales;

(2) Accords general and limited partners in limited partnerships treatment comparable to that given signatory operators and nonsignatory co-owners;

(3) Eliminates eligibility of large producer working interests for small producer rates;

(4) Permits sales other than small producer sales (with some exceptions to be made under small producer certificates, subject to large producer rate limitations;

(5) Includes a specific refund provision for any small producer rate differential collected for sales of gas which are ultimately determined not to be small producer sales;

(6) Terminates a small producer certificate simultaneously with loss of small producer status;

(7) Permit large producers to collect small producer rates where they acquire small producer reserves in place; and

(8) Requires semi-annual reports to be filed by pipeline and large producer purchasers in lieu of individual filings on cessations of service by small producers and new or additional purchases from small producers.

EFFECTIVE DATE: July 14, 1977

FOR FURTHER INFORMATION CONTACT:

Richard E. Kelly, Office of the General Counsel, 202-275-4236.

On May 25, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM76-15 proposing to modify and clarify § 157.40 (18 CFR 157.40) of its Regulations in an effort to resolve certain problems which had arisen in the administration of the small producer program since the issuance of Order No. 428, 45 FPC 454 (1971). Comments were filed in response to the notice by eighteen parties, including large and small producers, pipeline companies, and associations representing various producer and distributor interests. These parties are listed in Attachment A hereto. Some of the parties concur with the proposals while others object to certain of them or suggest modifications or clarifications thereof.

In addition, Texaco urges that the Commission eliminate differentials between small and large producer rates, as do Phillips and Sun. Texaco states that other changes should not be considered until all pricing issues have been resolved. APGA likewise objects to differentials between large and small producer rates, as it did in earlier proceedings in Docket No. R-393. The small producer pricing issues were fully addressed by the Commission in Opinion No. 742, as amended, and Order No. 553, as amended, and will not therefore be further dealt with here.

Having considered the comments submitted by the various parties to this proceeding, we conclude that the revised small producer regulations proposed in this rulemaking should be adopted with certain modifications. Some, but not all, of these changes were proposed by commenting parties. As we indicated in the May 25 notice, the modifications set forth herein will operate on a prospective basis only, and any cases pending before the Commission prior to the issuance of this order shall be decided on the merits under the regulations as they existed prior to the issuance of this order.

We think that the revised regulations adopted herein are in the public interest and will serve to reduce uncertainties, promote efficiency in the processing of applications, and reduce small producer filing requirements.

As stated in the rulemaking notice, a principal goal of the revised regulations is to make clear just who may be classified as a "small producer" and for how long. Classification of a producer as small or large based upon sales volumes in the immediately preceding calendar year does not represent a departure from past practice. The only real difference is the automatic loss of small producer status under the revised regulations. The same is true where merger, acquisition, affiliation, dissolution, divestiture or other similar occurrences are involved. For example, previously, we have relied, among other things, on a showing by the producer of its jurisdictional sales volumes for the preceding calendar year in determining whether the producer qualifies for a small producer certificate. Also, we have terminated small producer certificates as of April 1 of the calendar year following that in which a producer has exceeded the 10,000,000 Mcf limit[1] and as of the date of merger where the suriving corporation would not qualify as a small producer.

United and Texas Gas question the Commission's proposal to provide for loss of small producer status (and consequent automatic termination of a small producer's certificate) as of the date of affiliation with a large producer or the end of the calendar year in which jurisdictional sales (including sales by affiliates) first exceed the 10,000,000 Mcf limitation. Since small producers are not required to submit annual statements (FPC Form 314-B) until April 1 of the following calendar year, United and Texas Gas state that there would be a three month period wherein the pipeline must enter into contracts without knowing the status of the producer. United and Texas Gas further state that during this interim, the pipeline might be unable to recoup any overpayments to a producer as a result of a small producer losing its status. United claims the same problem would exist when small producer status is lost due to merger, acquisition, etc.

United offers no solution to the problem other than to suggest that the regulations remain unchanged in this respect. Texas Gas on the other hand recommends that small producers be required to file their annual statements by April 1 not only with the Commission but also with affected purchasers, and that any producer failing to submit a timely report would be presumed to have lost its small producer status. In such event the purchaser would be justified in limiting the rate paid.

To avoid the uncertainty over which United and Texas Gas have expressed concern, we will provide that a small producer which exceeds the sales limit shall retain its small producer status until March 31 of the succeeding calendar year. The further recommendation by Texas Gas that failure to file a timely report trigger a temporary loss of small producer status, at least for rate purposes, could be disruptive and cause complications. However, we will specifically provide in § 157.40(c) that if a small producer collects a small producer rate differential for any gas sold which ultimately is determined not to qualify for such differential, the amounts attributable to the differential shall be subject to refund by the small producer.

Texas Gas' further suggestion that purchasers be served copies of small producers' annual reports would impose too great a burden on small producers. When a producer loses its small producer status, however, it will be required to give notice thereof to its purchasers and to the Commission within thirty days of the effective date of such occurrence. The annual statment would constitute notice to the Commission unless the loss of small producer status is due to merger, affiliation, etc.

IPAA objects to the automatic termination of small producer status at the end of the calendar year in which jurisdictional sales exceed 10,000,000 Mcf because of the possibility that sales during the following year might again fall below 10,000,000 Mcf due to variances in production from old, declining wells and newly developed wells. IPAA contends that this appears to be contrary to the spirit and intent of the small producer concept since the producer would have to treat all sales from reserves developed in that following year as large producer sales. IPAA therefore recommends that if a producer's jurisdictional sales do not exceed 10,000,000 Mcf for more than one consecutive year, reserves developed by a producer during such succeeding year retain the classification as "small producer reserves" and that sales therefrom continue to be eligible for the small producer rate. IPAA's recommendation is without merit, as severe slippage could occur. Furthermore, a producer is free to apply for reinstatement of its small producer certificate if it regains small producer status. It is also to be noted that IPAA's contention that the producer would have to treat all sales from reserves developed in the year following termination of small producer status as large producer sales is no longer true as a result of our addition of § 157.40(a)(4)(iii), discussed hereinafter, to the proposed regulations.

We will make two revisions to the definition of a small producer which can be accomplished within the scope of this proceeding. One of the revisions will permit producers affiliated with pipeline companies other than Class A natural gas companies to come within the definition of "small producer" if otherwise qualified. The principal reason for this is that such other pipeline companies have the "smallness" characteristic of small producers. The annual operating revenues of even a Class B pipeline do not exceed $2,500,000, by definition, which is well below the total revenues which a small producer could receive for sales of jurisdictional gas without losing its small producer status (10,000,000 Mcf at the new national base rate would result in revenues of $14,500,000). Moreover, in several instances we have waived the pipeline affiliation prohibition to permit a producer to obtain a small producer certificate due generally to the smallness or the isolated nature of the pipeline's operations.[2]

The other revision we make in the definition of a small producer is a change in the volumetric limit from 10,000,000

[1] *See e.g.*, Order Terminating Small Producer Certificate issued August 27, 1974, in Docket No. CS66-50, *E. G. Rodman*.

[2] *See e.g.*, order issued November 13, 1975, in Docket No. CI61-592, *et al.*, *Ladd Petroleum Corporation (successor to LVO Corporation), and Order Denying Rehearing* issued October 1, 1976, in Docket No. CS76-82, *Mesa Petroleum Co.*

[3] *See e.g.*, orders issued February 29, 1972, in *Westrans Petroleum Inc.*, Docket No. CS71-470 (47 FPC 704), and August 28, 1972, in *Horizon Oil & Gas Co. of Texas (Operator)*, Docket No. CS72-456 (should have read CS72-458), and *Central Leduc Oils, Inc.*, Docket No. CS72-499 (48 FPC 415).

Mcf at 14.65 psia to 10,000,000 Mcf at 14.73 psia. The change involves a relatively small increase (54,608 Mcf at 14.65 psia) in the small producer sales limit and will conform to the standard pressure base prescribed by Office of Management and Budget Circular No. A-46, dated May 3, 1974.

APGA requests further modification of the Commission's rulemaking proposal to include nonjurisdictional as well as jurisdictional sales volumes as part of a producer's total annual sales in determining a small producer's status as this more properly determines the size of each producer. This would be a major change from the standard originally adopted by Order No. 308 in 1965, and was not contemplated in the instant rulemaking. Moreover, we considered proposed substantive revisions to the 10,000,000 Mcf limit in Opinion No. 742, as amended, and declined to adopt any such revisions. In addition, data is not available at this time which would indicate the impact of such a revision. For these reasons APGA's proposed modification will not be adopted.

United and Columbia strongly urge the Commission to exempt emergency sales volumes as part of a producer's total annual jurisdictional sales in determining a producer's status as a large or small producer. Under contends that the inclusion of emergency sales circumvents the intent behind which the emergency sales concept was developed. United, Columbia and Bel state that if emergency sales were exempted, producers would be encouraged to make these types of sales at a time when they are so urgently needed. IPAA states that this consideration is applicable to limited-term sales as well, and accordingly, urges the Commission to exempt both emergency and limited-term sales. Northern, on the other hand, believes that both emergency sales and limited-term sales should be counted as part of the producer's total annual jurisdictional sales in determining the producer's status as a large or small producer.

We believe it proper to include emergency sales as part of the producer's total sales since, as pointed out in the rulemaking notice, in many cases such sales extend well beyond the initial 60-day emergency period, pursuant to Opinion No. 699-B, and are followed immediately by certificated sales from the same properties. Moreover, although parties making emergency and limited-term sales are exempted from certain filing requirements, the sales are nevertheless jurisdictional and should therefore be part of a producer's total jurisdictional sales volume. By the same token, however, volumes sold pursuant to the Emergency Natural Gas Act of 1977 or other emergency legislation, which sales are not subject to the Commission's jurisdiction, should not be included. The definition of jurisdictional sales we adopt reflects this exclusion by referring specifically to emergency volumes sold under the provisions of the Natural Gas Act and the Commission's Regulations. Further, it should be emphasized that the basic reason for giving small producers special treatment—their smallness—is absent if small producers are capable of making large volume emergency sales.[4]

It should be made clear that the amended language as to emergency and limited-term sales merely serves to clarify the Commission's intent and does not change the meaning of the definition. Because of the lack of clarity in the past as to emergency sales, however, small producer certificates previously issued should not be disturbed as a result of this interpretation unless emergency sales commenced after May 25, 1976 (the date of issuance of the rulemaking notice) caused a producer to exceed the limit in 1976, in which event the producer would be considered a large producer as of April 1, 1977.

We also conclude that limited-term sales and sales made under optional procedure certificates should be included in computing the producer's total annual jurisdictional sales. As to volumes of gas "paid for but not taken under prepayment clauses or otherwise," the words "or otherwise" are being deleted to make clear that volumes associated with advance payments are not to be included. In many cases, there are no specific volumes tied to advance payments.

IPAA and McCormick both argue that attribution of the entire volumes sold by a limited partnership to the general partner as proposed in the rulemaking notice is not logical. As a basis for their arguments they contend that it is inequitable to deny small producer status to a producer whose actual financial interest does not exceed 10,000,000 Mcf of annual jurisdictional sales and to do so would penalize the small producer who is seeking to maximize his effectiveness by entering into such arrangements. McCormick further contends that the Commission's premise that the general partner controls the sale in a limited partnership is based on a misconception of the nature of limited partnerships. McCormick states that the only "control" exercised by a general partner is the control of a fiduciary in making sales of another's interest, that the sales volumes and revenues are "controlled" by the general partner only as an agent, not as an owner, and that the actual relationship for Commission purposes is that of seller and nonsignatory co-owner. McCormick adds that a limited partnership is not intended to be perpetual, but is formed merely to carry out a series of ventures in which the general partner contributes exploratory skill and the limited partner contributes capital. McCormick states that in certain types of limited partnerships, such as those entered into by McCormick, the limited partner has a right to withdraw and take its specific share of the partnership oil and gas properties in its own name, free of the partnership, after a certain period of time of organization and exploration, and operate them as it wishes.[5] In most cases, according to McCormick, general partners own no more than a third of the partnership after payout so that combining their volumes with those of their partners could triple the general partner's volumes and hasten the day when it would lose its small producer status. McCormick states that the Commission's proposed interpretation will simply reduce the flow of funds available through the limited-partnership device for exploration.

Upon review we concur with McCormick and IPAA, and accordingly, we will provide that general and limited partners in limited partnerships shall be accorded treatment comparable to that given signatory operators and nonsignatory co-owners, respectively. Under this approach each partner (general or limited) need count only its own share of the partnership volumes. Consistent with this determination we shall revise the definition of "affiliated producers" proposed in the rulemaking notice by eliminating the reference to affiliation of general partners with their limited partnerships. It is also appropriate that the regulations provide that reserves developed by a limited partnership shall be allocated as large or small producer reserves in proportion to the respective percentages of ownership of the partnership at the time the reserves are developed.

Clarification is likewise useful in connection with royalty and overriding royalty interests. Thus, we will specifically provide that reserves attributable to royalty and overriding royalty interests shall have the same classifications as the working interests to which they relate.[6]

Mesa, Bel and Aminoil (which adopts Mesa's comments) contend that the Commission's proposed changes in Section 157.40 as set forth in Docket No. RM76-15 are inequitable, unfair and unworkable if applied to small producer certificates in existence prior to the effective date of the revised regulations. Mesa,

[4] As noted in the rulemaking notice (footnote 5), Texas Oil & Gas Corp. and two of its affiliates, joint applicants in pending Docket No. CS75-470, had jurisdictional sales exceeding 9,000,000 Mcf in 1974 while in that same year its wholly-owned intrastate pipeline affiliate, Delhi Gas Pipeline Corporation, sold over 13,000,000 Mcf of emergency gas.

[5] See Commission order issued April 12, 1977, in Docket No. CS76-1068, *Ozoco*.

[6] Where there is a conversion of an overriding royalty interest into a working interest, if the prior working interest owner was a large producer, then the new working interest owner would also be limited to the large producer ceiling, regardless of whether the new interest owner is a large or small producer. The same is true where the prior interest owner is a small producer and the new interest owner is a large producer. But, where both the prior interest owner and the new interest owner are small producers, then the new interest owner would be entitled, where contractually authorized, to the small producer ceiling price. The same approach would apply where a lessor royalty interest owner elects subsequent to the commencement of a jurisdictional sale to take its gas in kind, as we held in *Jicarilla Apache Tribe, et al.*, Docket No. CS76-186, *et al.* orders issued October 4 and December 3, 1976.

now a larger producer, states that the proposed revised regulations would reduce the coverage of its existing small producer certificate from sales of reserves dedicated under contracts dated prior to loss of its small producer status (regardless of when the reserves were developed) to sales of only those reserves developed while in the status of a small producer.

Mesa further states that it is now conducting exploratory and development efforts on certain properties which are covered by contracts entered into when it qualified as a small producer, and that it undertook such efforts in reliance upon the existing provisions of Section 157.40 (d) entitling it to the small producer rate for any production developed. Mesa claims the proposed modification would improperly deprive it of such rate. Bel states that the proposal would be unworkable if applied to sales under existing certificates because it would be difficult, if not impossible, to determine what portion of reserves sold under a particular contract covered by an existing small producer certificate is developed by such produced before or after it loses its small producer status.

After further considering this matter, we conclude that a third category should be included in the definition of "small producer reserves", namely:

(iii) reserves developed by a large producer which was formerly a small producer underlying acreage previously dedicated to the interstate market under that producer's small producer certificate pursuant to a contract dated while the producer was in small producer status.

Should a large producer other than the one who dedicated the acreage as a small producer develop reserves on such acreage, however, such reserves would not qualify as small producer reserves? The above addition to the definition of small producer reserves would also, we believe, respond to a concern expressed by United which claims that the proposed definition in the rulemaking notice is subjective and difficult in administration.

It is to be noted that much of the concern regarding newly developed reserves should now disappear since Opinion No. 742, as amended, provides for no differential in price between large producer and small producer sales from wells commenced on or after January 1, 1975.

The revised language in § 157.40(a) (4) and (5) should also dispel doubts of Northern which asks for clarification as to why the Commission has concluded that a large producer may become a "small producer" when the large producer's annual volumes decline below 10,000,000 Mcf per year and why that producer would then receive small producer rates for sales from reserves developed when it was a large producer. Northern has interpreted the proposed regulations to mean just the opposite of what is intended. The effect of the revised regulations is to make clear that sales from reserves developed by large producers who then become small producers do not qualify for small producer rate treatment, thereby avoiding situations like *Suburban*,[7] where the Commission did allow such small producer to collect small producer rates for sales from its large producer reserves.

Phillips and Sun each object to the Commission's proposal to eliminate that portion of the present definition of "small producer sales" in § 157.40(a)(3) which permits sales of all interests under a small producer's contract if producers not qualifying as small producers have interests which in the aggregate are no greater than 12½ percent. They contend that such change is likely to create greater administrative problems than it is intended to resolve. Phillips thinks it will require hundreds of certificate and rate filings to cover those large producers' minor interests which are presently covered by small producer certificates and that it will require large producers to enter into separate contracts with interstate purchasers. Sun contends that there is little cost to the consumer and the public is benefited by the greatly reduced workload on the Commission.

We feel that there is no apparent justification for allowing large producer working interests to be eligible for small producer rates. This is particularly true in view of the substantial price differentials between large producer and small producer rates, which substantial differentials did not exist when the Commission adopted the 12½ percent provision in Order No. 308.[8] We believe, as does APGA, that the definition of a small producer must be drawn very tightly so as to avoid permitting the larger companies to receive excess profits through the collection of small producer rates.

The fact that some large producers will have to file additional certificate and rate filings does not justify large producers collecting small producer rates. Moreover, this change will not require a large producer to enter into a separate contract where it would otherwise not be so required. Large producers currently must file to cover their interests in certain sales even though they are not signatory parties to the sales contracts (Order No. 428-B, mimeo. p. 9).

To alleviate a considerable portion of the additional filing burdens on large producers about which Phillips and Sun express concern, however, we are providing in § 157.40(b) that large producer interests may be covered by small producer certificates, provided that sales attributable to such interests are limited to the applicable large producer ceiling rates and, further, that the small producer is the operator of the producing properties involved and the total of all large producer working interests (including the royalty interests related thereto) in sales under the small producer's contract does not exceed 20 percent during a calendar year.

[7] *Suburban Propane Gas Corp.*, Docket No. CS75-396, order on rehearing amending order issuing certificate of public convenience and necessity, issued May 27, 1976.

[8] Issued October 29, 1965, in Docket No. R-279 (34 FPC 1202).

Previously, a new small producer application was filed in the name of each new limited partnership formed by a small producer, and a separate certificate was granted. A general partner which held a small producer certificate did have the option, however, of applying for amendment of that certificate to cover any newly-formed limited partnership.

Under the revised regulations we adopt herein, a general partner in a limited partnership is treated as an operator of producing properties, and need only make one application for a small producer certificate, to be issued in the general partner's name, rather than file a new application in the name of each new limited partnership it forms. This revision should substantially reduce the number of new small producer applications. However, the general partner will be required to list all limited partnerships in which it is a general partner, as well as the names of all partners in each partnership and, for those partners owning 10 percent or more, their percentages of ownership. Also, the percentage of ownership of each large producer must be shown.

As proposed in the notice of rulemaking, we will provide that sales other than small producer sales, except limited-term, optional procedure and percentage sales, may be made under small producer certificates, including sales attributable to large producers' interests, subject to the large producer or other applicable rate limitation. All of such other sales and interests must be clearly identified, however. Inclusion of sales other than small producer sales should substantially reduce the filing burden for both large and small producers, as well as the Commission's workload. Among other things, the small producer certificate holder will no longer need to obtain waiver of § 157.40(c) each time it acquires developed reserves in place from a large producer.

No parties have objected to the proposal to permit a small producer certificate holder to file a certification, to be acknowledged by the Secretary, to bring under the small producer certificate additional non-small producer sales or interests not identified in the original application. This proposed revision should have a substantial impact in reducing filing burdens and Commission workload and we will therefore adopt it.

Tesoro interprets the proposed language of § 157.40(b) as imposing a requirement on a producer to continue maintaining its large producer rate schedules in force after it becomes a small producer. This is not the case. The small producer has the option, under the revised regulations, of including its large producer sales under its small producer certificate. It will, however, be limited to the collection of rates for such sales comparable to those which a large producer could charge.

We will make one other revision to § 157.40(b). Instead of identifying all of the data required by FPC Form 314-A in the subject paragraph itself, § 157.40

(b) will simply state that the small producer application must contain all of the information requested in such form.

Other than the objections previously noted to any differentials between large and small producer rates, no specific objections to proposed revisions of § 157.40 (c) have been raised. However, since the institution of this rulemaking proceeding we have issued Opinion No. 742, as amended, and Order No. 553, as amended, which substantially altered the rate provisions of the subject paragraph. These provisions are being incorporated with some rearrangement, but with no substantive change, into the completely restated § 157.40 adopted herein.

We will make one additional revision to alleviate the concern expressed by Texas Gas that it might not be able to recover any overpayments to a producer resulting from loss of small producer status. Section 157.40(c) will now include a specific provision for refund with respect to any small producer rate differential collected for sales of gas which are ultimately determined not to be small producer sales.

In the notice of rulemaking we proposed to modify § 157.40(d) to provide that the termination date of the small producer certificate would be the date that the producer lost its small producer status pursuant to § 157.40(a)(1). We will adopt this proposal, and consistent with our determination that small producer status be terminated as of March 31 of the calendar year following that in which a small producer's volumes exceeded 10,000,000 Mcf, we will provide that the small producer certificate shall terminate automatically as to new sales as of such March 31 date rather than the preceding December 31 date as previously proposed. The small producer certificate will continue, however, to remain effective as to sales covered thereunder prior to such termination.

We will also insert a new § 157.40(e) in the place left vacant by the Commission's elimination, by Order No. 553, of the paragraph dealing with indefinite pricing provisions. The new § 157.40(e) will provide that a small producer certificate becomes effective as of the filing date of the application. This policy is set forth in Order No. 428-B, mimeo. p. 11, but has not previously been stated in the regulations themselves. The new section will also specifically prescribe a method for reinstating a small producer certificate.

In our rulemaking notice we proposed to amend § 157.40(f) by providing that large producers would be permitted to charge small producer rates for sales from developed reserves acquired in place from a small producer.

APGA disagrees with the subject proposal and states that there is no basis for permitting a large producer to collect the small producer rate solely because it purchases the reserves from a small producer since the purported reasons for the higher small producer rate are the greater risks and greater need for capital peculiar to small producers. APGA further states that the Commission should do everything in its power to provide incentives for small producers to remain totally independent and to sell their gas directly to the interstate market without becoming involved with and falling under the control of large producers.

CIG agrees with the rationale behind the Commission's proposal and submits that this rationale is equally applicable where the entity acquiring the small producer reserves is the producing affiliate of a pipeline. CIG states that to treat pipeline affiliate production any differently from large producer production appears to be inconsistent with existing Commission policy which treats, for pricing purposes, pipeline affiliate production from leases acquired after October 7, 1969, in the same fashion as large producer production and makes no distinction based on lease acquisition date for pipeline affiliate production qualifying for the new national gas rate (18 CFR 2.66).

Upon consideration of these contentions, we adhere to the position in the proposed rulemaking. The small producer is given a higher rate in recognition of his higher risks and costs in the discovery and development of reserves. Any supposed differences in operating costs played no part in setting the small producer differential.

Once the small producer has risked and succeeded, no purpose is served by limiting his choice in recovering his investment over time or by a capital sale. No public interest is served by preventing the small producer from recovering his investment at once, even if he wishes to retire with it. And it would certainly be counterproductive to prevent a small producer from recovering his capital by sale of reserves, and thus financing more drilling.

For reserves sold in the future, with knowledge of these rules, there can be no doubt that gas that can be sold at a 30 percent premium will command an equivalently higher price when sold in place. Thus, the putative large producer purchaser will reap no windfall; rather, the small producer will simply be assisted in gaining the promised reward for his efforts. Accordingly, we will provide that a large producer which acquires small producer reserves in place on or after the date of this order may collect the applicable small producer rates for jurisdictional sales from such reserves. We will also provide, however, that a large producer may not receive small producer rate treatment for sales from small producer reserves acquired by conversion of an overriding royalty interest to a working interest, from certain behind-the-plant small producer reserves, and from small producer reserves held by a large producer on July 13, 1977. We believe these limitations are reasonable and will serve to prevent windfalls to large producers.

Overriding royalty agreements executed prior to the issuance of this order were presumably negotiated on the basis of the applicable large producer ceiling rates. Allowance of the small producer rates to the large producer would, therefore, result in a windfall to the large producer. In addition, permitting the large producer to charge small producer rates would tend to encourage conversions of overriding royalty interests to working interests by large producers to the detriment of small producers. Conversion rights negotiated subsequent to the issuance of this order will be based upon our action in Opinion No. 742, as amended, which permits no price differential between large producer and small producer sales from wells commenced on or before January 1, 1975.

Sales of gas made pursuant to percentage sales contracts are not eligible for small producer treatment. Thus, it is clearly not in the public interest to allow a large producer plant owner to collect small producer rates where it purchases a small producer's behind-the-plant reserves in place, unless sales from such reserves are being made as small producer sales under a fixed-price contract at the time this order issues.

Finally, there is no justification for permitting a large producer to charge small producer rates for sales from small producer reserves held by a large producer immediately prior to the issuance of this order. Since the large producer holding the small producer reserves on July 13, 1977, is not entitled to collect small producer rates, it obviously would make litttle sense to permit these small producer reserves to receive small producer rate treatment upon being sold to another large producer. Where, however, a large producer holding small producer reserves on July 13, 1977, had itself developed these small producer reserves (see, for example, Mesa's situation described hereinabove at pp. 10–11), a large producer purchaser of such reserves would be entitled to collect the applicable small producer rates.

There is no need for concern on the part of CIG with respect to its comments in connection with a producing affiliate of an interstate pipeline. Where the producing affiliate of a Class A pipeline acquires small producer reserves, it will be accorded the same treatment which would be accorded a large producer.

Phillips submits that a large producer processor should be permitted to utilize an area rate provision in its resale contract to obtain the rate it pays a small producer plus the historical differential between the large producer's purchase and resale prices. We will reject Phillips' proposal for the same reasons we rejected it in the rulemaking proceedings in Docket No. R–393.[9]

No specific objections have been raised to the relatively minor additional data proposed in the rulemaking notice to be required from pipeline and large producer purchasers by the revisions of § 157.40(g), namely, a showing of the just and reasonable rate applicable to each sale involved and the docket number of the small producer certificate covering the sale. Upon re-evaluation, however, we think that purchasers should no longer be required to submit new contracts and amendatory agreements entered into with small producers. In lieu thereof, we will provide that such purchasers must submit semi-annual reports, by each April 1 and September 1, listing all contracts and contract amendments for new or additional purchases from small producers commenced during the respective periods July 1 through December 31 and January 1 through June 30 immediately preceding such report dates. The reports must show the exact names of the small producers, their small producer certificate docket numbers, dates of contracts and contract amendments, dates of commencement of purchases, initial contract rates, just and reasonable rates applicable when service commenced, sources of the gas, and estimated additional annual volumes.

Similarly, we will require the purchasers to file semi-annual reports of cessations of service by small producer suppliers, in lieu of a separate notification for each such cessation. The reports must show the exact names of the small producers, their small producer certificate docket numbers, the dates of the contracts under which the services had been rendered and also of any cancellation agreements (and whether partial or complete cancellation), the sources of the gas, and the reasons for the cessations of service.

The information we require herein is substantially that which may be expected to be included in the submittals previously required together with that which was proposed to be sought in the rulemaking notice herein. This revision should relieve the pipeline and large producer purchasers of the burden and cost of frequent submittals of contracts and amendments.

No objections were filed to the proposed revision to tie the interest rate on any refund amounts to that prescribed from time to time in § 154.102, in lieu of specifically stating an interest rate in § 157.40(h). As stated in the rulemaking notice, this change will help to eliminate any confusion which now exists and accordingly, we will adopt it.

In our rulemaking notice we also proposed to amend Part 250, Forms, in Sections 250.10 and 250.11, by substituting revised FPC Forms 314–A, Application for Small Producer Certificate, and 314–B, Annual Statement for Independent Producer Holding Small Producer Certificate, for those now in use. This matter is still under consideration and this proceeding will remain open with respect thereto.

The Commission finds: (1) The notice and opportunity to participate in this rulemaking proceeding through the submission, in writing, of data, views, comments, and suggestions are in accordance with all procedural requirements therefor as prescribed in section 554, Title 5 of the United States Code.

[9] See Opinion No. 742, pp. 9–10, issued August 28, 1975.

(2) The action taken herein is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the additional amendments to § 157.40 of the Commission's regulations under the Natural Gas Act prescribed herein are consistent with the prime purpose of the proposed rulemaking, further notice thereof is unnecessary.

(4) In view of the purpose, intent, and effect of the amendments herein ordered, good cause exists for making the amendments effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Section 4, 5, 7, and 16 (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o), orders:

(A) Section 157.40 in Part 157, Subchapter E, of Chapter I, Title 18 of the Code of Federal Regulations is amended to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

(a) *Definitions.* (1) A "small producer" is an independent producer of natural gas as defined in § 154.91 of this chapter who is not affiliated with a Class A natural gas pipeline company and whose total "jurisdictional sales" on a nationwide basis, together with such sales by "affiliated producers," were not in excess of 10,000,000 Mcf at 14.73 psia during the preceding calendar year. A small producer as defined above will retain small producer status through March 31 of the calendar year following that in which its total jurisdictional sales (including sales by affiliates) first exceed the 10,000,000 Mcf limitation, except that if a small producer merges with, acquires, is acquired by, or otherwise becomes affiliated with (i) another producer or a jurisdictional pipeline company other than Class A and the total jurisdictional sales volumes of such parties exceeded 10,000,000 Mcf in the immediately preceding calendar year, or (ii) a jurisdictional Class A pipeline company, said small producer's status as such will terminate effective as of the date of such merger, acquisition or other type of affiliation.

Upon termination of small producer status, the producer or its survivor (successor) will be considered to be a large producer. When a producer loses its small producer status, it shall give notice thereof to its purchasers and to the Commission within 30 days of the effective date of such occurrence. The annual statement required by § 250.11 of this chapter shall constitute notice to the Commission unless the loss of small producer status is due to merger, affiliation, etc.

Where dissolution, divestiture or other severing of affiliation occurs involving large producers, a surviving producer will be considered as having small producer status as of the date of such occurrence provided that jurisdictional sales of natural gas during the preceding calendar year attributable to the reserves acquired or retained by such surviving producer as a result of such dissolution, divestiture or other severance, together with any other jurisdictional sales it made in that year, did not exceed 10,000,000 Mcf, and the producer meets the other qualifications also.

(2) As used in this section, the term "jurisdictional sales" includes: (i) Volumes sold under limited-term and optional procedure certificates (§§ 2.70 and 2.75, respectively, of this chapter), (ii) volumes sold under the emergency provisions of the Natural Gas Act and the Commission's regulations thereunder, (iii) volumes attributable to royalty and overriding royalty interests where such volumes were marketed with the related working interests of the producer in question, (iv) volumes of gas paid for but not taken under prepayment clauses and (v) volumes of gas sold by others in the proportion that the independent producer seeking to come within this section, or an affiliate, has an interest in such sales. However, sales made pursuant to percentage sales contracts (§ 154.91(e) of this chapter), even where jurisdictional, are not to be included. For the further purposes hereof, each partner in a limited partnership will be considered as the seller of that portion of the total volumes sold by the partnership which corresponds to that partner's interest in the partnership, whether such partner be a general or a limited partner.

(3) "Affiliated producers" are persons who, directly or indirectly, control, or are controlled by, or are under common control with, the applicant producer. Such control exists if the producer has the power to direct or cause the direction of, or as a matter of actual practice does direct, the management and policies of another producer, whether such power is exercised alone or through one or more intermediary companies, or pursuant to an agreement, and whether such power or practice is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, relationship of blood or marriage, or any other direct or indirect means. For the further purposes of this section the term "agreement" shall not include any agreement for the operation of a natural gas producing property or a plant processing natural gas or any joint venture, partnership, nominee, or other type of agreement pertaining to the joint exploration for and development and operation of oil and gas properties, unless such agreement otherwise establishes the power of one producer to direct or cause the direction of the management and policy of another producer. In limited partnerships, general partners shall be considered affiliated with each other, but limited partners shall not be considered affiliated with each other or with the general partners where no affiliations exist outside of the partnerships. Also, for the further purposes of this section, the existence of one

or more directors of a corporation in common with another corporation shall be deemed a conclusive presumption of affiliation and control.

(4) "Small producer reserves" are: (i) Reserves developed by a natural gas company while in the status of a "small producer" as defined in paragraph (a)(1) of this section; (ii) developed reserves held on March 17, 1971, by a small producer, regardless of whether such reserves were developed by a large or small producer, and (iii) reserves developed by a large producer which was formerly a small producer underlying acreage previously dedicated to the interstate market under that producer's small producer certificate pursuant to a contract dated while the producer was in small producer status. In the case of a limited partnership or joint venture having both large and small producers as partners or joint venturers, reserves developed by the partnership or joint venture shall be allocated as large producer and small producer reserves in proportion to their respective percentages of ownership of the partnership at the time the reserves are developed. Reserves attributable to royalty and overriding royalty interests shall have the same classifications as the working interests to which they relate.

(5) "Small producer sales" are sales of natural gas made pursuant to authorization granted under this section from small producer reserves, whether such sales are made under a small producer's or any other party's contract. Percentage sales and sales made under certificates issued pursuant to §§ 2.70 and 2.75 of this chapter are not considered small producer sales.

(b) *Procedure for securing blanket small producer certificate.* (1) A small producer may apply for a blanket certificate to cover all of its existing and future jurisdictional small producer sales, as well as small producer sales attributable to interests of small producer co-owners specifically identified by the applicant. Sales which do not qualify as small producer sales, including sales from certain large producer working interests but excluding percentage sales and sales authorized pursuant to §§ 2.70 and 2.75 of this chapter, may be covered by the small producer certificate, subject to the rate limitations applicable to comparable large producer sales or otherwise applicable, as set forth in paragraph (c) of this section, provided that the applicant clearly identifies any such other sales.

(2) With respect to sales under any contract of the small producer applicant of gas attributable to large producer working interests, such sales may only be covered by the small producer certificate if the small producer is the operator of the producing properties involved and the total of the sales attributable to all of such large producer working interests (including royalty interests related to such working interests) does not exceed 20 percent of the total sales under such contract during a calender year. Following any calendar year during which this limit is exceeded, all large producers involved shall be responsible for obtaining separate certificate authorization and filing a rate schedule for their working interests in the sale in question. Where large producer interests in a particular sale are to be covered by a small producer certificate, the application shall list all large producers who have committed their working interests under the contract in question, together with their respective percentages of ownership, and clearly specify which of such interests are to be considered covered by the small producer certificate.

(3) For the purposes hereof, interests in a limited partnership shall be treated as comparable to working interests in the properties of the partnership. General partners in limited partnerships shall be considered as comparable to operators of producing properties. Thus, if such a general partner already has a small producer certificate in its name when the limited partnership is formed, it need only file the certification provided for in subparagraph (6) of this paragraph in order to have such certificate cover the sales by the limited partnership, subject to the limitation set forth in subparagraph (2) of this paragraph as to coverage of large producer interests. Coverage of a limited partnership's sales under a general partner's certificate, however, shall not constitute authorization for other partners, limited or general, to make sales outside of the partnership.

(4) The application shall contain all of the information required by the form prescribed in § 250.10 of this chapter. A conformed copy shall be served upon each of the applicant's purchasers.

(5) Each applicant for a small producer certificate must file a separate application therefor. However, affiliated producers may file a joint application, but each such affiliate which is to be covered must be clearly identified. Coverage will not extend to affiliates not so identified.

(6) If after filing a small producer application the producer desires to have its small producer certificate cover additional sales which are other than small producer sales but which are not otherwise prohibited from being covered, it need only submit to the Commission a certification to that effect, under oath, and furnish copies of such certification to affected parties. The certification should clearly identify all interests to be covered and show the percentage of ownership for each large producer interest to be covered. No further action by the Commission will be necessary other than acknowledgement by the Secretary. Such coverage will be effective as of the date of filing of the aforesaid certification with the Commission.

(c) *Rate and certificate regulation under blanket certificate.* (1) Small producers certificated hereunder shall be authorized to make small producer sales nationwide pursuant to existing and future contracts at the following rate levels, to the extent contractually permitted:

(i) All sales of natural gas by small producers for resale in interstate commerce made in accordance with, and under the provisions of, Opinion Nos. 749, *et seq.*, shall be made at a maximum base rate of 35.0 cents per Mcf at 14.73 psia except as provided for below:

(A) For gas produced in the Permian Basin Area, as defined by Opinion Nos. 662 and 662–A, and sold pursuant to contracts dated on or after October 1, 1968, small producers shall be entitled to collect a maximum base rate of 40.5 cents per Mcf at 14.73 psia.

(B) For gas produced in the Rocky Mountain Area, as defined in § 154.109b of this chapter, and sold pursuant to contracts dated on or after October 1, 1968, small producers shall be entitled to collect a maximum base rate of 40.5 cents per Mcf at 14.73 psia.

(ii) All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate (52.0 cents per Mcf at 14.73 psia, with escalations of 1.0¢ per annum commencing January 1, 1977) set forth in § 2.56a(a)(5) of the Commission's Statements of General Policy and Interpretations, as prescribed by Opinion No. 770, *et seq.*, shall be made at a maximum base rate of 130 percent of that ceiling rate.

(iii) All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate (93.0 cents per Mcf at 14.73 psia, with escalations of 1.0 cent per annum commencing January 1, 1977) set forth in § 2.56a(a)(3) of the Commission's Statements of General Policy and Interpretations, as prescribed by Opinion No. 770, *et seq.*, shall be made at a maximum base rate of 130 percent of that ceiling rate.

(iv) All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate ($1.42 per Mcf at 14.73 psia, with escalations of 1.0 cent per quarter commencing October 1, 1976) set forth in § 2.56a(a)(1) of the Commission's Statements of General Policy and Interpretations, as prescribed by Opinion No. 770, *et seq.*, shall be made at a rate no higher than that ceiling rate.

Each of such small producer base rates is subject to the same adjustments as may be applicable from time to time to the corresponding base rates of large producers under Commission orders of general applicability. Each applicable rate may be charged and received by the small producer and paid by the purchaser as the lawful, just and reasonable rate approved by the Commission pursuant Sections 4, 5 and 7 of the Act.

(2) Rate regulation as prescribed herein shall not apply to any jurisdictional sales made by a small producer under its small producer certificate other than its small producer sales as defined in paragraph (a)(5) of this section. Any such other sales made under the small producer certificate shall be subject to the rate limitations applicable to comparable large producer sales or otherwise applicable.

(3) Any amounts collected attributable to the small producer rate differential for sales of gas which are ultimately determined not to be small producer sales shall be subject to refund with interest at the rate prescribed in § 154.102 of this chapter.

(4) Nothing done hereunder shall be recognized by the Commission as triggering any escalation clause in an existing contract involving a producer not covered by a small producer certificate, except as provided in paragraph (f) of this section.

(5) No small producer shall be relieved from compliance with Section 7(b) of the Natural Gas Act with respect to any jurisdictional sales made by such producer (see §§ 157.30 and 157.39 of this part).

(d) *Duration of the exemption.* The exemption authorized hereunder shall remain in effect until the producer granted the exemption no longer qualifies as a small producer (i.e., through March 31 of the year immediately following the calendar year in which the producer's jurisdictional sales, including affiliates' sales, first exceed the 10,000,000 Mcf limitation, or until the producer otherwise loses its small producer status as set forth in paragraph (a)(1) of this section) or fails to comply with the terms of the exemption. The small producer certificate shall automatically terminate simultaneously with the loss of small producer status as to new sales under contracts dated on or after the termination date, but the exemption will still be effective as to those sales under contracts dated prior to the termination date which were previously covered by the small producer certificate (except as provided in paragraph (f) of this section), including sales which are other than small producer sales and which are made at rates limited to those allowed for comparable large producer sales or otherwise limited. Upon termination of the exemption, the producer will be required to file separate certificate applications and indiviual rate schedules for future sales.

(e) *Effective date and reinstatement of small producer certificate.* A small producer certificate issued pursuant to this section shall be effective as of the date of filing if the application therefor was filed after May 3, 1971. If the exemption is terminated pursuant to paragraph (d) of this section and the producer subsequently regains small producer status, it must file an application to reinstate its small producer certificate with respect to new small producer sales, which reinstatement, when approved, will be effective as of the filing date of the application therefor. The application for reinstatement shall contain the same information as is required for a new small producer certificate, but information previously filed may be incorporated by reference.

(f) *Filings by large producers with respect to related resales and sales from small producer reserves acquired in place.* (1) A large producer (including, for the purposes hereof, a producing affiliate of a Class A natural gas pipeline company) may file for the price specified in its related contract for the resale of any natural gas sold to it by a small producer pursuant to the exemption authorized hereunder. In determining whether to accept or suspend such a filing, the Commission shall be guided by the rate level sought and the size of the differential between the purchase and resale price. A large producer under an area rate clause in its resale contract may file for the rate paid by it for gas purchased from a small producer as long as the rate does not exceed the applicable just and reasonable rate prescribed in paragraph (c) of this section.

(2) A large producer which acquires small producer reserves in place on or after July 14, 1977, regardless of whether such acquisition is by assignment, merger, acquisition of the stock of a small producer entity or other means, may, if contractually authorized, charge the applicable small producer rates for any jurisdictional sales from such reserves; *Provided, however,* That a large producer shall not be entitled to small producer rates (i) for sales from small producer reserves acquired by conversion of an overriding royalty interest to a working interest or (ii) for sales from small producer reserves being made on July 13, 1977, which did not qualify as small producer sales on that date (e.g., percentage sales and sales from small producer reserves acquired in place by a large producer on or before that date).

(g) *Reports by purchasers from small producers.* (1) By April 1 and September 1 of each calendar year, all natural gas pipeline companies and large producers which commenced new or additional purchases of natural gas from small producers pursuant to small producer certificates held or applied for by the latter shall file reports covering the respective six-month periods July 1 through December 31 and January 1 through June 30 immediately preceding each such report date, showing the following information:

(i) In alphabetical order, the exact names of all small producers from whom new or additional purchases were commenced during the six-month period covered by the report.

(ii) The docket number of each producer's small producer certificate or application therefor.

(iii) The date of each contract or contract amendment covering the new or additional purchase of gas.

(iv) The date each purchase commenced.

(v) The initial contract rate for each purchase.

(vi) The just and reasonable rate applicable at the time service commenced.

(vii) The source of the gas (field or area, country or parish and state).

(viii) Estimated annual volumes for each new or additional purchase (include only those volumes to be covered by the small producer certificate listed).

(2) By April 1 and September 1 of each calendar year, natural gas pipeline companies and large producers shall also file reports of any cessations of service to them by small producers occurring during the respective six-month periods July 1 through December 31 and January 1 through June 30 immediately preceding each such report date, showing the following information:

(i) In alphabetical order, the exact names of all such small producers.

(ii) The docket number of the small producer certificate under which each terminated service had been rendered.

(iii) The date of the contract under which each service had been rendered and also of any cancellation agreement between the parties, designating whether the contract is cancelled in whole or in part.

(iv) The source of the gas (field or area, county or parish, and state).

(v) The date of each cessation of service.

(vi) The reasons for each cessation of service.

(h) *Resale authorization for large producer.* A large producer who has filed on or after July 15, 1971, an application for a certificate of public convenience and necessity for the resale of natural gas purchased from a small producer authorized to sell such gas pursuant to the blanket small producer certificate provisions in paragraph (c) of this section may resell such gas at any time after the filing of such certificate application pending final Commission action thereon. Any amounts collected by a large producer for resales made pursuant to this paragraph in excess of the rate finally determined to be required by the public convenience and necessity for such resales shall be subject to refund with interest at the rate prescribed in § 154.102 of this chapter.

(B) The amendments adopted herein shall be effective upon issuance of this order.

(C) This proceeding will remain open for the purpose of considering our proposal to amend Part 250, Forms, in §§ 250.10 and 250.11.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

MEMORANDUM No. IP77–159; ATTACHMENT A

Respondents to proposed rulemaking in Docket No. RM76–15:

PRODUCER GROUPS

Phillips Petroleum Co. (Phillips)
Independent Petroleum Association of America (IPAA)
Coquina Oil Corporation, et al. (Coquina) [10]
Tesoro Petroleum Corp. (Tesoro)
Mesa Petroleum Co. (Mesa)
Oil Investment Institute (OII) [10]
Texaco, Inc. (Texaco)
Bel Oil Corp., et al. (Bel)
McCormick Oil & Gas Corp. (McCormick)
Aminoil Development, Inc., et al. (Aminoil)
Sun Oil Co. (Sun)
John Schalk, et al. (Schalk)

[10] Requested extension of time for filing comments but never filed.

PIPELINE GROUPS

Colorado Interstate Gas Co. (CIG)
Northern Natural Gas Co. (Northern)
Consolidated Gas Supply Corp. (Consolidated)
United Gas Pipe Line Co. (United)
Texas Gas Transmission Corp. (Texas Gas)
Natural Gas Pipeline Co. of America (Natural)
The Columbia Gas System Cos. (Columbia)

OTHERS

American Public Gas Association (APGA)

[FR Doc.77-22109 Filed 8-1-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974 .....)

Subpart C—Filing of Applications and Other Forms

Subpart G—Reporting Requirements

Subpart M—Suspensions and Terminations

REPORTING REQUIREMENTS OF APPLICANTS AND RECIPIENTS AND VOLUNTARY TERMINATION OF ELIGIBILITY FOR BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The amendments permit an eligible recipient (or his legal guardian or representative payee on his behalf) to request that his eligibility for supplemental security income benefits under title XVI of the Social Security Act be terminated. They also provide the Social Security Administration with specific authority to deny eligibility or to suspend eligibility for title XVI benefits where an applicant or a recipient refuses or fails to comply with a Social Security Administration request for information needed to determine initial eligibility, continuing eligibility, or the amount of payment.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvel Cazer, Legal Assistant, 6401 Security Blvd., Baltimore, Md. 21235, telephone 301-594-7463.

SUPPLEMENTARY INFORMATION: On February 11, 1976, a Notice of Proposed Rule Making and proposed amendments to Subparts C, G, and M of Regulations No. 16 was published in the FEDERAL REGISTER (41 FR 6074).

REQUEST FOR TERMINATION OF ELIGIBILITY

The major change made by these amendments is the addition of a provision to the regulations to permit an eligible recipient (his legal guardian or his representative payee) to request that his eligibility for supplemental security income (SSI) benefits under Title XVI of the Social Security Act be terminated. This provision is being added because there are situations in which an individual's eligibility for supplemental security income bars him from qualifying for other more advantageous benefits. The removal of this impediment to the receipt of other benefits is consistent with the underlying purpose of the supplemental security income program to meet the essential needs of those aged, blind, and disabled individuals with inadequate incomes. In addition, it promotes the maximum utilization of all available sources of income. Previously, an individual's only option in such a situation was to withdraw his claim for supplemental security income benefits, which requires repayment of all monies previously paid. Under the amendments a recipient may simply request that his eligibility for benefits be terminated. The termination will generally be effective with the month following the month the request is filed with the Social Security Administration, unless the recipient specifies some other month. To insure that no payment is retained after the effective month of termination, the Social Security Administration must be assured that repayment will be made by the recipient for any payment incorrectly received. This is necessary because benefits are not payable when eligibility has terminated.

REFUSAL OR FAILURE TO PRODUCE EVIDENCE

In addition, these amendments provide the Social Security Administration with authority to deny or suspend eligibility for supplemental security income benefits where an applicant or recipient refuses or fails to furnish information needed to determine initial eligibility, continuing eligibility, or the amount of benefits. This is necessary to assure that benefits are provided only to persons who are eligible and that the amounts of such benefits are correct. While the regulations have required the reporting of specified events or facts which may affect eligibility or the amount of benefits paid to an individual, there has heretofore existed no specific authority for the Social Security Administration to deny eligibility or to stop payment in the face of refusal by or failure of an applicant or recipient to furnish such information. A determination of ineligibility to receive payments because of an individual's failure to comply with a request for information would not be made with respect to any month for which a determination concerning eligibility or the amount of payment can be made based on information of record. Any adverse determination would be effectuated only after compliance with the applicable procedural safeguards provided in Subpart N of Regulation No. 16.

COMMENTS ON NOTICE OF PROPOSED RULE MAKING

Interested parties were given the opportunity to submit within 30 days data, comments, or arguments with regard to the proposed amendments.

The only comment relating to the new § 416.337 concerned an apparent lack of specificity as to the extent or kind of information to be required of an applicant and the inclusion of a "good cause" provision to permit an extension of time that would provide a safeguard where the applicant is unable to furnish the requested information within the required time. We believe, however, that existing regulations adequately provide the desired specificity. The issue of good cause becomes pertinent only in new claims situations after a notice of denial is received and in post eligibility situations after a notice of planned action is received. Should an individual get in touch with the Social Security Administration and supply the requested evidence after receiving an adverse notice, the rules of administrative finality in §§ 416.1475, 416.1477, and 416.1479 prevail and the adverse determination would be reopened and revised. Additionally, in post eligibility situations the claimant, upon appealing the adverse determination within the prescribed period as reflected in § 416.1336(c), will have his benefit payments continued until such time as the appellate decision on the appeal is made.

Two commenters suggested that the 15 day period provided in the new paragraph § 416.705(b) for recipients to respond to a Social Security Administration request for information was inadequate. As a result of these comments, the time within which the Social Security Administration may require an eligible individual, eligible spouse, or the representative payee of either to submit requested information has been changed from 15 to 30 days. Also, as a result of one commenter's suggestion, a cross-reference to § 416.1336—Notice of proposed adverse action affecting recipient's payment status—has been added to new § 416.1322.

One commenter expressed concern that the new § 416.1322 would permit the Social Security Administration to suspend an individual's payments for failure to furnish information requested by the Administration even where the information already on record is sufficient for a determination as to continuing eligibility or amount of payment. This should not occur because § 416.1322 provides that:

"(a) Suspension of payment for this reason (failure to comply with a request for information) will not apply with respect to any month for which a determination as to eligibility for or amount of payment can be made based on information on record, whether or not furnished by * * *" an eligible individual, eligible spouse, or the representative payee of either.

Concern was expressed by one commenter over problems likely to arise where an individual furnishes the requested information subsequent to the notice of proposed suspension of payment of benefits but prior to the expiration of the appeal period. Where the requested information is received prior to the end of the appeal period, the proposed suspension does not take place. Even where the appeal period has expired and payment has been suspended, reinstatement of payment from the month of suspension would be made so long as the individual is eligible for all such months, and the requested information is received prior to the end of 12 calendar months following the suspension month. After the 12 calendar months have elapsed, however, the payment would be terminated and a new application would be required, unless good cause is established (§ 416.1479), which would effect payment beginning with the month the new application is filed (§ 416.1335).

One commenter also suggested that provision be made in § 416.1333 enabling the representative payee to terminate an individual's eligibility for supplemental security income benefits. The regulations have, therefore, been revised to permit termination by a legal guardian or a representative payee in limited circumstances. An individual who has, by court appointment, the status of legal guardian may properly execute a request for termination of supplemental security income eligibility for the recipient, since that individual has legal authority to act in place of the recipient. However, a payee who is not also a legal guardian of the recipient, does not stand in the place of the recipient. He or she is selected only for the purpose of facilitating payment for the use and benefit of the incapable recipient. Therefore, where a payee who is not a legal guardian requests a termination, the Social Security Administration will honor the request only when such payee establishes that no hardship would result if eligibility of the recipient were terminated. This provision is incorporated into § 416.1333.

Two commenters were concerned that § 416.1333 will allow individuals to terminate supplemental security income benefits to their own detriment, such as loss of medical assistance under title XIX of the Social Security Act, because of a lack of full knowledge of the effects of the termination action. We believe that § 416.1333 adequately covers this point by providing that a recipient file a written request for the termination which reflects an understanding that such termination may extend to other benefits resulting from eligibility for Supplemental Security Income.

While agreeing with voluntary removal from the Supplemental Security Income program, another commenter expressed concern that § 416.1333, as written, will lead to massive defections from the Federal supplemental security income rolls to the general assistance rolls in those States where the general assistance benefit levels are higher than the supplemental security income benefit levels, thereby presenting serious fiscal and administrative problems for those jurisdictions. There is nothing in the law that expressly or impliedly indicates than an individual has no choice but to remain on the supplemental security income rolls for as long as he remains eligible. This same commenter recommended that the regulation covering voluntary termination be amended to either bar a recipient from terminating supplemental security income eligibility in order to apply for State general assistance or specifically authorize States to enact such legislation. There is no authority under title XVI of the Social Security Act to impose restrictions on the individual's right to apply for State benefits as a condition for voluntary termination of supplemental security income benefits. Similarly, with respect to the second alternative, there is no authority under title XVI of the Social Security Act which would permit the Federal government to specifically authorize or require a State to enact legislation governing such States' general assistance programs. Eligibility for such programs is a matter of State law.

A final commenter, while agreeing with the right of voluntary termination of supplemental security income benefits, expressed concern over the interruption of financial assistance that would occur where other benefits do not commence immediately with the month following the last month of supplemental security income benefits. Every effort will be made to insure against such occurrences where the new benefit is a Federal benefit. In addition, the recipient is given the ability to establish the month in which termination is effective, subject to certain limitations.

Accordingly, the proposed amendments are hereby adopted as revised and are set forth below.

(Secs. 1102 and 1631 of the Social Security Act as amended; 49 Stat. 647, as amended, 86 Stat. 1475, as amended; 42 U.S.C. 1302 and 1383.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 11, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 25, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III, Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.337 is added to read as follows:

§ 416.337 Responsibility of claimant prior to final determination on application.

(a) Any applicant (as defined in § 416.301(b)) is responsible for reporting the events described in § 416.703 where a final determination has not been rendered upon such applicant's application.

(b) Any applicant, who is requested in writing by the Social Security Administration to submit evidence necessary to a final determination on his application and who fails to submit such evidence within 30 days from the date of request, may be found ineligible to receive benefits under this part and his application denied if the record does not contain sufficient information upon which a determination of eligibility for and the amount of payment can be made.

2. Section 416.340, paragraph (b)(2) is revised and a new paragraph (d) is added to read as follows:

§ 416.340 Withdrawal of application.

(a) * * *

(b) *After adjudication of the application.* An application may be withdrawn by a written request filed after the Social Security Administration makes a determination on the application provided that:

* * * * *

(2) Any other person whose eligibility would be rendered erroneous by such withdrawal consents in writing thereto (or such written consent is given on behalf of such other person by an individual authorized to execute an application on his behalf), and

* * * * *

(d) *Voluntary termination as an alternative to withdrawal after adjudication of the application.* As an alternative to withdrawal of an application after adjudication, the individual may request that his eligibility for benefits under this Part be terminated (see § 416.1333).

3. Section 416.705 is amended by revising and redesignating the first paragraph as (a) and by adding a new paragraph (b) to read as follows:

§ 416.705 Reports required.

(a) *Responsibility for reporting.* An eligible individual, an eligible spouse, or the representative payee of such individual or spouse, is responsible for reporting the events described in § 416.703. An eligible individual or eligible spouse who has been legally adjudged incompetent will not be held responsible for reporting the events described in § 416.703.

(b) *Failure of recipient to furnish required information.* The Social Security Administration may request an eligible individual, eligible spouse, or the representative payee of either to submit a written statement or report giving pertinent information necessary for a determination concerning the continuing eligibility for or amount of payment. If the record does not contain sufficient information upon which such a determination can be made, the failure of such individual to submit the necessary information within 30 days of the date the Social Security Administration makes written request for such information, may result in a determination of ineligibility to receive benefits under this part (see § 416.1322).

4. Sections 416.1322 and 416.1333 are added to read as follows:

§ 416.1322 Suspension due to failure to comply with request for information.

Suspension of benefit payments is required effective with the month fol-

lowing the month in which it is determined in accordance with § 416.705(b) that the individual is ineligible for payment due to his failure to comply with the Social Security Administration's request for necessary information. A suspension of payment for this reason will not apply with respect to any month for which a determination as to eligibility for or amount of payment can be made based on information on record, whether or not furnished by an individual specified in § 416.705(a). Where it is determined that the information of record does not permit a determination with respect to eligibility for or amount of payment, notice of a suspension of payment due to a recipient's failure to comply with a request for information will be sent in accordance with §§ 416.1336 and 416.1404.

§ 416.1333 Termination at the request of the recipient.

A recipient, his legal guardian, or his representative payee, may terminate his eligibility for benefits under this part by filing a written request for termination which shows an understanding that such termination may extend to other benefits resulting from eligibility under this part. In the case of a representative payee there must also be a showing which establishes that no hardship would result if an eligible recipient were not covered by the supplemental security income program. When such a request is filed, the recipient ceases to be an eligible individual, or eligible spouse, effective with the month following the month the request is filed with the Social Security Administration unless the recipient specifies some other month. However, the Social Security Administration will not effectuate the request for any month for which payment has been or will be made unless there is repayment, or assurance of repayment, of any amounts paid for those months (e.g., from special payments which would be payable for such months under section 228 of the Act). When the Social Security Administration effectuates a termination of eligibility at the request of the recipient, his legal guardian, or his representative payee, notice of the determination will be sent in accordance with § 416.1404, and eligibility, once terminated, can be reestablished, except as provided by § 416.1408, only upon the filing of a new application.

[FR Doc.77-21759 Filed 8-1-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77N-0127]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

MEDICAL DEVICE AMENDMENTS OF 1976

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations setting forth delegations of authority to provide new delegations under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Administration (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-4976).

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (21 U.S.C. 360c-360k) extensively broadened the Food and Drug Administration's (FDA) authority to assure the safety and effectiveness of medical devices. The delegations of certain authority, which are granted by these amendments to FDA field officials and the Director, Bureau of Medical Devices, will enable them to initiate FDA enforcement activities in an efficient and timely manner and to make certain decisions that need not be made by the Commissioner.

Further redelegation of the authority delegated by this amendment is not authorized. Authority redelegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended as follows:

1. In § 5.45, by revising the section heading and adding new paragraph (e) to read as follows:

§ 5.45 Imports and exports.

* * * * *

(e) The Director of the Bureau of Medical Devices, Regional Food and Drug Directors, and District Directors are authorized to perform all of the functions of the Commissioner of Food and Drugs pertaining to exportation of medical devices under section 801(d) of the Federal Food, Drug, and Cosmetic Act.

2. By adding new §§ 5.47, 5.50, 5.52, 5.53, 5.54, 5.55, and 5.59 to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

The Director of the Bureau of Medical Devices, Regional Food and Drug Directors, and District Directors are authorized to perform all of the functions of the Commissioner of Food and Drugs pertaining to detention of possibly adultereated or misbranded medical devices under section 304(g) of the Federal Food, Drug, and Cosmetic Act.

§ 5.50 Notification to petitioners of determinations made on petitions for reclassifictaion of medical devices.

The Director of the Bureau of Medical Devices is authorized to notify petitioners of:

(a) Determinations made on petitions for reclassification of medical devices that are classified in class III (premarket approval) by section 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act;

(b) Denials of petitions for reclassification of medical devices that are submitted under section 513(e) (except for petitions submitted in response to FEDERAL REGISTER notices initiating standard-setting under section 514(b) or premarket approval under section 515(b)).

§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.

The Director of the Bureau of Medical Devices is authorized to notify sponsors of deficiencies in petitions for reclassification of medical devices submitted under sections 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act.

§ 5.53 Approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices.

(a) The Director of the Bureau of Medical Devices is authorized to approve, disapprove, revoke, or declare as complete or incomplete product development protocols for medical devices submitted under section 515(f) of the Federal Food, Drug, and Cosmetic Act.

(b) The Director of the Bureau of Medical Devices is authorized to approve, disapprove, or withdraw approval of applications for premarket approval for medical devices submitted under section 515 and 520(l) of the Federal Food, Drug, and Cosmetic Act.

(c) The Director of the Bureau of Drugs is authorized to approve, disapprove, or withdraw approval of applications for premarket approval for medical devices submitted under section 515 of the Federal Food, Drug, and Cosmetic Act or which are subject to the provisions of section 520(l) of the act.

§ 5.54 Determinations that medical devices present unreasonable risk of substantial harm.

The Director of the Bureau of Medical Devices is authorized to determine that medical devices present unreasonable risk of substantial harm to the public health, and to order adequate notification thereof, under section 518(a) of the Federal Food, Drug, and Cosmetic Act.

§ 5.55 Orders to repair or replace, or make refunds for, medical devices.

The Director of the Bureau of Medical Devices is authorized to order repair or replacement of, or refund for, medical devices under sections 518 (b) and (c) of the Federal Food, Drug, and Cosmetic Act.

§ 5.59 Approval, disapproval, or termination of applications for investigational device exemptions.

The Director of the Bureau of Medical Devices is authorized to approve, disapprove, or terminate applications for investigational device exemptions under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

3. By revising § 5.78 to read as follows:

§ 5.78 Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs.

(a) The Director, Deputy Director, and Assistant Director for Regulatory Affairs of the Bureau of Drugs are authorized to perform all of the functions of the Commissioner of Food and Drugs under section 507 of the Federal Food, Drug, and Cosmetic Act regarding the issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use.

(b) The Director of the Bureau of Medical Devices is authorized to perform all of the functions of the Commissioner of Food and Drugs under section 507 of the Federal Food, Drug, and Cosmetic Act regarding the issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use contained in medical devices.

Effective date: This regulation shall be effective August 2, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: July 26, 1977.

SHERWIN GARDNER,
Deputy Commissioner of Food and Drugs.

[FR Doc.77-22209 Filed 8-1-77;8:45 am]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76P-0128]

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

Provolone, Caciocavallo Siciliano, Mozzarella, and Low Moisture Mozzarella Cheeses; Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the standards of identity for certain varieties of Italian cheeses. It is issued in response to a petition from the National Cheese Institute. It permits the addition of safe and suitable antimycotic agents (mold-inhibiting ingredients) during the manufacturing process and requires labeling of all optional ingredients.

DATES: Effective July 1, 1979 for all products initially introduced into interstate commerce on or after this date; voluntary compliance beginning October 3, 1977; objections by September 1, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1155).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of May 20, 1976 (41 FR 20690) to amend the standards of identity for provolone cheese (21 CFR 133.181, formerly 21 CFR 19.590 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), caciocavallo siciliano cheese (21 CFR 133.111, formerly 21 CFR 19.591 prior to recodification), mozzarella cheese (21 CFR 133.155, formerly 21 CFR 19.600 prior to recodification), low moisture mozzarella cheese (21 CFR 133.156, formerly 21 CFR 19.605 prior to recodification), and the cross-referenced cheeses, part-skim mozzarella cheese (21 CFR 133.157, formerly 21 CFR 19.601 prior to recodification), and low moisture part-skim mozzarella cheese (21 CFR 133.158, formerly 21 CFR 19.606 prior to recodification). The proposal was published in response to a petition from the National Cheese Institute (NCI), 110 N. Franklin St., Chicago, IL 60606. Interested persons had until July 19, 1976 to comment. The proposed amendment, slightly modified, is being adopted. Twenty comments were received from industry and consumers. Three representatives of two cheese companies supported the proposal as published. The remaining comments and the Commissioner's conclusions are as follows:

1. *Restrictiveness of proposal.* The petitioner, supported by two manufacturers, commented that the proposal is too restrictive in its provisions for use of safe and suitable antimycotics. The petitioner maintains that the proposal would not permit a manufacturer to use an antimycotic once in the cheese and again on the wrapper after the cheese is cut; the petitioner suggests that this restriction be removed by allowing the use of antimycotics in the manufacturing process and/or applied to the surface of cut forms.

Alternatively, it was suggested that all restrictions as to when antimycotics might be used be removed. If this latter suggestion were followed, paragraph (d) of each of the standards would read "Safe and suitable antimycotic agent(s) may be added to the cheese." One of the supporting comments from a manufacturer also suggested similar language.

It was not the Commissioner's intention to permit broader use of antimycotic agents than is provided for in the proposed amendments. Upon review of NCI's petition, the Commissioner found data to support only the amendments published in the proposal. The data submitted in support of this proposal showed the effectiveness of inhibiting microbial growth on the surface of various forms of stretched curd-type Italian cheeses when the antimycotics were added during the kneading and stretching process. The data further demonstrated that this procedure was just as effective, using less antimycotics per unit weight of the cheese, as when the maximum amount of antimycotics allowable under the previous standards was applied directly to the surface of these cheeses. No other data supporting the use of antimycotics during the manufacture of other varieties of cheese were submitted. The language suggested by NCI and the other comments would permit the use of antimycotics at any point in the manufacturing process as well as on the exterior of whole cheeses during ripening and aging. It was not the intention of the Commissioner to allow use of antimycotics in place of sanitary procedures and good manufacturing practices. The Commissioner intends to allow the broader use of antimycotics only where sanitary procedures and good manufacturing practice cannot assure mold-free cheese and only for cheeses where this is a serious problem. Because no data were provided to support the broadened use of antimycotic agents requested by the petitioner and the other comments, the requested change is not made.

2. *Use of additives.* Twelve comments opposed the use of antimycotic agents in Italian cheeses. The most common objection was to the addition of additives or chemicals to foods that do not naturally contain them. Three of these comments requested that the presence of additives, when added, be declared on the label. One comment said that this proposal could expand the addition of antimycotics to unpackaged cheeses, which have no label, and the consumer would no longer know whether the cheeses contain antimycotics.

The Commissioner points out that all the existing standards of identity for the cheeses included in the proposal, except mozzarella and the cross-referenced cheese, part-skim mozzarella, already allow the use of antimycotics on the surface of cuts or slices in consumer-size packages. Furthermore, their use must be declared on the label. The antimycotics currently allowed by the standards are known to migrate into the interior of the cheese when applied to the surface. A more efficient use of antimycotics, which results in use of smaller amounts, is the addition of antimycotic agents at a specific point in the manufacturing process. The point in the process when the antimycotic may be added is when the curd is brought together and kneaded and stretched under hot water (pasta filata step) as provided for in the proposal. The proposed regulations also provided that these ingredients must be declared in the label statement of ingredients when they are added to the cheese. This requirement applies whether the cheese is sold in consumer-size packages or in its bulk or wholesale form. When cheeses are bought in unpackaged form, the retailer should be able to provide the consumer with ingredient information. The Commissioner concludes that these comments do not offer adequate grounds for disallowing the use of safe and suitable antimycotics.

3. *Presence of antimycotics in whey.* Two comments supported the proposal, but pointed out that there may be problems with residual antimycotic agents in the whey. The first comment said it is likely that insignificant levels of antimycotic agents may appear in the hot water or whey used during the kneading and stretching (pasta filata) step. Because these antimycotic levels would be low, the comment requested that the antimycotics be recognized as incidental additives in accordance with 21 CFR 101.100(a)(3)(i) (formerly 21 CFR 1.10a(a)(3)(i) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The comment said that if this recognition is not granted the whey would be considered adulterated, and this could have a serious environmental and economic impact on processors and producers of whey products.

The second comment cited the same concerns as the first, but requested that the Commissioner amend the proposal to prohibit the pass-through of antimycotics to the whey.

The Commissioner intended to allow the addition of safe and suitable antimycotics to the cheese curd during the kneading and stretching (pasta filata) step of the make process. The rationale behind permitting this method of antimycotic addition to the cheeses is fully explained in the preamble to the May 20, 1976 proposal. At the pasta filata step the whey has already been drained from the curd. Some of the added antimycotic agent may leach out of the cheese and into the hot water used during kneading and stretching, but since this water is not added back to the whey, no antimycotic should enter the whey via this route. The Commissioner understands that hot whey may also be used for the same purpose as the hot water. Adherence to good manufacturing practices will provide the assurance that any whey that contains antimycotics as a result of the pasta filata step will not be used for human consumption. Because the amounts of whey that may contain antimycotics as a result of the pasta filata step are insignificant compared with the amounts of whey produced in the cheese-making process, the Commissioner is of the opinion that diverting such whey from human food use will not cause serious environmental or economic impact.

The Commissioner is of the opinion that a low residual amount of an antimycotic agent in whey cannot be considered an incidental additive in accordance with § 101.100(a)(3)(i). To be considered an incidental additive under § 101.100(a)(3)(i), the antimycotic agent would have to be introduced into the whey as a constituent of another food added to the whey as an ingredient. Since whey does not contain other foods as ingredients, the comment's suggested interpretation of § 101.100(a)(3)(i) is not proper. Furthermore, the antimycotic does not meet any of the other criteria in § 101.100(a)(3), which would qualify an ingredient as an incidental additive. If antimycotics are present in any amount, their presence must be declared on the label, or the whey may be subject to regulatory action as a misbranded food in accordance with section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)). The Commissioner also points out that the presence of antimycotics in whey would preclude that whey from meeting the USDA grade standards for dry whey (7 CFR 58.2601).

In an effort to clarify his intent, the Commissioner is amending paragraph (d) of each of the cheese standards to state that the antimycotic agent may only be added to the cheese either during the kneading and stretching step, or to the surface of cut, sliced, diced, and/or shredded forms. The Commissioner believes that this change, as set forth in the final regulation, is more in keeping with the original intent of the proposal than is strictly prohibiting the pass-through of antimycotic agents into whey as requested by the second comment.

4. *Meaning of the term "antimycotic."* The second comment in item 3 above also expressed concern that the group of substances referred to as antimycotics includes antibiotics.

The Commissioner believes that clarification of the meaning of the term "antimycotic" would be appropriate. The term "antimycotic" is used to refer to the specific group of antimicrobial agents that inhibit primarily the growth of molds and yeasts. Some of the substances included in this group may have bactericidal, as well as antimycotic, properties under certain circumstances. Regarding this final regulation, the use of any of the generally recognized as safe (GRAS) substances under 21 CFR 182.1 (formerly 21 CFR 121.101 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) or any of the food additives contained in 21 CFR Part 170 that perform a safe and suitable antimycotic function in or on the surfaces of the cheeses is permitted. Safeness and suitability of an antimycotic agent are determined in accordance with 21 CFR 130.3(d) (formerly 21 CFR 10.1(d) prior to recodification). At this time, FDA regards antibiotics primarily as drugs for clinical health use. It has been FDA policy to prohibit the general use of antibiotics in foods in order to prevent allergic reactions in antibiotic-sensitive consumers and to avoid the possible development of antibiotic-resistant pathogenic bacteria.

Accordingly, having considered the comments received, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to revise the identity standards for provolone, caciocavallo siciliano, mozzarella, and low moisture mozzarella cheeses, as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 133 is amended as follows:

1. In § 133.111 by revising paragraphs (d) and (e) and by adding new paragraph (f) to read as follows:

§ 133.111 Caciocavallo siciliano cheese; identity; label statement of optional ingredients.

* * * * *

(d) Safe and suitable antimycotic agent(s) may be added to the cheese during the kneading and stretching process or applied to the surface of cut, sliced, diced, and/or shredded forms.

(e) When caciocavallo siciliano cheese is made solely from cow's milk, the name of such cheese is "Caciocavallo siciliano cheese." When made from sheep's milk or goat's milk or mixtures of these, or one or both of these with cow's milk, the name is followed by the words "made from --------," the blank being filled in with the name or names of the milks used, in order of predominance by weight.

(f) Label declaration of optional ingredients: Each of the optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

2. In § 133.155 by adding new paragraphs (d), (e), and (f) to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s) may be added to the cheese during the kneading and stretching process or applied to the surface of cut, sliced, diced, and/or shredded forms.

(e) Nomenclature: The name of the food is "mozzarella cheese" or alternatively "scamorza cheese".

(f) Label declaration of ingredients: Each of the ingredients used in the food shall be declared on the label as require by applicable sections of Part 101 of this chapter.

3. In § 133.156 by revising paragraphs (d) and (e) and adding new paragraph (f) to read as follows:

§ 133.156 Low moisture mozzarella and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s) may be added to the cheese during the kneading and stretching process or applied to the surface of cut, sliced, diced, and/or shredded forms.

(e) Nomenclature: The name of the food is "low moisture mozzarella cheese" or alternatively, "low moisture scamorza cheese".

(f) Label declaration of ingredients: Each of the ingredients used in the food shall be declared on the label as required by applicable sections of Part 101 of this chapter.

4. In § 133.181 by revising paragraphs (d) and (e) and by adding new paragraph (f) to read as follows:

§ 133.181 Provolone and pasta filata cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s) may be added to the cheese during the kneading and stretching process or applied to the surface of cut, sliced, diced and/or shredded forms.

(e) The name "provolone cheese" ("pasta filata cheese") may include the common name of the shape of the cheese, such as "salami provolone." If provolone cheese is not smoked, the name includes the words "not smoked." If a clear aqueous solution prepared by condensing or precipitating wood smoke in water is added to the provolone cheese, the name is immediately followed by the words "with added smoke flavoring" with all words in this phrase of the same type size, style, and color without intervening written, printed, or graphic matter.

(f) Label declaration of optional ingredients: Each of the optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 1, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin October 3, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979 shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: July 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-22210 Filed 8-1-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Flunixin Meglumine Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA). The Schering Corp. filed the NADA. The new regulation provides for safe and effective use of flunixin meglumine solution for lessening inflammation and pain from certain disorders in horses.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3420).

SUPPLEMENTARY INFORMATION: The Schering Corp., Galloping Hill Road, Kenilworth, N.J. 07033, filed an NADA (101-479V) for safe and effective use of flunixin meglumine solution for alleviating inflammation and pain associated with musculoskeletal disorders and pain associated with colic in horses.

The Commissioner of Food and Drugs, having evaluated the application and other relevant material, concludes that the application should be approved and that the animal drug regulations should be amended as set forth below.

In accordance with the Freedom of Information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended by adding new § 522.970 to read as follows:

§ 522.970 Flunixin meglumine solution.

(a) *Specifications.* The drug contains 50 milligrams of flunixin per milliliter of aqueous solution.

(b) *Sponsor.* No. 000085 in § 510.600(c) of this chapter.

(c) *Conditions of use.*—(1) *Amount.* 0.5 milligram of flunixin per pound of body weight (1 milliliter per 100 pounds) per day.

(2) *Indications for use.* Horses: For alleviation of inflammation and pain associated with musculoskeletal disorders, and alleviation of pain associated with colic.

(3) *Limitations.* For musculoskeletal disorders, administer intravenously or intramuscularly for up to 5 days. For colic, administer a single dose intravenously—the single dose may be repeated if signs of colic recur. Caution: The effect of this drug on pregnancy has not been determined. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: August 2, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 25, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-22106 Filed 8-2-77;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Dept. Reg. 108.742]

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

Licenses for Export of Firearms

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This document revises a rule under the International Traffic in Arms Regulations allowing United States citizens and persons permanently resident in the United States, temporarily leaving the United States, to export three or fewer firearms and accompanying ammunition, without an export license, provided the firearms and ammunition are with the individual's accompanied or unaccompanied baggage and are not intended for resale.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde G. Bryant, Jr., 703-235-9758.

SUPPLEMENTARY INFORMATION: On June 28, 1977 the State Department published in the FEDERAL REGISTER (42 FR 32770) a rule temporarily suspending 22 CFR 123.31. Simultaneously, the State Department published a proposed rule (42 FR 32806, June 28, 1977) which suggested a permanent revocation of 22 CFR 123.31.

The State Department has received a number of comments opposing the revocation of 22 CFR 123.31 and suggesting that the exemption contained therein continue to apply to United States citizens. In view of these comments, the State Department has decided to reinstate this exemption for United States citizens and persons permanently resident in the United States. These persons may export three or fewer firearms and 1,000 cartridges therefor without a license provided they are with

the individual's baggage and are exclusively for his personal use. The regulation, however, does not permit an export for resale without a license even if the firearms and ammunition are with the traveller's baggage.

Persons who are not United States citizens or permanently resident in the United States are not eligible to export these firearms without a license. Nevertheless, all persons, regardless of residence and citizenship, are permitted to export such firearms and ammunition which they brough into the United States under the provisions of 27 CFR 178.115 (d).

Finally, since this action constitutes the completion of the rulemaking procedure, the rule for the temporary suspension of 22 CFR 123.31 published in the FEDERAL REGISTER on June 28 is revoked.

Accordingly, § 123.31 of Title 22 of the Code of Federal Regulations is revised to read as set forth below.

§ 123.31 Arms and ammunition for personal use.

(a) Subject to § 126.01, district directors of customs are authorized to permit a United States citizen or a permanent resident of the United States, after declaration by the individual and inspection by a customs officer, to export temporarily from the United States without a license not more than three non-automatic firearms and not more than 1,000 cartridges therefor. The firearms and accompanying ammunition must be with the individuals baggage or effects, whether accompanied or unaccompanied (but not mailed), and must be intended exclusively for that person's use for legitimate hunting or lawful sporting purposes, scientific purposes, or personal protection and not for resale. Accordingly, this exemption does not apply to firearms being exported permanently from the United States. This exemption also extends to one tear gas gun or other type hand dispenser and not more than 25 tear gas cartridges therefor. The foregoing exemption is not applicable (1) to crew-members of vessels or aircraft unless they personally declare the firearms to a customs officer upon each departure from the United States, and declare the intention to return them on each return to the United States, and (2) to the personnel referred to in § 123.32.

(b) District directors of customs are authorized to permit a nonresident of the United States to export such firearms and ammunition as the nonresident brought into the United States under the provisions of 27 CFR 178.115 (d), which specifically excludes from the definition of importation, the bringing into the United States of firearms and ammunition by certain nonresidents for specified purposes.

(c) Subject to the provisions of § 126.01 of this subchapter, district directors of customs are authorized to permit United States citizens and persons permanently resident in the United States to export ammunition for firearms, without a license, provided the quantity does not exceed 1,000 cartridges (or rounds) in any shipment, and the ammunition is for their personal use and not for resale. The foregoing exemption is not applicable to the personnel referred to in § 123.32.

(Sec. 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958.)

Dated: July 28, 1977.

WILLIAM B. ROBINSON,
Director,
Office of Munitions Control.

[FR Doc.77-22236 Filed 8-1-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7500]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Adjustment to the Basis of Certain Carryover Basis Property to Reflect Appreciation Occurring Before January 1, 1977

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations for computing an adjustment to the basis of certain carryover basis property. The adjustment, made to carryover basis property which reflects the basis of marketable bonds and securities on December 31, 1976, will reflect the appreciation in value occurring before January 1, 1977. The regulations are necessary because of changes that were made in the applicable tax laws by the Tax Reform Act of 1976. The regulations provide guidance for compliance with the law. They affect executors of estates of decedents dying after December 31, 1976, and persons who receive carryover basis property from those decedents.

DATE: The regulations apply to estates of decedents who die after December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

William D. Gibbs of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR: T, 202-566-3293.

BACKGROUND

This document contains temporary regulations relating to the adjustment to be made to carryover basis property which reflects the adjusted basis of any marketable bond or security on December 31, 1976. This adjustment is contained in section 1023(h)(1) of the Internal Revenue Code of 1954, as added by section 2005(a)(2) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1875). The temporary regulations provided by this document will remain in effect until superseded by final regulations.

DRAFTING INFORMATION

The principal author of this regulation was William D. Gibbs of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7 are amended by adding the following new section in the appropriate place:

§ 7.1023(h)-1 Adjustment to basis of marketable bonds and securities acquired from a decedent dying after December 31, 1976, for appreciation occurring before January 1, 1977.

(a) *In general.* For purposes of determining gain (but not loss), the adjusted basis of carryover basis property, as defined in section 1023(b), which reflects the adjusted basis of any marketable bond or security on December 31, 1976, and which is acquired from a decedent dying after December 31, 1976, is increased by the amount of any excess of the fair market value of such bond or security on December 31, 1976, over its adjusted basis on December 31, 1976. Thereafter, this adjusted carryover basis is further adjusted as provided in section 10 (c), (d) and (e) (relating to adjustments for estate and inheritance taxes paid and the $60,000 minimum basis). However, under section 1023(f)(1), the adjustments under section 1023 (c), (d), and (e) may not increase the basis of property above its fair market value as of the date of the decedent's death (or, if the executor elects to determine the value of the gross estate as of the alternate valuation date, the value of the property determined under section 2032).

(b) *Basis for loss purposes.* For purposes of determining loss with respect to such property, its adjusted basis is the same as computed under paragraph (a), except that it is reduced by the amount of the excess described in the first sentence in paragraph (a).

(c) *Basis that reflects basis on December 31, 1976.* The adjusted basis of carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, if the carryover basis property acquired from the decedent—

(1) Is the same marketable bond or security that was held by the decedent on December 31, 1976, or

(2) Has a basis that is determined in whole or in part by reference to the basis of a marketable bond or security on December 31, 1976.

(d) *Marketable bonds and securities.* For purposes of this section, marketable bonds or securities are—

(1) Bonds (including municipal bonds) or securities which are—

(i) Listed on the New York Stock Exchange, the American Stock Exchange, or any regional exchange for which quotations are published on a regular basis, including foreign securities listed on a recognized foreign national or regional exchange;

(ii) Regularly traded in the national or regional over-the-counter market, for which published quotations are available; or

(iii) Locally traded for which published quotations representing bona fide bid and asked prices are available from a registered broker or dealer;

(2) Units in a common trust fund; or

(3) Shares in a mutual fund.

(e) *Value on December 31, 1976.* The fair market value of a marketable bond or security on December 31, 1976, will be its fair market value as determined under § 20.2031-2 or § 20.2031-8(b), including the provisions relating to large blocks of securities and to securities traded sporadically at or near the valuation date. For purposes of this section, the term "reasonable period" (before or after the valuation date), as used in § 20.2031-2, will generally be 30 days. However, where it is established that the value of any bond or share of stock determined on the basis of selling or bid and asked prices as provided under paragraphs (b), (c), and (d) of § 20.2031-2 does not reflect the fair market value thereof, the principles of paragraph (e) of § 20.2031-2 will be applicable.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). The adjusted basis of marketable securities in the hands of D, the decedent, on December 31, 1976, and on the date of his death was $75,000. The fair market value of the securities on December 31, 1976, was $90,000. D dies on July 28, 1976, when the securities are worth $80,000, and bequeaths them to his son. D's executor does not elect alternate valuation as provided in section 2032. For purposes of determining gain, if the son thereafter sells the securities, their carryover basis of $75,000 is increased by $15,000 ($90,000 —$75,000) to $90,000 under paragraph (a) of this section. Because the adjustment under section 1023(h)(1) increased the adjusted basis of the securities above the fair market value for estate tax purposes, no further adjustment is made to their basis under section 1023 (c), (d) or (e), pursuant to section 1023(f)(1). For purposes of determining loss, the adjusted carryover basis of the securities, as computed under the preceding two sentences ($90,000), is reduced by the excess ($15,000) to $75,000. Therefore, if D's son realizes $100,000 on the sale of such securities, he realizes a gain of $10,000 ($100,000 —$90,000). If he realizes only $60,000 on their sale, he realizes a loss of $15,000 ($75,000 —$60,000). If he realizes between $75,000 and $90,000 on their sale, he realizes neither a gain nor a loss on them.

Example (2). The facts are the same as in Example (1) except that D received the securities on July 1, 1977, in a nontaxable distribution of principal from a trust that held such securities on December 31, 1976. In addition, the value of the securities on the date of D's death is $105,000, and the adjustment for estate taxes paid under section 1023(c), based on the remaining net appreciation of $15,000 ($105,000 —$90,000) in the securities, is $1,000. There are no other adjustments to the basis of the securities. The adjusted carryover basis of the securities for purposes of determining gain is $91,000 ($75,000 + $15,000 + $1,000). For purposes of determining loss, the adjusted carryover basis of the securities is $76,000 ($91,000 —$15,000).

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 and sec. 1023 (1), Internal Revenue Code of 1954 (68A Stat. 917, 90 Stat. 1876; 26 U.S.C. 7805, 1023 (1)).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: July 27, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary
of the Treasury.

[FR Doc.77-22200 Filed 8-1-77;8:45 am]

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Subpart E—Candidacy for Office; Reasonable Qualifications

AGENCY: Labor-Management Services Administration, Department of Labor.

ACTION: Final amendment to an interpretative rule.

SUMMARY: Meeting attendance requirements as a qualification for candidacy for union office were discussed in recent decisions of the Supreme Court and of the Court of Appeals for the First Circuit. The amendments in this document incorporate these decisions with the Department of Labor's regulations.

EFFECTIVE DATE: Since this amendment revises an interpretative rule and reflects the policy expressed in a Supreme Court and a circuit court decision, it is effective on August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Raskin, Chief, Branch of Interpretations and Standards, Division of Program Standards, Office of Labor-Management Standards Enforcement, Labor-Management Services Administration, Department of Labor, Washington, D.C. 20216 (202-523-7373).

SUPPLEMENTARY INFORMATION: This amendment concerning meeting attendance requirements as a qualification for candidacy for union office incorporates for the guidance of affected unions and union members the ruling of the United States Supreme Court in *Steelworkers, Local 3489* v. *Usery*. In that case, the Court held that a rule which required attendance at fifty percent of the meetings for three years preceding an election with the result that 96.5 percent of the members were ineligible was not a reasonable qualification for candidacy within the meaning of section 401 (e) of the Labor-Management Reporting and Disclosure Act of 1959, as Amended. This amendment also incorporates the decision of the United States Court of Appeals for the First Circuit in *Usery* v. *Local Division 1205, Amalgamated Transit Union*, which held to be unreasonable a rule which required attendance at fifty percent of the meetings in each of the two years preceding an election.

This document was prepared under the direction and control of Carl Rolnick, Director, Office of Labor Standards Enforcement, Room N5408, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8388.

29 CFR Part 452 is amended by amending § 452.38 to read as follows:

§ 452.38 Meeting attendance requirements.

* * * * *

(a) In *Steelworkers, Local 3489* v. *Usery*, 429 U.S. 305, 94 LRRM 2203, 70 L.C. ¶ 11,806 (1977), the Supreme Court found that this standard for determining validity of meeting attendance qualifications was the type of flexible result that Congress contemplated when it used the word "reasonable." The Court concluded that Congress, in guaranteeing every union member the opportunity to hold office, subject only to "reasonable qualifications," disabled unions from establishing eligibility qualifications as sharply restrictive of the openness of the union political process as the Steelworkers' attendance rule. The rule required attendance at fifty percent of the meetings for three years preceding the election unless prevented by union activities or working hours, with the result that 96.5 percent of the members were ineligible.

(b) Other guidance is furnished by lower court decisions which have held particular meeting attendance requirements to be unreasonable under the following circumstances: One meeting during each quarter for the three years preceding nomination, where the effect was to disqualify 99 percent of the membership (*Wirtz* v. *Independent Workers Union of Florida*, 65 LRRM 2104, 55 L.C. ¶ 11,857 (M.D. Fla., 1967)); 75 percent of the meetings held over a two-year period, with absence excused only for work or illness, where over 97 percent of the members were ineligible (*Wirtz* v. *Local 153, Glass Bottle Blowers Ass'n*, 244 F. Supp. 745 (W.D. Pa., 1965), order vacating decision was mott, 372 F. 2d 86 (C.A. 3 1966), reversed 389 U.S. 463; decision on remand, 405 F.2d 176 (C.A. 3 1968)); *Wirtz* v. *Local 262, Glass Bottle Blowers Ass'n.*; 290 F. Supp. 985 (N.D. Cal., 1968)); attendance at each of eight meetings in the two months between

nomination and election, where the meetings were held at widely scattered locations within the state (*Hodgson* v. *Local Union No. 624 A-B, International Union of Operating Engineers*, 80 LRRM 3049, 68 L.C. 12.816 (S.D. Miss. Feb. 19, 1972)); attendance at not less than six regular meetings each year during the twenty-four months prior to an election which has the effect of requiring attendance for a period that must begin no later than eighteen months before a biennial election (*Usery* v. *Local Division 1205, Amalgamated Transit Union*, 545 F. 2d 1300 (C.A. 1, 1976)).

Signed at Washington, D.C., this 25th day of July 1977.

FRANCIS X. BURKHARDT,
Assistant Secretary of Labor.

[FR Doc.77-22076 Filed 8-1-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Possession of Shotshells Loaded With Toxic Shot While Taking Waterfowl in Areas Designated as Nontoxic Shot Zones.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is amending waterfowl hunting regulations on the use of toxic shot in nontoxic shot zones. Presently section 20.21(j) permits the use of toxic shot in guns with bores smaller than 12 gauge in zones designated for nontoxic shot. Also, the wording allows possession of illegal shells provided they are not placed in the gun. This amendment will allow toxic shot of any gauge other than 12 gauge to be used in nontoxic shot zones, and make possession of 12 gauge shells loaded with toxic shot illegal while hunting waterfowl in the zones.

DATES: Effective on August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert I. Smith, Special Projects Coordinator, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202-343-8827.

SUPPLEMENTARY INFORMATION: On December 23, 1976 the Service proposed for public comment an amendment to 50 CFR 20.21(j), which would have permitted shotshells loaded with toxic shot in gauges smaller than 12 gauge to be used in the nontoxic shot zones during waterfowl hunting seasons commencing in 1977 (41 FR 55903). Public comment on that proposal dealt primarily with two issues. Waterfowl hunters who use 10 gauge guns requested that they be allowed to use shotshells loaded with toxic shot until such time as 10 gauge shells loaded with steel shot are manufactured. Wildlife law enforcement officers suggested that illegal shotshells should not be permitted in possession of the hunter while hunting waterfowl in a nontoxic shot zone. The present wording of § 20.21(j) specifies that a gun loaded with illegal shells constitutes a violation, but possession of illegal shells does not.

Further public comment on these two suggested changes in § 20.21(j) were requested by the Service in a proposed amendment published on June 30, 1977 (42 FR 33354). Public comment was received on this second proposal until July 21, 1977. Eighteen letters were received in response to the proposal published on June 30, 1977. One letter expressed agreement with the proposal. Three letters requested a delay in implementation of the steel-shot regulations until all gauges of steel-shot ammunition have been produced. Three letters requested no exceptions be made and steel shot only should be permitted in the zones. Eleven letters contained requests that no steel shot be required for waterfowl hunting. One person commented that a strict interpretation of the proposal could result in the arrest of a person who lives within a non-toxic shot zone and has 12 gauge shells loaded with toxic shot in possession when leaving home to hunt waterfowl outside the zone. In response to this point, the Service does not believe the ruling can be interpreted in this manner. The proposal applies only to the taking of waterfowl, not to the possession of 12 gauge shells loaded with toxic shot in a variety of other situations that might occur within a nontoxic zone.

Points of view expressed in the eighteen letters ranged beyond the scope of the proposed amendment in most cases. Responses to similar comments were published on April 28, 1977 (42 FR 21614) and will not be repeated at this time. The Service believes that the proposed regulation published on June 30, 1977 (42 FR 33354) represents a reasonable compromise among all views expressed, and the Service has decided to adopt such wording.

This final rulemaking was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-343-8827).

Accordingly, the Service amends 50 CFR 20 by deleting the present wording of § 20.21(j) and replacing it with the following:

§ 20.21 Hunting methods.

* * * * *

(j) While possessing 12 gauge shotshells loaded with any metal other than steel or such material as may be approved by the Director pursuant to the procedures set forth in § 20.134: *Provided*, That this restriction applies only to the taking of ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*) in areas described in § 20.108 as nontoxic shot zones during waterfowl hunting seasons commencing in 1977 and terminating in 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 28, 1977.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc.77-22134 Filed 8-1-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Allocations for Short-Finned Squid and Long-Finned Squid

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to final regulations.

SUMMARY: This document amends the total allowable level of foreign fishing for short-finned squid and long-finned squid in the Atlantic Ocean and provides for an increased allocation of short-finned squid and long-finned squid to certain of those nations that have been provided an initial allocation of squid. This amendment is consistent with the commitment in the Preliminary Management Plan for the Squid Fisheries of the Northwest Atlantic (PMP) to reevaluate the surplus of short-finned squid and long-finned squid on or about June 1, 1977. 42 FR 9626.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7454).

SUPPLEMENTARY INFORMATION: On February 11, 1977, the National Marine Fisheries Service published Foreign Fishing regulations (42 FR 8813) that included under Subpart B, Surpluses, the total allowable level of foreign fishing for a variety of fisheries. The regulations further stated that the total allowable level of foreign fishing for short-finned squid and long-finned squid would be re-evaluated if it were determined by June 1, 1977, that the U.S. fleet would not take its estimated harvest. An evaluation of the estimated capacity of the U.S. fleet has been completed, and it has been determined that the level of foreign fishing for short-finned squid can be increased by 1,500 metric tons from 23,500 metric tons to 25,000 metric tons and the long-finned squid increased by 11,000 metric tons from 19,000 metric tons to 30,000 metric tons. Allocation by country of this additional squid has been made by the Secretary of State in cooperation with the Secretary of Commerce.

The following amendment changes the previously established "surpluses for foreign fishing" for squid, and in effect adds the newly-allocated amounts of squid to the previously-established 1977 allocation of squid to the indicated countries (subject to adjustment by subtracting catches taken during January and February 1977, as provided in 50 CFR 611.20(d)). Foreign nations may not commence fishing for these newly allocated squid until they have paid the appropriate fees to the Department of Commerce.

This amendment does not modify the optimum yield level established in the PMP, nor does it adversely affect the conservation of the resource.

The Director finds that notice of proposed rulemaking is unnecessary because this action involves a foreign affairs function excepted from the requirments of the Administrative Procedure Act.

Signed at Washington, D.C., on July 27, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

§ 611.20 [Amended]

Therefore, the amendments to § 611.20 are as follows:

1. Paragraph (b) of § 611.20 is amended by increasing the quantity (metric tons) of short-finned squid and long-finned squid as follows:

* * * * *

(b) * * *

Fishery	Ocean area	Quantity metric tons
Short-finned squid	Atlantic	25,000
Long-finned squid	do	30,000

2. Section 611.20(c) is amended by changing the 1977 allocations of squid to certain foreign nations, as follows:

* * * * *

(c)(1) The allocation (tonnage and vessel days) among foreign nations are presented in the following tables:

TABLE 1.—*Atlantic coast allocation*

Country	Fishery	1977 allocation (metric tons)
*	*	*
Poland	Long-finned squid	1,371
	Short-finned squid	5,270
*	*	*
Japan	Long-finned squid	12,540
	Short-finned squid	3,718
Spain	Long-finned squid	7,275
	Short-finned squid	5,500
*	*	*
Soviet Union	Long-finned squid	1,786
	Short-finned squid	7,305
*	*	*
Italy	Long-finned squid	2,640
	Short-finned squid	1,127
*	*	*

§ 611.51 [Amended]

3. Section 611.51(b) catch quotas are amended as follows:

In subparagraph (1) strike the number "23,500"; substitute "25,000", and in subparagraph (2) strike the number "19,000", substitute "30,000".

[FR Doc.77-22085 Filed 7-29-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

[Amdt. 2]

CELERY GROWN IN FLORIDA

Notice of Proposed Eligibility Requirements and Nomination Procedures for Public Members of the Florida Celery Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: A recent amendment of the Florida Celery Marketing Order provides that a public member and alternate be added to the Florida Celery Committee, the local administrative agency for the program. The proposed rule would specify the eligibility requirements of the persons to be nominated and procedures for nominating public members.

DATE: Comments due August 16, 1977.

ADDRESSES: Comments may be addressed to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted. Comments will be made available for inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; Phone 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order 967, both as amended, regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Celery Committee established under the order is responsible for its local administration. The Secretary's Decision (42 FR 25872) specifies that the Secretary will issue rules or regulations which set forth the eligibility requirements for public member nominees and the nomination procedures to be followed.

The proposals are as follows: Amend Subpart—Rules and Regulations (7 CFR 967.100-967.166) by adding a new § 967.140 and § 967.141 to read as follows:

PUBLIC MEMBERS

§ 967.140 Eligibility requirements.

(a) Public members shall be neither producers nor handlers of celery and shall have no direct financial interest in the production or marketing of celery except as consumers of agricultural products.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of Florida.

(d) Public members shall be nominated by the Florida Celery Committee and shall serve a one-year term which coincides with the term of office of producer or handler members of the committee.

§ 967.141 Nomination procedures.

(a) Names of candidates together with evidence of qualification for public membership on the Florida Celery Committee shall be submitted to the committee at its business office, 4401 East Colonial Drive, or P.O. Box 20067, Orlando, Fla. 32814, no later than April 15.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by July 1 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member may be made later than July 1 but as soon as practical thereafter. Such member's term shall end July 31, 1978.

Dated: July 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22132 Filed 8-1-77;8:45 am]

[7 CFR Part 1011]

[Docket No. AO-251-A20]

MILK IN THE TENNESSEE VALLEY MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the order based on a cooperative association's proposals considered at a public hearing on March 24, 1977. The proposed amendments provide for a "base-excess" plan for paying producers. Under the plan, each producer's average daily delivery of milk in September through December would be his "base." In the following March through June, each producer would be paid the order's higher uniform base price for milk deliveries up to his base and a lower price for any excess milk. The plan is aimed at providing an incentive to producers to even out their milk production through the year.

Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4829).

SUPPLEMENTAL INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued February 28, 1977; published March 3, 1977 (42 FR 12184).

Recommended decision, issued June 20, 1977; published June 23, 1977 (42 FR 31797).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Knoxville, Tenn., on March 24, 1977, pursuant to notice thereof issued on February 28, 1977 (42 FR 12184).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on June 20, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the addition of eight paragraphs immediately following the last paragraph in "Findings and Conclusions."

The material issue on the record of the hearing relates to using a base-excess plan for paying producers.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Base-excess plan. A base-excess plan should be included in the order.

The purpose of a base-excess plan is to provide an incentive to producers to even out their production through the year. Such a plan is designed to encourage production in the fall months of seasonally low production and discourage excess production in the spring months of seasonally high production.

The base-excess plan adopted in this decision would establish a base for each producer by dividing his total pounds of producer milk in September through December (the base-forming period) by the number of days' production represented by such producer milk or by 100, whichever is more. A single delivery by a producer on every-other-day delivery would be considered two days' production in computing a base.

Producers would establish new bases every year. They would be computed by the market administrator to be effective in the following March through June (the base-paying period). By February 1 of each year, the market administrator would notify each producer and the handler receiving his milk of the producer's base. The market administrator would also notify a cooperative, if requested, of each producer-member's base.

"Base milk" would mean the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month. "Excess milk" would mean the producer milk of a producer in each month of March through June in excess of the producer's base milk for the month. Excess milk would also include all the producer milk in March through June of a producer who has no base.

In computing the uniform prices for base milk and excess milk in the base-paying months, producer milk allocated to Class I would first be assigned to base milk. If the producer milk allocated to Class I is more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess milk price increased accordingly. If the base milk received from producers in any month exceeds the producer milk allocated to Class I, the producer milk allocated to Class II and Class III would be assigned, in that sequence, to the difference.

Since excess milk would represent basically producer milk classified in Class III (milk for manufacturing uses) to which no location adjustment is applicable, the uniform price for excess milk should not be subject to a location adjustment. There is practically no difference in the location value of milk for Class III uses. The Class III price under the Tennessee Valley order and other orders is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. If a location adjustment were applied to the excess price, it would result in applying an excess price to the producer milk at various plant locations that is less than the value of manufacturing grade milk delivered to those same plant locations.

Producers whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period should be assigned bases in the same manner as if they had been producers during the base-forming period. Their bases would be calculated from their deliveries to that plant in the preceding September–December period.

To acquire pool plant status under the order a plant must dispose of a specified percentage of its receipts on routes in the marketing area or to other pool plants. It is expected that when such a plant becomes a pool plant it will add Class I sales to the pool comparable to such sales in prior periods when it was a nonpool plant. It is appropriate, therefore, that those dairymen who have been supplying the plant have bases computed for them according to their deliveries to the plant in the base-forming period.

Bases assigned to producers who supplied a nonpool plant in the base-forming period that became a pool plant in the following base-paying period should not be transferable. If such a plant did not retain its pool plant status in the base-paying period and its producers had been permitted to transfer their bases, inequities could result. This is because the Class I milk in the pool would then be diminished by the plant's Class I sales in the month the plant lost its pool plant status while the aggregate producer bases for the month would be inflated by the bases that had been assigned its producers. This would have enabled these producers to sell their bases to producers still on the market and for the latter to obtain the benefit of a greater share of the market's Class I sales at the expense of other producers on the market.

The base earned by any producer who supplied the market in the preceding base-forming period should be transferable. This will facilitate the transfer of property when a baseholder dies or when the farm of a baseholder is sold. It will also facilitate adjustments by those producers desiring to expand or contract their operations. However, proper safeguards should be provided so that the transfer provisions may not be exploited at the expense of producers regularly supplying the market.

The amount of a base transferred could be in its entirety or an amount of not less than 300 pounds. These limits, which were proposed at the hearing, are administratively practicable and should be adequate under conditions in the Tennessee Valley market.

A base could be transferred to be effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application would be required to be on a form approved by the market administrator and signed by a baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, it would be required that the application be signed by all joint holders or their heirs. These provisions would insure that there will be no misunderstanding between the parties involved concerning transfers.

The base established by a partnership may be divided between partners on any basis agreed on in writing by them if written notification of the agreed upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This will facilitate the division of the assets of a partnership that is dissolved during the base-paying period. On the other hand, it will in no way affect the total quantity of base milk in the pool, irrespective of the manner in which the division of the base is made between the partners.

A producer who transferred all or part of his base on or after February 1 would not then be permitted to receive other base by transfer that would be applicable within the March–June period of the same year. Also, a producer who received base by transfer on or after February 1 would not be permitted to transfer a portion of his base to be applicable within the March–June period of the same year, but would be permitted to transfer his entire base. Adoption of these provisions will tend to insure that the exchange of bases between producers are bona fide transfers. Absent such provisions, the transferring of bases back and forth by two or more producers throughout the base-paying period could result in unwarrantedly increasing their share of the total payments under the order for producer milk at the expense of all of the other producers.

The base a producer receives would be determined by the quantity of milk shipped in the base-forming months. Thus, he would have an incentive to maximize his shipments in these months (September–December) when production for the market is normally shortest relative to its Class I needs. This would not be the case in the base-paying months (March–June) when production for the market is substantially more than its requirements. In these months a producer would receive, in effect, only the manufacturing milk value for his production in excess of his base milk for the month. Therefore, no purpose would be served by specifying that a producer must ship a minimum quantity of milk or on a minimum number of days during any base-paying month as a prerequisite to receiving the uniform price for base milk up to the total quantity of his base milk for the month. The base milk of the producer as provided herein would be his base times the number of days in the month, irrespective of the number of days of production his milk was pooled. Thus, a producer would be free, if he so elected, to sell outside the market to nonpool plants any milk in excess of his base milk for the month.

Proponent cooperative and handlers supported the adoption of September

through December as the base-forming months. However, one handler proposed that all or a part of August be substituted for all or a part of December in the base-forming period. In support of this, he noted that the Class I utilization for August was slightly higher than the Class I utilization for December. In the five years of 1972 through 1976, Class I utilization for the market was 83 percent in August and 81.6 percent in December.

For the months as a whole there is relatively little difference in the Class I utilization for August and for December. However, the demand for milk relative to supply in the Tennessee Valley market during the first two-thirds of December is relatively high. It is comparable to the Class I utilization (87 percent) in the three months of lowest production (September, October and November). During the last third of December, due to school closings and the holidays, the demand for milk falls off sharply. In view of the relatively higher Class I utilization in the greater part of the month of December, it is appropriate that December be included with September, October and November as the base-forming months.

In the eight months of July through February each producer supplying the market would receive the uniform price for all his deliveries. Payment at this rate would be made to each producer, irrespective of the number of days he delivered during the month. In the other four months of the year, March through June, the total of his producer milk deliveries in the preceding base-forming months would determine the proportions of his March-June milk to be paid for at the base milk price and the excess milk price. A producer who delivered continuously throughout the base-forming period will have delivered 122 days' production in the four-month period.

A producer generally would deliver continuously throughout the base-forming period. However, because of various circumstances (e.g., storm damage at his farm or to roads, temporary suspension of a health permit, or temporary loss of market when cut off by a buying handler) a producer may be off the market for a limited number of days in the base-forming period. In recognition of this, it was proposed that a producer who delivered at least 100 days' production during the base-forming period receive a base computed on the same basis as a producer who delivered continuously throughout the entire period, i.e., by dividing his total producer milk during the four-month period by his number of days of production.

The requirement that a producer supply the market in the base-forming months in order to earn a base provides an incentive for him to ship to the Tennessee Valley market instead of to other markets in the months when production is lowest relative to the demand for Class I milk. A producer who ships at least 100 days' production during the four-month base-forming period can reasonably be considered as being fully associated with the market. A producer who delivered less than 100 days' production should have his base determined by dividing his total production in the base-forming period by 100. Thus, such a producer, who may have been supplying the Class I needs of another market for a substantial part of the base-forming period, will receive a base that appropriately reflects his contribution as a producer supplying the needs of the Tennessee Valley market in such period.

The milk of producers who come on the market in the base-paying months is not needed to supply the fluid milk market. Thus, the amount of milk pooled at the Class III price, which usually would also be the excess milk price, would be increased.

New producers coming on the market in the base-paying period would generally be dairy farmers who had supplied the fluid milk needs of another order market or an unregulated market in the base-forming period. Milk produced on their farms in the base-paying months would represent substantially milk that is surplus to the Class I needs of the market with which they had been previously associated. It is appropriate, therefore, as provided herein, that the deliveries of such producer milk under the Tennessee Valley order in the base-paying months be paid for at the excess milk price.

In some instances the milk of persons who have not previously supplied a Class I market may come to the Tennessee Valley market through new producers. Included in this category would be dairy farmers who had previously been shipping manufacturing grade milk and persons starting new dairy farm operations. Before coming on as a new producer, such a person would be expected to have anticipated reasonably in advance when he would begin shipping. Hence, he could elect to start shipping in a base-paying month or in any of the other eight months of the year. Therefore, if he elected to begin delivering as a new producer in one of the four base-paying months, he would have made that decision in recognition of the fact that he would receive the excess price for milk he delivered to the market in those months.

In some instances a "natural disaster" may cause a producer to suffer a significantly reduced rate of production or force him to discontinue temporarily the production of milk on his farm. Unless provision is made in the order to give consideration to such occurrences in computing a producer's base, he would suffer an undue hardship. It is appropriate, therefore, that the order specify the conditions under which relief may be granted to a producer whose production was adversely affected in the base-forming period as the result of an occurrence beyond his control.

This can be achieved by providing that the base assigned a person who was a producer within the preceding base-forming period may be increased to 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which his production was adversely affected by an allowable "hardship" condition. Such relief would be granted only after the producer submitted to the market administrator by March 1 a written statement that established to the satisfaction of the market administrator that the amount of milk produced on his farm in the preceding base-forming period was substantially reduced because of a condition beyond his control, which resulted from:

(1) Loss by fire or windstorm of a farm building used in the production of milk on his farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in his milking herd, as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents him from supplying milk from his farm to a plant.

The conditions under which hardship relief (in the form of an increased base) may be granted a producer encompass most natural disasters that could result in reduced production or in the temporary discontinuance of production on a dairy farm. Such a standard will provide the market administrator the guidance necessary for applying the provision in an objective manner.

Allowing hardship relief by assigning a producer a base of 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which the hardship occurred provides an equitable standard for this purpose. Such a producer generally would not have shipped enough days' production in the base-forming period to have earned a base equal to his average daily deliveries. To assign him a base equal to his average daily deliveries in a single month could result giving the producer more base than he would have earned if he had not suffered the hardship and had shipped throughout the full base-forming period. In this circumstance, 90 percent of a producer's average daily deliveries in the month immediately preceding the month during which a hardship occurred is a reasonable allowance for providing relief in hardship cases under conditions in this market.

At the hearing, the proponent cooperative proposed assigning a base of up to 80 percent of a producer's first full month's average daily production in the base-paying period in hardship cases. Granting hardship relief based on a producer's deliveries during a month associated with the base-forming period, as adopted herein, will relate the relief to a period when bases are normally established for all producers. On the other hand, determining a "hardship" base on the basis of a producer's deliveries during a month in the base-paying period would tend to encourage him to maximize his deliveries when production for the market is highest relative to its needs. Accordingly, the proposal to base hardship relief on a percentage of a producer's deliveries during a month in the base-paying period is denied.

Dairymen, Inc. (DI), which represented 93 percent of the order's 1,810 producers in February 1977, proposed the base-excess plan. Its member-producers in the region have historically operated under base-excess plans. Currently, DI operates a base-excess plan outside the order.

For many years before DI operated its own base-excess plan, orders now merged into the Tennessee Valley order had base-excess plans. The Knoxville order had a base-excess plan from 1954 to 1968 and the Appalachian order from 1954 to 1971. When the plans were terminated under these orders in 1968 and 1971, at the request of producers, all but a relatively few of these orders' producers were not members of the cooperative.

The base-excess plan under the Chattanooga order was effective from that order's inception in 1956 until the order was merged into the Tennessee Valley order October 1, 1976. Although a substantial majority of Chattanooga order producers were DI members, a significant proportion were nonmembers.

When the Knoxville base-excess plan was terminated in December 1968, all but 10 of the 703 producers on the market were DI members. In March 1971, when the Appalachian base-excess plan was terminated, only three of the 920 producers under that order were not DI members. Of the 504 Chattanooga order producers in September 1976, the final month of that order, 92 were not DI members.

In recent years, the number of nonmember producers in the market has been increasing. In the final month of the Appalachian order, September 1976, 27 of the 956 producers were nonmembers compared to three in March 1971, the last month of the base-excess plan in the order. When DI operated its base-excess plan outside the order, and there were few nonmember producers under the Appalachian and Knoxville orders (and the Chattanooga order had a base-excess plan), the cooperative apparently felt no need to have a base-excess plan under the Appalachian and Knoxville orders.

DI contended that a base-excess plan is needed as an incentive to producers to feed, breed and manage their herds for fall production. Its spokesman claimed that without any base-excess plan the seasonal production pattern for the market would change dramatically. The complete absence of a plan, he claimed, would result in requiring increasing imports of supplemental supplies in the fall months to meet the market's needs.

According to DI, continuing to operate a base-excess plan for its producers outside the order could result in placing them at a disadvantage compared to other producers. That is, the cooperative's member-producers would have the order uniform price value reblended to them individually via a base-excess plan in the spring months. At the same time, nonmember producers would receive the full uniform price, irrespective of their excess production (relative to their fall production) in the spring months. Also, producers who were not on the market in the fall months could, absent a base-excess plan, dispose of their excess production in the spring months under the order at the uniform price. The DI producers operating under the cooperative's base-excess plan would in the same months receive only the excess price for their excess production in the seasonally high production months.

There was no opposition to the DI proposal for a base-excess plan. The major proprietary handlers in the market supported it. However, they opposed including in the order a provision for establishing a producer hardship committee. DI proposed such a committee to act on requests for additional base from producers who claimed that their deliveries during the base-forming period were adversely affected because of a natural disaster, diseased animals, or a toxic residue in their milk.

Handlers took the position that a hardship provision should be included in the order but should be administered by the market administrator, as are other order provisions. They emphasized that a hardship provision should clearly specify the conditions under which relief could be granted. Handlers argued that the Secretary could not legally delegate to producers the authority to administer any provision of the order. A handler attorney made a motion that the DI proposal for a hardship committee be dismissed. His motion stated that there is no authority in the Act whereby the Secretary may delegate to producers the authority to establish or determine the base of any producer.

As proposed by DI, a hardship committee composed of five producers would be appointed by the market administrator. The committee would meet at the beginning of each base-paying period to hear persons presenting hardship cases. All hardship adjustments voted by the committee would be subject to the approval by the market administrator. In effect, the market administrator would make the final determination under the DI proposal.

The money returns for each producer's milk is affected by the amount of base held by each of the other producers. The various circumstances under which a producer hardship committee would function would create a situation wherein the adjudicator would have a private interest in the matter to be adjudicated. Such a situation would place an undue responsibility on the committee members and could result in creating distrust among petitioners for hardship.

Having the market administrator alone decide whether or not relief should be granted in hardship cases will provide, in effect, essentially the same results as under the procedure urged by the proponent cooperative. Under the DI proposal, the market administrator would make the final determination regarding hardship relief. In this case, it is questionable if a producer hardship committee actually would be needed. As provided herein, the order would set forth definitive guidelines for the market administrator in determining what constitutes a hardship situation.

Since the proposal for a hardship committee is not adopted in this decision, no action is taken on the motion to dismiss the proposal.

The base-excess plan adopted in this decision, which would be applicable to all producers, would benefit consumers, processors and producers by encouraging a seasonally desirable level of milk production. Absent the proposed plan, a DI operated base-excess plan outside the order could not be expected to equitably achieve the intended purpose of a base-excess plan in the order. A plan applicable only to DI producers would have the effect of enabling the significant number of nonmember producers to produce milk under conditions that are conducive to more spring production and less fall production. The base-excess plan provided herein will tend to insure that the excess production on the part of some producers (both cooperative members and nonmembers) will not affect adversely the returns to all producers on the market. Such a plan will be equitable to all producers in providing each of them an incentive to maintain a seasonal pattern of production commensurate with the needs of the market.

In its exceptions, DI urged that when a base is transferred only the baseholder or his heirs be required to sign the application for such transfer. In support of its position it stated "there is no need whatsoever to require the person receiving base by transfer to sign the application sent to the market administrator".

Unless the baseholder or his heirs and the person to whom the base is to be transferred sign the application for such transfer, the market administrator cannot confirm that a valid agreement to transfer base has been made. Requiring that both parties to the transaction sign the application will insure that it is a bona fide transfer.

DI also took exception to the recommended decision's providing that the effective date of transfer of a full base shall be the first day of the month following the date on which an application for such transfer is received by the market administrator. As proposed by DI, such a transfer would be effective on the date of transfer if the market administrator were notified within three days of the date of transfer. Unless such a provision were provided, the cooperative contended, a producer who purchased an entire base would suffer an economic hardship in that he could receive the excess price for all his production until the first day of the month following the date of transfer.

It would not be practicable to provide that the transfer of a base be effective on other than the first day of the month. The base milk of each producer for each base-paying month, March through June, is the amount of milk delivered by him during the month that is not in excess of his assigned daily base multiplied by the number of days in the month. That is, the base milk for each producer is computed according to his deliveries for the whole month. Under this arrangement, which was proposed by DI and adopted in this decision, it would be impracticable to have the transfer of

bases take place other than on the first of the month to be effective for a full month.

The operator of a number of fluid milk plants regulated under nearby orders, who apparently has no distribution in the marketing area, urged "the Secretary to reverse his recommended decision and deny the adoption of a base-excess plan for the Tennessee Valley marketing area." His exception argued that because a cooperative may reblend the proceeds from the sale of its members' milk in paying them for their deliveries, a base-excess plan gives the cooperative's member-producers an advantage over nonmember producers.

The handler exception has no merit. The reblending of the proceeds from the sale of its member-prdoucers' milk under an order with a base-excess plan provides no special advantage to a cooperative's members. Whether or not an order provides for a base-excess plan a cooperative may reblend the proceeds from the sale of its members' milk. Any advantage a producer may obtain under a base-excess plan is equally available to both a cooperative's member-producers and to nonmember producers.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Tennessee Valley marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Tennessee Valley marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washingtn, D.C., on July 27, 1977.

Robert H. Meyer,
Assistant Secretary for Marketing Services.

ORDER[1] AMENDING THE ORDER, REGULATING THE HANDLING OF MILK IN THE TENNESSEE VALLEY MARKETING AREA

Finding and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act.

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and ther economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Tennessee Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator on June 20, 1977, and published in the Federal Register on June 23, 1977 (42 FR 31797) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. A heading and five new sections (§§ 1011.90, 1011.91, 1011.92, 1011.93 and 1011.94) are added as follows:

Base-Excess Plan

§ 1011.90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1011.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1011.92 Computation of base for each producer.

(a) Subject to § 1011.93, the base for each producer shall be an amount obtained by dividing the total pounds of his producer milk during the immediately preceding months of September through December by the number of days' production represented by such producer milk or by 100, whichever is more.

(b) The base for a producer whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1011.93 Base rules.

(a) Except as provided in § 1011.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during March through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of his base to be applicable during March through June of the same year, but may transfer his entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased to 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (d) (1), (2) or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on his farm was substantially reduced because of conditions beyond his control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on his farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in his milking herd, as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents him from supplying milk from his farm to a plant.

§ 1011.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from him of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

2. Section 1011.32 is revised as follows:

§ 1011.32 Other reports.

(a) Each handler described in § 1011.9 (a), (b) and (c) shall report to the market administrator on or before the 6th day after the end of each month of March through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through June the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1011.30 and 1011.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

3. Section 1011.61 is revised as follows:

§ 1011.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1011.60 for all handlers who filed the reports prescribed in § 1011.30 for the month and who made the payments pursuant to § 1011.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the location adjustments computed pursuant to § 1011.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1011.60 (f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through February.

(b) For each month of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a) (1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b) (1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a) (4) (ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) (2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b) (3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b) (4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b) (5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

4. Section 1011.62 is revised as follows:

§ 1011.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1011.61 for such month.

§ 1011.71 [Amended]

5. In § 1011.71, paragraph (a)(2)(i) is amended by replacing the word "price" with the word "prices" and paragraph (a)(2)(ii) is amended by replacing the words "uniform price" with the words "weighted average price."

6. In § 1011.73, paragraph (a)(1), the introductory text of paragraph (a)(2), paragraph (c) (1) and (2), and paragraph (d) are revised as follows:

§ 1011.73 Payments to producers and to cooperative associations.

(a) * * *

(1) On or before the last day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 25th day of the month, at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1011.74 and 1011.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

* * * * * *

(c) * * *

(1) On or before two days prior to the last day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 13th day of the following month for milk received during the month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1011.74 and 1011.75, less any payments made pursuant to paragraph (c)(1) of this section.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of March through June the total pounds of base milk received from the producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1011.74 [Amended]

7. Section 1011.74 is amended by replacing the words "uniform price" with the words "uniform price(s)."

8. Section 1011.75 is revised as follows:

§ 1011.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments required pursuant to § 1011.73, the uniform price and the uniform price for base milk pursuant to § 1011.61 for the month shall be adjusted by the amounts set forth in § 1011.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1011.71, the weighted average price shall be adjusted by the amount set forth in § 1011.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1011.76 [Amended]

9. In § 1011.76, paragraph (a)(4) is amended by replacing the words "uniform price" with the words "weighted average price" in the two places they appear in paragraph (a)(4).

[FR Doc.77-22195 Filed 8-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211, 212]

REVISION OF CRUDE OIL BUY/SELL PROGRAM

Change of Hearing Location

AGENCY: Federal Energy Administration.

ACTION: Notice of change of hearing location.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice that the public hearing on the proposed revision of the Mandatory Crude Oil Allocation Program (the "buy/sell program") will be held in Room 3000A, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., rather than Room 2105, 2000 M Street NW., Washington, D.C. as previously announced in the Notice of Proposed Rulemaking and Public Hearing issued on July 18, 1977 (42 FR 37406, July 21, 1977). The public hearing will commence at 9:30 a.m. on August 9, 1977, and, if necessary, will be continued to 9:30 a.m. on August 10, as previously announced.

FOR FURTHER INFORMATION CONTACT:

Samuel M. Bradley (Office of General Counsel), Federal Building, 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

Issued in Washington, D.C., July 29, 1977.

J. PETER LUEDTKE,
Acting General Counsel.

[FR Doc.77-22234 Filed 8-1-77;8:45 am]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Economic Briefing

AGENCY: Federal Energy Administration.

ACTION: Notice of economic briefing.

SUMMARY: The Federal Energy Administration hereby announces that an economic briefing will be held on August 8, 1977. This briefing will outline the methodology behind the economic feasibility analysis of the proposed energy efficiency improvement targets for ten appliances.

DATE: August 8, 1977.

BRIEFING TO BE HELD AT: Federal Energy Administration, 12th and Pennsylvania Avenue NW., Room 3000A, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Arthur S. Roemer, Room 311, Old Post Office Bldg., Federal Energy Administration, Washington, D.C. 20461 (202-566-4661).

SUPPLEMENTARY INFORMATION: The proposed rulemaking and public hearings regarding energy efficiency improvement targets issued July 8, 1977 (42 FR 36648, July 15, 1977), announced that an economic briefing would be held if sufficient interest in such a briefing were indicated to the Federal Energy Administration (FEA). The briefing will be held on August 8, 1977, at the address indicated above. All parties who expressed interest in attending have already been directly notified of FEA's decision to hold the briefing. Notice is hereby given to any other interested persons who wish to attend. The briefing will proceed according to the following schedule:

OUTLINE OF SCHEDULE

9 a.m.-11 a.m.—Presentation of economic analysis: I—Overview of economic environment. II—Conceptual framework. III—Key variables.

11 a.m.-12 p.m.—Open discussion on presentation.

12 p.m.-1 p.m.—Lunch.

1 p.m.-2 p.m.—Background data and microeconomic analysis for products 1-5.

2 p.m.-3 p.m.—Background data and microeconomic analysis for products 6-10.

3 p.m.-4 p.m.—Aggregate analysis and impact statement.

Issued in Washington, D.C., July 27, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22152 Filed 8-1-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 564]

[No. 77-475]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendment Regarding Insurance of IRA's and Keogh Retirement Plans

JULY 27, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulation.

SUMMARY: This proposed regulatory change is intended to clarify insurance coverage of IRA's and Keogh retirement plan accounts and is needed because existing regulations do not expressly define such coverage. The proposal would expressly provide separate insurance up to $40,000 in the aggregate for the beneficial interests in such accounts. The reader may be interested in a final rule affecting these accounts which is being published concurrently with this proposal. Board Resolution No. 77-474 implements Pub. L. 94-60, which authorized Federal savings and loan associations to serve as custodians of IRA's and Keogh Plans.

DATE: Comments must be received on or before September 2, 1977.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552. Comments available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202-376-3556) at the above address.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board considers it desirable to propose an amendment to Part 564 of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation (12 CFR Part 564) by adding a new § 564.10a thereto. This proposed change, which concerns Individual Retirement Accounts (IRA's) and Keogh (H.R. 10) plans (Keogh's) offered by institutions insured by the Federal Savings and Loan Insurance Corporation, is intended to clarify insurance coverage on such accounts.

Since present regulations do not separately address insurance of IRA's and Keogh's, the Board continues to receive inquiries regarding their coverage. Although the Board's Office of General Counsel has ruled that such accounts are insured under § 564.10 (along with interests in other types of pension plans) due to their statutory origin and liability for a substantial tax penalty if withdrawn prior to conditions specified in the tax laws, the Board believes that adoption of a new provision to expressly define the insurance coverage of such accounts is desirable.

This proposal would add a new § 564.10a to the insurance regulations to specifically provide separate insurance coverage up to $40,000 in the aggregate for each beneficial interest in a Keogh or IRA.

Accordingly, the Board proposes to amend Part 564 of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation by adding a new § 564.10a thereto to read as set forth below.

§ 564.10a Certain pension accounts.

The interest of each beneficiary in a savings account established pursuant to §§ 401(d) or 408(a) of the Internal Revenue Code, and in conformance therewith, shall be deemed a trust estate for the purposes of this Part 564, and insured up to $40,000 in the aggregate, separately from any other accounts of the fiduciary or beneficiary or beneficiaries of any such account.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-22162 Filed 8-1-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 241, 245, 246]

[EDR-331; Docket 31205; Dated: July 28, 1977]

MODEL CORPORATE DISCLOSURE REGULATIONS

Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice asks for comments from the public on whether the Board can and should adopt the Model Corporate Disclosure Regulations developed by the Interagency Steering Committee on Uniform Corporate Reporting. This advance notice is being issued in response to requests from Senator Lee Metcalf and the General Accounting Office.

DATES: Comments by August 22, 1977. Reply comments by September 12, 1977. Requests to be placed on the service list by August 12, 1977.

ADDRESSES: Comments should be sent to: Docket 31205, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Babcock, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washingtn, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: The Model Corporate Disclosure Regulations were developed in 1974 and 1975 by an Interagency Steering Committee composed of representatives of nine regulatory agencies and the U.S. General Accounting Office. The model rules would provide increased disclosure of the underlying beneficial ownership of the voting stock of companies regulated by agencies adopting them, and would also provide increased disclosure of corporate structure, affiliations of officers and directors, and debt holdings. The text of the Model Corporate Disclosure Regulations is set forth in Appendix A, attached hereto.[1] The Board's existing regulations on these subjects, applicable to certificated air carriers, are contained in 14 CFR Parts 241 (specifically, 14 CFR 241.03, 241.23, 241.26, 241.33 and 241.36) 245 and 246.

In a pending case entitled the Institutional Control of Air Carriers Investigation, Docket 26348,[2] the Board is now conducting an informal investigation which includes many of the issues addressed by the Model Corporate Disclosure Regulations, and the Board will not, of course, permit any proceedings which may result from this advance notice to prejudge or prejudice that pending investigation. As its active participation in the work of the Interagency Steering Committee will attest, however, the Board is sympathetic to the goals of the model rules, and therefore wishes to elicit comment from the public on the desirability of adopting them, in whole or in part, at the present time on an interim basis, or as permanent rules following the conclusion of the Institutional Control of Air Carriers Investigation, supra.

In response to this advance notice, the Board is especially interested in receiving the views of the public on the extent of the regulatory need for the information which the model rules would produce and on whether the public interest in obtaining this information is sufficient to justify the added reporting burdens which the model rules would entail. Additionally, views are solicited on whether the Board's statutory authority (note particularly sections 204 and 407 of the Federal Aviation Act of 1958, as

[1] The Model Corporate Disclosure Regulations have also been the subject of consideration by the Interstate Commerce Commission (40 FR 15402 (1975)), the Federal Communications Commission (40 FR 26543, 26557 (1975)), and the Securities and Exchange Commission (40 FR 42212 (1975), 42 FR 12342 (March 3, 1977)).

[2] See Orders 74-1-132, 75-1-35, 77-2-87 and 77-4-103.

amended, 49 U.S.C. 1324 and 1377) is sufficient to support promulgation of the model rules.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking further action.

Those persons planning to file comments or reply comments who wish to be served with such comments filed by others, and are willing to serve their own comments on others, shall file with the Docket Section, at the address and by the date shown at the beginning of this notice, a request to be placed on the Service List. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or reply comments at the time of filing, and are to include proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 407, Federal Aviation Act of 1958, as amened, 72 Stat. 743, 766, as amended, 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A—MODEL CORPORATE DISCLOSURE REGULATIONS

DEFINITIONS

Annual Reporting. The term "annual reporting" means as of December 31 of each calendar year.

Control. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, natural or artificial. Sources of power may include, but are not limited to: Equity security ownership; debtholdings; sole or partial voting arrangements; common directors, officers, or stockholders; or lease, purchase, lines of credit, supply, distribution, or operating agreements.

Financing Lease. The term "financing lease" shall refer to any lease which during the noncancelable lease period, either (1) covers 75 percent or more of the economic life of the property or (2) has terms which assure the lessor of a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

Parent of Respondent. "Parent of respondent" shall refer to every firm, holding company or other person or combination of persons who ultimately control the respondent, as well as any intermediary controlling entity

ANNUAL REPORTING REQUIREMENTS

I. Corporate Structure. A. For each respondent, parent of respondent, subsidiaries (and or organizations controlled) of the respondent, joint ventures involved in by the respondent, and subsidiaries (and or organizations controlled) of joint ventures involved in by the respondent, the following information shall be submitted:

1. Name and address.
2. Basis of control.
3. Principal business activities. a. List and describe by 4-digit SIC Code and short title each industry in which the respondent's activities generated 10% of gross revenues or $5 million dollars (during the reporting year). 4-digit industry SIC codes & short titles are listed in the most recent Standard Industrial Classification Manual as published by the Executive Office of the President, Office of Management & Budget.

b. 4-digit SIC Codes and short titles should be listed in order of significance relative to the total activities of respondent, based upon the percentage of gross revenues generated within each 4-digit industry.

4. Copy of the latest balance sheet and income statement and consolidated balance sheet and income statement, if available.

5. A copy of any chart or other graphic material showing the relationship of the respondent to such parents, subsidiaries, and other organizations listed.

B. In addition to subparagraph (A) above, list every corporation, partnership, or other business organization in which the respondent owns more than five percent of the outstanding voting securities or other ownership interests and indicate the percentage so owned.

II. Voting Stock Ownership. A. In descending order, the 30 largest holders of voting shares (not to include any holder with less than one-tenth of the one percent of the outstanding shares) in the respondent, identified as to

1. Name.
2. Address.
3. Type (bank, broker, holding company, individual or other specified category.
4. The number of voting shares held (as of the end of the calendar year) and its percentage relationship to total outstanding shares. (If some shares—such as preferred issues—carry limited voting rights describe the limitation and the number of shares affected.)

(In determining the number of shares held, all nominee and other accounts of each shareholder, including accounts held by depository trust companies (Cede & Co., SICOVAM, Pacific Coast Stock Exchange Clearing Corp., Midwest Stock Exchange Clearing Corp.) shall be aggregated and reported as one account in the name of the bank, broker, holding company, individual or other identified shareholder.)

B. With respect to each of the 30 largest holders, the number of shares (and percentage relationship to total outstanding voting shares) over which the holder has:

1. Sole voting power.
2. Shared voting power (if voting power is shared with any of the thirty largest shareholders, identify the shareholder and the number of shares held).
3. No voting power under any circumstances.

C. With respect to shares over which the stockholder has no voting power, the name and address of the person(s) empowered to vote the ten largest blocks of stock, the number of shares and the percentage of stock in relation to the total outstanding voting shares

D. With respect to the 30 largest holders of voting shares in any parent, holding company or other organization or person controlling the respondent, provide the information required in subparagraphs (A), (B) and (C) above.

III. Affiliations of Officers and Directors. A. The name, address and social security number of each of the principal officers and each director, trustee, partner or person exercising similar functions, of the respondent and parent together with his title and position with the respondent and with any parent, holding company, person, or combination of persons, controlling the respondent, and with any subsidiary of the respondent and any other company, firm or organization which the respondent controls.

B. For each of the officials named under subparagraph (A) above, list the principal occupation or business affiliation if other than listed in subparagrap (A), and all affiliations with any other business or financial organizations, firm or partnership.

C. A list of each contract, agreement or other business arrangement exceeding an aggregate value of one million dollars entered into between the respondent and any business or financial organizations, firm or partnership named in subparagraph (B) above, identifying the parties, amounts, dates and product or service involved.

D. A list of each contract, agreement or other business arrangement in excess of $600 entered into during the calendar year (other than compensation related to position with respondent) between the respondent and each officer and director listed in subparagraph (A), identifying the parties, amounts, dates and product or service involved. In addition, provide the same information with respect to professional services for each firm, partnership or organization with which the officer or director is affiliated.

IV. Debt Holdings. A. A description of each long-term debt (debt due after one year) of the respondent in excess of one million dollars, including the name and address of the creditor, the character of the debt, nature of the security, if any, the date of origin, the date of maturity, the total amount of the debt, the rate of interest, the total amount of interest to be paid, and a copy of any and all restrictive covenants attached to the indebtedness (where such indebtedness is widely held, such as bonds and debentures, provide the name of the trustee in place of the creditor).

1. With respect to each holder of more than five percent of each issue reported provide the name, address, and type of holder—bank, broker, holding company, individual or other specified category and amount of debt held.

B. A description of each short-term debt (under one year) excluding accounts payable of the respondent, including the name and address of the creditor, nature and character of the liability, period of the debt, rate of interest, total amount of such short-term debt, nature of the security, and date when debt was paid, or date when such debt must be paid, and a copy of any and all resetrictive covenants attached to the indebtedness.

C. A description of each financing lease arrangement, equipment trust, conditional sales contract, or major liability with respect to the capital assets of the respondent and involving aggregate payments in excess of one million dollars and a copy of any and all restrictive covenants attached to the indebtedness.

[FR Doc.77-22194 Filed 8-1-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182 and 184]

[Docket No. 77N-0034]

LICORICE, GLYCYRRHIZA AND AMMONIATED GLYCYRRHIZIN

Proposed Affirmation of GRAS Status With Special Limitations as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm as generally recognized as safe (GRAS) licorice, glycyrrhiza and ammoniated glycyrrhizin as direct human food ingredients with specific limitations. The safety of these ingredients has been evaluated under the comprehensive safety review being conducted by the agency. The proposal would list the ingredients as direct food substances affirmed as GRAS.

DATE: Comments by October 3, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of licorice, glycyrrhiza and ammoniated glycyrrhizin has been evaluated. In accordance with the provisions of § 170.35 (formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of these ingredients with specific limitations.

Commercially available licorice (glycyrrhiza) is an extract prepared from the roots and rhizomes of *Glycyrrhiza glabra* L., a leguminous shrub that grows wild or is cultivated in numerous temperate or semitropical regions of Europe and Asia. *Glandulifera* and *typica* are two varieties of *C. glabra* and are known as Russian licorice and Spanish licorice, respectively. A commercial preparation of licorice extract is prepared by macerating the roots of the licorice plant, extracting with hot water and filtering. The extract is concentrated to about 20 percent moisture, and yields a crude product (block licorice) that is 30 to 40 percent of the root.

The commercially important ammoniated glycyrrhizin is prepared from a hot water extract of licorice root by sulfuric acid precipitation, followed by neutralization with dilute ammonia. It is reported to be 50 times as sweet as sucrose, to synergize the sweetness of sucrose, and to potentiate the flavor of chocolate.

Licorice and glycyrrhiza are listed in § 182.10 (formerly § 121.101(e)(1), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use in food as spices and other natural seasonings and flavorings, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404), and subsequently recodified. Licorice, glycyrrhiza and ammoniated glycyrrhizin are listed in § 182.20 (formerly § 121.101(e)(2), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use in food as essential oils, oleoresins and natural extractives, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404) and subsequently recodified.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which these substances were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to licorice, glycyrrhiza and ammoniated glycyrrhizin. No data were obtained which would show how the food use of licorice has changed in the past decade. However, survey data indicate that about 16 thousand pounds of licorice root, 74 thousands pounds of licorice extract, 300 thousand pounds of licorice extract powder, and 19 thousand pounds of ammoniated glycyrrhizin were used in foods in 1970.

Licorice, glycyrrhiza, and ammoniated glycyrrhizin have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 143 abstracts was reviewed and 39 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

On oral administration of tritium-labelled monoammonium glycyrrhizinate to human subjects, Carlat et al. determined that the substance was only slightly absorbed from the gastrointestinal tract, and was mainly hydrolyzed to form glycyrrhetic acid, which was excreted unchanged in feces. Oral administration of labelled glycyrrhetic acid produced essentially the same results. However, when tritium-labelled β-glycyrrhetic acid was administered intraperitoneally (25 mg per kg of body weight) to male and female albino rats, an average of 100 percent of the label was absorbed and then excreted within 12 hours through the bile into the feces. The rate of excretion was slower when the substance was orally administered at a level of 60 mg per kg, an average of 83 percent of the label was excreted in the feces and one percent in the urine in one to three days. The bile contained three unidentified metabolites of glycyrrhetic acid. Parke et al. suggested that Carlat et al. might have made similar observations had they collected bile over a longer period than 4 hours.

Oral administration of ammoniated glycyrrhizin (about 7 g per kg), monoammonium glycyrrhizinate (about 2 g per kg), and glycyrrhetic acid (about 1.5 g per kg), to bilaterally adrenalectomized rats, significantly decreased sodium output and caused retention of urine. The first two compounds had little or no effect on potassium output, but glycyrrhetic acid increased potassium retention. When given by any route to male albino rats, glycyrrhetic acid exhibits a strong antidiuretic effect and, when given orally (about 500 mg per kg), delays water absorption from the alimentary tract. Cats and rats administered glycyrrhetic acid intraperitoneally (200 mg and 125 mg per kg, respectively), exhibited a marked antidiuretic action; however, there was an increase in urinary potassium excretion. Following oral administration of as much as 1.5 g of glycyrrhetic acid per kg of body weight to male albino rats daily for 8 days, Linko and Vasama noted an increase in excretion of potassium, while the body weight of the rats increased.

In vitro experiments by Whitehouse et al. have shown that glycyrrhetic acid is a potent uncoupler of oxidative phosphorylation in rat liver mitochondria. Kraus reported that when rats received 0.4 percent ammoniated glycyrrhizin in drinking water (about 500 mg per kg per day) for a week, their ability to mobilize glucose was decreased. The ability of mice, receiving drinking water containing 0.4 percent ammoniated glycyrrhizin (about 800 mg per kg per day), to withstand cold temperatures was decreased. These results led the investigator to suggest that glycyrrhizin decreases the output of ACTH. Evdokimova and Kamilov found that potassium glycyrrhizinate (15 mg per kg daily), "injected internally" for two months, decreased experimental atherosclerosis in rabbits by decreasing the amount of cholesterol in the blood and reducing the cholesterol-licithinic coefficient.

Gujral et al. found that oral glycyrrhizin (200 mg per kg per day) exhibits antiarthritic and anti-inflammatory effects in adrenalectomised rates with Brownlee's formaldehyde-induced arthritis. Elmadjian et al. found that monoammonium glycyrrhizinate and hydrocortisone have synergistic effects in the adrenalectomized patient. Sasano et al. reported that simultaneous intravenous administration to rats of glycyrrhizin with dexamethasone inhibits the dexamethasone-induced strophy of the adrenals, indicating adrenocortical stimulation by the glycyrrhizin. Asanuma found that glycyrrhizin can either suppress or intensify the action of

cortisone in adrenalectomized rats, depending on the immediate conditions, and can suppress the inhibitory action of dexamethasone on the pituitary.

Van Katwijk et al. gave glycyrrhetic acid to two human subjects (one with Addison's disease and one with a jejunal ulcer) in amounts up to 2.5 g per day for unspecified periods. The urine of these patients showed no traces of glycyrrhetic acid. No data on fecal excretion were reported. However, the investigators isolated an apparent metabolite of the acid in the urine which was unidentified except for its red color and absorption maximum (555–560 $m\mu$) when treated with sulfuric acid.

The LD_{50} of various glycyrrhizin salts administered to mice has been determined by Fujimura, and Kiosa, with results as shown in [the table below].

TABLE IV

Route	Glycyrrhizin salt	LD_{50} (milligram per kilogram)
Oral	Ammonium (crude)	12,700
	Diammonium	9,600
	Potassium (crude)	12,400
	Monopotassium	1,220
	Dipotassium	8,100
Intravenous	Monopotassium	412
Intraperitoneal.	Ammonium (crude)	1,050
	Monoammonium	1,070
	Diammonium	1,240
	Potassium (crude)	1,260
	Dipotassium	1,400
Intramuscular.	Monopotassium	695
Subcutaneous.	Monopotassium	697

Finney using albino mice of both sexes, reported an intraperitoneal LD_{50} of 308 mg per kg for glycyrrhetic acid. Upon oral or subcutaneous administration, no deaths occurred with single doses as high as 610 mg per kg.

Tocco observed that when pigeons received subcutaneous doses of glycyrrhizin of from 450 to 500 mg per kg body weight, they became diarrhetic within an hour, and showed depression lasting about 24 hours. Guinea pigs receiving glycyrrhizin subcutaneously in doses of 1,000 mg per kg rapidly became depressed and diarrhetic, showed decreased urinary volume, and died within 24 hours. In dogs, intravenous doses of glycyrrhizin of about 500 mg per kg were fatal. The same dose given subcutaneously produced only a slight depression for up to 3 hours; by the oral route, this dose produced almost no adverse reaction.

Over a 50-day period, Girerd et al. gave oral doses, to male Sprague-Dawley rats, of (a) 10 g of licorice per kg per day and (b) 1 g of ammoniated glycyrrhizin per kg per day. The experimental animals showed a progressive increase in blood pressure to about 190 mm as compared to 125 mm for a control group. They also showed a significant depression of growth, which was greater in the licorice-treated rats than in the animals fed ammoniated glycyrrhizin. Both absolute and relative weight increases were noted in kidneys, adrenals, and hearts of treated animals, and weight losses in hypophyses and testes. Severe renal and cardiovascular lesions were found in the licorice-treated rats; milder lesions were noted in the ammoniated glycyrrhizin group. The survival rate, after 50 days, was 36 percent for licorice-treated rats and 77 percent for those receiving ammoniated glycyrrhizin, as compared to 100 percent for controls.

Macabies et al. administered glycyrrhizin orally to rats, at a level of 180 mg per rat per day, on the following schedule: 70 days of treatment; 50 days without treatment; another 35 days of treatment; and a final 20 days without treatment. There was no effect on weight, but a 25 percent increase in blood pressure during glycyrrhizin administration was observed; blood pressure returned to normal when the treatment was discontinued. In another study, the same workers determined the hypertensive action of several licorice-related substances administered as shown below to male Wistar rats over a period of 10 to 25 days:

Route	Substance	Daily dose (milligram per kilogram)
Intraperitoneal.	Ammoniated glycyrrhizin.	150 to 300
Intraperitoneal.	Tripotassium glycyrrhizinate.	150 and 300
Subcutaneous.	Ammoniated glycyrrhizin.	300
Oral	Deglycyrrhizinated licorice extract.[1]	800
Route unstated.	Glycyrrhetic acid (and isomers).	300

[1] Extract containing 3 to 4 pct glycyrrhizin, as compared to 20 to 25 pct in the original extract.

All of the glycyrrhizin salts increased the blood pressure which returned to normal when the treatment was ended. The glycyrrhetic acid isomers also had a strong hypertensive effect, but the duration of action was shorter; the beta isomer particularly appeared to be more effective in this respect than the salts. The "deglycyrrhizinated" licorice extract had only a very weak hypertensive action.

An extensive study of the effect of ammonium glycyrrhizinate on blood pressure, electrolytes, and corticosterone was conducted by Gordon. Dosing with technical ammonium glycerrhizinate at 1000 and 2000 mg per kg per day produced significant increases in the blood pressure of Sprague-Dawley rats within 2 to 3 weeks, but not in Osborne-Mendel rats over a 20 week period. There was a decrease in plasma corticosterone and increased kidney and heart weights at the 1000 mg per kg level. However, when the compound was fed at 4 percent of the diet (2000 mg per kg per day) for 5 weeks, plasma corticosterone, blood pressure, and organ weights all were increased.

Fujimura and Okamoto fed diammonium and dipotassium glycyrrhizinates at dietary levels of 0.1 (approximately 100 mg per kg per day) and 0.5 percent to rats for 90 days. At the higher level the male animals showed a slower rate of weight gain than did the controls; at autopsy, no gross or histological abnormalities were noted in the organs. Klosa observed no untoward effects when rats were given potassium glycyrrhizinate (route unstated) at a level of 60 mg per kg per day for 8 months.

No reports of long-term studies on licorice-related substances have been found.

Tests of the teratogenicity of ammonium glycyrrhizinate have been conducted on laboratory animals that were given daily doses, by oral intubation, of up to 1000 mg per kg of the test substance, under the following schedule:

109 albino CD–1 outbred *mice*. Dosed for 10 days (6th through 15th day of gestation). Caesarian section performed on the 17th day.

106 *rats* of Wistar-derived stock. Dosed for 10 days (6th through 15th day of gestation). Caesarian section performed on 20th day.

111 golden *hamsters*. Dosed for 5 days (6th through 10th day of gestation). Caesarian section performed on 15th day.

53 Dutch-belted *rabbits*. Dosed for 13 days (6th through 18th day of gestation). Caesarian section performed on 29th day.

It was concluded that the indicated dosages of ammonium glycyrrhizinate had no teratological effect and did not unfavorably influence maternal or fetal survival.

Mutagenicity screening studies have been conducted on ammoniated glycyrrhizin. It was found to be non-mutagenic in rats in the dominant lethal assay at oral doses up to 5000 mg per kg. It produced no detectable aberrations in rat bone marrow methaphase chromosomes when administered orally in doses up to 5,000 mg per kg. It produced no significant aberrations in the anaphase chromosomes of human embryonic lung cells in tissue culture when tested at levels of up to 1000 g per ml. Results in the host-mediated assay in mice at oral levels of ammoniated glycyrrhizin up to 5000 mg per kg and using two Salmonella strains and one Saccharomyces strain were generally negative. Dose levels in all of these mutagenic studies greatly exceed estimated current dietary consumption levels.

The Select Committee is not aware of any studies on the possible carcinogenic properties of glycyrrhizinates.

Consumption of large amounts of candy or beverages containing licorice has caused untoward effects in human subjects. An adult male developed shortness of breath, ankle edema, headache, weakness, elevated blood pressure and "apparent hypokalemia" attributed to eating 700 g of licorice candy within 9 days. The symptoms disappeared when he stopped eating the candy. Another adult male consumed a 35 g licorice bar every day for about 6 months and developed a hypertension with "unpleasant cardiac sensations." After two weeks on a salt-free diet, bed rest, mild sedation and discontinuance of the candy he returned to normal. A 19-year-old girl developed a chronic edema of the legs and ankles and an elevated blood pressure after prolonged eating of large amounts of licorice candy. Abstinence from licorice caused the symptoms to disappear.

Five persons (age unstated) experienced intoxication after drinking an unknown amount of "antesite", an alcoholic drink flavored with licorice extract. The chief symptoms were hypertension and polydipsia. One subject was found to have hypokalemia. Recovery followed when the antesite was no longer consumed. Two men over 50 years old who were chronic users of licorice were treated by Potton et al. because they developed arterial hypertension and severe neuromuscular symptoms with episodes of hypokalemia and hypernatremia. In both cases there was a total regression of symptoms within 20 days after abstinence from licorice was instituted.

Three planned studies on feeding licorice-related substances to human subjects have been reported. Molhuysen administered daily, to ten persons for periods up to 3 weeks, 20 to 45 g of licorice extract. Hemoglobin and total serum protein decreased, and venous pressure, blood pressure, and pulse pressure rose considerably. Louis and Conn fed ammonium glycyrrhizinate to 10 persons, up to 6 g per day for 3 days or 4 g per day for 5 to 10 days. They noted a significant decrease in 17-ketosteroids, indicating inhibition of the pituitary-adrenal system, and a decrease in release of MSH (melanocyte-stimulating hormone) from the pituitary. Card et al. fed block juice (dried licorice extract) to two adult males for two periods of four days each, at levels of 20 and 36 g daily. They noted a gain in body weight and a slight rise of systolic and diastolic blood pressures.

Nishiyama has reported on the use of licorice substances in the treatment of ulcers. He found that favorable results were evident in 44 patients with peptic ulcers. The administration of licorice extract to rats rendered ulcer-prone by ligation of the pylorus (Shay rats) was found to check the growth of ulcers, while crude glycyrrhizin was without effect.

Revers investigated the effectiveness of licorice extract in treating gastric ulcers in 45 patients. Three times daily, patients were treated with one teaspoon per person of a preparation consisting of 100 g of powdered extract and 50 g of water; progress was checked with X-rays every two or three weeks. In nearly two-thirds of the cases, the ulcers disappeared. This treatment of duodenal ulcers with licorice extract was not as effective as it was in the treatment of gastric ulcers. Edema occurred in some patients but ceased to occur when dosage was lowered or discontinued.

All of the available safety information on licorice, glycyrrhiza and ammoniated glycyrrhizin has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Orally administered licorice and licorice derivatives are absorbed to some extent and the principal metabolic products are excreted through the bile, but most of an ingested dose is hydrolyzed in the digestive tract and the products excreted through the feces. Acute and short-term animal studies on licorice and licorice derivatives reveal that they are substances of a very low order of toxicity, capable of eliciting a variety of pharmacological effects but only at levels considerably higher than are likely to be achieved in usual diets. None of these effects suggests cause for concern at current or foreseeable dietary levels of consumption. However, the capacity of licorice and licorice derivatives to elicit transitory hypertensive effects, at higher dosage levels in animals and man, requires more definitive clarification as far as its practical implications are concerned. This would be particularly important for the unknown number but probably few individuals who may indulge themselves with excessive intakes of licorice-containing candies and/or beverages. The Select Committee has found no long-term toxicological data on licorice-related products administered to animals or man. Until the long-term as well as the acute dose relationships of the hypertensive effect are clarified, it appears inappropriate to conclude that unrestricted use of licorice and licorice derivatives in food would be without hazard to consumers in general.

It is the conclusion of the Select Committee that there is no evidence in the available information on licorice, glycyrrhiza, and ammoniated glycyrrhizin that demonstrates or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of all available information on licorice, glycyrrhiza and ammoniated glycyrrhizin, the Commissioner concurs with this conclusion. He therefore concludes that they may be affirmed as GRAS with specific limitations placed upon their use. The levels of use adopted in this proposal, for the various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredients in any manner not permitted by the proposed regulations would result in their becoming unlawful food additives.

Copies of the scientific literature review on licorice, glycyrrhiza, and ammoniated glycyrrhizin, reports of mutagenic and teratogenic tests on ammoniated glycyrrhizin and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, as follows:

Title	Order No.	Price code	Price[1]
Glycyrrhiza (scientific literature review).	PB–221–230	A03	$4.00
Ammonium glycyrrhizinate (teratology tests)	PB–221–793	A03	4.00
Ammoniated glycyrrhizin (mutagenic tests)	PB–245–454 AS	A06	5.50
Licorice, glycyrrhiza, and ammoniated glycyrrhizin (select committee report).	Pb–254–529 AS	A03	4.00

[1] Price subject to change.

This proposed action does not affect the present use of licorice, glycyrrhiza, and ammoniated glycyrrhizin for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.10 [Amended]

(a) In § 182.10 *Spices and other natural seasonings and flavorings* by deleting the entries for "Glycyrrhiza" and "Licorice".

§ 182.20 [Amended]

(b) In § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by deleting the entries for "Glycyrrhiza", "Licorice", and "Ammoniated glycyrrhizin".

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1408 to read as follows:

§ 184.1408 Licorice.

(a) *Licoric (glycyrrhiza).* (1) Licorice (glycyrrhiza) root is the dried and ground rhizome and root portions of *Glycyrrhiza glabra* and other species of Glycyrrhiza. Licorice extract (glycyrrhiza) is that portion of the licorice root which is, after maceration, extracted by boiling water. The extract can be further purified by filtration and by treatment with acids and ethyl alcohol. Licorice extract powder is obtained by grinding the concentrated extract solids.

(2) The Food and Drug Administration has determined that these ingredients shall meet the following specifications when analyzed by the proposed methods.

(i) *Assay.* The glycyrrhizin content of each flavoring ingredient shall be within the range stated by the vendor as determined by a validated method based on the procedure in Analytical Chemistry 36, 1871–1873 (1964) for glycyrrhizic acid

(ii) *Ash.* Not more than 8 percent on an anhydrous basis as determined by the method in the Food Chemicals Codex, 2d Ed. (1972), pp. 868–869.[1]

(iii) *Acid insoluble ash.* Not more than 2.5 percent on an anhydrous basis as determined by the method in the Food Chemicals Codex, 2d Ed. (1972), p. 869.[1]

(iv) *Heavy metals (as Pb).* Not more than 40 ppm as determined by method II in the Food Chemicals Codex, 2d Ed. (1972), p. 920.[1]

(v) *Arsenic (As).* Not more than 3 ppm as determined by the method in the Food Chemicals Codex, 2d Ed. (1972), p. 865.[1]

(3) The ingredients are used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Licorice root:		
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.02	Flavoring agent, sec. 170.3(o)(12) of this chapter
Beverages, alcoholic, sec. 170.3(n)(2) of this chapter	.015	Do
Hard candy, sec. 170.3(n)(25) of this chapter	24.0	Do
Meat products, sec. 170.3(n)(29) of this chapter	.25	Do
Soft candy, sec. 170.3(n)(38) of this chapter	.5	Do
All other food categories	.07	Do
Licorice extract powder:		
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter	.2	Do
Beverages, alcoholic, sec. 170.3(n)(2) of this chapter	.2	Do
Chewing gum, sec. 170.3(n)(6) of this chapter	.6	Do
Hard candy, sec. 170.3(n)(25) of this chapter	1.0	Do
Meat products, sec. 170.3(n)(29) of this chapter	.25	Do
Soft candy, sec. 170.3(n)(38) of this chapter	4.2	Do
All other food categories	.04	Do
Licorice extract:		
Chewing gum, sec. 170.3(n)(6) of this chapter	2.9	Do
Hard candy, sec. 170.3(n)(25) of this chapter	37.0	Do
Soft candy, sec. 170.3(n)(38) of this chapter	2.9	Do
All other food categories	.17	Do

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20037.

(b) *Ammoniated glycyrrhizin.* (1) Monoammonium glycyrrhizinate ($C_{42}H_{65}O_{16}NH_4 \cdot 5H_2O$, CAS Reg. No. 001407-03-0) is prepared from the hot water extract of licorice root by sulfuric acid precipitation followed by neutralization with dilute ammonia.

(2) The Food and Drug Administration has determined that this ingredient shall meet the following specifications when analyzed by the proposed methods.

(i) *Assay.* The ammoniated glycyrrhizin content of the ingredient shall be within the range stated by the vendor as determined by a validated method based on the procedure in Analytical Chemistry 36, 1871–1873 (1964) for glycyrrhizic acid.

(ii) *Ash.* Not mores than 0.5 percent on an anhydrous basis as determined by the method in the Food Chemicals Codex, 2d Ed. (1972), pp. 868–869.[1]

(iii) *Heavy metals (as Pb).* Not more than 40 ppm as determined by method II in the Food Chemicals Codex, 2d Ed. (1972), p. 920.[1]

(iv) *Arsenic (As).* Not more than 3 ppm as determined by the method in the Food Chemicals Codex, 2d Ed. (1972), p. 865.[1]

(3) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Chewing gum, sec. 170.3 (n)(6) of this chapter.	0.4	Flavor agent, sec. 170.3(o)(12) of this chapter.
Soft candy, sec. 170.3(n) (38) of this chapter	.24	Do.
All other food categories..	.17	Flavor agent, sec. 170.3(o)(12) of this chapter; surface active agent, sec. 170.3 (o)(20) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 3, 1977, submit to the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-21969 Filed 8-1-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H–052]

OCCUPATIONAL EXPOSURE TO COTTON DUST

Receipt of Additional Data; Extension of Time to File Post-Hearing Comments Thereon

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of receipt of additional data and extension of post-hearing comment period for opportunity to comment upon said data.

SUMMARY: This notice acknowledges the receipt by OSHA on July 28, 1977, of data compiled by ATMI survey, containing medical and technological information from their members. In order to enable the public to review and comment upon this data, the filing of post-hearing comments on this data only shall be permitted through September 2, 1977.

DATES: All post-hearing comments on this additional data must be filed by September 2, 1977.

FOR FURTHER INFORMATION CONTACT: All comments should be submitted to:

Thomas Hall, Docket H–052, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION: On December 28, 1976, a Proposed Standard for Occupational Exposure to Cotton Dust was published in the FEDERAL REGISTER 41 FR 56498). An informal rulemaking hearing was held on this proposal commencing April 5, 1977. One of the participants at this hearing, the American Textile Manufacturers Institute, presented testimony on surveys conducted by them of their membership. Certain underlying data has now been submitted for the record by ATMI.

The data supplied by ATMI consists of approximately 50 pages of medical survey results and approximately 2,500 pages of responses to questionnaires sent by ATMI to its members for the purpose of evaluating the economic impact of the proposed cotton dust standard.

This additional data is available for inspection and copying at the Technical Data Center, Room S–6212, 200 Constitution Ave. NW., Washington, D.C. 20210; Tel. No. 202–523–7894. Interested parties may submit comments on this data only, no later than September 2, 1977.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911.)

Signed at Washington, D.C., this 29th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22270 Filed 8-1-77;8:45 am]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2608]

ALLOCATION OF ASSETS

Proposed Amendment To Allow Special Allocation Class for Plan Mergers

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed regulation.

SUMMARY: This is a proposed amendment to the Pension Benefit Guaranty Corporation's Interim Regulation on Allocation of Assets. If adopted, the amendment would allow plans that merge to provide a special schedule for allocating assets if the merged plan terminated. The special schedule is necessary to allow merging plans that are not equally funded to satisfy the requirements of an Internal Revenue Service proposed regulation. The effect of both the IRS proposal and this proposed amendment is to protect certain benefits of participants by making sure that if a plan terminates after a merger, benefits that were funded prior to the merger are paid before plan assets are used to pay other benefits that were not funded prior to the merger.

DATES: Comments due by September 16, 1977.

ADDRESSES: Send comments to: Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection in the PBGC's Office of Communications, at the same address, between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Cole, Jr., Special Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006; telephone 202–254–4895.

SUPPLEMENTARY INFORMATION: Section 208 of the Employee Retirement Income Security Act of 1974 ("Act") and section 414(l) of the Internal Revenue Code ("Code") require that, when two or more pension plans merge, the benefits participants would receive if the plan was terminated immediately after the merger must be at least equal to the benefits participants would have received if the predecessor plans had terminated immediately before the merger.

The IRS has issued a proposed regulation for implementing the benefit equivalence test for purposes of section 414(l) of the Code. The proposal requires, except in certain cases, that when two or more unequally funded plans merge, a special schedule be created for use in allocating assets upon termination. (42 FR 33770, July 1, 1977.) The special schedule is composed of certain benefits in the better funded plan which would be funded if assets were allocated as required by section 4044 of the Act before the merger. For example, two plans merge and one plan has sufficient assets to satisfy all benefits through priority category 5 of the allocation, but the other plan has only sufficient assets to satisfy all benefits through 10 percent of priority category 4. The special schedule would be inserted at the 10 percent level in priority category 4 of the merged plan and would be composed of the remaining 90 percent of the priority category 4 and all of the priority category 5 benefits contained in the better funded plan on the date of merger. If the better funded plan had $10,000 of benefits in priority category 4 and $20,000 in priority category 5, the special schedule would contain $29,000 of benefits (90 percent of priority category 4 and all of the priority category 5 benefits). If the merged plan terminated, assets would be allocated through 10 percent of priority category 4 and then to benefits in the special schedule. Remaining assets would then be allocated to the rest of the benefits in priority category 4 and the benefits in priority categories 5 and 6 of the merged plan in accordance with the normal allocation rules.

If the special schedule were not established, the funding of benefits in the better funded plan would be diluted if a termination occurred after the merger. Thus, the priority category 4 benefits from the lower funded plan, not funded before the merger, would draw assets away from the priority category 4 and 5 benefits of the better funded plan that were funded before the merger. Moreover, priority category 5 benefits from the lower funded plan would share in the allocation of assets with the priority category 5 benefits from the better funded plan, further drawing assets away from those benefits in the better funded plan that would have been satisfied if the merger had not occurred.

Because section 4044 of the Act is contained in Title IV of the Act, an allocation of assets using the special schedule is not permissible until PBGC amends the allocation regulation (29 CFR Part 2608).

Accordingly, PBGC proposes to amend its Allocation of Assets regulation by adding a new § 2608.13 which would (1) allow plans to establish a special schedule in accordance with the requirements of the IRS proposal and (2) provide for allocation of assets upon termination using the special schedule.

Paragraph (a) of proposed § 2608.13 allows establishment of the special schedule for allocation purposes, if the merger is allowable under section 208 of the Act. Paragraph (b) provides for allocation using the special schedule. Under paragraph (b), assets are to be allocated as if there were no special schedule up to the point in the allocation procedure where the IRS proposal requires that the special schedule be inserted. Assets are then allocated to benefits in accordance with the IRS rule requiring the special schedule. If the assets remaining are not sufficient to satify all benefits in the special schedule, assets are allocated to benefits within the special schedule in the order of the priorities for allocation within the special schedule established in the IRS proposal.

Finally, paragraph (c) of proposed § 2608.13 makes it clear that the special schedule is only used for allocation if the plan terminates during the period the special schedule is required under the IRS proposal to be in effect to satisfy the requirements of 414(l) of the Code.

DATA MAINTENANCE ALTERNATIVE

Under the IRS proposal, the special schedule need not be created upon the merger, if the merged plan maintains the data necessary to create the special schedule in the event the merged plan terminates. The necessary data will differ from case to case depending on the relative levels of funding, the benefit structure and the participant census of the merging plans.

Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendations. The proposal may be changed in light of the comments received.

In consideration of the foregoing, the Pension Benefit Guaranty Corporation prcposes to amend Part 2608 of Chapter XXVI, Title 29, of the Code of Federal Regulations to add a new § 2608.13 to read as follows:

§ 2608.13 Special categories for mergers or consolidations.

(a) *Authority to use special schedule.* A plan may establish a special schedule of benefits within any of the priority categories for use in allocating assets upon plan termination, if the special schedule is required as a condition of a merger or consolidation of plans under rules, regulations, interpretations or opinions implementing section 414(l) of the Internal Revenue Code of 1954, as amended, and the merger or consolidation is allowable under section 208 of the Act (and any rules, regulations, interpretations or opinions implementing that section). The special schedule may contain only those benefits required to be placed in the special schedule by the rules, regulations, interpretations or opinions implementing section 414(l) of the Internal Revenue Code of 1954, as amended.

(b) *Allocation upon termination.* Upon termination of a plan, assets are allocated to benefits in accordance with §§ 2608.1 through 2608.12 up to the point in the priority categories where the special schedule has been inserted. Assets are then allocated to remaining benefits in accordance with the rule, regulation, interpretation or opinion requiring establishment of the special schedule.

(c) *Expiration of authority.* The authority to use a special schedule for allocating assets expires at the end of the period that the special schedule is required to be in effect to satisfy the rule, regulation, interpretation, or opinion requiring its establishment.

(Secs. 4002(b)(3), 4044, Pub. L. 93–406, 88 Stat. 1004, 1025–27 (29 U.S.C. 1302(b)(3), 1344 (Supp. V, 1975)).)

Issued on this 27th day of July 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

HENRY ROSE.
Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.77-22094 Filed 8-1-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of the Status of 10 Species of Amphibians

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Review of the status of 10 species of amphibians.

SUMMARY: Notice is hereby given that the Department of the Interior has evidence on hand to warrant a review of the species of amphibians listed below to determine whether they should be proposed for listing as endangered or threatened species.

DATES: Information regarding the status of these species should be submitted on or before November 1, 1977, to the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments on this Notice of Review should be submitted to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240; Phone 202–343–4646.

SUPPLEMENTARY INFORMATION: The species of amphibians for which this notice of review is issued are as follows:

Scientific name	Common name	Where found
Bufo lemur	Puerto Rican toad	Puerto Rico.
Bufo nelsoni	Amargosa toad	Nevada.
Hyla andersonii	Pine Barrens treefrog	New Jersey, North Carolina, South Carolina.
Rana onca	Vegas Valley leopard frog	Arizona, Nevada, Utah.
Necturus lewisi	Neuse River waterdog	North Carolina.
Eurycea nana	San Marcos salamander	Texas.
Eurycea troglodytes	Valdina Farms salamander	Do.
Plethodon larselli	Larch Mountain salamander	Oregon, Washington.
Plethodon stormi	Siskiyou Mountain salamander	California, Oregon.
Typhlomolge tridentifera	Honey Creek Cave blind salamander.	Texas.

The Department is seeking the views of the Governors of Arizona, California, Nevada, New Jersey, North Carolina, Oregon, Puerto Rico, South Carolina, Texas, Utah, and Washington where the species of amphibians occur. Other interested parties are hereby invited to submit any factual information, including publications and written reports, which is germane to this status review.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

Dated: July 26, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-22110 Filed 8-1-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is hereby given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in Room 28A, Administration Building, Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C., August 17, 1977, at 9:30 a.m.

The meeting will consist of a discussion of the issues pertinent to preparation of a final report.

The meeting will be open to the public and under the direction of the Panel Chairperson or her designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who has further questions should contact the Issuance Coordination Staff, Technical Services, Food Safety and Quality Service, U.S. Department of Agriculture, Room 4905, South Agriculture Building, Washington, D.C. 20250, Area Code 202–447–6189. Any person who wishes to file a statement may send such statement to the Issuance Coordination Staff at the above address.

Done at Washington, D.C., on August 1, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-22334 Filed 8-1-77;10:20 am]

CIVIL AERONAUTICS BOARD

[Docket 29123; Agreement C.A.B. 26761; Agreement C.A.B. 26763; Order 77-7-113]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Related to Passenger Fare and Cargo Rate Matters; Order

Issued under delegated authority July 25, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted by mail vote and have been assigned the above-designated C.A.B. agreement numbers.

Agreement C.A.B. 26761 would amend Resolution 084e governing group inclusive-tour (GIT) fares between the United States and South America, by permitting combinations with similar GIT fares between the United States and the Far East. Agreement C.A.B. 26763 would amend Resolution 084f governing Mid Atlantic 10/28 day GIT fares, by lowering the minimum stay to 7 days with respect to tours to San Juan organized in conjunction with sea cruises.[1] Both agreements would liberalize the conditions applicable to existing discount-fare resolutions, and will be approved.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.:	*IATA resolution*
26781	100 (Mail 146) 084e.
26763	JT12 (Mail 148) 084f.

Accordingly, It Is Ordered That:

Agreements C.A.B. 26761 and 26763 are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22192 Filed 8-1-77;8:45 am]

[1] The new provision would not apply, however, on tours originating in the United Kingdom or Ireland.

COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER, Monday, July 25, 1977 (FR Doc. 77-21300), on page 37834 has been cancelled.

Dated at Washington, D.C., July 27, 1977.

JOHN I. BRINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22161 Filed 8-1-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service one position of Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22031 Filed 8-1-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Fish and Wildlife and Parks, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22033 Filed 8-1-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Director, Project Management Staff, Reorganization and Management, Executive Office of the President.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners

[FR Doc.77-22032 Filed 8-1-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COLUMBIA UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00104. Applicant: Columbia University, 119th and Broadway, New York, N.Y. 10027. Article: Picosecond Streak Camera, Model 675 II and Channel Plate Intensifier 50/40. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in investigations of ultrafast relaxation processes in excited state molecules. The experiments to be conducted will include exciting molecules of interest with a pico-second laser pulse and monitoring the time dependent changes in the molecules, due to energy relaxtion processes and molecular motions, by measuring with the article the changes in molecular absorption and emission on the picosecond time scale. The objectives of this research are to gain an understanding of the various decay processes by which molecules dissipate their energy as a function of the molecules' structure and interactions with surrounding molecules and applied fields. The article will also be used for educational purposes in the course Chemistry G9307x—Research for the Doctorate in which students carrying out research for the Ph. D., and post-doctoral fellows carrying out research for advanced training will learn how to use the instrument in carrying out their research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 29, 1976).

Reasons: The foreign article provides a time resolution of better than two picoseconds (2 picoseconds). The National Bureau of Standards (NBS) advises in its memorandum dated June 22, 1977 that: (1) the capability of the article described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus which provided the pertinent feature at the time the foreign article was ordered. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–22136 Filed 8–1–77;8:45 am]

METHODIST HOSPITAL OF INDIANA, INC., ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 76–00548. Applicant: Methodist Hospital of Indiana, Inc., 1604 North Capitol Avenue, Indianapolis, Ind. 46202. Article: Electron Microscope, Model EM 201C and attachments. Date of denial without prejudice to resubmission: March 8, 1977.

Docket Number: 77–00013. Applicant: Smithsonian Institution, Washington, D.C. 20560. Article: Scanning Electron Microscope, Novascan 30 and accessories. Date of denial without prejudice to resubmission: March 8, 1977.

Docket Number: 77–00016. Applicant: Yale University, Department of Chemistry, 225 Prospect Street, New Haven, Conn. 06520.

Article: Computer Controlled Kappa-Axis 4-circle Single Crystal Diffractometer, Model CAD–4 (less disc). Date of denial without prejudice to resubmission: February 1, 1977.

Docket Number: 77–00044. Applicant: UCLA/Geophysics & Space Physics, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Recording/Portable Proton Magnetometer, Model MP–2. Date of denial without prejudice to resubmission: February 25, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–22135 Filed 8–1–77;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00103. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., Suite 100, 2010 N. Forbes Blvd., Tucson, Ariz. 85705. Article: Klystron, Model VRT–2124B and accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or aparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 160–168 gigahertz frequency range with 25 millivolts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated June 20, 1977, that: (1) the capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–22138 Filed 8–1–77;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00102. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., Suite 100, 2010 N. Forbes Blvd., Tucson, Ariz. 85705. Article: Klystron, Model VRB–2113A30 and accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 105–111 gigahertz frequency range with 75 millivolts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated June 15, 1977, that: (1) the capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division

[FR Doc.77–22139 Filed 8–1–77;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00209. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Klystron, Model VRB 2113A 30 SN. 70443. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 80–110 gigahertz frequency range with 75 milliwatts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated June 23, 1977 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–22140 Filed 8–1–77;8:45 am]

NORTHWESTERN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review or during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00125. Applicant: Northwestern University, 619 Clark Street, Evanston, Ill. 60201. Article: Interface Basic System, Model 502, PDP–11 UNIBUS Compatible, 60 Hz, 110V Power and accessories. Manufacturer: Cambridge Electronic Design Ltd., United Kingdom. Intended use of article: The article is intended to be used in conjunction with a PDP–11 computer and other laboratory equipment to investigate the response properties of single ganglion cells in the cat retina. In the experiments to be conducted, the electrical activity of a single ganglion cell is recorded with a microelectrode. This data is transmitted through the laboratory computer interface to the computer where it is analyzed. In addition, the important parameters of the visual stimulus

are determined by the computer and transmitted through the laboratory computer interface to a visual stimulus display. Most of the experimental work described above will be done by graduate students as part of their dissertation work and by post-doctoral fellows.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 16, 1976). Reasons: The foreign article provides the capability to use existing programs and to be optimized for specific programs. Domestic manufacturers stated that they were able to match the article at the time of order but, due to the paucity of customers performing the applicant's type of research, were unwilling to do so. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 24, 1977 that the capability described above is pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time of order.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-22137 Filed 8-1-77;8:45 am]

RUTGERS—THE STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00181. Applicant: Rutgers—The State University, Psychology Building, Busch Campus, Piscataway, New Jersey 08854. Article: Bat Detector (Ultrasonic Receiver). Manufacturer: Holgate's of Totten, United Kingdom. Intended use of article: The article will be used for studies of the role that various pup stimuli have in stimulating the onset and maintenance of maternal behavior in the rats. The changes in ultrasound production postpartum and the effects of various situations on it will be investigated. Some of the situations to be investigated include: maternal deprivation, temperature changes, nutritional deprivation, tactile stimulation, and odors from bedding or adult rats. Both the total number of ultrasonic detections and the frequencies at which the sounds are emitted will be studied.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides reception by converting ultrasonic vibrations into audible signals over a continuously variable range of 10 to 180 kilocycles per second and portability. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 24, 1977 that the features described above are pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22141 Filed 8-1-77;8:45 am]

ST. FRANCIS HOSPITAL ET AL.

Consolidated Decision on Applications for Duty Free Entry of Electron Microscopes; Correction

The Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes appearing at page 35666 in the FEDERAL REGISTER of Monday, July 11, 1977 is hereby amended to include phrase inadvertently omitted in second sentence under Reasons:

Notice should read:

Docket Number: 77-00164. Applicant: St. Francis Hospital, 929 North St. Francis Avenue, Wichita, Kansas 67214. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the areas of renal biopsies, liver biopsies and tumor pathology. A definitive diagnosis of kidney diseases based on the findings of electron microscopic studies will help determine the modality of treatment for the patients. The projected experiment to be conducted will be in the field of virology, particularly the clinical study of viral hepatitis. Application received by Commissioner of Customs: March 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977. Article ordered: December 30, 1976.

Docket Number: 77-00171. Applicant: Robert B. Brigham Hospital, 125 Park Hill Avenue, Boston, Massachusetts 02120. Article: Electron Microscope, Model JEM-100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projectors which will include the following: (1) High resolution transmission microscopy of plasma membranes of various cells to determine the relationships between a phagocytic cell and a target, e.g., macrophage attacking a tumor cell, and eosinophil attacking a schistosomula, (2) Studies of the fusion of liposomes with macrophages. (3) Examination of membranes of white blood cells by negative staining to discern any membrane order such as occurs in viral and some bacterial membranes. (4) Scanning microscopy of cell surfaces to determine whether peptides or proteins which alter the movement and behavior of cells act by entering the cell or on its surface. Application received by Commissioner of Customs: March 16, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977. Article ordered: January 11, 1977.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability equal to or better than 3.5 Angstroms. The Department of Health, Education, and Welfare advises in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW advises that it knows of no domestic instrument which could provide the pertinent feature at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22142 Filed 8-1-77;8:45 am]

STATE UNIVERSITY OF NEW YORK AT SYRACUSE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00169. Applicant: State University of New York—Upstate Medical Center, 155 Elizabeth Blackwell St., Syracuse, New York 13210. Article: Multiple Inoculator: Repliscan Processor and accessories. Manufacturer: KVL Laboratories, Canada. Intended use of article: The article is intended to be used for the study of gram negative bacilli, gram positive cocci, their identification and biochemical characteristics. Specifically, the system incorporates inoculation of pure test cultures on appropriate agar base media by means of a multiple inoculator thereby achieving simultaneous inoculation of a large number of test organisms on a wide range of agar base products.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for testing and identifying 36 organisms at a time on a wide range of agar base products using programmed information. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 8, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22143 Filed 8-1-77;8:45 am]

TEXAS A&M UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00139. Applicant: Texas A&M University, Oilseed Products, College Station, Texas 77843. Article: Automatic Nitrogen Analyzer. Manufacturer: Foss America, Inc., Denmark. Intended use of article: The article is intended to be used in research in which protein extracts from soybean, peanut and glandless cottonseed flours will be membrane processed using industrial semi-permeable membranes to fractionate the constituents of the liquid extracts into a high protein product and a secondary product composed of sugars and salts, and small molecular-sized compounds. The investigators will be conducted to explore and demonstrate the feasibility of recovering the solubilized protein by ultrafiltering it from the liquid extracts instead of separating it from non-protein constituents by conventional acid precipitation methods. Specifically, the article will be used to assay samples of liquid extract going into ultrafiltration membranes and samples of UF permeates coming from the UF membranes. It will likewise be used to monitor nitrogen contents of samples to and from the second stage of membrane processing where reverse osmosis (RO) membranes are employed. The article will also be used by graduate students, cooperative education students and project technicians for assaying samples pertaining to the research and other research projects when not in use for the purposes as stated.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 22, 1976). Reasons: The foreign article provides rapid and automatic analysis by the Kjehdahl nitrogen method (i.e., first run complete in 12 minutes and, in continuous use, results at 3 minute intervals). The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 24, 1977 that the features described above are pertinent to the applicant's intended use. HEW also advises it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22144 Filed 8-1-77;8:45 am]

UNIVERSITY OF ALASKA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00092. Applicant: University of Alaska, Institute of Arctic Biology, Fairbanks, Alaska 99701. Article: 2 Cassette temperature recorders and cassette playback units. Manufacturer: Grant Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used for the study of the effect of disturbance upon soil temperature regime; comparison of soil temperature regime between temperature alpine and subalpine sites and between arctic alpine and subalpine sites, and documentation of soil temperature regime within a cottongrass tussock. The article will also be used in the course Physiological Ecology which involves the examination of physiological adaptations of plants and animals to their environment. The objective of the laboratory portion of the course is to teach students to document important aspects of the environment (Such as temperature) and to examine the responses of organisms to those factors.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 5, 1976). Reasons: The foreign article provides (1) a self-contained power supply with a battery life of at least 30 days, (2) multiple channel (10-20) simultaneous recording, (3) magnetic tape data acquisition, (4) play back-data transfer and (5) a weather proof case. The National Bureau of Standards (NBS) advises in its memorandum dated June 14, 1977 that the features of the article described above are pertinent to the applicant's intended uses. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22145 Filed 8-1-77;8:45 am]

UNIVERSITY OF CALIFORNIA—LIVERMORE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00079. Applicant: University of California—Lawrence Livermore Laboratory, 7000 East Avenue, Livermore, California 94550. Article: Faraday Rotators. Manufacturer: Hoya Corp., Japan. Intended use of article: The article is intended to be used to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. The phenomena to be investigated is the feasibility of producing a thermonuclear microexplosion using a uniquely high intensity laser pulse. Experiments will be conducted using the Shiva-20 arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time thermonuclear reaction of as many as 10^{11} neutrons per microexplosion.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is provided with a verdet constant of 0.070 which is required to insure minimal scattering of the laser beam. The National Bureau of Standards (NBS) advises in its memorandum dated June 6, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22146 Filed 8-1-77;8:45 am]

UNIVERSITY OF CALIFORNIA—SANTA CRUZ

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00123. Applicant: University of California, Purchasing Department, 1156 High Street, Santa Cruz, CA 95064. Article: Two (2) Righthand and Two (2) Lefthand Micromanipulators, Model SM-20; and SM-19 Electrode Carriers. Manufacturer: Narishige Scientific Instrument Lab., Japan. Intended use of article: The articles are intended to be used for studies of the neural mechanisms of choice (and learning) in *Pleurobranchaea Californica*. Intracellular recordings will be made from cells in both the cerebral and buccal ganglia, with the aim of determining the mechanism of choice in *Pleurobranchaea*. This goal will be pursued utilizing the dominance of feeding over local withdrawal behavior; first, the point in the local withdrawal circuit upon which the feeding circuit responsible will be determined; lastly, the precise nature of the interaction will be studied.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides digital "Z" axis readout, 0.1 micron calibration, and an electrode carrier which permits repeated precise placing of very small electrodes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 23, 1977 that the capabilities of the article described above are pertinent to the applicant's intended uses. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or appartuus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-22128 Filed 8-1-77;8:45 am]

UNIVERSITY OF DAYTON, ET AL.

Application for Duty-Free Entry of Scientific Articles; Correction

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 12539 in the FEDERAL REGISTER of Wednesday, March 19, 1975, the following amendment is hereby made to reflect more fully the intended use of the article:

Docket Number: 75-00392-00-66700. Applicant: Jacksonville Children's Museum, 1025 Gulf Life Drive, Jacksonville, Fla. 32207. Article: Planetarium Projector, MS-10. Manufacturer: Minolta Camera Co. Ltd., Japan. Intended use of article: The article is intended to be used to demonstrate astronomical phenomena and to allow student participation and involvement in the following courses:

Celestial Navigation.
Principles of Stellar Photography.
General Astronomy.
Concepts in Contemporary Astronomy.
General and Practical Astronomy.
Concepts in Science, Grades 3 through 12.
Our Galaxy and the Universe.
Astronomy Workshops for Teachers.

Application received by Commissioner of Customs: February 25, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22147 Filed 8-1-77;8:45 am]

UNIVERSITY OF OREGON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00107. Applicant: University of Oregon, Department of Biology, Eugene, Oregon 97403. Article: Computer Compatible Multi-Purpose Event Recorder. Manufacturer: Ursula Heinecke, West Germany. Intended use of article: The article is intended to be used in research related to the detailed interaction between an animal and its environment, particularly the aspects of such interaction which are important for survival of the animal species. The article allows the observer to observe an animal and at the same time unobtrusively records exactly what the animal is doing, and the time spent doing it. In addition, the article is intended to be used for educational purposes in the courses Animal Behavior, and the Animal Behavior Laboratory which are classes for juniors, seniors and graduate students.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides operation in one of four modes and permits 256 different events to be recorded. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 8, 1977 that (1) the features described above are pertinent to the applicant's intended uses and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Division.

[FR Doc.77-22148 Filed 8-1-77;8:45 am]

WASHINGTON UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00124. Applicant: Washington University, Biochemistry Dept., 660 South Euclid Ave., St. Louis, Missouri 63110. Article: Bacterial Cell Homogenizer. Manufacturer: Edmund Buhler, West Germany. Intended use of article: The article will be used to break bacteria for studies involving the mechanism of action of antibiotics in cell wall synthesis.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for processing large quantities of bacteria by using the vibration of steel or glass balls in the cell suspension at about 70 Hertz. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 24, 1977 that the capability described above is pertinent to the purposes for which the article is to be used. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22149 Filed 8-1-11;8:45 am]

YALE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00128. Applicant: Yale University, Dept. of Internal Medicine, 333 Cedar Street, New Haven, CT 06510. Article: Reichert type Univar Microscope, Manual analyzer and Grand microtome. Manufacturer: Les Instruments Scientifiques & Industriels, France. Intended use of article: The article is intended to be used for preparation and morphometric analysis of sections of undecalcified bone. Experiments will be conducted to determine the effects of parathyroid hormone and calcitonin on the migration of cells into bone and the changes in the structure of these bone cells. The article will be used by faculty and students working on this research problem.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (January 3, 1977). Reasons: The foreign article incorporates a massive and rigid microtome capable of cutting undecalcified bone with a microscope and analytical system for quantitative morphometric analysis. The Department of Health, Education, and Welfare advises in its memorandum dated May 24, 1977 that the capabilities of the article described above are pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22150 Filed 8-1-77;8:45 am]

National Oceanic and Atmospheric Administration

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

Revision to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Revision to Preliminary Fishery Management Plan.

SUMMARY: This document revises "Squid Fisheries of the Northwestern Atlantic", a preliminary fishery management plan, published on February 16, 1977. The plan proposed conservation and management measures for squid pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The action revises the amount of squid allocated to foreign squid fisheries in the northwestern Atlantic.

DATE: Effective date: August 1, 1977.

ADDRESS: Comments should be addressed to: Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William G. Gordon, Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, 617-281-3600.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 16, 1977, a preliminary fishery management plan entitled "Squid Fisheries of the Northwestern Atlantic" (42 FR 9596) was issued by the Secretary of Commerce to provide proposed conservation and management measures for foreign squid fisheries in the Northwest Atlantic pursuant to sec. 201(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (hereinafter the "Act"). The plan provided, among other things, for a preliminary determination of optimum yield as follows:

Short-finned squid (*Illex*)—35,000 tons.[1]
Long-finned squid (*Loligo*)—44,000 tons.

Based upon the stimated domestic production potential, an allocation of 23,500 tons (*Illex*) and 19,000 tons (*Loligo*) was made available to the foreign fishery during 1977. Since the domestic squid fishery and squid markets were small, it was stated in the plan that the U.S. capacity would be reconsidered in June, 1977, based upon the actual catches of squid by U.S. fishermen up to that date.

PURPOSE

An evaluation of U.S. catches of squid from the northwest Atlantic during the period March-June, 1977, indicates that that domestic harvest has been about 400 tons of *Illex* and *Loligo*.

Based on U.S. catches to date and consultations with the concerned domestic industry, it is believed that the estimated 1977 domestic production level of 36,500 tons will not be fully utilized during 1977. Therefore, the foreign surplus is revised and increased by the following amounts: *Illex*—1,500 tons, and *Loligo*—11,000 tons. The domestic production level is decreased by equivalent amounts.

IMPACT

The Final Environmental Impact Statement/Preliminary Fishery Management Plan (January, 1977) indicated the implementation of the plan, i.e., harvest of the optimum yield, should induce no significant adverse impact upon the environment. It has been determined by NOAA that this action will have no significant adverse impact because the increased foreign allocation of 12,500 tons of squid is within the optimum yield of 79,000 tons. The increase could, however, discourage growth of U.S. squid processing capacity. Our analysis indicates that the harvesting sector of the industry has not yet developed the capacity to catch the initial domestic allocation during the remainder of 1977. This action could delay development of foreign markets since an increased harvest by foreign countries could decrease their level of imports of squid from the United States. However, the demand by foreign markets for squid is well beyond the amounts available to their fisheries. It is anticipated that this increase will not discourage foreign market development by U.S. interests. The additional amount of squid to be made available for foreign fishing is a result of U.S. industry choice to pursue alternative fisheries. Therefore, no adverse impact is anticipated upon employment within the domestic industry.

NEED FOR EFFECTIVE DATE

The Secretary believes that formal notice of proposed rulemaking is impracticable, unnecessary, and contrary to the public interest because the proposed revision to the preliminary management plan must be effected before the termination of this year's squid fisheries season and will have negligible effect upon U.S. fishing interests. The proposed revision becomes effective on August 1, 1977.

TABLE 26.—*Squid optimum yield and allocations*

Species	Maximum sustainable yield (tons)	Optimum yield (tons)	U.S. capacity (tons)	Foreign surplus (tons)
Illex	40,000	35,000	10,000	25,000
Loligo	44,000	44,000	14,000	30,000
Total	84,000	79,000	24,000	55,000

As was stated previously, the squid fishery and squid markets in the USA are extremely small. On the other hand, foreign fisheries and markets have been quite significant, and this fishery could be quite promising in terms of the European export potential. Before these potential markets can be exploited to any signficant extent, however, major obstacles will have to be resolved by the U.S. fishing industry in terms of harvesting, storage, processing, and marketing. Some industry spokesmen felt these problems could be addressed this year and requested the level of 36,500 tons as determined in the Preliminary Fishery Management Plan published February 16, 1977, to assist development efforts. However, current production projections are far short of this level. The revised 1977 U.S. capacity figure of 24,000 tons provides opportunities for the orderly development of the U.S. industry while providing for increased utilization of available squid within a conservation framework designed to prevent overfishing.

[FR Doc.77-22086 Filed 8-1-77;8:45 am]

[1] Tons refers to metric tons (2205 pounds).

MARINE MAMMAL SCIENTIFIC RESEARCH PERMIT

Receipt of Amended Application

On June 21, 1977, notice was published in the FEDERAL REGISTER (42 FR 31480) that the Ocean Research and Education Society Inc., 51 Commercial Wharf 6, Boston, Mass. 02110, had applied for a scientific research permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

Notice is hereby given that the Applicant has amended the original application in the following manner: Phase One of the study will commence in October 1977 and continue through 1978, and will include the radio tracking of 25 humpback whales along their migratory path; Phase Two of the study will commence in the fall of 1978 and include radio tag tracking studies of the other species listed in the original application.

The amended application for the Marine Mammal Protection Act Permits will be considered under the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216). The amended application for the Endangered Species Act Permit will be considered under the regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

Documents submitted in connection with the applications are available in the following offices:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Gloucester, Mass. 01930;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St., Petersburg, Fla. 33702;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Wash. 98109; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the amended application for the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or request for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before September 1, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: July 25, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-22125 Filed 8-1-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLANS

Amending and Supplementing Environmental Impact Statements

In accordance with the provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), amendments to Preliminary Fishery Management Plans will be forthcoming shortly (on/or about August 5, 1977). Supplemental Environmental Impact Statements or negative declarations will be prepared as necessary for each plan amended. It is anticipated the following Preliminary Fishery Management Plans, approved by the Secretary of Commerce, will be amended:

Plan title	*Date of issue*
Trawl Fishery Gulf of Alaska	Feb. 11, 1977.
Atlantic Herring Fishery of the Northwestern Atlantic.	Feb. 22, 1977.
Hake Fisheries of the Northwestern Atlantic.	Feb. 18, 1977.
Foreign Trawl Fisheries of Northwestern Atlantic.	Feb. 17, 1977.
Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific.	Feb. 10, 1977.
Seamount Groundfish Fishery of the Pacific.	do.
Trawl Fisheries of Washington, Oregon, and California.	do.
Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeastern Pacific.	Feb. 15, 1977.
Snail Fishery of the Eastern Bearing Sea.	Feb. 15, 1977.
Eastern Bering Sea (King and Tanner Crab).	Feb. 16, 1977.
Mackerel Fishery of Northwestern Atlantic.	Do.
Squid Fisheries of the Northwestern Atlantic.	Do.

Copies of this notice will be mailed to persons who have commented on the Final Environmental Impact Statements/Preliminary Fishery Management Plans and other interested parties that are potentially affected by the proposed changes to the plans.

Individuals or organizations wishing to obtain additional information on the intent to amend the preliminary plans may do so by writing the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Signed this 28th of July, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22191 Filed 8-1-77;8:45 am]

PRE-ACT ENDANGERED SPECIES PRODUCTS

Issuance of Certificates of Exemption

On June 2, 1977, notice was published in the FEDERAL REGISTER (42 FR 28182) that applications had been filed with the National Marine Fisheries Service by Phillip's Gift Center, Inc., of Provincetown, Mass., and Jerry Howard Williamson of Pensacola, Fla., for Certificates of Exemption to engage in certain commercial activities with respect to their declared inventories of pre-Act endangered species products. Notices that H. Krupp, d.b.a. Oceanic Trading Company of Seattle, Wash., and Irving F. Briggs, d.b.a. Cape Cod Labidary of Hyannis, Mass., had also filed applications for such Certificates of Exemption, were published in the FEDERAL REGISTER on June 7, 1977 (42 FR 29034) and June 14, 1977 (42 FR 30422) respectively.

Notice is hereby given that on July 25, 1977, as authorized by the provisions of the Endangered Species Act of 1973, as amended (Pub. L. 94-359), and the regulations issued thereunder (50 CFR Part 222, Subpart B), the National Marine Fisheries Service issued Certificates of Exemption to Phillip's Gift Center, Inc., a/k/a Scrimshaw Handcrafts, 230 Commercial Street, Provincetown, Mass. 02657; Jerry Howard Williamson, 112 Southern Street, Pensacola, Fla. 32503; H. Krupp, d.b.a. Oceanic Trading Co., 84 University Street, Seattle, Wash. 98101 and Irving F. Briggs, d.b.a. Cape Cod Labidary, 4 Circle Drive, Hyannis, Mass. 02601.

The Certificates of Exemption are available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20007.

Dated: July 27, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22189 Filed 8-1-77;8:45 am]

PRE-ACT ENDANGERED SPECIES PRODUCTS

Notice of Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

APPLICANT

R. Robert Rayno, 735 Main Road, Westport, Mass. 02790.

PERIOD OF EXEMPTION

The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

COMMERCIAL ACTIVITIES EXEMPTED

(i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

PARTS OR PRODUCTS EXEMPTED

Approximately 170 finished scrimshaw jewelry items and finished scrimshaw products to be made from approximately 218 pounds of whole sperm whale teeth, 97 pounds of scraps of sperm whale teeth and 33 pounds of cross-cuts from sperm whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before September 1, 1977.

Dated: July 24, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management.

[FR Doc. 77-22190 Filed 8-1-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

AMENDING U.S./POLAND COTTON TEXTILE AGREEMENT

JULY 29, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Combining the levels of restraint for certain T-shirts, sweatshirts and knit tops in Categories 42, 43, and part of 62 for the year which began on January 1, 1977.

(2) Adjusting the designated annual consultation levels for Categories 36 (bedspreads and quilts), 41 (men's and boys' white T-shirts), 42/43 and part of

62 (certain T-shirts, sweatshirts, and knit tops), 48 (raincoats), and 49 (other coats), for the year which began on January 1, 1977.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).)

SUMMARY: On July 21, 1977, the Governments of the United States and the Polish People's Republic exchanged notes amending the Bilateral Cotton Textile Agreement of November 6, 1975 for the third agreement year which began on January 1, 1977. According to the terms of the amendment, the designated annual consultation levels for Categories 36 and 41 have been reduced and those for Categories 48 and 49 have been increased. Categories 42/43/62 (pt.) have been merged at a new level of restraint. The level for Category 63 (other clothing, not knit or crocheted) has also been increased to 1,000,000 square yards equivalent.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond C. Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–5423.

SUPPLEMENTARY INFORMATION: On January 3, 1977, there was published in the FEDERAL REGISTER (42 FR 64), a letter dated December 29, 1976, from the Chairman of the Committee for the Implementation of Textile Agreements, which established the levels of restraint applicable to certain specified categories of cotton textile products, produced or manufactured in Poland and exported to the United States during the twelve-month period which began on January 1, 1977. In the letter of July 29, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the levels of restraint applicable to cotton textile products in Categories 36, 41, 42/43/62 (pt.), 48 and 49 to the designated amounts.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

U.S. DEPARTMENT OF COMMERCE, THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Washington, D.C., July 29, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton textile products, produced or manufactured in Poland.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of November 6, 1975, as amended, between the Governments of the United States and the Polish People's Republic, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 3, 1977 and for the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977, the levels of restraint established in the directive of December 29, 1977 for Categories 36, 41, 42/43/62 (part), 48, 49, and 62 (part), produced or manufactured in Poland, to the following amounts:

Category:		*Amended 12-mo level of restraint* [1]
36	numbers	43,478
41	dozen	49,765
42/43/62 (part)[2]	do	439,119
48	do	28,000
49	do	60,385
62 (part)[3]	pounds	476,087

[1] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1976.

[2] In category 62, only T.S.U.S.A. Nos. 380.-0024, 380.0027, 380.0624, 382.0002, 382.0024, 382.0026, 382.0605, 382.0610, 382.0665, 382.-3904, and 382.6904.

[3] All T.S.U.S.A. numbers in category 62 except those listed in footnote 2.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-22269 Filed 8-1-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 770-8; PF76]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

E. I. Du Pont De Nemours & Co., Wilmington, Del. 19898, has submitted a petition (PP 7F1948) to the Environmental Protectoin Agency which proposes that 40 CFR 180.253 be amended by establishing a tolerance for residues of the insecticide methomyl (S-methyl N-[(methylcarbomoyl)oxy] thioacetimidate) in or on the raw agricultural commodity strawberries at 2 parts per million (ppm). The proposed analytical method for determining residues is by using .nicroculometric gas chromatography.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 12, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: July 25, 1977.

MARTIN H. ROGOFF, Ph. D.
Acting Director,
Registration Division.

[FR Doc.77-22203 Filed 8-1-77;8:45 am]

[FR-771-1; OPP-33000/512]

RECEIPT OF APPLICATION PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its iterim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product —Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who: (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202 426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 3, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquires and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: July 25, 1977.

MARTIN H. ROGOFF, Ph. D.,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/512)

EPA Reg. No. 192-RET. Dexol Industries, 1450 W. 228th St., Torrance, CA 90501. DEXOL SYSTEMIC HOUSE PLANT FUNGICIDE. Active Ingredients: Benomyl (Methyl 1-(butyl-carbamoyl)-2-benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 239-EULU. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804. ORTHO SPOT WEED & GRASS CONTROL. Active Ingredients: Paraquat dichloride (1,1'dimethy-4,4'-bipyridinium dichloride) 0.276%; Aliphatic Petroleum Derivative Solvent 18.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 303-86. Huntington Laboratories, Inc., P.O. Box 710, Huntington, IN 46750. MALAR GERMICIDAL DETERGENT. Active Ingredients: o-benzyl-p-chlorophenol, 9.12%; o-phenylphenol, 5.88%; Isopropanol, 3.03%; p-tert-amylphenol, 2.97%; Tetrasodium ethylenediamine tetraacetate, 1.90. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised formulation. PM32

EPA Reg. No. 4581-318. Pennwalt Corp., Three Parkway, Philadelphia, PA 19102. DECCO WT-53 SOLUTION. Active Ingredients: Sodium orthophenylphenate [anhydrous] 14.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM22

EPA Reg. No. 5815-GA. Wegro, Inc., Div. of Old Fort Industries, P.O. Box 189, Grand Rapids, OH 43522. TRIPLE X PRODUCTS, LAWN AND CRAB GRASS CONTROL. Active Ingredients: Dimethyl tetrachloroterephihalate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 7478-UI. Chem-Pak Co., P.O. Box 430757, Miami, FL 33143. GARDENS OF THE SOUTH ORCHID FUNGICIDE WETTABLE. Active Ingredients: Benomyl (Methyl 1-(butylcarbamoyl)-2-Benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 7478-UO. Chem-Pak Co., P.O. Box 430757, Miami, FL 33143. SPRINGHILL ROSE FUNGICIDE SPRAY. Active Ingredients: Benomyl (Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 7478-LN. Chem-Pak Co., P.O. Box 430757, Miami, FL 33143. LAWN KEEPER TURF FUNGICIDE. Active Ingredients: Benomyl (Methyl-1-(butylcarbanoyl)-2-Benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 7969-45. BASF Wyandotte Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054. BASAGRAN. Active Ingredients: Sodium salt of bentazon 42.0%. Method of Support: Application proceeds under 2(b) of interim policy. Amended Registration. PM25

EPA File Symbol 9640-EE. Vulcan Laboratories, 408 Auburn Ave., Pontiac, MI 48058. MICROBIOCIDE LF. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 27581-A. Midland Research Laboratories, Inc., 8429 Quivira Rd., Lenexa, KA 66214. CHEM-I-CAL 615SP. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene -(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 27581-T. Midland Research Laboratories, Inc., 8429 Quivira Rd., Lenexa, KA 66214. CHEM-I-CAL 635. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 27581-I. Midland Research Laboratories, Inc., 8429 Quivira Rd., Lenexa, KA 66214. CHEM-I-CAL 615. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-dimethyliminio) ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35571-RI. Chem Pro Lab., Inc., 941 West 190th St., Gardena, CA 90248. CHEM PRO BIOCIDE #211. Active Ingredients: Poly[oxyethylene (dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 25.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37822-R. Miami Chemical Mfg. Co., 2450 SW 28th Lane, Miami, FL 33133. FLORI CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40285-R. Degesch America, Inc., 800 Follin Lane, Vienna, VA 22180. PHOSTOXIN DEGESCH NEW COATED TABLETS. Active Ingredients: Aluminum Phosphide 55%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 40285-E. Degesch America, Inc., 800, Follin Lane, Vienna, VA 22180. PHOSTOXIN DEGESCH COATED PELLETS-PREPAC. Active Ingredients: Aluminum Phosphate 55%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 40285-G. Degesch America, Inc., 800 Follin Lane, Vienna, VA 22180. PHOSTOXIN DEGESCH COATED PELLETS. Active Ingredients: Aluminum Phosphide 55%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 40611-R. Bell Chemical Corp., 23 Hamilton St., New London, CT 06320. BELL-CIDE 600. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40611-E. Bell Chemical Corp., 23 Hamilton St., New London, CT 06320. BELL-CIDE 1200. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40611-G. Bell Chemical Corp., 23 Hamilton St., New London, CT 06320. BELL-CIDE 3600. Active Ingredients: Poly [oxyethylene (dimethyliminio)ethylene - (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40640-R. John's Hardware, 3292 S. University Dr., Miramar, FL 33025. JERRY-CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc.77-22204 Filed 8-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

APPLICATIONS FOR EXCEPTION FROM REFINERS PRICE RULES GOVERNING ORDER OF RECOVERY OF INCREASED NON-PRODUCT COSTS

January 1, 1975 Through January 31, 1976 Period; Deadline for Filing

AGENCY: Federal Energy Administration.

ACTION: Filing Deadline for Certain Exception Applications.

SUMMARY: Pursuant to the lifting of a judicial stay, the FEA has determined to reimpose the 60-day deadline for filing Applications for Exceptions from the regulations governing the sequence for recovering increased non-product costs during the period January 1, 1975 through January 31, 1976. Notice is hereby provided that FEA will not consider any Application for Exception from such regulations to be timely filed if such submission is filed more than 60 days after the date on which this notice appears in the FEDERAL REGISTER. The FEA is also requiring each firm to submit within 60 days a detailed specification of the facts it intends to establish in support of its Application for Exception and the manner of proving such facts.

DATE: All Applications for Exception to be filed with the Office of Exceptions and Appeals on or before October 3, 1977.

ADDRESSES: All comments should be directed to Thomas L. Weiker, Assistant Director of the Office of Exceptions and Appeals, Federal Energy Administration, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: On April 21, 1977, the Federal Energy Administration issued a notice for publication in the FEDERAL REGISTER providing that Applications for Exception from the provisions of the FEA Mandatory Petroleum Price Regulations which governed the order of recovery of increased non-product costs by refiners during the period January 1, 1975 through January 31, 1976 must be filed with the FEA Office of Exceptions and Appeals no later than June 27, 1977. The FEA has interpreted those regulatory provisions as requiring that increased non-product costs could not be recovered by refiners until all available increased product costs had been passed through to their customers. See, e.g., 41 FR 5111, 5113 (February 4, 1976); 41 FR 33282 (August 9, 1976).

Subsequent to the issuance of the April 21 notice and during the course of certain litigation involving these regulatory provisions, the FEA agreed to a temporary stay of the June 27 filing requirement with respect to all refiners. On June 28, 1977 the FEA therefore published in the FEDERAL REGISTER a notice indicating that the June 27 deadline was vacated until further notice. 42 F.R. 32831 (June 28, 1977). On July 21, 1977, the U.S. District Court for the Northern District of Ohio dissolved the stay of the filing requirements. *Standard Oil Co. et al. v. O'Leary et al.*, ---- F. Supp. (N.D. Ohio, July 21, 1977).

Accordingly, FEA is now free to reimpose a filing deadline and has determined that a new filing deadline should be established for the reasons that were set forth in detail in the April 21 notice. Consequently, notice is hereby provided that the FEA will not consider any Application for Exception from the provisions of the FEA Regulations which governed the order of recovery of increased nonproduct costs during 1975 and January 1976, as those provisions have been interpreted by the FEA in the notices cited above, as being filed in a timely manner if the submission is filed with the FEA Office of Exceptions and Appeals later than October 3, 1977. This filing deadline will not apply, however, to Applications for Exception submitted by firms which complied with applicable FEA regulatory requirements during the period in question and whose submissions consist solely of a request that they receive equitable treatment in the light of any action which the FEA might take in exception proceedings initiated by other firms which failed to comply with the FEA Regulations as interpreted by the FEA in the manner described above.

In order to expedite its consideration of any exception applications which may be filed and to establish a reliable basis for conducting proceedings in this matter, the FEA has further determined that any firm which files an Application for Exception within the period prescribed above must also submit to the Office of Exceptions and Appeals at the same time it files its Application an itemization of:

(a) The particular factual representations whose validity the firm intends to establish and which it contends would lead ultimately to the conclusion that its Application for Exception should be granted; and

(b) The particular manner in which the firm intends to establish the validity of each of the representations set forth in response to Subparagraph (a) above.

The itemization referred to in Subparagraph (a) above should describe the facts alleged by the firm with a high degree of specificity. For example, with respect to a certain event that is alleged to have occurred, the itemization should at least include the names and titles of the persons involved, the date and place of the event, and the specific statements made or actions taken at that time.

Any questions regarding this notice should be directed to Thomas L. Wieker, Assistant Director of the Office of Exceptions and Appeals, Federal Energy Administration, Washington, D.C. 20461.

Issued in Washington, D.C., July 27, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-22105 Filed 8-1-77;8:45 am]

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet Monday, August 15, 1977, at 9 a.m., room 2003A, JFK Federal Bldg., Government Center, Boston, Mass.

The Committee was established to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

The agenda for the meeting is as follows:

1. Old Business—Discussion of Requests and Commitments from the Prior Committee Meeting.
2. Summer Fill.
3. Resid Containment Problems (East Coast).
4. Nationwide Distillate Trigger.
5. Administration's Energy Plan.
6. FEA Compliance (Auditing Procedures)
7. New Business—Items for Discussion at the Next Meeting.
8. Remarks from the Floor (10 Minute Rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, room 2107, FEA, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on July 28, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-22229 Filed 8-1-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI74-566]

AMOCO PRODUCTION CO.

Extension of Time

JULY 25, 1977.

On June 20, 1977, Amoco Production Company (Amoco) filed a motion to extend the time within which to comply with Ordering Paragraph (K) of the June 3, 1977, Order issuing a certificate of public convenience and necessity in the above designated docket.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 1, 1977, within which Amoco shall commence deliveries of gas as required by Ordering Paragraph (K).

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22101 Filed 8-1-77;8:45]

[Docket No. CI64-26]

GULF OIL CORP.

Request for Inquiry

JULY 25, 1977.

Take notice that on June 13, 1977, the Assembly, State of New York, through its Sub-committee on Economic Development Task Force on Natural Gas (Assembly) requested the Commission to inquire into the legality of certain actions taken by Gulf Oil Corporation (Gulf) with respect to its deliveries to other pipelines in Southern Louisiana during the period when Gulf's sales under its warranty contract were significantly below the amounts requested by Texas Eastern Transmission Company (TETCO).

Specifically, Assembly wants to know whether Gulf violated its TETCO warranty contract and coincident FPC certificate by entering into a new warranty obligation in 1972 to Southern Natural Gas Company (Southern) and/or by failing to prorate deliveries to both warranty customers when Gulf's deliverability was insufficient to meet both contractual commitments.

By a letter agreement dated January 14, 1972, Gulf and Southern agreed to a contract amendment covering sales of gas to Southern from Gulf's interest in the West Delta Block 27 Field (Block 27), in lieu of Gulf making another reserve redetermination for that Field pursuant to Southern's September 23, 1971 request. This letter agreement committed Gulf to deliver specified quantities of gas to Southern from Block 27 "or any other field or fields in which may now or hereafter have an interest," equivalent in total amount to Gulf's share of 1.25 Tcf of Block 27 reserves, minus all volumes already delivered under the contract.

Assembly notes that during the years 1972-75 Gulf's deliveries to Southern pursuant to the 1972 letter agreement were in sum 1,351,040 Mcf greater than the total Southern had requested over that period. At the same time, Gulf's sales to TETCO fell well below the 625,000 Mcf/D requested by TETCO.

Assembly essentially asks four questions:

(a) In what manner, if any, was Gulf's reluctance to make a reserve redetermination for the Block 27 Field pursuant to Southern's request, related to Gulf's warranty obligation to TETCO certificated in Docket No. CI64-26;

(b) Did Gulf, by signing the January 14, 1972 letter agreement with Southern, incur a corporate warranty obligation to supply Southern with specified volumes of gas from unspecified fields. And if so, why instead of prorating the available supply between Southern and TETCO on the basis of their respective daily contract entitlements, did Gulf nearly satisfy its entire obligation to Southern during the years 1972-75, while at the same time fall far short of supplying TETCO with the quantities of gas it requested;

(c) Was it inappropriate on Gulf's part to have added at least 5 fields since 1972 for the satisfaction of the Southern contract, while simultaneously steeply curtailing its deliveries to TETCO;

(d) Has Gulf made any sales of new reserves it has found in the offshore Louisiana area to any purchaser other than TETCO during the time it has been underdelivering to TETCO?

Any person desiring to be heard or to make any protest with reference to said request should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Comments with respect to Assembly's request may be filed with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 12, 1977. Such comments will be considered in determining appropriate action, but those filing comments will not as a result of such action become parties to this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22099 Filed 8-1-77;8:45 am]

[Docket No. ER77-507]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

JULY 25, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara), on July 11, tendered for filing, as a rate schedule, a Service Classification to be used to supply power and energy to the St. Lawrence Power Company.

Niagara states that the rates contained in this Service Classification are comparable to Niagara's other rates charged to customers who have requirements of a magnitude similar to those served by this tariff.

Niagara proposes an effective date of June 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Niagara indicates that copies of the filing have been served on St. Lawrence Power Company, the only customer presently proposed to be served under this tariff, and upon the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before August 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22096 Filed 8-1-77;8:45 am]

[Docket No. ER77-435]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 25, 1977.

Take notice that Niagara Power Corporation (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Orange and Rockland Utilities, Inc. (Rockland), dated April 12, 1977.

Niagara states that there is presently on file an agreement with Rockland dated February 14, 1976, and that this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 89. Niagara further states that the new agreement is being submitted as a supplement to the existing agreement.

Niagara indicates that this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the processing. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22097 Filed 8-1-77;8:45 am]

[Docket No. ER77-434]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 25, 1977.

Take notice that Niagara Mohawk Power Corp. (Niagara) on July 7, 1977, tendered for filing a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corp. (Rochester), dated April 12, 1977.

Niagara states that there is presently on file an agreement with Rochester dated February 14, 1975, and that this agreement is designated as Niagara Mohawk Power Corp. Rate Schedule FPC No. 92. Niagara further states that the new agreement is being submitted as a supplement to the existing agreement.

Niagara indicates that this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22098 Filed 8-1-77;8:45 am]

[Docket No. ER77-433]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 25, 1977.

Take notice that Niagara Mohawk Power Corp. (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY), dated April 12, 1977.

Niagara indicates that there is presently on file an agreement with PASNY dated April 21, 1976, and that this agreement is designated as Niagara Mohawk Power Corp. Rate Schedule FPC No. 96. Niagara further indicates that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22102 Filed 8-1-77;8:45 am]

[Docket No. CP77-510]

NORTHERN NATURAL GAS CO.

Application

JULY 25, 1977.

Take notice that on July 15, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP77-510 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon and remove certain small volume sales measuring stations and for a certificate of public convenience and necessity authorizing the construction and operation of three sales measuring stations in Carson and Gray Counties, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the authority granted by the Commission in Docket Nos. CP74-205, CP75-333, and CP77-130, it operates certain small volume rural sales measuring stations and delivers and sells natural gas through such sales measuring stations to West Texas Gas, Inc. (West Texas) for resale in the state of Texas. The sale of gas to West Texas by Applicant is made pursuant ot the terms of a sales agreement dated August 27, 1974, as amended, between Applicant and West Texas, it is said. Applicant states that such agreement is on file with the Commission as Applicant's Rate Schedule X-40 of its FPC Gas Tariff, Original Volume No. 2. Applicant states further that the gas delivered and sold to West Texas by Applicant pursuant to its Rate Schedule X-40 is resold by West Texas to Applicant's pipeline right-of-way grantors for high priority use in rural areas of West Texas. It is stated that Applicants' Rate Schedule X-40 provides for the sale and delivery of up to 350,000 Mcf per month and 2,291,111 Mcf annually

Applicant indicates that it is experiencing declining wellhead pressures in its supply area which necessitates a reduction in gathering line pressure, and that by lowering the pressure to 15 psia in the gathering systems supplying the McConnell, Haiduk and Bobbitt field compressor stations, Applicant has determined that the deliverability from the wells attached to these gathering systems can be increased by 4,700 Mcf per day during the first year of such operations. Applicant indicates that lowering of the gathering system pressure to 15 psia would result in it no longer being feasible to provide service to West Texas through 22 existing delivery stations for rural service to certain of Applicant's right-of-way grantors in Carson and Gray Counties, Tex., and that to lower the pressure in such gathering systems would result in the premature abandonment of wells attached thereto, and therefore, the loss of gas reserves attributable to such wells.

Applicant requests approval to abandon 22 delivery stations through which gas is presently delivered and sold to West Texas for resale to Applicant's pipeline right-of-way grantors and proposes to install and operate 2 new delivery stations through which the delivery and sale of gas would be made to West Texas for such customers in order to increase the deliverability from the wells attached to the McConnell, Haiduk, and Bobbitt gathering systems and to assure continuity of gas service by Applicant to West Texas under the agreement. It is stated that the three delivery stations that Applicant proposes to construct and operate would be located on Applicant's Kermit to Beaver high pressure line in Carson County, Tex., and Gray County, Tex.

Applicant indicates that it and West Texas have entered into a letter agreement dated June 22, 1977, which provides for the termination of gas deliveries by Applicant to West Texas through the 22 delivery points and for the initiation of service through the 3 delivery stations herein proposed to be installed by Applicant. Applicant further indicates that pursuant to the subject agreement West Texas would install and operate distribution facilities that may be required downstream of the proposed delivery stations to enable each of the customers to receive the same volumes of gas to which they are presently entitled.

The estimated cost of the facilities proposed to be constructed by Northern is $13,500, and the estimated cost of the proposed abandonment and removal of facilities is $1,100, it is said. Applicant indicates that it would finance the proposed facilities from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22095 Filed 8-1-77;8:45 am]

[Docket No. ER77-43]

PACIFIC POWER & LIGHT CO.

Electric Rates; Order Approving Settlement

JULY 25, 1977.

On May 17, 1977, the Presiding Administrative Law Judge in this proceeding certified to the Commission a proposed Settlement Agreement in the form of an Executed Contract, dated May 1, 1977, between Pacific Power & Light Co. (PP&L), Applicant, and Montana Light & Power Co. (ML&P), sole Intervenor in the proceeding. The Commission finds that the Settlement Agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings were initiated in this docket on November 5, 1976, when PP&L filed a proposed rate schedule change[1] for sales of electricity to ML&P. Prior to that date, service to ML&P had been governed by Letter Agreement, dated February 3, 1973,[2] whereby PP&L served ML&P on a month-to-month basis. By order issued February 4, 1977, the Commission accepted the aforementioned Letter Agreement for filing, effective as of December 6, 1976, suspended the tendered rate schedule until July 7, 1977, subject to refund, and ordered a hearing to investigate the lawfulness of the filed rates.

A formal prehearing conference was held on March 15, 1977, after which the parties, including Staff, met to discuss the issues in dispute. By Motion dated April 26, 1977, PP&L requested that the Presiding Judge certify to the Commission for approval the subject proposed settlement. Therein, PP&L requested that the settlement rates be given an effective date of May 1, 1977.

In response to PP&L's April 26 Motion, Staff did not object to certification of the proposed Settlement Agreement, but reserved comment on the merits of the Agreement pending a review of supporting data submitted by PP&L.

Public notice of the Presiding Judge's May 17 certification of the proposed Agreement to the Commission was issued on June 3, 1977, with comments due on or before June 20, 1977. On June 20, 1977, Staff submitted comments in support of the Settlement Agreement requesting that the tendered contract be allowed to go into effect as a revised rate schedule on or before July 7, 1977, the date the original filing would have gone into effect subject to refund.

The proposed Settlement Agreement would, inter alia, (1) reduce the requested amount of increase in charges for power and energy sold to ML&P, from $41.865 to $31,114 based on 1976 transactions; (2) revise the billing demand ratchet to an average of the three highest demands in the eleven months prior to the billing month;[3] (3) establish an excess demand charge of $6 per kilowatt for actual demands that are, in any month, in excess of the established billing demand; (4) provide for six months notice by ML&P of requested scheduled maintenance service; (5) provide a basis for pricing of energy sold by ML&P to PP&L;[4] and (6) permit ML&P to purchase non-firm thermal energy under PP&L's Schedule RR2.

Based on our review of the Settlement Agreement record in this docket, we find that the tendered, Executed Contract represents a reasonable resolution of the issues in the proceeding and is in the public interest.[5] Accordingly, we shall allow the tendered contract to go into effect as a revised rate schedule[6] on July 7, 1977.

The Commission finds: The Settlement Agreement in the form of an Executed Contract filed in this docket on April 26, 1977, should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The Settlement Agreement in the form of an Executed Contract filed with the Commission in this docket on April 26, 1977, is incorporated herein by reference, accepted and approved as revised rate schedule PP&L FPC No. 131, the rates therein effective as of July 7, 1977. Within 30 days from the date of issuance of this order, ML&P shall file its rate schedule or concurrence with the Commission pursuant to the requirements of Section 35.1(a) of the Regulations under the Federal Power Act.

(B) This order is without prejudice to any findings or orders which have been made or which may hereinafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against PP&L, any other person or party.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22104 Filed 8-1-77;8:45 am]

[Docket No. ER76-543]

SOUTHWESTERN PUBLIC SERVICE CO.

Interconnection Agreement; Application for Approval; Order Accepting for Filing and Suspending Proposed Rate Schedules, Establishing Procedures and Granting Requests for Waiver

JULY 25, 1977.

On March 3, 1976, Southwestern Public Service Company (SWPS) tendered for filing proposed rate schedules[1] canceling and superseding its FPC Rate Schedule No. 54 and New Mexico Electric Service Company's (NMES) FPC Rate Schedule No. 1.[2] The proposed filing pertains to firm capacity sales made by SWPS to NMES and unit capacity sales from NMES to SWPS. The parties request waiver of the notice provisions to permit the filing to be effective June 1, 1976, the date NME's Maddox Station Unit No. 2 (66 MW gas turbine) was placed in commercial operation.

Firm capacity sales are made to NMES on the basis of loss of the largest generating unit. NMES presently has a 118 MW generating unit and a 66 MW gas turbine

[1] Designated as: PP&L Rate Schedule No. 130 to Supersede PP&L Rate Schedule FPC No. 100.

[2] Designated as: Supplement No. 1 to PP&L Rate Schedule FPC No. 100.

[3] Originally PP&L had requested a 100% ratchet for the prior eleven months.

[4] Designated as: Montana Light & Power Co. Rate Schedule FPC No. 2 (Supersedes ML&P Rate Schedule FPC No. 1).

[5] The earned rate of return under the proposed settlement rates will not exceed Staff's recommendation of 8.94%, including 12.50% on common equity.

[6] Designated as: PP&L Rate Schedule FPC No. 131 (Supersedes PP&L Rate Schedule FPC No. 130).

[1] The filing is designated in the attachment to this order. Presently, SWPS and New Mexico Electric Service are interconected and exchange various service under an agreement dated January 14, 1967.

[2] By letter dated March 18, 1976, SWPS was notified that its filing was deficient. On March 1, 1977, SWPS submitted for filing an amendment to its Interconnection Agreement dated December 24, 1976. That amendment did not cure the previous deficiency and a 2nd deficiency letter (dated March 31, 1977) was forwarded to SWPS. On April 25, 1977, SWPS submitted additional data. By letter dated May 25, 1977, the Commission notified SWPS that its filing was still deficient. On June 13, 1977, SWPS submitted additional information which completed the filing.

Its peak load, prior to June 6, 1976, was approximately 95 MW. Southwestern will sell firm capacity energy to New Mexico equal to the difference between New Mexicos' peak load and the 66 MW gas turbine. A letter agreement will be initiated after each peak season load signifying the amount of firm capacity sales for the next 12 months. Pricing for the firm capacity sales is based on the generation plants, the 230 KV "backbone" transmission system and the 115 KV "backbone" transmission system of Southwestern. No subtransmission is included in the pricing. Demand related costs are fully covered in the price per KW. Pricing per KWH is Southwestern's incremental cost of production per KWH, which includes fuel and water, plus one mill. KWH sales are anticipated only in emergency situations and at such times as the 118 MW unit is out of service for maintenance.

Unit capacity sales are made to Southwestern by New Mexico on the basis of the full capacity, 66 MW, of the gas turbine that has been in commercial operation since June 1, 1976. Pricing for the unit capacity sales is made on the basis of the incremental financing charges. Pricing per KWH is based on NMES's incremental cost of production per KWH, including fuel, maintenance and water, plus one mill. KWH sales from this unit are anticipated at times when Southwestern is burning fuel oil due to natural gas curtailments and during peak load periods.

Public notice of the filing of March 8, 1976, and public notice of the amendment were issued on March 8, 1976, and March 23, 1977, respectively. No protests or petitions to intervene have been received.

Our review indicates that among other things, the rate for the sale of NMES gas turbine capacity and the methods of reserve capacity determination have not been shown to be just and reasonable and, therefore, may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the filing will be suspended for one day to become effective June 2, 1976, subject to refund. In addition, we shall grant the request of waiver of the notice period.

The Commission finds: (1) Good cause exists to accept for filing the rate schedules tendered by SWPS as designated in the attachment hereto.

(2) Good cause exists to grant waiver of the notice provisions as requested and to suspend the filing as hereinafter ordered.

(3) It is necessary and proper in the public interest and in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed rate schedules tendered in this proceeding as hereinafter ordeed.

The Commission orders: (A) Pending a hearing and decision thereon, SWPS's filing as designated in the attachment is hereby accepted for filing and suspended for one day to become effective on June 2, 1976, subject to refund.

(B) The request for a waiver of the notice requirements is hereby granted.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on September 13, 1977, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

SOUTHWESTERN PUBLIC SERVICE COMPANY

Dated: December 24, 1975.

Filed: June 13, 1977.

Designation	*Description*
Rate schedule FPC No. 79 (supersedes FPC No. 54).	Interconnection agreement.
Supp. No. 1 to rate schedule FPC No. 79.	Firm power service.
Supp. No. 1 to Supp. No. 1 to rate schedule FPC No. 79.	Firm power letter of intent.
Supp. No. 2 to supp. No. 1 to rate schedule FPC No. 79.	Extension of term.
Supp. No. 2 to rate schedule FPC No. 79.	Unit capacity purchase.
Supp. No. 3 to rate schedule FPC No. 79.	Emergency service.
Supp. No. 4 to rate schedule FPC No. 79.	Economy energy service.

Jan. 12, 1976.

NEW MEXICO ELECTRIC COMPANY

Filed: April 25, 1977.

Designation	*Description*
Rate schedule FPC No. 2 (supersedes rate schedule FPC No. 1) (concurs in Southwestern Public Service Co., rate schedule FPC No. 79 and supp. Nos. 1, 2, 3, 4, and supp. No. 2 to supp. No. 1, thereto).	Certificate of concurrence dated Jan. 23, 1976.
Supp. No. 2 to rate schedule FPC No. 2.	Unit capacity letter of intent.
Supp. No. 1 to rate schedule FPC No. 2.	Revised exhibit A dated Jan. 11, 1977; certificate of concurrence dated Feb. 16, 1977.

[FR Doc 77-22103 Filed 8-1-77;8:45 am]

[Docket No. ER77-483]

VIRGINIA ELECTRIC & POWER CO.

Electric Rates; Order Accepting for Filing Granting Intervention, Suspending Proposed Rate Increase, and Establishing Procedures

JULY 25, 1977.

On June 28, 1977, Virginia Electric and Power Company (VEPCO) tendered for filing proposed increased rates and charges for jurisdictional sales to 50 rural electric cooperatives and 9 municipal systems.[1] The filing would increase Vepco's revenues by $21,038,000 or 20.8 percent, based on the 12 month period ending December 31, 1977.

On July 13, 1977, the ElectriCities of North Carolina (petitioners) filed a document entitled "Preliminary Protest, Petition to Intervene and Request For Hearing and Maximum Suspension Period of ElectriCities of North Carolina".

In support of their petition to intervene, the petitioners state that they are an unincorporated association whose members are representatives of all municipalities in North Carolina and certain municipalities in Virginia which own and operate their own electric systems serving their citizens and customers. The petitioners also aver that many of the North Carolina municipalities and all of the Virginia municipalities purchase electric and energy at wholesale from Vepco and resell such power and energy at retail to their own citizens and other municipalities. Our review indicates that the petitioners have shown sufficient justification for permitting them to participate as intervenors in this proceeding.

Review of the request for increased rates and charges indicates that the proposed rates have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will suspend the effectiveness of the proposed rates and charges. Based on a review of all the pleadings, including petitioners' request for maximum suspension period, we will accept for filing the proposed increased rates and will suspend their effectiveness for four months. Moreover, certain procedures[2] must be established with regard to the petitioners' allegation of "price squeeze" violations. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing petitioners' request for data necessary to present their *prima facie* showing on the "price squeeze" issue.

The Commission finds. (1) Good cause exists to accept for filing and suspend the proposed increased rates and charges as hereinafter ordered.

(2) The participation in this proceeding of the Electricities of North Carolina may be in the public interest.

(3) It is necessary, proper, and in the public interest to aid in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed increased rates ad charges, filed by Vepco in this proceeding.

(4) Good cause exists to establish "price squeeze" procedures to effectuate

[1] Rate schedule designations will be forwarded separately to Vepco following the issuance of this order.

[2] See, Order Prescribing A New Section 2.16 of the Commission's General Policy and Interpretations and Terminating Rulemaking, Order No. 563, Docket No. RM76-29, issued March 21, 1977.

the Commission's policy announced in Order No. 563.

The Commission orders: (A) Pursuant to the authority contained under the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Vepco.

(B) Pending hearing and final decision thereon, Vepco's filing for increased rates and charges in Docket No. ER77-483 is hereby accepted for filing and suspended for four months, to become effective November 28, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 12, 1977 (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on October 20, 1977, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also, Vepco shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the petitioners shall file their case-in-chief on the price squeeze issue within 30 days after Vepco's response.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22100 Filed 8-1-77;8:45 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3)) to acquire 100 percent of the voting shares of Amelia Island Bank, Fernandina Beach, Fla. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 22, 1977.

Board of Governors of the Federal Reserve System, July 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22123 Filed 8-1-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on July 27, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC and FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 22, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new voluntary single time "Drug Substitution Letter Questionnaire" which FTC's Bureau of Consumer Protection will use in conducting an investigation into the laws and practices which prohibit drug product selection by pharmacists. The letter questionnaire will be sent to the deans of pharmacy schools seeking information on the role of pharmacists in drug product selection. Potential respondents are estimated by FTC to be approximately 73 and reporting burden to average one hour per response.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of reporting and recordkeeping requirements contained in new sections 71.51, 71.62(c) and 71.63(c) of 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions. These sections pertain to Quality Assurance Requirements for Transport Packages. Section 71.51 requires a licensee to file a description of the general quality assurance programs which he applies to packages for the shipment of radioactive materials. Section 71.62(c) requires the licensee to maintain for the life of the packaging to which they pertain, quality assurance records which furnish documentary evidence of the quality of the packaging. Section 71.63 (c) requires that the licensee notify the NRC Director of Inspection and Enforcement before fabrication of a package to be used for the shipment of radioactive material which has decay loads or operating pressures in excess of specific values. NRC estimates potential respondents to be 2,020 NRC licensees and that the total annual reporting and recordkeeping burden under sections 71.51, 71.62(c) and 71.63(c) is approximately 93,003 hours.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc 77-22124 Filed 8-1-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Changes to a System of Records

On June 21, 1977, there was published in the FEDERAL REGISTER (42 FR 31494 and 31495) a notice proposing changes to the system of records identified as "Employee related files GSA/NARS-10," system identification number 23-00-0055. The public was given the opportunity to submit, not later than July 21, 1977, written comments concerning the revised routine use. No comments were received, and the revised routine use is hereby adopted.

Dated at Washington, D.C., on July 25 1977

PAUL S. CARTER,
Acting Director of Administration.

[FR Doc 77-22088 Filed 8-1-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0148]

METABOLIC, INC.

Revocation of U.S. License 415

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs revokes the establishment and

product licenses of Metabolic, Inc., U.S. License No. 415, to manufacture four biological products at six locations.

DATE: Effective upon date of signature by the Commissioner.

FOR FURTHER INFORMATION CONTACT:

John F. Harty, Jr., Compliance Regulations Policy Staff (HFC–10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: A notice of opportunity for hearing was published in the FEDERAL REGISTER of May 13, 1977 (42 FR 24328) on a proposal by the Bureau of Biologics to revoke U.S. License 415 issued to Metabolic, Inc., with locations at 417 La Branch St., Houston, TX; 4520 Yoakum Blvd., Houston; 2429 Jensen St., Houston; 47–49 W. Ashley St., Jacksonville, FL; 822 Howard Ave., New Orleans, LA; and 300 Luckie St., Atlanta, GA; and the product licenses for the manufacture and preparation of Source Plasma (Human), Normal Serum Albumin (Human), Immune Serum Globulin (Human) and Tetanus Immune Globulin (Human). Significant deviations from standards for biological products and the failure to submit products for lot release and/or licensure were cited as grounds for the proposed revocation. The notice was preceded by a suspension, pursuant to § 601.6 (21 CFR 601.6), of U.S. License 415 to manufacture at four locations. The remaining locations were suspended on April 26, 1977. A notice of revocation was published in the FEDERAL REGISTER of May 13, 1977 (42 FR 24329) for the establishment and product licenses to manufacture Source Plasma (Human) at 1907 S. Staples St., Corpus Christi, TX, and 5104 Almeda St., Houston, TX. On July 6, 1977, the location at 300 Luckie St., Atlanta, GA was revoked by the Bureau after being notified by the licensee that he had sold the establishment and no longer had any interest in it. This notice fulfills the requirements of § 601.8 (21 CFR 601.8) to publish notice of revocation as to this particular establishment.

Pursuant to the notice of opportunity for hearing to revoke U.S. License 415 as to the remaining establishments and products, the licensee requested a hearing. A hearing was granted by the Commissioner in a notice published in the FEDERAL REGISTER of July 8, 1977 (42 FR 35221). On July 21, the licensee notified the Bureau of Biologics and the Hearing Clerk that he had withdrawn his request for a hearing. Additionally, the licensee requested revocation of his license, U.S. License 415, as to the remaining establishments and products.

The Commissioner is granting the licensee's request. Accordingly, under § 12.38 (21 CFR 12.38), section 351 of the Public Health Service Act (42 U.S.C. 262), and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), U.S. License No. 415, including all establishments and products not previously revoked, is hereby revoked as of the date of signature. This notice of revocation is published pursuant to § 601.8 (21 CFR 601.8).

Dated: July 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-22208 Filed 8-1-77;8:45 am]

[Docket No. 76N–0068; DESI 12542]

PHENYLBUTAZONE TABLETS AND OXYPHENBUTAZONE TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation; Announcement and Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that phenylbutazone and oxyphenbutazone are regarded as effective for treatment of certain inflammatory diseases and lacking substantial evidence of effectiveness or not shown to be safe for other uses, and sets forth the conditions for their marketing.

DATES: Hearing requests due on or before September 1, 1977.

Bioavailability supplements to approved new drug applications due on or before January 30, 1978; other supplements due on or before October 3, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 12542, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Oncology & Radiopharmaceutical Drug Products (HFD–150), Bureau of Drugs, Rm. 17B–45.

Original abbreviated new drug applications and supplements thereto and notice of claimed investigational exemption for a new drug (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion regarding the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426) each holder of a new drug application which became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration reports containing the best data available in support of the effectiveness of each such product for its claimed indications. That information was needed to facilitate a determination by the Food and Drug Administration, with the assistance of the National Academy of Sciences-National Research Council, whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. The holder of the new drug applications described below, both of which became effective prior to October 10, 1962, did not submit the requested information concerning the products:

NDA 8–319; Butazolidin Tablets, containing phenylbutazone, and

NDA 12–542; Tandearil Tablets, containing oxyphenbutazone; Geigy Pharmaceuticals, Division of Ciba Geigy Corp., Ardsley, NY 10502.

These products are used in the treatment of some of the symptoms in certain inflammatory diseases. The Food and Drug Administration has reviewed these drugs, and this notice announces its conclusions and the conditions under which the products may be marketed.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Geigy Pharmaceuticals had taken the position that, because certain supplements to the applications were approved subsequent to October 9, 1962, the issue of effectiveness was resolved by those approvals. Those approvals of supplements, however, were not based upon complete reviews of the applications and therefore did not constitute a determination that all claimed indications are supported by substantial evidence of effectiveness.

The Food and Drug Administration, on its own initiative, sought and obtained the views of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group concerning these two products. Geigy Pharmaceuticals was provided copies of the Academy's reviews. To further assist the Food and Drug Administration in reaching a determination, the Bureau of Drugs asked the Food and Drug Administration's Arthritis Advisory Committee to assess the role of the two drug products in medical practice today. The Committee was specifically asked to determine which indications for use of phenylbutazone and oxyphenbutazone are supported by appropriate evidence of both safety and effectiveness and what, if any, labeling revisions are indicated. Geigy Pharmaceuticals prepared a document summarizing its own scientific data, data from other studies, and an intensive review of the world literature on the two drugs. In advance of the Committee meeting on February 27–28, 1975, a copy of that document had been provided each member of the Committee, with copies for use by the Food and Drug Administration. Representatives of Ciba-Geigy Corporation and the Food and Drug Administration were present at the meeting, and discussed the drugs with the Committee.

A. *Safety and effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, the recommendations of the Food and Drug Administration's Arthritis Advisory Committee, and all available evidence and concludes that:

1. Phenylbutazone and oxyphenbutazone are effective for treatment of active rheumatoid arthritis, active ankylosing spondylitis, and acute gouty arthritis.

2. Both drugs lack substantial evidence of effectiveness in painful shoulder syndrome, acute thrombophlebitis, and psoriatic arthritis, and for oxyphenbutazone alone, for "severe forms of a variety of local inflammatory conditions". In addition, because of potential hazards associated with their use, both drugs have not been shown to be safe for use in painful shoulder syndrome and acute thrombophlebitis; and, for oxyphenbutazone alone, for "severe forms of a variety of local inflammatory conditions."

3. Although effective in osteoarthritis, both drugs have not been shown to be safe for use for that indication, because of the availability of safer compounds which are also effective in osteoarthritis.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under the conditions described herein.

1. *Form of drug.* Such preparations are in conventional tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement:

Caution: Federal law prohibits dispensing without prescription.

b. The drugs are labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drugs. (Full labeling guidelines are available from the Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Bureau of Drugs). The indications for both phenylbutazone tablets and oxyphenbutazone tablets are as follows:

Active rheumatoid arthritis.
Active ankylosing spondylitis.
Acute gouty arthritis.

3. *Marketing status. a.* Marketing of such drug product which is now the subject of an approved or effective new drug application may be continued provided that, on or before October 3, 1977 the holder of the application submits (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1 (f)). In addition, on or before January 30, 1978, the holders of such applications are required to supplement their applications to provide (1) evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application in accordance with 21 CFR 320.-24 and 320.25; or (2) information to permit the Food and Drug Administration to waive demonstration of in vivo bioavailability in accordance with 21 CFR 320.22.

b. Approval of an abbreviated new drug application (21 CFR 314.1 (f)) must must be obtained prior to marketing such products. Such abbreviated new drug applications are required to contain evidence from in vivo studies demonstrating bioequivalency to the reference standard. Such bioavailability studies shall consist of single or multiple dose blood level comparisons to an appropriate reference material. Multiple dose studies will require prior submission of a Notice of Claimed Investigational Exemption for a New Drug (IND) including a protocol for such studies. Because of inherent toxicological side effects associated with these drugs, it is advisable that firms submit a protocol with the ANDA prior to undertaking a single dose study in human subjects. Dissolution rate data are required of solid oral dosage forms. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) and 21 CFR 314.111 (a)(5), demonstrating the effectivness of the drugs for the indications for which the drugs lack substantial evidence of effectiveness referred to in paragraph A. 2. of this notice. The Director further concludes that because of the potential hazards associated with the use of the drugs or the availability of safer compounds, the drugs have not been shown to be safe for certain indications referred to in paragraphs A.2. and A.3. of this notice.

Notice is given to the holder of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indications referred to in paragraphs A.2. and A.3. of this notice on the grounds that (1) new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling; and (2) new evidence of clinical experience, not contained in the applications or not available to the Food and Drug Administration until after the applications were approved, evaluated together with the evidence available when the applications were approved, shows that the drugs are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved. An order withdrawing approval will not issue with respect to any applications supplemented, in accord with this notice, to delete the claims referred to in paragraphs A.2. and A.3. of this notice.

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby

given an opportunity for a hearing to show why approval of the new drug applications providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If the applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 1, 1977, a written notice of appearance and request for hearing, and (2) on or before October 3, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indications referred to in paragraph A.2. and A.3. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusion, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 am. and 4 p.m. Monday through Friday.

(Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).)

Dated: July 20, 1977.

J. RICHARD CROUT,
Director Bureau of Drugs.

[FR Doc.—77-22207 Filed 8-1-77;8:45 am]

National Institutes of Health

ARTERIOSCLEROSIS AND HYPERTENSION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Arteriosclerosis and Hypertension Advisory Committee, National Heart, Lung, and Blood Institute, September 23–24, 1977, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 6:00 p.m. on Friday, September 23 and from 8:30 a.m. to 3:00 p.m. on Saturday, September 24, to evaluate program support in Arteriosclerosis and Hypertension. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, Room 5A–03, Building 31, National Institutes of Health, Bethesda, Maryland 20014, Phone (301) 496–4236, will provide summaries of the meeting and rosters of committee members.

Dr. Gardner C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, Room 516, Federal Building, National Institutes of Health, Bethesda, Maryland 20014, Phone (301) 496–1613, will furnish substantive program information.

Dated: July 19, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21986 Filed 8-1-77;8:45 am]

BOARD OF REGENTS OF THE NATIONAL LIBRARY OF MEDICINE

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Board of Regents of the National Library of Medicine.

This committee, established by an Act of Congress, shall file a charter upon the expiration of each successive two-year period in accordance with Pub. L. 92–463. That rechartering date is May 31, 1979.

Dated: July 14, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-21989 Filed 8-1-77;8:45 am]

CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, September 26–27, 1977, Federal Building, Conference Room B119, Bethesda, Maryland.

This meeting will be open to the public on September 26–27, from 9:00 a.m. to adjournment, when the Committee will discuss the status of new initiatives of the Epidemiology, Clinical Trials and Preventive Cardiology Branches. Program developments and proposals for further initiatives will also be discussed.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda Maryland, 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. William J. Zukel, Executive Secretary of the Committee, Federal Building, Room 4C10, Bethesda, Maryland, 20014, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: July 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21987 Filed 8-1-77;8:45 am]

LIPID METABOLISM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, September 20, 1977, National Institutes of Health, Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Maryland.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. to discuss the Lipid Metabolism Branch status report and program review plans. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, Bethesda, Maryland 20014 (301) 496–4236, will provide summaries of the meeting and rosters of the committe members.

Dr. Basil M. Rifkind, Chief, Lipid Metabolism Branch, NHLBI, Federal Building, Room 302, 7550 Wisconsin Avenue, Bethesda, Maryland 20014, (301) 496–1681, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: July 19, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21984 Filed 8-1-77;8:45 am]

NATIONAL CANCER INSTITUTE

Meetings for the Review of Contract Proposals

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals, as indicated. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301–496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of committee: Committee on Cancer Immunodiagnosis.
Dates: September 2, 1977, 1 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Times: Open—September 2, 1 p.m.–1:30 p.m. Closed—September 2, 1:30 p.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen, Building 10, Room 4B17, National Institutes of Health; phone 301–496–1791.

(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

Name of committee: Virus Cancer Program Scientific Review Committee B.
Dates: September 15–16, 1977, 9 a.m.
Place: Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open—September 15, 9 a.m.–9:30 a.m. Closed—September 15, 9:30 a.m.–5 p.m.; September 16, 9 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Wilna A. Woods, Landow Building, Room C306, National Institutes of Health; phone 301–496–4533.

(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

Name of committee: Committee on Cancer Immunodiagnosis.
Dates: September 25–26, 1977, 7 p.m.
Place: Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open—September 25, 1977; 7 p.m.–7:30 p.m.; September 26, 1977; 8:30 a.m.–11:30 p.m.
Agenda: Open portion—Immunodiagnosis Program Review and Planning. Closed—September 25, 1977; 7:30 p.m.–11:30 p.m.
Closure reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen, Building 10, Room 4B17, National Institutes of Health; phone 301–496–1791.

(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

Name of committee: Biometry and Epidemiology Contract Review Committee.
Dates: September 27–28, 1977, 1 p.m.
Place: Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open—September 27, 1 p.m.–3 p.m.; Closed—September 27, 3 p.m.–10 p.m.; September 28, 8:30 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Mr. Harvey Geller, Landow Building, Room C519, National Institutes of Health; phone 301–496–6014.

(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

Name of Committee: Committee on Cytology Automation.
Dates: September 28, 1977, 1 p.m.
Place: Building 10, Room 1A21, National Institutes of Health.
Times: Open—September 28, 1 p.m.–1:30 p.m. Closed—September 28, 1:30 p.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Bill Bunnag, Building 10, Room 1A21, National Institutes of Health; phone 301–496–5282.

(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

Dated: July 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21982 Filed 8-1-77;8:45 am]

NATIONAL CANCER INSTITUTE

Open Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

Thees meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301–496–5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: Subcommittee on Manpower Needs of the Cancer Research Manpower Review Committee
Dates: September 12, 1977; 9 a.m.–3 p.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Discuss future projected needs for M.D.'s, Ph. D.'s, and D.V.M.'s as well as predoctorals in the areas of cancer etiology and prevention, detection, diagnosis treatment and restorative care.
Executive Secretary: Dr. Leon J. Niemiec, Westwood Building, Room 10A15, National Institutes of Health; phone 301–496–7803.

Name of committee: Executive Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: Septembed 12, 1977; 8:30 a.m.–5 p.m.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To review the activities of the Clearinghouse bioassay program and other relevant matters.
Executive Secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health; phone 301–496–5108.

Name of committee: Data Evaluation and Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: September 26, 1977; 8:30 a.m.–5 p.m.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To review available bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive Secretary: Dr. James M. Sontag, Building 31, Room 3A16 National Institutes of Health; phone 301–496–5108.

Dated: July 15, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21983 Filed 8-1-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes Advisory Board on September 21, 1977, 8:30 a.m. to 5 p.m., in Conference Room 723A, South Portal Building of Health, Education, and Welfare, at 330 Independence Avenue SW., Washington, D.C.

In addition, the Executive Committee of the Board will have a meeting on September 20, 1977, 8:30 a.m. to 5 p.m. at the same location. The meetings, which will be open to the public both days from 8:30 a.m. to 5 p.m., are being held to continue review of the status and implementation of the long-range

plan to combat diabetes formulated by the National Commission on Diabetes. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014 (301–496–3583), will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health)

Dated: July 15, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21985 Filed 8-1-77;8:45 am]

WORKSHOP ON CANCER RESEARCH SAFETY

Meeting

Notice is hereby given of the Workshop on Cancer Research Safety sponsored by the National Cancer Institute, September 27–29, 1977, at the Dulles Marriott Hotel, Washington, D.C.

This meeting will be open to the public on September 27, 1977, 8:30 a.m. to 4:30 p.m., September 28, 1977, 8:30 a.m. to 10 p.m., and September 29, 1977, 8:30 a.m. to 1:30 p.m., to discuss Cancer Research Safety for Institutional Environmental Health and Safety Director. Attendance by the public will be limited to space available.

Dr. W. Emmett Barkley, Ph. D., Director, Office of Research Safety, National Cancer Institute, National Institutes of Health, Bethesda, Md. 20014 (301–496–1862), will provide additional information.

Dated: July 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-21988 Filed 8-1-77;8:45 am]

Office of Education

FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

Public Meeting

Section 151 (20 U.S.C. 241o) of Title I of the Elementary and Secondary Education Act of 1965 requires the Commissioner of Education to develop and provide to State educational agencies models for the evaluation of all programs conducted under Title I, expressed in regulatory form. A Notice of Intent to issue regulations, which will invite public comment upon a number of issues related to the development of the evaluation models, is planned for publication in the FEDERAL REGISTER soon.

In the meantime, the Office of Education, in consultation with a large number of interested persons and groups, both public and private, has contructed three tentative evaluation models applicable to Title I projects in reading, mathematics, and language arts for grades 2 through 12. The Office of Education has also sponsored a nationwide series of workshops at which these tentative models were presented, and is funding a number of Technical Assistance Centers which currently are instructing personnel from many State and some local educational agencies in the use of these tentative models. Therefore, while the models that have been developed are strictly tentative, and their use is not now required, personnel from many State and local educational agencies are already using them in their evaluation efforts.

The Office of Education will sponsor a meeting, to which the public is invited, to explain the steps it has taken to implement Section 151 and to explain its current thinking with regard to the three tentative models. The meeting will be held on September 14, 1977, at 400 Maryland Ave. SW., Washington, D.C., Room 6004, between the hours of 9 a.m. and 4 p.m. This meeting is not intended to be a hearing on the merits of the tentative models, as hearings for this purpose will be scheduled once evaluation models are published as a notice of proposed rulemaking. Rather, the intent of this meeting is solely to update those interested in the steps the Office of Education has taken to implement Section 151.

Among others, this meeting should be of interest to companies marketing elementary and secondary school educational achievement tests and companies that provide scoring, reporting, and evaluation services. The Office of Education intends to discuss the following topics: (1) the background of the Office of Education's efforts to fulfill the requirements of Section 151; (2) suggested procedures for implementing the tentative models; (3) current misperceptions of the tentative models and of the Office of Education's policies regarding evaluation of Title I programs; and (4) the capabilities of the current version of a computer program which processes evaluation data generated through use of the tentative models.

Dated: July 27, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-22201 Filed 8-1-77;8:45 am]

Office of the Secretary

COMMENTS ON COLLECTION ON INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before September 1, 1977 and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: July 25, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center
for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Study to Determine the Projected Area of Vocational Education Teacher Shortage.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Occupational and Adult Education.

3. AGENCY FORM NUMBER

OE Form 581.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 172(c)(7) * * * the Commissioner shall, before the beginning of each fiscal year, publish a listing of the areas of teaching in vocational education which are presently in need of additional personnel and of the areas which will have need of additional personnel in the future * * *" (Pub. L. 94–482, Title II, Section 202; 20 U.S.C. 2402).

5. VOLUNTARY OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information is to be used to meet the legislative requirements of Section 172(c)(7) cited above in item number 4. The information will also be used in the awarding of vocational education teacher certification fellowships in vocational skill areas of shortage.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail and/or telephone.
b. Time of Collection: Summer and Fall.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State Education Agencies.
b. Number: 57.
c. Estimated Average Man-Hours per Respondent: 16.

9. INFORMATION TO BE COLLECTED

The respondents will be requiredto provide data on the present and anticipated shortages of teachers within vocational skill areas for their States. A listing (a taxonomy) of the "specialties" (skill areas) in vocational education will be forwarded to the States; and, for each specialty, in accordance with the taxonomy, the State will provide the number of teachers required to meet present shortages and the number anticipated to meet future shortages.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

The Status and Impact of Bilingual Vocational Training: Bilingual Vocational Training Inventory.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education—Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE-586.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to acquire sufficient job skills and English language skills to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress." (Pub. L. 94–482, Sec. 182(a); 20 U.S.C. 2412).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

The Status and Impact of Bilingual Vocational Training requires an inventory of existing publicly funded adult bilingual vocational training programs for persons of limited English-speaking ability. This inventory will identify types of bilingual vocational training programs, their locations, and their sponsors in order to inform the President and the Congress of the availability during fiscal year 1977 of such training for unemployed and underemployed persons of limited English-speaking ability. The inventory will also be used to identify the sampling universe for the mandated evaluation.

7. DATA ACQUISITION PLAN

a. Method of Collection: Telephone interviews and personal interviews.
b. Time of Collection: Fall, 1977.
c. Frequency: Single Time Only.

8. RESPONDENTS

a. Type: State Education Agencies.
b. Number: Universe—200 screening interviews.
c. Estimated Average Man-Hours per Respondent: .33.
a. Type: Other—Directors of Bilingual Vocational Training programs.
b. Number: Universe—50.
c. Estimated Average Man-Hours per Respondent: .33.

9. INFORMATION TO BE COLLECTED

The respondents will be asked to provide information on the characteristics of bilingual vocational training programs, the sponsor and conducting organization, the language target group(s) for which training is provided, English language proficiency of trainees, and English language training provided. For programs with training which does not qualify as Bilingual Vocational Training, the interview will be terminated after one of six screening questions has received a negative response.

[FR Doc.77-22158 Filed 8-1-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

LOWER CARSON-LOWER TRUCKEE RIVER BASINS, PROPOSED OPERATING CRITERIA

Supplemental Public Hearing and Extension of Time for Written Comments—Draft Environmental Statement

JULY 21, 1977.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 the Department of the Interior prepared, published, and held hearings on a draft environmental impact statement for the proposed operating criteria for the Lower Carson-Lower Truckee River Basins located principally in Churchill and Washoe Counties of Nevada. The notice of hearings on this statement (INT–DES–77–18) was published in the FEDERAL REGISTER on May 27, 1977 (42 FR 27311). Those hearings were completed June 28, 29, and 30, 1977, and the deadline for submission of written comments had been set for July 9, 1977.

Due to the complexity of the statement and the widespread interest in the subject of the statement, a supplemental hearing will be held on September 22, 1977, at 2 p.m., at the Jot Travis Auditorium, University of Nevada, Reno, Nev. The deadline for written comments on this statement and written comments to be made a part of the record of the public hearing, is also extended from July 9, 1977, to September 30, 1977.

The proposed action is to mitigate or offset the effects of implementing the operating criteria for the Newlands Reclamation Project. That operating criteria has been changed by a court order in a way that restricts the diversion of water out of the Truckee River watershed, for use in the Newlands Reclamation Project, to that amount of water needed for beneficial use as required by the decreed rights of lands having approved water rights within that project. The mitigation includes certain improvements, in the operation and management of the project and in connection with losses in various wildlife areas. Further, the proposed action will result in increased flows in the Lower Truckee River and into Pyramid Lake.

The hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact Mr. Harold Ranquist, Senior Attorney, Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nev. 89503; Telephone 702–322–4042. Requests for scheduling of oral presentation will be accepted until September 21, 1977, at 5 p.m. Insofar as practicable, speakers will be scheduled according to time preferences in their letter or telephone requests. Speakers being scheduled at the time of the hearing will be scheduled according to the time of their arrival on a first-come, first-served basis.

The time permitted for oral presentation at the hearing may be limited to 10 minutes per speaker, depending upon the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comment by anyone after all speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to Mr. Harold Ranquist, Senior Attorney, Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nev. 89503, address given above, through September 30, 1977, for inclusion in the hearing record.

Copies of the Draft Environmental Impact Statement are available pursuant to the notice published in the FEDERAL REGISTER on May 23, 1977 (42 FR 26254), at the places therein designated and further may be obtained for public examination at the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nev. 89503. Single copies of the statement may be obtained without charge by writing to that same office.

RAYMOND V. BUTLER,
Acting Deputy Commissioner
of Indian Affairs.

[FR Doc.77-22087 Filed 8-1-77;8:45 am]

Bureau of Land Management

[M18434]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 26, 1977.

The Department of Agriculture filed application, Serial No. M18434, on May 5,

1971, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA
KOOTENAI NATIONAL FOREST
Roberts Lookout Site

T. 34 N., R. 26 W.,
Sec. 3, E½NW¼SE¼NE¼ and W½NE¼SE¼NE¼.
The area described contains 10 acres in Lincoln County, Montana.
The applicant desires that the land be reserved for a fire lookout point.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 10, 1971, Volume No. 36, Page 11226, Document No. 71-8061.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22151 Filed 8-1-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

The following properties have been added to the National Register of Historic Places since July 5, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER:

ARKANSAS

Pulaski County

Little Rock, *MoPac Station*, Markham and Victory St. (6-17-77).
Little Rock, *Ragland House*, 1617 Center St. (6-17-77).

CALIFORNIA

Alameda County

Oakland, First Unitarian Church of Oakland, 685 14th St. (6-16-77).

Del Norte County

Crescent City vicinity, *Enderts Beach Archeological Sites*, S of Crescent City (6-30-77).
Klamath vicinity, *O'men Village Site*, N of Klamath (6-30-77).

Riverside County

Corona, *Carnegie, Andrew, Library*, 8th and Main Sts. (6-29-77).

CONNECTICUT

Hartford County

Hartford, *Buckingham Square District*, Main and Buckingham St., Linden Pl., and Capitol Ave. (6-15-77).

New Haven County

Milford, *Eells-Stow House*, 34 High St. (6-17-77).

GEORGIA

Fulton County

Atlanta, *DeGive's Grand Opera House*, 157 Peachtree St., NE (6-17-77).

Gwinnett County

Lilburn vicinity, *Wynne, Thomas, House*, N of Lilburn on U.S. 29 (7-8-77).

ILLINOIS

Cook County

Chicago, *Gauler, John, Houses*, 5917-5921 N. Magnolia Ave. (6-17-77).
Chicago, *Roloson, Robert, Houses*, 3213-3219 Calumet Ave. (6-30-77).

IOWA

Polk County

Des Moines, *Burns United Methodist Church*, 811 Crocker St. (6-15-77).

Taylor County

Bedford, *Bedford House*, 306 Main St. (6-14-77).

KENTUCKY

Fleming County

Elizaville, *Elizaville Presbyterian Church*, KY 32 (6-17-77).

LOUISIANA

West Feliciana Parish

Tunica vicinity, *Trudeu Landing*, E of Tunica (6-17-77).

MINNESOTA

Swift County

Appleton, *Appleton City Hall*, 23 S. Miles St. (6-17-77).

NEW JERSEY

Bergen County

Norwood vicinity, *Rockleigh Historic District*, E of Norwood on Willow Ave. Rockleigh and Piermont Rds. (6-29-77).

Middlesex County

East Brunswick, *Old Bridge Historic District*, NJ 18 (6-29-77).

Warren County

Oxford, *Oxford Furnace*, Belvidere and Washington Aves. (7-6-77).

OHIO

Portage County

Kent, *West Main Street District*, 409-625 W. Main St. (6-17-77).

Putnam County

Glandorf, *St. John The Baptist Roman Catholic Church*, OH 694 and Main St. (6-17-77).

PENNSYLVANIA

Delaware County

Concordville, *Concord Friends Meetinghouse*, Old Concord Rd. (6-17-77).

Schuylkill County

Tamaqua, *Ormrod, George, House*, 218 W. Broad St. (6-14-77).

TEXAS

Concho County

Salt Gap vicinity, *Bishop Site*, W of Salt Gap (6-17-77).

VIRGINIA

Newport News (independent city)

Richneck Plantation Site, off VA 168 (7-8-77).

WASHINGTON

Kittitas County

Ellensburg, *Ellensburg Historic District*, roughly bounded by 3rd and 6th Aves., and Main and Ruby Sts. (7-1-77).

WISCONSIN

Rock County

Janesville, *Myers Opera House*, 118 E. Milwaukee St. (6-17-77).

Walworth County

Delavan vicinity, *Mile Long Site*, S of Delavan (6-23-77).

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER:

KENTUCKY

Fleming County

Goddard, *Goddard Bridge*, Maddox Rd. at KY 32 (8-22-75) (Previously called *Goddard Bridge (White Bridge)*).

WISCONSIN

Racine County

Burlington vicinity, *Hazelo, Franklin, House*, 34108 Oak Knoll Rd. (12-3074)

• • • • •

The following properties have been demolished and therefore removed from the National Register of Historic Places:

FLORIDA

Hillsborough County

Tampa, *1415 North Franklin Street*.

GEORGIA

Dawson County

Dawsonville vicinity, *Steele's Covered Bridge*, 7 mi. NW of Dawsonville on SR 2275.

MASSACHUSETTS

Hampden County

Chicopee, *Kendall Block*, 6—20 Springfield St.

• • • • •

The following properties were omitted from the February 1, 1977, listing of properties in the FEDERAL REGISTER:

ALASKA

Sitka Division

Sitka, *Russian Mission Orphange*, Lincoln and Monastary Sts. (10-16-66).

NORTH CAROLINA

Orange County

Hillsborough, *Ayr Mount*, St. Mary's Rd. (8-26-71).

OREGON

Multnomah County

Portland, *Grand Central Station*, NW 6th Ave. (8-6-75.)

• • • • •

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I-459-4(4).

Lowndes County

Jones Bluff Park Site (1 Au 139), Jones Bluff Lake Project.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Montgomery County

Gunter Hill Park Site (1 MT 134), Jones Bluff Lake Project.

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Fairbanks Division

Davidson Ditch, Steese Hwy.

Nome Division

Little Diomede Island, *Iyapana, John House*.

Sitka Division

Crab Bay, *Crab Bay Petroglyph*.

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office*.

Apache County

Painted Cliffs Archeological District (Arizona K:12:3, K:12:87, K:12:238, K:12:239), Lupton Interchange of I-40.

Conconino County

Gray Mountain Site, (AR-02-020-946).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Beth Israel Synagogue, 120 E. Culver.
Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam*.
New River Dams Archeological District.
Phoenix, *Brooks, M. B., House*, 3348 75th Ave.
Phoenix, *Ellis-Shackleford House*, 1242 N. Central.
Phoenix, *Evans Barn*, 67th Ave., between Van Buren and McDowell.
Phoenix, *Fennemore House*, 501 E. Moreland.
Phoenix, *Hidden-Porcher House*, 763 E. Moreland.
Phoenix, *Ivy House*, 111 W. Monroe St.
Phoenix, *Kenilworth Elementary School*, 1210 N. 5th Ave.
Phoenix, *La Ciudad Archeological Site*.
Phoenix, *Las Colinas (Arizona T:12810)*, 1200 block of N. 27th Ave.
Phoenix, *Stewart House*, 1115 N. Central.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258*.

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca

Pima County

Tucson, *Convento Site*.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Craighead County

Mangrum Site (State Site Number 3CG636).

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49-3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Lonoke County

Scott vicinity, *William S Pemberton House*.

Ouachita County

Camden, Old Post Office, Washington St.

Poinsett County

Riverside Site (State Site Number 3P0395).

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp-105*.

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld–58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites. Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.

Glenn County

Stick Lake Prehistoric Site, Case No. 05–08–67, Mendocino National Forest.
Upper Leach Lake Prehistoric Site, Case No. 05–08–67, Mendocina National Forest.
Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ–1 and HJ–5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475. 491, 492, and 493.

Madera County

Bass Lake Archeological Sites
CA–MAD 176–185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA–MNO–684.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4–Nap–14, 4–Nap–261. Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

Forest Hill Station.
North Point Park, Marina (Eagle Cafe and Pier Facades), San Francisco northern waterfront.
San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa–1330*, Santa Monica Creek.
Site CA–Sba–1325.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ–5 (Border Site 26WA–1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferroll Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Ventura County

Simi Valley, *Archeological Site Ven–341.*

Yuba County

Site 4–Yub–S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5–LR–257 and 5–LR–263, Boxelder Watershed Project.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Granby, *Granby Center.*
Hartford, *Christ Church Cathedral and Cathedral House*, 955 Main St. and 45 Church St.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97–81, 65.
Manchester, *Portions of Cheney Silk Mills Industrial Complex* (Cheney Homes Area).
Southington, *Lewis, Sally, House*, 500 N. Main St.

Middlesex County

Middletown, *Cookson, John, House*, S. Main St.
Middletown, *Fuller, Caleb, House*, Upper Williams St.
Middletown, *Main Street Firehouse*, 533 Main St.
Middletown, *Southmayd, William, House*, Lower Williams St.

New London County

New London, *Bank Street Historic District.*
New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Williams Memorial Institute Building*, 110 Broad St.

Norwich, *Washington Street Historic District*, Project 103–159.

New Haven County

Ansonia Opera House, 100 Main St.
New Haven, *Grand Avenue Drawbridge*, over Quinnipiac River.

Windham County

Brooklyn, *Quebec Historic District (Quebec Village).*

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SE between 4th and 6th Sts SE
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Carroll County

Jordan-Hampton House, Route 1.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *828 Wheaton Street.*
Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Cobb County

Bostwick, Charles C., House, 325 Atlanta St.
Brumby, Arnoldus, House, 472 Powder Springs St.
Clay, Alexander Stephens, House, 353 Atlanta St.
McCullock–Wellons House, 348 Powder Springs Rd.
Slaughter, M. G., Cottage, 216 Fraser St.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Greene County

Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–1 (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*
Kwalakakwa Bay, *Kona Field System*

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Barber's Point Harbor.
Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah*—Suite 15, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fir Building*, 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Morley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Henry County

Genesco, *Ristau Brewery.*

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.

Madison County

American Botroms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–Ri–337, East Moline Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Bedford, *Main Post Office*, 1324 K St.
Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda*, 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library.*

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.
Jackson, *Ten Prehistoric Sites in the Patoka Lake.*

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Alhambra Theater*, 50 Adams St.
Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63–32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Allamakee County

Marquette vicinity, *Fire Point Site (Nine Foot Channel Navigation Project).*

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Ida County

Muri Brown Site (13–IA–4), County Courthouse.

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

KENTUCKY

Boone County

Rabbit Hash, *Sites 15Be75 and 15Be76.*

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.
Louisville, *Levin Bates House*, Bardstown Rd.

Johnson County

Fishtrap United Methodist Church.
Volga, *McKenzie Log Cabin*, McKenzie Branch.

Lawrence County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

New Orleans, *Algiers Point Historic District*, bounded by Mississippi River, Atlantic St., and Opelousas St.
New Orleans, *Casey, Kate, House*, 932 934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House*, 3027-3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House*, 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 928-930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933-935 Gaienne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128-1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Jahncke Building*, 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House*, 1119-1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House*, 1122-1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir House*, 1523-1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse*, 1045 Magazne St., Square 158.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218-1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sporl, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1032 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

Red River County

Hanna Site (16RR4).

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave. Scott St.
Eastern Avenue Sewage Pumping Station, SW corner of Eastern Ave. and President St.
Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Reistertown Historic District, Butler and Walston Rds.
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block Fremont Ave

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Horton Test Sphere (One-Million-Liter Test Sphere).*

Montgomery County

Rockville, *Third Addition to Rockville and Old St. Mary's Church and Cemetery.*

St. Marys County

St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185-193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190-196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.

MICHIGAN

Kalamazoo County

Masonic Temple, corner Rose and Eleanor Sts.
Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Greene County

Springfield, *Landers Theater*, 311 East Walnut St.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Cascade County

Great Falls, *Building at 108 Central Avenue.* 108 Central Ave.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas Vinicity, *Las Vegas Wash Archeological District.*
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Cheshire County

Arch Bridge, between N. Walpole and Bellows Falls (also in Windham Co., VT).

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Oocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Morris County

Morristown, *Abbett Avenue Bridge.*

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Passaic County

Forsberg House, 3 Edgemont Crescent.
Sears House 958 NJ 23.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Erie County

Erie Canal.

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Kings County

Steeplechase Parachute Jump.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.
Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Colonial Park Pool Complex*, Bradhurst Ave.
New York, *Harlem Courthouse*, 170 E. 121st St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W Seneca Sts.

Otsego County

Swart-Wilcox House

Queens County

Fort Totten Officers' Club.

Rensselaer County

Sand Lake, *Troy and New England Railway* (Trolley Embankment), Sand Lake Sewer Project/Wynantskill Trunk Sewer.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens*, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Warren County

Lake George, *Boyau*, portion of Montcalm St.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.

Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot.* NE corner Main and Webb Sts

Buncombe County

Asheville, *Battery Park Hotel,* Battle Square.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey St

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Forsyth County

Winston-Salem, *Atkins, Dr. Simon Green House,* 346 Atkins St.
Winston-Salem, *Hill, James S., House,* 914 Stadium Dr.
Winston-Salem, *Pulsley, J. W., House,* 934 Stadium Dr.
Winston-Salem, *Patterson, Ackerman, and Sussdorf Houses,* 434, 440, 448 S Trade St.

Hyde County

Ocracoke, *Ocracoke Lighthouse*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site* (33 AD 39), Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site,* (33 AD 36), *Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge,* over Astabula River.

Clermont County

Neville vicinity, *Maynard House,* 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR S R-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Richland County

Mansfield, *Ritter, William, House,* 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office,* 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shafer Mound,* S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound,* S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House,* 1576 Beall Ave

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Chiefs Knoll, Post Cemetery,* N of

Kay County

Newkirk vicinity, *Bryson Archeological Site,* NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District* 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel,* 13 mi. NW of Scappose

Coos County

Charleston, *Cape Arago Light Station*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail),* 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area

Klamath County

Crater Lake National Park, *Crater Lake Lodge*

Lane County

Coburg vicinity, *McKenzie River Railroad Bridge*
Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yakuina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town,* Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll,* adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine,* U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.
Pittsburgh, *St. Boniface Church,* 2208 East St.

Berks County

Brownsville vicinity, *Lauer/Gerhart Farm*
Mt. Pleasant, *Berger-Stout Log House,* near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse,* near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead,* Gruber Rd.
Mt. Pleasant, *Miller's House,* jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store,* Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill,* Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn,* on Tulephocken Creek.
Mt. Pleasant, *Union Canal,* Blue Marsh Lake Project area.
Reading vicinity, *Blue Marsh Archeological District.*

Butler County

Butler, *Bonnie Brook Archeological Site*

Chester County

Charlestown, *Nesspor House (Thomas Davis House),* State Rd.
Charlestown, *Pickering Creek Ice Dam,* State Rd.
Lock Acrie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House,* 302 E. Church St
Lockhaven, *Harvey Judge, House,* 29 N. Jay St.
Lockhaven, *McCormick, Robert, House,* 234 E. Church St.
Lockhaven, *Mussina, Lyons, House,* 23 N Jay St

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).
Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.,* 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings,* I-78.
Dorneyville, *King George Inn and two other stone houses,* Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.,* Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I-78.

Site 4: Farmhouse, barn, and outbuildings, I-78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over* Tacony Creek.
Philadelphia, *Courthouse and Post Office,* 9th St., between Chestnut and Market Sts.
Philadelphia, *New Forest Theatre,* 1108-1114 Walnut St.
Philadelphia, *Poth, Frederick, House,* 216 N. 33rd St.
Philadelphia, *Tremont Mills,* Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Cross Creek Village (36 Wh 293) (Cross Creek Watershed).
Somerset Township, *Wright No. 22 Covered Bridge.*

York County

Wellsville Historic District.

RHODE ISLAND

Providence County

Providence, *Woonesquatucket Bridge.*
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium),* Cumberland St.

Washington County

Narragansett, *Sprague, Gov., Bridge,* Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill,* off Lockwood Dr.

Florence County

Florence, *United States Post Office-Florence,* South Carolina, corner of Irby St. and Evan St.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.

Pennington County

Rapid City, *612-632 Main St.*

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground,* section 203(b).

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House,* Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

Galveston County

Galveston, *U.S. Customhouse,* bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station,* Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House,* 604 Iturbide St.
Laredo, *De Leal, Viscaya, House,* 620 Zaragoza St.
Laredo, *Garza, Zoila De La. House,* 500 Iturbide St.
Laredo, *Leyendecker Salinas House,* 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House),* 601 Zaragosa St.

Williamson County

Archeological Districts of North Fork and Granger Lake.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Sapore Village, *Aikei Winas,* Fefen Island.

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block,* 238-240 S. Main St.

VERMONT

Chittenden County

Clark Memorial Building.

Windham County

Rockingham, *Bellow Falls Armory,* 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building.*

VIRGINIA

Charlottesville (independent city)

U.S. Post Office and Courthouse (Old Post Office).

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Alleghany County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell.

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site,* Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District,* N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S o. Cape Alava.*
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *Home of the Good Shepherd.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin,* Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 45SA11,* Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukiltea Light Station.*

Wahkiakum County

Skamokawa village, *Archeological site 45-WK-5.*

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House,* 439 B St.

Pendleton County

Wayside Inn (Site's Inn), Monongahela National Forest.

Wood County

Parkersburg, *Wood County Courthouse*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7312*

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

Rock County

Portion of Evansville Historic District.

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch,* WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, *Cantonment Reno.*
Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone,* Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.77-21518 Filed 8-1-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 22, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 12, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ARIZONA

Maricopa County

Tempe, *Our Lady of Mount Carmel Catholic Church*, College and University.
Tempe, *Petersen, Neils, House*, Priest and Southern Ave.

Navajo County

Winslow vicinity, *Brigham, City*, N of Winslow.

CALIFORNIA

San Mateo County

Redwood City, *Redwood City Historic Commercial District*, Broadway and Main Sts.

KENTUCKY

Jefferson County

Harrods Creek vicinity, *Wolf Pen Branch Mill*, E of Harrods Creek on Wolf Pen Branch Rd.

MISSISSIPPI

Lowndes County

Columbus vicinity, *James Creek No. 1 Site*, S of Columbus.

NEW HAMPSHIRE

Cheshire County

Fitzwilliam, *Third Fitzwilliam Meetinghouse*, Village Green.

NEW JERSEY

Monmouth County

Long Branch, *Guggenheim, Murry, House*, Cedar and Norwood Aves.

Ocean County

Seaside Park vicinity, *U.S. Life Saving Station No. 14*, S of Seaside Park on Island Beach State Park.

NEW MEXICO

Dona Ana County

Mesilla, *Barela-Reynolds House (J. Paul Taylor House)*, off NM 292.

NEW YORK

Livingston County

Geneseo, *Main Street Historic District*, Main St. from courthouse (Court and North Sts.) to South St.

Orange County

Montgomery vicinity, *Hill, Nathaniel, Brick House*, E of Montgomery on NY 17K.

OKLAHOMA

Atoka County

Wapanucka vicinity, *Bo McAlister Site*, E of Wapanucka.

Canadian County

El Reno, *Oklahoma Pavilion (Elks Lodge)*, 415 S. Rock Island.

Harper County

Laverne, *Fox Hotel*, Broadway and NE. 1st.

Kingfisher County

Kingfisher, *Kingfisher Post Office*, Main and Robberts.

Muskogee County

Fort Gibson, *Seawell-Ross-Isom House*, Beauregard and Elm.

Washita County

Weatherford vicinity, *Little Deer Site*, NE. of Weatherford.

TENNESSEE

Davidson County

Nashville, *Geddes, James, Engine Co. No. 6*, 629 2nd Ave. S.
Nashville, *Litterer Laboratory*, 631 2nd Ave. S.

Grundy County

Pelham vicinity, *Elkhead Stone Arch Bridge*, N of Pelham on Pelham-Altamont Rd

Shelby County

Memphis, *Hotel Peabody*, 149 Union Ave

Washington County

Telford vicinity, *Embree House*, SW of Telford on Walker's Mill Rd.

VERMONT

Caledonia County

Stannard, *Methodist-Episcopal Church*, off VT 16
Stannard, *Stannard Schoolhouse*, off VT 16.

[FR Doc.77-21840 Filed 8-1-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

[Field Memorandum 323-77]

PUBLIC SERVICE EMPLOYMENT PROGRAMS BUILDUP

Assessment

In order to ensure an effective implementation and buildup of public service jobs under the Comprehensive Employment and Training Act (CETA) of 1973, as amended, the Department of Labor has developed procedures to be followed in assessing prime sponsor title II and title VI performance and reallocating funds within and between prime sponsor jurisdictions should that prove necessary.

The entire text of Field Memorandum No. 323-77 is published here to inform all interested parties of the Department's implementation procedures.

Signed at Washington, D.C., this 13th day of July 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training Administration.

Directive: Field Memorandum No. 323-77.
To: All regional administrators.
From: Floyd E. Edwards, Administrator, Field Operations.
Subject: Assessment of public service employment programs buildup.

JUNE 23, 1977.

1. *Purpose.* To outline procedures to be followed in the review of implementation plans for the title II and title VI buildup, including procedures for assessing performance and reallocating funds within and among prime sponsor jurisdictions should that prove necessary.

2. *References.* CETA section 606 and CETA regulations section 99.73; Field Memorandum Nos. 124-77 and 231-77.

3. *Background.* The creation of an additional 415,000 public service jobs under titles II and VI is one of the major components of President Carter's Economic Stimulus Package. The success of this effort depends on the speed at which these additional jobs are created. The maximum impact of this program can therefore only be realized if all prime sponsors fully implement their programs according to the schedules approved by regional offices.

Rescissions: TWX No. TD 7-191, dated May 23, 1977, FM No. 256-77.

Expiration date: September 30, 1978.

The Department of Labor not only has the responsibility to assess prime sponsor performance under both these titles, but also is provided the authority to reallocate funds.

The authority for title VI allocations is contained in section 606 of the Act. This section provides that:

"The Secretary is authorized to make such allocations as he deems appropriate of any amount of any allocation under this title to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governer and affected prime sponsors of any decisions to reallocate funds, and shall publish any such decision in the FEDERAL REGISTER. In reallocating any such funds, the Secretary shall give priority first to other areas within the same State and then to areas within other States, taking into account the number of eligible unemployed individuals (as described in section 608) in such area."

4. *Assessment procedures.* It is necessary to implement extensive assessment procedures in order to assure that prime sponsors achieve a 100 percent implementation of the expanded public service employment program. Therefore, the following procedures shall be initiated and maintained until further notice.

(a) Regional office staff shall review prime sponsor implementation plans for both titles II and VI.

(b) Regional office staff are to review the weekly PSE Expansion Report submitted by prime sponsors in order to assess the status of program enrollment in titles II and VI during the implementation period of the program.

(c) Where a prime sponsor's actual title II or VI increase in total enrollment between May 12, 1977, and the end of month being reviewed is not at least 70 percent of its respective planned increase in enrollment between May 12, 1977, and the end of month being reviewed, a determination shall be made that the prime sponsor is not operating in accordance with its approved plan. In these cases, the regional office shall make a further determination as to what corrective actions, if any, shall be made, and what technical assistance, if necessary should be provided. In addition, the regional office will orally and in writing notify the prime sponsor of any corrective actions and/or technical assistance which will be necessary to raise the level of prime sponsor performance, and that continued substandard performance could result in a reallocation of funds. To ensure that corrective action is being implemented, it is recommended that regional office staff visit not less than once every two weeks those prime sponsors whose actual title II or title VI performance is under 70 percent of the plan or whose weekly reports indicate that it is unlikely that they will be able to achieve 70 percent of its planned enrollment level.

5. *Title VI reallocation procedures.* (a) At the end of July 1977, the second full calendar month of implementation, the regional office shall notify in writing all prime sponsors, (as well as appropriate chief elected officials) who are not at least achieving 70 percent of their approved title VI hiring goal that funds shall be reallocated in 30 days if performance is not brought up to at least 70 percent of the planned enrollment level. This communication shall state explicitly what the prime sponsor must do to avoid reallocation of funds. At the same time the regional office shall notify in writing the respective Governor of the intent to reallocate funds unless the prime sponsor's performance improves.

Regional office staff shall also identify, during the end of the second month reviews, those prime sponsors who are over 70 percent of the plan but who have not shown any significant increased effort to come closer to meeting its approved hiring goals during the past month. If necessary, consideration should also be given to sending reallocation notification letters for underperformance in title VI to these prime sponsors and appropriate chief elected officials (and to the appropriate Governors). At the very least, such prime sponsors should be advised that if performance does not substantially improve (by at least 10 percent) during the third month of operation, it may become necessary to issue the 30-day reallocation notice.

Whenever a reallocation notice is sent we are also recommending that the Regional Administrator personally call appropriate chief elected officials to make them aware of impending actions. Where it has further been determined that a prime sponsor may not be able to make the necessary corrective actions required by the regional office, a technical assistance team, including a senior regional office staff member, UI, ES representatives etc., should make an on-site visit to provide any assistance possible.

(b) At the end of August 1977, the third month, the regional office shall review the third month's performance of those prime sponsors who have received title VI reallocation notices, their efforts to bring their performance up to the minimally required level, as well as any comments received from prime sponsors and the Governor on the proposed reallocation of funds. If a prime sponsor has neither achieved the minimally required hiring level nor has a likelihood of substantially improving performance, the regional office shall immediately deobligate those funds which they have determined the prime sponsor will not effectively use during the remaining period of the grant, and reallocate those funds to other appropriate prime sponsors.

(c) Regional offices shall not proceed with the 18-month modification for any prime sponsor which has been given a 30-day reallocation notice until the reallocation issue has been resolved. The bilateral modification should be revised as necessary to accommodate any changes in the procedures for timing necessitated by the possibility of reallocation. Further, regional offices should consider withholding approval of the 18-month modification for those prime sponsors who have been advised that a reallocation of funds is possible if there was not a substantial increase in performance (at least 10 percent) during the third month of operation. Such an action would negate the need for a formal deobligation of funds if a reallocation proves necessary. A revision of the bilateral modification may be necessary in these cases also.

(d) The assessment and reallocation procedures shall be followed at a minimum at the end of the third, sixth and ninth month of implementation, with prime sponsors notified of the intent to reallocate title VI funds at the end of the following month of operation if there is no significant improvement in performance.

(e) Reallocation of Funds to an Alternative Prime Sponsor. Where a determination has been made to reallocate title VI funds from a prime sponsor, the Regional Administrator (RA) should first give consideration to having the Governor or another appropriate grantee operate the program in the same area served by the prime sponsor from which the funds are being reallocated.

(f) Reallocation of Funds Among Prime Sponsors. Where a reallocation is desired and it is determined by the RA that an alternative prime sponsor or the Governor would also be unable to use the funds in the same area, the RA should give first consideration to reallocating funds to prime sponsors to serve other areas located within the same State and then to prime sponsors within other States. Distribution should be made taking into account the number of unemployed persons in those prime sponsor jurisdictions considered for additional funding. Only those prime sponsors which have proven ability to effectively utilize title II and title VI funds within their locale and which are at least equal to or near the monthly enrollment levels included in their plans should be considered by the RA for such additional allocations.

(g) Reallocation Within a Prime Sponsor's Jurisdiction. When it is determined that poor performance is due to the performance of a program agent or a program agent has indicated that there are not sufficiently eligible persons to fill available jobs, and other areas within the same prime sponsor jurisdiction both will be able to effectively utilize additional funds and have a need for additional funds, the regional office may authorize the prime sponsor to make appropriate adjustments to program agent suballocations. The amount of any adjustment to a program agent's allocation should be determined in conjunction with the prime sponsor and the effected program agent.

(h) Immediate Reallocation of Funds to an Alternative Prime Sponsor. If at any time prior to the completion of the first two full months of implementation the prime sponsor agrees to a reallocation because of an inability to use available funds, the procedures outlined above can be begun immediately. However, the prime sponsors and the Governor must be provided a 30-day period in which to submit comments. After considering comments submitted, the RA shall notify the Governor and affected prime sponsors of any decision to reallocate funds.

6. *Title II allocation procedures.* The procedures for assessing title VI grants described in 5 above should be carried out also for title II grants with the exception that should reallocation of title II funds become necessary, the procedures set forth in section 98.11 of CETA regulations will apply.

7. *Reporting of intent to reallocate.* Regional officers should include as part of the "Expanded Public Service Employment Item" in the Significant Activities Report any actions taken with regard to reallocations. Specifically, the national office should be alerted whenever a prime sponsor has been notified in writing of a proposed reallocation of funds. In subsequent weekly reports, the status of each of these prime sponsors receiving letters should be provided, including any decision to reallocate funds. The national office will make appropriate arrangements to publish decisions to reallocate funds in the FEDERAL REGISTER.

8. *Action required.* (a) Regional Administrators should immediately implement these procedures.

(b) Prime sponsors should be informed of these procedures and of the intent to reallocate funds should that prove necessary.

9. *Inquiries.* Questions may be directed to either Hugh Davies or Jack Rapport on 8-376-7006.

[FR Doc.77-22049 Filed 8-1-77;8:45 am]

FARMWORKER ECONOMIC STIMULUS PROGRAMS

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the plans of the Employment and Training Administration for allocating funds for the Farmworker Economic Stimulus Porgram and the availability of "Solicitation for Grant Applications."

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Chief, Division of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Stimulus Appropriation Act of 1977, the Division of Farmworker Programs of the Department of Labor announces two initiatives under the Farmworker Economic Stimulus Program (ESP) to support efforts to improve the unemployment and underemployment problems facing seasonal farmworkers. The two categories of activity to be funded at this time are: (1) Residential Skill Training and (2) Employment and Training Coordinated with Rural Economic Development Activities.

The ESP initiatives may be operated by private nonprofit organizations, prime sponsors under title I of CETA, and other public agencies. Technical and vocational institutes, and other training centers, including Job Corps may operate residential skill training.

The above eligible applicants are herein invited to submit innovative proposals in response to a competitive

Solicitation for Grant Award (SGA) announcement made by the Division of Farmworker Programs (DFP). The SGA will contain detailed information and materials necessary for submission of proposals.

SGAs will be available on or about August 8, 1977, for the two program categories. The SGA guidelines will be sent to eligible applicants on request. Requests must indicate which of the two SGA initiatives the applicant desires. SGAs will be available only on written request submitted to the above address. Telephone requests will not be honored. Requestors should furnish two self-addressed gummed labels with the written request for SGA.

Proposals in response to the SGA must be received by the Department at the above address by September 8, 1977, or within 30 days of the date SGAs become available, whichever is sooner. Review panels will be convened in September with grant contract signing beginning November 1, 1977.

Proposals will be evaluated on the basis of objective criteria by a panel composed of employment and training specialists from the Department of Labor and representatives of other appropriate Federal agencies.

Signed in Washington, D.C., this 20th day of July, 1977.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc.77-22165 Filed 8-1-77;8:45 am]

Office of the Secretary

[TA-W-2,207, et al]

ARKWRIGHT FINISHING CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arkwright Finishing Co. (workers).	Fall River, Mass.	July 18, 1977	July 14, 1977	TA-W-2,207	Natural and synthetic cloth.
DeLaval Turbine Inc. (Philadelphia Pattern Makers Association).	Trenton, N.J.	June 23, 1977	May 27, 1977	TA-W-2,208	Patterns (wood molds).
Dunn & McCarthy, Inc. (company).	Binghamton, N.Y.	July 18, 1977	July 15, 1977	TA-W-2,209	Women's dress shoes.
Hausser Scientific (workers).	Blue Bell, Pa.	do	July 13, 1977	TA-W-2,210	Microslides, covered glass and blood testing equipment.
International Harvester Co. (UAW).	Libertyville, Ill.	July 14, 1977	July 11, 1977	TA-W-2,211	Coustruction equipment, rubber tired, front-end loaders.
M & E Sportswear, Inc. (workers).	New York, N.Y.	July 18, 1977	July 12, 1977	TA-W-2,212	Ladies' skirts and pants.
Paul Modes, Inc. (ILGWU).	New Bedford, Mass.	July 12, 1977	July 4, 1977	TA-W-2,213	Women's dresses and suits.
Tyco Industries, Inc. (workers).	Woodbury Heights, N.J.	July 18, 1977	July 14, 1977	TA-W-2,214	Toy road racing sets and HO trains.

[FR Doc.77-22045 Filed 8-1-77;8:45 am]

[TA-W-2,218, et al.]

BURLINGTON INDUSTRIES, ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Burlington Industries (workers).	Greenville, S.C.	July 18, 1977	July 14, 1977	TA-W-2,218	Fine count woven fabrics.
National Electrical Manufacturing, Inc. (United Steelworkers of America).	Telham, Ala.	July 14, 1977	June 1, 1977	TA-W-2,219	Pole line hardware for electrical utilities.
Textile Piece Dyeing Co., Inc. (workers).	Paterson, N.J.	July 20, 1977	July 6, 1977	TA-W-2,220	Dyeing and finishing of textile piece goods.

[FR Doc.77-22043 Filed 8-1-77;8:45 am]

[TA-W-2,200, et al.]

BUTLER MANUFACTURING CO.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (union workers or former workers of,—	Location	Date received	Date of petition	Petition No.	Articles produced
Butler Manufacturing Co. (United Steelworkers of America).	Birmingham, Ala.	July 13, 1977	June 1, 1977	TA-W-2,200	Structural shapes for preengineered metal buildings.
Morton's Shoe Stores, Inc. (workers).	Boston, Mass.	July 11, 1977	July 6, 1977	TA-W-2,201	The warehousing of shoes.
NL Industries, Inc. Chemical Workers Basic Union).	St. Louis, Mo.	do	June 28, 1977	TA-W-2,202	Titanium dioxide pigment.
Quasar Electronics Co. (workers).	Franklin Park, Ill.	July 12, 1977	July 6, 1977	TA-W-2,203	Color TV sets and consoles.
Raytheon Co. (workers).	Waltham, Mass.	July 11, 1977	do	TA-W-2,204	Tubes for microwave ovens.
Reid Stevens, Inc. (workers).	Commack, N.Y.	July 12, 1977	July 8, 1977	TA-W-2,205	Ladies' coats.
Dr. Scholl Shoe Manufacturing Co. (workers).	Jefferson, Wis.	do	June 24, 1977	TA-W-2,206	Men's shoes.

[FR Doc.77-22046 Filed 8-1-77;8:45 am]

[TA-W-1895]

CHRISTY FASHIONS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1895: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's blouses at Christy Fashions, Glen Lyon, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Christy Fashions, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the first and second criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Christy Fashions, a contractor located in Glen Lyon, Pennsylvania, began to produce women's blouses in May 1975. The average number of production workers employed at Christy Fashions increased 15.9 percent in the last eight months of 1976 compared to the same period of 1975, and further increased 11.1 percent in the first four months of 1977 compared to the same period of 1976. There is no indication that current workers are threatened with any involuntary separations.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Production at Christy Fashions has continually increased since May 1975. In the last eight months of 1976, production increased 24.7 percent compared to the same period of 1975. Production further increased 38.0 percent in the first four months of 1977 compared to the same period of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at Christy Fashions, Glen Lyon, Pennsylvania, have not become totally or partially separated and

that sales or production of women's blouses at Christy Fashions have not decreased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of July 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc 77-22047 Filed 8-1-77;8:45 am]

[TA-W-2,215, et al]

LAMBERT MANUFACTURING CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Lambert Manufacturing Co. (workers).	Kirksville, Mo.	July 18, 1977	July 12, 1977	TA-W-2,215	Cotton work gloves.
Mara Manufacturing Co. (workers).	Nanticoke, Pa.	do	July 13, 1977	TA-W-2,216	Women's sportswear.
Shamokin Shoe Corp. Boot and Shoe Workers Union.	Shamokin, Pa.	July 14, 1977	June 29, 1977	TA-W-2,217	Women's casual shoes.

[FR Doc 77-22044 Filed 8-1-77;8:45 am]

[TA-W-2,221]

PROPHET AND FRIENDS, INC.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Prophet and Friends, Inc. (workers).	New Britain, Conn.	July 18, 1977	July 11, 1977	TA-W-2,221	Indigo denim jeans; junior sportswear apparel.

[FR Doc 77-22042 Filed 8-1-77;8:45 am]

[TA-W-1988]

A. E. NETTLETON CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1988: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1977, in response to a worker petition received on April 18, 1977, which was filed by Local 63 of the United Shoe Workers of America on behalf on behalf of workers and former workers producing men's dress and casual footwear at the A. E. Nettleton Co., Syracuse, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the A. E. Nettleton Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of the Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met.

SIGNIFICANT TOTAL AND PARTIAL SEPARATIONS

Employment of production workers at the A. E. Nettleton Co. declined by 13.6 percent in 1975 compared to 1974. Employment increased by 12.7 percent in 1976 compared to 1975 but declined by 12.3 percent in the period July–December 1976 compared to the same period in 1975. Employment declined by 13.6 percent in the period January–April 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's dress and casual footwear with leather uppers, in terms of quantity at the A. E. Nettleton Co. declined by 15.5 percent in 1976 compared to 1975. Sales declined in the period July-December 1976 by 19.2 percent compared to the same period in 1975. Sales declined by 6.9 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of men's dress and casual footwear with leather uppers were recorded at 30.3 million pair in 1972. Imports increased to 31.3 million pair in 1973 and then declined to 29.7 million pair in 1974. Imports increased to 33.2 million pair in 1975 and increased by 22.9 percent in 1976 to 40.8 million pair.

The ratio of imports to domestic production of men's dress and casual footwear with leather uppers was recorded at 44.3 percent in 1972. The ratio was recorded at 46.7 percent in 1973, 47.8 percent in 1974, 54.7 percent in 1975 and 63.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of A. E. Nettleton Co. indicated that they had increased purchases of imported men's dress and casual footwear with leather uppers while reducing purchases from A. E. Nettleton Co.

A. E. Nettleton Co. began importing men's dress and casual footwear with leather uppers in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and casual footwear with leather uppers produced at the A. E. Nettleton Co., Syracuse, N.Y., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Syracuse, N.Y. plant of A. E. Nettleton Co. who became totally or partially separated from employment on or after June 26, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of July 1977.

GLORIA S. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-22166 Filed 8-1-77;8:45 am]

[TA-W-1,698]

AEGIS PRINT WORKS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1698: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 2, 1977, in response to a worker petition received on February 22, 1977, which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers printing and finishing fabric at Aegis Print Works, Inc., Woodridge, N.J.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aegis Print Works, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

Aegis Print Works was incorporated in August 1975 as a commission printer. Aegis occupies 100,000 square feet in a one story plant in Woodridge, N.J. Both the administrative offices and production facilities of Aegis are located at the Woodridge plant. Aegis receives greige goods (unfinished fabric) from converters, prints and finishes the fabric, and returns it to the converters, who in turn sell the fabric to apparel manufacturers. Aegis prints and finishes all types of fabric.

Production at the Woodridge plant began in December 1975. All production is to order and production therefore equals sales. Production at the plant increased by 12 percent, 59 percent, and 54 percent in the second, third, and fourth quarters of 1976 compared to the previous quarters. Production increased 160.7 percent in the first quarter of 1977 compared to the first quarter of 1976.

The petition alleges that increased imports of apparel adversely affected production and employment at Aegis Print Works, Inc. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production have not decreased as required in Section 222 of the Trade Act of 1974. The petition is, therefore denied.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 77-22167 Filed 8-1-77;8:45 am]

[TA-W-1700]

AIRCO SPEER ELECTRONICS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1700; Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on March 1, 1977, which was filed on behalf of divisional office personnel at the St. Marys, Pa. plant of Airco Speer Electronics.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Airco Speer Electronics, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of Airco Speer's divisional office personnel in St. Marys, Pa., decreased 10.0 percent in the first quarter of 1977 compared to the first quarter of 1976, after remaining at a constant level during 1974-1976. The decline in employment occurred when the divisional offices were transferred from the St. Marys location to the firm's Bradford, Pa. plant.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of carbon composition resistors decreased 33.2 percent in 1975 compared to 1974, before increasing 1.2 percent in 1976 compared to 1975. In the first quarter of 1977, sales declined 15.9 percent compared to the first quarter of 1976.

Production of carbon composition resistors at the Bradford plant declined 63.5 percent in 1975 compared to 1974. Production ceased in February 1976.

INCREASED IMPORTS

U.S. imports of fixed resistors increased from 2118.0 million units in 1972 to 4175.6 million units in 1974, before decreasing to 2287.9 million units in 1975. Imports of these articles then increased 87.9 percent in 1976 compared to 1975, to 4299.9 million units.

Company imports of carbon composition resistors decreased in 1975 compared to 1974, before increasing 59.0 percent in 1976 compared to 1975. Imports further increased 15.8 percent in the first quarter of 1977 compared to the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

The production of carbon composition resistors was shifted from the Bradford, Pa. plant of Airco Speer Electronics to its plant in Singapore. The transfer was completed in February 1976, resulting in the separation of most production workers at the Bradford plant. Workers at the Bradford plant have been certified as eligible (TA-W-64). The transfer of production overseas necessitated a reduction in divisional office personnel at St. Marys, which occurred during February-June 1977 when the divisional offices were transferred from St. Marys to Bradford.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with carbon composition resistors formerly produced at the Bradford, Pa. plant of Airco Speer Electronics contributed importantly to the total or partial separation of divisional office personnel at the St. Marys, Pa. plant of the firm. In accordance with the provisions of the Act, I make the following certification:

All divisional office personnel of the St Marys, Pa. plant of Airco Speer Electronics who became totally or partially separated from employment on or after February 25, 1977, and before June 5, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22168 Filed 8-1-77;8:45 am]

[TA-W-1500]

BETHLEHEM STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1500: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing reinforcing bars at the Seattle, Wash., plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3367). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers engaged in the production of reinforcing bars at the Seattle, Wash., plant declined 10 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of reinforcing bars decreased in quantity 25 percent in 1976 compared to 1975,

Production decreased 19 percent in quantity in 1976 compared to 1975.

INCREASED IMPORTS

U.S. imports of reinforcing bars decreased in 1973 to 286.4 thousand net tons from 358.2 thousand net tons in 1972. In 1974 imports increased to 477.5 thousand net tons, decreased in 1975 to 141.9 thousand net tons, then increased in 1976 to 192.2 thousand net tons.

The ratio of imports to U.S. shipments of reinforcing bars decreased to 5.6 percent in 1973 from 8.0 percent in 1972. In 1974 this ratio increased to 9.5 percent, decreased to 3.9 percent in 1975, then increased to 5.0 percent in 1976.

In the seven western states steel market principally served by the Seattle plant of Bethlehem Steel, the ratio of imports of concrete reinforcing bars to domestic shipments increased from 8.4 percent in 1975 to an estimated 14.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of reinforcing bar customers of the Seattle plant. One sizeable customer sharply decreased purchases of reinforcing bars from Bethlehem and began to buy imports for the first time in 1976. Other customers that purchase imported reinforcing bars decreased purchases from Bethlehem relative to the decline in imported purchases. Customers indicated an overall impact by imports affecting sales and prices of domestic reinforcing bars in the market served by the Bethlehem plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with reinforcing bars produced at the Seattle, Wash., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Seattle, Wash., plant of the Bethlehem Steel Corp. engaged in employment related to the production of concrete reinforcing bars, including yard and transportation workers, who became totally or partially separated from employment on or after November 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22169 Filed 8-1-77;8:45 am]

[TA-W-1838]

"BRONCO BILL II"

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1838: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 17, 1977, in response to a worker petition received on March 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp catching on the trawler *Bronco Bill II*, Port Isabel, Texas.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the trawler *Bronco Bill II* and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

Bronco Bill II's only customer purchases all the shrimp that Bronco Bill II is able to supply at the highest bid offered for each day's landings. This price bid and paid for shrimp has increased each year since 1974. The boat's customer only purchases imported shrimp when Bronco Bill II and other domestic suppliers are unable to meet the customer's requirements.

The Department's investigation has revealed that three major factors have affected the shrimp catch in 1976 and the first quarter of 1977: (1) the shortage of shrimp available in U.S. coastal waters of the Gulf of Mexico; (2) the restrictions imposed by the Mexican government with respect to fishing within the 200 mile offshore limits established in Mexico in 1976; and (3) unusually adverse weather conditions in the Gulf of Mexico during the winter months of November 1976 to March 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp caught and landed by the trawler *Bronco Bill II*, Port Isabel, Tex., have not contributed importantly to the total or partial separations of workers of that trawler as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22170 Filed 8-1-77;8:45 am]

[TA-W-1689]

BROWN SHOE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1689: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1977 in response to a worker petition received on February 14, 1977 which was filed by three workers on behalf of workers and former workers producing women's shoes at the Potosi, Mo. plant of the Brown Shoe Company.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Brown Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

Sales of women's shoes, representing the wholesale value of production and adjusted for price increases, increased 55.8 percent from 1975 to 1976. Production of women's shoes at the Potosi plant increased 77.5 percent in quantity from 1975 to 1976. Production quantities increased in each quarter of 1976 com-

pared to the same quarter of the previous year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production have not declined at the Potosi, Missouri plant of the Brown Shoe Company as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22171 Filed 8-1-77;8:45 am]

[TA-W-1714]

CRESTLANE CLOTHES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1714: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 23, 1977, which was filed by workers and former workers producing men's suits and sportcoats at Crestlane Clothes, Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crestlane Clothes, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (1) and criterion (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment increased in 1976 compared to 1975 and remained constant in the first quarter of 1977 compared to the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

Customers of Crestlane Clothes, Inc., surveyed, did not purchase imports of men's suits and sportcoats. Customers decreased purchases from Crestlane while increasing purchases from other domestic sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportcoats produced at Crestlane Clothes, Inc., New York, N.Y., did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22172 Filed 8-1-77;8:45 am]

[TA-W-2072]

EMHART INDUSTRIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2072: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 16, 1977, in response to a worker petition received on May 16, 1976, which was filed by the United Automobile Workers on behalf of workers and former workers producing glass making machinery at the Windsor, Conn., plant of the Hartford Division of Emhart Industries, Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Hartford Division of Emhart Industries, Inc., and the United Automobile Workers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Windsor, Conn., plant of the Hartford Division of Emhart Industries, Inc., produces glass making machinery.

Pursuant to the requirements of 29 CFR 90.2 total separations must be equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that total separations which occurred during the period of possible coverage amounted to less than 5 percent of the workforce employed at the Windsor, Conn., plant. The total number of workers experiencing separations during the period May 6, 1976, one year prior to the signature date of the petition, to the present was less than 50 workers.

Pursuant to the requirements of 29 CFR 90.2, "partial separations" means that the workers' hours of work have been reduced to 80 percent or less of the workers' average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that the workers' average weekly hours of work have not been reduced to less than 80 percent of their average weekly hours from May 6, 1976, one year prior to the signature date of the petition, to the present.

The Hartford Division of Emhart Industries, Inc., indicated they had no plans to lay off additional workers at the Windsor, Conn., plant. Therefore, no threat of total or partial separation is evident.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Windsor, Conn. plant of the Hartford Division of Emhart Industries, Inc., have not become totally or partially separated, nor threatened to become separated, as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington D.C., this 25th day of July 1977.

GLORIA S. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-22173 Filed 8-1-77;8:45 am]

[TA-W-1905]

EMPIRE DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1905: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Empire Dress Co., Wilkes-Barre, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Empire Dress Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the first criterion has not been met.

The Department's investigation revealed that the average number of production workers employed at Empire Dress increased 2.1 percent in 1976 compared to 1975, and further increased 2.6 percent in the first four months of 1977 compared to the same period of 1976. The average weekly hours worked by those production workers increased 1.2 percent in 1976 compared to 1975, and further increased 3.1 percent in the first four months of 1977 compared to the same period of 1976.

There is no indication that current workers are threatened with any involuntary separations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at Empire Dress Co., Wilkes-Barre, Pa., have not become or threatened to become totally or partially separated at Empire Dress as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22174 Filed 8-1-77;8:45 am]

[TA-W-1880]

FLORY FASHIONS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1880: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 23, 1977, in response to a worker petition received on March 23, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses at the Swoyerville, Pa., plant of Flory Fashions, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19176). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Flory Fashions, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause

Regardless of whether any other criteria have been met, the investigation has revealed that criteria (1) and (2) have not been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

Employment of production workers decreased 18.2 percent in 1975 compared with 1974 and increased 52.8 percent in 1976 compared with 1975. Employment increased each quarter of 1976 compared with the respective quarters of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Flory is a contractor that produces on order. Therefore sales equals production. Sales of women's dresses by Flory Fashions in terms of value decreased 8.1 percent in 1976 compared with 1974 and increased 96.3 percent in 1976 compared with 1975. Sales increased each quarter of 1976 compared with the respective quarters of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that sales of women's dresses have not declined and that separations of workers have not occurred at Flory Fashions, Inc., Swoyerville, Pa., as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22175 Filed 8-1-77;8:45 am]

[TA-W-1328]

GLAUBER VALVE CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1328: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves and fittings at the Omaha, Nebraska plant of Glauber Valve Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Glauber Valve Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or porportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

The Department conducted a survey of customers of Glauber Valve Co. Only one of the customers contacted reported any purchases of imported valves or fittings and this customer did not switch from Glauber's product to competitive imports. All of the other customers contacted reported that they did not buy valves or fittings from imported sources.

A management decision by Glauber resulted in the transfer of production from the company's Omaha plant to a new plant in Piggot, Ark. Total company production from both plants increased 70 percent in the first nine months of 1976 compared to the first nine months of 1975. Production in the first nine months of 1976 exceeded full year 1975 production.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves and fittings produced at the Omaha, Nebr. plant of Glauber Valve Co., Inc., have not contributed importantly to the total or partial separation of the workers at that plant as required for certification under the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22176 Filed 8-1-77;8:45 am]

[TA-W-1949]

H. W. GOSSARD CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the result of TA-W-1949: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 4, 1977, in response to a worker petition received on April 4, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' brassieres, girdles, and corsets at the Ishpeming, Mich. plant of H. W. Gossard Co., Chicago, Ill. The petition was expanded to cover all workers producing ladies' brassieres, girdles, and corsets in the Body Foundation Division of H. W. Gossard Co. This includes plants located in Logansport, Ind.; Sullivan, Ind.; Piggott, Ark.; and a warehouse located in Batavia, Ill.

The Notice of Investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H. W. Gossard Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT PARTIAL OR TOTAL SEPARATIONS

The average number of production workers at the Ishpeming plant declined 1 percent from 1974 to 1975 and declined 10 percent from 1975 to 1976. All employment was terminated when the plant closed in December 1976.

The average number of production workers at the Logansport plant declined 13 percent from 1974 to 1975, declined 7 percent from 1975 to 1976, and declined 39 percent in the first quarter of 1977 compared to the first quarter of 1976.

The average number of production workers at the Sullivan plant declined 27 percent from 1974 to 1975, declined 27 percent from 1975 to 1976, and remained stable in the first quarter of 1977 compared to the first quarter of 1976. All employment was terminated when the plant closed in June 1977.

The average number of production workers at the Piggott plant declined 12 percent from 1974 to 1975 and increased 14 percent from 1975 to 1976. Employment declined 2 percent in the last half of 1976 compared to the last half of 1975, and declined 19 percent in the first quarter of 1977 compared to the first quarter of 1976.

The average number of workers at the Batavia warehouse declined 15 percent from 1974 to 1975 and declined 2 percent from 1975 to 1976.

Workers in the Body Foundation Division are not identifiable by product line.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production of brassieres in the Body Foundation Division increased 36 percent from 1975 to 1976. Production declined 0.3 percent in the last three quarters of 1976 compared to the like period of 1975. Production declined 77 percent in the first quarter of 1977 compared to the first quarter of 1976.

Total production of corsets and girdles in the Body Foundation Division declined 23 percent from 1975 to 1976 and declined 53 percent in the first quarter of 1977 compared to the first quarter of 1976.

Production at the Ishpeming plant declined 2 percent from 1975 to 1976. Production ceased in December 1976. In 1976, unit production consisted of 97 percent brassieres and 3 percent girdles and corsets.

Production at the Logansport plant declined 4 percent from 1975 to 1976 and declined 52 percent in the first quarter of 1977 compared to the first quarter of 1976. In 1976, unit production consisted of 72 percent girdles and corsets and 28 percent brassieres.

Ladies' sleepwear was produced at Sullivan until December 1976.[1] During 1976 production of sleepwear was phased out at Sullivan and replaced with production of brassieres.

Total unit production at Sullivan increased 17 percent from 1975 to 1976. Production of brassieres declined 3 percent in the first quarter of 1977 compared to the first quarter of 1976. Production ceased in June 1977.

The cutting plant at Piggott is an integrated part of production in the Body Foundation Division. Cuttings made at Piggot are shipped to sewing plants for assembly into finished garments.

All garments produced by Gossard are inventoried at the Batavia warehouse.

INCREASED IMPORTS

Imports of ladies' brassieres, bra-lettes and bandeaux increased absolutely and relative to domestic production in each year from 1972 through 1976. Imports increased 26 percent from 1975 to 1976 and increased 22 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 42.3 percent and 42.3 percent, respectively in 1975 to 50.3 percent and 52.2 percent, respectively in 1976.

Imports of ladies's corsets and girdles declined absolutely and relative to domestic production from 1972 to 1973, and then increased absolutely and relatively in each year from 1974 through 1976. Imports increased 69 percent from 1975 to 1976 and increased 13 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 3.1 percent and 3.1 percent, respectively in 1975 to 5.3 percent and 5.2 percent, respectively in 1976.

CONTRIBUTED IMPORTANTLY

Company imports of ladies' brassieres increased 155 percent from 1975 to 1976. The proportion of Gossard's brassiere sales represented by imported brassieres increased from 1975 to 1976. Simultaneously, production of brassieres at Gossard's domestic plants declined.

Customers of Gossard were surveyed regarding their purchases of ladies girdles and corsets. Over 50 percent of the customers contacted purchase imported girdles and corsets and reduced purchases from Gossard in 1976 compared to 1975.

Total Body Foundation Division production of brassieres and of girdles and corsets declined in 1976. Production of body foundations at both the Ishpeming and Logansport plants declined from 1975 to 1976, however production of body foundations at the Sullivan plant did not begin until 1976. Production at Sullivan increased from 1975 to 1976, but began declining in 1977 and finally ceased in June 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' brassieres, girdles, and corsets produced at the Ishpeming, Mich.; Logansport, Ind.; Sullivan, Ind.; and Piggott, Ark. plants and the Batavia, Ill., warehouse of H. W. Gossard contributed importantly to the total or partial separations of the workers of these plants. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ladies' brassieres, girdles, and corsets at the Ishpeming, Mich.; Logansport, Ind.; and Piggott, Ark. plants and the Batavia, Ill. warehouse of H. W. Gossard Co., Chicago, Ill., who became totally or partially separated from employment on or after March 12, 1976, and at the Sullivan, Ind. plant of H. W. Gossard Co., who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

The Hyde Park Foundry & Machine Co. produces two products: iron rolls used as replacement parts for rolling mill equipment at steel plants are the principal product, and automobile body die holders (molds) used in the production of castings for automobile bodies.

The Department conducted a survey of customers of the Hyde Park plant and foundry accounting for 61.2 percent of sales in 1976. The survey revealed that customers who reduced purchases from Hyde Park Foundry & Machine Co. in 1976 had not switched to imports of competitive articles.

Some customers attributed the decrease in purchase of iron rolls to the level of demand for their own products.

The automobile body die holders were sold to only one customer and that contract was terminated. The company switched to another domestic producer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with iron rolls and auto body die holders produced at the Hyde Park, Pa., plant and foundry of Hyde Park Foundry & Machine Co. have not contributed importantly to the total or partial separation of workers at the Hyde Park plant as required for certification under the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 77-22178 Filed 8-1-77;8:45 am]

[TA-W-1480]

JONES AND LAUGHLIN STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1480: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot and cold rolled carbon steel sheet and galvanized sheet at the Hennepin, Illinois plant of Jones and Laughlin Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1535). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones and Laughlin Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

[1] See TA-W-1385.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22177 Filed 8-1-77;8:45 am]

[TA-W-1816]

HYDE PARK FOUNDRY & MACHINE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1816: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977, in response to a worker petition received on March 17, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron rolls and automobile body die holders at the Hyde Park, Pa., plant of the Hyde Park Foundry & Machine Co.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hyde Park Foundry & Machine Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the third criterion has been met, the first, second, and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Hennepin Works increased 16.2 percent in the period January–November 1976, compared to the same period in 1975. Employment increased in each quarter of 1976 compared to the corresponding quarters in 1975.

The average number of hours worked by production employees increased 17.7 percent in the period January–November 1976, compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total shipments at the Hennepin Works increased 51.3 percent in the period January through November 1976 compared to the same period in 1975. Shipments increased in each quarter of 1976 compared to the corresponding quarters in 1975.

Hot and cold rolled carbon steel sheet and galvanized sheet represented over 95 percent of total shipments by the Hennepin Works in 1976.

Total shipments of cold rolled sheet increased 55.8 percent in the period January through November 1976, compared to the same period in 1975.

Total shipments of hot rolled sheet increased 192.4 percent in the period January through November 1976, compared to the same period in 1975.

Total shipments of galvanized sheets increased 48.0 percent in the period January through November 1976, compared to the same period in 1975.

INCREASED IMPORTS

Imports of hot rolled carbon steel sheet decreased steadily from 1972 to 1975. Imports increased from 1,509.2 thousand short tons in 1975 to 1,635.9 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 1972 to 1973 and then increased in 1974 and 1975 compared to the immediately preceding years. The import/shipment and import/consumption ratios decreased from 14.0 percent and 12.4 percent, respectively, in 1975 to 11.3 percent and 10.2 percent, respectively, in 1976.

Imports of carbon steel cold rolled sheets decreased from 1973 through 1975 and increased from 2,067.1 thousand short tons in 1975 to 2,350.7 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 1972 to 1973 and increased in 1974 and 1975 compared to the immediately preceding years. The import/shipment and import/consumption ratios decreased from 16.5 percent and 14.2 percent, respectively, in 1975 to 13.2 percent and 11.7 percent, respectively, in 1976.

Imports of galvanized steel sheet and strip decreased both absolutely and relative to domestic shipments and consumption in 1973 compared to 1972 and then increased both absolutely and relatively in 1974 from 1973. Imports decreased 42.5 percent in 1975 from 1974 and then increased 98.6 percent from 739.0 thousand short tons in 1975 to 1,467.7 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 21.0 percent and 17.6 percent, respectively, in 1974 to 19.9 percent and 16.7 percent, respectively, in 1975 and then increased to 28.3 percent and 22.2 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Total shipments and employment at the Hennepin Works increased in 1976 from 1975. Hot and cold rolled carbon steel sheet and galvanized sheet represented over 95 percent of total shipments. Increased shipments of these products in 1976 were due primarily to increased demand for durable consumer products (automotive and household appliance markets).

Customers of the Hennepin plant who purchase imported galvanized and nongalvanized sheets indicated that imported sheets have not caused them to reduce purchases of these products from the Hennepin plant.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports of articles like or directly competitive with hot and cold rolled carbon steel sheet and galvanized sheet produced at the Hennepin, Illinois plant of Jones and Laughlin Steel Corporation did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 25th day of July 1977.

GLORIA S. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-22179 Filed 8-1-77;8:45 am]

[TA-W-1559]

LEEMAR KNITTING MILLS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1559: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing ladies' knit suits at Leemar Knitting Mills, Inc., Long Island City, New York. The petition was expanded to include workers at its affiliate, Marlee Trim, Inc., and its subsidiary, Winmore Knitting Mills, Ltd., both of Long Island City, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5452). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Leemar Knitting Mills, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or sudivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average total employment of Leemar declined 29 percent from 1974 to 1975 and declined 18 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Leemar's production declined 12 percent from 1974 to 1975 and 16 percent from 1975 to 1976. Total sales declined 22 percent from 1974 to 1975 and 18 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of women's misses' and children's suits, which includes ladies' suits such as those produced at Leemar, increased abolutely in each year from 1972 through 1975. Imports increased 6 percent from 1974 to 1975, and declined less than one percent from 1975 to 1976. The ratios of imports to domestic production and consumption declined from 12.2 percent and 10.9 percent, respectively, in 1975 to 11.6 percent and 10.4 percent, respectively, in 1976. Imports increased 35 percent in the first quarter of 1977 compared to the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

In recent years in the women's apparel industry there has been a style trend away from suits toward the purchase of the individual "mix or match" articles which make up the suit. Consistent with this is that imports of ladies' blouses, skirts, vests, slacks, and clothes all increased in 1976.

Leemar produced ladies' suits exclusively for one customer. That customer was contacted by the Department of Commerce during their investigation regarding adjustment assistance. The customer indicated that a significant decline in sales in 1976 was in large part a result of the adverse impact of imports. This forced the customer to reduce purchases from Leemar.

Leemar produced ladies suits for distribution through retail stores. The Department of Commerce's contact with Leemar's sole customer revealed that these retail stores do purchase imports of the "like or directly competitive" items. Such imports did contribute to the decline in purchases by Leemar's customer and to the decline in sales at Leemar.

Since aggregate imports of like or directly competitive items are being imported into the United States in increased quantities, and on the basis of the finding made by the Department of Commerce, it is reasonable to conclude that imports adversely affected employment and sales at Leemar Knitting Mills, Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' knit suits produced at the Leemar Knitting Mills, Inc., contributed importantly to the total or partial separation of workers at Leemar and its affiliate and subsidiary. In accordance with the provisions of the Act, I make the following certification:

All workers at Leemar Knitting Mills, Inc., Marlee Trim Inc., and Winmore Knitting Mills, Ltd., Long Island City, New York who became totally or partially separated from employment on or after December 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of July 1977.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-22180 Filed 8-1-77;8:45 am]

[TA-W-1739]

M & G SPORTSWEAR COMPANY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1739: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 3, 1977 which was filed on behalf of workers and former workers producing boy's sportswear and outerwear at the Fall River, Massachusetts plant of M & G Sportswear Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M & G Sportswear Co., Inc., its customers, the Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers increased 23 percent from 1974 to 1975 and increased 19 percent from 1975 to 1976. Employment declined in the fourth quarter of 1976 compared to the same quarter of 1975. Employment declined 21 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

All sales data was adjusted for price increases. Throughout the time period, boy's sportswear was produced and sold in the first and fourth quarters of the year, and outerwear was produced and sold in the second and third quarters. Sales of sportswear and outerwear increased 14.2 percent in value from 1974 to 1975, and increased 15.1 percent from 1975 to 1976. The value of sales increased 0.5 percent in the first quarter of 1977 compared to the first quarter of 1976. Sales declined 15.0 percent in value in the last six months of 1976 compared to the same period of the prior year.

Production data was not available.

INCREASED IMPORTS

Imports of men's and boy's tailored suits increased absolutely and relative to domestic production each year from 1972 to 1976. Imports increased 15 percent in quantity from 1975 to 1976. The ratio of imports to domestic production increased from 18.3 percent in 1975 to 20.0 percent in 1976.

Imports of men's and boy's outer coats and jackets increased absolutely from 1972 to 1973, and declined each year from 1973 to 1975. The quantity of imports increased 10 percent from 1975 to 1976. The ratio of imports to domestic production increased from 28.1 percent in 1975 to 31.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

Sixty percent of the retail customers surveyed during the investigation decreased their purchases of outerwear from M & G and increased their import purchases from 1975 to 1976. Forty percent of the customers surveyed shifted their purchases of sportswear from M & G to imports from 1975 to 1976. M & G began purchasing imported sportswear on a contract basis in 1976. The value of imported sportswear in 1976 was equal to 17 percent of the value of the company's domestically-produced sales. In the first quarter of 1977, the value of imports equalled 15 percent of the company's domestically produced sales.

The company's loss in sales, to which imports were linked, occurred in the third and fourth quarters of 1976. The negative effect of sales on employment was felt in the succeeding quarters, so that employment declines occurred in the fourth quarter of 1976 and in the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with boy's sportwear and outerwear produced at the Fall River, Massachusetts plant of M & G Sportwears Co., Inc. contributed importantly to the total or partial separation of the

workers of the plant. In accordance with the provisions of the Act I make the following certification:

All workers engaged in employment related to the production of boy's sportswear and outerwear at the Fall River, Massachusetts plant of M & G Sportswear Co., Inc. who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22181 Filed 8-1-77;8:45 am]

[TA-W-1697]

PARRA PRINT, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1697: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1977 in response to a worker petition received on that date which was filed by the Machine Printers and Engravers Association on behalf of former workers printing and finishing fabric at Parra Print, Inc., Passaic, New Jersey.

The notice of investigation was published in the Federal Register on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Parra Print, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met for Parra Print, Incorporated.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Parra Print, Inc. increased 24 percent from 1974 to 1975. Employment increased 10 percent in the first three quarters of 1976 compared to the like period in 1975, however after peak employment in February 1976 employment decreased steadily until all employees were terminated when the plant closed in August 1976.

SALES, PRODUCTION, OR BOTH, DECREASED ABSOLUTELY

Sales in value of the printing and finishing performed on greige goods by Parra Print, Inc. increased 84 percent from 1974 to 1975, then declined 30 percent in the first three quarters of 1976 compared to the same period in 1975.

Production in quantity (in yards) of the printing and finishing performed on greige goods by Parra Print, Inc. increased 123 percent from 1974 to 1975, then declined 49 percent in the first three quarters of 1976 compared to the same period in 1975. All production ceased in August 1976.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment of Parra Print, Incorporated. Converters, who are customers of Parra Print stated that imports of apparel have been a factor in reduced business with Parra Print. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Parra Print, Inc. are converters who buy greige goods and commission Parra Print to finish and print the fabric in accordance with apparel manufacturers' specifications. During the course of the investigation it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of the converters, revealed that manufacturers are importing printed or finished fabric for use in the production of men's and women's wearing apparel. The converters reported a growing trend towards manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the imported finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric printed and finished at Parra Print, Incorporated, Passaic, New Jersey contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Parra Print, Incorporated, Passaic, New Jersey who became totally or partially separated from employment on or after February 17, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22182 Filed 8-1-77;8:45 am]

[TA-W-1916]

SWEPCO TUBE CORP.

Certification Regarding Eligibilty To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1916: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 28, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing stainless steel pipe at the Swepco Tube Corp. Clifton, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Swepco Tube Corp., it customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Swepco Tube Corp. declined 22 percent in 1976 compared to 1975 and declined 8 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Swepco Tube Corp. declined 48 percent in 1976 compared to 1975 and declined 11 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of stainless steel pipe and tubing increased relative to domestic shipments from 56.1 percent in 1975 to 92.2 percent in 1976. In the first quarter of 1977, imports as a percentage of shipments declined to 85.3 percent from 96.2 percent in the first quarter of 1976.

Imports of stainless steel pipe and tubing increased from 23.8 thousand tons in 1975 to 28.3 thousand tons in 1976. Imports declined from 7.5 thousand tons in the first quarter of 1976 to 6.4 thousand tons in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Customers of the Swepco Tube Corp. indicated that they reduced purchases from Swepco because their own customers began purchasing stainless steel pipe directly from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe produced by the Swepco Tube Corp., Clifton, N.J., contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the Swepco Tube Corp., Clifton, N.J., who became or become totally or partially separated from employment on or after March 23, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 77-22183 Filed 8-1-77;8:45 am]

[TA-W-1768]

UNITED TECHNOLOGIES CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1768: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977, in response to a worker petition received on March 3, 1977, which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft engine parts at the Southington, Conn. plant of the Pratt & Whitney Aircraft Division of United Technologies Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Technologies Corp. and the International Association of Machinists and Aerospace Workers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

The Southington, Conn. plant of Pratt & Whitney Aircraft produces aircraft engine parts.

Evidence developed in the Department's investigation revealed that no involuntary separations of production workers occurred from February 28, 1976, one year prior to the signature date of the petition, to the present.

Company officials do not anticipate any layoffs at the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Southington, Conn. plant of the Pratt & Whitney Aircraft Division of United Technologies Corp. have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

FR Doc 77-22184 Filed 8-1-77 8:45 am]

[TA-W-1769]

UNITED TECHNOLOGIES CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1769: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977, in response to a worker petition received on March 3, 1977, which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft engine parts at the North Haven, Conn. plant of the Pratt & Whitney Aircraft Division of United Technologies Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Technologies Corp. and the International Association of Machinists and Aerospace Workers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term 'contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

The North Haven, Conn. plant of Pratt & Whitney Aircraft produces aircraft engine parts.

Evidence developed in the Department's investigation revealed that no involuntary separations of production workers occurred from February 28, 1976, one year prior to the signature date of the petition, to the present.

Company officials do not anticipate any layoffs at the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the North Haven, Conn. plant of the Pratt & Whitney Aircraft Division of United Technologies Corp. have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-22185 Filed 8-1-77;8:45 am]

[TA-W-1770]

UNITED TECHNOLOGIES CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1770: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on March 3, 1977 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft engines at the East Hartford, Connecticut plant of the Pratt & Whitney Aircraft Division of United Technologies Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Untied Technologies Corporation and the International Association of Machinists and Aerospace Workers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criterion four (4) has not been met.

The East Hartford, Connecticut plant of Pratt & Whitney Aircraft produces aircraft engine parts.

All layoffs that occurred during 1976 involved workers in the experimental division. The experimental division performs research and development activities and as such produces no specific product. All layoffs in the experimental division resulted from a shift in certain research activities from the East Hartford plant to another company facility in East Palm Beach, Florida.

Company officials do not anticipate any other layoffs at the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of aircraft engines did not contribute importantly to the separations or threat thereof, or to a decrease in sales or production at the East Hartford, Connecticut plant of the Pratt & Whitney Aircraft Division of United Technologies Corporation as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of July 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-22186 Filed 8-1-77;8:45 am]

[TA-W-1362]

VOGT MACHINE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1362: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves and fittings at the Louisville, Kentucky plant of Vogt Machine Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vogt Machine Company and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Vogt Machine Company produces steel valves and fittings, steam boilers, heat exchangers and ice making machines. The Company has one plant located in Louisville, Kentucky.

Pursuant to the requirements of 29 CFR 90.2 total separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Vogt Machine Company. The total number of workers experiencing separations during the period November 1, 1975, one year prior to the signature date of the petition, to the present was less than 50 workers. There is no indication that current workers are threatened with any involuntary separations.

Pursuant to the requirements of 29 CFR 90.2, "partial separation" means, that the worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that the worker's average weekly hours of work increased 1 percent in 1975 compared to 1974. The average weekly hours of work declined 3 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Louisville, Kentucky plant of the Vogt Machine Company have not become or threatened to become totally or partially separated as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of July 1977.

GLORIA S. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-22187 Filed 8-1-77;8:45 am]

[TA-W-1557]

WILLOFORM MANUFACTURING COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1557: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 1, 1977 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing brassieres and girdles at Willoform Manufacturing Company, Inc., New York.

The notice of investigation was published in the FEDERAL REGISTER on January 25, 1977 (42 FR 4563). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Willoform Manufacturing Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department Files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Annual average employment of production workers declined 2.2 percent in 1975 compared to 1974 but increased 3.7 percent in 1976 compared to 1975. There is no indication that current workers are threatened with any involuntary separations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Willoform Manufacturing Company, Inc., New York, New York have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-22188 Filed 8-1-77; 8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 27, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503. 202-395-4524 or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

Sample Survey of Small Business Administration Business, loan borrowers, single time, small business firms in the United States, economics and general government division, Lowry, R. L., 395-3451.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, tives in postsecondary education, Kathy Surveys, NCES 2405, on occasion, 57 executives in postsecondary education, Kathy Wallman, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Research design for H2606 (assessment of the urban county role in CDBG), single time, key individuals in 77 CDBG designated urban counties, housing, veterans and labor division, Larry Haber, 395-3532.

NEW FORMS

DEPARTMENT OF LABOR

Employment and Training Administration:
Effects of Selected Manpower Services on Migrant and Other Seasonal Farmworkers, MT-1063A, single time, former participants in special farmworkers program under CETA, housing, veterans and labor division, C. Louis Kincannon, 395-3532.
National Program for Selected Population Segments Study, MT-282, single time, participants in special Department of Labor top training programs, housing, veterans and labor division, Strasser, A., 395-3532.

REVISIONS

VETERANS ADMINISTRATION

Request for Determination of Reasonable Value (Real Estate), 26-1805, on occasion, lenders, Warren Topelius, 395-5872.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census:
Sulfuric Acid—Monthly Report on Production and Stocks, M28B, monthly, chemical procedures, C. Louis Kincannon, 395-3211.
Survey of Government Employment, E-1 through 7, LR-1 through 3, annually, State and local governments, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-22273 Filed 8-1-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 18-3; Release No 5846]

ARTHUR ANDERSEN & CO. PARTNERS' PROFIT SHARING PLAN AND ARTHUR ANDERSEN & CO. PARTNERS' PROFIT SHARING TRUST

Filing of Application

JULY 27, 1977.

Notice is hereby given that Arthur Andersen & Co., 69 West Washington Street, Chicago, Ill. 60602, a public accounting firm organized as a partnership under the laws of Illinois, ("Applicant") has, by letters dated April 4 and April 29, 1977, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Arthur Andersen Profit Sharing Plan and Arthur Andersen Profit Sharing Trust (the "Plan"). All interested persons are referred to those documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. *Introduction.*—Applicant's Plan is for the exclusive benefit of its 728 partners and 76 participating principals. A partner or participating principal is a self-employed member of the firm who has generally been associated with the firm for at least ten years. The Plan provides for Applicant to make both discretionary and non-discretionary firm contributions on behalf of participants. Par-

ticipants may also make voluntary personal contributions to the Plan. The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's partners and participating principals) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, "the Commission, by rules and regulations or order, shall exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a stock bonus, pension, profit-sharing or annuity plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act."

II. *Description and Administration of the Plan.*—The Plan has been maintained since 1969 as a profit-sharing plan qualified under section 401 of the Code. In connection with certain changes which recently have been incorporated in the Plan, Applicant has applied to the Internal Revenue Service (the "IRS") for a determination that the Plan as modified will continue to be qualified under section 401. Applicant requests that the Commission assume that the IRS will rule favorably as to the Plan.

Applicant contributes to the Plan on behalf of the covered employees based on a percentage of their compensation. In addition, an active participant may contribute up to 10% of the participant's compensation (limited to $100,000) received while a participant, subject to certain limitations under section 415 of the Code.

Funds held by the Plan are allocated between three investment funds, as determined by Applicant. Although a participant has an undivided interest in the three investment funds, a participant has no discretion as to the proportion of his assets to be invested in each of such funds. A fourth investment fund, a fixed income fund, became available on July 1, 1977, for participants who are 55 years of age or over. At age 55 a participant will be able to elect to have all or a portion of the account allocated to the fixed income fund.

The trustees have the power to appoint and to remove investment managers with respect to Plan assets.

Applicant exercises substantial administrative responsibilities in connection with the Plan. Applicant has employed independent experts to provide investment advisory and other services to the Plan. In addition, Applicant has retained full power to amend the Plan, subject to restraints imposed by the Code and ERISA and to the condition that no amendment enlarge the trustees' liabilities without the trustees' consent.

Although the Plan is subject to portions of ERISA which establish fiduciary responsibilities, it is not subject to ERISA's reporting and disclosure provisions. Applicant has undertaken to furnish participants with various information about the Plan and its investments including copies of the Plan and any amendments thereto, as well as other descriptive materials relating to various features of the Plan. Other basic documents under which the Plan is operated, and amendments thereto, will be made available for review by any participant of the Plan upon request. Applicant will furnish participants with annual statements reflecting the benefits accrued for each participant and annual financial statements of the Trust. Applicant will also furnish participants with summaries of interim reports which it receives concerning the Plan's investments and, upon request, with copies of the interim reports themselves. In addition, the Plan will be audited annually by an independent auditor.

III. *Applicant's Arguments.*—Applicant contends that if Applicant was a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under section 3(a)(2) of the Act. Applicant further contends that the Plan is not a master or prototype plan marketed to the public by a sponsoring financial institution and that Plan assets are not commingled in collective investment media with the assets of the plans of other employers. Applicant argues, therefore, that the unincorporated status of Applicant does not provide sufficient justification, under all the circumstances, for subjecting such interests and participations to the registration requirements of the Act.

Applicant concludes that under the circumstances granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 22, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities & Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon McDermott, Will & Emery, 111 West Monroe Street, Chicago, Ill. 60631, Attn: William J. Quinlan, Jr., Esq. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

An order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

Dated: July 27, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22120 Filed 8-1-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0333]

BBS EQUITIES LTD.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1977)) under the name of BBS Equities Ltd., Gateway One, Suite 2400, Newark, New Jersey 07102, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

Robert L. Bevill, President, Director, 22 Kings Hill Court, Summit, New Jersey 07901.
Gilbert C. Schulman, Executive Vice President, Director, R.D. No. 1, Box 524, Montague, New Jersey 12771.
William F. Greenley, Jr., Vice President, Secretary-Treasurer, Director, 1 Scenic Drive, Highlands, New Jersey 07732.
E. M. Charlet, Manager/Director, 76 New England Avenue, Apartment 23, Summit, New Jersey 07901.
W. A. Bruce, Manager/Director, 6615 Goodwood Avenue, Baton Rouge, Louisiana 70806.
Bobbie R. Bankston, Assistant Secretary-Treasurer, 2355 Woodland Ridge Boulevard, Baton Rouge, Louisiana 70816.

There is one class of stock, common stock, authorized in the amount of 2,500 shares having no par value. The initial 526 shares to be issued will be held by:

Bevill, Bresler & Schulman Investment Company—95.06%.
Venturtech, Inc.—4.94%.

Bevill, Bresler & Schulman Investment Company, Gateway One, Suite 2400, Newark, New Jersey 07102, was incorporated in July 1977, as a holding company for the proposed Applicant Licensee. This holding company is owned by the following individuals:

Robert L. Bevill—30%.
Gilbert C. Schulman—25%.
William F. Greenley, Jr.—3.5%.
Alan L. Bresler, 549 Lynn Street, Ridgewood, New Jersey 07450—26%.
Andrew D. Ledbetter, 201 Vanderpool, Houston, Texas 77063—15%.
John D. Rooney, 1688 East Drive, Point Pleasant, New Jersey 08742—1.5%.

Venturtech, Inc., was incorporated in February of 1973, as a holding company for Venturtech Capital, Inc., a Federally licensed small business investment company (SBIC) located at Suite 706, Republic Tower, 5700 Florida Boulevard, Baton Rouge, Louisiana 70806. SBA issued license certificate No. 06/06–0163 to this company on May 31, 1973. There are approximately 20 shareholders of Venturtech, Inc., including Mr. E. M. Charlet and Dr. W. A. Bruce. Messrs. Charlet and Bruce are also the principal officers of Venturtech Capital, Inc.

The Applicant proposes to commence operations with a capitalization of $500,-200. Applicant proposes to conduct its operations in the State of New Jersey and in other areas within the United States of America and its territories and possessions as may from time to time be approved by SBA as its operating territory. A branch office will be located in Baton Rouge, Louisiana, within the offices of Venturtech Capital, Inc. The Applicant will engage primarily, but not exclusively, in equity investments in companies operating in the high technology field.

Venturtech Capital, Inc., will manage the day to day operations of the Applicant under a written contract pursuant to the provisions of section 107.809 of the SBA rules and regulations. Therefore, in accordance with the provisions of section 107.101(a) of the regulations, Venturtech Capital, Inc., is deemed to be an officer of the Applicant. Also, Venturtech Capital, Inc., would be an associate of the Applicant as defined by section 107.3(a) of the regulations.

It is also proposed that the Applicant will provide management services to small business concerns upon the request of such concerns. These services will be provided through its manager/advisor, Venturtech Capital, Inc. In some instances, a fee will be charged to the small concern for these services. This proposed activity is subject to the provisions of section 107.601 of the regulations. Where an Associate of an SBIC provides management services, advisory only or technical in nature, to a small concern being financed by the SBIC, such services shall be performed pursuant to a written contract, and the contract shall be approved annually in advance by the board of directors or the principals of the small concern and by SBA.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the proposed Licensee in a newspaper of general circulation in Newark, New Jersey, and Baton Rouge, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 25, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-22114 Filed 8-1-77;8:45 am]

[Declaration of Disaster Loan Area No. 1349]

PENNSYLVANIA

Declaration of Disaster Loan Area

As a result of the President's declaration of July 21, 1977, and Federal Disaster Assistance Administration's designation of Bedford, Cambria, Clearfield, Indiana, Jefferson, Somerset and Westmoreland Counties within the State of Pennsylvania, I find that these counties constitute a disaster area because of damage resulting from severe storms and flooding beginning about July 19, 1977. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties, and adjacent counties within the State of Pennsylvania.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on September 19, 1977, and for economic injury until the close of business on April 21, 1978, at:

Small Business Administration, Disaster Office, East Lobby—Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004.
Small Business Administration, Disaster Office, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 22, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77-22112 Filed 8-1-77;8:45 am]

[Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The incidence date for physical damage to wells from drought is extended to cover the period from March 14, 1977 to July 11, 1977. Therefore, the above numbered Declaration (see 42 FR 17930) is amended to extend the filing date for physical damage from May 26, 1977, until the close of business October 14, 1977, and for economic injury from December 27, 1977, until the close of business on April 14, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 22, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77-22111 Filed 8-1-77;8:45 am]

[Proposed License No. 09/09-0195]

SAN JOSE CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1977)) by San Jose Capital Company, 100 Park Center Plaza, San Jose, California 95113, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and principal stockholders are:

H. Bruce Furchtenicht, President, Director, 18510 Decatur Rd., Monte Sereno, Ca. 95030—12.4%.
Sydney Resnick, Vice President, Secretary and Director, 1690 Cabana Drive, San Jose, Ca. 95125—3%.
John Arrol, Chairman, Director, 2326 Royal Oaks Drive, Alamo, Ca. 94507—15.4%.
Sydney Burk Hardts, Director, 19020 Raleigh Place, Saratoga, Ca. 95070—15.4%.
Daniel Hochman, Director, 14157 Squirrel Hollow Lane, Saratoga, Ca. 95070—15.4%.

Resnick and Furchtenicht, Inc., 100 Park Center Plaza, San Jose, California 95113, a licensed Investment Advisor, will act as general manager of the SBIC. Messrs. Furchtenicht and Resnick are officers, directors and controlling shareholders of the proposed manager.

The SBIC will begin operations with an initial capitalization of $325,000. No concentration in any particular Industry is planned. The applicant intends to make invetments in small business concerns, with growth potential, located primarily within the State of California.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may not later than August 17, 1977, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in San Jose, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 26, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-22113 Filed 8-1-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 449]

ASSIGNMENT OF HEARINGS

JULY 28, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113047 (Sub-No. 10), Buanno Transportation Co., Inc., now being assigned November 16, 1977 (3 days), at Albany, N.Y., in a hearing room to be later designated.

MC 134872 (Sub-No. 10), Gosselin Express Ltd., now being assigned November 14, 1977 (2 days), at Albany, N.Y., in a hearing room to be later designated.

MC 117427 (Sub-No. 75), G. C. Parsons Trucking Co., now being assigned November 9, 1977 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC 133679 (Sub-No. 117), Overland Express, Inc., now being assigned November 14, 1977 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 134035 (Sub-No. 18), Douglas Trucking Co., now being assigned October 17, 1977 (1 day), for hearing in Dallas, Tex., in a hearing room to be later designated.

MC 119988 (Sub-No. 108), Great Western Trucking Co., Inc., now being assigned October 18, 1977 (1 day), for hearing in Dallas, Tex., in a hearing room to be later designated.

MC 126421 (Sub-No. 7), Gypsum Transport, Inc., now being assigned October 19, 1977 (1 day), for hearing in Dallas, Tex., in a hearing room to be later designated.

MC 83835 (Sub-No. 140), Wales Transportation, Inc., now being assigned October 20, 1977 (1 day), for hearing in Dallas, Tex., in a hearing room to be later designated.

MC 128273 (Sub-No. 253), Midwestern Distribution, Inc., now being assigned October 21, 1977 (1 day), for hearing in Dallas, Tex., in a hearing room to be later designated.

MC 115322 (Sub-No. 126), Redwing Refrigerated, Inc., now assigned September 21, 1977, at New York, N.Y. is canceled and application dismissed.

MC 143050, C&M Express, Inc., now being assigned October 18, 1977 (3 days), at Baltimore, Md., in a hearing room to be later designated.

MC 139495 (Sub-No. 232), National Carriers, Inc., now being assigned November 1, 1977 (1 day), for hearing in New Orleans, La., in a hearing room to be later designated.

MC 126844 (Sub-No. 36), R.D.S. Trucking Co., now being assigned November 2, 1977 (1 day), for hearing in New Orleans, La., in a hearing room to be later designated.

MC 107515 (Sub-No. 1056), Refrigerated Transport Co., Inc., now being assigned November 2, 1977 (1 day), for hearing in New Orleans, La., in a hearing room to be later designated.

MC 115311 (Sub-No. 214) J&M Transportation Co, Inc., now being assigned November 3, 1977 (2 days), for a hearing in New Orleans, La., in a hearing room to be later designated.

MC 123048 (Sub-No. 352), Diamond Transportation System, Inc., now being assigned November 7, 1977 (1 week), for hearing in New Orleans, La., in a hearing room to be later designated.

MC 71459 (Sub-No. 55), O.N.C. Freight Systems, now being assigned October 3, 1977 (1 week), for continued hearings at Denver, Colo., in a hearing room to be later designated.

MC 120626 (Sub-No. 3), Law Farms & Cattle Co., d.b.a. Law Motor Lines, now being assigned September 28, 1977 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 58035 (Sub-No. 13), Trans-Western Express, Ltd., now being assigned September 26, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 143109, Associated Diesel Service, Inc., now being assigned September 22, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 138018 (Sub-No. 33), Refrigerated Foods, Inc., now being assigned September 20, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77 22197 Filed 8-1-77;8:45 am]

[Notice No. 94]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 28, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 96 TA), filed July 12, 1977. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in rubber lined vehicles, from Orrington, Maine to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): IMC Chemical Group, Inc. 1401 So. Third Street, P.O. Box 207, Terre Haute, Ind. 47808. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 73165 (Sub-No. 411 TA), filed July 12 , 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper. 200 Woodward Building, 1927 First Avenue, North Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of United States Gypsum Co., located at or near Greenville, Miss., to points in Illinois, Indiana, Ohio, Pennsylvania, Maryland, Delaware, New York and New Jersey for 180 days. Supporting shipper(s): United States Gypsum Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 78228 (Sub-No. 64 TA), filed July 14, 1977. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from Clarksburg, W. Va., to Catlettsburg, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Calgon Corporation, P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: John J. England District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 94350 (Sub-No. 398 TA), filed July 12, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road at Transit Drive, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr., P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from Shenandoah County, Va., to points in Delaware, Kentucky, Maryland, New Jersey, North Carolina, Pennsylvania, Tennessee, and West Virginia for 180 days. Supporting shipper(s): Concord Homes, P.O. Box 465, Mt. Jackson, Va. 22842. Send protests to: E. E. Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 100666 (Sub-No. 356TA), filed July 11, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, Telephone No. 405-946-1418, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from the facilities utilized by Robintech Incorporated at or Sylvania, Ohio, to points in Kentucky and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robintech Incorporated, P.O. Box 2342, Fort Worth, Tex. 76101. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 105607 (Sub-No. 10TA), filed July 13, 1977. Applicant: TWIN HAULAGE CO., A Corporation, 401 Commerce Road, Linden, N.J. 07036. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk, in tank vehicles, from the facilities of Archer Daniels Midland Company, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia and Washington, D.C., for 180 days. Supporting shipper(s): Archer Daniels Midland, P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 105733 (Sub-No. 60 TA), filed July 8, 1977. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, N.J. 07065. Applicant's representative: Andrew R. Jeltes, P.O. Box 1064-A, Rahway, N.J. 07065. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil, vegetable oil*, in bulk, in tank vehicles, from the facilities of Archer Daniels Midland Co. at Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia and Washington, D.C., for 180 days. Supporting shipper(s): Archer Daniel Midland Co., 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 107002 (Sub-No. 510TA), filed July 13, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123 (U.S. Highway 80 West), Jackson, Miss. 39205. Applicant's representative: Edward M. Regan, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Illinois, Indiana, Ohio and Virginia, for 180 days. Supporting shipper(s): Sun Oil Co. of Pennsylvania, P.O. Box 2039, Tulsa, Okla. 74102. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107002 (Sub-No. 511TA), filed July 15, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insecticides*, liquid, in bulk, in tank vehicles, from Becker, Miss., to points in South Carolina for 180 days. Supporting shipper(s): United States Steel Corporation, USS Agri-Chemicals Division, 233 Peachtree Street, Atlanta, Ga. 30303. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107295 (Sub-No. 857TA), filed July 11, 1977. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and building materials*, from the plant site of the United States Gypsum Co., Southard, Okla., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. A. Stoneham, Traffic Manager, U.S. Gypsum Co., 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 67205.

No. MC 113388 (Sub-No. 118TA) (Amendment), filed June 21, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as amended this issue. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen concentrate foods*, from points in Florida to points in Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, and Massachusetts, for 180 days. Supporting shippers: There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201. The purpoe of this republication is to amend carrier's commodity description, and there are approximately 5 supporting shippers instead of 4, as was previously published in error.

No. MC 113528 (Sub-No. 32TA), filed July 7, 1977. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, Ala. 36601. Applicant's representative: Joy Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Worth, Tex., to Montgomery, Attalla, Anniston, Eutaw, and Cottondale, Ala., with no transportation for compensation on return except as otherwise authorized for 180 days. Supporting shipper(s): Allstate Beverage Co., Inc., P.O. Box 1645, Montgomery, Ala. 36102; Euco Beverage Co., 100 South Wilson, Eutaw, Ala. 35462; Quality Beverage Co , 1215 West 10th Street, Anniston, Ala. 36201. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 114457 (Sub-No. 316TA), filed July 15, 1977. Applicant: DART TRANSIT CO., 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from the facilities of The Continental Group, Inc., at or near Ponca City, Okla., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., 5401 West 65th Street, Chicago, Ill. 60638. Send protests

to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 114989 (Sub-No. 19TA), filed July 13, 1977. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Hopkinsville, Ky. 42240. Applicant's representative: Richard D. Gleaves, 631 Stahlman Bldg., Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Hopkinsville, Ky., and its commercial zone, to Alcoa, Tenn., and its commercial zone, under a continuing contract, or contracts, with Kentucky Western Truck Lines, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): George Draper, Sales Manager, R. C. Owen Co., Lafayette Road, Hopkinsville, Ky. 42240; B. A. Mullican, General Manager, Veach, May, Wilson, Inc., P.O. Box 218, Alcoa, Tenn. 37701. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 116763 (Sub-No. 382TA) (Amendment), filed June 7, 1977, published in the FEDERAL REGISTER issue of June 24, 1977, and republished as amended this issue. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and warehouse facility of the International Paper Co., at or near Jay and Livermore Falls, Maine, to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, the District of Columbia, Harrisburg, Pa., points in that part of Pennsylvania on and west of U.S. Highway 15, and points in New York north of Interstate Highway 84, and points in New York on and west of Interstate Highway 81, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles E. McHugh, Manager Motor Carrier 'Barge Rates, International Paper Co., Room 300, 220 East 42nd St., New York, N.Y. 10017. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main St., Cincinnati, Ohio 45202. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 117568 (Sub-No. 14TA), filed July 14, 1977. Applicant: KEMPT TRUCK LINE, INC., P.O. Box 156, Verona, Mo. 65769. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment*, from the plantsite and storage facilities of Southwest Manufacturing Co., at or near Aurora, Mo., to High Point, N.C.; Minneapolis, Minn.; and La Crosse, Wis., under a continuing contract, or contracts, with Southwest Manufacturing Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Manufacturing Division, 10 North Elliott, Aurora, Mo. 65605. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 117686 (Sub-No. 174TA), filed July 12, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wichser (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from the plantsite and storage facilities utilized by American Crystal Sugar Co., at Crookston, East Grand Forks, and Moorhead, Minn., to Mason City, Iowa, for 180 days. Supporting shipper(s): Richard T. Mozinski, Traffic Manager, American Crystal Sugar Co., 101 North 3d St., Moorhead, Minn. 56560. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 118089 (Sub-No. 23TA), (Correction), filed May 31, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished as corrected this issue. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Ave. C, P.O. Box 2501, Lubbock, Tex. 79408. Applicant's representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except frozen foods, hides and commodities in bulk), from the plantsite and storage facilities utilized by Columbia Foods, Inc., at or near Wallula, Wash., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Bos H-4395 Herring Plaza, Amarillo, Tex. 79101. The purpose of this republication is to indicate the correct spelling of the applicant's name Robert Heath Trucking, Inc., in lieu of Robert Heat Trucking, Inc., and to spell out the State of Texas, in lieu of the abbreviation.

No. MC 118989 (Sub-No. 160TA), filed June 22, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Rolland Draves, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and metal container closures*, from Continental Can Company plantsite, Elwood, Ind.; to the commercial zone of Chicago, Ill., as defined by the ICC in Ex Parte MC 37 prior to Sub 36 extension and (2) from Continental Can Co. plantsite, Shoreham, Mich., to Amboy, Berkeley, Bridgeview, Caclineville, Chester, Chicago (Commercial Zone), Evanston, Hoopeston, Litchfield, Milford, Peoria, Springfield, Sycamore-points in Illinois, and Bufton, Bremen, Elwood, Indianapolis, LaPorte, Mount Summit, Plymouth, South Bend, Terre Haute, Valparaiso-points in Indiana, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Can Co., U.S.A. 11550 Mosteller Rd., Sharonville, Ohio 45241. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 121496 (Sub-No. 6TA), filed July 14, 1977. Applicant: CANGO CORPORATION, 1100 Milam Bldg., Suite 2900, Houston, Tex. 77002. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 70001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank truck vehicles, from the plantsite or Merichem Co. and/or storage facilities of Merichem Co., in Houston, Tex., to all points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Oklahoma, for 180 days. Supporting shipper(s): The Merichem Co., 1914 Haden Road, Houston, Tex. 77015. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

No. MC 121664 (Sub-No. 20TA), filed July 7, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, and B. C. HORNADY, a partnership, d.b.a. HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue, South, Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and plywood*, from Clarke County, Ala., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper(s): Scotch Lumber Co., 1 Main Street, Fulton, Ala. 36446. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616-2121 Building, Birmingham, Ala. 35203.

No. MC 121794 (Sub-No. 1TA), filed July 14, 1977. Applicant: JAMES WILKETT, d.b.a. WILKETT TRUCKING CO., P.O. Box 209, Stigler, Okla. 74462. Applicant's representative: Rufus H. Lawson, 106 Bixler Bldg., 2400 NW. 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in open top dump trucks, from points in Haskell, LeFlore, Muskogee, and Pittsburg Counties, Okla., to points in Bosque, Dallas, Johnson and Tarrant Counties, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Randall & Blake, Inc., 6000 Old Mill Road, Littleton, Colo. 80120. (2) Kiamichi Coal Co., P.O. Box 601, Quinton, Okla. 74561. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 123056 (Sub-No. 5TA), filed July 1, 1977. Applicant: FREDONIA TRUCK LINE, INC., Hwy. 96 and Jackson Street, Fredonia, Kans. 66736. Applicant's representative: Laurel D. McClellan, P.O. Box 478, Fredonia, Kans. 66736. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dehydrated alfalfa pellets*, in bulk, from Fredonia, Kans., to points in Arkansas, Missouri except St. Louis, Mo., Oklahoma, and Texas except Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, Tex., under a continuing contract, or contracts, with Fredonia Dehydrating and Milling Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fredonia Dehydrating and Milling Co., Route 2, Fredonia, Kans. 66736. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 123407 (Sub-No. 393TA), filed July 13, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils in packages*; and (2) *return of empty containers*, (1) from the plantsite and warehouses of Mobil Oil Corp., located at or near Beaumont, Tex. to points in Arkansas, Louisiana, New Mexico, and Oklahoma; and (2) from Arkansas, Louisiana, New Mexico, and Oklahoma to Port Arthur, Tex., for 180 days. Supporting shipper(s): Mobil Oil Corp., 8350 North Central Expressway, Campbell Centre, 522, Dallas, Tex. 75206. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 127726 (Sub-No. 5 TA), filed July 7, 1977. Applicant: LEMAN KNIGHT d.b.a., PETE TRUCKING COMPANY, R.F.D. 1, Detroit, Ala. 35552. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Jasper and Double Springs, Ala., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin, under a continuing contract, or contracts, with TMA Forest Products, Division of Tennessee River Pulp and Paper Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): TMA Forest Products, Division of Tennessee River Pulp and Paper Co., P.O. Box 2388, Jasper, Ala. 35501. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616-2121 Building, Birmingham, Ala. 35203.

No. MC 133095 (Sub-No. 167TA), filed July 8, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 West Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail stores (except foodstuffs and commodities in bulk), from the facilities of Target Stores, Inc., in the Minneapolis, Minn., commercial zone to points in the commercial zones of Houston and Dallas, Tex.; Tulsa and Oklahoma City, Okla.; Denver and Colorado Springs, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Target Stores, Inc., Fridley, Minn. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133689 (Sub-No. 137TA), filed July 6, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic houseware articles and plastic carrying cases* (except commodities in bulk), from Fitchburg, Mass., to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Virginia, North Carolina, South Carolina, and Georgia for 180 days. Supporting shipper(s): Gotham Industries, Division of Plascor, Inc., Crawford St., Fitchburg, Mass. 01420. Send protests to: Marion L. Cheney, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

No. MC 136343 (Sub-No. 110TA), filed June 22, 1977. Applicant: MILTON TRANSPORTATION, INC., R.D. No. 1, Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Highway marking strip glass, ballotini*, (2) *materials, equipment, and supplies* used in the manufacture and sale of the foregoing commodities, (3) between the facilities of Potters Industries, Inc., Cleveland, Ohio, on the one hand, and, on the other, points in the States of Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, (4) between the facilities of Potters Industries, Inc., Carlstadt, N.J.; on the one hand, and, on the other, points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potters Industries, Inc., Hasbrouck Heights, N.J. 07604. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, 278 Federal Bldg., 228 Walnut St., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 138741 (Sub-No. 34TA), filed July 8, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 230 St. Clair Ave., East St. Louis, Mo. 62201. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 West 11th St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, other than iron and steel and iron and steel articles, from the plantsite and shipping facilities of the G.A.F. Corp., at or near Joliet, Ill., to the lower Peninsula of Michigan, restricted to traffic originating at or destined to the above-described territories for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G.A.F. Corp., George A. Erath, 1361 Rd., Wayne, N.J. 07470. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 South Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 141570 (Sub-No. 9TA), filed July 7, 1977. Applicant: ELECTRONICS TRANSPORT, INC., P.O. Box 31103, 3213 8th Ave. North, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, P.O. Drawer J Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials, and supplies* used in the manufacture, installation, or sale of such commodities, between Louisville, Ky., and its commercial zone, on the one hand, and, on the

other hand, points in Indiana and Illinois on and south of U.S. Highway 40, under a continuing contract, or contracts, with Xerox Corp., for 180 days. Supporting shipper(s): Xerox Corp., 3000 Des Plaines Ave., Des Plaines, Ill. 60018. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143446TA, filed June 29, 1977. Applicant: GARY L. MCCALLISTER & MONTE A. MCCALLISTER, doing business as MCCALLISTER BROTHERS, a partnership, 113 Mount View Drive, Rock Springs, Wyo. 82901. Applicant's representative: Ward A. White, P.O. Box 568, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite, barite, drilling compounds and completion materials*, in sacks and in bulk (2) *machinery, equipment, materials* and *supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum, their products and by products. Restricted against transportation of complete drilling rigs, between points in Sweetwater, Carbon, Unita, Lincoln, and Teton Counties, Wyoming, on the one hand, and, on the other (1) points in Colorado located west of U.S. Highway 85 and north of Interstate Highway 70, U.S. Highway 6-24 and (2) points in Daggett, Summit, Duchesne, Uintah, Carbon, Weber, Rich, Cache, Toole, Box Elder, and Emory Counties, Utah; and (3) points in Idaho, for 180 days. Supporting shipper: Magcobar Div. of Dresser Ind., Suite 1600, 475 17th St., Denver, Colo. 80202, Land and Marine Rental Co., 1912 Elk St., Rock Springs, Wyo. 82901, SFACO, Inc., P.O. Box 1122, Rock Springs, Wyo. 82901, Drilco Div. of Smith International, Inc., P.O. Box 608, Rock Springs, Wyo. 82901. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Bldg and Crt House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 143456 (Sub-No. 1TA), filed July 15, 1977. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, Vt. 05641. Applicant's representative: James W. Conner, 431 Keith Avenue, Akron, Ohio 44313. Authority sought to operate as a *coontract carrier*, by motor vehicle, over irregular routes, transporting: *Stone, stone working supplies, material and machinery*, between the plantsites and Quarries of Rock of Ages Corp., in Vermont and Swenson Building Granite in Concord, N.H., under a continuing contract, or contracts, with Rock of Ages Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rock of Ages Corp., Swenson Building Granite, Barre, Vt. 05641. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 143487TA, filed July 11, 1977. Applicant: INLAND VALLEY TRANSPORTATION, INC., 16 W. 9th, P.O. Box 1245, Walla Walla, Wash. 99362. Applicant's representative: M. C. Risser, Registered Practitioner, Suite 501, 1410 SW. Morrison Street, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetables, canned, other than dehydrated, dried, evaporated or frozen*, from plantsites and facilities of Rogers Walla Walla, Inc., Walla Walla, Wash., and Milton-Freewater, Oreg. to Alameda, Contra Costa, Fresno and Los Angeles Counties in California, with no intermediate application, for 180 days. Supporting shipper(s): Rogers Walla Walla, Inc., P.O. Box 998, Walla Walla, Wash. 99362. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 143488TA, filed June 30, 1977. Applicant: LAUREN L. DYE, an individual, doing business as LAUREN L. DYE & SON TRUCKING, R. R. 1, 10342 S. 400 W., Union Mills, Ind. 46382. Applicant's representative: Bruce R. Bancroft, Esq., 6th Floor, First Bank Building, South Bend, Ind. 46601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis. Peoria, Ill. and Detroit, Mich., to Michigan City and LaPorte, Ind. under a continuing contract or contracts with Voegler Distributing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Voegler Distributing Co., Inc., 102 L Street, La Porte, Ind. 46350. La Porte County Beverage Co., Inc., 700 West 6th Street, Michigan City, Ind. 46360. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143489TA, filed July 13, 1977. Applicant: R. B. HUMPHREYS, INC., P.O. Box 736, Tibbits Road, New Hartford, N.Y. 13413. Applicant's representative: S. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cotton knit goods*, from New York Mills N.Y., to Arizona City, Ariz., under a continuing contract, or contracts, with Lally Manufacturing Corp., for 180 days. Supporting shipper(s): Lally Manufacturing Corp., 587 Main Street, New York Mills, N.Y. 13417. Send protests to: Morris H. Ross District Supervisor, Interstate Commerce Comission, U. S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 1259, Syracuse, N.Y. 13202.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-22199 Filed 8-1-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 28, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 17, 1977.

FSA No. 43404—*Beet or Can Sugar from Points in Montana, Trans-Continental and WTL Territories.* Filed by Western Trunk Line Committee, Agent, (No. A-2739), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from specified points in Montana, trans-continental, and western trunk-line territories, to Kansas City, Mo.-Kans., Skokie, Ill., and Coldspur, Kans.

Grounds for relief—Rate relationship and returned shipments.

Tariffs—Supplements 190 and 192 to Western Trunk Line Committee, Agent, tariff 159-0, I.C.C. No. A-4481, and 4 other schedules named in the application. Rates are published to become effective on August 15, 1977.

FSA No. 43405—*Alcohol from Talla Bena, Louisiana.* Filed by Southwestern Freight Bureau, Agent (No. B-695), for interested rail carriers. Rates on alcohol and related articles, in tank-car loads, as described in the application, from Talla Bena, Louisiana, to points in Illinois, Indiana, Kentucky, Minnesota, North Dakota, and Ohio.

Grounds for relief—Market competition.

Tariff—Supplement 53 to Southwestern Freight Bureau, Agent, tariff 210-M, I.C.C. No. 5245. Rates are published to become effective on August 28, 1977.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43406—*Methanol (Methyl Alcohol) from Talla Bena, Louisiana.* Filed by Southwestern Freight Bureau, Agent (No. B-696), for interested rail carriers. Rates on methanol (methyl alcohol), in tank-car loads, as described in the application, from Talla Bena, Louisiana, to Chicago, Illinois, and points taking same rates.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 53 to Southwestern Freight Bureau, Agent, tariff 210-M, ICC No. 5245. Rates are published to become effective on August 28, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-22198 Filed 8-1-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

ADDITION OF ITEM TO JULY 28, 1977, MEETING AGENDA

TIME AND DATH: 10 a.m., July 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. Docket 30277 et al. Chicago-Midway Low-Fare Route Proceeding (Memo No. 6653-D, BOR, BE, BLJ, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board will make a presentation at the House Aviation Subcommittee hearings to be held in Chicago on July 30, 1977. Since the Board's discussion of this item in the Chicago-Midway Low-Fare Route Proceeding might affect the Board's testimony, the following Members have voted that agency business requires the addition of this item to the agenda of the July 28, 1977 Board meeting and that no earlier announcement of the change was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

Dated: July 27, 1977.

[S-1018-77 Filed 7-28-77;3:50 pm]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 4, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument, Docket 29898, Part 207, Charter Trips and Special Services Off-Route Charter Limitations.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

Dated: July 27, 1977.

[S-1019-77 Filed 7-28-77;3:50 pm]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 4, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Chicago Board of Trade Application for Designation as a Contract Market in Long Term U.S. Treasury Bonds.

Processing of Section 5a(12) Submissions.

New Orleans Cotton and Commodity Exchange—Informational Discussion.

Portions closed to the public:

Enforcement Matters.
POIA Appeal.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1020-77 Filed 7-28-77;4:02 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 5, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor, Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1021-77 Filed 7-28-77;4:02 pm]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At its meeting held at 10:30 a.m. on Thursday, July 28, 1977, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of a recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as liquidating agent of The New Boston Bank and Trust Company, Boston, Massachusetts (Case No. 43,143-L), to the agenda for consideration at that meeting and that no earlier notice of a change in the subject matter of the meeting was possible.

The Board's deliberations with respect to the matter were closed pursuant to the provisions of subsections (c)(6) and (d)(1) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6) and (d)(1)) on the basis of the Board's determination that the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: July 28, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1016-77 Filed 7-28-77; 3:32 pm]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At its meeting held at 11 a.m. on Thursday, July 28, 1977, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of a recommendation regarding the restructuring of a loan from the Corporation to European-American Bank & Trust Company, New York, New York, in connection with the bank's purchase of assets and assumption of liabilities of Franklin National Bank, New York, New York (in liquidation), to the agenda for consideration at that meeting and that no earlier notice of a change in the subject matter of the meeting was possible.

The Board's deliberations with respect to the matter were open to public observation.

Dated: July 28, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1017-77 Filed 7-28-77;3:32 pm]

7

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, August 4, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Special Open Conference.

MATTER TO BE CONSIDERED: 1. Ex Parte No. MC 103, Procedures in Motor Carrier Application Proceedings Where For-Hire Carriage is Substituted for Proprietary Operations.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's profesional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1022-77 Filed 7-29-77;8:45 am]

8

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, August 3, 1977, 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Division Meeting concerning: A. J. Industries, Inc., fiscal year ended March 31, 1972.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: July 28, 1977.

GOODWIN CHASE,
Chairman.

[S-1014-77 Filed 7-28-77; 2:37 pm]

9

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, August 9, 1977, 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to the public. Matters 4 and 5 are closed to public. Status is not applicable to matters 6 and 7.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held August 2, 1977, and other Board meetings, if any.
2. Partial Mandatory New Durable Productive Equipment Exemption: The G. A. Gray Company, LPI No. 95659, fiscal year ended December 31, 1972.
3. Summary of Meeting of Staffs of Regional and Statutory Boards.
4. Republic Corporation, fiscal year ended October 31, 1969.
5. Court of Claims Case: Bennett Box & Pallet Co., Inc., fiscal years ended December 31, 1967, 1968, and 1969.
6. Approval of Agenda for meeting to be held August 23, 1977.
7. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20046, 202-254-8277.

Dated: July 29, 1977.

GOODWIN CHASE,
Chairman.

[S-1015-77 Filed 7-29-77;12:24 pm]

federal register

TUESDAY, AUGUST 2, 1977
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

ENVIRONMENTAL PROTECTION AGENCY

■

TOXIC SUBSTANCES CONTROL

General Provisions and Inventory Requirements; Public Meeting

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 700 and 710]

[OTS-081002; FRL 764-1]

TOXIC SUBSTANCES CONTROL

General Provisions and Inventory Reporting Requirements; Supplemental Notice; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rules; Notice of Public Meeting.

SUMMARY: This notice reproposes the inventory reporting regulations first proposed on March 9, 1977 in the FEDERAL REGISTER and supplemented thereafter. Specifically, these reproposed regulations would require some manufacturers:

(1) To report the identity of each chemical substance manufactured (or imported) for a commercial purpose and the site of such manufacture;

(2) To estimate the amount of each such chemical substance manufactured or imported at each site;

(3) To indicate whether each such chemical substance is manufactured and used only within one site; and

(4) To indicate whether the respondent is a manufacturer, processor, and/or importer of each such chemical substance.

In addition, these reproposed regulations would authorize certain other persons to report such information at their discretion.

DATES: Written comments must be received on or before September 16, 1977. EPA will hold a public meeting in Washington, D.C. on August 24, 1977 to provide an opportunity for oral comments. Details are provided below.

ADDRESS: Comments should be addressed to the Federal Register Section (WH-557), Office of Toxic Substances, Attention: Vicki Briggs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation OTS-081002. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. John Ritch, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-0535.

SUPPLEMENTARY INFORMATION: These regulations are proposed under the authority of subsection 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.; hereinafter referred to as TSCA).

On March 9, 1977, EPA first published in the FEDERAL REGISTER (42 FR 13130) proposed inventory reporting regulations to govern reporting of chemical substances for inclusion on an inventory of chemical substances required by subsection 8(b) of TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 19298) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). In addition, on July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183).

On April 18, 1977, EPA held a public meeting in Washington, D.C. to provide interested persons an opportunity to comment publicly on the proposed regulations. In addition, approximately 200 persons have submitted written comments on the proposed regulations. Both the transcript of the public meeting and the written comments are available for inspection by the public in the Federal Register Office of the Office of Toxic Substances.

As a result of these comments, EPA has decided to repropose the inventory reporting regulations to require additional reporting by some persons and less reporting by others.

PARTICIPATION IN THE PUBLIC MEETING

The public meeting on these proposed regulations will be on Wednesday, August 24, 1977 from 9:00 a.m. to 4:30 p.m. in the Thomas Jefferson Auditorium of the Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. Persons who want to reserve time to present their comments at that meeting should contact Vicki Briggs at the address provided above or telephone 202-426-9819. Each person may request up to 15 minutes although less time may be allotted depending upon the number of participants. EPA will make a transcript of the proceedings for public inspection.

STATUS OF REPROPOSAL

The record of this rulemaking will include all comments received in response to the earlier notices of proposed rulemaking as well as the comments received in response to this notice. The public is encouraged to review the earlier notices of proposed rulemaking if any questions arise concerning the context of these reproposed regulations. While EPA would welcome comments on any aspect of these proposed regulations, persons are encouraged to direct their comments to the new provisions proposed here and not duplicate comments submitted earlier on other aspects of the proposed regulations. EPA will respond to all the comments submitted in response to the proposed rulemaking notices in the final inventory reporting regulations.

MODIFICATIONS OF INITIAL REPORTING REQUIREMENTS

The main purpose in revising the proposed approach is to use these initial reporting requirements not only to compile the inventory required by section 8(b) but also to fulfill the Congressional intent, as stated in section 2 of TSCA, that adequate data be developed for implementation of TSCA and other authorities directed to regulating risks associated with chemical substances. Although the regulations proposed on March 9, 1977 would have required manufacturers to report chemical substances manufactured for commercial purposes, the proposed approach would not have required reporting concerning production sites or the quantities produced.

In contrast to EPA's original proposal, the revised version published here would require certain manufacturers not only to identify the chemical substances in commerce but also to report where the chemical substances are manufactured and in what quantities. This information will be valuable for estimating the potential exposure to chemical substances for monitoring, control, and preventive actions. For example, plant site information would be useful in identifying possible sources of hazardous chemicals, especially in an emergency. Data on the quantities of chemical substances in commerce would enable EPA and other agencies to select substances for priority attention among the tens of thousands in commerce.

These amendments would expand the scope of the initial reporting requirements, but would limit the applicability of the requirements to those persons with establishments that are primarily engaged in the manufacture of chemical substances. Accordingly, only the approximately 20,000 establishments in the Standard Industrial Classification Major Group 28 (Basic Chemicals and Allied Products) and Group 2911 (Petroleum Refining) would be required to report each chemical substance manufactured at the production site and the volume of production. Manufacturers outside these groups would not be required to report. These latter persons could choose to report or could authorize a trade association to report to ensure chemical substances which they manufacture are included on the inventory. The hundreds of thousands of chemical processors may report during a limited period following publication of the initial inventory. EPA may require reporting by any of these manufacturers or processors as part of its phased reporting strategy under section 8(a), discussed in the following section.

Other amendments to the March 9, 1977 proposal include a requirement that manufacturers indicate whether a chemical substance is manufactured and processed solely within one site and not distributed for a commercial purpose outside that site. EPA is considering specially designating these chemical substances on the inventory and providing under section 5(a)(2) that any use of those substances for commercial purposes outside the manufacturing site would be considered a "significant new use." In addition, respondents would be required to indicate whether they manufacture, process, and/or import a chemical substance. Knowing which persons manufacture, import, or process a reported chemical substance would enable EPA to direct any future notice or requirement to appropriate persons and permit the Agency to estimate how much of a substance is manufactured domestically and how much is imported.

Various representatives of the Federal government and environmental groups have urged EPA to amend the initial reporting requirements to include reporting on uses of chemical substances. EPA recognizes the importance of obtaining use information in order to estimate exposure to a chemical substance. However, incorporating use reporting into the initial requirements would substantially delay the publication of the inventory, perhaps for more than a year after the statutory date. Premanufacture notification of new chemicals would be delayed accordingly.

For this and other reasons, EPA decided to postpone use reporting to the second phase of its reporting strategy, as described below.

OVERALL STRATEGY

By reproposing the inventory regulations, EPA recognizes that it will be unable to meet the statutory deadline for publication of the inventory in November 1977. Nonetheless, EPA believes that the proposed delay is warranted by the importance of the data base that would be generated as a foundation for implementation of TSCA. At the same time, EPA will not attempt to develop a comprehensive data base on all chemical substances through the initial reporting requirements. EPA has developed an overall strategy for data development under section 8(a) of TSCA. These initial reporting requirements are the first of three phases.

The second phase of EPA's proposed strategy will be initiated after these regulations are final this fall. In this phase, EPA will address chemical substances selected because of their concern to EPA, the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), as well as to other agencies and interested parties. Manufacturers and processors of those chemical substances may be required to submit use information, including the estimated amounts of a chemical substance manufactured or processed for each use. In addition, EPA would consider asking for information on impurities, byproducts, worker exposure, and other factors as needed for specific chemical substances or categories of chemical substances.

The third phase of EPA's reporting strategy would begin after the inventory is published in 1978. EPA would by regulation require reporting under section 8(a) for additional chemical substances selected in part on the basis of their relative production volumes as reported under the initial reporting requirements. During this phase, EPA intends to develop the data base for a larger portion of chemical substances in commerce with respect to their use, exposure and other factors. Finally, in addition to such systematic reporting, EPA anticipates that it may ask for information on certain chemical substances as needed by the Department of Labor and others in emergency situations.

In determining what information to require in each of these phases, EPA will of course review alternative sources of data such as information available under Section 308 of the Federal Water Pollution Control Act Amendments of 1972 and other authorities, and will minimize duplicative reporting requirements.

DEFINITIONS OF SMALL MANUFACTURERS FOR THESE REGULATIONS ONLY

In proposing an expanded approach to the inventory reporting requirements, EPA would require certain manufacturers and importers to report information in addition to the identities of chemical substances in commerce. Paragraph 710.5(d) of these proposed regulations outlines this information. Although TSCA section 8(a) provides broad authority to EPA to require information necessary for the administration of the Act, EPA may require "small manufacturers and processors" to submit only information required for compilation of the initial inventory or concerning a chemical substance which is subject to a proposed rule or order under TSCA section 4, 5, or 6, or court action under section 5 or 7.

Some of the additional information outlined in paragraph 710.5(d), such as production volume and the manufacturing sites of a chemical substance, may not be considered necessary for compilation of the initial inventory. Therefore, EPA may not be authorized to require submission of that information from "small manufacturers" under these regulations. Accordingly, EPA is proposing to define which persons qualify as "small manufacturers" for the purpose of these regulations and to exempt small manufacturers from certain of these reporting requirements.

The definition of "small manufacturer" proposed here is a one-time definition intended to apply solely to these regulations. Accordingly, it would only apply to manufacturers in SIC groups 28 and 2911 and to importers of chemical substances. Persons should not interpret this definition as indicative of future definitions which will be proposed for the purpose of subsequent regulations under section 8(a) of TSCA. Those definitions for "small manufacturers" will take into account the burdens of complying with the future reporting and/or record-keeping requirements.

Section 8(a)(3)(B) of TSCA provides that, after consulting with the Small Business Administration, the Administrator shall by rule prescribe standards for determining the manufacturers and processors which qualify as "small manufacturers and processors." The legislative history of TSCA shows that the Senate bill contained no exemption from the reporting requirements for small manufacturers and processors. The House bill first introduced this provision because reporting and record-keeping requirements "may impose a particularly heavy burden on small manufacturers and processors" (H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 42 (1976)). The Conference substitute retained the exemption of the House amendment in order to "protect small manufacturers and processors from *unreasonably* burdensome requirements" (italics added) (H.R. Rep. No. 94-1679, 94th Cong., 2d Sess. 80 (1976)).

In exempting "small manufacturers and processors" from certain reporting requirements, Congress intended that EPA balance its need for certain information with the burden imposed upon small manufacturers and processors in submitting that information. As discussed above, EPA believes that the information which would be required by these regulations is necessary to establish a data base for implementation of TSCA and other authorities directed to regulating risks associated with chemical substances. In developing the proposed exemption from these reporting requirements, EPA has consulted with the Small Business Administration (SBA) and others in order to assess the administrative and economic burdens for small manufacturers of complying with these reporting regulations.

As proposed in § 710.2 of these regulations, the term "small manufacturer or importer" means "a manufacturer who (a) has only a single manufacturing site, and either (b) has total sales of less than $100,000, based on the manufacturer's latest complete fiscal year, or (c) has no more than 2,000 pounds annual production (i.e., amount manufactured and imported) of each manufactured chemical substance. In the case of a company which is owned or controlled by another company, such factors would apply to the parent company and all companies owned or controlled by it taken together."

Manufacturers and importers which fall within this definition would be exempt from reporting production volume. They would not be exempt from reporting the following information, which is necessary for compilation of the inventory: The identities of the chemical substances they manufacture or import; the business address; whether a chemical substance is used solely within the manufacturing site; or whether they manufacture, process, and/or import the chemical substance. Any small manufacturer whose chemical substance is not included on the initial inventory would be subject to the premanufacture notification requirements of TSCA section 5.

In considering alternative definitions, EPA is evaluating the burden of complying with the expanded reporting requirements in light of the fact that manufacturers and importers would already be reporting the identities of chemical sub-

stances for the inventory. In promulgating these regulations, EPA will probably define "small" in terms of (a) plant site, and either (b) sales or (c) production levels, incorporating only two parameters in the final definition.

With respect to the alternative of defining the term "small manufacturer" in terms of clauses (a) and (b) above, the number of plant sites is indicative of the management structure of a company and the likelihood that the information required would already exist in a centralized form. Information on the total annual sales of all products is generally available to all manufacturers. It also is a measure of size in terms of dollars and therefore is relevant to the burden imposed by these reporting requirements. EPA considers $100,000 an appropriate level above which all manufacturers should be able to comply with the additional requirements of this regulation without undue economic burden. If the manufacturer is owned or controlled by another company, the manufacturer should compute both the total annual sales and the number of plant sites on the basis of the sales and number of plants in the United States for that company as a whole.

If "small" is defined in terms of (a) and (b), potentially as many as 20 percent of the firms in Standard Industrial Classification Major Group 28 (SIC 28), Chemicals and Allied Products, would be considered "small manufacturers." However, the exempted manufacturers contribute a very small fraction, less than one percent, of the total sales within SIC 28.

Alternatively, if EPA chose to define "small manufacturer" in terms of clauses (a) and (c) above, one plant site and no more than 2,000 pounds annual production of any chemical substance, the number of establishments which would be exempted from reporting production would probably be far fewer. In fact, the effect of using the criteria in clauses (a) and (c) would be to exempt those persons who only manufacture chemical substances in less than 2,000 pounds from reporting the estimated production levels of those substances. EPA solicits comments on this alternative, especially with respect to the number of pounds selected for setting the exemption.

EPA also solicits comments on this proposed definition of "small manufacturer," including any quantitative data on the estimated costs of compliance, the number, sizes, and types of firms for which it may be a significant additional burden, or other information which describes the impact of these reporting requirements on small manufacturers. For example, EPA anticipates that reporting production may be burdensome for some manufacturers, particularly those who use batch processing to produce a variety of chemicals and keep records of production only on the basis of shipments or customer invoices. EPA would also appreciate any comments on other possible parameters for defining "small manufacturer," such as profits, market share, financial assets, or the number of employees.

Other Definitions

As indicated in § 710.2, EPA proposes to revise many of the definitions published in the March 9, 1977 proposed regulations. The definitions are included in § 710.2 rather than § 700.2 so that their applicability will be limited to these regulations and not automatically extend to subsequent regulations under TSCA. While minor proposed changes to the originally proposed terms are included in the new § 710.2, these changes are not discussed here as they will be addressed in the final regulations.

Several definitions included in the March 9, 1977 regulations were taken from other authorities. Specifically, the definitions of "food additive," "drug," "cosmetic," "device," "special nuclear material," "nuclear byproduct material," "nuclear source material," and "pesticide" were incorporated without modification from other regulations. Instead of including these definitions in their entirety in these regulations, EPA would include them by reference. Thus any changes in the other statutes will automatically be reflected in these regulations.

Included in these proposed regulations are three additional terms. EPA is proposing to define "article" as a "manufactured item (a) which is formed to a specific shape or design during manufacture, (b) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (c) which is functional in its end use(s) without change of chemical composition during its end use; except that (d) fluids and particles are not considered articles regardless of shape or design." This definition is added to clarify proposed § 710.4(d)(6) which would exclude from the inventory, and from these reporting requirements, a chemical substance which is the result of a chemical reaction that occurs upon use of curable plastic molding compounds and other chemical substances to manufacture an article destined for the marketplace without further chemical change. Examples of this are chemical substances that form during the thermosetting process in forming plastic articles, firing pottery or enamel products, setting concrete sidewalks, or molding rubber products. This exclusion is discussed further below under the section "Chemical Substances Excluded From the Inventory."

Related to this is the proposed definition of "manufacture, process, or import 'for commercial purposes'" which means to manufacture, process, or import for use by the manfacturer, as well as for distribution in commerce, for use as a catalyst or an intermediate, and for test marketing purposes. This definition is intended to clarify that chemical substances that are used by the manufacturer, not only as an intermediate or catalyst in the manufacture of another chemical substance, but also in the manufacture of a mixture or an article or in any other way, would be subject to these regulations. Accordingly, chemical substances which are manufactured and then converted by the manufacturer into an article should be reported by that manufacturer and would not be excluded from reporting for the inventory under § 710.4(d)(6). For example, a person who manufactures a polymer and then converts the polymer into a synthetic fiber should report the polymer.

The term "establishment" is defined as "an economic unit, generally at a single site, as defined for purposes of the Standard Industrial Classification of Establishments. There may be more than one establishment at a single site." This term is necessary to clarify proposed § 710.3(a) which would provide that only manufacturers with establishments in certain Standard Industrial Classification (SIC) groups would be required to report.

EPA is proposing to define the term "site" as "each contiguous property unit where a chemical substance is manufactured or processed whether or not such site is independently owned or operated. Property divided only by a public right of way shall be considered one site. For the purposes of imported chemical substances, the site shall be the business address of the importer." While all persons are encouraged to report by site, § 710.5(a)(1) would require only those persons required to report under § 710.3(a) to report by site. EPA solicits comment on these definitions and the clarity of the reporting requirements with respect to articles, establishments, and sites.

Applicability: Who Must Report; Who May Report, Who May Not Report

Section 710.3 is intended to clarify who must report for the inventory under these regulations and for whom reporting is optional. In addition, the section states who may not report. Although these regulations expand the information obtained, EPA is proposing to limit the expanded reporting requirements primarily to those establishments which are the basic manufacturers of chemical substances.

Under the March 9, 1977 proposal, every person who currently manufactures a chemical substance for commercial purposes would have had to report that substance for the inventory. Many comments emphasized that this approach would require duplicative reporting by persons who are not generally recognized as part of the chemicals industry but who, for economic reasons or special purposes, manufacture a limited number of chemical substances essential to their processes. For example, in the pulp and paper industry, pulp mills manufacture sodium hydroxide and other chemical substances as part of their recovery processes. If EPA adopted the approach of the March 9, 1977 proposal, there may be more than 400 such establishments reporting that they manufacture sodium hydroxide or other chemical substances common to pulp manufacture.

As an alternative, these initial reporting requirements would focus on the chemical and allied products sector of the manufacturing industry and the petroleum refining sector, as defined by SIC Major Group 28 and Group 2911, respectively. Major Group 28 includes the manufacturers of chemicals such as acids, alkalies, and organics; synthetic fibers and plastics; dry colors and pigments; soaps and detergents; and paints and fertilizers. Group 2911, petroleum refining, is the basis of the organic chemicals industry.

Establishments subject to TSCA which fall outside these SIC groups are primarily involved in processing chemical substances, such as fabricating plastic and rubber products or treating articles such as textiles and metals, and would not be required to report. In most cases the chemical substances they manufacture would be reported by establishments in SIC Group 28. To the extent that they manufacture chemical substances for special purposes that may not otherwise be reported for the inventory, they would be responsibile for ensuring, either through trade associations or individually, that those substances were included in the inventory. Otherwise, if these substances are not included in the inventory, any person who manufactured or imported the substances would be subject to premanufacture notification requirements under section 5(a)(1)(A) of TSCA.

One advantage of limiting required reporting primarily to manufacturing establishments in the chemical and allied products sectors of industry would be that EPA would be able to direct the reporting requirements to 20,000 establishments rather than to 225,000 or more establishments, most of which primarily process chemical substances, as explained above. Those establishments in SIC group 28 represent approximately 95 percent of chemical production.

Further, if someone identified a hazard associated with the processing of a chemical substance or wanted to know exactly what chemical substances may be manufactured or processed by establishments outside SIC groups 28 and 2911, EPA has authority under section 8(a) to require such detailed reporting. As mentioned in the discussion of EPA's overall strategy, EPA intends to implement this general reporting authority to develop a data base on those substances for which there is significant human or environmental exposure or some other reason for concern.

EPA solicits comments on this proposal to limit required reporting to establishments in SIC groups 28 and 2911. Specifically, EPA assumes that there may be manufacturers who do not know in which SIC group their establishment appropriately belongs. Others may have been categorized in one group five years ago and have since changed their primary economic activity and belong in a different SIC group. EPA intends to notify each establishment which, to the best of EPA's knowledge, should be included in the SIC groups 28 or 2911. If for some reason a person has not been directly notified and would belong in SIC groups 28 or 2911, that person would still be required to report to EPA. Accordingly, it would be useful to EPA to know to what extent manufacturers are familiar with SIC groupings and whether the descriptions provided in the Standard Industrial Classification Manual published by the U.S. Government Printing Office would be adequate for manufacturers to determine in which group they belong.

Section 710.3(a)(2) would modify the original proposal and would only require importers to report those chemical substances imported into the United States for a commercial purpose since January 1, 1977. The March 9, 1977 proposed regulations would have required importers to report not only those chemical substances imported in bulk into the United States but also those chemical substances contained in the articles they import. Comments from industry and trade associations argued that it would be extremely burdensome for importers to identify the chemical substances contained in the articles they import. Moreover, they argued that the proposed regulations would have imposed a burden on importers of articles which was not imposed on domestic manufacturers of articles. The Administrator has decided to revise the original proposal to limit the reporting requirement to imported chemical substances. This includes all chemical substances which are imported in cans, bottles, drums, barrels, packages, tanks, bags, and other devices which are used to contain the substances during importation. EPA solicits comments on this reproposal.

Aside from importers, under this proposal only establishments in SIC groups 28 and 2911 would be required to report the chemical substances they have manufactured since January 1, 1977. Section 710.3(b) provides that in addition to those required to report, any person who has manufactured, imported, or processed a chemical substance for a commercial purpose since January 1, 1975, may report that substance or authorize a trade association or other representative to report on his behalf.

As proposed in § 710.3(c), during a special reporting period, 120 days after the first publication of the inventory, any person who has processed or used a chemical substance (including the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975 may report that chemical substance if it was not included in the inventory. EPA would like to minimize duplicative reporting of chemical substances by processors during the initial reporting period to facilitate compilation of the initial inventory in a timely way. Many processors and users have expressed concern that the manufacturers of the chemical substances they process may fail to report. EPA hopes that this proposed provision would reduce the amount of duplicative reporting by processors seeking to ensure that chemical substances are included in the inventory.

As provided by section 5(a)(1)(A) of TSCA, 30 days after publication of the initial inventory any person who manufactures or imports a "new chemical substance must submit premanufacture notification prior to manufacture or importation of the chemical substance. Processors are not subject to the provisions of section 5(a)(1)(A). However, it is a prohibited act under section 15(2) of TSCA for a person to use for commercial purposes a chemical substance which he had reason to know was manufactured in violation of section 5. As a matter of Agency policy, the Agency will not enforce section 15(2) with respect to processors and users of chemical substances (including manufacturers of a mixture or article containing that substance) during the 120-day period proposed in § 710.3(c). The Agency will, however, enforce section 15(2) with respect to all manufacturers and importers of chemical substances during that period, and will enforce sections 15(2) and (3) with respect to all persons after the period expires.

Section 710.3(d) would clarify who may not report chemical substances for the inventory, either because the chemical substances are automatically included in the inventory as provided in § 710.4(b), or because they are excluded from the inventory as provided in paragraphs (c) and (d) of § 710.4. A person should only report those substances which he knows and could verify are chemical substances as defined in the Act. In particular, chemical substances used exclusively as pesticides and drugs may not be reported. In addition, chemical substances manufactured solely in small quantities for research and development may not be reported. If a person does not know whether his customers may use the substance for a TSCA use and does not report, but discovers later that they do, he may add it to the inventory at that time. Any customer who uses the substance could add it to the inventory during the 120-day period provided in § 710.3(c).

Scope of the Inventory

In the March 9, 1977 proposal EPA relied upon certain definitions of terms such as "mixture," "manufacture or process for 'commercial purposes'," and "by-product" to clarify what chemical substances should be reported for the inventory. Because this approach was confusing to many, EPA has redrafted section 710.4 to clarify what substances are eligible for inclusion on the inventory.

Basically, the Act provides in sections 8(b) and (f) that any chemical substance may be included on the inventory if it has been manufactured or processed for a commercial purpose in the United States within three years of the effective date of these regulations. In the regulations proposed on March 9, 1977, EPA anticipated that the regulations would

become effective by July 1, 1977, and that the three-year period would date from July 1, 1974. The decision to repropose means that the final regulations will not be published until sometime in October. In order to define a reporting period that industry can rely upon, regardless of the actual date the final regulations are published, EPA is proposing that the three-year period begin on January 1, 1975. This proposal would satisfy those who have urged that EPA define the period in terms of calendar years. EPA recognizes that some may still prefer to have the period include the full three years from whatever date the regulations are final. EPA specifically solicits comment on this matter.

Section 710.4(a) generally defines which chemical substances are manufactured, imported, or processed "for a commercial purpose." Because the term "manufacture" is defined to include "to import into the customs territory of the United States," chemical substances which are imported into the United States are subject to the same provisions as those which are manufactured in the United States. The provisions in § 710.4 (a) are consistent with the definition of the term "manufacture, process, or import 'for commercial purposes'" in § 710.2. Accordingly, any chemical substance manufactured, processed, or imported (1) for distribution in commerce, (2) for use as a catalyst or an intermediate, (3) for use by the manufacturer, or (4) for test market purposes, would be eligible for inclusion on the inventory.

Chemical Substances Automatically Included

Section 710.4(b) specifies that chemical substances which are naturally occurring and are unprocessed or processed only by manual, mechanical, or gravitational means; by dissolution in water; or by heating solely to remove water shall be automatically included on the inventory under the category "Naturally Occurring Chemical Substances." Examples of naturally occurring substances that would be included on the inventory are raw agricultural commodities, water, air, natural gas, crude oil, rocks, ores, and minerals.

In the March 9, 1977 regulations, EPA proposed to automatically include on the inventory the general category "raw agricultural commodities." The revised proposal would incorporate this category. Accordingly, as under the original proposal, manufacturers, importers, and processors of raw agricultural, horticultural, and silvicultural products, such as unprocessed cotton, wood, wool, straw, oat hulls, and raw hides, for example, would not report. For clarity, this proposal also cites water, air, and natural gas, and crude oil as examples of "naturally occurring chemical substances" that need not be reported. With respect to rocks, ores, and minerals, this revised approach would not attempt to list each automatically included mineral separately, but would include all rocks, ores, and minerals under the category "naturally occurring chemical substances."

In the supplement to the March 9, 1977 regulations published on April 12, 1977 (42 FR 19308), EPA proposed a list of minerals under consideration for inclusion on the inventory without reporting. Persons commenting on that proposal have emphasized the difficulty of knowing precisely all the minerals a company may be extracting from the earth and, accordingly, whether the minerals being mined were included on the inventory or not. Most rocks and ores contain many different substances of varying composition depending upon the geological formation of the mined area. With respect to creating an inventory of where each major mineral is mined, the U.S. Bureau of Mines already has such an inventory. For those minerals, such as asbestos, which may present a risk to human health or the environment, EPA will require information on uses, exposure, and other factors necessary in assessing that risk under section 8(a) of the Act.

EPA solicits comments on the proposed approach to "naturally occurring chemical substances" and any suggestions for clarifying this category.

Chemical Substances Excluded by Definition or by TSCA Section 8(b)

Section 710.4(c) clarifies those substances which may not be reported for the inventory either because of the definition of "chemical substance" in section 3(2) of the Act or the specific exemption for chemical substances manufactured, imported, or processed solely in small quantities for research in section 8(b) of TSCA. In response to the March 9, 1977, proposal, EPA received extensive comments on the exclusion of chemical substances used in the manufacture of pesticides and drugs and will respond to the comments in the final regulations. Likewise, the final regulations will explain the exemptions for alloys, inorganic glasses, ceramics, frits and cements, including Portland cement.

A chemical substance used as a reagent in quality control testing, where the material tested is distributed in commerce, is itself considered to be distributed in commerce and should be reported to EPA for inclusion on the inventory unless it is known that the "small quantities for research and development" exemption applies. As mentioned above, section 8(b) explicitly exempts from the inventory any chemical substance which is manufactured or processed only in small quantities solely for purposes of research, including analysis of another chemical substance. EPA would define "small quantities for research and development" as quantities that are not greater than reasonably necessary for such purposes and which, after the effective date of premanufacture notification requirements, are used for "research and development that is conducted by, or directly supervised by, a technically qualified individual(s)." Accordingly, unless the persons performing the quality control testing are themselves technically qualified persons, as defined in § 710.2, or are directly supervised by technically qualified individuals, the chemical substance would not be considered to be manufactured in a "small quantity for research and development" and would be subject to these reporting requirements or the premanufacture notification requirements.

Chemical Substances Excluded From the Inventory

Section 710.4(d) clarifies that certain chemical substances which are not manufactured for distribution in commerce as chemical substances per se and have no commercial purpose separate from the mixture or article of which they may be a part are excluded from these reporting requirements. Specifically, impurities or chemical substances which are unintentionally present with another chemical substance are excluded. With respect to byproducts, the proposed regulations of March 9, 1977, would have excluded byproducts which have no commercial purpose. However, the proposal left unclear whether manufacturers should report byproducts which are not manufactured for a commercial purpose but are used as a fuel or reprocessed. These regulations would provide that those byproducts whose sole commercial value is to municipal or private organizations who (1) burn it as a fuel, (2) dispose of it as a waste, including as a landfill or for enriching soil or (3) extract component chemical substances which may have some commercial value, may be included on the inventory but that the reporting of such substances, insofar as they are byproducts as defined in § 710.2, is optional.

In proposing to exempt from the reporting requirements such byproducts which have some commercial purpose, EPA intends to encourage conservation and recycling of the energy and resources contained in the waste material that might otherwise be discarded because of reporting burdens under TSCA. Further, insofar as these wastes are hazardous, EPA intends to require reporting of them under the Resource Conservation and Recovery Act (RCRA) next spring or under TSCA section 8(a)(2) during the second or subsequent phases of reporting. EPA explicitly solicits comments on this approach, particularly with respect to the proposed exemptions.

The exclusions in § 710.4(d) (3), (4), and (5) are for chemical substances which result from chemical reactions that occur incidental to exposure to environmental factors, or during storage or end use of a chemical substance or mixture. These exemptions clarify those provided in the March 9, 1977, proposed regulations and are consistent with the legislative history of the Act (H.R. Rep. 94–1341, 94th Cong., 2d Sess. 13 (1976)).

In § 710.4(6), EPA would exclude "any chemical substance which is the result of a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, paints, or other chemical substances used to manufacture an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that may occur as described elsewhere in this § 710.4(d). This provision expands upon the earlier proposal to exempt chemical substances formed upon use of curable plastic molding compounds. By providing a general exclusion for chemical substances manufactured as articles or parts of articles destined for the marketplace without further chemical change of the chemical substance, EPA intends to exclude from reporting persons who are primarily manufacturers of articles.

Section 710.2 proposes to define "article" as "a manufactured item (a) which is formed to a specific shape or design during manufacture, (b) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (c) which is functional in its end use(s) without change of chemical composition during its end use; except that (d) fluids and particles are not considered articles regardless of shape or design." Under this definition, fluids and particles such as dust, powders, dispersions, granules, lumps, and flakes would not be considered articles.

To illustrate, sodium hypochlorite and particles of titanium dioxide would not be considered "articles" in themselves. The function of sodium hypochlorite as a bleach, for example, depends upon a change of chemical composition during its end use. Similarly, although the distinctive shape of titanium dioxide particles may contribute to their ultimate usefulness, they are particles and would not be considered articles in themselves. Paints containing titanium dioxide particles would not be articles because they are liquids and do not have "shape or design" when manufactured. But automobiles coated with titanium dioxide containing paints are articles under this definition. Other examples of articles which need not be reported for the inventory include plastic films, synthetic fibers, leather goods, nails, iron bars, chrome plated bumpers, jewelry, paper, particle board, furniture, refrigerators, cloth, and clothing. EPA solicits comments on this provision and the clarity of the distinction between articles and chemical substances.

Further, precursors of the compositions covered by the exclusions in § 710.4(d) (5) and (6) may be supplied to users as two or more different products which need to be mixed as a first step in their use because of limited stability of the mixture. Chemical substances formed during such mixing would be excluded.

Finally, § 710.4(d)(7) provides an exemption for chemical substances that may occur as the result of a chemical reaction when a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or de-foamer, dispersant, precipitation inhibitor, binder, emulsifier, de-emulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequestrant, coagulant, flocculant, fire retardant, lubricant, chelating agent, quality control reagent, or a chemical substance which is solely intended to impart a specific physico-chemical characteristic functions as intended. This provision expands upon the approach in the March 9, 1977, proposal which would have exempted as "mixtures" the result of chemical reactions that occur when certain chemical substances function as intended.

How to Report

Section 710.5(a) would provide general instructions for reporting chemical substances. As discussed in the earlier sections, only importers and manufacturers with establishments in SIC groups 28 and 2911 would be required to report, and "small manufacturers" in these SIC groups would not have to report certain information. The Agency would encourage any person not required to report all the information, to do so anyway because the information will establish the data base for future actions under TSCA.

Section 710.5(b) outlines how to report the name or specific identity of a chemical substance. In April 1977, EPA published and made available the TSCA Candidate List of Chemical Substances, and on April 12, 1977, published in the Federal Register a guide for using this list. EPA realizes that the Candidate List is not a complete list of chemical substances in commerce and does include some substances which would be excluded from the inventory. In addition, there are some minor errors. On or before the date these reporting requirements are published in their final form in October 1977, EPA intends to revise the guide to the Candidate List and make necessary corrections and certain additions to the List itself.

Section 710.5(c) proposes that any person reporting a polymer for inclusion in the inventory must list in the description of the polymer composition at least those constituent monomers used at greater than two weight percent in the manufacture of the polymer. A person may include as part of the description of the polymer composition those monomers used at two weight percent or less in the manufacture of the polymer. Of course, all monomers themselves must be separate entries on the inventory. EPA received extensive comment on the issue of polymer reporting in response to the March 9, 1977, proposal and will respond to all the comments in the final regulations.

Additional information, which would be required according to the general instructions in § 710.5(a), is outlined in § 710.5(d). As mentioned earlier in this preamble, knowing who is manufacturing, importing, or processing a chemical substance would enable EPA to direct any future notice or requirement to the appropriate person. The reporting forms will provide three check boxes for persons to check any or all of them, as appropriate.

Manufacturers must report according to the site at which the chemical substance is manufactured. As explained earlier, the definition of "site" includes each contiguous property unit where a chemical substance is manufactured or processed whether or not such site is independently owned or operated. There may be more than one establishment, including subsidiaries or branches of a given company, at one site. The chemical substances manufactured at that site may all be reported on one form with the site address provided.

Paragraph (d)(3) of § 710.5 would require manufacturers to designate whether they manufacture and process a chemical substance only within a site and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site. In most cases these chemical substances would be consumed by chemical reaction in the manufacture of another chemical substance. The exposure to such chemicals would be limited to persons involved in the manufacture, processing, and use at that site and immediate environs. Intermediates and catalysts would most likely form the greatest percentage of these chemical substances. However, this provision would also apply to any other chemical substances which are not distributed in commerce outside that site.

Section 710.5(d)(4) would require that manufacturers and importers report the amount of each chemical substance manufactured or imported in calendar year 1976. Alternatively, if the chemical substance was not manufactured or imported during 1976, a manufacturer or importer would either report the amount manufactured or imported during 1975 or the projected amount during 1977. If there has been no manufacture or importation since January 1, 1975, a manufacturer or importer should report the amount distributed to others for any purpose since that date. Processors would not be permitted to report amounts processed in order to avoid double-counting.

EPA is considering requiring that all production amounts be expressed in pounds. EPA would appreciate alternative suggestions for cases where conversion to pounds appears unreasonable.

As one alternative, persons would report amounts above five thousand pounds to only two significant figures. That is, only the first two figures of a six-figure number would be reported, such as 590,000 instead of 586,272. Instead, EPA could use a one-digit code to require reporting of the range of production volume. For example, production levels of 1,000 to 10,000 pounds would be reported by "1"; 10,000 to 50,000 reported by "2"; and so forth. While this approach may be easy to use, the results may not be as valuable since the imprecision of the ranges would be compounded when the production amounts are aggregated. As a third alternative, EPA could require reporting production accurate to within ten

percent of the production. EPA would appreciate comments on these or other possible alternative ways of reporting production.

In addition, the reproposal at § 710.4 (e) would permit an importer to authorize his foreign supplier(s) to report on his behalf. For several reasons, including issues of confidentiality, importers often do not know exactly what they are importing. Because EPA's jurisdiction under TSCA extends only to importers, and not to their foreign suppliers, EPA will hold the importers liable for compliance with these reporting rules. However, the foreign suppliers will be permitted to act as agents for the importers with the latter remaining legally liable for their reports. To do so, the foreign suppliers must sign declarations on the reporting forms, and the importers must endorse these declarations. This approach is similar to that already followed by the U.S. Bureau of Customs in some of its 40 CFR Part 19 regulations.

CONFIDENTIALITY

The expanded scope of these regulations would significantly increase the number of possible claims of confidentiality that persons reporting may make. Section 14 of TSCA provides that EPA must not disclose information which is exempt from mandatory disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)). EPA has regulations dealing with the confidentiality of business information in Part 2, Subpart B of Title 40 of the Code of Federal Regulations (40 CFR Part 2; 41 FR 36906, September 1, 1976), which outline the general approach taken by EPA in dealing with confidentiality claims. EPA intends to add a new section to those regulations which will govern how the Agency will deal with claims of confidentiality with respect to information obtained under TSCA. A proposed version of this new section should be published in the FEDERAL REGISTER for public comment within the next several months.

With respect to these reporting regulations, § 710.7(a) lists the items of information that may be claimed as confidential. EPA will design its reporting forms to allow all potential confidentiality claims to be asserted on the forms. EPA solicits comments on the various kinds of claims that might be asserted so that EPA can design its reporting forms accordingly.

Paragraphs 710.7 (b), (c), and (d) would provide that any claim of confidentiality must accompany the information at the time it is submitted to the Agency and that failure to make a claim on the reporting form could result in disclosure by EPA. EPA will consider only those claims that are asserted. Moreover, each company should take into account the possibility that EPA (or a court) might determine that some of the information should be released. Thus, if more than one claim applies concerning a particular chemical substance, the company should assert all those claims. For example, if a company believes that both the production volume of a chemical substance at a particular site or sites and the company-wide production of that substance are confidential, the company should specifically claim both of these items as confidential.

If a company makes a claim in the manner prescribed on the form, the information claimed to be confidential will be treated in accordance with EPA's confidentiality regulations and TSCA section 14, including the 30-day notice prior to release. EPA is considering amending the proposed reporting forms to include statements which a company asserting a confidentiality claim could check to substantiate its claims. This would expedite the process of making final determinations by eliminating the need for obtaining that information at a later date. The success of this approach, however, is dependent upon businesses asserting only justifiable claims. If EPA determines that a particular claim or substantiation from a company is frivolous, EPA will take this into account in making other determinations concerning that company's other claims of confidentiality.

Section 710.7(e) of these proposed regulations modifies the March 9, 1977, proposal which would have required the submission of the following information from a person submitting a claim as to the specific name or identity of a chemical substance: (1) The confidential identity; (2) a proposed name which is only as generic as necessary to protect the substance's confidential identity; (3) a list of the elements of the chemical substance and its molecular weight; and (4) a bibliography identifying any published literature and summaries of any unpublished information concerning the health and ecological effects and environmental behavior of the chemical substance. These proposed regulations would require submission of only items (1) and (2) above at the time the person submits the claim of confidentiality.

Some comments suggested that EPA publish on the inventory only a noninformative code designation instead of a generic name and list of elements of the chemical substance and its molecular weight. As explained in the preamble to the March 9, 1977, proposed regulations, EPA originally proposed that the inventory include these items so that the public would have some indication of the undisclosed substance. Because of the likelihood that someone may be able to discern the identity of a confidential chemical substance from these data, EPA is proposing to publish only a generic name. EPA would either publish the generic name as proposed or, if EPA disagreed with the proposed generic name, consult with the person submitting it before publishing a revised generic name on the inventory.

Many comments recommended that EPA not require submission of a bibliography identifying any published literature because in many cases competitors could learn the identity of a chemical substance by reading the referenced literature. Others argued that without the specific identity of the chemical substance, the health and safety data would not be particularly useful to the public. Finally, some asserted that development of such a bibliography could be costly to prepare. Many suggested that EPA simply require a brief summary of known data on the health and environmental effects of the chemical substance. Others contended that a summary would not meaningfully contribute to the public understanding of the potential risks presented by the substance. Without the specific identity of the chemical substance, the public could not verify the information and, according to some, there would be a considerable possibility that the summaries would be misleading.

For these and other reasons, EPA is proposing to drop the requirement that persons submit a bibliography or summary of the health and safety studies pertaining to the confidential chemical substance at the time the claim is made. Under section 8, EPA has authority to require submission of such information for any chemical substances in commerce and could request such information after the publication of the inventory. Moreover, TSCA section 8(e) requires submission of information which supports the conclusion that a chemical substance presents a substantial risk of injury to health or the environment. EPA would appreciate comments on this proposal.

ALTERNATIVES FOR HANDLING CONFIDENTIAL INFORMATION

Of the information reported to EPA, only the identity of the chemical substances and perhaps designation of those chemical substances manufactured and used within a single site will be published. The remainder of the information will be used by EPA for various purposes under TSCA. EPA does not anticipate that this remaining information will be routinely released to the public. If EPA proposes to release confidential information, it will do so in accordance with EPA's confidentiality regulations.

EPA will be subject to disclosure requests under the Freedom of Information Act (FOIA, 5 U.S.C. 552). Under the Act, EPA must respond to any request for records by either releasing the records or denying the request because the information is exempted from disclosure. Records may be exempt from disclosure if they are "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Section 14 of TSCA makes it clear that if EPA determines that information is exempt under 5 U.S.C. 552(b)(4), it must be kept confidential by EPA.

If a manufacturer claimed that the chemical name of a particular chemical substance is a trade secret, EPA would be confronted with conflicting statutory provisions. Section 8(b) apparently requires EPA to place the chemical name in the inventory. Section 14 appears to require EPA to keep the name confidential (at least temporarily, until a final determination is made by EPA or the courts.) In addition, the Freedom of Information Act requires that EPA either release information in response to a request or provide reasons for any denial. EPA cannot refuse to answer the request. Normally, in responding to Freedom of Information requests, EPA would reply either: (1) "We have no records;" (2) "We have such records and are releasing them;" or (3) "We have such records but are denying them because they constitute a confidential trade secret and are exempt from disclosure." However, if the request concerned disclosure of the identity of a chemical substance which was allegedly a trade secret, to reply that EPA had a record but was refusing to release it would inform the requester that such a substance was being manufactured, imported, or processed for commercial purposes. The result would be to reveal the trade secret by denying the request.

Confidentiality assertions also pose a problem under section 5 of TSCA. Section 5 requires anyone who proposes to manufacture a new chemical substance to furnish EPA with a 90-day premanufacture notice, during which time the person may not manufacture the new chemical substance. This delay may be even longer if a testing rule under section 4 requires the manufaoturer to develop and submit certain test data. However, if the chemical substance is on the section 8(b) inventory, it is not a "new substance", and the section 5 notice need not be given. If a company asserts that the name or specific identity of a chemical substance is confidential, EPA may not be able to list that substance on the inventory, and all other manufacturers would have to give premanufacture notification.

EPA has not decided how it will deal with these contradictory statutory requirements in the face of a claim that the identity of a chemical substance is confidential. Four issues arise that EPA must consider before deciding which approach to take. The issues are set forth below with a discussion of the options available under each:

1. What chemical substances' identities should be determined by EPA to be entitled to confidential treatment? EPA perceives three positions it could take:

A. No chemical identity is entitled to confidential treatment.

B. Only chemical identities of those chemical substances that are manufactured and used within one site and not distributed for a commercial purpose outside that site may be entitled to confidential treatment.

C. Any chemical identity may be entitled to confidential treatment.

If EPA decided that some or all of the chemical identities claimed as confidential were not entitled to confidential treatment, companies would be given the 30-day notice required in section 14 of the Act. Before determining that a particular chemical identity was entitled to confidential treatment, EPA would have to make a specific determination, in accordance with 40 CFR Part 2, Subpart B, and the criteria in 40 CFR 2.208, that the particular chemical identity is entitled to confidential treatment.

2. Assuming that some chemical identities are temporarily (because no final determination has been made or because a court has enjoined EPA from disclosing the identity) or permanently (as a result of a final confidentiality determination by EPA or a court order) entitled to confidential treatment, how should EPA treat confidential chemical identities for purposes of the published inventory? EPA perceives four positions it could take:

A. The inventory could be published with only non-confidential chemical substances in it. There would be no mention of confidential chemical identities. This approach would give the public no information concerning confidential chemicals.

B. The inventory could be published with non-confidential chemical identities and generic names for those chemical substances that are entitled to confidential treatment. The use of generic names would inform the public in general terms about what types of confidential chemical substances had been reported.

C. The inventory could be published with non-confidential chemical identities and random code numbers for those chemical substances that are entitled to confidential treatment. The use of a random code number would not give the public any information beyond that which would be available under A, except to acknowledge the existence of confidential chemical substances.

D. The inventory could be published with only non-confidential chemical identities appearing on it and a notice that some chemical substances were reported that are confidential. This approach would give the public no more information than A or C.

3. Assuming that some chemical names are temporarily or permanently entitled to confidential treatment and that EPA is, therefore unable to publish the chemical identities on the section 8 inventory list, how are present and future manufacturers to be treated under section 5 of TSCA? EPA perceives four positions it could take:

A. If a manufacturer proposed to manufacture a chemical substance that did not appear on the inventory and asked EPA whether it was one of the reported confidential chemical substances, EPA could tell the manufacturer whether the chemical substance had been reported. If it had been reported, the manufacturer would be exempt from requirements of section 5(a), as would the manufacturer that originally reported the chemical substance.

B. If a manufacturer proposed to manufacture a chemical susbtance that did not appear on the inventory and asked EPA whether it was one of the reported confidential chemical substances, EPA could refuse to answer the question. EPA would require the manufacturer to give premanufacture notification under section 5(a), and the manufacturer would not be able to begin manufacturing for at least 90 days. The manufacturer that originally reported the chemical substance would be exempt from section 5(a). This approach would treat the two manufacturers unequally allowing one to manufacture its chemical substance without delay or interruption while requiring the other to undergo premanufacture notification and a 90-day delay. Section 5 speaks in terms of "new chemical substances." This substance would not be "new" since it was already reported for the inventory.

C. If a manufacturer reported a confidential chemical substance for the inventory, EPA could require the manufacturer to give premanufacture notification under section 5(a) and to cease manufacture for at least 90 days. If another manufacturer later proposed to manufacture the same chemical substance, EPA would require that the manufacturer give premanufacture notification and wait at least 90 days before starting manufacture. This approach would treat the two manufacturers equally. However, it would impose a burden on the first manufacturer reporting the chemical substance for the inventory in that it would have to stop manufacturing even though it may have been manufacturing the substance for some time before the inventory.

D. If a manufacturer reported a confidential chemical substance for the inventory, EPA could require the manufacturer to give premanufacture notification. However, EPA would not require the manufacturer to cease manufacture for 90 days. If another manufacturer later proposed to manufacture the same chemical substance, EPA would require that manufacturer to give premanufacture notification and wait at least 90 days before starting manufacture. This approach would give the first manufacturer reporting the chemical substance an advantage by allowing him to continue manufacture. Section 5(a) states that no person may manufacture a new chemical substance without giving notice at least 90 days before beginning manufacture. This approach would violate section 5.

4. Assuming that some chemical identities are temporarily or permanently entitled to confidential treatment, how is EPA to answer Freedom of Information requests for disclosure of records concerning confidential substances? EPA perceives two positions it could take:

A. If a request were made for disclosure of records concerning a reported chemical substance, the chemical identify of which was entitled to confidential treatment, EPA could reply: "EPA has such a record, but the request is denied because the record contains trade secrets that are exempt from disclosure by virtue of 5 U.S.C. 552(b)(4)." If a request were made for disclosure of records concerning a chemical substance that had not been reported, EPA would reply: "EPA has no such record." The result of this type of answer would be to confirm whether a particular chemical sub-

stance had been reported for the inventory and, therefore, was being manufactured, imported, or processed for commercial purposes.

B. If a request were made for disclosure of records concerning a particular chemical substance that did not appear on the inventory by chemical identity, EPA could reply: "The request is denied either because the record in question is exempt from mandatory disclosure by virtue of 5 U.S.C. 552 (b)(4) or because EPA has no such record." This same answer would be given whether or not the chemical substance in question had been reported to EPA. In this way EPA would be able to give an answer that would allow the requester to pursue any judicial remedies under the Freedom of Information Act. At the same time, EPA would not have disclosed whether the particular chemical substance was being manufactured, imported, or processed for commercial purposes.

Any combination of the options under the four issues set forth above might be selected in the final approach taken by EPA. EPA intends to evaluate the advantages and disadvantages of these options before determining how to handle claims of confidentiality under the inventory reporting. EPA would appreciate comments concerning the various alternatives mentioned here and any other possible approaches.

ENFORCEMENT LIABILITY

Because of the great importance of compiling a sound data base on the chemical substances in commerce, the Agency considers violation of these reporting requirements to be a serious violation of TSCA. Section 15(3)(B) of TSCA makes it "unlawful for any person to fail or refuse to submit reports, notices, or other information, as required by this Act or a rule thereunder." Section 16(a) provides for civil penalties of up to $25,000 for each violation of section 15. Section 16(b) provides that criminal penalties of not more than $25,000 for each day of violation, or imprisonment for not more than one year, may be imposed on "any person who knowingly or willfully violates any provision of section 15." Section 17(a) authorizes specific enforcement to restrain any violation of section 15 and to compel the taking of any action required by or under this Act.

The Agency considers the most serious violations of these reporting requirements to include the following: (1) Failure to report information required under the regulation; (2) falsification of information reported under the regulation; and (3) reporting of chemical substances which are specifically excluded from the inventory, such as chemical substances manufactured solely in small quantities for research and development.

Enforcement liability attaches to any person submitting a report for the inventory, including (1) those required to report, (2) manufacturers, importers, or processors who are not required to report, but voluntarily do so, (3) trade associations acting as agents for manufacturers, processors, or importers, and (4) those manufacturers, processors, or importers certifying to trade associations that a given chemical substance was manufactured, imported, or processed for a commercial purpose since January 1, 1975.

ECONOMIC IMPACT ANALYSIS STATEMENT

EPA has determined that the regulation does not require the compilation of an Economic Impact Analysis Statement as required by Executive Order 11821. This determination is based on the cost estimate for compilation of the inventory as originally proposed and an estimate of the additional burden created by the added reporting requirements. EPA has not completed an adequate analysis of the cost of complying with the requirements of this regulation because of the lack of time between the decision to repropose these regulations and the actual date for reproposal of the regulations. EPA is obtaining a better cost estimate at this time and will perform an Economic Impact Analysis if the cost exceeds the criteria for a major action, in general, $100 million annual cost. A discussion of the cost will accompany the final regulation.

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Parts 700 and 710 as previously proposed are withdrawn, and it is proposed to establish a new Part 710 to read as follows:

PART 710—INVENTORY REPORTING

Sec.
710.1 Scope and compliance.
710.2 Definitions.
710.3 Applicability: Who must report; who may report; who may not report.
710.4 Scope of the inventory.
710.5 How to report for the inventory.
710.6 When to report.
710.7 Confidentiality.

AUTHORITY: Subsection 8(a), Toxic Substances Control Act (90 Stat. 2003) (15 U.S.C. 2601 et seq.).

§ 710.1 Scope and compliance.

(a) This part establishes regulations governing reporting by certain manufacturers, processors, and importers of chemical substances under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607). That subsection requires EPA to issue regulations for the purpose of compiling the inventory of chemical substances manufactured or processed for a commercial purpose, as required by section 8(b) of the Act. In accordance with section 8(b), EPA periodically will amend the inventory to include chemical substances which are manufactured, processed, or imported for commercial purposes; will revise the categories of chemical substances; and will make other amendments as appropriate.

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under these reporting regulations. In addition, section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by these regulations. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Pursuant to section 17, the Government may seek judicial relief to compel submittal of section 8(a) information and to otherwise restrain any violation of section 8(a).

(c) Each person who reports under these regulations shall permit access to, and the copying of, records that document information reported under these regulations.

§ 710.2 Definitions.

For the purposes of this part, the following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321, and the regulations issued under such Act: "cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453; meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033. The term "pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136, and the regulations issued thereunder. The following terms shall have the meaning contained in the Atomic Energy Act of 1954, 42 U.S.C. 2014, and the regulations issued thereunder: "nuclear byproduct material," "nuclear source material," and "special nuclear material." In addition, "Act" means the Toxic Substances Control Act, 15 U.S.C. 2061, et seq.

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

An "article" is a manufactured item (a) which is formed to a specific shape or design during manufacture, (b) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (c) which is functional in its end use(s) without change of chemical composition during its end use; except that (d) fluids and particles are not considered articles regardless of shape or design.

"Byproduct" means a chemical substance produced without separate commercial intent during the manufacture or processing of other chemical substance(s) or mixture(s).

"Chemical substance" means any organic or inorganic substance of a particular molecular identity including (a) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature and (b) any chemical element or uncombined radical, and (c) except that "chemical substance" does not include:

(1) Any mixture,

(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide,

(3) Tobacco or any tobacco product, but not including any derivative products,

(4) Any nuclear source material, special nuclear material, or nuclear byproduct material,

(5) Any pistol, firearm, revolver, shells, and cartridges, and

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

"Commerce" means trade, traffic, transportation, or other commerce (a) between a place in a State and any place outside of such State, or (b) which affects trade, traffic, transportation, or commerce described in clause (a).

"Distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell or to transfer the ownership of the substance, mixture, or article in commerce, to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

"EPA" means the U.S. Environmental Protection Agency.

"Establishment" means an economic unit, generally at a single site, as defined for purposes of the Standard Industrial Classification of Establishments. There may be more than one establishment at a single site.

"Importer" means any person who imports any chemical substance into the customs territory of the U.S. and includes: (a) The person primarily liable for the payment of any duties on the merchandise, or (b) an authorized agent acting on his behalf (as defined in 19 CFR 1.11).

"Impurity" means a chemical substance which is unintentionally present with another chemical substance.

"Intermediate" means any chemical substance (a) which is deliberately present in a chemical reaction sequence used to manufacture or process another chemical substance, (b) whose presence is known or reasonably ascertainable, and (c) which could be isolated and identified under conditions which are practically encountered in the environment.

"Manufacture" means to produce or manufacture in the United States or import into the customs territory of the United States.

"Manufacture, process, or import 'for commercial purposes'" means to manufacture, process, or import

(a) For distribution in commerce,

(b) For use as a catalyst or an intermediate,

(c) For use by the manufacturer, or

(d) For test marketing purposes.

"Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (a) any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, (b) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water.

"New chemical substance" means any chemical substance which is not included in the inventory compiled and published under subsection 8(b) of the Act.

"Person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, or any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

"Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (a) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (b) as part of an article containing the chemical substance or mixture.

"Processor" means any person who processes a chemical substance or mixture.

"Site" means each contiguous property unit where a chemical substance is manufactured or processed whether or not such site is independently owned or operated. Property divided only by a public right-of-way shall be considered one site. For the purposes of imported chemical substances, the site shall be the business address of the importer.

"Small manufacturer or importer" means a manufacturer who (a) has only a single manufacturing site, and either (b) has total annual sales of less than $100,000, based on the manufacturer's latest complete fiscal year or (c) has no more than 2,000 pounds annual production (i.e., amount manufactured and imported) of each manufactured chemical substance. In the case of a company, which is owned or controlled by another company, such factors would apply to the parent company and all companies owned or controlled by it taken together.

"Small quantities for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product" (hereinafter sometimes shortened to "small quantities for research and development") means quantities of a chemical substance manufactured or processed or proposed to be manufactured or processed that (a) are no greater than reasonably necessary for such purposes and (b) after (the effective date of premanufacture notification requirements), are used by, or directly under the supervision of, a technically qualified individual(s).

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

"Technically qualified individual" means a person who, because of his education, training, or experience, or a combination of these factors, is capable of appreciating the health and environmental risks associated with exposure to the chemical substance which is used under his supervision, and who (a) is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks and (b) is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity.

"Test marketing" means the distribution of no more than a predetermined amount of a chemical substance, or mixture or article containing that chemical substance, by a manufacturer or processor to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution in commerce.

"United States," when used in the geographic sense, means all of the States, territories, and possessions of the United States.

§ 710.3 Applicability: Who must report; who may report; who may not report.

Paragraphs (a), (b), and (c) of this section identify the persons subject to these requirements with respect to reporting chemical substances in accordance with § 710.4. Paragraph (d) of this section identifies the persons who may not report chemical substances for the inventory.

(a) *Who Is Required to Report*—(1) *Manufacturers.* Any person who manufactures, or has manufactured since January 1, 1977, a chemical substance(s) for a commercial purpose in an establishment included in the Chemical and Allied Products sector (as defined by Standard Industrial Classification (SIC) Major Group 28) or Petroleum Refining sector (as defined by SIC Group 2911) must report concerning the chemical substance(s) manufactured in that establishment.

(2) *Importers.* Any person who imports, or has imported since January 1,

1977, a chemical substance(s) into the United States for a commercial purpose must report concerning that chemical substance(s).

(b) *Who may report.* (1) In addition to those persons required to report by paragraph (a) of this section, any person who has manufactured, imported, or processed a chemical substance for a commercial purpose since January 1, 1975 may report concerning that chemical substance.

(2) If a person manufactured or imported a chemical substance prior to January 1, 1975 but the substance was processed after that date, he may report that substance for the inventory if he certifies that the substance was processed after January 1, 1975.

(3) A trade association may report on behalf of any person who would be permitted to report under paragraphs (b) (1) and (2) of this section. For every chemical substance reported by a trade association, at least one manufacturer, processor, or importer must have certified to that trade association, and be able to document to EPA in accordance with § 710.1(c), that the chemical substance was manufactured, imported, or processed for commercial purposes since January 1, 1975.

(c) *Who may report after publication of the inventory.* During the 120-day period after the first publication of the inventory, any person who has processed or used a chemical substance (including the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975 may report that chemical substance if it was not included in the inventory.

NOTE.—Premanufacture notification requirements under section 5 for manufacturers and importers of new chemical substances will begin thirty (30) days after the first publication of the inventory and will apply to all chemical substances not included on the first inventory.

(d) *Who may not report.* (1) No person may report any chemical substance which is automatically included in the inventory under § 710.4(b).

(2) No person may report any chemical substance which is excluded from the inventory under paragraphs (c) or (d) of § 710.4.

(3) No person may report any chemical substance which has not been manufactured, processed, or imported for a commercial purpose since January 1, 1975.

§ 710.4 Scope of the Inventory.

(a) *Chemical substances subject to these regulations.* The following chemical substances are manufactured, imported, or processed "for a commercial purpose";

Chemical substances which are manufactured, imported, or processed

(1) For distribution in commerce,

(2) For use as a catalyst or as an intermediate,

(3) For use by the manufacturer, or

(4) For test marketing purposes.

(b) *Naturally occurring chemical substances automatically included.* Any chemical substance which is naturally occurring and which is either unprocessed or processed only by manual, mechanical, or gravitational means; by dissolution in water; or by heating solely to remove water, shall be automatically included in the inventory under the category "Naturally Occurring Chemical Substances." Examples of such substances are: (1) Raw agricultural commodities; (2) water, air, natural gas, and crude oil; and (3) rocks, ores, and minerals.

(c) *Substances excluded by definition or Section 8(b) of TSCA.* The following substances are excluded from the inventory:

(1) Any substance which is not considered a "chemical substance" as provided in subsection 3(2)(B) of the Act and in the definition of "chemical substance" in § 710.2.

(2) Any mixture as defined in § 710.2. This term will include alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(3) Any chemical substance manufactured, imported, or processed solely in small quantities for research and development, as defined in § 710.2.

(d) *Chemical substances excluded from the inventory.* The following chemical substances are excluded from the inventory insofar as they are not manufactured for distribution in commerce as chemical substances per se and have no commercial purpose separate from the mixture or article of which they may be a part.

NOTE.—In addition, chemical substances excluded here would not be subject to premanufacture notification under section 5 of the Act.

(1) Any impurity.

(2) Any byproduct which has no commercial purpose.

NOTE.—A byproduct which has commercial value to municipal or private organizations who (i) burn it as a fuel, (ii) dispose of it as a waste, including in a landfill or for enriching soil, or (iii) extract component chemical substances which may have some commercial value, may be included on the inventory.

(3) Any chemical substance which is the result of a chemical reaction that may occur incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which is the result of a chemical reaction incidental to storage of a chemical substance or mixture.

(5) Any chemical substance which is the result of a chemical reaction that may occur upon end use of other chemical substances or mixtures such as adhesives, paints, miscellaneous cleansers or other housekeeping products, fuels and fuel additives, water softening and treatment agents, and which is not itself manufactured for distribution in commerce.

(6) Any chemical substance which is the result of a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, paints, or other chemical substances used to manufacture an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that may occur as described elsewhere in this paragraph.

(7) Any chemical substance which occurs as the result of a chemical reaction when a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant plasticizer corrosion inhibitor, antifoamer or de-foamer, dispersant, precipitation inhibitor, binder, emulsifier, de-emulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequestrant, coagulant, flocculant, fire retardant, lubricant, chelating agent, quality control reagent, or a chemical substance which is solely intended to impart a specific physico-chemical characteristic functions as intended.

§ 710.5 How to report.

(a) *General instructions.* (1) Except for small manufacturers or importers, any person who is required to report under section 710.3(a) shall follow the reporting procedures of paragraphs (b), (c), and (d) of this section.

(2) Any person who chooses to report under § 710.3(b) shall follow the reporting procedures of paragraphs (b), (c), and (d) (3) of this section. In addition, the Agency encourages those persons to report in accordance with paragraphs (d)(1), (d)(2), and (d)(4 of this section. A trade association may report aggregated production data under paragraph (d)(4) of this section.

(3) Any person who is required to report under § 710.3(a) and who is a small manufacturer or importer as defined in § 710.2 shall follow the reporting procedures of paragraphs (b), (c), and (d)(1) and (d)(3) of this section. In addition, the Agency encourages small manufacturers to report in accordance with paragraphs (d)(2) and (d)(4) of this section.

(b) *Reporting the identity of a chemical substance.* (1) To report a chemical substance, a person shall first consult the TSCA Candidate List of Chemical Substances and any amendment to the Candidate List.

(2) To report a chemical substance found in the Candidate List, or in an amendment to the List, a person must complete, sign, and submit EPA inventory reporting Form A (EPA Form No. —).

(3) To report a chemical substance not found in the Candidate List, or in an amendment to the list, a person must complete, sign and submit EPA inventory reporting Form B (EPA Form No. —).

(4) For assistance in using the Candidate List or the reporting forms, consult "Guide to the Use of the TSCA Candidate List of Chemical Substances and

Instructions for Reporting" published in Appendix A of these regulations.

(c) *Reporting polymers.* (1) To report a polymer a person must list in the description of the polymer composition at least those monomers used at greater than two weight percent in the manufacture of the polymer.

(2) Those monomers used at two weight percent or less in the manufacture of the polymer may be included as part of the description of the polymer composition.

(3) For purposes of this paragraph, the "weight percent" of a monomer is the weight of the monomer expressed as a percentage of the weight of the polymeric chemical substance manufactured.

(d) *Reporting other information concerning a chemical substance.* (1) Designate whether the person manufactures, processes and or imports the chemical substance.

(2) Report the site(s) at which the person manufactures, processes, and or imports the chemical substance.

(3) Designate whether the person manufactures and processes the chemical substances only within a site and does not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

(4) Report the amount of the chemical substance which the person manufactured at each site and/or imported during calendar year 1976. If the person did not manufacture or import the chemical substance during 1976, report the amount manufactured and/or imported during 1975 or projected for 1977. If there has been no manufacture or importation since January 1, 1975, report the amount distributed to others for any purpose since that date.

(e) *Importers.* (1) Any importer who is required to report or who chooses to report a chemical substance for the inventory may authorize the foreign supplier of an imported chemical substance(s) to report to EPA on behalf of the importer if both the foreign supplier and the importer sign the declarations provided on the reporting form.

(2) The importer has the ultimate responsibility for reporting all information required by this part and for the completeness and truthfulness of such information. If certain information is not or cannot be provided by the foreign supplier, it must be provided by the importer.

§ 710.6 When to report.

(a) All reports concerning chemical substances manufactured, processed, or imported for a commercial purpose during the period January 1, 1975 to (the effective date of these regulations) shall be submitted by (90 days after the effective date of these regulations).

(b) All reports concerning chemical substances which are manufactured, processed, or imported for a commercial purpose for the first time during the period (the effective date of these regulations) to (the effective date of premanufacture notification regulations) shall be submitted when such manufacturing, processing, or importation begins.

§ 710.7 Confidentiality.

(a) A manufacturer, importer, or processor may claim that for a particular chemical substance any or all of the following items of information submitted under this part are entitled to confidential treatment:

(1) Company name

(2) Site.

(3) The specific chemical name or identity.

(4) Whether the chemical substance is manufactured, imported, or processed.

(5) Whether the chemical substance is manufactured and processed only within one site and not distributed for commerical purposes outside that site.

(6) The quantity manufactured, imported, or processed.

(b) Any claims of confidentiality must accompany the information at the time it is submitted to EPA. The claims must appear on the form on which the information is submitted to EPA and in the manner prescribed on the form.

(c) Any information that is covered by a claim made as specified will be disclosed by EPA only to the extent permitted by, and by means of, the procedures set forth in Part 2 of this title (41 FR 36902).

(d) If no claim accompanies the information at the time it is submitted to EPA, the information may be made public by EPA without further notice to the submitter.

(e) If a claim of confidentiality is asserted concerning the specific chemical name or identity of a particular chemical substance, the person making the claim shall furnish EPA with (1) the specific chemical name and identity and (2) a proposed generic name which is only as generic as necessary to protect the confidential identity of the particular chemical substance.

[FR Doc 77-22107 Filed 7-28-77;11:02 am]

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Vol.42—No.149
8–3–77
PAGES
39195–39358

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WEDNESDAY, AUGUST 3, 1977

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
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	HEW/CDC			HEW/CDC
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	HEW/HRA			HEW/HRA
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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H.R. 4088..... Pub. L. 95–76
National Aeronautics and Space Administration Authorization Act, 1978. (July 30, 1977; 91 Stat. 312). Price: $.35.

H.R. 2502..... Pub. L. 95–77
To extend certain oil and gas leases by a period sufficient to allow the drilling of an ultradeep well. (July 30, 1977; 91 Stat. 317). Price: $.35.

H.R. 5864..... Pub. L. 95–78
To approve with modifications certain proposed amendments to the Federal Rules of Criminal Procedure, to disapprove other such proposed amendments, and for other related purposes. (July 30, 1977; 91 Stat. 319). Price: $.35.

H.R. 5970..... Pub. L. 95–79
Department of Defense Appropriation Authorization Act, 1978. (July 30, 1977; 91 Stat. 323). Price: $.35.

S.J. Res. 77..... Pub. L. 95–80
To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes. (July 31, 1977; 91 Stat. 339). Price: $.35.

H.R. 7552..... Pub. L. 95–81
Treasury, Postal Service, and General Government Appropriation Act. (July 31, 1977; 91 Stat. 341). Price: $.35.

S. 1474..... Pub. L. 95–82
Military Construction Authorization Act, 1978. (Aug. 1, 1977; 91 Stat. 358.) Price $.40.

H.R. 4975..... Pub. L. 95–83
To amend the Public Health Service Act to extend through the fiscal year ending September 30, 1978, the assistance programs for health services research; health statistics; comprehensive public health services; hypertension programs; migrant health; community health centers; medical libraries; cancer control programs; the National Cancer Institute; heart, blood vessel, lung, and blood disease prevention and control programs; the National Heart, Lung, and Blood Institute; National Research Service Awards; population research and voluntary family planning programs; sudden infant death syndrome; hemophilia; national health planning and development; and health resources development; to amend the Community Mental Health Centers Act to extend it through the fiscal year ending September 30, 1978; to extend the assistance programs for home health services; and for other purposes. (Aug. 1977; 91 Stat. 383.) Price $.35.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 10—Energy
CHAPTER II—FEDERAL ENERGY ADMINISTRATION
PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Corrective Amendments

AGENCY: Federal Energy Administration.

ACTION: Corrective amendments.

SUMMARY: The Federal Energy Administration (FEA) hereby amends its refiner and reseller/retailer pricing regulations to correct inadvertent errors and omissions in those portions of its regulations. These amendments do not in any manner change or alter the substantive provisions of the Mandatory Petroleum Price Regulations.

EFFECTIVE DATE: See discussion of specific regulatory amendments in the supplementary information.

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SUPPLEMENTARY INFORMATION:

I. Definitions of "cost of crude oil," "quantity or volume of crude oil," and "throughput."
II. Benzene and toluene adjustment.
III. Increased costs allocator, the "R" factor.
IV. Definition of "product in inventory."
V. Passthrough of actual non-product cost increases by certain sellers of propane, butane, and natural gasoline.
VI. Typographical and publication errors and use of parallel terms.

The following amendments to the Mandatory Petroleum Price Regulations are to correct inadvertent errors and omissions in the present regulations. The sole purpose of these amendments is to correct and clarify the regulations and not to change the substantive provisions of the regulations in any manner.

I. Definitions of "Cost of Crude Oil," "Quantity or Volume of Crude Oil," and "Throughout"

First, on July 20, 1976, FEA amended the price regulations to exempt naphthas, gas oils, and certain "other products" including "unfinished oils," effective September 1, 1976 (41 FR 30096, July 22, 1976). FEA failed at that time, however, to make a corresponding revision in the definition of the "cost of crude oil in § 212.82, which included "the cost of [certain] unfinished oils * * * *which are covered products*." (Emphasis added.) The cost of unfinished oils which are further refined (the cost of which was includable before any deregulation actions were taken) continues to be properly includable as a "cost of crude oil," even though unfinished oils are no longer a covered product. Accordingly, the definition of "cost of crude oil" is revised effective September 1, 1976, to clarify that it continues to include the cost of certain unfinished oils which were covered products before their September 1, 1976, exemption.

Second, corrective changes in the definitions of "cost of crude oil," "quantity or volume of crude oil," and "throughput" are necessary, to conform the language of the price regulations to Ruling 1976–4 (41 FR 25886, June 23, 1976). Ruling 1976–4 holds that synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted are not within the purview of the FEA price and allocation regulations. However, FEA's current regulations regarding the computation of a refiner's "increased product costs," which refer to the "cost of crude oil" as defined in § 212.82 and the "quantity or volume of crude oil" as defined in § 212.83(c)(2)(iii)(C)(II) do not expressly include substitutes for crude oil and unfinished oils. Nor does the definition of "throughput" in § 212.83(c)(2)(iii)(E)* include such synthetic fuels. Thus these sections are amended to clarify that the cost of such synthetic fuels, although not subject to FEA price or allocation regulations (Ruling 1976–4) when acquired for use as crude oil substitutes, is properly includable within a refiner's "cost of crude oil" and the volume of such synthetic fuels when used as crude oil substitutes is properly includable within a refiner's "quantity or volume of crude oil" and "throughput."

II. Benzene and Toluene Ajustment

FEA exempted benzene and toluene from the price and allocation regulations effective September 1, 1976 (41 FR 30096, July 22, 1976). However, FEA did not delete the regulatory provisions that formerly provided an incentive for increased production of benzene and toluene, contained in § 212.83(a)(4) and in the adjustment in the "D_i" factor of the refiners' price formulae in § 212.83(c)(2)(iii)(B). An adjustment to the amount computed under "D_i" for general refinery products because of benzene and toluene production is not appropriate after the exemption of benzene and toluene, as those products are no longer subject to price regulations. Accordingly, the incentives are eliminated, effective as of the September 1, 1976, exemption of benzene and toluene.

III. Increased Costs Allocator, the "R" Factor

Beginning in February 1976, FEA gave refiners the option of allocating increased crude oil costs to product prices on the basis of the relative volumes of certain products or product categories refined by the refiner from crude oil, pursuant to a formula commonly known as the "R" factor ("R/R_i") (41 FR 5111, February 4, 1976). On January 19, 1977, FEA amended its regulations, effective January 1, 1977, to require refiners not later than March 1, 1977 to allocate both increased crude oil and non-product costs on the basis of products refined by the refiner from crude oil, or the "R" factor. ("R/R_i") (42 FR 5030, January 27, 1977) The purpose of the amendments first permitting and later requiring that cost increases be allocated on the basis of product refined by the refiner from crude oil was to exclude product sales volumes attributable to purchased product and blending agents from the cost allocator. FEA did not intend, however, when adopting the "R" factor to exclude volumes of product attributable to refinding of unfinished oils and addition of additives from the cost allocator computation. Therefore, effective February 1, 1976, with respect to crude oil cost increases (§ 212.83(c)(2)(iii)(C)) and to January 1, 1977, with respect to non-product cost increases (§ 212.83(c)(2)(iii)(E)) the definitions of "R" and "R_i" are amended to clarify that product volume attributable to the refining of unfinished oils and the addition of additives is included in the computation of the "R" factor cost allocator.

IV. Definition of "Product in Inventory"

Section 212.92 was amended on May 5, 1976 (41 FR 19110, May 10, 1976) to allow resellers and retailers increased pricing flexibility by permitting them to calculate cost of product in inventory based on separate inventories to the extent such inventories were maintained pursuant to generally accepted accounting principles historically and consist-

ently applied by the seller concerned. In the preamble to the amendment FEA stated:

• • • First, "product in inventory" is defined as either (1) the entire undivided stock of the seller's product, no matter where located, or (2) that portion of the seller's total stock of the product concerned which constitutes a separate inventory under generally accepted accounting principles historically and consistently applied by the seller concerned. Sellers may elect to use the second definition if they qualify under the terms of that definition but they must have consistently utilized separate inventory accounting methods for cost management or other normal business purposes since May 15, 1973 • • •.

However, in the actual amendment to the regulation in two instances the word "covered" was inserted before the word "product."

"Product in inventory" means, at the option of the seller concerned, either: (1) the entire, undivided stock of a *covered* product, no matter where located, purchased and held for resale by the seller concerned; or (2) that portion of the total stock of a *covered* product purchased and held for resale by the seller concerned which constitutes a separate inventory under generally accepted accounting principles consistently and historically applied by the seller concerned • • •. (§ 212.92, emphasis added.)

The addition of the word "covered" before the word "product" in the definition of "product in inventory" was inadvertent. The amendment as issued could arguably be construed to require resellers and retailers to compute cost of "product in inventory" on the basis of the "covered products" categories as defined in § 212.31 even if the seller had historically and consistently maintained inventories of specific covered products or product groups that were less comprehensive than the defined categories of "covered products."

It is FEA's intention that sellers may calculate "increased product costs" and prices pursuant to § 212.92 and 212.93 on the basis of products or product categories that are less comprehensive than the defined terms set forth in Subpart B of the price regulations. The refiner price rules include an express provision in § 212.83(c)(1)(ii)(c), which permits refiners (subject to disapproval by FEA) to treat as "a particular general refinery product", separate products or product categories if they represent discrete, technical product differences that have been consistently and historically applied by that refiner. By implication, a comparable measure of flexibility must be read into the reseller and retailer price rules in order to avoid anomalous results.

For example, although the term "gasoline" is defined in § 212.31 to include "all of the various grades", it would clearly be inappropriate for a reseller or retailer of "regular" and "premium" grades of "gasoline" to make a single increased product cost calculation attributable to prices for both grades. This is because the calculation of "increased product costs pursuant to § 212.92 on the basis of a single weighted average cost of "gasoline" in inventory would not yield a meaningful measure of increased costs if the relative volumes of "regular" and "premium" gasoline in inventory were different than on May 15, 1973. An increased percentage of "premium" gasoline in inventory would, in itself, yield an amount of calculated "increased product costs," although no increase would, in fact, have taken place. Moreover, the weight-averaging of costs for "products" that have historically been separately priced would tend to distort the prices allowed to be charged for "products" by resellers and retailers, so that such prices would not be representative of the costs to the seller of those "products." For example, refiners are permitted to price gasoline separately by type and grade, and many refiners have increased prices for unleaded gasoline more than for leaded types. A requirement that resellers and retailers make a single calculation of "increased produce costs" for all types and grades of gasoline could result in a maximum allowable price for unleaded gasoline that would be less than the seller's cost for such gasoline, if unleaded gasoline were only a small portion of the seller's gasoline inventory.

Therefore, FEA is deleting the word "covered" from § 212.92 to eliminate any confusion as to what products or product groups may be used for purposes of determining cost of "product in inventory" and to clarify that the regulation change was not intended to require resellers and retailers to alter their historical method of designating the particular products to be used for the purpose of determining cost of "product in inventory." This amendment is effective May 1, 1976, the effective date of the amendment containing the error.

V. PASS THROUGH OF ACTUAL NON-PRODUCT COST INCREASES BY CERTAIN SELLERS OF PROPANE, BUTANE, AND NATURAL GASOLINE

Section 212.93 was recently amended in paragraphs (b)(4) and (e)(2) to require or permit resellers and retailers of propane, butane, and natural gasoline which elect to pass through increased non-product costs in price increases to compute such price increases using actual increased non-product costs as defined by FEA rather than using a standardized cents-per-gallon mark up previously allowed to reflect increased non-product costs. Also, all sellers may carry forward for recovery at a later date ("bank") unrecouped increased non-product costs. The effective date of the amendment is May 1, 1977. However, § 212.93 (b)(4) and (e)(2) incorrectly refer to the month of March as being the first month the amendments were in effect. Accordingly, the word "March" is deleted from, and the word "May" is added to, § 212.93 (b)(4) and (e)(2), to clarify the effective date of the amendments. Also, § 212.93(b)(4)(IV) mistakenly refers to "refiners" instead of "resellers and retailers." These corrected amendments are effective May 1, 1977, the effective date of the amendments containing the errors.

VI. TYPOGRAPHICAL AND PUBLICATION ERRORS AND USE OF PARALLEL TERMS

First, several lines in § 212.93(i)(2)(iv) were transposed and phrases were added when the section was published in the FEDERAL REGISTER (41 FR 18304, May 3, 1976). These errors are corrected effective April 28, 1976, the effective date of the amendment containing the errors.

Second, § 212.93(i)(2)(ii)(A) and (B), "General refinery products" is a duplication of § 212.93(i)(2)(i)(A) and (B), "General refinery products." The correct paragraph (i)(2)(ii)(A) and (B), "No. 2 oils", was inadvertently deleted from the section in connection with the September 1, 1976 exemption of naphthas, gas oils, and "other products" (41 FR 30096, July 22, 1976). Accordingly, § 212.93(i)(2)(ii)(A) and (B), "No. 2 oils", is reinserted in the regulations and the current § 212.93(i)(2)(ii)(A) and (B), "General refinery products", is deleted. This amendment is effective retroactive to September 1, 1976, the effective date of the inadvertent deletion of § 212.93(i)(2)(ii), "No. 2 oils", and of the duplication of § 212.93(i)(2)(i), "General refinery products".

Third, the term "maximum allowable prices" is defined in and applicable only to Subpart E, Refiners, and does not apply to Subpart F, Resellers and Retailers. The term in Subpart F corresponding to "maximum allowable prices" is simply "prices." Accordingly, the words "maximum allowable" are deleted from the following sections of Subpart F, effective as of the dates the regulations that first contained those words became effective.

1. Section 212.93(i)(2)(i)(C), effective October 1, 1976 (41 FR 44151, October 7, 1976).

2. Section 212.93(i)(2)(ii)(B) effective July 1, 1976 (41 FR 24518, June 16, 1976).

3. Section 212.93(i)(3)(i) and (ii) effective April 28, 1976 (41 FR 18304, May 3, 1976).

Fourth, § 212.93(i) deals with the reallocation of only increased product costs. Accordingly, to make this obvious and to use parallel sentence construction throughout the section, § 212.93(i)(2)(i)(C), (ii)(B), and (iii)(B) are amended to insert the word "product" between the words "increased" and "costs." These additions are made to the following sections as of the date they became effective.

1. Section 212.93(i)(2)(i)(C) effective September 1, 1976 (41 FR 44151, October 7, 1976).

2. Section 212.93(i)(2)(i)(B) effective July 1, 1976 (41 FR 24518, June 16, 1976).

3. Section 212.93(i)(2)(iii)(B) effective October 1, 1976 (41 FR 40452, September 20, 1976).

Because these amendments are only to correct inadvertent errors in previously adopted amendments to, or resulting from interpretative rulings regarding, the regulations, the Federal Energy Administration finds that good cause exists to issue these amendments immediately, without notice, or opportunity for comment.

As these amendments will not affect the quality of the environment, it is not necessary to submit them to the Administrator of the Environmental Protection Agency for comments.

FEA will review any written comments received within 30 days after the issuance of these amendments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective as of the dates set forth above.

Issued in Washington, D.C., July 28, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.82 is amended by revising the definition of "cost of crude oil" as follows:

§ 212.82 Definitions.

• • • • •

"Cost of crude oil" means (1) for purposes of domestic crude oil, the first sale price or the purchase price if the transaction occurs after the first sale, provided that the first sale price or purchase price conforms with the requirements of Part 212, plus the cost of transportation. The cost of domestic crude oil also includes the cost of unfinished oils which were covered products as of May 31, 1976, and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined; (2) for purposes of imported crude oil, the landed cost.

• • • • •

§ 212.83 is amended as follows:

2. § 212.83(a)(4) is deleted.

3. § 212.83(c)(2)(iii)(B) is amended by revising the definition of "D_i*" to read as follows:

4. Section 212.83(c)(2)(iii)(C) is amended by revising the definitions of "Q'", "O'", "R'" and "R_i'" to read as follows:

5. Section 212.83(c)(2)(iii)(E) is amended by revising the definitions of "R_i'", "R'", and "R'" and in subparagraph (I) the definition of "throughput" and the recordkeeping requirement as follows:

§ 212.83 Price rule.

(a) • • •

(4) [Deleted]

• • • • •

(c) *Allocation of increased costs.* • • •

(2) *Formulae.* • • •

(iii) *Definitions.* • • •

(B) *The "D" factors.* • • •

D_i*=The total dollar amount a refiner may apportion in the period "u" to general refinery products (i=4) in whatever amounts it deems appropriate to each particular general refinery product to compute the maximum allowable price. The formula for "D_i*" must be computed only once for i=4 (all general refinery products).

• • • • •

(C) *The "A" factor.* • • •

Q'=The total quantity or volume of crude oil purchased or landed in the period "t" for refining or for resale under § 211.65, provided however that this amount shall be reduced by the quantity of crude oil sold under § 211.65 in the period "t" "The quantity or volume of crude oil" includes quantities or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

O'=The total quantity or volume of crude oil purchased or landed in the period "o" for refining or for resale under § 211.65, provided however that this amount shall be reduced by the quantity of crude oil sold under § 211.65 in the period "o". "The quantity or volume of crude oil" includes quantities or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

R'=The total volume of all products refined by the refiner from crude oil (including product attributable to unfinished oils and additives) in the period "t".

R_i'=The total volume of a specific covered product of the type "i" refined by the refiner from crude oil (including product attributable to unfinished oils and to additives) in the period "t".

"The quantity or volume of crude oil" cludes quantities or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

• • • • •

(E) *The "N" factor.* • • •

R_i'=The total volume of a specific product of the type "i" refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives in the period "t".

R'=The total volume of all products refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t".

• • • • •

R'=The total volume of all products refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t".

• • • • •

(I) *Refinery fuel cost increase.* • • •

"Throughput" means the volume of crude oil, unfinished oils, syntheic fuels and natural gas liquids refined during the time period specified.

Refiners shall maintain records of the volume and cost of products purchased or landed that are consumed as refinery fuel.

6. § 212.92 is amended in the definition of product in inventory" to read as follows:

§ 212.92 Definitions.

• • • • •

"Product in inventory" means, at the option of the seller concerned, either: (1) the entire, undivided stock of a product, no matter where located, purchased and held for resale by the seller concerned; or (2) that portion of the total stock of a product purchased and held for resale by the seller concerned which constitutes a separate inventory under generally accepted accounting principles consistently and historically applied by the seller concerned. However, the cost of transportation may be included as a cost of product in inventory only up to the point at which the product concerned first comes to rest in facilities which constitute a part of the seller's storage and distribution system.

• • • • •

7. § 212.93 is amended in paragraphs (b)(4)(VI), (e)(2) and (i)(2)(i), (ii), and (iv) and (i)(3)(i) and (ii) to read as follows:

§ 212.93 Price rule.

• • • • •

(b) Notwithstanding the provisions of paragraph (a) of this section: • • •

(4) With request to sales of propane, butane, and natural gasoline beginning with May 1977: • • •

(VI) *Depreciation cost increase.* Depreciation cost increase is computed by applying the formula for "E_n" above. For purposes of this computation "C" is the cost attributable to the depreciation of equipment, machinery, and the facility, which are associated with propane, butane, and natural gasoline sales operations; provided that such costs are computed according to generally accepted accounting practices historically and consistently applied by the firm and

to the extent that such costs are not otherwise covered by this section. If Form 10–k is filed with the Securities and Exchange Commission of an analogous report is filed with a state regulatory agency, the amount computed for depreciation cost increase must be consistent with the figures used in preparing Form 10–k or such analogous report. Accounting procedures used to compute depreciation cost increase by resellers and retailers which do not file such form or report, or on whose behalf such form or report is not filed, must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in non-product costs as expenses; all such investments may be capitalized and depreciated and included in the computation of "E_{n^t}" for depreciation cost increase.

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section: * * *

(2) With respect to sellers of propane, butane, and natural gasoline beginning May 1, 1977, the amount of increased non-product cost calculated pursuant to paragraph (b) (4) of this section for propane, butane, or natural gasoline and not recouped by a price adjustment in the subsequent month pursuant to paragraph (b) (4) of this section may also be added to the May 15, 1973 selling price of propane, butane or natural gasoline at the time the selling prices are computed pursuant to paragraphs (a) and (b) (4) of this section.

* * * * *

(i) *Reallocation of increased product costs among products.* * * *

(2) Increased product costs may be reallocated only as follows: (i) *General refinery products.* * * *

(C) Beginning on July 1, 1976, no increased product costs for general refinery products other than propane, butane, natural gasoline, natural gas liquids, and aviation gasoline may be reallocated to prices for any other covered product.

(ii) *No. 2 oils.* (A) To the extent that a seller does not allocate its increased product costs for No. 2 oil to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased product costs for No. 2 oils may be reallocated to the prices for any general refinery product or products, including propane, or for aviation jet fuel.

(B) Beginning on April 21, 1976, no increased product costs for No. 2 oils may be reallocated to prices for any covered product.

* * * * *

(iv) *Propane.* To the extent that a seller does not allocate its increased product costs for propane to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline or for any other general refinery product (or products), or for both or all of them, in whatever amounts the seller deems appropriate. No increased product costs for propane may be reallocated to the prices for No. 2 oils or for aviation jet fuel.

* * * * *

(3) With respect to each reallocation of increased product costs pursuant to this paragraph, a seller shall:

(i) Determine the increased product cost pursuant to the definition of § 212.92 of the product from which increased product costs are to be reallocated, but without regard to such reallocation, and then adjust downward the amount so determined, for purposes of determining prices of that product, by a per unit amount which is equal to the total dollar amount which is reallocated from such product, divided by the same number of units in inventory as was first used to determine the unadjusted amount of increased product cost of such product, and

(ii) Determine the increased product cost pursuant to the definition of § 212.92 of the product to which increased product costs are to be reallocated, but without regard to such reallocation, which amount may then be adjusted upward, for purposes of determining prices of that product, by a per unit amount which is not more than the total dollar amount which is reallocated to such product, divided by the same number of units in inventory as was first used to determine the adjusted product cost of such product.

* * * * *

[FR Doc.77–22235 Filed 8–2–77;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 77–473]

PART 563—OPERATIONS

Mortgage-Backed Bonds

JULY 27, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This rule revises the Board's mortgage-backed-bond regulation to delegate authority to the Director of the Board's Office of Examinations and supervision to waive eligibility requirements and restrictions pertaining to such bonds. The Federal Home Loan Bank Board, acting in its capacity of operating head of the Federal Savings and Loan Insurance Corporation, believes this change is needed to shorten Board processing time with regard to waiver requests.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 202–376–3556.

SUPPLEMENTARY INFORMATION: The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because the amendment is related to Board management and rules of Board organization, procedures and practice, and (2) publication of said amendment for the 30-day period specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to effective date is unnecessary for the same reason.

Accordingly, 12 CFR Part 563 is amended by adding a new paragraph (g) to § 563.8–2, to read as follows:

§ 563.8–2 Issuance of mortgage-backed bonds.

* * * * *

(g) *Delegation of waiver authority to Director, Office of Examinations and Supervision.* Requests for waiver of eligibility requirements and restrictions prescribed under paragraphs (a) and (b) of this section, and all supporting information, shall be filed with the Supervisory Agent, who shall prepare a report and recommendation on the request to be submitted to the Director, Office of Examinations and Supervision, within 10 business days after receipt of such filing. The Director is authorized, on behalf of the Board, to grant such waiver or waivers if in his opinion the policies, condition, or operation of the requesting institution, relative to the terms of the proposed bond issue, do not afford a basis for supervisory objection thereto. In the event that the Director has not acted favorably on the request within 10 business days after receipt of such materials from the Supervisory Agent, the request shall be submitted for decision by the Corporation and the requesting institution shall be so informed.

(Sec. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77–22307 Filed 8–2–77;8:45 am]

Title 16—Commercial Practices

CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket No. 8847–o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

American General Insurance Co., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final order of divestiture.

SUMMARY: This order, among other things, requires a Houston, Texas insurance company to divest itself completely of the Fidelity & Deposit Co. of Maryland, subject to FTC approval, and prohibits the firm, for a ten-year period, from acquiring any U.S. company engaged in fidelity or surety underwriting, without prior Commission consent.

DATES: Complaint issued June 17, 1971. Final Order issued June 28, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

David I. Wilson, Federal Trade Commission, Bureau of Competition, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1276.

SUPPLEMENTARY INFORMATION: In the Matter of American General Insurance Company, a corporation, respondent, and Fidelity & Deposit Co. of Maryland, a corporation, intervenor. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18.)

The Final Order of divestiture, including further requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is ordered, That the initial decision of the administrative law judge, pages 1–48, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

It is ordered, That:

I.

Respondent, American General Insurance Company (hereinafter "American General"), a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within one year from the date this Order becomes final and subject to prior approval of the Federal Trade Commission, divest absolutely and in good faith, all stock, assets, title properties, interests, rights and privileges, of whatever nature, tangible and intangible, acquired by American General as a result of its acquisition of Fidelity and Deposit Company, together with all contract rights, premiums payable, buildings, improvements, equipment, additions and other property of whatever description which has been added since that acquisition or hereafter shall be added to the property or assets of Fidelity and Deposit Company of Maryland ("Fidelity and Deposit"), so as to restore Fidelity and Deposit as a going concern and effective competitor in the fidelity and surety bond businesses.

II.

By such divestiture none of the assets, properties, title, interest, rights or privileges described in Paragraph I of this Order shall be sold or transferred, directly or indirectly, to any person who is at the time of divestiture an officer, director, employee or agent of or under the control or direction of American General or any of its subsidiary or affiliate corporations, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common and/or preferred stock of American General.

III.

No method, plan or agreement of divestiture to comply with this Order shall be adopted or implemented by American General save upon such terms and conditions as first shall be approved by the Federal Trade Commission.

IV.

Pending divestiture, the assets and business acquired from Fidelity and Deposit shall be maintained and operated as a separate corporation with separate books of account, separate management, separate assets, and separate personnel.

V.

Pending divestiture, no substantial property or other assets of the separate corporation referred to in Paragraph IV herein shall be sold, leased, otherwise disposed of or encumbered, other than in the normal course of business, without the consent of the Federal Trade Commission, and American General shall not commingle any assets owned or controlled by such separate corporation with any assets owned or controlled by American General.

VI.

For the period of three years from the date on which this Order becomes final, no individual employed by Fidelity and Deposit or the separate corporation referred to in Paragraph IV herein shall be employed by American General.

VII.

Pending divestiture, the underwriting departments and selling and management personnel of the separate corporation referred to in Paragraph IV herein and American General shall be conducted independently of each other.

VIII.

Pending divestiture, American General shall maintain the separate corporation referred to in Paragraph IV herein as an independent entity and take no steps to impair such corporation's economic and financial position.

IX.

American General shall forthwith cease any and all representation on the board of directors of Fidelity and Deposit and cease and desist from taking any steps to nominate, seat, or admit any representative of Fidelity and Deposit to the board of directors of American General.

X.

Fidelity and Deposit shall forthwith cease any and all representation on the board of directors of American General and cease and desist from taking any steps to nominate, seat, or admit any representative of American General to the board of directors of Fidelity and Deposit.

XI.

American General shall forthwith cease and desist from acquiring, directly or indirectly, for a period of ten (10) years from the date on which this Order becomes final, without the prior approval of the Federal Trade Commission, the share capital, assets or interest of any corporation engaged in fidelity and/or surety underwriting in the United States.

The provisions of this paragraph shall include any arrangement pursuant to which American General acquires the market share, in whole or in part, of any concern, corporate or noncorporate, which is engaged in fidelity and/or surety underwriting in the United States, (a) through such concern's discontinuing the underwriting of such product lines or (b) by reason of such concern's discontinuing the underwriting of such product lines and thereafter transferring to American General customer and account lists or in any other way making available to American General access to customers or customer accounts.

XII.

Within thirty (30) days from the effective date of this Order and every sixty (60) days thereafter until it has fully complied with Paragraph I of this Order, American General shall submit a verified report in writing to the Federal Trade Commission setting forth in detail the manner and form in which it intends to comply, is complying or has complied therewith. All such reports shall include, in addition to such other information and documentation as may hereafter be requested, (a) a specification of the steps taken by American General to make public its desire to divest Fidelity and Deposit, (b) a list of all persons or organizations to whom notice of divestiture has been given, (c) a summary of all discussions and negotiations together with the identity and address of all interested persons or organizations, and (d) copies of

[1] Copies of the Complaint, Initial Decision, Opinion and Final Order filed with the original document.

all reports, internal memoranda, offers, counter-offers, communications and correspondence concerning said divestiture.

XIII.

American General shall notify the Commission of any proposed change at least 30 days prior to the proposed change in the corporate respondent, American General, such as dissolution, assignment or sale resulting in the emergence of a succesor corporation(s), the creation of dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22303 Filed 8-2-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77-188]

PART 153—ANTIDUMPING

Cast Iron Soil Pipe From Poland; Revocation

Correction

In FR Doc. 77-21538, published at page 38176, in the issue for Wednesday, July 27, 1977, the heading should read as set forth above.

Title 20—Employees' Benefits

CHAPTER VIII—JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

PART 901—REGULATIONS GOVERNING THE PERFORMANCE OF ACTUARIAL SERVICES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

Adoption of Provisions Governing Enrollment of Actuaries and Public Availability of Information

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Final rule.

SUMMARY: This final rule is being adopted for the second time in order to comply with a July 22, 1977, order of the United States Court of Appeals for the District of Columbia in *Sol Tabor* v. *Joint Board for the Enrollment of Actuaries* (No. 76-1947). The Court's order remanded the case to the Board so that it could adopt new rules governing the enrollment of individuals who apply for enrollment before January 1, 1976, accompanied by a contemporaneous statement of basis and purpose as required by section 4(b) of the Administrative Procedure Act, 5 U.S.C. 553(c). This action is intended to comply with the Court's order, to enable interested persons to petition for changes in the rule, and to otherwise insure the present availability of individuals enrolled to perform actuarial services with respect to plans to which the Employee Retirement Income Security Act of 1974 applies.

EFFECTIVE DATE: January 14, 1976.

FOR FURTHER INFORMATION CONTACT:

Forest D. Montgomery, Counselor to the General Counsel, U.S. Department of the Treasury, Washington, D.C. 20220, 202-566-5311.

SUPPLEMENTARY INFORMATION: On July 22, 1977, the United States Court of Appeals for the District of Columbia Circuit held that the Joint Board for the Enrollment of Actuaries failed to comply with § 4(b) of the Administrative Procedure Act (APA) in promulgating its regulations governing enrollment of pre-1976 applicants. *Sol Tabor* v. *Joint Board for the Enrollment of Actuaries* (No. 76-1947). Those regulations, which appear in the FEDERAL REGISTER of January 14, 1976 (41 FR 2080) were vacated and the case "remanded to the Board to enable it to adopt new rules accompanied by a contemporaneous statement of basis and purpose." (As the Court's statement clearly indicates, the Board was directed to adopt new rules, not to initiate a new rulemaking proceeding. See also footnote 14 of the Court's opinion.) The Court held that the Board failed to explain the reasons why it did not adopt a "two-tier" method of enrollment, and also did not explain the basis and purpose of the enrollment requirements it imposed in addition to experience. The purpose of this statement is to remedy the Board's procedural defect in failing to meet the section 4(b) requirement of the APA, 5 U.S.C. 553(c), that an adopting agency "incorporate in the rules adopted a concise general statement of their basis and purpose."

HISTORY OF THE RULES

The Board was established by the Secretary of the Treasury and the Secretary of Labor in February 1975. On March 14, 1975, notice of a public meeting of the Board was published and public comment solicited on implementing section 3042 of the Employee Retirement Income Security Act of 1974 (ERISA). 40 FR 11918. That public meeting was held on March 19, 20, 1975. Proposed rules were issued on May 9, 1975, and comments solicited. 40 FR 20326. A public hearing was held on June 2, 1975. On August 27, 1975, the Board withdrew a substantial portion of the initial proposed rules in deference to widespread criticism. On the same date, a second set of proposed rules was issued to operate as temporary rules so that the Board could begin the enrollment process. 40 FR 38147. Comments were again invited and a hearing scheduled for November 24, 1975; that public hearing was held as scheduled. The proposed rules published in August were adopted as final on January 14, 1976, without substantive changes. 41 FR 2080. (It is the preamble to the final regulations published on January 14, 1976, which the Court found inadequate under section 4(b) of the APA.)

SUBSTANCE OF THE NEW RULES

The new rules which follow supersede those vacated by the Court on July 22, 1977. Following the Court's decision, the Board convened to consider whether substantive changes in those rules were warranted. After reconsidering the regulations vacated, the Board determined to issue new rules which are the same as the regulations vacated. The Board believes that its experience administering the enrollment of pre-1976 applicants has vindicated its rules and that any weakening of the requirements imposed for pre-1976 applicants could affect the actuarial soundness of pension plans serviced by individuals enrolled under weaker rules, possibly to the detriment of the plan participants. Moreover, any such weakening of the rules would be fundamentally unfair to those applicants previously enrolled. In making this decision, the Board was mindful of the Court's admonition that section 3042 of ERISA "reflects Congress' determination that only competent actuaries should be permitted to service private pension plans." (slip opinion, p. 2)

"TWO-TIER" ENROLLMENT SYSTEM

Some commenters suggested that the Board adopt a so-called "two-tier" system of enrollment, i.e., one enrollment standard for actuaries working on smaller and simpler plans who do not possess a high level of actuarial skills, and a second enrollment standard (or second tier) for persons with a high level of actuarial skills examining the larger pension plans. The rules herein adopted do not provide for such a system which, as the legislative history indicates, was to be adopted only if feasible. See Report of the Ways and Means Committee on H.R. 12855, H. Rept. 93-807, 93d Cong., p. 93 (1974). See also House Senate Conference Committee Report, H. Rept. 93-1280, 93d Cong., p. 362 (1974). It is noteworthy that H. Rept. 93-807 also states that actuaries enrolled under ERIS "should meet a reasonable standard of competence * * *."

The Board determined that a "two-tier" enrollment system was not feasible, and the regulations reflect this basic policy decision. There were many reasons for this decision of the Board, but the chief one was the extreme difficulty of formulating standards defining what is a "smaller and simpler plan." The immediate difficulty perceived by the Board was that smaller plans were not necessarily simpler plans. Indeed, on occasion they present difficult actuarial problems unencountered by larger plans. Some of the complicating factors in determining what are "simpler" plans are:

(1) Integration of the plan with social security benefits,

(2) Cost of living adjustments,

(3) Maximum and/or minimum benefit provisions,

(4) Disability benefits,

(5) Liberalized early retirement factors,

(6) Equity variable annuities,

(7) Dependents' income benefits, and

(8) Survivor annuities.

Such complex factors raised serious doubts about the feasibility of adequately defining a "simple" plan.

After regulations were developed, it would have been necessary to decide who would determine whether particular plans qualified as simple plans under the regulations. However, the Joint Board had no staff and no budget, and the staffs and budgets of the Department of Labor and of the Internal Revenue Service were expected to be barely adequate to meet their other responsibilities under ERISA. Even if funds were available, training new people would have put an additional strain on the key knowledgeable people already on hand. In addition, forms would have had to be developed or revised to determine what were smaller and simpler plans.

Prescribing standard tables (which the cited Conference Report recognized as a concomitant of the two-tier system) presented additional problems for which there were no satisfactory solutions, and hence indicated further that a two-tier system was not feasible. Who would have prescribed the standard tables, and on what basis? Would there have been tables using only one set of assumptions prescribed by the Board or would there have been a variety of such tables to choose from? If a variety, would the lower tier actuary have been free to select any of them, and would he have been qualified to make the choice? If only one table was used, would such enrolled actuary have been able to certify that it was his "best estimate" as required by ERISA? Since turnover varies greatly from group to group, how would this have been dealt with in standard tables? What about the variety of salary scales? Would lack of a salary scale or turnover, or use of standard tables, have been considered "reasonable actuarial assumptions" by IRS?

Other considerations also indicated that a two-tier system was not feasible. Regulations defining simple plans might have had socially undesirable effects upon pension plan design. For instance, plans might be structured to exclude benefits upon total disability or other benefits which could result in such plans not being treated as simple plans under the Board's regulations.

While the Board has not adopted a "two-tier" enrollment system in its rules, it has nevertheless effectuated the congressional purpose in suggesting a two-tier system, if it was feasible. The underlying reason for the two-tier proposal was to insure the enrollment of actuaries working on "smaller and simpler" plans who were thought generally not to possess the high level of skills of those actuaries evaluating the larger pension plans. The Board insured enrollment of actuaries not possessing such high skills by imposing an examination requirement, and designing its examinations to test only for the *minimum level of competence* needed to perform the actuarial services now required by ERISA, regardless of the size of the pension plan. Thus, even if the Board had issued regulations embodying an enrollment system setting forth two standards of enrollment, the second-tier enrollment requirements for the actuaries working on "smaller and simpler" plans *would have been the same as the enrollment requirements actually adopted*. In this fashion, the Board avoided the complexities inherent in a two-tier system, which the Board believes make such a system infeasible, and at the same time effectively carried out the intent Congress had in mind in suggesting the "two-tier" system—that actuaries with less than the highest skills who work on smaller and simpler plans should be enrolled.

The actuarial organizations commenting also favored a "one-tier" enrollment system.

ENROLLMENT REQUIREMENTS

Several comments expressed the view that there should be no standards and qualifications for those who apply for enrollment before January 1, 1976 other than experience. The Board has rejected the suggestion that such standards and qualifications be so restricted.

From the beginning the Board has been sensitive to its primary statutory responsibility, to enroll only those individuals competent to provide the actuarial services now required by ERISA. The major policy decision facing the Board was how to formulate reasonable standards and qualifications to insure enrollment only of those applicants meeting "a reasonable standard of competence." See H. Rept. 93-807, 93d Cong., 93 (1974).

The Board considered the problems inherent in basing its enrollment standards solely on the statutorily mandated experience requirement. (Section 3042 of ERISA provides that the Board's standards and qualifications for pre-1976 applicants shall include a requirement for "an appropriate period of responsible actuarial experience relating to pension plans.") The problems an experience-only standard would have engendered were manifest. A procedure confined to an analysis of experience alone would have necessarily had to rely to a great extent on the application (and any accompanying materials) of the individual applying for enrollment, particularly if the applicant was self-employed. The Board believed that applicants, in their own self-interest, could understandably be expected to paint as favorable a picture as possible of their actuarial experience. In some cases, that self-interest could be expected to exceed the bounds of candor. This would place applicants who described their experience in more mundane or humble terms at a disadvantage.

Nor would employer verifications or the statements of contemporaries of the applicant be immune from human frailty. An employer, asked to verify an applicant's experience and to express an opinion as to the worth of that experience, might be biased for or against the applicant. In any event, the employer's opinion would be inherently subjective and lead to varying evaluations of candidates with equal qualifications.

The problem reduced to the fact that if the Board were to rely on experience alone as the single criterion for enrollment, its decision would necessarily rest to a great extent on the application on its face and any employer's verification of the applicant's experience. The Board believed that basing its judgments on such inherently subjective information would prevent it from fulfilling its responsibility to enroll only those actuaries who had demonstrated a minimum level of competence.

Accordingly, the Board made the basic policy decision that the reasonable standards and qualifications for enrollment would include requirements designed to provide the Board with more objective evidence of each applicant's actuarial competence.

These standards are designed to afford an applicant the opportunity to objectively demonstrate his/her competence. They are set out in § 901.12 of the regulations published at the end of this statement. Without repeating the details of those rules, they may be said to require college-level education in the actuarial science field, or the passing of a proctored examination of certain actuarial organizations, or the passing of a Board examination.

The Board considered that an applicant who could meet any one of these alternative requirements would have objectively demonstrated a minimum level of competence. Although the level of competence thus demonstrated would vary to some extent with the academic courses taken, the school attended, or the proctored examinations of actuarial organizations taken and passed, the purpose of the Board in imposing these additional requirements was only to provide the Board with an objective demonstration of at least a minimum level of competence, and it was therefore immaterial if the applicant's level of competence exceeded the minimum required. That these requirements are reasonable is indicated by the opinion of the court in *Rasulis* v. *Weinberger*, 502 F. 2d 1006 (7th Cir. 1974), in which requirements similar to those imposed by the Board for pre-1976 applicants were upheld.

The examination and education requirements imposed by the Board for pre-1976 applicants are not substantially the same as the requirements it has imposed for those who apply on or after January 1, 1976. This can best be explained by a comparison of the two sets of requirements, which follows:

Pre-January 1, 1976	*On and after January 1, 1976*
Bachelor's or higher degree in which the major area of concentration was (1) actuarial science or (2) mathematics, statistics, or computer science and at least 6 semester hours or 9 quarter hours of life contingencies.	Bachelor's or higher degree (1) in which the major area of concentration was actuarial mathematics, or (2) which included at least as many semester hours or quarter hours each in mathematics, statistics, actuarial mathematics and other subjects as the Board determines represent equivalence to a major area of concentration in actuarial mathematics; and either the Board pension examination or a proctored pension examination of an actuarial organization, as described below.
[*or*]	[*or*]
One Board examination in actuarial mathematics and methodology related to pension plans, including the funding requirements of ERISA.	Two Board examinations: a basic examination in basic actuarial mathematics and methodology including compound interest, principles of life contingencies, commutation functions, multiple-decrement functions, and joint life annuities; and a pension examination in actuarial mathematics and methodology relating to pension plans, including the provisions of ERISA relating to the minimum funding requirements and allocation of assets on plan termination.
[*or*]	[*or*]
Protored examination of actuarial organizations to attain designated classes of membership therein.	Proctored basic examination(s) of actuarial organizations adequate in terms of passing score, subject areas covered, and level of difficulty to the basic examination of the Board; and proctored pension examination(s) adequate in terms of passing score, subject areas covered, and level of difficulty to the pension examination of the Board.

As previously mentioned, the Board designed its examination for pre-1976 applicants to test only for the minimum level of competence. Board examinations for 1977 and future years will be considerably more difficult. This comparison demonstrates that the Board has not applied substantially the same standards to pre-1976 applicants and post-1975 applicants.

The Board has of this date enrolled 2,535 actuaries who applied for enrollment before January 1, 1976. Of these 700 were enrolled, in part, on the basis of passing one of the three examinations administered by the Board. While these statistics may not relate directly to the basis and purpose of the rules adopted by the Board, they afford some evidence that the Board's enrollment process has proven workable; that the Board has enrolled an ample number of actuaries to perform services under ERISA; that in practice the enrollment requirements imposed have proven to be a reasonable method for assessing the experience and competence of actuaries; and that these requirements have served as a sound basis for the decisionmaking which is necessarily a part of the enrollment process.

The Board has made every effort in this statement to comply with the letter and spirit of section 4(b) of the APA so that any interested person can file an intelligent petition under 5 U.S.C. 553(e) for repeal of any provisions of the new rules. However, any interested person who is unable, after reading this statement, to file an intelligent petition for reconsideration of any provision in the Board's new rules, should write the Board explaining the deficiencies so that an amended statement can be issued forthwith if the criticisms made have merit. Since there may be further litigation on the issues raised in the *Sol Tabor* case, the Board has endeavored to prepare a statement which will explain regulatory requirements that have been imposed by the Board in addition to the statutory experience requirement.

In view of the above, Title 20 CFR Parts 901 and 902 are adopted as follow:

Dated: July 29, 1977.

FOREST D. MONTGOMERY,
Acting Chairman, Joint Board for the Enrollment of Actuaries.

Sec.

901.0 Scope.

Subpart A—Definitions and Eligibility To Perform Actuarial Services

901.1 Definitions.
901.2 Eligibility to perform actuarial services.

Subpart B—Enrollment of Actuaries

901.10 Application for enrollment.
901.11 Enrollment procedures.
901.12 Eligibility for enrollment of individuals applying for enrollment before January 1, 1976.
901.13 Eligibility for enrollment of individuals applying for enrollment on or after January 1, 1976.

Subpart C—Standards of Performance for Enrolled Actuaries

901.20 Standards of performance of actuarial services.

Subpart D—Suspension and Termination of Enrollment [Reserved]

Subpart E—General Provisions

901.40 Special orders.

AUTHORITY: Sec. 3042, Subtitle C, title 3, Employee Retirement Income Security Act of 1974. (88 Stat. 1002, 29 U.S.C. 1241, 1242).

§ 901.0 Scope.

This part contains rules governing the performance of actuarial services under the Employee Retirement Income Security Act of 1974, hereinafter also referred to as ERISA. Subpart A of this Part sets forth definitions and eligibility to perform actuarial services; Subpart B of this Part sets forth rules governing the enrollment of actuaries; Subpart C of this Part sets forth standards of performance to which enrolled actuaries must adhere; Subpart D of this Part is reserved and will set forth rules applicable to suspension and termination of enrollment; and Subpart E of this Part sets forth general provisions.

Subpart A—Definitions and Eligibility To Perform Actuarial Services

§ 901.1 Definitions.

As used in this Part, the term:

(a) "Actuarial experience" means the performance of, or the direct supervision of, services involving the application of principles of probability and compound interest to determine the present value of payments to be made upon the fulfillment of certain specified conditions or the occurrence of certain specified events.

(b) "Responsible actuarial experience" means actuarial experience:

(1) Involving participation in making determinations that the methods and assumptions adopted in the procedures followed in actuarial services are appropriate in the light of all pertinent circumstances, and

(2) Demonstrating a thorough understanding the principles and alternatives involved in such actuarial services.

(c) "Month of responsible actuarial experience" means a month during which the actuary spent a substantial amount of time in responsible actuarial experience.

(d) "Responsible pension actuarial experience" means responsible actuarial experience involving valuations of the liabilities of pension plans, wherein the performance of such valuations requires the application of principles of life contingencies and compound interest in the determination, under one or more standard actuarial cost methods, of such of the following as may be appropriate in the particular case:

(1) Normal cost.

(2) Accrued liability.

(3) Payment required to amortize a liability or other amount over a period of time.

(4) Actuarial gain or loss.

(e) "Month of responsible pension actuarial experience" means a month during which the actuary spent a substantial amount of time in responsible pension actuarial experience.

(f) "Applicant" means an individual who has filed an application to become an enrolled actuary.

(g) "Enrolled actuary" means an individual who has satisfied the standards and qualifications as set forth in this part and who has been approved by the Joint Board (or its designee) to perform actuarial services required under ERISA or regulations thereunder.

(h) "Actuarial services" means performance of actuarial valuations and preparation of any actuarial reports.

§ 901.2 Eligibility to perform actuarial services.

(a) *Enrolled actuary.* Subject to the standards of performance set forth in Subpart C of this part, any individual who is an enrolled actuary as defined in § 901.1(g) may perform actuarial services required under ERISA or regulations thereunder. Where a corporation, partnership, or other entity is engaged to provide actuarial services, such services may be provided on its behalf only by an enrolled actuary who is an employee, partner or consultant.

(b) *Government officers and employees.* No officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia, may perform actuarial services required under ERISA or regulations thereunder if such services would be in violation of 18 U.S.C. 205. No Member of Congress or Resident Commissioner (elect or serving) may perform such actuarial services if such services would be in violation of 18 U.S.C. 203 or 205.

(c) *Former government officers and employees*—(1) *Personal and substantial participation in the performance of actuarial services.* No former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, shall perform actuarial services required under ERISA or regulations thereunder or aid or assist in the performance of such actuarial services, in regard to particular matters, involving a specific party or parties, in which the individual participated personally and substantially as such officer or employee.

(2) *Official responsibility.* No former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, shall, within 1 year after his employment has ceased, perform actuarial services required under ERISA or regulations thereunder in regard to any particular matter involving a specific party or parties which was under the individual's official responsibility as an officer or employee of the Government at any time within a period of 1 year prior to the termination of such responsibility.

Subpart B—Enrollment of Actuaries

§ 901.10 Application for enrollment.

(a) *Form.* As a requirement for enrollment, an applicant shall file with the Executive Director of the Joint Board a properly executed application on a form or forms specified by the Joint Board, and shall agree to comply with the regulations of the Joint Board.

(b) *Additional information.* The Joint Board or Executive Director, as a condition to consideration of an application for enrollment, may require the applicant to file additional information and to submit to written or oral examination under oath or otherwise.

(c) *Denial of application.* If the Joint Board proposes to deny an application for enrollment, the Executive Director shall notify the applicant in writing of the proposed denial and the reasons therefor, of his rights to request reconsideration, of the address to which such request should be made and the date by which such request must be made. The applicant may, within 30 days from the date of the written proposed denial, file a written request for reconsideration therefrom, together with his reasons in support thereof, to the Joint Board. The Joint Board may afford an applicant the opportunity to make a personal appearance before the Joint Board. A decision on the request for reconsideration shall be rendered by the Joint Board as soon as practicable. In the absence of a request for reconsideration within the aforesaid 30 days, the proposed denial shall, without further proceeding, constitute a final decision of denial by the Joint Board.

§ 901.11 Enrollment procedures.

(a) *Enrollment.* The Joint Board shall enroll each applicant it determines has met the requirements of these regulations and shall so notify the applicant. Each enrollment shall be valid for a period of five years from its date or the date of any renewal thereof. Subject to the provisions of Subpart D of this Part, an enrollment shall, upon application made not more than six months before the date of the expiration of its original period or any renewal thereof, be automatically renewed for a period of five years from such date.

(b) *Enrollment certificate.* The Joint Board (or its designee) shall issue a certificate of enrollment to each actuary who is duly enrolled under this part.

(c) *Rosters.* The Executive Director shall maintain rosters of all actuaries who are duly enrolled under this part and of all individuals whose enrollment has been suspended or terminated.

§ 901.12 Eligibility for enrollment of individuals applying for enrollment before January 1, 1976.

(a) *In general.* An individual applying before January 1, 1976, to be an enrolled actuary must fulfill the experience requirements of paragraph (b) of this section and either the examination requirements of paragraph (c) of this section or the educational requirements of paragraph (d) of this section.

(b) *Qualifying experience.* Within a 15 year period immediately preceding the date of application, the applicant shall have completed either:

(1) A minimum of 36 months of responsible pension actuarial experience, or

(2) A minimum of 60 months of responsible actuarial experience, including at least 18 months of responsible pension actuarial experience.

(c) *Examination requirement.* The applicant shall satisfactorily complete the Joint Board examination requirement of paragraph (c)(1) of this section or the organization examination requirement of paragraph (c)(2) of this section.

(1) *Joint Board examination.* To satisfy the Joint Board examination requirement, the applicant shall have completed, to the satisfaction of the Joint Board, an examination prescribed by the Joint Board in actuarial mathematics and methodology related to pension plans, including the funding requirements of ERISA.

(2) *Organization examination.* (i) To satisfy the organization examination requirement, the applicant shall, before March 1, 1975, have attained by proctored examination one of the following classes of qualification in one of the following organizations:

(A) Member of the American Academy of Actuaries,

(B) Fellow or Member of the American Society of Pension Actuaries,

(C) Fellow or Associate of the Casualty Actuarial Society,

(D) Fellow or Member of the Conference of Actuaries in Public Practice,

(E) Fellow or Associate of the Society of Actuaries, or

(F) A class attained by proctored examination in any other actuarial organization in the United States or elsewhere if the Joint Board determines that the subject matter included in such examination, complexity of questions, and the minimum acceptable qualifying score are at least comparable to proctored examinations administered by any of the above organizations before March 1, 1975; or

(ii) On or after March 1, 1975, the applicant shall have attained one of the classes of qualification specified in paragraph (c)(2)(i) of this section, the attainment of such qualification having been by proctored examination under requirements determined by the Joint Board to be of not lower standards than the requirements for qualification during the 12 months immediately preceding March 1, 1975.

(d) *Qualifying formal education.* Prior to filing an application, the applicant shall have satisfied one of the following educational requirements:

(1) Received a bachelor's or higher degree from an accredited college or university, such degree having been granted after the satisfactory completion of a course of study in which the major area of concentration was actuarial science, or

(2) Received a bachelor's or higher degree from an accredited college or uni-

versity, such degree having been granted after the satisfactory completion of a course of study in which the major area of concentration was mathematics, statistics, or computer science, and shall have successfully completed at least 6 semester hours or 9 quarter hours of courses in life contingencies at an accredited college or university.

(e) *Disreputable conduct.* The applicant may be denied enrollment if it is found that he/she, after his/her eighteenth birthday, has:

(1) Engaged in any conduct evidencing fraud, dishonesty or breach of trust; or

(2) Been convicted of any of the offenses referred to in section 411 of ERISA; or

(3) Submitted false or misleading information on an application for enrollment to perform actuarial services or in any oral or written information submitted in connection therewith or in any report presenting actuarial information to any person, knowing the same to be false or misleading.

§ 901.13 Eligibility for enrollment of individuals applying for enrollment on or after January 1, 1976.

Subpart C—Standards of Performance for Enrolled Actuaries

§ 901.20 Standards of performance of actuarial services.

In the discharge of duties required by ERISA of enrolled actuaries with respect to any plan to which the Act applies:

(a) *In general.* An enrolled actuary shall undertake an actuarial assignment only when qualified to do so.

(b) *Professional duty.* An enrolled actuary shall not perform actuarial services for any person or organization which he/she believes or has reasonable grounds for believing may utilize his/her services in a fraudulent manner or in a manner inconsistent with law.

(c) *Advice or explanations.* An enrolled actuary shall provide to the plan administrator upon appropriate request, supplemental advice or explanation relative to any report signed or certified by such enrolled actuary.

(d) *Conflicts of interest.* In any situation in which the enrolled actuary has a conflict of interest with respect to the performance of actuarial services, of which the enrolled actuary has knowledge, he/she shall not perform such actuarial services except after full disclosure has been made to the plan trustees, any named fiduciary of the plan, the plan administrator, and, if the plan is subject to a collective bargaining agreement, the collective bargaining representative.

(e) *Assumptions, calculations and recommendations.* The enrolled actuary shall exercise due care, skill, prudence and diligence to ensure that:

(1) The actuarial assumptions are reasonable in the aggregate, and the actuarial cost method and the actuarial method of valuation of assets are appropriate,

(2) The calculations are accurately carried out, and

(3) The report, any recommendations to the plan administrator and any supplemental advice or explanation relative to the report reflect the results of the calculations.

(f) *Report or certificate.* An enrolled actuary shall include in any report or certificate stating actuarial costs or liabilities, a statement or reference describing or clearly identifying the data, any material inadequacies therein and the implications thereof, and the actuarial methods and assumptions employed.

(g) *Utilization of enrolled actuary designation.* An enrolled actuary shall not advertise his/her status as an enrolled actuary in any solicitation related to the performance of actuarial services, and shall not employ, accept employment in partnership, corporate, or any other form, or share fees with, any individual or entity who so solicits. However, the use of the term "enrolled actuary" to identify an individual who is named on the stationery, letterhead or business card of an enrolled actuary, or of a partnership, association, or corporation shall not be considered in violation of this section. In addition, the term "enrolled actuary" may appear after the general listing of an enrolled actuary's name in a telephone directory provided such listing is not of a distinctive nature.

Subpart D—Suspension and Termination of Enrollment [Reserved]

Subpart E—General Provisions

§ 901.40 Special orders.

The Joint Board reserves the power to issue such special orders as it may deem proper in any cases within the scope of this Part.

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

Sec.
902.1 Scope.
902.2 Definitions.
902.3 Published information.
902.4 Access to records.
902.5 Appeal.

AUTHORITY: Sec. 3042, Subtitle C, Title 3, Employee Retirement Income Security Act of 1974. (88 Stat. 1002, 29 U.S.C. 1241, 1242).

This Part is issued by the Joint Board for the Enrollment of Actuaries (the "Joint Board") pursuant to the requirements of section 552 of Title 5 of the United States Code, including the requirements that every Federal agency shall publish in the FEDERAL REGISTER, for the guidance of the public, descriptions of the established places at which, the officers from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

§ 902.2 Definitions.

(a) *"Records of the Joint Board."* For purposes of this Part, the term "records of the Joint Board" means rules, statements, opinions, orders, memoranda, letters, reports, accounts and other papers containing information in the possession of the Joint Board that constitute part of the Joint Board's official files.

(b) *"Unusual Circumstances."* For purposes of this Part, "unusual circumstances" means, but only to the extent reasonably necessary for the proper processing of the particular request:

(1) The need to search for and collect the requested records from other establishments that are separate from the Joint Board's office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 902.3 Published information.

(a) FEDERAL REGISTER. Pursuant to sections 552 and 553 of Title 5 of the United States Code, and subject to the provisions of § 902.5, the Joint Board publishes in the FEDERAL REGISTER for the guidance of the public, in addition to this Part, descriptions of its organization and procedures, substantive rules of general applicability, and, as may from time to time be appropriate, statements of general policy, and interpretations of general applicability.

(b) *Other published information.* From time to time, the Joint Board issues statements to the press relating to its operations.

(c) *Obtaining printed information.* If not available through the Government Printing Office, printed information released by the Joint Board may be obtained without cost from the Executive Director of the Joint Board ("Executive Director").

§ 902.4 Access to records.

(a) *General rule.* All records of the Joint Board, including information set forth in section 552(a)(2) of Title 5 of the United States Code, are made available to any person, upon request, for inspection and copying in accordance with the provisions of this section and subject to the limitations stated in section 552(b) of Title 5 of the United States Code. Records falling within such limitations may nevertheless be made available in accordance with this section to the extent consistent, in the judgment of the Chairman of the Joint Board ("Chairman"), with the effective performance of the Joint Board's statutory responsibilities and with the avoidance of injury to a public or private interest intended to be protected by such limitations.

(b) *Obtaining access to records.* Records of the Joint Board subject to this section are available by appointment for public inspection or copying during regular business hours on regular business days at the office of the Executive Director. Every request for access to such records, other than published records described in § 902.3, shall be signed and submitted in writing to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220, shall state the name and address of the person requesting such access, and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty.

(c) *Fees.* A fee at the rate of $5.00 per hour or fraction thereof or the time required to locate such records, plus ten cents per standard page for any copying thereof, shall be paid by any person requesting records other than published records described in § 902.3. In addition, the cost of postage and any packaging and special handling shall be paid by the requester. Documents shall be provided without charge or at a reduced charge where the Chairman determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(d) *Actions on requests.* The Executive Director shall, within ten days (excepting Saturdays, Sundays and legal public holidays) from receipt of request, determine whether to comply with such request for records and shall immediately notify in writing the person making such request of such determination and the reason therefor, and of the right of such person to appeal any adverse determination, as provided in § 902.5. In unusual circumstances, the time limit for the determination may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which the determination is expected to be dispatched. No such notice shall specify a date that will result in an extension of more than ten working days.

§ 902.5 Appeal.

(a) Any person denied access to records requested under § 902.4, may within thirty days after notification of such denial, file a signed written appeal to the Joint Board. The appeal shall provide the name and address of the appellant, the identification of the records denied, and the dates of the original request and its denial.

(b) The Joint Board shall act upon any such appeal within twenty days (excepting Saturdays, Sundays and legal public holidays) of its receipt, unless for unusual circumstances the time for such action is deferred, subject to § 902.4(b), for not more than ten days. If action upon any such appeal is so deferred, the Joint Board shall notify the requester of the reasons for such deferral and the date on which the final reply is expected to be dispatched. If it is determined that the appeal from the initial denial shall be denied (in whole or in part), the requester shall be notified in writing of the denial, of the reasons therefor, of the fact the Joint Board is responsible for the denial, and of the provisions of section 552(a)(4) of Title 5 of the United States Code for judicial review of the determination.

(c) Any extension or extensions of time under §§ 902.4(d) and 902.5(b) shall not cumulatively total more than ten days (excepting Saturdays, Sundays and legal public holidays). If an extension is invoked in connection with an initial determination under § 902.4(d), any unused days of such extension may be invoked in connection with the determination on appeal under § 902.5(a), by written notice from the Joint Board.

[FR Doc.77-22325 Filed 7-29-77;4:42 pm]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-334]

Tax Exemption of Obligations of Public Housing Agencies and Related Amendments

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This regulation sets forth the conditions and procedures for HUD approval for the issuance of tax exempt obligations to finance Section 8 New Construction or Substantial Rehabilitation projects. The purpose is to clarify the existing regulation and to provide the requisite controls to carry out the purposes of the Federal tax exemption in relation to the provision of housing for lower-income families and persons under section 8 of the United States Housing Act.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, D.C. 20410, 202-755-6703:

COMMENT DUE DATE: September 1, 1977. Comments should be filed with the Rules Docket Clerk.

EFFECTIVE DATE: August 3, 1977. Where all required HUD approval for tax exemptions under the Part 811 Subpart A regulations effective May 27, 1975, were issued prior to the effective date of these revised regulations, no further processing under these revised regulations is required even if the obligations have not been issued prior to the effective date of these revised regulations. If any HUD approvals pursuant to these revised regulations are required, such approval may be requested provided that the applicant complies with all provisions of these revised regulations.

FOR FURTHER INFORMATION CONTACT:

Joseph Burstein, Counsel to the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6480.

SUPPLEMENTARY INFORMATION: The Department gave notice on March 18, 1977, at 42 FR 15232 proposing to amend Title 24 of the Code of Federal Regulations by revising § 811.209(b). The comment period closed April 5, 1977.

By the deadline, the Department had received 22 comments from outside sources and three from its own offices in response to the March 18, 1977 publication. All comments including those received after the deadline were carefully considered, and changes have been made to the proposed regulations to reflect these comments as well as other changes in the proposed regulation, certain of which are technical clarification, others of which are substantive in nature and in the Secretary's judgment should be the subject of further public participation. The specific provisions on which the Secretary invites further comment are:

(1) Section 811.106(a)(4) includes a provision requiring that the loan on a project involving a profit-motivated owner may not exceed 90 percent of the reasonable development cost.

(2) Payment of Debt Service is permitted in the case of a physically completed project before all requirements for accepting the project (including EO requirements relating to construction) may have been met. However, full payments to the owner under the HAP Contract will not be made until all conditions applicable to full acceptance of the project are satisfied. Also, rent-up and occupancy are subject to such conditions, including those relating to EO and managerial responsibilities, as HUD may require. See § 811.108(b)(4).

(3) In order to further assure that the purpose of tax exemption, whether granted under the U.S. Housing Act of 1937 or by virtue of Section 103 of the Treasury Department's Regulations, 31 CFR Part 103, is carried out, the Regulation expands the conditions imposed with respect to tax exemption under Section 103 to include requirements relating to: (1) The amount of permanent obligations and the term of the HAP Contract; (2) Interim financing; and (3) Use of Project revenues. See §§ 880.115 and 881.115.

Changes described in items (1), (2), and (3) above are being made effective as part of Part 811; however, interested persons are invited to file comments, views and suggestions with respect to these changes. All comments should be filed with the office of Rules Docket Clerk.

Copies of all comments received will be available for inspection and copying in the Office of the Rule Docket Clerk.

All comments received will be considered before the Secretary adopts the changes described in items (1), (2), and (3) above on a final basis.

The Secretary finds that good cause exists for making the rule effective upon publication because of the many projects whose financing is being delayed pending this publication.

The prime direction of these regulatory changes is to provide a practical vehicle for financing section 8 housing with a type of security that will achieve the lowest possible interest cost, provent the abuses of the financing of the section 23 (predecessor to Section 8) program and promote the integrity of the Section 8 program. Although this Regulation basically applies to tax exemption under Section 11(b) of the United States Housing Act of 1937, certain of its provisions are made applicable even where the exemption is established pursuant to Section 103(b) of the Treasury Regulations.

This application is being made in order to assure that the provisions of the Regulation are not evaded by obtaining the exemption under Treasury Regulation as opposed to Part 811. The authority to make this requirement is pursuant to HUD's obligation and authority under Section 8 Regulations to approve the terms and conditions of financing of Section 8 projects.

These amendments do not establish any new authority to provide tax-exempt financing of Section 8 projects. All of the activities permitted by this Regulation have in the past been carried out under the previous Administration. This amendment will simply tighten up those existing methods of Section 8 tax exempt financing which have been in effect since October 30, 1975.

The policy implications concerning tax-exempt vs. taxable bond financing are not meant to be resolved by these amendments. In the coming months the Department, along with the Treasury Department, will be reviewing the current uses of tax-exempt financing in connection with housing. The type of section 8 tax-exempt financing covered by this Regulation, as well as by regulations and rulings of the Internal Revenue Service, will be included in that review.

Briefly, obligations, in order to be tax exempt under this Regulation, must be issued by a PHA (including an agency or instrumentality PHA) in connection with a Section 8 project approved by HUD, in an amount and on terms and conditions approved by HUD. Section 811.104 sets forth the provisions pertaining to an application to HUD for approval as a PHA, and § 811.105 sets forth the provisions pertaining to an application to HUD for approval as an agency or instrumentality. An agency or instrumentality may be created by the parent PHA, or it may be otherwise created, so long as the creation of the agency or instrumentality and its utilization by the parent are not prohibited by state law. Its activities must be limited to carrying out or assisting in carrying out one or more low-income housing projects, and the assistance may consist only of borrowing and lending funds for the project. Section 811.105 also sets forth provisions concerning the relationship between the parent and the agency or instrumentality.

Under § 811.106, the amount of permanent tax-exempt obligations outstanding for a project may not exceed the estimated reasonable development cost of the project as determined by HUD, less any equity investment plus the reasonable expenses of issuing the obligations, capitalized interest on the permanent obligations during construction, and a reserve for debt service. HUD will prescribe terms and conditions to assure continued operation of the project in the manner contemplated by the HAP Contract.

Under § 811.107, the proceeds of the permanent obligations must be placed in escrow, to be disbursed only upon completion of the project and execution of a HAP Contract covering the project except for prior disbursements for capitalized interest. In the event of failure to complete the project, the escrowed funds are used to redeem the obligations.

Section 811.108 contains the provisions pertaining to tax exemption for interim obligations. This section also makes it explicit that the risk of completion of the project is on the interim lender and/or owner, rather than holders of the permanent obligations. Provisions are also included, however, for PHA inspections during construction; for making the HAP Contract effective as of the date when HUD is required to inspect the project for completion, assuming that the inspection when made finds it to have been acceptable; and for execution of a HAP Contract after acceptable physical completion, even though other conditions to execution of the Contract have not been met, with the limitation that the HAP payments be limited to the debt service requirements.

Section 811.108 imposes certain requirements with regard to the use of project revenues.

Section 811.110 provides that after HUD finds that all the necessary approvals pursuant to this regulation and other applicable regulations have been made, and that an Agreement to Enter Into a HAP Contract or HAP Contract has been executed, HUD shall issue a notification of approval of tax exemption and that this notification shall not be subject to revocation by HUD.

A discussion of the changes and the more recurrent and significant comments is set forth below. The section numbers refer to the numbers as contained in the final regulations except for several references to the section numbers in the proposed rule where necessary to understand a particular explanation.

CHANGES IN PART 811 SUBPART A

1. Section 811.101 has been retitled Purpose and Scope, and the scope of Part 811, Subpart A, has been explicitly restricted to Section 8 projects pursuant to 24 CFR Parts 880, 881 and 883. Language has also been added to indicate that tax exemption pursuant to section 11(b) in connection with other low-income housing projects are not subject to this subpart. These are clarifications, since the intent of the regulation was to cover only Section 8 projects. The title of Subpart A was changed for the same reason.

2. Section 811.102 has been expanded to include definitions of a number of additional key terms. The newly defined terms are: (a) Agency or Instrumentality, (b) Development Cost, (c) Expenses of Issuing the Obligations, (d) HAP Contract, (e) Parent Entity, and (f) Trustee. The definition of Development Cost includes inspections by PHAs during construction. The definition of Obligations has been clarified to indicate that bonds and notes can be issued for either permanent or interim financing. The definition of Secretary has been deleted because the term HUD is used throughout. A sentence was added to the definition of Obligations to note the exclusion of the obligations of a public housing agency as mortgagor (this exclusion is required by section 319(b) of the Housing and Community Development Act of 1974).

3. Section 811.103(a) has been revised to include the statement contained in section 11(b) that the income derived by the PHA from the project is exempt from taxation.

4. Language has been added to § 811.103(b)(1) directing specific attention to the provisions of the section 8 regulations concerning contract rent reduction to reflect savings as a result of tax-exempt financing.

5. Section 811.103(b)(4) has been added to require HUD approval of the terms and conditions of the financing under these regulations and other applicable HUD regulations, such as § 880.125 of the Section 8 New Construction regulation.

6. Section 811.104 has been rearranged for clarification. In addition, the section now provides that, in the absence of evidence to the contrary, certain evidence shall be considered satisfactory to HUD.

There was a comment suggesting that the regulation make it clear that a Participating Agency under 24 CFR 883.103 qualifies as a PHA. Accordingly, a provision has been added to § 811.104 that where the applicant is such a Participating Agency, it should include with its application a statement that it has been previously approved as a Participating Agency under Part 883.

7. Section 811.104(b), requiring that subsequent amendments must also be approved by HUD, makes explicit a requirement that was intended under the proposed rule.

8. A new § 811.105, Approval of Agencies or Instrumentalities, has been provided. The material in § 811.104(b) of the proposed rule has been moved to the new section, thus consolidating all material on eligibility of an agency or instrumentality into one section.

Since both the parent and the agency or instrumentality must qualify as PHAs, § 811.105(a)(2) provides that each must meet all the requirements specified in § 811.104.

There was a misunderstanding that an agency or instrumentality may only undertake a single project. Although an agency or instrumentality must be limited in its activities to low-income housing projects, it may perform such activities in connection with more than one such project. Another question was whether the agency or instrumentality had to be the owner of the project, or whether its activities could be limited to providing the financing. Accordingly, the words "carrying out a low-income housing project" have been changed to "carrying out or assisting in carrying out a low-income housing project(s) (including assistance by borrowing and lending funds)" (§ 811.105(a)(2)(iv)).

With respect to both §§ 811.104 and 811.105 there were questions as to what is "sufficient evidence" to establish that an entity is a PHA or an agency or instrumentality, and it was suggested that a certification of counsel should be sufficient. To clarify HUD's position on this point, the term "sufficient evidence" has been changed to "evidence satisfactory to HUD". The opinion of counsel must be an "opinion of counsel acceptable to HUD."

9. Section 811.105(b) includes, with some changes, the provisions contained in § 811.104(b)(3) of the proposed rule, except for the provisions concerning the escrow and use of the proceeds of the obligations. The latter provisions should not have been placed under a heading referring only to agencies and instrumentalities because these provisions were intended to apply to all tax exempt permanent obligations of a PHA, whether or not the PHA is an agency or instrumentality. Accordingly, the provisions concerning the escrow and use of the proceeds of the permanent obligations are now set forth in a separate § 811.107, entitled Use of Proceeds of Permanent Obligations.

10. The first four of the provisions concerning the relationship between the agency or instrumentality and the parent entity are now characterized as "provisions requiring * * *", in order to make it clear that the requirement for HUD approval of tax exemption is the inclusion of provisions in the charter and/or other relevant documents. The continuing effect of the tax exemption is not dependent upon subsequent compliance with these provisions. Other changes in these provisions are the following:

(a) The charter or other organic document must provide that any amendments are subject to approval by HUD, as well as by the parent entity (§ 811.105(b)(1)).

(b) The documents must contain provisions requiring approval by the parent entity of each project, as well as of the projected program and expenditures of the agency or instrumentality (§ 811.105(b)(2)).

(c) The provision requiring approval by the parent entity of each issue of obligations not more than 60 days prior to the date of issue was misinterpreted as meaning that if there are any amendments the issue must be postponed for 60 days. To avoid such misunderstanding, a provision was added indicating that amendments may be approved at any time prior to the issuance of the obligations (§ 811.105(b)(3)).

(d) The provision requiring annual review by the parent entity of the activities and financial statements of the agency or instrumentality has been strengthened by requiring a financial audit, a review by the parent entity of the audit and of the activities of the agency or instrumentality, and the submission of a copy of the audit and review to HUD (§ 811.105(b)(4)).

11. A number of comments misinterpreted clause (vi) of § 811.104(b)(3) of the proposed rule (now § 811.105(b)(9) and (10)) as requiring that arrangements for transfer of title to the parent entity must be made in all cases. This was not the intent. The parent must agree in advance to accept title only in the following circumstances:

(a) In the event of dissolution of the agency or instrumentality.

(b) Where the parties have agreed that provision should be made in conjunction with the issuance of the obligations for title to be conveyed to the parent entity under specified circumstances. The inclusion or noninclusion of such provisions, however, in conjunction with the issuance of the obligations is not required by the regulations.

(c) In a third situation (discussed under comment 13(b) below), for the purpose of assuring continued operation of the project in the manner contemplated by the HAP Contract.

The foregoing intent has been clarified by incorporating specific references to the three situations, rearranging the provisions and changing the opening words of the former clause (vii) to indicate more explicitly that it is not a mandatory requirement.

12. A number of comments expressed the view that the provisions of the former clause (vii) (now § 811.105(b)(6)) were unduly rigid and restrictive particularly for cases involving syndicated ownership. Specifically, it was recommended that conveyance to the parent or another PHA be permitted, that the time or circumstances for the conveyance be for determination by the parties at the time the arrangements for financing are made, that conveyance of less than fee simple title might be appropriate in some situations (as where the agency or instrumentality holds only a lender's interest or a leasehold); and that arrangements other than escrow of title documents should be permissible. It was also pointed out that the provision requiring that the title be free of all encumbrances should make an exception for tenant leases. All of these recommendations have been incorporated by suitable language changes. In permitting alternatives to the escrow arrangement, the new language states that the alternative must provide comparable assurance of performance and must be approved by HUD.

13. Section 811.106 contains several important changes as follows:

(a) Paragraph (a)(1) states that the amount of outstanding permanent obligations tax-exempt under the regulation shall not exceed the estimated reasonable development cost of the low-income housing project as determined by HUD, less any equity investment, plus certain other amounts. (The words "less any equity investment" would be applicable in the case of a project where the Owner is making an equity investment toward the approved development cost). A new § 811.106(a)(2) make provisions for the issuance of additional obligations to finance additional development cost. Under these provisions, if the original issuance is in the full amount of the approved development cost, no additional tax-exempt obligations could be issued for the same project unless it is established to the satisfaction of HUD that the additional amount is needed for additional development cost and that this increase in the development cost is reasonable.

(b) Paragraph (a)(3) is a new provision which states that the owner shall be subject to such terms and conditions as HUD shall prescribe and that these terms and conditions shall include provisions designed to assure continued operation of the project as contemplated by the HAP Contract including provision for operation or ownership of the project by a PHA (other than an agency or instrumentality).

(c) If the project involves a profit-motivated owner, paragraph (a)(4) provides that the loan to the owner may not exceed 90 percent (determined in accordance with HUD rules) of the HUD-approved development cost.

(d) Paragraph (b) provides that the term of the HAP Contract may not exceed 30 years or the term of the obligations whichever is shorter. Section 101(c) of the Supplemental Housing Authorization Act of 1977 authorized, with certain exceptions, 30-year HAP Contracts for privately-owned, privately financed projects. It is assumed that a 30-year term should also be sufficient for publicly-owned or financed projects. However, because of the difficulty in meeting the low-income housing needs for non-elderly families, the term for such projects may with HUD approval be for up to 40 years.

(e) Paragraph (c) states that the anticipated interest cost and the ancillary costs of servicing the obligations must be shown to and approved by HUD as being reasonable in relation to prevailing costs in the tax exempt market for comparable obligations, taking into account any differences between the types of obligations.

(f) Paragraph (d) prohibits the issuance of tax exempt obligations under this regulation to refund permanent obligations. Refunding led to a wide variety of problems in the Section 23 program and this prohibition is deemed necessary to avoid such abuses. Comment 13(a) discusses necessary additional funding.

14. As noted in Comment 9, the provisions concerning the escrow of the proceeds of the permanent obligations and the use thereof are now included in a separate section (§ 811.107). It is now clear that the escrow requirement is applicable to all permanent tax-exempt obligations under the regulation except as provided in § 811.107(c) (see comment 14(d)). The new section incorporates the following significant changes:

(a) Several comments noted that the provisions permitting prior disbursement for expenses of issuance of the obligations was inconsistent with the provision requiring redemption of the obligations at par in the event of failure to complete the project. Accordingly, although the escrowed funds may include the amount of these expenses, disbursement may be made only upon completion and execution of a HAP Contract. Prior payment of the expenses of issuance may be made from the interim financing or by an ad-

vance from the developer/owner or contractor (§ 811.108(a)). Upon execution of the HAP Contract, the escrowed funds are to be disbursed for the debt service reserve fund, the expenses of issuing the obligations and the interim financing.

(b) Under paragraph (b), in the event the HAP Contract is not executed within the prescribed time, the permanent obligations must be redeemed from the funds in the escrow plus income from investment of the funds and less any debt service disbursements. This will provide for full redemption except in the event the payments for debt service exceed the the income from investments.

(c) Several comments expressed the view that the provision in the proposed rule concerning extensions of time were unduly restrictive, and that the interim lender or contractor, for example, might be willing to absorb or provide funds for additional costs. Accordingly, paragraph (b) now provides that the date for redemption may be extended to a later specified date in the event (1) the parties to the Agreement have agreed in writing to such extended date, and (2) additional funds, in the form of cash or an unconditional letter of credit, are added to the escrow to guarantee that there will be sufficient funds in the escrow on the extended date to pay all amounts that are then required to be paid from the escrow on at least as favorable a basis as if there had been no extension.

(d) In response to comments, paragraph (c) exempts from the escrow requirement three situations: (1) Where the obligations are unconditionally guaranteed by a State or by a county, city, or other unit of general local government, (2) where the construction advances are insured pursuant to the National Housing Act and (3) if the permanent obligations are not issued until after completion of construction. It was suggested that there might be other forms of guaranty or assurance providing comparable protection to the holders of the permanent obligations and HUD. Since no specific examples meeting this standard were cited, no additional exceptions were included in the regulation. It is anticipated that should there be other cases meeting this standard, they will be submitted to HUD with a request for waiver pursuant to 24 CFR Part 899.

(e) The regulation also provides that any amounts in the fund in excess of the original amount shall be available for any project purposes.

15. A number of comments directed attention to the fact that the failure of the proposed rule to deal specifically with the subject of interim financing created uncertainties in several respects, including the question of whether the interim financing could be tax exempt under the regulation and, if so, under what conditions. Accordingly, a new § 811.108, Interim Financing, has been added.

(a) Paragraph (a) states that the applicant may request a determination by HUD that the obligations for interim financing be tax exempt under this regulation. The amount may not exceed the estimated approved development cost of the project, plus the amount of the expenses of issuing the permanent obligations if these are to be paid prior to execution of the HAP Contract. The interim obligations must mature on a date not unreasonably beyond the stated date for completion of the project.

(b) Paragraph (b) contains a number of provisions which are applicable to interim financing whether or not such financing is tax exempt.

(c) Paragraph (b)(1) states that the terms and conditions must be consistent with those of the permanent obligations.

(d) Paragraph (b)(2) makes it explicit that the escrowed proceeds of the permanent obligations shall be available for repayment of the interim obligations, but only upon execution of the HAP Contract and otherwise in accordance with the terms of the escrow, and that the risk of completion is upon the developer/owner and the interim lender.

(e) A number of comments argued that under this system it would be impossible or difficult to obtain interim financing, and that at best it would add to the cost of the interim financing. Our experience in the Section 23 program, however, has shown that where the proceeds of the permanent obligations are used to finance development and construction, thus placing the risk of completion on the holders of those obligations, subsequent delays, cost overruns, or failures to complete construction, result in unacceptable difficulties including ultimate total costs far in excess of any possible additional interest cost of interim financing under the system provided by this regulation. It was also urged that performance and payment bonds and careful inspection during construction could provide sufficient protection without escrowing the proceeds of the permanent obligations. In our judgment, these are precautions and safeguards which can and should be taken by the interim lender, but they cannot provide the security of the interests of the permanent obligation holders and the Government provided by these regulations.

Our inquiries have indicated that interim lenders are ready and willing to accept the risk of completion, after satisfying themselves of the competence and reliability of the developer and/or construction contractor and imposing suitable requirements including bonding and construction inspection procedures of their own. In order to enhance the obtaining of interim financing at lower interest cost, consistent with the system under this regulation, the following new provisions have been added to § 811.108:

(1) Paragraph (b)(3) provides that the lender shall provide for such inspection during construction as the lender deems necessary; that copies of inspection reports shall be furnished to the PHA and to HUD; that the PHA shall to the extent of funds provided in the development cost also make inspections; that copies of these inspection reports as well as copies of any comments by the PHA on any inspection reports shall be furnished to the lender and HUD and that HUD shall promptly notify the parties that deficiencies must be corrected prior to completion of the project. However, failure of the PHA and/or HUD to make such inspections, comments or notifications shall not relieve the owner and lender of their obligation for completion of the project.

(2) In view of comments indicating concern about administrative delay on the part of HUD in making inspection upon completion or in execution of the HAP Contract, paragraph (b)(4) provides that if the HUD inspection when made finds the project to have been acceptable as of the date when the HUD inspection should have been made (10 working days after notification of project completion), the HAP Contract, when executed, shall be effective as of that earlier date.

(3) In view of comments that the interim lender is willing to be responsible for physical completion, but not for other requirements such as compliance with the approved marketing plan, paragraph (b)(5) provides that if HUD finds that the physical completion of the project is acceptable, but that there are other conditions to the execution of the HAP Contract that have not been met, HUD shall, upon request by the owner, execute or approve the execution of the HAP Contract on the basis that, until such evidence of completion is submitted to and found acceptable by HUD, (i) the Contract Rent for the purpose of computing Housing Assistance Payments shall be the monthly amount of the debt service on the permanent obligations attributable to the unit, and (ii) rent-up and occupancy shall be subject to such conditions as HUD may require.

16. A new § 811.109 has been added to provide that the trust indenture shall provide for the maintenance of reserves and/or accounts to assure that there are funds as necessary to meet all project requirements.

17. Several comments stated that there was a need for an official HUD determination in writing to the effect that the obligations have been found to qualify for tax exemption under the regulation, and that this determination would not be subject to revocation by HUD. Since this was intended to be the effect of the approval of the tax-exempt status of the obligations, a new section has been added to carry it out (§ 811.110, Approval of Obligations as Tax Exempt). Paragraph (a) provides for the issuance of such a HUD determination when all the necessary approvals have been made, with specific references to interim obligations where tax exemption for these as well as the permanent obligations was applied for and has been approved. Paragraph (b) states that the HUD notification of approval shall not be subject to revocation by HUD.

18. Section 811.105(b) of the proposed rule, which prohibited arbitrage obligations with an exception for temporary obligations to finance construction, has been deleted in the final regulations. Many questions were raised as to the meaning and effect of this language in the proposed rule. It was determined that the purpose of these regulations would be better accomplished by deleting the language using the term arbitrage, and incorporating other controls, particularly the limitation on the amount of tax exempt obligations which may be outstanding (§ 811.106(a)), the prohibition of refunding obligations (§ 811.106(d)) and the new § 811.108 on Interim Financing.

19. There was a suggestion that language permitting exceptions by HUD be inserted in various places in the regulation. This suggestion has not been adopted because it would tend to encourage wholesale requests for exceptions and ultimately undermine the effectiveness of the regulation. Where unusual circumstances indicate a need for exception, a waiver pursuant to 24 CFR Part 899 can be requested.

CHANGES IN RELATED PROVISIONS OF OTHER REGULATIONS

20. With respect to the proposed amendment to §§ 880.106(a) and 881.106(a), comments indicated there was a need to clarify the distinction between the fee payable by HUD for administration of the HAP Contract and the HFDA's charge for costs related to its financing activities. Accordingly, the language of this paragraph has been changed to clarify this distinction and to indicate expressly that the HFDA's cost of borrowing includes "the ancillary costs of servicing the obligations, such as trustee fees, maintenance of books and accounts and audit expenses."

21. With respect to the proposed amendment adding new §§ 880.115(c) and 881.115(c), comments indicated there was a need to clarify the meaning of the exception for a "Participating Agency under Part 883". Accordingly, the language of the exception has been changed to "other than an agency notified by HUD pursuant to 24 CFR 883.103 that it is a qualified Participating Agency."

22. In the proposed amendment of § 883.203(a), relating to the same subject matter as the amendment to §§ 880.106(a) and 881.106(a), language changes have been made corresponding to those discussed in comment 16.

23. A related amendment is being made to the title and opening paragraph of §§ 880.125 and 881.125 to clarify that the section applies where the permanent financing for a project is to be provided by a public agency or other entity including a PHA.

Because of the importance of this regulation in making financing available for Section 8 projects, it has been determined in the public interest to make these amendments effective on publication. However because of the many changes that were made as a result of considering the comments, the Department invites further comments on this Final Rule. Comments received will be carefully reviewed, along with experience under this Final Rule for consideration of any further amendments.

A finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

Accordingly, Title 24 of the Code of Federal Regulations is amended as follows:

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

Title 24, Chapter VIII is amended to delete the present Part 811 and to substitute a new Part 811 reading as follows:

Subpart A—Tax Exemption Under Section 11(b) of the Act of Obligations of Public Housing Agencies Issued To Finance Section 8 Projects

Sec.

811.101 Purpose and scope.
811.102 Definitions.
811.103 Tax exemption of obligations.
811.104 Approval of public housing agencies.
811.105 Approval of agencies or instrumentalities.
811.106 Amount of permanent obligations and term of HAP contract.
811.107 Use of proceeds of permanent obligations.
811.108 Interim financing.
811.109 Use of project revenues.
811.110 Approval of obligations as tax exempt.
811.111 Limited applicability to tax exemption other than under section 11(b).

AUTHORITY: Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)); secs. 3(6), 5(b)8, 11(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, and 1437).

Subpart A—Tax Exemption Under Section 11(b) of the Act of Obligations of Public Housing Agencies Issued to Finance Section 8 Projects

§ 811.101 Purpose and scope.

The purpose of this Subpart A is to provide a basis for determining tax exemption of obligations issued by Public Housing Agencies pursuant to section 11 (b) of the United States Housing Act of 1937 and this subpart for Section 8 New Construction or Substantial Rehabilitation projects (24 CFR Parts 880, 881, and 883). The tax exemption pursuant to section 11(b) in connection with other low-income housing projects under the Act is not subject to this subpart.

§ 811.102 Definitions.

Act.—The United States Housing Act of 1937 (42 U.S.C. 1437, et seq.).

Agency or Instrumentality.—A not-for-profit entity (which as to form may be a corporation, trust, commission, bureau, tribe, district, authority, unincorporated association, partnership, or other form of organization) which is a PHA created or utilized by another PHA (the parent entity) in accordance with this subpart.

Development Cost.—Estimated cost approved by HUD for planning, land acquisition, demolition, construction, rehabilitation, or equipment, cost of PHA inspections during construction, cost of other items necessary for the development or acquisition of a low-income housing project, and the necessary costs of the interim financing. In the case of HUD-insured mortgage financing, the development cost is the amount approved by HUD for purposes of determining the amount of the mortgage.

Expenses of Issuing the Obligations.—Necessary costs in connection with the issuance of the obligations, consisting of attorney's fes, underwriter/issuer fees, rating agency's fees, trustee's initial fee, printing costs, and such other fees or expenses as are shown to and approved by HUD as being necessary and consistent with economy in the total costs of issuance. All costs must be shown to and approved by HUD as being reasonable in relation to the prevailing costs of issuing comparable obligations, taking into account any differences between the types of obligations. In making its determination of reasonableness, HUD will take into consideration that the prime purpose of tax exempt financing under this subpart is to effect maximum feasible savings in housing costs.

HUD.—The Department of Housing and Urban Development or its designee.

HAP Contract.—Housing Assistance Payments Contract pursuant to Section 8 of the Act and the applicable HUD regulations.

Low-Income Housing.—Housing for families and persons of lower income pursuant to Section 8 of the Act, including those within that income range who may otherwise be referred to as moderate-income families and persons.

Low-income housing project.—Any low-income housing, including all necessary appurtenances thereto, developed, acquired, or assisted by PHA under the Act, and the improvement of any such housing.

Obligations.—This term includes bonds and notes (whether or not secured by a mortgage) issued to provide interim or permanent financing of a low-income housing project. Pursuant to section 319 (b) of the Housing and Community Development Act of 1974, the term obligations shall not include any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the Act (this exclusion does not apply to a public agency as mortgagee).

Parent Entity.—A PHA, other than an agency or instrumentality, which creates or utilizes an agency or instrumentality in accordance with the provisions of this Subpart.

Public Housing Agency (PHA).—Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

Trustee.—A bank or other entity which is qualified and experienced in performing fiduciary responsibilities with respect to care and investment of funds com-

parable to those involved in the financing of the project.

§ 811.103 Tax exemption of obligations.

(a) Obligations, permanent or interim, including interest thereon, issued by PHAs in connection with Section 8 projects pursuant to and approved by HUD under this Subpart shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such PHA or by HUD. The income derived by such PHAs from such projects shall also be exempt from all taxation now or hereafter imposed by the United States (section 11(b) of the Act).

(b) In order for obligations to be tax exempt under this subpart:

(1) The obligations must be issued in connection with a low-income housing project approved by HUD under the Act and the applicable regulations including, but not limited to, the regulations relating to the reduction of Contract Rents to reflect savings as a result of tax-exempt financing;

(2) The obligations must be issued by an entity approved by HUD as a PHA pursuant to § 811.104 or § 811.105;

(3) The amount of the obligations, the term of the HAP Contract, and the use of the obligations must be approved by HUD pursuant to §§ 811.106, 811.107, and 811.108; and

(4) The terms and conditions of the financing must be approved by HUD in accordance with the other provisions of this subpart and the provisions of other applicable HUD regulations.

§ 811.104 Approval of Public Housing Agencies.

(a) (1) An application to HUD for approval as a Public Housing Agency for purposes of this subpart shall be supported by evidence satisfactory to HUD to establish that:

(i) The applicant is legally authorized to engage in or assist in the development or operation of low-income housing;

(ii) The applicant has the legal capacity to carry out the low-income housing project, or the financing thereof, as described in its application, including the legal capacity to carry out the responsibilities required of it under HUD regulations applicable to the project.

(2) Such evidence shall include any facts or documents relevant to the determination including identification of any pending application the applicant has submitted under the Act. In the absence of evidence to the contrary, the following evidence shall be considered satisfactory to HUD:

(i) Identification of any previous HUD approval of the applicant as a PHA pursuant to this § 811.104;

(ii) Identification of any prior annual contributions contact with the applicant under the Act (or under the United States Housing Act of 1937 prior to its amendment by the Housing and Community Development Act of 1974); or

(iii) A statement, where applicable, that the applicant is an approved Participating Agency under Part 883 of this chapter.

(b) Any subsequent amendments to the documents submitted to HUD pursuant to this § 811.104 must be approved by HUD.

§ 811.105 Approval of Agencies or Instrumentalities.

(a) An application to HUD for approval as an agency or instrumentality for purposes of this subpart shall:

(1) Identify the parent entity;

(2) Establish by evidence satisfactory to HUD that—

(i) The applicant was designated or created as the duly authorized agency or instrumentality of the parent entity and that such creation and utilization is not prohibited by state law.

(ii) The parent entity meets the requirements of § 811.104,

(iii) The applicant meets the requirements of § 811.104,

(iv) The activities to be performed by the applicant, and funds and assets connected therewith, shall be limited to carrying out or assisting in carrying out a low-income housing project(s) (including assistance by borrowing and lending funds), which project(s) has been approved by the parent entity, and

(v) The applicant understands and agrees that, prior to the date of issuance of the obligations, an Agreement to Enter into a HAP Contract or a HAP Contract pursuant to the Act will have been executed and, where applicable, approved in writing by HUD in accordance with an Annual Contributions Contract with HUD; and

(3 Furnish an opinion of counsel acceptable to HUD that the applicant meets the requirements of this § 811.105(a).

(b) The documents submitted shall include the following with respect to the relationship between the parent entity and the agency or instrumentality:

(1) Provisions requiring approval by the parent entity of the charter or other organic document and of the by-laws which organic instrument and by-laws shall specify that any amendments are subject to approval by the parent entity and by HUD.

(2) Provisions requiring approval by the parent entity of each project and of the projected program and projected expenditures of the applicant.

(3) Provisions requiring approval by the parent entity of each issue of obligations of the applicant not more than 60 days prior to the date of issue and approval of any amendments prior to the date of issue.

(4) Provisions requiring an annual financial audit of the applicant by an independent certified public accountant, review by the parent entity of the audit and of the applicant's activities, and submission of a copy of the audit and review to HUD.

(5) Provisions giving the parent entity right of access at any time to all books and records of the applicant.

(6) Where the parties have agreed that provision should be made in conjunction with the issuance of the obligations for title to or other interest in the real and personal property financed by the obligations to be conveyed at a specified time and/or under specified conditions to the parent entity or another PHA, instruments making such conveyance shall be placed in escrow with instructions that the escrow agent deliver the instruments to the parent entity or other PHA a such specified time and in accordance with such specified conditions. A method other than this escrow procedure may be used if it provides comparable assurance of performance and is approved by HUD. Any conveyance to the parent entity or other PHA shall be free of encumbrances (other than tenant leases) created subsequent to the establishment of the lien to secure the permanent obligations except as otherwise consented to by the parent entity or other PHA with the approval of HUD.

(7) Any net earnings of the applicant (beyond those necessary for retirement of the indebtedness or to carry out the low-income housing project) may not inure to the benefit of any person or entity other than the parent entity.

(8) Upon dissolution of the applicant, title to or other interest in any real or personal property owned by such applicant shall vest in the parent entity.

(9) Agreement by the parent entity to accept title to or other interest in any real or personal property pursuant to § 811.105(b)(8).

(10) Agreement by the parent entity or another PHA to accept title to any real or personal property financed by the obligations pursuant to §§ 811.105(b)(6) and 811.106(a)(3), if applicable.

(c) Any subsequent amendments to the documents submitted to HUD pursuant to this § 811.105 must be approved by HUD.

§ 811.106 Amount of permanent obligations and term of HAP Contract.

(a) (1) The amount of outstanding permanent obligations tax-exempt under this Subpart shall not exceed the estimated reasonable development cost of the low-income housing project as determined by HUD, less any equity investment, and plus the reasonable expenses of issuing the obligations, capitalized interest on the permanent obligations duirng construction and an amount sufficient to establish a reserve fund up to one year's debt service.

(2) Additional tax-exempt obligations may be issued to finance additional development costs which are shown to be reasonable and are approved by HUD pursuant to this subpart.

(3) The owner shall be subject to such terms and conditions as HUD shall prescribe. Such terms and conditions shall include provisions designed to assure continued operation of the project for the housing of low-income families as contemplated by the HAP Contract, including, if the project is not so operated, provision for operation or ownership of the project by a PHA (other than an agency or instrumentality).

(4) In the case of obligations used to finance a low-income housing project involving private profit-motivated owners, the loan to the owner shall not exceed 90 percent (determined in accordance with HUD standards) of the HUD-approved development cost.

(b) The term of the HAP contract securing the permanent obligations under this subpart shall not exceed 30 years or the term of the obligations whichever is shorter, except that in the case of projects other than those designed for the elderly HUD may approve a term of not to exceed 40 years or the term of the obligations, whichever is shorter.

(c) The anticipated interest cost and the ancillary costs of servicing the obligations, such as trustee fees, maintenance of books and accounts and audit expenses, must be shown to and approved by HUD as being reasonable in relation to prevailing costs in the tax exempt market for comparable obligations, taking into account any differences between the types of obligations.

(d) Issuance of obligations to refund outstanding permanent obligations is prohibited.

§ 811.107 Use of proceeds of permanent obligations.

(a) The proceeds of permanent obligations issued pursuant to this Subpart shall upon receipt be placed in escrow with the trustee in accordance with the trust indenture and shall be invested to earn interest. The escrowed funds shall be disbursed only upon execution of a HAP Contract covering the project with respect to which the obligations were issued except for prior disbursements for capitalized interest. Upon execution of the HAP Contract, the escrowed funds shall be disbursed for the debt service reserve fund, the expenses of issuing the obligations and the interim financing.

(b) In the event that the HAP Contract is not executed within 60 days of the date by which completion is required under the applicable Agreement to Enter into HAP Contract, the permanent obligations shall be redeemed from the funds in escrow plus income from investment of the escrowed funds and less any debt service disbursements. However, such date for redemption may be extended to a later specified date in the event (1) The parties to the Agreement have agreed in writing to such extended date, and (2) additional funds, in the form of cash or an unconditional letter of credit, are added to the escrow to guarantee that there will be sufficient funds in the escrow on the extended date to pay all amounts that are then required to be paid from the escrow on at least as favorable a basis as if there had been no extension.

(c) The provisions of § 811.107 (a) and (b) shall not apply to permanent obligations issued pursuant to this subpart where (1) The obligations are unconditionally guaranteed as to both principal and interest by a State or by a county, city, or other unit of general local government, (2) construction advances are insured pursuant to the National Housing Act, or (3) permanent obligations are not issued until after completion of construction.

(d) After execution of the HAP Contract and disbursement of the escrow, the debt service reserve fund, if any, shall be invested to earn interest and shall be maintained by the trustee in accordance with the trust indenture. This fund and interest income, which may be accumulated therein, shall be available only for the purpose of paying principal, interest, or premiums on the permanent obligations as long as these obligations are outstanding; except that any amounts in the fund in excess of the original amount shall be available for any project purposes as provided in the trust indenture.

§ 811.108 Interim Financing.

(a) The applicant may also request a determination by HUD that the obligations for interim financing be tax exempt pursuant to this subpart. The amount of such obligations shall not exceed the estimated development cost of the low-income housing project, as determined by HUD. If the expenses of issuing the permanent obligations are to be paid prior to execution of the HAP Contract, these expenses may be included in the amount of the interim obligations or they may be advanced by the developer/owner or contractor to be repaid upon disbursement of the escrow § 811.107). The interim obligations shall mature on a specified date not unreasonably beyond the stated date by which completion is required under the applicable Agreement to Enter into HAP Contract.

(b) The following provisions are applicable whether or not interim financing is tax-exempt:

(1) The terms and conditions of any interim financing shall be consistent with the terms and conditions of the permanent obligations which are proposed or committed for issuance.

(2) The proceeds of the permanent obligations shall be available for repayment of the interim obligations, but only upon execution of the HAP Contract and otherwise in accordance with the terms of the escrow. The risk of completion of the project is upon the developer/owner and the entity providing the interim financing.

(3) The entity providing the interim financing shall provide for such inspection during construction, either directly or by agreement with the owner, as the lender deems necessary to protect its interest. Copies of inspection reports shall be furnished to the PHA (including the parent entity and the agency or instrumentality where applicable) and to HUD. The PHA shall to the extent of the funding provided in the development cost make independent inspections, and copies of any reports resulting from such independent inspections as well as copies of any comments by the PHA on any inspection reports shall be furnished to the lender and to HUD. HUD shall promptly notify the Owner, with copies to the lender, contractor, and PHA, of any deficiencies noted in such reports or comments, with a statement that evidence of the correction of such deficiencies will be required at the time of the HUD inspection for evidence of completion. However, failure by the PHA to make such independent inspections or comments or failure by HUD to give such notifications shall not relieve the owner and lender of their obligation for completion of the project in accordance with the Agreement to Enter into HAP Contract.

(4) The effective date of the HAP Contract shall be 10 working days after the notification of project completion to HUD, or the date of the HUD inspection if earlier, provided that the Owner's and Architect's Certifications and other evidence of completion is found by HUD to be acceptable as of that date. If the certifications and other evidence of completion is found not to be acceptable as of that date, the effective date of the HAP Contract shall be the earliest subsequent date as of which the evidence of completion is found by HUD to be acceptable.

(5) If HUD finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate and/or official approvals required for occupancy, but the evidence of completion in other respects is not acceptable, HUD shall upon request by the Owner execute or approve the execution of the HAP Contract; in such case, however, until such evidence of completion is submitted to and found acceptable by HUD, (i) The Contract Rent for the purpose of computing the Housing Assistance Payment with respect to any unit shall be the monthly amount of the debt service on the permanent obligations attributable to the unit, and (ii) rent-up and occupancy shall be subject to such conditions as HUD may require.

§ 811.109 Use of Project Revenues.

The trust indenture shall provide for the maintenance of reserves and/or accounts to assure that there are funds as necessary to meet all project requirements, including, but not limited to, a reserve or account sufficient to provide for the routine and non-routine maintenance over the life of the project.

§ 811.110 Approval of Obligations as Tax Exempt.

(a) If HUD finds that (1) Obligations proposed to be issued for the financing of a low-income housing project are in compliance with this subpart, (2) the terms and conditions of the financing have been approved pursuant to other applicable HUD regulations, and (3) the Agreement to Enter into HAP Contract or the HAP Contract has been executed and, where applicable, approved in writing by HUD, the Field Office Director shall notify the applicant of these findings.

(b) This notification shall include a statement that (1) Pursuant to this subpart and the Act, HUD has found the applicant to be a PHA, (2) the obligations when issued in accordance with the approved application shall be exempt from all taxation now or hereafter imposed by the United States whether paid by the PHA or by HUD, and (3) the income derived by the PHA from the low-income housing project shall be exempt from all taxation now or hereafter imposed by the United States.

(c) If the application included tax exempt interim financing, the notification shall include a comparable statement with regard to such interim financing.

(d) This notification of approval of tax exemption shall not be subject to revocation by HUD.

§ 811.111 Limited applicability to tax exemption other than under Section 11(b).

This subpart shall not be applicable to obligations issued pursuant to, or purporting to be tax exempt under, any other provision of law or Governmental regulation, except as provided in 24 CFR 880.115(c) and 881.115(c).

CHANGES TO RELATED REGULATIONS

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION

1. Section 880.106(a) is amended by inserting the following at the end thereof:

§ 880.106 Maximum Total ACC Commitment and Project Account (Private-Owner/PHA Projects).

(a) * * * Where the PHA is a State Housing Finance and Development Agency, the maximum total annual contribution shall not include a fee payable by HUD for the regular costs of administration of the HAP Contract, nor shall the agency be eligible for a fee payable by HUD for the preliminary costs of administration of the HAP Contract, if the amount charged for the permanent loan by the agency to the Owner ancillary is greater than the agency's cost of borrowing including costs of servicing the obligations, such as trustee fees, maintenance of books and accounts and audit expenses.

* * * * *

2. A new § 880.115(c) is added to read as follows:

§ 880.115 Financing.

* * * * *

(c) *Applicability of Certain Provisions of 24 CFR, Part 811, Where Financing is by a PHA or Entity Created or Utilized by a PHA.*—Where the permanent financing is by obligations of a PHA (other than an agency notified by HUD pursuant to 24 CFR 883.103 that it is a qualified Participating Agency) or an entity created or utilized by such a PHA, which obligations are tax exempt pursuant to Treasury Department regulations, rather than 24 CFR Part 811, "Tax Exemption under Section 11(b) of the Act of Obligations of PHAs Issued to Finance Section 8 Projects," §§ 811.106, 811.107, 811.108(b), and 811.109 shall nevertheless be applicable.

3. Section 880.125(a) is amended to read as follows:

§ 880.125 Projects Financed with Proceeds of Obligations issued by a Public Agency.

(a) *Applicability.*—The provisions of this section shall apply where permanent financing for a project is to be provided by a public agency or other entity including a PHA ("financing agency").

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

4. Section 881.106(a) is amended by inserting the following at the end thereof:

§ 881.106 Maximum Total ACC Commitment and Project Account (Private-Owner/PHA Projects).

(a) * * * Where the PHA is a State Housing Finance and Development Agency, the maximum total annual contribution shall not include a fee payable by HUD for the regular costs of administration of the HAP Contract, nor shall the agency be eligible for a fee payable by HUD for the preliminary costs of administration of the HAP Contract, if the amount charged for the permanent loan by the agency to the Owner is greater than the agency's cost of borrowing including ancillary costs of servicing the obligations, such as trustee fees, maintenance of books and accounts and audit expenses.

* * * * *

5. A new § 881.115(c) is added to read as follows:

§ 881.115 Financing.

* * * * *

(c) *Applicability of Certain Provisions of 24 CFR Part 811, Where Financing is by a PHA or Entity Created or Utilized by a PHA.*—Where the permanent financing is by obligations of a PHA (other than agency notified by HUD pursuant to 24 CFR 883.103 that it is a qualified Participating Agency) or an entity created or utilized by such a PHA, which obligations are tax exempt pursuant to Treasury Department regulations, rather than 24 CFR, Part 811, "Tax Exemption of Obligations of PHAs under section 11(b) of the Act," §§ 811.106, 811.107, 811.108(b), 811.109 shall nevertheless be applicable.

6. Section 881.125(a) is amended to read as follows:

§ 881.125 Projects Financed with Proceeds of Obligations issued by a Public Agency.

(a) *Applicability.*—The provisions of this section shall apply where permanent financing for a project is to be provided by a public agency or other entity including a PHA ("financing agency").

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING FINANCE AND DEVELOPMENT AGENCIES AND NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

7. Section 883.203(a) is amended to read as follows:

883.203 Maximum total ACC commitment and project account.

(a) *Maximum total ACC commitment.*—The maximum total annual contribution that may be contracted for in the ACC for a project shall be the total of the Gross Rents for all the Contract units in the project, plus a Financing Cost Contingency (if the HFA is using its set-aside for the project) for possible increases in Contract Rents resulting from higher financing costs, pursuant to § 883.205(c)(2). In addition, the maximum total annual contribution may include a fee payable by HUD for the regular cost of HFA administration of the HAP Contract if the amount charged for the permanent loan by the HFA to the Owner is no greater than the HFA's cost of borrowing, including the ancillary costs of servicing the obligations, such as trustee fees, maintenance of books and accounts and audit expenses. Where the HFA qualifies for a fee payable by HUD for the regular costs of administration of the HAP Contract, HUD-approved preliminary costs for administration of the HAP Contract (including administrative costs in connection with HFA activities related to relocation of occupants) shall also be payable out of the maximum total annual contribution.

* * * * *

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); secs. 3(6), 5(b) 8, 11(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f and 1437).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Issued at Washington, D.C., July 28, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 77-22226 Filed 8-2-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 739-77]

PART 17—REGULATIONS RELATING TO THE CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL PURSUANT TO EXECUTIVE ORDER NO. 11652

Dissemination; Delegation of Authority to Assistant Attorney General for Administration

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This document delegates the authority to establish special procedural requirements for the handling of classified information to the Assistant Attorney General for Administration. This delegation will allow the Justice Department to more efficiently handle the increased number of persons requesting access to classified information.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Michael Kelly, Counselor to the Attorney General, Office of the Attorney General, Washington, D.C. 20530, 202-739-3892.

SUPPLEMENTARY INFORMATION: This amendment delegates to the Assistant Attorney General for Administration the authority to establish special requirements, in addition to those set forth in Part 17, with respect to access, distribution, protection, and dissemination outside the Executive branch of classified information and material originated or held by the Department and to assure the proper protection of such national security information. Under existing regulations, this authority is vested only in the Attorney General.

This delegation to the Assistant Attorney General for Administration relates only to the establishment of special procedural requirements and does not extend to the determination of what information will be disseminated inside or outside of the Executive branch, which determination shall continue to be made by the responsible official or employee as provided in § 17.59 of this Part.

Recently there has been a substantial increase in the number of personnel outside the Executive branch requiring access clearance to national security information in connection with court cases and, to a lesser extent, with providing very sensitive contractual services to the Department. These personnel include contractors, attorneys, law clerks, judges' secretaries, and court reporters.

The Attorney General is currently required to personally approve each special requirement for the granting of security clearances for access to national security information outside the Executive branch on a case-by-case basis. This delegation of authority will result in relieving the Attorney General of this burden and will authorize the Assistant Attorney General for Administration to promulgate orders and instructions governing the procedures to be followed in obtaining security clearances for non-executive branch personnel.

This delegation will also enable the Assistant Attorney General for Administration to create and manage a Special Security Program within the Department to establish and enforce procedures for the control of Sensitive Compartmented Information (SCI), a highly sensitive class of national security information that is flowing into the Department in a steadily increasing volume.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, Sections 17.63 and 17.64 of Subpart J, Part 17 of Chapter I of Title 28, Code of Federal Regulations, are amended as follows:

§ 17.63 [Amended]

1. Section 17.63 is amended by adding "or the Assistant Attorney General for Administration" at the end thereof.

§ 17.64 [Amended]

2. Section 17.64 is amended by inserting "or the Assistant Attorney General for Administration" immediately after "Attorney General".

Dated: July 26, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-22331 Filed 8-2-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

ARMED SERVICES PROCUREMENT REGULATION

Adoption of the 1976 ASPR

AGENCY: Department of Defense.

ACTION: Promulgation of the 1976 ASPR.

SUMMARY: The purpose of this document is to announce that the 1976 edition of the Armed Services Procurement Regulation (ASPR) is filed with the Administrative Committee of the Federal Register for publication in the Code of Federal Regulations rather than in the FEDERAL REGISTER, in order to save on printing costs for this large volume of regulations.

EFFECTIVE DATE: October 1, 1976.

FOR FURTHER INFORMATION CONTACT:

Executive Secretary, ASPR Committee, Room 3D 776, Pentagon, Washington, D.C. 20301. Telephone: 202-697-4796.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In 1975, the Armed Services Procurement Regulation (ASPR) Committee and the Office of the Federal Register (OFR) held several discussions on creating an appropriate format for publication of the 1975 edition of the ASPR. A different method was necessary because the 1975 ASPR consisted of 3,000 pages and a normal press run of a FEDERAL REGISTER issue is over 50,000 copies. Thus the cost of promulgating the ASPR in the usual manner would have been extremely high.

To facilitate publication of the 1975 ASPR and save on printing costs, it was decided:

1. Not to print the full text of the ASPR in the daily issue of the FEDERAL REGISTER, but instead, to use the CFR as the means of promulgation.

2. To waive the CFR numbering requirements and adopt the same codification system the Defense Department uses in their loose leaf edition of the ASPR.

3. To offer free distribution of the CFR volumes to all subscribers of the FEDERAL REGISTER who made timely application.

PROMULGATION OF THE 1976 EDITION

The decisions made concerning the 1975 ASPR are equally applicable to the 1976 edition.

The OFR is repeating its offer of free distribution of the CFR volumes. (For details, see the editorial note following this document.)

Because of delays experienced in publishing this 1976 edition, it will not reflect changes made to the ASPR by Defense Procurement Circulars (DPC) 76-1 and all subsequent 76 DPS's that have been issued to date.

These DPC's will be filed with the Administrative Committee at a later date. A document will be published in the FEDERAL REGISTER noting that the DPC's have been filed and can be inspected at the Office of the Federal Register or that copies may be obtained through purchase from the Superintendent of Documents, Washington, D.C. 20402, or by writing to the ASPR committee.

Therefore, the 1976 edition of the Armed Services Procurement Regulation is hereby promulgated in Title 32 CFR, Subchapter A, Parts 1-39, Volumes I, II, and III, thereby replacing in its entirety the 1975 edition of the ASPR previously promulgated in the CFR.

Effective date: October 1, 1976.

(5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5129.1 of April 20, 1977)

T. G. CASSIDY,
Executive Secretary, Armed Services Procurement Regulation Committee.

[FR Doc.77-22410 Filed 8-2-77;8:45 am]

NOTE.—FEDERAL REGISTER subscribers will, on request, receive these CFR volumes containing the ASPR free of charge. To order the volumes, subscribers must send by August 31, 1977, the order form set forth below to:

ASPR Distribution, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

A copy of the subscriber's mailing label from the FEDERAL REGISTER is also required, and should be attached to the order form. It is anticipated that distribution of these volumes will be made in the early fall of 1977.

Those persons who are not FEDERAL REGISTER subscribers but who would be interested in purchasing these volumes will be notified by a FEDERAL REGISTER announcement when the volumes are available for normal ordering from the Superintendent of Documents, Government Printing Office.

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[OSD Admin. Inst. No. 81]

PART 286b—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

AGENCY: Office of the Secretary of Defense (OSD), DOD.

ACTION: Final rule.

SUMMARY: This document adds two specific exemptions to the Privacy Act regulations of the Office of the Secretary of Defense. The addition of these exemptions is designed to clarify previous requirements.

EFFECTIVE DATE: This final rule becomes effective August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James S. Nash, OSD Privacy Act Officer, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, 202–697–2501.

SUPPLEMENTARY INFORMATION: On June 10, 1977 (42 FR 29935) a proposed rulemaking amendment was published by the Office of the Secretary of Defense (OSD) to amend Part 286b by revising § 286b.11. The revised § 286b.11 was intended to add clarity and add two additional specific exemptions as § 286b.11(c)(4) and (5). No comments were received on the proposed amendment, therefore the Office of the Secretary of Defense adopts, without change, the amended § 286b.11.

Accordingly, 32 CFR 286b.11 is amended as follows:

§ 286b.11 Exemptions.

(a) *General information.* The Secretary of Defense designates those Office of the Secrettary of Defense (OSD) systems of records which will be exempt from certain provisions of the Privacy Act. There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If an OSD Component originates a new system of records for which it proposes an exemption, or if it proposes an additional or new exemption for an existing system of records, it shall submit the recommended exemption with the records system notice as outlined in § 286b.9(c). No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve a significant and legitimate Government purpose.

(b) *General exemptions.* [Reserved]

(c) *Specific exemptions.* All systems of records maintained by any OSD Component shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972 (37 FR 10053, May 19, 1972), and required by the Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified. The Secretary of Defense has designated the following OSD systems of records described below specifically exempted from the appropriate provisions of the Privacy Act pursuant to the designated authority contained therein:

(1) SYSID–DCOMP P26, SYSNAME. Protective Service File:

Exemption. This system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled for law enforcement purposes; or a record maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of the material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2) and (3).

Reasons. These exemptions are necessary to maintain the confidentiality of the records compiled for the purpose of law enforcement, or protecting the President of the United States or others pursuant to 18 U.S.C. 3056.

(2) SYSID–DCOMP P28, SYSNAME. The Office of the Secretary of Defense Clearance File:

Exemption. This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning the specific information which would reveal the identity of the source.

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This exemption is required to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(3) SYSID–DCOMP SP02, SYSNAME. Industrial Personnel Security Clearance Case Files:

Exemption. This system of records is exempt from subsections (c)(3) and (d) of Sections 552a of 5 U.S.C. which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(4) SYSID–DCOMP P32, SYSNAME. Standards of Conduct Inquiry File:

Exemption. This system of records is exempted from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of: investigatory material compiled for law enforcement purposes; or investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of investigatory material compiled for law enforcement purpose, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2) and (5).

Reasons. These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of: enforcement of the conflict of interest statutes by the Department of Defense Standards of Conduct Counselor, General Counsel, or their designees; and determining suitability, eligibility or qualifications for Federal civilian employment, military service, or Federal contracts of those alleged to have violated or caused others to violate the Standards of Conduct regulations of the Department of Defense.

(5) SYSID–DGC 03, SYSNAME. General Administrative File:

Exemption. This system of records is exempt from subsections (c)(3) and (d), Title 5 U.S.C. 552a, which would require the disclosure of: investigatory material compiled for law enforcement purposes; investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence; or any record maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2), (3) and (5).

Reasons. These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of enforcing the law by or at the request of the General Counsel or his professional staff, determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, or protecting the President of the United States or others pursuant to 18 U.S.C. 3056.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

JULY 27, 1977.

[FR Doc.77-22308 Filed 8-2-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 180]

PART 1–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Unsolicited Proposals

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) prescribes policies and procedures concerning the receipt, evaluation, and acceptance of unsolicited proposals. It applies not only to unsolicited proposals for research or development of methods or approaches but also for the conduct of services or the delivery of items. The amendment is designed to foster and encourage the submission of unsolicited proposals that could enhance, benefit, and/or provide valuable input to some area of an agency's mission responsibilities. The circumstance which created the need for the action was recommendation B–7 of the Commission on Government Procurement.

EFFECTIVE DATE: February 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations (703–557–8947).

The table of contents for Part 1–4 is amended to add the following new entries:

Subpart 1–4.9—Unsolicited Proposals

Sec.
1–4.900 Scope of subpart.
1–4.901 General.
1–4.902 Policy.
1–4.903 Agency program direction and operation.
1–4.904 Definitions.
1–4.905 Advance guidance.
1–4.906 Content of unsolicited proposals.
1–4.907 Time of submission.
1–4.908 Agency point of contact.
1–4.909 Receipt, review, and evaluation.
1–4.910 Method of procurement.
1–4.911 Prohibitions.
1–4.912 Interagency coordination.
1–4.913 Limited use of data.

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Section 1–4.000 is revised as follows:

§ 1–4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding special types and methods of procurement which include public utility services, livestock products, architect-engineer services, unsolicited proposals, and automatic data processing equipment and services.

New Subpart 1–4.9 is added as follows:

Subpart 1–4.9—Unsolicited Proposals

§ 1–4.900 Scope of subpart.

This subpart, sets forth policies and procedures concerning the receipt,

evaluation, and acceptance of unsolicited proposals.

§ 1–4.901 General.

The unsolicited proposal is a valuable means by which unique or innovative methods or approaches which have originated or developed outside the Government can be made available to Government agencies for use in the accomplishment of their missions. It is offered in the hope that the Government will enter into a contract with the offeror for (a) research on or development of the methods, approaches, or ideas it contains, or (b) the conduct of the activity or services or the delivery of the items it proposes. It should not be merely an advance proposal for a specific agency requirement which would normally be procured by competitive methods. An unsolicited proposal should be prepared independent of Government supervision. It often represents a substantial investment of time and effort by the offeror. It should present the proposed work in sufficient detail to allow a determination that Government support could be worthwhile and that the proposed work could enhance, benefit, and/or provide valuable input to an agency's research and development mission or to some other area of agency responsibility.

§ 1–4.902 Policy.

It is the policy of the Government to foster and encourage the submission of unsolicited proposals.

§ 1–4.903 Agency program direction and operation.

Each agency shall adopt and publish policies and procedures which will encourage the submission of unsolicited proposals relating to the agency's mission. Such policies and procedures shall be consistent with the requirements of this Subpart 1–4.9. They shall be developed with an objective to eliminate restraints which discourage the generation and acceptance of innovative ideas through unsolicited proposals.

§ 1–4.904 Definitions.

As used in this Subpart 1–4.9, the following terms have the meanings stated:

(a) "Unsolicited proposal" means a written offer to perform a proposed task or effort, initiated and submitted to the Government by a prospective contractor (offeror) without a solicitation by the Government, with the objective of obtaining a contract. Advertising material, commercial product offerings, contributions, or technical correspondence as defined in paragraphs (b) through (e) of this § 1–4.904 which are submitted to an agency shall not be considered to constitute unsolicited proposals within the intent of this Subpart 1–4.9.

(b) "Advertising material" means material designed to acquaint the Government with a prospective contractor's present off-the-shelf products or potential capabilities, or designed to determine the Government's interest in buying such products.

(c) "Commercial product offerings" mean offers of standard commercial products usually sold in substantial quantities to the general public and which the vendor wishes to see introduced in the Government's supply system as an alternate or replacement for an existing supply item.

(d) "Contributions" mean concepts, suggestions, or merely ideas presented to the Government for its use, with no indication on the part of the offeror that he will devote any further effort in relation to such concepts, suggestions, or ideas on behalf of the Government.

(e) "Technical correspondence" includes written inquiries regarding Government interest in research areas, preproposal explorations, technical inquiries, and research descriptions.

§ 1–4.905 Advance guidance.

Organizations or individuals who are interested in submitting an unsolicited proposal should be encouraged, before expending extensive effort in preparing a detailed unsolicited proposal or submitting any proprietary information to the Government, to make preliminary inquiries as to the general need for the type of effort contemplated.

(a) Prior contact with agency technical personnel is permissible and should be encouraged with the limited objectives of conveying to the prospective offeror an understanding of the agency mission and needs relative to the type of effort contemplated.

(b) Agencies shall make free written information available to potential offerors regarding policies and procedures for unsolicited proposals. As a minimum, the following information shall be made available to potential offerors.

(1) Definition of an unsolicited proposal, consistent with that set forth in § 1–4.904.

(2) Characteristics of a suitable proposal acceptable for formal evaluation. Also see §§ 1–4.906 and 1–4.910.

(3) Requirements concerning (i) responsible prospective contractors (see Subpart 1–1.12), (ii) organizational conflicts of interest, and (iii) where applicable, cost sharing.

(4) Role of technical correspondence prior to proposal preparation.

(5) Agency points of contact for information regarding advertising, contributions, bidders mailing lists, and other types of transactions frequently misconstrued as unsolicited proposals.

(6) Information regarding unsolicited proposal submission procedures.

(7) Information regarding evaluation procedures of the agency.

(8) Sources of information on agency objectives and areas of potential interest suitable for unsolicited proposal submissions.

(9) Instructions to the offeror that he identify proprietary information contained in his proposal and that any restrictive legend appearing in his proposal shall conform to the legend set forth in § 1–4.913(a).

(10) Advice to the prospective offeror that an unsolicited proposal shall conform to the procedural and submission guidelines of the agency to which it is submitted.

(c) Personal contacts shall be conducted in a manner that will preclude agency commitments regarding acceptance of unsolicited proposals.

§ 1–4.906 Content of unsolicited proposals.

Unsolicited proposals should contain the following information in order to permit consideration in an objective and timely manner.

(a) *Basic information.* This includes the name and address of the offeror; if an organization, indicate type; e.g., profit, nonprofit, educational, small business; names and telephone numbers of the offeror's technical and business personnel whom the agency may contact for evaluation or negotiation purposes; identification of any proprietary data which the offeror intends to be used by the agency only for evaluation purposes (see § 1–4.913); names of any other Federal, State, local agencies or other parties receiving the proposal and/or funding the proposed effort or activity; date of submission; and signature of a responsible official or authorized representative of the organization or a person authorized to contractually obligate the organization.

(b) *Technical information.* This includes a concise title and an abstract (approximately 200 words) of the proposed effort; a reasonably complete discussion stating the objectives of the effort or activity, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help to support accomplishment of the agency's mission; the names and brief biographical information of the offeror's key personnel (including alternates, if desired) who would be involved, and the type of support, if any, the offeror requests of the agency; e.g., facilities, equipment, materials, or personnel resources.

(c) *Supporting information.* This includes a proposed price or total estimated cost; a cost estimate for the proposed effort sufficiently detailed by element of cost for meaningful evaluation; the type of contract preferred; period of time for which the proposal is valid (a minimum of 6 months is suggested); proposed duration of effort; statements, if applicable, regarding cost sharing, organizational conflicts of interest, security clearance status, and environmental impacts, and brief descriptions of the organization, previous work or experience in the field of the proposal, and facilities to be utilized for the work, where appropriate for understanding the proposal.

§ 1–4.907 Time of submission.

Unsolicited proposals should be submitted well in advance of the offeror's desired beginning of the proposed effort or activity in order to allow the agency sufficient time to evaluate the proposal and negotiate any resultant contract. Agencies may establish procedures governing the time for submission and number of copies of proposals for the purpose of maintaining orderly and efficient evaluation procedures.

§ 1–4.908 Agency point of contact.

Each agency shall establish procedures within the agency to coordinate the receipt and handling of unsolicited proposals. Since the early involvement of procurement personnel is essential to the proper processing, evaluation, and possible contract award, agencies should consider designating their procurement activities for this purpose.

Each agency shall establish uniform procedures that provide for the coordinated control of the receipt, evaluation, and disposition of proposals. Because of the sensitivity of the evaluation process, particular attention should be devoted to the conduct of evaluations. The procedures shall be consistent with the provisions of §§ 1–4.909 through 1–4.913. Agency procedures shall also address reproduction (duplicating) and disposition of proposal material, particularly data which the offeror has identified as subject to duplication, use, and disclosure restrictions (see § 1–4.913(a)).

(a) Unsolicited proposals shall be acknowledged as soon as possible by the office which has been assigned the coordination responsibility (see § 1–4.908), and processed in an expeditious manner.

(b) Prior to making a comprehensive evaluation of an unsolicited proposal, the coordinating office (see § 1–4.908) shall determine that the document:

(1) Contains sufficient technical and cost information to permit a meaningful evaluation; and

(2) Has been approved by a responsible official or authorized representative of the organization submitting the proposal or a person authorized to contractually obligate the organization.

(c) If the document does not meet the requirements in paragraph (b) of this § 1–4.909, the offeror shall be given the opportunity to provide the required data. A comprehensive evaluation of an unsolicited proposal need not be made if the proposal is not within the purview of the mission of the agency (also see § 1–4.912(a)). In such cases, the submitter shall be furnished a prompt reply, stating how the document is being interpreted by the agency, the reason(s) for not evaluating it, and the disposition or intended dispositon of the material submitted. The agency shall not deny reconsideration of a timely and appropriately revised or supplemented proposal which is responsive to such an initial agency determination.

(d) Comprehensive evaluations shall be coordinated by the organizational entity designated in accordance with § 1–4.908. Each unsolicited proposal that is circulated for a comprehensive evaluation within the agency shall have attached or imprinted a legend identifying it as an unsolicited proposal, and stating that it shall be used only for purposes of evaluation see § 1–4.913 (c)). In evaluating an unsolicited proposal, agency personnel shall consider, in addition to any othe criteria, the following:

(1) Unique, innovative, or meritorius methods, approaches, or ideas which have originated with or are assembled together by the offeror that are contained in the proposed effort or activity.

(2) Overall scientific, technical, or socio-economic merits of the proposed effort or activity.

(3) Potential contribution which the proposed effort is expected to make to the agency's specific mission, if pursued at this time.

(4) Capabilities, related experience, facilities, or techniques, or unique combinations thereof which the offerer possesses and offers and which are considered to be integral factors for achieving the scientific, technical, or socio-economic objective(s) of the proposal.

(5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are considered to be critical in achieving the objectives of the proposal.

(e) Upon completion of the comprehensive evaluation of an unsolicited proposal, agency evaluation personnel shall, in accordance with agency procedures, notify the coordinating office (see § 1–4.908) of their conclusions together with recommendations for further action.

§ 1–4.910 Method of procurement.

(a) A favorable comprehensive evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the offeror. When a document qualifies as an unsolicited proposal (see §§ 1–4.904 (a) and 1–4.909(b)) but the substance (1) is available to the Government without restriction from another source, or (2) closely resembles that of a pending competitive solicitation, or (3) is otherwise not sufficiently unique to justify acceptance (see § 1–4.909(b)), the unsolicited proposal shall not be acceptable. When procurement is intended and competition is feasible, the proposal shall be returned to the offeror together with the reasons for the return (see § 1–4.909(e)).

(b) A negotiated, noncompetitive procurement is permissible when an unsolicited proposal has received a favorable technical evaluation, unless it is determined that the substance thereof is available to the Government without restriction from another source, or a competitive procurement is otherwise appropriate. The agency technical office sponsoring the procurement shall support its recommendation with a justification for noncompetitive procurement. The justification shall be based on a comprehensive evaluation of the proposal. The justification shall include the facts and circumstances that operate to preclude competition and that support the recommended noncompetitive action. Consideration shall include the evaluation factors listed in § 1–4.909(d).

(c) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation.

§ 1–4.911 Prohibitions.

Agencies shall not permit all or any part of an unsolicited proposal to be used as the basis, or as a portion, of a solicitation, or in negotiation with other firms unless the offeror is notified and agrees to the intended use. However, nothing herein precludes the Government from using any data, concept, or idea which it could have used had the unsolicited proposal not been submitted. With respect to data (see § 1–4.913(a)) tendered in an unsolicited proposal, disclosure of information which concerns or relates to trade secrets, processes, operations, style of work, or apparatus, and other matters may result in the imposition of a criminal penalty pursuant to the provisions of 18 U.S.C. 1905.

§ 1–4.912 Interagency coordination.

When it is determined that a meritorious unsolicited proposal is not related to the mission of the recipient agency or may be of interest to other agencies in addition to the recipient agency, the recipient agency may identify for the offeror other agencies whose missions bear a relationship to the subject matter of the unsolicited proposal.

§ 1–4.913 Limited use of data.

(a) An unsolicited proposal may include data which the offeror does not want disclosed for any purpose other than evaluation of the proposal. If the offeror wishes to impose such a restriction on his unsolicited proposal he shall mark the title page with the following legend:

USE AND DISCLOSURE OF DATA

This data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal; *Provided*, That if a contract is awarded to this offeror as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the contract. This restriction does not limit the Government's right to use information contained in the data if it is obtainable from another source without restriction. The data subject to this restriction is contained in Sheets ----------

The offeror also shall mark each sheet which he wishes to restrict with the following legend:

Use or disclosure of proposal data is subject to the restriction on the title page of this Proposal.

(b) An unsolicited proposal shall be returned to the offeror if it is marked with a different legend than that provided in paragraph (a) of this § 1–4.913. The offeror shall be informed that the proposal cannot be considered because it is impracticable for the Government to comply with the legend. However, he shall also be informed that the proposal will be considered if it is resubmitted with the legend provided in paragraph (a).

(c) Except as provided in paragraphs (d) or (e) below, the coordinating office (see § 1–4.908) shall place a cover sheet on the proposal or the proposal

shall be otherwise clearly marked as follows unless the offeror gives a clear written indication that he does not wish to impose any restrictions on the disclosure or use of the data contained in the proposal.

UNSOLICITED PROPOSAL USE OF DATA LIMITED

All Government personnel handling this proposal shall exercise extreme care to insure that the information contained herein is not disclosed outside the Government and is not duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal, without the written permission of the offeror (except that if a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use).

This notice does not limit the Government's right to use the information contained in the proposal if it is obtainable from another source without restriction.

This is a Government notice, and shall not by itself be construed to impose any liability upon the Government or Government personnel for any disclosure or use of data contained in this proposal.

The notice in this paragraph (c) is used by the Government solely as a manner of handling unsolicited proposals which will be compatible with the provisions of this section. Nevertheless, the use of the notice in this paragraph (c) shall not be used by the Government to justify the withholding of a document (record) nor to improperly deny access to a document to an individual (the public) where an obligation is imposed on the agency by the Freedom of Information Act, 5 U.S.C. 552, as amended. Matters which the prospective offeror considers to be trade secrets and commercial or financial information and privileged or confidential should be identified by the offeror upon submission to the Government in accordance with paragraph (a) of this § 1-4.913.

(d) If an unsolicited proposal is received without any restrictive legend from an educational or nonprofit organization or institution and it is necessary or appropriate to obtain an evaluation of the proposal outside the Government by leading scientists or other preeminent experts, to ascertain the merits of the proposal, a cover sheet shall be placed on the proposal or the proposal shall be clearly marked with the legend set forth in paragraph (c), above, modified by changing the first two words to read "All Government and non-Government and by deleting the words "is not disclosed outside the Government and". A written agreement shall be obtained from any non-Government evaluator that the evaluator will not disclose information in the proposal outside the Government. If the proposal is received with the restrictive legend specified in paragraph (a) of this § 1-4.913, the modified cover sheet shall also be used and permission shall be obtained from the offeror, prior to release, for the release of the proposal for outside evaluation.

(e) If an unsolicited proposal is received from other than an education or nonprofit organization or institution irrespective of whether it contains a restrictive legend, and it is necessary or appropriate to obtain an evaluation of the proposal by Government personnel outside the agency and/or by leading scientists or preeminent experts outside the Government, written permission shall be obtained from the offeror prior to release of the proposal for such evaluation. A cover sheet shall be placed on the proposal or the proposal shall be clearly marked with the notice set forth in paragraph (c), above, or as modified in accordance with paragraph (d), above, if appropriate. A written agreement shall be obtained from any non-Government evaluator that the evaluator will not disclose information in the proposal outside the Government.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 25, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-22304 Filed 8-2-77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 196—DOMESTIC MINING AND MINERAL FUEL CONSERVATION FELLOWSHIPS

Award of Fellowships

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Education Amendments of 1976 included several amendments to the statute governing this program. This final regulation implements these amendments, including setting the amount of the fellowship and establishing weighting factors for criteria used in the evaluation of the applications.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provision Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Clarence B. Lindquist, Bureau of Higher and Continuing Education, 7th and D Streets SW., Regional Office Building 3, Room 3060, Washington, D.C. 20202, telephone 202-245-2347.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking published in the FEDERAL REGISTER on March 28, 1977 (42 FR 16448) incorporated proposed amendments to the existing regulation which had been published in final form on July 15, 1976 (41 FR 29123). The objective of the proposed regulation was:

(1) To implement the statutory provision permitting the Commissioner, in certain cases, to award an additional 12 months of fellowship tenure to a fellow who has already received 36 months of fellowship support;

(2) To implement the statutory provision allowing a fellow to interrupt his or her studies in certain circumstances for a period up to 12 months;

(3) To set the stipend, the dependency allowance, and the institutional allowance at levels consistent with prevailing practices in comparable federally supported programs, as is now required by statute;

(4) To delete the provision concerning the payment of travel allowances (formerly § 196.9), which are no longer authorized by the statute; and

(5) To establish weighting factors for the criteria (§ 196.10) used in evaluating the applications.

SUMMARY OF COMMENTS AND RESPONSES

Comment. One written comment to the proposed regulation was received. The commenter recommended that the stipend and dependency allowance paid to fellows be set at levels no less than those in comparable federally supported programs and that the dollar amount of the stipend not be specified in the regulation.

Response. The statute requires the Commissioner to pay such stipends (including such allowances for subsistence and other expenses for fellows and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs. The Commissioner believes that it is appropriate to publish these amounts in the regulation. The proposed regulation set the annual stipend at $3,600; the annual dependency allowance for each qualified dependent at $300; and the annual institutional allowance for each fellow at $3,600. To achieve consistency with other comparable federally supported programs and to conform with departmental policy, dependency allowances are being eliminated and the stipend and institutional allowance are both being set at $3,900 in the final regulation.

The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.567; Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships.)

Dated: June 22, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: July 28, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by revising Part 196, to read as follows:

Sec.
196.1 Definitions.
196.2 Purpose.
196.3 Award procedures.
196.4 Types of fellowships.
196.5 Eligibility for fellowships.
196.6 Fellowship conditions.
196.7 Stipend.
196.8 [Reserved]
196.9 Institutional allowance.
196.10 Criteria for allocating fellowships to institutions of higher education.
196.11 Reward of vacated fellowships.
196.12 Payment procedures.
196.13 Criteria for determining financial need.
196.14 Records and reports.

AUTHORITY: Title IX, Part D, sections 961-965 of Pub. L. 89-329, as amended (20 U.S.C. 1134n-1134r), unless otherwise noted.

§ 196.1 Definitions.

As used in this part:

(a) "Act" means the Higher Education Act of 1965, as amended.

(b) "Domestic Mining" is defined as the means by which mineral and mineral fuel resources of the United States are extracted from the earth.

(c) "Fellow" means a person to whom the Commissioner awards a fellowship under this part.

(d) "Fellowship" means an award by the Commissioner under this part.

(e) "Institution of higher education" is defined in Section 1201(a) of the Higher Education Act of 1965, as amended 20 U.S.C. 1141(a).)

(f) "Mineral and Mineral Fuel Conservation" is defined as the means by which an adequate supply of the Nation's non-renewable resources is maintained, either through exploration for new sources, more efficient extraction of existing reserves, or better utilization of already processed minerals and mineral fuels.

(20 U.S.C. 1134n.)

§ 196.2 Purpose.

It is the purpose of this program to provide fellowships to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale and uranium.

(20 U.S.C. 1134n(a).)

§ 196.3 Award procedures.

Fellowships will be allocated to institutions of higher education which apply for a fellowship allocation and which offer a graduate program leading to an advanced or professional degree in the field of domestic mining or mineral and mineral fuel conservation on the basis of the criteria set forth in § 196.10. Institutions receiving such an allocation shall recommend eligible students to the Commissioner for fellowship award.

(20 U.S.C. 1134n(b)(1); 1134(c).)

§ 196.4 Types of fellowships.

The types of fellowships that will be awarded under this part are as follows:

(a) Fellowships for individuals for graduate study leading to an advanced or professional degree in a field of domestic mining or mineral and mineral fuel conservation.

(1) These fellowships will be awarded to individuals who have been accepted for graduate study at an institution of higher education that has received a fellowship allocation under this part.

(2) The fellowships will be allocated each year to institutions of higher education and will consist of two categories: new fellowships and continuation fellowships. Continuation fellowships will only be awarded to individuals who previously received an award under this part and who are continuing their study leading to an advanced or professional degree.

(3) An individual may receive assistance under this part for up to 36 months, except that the Commissioner may award a fellowship for an additional 12 month period to allow a student who has completed all course work and comprehensive examinations (if any) to complete the doctoral dissertation.

(b) Doctoral dissertation fellowships. These fellowships are one-year fellowships for persons who have completed all course work required for granting a doctoral degree or an equivalent degree (except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education that has received a fellowship allocation for this purpose.

(c)(1) A fellow may take a leave of absence for a period up to 12 months for the purpose of work, travel, or independent study away from the campus, if (i) the leave of absence is approved by the institution at which the fellow is enrolled and by the Commissioner; and (ii) the independent study is supportive of the fellow's academic program.

(2) The Commissioner shall make no payments to the fellow or the institution during this period. The fellowship is not vacated during this period and no reaward of the fellowship to another student may be made.

(20 U.S.C. 1134n(c); 1134n(d); 1134o.)

§ 196.5 Eligibility for fellowships.

Recipients of fellowships under this part must:

(a) Be of exceptional ability, as determined by the institution of higher education;

(b) Demonstrate financial need, as determined by the institution of higher education under the criteria set forth in § 196.13; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident thereof, or be a permanent resident of the Trust Territory of the Pacific Islands.

(20 U.S.C. 1134n(a)(1).)

§ 196.6 Fellowship conditions.

In order to continue receiving payments under the provisions of this part, a fellow must:

(a) Maintain satisfactory proficiency in the approved program in which he or she is registered;

(b) Continue to devote full-time to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship tenure, except in an internship or research activity under faculty supervision in the field in which he or she is studying.

(20 U.S.C. 1134q(a).)

§ 196.7 Stipend.

(a) The stipend to which a fellow is entitled will be $3,900 for an academic year consisting of twelve months.

(b) A fellow who is enrolled in the program of study for less than twelve months shall only be entitled to receive a pro rata share of the annual entitlement. For purposes of this section, a fellow who is enrolled in the program for the entire academic year (including summer sessions) at an institution of higher education shall be considered to be enrolled in the program for the full twelve months.

(20 U.S.C. 1134p(a).)

§ 196.8 [Reserved]

§ 196.9 Institutional allowance.

The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,900 per twelve month period, except that any amount charged to and collected from the fellow by the institution for tuition and other expenses required by the institution as part of the fellow's instructional program shall be deducted from this amount. If the fellow is enrolled for less than 12 months, the institution will be paid a pro rata share of this amount.

(20 U.S.C. 1134p(b).)

§ 196.10 Criteria for allocating fellowships to institutions of higher education.

The allocation of fellowships among institutions of higher education which apply for participation in this program and which offer a graduate program leading to an advanced or professional degree in the field of domestic mining or mineral and mineral fuel conservation will be based on the following criteria:

(a) Highest priority will be given to allocate fellowships to institutions of higher education where the fellowships will be used to support fellows who are currently receiving assistance under this part or who are returning from an approved leave of absence (see § 196.4(c))

if there is evidence that these individuals have made satisfactory progress toward completing their course of study during the time when they are (or were) enrolled at the institution.

(b) The remaining fellowships will be allocated among institutions of higher education based on the degree (calculated according to the maximum point scores as shown) to which there is demonstrated evidence that the educational program at that institution:

(1) Is designed to address one or both of the following national needs (25 points):

(i) The need for trained individuals to improve the technologies for the efficient extraction and processing of nonrenewable mineral and mineral fuels including the development of improved systems of underground, underwater, and surface mining techniques, improved methods to protect the health and safety of people working in extraction and processing operations, and improved methods to protect and restore the environment in extraction and processing operations;

(ii) The need for training individuals to develop ways to ensure the availability of non-renewable minerals and mineral fuels through improved exploration or discovery techniques, optimum recovery of existing mineral and mineral fuel reserves, improved utilization of processed minerals and mineral fuels through recycling technology, and improved understanding of mineral economics;

(2) Is of high quality in terms of course offerings (20 points);

(3) Leads to immediate career opportunities in domestic mining and mineral and mineral fuels industries, including careers in teaching in those subject areas at institutions of higher education (5 points);

(4) Offers an opportunity for relevant supervised practicum, internship, or field experience (5 points);

(5) Has a program director and teaching staff which have the education, background, research interests, and experience to plan and implement a successful program of domestic mining and mineral and mineral fuel conservation education (20 points);

(6) Has the necessary institutional resources (facilities, equipment, library, etc.) to meet program objectives (20 points); and

(7) Has developed procedures to measure the effectiveness of the program (5 points).

(20 U.S.C. 134n(c).)

§ 196.11 Reaward of vacated fellowships.

If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements set forth in § 196.5. The duration of a reawarded fellowship shall be for a period of graduate or professional work or research not in excess of the remainder of the period for which the fellowship it replaces was awarded.

(20 U.S.C. 1134n(b)(2).)

§ 196.12 Payment procedures.

(a) The Commissioner will pay to the approved institution of higher education the stipend and institutional allowance (calculated pursuant to §§ 196.7 and 196.9) for each fellowship allocated to that institution. The institution of higher education is responsible for disbursing all funds due the recipient.

(b) The timing of payments to fellows will be left to the discretion of each institution of higher education, although no fewer than two payments a year shall be made. Institutions are responsible for recovery of excess payments made to students who, for any reason, fail to complete the academic year for which they are registered.

(20 U.S.C. 1134p.)

§ 196.13 Criteria for determining financial need.

In determining whether a student has financial need for the purposes of this fellowship program, the institution must consider the student's projected costs for the year including tuition, fees, books, materials, and supplies, plus other reasonable costs that a student might have for room and board in comparison with the student's resources (including available income and contribution from available assets).

(20 U.S.C. 1134n(a).)

§ 196.14 Records and reports.

Each institution of higher education which receives an allocation of fellowships under this part, and each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Commissioner. Such reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that the fellow is making satisfactory progress in and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134q(b).)

[FR Doc.77-22230 Filed 8-2-77;8:45 am]

Title 49—Transportation

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 16, Amdt. 99-12]

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Statements of Employment and Financial Interests

AGENCY: Department of Transportation, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to revise Appendix C of the Department of Transportation's regulations governing employee conflict of interest. This document makes several additions to the list of positions the incumbents of which are required to submit statements of employment and financial interests.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Booker T. Wade, Jr., Attorney-Advisor, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. (202-426-4723).

SUPPLEMENTARY INFORMATION: The persons principally responsible for drafting this document are: Program—Aubrey B. Robertson, Office of Personnel and Training; legal—Booker T. Wade, Jr., Office of the General Counsel.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 99 of title 49, Code of Federal Regulations, is amended as follows:

Appendix C [Amended]

In Appendix C, Section I, under the caption "Office of the Assistant Secretary for Systems Development and Technology," the following amendments are made:

After the listing of "Director, Office of Noise Abatement," the following caption and listings are inserted:

* * * * *

TRANSPORTATION SYSTEMS CENTER

Director
Deputy Director
Executive Assistant
Equal Opportunity Officer
Chief Counsel
Patent Advisor
Chief, Office of Plans and Programs
Chief, Office of Advanced Systems
Director, Office of Systems Research and Analysis
Chief, National Transportation Research Division
Chief, Transportation Information Division
Chief, Urban and Regional Research Division
Director, Office of Energy and Environment
Chief, Energy Programs Division
Chief, Environmental and Test Programs Division
Director, Office of Air and Marine Systems
Chief, Systems Development Division
Chief, Systems Technology Division
Director, Office of Ground Systems
Deputy Director, Office of Ground Systems
Chief, Urban Systems Division
Chief, Intercity Systems Division
Chief, Vehicles and Engineering Division
Director, Office of Administration
Chief, Budget Office
Chief, Management Systems Division
Chief, Procurement and Supply Division
Chief, Procurement Analysis Branch
Chief, Contracts Branch
Chief, Purchases Branch
Contract Specialist, GS-13 and above
Contract Price Analyst, GS-13 and above
Chief, Computer Services Division

* * * * *

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e); 49 CFR 99.735-31(b).)

Issued in Washington, D.C., on July 27, 1977.

EDWARD W. SCOTT, Jr.,
Assistant Secretary for Administration.

[FR Doc.77-22301 Filed 8-2-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 4 to Service Order No. 1242]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co. Authorized To Operate Over Certain Tracks of Southern Pacific Transportation Co.

Service date: July 29, 1977.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 4 to Service Order No. 1242).

SUMMARY: Service Order No. 1242 authorizes the Kansas City Southern to operate over tracks of the Southern Pacific Transportation Co. at Lake Charles, La. The Kansas City Southern Railway's drawbridge over the Calcasieu River at Lake Charles is unserviceable because of failure of the operating machinery used to open and close the span, isolating a major industrial district served by the Kansas City Southern from the remainder of the system. Operation of Kansas City Southern trains over the parallel bridge of the Southern Pacific enables the Kansas City Southern to continue service to shippers served by the tracks disconnected from the remainder of the system by the failure of the operating mechanism of the bridge. Amendment No. 4 extends Service Order No. 1242 for six months.

DATES: Effective 11:59 p.m., July 31, 1977. Expires January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Utilization and Distribution Branch, Interstate Commerce Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission Railroad Service Board held in Washington, D.C., on the 28th dav of July 1977.

Upon further consideration of Service Order No. 1242 (41 FR 18053, 31824, 48344; and 42 FR 6584), and good cause appearing therefor:

It is ordered, That Service Order No. 1242 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1242 Service Order No. 1242.

(a) The Kansas City Southern Railway Co. authorized to operate over tracks of Southern Pacific Transportation.* * *

* * * * *

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10)-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22327 Filed 8-2-77;8:45 am]

[Amdt. No. 2 to Service Order No. 1248]

PART 1033—CAR SERVICE

Norfolk & Western Railway Co. Authorized To Operate Over Tracks of Burlington Northern, Inc.

Service date: July 28,1977.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 2 to Service Order No. 1248).

SUMMARY: Service Order No. 1248 authorizes the Norfolk and Western Railway to operate over 18.86 miles of the Burlington Northern, Inc., between Hannibal, Mo., and Quincy, Ill., in lieu of operations over a parallel line of the Burlington Northern between East Hannibal, Ill., and Quincy. The line on the east bank of the Mississippi River formerly used by the Norfolk and Western is unserviceable because of deteriorated track. An application for permanent authoritv to operate over the west bank line of the Burlington Northern has been filed by the Norfolk and Western. Amendment No. 2 extends Service Order No. 1248 for six months.

DATES: Effective 11:59 p.m., July 31, 1977. Expires 11:59 p.m., January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89 2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of July 1977.

Upon further consideration of Service Order No. 1248 (41 FR 31222 and 42 FR 6371), and good cause appearing therefor:

It is ordered, That Service Order No. 1248 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1248 Service Order No. 1248.

(a) Norfolk and Western Railway Co. authorized to operate over tracks of Burlington Northern, Inc. * * *

* * * * *

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22328 Filed 8-2-77;8:45 am]

[Amdt. No. 6 to Revised Service Order No. 1210]

PART 1033—CAR SERVICE

Providence & Worcester Co. Authorized To Operate Over Tracks of Consolidated Rail Corp. and Consolidated Rail Corp. Authorized To Operate Over Tracks of Providence & Worcester Co.

Service date: July 29, 1977.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 6 to Revised Service Order No. 1210).

SUMMARY: Because of abandonments by the former Penn Central, two short segments of the Consolidated Rail Corp.'s

lines in Rhode Island known as the Slatersville and Wrenthan branches are isolated from the remainder of its system. Revised Service Order No. 1210 authorizes the Providence and Worcester Co. which has the sole rail connections with these two Consolidated Rail Corp. branches to operate them for the account of Consolidated Rail, pending approval by the Commission of a joint operating contract covering these lines. Amendment No. 6 extends Revised Service Order for six months.

DATES: Effective 11:59 p.m., July 31, 1977. Expires 11:59 p.m., January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202–275–7840.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of July 1977.

Upon further consideration of Revised Service Order No. 1210, (40 FR 7452, 19478, 41 FR 4929, 15414, 32430; and 42 FR 6817), and good cause appearing therefor:

It is ordered, That Revised Service Order No. 1210 be, and it is hereby, amended by substituting the following paragraph (h) for paragraph (h) thereof:

§ 1033.1210 Service Order No. 1210.

(a) Providence and Worcester Co. authorized to operate over tracks of Consolidated Rail Corp. and Consolidated Rail Corp. authorized to operate over tracks of Providence and Worcester Co.

* * *

* * * * *

(h) Expiration date: The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. ((10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77–22326 Filed 8–2–77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURES

[Ex Parte No. 55 (Sub-No. 4)]

PART 1108—REVISED GUIDELINES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to final rule.

SUMMARY: In the above captioned proceeding published at 41 FR 54772, December 15, 1976, one of the sub-sections contained an error. This correction is to show the proper sub-section for Item 7.

FOR FURTHER INFORMATION CONTACT:

Richard Chais, Chief, Section of Energy and Environment, Interstate Commerce Commission, Washington, D.C. 20423. Phone No.: 202–275–7692.

SUPPLEMENTARY INFORMATION: Because of a typographical error, item 7 of said notice incorrectly referred to § 1108.12(a)(b) of the Commission's Environmental Rules, 49 CFR 1108. The correct section number is § 1108.12(a)(3).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77–22211 Filed 8–2–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 780]

APPEAL REGULATIONS

Appraisals With Respect to Technical Determinations for Wheat; Feed Grain, Upland Cotton and Rice Programs

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed rule.

SUMMARY: The proposed rule provides that appraisals by Federal Crop Insurance Corporation and Agricultural Stabilization and Conservation Service appraisers with respect to technical determinations for wheat, feed grain, upland cotton, and rice programs shall be binding on the reviewing authority and are not appealable to the Deputy Administrator, Programs. Experience has proven that proper judgment decisions on appeal matters such as these become increasingly difficult when handled beyond the State committee level. By the time this type of appeal reaches the National level, the familiarity of local surroundings decreases and any contributions to effective program administration resulting from appeals beyond the State committee level is minimal.

DATE: Comments must be received on or before September 2, 1977.

ADDRESS: Mail comments or objections regarding the proposed change to the Director, Program Appeals Staff, Agricultural Stabilization and Conservation Service, Room 3649, South Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Arthur Reynolds, Program Appeals Staff, 202–447–3901.

SUPPLEMENTARY INFORMATION:

All references to programs for which the authorizing statutory language has expired such as the Land Use Adjustment and Soil Bank Programs are hereby removed.

PART 780—APPEAL REGULATIONS

In accordance with the above, it is proposed that § 780.11(a) of the Appeal Regulations, 7 CFR Part 780, be amended to read as follows:

§ 780.11 Requests for reconsideration and appeals requiring special handling.

(a) Determinations made by a State committee with respect to (1) the establishment of farm yields for wheat, feed grain, and cotton, (2) the establishment of wheat allotments, (3) the establishment of farm feed grain allotments, (4) the establishment of upland cotton base acreage allotments, (5) matters rising under the tobacco discount variety program, (6) eligibility provisions of the livestock feed program, (7) the disaster provisions of the wheat, feed grain, and upland cotton programs that a loss on a farm was due in whole or in part to causes other than the natural disaster or conditions beyond the control of the producer, (8) the establishment of rice allotments, and (9) crop appraisals by the Agricultural Stabilization and Conservation Service (ASCS) and by Federal Crop Insurance Corporation for ASCS are not appealable to the Deputy Administrator, Programs.

(b) In matters arising under the Agricultural Conservation Program involving the misuse of a purchase order by a vendor of conservation materials and services, the vendor may appeal to the Deputy Administrator only on the issue as to whether the facts reasonaly support the determination of the State committee.

(c) Matters arising under the (1) Agricultural Conservation Program involving a finding or certification by a technician of the Soil Conservation Services or Forest Service, or (2) appraisal redeterminations under the wheat, feed grain, upland cotton, or rice programs by Federal Crop Insurance Corporation or Agricultural Stabilization and Conservation Service, shall be binding on the reviewing authority.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77–22271 Filed 8–2–77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 705]

REASONABLE DUTIES UNDER A FULL WARRANTY

Inquiry and Proceeding on Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Inquiry and Proposed Rule Proceeding.

SUMMARY: The Commission is proposing a rule applicable to only "full" warranties which will define certain duties which are not reasonable within the meaning of Section 104(b)(1) of the Magnuson-Moss Warranty Act. The rule proposes that eight duties or obligations, when imposed upon a consumer as a condition of securitg a remedy after a consumer product malfunctions, may not be placed in a "full" warranty. The rule is intended to provide guidance to warrantors offering full warranties regarding unreasonable conditions which may not be imposed as a precondition to obtaining warranty performance. The proposed rule covers the following issues: (1) The cost of returning consumer products for warranty service; (2) the safety of returning consumer products for warranty service; (3) warranty registration requirements; (4) service of built-in consumer products; (5) repackaging consumer products for return for warranty service; (6) return of consumer products to authorized dealers; (7) methods which consumers may use for notification of warrantors of defects; and (8) the time in which consumers must notify warrantors of defects.

DATES: Written comments must be received on or before September 15, 1977. Hearings will commence in Chicago, Illinois on October 3, 1977, in Los Angeles, California on November 7, 1977, and in Washington, D.C. on December 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Laden, Attorney, 202–724–1145, Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 104(b)(1) of the Magnuson-Moss Warranty Act, Pub. L. 93–637 (15 U.S.C. 2304) (the Act), authorizes the Federal Trade Commission to make rules setting forth what is an unreasonable duty when imposed by a warrantor on a consumer as a condition of securing a remedy under a full warranty of any consumer product which malfunctions, is defective, or does not conform to the written warranty.

A "full warranty" is a written warranty which meets the minimum standards of Section 104. Neither that Section nor this proposed rule apply to limited warranties.

The proposed rule is intended to define and identify certain duties which are not reasonable within the meaning of Section 104(b)(1) of the Act. That section provides that a warrantor "shall not impose any duty other than notification upon any consumer as a condition of securing a remedy * * * unless the warrantor has demonstrated in a rulemaking proceeding, or can demonstrate in an administrative or judicial enforcement proceeding (including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable." The burden of showing that a duty is reasonable rests with the warrantor. The proposed rule does not

include all duties which may be unreasonable under Section 104(b)(1). Rather, the proposed rule covers those duties which the Commission currently has reason to believe constitute unreasonable duties if imposed in a full warranty. Other duties, not addressed by the proposed rule, may be dealt with in the future on a case-by-case basis in an adjudicatory proceeding, or in future rulemaking proceedings as provided in Section 104(b)(1). Furthermore, duties not included here in may be found to be unreasonable by a court or dispute settlement mechanism in a case or dispute under the Act.

Section 110(b) of the Act states that failure by any person to comply with any requirement imposed on such person by the Act, or by a rule thereunder, shall be a violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)). Should instances of noncompliance with these requirements occur, the Commission may exercise its injunctive powers, or take other action to enforce Section 5 of the Federal Trade Commission Act or Section 110 of the Act.

The Commission also wishes to conduct an inquiry into various issues raised by the proposed rule. The Commission wishes to invite comment on a number of questions raised by this proceeding. These questions are designed not only to solicit data, views and arguments on the appropriateness of the proposed rule but also to develop alternative approaches to those suggested by the Commission's proposed rule should such alternatives be warranted and found to be in the public interest.

The documents supporting the proposed rule, and a report of the Commission's staff discussing the proposed rule and the supporting documents, will be made available for examination by interested persons in Room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

SECTION A. PROPOSED RULE

In consideration of the foregoing, the Commission proposes the following rule implementing Section 104(b)(1) of the Act, and to amend Title 16, Chapter 1, by adding to subchapter G—Rules, Regulations, Statements, and Interpretations under the Magnuson-Moss Warranty Act, a new Part 705 under that subchapter as follows:

PART 705—REASONABLE DUTIES UNDER A FULL WARRANTY

Sec.
705.1 Definitions.
705.2 Scope.
705.3 Unreasonable Duties.

AUTHORITY: The provisions of this Part 705 issued under 15 U.S.C. 2304 and 2309.

§ 705.1 Definitions.

(a) "The Act"—means the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, 15 U.S.C. 2301, et seq.

(b) "Built-in"—means any consumer product which is attached, fastened, or installed in or on to real or personal property.

(c) "Consumer"—means a buyer (other than for purposes of resale or use in the ordinary course of the buyer's business) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty applicable to the product, and any other person who is entitled by the terms of such warranty or under applicable state law to enforce against the warrantor the obligations of the warranty.

(d) "Consumer product"—means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(e) "Duty"—means any obligation imposed upon a consumer by a warrantor in a written warranty which is or appears to be a condition of securing a remedy of a consumer product which malfunctions, is defective, or does not conform to the written warranty.

(f) "Full warranty"—means a written warranty which meets or is deemed to meet the Federal minimum standards under section 2304 of the Act.

(g) "Remedy"—means whichever of the following actions the warrantor elects: (1) Repair (2) replacement, or (3) refund; except that the warrantor may not elect refund unless (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or (ii) the consumer is willing to accept such refund.

(h) "Warrantor"—means any supplier or other person who gives or offers to give a written warranty.

(i) "Written warranty"—means (A) Any written affirmation of fact or promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material and workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) Any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

(j) "Warranty service point"—means the place of business of the warrantor or of any designated representative for the performance of service under a written warranty.

(k) "Warranty service"—means any repair, replacement, refund, or other remedial action which a warrantor or a warrantor's designated representative is obligated to perform pursuant to a written warranty.

§ 705.2 Scope.

The regulations in this part define certain duties that warrantors offering full warranties may not impose upon consumers as a condition of securing a remedy of any consumer product. These regulations are not intended to give a complete list of such duties.

§ 705.3 Unreasonable duties.

It is a violation of Section 104(b)(1) of the Act, and as provided in Section 110(b) of the Act, a violation of Section 5(a)(1) of the Federal Trade Commission Act, for a warrantor offering a full warranty to a consumer on a consumer product to require or appear to require of the consumer, as a condition of securing a remedy, any unreasonable duty. The following are unreasonable duties:

(a) Requiring that a consumer assume the costs of mailing or shipping, including insurance, to send a product to or from a warranty service point. (NOTE.—A warrantor may require that a consumer initially pay these costs if the warrantor reimburses the consumer for them. In this case, reimbursement must be made no later than the time the product is returned to the consumer. Only documented costs must be reimbursed. The warrantor need not assume the costs of transportation to and from a mailing or shipping point, although a warrantor may choose to do so.)

(b) Requiring that a consumer mail, ship, or carry a consumer product which:
(1) Weights more than 15.9 kg (35 lbs);
(2) Is not designed to permit safe and convenient handling on stairways and through doorways; or
(3) Has any hazardous handling characteristics, including, but not limited to: (i) Sharp edges which may come in contact with a person handling the product; (ii) Hazardous or inadequate lift points, handholds or handles; (iii) Improperly located lift points, handholds or handles, especially on products which have uneven weight distribution.

NOTE 1.—It shall also be an unreasonable duty to require that a consumer mail a consumer product which is not mailable under current regulations of the United States Postal Service, if the product must be mailed to a warranty service point. United States Postal Service regulations include 39 CFR Part 124; United States Postal Service Manual Chapter 1, Part 123 and 124; and any other applicable regulations of the United States Postal Service or any amendments and supplements thereto.

NOTE 2.—Section 705.3(b) does not apply to operable motorized vehicles which are suitable for travel on public roads or waterways such as automobiles, motorcycles, and boats, and which can be returned to a warranty service point without unreasonable risk of damage to the vehicle or danger to persons. If a motorized vehicle is inoperable or cannot be returned for any of these reasons as a result of a warranty-related defect, the warrantor shall be responsible for returning (or assuming the cost of returning) the vehicle for warranty service.

(c) Requiring that a consumer complete and return any card shortly after purchase of a product (such as an owner's registration card, a warranty registration card, or the like), to make all or any part of the warranty effective. (NOTE: A warrantor may require a consumer to submit evidence that a product is under warranty at the time a remedy is sought (e.g., evidence of date of purchase), except where a warranty is offered without a time limit. Evidence that a product is under warranty at the time a remedy is sought may include a requirement that a card (which may, at the customer's option, be the warranty registration card) or other evidence that the product is still under warranty, be presented as a condition for warranty coverage. A warrantor may suggest the return of a warranty registration card shortly after purchase of a product, as one means of submitting evidence of date of purchase, but it may not be required or implied as the only means of evidencing date of purchase. Any such suggestion or implication that a consumer return a warranty registration card, or that the warranty registration card is in any way connected to the warranty, must be accompanied by the following notice, printed clearly and conspicuously: "You do not have to return this (the) card. Failure to return the card will not affect your warranty rights." The following are examples of implications which would trigger this notice: Labeling a card a warranty card, warranty registration card, or the like; placing the text of the warranty on the card or attaching the warranty text to the card; representing or distributing the card as part of the warranty material.)

(d) Requiring that a built-in consumer product be removed and returned by a consumer for warranty service or reinstalled by a consumer after warranty service unless the product can be removed, returned, and reinstalled by the average consumer without special tools, skills, or without the expenditure of a substantial amount of time.

(e) Requiring that a consumer return a product in its original package. (NOTE.—A warrantor may require a consumer to take precautions in repackaging a consumer product that are reasonably calculated to protect it from damage in shipping or mailing. In this case, the warranty must include simple and readily understood instructions on how to repackage the product.)

(f) Requiring that a consumer product be returned for warranty service only to the selling dealer, where a warrantor has more than one warranty service point.

(g) Requiring that a consumer's notice of a defect, malfunction, or a failure to conform with the written warranty be in writing. Notice of a defect under a full warranty may be any communication reasonably calculated to inform the warrantor of the defect, malfunction, or lack of conformity of the consumer product.

(h) Requiring that a consumer give notice of a defect within a specified period of time other than a "reasonable period of time."

SECTION B. QUESTIONS FOR COMMENT

All interested persons are urged to provide data, views or arguments on any or all aspects of the proposed rule, including recommended revisions and alternative approaches. The Commission specifically invites comments on the following questions:

1. What duties, other than those addressed in the proposed rule, might be deemed to be unreasonable in violation of Section 104(b)(1) of the Act?

2. Section 705.3(a) would prohibit warrantors from requiring a consumer to pay mailing or shipping costs to return a product for warranty service. Is there an alternative formula for determining whether a consumer should bear the mailing costs when a product is returned for warranty service? Would limiting the amount of shipping charges a consumer would have to pay to a percentage of the purchase price of the product be a viable alternative? If so, how could such an approach be practically implemented? Are there other alternatives and how could each be implemented?

3. To provide as much certainty as possible, § 705.3(b)(1) provides a specified weight limit to guide warrantors in the question of reasonableness with regard to portability. However, it has been suggested that with respect to the issue of consumer product return, alternative criteria might be preferable in determining whether or not a duty to carry back a product is unreasonable. One alternative suggested has been to define reasonableness by reference to whether or not a consumer initially carried the product home from the place of purchase. Another alternative theory suggests that the nature of the use of the product itself might be one relevant criterion. For example, a vacuum cleaner or lawn mower on wheels might be reasonable to roll back if it did not have to be carried. Should either of these alternatives serve as a basis for formulating a rule, rather than establishing a maximum reasonable weight standard? What other criteria might be used to address the issue of the reasonableness of consumer product return requirements?

4. Section 705.3(b)(2) and (3) would prohibit warrantors from requiring return of any product which was not safe and convenient to handle on stairways or through doorways or which has hazardous handling characteristics. Is it possible to define more specifically what handling characteristics are too hazardous? How may the Commission provide more specific guidance on the issue of what may make a product too unsafe for a consumer to carry back for warranty service? Have manufacturers of consumer products studied these issues and developed guidelines for product design?

5. Section 705.3(d) would prohibit any requirement that consumers, return, remove, or reinstall a built-in consumer product "unless the product can be returned, removed, and reinstalled by an average consumer without special tools, skills, or without the expenditure of a substantial amount of time." The Commission wishes to invite comment on how it may provide more specific guidance on when a consumer may not be required to return a built-in item for warranty repair. Are there better terms to define the concepts of "average consumer" and "special tools and skills"? What is the expenditure of a substantial amount of time for removal and reinstallation? Is there another formula which addresses this question more specifically?

6. As an alternative to the approach presently embodied in § 705.3(b) and (d) of the proposed rule, should warrantors be able to require consumers to arrange for return of products over 35 lbs., or to remove built-in products, providing the warrantor bears the expense of removal and return? Would warrantors use such a system if allowed, and how could it be practically implemented? Would it be feasible, for example, to impose limitations on reimbursable costs of returning a product?

7. Section 705.3(c) would prohibit any requirement that a consumer return a card shortly after purchase as a prerequisite to make a warranty effective. However, the rule does not prohibit a warrantor from requiring that a purchaser produce a card at the time warranty service is sought. See also § 700.7 of Federal Trade Commission, "Interpretations of the Magnuson-Moss Act," 42 FR 36111, at 36116. Should a warrantor's requirement that a consumer return a card at the time a remedy is sought, as evidence that the product is still under warranty, be an unreasonable duty? Where the warranty period is of a lengthy duration, is there potential for consumers being denied warranty service because of loss of a card? Under what circumstances would a service card requirement amount to an unreasonable burden on the exercise of full warranty rights?

8. Section 705.3(f) would prohibit warrantors who have more than one service center from requiring consumers to return products for service only to the selling dealer. Will this requirement create any inefficiencies in the administration of a warranty program which includes more than one service center? What are the nature of these inefficiencies? For example, do consumer products receive their final inspection, testing, preparation, or assembly from retailers? Would retailers of such products sold under the terms of a full warranty perform these duties less diligently if consumers were no longer required to have warranty repairs performed by the dealer from whom the product was originally purchased? How would any such inefficiencies compare to the burden imposed on consumers? Please provide factual data in support of any comments.

9. Proposed § 705.3(h) would prevent warrantors from imposing time limitations for notice of defect which are more restrictive than a "reasonable time." The Commission wishes to invite comments on whether any specific time limitation for notice of defect, apart from the use

of the words "reasonable time," would constitute an unreasonable duty under Section 104(b)(1) of the Act? Please provide facts to the extent possible in support of any time period suggested.

10. What will be the additional costs of compliance, if any, with this rule for warrantors who give full warranties?

11. This rule was designed to give those offering full warranties guidance on what duties are unreasonable in full warranties. Should the rule try to provide guidance for all consumer products or should some or all of the issues raised by the proposed rule be considered by product groups or categories? Should there be different standards of unreasonableness for different product categories? Should the Commission define unreasonable duties on a case-by-case approach rather than through rulemaking?

SECTION C—WRITTEN COMMENTS

All interested persons are hereby notified that they may submit written data, views, or arguments on any issue of fact, law, or policy, which may have some bearing upon the proposed rule. Such written comments should be submitted to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, on or before September 15, 1977. To assure prompt consideration comments should be identified as "Full Warranty Duties Comments" and submitted when possible and not burdensome, in three copies.

SECTION D—PUBLIC HEARINGS DATES AND PLACES

1. Public hearings will begin on October 3, 1977 at 9:30 a.m. in Room 280, Everett M. Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604.

2. Public hearings will begin on November 7, 1977 at 9:30 a.m. in Room 13114, 11000 Wilshire Boulevard, Los Angeles, California 90024.

3. Public hearings will begin on December 6, 1977 at 9:30 a.m. in Room 532, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street, N.W., Washington, D.C. 20580.

SECTION E—INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* Persons wishing to testify at a hearing should contact the Commission representative for that hearing location immediately. This will enable us to assist you in complying with the requirements set forth below. You may testify at only one hearing. In addition, all persons desiring to deliver a prepared statement at any of the hearings should file such statement together with supporting factual material with the Commission representative for that hearing location, two weeks before the commencement of the particular hearing.

2. *Notification and filing requirements.* (a) If you want to testify at the Chicago hearing, contact Alline G. Brown, 312–353–3775, Federal Trade Commission, 55 East Monroe Street, Chicago, Illinois 60603. If you plan to deliver a prepared statement at this hearing file such statement with Ms. Brown no later than September 19, 1977.

(b) If you want to testify at the Los Angeles hearing contact Paul M. Updegrove, 213–824–7575, Federal Trade Commission, 11000 Wilshire Boulevard, Los Angeles, California 90024. If you plan to deliver a prepared statement at this hearing file such statement with Mr. Updegrove no later than October 24, 1977.

(c) If you want to testify at the Washington, D.C. hearing contact Gary M. Laden, 202–724–1145, Division of Special Statutes, Federal Trade Commission, Washington, D.C. 20580. If you plan to deliver a prepared statement at this hearing file such statement with Mr. Laden no later than November 22, 1977.

3. *Use of Exhibits.* Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters.

(a) If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (on or before September 15, 1977) so they can be studied by interested persons.

(b) If such documents are unavailable during the period, file them as soon as you can but not later than two weeks before the hearing at which you intend to present your testimony.

(c) Mark each document with your name, and number it in sequence, *e.g.* Jones Exhibit 1.

4. *Expert Witnesses.* If you are going to testify as an expert witness submit a curriculum vitae, biographical sketch, resume, or summary of your professional background and a bibliography of your publications. In addition, it would be helpful if you would include documentation for the opinions and conclusions you express. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished.

5. *Results of surveys and other research studies.* If you present in your testimony the results of a survey or other research study, you must also submit as an exhibit or exhibits in compliance with paragraph 3 above the following:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e) below if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of instructions to interviewers, introductory remarks by interviewers to respondents, and a sample questionnaire or other data collection instruments.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested parties may wish to examine the questionnaires, data collection forms, and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon the request of the Presiding Officer who will then be in a position to permit their use by other interested parties or their counsel.

6. *General.* Copies of all materials filed by witnesses will be made available for examination at each hearing location specified above for the submission of such material. Any person who desires to obtain copies of the above materials for his own use must make arrangements in advance with the Commission representative specified above.

7. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance as well as that of other witnesses in an orderly fashion. The Commission staff and the Presiding Officer need the requested documents for study before the hearing to prepare appropriate questions. Also, such data should be of assistance to interested persons in the preparation of the filing of contradictory statements (rebuttals).

8. *Content of testimony.* In your testimony you can discuss any questions of fact, law, or policy concerning the proposed rule.

9. *Procedures and time limits.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires. The Presiding Officer may set reasonable time limits on your testimony. If you submit a prepared statement of testimony you may summarize the statement in your testimony, and the entire written statement will be introduced into the record as an exhibit.

Issued: August 3, 1977.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22278 Filed 8-2-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 134]

COUNTRY OF ORIGIN MARKING

Proposed Change of Position Relating to Country of Origin Marking of Radios, Stereo Systems, Television Sets, and Other Similar Consumer Electronic Products

JULY 28, 1977.

AGENCY: United States Customs Service, Treasury.

ACTION: Notice of proposed change of position.

SUMMARY: This document describes a proposed change of position relating to the country of origin marking of radios, stereo systems, television sets, and other similar consumer electronic products. This change is being considered because contemporary marketing practices make the current practice of placing the country of origin marking on the back of such products unacceptable as a means of conspicuously marking the products as to country of origin, as required by law and regulations.

DATES: Comments must be received on or before September 2, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Diane Bratter, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Unless otherwise provided by law, section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), and the Customs Regulations promulgated thereunder (19 CFR Part 134), require every article of foreign origin (or its container) imported into the United States to be marked in a conspicuous place, as legibly, indelibly, and permanently as the nature of the article (or the container of the article) will permit, in such a manner as to indicate to the ultimate purchaser of the article in the United States the English name of the country of origin of the article.

The United States Customs Court, in *Charles A. Redden (Inc.)* v. *United States*, T.D. 44964 (1931), held that section 304 of the Tariff Act does not require that an article be marked with the country of origin in the most conspicuous place, but merely that it be so marked "in any conspicuous place which shall not be covered or obscured by subsequent attachments or arrangements." Under the rationale of the *Redden* case, it has been the practice of the Customs Service to permit television sets, stereo systems, radios, and similar articles to be marked as to the country of origin on the back of the article, where labels showing the model number and other technical data are normally affixed.

It has come to the attention of the Customs Service that many such articles of foreign origin carry a brand name which does not suggest foreign origin and, when offered for sale, are displayed in such a manner that prospective purchaser is unable to examine the merchandise to determine the country of origin until the article has been purchased and unpacked at home. Consequently, the Customs Service has determined that the current practice of marking these articles may no longer result, in a substantial number of cases, in such articles being conspicuously marked in a manner that will indicate to the ultimate purchaser the country of origin of the article.

PROPOSED CHANGE

Accordingly, it is proposed to require that radios, stereo systems, television sets, and similar consumer electronic products be marked with the country of origin on the front, top, or sides of the article in a manner which would ensure the visibility of the marking when the article is on display.

This change is being proposed under the authority of sections 304 and 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 1304, 1624). Notice of this proposed change is being published for public comment pursuant to section 177.10(c)(2) of the Customs Regulations (19 CFR 177.10(c)(2)).

COMMENTS

Before adopting this proposed rule, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this proposed rule is Diane Bratter, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in its development, both on matters of substance and style.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.77-22302 Filed 8-2-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301, 404]

[LR–295–76]

INCOME TAX RETURN PREPARERS

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to persons who prepare for compensation income tax returns and claims for refund. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would affect all these persons and would provide them with the guidance needed to comply with the law.

DATE: Written comments must be delivered or mailed by September 2, 1977. The regulations are proposed to apply to documents prepared after December 31, 1977.

ADDRESS: Send comments to: Commissioner of Internal Revenue, attention: CC:LR:T (LR–295–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mark L. Yecies, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, attention: CC:LR:T, 202–566–3328 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Procedure and Administration Regulations (26 CFR Part 301), and the Temporary Regulations on Procedure and Administration under the Tax Reform Act of 1976 (26 CFR Part 404) under sections 6060, 6107, 6109(a)(4), 6694, 6695, and 7701(a)(36), of the Internal Revenue Code of 1954, relating to income tax return preparers. These amendments are proposed to conform the regulations to section 1203 of the Tax Reform Act of 1976 (90 Stat. 1688) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

The Tax Reform Act of 1976 established duties for persons who prepare for compensation income tax returns or claims for refund, and provided penalties for the breach of these duties and procedures with resepct to the collection of these penalties. These proposed regulations would implement the provisions of the Act.

DESCRIPTION OF PROPOSED REGULATION

In general, § 1.6060–1 requires an income tax return preparer to file an information return identifying each preparer employed by the preparer.

Section 1.6107–1 requires a preparer to furnish a copy of the completed return or claim for refund to the taxpayer before filing and to keep a copy of the completed return or claim for refund, or a list identifying the return or claim for refund available for inspection by the district director.

Section 1.6109–2 requires each return or claim for refund to bear the business address of the preparer where the document was prepared and the identification number of the preparer required to sign the document.

Section 1.6695–1(b) requires a preparer who has the primary responsibility for the accuracy of a return or claim for refund to manually sign the return or claim for refund before presenting it to the taxpayer.

Section 1.6695–1 provides penalties for the failure to file a correct information return, the failure to furnish a completed copy of the return or claim for refund to the taxpayer, the failure to retain a copy or list of returns and claims for refund, the failure to furnish identifying numbers, and the failure to manually sign the return. In addition, § 1.6695–1(f) provides a penalty for the endorsement or negotiation by a preparer of a refund check issued to a taxpayer for a return or claim for refund prepared by the preparer.

Section 1.6694–1 prohibits a preparer from negligently or intentionally disregarding rules or regulations, resulting in an understatement of tax liability, and from willfully understating tax liability. This section also provides penalties for the breach of these prohibitions. Section 1.6694–2 establishes procedures with respect to the collection of these penalties and the contest by the preparer of the preparer's liability for these penalties.

Section 301.7701–15 defines the terms "income tax return preparer", "return", and "claim for refund".

Temporary regulations relating to income tax return preparers were published in the FEDERAL REGISTER on December 29, 1976 (41 FR 56631), March 31, 1977 (42 FR 17124), and April 1, 1977 (42 FR 17452). In contrast to these temporary regulations, the proposed regulations require that the return or claim for refund bear the identifying number of the preparer required to sign the return or claim for refund. In addition, under certain circumstances, the proposed regulations permit, upon notice to, but without the approval of, the Internal Revenue Service, the return or claim for refund to bear only the ZIP code of the preparer as the preparer's address. Finally, the proposed regulations provide two limited alternatives to strict compliance by the preparer with the manual signature requirement.

COMMENTS—PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Mark L. Yecies of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations.—The proposed amendments to 26 CFR Parts 1, 301, and 404 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new section is added immediately after § 1.6056–1:

§ 1.6060–1 Information returns of income tax return preparers.

(a) *In general.*—(1) Each person who employs (or engages) one or more income tax return preparers as employees or independent contractors to prepare any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954, other than for the person, at any time during a return period shall file an information return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by the person at any time during such period.

(2) For the definition of the term "income tax return preparer", see section 7701(a)(36) and § 301.7701–15. For the definition of the term "return period", see section 6060(c) and paragraph (c) of this section.

(3) (i) For purposes of this section, any individual who, in acting as an income tax return preparer, is not employed by another income tax return preparer shall be treated as his own employer. Thus, a sole proprietor without any employee-preparers shall file the information return.

(ii) A partnership shall, for purposes of this section, be treated as the employer of the partners of the partnership and shall file the information return.

(4) Form 5717 is the return form prescribed for filing the information required under this section. The information return shall be filed with the Internal Revenue Service Center on or before the first July 31 following the end of the return period to which the return relates.

(b) *Alternative reporting method.*—(1) Any person required to file an information return under paragraph (a) of this section may request approval of an alternative reporting method which the person wishes to use to comply with paragraph (a) of this section. Such a requested alternative reporting method may include, for example, the filing, on a consistent basis, of the information required on magnetic tape. However, no approval will be given to an alternative reporting method that does not require some form of annual filing of all the information required by paragraph (a) of this section.

(2) Any request for approval of an alternative reporting method shall be in writing, shall be filed at least 90 days prior to the date the return is due, and shall be directed to the Office of the Assistant Commissioner (Accounts, Collection, and Taxpayer Service), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (attention: ACTS:R). The information required shall be filed when due on the prescribed form if the request is denied (or not approved) by the date when the return is due. If the request is approved, the approval shall continue in effect with respect to all return periods until modified or revoked by written notice to the person required to file the return.

(c) *Return period defined.*—For purposes of this section, the term "return period" means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.

(d) *Penalty.*—For the civil penalty for failure to file an information return required under this section, or for failure to set forth an item in the return as required under this section, see section 6695(e) and § 1.6695–1(e).

Par. 2. The following new section is added immediately after § 1.6102–1:

§ 1.6107–1 Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.

(a) *Furnishing copy to taxpayer.*—The person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 shall furnish a completed copy of the original return or claim for refund to the taxpayer not later than the time the original return or claim for refund is presented for the taxpayer's signature.

(b) *Copy or list to be retained.*—The person who is an income tax return preparer of any return or claim for refund shall—

(1) (i) Retain a completed copy of the return or claim for refund; or

(ii) Retain, on a list, the name, taxpayer identification number, and taxable year of the taxpayer for whom the return or claim for refund was prepared and the type of return or claim for refund prepared;

(2) Retain a record for each return or claim for refund presented to the taxpayer of the name of the individual preparer required to sign the return or claim for refund pursuant to § 1.6695–1(b); and

(3) Make the copy or list and record available for inspection upon request by the district director.

The material described in this paragraph (b) shall be retained and kept available for inspection for the 3-year period following the close of the return period during which the return or claim for refund was presented to the taxpayer. However, in the case of a return which becomes due (with extensions, if any) during a return period following the return period during which the return was presented to the taxpayer, the material shall be retained and kept available for inspection for the 3-year period following the close of the later return period in which the return became due. For the definition of "return period" see section 6060(c) and § 1.6060–1(c).

(c) *Preparer.*—For the definition of "income tax return preparer", see section 7701(a)(36) and § 301.7701–15. For purposes of applying this section, in the case of—

(1) An employment arrangement between two or more income tax return preparers, the person who employs one or more other preparers to prepare for compensation any return or claim for refund other than for the person shall be considered to be the sole income tax return preparer; and

(2) A partnership arrangement for the preparation of returns and claims for refund, the partnership shall be considered to be the sole income tax return preparer.

(d) *Penalties.*—(1) For the civil penalty for failure to furnish a copy of the return or claim for refund to the taxpayer as required under paragraphs (a) and (c) of this section, see section 6695(a) and § 1.6695–1(a).

(2) For the civil penalty for failure to retain a copy of the return or claim for refund, or to retain a list, as required under paragraphs (b) and (c) of this section, see section 6695(d) and § 1.6695–1(d).

§ 1.6109 [Deleted]

Par. 3. Section 1.6109 is deleted.

Par. 4. The following new section is added immediately after § 1.6109–1:

§ 1.6109–2 Furnishing identifying number of income tax return preparer.

(a) *Furnishing identifying number.*—Each return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 prepared by one or more income tax return preparers shall bear the identifying number of the preparer required by § 1.6695–1(b) to sign the return or claim for refund. In addition, if there is a partnership or employment arrangement between two or more preparers, the identifying number of the partnership or the person who employs (or engages) one or more other persons to prepare for compensation the return or claim for refund shall also appear on the return or claim for refund. If the preparer is—

(1) An individual (not described in subparagraph (2) of this paragraph (a)) who is a citizen or resident of the United States, such preparer's social security account number shall be affixed; and

(2) A person (whether an individual, corporation, or partnership) who employs one or more persons to prepare the return or claim for refund, such preparer's employer identification number shall be affixed.

For the definition of the term "income tax return preparer" (or "preparer") see section 7701(a)(36) and § 301.7701–15.

(b) *Furnishing address.*—(1) Each return or claim for refund which is prepared by an income tax return preparer shall bear the street address, city, State, and postal ZIP code of the preparer's place of business where the return or claim for refund was prepared. However, if the place of business where the return or claim for refund was prepared is not maintained by the preparer as a place of business on a year-round basis, the return or claim for refund shall bear the street address, city, State, and postal ZIP code of the preparer's principal office or business location which is maintained on a year-round basis, or if none, the preparer's residence.

(2) For purposes of satisfying the requirement of the first sentence of paragraph (b)(1) of this section, an income tax return preparer may, on returns and claims for refund, disclose only the postal ZIP code of the described place of business as a satisfactory address, but only if the preparer first by written notice advises the Internal Revenue Service Center that he intends to follow this practice.

(c) *Penalty.*—For the civil penalty for failure to furnish an identifying number as required under paragraph (a) of this section, see section 6695(c) and § 1.6695–1(c).

Par. 5. The following new sections are added immediately after § 1.6655–5:

§ 1.6694–1 Understatement of taxpayer's liability by income tax return preparer.

(a) *Negligent or intentional disregard of rules and regulations.*—(1) If any part of an understatement of liability relating to a return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 is due to negligent or intentional disregard of one or more rules or regulations by one or more income tax return preparers of the return or claim for refund, each such preparer shall be subject to a separate penalty of $100. However, an employer of a preparer subject to this penalty is not also subject to the penalty, unless the employer (or one or more of its chief officers) also participated in the negligent or intentional disregard of one or more rules or regulations. A preparer is not considered to have negligently or intentionally disregarded a rule or regulation if the preparer exercises due diligence in an effort to apply the rules and regulations to the information given to the preparer to determine the taxpayer's correct liability for tax.

(2) For the definition of the term "understatement of liability", see section 6694(e) and paragraph (d) of this section.

(3) The term "rules or regulations" includes the provisions of the Internal Revenue Code of 1954, the Treasury regulations issued under the Code, and Internal Revenue Service revenue rulings published in the Cumulative Bulletin.

(4) If a preparer in good faith and with reasonable basis believes that a rule or regulation does not accurately reflect the Code and does not follow it, the preparer has not negligently or intentionally disregarded the rule or regulation. This test shall be applied in the same manner as it is applied under section 6653(a) and the regulations thereunder (relating to disregard of rules and regulations by taxpayers). For example, if a preparer reasonably believes in good faith that a judicial decision conflicts with a rule or regulation and that the decision reflects the Code more accurately, the preparation of a return or claim for refund by the preparer on the basis of the decision is not a negligent or intentional disregard of the rule or regulation. For purposes of this paragraph (a), the view of the taxpayer concerning a rule or regulation is not material.

(5) In any proceeding with respect to the penalty imposed by this paragraph (a), the preparer shall bear the burden of proof on the issue whether the preparer has negligently or intentionally disregarded a rule or regulation. If the preparer presents evidence that the normal practice of the preparer concerning the treatment of a particular credit, allowance, deduction, or item of income was not negligent and that this normal practice was followed, the preparer has satisfied the burden of proof that he did not negligently disregard a rule or regulation, unless the Internal Revenue Service presents contrary evidence.

(b) *Willful understatement of liability.*—(1) If any part of an understatement of liability relating to a return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 is due to a willful attempt in any manner to understate liability for tax by one or more income tax return preparers of the return or claim for refund, each such preparer shall be subject to a separate penalty of $500. However, an employer of a preparer subject to this penalty is not also subject to the penalty, unless the employer (or one or more of its chief officers) also participated in the willful attempt to understate liability.

(2) (i) A preparer is considered to have willfully attempted to understate liability if the preparer disregards information furnished by the taxpayer or other persons in an attempt wrongfully to reduce the tax liability of the taxpayer. For example, if a preparer disregards information concerning certain items of taxable income furnished by the taxpayer or other persons, the preparer would be subject to the penalty. Simi-

larly, if a taxpayer states to a preparer that the taxpayer has only two dependents, and the preparer reports six dependents on the return, the preparer would be subject to the penalty.

(ii) Generally, in preparing a return, the preparer may in good faith rely without verification upon information furnished by the taxpayer. To avoid the penalty, the preparer is not required to examine or review documents or other evidence in order to verify independently the taxpayer's information. However, the preparer may not ignore the implications of information furnished. The preparer shall make reasonable inquiries if the information as furnished appears to be incorrect or incomplete. Additionally, many sections of the Code require the existence of specific facts and circumstances, such as maintenance of specific documentation, before a deduction may properly be claimed. The preparer shall make appropriate inquiries of the taxpayer to determine the existence of facts and circumstances required by a Code section or regulations incident to claiming a deduction.

(iii) For example, assume that a taxpayer, during the tax interview conducted by a preparer, stated that he had paid $2,500 in doctor bills and $4,000 in deductible travel and entertainment expenses during the tax year when in fact he had paid smaller amounts. On the basis of the information, the preparer properly calculated deductions for medical expenses and for travel and entertainment expenses which resulted in an understatement of liability for tax. The preparer had no reason to believe that the medical expense and travel and entertainment expense information presented was incorrect or incomplete. The preparer did not ask for underlying documentation of the medical expenses and, upon inquiry, was satisfied by the taxpayer's representations that the taxpayer had adequate records (or other sufficient corroborative evidence) for the deduction of $4,000 for travel and entertainment expenses. The preparer is not subject to the penalty.

(iv) In certain situations, a preparer shall be subject both to a penalty under paragraph (a) of this section for intentional disregard of rules and regulations and to a penalty under this paragraph (b) for willful understatement of liability. A penalty for willful understatement of liability may be based on an intentional disregard of rules and regulations. For example, a preparer who claims a personal exemption deduction for the taxpayer's mother with knowledge that the taxpayer is not entitled to the deduction will have both intentionally disregarded rules and regulations within the meaning of paragraph (a) of this section and willfully understated liability for tax within the meaning of this paragraph (b).

(3) For the definition of the term "understatement of liability", see section 6694(e) and paragraph (d) of this section.

(4) If a penalty is assessed against a preparer, and collected at least in part, under paragraph (a) of this section for a return or claim for refund, then the amount of a penalty for which the preparer may be subject under this paragraph (b) for the same return or claim for refund is $500, reduced by the amount collceted under paragraph (a) of this section for the return or claim for refund.

(5) In any proceeding with respect to the penalty imposed by this paragraph (b), the Internal Revenue Service shall bear the burden of proof on the issue whether the preparer has willfully attempted to understate the liability for tax. See section 7427.

(c) *Abatement of penalty where taxpayer's liability not understated.*—If a penalty or penalties under section 6694(a) and paragraph (a) of this section or under section 6694(b) and paragraph (b) of this section concerning a return or claim for refund have been assessed against one or more income tax return preparers, and if at any time in a final administrative determination or a final judicial decision it is established that there was no understatement of liability relating to the return or claim for refund, then—

(1) The assessment shall be abated; and

(2) If any amount of the penalty or penalties was paid, that amount shall be refunded to the person or persons who so paid, as if the payment were an overpayment of taxes, without consideration of any period of limitations.

(d) *Understatement of liability defined.*—For purposes of this section, the term "understatement of liability" means any understatement of the net amount payable of any tax under subtitle A of the Internal Revenue Code of 1954, or any overstatement of the net amount creditable or refundable of any tax under subtitle A of the Internal Revenue Code of 1954. Except as provided in paragraph (c) of this section, the determination of whether an understatement of liability exists may be made in a proceeding involving the preparer apart from any proceeding involving the taxpayer.

§ 1.6694–2 Extension of period of collection where preparer pays 15 percent of a penalty for understatement of taxpayer's liability and certain other procedural matters.

(a) *In general.*—(1) The Internal Revenue Service shall investigate the preparation by the income tax return preparer of the return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 and shall send a report of examination to the preparer before the assessment of either—

(i) The penalty for negligent or intentional disregard of rules and regulations under § 1.6694–1(a); or

(ii) The penalty for willful understatement of liability under § 1.6694–1(b).

Unless the period of limitation (if any) under section 6696(d) may expire without adequate opportunity for assessment, the Internal Revenue Service shall also, before the assessment of either penalty, send a 30-day letter to the preparer notifying him of the proposed penalty or penalties and offering an opportunity to the preparer to request further administrative consideration and a final administrative determination by the Internal Revenue Service concerning the assessment. If the preparer then makes a timely request, assessment may not be made until the Internal Revenue Service makes a final administrative determination adverse to the preparer.

(2) If the Internal Revenue Service assesses either of the two penalties described in paragraph (a)(1)(i) and (ii) of this section, it shall send to the preparer a statement of notice and demand, separate from any notice of a tax deficiency, for payment of the amount assessed.

(3) Within 30 days after the day on which notice and demand of either of the two penalties described in paragraph (a)(1)(i) and (ii) of this section is made against the preparer, that preparer shall either—

(i) Pay the entire amount assessed (and may file a claim for refund of the amount paid at any time not later than 3 years after the date of payment); or

(ii) Pay an amount which is not less than 15 percent of the entire amount assessed and shall file a claim for refund of the entire amount paid.

(4) If the preparer pays an amount and files a claim for refund under paragraph (a)(3)(ii) of this section, the Internal Revenue Service may not make, begin, or prosecute a levy or proceeding in court for collection of the unpaid remainder of the amount assessed until—

(i) A date which is more than 30 days after—

(A) The day on which the preparer's claim for refund is denied; or

(B) The expiration of 6 months after the day on which the preparer filed the claim for refund; and

(ii) Final resolution of any proceeding begun as provided in paragraph (b) of this section.

Final resolution of a proceeding includes any settlement between the Internal Revenue Service and the preparer, any final determination by the court (for which the period for appeal, if any, has expired), and, generally, the types of determinations provided under section 1313(a) (relating to taxpayer deficiencies). Notwithstanding section 7421(a) (relating to suits to restrain assessment or collection), the beginning of a levy or proceeding in court by the Internal Revenue Service in contravention of this subparagraph (4) may be enjoined by a proceeding in the proper court.

(b) *Preparer must bring suit in district court to determine liability for penalty.*—(1) If, within 30 days after the earlier of—

(i) The day on which the preparer's claim for refund filed under paragraph (a)(3)(ii) of this section is denied; or

(ii) The expiration of 6 months after the day on which the preparer filed the claim for refund.

the preparer fails to begin a proceeding for refund in the appropriate United States district court, then the Internal Revenue Service may proceed with collection of the amount of the penalty not paid under paragraph (a)(3)(ii) of this section.

(2) (i) If the preparer begins a proceeding for refund within the applicable 30-day period of paragraph (b)(1) of this section, then the Internal Revenue Service may not make, begin, or prosecute a levy or proceeding in court for collection of the unpaid remainder of the penalty until final resolution of the proceeding.

(ii) If the preparer begins a proceeding for refund under this paragraph (b), then the Internal Revenue Service need not bring a counterclaim in the proceeding for the unpaid remainder of the penalty, because any judicial decision on the refund will apply as well to the unpaid remainder of the penalty.

(c) *Suspension of running of period of limitations on collection.*—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court of the unpaid amount of a penalty or penalties described in § 1.6694–1(a) or (b) shall be suspended for the period during which the Internal Revenue Service, under paragraphs (a)(4) and (b)(2)(i) of this section, may not collect the unpaid amount of the penalty or penalties by levy or a proceeding in court.

§ 1.6695–1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

(a) *Failure to furnish copy to taxpayer.*—(1) A person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 and who fails to satisfy the requirement imposed upon him by section 6107(a) and § 1.6107–1(a) and (c) to furnish a copy of the return or claim for refund to the taxpayer shall be subject to a penalty of $25 for the failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. Thus, no penalty may be imposed under section 6695(a) and this paragraph (a)(1) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15(a)(2) and (b) on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b)(3) on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(2) No penalty may be imposed under section 6695(a) and paragraph (a)(1) of this section upon an income tax return preparer who furnishes a copy of the return or claim for refund to a taxpayer—

(i) Who holds an elected or politically appointed position with the government of the United States or a State or political subdivision thereof; and

(ii) Who, in order faithfully to carry out his official duties, has so arranged his affairs that the has less than full knowledge of the property which he holds or of the debts for which he is responsible, if information is deleted from the copy in order to preserve or maintain this arrangement.

(b) *Failure to sign return.*—(1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 shall manually sign the return or claim for refund (which may be a photocopy) in the appropriate space provided on the return or claim for refund after it is completed and before it is presented to the taxpayer for signature. An individual preparer may not satisfy this requirement by use of a facsimile signature stamp or signed gummed label. If the preparer is unavailable for signature, another preparer shall so advise the taxpayer, shall review the entire prepared of the return or claim for refund, and then shall manually sign the return or claim for refund.

(2) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual prepared who has the primary responsibility as between or among the preparers for the overall accuracy of the preparation of such return or claim for refund shall be considered to be the income tax return preparer for purposes of this paragraph.

(3) The application of paragraph (b)(1) and (2) of this section is illustrated by the following examples:

Example (1).—X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his 1977 Federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which perfroms the mathematical computations and prints the return form by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

Example (2).—X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the 1977 tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the proper application of the tax laws to such information, and the performance of the necessary mathematical computations, P, a partner in X, reviews the return. As part of this review, P checks for mathematical mistakes, reviews the information provided, and makes the final determination with respect to the proper application of the tax laws to the information in order to determine T's tax liability. P is in the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

Example (3).—C corporation maintains an office in Seattle, Washington, for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several States to collect information from taxpayers and to make determinations with respect to the proper application of the tax laws to the information in order to determine the tax liabilities of such taxpayers. E, an individual, who has such an arrangement in Los Angeles with C, collects information from T, a taxpayer, and completes a worksheet kit supplied by C which is stamped with E's name and an identification number assigned to E by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed worksheet kit signed by E, is then mailed to C. D, an employee in C's office, reviews the worksheet kit to make sure it was properly completed. D does not review the information obtained from T for its validity or accuracy. Neither does he make the final determination with respect to the proper application of tax laws to the information. The data from the worksheet is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer.

Example (4).—X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for 1 week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that (i) C notifies each taxpayer that he as preparer (and not A) is primarily responsible for the preparation of the return, (ii) C reviews with each taxpayer the information obtained by A relative to the taxpayer, and (iii) C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

(4) (i) The manual signature requirement of paragraph (b)(1) and (2) of this section may be satisfied by a photocopy of a copy of the return or claim for refund which copy is manually signed by the preparer after completion of its preparation. After a copy of the return or claim for refund is signed by the preparer and before it is photocopied, no person other than the preparer may alter any entries on the copy other than to correct arithmetical errors discernable on the return or claim for refund. The employer of the preparer or the partnership in which the preparer is a partner, or the preparer (if not employed by a preparer and not a partner of a partnership which is a preparer), shall retain the manually signed copy of the return or claim for refund. A record of any arithmetical errors corrected shall be retained by the person required to retain the manually signed copy of the return or claim for refund and made available upon request.

(ii) If mechanical preparation of the return or claim for refund is accomplished by computer not under the control of the individual preparer, then the manual signature requirement of paragraph (b)(1) and (2) of this section may be satisfied by a manually signed

attestation by the individual preparer attached to the return or claim for refund that all the information contained in the return or claim for refund was obtained from the taxpayer and is true and correct to the best of his knowledge, but only if that information (including any supplemental written information provided and signed by the preparer) is not altered on the return or claim for refund by another person. For purposes of the preceding sentence, the correction of arithmetical errors discernable from the information submitted by the preparer does not constitute an alteration. The information submitted by the preparer shall be retained by the employer of the preparer or by the partnership in which the preparer is a partner, or by the preparer (if not employed by a preparer and not a partner of a partnership which is a preparer). A record of any arithmetical errors corrected shall be retained by the person required to retain the information submitted by the preparer and made available upon request.

(iii) If the district director determines that a preparer or preparers have abused the permissive signature rules of this subparagraph (4) by altering the return or claim for refund after signature (in contravention of subdivision (i) of this subparagraph), or by altering information on the return or claim for refund after attestation (in contravention of subdivision (ii) of this subparagraph), then the district director may, by written notice, prospectively deny to the preparer or preparers the right to use these permissive signature rules.

(5) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty of $25 for each failure to sign, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. For purposes of this paragraph, "reasonable cause" is a cause which arises despite ordinary care and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15 (a) (2) and (b) on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b) (3) on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

If the preparer asserts reasonable cause for failure to sign, the Service shall require a written statement in substantiation of the preparer's claim of reasonable cause.

(c) *Failure to furnish identifying number.*—(1) A person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 and who fails to satisfy the requirement of section 6109(a)(4) and § 1.6109–2(a) to furnish one or more identifying numbers of preparers on a return or claim for refund shall be subject to a penalty of $25 for the failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. Thus, no penalty may be imposed under section 6695(c) and this paragraph (c) (1) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15 (a) (2) and (b) on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b) (3) on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(2) No penalty may be imposed under section 6695(c) and paragraph (c) (1) of this section upon—

(i) A preparer who is the employee of a person who is also a preparer of the return or claim for refund, or

(ii) A preparer who is a partner in a partnership which is also a preparer of the return or claim for refund.

(3) No more than one penalty of $25 may be imposed under section 6695(c) and paragraph (c) (1) of this section with respect to a single return or claim for refund.

(d) *Failure to retain copy or list.*—(1) A person who is an income tax return preparer of any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 and who fails to satisfy the requirements imposed upon him by section 6107(b) and § 1.6107–1 (b) and (c) (other than the record requirement described in § 1.6107–1(b) (2) and (3)) to retain and make available a copy of the return or claim for refund, or to include the return or claim for refund on a list and make the list available for inspection, shall be subject to a penalty of $50 for the failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. Thus, no penalty may be imposed under section 6695(d) and this paragraph (d) (1) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15 (a) (2) and (b) on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b) (3) on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(2) A person may not, for returns or claims for refund presented to the taxpayers during any single return period, be subject to more than $25,000 in penalties under section 6695(d) and paragraph (d) (1) of this section.

(e) *Failure to file correct information return.*—A person who is subject to the reporting requirements of section 6060 an § 1.6060–1 and who fails to satisfy these requirements shall be subject to penalties as set forth in this paragraph, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(1) $100, for failure to file an information return as required (or to comply with an approved alternative reporting method), plus

(2) $5, for each failure to report as required an item on the information return (or under the approved alternative reporting method).

A person may not, for failure to satisfy the reporting requirements for any single return period, be subject to more than $20,000 in penalties under section 6695 (e) and this section.

(f) *Negotiation of check.*—(1) No person who is an income tax return preparer may endorse or otherwise negotiate, directly or through an agent, a check for the refund of tax under subtitle A of the Internal Revenue Code of 1954 which is issued to a taxpayer other than the preparer if the person was a preparer of the return or claim for refund which gave rise to the refund check.

(2) Section 6695(f) and paragraph (f) (1) and (3) of this section do not apply to a preparer-bank which cashes a refund check and remits all of the cash to the taxpayer or accepts a refund check for deposit to a taxpayer's account, so long as the bank does not initially endorse or negotiate the check. A preparer-bank may also subsequently endorse or negotiate a refund check as a part of the check-clearing process through the financial system after initial endorsement or negotiation.

(3) The preparer shall be subject to a penalty of $500 for each endorsement or negotiation of a check prohibited under section 6695(f) and paragraph (f) (1) of this section.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 6. Section 301.7701–15 is changed to § 301.7701–16 and is amended to read as follows:

§ 301.7701–16 Other terms.

Any terms which are defined in section 7701 and which are not defined in §§ 301.7701–1 to 301.7701–15, inclusive, shall, when used in this chapter, have the meanings assigned to them in section 7701.

Par. 7. The following new section is added immediately after § 301.7701–14:

§ 301.7701–15 Income tax return preparer.

(a) *In general.*—An income tax return preparer is any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax under subtitle A of the Internal Revenue Code of 1954 or any claim for refund of tax under subtitle A of the Internal Revenue Code of 1954.

(1) A person who furnishes to a taxpayer or other preparer sufficient information and advice so that completion of the return or claim for refund is largely a mechanical or clerical matter is considered an income tax return preparer, even though that person does not actually place or review placement of information on the return or claim for refund. See also paragraph (b) of this section.

(2) A person who only gives advice on specific issues of law shall not be considered an income tax return preparer, unless—

(i) The advice is given with respect to events which have occurred at the time the advice is rendered and is not given with respect to the consequences of contemplated actions; and

(ii) The advice is directly relevant to the determination of the existence, characterization, or amount of an entry on a return or claim for refund. For example, if a lawyer gives an opinion on a transaction which a corporation has consummated, solely to satisfy an accountant (not a preparer of the corporation's return) who is attempting to determine whether the reserve for taxes set forth in the corporation's financial statement is reasonable, the lawyer shall not be considered a tax return preparer solely by reason of rendering such opinion.

(3) A person may be an income tax return preparer without regard to educational qualifications and professional status requirements.

(4) A person must prepare a return or claim for refund for compensation to be an income tax return preparer. A person who prepares a return or claim for refund for a taxpayer with no explicit or implicit agreement for compensation is not a preparer, even though the person receives a gift or return service or favor.

(5) A person who prepared a return or claim for refund outside the United States is an income tax return preparer, regardless of his nationality, residence, or the locations of his places of business, if the person otherwise satisfied the definition of income tax return preparer. Notwithstanding the provisions of § 301.6109–1(g), the person shall secure an employer identifying number if he is an employer of another preparer or is not employed by another preparer. The person shall comply with the provisions of section 1203 of the Tax Reform Act of 1976 and the regulations thereunder.

(6) An official or employee of the Internal Revenue Service performing his official duties is not an income tax return preparer.

(b) *Substantial preparation.*—(1) Only a person (or persons acting in concert) who prepares all or a substantial portion of a return or claim for refund shall be considered to be a preparer (or preparers) of the return or claim for refund. A person who renders advice which is directly relevant to the determination of the existence, characterization, or amount of an entry on a return or claim for refund, will be regarded as having prepared that entry. Whether a schedule, entry, or other portion of a return or claim for refund is a substantial portion is determined by comparing the length and complexity of, and the tax liability or refund involved in, that portion to the length and complexity of, and tax liability or refund involved in, the return or claim for refund as a whole.

(2) For purposes of applying the rule of paragraph (b) (1) of this section, if the schedule, entry, or other portion of the return or claim for refund involves amounts of gross income, amounts of deductions, or amounts on the basis of which credits are determined which are—

(i) Less than $2,000; or

(ii) Less than $100,000, and also less than 20 percent of the gross income (or adjusted gross income if the taxpayer is an individual) as shown on the return or claim for refund,

then the schedule or other portion is not considered to be a substantial portion. If more than one schedule, entry or other portion is involved, they shall be aggregated in applying the rule of this subparagraph (2). Thus, if a person, for an individual taxpayer's return, prepares a schedule for dividend income which totals $1,500 and gives advice making him a preparer of a schedule of medical expenses which results in a deduction for medical expenses of $1,500, the person is not a preparer if the taxpayer's adjusted gross income shown on the return is more than $15,000. This subparagraph shall not apply to a person who prepares all of a return or claim for refund.

(3) A preparer of a return is not considered to be a preparer of another return merely because an entry or entries reported on the return may affect an entry reported on the other return, unless the entry or entries reported on the prepared return are directly reflected on the other return and constitute a substantial portion of the other return. For example, the sole preparer of a partnership return of income or a small business corporation income tax return is considered a preparer of a partner's or a shareholder's return if the entry or entries on the partnership or small business corporation return reportable on the partner's or shareholder's return constitute a substantial portion of the partner's or shareholder's return.

(c) *Return and claim for refund.*—(1) *Return.*—A return of tax under subtitle A is a return filed by or on behalf of a taxpayer reporting the liability of the taxpayer for tax under subtitle A. A return of tax under subtitle A also includes an information return filed by or on behalf of a person or entity that is not a taxable entity and which reports information which is or may be reported on the return of a taxpayer of tax under subtitle A.

(i) A return of tax under subtitle A includes an individual or corporation income tax return, a fiduciary income tax return (for a trust or estate), a regulated investment company undistributed capital gains tax return, a return of a charitable remainder trust, a return by a transferor of stock or securities to a foreign corporation, foreign trust, or foreign partnership, a partnership return of income, a small business corporation income tax return, and a DISC return.

(ii) A return of tax under subtitle A does not include an estate tax return, a gift tax return, any other return of excise taxes or income taxes collected at source on wages, an individual or corporation declaration of estimated tax, or an informational statement on any Form 1099 or similar form.

(2) *Claim for refund.*—A claim for refund of tax under subtitle A includes a claim for credit against any tax under subtitle A.

(d) *Persons who are not preparers.*—A person shall not be considered to be a preparer of a return or claim for refund if the person performs only one or more of the following services:

(1) Typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund.

(2) Preparation of a return or claim for refund of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed.

(3) Preparation of a return or claim for refund for a trust or estate of which the person either is a fiduciary or is an officer or employee of the fiduciary.

(4) Preparation of a claim for refund for a taxpayer in response to—

(i) A notice of deficiency issued to the taxpayer; or

(ii) A waiver of restriction after initiation of an audit of the taxpayer or another taxpayer if a determination in the audit of the other taxpayer affects, directly or indirectly, the liability of the taxpayer for tax under subtitle A.

For purposes of paragraph (d)(2) of this section, the employee of a corporation more than 50 percent of the voting power of which is owned by another corporation is considered the employee of such other corporation as well. For purposes of paragraph (d)(3) of this section, an estate, guardianship, conservatorship, committee, and any similar arrangement for a taxpayer under a legal disability (such as a minor, an incompetent, or an infirm individual) is considered a trust or estate.

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

§§ 404.6060–1; 404.6107–1; 404.6109–1; 404.6694–1; 404.6695–1; 404.6695–2; 404.7701–10 [Deleted]

Par. 8. The following sections are deleted: Sections 404.6060–1; 404.6107–1; 404.6109–1; 404.6694–1; 404.6695–1, 404.6695–2; 404.7701–1.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77–22227 Filed 7–29–77;11:28 am]

[26 CFR Parts 1, 301, 404]

[LR–295–76]

INCOME TAX RETURN PREPARERS

Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice o fa public hearing on proposed regulations relating to persons who prepare for compensation income tax returns and claims for refund.

DATES: The public hearing will be held on September 19, 1977, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by September 2, 1977.

ADDRESS: The public hearing will be hel din the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Bnuilding, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 6060, 6107, 6109(a)(4), 6694, 6695, and 7701(a)(36) of the Internal Revenue Code of 1954. These proposed regulations appear in this issue of the FEDERAL REGISTER. The statutory provisions relate to persons who prepare for compensation income tax returns and claims for refund.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 2, 1977. The outlines should be submitted to the Commissioner of Internal Revenue, attention: CC:LR:T (LR-295-76), Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-22228 Filed 7-29-77;11:28 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 114]

DEPARTMENT OF DEFENSE RESERVE COMPONENTS

Common Personnel Data System

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes Department of Defense (DoD) policies and procedures for the Reserve Components Common Personnel Data System (RCCPDS) to meet statutory requirements. The requirements provide that adequate and current personnel records be maintained to ensure proper management and mobilization readiness of Reserve Components. This proposed rule outlines the processes and assigns responsibilities to comply with those requirements.

DATES: Comments must be received on or before September 2, 1977.

ADDRESSES: Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), The Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Major Donald M. McCabe, USAF, Telephone: 697-4334 or 697-0624

Accordingly, it is proposed to publish 32 CFR Part 114 as follows:

PART 114—DEPARTMENT OF DEFENSE RESERVE COMPONENTS

Sec.
114.1 Applicability and scope.
114.2 Statutory requirement.
114.3 Preservation of privacy.
114.4 Responsibilities.
114.5 Furnishing Selective Service with information.
114.6 Effective date and implementation.

AUTHORITY: Title 10, U.S.C. section 275.

§ 114.1 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff and the Defense Agencies. Additionally, the Coast Guard of the Department of Transportation has agreed to provide information in conformance with this Part.

(b) Its provisions govern all male and female officers, warrant officers, and enlisted personnel assigned to the Ready Reserve, the Standby Reserve, and the Retired Reserve. Included are reservists on active duty for training who continue their assignment with a Reserve Component.

(c) Individuals who are enlisted members of a Regular component and also have a Reserve commission should not be reported in the Reserve Components Common Personnel Data System (RCCPDS).

(d) Individuals on extended active duty who are part of the active force should not be reported.

§ 114.2 Statutory requirement.

(a) Title 10, United States Code, section 275 requires the Armed Force to maintain adequate and current personnel records of Reserve Components, which shall include each member's:

(1) Physical condition.

(2) Dependence status.

(3) Military qualifications.

(4) Civilian occupation skills.

(5) Availability for service, and such other information as the Secretary of the Military Department concerned may prescribe.

(b) *Common DoD Data Base.* A computerized common data base has been established to meet the above statutory requirement and to provide statistical tabulations of Reserve Components strengths and related data for use throughout the Department of Defense, by other Government Agencies and by the Congress, and for appropriate public release by the Assistant Secretary of Defense (Public Affairs).

(c) *Minimum data requirements.* The items of personnel data included in this reporting system partially satisfy the minimum essential data items needed to meet the statutory requirements of 10 U.S.C. Additionally, data falling within the following categories will be maintained in individual records (either in a manual or automated mode) to satisfy fully statutory requirements:

(1) Retirement Points Earnings (all point earning reservists).

(2) Retirement Authority (all retired reservists).

(3) Professional Military Education for Enlisted Members (all point earning enlisted members).

(4) Servicemen's Group Life Insurance Option Selected (all point earning reservists).

(d) *Data Maintenance Policy.* The Military Departments shall maintain only such additional items of data on an individual as necessary to (1) manage adequately their Guard and Reserve Forces, and (2) ensure mobilization readiness.

§ 114.3 Preservation of Privacy.

The requirements and procedures prescribed by the Privacy Act, 5 U.S.C. 552a, and 32 CFR Part 286a must be followed in order to safeguard the personnel data maintained in this reporting system. Individuals having access to identifiable personnel information may be held personally responsible and punishable under the law for making unauthorized disclosures.

§ 114.4 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) or his designee, the Deputy Assistant Secretary of Defense (Reserve Affairs), shall be responsible for:

(1) Collecting, summarizing and publishing, on a periodic basis, the "Official Manpower Strengths and Statistics" report for the Reserve Components of the Department of Defense and, through the Office of the Assistant Secretary of Defense (Public Affairs), for public release.

(2) Providing access to the DoD Data Base to each of the Military Departments through an on-line time sharing terminal system. The Guard and Reserve Components will have access only to their portion of the data base by means of assigned passwords controlled by the Deputy Assistant Secretary of Defense (Reserve Affairs).

(b) The Secretaries of the Military Departments shall be responsible for:

(1) Implementing Directives.

(2) Providing their respective Guard and Reserve Components the necessary support to establish personnel data systems that support readiness requirements in addition to this reporting requirement.

(3) Preparing, at the end of each month, a Master Officer and Master Enlisted File reflecting the status of each member of the Guard and Reserve as of the last day of each month.

(4) Preparing, at the end of each month, an Officer Transaction File and an Enlisted Transaction File reflecting the gains, losses, reenlishment or extensions of Selected Reserve personnel that occurred during the reporting month.

(5) Editing monthly submissions in support of the editing concept.

(6) Performing a quality control validation of the data prior to submission to the Office of the Secretary of Defense.

(7) Assuring accuracy of data considered "critical data items" since they are required by either statutes, directives, or regulations, and should be 100 percent accurate to insure acceptability in the system.

(8) It is our policy that the data reliability objectives apply equally to the Ready, Standby and Retired Reserve Categories, if the data item must be reported. Similarly, the data reliability rates are goals of data accuracy which should eventually be achieved by each Reserve Component.

§ 114.5 Furnishing selective service with information.

Any information available in RCCPDS which is required by the Director of Selective Service will be provided by magnetic tape extracts of data submitted in compliance with this part.

NOTE.—This paragraph is effective after the requirements of the Privacy Act are fulfilled.

§ 114.6 Effective data and implementation.

(a) This part is effective 1 year from the date of issuance. Each Reserve Component shall be formally advised of the specific implementation date by separate correspondence.

(b) When implementation occurs, each record in the initial submission will be expanded to provide fields for all new data items. All new data which is available either directly or through data extrapolation will be provided at that time.

(c) The Retired Reserve data was incorporated into this reporting system during January 1977. Retired Reserve records will expand with all other Reserve Categories for the initial submission. Records in this category shall be considered as part of the parallel validation which will be conducted during the first 2 months following implementation.

(d) Beginning with the initial submission under this part, a complete record containing all new data items will be provided on accessions. The collection of new data on existing records will be handled incrementally after that time. Our goal is to have all new data collected and in the system within a three-to-four year period.

(e) At the time of conversion to this part, unknown and unavailable data items will be left blank.

MAURICE W. ROCHE,
Director, Correspondence & Directives, Office of Assistant Secretary of Defense (Comptroller).

JULY 28, 1977.

[FR Doc.77-22299 Filed 8-2-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 771-4]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS, DISTRICT OF COLUMBIA

Pilot Bikelane

AGENCY: Environmental Protection Agency.

ACTION: Approval and Promulgation of Implementation Plans.

SUMMARY: This notice announces that the District of Columbia has formally requested the Regional Administrator to take no further action on a proposed revision to its Implementation Plan. The proposed revision, if approved by the EPA, would have resulted in substitution of EPA's requirement for a pilot bikelane along Pennsylvania Avenue with another bikelane network consisting of 14.87 miles in the District of Columbia.

EFFECTIVE DATE: This Notice of Withdrawal is effective immediately on August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Cyphers, State Implementation Planning Section, Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106.

SUPPLEMENTARY INFORMATION: On May 9, 1975, the District of Columbia submitted to the Regional Administrator an amendment to its Transportation Control Plan. The District requested that the amendments be reviewed and processed as a revision to its State Implementation Plan (SIP).

The amendment called for a network consisting of 14.87 lane-miles of bicycle lanes. The District requested that this program be considered as a substitute for EPA's requirement for the establishment of a pilot bicycle lane along Pennsylvania Avenue (40 CFR 52.491(g), 38 FR 33702).

The District provided adequate proof that a public hearing was held in the District on December 10, 1974, in accordance with the requirements set forth in 40 CFR Section 51.4.

On September 4, 1975 (40 CFR 40855), the Administrator acknowledged receipt of the District's bicycle lane program, proposed the submittal as a revision to the District SIP and provided for a 30-day public comment period, ending October 6, 1975. Upon request of interested citizens' groups, EPA extended the public comment period until November 7, 1975. During this time EPA received comments from the Washington Area Bicyclists Association (WABA) and a private citizen. The comments essentially contended that while certain links of the bicycle lane network were adequate for bicycle use, the overall network was disjointed rather than coordinated. Similarly, the lanes described in this pilot bicycle lane program were characterized as being too narrow and failed to provide adequate separation between bicycle traffic and vehicular traffic.

There followed a series of discussions between the District and EPA concerning the approvability of the bicycle network. The EPA was concerned that expected emission reductions would not be realized if network design inadequacies cited by critics resulted in lowered use of the network than originally intended.

In early January, 1977, the District advised EPA that in light of a new comprehensive bicycle plant, they no longer wanted EPA to take further action on this proposed State Implementation Plan revision. This was confirmed in a letter dated March 4, 1977, from the Mayor of the District of Columbia to the Regional Administrator.

In response to this request, the Regional Administrator hereby formally withdraws his proposal of this amendment from any further consideration as a revision to the District of Columbia Implementation Plan.

(42 U.S.C. 1857c-5.)

Dated: July 13, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-22224 Filed 8-2-77;8:45 am]

[40 CFR Part 52]

[FRL 771-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS, MASSACHUSETTS

Change in Sulfur Content of Fuel Burned in Berkshire Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed revision to the State Implementation Plan (SIP) changes Regulation 5.1, "Sulfur Content of Fuels and Control Thereof," to allow fuel burning sources in the Berkshire Air Pollution Control District to burn 2.2 percent sulfur content residual fuel

oil, which is the sulfur content specified by Chapter 353 of the Acts of 1974 for fuel oil burned in this District. Regulation 5.1 of the present SIP allows the use of fuel oil having a sulfur content not greater than 1.0 percent.

DATE: Comments must be received on or before September 2, 1977.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Massachusetts Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, Room 320, 600 Washington Street, Boston, Mass. 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, EPA, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On April 14, 1977, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the State Implementation Plan (SIP) which would increase the allowable sulfur content of fossil fuel burned in the Berkshire Air Pollution Control District (BAPCD). The BAPCD is the same geographic area as the Berkshire Intrastate Air Quality Control Region (AQCR). Regulation 5.1 of the present SIP, "Sulfur Content of Fuels and Control Thereof," permits fossil fuel utilization facilities in the BAPCD to burn fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual fuel oil by weight). The proposed SIP revision would change Regulation 5.1 to allow burning of fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil by weight). Approval of the revision to Regulation 5.1 would eliminate the conflict between the SIP and Chapter 353 of the Acts of 1974, "An Act Permitting the Burning of Fuel with Sulfur Content of Two and Two Tenths Per Cent for Residual Fuel Oil Utilization Facilities in the Berkshire Air Pollution Control District."

Air quality dispersion modeling was used to predict annual and 24-hour SO_2 concentrations that could occur when sources in the BAPCD burn 2.2 percent sulfur content residual fuel oil. The model utilizes point and area source emission data and meteorological data as input, and accounts for the varying topography which characterizes the BAPCD. Violations of the annual NAAQS for SO_2 predicted by the modeling in the Lenox-Lee area are largely attributable to Kimberly-Clark's Columbia Mill. Violations of the 24-hour NAAQS for SO_2 were predicted in North Adams, Dalton, and Lee, and are attributable, respectively, to the Sprague Electric Company, the Crane Paper Company, and the Kimberly-Clark Columbia Mill. Although ambient monitoring data recorded at monitoring stations in the BAPCD since 1973 do not show violations of the NAAQS for SO_2, none of the monitoring stations is located in an area where the maximum concentrations are predicted. Consequently, EPA is proposing that these three sources be disapproved. The modeling indicates that other sources in the BAPCD could burn the higher sulfur content fuel in accordance with Regulation 5.1 as revised, without causing violations of the NAAQS for SO_2.

Unless comments received during the comment period show the analysis to be incorrect, or appropriate technical information demonstrates that NAAQS will not be violated, the aforementioned three sources will be required to burn fuel oil having a sulfur content not greater than 1.0 percent.

EPA's evaluation of the impact of burning higher sulfur fuel indicates that an increase in particulate emissions may occur with an increase in the sulfur content of fuel. Since a violation of the secondary 24-hour NAAQS for total suspended particulates (TSP) occurred in the AQCR in 1976, EPA has called upon the Massachusetts Department to evaluate whether or not a more stringent SIP should be devised to control ambient particulate levels. The results of that evaluation, together with any necessary changes in the SIP, will be submitted to EPA by November 1, 1978. At present, it is not possible to make a reliable quantitative estimate as to what effect, if any, this SIP revision will have on TSP levels to be recorded at monitors in the AQCR; accordingly, EPA has determined that requiring the Massachusetts Department to develop an attainment plan is an adequate measure to assure that any violations of the NAAQS for TSP, whether or not attributable to the use of higher sulfur fuel, will be corrected in a timely manner.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-(5)(a) and 1857(g)).

Dated: July 25, 1977.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

[FR Doc.77-22212 Filed 8-2-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[Docket No. 18875; FCC 77-536]

TRANSATLANTIC COMMUNICATIONS

Policy To Be Followed in Future Licensing of Facilities

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission issues a number of alternative plans it is considering to set the policy the Commission will follow in licensing transatlantic communications facilities through 1985. The Commission also states its tentative preference for one of these plans. This action is intended to result in a comprehensive plan for construction and use of facilities to meet the transatlantic communications needs of this time period.

DATE: Comments must be received on or before August 31, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Raymond B. Crowell, International Programs Staff, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, 202-632-3214.

SUPPLEMENTAL INFORMATION:

MEMORANDUM OPINION, ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: July 20, 1977.

Released: August 1, 1977.

In the matter of policy to be followed in future licensing of facilities for overseas communications.

1. On November 29, 1976, we issued a Further Statement of Policy and Guidelines in the above-captioned proceeding, "Overseas Communications," 62 F.C.C. 2d 451, in which we announced that we would develop an overall, comprehensive facilities construction and use plan to meet United States-CEPT[1] tra-

[1] CEPT, The Conference Europeenne des Administrations des Postes et des Telecommunications, is an association of the communications entities of thirty European countries. In 1975, CEPT formed a subsidiary CEPT Liaison Committee for Transatlantic Telecommunications (CLTA) for the purpose of establishing an ongoing dialogue with the FCC and the Canadian overseas communications entity (Teleglobe) concerning issues of common interest in developing communications facilities for the North Atlantic region.

fic requirements through year-end 1985 and announced procedures we proposed to follow in developing that plan. In that connection, we reaffirmed our 1971 Policy Statement in this proceeding, "Overseas Communications," 30 F.C.C. 2d 571, 572, which had adopted the following policy guidelines:

(a) The public interest requires that we promote the continued development of both cable and satellite technologies and their most effective and timely applications to meet future requirements for international communications services;

(b) The public interest also requires that we authorize the most modern and effective facilities available via both cable and satellite technology with due regard for efficiency, economy, diversity and redundancy;

(c) The public interest and due regard for the concerns of the Administrations which operate the foreign end of the cables require that care should be taken to minimize the need for imposing artificial formulae to govern the distribution of traffic among available media;

(d) The public interest requires that the economies available from each advance in technology be reflected in charges for service. (Citations omitted).

Further, we clarified and amplified our 1971 policies by adopting, 62 F.C.C. 2d at 458-9, the following additional policy guidelines:

(a) The continuing availability of adequate, reliable, low cost communications facilities and services between Europe and North America is a matter of common interest and concern to communications users, operating entities, and governments in Europe and North America.

(b) This Commission does not, as a matter of policy, favor the use of one technology over another nor any predetermined distribution of traffic or transmission capacity among alternative technologies or suppliers. Pursuant to our statutory mandate, our primary policy objective has been and remains the achievement and efficient utilization of the lowest cost combination of facilities which can satisfy valid traffic needs and service objectives, irrespective of technology or supplier, within this basic policy framework, both cable and satellite technologies—as well as any other—can and should be afforded the opportunity to evolve.

(c) The existing operational structure and attendant economic and other incentives of the international communications industry are not such as to lead automatically to the realization of the basic public interest policy objectives enunciated above. Accordingly, this Commission must and will continue to scrutinize thoroughly both facility installation and utilization proposals of U.S. carriers prior to the authorizing these carriers' participation in such facilities programs, in order to ensure that U.S. communications users are not unnecessarily burdened with excessive facility investments or inefficient utilization of authorized facilities.

(d) The need to consider such interrelated factors as diversity, redundancy, restoration and other means to provide continuity of service within the context of the operational structure and varying economic and other incentives and preferences previously cited severely limits our ability to make the necessary public interest evaluations in the context of isolated applications for individual facility authorization. Accordingly, we will not in the future consider the authorization of major facility investments and utilization proposals as isolated instances, but will instead evaluate them in the context of a comprehensive long-range plan for the establishment and use of facilities to serve a particular geographic area during a specified future planning period. To ensure that all interested and affected parties have a full opportunity to participate in the evolution of a mutually acceptable long range plan for future facility establishment and use, we shall approach the adoption of such a plan through an iterative process as set forth in the Annex to this decision.

(a) In our public interest evaluation of both long range plans and specific facility applications, the primary criteria shall be those set forth in (b) above. For the purpose of cost analysis and comparisons, we shall consider as relevant only historical and/or projected investment and operating expenses—as opposed to lease charges or tariff rates. Moreover, before we can adopt any such long range plan as a basis for specific facility planning and authorization, we would necessarily require comparable commitments regarding the use of cable and satellite facilities.

(f) The evolution of mutually acceptable long range facility plans and the subsequent authorization of specific facilities will necessarily be a difficult and time-consuming process, given the necessity of accommodating this process to the differing legal requirements and operating arrangements of the sovereign nations involved. We shall make every effort to ensure the success of this effort, within our basic statutory mandate, public interest obligations and legal system. As a part of our effort to achieve an acceptable plan, we also desire to explore, where beneficial, changes in the present ownership arrangements and provision of circuits within future transatlantic facilities. Specifically, we propose to explore the feasibility and desirability of substituting end-to-end provision of whole circuits within facilities, for the present arrangement whereby each terminal country provides fifty percent of each transatlantic circuit.

In addition to setting forth the policy guidelines we would use to develop our overall facilities plan, we also announced the procedures we proposed to follow in that task.

2. First, we requested the United States International Service Carriers[1] (USISC) and the Communications Satellite Corporation (Comsat) to submit proposed facilities plans and supporting data so as to provide us with information necessary to arrive at an overall, comprehensive facilities construction and use plan. Second, we proposed that after consideration of these proposals we would issue for public comment a tentative facilities plan. Finally, after adoption of a final plan, we stated we would receive appropriate applications for authority to implement the plan. To the extent that those applications were consistent with our final plan, we envisioned a relatively automatic grant of authority. We noted, however, that should an application deviate significantly from the plan, we would consider it de novo, subject to the full process of comment, review and authorization. See 62 F.C.C. 2d at 461 (Annex 1).[1] Concurrently, we noted that we would continue as an integral part of our process the consultation with CEPT and Canadian representatives we have been pursuing since 1974.

3. Pursuant to our request, Comsat, on April 26, and the USISC, on April 29, 1977, filed their respective proposed facilities construction and use plans and supporting data. Comsat and the USISC each submitted a number of alternative plans. However, each of the respondents employed a different methodology in developing its plans and based them on different traffic forecasts, cost elements, methods of estimating costs, assumptions as to the availability of facilities and methods of circuit distribution. For example, the USISC included in their plans the costs of handling traffic between the U.S. and points other than CEPT countries, while Comsat limited its plans to CEPT points. Further, the USISC provided information on international record carrier services in only one of their five alternatives while Comsat included such costs in all of its alternatives. As a result of such differences, direct comparison of the plans as submitted was not feasible. Accordingly, the staff first reduced the USISC and Comsat plans to a common format, and subsequently reviewed both these and several staff-generated alternatives. In its review, the staff subjected the proposals to analysis in accordance with the following basic criteria:

(a) Ability to satisfy forecasted circuit requirements;

(b) Degree of service reliability provided; and

[1] These specific procedures set forth in the Further Statement were amended somewhat by Memorandum Opinion and Order, Overseas Communications, FCC 77-386, ------ F.C.C. 2d ----, released June 7, 1977, and Memorandum Opinion and Order, Overseas Communications, FCC 77-4660, ------ F.C.C. 2d ----, released July 8, 1977. However, the amended procedures retain the basic provision in the Further Statement for issuance of a Commission final facilities plan and subsequent processing of authorization applications; the later orders merely spell out in detail the steps leading to issuance of the final plan.

[2] Those carriers are American Telephone and Telegraph Company (AT&T), The French Telegraph Cable Company, ITT World Communications Inc. (ITT Worldcom), RCA Global Communications, Inc. (RCA Globcom), TRT Telecommunications Corporation and Western Union International, Inc. (WUI).

(c) The total cost associated with construction and maintenance of the facilities called for.

4. Under the procedures in our Further Statement, we had proposed to develop a single tentative facilities plan which we would issue for public comment. This tentative plan was to be submitted for discussion at the consultative meeting with CEPT and Canadian representatives in Rome, Italy. See 62 F.C.C. 2d at 461. However, for the reasons stated in our Memorandum Opinion and Order, released June 7, 1977, FCC 77-386, ------ F.C.C. ------ (June 7 Order), the staff found it necessary to develop a number of alternative plans. We concluded that all these plans should be made available for public comment and therefore we modified the procedures of our November 29 Order. We also concluded that these alternative plans should be presented for discussion at the Rome meeting.

5. On June 13-15, 1977, Commission representatives met in Rome, Italy, with representatives of 20 CEPT countries and Canada to discuss the plans prepared by the staff and the CEPT Master Plan which was prepared by the CEPT nations. Following the Rome Meeting, we issued on July 8, 1977, a Memorandum Opinion and Order herein, Overseas Communications, FCC 77-460, ------ F.C.C. 2d ------ (July 8 Order), in which we further clarified the procedures we shall follow in developing our final, comprehensive facilities construction and use plan and adopted a timetable for the various steps in that procedure:

(1) No later than July 31, 1977, we shall issue for public comment the five alternative plans including any proposed alternatives or modifications and will designate which of those is the Commission's tentative preferred plan.

(2) Comments on the alternative plans will be due no later than August 31, 1977.

(3) Following receipt of the comments, the Commission will analyze the plans in light of the comments received and begin to prepare its final plan.

(4) With the agreement of CEPT and Canadian officials, the Commission will also schedule a one-day meeting in Washington, D.C. for the purpose of further discussions with representatives from those nations having decisional responsibilities within their respective countries concerning international communications facilities. We anticipate that such a meeting will occur on September 19, 1977.

(5) Following such a meeting, we would allow 15 days for the filing of a final round of comments from interested persons—due October 5, 1977.

(6) The Commission would then consider the material before it and issue its final plan on November 1, 1977.

6. In the course of examining the carriers filings; alternative methods of using basic transmission facilities once established; and the effect of alternative traffic forecasts, circuit distribution procedure, etc., our staff has formulated a number of "plans" for purposes of analysis. Several of these which have been subjected to detailed analysis and comparison as regards traffic handling capabilities, service reliability, and cost are set forth in this Order and its Attachment I for further comment. Essentially, however, there are only three basic facility planning and implementation options under review and consideration. The first option, advanced primarily by the USISC and CEPT and embodied in Plans 1 and 1-M, would introduce a new TAT-7 cable in 1981. The second option, reflected in both Comsat's filing and various staff analyses and embodied in Plans 2, 4, 4-M and 5, would not include a new transatlantic cable at any time within the planning period (i.e. through 1985). The third option, designed by the staff to test the merits of an intermediate position regarding additional cable facilities, and embodied in Plan 3, would introduce a new TAT-7 cable in 1983. A brief description of each of the several "plans" falling under these three basic facility options follows:

PLAN 1. This plan represents, to the extent possible, the proposed USISC plan. It uses the USISC traffic forecasts; introduces TAT-7 in 1981; uses TASI-C beginning in 1982 to increase the capacity of TAT-5, TAT-6, TAT-7 and CANTAT-2 for telephony; and assumes a greater USISC use of CANTAT-2 than is presently authorized. Circuits used for telephony are distributed on a balanced-route basis with exceptions to some countries. No overall rationale for distribution of circuits used for record traffic could be discerned.

PLAN 1-M. This plan represents a modified PLAN 1 as a result of changes to the circuit forecast and distribution of circuits used in PLAN 1. While the circuit forecasts used in PLAN 1 and PLAN 1-M are essentially the same, the circuit distribution plans differ in several respects. PLAN 1-M reflects the circuit forecast and utilization of facilities developed by the CEPT countries and used in the CEPT Master Plan presented at the June 13-15, 1977, meeting in Rome, Italy. PLAN 1-M does not represent the CEPT Plan. It only represents the changes necessary in the distribution of circuits used in PLAN 1 to conform to the distribution of circuits used in the CEPT Plan.

PLAN 2. This plan represents, to the extent possible, the fourth alternative plan submited by Comsat. This plan uses the U.S. interim forecast (high estimate) submitted at the October, 1976, meeting in Rome. Under this plan, the introduction of TAT-7 is deferred beyond the planning period under consideration. No TASI-C is used in this plan. It is assumed that all of the CANTAT-2 circuits the USISC are authorized to use until year-end 1980 (373 telephony circuits and 60 record circuits) will continue to be available throughout the planning period. This plan assumes that both telephone and record circuits will be distributed in the ratio of satellite to cable capacity calculated by Comsat to be available between the U.S. and the CEPT countries.

PLAN 3. This is a staff-generated plan using the USISC forecast. Under this plan: TAT-7 is introduced in 1983; TASI-C is used on the TAT-5, TAT-6, TAT-7 and CANTAT-2 cables to the maximum extent possible, if needed to balance routes for telehony circuits; USISC use of CANTAT-2 basic circuits is limited to that presently authorized, and circuit growth for both telephony and record is distributed using the balanced-route approach.

PLAN 4. This is a staff-generated plan using the USISC forecast. This plan assumes: no TAT-7 during the planning period; use of TASI-C on the TAT-5, TAT-6 and CANTAT-2 cables to the maximum extent possible if needed to balance routes for telephony circuits; increased USISC use of CANTAT-2 circuits. Circuit growth for both telephony and record services is distributed using the balanced route approach.

PLAN 4-M. This plan represents a modified PLAN 4, resulting from a reduction in the use of TASI-C. The distributions of circuits contained in PLAN 4 and PLAN 4-M are different due to this change. The other basic assumptions used in PLAN 4 are also used in PLAN 4-M.

PLAN 5. This plan assumes no TAT-7 and no TASI-C during the planning period, and beginning in 1980, telephony and record circuits are distributed to achieve balance among available routes to the extent possible. There is an additional condition that total activated cable and total activated satellite circuits are not less than those in use as of April 30, 1977. A staff-generated estimate of circuits is used.

7. Attachment I sets forth in greater detail these several plans and analyses, as well as the information and methods employed by the staff to analyze traffic requirements, service reliability and costs. Information in addition to that submitted to the Rome meeting is included and errors found in the document submitted at Rome have been corrected. We believe it would be beneficial to make observations regarding the analysis performed to date and our basis for selecting one of these plans as our preferred plan. In so doing, we wish to make clear that factors in addition to those considered herein need to be addressed and fully considered before we make our final decision. In this regard, we are also seeking comments concerning the additional factors we believe should be addressed by all the concerned U.S. parties to this proceeding. As indicated earlier, we expect to meet with European and Canadian officials on September 19, 1977, in Washington, D.C., to discuss issues of mutual concern and responsibility before the Commission makes its final decision on this matter.

EVALUATION

8. *Traffic Requirements.* The several circuit forecasts and the staff's estimate of circuit requirements during the period under consideration are presented in the Attachment. Information concerning circuit and traffic requirements is presented and discussed. The circuit estimates made by the staff are considerably lower than the circuit forecasts provided by the USISC and others, which raises significant questions regarding the need to re-evaluate the methods employed to forecast traffic and circuit requirements. Nevertheless, the staff has used the higher forecasts, and not the lower staff estimate, in all plans under consideration, with the exception of Plan 5 which is included to demonstrate the effect on the cost of Plan 4 or Plan 4-M if the higher traffic forecast by USISC and CEPT does not materialize.[4] It appears to us that any of the plans under consideration will provide more than sufficient capacity to accommodate any of the circuit projections we have considered. Therefore, in selecting a preferred plan we did not need to discount any of the plans because it provides insufficient capacity.

9. *Service Reliability.* In order to assess the factors of service reliability, we required in our November 1976 Further Statement of Policy and Guidelines that the carriers and Comsat specify: (a) Their service and reliability objectives; (b) the analytical methods used to determine the trade-offs between diversity and restoration in maintaining the stated grade of service; and (c) the methods used to assess any differences in meeting the grade of service among various alternative mixes of facilities and levels of use of those facilities. The submissions of the USISC and Comsat failed to provide such information. The USISC filing evaluated its various plans by general statements whether a plan provided for "adequate" or "inadequate" diversity—without either defining the terms or showing the effect of diversity on service reliability. Comsat concluded, without presenting supporting information, that the same high level of service reliability provided in the past could be maintained under any of the alternative plans it considered. Lacking any meaningful assessment of service reliability by the carriers or Comsat the staff used blocking probability calculations[5] as a common indicator of relative service reliability to assess various mixes of facilities and levels of use of those facilities. The method is described in Attachment I.

10. The analysis performed by the staff allows the resulting blocking probabilities associated with each of the plans to be compared. Using CCITT Recommendation E.542[6] as a guide, it appears that prompt restoration will be required for circuits lost due to major facility failure under any of the plans. There are differences when comparing the blocking probabilities associated with each plan on a facility-by-facility, point-by-point, year-by-year basis. However, on the information before us, we are unable to determine any significant differences among the plans which would lead us to conclude that one plan provides superior service reliability vis a vis another. We recognize that other factors also bear upon overall service reliability. They include the speed and level of restoration required under emergency conditions and reliance on network management techniques to prevent rapid congestion of switching machines. It seems to us that these factors require detailed consideration by the operating entities concerned, irrespective of the plan finally adopted. The provision of leased-channel services to a customer on a full-availability basis would also require, in our opinion, special consideration under any of the tentative plans. All of these factors, including blocking probabilities, are concerned with emergency conditions where special measures need to be taken. During normal conditions, there should be no difference in the quality or level of service provided under any of the plans presented herein. We regret that the carriers and Comsat have not provided the kind of information or analysis we deem necessary to fully assess the various factors which affect service reliability. We do expect that they will review the analysis performed by the staff and address the specific questions contained herein so that we may have as complete and thorough a record as possible for our final decision.

11. *Costs.* The data, methodology and analysis employed by the staff to assess the costs associated with each of the plans considered are presented in Attachment I. The objective of the cost analysis is to estimate the relevant U.S. costs which will be incurred from mid-1977 through 1985 to provide, maintain and operate facilities for U.S.-CEPT traffic included in each alternative plan. The relevant costs include capital expenditures for new facilities and operating and maintenance expenses for all facilities. Since the facilities will also be used to provide communications service to non-CEPT countries, some cost allocation is necessary to isolate the U.S.-CEPT costs. Throughout the analysis, the general basis for allocating costs is relative use. The costs are estimated for each year of the 1977-1985 period and discounted to mid-1977 so as to equalize costs incurred at different times. An interest rate of 12 per cent is used. An allowance is made for capital equipment placed in service during the study period and useful beyond 1985. No allowance is made for inflation because relative costs are the relevant considerations under analysis. It is assumed that inflation will not affect relative costs. Based on this analysis the relevant costs to compare (net present value mid-1977-1985) are as follows:

Plan 1	$208,565,000
Plan 1-M	209,884,000
Plan 2	170,459,000
Plan 3	191,586,000
Plan 4	174,314,000
Plan 4-M	171,382,000
Plan 5	118,359,000

SELECTION OF PREFERRED PLAN

12. At this stage of our proceeding we have the benefit of the information now before us and the staff's analysis contained in the Attachment I. We stated in our November 29 Further Statement that "[w]here no significant differences arise in the resulting levels of service reliability between alternative means of meeting stated service objectives, considerations of service reliability is not a determining factor in the selection of the least cost combination of facilities." 62 F.C.C. 2d at 456, f.n. 2. Based upon the information considered thus far, we believe that any of the seven plans can be expected to provide adequate capacity and essentially the same level of service reliability. Therefore, we have no reason at this time to prefer one plan over another because of capacity or service reliability considerations. It is obvious from the staff's analysis of the plans presented herein that those plans which do not include a TAT-7 cable within the planning period (i.e. Plans 2, 4, 4-M and 5) represent the least cost alternatives. Depending on whether the staff's estimate or the USISC/CEPT estimates of future traffic growth are assumed these plans are less costly than Plan 1 to the American ratepayer, by amounts of $34 million to $90 million, according to this analysis.

13. The levels of traffic that will be realized in the future cannot be known with certainty. Indeed there is a substantial difference between the USISC forecast and the staff's estimate of circuit requirements. While this disparty needs to be considered in greater detail we do not believe it must be resolved now. More than sufficient capacity appears to be available under the plans considered to accommodate the range of traffic levels in question.

14. We believe the future of TASI-C technology is promising and economically attractive. Its application should be planned in the time period being considered. We have noted the uncertainty inherent in forecasting levels of demand. Recognizing this, we believe service handling capability should be planned to accommodate this uncertainty so long as the costs are not excessive. Therefore, we believe Plan 4-M is the most reasonable plan and select it as our preferred plan.

15. As indicated in our July 8 Order, adopting a final comprehensive facilities construction and use plan by November 1 is a difficult but attainable goal if we receive the cooperation of all concerned. Accordingly, to develop a full record on

[4] The important point is that either Plan 4 or 4-M, if adopted, could be readily adjusted to accommodate lower traffic requirements at lower cost. This adjustment could be periodic and based upon up-dated forecasts resulting from actual traffic levels being experienced and, possibly, a refined method of forecasting.

[5] The blocking probability number is a measure of the congestion (blocking) that may be expected in the International Direct Distance Dialling (IDDD) environment during the busy hour as a result of the loss of the number of circuits on each facility to each point should the facility fail. It indicates on the average, the number of telephone calls out of every 100 calls that may fail to seize an overseas circuit.

[6] CCITT Recommendation E.542—Acceptable reduction in the number of circuits of a final route in the extent of a breakdown. See Volume II-A—Rec. E.542, Volume VI—Rec. Q.96.

which to base our final decision, we desire to have the views of the carriers and the public on all seven of the alternative plans set forth in Attachment I. To aid us in this process, we shall make each of the USISC and Comsat a party to this proceeding and direct the parties to exchange copies of their comments with each other. The clarity, completeness and prompt filing of the parties' comments is of paramount importance in realizing our objective. We therefore urge each party to exercise particular care to assure that its comments provide all the information, support and descriptions of methodologies it uses so that the other parties and the Commission can promptly analyze the proposals, positions and recommendations. We would point out that the time schedule to which we must adhere does not permit the second round of pleadings which would be required if additional information must be requested after the filing of these comments. In order to aid the parties in the preparation of their comments and, to elicit information we believe pertinent, we shall require the parties to respond to a number of questions and specifically address a number of issues.

16. As set forth in Attachment I, the USISC and Comsat's April, 1977, filings failed to contain substantial amounts of information which would have aided the staff in formulating the tentative plans being issued for comment. We believe that much of this information also will be of value in analyzing the comments filed in this phase of the proceeding. Therefore, we are setting forth, in Section I of Attachment 2 to this decision, questions and information requests to solicit that information.

17. The tentative plans we are issuing for comment have been analyzed thus far from the standpoint of Traffic requirements, service reliability, and costs. There are other relevant factors to consider in adopting a final comprehensive plan (e.g. International Comity, foreign relations, etc.). One important factor is the effect selection of a particular plan will have on telecommunications plans of the CEPT nations and the procedures the Commission should follow to resolve issues if the final plans adopted on either side of the Atlantic are in conflict regarding the construction and use of transatlantic facilities. Another factor is the impact on the research, design and manufacturing of submarine cables in the U.S. To this end, we request all parties to address these issues. We are also requiring that the carriers and Comsat respond to the specific questions pertaining to these issues. We have also set forth in Section 3 of Attachment 2 questions pertaining to service reliability, to which we will require the carriers and Comsat to respond.

18. While the parties may submit information and raise issues in addition to those set forth herein, we request that they respond to the questions and information requests in Attachment 2 separately from other portions of their comments.

19. Finally, we will address the comments, petitions for reconsideration, partial reconsideration and clarification filed in regard to our November 29 Further Statement.[1] In the main, these pleadings do not appear to request the Commission to take specific actions. They suggest that we consider various effects that could result from following the course adopted in our Further Statement. However, some requests were made for specific action. These include requests that the Commission clarify certain aspects of the decision and consider the various alternatives proposed in the pleadings.

20. We believe that this Order, together with its attachments, provides much of the clarification requested. In addition, the procedural modification to facilitate development of a comprehensive facilities plan, may alter the basis for or obviate some of the requests made in these pleadings. Finally, we believe many of the comments and suggestions can better be considered by all parties in light of our preferred plan and tentative plans presented in the rulemaking phase of this proceeding.

21. With regard to the procedure being followed, the various comments and petitions include a request by ITT Worldcom that we reconsider the depth of our involvement in the planning of facilities for overseas communications; and a request by WUI that the Commission reconsider its guidelines and adopt one or more of the alternatives it proposed. To the extent the petitioner seeks reconsideration of the procedures set forth in our Further Statement, we shall deny them. The procedures we have adopted do not involve the Commission in the regulation of any aspect of overseas facilities construction in which it has not been involved heretofore. Prior Commission authorization of the construction of overseas transmission facilities has been mandatory since enactment of the Communications Act of 1934. Consideration of the capacity available in existing facilities in determining whether additional facilities should be authorized has also been required since that time. The question of appropriate use of existing and planned satellite and cable facilities has been pleaded before, and determined by, the Commission since 1966. The departure from overseas facilities planning by ad hoc action on individual facility applications to the development of a long range policy began with the issuance of our first Notice of Inquiry in this Docket in 1970. Discussions between Commission representatives and representatives of the CEPT nations to discuss matters of mutual interest began in 1971 and were regularized in 1974 with the establishment of the present consultative mechanism. The procedures implemented in November, 1976, make no significant additions to these Commission activities. The only major new element introduced by these procedures is the timing of determinations the Commission is required to make in the facilities authorization process.

22. As is clear from the foregoing, adoption of a comprehensive plan following consideration of alternative plans and comments filed thereon will not be the first Commission action where public comments filed thereon will not be the first Commission action where public interest determinations are made regarding the construction and use of proposesd overseas facilities. It will be the first time the Commission has been able to make both of these determinations at the same time. Such course of action is, we believe, responsive to the objections made by overseas telecommunications entities as well as the carriers and other interested parties to this proceeding concerning the timing of past Commission actions. Two other benefits are gained from our proposed procedures. First, the U.S. Carriers and Comsat are afforded an increased opportunity to present, support, and comment on various plans for cable and satellite construction and use in a more meaningful manner than is possible when considering applications on a case-by-case, facility-by-facility basis. Second, we are afforded the benefits of considering a range of possible plans and therefore take actions based on a more complete record. We continue to believe that the procedures we have adopted will better serve the public interest and see no reason to change them.

23. We referred earlier to the WUI petition which contains four alternative proposals. WUI requests that we "reconsider our Guidelines" and "clarify them by adopting one or more of the WUI alternative proposals in the interests of harmonius international relations and for the benefit of the telecommunications users throughout the world." We interpret WUI's pleading as a request that we substitute one of its proposals for the policies and guidelines established in our November 29 Order. Three of WUI's alternative proposals would permit the carriers to earn a rate of return on satellite circuits leased from Comsat. The first of these proposals would permit the carriers to capitalize satellite lease payments thus making the includable in the carriers' rate bases. The second proposal would require Comsat to issue Capital Participations Shares to the carriers in 50 percent of their satellite circuits. Such shares would then be included in the carriers' rate bases. The third alternative proposed by WUI is the Commission's adoption of an Operating Ratio Criterion for rate-making. Under this approach, the carriers would be permitted an "appropriate spread" between revenues and expenses allocated to leased satellite facilities. WUI's fourth alternative would permit the carriers to elect to compensate Comsat for a reasonable allocated share of its justified overhead

[1] AT&T and Comsat filed comments. ITT Worldcom, RCA Globcom and WUI filed petitions requesting reconsideration and clarification of various aspects of our policy guidelines or procedures. Additionally, AT&T filed an opposition to Comsat's comments to which Comsat responded.

costs but not of costs related to INTELSAT because such costs could be reduced to the extent of non-use of satellite circuits. WUI says that such compensation would be more logical economically and less burdensome upon the rate payers than any Guidelines compelling the carriers to lease satellite circuits for which they have no need while their owned cable circuits are idle. It further asserts that this proposal "might also defer a costly generation of INTELSAT spacecraft, or at least relieve congestion of the Atlantic primary satellite and permit the deferment of the proposed costly three satellite configuration."

24. WUI submits that any of these alternatives, or reasonable combinations or variations thereof, would provide the solution to the cable vs. satellite controversy without impairing this country's fragile international relations in the telecommunications sector. Adoption of any of the first three alternatives according to WUI could result in the carriers' being economically motivated to use more satellite circuits. WUI states

> The U.S. carriers could then endeavor to negotiate agreements with their foreign correspondents to maintain or acquire matching satellite circuits. The sovereign foreign administrations would, thus, be relieved of the irksome coercion, direct or indirect, from this Commission. The traditional relationship between international telecommunications operators—foreign administrations and U.S. carriers—would be restored. Additionally, the U.S. carriers could elect to compensate Comsat for non-use of satellite circuits (WUI alternative 4); and the carriers and their foreign correspondents would be free once again to configure their networks in an optimum manner for service reliability as only network operators can mutually decide. Comsat's ownership share in INTELSAT might be adjusted downward as a result with no adverse impact upon the ultimate U.S. ratepayers or upon the viability of Comsat.

It is not clear from the foregoing whether WUI proposes its fourth alternative as a substitute for or as an adjunct to any of the first three proposals.

25. We believe that the first three WUI proposals and its fourth proposal would have opposite effects on facilities use. If, as WUI suggests, the increased economic incentives produced by the first three proposals resulted in carriers' increased use of satellite circuits, it would seem a permissible conclusion that the need for additional cable facilities during the planning period under consideration would be delayed or, possibly, eliminated. However, WUI does not provide any indication as to the level of increased satellite use it would expect to result. It also fails to indicate the effect such increased use of satellite circuits would have on service reliability. No information is provided as to whether cost savings from deferring additional cable facilities would exceed the additional burden on the ratepayers caused by including satellite circuits in both Comsat's and the carriers' rate bases. Finally, no indication is given as to the effect that the increased economic incentive for the U.S. carriers to use satellite circuits would have on the determinations of overseas telecommunication's entities concerning service reliability and costs.

26. WUI indicates its fourth proposal would result in a decrease in the number of satellite circuits actually used. It would seem permissible to conclude that should such a decrease occur, the need for additional cable facilities during the planning period under study may be increased. However, WUI again provides no indication as to the magnitude of decrease it would expect to occur. While WUI seems to imply that decreased satellite circuit usage would increase service reliability, it provides no information with which one could test the reasonableness of that hypothesis. WUI also does not provide any information concerning the effect of its proposal on the cost of service to the ratepayer. It appears also to assert that the anticipated reduction in use of satellite circuits will be sufficient to warrant delaying the introduction of the INTELSAT–V series of satellites and deferring implementation of a three-satellite path configuration in the Atlantic basin. However, WUI gives no indication of the magnitude of cost savings such eventualities would produce. WUI also suggests that the reduced level of satellite use will result in diminishing Comsat's share of INTELSAT ownership and costs. However, it does not indicate the degree to which Comsat's costs would be reduced.

27. While all of WUI's proposals have the potential to affect the planning of future facilities, they are not substitutes for planning; nor, in our opinion, for the procedures we have adopted. The adoption of one or more of WUI's proposals would not terminate the legal requirement that prior approval be obtained for the construction and operation of overseas facilities; reduce our statutory duty to certify that the public interest requires construction of those facilities; or change the procedures to be followed in acting upon applications for overseas facilities. The objective of our procedures in this docket is to shape the required authorization process to a more meaningful and responsive process given the complexities of international facilities planning. The manner in which WUI's proposals would accomplish similar objectives is not obvious. They may be relevant considerations within the planning process. However, the cursory description provided sheds little light on the effect these proposals will have on the need, timing, and use of future facilities. Nevertheless we invite comments on these proposals by interested parties at the time they file the comments required herein.

28. In addition to the pleadings previously mentioned, we received a letter, dated January 27, 1977, from the Office of Telecommunications Policy (OTP) commenting on a number of aspects of our procedures. Some of OTP's comments have already been discussed. Its concern about the depth of the Commission involvement in facilities planning and the question of increasing the carriers' incentives to use satellite circuits were also raised in other pleadings discussed above. Regarding OTP's concern that factors other than cost and facilities used by considered in reaching a decision in this matter, we are inviting comments and supporting information regarding all issues to be considered, including those other than costs, service reliability, and traffic requirements. OTP has also raised other issues which we believe are more appropriately addressed in this phase of the proceedings and we invite interested parties to include comments on the OTP letter in their filings.

29. We will, however, address at this time OTP's request that we abandon the comprehensive facilities plan approach we adopted in our November, 1976, Further Statement. OTP views the procedure adopted, and in particular the detailed analysis of costs and facilities use with our concomitant information requests, as unduly coercive with respect to the European Telecommunications entities. OTP urges the Commission to reconsider the necessity for the comprehensive plan approach. In its view, the regulatory judgments as to the prudence of new cable or satellite facilities should be determined at the time applications for those facilities are filed. OTP recognizes that one important consideration in analyzing such applications is the prudent use of all existing facilities and that commitments to continue to reduce spare capacity can be demanded of the carriers if necessary, before new facilities are authorized. OTP states that the U.S. carriers, in turn, will be obliged to reach agreements with their operating partners consistent with such commitments. Such a procedure would, according to OTP, serve U.S. interests better than the procedures set forth in our Further Statement.

30. As indicated in our earlier discussion of the pleadings filed, our goal in adopting these procedures is to expedite Commission determination of the need of future facilities and to indicate our findings at the earliest possible time in order to minimize distruption of agreements already reached among the carriers and the overseas operating entities. As we also earlier indicated, these procedures allow the Commission to consider a number of alternative plans and provide for more input of views and information from all interested parties.

31. Past experience with *ad hoc* applications has shown that the same detailed consideration of cost, traffic requirements and service reliability is required. However, as we fully described in our November 29 Further Statement, this approach has proved to be unsatisfactory to adequately address these issues and reach timely decisions. While we do not presume to state that the procedures we have instituted cannot be improved, given the complexity of international

telecommunications facilities planning, we continue to believe that they offer a significant improvement to the application processes which in the past have yielded unsatisfactory results.

32. *Accordingly, it is ordered,* Pursuant to, sections 4(i), 4(j), 214, and 403 of the Communications Act of 1934, as amended 47 U.S.C. 154(i), 154(j), 214 and 403 (1971), and section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c) (1971), that the parties named herein shall, and all other interested persons may, file comments on the seven alternative proposed facilities construction and use plans set forth in Attachment 1 hereto.

33. *It is further ordered,* That the proposed PLAN 4–M is designated to Commission's tentatively-preferred facilities construction and use plan.

34. *It is further ordered,* For purposes of the comments called for here, American Telephone and Telegraph Company, Communications Satellite Corporation, the French Telegraph Cable Company, ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation, Western Union International, Inc. are named parties respondent to this proceeding.

35. *It is further ordered,* Pursuant to § 1.419 of the Commission's rules and regulations, 47 CFR 1.419 (1976), that all parties herein shall, and other interested persons may, on or before August 31, 1977, file an original and eleven copies of comments on the Commission's tentatively-preferred facilities construction and use plan and all alternative proposed plans set forth in Attachment I hereto. Each person named a party to this proceeding shall also provide the information called for in Attachment 2 to the extent that a particular question is aplicable to it. In addition to the material filed in response to this order, the Commission may consider any other relevant material before it. Copies of responses in this proceeding shall be available for public inspection at its headquarters at 1919 M Street, NW., Washington, D.C.

36. *It is further ordered,* That to the extent the pleadings and comments filed in regard to the Commission's Further Statement of Policy and Guidelines in this proceeding request abolition of the comprehensive facilities plan approach set forth herein, they are hereby denied.

FEDERAL COMMUNICATIONS COMMISSION,[*]
VINCENT J. MULLINS,
Secretary.

NOTE.—Attachments 1 and 2 are filed as part of the original document and may be inspected at the office of the FEDERAL REGISTER. A limited number of copies of these attachments are available from the Federal Communications Commission.

[*] See attached statements of Commissioners Fogarty and White. Commissioners Hooks and Quello concurring in the result.

CONCURRING STATEMENT OF COMMISSIONERS JOSEPH R. FOGARTY AND MARGITA E. WHITE

IN RE: POLICY TO BE FOLLOWED IN FUTURE LICENSING OF FACILITIES FOR OVERSEAS COMMUNICATIONS (DOCKET 18875)

Although we concur in the Commission's decision to designate Plan 4–M as a tentative preferred plan, we believe it is essential to emphasize that this preference is strictly a preliminary assessment of the alternative plans before the Commission and the complex technical and policy questions involved. While we accept the conclusion of the staff's preliminary analysis of the plans, our concurrence is based solely upon the limited record now before us.

In this regard, we are hampered by the lack of probative data and analysis in the submissions of the USISC and Comsat, particularly with respect to the critical comparative issues of quality of service, reliability of service, and costs presented by the various plans. Clearly, before this Commission can move with any confidence from a tentative preferred to a final plan, more is needed by way of comment, analysis, and evaluation.

In particular, we are not convinced that sufficient attention has been given to the question of quality of service in either the parties' comments or the Commissions analysis. Further, we question the impact that the adoption of the preferred plan will have both upon the distribution of circuits between cable and satellite in meeting overall traffic demand, and upon the route diversity available for traffic to and from individual countries.

In this regard, we are attaching to this statement a comparison of plans 4–M and 1 which graphically illustrates the differences in the country-by-country and overall distribution of cable and satellite circuits under these respective plans. The historically recognized need for both redundancy and diversity in transatlantic telecommunications may be compromised under plan 4–M to the possible detriment of all the region's consumers.

We further recognize—as we believe do our colleagues—that principles of international comity must also be considered in the Commission's ultimate decision. Indeed, international comity is a fundamental an element of our statutory public interest mandate as are the factors thus far considered. In expressing a tentative preference which results in cable/satellite allocations so dramatically different from those favored by the European nations, the Commission may find it more difficult to reach agreement on a final United States-CEPT plan after November 1, 1977. In our judgment, the element of comity must be given due consideration in the Commission's further deliberations leading to the adoption of the final comprehensive plan.

In view of the substantial issues which remain at this time unresolved, we urge the participants in this proceeding to provide the additional data and analysis necessary for the Commission to make a responsible and fully informed decision which will reflect and accommodate the best interests of all transatlantic telecommunications consumers.

Comparison of Satellite vs Cable Circuits for each Country Plans 4M and 1*

Country	PLAN 4M		PLAN 1	
	No. of Cable Circuits	No. of Satellite Circuits	No. of Cable Circuits	No. of Satellite Circuits
Austria	62	94	66	90
Belgium	316	656	521	451
Cyprus	7	13	12	8
Denmark	53	130	117	66
Finland	17	63	48	32
France	776	1385	1127	1034
Germany	946	2154	1369	1731
Greece	167	310	169	308
Ireland	83	203	175	111
Italy	708	790	757	741
Luxembourg	35	49	60	24
Netherlands	312	624	492	444
Norway	32	212	137	107
Portugal	86	52	93	45
Spain	362	397	457	302
Sweden	39	289	184	144
Switzerland	354	599	534	419
Turkey	13	63	41	35
United Kingdom	1410	5012	3229	3193
Yugoslavia	1	86	38	49
Totals	5779	13181	9626	9334

* The figures presented represent the circuit distribution under the two plans for the year 1985, the final year of the planning period.

[FR Doc.77-22330 Filed 8-2-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1106]

[Ex Parte No. 332]

INDEPENDENT VOTING TRUSTS

Guidelines for the Establishment, Approval and Maintenance

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to institute a proceeding for adopting appropriate regulations for the establishment, Commission approval and administration of proper independent voting trusts. To insure the independent administration of voting trusts. To define clearly the circumstances and to set forth guidelines to be followed to insure the independent administration of voting trusts.

DATES: Notice of intent to participate must be received on or before August 18, 1977.

ADDRESSES: Notices of intent to participate should refer to docket Ex Parte No. 332. An original and four copies should be submitted to the Office of Proceedings Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Philip Israel, Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7245.

SUPPLEMENTARY INFORMATION: This proceeding is being instituted on our own motion to consider adopting certain guidelines pertaining to the establishment, Commission approval, and administration of proper independent voting trusts. These regulations shall pertain to all carriers under our jurisdiction.

Section 5(5) of the Interstate Commerce Act makes it unlawful except with the approval and authorization of the Commission as provided in section 5(2) of the Act for any person to enter into any transaction whereby that person would obtain "control or management in a common interest of any two or more carriers, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner whatsoever." (emphasis added). This section of the Act does not preclude the use of voting trusts in proceedings wherein the acquisition of control or management was obtained without prior Commission approval, because it has been determined in several cases decided by Federal courts, "that creation of an independent voting trust for stock, the prior control of which without Commission approval constituted a section 5(4)[1] violation was effective to avoid the violation and the Commission was authorized to give it that effect" (emphasis added). *B. F. Goodrich Co. v. Northwest Industries, Inc.*, 303 F. Supp. 53, 61 (D. Del. 1969), aff'd 424 F. 2d 1349) (3rd Cir. 1970), cert. denied, 400 U.S. 822 (1971). This and other decisions make it clear that the wording of Section 5(5) of the Act does not prohibit voting trusts so long as the trustee is truly independent of the acquiring carrier settlor. See, *Illinois Central R.R. Co. v. United States*, 293 F. Supp., 421–429 (N.D. Ill. 1966), affirmed per curiam, 385 U.S. 457 (1967).

Several recent proceedings involving section 5(2) control acquisitions have been complicated by the improper use of voting trusts by the settlor. In almost every instance, the voting trusts were established after the acquiring carrier had purchased a sufficient amount of the target carrier's publicly held voting securities to be considered in control of such publicly held target carrier.[2] Additionally, the voting trusts were frequently found not to have been administered independently from the control of the settlor, but were conduits through which the settlor continued in control of the publicly held carrier. These condi-

[1] Section 5(4) of the Interstate Commerce Act became section 5(5) by virtue of the amendments to section 5 in Pub. L. 94–210, the Railroad Revitalization and Regulatory Reform Act of 1976, enacted February 5, 1976.

[2] Unlike certain public utility regulatory statutes, the Interstate Commerce Act (49 U.S.C. § 1(3)(b) does not define control in terms of a fixed percentage of stock ownership with result that the point at which "control" or "power to control" exists, is defined by the circumstances of each individual case, *Gilbertville Trucking Co. v. United States*, 371 U.S. 115, 123–125 (1962).

tions led to a number of instances where the Commission determined that the settlor had violated section 5(5) of the Act, that is, acquired control of a carrier without Commission approval. Commission policy does not require the section 5(2) application to be denied merely because section 5(5) has been found to have been violated, though it is a factor to be considered. In three cases, notwithstanding section 5(5) violations involving improper usage of voting trusts, the Commission has granted approval of the section 5(2) applications where, in each instance, the evidence of record demonstrated that overriding public benefits would be derived from the resulting control to warrant a finding that the public should not be deprived of those benefits because of the section 5 (5) violation. See "East Texas Motor Frt.—Control—Consolidated," 109 M.C.C. 213 (1969), "Alleghany Corporation—Control and Purchase, 109 M.C.C. 333 (1970), and "Eastern Freight Ways, Inc.—Invest. of Control," 122 M.C.C. 142 (1975).

This situation need not arise. It is the purpose of these proposed regulations to define clearly the circumstances and to set forth guidelines which, if followed prior to the "acquisition of control" or "power to control", should insure that voting trusts will be administered independently from the settlor.

The proposed regulations will provide for the mandatory submission of the final draft of the trust agreement for Commission approval prior to execution of the trust agreement and the receipt by the trustee of any voting securities under the trust. The purpose for requiring Commission approval of the trust agreement is to insure that the trust agreement places the trustee under a legal obligation to observe the guidelines for independent administration of the trust contained in the proposed regulations.

The guidelines set forth the practices which should be adhered to by both the trustee and the settlor. In addition, the lack of any dealings or relationship between the trustee and the settlor (other than the trust itself) will be required to insure absolute insulation of the trustee and target carrier from any influence by the settlor. The attached proposed regulations contain the standards which we believe will enable voting trusts to be administered properly and independently from the control of the settlor.

The proposed action is not expected to affect significantly the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Any interested person may participate in this proceeding by submitting an initial and/or reply statement of views, arguments, or other comments regarding the proposed regulations. The parties are also asked to comment on the need for the proposed regulations. The parties furthermore are requested to comment on the need for the voting trust in these proceedings. In addition the parties are asked to comment on whether or not interested parties should be permitted to comment on agreements submitted to the Commission, as provided by the proposed regulations. Any person intending to participate in this proceeding shall, on or before 15 days from first publication in the FEDERAL REGISTER, notify the Commission of his or her intention to participate by filing an original and 4 copies of a written notice of intent to participate with the Office of Proceedings, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423. Since the Commission desires (a) to conserve time, (b) to avoid unnecessary expense, and (c) to limit the service of statements in this proceeding to persons who intend actively to participate, each notice of intent to participate shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving initial and/or reply statements; (3) whether, if the person intends to participate as described in "(2)", the person's interests can be consolidated with those of other persons through joint statements; and (4) any other pertinent information to aid in limiting the service list to be issued in this proceeding.

The Commission will prepare and make available to all persons submitting notices of intent to participate a service list which will contain the names and addresses of all persons participating in this proceeding. An original and 19 copies of each statement shall be filed with the Commission and a copy of each statement shall be served upon each person on the service list. Initial and reply statements shall be filed with the Commission and served on each person on the service list in accordance with the schedule for submissions of comments and reply statements to be set by an order to be served concurrently with issuance of the service list of participants in the proceeding.

All written submissions will be available for public inspection during regular business hours at the Offices of the Interstate Commerce Commission, 12th Street and Constitution Avenue, Washington, D.C. 20423.

This notice of proposed rulemaking is issued under section 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and section 5 of the Interstate Commerce Act (49 U.S.C. 5), as amended.

By the Commission, Commissioner Christian not participating.

H. G. HOMME, Jr.,
Acting Secretary.

PART 1106—STANDARDS FOR JUSTIFICATION OF THE INDEPENDENCE OF VOTING TRUSTS

Sec.

1106.1 Scope and applicability of the standards.
1106.2 Definitions.
1106.3 Submission of voting trusts for Commission approval.
1106.4 Mandatory provisions to be included in voting trust agreement.
1106.5 Standards of independence in the business relationship between the trustee and the settlor.
1106.6 Reporting requirements.
1106.7 Filing and acceptance of Section 5(2) applications.
1106.8 Denial because of nonindependence of trustee.

§ 1106.1 Scope and applicability of the standards.

The regulations set forth in this part govern the establishment, Commission approval, and administration of independent voting trusts. An independent voting trust may be established by a deed of trust or other written instrument and utilized by a carrier, or those controlling or affiliated with a carrier (hereinafter jointly referred to as carrier), which seeks to acquire control, through the purchase of, or through any other means to obtain ownership of, voting securities of a carrier, the control of which requires approval under section 5(2) of the Interstate Commerce Act (hereinafter Act), to avoid a violation of section 5(5) of the Act. In order to avoid a section 5(5) violation, the independent voting trust should be established before a controlling block of voting securities is purchased.

§ 1106.2 Definitions.

As used in this part: (a) The term "Act" means the Interstate Commerce Act, as amended.

(b) The term "voting trust" means any device resulting in the accumulation of voting shares or corporate securities of a carrier the control of which requires approval under the Act in trust for the purpose, among other things, of insulating the settlor from control of the business of the carrier whose shares are so held.

(c) The term "settlor" means any person, as defined in section 1(3)(a) of the Act, who has provided the consideration for the purchase of the corporate voting shares which are placed in the voting trust.

(d) The term "cestui que trust" means any person, as defined in section 1(3)(a) of the Act, who possesses a beneficial or equitable interest in the voting securities comprising or to comprise the corpus of the voting trust.

(e) The term "trustee" means any person, as defined in section 1(3)(a) of the Act, who holds legal title to the corpus of the voting trust and administers the trust for the benefit of the cestui que trust.

(f) The term "trust arrangement" means the arrangement encompassing the trust agreement, and the relationship between the trustee and the settlor at the time the trust is established.

§ 1106.3 Submission of voting trusts for Commission approval.

(a) Any person who proposes to establish an independent trust for the purpose of avoiding a violation of section 5(5) of the Act shall submit to the Commission five copies of a petition requesting Commission approval of the proposed voting trust arrangement. Attached to said petition shall be the unexecuted trust agreement in its final draft form, as assented to by both the settlor and trustee. Execution of the trust agreement and receipt by the trustee of any voting securities shall not occur prior to the effective date of the order of the Commission approving the unexecuted trust agreement. The petition requesting approval of proposed voting trust arrangements shall also attach thereto an affidavit of the trustee attesting to compliance with the standards of independence of the business relationship between the trustee and settlor as set forth below in § 1106.5.

(b) Approval of the proposed voting trust arrangement by the Commission will not foreclose reconsideration, or a subsequent determination that the voting trust arrangement was not independent, on the basis of facts not known to the decisional Commission body at the time of its approval.

(c) Approval of the proposed voting trust arrangement by the Commission shall cease to be of any further force and effect should the terms of the executed voting trust agreement differ in any material respect from the terms of the unexecuted trust agreement, or should the relationship between the trustee and settlor change, in any material respect, from the relationship, as it existed at the time of execution by the trustee of the affidavit attesting to compliance with the standards of independence, unless Commission approval has first been obtained for the subsequent modifications in the terms of the voting trust agreement, or change in the relationship between the trustee and settlor.

(d) A request for expeditious handling may be filed concurrently with the petition requesting approval of the proposed voting trust agreement. The petition should set forth the exigent circumstances necessitating extraordinary processing of the agreement.

§ 1106.4 Mandatory provisions to be included in trust agreements.

No proposed voting trust arrangement will receive Commission approval unless there are contained in the voting trust agreement provisions encompassing the following concepts:

(a) The trust and the nomination of the trustee during the term of the trust shall be irrevocable, and the trust is to remain in effect until the occurrence of specific events specified therein, but none other. The specified events referred to above may be, inter alia, (1) a sale of all the deposited securities, provided the sale is made to persons not affiliated with the settlor; (2) the delivery to the trustee of an order of this Commission authorizing settlor to acquire control of the carrier whose corporate securities constitute the corpus of the trust or to purchase any of its properties, or authorizing the release of the securities of any reason, or otherwise affecting the trust. At no time shall such event be one which it is within the power of the settlor to control other than the filing of an application for appropriate authorization from this Commission.

(b) The trustee must not exercise the voting power of the trust in any way so as to cause any dependence or intercorporate relationship between the settlor and the carrier whose corporate securities constitute the corpus of the trust.

(c) The trustee shall not use the voting powers of the trust in any matters relating to the acquisition of control of the carrier whose corporate securities constitute the corpus of the trust except as may be authorized in advance by this Commission or required by a court of proper jurisdiction.

(d) The trustee shall not use the voting powers of the trust to elect common officers or directors of the settlor and the carrier whose corporate securities constitute the corpus of the trust, without the prior consent of the Commission.

(e) The trustee shall be empowered to vote stock held in the trust with regard to all other proposals which will, in his determination, affect the well being of the carrier whose corporate securities constitute the corpus of the trust in the manner deemed by him to be consistent with the best interests of such carrier.

(f) Notwithstanding the fact that the trust was created by the settlor for the ultimate benefit of the settlor, as cestui que trust, the interests of the settlor, as cestui que trust, may conflict with the other interests of the settlor which are extraneous to the trust. As a result, during the term of the trust, the trustee shall never take into account the extraneous interests of, or act for the benefit of, the settlor in utilizing the voting power of the trust, if doing so would in any way conflict with the obligation imposed by paragraph (e) of this section. The trustee may not be held liable to the cestui que trust for any detriment occurring to the corpus of the trust as a consequence of any act of the trustee, which was done in good faith and belief that such act was for the benefit of the carrier whose securities constitute the corpus of the trust: *Provided, however,* That this should not preclude the trustee from being held to the standard of conduct of a reasonably prudent businessman acting in good faith on behalf of the carrier whose securities comprise the corpus of the trust.

(g) The trustee shall be entitled to receive cash dividends declared and paid upon the trustee voting corporate securities and turn the same over to the cestui que trust. Dividends other than cash are to be received and held by the trustee upon the same terms and conditions as the voting corporate securities which constitute the corpus of the trust.

§ 1106.5 Standards of independence in the business relationship between the trustee and the settlor.

To ensure independent administration of the voting trust by the trustee and to prevent the settlor from controlling the trustee in any manner, the following standards should be followed:

(a) The trustee or any parent, subsidiary, or affiliated corporation of the trustee may not have any officers, or members on their respective boards of directors in common with either the settlor or any parent, subsidiary, or affiliated corporation of the settlor.

(b) The trustee or any parent, subsidiary, or affiliated corporation of the trustee may not have any direct or indirect business arrangements or dealings, financial or otherwise, with the settlor, or any parent, subsidiary, or affiliated corporation of the settlor, other than those dealings pertaining to establishment of the voting trust pursuant to these regulations. Mere investment in the corporation stock or securities of the settlor by the trustee short of obtaining a controlling interest will not be considered as an arrangement by which the trustee might be subject to the control of the settlor, but in no event should the investment by the trustee in the voting securities of the settlor exceed 5 percent of its outstanding shares, and in no event should the trustee hold a proportion of the settlor's securities so substantial as to permit the trustee in any way to control, or direct the affairs of the settlor.

(c) Upon execution of the trust agreement, the settlor shall neither communicate nor attempt to communicate with the trustee, whether directly or indirectly, except to advise him of the occurrence of an event terminating the trust as specified in § 1106.4(a) above. The prohibition against communications between settlor and trustee shall not be deemed to preclude the trustee from apprising the settlor of the status of stock shares received by the trustee pursuant to a tender offer of the settlor, nor from responding to questions regarding the transmittal of cash dividends.

§ 1106.6 Reporting requirements.

(a) The trustee of any voting trust in which the voting arrangement has been approved by the Commission under this part shall report to the Commission when voting securities held by the cestui que of the outstanding voting securities of the carrier which is the subject of the proposed acquisition of control, or at such earlier time as the Commission may by order direct. The trustee shall thereafter file quarterly reports with the Commission reflecting the percentage of the subject carrier's outstanding voting securities that are held by the cestui que trust and trustee: *And providing,* The following additional information:

(i) A summary of all communications made between the trustee and settlor during the quarter.

(ii) A description of all proposals to shareholders of the subject carrier for which the trustee exercised its voting power during the quarter.

(b) The quarterly report shall be titled "Voting Trustee's Quarterly Report" and shall be filed with the Deputy

Director of the Section of Finance (or the Chairman of Division 3) of the Interstate Commerce Commission, within 15 days from the close of the quarter.

(c) The trustee shall filed with the Commission a copy of any report or document filed with the Securities and Exchange Commission in connection with the proposed transaction.

§ 1106.7 Filing and acceptance of section 5(2) application.

(a) The Commission may be order specify a date by which an application under section 5(2) of the Act for approval of a proposed acquisition shall be filed. An application shall be filed no later than the date so specified.

(b) No application under section 5(2) of the Act for approval of a proposed acquisition of control through ownership of voting securities, which proposal involved the use of a voting trust, will be accepted for filing unless the application reflects that:

(1) An independent voting trust arrangement was created and approved by the Commission in accordance with the regulations in this part.

(2) The trustee has complied with all reporting requirements under this part.

(3) The application is filed no later than the date specified for such filing by the Commission pursuant to paragraph (a) of this section.

§ 1106.8 Denial because of nonindependence of trustee.

If the Commission finds that the trustee has not complied with the mandatory provisions to be included in the trust agereement as set forth in § 1106.4 and thus was not independent of the settlor, it will deny the section 5(2) application, unless the applicant shows and the Commission finds that the breach of independence was unintentional and that denial of the application will substantially disserve the public interest and the national transportation policy, taking into account the need for effective deterrence.

[FR Doc.77-22275 Filed 8-2-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Intent to Reestablish

Correction

In FR Doc. 77-21829 appearing on page 38623 in the issue for Friday, July 29, 1977, at the end of the fifth paragraph the comment date now reading "August 29, 1977" should read "August 12, 1977".

CIVIL AERONAUTICS BOARD

[Order 77-7-148; Docket Nos. 30969, 28269]

EASTERN AIR LINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July 1977.

By applications filed June 5, 1977, Eastern Air Lines requests an amendment to its certificate of public convenience and necessity for Route 10 so as to delete segment 7 (Chicago-New Orleans) of that certificate along with the conditions pertaining to service on that segment. Eastern also asks for a continuation of its temporary suspension on segment 7 until 90 days after final action by the Board on Eastern's application for deletion in Docket 30969.

In support of its applications, Eastern alleges that the primary reason for the award of segment 7, to provide nonstop service between New Orleans and Chicago, no longer exists because of the Board's decision in the Chicago-New Orleans Nonstop Route Proceeding, Order 77-2-58, served February 11, 1977, and Order 77-5-35, served May 9, 1977, to delete Eastern's nonstop authority between Chicago and New Orleans; that all of the authority on segment 7 is available on other Eastern routes with the exception of New Orleans-Huntsville, and that the latter market is adequately served today by Southern Airways; that Eastern's service over segment 7 was suspended by Order 75-10-83, October 21, 1975, and that this suspension continues in effect until 90 days after final decision in Docket 27990; and that Eastern is only asking for the maintenance of the status quo of its current suspension of service over segment 7.

An answer in support of Eastern's application for renewal of its temporary suspension of service was filed by the City of New Orleans and the Chamber of Commerce of the New Orleans Area (New Orleans). New Orleans contends that Eastern should not be burdened by one-stop service between New Orleans and Chicago; that service between New Orleans and Birmingham is authorized on Eastern's segment 1, Route 5; and that service between New Orleans and Huntsville is adequately provided by Southern Airways.

Upon consideration of the pleadings and all the relevant facts, we have decided that the public interest requires the grant to Eastern of authority to suspend service temporarily on segment 7 of Route 10 (Chicago-Huntsville-Birmingham-New Orleans).[1] We have also decided to issue an order to show cause why the deletion should not be granted.[2] Accordingly, we tentatively find and conclude that the public convenience and necessity require the amendment of Eastern's certificate for Route 10 so as to delete segment 7.[3] The facts which we have tentatively found to support our ultimate conclusion are discussed below.

With the deletion of Eastern's nonstop authority in the Chicago-New Orleans market, the primary reason for the award of segment 7, the provision of nonstop service between the two points, no longer exists. Moreover, Eastern's service over segment 7 has been suspended for a considerable amount of time. By Order 75-10-83, October 21, 1975, the Board authorized Eastern, effective December 9, 1975, to suspend service temporarily until 90 days after the final decision in Docket 27990.[4] Before that (and before Eastern reinstituted service in May, 1975) by Orders 74-1-33, 74-6-1, 74-11-59, Eastern had authority to suspend service for six-month periods or until the end of the fuel shortage. Thus, except for a seven-month period, service over Eastern's segment 7 has been suspended since 1974 with no adverse effect on the markets involved. All of the authority on segment 7, with the exception of New Orleans-Huntsville, is available on other Eastern routes. Eastern also can combine certain authority so as to operate, for example, Chicago-Birmingham-New Orleans without using the segment 7 rights. The New Orleans-Huntsville market is now served by Southern Airways, which provides two daily round trips for approximately 20 passengers per day each way.[5] Thus, the traffic can be accommodated by Southern, which has been fulfilling the needs of the market during Eastern's suspension of service. Finally, the absence of any civic opposition to Eastern's application and New Orlean's support of the suspension renewal application support our tentative conclusion that the public convenience and necessity require the deletion of segment 7 from Eastern's certificate for Route 10.[6]

Interested persons will be given twenty days following service of this order to show cause why the tentative findings and conclusions set forth in this order should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Eastern Air Lines for route 10 so as to delete segment 7;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth here shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons listed in paragraph 7 a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections. Answers to such objections shall be filed within 10 days thereof;

[1] Eastern's request that it be relieved of the requirement to submit data required by Part 205 of the Board's Economic Regulations will be granted.

[2] The suspension authority granted in this order will remain in effect until 90 days after the finalization of the show cause order.

[3] We also tentatively find that Eastern is fit, willing and able properly to perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[4] The Board's order on reconsideration in Docket 27-990, Order 77-5-35, was served on May 9, 1977.

[5] Official Airline Guide, April 1, 1977, and CAB O&D Surveys.

[6] Since the deletion of segment 7 will result in no change from Eastern's current operations in the markets serviced by that segment, we also tentatively find and conclude that the Board action sought by Eastern will not result in a major federal action significantly affecting the environment within the meaning of the National Environmental Protection Act of 1969.

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. Eastern Air Lines be authorized to suspend service temporarily over segment 7 of route 10 until 90 days after final decision on its deletion application in Docket 30969;

. 6. Eastern's request that it be relieved of the requirement to submit data required by Part 205 of the Board's Economic Regulations be granted;

7. A copy of this order shall be served on Eastern Air Lines; Mayor, City of Chicago, Illinois; Governor, State of Illinois; Mayor, City of New Orleans, Louisiana; Chamber of Commerce of the New Orleans Area; Governor, State of Louisiana; Mayor, City of Huntsville, Alabama; Mayor, City of Birmingham, Alabama; Governor, State of Alabama; Airport Manager, O'Hare Airport; Airport Manager, Moisant International Airport; Airport Manager, Madison County Airport; Airport Manager, Birmingham Municipal Airport; Southern Airways; and the U.S. Postal Service; and

8. The authority granted in paragraph 5 above may be amended or revoked at any time at the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22317 Filed 8-2-77;8:45 am]

[Order 77-7-146; Docket 30687]

S.A. DE TRANSPORT AERIEN (SATA)

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July, 1977.

By application filed April 1, 1977, S.A. de Transport Aerien (SATA) requests renewal of its foreign air carrier permit issued pursuant to Order 75-4-101, served April 22, 1975. That permit authorizes SATA to engage in charter air transportation between the Swiss Confederation, the U.S. and various other countries. Applicant asks for renewed authority identical to its current authority, except for the duration. SATA now seeks a five-year, instead of a two-year, permit.

On June 1, 1977, SATA filed a motion for an order to show cause why the Board should not renew its permit for an additional five-year period, subject to approval of the President. Attached to the motion were 41 supporting exhibits.

No answers were filed in response to the motion.

Upon consideration of the pleadings and all the relevant facts, the Board has decided to grant SATA's motion, and, for the reasons stated below, has tentatively concluded that SATA's foreign air carrier permit should be renewed for a period of five years.

OWNERSHIP AND CONTROL

SATA is an independent, publicly held corporation formed in 1966 pursuant to the laws of the Swiss Confederation. The capital is fixed at 32,000,000 Swiss francs, divided into two classes of stock: 213,400 nominative shares issued and outstanding, and 10,660 bearer shares issued and outstanding. Each share has one vote. The applicant has also issued 15,000,000 francs worth of bonds, worth 1000 frances each, which can be exchanged for 8 registered shares worth 100 francs each, or a 25 percent premium.

Swiss law requires that the corporation be controlled by Swiss nationals, and 95 pecent of its stock is owned by Swiss nationals.

All of SATA's directors and officers are Swiss citizens except Louis Henry and Philippe Doubre, who are French citizens.

None of SATA's officers, directors, or key personnel are employees of or affiliated with, any other air carrier, foreign air carrier, common carrier, person engaged in any phase of aeronautics or person whose principal business is the holding of stock in any such enterprise.

In light of these facts, the Board tentatively finds that SATA is effectively owned and controlled by Swiss citizens.

FITNESS

SATA holds a permit from the Swiss government authorizing it to operate passenger and cargo charter service world-wide. No authority held by the carrier has ever been suspended, revoked, or otherwise terminated.

SATA owns and operates the following aircraft: two DC-8-63's, four Super Caravelles, two Cessnas, and one Pilatus Porter. In addition it operates, but does not own a DC-8-53 and a Cessna 340. Its transatlantic charter service is conducted with the three DC-8 aircraft.

Applicant submitted two certificates of insurance evidencing the following coverage on its DC-8's and Super Caravelles: 72,500 Swiss francs per person and 400,000,000 Swiss francs per incident. In addition, for flight operations to the U.S., coverage is provided in accordance with the Montreal Agreement.

SATA has been operating charter service pursuant to its present permit for about two years, and the Board has no evidence that its services and operations have been unsatisfactory.

Applicant's operations have experienced steady growth. According to its exhibit 40, between 1970 and 1976 revenues increased at an annual compound rate of 40.5 percent, while the annual compound rate of increase was 21.2 percent for passengers carried and 19.8 percent for flying time. The company's assets in 1976 totaled 126,661,000 Swiss francs, and its after tax profit for that year was 1,422,000 Swiss francs.[1]

[1] Exchange rate: 2.5 Swiss francs=1 U.S. dollar.

Based on this information the Board tentatively finds that SATA is fit, willing and able properly to perform the foreign air transportation proposed in its application, and to conform to the Federal Aviation Act of 1958, as amended, and to the rules, regulations and requirements of the Board thereunder.

PUBLIC INTEREST

There is at present no bilateral agreement between the U.S. and Switzerland pertaining to the subject application. Therefore, the determination of the public interest turns primarily on considerations of comity and reciprocity.

When SATA's permit was originally issued by Order 75-4-101, the Board adopted the administrative law judge's finding that the Swiss government treats U.S. flag carriers such that the principles of comity and reciprocity would justify the granting of the permit. The Board is unaware of any change in the Swiss government's treatment of U.S. air carriers. Therefore, we tentatively find that it would be in the public interest to grant SATA the authority it requests.

On the basis of the foregoing and all the facts of record, it is tentatively found that:

1. It is in the public interst to issue a foreign air carrier permit to S.A. de Transport Aerien authorizing it to engage in charter foreign air transportation as described in the text of this order;

2. S.A. de Transport Aerien is substantially owned and effectively controlled by citizens of Switzerland;

3. The exercise of the privileges granted by the foreign air carrier permit described above should be subject to the terms, conditions, and limitations contained in the specimen form of permit attached hereto, and to such other reasonable terms, conditions, and limitations as the Board may prescribe in the public interest;

4. S.A. de Transport Aerien is fit, willing, and able properly to perform the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. Except to the extent granted herein, the application of S.A. de Transport Aerien in Docket 30687 should be denied; and

6. An evidentiary hearing is not required in the public interest.[2]

On the basis of the foregoing, and all the facts of record, the Board tentatively finds that an evidentiary hearing is not required in he public interest, and that SATA should be issued a foreign air carrier permit for a period of five years, subject to the terms, conditions, and limitations set forth in the attached specimen permit.

[2] A Notice of Environmental Rejection, issued today, states that the Chief of the Legal Division, Bureau of Operating Rights, has reviewed the environmental evaluation submitted with SATA's motion, and has found, pursuant to § 312.13 of the Board's Procedural Regulations, that the action contemplated herein would not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Accordingly, it is ordered That:

1. All interested persons be directed to show cause why the Board should not make final the tentative findings stated herein, and why a foreign air carrier permit, in the form of the specimen permit attached, should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to SATA;

2. Any interested person objecting to the issuance of an order making final the tentative findings, or to the issuance of the proposed foreign air carrier permit, shall file a statement of objections, fully supported by evidence, within 21 days after the Board adopts this order; answers to objections shall be filed within 10 days thereafter;

3. If timely and properly supported objections are filed, the Board will accord full consideration to all matters and issues raised by the objections before it takes further action;[3]

4. If no objections are filed, all further procedural steps will be considered waived, and the Board may enter an order adopting as final the tentative findings set forth herein; and

5. This order shall be served on SATA, Pan American World Airways, Capitol International Airways, Overseas National Airways, Trans International Airways, World Airways, and the Ambassador of Switzerland in Washington, D.C., and the United States Department of State.

This order will be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

PERMIT TO FOREIGN AIR CARRIER

Societe Anonyme De Transport Aerien (SATA) is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

1. Charter flights with respect to persons and their accompanying baggage between any point or points in the Swiss Confederation and any point or points in the United States.

2. Plane load charter flights with respect to property between any point or points in the Swiss Confederation and any point or points in the United States, limited to ten one-way flights within any calendar year.

3. Inclusive tour charter flights with respect to persons and their accompanying baggage between any point or points in the Swiss Confederation and any point or points in the United States.

4. Circle tour charter flights (including inclusive tour charters) with respect to persons and their accompanying baggage which originate and terminate at a point or points in the Swiss Confederation and serve a point or points in the United States and a point or points in any country other than the Swiss Confederation and the United States.

5. Charter flights (including inclusive tour charters) with respect to persons and their accompanying baggage between a point or points in Austria, Belgium, Cyprus, Denmark, Finland, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and any point or points in the United States, limited to charter flights which originate in a named European country.

6. Circle tour charter flights (including inclusive tour charters) with respect to persons and their accompanying baggage which originate and terminate at a point or points in Austria, Belgium, Cyprus, Denmark, Finland, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and serve a point or points in the United States and a point or points in any country other than a named European country and the United States.

This permit shall be subject to the following terms, conditions, and limitations:

(1) With respect to the authorizations contained in paragraphs 1, 2, 3, and 4 above, the holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in the Swiss Confederation, or transport any persons whose journey, by any means of transportation, begins or ends at a point not in the United States or the Swiss Confederation: *Provided*, That this condition shall not prevent the holder, under the authorization contained in paragraph 4 above, from serving a point or points in any foreign country between the point of origin and the point of termination of the charter flight in the Swiss Confederation, or prevent the holder from carrying between a point or points in the Swiss Confederation and a point or points in the United States charters originating in one of the European countries named in paragraph 5 or 6 above.

(2) During any calendar year in which the holder: (a) operates less than 18 charter trips originating outside the United States, the number of United States-originated charter trips shall not exceed those originating outside the United States by more than six; (b) operates between 18 and 45 charter trips originating outside the United States, the number of United States-originated charter trips shall not exceed those originating outside the United States by more than one-third; (c) operates more than 45 charter trips originating outside the United States, the number of United States-originated charter trips shall not exceed those originating outside the United States by more than 15. Any charter originating in one country and flown to another, whether one-way or round-trip, will be considered one charter trip for these purposes.

(3) The authority of the holder to perform inclusive tour charters originating in the Swiss Confederation shall be subject to the terms, conditions, and limitations contained in licenses to be issued by the Swiss Federal Air Office (or other appropriate aviation authority) authorizing the performance of such charters: *Provided, however*, That, except as may be otherwise authorized by the Board, such inclusive tours shall also conform to the provisions of § 378.2(b)(4) of the Board's Special Regulations, or any other provision of the Board's Regulations governing the minimum charge to passengers for an inclusive tour (including land or other accommodations). The authority of the holder to perform inclusive tour charters originating in the United States shall be subject to the provisions of Part 378 of the Board's Special Regulations, and all amendments and revisions thereof as the Board, by order or regulation and without hearing, may adopt. The authority of the holder to perform inclusive tour charters originating in a European country named in paragraphs 5 or 6 above shall be subject to the following conditions:

(a) Each tour shall provide overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles from each other.

(b) If more than one group is carried, each of the groups shall consist of 40 or more tour participants.

(c) The Board, by order or regulation and without hearing, may waive conditions (a) and (b) in whole or in part.

(4) The exercise of the privileges granted by this permit, except with respect to inclusive tour charters, shall be subject to the provisions of Part 214 of the Board's Economic Regulations, and all amendments and revisions thereof as the Board, by order or regulation and without hearing, may adopt.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the Swiss Confederation for Swiss international air service.

(7) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680 dated May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(8) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(9) By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(10) The holder shall not commence any service authorized herein, except pursuant to an initial tariff setting forth rates, fares

[3] Since the Board has provided for the filing of objections to this order, it will not entertain petitions for reconsideration.

and charges no lower than rates, fares or charges that are then in effect for any U.S. supplemental air carrier in the same foreign air transportation.

(11) The holder shall not operate charters for or on behalf of air freight forwarders.

(12) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Swiss Confederation shall be parties.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ and shall terminate five years thereafter: *Provided, however,* That if during said period the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and the Swiss Confederation are or shall become parties, then and in that event this permit is continued in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the _____

(SEAL) _____
Secretary.

Issuance of this permit to the holder approved by the President of the United States on _____ in _____

[FR Doc 77-22318 Filed 8-2-77;8:45 am]

[Docket 30687]

S.A. DE TRANSPORT AERIEN (SATA)

Environmental Rejection

By application filed April 1, 1977, SATA requests renewal of its foreign air carrier permit authorizing it to engage in charter air transportation between the Swiss Confederation, the U.S., and various other countries. On April 8, 1977, applicant filed an environmental evaluation pursuant to Part 312 of the Board's Economic Regulations.

Applicant based its calculations on the assumption that its proposed operations would increase the base period daily operations by 4 at New York (2 daytime and 2 nighttime flights), 2 at Los Angeles (both daytime flights) and 4 at Bangor, Maine (2 daytime and 2 nighttime flights). These flights would be operated with DC-8-63 and DC-8-55 equipment.

Pursuant to §§ 312.8 and 312.13 of the Board's Procedural Regulations, the undersigned—having reviewed the environmental evaluations and other available information with respect to the applications described above, and having been duly designated by the Director, Bureau of Operating Rights, pursuant to § 312.8—finds that any subsequent Board action approving, denying, or otherwise acting upon SATA's application would not constitute a "major Federal action significantly affecting the quality of the environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., July 29, 1977.

BARBARA A. CLARK,
Chief, Legal Division,
Bureau of Operating Rights.

[FR Doc.77-22316 Filed 8-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF NORTH CAROLINA, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before August 23, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00269. Applicant: University of North Carolina at Chapel Hill, Biological Sciences Research Center, 411 Preclinical Educational Building 228H, Chapel Hill, N.C. 27514. Article: Ultramicrotom, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tissues of the central and peripheral nervous systems, isolated cerebral capillaries, subcellular fractions, avian red cells, liver and kidney of animals. Human brain and brain tumors will also be studied. Fine structural changes produced by environmental pollutants and toxins will be investigated. Of particular interest are changes in the synaptic organization of the central nervous system and the myelin and axonal relationships in the peripheral nervous system. These fine structural systems will be further analyzed by applying seriologic techniques for obtaining morphometric analyses. Cytochemical studies for localizing putative transmitters will be undertaken. Also, immunocytochemical studies will be done in order to define the subcellular localization of enzymes and polypeptides important to brain function. Application received by Commissioner of Customs: June 28, 1977.

Docket number: 77-00271. Applicant: University of North Carolina, Department of Anatomy, 111 Swing Building 217H, Chapel Hill, N.C. 27514. Article: Scanning Electron Microscope, Model JSM-35U and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the binding site distribution on normal vs. malignant cells. Hormones, IgG, oncogenic drugs, and pollutants will be conjudgated to either ferritin or hemocyanin and used as specific visual probes for the distribution of hormone, specific IgG, oncogenic drug pollutant binding sites. Changes in the distribution of such sites will be studied after challenging cells with low temperature, acid pH, divalent cations, and other physiological and non-physiological variables. In addition, the article will be used to train a limited number of graduate students and post doctoral fellows on an individual basis in the general areas of experimental cell and membrane biology. Application received by Commissioner of Customs: June 22, 1977.

Docket number: 77-00272. Applicant: University of North Carolina, Department of Anatomy, 111 Swing Building 217H, Chapel Hill, N.C. 27514. Article: Electron Microscope, Model JEM-100C (Standard Top Entry Type) and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in high resolution studies of conformational and redistributional changes of proteins on or within organelle and cell membranes which occur during change in the state of organelle and cell function. The identification of specific proteins on or in cellular membranes will be investigated using antibody and other protein tagging techniques in a research program devoted to studies in the molecular anatomy of membranes. Protein identification and orientation in biomembranes as well as conformation of solubilized proteins, will be studied by high resolution freeze-cleaving electron microscopy, dark field electron microscopy and negative staining. In addition, the article will be used to train a limited number of graduate students and post doctoral fellows on an individual basis on the general areas of experimental cell and membrane biology. Application received by Commissioner of Customs: June 22, 1977.

Docket number: 77-00273. Applicant: University of North Carolina, Department of Anatomy, 111 Swing Building 217H, Chapel Hill, N.C. 27514. Article: Electron Microscope, Model JEM-100C (SEG) and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in high resolution TEM and SEM studies of the distribution and lateral translation diffusion of integral proteins in biomembrane and reconstituted membrane systems. Antibody ferritin conjugates will be utilized in SEM studies to follow protein diffusion laterally on the surface of biomembranes. Diffusion will be induced by thermotropic lipid phase transitions. Diffusion of transmembrane

proteins in the lateral plane of the hydrophobic interior of the lipid bilayer will be determined by high resolution freeze-fracture TEM. Energy dispersive X-ray analysis will be carried out on various organelle and membrane systems after binding of various divalent cations such as calcium and magnesium. The effect of divalent cations on the lateral translation diffusion of integral proteins and on theracotropic lipid phase transitions will be determined. Application received by Commissioner of Customs: June 22, 1977.

Docket number: 77-00274. Article: National Radio Astronomy Observatory, P.O. Box O, Socorro, New Mexico 87801. Article: 110 (each) Rigid Helix 20 mm waveguide, 52 (each) Flexible sheathed helix 20 mm waveguide 2.0m long, and 38 (each) Waveguide Tapers 20/60 and 50 (each) Coupling Sleeves. Manufacturer: Fujikura Cable Works, Ltd., Japan. Intended use of article: The article is intended to be used as part of the Very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study sources of energy, origin, and evolution of the universe. The waveguide coupling components when used in conjunction with TE 01 mode circular waveguide is the only feasible method of transmission for the bandwidth required. Application received by Commissioner of Customs: June 22, 1977.

Docket number: 77-00276. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Repair of Varian Klystron Type VRB2113A30 SN70414J6. Manufacturer: Varian Associates of Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization frequency and direction of cosmic radiation. Application received by Commissioner of Customs: June 23, 1977.

Docket number: 77-00277. Applicant: University of Notre Dame, Radiation Laboratory—ERDA Contract EY-76-C-02-0038, Notre Dame, Indiana 46556. Article: Housing for Hanovia 1kW-UV-Lamp including elliptical mirror, plane mirror and igniter. Manufacturer: Physical-Chemistry Dept., University of Zurich, Switzerland. Intended use of article: The article is intended to be used as a source for high intensity UV irradiation which is needed to initiate transient radicals in liquids to study their structure and chemical reactivity by means of electron spin resonance. Application received by Commissioner of Customs: June 23, 1977.

Docket number: 77-00278. Applicant: The University of Michigan, Department of Physical Education, 401 Washtenaw Avenue, Ann Arbor, Michigan 48109. Article: Electron Microscope, Model EM 9S-2 and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studying the structural characteristics of muscle and the associated intracellular changes with aging and exercise and the relationship of the capillary network to muscle function. The objectives of the experiments to be conducted are to characterize the structural changes associated with exercise, training, and aging found in the tissues of rats and humans. It is hoped that through these experiments it will be possible to ascertain methods to optimally achieve the training effect and/or to retard the aging process. In addition, the article will be used for educational purposes in the courses: Physiological and Kinesiological Bases of Human Movement, Physiological Bases of Physical Activity, Special Problems in Physical Education, and Exercise Physiology. The objectives of these courses are to associate the students with the physiological bases of movement and how muscle and heart are structured to allow for optimal movement. Application received by Commissioner of Customs: June 24, 1977.

Docket number: 77-00279. Applicant: College of Medicine and Dentistry of New Jersey, 100 Bergen Street, Newark, New Jersey 07103. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of nerve tissue, cardiac tissue, and renal tissue. Both experimental animals and specimens of diseased human tissue will be investigated. The animal experiments will be designed as models to elucidate pathological conditions that exist in humans; the human specimens will be studied to characterize changes within cells. The article will also aid post graduate and graduate students to become proficient in their given field of study. Application received by Commissioner of Customs: June 24, 1977.

Docket number: 77-00280. Applicant: Oral Roberts University, 7777 S. Lewis, Tulsa, Oklahoma 74171. Article: Electron Microscope, Model EM 400 HTG and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studying fixed biological material and prepared special materials used in dentistry. In addition, the article will be used as an aid in teaching and training graduate, medical and dental students in the following proposed courses: Normal Microscopic Anatomy (Histology, Cell Biology, Virology); pathology; dental materials; introduction to ultrastracture; introduction to electron microscopy; advanced methodology in microscopy; ultrastructural cytochemistry; problems course in electron microscopy. Application received by Commissioner of Customs: June 24, 1977.

Docket number: 77-00281. Applicant: National Institutes of Health, National Institute of Dental Research, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine biological material including: bone, tooth, salivary and lacrimal glands, tissue culture material, and negatively stained or heavy metal shadowed tissue component. Some inorganic material will also be studied. Areas under investigation will include the process of biological mineralization, examination of the crystalline structure, inorganic calcium phosphate and related compounds by transmission electron microscopy and electron diffraction, studies correlating the structure and function of exocrine gland acinar cells in both normal and pathological conditions. In addition, the article will be used to train people in basic electron microscopy, cytochemistry and energy dispersive X-ray analysis. Application received by Commissioner of Customs: June 27, 1977.

Docket number: 77-00284. Applicant: Arizona State University, Dept. of Botany & Microbiology, Tempe, Arizona 85281. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the investigation of the location of NADP dependent isocitrate dehydrogenase in the bacterium *Escherichia coli* employing electron immunocytochemical technics. The article will also be used to train graduate students and post-doctoral researchers in a formal course, Biological Electron Microscopy, BIO 512. Application received by Commissioner of Customs: June 27, 1977.

Docket number: 77-00285. Applicant: Blodgett Memorial Medical Center, 1840 Wealthy Street S.E., Grand Rapids, Michigan 49506. Article: Electron Microscope, Model EM 9S-2, TI-Coolwell Recirculating Cooling System, Model COOL-5W and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the pathology laboratory on human and animal tissues as an adjunct to light microscopy for diagnosis of pathologic conditions. Specific areas of research will be in brain and muscle disease comparing the electron microscopic findings with light microscopy, clinical history, physician exam, laboratory and x-ray studies. The information acquired will be used in many educational medical meetings at the Center. Application received by Commissioner of Customs: June 27, 1977.

Docket number: 77-00286. Applicant: Yale University, 10½ Hillhouse Avenue, New Haven, Connecticut 06520. Article: Laser, Model TEA-103-2, Multimode Front Optic, Model 505FCO$_2$ and Reflector, Model 503. Manufacturer: Lumonics Research Limited, Canada. Intended use of article: The article is intended to be used to create energetic plasma, and to initiate capacitor discharge in plasmas physics research. The materials to be investigated will include solid laser targets: carbon, lithium, etc. The article will also be used to teach op-

eration and use of lasers in plasma research. Application received by Commissioner of Customs: June 27, 1977.

Docket Number: 77–00287. Applicant: State University of New York—College at Purchase, Division of Natural Sciences, Purchase, N.Y. 10577. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in a general instructional program in cellular biology. The main courses of study are: (1) Cell Biology—An introduction to the structure and function of the cells of plants, animals and micro-organisms with emphasis on their description in contemporary chemical, physical and ultrastructural terms, (2) Ultrastructure Techniques—An intensive training period during which students will learn and practice basic techniques of cell and tissue fixation, imbedment, thin sectioning, mounting and staining sections, and (3) Senior Research Project—Coherent and significant scientific investigation. Application received by Commissioner of Customs: June 27, 1977.

Docket Number: 77–00288. Applicant: Washington State University, Division of Purchasing, Pullman, WA 99164. Article: Particle Electrophoresis Apparatus, Mark II and accessories. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used for the investigation of surface charge of the outer cell surface of red blood cells, bacterial cells and lymphocytes. This study will be correlated with other experiments in the laboratory. The article will also be used by graduate students conducting Ph.D. thesis research in biochemistry. Application received by Commissioner of Customs: June 30, 1977.

Docket Number: 77–00289. Applicant: Arizona State University, Tempe, Arizona 85281. Article: Scanning Transmission Electron Microscope, Model HB5 and Accessories. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended use of article: The article is intended to be used to explore the applications of high resolution scanning transmission electron microscopy for the study of structures and defects of thin crystals and the configurations of small groups of atoms or single atoms on surfaces. It will then be modified and developed for a range of new operational modes which have shown theoretically to offer important new capabilities of a type not accessible to conventional transmission electron microscopy. A program of research on the study of biological specimens will include methods for the resolution of heavy atom labels on macromolecules, the study of chromosome structures and the development of methods for three-dimensional reconstruction of the structures of thicker specimens. Application received by Commissioner of Customs: June 30, 1977.

Docket Number: 77–00290. Applicant: Vanderbilt University—School of Medicine, 21st Avenue South, Nashville, Tenn. 37232. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparing specimens of human and animal tissue to be studied in the field of muscular dystrophy. Investigations will include the ultrastructural studies on normal and abnormal skeletal muscle and other animal tissues in the study and treatment of muscular dystrophy. Application received by Commissioner of Customs: July 1, 1977.

Docket number: 77–00291. Applicant: Sandia Laboratories, Kirtland AFB East Albuquerque, New Mexico 87115. Article: Imacon 675/51 Ultra Fast Camera System and Accessories. Manufacturer: John Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in carrying out several long-term experiments which require the acquisition of optical data in very short time frames. Specific experiments include continuing laser oscillator development studies, the iodine laser development program and laser produced plasma-target interaction studies and a planned rather extensive laser-materials damage program. Application received by commissioner of customs: July 5, 1977.

Docket number: 77–00293. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Two (2) Recording Current Meters, Model 5 (RCM5) and one (1) Sea Link Type 325 Release/Transponder and accessories. Manufacturer: Aanderaa Instruments Co., Norway. Intended use of article: The article is intended to be used for studies of flow frequency current variability in two different configurations: near bottom in great depths of water (5000+m) and in conjunction with pressure sensors set on equatorial islands. Application received by Commissioner of Customs: July 6, 1977.

Docket number: 77–00294. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Electron Microscope, Model EM 400 HTG, and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of tissue preparations taken from a number of commonly used experimental animals, e.g. rat, mouse, leech, and frog and from established cell culture lines. These studies will be directed toward understanding the sequence of steps in the formation of synapses and the mechanisms underlying synaptic development. Specific projects include: regenerating mammalian and amphibian neuromuscular junction, regenerating axons in the central nervous system of the leech, determining the factors that influence the growth of neurons during development. The article will also be used in the courses Neurobiology 212 and Neurobiology 209 to teach the structure of the nervous system at the cellular level and developmental neurobiology. Application received by Commissioner of Customs: July 6, 1977.

Docket number: 77–00295. Applicant: Sandia laboratories, Kirtland AFB East, Albuquerque, NM 87115. Article: TEA–100 CO_2 Lasers and Accessories. Manufacturer: Lumonics Roch Ltd., Canada. Intended use of article: The article is intended to be used to study chemical processes crucial to the development of an economical atomic iodine laser. The atomic iodine laser utilizes expensive starting chemicals which are destroyed during operation of the laser. Experiments will be conducted which are aimed at finding techniques for regenerating starting chemicals from iodine laser by products. Application received by Commissioner of Customs: July 6, 1977.

Docket number: 77–00296. Applicant: The Curators of the University of Missouri, 807 Stadium Road, Columbia, Missouri 65201. Article. AECL Radiation Therapy Treatment Couch Model 26. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used in studies of the response of malignant neoplasms to radiation therapy. The experiments to be conducted are a continuation of on-going clinical research into the optimal radiotherapeutic time-dose-fractionation treatment protocols for cancer patients. The article will also be used in Radiologic Technology courses to train qualified radiation therapy technologists and in Nuclear Engineering courses to train qualified radiation therapy physicists. Application received by Commissioner of Customs: July 7, 1977.

Docket number: 77–00297. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Electron Microscope, Model EM 201, Plate Camera, Watt Water Chiller and accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of Article: The article is intended to be used for studies of tissue preparations taken from a number of commonly used experimental animals, e.g., leech rat, mouse, and frog. Studies will be directed toward understanding the structure, function and maintenance of synaptic connections between nerve cells and between nerve and muscle cells. The objectives of the experiments conducted are to learn how synapses function, how they can be modified, and how interaction between pre- and post-synaptic cells influence their maintenance. In addition, the article will be used in the courses Neurobiology 212 and Neurobiology 209 to teach the structure of the nervous system at the cellular level. Application received by Commissioner of Customs: July 7, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-22289 Filed 8-2-77;8:45 am]

Maritime Administration

[Docket No. S–567]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has applied for permission to deviate the SS *Louise Lykes*, or substitute, operating outbound on its Line D (Trade Route No. 22), to Longview, Washington, to discharge approximately 1,200 measurement tons (950 long tons) of nuclear reactor components on or about September 18, 1977, which are scheduled for loading at New Orleans, Louisiana, on approximately September 1, 1977. In order to carry cargo in the domestic trade, Lykes must first obtain written permission from the Maritime Administration under section 805 (a) of the Merchant Marine Act, 1936, as amended.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on August 10, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Date: July 28, 1977.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-22205 Filed 8-2-77;8:45 am]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Council will meet Tuesday through Thursday, August 23, 24, and 25, 1977, at the Downtowner Motor Inn, 201 West Oglethorpe Avenue, Savannah, Ga. The meeting will convene at 1:30 p.m. on August 23 and adjourn at about noon on August 25. The daily sessions will start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda

1. Discussions pertinent to progress on management plan development for billfish, snapper grouper, and king and Spanish mackerel.
2. Election of Chairman and Vice-Chairman.
3. Consideration of administrative and technical matters as deemed necessary.
4. Other management business.

At the same location as the Council meeting, on the evening of August 22, 1977, a public meeting will be held relative to development of the billfish fishery management plan which has been published separately in the FEDERAL REGISTER.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about August 16, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, #1 Southpark Circle, Charleston, S.C. 29407 (803–571–4366).

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: August 1, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-22396 Filed 8-2-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6800–9]

UNIFORM FEDERAL STANDARDS

Monitoring and Reporting Program Performance; Interim Instructions

On April 28, 1977, the Community Services Administration published in the FEDERAL REGISTER (42 FR 21623) a proposed rule on Montoring and Reporting Performance Requirements (CSA Instruction 6800–9/§ 1050.80) which was accompanied by a request for comments from interested parties. Twenty four comments were received from the public and the proposed rule and its accompanying form have been modified to reflect the comments where warranted.

Final publication of the policy is awaiting review and approval of the form by the Office of Management and Budget as required by OMB Circular A–40. Therefore, the provisions of OEO Instruction 7031–1, Grantee Program Progress Review, remain in effect and grantees should continue to submit the form promulgated by that Instruction (CSA Form 440) at the time and for the periods indicated in the Instruction until such time as § 1050.80 (CSA Instruction 6800–9) is published as a final rule.

GRACIELA (GRACE) OLIVAREZ
Director.

[FR Doc.77-22129 Filed 8-2-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition CP 75–4]

AIRLESS PAINT SPRAY GUNS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

SUMMARY: In this document, the Commission denies a petition to issue a consumer product safety rule for airless paint spray guns because, in light of enforcement action the Commission has taken, and the current precautionary labeling practices of industry, the Commission has decided no regulatory action is necessary.

FOR FURTHER INFORMATION CONTACT:

Bert Simson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301–492–6554.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Commission to begin a proceeding to issue a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

In a letter dated September 13, 1974 to Dr. Albert Esch, the Commission's Medical Director, Dr. Richard F. Edlich requested that the Commission issue a consumer product safety rule for high pressure airless paint spray guns. He stated that if the high pressure jet of paint from such a gun strikes an extremeity "even though the nozzle is some distance away, the paint will be blasted through the skin and will spread rapidly through the fascial planes and tendon sheaths. The end result of the majority of these accidental injuries is amputation despite immediate treatment." To alleviate this hazard, Dr. Edlich suggested development of safety devices to protect the consumer who uses spray paint guns, proper instructions for users, and also the design of safety gloves to be used with the product.

After the staff developed further information regarding this product, the Commission considered the petition on May 8, 1975. At that time, the Commission decided to address the hazards of airless paint spray guns through action under section 15 of the Consumer Product Safety Act (15 U.S.C. 2064), which allows the Commission to take action against manufacturers, distributors, and retailers of consumer products that create substantial product hazards. The Commission directed the staff to identify the manufacturers, private labelers and distributors of airless paint spray guns being primarily marketed for use by consumers that could, in the staff's judgment, present a substantial hazard to consumers. Proceedings would then be instituted under section 15 of the CPSA.

After a full investigation, the staff initiated one enforcement action under section 15 against a manufacturer of airless paint spray guns (In the Matter of "Spray Tech Corporation, Wagner/Spray Tech Corporation," and "Peter E. Bader," CPSC Docket No. 75–7). The Commission accepted a consent agreement involving a retrofit of affected paint guns, and dismissed that action by order dated October 14, 1975.

The Commission recently considered again the need for regulatory action as to airless spray guns. The staff found that airless paint spray guns for consumer use are either labeled or supplied with cautionary tags and instructions which caution the user not to point the spray gun at any part of the body. In light of the above enforcement action and the precautionary labeling practices of airless paint spray gun manufacturers, the Commission has decided that no regulatory action is necessary. Accordingly, the Commission has denied Dr. Edlich's petition.

Copies of the petition and the staff's briefing packages to the Commission on the petition and documents related to the enforcement proceeding may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207, during working hours Monday through Friday.

Dated: July 29, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22290 Filed 8-2-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JULY 25, 1977.

The meeting of the USAF Scientific Advisory Board ad hoc Committee on Avionics Acquisition scheduled for July 28 and 29, 1977 in the Pentagon, as published FR Doc. 77–19029 (42 FR 34364 July 5, 1977) has been cancelled. This meeting will not be rescheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc 77-22217 Filed 8-2-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JULY 21, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology will hold a meeting on September 23, 1977 from 9:00 a.m. to 5:00 p.m. at Langley AFB, Virginia

The Committee will receive classified briefings on the Tactical Air Command concept of operations vis-a-vis cruise missiles.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc 77-22291 Filed 8-12-77;8:45 am]

Department of the Navy

REGIONAL DISCHARGE REVIEW SYSTEM

Hearing Locations

In FEDERAL REGISTER Document 75–27207, published on October 9, 1975, 40 FR 47524, the Department of the Navy published notice that, beginning in November, 1975, the Naval Discharge Review Board would convene and conduct hearings for a number of days each quarter in certain announced locations. In FEDERAL REGISTER Document 76–20384, published on July 15, 1976, 41 FR 29190, the Department of the Navy published notice that approval had been granted for the Naval Discharge Review Board to conduct hearings, within assigned resources, on a noncontinuing basis, in cities other than the announced locations when the concentration of petitioners in a geographical area so warrants. This expanded availability has facilitated the opportunity for personal appearances before the Board and the initially announced hearing schedule has been modified accordingly.

The following itinerary for August, 1977, through January, 1978, has been approved, but remains subject to modification if necessary:

August—Dallas, TX; Kansas City, MO; Columbus, OH.
September—San Diego, CA; San Francisco, CA; Salt Lake City, UT.
October—Chicago, IL; Minneapolis St Paul, MN.
November—Atlanta, GA; New Orleans, LA; (Tampa, FL if required).
January—Denver, CO; Seattle, WA; San Francisco, CA; San Diego, CA.

Any former member of the Navy or Marine Corps who desires to obtain a review of his or her discharge, either in Washington, D.C. or in one of the other cities in which the Board will conduct hearings, should file an application with the Board using DD Form 293. If a personal appearance is requested, the petitioner should indicate which scheduled location is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to the following address:

Naval Discharge Review Board,
Suite 905,
801 North Randolph Street,
Arlington, VA 22203

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the petitioner's military records before a hearing may be scheduled, the receipt of an application by the Naval Discharge Review Board is not tantamount to scheduling such hearing. Petitioners and/or their counsel will be notified by mail of the date and place of their scheduled hearing when personal appearance is requested.

For further information contact:

Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 905, 801 North Randolph Street, Arlington, VA 22203, 202–692–4628.

Dated: July 29, 1977.

K. D. LAWRENCE,
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-2220 Filed 8-2-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Meeting

AUGUST 1, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) in accordance with the purpose of Section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036) and Section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 2814), notice is hereby given that the General Advisory Committee will hold a meeting on August 23 in Washington, D.C. The meeting, which is open to the public, will be held in Room 4222C at ERDA Headquarters Building, 20 Massachusetts Avenue NW., Washington, D.C. The agenda is as follows:

9:00—Discussion of Solar Related Programs with the Division of Basic Energy Sciences.
9:30—Discussion of Solar Related Programs with the Assistant Administrator for Conservation.
10:30–12 Noon—Solar Study (discussion with Stanford Research Institute).
2:00–5:00—Solar Study (discussion with Stanford Research Institute).

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 13 copies thereof, postmarked no later than August 15, 1977, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call to the Office of the Secretary of the Committee on 202–376–4678 between 8:30 a.m. and 5 p.m., eastern time. Members of the public who are interested in attending are urged to call since the location or schedule may change.

(c) Questions at the meeting may be propounded only by members of the General Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-22403 Filed 8-2-77;8:45 am]

[Report No. 868]

FEDERAL COMMUNICATIONS COMMISSION

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JULY 25, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

21424–CD–P–77 Airsignal International, Inc. (KIF650), C.P. for additional Standby facilities to operate on 72.96 MHz, Control at Loc. No. 1: Atop Red Mountain, Birmingham, Alabama.
21490–CD–P–77 Airsignal International, Inc (KOA796), C.P. for additional Standby facilities to operate on 72.28 MHz, Control at Loc. No. 1: 4636 S.W. Council Crest Drive, Portland, Oregon.
21492–CD–MP–(2)–77 Airsignal of Colorado, Inc. (KWU523), Mod. of C.P. for additional Standby Control facilities to operate on 75.46 MHz at Loc No. 1: 22 Miles South of Golden, Colorado.
21753–CD–P–77 Tel-Illinois, Inc. (KUC903), C.P. for additional Control facilities to operate on 454.300 MHz at a new Loc. No. 3: Adjacent to south edge of Indian Hills Country Club, Mt. Vernon, Illinois
21754–CD–P–77 QMC Paging (new), C.P. for a new 1-way signaling station to operate on 43.58 MHz to be located at Knox Butte, 2.1 miles East of Albany, Oregon.
21755–CD–P–77 Mobile Communication Service, Inc. (new), C.P. for a new 1-way signaling station to operate on 158.70 MHz to be located at 551 State Street, Meadville Pennsylvania.
21756–CD–P–77 Southwestern Bell Telephone Company (KKD290), C.P. to change antenna system and replace transmitter operating on 152.63 MHz located 3.8 mi NE Lingleville, Texas.
21757–CD–P–77 Indiana Bell Telephone Company, Inc. (KSD323), C.P. to relocate facilities, change antenna system and replacement transmitter operating on 152.57 MHz to be located at 2727 Central Avenue, Columbus, Indiana.
21758–CD–P–77 Empire Paging Corporation (KRS674), C.P. for additional facilities to operate on 454.150 MHz at a new Loc. No. 18: 7th & Linden St., Northgate Apartments, Camden, New Jersey.
21759–CD–P–77 Airsignal International of Philadelphia, Pennsylvania, Inc. (KGC223), C.P. for additional Standby Control facilities to operate on 72.96 MHz at Loc No 7: Lewis Tower Bldg., 225 S. 15th Street, Philadelphia, Pennsylvania.
21760–CD–AL–77 Arthur Sciotto and Kathleen Sciotto, d.b.a. Neveda Mobile Telephone Company, Consent to Assignment of License from Arthur Sciotto and Kathleen Sciotto, d.b.a. Neveda Mobile Telephone Company, Assignor to Nevtelco., Inc., Assignee. Station: KSV953, Elko, Nevada.
21761–CD–AL–77 North Carolina Telephone Company Consent to Assignment of License from North Carolina Telephone Company, Assignor to Mid-Carolina Telephone Company, Assignee. Station: KIY787, Mathews, North Carolina.

21762–CD–P–77 **Intrastate Radio Telephone, Inc. of San Francisco (KMA833), C.P. for additional facilities to operate on 152.12 MHz at Loc. No. 1: Wells Fargo Building, 44 Montgomery Street, San Francisco, California.**

21763–CD–P–77 L. D. Garvey and J. D. Garvey, dba. Radiofone (KWU274), C.P. for additional facilities to operate on 35.58 MHz at a new Loc. No. 2: 2 miles WNW. of Tickfaw, Louisiana.

21764–CD–P–77 **Comex, Incorporated (KCC–797), C.P. for additional facilities to operate on 454.300 MHz at Loc. No. 1: Uncanoonuc, New Hampshire.**

21765–CD–P–77 Tel-Rad Message Center (KEC620), C.P. for additional facilities to operate on 152.15 MHz at a new Loc. No. 2: 88 Derrick Drive, Fishkill, New York.

21766–CD–P–(5)–77 Two-Way Radio of Carolina, Inc. (KIY441), C.P. to relocate facilities and change antenna system operating on 152.03, 152.06, 152.09, 152.15 and 152.21 MHz at Loc. No. 1: 400 S. Tryon Street, Charlotte, North Carolina.

21767–CD–AL–(2)–77 T. D. Miller, III Consent to Assignment of License from T. D. Miller, III, ASSIGNOR to T. D. Miller, III Mobile Communications, Inc. Stations: KRH660 and KUA283, Burlington, North Carolina.

21768–CD–77 Telephone Communications Inc. (new), C.P. for a new 1-way signaling station to operate on 43.22 MHz to be located at 5301 Central Avenue, N.E., Albuquerque, New Mexico.

MAJOR AMENDMENT.

20613 CD P–(02)–77 Airsignal International, Inc., Sarasota, Florida (KIJ358) Amend to change the Control frequency to 2174.0 MHz and to change the Repeater frequency to 2124.0 MHz. All other particulars are to remain as reported on PN No. 842, dated January 24, 1977.

RURAL RADIO:

60349–CR–ML–77 Business Communications, Inc., d./b./a. New Orleans Mobilfone (KKB33). Mod. of License for additional facilities to operate on 158.55, 158.61 and 158.67 MHz to be located in any temporary fixed location within the territory of the grantee.

21503–CD–ML–77 The Mountain States Telephone and Telegraph Company (KAR 68). Mod. of License for additional facilities to operate on 152.84 MHz located in any temporary fixed location within the territory of the grantee.

POINT TO POINT MICROWAVE RADIO SERVICE

3142–CF–P–77 The Mountain States Telephone and Telegraph Company (KPH75), Glendive Jct. 11 miles E. of Glendive, Montana. Lat. 47°07'05" N., Long. 104°28'35" W. C. P. to replace antenna on frequencies 6019.3H, 10756V MHz toward Richey, Montana.

3143–CF–P–77 Same (KPH76), 7.6 miles SE of Richey, Montana. Lat. 47°35'17" N., Long. 104°55'12" W. C.P. to add frequencies 6241.7H MHz toward Vida; change polarization from horizontal to vertical on 6241.7 MHz toward Glendive; replace transmitter and move and replace antenna on 11685V MHz toward Glendive and on 11405V MHz toward Vide.

3144–CF–P–77 **Same (KPH77), 6.9 miles NNW. of Vide, Montana. Lat. 47°55'35" N., Long. 105°30'36" W. C.P. to change frequencies 5937.8V to 6241.7H MHz toward Richey; replace transmitter and move and replace antenna on 10955V MHz toward Richey**

3148–CF–P/ML–77 **Hargray Telephone Company, Inc. (WQQ44), U.S. Highway 278, Hilton Head Island, South Carolina. Lat. 32°10'27" N., Long. 80°44'06" W. C.P. to reinstate license on frequency 2112.4H MHz toward Daufuskie Island, South Carolina.**

3142–CF–P–77 Same (WQQ45), Daufuskie 8 miles South of Bluffton, South Carolina. Lat. 32°06'59" N., Long. 805°52'37" W. C.P. to reinstate license on frequency 2162.4H MHz toward Hilton Head Island, South Carolina.

3163–CF–R–77 **RCA Alaska Communications Inc. (WBA787). Renewal of development radio station license expired Aug 13, 1977, term: August 13, 1977 to August 13, 1977.**

3164–CF–R–77 Same (WBA788), Renewal of development radio station license expired August 13, 1977, term: August 13, 1977 to August 13, 1978.

3170–CF–P–77 American Telephone and Telegraph Company (KBI26), 5.0 miles North of Kutch, Colorado. Lat. 38°59'00" N., Long. 103°52'19" W. C.P. to change polarization from vertical to horizontal on frequency 11035 MHz toward Calhen.

3174–CF–P–77 Southwestern Bell Telephone Company (WKR87), 2.5 miles SE. of Enid, Oklahoma. Lat. 36°21'57" N., Long. 97°51'12" W. C.P. to add a new point of communication on frequency 6004.5H MHz toward Ringwood on azimuth 285.5°.

3175–CF–P–77 Same (new), 4.9 miles North of Ringwood, Oklahoma. Lat. 36°26'58" N., Long. 98°13'48" W. C.P. for a new station on frequencies 6256.5V MHz toward Enid on azimuth 105.2° and 6256.5H MHz toward Waynoka on azimuth 285.8°.

3176–CF–P–77 Same (new), 8 miles E. of Waynoka, Oklahoma. Lat. 36°33'50" N., Long. 98°44'13" W. C.P. for a new station on frequencies 6004.5V MHz toward Ringwood on azimuth 105.5° and 6004.5H MHz toward Curtis on azimuth 247.6°.

3177–CF–P–77 Same (new), 0.6 mile SSE. of Curtis Oklahoma. Lat. 36°35'47" N., Long. 99°08'16" W. C.P. for a new station on frequencies 6256.5V MHz toward Waynoka on azimuth 67.4° and 6256.5H MHz toward Woodward on azimuth 271.3°.

3134–CF–MP–77 Tower Communications Systems Corporation (WBA 882), Canton West 18th Street and Perry Avenue, Canton, Ohio. (Lat., 40°46'46" N., Long. 81°-27'01" W.): Construction permit to replace receive antenna—10735.0H MHz toward Shanesville, Ohio, on azimuth 210.5°.

3149–CF–P–77 Eastern Microwave, Inc. (KCL 72), Greylock-2, 2 miles NW. of Adams, Massachusetts. (Lat. 42°38'14" N., Long. 73°10'07" W.): Construction permit to replace transmitter—5945.2V MHz toward Helderberg Mtn., New York and Bennington, Vermont, via power split.

3150–CF–P–77 Eastern Microwace, Inc. (KEM 58), Helderberg Mtn., Beaver Dam Road, 1.8 mile NW. of New Salem, New York. (Lat. 42°28'12" N., Long. 73°59'45" W.): Construction permit to add 6330.7V MHz toward Cherry Valley, New York, via power split.

3151–CF–P–77 Eastern Microwave, Inc., (KEA 64), 4 miles SE. of Cherry Valley, New York (Lat. 42°46'31" N., Long. 74°40'-56" W.): CP to replace transmitter and to change polarity toward Rogers Knob, New York, via power split and to add 6019.3V MHz toward same location and to change transmitters toward Gloversville (6137.9H) and Amsterdam (6137.9V) New York, via power split.

3152–CF–P–77 Eastern Microwave, Inc. (WOP 99), atop Quaker Hill, 3 miles NE. of Stokes, New York (Lat. 43°20'36" N., Long. 75°25'36" W.): Construction permit to add 6390.0H and 6271.4H MHz toward Hatch Hill, New York, via power split, on azimuth 198.8° and to change frequency to 6271.4H MHz toward Oneida, New York, via power split.

3153–CF–P–77 Eastern Microwave, Inc. (KEM 36), Hatch Hill, Texas Hill, 2 miles SE. of Georgetown, New York. (Lat. 42°-45'10" N., Long. 75°41'56" W.): Construction permit to add 6049.0H and 6078.6V MHz toward Rogers Knob, New York, on azimuth 142.8°.

3154–CF–P–77 Eastern Microwave, Inc. (KEL 89), Rogers Knob, Palmer Hill Road, 8 miles NE. of Sidney, New York. (Lat. 42°23'27" N., Long. 75°19'42" W.): Construction permit to add 6390.0H MHz toward Ingraham Hill, New York, on azimuth 139.9° and to replace antenna toward Hatch Hill, (6182.4H MHz) New York.

3155–CF–P–77 Eastern Microwave, Inc. (KEM 35), Ingraham Hill, Lookout Tower, 3.3 miles SSW. of Binghamton, New York. (Lat. 42°03'43" N., Long. 75°57'03" W.): Construction permit to add 6019.3V MHz toward Elk Hill, Pennsylvania, on azimuth 139.9°.

3156–CF–P–77 Eastern Microwave, Inc. (KGO 27), Elk Hill, North Knob, 4 miles North of Dundaff, Pennsylvania. (Lat. 41°-42'45" N., Long. 75°33'42" W.): Construction permit to add 6390.0V MHz toward High Knob, Pennsylvania, on azimuth 141.5° and to replace antenna toward Ingraham Hill, (6212.0H MHz) New York.

3157–CF–P–77 Eastern Microwave, Inc (KYZ 75), High Knob, 2 miles NW. of Pecks Pond, Pennsylvania. (Lat. 41°18'00" N., Long. 75°07'31"W.): Construction permit to add 6137.9V MHz toward Highland Lake, New Jersey, on azimuth 105.6° and to replace antenna toward Elk Hill (5960.-OH MHz) Pennsylvania.

3158–CF–P–77 Eastern Microwave, Inc (KYZ 74), Highland Lake, Accomac Road. 1.6 mile WSW. of Highland Lake, New Jersey. (Lat. 41°10'01"N., Long. 74°30'12" W.): Construction permit to add 10975.OH MHz toward West Milford, New Jersey, on azimuth 148.0° and to replace antenna toward High Knob, (6212.OH) Pennsylvania.

3159–CF–P–77 Eastern Microwave, Inc. (WQQ 53), West Milford, Germantown Road, 2 miles ESE. of Newfoundland, New Jersey. (Lat 41°02'26"N., Long. 74°23'57" W.): Construction permit to add 5989.7V MHz toward New York City Gulf and Western Building, New York, on azimuth 130.-5°.

3160–CF–P–77 Eastern Microwave, Inc. (KFN 21), New York City Gulf and Western Building, 15 Columbus Circle, New York, New York. (Lat. 40°46'09"N., Long. 73°58'55"W.): Construction permit to add 6360.-3H MHz toward East Meadow, and 6360.3V MHz toward Yonkers, both in New York and to add 6360.3V MHz toward Bergenfield, New Jersey, all via power split.

3162–CF–P–77 Cleveland Microband Teleservices, Inc. (new), 4101 Richmond Road, Beachwood, Ohio. (Lat. 41°27'26"N., Long. 81°29'34"W.): Construction permit for new station—11625.0V MHz toward Terminal Tower Building, Ohio, on azimuth 285.-3°.

3184–CF–R–77 **Carolina Telephone & Telegraph Company (WPG 20), Temporary fixed, within the territory of the grantee. Received radio station license Renewal for the above station.**

3187–CF–P77 American Television Relay (KOS 63), Heliograph, 13.9 miles SW of Safford, Arizona. (Lat. 32°38'59"N., Long. 109°50'53"W.): Construction permit to change frequency to 6219.5V MHz toward Douglas, Arizona and to increase transmitter output power.

3188–CF–P–77 Western Tele-Communications, Inc. (KSQ 30), Glendive Knob, 5 miles South of Glendive, Montana. (Lat. 47°03'08"N., Long. 104°40'19"W.): Construction permit to add 6110.0V, 6210.0V. 6310.0V and 6410.0V MHz toward Baker. Montana, via power split, on azimuth 155.-7°.

3203–CF–P–77 Yankee Microwave (WAU 284), Cates Hill, 2.5 miles North of Berlin. New Hampshire (Lat. 44°30'20"N., Long. 71°11'13"W.): Construction permit to add 6256.5V MHz toward Mt. Washington, New Hampshire, on azimuth 199.5°.

3197–CF–P–77 The Western Union Telegraph Company (KNG60), 1.2 Miles North of Aukum, Calif. (Lat. 38°34'26" N., Long. 120°43'32" W.): C.P. to add point of communication, 2165.2V MHz towards Sacramento, Calif. on azimuth 270.8°.

3198–CF–P–77 Same (new), B.P.O. Elks Building, Sacramento, Calif. (Lat. 38° 34'48" N., Long. 121°29'26" W.) C.P. for a new station, 2115.2V MHz towards Mt. Aukum, Calif. on azimuth 90.3°.

3169–CF–AL–(3)–77 North Carolina Telephone Company. Application for Consent to assignment of radio station license from North Carolina Telephone Company, Assignor, to Mid-Carolina Telephone Company, Assignee, for stations KIW72, Marshville, North Carolina; KIW73, Wadesboro, North Carolina; KJK89, Norwood, North Carolina.

3178–CF–P–77 Southwestern Bell Telephone Company (new), 1201 11th Street, Woodward, Oklahoma. Lat. 36°26'03" N., Long. 99°23'36" W. C.P. for a new station on frequency 6004.5V MHz toward Curtis on azimuth 91.2°.

CORRECTION:

Reference: P.N. report No. 861, June 6, 1977 2592–CF–P–77 Southwestern Bell Telephone Company (WHA74), 3.5 NNW. of Monticello, Arkansas. Lat. 33°41'00" N., Long. 91°52'44" W. C.P. to add frequency 6034.2V MHz toward Star City, Arkansas an azimuth 349.3° and add a new point of communication on frequency 6034.2H MHz toward Warren, Arkansas on azimuth 251.3°.

2892–CF–P–77 The Bell Telephone Company of Pennsylvania (KGP35), 224 South of Allen State College, Pennsylvania to add frequency 11685H MHz toward Grove Mills. All other particular remain as reported on PN 864 dated June 27, 1977.

[FR Doc.77-22267 Filed 8-2-77;8:45 am]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: July 29, 1977.

Notice is hereby given, pursuant to Section 1.573(d) of the Commission's Rules, that the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing on September 5, 1977. Since the listed applications are timely filed and mutually exclusive with the earlier-filed and cut-off application of Indianapolis Broadcasting, Inc., File No. BPH–10164, no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a) (2) of the Rules and pleadings to specify issues pursuant to § 1.584.

The attention of any party in interest desiring to file a petition to deny any listed application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

BPH 9958 NEW, Indianapolis, Ind., Peoples Broadcasting Corp. Req: 107.9 MHz; Channel No. 300B. ERP: 44 kW; HAAT: 524 Ft.

BPH 9991 NEW, Indianapolis, Ind., WOOD Broadcasting of Ind., Inc. Req: 107.9 MHz; Channel No. 300B, ERP: 40.66 kW; HAAT: 276.15 Ft.

BPH–10014 NEW, Indianapolis, Ind., Radio Circle City, Inc. Req: 107.9 MHz; Channel No. 300B, ERP: 41 kW; HAAT: 910 Ft.

BPH–10019 NEW, Indianapolis, Ind., Radio One Five Hundred, Inc. Req: 107.9 MHz; Channel No. 300B, ERP: 41 kW; HAAT: 910 Ft.

BPH–10036 NEW, Indianapolis, Ind., Mediacom, Inc. Req: 107.9 MHz; Channel No. 300B, ERP: 40.6 40.66 kW; HAAT: 907. Ft.

BPH–10047 NEW, Indianapolis, Ind., Radio Corporation of Indiana Req: 107.9 MHz; Channel No. 300B, ERP: 41 kW; HAAT: 910 Ft.

BPH–10066 NEW, Indianapolis, Ind. Indianapolis Communications Corp., Req: 107.9 MHz; Channel No. 300B, ERP: 41 kW; HAAT: 907 Ft.

[FR Doc.77-22268 Filed 8-2-77;8:45 am]

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE, SATELLITE BROADCASTING SERVICE GROUP

Change in Meeting Date

JULY 28, 1977.

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting for August 1977.

WARC–79 SATELLITE BROADCASTING SERVICE GROUP

The Satellite Broadcasting Service Group, previously scheduled to meet at 9:30 a.m. on Friday, August 12, 1977, will meet instead on Wednesday, August 24, 1977 at 9:30 a.m. This meeting will be held in room 8210 of the Commission's offices at 2025 "M" Street NW., Washington, D.C. 20554.

The agenda will be as follows:

1. Call to Order and Announcements by the Chairman.

2. Approval of Minutes of Previous Meeting.

3. Discussion of Comments for Fifth Notice of Inquiry in Docket 22071 and possible drafting of Reply Comments.

4. Reports from Task Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22266 Filed 8-2-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 24 Through July 1, 1977

Notice is hereby given that during the week of June 24 through July 1, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JULY 28, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of June 24 through July 1, 1977*

Date	Name and location of applicant	Case No.	Type of submission
June 24, 1977	Beacon Oil Co. Hanford, Calif. (If granted: The Beacon Oil Co. would receive an exception to the provisions of sec. 212.83(e)(2)(iii)(E) to permit it to adjust its refinery output during May 1973 for purposes of computing its increased nonproduct costs beginning Jan. 1, 1977.)	FEE-4368	Price exception (sec. 212.-83(e)(2)(iii)(E)).
Do	City of Seattle, Seattle, Wash. (If granted: U.S. refiners would receive an exception from the requirement that the number of barrels of bunker C fuel oil exported to the B. C. Hydro Burrard electrical generating station be excluded from the calculation of their crude oil runs to stills for purposes of the old oil entitlements program.)	FEE-4370	Exception from old oil entitlements program (sec. 211.67(d)(2)).
Do	Dorchester Gas Corp. American Petrofina, Inc., Washington, D.C. (If granted: The Dorchester Gas Corp. would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of the Mount Pleasant refinery from American Petrofina, Inc.)	FEE-4369	Exception to mandatory petroleum allocation and price regulation (pt. 211, pt. 212, and pt. 213).
Do	Ginther Gas Processing, Houston, Tex. (If granted: Ginther Gas Processing would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005 gal and would be permitted to retroactively adjust its May 1973 base price for propane.)	FEE-4371	Price exception (sec. 212.-163(a) and sec. 212.-165(iii)).
Do	Powerine Oil Co., Washington, D.C. (If granted: The FEA would increase the entitlement exception relief which was granted to the Powerine Oil Co. in a decision and order issued to the firm on Apr. 11, 1977.)	FEX-0108	Supplemental order.
Do	Sun Co., Inc., Dallas, Tex. (If granted: Sun Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Jameson plant and the Steedman plant.)	FEE-4372	Price exception (sec. 212.165).
Do	Sun Co., Inc., Dallas, Tex. (If granted: Sun Co., Inc., would receive an extension of the exception relief granted in the FEA's Apr. 4, 1977, decision and order to permit the firm to increase its prices for natural gas natural gas liquid products produced at the Carney, Concho, and Tonkawa plants to reflect nonproduct cost increases in excess of $0.005 gal.)	FXE-4376 FXE-4378 FEE-4373	Extension of exception relief granted in *Sun Co., Inc.* case Nos. FXE-3889, FXE-3890, and FXE-3900 through FXE-39-5 (decided Apr. 4, 1977) (unreported decision).
Do	Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Dover Hennessey plant and the Elmwood plant.)	FEE-4374 FEE-4375	Price exception (sec. 212.165).
Do	UCO Oil Co., Whittier, Calif. (If granted: The FEA's May 27, 1977, decision and order would be rescinded and the UCO Oil Co. would be assigned a new, lower priced supplier of motor gasoline to replace its base period suppliers, Tesoro and Macmillan.)	FXA-1372	Appeal of decision and order in *UCO Oil Co.*, 5 FEA par. ——— (May 27, 1977).
June 27, 1977	DeMartin Truck Lines, San Francisco, Calif. (If granted: The FEA's June 10, 1977, remedial order would be rescinded and DeMartin Truck Lines would not be required to refund overcharges made on sales of propane.)	FRA-1373 FRS-1373	Appeal of FEA region IX's remedial order dated June 10, 1977. Stay requested.
Do	Good Hope Industries, Inc., Springfield, Mass. (If granted: Good Hope Industries, Inc., would be granted retroactive relief in the form of refunds for import fees paid for the import of 136,334 bbl of naphtha, imported as unfinished oils on June 15, 1977, under fee-paid license No. FF-50038.)	FPI-0123	Exception from base-fee requirements (sec. 213.35).

Date	Name and location of applicant	Case No.	Type of submission
Do	Independent Oil Producers' Agency, Long Beach, Calif. (If granted: The FEA's June 10, 1977, ancillary remedial order would be partially rescinded to eliminate any requirement that the Independent Oil Producers' Agency refund to Union Oil Co. of California any and all refunds received by IOPA from Berry Holding Co. as directed and provided for in the FEA's June 10, 1977, remedial order issued to Berry.)	FEA-1375	Appeal of FEA region IX's ancillary remedial order issued June 10, 1977.
Do	Louisiana Land & Exploration Co., New Orleans, La. (If granted: The FEA's May 27, 1977, decision and order would be modified and the Louisiana Land & Exploration Co. would be granted additional relief from the provisions of 10 CFR 211.63(b)(1).)	FXA-1376	Appeal of decision and order in *Louisiana Land & Exploration Co.*, 5 FEA par. ——— (May 27, 1977).
Do	Marathon Oil Co./Ingram Corp., Washington, D.C. (If granted: The FEA's May 26, 1977, decision and order would be modified and the FEA would issue an order assigning Ingram as a base period purchaser of unleaded gasoline from Marathon Oil Co.)	FXA-1377	Appeal of decision and order in *Marathon Oil Co./Ingram Corp., Public Oil Co., Inc., Hamilton Oil Co., Mid-Continent Inc.*, 5 FEA par. ——— (May 26, 1977).
Do	Newhall Refining Co., Inc., Newhall, Calif. (If granted: Newhall Refining Co., Inc., would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976.)	FEE-4379	Exception to sequential nonproduct cost passthrough.
Do	Peters Fuel Corp. Oakland, Md. (If granted: The FEA's Mar. 30, 1977, decision and order would be rescinded and the Peters Fuel Corp. would be permitted to increase its prices for fuel oil above the maximum level permitted under sec. 212.93.)	FXA-1374	Appeal of decision and Order in *Peters Fuel Corp.*, 5 FEA par. 83,081 (Mar. 30, 1977).
Do	Powerine Oil Co., Washington, D.C. (If granted: The Powerine Oil Co. would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976.)	FEE-4381	Exception to sequential nonproduct cost passthrough.
Do	R. W. Tyson Producing Co., Inc., Jackson, Miss. (If granted: Crude oil produced from properties located in the Ovett field, Jones County, Miss. and in the Glazier field, Perry County, Miss., would be sold as stripper well crude oil.)	FEE-4380	Price exception (sec. 212.74).
June 28, 1977	C. O. Johnson Oil Co., Knoxville, Tenn. (If granted: The C. O. Johnson Oil Co. would not be required to file the following forms with the Federal Energy Administration: form P112-M-1 (No. 2 Heating Oil Supply/Price Monitoring Report); Form P314-M-0 (Monthly Survey of Distillate and Residual Fuel Oil Sales to Ultimate Consumers); Form P339-M-0 (Distillate Import Monitoring Report); and Form P131-S-1.)	FEE-4383	Exception to reporting requirement (sec. 211.127).
Do	William P. Carr, Dallas, Tex. (If granted: Crude oil produced from the Stratmann lease located in Ellsworth County, Kans., would be sold at prices in excess of the ceiling price permitted under sec. 212.73.)	FEE-4384	Price exception (sec. 212.73).
Do	Condor Tank Cleaning Co., Abilene, Tex. (If granted: Crude oil recovered by Condor Tank Cleaning Co. would be sold at price levels in excess of the ceiling price permitted under the mandatory petroleum price regulations.)	FEE-4382	Price exception (sec. 212.74).
Do	Edgington Oil Co. (New Edgington Corp.). (If granted: The FEA would review the entitlements granted to Edgington Oil Co. (New Edgington Corp.) during the period Sept. 25 through Dec. 31, 1976, to determine whether the level of exception relief approved was appropriate.)	FEX-0107	Review of entitlements exception relief (supplemental order).
Do	Gibson Oil & Refining Co., Rodeo, Calif. (If granted: The Gibson Oil & Refining Co. would be permitted to earn small refiner bias entitlements while rebuilding its refinery with respect to crude oil runs to stills attributable to processing agreements for the account of Gibson with other refiners.)	FEE-4387	Exception from the old oil entitlements program (sec. 211.67).
Do	Horne Products, Inc., Americus, Ga. (If granted: Horne Products, Inc., would be assigned a new, lower priced supplier of propane to replace its base period supplier, the Enterprise Products Co.)	FEE-4386	Exception to change base period supplier (sec. 211.9).
Do	Kewanee Oil Co., Tulsa, Okla. (If granted: The Kewanee Oil Co. would receive an extension of the relief granted in the FEA's Feb. 22, 1977, decision and order and crude oil produced and sold from the South Stanley Field located in Osage County, Okla., would be sold at upper tier ceiling prices as specified in 10 CFR, pt 212, subpt. D.)	FXE-4386	Extension of exception relief granted in *Kewanee Oil Co.*, 5 FEA par. 83,070 (Feb. 22, 1977).
Do	Orange Fuel Distributors, Orange, Va. (If granted: The FEA's June 14, 1977, remedial order would be rescinded and Orange Fuel Distributors would not be required to refund overcharges made on sales of No. 2 fuel oil and kerosene.)	FRA-1379	Appeal of FEA region III's remedial order dated June 14, 1977.
Do	Pacific Northern Oil Corp., Seattle, Wash. (If granted: The Pacific Northern Oil Corp. would be permitted to import 1,800,000 bbl of finished product and 180,000 bbl of motor gasoline on a license fee-free basis during the current allocation period.)	FPI-0124	Exception from base-fee requirements (sec. 213.35).
Do	Plateau, Inc., Washington, D.C. (If granted: Plateau, Inc., would be granted an exception to permit it to recalculate on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976, the passthrough of increased nonproduct costs.)	FEE-4388	Exception to sequential nonproduct cost passthrough.

Date	Name and location of applicant	Case No.	Type of submission
De.....	Rivkin Associates, Inc., Washington, D.C. (If granted: The FEA's June 15, 1977, information request denial would be modified and Rivkin Associates, Inc., would receive access to additional data concerning the technical proposals submitted to the FEA under RFP 70068-00.)	FFA-1378	Appeal of the FEA's information request denial dated June 15, 1977.
June 30, 1977	Warrior Asphalt Co. of Alabama, Inc., Washington, D.C. (If granted: The Warrior Asphalt Co. of Alabama, Inc., would be granted an exception to permit it to recalculate on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976, the passthrough of increased nonproduct costs.)	FEE-4398	Exception to sequential nonproduct cost passthrough.
June 30, 1977	Union Oil Co. of California, Schaumburg, Ill. (If granted: The June 6, 1977, interpretation issued to the Union Oil Co. of California would be rescinded and 6 consignees which sell allocated products under an agreement with Union would not be considered wholesale purchaser-resellers.)	FIA-1381	Appeal of interpretation dated June 6, 1977.
Do.....	USA Petroleum Corp., Los Angeles, Calif. (If granted: The May 28, 1977, interpretation issued to the State of California would be rescinded.)	FIA-1380	Appeal of interpretation dated May 28, 1977.
Do.....	Vickers Energy Corp. (Grand Chenier), Wichita, Kans. (If granted: The Vickers Energy Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Grand Chenier plant.)	FEE-4390	Price exception (sec. 212.165).
July 1, 1977	Connecticut Refining Co., West Haven, Conn. (If granted: The Connecticut Refining Co. would be granted additional time in which to respond to the subpena issued to it by FEA region I on June 7, 1977.)	FSG-0050	Request for special redress.

[FR Doc.77-22232 Filed 8-2-77;8:45 am]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 1 Through July 8, 1977

Notice is hereby given that during the week of July 1 through July 8, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JULY 28, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of July 1 through July 8, 1977*

Date	Name and location of applicant	Case No.	Type of submission
uly 1, 1977	Consumer Power Co., Jackson, Mich. (If granted: The Consumers Power Co. would be granted an exception from 10 CFR 211.67(a)(3) and would not be required to refund entitlement revenues received for its importation of residual fuel oil during November and December 1974 and January 1975.)	FEE-4392	Allocation exception (sec. 211.67).
Do.....	Husky Oil Co. of Delaware, Washington, D.C. (If granted: The FEA's June 2, 1977, decision and order would be modified and the FEA would adjust Husky's historical profit margin and historical return on invested capital for purposes of evaluating Husky's entitlement exception applications.)	FMR-0113	Modification of decision and order in *Husky Oil Co. of Delaware*, 5 FEA par. ..... (June 2, 1977).
Do.....	Jamar Oil Co., Broken Arrow, Okla. (If granted: The Jamar Oil Co. would receive an extension of the exception relief granted in the FEA's May 6, 1977, decision and order and would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Foremost.)	FXE-4391	Extension of relief granted in *Jamar Oil Co.*, 5 FEA par. 83,145 (May 6, 1977).
Do.....	National Airlines, Inc., Miami, Fla. (If granted: The June 2, 1977, interpretation issued to National Airlines, Inc., would be rescinded and Texaco, Inc., would not be permitted to rely on the interpretation and increase its rental charges for fueling trucks leased to National.)	FIA-1383	Appeal of interpretation issued to National Airlines, Inc., on June 2, 1977.
Do.....	Tesoro Petroleum Corp., San Antonio, Tex. (If granted: The May 28, 1977, interpretation issued to the Husky Oil Co. of Delaware would be rescinded.)	FIA-1382 FES-1382	Appeal of interpretation 1977-15 issued to the Husky Oil Co. of Delaware on May 28, 1977. Stay requested.
July 5, 1977	Blouin Bros., Inc., Enosburg Falls, Vt. (If granted: The FEA's June 16, 1977, remedial order would be rescinded and Blouin Bros., Inc., would not be required to refund overcharges received on its sales of petroleum products.)	FRA-1384 FRS-1384	Appeal of FEA region I's remedial order issued June 16, 1977. Stay requested.

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Cologne Production Co., San Antonio, Tex. (If granted: Crude oil produced from the Cologne Production Co.'s Algoa field located in Galveston County, Tex., would be sold at upper tier ceiling prices.)	FEE-4398	Price exception (sec. 212.73).
Do.....	Hanson Oil Co., Denver, Colo. (If granted: Crude oil produced from wells which Hanson Oil Corp. proposes to drill in Washakie County, Wyo., would be sold at upper tier ceiling prices.)	FEE-4395	Do.
Do.....	Justiss-Mears Oil Co., Inc., Jena, La. (If granted: Crude oil produced from Justiss-Mears Oil Co.'s Saucier No. 1 well located in Avoyelles Parish, La., would be sold at upper tier ceiling prices.)	FEE-4396	Do.
Do.....	Maurice L. Brown Co., Kansas City, Mo. (If granted: The FEA's Nov. 5, 1976, decision and order would be modified and the Maurice L. Brown Co. would be permitted to sell the crude oil produced from well No. 2 of the Option 604 Ltd. lease located in Roosevelt County, N. Mex. at upper tier ceiling prices.)	FXA-1385	Appeal of decision and order in *Maurice L. Brown Co.*, 4 FEA par. 83,181 (Nov. 5, 1976).
Do.....	Monsanto Co., St. Louis, Mo. (If granted: The Monsanto Co. would be granted an exception which would permit the firm to include its purchases of crude oil substitutes in its crude oil runs to stills for purposes of the old oil entitlements program.)	FEE-4397	Exception to old oil entitlements program (sec. 211.67).
Do.....	Newhall Refining Co., Inc., Newhall, Calif. (If granted: Newhall Refining Co., Inc., would be granted an exception from the old oil entitlements program which would relieve the firm of any entitlements purchase obligations for the remainder of its fiscal year ending Aug. 31, 1977, and which would permit the firm to sell additional entitlements so that it would achieve a profit margin of 4.75 pct for the fiscal year.)	FEE-4394	Exception from old oil entitlements program (sec. 211.67).
Do.....	United Independent Oil Co., Salem, Oreg. (If granted: The United Independent Oil Co., would be relieved of its obligations under the old oil entitlements program to purchase entitlements.)	FEE-4393 FES-4393	Exception from old oil entitlements program (sec. 211.67). Stay requested.
July 6, 1977...	Caribou Four Corners, Inc., Afton, Wyo. (If granted: Caribou Four Corners, Inc., would be granted an exception which would permit the firm to include the product purchased from Johnson Oil in its calculations of its crude oil runs to stills for purposes of the old oil entitlements program.)	FEE-4400	Exception from old oil entitlements program (sec. 211.67).
Do...	DeMartin Truck Lines, Inc., San Francisco, Calif. (If granted: The FEA's May 26, 1977, decision and order would be rescinded and DeMartin Truck Lines, Inc., would be permitted to increase its selling prices for liquid petroleum gas to reflect increased nonproduct costs on a retroactive basis.)	FEA-1388	Appeal of FEA region IX's May 26, 1977, decision and order.
Do.....	Keener Oil Co., Tulisa, Okla. (If granted: The FEA's June 10, 1977, remedial order would be rescinded and the Keener Oil Co., would not be required to refund overcharges received on its sales of crude oil produced from its Schenck lease in Harper County, Kans. the Ellen lease in Seminole County, Okla., and the Harjo lease in Seminole County, Okla.)	FRA-1387 FRS-1387	Appeal of FEA region VI's remedial order issued June 10, 1977. Stay requested.
Do.....	Palo Pinto Oil & Gas Co. (Markley gas plant), Wichita Falls, Tex. (If granted: The Palo Pinto Oil & Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Markley gas plant.)	FEE-4399	Price exception (sec. 212-165).
Do.....	Texas Oil & Gas Corp., Dallas, Tex. (If granted: Crude oil produced from Texas Oil & Gas Corp.'s Pete Rydolph lease located in Victoria County, Tex., would be sold at upper tier ceiling prices.)	FEE-4401	Price exception (sec. 212.73).
Do.....	Wayne S. Lockhard & Sons, Inc., Indiana, Pa. (If granted: The FEA's June 17, 1977, remedial order would be rescinded and Wayne S. Lockhard & Sons, Inc., would not be required to refund overcharges made on sales of No. 2 heating oil.)	FRA-1386	Appeal of FEA region III's remedial order issued June 17, 1977.
July 7, 1977	A&H Transportation, Inc., Baltimore, Md. (If granted: The FEA's June 24, 1977, remedial order would be rescinded.)	FRA-1385	Appeal of FEA region III's revised remedial order issued June 24, 1977.
Do.....	Maurice L. Brown Co., Kansas City, Mo. (If granted: The Maurice L. Brown Co. would receive an exception to base production control levels established for the Sheridan lease located in Lea County, N. Mex., for a period of 1 mo.)	FEE-4403	Exception to base production control levels (sec. 212.76).
July 8, 1977	Merchants Oil, Inc., Denver, Colo. (If granted: The FEA's May 16, 1977, remedial order would be rescinded.)	FRA-1389	Appeal of FEA region VIII's remedial order dated May 16, 1977.

[FR Doc.77-22233 Filed 8-2-77;8:45 am]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 8 Through July 15, 1977

Notice is hereby given that during the week of July 8 through July 15, 1977 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JULY 28, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of July 8 through July 15, 1977*

Date	Name and location of applicant	Case No.	Type of submission
July 8, 1977	Kern County Refinery, Inc., Washington, D.C. (If granted: The FEA's May 25, 1977, decision and order granting Kern County Refinery, Inc., a stay of its entitlement purchase obligations would be vacated.	FEX-4069	Supplemental order in *Kern County Refinery, Inc.*, 5 FEA par. ——— (May 25, 1977).
Do	Maguire Oil Co., Dallas, Tex. (If granted: The remedial order issued by the FEA region VI on June 30, 1977, would be rescinded and Maguire Oil Co. would not be required to refund overcharges received on its sales of crude oil produced from its Chandler lease in Howard County, Tex.	FRA 1-50 FRS-1-50	Appeal of the remedial order issued by FEA region VI on June 30, 1977. Stay requested.
Do	Maguire Oil Co., Dallas, Tex. (If granted: Maguire Oil Co's Chandler lease in Howard County, Tex., would be retroactively classified as a stripper well property.)	FEE 1-50	Price exception [illegible] 212.7[illegible].
Do	Maguire Oil Co., Dallas, Tex. (If granted: The Maguire Oil Co. would be granted a temporary stay of the refund requirements specified in the June 30, 1977, remedial order pending a final determination of the firm's appeal of that order.)	FST 1-50	Request for temporary stay.
Do	Warrior Asphalt Co. of Alabama, Washington, D.C. (If granted: The FEA would review the entitlements exception relief granted to the Warrior Asphalt Co. of Alabama during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX 1-50	Entitlements review.
Do	Bunting Oil Co., Lancaster, Pa. (If granted: Bunting Oil Co. would be permitted to retroactively charge prices in excess of those permitted under the mandatory petroleum price regulations, for its sales of No. 2 heating oil.)	FEE 1-50	[illegible] 212.93[illegible]
July 11, 1977	Devon Corp., Oklahoma City, Okla. (If granted: Devon Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.06 gal for natural gas liquid products produced at its Dubach natural gas processing plant.)	FEE 4-01	Price exception [illegible] 212.[illegible]
Do	Skelton Operating Co., Inc., Jackson, Miss. (If granted: The Skelton Operating Co. would be permitted to sell crude oil produced from the Lee Beard No. 2 well located in Wayne County, Miss., at exempt prices.)	FEE 1-07	Price exception [illegible] 212.7[illegible].
Do	Texas Pacific Oil Co., Inc., Dallas, Tex. (If granted: Texas Pacific Oil Co.'s Ackers-State (Caddo) unit in Stephens County, Tex., would be classified as a stripper well property.)	FEE 1-10	Price exception [illegible] 212.74.
Do	Williams Energy Co., Tulsa, Okla. (If granted: Williams Energy Co. would be assigned a new, lower priced supplier of propane to replace its base period suppliers, El Paso Natural Gas Co., Enterprise Products Co., and Union Oil Co. of California.)	FEE 1-08	Exception to change suppliers.
July 12, 1977	J&W Refining, Inc., Dallas, Tex. (If granted: The FEA would review the entitlements exception relief granted to J&W Refining, Inc., during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX 1-07	Entitlements review
Do	Kern County Refinery, Inc., Corpus, Calif. (If granted: The FEA would review the entitlements exception relief granted to Kern County Refinery, Inc., during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX 1-07	Do.
Do	Kingery Drilling Co., Inc., Ardmore, Okla. (If granted: The remedial order issued by FEA region VI on June 27, 1977, would be rescinded and Kingery Drilling Co., Inc., would not be required to refund overcharges receive on its sales of crude oil to [illegible] Oil Co.)	FRA-1-30 FRS-1-30	Appeal of the remedial order issued by FEA region VI on June 27, 1977. Stay requested.
Do	Louisiana Land & Exploration Co., New Orleans, La. (If granted: Louisiana Land & Exploration Co. would receive a stay of the requirements of the FEA's May 27, 1977, decision and order pending a determination on its appeal.)	FES-1-76	Stay of the decision and order in *Louisiana Land & Exploration Co.*, 5 FEA par. 83,165 (May 27, 1977).
Do	Mar-Low Corp. (If granted: Mar-Low Corp. would receive an extension of the relief granted in the FEA's Apr. 4, 1977, decision and order and would be permitted to sell crude oil produced from the Maxie Brousard No. 1-D well at upper tier ceiling prices.)	FXE-1-10	Extension of the relief granted in *Mar-Low Corp.*, 5 FEA par. 80,594 (Apr. 4, 1977).
Do	Peninsula Exploration Co., Corpus Christi, Tex. (If granted: The remedial order issued by FEA region VI on June 13, 1977, would be rescinded and peninsula Exploration Co. would not be required to refund overcharges received on its sales of crude oil)	FRA-1-30	Appeal of the remedial order issued by FEA region VI on June 13, 1977.
Do	Union Oil Co. of California, Los Angeles, Calif. (If granted: Union Oil Co. of California would receive additional entitlements for its imports of residual fuel oil.)	FEE-1-11	Exception to the entitlements program.
July 13, 1977	Berry Holding Co., Fresno, Calif. (If granted: The remedial order issued by FEA region IX on June 10, 1977, would be rescinded and Berry Holding Co. would not be required to refund overcharges received on its sales of crude oil.)	FRA-1-14	Appeal of the remedial order issued by FEA region IX on June 10, 1977.
Do	Ely Crude Oil Co., Ely, Nev. (If granted: The Ely Crude Oil Co. would be permitted to sell crude oil produced from Federal lease No. 012308-B and Federal lease No. 012321-A at upper tier ceiling prices.)	FEE-1-03	Price exception [illegible] 212.73.
Do	Farmers Gas & Oil Co., Ithaca, Mich. (If granted: The remedial order issued by FEA region V on June 28, 1977, would be rescinded and Farmers Gas & Oil Co. would not be required to refund overcharges received on its sales of motor gasoline.)	FRA-1-03	Appeal of the remedial order issued by FEA region V on June 28, 1977.
Do	Louis Kahan, Tulsa, Okla. (If granted: Louis Kahan would be permitted to sell crude oil produced from the Polly B lease located in Seminole County, Okla., at upper tier ceiling prices.)	FEE-1-12	Price exception [illegible] 212.73.
Do	Stephens & Cass, Dallas, Tex. (If granted: The FEA's May 20, 1977, stay decision and order would be vacated.)	FEX-1-07	Supplemental order in *Stephens & Cass*, 5 FEA par. 85,067 (May 20, 1977).
Do	Young Refining Corp., Douglasville, Ga. (If granted: The FEA would review the entitlements exception relief granted to Young Refining Corp. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.	FEX-1-07	Entitlements review.

Date	Name and location of applicant	Case No.	Type of submission
July 14, 1977	American Petroleum Refiners Association, Inc., Washington, D.C. (If granted: Refiners which sold JP-4 and JP-5 jet fuel to the Defense Fuel Supply Center during 1973 would be permitted to use prices set forth in April 1973 contracts to retroactively establish maximum permissible selling prices for their sales of jet fuel to the DFSC.)	FEE-4414	Class exception.
Do	American Petroleum Refiners Association, Inc., Washington, D.C. (If granted: Refiners which sold JP-4 and JP-5 jet fuel to the Defense Fuel Supply Center during 1973 would be permitted to consider prices established in April 1973 contracts with the DFSC as base prices for purposes of computing maximum permissible selling prices for jet fuel under the mandatory petroleum price regulations.)	FSG-0052	Request for special redress.
Do	Laketon Asphalt Refining Co., Evansville, Ind. (If granted: Laketon Asphalt Refining Co. would receive an extension of the entitlement exception relief granted in the FEA's Feb. 11, 1977, decision and order.)	FXE-4415	Extension of the relief granted in *Laketon Asphalt Refining Co.*, 5 FEA par. 83,064 (Feb. 11, 1977).
July 15, 1977	Ashland Oil, Inc., and Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: Ashland Oil, Inc., would receive exception relief to facilitate a $50,000,000 equity investment by Ashland in Commonwealth Oil Refining Co., Inc. The requested relief would permit Ashland and Coreo to be treated as separate firms for purposes of the FEA allocation and pricing regulations and would provide an extension of the exception relief previously granted to Coreo.)	FEE-4431	Exception.

[Fr Doc.77-22231 Filed 8-2-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Recission of a Construction Order

In accordance with 10 CFR 303.137(d), the Federal Energy Administration hereby gives notice that on July 13, 1977, the FEA issued an order rescinding the construction order issued on June 30, 1977, to Memphis Mill Unit 5, Kimberly-Clark Corp., Memphis, Tenn. Pursuant to the authority of section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C. 792) the construction order would have required that Unit 5 be designed and constructed so as to be capable of using coal as its primary energy source.

Based on information received from Kimberly-Clark prior to the order issuance which stated that plans to construct Unit 5 had been cancelled by Kimberly-Clark, FEA has determined that Unit 5 is not in the early planning process. Therefore, this combustor is not subject to FEA's authority to issue construction orders and the order issued on June 30, 1977 must be rescinded.

The rescission order has been served on Kimberly-Clark Corp. by registered mail. Copies of the rescission order will be on display for any interested members of the public at the FEA Freedom of Information Reading Room located in Room 2107, 12th Street and Pennsylvania Avenue NW., Washington, D.C. Copies will also be on display in the appropriate FEA regional office.

Any questions regarding this notice should be directed to Mr. G. Randolph Comstock, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, (202–566–9732).

Issued in Washington, D.C., July 28, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22262 Filed 8-2-77;8:45 am]

NATURAL GAS PIPELINE CO. OF AMERICA

Action Taken on Consent Order

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration ("FEA") hereby gives notice of final action taken on a Consent Order.

On February 25, 1977, FEA published a Notice of Consent Order which, on January 11, 1977 was executed between the Natural Gas Pipeline Company of America ("Natural") and FEA 42 FR 11040 (February 25, 1977). With that Notice, and in accordance with 10 CFR 205.197(c), FEA invited interested persons to comment on the Consent Order.

During the period for comment, FEA received no comments regarding the Consent Order. Accordingly, FEA has concluded that the Consent Order as executed between FEA and Natural on January 11, 1977 is an appropriate resolution of the compliance proceedings initiated by the FEA and that the Consent Order is to be issued as proposed. Therefore, pursuant to 10 CFR 205.197 (c), FEA hereby give Notice of this action taken, making this Consent Order final without modification.

Issued in Washington, D.C., July 29, 1977.

ERIC FYGI,
Acting General Counsel.

[FR Doc 77-22329 Filed 8-2-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact Re The West Virginia Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of West Virginia, of their State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for West Virginia are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box OJ, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—West Virginia Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., August 14, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 29 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22277 Filed 8-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 92]

COPELAND SHIPPING, INC.

Order of Revocation

By letter dated June 28, 1977, Mr. Nathan Cohen, Vice President, Copeland Shipping, Inc., 24806 Rockaway Boulevard, Jamaica, N.Y. 11422, was advised by the Federal Maritime Commission

that Independent Ocean Freight Forwarder License No. 92 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before July 27, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Copeland Shipping, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (c), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 92 issued to Copeland Shipping, Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 92 be and is hereby revoked effective July 27, 1977.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Copeland Shipping, Inc

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-22282 Filed 8-2-77;8:45 am]

[Docket No. 77-39 FMC Freight Forwarder License No. 1660]

LATINVAN, INC.

Order To Show Cause

By letters dated December 13, 1976, and May 2, 1977, the Commission directed Latinvan, Inc., P.O. Box 440281, Miami, Fla. 33144, FMC Freight Forwarder License No. 1660, to furnish certain factual information. Response was requested on or before January 15, 1977, and extended until June 6, 1977. To date Latinvan, Inc., has not responded to these letters.

Section 510.9(b) of the Commission's General Order 4 provides that a freight forwarder license may be revoked or suspended for failure to respond to any lawful inquiries of the Commision.

Therefore, *it is ordered*, That pursuant to section 44 and section 22 of the Shipping Act, 1916, Latinvan, Inc., FMC License No. 1660, is hereby made a respondent in this proceeding and is directed to show cause why its license as an independent ocean freight forwarder should not be suspended or revoked pursuant to section 510.9(b) because of failure to respond to lawful inquiries of the Commission.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memorandum of law, replies and oral argument. Should any party feel that an evidentiary hearing be required, that party may accompany such a request for hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before August 29, 1977. Affidavits of facts and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business August 29, 1977. Reply affidavits and memorandum shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than the close of business September 19, 1977. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and participate therein, shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22284 Filed 8-2-77;8:45 am]

MED-GULF CONFERENCE

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 23, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John B. Attanasio, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 9522-31, among the members of the above-named conference provides for rules concerning secret ballots and for independent action on freight rates.

By order of the Federal Maritime Commission.

Dated: July 29, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22279 Filed 8-2-77;8:45 am]

O'CONNELL DISTRIBUTING CO. INC., DOMTAR, INC., AND CITY OF MILWAUKEE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forward to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. L. Haskell, Deputy Port Director, City of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wis. 53202.

Agreement No. T-2966-1, between O'Connell Distributing Co., Inc. (O'Connell); Domtar, Inc. (Domtar); and City of Milwaukee (City), provides for Domtar's sublease with the City's approval of O'Connell's interest in the following agreements: (1) Agreement No. T-2966, which provides for the lease of a port terminal facility designated as Municipal Bulk Terminal No. 1; (2) Agreement No. T-2966-A, which provides for the lease of Jones Island Dock and property containing approximately 4.004 acres; and (3) Agreement No. T-2966-B, which provides for the lease of 1.13 acres of land located south of East Bay Street. Under the terms of the sublease, Domtar will be subject to the same rental and terms as O'Connell except Domtar is not required to pay any additional rental under terms of paragraph 3(c) of Agreement No. T-2966 nor is he required to deposit a security deposit.

By order of the Federal Maritime Commission

Dated: July 28, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22280 Filed 8-2-77;8:45 am]

O'CONNELL DISTRIBUTING CO., INC., AND CITY OF MILWAUKEE

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 23, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Mr. J. L. Haskell, Deputy Port Director, City of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wis. 53202.

Agreement No. T-2966-A, between O'Connell Distributing Co., Inc. (O'Connell), and City of Milwaukee (City), provides for the five-year lease of 4.004 acres of land on the South Harbor Tract to be used as a storage and distribution terminal. As compensation, O'Connell will pay $11,500 a year plus wharfage as follows: (1) 10 cents per ton on salt; and (2) rates on all other cargo to be negotiated prior to time of its movement.

Agreement No. T-2966-B, between O'Connell and City, provides for the month-to-month lease of approximately 1.13 acres of land for the temporary storage of salt. As compensation, O'Connell will pay $340 a month. All material on this land will be transported across the docks to the leaseshold adjacent to Municipal Mooring Basin or General Cargo Terminal One and will have been previously assessed a wharfage charge of 10 cents per ton.

Agreements Nos. T-2966-A and T-2966-B are to be subleased to Domtar, Inc., under Agreement No. T-2966-1.

By order of the Federal Maritime Commission.

Dated: July 28, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22281 Filed 8-2-77;8:45 am]

PEOPLE-TO-PEOPLE HEALTH FOUNDATION, INC.

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation Nos. P-155 and P-166 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,158.

Whereas, the People-to-People Health Foundation, Inc., cancelled its plans to charter the passenger vessel *Danae;* and

Whereas, the People-to-People Health Foundation, Inc., has completed its charters of the passenger vessels *Stella Solaris* and *Daphne*.

It is ordered, That Certificate (Performance) No. P-155 and Certificate (Casualty) No. C-1,158 issued to the People-to-People Health Foundation, Inc., covering the *Stella Solaris* and Certificate (Performance) No. P-166 issued to the People-to-People Health Foundation, Inc., covering the *Danae* and reissued to cover the *Daphne* be and are hereby revoked effective July 26, 1977.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on certificant.

By the Commission, July 26, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22283 Filed 8-2-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-556]

BOSTON EDISON CO.

Electric Rates; Order Approving Settlement Agreement

JULY 20, 1977.

On April 20, 1977, Boston Edison Company (Edison) submitted for filing in this docket a proposed Settlement Agreement and a Motion To Certify Settlement Agreement and Record To The Commission. Presiding Administrative Law Judge Thomas L. Howe certified the proposed settlement to the Commission on April 25, 1977.

Notice of the filing of the Settlement Agreement was issued on April 22, 1977, with all protests due on or before May 11, 1977. No protests were received. Staff filed comments in support of the agreement on May 11, 1977.

Edison initially filed a rate schedule in this docket on March 10, 1976, to provide for the non-firm transmission service by Edison to Braintree Electric Light Department (Braintree). Braintree and Cambridge Electric Light Company (Cambridge) filed separate petitions to intervene in the proceeding. The initial filing provided for transmission to Braintree of three capacity purchases (Potter purchases) totalling approximately 28MW, from Northeast Utilities, New England Power Company, and an entitlement owned by Vermont Electric Power Company in the Merrimack 2 Unit of Public Service Company of New Hampshire. The service was to continue from April 1, 1976 until the date that Braintree's Potter 2 generating unit would enter service.

In an order issued May 14, 1976, the Commission accepted the filing, suspended it, made it effective subject to refund, granted intervention of Braintree and Cambridge, and set the matter for hearing. After participating in a pre-hearing conference on July 22, 1976, the parties went to hearing on September 20, 1976. Settlement discussions took place on the date of the hearing and a tentative settlement was reached with regard to the three purchases.

Subsequent to this date, Edison agreed to transmit a fourth capacity purchase to Braintree, from the Vermont Yankee Nuclear Unit[2] and applied the same transmission rate that had been used for the Potter purchases. The transmission service of this fourth capacity purchase will terminate on October 31, 1977.

The Settlement Agreement reduces the rate from $10.84 per kW per year[3] to $9.00 per kW per year for the Potter purchases and provides for a refund, at

[1] Potter 2 entered service on April 1, 1977 and service for the 3 purchases ended on that date.

[2] This capacity constituted part of Vermont Electric Power Company's entitlement in the unit.

[3] As stated in the rate schedule filed March 10, 1976.

an annual interest rate of 9 percent, of the difference between the settlement rate and the amounts actually collected for the transmission of the Potter purchases. As for the Vermont Yankee purchase, the Settlement Agreement provides that Braintree shall continue to pay transmission charges in accordance with the rate schedule initially filed in this proceeding [4] but that the rate will be adjusted retroactively in accordance with the outcome of Boston Edison Company, Docket No. ER77-84. If the adjustments produce a lower rate, Edison shall make refunds to Braintree with interest at an annual rate of 9 percent.

Based on our review of the record in these proceedings, including the Settlement Agreement itself, the Commission finds that the proposed Settlement Agreement itself, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all of the issues in this proceeding, and that such settlement is in the public interest. Accordingly, the Settlement Agreement between Braintree and Edison should be approved and Appendix A to that Agreement which sets forth the rate and refund provisions contained in the Settlement Agreement should be accepted for filing and made effective as of April 1, 1976. [5]

The Commission finds: The proposed Settlement Agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The Settlement Agreement certified to the Commission in this proceeding on April 25, 1977, is hereby accepted, incorporated herein by reference and approved subject to the following conditions:

(B) Within 30 days from the date of this order, Edison shall refund amounts collected in excess of the settlement rate with interest computed at an annual rate of 9 percent for transmission service for the Potter purchases.

(C) Within 20 days after refunds have been made, Edison shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present, and settlement rates. The report shall also show the monthly settlement rate increase, the monthly rate refund, and the monthly interest computation together with a summary of such information for total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(D) Consistent with the provisions of the Settlement Agreement approved herein, waiver of Sections 35.3 and 35.-13 of the Regulations is hereby granted and the tendered Supplement No. 2 to Boston Edison Company Rate Schedule FPC No. 110 is hereby accepted for filing to be effective April 1, 1976.

[4] 10.84 per kW per year.

[5] Appendix A Rate Schedule designation: Boston Edison Company Supplement 2 to Rate Schedule FPC No. 110.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Edison or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22247 Filed 8-2-77;8:45 am]

[Docket No. CP77-512]

CLAY BASIN STORAGE CO.

Application

JULY 27, 1977.

Take notice that on July 19, 1977, Clay Basin Storage Company (Applicant), 100 Broadway, New York, New York 10005, filed in Docket No. CP77-512 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Arizona Public Service Company (APS), Southern Union Company (Southern Union), Southwest Gas Corporation (Southwest) and Tucson Gas & Electric Company (TG&E), all of whom are El Paso Natural Gas Company's (El Paso) east-of-California (EOC) distributor customers jointly referred to herein as EOC Distributors, for the sale of natural gas from time to time to El Paso, and for the exchange of its gas stored in the Clay Basin Field, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to EOC Distributors pursuant to letter agreements dated June 10, 1977, between El Paso and each of EOC Distributors which agreements were ratified and accepted by Applicant on July 6, 1977. Applicant states that the sales of natural gas which it proposes to make to the EOC Distributors and to El Paso, respectively, are integral to the effectuation of the Clay Basin Interim Storage Arrangements for the future protection of Priority 1 and 2 service to El Paso's EOC direct and distributor customefs.

It is indicated that El Paso projects that it would have certain quantities of gas which would be otherwise available for sale and delivery in satisfaction of the Priority 3, 4 and 5 requirements of its interstate system customers through April 30, 1978, and that Clay Basin Interim Storage Arrangements are designed to provide for the storage and subsequent utilization of the gas supplies so stored, to the maximum extent possible, for the protection of future service to the Priority 1 and 2 requirements of El Paso's EOC customers. Applicant indicates that it, together with Northwest Pipeline Corporation (Northwest) and Mountain Fuel Resources, Inc. (Resources) have agreed to assist El Paso in the Clay Basin Interim Storage Arrangements whereby gas can be stored, on an interim basis, commencing as soon as practical and extending through December 31, 1979, in Resources' Clay Basin Storage Field (Clay Basin Field), located in Dagget County, Utah.

Applicant states that it and El Paso have entered into an Interim Storage Agreement dated July 6, 1977, as part of the arrangements necessary for implementation of the Clay Basin Interim Storage Arrangements, wherein Applicant would purchase natural gas from El Paso at certain points of delivery in the San Juan Basin area in Rio Arriba County, New Mexico, and La Plata County, Colorado. It is stated that El Paso would sell such gas to Applicant and physically deliver it to Northwest, for Applicant's account, at existing points of interconnection between the facilities of El Paso and Northwest. Such deliveries are to be made in quantities not to exceed the excess pipeline capacity available in Northwest's transmission facilities, as excess capacity may exist from time to time, on a daily basis, during the period commencing on the date of initial deliveries and extending through April 30, 1978, it is stated. Applicant indicates that it would pay El Paso a rate equivalent to the rate in effect at the time of sale under Rate Schedule G of El Paso's FPC Gas Tariff, Original Volume 1 for each Mcf of natural gas sold by El Paso to Applicant and delivered to Northwest for Applicant's account.

It is indicated that pursuant to the terms and conditions of that certain agreement dated July 6, 1977, between Applicant and El Paso, Applicant has acquired all of El Paso's right, title and interest in and to each of the agreements listed below and has assumed and agreed to pay and perform all of El Paso's obligations under each of said agreements. Such agreements are as follows:

(i) That certain agreement entitled "Gas Transportation and Exchange Agreement" dated March 24, 1977, by and between El Paso and Northwest, pursuant to which Northwest has agreed (a) to receive quantities of gas from El Paso from time to time during the period commencing with initial deliveries through April 30, 1978, at various points in the San Juan Basin area of northwest New Mexico and southwest Colorado and to transport and deliver such gas to Resources for storage for El Paso's account in Resources' Clay Basin Field in Daggett County, Utah, and (b) from time to time during the period November 1, 1977, through December 31, 1979, to deliver to El Paso in the San Juan Basin, quantities of gas equivalent to those quantities so stored by Resources for El Paso's account in the Clay Basin Field; and

(ii) That certain agreement entitled "Intermin Storage Service Rate Schedule S-2" dated March 21, 1977, by and between El Paso, Resources and Northwest, pursuant to which Resources has agreed to accept and store for El Paso's account in the Clay Basin Field commencing with initial deliveries through December 31, 1979, those quantities of gas delivered to Resources by Northwest for El Paso's account under a Gas Transportation and Exchange Agreement dated March 24, 1977.

It is indicated that under these agreements, the gas purchased by Applicant from El Paso would be delivered to Northwest and transported and delivered by Northwest to Resources which would inject and store such delivered quantities in the Clay Basin Field, all for Applicant's account. It is stated that all charges applicable to the services rendered by Northwest and Resources for Applicant and, in addition, all other chargest incurred by Applicant as a result of its participation in the Clay Basin Interim Storage Arrangments, save and except for the cost of gas purchased by Applicant from El Paso, would be billed to El Paso.

Applicant states that under the Clay Basin Interim Storage Arrangements Northwest, by displacement, would from time to time during the period November 1, 1977, through December 31, 1979, deliver to El Paso at an existing delivery point, near Ignacio, Colorado, for Applicant's account, quantities of gas equivalent, on a Btu basis, to the quantities which were previously purchased by Applicant from El Paso and delivered by El Paso to Northwest for Applicant's account. El Paso would thereafter transport through its interstate pipeline system and deliver, for Applicant's account, the quantities of gas so received from Northwest as needed to serve the Priority 1 and 2 requirements of El Paso's EOC system customers during the 1977-78, 1978-79 and through December 31, of the 1979-80 heating seasons, it is indicated.

It is stated that El Paso and the EOC Distributors have by agreements, provided for the purchase of such supplies under certain terms and conditions which permit the timely disposition of such stored quantities. These agreements contemplate that El Paso would deliver such quantities of gas to the EOC Distributors, for Applicant's account, at existing points of delivery to such customers located on El Paso's interstate transmission system, it is stated. It is stated that such sales, by Applicant would be made at a rate equivalent to the rate in effect at the time of delivery for El Paso's own sales of gas to the respective distributor customers at the respective sales point locations.

Applicant states that pursuant to the gas sales agreement dated July 6, 1977, between Applicant and El Paso, El Paso would retain and purchase from Applicant a quantity of gas containing 5 percent of the number of Btu's contained in such quantities of gas, if any, as are redelivered by Northwest to El Paso for Applicant's account, such 5 percent quantity being required for use by El Paso to replace volumes of gas which would be consumed as compressor fuel or which are lost or unaccounted for in El Paso's system in physically transporting Applicant's gas. Applicant further states that El Paso would retain and purchase such 5 percent quantity only in the event that it is required to physically transport Applicant's gas and not otherwise, and shall pay Applicant for such 5 percent quantity at a rate equivalent to Applicant's weighted average cost of gas purchased from El Paso under the Interim Storage Agreement. Additionally, Applicant requests authorization as it may require incident to the effectuation of the exchange of its gas stored in the Clay Basin Field for equivalent quantities to be delivered by Northwest to El Paso for Applicant's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary

[FR Doc.77-22242 Filed 8-2-77;8:45 am]

[Docket No. ES77-]

COMMONWEALTH EDISON CO.

Supplemental Application

JULY 27, 1977.

Take notice that by orders issued August 5, 1975 and August 3, 1976, in the above-captioned docket, the Federal Power Commission, pusuant to Section 204 of the Federal Power Act, authorized Commonwealth Edison Company (Applicant), to issue unsecured promissory notes in the aggregate outstanding principal amount of up to a maximum of $400,000,000, to be issued on or before December 31, 1977, with final maturity dates of not later than December 31, 1978.

By supplemental application filed July 20, 1977, the Applicant seeks authorization to extend the latest permissable issue date to December 31, 1978 and to extend the final maturity date to December 31, 1979, on $400 million in unsecured promissory notes previously authorized. All other terms and conditions of the Commission's order are to remain in full force and effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure, (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary

[FR Doc.77-22244 Filed 8-2-77;8:45 am]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Electric Rates; Order To Show Cause and To Prescribe Procedures

JULY 26, 1977

On July 11, 1975, the United States Court of Appeals for the District of Columbia Circuit remanded the proceedings in the docket herein to the Commission with instructions to conduct proceedings consistent with its opinion.[1] The Commission finds that a hearing to show cause instituted against Gulf States Utilities Co. concerning the issues raised by the Court would be in the public interest as hereinafter ordered.

In 1950, Mid-South Electric Cooperative Association (Mid-South) entered into a contract with Gulf States for the delivery of electric power. The limitation on Gulf States' maximum commitment to Mid-South was 200 kilowatts, with Mid-South having the right to request a monthly increase of up to 300 kilowatts subject to Gulf States' designation of the delivery points for the additional power. As Mid-South's power needs grew, Gulf States delivered Mid-South's requirements beyond the contracted commitment. According to Mid-South,[2] by 1960, the earliest year for which figures are available, Gulf States was selling to

[1] *Sam Rayburn Dam Electric Cooperative v. FPC*, 515 F. 2d 998 (D.C. Cir. 1975), cert. denied sub nom *Gulf States Utilities Co. v. FPC*, 96 S.Ct. 2229 (1976).

[2] Application for Rehearing filed by Mid-South and Robertson Electric Cooperative, Inc., on August 20, 1973, in this docket.

Mid-South a total of 1,374 kilowatts in the peak month. By 1973, the peak month supply grew to 11,940 kilowatts. Such sales were made according to all the terms and conditions of the contract and at the contract rates.[2]

The proceedings in this docket were initiated on April 10, 1973, when Gulf States tendered for filing revised rate schedules to its wholesale customers, including Mid-South. By order issued on June 14, 1973, the Commission found, inter alia, that certain Gulf States contracts were fixed-rate Sierra-Mobile type[4] contracts with a demand ceiling, and the Commission accepted Gulf States' proposed rates to be effective as initial rates to apply to those deliveries sold above the demand ceiling. According to Mid-South[5] it did not file for Commission review of the June 14 order because it believed that its contract had been amended by the conduct of the parties to remove the demand ceiling, thus making the entire contract a fixed rate contract protected by the *Mobile-Sierra* doctrine, and that the contract would be investigated by the Commission in a section 206 proceeding.

On August 7, 1973, the Commission issued an order denying the applications for rehearing of the June 14, 1973, order filed by certain other customers of Gulf States. From the August 7, 1973, order, it appeared to Mid-South that the Commission may have intended the June 14, 1973, order to affect the rates for power supplied to Mid-South by Gulf States. Therefore, it was not until August 20, 1973, that Mid-South filed with the Commission for review of the June 14, 1973 order.[6] On September 17, 1973, the Commission denied Mid-South's request for rehearing at untimely.[7]

Upon its review, the District of Columbia Circuit held that Mid-South's application for rehearing was timely filed and it assumed jurisdiction over Mid-South's petition for review.[8] The Court adopted Mid-South's position that parties to a contract filed with the Commission may vary its terms by a subsequent course of conduct.[9] The Court also adopted Mid-South's argument that fixed-rate contracts must be recognized whether or not the contracts have been reduced to writing and filed with the Commission.[10]

Therefore, the Court concluded that if, in this case, the parties by their conduct did subsequently modify the 1950 contract, Gulf States is bound by the modified terms whether or not Gulf States met its responsibility of reducing the modifications to writing and filing them with the Commission. The Court remanded the case to this Commission to decide "* * * whether or not the proposed (April 10, 1973 rate) increase conflicted with any existing contractual arrangement between Gulf States and Mid-South".[11]

In accordance with the Court's mandate, we must determine what the "existing contractual arrangement" was between Gulf States and Mid-South. If the contract was a fixed rate contract with a demand ceiling, then Gulf States' proposed rates would be consistent with the contract and could be accepted to apply to those deliveries sold above the demand ceiling.[12] But if the parties' subsequent course of dealing removed the demand ceiling so that the 1950 fixed rates were applicable to all of Gulf States' deliveries to Mid-South, then Gulf States' 1973 proposed rates would be inconsistent with the parties' contractual arrangement and would have to be rejected by the Commission.

We will institute a show cause proceeding to require Gulf States to come forward and present its evidence on the issue of the contract modification as set forth in the Court's remand and whether the Commission may properly accept for filing the rates proposed by Gulf States on April 10, 1973. The parties hereto granted intervention will not be required to file any new petitions to intervene to participate in this show cause proceeding. Interested persons who are not presently parties may seek intervention pursuant to our rules.

The Commission finds: It is necessary and proper and in the public interest and to aid in the enforcement of the Federal Power Act that a hearing be held on the issues described herein.

The Commission orders: (A) Gulf States shall show cause, if any, at the proceedings instituted in paragraph (B) below, why its actions under its contract with Mid-South, as discussed in the Court's remand described herein required the Commission to accept its rate proposals of April 10, 1973.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 307, 308, and 309 thereof, and the Commission's Rules and Regulations issued pursuant thereto, a Presiding Administrative Law Judge (see delegation of authority, 18 CFR 3.5(d)) shall convene a prehearing conference on August 24, 1977, at 10 a.m. in a public hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issues discussed herein. At said prehearing conference, the Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure. If the Presiding Administrative Law Judge determines that factual and legal submissions in addition to those already on the record are unnecessary, he may recommend summary disposition to the Commission.

(C) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 8, 1977, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.37(f)).

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22251 Filed 8-2-77;8:45 am]

[Docket No. CP74-187]

MONTANA POWER CO.

Petition To Amend

JULY 26 1977.

Take notice that on July 15, 1977, Montana Power Co. (Petitioner), 40 East Broadway, Butte, Mont. 59701, filed in Docket No. CP74-187 a petition to amend the Commission's order of March 21, 1975 (53 FPC ------), as amended, issued in the instant docket pursuant to section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas from Canada at an increase import rate of $2.16 (United States) per million Btu's effective September 21, 1977, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's order of March 21, 1975, it was granted authorization in the instant docket to import from Canada, natural gas purchased from Canadian-Montana Pipe Line Co., at a price of $1 per Mcf, and that on December 17, 1976, the Commission amended its order of March 21, 1975, so as to authorize Petitioner to import gas from Canada natural gas at the price of $1.94 (Canadian) per million Btu's, effective January 1, 1977. Applicant indicates that on July 7, 1977, the Canadian Government set the price for gas exported from Canada at $2.16 per million Btu's.

Petitioner asserts that it imports from Canada more than 70 percent of the natural gas supply necessary to serve its market and that the ability of Petitioner to meet its customers' requirements and avoid curtailment of service directly depends on continued importation of natural gas under the authorization granted in the subject docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22250 Filed 8-2-77;8:45 am]

[Docket No. CP76-389]

NORTHWEST PIPELINE CORP.

Amendment to Application

JULY 27, 1977.

Take notice that on July 18, 1977, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-389 an amendment to its application filed in said docket pursuant to section 7 of the Natural Gas Act so as to provide for the withdrawal on a firm basis of up to 9,400,000 Mcf of gas seasonally and up to 75,000 Mcf per day and the withdrawal on a best efforts basis of up to an additional 5,000,000 Mcf of gas seasonally and up to an additional 75,000 Mcf per day, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant indicates that in its application filed on June 10, 1976, in the instant docket it proposed to utilize the Dakota Formation of the Clay Basin Field (Dakota Formation) for the storage of natural gas during off-peak periods for subsequent withdrawals during the winter heating season (November through March). Applicant states that the utilization of the Dakota Formation for natural gas storage is contemplated as a result of an agreement dated June 8, 1976, as amended November 5, 1972, and April 6, 1977 between Applicant and Mountain Fuel Resources, Inc. (Resources), whereby Resources has agreed to develop the Dakota Formation as a natural gas storage reservoir for the storage of natural gas for the account of Applicant. Applicant indicates that on February 10, 1977, it received temporary authorization in the instant docket to deliver to Resources for storage up to 27,000,000 Mcf of gas (including those volumes of natural gas remaining in storage for Applicant's account as of April 1, 1977) of which 9,400,000 Mcf would be working gas and 17,600,000 Mcf would be cushion gas, and to withdraw up to 75,000 Mcf per day and up to 9,400,000 Mcf seasonally.

It is stated that El Paso Natural Gas Co. (El Paso) has requested that Applicant and Resources cooperate with El Paso to the end that El Paso may temporarily store up to approximately 26,000,000 Mcf of natural gas during the period from June 1, 1977, through April 30, 1978. Applicant indicates that it is contemplated that, during the summer of 1978, the volumes of gas to be stored by El Paso would be transferred to a storage field to be developed by El Paso and would be utilized for the protection of El Paso's high-priority East of California customers.

El Paso has informed Resources and Applicant that, commencing June 1, 1977, and continuing through October 31, 1977, it can make available to Resources, for storage by Resources, certain volumes of natural gas on a relatively firm basis and further anticipates that it may have additional volumes available on a day basis during the period November 1977 through April 1978, it is said.

It is indicated that El Paso and Applicant have entered into a gas transportation and exchange agreement dated March 24, 1977, and El Paso, Resources and Applicant have entered into a three party agreement dated March 21, 1977, in order to effectuate the storage for El Paso. It is stated that the agreement dated March 24, 1977, between El Paso and Applicant provides for the best efforts transportation and delivery of El Paso's volumes by Northwest to Resources for storage and for the ultimate redelivery to El Paso of volumes equivalent to the volumes stored by Resources for El Paso's account. The three party agreement provides that Resources would, on a best efforts basis, receive volumes of natural gas from Applicant for storage in the Dakota Formation for the account of El Paso, it is indicated.

It is asserted that Resources and Applicant currently contemplate that the volumes of natural gas to be stored by Resources for Applicant's account during 1977 would be 27,000,000 Mcf. Applicant indicates that Resources has agreed to construct and operate certain additional facilities, permanent and temporary in order to develop further the Dakota Formation, on a one time basis, in order to provide, on a best efforts basis, storage service for El Paso. It is stated that the storage service to be provided by Resources for Applicant would have priority over that storage service to be provided for El Paso in order to assure that Applicant would have up to 9,400,000 Mcf of gas available in Clay Basin storage for withdrawal during the 1977-78 heating season.

Applicant states that the gas transportation and exchange agreement and the three party agreement, contemplate that of the first 27,000,000 Mcf of natural gas injected into the Dakota Formation 9,400,000 Mcf would be available to Applicant, notwithstanding the fact that all or a portion of such gas may have been injected by Resources for the account of El Paso. The subject agreements also provide, that if, as of October 31, 1977, the total gas stored in the Dakota Formation for the account of Applicant and El Paso is in excess of 27,000,000 Mcf, then all or a portion of that excess volume may be withdrawn to protect the Priority 1 and 2 requirements of Applicant's or El Paso's customers, it is indicated. Applicant states that the gas transportation and exchange agreement provides that its requirements have priority over El Paso's requirements should Applicant and El Paso simultaneously require protection gas.

It is stated that in the event volumes of gas are withdrawn from the Dakota Formation during the 1977-78 heating season for the account of El Paso, El Paso would, pursuant to the gas transportation and exchange agreement, reimburse Applicant for all costs attributable to such withdrawal. It is further stated that such costs would be El Paso's pro rata share of the amount payable by Applicant to Resources during the month of withdrawal as provided by Resources' the effective FPC Gas Rate Schedule S-1.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any persons who have heretofore filed need not file again.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22241 Filed 8-2-77;8:45 am]

[Docket No. CP77-511]

NORTHWEST PIPELINE CORP.

Application

JULY 27, 1977.

Take notice that on July 18, 1977, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP77-511 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation,

[2] Id.

[4] *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Co.* v. *Mobile Gas Corp.*, 350 U.S. 332 (1956).

[5] Application for Rehearing filed by Mid-South and Robertson Electric Cooperative, Inc., supra.

[6] Id.

[7] Section 313(a) or the Federal Power Act (16 U.S.C. 825 l(a)) and § 1.34(a) of the Commission's Rules of Practice and Procedure (18 CFR 1.34(a)) promulgated pursuant thereto, require that a person aggrieved by a Commission order file an application for rehearing within 30 days after issuance of the order.

[8] *Sam Rayburn Dam Electric Cooperative* v. *FPC*, supra, at 1007-1008.

[9] Id. at 1009.

[10] Id. at 1008-1009.

[11] Id at 1009.

[12] After the Court's opinion was issued, the Presiding Administrative Law Judge in this docket issued an Initial Decision on March 25, 1976, finding inter alia, that Gulf States' fixed rates, subject to Section 206 proceedings, were not so low as to adversely affect the public interest and therefore were to be retained at the original level as distinguished from the proposed increased level. The decision further held that Gulf States' proposed rates subject to review under Section 205 of the Federal Power Act were just and reasonable and should be permitted to take effect. This Decision was affirmed by Commission order issued on September 22, 1976.

on a best efforts basis, and the exchange of natural gas for and with El Paso Natural Gas Company (El Paso) for a term commencing June 1, 1977, and extending through December 31, 1979 or until such time as any imbalance in exchange gas has been eliminated and for the sale of natural gas to El Paso for fuel in conjunction with said proposal, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that El Paso has requested that Applicant and Mountain Fuel Resources (Resources) cooperate with El Paso to the end that El Paso may temporarily store up to approximately 26,000,000 Mcf of natural gas during the period from June 1, 1977, through April 30, 1978. It is indicated that during the summer of 1978, the volumes of gas to be stored by El Paso would be transferred to a storage field to be developed by El Paso and would be utilized for the protection of El Paso's high-priority East of California customers. El Paso has informed Resources and Applicant that, commencing August 1, 1977 and continuing through October 31, 1977, it can make available to Resources, for storage by Resources, certain volumes of natural gas on a relatively firm basis, and that it further anticipates that it may have additional volumes available on a day to day basis during the period November 1977 through April 1978, it is said.

It is stated that Resources and Applicant have agreed to allow El Paso also to utilize the Clay Basin facilities during the 1977–78 heating season, and that in order to effectuate the storage for El Paso, Applicant and El Paso have entered into a gas transportation and exchange agreement dated March 24, 1977 and El Paso, Resources and Applicant have entered into a three party agreement dated March 21, 1977.

Applicant states that the three party agreement provides that Resources, in order to inject volumes of natural gas during the summer of 1977 for the account of El Paso, would construct and operate certain temporary and permanent facilities. It is indicated that the temporary facilities would consist of ten 1,000 horsepower compressor units and appurtenant facilities and would be utilized solely for the account of El Paso, and that the permanent facilities consist of 11 injection and withdrawal wells, and the associated gathering, dehydration and measuring facilities. It is further indicated that the 11 injection and withdrawal wells would also be utilized solely for the account of El Paso during the period commencing on the initial in-service date of each well and continuing through April 30, 1978, El Paso's injection period, and that subsequent to April 30, 1978 the additional wells would be utilized by Resources in order for Resources to provide Applicant the level of service contemplated for the 1978–79 heating season. El Paso would pay Resources the total cost of service attributable to the temporary compression, so long as such compression is required for service to El Paso or upon removal, and for the 11 wells through April 30, 1978, it is indicated. It is stated that in addition to the aforementioned costs El Paso would also pay Resources the following:

(a) During the period May 1, 1977 through September 30, 1977 one half (½) of the cost of service of the 20-inch pipeline from Applicant's tap to the Clay Basin Field and 5 percent of the cost of service attributable to all other facilities installed by Resources in the Clay Basin Field for the purpose of rendering service to Applicant and

(b) During the month of October 1977 El Paso shall pay the full cost of service of all facilities installed by Resources in the Clay Basin Field.

It is asserted that the impact on Applicant of items (a) and (b) above is that El Paso will be paying Resources a portion of the cost of service which would otherwise have been the responsibility of Applicant. Applicant estimates that during the period May through October 1977 Applicant's share of Resources cost-of-service will be reduced by approximately $750,000.

It is indicated that the transportation agreement between El Paso and Applicant provides for the best efforts transportation and delivery of El Paso's volumes by Applicant to Resources for storage and for the ultimate redelivery to El Paso of volumes equivalent to the volumes stored by Resources for El Paso's account. The three party agreement provides that Resources would, on a best efforts basis, receive volumes of natural gas from Applicant for storage in the Clay Basin Field for the account of El Paso, it is said.

Applicant states that Resources is presently in the process of developing the Dakota Formation of the Clay Basin Field as an underground gas storage reservoir for the benefit of Applicant and that Resources and Applicant currently contemplate that the volumes of natural gas to be stored by Resources for Applicant's account during 1977 would be 27,000,000 Mcf.

It is stated that Resources with Applicant's agreement has agreed to construct and operate certain additional facilities, permanent and temporary, in order to develop further the Clay Basin Field, on a one line basis, in order to provide, on a best efforts basis, storage service for El Paso, and that the storage service to be provided by Resources for Applicant would have priority over that storage service to be provided El Paso by Resources in order to assure that Applicant has sufficient gas in Clay Basin storage to support the withdrawal schedule proposed by Applicant in Docket No. CP76–389, i.e., 75,000,000 Mcf per day for approximately 125 days.

It is indicated that the March 24, 1977, agreement between Applicant and El Paso contemplates that during the period June 1, 1977 through April 30, 1978 El Paso would deliver volumes of natural gas to Applicant at one or more of three existing points of interconnection between the facilities of Applicant and El Paso in the San Juan Basin. Applicant states that the gas delivered to it by El Paso would be transported by Applicant to the existing interconnection between the facilities of Applicant and Resources in Daggett County, Utah, for delivery to Resources for injection by Resources into the Clay Basin Field for El Paso's account.

It is stated that the two agreements contemplate that title to all gas remaining in Clay Basin Storage for El Paso's account as of April 30, 1978 would ultimately pass to Applicant and Applicant would redeliver equivalent volumes of natural gas on a Btu basis to El Paso in the San Juan Field. Most of the volumes of gas in Clay Basin storage for El Paso's account would be redelivered during the summer of 1978 for transfer to a new storage facility to be developed by El Paso, it is indicated. It is stated that to the extent that all volumes due to El Paso are not fully returned in the summer of 1978 redelivery may be made through December 1979 or until such time as any imbalance in exchange gas has been eliminated.

Applicant states that redelivery to El Paso would be at an existing point of interconnection between the facilities of El Paso and Applicant in La Plata County, Colorado, and that the redelivery point is also one of the aforementioned delivery points where El Paso proposes to deliver gas to Applicant.

It is contemplated that to the extent there are volumes in Clay Basin in excess of the 27,000,000 Mcf which are required for Applicant's account then El Paso or Applicant may withdraw a portion or all of such excess during the 1977–78 heating season if such withdrawal is required for the protection of El Paso's or Applicant's Priority 1 and 2 requirements. Applicant states that no facilities would be required by it to effectuate the proposed service.

Applicant proposes to charge El Paso a transportation charge of 16.03 cents per Mcf of natural gas delivered to Applicant for transportation and delivery to Resouces, which rate represents Applicant's rolled-in transmission cost. It is stated that El Paso would purchase from Applicant the incremental fuel required to transport its volumes to Resources, and that El Paso would also purchase from Applicant the volumes of natural gas which El Paso is required to furnish Resources for the injection of natural gas for El Paso's account, as provided by Resource's S–2 Rate Schedule Applicant proposes to charge El Paso the then effective average cost of purchased gas for all gas sold to El Paso for fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervent is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22243 Filed 8-2-77;8:45 am]

[Docket No. CP76-428]

SEA ROBIN PIPELINE CO.

Filing of Original Tariff Sheets

JULY 25, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 259 through 282 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and Northern Natural Gas Company dated August 19, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed and the transportation service certificated in Docket No. CP76–428 commences.

The company states that copies of these tariff sheets have been mailed to Northern Natural Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22248 Filed 8-2-77;8:45 am]

[Docket No. CI77–329, Docket No. CP77–304, Docket No. CP64–97]

TEXACO INC. AND SABINE PIPE LINE CO.

Order Further Conditioning Acceptance of Joint Motion to Resolve all Issues

JULY 26, 1977.

As we stated in our order issued in this proceeding on July 7, 1977, we sought compliance with the requirements of the Natural Gas Act at the earliest practicable time, particularly in our requirement that gas previously diverted from the interstate market be "paid back" at the earliest possible time. We not only sought to achieve a public interest resolution to this matter, but we believed that the interstate market would need, and be benefited by the pay back deliveries this coming heating season. As we later provide, the pay back volumes will be made available to those interstate pipeline companies demonstrating the greatest need in order to maintain adequate service to their customers.

In our order of July 14, 1977, we accepted and approved the "Joint Motion of Texaco Inc. and Sabine Pipe Line Company," filed in this proceeding of July 12, 1977, subject to certain terms and conditions and modification by subsequent order. Paragraph (E) of that order required a submission by Texaco of information concerning its present intrastate sales, its non-offshore Federal Domain reserves, the extent of convertibility of its Port Arthur Refinery to fuels other than natural gas, and other operational details.

Pursuant to Paragraph (F) of the July 14 order, a public conference was held concerning Texaco's submittal on July 20, 1977. The conference was conducted by members of the Commission Staff and was attended by representatives of Texaco Inc. (Texaco) and Sabine Pipe Line Company (Sabine); Associated Gas Distributors (AGD), and intervenor: and the Public Service Commission of the State of New York (PSCNY). PSCNY has recently filed a petition to intervene.

Our July 14 order provided for acceptance by Texaco and Sabine—who have filed such acceptance, and comments to be filed thereon on or before July 22, 1977. Pursuant to this provision comments were filed by AGD, NYPSC, and the Commission staff.

Staff, in its comments, states that after investigation and analysis of information and data received from Texaco pursuant to the July 14, order, and adduced at the public conference mentioned above, and after a field trip to the facilities involved, is of the opinion that Texaco can make available to itself within two years sufficient intrastate gas to operate the Port Arthur Refinery without any offshore Federal domain gas and can also pay back all Federal Domain gas utilized in the past and to be utilized at Port Arthur during the next two years, over a period equal to the period during which Federal gas deliveries to Port Arthur were made. Staff's opinion is based in large part upon Staff's conclusion that Texaco owned or controlled some 8,974.8 Bcf of intrastate gas in the lower 48 states as of January 1, 1977, 6,961.7 Bcf of which was in non-offshore Federal Domain, Southern Louisiana. Staff further concluded that approximately 362.4 MMcf/D of this gas will be released by expiration of intrastate contracts within the next five years, or by December 31, 1982.

Staff's contention is that Texaco created its own dependence on Federal Domain gas at Port Arthur by choosing to use such gas there while selling much of its intrastate gas in its intrastate industrial supply system. Staff also contends that when viewed on an annual basis, the volumes of Offshore Federal Domain gas provided for in the Texaco-Sabine Proposal for use at Port Arthur during the first 18 months is at a rate higher than for any past year. Based on its further conclusions, Staff recommends modification of the Commission's order of July 14, 1977, principally (1) to terminate all Federal Domain deliveries to Port Arthur within 2 years, (2) to require pay back from non-offshore Federal Domain gas delivered to Port Arthur, including during the two-year phase-out period, and (3) to require Texaco to sell uncommitted Federal Domain gas from Lighthouse Point and Tiger Shoal to interstate pipelines in short supply.

PSCNY in its comments states it is willing to accept the Texaco-Sabine Proposal as modified by our July 14 order, subject to possible reservations based on Staff comments, upon the following conditions: (1) that payback sales be made only at the maximum rate as specified in Opinion No. 770–A, as that price may be modified by subsequent Commission action or pursuant to new legislation, (2) that Texaco be required to give precedence in the sale of payback volumes, on a "most favored nation" basis, to pipeline companies on the basis of severity of expected curtailments during the 1977–1978 winter,[1] (3) that volumes of Federal Domain gas to be used as boiler fuel at the Port Arthur refinery during the three year phase-out period for this use be also subject to payback, and (4) that approval of all Federal Domain volumes for use at Port Arthur be conditioned upon the final outcome of pending Commission

[1] New York would permit Texaco to reject all initial offers at less than the nationwide rate. New York also would not require Texaco to bear any additional expense of attaching gas to a particular pipeline purchaser over and above that which it would be required to expend to make the sale to another pipeline. The potential pipeline purchaser would have to decide whether to absorb such costs or to enter into exchange arrangements with other pipelines to achieve this result.

and court proceedings with respect to Opinion Nos. 727, 743 and 789.

AGD in its comments makes the same recommendations as the last two listed above by PSCNY. Additionally, it recommends that 60-day emergency sales (where no reserve dedications are involved) and direct industrial sales pursuant to 16 CFR 279 (Order No. 533) should not be allowed to qualify as payback volumes.

We have considered the parties' comments, being the result of data largely supplied by Texaco pursuant to our July 14 order, and are persuaded that their recommendations should be given due consideration.

Consequently, we are persuaded to modify the July 14 order to require that payback volumes be sold at the applicable national rate, as requested by PSCNY, and Staff. This seems to be a fair requirement because of the very fact that these are payback volumes. We also believe it proper, as well as equitable, to require that in the sale of payback volumes, priority be given to pipelines with the greatest need, as further requested by PSCNY and Staff.

The requests of PSCNY and AGD that approval of the use of Federal Domain gas at Port Arthur be conditioned on the outcome of litigation involving Opinion Nos. 727, 743, and 789 are rejected. By our July 14 order, we intended to resolve promptly all of the issues involved here, thus eliminating the likelihood of protracted litigation on these matters. The imposition of conditions making resolution of this case dependent on the outcome of other litigation and further investigation would thwart the basic purpose of the July 14 order.

We will accept the recommendation of AGD that direct sales to industrial customers under Order No. 533 should not qualify as payback volumes. However, we see no reason why 60-day emergency sales for resale should not qualify, where they take place at or below the applicable national rate, as suggested by New York.

We have adopted Staff's recommendation that Texaco be required to discharge payback obligations within the same time period that they were created. This requires that payback volumes be accounted for in terms of volumes delivered within a certain time period, rather than in terms of dedicated reserves so that Texaco will dedicate non-offshore Federal Domain reservoirs capable of actually delivering 200 billion cubic feet of natural gas to the interstate market.

Staff recommends that gas volumes used for repayment of advance payments advanced to Texaco not be eligible as payback volumes. We agree and will modify the Texaco-Sabine Proposal accordingly. We believe this to be proper because such advance payments volumes are, in a sense, already dedicated to the interstate market. Staff also recommends that applications filed by Texaco covering payback volumes should clearly state this and give the quantity of proven reserves covered by such applications. The value of this provisions is self-evident, and it will be added also.

Staff contends that the question of violations of the Natural Gas Act of Texaco and Sabine should be set for a limited hearing. We disagree. The purpose of our July 14 order and this order is to resolve all issues in the case and this includes the question of past violations. We do not intend to pursue this matter further, assuming of course, Texaco and Sabine accept the conditions of this order.

The Commission orders: (A) Texaco shall payback all volumes of gas required within the same time period that deliveries from Federal Domain reserves occurred.

(B) Payback volumes shall not come from sources which are subject to advance payment agreements with interstate pipeline companies.

(C) In order to qualify as payback volumes pursuant to the Texaco-Sabine Proposal, as conditioned a sale of gas shall be a sale for resale in the interstate market at a rate not exceeding the national rate applicable to such gas or similar gas, as that rate may be lawfully modified by subsequent Commission action or pursuant to new legislation enacted into law.

(D) In the sale of payback volumes Texaco shall give precedence on a "most favored nation" basis to pipeline companies which have indicated to the Commission in the latest Form 16 reports and data filed in the omnibus proceeding in Docket Nos. RP77-65, et al., that they expect to be curtailing service during the 1977-1978 winter season into Priority I (as defined by Section 2.78(a)(1) of the Commission's Statements of General Policy and Interpretations) first under normal weather and then under colder than normal weather conditions and, failing any such willing pipeline purchaser of the gas, to pipelines who have indicated that they would be curtailed over 50 percent of Priority II (as defined in Section 2.78(a)(1)) during the coming winter period, and finally, failing such a willing pipeline purchaser, to pipelines indicating that they would be curtailing into Priority II to a lesser extent during the forthcoming winter period.

(E) Volumes of gas sold to interstate pipeline companies under contracts executed prior to July 7, 1977, or pursuant to certificate applications filed prior to July 7, 1977, shall not be used to reduce Texaco's payback obligations.

(F) Any applications filed by Texaco involving sales of payback volumes shall clearly state that the volumes sold are being used to reduce its payback obligations and give the quantity of proven reserves covered by such application.

(G) Texaco shall file monthly reports identifying and giving the amounts of gas volumes sold to reduce payback obligations.

(H) The petition to intervene filed by the Public Service Commission of the State of New York is hereby granted.

(I) The Texaco-Sabine Proposals for resolution of the issues in this proceeding, approved subject to conditions in our order issued herein July 14, 1977, is hereby made subject to further conditions, as set forth herein.

(J) The Commission's July 7, 1977 order in this proceeding is stayed until August 2, 1977.

(K) The July 14, 1977 order, as modified herein, shall become effective as of August 2, 1977.

(L) Texaco and Sabine, over the signature of a responsible officer of each company, shall file with the Commission on or before August 1, 1977, and original and one copy of their acceptance or rejection of the terms and conditions of this order.

(M) The Secretary shall cause the instant order to be published in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22237 Filed 8-2-77;8:45 am]

[Docket No. RI77-18]

TEXAS ENERGIES, INC.

Order Granting Application for Special Relief and Permitting Intervention

JULY 27, 1977.

On December 9, 1976, Texas Energies, Inc. (Texas) filed an application for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of natural gas to Panhandle Eastern Pipeline Co. (Panhandle) from the Adams 1-5 Lease, Meade County, Kans. Subsequently, Texas filed amended applications for special relief on January 24, 1977 and March 29, 1977.

Texas is an independent small producer which was issued a small producer certificate in Docket No. CS72-428 on February 3, 1972. Holding a 100 percent working interest in the lease, Texas is presently selling natural gas to Panhandle at a rate of 38.9 cents per Mcf at 14.65 psia pursuant to a contract dated September 15, 1967.

Texas requests that the Commission authorize it to collect 64 cents per Mcf for the sale of said gas. This increased rate would enable Applicant to recover its out-of-pocket costs. Texas proposes not to make any additional investment.

In a letter dated November 24, 1976 Panhandle has indicated its consent to the increased rate requested by Texas.

Notice of Texas' application for special relief was issued on January 3, 1977 and was published in the FEDERAL REGISTER. Notices of the amended applications for special relief were issued on February 11, 1977 and April 6, 1977. Panhandle filed a timely petition to intervene on January 25, 1977.

Based on an analysis of data submitted by Texas, Staff estimates that 136,334 Mcf of gas and 842 Bbls of liquids remain to be produced over a 6.99 years period. Staff concludes that the requested special relief is warranted on an out of pocket cost basis.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Texas' application for special relief is warranted and that it is in the public interest to grant this application.[1]

The Commission finds:

The application for special relief filed by Texas should be granted.

The Commission orders:

(A) As amended, the application for special relief of Texas is hereby granted.

(B) Texas is authorized to collect 64 cents per Mcf at 14.65 psia for natural gas from the Adams 1-5 Lease, Meade County, Kans., effective upon the date of issuance of this order.

(C) This authorization is subject to the following condition: Texas must file, within 30 days of the date of issuance of this order, the appropriate rate change filings in accordance with Section 154.-94 of the Commission's Regulations under the Natural Gas Act (18 CFR § 154.-94), accompanied by an executed copy of the amended contract agreement providing for the rate increase.

(D) Panhandle is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided*, however, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Proride, further*, that the admission of Panhandle in the manner provided shall not be construed as recognition by the Commission that Panhandle might be aggrieved because of any order or orders entered in this proceeding, and that Panhandle agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHLL,
Acting Secretary.

[FR Doc 77 22238 Filed 8-2 77.8.45 am]

[Docket No. RI77-16]

TEXAS ENERGIES, INC.

Order Granting Special Relief and Permitting Intervention

JULY 27, 1977.

On December 9, 1976, Texas Energies, Inc. (Texas) filed an application for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of natural gas to Panhandle Eastern Pipeline Co. (Panhandle) from the Holmes No. 1-21 Lease, Meade County, Kans., under its FPC Gas Rate Schedule No. 1, in CI73-672. Subsequently, Texas filed amended applications for special relief on January 24, 1977 and March 29, 1977.

Texas is an independent small producer which was issued a small producer certificate in Docket No. CS72-468 on February 3, 1972. Holding an 100 percent working interest in the lease, Texas is presently selling natural gas to Panhandle at a rate of 39.9 cents per Mcf at 14.65 psia pursuant to a contract dated June 29, 1956.

Texas requests that the Commission authorize it to collect $1.07 per Mcf for the sale of said gas; this increased rate would enable Texas to install compression and artifical lift equipment. Texas states without such compression the well would have to be abandoned.

In a letter dated November 24, 1976 Panhandle has indicated its consent to the increased rate requested by Texas.

Notice of Texas' application for special relief was issued on January 3, 1977 and was published in the FEDERAL REGISTER. Notices of the amended applications for special relief were issued on February 11, 1977 and April 6, 1977. Panhandle filed a timely petition to intervene on January 25, 1977.

Based on an analysis of data submitted by Texas, Staff estimates that 252,756 Mcf of gas and 2,407 Bbls. of liquids remain to be produced over a 5.33 years period. Staff concludes that the requested special relief is warranted based on its cost study.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Texas' application for special relief is warranted and that it is in the public interest to grant this application.

The Commission finds:

The application for special relief filed by Texas meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders:

(A) As amended, the application for special relief of Texas is hereby granted.

(B) Texas is authorized to collect $1.07 per mcf at 14.65 psia for natural gas from the Holmes No. 1-21 Lease, Meade County, Kans., under its Gas Rate Schedule No. 1, effective upon either the date of issuance of this order or the date the remedial work is completed, whichever is later.

(C) This authorization is subject to the following conditions: (1) Texas must file, within 30 days of the date of issuance of this order, the appropriate rate change filings in accordance with § 154.94 of the Commission's regulations under the Natural Gas Act (18 CFR § 154.94), accompanied by an executed copy of the amended contract agreement providing for the rate increase; (2) Within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein, Texas must file a statement signed by Panhandle in Docket No. RI77-16 setting forth the date on which the remedial work was completed.

(D) Panhandle is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission: *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*. That the admission of Panhandle in the manner provided shall not be construed as recognition by the Commission that Panhandle might be aggrieved because of any order or orders entered in this proceeding, and that Panhandle agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77 22239 Filed 8-2-77;8:45 am]

[Docket No. RI77-19]

TEXAS ENERGIES, INC.

Order Granting Special Relief

JULY 27, 1977.

On December 9, 1976, Texas Energies, Inc. (Texas) filed an application for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of natural gas to Transwestern Pipeline Co. (Transwestern) from the Meier Unit Well, Beaver County, Okla. The above acreage is presently covered by the Sun Oil Company FPC Rate Schedule No 122. Texas filed an amendment to its application for special relief on January 24, 1977.

Texas is an independent small producer which was issued a small producer certificate in Docket No. CS72-428 on February 3, 1972. Holding a 100 percent working interest in the lease which was purchased from Sun Oil Co., on August 1, 1976, Texas is currently operating under a gas purchase agreement between Sun Oil as seller and Transwestern Pipeline Co., as buyer dated July 10, 1958. Texas is not currently selling any gas to Transwestern as this well is presently shut-in.

Texas requests that the Commission authorize it to collect $1.30 per Mcf for the sale of said gas; this increased rate would enable Texas to install compression and artificial lift equipment. Texas states that without such equipment the well would have to be abandoned.

In a letter dated September 17, 1976 Transwestern has indicated its consent to the increased rate requested by Texas.

Notice of Texas' application for special relief was issued January 3, 1977 and was published in the FEDERAL REGISTER. Notice of the amendment to the application for special relief was issued on February 11, 1977. There were no interveners in this special relief case.

Based on an analysis of data submitted by Texas, Staff estimates that 167,780 Mcf of gas and 1,598 Bbls of liquids remain to be produced over a 4.8 year period. Staff concludes that the requested special relief is warranted on a cost basis.

After reviewing the cost to be incurred, and the reserves to be recovered we determine that Texas' application for special relief is warranted and that it is in the public interest to grant this application.

The Commission finds:

The application for special relief filed by Texas meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations.

[1] While the petition does not meet the criteria of § 2.76 because there is no additional investment involved, the data presented justifies special relief on an out-of-pocket cost basis.

The Commission orders:

(A) As amended, the application for special relief of Texas is hereby granted.

(B) Texas is authorized to collect $1.30 per Mcf at 14.65 psia for natural gas from the Meier Unit Well, Beaver County, Okla., effective upon either the date of issuance of this order or the date the remedial work is completed, whichever is later.

(C) This authorization is subject to the following conditions: (1) Texas must file, within 30 days of the date of issuance of this order, the appropriate rate change filings in accordance with § 154.94 of the Commission's regulations under the Natural Gas Act (18 CFR § 154.94), accompanied by an executed copy of the amended contract agreement providing for the rate increase; (2) within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein, Texas must file a statement signed by Transwestern in Docket No. RI77-19 setting forth the date on which the remedial work was completed.

(D) The acreage described as the Meier Unit Well, Beaver County, Oklahoma is deleted from the Sun Oil Company FPC Rate Schedule No. 122 and Docket No. G-15791.

(E) The provisions of Section 157.40(c) are hereby waived to the extent necessary to permit the subject sale to be made under Texas' small producer certificate at the rate provided herein.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22240 Filed 8-2-11:8 45 am]

[Docket No. RI77-17]

TEXAS ENERGIES, INC.

Order Granting Special Relief and Permitting Intervention

JULY 27, 1977.

On December 9, 1976, Texas Energies, Inc. (Texas) filed an application for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas to Panhandle Eastern Pipeline Company (Panhandle) from the Peters 1-A Lease, Seward County, Kansas. Subsequently, Texas filed an amendment to its application for special relief on January 24, 1977.

Texas is an independent small producer which was issued a small producer certificate in Docket No. CS72-428 on February 3, 1972. Holding a 100 percent working interest in the lease, Texas is presently selling natural gas to Panhandle at a rate of 37.6 cents per Mcf at 14.65 psia pursuant to a contract dated December 19, 1960.

Texas requests that the Commission authorize it to collect $1.15 per Mcf for the sale of said gas; this increased rate would enable Texas to install equipment which would provide continuous compression. Texas states that without such compression the well would have to be abandoned since the line pressure would exceed well head pressure.

In a letter dated November 24, 1976, Panhandle has indicated its consent to the increased rate requested by Texas.

Notice of Texas' application for special relief was issued on January 3, 1977 and was published in the FEDERAL REGISTER. Notice of the amendment of the application for special relief was issued on February 11, 1977. Panhandle filed a timely petition to intervene on January 25, 1977.

Based on an analysis of data submitted by Texas, Staff estimates that 175,666 Mcf of natural gas and 59 BBls of liquids remain to be produced over a 3.5 years period. Staff concludes that the requested special relief is warranted on a cost basis.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Texas' application for special relief is warranted and that it is in the public interest to grant this application.

The Commission finds: The application for special relief filed by Texas meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) As amended, the application for special relief of Texas is hereby granted.

(B) Texas is authorized to collect $1.15 per Mcf at 14.65 psia for natural gas from the Peters 1-A Lease, Seward County, Kansas, effective upon either date of issuance of this order or the date the remedial work is completed, whichever is later.

(C) This authorization is subject to the following conditions: (1) Texas must file, within 30 days of the date of issuance of this order, the appropriate rate change filings in accordance with § 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94), accompanied by an executed copy of the amended contract agreement providing for the rate increase; (2) Within 30 days of the effective date provided in Ordering Paragraph (A) above for the rate authorized herein, Texas must file a statement signed by Panhandle in Docket No. RI77-17 setting forth the date on which the work was completed.

(D) Panhandle is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; Provided, however, That its participation shall be limited to matters affecting asserted rights and interest specifically set forth in its petition for leave to intervene, and Provided, further, That the admission of Panhandle in the manner provided shall not be construed as recognition by the Commission that Panhandle might be aggrieved because of any order or orders entered in this proceeding, and that Panhandle agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22246 Filed 8-2-77;8:45 am]

[Docket No. ER77-254]

UTAH POWER & LIGHT CO.

Proposed Tariff Changes and Agreements

JULY 27, 1977.

Take notice that Utah Power & Light Company ("The Company") on May 5, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, together with resale service agreements with each of the following named customers all providing for service under the Company's FPC tariff rate RS-2:

Brigham City, Utah, (dated August 2, 1973); Levan, Utah, (dated March 10, 1976); Murray City, Utah, (dated October 3, 1973); Nephi City, Utah, (dated September 18, 1973); Springville City, Utah, (dated August 6, 1973); and Strawberry Water Users Association, Springville, Utah, (dated March 26, 1975).

The Company states that the customers under the agreements are receiving the bulk of their power and energy supplies from the U.S. Government ("CRSP") and that the customers now require amounts of power and energy which they cannot acquire from that source. The Company indicates that its system is presently interconnected with each of the customer's systems and no facilities have been installed or modified in order to render this resale service. The Company states that the customers are presently unable to receive their requirements for power and energy from CRSP and therefore are receiving service under agreements subject to FPC approval and the Company has therefore requested a waiver of the notice requirements to allow these agreements to go into effect on the dates noted above.

Copies of the filing have been mailed to each of the customers named above and to the Public Service Commission of Utah, according to the Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before August 12, 1977. All such petitions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the Proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22245 Filed 8-2-77;8:45 am]

[Docket No. ER76-92]

WESTERN POWER DIVISION, CENTRAL TELEPHONE & UTILITIES CORP.

Order Approving Settlement Agreement

JULY 26, 1977.

On April 20, 1977, Western Power Division, Central Telephone and Utilities Corporation (CTU) filed a motion for an order approving a stipulation and agreement and proposed settlement of proposed increased rates for service to its REA cooperative and municipal wholesale customers.[1]

CTU on August 29, 1975, submitted for filing increased rates for service to its ten full requirements REA cooperatives, 13 full requirements municipals, eight partial requirements municipal customers and one partial requirement cooperative. By letter dated September 24, 1975, the Secretary of the Commission informed CTU that its filing failed to meet the Commission's Requirements as to timeliness of the test period. In response to the Secretary's deficiency notice the Company filed a revised cost of service and related testimony on January 27, 1976. CTU in revising its cost of service exhibits and related testimony included construction work in progress (CWIP) in the rate base.

By Commission Order dated February 20, 1976, the Commission permitted the rate increases to become effective February 23, 1976, subject to refund, but ordered CTU to file revised rate schedules reflecting reduced rates based on the elimination of CWIP from the rate base and to make refunds of the differences between those rates and the rates permitted to become effective February 23, 1976. CTU, by letter dated April 6, 1976, submitted revised rate schedules based upon the elimination of CWIP from the rate base. The proposed revised rate schedule was identified as being deficient by Secretary letter of June 1, 1976. On July 12, 1976, CTU submitted a motion for reconsideration of the June 1st deficiency letter, or in the alternative, for permission to withdraw the proposed rate schedule for service to its partial requirements cooperative customer. On August 17, 1976, the Commission denied the motion for reconsideration, but granted CTU's motion to withdraw whereupon CTU filed a second revised rate schedule and accompanying cost of service, reflecting reduced rates. These latter rates were accepted for filing by letter dated November 12, 1976. In compliance with the Commission Orders of February 20, 1976 and August 17, 1976, CTU made refunds to its wholesale customers.

[1] Ark Valley Electric Cooperative, C&W Rural Electric, CMS Electric Cooperative, NCK Electric Cooperative, Jewell-Mitchell Cooperative, Ninnescah, Norton-Decatur, Smoky Hill, Sumner-Cowley, Victory, Cawker City, Cimarron, Coats, Glasco, Glen Elder, Holyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma, Tipton, the Interconnected Municipal Utilities of Anthonly, Attica, Beloit, Hoisington, Kingman, Pratt, Russell and Washington; and Central Kansas Electric Cooperative.

Staff on October 27, 1976, filed cost of service Top Sheets. On November 5, 1976, and January 7, 1977, settlement conferences were held; and as a result of the conferences, parties were able to reach settlement on all issues as represented by the stipulation and agreement of settlement filed on April 20, 1977. The proposed settlement would reduce the originally proposed increased rates from $1,301,038 to $455,040. In addition, proposed settlement provides (1) settlement rates to become effective February 23, 1976; (2) the proposed settlement rates will not be changed prior to June 30, 1977; (3) CTU will make refunds for past collections, not already refunded in excess of the settlement rates with interest at 9 percent per annum and (4) service contracts to municipal customers will contain no restrictive language as to ultimate use of purchased energy.

The Presiding Administrative Law Judge certified the proposed settlement agreement and record to the Commission by notice issued April 26, 1977. No comments in opposition have been filed.

Based upon our review of the record in these proceedings including the settlement agreement itself, the filings, documents and pleadings submitted, we conclude that the settlement agreement represents a reasonable resolution of the issues in Docket No. ER76-92 and such settlement is in the public interest. Accordingly the stipulation and agreement of settlement filed in this docket on April 20, 1977, should be approved. The proposed settlement hereinafter approved by this order approves an increase in rates less than the amount indicated as reasonable by Staff (9.09 percent overall rate of return including 12.5 percent return on common equity). The settlement results in a return on common equity of 11.5 percent.

The Commission finds: The stipulation and agreement of settlement filed by Western Power Division, Central Telephone and Utilities Corporation on April 20, 1977, as is applies to electric service to its REA cooperative and municipal wholesale customers should be approved and made effective as hereinafter ordered.

The Commission orders: (A) the negotiated stipulation and agreement of settlement file by Western Power Division, Central Telephone and Utilities Corporation in this docket on April 20, 1977, is hereby approved and made effective as of February 23, 1976.

(B) In accordance with the terms of the stipulation and settlement agreement and consistent with the Commission's Regulations, CTU is hereby directed to refund the difference in revenues collected under the rates made effective February 23, 1976, and the revenues authorized to be collected pursuant to the terms of the stipulation and settlement agreement filed on April 20, 1977, with interest at 9% per annum. The total refund amount due shall be reduced by the amounts previously refunded by CTU to its wholesale customers on April 23, 1976, and December 22, 1976.

(C) CTU is hereby directed pursuant to Section 35.1(a) of the Commission's Regulations to file within 30 days the revised tariff sheets and rate schedules appended to the approved stipulation and agreement of settlement.

(D) CTU is hereby directed to file a compliance report within 15 days after refunds have been made, such report to show the monthly billing determinants and the revenues under prior, present and settlement rates. The report should also show the monthly settlement increase, the monthly revenue refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished by CTU to each State Commission within whose jurisdiction the wholesale customer distributes and sells all electric energy at retail.

(E) This order is without prejudice to any findings or orders which may have been made or which will hereafter be made by the Commission, and is without prejudice to any claim or contentions which may be made by the Commission, the Staff, or any party or persons affected by the Order against CTU or any person or party.

(F) The Secretary of the Federal Power Commission shall cause prompt publication of this Order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22249 Filed 8-2-77;8:45 am]

FEDERAL RESERVE SYSTEM

COMMERCE BANCSHARES, INC

Request for Determination and Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Commerce Bancshares, Inc. ("Commerce"), Kansas City, Mo., for a determination that Commerce, directly or indirectly through its subsidiary, Commerce Bank of Kansas City, N.A., Kansas City, Mo., or through its ability to control any other person, is not and will not be, in fact, capable of controlling the Kemper Investment Co. or Tower Properties Co., both of Kansas City, Mo., corporations to which Commerce transferred certain property in 1971 and 1972, notwithstanding the fact that James M. Kemper, Jr., is an officer and director of Commerce and both transferee corporations.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees,

or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than August 25, 1977. If a request for oral hearing is filed, it should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board will subsequently designate a time and place for any hearing it orders, and will give notice of such hearing to Commerce, the transferees, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, July 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-22263 Filed 8-2-77;8:45 am]

FIRST CHARTER FINANCIAL CORP.

Retention of Bank Shares

First Charter Financial Corporation, Syracuse, Ind., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 882 voting shares of State Bank of Syracuse, Syracuse, Ind., representing an increase in its ownership from approximately 48.8 percent to approximately 51.5 percent of the voting shares of that bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 25, 1977.

Board of Governors of the Federal Reserve System, July 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22264 Filed 8-2-77;8:45 am]

NORTHWEST ILLINOIS BANCORP, INC.

Formation of Bank Holding Company

Northwest Illinois Bancorp., Inc., Freeport, Ill., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to State Bank of Freeport, Freeport, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 24, 1977.

Board of Governors of the Federal Reserve System, July 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22265 Filed 8-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON BLACK HIGHER EDUCATION AND BLACK COLLEGES AND UNIVERSITIES

Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the initial meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. It also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATES: September 12, 13, and 14, 1977, 9 a.m. to 5 p.m.

ADDRESS: Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Room 4918, ROB-3, 7th and D Streets SW., Washington, D.C. 20202, AC 202-245-2825.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees.

The committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commissioner of Education. The Committee shall examine all approaches to higher education of black Americans as well as the needs of historically black colleges and universities and in particular shall advise and make recommendations in these areas:

(1) In the identification of the several courses of action to raise substantially the participation of blacks in all terms of productive postsecondary education;

(2) In the development of alternatives sensitive to the special needs, deprivations, and aspirations of black youths;

(3) In the analysis of and planning for the future role and healthy development of the historically black colleges and their relationship to expanding the numbers of blacks enrolled in higher education nationally and regionally;

(4) In the development of a research base to support the definition of equity, the expansion of existing research, and the commissioning of original empirical research;

(5) In the stimulation and encouragement of more scholarship and research by blacks on questions of public policy relating to the educational needs of blacks and the promotion of these results at the Federal, regional, and State levels;

(6) In the evaluation and monitoring of the impact of Federal, regional, or State efforts in the public and private sectors in improving the status of blacks in higher education;

(7) In the evaluation and monitoring of current and developing Federal, regional, or State policies designed to equalize educational opportunities for blacks and improve access for large numbers of blacks in higher education;

(8) In the development of approaches to the financing of the neediest students and the institutions with the heaviest concentrations of blacks;

(9) In the development of means to increase access, retention, and graduation of blacks from institutions of higher education;

(10) In the development of alternative ways of increasing the numbers of blacks entering and completing graduate and professional degree programs;

(11) In recommending a twenty five year plan for increasing the quality of black higher education and the number of black Americans able to participate more fully in American society because they have successfully completed such education;

(12) In the assessment of the resultant implementation of policy decisions and recommendations.

The meeting on September 12, 13, and 14, 1977 will be open to the public beginning at 9 a.m. and ending at 5 p.m. each day. The meeting will be held at the Embassy Row Hotel, Washington, D.C. 20036.

The proposed agenda includes:

(1) Organization of the Committee.

(2) Discussion of methods of carrying out the above functions.

(3) Determination of program and priorities.

(4) Plans for future action.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 7th and D Streets SW., Room 4913, ROB-3, Washington, D.C. 20202.

Signed at Washington, D.C., on July 29, 1977.

CAROL J. SMITH,
Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc.77-22306 Filed 8-2-77;8:45 am]

Health Care Financing Administration

HEALTH INSURANCE PROGRAM

Schedule of Guidelines for Physical Therapy Services Under Health Insurance Program

Notice is hereby given that the updated schedule of guidelines for evaluating the costs of physical therapy services furnished under arrangements in the Medicare program has been established by the Administrator of the Health Care Financing Administration.

Section 1861(v)(5) of the Social Security Act, implemented by Part 405, Chapter III of Title 20 of the Code of Federal Regulations, § 405.432, requires the Medicare program to establish criteria for determining the reasonable cost of services furnished under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. The initial guidelines were issued to evaluate the cost of physical therapy services furnished under arrangements inasmuch as physical therapy is the most common therapy service obtained under arrangements.

The previous schedules of guidelines for physical therapy services were based on data from the August 1972 Bureau of Labor Statistics Triennial Industry Wage Survey of Hospitals. These data were updated from the BLS Employment and Earnings Bulletin, Line SIC-806, for hospitals. The initial schedule of guidelines was published in the FEDERAL REGISTER on February 7, 1975 (40 FR 5810), and was effective for provider cost reporting periods beginning on or after April 1, 1975. An updated schedule of guidelines was published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7542), effective for provider cost reporting periods beginning on or after April 1, 1976. A revision in the effective date of this updated schedule was published in the FEDERAL REGISTER on August 30, 1976 (41 FR 36531) specifying that the guidelines would be applied to all physical therapy services performed on or after April 1, 1976, without regard to the beginning dates of providers' cost reporting periods.

A new schedule of guidelines has been prepared, using the same methodology as the original schedule, but based on data from the latest BLS Industry Wage Survey in Hospitals conducted in August 1975 and January 1976. These data have also been updated from the most currently available BLS Employment and Earnings Bulletin, Line SIC-806, for hospitals.

This revised schedule of physical therapy guidelines will be effective for physical therapy services performed on or after October 1, 1977 without regard to the beginning dates of providers' cost reporting periods, and will remain in effect until the effective date of any revised schedule that may be published.

Schedule of guidelines for physical therapy services furnished under arrangements; adjusted hourly salary equivalency amounts and standard travel allowances for qualified physical therapists (full time, regular part time, or home visits) effective for services furnished on or after ------ 1, 1977

[This schedule is not to be used for physical therapy assistants or aides]

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$10.40	$5.20
Alaska[1]	15.20	7.60
Arizona	12.20	6.10
Arkansas	10.10	5.05
California	12.20	6.10
Colorado	10.10	5.05
Connecticut	10.20	5.10
Delaware	12.20	6.10
District of Columbia	11.10	5.55
Florida	11.10	5.55
Georgia	9.80	4.90
Hawaii[2]	14.30	7.15
Idaho	11.10	5.55
Illinois	11.10	5.55
Indiana	11.30	5.65
Iowa	10.10	5.05
Kansas	10.10	5.05
Kentucky	10.70	5.35
Louisiana	10.10	5.05
Maine	10.20	5.10
Maryland	10.70	5.35
Massachusetts	10.20	5.10
Michigan	11.90	5.95
Minnesota	10.70	5.35
Mississippi	10.40	5.20
Missouri	9.90	4.95
Montana	10.10	5.05
Nebraska	10.10	5.05
Nevada	12.20	6.10
New Hampshire	10.20	5.10
New Jersey	12.20	6.10
New Mexico	10.10	5.05
New York	12.50	6.25
North Carolina	10.70	5.35
North Dakota	10.10	5.05
Ohio	11.10	5.55
Oklahoma	10.10	5.05
Oregon	11.70	5.85
Pennsylvania	11.30	5.65
Rhode Island	10.20	5.10
South Carolina	10.40	5.20
South Dakota	10.10	5.05
Tennessee	10.20	5.10
Texas	10.10	5.05
Utah	10.10	5.05
Vermont	10.20	5.10
Virginia	10.70	5.35
Washington	10.40	5.20
West Virginia	10.70	5.35
Wisconsin	10.80	5.40
Wyoming	10.10	5.05

[1] Adjusted for 25 pct salary differential.
[2] Adjusted for 17.5 pct salary differential.

(Sections 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 313, as amended, 79 Stat. 331; (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), 1395h(h), sec. 17(a), Pub. L. 93-233, 87 Stat. 967.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged — Supplementary Medical Insurance.)

Dated: July 28, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-22276 Filed 8-2-77;8:45 am]

National Institutes of Health

NIH CONSENSUS COMMITTEE FOR BREAST CANCER SCREENING (TEMPORARY)

Establishment

The Director, National Institutes of Health, announces the establishment on July 19, 1977, of the advisory committee indicated below by the Acting Director, National Cancer Institute, under the authority of Section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act (Public Law 92-463) setting forth standards governing the establishment and use of advisory committees.

NAME: NIH Consensus Committee for Breast Cancer Screening (Temporary).

PURPOSE: The Committee shall advise the Director, NIH, and the Director, NCI, concerning the use of X-ray mammography for screening women to detect early breast cancer. Authority for this committee will expire on December 31, 1977.

Dated: July 29, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-22398 Filed 8-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

MARKETING POLICY FORMULATION

Procedure for Public Participation

The Bonneville Power Administration (BPA) seeks the comments and recommendations of the public on the following proposed procedure for involving the public in formulating BPA marketing policy:

1. *Purpose and scope.* The purpose of this procedure is to enable individuals and organizations, public and private, whose interests will be substantially impacted by Bonneville Power Administration (BPA) decisions or actions to participate in development of BPA Marketing Policies, as defined in the following section 2, prior to BPA's determination of Marketing Policies. The procedure shall apply to Marketing Policy formulation, and not implementation.

2. *Definitions*—a. *Administrator.* The BPA Administrator.

b. *Customer.* A person or entity whose interests the Responsible Official determines will be substantially affected by the Proposed Marketing Policy and who currently is purchasing, exchanging, transferring, assigning, or selling electric power and energy, related services, or transmission capability to, with, or from BPA.

c. *Marketing policy.* A policy which allocates electric energy or capacity available on the Federal Columbia River Power System, or a policy the Administrator determines will, over a period of years, significantly affect or alter the manner in which BPA implements its

statutory authority to sell, exchange, otherwise dispose of, or acquire electric power and energy, or provide forced outage reserves, load factoring service, transmission service, or delay of plant reserves.

d. *Proposed marketing policy.* One under consideration for adoption as a Marketing Policy.

e. *Notice.* The method by which Customers and the Public shall be informed of BPA's intention to develop a new or revised Marketing Policy, a Proposed Marketing Policy, a revision of a Proposed Marketing Policy, a Marketing Policy, public comment and information forums, and procedures for adopting a Marketing Policy. Notice shall be by and effective on publication in the FEDERAL REGISTER. The Responsible Official may also direct that Notice be published in a general circulation newspaper in the BPA marketing area and mailed to Customers and the Public identified by the Responsible Official. Notice shall include the name, address, and telephone number of the person to contact if participation or further information is sought. Notices may be combined.

f. *Public.* Any person who, or group or entity which has or could have, a direct and significant interest in the BPA Marketing Policy.

g. *Responsible Official.* The BPA employee designated by the Administrator on initiating this procedure to be responsible for formulating the specified Marketing Policy.

h. *Staff evaluation.* A written evaluation by the BPA staff of the Transcript for a Proposed Marketing Policy. It shall include a review of the studies used in developing a revised Proposed Marketing Policy or Marketing Policy, and shall indicate revisions and reasons for them. The evaluation shall become part of the Transcript.

i. *Transcript.* The transcribed record of any forums provided for in the following sections 5 and 6, to include documents introduced at such forums; all written comments, questions, and answers thereto; all technical, theoretical, and empirical studies used in developing the Marketing Policy, and other information the Responsible Official determines is relevant.

3. *Decision to Formulate a Marketing Policy and Notice of Intent.* When the Administrator decides a new or revised Marketing Policy is needed, BPA shall give Notice of its intent at least 30 days prior to giving Notice of the Proposed Marketing Policy pursuant to the following section 4. BPA shall indicate the extent that any existing policy would be revised in developing a new Marketing Policy. BPA shall solicit written comments and proposals to use in formulating the Proposed Marketing Policy.

4. *Proposed Marketing Policy.* BPA shall give Notice of the Proposed Marketing Policy stating in it: The subject and purpose of and the legal authority for the Proposed Marketing Policy and the major issues it will raise; the text of the Proposed Marketing Policy; the date, time, and location of any scheduled public information and comment forums; and the list of technical, theoretical, and empirical studies used in developing the Proposed Marketing Policy and locations at which BPA would make them available for inspection or copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

5. *Optional Public Information Forum.* The Responsible Official shall determine whether public information forums will be held to explain the Proposed Marketing Policy and the studies used in its formulation, and answer questions and receive comments. The Responsible Official shall determine the number, if any, and locations of such forums in accordance with interest shown in the Proposed Marketing Policy. Notice to be given in advance of any such forum shall include the purpose, date, time, place, and procedures for any such forum.

The Responsible Official shall act as or appoint a forum chairman. Questions raised at the forum shall be answered by BPA representatives at the forum, a subsequent forum at the same location, or in writing. Forum proceedings shall be transcribed. All documents introduced, and questions and written answers shall be part of the Transcript which shall be available for inspection or copying in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552.

6. *Public Comment Forum.* A public comment forum shall be held to permit Customers and the Public to submit written comments and orally present views and proposals regarding the Proposed Marketing Policy. Notice to be given at least 30 days in advance of the forum shall include the purpose, date, time, place, and procedures for the forum, and a statement of what technical, theoretical, and empirical studies used in developing the Proposed Marketing Policy are available and their location.

The Responsible Official shall determine the number and locations of such forums in accordance with interest shown in the Proposed Marketing Policy. The Responsible Official shall act as or appoint a forum chairman. At the start of a forum the chairman shall briefly explain procedures and rules.

Notwithstanding any additional rules or procedures it might develop, BPA shall allow Customers and the Public to make oral statements and comments, introduce relevant documents, and ask questions of BPA representatives at the forum. Persons interested in speaking shall notify BPA at least 3 days before a forum so a witness list can be prepared. The chairman may permit others to speak if time allows. The chairman, BPA representatives and, at the discretion of the chairman, witnesses may question witnesses. Time limits may be set for oral presentations and questioning witnesses. Witnesses may supplement oral presentations by filing written testimony or comments with the chairman.

Questions not answered during a forum shall be answered in writing no later than the effective date of the Notice of either a revised Proposed Marketing Policy as provided in the following section 9 or, if a revised Proposed Marketing Policy is not developed, the Marketing Policy as provided in the following section 10. Forum proceedings shall be transcribed. All documents introduced, and written answers to questions shall be part of the Transcript which shall be available for inspection and copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

7. *Consultation and Comment Period.* Customers and the Public may file written comments and questions with BPA regarding the Proposed Marketing Policy until at least 15 days after the last public comment forum. Written comments, questions and answers shall be part of the Transcript.

8. *Staff Evaluation.* Following the consultation and comment period, BPA shall prepare a Staff Evaluation of the Transcript.

9. *Revised Proposed Marketing Policy and Review Period for Revised Proposed Marketing Policy.* If appropriate, BPA shall develop a revised Proposed Marketing Policy following the Staff Evaluation of the Transcript and give Notice of the revision and any studies used in developing the revised Proposed Marketing Policy not available at the date of the initial public comment forum. Customers and the Public shall be given at least 30 days from the effective date of Notice of the revised Proposed Marketing Policy to submit written comments to BPA before the Administrator adopts, modifies and adopts, or rejects the revised Proposed Marketing Policy, or submits the Proposed Marketing Policy to the Federal Power Commission (FPC) for confirmation and approval as provided in the following section 10. The comments shall become part of the Transcript.

10. *Final Marketing Policy Issued.* Following the Staff Evaluation of the Transcript, the Administrator shall decide whether to adopt, modify and adopt, or reject the Marketing Policy. Documentation of the decision shall include the purpose of and the legal authority for the Marketing Policy, findings of fact, conclusions, and the primary objections to the Proposed Power Marketing Policy submitted by Customers or the Public with brief explanations for rejecting those objections, which shall, with the Staff Evaluation, be part of the Transcript. BPA shall give Notice of the Marketing Policy adopted. It shall be Notice or at a later date specified by the Administrator.

11. *Emergency Marketing Policy Implementation.* If the Administrator determines prior to initiation or completion of the foregoing procedure that a delay in implementing a Marketing Policy will adversely affect BPA, its Customers, or the Public, the Administrator may implement the Marketing Policy on an interim basis until this procedure is completed.

For further information, contact Harvard P. Spigal, Bonneville Power Administration, Department of the Interior, P.O. Box 3621, Portland, Oregon 97208 (503-234-3361 Ext. 5155). Submit written comments and recommendations to Harvard P. Spigal at the above address no later than October 3, 1977. BPA will publish a final procedure in the FEDERAL REGISTER on or about October 17, 1977.

Dated: July 28, 1977.

DONALD PAUL HODEL,
Administrator.

[FR Doc.77-22335 Filed 8-1-77;11:43 am]

Bureau of Land Management

[S 2745]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 26, 1977.

1. The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. S 2745 on July 8, 1969, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 37 N., R. 7 E.,
Sec. 4, SW¼SE¼;
Sec. 10, NW¼SW¼ and S½SW¼;
Sec. 11, NW¼NW¼.
T. 38 N., R. 7 E.,
Sec. 4, Lots 2, 3, and 4.
T. 39 N., R. 7 E.,
Sec. 3, NW¼SW¼ and S½SW¼;
Sec. 10, NE¼, E½NW¼, NE¼SW¼, E½SE¼, and NW¼SE¼;
Sec. 11, NW¼ and W½SW¼;
Sec. 24, E½NE¼ and NE¼SE¼;
Sec. 33, E½NE¼, SW¼NE¼, and SE¼;
Sec. 34, NE¼SW¼.
T. 40 N., R. 7 E.,
Sec. 1, Lots 3 and 4, SE¼NW¼, E½SW¼, and SW¼SW¼;
Sec. 2, Lots 1, 2, and 4, SW¼NE¼, SW¼NW¼, N½NW¼SW¼, and E½SE¼SW¼;
Sec. 3, Lots 1 and 2, S½NE¼, and SE¼;
Sec. 26, N½NW¼.
T. 41 N., R. 7 E.,
Sec. 24, SE¼;
Sec. 25, NE¼NE¼, W½NE¼, NW¼, W½SW¼, SE¼SW¼, and S½SE¼;
Sec. 26, Lots 3 and 4, SW¼, and NW¼SE¼;
Sec. 27, SW¼SW¼ and E½E½SE¼;
Sec. 34, N½NE¼, SE¼NE¼, W½, and NE¼SE¼;
Sec. 35, Lot 2, SW¼NE¼, NW¼NW¼, and SE¼.
T. 37 N., R. 8 E.,
Sec. 5, SE¼NW¼ and E½SW¼;
Sec. 8, NE¼NW¼.
T. 38 N., R. 8 E.,
Sec. 32, E½SW¼.
T. 39 N., R. 8 E.,
Sec. 8, E½SW¼;
Sec. 19, Lot 3 and NE¼SW¼;
Sec. 25, SW¼SE¼.
T. 41 N., R. 8 E.,
Sec. 1, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, S½SW¼, and N½SE¼;
Sec. 2, Lots 1, 2, 3, and 4, S½NE¼, S½NW¼, and S½;
Sec. 10, E½SE¼;
Sec. 11, E½ and SW¼;
Sec. 12, N½;
Sec. 14, NW¼;
Sec. 15, All;
Sec. 16, SE¼;
Sec. 19, Lots 3 and 4, E½SW¼, and NE¼SE¼;
Sec. 20, E½SW¼;
Sec. 21, NE¼, N½SW¼, SW¼SW¼, and N½SE¼;
Sec. 22, NE¼, NE¼NW¼, W½SW¼, E½SE¼, and NW¼SE¼;
Sec. 26, N½NE¼ and N½N½NW¼;
Sec. 27, SW¼NE¼, SE¼NW¼, S½SW¼, and SE¼;
Sec 28, W½NW¼ and SE¼NW¼;
Sec. 29, NE¼, E½NW¼, NW¼NW¼, and S½SW¼;
Sec. 30, Lots 1, 2, and 4, NE¼NW¼, SE¼SW¼, and SE¼;
Sec. 31, Lots 1 and 2, NE¼, and E½NW¼;
Sec. 32, N½ and SE¼;
Sec. 33, All;
Sec. 34, W½;
Sec. 35, SW¼NW¼ and S½SE¼NW¼;
Sec. 36, S½SW¼.
T. 42 N., R. 8 E.,
Sec. 35, E½SE¼;
Sec. 36, SW¼.
T. 39 N., R. 9 E.,
Sec. 19, NW¼NE¼.
T. 41 N., R. 9 E.,
Sec. 6, Lot 6 and E½SW¼;
Sec. 7, Lots 2, 3, and 4, N½NE¼, SE¼NE¼, E½SW¼, and NE¼SE¼;
Sec. 8, N½SW¼, N½SW¼SW¼, and N½SE¼;
Sec. 9, W½SE¼ and SE¼SE¼;
Sec. 16, E½NE¼ and SW¼NW¼;
Sec. 17, NE¼, S½NW¼, and SW¼;
Sec. 18, Lots 1 and 2, W½NE¼, SE¼NE¼, and E½NW¼.

The above described areas aggregate approximately 13,546 acres of Federal land, of which approximately 11,474 acres (in Tps. 40, 41, and 42 N., Rs. 7, 8, and 9 E.) are in the Modoc National Forests.

2. The applicant desires the withdrawal of the following described lands from location and entry under the mining laws, but not the mineral leasing laws, as these lands are patented, having been patented under the Stockraising Homestead Act of December 29, 1916 (39 Stat. 862), as amended, with a reservation of all minerals to the United States.

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 39 N., R. 7 E.,
Sec. 2, Lot 4 and SW¼NW¼;
Sec. 3, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 10, W½NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 15, W½SE¼.
T. 40 N., R. 7 E.,
Sec. 11, S½NW¼ and SW¼.
T. 38 N., R. 8 E.,
Sec. 20, S½SE¼;
Sec. 29, SE¼SW¼;
Sec. 32, NE¼NW¼ and S½NW¼.
T. 39 N., R. 8 E.,
Sec. 6, E½SE¼;
Sec. 8, NW¼SW¼;
Sec. 15, SW¼ and N½SE¼.
T. 40 N., R. 8 E.,
Sec. 31, Lots 1 and 2, NE¼, NE¼NW¼, and N½SE¼.
T. 39 N., R. 9 E.,
Sec. 19, NE¼NE¼.
T. 41 N., R. 9 E.,
Sec. 3, SE¼.

The above described lands aggregate approximately 2,236 acres.

The applicant desires all of the aforedescribed lands for the facilities of the multi-purpose Allen Camp Unit Project, Pit River Division, Central Valley Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 5, 1969, pages 14083 and 14084, F.R. Doc. 69-10587.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage way, Sacramento, California 95825, on or before September 5, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 5, 1977.

The lands described in paragraph 1 are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2); the lands described in paragraph 2 are temporarily segregated from the mining laws (30 U.S.C., Ch. 2) to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77-22293 Filed 8-2-77;8:45 am]

[SAC 072929]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. SAC 072929 on Septem-

ber 6, 1962, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIF.

T. 32 N., R. 6 W.,
Sec. 27, Lots 77, 78, 79, 80, 81, 82, 83, 84, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 117, 118, 119, 120, 121, 122, 123, and 124.

The area described aggregates 72.45 acres in Shasta County, Calif.

The applicant desires that the land be reserved for the conduit route of the Clear Creek South Unit, Trinity River Division, Central Valley Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 30, 1962, pages 11821 and 11822, FR Doc. 62–11819.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77–22292 Filed 8–2–77;8:45 am]

[NM 31035]

NEW MEXICO

Application

JULY 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 14 W.,
Sec. 12, lot 4, SW¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 0.495 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief Branch of Lands and Minerals Operations.

[FR Doc.77–22294 Filed 8–2–77;8:45 am]

[Wyoming 60185]

WYOMING

Application

JULY 27, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), Stauffer Chemical Co. of Wyoming, Green River, Wyo., filed an application for a 4-inch lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 99 W.,
Sec. 26, W½NW¼.

The pipeline will transport natural gas from an existing well in the SW¼ of sec. 23, T. 21 N., R. 99 W. to a point on an existing pipeline in sec. 27, T. 21 N., R. 99 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–22313 Filed 8–2–77;8:45 am]

[Wyoming 60186]

WYOMING

Application

JULY 27, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 21 N., R. 94 W.,
Sec. 32, S½SW¼.

The pipeline will transport natural gas from an existing well into Colorado Interstate's natural gas gathering system located in Sweetwater County, Wyo. The proposed 4-inch O.D. natural gas pipeline would extend from an existing well in sec. 31, T. 21 N., R. 94 W. to the point of connection with an existing line in sec. 32, T. 21 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–22314 Filed 8–2–77;8:45 am]

[Serial No. I–7370]

IDAHO

Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I–7370, for withdrawal and reservation of lands was published as FEDERAL REGISTER Document No. 73–26298 on page 34215 of the issue for December 12, 1973. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Subpart 2091, such lands will be at 10:00 a.m. on August 29, 1977 relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN, ST. JOE NATIONAL FOREST, FORTY-NINE MEADOWS ROAD NO. 760

T. 43 N., R. 4 E.,
Sec. 1: SE¼SE¼.

A strip of land 100 feet in width, being 50 feet in width on both sides of the centerline over and across the above-cited subdivision.

The area described aggregates 0.08 acres, more or less, in Shoshone County.

DONALLY RIDGE ROAD NO. 1999

T. 45 N., R. 4 E.
Sec. 28: NE¼NE¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline over and across the above-cited subdivision.

The area described aggregates 3.03 acres, more of less, in Shoshone County.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.77–22218 Filed 8–2–77;8:45 am]

TEXAS

Application

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185), as amended Pub. L. 93–153 (87 Stat. 576) on November 16, 1973, Dow Chemical Co., a Delaware corporation, has applied for relocation of a portion of an existing 8" Nominal Diameter Natural Gas Pipeline right-of-way that will cross a part of the San Bernard National Wildlife Refuge situated along the shoreline of the Gulf of Mexico in Calvin Sumrall, A–368 and Joseph H. Gamble, A–194 Surveys and south of Cedar Lakes, Brazoria County, Tex.

The relocated pipeline will carry natural gas across 1.14 miles of the San Bernard National Wildlife Refuge.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views, should do so within thirty (30) days and send their name and address to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103.

JERRY L. STEGMAN,
Deputy Regional Director, U.S. Fish and Wildlife Service.

JULY 25, 1977.

[FR Doc.77–22298 Filed 8–2–77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. CARROLS DEVELOPMENT CORP., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the *Antitrust Procedures and Penalties Act*, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a competitive statement as set out below have been filed with the United States District Court for the Northern District of New York in *United States of America* v. *Carrols Development Corporation and Triple Schuyler Rome Corporation* Civil No. 76 CV 170. The complaint in the case alleges that the acquisition by Carrols Development Corporation (Carrols) of the motion picture theatres in Syracuse and Utica, New York, operated by Kallet Realty Inc. and its subsidiaries (Kallet), and the acquisition by Carrols of the motion picture theatres in Utica, New York, operated by Hallmark Releasing Corp. (Hallmark), substantially lessened competition in the purchase of licenses to exhibit feature motion pictures in the Greater Syracuse and Greater Utica Areas. The proposed judgment requires Carrols to divest the theatres which it acquired from Kallet and Hallmark. It also enjoins Carrols, for ten years, from acquiring any operating motion picture theatre in the Greater Syracuse or Greater Utica Areas without the approval of the Government.

Public comment is invited on or before September 30, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Bernard Wehrmann, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, New York 10007.

Dated: July 25, 1977.

JOHN H. SHENEFIELD,
Acting Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Carrols Development Corporation; and Triple Schuyler Rome Corporation*, Defendants.

[76–CV–170]

Filed: July 25, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

Dated July 25, 1977.

For Plaintiff: John H. Shenefield, *Acting Assistant Attorney General*; Erwin L. Atkins, William E. Swope, Charles W. Brooks, Charles F. B. McAleer, Bernard Wehrmann, *Attorneys, Department of Justice.*

For Defendants: Farber & Cohen, *Attorneys for Carrols Development Corporation and Triple Schuyler Rome Corporation.*

By: Frank R. Cohen, *Partner, A Member of the Firm.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF NEW YORK

[76–CV–170]

United States of America, Plaintiff, v. *Carrols Development Corp.*; and *Triple Schuyler Rome Corp., Defendants.*

FINAL JUDGMENT

Filed: July 25, 1977.

Plaintiff, United States of America, having filed its complaint herein on April 23, 1976, and the defendants Carrols Development Corp. and Triple Schuyler Rome Corp., having appeared and filed their answer to the complaint denying the material allegations thereof, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue and upon the consent of the parties, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

(A) "CDC" shall mean defendants Carrols Development Corp. and Triple Schuyler Rome Corp., and each of their subsidiaries and affiliates.

(B) "Eligible Purchaser" shall mean any person or persons, proposing to acquire any theatre for theatre purposes, to which the plaintiff, after notice, does not object, or if the plaintiff does object, of which the Court approves.

(C) "Person" shall mean any individual, partnership, corporation or other business or legal entity other than CDC.

(D) "Greater Syracuse Area" shall mean the area within a radius of approximately 12 miles from the center of the City of Syracuse, including Syracuse and all or part of the following towns in the State of New York: Salina, DeWitt, Geddes, Cicero, Manlius, Pompey, Lafayette, Onondaga, Marcellus, Camillus, Van Buren, Lysander, and Clay.

(E) "Greater Utica Area" shall mean the area within a radius of approximately 10 miles from the center of the City of Utica, including Utica and all or part of the following towns in the State of New York: Schuyler, Newport, Frankfort, Litchfield, Paris, New Hartford, Kirkland, Whitestown, Westmoreland, Floyd, Marcy, Trenton, and Deerfield.

III

The provisions of this Final Judgement shall apply to CDC, its successors and assigns, to each of their respective officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. Any Eligible Purchaser who acquires any assets by means of a divestiture pursuant to

this Final Judgment shall not be considered a successor or assign of CDC.

IV

(A) CDC is ordered and directed to divest to Eligible Purchasers, within 24 months from the date of entry of this Final Judgment, each of the theatres listed in Appendix A to this Final Judgment.

(B) Divestiture of the theatres listed in Appendix A shall be accomplished by assignment or sublease.

(C) With respect to any theatre which is divested by sublease, such sublease shall be for the entire remaining present term of the master lease less one day (such period is hereinafter referred to as the "Sublease Term").

(D) CDC shall make known the availability of the theatres listed in Appendix A by customary and usual means, including appropriate advertising. CDC shall furnish, on an equal and nondiscriminatory basis, to all bona fide prospective purchasers who so request, all necessary information regarding said theatres and shall permit them to make such inspection of the facilities and operations of the theatres as is reasonably necessary for a prospective purchaser to advise itself properly.

(E) Ninety day after the date of entry of this Final Judgment and every 90 days thereafter until CDC has divested each of the theatres listed in Appendix A, CDC shall submit written report to the plaintiff, describing the steps which have been taken to comply with this section IV. Each report shall include the name and address of each person who, during the preceding 90 days, had made an offer, expressed a desire, or entered into negotiations to acquire any theatre, together with full details of same. Each report shall also include the name and address of each person who, during the preceding 90 days, CDC has sought to interest in the acquisition of any theatre, together with full details of same.

(F) At least 60 days before the consummation, pursuant to this Section IV, of a divestiture to a proposed Eligible Purchaser of any theatre listed in Appendix A, CDC shall furnish in writing to the plaintiff the name and address of the proposed Eligible Purchaser, together with the terms and conditions of the proposed divestiture. At the same time, CDC shall list the name and address of each person not previously reported who offered or expressed a desire to acquire such theatre, together with full details of same. Within 20 days of the receipt of this information, the plaintiff may request in writing additional information concerning the transaction and parties thereto. If no request is made for additional information, the plaintiff shall advise CDC in writing no later than 20 days prior to the scheduled consummation date whether it has any objections to the proposed divestiture. If a request for additional information is made, the plaintiff shall advise CDC in writing within 30 days after receipt of all such information or within 30 days after receipt of a statement in writing from CDC that it does not have the requested information, whether it has any objections to the proposed divestiture. If the plaintiff does not object within the periods specified, then the divestiture may be consummated. If the plaintiff does so object, the proposed divestiture shall not be consummated unless CDC obtains approval from the Court or the plaintiff's objection is withdrawn.

V

If CDC does not divest itself, in accordance with the provisions of this Final Judgment, of each of the theatres listed in Appendix A within 24 months from the date of entry of this Final Judgment, the Court shall on application of the plaintiff appoint a trustee for the purpose of divesting the remaining theatres in accordance with the provisions of this Final Judgment. The trustee shall have full power and authority to dispose of each of the remaining theatres by assignment or sublease at whatever price and terms are obtainable by him subject to prior approval of the Court after the parties have had an opportunity to be heard with respect to each such proposed divestiture and the price and terms thereof. Any such sublease shall be for the applicable Sublease Term. The trustee shall use his best efforts to dispose of each of the theatres within 12 months of his appointment. Each divestiture by the trustee shall be in accordance with the provisions of this Final Judgment. The trustee shall serve, at the cost and expense of CDC, on such terms and conditions as the Court sees fit and shall account for all revenues derived from the disposal of the theatres and all expenses so incurred. After approval by the Court of the trustee's account, including fees for his services, all remaining monies shall be paid to CDC, or if there are remaining unsatisfied claims CDC shall pay them, and the trust created hereunder shall be terminated.

VI

If any theatre listed in Appendix A is not divested in accordance with the provisions of this Final Judgment within 12 months of the appointment of a trustee pursuant to section V herein, CDC shall, within 60 days thereafter, terminate its operation of such theatre unless it has obtained the written consent of the plaintiff to continue operating such theatre for the exhibition of feature motion pictures.

Any assignment or sublease to an Eligible Purchaser of a theatre listed in Appendix A shall requpire the Eligible Purchaser to file with this Court its representation that it proposes to operate the theatre for the exhibition of feature motion pictures.

VIII

(A) Subject to the provisions of section VI of this Final Judgment and subparagraph (2) of this section VIII(C), CDC shall continue to operate each threatre listed in Appendix A for the exhibition of feature motion pictures until such theatre is divested in accordance with the provisions of this Final Judgment; provided, however, that nothing contained herein shall require CDC to continue the operation of the 258 Cinema City I, II, and III prior to divestiture.

(B) CDC shall not participate in any way, directly or indirectly, in the management, operation or control of any theatre listed in Appendix A after it has been divested pursuant to this Final Judgment, nor shall CDC book or buy feature motion pictures for any such theatre after it has been divested. Where a theatre has been divested by sublease, these prohibitions shall be expressly set forth in the sublease.

(C) Notwithstanding the provisions of paragraph (B) of this section VIII:

(1) CDC may enforce the terms and conditions of any sublease in accordance with its provisions or as provided by law, and may exercise the rights of a sublessor in the event of a default.

(2) In the event of reacquisition or repossession by CDC prior to the expiration of the Sublease Term of a subleased theatre devested hereunder, CDC shall promptly notify the plaintiff in writing and shall divest such theatre by assignment or sublease to an Eligible Purchaser within 12 months of reacquisition or repossession in accordance with the provisions of this Final Judgment. The minimum duration of any such subsequent sublease shall be the applicable Sublease Term less the period of time such theatre was operated by an Eligible Purchaser prior to reacquisition or repossession by CDC. If CDC is unable to divest any such theatre to an Eligible Purchaser within 12 months of reacquisition or repossession, CDC shall, within 60 days thereafter, terminate its operation of such theatre unless it has obtained the written consent of the plaintiff to continue operating such theatre for the exhibition of feature motion pictures.

IX

CED is enjoined and restrained for a period of 10 years from the date of entry of this Final Judgment from acquiring, without the prior written consent of the plaintiff, any part of the assets or stock of any operating motion picture theatre in the Greater Syracuse or Greater Utica Areas.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to CDC made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of CDC, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of CDC, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of CDC and without restraint or interference from it, to interview officers, directors, agents, partners or employees of CDC, any of whom may have counsel present, regarding any such matters.

(B) CDC, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment, as may from time to time be requested.

No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by CDC to plaintiff pursuant to this section and CDC represents that the material, or any portion thereof, in any such information or documents is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and CDC identifies such material in writing and marks each pertinent page thereof, "Subject to claim of protection under Rule 26(c)(7)" of the Federal Rules of Civil Procedure," then plaintiff shall give CDC 10 days notice prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which CDC is not a party.

XI

Jurisdiction of this action is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

XII

Entry of this Final Judgment is in the public interest.

Dated:----------

----------,
United States District Judge.

APPENDIX A

Genesee, 2100 West Genesee Street, Geddes, N.Y.; Shoppingtown I and II, Erie Boulevard, East and Kinney Road, DeWitt, N.Y.; Cinema, Commercial Drive, New Hartford, N.Y.; Marcy Drive-In, Route 49, Marcy, N.Y.; New Hartford Drive-In, Commercial Drive, New Hartford, N.Y.; Paris Cinema, 12 Genesee Street, New Hartford, N.Y.; Skyler Drive-In I and II, Route 5, West Schuyler, N.Y.; 258 Cinema City I, II, and III, 258 Genesee Street, Utica, N.Y.

UNITED STATES DISTRICT COURT, NORTH DISTRICT OF NEW YORK

[76-CV-170]

UNITED STATES OF AMERICA, PLAINTIFF, v. CARROLS DEVELOPMENT CORP.; AND TRIPLE SCHUYLER ROME CORP., DEFENDANTS.

COMPETITIVE IMPACT STATEMENT RELATING TO PROPOSED CONSENT JUDGMENT

Filed: July 25, 1977.

This Competitive Impact Statement is filed by the Government pursuant to the requirements of section 2 of the Act of Congress of December 21, 1974 (15 U.S.C. § 16), commonly known as the Antitrust Procedures and Penalties Act. It relates to the proposed consent judgment shubmitted for entry against the defendants in this civil antitrust suit.

NATURE AND PURPOSE OF THE PROCEEDING

On April 23, 1976, the Government filed a civil antitrust suit charging that the acquisition by Carrols Development Corp. of the motion picture theatres in Syracuse and Utica, New York, operated by Kallet Realty, Inc., and its subsidiaries (Kallet) in February 1974, and the acquisition by Carrols Development Corp. and its wholly owned subsidiary Triple Schuyler Rome Corp. (both are referred to collectively herein as CDC), of the motion picture theatres in Utica, New York, operated by Hallmark Releasing Corp. (Hallmark), in March 1974, substantially lessened competition in the purchase of licenses to exhibit feature motion pictures in the Greater Syracuse and Greater Utica areas, in violation of section 7 of the Clayton Act.

In its complaint, the Government asked the Court to declare the acquisitions to be violative of section 7 of the Clayton Act and to order CDC to divest itself of all of the assets acquired from Kallet and Hallmark in the Greater Syracuse and Greater Utica areas.

EVENTS GIVING RISE TO THE ALLEGED VIOLATION

This suit concerns the purchase of licenses to exhibit feature motion pictures. Such licenses are purchased from distributors by exhibitors or operaters of motion picture theatres, in competition with other exhibitors in the same area.

At the time of the Kallet acquisition, CDC was the largest exhibitor in the Greater Syracuse Area with ten theatres which accounted for approximately 55.7 percent of the theatres and 59 percent of the gross box office receipts in that area.[1] Kallet, the second largest exhibitor with three theatres, accounted for about 16.8 percent of all motion picture theatres in the Greater Syracuse Area at that time and 27 percent of the gross box office receipts. Kallet was also the second largest theatre operator in the Greater Utica Area with four theatres or approximately 33 percent of all theatres in that area and 44 percent of gross box office receipts.[2] CDC did not operate any motion picture theatres in the Greater Utica Area at that time.

At the time of the Hallmark acquisition, Hallmark was the largest exhibitor in the Greater Utica Area with six theatres, which accounted for 50 percent of the theatres in that area and approximately 36 percent of gross box office receipts.

The Government alleges that the acquisition of the Kallet theatres eliminated actual competition for film licenses between Kallet and CDC in the Greater Syracuse Area, and potential competition between them in the Greater Utica Area. Although CDC did not operate any theatres in the Greater Utica Area prior to the acquisition, it had entered into an agreement for the construction of a multi-screen theatre in Utica and was, therefore, at that time the most likely entrant into the operation of motion picture theatres in that area. In addition, the Government claims that the acquisition of Kallet's theatres in the Greater Syracuse Area has significantly enhanced CDC's bargaining power with distributors to the detriment of independent exhibitors in the area.

The Government further alleges that the acquisition of the Hallmark theatres has resulted in the elimination of actual competition for film licenses between Hallmark and CDC in the Greater Utica Area. The Government also claims that CDC's bargaining power with distributors has been significantly enhanced to the detriment of independent exhibitors in the area.

THE PROPOSED CONSENT JUDGMENT AND ITS ANTICIPATED EFFECTS ON COMPETITION

Under the proposed consent judgment CDC must divest the twelve designated theatres located in the Greater Syracuse and Greater Utica Areas. Together with one former Kallet theatre already voluntarily divested by CDC during the pendency of this suit this will represent a total divestiture of all of the former Kallet and Hallmark theatres which CDC acquired in the Greater Syracuse and Greater Utica Areas. The proposed judgment will, thus, eliminate the additional bargaining power which CDC obtained as a result of the acquisitions. The divestitures will also increase competition in these areas.

The proposed judgment requires CDC to divest each of the designated theatres by sublease or assignment to persons and under terms and conditions approved by the Government or the Court. All of the theatres must be divested for theatre purposes. The proposed judgment protects against CDC reacquiring operating control of any of the theatres which it divests.

Under the proposed judgment CDC would be obliged to make reports to the Government every 90 days setting forth the steps taken to accomplish the divestitures. In order to assure to the extent possible that the designated threatres will be successfully divested, the proposed judgment provides for the appointment of a trustee by the Court if CDC has not divested all of the theatres within twenty-four months. The trustee would be appointed to divest the remaining theatres and would serve at the cost and expense of CDC.

The proposed judgment prohibits CDC, for ten years, from acquiring any operating theatre in the Greater Syracuse or Greater Utica Areas except with the approval of the Government. This provision protects against acquisitions by CDC in these areas which would be detrimental to competition. In addition, the Government would have visitation rights to inspect documents and interview officers and employees of CDC in order to determine and secure compliance with the judgment.

ALTERNATIVES TO THE PROPOSED JUDGMENT CONSIDERED BY THE GOVERNMENT

The proposed consent judgment provides substantially all of the relief prayed for in the complaint. No alternative to the judgment has been considered by the Department of Justice.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), as amended, this judgment may not be used as prima facie evidence in private litigation.

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation between the Government and CDC which provides that the Government may withdraw its consent to the proposed judgment any time before the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by section 2 of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), any person wishing to comment upon the proposed judgment may, for a sixty-day period prior to the effective date, submit written comments to the United States Department of Justice, Attention Bernard Wehrmann, Chief, New York Office, Antitrust Division, 26 Federal Plaza, New York, New York 10007. Such commente and the Government's response to them will be filed with the Court and published in the FEDERAL REGISTER. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed judgment.

[1] The Greater Syracuse Area encompasses the area within a radius of approximately twelve miles from the center of the City of Syracuse, including Syracuse and all or part of the towns of Salina, DeWitt, Geddes, Cicero, Manlius, Pompey, Lafayette, Onondaga, Marcellus, Camillus, Van Buren, Lysander, and Clay.

[2] The Greater Utica Area encompasses the area within a radius of approximately ten miles from the center of the City of Utica, including Utica and all or part of the towns of Schuyler, Newport, Frankfort, Litchfield, Paris, New Hartford, Kirkland, Whitestown, Westmoreland, Floyd, Marcy, Trenton, and Deerfield.

DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement.

Dated: July 25, 1977.

ERWIN L. ATKINS,
Attorney, Department of Justice.

[FR Doc.77-22219 Filed 8-2-77;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

RESEARCH GRANTS PANEL

Meeting

JULY 21, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on August 23, 1977.

The purpose of the meeting is to review General Research applications in the field of State, Local and Regional History submitted to the National Endowment for the Humanities for projects beginning after April 1, 1978.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc. 77-22256 Filed 8-2-77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

JULY 21, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in the first floor Conference Room, from 9 a.m. to 5:30 p.m. on August 30, 1977.

The purpose of the meeting is to review General Research applications in the field of State, Local and Regional History submitted to the National Endowment for the Humanities for projects beginning after April 1, 1978.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22267 Filed 8-2-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 28, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division with OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Survey of Bass Clubs in Tennessee, single-time, all bass clubs in Tennessee, Maria Gonzalez, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Product Evaluation Questionnaire: Rural Career Education Program, OE-542, single-time, individuals or households, Human Resources Division, Raynsford, E., 395-3532.

National Direct Report of Defaulted Loans Student Loan Program, OE-574, semi-annually, institutions of postsecondary education, Lowry, R. L., 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOUSING MANAGEMENT

Application for assistance under Title IV of the Housing Act of 1950, as amended, HUD-4501, on occasion, public and private nonprofit colleges and universities, housing, veterans and labor division, budget review division, 395-3532.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service, preliminary questionnaire for Residential Survey of Undocumented Aliens, single-time, households in 1,000 census tracts, Kathy Wallman, Maria Gonzalez, 395-6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Application Claim and Agreement—Nonfood Assistance, FNS-65, FNS-83, on occasion, public and private schools, family and group day care homes, Human Resources Division, Warren Topelius, 395-3532.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Study to Assess and Compare Type A Lunches With Alternative Subsidized Lunches Among High School Students, single-time, high school students, food service employees and managers, Human Resources Division, 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Annual Survey of Children in Institutions Operated or Supported by a State Agency for Neglected or Delinquent Children or Children in Adult Correctional Institutions, OE-4376-1, annually, State and local agencies for neglected or delinquent children, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census:
Pulp, Paper and Board Production—Monthly Report, M26A, monthly, paper and paperboard mills, C. Louis Kincannon, 395-3211.
Flat Glass Report, MQ-32A, quarterly flat glass plants, C. Louis Kincannon, 395-3211.
Shipments of Steel Shipping Drums and Pails, M34K, monthly, pail and drum manufacturers, C. Louis Kincannon, 395-3211.
Paint, Varnish, and Lacquer—Monthly Report on Production and Sales, M28F, monthly, paint producers, C. Louis Kincannon, 395-3211.
Wood Pulp—Consumption by Other Than Paper and Board Manufacturers, M26E, monthly, consumers of wood pulp, C. Louis Kincannon, 395-3211.
Oilseeds and Nuts, Monthly Report of Primary Processors, M20J, monthly, Bean Crushers Manufacturers, C. Louis Kincannon, 395-3211.

DEPARTMENT OF LABOR

Employment and Training Administration, WIN Reporting System (HEW Portion), SRS-NCSS-117 Parts A and B, IM-9, SAU-4, other (see SF-83), State WIN Program SAU and IMU Offices, Budget Review Division, Warren Topelius, 395-4775.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:
Application and Transfer of Grazing Privileges, 4115-15, on occasion, livestock ranchers, Marsha Traynham, 395-4529.
Relinquishment of Application, Entry, or Grant, 1825-3, on occasion, public land applicants, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-22363 Filed 8-2-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Working Group on Basic Research in the Department of Defense.

DATE: August 24 and 25, 1977.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON:

Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in Mission Agencies, the Working Group on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

AGENDA: 9 a.m. to 4 p.m. Planning meeting to discuss detailed objectives of the study, methods of approach, and work schedule and assignments.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-22274 Filed 8-2-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13714; SR-TAD-77-1]

TAD DEPOSITORY CORP.

Order Approving Rule Change

JULY 1, 1977.

On May 4, 1977, TAD Depository Corporation ("TAD") 2 Broadway, New York, New York 10004, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change. The rule change relates to TAD becoming a participant at The Depository Trust Co.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 27361, May 27, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13553, May 19, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-TAD-77-1 be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22384 Filed 8-2-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1350]

GEORGIA

Declaration of Disaster Loan Area

The listing below of the 127 counties and adjacent counties within the State of Georgia constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on September 23, 1977 and for economic injury until the close of business on April 24, 1978, at:

Small Business Administration, District Office, 1720 Peachtree Road, NW., 6th floor, Atlanta, Georgia 30309.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 22, 1977.

A. VERNON WEAVER,
Administrator.

GEORGIA (127 COUNTIES)

Appling	Burke
Atkinson	Butts
Bacon	Calhoun
Baker	Candler
Baldwin	Carroll
Banks	Chatham
Barrow	Chattahoochee
Ben Hill	Clarke
Berrien	Clay
Bibb	Clayton
Bleckley	Clinch
Brooks	Cobb
Bryan	Coffee
Colquitt	Macon
Columbia	Madison
Cook	Marion
Coweta	Meriwether
Crawford	Miller
Crisp	Mitchell
Decatur	Monroe
DeKalb	Montgomery
Dodge	Morgan
Dooly	Newton
Dougherty	Oconee
Douglas	Oglethorpe
Early	Peach
Echols	Pierce
Effingham	Pike
Elbert	Pulaski
Emanual	Putnam
Evans	Quitman
Fayette	Randolph
Franklin	Richmond
Fulton	Rockdale
Glascock	Schley
Glynn	Screven
Grady	Seminole
Greene	Spalding
Gwinett	Stewart
Hall	Sumter
Hancock	Talbot
Harris	Taliaferro
Hart	Tattnall
Heard	Taylor
Henry	Telfair
Houston	Terrell
Irwin	Thomas
Jackson	Toombe
Jasper	Treutlen
Jeff Davis	Troup
Jefferson	Turner
Jenkins	Twiggs
Johnson	Upson
Jones	Walton
Lamar	Ware
Lanier	Warren
Laurens	Washington
Lee	Wayne
Liberty	Webster
Lincoln	Wheeler
Long	Wilkes
Lowndes	Wilkinson
McDuffie	Worth
McIntosh	

[FR Doc.77-22206 Filed 8-2-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/95]

ADVISORY COMMITTEE TO UNITED STATES NATIONAL SECTION OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION

Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission will be held on August 30, 1977, in the auditorium of the Southwest Fisheries Center of the National Marine Fisheries Service at 8604 La Jolla Shores Drive, La Jolla, Calif., at 9:00 a.m.

The morning portion of the meeting from 9:00 a.m. to 12 noon will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chairman. Subjects to be discussed include an evaluation of the 1977 fishery experience, a preliminary outlook for the 1978 fishery and U.S. views on the overall quota and other aspects of the management program including allocations.

The afternoon session of the meeting, beginning at 1:30 p.m., will be closed as the discussions will involve matters exempt from public disclosure under 5 U.S.C. 552b(c)(1) and which the public interest requires be withheld from public disclosure. Documents classified in accordance with Executive Order 11652 will be circulated and discussed in the closed session. Requests for further information on the meeting should be directed to Douglas Marshall, OES/OFA, Room 3214, Department of State. He may be reached by telephone on (202) 632-2798.

Dated: July 21, 1977.

JOHN D. NEGROPONTE,
Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc 77-22295 Filed 8-2-77;8:45 am]

Agency for International Development

[Redelegation of Authority No. 99.1.88]

PRINCIPAL AID OFFICER, INDIA, ET AL.

Redelegation of Authority Regarding Grant Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the principal AID Officer in India, Indonesia, Korea, Nepal, Pakistan, Philippines, Sri Lanka, and Thailand, authority to execute Operational Program Grants (OPG's) as defined in Appendix 7A, Chapter 7, of Handbook 3, Project Assistance, on the following basis:

1. OPG's up to the present level of grant authority held by the principal AID Officer under current redelegation from the Director, Office of Contract Management.

2. OPG's up to $500,000, where the services of an Area Contracting Officer or a contracting officer on TDY from AID, Washington are utilized.

3. OPG's up to $500,000, where the services of an Area Legal Advisor are utilized.

This authority shall be exercised in accordance with the procedures of Chapter 4 of Handbook 13, Grants, and with other regulations, procedures, and policies now or hereafter established, modified, and promulgated within AID.

The authority herein redelegated may be exercised by the principal AID Officer's chief deputy, or by duly authorized persons performing the functions of the principal AID Officer in an acting capacity. The authority may not be further redelegated.

Redelegation of Authority 99.1.76 (41 FR 12239) dated March 24, 1976 is hereby revoked and ad hoc Redelegation of Authority 99.1.77.44 to USAID Indonesia is hereby cancelled.

This Redelegation of Authority is effective upon signature.

Dated: July 22, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc 77-22297 Filed 8-2-77;8:45 am]

[Redelegation of Authority No. 99.1.87]

RAYMOND J. POTOCKI

Delegation of Contracting Officer Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Raymond J. Potocki the authority to sign the following instruments, up to an amount of $500,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between AID and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

The authority delegated herein is to be exercised in accordance with AID regulations, procedures and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

Redelegation of Authority 99.1.84 (42 F.R. 8036) dated January 27, 1977, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation heretofore taken by the official designated in such delegation are hereby ratified and confirmed.

This redelegation of authority shall be effective on the date of signature.

Dated: July 25, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77 22296 Filed 8-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 77-10]

CONTROL OF WETLAND DRAINAGE INTO FEDERAL-AID HIGHWAY RIGHTS-OF-WAY

Public Meeting

AGENCY: Federal Highway Administration, DOT.

SUMMARY: The public meeting will explore possible actions FHWA may take to control the artificial drainage of wetlands into Federal-aid highway rights-of-way. All interested parties are invited to present a brief statement of their views on the subject and are urged to participate in subsequent discussions.

DATES: The public meeting is scheduled for August 31, 1977, at 9:30 a.m. in Room 3200, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Fred Bank, Environmental Quality Branch, Office of Environmental Policy (202-426-9173); or Gary Daves, Office of the Chief Counsel (202-426-0800), Federal Highway Administration 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday.

ADDRESS: Data and comments may be submitted in triplicate to FHWA Docket No. 77-10, Room 4230, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Copies of all comments will be available for examination during normal business hours, 7:45 a.m. to 4:15 p.m. ET, at the foregoing address.

BACKGROUND AND SUPPLEMENTARY INFORMATION: The intentional drainage of wetlands into Federal-aid highways rights-of-way has been of longstanding concern to Federal, State and private conservation organizations and agencies. Data from Fish and Wildlife Service field offices suggest that in some sections of the country intentional drainage into highway ditches has contributed significantly to the continual decline in wetland acreage.

The Federal Highway Administration (FHWA) responsibilities with regard to wetlands are included in the Department of Transportation (DOT) Order 5660.1, dated May 21, 1975, entitled "Preservation of the Nation's Wetlands."[1] Under the order FHWA has the responsibility to preserve and enhance wetlands to the extent practicable. Additional agency obligation toward wetland protection is directed by the recent Executive Order 11990 of May 24, 1977, (42 FR 26961), entitled "Protection of Wetlands." However, the public meeting deals only with the single issue of wetland drainage and is not intended to be a substitute for any future agency actions that may be necessary in accordance with Executive Order 11990.

In light of the clear Federal policy with regard to wetlands preservation, FHWA desires to entertain public comment on the drainage issue and initiate appropriate corrective measures as necessary. Among the measures to be considered will be the desirability of control by FHWA of non-highway drainage structures in the right-of-way of Federal-aid highways. Such structures are sometimes used to drain water from wetlands onto the rights-of-way.

QUESTIONS

Comment is specifically invited on the following issues:

1. How serious is the threat to the nation's wetlands posed by the natural and artificial drainage of wetlands into Federal-aid highway rights-of-way?

2. What problems are posed by Federal or State laws and policies regarding the development of an FHWA policy relative to this problem?

3. Under what criteria and to what degree should artificial drainage of wetlands into Federal-aid highway rights-of-way be authorized? Consider factors such as, increased demand for agricultural products, maintenance of farm incomes, and government policies that stress the development and preservation of tillable acreage.

Issued on July 29, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-22309 Filed 8-2-77;8:45 am]

[1] The order is available for inspection and copying as prescribed in 49 CFR Part 7

DEPARTMENT OF THE TREASURY

Office of the Secretary

ANIMAL GLUE AND INEDIBLE GELATIN FROM WEST GERMANY

Antidumping; Withholding of Appraisement Notice and Determination of Sales at Less than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has been completed and that it has been determined that animal glue and inedible gelatin from West Germany are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. This case is being referred to the United States International Trade Commission for it to determine whether an industry in the United States is being injured. Simultaneously, appraisements of entries of this merchandise will be withheld for 3 months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on December 23, 1976, from counsel acting on behalf of Darling & Company, Milligan & Higgins Corporation and the Peter Cooper Corporation, alleging that animal glue and inedible geltain from West Germany were being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on January 26, 1977 (42 FR 4920).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, animal glue and inedible gelatin from West Germany are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and basis for the above determination are as follows:

a. *Scope of the investigation.* The predominance of imports of the subject merchandise from West Germany during the period of investigation were manufactured by the following firms: Electro Chemische Fabrik Kempen Gmbh. ("Kempen"); Chemische Dungerfabrik Rendsburg Gmbh. ("Rendsburg"); Fritz Hacker & Sohn Gmbh. ("Hacker"); G. Conradt & Sohn ("Conradt"); Johannes Martens KG ("Martens"); and Animal Produkten KG ("Produkten"). Therefore, the investigation was limited to these manufacturers.

b. *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all exports sales to the United States were made to non-related customers. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for fair value.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)) pricing information was obtained concerning imports and home market sales during the period August 1, 1976 through January 31, 1977.

c. *Purchase Price.* For the purposes of this determination of sales at less than fair value, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c.i.f. or f.o.b. price to unrelated United States purchasers with deductions for inland freight and insurance, and ocean freight and insurance, costs, as appropriate. Whenever actual data was unavailable such information as was available to the U.S. Customs Service has been utilized.

d. *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the delivered prices to unrelated West German purchasers, with reference to sales by Kempen. Adjustments have been made for inland freight and for differences in packing costs, as appropriate.

In the case of the above-named manufacturers other than Kempen, home market price was determined utilizing the best information available. Whenever actual home market prices were not available, such alternative information with respect to such prices as was available to the U.S. Customs Service has been utilized.

With respect to sales by Kempen, that level of trade has been selected in the home market which is comparable to the level of trade to which sales to the United States have been made, pursuant to § 153.15, Customs Regulations (19 CFR 153.15).

e. *Results of fair value comparisons.* Using the above criteria, comparisons were made on the predominance of all sales of the subject merchandise to the United States during the representative period. Those comparisons indicated that the purchase price of animal glue and inedible gelatin, other than that produced and sold by Kempen, was less than the home market price of such or similar merchandise. Weighted average margins were found on 100 percent of sales compared on each of the following companies investigated: Rendsburg, 158 percent; Hacker, 28 pecent; Conradt, 67 percent; Martens, 50 percent; and Animal Produkten, 100 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs officers are being directed to withhold ap raisement of animal glue and inedible gelatin from West Germany other than that produced and sold by Kempen, in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to § 153.35 (a), Customs Regulations (19 CFR 153.35(a)), and shall become effective August 3, 1977. It shall cease to be effective on November 3, 1977, unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKWELL, JR.,
Acting General Counsel

JULY 26, 1977.

[FR Doc 77-22286 Filed 8-2-77; 8:45 am]

ANIMAL GLUE AND INEDIBLE GELATIN FROM YUGOSLAVIA

Antidumping; Withholding of Appraisement Notice and Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has been completed and that it has been determined that animal glue and inedible gelatin from Yugoslavia are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. This case is being referred to the United States International Trade Commission for it to determine whether an industry in the United States is being injured. Simultaneously, appraisements of entries of this merchandise will be withheld for 3 months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on December 23, 1976, from counsel acting on behalf of Darling and Company, Milligan and Higgins Corporation and the Peter Cooper Corporation, alleging that animal glue and inedible gelatin from Yugoslavia were being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of January 26, 1977 (42 FR 4921).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reason stated below, animal glue and inedible gelatin from Yugoslavia are being, or are likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reason and bases for the above determination are as follows:

a. *Scope of the investigation.* All imports of the subject merchandise from Yugoslavia were manufactured by Kemin, a subsidiary of H. P. Kolinska, Ljublijana, Yugoslavia. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States were made to non-related customers. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for fair value. It has been determined that the economy of Yugoslavia is not state-controlled to an extent that sales or offers of sales of such or similar merchandise in Yugoslavia do not permit a determination of foreign market value under section 205(a) of the Act (19 U.S.C. 164(a)).

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales during the period August 1, 1976 through January 31, 1977.

c. *Purchase price.* For the purposes of this determination of sales at less than fair value, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the f.o.b. Yugoslav port, and/or C&F Boston prices, with deductions for inland and ocean freight, insurance and handling expenses.

d. *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the f.o.b. plant price to unrelated purchasers in Yugoslavia. In the case of two types of technical gelatin appropriate adjustments were made for differences in merchandise between similar merchandise sold in the home market and to the United States in accordance with § 153.-11, Customs Regulations (19 CFR 153.11).

e. *Results of fair value comparison.* Using the above criteria, comparisons were made on all sales of the subject merchandise to the United States by KEMIN during the period of the investigation. Those comparisons indicated that the purchase price of animal glue and inedible gelatin was less than the home market price of such or similar merchandise. Margins were found, ranging from approximately 1.7 percent to approximately 31 percent, on about 92 percent of the sales of the subject merchandise to the United States during the period of investigation. The weighted average margin on all sales was 9.7 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs officers are being directed to withhold appraisement of animal glue and inedible gelatin from Yugoslavia in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35 (a)), and shall become effective on August 3, 1977. It shall cease to be effective on November 3, 1977, unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKWELL, JR.,
Acting General Counsel.

JULY 26, 1977.

[FR Doc.77-22287 Filed 8-2-77;8:45 am]

ANIMAL GLUE AND INEDIBLE GELATIN FROM SWEDEN

Antidumping; Withholding of Appraisement Notice and Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement and determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has been completed and that it has been determined that animal glue and inedible gelatin from Sweden is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. This case is being referred to the United States International Trade Commission for it to determine whether an industry in the United States is being injured. Simultaneously, appraisements of entries of this merchandise will be withheld for three months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: This notice will be effective on August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, U.S. Customs Service, Operations Officer, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on December 23, 1976, from Stewart and Ikenson, Attorneys at Law on behalf of Darling & Co., Milligan & Higgins Corp., and the Peter Cooper Corp. alleging that animal glue and inedible gelatin from Sweden is being sold at less than fair value, thereby causing injury to or the prevention of the establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of January 26, 1977 (42 FR 4921-22).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, animal glue and inedible gelatin from Sweden is being, or is likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

(a) *Scope of the investigation.* All of the imports of the subject merchandise from Sweden are manufactured by Extraco A.B., Klippan, Sweden. Therefore, the investigation was limited to that manufacturer.

(b) *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States were made to non-related customers. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2) was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for fair value.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales during the period August 1, 1976, through January 31, 1977.

(c) *Purchase price.* For the purposes of this determination of sales at less than fair value, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c.i.f. Boston, Mass., price to unrelated purchasers with deductions for ocean freight and other charges which were included in the price and incurred in bringing the merchandise from the point of shipment to the point of delivery in accordance with section 203 of the Act.

(d) *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the f.o.b. plant price to an unrelated purchaser in Sweden.

A level of trade adjustment was requested in this case. Sufficient home market sales were found at a comparable level of trade and the claim for adjustment was denied.

(e) *Results of fair value comparisons.* Using the above criteria, comparisons were made on approximately 68 percent of the animal glue and inedible gelatin which were sold to the United States from Sweden during the representative period. Those comparisons indicated that the purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from approximately 70 to 126 percent on 100 percent of the sales compared. The weighted-average margin of those sales on which comparisons were made amounted to 92.72 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs officers are being directed to withhold appraisement of animal glue and inedible gelatin from Sweden in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35 (a)), and shall become effective August 3, 1977. Such action shall cease to be effective on November 3, 1977, unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKWELL, JR.,
Acting General Counsel.

JULY 26, 1977.

[FR Doc 77-22288 Filed 8-2-77;8:45 am]

ANIMAL GLUE AND INEDIBLE GELATIN FROM THE NETHERLANDS

Antidumping; Withholding of Appraisement Notice and Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement and determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has been completed and that it has been determined that inedible gelatin and animal glue from the Netherlands is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or to third countries. This case is being referred to the International Trade Commission for it to determine whether a United States industry is being injured. Simultaneously, appraisement of entries of this merchandise will be withheld for three months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on December 23, 1976, from counsel acting on behalf of the National Association of Glue Manufacturers, Inc., New York, N.Y., alleging that inedible gelatin and animal glue from the Netherlands was being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of the establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of January 26, 1977 (42 FR 4921).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, inedible gelatin and animal glue from the Netherlands is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

(a) *Scope of the investigation.* Of the imports of the subject merchandise from the Netherlands, 100 percent was manufactured by Wed. P. Smits en Zoon B.V. and Lijmfabriek C. Trommelen. Therefore, the investigation was limited to these two manufacturers.

(b) *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States appear to be made to an unrelated customer. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold by both manufacturers in the home market in sufficient quantities to provide a basis for fair value..

In the case of Trommelen, a claim was made that home market price should be calculated by utilizing sales to a distributor based in the Netherlands, who resold the merchandise principally for use within neighboring countries of the European Community (EC) and who was at the same commercial level of trade as the sole U.S. importer. Because the goods were made to a company located in the Netherlands who took title to the goods and who in turn was free to resell the goods to whatever destinations the distributor chose, it has been determined that those sales are sales for home consumption in accordance with § 153.2, Customs Regulations (19 CFR 153.2).

(c) *Purchase price.* For the purposes of this determination of sales at less than fair value, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the f.o.b. foreign port of the C&F U.S. port price to the unrelated United States purchaser, with deductions for ocean freight, trucking, loading, inland freight and handling charges, as appropriate.

(d) *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the ex-factory price for such or similar merchandise to unrelated Dutch purchasers in the case of Smits, and on the basis of delivered prices to, in the case of Trommelen, unrelated purchaser, have been made for inland freight discounts to a distributor, technical services and for a difference in the cost of packing.

The latter three adjustments were made pursuant to § 153.10, Customs Regulations (19 CFR 153.10). Each of the foregoing costs was directly related to the sales under consideration.

Claims were made for certain adjustments by one or both manufacturers which were disallowed. These claims involved differences in quantities and/or level of trade, differences in merchandise, and unanticipated fluctuations in the rate of currency exchange.

The claim for differences in quantities and/or level of trade was not allowed in the case of Smits en Zoon since it was based on sales to third countries and not on sales for home consumption, when in fact it was determined that a viable home market existed.

The claim for differences in merchandise was not material since the merchandise in question was not employed for comparison purposes. Comparisons were not made on this particular merchandise inasmuch as it was determined from pricing practices that substantial cost differences existed, which were not sufficiently quantified.

The claim for an adjustment due to unanticipated differences in the rate of currency exchange, which had an adverse effect on one of the manufacturer's prices, was not allowed because it was determined that price comparisons were properly made, in accordance with § 153.52, Customs Regulations (19 CFR 153.52).

(e) *Result of fair value comparisons.* Using the above criteria, comparisons were made on approximately 65 percent of the sales of the subject merchandise to the United States by Smits and Trommelen during the representative period and those comparisons indicated that the purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from 0.8 to 21.5 percent on 100 percent of the sales to the United States. The weighted-average margin when weighted over 100 percent of the sales compared amounted to 7.5 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs Officers are being directed to withhold appraisement of inedible gelatin and animal glue from the Netherlands in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), and shall become effective on August 3, 1977. Such action shall cease to be effective on November 3, 1977, unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKWELL, Jr.,
Acting General Counsel.

JULY 26, 1977.

[(FR Doc.77-22285 Filed 8-2-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 450]

ASSIGNMENT OF HEARINGS

JULY 29, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 11977 Sub 336, Ligon Specialized Hauler, Inc. now being assigned October 13, 1977 (2 days) at Dallas, Texas and will be held in Room 5A15–17, Federal Building, 1100 Commerce Street.

AB 19 Sub No. 27 Baltimore and Ohio Railroad Company Abandonment between Flora and Sangamon Junction, in Clay, Effingham, Fayett, Shelby, Christian and Sangamon Counties, Illinois, now assigned August 16, 1977 is postponed to August 23, 1977 at Interstate Commerce Commission in Washington, D.C.

MC 41098 Sub No. 42 Global Van Lines, Inc., now being assigned November 1, 1977 (14 days) for hearing in Los Angeles, CA, in a hearing room to be later designated.

FFC 70, Imperial Air Service, Inc. Investigation of Operations now being assigned September 21, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC 4405 (Sub-No. 542), Dealers Transit, Inc., now being assigned September 27, 1977, at St. Louis, Mo., Court Room 3, 5th Floor, U.S. Court and Customhouse, 1114 Market Street (1 day).

MC 142059 (Sub-No. 4), Cardinal Transport, Inc., now being assigned September 28, 1977 (1 day), St. Louis, Mo., Court Room 3, 5th Floor, U.S. Court and Customhouse, 1114 Market St.

MC 78400 (Sub-No. 49), Beaufort Transfer Company and MC 138741 (Sub-No. 32), American Central Transport, Inc., now being assigned September 29, 1977 (2 days), at St. Louis, Mo., Court Room 3, 5th Floor, U.S. Court and Customhouse, 1114 Market Street.

MC-C-9702, *Global Van Lines, Inc.* v. *United Van Lines, Inc.*, now being assigned October 3, 1977 (1 day), at St. Louis, Mo., Court Room 3, 5th Floor, U.S. Court and Customhouse, 1114 Market Street.

MC 4405 (Sub-No. 543), Dealers Transit, Inc., now being assigned October 4, 1977 (1 day), at St. Louis, Mo. Court Room 3, 5th Floor U.S. Court and Customhouse, 1114 Market Street.

MC 135684 (Sub-No. 35), Bass Transportation Co., Inc., now being assigned October 5, 1977 (1 day), at St. Louis, Mo. Court Room 3, 5th Floor, U.S. Court and Customhouse, 1114 Market Street.

MC 113325 (Sub-No. 145), Slay Transportation Co., Inc., now being assigned for continued hearing on October 6, 1977 (2 days), at St. Louis, Mo., Court Room 3, 5th Floor. U.S. Court and Customhouse, 1114 Market Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22327 Filed 8-2-77;8:45 am]

[Ex Parte No. 241, Rule 19, Amendment No. 3 to Revised Exemption No. 121]

BALTIMORE & OHIO RAILROAD CO., ET AL.

Exemption

Exemption under provision of rule 19 of the Mandatory Car Service rules ordered in ex parte No. 241.

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Norfolk and Western Railway Company, Western Maryland Railway Company.

Upon further consideration of Revised Exemption No. 121 issued April 23, 1976.

It is ordered, That, under the authority vested in my by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to *expire September 30, 1977.*

This amendment shall become effective July 31, 1977.

Issued at Washington, D.C., July 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-22320 Filed 8-2-77;8:45 am]

[Ex Parte No. 241, Rule 19, Amendment No. 5 to Exemption No. 127]

BESSEMER & LAKE ERIE RAILROAD CO., ET AL.

Exemption

Exemption under provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: Bessemer and Lake Erie Railroad Company, The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Western Maryland Railway Company.

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire September 30, 1977.*

This amendment shall become effective July 31, 1977.

Issued at Washington, D.C., July 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-22324 Filed 8-2-77;8:45 am]

[Ex Parte No. 241, Rule 19, Amendment No. 6 to Exemption No. 122]

BALTIMORE & OHIO RAILROAD CO., ET AL.

Exemption

JULY, 29, 1977.

Exemption under provision of rule 19 of the Mandatory Car Service rules ordered in Ex Parte No. 241.

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Consolidated Rail Corporation, Western Maryland Railway Company.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to *expire August 31, 1977.*

This amendment shall become effective July 31, 1977.

[Ex Parte No. 241, Rule 19, Tenth Revised Exemption No. 129]

CHICAGO, WEST PULLMAN & SOUTHERN RAILROAD CO., ET AL.

Exemption

JULY 29, 1977.

Exemption under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241.

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Chicago, West Pullman & Southern Railroad Company. Reporting Marks: CWP
Chicago, Rock Island and Pacific Railroad Company. Reporting Marks: RI-ROCK
Detroit and Mackinac Railway Company. Reporting Marks: D&M-DM
Illinois Terminal Railroad Company. Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company. Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company. Reporting Marks: MKT
Missouri Pacific Railroad Company. Reporting Marks: CEI-MI-MP-TP
New Hope and Ivyland Railroad Company. Reporting Marks: NHIR
Richmond, Fredericksburg and Potomac Railroad Company. Reporting Marks: RFP
Southern Railway Company.
Reporting Marks: CG-NS-SA-SOU

Effective 12:01 a.m., August 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77 22319 Filed 8-2-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 29, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43407—*Petroleum and Petroleum Products from Gilsonite, Colorado.* Filed by Western Trunk Line Committee, Agent, (No. A-2740), for interested rail carriers. Rates on petroleum, petroleum products, asphalt, petroleum road oil, and petroleum wax tailings, in tank-car loads, as described in the application, from Gilsonite, Colorado, to points in western trunk-line territory, Illinois, Indiana, and Kentucky.

Grounds for relief—Market competition; modified short-line distance formula and grouping.

Tariff—Supplement 153 to Western Trunk Line Committee, Agent, tariff 473, I.C.C. No. A-4572. Rates are published to become effective on August 27, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22322 Filed 8-2-77;8:45 am]

[1] Addition.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

Contents

	Items
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1

[MA–19 amending M–38]

JULY 28, 1977.

Correction of listing of item 4.

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 30635, Petition for reconsideration and motion to consolidate *Arizona Service Investigation* (Memo. No. 6907–B, BLJ, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: Inadvertently an incorrect bureau designation was listed. Item 4 should have read as listed above.

[S–1032–77 Filed 8–1–77;9:28 am]

2

COMMODITY FUTURES TRADING COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 4, 1977, 10 a.m.

CHANGES IN THE MEETING: Delete the discussion on the Chicago Board of Trade application for designation as a contract market in long term U.S. Treasury bonds.

[S–1024–77 Filed 8–1–77;9:27 am]

3

COMMODITY FUTURES TRADING COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 2, 1977, 10 a.m.

CHANGES IN THE MEETING: Add the following subject—Chicago Board of Trade application for designation as a contract market in long term U.S. Treasury bonds.

[S–1025–77 Filed 8–1–77;9:27 am]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: July 29, 1977, 2 p.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: At the request of the National Safety Council (NSC), the Commission met with NSC President Vincent L. Tofany to discuss strategies to assist voluntary safety efforts, strategies for CPSC/NSC working relationships, CPSC's voluntary standards policy, and interagency efforts concerning chronic chemical hazards.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C., telephone 202–634–7700.

[S–1026–77 Filed 8–1–77;9:27 am]

5

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: These meetings will be held on the dates listed below; all meetings will begin at 9:30 a.m.

LOCATION: All these meetings will be held in the 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: At these meetings, the Commission will consider either its fiscal year 1978 operating plan or its fiscal year 1979 budget, as stated below:

August 2—Fiscal year 1978 operating plan.
August 3—Fiscal year 1978 operating plan (if needed).
August 4—Fiscal year 1979 budget levels.
August 5—Fiscal year 1979 budget proposal.
August 8—Fiscal year 1979 budget proposal (if needed).

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202–634–7790.

[S–1027–77 Filed 8–1–77;9:28 am]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Monday, August 8, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes—July 21, 1977.
III. Advisory opinion 1977–31 (Commission memorandum No. 1405).
IV. Appropriations and budget task force report on fiscal year 1978 budget.
V. Pending legislation.
VI. Liaison with other Federal agencies.
VII. Report on pending litigation.
VIII. Promotion procedures/agency position descriptions.
IX. Communication from OMB re log of contacts.
X. Routine administrative matters.

Portions closed to the public (executive session):

Compliance; F.O.I.A. appeals; personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone 202–523–4065.

[S–1033–77 Filed 8–1–77;10:36 am]

7

[USITC SE–77–47]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., August 11, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Reorganization; 2. Agenda; 3. Minutes; 4. Petitions and complaints (if necessary); 5. Any items left over from previous agenda.

Portions closed to the public:

1. Reorganization (portions regarding the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202–523–0161).

[S–1028–77 Filed 8–1–77;9:28 am]

8

JULY 29, 1977.

INTERSTATE COMMERCE COMISSION.

TIME AND DATE: 1 p.m., Monday, August 1, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of open conference. Division 3, Chairman Brown, Commissioners MacFarland and Christian have unanimously voted to call this meeting on short notice to consider the following agenda.

MATTERS TO BE CONSIDERED: Finance Docket No. 28322—Chicago South Shore and South Bend Railroad, discontinuance of all passenger train service. Docket No. AB–136—Chicago South Shore and South Bend Railroad; abandonment of line over The Illinois Central Gulf Railroad between Randolph Street and 115th Street (Kensington) in Cook County, Ill.

CONTACT PERSON FOR MORE INFORMATION:

Hildred S. Hersman, Confidential Assistant, Telephone 202–275–7535.

[S–1030–77 Filed 8–1–77;9:28 am]

9

JULY 29, 1977.

INTERSTATE COMMERCE COMMISSION, DIVISION 3.

TIME AND DATE: 10 a.m., Friday, August 5, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open special conference.

MATTERS TO BE CONSIDERED:

1. No. MC–FC–76614—Remy Transportation Corp., Walpole, Mass., Transferee, and J. F. Fiore Co., Inc., South Boston, Mass., Transferor, and
2. No. MC–FC–77068—Robert J. Corduck and Jeanne L. Corduck, doing business as East Coast Movers, Woburn, Mass., Transferee, and Remy Moving & Storage Corp., Walpole, Mass., Transferor. (Discussion and possible voting.)

CONTACT PERSON FOR MORE INFORMATION:

Office of Commissioner Brown, Hildred Hersman, Confidential Assistant, Telephone 202–275–7535.

[S–1031–77 Filed 8–1–77;9:28 am]

10

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, August 3, 1977.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of July 1977.
(2) Air conference request for amendment to section 310 of the Mediator's Manual — Representation Procedures pertaining to the distribution of employee addresses furnished by carriers for the purpose of conducting mail ballot elections.
(3) Request of United Airlines, Inc., that the Board reverse its findings upon investigation in NMB Case No. R–4550.
(4) Proposed findings upon investigation in NMB Case No. R–4582, Frontier Airlines, Inc.
(5) Request of United Airlines, Inc., that the Board dismiss the June 28, 1977, application for investigation of a representation dispute among the carrier's fleet service employees.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; Telephone 202–523–5920.

SUPPLEMENTARY INFORMATION: Chairman Ives and Board Members Stowe and McMurray have determined by recorded vote that agency business requires a meeting on this date and that no earlier announcement of such meeting was practicable.

Date of notice: July 29, 1977.

[S–1029–77 Filed 8–1–77;9:28 am]

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 3, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202–634–7970).

Dated: July 29, 1977.

[S–1023–77 Filed 7–29–77;3:58 pm]

federal register

WEDNESDAY, AUGUST 3, 1977

PART II



DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

■

EXPLOSIVE MATERIALS REGULATIONS

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 181]

[Notice No. 309]

EXPLOSIVE MATERIALS REGULATIONS

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to (1) substantially amend the regulations, particularly with respect to the record-keeping and storage requirements for explosive materials, (2) add new terms and revise existing language to conform more to current industry terminology, and (3) make numerous miscellaneous, clarifying, and editorial changes. This would enable the Bureau to adopt the standards of safety and security now recognized by the explosives industry.

DATE: Comments must be received on or before October 3, 1977.

ADDRESS: Before adopting these proposed regulations, we will consider any written data, comments, or suggestions which are submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, attention: Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT:

Dorene F. Erhard, Research and Regulations Branch, 202-566-7626.

SUPPLEMENTARY INFORMATION: Written data, comments, or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to exempting portions of data, comments, or suggestions from disclosure. Any interested person who desires an opportunity to comment orally at a public hearing should submit a written request to the Director within the 60-day period.

NEW SUBPART JJ—STORAGE

A new Subpart JJ is proposed which would include the provisions now found in Subpart J and all the changes affecting the storage of explosive materials proposed in this notice. The requirements in current Subpart J would apply with respect to storage for two years after the date these regulations are issued as a Treasury decision in the FEDERAL REGISTER. The provisions in Subpart JJ could be used optionally in lieu of those in Subpart J, but would become mandatory two years after the final regulations are issued.

Bullet-resistant construction of magazines.—A review of the explosives regulations implementing Title XI of the Organized Crime Control Act of 1970 was undertaken by the Bureau to improve and clarify Part 181, especially with respect to the storage of explosive materials. At the same time, the Institute of Makers of Explosives (IME) was planning to conduct tests on the bullet-resistance of storage magazines constructed under the provisions of our existing regulations. The rifles and ammunition available on the market today have become considerably more powerful in recent years and it had been quite some time since magazine construction was tested for resistance to bullet penetration. The IME also wished to evaluate the degree of ballistic protection offered by certain untested materials and combinations of materials.

Conclusions drawn from the IME tests resulted in the following proposed changes to the regulations:

(1) The testing determined that other materials and combinations of materials would also meet the minimum specifications for bullet-resistance. In August 1976, the Bureau issued ATF Ruling 76-18 (1976, ATF C. B., 106), which listed these bullet-resistant materials and ruled that they are suitable alternatives to the existing standards for the construction of explosives magazines in Subpart J. We are now proposing to incorporate this same list into new Subpart JJ as the minimum standards for the construction of explosives magazines.

(Subpart JJ —§ 181.207.)

(2) Regulations require that magazines for the storage of high explosives be bullet-resistant. The current provision that doors on bullet-resistant magazines be constructed of ¼-inch plate steel and lined with 2 inches of hardwood was discovered to be inadequate for bullet protection. Consequently, for reasons of safety and security, we are proposing that all doors be constructed of ¼-inch plate steel and lined with 3 inches of hardwood.

(Subpart JJ—§§ 181.207 and 181.208.)

Other changes affecting magazine construction and storage.—The proposed regulations further liberalize and clarify the provisions governing the construction of explosives magazines and the storage of explosive materials by making the following amendments:

(1) To conform more to the language in the statute, we intend to stress that the standards of construction in Part 181 are standards of "safety and security."

(Subpart JJ—§ 181.201.)

(2) The descriptions for "high explosives," "low explosives," and "blasting agents," the three classes of explosive materials regulated under this part, would be expanded and additional specific examples of "low explosives" and "blasting agents" are proposed.

(Subpart JJ—§ 181.202.)

(3) The restrictions on the classes of explosive materials to be stored in types 4 and 5 magazines are proposed to be liberalized. The regulations would be relaxed to (a) allow electric blasting caps that will not mass detonate to be stored in type 4 magazines, and (b) allow water gels (slurries), which can be proven to be neither bullet- nor cap-sensitive, to be stored in type 5 magazines.

(Subpart JJ—§ 181.203.)

(4) The provision that storage magazines be opened and inspected every 3 days would be clarified by explaining that an inspection of this kind need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazines or unauthorized removal of their contents.

(Subpart JJ—§ 181.204.)

(5) We propose to amend the section covering the location of magazines so that it refers to the new table of distances for the storage of explosive materials in § 181.218. We also intend to further clarify the requirement that magazines in which blasting agents are stored shall be located no closer to inhabited buildings, passenger railways, and public highways than the distances set down in the table of distances for explosive materials found in § 181.218.

(Subpart JJ—§ 181.206.)

(6) Numerous amendments are proposed to provide more flexibility in the construction of types 1, 2, 3, 4, and 5 magazines, both indoor and outdoor models. In particular, the requirements with respect to floors, foundations, roofs, walls, ceilings, doors, locks, ventilation, exposed metal, and outside construction are liberalized to allow for substitute materials and methods which offer essentially the same protection.

(Subpart JJ—§§ 181.207, 181.208, 181.209, 181.210, and 181.211.)

(7) We are proposing to amend the requirements for the type 5 indoor magazine. Present regulations permit the maximum quantity of explosive materials to be stored in type 5 indoor magazines without having to meet the same safety requirements prescribed for large quantities stored in outdoor magazines. We would require that amounts greater than 50 lbs. stored in indoor magazines be subject to the minimum separation distances found in the tables of distances which govern the storage of explosive materials in outdoor magazines. This requirement would still permit the storage of large amounts of explosive materials in type 5 indoor magazines, while at the same time reduce the risk to nearby persons and property.

(Subpart JJ—§ 181.211.)

(8) The provisions regulating the manner in which explosive materials are placed in magazines would be amended to make it clear that nonsparking lattice work or other nonsparking material may be used to prevent stored explosive materials from coming in direct contact with interior walls. Also, the requirement that explosive materials be stored in such a way that grade, brand, and Class marks are easily visible upon inspection, is further clarified by explaining that the term "Class" refers to the Department of Transportation shipping classification on the container.

(Subpart JJ—§ 181.214.)

(9) A new provision is proposed to allow the use of electrical lighting when explosion-proof fixtures and wiring in rigid conduit are employed inside the magazine and all electric switches are located outside the magazine.

(Subpart JJ—§ 181.217.)

Housekeeping.—The following proposed amendments are made concerning maintenance in and around storage magazines:

(1) Present regulations prohibit trees to be located less than 25 feet from magazines. We have now found that live trees more than 10 feet tall are not a hazard and, in fact, act as a barricade. We are, therefore, proposing to make an exception allowing live trees over 10 feet tall in the 25-foot area surrounding magazines.

(Subpart JJ—§ 181.215.)

(2) Deteriorated explosives that are in a dangerous condition or leaking a liquid must be destroyed. For safety reasons, we propose to further define "deteriorated explosives" to include explosives in an unstable condition and explosives leaking any material, not only a liquid.

(Subpart JJ—§ 181.215.)

Table of distances for the storage of explosive materials.—A new table of distances for the storage of explosive materials is being proposed, in lieu of the current American Table of Distances found in § 181.218, which we adopted when the regulations in Part 181 went into effect in February 1971. The current American Table of Distances was published by the IME in June 1964, and until November 1971, was recommended for use by the IME and the National Fire Protection Association (NFPA).

In November 1971, the IME revised their table to increase the distances between explosives magazines and public highways, with a traffic volume exceeding 3,000 vehicles per day, and public railways. Distances governing certain unbarricaded magazines were more realistically calculated. Previously, the required distances for unbarricaded magazines were arrived at by merely doubling the required distances for barricaded magazines.

Since our explosives regulations were not updated during this time, the table in § 181.218 conflicts with the standard IME table of safe distances now recommended for use by many Federal, State, and local regulatory agencies, the NFPA, and the explosives industry. In an effort toward uniformity with recognized safety standards, we wish to include the newer IME recommended table in Subpart JJ.

(Subpart JJ—§ 181.218.)

RECORDKEEPING

Record retention.—Presently, licensees and permittees are required to keep records of the acquisition and disposition of explosive materials for no more than 5 years. ATF has had limited or no success tracing explosive materials older than 5 years through the distribution chain to the last known purchaser. Recent unsuccessful traces have included attempts to trace several tons of explosive materials hidden by a paramilitary organization near Los Angeles; dynamite found on the office window sill of an Illinois company whose employees were on strike; a bomb, which consisted of 95 sticks of dynamite, discovered in the basement of a South Carolina county courthouse; and an explosive device placed at the uncompleted residence of a New Mexico sheriff. This problem may become even more serious in the future, resulting in a higher number of unsuccessful ATF cases.

To insure that explosives records over 5 years old are available for ATF investigative purposes, we are proposing the following alternatives:

(1) At the time of renewal of a license or permit each year, all explosive materials records relating to transactions which occurred more than 5 years before the renewal date of the license of permit, shall be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Explosives Technology Branch, Washington, D.C. 20226; or

(2) Instead of the procedure in (1), upon approval by the Director of a written request, licensees and permittees may retain the records required under Part 181 on their business premises and available for inspection by ATF officers for not less than 10 years from the date a transaction occurs.

(§ 181.121 amended.)

Acquisition and disposition records.—We are proposing to revise the format for recording the acquisition and disposition of explosive materials. A more detailed description of the explosive materials is proposed to (a) provide ATF with sufficient data to aid in the tracing of stolen materials and explosives used in bombs, and (b) insure that a licensee or permittee has the necessary information in his records to properly report thefts and losses of explosive materials from his stock.

(§§ 181.122, 181.123, 181.124, and 181.125 amended.)

Daily summaries.—Instead of requiring daily magazine transaction summaries to be kept at each magazine, we would permit these records to be kept at one central location on the licensed premises, as long as separate records of daily transactions are maintained for each magazine.

(§ 181.127 amended.)

OTHER AMENDMENTS TO THE REGULATIONS

Definitions.—Numerous definition changes and additions are proposed that further clarify magazine construction requirements, are essential to the understanding and application of the tables of distances, and make miscellaneous administrative and simplifying amendments.

(§ 181.11 amended.)

Theft or loss of explosive materials.—We propose to amend the procedure for reporting a theft or loss of explosive materials to (1) require more specific information when reporting a theft or loss to provide ATF with enough data to begin an investigation as soon as possible, and (2) require a theft or loss of explosive materials in transit to be reported by the carrier of the explosive materials to insure that all thefts or losses are reported.

(§ 181.30 amended.)

Special explosive devices.—A new section is proposed to provide that certain special explosive devices, explosive actuated tools, or similar devices which do not constitute a public safety hazard, may be exempted from requirements under this part, upon special determination by the Director.

(§ 181.32 added.)

Refund of license or permit fee.—We proposed to extend the provisions for refunding the fee submitted with an application for a license or permit to also include refunding the fee if the application is withdrawn or abandoned, or if a license is cancelled after having been issued through administrative error.

(§ 181.44 amended.)

Changes of location and changes in construction.—We are proposing to clarify and separate the regulations covering changes of address of a licensee's or permittee's business premises and changes in location and construction of explosives storage magazines.

(§ 181.54 revised and § 181.63 added.)

Licenses, permits, and applications.—We are proposing that the license or permit application returned by the regional regulatory administrator with the approved license or permit be kept available for inspection with the license or permit on the business premises. However, in lieu of requiring that a copy of the license or permit and the application be kept at each approved magazine, we would permit them to be kept at one central location on the business premises.

(§ 181.101 amended.)

Manufacturer's marks of identification.—We are proposing that the Director now determine whether any explosive materials (except blasting caps) are small enough in size to be exempt from the requirement that manufacturer's marks of identification be placed on the individual item.

(§ 181.109 amended.)

Exempted fireworks.—In the list of exemptions from the regulations in this part, we propose to specifically refer to the types of common fireworks exempted as Class C fireworks and certain other Class C explosives described under Department of Transportation regulations.

(§ 181.141 amended.)

DRAFTING INFORMATION

The principal author of this regulation is Dorene F. Erhard of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices in the Bureau and from the Treasury Department participated in developing the regulation, both on matters of substance and style.

SPECIFIC CHANGES TO THE REGULATIONS

In consideration of the foregoing, 27 CFR 181 is proposed to be amended as follows:

1. By amending § 181.2 to read as follows:

§ 181.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in explosive materials. For regulations applicable to commerce in firearms and ammunition, see Part 178 of this chapter. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778), and regulations in Part 47 of this chapter and in Parts 121–128 of Title 22, Code of Federal Regulations. For statutes applicable to nonmailable materials, see 18 U.S.C. 1716 and implementing regulations. For statutes applicable to water quality standards, see 33 U.S.C. 1171(b).

2. By amending § 181.11 to read as follows:

§ 181.11 Meaning of terms.

When used in this part, terms are defined as follows in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

Act.—Chapter 40 of Title 18 of the United States Code.

Ammunition.—Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and includes percussion caps and $\frac{1}{4}$-inch pyrotechnic safety fuses. The term does not include black powder.

Approved storage facility.—A place where explosive materials are stored, consisting of one or more approved magazines, conforming to the requirements of Subpart J or Subpart JJ of this part and covered by a license or permit issued under this part.

Army-type structure.—A structure approved by the Department of Defense for the storage of explosive materials.

Artificial barricade.—An artificial mound or revetted wall of earth of a minimum thickness of three feet.

ATF officer.—An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Barricaded.—A magazine containing explosives which is effectively screened from another magazine, a building, a railway, or a highway, either by a natural barricade or by an artificial barricade, of such a height that a straight line from the top of any sidewall of the magazine containing explosives to the eave line of any other magazine, or building, or to a point twelve feet above the center of a railway or highway, will pass through the natural or artificial barricade.

Blasting agent.—Any material or mixture, consisting of fuel and oxidizer, that is intended for blasting and not otherwise defined as an explosive; if the finished product, as mixed for use of shipment, is not bullet-sensitive and cannot be detonated by means of a number 8 test blasting cap when unconfined. A number 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.32±0.02 grams (5 grains) of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed 0.03 of an inch to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer.

Bullet-resistant.—Resistant to penetration of a bullet of 150 grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second fired from a .30 caliber rifle from a distance of 100 feet perpendicular to the wall or door.

Bullet-sensitive explosive materials.—Explosive materials that can be detonated by 150 grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second when the bullet is fired from a .30 caliber rifle at a distance of 100 feet. (Based on test explosive materials having a temperature of 70 to 75 degrees F., placed against a backing material of $\frac{1}{2}$-inch steel plate and arranged in the same manner in which it will be stored.)

Bureau.—The Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. 20226.

Business premises.—When used with respect to a manufacturer, importer, or dealer, the property on which explosive materials are manufactured, imported, stored, or distributed. The premises includes the property where the records of a manufacturer, importer, or dealer are kept if different than the premises where explosive materials are manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are received or stored. The premises includes the property where the records of the user are kept if different than the premises where explosive materials are received or stored.

Crime punishable by imprisonment for a term exceeding 1 year.—Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term does not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Customs officer.—Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized to perform any duties of an officer of the Customs Service.

Dealer.—Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator.—Any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, and detonating-cord delay connectors.

Director.—The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. 20226.

Distribute.—To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

District Director.—A District Director of Internal Revenue.

Executed under penalties of perjury.—Signed with the required declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is required, with the declaration:

I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Explosive actuated device.—Any tool or special mechanized device which is actuated by explosives, but not a propellant actuated device.

Explosive materials.—Explosives, blasting agents, water gels (slurries), and detonators. Explosive materials include, but are not limited to, all items in the List of Explosive Materials provided for in § 181.23.

Explosives.—Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Fugitive from justice.—Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term also includes any person who has been convicted of any crime and has fled to avoid imprisonment.

Hardwood. Red Oak, White Oak, Hard Maple, Ash, Hickory, or other equally bullet-resistant hard wood, free from loose knots and voids, or similar defects, having an ambient moisture content less than 15 percent under normal conditions.

Highway.—Any public street, alley, or road.

Importer.—Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

Indictment.—Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Inhabited building.—Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Internal revenue district.—An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Interstate or foreign commerce.—Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer.—A dealer licensed under this part.

Licensed importer.—An importer licensed under this part.

Licensed manufacturer.—A manufacturer licensed under this part to engage in the business of manufacturing of explosive materials for purposes of sale or distribution or for his own use.

Licensed manufacturer - limited.—A manufacturer licensed under this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Licensee.—Any importer, manufacturer, or dealer licensed under this part.

Magazine.—Any building or structure, other than an explosives manufacturing building, used for storage of explosives.

Manufacturer.—Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Manufacturer-limited.—Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Mass detonation (mass explosion).—Explosive materials mass detonate (mass explode) when a unit or any part of a larger quantity of explosive material explodes and causes all or a substantial part of the remaining material to detonate or explode.

Natural barricade.—Natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

Permittee.—Any user of explosives for lawful purpose, who has obtained a user permit under this part.

Person.—Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Plywood.—Exterior, construction grade (laminated wood) plywood.

Propellant actuated device.—Any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.

Railway.—Any steam, electric, or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity of where explosives are stored or where explosives manufacturing buildings are located.

Region.—A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator.—The principal regional official responsible for administering regulations in this part.

Service Center Director.—A director of an internal revenue service center.

Softwood.—Douglas Fir or equally bullet-resistant soft wood, free from loose knots, voids, or similar defects, having an ambient moisture content less than 15 percent under normal conditions.

State.—A State of the United States. The term includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence.—The State in which an individual regularly resides or maintains his home. Temporary stay in a State does not make the State of temporary stay the State of residence.

U.S.C.—The United States Code.

User-limited permit.—A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

User permit.—A permit issued to a person authorizing him (a) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (b) to transport explosive materials in interstate or foreign commerce.

Water gels (Slurries).—A wide variety of explosive materials used for blasting. As manufactured, they have varying degrees of sensitivity to initiation. They usually contain substantial proportions of water and ammonium nitrate, some of which are in solution in the water. Some are sensitized by an explosive material, while others contain no explosive ingredient but may be sensitized with metals such as aluminum or with other fuels.

3. By amending § 181.23 to read as follows:

§ 181.23 List of Explosive Materials.

The Director shall compile and publish in the FEDERAL REGISTER a List of Explosive Materials. This list shall be published and revised at least annually.

4. By amending § 181.26(b) to read as follows:

§ 181.26 Prohibited shipment, transportation, or receipt of explosive materials.

• • • • •

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive any explosive materials which have been shipped or transported in interstate or foreign commerce who (1) is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to marihuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

5. By revising § 181.30 to read as follows:

§ 181.30 Reporting theft or loss of explosive materials.

(a) Any licensee or permittee who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephone to the nearest ATF office and on Form 4712 in accordance with the instructions on the form. Theft or loss of any explosive materials shall also be reported to appropriate local authorities.

(b) Any other person, including a carrier of explosive materials, who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephone and in writing to the nearest ATF office. Theft or loss shall also be reported to appropriate local authorities.

(c) Reports of theft or loss of explosive materials must include:

(1) The manufacturer or brand name.

(2) The manufacturer's marks of identification (date and shift code).

(3) Quantity (pounds of explosives, number of caps).

(4) Description (dynamite, blasting agents, detonators, etc.).

(5) Size (length and diameter).

6. By adding new § 181.32 to read as follows:

§ 181.32 Special explosive devices.

The Director may exempt certain explosive actuated devices, explosive actuated tools, or similar devices from the requirements of this part. A person who desires to obtain an exemption under

this section for any special explosive device, which as designed does not constitute a public safety or security hazard, shall submit a written request, in triplicate, to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer, the purpose of and use for which it is intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require that a sample of the device be submitted to him for examination and evaluation. If it is not possible to submit the device, the person requesting the exemption shall so advise the Director of this and designate the place where the device will be available for examination and evaluation.

7. By amending § 181.44 to read as follows:

§ 181.44 License or permit fee not refundable.

No refund of any part of the amount paid as a license or permit fee shall be made where the operations of the licensee or permittee are, for any reason, discontinued during the period of an issued license or permit. However, the license or permit fee submitted with an application for a license or permit shall be refunded if that application is denied, withdrawn, or abandoned, or if a license is cancelled subsequent to having been issued through administrative error.

8. By revising § 181.54 to read as follows:

§ 181.54 Change of address.

During the term of a license or permit, a licensee or permittee may move his business or operations to a new address at which he intends to regularly carry on his business or operations, without obtaining a new license or permit. However, in every case, the licensee or permittee shall—

(a) Give notification of the new location of the business or operations to the regional regulatory administrator for the region from which or within which the move is made, and the regional regulatory administrator for the region to which the move is to be made, at least 10 days before the move; and

(b) Submit his license or permit, and any copies of the license or permit, to the regional regulatory administrator for the region to which or within which the move is to be made. The regional regulatory administrator will approve the license or permit, and any copies, to show the new location and the new license or permit number (if any). The approved license or permit, and any copies, will then be returned to the licensee or permittee.

9. By adding new § 181.63 to read as follows:

§ 181.63 Changes in approved magazines.

(a) *Change in location of magazines.*—During the term of a license or permit, a licensee or permittee who intends to change the location of an approved magazine described in his license or permit application (other than a change in location of a portable approved magazine), shall submit a letter application, in triplicate, to the regional regulatory administrator who issued the license or permit. The letter application shall identify the magazine, including location, type of construction, and class of explosive materials stored within as prescribed in § 181.202; and describe the new location. Explosive materials may not be stored at the new location before receipt of a copy of the letter application stamped "Approved."

(b) *Modifications to or changes in construction of magazines.*—During the term of a license or permit, a licensee or permittee who intends to make modifications to or changes in construction of approved magazines described in his license or permit application, shall submit a letter application, in triplicate, to the regional regulatory administrator describing the proposed modifications or changes. Modifications to or changes in construction of approved magazines may not be made before receipt of a copy of the letter application stamped "Approved."

(c) *Additional magazines.*—During the term of a license or permit, a licensee or permittee who intends to construct or acquire additional magazines (including portable magazines which are owned, leased, or rented) not described in his license or permit application, shall submit a letter application, in triplicate, to the regional regulatory administrator describing the proposed additional magazines. These magazines may not be used before receipt of a copy of the letter application stamped "Approved."

(d) *Retention of approved applications.*—A licensee or permittee shall retain, as part of his records available for examination by ATF officers, any letter application approved under this section.

10. By revising § 181.101 to read as follows:

§ 181.101 Posting of license or permit.

A license or permit issued under this part or any copy of a license or permit, and the copy of the application accompanying the approved license or permit returned by the regional regulatory administrator, shall be kept available for inspection on the business premises at each place where explosive materials are manufactured, imported, or distributed, and in each magazine of an approved storage facility. However, in lieu of keeping them at each approved magazine, they may be kept at one central location on the business premises. The license or permit shall be prominently posted.

11. By amending § 181.106(c) to read as follows:

§ 181.106 Certain prohibited distributions.

* * * * *

(c) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer may not distribute any explosive materials to any person knowing or having reason to believe that the person (1) is, except as provided under § 181.142 (d) and (e), under indictment for, or was convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or (4) was adjudicated as a mental defective or was committed to a mental institution.

12. By revising § 181.109 to read as follows:

§ 181.109 Identification of explosive materials.

(a) Each licensed manufacturer of explosive materials shall legibly identify, by marking, all explosive materials he manufactures for sale or distribution. The marks required by this section shall identify the manufacturer and the location, date, and shift of manufacture. The licensed manufacturer shall place on each cartridge, bag, or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging.

(b) *Exceptions.*—(1) Licensed manufacturers of blasting caps are only required to place the identification marks prescribed in paragraph (a) of this section on the containers used for the packaging of blasting caps.

(2) The Director may authorize other explosive materials to be marked by placing the identification prescribed in paragraph (a) of this section only on the containers used for packaging the explosive materials after he has determined that they are too small for suitable marking on the individual item.

13. By revising § 181.121(a) to read as follows:

§ 181.121 General.

(a) The records pertaining to explosive materials required by this part shall be kept in permanent form in the manner required by this subpart and shall be retained on the business premises for not less than 5 years from the date a transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also § 181.128 for discontinuance of business or operations.) Every year at the time of renewal of a license or permit, all explosive materials records pertaining to transactions occurring more than 5 years prior to the date of renewal of the license or permit, shall be submitted to the Bureau of Alcohol, Tobacco and Firearms, Explosives Technology Branch, Washington, D.C. 20226. (For example, if the expiration date for a license or permit is September 1, 1977, at the time of the renewal, all explosive materials records for the yearly period from September 1, 1971 to August 31, 1972, shall be submitted to ATF. At the time of the September 1, 1978 expiration date, records for the yearly period from September 1, 1972 to August 31, 1973, shall be submitted to

ATF. And so on.) In lieu of submitting the records to the Bureau, licensees or permittees shall, upon approval by the Director of a written request, keep the records required by this part on their business premises and available for inspection by ATF officers for not less than 10 years from the date a transaction occurs.

* * * * *

14. By amending § 181.122 to revise paragraphs (b) and (c) to read as follows:

§ 181.122 Records maintained by importers.

* * * * *

(b) Each licensed importer shall, not later than the close of the next business day following the date of importation or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of importation or other acquisition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (pounds of explosives, number of caps).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(c) Each licensed importer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the information required in § 181.103 (b), (c), and (d) and the following information:

(1) Date of transaction.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (pounds of explosives, number of caps).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

* * * * *

15. By amending § 181.123 to revise paragraphs (b) and (c) to read as follows:

§ 181.123 Records maintained by licensed manufacturers.

* * * * *

(b) Each licensed manufacturer shall, not later than the close of the next business day following the date of manufacture or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of manufacture or other acquisition.

(2) Name or brand name of product.

(3) Manufacturer's marks of identification.

(4) Quantity (pounds of explosives, number of caps).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(c) (1) Each licensed manufacturer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the information required in § 181.103 (b), (c), and (d) and the following information:

(i) Date of transaction.

(ii) Name or brand name of manufacturer or name of importer, as applicable, if acquired other than by his own manufacture.

(iii) Manufacturer's marks of identification.

(iv) Quantity (pounds of explosives, number of caps).

(v) Description (dynamite blasting agents, detonators, etc.) and size (length and diameter).

(vi) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(2) Each licensed manufacturer who manufactures explosive materials for his own use shall, not later than the close of the next business day following the date of use, enter in a separate record the following information:

(i) Date of use.

(ii) Quantity (pounds of explosives, number of caps).

(iii) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

* * * * *

16. By revising § 181.124 (b), (c), and (d) to read as follows:

§ 181.124 Records maintained by dealers.

* * * * *

(b) Each licensed dealer shall, not later than the close of the next business day following the date of purchase or other acquisition of explosive materials (except as provided in paragraph (d) of this section), enter the following information in a separate record:

(1) Date of receipt.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (pounds of explosives, number of caps).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) Name, address, and license or permit number of the person from whom the explosive materials are received.

(c) Each licensed dealer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee (except as provided in paragraph (d) of this section), enter in a separate record the information required in § 181.103 (b), (c), and (d) and the following information:

(1) Date of transaction.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (pounds of explosives, number of caps).

(5) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) When a commercial record is kept by a licensed dealer showing the purchase or other acquisition information required for the permanent record prescribed by paragraph (b) of this section, or showing the distribution information required for the permanent record prescribed by paragraph (c) of this section, the licensed dealer acquiring or distributing the explosive materials may, for a period not exceeding 7 days following the date of acquisition or distribution of the explosive materials, delay making the required entry into the permanent record of acquisition or distribution. However, until the required entry of acquisition or disposition is made in the permanent record, the commercial record must be (1) kept by the licensed dealer separate from other commercial documents kept by the licensee, and (2) readily available for inspection on the licensed premises.

* * * * *

17. By amending § 181.125(c) to read as follows:

§ 181.125 Records maintained by licensed manufacturers-limited and permittees.

* * * * *

(c) (1) Each permittee shall, not later than the close of the next business day following the date of acquisition of explosive materials, enter the following information in a separate record:

(i) Date of acquisition.

(ii) Name or brand name of manufacturer.

(iii) Manufacturer's marks of identification.

(iv) Quantity (pounds of explosives, number of caps).

(v) Description (dynamite, blasting agents, detonators, etc.) and size (length and diameter).

(vi) Name, address, and license number of the person from whom the explosive materials are received.

(2) Each permittee shall, not later than the close of the next business day following the date of disposition of surplus explosive materials to another permittee or a licensee, enter in a separate record the information prescribed in § 181.124(c). * * *

* * * * *

18. By amending § 181.127 to read as follows:

§ 181.127 Daily summary of magazine transactions.

In taking the inventory required by §§ 181.122, 181.123, 181.124, and 181.125, the licensee or permittee shall enter the inventory in a record of daily transactions to be maintained at each magazine of an approved storage facility; however,

these records may be kept at one central location on the licensed or permit premises if separate records of daily transactions are maintained for each magazine. At the close of business of each day each licensee and permittee shall record by manufacturer's name or brand name, the total quantity received in and removed from each magazine during the day and the total remaining on hand at the end of the day. Any discrepancy which might indicate a theft or loss of explosive materials shall be reported in accordance with the provisions of § 181.30.

19. By amending § 181.129 to read as follows:

§ 181.129 Exportation.

Explosive materials shall be exported in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and implementing regulations. However, licensed manufacturers, licensed importers, and licensed dealers exporting explosive materials shall maintain records showing the manufacture or acquisition of explosive materials as required by this part and records showing the quantity, the manufacturer's name or brand name of explosive materials, the name and address of the foreign consignee of the explosive materials, and the date the explosive materials were exported.

20. By revising § 181.141(a)(7) to read as follows:

§ 181.141 Exemptions.

(a) * * *

(7) The importation and distribution of Class C fireworks, generally know as "Common Fireworks" as decribed by U.S. Department of Transportation regulations in 49 CFR 173.100(r), and those Class C explosives described in 49 CFR 173.100 (p), (t), (u), and (x).

* * * * *

21. By adding an explanatory note following the heading for Subpart J to read as follows:

Subpart J—Storage

NOTE.—The provisions in this subpart shall apply until August 3, 1979. The provisions in Subpart JJ may be used in lieu of the provisions in this subpart, but shall be mandatory after August 3, 1979.

22. By adding new Subpart JJ, immediately following Subpart J, to read as follows:

Subpart JJ—Storage

Sec.

181.201 General.
181.202 Classes of explosive materials.
181.203 Types of magazines.
181.204 Inspection of magazines.
181.205 Movement of explosive materials.
181.206 Location of magazines.
181.207 Construction of type 1 magazines.
181.208 Construction of type 2 magazines.
181.209 Construction of type 3 magazines.
181.210 Construction of type 4 magazines.
181.211 Construction of type 5 magazines.
181.212 Smoking and open flames.
181.213 Quantity and storage restrictions.
181.214 Storage within types 1,2,3, and 4 magazines.
181.215 Housekeeping.
181.216 Repair of magazines.
181.217 Lighting.
181.218 Table of distances for storage of explosive materials.
181.219 Table of distances for storage of low explosives.
181.220 Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or other blasting agents.

§ 181.201 General.

(a) No person shall store any explosive materials in a manner not in conformity with this subpart (see § 181.29). Section 842(j) of the Act requires that the storage of explosive materials by any person must be in a manner conforming with the regulations contained in this subpart. The storage standards prescribed by this subpart confer no rights or privileges to store explosive materials in a manner contrary to State or other law.

(b) The Director may authorize alternate construction for explosives storage magazines when it is shown that the alternate magazine construction is substantially equivalent to the standards of safety and security contained in this subpart. Any person intending to use alternate magazine construction shall submit a letter application, in triplicate, to the regional regulatory administrator for transmittal to the Director, specifically describing the proposed magazine. Explosive materials may not be stored in alternate magazines before receipt of a copy of the letter application stamped "Approved."

(c) A licensee or permittee who intends to make modifications to or changes in his approved magazines, or who intends to construct or acquire additional magazines, shall comply with § 181.63.

§ 181.202 Classes of explosive materials.

For purposes of this part, there are three classes of explosive materials. These classes, together with the description of explosive materials comprising each class, are as follows:

High explosives.—Explosive materials which are bullet-sensitive or which can be caused to detonate by means of a blasting cap when unconfined. (For example, dynamite.)

Low explosives.—Explosive materials which are not bullet-sensitive, but which can be caused to deflagrate when confined. (For example, black powder; safety fuses; igniters; igniter cords; fuse lighters; and "special fireworks", defined as Class B explosives by U.S. Department of Transportation regulations in 49 CFR 173.88(d).)

Blasting agents.—(For example, ammonium nitrate-fuel oil and certain water-gels.)

§ 181.203 Types of magazines.

For purposes of this part, there are five types of magazines. These types, together with the classes of explosive materials, as defined in § 181.202, which shall be stored in them, are as follows:

(a) *Type 1 Magazines.*—Permanent magazines for the storage of high explosives, subject to the limitations prescribed by §§ 181.206 and 181.213. Other classes may also be stored in type 1 magazines.

(b) *Type 2 magazines.*—Mobile indoor and outdoor magazines for the storage of high explosives, subject to the limitations prescribed by §§ 181.206, 181.208(b), and 181.213. Other classes may also be stored in type 2 magazines.

(c) *Type 3 magazines.*—Portable outdoor magazines for the temporary storage of high explosives while attended (for example, a "day-box"), subject to the limitations prescribed by §§ 181.206 and 181.213. Other classes may also be stored in type 3 magazines.

(d) *Type 4 magazines.*—Magazines for the storage of low explosives, subject to the limitations prescribed by §§ 181.206(b), 181.210(b), and 181.213. Blasting agents or electric blasting caps that will not mass detonate may also be stored in type 4 magazines, subject to the limitations prescribed by §§ 181.206(c) (1) and (2).

(e) *Type 5 magazines.*—Magazines for the storage of blasting agents and watergels (slurries), which can be demonstrated to be neither bullet- nor cap-sensitive, subject to the limitations prescribed by §§ 181.206 (a) and (c), 181.211(b), and 181.213.

§ 181.204 Inspection of magazines.

Any person storing explosive materials shall open and inspect his magazines at least every 3 days. This inspection need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazines or unauthorized removal of their contents.

§ 181.205 Movement of explosive materials.

All explosive materials must be kept in locked magazines meeting the standards prescribed by this subpart unless they are:

(a) In the process of manufacture;

(b) Being physically handled in the operating process of a licensee or user;

(c) Being used; or

(d) Being transported to a place of storage or use by a permittee or by a person who has lawfully acquired explosive materials under § 181.126

§ 181.206 Location of magazines.

(a) Outdoor magazines in which high explosives are stored shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored, than the minimum distances specified in the table of distances for storage of explosives in § 181.218.

(b) Outdoor magazines in which low explosives are stored shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which explosive materials are stored, than the minimum distances specified in the table of distances for storage of low explosives in § 181.219. The distances shown in § 181.219 shall not be reduced by the presence of barricades.

(c) (1) Outdoor magazines in which blasting agents are stored and indoor magazines in which blasting agents in quantities of more than 50 pounds are stored shall be located no closer to inhabited buildings, passenger railways, or public highways than the minimum distances specified in the table of distances for storage of explosives in § 181.218.

(2) Ammonium nitrate and magazines in which blasting agents are stored shall be located no closer to magazines in which high explosives or other blasting agents are stored than the minimum distances specified in the table of distances for the separation of ammonium nitrate and blasting agents in § 181.220. However, the minimum distances for magazines in which explosives and blasting agents are stored from inhabited buildings, etc., may not be less than the distances specified in the table of distances for storage of explosives in § 181.218.

§ 181.207 Construction of type 1 magazines.

A type 1 magazine shall be a permanent structure: a building, an igloo or Army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated.

(a) *Buildings.*—All building type magazines shall be constructed of masonry, wood, metal, or a combination of these materials as specified in this section, and shall have no openings except for entrances and ventilation. Ground around building magazines shall slope away for drainage.

(1) *Wall construction.*—Magazine walls shall be constructed according to any of the following minimum specifications (All steel and wool dimensions are actual thicknesses. All concrete block and brick dimensions are nominal thicknesses.):

(i) Exterior of 5/8-inch steel.

(ii) Exterior of 1/2-inch steel, lined with an interior of not less than 3/8-inch plywood.

(iii) Exterior of 3/8-inch steel, lined with an interior of two inches of hardwood.

(iv) Exterior of 3/8-inch steel, lined with an interior of three inches of softwood or 2¼ inches of plywood.

(v) Exterior of ¼-inch steel, lined with an interior of three inches of hardwood.

(vi) Exterior of ¼-inch steel, lined with an interior of five inches of softwood or 5¼ inches of plywood.

(vii) Exterior of ¼-inch steel, lined with an intermediate layer of two inches of hardwood, and an interior lining of 1½ inches of plywood.

(viii) Exterior of 3/16-inch steel, lined with an interior of four inches of hardwood.

(ix) Exterior of 1/4-inch steel, lined with an interior of seven inches of softwood or 6¾ inches of plywood.

(x) Exterior of 1/4-inch steel, lined with an intermediate layer of three inches of hardwood, and an interior lining of ¾-inch plywood.

(xi) Exterior of ⅛-inch steel, lined with an interior of five inches of hardwood.

(xii) Exterior of ⅛-inch steel, lined with interior of nine inches of softwood.

(xiii) Exterior of ⅛-inch steel, lined with an intermediate layer of four inches of hardwood, and an interior lining of ¾-inch plywood.

(xiv) Exterior of any type fire-resistant material which is structurally sound (for example, ¾-inch plywood covered with 26-guage metal), lined with an intermediate layer of four inches solid concrete block or four inches solid brick or four inches of solid concrete, and an interior lining of ½-inch plywood placed securely against the masonry lining.

(xv) Standard eight-inch concrete block with voids filled with well-tamped sand/concrete mixture.

(xvi) Standard eight-inch solid brick.

(xvii) Exterior of any type fire-resistant material which is structurally sound (for example, ¾-inch plywood covered with 26-gauge metal), lined with a six-inch space filled with well-tamped, dry sand or well-tamped, sand/cement mixture.

(xviii) Exterior of ⅛-inch steel, lined with a first intermediate layer of ¾-inch plywood, a second intermediate layer of 3 5/8 inches well-tamped, dry sand or sand cement mixture, and an interior lining of ¾-inch plywood.

(xix) Exterior of any type fire-resistant material, lined with a first intermediate layer of ¾-inch plywood, a second intermediate layer of 3 5/8 inches well-tamped, dry and or sand/cement mixture, a third intermediate layer of ¾-inch plywood, a fourth intermediate layer of two inches of hardwood or 14-gauge steel, and an interior lining of ¾-inch plywood.

(xx) Eight-inch solid concrete.

(2) *Interior walls.*—Interior walls shall be constructed of, or covered with, a nonsparking material.

(3) *Floors.*—Floors shall be constructed of, or covered with, any suitable nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(4) *Foundations.*—Foundations shall be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the spaces under the buildings shall be enclosed with fire-resistant material.

(5) *Roofs and ceilings*—Outer roofs shall be constructed of fabricated metal, tile, asbestos, concrete, or other fire-retardant material. Where it is possible for a bullet to be fired directly through the roof and into the magazine at such an angle that the bullet would strike the explosives stored within, the magazine shall be protected by one of the following methods:

(i) A sand tray lined with a layer of building paper, plastic, or other nonporous material, and filled with not less than four inches of coarse, dry sand shall be located at the tops of inner walls covering the entire ceiling area, except that portion necessary for ventilation.

(ii) A fabricated metal roof shall be constructed of 5/16-inch plate steel lined with four inches of hardwood. (For each additional 1/16-inch of plate steel, the hardwood lining may be decreased one inch.)

(6) *Doors.* Doors shall be constructed of ¼-inch plate steel and lined with three inches of hardwood.

(7) *Hinges and hasps.*—Hinges and hasps shall be attached to the doors by welding, riveting, or bolting (nuts on inside of door). The hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(8) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. These requirements shall not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(9) *Ventilation.*—Magazines shall be ventilated to prevent dampness or heating of stored explosive materials. Except at doorways, a two-inch air space shall be left around ceilings and the perimeter of floors. Vents in the foundation, roof, or gables shall be offset and screened to prevent the entrance of sparks.

(10) *Exposed metal.*—No sparking material shall be exposed to contact with stored explosive materials. All ferrous metal nails in the floor and side walls which might be exposed to contact with explosive materials shall be blind nailed, or countersunk, or the floor and side walls covered with a nonsparking lattice work or other nonsparking material.

(b) *Igloos, Army-type structures, tunnels, and dugouts.*—Igloo, Army-type, tunnel, and dugout magazines shall be constructed of reinforced concrete, masonry, metal, or a combination of these materials. They shall have an earth-mound covering of not less than 24 inches on the top, sides, and rear. Magazines of this type shall also be constructed in conformity with paragraphs (a) (2), (3), (6), (7), (8), (9), and (10) of this section.

§ 181.208 Construction of type 2 magazines.

A type 2 magazine shall be a box, trailer, semi-trailer, or other mobile facility.

(a) *Outdoor magazines.* (1) *General.*—Outdoor magazines shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated. They shall be supported in such a manner so as to prevent direct contact with the ground and, if less than one cubic yard in size, shall be securely fastened to a fixed object. The ground around outdoor magazines shall slope away for drainage. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Exterior construction.*—The exterior and covers or doors shall be constructed of ¼-inch steel and shall be lined with three inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or which overlap the sides by at least one inch when in a closed position.

(3) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(4) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter. Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or level action on the locks or hasps. Trailers, semitrailers, and similar vehicular magazines may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.*—Indoor magazines shall be fire-resistant and theft-resistant. They need not be bullet-resistant and weather-resistant if the buildings in which they are stored provide protection from the weather and from bullet penetration. No indoor magazine shall contain a quantity of high explosives in excess of 50 pounds or more than 5,000 blasting caps.

(2) *Location.*—No indoor magazine shall be located in a residence or dwelling. An indoor magazine shall be provided with substantial wheels or casters to facilitate removal from its location. No more than one indoor magazine shall be kept in any one building, except that two magazines may be kept in the same building when one is used for the storage of blasting caps, squibs, or similar items and the other magazine is used for the storage of other high explosives. Two indoor magazines within the same building shall be separated by a distance of not less than 10 feet. Each indoor magazine shall be located on the floor nearest the ground level and within 10 feet of an outside exit.

(3) *Exterior construction.*—Indoor magazines shall be constructed of wood or metal according to one of the following specifications:

(i) Wood indoor magazines shall have sides, bottoms, and covers or doors constructed of two inches of hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than number 20-gauge. Nails exposed to the interior of magazines shall be countersunk.

(ii) Metal indoor magazines shall have sides, bottoms, and covers or doors constructed of number 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least one inch.

(4) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(5) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. Indoor magazines located in rooms which are locked as provided in this paragraph may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(c) *Cap boxes.*—Magazines for blasting caps in quantities of 100 or less shall have sides, bottoms, and covers or doors constructed of number 12-gauge metal and lined with a nonsparking material. Hinges and hasps shall be attached by welding. A single lock having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter shall be sufficient for locking purposes.

§ 181.209 Construction of type 3 magazines.

A type 3 magazine shall be a "day-box" or other portable magazine. It shall be bullet-resistant, fire-resistant, and theft-resistant. A type 3 magazine shall be constructed in the same manner prescribed for type 2 outdoor magazines in § 181.208 (a), except that it need not be securely fastened to a fixed object. Hinges, hasps, locks, and lock protection shall be in conformity with the requirements of § 181.207(a) (7) and (8). The ground around magazines shall slope away for drainage. Explosive materials shall not be left unattended in type 3 magazines, but must be removed to types 1 or 2 magazines for unattended storage.

§ 181.210 Construction of type 4 magazines.

A type 4 magazine shall be a building, igloo or Army-type structure, tunnel, dug-out, box, trailer, or a semitrailer or other mobile magazine.

(a) *Outdoor magazines.* (1) *General.*—Outdoor magazines shall be fire-resistant, weather-resistant, and theft-resistant. The ground around outdoor magazines shall slope away for drainage. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Construction.*—Outdoor magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. Foundations shall be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the spaces under the buildings shall be enclosed with fire-resistant material. The walls and floors shall be constructed of, or covered with, a nonsparking material or lattice work. The doors or covers shall be metal of solid wood covered with metal.

(3) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(4) *Locks.* Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. Trailers, semitrailers, and similar vehicular magazines may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.*—Indoor magazines shall be fire-resistant and theft-resistant. They need not be

weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine shall contain a quantity of low explosives in excess of 50 pounds.

(2) *Location.*—No indoor magazine shall be located in a residence or dwelling. An indoor magazine shall be provided with substantial wheels or casters to facilitate removal from its location. No more than one indoor magazine shall be kept in any one building, except that two magazines may be kept in the same building when one is used for the storage of blasting caps, squibs, or similar items and the other magazine is used for the storage of low explosives. Two indoor magazines within the same building shall be separated by a distance of not less than 10 feet. Each indoor magazine shall be located on the floor nearest the ground level and within 10 feet of an outside exit.

(3) *Construction.*—Indoor magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. The walls and floors shall be constructed of, or covered with, a nonsparking material. The doors or covers shall be metal or solid wood covered with metal.

(4) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of doors). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(5) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. Indoor magazines located in rooms which are locked as provided in this paragraph, may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(c) *Cap boxes.*—Magazines for blasting caps in quantities of 100 or less shall have sides, bottoms, and covers or doors constructed of number 12-gauge metal and lined with a nonsparking material. Hinges and hasps shall be attached by welding. A single lock having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter shall be sufficient for locking purposes.

§ 181.211 Construction of type 5 magazines.

A type 5 magazine shall be a building, igloo or Army-type structure, tunnel, dugout, bin, box, trailer, or a semitrailer or other mobile facility.

(a) *Outdoor magazines.* (1) *General.*—Outdoor magazines shall be weather-resistant and theft-resistant. The ground around magazines shall slope away for drainage. When unattended, vehicular magazines shall have wheels removed or shall otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) *Construction.*—The doors or covers shall be constructed of solid wood or metal.

(3) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(4) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. Trailers, semitrailers, and similar vehicular magazines may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

(b) *Indoor magazines.* (1) *General.*—Indoor magazines shall be theft-resistant. They need not be weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine shall be located in a residence or dwelling. Indoor magazines containing quantities of blasting agents in excess of 50 pounds shall be subject to the tables of distances in §§ 181.218 and 181.220 of this subpart.

(2) *Construction.*—The doors or covers shall be constructed of wood or metal.

(3) *Hinges and hasps.*—Hinges and hasps shall be attached to the covers or doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed in such a manner that they cannot be removed when the doors are closed and locked.

(4) *Locks.*—Each door shall be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock.

Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter.

Padlocks shall be protected with ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps. Indoor magazines located in rooms which are locked as provided in this paragraph, may, for each door or opening, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ⅜-inch diameter, if the lock hinges and hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar which cannot be actuated from the outside.

§ 181.212 Smoking and open flames.

Smoking, matches, open flames, and similar spark producing devices shall not be permitted—

(a) In any magazine;

(b) Within 50 feet of any outdoor magazine; or

(c) Within a 50-foot line of sight of any indoor magazine.

§ 181.213 Quantity and storage restrictions.

Explosive materials in excess of 300,000 pounds or blasting caps in excess of 20 million shall not be stored in one magazine. Blasting caps shall not be stored with other explosive materials in the same magazine, unless it can be established to the satisfaction of the Director that sufficient security exists and that the storage does not constitute an unsafe practice.

§ 181.214 Storage within types 1, 2, 3, and 4 magazines.

(a) Explosive materials within a magazine shall not be placed directly against interior walls and shall be stored so as not to interfere with ventilation. To prevent contact of stored explosive materials with walls, a nonsparking lattice work or other nonsparking material may be used.

(b) Containers of explosive materials shall be stored by being laid flat with top sides up. Corresponding Classes (as defined in Department of Transportation (DOT) regulations (49 CFR, Part 173)), grades, and brands shall be stored together within a magazine in such a manner that grade, brand, and DOT Class marks are easily visible upon inspection. Stocks of explosive materials shall be stored so as to be easily counted and checked.

(c) Except with respect to fiberboard or other nonmetal containers, containers of explosive materials shall not be unpacked or repacked inside a magazine or within 50 feet of a magazine, and shall not be unpacked or repacked near other explosive materials. Containers of explosive materials shall be securely closed while being stored.

(d) Tools used for opening or closing containers of explosive materials shall be of nonsparking materials, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials. Metal tools other than nonsparking transfer conveyors shall not be stored in any magazine containing high explosives.

§ 181.215 Housekeeping.

Magazines shall be kept clean, dry, and free of grit, paper, empty packages and containers, and rubbish. Floors shall be regularly swept. Brooms and other

utensils used in the cleaning and maintenance of magazines shall have no spark-producing metal parts, and may be kept in magazines. Floors stained by leakage from explosive materials shall be cleaned according to instructions of the explosives manufacturer. When any explosive material has deteriorated to the extent that it is in a dangerous condition, or if a liquid or other material is leaking from any explosive material, it shall be destroyed in accordance with the instructions of its manufacturer. The area surrounding magazines shall be kept clear of rubbish, brush, dry grass, or trees (except live trees more than 10 feet tall), for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor magazines.

§ 181.216 Repair of magazines.

Before repairing the interior of magazines, all explosive materials shall be removed and the interior shall be cleaned. Before repairing the exterior of magazines, all explosive materials shall be removed if there exists any possibility that repairs may produce sparks or flame. Explosive materials removed from magazines under repair shall be (a) placed in other magazines appropriate for the storage of those explosive materials under this subpart, or (b) placed a safe distance from the magazines under repair where they shall be properly guarded and protected until the repairs have been completed.

§ 181.217 Lighting.

No lighting shall be placed or used in a type 1, 2, 3, or 4 magazines except battery-activated safety lights or battery-activated safety lanterns. However, electrical illumination may be used when explosion-proof fixtures and wiring in rigid conduit are used inside and all electric switches are loacted outside the magazine.

§ 181.218 Table of distances for storage of explosive materials.

Quantity of explosives		Distance (in feet)							
		Inhabited buildings		Public highways with traffic volume of less than 3,000 vehicles/day		Passenger railways—Public highways with traffic volume of more than 3,000 vehicles/day		Separation of magazines	
Pounds over	Pounds not over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	910	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	230
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,310	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	216	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

NOTE.—(1) When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways and, in addition, they shall be separated from each other by not less than the distances shown for "Separation of Magazines." However, the quantity of explosives contained in cap magazines shall govern in the spacing of cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then the two or more magazines, as a group, must be considered as one magazine. The total quantity of explosives stored in that group must then be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum distances from other magazines, inhabited buildings, railways or highways.

(2) All types of blasting caps in strengths through No. 8 cap shall be rated at 1¼ lb of explosives per 1,000 caps. For strengths higher than No. 8 caps, consult the manufacturer.

(3) For quantity and distance purposes, detonating cord of 50 to 60 gr/ft shall be calculated as equivalent to 9 lb of high explosives per 1,000 ft. Heavier or lighter core loads shall be rated proportionately.

§ 181.219 Table of distances for storage of low explosives.

Pounds (over)	Pounds (not over)	Distance (in feet)		
		From inhabited building	From public railroad and highway	From above-ground magazine
(1)	(2)	(3)	(4)	(5)
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

See notes (1 6) bottom of following table.

§ 181.220 Table of recommended separation distances of ammonium nitrate and blasting agents from explosives or other blasting agents. (1) (6)

Donor weight		Minimum separation distance of receptor from donor when barricaded (feet) (2)		Minimum thickness of artificial barricades (inches)
Pounds over	Pounds not over	Ammonium nitrate (3)	Blasting agent (4)	(5)
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

NOTE. (1) This Table recommends separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or blasting agents referred to in the Table as the "donor." Ammonium nitrate, by itself, is not considered to be a donor when applying this table. Ammonium nitrate, ammonium nitrate-fuel oil, or combinations of the two are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate shall be included in the mass of the donor when calculating separation distances.

(2) When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by 6. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances and barricade thicknesses in excess of those prescribed in Sec. 181.218 are not required.

(3) The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer tested by the Fertilizer Institute. Ammonium nitrate failing to pass this test shall be stored at separation distances in accordance with the table in Sec. 181.218.

(4) These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the U.S. Department of Transportation (DOT) regulations.

(5) Earth dikes, sand dikes, or enclosures filled with the required minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves are also acceptable.

(6) For determining the distances to be kept from inhabitated buildings, passenger railways, and public highways, use the table in Sec. 181.218. Ammonium nitrate, when stored with blasting agents or explosives, may be counted at one-half its actual weight because its blast effort is lower.

(The proposed regulations are to be issued under the authority contained in 18 U.S.C. 847 (84 Stat. 959).)

Signed: June 29, 1977.

REX D. DAVIS,
Director.

Approved: July 25, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-22016 Filed 8-2-77;8:45 am]

federal register

WEDNESDAY, AUGUST 3, 1977

PART III



DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

■

MEAT AND POULTRY INSPECTION

Recommended Changes; Solicitation of Views

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

RECOMMENDED CHANGES IN MEAT AND POULTRY INSPECTION

Solicitation of Views

AGENCY: Food Safety and Quality Service, United States Department of Agriculture.

ACTION: Solicitation of Views.

SUMMARY: The consulting firm of Booz, Allen, and Hamilton, Inc. was hired by USDA to study the meat and poultry inspection programs conducted under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), for the purpose of finding possible ways to lessen the cost of inspection and remove any unnecessary regulatory burden placed on industry while assuring no loss of consumer protection. The firm has finished its study and prepared a detailed report which is summarized below. The report contains recommendations, some of which, if accepted by the Department, would cause significant changes in the way inspection is carried out. In order to conform with USDA's commitment to encourage citizen participation and to assist the Department in deciding what actions should be taken concerning these recommendations, the Department hereby announces three briefing meetings to familiarize interested parties with the content of the recommendations, announces a public hearing to discuss the recommendations, and further solicits written views of all interested parties.

DATES AND ADDRESSES: Comments must be received by October 31, 1977.

Send comments to: Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

Briefing meetings will be held, beginning at 10 a.m.:

August 17, 1977—Interdepartmental Auditorium, Conference Room B, 1301 Constitution Avenue NW., Washington, D.C.

August 23, 1977—University of Illinois, Circle Campus, Room 605, Chicago Circle Center, 750 South Halstead Street, Chicago, Ill.

August 26, 1977—U.S. Custom Building, Room 503, 555 Battery Street, San Francisco, Calif.

A Public Hearing will be held, beginning at 10 a.m.:

September 26–27, 1977—Jefferson Auditorium, South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C.

For information on making reservations to speak at public hearing, see supplementary information.

FOR FURTHER INFORMATION CONTACT:

Dr. Arnold Giesemann, Acting Assistant to the Deputy Administrator, Meat and Poultry Inspection, Food Safety and Quality Service, USDA, Room 4863, South Building, Washington, D.C. 20250 (202–447–4565).

SUPPLEMENTARY INFORMATION: The entire report (approximately 700 pages) is available free, one copy to a request, by contacting Mr. Robert Norton, Acting Director, Information Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3977.

To make a reservation to speak at the public hearing, contact Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6189. A time period will be set aside at the public hearing for coments on speeches, to present rebuttals, etc. No reservation is required to speak during this time.

The three briefings will be held for the purpose of further acquainting the public with the details of the recommendations.

USDA has a commitment to encourage citizens participation, and, in keeping with that commitment, the public's views on these recommendations are solicited.

Done at Washington, D.C., on July 28, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Services.

SUMMARY

A STUDY OF FEDERAL MEAT AND POULTRY INSPECTION SYSTEM BY BOOZ, ALLEN & HAMILTON, INC., JUNE 1977

Recommendations for substantial improvements in the Federal Meat and Poultry Inspection Program are contained in a three volume report submitted to the U.S. Department of Agriculture (USDA) by a management consulting firm in mid-June. The recommended program changes could save USDA $210 million (in 1976 dollars) by 1985, with no loss in consumer protection, according to the study conducted by Booz, Allen and Hamilton, Inc.

The study of the inspection system was initiated last year when USDA officials became increasingly concerned over the cost and efficiency of the program. The $371,848 contract was awarded to Booz, Allen in September 1976.

During the course of the 9-month study, the Booz, Allen team made extensive field visits to interview Federal and State inspection officials, industry leaders, consumer groups, officials of employee organizations, and Congressional leaders. Members of the team spent time in every region of the country and visited a variety of meat and poultry slaughtering and processing plants representative of all parts of the industry.

Volume I of the report is an indepth description of the Meat and Poultry Inspection Program (MPI), including:

The legislative history and goals of the Program; Current inspection activities; Organization of the Program; and Current Federal costs and projected costs to 1985.

LEGISLATION MANDATED INTENSIVE INSPECTION

The report traces the history of the inspection program back to the Meat Inspection Act of 1890. Aimed at promoting exports of U.S. meat products to other countries, the Act contained very limited provisions for meat inspection to protect consumers in the United States.

The Meat Inspection Act of 1906 remained the major piece of legislation regulating meat inspection for more than 60 years. The foundation of modern meat inspection, the 1906 Act, required mandatory inspection of all meat and meat products moving in interstate commerce, provided for inspection of the product at numerous points in the manufacturing process and required label inspection.

Poultry inspection, however, was a voluntary program until the passage of the Federal Poultry Products Inspection Act of 1957. That Act required ante-mortem inspection of poultry for slaughter to the degree determined necessary by the Secretary, and post-mortem inspection of all slaughtered poultry moving in interstate commerce, as well as inplant checks, review of labeling and inspection of imported products.

The 1960's brought the major legislation guiding the inspection program today. The Wholesome Meat Act of 1967 was passed to close gaps in existing legislation and to coordinate the provisions of previous meat inspection acts. It was aimed at assuring uniformity in regulation of goods shipped in interstate, intrastate, and foreign commerce.

The 1967 Act provided the backbone for Federal/State cooperation, giving explicit instructions on cooperative arrangements. State programs deemed "equal to" the Federal inspection program could continue to inspect products, but those products could be shipped only within the State. Federally inspected products were permitted to travel interstate, however. The Federal program was given the authority to take over a State program, or "designate" the State, if its inspection program was not on a par with the Federal program.

Other provisions of the Act made ante-mortem inspection of all animals mandatory instead of permissive, required more extensive review of foreign products, provided stronger enforcement tools for USDA, and gave the Department new regulatory authority over allied industries, such as transporters and other food handlers.

The Wholesome Poultry Products Act of 1968 is similar to the 1967 meat act in both its basic intent and provisions. The poultry act, however, went further in its attempts to ease the burden on small businessmen by providing certain exemptions from inspection for low volume processors.

Cooperative efforts between Federal and State inspection authorities were encouraged through the Talmadge-Aiken Act of 1962. The Act, which was a general bill dealing with cooperative agreements for the marketing of agricultural products, was applied to meat and poultry inspection after the significant acts of 1967 and 1968. State inspected plants saw the Talmadge-Aiken option as a means of obtaining Federal inspection under an existing State program, thus enabling the plant to ship interstate.

MEAT AND POULTRY INSPECTION PROGRAMS SEPARATE UNTIL 1968

The report outlined the development of the meat and poultry inspection programs, which remained two distinct systems within the Agriculture Department until the late 1960's.

The meat inspection program began as a veterinary-directed group within USDA and was not connected with marketing groups. The poultry inspection program, on the other hand, began as part of an agency within USDA with markeing as well as inspection functions.

Both programs became part of the Consumer and Marketing Service, formed in 1964, while still remaining organizationally separate except for certain staff activities. Feeling the pressures created by the new meat and poultry legislation, the Department fully merged the inspection systems in 1968 into the Meat and Poultry Inspection Program (MPI), a system with a field structure made up of eight regions containing 118 circuits.

In 1972, the meat and poultry inspection programs were marged with certain animal health programs to form a new agency, the Animal and Plant Health Inspection Service (APHIS). Under APHIS, the field structure was reorganized into five regions, 35 areas, and 222 circuits.

With the reorganization of 1977, MPI was split from the other parts of APHIS and combined with other food inspection, standardization and grading services to form the Food Safety and Quality Service.

INSPECTION COSTS ROSE OVER 40 PERCENT IN PAST 5 YEARS

The recognized trend toward spiraling costs for meat and poultry inspection was confirmed in findings of the consulting firm, as presented in Volume I of the report. Federal expenditures for meat and poultry inspection increased 43 percent over the last 5 years to $202.8 million in fiscal year 1976. Inflation alone was estimated to account for over half of this increase.

The major portion of the expenditure —$173.7 million—supported Federal inspection. The remainder supported State inspection programs deemed "equal to" the Federal system, for which the Federal Government pays 50 percent of the costs.

While the Federal Government may "designate" an unsatisfactory State program, a State may also request that MPI take over its inspection system. When a State does this all costs for inspection are then paid by the Federal Government. In recent years many States have voluntarily given up their inspection programs as a means of conserving State funds without also cutting out a vital service to consumers.

Twenty-four States currently have designated poultry inspection programs and 17 have designated meat inspection programs. Almost one-third of the total meat and poultry program designations have occurred since 1975, and all have been voluntary.

The growing number of State designations has had an impact on MPI greater than a simple increase in Federal expenditures. Along with State programs came many very small, lower volume plants. Since State inspected plants may ship only intra- and not intrastate, State systems are made up largely of smaller plants.

The past 5 years have seen a 53 percent increase in the number of federally inspected plants, with only an 8 percent increase in the volume of production. This 28 percent decrease in the average volume per federally inspected plant reflects the influx of smaller plants into the Federal system.

This trend is also apparent in comparing the growth of the inspection force to the huge increase in the number of federally inspected plants. Between 1972 and 1976, the number of inplant inspectors had increased by only 16.6 percent, covering the more than 50 percent increase in plants. As small plants entered the system, less inspection time per plant was required.

The smaller increase in manpower requirements is also related to steps taken by MPI in this direction. The program developed new work standards for inspectors, made greater use of existing manpower on an overtime basis, and increased usage of veterinarians and food inspectors on a patrol basis to cover several plants in a geographic area. This use of patrol inspectors, who cover more than one plant requiring less than 1 full man-year of inspection, is expected to continue. In fiscal year 1976, patrol inspectors accounted for 55 percent of total Federal inspection.

The changes brought about by State designations had a greater impact on the red meat industry than the poultry industry. There was a 49 percent increase in the number of red meat plants changing from State to Federal inspection since 1972, but less than a 1 percent increase in the number of federally inspected poultry plants. Combination plants in which both meat and poultry products are manufactured were affected the most, showing a 114 percent increase in the number of plants coming under Federal inspection.

FEDERAL SHARE OF INSPECTION COSTS INCREASED

The costs for inspection of meat and poultry are shared by the Federal Government, State governments, and the industry. Total collective expenditures for inspection have increased 37 percent over the last 5 years to $257.7 million in fiscal year 1976.

As more States have eased their own budgetary pressures through voluntary designation, the Federal costs for inspection have correspondingly increased. In fiscal year 1976, the Federal share amounted to nearly 80 percent, a proportion that has increased almost 4 percent since 1972.

Undesignated States spent $29.1 million to maintain inspection programs "equal to" the Federal system in fiscal year 1976—an increase of 8 percent in actual expenditures over 1972. Viewed as a proportion of total inspection costs, however, State expenditures have decreased almost 3 percent since 1972 to 11.3 percent of the total in fiscal year 1976, reflecting the State designations during this time.

Industry pays part of the inspection budget by reimbursing MPI for any inspection overtime required and for voluntary inspection activities. Such reimbursements cost industry $25.8 million in fiscal year 1976, an increase of 25 percent over fiscal year 1972. During the 5 years studied, however, industry expenditures as a proportion of total costs have remained relatively stable at about 10 percent.

FEDERAL INSPECTION FOUND LABOR INTENSIVE

Meat and poultry inspection was found highly labor intensive with almost 90 percent of the total expenditures during 1976, excluding grants to States, allocated to salaries and benefits. This is the result of the many activities mandated by the inspection program's enabling acts. The cost of providing inspectors in meat and poultry plants accounted for nearly 70 percent of total Federal inspection expenditures during fiscal year 1976, a percentage of the total which has remained relatively constant since 1972. This percentage rises when grants to States are considered, since part of the grants includes funding for inplant inspection. Federal grants to States totaled $29.1 million in fiscal year 1976.

The report related the rapid rise in inspection costs over the past 5 years to two major factors—State designations and inflation.

As noted, smaller plants entering the system through State designations have resulted in a lower average volume of inspected product by each inspector. Coupled with this is spiraling inflation, estimated to account for over half of the increased dollar expenditures over the past 5 years.

As projected by Booz, Allen, by 1980 Federal inspection costs will leap to at least $211.8 million (in 1976 dollars) and $219.2 million by 1985. The projections were based on expected future trends in population, meat and poultry production and consumption, designation of State programs, and costs of inspection activities. The figures represent a projected increase of 5 percent by 1980 and 8 percent by 1985.

SEVEN AREAS CHOSEN FOR FURTHER STUDY

After its extensive study of the meat and poultry inspection system, the Booz, Allen study team drew four major conclusions about the program's operations and structure. These are discussed in Volume III.

First, the consulting firm found that meat and poultry inspection activities are consistent with legislative mandates. The operations of program personnel are conducted to detect major forms of adulteration and misbranding, as re-

quired by the agency's enabling legislation.

The second finding of the researchers related to the growth of the inspection program. The report noted that growth over the last 5 years has been significant and predicted continued growth through 1985, as more States give up their inspection programs.

The need for improvements in management structures and activities is cited as the third finding. Work loads in the field are not distributed uniformly. In addition, Program execution is not well integrated with planning and budgeting in MPI, nor supported by adequate information about the Program. Program expenditures are not analyzed in enough detail to aid managers in overall control.

Finally, the firm found that several key aspects of MPI operations and management offer opportunities to improve cost effectiveness. Seven areas of MPI operations and management, accounting for 92 percent of the Program's operating costs in FY 76, were chosen for the study.

Volume II provided a detailed discussion of these alternatives. Each area was evaluated in terms of its advantages and disadvantages, its potential for cost avoidance, potential reactions of interest groups, and ultimately, its viability.

Volume III contained Booz, Allen's recommendations to the Department of Agriculture and detailed strategies for implementation. The final volume also served as an executive summary of the first two volumes, building upon the earlier reported findings and conclusions.

In making its evaluations, Booz, Allen assumed that inspection will continue to be required in all but so-called custom exempt plants in which the law currently permits custom slaughter of a consumer's own meat animal with only periodic surveillance. The introduction to Volume II noted that the tremendous influx of smaller plants into the Federal system over the past 5 years has greatly reduced the efficiency of the Federal program on a cost-per-pound-inspection basis. In some cases, providing inspection to very small plants is perhaps as much as 1900 percent less efficient than to very large plants. This, in essence, amounts to a subsidy to small industry, the report stated.

However, any recommendation related to smaller plants, which some have suggested should be excluded from inspection, was deemed to be outside the scope of the study. The findings relate to the current scope of MPI activities—including the inspection of small plants with their own unique considerations.

The seven aspects of MPI operations and management chosen for further study accounted for 90 percent of its operating costs in FY 1976. They were:

Processing inspection
Post-mortem poultry inspection
Ante-mortem red meat inspection
Post-mortem red meat inspection
Management activities
Management structures
Cross utilization of Federal and State inspection personnel

A summary of the findings and conclusions regarding each alternative follows. An extensive discussion of each can be found in Volume II with an abbreviated analysis in Volume III.

PROCESSING INSPECTION—A MONITORING APPROACH

A monitoring approach to processing inspection in which an inspector makes use of a firm's quality control records, accompanied by frequent verification samples and a progressive economic penalty system, was considered to be the alternative offering the greatest potential benefit to the inspection program and to the consumer.

The system places the burden of proof of compliance with Federal regulations on the shoulders of industry. It is their responsibility to provide USDA with acceptable evidence of compliance, which is to be monitored and verified by the inspection program.

Since the only means of providing this evidence under existing technology is through quality control (q.c.) records kept by the industry, the proposed system, in essence, mandates quality control programs throughout the industry. The system is designed to end the practice of using USDA inspectors as a firm's quality control manager.

The report asserted that a voluntary approach to q.c. is not practical. A mandatory program would place all of the industry on an equal footing and would enable MPI to make accurate predictions of inspection workload.

The report does not recommend that "total" quality control systems be required. Much of the industry would not be able to implement such programs within the 1985 time frame considered by the consulting firm.

Instead, a comprehensive system was recommended, embracing all areas of product flow. Every firm would be required to maintain q.c. systems for microbiological monitoring, processing temperatures, net weight, and fat and added water. Other systems may be required in specific plants, such as a mandatory q.c. system accompanying use of nutrition labeling or a system where restricted ingredients are in use.

The proposed system moves MPI somewhat closer to the approach taken by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare, which regulates all foods other than meat and poultry. The FDA system, in accordance with that Agency's legislative charges, checks food establishments at infrequent intervals, depending upon the risk associated with the specific commodity present. An FDA inspector may inspect a "very high risk" establishment, such as a manufacturer of milk products, twice a year, while visiting a "low risk" establishment, such as a soft drink bottler, only once every few years.

FDA depends heavily on the industry to police itself, but it has a wide range of enforcement tools available when necessary. Legislation pending in Congress would add substantially to the FDA's arsenal, giving it the authority to, among other things, demand access to a firm's processing records and require companies to have "adequate" q.c. systems.

The differences in the kind and degree of risk between meat and nonmeat items precluded the use of an FDA-type system for meat and poultry inspection, the consulting firm concluded. The greater potential risk of human disease caused by foods of animal origin is reflected in the legislation which governs the regulations of the differing commodities, with MPI required to conduct much more intensive inspection than FDA.

However, Booz, Allen indicated that the FDA approach, which more fully uses industry's quality control records, could be adapted for use by MPI. The program proposed for USDA must be accompanied by a broad array of new enforcement tools. It was recommended that MPI devise a plant rating system tied to a progressive enforcement system that includes economic penalties, such as a charge back for extra inspection time spent in problem plants.

The program would require intensive monitoring of the q.c. programs by MPI. Inspection efforts could be concentrated on three major areas: monitoring of procedures and data; spot checking (verification inspection) of the product; and conventional inspection of the plant for requirements not included within the q.c. program.

MPI would benefit from greater staffing flexibility and gain the ability to focus better on problems. In addition, the inspection program would be better able to stay within Administration's personnel ceiling while meeting its legislative mandates.

Benefits would also accrue to industry and the consumer. Mandating quality control programs would result in a more consistent product entering food channels, with less throwaway at the plant. The inspection force would utilize more objective standards—relying to a greater extent on written documentation and sample analysis. The system would also provide for a greater separation of the inspector and the plant.

Booz, Allen predicted that the proposed system could result in an average 32 percent reduction in MPI manpower per plant. When implementation costs are added in, for needs such as special training for inspectors and increased sample analysis, a cumulative cost avoidance of nearly $116.5 million (in 1976 dollars) is estimated through 1985, assuming implementation by 1980.

The report acknowledged major difficulties in implementation of such a program by small operators and suggested special arrangements, such as personnel sharing or the use of part-time personnel from the academic community. Booz, Allen proposed a delayed phase-in of mandated programs to allow additional time for smaller operators to develop the required capabilities.

The recommended changes have implications for MPI staffing requirements.

Inspectors will need a fundamental knowledge of quality control programs.

New hires for processing inspection should have completed at least 2 years of college with course work in food technology, statistics and biological sciences, the report stated. Slaughter inspectors would be eligible to cross over into processing inspection only if those requirements are met. Greater opportunities for advancement should also be available in order to attract college graduates. Management positions should be reevaluated to eliminate requirements, where appropriate, for veterinary medical expertise.

The proposed system would require consultation with Congress since such a program was not discussed with Congress during passage of MPI authorizing legislation.

POULTRY POST-MORTEM INSPECTION—A BI-LEVEL SYSTEM

A bi-level approach to poultry inspection—utilizing a specially adapted "continuous sampling plan" (actually, sampling from a continuous production line)—was recommended for intensive field study by the Booz, Allen team.

The system is feasible, the report concluded, because of the nature of poultry condemnations, particularly of young chickens. Poultry raising and marketing practices result in rather homogenous lots in which disease incidence is either quite low or fairly high—allowing a differentiation between "good" and "bad" lots. In addition, with the current state of knowledge and detection capabilities, it appears likely that most causes of condemnation have little human health significance.

Under the concept developed by the Booz, Allen team, inspection would focus on "bad" lots of poultry—while all birds would continue to be inspected by either MPI inspectors or an industry inspection crew. Under certain conditions, a plant screening crew would prescreen the birds to be examined by MPI—offering a double check. However, "good" lots would be examined by MPI officials on a continuous sampling basis, with the rest of the birds in the lot checked by trained plant employees—in effect, another form of 100 percent inspection.

Under the specifics of the system, there are three inspection modes:

Mode A: All birds are inspected by trained plant inspectors and MPI inspectors who reinspect a specified fraction of the birds to verify. (Greater than 100 percent inspection.)

Mode B: A fraction of the birds are inspected by MPI inspectors. The rest are inspected by industry inspectors. (100 percent inspection.)

Mode C: All birds are inspected by MPI inspectors. The plant may preinspect some or all of the birds. (At least 100 percent inspection.)

Every new lot, made up of a homogenous flock, begins in Mode A, unless the more stringent Mode C has been in effect in the plant.

The plant may switch to Mode B from Mode A after a predetermined number of consecutive birds have been inspected and passed, indicating that the lot is relatively free of condemnable disease conditions. If the MPI inspector finds a condemnable carcass while the plant is in Mode A, then MPI inspectors begin looking at every bird (the system switches to Mode C).

While the system is operating in Mode B, with 100 percent inspection performed by a combination of MPI and plant inspectors, if an MPI inspector condemns a carcass, the system returns to Mode A where some double checking takes place. At that time, all birds that had passed the inspection station since the last bird was inspected and passed are set aside for reinspection by MPI inspectors.

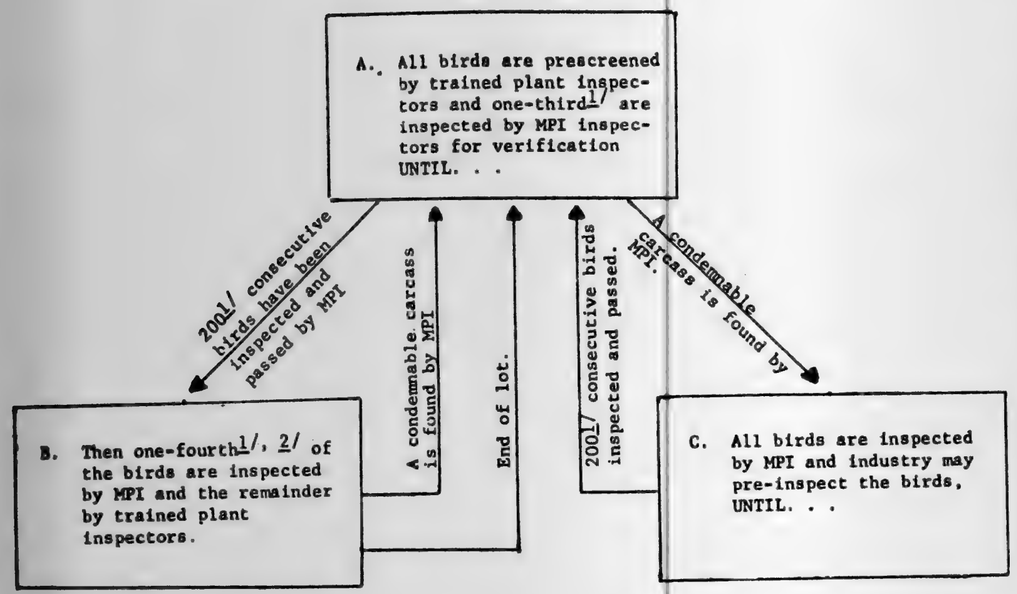
While the system is in Mode C, or 100 percent MPI inspection, if a predetermined number of consecutive birds are passed by MPI inspectors, the system may return to Mode A.

Exhibit 1 illustrates the workings of the proposed system.

The system incorporate incentives to the plant that are beneficial to the consumer. Mode C is initiated when ineffective plant inspection is detected by MPI personnel. Since line speeds slow down considerably in this mode, there is incentive for effective plant inspection. Since productivity can be highest under Mode B, there is incentive to provide healthy animals for slaughter to enable the plant to qualify for that mode.

EXHIBIT 1

Bi-Level Poultry Postmortem Inspection



1/ Numbers are for expository purposes. Actual numbers may be quite different.

2/ Fraction of birds inspected by MPI in Modes A and B may be the same.

Plants may provide their own inspectors to maximize productivity. Line speeds currently are constrained by the number of MPI inspectors. But under Modes A and B, the plant can increase its line speeds by adding plant inspectors. The plant, however, could not use more than eight of its inspectors to one MPI inspector to assure adequate verification sampling.

The Booz, Allen report predicted that the proposed system would prove to be more effective than the current system because it provides for some duplicate inspection. The study noted that no system is 100 percent effective—past estimates have suggested an error rate of perhaps 1.0 to 1.5 percent for the current system. Under the proposed system, there is actually double screening at some points and 100 percent inspection is always in effect in some manner, even when an MPI inspector is only sampling. Thus, the new concept potentially offers improved effectiveness.

This system, similar to that proposed for processing inspection, transfers some costs and responsibilities from MPI to the industry. It would require training of plant employees to function as effective inspectors. Some physical changes in line layout may also be required.

According to the report, a substantial reduction in MPI costs for poultry inspection could result from implementation of the bi-level approach. Currently, poultry inspection absorbs a sizeable share of the MPI budget—about $32 million in fiscal year 1976, or 15 percent of the total expenditures. It was estimated that the costs for poultry inspection could be cut by 25 percent, with a projected 40 percent reduction in on-line inspection. If the system is adopted by 1980, this would result in a projected savings of nearly $50 million (in 1976 dollars) by 1985.

Any change from 100 percent MPI inspection would require an amendment to the Wholesome Poultry Products Act of 1968. In view of the legislative action required and the administrative adjustments needed by both MPI and industry, the report recommended gradual implementation preceded by extensive field testing.

ANTE-MORTEM INSPECTION OF RED MEAT—A MONITORING SYSTEM

A more flexible anti-mortem inspection system that permits MPI to focus most of its inspection on questionable animals was recommended ni the Booz, Allen report.

Formerly discretionary, anti-mortem inspection was made mandatory by the Wholesome Meat Act of 1967. As presently conducted, however, such inspection appears to have little measureable impact on total inspection results. Little flexibility is permitted under the law to improve the efficiency of the process, and the inspection effort invested appears relatively high in terms of the number of defects found.

Condemnation data listed in the study indicated that only a small faction of the red meat animals offered for slaughter, which are not already dead or dying, are condemned during anti-mortem inspection—only one animal per 20,000. The cost of ante-mortem inspection was estimated to be nearly $2 million—resulting in a cost of $5.24 to locate each defective animal. With very limited exceptions, those animals condemned on ante-mortem inspection would also be removed from the food chain on post-mortem inspection.

The consulting firm concluded that ante-mortem inspection has value and should not be eliminated. In the absence of any other responsible group in the United States, MPI must continue to meet the responsibility for disease detection. However, there is a need for more flexibility in the legislation to enable changes in procedures that will retain the intent while allowing for more efficient use of scarce resources.

Booz, Allen recommended that the program be modified to allow MPI to concentrate inspection time on classification and disposition of defective animals—the most difficult of inspection activities and the one of most significance to consumers. The proposed system would require the packer to separate the questionable animals, but MPI officials would no longer be required to examine every animal. MPI would reserve the right to inspect any animal, however, and would inspect all abnormal animals, as well as monitor closely the screening process.

Although industry efforts would increase under the system, the industry would benefit from the proposed elimination of reimbursable overtime—overtime charged to the industry—for ante-mortem inspection. Any overtime needed for this activity would be administrative under the proposed system.

The major benefit of this change would be the flexibility it provides to MPI. The marginal potential cost avoidance which would result—$3.7 million through 1985—should not be a factor in a decision to adopt this recommendation, the study stated.

The modification of the current system would require revision of the Federal Meat Inspection Act. Time for gradual changeover to the new system should be provided, the consulting firm suggested, after legislative changes are enacted.

POST-MORTEM INSPECTION OF RED MEAT—IMPROVED PROCEDURES

Determing that the relatively pervasive disease incidence of red meat animals precluded the use of a sampling system for post-mortem red meat inspection, the Booz, Allen team recommended revised procedures, as developed by an MPI task force, which would result in a projected cost avoidance of over $22 million by 1985.

A sampling procedure was not considered appropriate for red meat animals because they are raised in a variety of environments and cannot be sorted into "good" or "bad" lots. Disease rates are relatively high and the defects include several high risk conditions. Since post-mortem inspection of red meat animals accounts for 23 percent of total MPI costs, other means of improving the system were explored.

In March 1977, MPI convened a Technical Study Group to develop recommendations in the area of post-mortem inspection for the Booz, Allen study. The recommendations, incorporated into the consulting firm's report (appearing in full as Appendix D to Volume II), outlined a set of pared down basic procedures for past-mortem inspection of each species. Along with these are lists of expanded procedures for specific conditions which may be added as needed. Since each expanded procedure is separate and defined, MPI can calculate the effort—and cost—involved in implementing expansion steps.

Only those steps deemed appropriate to the type of animal and area of origin would actually be performed under the new system. In some instances, only a basic procedure need be performed. In others, such as inspection for tuberculosis, an expanded procedure is always recommended.

The Study Group report also made note of the fact that "contamination" has become a leading defect reported at post-mortem inspection. This is actually a condition produced during slaughter rather than an abnormality present in the animal before slaughter and should be a plant responsibility.

The report recommended that major MPI emphasis be placed on solving the issue of how inspection effort should be devoted to preventing dressing defects leading to contamination. After field investigation, the program should place primary regulatory emphasis on correction of defective processes rather than after-the-fact detection of damage. MPI should also make sure that the criteria for "contamination" are realistic in terms of consumer protection.

The changes in procedure would create a need for improved systems for compiling, analyzing and distributing information to assist in keying post-mortem procedures to changing situations. The improved information systems should include cost studies of post-mortem procedures since this would help in deciding among alternative procedures.

As a result of changing industry technology and the increasing opportunity for assignment as the sole inspector at a plant, the post-mortem inspector should have additional educational background. Minimum entry requirements of a high school degree, including courses in physical and biological sciences, would be a step in this direction. The report recommended that some educational background be permitted to substitute for the now-required 3 years of experience in the industry.

Some of the recommendations will require field study. Since the revised procedures require no legislative change, however, Booz, Allen estimated implementation could be achieved by 1978. A cost avoidance of $22 million (in 1976 dollars) through 1985 was projected, resulting from the reduction in inspection time required for each animal.

MANAGEMENT ACTIVITIES—AN INTEGRATED MANAGEMENT SYSTEM

The Booz, Allen team found some long-standing problems with MPI management and information systems that need to be corrected before the firm's technical proposals can be implemented fully. MPI has already begun efforts to deal with some of the problems, as it is in the process of updating its work standards and improving its data systems. The consultant's review of management activities within the Program was taken to support and complement the internal effort.

A basic problem, according to the study, is that accurate updated information generated by the Program does not always filter back to the proper levels of management in a usable form so that informed decisions can be made. Data from the lowest point in the organization, the plant, should flow up to headquarters and then back down to the area level, the firm recommended. Thus, the Program could know exactly how monies are being spent, relating expenditures to factors such as pounds of animals inspected, type of animal, type of plant, etc. The data should be provided to management at all field levels, since field managers currently make resource decisions with little feedback on the impact of their actions.

In addition, to better coordinate all aspects of decisionmaking, the report suggested that MPI develop a set of formal procedures to guide the basic management functions of planning, program development, budget formulation, and program execution. This integrated management system should express the essential linkages among these activities, involve the active and expanded participation of key field managers, and be supported by the new information system now being developed.

Regional Directors should play a major role in development of policy for the entire inspection program, the study concluded, recommending that they report directly to the Deputy Administrator. In support of increased integration of related MPI field activities, it was also recommended that the Regional Directors be given the responsibility for monitoring compliance of allied industries. Information obtained through both inspection and monitoring of different points of the food distribution chain must be coordinated and available to the Regional Directors for effective corrective and enforcement actions.

The report also recommended that area managers become major participants in planning and budgeting activities for the Program. Areas will need to receive all key statistical and financial reports on their operations. Additional training and technical assistance from the headquarters staff will be required to better equip field managers to assume their increased responsibiilties.

It is expected that the improvements in management and information systems can be made for the most part with existing departmental resources. Although

there is great potential for cost avoidance through the implementation of the changes, the consulting firm found it difficult to realistically quantify the savings at this stage of development.

The qualitative benefits are significant. The recommendations would greatly help MPI officials manage the Program's operations, providing management with the ability to respond to and plan for changing needs, allocate resources, and take concerted action with the knowledge of its effects on the entire Program.

MANAGEMENT STRUCTURES—REALIGNMENT OF FIELD MANAGEMENT

Another problem identified by the Booz, Allen team is the wide variation in workloads which exists among various field management levels. For example, the 34 MPI Areas range from one to four States and territories, include 3 to 21 Circuits, and cover 31 to 827 Federal plants. Similarly, the five Regional Offices include five to nine Areas, ranging from 833 plants to 2,550 plants.

The report urged that a clear set of guidelines be developed to realign field structures in order to equalize workloads. In addition, it recommended the elimination of the positions of Regional Moisture Controller. The study team found the positions amounted to little more than duplication of work already performed by Circuit Supervisors and in-plant inspection staff in poultry inspection.

These changes could result in a cost avoidance, in 1976 dollars, of nearly $18 million through 1985—assuming realignment by 1978. The potential improvement in organizational control and effectiveness, however, is of primary consideration in recommending the changes. The changes should result in greater inspection uniformity and improved communications in the field.

CROSS-UTILIZATION—EXPANSION WHERE POSSIBLE

Cross-utilization of Federal and State personnel was the one area in which the Booz, Allen report concluded that a national program is not viable. The firm recommended, however, that where conditions permit, cross-utilization should be encouraged as a less costly means of staffing plants.

Cross-utilization in the past, despite some existing opportunities, has been minimal. The major obstacle has been the relationship between State and Federal inspection systems created by the enabling legislation of the late 1960's. States are required to conduct programs that are "equal to" the Federal program, yet State inspected product cannot move out of that State. During fiscal year 1976, cross-utilization involved only 3 percent of the total Federal man-years of inspection, or 320 man-year equivalents, almost all of which was through Talmadge-Aiken agreements.

It was estimated that opportunities to expand cross-utilization might represent as much as 15 man-years per State. With the Federal Government receiving about three-quarters of the savings, MPI could save over $1.4 million under maximum conditions. This would result in a cost avoidance of less than 1 percent of MPI expenditures for inplant inspection.

Numerous constraints to cross-utilization more than balance off the small benefits which might be derived. The problems include Civil Service policies, resistance of employee organizations, supervisory concerns, and differences in Federal and State inspection programs.

The consulting firm recommended, however, that cross-utilization should be encouraged where conditions permit. It also called on the Department to analyze existing policies related to State programs. The policy issue involving State cooperative inspection systems revolves around whether the Department wishes to "encourage" such systems or "allow" such systems to exist. Existing legislation and regulations "allow" for such systems.

If the Department wishes to "encourage" these systems, however, the legislation must be changed to permit interstate sale of State inspected product. In addition, changes in Talmadge-Aiken legislation should be made to provide economic incentives for States. The Department should consider raising Talmadge-Aiken funding from 50 percent to 80 percent Federal monies and to permit States to make the final decision on whether to allow a plant to ship interstate. These changes require Congressional approval.

Exhibit 2 summarizes the benefits which can be derived from each of the recommended changes.

PROGRAM CHANGE AFFECTED BY SEVERAL FACTORS

In Volume III, the consulting firm outlined several factors which have contributed to MPI's current problems and which must be considered in future attempts to make program changes.

A major factor playing a repeated role in the study findings is uncontrolled growth due to continuing State designations. This results in increased workloads, with the Program at the same time facing pressures to hold down Federal expenditures.

The second factor is the lack of appropriate, accessible and detailed information on the current system that can be integrated into the budgeting, resource allocation and other management processes to support management decisionmaking. Development of improved management and information systems will have an impact on MPI's ability to implement the technical proposals recommended in the report.

EXHIBIT 2.—*Summary of benefits to consumers, industry, MPI by recommended areas of change, recommended areas of change*

	Interest group		
	Consumers	Industry	MPI
A monitoring system of processing inspection.	Improved product consistency without an anticipated increase in purchase price through improved industry quality assurance and greater enforcement capabilities through a progressive penalty system. More efficient use of Federal tax dollars.	Improved product control and greater flexibility to expand production in plants with consistently good compliance records. Some potential decrease in overtime costs.	Improved information and control mechanisms to more objectively monitor industry compliance and greater enforcement capabilities to take the economic gain out of noncompliance. Potential cost avoidance of $117,000,000 through 1985 (in 1976 dollars).
Bi-level postmortem poultry inspection.	Improved quality assurance through more effective inspection. Potential increased poultry supply without an increase in purchase price. More efficient use of Federal tax dollars.	Increased flexibility to increase line speeds where good lots are received and industry inspection is effective. Some potential decrease in overtime costs.	More efficient utilization of inspection personnel with potential cost avoidance of $50,000,000 through 1985 (in 1976 dollars).
A monitoring system of antemortem red meat inspection.	More efficient use of Federal tax dollars with an equivalent assurance of protection from health risk and economic fraud.	Elimination of overtime costs.	More efficient utilization of inspection personnel with potential cost avoidance of $3,700,000 through 1985 (in 1976 dollars).
Revised postmortem red meat inspection.	....do....	Less time-consuming inspection per animal with improved potential for increased line speeds. Some potential decrease in costs for reimbursable overtime.	More efficient utilization of inspection personnel with potential cost avoidance of $22,000,000 (in 1976 dollars) assuming many instances will occur whereby inspectors can be removed from existing assignments to be used elsewhere.
Revised management and information system.	More efficient use of Federal tax dollars.	Improved inspection uniformity and access to decisions lower in the organization.	Improved data base from which to conduct planning, budgeting, and evaluation. Improve resource allocation system with long-run cost avoidance: more participative management and improved supervisory system.
Revised management structures.	....do....	....do....	Better equalization of workloads with improved communications and uniformity of policy interpretation. Potential cost avoidance of $18,000,000 through 1985 (in 1976 dollars).
Cross-utilization of Federal and State inspection personnel.	....do....	Greater uniformity in Federal and State regulatory interpretations. Some potential decrease in overtime costs.	More efficient utilization of Federal and State resources with some resultant cost avoidance. Greater harmony between Federal and State inspection programs.

A third constraint relates to Federal legislation which hampers MPI's ability to adapt inspection to changing technologies. Program changes by the Department in the past have been confined to less significant areas because of the need for legislative approval of major changes. Greater discretionary authority must be added to meat and poultry inspection legislation, the report urged.

Any solution to MPI's problems must be balanced by the concerns of the many groups affected by the program. The Department must clearly understand the interests of consumers, industry, employee unions and Congress before changes are made.

The report documented the concerns of the various interest groups and recommended that representatives from every sector play a large role in efforts to implement the study recommendations.

[FR Doc.77-22193 Filed 8-2-77;8:45 am]

federal register

WEDNESDAY, AUGUST 3, 1977
PART IV



INTERSTATE COMMERCE COMMISSION

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ABANDONMENT OF RAILROAD SERVICES

System Diagram Maps of Various Railroad Companies

INTERSTATE COMMERCE COMMISSION

[AB 6 (SDM)]

BURLINGTON NORTHERN INC.

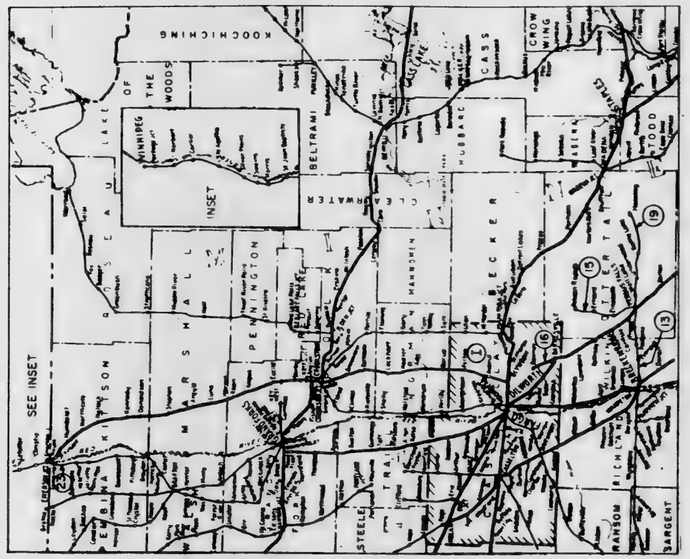
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Burlington Northern Inc., has filed with the Commission its color-coded system diagram map in docket No. AB 6 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system diagram map and the Commission on July 21, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

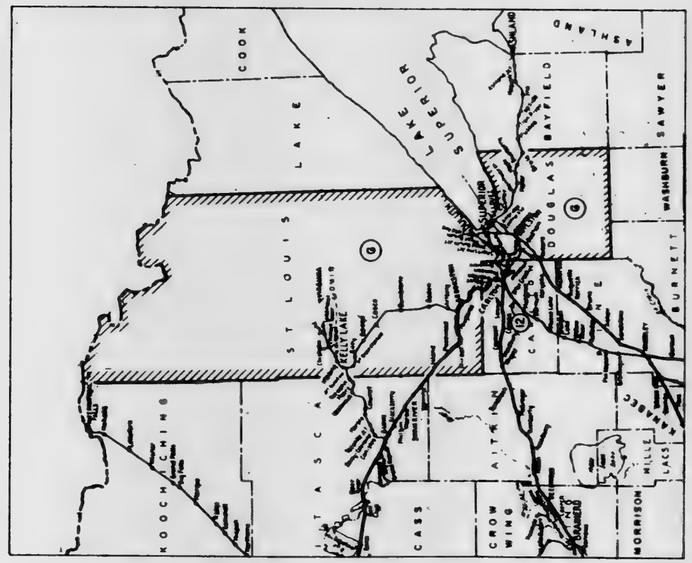
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 6 (SDM).

H. G. Homme, Jr.,
Acting Secretary.

B.N. MAP No. (2)



B.N. MAP No. (1)



B.N. MAP No. (4)

B.N. MAP No. (3)

B.N. MAP No. (6)

B.N. MAP No. (5)

B.N. MAP No. (8)

B.N. MAP No. (7)

B.N. MAP No. (10)

B.N. MAP No. (9)

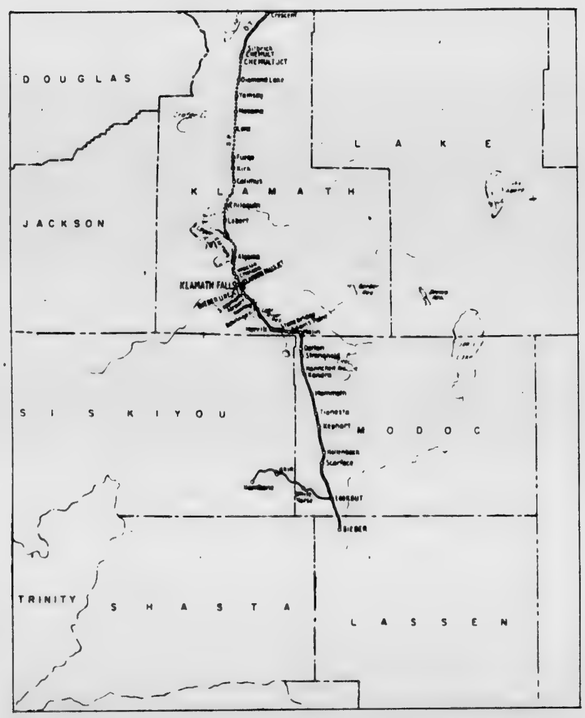
B.N. MAP No. (11)



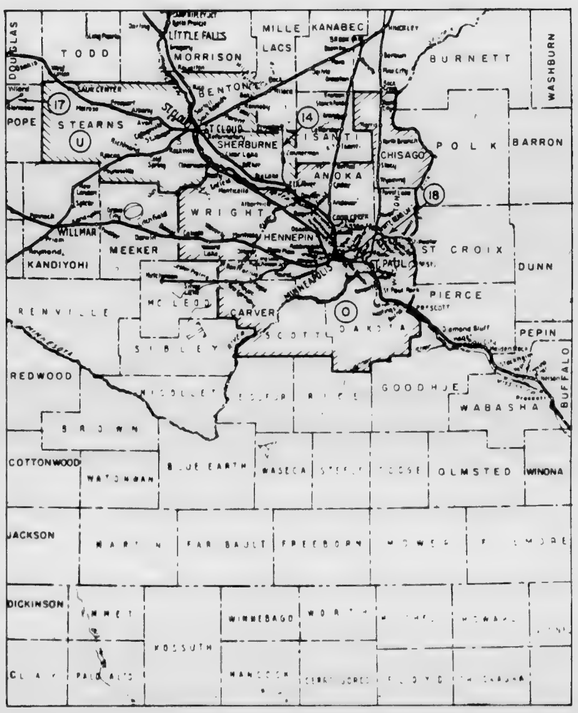
B.N. MAP No. (12)



B.N. MAP No. (13)



B.N. MAP No. (14)



B.N. MAP No. (16)

B.N. MAP No. (15)

B.N. MAP No. (18)

B.N. MAP No. (17)

B.N. MAP No. (20)

B.N. MAP No. (19)

B.N. MAP No. (22)

B.N. MAP No. (21)

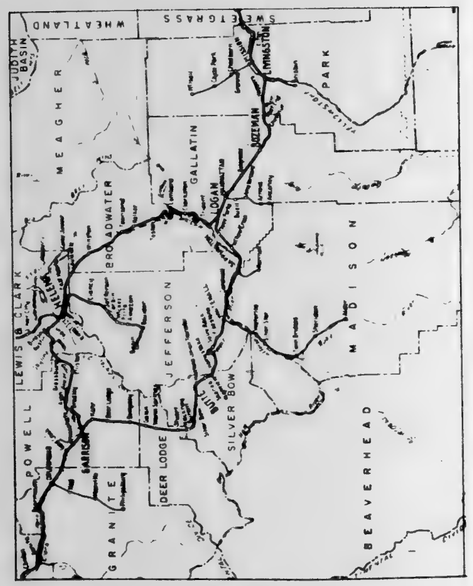
B.N. MAP No. (24)

B.N. MAP No. (23)

B.N. MAP No (26)

B.N. MAP No. (25)

B.N. MAP No. (21)



BURLINGTON NORTHERN INC. AB–6

Category 1

BN MAP NO. 1

Line Segment No. 12—Moose Lake (MP 109.00) to Carlton (MP 129.49), Carlton County, Minn.—Stations: Barnum—112.5; Mahtowa—118.5; Otter Creek—124.2.

BN MAP NO. 2

Line Segment No. 13—French (MP 56.5) to Breckenridge (MP 74.0), Ottertail and Wilkin Counties, Minn.—Stations: Foxhome—61.27; Everdell—66.0.

Line Segment No. 15—Fergus Falls W. Jct. (MP 0.50) to Pelican Rapids (MP 21.37), Ottertail County, Minn.—Stations: Erhard—15.4; Pelican Rapids—21.37.

Line Segment No. 16—Barnesville (MP 5.0) to Downer (MP 9.09), Clay County, Minn.—Stations: Downer—9.09.

Line Segment No. 19—Battle Lake (MP 31.42) to Henning (MP 15.89), Ottertail County, Minn.—Station: Vining—22.2; Clitheral—28.8; Henning—16.09.

Line Segment No. 23—Joliette (MP 179.13) to Pembina (MP 191.71), Pembina County, N.Dak.—Stations: McArthur—82.5; Pembina—189.49.

BN MAP NO. 3 (20, 22, 24, 64)

Line Segment No. 20—Jamestown (MP 39.67) to Klose (MP 33.75), Stutsman County, N. Dak.—Station: None.

Line Segment No. 22—York (MP 0.00) to Dunseith (MP 41.8), Benson, Pierce, and Rolette Counties, N. Dak.—Station: Wolford—14.01; Rolette—27.76; Thorne—33.80; Dunseith—41.80.

Line Segment No. 24—Crete (MP 142.00) to Oakes (MP 149.50), Sargent and Dickey Ccunties, N. Dak.—Stations: None.

BN MAP NOS. 4 AND 5

All lines—Category 5.

BN MAP NO. 6

Line Segment No. 28 (also shown BN MP 26)—Silesia (MP 9.65) to Red Lodge (MP 44.17), Carbon County, Mont.—Stations: Rockvale—12.08; Montague—14.30; Joliet—17.70; Boyd—23.03; Roberts—31.62; Fox—37.55; Carbon Mine Spur—43.60; Red Lodge—44.24.

Line Segment No. 29—Moccasin (MP 0.00) to Lewistown (MP 30.68), Judith Basin and Fergus Counties, Mont.—Stations: Kolin—7.32; Rossfork—14.1; Kingston—20.19; Spring Creek Jct.—21.38; Hanover—70.2; Lewistown Jct.—62.2; Lewistown—61.9.

Line Segment No. 31—Saco (MP 0.10) to Hogeland (MP 77.40), Phillips and Blaine Counties, Mont.—Stations: Hogeland Jct.—0.10; Cole—6.87; Tattnall—13.41; Whitewater—24.01; Loring—36.95; Chapman—52.26; Turner—65.27; Hogeland—77.40.

BN MAP NO. 7

Line Segment No. 66 is a Category 3 line pending before the Commission.

BN MAP NO. 8

Line Segment No. 30—Haugan (MP 19.57) Mineral County, Mont., to Wallace (MP 58.61), Shoshone County, Idaho—Stations: Haugan—19.15; Saltese—24.40; Borax—33.35; Sohon—36.90; Lookout—38.42; State Line—38.45; Dorsey—42.1; Carbonite—43.50; Lucky Friday—49.5; Mullan—50.19; Morning—51.15; Golconda—54.3; Wallace—58.61.

BN MAP NO. 9

Line Segment No. 48—Palouse (MP 76.00) to Grinnell (MP 70.81), Whitman County, Wash.—Stations: Grinnell—70.81.

Line Segment No. 49—Spokane (MP 69.80) to Fairfield (MP 131.21), Spokane County, Wash.—Stations: Dishman and Spear.

Line Segment No. 51—Adrian (MP 126.24) to Odair (MP 106.70), Grant County, Wash.—Stations: Adco—125.7; Bacon—116.25.

Line Segment No. 52—Mt. Hope (MP 25.17) to Spring Valley (MP 39.96), Spokane County, Wash.,—Stations: West Fairfield—31.0; Waverly—34.1; Jefferson—36.55; Spring Valley—39.96.

Line Segment No. 53—Rosalia (MP 46.10) to Manning (MP 71.20), Whitman County, Wash.—Stations: Balder—50.6; Thornton—55.44; Cashup—59.65; Steptoe—64.65; Manning—71.12.

Line Segment No. 54—Spring Valley (MP 40.30) to Seabury (MP 47.75), Spokane and Whitman Counties, Wash.—Stations: Fairbanks—45.55; Seabury—47.75.

Line Segment No. 55—Palouse (MP 76.00), Whitman County, Wash., to Viola (MP 87.00), Latah County, Idaho—Stations: State Line—3.9; Viola—87.00.

BN MAP NO. 10

Line Segments Nos. 68 and 69 are Category 3 lines.

Line Segment Nos. 48, 53, and 55 are described with Map No. 9.

BN MAP NO. 11

Line Segment No. 50—Enumclaw (MP 9.69) to Cascade Junction (MP 17.02), King and Pierce Counties, Wash.—Stations: Buckley—12.8; Fitzer Bros. Spur—14.1.

Line Segment No. 56—Aloha (MP 96.36) to Moclips (MP 100.70), Grays Harbor County, Wash.—Stations: Moclips—100.4.

Line Segment No. 57—Clear Lake (MP 85.79) to Sedro Woolley (MP 83.05), Skagit County, Wash.—Stations: Clear Lake—83.3.

BN MAP NO. 12

Line Segment No. 58—Spokane, Portland & Seattle Railway Company, Camp Clatsop (MP 108.59) to Seaside (MP 119.09), Clatsop County, Oreg.—Stations: Bayview Transit—116.1; Seaside—118.95.

Line Segment No. 59—Oregon Electric Railway Company within Forest Grove (MP 10.27) to end of branch (MP 10.86) and within Hillsboro, Oreg., between MP 2.83 and 4.56, all in Washington County, Oreg.—Stations: None.

BN MAP NO. 13

All lines—Category 5.

BN MAP NO. 14

Line Segment No. 14—Elk River (MP 2.50) to Princeton (MP 18.78), Sherburne and Mille Lacs Counties, Minn.—Stations: Zimmerman—9.5; Princeton—18.8.

Line Segment No. 17—Starbuck (MP 67.50) to Villard (MP 51.61), Pope County, Minn.—Stations: Villard—52.0; Glenwood—58.91.

Line Segment No. 18—White Bear Lake (MP 0.00) to Duluth Jct. (MP 6.37), Ramsey and Washington Counties, Minn.—Stations: Mahtomedi—3.54.

BN MAP NO. 15

Line Segment No. 17—Starbuck to Villard—also shown on BN Map No. 14.

Line Segment No. 21—Oakes (MP 149.5) to Forbes (MP 63.0), Dickey County, N. Dak.—Stations: Guelph—34.66; Ellendale—49.17; Forbes—62.51.

Line Segment No. 26—Sioux Falls (MP 2.8) to Hayti (MP 85.26), Minnehaha, Lake, Brookings, Kingsbury, and Hamlin Counties, S. Dak.—Stations: Crooks—9.15; Lyons—14.8; Colton—20.61; Chester—28.19; Wentworth—35.80; Rutland—42.1; Nunda—47.79; Sinai—53.80; Arlington—63.47; Badger—73.03; Lake Norden—79.67; Hayti—85.26.

Line Segment No. 27—Sioux Falls (MP 150.-68) to Yankton (MP 208.80), Minnehaha, Lincoln, Turner, and Yankton Counties, S. Dak.—Stations: Tea—156.55; Lennox—163.32; Davis—171.95, Viborg—179.35; Irene—186.74; Volin—196.95; Mission Hill—201.7; Yankton—208.80.

BN MAP NO. 16

All lines—Category 5.

BN MAP NO. 17

Line Segment No. 1—Lass (MP 55.60) to Garden Plain (MP 59.63), Whiteside County, Ill.—Stations: Garden Plain—59.63.

Line Segment No. 2—Aledo (MP 38.40) to Joy (MP 45.18), Mercer County, Ill.—Stations: Joy—44.54.

Line Segment No. 3—Bushnell (MP 161.10) to Roseville (MP 176.97), McDonough and Warren Counties, Ill.—Stations: Walnut Grove—165.9; Swan Creek—172.1; Roseville—176.85.

Line Segment No. 5—Bradford (MP 10.00) to Buda (MP 0.32), Stark and Bureau Counties, Ill.—Stations: Lombardville—7.1; Burnett—3.2; Buda—0.00.

Line Segment No. 7—Earlville (MP 7.21) to Baker (MP 13.72), La Salle County, Ill.—Stations: Baker—13.72.

Line Segment No. 10—Alpha (MP 18.62) to Woodhull (MP 14.36), Henry County, Ill.—Stations: Woodhull—14.62.

Line Segment Nos. 60, 61, and 62 are Category 3 lines.

BN MAP NO. 18

Line Segment No. 4—Vermont (MP 94.34) to Rushville (MP 109.69), Schuyler and Fulton Counties, Ill.—Stations: Rushville—109.48.

Line Segment No. 6—Vermont (MP 140.13) to Astoria (MP 133.02), Fulton County, Ill.—Stations: Astoria Branch Jct.—140.13; Amax Coal Co. Sun Spot Mine—139.5; Astoria—133.4.

Line Segment No. 11—E. Alton (MP 26.63) to Whitehall (MP 72.70), Greene, Macoupin, Madison, and Jersey Counties, Ill.—Stations: Wrights—65.45; Greenfield—60.64; Rockbridge—55.53; Medora—47.95; Plasa—43.6; Brighton—38.49; Alton Hospital—28.28.

Line Segment No. 45—Old Monroe (MP 51.60) to Mexico (MP 114.60), Lincoln, Warren, Montgomery, and Audrain Counties, Mo.—Stations: Ethlyn—56.25; Moscow—61.3; South Troy—65.5; Hawk Point—72.9; Bellflower—85.25; Buell—90.6; Wellsville—98.2; Haig—109.6; Francis—114.6, Mexico via Trackage Rights.

BN MAP NO. 19

Line Segment No. 2—Aledo to Joy—see BN Map No. 17.

Line Segment No. 8—East Quincy (MP 267.28) to Hulls (MP 279.90), Adams and Pike Counties, Ill.—Stations: Marblehead—269.44; East Hannibal—280.00; Hulls via Trackage Rights—7.0.

Line Segment No. 9—Quincy (MP 70.30) to Mendon (MP 55.77), Adams County, Ill.—Stations: Rock Creek—64.1; Ursa—61.2. Mendon—56.1.

Line Segment No. 40—Mediapolis (MP 15.51) to Washington (MP 52.64), Des Moines, Henry, Louisa, and Washington Counties, Iowa—Stations: Roscoe—20.55; Yarmouth—24.93; Mt. Union—28.35; Winfield—33.97; Wyman—36.6; Crawfordsville—42.43; Washington—52.50.

Line Segment No. 43—St. Joseph (MP 143.56) to Humeston (MP 16.92), including Giles to Mt. Lamoni, in Buchanan, Andrew, DeKalb, and Harrison Counties, Mo., and Decatur and Wayne Counties, Iowa—Stations: End of line—143.56; Helena—125.7; Union Star—119.66; King City—112.68; Darlington—99.16; Albany Junction—96.88; Albany—94.88; New Hampton—86.75; Bethany—77.85; Ridgeway—67.5; Blythedale—60.6; State line—52.5; Giles—49.31; Davis City—44.48; Leon—36.97; Garden Grove—23.68; Humeston—16.92; Lamoni—approximately 2 miles west of Giles.

Line Segment No. 44—West Quincy (MP 1.90) to Kirksville (MP 69.30), Marion, Lewis, Knox, and Adair Counties, Mo.—Stations: Taylor—6.55; Maywood—10.8; Ewing—18.12; Lewistown—26.05; LaBelle—31.8; Knox—37.2; Edina—46.6; Hurdland—53.4; Brashear—57.55; Kirksville Ag. Center—67.7; Kirksville—69.3.

Line Segment No. 45—Alexandria (MP 5.20), Clark, Scotland, and Schuyler Counties, Mo., to Centerville (MP 89.60), Appanoose County, Iowa—Stations: Wayland—12.4; Kahoka—20.0; Medill—23.3; Granger—34.2; Arbela—36.6; Memphis—45.1; Downing—56.35; Lancaster—65.75; Glenwood Jct.—69.0; State line—74.85; Centerville—89.6.

Line Segment No. 46—Old Monroe to Mexico—see BN Map No. 18.

Line Segment No. 47—Laclede (MP 181.73) to Unionville (MP 128.30), Linn, Sullivan, and Putnam Counties, Mo.—Stations: Linneus—174.6; Purdin—169.25; Browning—162.43; Milan—149.95; Unionville—128.3.

BN MAP NO. 20

Line Segment No. 33—Cooper Spur (MP 26.5) to Shubert (MP 11.23), Nemaha and Richardson Counties, Nebr.—Stations: Nemaha—28.45; Shubert—11.49.

Line Segment No. 34—Ashland (MP 19.00) to Prague (MP 31.42), Saunders County, Nebr.—Stations: Memphis—6.04; Ithaca—13.14; Wahoo—18.91; Malmo—25.58; Prague—31.40.

Line Segment No. 35—Pappio (MP 4.00) to Gilmore Jct. (MP 8.41), Sarpy County, Nebr.—Stations: Fort Crook—6.53.

Line Segment No. 36—Villisca (MP 52.82) to Clarinda (MP 67.80), Page and Montgomery Counties, Iowa—Stations: Hepburn—60.45; Clarinda—52.82.

Line Segment No. 37—Creston (MP 0.00), Adams, Union, and Taylor Counties, Iowa, to Maryville (MP 59.50), Nodaway County, Mo.—Stations: Kent—9.33; Lenox—17.27; Merle—24.78; Conway—27.63; Bedford—35.20; Hopkins—45.05; Pickering—52.17; Maryville—59.50.

Line Segment No. 38—Hastings (MP 0.00) to Randolph (11.50), Mills and Fremont Counties, Iowa—Stations: Clark—5.83; Randolph—11.45.

Line Segment No. 39—Merle (MP 196.13) to Clearfield (MP 189.42), Taylor County, Iowa—Stations: Clearfield—189.70.

Line Segment No. 41—Albany Jct. (MP 65.75) to Grant City (MP 45.66), Gentry and Worth Counties, Mo.—Stations: Gentry—57.45; Worth—52.2; Grant City—45.65.

Line Segment No. 42—Birmingham (MP 216.20) to Kearney (MP 199.07), Clay County, Mo.—Stations: Liberty—210.5; Kearney—200.3.

Line Segment No. 43—St. Joseph to Humeston—see BN Map No. 19.

Line Segment No. 67 is a Category 3 line.

BN MAP NO. 21

Line Segment No. 27—Sioux Falls to Yankton. See BN Map No. 15.

Line Segment No. 32—Edgar (MP 27.59) to Nelson (MP 14.01), Clay and Nuckolls Counties, Nebr.—Stations: Nelson—14.01.

Line Segment Nos. 33, 34, 35, and 38—see BN No. 20.

BN MAP NOS. 22 AND 23

Category 5 lines.

BN MAP NO. 24

Line Segment No. 70—Category 3 line.

BN MAP NO. 25

Line Segment No. 25—Hill City (MP 0.00) to Keystone (MP 8.75), Pennington County, S. Dak.—Stations: Oblivion—4.24; Keystone—8.85.

Line Segment No. 65 is a Category 3 line.

BN MAP NO. 26

Line Segment No. 28—Silesia to Red Lodge—See BN Map No. 6.

BN MAP NO. 27

Category 5 lines.

Category 3 lines.

AB 6 (Sub-No. 16)—Maryville—Barnard, Mo. 13.68 Miles, MP 59.80, 73.48, Nodaway County. Line Segment 67—BN Map No. 20.

AB 6 (Sub-No. 36)—L&S Junction—LaSalle, Ill. 14.49 Miles, MP 11.02, 25.51, La Salle County. Pending final Certificate and Order. Line Segment 60—BN Map No. 17.

AB 6 (Sub-No. 39)—Crabtree—Oaksdale, Wash. 6.97 Miles, MP 61.10, 54.13, Whitman. Line Segment 68—BN Map No. 9.

AB 6 (Sub-No. 40)—Brinsmade—Leeds, N. Dak. 9.85 Miles, MP 97.48, 107.33, Benson. Line Segment 64—BN Map No. 3.

AB 6 (Sub-No. 41)—Minnekahta—Hot Springs, S. Dak. 11.91 Miles, MP 1.00, 12.91; Fall River. Line Segment 65—BN Map No. 25.

AB 6 (Sub-No. 42)—Nifa—West Batavia, Ill. 3.5 Miles, MP 4.00, 7.15, Kane. Line Segment 61—BN Map No. 17.

AB 6 (Sub-No. 43)—Rio—Alexis, Ill. 9.0 Miles, MP 210.27, 201.27, Knox-Warren. Line Segment 62—BN Map No. 17.

AB 6 (Sub-No. 44)—Cambon—West Frankfort, Ill. 3.99 Miles, MP 1.00, 4.99, Franklin. Line Segment 63—BN Map No. 18.

AB 6 (Sub-No. 23)—Vaughn—Augusta, Mont. 42.14 Miles, MP 0.10, 42.24, Cascade, Lewis and Clark. Line Segment 66—BN Map No. 7.

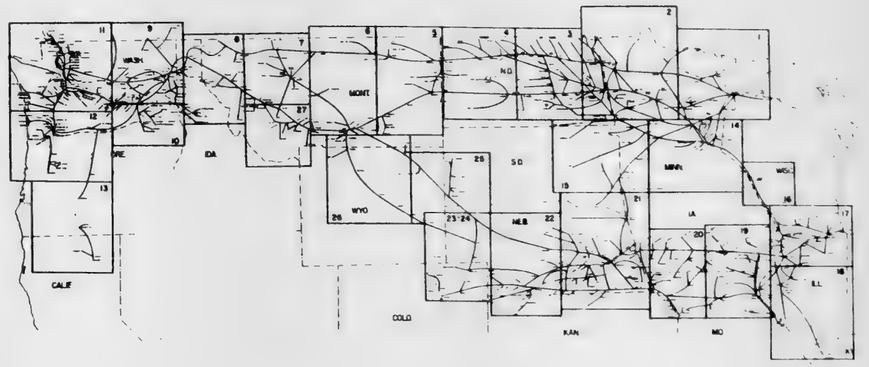
AB 6 (Sub-No. 45)—Sterling—New Raymer, Colo. 35.40 Miles, MP 232.00, 266.50 Logan Weld. Line Segment 70—BN Map No. 24.

AB 6 (Sub-No. 34)—Eureka—Pleasant View, Wash. 19.73 Miles, MP 0, 19.73, Walla Walla. Abandon Operations. Pending Certificate. Line Segment 69—BN Map No. 10.

BURLINGTON NORTHERN INC

Index Map

May 1, 1977



BURLINGTON NORTHERN INC.

System Diagram Map

Legend

Category I - Lines Subject to Abandonment Within Three Years shown "Red"

Index No.		Index No.	
	ILLINOIS		NEBRASKA
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4.	Vermont - Rushville	35.	Pappio - Gilmore Jct.
5.	Bradford - Buda		IOWA
6.	Vermont - Astoria	36.	Villisca - Clarinda
7.	Earlsville - Baker	37.	Creston - Maryville MO
8.	Quincy - Hulls	38.	Hastings - Randolph
9.	Quincy - Mendon	39.	Merle - Clearfield
10.	Alpha - Woodhull	40.	Mediapolis - Washington
11.	E. Alton - Whitehall		MISSOURI
	MINNESOTA	41.	Albany Jct. - Grant City
12.	Moose Lake - Carlton	42.	Birmingham - Kearney
13.	French - Breckenridge	43.	St. Joseph - Humeston IA
14.	Elk River - Princeton	44.	W. Quincy - Kirksville
15.	Fergus Falls W. Jct. - Pelican Rapids	45.	Alexandria - Centerville
16.	Barnesville - Downer	46.	Old Monroe - Mexico
17.	Starbuck - Villard	47.	Laclede - Unionville
18.	White Bear Lake - Duluth Jct.		
19.	Battle Lake - Henning		WASHINGTON
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20.	Jamestown - Klose	49.	Spokane - Fairfield
21.	Oakes - Forbes	50.	Enumclaw - Cascade Jct.
22.	York - Dunseith	51.	Adrian - Odair
23.	Joliette - Pembina	52.	Mt. Hope - Spring Valley
24.	Crete - Oakes	53.	Rosalia - Manning
	SOUTH DAKOTA	54.	Spring Valley - Seabury
25.	Hill City - Keystone	55.	Palouse - Viola ID
26.	Sioux Falls - Hayti	56.	Aloha - Moclips
27.	Sioux Falls - Yankton	57.	Clear Lake - Sedro Woolley
	MONTANA		OREGON
28.	Silesia - Red Lodge	58.	Camp Clatsop - Seaside
29.	Moccasin - Lewistown	59.	Hillsboro-Forest Grove (Misc. Segments)
30.	Haugan - Wallace, ID		
31.	Saco - Hogeland		

BURLINGTON NORTHERN INC.

System Diagram Map

Legend

Category 3 - Lines Having Abandonment Applications Pending Shown "Yellow"

Index No.

ILLINOIS

60. L&S Junction - LaSalle
61. Nifa - West Batavia
62. Rio - Alexis
63. Cambon - West Frankfort

NORTH DAKOTA

64. Brinsmade - Leeds

SOUTH DAKOTA

65. Minnekahta - Hot Springs

MONTANA

66. Vaughn - Augusta

MISSOURI

67. Maryville - Bernard

WASHINGTON

68. Crabtree - Oaksdale
69. Eureka - Pleasant View

COLORADO

70. Sterling - New Raymer

BURLINGTON NORTHERN INC.
SYSTEM MAP
MAY 1, 1977

-LEGEND-

Line Index Nº Shown →①
State Lines Shown ———
County Lines Shown ———
S.M.S.A. Shown ⓖ

STANDARD METROPOLITAN STATISTICAL AREAS

Ⓐ	Billings	Ⓟ	Omaha
Ⓑ	Chicago	Ⓠ	Peoria Ill.
Ⓒ	Davenport-Rock Island	Ⓡ	Portland, Ore.-Wash.
Ⓓ	Denver	Ⓢ	Richland-Kennewick
Ⓔ	Dubuque	Ⓣ	Rockford
Ⓕ	Des Moines	Ⓤ	St. Cloud
Ⓖ	Duluth-Superior	Ⓥ	St. Louis, Mo.-Ill.
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Ⓘ	Fargo-Moorhead	Ⓧ	Salem, Ore.
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		ⒺⒺ	Yakima

[FR Doc.77-22054 Filed 8-2-77;8:45 am]

VAULT
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federal register

THURSDAY, AUGUST 4, 1977

highlights

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CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 567]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 5–11, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues strong at somewhat easier prices.

Average f.o.b. price was $4.32 per carton on 562 cars for the week ended July 28, as compared with $4.15 per carton on 661 cars the previous week.

Track and rolling supplies at 419 cars were up 4 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 2, 1977.

§ 908.867 Valencia Orange Regulation 567.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 5, 1977, through August 11, 1977, are hereby fixed as follows:

(i) District 1: 260,000 cartons;

(ii) District 2: 390,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 3, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22704 Filed 8-3-77;12:52 pm]

[Lemon Reg. 102, Amdt. 2]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 24–30, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period July 24–30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity

permitted to be shipped by 25,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.402 Lemon Regulation 102 (42 FR 37533; 39085) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period July 24, 1977, through July 30, 1977, is established at 390,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 29. 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22371 Filed 8-3-77;8:45 am]

PART 948—IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation authorizes expenses of $20,500 and establishes a rate of assessment of $.00328 per hundredweight of potatoes for the functioning of the Colorado Area No. 2 Potato Committee. This regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Area No. 2 Committee, established under the order, is responsible for its local administration in Area No. 2, consisting of certain counties in Southern Colorado.

Notice was published in the July 13 FEDERAL REGISTER (42 FR 35987) inviting written comments by July 28, 1977. None was filed.

Findings. After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 948.278 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Area No. 2 committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $20,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.00328 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 29, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22373 Filed 8-3-77;8:45 am]

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $269,531 and establishes a rate of assessment of five and one-quarter cents per hundredweight of assessable onions for the functioning of the Idaho-Eastern Oregon Onion Committee for the 1977–78 fiscal period. The regulation enables the committee to collect assessments from first handlers on all assessable onions and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 130 and Order No. 958, both as amended, regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the July 13 FEDERAL REGISTER (42 F.R. 35978) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than July 28, 1977. None was filed.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable onions from the beginning of such period.

The regulation is as follows:

§ 958.221 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Idaho-Eastern Oregon Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $269,531.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0525 per hundredweight or equivalent quantity of assessable onions handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 958.44.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 29, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22372 Filed 8-3-77;8:45 am]

PART 967—CELERY GROWN IN FLORIDA

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1977–78 season, with the objective of assuring adequate supplies and orderly marketing.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967) regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

Notice was published in the July 11 FEDERAL REGISTER (42 FR 35656) inviting written comment by July 26, 1977. None was received.

This regulation is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 15.

The committee recommended a Marketable Quantity of 8,082,572 crates of fresh celery for the 1977–78 season. This recommendation is based on the appraisal of the expected supply and prospective market demand for the 1977–78 season.

During the past decade, planted acreage in Florida has ranged between 12,200 and 13,000 acres per season. Yield is variable, mainly in response to weather, although unfavorable market conditions may sometimes reduce average output per acre. The 3.8 million hundredweight produced in 1976–77 was 4 percent below the previous season and the 1968–69–72–73 average. The relatively small crop reflected the late January freeze which damaged the outer parts of plants and reduced yield per acre.

The recommended 8.1 million crate Marketable Quantity is one-third more than the under 6 million crates expected to be marketed during the current season ending July 31, 1977. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

With no valid applicants for new or increased Base Quantities, no reserve is recommended for additional Base Quantities under § 967.37(d)(1).

Findings. On the basis of all considerations it is believed that this regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the handling regulation set forth in this section through publicity in the production area and by publication in the July 11 FEDERAL REGISTER, (2) as provided in the marketing agreement and order, this regulation applies to celery marketed during the 1977–78 season, (3) compliance with this section will not require any special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, approximately the latter part of October, (4) prompt issuance of this regulation will be beneficial to all interested persons because it should afford producers and handlers maximum time to plan their operations accordingly, and (5) no useful purpose will be served by postponing such issuance.

The regulation is as follows:

§ 967.313 Handling regulation; Marketable Quantity; and Uniform Percentage for the 1977–78 Season Ending July 31, 1978.

(a) The Marketable Quantity is established under § 967.36(a) as 8,082,572 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) No reserve for Base Quantities is established for the 1977–78 season.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated August 1, 1977, to become effective August 5, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22478 Filed 8-3-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

OBLIGATIONS INCURRED BEFORE LOAN CLOSING

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This change is made to include additional circumstances under which obligations incurred prior to loan closing may be paid from loan funds. The intended effect is to allow RRH projects under these circumstances to obtain temporary financing from nonprofit organizations or public agencies.

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202–447–7207.

SUPPLEMENTARY INFORMATION: Paragraph (c)(1) of § 1822.86, Subpart D, Part 1822 of Title 7, Code of Federal Regulations (40 FR 4278; 41 FR 13932) is amended to allow payments of obligations incurred prior to the date the applicant filed a written application for a loan with FmHA as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization, and when prior concurrence of the National Office is obtained. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to allow greater latitude in the payment of obligations incurred prior to loan closing, and any delay could be contrary to the public interest.

As amended, § 1822.86(c)(1) reads as follows:

§ 1822.86 Limitations.

* * * * *

(c) *Obligations incurred before loan closing.* * * *

(1) The debts were incurred: After the applicant filed a written application for a loan with FmHA; or after the submission of a preliminary proposal to the Department of Housing and Urban Development (HUD) in the case of a project involving Section 8 Housing Assistance Payment Program with a loan made in compliance with this subpart; or prior to the date of application as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization and prior concurrence of the National Office is obtained.

* * * * *

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 28, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-22479 Filed 8-3-77;8:45 am]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

MISCELLANEOUS REVISIONS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is revising several provisions in its regulations to clarify and provide uniformity, in deferred loan principal payments, and in the date and frequency of accrued interest payments. The amendment requires that compliance with Title VI of the Civil Rights Act of 1964 be extended for as long as the property continues to be used for the same purpose for which the loan was made or for so long as the purchaser owns it, whichever is longer. The rule also requires that regular amortized payments of interest and principal be scheduled for monthly payments for all Section 515 loans, with exceptions in cases of deferred principal payments during construction periods. These revisions are intended to alleviate inconsistencies.

DATE: Effective date: These revisions are effective on August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, Director; George Daellenbach, Multiple Housing Loan Officer, 202–447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is revising §§ 1822.88(b), 1822.95 (b)(1) and (c) of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278, 42 FR 4407–4408; 42 FR 21268). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These revisions are not published for proposed rulemaking since the changes in payment regulations are not substantial, but are intended to provide clarity and uniformity for all Section 515 loans; and the revision concerning Civil Rights compliance is necessary to extend this compliance, and any delay would be contrary to public interest.

Accordingly, as revised §§ 1822.88(b) and 1822.95 (b)(1) and (c) read as follows:

§ 1822.88 Special conditions.

* * * * *

(b) *Deferred principal payments.* (1) When necessary and advisable, principal payments may be deferred for the first full year or the first full two years after loan closing. Payments for accured interest cannot be deferred.

(i) When interim financing is used, it should not be necessary to defer principal payments.

(ii) When multiple advances are used, principal payments should not be deferred beyond the first annual anniversary date of the note following the anticipated date of construction completion since payments are deferred only to permit the project to be completed.

(2) Monthly payments of accrued interest should be implemented beginning the month construction is completed. However, if the project is not completed by the date of the interest only payment(s) as shown on the note, the note date(s) will determine the time of the interest only payment. (See Forms Manual Insert (FMI) for Form FmHA 440–16 for payment schedule.)

§ 1822.95 Loan closing.

* * * * *

(b) *Mortgage.* * * *

(1) The mortgage or other instrument will contain the following covenant:

> The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer.

* * * * *

(c) *Promissory note.* (1) Form FmHA 440–16, "Promissory Note," will be used. Regular amortized payments for principal and interest will be scheduled on a monthly basis. Instructions for preparation in the FMI for the note will be followed.

(2) The amount to be shown in the note will be the same as shown on Form FmHA 440–1. The note will be dated the date of loan closing except as authorized in § 1807.2(f)(8) of this chapter.

(3) Payments on RRH loans will be scheduled on the note in accordance with the FMI. As provided in § 1822.88(b), the principal installments during the first and second years after loan closing may be deferred.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 22, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–22480 Filed 8–3–77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980–E]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart E—Business and Industrial Loan Program

MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning some Administrative Provisions of the B&I program. These changes are required by changes in internal processing and are intended to expedite loan handling.

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Darryl H. Evans, Loan Specialist, telephone 202–447–4150.

SUPPLEMENTAL INFORMATION: Various sections of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations (42 FR 12145) are amended. Section 1980.424 is amended to add a new administrative section which provides examples to clarify procedures for lenders structuring a financial package under the multi-note option to sell the guaranteed loan in the secondary market.

Paragraphs (b) and (c) of § 1980.451 are revised to incorporate new cross references for memorandums of understanding between FmHA and Farm Credit Administration and Small Business Administration. Paragraph D.5. under the heading "Administrative" in § 1980.452 is revised to conform the FmHA procedure for obligating funds for loans to the procedure outlined on the forms.

Section 1980.454 is revised to add a new subsection (c) which will allow the FmHA State Director to issue a Loan Note Guarantee to a lender when specialized machinery, etc., needs to be ordered in advance for future delivery. Paragraph B under the heading "Administrative" in § 1980.470 is deleted. This procedure for purchasing guaranteed portions of a loan in event of default was added to Subpart A of Part 1980. It is the policy of this Department that rules relating to public property, loans, grants benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the changes are basically procedural and do not impose any additional burden on the applicants and lenders.

Accordingly, Subpart E of Part 1980 is amended as follows:

1. A new administrative section is added following paragraph (c) of § 1980.424 to read as follows:

§ 1980.424 Terms of loan repayment.

* * * * *

ADMINISTRATIVE

It is permissible for lenders to structure the borrower's financial proposal under the multi-note option as provided for in paragraph III A.2. of Form FmHA 449–35, "Lender's Agreement" in the following ways:

A. To treat the entire financial package of the borrower as one loan (i.e. loan purposes may include one or any combination of working capital, machinery and equipment, or real estate): *Provided:*

1. The loan is amortized to provide repayment of the working capital portion within 7 years, the machinery and equipment portion within useful life or 15 years, whichever is less, and real estate portion within 30 years.

2. One note represents the unguaranteed portion of the loan. It is permissible to issue as many as 10 notes on the guaranteed portion of the loan.

3. A Form FmHA 449–34, "Loan Note Guarantee" is attached to all notes including the unguaranteed note.

4. One interest rate (either variable or fixed) is used for the entire loan or one interest rate is used on the guaranteed portion and a different interest rate is used on the unguaranteed portion, subject to the requirements and conditions found in § 1980.423.

5. Only one Form FmHA 449–14, 440–1, "Request for Obligation of Funds," 449–35, and 449–19 is used.

B. To treat the financial package of the borrower as separate loans that are processed as a single application: *Provided:*

1. A separate loan is made for each purpose (i.e. working capital, machinery and equipment or real estate. As an example, a working capital loan could be structured as follows:

One note for $XXXX at X% interest due in 7 years representing the unguaranteed portion of the loan, and

Up to 10 notes for $XXXX at X% interest due in 7 years representing the guaranteed portion of the loan.

2. A Form FmHA 449–34 is attached to all notes, including the unguaranteed note.

3. A different interest rate may be used on the guaranteed and unguaranteed portions of the loan, subject to the requirements and conditions found in § 1980.423.

4. Separate Forms FmHA 449–14, 440–1, 449–35, and 449–19, are required for each loan. If you had two loans, one for working capital and another for real estate, then a set of these forms will be required for each loan.

C. Form FmHA 449–36, "Assignment Guarantee Agreement" will never be used when the multi-note option is utilized.

2. In § 1980.425 the last sentence at the end of paragraph (b) is revised to read as follows:

§ 1980.425 Availability of credit from other sources.

* * * * *

(b) * * * The applicant's inability to obtain such credit elsewhere will be determined in accordance with Subpart A of Part 1933 of this chapter.

* * * * *

3. In § 1980.451 a new sentence is added at the end of paragraph (b) and the last sentence of paragraph (c) is revised to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

(b) *Applications from cooperatives.* * * * (See FmHA Instruction 2000–Q, available in any FmHA office, for memorandum of understanding between FmHA and Farm Credit Administration.)

(c) *Applicants eligible for Small Business Administration (SBA) assistance.* * * * (See FmHA Instruction 2000–P, available in any FmHA office, for memorandum of understanding between SBA and FmHA.)

* * * * *

4. In § 1980.452, paragraph D.5, under "Administrative" is revised to read as follows:

§ 1980.452 FmHA Evaluation of application.

* * * * *

ADMINISTRATIVE

* * * * *

D. * * *

* * * * *

5. The State Director will obligate funds or authority for the project by preparing Form FmHA 440–1, in an original and three copies for each loan to be obligated. The State Director will sign the original and one copy and conform two copies. The first copy will be forwarded to the Finance Office and the other copies will be held pending notification from the Finance Office that guarantee or insurance authority is available. The Finance Office will reserve funds or authority for the project and notify the State Director of such reservation by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his report to the National Office as required by FmHA Instruction 2015–C in order that notification required by that Instruction will be accomplished and the applicant (for an insured loan) or the lender (for a guaranteed loan) can be informed of a loan approval not later than the date of obligation. Notice of approval to the applicant or lender will be accomplished by providing the applicant or lender with the signed copy of Form FmHA 440–1 and a copy of Form FmHA 449–14, unless the National Office has given prior written authorization to forward Form FmHA 449–14 to the applicant or lender in advance of issuance of Form FmHA 440–1. The State Director or his designee will record the actual date of applicant or lender notification on the original Form FmHA 440–1 which will become a permanent part of the county office loan file. The State Director may retain the remaining copy of Form FmHA 440–1.

* * * * *

5. In § 1980.454 a new paragraph (c) is added and paragraph 2 under "Administrative" is revised and reads as follows:

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

(c) *Ordering specialized items.* An exception to the provisions of § 1980.60(a)(2) may be made by the State Director when machinery, equipment, or other specialized items need to be ordered in advance for future delivery. It would be permissible for the lender to finance these purchases with a separate loan for which FmHA would issue a Loan Note Guarantee when the purchase order is placed by the lender: *Provided,* The lender can properly secure such loan(s). Lenders will notify the State Director in writing of such request with details at the time the application is filed with FmHA.

ADMINISTRATIVE

1. * * *

2. Plans for inspection made on construction projects. These should be coordinated with the lender and borrower. (See Appendix B of FmHA Instruction 1933–A). Form FmHA 424–12, "Inspection Report" may be used by the County Supervisor who will make the majority of the inspections. However, the District Director, Engineer, or B&I Chief may also make inspections as designated by the State Director. Copies are to be furnished the County Supervisor. Any other special servicing requirements should be added to the Lender's Loan Agreement.

* * * * *

§ 1980.470 [Amended]

6. In §1980.470, paragraph A. under "Administrative" is amended to delete the designation "A." at the beginning of the paragraph and paragraph B is deleted in its entirety including Subparagraphs B. 1., 2., 3. and 4.

§ 1980.471 [Amended]

7. In § 1980.471, paragraph B. under "Administrative" the first sentence is amended by inserting the words "is not likely to" for "likely not" between the words "plan" and "result", paragraph D, the first sentence is amended by inserting the words "Loan Note Guarantee Report of Loss" between "449–30" and "in" and the second sentence is amended to read "The State Director will submit to the Finance Office for payment any loss claims of the lender on Form FmHA 449–30." * * *.

* * * * *

(7 U.S.C. 1989; order of Secretary of Agriculture, 7 CFR 2.23; order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 26, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–22476 Filed 8–3–77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

Quality Assurance Requirements for Transport Packages

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations for packaging of radioactive material for transportation and transportation of radioactive material. The amendments would upgrade requirements for quality assurance in the design, fabrication, assembly, testing, use, and maintenance of packagings for shipping and transporting licensed radioactive material. The amendments would also revoke, subject to a timely application for reapproval, the present authority for licensees to use certain shipping casks for solid irradiated nuclear fuel which had been approved under criteria used before the current standards in these regulations were adopted.

EFFECTIVE DATE: October 18, 1977.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Hopkins, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; phone 301-443-6910.

SUPPLEMENTARY INFORMATION: On December 28, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 35490) proposed amendments to 10 CFR Part 71 of its regulations. Interested persons were invited to submit written comments and suggestions. Further action on the proposed rule was delayed almost three years while developing acceptable methods of implementation.

COMMENTS RECEIVED

COMMENTS ON PROPOSED RULE

Comments were received from ten persons who manufacture or use the shipping packages which were the subject of the proposed amendments, and from one state regulatory agency. Most of the comments urged clarification, modification, or deletion of specific provisions of the proposed rule.

COMMENTS ON PROPOSED SPECIFIC TESTS

More than half the comments were concerned with the proposed provisions of § 71.53, "Initial determinations and tests." The comments were varied and concerned the clarity and appropriateness of the proposed requirements and their applicability to certain types of packages. The Commission recognizes the validity of those comments and has not adopted those requirements in the amendments which follow. Further consideration will be given to such requirements after experience is gained in their application as license conditions in appropriate cases.

A number of comments were submitted with respect to the proposed addition of specific tests in § 71.54, "Routine determinations." Many of these are reflected in the amendments adopted. Some comments noted that certain tests, and in particular those relating to pressure relief devices, should be tailored to the package design. The wording of § 71.54(h) and of "quality assurance program bases" in section 2 of Appendix E permit the tests and determinations to be fashioned around the package design and the safety function which the design features provide.

COMMENTS ON IDENTIFYING RESPONSIBLE INDIVIDUAL

Some comments questioned the need to submit the title and qualifications of the individual in the applicant's organization who is responsible for assuring that packages have been prepared in accordance with all applicable requirements, as would have been required by proposed § 71.24(b). Since it is recognized that a licensee's entire management is responsible for licensed activities, the requirement has been deleted.

COMMENTS ON "GRANDFATHER CLAUSE" IN § 71.41

A number of commenters misunderstood the proposed amendment of § 71.41 and judged it to retroactively impose quality assurance requirements, including records, on the construction of irradiated fuel casks fabricated during the 1961-1967 period. This is not the purpose of the amendment. Present § 71.41 has provided a "grandfather clause" authority for the use of irradiated solid nuclear fuel casks which were constructed prior to 1967 before the current packaging standards became effective. The proposed changes to § 71.41 would phase out this "grandfather clause" authority. The proposed changes deal with the design characteristics of these old casks and the extent to which those characteristics satisfy the present packaging standards. The proposed changes are unrelated to the proposed quality assurance provisions in the notice of proposed rule making.

COMMENTS ON RESPONSIBILITY FOR QUALITY ASSURANCE

A number of commenters suggested that clarification be provided as to whether the package manufacturer or the licensee is responsible for providing information to the Commission on specific aspects of quality assurance, and as to who is responsible for carrying out those specific aspects of quality assurance in the manufacture and use of the package.

The licensee who is the applicant for the package approval provides the descriptions of quality assurance programs governing the manufacture and use of the package. If the package is approved by the Nuclear Regulatory Commission for use in the transportation of radioactive material, a package approval is issued which incorporates the package description and identification, its safety evaluation, and a description of the applicant's specific quality assurance provisions for design, fabrication, assembly, testing, use, and maintenance of the package. In the absence of reasons to the contrary, the package approval will be issued for use by any licensee who possesses the applicable documents incorporated by reference into the package approval, who has had his general quality assurance program approved by the Commission, and who will adhere to the conditions of the package approval. The authority for any licensee to use the package once it is approved is contained in the general license in 10 CFR Part 71, § 71.12, "General License for Shipment in DOT specification containers, in packages approved for use by another person, and in packages approved by a foreign national competent authority." The general license requires that each licensee who uses the general license register his name and certain other information with the Commission prior to the first use of the package and have a quality assurance program approved by the Commission.

A licensee who uses a package under the authority of the general license in § 71.12 must comply with the provisions of the general license. One provision of the general license, as clarified by the amendments which follow, is that the licensee use approved packages only in accordance with a quality assurance program which has been approved by the Commission. Another provision of the general license is that the package be used in accordance with the terms and conditions of the package approval. Quality assurance requirements specific to the particular package design would be specified in the package approval. A licensee's quality assurance program for the use of packages in transportation would then consist of the following:

1. The general provisions which satisfy to the extent necessary each of the applicable criteria of Appendix E of Part 71. These general provisions would apply to the use, testing, and maintenance of any package (and its design and fabrication if applicable), and such general provisions would have to be approved by the Commission; and

2. The specific provisions specified or referenced in the package approval which are applicable to the particular package design.

A licensee who delivers licensed material to a carrier for transport under the authority of § 71.12 must be assured that the package is as described in the package approval, and that it is used, tested, and maintained in accordance with both the general and specific portions of the approved quality assurance program. While information may be submitted by any interested person to the

Commission in support of an application for package approval, it is the licensee who delivers a package of radioactive material to a carrier who must assure himself and the Commission that the quality assurance program, on which approval of the package design is based, has been followed.

COMMENTS ON GENERAL PROVISIONS IN APPENDIX E

A number of commenters suggested changes in the provisions of proposed Appendix E to Part 71, which contains the general provisions relative to all package quality assurance programs. It was observed that proposed Appendix E was patterned closely after Appendix B of 10 CFR Part 50, "Licensing of Production and Utilization Facilities." Comments were offered that transportation packages differ in many ways from nuclear facilities, and that the same quality assurance provisions should not be applied to both. However, the quality assurance provisions of proposed Appendix E are general in nature and with minor modifications are applicable to a wide variety of types of quality assurance programs. Flexibility in applying the provisions of Appendix E, section 2, "Quality Assurance Program" has been emphasized by the second paragraph of that section dealing with the importance, complexity, and other characteristics of the package or component to be controlled. While some suggested clarifications of Appendix E have been adopted, the general requirements of that Appendix, parallel to the general requirements of Appendix B of Part 50, have been retained. (Under § 71.51(d), a licensee may use a Commission approved quality assurance program, based on Appendix B of 10 CFR Part 50, which is established, maintained and executed with regard to transport packages.) As with the Part 50 requirements, more specific package quality assurance guidelines will be developed and published in the form of Regulatory Guides, beginning in FY 78. The comments which have been offered with respect to Appendix E will be further considered in connection with these guidelines.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 71, are published as a document subject to codification. The Commission invites all interested persons who desire to submit written comments or suggestions in connection with the amendments to send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 18, 1977. Consideration will be given such submissions with the view to possible further amendments. Copies of comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. The introductory language to § 71.12 is amended to read as follows:

§ 71.12 General license for shipment in DOT specification containers, in packages approved for use by another person, and in packages approved by a foreign national competent authority.

A general license is hereby issued to persons holding a general or specific license issued pursuant to this chapter, to deliver licensed material to a carrier for transport, provided the licensee has a quality assurance program, whose description has been submitted to and approved by the Commission as satisfying the provisions of § 71.51.

* * * * *

2. Paragraph (c) of § 71.21 is amended to read as follows:

§ 71.21 Contents of application.

* * * * *

(c) An identification of the proposed program of quality assurance as required by § 71.24;

3. Section 71.24 is amended to read as follows:

§ 71.24 Quality assurance.

(a) The applicant shall identify his approved quality assurance program to be applied to the design, fabrication, assembly, testing, maintenance, repair, modification, and use of the proposed packaging.

(b) The applicant shall identify any established codes and standards proposed for use in package design, fabrication, assembly, testing, maintenance, and use. In the absence of such codes and standards, the applicant shall describe the basis and rationale used to formulate the package quality assurance program.

(c) The applicant shall identify any specific provisions to be contained in his quality assurance program which are applicable to the particular package design under consideration.

4. Section 71.41 is amended to read as follows:

§ 71.41 Previously constructed packages for irradiated solid nuclear fuel.

(a) Notwithstanding any other provisions of this subpart, a package, the use of which has been authorized by the Atomic Energy Commission for the transport of irradiated solid nuclear fuel on or after September 23, 1961, and which has been completely constructed prior to January 1, 1967, shall be deemed to comply with the package standards of this subpart for that purpose, except as otherwise provided in paragraph (b).

(b) The holder (licensee) of the specific approval providing the authority specified in paragraph (a) shall, within 6 months after October 18, 1977, file a consolidated application for a superseding approval for the use of such packages, demonstrating that the packages satisfy the package standards of this subpart. If the licensee fails to submit such an application, the provisions of paragraph (a) and the authority granted by the approval to deliver the material to a carrier for transport in such packages shall expire at the end of that 6 month period. The Commission may issue a new approval superseding the existing approval, may confirm the existing approval with or without modification, or may deny the application in whole or in part and terminate the existing approval in whole or in part. If modification of the design of a package being used under the authority of this section in effect prior to October 18, 1977, is proposed by a licensee in his application for a superseding approval in accordance with this paragraph, the licensee shall designate in his application the time period needed to modify the package(s) after approval by the Commission.

5. Section 71.51 is amended to read as follows:

§ 71.51 Establishment and maintenance of a quality assurance program.

(a) The licensee shall establish, maintain and execute a quality assurance program satisfying each of the applicable criteria specified in Appendix E, "Quality Assurance Criteria for Shipping Packages for Radioactive Material," and satisfying any specific provisions which are applicable to the licensee's activities including procurement of packaging. The description of the quality assurance program shall include a discussion of which requirements of Appendix E are applicable and how they will be satisfied.[1] A description of that program shall be filed, in accordance with this section, by July 1, 1978, with the Director, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. If a person has filed such a description, the continued use of his existing quality assurance program is authorized until the acceptability of the program has been finally determined by the Commission.

(b) The provisions of this paragraph deal with packages which have been approved for use in accordance with this part prior to July 1, 1978, and which have been designed in accordance with the provisions of this part in effect at the time of package approval. Notwithstanding the provisions of paragraph (a) of this section, such packages shall be deemed to have been designed in accordance with a quality assurance program which satisfies the provisions of paragraph (a) of this section.

(c) The provisions of this paragraph deal with packages which have been approved for use in accordance with this part prior to July 1, 1978, have been at least partially fabricated prior to that date, and which have been fabricated in accordance with the provisions of this part in effect at the time of package approval. Notwithstanding the provisions of paragraph (a) of this section, such packages shall be deemed to have been fabricated and assembled in accordance

[1] The pertinent requirements of Appendix E should be applied in a graded approach, i.e., applied to an extent consistent with their importance to safety as described in section 2 of Appendix E.

with a quality assurance program which satisfies the provisions of paragraph (a) of this section.

(d) A Commission-approved quality assurance program which satisfies the applicable criteria of Appendix B of Part 50, of this chapter and which is established, maintained, and executed with regard to transport packages shall be deemed to satisfy the requirements of paragraph (a) of this section.

6. New paragraphs (g), (h), and (i) are added to § 71.54 to read as follows:

§ 71.54 Routine determinations.

Prior to each use of a package for shipment of licensed material, the licensee shall ascertain that the package with its contents satisfies the applicable requirements of Subpart C and of the license, including determinations that:

* * * * *

(g) Space provided for contained expansion of liquid coolant or a liquid shielding medium is adequate, and the systems for the liquid coolant and the liquid shielding medium are leaktight.

(h) The pressure relief valve or valves are operable, and set in accordance with written procedures.

(i) The package has been loaded and closed in accordance with written procedures.

7. In § 71.62 a new paragraph (c) is added and paragraph (a)(10) is amended to read as follows:

§ 71.62 Records.

(a) The licensee shall maintain for a period of 2 years after its generation a record of each shipment of fissile material and of each shipment of more than a type A quantity of radioactive material, as defined in § 71.4(q), in a single package, showing, where applicable:

* * * * *

(10) Results of the determinations required by § 71.54.

* * * * *

(c) The licensee shall maintain, during the life of the packaging to which they pertain, sufficient quality assurance records to furnish documentary evidence of the quality of packaging components which have safety significance, and of services affecting such quality, including records of the results of the determinations required by § 71.53, and of monitoring, inspection and auditing of work performance during the design, fabrication, assembly, testing, modification, maintenance, and repair of the packaging.

8. A new paragraph (c) is added to § 71.63 to read as follows:

§ 71.63 Inspections and tests.

* * * * *

(c) The licensee shall notify the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, at least 45 days prior to fabrication of a package to be used for the shipment, in that single package, of radioactive material having a decay heat load in excess of 5 kW or with an operating pressure in excess of 15 psig.

9. A new Appendix E is added to read as follows:

APPENDIX E—QUALITY ASSURANCE CRITERIA FOR SHIPPING PACKAGES FOR RADIOACTIVE MATERIAL

Introduction.—In accordance with § 71.24, every applicant for an approval for use of a shipping package is required to describe his quality assurance program, and every licensee is required by § 71.51 to establish and maintain a quality assurance program for the design, fabrication, assembly, testing, use, and maintenance of each packaging, as defined in § 71.4(1).

This appendix establishes quality assurance requirements which apply to all activities affecting the components of the packaging which are significant to safety. These activities include designing, purchasing, fabricating, handling, shipping, storing, cleaning, assembling, inspecting, testing, operating, maintaining, repairing, and modifying.

As used in this appendix, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements.

1. ORGANIZATION

The licensee[1] shall be responsible for the establishment and execution of the quality assurance program. The licensee may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part thereof, but shall retain responsibility therefor. The authority and duties of persons and organizations performing activities affecting the safety-related functions of structures, systems, and components shall be clearly established and delineated in writing. These activities include both the performing functions of attaining quality objectives and the quality assurance functions. The quality assurance functions are those of (a) assuring that an appropriate quality assurance program is established and effectively executed and (b) verifying, such as by checking, auditing, and inspection, that activities affecting the safety-related functions have been correctly performed. The persons and organizations performing quality assurance functions shall have sufficient authority and organizational freedom to identify quality problems; to initiate, recommend or provide solutions; and to verify implementation of solutions. Such persons and organizations performing quality assurance functions shall report to a management level such that this required authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations, are provided. Because of the many variables involved, such as the number of personnel, the type of activity being performed, and the location or locations where activities are performed, the organizational structure for executing the quality assurance program may take various forms provided that the persons and organizations assigned the quality assurance functions have the required authority and organizational freedom. Irrespective of the organizational structure, the individual(s) assigned the responsibility for assuring effective execution of any portion of the quality assurance program at any location where activities subject to this Appendix are being performed shall have direct access to such levels of management as may be necessary to perform this function.

2. QUALITY ASSURANCE PROGRAM

The licensee shall establish at the earliest practicable time, consistent with the schedule for accomplishing the activities, a quality assurance program which complies with the requirements of this appendix. The quality assurance program shall be documented by written procedures or instructions, and shall be carried out in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program and the major organizations participating in the program, together with the designated function of these organizations. The quality assurance program shall provide control over activities affecting the quality of the identified materials and components to an extent consistent with their importance to safety, and as necessary to assure conformance to the approved design of each individual package used for the shipment of radioactive material. Activities affecting quality shall be accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanness; and assurance that all prerequisites for the given activity have been satisfied. The program shall take into account the need for special controls, processes, test equipment, tools and skills to attain the required quality, and the need for verification of quality by inspection and test.

The licensee shall base the requirements and procedures of his quality assurance program on the following considerations concerning the complexity and proposed use of the package and its components:

(1) The importance of malfunction or failure of the item to safety;

(2) The design and fabrication complexity or uniqueness of the item;

(3) The need for special controls and surveillance over processes and equipment;

(4) The degree to which functional compliance can be demonstrated by inspection or test; and

(5) The quality history and degree of standardization of the item.

The program shall provide for indoctrination and training of personnel performing activities affecting quality as necessary to assure that suitable proficiency is achieved and maintained. The licensee shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall regularly review the status and adequacy of that part of the quality assurance program which they are executing.

3. DESIGN CONTROL

Measures shall be established to assure that applicable regulatory requirements and the package design, as specified in the license, for those materials and components to which this appendix applies, are correctly translated into specifications, drawings, procedures and instructions. These measures shall include provisions to assure that appropriate quality standards are specified and included in design documents and that deviations from such standards are controlled. Measures shall be established for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the safety-related functions of the materials, parts, and components of the packaging.

Measures shall be established for the identification and control of design interfaces and for coordination among participating design organizations. These measures shall include the establishment of written procedures among participating design organizations for the review, approval, release, distribution, and revision of documents involving design interfaces. The design control measures shall provide for verifying or checking the adequacy of design, such as by the performance of design reviews, by the use of alternate or simplified calculational methods, or by the performance of a suitable testing program. The verifying or checking process shall be performed by individuals or groups other than those who performed the original design, but who may be from the same organization. Where a test program is used to verify the adequacy of a specific design feature in lieu of other verifying or checking processes, it shall include suitable qualification testing of a prototype or sample unit under the most adverse design conditions. Design control measures shall be applied to items such as the following: criticality physics, radiation shielding, stress, thermal, hydraulic, and accident analyses; compatibility of materials; accessibility for inservice inspection, maintenance and repair; features to facilitate decontamination; and delineation of acceptance criteria for inspections and tests.

Design changes, including field changes, shall be subject to design control measures commensurate with those applied to the original design. Changes in the conditions specified in the package approval require Commission approval.

4. PROCUREMENT DOCUMENT CONTROL

Measures shall be established to assure that applicable requirements of this part which are necessary to assure adequate quality are suitably included or referenced in the documents for procurement of material, equipment, and services, whether purchased by the licensee or by his contractors or subcontractors. To the extent necessary, the licensee shall require contractors or subcontractors to provide a quality assurance program consistent with the pertinent provisions of this part.

5. INSTRUCTIONS, PROCEDURES AND DRAWINGS

Activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings. These shall include appropriate quantitative or qualitative acceptance criteria for determining that important activities have been satisfactorily accomplished.

6. DOCUMENT CONTROL

Measures shall be established to control the issuance of documents, such as instructions, procedures, and drawings, including changes thereto, which prescribe all activities affecting quality. These measures shall assure that documents, including changes, are reviewed for adequacy and approved for release by authorized personnel and are distributed and used at the location where the prescribed activity is performed. Changes to documents shall be reviewed and approved by the same organizations that performed the original review and approval unless the applicant designates another organization.

7. CONTROL OF PURCHASED MATERIAL, EQUIPMENT, AND SERVICES

Measures shall be established to assure that purchased material, equipment, and services, whether purchased directly or through contractors and subcontractors, conform to the procurement documents. These measures shall include provisions, as appropriate, for source evaluation and selection, objective evidence of quality furnished by the contractor or subcontractor, inspection at the contractor or subcontractor source, and examination of products upon delivery. Documentary evidence that material and equipment conform to the procurement specifications shall be available prior to installation or use of such material and equipment. This documentary evidence shall be retained by or be available to the licensee and shall be sufficient to identify the specific requirements met by the purchased material and equipment. The effectiveness of the control of quality by contractors and subcontractors shall be assessed by the licensee or designee at intervals consistent with the importance, complexity and quantity of the product or services.

8. IDENTIFICATION AND CONTROL OF MATERIALS, PARTS AND COMPONENTS

Measures shall be established for the identification and control of materials, parts, and components. These measures shall assure that identification of the item is maintained by heat number, part number, or other appropriate means, either on the item or on records traceable to the item, as required throughout fabrication, installation, and use of the item. These identification and control measures shall be designed to prevent the use of incorrect or defective materials, parts and components.

9. CONTROL OF SPECIAL PROCESSES

Measures shall be established to assure that special processes, including welding, heat treating, and nondestructive testing, are controlled and accomplished by qualified personnel using qualified procedures in accordance with applicable codes, standards, specifications, criteria, and other special requirements.

10. INSPECTION

A program for inspection of activities affecting quality shall be established and executed by or for the organization performing the activity to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity. Such inspection shall be performed by individuals other than those who performed the activity being inspected. Examination, measurements, or tests of material or products processed shall be performed for each work operation where necessary to assure quality. If inspection of processed material or products is impossible or disadvantageous, indirect control by monitoring processing methods, equipment, and personnel shall be provided. Both inspection and process monitoring shall be provided when quality control is inadequate without both. If mandatory inspection hold points, which require witnessing or inspecting by the licensee's designated representative and beyond which work shall not proceed without the consent of its designated representative, are required, the specific hold points shall be indicated in appropriate documents.

11. TEST CONTROL

A test program shall be established to assure that all testing required to demonstrate that the packaging components will perform satisfactorily in service is identified and performed in accordance with written test procedures which incorporate the requirements of this part and the requirements and acceptance limits contained in the package approval. The procedures shall include provisions for assuring that all prerequisites for the given test have been met, that adequate test instrumentation is available and used, and that the test is performed under suitable environmental conditions. Test results shall be documented and evaluated to assure that test requirements have been satisfied.

12. CONTROL OF MEASURING AND TEST EQUIPMENT

Measures shall be established to assure that tools, gages, instruments, and other measuring and testing devices used in activities affecting quality are properly controlled, calibrated, and adjusted at specified times to maintain accuracy within necessary limits.

13. HANDLING, STORAGE AND SHIPPING

Measures shall be established to control the handling, storage, shipping, cleaning and preservation of materials and equipment to be used in packaging in accordance with instructions to prevent damage or deterioration. When necessary for particular products, special protective environments, such as inert gas atmosphere, specific moisture content levels and temperature levels shall be specified and provided.

14. INSPECTION, TEST AND OPERATING STATUS

Measures shall be established to indicate, by the use of markings such as stamps, tags, labels, routing cards, or other suitable means, the status of inspections and tests performed upon individual items of the packaging. These measures shall provide for the identification of items which have satisfactorily passed required inspections and tests, where necessary to preclude inadvertent by-passing of such inspections and tests.

Measures shall also be established for indicating the operating status of components of the packaging, such as tagging valves and switches, to prevent inadvertent operation.

15. NONCONFORMING MATERIALS, PARTS, OR COMPONENTS

Measures shall be established to control materials, parts, or components which do not conform to requirements in order to prevent their inadvertent use or installation. These measures shall include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items shall be reviewed and accepted, rejected, repaired or reworked in accordance with documented procedures.

16. CORRECTIVE ACTION

Measures shall be established to assure that conditions adverse to quality, such as deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and corrected. In the case of a significant condition adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management.

17. QUALITY ASSURANCE RECORDS

Sufficient written records shall be maintained to furnish evidence of activities af-

[1] While the term "licensee" is used in this appendix, the quality assurance requirements are applicable to whatever design, fabrication, assembly and testing of the package is accomplished with respect to a package prior to the time a package approval is issued.

fecting quality. The records shall include the following: design records, records of use and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records shall also include closely-related data such as qualifications of personnel procedures, and equipment. Inspection and test records shall, as a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records shall be identifiable and retrievable. Consistent with applicable regulatory requirements, the licensee shall establish requirements concerning record retention, such as duration, location, and assigned responsibility.

18. AUDITS

A comprehensive system of planned and periodic audits shall be carried out to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits shall be performed in accordance with the written procedures or check lists by appropriately trained personnel not having direct responsibilities in the areas being audited. Audit results shall be documented and reviewed by management having responsibility in the area audited. Followup action, including reaudit of deficient areas, shall be taken where indicated.

(Secs. 53, 62, 81, 161; Pub. L. 83-703, 88-489; 68 Stat. 930, 932, 935, 948, 78 Stat. 602 (42 U.S.C. 2073, 2092, 2111, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 28th day of July, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22225 Filed 8-3-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B—Docket No. R-0107]

PART 202—EQUAL CREDIT OPPORTUNITY

Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: This document corrects a previous Federal Register document.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3946).

In F.R. document 77-20481 appearing at page 36810 of the issue for Monday, July 18, 1977, the states referred to should have been Alabama and Nebraska. The first word in the third line of the summary, the last word in the twelfth line of the text of § 202.1103(a) and the fourth word in the second line of § 202.1103(d) should be corrected to read Nebraska.

Board of Governors of the Federal Reserve System, July 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-22386 Filed 8-3-77;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL REGULATIONS OF THE FEDERAL HOME LOAN BANK BOARD

[No. 77-489]

PART 505—AVAILABILITY AND CHARACTER OF RECORDS

Price List for Public Copies of Listed Data

JULY 29, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendment.

SUMMARY: This amendment establishes a price list for copies of certain financial data of FSLIC-insured savings and loan institutions. Such data, available to the public under the Freedom of Information Act, are priced according to the Board's estimated costs of reproduction, including equipment and manpower expenses. The amendment is needed because pricing of such copies is not specifically covered by existing regulations.

EFFECTIVE DATE: August 1, 1977.

ADDRESS: Office of the Secretary, Federal Home Loan Bank Board, 320 First Street N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel. Telephone number: 202-376-3556.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 77-423 of July 6, 1977, proposed to amend § 505.4 of its General Regulations (12 CFR Part 505) to establish a price list for computer print-outs and magnetic tape copies of certain financial data of FSLIC-insured institutions available to the public under the Freedom of Information Act. The Board requested comments on the proposal on or before July 29, 1977, limited to the reasonableness of the proposed prices. Four public comments were received through July 29, 1977, all from FSLIC-insured institutions.

One commenter suggested that the proposed prices seemed high in view of the cost of paper, copying, and postage. Another suggested that the prices seemed too low and "wouldn't pay for the paper the information would be printed on." Because the Board is satisfied that the proposed prices are "reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication" as permitted by the statute (5 U.S.C. 552(4)(A)), it is adopting them as proposed.

One commenter suggested a slight modification of the pricing method for purposes of simplification and another opposed the proposal as involving sharing by insured institution of operating data with their competition. The Board has retained the proposed pricing method because it believes that such method best accords with the statutory limitations on pricing mentioned above. The Board notes that the comment opposing the proposal is outside the scope of the invitation for comments and, in any event, irrelevant because the Freedom of Information Act requires that the data covered by the proposal be available to the public.

Having considered all comments received on the proposed amendment received through July 29, 1977, the Board considers it desirable to adopt the amendment without change, except for inclusion of a parenthetical note under the item "Previous Reports" in § 505.4(e)(3)(a)(ii) to clarify that the per-institution charges there specified apply regardless of the number of pages in the report.

Because the Board will begin making data covered by these amendments available on August 1, 1977, and a final price list is necessary for prompt and proper billing for this service, the Board finds that publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to effective date is impracticable and contrary to the public interest.

Accordingly, the Board hereby amends § 505.4(e) by re-numbering present subparagraph (3) as subparagraph (4), and adding new subparagrah (3) to read, effective August 1, 1977, as follows:

§ 505.4 Access to records.

* * * * *

(e) *Fees for providing copies of records.* * * *

(3) The following charges, descriptions and procedures apply to requests for printed copy and magnetic tapes of insured institutions' financial data, as listed.

(i) *Description and Charges—(a) Balance Sheets, and Income and Expense Statements* (June 30 and December 31, or other semiannual fiscal period). These data cover the preceding six-month period and are available approximately three months after the period covered. Data are available for individual institutions in printed copy (3 pp. per institution), or for all insured institutions on magnetic tape. Printed copy may be requested for an individual institution, or for each individual institution in a county or state.

PRINTED COPY

CURRENT

$6.00—1-5 institutions.
$2.00 per institution for each additional institution up to 25.
$.25 per institution thereafter.

PREVIOUS

$9.00—1-5 institutions.
$2.00 per institution for each additional institution up to 25.
$.25 per institution thereafter.

MAGNETIC TAPES

$50.00—Format No. 1 (Board's internal format containing 4,046 characters per record, one record per block, 800 BPI, even parity, 7 track, no label or tape mark; data recorded in Six-bit imbedded Comp.).
$150.00—Format No. 2 (Universal EBCDIC containing 4,046 characters per record, 3 records per block, 800 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC).

(b) *Total Deposit Balances per Office* (September 30 or March 31). These data, reported to the Board each March 31 and September 30, are available approximately three months after the period covered. Data for a specified period are available for individual offices in printed copy or for all insured institutions on magnetic tape. Information may be requested for all offices of an individual institution or all offices of all insured institutions in a specified county or state.

PRINTED COPY

MOST RECENT REPORT

$3.00—1-5 pages.
$1.00—per page (6-25 pp.).
$.10—per page (over 25 pp.).

PREVIOUS REPORTS (REGARDLESS OF NUMBER OF PAGES)

$4.00—1-5 institutions.
$2.00—per institution up to 25 institutions.
$.25—per institution thereafter.

MAGNETIC TAPES

$50.00—Format No. 1 (Board's internal format, containing 217 characters per record, one record per block, 800 BPI, even parity, 7 track, no label or tape mark at beginning of file; data recorded in ASCII).
$150.00—Format No. 2 (Universal EBCDIC, containing 217 characters per record, three records per block, 800 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC).

(ii) *Procedure.* Address all requests to: Federal Home Loan Bank Board, Industry Data Division, Information Disclosure Section, 320 First Street NW., Washington, D.C. 20552. Include requester's name, address, and telephone number. If requesting data on an individual institution, provide accurate and complete institution name and home office address and dates of data requested. For geographical requests, specify county and/or state in which the institutions or offices are located. Requesters will be billed for copies. No advance payment will be accepted.

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(Pub. L. 93-502 (5 U.S.C. 552); Secs. 11, 17, 47 Stat. 733, 736, as amended; secs. 5, 402, 48 Stat. 132, 1256, as amended (12 U.S.C. 1431, 1437, 1464, 1725). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-22465 Filed 8-3-77;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Lending in Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: These rules implement the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95-22, 91 Stat. 49) pertaining to Federal credit union lending policies, lines of credit to members, loans to officials, loans endorsed by officials, and insured or guaranteed loans. In addition, these rules contain certain clarifications of existing rules pertaining to the amortization of loans to members and insured or guaranteed loans.

EFFECTIVE DATE: These regulations are to be effective August 4, 1977.

ADDRESSES: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator for Examination and Insurance, at the above address 202-254-8760.

SUPPLEMENTARY INFORMATION: On May 27, 1977, the Administration published a proposed rule (42 F.R. 27251) to implement the provisions of the Federal Credit Union Act (12 U.S.C.A. 1751, *et seq.*, hereafter "the Act"), as amended by Public Law 95-22, pertaining to loans and lines of credit to members of Federal credit unions, including home improvement loans with maturities up to 15 years. These rules do not apply to real estate loans with maturities in excess of 12 years, mobile home loans with maturities in excess of 12 years, or to participation loans. Nor do they apply to loans and lines of credit to nonmember borrowers, nonmember credit unions, or credit union organizations. Rules implementing these provisions of the amended Act regarding such loans will be proposed at a later date. With a few exceptions almost all of the 43 comment letters received in response to the proposed rules were favorable. Several commenters, while agreeing with a majority of the provisions of the proposal, raised questions concerning certain provisions of the proposal and made suggestions that convinced the Administration that a number of changes from the proposed rule are warranted.

DISCUSSION OF MAJOR COMMENTS

Lending Policies: Loans and Lines of Credit to Members 701.21-1

RATES OF INTEREST AND LOAN

Several commenters raised various issues regarding application of the provisions of subsection (c) as they apply to establishing various classifications of loans or credit plans and establishing various rates of interest applicable to these programs.

Three commenters indicated a need for rates to vary according to the terms or method of repayment. Another commenter indicated that classifications established by the proposal as mandatory should be recognized as the normal classifications, but that others certainly could be established provided equitable treatment was afforded all borrowers within a given classification.

After considering these comments the Administration has retained the mandatory restrictions on the classifications of loans which may be established by a board of directors. The initial intent of the "uniform rate" provisions of the proposed regulation was to allow maximum discretion to each individual Federal credit union's board of directors, while at the same time, ensuring achievement of the Congressional intent that all members qualifying for a particular class of loan be afforded the same rate of interest. The Administration believes the classifications required are sufficiently liberal to allow the board of directors of each Federal credit union to establish equitable variations in interest rates.

Amortization of Loans to Members: 701.21-2

MONTHLY REPAYMENT OF LOANS ADVANCED UNDER A LINE OF CREDIT

Eight commenters expressed concern with the provision requiring monthly payments on loans advanced under a line of credit. Specific concerns cited the needs of credit unions serving employee groups which were not employed 12 months out of each year. In these credit unions past practice has provided for repayment of loans only during the months the borrower was actually working. An example provided in several comments referred to credit unions serving school teachers. Another commenter pointed out that lines of credit established for the purpose of purchasing inventory or a farmer purchasing materials and supplies for production purposes would more appropriately be repaid at intervals when the inventory was sold or when crops or other produce were sold, rather than on a monthly basis.

The Administration believes that the establishment of lines of credit for the purpose of obtaining consumer goods and services requires that repayment be made on a monthly basis for the following reasons:

(1) The borrower may draw on the line of credit for any purpose at any time.

(2) In view of the variety of ways the funds from a line of credit may be used, payments should be obtained to coincide with the member's receipt of earnings, to assure that a reasonable portion of the line of credit is repaid when the borrower has funds available to make payment.

(3) Monthly or more frequent contact for purposes of payment improves the credit union's ability to maintain contact with its member borrowers even if the contact is only receipt of a payroll deduction once a month.

(4) Close control over payment activity will assist the officials of a credit union in assuring their policies concerning lines of credit are reasonable in relation to the credit union's ability to provide this service.

With regard to loans and lines of credit to members engaged in farming, or other business, the Administration believes the proposed regulation allows sufficient latitude for establishing single payment loans and special loan plans to meet the needs of these members. While some credit unions do make business and agricultural loans, this type of lending activity is highly specialized and in many cases may not be conducive to use of a line of credit. Therefore, the Administration has not included special provisions concerning this type of lending activity.

While no comments were received regarding the authority of a Corporate Central Federal credit union to offer lines of credit to its credit union members, the Administration has noted a need for clarification of the monthly payment restriction on lines of credit as it pertains to credit unions which are members of corporate central credit unions. Subsection (a) and § 701.21–3(b)(2) have, therefore, been revised to recognize this clarification and subjects payments on loans and lines of credit made by corporate central Federal credit unions to intervals of not greater than 12 months.

EXCEPTIONS TO REQUIRED AMORTIZATION LIMITS

Several commenters indicated that the exceptions to the restrictions on amortization of loans were not broad enough. The Administration believes that the limitations placed on amortization of loans and exceptions to these limits are adequate for the majority of credit unions. These limitations were in effect prior to the current change in the Act and the Administration has not received any evidence in conjunction with the issuance of these proposals, or prior to the proposal, that the previous regulations were overly restrictive. If evidence is presented in the future which warrants a further change in these exceptions, the Administration will give further consideration to their modification.

Lines of Credit to Members: 701.21–3

REQUIRED PROVISIONS FOR A LINE OF CREDIT AGREEMENT

Three commenters recommended that the entire proposal be modified to a more general approach. Other commenters recommended specific changes to generalize the various required provisions of the line of credit agreement, as set forth in subsection (b) of the proposal. These comments included the following recommendations:

(1) The credit limit need not be stated in the agreement. Many credit unions may desire to include the credit limit in the application only. The application may then be incorporated by reference into the agreement in order to alleviate the borrower from resigning the agreement every time the credit limit is changed.

(2) The agreement should clearly recognize the right of the credit union to accelerate payments if a borrower defaults.

(3) Revise the provision of subsection (b)(1) to read "The credit limit, or maximum amount of principal available which may be drawn upon by a member at any time." This wording parallels the wording in the definition of "line of credit."

(4) Six commenters believed the use of the word "maturity" in (b)(2) was not clear or contradicted the concept of line of credit.

(5) Three commenters indicated (b)(6) was not necessary and unenforceable.

(6) Three commenters supported credit committee authority over termination of the line of credit agreement, rather than the board of directors, to assure that the authority to terminate is provided by the same official body having authority to establish the line of credit.

(7) Two commenters indicated the need for the credit union as well as the borrower to be able to terminate the agreement.

In response to these comments the Administration agrees in general with a less restrictive approach to the requirements placed upon the agreement and has revised the provisions of subsection (b) to incorporate these recommendations.

Two commenters indicated they believed the use of the word "fees" in (b)(4) was overly restrictive. The word "fees," which was originally included in (b)(4) with the intent of clarifying those costs which constitute service charges on lines of credit, has been removed in view of the fact that the Administration intends to define by future regulation the term "service charges" as it applies to all Federal credit union lending practices.

REQUIRED 36-MONTH REVIEW OF LOAN FILES FOR MEMBERS HAVING A LINE OF CREDIT

Eleven commenters questioned the need for a mandatory 36 month review of line of credit files. Reasons for objecting to this requirement included:

(1) Too great a financial burden;

(2) Credit card companies only look at payment records;

(3) Credit bureau reports are not worth their cost;

(4) Review is not consistent with the concept of the line of credit; and

(5) The requirement is an administrative burden.

The following recommendations were provided as alternatives:

(1) Allow the board of directors to determine the review period;

(2) Establish a scoring system to determine which files must be reviewed; and

(3) Review only those accounts which fail to pay as agreed.

The Administration has considered these comments and has determined that the proposed regulation requiring review of loan files for members having lines of credit is appropriate and not unduly restrictive. The periodic review requirement of each member's creditworthiness is intended to ensure that the best interests of the member and the credit union are protected. The Administration strongly believes that a 36 month review period is necessary and has retained this provision in the final rule. Furthermore, the provisions of this requirement are permissive, and while the review is mandatory, the 36 month limit allows the board to set more frequent reviews if desired.

APPLICATION BY MEMBERS WHEN CHANGES ARE MADE TO THE PROVISIONS OF THE LINE OF CREDIT AGREEMENT

Four commenters indicated that the credit committee or loan officer should have the option of requiring reapplication for lines of credit if changes are made to the line of credit agreement. Another commenter indicated that the credit committee or loan officer should have the authority to reduce a borrower's credit limit and/or accelerate the payment schedule, if a borrower defaults, without requiring reapplication by the borrower.

The Administration disagrees with the recommendation that the use of applications to modify the terms of a line of credit agreement be optional. However, the Administration has reconsidered the provisions of the proposed rule which require reapplication for any modification to the line of credit agreement. Subsection (e) is amended to provide for mandatory reapplication only when a credit line is increased or when payments are reduced. This provision does not prohibit the credit committee or loan officer from requesting reapplication from any member having a line of credit, at times other than required by the regulation.

DISBURSEMENTS EXCEEDING A BORROWER'S CREDIT LIMIT

One commenter raised a question as to the disposition of advances under a line of credit agreement which exceed the borrower's maximum credit limit. The comment was directed primarily at the provisions of the line of credit agreement, but in the Administration's view, the "overline" provisions need not be a part of the agreement between the credit union and the member.

In response to the question raised, the Administration has included a new subsection (f) in the final rule which requires the board of directors to establish policy for the proper control of advances under a line of credit agreement which exceed the borrower's credit limit. Control measures and policies which might be instituted include:

(1) Approval of any "overline" advances by the credit committee or loan officer with the amount restricted to a specified percentage of the borrower's credit limit.

(2) Providing an authorization system which will allow a specified percentage of the credit limit as an "overline" advance or which will prohibit the borrower from obtaining any advances in excess of the credit limit.

The Administration's policy on "overline" authorization is not a substitute for the requirement that a borrower must reapply and receive approval for increases in his credit limit. This policy is only provided to deal with the occasional "overline" situation which occurs because of the borrower's failure to control his use of the line of credit within the agreed upon limit.

REVIEW OF LIQUIDITY STATUS

Four commenters recommended deletion of all or a portion of subsection (e) and indicated the provisions were unnecessary and burdensome. Three commenters indicated a monthly review was too frequent and suggested a quarterly review. Another commenter recommended that the treasurer's or manager's report could incorporate the information required and could be incorporated by reference into the board of director's minutes.

The Administration has considered the above comments and believes that the inclusion of these requirements in the proposed rule is necessary to assure that the credit union officials monitor the relationship between the credit union's liquidity status and actual and prospective activity on line of credit accounts. Furthermore, to change these requirements by reducing the period of review to quarterly would make the intended action meaningless. The comment concerning inclusion of the required data in the treasurer's report or manager's report is an acceptable method of documenting this information in the board of director's minutes and is not prohibited by the regulation.

Finally, the Administration recognizes that the above requirements represent an initial attempt to assure each credit union properly monitors and evaluates its line of credit programs. Modifications may be made to the regulation if after review of the results of this requirement the Administration determines the requirements to be too burdensome or ineffective in accomplishing the desired result.

Loans to Officials: 701.21–4

CREDIT COMMITTEE APPROVAL OF LOANS TO OFFICIALS

The proposed regulation authorized the board of directors to approve certain loans to officials notwithstanding the credit committee's recommendation that a loan not be offered to a certain official. This action was proposed because of ambiguity in the language of Section 114 of the amended Act concerning the respective roles of the credit committee and board of directors.

Five commenters were opposed to the proposed regulation. They recommended that when board of director's action is required, the credit committee should also be required to evidence favorable action on a loan application involving an official prior to disbursing any funds.

The Administration has reconsidered its proposed regulation. The final regulation has been revised to require approval by the credit committee or loan officer when the board of directors or executive committee is required to act on a loan to or endorsed by an official. Disapproval by either the credit committee or board of directors would result in disapproval of the application. The Administration believes this approach is consistent with the House Report which states that, "(the) Committee is sensitive to any grant of authority which appears to make it easier for 'insiders' to take advantage of funds entrusted to their care." (Page 9.)

APPROVAL OF LOANS TO OFFICIALS BY EXECUTIVE COMMITTEE AND LOAN OFFICER

Three commenters indicated that the regulation should clearly state that the executive committee may act for the board of directors and that the loan officer may act for the credit committee in approving loans to officials.

The Administration concurs with this recommendation and has included the appropriate language in subsections (c) and (e) of the final regulation.

DISCUSSION OF MISCELLANEOUS COMMENTS

The Administration does not agree that the proposed rule would be improved as suggested by some commenters and has rejected the following suggestions:

(1) That the definitions of secured and unsecured loan limits should include the total line of credit established and not just the amount advanced under a line of credit. Since a loan is not created until funds are advanced under a line of credit, only the amount of funds so advanced need be considered in determining a borrower's secured and unsecured loan limit.

(2) That all lines of credit should carry the same rate of interest. The preamble to the proposed rule stated the Administration's position on this matter and noted the ambiguity in the provisions of Pub. L. 95–22 regarding the interest rate on lines of credit.

(3) After the term "endorser" in subsection (e) add the terms, "guarantor", "comaker", or "any party" that shares in contractual liability with the borrower. The Administration believes that the terms "endorser" and "guarantor" sufficiently cover the recommended wording, and for purposes of clarity, has removed the statement that "endorser" and "guarantor" are the same. Both terms are, therefore, set forth in the text of section 701.21–4.

(4) That the regulation should state how value of security should be determined. Each credit union's board of directors is responsible for establishing security requirements. The value of security will be established and documented according to the individual credit union's policies. (701.21–2)

(5) That education loans should be made available to a member who is borrowing the funds for the purpose of educating a member of his/her own family. Subsection (b) of the regulation only provides special consideration for amortization of education loans to the persons actually in school. This exception is necessary because the student normally would not derive income until he/she has completed school. This consideration would not apply to a member who is financing the education of another.

(6) That share secured loans should be exempt from single payment limits. The Administration believes the provisions established requiring payments on loans at intervals no greater than 12 months are adequate to meet the needs of almost all borrowers.

(7) That the line of credit regulation should be more general, leaving discussion of the specifics for the manuals. The Administration will issue additional guidelines and policy statements on the operation of lines of credit in its other publications and manuals. The regulations were designed to cover the general requirements for all lines of credit.

(8) That the Administration should specify the maximum credit limits which may be established by a credit union member and the aggregate amount of credit limits which may be established by a credit union. The Administration does not believe that regulations should be used to establish these limits, which Congress intended to be established by the individual credit union's board of directors.

(9) That the Administration should impose an annual update and review of borrowers having an approved line of credit. The Administration believes that this proposed requirement would be unnecessarily restrictive upon the management of the individual Federal credit union.

(10) That the credit committee or loan officer should be able to approve general modifications to agreements for lines of credit without having an application from the borrower. The Administration believes that modifications to a line of credit desired by a borrower should specifically be approved by the credit committee or loan officer.

POLICY FOR REVIEW OF CREDIT CARD PROGRAMS

The preamble of proposed rule Part 701.21–3 indicated that the Administration viewed the method of access to a line of credit (credit card, loan draft, etc.) as a management decision for each Federal credit union's board of directors. Several commenters requested a statement of the Administration's policy regarding Federal credit unions establishing third party credit card programs (involving credit union, member and merchant) for their members. Instead of issuing specific guidelines at this time for credit card programs, the Administration is requesting that Federal credit unions desiring to establish a credit card program contact the appropriate Regional Office for guidance concerning the desired program. The Administration believes that this approach will sufficiently facilitate the establishment of credit card programs in Federal credit unions desiring to implement this service.

Accordingly, 12 C.F.R. 701 is amended as follows:

(1) Delete § 701.21 and add new sections to read as follows:

§ 701.21–1 Lending policies: Loans and lines of credit to members.

(a) For the purposes of § 701.21: (1) "Security" means an interest in property which has tangible value or any endorsement of a person which will wholly or partially secure a loan obligation. Security includes any contractually created interest in a member's share account, but not that interest created by Section 107(11) of the Federal Credit Union Act (12 U.S.C.A. 1757(11)).

(2) "Unsecured loan limit" means the maximum amount of funds which may be loaned to any member, without security, including any unsecured advances under a line of credit and the unsecured portion of any partially secured loan.

(3) "Secured loan limit" means the maximum amount of funds which may be loaned to any member, including advances under a line of credit, with security.

(4) "Loan file" means a file maintained by a Federal credit union which

includes applications for loans and lines of credit for a specific borrower and other related information concerning the borrower's creditworthiness.

(b) Within the limits of the Act and this Part, the board of directors of a Federal credit union shall establish specific written policies, which shall include at least (1) the secured loan limit and unsecured loan limit, and (2) the classifications established under subsection (c), below, and the rate of interest applying to each classification.

(c) Rates of interest charged on loans (including line of credit balances) may vary according to reasonable classification established by the board of directors. Distinctions among classifications shall be based only upon one or more of the following: Type of line of credit or loan plan, purpose of the loan, and type or value of security in relation to the amount of the loan. Within a given classification, the same rate of interest must be applied uniformly to all member borrowers.

(d) Subject to limitations established by the board of directors, the credit committee or loan officer shall consider the following factors in ruling on applications for loans or loan accounts (including lines of credit):

(1) The amount and regularity of receipt of funds which the borrower intends to rely upon for repayment.

(2) The borrower's other commitments and anticipated financial needs over the term of his obligation to the credit union.

(3) Other valid factors of creditworthiness as determined by the credit committee or loan officer.

(4) The best interests of the member and credit union.

(e) The loan files of a Federal credit union shall contain evidence of the financial responsibility of any endorser and the value of any security provided by a borrower.

§ 701.21–2 Amortization and payment of loans to members.

(a) A loan to a member shall be paid by substantially equal payments of principal at intervals of not greater than 12 months. An approved line of credit to a member other than a member credit union shall provide for payments at intervals of not greater than 1 month.

(b) The board of directors may, by resolution:

(1) Require that any loan agreement provide for periodic substantially equal payments of principal at intervals shorter than 12 months.

(2) Authorize the following exceptions to the requirements of paragraph (a):

(i) A loan for the purpose of vocational or higher education of the member/borrower may be made with a maturity of not greater than 12 years and on such terms of payment as the credit committee or loan officer find to be consistent with the needs of the member/borrower and the best interest of the credit union.

(ii) A loan with a maturity of less than 30 months may be repaid by a single payment of principal if the credit committee or loan officer find that such terms are justified by the needs and condition of the borrower.

(c) Each loan shall provide for:

(1) Payment of interest with each payment of principal;

(2) Payment of interest not less frequently than annually; and

(3) Sufficient payments to pay the loan in full at maturity.

§ 701.21–3 Lines of credit to members.

(a) For the purposes of this section:

(1) "Line of credit" means a fixed amount which may be drawn upon by a member from time to time and which may be replenished by payment on amounts previously drawn.

(2) "Agreement" means the written document signed by the borrower to establish the terms and conditions of a line of credit.

(b) Each line of credit shall be evidenced by an agreement which shall contain, incorporate by reference, or provide for at least the following:

(1) The credit limit, or maximum amount of principal available under the agreement which may be drawn upon by a member at any time.

(2) A schedule of required monthly payments (or annual payments in the case of a line of credit extended by a Corporate Central Federal credit union to its member credit unions) sufficient in amount to retire the unpaid principal balance within the maturity limits of the Act.

(3) Interest at a rate or rates not exceeding 1 per centum per month on the unpaid balance inclusive of all service charges.

(4) The borrower's promise to pay.

(5) Repayment of any amounts outstanding prior to maturity in whole or in part on any business day without penalty.

(6) Other conditions established by the board of directors necessary to protect the best interests of the credit union and to comply with applicable Federal and State laws and regulations.

(7) That the credit committee may terminate the agreement under the following conditions:

(i) Upon adverse reevaluation of the borrower's creditworthiness.

(ii) Upon failure of the borrower to satisfy the terms of the agreement.

(iii) At the option of the borrower or of the credit union with good cause.

(c) Termination of a line of credit agreement by the credit union shall be given by written notice and shall not affect the borrower's obligation to pay the balance outstanding incurred prior to the notice.

(d) The board of directors shall require a review, at least once every 36 months, of the loan file of each member who has a line of credit. To the extent governed by sound lending principles, the review shall be completed by obtaining current information to reassess the member's creditworthiness. The date of this review shall be documented in the member's loan file.

(e) A reapplication by the member and approval by the credit committee or loan officer shall be required, if:

(1) The credit limit is increased, or

(2) The terms of payment are extended beyond the terms of the original agreement.

(f) The board of directors shall establish policy for control of advances disbursed under a line of credit agreement which exceed the borrower's credit limit.

(g) Each month the board of directors shall review the credit union's liquidity status in relation to extending loans approved under line of credit agreements and shall document at least the following information as of the previous month end in the board of director's minutes:

(1) The number and amount of outstanding balances under all line of credit agreements.

(2) The aggregate amount of credit approved under line of credit agreements.

(3) The total amount of loans advanced and the total amount of loans repaid under line of credit agreements for the previous month.

§ 701.21–4 Loans to officials.

(a) For purposes of this section:

(1) "Official" includes a member of the board of directors, credit committee, or supervisory committee.

(2) "Application" shall include all applications by officials for loans and lines of credit and all applications by members for loans and lines of credit for which officials intend to act as endorsers or guarantors.

(b) The credit committee or loan officer shall act upon all applications.

(c) The following computation shall be used to determine which applications must be considered by the board of directors or executive committee.

(1) Add:

(i) The amount of the current application.

(ii) The outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed or guaranteed by the official.

(iii) The total unused portion of approved lines of credit extended to or endorsed or guaranteed by the official.

(2) From the above total subtract:

(i) The amount of shares pledged by the official on loans or lines of credit extended to or endorsed or guaranteed by the official.

(ii) The amount of shares to be pledged by the official on the loan or line of credit applied for.

(3) The board of directors shall consider an application if the computation produces a total in excess of $5,000.

(d) The board of directors shall establish a procedure for processing all applications involving officials. This procedure shall include the appointment of an individual(s) responsible for:

(1) Assuring that the application is completed as to income and debt obligations.

(2) Documenting, on the application, the computation explained in paragraph (c).

(e) Prior to disbursing a loan or granting a line of credit, in addition to compliance with the provisions set forth in sections 701.21–1, 701.21–2, and 701.21–3, the following requirements must be met:

(1) The application shall indicate the credit committee's or loan officer's approval and the board of director's or executive committee's approval if required by subsection (c) of this section.

(2) The rate, terms and conditions of the approved loan or line of credit shall not be more favorable than the rate, terms and conditions for comparable loans or lines of credit to other credit union members.

(3) The approved loan or line of credit must comply with the requirements of the Act.

(4) An official shall not consider his/her application or one for which he/she is acting as an endorser or guarantor. Also, an official shall not be present at a meeting while his/her application or one for which he/she is acting as an endorser or guarantor is being considered.

(5) The application may be approved only if a quorum of the board is present and all present agree to approve the application.

(6) As a minimum, the following information shall be recorded in the board's minutes:

(i) Board's decision on an application.

(ii) Name of applicant.

(iii) Names of board members present at the meeting.

(iv) Name of endorsing or guaranteeing official (if applicable).

§ 701.21–5 Insured and guaranteed loans.

(a) A Federal credit union which has been qualified as a lender under a Federal or State insured or guaranteed loan program may make loans to members under the terms and conditions and within the maturities specified by the laws and regulations governing the program.

(b) Loans or lines of credit approved under the provisions referenced in paragraph (a) of this section shall be in full compliance with all applicable provisions of such laws and regulations including any requirements to record liens or related collateral. Where a Federal or State insurance or guarantee is accepted as security for a loan or line of credit, the credit committee shall determine that the interest of the credit union is adequately protected and that the borrower's application reflects his/her creditworthiness.

§ 701.25 [Deleted]

(2) Delete § 701.25

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Dated: July 29, 1977.

C. AUSTIN MONTGOMERY,
Administrator.

[FR Doc.77-22352 Filed 8-3-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-GL-18; Amdt. 39-2994]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Propellers Two Bladed Constant Speed Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which replaces AD 76–19–04. The new AD requires inspection of additional two bladed constant speed propeller models not included in the initial AD, and as necessary, rework or replacement of the affected ferrules, blade actuating pins and washers in accordance with the manufacturer's service instructions. This action is considered necessary to preclude failure of the blade actuating pin that has resulted in excessive vibration and loss of propeller control in flight. Since the repair stations concerned inadvertently did not comply with the appropriate McCauley service instructions, this condition could develop in some of the propellers they reworked.

DATE: Effective date, August 9, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESS: Information relating to the service document referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station-Dayton, Ohio 45417.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, AGL–214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312–694–4500, extension 308.

SUPPLEMENTARY INFORMATION: AD 76–19–04, Amendment 39–2727 effective September 27, 1976, requires inspection and rework of certain McCauley two bladed propellers which were improperly modified by Hoosier Aircraft Accessory, Inc., Indianapolis, Indiana, and Kal-Aero, Inc., Kalamazoo, Michigan, due to misapplication of McCauley Service Bulletin No. 99. The AD was issued because the propeller repair stations were unable to recover, inspect and, as necessary rework the ferrules, blade actuating pins and washers of the affected propellers in accordance with the proper manufacturer's service instructions.

Since the release of AD 76–19–04 the FAA, Great Lakes Regional Office has been informed of other improperly modified two bladed constant speed propellers which were not included in the initial AD. Accordingly, this amendment covers an updated listing of the affected propellers. Also, it should be noted that there has been some change in the identity of the responsible repair stations concerned. Kal-Aero, Inc. was eliminated because it has recently recovered, inspected and reworked as necessary, the last of its listed affected propellers. Univair Corporation, however, has been added, since it inadvertently used a modified (shortened) blade actuating pin which does not conform to the approved type design part. In view of the fact that such part is only considered satisfactory for about 1200 hours time in service by McCauley, this amendment requires replacement of this blade actuating pin according to circumstances.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are H. L. Weiss, Flight and Standards Division, Great Lakes Region, and J. K. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McCAULEY PROPELLERS. Applies to the following two bladed constant speed McCauley propellers, which were modified by Hoosier Aircraft Accessory Inc., Indianapolis, Ind., or Univair Aircraft Corp., Aurora, Colo., during the period of December 8, 1972 through June 30, 1975. These propellers are installed on, but not limited to the aircraft models listed below.

Propeller model	Hub serial No.	Aircraft model
D2A34C49 (*)	692417 (H) 703405 (H) 705820 (H)	Cessna 185 through 185E (through S/N 185-1114). Cessna 210 through 210C (through S/N 21058220). Cessna 210-5 and 210-5A (through S/N 205-0576). The above models use Continental 10-470 engines/Navion A through G series.
D2A34C50 (*) or 2A34C50 (*)	64746 (H) 690820 (H) 731417 (C)	Cessna 180 through 180H (through S/N 18052264). Cessna 182 through 182G (through S/N 18255844). Cessna 188 through 188B (through S/N 18601346).

Propeller model [1]	Hub serial No. [2]	Aircraft model [3]
		Wren 460 series.
D2A34C58 (*)	543736 (U)	Bellanca 17–30.
or	702828 (U)	Cessna 185 through
F2A34C58 (*)	710292 (U)	185E (through S/N
or	712516 (U)	185–1149).
2A34C58 (*)	720683 (U)	Cessna A185 through
	721610 (H)	A185F.
	730297 (U)	Cessna A188 through
	738166 (U)	A188B.
	734289 (H)	Cessna 206 (through
	736436 (H)	S/N 206–0275).
		Cessna U206 through
		U206F (through S/N
		U20603560).
		Cessna T U206A
		through T U206F
		(Floatplane only
		through S/N
		U20602196).
		Cessna P206 through
		P206B through S/N
		P206–0419).
		Cessna TP206A
		(floatplane only).
		Cessna 207 (through
		S/N 20700364).
		Cessna 210 through
		210D (through S/N
		21058510).
		Cessna 210–5 and
		210A (through
		S/N 205–0576).
		Interceptor (Aero
		Commander) 200B,
		C and D series.
		Navion A through H
		series.
2A34C66 (*)	705202 (H)	Cessna 180 through
		180J (through S/N
		18052770).
	714059 (U)	Cessna 182 through
		182P (through S/N
		18265175).
	720392 (U)	Cessna 188 through
	727625 (H)	188B (through S/N
	727628 (H)	1802345).
	731236 (U)	
	732194 (H)	
	735330 (U)	
	746598 (U)	
E2A34C73 (*)	652300 (U)	Cessna P206 through
or	652336 (U)	P206E (through
2A34C73 (*)	652403 (H)	P20600647).
	652692 (U)	Cessna 210E through
	720673 (H)	210L (through
	721615 (H)	S/N 21061573).
	732503 (H)	
HDSMC9*	704835 (U)	Beech A23–24, A24 and
		A24R.
2A36C1 (*)	55588 (H)	Cessna 180A through
or	59229 (H)	H.
2A36C18 (*)		Cessna 182, 182A
or		through G.
2A36C29 (*)		Taylorcraft 20.
		Beech H35, J35, K35,
		M35.
2A36C23 (*)	671564 (H)	Beech N35, P35, S35,
		V35, V35A and V35B
		(S/N's D–6562
		through D–9935).
		Beech 35–C33A, E33A
		and F33A (S/N's
		CE–1 through
		CE–668).
		Beech E33C and F33C
		(S/N's CJ–1 through
		CJ–128).
		Beech 36 and A36
		(S/N's E–1 through
		E–910).
		Beech A45 (STC
		SA1450SW).
D2A36C23 (*)	60314 (U)	Cessna 185 through
	61005 (H)	185D (through S/N
	611491 (H)	185–0967).
	611720 (H)	Cessna 210 through
		210C (through S/N
		21058220).
		Cessna 210–5 and
		210–5A (through
		S/N 205–0676).
		Aeronautica Macchi
		AL–60() series.
		Air Parts Ltd.
		(Fletcher) FU–24()
		series.
		Interceptor (Aero
		Commander/
		Meyers) 200 series.
		Lockheed 402–2
		"LASA 60".

Propeller model [1]	Hub serial No. [2]	Aircraft model [3]
2D36C14 (*)	591206 (U)	Beagle A–109.
		Boissvia B–601L.
		Cessna 170 Series
		(STC SA421CE).
		Cessna 172 Series
		(STC SA420CE).
		Cessna 175, 175A
		(STC SA424CE).
		Piper PA–24.
		SAAB 91D.
		Wassmer WA–40.

(*) Denotes suffix letter(s). Some models have one or more suffix letter designations, others have none.

[1] and [2] Propeller model and hub serial numbers are stamped on the side of the propeller hub. The listing of hub serial numbers refers to specific hub serial numbers not series. In the event a spinner is installed, the spinner should be removed to check the model and hub (S/N) designations. The aircraft's records should likewise be checked to ensure that the model and hub serial number coincide with the records. In the event an error is noted, the records should be corrected accordingly. Prior to further flight, spinners should be reinstalled where applicable.

[3] Includes listing of applicable aircraft serial numbers. If no listing is indicated, applies to all applicable serial numbers of a particular aircraft model or series.

[(H) or (U)—Indicates that the propeller rework was accomplished by (H) Hoosier Aircraft Accessory, Inc., or (U) Univair Aircraft Corp. These letters are not part of the manufacturer's hub serial numbers.]

Compliance required as indicated, unless already accomplished. To preclude the possibility of blade actuating pin failures resulting from using an incorrect actuating pin, or improper rework of the ferrules and installation of the blade actuating pins and washers (i.e., a blind actuating pin hole not tapped to the proper depth can cause stripped threads on the ends of the actuating pin resulting in severe stress and may prevent actuating pin from seating on the washers) accomplish the following:

(a) All propellers listed above which were modified by (H)—Hoosier Aircraft Accessory, Inc.

(1) Within 25 hours time in service after the effective date of this AD, disassemble the propeller and inspect the blade actuating pins, washers and ferrules for proper conformity and installation in accordance with McCauley Service Manual No. 720415, Chapter I, or later Federal Aviation Administration approved revision(s).

(2) Prior to further flight, repair or replace as necessary, any improperly installed blade actuating pins, washers, and ferrules, and reassemble the propeller in accordance with McCauley Service Manual No. 720415, or later Federal Aviation Administration approved revision(s).

(b) All propellers listed above, which were modified by (U)—Univair Aircraft Corp.

(1) Within 1200 hours time in service since last rework by Univair, or within two years, whichever comes first after the effective date of this AD, disassemble the propeller and inspect the blade actuating pins, washers and ferrules for proper conformity and installation in accordance with McCauley Service Manual No. 720415, Chapter I, or later Federal Aviation Administration approved revision(s).

(2) Prior to further flight, replace any improper blade actuating pins, washers and repair or replace the ferrules as necessary, and reassemble the propeller in accordance with McCauley Service Manual No. 720415, or later Federal Aviation Administration approved revision(s).

(c) When the above propellers are released for service, compliance with this Airworthiness Directive shall be noted in the Aircraft's Records.

(d) The responsible propeller repair station will notify the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, AGL–210, 2300 East Devon Avenue, Des Plaines, Ill. 60018, by certified mail about the results of these inspections. The disposition of the affected propeller(s) including the blade and hub serial numbers of the propellers (as received, and where applicable, as returned to service) must be reported. (Reporting approved by the Office of Management and Budget under CMB No. 04–R0174).

The manufacturer's specifications and procedures identified in this Directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Corp., Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this airworthiness directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective: August 9, 1977.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Des Plaines, Ill., on July 22, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

(NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.)

[FR Doc.77–22258 Filed 8–3–77;8:45 am]

[Docket No. 16485, Amdt. 39–3001]

PART 39—AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the gearbox oil pump and repetitive inspections of the gearbox magnetic chip detector on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C helicopters. This AD is directed at preventing excessive wear of the planet gear which could cause gearbox failure and loss of the helicopter. Excessive wear of the planet gear has occurred in service because of insufficient oil flow.

DATES: Effective September 6, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Messerschmitt-Bolkow-Blohm GmbH, Helicopter Division, 8000 Munchen-Ottobrunn, Federal Republic of Germany or Boeing Vertol Company, Mail Stop P31–69, P.O. Box 16858, Philadelphia, Pennsylvania, 19142, telephone 215–522–2755.

A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.–38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to add an airworthiness directive requiring modification of the gearbox oil pump and repetitive inspections of the gearbox magnetic chip detector on certain MBB Model BO–105A and BO–105C helicopters was published in the FEDERAL REGISTER at 42 FR 9681. The proposal was issued as a result of reports of insufficient oil flow to the sun gear in the planet gear of the main rotor gearbox which has caused excessive wear and premature impairment of the planet gear in service. Excessive wear of the planet gear can result in gearbox failure and loss of the helicopter.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received on the proposal from the Boeing Vertol Company and the Helicopter Association of America. Both commentators suggested that the proposal be revised so that inspection of the magnetic chip detector in the main rotor gearbox at 10-hour intervals is not required for those affected helicopters that have a cockpit indicating system which continually monitors and warns of any accumulation of metallic particles on the magnetic chip detector. The Federal Aviation Administration agrees that consideration should be given to alternate means of compliance and accordingly has revised the proposed AD to include a new paragraph (c) which provides for the approval of alternate means of compliance.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, N. S. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MESSERSCHMITT - BOLKOW - BLOHM (MBB). Applies to Model BO–105A and BO–105C helicopters which incorporate main rotor gearbox oil pumps, P/Ns 7631 955 112 or 7631 955 115, having Serial Numbers up to and including 229.

Compliance is required as indicated, unless already accomplished.

To prevent excessive wear of the sun gear in the planet gear carrier of the main rotor gearbox, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, modify the main rotor gearbox oil pump as follows:

(1) For pumps, P/N 7631 955 115, install a stronger compression spring in accordance with MBB Service Bulletin No. 10–16, dated July 28, 1975, or an FAA-approved equivalent.

(2) For pumps, P/N 7631 955 112, replace the pump plunger in accordance with MBB Service Bulletin No. 10–20, dated May 25, 1976, or an FAA-approved equivalent and install a stronger compression spring in accordance with MBB Service Bulletin No. 10–16, dated July 28, 1975, or an FAA-approved equivalent.

(b) Within the next 10 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 10 hours time in service since the last inspection, inspect the main rotor gearbox magnetic chip detector plug for the presence of metallic particles. If metallic particles are found, comply with the relevant instructions specified in section 10–1–2 of the MBB BO–105 Maintenance and Overhaul Manual, or an FAA-approved equivalent.

(c) An equivalent means of compliance with the requirements in paragraph (b) of this AD, including the initial compliance time and the repetitive inspection interval, may be used in lieu thereof when approved by the Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

This amendment becomes effective September 6, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., July 27, 1977.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.77–22153 Filed 8–3–77;8:45 am]

[Docket No. 77–CE–15–AD; Amdt. 39–2998]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 205, 206, P206/TP206, U206/TU206, 207/T207, 210/T210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain Cessna Models 205, 206, P206/TP206, U206/TU206, 207/T207, and 210/T210 series airplanes, which requires inspection and testing of the P/N C291503–0101 or P/N 1216100–1 fuel selector valve for proper attachment of the selector disc to the actuating shaft and the replacement of any valves found defective. A loose or improperly attached disc may become incorrectly oriented and result in interruption of fuel flow or selection of a tank other than one indicated by the selector valve handle. This condition may cause partial or total engine power loss.

DATES: This amendment becomes effective August 11, 1977. Compliance: Required within 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Letter Number SE77–22, dated June 27, 1977, which covers the subject matter of this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone 316–685–9111.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816–374–3446.

SUPPLEMENTARY INFORMATION: Investigations by the manufacturer and FAA following a malfunctioning fuel valve report, disclosed that the selector disc on the malfunctioning valve was not properly attached to the actuating shaft and had rotated on this shaft, causing the disc to be incorrectly oriented with respect to the fuel valve handle. This condition may interrupt or restrict fuel flow or result in the engine feeding from a tank other than one selected by the pilot. Partial or total loss of engine power may result. The manufacturer has determined that this condition may exist on other valves manufactured and installed during a certain period of time and has issued Service Instructions Number SE77–22, dated June 27, 1977, prescribing tests to detect improperly attached selector discs and effect removal of valves which are found defective.

Since an unsafe condition is likely to exist in other airplanes of the same type design, an AD is being issued applicable to certain serial numbers of Cessna Models 205, 206, P206/TP206, U206/TU206, 207/T207, and 210/T210 series airplanes which will require inspection of the installed fuel selector valve to determine if it is within the group that may have an improperly attached selector disc and testing of all valves within the group to verify their airworthiness. Replacement of unairworthy valves will be required prior to further flight. The FAA has determined that there is an immediate need to make the inspection and valve replacement mandatory to assure the continued safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: Donald L. Page, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

CESSNA. Applies to Models 210–5(205), 206, P206/TP206, U206/TU206, 207/T207 and 210/T210 series airplanes of the serial numbers specified below.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent malfunction of the P/N C291503–0101 or P/N 1216100–1 fuel selector valve, accomplish the following:

A. On Model 210–5(205) series (serial numbers 205–0481 through 205–0577), Model 206 series (serial numbers 206–0001 through 206–0275), Model P206/TP206 series (serial numbers P206–0001 through P20600647), Model U206/TU206 series (serial numbers U206–0276 through U20603123), Model 207/T207 series (serial numbers 20700001 through 20700322), Model 210/T210 series (serial numbers 21058221 through 21061154, and T210–0001 through T210–0454) airplanes, examine the aircraft maintenance records to determine whether the fuel selector valve has been changed subsequent to December 19, 1975. If the valve has not been changed, make an entry in the maintenance record indicating this AD is not applicable to the airplane and no further action is necessary. Examination of the records and the record entry may be accomplished by the owner/operator.

If the valve has been changed subsequent to December 19, 1975, accomplish a fuel valve inspection and, if indicated, replacement in accordance with paragraph C. below.

B. On Model U206/TU206 series (serial numbers U20603124 through U20603712, U20603714 through U20603791, U20603793 through U20603797, U20603799 through U20603803, U20603805, U20603808 through U20603812, U20603814 through U20603846, U20603848, U20603850, U20603851, U20603853 through U20603857, U20603861, U20603862, U20603867 through U20603871, U20603875, U20603876, U20603882 and U20603886), Model 207/T207 series (serial numbers 20700323 through 20700373, 20700375 through 20700394), and Model 210/T210 series (serial numbers 21061155 through 21061731, 21061733 through 21061766, 21061768 through 21061860, 21061862 through 21061881, 21061883 through 21061987, 21061990 through 21061993, 21061995 through 21062005, 21062007 through 21062009, 21062012 through 21062017, 21062020 through 21062022, 21062024 through 21062027, 21062029, 21062033 through 21062037, 21062043) airplanes, accomplish a fuel selector valve inspection and, if indicated, replacement in accordance with paragraph C. below.

C.1. Place fuel selector valve in OFF position.

2. Remove selector valve handle and associated parts. Obtain access to the valve by removal of the control valve pedestal and selector valve access plate from the floor.

3. Check the selector valve serial number. If the serial number is 1421 through 3269 inclusive, accomplish the pull test inspection described in paragraph C.4. below. If the serial number is not within this block, the valve is not affected, and the aircraft may be returned to service after reassembly.

4. Using tools fabricated in accordance with Figure 1, or an equivalent test arrangement, accomplish a pull test on the selector valve in accordance with the following procedure:

a. Remove safety wire, roll pin, and valve handle shaft from valve control yoke.

b. Feed cable through hole in yoke and crimp cable securely. Place bar in loop in other end of cable.

c. Remove four screws securing selector valve cover. Break the seal between the cover and body and rotate the cover to positively assure it is free.

d. Attach a tensiometer to the cable in the section between loops and from a seated or squatting position, with one foot on each side of the valve, using the legs and arms to lift, apply an upward force of 130 pounds minimum to 150 pounds maximum directly in line with the shaft while observing the shaft for movement. Exert upward force gradually. If any upward movement of valve shaft is noted, release force immediately. Drain fuel from airplane and install a new valve in accordance with the aircraft's Service Manual Instructions.

CAUTION

If the shaft pulls out of the valve body, fuel spillage may result. Therefore, all precautions applicable to working with or around open fuel should be observed.

e. If no upward movement of the valve shaft is noted or evident, reassemble the valve and aircraft and return to service.

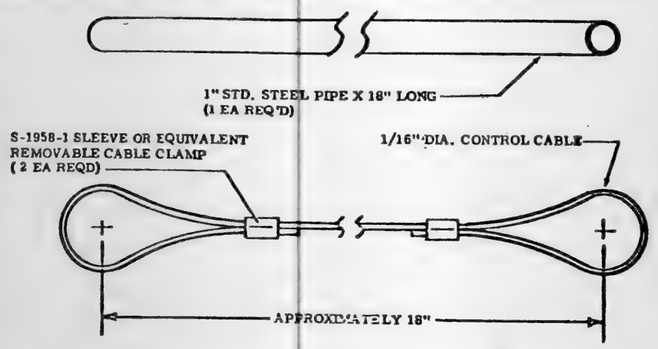


Figure 1.

D. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Cessna Service Letter SE77–22, dated June 27, 1977, or later approved revisions pertain to the subject matter of this AD.

This amendment becomes effective August 11, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Missouri on July 26, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77–22375 Filed 8–3–77;8:45 am]

[Docket No. 77–EA–19; Amdt. 39–3000]

PART 39—AIRWORTHINESS DIRECTIVES

Leigh Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 74–20–10, applicable to Leigh Systems Sharc 7 series emergency locator transmitters equipped with lithium batteries. The rule will add more serial numbers to those already covered by the AD. It appears that a corrosion problem had not been completly corrected by a potting and compartmentalizing of the units. These latter units are being added under this amendment.

DATES: Effective Date: August 10, 1977. Compliance within 90 days after the effectiveness of the amended rule and each 60 days thereafter.

ADDRESSES: Leigh Systems Bulletins may be acquired from the manufacturer at Leigh Systems, Inc., 6081 Court Street Road, Syracuse, New York 13206.

FOR FURTHER INFORMATION CONTACT:

M. Mavricos, Systems & Equipment Section, Engineering and Manufacturing Branch, AEA–213, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212–995–3372.

SUPPLEMENTARY INFORMATION: AD 74–20–10 was issued for inspecting ELT's with lithium batteries for corrosion. The AD was amended in December 1974 to exclude ELT's which incorporated a potting method and a later developed compartmented case. Subsequent use has determined that while the two methods had appeared acceptable when tested, they too were the subject of corrosion. Thus the AD is being amended to add serial numbers which will apply to the compartmentized ELT's. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are M. Mavricos, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, as follows:

Amend the applicability provision of AD 74–20–10 to read as follows:

Emergency Locator Transmitter Leigh Systems Sharc 7 series. Applies to all Leigh Systems Sharc 7 Emergency Locator Transmitters Serial Numbers all through 163500 equipped with lithium batteries.

Effective date: This AD is effective August 10, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended by (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Jamaica, New York, on July 27, 1977.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77–22376 Filed 8–2–77;8:45 am]

[Docket No. 77–NE–10; Amdt. 39–2997]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Models S–61L, S–61N, S–61NM, and S–61A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 16, 1977, the failure of a main landing gear fitting caused a Sikorsky S–61L to roll over on its side. Therefore on May 19, 1977, a telegraphic AD was issued requiring inspections of main landing gear fitting assemblies of Sikorsky S–61L, S–61N, and S–61A hellcopters. This amendment revises that AD in accordance with recently developed information and engineering data.

DATES: Effective date—August 18, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: To obtain copies of the service bulletin referenced in the AD, contact Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602.

FOR FURTHER INFORMATION CONTACT:

William E. Garlock, Airframe Section, ANE–212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7336.

SUPPLEMENTARY INFORMATION: The telegraphic Airworthiness Directive adopted and made effective to all known United States operators of Sikorsky Model S–61 helicopters on May 19, 1977, was required as a result of the collapse of a main landing gear following failure of its upper right forward main gear fitting assembly. The collapse of the main landing gear caused the helicopter to roll over.

The May 19, 1977, telegraphic Airworthiness Directive required fluorescent penetrant inspections for cracks in the main landing gear fitting assemblies of all Sikorsky Model S–61L helicopters and certain S–61N and S–61A helicopters prior to further flight. The AD also required visual inspections for cracks in the fitting assemblies prior to the first flight of each day thereafter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the Airworthiness Directive effective immediately to all known United States operators of Sikorsky Model S–61 helicopters by individual telegrams dated May 20, 1977.

After issuing the telegraphic AD and prior to publication of the AD in the FEDERAL REGISTER, the agency determined that these main landing gear fittings may also be installed on Sikorsky S–61NM helicopters and fittings of an earlier thin-walled design may also be in service. Therefore, the AD is being revised to add the Model S–61NM and to require the inspection and removal of the fittings of earlier design. Based upon recent engineering analyses, a new visual inspection and new initial and repetitive fluorescent penetrant inspections are established for the fitting assemblies.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are William E. Garlock, Engineering and Manufacturing Branch, Flight Standards Division, and George L. Thompson Associate Regional Counsel.

ADOPTION OF THE AMENDMENT

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an Airworthiness Directive was adopted on May 19, 1977, and made effective immediately by telegram to all known United States operators of Sikorsky Model S–61 helicopters. These conditions still exist and the AD as revised herein is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations:

SIKORSKY AIRCRAFT. Applies to Sikorsky Models S–61L, S–61N, S–61NM, and S–61A helicopters with fixed S–61L type landing gear. Compliance required as indicated below:

1. Inspect the forward and aft left and right fitting assemblies, P/Ns S6125–50333–1, S6125–50333–2, S6125–50334–1, S6125–50334–2, S6125–50312 series, and S6125–50313 series, in accordance with the following: Prior to next flight, unless already accomplished, strip paint from the installed fittings at all accessible areas with Intex 8563 or equivalent, using a clean lint free cloth. Do not allow chemical remover to seep into holes or into bore of fitting assemblies. Do not use abrasive methods. Inspect the stripped areas with fluorescent penetrant, Spec MIL–I–6866B, Type 1, Method C, with MIL–I–25135C, Group VII designation.

NOTE.—The following are critical areas for inspection: the bottom surface and web of the fitting; upper surface of the fitting inboard from the first bolt toward the fuselage; and the area around the three (3) bolts which attach the forward fitting to the tube.

The helicopter may be flown in accordance with FAR 21.197 to a base where the inspection can be performed.

2. Replace all S6125–50312 series and S6125–S50313 series fitting assemblies with assemblies S6125–50338–1 and S6125–50338–2 within the next ten (10) landings after the accomplishment of the inspection required by Paragraph 1 above. Replacement fitting assemblies must be inspected in accordance with Paragraph 1 prior to installation.

3. Inspect fitting assemblies P/Ns S6125–50333–1, S6125–50333–2, S6125–50334–1, and S6126–50334–2 in accordance with the following: Within 15 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 15 hours time in service, conduct a visual inspecton of accessible areas of the fitting assemblies for cracks in accordance with Section 2, Paragraph B, of Sikorsky Service Bulletin No. 61B25–6A dated June 10, 1977, or later FAA approved revisions.

4. Inspect fitting assembly P/Ns S6125–50333–1, S6125–50333–2, S6125–50334–1, and S6125–50334–2 with 7,000 or more landings in accordance with the following:

Within 120 landings after the effective date of this AD and thereafter at intervals not to exceed 120 landings from the last inspection, conduct a fluorescent penetrant inspection of accessible areas of the fitting assemblies for cracks in accordance with Section 2, Paragraph D, of the above Sikorsky Service Bulletin or later FAA approved revisions.

NOTE.—If number of landings cannot be determined, fitting assemblies shall be considered to have more than 7000 landings.

5. If a crack is found as a result of the above inspections in Paragraphs 1, 3, and 4,

replace the defective fitting assemblies with serviceable tube assemblies S6125-50338-1 and S6125-50338-2 prior to further flight. Replacement fitting assemblies must be inspected in accordance with Paragraph 1 prior to installation. Report immediately to Chief, Engineering and Manufacturing Branch, FAA, New England Region, if cracks are found; telephone 617-273-7328. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Stratford, Connecticut 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

Issued in Burlington, Mass., on July 26, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-22377 Filed 8-3-77;8:45 am]

[Docket No. 77-SO-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Goldsboro, North Carolina transition area by providing additional controlled airspace in the vicinity of Mount Olive, North Carolina. This action provides necessary controlled airspace for accommodation of IFR operations at the Mount Olive Municipal Airport.

EFFECTIVE DATE: 0901 G.m.t., August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320, telephone 404-763-7647.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, May 26, 1977 (42 FR 26992), which proposed an alteration of the Goldsboro, North Carolina transition area. No objections were received from this Notice.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 11, 1977, by altering the Goldsboro, North Carolina, transition area as follows:

"* * * northeast of the RBN * * *" is deleted and "* * * northeast of the RBN; within a 6.5-mile radius of Mount Olive Municipal Airport (Lat. 35°13'24" N., Long. 78°02'21" W.); * * * is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c):(14 CFR 11:69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on July 25, 1977.

LONNIE D. PARRISH,
Acting Director, Southern Region.

[FR Doc.77-22155 Filed 8-3-77;8:45 am]

[Docket No. 77-SO-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation and Designation of Transition Areas; Bainbridge and Donalsonville, Georgia; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 42 FR 30149 in the FEDERAL REGISTER of Monday, June 13, 1977.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-16464, appearing on page 30149 in the issue of Monday, June 13, 1977, the longitude of the Donalsonville Airport was erroneously stated in the Donalsonville, Ga., transition area description, and should read as set forth below:

DONALDSONVILLE, GA.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Donalsonville Airport (Lat. 31°01'00" N., Long. 84°52'30" W.).

Issued in East Point, on July 25, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-22126 Filed 8-3-77;8:45 am]

[Airspace Docket No. 77-NW-01]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates additional 700 foot transition area at Lewiston, Idaho. This action is necessary to provide controlled airspace for aircraft holding in the terminal area.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Milton O. Sirois, Airspace Specialist (ANW-533), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone: 206-767-2610.

SUPPLEMENTARY INFORMATION:

HISTORY

A notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER on Thursday, June 2, 1977 (42 FR 28149) which described the proposed Lewiston, Idaho, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) designates additional 700 foot transition area as controlled airspace to encompass holding aircraft on the Lewiston, Idaho VOR 079° radial.

DRAFTING INFORMATION

The principle authors of this document are Milton O. Sirois, Airspace Specialist, Operations, Procedures and Airspace Branch, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the Lewiston Idaho transition area in § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is further amended, effective 0901 G.m.t., October 6, 1977, as follows:

LEWISTON, IDAHO

That airspace extending upward from 700 feet above the surface within an area bound by a line beginning at Latitude 46°27'25" N., Longitude 116°59'20" W., east to Latitude 46°25'15" N., Longitude 116°35'10" W., south to Latitude 46°15'00" N., Longitude 116°38'-00" W., west to Latitude 46°18'05" N., Longitude 117°00'00" W., thence via the arc of a 5-mile radius circle centered on Lewiston-Nez Perce County Airport (Latitude 46°22'-29" N., Longitude 117°00'51" W.,) to Latitude 46°26'58" N., Longitude 117°00'00" W., to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the east by W. Longitude 116°, bounded on the south by N. Latitude 46°, bounded on the west by the arc of a 19-mile radius circle centered on the Walla Walla VOR (Latitude 46°06'13" N., Longitude 118°-17'29" W.,) and bounded on the north by V-536.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on July 25, 1977.

C. B. WALK, JR.,
Director, Northwest Region.

[FR Doc.77-22378 Filed 8-3-77;8:45 am]

[Docket No. 77-SO-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Transition Area, Craig AFB Aux. (Vaiden), Alabama; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 42 FR 35640 in the issue of Monday, July 11, 1977.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320, Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-19476, appearing on page 35640 in the issue of Monday, July 11, 1977, the first paragraph under Adoption of Amendment should read as set forth below:

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., October 6, 1977, the Craig AFB Aux. (Vaiden), Alabama, transition area is revoked.

Issued in East Point, Ga., on July 25, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-22127 Filed 8-3-77;8:45 am]

[Airspace Docket No. 77-SW-3]

PART 73—SPECIAL USE AIRSPACE

Alteration of a Restricted Area

Correction

In FR Doc. 77-19855 appearing at page 36247 in the issue for Thursday, July 14, 1977, on page 36248, in the first column, under the center heading "R-6302C FORT HOOD, TEX.", in the second line "87°45'00"" should read "97°45'00"".

[Airspace Docket No. 77-WA-8]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Waypoint Name Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the five-letter identifier/name of four offshore waypoints to be identical to the reporting point identifier/name at the same locations on several Pacific composite routes. Area high routes requiring change are J937R, J938R, J944R, J945R, J946R, J960R, J961R, J962R, J964R, J965R, J966R and J967R.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Everett L. McKisson, Airspace Regulations Branch, (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to: (1) Change the name of the LEAFS waypoint to ALCOA; (2) Change the name of the CERES waypoint to DINTY; (3) change the name of the YUCAN waypoint to FICKY; and (4) change the name of the FRUIT waypoint to CLUKK, where they appear in the description of Area High Routes.

The four waypoints are collocated with reporting points. Using two names for the same location is confusing and burdensome to the segment of the air traffic control system that is computerized.

Under these circumstances the FAA has concluded that there is a need to take action to eliminate the confusion and relieve the burden caused by having two names for the same location. Because this action merely renames waypoints, it is a minor matter on which the public would have no particular desire to comment; therefore, notice and public procedure thereon are unnecessary.

Since this action involved, in part, the use of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 722) and amended (42 FR 55864) is further amended, effective 0901 G.m.t., October 6, 1977, as follows:

1. In J937R the title is changed to "J937R ALCOA to Chicago, Ill." Also the first waypoint is changed to "ALCOA 37°50'00" N., 125°50'00" W., Ukiah, Calif."

2. In J938R the title is changed to "J938R Chicago, Ill., to ALCOA" also the last waypoint is changed to "ALCOA 37°50'00" N., 125°50'00" W., Ukiah, Calif."

3. In J944R the title is changed to "J944R MORRO to DINTY" also the last waypoint is changed to "DINTY 33°29'00" N., 122°35'00" W., Santa Barbara, Calif."

4. In J945R the title is changed to "J945R CAMEL to DINTY" also the last waypoint is changed to "DINTY 33°29'00" N., 122°35'00" W., Santa Barbara, Calif."

5. In J946R the title is changed to "J946R MORRO to FICKY" also the last waypoint is changed to "FICKY 31°35'00" N., 121°22'00" W., Los Angeles, Calif."

6. In J960R the title is changed to "J960R DINTY to PARIA" also the first waypoint is changed to "DINTY 33°29'00" N., 122°35'00" W., Santa Barbara, Calif."

7. In J961R the title is changed to "J961R DINTY to PARIA" also the first waypoint is changed to "DINTY 33°29'00" N., 122°35'00" W., Santa Barbara, Calif."

8. In J962R the title is changed to "J962R FICKY to PARIA" also the first waypoint is changed to "FICKY 31°35'00" N., 121°22'00" W., Los Angeles, Calif."

9. In J964R the title is changed to "J964R Coaldale, Nev., to CLUKK" also

the last waypoint is changed to "CLUKK 36°05'00" N., 124°05'00" W., Oakland, Calif."

10. In J965R the title is changed to "J965R Coaldale, Nev., to ALCOA" also the last waypoint is changed to "ALCOA 37°50'00" N., 125°50'00" W., Ukiah, Calif."

11. In J966R the title is changed to "J966R ALCOA to Mina, Nev." also the first waypoint is changed to "ALCOA 37°50'00" N., 125°50'00" W., Ukiah, Calif."

12. In J967R the title is changed to "J967R CLUKK to Mina, Nev." also the first waypoint is changed to "CLUKK 36°05'00" N., 124°50'00" W., Oakland, Calif."

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 28, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22379 Filed 8-3-77;8:45 am]

[Docket No. 17063, Amdt. No. 1064]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, is location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective September 22, 1977:*

Ft. Myers, FL—Page Field, VOR Rwy 13, Amdt. 4
Ft. Myers, FL—Page Field, VOR Rwy 23, Amdt. 2
Douglas, GA—Douglas Muni., VOR-A, Amdt. 2
Dixon, IL—Dixon Municipal-Charles R. Walgreen Field, VOR-A, Amdt. 5
Mt. Vernon, IL—Mt. Vernon-Outland, VOR Rwy 5, Amdt. 7
Mt. Vernon, IL—Mt. Vernon-Outland, VOR Rwy 23, Amdt. 7
Olney-Noble, IL—Olney-Noble, VOR/DME-A, Admt. 2
Vandalia, IL—Vandalia Municipal, VOR Rwy 18, Amdt. 7
Alexandria, IN—Alexandria, VOR Rwy 27, Amdt. 3
Houlton, ME—Houlton Int'l, VOR Rwy 5, Amdt. 6
Lapeer, MI—Dupont-Lapeer, VOR-A, Amdt. 7
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 11
Owosso, MI—Owosso City, VOR Rwy 28, Amdt. 1
Saginaw, MI—Tri City, VOR Rwy 5, Amdt. 11
Saginaw, MI—Tri City, VOR Rwy 14, Amdt. 9
Saginaw, MI—Tri City, VOR Rwy 23, Amdt. 10
Saginaw, MI—Tri City, VOR Rwy 23, Amdt. 5
St. Paul, MN—Lake Elmo Airport, VOR-A, Amdt. 3, cancelled
South St. Paul, MN—South St. Paul Municipal Richard E. Fleming Field, VOR-A, Amdt. 2, cancelled
St. Paul, MN—St. Paul Downtown Holman Field, VOR Rwy 30, Amdt. 8, cancelled
South St. Paul, MN—South St. Paul Municipal Richard E. Fleming Field, VOR-B, Amdt. 7, cancelled
Jackson, MS—Allen C. Thompson Field, VOR Rwy 15L (TAC) Amdt. 1
Jackson, MS—Allen C. Thompson Field, VOR Rwy 15R (TAC) Amdt. 4
Jackson, MS—Allen C. Thompson Field, VOR/DME Rwy 33L (TAC), Amdt. 9
Jackson, MS—Allen C. Thompson Field, VOR/DME Rwy 33R (TAC), Amdt. 2
Greenwood, SC—Greenwood County, VOR Rwy 9, Amdt. 10
Greenwood, SC—Greenwood County, VOR Rwy 27, Amdt. 9
Clarksville, TN—Outlaw Field, VOR Rwy 34, Amdt. 8

* * * *Effective September 15, 1977.*

Andover, NJ—Aeroflex-Andover, VOR-A, Amdt. 5
Albany, NY—Albany County, VOR Rwy 1, Amdt. 14
Albany, NY—Albany County, VOR Rwy 19, Amdt. 15
Albany, NY—Albany County, VOR Rwy 28, Amdt. 2
Albany, NY—Albany County, VOR/DME Rwy 1, Amdt. 6
Saratoga Springs, NY—Saratoga County, VOR-A, Amdt. 2
Utica, NY—Oneida County, VOR/DME Rwy 33, Amdt. 1
East Stroudsburg, PA—Stroudsburg-Pocono, VOR/DME-A, Amdt. 1

* * * *Effective July 20, 1977.*

Rio Vista, CA—Rio Vista Municipal, VOR-A, Amdt. 2

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective September 22, 1977.*

Rockland, ME—Knox County Regional, LOC Rwy 3, Amdt. 4
Muskegon, MI—Muskegon County, LOC BC Rwy 14, Amdt. 2
Saginaw, MI—Tri City, LOC BC Rwy 23, Amdt. 5
St. Paul, MN—St. Paul Downtown Holman Field, LOC Rwy 30, Amdt. 6
Jackson, MS—Allen C. Thompson Fld, LOC (BC) Rwy 15R, Amdt. 1

* * * *Effective August 11, 1977.*

Ontario, CA—Ontario Int'l, LOC Rwy 7, Orig, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective October 8, 1977.*

Minchumina, AK—Minchumina, NDB Rwy 2, Amdt. 1

* * * *Effective September 22, 1977.*

Ft. Meyers, FL—Page Field, NDB Rwy 5, Amdt. 1
Cairo, IL—Cairo, NDB Rwy 20, Amdt. 2
Fairfield, IL—Fairfield Municipal, NDB Rwy 36, Amdt. 4
Olney-Noble, IL—Olney-Noble, NDB Rwy 3, Amdt. 6
Salem, IL—Salem-Leckrone, NDB Rwy 18, Amdt. 5
Shelbyville, IL—Shelby County, NDB Rwy 36, Amdt. 1
Sparta, IL—Sparta Community-Hunter Field, NDB Rwy 18, Amdt. 2
Rockland, ME-Knox County Regional NDB Rwy 3, Amdt. 3
Houghton Lake, MI—Roscommon County, NDB Rwy 27, Amdt. 4
Muskegon, MI—Muskegon County, NDB Rwy 32, Amdt. 4
Saginaw, MI—Tri City, NDB Rwy 5, Amdt. 5
St. Paul, MN—St. Paul Downtown Holman Field, NDB Rwy 30, Amdt. 1

* * * *Effective September 15, 1977.*

Utica, NY—Oneida County, NDB Rwy 15, Amdt. 7
Utica, NY—Oneida County, NDB Rwy 33, Amdt. 9

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective September 22, 1977.*

Ft. Myers, FL—Page Field, ILS Rwy 5, Amdt. 2
Mt. Vernon, IL—Mt. Vernon-Outland, ILS Rwy 23, Amdt. 2
Muskegon, MI—Muskegon County, ILS Rwy 32, Amdt. 9
Saginaw, MI—Tri City, ILS Rwy 5, Amdt. 7
St. Paul, MN—St. Paul Downtown Holman Field, MLS Rwy 30 (Interim), Amdt. 2
Jackson, MS—Allen C. Thompson Field, ILS Rwy 33L, Amdt. 1

* * * *Effective September 15, 1977.*

Albany, NY—Albany County, ILS Rwy 1, Amdt. 4
Albany, NY—Albany County, ILS Rwy 19, Amdt. 14
Utica, NY—Oneida County, ILS Rwy 15, Amdt. 1
Utica, NY—Oneida County, ILS Rwy 33, Amdt. 11

* * * Effective August 11, 1977.

Ontario, CA—Ontario Int'l, ILS Rwy 7, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective September 22, 1977.

Bangor, ME—Bangor International, RADAR-1, Amdt. 1
Muskegon, MI—Muskegon County, RADAR-1, Amdt. 2
Saginaw, MI—Tri City, RADAR-1, Amdt. 2

* * * Effective September 15, 1977.

Albany, NY—Albany County, RADAR-1, Amdt. 10

* * * Effective August 25, 1977.

Lake Charles, LA—Lake Charles Municipal, RADAR-1, Original

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective September 22, 1977.

Mt. Vernon, IL—Mt. Vernon-Outland, RNAV Rwy 5, Amdt. 1
Muskegon, MI—Muskegon County, RNAV Rwy 14, Amdt. 3
Reidsville, NC—Shiloh Airport, RNAV Rwy 31, Original

* * * Effective August 11, 1977.

Atlanta, GA—DeKalb-Peachtree, RNAV Rwy 20L, Amdt. 7

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 29, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-22374 Filed 8-13-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER G—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

PART 702—PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Liberty Distributors

AGENCY: Federal Trade Commission.

ACTION: Advisory Opinion.

SUMMARY: The Federal Trade Commission issues an advisory opinion as to whether a microfiche viewing system which indexes and groups warranties by warrantor, rather than by product class, satisfies the requirements of FTC's Pre-Sale Availability of Written Warranty Terms regulations. The advisory opinion is issued in response to a request from Liberty Distributors of Des Plaines, Illinois.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

Stephen Leach, Attorney, Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1145.

SUPPLEMENTARY INFORMATION: By letter of April 22, 1977 Liberty Distributors of Des Plaines, Illinois, requested an advisory opinion as to whether a microfiche viewing system which indexes and groups warranties by warrantor, rather than by product class, satisfies § 702.3(a)(1)(ii) of the Pre-Sale Availability Rule, 16 CFR 702.3(a)(1)(ii). The Pre-Sale Rule implements Section 102(b)(1)(A) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2302(b)(1)(A). Section 702.3(a)(1)(ii) provides that a retailer may satisfy the rule by maintaining a binder "or (other) similar system which will provide the consumers with convenient access to copies of product warranties," 16 CFR 702.1(g). Liberty Distributors is an association of hardware goods wholesalers which arranges buying agreements with manufacturers and assists hardware retailers in sales operations.

The Commission has determined that a microfiche (or ultrafiche) viewing system which arranges warranties by warrantor, rather than by product class, would satisfy § 702.3(a)(1)(ii) of the Pre-Sale Rule if certain conditions de-

signed to ensure convenient consumer access to warranties are met.

The text of the Commission's opinion is as follows:

This is in response to your request for an advisory opinion regarding compliance with the Commission's Rule on the Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702. You ask whether a microfiche viewing system which indexes and groups product warranties by warrantor, rather than by product class, satisfies § 702.3(a)(1)(ii) of the Pre-Sale Availability Rule. Section 702.3(a)(1)(ii) provides that a seller (retailer) may meet the requirements of the rule by maintaining a binder "or [other] similar system which will provide the consumer with convenient access to copies of product warranties." 16 CFR 702.1(g). The rule permits sellers to index binders according to either product or warrantor.

The Commission has carefully considered the matters set forth in your request. It is the Commission's conclusion that a microfiche viewing system which indexes and groups warranties by warrantor, rather than by product class, would satisfy § 702.3(a)(1)(ii) of the Commission rule, if the following conditions are met:

(1) Simple, complete instructions for use of the system are posted on each viewer;

(2) Personnel in each selling establishment familiar with the operation of the system are available to assist consumers should the need arise; and

(3) The microfiche cards used to display warranties contain only warranty information.

These conditions are similar or identical to the conditions which the Commission set out in its advisory opinions to the National Retail Hardware Association, 41 FR 53472, and Sears, Roebuck, Inc., 42 FR 15679. Those opinions concerned the use of other microfiche or ultrafiche systems under the Pre-Sale Availability Rule. The requirements of those opinions remain applicable to sellers using microfiche or ultrafiche systems in which warranties are grouped and indexed by product class rather than by warrantor.

Your request referred only to microfiche viewing systems. The Commission believes that the differences between microfiche and ultrafiche systems are irrelevant for the purpose of complying with the Pre-Sale Availability Rule. Therefore, this opinion is also applicable to ultrafiche systems in which warranties are indexed and grouped by warrantor.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22474 Filed 8-3-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7499]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Minimum Funding Standards for Pension Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the determination of actuarial costs under the minimum funding standards for defined benefit pension plans. These regulations implement provisions of the Employee Retirement Income Security Act of 1974. The temporary regulations provide necessary guidance to the public for compliance with that Act, and affect many sponsors of defined benefit plans. In addition, the rules contained in the temporary regulations promulgated by this document serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: The temporary regulations are effective generally for plan years beginning after 1975, but earlier (or later) in the case of some plans as provided by the Employee Retirement Income Security Act of 1974. The proposed regulations are to be effective for the same period.

Written comments and requests for public hearing must be delivered or mailed by October 28, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

J. Douglas Sorensen of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3478).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11), and a notice of proposed amendments to the income tax regulations (26 CFR Part 1), under section 412(c)(1) of the Internal Revenue Code of 1954. These regulations conform the regulations to section 1013 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 914) and are issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805), and section 3(31) of ERISA (88 Stat. 837; 29 U.S.C. 1002). The temporary and proposed regulations contained in this document will also apply for purposes of section 302 of ERISA (88 Stat. 869). The temporary regulations provided by this document will remain in effect until superseded by the adoption of final regulations proposed by this document.

EXPLANATION OF PROVISIONS

Section 412 of the Internal Revenue Code of 1954, contained in section 1013 of ERISA, provides minimum funding requirements with respect to certain pension plans. These requirements include the maintenance of a minimum funding standard account, to which the normal cost of the plan and certain amortization amounts are charged, and contributions to the plan and certain other amortization amounts are credited annually.

In the Conference Report accompanying ERISA, the conferees noted that, in the case of many collectively bargained plans, annual contributions were negotiated in terms of a specified amount per hour of service or some other unit of production. The conferees expressed the belief that in those cases employers generally must be allowed to base their contributions on the bargained and agreed-upon basis during the period to which the agreement relates. H.R. Rept. No. 93-1280 285 (1974).

In general, in order to reflect the intent of the conferees, these regulations contain detailed rules which allow collectively bargained plans to use a special method termed the "shortfall method" for computing the charges to the funding standard account. Under the shortfall method, the charge is computed on the basis of an estimated number of units of service or production (for which a certain amount per unit is to be charged). The difference between the net amount charged or credited under this method and the net amount that otherwise would have been charged or credited under section 412 for the same period is termed a "shortfall gain or loss" and is to be amortized during certain subsequent plan years. Because of their unique character and needs, special rules are included for the application of the shortfall method to collectively bargained plans that are maintained by more than one employer.

Procedures are provided for electing the shortfall method. In certain cases the shortfall method, and the specific methods of computation applicable to plans maintained by more than one employer, may be elected only upon the approval of the Commissioner.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting the rules contained in the temporary regulations as final regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments are available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. However, it is anticipated that any public hearing will be deferred until the issuance of further proposed regulations regarding section 412. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these regulations was J. Douglas Sorensen of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE TEMPORARY REGULATIONS

The temporary income tax regulations under the Employee Retirement Income Security Act of 1974, 26 CFR Part 11, are amended by adding in the appropriate place the following new sections:

§ 11.412(c)(1)-1 Determinations to be made under funding method—terms defined.

(a) *Actuarial cost method and funding method.* Section 3(31) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides certain acceptable (and unacceptable) actuarial cost methods which may (or may not) be used by employee plans. The term "funding method" when used in section 412 has the same meaning as the term "actuarial cost method" in section 3(31) of ERISA. For shortfall method for certain collectively bargained plans, see § 11.412(c)(1)-2.

(b) *Computations included in funding method.* The funding method of a plan includes not only the overall funding method used by the plan but also each specific method of computation the overall method. However, the choice of which actuarial assumptions are appropriate to the overall method or specific method of computation is not a part of the funding method. For example, the decision to use or not use a mortality factor in the funding method of a plan is not a part of such funding method. Similarly, the specific mortality rate determined to be applicable to a particular plan year is not part of the funding method. See section 412(c)(5) for permission to change the funding method used by a plan.

§ 11.412 (c)(1)2 Shortfall method.

A collectively bargained plan may elect to determine the charges to the funding standard account required by section 412(b) under the shortfall method. The shortfall method is a funding method. In general, under the shortfall method, the net charge to the funding standard account is computed on the basis of an estimated number of units of service or production for a certain period (for which a certain amount per unit is to be charged). The difference between the net amount charged or credited under the shortfall method and the net amount that otherwise would have been charged or credited under section 412 for the same period is the shortfall gain or loss to be amortized. This section includes special rules for applying the method to collectively bargained plans that are maintained by more than one employer.

(a) *In general*—(1) *Shortfall method.*

(2) *Collectively bargained plans.* For purposes of this section, a collectively bargained plan is a plan described in section 413(a).

(3) *Plan maintained by more than one employer.* For purposes of this section, whether a plan is maintained by more than one employer shall be determined without regard to the rules of section 414(b) and (c) (relating to related employers).

(b) *Computation of net charge*—(1) *In general.* The "net charge" to the funding standard account under the shortfall method is the estimated unit charge described in paragraph (c) of this section multiplied by the actual number of units of service or production which occurred during the plan year. When the shortfall method is used, charges and credits to the funding standard account are not made under section 412(b)(2) and (3)(B).

(2) *Example.* Paragraph (b)(1) of this section may be illustrated by the following example:

Example. A pension plan uses the calendar year as the plan year and the shortfall method. Its estimated unit charge applicable to 1980 is 80 cents per hour of covered employment. During 1980, there were 125,000 hours of covered employment. The net charge for the plan year is $100,000, (i.e., 125,000 × $.80) regardless of the amount which would be charged and credited to the funding standard account under section 412(b)(2) and (3)(B) had the shortfall method not applied. The funding standard account for 1980 will be separately credited for the amount considered contributed for the plan year under section 412(b)(3)(A). The other items which may be credited, if applicable, are a waived funding deficiency and the alternative minimum funding standard credit adjustment under section 412(b)(3)(C) and (D) because these items are not credits under section 412(b)(3)(B).

(3) *Plans maintained by more than one employer.* If a single plan maintained by more than one employer has more than one contribution rate:

(i) The plan may use as a specific method of computation under the shortfall method the computation of a separate net charge for each employer or each benefit level.

(ii) Only one actuarial valuation shall be made for the single plan on each actuarial valuation date.

(iii) The specific method of computation of the net charge must be reasonable, determined in the light of the facts and circumstances.

(c) *Estimated unit charge.* The estimated unit charge is the anticipated annual charge described in paragraph (d) of this section divided by the estimated base units of service or production described in paragraph (e) of this section.

(d) *Anticipated annual charge.* The anticipated annual charge for a plan year is the sum of the following amounts:

(1) The net anticipated charges and credits which, but for using the shortfall method, would be made under section 412(b)(2) and (b)(3)(B).

(2) The amount described in paragraph (g)(4) of this section, if applicable, for amortization of shortfall gain or loss.

(e) *Estimated base units; in general.* The estimated base units are the expected units of service or production for the plan year (hours, days, tons, etc.) based upon the experience of the plan and reasonable expectations for such year. Except as provided in paragraph (f) of this section, the date for estimating base units (the "base unit estimation date") for a current plan year may not be earlier than the last actuarial valuation date occurring on or before the first day of the current plan year.

(f) *Base unit estimation date for plan maintained by more than one employer*—(1) *In general.* If a plan is maintained by more than one employer, the base unit estimation date for the current plan year is determined under this paragraph (f). Such date shall be no earlier than the last actuarial valuation date occurring at least one year before the earliest date any current collectively bargained agreement in existance during the plan year came into effect.

(2) *Four-month rule.* For purposes of this paragraph (f), a current collectively bargained agreement is one in effect during at least four months of the current plan year.

(3) *Effective date of agreement.* For purposes of this paragraph (f), a collectively bargained agreement shall be deemed to have come into effect on the effective date of the agreement containing the currently effective provision for contributions to the plan or the benefits provided under the plan.

(4) *Long-term contract rule.* The effective date of a collectively bargained agreement shall be deemed not to occur prior to the first day of the third plan year preceding the current plan year.

(5) *Transition rule.* In no event shall the base unit estimation date be earlier than the last actuarial valuation date of the plan which occurred on or before January 1, 1976.

(6) *Example.* The rules contained in paragraphs (e) and (f) this section are illustrated by the following table. The table shows the resulting earliest base unit estimation date with respect to the following assumed items:

V Actuarial valuation date (January 1 in each case shown).
B Beginning of a contract.
E End of a contract.

COMPUTATION OF BASE UNIT ESTIMATION DATE

Example	Plan year (calendar year basis) 1976	1977	1978	1979	1980	1981	1982	1983	1984
Plan A 2/	V		V	V			V		
Contract A	----------	----------	----E/B----	----------	----E/B----	----------	----------	----------	----E/B----
Base unit estimation date 1/	1976	1976	1976	1979	1979	1979	1982	1982	1982
Plan B - C 3/	V		----E/B----	V	----------	----------	E/B*----------	----------	----E
Contract B	B*----------	----------	----------	----E/B----	----------	----------	----E/B----	----------	----------
Contract C	----E/B----	----------	----------	----------	----------	----------	----------	----------	----------
Base unit estimation date 1/	1976	1976	1976	1976	1976	1976	1976	1979	1979
Plan D - E 3/	V		V	V	V	V	V	V	V
Contract D	----------	----------	----------	E/B*----------	----------	----------	----E/B----	----------	----------
Contract E	----------	----------	E/B*----------	----------	----------	----------	----------	----E/B----	----------
Base unit estimation date 1/	1976	1976	1976	1978	1978	1978	1978	1979	1982

1/ The base unit estimation date may be on or any time after the actuarial valuation date in the year indicated on this line.

2/ Plan A is maintained by only one employer.

3/ Plans B-C and D-E are maintained by more than one employer.

* Denotes that a new contract begins prior to the fifth month of a plan year.

(g) *Amortization of shortfall gain or loss*—(1) *Definition.* The shortfall gain for a plan is the excess for the plan year of—

(i) The net charge computed under paragraph (b) of this section over

(ii) The anticipated annual charge described in paragraph (d) of this section.

The shortfall loss for a plan is the excess for the plan year of the anticipated annual charge over the net charge.

(2) *Period of amortization; in general.* The shortfall gain or loss shall be amortized—

(i) Beginning with the first and

(ii) Ending with the 15th plan year following the plan year it arose. For a multiemployer plan described in section 414(f), the amortization ends with the 20th plan year instead of the 15th.

(3) *Deferral of shortfall amortization period; plan maintained by more than one employer.* As a specific method of computation under the shortfall method for a plan maintained by more than one employer, the shortfall gain or loss may be amortized—

(i) Beginning with the fifth plan year following the plan year it arose, and

(ii) Ending with the plain year specified in paragraph (g)(2) of this section.

If that specific method is used, the amount of the shortfall gain or loss for a plan year must be adjusted for interest from the last day of such year to the beginning of the first plan year in which it is amortized.

(4) *Annual amortization amount.* The shortfall gain or loss must be amortized in equal annual installments. The total amount to be amortized must be adjusted for interest at the rate used for determining the plan's normal cost. The adjustments are for—

(i) Interest described in paragraph (g)(3) of this section, if applicable, due to a delay of the beginning of amortization, and

(ii) Interest during the period of amortization.

(5) *Example.* This paragraph is illustrated by the following example:

Example. A multiemployer plan described in section 414(f) is maintained with the calendar year as the plan year and uses the shortfall method. A five percent interest assumption is used by the plan, with payments computed as of the first day of each plan year. The administrator chose to defer the beginning of amortization of shortfall gains and losses, as provided under paragraph (g)(3) of this section. The assumed plan costs and estimated base units for selected years, and the computations under this section which follow from such assumptions are shown in the following table. In the table, "*" denotes an assumed item. The remaining figures have been calculated on the basis of these assumptions

(a) *Computation of net charge and shortfall gain or loss.*

Plan year	1976	1977	1978
1. Normal cost*	$100,000	$100,000	$100,000
2. Amortization of unfunded liability*	50,000	50,000	50,000
3. Total anticipated charges	150,000	150,000	150,000
4. Estimated base units*	100,000	100,000	100,000
5. Estimated unit charge (line 3 divided by line 4)	$1.50	$1.50	$1.50
6. Actual units during year*	80,000	90,000	110,000
7. Net charge for year (line 5 multiplied by line 6)	$120,000	$135,000	$165,000
8. Shortfall (gain) or loss (line 3 minus line 7)	$30,000	$15,000	($15,000)

(b) *Annual amortization amount.*

9. Year of shortfall gain or loss	1976	1977	1978
10. 1st year of amortization	1981	1982	1983
11. Last year of amortization	1996	1997	1998
12. (Gain) or loss adjusted for interest to year amortization beigns (4 yr)	$36,465	$18,233	($18,232)
13. Annual amortization (16 yr)	$3,204	$1,602	($1,602)

(c) *Computation of net charges for selected years (including shortfall amortization).*

Plan year	1981	1982	1983
14. Normal cost*	$120,000	$125,000	$130,000
15. Amortization of unfunded liability*	50,000	50,000	50,000
16. Shortfall amortization (see line 13) from:			
1976	3,204	3,204	3,204
1977		1,602	1,602
1978			(1,602)
17. Total anticipated charges	173,204	179,806	183,204
18. Estimated base units*	110,000	110,000	110,000
19. Estimated unit charge (line 17 divided by line 18)	$1.575	$1.635	$1.665
20. Actual units during year*	105,000	110,000	105,000
21. Net charge for year (line 19 multiplied by line 20)	$165,375	$179,850	$174,825
22. Shortfall (gain) loss (line 17 minus line 21)	$7,829	$(44)	$8,379

The amounts in line 22 will be amortized beginning 1986, 1987, and 1988, respectively.

(h) *Amortization of experience gain or loss*—(1) *General rule.* For purposes of determining the net anticipated annual charge under paragraph (d)(1) of this section, an experience gain or loss shall be amortized pursuant to section 412(b)(2)(B)(iv) or (b)(3)(B)(ii). This amortization begins with the first plan year commencing on or after the actuarial valuation date with respect to which such experience gain or loss is determined. For purposes of this section, a shortfall gain or loss is not an experience gain or loss.

(2) *Deferral of experience amortization period; plan maintained by more than one employer.* As a specific method of computation under the shortfall method for a plan maintained by more than one employer, the experience gain or loss may be amortized—

(i) Beginning with the fifth, and

(ii) Ending with the 15th plan year that begins on or after the valuation date with respect to which the experience gain or loss is computed. For a multiemployer plan described in section 414(f), the amortization ends with the 20th plan year instead of the 15th. If that specific method is used, the amount of the experience gain or loss must be adjusted for interest from the valuation date to the beginning of the first plan year in which it is amortized.

(i) *Election procedure*—(1) *In general.* To elect the shortfall method, a collectively bargained plan must attach a statement to the annual report required under section 6058(a) for the first plan year to which it is applied. The statement shall state that the shortfall method is adopted, beginning with the plan year covered by such report. Advance approval from the Internal Revenue Service is not required if the shortfall method is first adopted on or before the later of—

(i) The first plan year which section 412 applies or

(ii) The last plan year commencing before December 31, 1980.

However, approval must be received pursuant to section 412(c)(5) prior to the adoption of the shortfall method at a later time, or the discontinuance of such method, once adopted.

(2) *Use of specific computation methods by plans maintained by more than one employer.* There are specific methods of computation under the shortfall method. They are described in paragraphs (b)(3), (g)(3), (h)(2) of this section, regarding more than one benefit level under the plan, and the delay of amortization of shortfall and experience gains and losses. These specific methods may be adopted with respect to any plan year to which the shortfall method applies. Approval from the Commissioner must be received under section 412(c)(5) prior to the adoption of one or more

of the specific computation methods for a plan year subsequent to the first plan year to which the shortfall method applies, or the discontinuance of a specific computation method, once adopted.

(3) *Reporting requirements.* Each annual report required by section 6058(a) and periodic report of the actuary required by section 6059 must include all additional information relevant to the use of the shortfall method as may be required by the applicable forms and the instructions for such forms.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision amending the temporary income tax regulations under the Employee Retirement Income Security Act of 1974. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of sub-section (d) of that section.

This Treasury decision is issued under the authority contained in sections 412 and 7805 of the Internal Revenue Code of 1954 (88 Stat. 914 and 68A Stat. 917; 26 U.S.C. 412 and 7805), and section 3(31) of the Employee Retirement Income Security Act of 1974 (88 Stat. 837; 29 U.S.C. 1002).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: July 25, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-22050 Filed 8-2-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 32—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Benefit Payments to Certain Survivors

AGENCY: Department of Justice/Law Enforcement Assistance Administration.

ACTION: Final rule.

SUMMARY: LEAA is making two amendments to the regulations implementing the Public Safety Officers' Benefits Act of 1976. The first amendment clarifies that the Administrator reserves the final authority over actions recommended by Administration representatives. The second amendment provides notice of a recent IRS ruling that PSOB benefits are not subject to Federal income tax.

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Madden, General Counsel, LEAA, 202-376-3691.

SUPPLEMENTARY INFORMATION: A new paragraph (h) is being added to § 32.24 of the regulations, specifying that the LEAA Administrator may, on his own motion, review and, if appropriate, reverse the decision of the Administration representative who has heard the appeal of a claimant requesting reconsideration of the Administration's initial adverse determination. The Administrator is being given this authority primarily to ensure that no payments are made which are based on decisions inconsistent with the Act or regulations. The procedure is similar to the one used by the Department of Labor in administering the Federal Employees' Compensation Act. See 5 U.S.C. 8128(a) and 20 CFR 10.136.

Accordingly, § 32.24 is amended by the addition of a new paragraph (h), former paragraphs (h) and (i) are redesignated (i) and (j).

§ 32.24 Request for a hearing.

* * * * *

(h) The Administrator may, on his own motion, review an award or denial made by the representative. The Administrator, in accordance with the facts found on review, may order an award paid or deny an award ordered to be paid by the representative. The Administrator's determination shall be the final agency determination.

* * * * *

The other amendment notifies all beneficiaries of the Internal Revenue Service's recent ruling that PSOB benefits are not subject to Federal income tax.

§ 32.18 [Amended]

The second paragraph of the commentary to § 32.18(b), which noted the IRS's earlier tentative opinion on the taxable nature of the benefit is, therefore, deleted and the following paragraph is added:

"On July 11, 1977, the Internal Revenue Service ruled that the PSOB benefit was not subject to Federal income tax. Revenue Ruling No. 77-235, IRB 1977-28."

JAMES M. H. GREGG,
Assistant Administrator,
Office of Planning and Management.

[FR Doc.77-22437 Filed 8-3-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-192]

PART 110—ANCHORAGE REGULATIONS

Enlargement of Special Anchorage Area, Beverly Harbor, Salem, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment enlarges the special anchorage area at Beverly Harbor, Salem, Massachusetts. This amendment is needed because of the increase in recreational boating in the area. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective September 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: On March 7, 1977 the Coast Guard published a proposed rule (42 FR 12890) concerning this amendment. Interested persons were given until April 20, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: LCDR H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations § 110.25(a) is amended to read as follows:

§ 110.25 Beverly and Salem Harbors, Massachusetts

(a) Beverly Harbor, North of Salem Neck. A line extending from the northerly end of the Salem Willows Yacht Club House 360 yards bearing 281° true to latitude 42°32'14" N., longitude 70°52'26" W.; thence north 275 yards to Monument Bar Beacon thence 540 yards bearing 080° to latitude 42°32'25" N., longitude 70°52'04" W., thence 365 yards bearing 175° to latitude 42°32'14" N., longitude 70°52'03" W.; thence 237° to the shore.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(b)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: July 25, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-22406 Filed 8-3-77;8:45 am]

[CGD 76-230]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sarasota County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment revises the regulation for the drawbridges across Hatchett Creek, U.S. 41; Ringling Causeway, S.A. 780; and New Pass, S.R. 789 to allow restricted periods during daylight hours. The Coast Guard feels that this will provide relief for vehicular traffic, which has increased significantly over the past few years, without penalizing marine traffic unduly. The Siesta Key Bridge was rejected for restrictive regulations because the Coast Guard felt that the statistical data submitted did not justify the requested change.

EFFECTIVE DATE: This amendment is effective on September 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbidge Regulations Branch (GWBR/73), Room 7300, Nassif Building, 400 7th Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On December 23, 1976, the Coast Guard published a proposed rule (41 FR 55897) concerning this amendment. The Commander (oan) Seventh Coast Guard District also published these proposals as a public notice on December 23, 1976. Interested persons were given until January 25, 1977, to submit comments. Of some 600 comments received 400 generally supported and 200 generally opposed the proposals. In an attempt to gather as much information as possible, and provide the public an opportunity to be heard on this matter, the Coast Guard held a public hearing on March 17, 1977, at the Sarasota City Mobile Home Park Auditorium.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

In response to the public notice issued on December 23, 1976, and the public hearing held on March 17, 1977, the following comments were received:

a. Seven petitions with 2,238 signatures supporting the proposed regulations.

b. Of the letters of support received, 413 support the regulations at Ringling Causeway, 288 support the regulations at Hatchett Creek, 353 support the regulations at New Pass, and 352 supported the regulations at Siesta Key.

c. Of the letters of opposition received, 145 opposed the regulations at Ringling Causeway, 145 opposed the regulations at Hatchett Creek, 150 opposed the regulations at New Pass, and 146 opposed the regulations at Siesta Key.

d. Forty-one letters were received suggesting alternatives to the proposed regulations. These suggestions varied from opening all bridges on 15-minute intervals, one draw opening each hour, to three closed periods each day during peak traffic periods.

Based on evaluation of statistical data, comments received from all interested parties, and independent investigation by the Coast Guard, it is felt that the proposed regulations are not justified for the Siesta Key drawbridge.

After a full evaluation of the drawbridge openings on the Hatchett Creek and New Pass drawbridges, together with the geographical location of each structure, it is felt that limiting of the bridges to half-hour openings would be an unreasonable restriction to navigation due to the lack of maneuverability and holding areas at Hatchett Creek and the lack of holding areas and swift currents at New Pass. Opening of these bridges on 15-minute intervals will provide the relief necessary for vehicular traffic by avoiding multiple openings, while providing for the reasonable needs of navigation.

The proposed regulations for the Ringling Causeway appear to provide for the reasonable needs of navigation and will also provide a more reasonable flow of vehicular traffic.

The Commander, Seventh Coast Guard District will closely monitor this matter. If conditions change, he may recommend a revision of these regulations to the Commandant.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by adding a new § 117.462a immediately after § 117.462 to read as follows:

§ 117.462a Sarasota County bridges.

(a) Hatchett Creek, Gulf Intracoastal Waterway, mile 56.9, State of Florida highway bridge, U.S. Highway 41, Venice, Florida. The draw shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m. the draw need not open except on the hour, quarter-hour, half-hour, and three-quarter hour, and except as provided in paragraph (d) of this section.

(b) Ringling Causeway, Gulf Intracoastal Waterway, mile 73.6, State of Florida highway bridge, State Road 780, Sarasota, Florida. The draw shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m., the draw need not open except on the hour and half-hour, and except as provided in paragraph (d) of this section.

(c) New Pass, mile 0.0, State of Florida highway bridge, State Road 789, Sarasota County, Florida. The draw shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m., the draw need not open except on the hour, quarter-hour, half-hour and three-quarter hour, and except as provided in paragraph (d) of this section.

(d) The draws of each bridge in this section shall open at any time for the passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A-107.

Dated: August 1, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-22408 Filed 8-3-77;8:45 am]

Title 36—Parks, Forests, and Public Properties

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 292—NATIONAL RECREATION AREAS

Sawtooth National Recreation Area—Federal Lands

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture is directed by law to issue regulations on the use of Federal land in the Sawtooth recreation area including unpatented mining claims. These regulations establish guidelines for the use, management, utilization, and disposal of natural resources on Federally-owned lands including, but not limited to, mineral exploration and development operations. In connection with these regulations, the closure order for the Sawtooth National Recreation Area dated May 14, 1973, is revoked.

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Kent Mays, Group Leader, Recreation Planning and Inventory, Recreation Staff, USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 447-3520.

SUPPLEMENTARY INFORMATION: On March 16, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 14739) proposing regulations on the use and management of natural resources on Federally-owned lands within the Sawtooth National Recreation Area.

The public was given until April 15, 1977, to submit written comments on the proposal; no comments were received. Consequently, the final rulemaking consists of the original proposal, modified slightly to allow flexibility in the implementation of the occupancy provision.

The effect of these regulations was covered by the Final Environmental Statement on the Management Plan for the Sawtooth National Recreation Area which was filed on May 25, 1975.

The Department of Agriculture has determined that publication of this rule is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required. It has also been determined that an economic impact statement is not required.

In light of the foregoing, 36 CFR 292 is amended by adding a subpart D to read as follows:

Subpart D—Sawtooth National Recreation Area—Federal Lands

Sec.
292.17 General provisions
292.18 Mineral resources

AUTHORITY: Sec. 1, 30 Stat. 35, 36, as amended, 16 U.S.C. §§ 478, 551; Sec. 11, 86 Stat. 612, 16 U.S.C. § 460aa-10.

§ 292.17 General provisions.

(a) The use, management and utilization of natural resources on the Federal lands in the Sawtooth National Recreation Area (SNRA) are subject to the General Management Plan and the laws, rules, and regulations pertaining to the National Forests with the exception that part 252 of this chapter does not apply to these resources. No use or disposal of such resources shall be authorized which will result in substantial impairment of the natural values of the Recreation Area.

(b) Definitions: (1) "Act" means Pub. L. 92–400 (86 Stat. 612), which established the SNRA.

(2) "Area Ranger or Superintendent" means the Forest Service officer having administrative authority for the SNRA.

(3) "General Management Plan" means the document setting forth the land allocation and resource decisions for management of the SNRA.

(4) "Letter of Authorization" means a letter signed by the Area Ranger, or his designee, authorizing an operator to conduct operations as approved in the operating plan.

(5) "Mineral Resources" means all locatable minerals.

(6) "Operator" means a person conducting or proposing to conduct operations.

(7) "Operations" means all functions works, and activities in connection with exploration, development, mining or processing of mineral resources and all uses reasonably incident thereto, including roads and other means of access on lands, regardless of whether said operations take place on or off mining claims.

(8) "Operating Plan" means a written instrument describing proposed opeten instrument describing proposed operations on Federal lands and containing such information as required by § 292.18.

(9) "Person" means any individual, partnership, association, corporation, or other legal entity.

(10) "Substantial Impairment" means that level of disturbance of the values of the SNRA which is incompatible with the standards of the General Management Plan. The proposed activities will be evaluated as to: (i) The period of impact, (ii) the area affected, and (iii) the importance of the impact on the SNRA values.

(11) "Unpatented Mining Claims" means any mining claim or millsite claim located prior to August 22, 1972, pursuant to the Mining Law of 1872, but not patented.

§ 292.18 Mineral resources.

(a) *Occupancy.* No unpatented mining claim may be used or occupied, except as otherwise permitted, for any purpose other than exploration, mining, or processing operations and uses reasonably incident thereto.

(b) *Letter of authorization.* A letter of authorization with the posting of an appropriate bond is required prior to conducting operations in the SNRA.

(c) *Operating plan.* A proposed operating plan must be filed with the Area Ranger prior to conducting any operations and prior to construction, reconstruction, improvement or maintenance of roads and trails, bridges, or other facilities for access within the SNRA; provided, that an operating plan is not required for (1) operations which only involve vehicular travel on existing roads open to public use; (2) marking and/or reestablishing claims corners; (3) sampling and exploration work which will not cause significant damage to surface resources and will not involve the removal of more than 100 pounds of material for analysis and study, provided the Area Ranger has prior notice of such activities; or (4) the evaluation and study of existing underground mine workings not involving surface disturbances.

(d) *Operating plan—requirements.* Each operating plan shall include:

(1) The names and mailing addresses of operators and their agents, along with a statement of ownership and/or authorization under which the operation is to be conducted, and including a copy of the location notice(s), proof of assessment labor, and quit claim deeds if ownership has changed within the assessment year.

(2) A map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations and the approximate location and size of areas where surface resources will be disturbed.

(3) Information describing the nature of operations proposed and how they will be conducted, the type and standard of existing and proposed roads or access routes, the means of transportation to be used, the period during which the proposed operations will take place, and measures to be taken for protecting the values of the SNRA and reclaiming the lands.

(e) *Operating plan—approval.* (1) The Area Ranger shall promptly acknowledge receipt of any operating plan to the operator. The Area Ranger shall review the environmental effects and conduct a technical examination of each proposed operating plan.

The technical examination shall identify the resources and the land uses in the area of operations. The Area Ranger shall use the current General Management Plan of the SNRA and the Final Environmental Statement as guides in determining whether the proposed operations may result in substantial impairment of the values of the SNRA. In his review, the Area Ranger may solicit comments from the general public and/or other government agencies in analysis of environmental effects. In his review, the Area Ranger will consider the compatibility of the proposed operating plan with the Act and the General Management Plan. The Area Ranger may not approve an operating plan for an identical claimed area to more than one operator.

(2) Within 30 working days of receipt of a proposed operating plan, the Area Ranger shall take one of the following actions:

(i) Notify the operator that the operating plan has been approved as submitted; or,

(ii) Notify the operator that the operating plan has been approved as subject to the operator accepting the changes or conditions deemed necessary by the Area Ranger; or,

(iii) Notify the operator that more time is necessary to review the plan because of the need to prepare an environmental impact statement, or conduct a cultural resource survey, or other stated reasons; in such cases, the operator will be notified of the approximate time needed to complete the review; or,

(iv) Notify the operator of an apparent conflict of ownership and that additional proof of ownership is required.

(v) Notify the operator that the operating plan as submitted is inadequate to support any conclusion as to substantial impairment, and that additional information will be required; or,

(vi) Notify the operator that the operating plan is not approved since such operations as specified in the plan would create substantial impairment.

(f) *Operating plans—suspension or modification.* The Area Ranger may suspend or terminate authorization to operate in whole or in part where such operations are causing substantial impairment which cannot be mitigated. At any time during operations under an approved operation plan, the operator may be required to modify the operating plan in order to minimize or avoid substantial impairment of the values of the SNRA.

(g) *Bond requirements.* (1) An operator shall furnish a bond, in the amount determined by the Area Ranger to be appropriate for reclamation of the disturbed surface area, prior to the commencement of operations. In lieu of a bond, the operator may deposit into a Federal depository, as directed by the Forest Service, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having market value at the time of deposit or not less than the required dollar amount of the bond.

(2) When the reclamation of the project, or portions thereof, has been completed, the operator will notify the Area Ranger who will examine the area to determine whether the reclamation is acceptable. When the Area Ranger has accepted as completed any portion of the reclamation, he shall reduce proportionately the amount of bond thereafter to be required with respect to the remaining reclamation. However, the operator will not be released from liability under the bond for the amount which may be necessary to revegetate each planting area for a minimum period of at least 5 years after the first efforts at revegetation if those initial efforts are unsuccessful.

(3) If the Area Ranger determines that revegetation is likely to occur before the expiration of such minimum period, he may release the operator from the extended liability under the bond for revegetation of planting area.

(h) *Access.* The operator shall permit free and unrestricted public access to and through lands included within an unpatented mining claim for all lawful and proper purposes. In areas where such access would unduly interfere with authorized operations or would constitute a hazard to public health and safety, public use may be restricted with prior approval of the Area Ranger.

JAMES NIELSON,
Acting Assistant Secretary for Research, Conservation, and Education.

JULY 29, 1977.

[FR Doc.77-22370 Filed 8-3-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 768-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Oklahoma Regulation 4.2

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule approves revisions to Oklahoma State Implementation Plan (SIP) Regulation 4.2 which provides for public disclosure of emission data and rescinds Regulations by which EPA implemented public disclosure. The Oklahoma SIP was disapproved on September 26, 1974, since it could, in some circumstances, prohibit the disclosure of emission data to the public. The availability of data to the public would be unchanged inasmuch as this revision to the Oklahoma SIP corrects a deficiency which has been provided for by EPA Regulation.

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

George I. Kennedy, Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Tex. 75270, 214–749–3837.

SUPPLEMENTARY INFORMATION: On September 26, 1974, Regulation 4.2 of the Oklahoma State Implementation Plan (SIP) was disapproved since it could, in some circumstances, prohibit the disclosure of emission data to the public. On November 28, 1975, EPA promulgated regulations for public availability of emission data. On October 7, 1975, the Governor of Oklahoma submitted a revision to the SIP specifically making emission data subject to public disclosure as a revision to Regulation 4. The public hearing for this revision was held by the State Air Quality Council on January 14, 1975. The revision to the regulation was recommended by the State Air Quality Council on March 11, 1975, for adoption by the Oklahoma State Board of Health. The revision was adopted by the State Board of Health on June 29, 1975, and after filing with the Secretary of State was effective on July 9, 1975. This rulemaking was proposed on May 24, 1977 (42 FR 26439), with a period for public comment which ended June 23, 1977. No comments were received.

In this revision to Regulation 4.2 emission data must be made available at all times to the public during normal working hours. In accepting this revision to Oklahoma Regulation 4, EPA is interpreting "emission data" as defined in 40 CFR 2.301(a) and discussed in 40 CFR 51.10(e). Accepting the revised paragraph 4.2 allays the need for 40 CFR 52.1926 which is rescinded.

This action is taken under authority of Section 110(a) of the Clean Air Act as amended, 42 USC 1857c–5(a).

Dated: July 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. In § 52.1920, paragraph (c) is amended by adding paragraph (8) as follows:

§ 52.1920 Identification of plan.

* * * * * * *

(c) * * *

(8) Revision to Oklahoma Regulation 4.2 (public availability of emission data) was submitted by the Governor on October 7, 1975.

§ 52.1926 [Revoked]

2. Section 52.1926 is revoked.

[FR Doc.77-22355 Filed 8-3-77;8:45 am]

[FRL 771-8]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 32425 in the FEDERAL REGISTER of Friday, June 24, 1977 (FR Doc. 77–18129).

EFFECTIVE DATE: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919–541–5271.

Dated: July 29, 1977.

ERIC O. STORK,
Acting Assistant Administrator for Air and Waste Management.

In FR Doc. 77–18129 appearing on page 32425 in the FEDERAL REGISTER of Friday, June 24, 1977, §§ 60.102(a)(2) and 60.105(e)(1) on page 32427 are corrected as follows:

1. In § 60.102(a)(2), the word "period" is added in the fourth line immediately following the words "in any one-hour."

2. In § 60.105(e)(1), "hourly period" in the first line is corrected to read "one-hour periods."

(Sec. 111, 114, 301(a) of the Clean Air Act as amended [42 U.S.C. 1857c–6, 1857c–9, 1857g (a)]).

[FR Doc.77-22357 Filed 8-3-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 2 to Service Order No. 1247]

PART 1033—CAR SERVICE

Bath and Hammondsport Railroad Company Authorized To Operate Over Tracks of Consolidated Rail Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1247).

SUMMARY: As the designated operator for the State of New York, the Bath and Hammondsport operates the Wayland branch of the former Erie-Lackawanna, between Kanona, New York, and Wayland, New York. This line is separated from the Bath and Hammondsport's own line by three miles of Consolidated Rail Corporation trackage. Service Order No. 1247 authorizes the Bath and Hammondsport to operate over this trackage of Consolidated Rail Corporation in order to transfer locomotives, cars, and crews between its own line and the Wayland branch. Amendment No. 2 extends Service Order No. 1247 for six months.

EFFECTIVE DATE: July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of July, 1977.

Upon further consideration of Service Order No. 1247 (41 F.R. 29819 and 42 F.R. 6370), and good cause appearing therefor:

It is ordered, That: § 1033.1247 *Bath and Hammondsport Railroad Company Authorized to Operate over Tracks of Consolidated Rail Corporation*

Service Order No. 1247 be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22361 Filed 8-3-77;8:45 am]

[Ex Parte No. 320]

PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Special Procedures for Making Findings of Market Dominance as Required by Railroad Revitalization and Regulatory Reform Act of 1976; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 41 FR, October 7, 1976, page 44183, the Authority Citation was inadvertently omitted. This correction is to show the proper Authority Citation.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202–275–7693.

SUPPLEMENTARY INFORMATION: The above captioned document was issued under: Section 202 of the Railroad Revitalization and Regulatory Reform Act; Section 1(5)(D) of the Interstate Commerce Act and 5 U.S.C., 553 and 559, Administrative Procedure Act.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22394 Filed 8-3-77;8:45 am]

[Ex Parte No. 321]

PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Expeditious Procedures for Permitting Publication of Separate Rates for Distinct Rail Service; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 FR, February 14, 1977, page 9024, the Authority Citation was inadvertently omitted. This correction is to show the proper Authority Citation.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202–275–7693.

SUPPLEMENTARY INFORMATION: The above captioned document was issued under: Section 202(D) of the Railroad Revitalization and Regulatory Reform Act, Section 15(18) of the Interstate Commerce Act and 5 U.S.C., 553 and 559 Administrative Procedure Act.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22393 Filed 8-3-77;8:45 am]

[Ex Parte No. 324]

PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak Period Demand for Rail Service; Correction

AGENCY: Interstate Commerce Commission:

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 FR, February 14, 1977 page 9022, the Authority Citation was inadvertently omitted. This correction is to show the proper Authority Citation.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202–275–7693.

SUPPLEMENTARY INFORMATION: The above captioned document was issued under: Section 202(D) of the Railroad Revitalization and Regulatory Reform Act; Section 15(17) of the Interstate Commerce Act and 5 USC, 553 and 559, Administrative Procedure Act.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22395 Filed 8-3-77;8:45 am]

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[Ex Parte No. 289]

PART 1254—MAINTENANCE OF RECORDS PERTAINING TO DEMURRAGE, DETENTION, AND OTHER RELATED ACCESSORIAL CHARGES BY RAIL COMMON CARRIERS OF PROPERTY

Remittance of Demurrage Charges by Common Carriers of Property by Rail

AGENCY: Interstate Commerce Commission.

ACTION: Modification and clarification of final rule.

SUMMARY: Modifies the Commission's rule providing for remittance of demurrage payments in excess of $10 per car per day to the car owner, to exclude from its application Canadian or Mexican owned cars unless Canada and Mexico adopt the rule promulgated in this proceeding. This provides equal treatment for cars of Canadian, Mexican, or United States ownership. Clarifies application of rule to leased cars by specifying application to private cars only.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deputy Director or Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7693.

The entire rule reads as follows, with the modifications italicized:

§ 1254.10 Remittance of excess demurrage charges.

(a) Except as otherwise provided hereinafter, the nonowning railroad, on whose lines a car is being detained under demurrage, shall remit to the freight car owner, all demurrage charges collected in excess of $10 per car per day.

(b) That under this rule, for the purpose of determining the car owner in the lease of a *private* freight car, the car owner will be the lessor; except that in cases where there is not notice of the identity of the lessor, the lessee shall be considered as the car owner.

(c) Excess demurrage shall not be remitted to a private car owner who for reasons attributable to the car owner causes the accrual of the excess charge. The excess amount, which would otherwise be remitted under the rule, shall in these situations, be retained by the delivering carrier.

(d) *Excess demurrage shall not be remitted to Canadian or Mexican car owners* unless the appropriate authorities of Canada and Mexico adopt the rule promulgated in this proceeding.

This rule was issued under authority of 49 U.S.C. §§ 1(6) and 1(14)(a), and 5 U.S.C. §§ 553 and 559.

Notice of amended rulemaking was published in the FEDERAL REGISTER, April 30, 1975 (Vol. 40, No. 84, p. 18797).

Issued in Washington, D.C., July 25, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22475 Filed 8-3-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Holla Bend National Wildlife Refuge, Arkansas, to Hunting of Mourning Doves

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of the hunting of Holla Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 3 and September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul D. Daly, Refuge Manager, P.O. Box 1043, Russellville, Arkansas 72801, telephone 501–968–2800.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory bird hunting for individual wildlife refuge areas.

Public hunting of mourning doves on the Holla Bend National Wildlife Refuge, Arkansas, is permitted only on the area delineated by public hunting signs. This open area, comprising approximately 500 acres, is delineated on a map available at refuge headquarters, P.O. Box 1043, Russellville, Arkansas 72801 and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves, subject to the following special conditions:

1. A special refuge permit is required.

2. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

3. All firearms must be cased or unloaded when outside the designated hunting areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

CRAYTON J. LANKFORD,
Acting Regional Director.

JULY 29, 1977.

[FR Doc.77-22458 Filed 8-3-77;8:45 am]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Iowa, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to Big Game Hunting of Big Timber Division and Turkey Island area of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 8 through December 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Il. 62301. Telephone: 217–224–8580.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Upland Game Hunting is permitted on Big Timber Division and Turkey Island area of Mark Twain National Wildlife Refuge, Iowa, on the areas designated by signs. These areas, comprising 1760 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Big Game Hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 29, 1977.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge.

[FR Doc.77-22483 Filed 8-3-77;8:45 am]

PART 32—HUNTING

Opening of Arrowwood National Wildlife Refuge, North Dakota, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates September 2, 1977 through September 30, 1977 and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476. Phone number 701–285–3341.

SUPPLEMENTARY INFORMATION:

§ 32.5 Special regulations; deer hunting; for individual wildlife refuge areas.

Deer hunting is permitted on the Arrowwood National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to deer hunting. These areas comprising 15,900 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting with guns is not permitted.

(2) Bows only may be used and must conform to state regulations.

(3) The open season for hunting deer on the refuge is from 12:00 noon to sunset September 2, 1977 and from one-half hour before sunrise to sunset thereafter through September 30, 1977. Bow hunting will be permitted again on November 21 and remain open until December 31, 1977.

The provisions of this special regulation supplement the regulations which govern deer hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determintd that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

PHILLIP M. ARNOLD,
Acting Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476.

JULY 29, 1977.

[FR Doc.77-22461 Filed 8-3-77;8:45 am]

PART 32—HUNTING

Opening of Chase Lake National Wildlife Refuge, North Dakota to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting for Chase Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates September 2, 1977 through September 30, 1977 and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476. Phone number 701–285–3341.

SUPPLEMENTARY INFORMATION:

§ 32.5 Special regulations; deer hunting for individual wildlife refuge areas.

Deer hunting is permitted on the Chase Lake National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to deer hunting. These areas comprising 4,600 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting with guns is not permitted.

(2) Bows only may be used and must conform to state regulations.

(3) The open season for hunting deer on the refuge is from 12:00 noon to sunset September 2, 1977 and from one-half hour before sunrise to sunset thereafter through September 30, 1977. Bow hunting will be permitted again on November 21 and remain open until December 31, 1977.

The provisions of this special regulation supplement the regulations which govern deer hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determintd that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

PHILLIP M. ARNOLD,
Acting Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476.

JULY 29, 1977.

[FR Doc.77–22462 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Iowa to Archery Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery deer hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 8, 1977 through December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R–1, Box 114, Missouri Valley, Iowa 51555, telephone 712–642–4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Archery hunting of deer on the DeSoto National Wildlife Refuge, Iowa, is permitted only on the area designated by signs as being open to hunting. This area comprising 660 acres is delineated on maps available at the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 601 E. 12th, Federal Building, Kansas City, Mo. 64106. Hunting will be in accordance with all state regulations governing the hunting of deer with bow and arrow and shall be permitted only during the regular Iowa archery deer season, October 8 through December 2, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 15, 1977.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc.77–22463 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Nebraska to Archery Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery deer hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977 through November 11, 1977, and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R–1, Box 114, Missouri Valley, Iowa 51555, telephone AC 712–642–4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Archery hunting of deer on the DeSoto National Wildlife Refuge, Nebraska, is permitted only on the area designated by signs as being open to hunting. This area comprising 1200 acres located west of the present Missouri River channel is delineated on maps available at the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 601 E. 12th, Federal Building, Kansas City, Missouri 64106. Hunting will be in accordance with all state regulations governing the hunting of deer with bow and arrow and shall be permitted only during the regular Nebraska archery deer season, September 17 through November 11, 1977 and November 21 through December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 15, 1977.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc.77–22464 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of Medicine Lake National Wildlife Refuge, Montana to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Medicine Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: September 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Jay R. Bellinger, Medicine Lake, MT 59247, telephone number AC 406–789–2305.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the area designated by signs as being open to migratory game bird hunting. This area comprises 9,216 acres and is delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 3035, 316 North 26th Street, Billings, MT 59101. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Vehicle travel is permitted only on designated trails.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

§ 32.22 Special regulations; upland game birds and jackrabbits; for individual wildlife refuge areas.

Upland game bird and jackrabbit hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the areas designated by signs as being open to upland game hunting. These areas comprising 9,216 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 3035, 316 North 26th Street, Billings, MT 59101. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

1. Vehicle travel is permitted only on designated trails.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game hunting is permitted on the Medicine Lake National Wildlife Refuge, Montana, only on the areas designated by signs as being open to big game hunting. These areas comprising 9,216 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 3035, 316 North 26th Street, Billings, MT 59101. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Unlimited vehicle travel is permitted only on county roads. In the hunting areas, vehicle travel is permitted only for the retrieval of deer on designated retrieval roads.

2. Horses may be used only for the retrieval of big game.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

JAY R. BELLINGER,
Refuge Manager.

JULY 28, 1977.

[FR Doc.77–22459 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Illinois, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to Big Game Hunting of Gardner Division of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 18, 19, and 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Illinois 62301. Telephone: A.C. 217–224–8580.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; Big Game Hunting; for individual wildlife refuge areas.

Public hunting of white-tailed deer with shotgun is permitted on the Gardner Division of Mark Twain National Wildlife Refuge, Illinois, on the areas designated by signs. These areas comprising 4831 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnestota 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. One hundred and seventy-five (175) permits will be issued following a May 18, 1977 drawing.

2. Successful hunters will be required to check their deer through the Adams County Check Station near the Division.

3. Hunting will be from 6:30 am to 3:00 pm (CST).

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 29, 1977.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge.

[FR Doc.77–22471 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Illinois, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to Upland Game Hunting of Keithsburg Division of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1 through October 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Illinois 62301. Telephone: A.C. 217–224–8580.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; Upland Game Hunting; for individual wildlife refuge areas.

Hunting of black, grey and fox squirrels is permitted on the Keithsburg Division of Mark Twain National Wildlife Refuge, Illinois, on the areas designated by signs. These areas comprising 1400 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting squirrels on the Keithsburg Division of the Mark Twain National Wildlife Refuge extends from September 1 to October 15, 1977, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50

Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

OMB Circular A–107.

Dated: July 29, 1977.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge.

[FR Doc.77–22460 Filed 8–3–77;8:45 am]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Iowa, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to Big Game Hunting of Big Timber Division and Turkey Island area of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 8 through December 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Illinois 62301. Telephone: A.C. 217–224–8580.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; Big Game Hunting; for individual wildlife refuge areas.

Upland Game Hunting is permitted on Big Timber Division and Turkey Island Area of Mark Twain National Wildlife Refuge, Iowa, on the areas designated by signs. These areas, comprising 1760 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Big Game Hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 29, 1977.

HOWARD A. LIPKE,
Refuge Manager, Mark Twain National Wildlife Refuge.

[FR Doc.77–22484 Filed 8–3–77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Importation of Yellowfin Tuna and Tuna Products

AGENCY: National Marine Fisheries Service.

ACTION: Interim final rule.

SUMMARY: The amendment extends the effective date of the regulations governing the importation of yellowfin tuna and tuna products to October 1, 1977, and modifies the regulatory language to facilitate customs enforcement of the regulations.

EFFECTIVE DATE: August 4, 1977 through September 30, 1977. Comments will be received until September 1, 1977.

ADDRESSES: Comments or questions may be directed to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, 202–634–7461.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service published interim final rules in the FEDERAL REGISTER on May 16, 1977 (42 FR 24742), to extend the date when an embargo on yellowfin tuna would be effective, to August 1, 1977. A review period was established during which two comments were received. One comment by the Tuna Research Foundation did not oppose the regulation amendments; rather, they restated their position taken during the administrative rulemaking procedures that was ultimately rejected by the Administrative Law Judge, and will not be considered regarding this action. A second comment from the Environmental Defense Fund did not oppose extension of the embargo date.

A resolution was proposed at the June 27–29, 1977 meeting of the Inter-American Tropical Tuna Commission (IATTC) that would establish an international tuna-porpoise research and observer program for IATTC member nations, with provisions for inclusion of non-member nations, operating within the Commission Yellowfin Regulatory Area (CYRA) in the eastern tropical Pacific Ocean. This resolution represents the first significant step taken by the IATTC toward active participation in the problem of incidental porpoise mortality. The resolution has been unanimously approved by all member nations.

On July 15, 1977, the Department of State recommended that, in recognition of the action taken by the IATTC, the effective date be extended to January 1, 1978. Requests for extensions beyond August 1, 1977, were also received from the Tuna Research Foundation and the United Kingdom on behalf of Bermuda.

Therefore, it is proposed to extend the effective date to October 1, 1977. However, in order to avoid undue disruption to tuna imports from tuna importing nations, and to recognize positive movement by those nations toward reducing porpoise mortality, it is necessary that these regulations be effective at the earliest possible time. For these reasons, it is hereby for good cause found that established procedures regarding advance notice of the intent of the National Marine Fisheries Service in implementing public comment (5 U.S.C. 553), are impractical. These regulations are, therefore, effective until September 30, 1977. Public comments will be received until September 1, 1977. After that date, the Director will review all comments received and assess the status of initiation of the IATTC international tuna-porpoise program resolution, whereupon he will publish his final decision in the FEDERAL REGISTER regarding possible extension of the effective date of the embargo past October 1, 1977.

Accordingly, § 216.24 of the National Marine Fisheries Service marine mammal regulations (16 U.S.C. 216.24) is amended as follows:

§ 216.24 [Amended]

1. Section 216.24(e)(2)(ii) is amended by deleting the date "July 31, 1977:" and inserting the date "September 30, 1977:".

2. Section 216.24(e)(4) is amended by deleting the date "August 1, 1977," in the first line and inserting the date "October 1, 1977,"; and by deleting the date "May 31, 1977," in the seventh line and inserting the date "September 30, 1977,".

3. Section 216.24(e)(4) is amended by deleting the phrase "may not be unloaded into the United States" at line ten and eleven and inserting the phrase "shall be prohibited entry into the United States and shall not be released from Customs custody"; and is further amended by deleting the phrase" * * * further, shall be denied entry into the United States * * * " at lines thirteen and fourteen of this Section.

4. Section 216.24(e)(5)(i) is amended by deleting the date "July 31, 1977," in the first line and inserting the date "September 30, 1977,"; and by deleting the phrase " * * * it shall be illegal to unload into the United States" at lines one and two, and amending line eleven of this Section to read " * * * (serv)ice; shall be prohibited entry into the United States and shall not be released from Customs custody unless the Director makes a finding * * * "

Dated: August 1, 1977.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc.77–22364 Filed 8–3–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 945]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Proposed Expenses and Rate of Assessment

AGENCY: Agricutural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $44,415 and a rate of assessment of twenty-six hundredths ($0.0026) cent per hundredweight of potatoes for the functioning of the Idaho-Eastern Oregon Potato Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due on August 19, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended, regulate the handling of Irish potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 945.230 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending May 31, 1978, by the Idaho-Eastern Oregon Potato Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate will amount to $44,415.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0026 per hundredweight, or equivalent quantity, of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 945.44(b).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

Dated: August 1, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–22369 Filed 8–3–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

CRUDE OIL SUPPLIER/PURCHASER RULE

Proposed Amendments and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend the crude oil supplier/purchaser rule as set forth in 10 CFR 211.63 of the Mandatory Petroleum Allocation Regulations. The rule in its present form operates generally to maintain historical supplier/purchaser relationships, including those between crude oil producers and crude oil resellers. The purpose of this proposed amendment is to alleviate the apparent barriers to entry into the business of crude oil reselling that are entailed by the present rule, and thereby to facilitate competition in this sector of the industry. The proposal would permit a crude oil supplier/purchaser relationship between a producer and reseller to be terminated with respect to crude oil being delivered to refiners other than small refiners, if the new reseller offers to continue to supply these refiners with such crude oil. Prices charged in such sales by the new reseller would, of course, be subject to the Mandatory Petroleum Price Regulations.

DATES: Comments by August 25, 1977, 4:30 p.m.; Requests to speak by August 19, 1977, 4:30 p.m.; Hearing date: September 1, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OF, Washington, D.C. 20461; Hearing Location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202) 254–5201.

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202) 566–9833.

Rendel B. Alldredge (Office of Regulatory Programs), 2000 M Street NW., Room 6128, Washington, D.C. 20461 (202) 254–7886.

Michael Paige, (Office of General Counsel), 12th & Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202) 566–9565.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments
III. Additional Comments Requested
IV. Comment Procedures

I. BACKGROUND

The crude oil supplier/purchaser rule (the "rule") was adopted in January 1974 (39 FR 1924, January 15, 1974). Its purpose was to maintain intact the national distribution system for domestic crude oil as it existed on December 1, 1973, and thereby to assure small and independent refiners continued access to their historical domestic crude oil supplies in the face of the Arab oil embargo which began in the fall of 1973.

The rule was continued in February 1976 (41 FR 7386, February 18, 1976), with certain modifications to conform to the new pricing provisions of the Energy Policy and Conservation Act ("EPCA"), Pub. L. 94–163, and with a change in the reference date from December 1, 1973, to January 1, 1976. The primary reason for continuation of the rule was that it remained an essential means of assuring an adequate supply of crude oil to small and independent refiners.

Although the rule has served to further the foregoing objective, FEA has been concerned over the possible anti-competitive effects of freezing supplier/purchaser relationships, particularly those between crude oil producers and resellers, and the applicability of the rule to crude oil resellers has therefore been under continuing review by FEA.

The rule was first amended in this regard in November 1975 (40 FR 54422 November 24, 1975), to provide pro-

ducers and refiners with the flexibility to obtain services normally performed by crude oil resellers on the most favorable terms available. Under that amendment, a supplier/purchaser relationship between a producer and a reseller could be terminated if the refiners who were receiving the crude oil involved consented. This amendment was intended to provide producers and refiners with flexibility to select the resellers with which they did business, while continuing to assure small and independent refiners that they would receive needed crude oil supplies.

In June 1976 (41 FR 24338, June 16, 1976) FEA again amended the rule, to its current form. Several of the termination provisions of the rule were modified with the intention of providing further flexibility to more accurately reflect industry conditions. In particular, the rule was revised to permit a supplier/purchaser relationship between a producer and a reseller to be terminated without the consent of the refiner receiving the crude oil involved, provided the new reseller offered to continue to supply the refiner with such crude oil at a price reflecting no higher handling and transportation charges than those of the previous reseller. In the notice of proposed rulemaking preceding issuance of the June 1976 amendments, FEA reaffirmed that "the principal objective of the rule [is] to assure that crude supplies continue to be available to historic purchasers" (41 FR 16663, April 21, 1976), but further stated its belief that the new conditions for reseller substitutions (not requiring the consent of refiners to the substitutions, but requiring a continuation of the supplies of crude oil to refiners through new resellers), would adequately protect small and independent refiners.

In its continuing review of this matter, FEA has concluded that certain of the provisions of the rule adopted in June of 1976 appear to be impracticable for crude oil resellers and are not serving to facilitate competition in the crude oil reseller segment of the industry to the extent that it was anticipated they would. The reasons for this, of which FEA was not made aware in the June 1976 rulemaking proceeding, are as follows: First, FEA is informed that it is very difficult, as required by the current regulation, for a reseller to identify the refiners to which the volume of crude oil involved in a proposed termination is being delivered and thus which refiners should be notified of the proposed termination. Or, if the crude oil involved in the termination is being commingled with other crude oil and delivered to several refiners who are notified of the proposed termination, it is difficult for a new reseller to determine the volume of crude oil which it must offer to continue to supply to each refiner which has been receiving crude oil from the former reseller. Also, FEA is informed that it has proved difficult for a new reseller to determine the transportation and handling charges being charged a refiner by the reseller whose supplier/purchaser relationship is proposed to be terminated. If these charges cannot be determined, a proposed new reseller typically does not have adequate information with which to formulate an offer that meets the requirements of the current rule concerning transportation and handling charges.

For the above reasons, FEA is hereby proposing to amend the rule to permit a producer to substitute a new reseller in a supplier/purchaser relationship without consent by the refiners that have previously been receiving the crude oil involved. The proposed amendment is designed, however, to continue to assure adequate supplies of crude oil to small refiners, consistent with the principal purpose of the rule.

II. Proposed Amendments

The proposed amendments retain the current provision of the rule whereby a new purchaser may be substituted in a supplier/purchaser relationship by a producer if the refiner or refiners receiving the supply of crude oil involved consent to the substitution. The proposed amendments would add, however, provisions whereby a new purchaser could be substituted if the refiner or refiners (other than small refiners) that have been receiving the crude oil involved are simply afforded a right of first refusal to purchase such crude oil from the new reseller at not more than the maximum lawful price. This latter type of substitution could not be carried out in those cases where the refiners that have been receiving the crude oil involved are small refiners, as defined in § 211.62 (i.e., having total refinery capacity of 175,000 barrels per day, or less).

The proposed amendments thus represent a change in the structure of the reseller provisions of the supplier/purchaser rule, that would permit substitution of resellers in a manner that might result in the termination of delivery of a particular volume of crude oil to a refiner which is not a small refiner. The proposed amendments appear to provide a practicable basis to facilitate competition in crude oil reselling while continuing to assure small refiners of an adequate supply of crude oil.

Specifically, the proposal would modify 10 CFR 211.63(d)(1)(iv) to provide the following new procedures whereby a producer may terminate a supplier/purchaser relationship with one purchaser and institute a new supplier/purchaser relationship with a new purchaser. First, a producer would be required to give written notice at least 30 days in advance of any proposed termination to the purchaser with which it proposes to terminate a supplier/purchaser relationship. This notice would be required to state the proposed date of termination, the source and estimated volume of crude oil involved (including the portion of that volume that is priced as lower tier crude oil under the Mandatory Petroleum Price Regulations), and the name and address of the proposed new purchaser.

Second, within 10 days of receiving a termination notice, the current purchaser would be required to provide a copy of the notice to a refiner (or reseller) receiving the crude oil. The current purchaser would be required to determine with respect to each termination notice which refiners (or second resellers) were receiving, either directly or through exchanges, the crude oil involved in the termination—that is, the refiners (or second resellers) that would be subject to a potential reduction in deliveries as a result of such a termination. In addition to forwarding a copy of the termination notice, the current purchaser would also have to inform the refiner (or second reseller) as to the volume of crude oil involved in the proposed termination applicable to that refiner (or second reseller).

To the extent that a current purchaser has any option in deciding which of its customers is to be affected by a proposed termination, the following priorities shall apply:

(1) A copy of the notice and identification of the volume of crude oil involved would be sent to a refiner other than a small refiner.

(2) If the proposed termination would result in a reduction in deliveries to one such refiner of more than 1,000 barrels per day, a copy of the termination notice and identification of the volume of crude oil involved would be required to be sent to an additional such refiner for each additional 1,000 barrels per day involved in the proposed reduction. The ceiling of 1,000 barrels per day is designed to limit the reduction in deliveries of crude oil to which any one refiner would be potentially subject as a result of a single supplier/purchaser termination.

(3) If the proposed termination would result in a reduction in deliveries beyond that which could be accounted for in sales to refiners other than small refiners, a copy of the notice and identification of the volume of crude oil involved would be sent to any reseller receiving the crude oil involved in the termination. Such a "second reseller" would, in turn, be subject to the same notification procedures as the "first reseller."

(4) If only small refiners remain as purchasers of the crude oil involved in the termination, the current purchaser would be required to notify such small refiners. As discussed above, however, the proposed termination could not be effected with respect to any crude oil deliveries to a small refiner without that refiner's consent.

Copies of all notices sent by the current purchaser pursuant to the foregoing proposed new provisions would be required to be sent also to the proposed new purchaser.

Third, the proposed new purchaser would be required to offer to supply each of the refiners notified of the proposed termination with the volume of crude oil which would be subject to the proposed termination and which was being supplied to each by the current purchaser. This offer would be required to be made at a price consistent with the provisions of the Mandatory Petroleum Price Regulations (10 CFR Part 212).

Following the observance of the foregoing procedures, a producer would be permitted to terminate a supplier/purchaser relationship with the current purchaser and institute a new supplier/purchaser relationship with a new purchaser except where a small refiner does not consent to the termination. Of course, in those instances in which an offer to supply a refiner other than a small refiner is accepted, a new supplier/purchaser relationship would thereby be established.

A provision of paragraph (d) that makes clear that none of the terminations permitted by paragraph (d) shall be construed as abrogating the rights any firm may have under private contracts, so long as such contracts are otherwise consistent with FEA allocation and price regulations, is proposed to be retained.

Copies of all notices and offers required under these proposed new provisions would be required to be sent to the appropriate FEA regional office. This would permit FEA to monitor the extent to which these proposals, if adopted, would ultimately serve to facilitate competition in crude oil resales.

Finally, FEA seeks to ensure that the proposed amendments, if adopted, do not permit abuses by crude oil resellers. Of particular concern to FEA is the practice commonly known as "layering": the insertion of one or more "resellers" between the producer and refiner and the charging of one or more markups, where the layering firm performs no service or other function traditionally and historically associated with the resale of crude oil. FEA will soon consider in a separate proceeding the question of "layering" and whether regulatory amendments, interpretive rulings or other actions should be instituted to deal with such practice. For purposes of this rulemaking proceeding, FEA is proposing to amend the rule to provide that where a supplier/purchaser relationship is terminated, no subsequent purchaser, other than the first purchaser substituted by the supplier, may charge a price for sales of such crude oil in excess of the price actually paid for the crude oil, where such purchaser does not perform services or other functions traditionally and historically associated with the resale of crude oil.

Although the proposed regulations extend only to termination of supplier/purchaser relationships between producers and resellers, FEA intends also to consider in this proceeding the extent to which the regulations might be modified to permit resellers to displace refiners and to permit refiners to displace resellers in existing supplier/purchaser relationships. Accordingly, comments are requested on whether such terminations should be permitted and, if so, what criteria should apply, in light of the objectives sought to be achieved by this proposal.

III. Additional Comments Requested

In addition to requesting comments on the provisions of the proposed rule as discussed above and as set forth below, FEA also requests comments as to whether the proposed requirement that FEA would receive copies of the notices and offers prior to terminating any supplier/purchaser relationships with current purchasers should include a provision whereby FEA could intercede to prevent such a termination from taking place. Such a mechanism would permit FEA to investigate any actions under the rule that might appear to involve unwarranted price increases.

Finally, comments are requested generally as to whether or to what extent FEA might consider proposing to exempt crude oil resellers from the Mandatory Petroleum Price Regulations. Such an action would, of course, pursuant to the provisions of section 12 of the Emergency Petroleum Allocation Act of 1973, as amended, require submission to the Congress for its approval in accordance with the provisions of section 551 of the Energy Policy and Conservation Act. Therefore, FEA hereby requests only preliminary comments as to whether such an exemption should be studied for possible implementation. Among the considerations in this regard are the extent to which competition, the crude oil price controls, and the entitlements program operate as an effective constraint on reseller margins. Comments are also requested on the extent to which the supplier/purchaser rule of § 212.63 continues to be necessary to assure access by small refiners to adequate supplies of crude oil.

IV. Comment Procedures

A. Written comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside envelope with the designation "Amendments to Crude Oil Supplier/Purchaser Rule." Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, room 2107, Federal Building, 12th and Pennsylvania Ave. NW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public hearing

1. *Request procedure.* The time and place for the hearing are indicated in the dates and addresses sections of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date of the hearing shown above.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make an oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., August 23, 1977, and must submit 100 copies of his or her statement to Regulations Management, room 2214, 2000 M St. NW., Washington, D.C., before 4:30 p.m., e.d.t., on August 31, 1977.

2. *Conduct of the hearing.* The FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications before 4:30 p.m., e.d.t., August 25, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, room 2107, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may

purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C. July 28, 1977.

ERIC J. FYGI,
Acting General Counsel.

Section 211.63 is amended by revising paragraph (d)(1)(iv) to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

* * * * *

(d) *Termination of supplier/purchaser relationships.* * * *

(1) * * *

(iv) By a producer (as defined in Part 212 of this chapter) as to a reseller purchasing crude oil from that producer: *Provided*, That:

(A) At least thirty days in advance of any termination under this subdivision (iv), the producer shall give to the reseller purchasing from it whose supplier/purchaser relationship is proposed to be terminated a written termination notice stating the date of termination, the source and estimated volume of crude oil involved (including the portion of that volume that is priced as lower tier crude oil under Part 212 of this chapter), and the name and address of the new reseller to which such crude oil is proposed to be sold.

(B) Any reseller that has received a termination notice from a producer as provided in (A) of this subdivision, which proposed termination would effect a reduction in deliveries of crude oil by that reseller, either directly or through exchanges, to any refiner or other reseller shall:

(*1*) Within 10 days of receipt of the termination notice, provide a copy of the termination notice, together with a statement as to the volume of crude oil involved, to the purchasers of the crude oil subject to such termination notice. To the extent that such reseller has any option in deciding which of its customers is to be regarded as the purchaser of the crude oil subject to such termination notice, the following priorities shall apply:

(*i*) To any refiner other than a small refiner;

(*ii*) If the proposed termination would affect crude oil deliveries to a refiner other than a small refiner of more than 1,000 barrels per day, to an additional refiner other than a small refiner for each additional 1,000 barrels per day of crude oil subject to the termination notice;

(*iii*) If the proposed termination would affect crude oil deliveries beyond that which could be accounted for in sales to refiners other than small refiners, to any reseller receiving crude oil subject to the termination notice. (Any reseller receiving such notice would, in turn, be subject to the requirements of this § 211.63 (d)(1)(iv)(B)).

(*iv*) If only small refiners remain as purchasers of the crude oil subject to the termination notice, to such small refiners

(2) Provide copies of such notices to the proposed new purchaser, including the name and address of each person to which a copy of the termination notice was provided and the volume of the crude oil affected for each such person.

(C) The proposed new purchaser of the crude oil shall offer to continue to supply the volume of that crude oil to each refiner provided with a copy of the termination notice as that refiner would otherwise lose as a result of the proposed termination. Such offer or offers shall be at prices consistent with the provisions of Part 212 of this chapter: *Provided*, That, no firm that resells that crude oil may charge a price in any sale of that crude oil in excess of the actual price paid for that crude oil, where such firm does not provide a service or other function traditionally and historically associated with the resale of crude oil.

(D) Upon receipt of the offer or offers under (C) of this subdivision by the refiner or refiners concerned, the proposed new purchaser may be substituted by the producer for the purchaser whose supplier/purchaser relationship has been proposed to be terminated: *Provided*, That if a small refiner that was notified as to a proposed termination does not accept the offer of the proposed new purchaser, the proposed termination shall not be effective as to the volume of the crude oil being delivered to that small refiner.

(E) Nothing in this paragraph (d) shall be construed as authorizing any firm to terminate a supplier/purchaser relationship in breach of a contract or agreement it may have with another firm.

(F) Copies of all notices and offers required under this paragraph (d)(iv) shall be sent to the FEA regional office for the region in which the producer is located.

[FR Doc.77-22332 Filed 8-1-77;9:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17064]

AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections for cracking and replacement, if necessary, of flame tube bridge suspensions on Rolls Royce Dart Engines. The notice is prompted by reports of serious engine failures due to overheating and failure of the high pressure turbine disc caused by loss of flame tube suspension and subsequent burner stem failure.

DATES: Comments must be received on or before: September 6, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17064, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Rolls Royce, P.O. Box 31, Derby DE 2 8BJ, England. A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513-38-30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of engine flame tube suspension failures which have resulted in serious engine failures on Rolls Royce Dart engines. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require inspections of the flame tube bridge pieces for cracking and replacement of those that are found to be cracked.

The principal authors of this document are Mr. R. E. Follensbee, Western Region, Mr. R. F. Nugent, Flight Standards Service, and Mr. R. Lane, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

ROLLS ROYCE AERO, LTD. Applies to Dart Engines Series 527, 528, 529, 531, 532, 533, 534, 535, 536, 550, 542-4, 542-10, and 543-10 that have modification 1425 incorporated and are installed on, but not necessarily limited to, Nihon YS-11, Convair 600 and 640, Handley Page Herald, Fokker F27, Fairchild F27, Grumman Gulfstream I, and Hawker Siddeley 748 series aircraft.

Compliance is required as indicated.

To prevent overheating and failure of high pressure turbine discs, accomplish the following:

(a) Within the next 500 hours engine time in service after the effective date of this AD and thereafter at intervals not to exceed 1500 hours engine time in service, inspect the flame tube bridge pieces for cracking of the support legs in accordance with the instructions contained in paragraph 4.C of Rolls-Royce Dart Service Bulletin Da 72-420, dated October 1975 (hereinafter referred to as the Bulletin), or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, FAA, c/o American Embassy, APO New York, N.Y. 09667 (hereinafter referred to as FAA-approved equivalent).

(b) If, during an inspection required by this AD, flame tube bridge piece cracking is detected, replace the affected part with a serviceable part before further flight (except that the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed), and continue to inspect in accordance with either paragraphs (c) or (d) of this AD, as applicable.

(c) If, during an inspection required by paragraph (a) of this AD, flame tube bridge piece leg cracking is found, establish a reptitive inspection interval for all engines in the fleet in accordance with paragraph 4.A.(3)(b) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

(d) If, during a repetitive inspection conducted in accordance with this paragraph or paragraph (c) of tihs AD, a cracked bridge piece leg of any flame tube in the fleet is found, establish a further reduced repetitive inspection interval for all engines in the fleet in accordance with paragraph 4.B.(3) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on July 26, 1977.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.77-22154 Filed 8-3-77;8:45 am]

[14 CFR Part 39]

[Docket No. 17065]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require the installation of placards, repetitive inspections of the fuel boost pump electrical connectors, and replacement of defective parts, as necessary, on certain BAC 1-11 200 and 400 series airplanes to prevent failures in the electrical connectors that could result in possible fuel system fires.

DATES: Comments must be received on or before September 20, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 17065, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: British Aircraft Corp., Inc., 399 Jefferson Davis Highway, Arlington, Va. 22202, Telephone 703-979-1400.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.39.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of arcing of the electrical connector of the fuel boost pump to its flooded housing within the fuel tank on certain British Aircraft Corporation BAC 1-11 200 and 400 series airplanes that could result in fuel system fires. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require the installation of placards, repetitive inspections of the fuel boost pump electrical connectors, and replacement of defective parts.

DRAFTING INFORMATION

The principal authors of this document are M. Gaydos, Europe, Africa, and Middle East Region, E. Newberger, Flight Standards Service, and K. May, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive.

BRITISH AIRCRAFT CORP. Applies to BAC 1-11, Model/Types 203/AE, 204/AF, 212/AR, 215/AU, 201/Z/AC, 401/AK, 410/AQ, 419/EP, and 412A/EB airplanes.

Compliance is required as indicated.

To prevent fuel system fires, accomplish the following:

(a) Within the next 300 hours airplane time in service after the effective date of this AD, unless already accomplished, comply with the following:

(1) Permanently install a placard at all cockpit fuel boost pump circuit breakers, using white letters on a red background, to read as follows:

DO NOT RESET IN FLIGHT

(2) Insert in the limitations section of the Airplane Flight Manual the statement: "Do not reset fuel boost pump circuit breakers until the affected boost pump electrical connector has been inspected in accordance with paragraph 2.3.7 of BAC Albert Service Bulletin 28-A-PM 5220, Issue 4, dated October 22, 1975, or an FAA-approved equivalent".

(3) Permanently install a placard in the cockpit next to the center fuel tank transfer pumps, using white letters on a red background, to read as follows:

TURN TRANSFER PUMP OFF WHEN L.P. LIGHT ILLUMINATES

(4) Insert in the limitations section of the Airplane Flight Manual the statement: "Turn center tank fuel transfer pumps "off" when the L.P. light illuminates."

(b) For airplanes equipped with fuel boost pump and housing TRW P/N 249000-6 or Plessey P/N 570-8-21225 (which includes boost pump housing connector assembly TRW P/N 209237-1 or Plessey P/N 570-1-21227), comply with the following:

(1) Prior to accumulation of 6,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 100 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 100 hours airplane time in service, and thereafter at intervals not to exceed 200 hours airplane time in service from the last inspection, until compliance with paragraph (g) of this AD, comply with paragraphs (d), (e), and (f) of this AD.

(2) Prior to the accumulation of 6,000 hours total time in service on the fuel boost pump housing connector assembly, or with-

in the next 1,500 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 1,500 hours airplane time in service, and thereafter at intervals not to exceed 6,000 hours airplane time in service from the previous compliance, comply with paragraph (g) of this AD.

(c) For airplanes equipped with fuel boost pump and housing, TRW P/N 249000–7 or Plessey P/N 570–8–23456 (which includes boost pump housing connector assembly TRW P/N 209237–1 or Plessey P/N 570–1–21227), comply with the following:

(1) Prior to accumulation of 10,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 100 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 100 hours airplane time in service, and thereafter at intervals not to exceed 200 hours airplane time in service from the last inspection, until compliance with paragraph (g) of this AD, comply with paragraphs (d), (e), and (f) of this AD.

(2) Prior to the accumulation of 10,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 1,500 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 1,500 hours airplane time in service, and thereafter at intervals not to exceed 10,000 hours airplane time in service from the previous compliance, comply with paragraph (g) of this AD.

(d) Visually inspect all fuel boost pumps on the airplane by operating them for 10 minutes and inspecting for signs of fuel leakage at the fuel pump conduit drains in accordance with paragraph 2.3.3 of BAC Alert Service Bulletin 28–A–PM 5220, Issue 4, dated October 22, 1975 (hereinafter referred to as BAC ASB), or an FAA-approved equivalent.

(e) If, during any inspection required by this AD, fuel leakage is detected, identify the pump causing the leak and visually inspect its housing connector assembly, TRW P/N 209237–1 or Plessey P/N 570–1–21227, within the boost pump housing, and its associated fuel boost pump electrical connector for evidence of arcing, overheating, or deterioration of the 'O' ring in accordance with paragraph 2.3.7 of BAC ASB, or an FAA-approved equivalent.

(f) Where evidence of arcing, overheating, or deterioration of the 'O' ring seal is found in either the boost pump housing or the electrical connector as a result of an inspection required by this AD, replace the affected parts with serviceable parts before further flight, except that the airplane may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, provided that the affected pumps are isolated by pulling and clipping the affected pump circuit breaker and placarding the affected pump On-Off switch in the cockpit third crewman's panel with the word, Inoperative.

(g) Disassemble the electrical connector assembly, perform the inspections, and replace the appropriate parts in accordance with paragraphs 2.3.10, 2.3.11 and 2.3.12 of BAC ASB, or an FAA-approved equivalent.

(h) Upon the request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York 09667, may approve alternate repetitive inspection intervals and inspection procedures to facilitate continued operations by the operator, if data substantiating such action are submitted by the operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C. on July 28, 1977.

JAMES M. VINES,
Acting Director,
Flight Standards Services.

[FR Doc.77–22259 Filed 8–3–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–WE–18]

TRANSITION AREA, TUCSON, ARIZONA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter the Tucson, Ariz. 700-foot transition area. This proposal is necessary in order to provide controlled airspace for radar vector services south, east and north of Tucson.

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213–536–6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Intrested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 31, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, Calif. 90261, or by calling 213–536–6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot transition area at Tucson, Arizona. The present 700-foot transition area was found to be inadequate to provide controlled airspace for radar vector procedures south, east and north of Tucson.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

THE PROPOSED AMENDMENT

§ 71.181 [Amended]

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

TUCSON, ARIZONA

Delete the description of the 700 foot transition area and substitute the following:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Tucson International Airport (latitude 32°07'05" N., longiture 110°56'32" W.); within 16 miles NE and 13 miles SW of the Tucson VORTAC 138° radial extending from the 10-mile radius area to 16 miles SE of the VORTAC, within 1 mile NE and 9 miles SW of the Tucson VORTAC 318° radial, extending from the 10-mile radius area to 22 miles NW of the VORTAC and within 16 miles NE of the Tucson VORTAC 318° radial extending from the Tucson VORTAC to 30 miles NW of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on July 20, 1977.

FRANK HAPPY,
Acting Deputy Director,
Western Region.

[FR Doc.77–22156 Filed 8–3–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–AL–5]

PROPOSED DESIGNATION OF ADDITIONAL CONTROL AREA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to establish an additional control area, identified as Gulf of Alaska, west of the Yakutat, Alaska, transition area. At the present time there are numerous IFR direct routes for helicopters from onshore airports to oil exploration sites and between drilling sites. This proposed action would support IFR routes to the numerous offshore drilling sites and encompass IFR arrival and departure procedures.

DATES: Comments must be received on or before September 19, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 77–AL–5, FAA, 632 Sixth Avenue, Anchorage, Alaska 99501. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC–24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–426–3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 19, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The FAA is considering an amendment to Subpart E of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish an additional control area, identified as Gulf of Alaska, west of the Yakutat, Alaska, transition area. Numerous IFR direct routes for helicopters have been approved from onshore airports to oil exploration drilling vessels and between drilling vessels in the northern Gulf of Alaska. The lowest minimum en route altitude on approved routes is 1,300 feet. This additional control area, with a 700-foot floor over the northern Gulf of Alaska, is required to provide IFR ATC services above 700 feet on approved IFR routes between shoreline airports and drilling vessels and between drilling vessels. Although IFR ATC separation service would be provided primarily to helicopter operations serving the drilling rigs, all aircraft operating in the designated control area would be provided standard IFR separation service as required during instrument weather conditions. Subpart E of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 348).

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 348) by adding the following:

GULF OF ALASKA

From Lat. 60°09' N., Long. 144°30' W., thence eastward 3 NM offshore and parallel to the shoreline to Lat. 59°43'30" N., Long. 140°00'00" W., to Lat. 59°27' N., Long. 140°00'-W., thence westward along the south boundary of V–440 to Long. 144°30' W., to point of beginning, excluding that portion that lies within transition areas at Yakataga and Yakutat, Alaska.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 27, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77–22260 Filed 8–3–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–SW–27]

PROPOSED ALTERATION AND EXTENSION OF FEDERAL AIRWAYS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The proposed extensions of V–161, V–358 and also the alteration of V–17, V–163 and V–222 are the result of an evaluation of the present and future requirements for airways into and out of the San Antonio, Tex., area. Additional airway changes will be proposed as new and relocated navigation aids are

commissioned. The action proposed at this time will assist in the control of air traffic and the reduction of congestion in this area.

DATES: Comments must be received on or before September 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 77-SW-27, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before September 5, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8059. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would accomplish the following:

1. Realign a segment of V-17 from Cotulla, Tex., via the INT of the Cotulla 042°T (033°M) and the San Antonio, Tex., 198°T (189°M) radials; San Antonio; including an east alternate via the INT of the Cotulla 042°T (033°M) and the San Antonio 183°T (174°M) radials; INT of the San Antonio 042°T (033°M) and the Austin, Tex., 229°T (220°M) radials; Austin; including an east alternate via the INT of the San Antonio 057°T (048°M) and the Austin 211°T (202°M) radials; and also including a west alternate via the INT of the San Antonio 027°T (018°M) and the Austin 244°T (235°M) radials. The description of the main airway between San Antonio and Austin is not a change, but is included to describe the east and west alternates.

2. Extend V-161 to begin at Llano, Tex., and go via Millsap, Tex., to Bridgeport, Tex., thence as presently described.

3. Realign and extend a segment of V-163 to extend from Three Rivers, Tex., via the INT of the Three Rivers 345°T (336°M) and the San Antonio, Tex., 168°T (159°M) radials; San Antonio; including a west alternate via the INT of the Three Rivers 326°T (317°M) and the San Antonio 183°T (174°M) radials; Lampasas, Tex.; Acton, Tex.; including a west alternate via Stonewall, Tex.; and Llano, Tex.; to Bridgeport, Tex., thence as presently described.

4. Realign a segment of V-222 to extend from Junction, Tex., via Stonewall, Tex., to San Antonio, Tex., thence as presently described.

5. Extend V-358 to begin at San Antonio, Tex., and go via Stonewall, Tex.; Lampasas, Tex.; the INT of the Lampasas 041°T (033°M) and the Waco, Tex., 248°T (240°M) radials to Waco, thence as presently described.

The following new VORTACs will be installed to support the proposed airways, if adopted.

Lampasas, Tex., Lat. 31°11'04" N., Long. 98°08'28" W.
Stonewall, Tex., Lat. 30°12'23" N., Long. 98°42'19" W.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to further amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) and amended (42 FR 55863) as follows:

1. In V-17 all between "Laredo, Tex.;" and "Waco, Tex.," is deleted and "Cotulla, Tex.; INT Cotulla 042° and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via INT Cotulla 042° and San Antonio 183° radials; INT San Antonio 042° and Austin, Tex., 229° radials; Austin, including an east alternate via San Antonio 057° and Austin 211° radials and also including a west alternate via San Antonio 027° and Austin 244° radials;" is substituted therefor.

2. In V-161 "From Bridgeport, Tex., via" is deleted and "From Llano, Tex., via Millsap, Tex.; Bridgeport, Tex.;" is substituted therefor.

3. In V-163 all between "Corpus Christi;" and "Ardmore, Okla.;" is deleted and "Three Rivers, Tex., including a west alternate via INT Corpus Christi 296° and Three Rivers 165° radials; INT Three Rivers 345° and San Antonio 168° radials; San Antonio, including a west alternate via INT Three Rivers 326° and San Antonio 183° radials; Lampasas, Tex.; Acton, Tex., including a west alternate from San Antonio via Stonewall, Tex., and Llano, Tex.; Bridgeport, Tex." is substituted therefor.

4. In V-222 "Junction, Tex.; INT Junction 112° and San Antonio, Tex., 334° radials;" is deleted and "Junction, Tex.; Stonewall, Tex.;" is substituted therefor.

5. In V-358 "From Waco, Tex., via" is deleted and "From San Antonio, Tex., via Stonewall, Tex.; Lampasas, Tex.; INT Lampasas 041° and Waco 248° radials; Waco, Tex.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 27, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22261 Filed 8-3-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1605]

CALIFORNIA CHILDREN'S CLOTHING FLAMMABILITY REGULATIONS

Denial of Application for Exemption From Preemption; Withdrawal of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of denial of application to exempt California children's clothing flammability regulations from preemption under the Flammable Fabrics Act; withdraw of proposed exemption.

SUMMARY: In this document the Commission announces that it has decided to deny an application from the California State Fire Marshal to exempt its children's clothing flammability regulations from preemption under the Flammable Fabrics Act. The Commission has denied this application since information it has received indicates that the California regulations, if in effect, would unduly burden interstate commerce. In this document the Commission also withdraws the proposed rule, published in the FEDERAL REGISTER on December 27, 1976 (41 FR 56294), that would exempt the California regulations from preemption.

FOR FURTHER INFORMATION CONTACT:

Philip Bechtel, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 202-634-7770.

A. BACKGROUND

SUPPLEMENTARY INFORMATION:

Section 17(b) of the Consumer Product Safety Commission Improvements Act (Pub. L. 94-284), which became effective on May 11, 1976, amended section 16 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1203) to provide, with specified exceptions, that whenever a federal flammability standard or other regulation for a fabric, product, or related material is in effect, no State or political subdivision may establish or continue in effect a flammability standard or other regulation for such item designed to protect against the same risk of occurrence of fire unless it is identical to the federal standard or regulation.

Section 17(b) of Pub. L. 94-284 permits the Commission, upon application by a State or local government, to grant an exemption from the preemption provision if: (1) Compliance with the State or local flammability requirement would not cause the fabric, product, or related material to be in violation of the federal requirement, (2) the State or local flammability requirement provides a significantly higher degree of protection than the federal requirement, and (3) the State or local requirement would not unduly burden interstate commerce. Section 17(b) of Pub. L. 94-284 enumerates the findings that the Commission is required to make with respect to the State or local requirement to determine the burden on interstate commerce. An exemption may be granted only after the Commission has provided public notification of the proposed exemption and has afforded interested persons an opportunity to present oral and written comments.

(1) CALIFORNIA APPLICATION

The California State Fire Marshal, in a communication dated October 25, 1976, requested the Commission to grant an exemption from preemption under the Flammable Fabrics Act for regulations regarding the flammability of children's clothing. (Regulations of the State Fire Marshal, Title 19, Subchapter 5, Flammability Standards for Children's Clothing (July 1, 1974)). This request was made in accordance with the Commission's proposed and interim procedures for submitting and considering applications for exemption from preemption under the Flammable Fabrics Act. The proposed and interim procedures were published in the FEDERAL REGISTER July 29, 1976 (41 FR 31569). The California request has been considered under these procedures.

After determining that the California application contained the information required by the Commission's interim regulations to qualify for proposal, the Commission, in accordance with § 1604.9 of the regulations, proposed an exemption in the FEDERAL REGISTER (41 FR 56294, December 27, 1976). The Commission allowed interested persons an opportunity to submit written comments until March 28, 1977, and also permitted interested persons to make oral presentations, in Washington, D.C., on February 7 and 8, 1977; in San Francisco, California, on February 14, 1977; and in Los Angeles, California, on February 15, 1977.

(2) CALIFORNIA REGULATIONS

The California application concerned regulations of the California State Fire Marshal for the flammability of children's clothing that were issued on July 1, 1974. These regulations include the following requirements:

(a) On or after July 1, 1975 no item of children's clothing shall be sold or offered for sale in California unless such item has been tested and conforms to the criteria of acceptance specified in any one of the following standards: (i) Federal Standard FF 3-71, children's sleepwear sizes 0 through 6x as published in the FEDERAL REGISTER July 21, 1972, (ii) Federal Standard FF 5-74, children's sleepwear sizes 7 through 14 as published in the FEDERAL REGISTER May 1, 1974, (iii) any other standard approved by the State Fire Marshal which will provide a level of flame resistance substantially equivalent to the above children's sleepwear standards, or (iv) Commercial Standard CS 191-53 (Class 1 or Class 2), the mandatory federal standard for the flammability of clothing textiles.

(b) On or after July 1, 1976, no item of children's clothing which is flame retardant in accordance with the provisions of FF 3-71, FF 5-74, or any other standard approved by the State Fire Marshal shall be sold or offered for sale unless such item is labeled as being flame resistant in accordance with such standard.

(c) On or after July 1, 1977, no item of children's clothing which is not flame retardant and meets only the criteria of acceptance stipulated in CS 191-53 shall be sold or offered for sale unless such item bears cautionary labeling, as provided in the regulations. (In a later memorandum submitted to the Commission, dated December 15, 1976, the California State Fire Marshal stated that the effective date of the negative labeling provision had been postponed until January 1, 1978. For purposes of this application, the Commission has considered January 1, 1978 as the effective date of this provision.)

(d) On or after July 1, 1979, no item of children's clothing shall be sold or offered for sale unless such item is flame retardant and meets the criteria of acceptance stipulated in DOC FF 3-71, DOC FF 5-74, or any other standard approved by the State Fire Marshal.

(3) PREEMPTION OF THE CALIFORNIA REGULATIONS

At the present time the Consumer Product Safety Commission has in effect three flammability standards applicable to wearing apparel: Commercial Standard 191-53 (16 CFR Part 1610), which applies to general wearing apparel; FF 3-71 (16 CFR Part 1615) which applies to children's sleepwear in sizes 0 through 6x; and FF 5-74 (16 CFR Part 1616), which applies to children's sleepwear in sizes 7 through 14. The two flammability standards for children's sleepwear are more stringent than CS 191-53.

The California State Fire Marshal requests an exemption from preemption by CS 191-53 for the California children's clothing flammability regulations. He believes CS 191-53 covers the same items as the California regulations and is designed to protect against the same risk of occurrence of fire as the California regulations. He states that the federal standard is not identical to the state regulations since the federal standard does not require items of children's clothing meeting only the criteria of acceptance in CS 191-53 to bear cautionary labeling, when sold or offered for sale on or after January 1, 1978. In addition, CS 191-53 is not identical to the state regulation since it does not require items of children's clothing sold or offered for sale on or after July 1, 1979 to meet the criteria of acceptance stipulated in the federal flammability standards for children's sleepwear (or any other standard approved by the State Fire Marshal.)

B. COMMISSION CONSIDERATION OF THE MERITS OF THE APPLICATION—EFFECT ON INTERSTATE COMMERCE

Prior to granting any application for an exemption, the Commission is required to make the statutory findings that: (1) Compliance with the State or local government requirement would not result in violation of the federal requirement; (2) the State or local government requirement provides a significantly higher degree of protection from the risk of occurrence of fire than the federal requirements; and (3) the State or local government requirement does not unduly burden interstate commerce.

In determining whether a state or local government requirement affects interstate commerce, Section 16(c) of the FFA requires the Commission in its discretion to consider and make factual findings on the following enumerated factors:

(1) Whether it is technologically feasible to comply with the State or local government regulations;

(2) Whether it is economically feasible to comply with the State or local government regulations;

(3) Whether the cost of complying with the State or local government regulations would unduly burden interstate commerce;

(4) The geographic distribution of the products to which the State or local government regulations would apply;

(5) The probability that other State or local governments will apply for an exemption for a simliar flammability standard or other regulation; and

(6) The need for a national, uniform flammability standard or other regulation under the FFA for the products covered by the State or local government provision.

Before making a decision on this application, the Commission solicited written and oral comments from the State of California and all other interested persons on the issues related to the statutory findings. The Commission re-

ceived written and oral comments from the State of California; from industry representatives including trade associations, manufacturers, distributors, and retailers affected by the regulations; and from physicians, burn institutions, hospitals, and consumers. The Commission has based its decision on information received from these commentors, as well as information included in the application for an exemption.

(1) FACTUAL FINDINGS CONCERNING THE EFFECT ON INTERSTATE COMMERCE THAT WOULD BE CAUSED BY THE NEGATIVE LABELING PROVISION OF THE CALIFORNIA REGULATIONS

The California children's clothing flammability regulations provide that on or after January 1, 1978, no item of children's clothing which is not flame retardant and meets only the criteria of acceptance stipulated in Commercial Standard 191–53 (16 CFR Part 1610), shall be sold or offered for sale unless such item bears cautionary labeling, as provided in the regulations. In response to the proposed exemption from preemption published in the FEDERAL REGISTER on December 27, 1976, the Commission received the following information regarding the effect on interstate commerce of the regulations:

(a) *The economic feasibility of complying with the negative labeling requirement.* Oral and written comments received by the Commission stated that granting the requested exemption for the labeling provision of the California regulation would reduce the availability of the products in California, since most production facilities have assembly line methods of manufacturing that would require disruption in order to produce specially labeled items to be shipped to California. Some commentors stated that manufacturers outside the State of California would not manufacture garments for the California market, since it is not feasible to attach labels for the 10 percent of production intended for the California market. According to one oral commentor, California manufacturers would be placed at a competitive disadvantage since they would be required to label 40 percent or more of their sales as opposed to 10 percent of the children's wear sold by manufacturers outside the State of California.

One commentor undertook a cost study revealing that approximately 400 minutes of labor time would be required to affix labels to the 120 garments involved in the study. The specific time breakdown was as follows:

	Minutes
1. Remove polybag	24
2. Unbutton garment and remove hanger	120
3. Sew label and trim	90
4. Replace hanger and button garment	120
5. Rebag garment	34
6. Transport from distribution center to sewing room and back	12
Total	400

One commentor noted that the imposition of the California labeling requirements would act to accelerate the increase in product liability insurance for the wearing apparel industry.

Another commentor stated that the cost of the special labeling required to comply with the California regulations is estimated to be $20.00 per thousand labels.

Several commentors indicated that the absence of a negative labeling requirement for these products in neighboring states could lead California consumers to believe that the same products sold in neighboring states are safer than the products sold in California with a negative label. This could adversely affect the sale of California products.

Several commentors also noted, based on experience with children's sleepwear, that the presence of the negative labeling required by California would discourage consumers from buying such products that are negatively labeled.

The Commission finds that the preceding information presented by the comments concerning the economic feasibility of complying with the California regulations indicates a burden on interstate commerce.

(b) *The cost of complying with the negative labeling requirement.* One commentor undertook a cost study of the effect of the California negative labeling requirement on the retail price of a garment. Based on labor costs, the cost of materials, social security, unemployment, workman's compensation, pension benefits, and health insurance, the study indicated that compliance with the California labeling requirement would raise the cost of a $4.00 garment by 25 percent to $5.00. According to the commentor, the cost of higher priced garments would not be increased by the same percentage. Several commentors noted that the labels required by California would, as a practical matter, be sewn in as opposed to stick-on labels, since stick-on labels could fall off and create product liability problems.

Another commentor noted that the extra burden of maintaining separate production steps in applying labels for California goods would add costs to the California goods that can not be specifically allocated to California bound goods. Instead, the costs will be borne generally by consumers in all of the States.

The Commission finds that the preceding information presented by the comments concerning the economic feasibility of complying with the California regulations indicates a burden on interstate commerce.

(c) *The geographic distribution of the products to which the California labeling requirement would apply.* Several commentors indicated that the burden of the requirement of special labels for children's clothing intended for the California market would prevent out of state manufacturers, distributors, and retailers from marketing children's clothing in California. This could reduce the supply of children's clothing to California. The Commission finds that this information indicates that the California regulations would burden interstate commerce.

(d) *The probability that other states or local governments will apply for an exemption for similar labeling requirements in a flammability standard or other regulation.* The Commission did not receive any comments, oral or written, concerning the probability that other states or local governments will apply for an exemption for similar labeling requirements in a flammability standard or other regulation. Therefore, the Commission has not been able to find whether the probability of similar exemption requests would burden interstate commerce.

(e) *The need for a national, uniform flammability standard requiring negative labeling for products covered by the California regulations.* The Commission did not receive any comments, oral or written, concerning the need for a national, uniform flammability standard requiring negative labeling for products covered by the California regulations and did not receive any comments indicating any particular circumstances affecting the State of California that make it necessary for California to establish the negative labeling requirement in its regulations. Therefore, the Commission has not been able to make a factual determination based on these proceedings, concerning the need for a national, uniform flammability standard requiring negative labeling.

(f) *The technological feasibility of complying with the California labeling requirement.* The Commission did not receive any comments, oral or written, indicating that it is not technologically feasible to comply with the labeling provisions of the California regulations. Therefore, the Commission is unable to find that the technological feasibility of complying with the California labeling requirements would burden interstate commerce.

(2) FACTUAL FINDINGS CONCERNING THE BURDEN ON INTERSTATE COMMERCE THAT WOULD BE CAUSED BY THE PERFORMANCE REQUIREMENTS OF THE CALIFORNIA CHILDREN'S CLOTHING FLAMMABILITY REGULATIONS

The California children's clothing flammability regulations provide that on or after July 1, 1979, no item of children's clothing shall be sold or offered for sale unless such item is flame retardant and meets the criteria of acceptance stipulated in FF 3–71 (16 CFR Part 1615), the federal standard in effect under the FFA which applies to children's sleepwear in sizes 0 through 6x; or FF 5–74 (16 CFR Part 1616), the federal standard in effect under the FFA which applies to children's sleepwear sizes 7 through 14; or any other standard approved by the State Fire Marshall. In response to the proposed exemption from preemption published in the FEDERAL REGISTER on December 27, 1976, the Commission received the following information regarding the effect on interstate commerce of the regulations:

(a) *The technological feasibility of complying with the performance requirements of the California regulations.* The Commission received many oral and written comments indicating that it is not technologically feasible to comply with the requirement of the California regulations that by July 1, 1979, items of children's clothing must meet the criteria of acceptance stipulated in the federal flammability standards for children's sleepwear, or any other standard approved by the State Fire Marshal.

Comments received by the Commission stated that only a few fabrics can be treated to comply with the federal standards for children's sleepwear. According to those comments, 100 percent polyester fabrics, some 100 percent cotton fabrics (e.g. cotton flannels), and some 100 percent nylon fabrics can be treated. However, these fabrics represent only a small percentage (estimated at less than 4 percent) of the total volume of apparel textiles manufactured in the United States and are used for children's sleepwear. One comment received by the Commission furnished the following data on the current use of fabric in the children's wearing apparel market:

	Percent
100 percent polyester	10
100 percent nylon	8
Cotton/polyester	50
100 percent cotton	24
100 percent acrylic	6
Other	1

Comments received by the Commission noted that new technologies are necessary in order to make the other fabrics used in children's clothing comply with the California regulations.

Comments received by the Commission stated that absent new technologies, consumers would not be able to buy clothing made from polyester/cotton blends, one of the most popular fabrics for children's wear (comprising approximately 44–62 percent of the children's apparel market). Information received by the Commission stated that it is not possible to flame retard polyester/cotton blends to comply with the federal standards, since the means for treating polyester and cotton fibers are different and incompatible with each other. The commentor did point out that, in theory, a treatment process for polyester/cotton blends would be based on combining inherently treated polyester with cotton, and topically finishing the application with flame retardant chemicals to treat the cellulosic component of the fabric. However, the commentor noted that the flame retardant characteristics of any blend (including blends of two inherently flame retardant fibers) cannot be relied on, since two inherently flame retardant fibers, when woven together, may lose their flame retardant properties as a result of chemical and physical interaction.

According to the comment, there are also technological difficulties in imparting a flame retardant treatment to 100 percent cotton fabrics. (Comments received by the Commission indicated that 100 percent cotton fabrics represent approximately 28 percent of the children's apparel market at the present time). Although it is possible to flame retard cotton flannels and similar cotton fabrics, the comment stated that most other 100 percent cotton fabrics cannot be given flame retardant treatment. Other types of acceptable flame retardant treatments for cotton require the use of heavier fabrics which are generally appropriate only for industrial work clothing, tents, or outdoor fabrics. The commentor also stated that denim cannot be made flame retardant in accordance with the test procedures specified in the children's sleepwear standards unless product quality is sacrificed, in terms of severe loss of strength and abrasion resistance. Two chemical processes Pyrovatex CP and Fyrol 76, involving a phosphorous-nitrogen based resin system, are, according to the commentor, unsuitable as a result of loss of abrasion resistance and strength. The comment stated that these chemicals cause the durability of 100 percent cotton to be reduced at least 10–20 percent. Another process, involving precondensates of tetrakis hydroxymethyl phosphonium sulfate with urea, cured by ammonia (THPOH/Ammonia Cure), permits acceptable strength retention and durability but does not provide for the control of shrinkage during home washing. Lightweight cottons treated with an ammonia based cure may pass the children's sleepwear standard yet lose their permanent press qualities.

According to the commentor, there is also no commercially acceptable treatment for acrylic fabrics, which are the dominant fabrics used for sweaters. The commentor stated that unless new flame resistant fabrics are discovered, manufacturers would be compelled to manufacture their children's clothing from the few fabrics that can be successfully treated with a chemical flame retardant.

Several commentors noted that the discontinuance of the use of the flame retardant TRIS (2,3 dibromopropyl phosphate) may cause additional problems in obtaining an inexpensive and satisfactory flame retardant. One commentor pointed out that the California flammability regulations could lead to the development of untested chemical flame retardants based on brominated and chlorinated compounds that could expose children to biological hazards.

Comments received by the Commission indicated that there are many obstacles to developing flame resistant treatment. According to one comment, finishing steps must be perfected to impart softness, lubricity, and antistatic properties; technology must be developed for dyes to give desired color, as well as builders to give body; finishes to provide permanent press qualities, water repellancy, and soil resistance; and bleaches or brighteners to improve whiteness and color. In addition FR fabric must be durable since children's clothing is subject to repeated laundering. The federal children's sleepwear standards require samples to be flame resistant initially, as well as after 50 launderings using a high-phosphate detergent. According to this commentor, using low or non-phosphate detergents may reduce FR performance, especially in hard-water areas, since calcium and magnesium salts may accumulate on fabrics in hard water areas when high phosphate detergents are not used. The accumulation of calcium and fatty acid soap deposits can result in failure of the fabric to pass the test methods. The commentor pointed out that recent trends away from the use of high-phosphate detergents caused by restrictions imposed by States and consumer preference based on ecology reasons could increase the risk of flammability associated with non-phosphate or low phosphate detergents. The commentor also pointed out that many chemicals that may be effective flame retardants can not be used since they are either soluble or susceptible to degradation by some combination of detergents or bleaches.

One commentor observed that dyeing of FR-treated cellulosics and thermoplastics requires extensive technological modifications. Although children's sleepwear made of 100 percent polyester generally consists of pastels and light prints, fabrics used for general children's clothing require darker and brighter colors. According to one commentor, special equipment and new technology is required in order to obtain these colors, as well as additional polyester dyeing capacity. Since flame resistant fabrics generally repel water, the capacity to dye these products is impaired.

The commentor also described difficulties in handling and processing 100 percent polyester in the manufacturing process as a result of its generation of static electricity and tendency to pick up oil and grease spots, as well as unwanted colors from the processing equipment. The commentor also noted that special care must be used in handling polyester fabrics to avoid the pick up and retention of soil and observed that the equipment used in processing polyester must be specially cleaned and maintained. According to the commentor, application of the federal sleepwear standards to children's clothing made of 100 percent cellulosics would result in reduced wearing life and durability of this clothing.

One commentor noted that most inherently flame retardant fibers are corrosive to spinning and cording equipment, and are too weak to be used in woven goods, except in coordination with polyester for added strength. When inherently flame retardant fibers are used in woven goods constitutional factors become very limiting. In addition, inherent shrinkage characteristics of most modacrylic and vinyon fibers reduce their desirability.

Most of the preceding problems are encountered with any significant fiber modification or textile processing change. Many of these problems were encountered during development of the children's sleepwear standards and were resolved by the industry at that time. The California proposal would expand the requirements for flame resistant garments

to children's wear sold in California. Comments received by the Commission stated that companies making children's wear in general are not familiar with the special technologies required to produce flame resistant children's sleepwear garments. As a result, the necessary introduction of this special technology to these previously unaffected companies could be a burden.

Based on the preceding information presented by the comments concerning the technological feasibility of complying with the performance requirements of the California regulations, the Commission finds that this information indicates a burden on interstate commerce.

(b) *The economic feasibility of complying with the performance requirements of the California Regulations.* The Commission also received comments indicating that it is not economically feasible to comply with the California requirements. Many comments noted that there is insufficient complying fabric available to meet the demand if the California regulation became effective, although one commentor did observe that manufacturers of certain inherently flame retardant fibers could expand production to meet demand on reasonable notice. Several commentors alleged that the California requirements would reduce or eliminate the availability of certain fabrics for children's clothing, since these fabrics cannot, at the present time, be successfully treated with a flame retardant chemical. In addition, comments received by the Commission indicated that use of existing flame retardant methods would require compromises in desirable qualities of fabrics in terms of aesthetics, wearability, fashion, and comfort. One commentor explained, in detail, the two methods generally used to make children's sleepwear flame resistant: (1) Topical treatment of cellulosic and thermoplastic fabrics and (2) use of inherently flame resistant fibers. The commentor stated that these processes require extensive commitment of resources. According to this commentor, the leading inherently flame resistant fibers, vinyons and modacrylics, are expensive and unlikely to be used in large quantities for children's clothing.

FR chemicals incorporated into fibers by addition to spin melts or solutions are expensive and limited in selection, according to one commentor, since the chemicals must be stable to the spinning conditions which often involve high temperatures (250–300° C) and either acidic or basic conditions. This commentor also observed that, in dyeing FR-treated cellulosics and thermoplastics, more expensive rapidogens and fiber reactive dyestuffs are used in FR-treated cellulosics, as opposed to less expensive flammable pigment binder resins. More expensive disperse dyes are used with 100 percent polyester fabrics. According to this commentor, polyester dyeing capacity in the United States is sufficient to furnish less than one-fourth of the apparel market with medium and dark shade flame resistant polyester fabrics.

One commentor, in considering what percentage of fabrics presently used in articles of children's clothing would comply with the California regulations, provided the following figures:

80 percent of fabrics used in tops will *not* comply.

96 percent of fabrics used in bottoms will *not* comply.

95 percent of fabrics in woven coordinates will *not* comply.

95 percent of fabrics in knit coordinates will comply.

40 percent of outerwear is acrylic knit that will *not* comply.

35 percent of outerwear is woven nylon that will comply.

18 percent of outerwear is polyester cotton blend that *may* comply.

The Commission finds that the preceding information presented in the comments concerning the economic feasibility of complying with the California regulations indicates that the performance requirements in these regulations would burden interstate commerce.

(c) *The cost of complying with the performance requirements of the California regulations.* Comments received by the Commission stated that compliance with the performance requirements of the California flammability regulations would increase the price of children's clothing for California consumers and consumers outside California. Estimates of cost increases as a result of complying with the California regulations ranged from 25 to 65 percent.

Commentors noted that the California regulations would result in an increase in direct costs of manufacture as well as "indirect costs", resulting from loss of product performance, decreased consumer choice and potential effects on human health and safety. According to this commentor, these costs would be passed through the apparel industry to the consumer.

One commentor estimated that for specific garments, the added cost of making a shirt flame retardant is $.50, while the added cost is $1.50 for a pair of pants and $2.00 for a jacket.

Cost figures provided by another commentor revealed that the California regulations would have an anticipated textile price increase from 25 to 40 percent above the current price. This commentor provided figures indicating that in 1976 retail sales of outerwear for California children from ages 0–13 were $463,000,000. Based on cost and pricing experience, the commentor stated that percentage increases in textile prices are normally reflected in approximately equal increases in apparel prices. Thus, applying the lower estimate of a 25 percent increase to the available data, containing 1976 retail sales, outerwear prices would increase by $115,750,000. If the higher estimate of a 40 percent increase is applied to the data concerning 1976 retail sales, the increase in price would be $185,200,000. The commentor estimated that in 1976 there were 2.7 million families in California with children in the 0–13 age bracket, so that the additional cost for the average California family could range between $42.85 and $68.50 per year. The estimate would be lower if families bought less outerwear as a result of the California regulations, if California consumers bought clothing outside California, made their own clothes from less expensive fabric, or adopted adult clothing as children's clothing. The estimate would be higher as a result of indirect costs or added costs at other levels of the apparel industry.

The commentor described the elements of the cost of manufacture attributable to FR treatment as follows:

1. At the griege mill, for 100 percent cotton fabric, expenses would be incurred since a heavier substrate (more cotton) must be used to support FR treatment while retaining acceptable performance levels. Where 100 percent polyester is used, handling problems resulting from static electricity, soiling, and the necessity of spinning the yarns at slower speeds to prevent milling can result in a decrease in efficiency at the griege mill, affecting the end price of the fabric.

2. Processing expenses arise at the treatment stage from the cost of chemicals, other materials, capital expenditure, labor, the use of energy, research and development, and cost efficiency. Expenses also arise since colors of fabrics can present problems.

3. If a dual process treatment is designed for polyester/cotton blends, the use of two processes could increase the cost of the fabric.

4. In addition to costs associated with the treatment process, capital expenditures for flame retardant equipment would be required. As an example, a single unit for the THPOH/Ammonia cure process costs approximately $200,000. Since this process is relatively slow, more than one unit would be required in any substantial mill producing FR fabrics complying with the California regulations.

5. Although the assistant California State Fire Marshal stated that the California regulations did not incorporate testing and recordkeeping requirements, the commentor alleged that the risk of product liability, return of products, and damage to reputation, would, as a practical matter, require extensive testing and recordkeeping. Several commentors noted that the increased recordkeeping and testing costs that would be associated with the California regulations would raise the price of the fabric approximately 7–10 percent.

6. There would also be increased energy costs, since present flame retardant processes are energy intensive. In addition, inventory and warehousing expenses would be increased as a result of the necessity to segregate flame retardant fabrics and non-flame retardant fabrics.

Based on experience with fabric for children's sleepwear, the commentor estimated average costs *per yard* for the following fabrics complying with the California regulations:

1. 100 percent cotton fabric (lightweight—five ounces or less per yard), using the THPOH/Ammonia process:

	Per yard
Chemicals	$0.10
Process, labor overhead	.13
Energy	.02
Equipment depreciation, taxes	.005
Warehousing and inventory	.002
Testing	.02
	.277

2. 100 percent polyester fabric (lightweight—five ounces or less per yard):

	Per yard
Chemicals	$0.025
Process, labor overhead	.10
Energy	.005
Equipment depreciation, taxes	.001
Warehousing and inventory	.002
Testing	.02
	.153

The commentor indicated that these cost estimates would be increased as a result of the decrease in volume associated with flame retarding fabric to comply with the California regulations. Several comments noted that producing fabric to comply with the California regulations would result in diseconomies of scale, leading to increased costs of production. For fabric runs in a lot of 100,000 yards, decreased economies would add approximately five percent to the total cost of producing the fabric in 5,000 yard lots according to one commentor. Processing fabric in smaller lots would lead to multiplication of waste and clean up efforts, and the problem of seconds resulting at the start of every dye run.

Another commentor pointed out that the increase in the cost of wool garments complying with the California regulations would be at least 20–30 percent.

Another commentor, in estimating chemical costs for treating fabric, noted that treatment of 100% cotton fabrics, using THPOH/Ammonia cure, costs approximately 30–45 cents per pound of fabric treated.

Another commentor stated that inefficiency created by the FR treatment process would cause production to be slower and increase the potential error factor. In addition, research and development costs for flame retardation would be increased.

The commentor stated that the increased textile manufacturing costs would be passed on to consumers, as a result of the high volume and low profit margin nature of the textile industry.

The commentor described the following indirect costs resulting from the California regulations:

1. The costs associated with diminished consumer choice, e.g., variations of polyester/cotton blends and denims;

2. The costs associated with sacrifice in durability, permanent press characteristics, shrinage control, hand, and color; and

3. Costs created by the use of organic substances as a result of their potential impact on consumer safety, occupational health and safety, and the environment.

The increased costs or technological difficulties that several commentors state are associated with flame retarding children's clothing made of cotton may result in a decline in the use of cotton in the children's apparel market. At the present time this market annually uses 270,000 bales of 100 percent cotton and 475,760 bales of cotton polyester.

Another commentor noted that if the California regulations become effective, any shortages or unavailability of flame retardant fabrics resulting from the requirements of these regulations and the reluctance of the textile industry to produce fabric to comply with the California regulations could force California manufacturers out of business.

The Commission finds that the preceding information presented in the comments concerning the cost of complying with the California regulations indicates that the performance requirements in these regulations would burden interstate commerce.

(d) *The geographic distribution of the products to which the performance requirements of the California regulations would apply.* The Commission received comments stating that the apparel and textile industries are national in nature, and would be burdened by the California regulations. According to one commentor, in 1976 total retail sales of children's outerwear in the U.S. were $5.213 billion, of which $463 million, or approximately nine percent, were sold in California. Based on 1975 Bureau of Labor Statistics, the commentor noted that California produces only about three percent of the nation's children's outerwear. In comparing these statistics the commentor observed that even if all of the children's outerwear produced in California were sold in California, children's outerwear with a value of at least $308.7 million was imported into California. According to this commentor, since the concentration of textile plants is heaviest in the southeastern part of the country, the treatment process to be regulated by California occurs primarily in states that are located farthest from California.

Based on experience associated with children's sleepwear, another commentor stated that imposition of the California regulations would result in the elimination of foreign imports of children's clothing to California.

Another commentor stated that if the California request were granted, retailers would be required to conduct separate advertising campaigns in California since the California merchandise would differ from merchandise sold in the rest of the country. This commentor estimated that increases in the cost of an advertising campaign could be approximately $125,000, while the cost of a separate catalog for California could be between $500,000 and $750,000.

The Commission finds that the preceding information presented in the comments concerning the geographic distribution of the products covered by California regulations indicates that the performance requirements in these regulations would burden interstate commerce.

(e) *Probability that other States or local governments will apply for an exemption for similar performance requirements in a flammability standard or other regulation.* The Commission received several comments stating that it is likely other states would adopt similar regulations and would apply for an exemption if the California application is granted.

Comments received by the Commission indicated that nine states—Texas, Colorado, Massachusetts, Michigan, New Hampshire, New York, Washington, Arkansas, and Wisconsin—have indicated an interest in flammability regulations. According to one commentor, Texas has enacted a statute authorizing the issuance of standards applicable to all types of children's apparel.

Based on this information presented in the comments, the Commission finds that the performance requirements in the California regulation would burden interstate commerce.

(f) *The need for a national uniform flammability standard imposing performance requirements on products covered by the California regulations.* The Commission received oral and written comments indicating that there are no particular circumstances making it necessary for California to establish its regulations. Comments received by the Commission stated that there is a need for national regulation, and that national regulation is preferable to state regulation in this area.

Based on this information presented in the comments, the Commission finds that the performance requirements in the California regulations would burden interstate commerce.

(3) ALLEGED BENEFIT TO PUBLIC HEALTH AND SAFETY THAT WOULD BE PROVIDED BY THE CALIFORNIA REGULATIONS

The Commission has received the following information concerning the alleged benefit to public health and safety that would be provided by the California regulations:

(a) *Negative labeling.* Several commentors stated that the negative labeling provisions of the California regulations would be effective in reducing the sale of the garments negatively labeled and would be an effective means of conveying information to the consumer. Other commentors noted that, based on experience with children's sleepwear, the presence of negative labeling on sleepwear did not deter consumers from purchasing these articles.

(b) *Performance requirements.* Several commentors questioned the need for applying the performance requirements specified in the federal children's sleepwear standards to all articles of children's clothing. Commentors pointed out that the burn scenarios for children's clothing, or ways in which children are burned wearing children's clothing, have not been made clear, so that the risks associated with children's clothing are undefined. One commentor pointed out

that for certain burn scenarios, such as gasoline ignition, compliance with the performance requirements specified in the federal children's sleepwear standards may not provide any additional protection than that afforded by Commercial Standard 191–53. In addition, the commentor pointed out that while performance requirements of the California regulations could provide benefits for certain articles of children's clothing, such as parkas and outerwear, benefits associated with application of the California regulations to other articles of children's clothing, such as girl's dresses, would be speculative. Many commentors indicated their opposition to the California regulations, since these regulations may lead to the increased use of untested chemicals that may be harmful to human beings.

On the other hand, several commentors pointed out that the performance requirements in the California regulations are more stringent than the federal flammability standard currently in effect for these products, CS 191–53. Other commentors indicated that the performance requirements of the California regulations would provide more protection than the current federal flammability standard, CS 191–53.

The California State Fire Marshall, in a memorandum accompanying his application for an exemption, stated that an analogy should be drawn from the benefits provided by the federal children's sleepwear regulations to the benefits that would be provided by the imposition of the performance requirements of these regulations to all articles of children's clothing. The memorandum stated that large losses of life and injuries to children must be due to children's clothing, other than sleepwear. Some commentors stated that fires involving children frequently also involved children's clothing and often inflicted severe burn injuries. One commentor, in referring to a study conducted by the Shriners' Burn Institute, stated that of 583 acute admissions to the burn care facility, 61 percent of the burns to children involved clothing. In this study, according to the commentor, the most frequently burned garments for boys were shirts (30 percent), and trousers (25 percent). For girls, the most frequently burned garments were dresses (28 percent) and nightgowns (22 percent). The commentor referred to another study, a paper published by Food Machinery Corporation and Guilford Mills indicating that there have been 3,000 deaths and more than 150,000 injuries resulting from burns associated with flammable fabrics in the last few years. According to the commentor, this study indicated that at least six percent of the fatalities and injuries involved small children's sleepwear, while 94 percent of the fatalities involved other types of clothing and other age groups. Another commentor referred to a survey conducted in California in 1971 that revealed 1,200 children suffering severe clothing burns and requiring a total of 24,000 days of hospitalization. Several commentors pointed out that injury collection sources for burn injuries are inadequate, and may lead to gross underreporting of injuries. Other commentors referred to other statistics concerning the frequency of fires involving nonsleepwear children's clothing in support of the conclusion that there is a need to protect children from the risk of injury from fire associated with children's clothing.

One commentor noted that the California regulations could be effective in protecting children against gasoline fires. The commentor cited burn injuries associated with gasoline reported to the American Academy of Pediatrics. In one injury, the child was wearing flame retardant pajamas and received no deep burns or scars. However, in the other injury, the child was wearing outer clothing that was not flame retardant and received burns to 90 percent of his body.

C. DETERMINATION THAT THE BURDEN ON INTERSTATE COMMERCE IS UNDUE—DENIAL OF CALIFORNIA APPLICATION—WITHDRAWAL OF PROPOSED EXEMPTION

After having made the factual findings specified by section 16(c) of the FFA in determining whether the California regulations burden interstate commerce, the Commission must also consider whether the burden on interstate commerce is undue.

The State of California, through its Fire Marshal, has itself recognized that imposition of the California flammability regulations for children's clothing could have a substantial impact on interstate commerce. In its application, the State claimed that although the burden was not an undue one, the regulations would have an effect on interstate commerce. The State also indicated, in its application, that if the regulation became effective some fabrics could no longer be made available in the California market since they do not comply. According to California, these fabrics might be made available through advanced technology. In written comments submitted to the Commission, the California State Fire Marshal included a January 1977 study concerning the availability, cost, and effectiveness of flame resistant fabrics suitable for children's clothing made from such fabrics. The Fire Marshal recognized that the vast majority of consumers would not consider the few available flame retardant fabrics to be satisfactory for most articles of children's clothing. The Fire Marshal also indicated that present flame retardant technology has not yet provided a satisfactory method for treating cottons or cotton/polyester blends while meeting consumer expectations. According to the Fire Marshal, the annual increased cost to California consumers of complying with the California flammability regulations would be at least $150 million, and could be as much as $250 million.

Since the application submitted by the State of California and comments filed with the Commission by the State and other persons have not shown that the burden of the California regulations on interstate commerce is outweighed by any benefit to public health and safety that may be provided by the California regulations, the Commission determines that the burden on interstate commerce is undue. Although the State of California alleged in its application that compliance with the State regulations would not result in a violation of the federal requirements and that the State regulations provide a significantly higher degree of protection than the federal requirements, the Commission believes that it is unnecessary to make findings on these issues, since the Commission has determined that the California regulations would unduly burden interstate commerce. The Commission, as provided in section 16(c) of the FFA, must accordingly deny the application for an exemption from preemption submitted by the State of California for its children's clothing flammability regulations. Since the Commission has decided to deny the California application, the Commission also withdraws the proposed § 1605.1 of Title 16, Chapter II, Subchapter D, published in the December 27, 1976 FEDERAL REGISTER (41 FR 56294).

(Sec. 16(c), 81 Stat. 574, as amended 90 Stat. 512–513 (15 U.S.C. 1203(c)); sec. 30(b), Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079(b)).)

Dated: August 1, 1977.

SADYE E. DUNN,
Deputy Secretary,
Consumer Product Safety Commission.

[FR Doc.77-22404 Filed 8-3-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Minimum Funding Standards for Pension Plans

CROSS REFERENCE.—For the text of a temporary regulation relating to the determination of actuarial costs under the minimum funding standards for defined benefit pension plans, which serves as a notice of proposed rulemaking, see FR Doc. 77–22050 in the Rules and Regulations Section of this issue of the FEDERAL REGISTER.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 154, 155, and 156]

[CGD 75–124]

POLLUTION PREVENTION

Vessel and Oil Transfer Facilities; Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for proposed rules.

SUMMARY: The Coast Guard published proposed rules in the FEDERAL REGISTER of June 27, 1977 (42 FR 32670) to amend the pollution prevention regulations for vessels and oil transfer facilities. This notice extends the comment period to September 2, 1977. The original closing date was August 11, 1977. Two requests have been received to extend the comment period in order to allow additional time for a thorough review of the proposal.

DATES: As explained above, comments must be received on or before September 2, 1977.

ADDRESSES: As explained in the notice of proposed rule making published on June 27, 1977, comments should be submitted to Commandant (G-CMC/81) U.S. Coast Guard, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–1477.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander Harvey G. Knuth, Project Manager, Office of Marine Environment and Systems, and Stephen D. Jackson, Project Attorney, Office of the Chief Counsel.

(Sec. 311(j)(1)(C) and (D), Pub. L. 92–500, as amended, Sec. 2, 86 Stat. 868, as amended, (33 U.S.C. 1321(j)(C) and (D); E.O. 11735, 3 CFR 1966–1970 Comp., p. 949; (49 CFR 1.46(m)).)

E. L. PERRY,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc.77-22407 Filed 8-3-77;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 17]

MEDICAL INFORMATION

Grants for Exchange

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: These proposed amendments apply standards for obtaining consistency and uniformity among Federal agencies in the administration of grants. The amendments incorporate requirements of the Office of Management and Budget. In addition organizational titles have been updated, the title of the subcommittee has been changed to the Subcommittee on Academic Affairs, and minor editorial changes have been made to reflect agency policy of using precise terms denoting gender.

DATES: Comments must be received on or before September 6, 1977. It is proposed to make these amendments effective the date of final approval.

ADDRESSES: Send written comments to:

Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. Shamaskin, Deputy Director, Learning Resources Service (142A), Office of Academic Affairs, 810 Vermont Ave. NW., Washington, D.C. 20420, 202–389–3811.

SUPPLEMENTARY INFORMATION: The Administrator of Veterans Affairs proposes regulatory changes to Part 17, Title 38, Code of Federal Regulations, relating to grants under 38 U.S.C. 5055 for programs for the exchange of Medical Information.

Section 17.266 provides procedures for application for a grant. Among the assurances is a requirement that records will be retained for a period of 3 years after final payment unless, prior to that time, such records have been audited. The proposed amendment clarifies the retention period if litigation, claims or audit is started before the end of the 3-year period.

Section 17.285 provides procedures for suspension and termination of a grant. The proposed amendment is in concert with Office of Management and Budget Circular A–110. This section provides procedures for resolution of postaward disputes.

Section 17.286 provides procedures when a grantee cancels its obligations under an agreement for the exchange of information. The proposal revokes this section since it is incorporated as part of § 17.285.

Section 17.290 provides that grant payments may be made in advance in a lump sum or in scheduled payments, whichever method will best achieve project objectives. The proposed amendment has been rewritten and expanded in scope to provide procedures for payment of grant funds through a letter-of-credit, an advance by Treasury check or a reimbursement by Treasury check, as appropriate.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until September 16, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office Veterans Services Unit in the above room number.

INFLATION IMPACT.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: July 27, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. Sections 17.261 and 17.262 are revised to read as follows:

§ 17.261 The Subcommittee on Academic Affairs.

There is established within the Special Medical Advisory Group authorized under the provisions of 38 U.S.C. 4112(a) a Subcommittee on Academic Affairs, and the Subcommittee shall advise the Administrator, through the Chief Medical Director, in matters pertinent to achieving the objectives of programs for exchange of medical information. The Subcommittee shall review each application for a grant and prepare a written report setting forth recommendations as to the final action to be taken on the application.

§ 17.262 Ex Officio Member of Subcommittee.

The Assistant Chief Medical Director for Academic Affairs shall be an ex officio member of the Subcommittee on Academic Affairs.

2. In § 17.266, paragraph (e) is revised to read as follows:

§ 17.266 Applications.

Each application for a grant shall be submitted to the Chief Medical Director on such forms as shall be prescribed and shall include the following evidence, assurances, and supporting documents:

* * * * * *

(e) *To include assurance records will be kept.* Each application shall include sufficient assurances that the applicant shall keep records which fully disclose the amount and disposition of the proceeds of the grant, the total cost of the project or undertaking in connection with which the grant is made or used, the portion of the costs supplied by non-Federal sources, and such other records as will facilitate an effective audit. All such records shall be retained by the applicant (grantee) for a period of 3 years after the submission of the final expenditure report, or if litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved, and

* * * * * *

3. In § 17.270, the introductory portion preceding paragraph (a) and paragraph (a) are revised to read as follows:

§ 17.270 Awards procedures.

Applications for grants for planning or implementing agreements for the exchange of medical information or information facilities shall be reviewed by the Chief Medical Director or designee. If it is determined approval of the grant is warranted, recommendations to that ef-

fect shall be made to the Administrator in writing and shall be accompanied by the following:

(a) The recommendation for approval shall be accompanied by the written recommendation of the Subcommittee on Academic Affairs, and

* * * * *

4. Sections 17.281 and 17.285 are revised to read as follows:

§ 17.281 Authority to approve applications discretionary.

Notwithstanding any recommendation by the Subcommittee on Academic Affairs of the Special Medical Advisory Group, or any recommendation by the Chief Medical Director or designee, the final determination on any application for a grant rests solely with the Administrator.

§ 17.285 Suspension and termination procedures.

Termination of a grant means the cancellation of Veterans Administration sponsorship, in whole or in part, under an agreement at any time prior to the date of completion. Suspension of a grant is an action by the Veterans Administration which temporarily suspends Veterans Administration sponsorship under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the Veterans Administration.

(a) *Posttermination appeal.* The following procedures are applicable for reviewing postaward disputes which may arise in the administration of or carrying out of the Exchange of Medical Information Grant Program.

(1) *Reviewable decisions.* The Veterans Administration reserves the right to terminate any grant in whole or in part at any time before the date of completion, whenever it determines that the grantee has failed to comply with conditions of the agreement, or otherwise failed to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) *Notice.* The Veterans Administration shall promptly notify the grantee in writing of the determination. The notice shall set forth the reason for the determination in sufficient detail to enable the grantee to respond, and shall inform the grantee of his or her opportunity for review by the Assistant Chief Medical Director as provided in this section.

(3) *Request for appeal.* A grantee with respect to whom a determination described in paragraph (a)(1) of this section has been made, and who desires review, may file with the Assistant Chief Medical Director for Academic Affairs an application for review of such determination. The grantee's application for review must be post-marked no later than 30 days after the postmarked date of notification provided pursuant to paragraph (a)(2) of this section.

(4) *Contents of request.* The application for review must clearly identify the question or questions in dispute, contain a full statement of the grantee's position in respect to such question or questions, and provide pertinent facts and reasons in support of his or her position. The Assistant Chief Medical Director for Academic Affairs will promptly send a copy of the grantee's application to the Veterans Administration official responsible for the determination which is to be reviewed.

(5) *Effect of submission.* When an application for review has been filed no action may be taken by the Veterans Administration pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend the system under a grant during proceedings under this section or otherwise to withhold or defer payments under the grant.

(6) *Consideration of request.* When an application for review has been filed with the Assistant Chief Medical Director for Academic Affairs, and it has been determined that the application meets the requirements stated in this paragraph, all background material of the issues shall be reviewed. If the application does not meet the requirements, the grantee shall be notified of the deficiencies.

(7) *Presentation of case.* If the Assistant Chief Medical Director for Academic Affairs believes there is no dispute as to material fact, the resolution of which would be materially assisted by oral testimony, both parties shall be notified of the issues to be considered, and take steps to afford both parties the opportunity for presenting their cases, at the option of the Assistant Chief Medical Director for Academic Affairs, in whole or in part in writing, or in an informal conference. Where it is concluded that oral testimony is required to resolve a dispute over a material fact, both parties shall be afforded an opportunity to present and cross-examine witnesses at a hearing.

8. *Decision.* After both parties have presented their cases, the Assistant Chief Medical Director for Academic Affairs shall prepare an initial written decision which shall include findings of fact and conclusions based thereon. Copies of the decision shall be mailed promptly to each of the parties together with a notice informing them of their right to appeal the decision of the Administrator, or to the officer or employee to whom the Administrator has delegated such authority, by submitting written comments thereon within a specified reasonable time.

(9) *Final decision.* Upon filing comments with the Administrator, or designated officer or employee, the review of the initial decision shall be conducted on the basis of the decision, the hearing record, if any, and written comments submitted by both parties. The decision shall be final.

(10) *Participation by a party.* Either party may participate in person, or by counsel pursuant to the procedures set forth in this section.

(b) *Termination for convenience.* The Veterans Administration or the grantee may terminate a grant in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Veterans Administration shall allow full credit to the grantee for the Veterans Administration share of the noncancellable obligations, properly incurred by the grantee prior to termination.

(c) *Suspension procedures.* When a grantee has failed to comply with the terms of the grant agreement and conditions or standards, the Veterans Administration may, on reasonable notice to the grantee, suspend the grant and withhold further payments, prohibit the grantee from incurring additional obligations of funds, pending corrective action by the grantee, or make a decision to terminate as described in paragraph (a) of this section. The Veterans Administration shall allow all necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal cost principles.

§ 17.286 [Revoked]

5. Section 17.286 is revoked.

6. Sections 17.287 and 17.290 are revised to read as follows:

§ 17.287 Recoupments and releases.

In any case where the Veterans Administration's or a grantee's obligations under an exchange of information agreement imolemented by grant funds are terminated, or where grant-financed equipment or facilities cease to be used for the purposes for which grant support was given, or when grant-financed property is transferred, the grantee shall return the proportionate value of such equipment or facility as was financed by the grant. When it is determined the Veterans Administration's equitable interest is greater than proportionate value, then a claim in such greater amount shall be asserted. If it is determined an amount less than proportionate value or less than the Veterans Administration's equitable interest should be recouped, or that the Veterans Administration should execute any releases, then a proposal concerning such a settlement or releases complete with explanations and justifications shall be submitted to the Assistant Chief Medical Director for Academic Affairs for a final determination.

§ 17.290 Payments.

Payments of grant funds are made to grantees through a letter-of-credit, an advance by Treasury check, or a reimbursement by Treasury check, as appropriate. A letter-of-credit is an instrument certified by an authorized official

of the Veterans Administration which authorizes the grantee to draw funds when needed from the Treasury, through a Federal Reserve bank and the grantee's commercial bank and shall be used by the Veterans Administration where all the following conditions exist: (a) When there is or will be a continuing relationship between the grantee and the Veterans Administration for at least a 12-month period and the total amount of advance payments expected to be received within that period is $250,000, or more; (b) when the grantee has established or demonstrated the willingness and ability to maintain procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and (c) when the grantee's financial management meets the standards for fund control and accountability. An advance by Treasury check is a payment made to a grantee upon its request before outlays are made by the grantee, or through use of predetermined payment schedules and shall be used by the Veterans Administration when the grantee meets all of the above requirements of this section except that advances will be less than $250,000, or for a period less than 12 months. Reimbursement by Treasury check is a payment made to a grantee upon request for reimbursement from the grantee and shall be the preferred method when the grantee does not meet the requirements of paragraphs (b) and (c) of this section. This method may be used on any construction agreement, or if the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program. When the reimbursement method is used, the Veterans Administration shall make payment within 30 days after receipt of the billing, unless billing is improper. Unless otherwise required by law, payments shall not be withheld for proper charges at any time during the grant period unless a grantee has failed to comply with the program objectives, award conditions, or Federal reporting requirements; or the grantee is indebted to the United States, and collection of the indebtedness will not impair accomplishment of the objectives of a project or program sponsored by the United States. Under such conditions, the Veterans Administration may, upon reasonable notice, inform the grantee that payments will not be made for obligations incurred after a specified date until all the conditions are corrected or the indebtedness to the Federal government is liquidated.

[FR Doc.77-22397 Filed 8-3-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

THIRD CLASS

Certifications by Nonprofit Third Class Bulk Mailers

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would add a reference in postal regulations to two Postal Service forms filed with the Postal Service at the time of mailing by nonprofit third-class bulk mailers. The forms would also be revised to include certain express certifications that mailers filing such forms are in compliance with postal regulations pertinent to such mailings. These proposed changes in the regulations and the forms result from a settlement agreement in two lawsuits.

DATE: Comments must be received on or before September 15, 1977.

ADDRESS: Written comments should be directed to Mr. Theodore W. Troy, Acting Director, Office of Mail Classification, Rates & Classification Department, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Arthur S. Cahn, 202-245-4604.

SUPPLEMENTAL INFORMATION: Section 134.57 of the Postal Service Manual provides as follows:

"An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail *only* its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special third-class rates to any other person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates for qualified nonprofit organizations if one or more of the cooperating persons or organizations is not entitled itself to the special rates. Cooperative mailings involving the mailing of matter in behalf of or produced for an organization not authorized to mail at the special bulk third-class rates for qualified nonprofit organizations must be paid at the applicable regular rate. If customers disagree with a postmaster's decision that the regular rate of postage applies to a particular mailing, the procedures in 146.14 may be followed."

The Postal Service proposes to add at the end of 134.57 a new sentence referring to Postal Service Forms 3602 and 3602-PC, which must be submitted to the Postal Service by the mailer with each mailing pursuant to 134.424 of the Manual. The new sentence would read as follows: "See Form 3602, *Statement of Mailing with Permit Imprints* or Form 3602-PC, *Statement of Mailing—Bulk Rates* for the certifications required to be made by nonprofit mailers undertaking third-class bulk mailings under 134.57."

The Postal Service also proposes to add to Postal Service Forms 3602 and 3602-PC the following statements to which the signer of such a form would certify:

"The signature of a nonprofit mailer certifies that: (1) The mailing does not violate the provisions of § 134.57, Postal Service Manual; (2) Only the mailer's matter is being mailed; and (3) This is not a cooperative mailing with other persons or organizations that are not entitled to special bulk mailing privileges; and (4) This mailing has not been undertaken by the mailer on behalf of or produced for another person or organization that is not entitled to special bulk mailing privileges."

Copies of the Forms 3602 and 3602-PC with the proposed language are reproduced below.

FOR ZONE RATED MAIL USE PS FORM 3605

U.S. POSTAL SERVICE STATEMENT OF MAILING WITH PERMIT IMPRINTS	MAILER: Complete all items by typewriter, pen or indelible pencil. Prepare in duplicate if receipt is desired. Check for instructions from your postmaster regarding box labelled "RCA Offices".	PERMIT NO.

POST OFFICE	DATE	RECEIPT NO.	NUMBER OF SACKS	TRAYS	OTHER CONTAINERS

CHECK APPLICABLE BOX

- ☐ 1st Class single piece rate
- ☐ 2nd—Newspapers and magazines entered at Transient rate.
- ☐ 3rd—Merchandise less than 16 ozs.
- ☐ 4th Library rate
- ☐ International
- ☐ Presorted 1st Class rate
- ☐ 3rd—Circulars and other printed matter.
- ☐ 3rd—Books or catalogs of 24 pages or more seeds, etc., less than 16 ozs.
- ☐ Special 4th rate
- ☐ Presorted Special 4th Class

NAME AND ADDRESS OF PERMIT HOLDER (Include ZIP Code)	TELEPHONE NO.	WEIGHT OF A SINGLE PIECE oz.	NO. PIECES IN POUND	RCA Offices:

TOTAL IN MAILING: PIECES	TOTAL IN MAILING: POUNDS	RATE CHARGEABLE	AT	TOTAL POSTAGE
		☐ PIECE ☐ POUND	¢	$

☐ Check if non-profit under 134.5, PSM *

FIRST-CLASS PRESORT COMPUTATION (If applicable)

NAME AND ADDRESS OF INDIVIDUAL OR ORGANIZATION FOR WHICH MAILING IS PREPARED (If other than permit holder)		NO. PIECES	AT	AMOUNT
	PRESORTED PIECES		¢	$
	RESIDUAL PIECES	NO. PIECES *	¢	$
	TOTAL COMPUTED NET POSTAGE ⟹			$

Mailer (other than authorized nonprofit organization) must check here whether his total mailings made at bulk third-class rates at all post offices, under any name or permit, for the current calendar year, exceed 250,000 pieces. ☐ YES ☐ NO

* The signature of a nonprofit mailer certifies that: (1) The mailing does not violate section 134.57, PSM; and (2) Only the mailer's matter is being mailed; and (3) This is not a cooperative mailing with other persons or organizations that are not entitled to special bulk mailing privileges; and (4) This mailing has not been undertaken by the mailer on behalf of or produced for another person or organization that is not entitled to special bulk mailing privileges.

SIGNATURE OF PERMIT HOLDER OR AGENT (Both principal and agent are liable for any postage deficiency incurred)	TELEPHONE NO.

PS Form 3602 July 1977 — Willful Entry of false, fictitious or fraudulent statements or representations hereon punishable by fine up to $10,000 or imprisonment up to 5 years, or both (18 USC 1001).

FOR ZONE RATED MAIL USE PS FORM 3605

U.S. POSTAL SERVICE STATEMENT OF MAILING BULK RATES	MAILER: Complete all items by typewriter, pen or indelible pencil. Prepare in duplicate if receipt is desired. Check for instructions from your postmaster regarding box labelled "RCA Offices".	PERMIT NO.

POST OFFICE	DATE	RECEIPT NO.	NUMBER OF SACKS	TRAYS	OTHER CONTAINERS

- ☐ 1st—Letters, written matter, post cards, at presort discount rate.
- ☐ 3rd—Circulars and other printed matter.
- ☐ 3rd—Merchandise less than 16 ozs.
- ☐ 3rd—Books or catalogs of 24 pages or more, seeds, etc., less than 16 ozs.

RCA Offices:

NAME AND ADDRESS OF PERMIT HOLDER (Include ZIP Code)	TELEPHONE NO.	Postage is being paid by: (Check one) ☐ Pre-canceled Stamps ☐ Meter Stamps
		Number of pieces in mailing: / Weight of a single piece: oz.
☐ Check if non-profit under 134.5, PSM*		Postage chargeable per piece:

NAME AND ADDRESS OF INDIVIDUAL OR ORGANIZATION FOR WHICH MAILING IS PREPARED (If other than permit holder)

☐ CHECK HERE, if mailing is not eligible for discount and mailer elects to pay the full rate.

PRESORT DISCOUNT IF APPLICABLE

_____ pieces at _____ ¢ discount

Mailer (other than authorized nonprofit organization) must check here whether his total mailings made at bulk third-class rates at all post offices, under any name or permit, for the current calendar year, exceed 250,000 pieces. ☐ YES ☐ NO

* The signature of a nonprofit mailer certifies that: (1) the mailing does not violate section 134.57, PSM; and (2) Only the mailer's matter is being mailed; and (3) This is not a cooperative mailing with other persons or organizations that are not entitled to special bulk mailing privileges; and (4) This mailing has not been undertaken by the mailer on behalf of or produced for another person or organization that is not entitled to special bulk mailing privileges.

SIGNATURE OF PERMIT HOLDER OR AGENT (Both principal and agent are liable for any postage deficiency incurred)	TELEPHONE NO.

PS Form 3602-PC July 1977 — Willful Entry of false, fictitious or fraudulent statements or representations hereon punishable by fine up to $10,000 or imprisonment up to 5 years, or both (18 USC 1001).

Under the provisions of 39 CFR 111.3, the Postal Service is proposing to add the above-described sentence at the end of 134.57 of the Postal Service Manual, Chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1. Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on certifications proposed to be added to Postal Service Forms 3602 and 3602-PC and on the following proposed revision of the Postal Service Manual:

PART 134—THIRD CLASS

In part 134 of the Postal Service Manual, add at the end of .57 the following sententence:

134.57 What May Be Mailed at the Special Bulk Third-Class Rates for Qualified Nonprofit Organizations.

* * * * *

See Form 3602, *Statement of Mailing with Permit Imprints* or Form 3602-PC, *Statement of Mailing—Bulk Rates* for the certifications required to be made by nonprofit mailers undertaking third-class bulk mailings under 134.57.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted. (39 U.S.C. 401(2))

LOUIS A. COX,
General Counsel.

[FR Doc.77-22381 Filed 8-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 20]

[FRL 726-5]

CERTIFICATION OF FACILITIES

Certification of Pollution Control Facilities To Conform to Tax Reform Act of 1976

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulations would revise EPA provisions for certification of pollution control facilities. The amendments are necessary to implement reinstated provisions of the Internal Revenue Code authorizing rapid amortization of certified pollution control facilities.

DATES: Comments must be received on before September 6, 1977.

ADDRESS: Written comments should be addressed to: Environmental Protection Agency, Office of General Counsel, Division of Grants, Contracts and General Administration (A-134), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Donnell L. Nantkes, Office of General Counsel, telephone 202-755-0775.

SUPPLEMENTARY INFORMATION: The proposed regulations would revise EPA provisions for certification of pollution control facilities to be consistent with section 2112 of the Tax Reform Act of 1976 (Pub. L. 94-455, Oct. 4, 1976), which reinstated the provisions of the Internal Revenue Code (26 U.S.C. 169) authorizing rapid amortization of certified pollution control facilities.

Section 2112 of the Act changed the definition of "certified pollution control facilities" to include equipment which "prevents" the creation of pollutants; e.g., fuel desulfurization equiment used in connection with a taxpayer's plant. The new law further provides that the term "certified pollution control facility" does not include a facility which "significantly" increases the output or capacity, extends the useful life, or reduces the total operating costs of the plant or other property with which it is used. (The Conference Committee indicated that any increase, extension, or reduction greater than 5 percent was to be considered "significant" and that this percentage was to be applied to the "operating unit" of the plant most directly associated with the pollution control facility. See House Report No. 94-1515, page 498).

The benefits of section 169 are now available with respect to facilities used in connection with a plant or other property in operation before December 31, 1976 (the former law established December 31, 1969, as the operable date). Further, as to facilities installed after December 31, 1976, a taxpayer may claim 50% of the investment credit otherwise allowable under section 48 of the Code in addition to rapid amortization (the former law required an election between rapid amortization and any investment credit).

Finally, present EPA regulations at 40 CFR § 20.8(h) are unclear as to the time allowed for deciding appeals from denials of certification. The proposed regulation would require a decision within 60 days of an applicant's notice of appeal.

Guidelines for certification will be separately published in the near future as an Appendix to this Part to update guidelines published September 29, 1971, at 36 FR 19132.

Accordingly, the EPA proposes to amend 40 CFR, Part 20 as follows: 1. By revising § 20.1 to read as follows:

§ 20.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities for purposes of section 169 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 169, as to which the amortization period began after December 31, 1975. Certification of air or water pollution control facilities as to which the amortization period began before January 1, 1976, will continue to be governed by Environmental Protection Agency regulations published November 25, 1971, at 36 F.R. 22382. Applicable regulations of the Department of the Treasury are at 26 CFR 1.169 et seq.

2. By revising paragraph (a) and subparagraph (1) of paragraph (b) of § 20.2 to read as follows:

§ 20.2 Definitions.

* * * * *

(a) "Act" means, when used in connection with water pollution control facilities, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) or, when used in connection with air pollution control facilities, the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

(b) * * *

(1) For water pollution control facilities, the State pollution control agency as defined in § 502 of the Act.

* * * * *

3. By revising the last sentence of paragraph (h) of § 20.3 to read as follows:

§ 20.3 General provisions.

* * * * *

(h) * * * Within 60 days after receipt of such appeal the Administrator shall affirm, modify, or revoke the decision of the Regional Administrator, stating in writing his reasons therefor.

§ 20.5 [Amended]

4. By revising paragraphs (d), (e), (f), (g), and (n) of § 20.5 and by adding a new paragraph (o) as follows:

* * * * *

(d) A general description of the operation in connection with which the facility is (or will be) used and a description of the specific process or processes resulting in discharges or emissions which are (or will be) controlled or prevented by the facility.

(e) If the facility is (or will be) used in connection with more than one plant or other property, one or more of which were not in operation before January 1, 1976, a description of the operations of the facility in respect to each plant or other property, including a reasonable allocation of the costs of the facility among the plants being serviced, and a description of the reasoning and accounting method or methods used to arrive at these allocations.

(f) A description of the effect of the facility in terms of type and quantity of pollutants, contaminants, wastes, or heat, removed, altered, stored, disposed of, or prevented by the facility.

(g) If the facility performs a function other than removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat, a description of all functions performed by the facility, including a reasonable identification of the costs of the facility allocable to removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat and a description of the reasoning and accounting method or methods used to arrive at the allocation.

* * * * *

(n) The percentage (if any, and if the taxpayer claims that the percentage is 5 percent or less) by which the facility (1) increases the output or capacity, (2) extends the useful life, or (3) reduces the total operating costs of the operating unit of the plant or other property most directly associated with the pollution control facility and a description of the reasoning and accounting method or methods used to arrive at this percentage.

(o) Such other information as the Administrator deems necessary for certification.

5. By revising subparagraphs (2) and (3) of paragraph (a); subparagraphs (1), (2), and (3) of paragraph (b); paragraph (d); and paragraph (e) of § 20.8 to read as follows:

§ 20.8 Requirements of certification.

(a) * * *

(2) That the facility: (i) Removes, alters, disposes of, stores, or prevents the creation of pollutants, contaminants, wastes, or heat, which, but for the facility, would be released into the environment;

(ii) Does not by a factor of more than 5 percent: (A) increase the output or capacity, (B) extend the useful life, or (C) reduce the total operating cost of the operating unit (of the plant or other property) most directly associated with the pollution control facility; and

(iii) does not significantly alter the nature of the manufacturing or production process or facility.

(3) The applicant is in compliance with all regulations of Federal agencies applicable to use of the facility, including conditions specified in any NPDES permit issued to the applicant under section 402 of the Act.

(b) * * *

(1) All applicable water quality standards, including water quality criteria and plans of implementation and enforcement established pursuant to section 303 of the Act or State laws or regulations;

(2) Decisions issued pursuant to section 310 of the Act;

(3) Water pollution control programs required pursuant to any one or more of the following sections of the Act: § 306, § 307, § 311, § 318, or § 405; or in order to be consistent with a plan under § 208.

* * * * *

(d) A facility that removes elements or compounds from fuels that would be released as pollutants when such fuels are burned is eligible for certification if the facility is—

(1) Used in connection with a plant or other property in operation before January 1, 1976 (whether located and used at a particular plant or as a centralized facility for one or more plants) and

(2) Is otherwise eligible for certification.

(e) Where a facility is used in connection with more than one plan or other property, one or more of which were not in operation before January 1, 1976, or where a facility will perform a function other than the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat, the Regional Administrator will so indicate on the notice of certification and will approve or disapprove the applicant's suggested method of allocating costs. If the Regional Administrator disapproves the applicant's suggested method, he shall identify the proportion of costs allocable to each such plant, or to the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat.

(90 Stat. 1905, (section 2112 of Pub. L. 94-455, Oct. 4, 1976), 80 Stat. 379; 26 U.S.C. 169, 5 U.S.C. 301.)

Dated: July 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-22485 Filed 8-3-77;8:45 am]

[40 CFR Part 52]

[FRL 768-3]

OKLAHOMA

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: General Motors Corporation's permit application to construct an automobile assembly plant in Oklahoma City, Oklahoma is subject to the Agency's emission offset policy, published December 21, 1976 at FR 55524, as it pertains to major new sources seeking to locate in non-attainment areas for the hydrocarbon/oxidant standard.

The State of Oklahoma has obtained the required hydrocarbon emission offsets and submitted them, in the form of Consent Agreements from existing sources, for incorporation into the Oklahoma Air Quality Implementation Plan. The offsets consist of control of hydrocarbon emissions from six fixed-roof crude oil storage tanks and two fixed-roof gasoline storage tanks by installation of either floating roofs or vapor recovery systems, or by shut-down of the tanks. None of these sources require control under the currently approved State Implementation Plan. This notice proposes the approval of the State submitted revision to the Oklahoma Air Quality Implementation Plan in the form of Consent Agreements for hydrocarbon emission reductions creditable for offsets for General Motors Corporation.

DATES: Comment must be received on or before September 6, 1977.

ADDRESS: Submit comments to Air Programs Branch, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Chief, Technical Support Section, Air & Hazardous Materials Division, EPA—Region VI, Dallas, Texas, 75270 (214-749-3837).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under the Agency's Interpretative Ruling published December 21, 1976 at FR 55524 a major new source may locate in an area with air quality worse than a national standard only if the following conditions are met:

(1) The new source's emissions will be controlled to the lowest achievable emission rate.

(2) More than equivalent offsetting emission reductions will be obtained from existing sources.

(3) There will be progress towards achievement of the standards.

On January 21, 1977, with a subsequent submittal on February 4, 1977, General Motors Corporation applied to the Oklahoma City-County Health Department for a permit to construct an automobile assembly plant in Oklahoma City, Oklahoma. The proposed assembly plant would emit more than 100 tons per year of hydrocarbons and would be located in a city which is not attaining the National Ambient Air Quality Standard (NAAQS) for hydrocarbon/oxidant. The proposed automobile assembly plant was, therefore, subject to the Agency's Interpretative Ruling on emission offsets.

The State of Oklahoma determined that the proposed General Motors (GM) assembly plant, with technology resulting in the lowest achievable hydrocarbon emissions, would emit an estimated 3240 tons per year of hydrocarbons. These emissions were based on mass balance calculations, i.e. solvent in equals solvent out. Offsetting hydrocarbon emissions totaling an estimated 5180 tons per year were found by the State. Letters of consent were obtained by the State from the existing sources to reduce hydrocarbon emissions before the GM assembly plant target operation date of November 1979. These Consent Agreements were submitted by the Governor of Oklahoma to the Environmental Protection Agency (EPA) on March 28, 1977 for incorporation into the Oklahoma Air Quality Implementation Plan (SIP). All requirements in 40 CFR 51.4 and 51.6 for notice and public hearings for plan revisions were met.

HYDROCARBON OFFSETS

The hydrocarbon emission offsets submitted by the State of Oklahoma consist of the extension of requirements under section 15.211 of the Oklahoma Air Pollution Control Regulation No. 15 (adopted January 23, 1972) to the following existing storage tanks:

(1) Tanks 121 and 122 for crude oil storage at the Sun Oil Company refinery at Duncan, Oklahoma, with a final compliance date of August 1, 1979.

(2) Tanks 118 and 119 for gasoline storage at the Apco Oil Corporation refinery at Cyril, Oklahoma, with a final compliance date of February 1, 1979.

(3) Tank 286 for crude oil storage at the Continental Pipe Line Company in Oklahoma County, Oklahoma (Section 32-12N-2W) with a final compliance date of February 1, 1979.

(4) Three 80,000 barrel capacity crude oil storage tanks at the Champlin Petroleum Company, Noble Station, 13th and Bryan Streets, Oklahoma City, Oklahoma, with a final compliance date of September 1, 1979.

To meet the requirements of Oklahoma Regulation No. 15, these existing fixed roof storage tanks must be equipped with either floating roofs or vapor recovery systems. Such control is not presently required on these facilities under the approved SIP. Control of these tanks will result in estimated hydrocarbon emission reductions of 5180 tons per year based on calculations using EPA's emission factors in "Compilation of Air Pollutant Emission Factors," February 1976, publication number AP–42.

By incorporation of these emission control requirements in the State Implementation Plan, both the EPA and the State of Oklahoma consider the offsets to be enforceable under section 113 of the Clean Air Act. The offsets are also considered to be enforceable by citizens under Section 304 of the Clean Air Act as "emission standards or limitations."

PROPOSED ACTION

The EPA agrees with the State of Oklahoma's determination that the proposed General Motors Corporation automobile assembly plant will use technology resulting in lowest achievable emissions of hydrocarbons and that these emissions will total an estimated 3240 tons per year. The hydrocarbon offsets from existing sources, totaling an estimated 5180 tons per year, are considered to be valid and enforceable by the State of Oklahoma and the EPA. As a result of the substantially greater than one-for-one emission offset, the EPA considers that there will be progress towards attainment of the hydrocarbon/oxidant standard. Thus, the EPA considers that all conditions stipulated under the Agency's Interpretative Ruling of December 21, 1976, published at FR 55524 have been met for the GM automobile assembly plant to locate in Oklahoma City, Oklahoma.

In this notice EPA is proposing the approval of the hydrocarbon emission offsets as discussed above, creditable to GM automobile assembly plant, for incorporation in the Oklahoma Air Quality Implementation Plan. The offset requirements are being proposed in a new section to 40 CFR Part 52 to ensure their enforceability under the Clean Air Act.

The State of Oklahoma has adopted the emission offset agreements as Addendum I to Chapter IV of the Oklahoma SIP. The State procedures met all requirements of 40 CFR Part 51 including Section 51.4, the requirement for adequate public participation. Interested persons may participate in this rulemaking by submitting written comments to:

Air Programs Branch, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270

Relevant comments submitted within 30 days of this notice will be considered. The material submitted by the State of Oklahoma is available for inspection during normal business hours at the above EPA regional office and also at the following offices:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460

Oklahoma State Department of Health, Northeast 10th Street & Stonewall, Oklahoma City, Oklahoma 73105.

This notice is issued under the authority of Sections 110 and 301 of the Clean Air Act, as amended (42 USC 1857c–5, 1857g).

Dated: July 14, 1977.

JOHN C. WHITE,
Regional Administrator, EPA.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Subpart LL—Oklahoma

1. In § 52.1920, paragraph (c) is amended by adding paragraph (10) as follows:

§ 52.1920 Identification of plan.

* * * * * * *

(c) * * *

(10) Consent agreements creditable as emission offsets submitted by the Governor on March 28, 1977 as Addendum I to Chapter IV of Oklahoma Air Quality Implementation Plan.

2. Section 52.1931 is added to read as follows:

§ 52.1931 Petroleum Storage Tank Controls.

(a) Notwithstanding any provisions to the contrary in the Oklahoma implementation plan, the petroleum storage tanks listed in paragraphs (b) through (e) of this section shall be subject to the requirements of § 15.211 of the Oklahoma Air Pollution Control Regulations and to the monitoring, inspection, reporting, and other procedural requirements of the Oklahoma implementation plan and the Clean Air Act. The owner or operator of each affected facility shall secure compliance with § 15.211 in accordance with the schedule set forth below.

(b) Tanks 121 and 122 for crude oil storage at the Sun Oil Company refinery at Duncan, Oklahoma, shall be in compliance with § 15.211 no later than August 1, 1979.

(c) Tanks 118 and 119 for gasoline storage at the Apco Oil Corporation refinery at Cyril, Oklahoma, shall be in compliance with § 15.211 no later than February 1, 1979.

(d) Tank 286 for crude oil storage at the Continental Pipe Line Company property in Oklahoma County, Oklahoma (Section 32–12N–2W) shall be in compliance with §15.211 no later than February 1, 1979.

(e) The three 80,000 barrel capacity crude oil storage tanks at the Champlin Petroleum Company, Noble Station, 13th and Bryan Streets, Oklahoma City, Oklahoma, shall be in compliance with § 15.211 no later than September 1, 1979.

[FR Doc.77–22356 Filed 8–3–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

COMMITTEE OF NINE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given of a meeting of the Committee of Nine at 8:30 a.m., September 8, 1977, in the Conference Room of the USDA Metabolism and Radiation Research Laboratory, 1605 West College Street, North Dakota State University Campus, Fargo, North Dakota.

The purpose of the meeting is to evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations. The meeting is open to the public, and written statements can be filed with the Committee before or after the meeting.

The names of the members of the Committee, the agenda, minutes, and other information pertaining to the meeting may be obtained from the Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250, telephone 202–447–5260.

Dated: July 28, 1977.

R. J. ALDRICH,
Administrator.

[FR Doc.77–22366 Filed 8–3–77;8:45 am]

Farmers Home Administration

[Designation No. A491]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan Counties as a result of severe cold December 29 through 31, 1976, January 13, through 18 and January 28 through 30, 1977, unseasonably warm weather May 13 through 31 and June 1 through 5, 1977, frost April 26, 29, and 30 and May 8 through 11, 1977, and drought April 26 to May 29, 1977, in Berrien County; and freezing temperatures April 26, 28, and 29, May 7 through 12, and June 2, 1977, and drought May 1 through 31, 1977, in Cass County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William G. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than September 22, 1977, for physical losses and April 24, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 27th day of July 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc 77–22367 Filed 8–3–77;8:45 am]

Packers and Stockyards Administration

[P. & S. Docket No. 5485]

EMMETT LIVESTOCK COMMISSION, INC.

Complaint, Order of Suspension and Notice of Hearing Regarding Respondent's Schedule of Rates and Charges

Notice is hereby given that on July 7, 1977, the respondent filed a proposed schedule of rates and charges under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended, (7 U.S.C. 181 et seq.), to become effective July 25, 1977.

That section of the schedule of rates and charges in the present tariff which is to be changed or modified reads as follows:

ITEM No. II—CHARGE CLASSIFICATION

Sections I.—Selling Commission and Yardage:

	Dollars per head
a. Cattle, Carload Lots:	
(1) Calves in excess of 40 head lots	$3.35
(2) Cattle in excess of 40 head lots	4.60
b. Cattle, other than carload lots:	
(1) Calves, 350 lbs. and under	3.75
(2) Cattle, over 350 lb	4.85
(3) Milk and stock cows, sold by head	7.50
(4) Cows with calves at side	8.50
(5) Bulls, 800 lb. to 1,000 lb	6.50
(6) Bulls, over 1,000 lb	9.50
(7) Registered cattle	12.00
(8) Baby calves	2.60
c. Hogs:	
(1) Feeder pigs, under 150 lb	1.25
(2) Hogs, 150 lb. and over	1.60
(3) Sows, boars, and stags, 270 lb and over	2.75
d. Sheep and Goats:	
(1) Sheep and Goats, except rams and billies	1.60
(2) Rams and billies	2.00
e. Horses, Mules and Ponies:	
(1) Horses	10.00
(2) Mules and Ponies	6.00

Notice is given hereby also that on July 25, 1977, the Packers and Stockyards Administration, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to respondent's rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the Act.

I

The respondent is now, and at all times mentioned herein was, registered with the Secretary of Agriculture as a market agency to sell livestock on commission at the Emmett Livestock Commission, Inc., Emmett, Idaho, which is now, and at all times mentioned herein was a posted stockyard subject to the provisions of the Act.

II

In accordance with the requirements of the Act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for its services at the aforementioned stockyard.

III

On July 7, 1977, a tariff with an effective date of July 18, 1977, was received containing certain increases and modifications in the current rates and charges of the respondent. Respondent, through its counsel extended the effective date of the proposed tariff until July 25, 1977.

IV

Upon an analysis of the information available to the Packers and Stockyards Administration, United States Department of Agriculture, there is reason to believe that the charges are unjust, unreasonable, or discriminatory. Specifically, it is estimated that the proposed per head rates would produce a substantial increase in respondent's revenue, which revenue appears to already exceed the respondent's reasonable revenue requirements.

V

It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the tariff filed on July 7, 1977, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI

It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered that the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on July 7, 1977, to become effective on July 25, 1977, are hereby suspended and deferred until the expiration of thirty days beyond the time when such modified rates would otherwise go into effect.

It is further ordered that notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Administrative Law Judge of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. The complainant shall upon completion of further investigation into the operations and records of the respondent file a motion for the assignment of a date for oral hearing at a location convenient to the respondent's place of business. At such hearing the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered that a copy hereof be served upon the respondent.

Done at Washington, D.C. July 29, 1977

CHARLES B. JENNINGS,
Administrator, Packers and Stockyards Administration.

[FR Doc 77-22481 Filed 8-3-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

BOWDOIN COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00432. Applicant: Bowdoin College, Brunswick, Maine 04011. Article: Scanning Electron Microscope, Model SSM-2A. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for studies of muscle and red blood cells from normal and dystrophic animals and human patients. Examination of surface characteristics of these materials will be done to discover the primary cause of dystrophy and methods for diagnosis and identification of the carrier state. The article will also be used for educational purposes in the following courses.

(1) Introductory Biology—A general introduction to the biological sciences with special emphasis on cell and molecular biology.

(2) Cell Physiology—An introduction to cell biology with emphasis on properties of membranes.

(3) Independent Study—Laboratory work for students under the supervision of a faculty member.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 19, 1973).

Reasons: This application is a resubmission of Docket Numbers 74-00427-33-46070 and 75-00183-33-46040 which were denied without prejudice to resubmission on August 7, 1974 and February 24, 1976, respectively, for informational deficiencies. The applicant alleges in his response to Question 8 that the pertinent features of the article are (a) ease of operation, (b) clarity of images and (c) ease of maintenance. The National Bureau of Standards (NBS) advises in its memoranda dated September 29, 1976 and January 13, 1977 that the applicant makes no claim as to specifications of the article which are both pertinent to his intended purposes and not available in a domestic instrument [i.e., the differences noted between domestic instruments and the foreign article with respect to the characteristics (a), (b) and (c) cited above are not pertinent and instead represent subjective judgments on the part of the applicant] NBS identified the AMR Corporation Model AMR 1000 scanning electron microscope (SEM) as the domestic instrument most closely comparable to the article, compared the article with the AMR 1000 and found this domestic instrument to be scientifically equivalent to the foreign article for the applicant's intended use. We concur with NBS. A discussion of the applicant's allegations in response to Question 8 follows.

EASE OF OPERATION

The applicant notes that the AMR 1000 can be used without its built-in T.V. display but states that this domestic instrument delivers continuous magnifications and high voltages which increase the difficulties of its use and make it less suitable for undergraduate use, while the foreign article provides only step-wise magnification increases and thus is simpler for undergraduates to use. The applicant further states that a considerably greater training period would "seem" to be required to operate the AMR 1000 because of the number of adjustments necessary and argues that this limits its value for undergraduate instructional purposes. The Department's review of the specifications for the AMR 1000 printed before and after the article was ordered (Brochures 5M-BA-471 and IM-BAI-1274) indicates that the domestic instrument does in fact also provide step-wise magnification (NOTE.—For example, the dial for step-wise magnification involving 11 steps) and step-wise accelerating voltages of 1, 5, 10 and 20 kilovolts (the foreign article provides 4, 10, and 20 kilovolts). The provision for continuous magnification and accelerating voltages as well as higher accelerating voltages are available, in this domestic instrument, but only as optional features. Thus, the AMR 1000 provides all of the specifications that the applicant claims are lacking in this instrument and are needed to confer ease of operation. Further, the literature of the domestic and foreign manufacturer is very similar with respect to claims of ease of operation. The brochure of the foreign article states, "No special skills in electron microscopy are required to learn to operate the Scanscope thus eliminating the need for a full time specialized operator." The brochure for the AMR 1000 similarly states, "No special skills are required to learn to operate the AMR 1000, thus eliminating the need for a highly trained specialist." In view of the above, we find no support in the application or specifications of the two instruments in question for a conclusion that the article is easier to operate than the AMR 1000. We further note that the article will be demonstrated to (not used by) the great majority of the applicant's students and that 2-6 students will be involved in a research project under faculty supervision. Students involved in learning to use an SEM for research purposes could benefit greatly from the use of an instrument suitable for research. Moreover, the applicant will not be utilizing the foreign article for educational purposes entirely. Though it is stated that much of the article's use is in a scheduled class situation, the applicant will also use the article in research on muscle and red blood cells.

In response to Question 8(c)(3) the applicant states that the foreign article appeared to be uniquely suited to his needs through its simplicity [i.e., its ease of operation] and his experience since the purchase of the article has borne out that judgment. We are not certain what the applicant's experience is with respect to domestic instruments. In the first and second submissions the applicant stated that actual research was performed on an AMR instrument [Model not identified] located at Hershey Medical Center. [To our knowledge the only SEM at the Hershey Medical Center is an AMR 900, a much more complicated instrument than either the AMR 1000 or the article.] However, in this third submission the applicant makes no mention of any experience with domestic instruments. In fact, in response to Question 9, the applicant indicates that brochures describing the SEMs of interest were the sole basis for the purchase decision. No description of requirements was provided to any manufacturer, no invitations to bid were extended and no correspondence other than the purchase order itself was exchanged. This method of deciding a particular instrument's capabilities or of comparing instruments could be misleading. For example, domestic manufacturers have been known to modify their products to suit the needs of the buyer. Further, cost and experience could influence a purchase decision where ease of operation is a consideration. In the initial submission, the applicant pointed out that the AMR 1000 was more costly than the foreign article. However, Subsection 301.2(n) of the regulations precludes consideration of the differences in cost between the foreign article and the most closely comparable domestic instrument as a factor in our decision.

With respect to ease of operation, NBS provides the following advice in its memorandum of September 29, 1976:

> We find that (a), above [ease of operation], is a subjective judgment on the part of the applicant. Our experience with transfer of observation on the CRT [cathode ray tube] of the SEM from one specimen to another required ten to eleven steps on the foreign article whereas a similar specimen change operation with domestic instruments requires only five to six steps. The reduction in the number of steps required is attributed to the automation built [into] domestic instruments, which produces a more expensive instrument as contended by the applicant in his original application, docket No. 74-00427.

In a memorandum dated January 13, 1977 NBS noted further:

> Since the applicant chose to order features which upgraded the foreign article from a basic scanning electron microscope to a more complex and versatile instrument, we must compare these additional features with those available on domestic instruments. Features such as secondary electron and backscatter electron operating modes; voltage contrast unit including extra features; transmitted electron image display system including various additional features, and a TV scan unit, clearly indicate that the foreign article, as ordered, is no less complex than domestic instruments.

In view of the foregoing, the Department finds that the AMR 1000 is scientifically equivalent to the foreign article with respect to ease of operation for the applicant's intended purposes.

CLARITY OF IMAGES

The applicant, in response to Question 8(c)(2)(b) states that both the article and the AMR 1000 produce satisfactory images. NBS advises and we concur that the domestic AMR 1000 is of equivalent scientific value to the foreign article, for the applicant's intended purposes, with respect to the clarity of images produced.

EASE OF MAINTENANCE

Although the applicant claims that ease of maintenance is an especially important consideration, this issue is raised for the first time in this, the third, submission.

The applicant, in response to Question 8(c)(2)(c) states that at the time of order consultation with users of the article indicated that it required little maintenance which could not be done by personnel available at an undergraduate institution whereas the greater complexity of domestic instruments made them suspect in this regard. In response to Question 8(c)(3) the applicant alleges that the article has been reasonably trouble free, supporting the earlier judgment. However, neither at the outset nor subsequently has the applicant objectively compared the foreign article and domestic instruments available at the time of purchase with respect to ease of maintenance. NBS advises, and the Department concurs, that the claim of greater ease of maintenance of the foreign article is a subjective judgment on the applicant's part.

Subsection 301.2(n) of the regulations stipulates that ease of maintenance is not to be considered a pertinent characteristic unless the applicant can demonstrate that it is necessary for accomplishing the purposes for which the foreign article is intended to be used. In this connection, the statement of the applicant, in reply to Question 8.b. of the initial and second submission, that, "There are instruments manufactured in the U.S.A. which, although not exactly comparable, could be used for the purposes stated" takes on special significance. Further, NBS has advised that the foreign article as ordered is comparable to available domestic instruments. Accordingly, the Department finds that ease of maintenance is not pertinent within the meaning of Subsection 301.2(n). Moreover, we note that AMR Corporation provides service all over the country for its instruments at a price. Thus ease of maintenance is either a matter of cost of convenience both of which are not pertinent within the meaning of Subsection 301.2(n).

Thus based on the recommendation of our scientific advisors at NBS, the Department's own review of the application and factual information in our possession (specifications, textbooks, etc.), we find that the Model AMR 1000 SEM was of equivalent scientific value to the foreign article for such purposes as the article was intended to be used at the time the foreign article was ordered.

RICHARD M. SEPPA,
Director, Special Import Programs Division

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc 77-22411 Filed 8-3-77;8:45 am]

VETERANS ADMINISTRATION HOSPITAL

Notice of Withdrawal of Application for Duty-Free Entry of Scientific Article

The Veterans Administration Hospital has withdrawn its application for duty-free entry of a Turning Frame for Quadraplegics (Docket No. 77-00300). Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

RICHARD M. SEPPA,
Director, Special Import Programs Division

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc 77-22385 Filed 8-3-77;8:45 am]

National Oceanic and Atmospheric Administration

SCIENTIFIC RESEARCH PERMIT

Receipt of Application

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Dr. Louis M. Herman, Professor and Principal Investigator, Kewalo Basin Dolphin Research Laboratory, Hawaii Institute of Marine Biology, University of Hawaii, 1129 Aloa Moana, Honolulu, Hawaii 96814 to take four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*).

The animals will be used in studies of the visual and hearing senses in relation to their ability to hear rudimentary language comprehension. The animals will be maintained in two circular concrete tanks each 50 feet in diameter and 5.4 feet in depth. The water is from a deep seawater well located next to the facilities. Holding pens are adjacent to each tank and the animals are held there while the larger tanks are cleaned weekly.

The animals are requested in order to continue a research program that began in 1969. A veterinarian is available if needed.

Documents submitted in connection with this application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Gandy Boulevard, Duval Building, St. Petersburg, Fla. 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the

Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: July 24, 1977.

ROBERT J. AVERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc 77-22365 Filed 8-3-77;8:45 am]

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. I (Supp. V, 1975), notice is hereby given of the third meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 8:30 a.m. to 5:00 p.m. on August 27, 1977, in Grand Forks, North Dakota. During the morning of August 28, the Board will tour facilities in Bowman, North Dakota; during the afternoon, the Board will inspect a research site in Miles City, Montana.

The Board was established in January 1977 (42 FR 4512, 1-25-77) to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Public Law 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to hear from officials concerned with the North Dakota Weather Modification Program, the State Department of Agriculture, and the University of North Dakota Aviation Department. Opponents of weather modification will also be on the program. A representative of a hail insurance firm is scheduled to speak. Tours of weather modification research and operational facilities will be included on both days.

The agenda for the meeting is:

AUGUST 27 (SATURDAY):

8:30 to 8:45 a.m.	Introductory remarks (Alumni Board of Directors Room, Twamley Hall, campus of the University of North Dakota).
8:45 to 11:30 a.m.	Presentations by the University of North Dakota Aviation Department, managers and operational personnel of the State weather modification program, members of the State Department of Agriculture and representatives of a hail insurance company.
11:30 to 12 m.	Comments from opponents of weather modification.
12:00 to 1:30 p.m.	Recess for lunch.
1:30 to 2:30 p.m.	Tour of University research facility.
2:30 to 5:00 p.m.	Tour of flight facilities and aircraft, including demonstrations at the airport at Grand Forks.

AUGUST 28 (SUNDAY):

7:30 to 12 m.	The Board will meet at the Ramada Inn at Grand Forks, North Dakota. From there, they will proceed to the airport, board aircraft and fly to Bowman, North Dakota, to inspect radar installations and the operations base associated with the State weather modification program. Transportation from Grand Forks to Bowman will be provided only for the Board. However, members of the public who proceed to Bowman at their own expense may accompany the Board during its tour.
Noon to 1 p.m.	Recess for lunch.
1 to 5 p.m.	The Board will fly from Bowman, North Dakota, to Miles City, Montana, to tour the High Plains Experiment Center of the Bureau of Reclamation and inspect the radar and flight facilities. Transportation from Bowman to Miles City will be provided only for the Board. However, members of the public who proceed to Miles City at their own expense may accompany the Board during its tour.
5 p.m.	Adjournment. The Board will fly from Miles City, Montana, to Grand Forks, North Dakota, via Bismarck, North Dakota. Transportation to Bismarck and Grand Forks will be provided only for the Board.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before August 24. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Seating will be available for the public on a first-come first-served basis at Twamley Hall on the morning of August 27.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Environmental Modification Office, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, phone: 301-443-8721.

Dated: August 1, 1977.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc.77-22571 Filed 8-3-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY TESTING COMMITTEE

Meeting

This notice is intended to advise all interested persons of the Toxic Substances Control Act Interagency Committee meeting on Thursday, August 11, 1977, Room 2010, New Executive Office Building, 722 Jackson Place NW., starting at 9 a.m. The public is invited.

The purpose of the meeting is to discuss the criteria to be considered in determining the adequacy of existing test information on a given chemical substance.

The Committee has invited four Federal regulatory agencies to present information on the basis used by these agencies to evaluate and request testing data under their various statutory authorities. The invited agencies are the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food and Drug Administration and the Consumer Products Safety Commission.

Please contact Phyllis Tucker, 202 633-7074, for any additional information.

Dated: August 2, 1977.

WARREN R. MUIR,
Chairman, TSCA/ITC.

[FR Doc.77-22591 Filed 8-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 771-7]

ADVANCED FLUE GAS DESULFURIZATION TECHNOLOGY

Public Meeting

Pursuant to Section 103(a)(1) of the Clean Air Act (Pub. L. 91-604, 42 U.S.C.A. 1857b), notice is hereby given of a public meeting conducted by the U.S. Environmental Protection Agency's Office of Research and Development to gather information in support of an Interagency Flue Gas Desulfurization Evaluation Study for the President's Office of Energy Policy and Planning. The meeting will be held Monday, August 22, 1977 in Room 2814, EPA headquarters, 401 M Street SW., Washington, D.C. The meeting will begin at 1 p.m. and adjourn at 5 p.m. The meeting is open to the public.

The purpose of this meeting is to receive statements and submissions regarding advanced flue gas desulfurization technology for possible demonstration by the Environmental Protection Agency. These submissions should be limited to those processes/subsystems capable of beginning full scale demonstration within three years. Submissions should contain sufficient information and data to enable evaluation of whether the new technology offers sufficient environmental, cost, and reliability advantages over current technology and technology under development.

Statements and submissions concerning the federal demonstration policies in the flue gas desulfurization area will be considered germane.

Copies of statements should be given to the hearing panel prior to presentation. The statements and submissions given at this hearing will be used to help frame report recommendations concerning the flue gas desulfurization demonstration program. The Interagency Report of the Office of Energy Policy and Planning will include highlights of the meeting. A transcript of the meeting will be available at cost by contacting Acme Reporting Company, 1411 K Street NW., Washington, D.C.

Persons wishing to present oral statements and/or to make submissions should notify, not later than the last working day before the meeting, Ms. Evelyn Wray, Energy Processes Division, Office of Energy, Minerals, and Industry, Office of Research and Development (RD-681), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 or by calling (202) 755-0205.

Issued in Washington, D.C. on July 29, 1977.

STEPHEN J. GAGE,
Acting Assistant Administrator, Office of Research and Development, U.S. Environmental Protection Agency.

[FR Doc.77-22358 Filed 8-3-77;8:45 am]

[FRL 771-6]

DISCHARGES OF POLLUTANTS INTO NAVIGABLE WATERS; STATE OF ILLINOIS

Public Hearing and Request for State Program Approval

On October 18, 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. §§ 1251-1376, Supp. 1973; hereinafter the "Act"). This legislation established the National Pollutant Discharge Elimination System (NPDES) permit program, under which the Administrator of the United States Environmental Protection Agency (U.S. EPA) may issue permits to municipal, industrial, and agricultural entities to control the discharge of pollutants into navigable waters.

Section 402(b) of the Act provides that the Governor of a State desiring to administer the NPDES program to control discharges into navigable waters within its jurisdiction may submit to the Administrator of the U.S. EPA a full and complete description of the program it intends to administer, including a statement from the State Attorney General that the laws of the State provide adequate authority to carry out the described program. The Administrator is required to approve each such submitted program unless the program does not meet the requirements of Section 402(b) and U.S. EPA's Guidelines. Among other authorities, the State must have: (1) Adequate authority to issue permits which comply with all pertinent requirements of the Act; (2) adequate authority, including civil and criminal penalties, to abate violations of permits; and (3) authority to ensure that the Administrator, the public, any other affected State, and other affected agencies, are given notice of each application and are given the opportunity for a public hearing before acting on each permit application. Also, the State must have and commit itself to use manpower and resources sufficient to act on all outstanding permit applications in a timely manner and consistent with the periods prescribed by the Act. U.S. EPA's Guidelines establishing State Program Elements Necessary for Participation in the NPDES were published in Volume 37 of the FEDERAL REGISTER, December 22, 1972, (40 CFR 124), beginning at page 28390.

The State of Illinois has submitted a full and complete Request for State Program Approval and proposes that the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Ill., 62706 (217-782-3397) operate the NPDES permit program for discharges into the navigable waters within the jurisdiction of the State in accordance with the Act.

George R. Alexander, Jr., Regional Administrator of U.S. EPA, Region V, has scheduled a public hearing to consider this request and enable all interested parties to present their views on the State's submission. The hearing will be held in the Gold Room, Second Floor, South, Pick Congress Hotel, 520 South Michigan Avenue, Chicago, Ill., 60605 on September 7, 1977, at 10:00 a.m.

A three-member hearing panel will hear the matter. The panel will consist of the Administrator of the U.S. EPA or his representative who will serve as the Presiding Officer, the Director of the Illinois Environmental Protection Agency or his representative and the Regional Administrator of U.S. EPA, Region V, or his representative. Oral statements will be heard and considered, but for the accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing panel and other interested persons. Comments are particularly invited with respect to the following issues: adequacy of manpower and resources to issue all permits on a timely basis; adequacy of manpower and resources to determine compliance with issued permits and to pursue violations; adequacy of manpower and resources to conduct on-site compliance monitoring inspections and to support enforcement actions.

The Presiding Officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted. The hearing record will be left open for a period of five days following the hearing to allow any person to submit additional written statements or to present views or evidence tending to rebut testimony presented during the hearing.

Any interested person may comment upon the State submission by writing to the U.S. EPA, Region V Office, Attention: Carolyn S. Cates, Regional Hearing Clerk, 230 South Dearborn Street, Chicago, Ill. 60604. Such comments will be made available to the public for inspection and copying. All comments or objections received by September 12, 1977, or presented at the public hearing, will be considered by U.S. EPA before taking final action on the Illinois Request for State Program Approval.

The State's submission, related documents, and all comments received are on file and may be inspected and copied (at 20¢ per page) at the U.S. EPA Region V Office in Chicago. In addition, copies of the complete submission are available for review at the Illinois Environmental Protection Agency Office, 2200 Churchill Road in Springfield, and also at the seven State EPA Regional Offices in Rockford, Maywood, Champaign, Peoria, Springfield, Collinsville and Marion.

Copies of this notice are available upon request from the Enforcement Division of U.S. EPA, Region V (312/353-2080).

Please bring the foregoing to the attention of persons you know would be interested.

Dated: July 29, 1977.

NORMAN D. SHUTTLER,
Acting Assistant Administrator for Enforcement (EN-329)

[FR Doc.77-22359 Filed 8-3-77;8:45 am]

[FRL 772-1; OPP-50313]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275–EUP–17. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 534 pounds of the insecticide *Bacillus thuringiensis* in various tank mix combinations on cotton to evaluate control of *Heliothis* sp. A total of 6,000 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from June 7, 1977, to June 7, 1978. An exemption from the requirement of a tolerance has been established for *Bacillus thuringiensis* in or on all raw agricultural commodities when applied to the growing crop.

No. 707–EUP–88. Rohm and Haas Company, Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 138 pounds of the herbicide 3,4-dichloropropionanilide to evaluate control of emerging green foxtail seedlings in young wheat plants. A total of 80 acres is involved. The experimental use permit is effective from June 6, 1977, to June 6, 1978.

No. 707–EUP–89. Rohm and Haas Company, Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 138 pounds of the herbicide 3,4-dichloropropionanilide to evaluate control of emerging green foxtail seedling in young wheat plants. A total of 80 acres is involved. This permit and the one above are authorized only in the States of North Dakota and Minnesota, and are issued under the condition that all treated crops are destroyed or used for research purposes only. This experimental use permit is also effective from June 6, 1977, to June 6, 1978. The permits will use the same active ingredients, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202–755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act(FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 27, 1977.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

[FR Doc.77-22354 Filed 8-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1067]

PETITIONS FOR RECONSIDERATION OF ACTIONS

Rule Making Proceedings Filed

JULY 29, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20509	Pts. 2 and 89	Amendment of pts. 2 and 89 of the rules to provide for the use of frequencies 530, 1606, and 1612 kHz by stations in the local government radio service for the transmission of certain kinds of information to the traveling public	
		Filed by Richard C. Turner, attorney general of Iowa, et al., for Iowa Department of Transportation	July 20, 1977
		Filed by Erwin G. Krasnow and Brenda L. Fox, attorneys for National Association of Broadcasters	July 22, 1977
		Filed by George R. Borsari, Jr., attorney for Mississippi Broadcasters Association	Do.

NOTE.—Oppositions to petitions for reconsideration must be filed by Aug. 19, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22482 Filed 8-3-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 15 Through July 22, 1977

Notice is hereby given that during the week of July 15 through July 22, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JULY 28, 1977.

Date	Name and location of applicant	Case No.	Type of submission
July 15, 1977	Colonial Oil Co. Jacksonville, Fla. (If granted: Mr. Paul Bloom, deputy general counsel of the FEA would be designated as the presiding officer for the Colonial Oil hearing being convened to determine whether misleading or erroneous data was submitted to the FEA in connection with an exception application filed by Colonial Oil Co.)	FEX–0175	Supplemental Order in *Colonial Oil Co.*, 6 FEA par. ___ (July 8, 1977).
Do	Smith & Boyd, Inc., Philadelphia, Pa. (If granted: The remedial order issued by FEA region III on June 28, 1977 would be rescinded and Smith & Boyd, Inc. would not be required to refund overcharges made in its sales of No. 2 heating oil to the Philadelphia Electric Co.)	FRA–1306	Appeal of the remedial order issued by FEA region III on June 28, 1977.
July 18, 1977	Continental Oil Co., Houston, Tex. (If granted: Continental Oil Co.'s obligation would not be modified in the buy, sell list.)	FEA–1300	Appeal of the FEA buy sell list.
Do	Getty Oil Co., Los Angeles, Calif. (If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Bay Springs, Cameron, Ennice, Fuller, Hollywood, Marlow, Medicine Lodge, Red Fish Bay, Schafer, Spearman, Velma, and Venice gas processing plants.)	FEE–4419—FEE–4430	Price exception (sec. 212.165).
Do	Great Southern Oil & Gas Co., Inc., Lafayette, La. (If granted: Great Southern Oil & Gas Co., Inc. would receive an extension of the relief granted in the FEA's Mar. 17, 1977 decision and order and would be permitted to sell crude oil produced from the Longman No. 1 well at upper tier ceiling prices for the benefit of the working interest owners.)	FXE 4416	Extension of the relief granted in *Great Southern Oil & Gas Co.*, 6 FEA par. 83,104 (Mar. 17, 1977).
Do	Great Southern Oil & Gas Co., Inc., Lafayette, La. (If granted: Great Southern Oil & Gas Co., Inc. would be permitted to sell crude oil produced from the Castille RA SUA; Breaux No. 1 well located in St. Martin Parish, La. at upper tier ceiling prices.	FEE–4417	Price exception (sec. 212.73).
Do	Petroleum Management, Inc., Wichita, Kans. (If granted: The request, if granted, would allow the purchasers of Petroleum Management, Inc.'s crude oil to fund the escrow account by withholding payment from the working interest owners.)	FRR–0115	Modification of the decision and order in *Petroleum Management, Inc.*, 6 FEA par. ___ (May 31, 1977).
Do	Reading & Bates Oil and Gas Co., Tulsa, Okla. (If granted: Reading & Bates Oil and Gas Co. would be permitted to sell crude oil produced from the Dempsey Mantooth Well No. 2A located in McClain County, Okla. at upper tier ceiling prices.)	FEE–4418	Price exception (sec. 212.73).
Do	Reading & Bates Oil and Gas Co., Tulsa, Okla. (If granted: Reading & Bates Oil and Gas Co. would be permitted to sell crude oil produced from the Schrader Unit Well No. 1 located in McClain County, Okla. at upper tier ceiling prices.)	FEE–4422	Price exception (sec. 212.73).
Do	Sabre Refining, Inc., Bakersfield, Calif. (If granted: The FEA's June 13, 1977 decision and order would be rescinded and Sabre Refining, Inc. would not be required to purchase additional entitlements.)	FXA–1307	Appeal of the FEA's decision and order in *Sabre Refining, Inc.*, 6 FEA par. ___ (June 13, 1977).
Do	Tenneco Oil Co., Houston, Tex. (If granted: The FEA's June 17, 1977 decision and order would be modified to permit Tenneco Oil Co. to reallocate unrecouped increased product costs during the audit period of the Feb. 2, 1977 remedial order.	FRR–0114	Modification of FEA's decision and order in *Tenneco Oil Co.*, 6 FEA par. ___ (June 17, 1977).
July 19, 1977	County of Hawaii, Hilo, Hawaii. (If granted: Distributors of motor gasoline and diesel fuel in Hawaii would be permitted to increase their selling prices to reflect an increase in the county license tax on those fuels.)	FEE–4427	Price exception (sec. 212.93).
Do	Fountain & Associates, San Antonio, Tex. (If granted: Crude oil produced by Fountain & Associates' Austin Chalk-Buda Trend property would be sold at exempt price levels.)	FEE–4426	Price exception (sec. 212.72).
Do	Koch Exploration Co., Wichita, Kans. (If granted: Koch Exploration Co. would be permitted to sell crude oil produced from the Sink Draw No. 1 and Cedar Rim No. 3 leases located in the Altamont-Bluebell Field, Duchesne County, Utah, at upper tier ceiling prices.)	FEE–4423, FEE–4424	Price exception (sec. 212.73).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to sell crude oil produced from the Foote lease located in Oklahoma County, Okla., at upper tier ceiling prices.)	FEE-4435	Price exception (sec. 212.73).
Do.....	Red Carpet Car Wash Oklahoma City, Okla. (If granted: The FEA's Jan. 26, 1977 decision and order issued by region VI would be modified and Red Carpet Car Wash would be considered a new retail outlet and would receive an assignment of a base period volume and a supplier.)	FMR-0116	Modification of FEA region VI's Jan 26, 1977 decision and order.
Do.....	Rickelson Oil and Gas Co. Tulsa, Okla. (If granted: The Remedial Order issued by FEA region VI on July 5, 1977 would be rescinded and Rickelson Oil & Gas Co. would not be required to refund overcharges received on its sales of crude oil.)	FRA-1399, FRS-1399	Appeal of the remedial order issued by FEA region VI on July 5, 1977. Stay request.
Do.....	Shell Oil Co., Houston, Tex. (If granted: The FEA's June 24, 1977 decision and order would be rescinded and Shell Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of [illegible] at its Pasadena plant.)	FXA-1398	Appeal of FEA's decision and order in *Shell Oil Co.*, case No. FXE-4229 (decided June 24, 1977) (unreported decision).
Do.....	Univar Corp., Seattle, Wash. (If granted: The FEA's Dec. 16, 1976 notice would be modified and the Univar Corp. would be removed from the listing of most energy consumptive corporations in the SIC 20 category and would be exempted from the mandatory requirement of sec. 375(a) that the firm report progress made in energy efficiency to the FEA.)	FMR-0117	Request for modification of Federal Register notice at 41 Fed. Reg. 54077 (Dec. 16, 1976).
July 20, 1977..	American Petroleum Refiners Association, Inc., Washington, D.C. (If granted: All refiners which sold JP-4 and JP-5 jet fuel to the Defense Fuel Supply Center during 1973 would be permitted to use prices set forth in Apr. 1973 contracts with the DFSC to retroactively establish maximum permissible selling prices for their sales of jet fuel to the DFSC.)	FEE-4443	Class exception.
Do	Catholic Cemeteries, Chicago, Ill. (If granted: Catholic Cemeteries would receive an exception from 10 CFR 211.83 to continue to receive its historical volume of propane.)	FEE-4442	Allocation exception (sec. 212.83).
July 21, 1977..	Cities Service Oil Co., Braintree, Mass. (If granted: Cities Service Oil Co. would receive a temporary stay of the remedial order issued by FEA region I on July 11, 1977 pending a determination on its proposed stay request.)	FRT-0045	Temporary stay of the remedial order issued by FEA region I on July 11, 1977.
Do . . .	Cities Service Oil Co., Braintree, Mass. (If granted: The remedial order issued by FEA region I on July 8, 1977 would be rescinded and Cities Service Oil Co. would not be required to reinstate the supplier wholesale purchaser-reseller relationship with 14 lessee dealers.)	FRA-1401	Appeal of the remedial order issued by FEA region I on July 8, 1977.
Do. . . .	Georgetown University Law Center, Washington, D.C. (If granted: The FEA's information request denial would be rescinded and Mr. Douglas Parker would receive access to documents pertaining to the proposed amendments to subpart K of the mandatory petroleum price regulations * * *.)	FFA-1400	Appeal of FEA's information request denial.
Do.....	Kedco Management Corp., Wichita, Kans. (If granted: Crude oil produced by Kedco Management Corp.'s Ayo unit located in Lafourche Parish, La. would be sold at exempt price levels.)	FEE-4447	Price exception (sec. 212.73).
Do.....	Moran Pipe and Supply Co., Inc., Seminole, Okla. (If granted: Moran Pipe and Supply Co. would be permitted to sell crude oil produced from the Cozar lease located in Seminole County, Okla., at upper tier ceiling prices.)	FEE-4444	Price exception (sec. 212.73).
Do.....	Peninsular Gas Co., Omaha, Nebr. (If granted: Peninsular Gas Co. would receive an exception from 211.83(c)(2)(v) and would be permitted to purchase propane for use as a supplement to its natural gas supply on peak days).	FEE-4448	Allocation exception (sec. 211.83).
Do.....	Suburban Aviation Service, Inc., Teterboro Airport, N.J. (If granted: Suburban Aviation Service, Inc. would be permitted to increase its prices for aviation fuel above the maximum levels allowed under the mandatory petroleum price regulations.)	FEE-4445	Price exception (sec. 212.93).

[FR Doc 77 22255 Filed 8-3-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Volume No. 28]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JULY 29, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 19227 (Sub-No. 173) (M1) (Notice of filing of petition to modify territorial description), filed June 20, 1977. Petitioner: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th St., Miami, Fla. 33152. Petitioner's representative: Thomas A. Leonard (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 19227 (Sub-No. 173) issued June 27, 1975, authorizing transportation, over irregular routes, of *Signs, sign parts*, and *accessories and equipment* used in the installation of signs and sign parts, between the plantsites of Federal Sign and Signal Corporation, located at Los Angeles, Calif., Louisville, Ky., Knoxville, Tenn., and Arlington, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

By the instant petition, petitioner seeks to modify the territorial description so as to read: Between the plantsites of Federal Sign and Signal Corporation at Cucamonga, Calif.; Louisville, Ky.; Knoxville, Tenn., and Arlington, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 30787 (Sub-No. 6) M1 (Notice of Filing of Petition to Delete Restriction), filed June 29, 1977. Petitioner: NIAGARA SCENIC BUS LINES, INC., 6 Maelou Dr., Manburg, NY. 14303. Petitioner's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Petitioner holds a motor *common carrier* Certificate in No. MC 30787 (Sub-No. 6), issued February 13, 1970, authorizing transportation over irregular routes, of *passengers and their baggage*, inthe same vehicle with passengers, in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Niagara and Erie Counties, N.Y., and extending to points in the United States, except Alaska and Hawaii, subject to the following conditions: No transportation will be provided between points in Erie County, N.Y., on the one hand, and, on the other, points in Canada; the operations authorized are subject to the right of the Commission to impose, after final determination of the proceedings in Ex Parte No. MC-29 (Sub-No. 1), *Passenger Transportation in Special Operations*, such terms and conditions, if any, as may be deemed necessary to insure that the operations performed by carrier are limited to bona fide special operations.

By the instant petition, petitioner seeks to delete the restriction in the authority above against providing service between points in Erie County, N.Y., on the one hand, and, on the other, points in Canada.

No. MC 59640 (Sub-No. 40) M1 (Notice of filing of petition to modify territorial description), filed June 27, 1977. Petitioner: PAULS TRUCKING CORPORATION, 3 Commerce Dr., Cranford, N.J. 07016. Petitioner's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Petitioner holds a motor *contract carrier* Permit in No. MC 59640 (Sub-No. 40), issued April 11, 1975, authorizing transportation over irregular routes, of *such merchandise* as is dealt in by wholesale, retail, and chain camping and sporting goods stores, and *equipment, materials, and supplies* used in the conduct of such business, (1) between the facilities of Lionel Morsan, Inc., at Mahwah, N.J., on the one hand, and, on the other, points in Hudson, Union, and Essex Counties, N.J.; and (2) between the facilities of Lionel Morsan, Inc., at Mahwah, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and points in New Haven County, Conn., restricted to the transportation in (1) above of traffic having a prior or subsequent movement by water or rail, under a continuing contract, or contracts, with Lionel Morsan, Inc., of Paramus, N.J.

By the instant petition, petitioner seeks to modify the territorial description in (1) above by deleting Mahwah, N.J. and substituting Paramus and Woodbridge, N.J., in lieu thereof, and to modify (2) above by deleting Mahwah, N.J., in the base area and substituting points in New Jersey in lieu thereof, and by adding points in Rockland County, N.Y., and points in Fairfield and Hartford Counties, Conn., in the radial area.

No. MC 102906 M1 (Notice of filing of petition to modify commodity description), filed June 21, 1977. Petitioner: McCONNELL HEAVY HAULING, INC., U.S. Hwy. 65 South, P.O. Box 463, Little Rock, Ark. 72203. Petitioner's representative: W. M. Buttram, 2505 Fair Park Blvd., Little Rock, Ark. 72204. Petitioner holds a motor *common carrier* Certificate in No. MC 102906, issued September 27, 1967, authorizing transportation over irregular routes, of *heavy machinery and equipment* (other than oilfield equipment), which because of its size or weight requires the use of special equipment, between points in Arkansas; and between points in Arkansas, on the one hand, and, on the other, points in Missouri, Oklahoma, Texas, Louisiana, Mississippi, and Tennessee.

By the instant petition, petitioner seeks to modify the above commodity description to read as follows: "commodities, the transportation of which because of size or weight, requires the use of special equipment (other than oilfield equipment), and of related machinery parts and related contractors' materials and supplies, when their transportation is incidental to the transportation which by reason of size or weight require special equipment."

No. MC 113678 (Sub-No. 292) M1 (Notice of Filing of Petition To Remove Restriction), filed May 17, 1977. Petitioner: CURTIS, INC., P.O. Box 16, Stockyards Station, Denver, Colo. 80216. Petitioner's representative: Richard A. Peterson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *common carrier* Certificate in No. MC 113678 (Sub-No. 292), issued July 18, 1977, authorizing transportations, as pertinent, over irregular routes, of: *Rugs and carpets*, from points in Georgia, to points in Nevada, Idaho, Utah, Montana, Wyoming, Colorado, New Mexico, Kansas, Texas, and points in that part of Nebraska on and west of U.S. Highway 81, restricted against service to points in Idaho and Utah from Archer, Calhoun, Cartersville, Dalton, Lafayette, La Grange, Lyerly, Rabun Gap, Rome, and White, Ga. By the instant petition, petitioner seeks to remove the restriction as stated, "restricted against service to points in Idaho and Utah from Archer, Calhoun, Cartersville, Dalton, Lafayette, La Grange, Lyerly, Rabun Gap, Rome, and White Ga."

No. MC 116101 (Sub-No. 2) M1 (Notice of filing petition to modify restriction in certificate), filed June 1977. Petitioner: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio 43219. Petitioner's representative: Russell S. Bernhard, 1625 K St. NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate, No. MC 116101 (Sub-No. 2) issued Feb-

ruary 27, 1968, authorizing transportation over irregular routes of *general commodities*, moving in express service, except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Adams, Allen, Ashland, Athens, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Greene, Guernsey, Hardin, Highland, Hocking, Jackson, Knox, Licking, Logan, Madison, Marion, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Richland, Ross, Union, Vinton, Wayne, and Wyandot Counties, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: The operations authorized herein are restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day.

By the instant petition, petitioner seeks to have the restriction modified by excluding therefrom traffic having a prior or subsequent movement by aircraft.

No. MC 119192 (Sub-No. 10) M1 (Notice of filing of petition to add an additional contracting shipper), filed June 17, 1977. Petitioner: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, Conn. 06607. Petitioner's representative: Morton R. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 119192 (Sub-No. 10), issued July 19, 1973, authorizing transportation, over irregular routes, of (1) *Such commodities* as are dealt in by department stores, and *materials, supplies, and equipment* (except in bulk), used in the conduct of such business, from New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., to New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau, and Suffolk Counties, N.Y.; and (2) *return shipments* of the commodities specified in (1) above, from New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau, and Suffolk Counties, N.Y., to New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., restricted in parts (1) and (2) against the transportation of Traffic originating at and destined to points in Connecticut, under a continuing contract or contracts with B. Altman & Co., New York, N.Y.

By the instant petition, petitioner seeks to add "John Wanamaker, Philadelphia" as an additional contract shipper to the above authority.

No. MC 121060 (Sub-No. 25) M1 (Notice of filing of petition for declaratory order-interpretation of certificate). Petitioner: ARROW TRUCK LINES, INC., 1220 West 3rd Street, P.O. Box 1416, Birmingham, Ala. 35207. Petitioner's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Petitioner holds a motor *common carrier* Certificate in No. MC 121060 (Sub-No. 25), issued April 22, 1975, authorizing transportation over irregular routes, of *Ceiling systems, paint, plastic light diffusers, adhesives, furring, fasteners, lighting systems, moldings, steel shapes, steel rods, steel channels, steel ceiling beams, applicators and roofing caps, and materials and supplies* used in the installation of any commodity named above (except in bulk), from the facilities of Litecraft-Luminous Ceilings, Division of the Celotex Corporation, located at or near Scottsboro, Ala., to points in Maine, Michigan, New Hampshire, Minnesota, Virginia, Pennsylvania, Maryland, Delaware, Kansas, New York, Iowa, New Jersey, Mississippi, Arkansas, Missouri, Oklahoma, Connecticut, Ohio, Illinois, West Virginia, Texas, Vermont, Louisiana, Kentucky, Wisconsin, and the District of Columbia. By the instant petition, petitioner seeks an interpretation by the Commission that the term "steel shapes" includes certain types of basic commodities made from steel.

No. MC 126458 (Sub-No. 2) (Notice of filing of petition to modify contracting shipper), filed March 17, 1977. Petitioner: NICHOLAS J. ASCENZO, INC., 1544 Boone Avenue, Bronx, N.Y. 10460. Petitioner's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 126458 (Sub-No. 2), issued February 19, 1974, authorizing transportation, over irregular routes of *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 276, from Philadelphia, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts, with Nasco Steel, Inc., of Philadelphia, Pa., Taft Steel, Inc., of New York, N.Y., and Cosid, Inc., of New York, N.Y.; and subject to the right of the Commission to impose such terms, conditions, or limitations in the future that carrier's operations shall conform to the provisions of section 210 of the Act. By the instant petition, petitioner seeks to modify its permit by the deletion of Nasco Steel, Inc. as a contracting shipper, and the addition of Federal Steel Corporation.

No. MC 126736 (Sub-No. 48) M1 (Notice of filing of petition to delete restriction), filed June 27, 1977. Petitioner: FLORIDA ROCK & TANK LINES, INC., 155 E. 21st St., P.O. Box 1559, Jacksonville, Fla. 32201. Petitioner's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207 Petitioner holds a motor *common carrier* Certificate in No. MC 126736 (Sub-No. 48), issued April 4, 1967, authorizing transportation over irregular routes, of *commodities in bulk*, in shipper or water carrier owned vehicles, between Jacksonville, Fla. on the one hand and on the other, points in Florida and Georgia, restricted to the transportation of traffic having an immediately prior or subsequent movement by water; the authority granted shall not be tacked or combined directly or indirectly with any other authority held by carrier for the purpose of providing a through service, to or from points other than those specified above. By the instant petition, petitioner seeks to have deleted from the commodity description the restriction "in shipper or water carrier owned vehicles."

No. MC 128021 (Sub-No. 1) (M1) (Notice of filing of petition to modify territorial description), filed June 24, 1977. Petitioner: DIVERSIFIED TRUCKING CORP., P.O. Box 100, 309 Williamson Avenue, Opelika, Ala. 36801. Petitioner's representative: Robert E. Tate, P.O. Box 517 Evergreen, Ala. 36401. Petitioner holds a motor *contract carrier* Permit in No. MC 128021 (Sub-No. 1) issued February 12, 1968, authorizing transportation over irregular routes, of (1) *Physical fitness, gymnastic, athletic, and sporting goods equipment*, from the plantsite of Diversified Products Corporation of California located at Gardena, Calif., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the above-described commodites, from points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming to the plantsite of Diversified Products Corporation of California located at Gardena, Calif., under a continuing contract, or contracts, with Diversified Products Corporation of California at Gardena, Calif. By the instant petition, petitioner seeks to modify the territorial description by substituting Compton, Calif. as the location of Diversified Products Corporation of California, in lieu of Gardena, Calif.; and also to modify the location of the contracting shipper to correspond with the above requested modification.

No. MC 128273 (Sub-No. 180) M1 (Notice of filing of petition to broaden commodity description), filed June 15, 1977. Petitioner: MIDWESTERN DISTRIBUTION, INC., 121 Humboldt St., P. O. Box 189, Fort Scott, Kans. 66701. Petitioner's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Petitioner holds a motor *common carrier* Certificate in No. MC 128273 (Sub-No. 180), issued October 1, 1976, authorizing transporation over irregular routes of (1) *Molybdenum compounds, molybdenum ores, molybdenum concentrates, molybdenum chemicals, molybdenum alloys and sulfuric acid* (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment), from the facilities of Climax Molybdenum Company, a subsidiary of AMAX, Inc., at or near Fort Madison, Iowa, to points in the United States (except Iowa, Alaska, and Hawaii); and (2) *Materials and supplies* used in the production and distribution of the commodities in (1) above (except commodities in bulk and commodities which because of size or weight, require the use of special equipment), from points in the United States (except Iowa, Alaska, and Hawaii), to the facilities of Climax Molybdenum Company, a subsidiary of AMAX, Inc., at or near Fort Madison, Iowa, restricted to the transportation of shipments originating at or destined to the facilities of Climax Molybdenum Company, a subsidiary of AMAX, Inc., at or near Fort Madison, Iowa. By the instant petition, petitioner seeks to broaden the commodity description above by the addition of "tungsten and tungsten concentrates."

No. MC 136857 and MC 136857 (Sub-No. 1) M1 (Notice of filing of petition to broaden commodity description), filed June 20, 1977. Petitioner: ROSELAND TRUCKING CORP., P.O. Box K, Roseland, N.J. 07018. Petitioner's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds *contract carrier* permits in MC 136857 and MC 136857 (Sub-No. 1) issued March 8, 1974 and December 3, 1975, respectively, authorizing transportation over irregular routes in No. MC 136857 of: (1) *Foodstuffs*, (except meat and meat products, and commodities in bulk), from Roseland, N.J., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Ohio, Michigan, Illinois, Indiana, and the District of Columbia; and (2) *Materials and supplies* used in the manufacture and packaging of foodstuffs, from the states listed in (1) above to Roseland, N.J. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with M. Polaner and Son, Inc., of Roseland, N.J.; and in No. MC 136857 (Sub-No. 1) *Foodstuffs* (except meat and meat products and commodities in bulk), from Roseland, N.J., to points in Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida, and *Materials and supplies* used in the manufacture and packaging of foodstuffs (except commodities in bulk), from points in Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida, to Roseland, N.J. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with M. Polaner and Son, Inc. of Roseland, N.J. By the instant petition, petitioner seeks to add "baker's supplies" and additionally White Cap Preserves, Inc. as contracting shipper in each of the above-numbered permits.

No. MC 138891 (Sub-No. 4) M1 (Notice of filing of petition to add additional radial points), filed May 17, 1977. Petitioner: FRANK TRANSFER & STORAGE, INC., 324 E. 8th Street, Sioux Falls, S. Dak. 57102. Petitioner's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *common carrier* Certificate in No. MC 138891 (Sub-No. 4) issued October 15, 1976, authorizing transportation over irregular routes, of *General commodities* (except classes A and B explosives, articles of unusual value, household goods, and commodities in bulk), and *empty trailer and empty marine containers*, between Sioux Falls, S. Dak., on the one hand, and, on the other, points in Plymouth, Siouxand Lyon Counties, Iowa; Rock, Nobles, Pipestone, Murray, Lincoln, and Lyon Counties, Minn., and points in that part of South Dakota east of the Missouri River, restricted to the transportation of shipments having a prior or subsequent movement by rail in trailer-on-flatcar or container-on-flatcar service. By the instant petition, petitioner seeks to include Woodbury, Cherokee, O'Brien, Osceola, Dickinson, Clay, Buena Vista, Pocahontas, Palo Alto, and Emmet Counties, Iowa; Yellow Medicine Lac Qui Parle, Big Stone, Chippewa, Redwood, Cottonwood, Jackson, Martin, Watonwan, Blue Earth, and Brown Counties, Minn., as additional radial points, and also to enlarge its authorized South Dakota territory to embrace the entire state.

No. MC 139495 (Sub-No. 95 (M1) (Notice of filing of petition to modify destination territory), filed June 16, 1977. Petitioner: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Petitioner's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. A Stay Decision and Order of the Commission, Review Board Number 3, dated July 15, 1976, and served July 20, 1976, (not yet certificated), found that the present and future public convenience and necessity require operation by petitioner, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, as pertinent, over irregular routes, in the transportation of *toilet preparations, buffing and polishing compounds, sweetening compounds, and foodstuffs* (except commodities in bulk, in tank vehicles), (1) from the facilities of Alberto-Culver Company at or near Melrose Park, Ill., to Piscataway, N.J., restricted to the transportation of shipments originating at the facilities of Alberto-Culver Company at or near Melrose Park, Ill.

By the instant petition, petitioner seeks to modify the destination territory of this grant of authority to read as follows: (1) from the facilities of Alberto-Culver Company at or near Melrose Park, Ill., to points in Union, Essex, Hudson, Bergen, and Middlesex Counties, N.J., restricted to the transportation of shipments originating at the facilities of Alberto-Culver Company at or near Melrose Park, Ill.

No. MC 140030 (Sub-No. 2) M1 (Notice of filing of petition to modify a contracting shipper), filed June 30, 1977. Petitioner: RAY KURTZ AND LINDA FARLEY, a partnership, doing business as PLASTIC EXPRESS, P.O. Box 5593, Orange, Calif. 92668. Petitioner's representative: Ray Kurtz (same address as applicant). Petitioner holds motor *contract carrier* authority in No. MC 140030 (Sub-No. 2), issued April 4, 1977, authorizing transportation over irregular routes, of *resin pellets*, from Orange, Calif., to points in Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized; and *materials* used in the manufacture of resin pellets, from points in Los Angeles and Orange Counties, Calif., to Orange, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Sterling Plastic Corp., of Orange, Calif.

By the instant petition, petitioner seeks to substitute Cosden Oil and Chemical Co., a Corporation, in lieu thereof Sterling Plastic Corp., of Orange, Calif. as contracting shipper.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 107403 (Sub-No 993) (Republication), filed December 3, 1976, and published in Federal Register issues of December 30, 1976 and January 27, 1977, and republished this issue. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same ad-

dress as applicant). An Order of the Commission, Review Board Number 1, dated June 24, 1977, and served July 15, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Alloys, ores and minerals* (except salt, lime, limestone, and fluorspar products) dry, in tank or hopper type vehicles, from the plant site of C–E Minerals, located at Wilmington, Del., to points in Ohio and West Virginia; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include West Virginia as a named destination point in lieu of Pennsylvania.

No. MC 113981 (Sub-No. 13) (Republication), filed December 15, 1975, and published in the FEDERAL REGISTER issue of February 12, 1976, and republished this issue. Applicant: VEGAS TRUCKING & MOVING, INC., 2853 Cedar Street, Las Vegas, Nev. 89104. Applicant's representative: William J. Lippman, 1819 H Street NW., Washington, D.C. 20006. An order of the Commission, Division 1, acting as an Appellate Division, dated July 5, 1977, and served July 15, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over regular and irregular routes in the transportation of: (A) Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, petroleum products in bulk, and commodities requiring special equipment), serving the mine operated by Tenneco Oil Co., located at or near Ryan, Calif., the mill operated by Tenneco Oil Co., located in Nye County, Nev., and the mine and mill operated by Industrial Minerals Ventures, Inc., located in Nye County, Nev., as off-route points in connection with applicant's regular route operations between Las Vegas, Nev., and Bakersfield, Calif., and (B) irregular routes: (1) *non-metallic ore concentrates*, in containers, from points in Nye County, Nev., to points in California, and (2) *mining and milling equipment, materials, and supplies* from points in California to points in Nye County, Nev.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include "materials" in (B) (2) as an additional commodity.

No. MC 116101 (Sub-No. 2) M1 (notice of filing petition to modify restriction in certificate), filed June —, 1977. Petitioner: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio 43219. Petitioner's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate, No. MC 116101 (Sub-No. 2), issued February 27, 1968, authorizing transportation over irregular routes of *general commodities*, moving in express service, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Adams, Allen, Ashland, Athens, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Greene, Guernsey, Hardin, Highland, Hocking, Jackson, Knox, Licking, Logan, Madison, Marion, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Richland, Ross, Union, Vinton, Wayne, and Wyandot Counties, Ohio on the one hand, and, on the other, points in Illinois, Indiana, Michigan (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: The operations authorized herein are restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day. By the instant petition, petitioner seeks to have the restriction modified by excluding therefrom traffic having a prior or subsequent movement by aircraft.

No. MC 121589 (Sub-No. 2) (republication), filed October 1, 1976, published in the FEDERAL REGISTER issue of November 4, 1976, and republished this issue. Applicant: DUANE L. HOBSCHEIDT, doing business as N & W Transfer, P.O. Box 188, Nehawka, Nebr. 68413. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. An order of the Commission, Review Board No. 2, dated June 28, 1977, and served July 14, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over regular and irregular routes, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes, (1) Between Weeping Water, Nebr., and Lincoln, Nebr., serving all intermediate points and the off-route points of Avoca, Nehawka, and Otoe, Nebr.; From Weeping Water, over Nebraska Highway 50A to junction U.S. Highway 34, thence over U.S. Highway 34 to Lincoln, and return over the same route; (2) between Weeping Water, Nebr., and Omaha, Nebr., serving all intermediate points and the off-route points of Manley, Avoca, Nehawka, Otoe, and Springfield, Nebr.: (a) from Weeping Water, over Nebraska Highway 50A to junction Nebraska Highway 1, thence over Nebraska Highway 1 to junction U.S. Highway 75, thence over U.S. Highway 75 to Omaha, and return over the same route; (b) from Weeping Water, over Nebraska Highway 50A to junction Nebraska Highway 31, thence over Nebraska Highway 31 to Omaha, and return over the same route; and (c) from Weeping Water, over Nebraska Highway 50A to junction U.S. Highway 34, thence over U.S. Highway 34 to junction U.S. Highway 75, thence over U.S. Highway 75 to Omaha, and return over the same route;

(3) Between Weeping Water, Nebr., and Auburn, Nebr., serving all intermediate points and the off-route points of Cook, Talmage, Unadilla, Nehawka, Avoca, and Palmyra, Nebr.: (a) From Weeping Water, over Nebraska Highway 50A to junction U.S. Highway 34, thence over U.S. Highway 34 to junction Nebraska Highway 50, thence over Nebraska Highway 50 to Syracuse, Nebr., thence over Nebraska Highway 2 to Nebraska City, Nebr., thence over U.S. Highway 75 to Auburn, and return over the same route; (b) from Weeping Water, Nebr., over Nebraska Highway 50A to junction U.S. Highway 34 thence over U.S. Highway 34 to junction Nebraska Highway 50, thence over Nebraska Highway 50 to junction U.S. Highway 136, thence over U.S. Highway 136 to Auburn, and return over the same route; and (c) from Weeping Water, over Nebraska Highway 50A to junction U.S. Highway 34, thence over U.S. Highway 34 to junction U.S. Highway 77, thence over U.S. Highway 77 to junction Nebraska Highway 2, thence over Nebraska Highway 2 to junction U.S. Highway 75, thence over U.S. Highway 75 to Auburn, and return over the same route; (4) between Omaha, Nebr., and Nebraska City Nebr., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Omaha, over U.S. Highway 75 to Nebraska City, and return over the same route; (5) between Omaha, Nebr., and Lincoln, Nebr., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Omaha, over Interstate Highway 80 to Lincoln, and return over the same route; (6) between Weeping Water, Nebr., and Louisville, Nebr., serving all intermediate points, and the off-route points of Cedar Creek and South Bend, Nebr.: From Weeping Water, over Nebraska Highway 50 to Louisville, and return over the same route; and, over irregular routes, (1) between Omaha, Nebr., and points in Dodge, Washington, Saunders, Douglas, Sarpy, Lancaster, Cass, Otoe, Gage, Johnson, Pawnee, Nemaha, and Richardson Counties, Nebr., and those portions of Butler, Seward, and Saline Counties, Nebr., east of Nebraska Highway 15; and (2) between points described in the irregular-route authority in (1) above, on the one hand, and, on the other, points in Nebraska; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the modification in the territorial description in the irregular route section of applicant's grant of authority.

No. MC 139493 (Sub-No. 2) (republication), filed May 7, 1976, published in the FEDERAL REGISTER, issue of June 10, 1976, and republished this issue. Applicant: LESCO TRANSPORTATION CO., INC., 7540 LBJ Freeway, Dallas, Tex. 75240. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. An order of the Commission, Division 1, dated July 1, 1977, and served July 14, 1977, orders that K. L. Breeden & Sons, Inc. (Terrell, Tex.), be substituted as applicant in No. MC 139493 (Sub-No. 2) in lieu of Lesco Transportation Co., Inc., and finds that the present and future public convenience and necessity require operation by substituted applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *iron and steel scrap*, from points in Arkansas, Louisiana, Mississippi, and Oklahoma, to the facilities of T & N Lone Star Warehouse Co. at Lone Star, Tex., restricted to traffic originating at the named origins and destined to the indicated destination; that substituted applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of common carrier authority to substituted applicant in lieu of contract carrier authority.

No. MC 141484 (republication), filed October 29, 1975, published in the FEDERAL REGISTER issue of December 24, 1975, and republished this issue. Applicant: HARRY L. ROTHSTEIN, 40 Poplar Street, P.O. Box 1386, Scranton, Pa. 18501. Applicant's representative: Richard M. Goldberg, 700 United Penn Bank Building, Wilkes-Barre, Pa. 18701. An order of the Commission, Division 1, acting as an Appellate Division, dated June 30, 1977, and served July 13, 1977, finds on reconsideration that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *general commodities* (except motor vehicles, articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), from the facilities of Distribution East, located at or near Scranton, Pa., to points in Pennsylvania and New York (except Binghamton, Endicott, Johnson City, Elmira, and Waverly, N.Y.); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of common carrier authority in lieu of contract carrier authority.

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200 (Sub-No. 291), filed June 16, 1977. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, Mo. 64106. Applicant's representative: Ivan E. Moody, 903 Grand Avenue, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plant sites and warehouse facilities of Eli Lilly & Co., located at Clinton and Lafayette, Ind., on the one hand, and, on the other, points in the states of Colorado, Connecticut, Delaware, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and District of Columbia. Restricted to freight originating or destined to the plant site and warehouse facilities of Eli Lilly & Co. in Clinton and Lafayette, Ind.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 2860 (Sub-No. 160), filed June 10, 1977. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: John P. Tucker, Jr., 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* of less than one gallon capacity, from the manufacturing and warehouse facilities of Midland Glass Co., Inc., located at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc., at or near Williamsburg, Va.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Philadelphia, Pa.; Atlanta, Ga.; or Washington, D.C. Common control may be involved

No. MC2860 (Sub-No. 162), filed June 13, 1977. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: W. Randall Tye, 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt in packages, pepper in packages, materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries in mixed shipments with salt in packages, from the facilities of Morton Salt Co., Division of Morton-Norwich Products, Inc., located at or near Silver Springs (Wyoming County), N.Y., to points in Maine, New Hampshire, Massachusetts, Vermont, Rhode Island, and Connecticut

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y., Rochester, N.Y., or Washington, D.C.

No. MC 2960 (Sub-No. 10), filed June 13, 1977. Applicant: ENGLAND TRANSPORTATION CO. OF TEXAS, a corporation, 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Suite 1125, Exchange Park, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

regular routes, transporting: *Electronic equipment, materials and supplies*, from Dallas, Fort Worth, and Mineral Wells, Tex., and their respective commercial zones, to Houston, Tex., restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas or Houston, Tex.

No. MC 4483 (Sub-No. 22), filed June 13, 1977. Applicant: MONSON DRAY LINE, INC., Route 1, Red Wing, Minn. 55066. Applicant's representative: Richard L. Gill, 332 Hamm Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages*, carbonated, flavored, and phosphated and *bottling plant supplies*, between points in Minnesota, Wisconsin, South Dakota, and North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Paul, Minn.

No. MC 5227 (Sub-No. 27), filed June 13, 1977. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and parts thereof, and equipment, materials, and supplies used in the manufacture, production and distribution thereof*, between the plantsite and storage facilities of Tote Systems, Division of Hoover Ball and Bearing Co., located at or near Dyersburg, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Memphis, Tenn., or Lincoln Nebr.

No. MC-5470 (Sub-No. 125), filed June 16, 1977. Applicant: TAJON INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Donald E. Cross, 918–16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in dump vehicles, from points in Michigan to points in Indiana, Kentucky, Maryland, New York, Ohio, Pennsylvania and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Cincinnati, Ohio.

No. MC 11207 (Sub-No. 394), filed June 15, 1977. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquetts and charcoal pellets*, from Pachuta, Mississippi to points in Alabama, Florida, Georgia, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Meridian, Miss., or Jackson, Miss.

No. MC 13134 (Sub-No. 46), filed June 20, 1977. Applicant: Grant Trucking, Inc., P.O. Box 256, Oak Hill, Ohio 45656. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of, roofing, building and insulating materials (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of Certain-Teed Corp., located in Erie County, Ohio, to points in Kentucky, West Virginia and points in Pennsylvania on and west of U.S. Highway 219.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio or Washington, D.C.

No. MC 21866 (Sub-No. 88), filed June 20, 1977. Applicant: West Motor Freight, Inc., 740 S. Reading Ave., Boyertown, Pa. 19512. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric storage batteries, junk batteries*, and *materials* and *supplies* used in the manufacture or distribution of electric storage batteries (except commodities in bulk), between the facilities of General Battery Corporation located at or near City of Industry, California, on the one hand, and on the other, points in Arizona.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at either Washington, D.C. or Philadelphia, Pa.

No. MC 25869 (Sub-No. 134), filed June 10, 1977. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, South Omaha Station, Omaha, Nebr. 68107. Applicant's representative: Donald Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a motor *common carrier*, by motor vehicle, over irregular routes transporting: *Meats, meat products, meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from the plant site of Dugdale Packing Co., located at or near Darr, Nebr., to points in Illinois, Indiana, those points in Iowa on and east of U.S. Highway 69, and points in Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebr., or Denver, Colo. Common control may be involved.

No. MC 28060 (Sub-No. 36), filed June 17, 1977. Applicant: WILLERS, INC., doing business as WILLERS TRUCK SERVICE, P.O. Box 944, Sioux Falls, S. Dak. 57101. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Georgia 30326. Authority to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of corn cribs, grain or feed bins and watering troughs, from: Sioux Falls, S. Dak., to point in Montana.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Paul, Minn., or Sioux Falls, S. Dak.

No. MC 35831 (Sub-No. 11), filed June 16, 1977. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *bar joists and accessories*, from Oakhaven, Arkansas, to points in Louisiana, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth or Dallas, Tex.

No. MC 43685 (Sub-No. 22), filed June 15, 1977. Applicant: MERCER TRUCKING COMPANY, INC., P.O. Box 11585, Spokane, Washington 99211. Applicants' representative: George H. Hart, 1100 IBM Building, Seattle, Washington 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *building stone*, from points in Park County, Montana, to points in Washington and Oregon.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Seattle, Washington; or Spokane, Washington.

No. MC 51146 (Sub-No. 503), filed June 20, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisc. 54306. Applicant's representative: Neil A. DuJardin, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *printed matter* from Des Moines, Iowa, to points in Washington, Oregon, California, Arizona, and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 52704 (Sub-No. 147), filed June 10, 1977. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *paper and paper products*, from the plantsite and warehouse facilities utilized by Central States Paper and Bag Co., Palatka, Fla., to points in Arkansas, Lousiana, Mississippi, Missouri and Texas; and (2) *materials, equipment and supplies* used in the processing, manufacture and sale of paper and paper products (except commodities in bulk and commodities requiring special equipment), from points in Arkansas, Louisiana, Mississippi, Missouri and Texas, to the plantsite and warehouse facilities utilized by Central States Paper and Bag Co., Palatka, Fla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 55896 (Sub-No. 52), filed June 17, 1977. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Michigan 48180. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Michigan 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: Building, roofing and insulating materials (except iron and steel articles and commodities in bulk), from the plant site and warehouse facilities of the Certain-Teed Corporation located at points in Erie County, Ohio, to points in Indiana, Kentucky, Michigan, New York, Pennsylvania and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. or Chicago, Illinois.

No. MC 59117 (Sub-No. 55), filed June 20, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, Oklahoma 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk from points in Oklahoma to points in Arkansas, Kansas, Missouri and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Oklahoma or Dallas, Texas.

No. MC 59150 (Sub-No. 100), filed June 16, 1977. Applicant: PLOOF TRUCK LINES, INC., P.O. Box 3277, Jacksonville, Florida 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Adel, Georgia to Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jacksonville, Florida.

No. MC 60014 (Sub-No. 47) (Correction), filed May 13, 1977, published in the FEDERAL REGISTER issue of June 23, 1977, republished as corrected this issue. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pennsylvania 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining equipment, accessories, attachments*, and *parts for mining equipment*, and *equipment, materials*, and *supplies* used in the manufacture of mining equipment (except commodities in bulk), between the plantsite and storage facilities of Reading U.S., Inc. located at or near Orange Park, Florida on the one hand and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. The purpose of this republication is to indicate Virginia as being a destination point in this proceeding.

No. MC 60014 (Sub-No. 50), filed June 13, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pennsylvania 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injecting or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia on the one hand and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 61592 (Sub-No. 402), filed June 13, 1977. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut timber homes, prefabricated buildings and building materials* (except commodities in bulk), between points in New Hampshire and Vermont on the one hand and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada, restricted to traffic originating at or destined to the facilities of Cluster Shed, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 63417 (Sub-No. 102), filed June 13, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Virginia 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *New Furniture and Furniture Parts* from North Wilkesboro, N.C. to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas and returned shipments of new furniture and furniture parts from above destinations to North Wilkesboro, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Roanoke, Virginia.

No. MC 66886 (Sub-No. 55), filed June 9, 1977. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Missouri 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Missouri 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and accessories, materials, and supplies* used in the insulation of cooling towers (except commodities in bulk), and *heat exchangers*, from the facilities of E. D. Goodfellow, Inc., located at or near Tulsa, Oklahoma, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Tulsa, Oklahoma, or Kansas City, Missouri.

No. MC 69833 (Sub-No. 121), filed June 15, 1977. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, 200 Monroe Avenue, N.W., 6th Floor, Grand Rapids, Michigan 49503. Applicant's representative: Harry Pohlad, Associated Truck Lines, Inc., 200 Monroe Avenue, N.W., 6th Floor, Grand Rapids, Michigan 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous Glass Products and materials, Mineral Wool, Mineral Wool Products and Materials, Insulated Air Ducts, Insulating Products and Materials; Fibre Rovings, Yarn and Strand, and Glass Fibre Mats and Matting* between the warehouses and storage facilities of Certainteed Corporation at or near New Haven, Indiana on the one hand, and, on the other, points in Illinois, Ohio, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Indiana; Chicago, Illinois; or Washington, D.C.

No. MC 71459 (Sub-No. 65), filed June 13, 1977. Applicant: O.N.C. FREIGHT SYSTEMS, P.O. Box 10280, Palo Alto, California 94303. Applicant's representative: Henry O. Barnhart (same address as applicant). Authority sought to operate as a *common carrier*,

by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving Kingman, Arizona as an off-route point, in conjunction with carrier's authority to serve Flagstaff and Phoenix, Arizona and Los Angeles, California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Kingman, Arizona.

No. MC 73165 (Sub-No. 410), filed June 10, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John Cooper, 200 Woodward Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate, and aluminum industrial foil*, between the facilities of Alcan Aluminum Corporation located at or near Oswego, New York; Warren, Ohio; and Fairmont, West Virginia on the one hand and, on the other, points in the United States, in and East of Minnesota, Iowa, Nebraska, Colorado, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Cleveland, Ohio or Pittsburgh, Pennsylvania.

No. MC 77424 (Sub-No. 40), filed June 13, 1977. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, Ohio 44104. Applicant's representative: Daniel C. Sullivan, Esq., Singer & Sullivan, P.C., Suite 1600, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Bicycles and tricycles; parts and accessories for bicycles and tricycles; and, materials and supplies used in the manufacture of bicycles and tricycles (except commodities in bulk), between Celina, Ohio, and Richmond, Ind., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 80430 (Sub-No. 163), filed June 10, 1977. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, Wis. 54601. Applicant's representative: F. Neil Aschemeyer (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles) and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, Wis., to points in Georgia and Tennessee. Restriction: The service proposed immediately above is restricted to the transportation of shipments originating at and destined to the involved points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 80443 (Sub-No. 8), filed June 13, 1977. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, Minn. 55113. Applicant's representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene agricultural baler twine*, from Albert Lea, Minn.; to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Montana, Missouri, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 82492 (Sub-No. 158), filed June 13, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs (except commodities in bulk), from Otsego, and Reed City, Mich., and points in Kent County, Mich., to Champaign, Ill. and points in Wisconsin and those points in Illinois located north of Interstate Highway 74; and (2) foodstuffs, damaged, returned or rejected (except commodities in bulk), from points in Illinois, Minnesota, and Wisconsin, to Otsego and Reed City, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 82841 (Sub-No. 209), filed June 13, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebraska 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lumber and lumber mill products from Montrose, Colorado, and Dolores, Colorado, to points in New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Albuquerque, N. Mex. or Denver, Colo.

No. MC 89697 (Sub-No. 31), filed June 14, 1977. Applicant: KRAJACK TANK LINES, INC., 480 East Westfield Avenue, Roselle Park, N.J. 07204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water reducing admixture, liquid*, in bulk in tank vehicles, from Linden, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Delaware, District of Columbia, Pennsylvania, West Virginia, Ohio, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 93840 (Sub-No. 29), filed June 15, 1977. Applicant: W. W. GLESS, dba GLESS BROS., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid fertilizer*, in bulk, in tank vehicles, from the storage and terminal facilities of Allied Chemical Corporation at or near Durant, Iowa to points in Arkansas, Illinois (except points in the St. Louis, Mo., East St. Louis, Ill. Commercial Zone), Iowa, Indiana, Kansas, Kentucky, Minnesota, Missouri, Nebraska, South Dakota, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Des Moines, Iowa or Kansas City, Missouri.

No. MC 93840 (Sub-No. 30), filed June 20, 1977. Applicant: W. W. GLESS, dba GLESS BROS., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid fertilizer*, in bulk, in tank vehicles, from the plantsite of Twin States Engineering and Chemical Company at or near Durant, Iowa to points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Des Moines, Iowa, or Kansas City, Missouri.

No. MC 94350 (Sub-No. 396), filed June 16, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Buildings, in sections, mounted on wheeled undercarriages (except modular units and prefabricated buildings), from points in New York (except Sodus, New York), to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont.

NOTE.—Common control may be involved. If hearing is deemed necessary, applicant requests that it be held at Rome, New York.

No. MC 95540 (Sub-No. 985), filed June 20, 1977. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Florida 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Drugs, medicines, toilet preparations, chemicals and materials and supplies utilized in the manufacture, packaging, sales and distribution of such commodities (except commodities in bulk, in tank vehicles), in mechanically refrigerated equipment, from Lewes and Seaford, Delaware, to points in North Caroline, South Carolina, Georgia, and Florida.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Philadelphia, Pa., Washington, D.C. or Tampa, Fla.

No. MC 95876 (Sub-No. 203), filed June 17, 1977. Name of carrier: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Particle board*, from Maysville, Ala., to Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Burlingham, Ala. or Washington, D.C.

No. MC 105016 (Sub-No. 8), filed June 20, 1977. Applicant: PELLISSIER TRUCKING, INC., P.O. Box 192, The Dalles, Oreg. 97058. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden poles, piling, treated lumber and timbers and accessories therefor*, requiring self unloading equipment, from J. H. Baxter plants, at or near The Dalles, Oreg., and Eugene, Oreg., to points in Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at The Dalles, Oreg., or Portland, Oreg.

No. MC 105566 (Sub-No. 144), filed June 8, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Rd., Springfield, Va. 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Clothing*, from Chicago, Ill.; Selma and Sedalia, Mo.; Florence and Lexington, Ky.; Centerville, Chattanooga, Elizabethton, Knoxville, Maryville, Memphis, Nashville, and Smithville, Tenn.; Fayetteville, Ark.; Baldwyn, Brookhaven, and New Albany, Miss.; Blue Ridge, Augusta, Macon, and Valdosta, Ga.; Charleston, S.C.; and Amarillo, El Paso, Laredo, Midland and Wichita Falls, Tex., to points in New Mexico, Arizona, Colorado, Utah, Wyoming, Montana, Idaho, Washington, Oregon, California, and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Chicago, Ill., or Washington, D.C.

No. MC 105813 (Sub-No. 223), filed June 13, 1977. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th St., P.O. Box 2009, Ocala, Fla. 32670. Applicant's representative: Arnold L. Burke, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Worthington, Ind., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 106274 (Sub-No. 25) (Amendment), filed May 9, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished as amended this issue. Applicant: RAEFORD TRUCKING COMPANY, a corporation, P.O. Box 219, Sanford, N.C. 27330. Applicant's representative: R. B. Guthrie, P.O. Box 219, Sanford, N.C. 27330. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Lumber, lumber products, fencing, wooden, in sections, fence pickets, wooden, poles, wooden, and posts, wooden*, (1) from points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, to points in Pennsylvania, Maryland, Delaware, Virginia, North Carolina, Ohio, South Carolina, Tennessee, West Virginia, New York, and New Jersey, and (2) from points in Virginia to points in North Carolina, and South Carolina.

NOTE.—The purpose of this republication is to amend applicant's request for authority. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 106674 (Sub-No. 239), filed June 13, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel Wire* on Carriers, from the plantsite and storage facilities of the United States Steel Corporation at Waukegan, Illinois, to Washington, Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 107012 (Sub-No. 241), filed June 13, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Hwy. East and Meyer Rd., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) heating and air conditioning units from the plantsite and storage facilities of Rheem Manufacturing Co., located at or near Milledgeville, Ga., to points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia; and (2) heating and air conditioning unit parts from points in Indiana, Michigan, and Ohio to the plantsite and storage facilities of Rheem Manufacturing Co. located at or near Milledgeville, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Tulsa or Oklahoma City, Okla., or Kansas City, Mo.

No. MC 107403 (Sub-No. 1023), filed June 16, 1977. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting Anhydrous Ammonia, in bulk, in tank vehicles, from the plant site of Farmland Industries, Inc., Farmland, La., located near Pollock, La., to points in Texas located east of U.S. Highway 281.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 1087), filed June 15, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, in bulk, from Nebraska City, Nebr., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 107496 (Sub-No. 1088), filed June 15, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer materials*, in bulk, from the

storage and terminal facilities of Allied Chemical Corporation at or near Durant, Iowa, to points in Arkansas, Illinois (except points in the St. Louis, Mo.-E. St. Louis, Ill., commercial zone), Iowa, Indiana, Kansas, Kentucky, Minnesota, Missouri, Nebraska, South Dakota, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebraska or Kansas City, Missouri. Common control may be involved.

No. MC 107715 (Sub-No. 11), filed June 20, 1977. Applicant: DUQAL, LTD., a limited partnership, 3308 Bandini Blvd., Los Angeles, Calif. 90023. Applicant's representative: David P. Christianson, 1800 United California Bank Building, 707 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Potting soil and pesticides (except in bulk)*, from the counties of Monterey, San Benito, Fresno, Inyo, Tulare, Kings, San Luis Obispo, San Joaquin, Santa Barbara, Ventura, San Diego, and Imperial, Calif., to points in Arizona.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 107993 (Sub-No. 56), filed June 16, 1977. Applicant: J. J. WILLIS TRUCKING CO., a corporation, P.O. Box 5328, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Fireplace air heaters and ventilators combined, iron, parts and accessories for fireplace air heaters and ventilators, from Fullerton, Calif., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles, Calif., or Washington, D.C.

No. MC 108341 (Sub-No. 63), filed June 20, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating and cooling equipment and parts and accessories* for such commodities, from the plant site and facilities of the Fuller Company, located at Houston, Tex., to points in Alabama, Connecticut, Delaware, District of Columbia, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 108676 (Sub-No. 105), filed June 8, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Kentucky 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, cooling towers, and accessories, materials, and supplies for cooling towers (except commodities in bulk), from the facilities of E. D. Goodfellow, Inc., at Tulsa, Oklahoma, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that the hearing be held in Dallas, Texas, or Nashville, Tennessee.

No. MC 111231 (Sub-No. 216), filed June 13, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ariz. 72764. Applicant's representative: Don A. Smith, P.O. Box 43, Fort Smith, Ariz. 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Benton and Washington Counties, Arkansas, to points in Louisiana, and Mississippi, and points in Tennessee on and west of Interstate Highway 24, restricted to the transportation of shipments originating at the above-specified origins.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Fort Smith, Ark. or New Orleans, La.

No. MC 111231 (Sub-No. 217), filed June 17, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Arkansas 72764. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* from Tulsa, Oklahoma to points in Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin.

NOTE.—Applicant is presently authorized to provide the service sought, except to New York and Ohio, by tacking at Siloam Springs or Van Buren, Arkansas or Oklahoma City, Oklahoma. This application seeks to eliminate these gateways. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Oklahoma or Little Rock, Arkansas.

No. MC 111310 (Sub-No. 25), filed June 15, 1977. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, Wisconsin 54615. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising premiums and materials and dispensing equipment* when shipped therewith from Detroit, Michigan to points in Minnesota and to Menomonie, Hudson, Chippewa Falls, LaCrosse, and Eau Claire, Wisconsin; (2) *Rejected shipments and empty malt beverage containers* from points in Minnesota and Hudson, Menomonie, Chippewa Falls, LaCrosse, and Eau Claire, Wisconsin to Detroit, Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison or Black River Falls, Wisc.

No. MC 111401 (Sub-No. 491), filed June 15, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Oklahoma 73701. Applicant's representative: Alvin L. Hamilton, 2510 Rock Island Boulevard, Post Office Box 632, Enid, Oklahoma 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous Ammonia*, in bulk, in tank vehicles, from the plantsite of Farmland Industries, Inc. at Farmland (Grant Parish), Louisiana to points in Texas located east of U.S. Highway 281.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, Louisiana or Kansas City, Missouri.

No. MC 111496 (Sub-No. 23), filed June 13, 1977. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minnesota 55113. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Wahpeton, North Dakota and Hutchinson, Minnesota; and (2) From Hutchinson, Minnesota to Minneapolis and St. Paul, Minnesota, restricted in (1) and (2) above to the transportation of traffic originating at or destined to plant sites, storage, or other facilities of Minnesota Mining and Manufacturing Company (3M Company) at the above named points, restricted against tacking of the authority sought in (1) with that sought in (2) above; and further restricted against tacking of the authority sought in (1) and (2) above with any other authority held by applicant.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis Minnesota.

No. MC 111729 (Sub-No. 707), filed June 14, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between the airports at Bellingham, Kenewick, Moses Lake, Pasco, Pullman, Richland, Seattle, Spokane, Tacoma, Walla Walla, Wenatchee and Yakima, Wash., on the one hand and, on the other, points in Washington, on traffic having a prior or subsequent movement by air; (2) Between points in Washington and Oregon, on traffic having a prior or subsequent movement by air; (3) Between Spokane, Wash. on the one hand and, on the other, points in the Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima, Wash., restricted against the transportation of shipments weighing in excess of 150 pounds, on traffic having a prior or subsequent movement by rail or motor vehicle.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held in Seattle, Washington or Washington, D.C.

No. MC 111729 (Sub-No. 708), filed June 20, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Proofs, cuts, copy, artwork, photographs, mechanicals and advertising material;* between Brattleboro, Vt. on the one hand and, on the other, Hartford and Plainfield, Conn.; Amherst, Boston, Holyoke, South Hadley, and Wellesley, Mass.; New Brunswick, N.J.; Ithaca and New York, N.Y.; Bethlehem and Philadelphia, Pa.; and Cranston, R.I.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Washington, D.C.

No. MC 112288 (Sub-No. 15), filed June 13, 1977. Applicant: YARBROUGH TRANSFER COMPANY (a corporation), 1500 Doune Street, Winston-Salem, North Carolina 27107. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036, Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of special equipment, between points in North Carolina on the one hand and, on the other, points in South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Greensboro, N.C., Charlotte, N.C. or Washington, D.C.

No. MC 113024 (Sub-No. 149), filed June 13, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South Du Pont Highway, Smyrna, Del. 19711. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fibre*, in bales, from Front Royal, Va., to Dover, Del., under a continuing contract, or contracts, with International Playtex, Inc.

NOTE.—Applicant holds motor common carrier authority in No. MC 135046 (Sub-No. 3) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113434 (Sub-No. 79), filed June 15, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Michigan 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Michigan 48226. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Glass containers* and *closures* therefor and *cartons* when moving in mixed shipments with glass containers from Winchester and Richmond, Indiana to points in Michigan, and *rejected and returned shipments of glass containers, closures and cartons*, from points in Michigan to Winchester and Richmond, Indiana.

NOTE.—If a hearing be deemed necessary, applicant requests that it be held at Columbus, Ohio; Detroit, Michigan or Washington, D.C.

No. MC 113528 (Sub-No. 31), filed June 20, 1977. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, Ala. 36601. Applicant's representative: Joy Stephenson, P.O. Box 1247, Mobile, Ala. 36601. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Malt beverages, including beer*, from Fort Worth, Tex., to Eutaw, Cottondale, Montgomery, Attalla, and Anniston, Ala.; and to Columbus, Vidalia, Macon, and Griffin, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Birmingham, Ala., or Atlanta, Ga.

No. MC 113751 (Sub-No. 20), filed June 16, 1977. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, Wis. 54981. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodtuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat by-products, unfit for human consumption* (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wis., to points in Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Madison, Wis.

No. MC 114045 (Sub-No. 467), filed June 13, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Worthington, Ind., to points in Arkansas, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at Chicago, Ill.

No. MC 114323 (Sub-No. 20), filed June 13,1977. Applicant: PAUL MARCKESANO & SONS CO., INC., 36 Ferris Street, Brooklyn, N.Y. 11231. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from New York, N.Y., to points in Connecticut, restricted to shipments having a prior movement in interstate or foreign commerce.

NOTE.—If hearing is deemed necessary, applicant requests it be held at New York.

No. MC 114552 (Sub-No. 132), filed June 20, 1977. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except commodities in bulk), from the facilities of Masonite Corp. at Meridian, Miss., to points in Alabama, Georgia, Florida, Tennessee, Kentucky, North Carolina, South Carolina, and Louisiana.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Birmingham, Ala.

No. MC 115092 (Sub-No. 61), filed June 13, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, lumber products and wood products*, from points in Butte, Custer, Fall River, Harding, Lawrence, Meade, Pennington, Perkins, and Shannon Counties, S. Dak., and Eagle and Pagosa Springs, Colo., to points in New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Phoenix, Ariz.

No. MC 115669 (Sub-No. 161), filed June 13, 1977. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, Nebr. 68933. Applicant's representative: Howard N. Dahlsten (same address as applicant). Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes transporting: (1) *Salt and salt products;* and (2) *dry animal, poultry, bird, and fish feed, and dry animal, poultry, bird, and fish feed ingredients;* and (3) *materials and supplies* used in agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with commodities named in (1) above, between points in Reno County, Kans., on the one hand, and on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 115841 (Sub-No. 539), filed June 16, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, Tenn. 37919. Applicant's representative: Chester G. Groebel (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Lard and lard compounds, oleomargarine, vegetable oil and vegetable oil shortening* (except in bulk), from Chattanooga, Tenn., to points in Iowa, Kansas, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin; (2) *oleomargarine, vegetable oil and vegetable oil shortening* (except in bulk), from Chattanooga, Tenn., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island; (3) *vegetable oil and vegetable oil shortening* (except in bulk), from Chattanooga, Tenn., to points in Texas; (4) *oleomargarine* (except in bulk), from Chattanooga, Tenn., to points in Missouri. Restricted in paragraphs 1 through 4 to shipments originating at Chattanooga, Tenn., and destined to the named States. Common control and dual operations may be involved.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 116014 (Sub-No.), filed June 16, 1977. Applicant: OLIVER TRUCKING CO., INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* (except commodities in bulk) used in the manufacture of bed springs, bedstead rails, cots, cot frames, and bed springs, and bed spring assemblies, and metal sleeper fixtures, from points in South Carolina to Winchester, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests that the hearing be held in Louisville, Ky.

No. MC 116073 (Sub-No. 358), filed June 13, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Donald E. Cross, 918 16th Street NW., Suite 700, Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Travel trailers, fifth wheel trailers, motor homes, and tent and pickup campers*, from the plantsite of A.M.F. Skamper at or near Bristol, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Elkhart, Ind. Common control may be involved

No. MC 116314 (Sub-No. 32), filed June 13, 1977. Applicant: MAX BINSWANGER, TRUCKING, a corporation, 13846 Firestone Boulevard, Santa Fe Springs, Calif. 90670. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *cement*, from Colton, Creal, Crestmore, Monolith, Oro Grande, and Victorville, Calif., and the plantsite of General Portland, Inc., located at or near Gorman, Calif., to points in Utah (except Beaver, Piute, Wayne, Iron, Garfield, Washington, Kane, and San Juan Counties).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles Calif. Common control may be involved.

No. MC 116519 (Sub-No. 45), filed June 16, 1977. Applicant: FREDERICK TRANSPORT, LTD., R.R. No. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, Attorney at Law, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from ports of entry on the international Boundary line between the United States and Canada, located in Michigan and New York to points in the United States (except Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Hawaii, Oregon, Utah, Washington, and Wyoming), restricted (1) to foreign commerce and (2) to the transportation of shipments originating at the warehouse and storage facilities of Apache Lumber Co., Ltd., at points in the province of Ontario, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116763 (Sub-No. 384), filed June 14, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural lime and gypsum*, in bags, from Irvington, Ky., and Knoxville, Iowa, to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 116763 (Sub-No. 385), filed June 13, 1977, Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment, and supplies* utilized in the manufacture thereof (except in bulk, in tank vehicles), between Jay and Livermore Falls, Maine, on the one hand, and on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, District of Columbia, points in New York on and north of Interstate Highway 84, Harrisburg, Pa., and points in Pennsylvania on and west of U.S. Highway 15.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 117109 (Sub-No. 18), filed June 13, 1977. Applicant: SYKES TRANSPORT CO., a corporation, Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer L, Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, poles, piling, and posts*, from the plantsite of International Paper Co., located at or near Nacogdoches, Tex., to points in Arkansas and Oklahoma.

NOTE.—Common control may be involved If a hearing is deemed necessary, applicant requests it be held at either New Orleans, La., or Birmingham, Ala.

No. MC 117119 (Sub-No. 636), filed June 13, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C to Appendix I in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Columbia Foods, Inc. (a summary of Iowa Beef Processors, Inc.), located at or near Wallula, Wash., to points in Maryland, Massachusetts, New Jersey, New York,

Ohio, and Pennsylvania, restricted to traffic originating at the named origins and destined to points in the named destination states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Washington, D.C.

No. MC 118130 (Sub-No. 77), filed June 17, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hard, jelly, and chocolate candy*, from Fort Worth, Tex., to points in Florida, Georgia, North Carolina, South Carolina, Arizona, California, Washington, and Oregon; and, (2) *materials, equipment, and supplies* (except commodities in bulk in tank vehicles) used in the manufacture and distribution of the commodities named in (1) above, from points in Florida, Georgia, North Carolina, South Carolina, Arizona, California, Washington, and Oregon to Fort Worth, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth or Dallas, Tex.

No. MC 118431 (Sub-No. 26), filed June 15, 1977. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9950, Little Rock, Ark. 72209. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites and warehouse facilities of Standard Brands, Inc., located in Bensenville and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Standard Brands, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo., or Little Rock, Ark.

No. MC 119176 (Sub-No. 16), filed June 20, 1977. Applicant: THE SQUAW TRANSIT CO., a corporation, P.O. Box 9368, Tulsa, Okla. 74107. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, Tex., 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers, and accessories, materials, and supplies* for cooling towners, (except commodities in bulk), from the facilities of E. D. Goodfellow, Inc., at Tulsa, Okla., to points in the United States (except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Tulsa, Okla.

No. MC 119560 (Sub-No. 14), filed June 10, 1977. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, S.C. 29448. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in pneumatic bulk trailers, from points in Jasper County, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Tennessee, and Virginia. If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C. Common control may be involved.

No. MC 119641 (Sub-No. 139), filed June 10, 1977. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment and industrial equipment dealers and manufacturers, between points in the United States east of the Mississippi River (except Minnesota and Wisconsin).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 119702 (Sub-No. 50), filed June 13, 1977. Applicant: STAHLY CARTAGE CO., a corporation, 119 South Main, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from Conway, Hutchinson, and Little River, Kans., to points in Illinois, Indiana, Wisconsin, Michigan, Kentucky, Missouri, and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo.

No. MC 119741 (Sub. No. 75), filed June 14, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the plant site and storage facilities of Hy Plains Dressed Beef, Inc., located at Dodge City, Kansas, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dodge City, Kans., or Wichita, Kans.

No. MC 119741 (Sub No. 76), filed June 17, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs, From the facilities of Commercial Distribution Center, Inc., at or near Independence, Missouri, to points in Illinois, Indiana, Michigan, and Ohio. Restriction: Restricted to the transportation of traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo.

No. MC 119792 (Sub No. 64), filed June 20, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a corporation, 3600 South Western Avenue, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Bananas* and *agricultural commodities*, exempt from economic regulation under Section 203(B) of the Interstate Commerce Act, when transported in mixed loads with bananas, from Gulfport, Miss., to points in Illinois, Indiana, Iowa, Kentucky, Kansas, Michigan, Missouri, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 119917 (Sub-No. 42), filed June 17, 1977. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, S.E., Atlanta, Georgia 30316. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery Products* (other than frozen), between Macon, Georgia, on the one hand, and, on the other, points in Alabama (except Birmingham), Louisiana, Mississippi and Texas, restricted to traffic moving to or from the facilities of the Keebler Company at Macon, Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia.

No. MC 121509 (Sub-No. 2), filed June 16, 1977. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa, 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, from the storage facilities utilized by Allied Chemical Corporation at Muscatine, Iowa to points in Illinois, Missouri and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Des Moines, Iowa or Chicago, Ill.

No. MC 121509 (Sub-No. 3), filed June 16, 1977. Applicant: DAUFELDT

TRANSPORT, INC., 618 Clay Street, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa, 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid commodities*, in bulk, between points in Iowa.

NOTE.—Applicant presently holds authority to provide all of the proposed service under Certificate of Registration MC 121509, and states that the purpose of this application is to convert said Certificate to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests that it be held in Des Moines, Iowa.

No. MC 121509 (Sub-No. 4), filed June 16, 1977. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa, 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed, liquid feed ingredients and corn syrup* (in bulk) from Muscatine, Iowa to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Des Moines, Iowa or Chicago, Ill.

No. MC 123744 (Sub-No. 30), filed June 16, 1977. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Lumber and lumber products*, from ports of entry on the International Boundary line between the United States and Canada in New York, to points in Virginia, Maryland, Ohio, Pennsylvania, Delaware, West Virginia, New Jersey and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Harrisburg, Pa.

No. MC 123993 (Sub-No. 40), filed June 13, 1977. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, Louisiana 70526. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, TX, 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting *Anhydrous Ammonia*, in bulk, in tank vehicles, from the plantsite of Farmland Industries, Inc., located at or near Farmland, Louisiana (near Pollock, Louisiana) to points in Texas on and east of U.S. Hwy. 281.

NOTE.—Applicant holds contract carrier authority in No. MC41116 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge or New Orleans, LA.

No. MC 124306 (Sub-No. 3), filed June 17, 1977. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastic granules*, in bulk, in tank vehicles, From the plantsite of Fiber Industries, Inc., at or near Fiberton, N.C., to ports of entry on the International Boundary line between the United States and Canada located in New York on or near the Niagara and St. Lawrence Rivers.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C. or Charlotte, N.C.

No. MC 124658 (Sub. No. 10), filed June 20, 1977. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Washington 98953. Applicant's representative: Charles C. Plower, Suite 2, 303 East "D" Street, Yakima, Washington 98901. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Newsprint*, in rolls, from Seattle, Washington to Ellensburg, Kennewick, Moses Lake, Pasco, Richland, Spokane, Sunnyside, Wenatchee, Walla Walla and Yakima, Washington; and Boise, Lewiston and Twin Falls, Idaho; and Klamath Falls, Oregon, on traffic having a prior movement by water, under a continuing contract or contracts with Powell River-Alberni Sales, Inc. and Crofton Paper Co., Inc.

NOTE.—Applicant holds motor common carrier authority in No. MC 11722 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Yakima, Wash., Portland, Ore., or Seattle, Wash.

No. MC 124673 (Sub. No. 24), filed June 13, 1977. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat meal, bone meal, blood meal, and dry rendered tankage*, from the plantsite and storage facilities of Swift Fresh Meats Company located at or near Cactus, Texas, to points in Arkansas, Oklahoma, and points in Louisiana on and west of U.S. Highway 165.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Amarillo or Dallas, Tex.

No. MC 125023 (Sub-No. 46), filed June 14, 1977. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *malt beverages*, in containers, and related advertising material moving therewith, from Pabst, Ga., to points in Pennsylvania; and empty used malt beverage containers in the reverse direction.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Pittsburgh, Pa.

No. MC 126118 (Sub No. 45), filed June 17, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Norfolk, Va. to Alabama, Arkansas, Louisiana, Mississippi, Tennessee (except Johnson City and Knoxville) and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 128375 (Sub-No. 1) and subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va. or Lincoln, Neb.

No. MC 126276 (Sub No. 177), filed June 13, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, (a) From Springhill, La., to Shelbyville, Ill.; (b) from Augusta, Ga., to Chicago, Ill.; Millville, N.J., and Paoli, Pa.; (c) from Hodge, La., to Mt. Vernon, Ohio, and Paoli, Pa.; and (d) from Ferguson, Miss., to Mt. Vernon, Ohio, under a continuing contract or contracts with The Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

MC 126904 (Sub No. 23), filed June 16, 1977. Applicant: H. C. PARRISH TRUCK SERVICE, INC., a corporation, RFD No. 2, Box 264, Freeburg, Illinois 62243. Applicant's representative; B. W. La Tourette, Jr., 11 South Meramec, Suite 1400, St. Louis, Missouri 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, interstate or foreign commerce, transporting: (1) *Malt Beverages and related advertising matter*; (2) *Empty malt beverage containers, malt beverage pallets and dunnage, damaged, refused and rejected shipments of malt beverages*, (a) From Detroit, Mich. to points in Monroe, Randolph, St. Clair, Madison, Marion and Perry Counties, Ill.; (b) From Milwaukee, Wis. to points in Monroe, Randolph, St. Clair, Madison, Marion, and Perry Counties, Ill. and Jackson, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either at St. Louis, Mo.; Springfield or Chicago, Ill.

No. MC 127726 (Sub-No. 4), filed June 15, 1977. Applicant: LEMAN KNIGHT, dba. PETE KNIGHT TRUCKING COMPANY, R.F.D. 1, Detroit, Alabama 35552. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty

Plaza, P.O. Box 22628, Jackson, Mississippi 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, from Jasper and Double Springs, Alabama to points in Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin under a contract with TMA Forest Products.

NOTE.—Applicant holds motor common carrier authority in No. MC–140973, and therefore dual operations may be involved. If an oral hearing is deemed necessary, the applicant requests that it be held at Birmingham, Alabama or Jackson, Mississippi.

No. MC 128273 (Sub-No. 262), Filed June 17, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kansas 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, Kansas 66701. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: Paper, paper products, wood flour, and products produced or distributed by manufacturers and converters of paper and paper products, from Berlin and Gorham, New Hampshire, to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois, or Washington, D.C.

No. MC 128592 (Sub-No. 8), filed June 13, 1977. Applicant: KLM, INC., 2102 Old Brandon Road, (P.O. Box 6098), Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are sold or used by operators of restaurant chains* (except commodities in bulk); Between the distribution facilities of the Burger King Corporation located at or near Greensboro, North Carolina; Syosett, New York; Bellmawr, New Jersey; Atlanta, Georgia; Minneapolis, Minnesota; Detroit, Michigan; Solon, Ohio; Santa Fe Springs and San Jose, California; Kansas City, Missouri; Denver, Colorado; Houston and Arlington, Texas; Boston, Massachusetts and Miami, Florida. (2) *Frozen Foods:* From Dothan, Alabama; Perry, Iowa and Cincinnati, Ohio to the distribution facilities of Burger King Corporation located at or near Greensboro, North Carolina; Syosett, New York; Bellmawr, New Jersey; Atlanta, Georgia; Minneapolis, Minnesota; Detroit, Michigan; Solon, Ohio; Santa Fe Springs and San Jose, California; Kansas City, Missouri; Denver, Colorado; Houston and Arlington, Texas; Boston, Massachusetts and Miami, Florida. (3) *Ham:* From Miami, Florida to Chicago, Illinois; New Orleans, Louisiana, Virginia Beach, Virginia; San Jose, California and St. Louis, Missouri. (4) *Cheese:* From points in Wisconsin to the distribution facilities of the Burger King Corporation located at or near Greensboro, North Carolina; Syosett, New York; Bellmawr, New Jersey; Atlanta, Georgia; Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Hampshire, New York, North Caroline, Ohio, Rhode Island, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, and the District of Columbia, under contract with Columbia Metals Co., at Columbia, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 128840 (Sub-No. 2), filed June 15, 1977. Applicant: ALTED TRUCKING CORP., P.O. Box 2062, Mount Vernon, N.Y. 10551. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Pottery and glassware from points in Ohio and Newell, W. Va. to points in New York, N.Y., and returned, refused or rejected shipments in the reverse direction.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 129205 (Sub-No. 5), filed June 15, 1977. Applicant: George D. Ellis, Waterview, Ga. 23108. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer materials*, in bulk and in bags, and *farm chemicals*, in containers, from Chesapeake, Va., to points in Calvert, St. Marys and Charles Counties, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Norfolk, Va.

No. MC 129712 (Sub-No. 12), filed June 17, 1977. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *bakery products* (except frozen) and *related stationery and advertising materials*, from the plantsite and warehouse facilities of Sunshine Biscuits, Inc., at Columbus, Ga., to points in Kentucky, West Virginia, and Virginia; and (2) *materials, equipment and supplies* used, sold, or dealt in by bakeries from points in Kentucky, Virginia, and West Virginia to the plantsite and warehouse facilities of Sunshine Biscuits, Inc., at Columbus, Ga., under a continuing contract or contracts with Sunshine Biscuits, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Atlanta, Ga.

No. MC 133841 (Sub-No. 3), (Correction), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished this issue. Applicant: DAN BARCLAY, INC., 362 Main St., Lincoln Park, N.J. 07035. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear devices, machinery, engines, environmental and solar equipment and materials, equipment and supplies* used in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of Curtiss Wright Corp., located at or near Woodbridge, N.J.; on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to correct applicant's base origin point. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 134060 (Sub-No. 19), filed June 8, 1977. Applicant: DAVINDER FREIGHTWAYS LTD., Duncan Financial Centre, Duncan, B.C., Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Washington 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium Chlorate*, in bulk, in tank vehicles, from the port of entry on the U.S.-Canada boundary at or near Blaine, Wash. to Bellingham, Wash., restricted

to traffic originating in the Province of British Columbia, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Seattle, Wash.

No. MC 134477 (Sub-No. 174), filed June 13, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene Agricultural Baler Twine*, from Albert Lea, Minnesota; to points in Colorado, Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minnesota.

No. MC 134477 (Sub-No. 175), filed June 13, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *matches and wooden ware* (except commodities in bulk), from Dixfield and Oakland, Maine, and Springfield, Massachusetts to points in Alabama, Arkansas, Delaware, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minnesota.

No. MC 135481 (Sub-No. 1), filed June 8, 1977. Applicant: TELFER TANK LINES, INC., End of Foster Street, Post Office Box 709, Martinez, California 94553. Applicant's representative: Daniel W. Baker, 100 Pine Street, San Francisco, California 94111. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes for the transportation of: *Asphalt, residual fuel oils* used in paving operations, *road oils, road emulsions, liquid coal tar, coal tar emulsions, coal tar cut backs* and *concresive epoxy asphalt*, in bulk, in tank vehicles: (a) From points in San Diego, Los Angeles, San Mateo, and San Bernardino Counties, California, to points in Arizona; (b) From points in San Bernardino and San Mateo Counties, California, to points in Nevada on and south of U.S. Highway 6; (c) From points in Contra Costa, Alameda, San Bernardino, Sacramento, and San Mateo Counties, California, to points in Oregon.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 135678 (Sub-No. 4), filed June 17, 1977. Applicant: MIDWESTERN TRANSPORTATION, INC., P.O. Box 25802, Oklahoma City, Okla. 73125. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Texas 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Oklahoma City, Okla., and Fort Smith, Ark., serving no intermediate points and serving Oklahoma City, Okla., as a point of joinder only: From Oklahoma City over Interstate Highway 40 to its junction with U.S. Highway 64, thence over U.S. Highway 64 to Fort Smith, and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Smith, Ark., Clinton Okla., and Amarillo, Tex.

No. MC 135913 (Sub-No. 10), filed June 13, 1977. Applicant: BREEN TRUCKING, INC., 8459 Church Road, Grosse Ile, Michigan 48138. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cat litter and clay* (except in bulk), from Blue Mountain, Mississippi to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, under a continuing contract with IMC Chemical Group, Inc., a subsidiary of International Minerals & Chemical Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 136183 (Sub-No. 3), filed June 8, 1977. Applicant: JOE COSTA, doing business as TRINIDAD FREIGHT SERVICE, Sante Fe Yards, Trinidad, Colo. 81082. Applicant's representative: Joe Costa (Same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and commodities in bulk), between Union and Harding Counties, N. Mex., and Albuquerque, N. Mex., a non-radial movement.

NOTE.—Applicant states it intends to tack the requested authority above at Union County, N. Mex., with its existing irregular route authority in No. MC 136183 (Sub-No. 1), to allow the transportation of general commodities (except those of unusual value, household goods as defined by the Commission, Classes A and B exposives, commodities in bulk, commodities requiring special equipment, and those requiring refrigeration), between Alburquerque, N. Mex., and points in Las Animas County, Colo., and points in Colfax County, N. Mex., a non-radial movement. If a hearing is deemed necessary, the applicant requests that it be held at Clayton, N. Mex.

No. MC 136291 (Sub-No. 6), filed June 15, 1977. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, Florida 33166. Applicant's representative: Francis W. McInery, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *liquid argon, liquid nitrogen and liquid oxygen* in specially designed cyrogenic vehicles provided and owned by shipper, from Gadsden, Alabama, to points in Arkansas, Florida, Georgia, Louisiana, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, under a continuing contract or contracts with Union Carbide Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 136512 (Sub-No. 12), filed June 8, 1977. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, Minnesota 55101. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minnesota 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Such merchandise as is dealt in by retail stores (except foodstuffs); (2) foodstuffs in mixed shipments with the commodities named in (1) above: from the facilities of Target Stores, Inc. at Minneapolis, Minnesota to points in Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minnesota.

No. MC 136786 (Sub-No. 116), filed June 15, 1977. Applicant: ROBCO TRANSPORTATION, INC., 309 5th Avenue NW., New Brighton, Minn. 55112. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Carpeting and carpet padding from Trenton, N.J., and Philadelphia, Pa., to points in Illinois, Indiana, Missouri and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 136817 (Sub-No. 2), filed June 20, 1977. Applicant: HUNTER BROKERAGE, INC., 3910 Richland Drive, Council Bluffs, Iowa 51501. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from points in Louisiana, Mississippi, and Arkansas, to points in Minnesota, Wisconsin, Illinois, and Iowa, under a continuing contract, or contracts, with Steel City Lumber Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala. Common control may be involved.

No. MC 136978 (Sub-No. 1), filed June 13, 1977. Applicant: HILLTOP VAN & STORAGE COMPANY, a corporation, 5178 Fisher Road, Columbus, Ohio 43228. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting *food stuffs*, in vehicle equipped with mechanical refrigeration, and equipment material and supplies used in the manufacture of food stuffs (except commodities in bulk) between Columbus, Ohio, on the one hand, and on the other, points in Illinois, Michigan, West Virginia, Virginia, Kentucky, Indiana, Tennessee, Pennsylvania, Mississippi, North Carolina and South Carolina, under contract with Capital City Products Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 138026 (Sub-No. 9), filed June 20, 1977. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 8060 East Florence Avenue, Downey, Calif. 90241. Applicant's representative: David P. Christianson, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, California 90017. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of: *Carbon Monoxide*, from Long Beach, California, and points in Harris County, Texas, to points in Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, California.

No. MC 138144 (Sub-No. 22), filed June 20, 1977. Applicant FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wisconsin 53213. Applicant's representative: Anthony E. Young, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *iron and steel articles*, from New Lennox Township, Will County, Illinois to points in Callaway County, Missouri and Coffey County, Kansas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138157 (Sub No. 38), filed June 8, 1977. Applicant's name: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures*, from Philadelphia, Pa., to points in Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC-134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 138157 (Sub-No. 39), filed June 13, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinyl floor coverings*, from Salem, New Jersey to Kingsport, Tennessee; (2) *Paint* (except in bulk), from Chicago, Illinois to Kingsport, Tennessee and Gainesville, Georgia; and (3) *Asphalt tile*, from the facilities to Uvalde Rock Asphalt Company at Houston, Texas to points in Tennessee, Virginia, and Kentucky. Restricted to traffic originating at the named origin points and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 134150 (Sub-No. 2 and others), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Georgia, or Houston, Texas.

No. MC 138157 Sub-No. 40), filed June 20, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, carpet padding and yarn*, from the facilities of TCP, Inc. located at or near Dalton, Georgia, to points in Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada and California, restricted to traffic originating at the plant site of TCP, Inc. and destined to points in the named destination states.

NOTE.—Applicant holds contract carrier authority in MC 134150 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, California or Atlanta, Georgia.

No. MC 138469 (Sub-No. 43), filed June 17, 1977. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, Oklahoma 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Illinois 60068. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Magazines, magazine parts, newspaper supplements and printing paper*, from the facilities of Meredith Corporation located at or near Des Moines, Iowa, to points in Kansas, Oklahoma, and Texas, restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, Iowa, or Omaha, Nebraska.

No. MC 138835 (Sub-No. 24), filed June 10, 1977. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., Post Office Box 113, Crozet, Virginia 22932. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: food products, foodstuffs, packaging materials, and supplies used in the manufacture and production of frozen foods, from points in New York, New Jersey, Pennsylvania, Illinois, Michigan, Massachusetts, Maryland, Ohio, Indiana, and the District of Columbia to Crozet, Va., limited to shipments destined to the plantsite and storage facilities of Morton Frozen Food Division, ITT Continental Baking Co., Inc., and restricted against movements in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Richmond, Va., or Washington, D.C.

No. MC 139196 (Sub-No. 15), filed June 20, 1977. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: Ray Wagner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Animal and poultry feed, from Minneapolis, Minn., to points in Waupaca County, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 139254 (Sub-No. 11), filed June 15, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *paper* and *paper products* from the plant sites and storage facilities of Champion International Corporation at Cincinnati and Hamilton, Ohio, to points in Alabama, Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina, and Tennessee, restricted (1) against the transportation of commodities in bulk, and (2) to the performance of transportation under a continuing contract or contracts with Champion International Corporation, of Hamilton, Ohio.

NOTE.—Common control may be involved. Applicant is seeking motor common carrier authority in No. MC 142559; therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139269 (Sub-No. 12), filed June 15, 1977. Applicant: C. P. CRASKA, INC., 10422 Cosby Manor Rd., Utica, N.Y. 13502. Applicant's representative: Murry

J. S. Kirshtein, 118 Bleecker St., Utica, N.Y. 13501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, not in bulk, in mechanically temperature controlled vehicles, (1) from Jersey City, N.J. and points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties, N.J., and points in Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, and Westchester Counties, N.Y., to points in Vermont, New Hampshire, New York, and Massachusetts on and west of U.S. Highway 5; and (2) from Burlington, Vt., to points in New Hampshire, New York, and Massachusetts on and west of U.S. Highway 5.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y. or Jersey City, N.J.

No. MC 139482 (Sub-No. 16), filed June 20, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, Minnesota 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minnesota 55102. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of dairy products, foodstuffs, pet foods and materials, equipment and supplies used in the manufacture, distribution and sale of dairy products, foodstuffs, and pet foods, between points in Iowa, Minnesota and Wisconsin on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Paul, Minnesota.

No. MC 139495 (Sub-No. 243), filed June 14, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: printed matter, plastic articles, games, toys, puzzles, playing cards, pencils, crayons, writing slates, paints, brushes, paste, store display racks, telescopes, and microscopes from coffeyville, Kans. to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Louisiana, Minnesota, Missouri, Montant, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakato, Texas, Utah, Washington, Wisconsin, and Wyoming

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 245), filed June 14, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kansas 67901. Aplicant's representtative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 2006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Light bulbs, from the plantsite and storage facilities utilized by North American Philips Lighting Corporation located at or near Lynn, Mass., to Toledo, Ohio and Detroit, Mich.

NOTE.—Applicant holds contract carrier in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 139495 (Sub-No. 251), filed June 16, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic and rubber articles*, from the plantsite and storage facilities of Rubbermaid Incorporated at or near Wooster, Ohio to points in Arkansas, Georgia, Kansas, Louisiana, North Carolina, Oklahoma, South Carolina, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139577 (Sub-No. 6), filed June 15, 1977. Applicant: ADAMS TRANSIT INC., P.O. Box 338, Friesland, Wisconsin 53935. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Authority sought: To operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats* and *meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wisconsin to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wis., or Chicago, Ill.

No. MC 139821 (Sub-No. 3), filed June 13, 1977. Applicant: HAUGEN TRANSIT, INC., Rural Route 2A, Madelia, Minn. 56062. Applicant's representative: James H. Malecki, One South State Street, New Ulm, Minn. 56073. Authority sought: Applicant applies for authority to engage in operation, in interstate or foreign commerce as a *contract carrier* by motor vehicle over irregular routes in the transportation of *Soybean meal, linseed meal, sunflower seed meal, and flax seed screenings meal* (except liquid commodities in bulk, in tank vehicles), from the plantsite of Honeymead Products Company, Division of Farmers Union Grain Terminal Association, at Fridley, Minn., to points in Wisconsin, under contract with Honeymead Products Co., Division of Farmers Union Grain Terminal Association, restricted against shipments in foreign commerce to or from ports of entry on the International Boundary line between the United States and Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mankato, Minneapolis or St. Paul, Minn.

No. MC 140028 (Sub-No. 5), filed June 8, 1977. Applicant: MOULDEN & SONS, INC., P.O. Box 18, 200 Second Street, Enumclaw, Washington 98022. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Washington 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumice rocks* in dump trucks and trailers from points in Deschutes County, Oregon to points in Washington on and west of U.S. Highway 97 (excluding points in Lewis, Thurston and King Counties).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 140033 (Sub-No. 25), filed June 13, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Texas 75220. Applicant's representative: Lawrence A. Winkle, Post Office Box 45538, Dallas, Texas 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lime* in bags or boxes (except commodities in bulk), from Midlothian and Dallas, Texas, to Allen Park, Mich.; Atlanta, Ga.; Beloit, Wis.; Brentwood, Md.; Council Bluffs, Iowa; Cucamonga, Calif.; Fall River, Mass.; Indianapolis, Ind.; Jackson, Miss.; Kirkwood, New York; Los Angeles, Calif.; Louisville, Ky.; Lubbock, Texas; Monroe, Wis.; Massillon, Ohio; Orlando, Fla.; Salisbury, N.C.; San Jose, Calif.; Topeka, Kansas; Vancouver, Wash.; Williamsport, Pa.; Wooster, Ohio; and Oklahoma City, Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Texas or Washington, D.C.

Docket No. MC 140869 (Sub-8), filed June 16, 1977. Applicant: KERRI TRUCKING, INC., 131 Route No. 17, Mahwah, N.J. 07430. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet padding*, (1) from Eddystone, Pa., to Fort Wayne, Ind.; and (2) from Fort Wayne, Ind., to points in Ohio, Pennsylvania, and West Virginia, under a continuing contract or contracts with General Felt Industries, Inc. of Saddle Brook, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y., or Washington, D.C.

No. MC 140883 (Sub-No. 13), filed June 13, 1977. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, Georgia 30345. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, GA 30303. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Plastic pipe and pipe fittings* from Social Circle, Ga., to points in Alabama, Florida, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Virginia, under a continuing contract or contracts with CertainTeed Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 140976 (Sub-No. 1), filed June 13, 1977. Applicant: SNAPPY DELIVERY, INC., 1823 East Dakota, Pierre, South Dakota, 57501. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, South Dakota, 57701. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting *Used Household Goods*, (1) Between points in South Dakota west of the Missouri River and on and east of South Dakota Highway No. 73, including the commercial zones of points on such highway; and (2) Between points in South Dakota east of the Missouri River on the one hand, and points in South Dakota west of the Missouri River and on and east of South Dakota Highway No. 73, including commercial zones of points on such highway (except points in the Cheyenne River, Lower Brule, Pine Ridge, Rosebud, and Standing Rock Indian Reservations) on the other hand. Restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pick up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, or decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn., or Denver, Colo.

No. MC 141033 (Sub-No. 25), filed June 13, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs*, not frozen, (except commodities in bulk), from Kennett Square and West Chester, Pa., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii), restricted to traffic originating at Kennett Square, and West Chester, Pa.

NOTE.—Applicant holds contract carrier authority in No. MC 124796 (Sub-11) and sub numbers thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Los Angeles, Calif.

No. MC 141033 (Sub-No. 26), filed June 13, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by producers, packagers of *aerosol* and *spray-type containers* (except commodities in bulk and those which require refrigeration), (1) from Los Angeles, Calif., to Wyoming, Nevada, Oregon, Washington, Colorado, and Texas; (2) from Atlanta, Ga. to Kentucky, Tennessee, South Carolina, Florida, Alabama, New Jersey, Illinois, Oklahoma, Arkansas, and Texas; (3) from Berkeley, R.I., to Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Maryland, South Carolina, Virginia, Vermont, Ohio, Michigan, and Illinois, and (4) from Danville and Momence, Ill. to Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin, restricted to the transportation of commodities originating at the plantsites and facilities of Peterson/Puritan, Inc.

NOTE.—Applicant holds contract carrier authority in No. MC-124796 (Sub-No. 1) and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif. or Washington.

MC 141186 (Sub-No. 2), filed June 13, 1977. Applicant: CLEVELAND SHELLEY, doing business as SHELLEY TRUCK LINE, Route 2, Headland, Ala. 36345. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gypsum dust*, in bags, from Brunswick, Ga., to points in Houston, Henry, Barbour and Geneva Counties, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 141426 (Sub-No. 6), filed June 16, 1977. Applicant: WHEATON CARTAGE CO., Millville, New Jersey. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products* used in radiological research, *organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment* and *supplies* used in the coating production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries located at or near Centralia, Illinois, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries located at Millville, N.J.

NOTE.—The purpose of this application is to extend contract carrier services to embrace the Wheaton facilities located at or near Centralia, Ill. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 141527 (Sub-No. 4), filed June 9, 1977. Applicant: D & D Lumber Company, Inc., 2146 Amity Hill Road, Statesville, North Carolina 28677. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *upholstered chairs*, uncrated, from Hickory, North Carolina to points in Arizona, California, Colorado, New Mexico, Oregon, Washington, and to points in Texas on and west of U.S. Highway 83, under a continuing contract with Carolina Chairs a division of A. W. Furniture Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 141546 (Sub-No. 19), filed June 8, 1977. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, Massachusetts 01810. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Massachusetts 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from Nashua, New Hampshire to points in Maine, Vermont, Massachusetts, Connecticut, Rhode Island, and New York.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Massachusetts.

No. MC 141652 (Sub-No. 17), filed June 13, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Mississippi 39208. Applicant's representative: Mr. Kim G. Meyer, 1600 First Federal Building, Atlanta, Georgia 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) Synthetic rubber from Baton Rouge, Louisiana to points in Hanford, California, and (2) Tires between Natchez, Mississippi, on the one hand, and, on the other, points in Hanford, Los Angeles and San Francisco, California.

NOTE.—Applicant holds motor contract carrier authority in No. MC 138807 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Jackson, Mississippi, or Atlanta, Georgia.

No. MC 141728 (Sub-No. 3), filed June 15, 1977. Applicant: WILMINGTON

CORP., Northern Industrial Park, Wilmington, MA 01887. Applicant's representative: Donna Vitter Plot, One Center Plaza, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are sold or used in retail stores (except commodities in bulk, and commodities requiring the use of special equipment), between facilities owned or utilized by Edison Brothers Stores, Inc. and its subsidiaries within the United States (except Alaska and Hawaii), under a continuing contract or contracts with Edison Brothers Stores, Inc.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Boston, MA or Washington, D.C.

No. MC 141804 (Sub-No. 64), filed June 13, 1977. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair* and *skin products, toilet preparations*, and *equipment, materials* and *supplies* used in the production and distribution thereof (except commodities in bulk in tank vehicles) between points in Ventura, Los Angeles, Orange, San Bernardino and Riverside Counties, California on the one hand, and, on the other points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Arkansas and Louisiana, restricted to traffic originating at or destined to the plantsites and storage facilities utilized by Redken Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, California or Lincoln, Nebraska.

No. MC 141966 (Sub-No. 1), filed June 13, 1977. Applicant: GINA MARIE EXPRESS CO., a corporation, 1830 W. 38th Avenue, Denver, Colo. 80211. Applicant's representative: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, Fla. 33308. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in, or used by, manufacturers and distributors of cheese, cheese products, pizza topping and related commodities, between the facilities of, or used by, Leprino Cheese Co., located at or near Indianapolis, Ind., and Springfield, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Leprino Cheese Co., at Denver, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver Colo.

No. MC 142268 (Sub-No. 16), filed June 20, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada N0R 1G0. Applicants representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles, from Detroit, Mich., and points in its commercial zone, to ports of entry on the International Boundary line between the United States and Canada, located in Michigan, for furtherance to points in Ontario.

NOTE.—Applicant is filing, concurrently with this application, a Motion to Dismiss on the ground that the operations herein contemplated are not subject to the jurisdiction of the Interstate Commerce Commission. If a hearing is deemed necessary, applicant requests that it be held at Detroit, Mich. or Lansing, Mich.

No. MC 142559 (Sub-No. 3), filed June 17, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires* and *tubes, wheels, shock absorbers*, and *petroleum products* (except in bulk), from Montgomeryville and Norristown, Pa., and Memphis, Tenn., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Utah.

NOTE.—Common control may be involved. Applicant holds motor contract carrier authority in No. MC 139254 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Philadelphia, Pa.

No. MC 142644 (Sub-No. 2), filed June 13, 1977. Applicant: EDWARD MONTROSS, 40 Maplewood Avenue, Dallas, Pennsylvania 18612. Applicant's representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pennsylvania 18517. Authority sought to operate as a *contract carrier*, by motor carrier, over irregular routes, transporting: (1) Brass castings and fittings, fom Edwardsville, Pennsylvania, to Orlando, Florida; (2) Collapsible steel containers, from Orlando, Florida, to Reading, Pennsylvania, under a continuing contract or contracts with R & H Manufacturing, Inc.

NOTE.—If a hearing is necessary, applicant requests it be held at Washington, D.C.

No. MC 142672 (Sub-No. 5), filed June 20, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., Post Office Drawer F, Mulberry, Arkansas 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Arkansas 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and Confectionery and related items* (except in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township, Pennsylvania, to points in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee and Texas. Restricted to traffic originating at the plantsite and warehouse facilities of Hershey Foods Corporation, at or near Derry Township, Pennsylvania.

NOTE.—Applicant has motor contract carrier authority pending in No. MC 142065 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa. or Tulsa, Okla.

No. MC 142743 (Sub-No. 2), filed June 13, 1977. Applicant: FAST FREIGHT SYSTEMS, INC., 118 N. Congress Street, Jackson, Mississippi 39205. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: Floor sweeping compounds and absorbents (except in bulk), from Ripley, Mississippi to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin. Restricted against transportation to the facilities of the Mueller Brass Co. at Port Huron, Mich. and Middletown, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., Atlanta, Ga., or Chicago, Ill.

No. MC 142852 (Sub-No. 1), filed June 15, 1977. Applicant: BERNARD B. BOALS, R.R. 1, Dakota, IL 61018. Applicant's representative: Bernard B. Boals (same address as above). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Cheese and cheese products, from the plantsite of Berner Cheese Corp., at Afolkey, Ill., and the plantsite of Pleasant View Cheese Corp., near Rock City, Ill., to Carnegie and Mercer, Penn., Detroit, Mich., and Monroe, Wis., and returned shipments from Carnegie and Mercer, Penn., Detroit, Mich., and Monroe, Wis., to the plantsite of Berner Cheese Corp., at Afolkey, Ill., and the plantsite of Pleasant View Cheese Corp., near Rock City, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142957 (Sub-No. 1), filed June 20, 1977. Applicant: NETWORK TRANSPORTATION SYSTEMS, INC., 35 Brown Street, Washington, N.J. 07882. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Audio Visual Equipment, and materials and supplies used in connection therewith, except in bulk, between points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Caribiner, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y., or Newark, N.J.

No. MC 142967 (Sub-No. 2), filed June 20, 1977. Applicant: RAY REBICH, doing business as RAY REBICH TRUCKING, Route 1, Box 18, Dillon, Mont. 59725. Applicant's representative: Charles A. Murray, Jr., 207A Behner Building, 2822 Third Avenue North, Billings, MT 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, dead or slaughtered animals and poultry, and parts thereof*, unfit for human consumption, from Dillon, Montana, to Boise, Idaho; Ogden, Utah; and Spokane, Washington, under a continuing contract or contracts with Tri-State Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Billings, Montana.

No. MC 143014 (Sub-No. 1), filed July 15, 1977. Applicant: WILLIAM FLOYD SIMS, d.b.a. FLOYD SIMS, Maple Street, P.O. Box 651, Old Fort, N.C. 28762. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough hardwood lumber*, kiln dried, from Heber Springs and North Little Rock, Ark., to Canton and Greenwood, Miss.; points in North Carolina; Memphis, Tenn.; and points in Tennessee on and east of U.S. Highway 27, under a continuing contract, or contracts, with Southern Squares Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Asheville, N.C., or Little Rock, Ark.

No. MC 143083 (Sub-No. 3), filed June 13, 1977. Applicant: C.T.S. LINES, INC., 602 Airport Road, Greenville, S.C. 29615. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, rugs, and carpet samples*, from the plantsite of Dan River, Inc., Floorcovering Division, located near Greenville, S.C., to points in Alabama, California, Colorado, Florida, Georgia, Louisiana, Mississippi, and Oklahoma, and to Sparks, Nev., and Dallas and Houston, Tex.; and (2) *Returned, rejected, and damaged commodities* described in (1) above, from the destination points to the origin point as described in (1) above; under a continuing contract, or contracts, with Dan River, Inc., Floorcovering Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Greenville, S.C., or Washington, D.C.

No. MC 143275 (Sub-No. 1), filed June 16, 1977. Applicant: Hilton K. Rawlins, P.O. Box 84, McRae, Georgia 31055. Applicant's repersentative: Wm. Addams, Suite 212–5299, Roswell Road, N.E., Atlanta, Georgia 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) lawn mower sub-assemblies and lawn mover parts, between McRae and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky., and Bradley, Ill., (2) material and supplies (except commodities in bulk) used in the manufacture of applicant requests that it be held at Atlanta, lina, Ohio, Alabama and Indiana; Sardis, Miss.; Livingston, Tenn., and Jacksonville, Fla., to McRae, and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky. and Bradley, Ill., under a continuing contract or contracts with Roper Lawn Products of Savannah, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 143321 (Sub-No. 2), filed June 13, 1977. Applicant: JADAN, INC., P.O. Box 3070, South Bend, Indiana 46619. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Appliances and bath tubs, shower stalls and related fixtures*, from Nappanee, Indiana to points in California, Colorado, Idaho, Nevada, Oregon, Washington and Utah. Restricted to a contract or continuing contracts with Vitreous Steel Products Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Indiana or Chicago, Illinois.

No. MC 143355, filed June 8, 1977. Applicant: WILLIS G. SAFE, d.b.a. WILLDO TRUCKIN', Route 1, Red Wing, Minn. 55066. Applicant's representative: Harry P. Strong, Jr., Suite 719, 2850 Metro Drive, Bloomington, Minn. 55420. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those which because of size or weight require the use of special equipment) between Winona, Wabasha, Red Wing, Lake City, and Hastings, Minn., on the one hand, and, on the other, the Minneapolis/St. Paul International Airport located in Minneapolis, Minn., restricted to traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 143362, filed June 13, 1977. Applicant: W. E. LUCINI CORP., 375 South Main Street, West Bridgewater, Mass. 02379. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: *Powdered cellulose products*, in bulk, in shipper-owned trailers, from East Bridgewater, Mass., to points in Connecticut under a continuing contract with Resource Recovery Division, Combusion Equipment Associates, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass., or Hartford, Conn.

No. MC 143367 (Sub No. 1), filed June 13, 1977. Applicant: ORANGEBURG REDI-MIX CONCRETE, INC., P.O. Box 706, Orangeburg, S.C. 29115. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Mill scale*, in bulk, in dump vehicles, from Croft, N.C., to Orangeburg, S.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbia, S.C.; Charlotte, N.C.; or Orangeburg, S.C.

No. MC 143374 (Sub-No. 1), filed June 13, 1977. Applicant: DENNIS J. DURBIN, d.b.a., DURBIN TRANSPORT, 12400 Goodhill Road, Wheaton, Maryland 20906. Applicant's representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, Virginia 22030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Cement, in bags, from the plant sites of Medusa Cement Co., located at York, Pa. and Martin Marietta Corp. located at Martinsburg, W.Va., to Washington, D.C.; and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery and Prince Georges Counties, Md.; and Fauquier, Loudoun, Prince William, and Stafford Counties, Va.; (2) Cement, in bags from the plant site of Riverton Lime and Cement Co., located at Riverton, Va. to Washington, D.C., and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; (3) Bricks, from the plant site of Merrion Brick Co., located at Manassas, Va., to Washington, D.C., and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; and (4) Bricks from the plant site of Glen-Gery Corp., located at York, Pa., to Washington, D.C., and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Va., to points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; and Fauquier, Loudoun, Prince William, and Stafford Counties, Va.; (5) Bricks from Alexandria, Va., to points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; restricted to shipments having a prior movement by rail; (6) Firebrick from the plant site Whitacre-Greer Fire-Proofing Co., located at Waynesboro, Ohio; Flue Lining from the plant site of Kopp and Malvern Flue Lining Co., located at Malvern, Ohio; and Concrete Lintels from the plant site of York Lintel and Cast Stone, Inc., located at York, Pa., to Washington, D.C., and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery and Prince Georges Counties, Md.; and Fauquier, Loudoun, Prince William, and Stafford Counties, Va.; and (7) Cement, in bags, bricks, firebrick, flue linings, and concrete lintels from the facilities of the Betco Block and Products, Inc., located at Bethesda, and Gaithersburg, Md., to points in Fauquier, Loudoun, Prince William and Stafford Counties, Va., under a continuing contract or contracts with Betco Block and Products, Inc., of Bethesda, Md.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 143380, filed June 16, 1977. Applicant: JAMES J. SANTRY TRUCKMEN, INC., 19 Goff Ave., Staten Island, NY 10309. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wines and liquors*, from Boston, Mass., Hartford, Conn., Linfield, Pa., New York, N.Y., and Baltimore, Md., to Union and Pennsauken, N.J., under a continuing contract or contracts with Flagstaff Liquor Co., Union and Pennsauken, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 143382 (Sub-No. 2), filed June 16, 1977. Applicant: KEVIN M. RYMAN, P.O. Box 3692, R.D. No. 4, Berwick, Pennsylvania 18603. Applicant's representative John M. Musselman, P.O. Box 1146, Harrisburg, Pennsylvania 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *plastic film, plastic sheeting, and plastic mats*, from Mountaintop, PA., to Los Angeles, CAL., under a continuing contract or contracts with Harte & Company, Inc., located at Mountaintop, PA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 143385 (Sub-No. 1), filed June 15, 1977. Applicant: TRANSPORT ROBERT (1973) LTEE, 130 First Avenue, Rougemont, Cte Rouville, Quebec Canada. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Michigan 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Steel products between ports of entry on the International Boundary line between the United States and Canada in Michigan, Minnesota, and New York, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin; and (2) Materials, equipment and supplies used in the manufacture of steel products, from points in Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin to ports of entry on the International Boundary line between the United States and Canada in Michigan, Minnesota and New York; restricted in (1) and (2) above to shipments originating at or destined to points in Quebec, Canada, under continuing contracts with Sivaco Wire & Nail Co. Ltd. and Industrial Fasteners Ltd. of Marieville, Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 143393, filed June 3, 1977. Applicant: JACK FROST, INC., 309 Lincoln Avenue, S.E., St. Cloud, Minnesota 56301. Applicant's representative: Rich Albrecht, 309 Lincoln Avenue, S.E., St. Cloud, Minnesota 56301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Agricultural Limestone, in bulk or in packages, from Lisbon (Waukesha County), Wisconsin, and Sussex, Wisconsin, to points in Minnesota, under a continuing contract or contracts with Vulcan Materials Co., Sussex, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 143394, filed June 14, 1977. Applicant: GENIE TRUCKING LINE, a corporation, 70 Carlisle Springs Road, Carlisle, Pa. 17013. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting* and *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture, installation and distribution of carpeting, between points in the United States (except Hawaii and Alaska), under a continuing contract or contracts with C. H. Masland & Sons, of Carlisle, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Harrisburg, Pa.

No. MC 143404, filed June 13, 1977. Applicant: GREENHILL TRUCKING, INC., 1650 Old Country Road, Plainview, New York 11803. Applicant's representative: Thomas F. X. Foley, P.O. Box 1409, Fairfield, New Jersey 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *automotive parts, accessories and supplies*, (2) hardware, (3) kitchen equipment and appliances; and (4) audio and video products except for commercial or industrial use, between Plainview, N.Y., on the one hand, and, on the other, Secaucus, N.J., points in Dutchess, Putnam, Rockland and Weschester Counties, N.Y., points in Connecticut, and points in Essex, Middlesex and Norfolk Counties, Mass. under a continuing contract or contracts with Ralar Distributors, Inc. of Plainview, N.Y.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at either New York, N.Y. or Newark, N.J.

No. MC 143405, filed June 16, 1977. Applicant: LOGANSPORT AGRI-TRANSPORT, INC., Rural Route 2, Davis Junction, Illinois 61020. Applicant's representative: Eric S. Sparks, 221 North LaSalle Street, Suite 1007, Chicago, Illinois 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *feed, feed ingredients, related animal health care items and sales promotion items*, between the plant site of Kent Feeds, Inc., located at Logansport, Indiana, on the one hand, and, on the other, points in Illinois, Michigan, Ohio, Kentucky, Tennessee, West Virginia, Pennsylvania, Wisconsin, Iowa, Missouri, Nebraska and Minnesota, under a continuing contract or contracts with Kent Feeds, Inc., of Logansport, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Milwaukee, Wis.

No. MC 143406, filed June 17, 1977. Applicant: MICHEL PROPERTIES, INC., Stenersen Lane, Cockeysville, Maryland 21030. Applicant's representative: William F. Mosner, 21 W. Susquehanna Avenue, Towson, Maryland 21204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such businesses (except frozen foods and commodities in bulk), between Cockeysville and Timonium, Maryland, on the one hand, and, on the other, points in Delaware, New Jersey, North Carolina, Pennsylvania and Virginia, restricted to a transportation service to be performed, under a continuing contract or contracts with Michel Warehousing Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 143407, filed June 15, 1977. Applicant: MODERN TRANSPORT, INC., 30127 Austin, Warren, Michigan 48092. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *silica sand*, in bulk, in dump vehicles, from Rockwood, Michigan, to Columbus, Toledo, and Lancaster, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Detroit, Mich., Toledo, Ohio, or Chicago, Ill.

No. MC 143409, filed June 14, 1977. Applicant: SYLVESTER J. SAMPSON, d.b.a. SAMPSON'S EXPRESS, 30 Bernard Street, Newton Highlands, Mass. 02161. Applicant's representative: George C. O'Brien,, 15 Court Square, Boston, Massachusetts 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper*, in tablets, wirebound pads, sheets, envelopes and adding machine and cash register rolls, from Norwood, Mass., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York and New Jersey; and (2) *Paper*, in rolls, from points in Maine, to Norwood, Mass, under a continuing contract or contracts with Fay Paper Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

No. MC 143411, filed June 13, 1977. Applicant: VALLEY CONTRACT CARRIERS, INC., Suite 185, 11500 Stemmons Freeway, Dallas, Texas 75229. Applicant's representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, Texas 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *fruit and vegetable juices and concentrates*, from Weslaco, Texas, to points in Arizona, California, Colorado, Kansas, Louisiana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Utah and Washington, under continuing contract or contracts with Texsun Corporation.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at San Antonio, Texas or Dallas, Texas.

No. MC 143412, filed June 15, 1977. Applicant: LEE M. WHITE, INC., P.O. Box 336, Franklin, Va. 23851. Applicant's representative: J. Raymond Clark, Suite 1150, 600 New Hampshire Ave., NW., Washington, D.C. 20037. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: wood chips and wood residual products, in bulk, between points in North Carolina on the one hand and on the other, the plant site of Union Camp Corporation at or near Franklin, Va., under a continuing contract or contracts with Union Camp Corporation.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at New York, N.Y. or Washington, D.C.

PASSENGERS

No. MC 111422 (Sub-No. 9), filed June 16, 1977. Applicant: O. D. ANDERSON, INC., Conneaut, Lake Road, Greenville, Pennsylvania 16125. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage* in the same vehicle with passengers in charter operations beginning and ending at points in Beaver, Butler, Clarion, and Forest Counties, Pennsylvania, and extending to points in the United States, including Alaska, but excluding Hawaii, (2) *passengers and their baggage* in the same vehicle with passengers in special operations, in round trip sightseeing and pleasure tours beginning and ending at points in Beaver, Butler, Clarion and Forest Counties, Pennsylvania, and extending to points in the United States, including Alaska, but excluding Hawaii, (3) *passengers and their baggage* in the same vehicle with passengers, in one-way charter operations, from points in Beaver, Butler, Clarion, Crawford, Erie, Forest, Mercer, and Venango Counties, Pennsylvania, and Ashtabula, Cuyahoga, Geauga and Lake Counties, Ohio to points in the United States, including Alaska, but excluding Hawaii, restricted to passengers having a subsequent movement by air to airport serving point of origin, including supplemental motor carrier service from airport to actual point of origin, (4) *passengers and their baggage* in the same vehicle with passengers in one-way charter operations from points in the United States, including Alaska, but excluding Hawaii, to points in Beaver, Butler, Clarion, Crawford, Erie, Forest, Mercer, and Venango Counties, Pennsylvania, and Ashtabula, Cuyahoga, Geauga, and Lake Counties, Ohio, restricted to passengers having a prior movement by air from airport serving point of destination, including supplemental motor carrier service from actual point of destination to airport, (5) *passengers and their baggage* in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours from points in Beaver, Butler, Clarion, Crawford, Erie, Forest, Lawrence, Mercer and Venango Counties, Pennsylvania, and Cuyahoga, Mahoning, Medina, Portage and Summit Counties, Ohio, to points in the United States, including Alaska, but excluding Hawaii, restricted to passengers having a subsequent movement by air to airport serving point of origin, including supplemental motor carrier service from airport to actual point of origin, (6) *passengers and their baggage* in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours from points in the United States, including Alaska, but excluding Hawaii, to points in Beaver, Butler, Clarion, Crawford, Erie, Forest, Lawrence, Mercer and Venango Counties, Pennsylvania, and Cuyahoga, Mahoning, Medina, Portage, and Summit Counties, Ohio, restricted to passengers having a prior movement by air from airport serving point of destination, including supplemental motor carrier service from actual point of destination to airport.

NOTE.—Common Control may be involved. If a hearing is deemed necessary applicant requests that it be held at Cleveland, Ohio or Pittsburgh, Pa.

No. MC 143252 (Amendment), filed May 5, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, republished as amended this issue. Applicant: JOHN WILLIAM JIGGETTS, d.b.a. JIGGETTS CHARTERED BUS SERVICE, Post Office Box 18, Palmer Springs, Va. 23957. Applicant's representative: Thomas B. Throckmorton, 1400 Ross Building, Richmond, Va. 23219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special and round trip charter operations, beginning and ending at Mecklenburg, Nottoway, Greenville, Brunswick and Lunenburg Counties, Va., and Vance and Warren Counties N.C., and extending to points in Virginia, North Carolina, South Carolina, Georgia, Florida, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts and the District of Columbia.

NOTE.—The purpose of this republication is to amend the applicant's request of authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Richmond, Va.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13245. (Correction) HOLLEBRAND TRUCKING, INC.—Purchase—Fred Carpenter, an individual published in the June 30, 1977, issue of the FEDERAL REGISTER, on page 33430. Prior notice should have read as follows: *From port facilities in New York and in New Jersey within the New York, N.Y. harbor area as defined by the Commission in Ex Parte No. 140, Determination of the Limits of New York Harbor and Harbor Contiguous Thereto, to Scranton, Pa.*

No. MC-F-13272. Authority sought for control and merger by C & S TRUCKING INC., 1983 Old Oakland Highway, San Jose, CA. 95131, of TRAILS TRUCKING INC., 1983 Old Oakland Highway, San Jose, CA., 95131, and for acquisition by Gerald V. Smith, also of San Jose, CA. 95131, of control of such rights through the transaction. Applicants' attorney: William J. Monheim, Registered Practitioner, 15942 Whittier Blvd., P.O. Box 1756, Whittier, CA., 90609. Operating rights sought to be controlled and merged: Under MC 138299 (Sub-No. 5) pending, authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Mineral wool and mineral wool products; insulating material; insulated air duct; and products, utilized in the installation of the described commodities, from La Mirada and Union City, Calif., to points in Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming, under contract with certain-Teed Products Corporation. Under MC-138299 (Sub-No. 8) pending authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Fiberglas materials and fiberglas products, fibrous glass; mineral wool products, fibrous glass textile materials, fibrous glass textile products and roofing materials, from Santa Clara, Calif., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and El Paso, Tex., under a continuing contract or contracts with Owens-Corning Fiberglas Corporation.

Vendee is authorized to operate as a common carrier in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13281. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, d.b.a. CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, N.C., 28021, of a portion of the operating rights of INDIANHEAD TRUCK LINE, INC., Box 3355, St. Paul, MN., 55165, and for acquisition by C. Grier Beam, also of Cherryville, N.C., of control of the rights through the purchase. Applicant vendee's attorney: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St., NW., Washington, D.C., 20004; applicant vendor's attorney: Paul C. Gartzke, 121 West Doty Street, Madison, WI., 53703. Operating rights sought to be purchased: General commodities, with exceptions, as a common carrier, over regular routes, between Detroit, Mich., and Toledo, Oh., as more fully described in Certificate No. MC 108449 (Sub-No. 389). Vendee is authorized to operate pursuant to Certificate No. MC 2253 and subs as a common carrier in the states of Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia and Wisconsin. Application has not been filed for temporary authority under Section 210a(b).

NOTE.—The authority to be acquired is proposed to be subject to the following restriction: Restricted against traffic originating within the commercial zones of Detroit, Mich., Toledo, Ohio, or an intermediate point and destined to the commercial zones of Detroit, Mich., Toledo, Ohio, or an intermediate point.

No. MC–F–13283. Authority sought for purchase by MUSHROOM TRANSPORTATION CO., INC., 845 East Hunting Park Avenue, Philadelphia, PA., 19124, of the operating rights of FOUTTY FREIGHT, INC., 3128 Massilon Road, Akron, OH., 44308, and for acquisition by Robert G. Cutaiar, 2069 Winthrop Rd., Huntington Valley, Pa., 19006, Robert F. Cutaiar, 7628 Oak Lane Rd., Cheltenhan, PA., 19012, and Richard Cutaiar, Sr., 221 East St. Louis Ave., Wildwood Crest, N.J., 08260, of control of such rights through the purchase. Applicants' attorneys: A. David Millner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J., 07006, Richard Chenoweth, 1 Cascade Plaza, Akron, OH., 44308, and David H. Wilson, 1 Cascade Plaza, Akron, OH., 44308. Operating rights sought to be transferred: Under a certificate of Registration in Docket No. MC 121486 (Sub-No. 1), covering the transportation of General commodities, with exceptions, as a common carrier, over irregular routes, from Cleveland, Ohio to all points in Ohio, from all points in Ohio to Cleveland, Ohio. Approval of the transaction will not result in dual operations or splitting of operating authority. Minor insignificant duplication of authority will result. Vendee is authorized to operate as a common carrier in New York, New Jersey, Pennsylvania, Maryland, and Ohio. Application has not been filed for temporary authority under section 210a(b).

NOTE: MC–???? is a directly related matter.

No. MC–F–13284. Authority sought for purchase by MID-AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NB., 68410, of a portion of the operating rights of SOONER EXPRESS, INC., P.O. Box 219, Madill, OK., 73446, and for acquisition by Mark Wurtele, and Fred A. Glover, both of P.O. Box 9, Nebraska City, NB., 68410, of control of such rights through the purchase. Applicants' attorney: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, NB., 68501. Operating rights sought to be transferred: Meats and meat by products, and articles distributed by meat packinghouses, as a common carrier irregular routes from St. Joseph, MO., to points in Connecticut, Delaware, Massachusetts, Maryland, Maine, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the facilities of Armour & Co. at or near St. Joseph, Mo.; Meat and meat products, and meat by products and articles distributed by meat packinghouses from Omaha, Nebraska, to Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia, with the same restrictions. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13286. Authority sought for purchase by HAULMARK TRANSFER, INC., P.O. Box 343 Stenersen Lane, Cockeysville, Md., 21030, of the operating rights of LAUREL TRANSPORT CORPORATION, 8408 Elliston Avenue, Philadelphia, Pa., 19118, and for acquisition by F. V. Schmidt and H. F. Schmidt, also of Cockeysville, Md., of control of such rights through the purchase. Applicants' attorneys: William J. Little, Esq., Suite 1212, W. R. Grace Bldg., 10 E. Baltimore St., Baltimore, Md., 21202 and Ira G. Megdal, Esq., 499 Cooper Landing Road, P.O. 459–460, Cherry Hill, N.J., 08002. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Rio Grande, N.J., and Baltimore, Md., serving no intermediate points, and serving all points in Cape May County, N.J., as off-route points, with restrictions; General commodities, with exceptions as a common carrier over irregular routes between Philadelphia, Pa., on the one hand, and, on the other, points in Cape May County, N.J., between Atlantic City, Linwood, Somers Point, Sea Island City, Strathmere, Ventnor, Margate, and Lengport, N.J. Vendee is authorized to operate as a common carrier in Maryland, the District of Columbia, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and Delaware. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13287. Authority sought for purchase by PENNSYLVANIA TRUCK LINES, INC., 49th Street and Parkside Avenue, Philadelphia, Pa., 19101, of the operating rights of JERSEY CENTRAL TRANSPORTATION COMPANY, Six Penn Center Plaza, Philadelphia, Pa., 19104. Applicants' attorneys: S. Berne Smith, Esq., and Robert H. Griswold, Esq., P.O. Box 1166, Harrisburg, Pa., 17108. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier, over regular routes as more fully described in certificate Nos., MC 52658 and Sub Nos. 1, 2, 7, 9, and 12, authorizing service between Winslow Junetion, N.J., and Greenwich Pier, N.J.; Hazlet, N.J., and Point Pleasant, N.J.; Long Branch, N.J., and Eatontown, N.J.; Easton, Pa., and North Branch, N.J.; Red Bank, N.J., and Forker River, N.J.; Allentown, Pa., and Bethlehem, Pa.; Allentown, Pa., and Nesquehoning, Pa.; Elizabeth, N.J., and Highlands, N.J.; Elizabeth, N.J., and South Lakewood, N.J.; Freehold, N.J., and South Lakewood, N.J.; Freehold, N.J., and Eatontown, N.J.; Freehold, N.J., and Point Pleasant, N.J.; Hurley's Corner Circle, N.J., and Eatontown, N.J.; Hazlet, N.J., and Keyport, N.J., Elizabeth, N.J., and Ludlow, N.J.; and Elizabeth, N.J., and Rockaway, N.J. All service is limited to service which is auxiliary to, or supplemental of, rail service, except for the route between Easton, Pa., and North Branch, N.J. Vendee is authorized to operate pursuant to certificates at Nos. 19201 and Subs, in the States of Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, and also holds some contract carrier permits at Nos. MC 118779. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13288. Authority for purchase by SANBORN'S MOTOR EXPRESS, INC., 550 Forest Avenue, Portland, Maine 04101, of the operating rights of A & A TRANSPORT, INC., Yantic Flats, Norwich, CT., 06360, and for acquisition by Howard L. Sanborn, H. Blaine Sanborn, and Dwight L. Sanborn, all of the Portland, Maine address, of control of such rights through the purchase. Applicants' attorneys: Mary E. Kelley, 11 Riverside Avenue, Medford, MA., 02155, and William J. Meuser, P.O. Box 507, 86 Cherry Street, Milford, CT. 06460. Operating rights sought to be transferred: Under a Certificate of Registration in Docket No. MC 121737 covering the transportation of General commodities, as a common carrier, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a common carrier in Vermont, Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 2770 (Sub-No. 20) is a directly related matter.

No. MC–F–13289. Authority sought for control by D.C. JOINT VENTURE, 9200 Talbot Avenue, Silver Spring, Md., 20910, of SKYLINE TRANSPORT, INC., 1910 Russell Street, Baltimore, Md., 21230 and for acquisition by Bernard Dreskin, 22 Rock Spring Ave., W. Orange, N.J., 07052, Richard Dreskin, 2 Sparrow Drive, Livingston, N.J., 07039, Eli W. Fleming, 10002 Branch View Ct., Silver Spring, Md., 20903, Alfred Gold, 13815 Franklin Ave., Flushing, N.Y., 11355, Leo Katzman, 64–24 78th Street, Middle Village, N.Y., 11379, Paul Kopelan, 348 Washington St., Glen Ridge, N.J., 07028, Arnold Siegel, 33 Stone Henge Circle, Baltimore, Md., 21208, and Gordon L. Westkamp, 8406 Loch Raven Blvd., Towson, Md., 21204, of control of such rights through the transaction. Applicants' attorneys: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, D.C., 20004, H. Neil Garson, Fairfax Circle Building, 3251 Old Lee Highway, Fairfax, Va., 22030. Operating rights sought to be controlled: Molasses, in bulk, in tank vehicles, as a common carrier over irregular routes from Baltimore, Maryland, to points in Delaware, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; liquid and invert sugar, in bulk, in tank vehicles, from Baltimore, Maryland, to points in New Jersey, Delaware, Pennsylvania, Ohio, and North Carolina; Rayon, silk, textiles, chemicals, raw materials, and machinery used in the manufacture of piece goods, as a common carrier over regular routes between Paterson, N.J., and Rocky Mount, N.C., serving the intermediate points of Philadelphia, Pa., Wilmington, Del., Baltimore, Md., Richmond and Waynesboro, Va., and Washington D.C., between Paterson, N.J., and New York, N.Y., serving the intermediate points of Passaic and Newark, N.J.; Such commodities, as are specified above, as a common carrier over regular routes and irregular routes between Nanuet, N.Y., and Paterson, N.J., serving no intermediate points; liquid sugar, invert sugar, corn sirup, dextrose, and blends thereof, in bulk, as a common carrier over irregular routes from Baltimore, Maryland, points in Maryland, and Harland, Hazard, and Pikeville, Ky., with restriction; corn products, in bulk, from the plant site and storage facilities of A. E. Staley Manufacturing Company at or near Morrisville, Penna., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the transportation of traffic originating at the named plant site and storage facilities and destined to the named destination States; corn products, bulk (except corn oil, in bulk), from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, and Florida, restricted to the transportation of traffic originating at the plant site and warehouse facilities of Cargill, Incorporated, and Car-Mi, Incorporated, at Dayton, Ohio; maple sugar, in bulk

(1) From Ports of entry on the International Boundary line between the United States and Canada at or near Highgate Springs and Derby, Vt., to Baltimore, Md., Brundidge, Ala., Terre Haute, Ind., and Chicago, Ill.; and from Baltimore, Md., to Brundidge, Ala., Terre Haute, Ind., (2) and Chicago, Ill.; liquid Dextrose, Corn Syrup and Blends thereof, in bulk, from the facilities of Skyline Terminals, Inc. at Baltimore, Md. to Dover, Newark, and Wilmington, Del.; Altoona, Biglerville, Chambersburg, Denver, Gardners, Harrisburg, Lancaster, Norristown, Philadelphia, Reading, Sayre, Shippensburg, Williamsport, and York, Pa.; Atlantic City, Bridgeton, Cedarville, Ocean City, Patterson, and Vineland, N.J.; Charlottesville, Cheriton, Harrisonburg, Parksley, Petersburg, and Richmond, Va. and the District of Columbia; liquid commodities (except asphalt, asphaltic products, paving and surfacing tar, and road oils), in bulk, in tank vericles from the facilities of Skyline Terminals, Inc., at Baltimore, Md., to points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, North Carolina, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments (a) having a prior movement by rail, water or motor carrier and combinations thereof, and (b) destined to the above named points; maple sugar, in bulk, in tank vehicles from Newport, Vermont, to Baltimore, Md.; Brundidge, Ala.; and Terre Haute, Ind.; products derived from Corn and blends containing products derived from corn, in bulk, in tank vehicles from the Clinton Corn Processing Company plantsite located at Montezuma, N.Y., to points in the United States (except Alaska and Hawaii). D.C. JOINT VENTURE holds no authority from this Commission. However, the stockholders of D.C. JOINT VENTURE is also the stockholders of BALTIMORE TANK LINES, INC., a motor common carrier holding certificate No. MC 118899, and is authorized to operate in Virginia, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13290. Authority sought for purchase by KINGSWAY TRANSPORTS, INC., 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3, of a portion of the operating rights of QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518, and for acquisition by KINGSWAY TRANSPORTS LIMITED, also of 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3, of control of the rights through the purchase. Applicants' attorney and representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005 (vendee), and Joseph F. Hoary, 121 South Main Street, Taylor, PA. 18517 (vendor). Operating rights sought to be purchase: General commodities, with exceptions, as a common carrier, over regular routes between Rochester, New York and New York New York, with service to all intermediate points and certain off-route points, with other limited restrictions and between Buffalo, New York and Rochester, New York, via Lockport, New York, serving all intermediate points and certain off-route points. KINGSWAY TRANSPORTS, INC., holds no authority from this Commission. However, KINGSWAY TRANSPORTS LIMITED, owns 100% of the stock of KINGSWAY TRANSPORT, INC., and under MC–112908 and subs thereunder is authorized to operate as a common carrier within Canada, and between Canada and the United States. It serves the international gateways of Windsor, Ontario and Detroit, Michigan; Niagara Falls, Ontario, and Erie, Ontario, and Niagara Falls, New York, and Buffalo, New York respectively; and Champlain, New York, through the Province of Quebec, Canada. Application has not been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or see tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Docket No. MC 2770 (Sub-No. 20), filed July 22, 1977. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Ave., Portland, Maine 04101. Applicant's Representative: Mary E. Kelley, 11 Riverside Ave., Medford, Mass. 02155. Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, and except dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), serving points in Connecticut as intermediate and off-route points to Applicant's existing regular routes.

NOTE.—The purpose of this application is to convert a Certificate of Registration and is a matter directly related to a Section 5 (2) proceeding in MC–F–13288. If a hearing is deemed necessary, Applicant requests it be held at either Boston, Mass. or Hartford, Connecticut. Notice of the application filing in MC–F–13288 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 127602 (Sub-No. 14), filed March 15, 1977. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 5555 E. 58th Avenue, Commerce City, Colo. 80022. Applicant's representative: Earl H. Scudder, Jr., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) over regular routes, *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Denver, Colo., and Phoenix, Ariz. over the described route and return over the same route, from Denver, Colo., via Interstate Highway 70 to junction U.S. Highway 50, thence over U.S. Highway 50 to Montrase, Colo., thence over U.S. Highway 550, to Durango, Colo., thence over U.S. Highway 160 to junction U.S. Highway 89, thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Interstate Highway 17 to Phoenix, Ariz., and return over the same route, serving no intermediate points; and (2) over irregular routes, *General commodities* (except livestock, household goods as defined by the Commission, and commodities of unusual value), between Boulder, Colo., and points within 50 miles thereof, on the one hand, and, on the other, points in Colorado.

NOTE.—This is a matter directly related to a finance proceeding in MC–F–13162 which appeared in the FEDERAL REGISTER issue of March 31, 1977. If a hearing is deemed necessary, applicant requests it be held at either Phoenix, Ariz. or Denver, Colo.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB–33 (Sub-No. 16)]

UNION PACIFIC RAILROAD COMPANY ABANDONMENT OF PORTION OF ONTARIO BRANCH IN WASATCH COUNTY, UTAH

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated July 21, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *New Orleans Union Passenger Terminal Case*, 231 I.C.C. 271, and those provided pursuant to Section 405 of the Rail Passenger Service Act (45 U.S.C. 565), the present and future public convenience and necessity permit the abandonment by the Union Pacific Railroad Company of that portion of its line of railroad known as the Ontario Branch, extending from milepost 2.45 near Phoston, Utah, southerly to milepost 5.43 near Keetley, Utah, a distance of 2.98 miles located in Wasatch County, Utah. A certificate of public convenience and necessity permitting abandonment was issued to the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

[Docket No. AB–36 (Sub-No. 3)]

OREGON SHORT LINE RAILROAD COMPANY ABANDONMENT AND ABANDONMENT OF OPERATION—BY UNION PACIFIC RAILROAD COMPANY OF OREGON'S WEST BELT BRANCH BETWEEN MENAN AND EDMONDS, IN JEFFERSON AND MADISON COUNTIES, IDAHO

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 16, 1977, a finding, which is administratively final, was made by the Commisssion, Commissioner MacFarland stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Oregon Short Line Railroad Company, and abandonment of operation by Union Pacific Railroad Company, of a portion of the West Belt Branch of Oregon Short Line Railroad Company extending from railroad milepost 16.80 near Menan, Idaho, in a northerly direction to railroad milepost 26.48 near Edmonds, Idaho, a distance of 15.68 miles, in Jefferson and Madison Counties, Idaho. A certificate of abandonment will be issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instruction contained in the above-referenced order.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. 108,833M, Route No. 12332, filed June 29, 1977. Applicant: LIBERAL MOBILE HOMES, INC., East Highway 54, Liberal, Kans. 67901. Applicant's representative: E. Richard Brewster, P.O. Box 5186, Topeka, Kans. 66605. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Mobile homes*, between existing authority under Route 12332, (Starting at a point which is the southwest corner of the State of Kansas; then North along the Kansas-Colorado border to a point which is ten miles north of State Highway No. 96; then east to a point which is ten miles Northeast of Nes City, Kans.; then south staying ten miles East of State Highway No. 283; to a point which is the Kansas-Oklahoma border to a point which was the beginning), on the one hand, and all points and places in the State of Kansas, on the other. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place set for Thursday, September 8, 1977, commencing at 10 a.m., at the State Office Building, 4th Floor, Topeka, Kan. Requests for procedural information should be addressed to the Kansas State Corporation Commission, State Office Building, Topeka, Kans. 66612, and should not be directed to the Interstate Commerce Commission.

Nebraska Docket No. M–12555, filed July 19, 1977. Applicant: DOYT TOPHAM AND BETTY TOPHAM, 51 North Walnut, Red Cloud, Nebr. 68970. Applicant's representative: Duane L. Stromer, 305 N. Hastings Avenue, P.O. Box 165, Hastings, Nebr. 68901. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *Commodities generally* (except those requiring special equipment, other than refigeration), over regular routes, from Red Cloud to Hastings, Nebr. via U.S. Highway 281, serving the intermediate points of Cowles, Blue Hill and Ayr, Nebr. and the off-route point of Guide Rock, Nebr. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Nebraska Public Service Commission, 301 Centennial Mall, P.O. Box 94927, Lincoln, Nebr. 68509 and should not be directed to the Interstate Commerce Commission.

Wisconsin Docket No. CC–950 (Rev. App. No. 1), filed July 18, 1977. Applicant: JOHN PULVERMACHER, doing business as BELLEVILLE TRUCK LINE, Route 1, Cross Plains, Wis. 53528. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of property over Wisconsin Highway 69 between New Glarus and Monroe, Wis., including service at all intermediate points. Intrastate, interstate and foreign commerce authority sought to serve all points in connection with authority applicant holds over U.S. Highway 18 between Madison and Verona, Wis. and over Wisconsin Highway 69 between Verona and New Glarus, Wis. The purpose of this application is to authorize service between Monticello and Monroe, Wis., on the one hand, and points presently authorized to be served on the other hand, and between Monticello and Monroe, Wis. Hearing: Date, time and place scheduled for September 26, 1977 at 10 a.m. in the County Courthouse, Monroe, Wis., and continuing if necessary September 27th and 28th 1977 at 9:30 a.m. in Room 426, Hill Farms State Office Bldg., 4802 Sheboyan Avenue, Madison, Wis. 53705. Requests for procedural information should be addressed to the Wisconsin Public Service Commission, 432 Hill Farms State Office Building, Madison, Wis. 53702 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77–22333 Filed 8–3–77; 8:45 am]

[Notice No. 45]

ASSIGNMENT OF HEARINGS

AUGUST 1, 1977

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of can cancellation or postponements of hearings in which they are interested.

MC 33641 Sub 128, IML Freight, Inc. now being assigned November 1, 1977 (14 days), at Spokane, Washington in a hearing room to be later designated.

MC–F 12718, Flamingo Transportation, Inc.—Control—Tarpon Transportation, Inc. now being assigned September 13, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 139483 Sub 12, New Ulm Freight Line, Inc. now being assigned October 12, 1977 (8 days), at Chicago, Illinois in a hearing room to be later designated.

MC 142931 Richard Kisling now being assigned November 1, 1977 (1 day), for hearing in Columbus, Ohio, in a hearing room to be later designated.

MC 141124 Sub No. 3 Evangelist Commercial Corp., now being assigned November 2, 1977 (1 day), for hearing in Columbus Ohio in a hearing room to be later designated.

MC 139495 Sub No. 193 National Carriers, Inc., now being assigned November 3, 1977 (1 day), for hearing in Columbus, Ohio in a hearing room to be later designated.

MC 69833 Sub No. 113 Aassociated Truck Lines, Inc., MC 19633 Sub No. 21 Abbet Truck Lines, Inc., MC 141804 Sub No. 4 Western Express, Interstate Rental, Inc., MC 141804 Sub No. 46 Western Express Interstate Rental, Inc., now being assigned November 4, 1977 (1 day), for hearing in Columbus, Ohio in a hearing room to be later designated.

MC 142878 Herbert Roark DBA Kid's Express Co. now being assigned November 7, 1977 (1 day), for hearing in Columbus, Ohio in a hearing room to be later designated.

MC 134599 Sub No. 155 Interstate Contract Carrier Corp. now being assigned November 8, 1977 (2 days), for hearing in Columbus, Ohio, in a hearing room to be later designated.

MC 116763 Sub No. 362 Carl Subler Trucking Inc., MC 119726 Sub No. 12 N.A.B. Trucking Co., Inc., now being assigned November 10, 1977 (2 days), for hearing in Columbus Ohio in a hearing room to be later designated.

MC 94350 Sub 382, Transit Homes, Inc. now being assigned September 14, 1977 (5 days), at Memphis, Tennessee and will be held in Room 978, Federal Office Building 167 North Main Street.

No. MC 138177 (Sub-No. 8), Brown Trucking Inc., now assigned September 14, 1977, at Memphis, Tenn. is postponed indefinitely.

No. MC 9859 (Sub-No. 4), Kane Transfer Company, now being assigned for continued hearing on September 26, 1977, at the Old Federal Savings & Loan Bank 306 Carroll Street, Salisbury, Maryland.

No. MC 2860 (Sub-No. National Freight, Inc. now being assigned for September 7, 1977 (3 days), at New York, N.Y. and continued to September 14, 1977 (6 days), at New York, N.Y. in hearing rooms to be later designated.

MC 108676 (Sub-No. 103), A. J. Metler Hauling & Rigging, Inc., and MC 123407 (Sub-No. 365), Sawyer Transport, Inc., now being assigned November 1, 1977, at Buffalo N.Y. in a hearing room to be later designated.

MC 141804 Sub No. 41 Western Express Interstate Rental, Inc. now being assigned November 1, 1977 (1 day), for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 139973 Sub No. 11 J. H. Ware Trucking Inc., now being assigned November 2, 1977 (1 day), for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 142876 Albin A. Anderson, BDA Al Anderson & Sons, now being assigned November 3, 1977 (2 days), for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 66886 Sub No. 52 Belger Cartage Service Inc., now being assigned November 7, 1977 (1 day), for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 142238 Sub No. 1 Rollcarrier, Inc., now being assigned November 8, 1977 (2 days), for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 142830 Transhield Trucking, Inc., now being assigned November 10, 1977 (2 days), for hearing in Chicago, Illinois in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22448 Filed 8-3-77;8:45 am]

[AB 18 (Sub-No. 24)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Within the City Limits of Cincinnati, Hamilton County, Ohio

JULY 26, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Chesapeake and Ohio Railway Company of 1.57 miles of its Cheviot Subdivision at Cincinnati, Hamilton Co., Ohio, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that environmental impacts would be minimal since no diversion to motor carrier would result, as all traffic on the line to be abandoned is bridge traffic. Rerouting of bridge traffic should not significantly increase fuel consumption, air pollution, or noise levels. There are no indications of developmental plans relating to continued direct rail access over the line and, therefore, the abandonment should not adversely affect rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before September 6, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22445 Filed 8-3-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JULY 29, 1977.

The following letter-notices of proposals to elminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice there to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 15, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1872 (Sub-Nos. E18, E20, E21, E22, E23, E24, E25, E26, E27, E28, E29) published October 28, 1975 (Sub-Nos. E6, E7, E9, E13, 14, E19, E30, E31, E32, E33) published July 6, 1977, (Sub-Nos. E5, E8) published July 7, 1977, (Sub-Nos. E3, E4, E17) published July 13, 1977 and (Sub-Nos. E10, E11, E12, E15, E16) published July 20, 1977. Applicant: ASHWORTH TRANSFER, INC., 1526 S. 700 West St., Salt Lake City, Utah 87104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Notice is hereby given that all the above authority was purchased by Noble Transport pursuant to MC-F-12573 and the docket numbers have been changed to MC-141969 (Sub-Nos. E3 through E33). The Commission's records have been so changed.

No. MC 55898 (Sub-No. E3), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, N.H. 03766. Applicant's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in New Hampshire to points in New York, Cleveland, Ohio, Wilmington, Dela., Baltimore and Sparrows Points, Md., Scranton, Erie, Honesdale, and points in Haverford Township (Delaware County), Pa., and points in that part of Delaware County, Pa., south and east of a line beginning at the Intersection of the western and northern boundaries of Upper Darby Township, and extending southward along Darby Creek to Bishop Avenue, thence along Bishop Avenue to junction U.S. Highway 1, thence west along U.S. Highway 1 to junction Pennsylvania Highway 320, thence south along Pennsylvania Highway 320 to the corporate limits of Chester, thence west along the northern corporate limits of Chester to the easterly boundary of Upper Chichester Township, thence south along eastern boundary thereof to the southern boundary of said Township, thence west along the southern boundary of said township to the Delaware State line, thence south along the Delaware State line to the Delaware River, thence northward along the Delaware River to the city limits of Philadelphia, thence westerly along the city limits of Philadelphia to Upper Darby Township, and thence westerly along the northern boundary of Upper Darby Township to point of beginning. The purpose of this filing is to eliminate the gateways of Woodsville, Lakeport and Salmon Falls, N.H., White River Junction, Vt., and/or points in Vermont.

No MC-55898 (Sub-No. E4), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, N.H. 03766. Applicant's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in New Hampshire to Trenton, N.H., and points in that part of New Jersey on and north of a line begining at the New Jersey-Pennsylvania State line, and extending eastward along New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway in the State of Vermont.

No. MC 61825 (Sub-No. E928), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products* and *hardware*, except commodities in bulk, those of unusual value, class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Zanesville, Ohio, on the one hand, and, on the other, points in North Carolina and Virginia on and southeast of a line beginning at the South Carolina-North Carolina State line and extending north along U.S. Highway 301 to junction North Carolina Highway 87, to junction U.S. Highway 29, to junction Virginia Highway 43, to junction Virginia Highway 122, to junction U.S. Highway 501, to junction U.S. Highway 29, to junction U.S. Highway 60, to junction U.S. Highway 15, to junction U.S. Highway 460, and thence along U.S. Highway 460 to Norfolk, Va., at the Chesapeake Bay. The purpose of this filing is to eliminate the

gateway of Coketown, Brooke County, W. Va. and Lynchburg, Va.

No. MC 61825 (Sub-No. E929), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products and hardware*, except commodities in bulk, those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Oil City, Pa., on the one hand, and, on the other, points in North Carolina and Virginia on and south of a line beginning at the Georgia-North Carolina-Tennessee State line and extending northeast along the North Carolina-Tennessee State line to junction U.S. Highway 421, to the Blue Ridge Parkway, to junction U.S. Highway 21, to junction North Carolina Highway 268, to junction U.S. Highway 601, to junction North Carolina Highway 103, to junction Virginia Highway 103, to junction Virginia Highway 8, to junction U.S. Highway 11, to junction U.S. Highway 460, to the Blue Ridge Parkway, to junction Virginia Highway 130, to junction Virginia Highway 635, to junction U.S. Highway 60, to junction Virginia Highway 26, to junction U.S. Highway 460, to junction Virginia Highway 46, to junction U.S. Highway 58, to junction U.S. Highway 301, to junction North Carolina Highway 125, to junction U.S. Highway 64, to junction North Carolina Highway 94, to junction U.S. Highway 264 to the Pamlico Sound, to the Ocracoke Inlet and thence to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1002), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Beaver, Butler, Clarion, Crawford, Erie, Forest, Lawrence, Mercer, Venango, and Warren Counties, Pa., and Pittsburgh, Pa., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. (in the Weirton, W. Va. Commercial Zone), Weirton, W. Va., Clarksburg, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1003), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming Counties, N.Y., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. (in the Weirton, W. Va., Commercial Zone), Clarksburg, W. Va., and Lynchburg, Va., and Weirton, W. Va.

No. MC 61825 (Sub-No. E1004), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in West Virginia on and north of West Virginia Highway 27, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. (in the Weirton, W. Va., commercial zone), Weirton, W. Va., Clarksburg, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1005), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Ashtabula, Carroll, Columbiana, Cuyahoga, Geauga, Jefferson, Lake, Mahoning, Portage, and Trumbull Counties, Ohio, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. (in the Weirton, W. Va., Commercial zone) Weirton, W. Va., Clarksburg, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1006), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between Benwood, Glendale, McMechen, and Moundsville, W. Va., points in Ohio County, W. Va., and points in Brooke County, W. Va., south of West Virginia Highway 27, on the one hand, and, on the other, points in South Carolina on and east and south of a line beginning at the South Carolina-North Carolina State line, and extending along U.S. Highway 1 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. (in the Weirton, W. Va. Commercial zone), Weirton, W. Va., Clarksburg, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1007), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products* and *hardware*, except commodities in bulk, those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Lynchburg, Va., on the one hand, and, on the other, points in Ashtabula, Ashland, Belmont, Carroll, Columbiana, Coshocton, Cuyahoga, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Mahoning, Medina, Monroe, Morrow, Muskingum, Noble, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, Ohio, and those points in Crawford, Delaware, Erie, Franklin and Marion Counties, Ohio within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E1008), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products* and *hardware*, except commodities in bulk, those of unusual value, class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Lynchburg, Va., on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Forest, Lawrence, Mercer, and Venango Counties, Pa., and those points in Warren County, Pa., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E1009), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New York on and east of a line beginning at the New York-Canadian International Boundary line and extending along New York Highway 374, thence south along New York Highway 374 to junction New York Highway 3, to junction New York Highway 30,

to junction New York Highway 8, to junction New York Highway 28, to junction New York Highway 51, to junction U.S. Highway 20, to junction New York Highway 12, to junction New York Highway 23, to junction New York Highway 26 to the New York-Pennsylvania State line, to points in Arkansas, Oklahoma and Texas on and south of a line beginning at the Tennessee-Arkansas State line and extending along Interstate Highway 40, to junction U.S. Highway 59, to junction Oklahoma Highway 9, to junction U.S. Highway 281, to junction Interstate Highway 40, to junction Oklahoma Highway 6, to junction Oklahoma Highway 152, to junction Texas Highway 152, to junction U.S. Highway 87 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateways of Pulaski, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1010), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New York on and bounded by a line beginning at the New York-Canadian International Boundary line and extending along New York Highway 374, thence south along New York Highway 374 to junction New York Highway 3, to junction New York Highway 30, to junction New York Highway 8, to junction New York Highway 28, to junction New York Highway 51, to junction U.S. Highway 20, to junction New York Highway 12, to junction New York Highway 23, to junction New York Highway 26 to the New York-Pennsylvania State line, thence west along the New York-Pennsylvania State line to junction New York Highway 54 near Austinburg, Pa., to junction New York Highway 224, to junction New York Highway 13, to Lake Ontario, thence along the New York-Canadian International Boundary line to the point of beginning, to points in Arkansas, Oklahoma and Texas on and south of a line beginning at the Mississippi-Arkansas State line and extending along U.S. Highway 49, thence west along U.S. Highway 49 to junction Interstate Highway 40, to junction U.S. Highway 70 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of Pulaski, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1011), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New York on and bounded by a line beginning at the New York-Pennsylvania State line and extending along New York Highway 54, thence north along New York Highway 54 to junction New York Highway 224, to junction New York Highway 13, to Lake Ontario, thence along the shores of Lake Ontario to New York Highway 21, to junction New York Highway 245, to junction New York Highway 408, to junction New York Highway 305, to the Pennsylvania-New York State line, thence east along the Pennsylvania-New York State line to the point of beginning, to points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along Texas Highway 125, to junction Texas Highway 11, to junction U.S. Highway 380, to junction Texas Highway 199, to junction U.S. Highway 82, to junction Texas Highway 116, to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of Pulaski and Martinsville, Va.

No. MC 61825 (Sub-No. E1012), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, household goods as defined by the Commission, between points in New York on and bounded by a line beginning at Lake Ontario, and extending along New York Highway 13, thence south along New York Highway 13 to junction Interstate Highway 81, to junction New York Highway 13, to junction New York Highway 224, to junction New York Highway 54 to the New York-Pennsylvania State line, thence east along the Pennsylvania-New York State line to New York Highway 282, to junction New York Highway 17C, to junction New York Highway 38, to junction New York Highway 79, to junction New York Highway 26, to junction New York Highway 41, to junction New York Highway 220, to junction New York Highway 319, to junction New York Highway 320, to junction New York Highway 80, to junction Interstate Highway 90, to junction New York Highway 10, to junction New York Highway 8, to junction New York Highway 30, to junction New York Highway 3, to junction New York Highway 374, thence north along New York Highway 374 to the International Boundary line between United States and Canada, thence west along the New York-Canadian International Boundary line to the point of beginning, on the one hand, and, on the other, points in New Mexico on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 380 to junction U.S. Highway 85, to junction New Mexico Highway 6, to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Arizona State line, those points in Arizona on and south of a line beginning at the New Mexico-Arizona State line, and extending along U.S. Highway 66 to junction U.S. Highway 93, to junction U.S. Highway 95, to junction Nevada Highway 58 to the Nevada-California State line, and those points in California on and south and west of a line beginning at the California-Nevada State line, and extending along California Highway 190, to junction California Highway 136, to junction U.S. Highway 395, to junction California Highway 180, to junction California Highway 99, to junction California Highway 12, to junction California Highway 116, to the Pacific Ocean. The purpose of this filing is to eliminate the gateways of Pulaski, Va., Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1013), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between points in New York on and east of a line beginning at the International Boundary line between United States and Canada, and extending along New York Highway 374, thence south along New York Highway 374 to junction New York Highway 3, to junction New York Highway 30, to junction New York Highway 8, to junction New York Highway 10, to junction Interstate Highway 90, to junction New York Highway 80, to junction New York Highway 320, to junction New York Highway 319, to junction New York Highway 220, to junction New York Highway 41, to junction New York Highway 26, to junction New York Highway 79, to junction New York Highway 38, to junction New York Highway 17C, to junction New York Highway 282, to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Arizona, California, points in New Mexico on and south and west of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 84, thence along U.S. Highway 84 to junction New Mexico Highway 18, to junction New Mexico Highway 104, to junction U.S. Highway 85, to junction New Mexico Highway 4, to junction New Mexico Highway 126, to junction New Mexico Highway 44, to junction New Mexico Highway 17, to junction U.S. Highway 550, to junction New Mexico Highway 504 to the New Mexico-Arizona State line; those points in Arizona on and south and west of a line beginning at the Arizona-New Mexico State line, and extending along U.S. Highway 160 to junction U.S. Highway 163, thence along U.S. Highway 163 to the Arizona-Utah State line; points in Utah on and south and west of a line beginning at the Arizona-Utah State line, and extending along Utah Highway 261 to junction U.S. Highway 160, to junction U.S. Highway 163 to the Arizona-Utah State line, to junction U.S. Highway 163, to junction Utah Highway 261, to junction Utah Highway 95, to junction Utah Highway 24, to junction U.S. Highway 89, to junction Utah Highway 14, to junction Utah Highway 56 to the Utah-Nevada State line; those points in Nevada on and south and west of a line beginning at the Nevada-Utah State line, and extending along Nevada Highway 25, to junction U.S. Highway 93, to junction Nevada Highway 25, to junction U.S. Highway 6, to junction Nevada Highway 89, to junction Nevada Highway 23, to junction U.S. Highway 50, to junction U.S. Alternate Highway 95, to junction Nevada Highway 34, to junction Nevada Highway 8A, to junction Nevada Highway 140 to the Nevada-Oregon State line; points in Oregon on and west of a line beginning at the Oregon-Nevada State line, and extending along Oregon Highway 140 to junction unnumbered Oregon Highway, to junction Oregon Highway 205, to junction U.S. Highway 395, to junction Interstate Highway 80N, to junction U.S. Highway 197 at the Oregon-Washington State line; those points in Washington on and west of a line beginning at the Washington-Oregon State line, and extending along U.S. Highway 197, to junction Washington Highway 14 to the Klickitat River, thence north along Klickitat River to Clear Creek Reservoir at U.S. Highway 12, to junction Washington Highway 123, to junction Washington Highway 410, to junction Interstate Highway 5 to the International Boundary line, between United States and Canada. The purpose of this filing is to eliminate the gateways of Pulaski, Va., Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1014), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between points in South Carolina, on the one hand, and, on the other, points in Oregon and Washington and those points in California and on and west of a line beginning at the International Boundary line between United States and Mexico, and extending along Interstate Highway 5, thence north along Interstate Highway 5, to junction U.S. Highway 395, to junction U.S. Highway 6 to the Nevada-Utah State line, those points in Nevada on and north and west of a line beginning at the Nevada-California State line, and extending along U.S. Highway 6 to the Nevada-Utah State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1016), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between points in North Carolina on and east of a line beginning at the North Carolina-Tennessee State line and extending south along U.S. Highway 421, to junction U.S. Highway 321, to junction U.S. Highway 221, thence along U.S. Highway 221 to the South Carolina-North Carolina State line, on the one hand, and, on the other, points in Arizona, California, Nevada, Oregon and Washington. The purpose of this filing is to eliminate the gateway of Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1017), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between points in Virginia, on the one hand, and, on the other, points in Arizona, California, Nevada, Oregon and Washington. The purpose of this filing is to eliminate the gateway of Lynchburg, Va., and Smyth County, Va

No. MC 61825 (Sub-No. E1018), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, from New York, N.Y., and points in New Jersey on and south of a line beginning at the New Jersey-New York State line, and extending along U.S. Highway 202, thence along U.S. Highway 202 to the New Jersey-Pennsylvania State line, points in Pennsylvania on and south of a line beginning at New Jersey-Pennsylvania State line, and extending southwest along U.S. Highway 202 to junction U.S. Highway 422, to junction U.S. Highway 15, to junction U.S. Highway 15 Business, to junction U.S. Highway 15 to the Pennsylvania-Maryland State line and points in Maryland on and north of a line beginning at the Pennsylvania-Maryland State line, and extending east along U.S Highway 40, to junction U S Highway 40 Alternate, to junction U S Highway 40, to junction Maryland Highway 144, thence along Maryland Highway 144 to the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and thence to the Maryland-Delaware State line, to points in Alabama. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1019), filed May 13, 1974. Applicant: ROYSTONE TRANSFER CORPORATION, P.O Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between the District of Columbia, and points in Maryland on and south of a line beginning at the Maryland-Pennsylvania-West Virginia State line and extending east along the Maryland-Pennsylvania State line to junction U S Highway 40, thence along U.S. Highway 40 Alternate to junction U.S. Highway 40, to junction Maryland Highway 144 to Baltimore, Md., thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal to the Maryland-Delaware State line, and thence to the Atlantic Ocean, and points in West Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending west along West Virginia Highway 39 to junction U.S. Highway 219, to junction U S Highway 250, to junction West Virginia Highway 76, to junction U.S. Highway 50, to junction U.S. Highway 19, to junction U.S. Highway 250, to junction West Virginia Highway 69, and thence to the West Virginia-Pennsylvania State line on the one hand, and, on the other points in Alabama. The purpose of this filing is to eliminate the gateway of Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1020), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000

Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Delaware to points in Alabama. The purpose of this filing is to eliminate the gateway of Pulaski, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1021), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New Jersey on and north of U.S. Highway 202, and points in New York on, south, and east of a line beginning at the Pennsylvania-New York State line and extending north along New York Highway 328 to junction New York Highway 14, to junction New York Highway 17, to junction New York Highway 13, to junction New York Highway 80, to junction New York Highway 26, to junction U.S. Highway 20, to junction New York Highway 12, to junction New York Highway 28, to junction New York Highway 30 to the International Boundary line between United States and Canada, and points in Pennsylvania on and south and west of a line beginning at the New Jersey-Pennsylvania State line and extending southwest along U.S. Highway 202, to junction U.S. Highway 422, thence along U.S. Highway 15 to junction U.S. Highway 15 Business, to junction U.S. Highway 15 to the Pennsylvania-Maryland State line, thence west to junction U.S. Highway 522, to junction U.S. Highway 322, to junction Pennsylvania Highway 144, to junction Pennsylvania Highway 45, to junction Pennsylvania Highway 445, to junction Pennsylvania Highway 64, to junction U.S. Highway 220, to junction Pennsylvania Highway 287, to junction U.S. Highway 15, to junction Pennsylvania Highway 328 to the Pennsylvania-New York State line, to the Pennsylvania-New Jersey State line and thence to the point of beginning, to points in Alabama. The purpose of this filing is to eliminate the gateway of Pulaski, Va., and Martinsville, Va.

No. MC 119518 (Sub-No. E1), filed February 24, 1976. Applicant: MUKLUK FREIGHT LINES, INC., 3111 C Street, Anchorage, Alaska 99503. Applicant's representative: Leo C. Franey, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities requiring special equipment, between points in Alaska, in the Kenai Peninsula, south of an imaginary line extending east and west through Girdwood, Alaska including Girdwood, on the one hand, and, on the other, points in Alaska north of an imaginary line extending east and west through Girdwood, Alaska, except points in the Alaska Panhandle south of Haines, Alaska. The purpose of this filing is to eliminate the gateway of Girdwood, Alaska.

By the Commission.

H. G. Homme, Jr.
Acting Secretary.

[FR Doc 77-22449 Filed 8-3-77;8:45 am]

[Rev. Service Order No. 1252; I.C.C. Order No. 9, Amdt. No. 2]

MIDDLETOWN AND HUMMELSTOWN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 9 (Middletown and Hummelstown Railroad Company) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 9 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement, under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 26, 1977.

Interstate Commerce Commission,
Robert S. Turkington,
Agent.

[FR Doc 77-22452 Filed 8-3-77;8:45 am]

[Notice No. 202]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 6, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77092, filed April 21, 1977. Transferee: CLIFFORD D. ELLIS II, doing business as Crested Butte Truck Line, 206 Whiterock, Crested Butte, Colorado 81224. Transferor: Clifford D. Ellis & Charles L. Stellberger, A Partnership, doing business as Crested Butte Truck Line, Box 167, Crested Butte, Colorado 81224. Applicant's representative: Clifford D. Ellis II, 206 Whiterock, Crested Butte, Colorado 81224. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-98228 (Sub-No. 1) issued January 16, 1973 and Certificate of Registration No. MC-98228 (Sub-No. 2) issued January 16, 1973, as follows: Ore and ore concentrates over a specified regular route from Crested Butte, Colo. to Salida, Colo. serving intermediate and off route points within 10 miles of Crested Butte; and the transportation of general commodities between Gunnison, Colo. and Crested Butte, Colo. over Colorado Highway 135 serving all intermediate points. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77095, filed May 2, 1977. Transferee: FOOTHILLS TRUCKING COMPANY, INC., P.O. Box 192, Conover, North Carolina 28613. Transferor: Guignard Freight Lines, Inc., P.O. Box 26067, Charlotte, North Carolina 28213. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Washington, D.C. 20004. Authority sought for purchase by transferee of portions of the operating rights of transferor, as set forth in Certificate No. MC-45736 (Sub-No. 43), MC-45736 (Sub-No. 45G) issued April 21, 1976 and December 17, 1976 respectively and MC-45736 (Sub-No. E-12) published in the Federal Register of September 3, 1975, as follows: Furniture from Sumter, S.C. to points in Florida and new furniture from a specified portion of North Carolina to points in Florida. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77129, filed May 12, 1977. Transferee: BROOKS CHARTERS AND TOURS, INC., 2701 Cass Avenue, Detroit, Michigan 48201. Transferor: Brooks Bus Line, Inc., 421 Washington Street, Paducah, Kentucky 42001. Applicant's representative: Harry J. Harman, Attorney at Law, 700 Harrison Building, 143 West Market Street, Indianapolis, Indiana 46204. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-94818 (Sub-No. 7), issued June 11, 1969 as corrected September 4, 1969, as follows: Passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at those points authorized to be served on the routes described in section (A) within the State of Michigan, (Indiana-Michigan State line to Coldwater, Michigan, over U.S. Highway 27, thence over U.S. Highway 27 to junction Michigan Highway 60, thence over Michigan Highway 60 to Jackson, Michigan, thence over Interstate Highway 94 to Ann Arbor, Michigan, and thence over Michigan Highway 14 to Detroit, Michigan, and return over the same route) herein, and extending to points in the United States, (including Alaska but excluding Hawaii). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77163, filed June 7, 1977. Transferee: LEONARDO TRUCK LINES, INC., 511 S. 1St Street, Selah, Washington 98932. Transferor: Gabrio Livestock Transport, Inc., W. 1448 Sunset Drive, Moses Lake, Washington 98837. Applicant's representative: Ernest Marang, 511 S. 1st Street, Selah, Washington 98942; Lawrence V. Smart, Jr., 419 NW 23rd Avenue, Portland, Oregon 97210. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-134678, issued May 1, 1973, as follows: Cottenseed meal from points in Kern and Fresno Counties, California to points in Washington. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-26377 and subs thereafter. Transferee has not filed an application for temporary authority under Section 210a(b).

No. MC-FC-77166, filed June 6, 1977. Transferee: NORTHEAST REFRIGERATED DISTRIBUTING CO., INC., 1650 Shawsheen Street, Tewksbury, Mass. 01876. Transferor: Milton Monoxelos, DBA Northeast Refrigerated Distributing Co., 1650 Shawsheen Street, Tewksbury, Mass. 01876. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Massachusetts 02109. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 141962, issued March 23, 1977, as follows: Meats, etc., in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from the facilities of Northeast Refrigerated Distributing Co., at or near Tewksbury, Mass., to points in Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77173, filed June 13, 1977. Transferee: HARRY GORDON SCOTT, INC., Sebringville, Ontario, Canada. Transferor: Harry Gordon Scott, Sebringville, Ontario, Canada. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, D.C. 20005. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 128576, issued November 3, 1967, as follows: Such commodities as are dealt in by printing, embossing, and engraving companies, from Detroit, Mich., to ports of entry on the United States-Canada Boundary line located in Michigan along the Detroit River between St. Clair and Lake Erie, and from Buffalo and Niagara Falls, N.Y., to ports of entry on the United States-Canada Boundary line located in New York along the Niagara River between Lake Erie and Lake Ontario, under a continuing contract or contracts with International Artcrafts Co., Limited, of Stratford, Ontario, Canada. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77176, filed June 15, 1977. Transferee: NAKANO EXPRESS SERVICE, INC., 18924 So. Laurel Park Road, Compton, California 90220. Transferor: Basin Truck Line, Inc., 909 Mahar Avenue, Wilmington, California 90744. Applicant's representative: Henry Y. Ota, Esq., 700 South Flower St. Suite 410, Los Angeles, California 90017. Donald Murchison, Esq., 9454 Wilshire Boulevard Suite 400, Beverly Hills, California 90212. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC-121197 (Sub-No. 1), issued March 18, 1964, as follows: General commodities to, from, and between all points in the Los Angeles Basin Territory. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77179, filed June 22, 1977. Transferee: MOODY TRANS, INC., Route No. 1, Sugar City, Idaho 83448. Transferor: Robert G. Wright, doing business as Star Valley-Jackson Stages and Teton Stage Lines, 1945 Eagle Drive, Idaho Falls, Idaho 83401. Applicant's representative: James G. Oldroyd, Attorney at Law, 485 E Street, Idaho Falls, Idaho 83401. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-105054 (Sub-No. 3), MC-105054 (Sub-No. 6) and MC-105154 (Sub-No. 10), issued October 25, 1963, February 28, 1967 and July 27, 1976 respectively, as follows: Passengers and their baggage over specified regular routes between specified points in Idaho and Wyoming. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77185, filed June 21, 1977. Transferee: WALTERS ENTERPRISES, INC., 16935 Hummel Road, Brookpark, Ohio 44142. Transferor: Custom Motor Freight Co., 150 East Broad Street, Columbus, Ohio 43215. Applicant's representative: J. A. Kundtz, Attorney at Law, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-141094 (Sub-No. 2), MC-141094 (Sub-No. 3G), and MC-141094 Subs E1, E2, E3, E4, and E5, issued May 26, 1976 and April 15, 1976 respectively; the E letter notices were published in the Federal Register July 10, 1974; August 21, 1974; August 27, 1974; August 27, 1974; and February 18, 1975 respectively. The authorities involve: General commodities over a specified regular route from Akron, Ohio to Cincinnati, Ohio and various specified commodities over irregular routes from, to, or between points in the states of Kentucky, Pennsylvania, Ohio, and West Virginia. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77188, filed June 27, 1977. Transferee: ALLEN COAL COMPANY, INC., 351 Main Street, Nelsonville, N.Y. 10516. Transferor: Ernest Allen, Jr., and Earl Allen, A Partnership, DBA Allen Coal Co., 351 Main Street, Nelsonville, N.Y. 10516. Applicant's representative: Neil D. Breslin, 99 Washington Avenue, Suite 1111, Albany, N.Y. 12210. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 139668 (Sub-No. 3) and MC 139668 (Sub-No. 4), issued May 7, 1975 and July 23, 1976, respectively, as follows: Stone, from Patterson, N.Y., to Byram, Conn. and from Patterson, N.Y., to points in Fairfield and Litchfield Counties, Conn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77189, filed June 27, 1977. Transferee: THE GOOD MECHANIC AUTO COMPANY, INC., Dba. G & M Auto Company, 7224 Euclid Avenue, Cleveland, Ohio 44103. Transferor: Fred W. Phillips, DBA Akron/Medina Towing, 3330 Medina Road, Medina, Ohio 44256. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139657, issued July 13, 1976, as follows: Wrecked, disabled and repossessed motor vehicles, trailers, and buses (except trailers designed to be drawn by passenger automobiles), and replacement vehicles for wrecked or disabled motor vehicles and trailers (except trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between points in Medina and Lorain Counties, Ohio, on the one hand, and, on the other, points in Pennsylvania, New York, West Virginia,

Kentucky, Indiana, Illinois and Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77197 filed July 1, 1977. Transferee: BRANTLEY BROS. MOVING & STORAGE CO., INC., 17 Frelinghuysen Avenue, Newark, New Jersey 07114. Transferor: Universal Van-Pac, Inc. and Universal Storage, Inc., Internal Revenue Service, Successor-in-Interest (Neil A. Kleinberg, Assignee), 225 Millburn Avenue, Millburn, New Jersey 07041. Applicant's representative: A. David Millner & John P. Tynan, c/o Bowes, Millner, Rodgers & Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, New Jersey 07006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC-75978, 75978 (Sub-No. 1) and No. MC-127798 (Sub-No. 2), issued June 17, 1958, June 14, 1966 and November 5, 1971, respectively, as follows: Household goods as defined by the Commission, between points in Essex County, N.J., on the one hand, and, on the other, New York, N.Y., points in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, and Westchester Counties, N.Y., those in Pennsylvania east of the Susquehanna River, and those in Connecticut; Household goods as defined by the Commission, between points in Essex, Monmouth, Middlesex, Bergen, Hudson, Ocean, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Ohio, Indiana, Illinois, and the District of Columbia; and Used household goods, with restrictions, between points in Bergen, Burlington, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., points in Fairfield and New Haven Counties, Conn., and points in Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester Counties, N.Y. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77205, filed July 20, 1977. Transferee: BRICK HAULERS, INC., 403 Holland Lane, Alexandria, Virginia 22313. Transferor: Schuyler W. Jackson, 4400 East-West Highway, Bethesda, Maryland 20014. Applicant's representative: Francis J. Ortman, Attorney at Law, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-4080, issued May 3, 1972, as follows: Building materials except those manufactured of wood and brick, tile, and clay products between Washington, D.C. and points in Maryland and Virginia within 50 miles of Washington, D.C. and from Martinsburg and North Mountain, West Va. to Washington, D.C. and points in Maryland and Virginia within 50 miles of Washington, D.C. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.
Acting Secretary

[FR Doc 77-22447 Filed 8-3-77;8:45 am]

[Notice No. 93]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 27, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application. A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 381 (Sub-No. 11TA), filed July 11, 1977. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, 484 Clayton Road, Williamstown, N.J. 08094. Applicant's representative: George A. Olsen, 69 Tonnelle Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonferrous metals*, for remelting purposes only, from the facilities of Colonial Metals Co., located at or near Columbia, Pa., to points in Ark., restricted to shipments having origin and destination at the above named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colonial Metals Co., P.O. Box 311, Columbia, Pa. 17512. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 24784 (Sub-No. 9TA), filed July 13, 1977. Applicant: BARRY, INC., 463 South Water Street, Olathe, Kans. 66061. Applicant's representative: Arthur J. Cerra, 2100 Ten Main Center, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing and insulation materials*, except iron and steel articles and commodities in bulk, from Kansas City, Mo., to the plant site of GAF Corp., in Denver, Colo., points in Kansas and Nebraska, Muskogee, Sapulpa and Tulsa, Okla., for 180 days. Supporting shipper(s): Certain-Teed Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 51146 (Sub-No. 508TA), filed July 11, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from San Antonio, Tex., to Oklahoma City, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corporation, 8101 W. Higgins, Chicago, Ill. 60631, (Floyd C. Stone). Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 509 TA), filed July 13, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, fibreboard, strawboard, or pulpboard NOI*, than corrugated, from Carthage, Ind., to Rockford, Ill.; Chesterfield, Mo.; and Fridley, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Container Corporation of America, 500 East North Avenue, Carol Stream, Ill. 60187. (James R. Raudenbush). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 52704 (Sub-No. 149TA), filed July 11, 1977. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H" Oplika Hwy., LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, From Oplika, Ala., to points in Tennessee for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mesa Industries, Inc. P.O. Box 2507, Oplika, Ala. 36801. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building. Birmingham, Ala. 35203.

No. MC 83539 ((Sub-No. 460TA) (correction), filed June 27, 1977, published in the FEDERAL REGISTER issue of July 12, 1977, and republished as corrected this issue. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral products*, in bags (except commodities in bulk, in tank vehicles), from the plantsite and facilities of Industrial Mineral Ventures, Inc., in Nye County, Nev., to points in Colorado, Indiana, Illinois, Kansas, Louisiana, Missouri, Montana, New Mexico, North Dakota, Oklahoma, Oregon, Texas, Utah (except Salt Lake City, Utah and a 40 mile radius there), and Wyoming, for 180 days. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre Street, Golden, Colo. 8040. Send protests to: Transportation Assistant, Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242. The purpose of this republication is to add the territorial description which was previously omitted in error.

No. MC 109692 (Sub-No. 44TA) (partial correction), filed April 7, 1977, published in the FEDERAL REGISTER issue of May 10, 1977, and republished as corrected this issue. Applicant: GRAIN BELT TRANSPORTATION COMPANY, 340 North James St., Kansas City, Kans. 66118. Applicant's representative: Warren H. Sapp, 4420 Madison, Kansas City, Kans. 64111.

NOTE.—The purpose of this partial correction is to complete the territorial description in part (2) as to read "and points in the Chicago, East St. Louis, and Hennepin, Illinois Commercial Zones, to the plantsite of Valmont, Industries, Inc., located at or near Valley, Nebr." as was previously omitted in error.

No. MC 110420 (Sub-No. 769TA), filed July 13, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry adhesive glue*, in bulk, in tank vehicles, from Milwaukee, Wis., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peter Cooper Div. of U.S. Glue, Oak Creek, Wis. (Harold Haskin). Send protests to Gail Daugherty, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 110988 (Sub-No. 344TA), filed July 6, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, Wis. 54911. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cupric chloride*, in rubberline tanks, from Huntsville, Ala.; Greenville, Tenn.; and Fayetteville, N.C.; to Elryia, Ohio and Union, Ill., for 180 days. Supporting shipper(s): Southern California Chemical Co., Inc., 17415 E. Jefferson Street, Union, Ill. 60180 (James W. Andrews). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 111401 (Sub-No. 493TA), filed July 11, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Oklahoma City, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Creosote oil*, in bulk, in tank vehicles, from Lone Star, Tex., to Bossier City, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Reilly Tar & Chemical Corporation, P.O. Box 247, Lone Star, Tex. 75668. Send protests to: District Supervisor Joe Green, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 114896 (Sub-No. 55TA), July 13, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Rd., New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch, Assistant Secretary (same as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Credit cards*, from Baltimore, Md., to Washington, D.C., under a continuing contract or contracts with Service Center, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Service Center, Inc., 1508 Woodlawn Drive, Baltimore, Md. 21207. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 115162 (Sub-No. 373TA), filed July 11, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the plant and warehouse facilities utilized by the Day Companies, Inc., in Randolph County, Ga., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Day Companies, Inc., P.O. Box 429, Cuthbert, Ga. 31740. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 374TA), filed July 12, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, P.O. Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and composition board*, from Maysville, Ala., to points in the United States in and east of the states of North Dakota, South Dakota, Nebraska, Oklahoma, Kansas, and Texas, for 180 days. Supporting shipper(s): Giles & Kendall, Inc., P.O. Box 188, Huntsville, Ala. 35804. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 116457 (Sub-No. 22TA), filed July 15, 1977. Applicant: GENERAL TRANSPORTATION, INC., 1804 South 27th Ave., P.O. Box 6484, Phoenix, Ariz. 85005. Applicant's representative: Donald Parker Crosby, 1804 South 27th Ave., P.O. Box 6484, Phoenix, Ariz. 85005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products* (except commodities in bulk or tank vehicles), transportation of the commodities under this application requires pole trailers of 40 foot and longer flatbed semitrailers equipped with metal stakes on each side, from Prescott, Ariz., to California, Colorado, Oklahoma, Nevada, New Mexico, Texas, and Utah, and from Reserve, N. Mex., to Prescott, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Forest Industries Inc., 3443 N. Central Avenue, Phoenix, Ariz. 85012. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 120761 (Sub-No. 24TA), filed July 12, 1977. Applicant: NEWMAN BROS. TRUCKING CO., 6559 Midway Rd., Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle over

irregular routes, transporting: *Composition board and materials* used or useful in the installation thereof, from the plantsite and storage facilities of the Celotex Corp., at or near Marrero, La., to points in Arkansas, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Celotex Corp., 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 121060 (Sub-No. 46TA), filed July 11, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, 1220 West 3d St., Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the facilities of Champion International Corp., at Orangeburg, S.C., to points in Illinois, Indiana, Michigan, North Carolina, Ohio, and Tennessee for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion International Corp., Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 124266 (Sub-No. 2TA), filed July 13, 1977. Applicant: NELSON GWILLIM, R.R. No. 2, Box 144, Carlinville, Ill. 60626. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Falstaff Brewing Corp., at St. Louis, Mo., to Carlinville, Lincoln, and Springfield, Ill., under a continuing contract, or contracts with Starr Bros., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harry Starr, III, President, Starr Bros., Inc., 113–115 South Plum, Carlinville, Ill. 62626. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 125023 (Sub-No. 47TA), filed July 11, 1977. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Richard G. McCurdy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Chicago, Ill., to points in West Virginia, Virginia, North Carolina (except Asheville), and points in South Carolina (except Anderson, Columbia, Greenville, and Spartanburg) for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peter Hand Brewing Co., 1000 W. North Avenue, Chicago, Ill. 60622. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 126899 (Sub-No. 114TA), filed July 12, 1977. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: William A. Usher, 3925 Old Benton Rd., P.O. Box 3156, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and incidental advertising material*, when shipped with malt beverages, from St. Paul, Minn., to Hopkinsville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kentucky Ace Beverage Dist. Co., 1517 E. 9th Street, Box 497, Hopkinsville, Ky. 42240. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Bldg., Suite 2006, Memphis, Tenn. 38103.

No. MC 128095 (Sub-No. 15TA), filed July 15, 1977. Applicant: PARKER TRUCK LINE, INC., Senter Drive, P.O. Box 1402, Tupelo, Miss. 38801. Applicant's representative: Mr. Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Microfoam* from the facilities of E. I. Du Pont De Nemours & Co. (Inc.), at Wurtland, Ky., to points in Arkansas, Mississippi, and Tennessee, for 180 days. Supporting shipper(s): E. I. Du Pont De Nemours & Co., Du Pont Bldg., 10th and Market Street, Wilmington, Del. 19098. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 128205 (Sub-No. 30TA), filed July 13, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in pneumatic tank vehicles, from Chicago, Ill., to New York, Pennsylvania and Mass., for 180 days. Supporting shipper(s): Ross Industries, Richard A. Kucharo, Jr., Vice President Transportation, 715 E 13th Street, Wichita, Kans. 67201. Sent protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128555 (Sub-No. 16TA), filed July 8, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic parts and cabinet housings* for the manufacture of office copiers from Evansville, Ind. to Rochester and Webster, N.Y., under a continuing contract or contracts with Xerox Corporation, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Xerox Corporation, Bldg., 205–P Webster, N.Y. 14580. Sent protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp. Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 129663 (Sub-No. 9TA), filed July 15, 1977. Applicant: BORIGHT TRUCKING CO., INC., Boright Avenue, Kenilworth, N.J. 07033. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk), from the facilities of Gilbert Plastics, Inc. at Ontario and La Murada, Calif. to points in Oregon, Washington, Idaho, Montana, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, Texas, Oklahoma, Nebraska, North Dakota and South Dakota, under a continuing contract or contracts with Gilbert Plastics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gilbert Plastics, Inc., Boright Avenue, Kenilworth, N.J. 07037. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 133168 (Sub-No. 4TA), filed July 12, 1977. Applicant: DELTA EXPRESS, INC., P.O. Box 776, River Road, Natchitoches, La. 71457. Applicant's representative: D. E. Lester, P.O. Box 776, Natchitoches, La. 71457. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Post, poles and piling treated and untreated*, from the plant site of Crown Zellerbach Corporation at Urania, La., to points in Oklahoma, Texas, Colorado, New Mexico, Nebraska, Kansas, Minnesota, Iowa and Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, La. 70427. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 133689 (Sub-No. 138TA), filed July 8, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail department stores (except commodities in bulk and foodstuffs) from New York, N.Y. and North Bergen, N.J. to Memphis, Knoxville, and Nashville, Tenn.; Louisville, Ky.; Cincinnati and Akron, Ohio and Indianapolis, Ind., for 180 days. Supporting shipper(s): Allied Stores Marketing Corporation, 1114 Avenue of Americas, New York, N.Y. 10036. Send protest to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134142 (Sub-No. 14TA), filed July 6, 1977. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, 21st and Sidney Street, Fort Scott, Kans. 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Plymouth, Wis., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Missouri, Nebraska, New Mexico, Montana, Washington, Utah, Nevada, Oregon, and Wyoming under a continuing contract or contracts with Borden, Inc. of Columbus, Ohio for 180 days. Supporting shipper(s): Borden Foods Division-Borden, Inc., 180 East Broad Street, Columbus, Ohio 43215. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 134477 (Sub-No. 180TA), filed July 12, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sleepwear and underclothing* (except in bulk), from the facilities of Munsingwear, Inc. at or near Crossville, Tenn., to Minneapolis, Minn., restricted to the transportation of traffic originating at the above named origin and destined to the above named destination. Supporting shipper(s): Munsingwear, Inc. 718 Glenwood Avenue, Minneapolis, Minn. 55405. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 136285 (Sub-No. 22TA) (Partial correction), filed May 23, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished as published in this issue. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 143, 413 Gordon, Ave., Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Arlington, Va. 22210. NOTE.—The purpose of this partial correction is to correct the territorial description in part (2) as to read "*marine cargo containers and chassis therefor*, from Charleston, S.C., and Savannah, Ga., to points in Mississippi, Alabama, Georgia and Tennessee. The rest of the application remains the same.

No. MC 136762 (Sub-No. 14TA), filed July 11, 1977. Applicant: OSBORNE HIGHWAY EXPRESS, P.O. Box 763, Ukiah, Calif. 95482. Applicant's representative: Edward A. Francom, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs*, extruded sawdust and parafin combined, from Stockton and Port of Stockton, Calif., to points in Arizona and Nevada for 180 days. Supporting shipper(s): Duraflame, Inc. P.O. Box 49, Stockton, Calif. 95201. Send protests to: District Supervisor A. J. Rodriguez, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 138000 (Sub-No. 32TA), filed July 8, 1977. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple products and juices*, from Mt. Jackson, Va., and its commercial zone to Detroit, Mich., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bowman Apple Products Co., Inc. Mt. Jackson, Va. 22842. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Room 1413, Washington, D.C. 20423.

No. MC 140581 (Sub-No. 10TA), filed July 11, 1977. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, Route 1, Box 222–A, Trafford, Ala. 35172. Applicant's representative: William P. Jackson, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, from Jacksonville, Fla., to points in Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southeast Toyota Distributors, Inc. P.O. Box 1588, Pompano Beach, Fla. 33062. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 141089 (Sub-No. 2TA), filed July 8, 1977. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, Minn. 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured decorative stone* from points in Lyon County, Minn. to points in Colorado, Iowa, Kansas, Montana, Nebraska, North Dakota, South Dakota, Wisconsin and Wyoming, for 180 days. Supporting shipper(s): Coronado Stone Prod., Box 9 South Street, Tracy, Minn. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141361 (Sub-No. 3TA), filed July 13, 1977. Applicant: LONSBERG TRUCKING AND MATERIALS, INC., 545 Broadway, Platteville, Wis. 53818. Applicant's representative: A. R. Hanson, 139 W. Wilson Street, Madison, Wis 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from Dubuque, Iowa to Platteville, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The C. Reiss Coal Company, Sheboygan, Wis. 53081. Send protests to: Ronald A. Morken District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street Room 202, Madison, Wis. 53703.

No. MC 142229 (Sub-No. 2TA), filed July 13, 1977. Applicant: MOBERG TRANSPORT, INC., 317 South 2nd Street, Marshall, Minn. 56258. Applicant's representative: Bruce A. Rasmussen, 1110 Northwestern Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, from the plantsite of PPG Industries, Inc., at or near Wichita Falls, Tex., to the plantsite of PPG Industries, Inc. at or near Marshall Minn., under a continuing contract, or contracts, with PPG Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): PPG Industries, Inc. One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 142559 (Sub-No. 2TA) (correction), filed May 24, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U Snavely, 410 Pine Street, Vienna, Va 22180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters and water heater parts and accessories*, and (2) *materials and supplies* (except commodities in bulk), used in the manufacture or distribution of the commodities in (1) above, between the facilities of the Bradford-White Corporation, at Middleville, Mich., on the one hand, and, on the other, points in the United States (except Alaska and

Hawaii), restricted to the transportation of traffic originating at or destined to the said facilities of the Bradford-White Corporation for 180 days. Supporting shipper(s): Bradford-White Corporation, 24th & Ellsworth Streets, Philadelphia, Pa. 19146. Send protests to: James Johnson District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199. The purpose of this republication is to correct Middleville, Mich., in lieu of Milledgeville, Mich., as was previously published in error.

No. MC 142826 (Sub-No. 1TA), filed July 11, 1977. Applicant: LOUIS H. CHAUVIN, INC., 6081 Mudmill Road, Brewerton, N.Y. 13029. Applicant's representative: Louis H. Chauvin, 6081 Mudmill Road, Brewerton, N.Y. 13029. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers' Wet Grain, spent*, in bulk, in dump vehicles from the Town of Volney, (Oswego County), N.Y. to Orefield, (Lehigh County), Pa., under a continuing contract, or contracts, with The Pillsbury Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Pillsbury Company, 608 2nd Avenue South, Minneapolis, Minn. 55402. Send protests to: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Building, 100 South Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 143268 (Sub-No. 1TA) (Correction), filed May 18, 1977, published in the FEDERAL REGISTER issue of June 23, 1977, and republished as corrected this issue. Applicant: TROCHU TRUCKING SERVICE, LTD., 915–48th Avenue SE., Calgary, Alberta, Canada. Applicants representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, N. Dak. 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural and ranching equipment and supplies* (except feed and feed ingredients, fertilizer, tractors, and commodities, the transportation of which, because of their size or weight require the use of special equipment) *and building materials*, from points in Mississippi, Alabama, Tennessee, Missouri, Kansas, Nebraska, Iowa, Illinois, Indiana, Texas, Oklahoma, Colorado, Montana, Wyoming, Utah, Idaho and Arkansas to ports of entry located on the International Boundary line between Canada and the United States located in Montana and North Dakota, restricted to a transportation service to be performed under a continuing contract, or contracts, with Thornhill Ranching Products, Ltd., Vulcan, Alberta, Canada; and also restricted to traffic destined to points in Alberta for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bill Thornhill, President, Thornhill Ranching Products, Ltd., Vulcan, Alberta, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Comerce Commission, 2602 First Avenue North, Billings, Mont. 59101. The purpose of this correction is to indicate building materials as a part of the commodity description in lieu of commodity exceptions as was previously published in error.

No. MC 143294TA (Partial correction) filed May 19, 1977, published in the FEDERAL REGISTER issue of June 6, 1977, and republished as corrected this issue. Applicant: ADRAIN LEE, d.b.a. CENLA CAB COMPANY, 1401 Murray St., Alexandria, La. 71301. Applicant's representative. Adrain Lee (same address as applicant). NOTE.—The purpose of this partial correct is to add: Send protests to: District Supervisor, Ray C. Armstrong, Jr., Interstate Commerce Commission, 9038 Federal Building, 701 Loyola Ave., New Orleans, La. 70113, which was previously omitted. The rest of the application remains the same.

No. MC 143436 (Sub-No. 1TA), filed July 11, 1977. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, Ind. 46227. Applicant's representative: Stephen M. Gentry, 1500 Maine St., Indianapolis, Ind. 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and Confectionary items*, requiring transportation in vehicles equipped with mechanical refrigeration from the warehouse facilities utilized by Consolidated Products Systems, Inc., located at or near Indianapolis, Ind. to retail chain department and grocery stores, drug stores and vending machine distributors located in Illinois, Kentucky, Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Consolidated Products Systems, Inc., P.O. Box 72, East McKeesport, Pa. 15035. Send protests to: William S. Ennis, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

PASSENGER APPLICATION

No. MC 2389 (Sub-No. 2TA), filed July 12, 1977. Applicant: NEVADA CENTRAL MOTOR LINES, INC., 2570 Tacchino Street, Reno, Nev. 89502. Applicant's representative: Lawrence R. Waters, 2570 Tacchino, Reno, Nev. 89512. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their luggage* in the same vehicle with passengers, from points in Contra Costa County, Calif., to points in the Continental United States, including Alaska (excluding Hawaii) and return, for 180 days. Supporting shipper(s): There are approximately 21 statements of support attached to the applications which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 N. Plaza Street, Carson City, Nev. 89701.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22450 Filed 8-3-77;8:45 am]

[Notice No. 95]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATION

JULY 29, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application. A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 32967 (Sub-No. 2TA), filed July 7, 1977. Applicant: ATLANTIC COAST EXPRESS, INC., 2170 North Fleet St., Elizabeth, N.J. 07201. Applicant's representative: Galland, 1054 Thirty First St. N.W., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except motor vehicles, commodities in bulk, Class A & B explosives, household goods, and commodities which because of their size and weight require special equipment, and (2) *containers and container chassis*, between Baltimore, Md., and points in its Commercial Zone as defined in Title 49 CFR 1048.21, restricted to traffic having an immediate prior or subsequent movement by rail or water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vicksburg Chemical Company, P.O. Box 3, Vicksburg, Miss. 39180. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107615 (Sub-No. 10TA), filed July 13, 1977. Applicant: UNTCO, INC., 850 E. Luzerne Street, Philadelphia, Pa. 19124. Applicant's representative: Richard Mehley, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, products and materials, and supplies* used in the manufacture and production thereof, between Harrisburg, Pa., on the one hand, and, on the other, points in West Virginia for 180 days. Applicant intends to tack the above sought authority at Harrisburg, Pa., with its existing authority contained in MC 107615 Sub-No. 9 to provide through service between West Virginia points, on the one hand, and, on the other, points in New Jersey, points in Rockland, Westchester, Nassau and Suffolk Counties, N.Y., and New York, N.Y. Supporting shipper(s): There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 116073 (Sub-No. 360TA), filed July 14, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers, fifth wheel travel trailers, and rent campers*, from the plantsite of Coachman Industries, Inc., at or near Centreville, Mich., to all points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper(s): Coachman Industries, Inc., P.O. Box 30, Middlebury, Ind. 46540. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 118806 (Sub-No. 55TA), filed July 15, 1977. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., 739 Lagimodiere Blvd. Winnipeg, Manitoba, Canada R2J 3K4, R2J OT8. Applicant's representative: Paul R. Bergant, Singer & Sullivan, P.C., 10 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements*, (2) *combines*, and (3) *parts and attachments* for the commodities described in (1) and (2), from the ports of entry on the International Boundary Line between the United States and Canada located in New York and Michigan, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Massey-Ferguson Industries, Ltd., P.O. Box 400, Park Road North, Brantford, Ontario, Canada N3T 5V4. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 121082 (Sub-No. 14TA), filed July 6, 1977. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, Mich. 48238. Applicant's representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* limited to individual articles not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight, from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarder between Cincinnati, Ohio, on the one hand, and, on the other hand, Louisville, Ky. Applicant intends to tack to another authority in MC 121082 (Sub-No. 13TA). Applicant may interline at Louisville, Ky., with other carriers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Delivery Systems, Inc., 300 East Seven Mile Rd., Detroit, Mich. 48203, Sharon Makowski, Vice President, Services. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, Mich. 48226.

No. MC 124078 (Sub-No. 739TA), filed July 1, 1977. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, flakes, NOIBN, granules, powder or solid mass*, in bulk in tank vehicles, from Brunswick, Ga., to points in Alabama, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hercules Incorporated, 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East

Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 125699 (Sub-No. 3TA), filed July 15, 1977. Applicant: WILLARD E. DURBIN, doing business as DURBIN AUTO SERVICE, 421 South Mulberry Street, Hagerstown, Md. 21740. Applicant's representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street, N.W., Washington, D. C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, crushed, and shredded automobiles and shredded residues and scrap*, used or to be used in a recycling process, between Hagerstown, Md., on the one hand, and, on the other, points in and east of Wisconsin, Iowa, Missouri, Tennessee and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Conservit, Inc., P.O. Box 1517, Hagerstown, Md. 21740. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 134959 (Sub-No. 9TA) (Partial correction), filed May 12, 1977, published in the FEDERAL REGISTER issue of June 24, 1977, and republished as corrected this issue. Applicant: BEN-K TRUCKING, INC., North 6th Avenue and County Road 64, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, 1600 Sherman Street, Suite 350 Capitol Life Center, Denver, Colo. 80203. Note.—The purpose of this partial correction is to add parts (6) through (12) which was originally omitted from the previous publication: (6) *Defluorinated food phosphate* (CDP), in bags, or in bulk, except in bulk in tank vehicles, From: Houston, Tex.: To: Points in New Mexico and Colorado, and points in Utah. (7) *Sodium sulfate*, bagged, From: Brownfield, Tex., To: Denver, Colo., and Hastings and Norfolk, Nebr. (8) *Ammonium chloride*, bagged, From: Freeport, Tex. To: Denver, Colo., and Sterling, Colo. (9) *Malt pellets*, bagged, From: Ft. Collins, Colo., To: Points in Utah. (10) *Feed and feed ingredients*, bagged or in bulk, except in bulk in tank vehicles, From: Denver, Colo. To: Points in Utah. (11) *Di calcium phosphate*, bagged and in bulk. From: Weeping Water, Nebr. To: Points in Colorado and Utah; and (12) *Feed and feed ingredients*, in bulk and in bags, except in bulk in tank vehicles. From: The facilities of Feed Products, at or near Hastings, Nebr. To: Points in Colorado. Restricted to operations performed under a continuing contract or contracts with Feed Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Feed Products, Inc., 1000 West 47th Avenue, Denver, Colo. 80211. Send protests to: Roger L. Buchanan District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202. The rest of the publication remains the same.

No. MC 126305 (Sub-No. 84TA) filed July 7, 1977. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle-board, plywood and/or lumber*, in straight or mixed shipments, from the plant sites of MacMillan Bloedel, Inc. at or near Pine Hill (Wilcox County) and Opelika, Ala.; to points in the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, Ohio, Oklahoma, Texas, Vermont, West Virgina, Wisconsin and the District of Columbia, for 180 days. Supporting shipper: MacMillan Bloedel, Inc., 12th Floor, Brown Marx Building, Birmingham, Ala. 35203. Send Protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616 2121 Building, Birmingham, Ala. 35203.

No. MC 128988 (Sub-No. 96TA), filed June 30, 1977. Applicant: JO/KEL, 150 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressors, air conditioners, air conditioning products and equipment;* (2) *parts and accessories* for the commodities named in (1) above, from the facilities of Westinghouse Electric Corporation at or near Verona, Va.; to points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn. thence northward along the western boundaries of Itasca and Koochiching Counties, Minn. to the International Bounday Line between the United States and Canada; and (3) *Materials, equipment, and supplies*, used in the manufacture, production, and distribution of the commodities named in (1) and (2) above, from points in the above-described destination area to the facilities of Westinghouse Electric Corporation at or near Verona, Va. Restrictions: Restricted against the transportation of commodities which by reason or size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract, or contracts, with Westinghouse Electric Corporation, for 180 days. Supporting shipper: Westinghouse Electric Corporation, 290 Leger Rd., North Huntingdon, Pa. 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 97TA), filed June 30, 1977. Applicant: JO/KEL INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Watt hour meters*, from the facilities of Westinghouse Electric Corporation located at or near Raleigh, N.C.; to points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn.; thence northward along the western boundaries of Itasca and Koochiching Counties, Minn.; to the International Boundary line between the United States and Canada. Restriction: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, and commodities in bulk, further restricted to a transportation service to be performed under a continuing contract, or contracts, with Westinghouse Electric Corporation of Pittsbugh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corporation, 290 Leger Rd., North Huntingdon, Pa. 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133405 (Sub-No. 2TA), filed July 15, 1977. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, Maryland 20601. Applicant's representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from Jacksonville, Fla. to Ellicott City, Baltimore, Glyndon, Annapolis and Leonardtown, Maryland. (2) from Columbus, Ohio to Ellicott City, Baltimore, Glyndon, Annapolis and Leonardtown, Maryland. (3) from Detroit, Mich. to Baltimore, Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersmand, District Supervisor, Washington, D.C. 20423.

No. MC 134286 (Sub-No. 27TA), filed July 12, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1584, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, seeds, and snackfood products* moving in vehicles equipped with mechanical temperature control devices, between the plantsites and or warehouse facilities of Sunmark Companies at or near Itasca, Ill., and St. Louis, Mo., and from the plantsites and/or warehouse facilities of Sunmark Companies at or near Itasca, Ill., and St. Louis, Mo., to points in the states of Maryland, Massachusetts, New Jersey, New York and Pennsylvania for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. M. Brennecke, Traffic Manager, The Sunmark Companies, 10795 Watson Road, St. Louis, Mo. 63127. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134477 (Sub-No. 181TA), filed July 15, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except commodities in bulk) from the facilities of Great American Basic Commodities, Inc. located at or near Plover, Wis. to points in Massachusetts, New Jersey, New York, Ohio and Pennsylvania, restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations, for 180 days. Supporting shipper(s): Great American Basic Commodities, Inc., 1001 Hoover Road, Plover, Wis. 54467. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135082 (Sub-No. 47TA) (Partial correction), filed May 19, 1977, published in the FEDERAL REGISTER issue of June 8, 1977, and republished as corrected this issue. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Note: The purpose of this partial correction is (1) to indicate that there are approximately 10 (ten) additional supporting shippers which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below; and (2) to indicate where to send protests which was originally omitted from the previous publication: Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Ave. S.W., Albuquerque, N. Mex. 87101. The rest of the publication remains the same.

No. MC 136817 (Sub-No. 3TA), filed July 15, 1977. Applicant: HUNTER BROKERAGE, INC., 3910 Richland Drive, Council Bluffs, Iowa 51501. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Old Monroe and Hannibal, Mo. and points in their commercial zones, to Carson, Calif., under a continuing contract or contracts with McGuffin Lumber, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): James P. McGuffin, President, McGuffin Lumber, Inc., 3142 Central Street, Evanston, Ill. 60201. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138762 (Sub-No. 14TA), filed July 7, 1977. Applicant: MUNICIPAL TANK LINES, LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: D. S. Vincent (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chloride resins and compounds* in bulk, in tank vehicles, from ports of entry on the United States-Canada International Boundary line in New York to Hazelton, Pa. Restricted to shipments originating at the plantsite and facilities of B. F. Goodrich, Canada Limited in the city of Thorold, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. A. Slobodaina, Traffic Manager, B. F. Goodrich Canada Limited, Kitchener, Ontario, Canada N2G 4J5. Send protests to: Paul J. Labane, District Supervisor, Interstate 2602–1st Ave. North, Billings, Mont. 59101.

No. MC 139193 (Sub-No. 66TA), filed July 6, 1977. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street, North, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products* (except hides and commodities in bulk, in tank vehicles), as described in Appendix I. *Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site of Royal Packing Co., at or near National Stockyards, Ill., to Connecticut, Maryland, Massachusetts, Pennsylvania, New Jersey, New York, and Washington, D.C., under a continuing contract, or contracts, with Royal Packing Company, and National Stockyards, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Royal Packing Company, St. Clair Avenue & Ice Plant Road, P.O. Box 156, National Stockyards, Ill. 62071. Marc Sokolik, Vice President—Transportation. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139495 (Sub-No. 250TA), filed July 14, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheat germ and granola*, (1) from the facilities of International Multifoods Corporation located at or near Manhattan, Kans., to the facilities of International Multifoods Corporation located at or near Carrollton, Mich.; and (2) from the facilities of International Multifoods Corporation located at or near Manhattan, Kans., and Carrollton, Mich., to points in Connecticut, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont for 180 days. Supporting shipper(s): International Multifoods Corporation, 1265 Multifoods Building, Minneapolis, Minn. 55402. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 140212 (Sub-No. 1TA), filed July 5, 1977. Applicant: CRANE RENTAL CO., INC., 205 Main Street, Tewksbury, Mass. 01876. Applicant's representative: James F. Martin, Jr., 69 Milliken Avenue, Franklin, Mass. 02038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in dump vehicles, from Tewksbury, Mass., and Madbury, N.H., to Providence, R.I. The above will be performed under continuing contracts with Tewksbury Auto Parts, Inc., Tewksbury, Mass., and Madbury Metals, Inc., Madbury, N.H., for 180 days. Supporting shipper: Madbury Metals, Inc., Knox Marsh Road, Madbury, N.H. 03820, Tewksbury Auto Parts, Inc., 860 East Street Tewksbury, Mass. 01876. Send protests to: Max Corenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143401 (Sub-No. 1TA), filed July 7, 1977. Applicant: PENSACOLA INDUSTRIAL SERVICES, INC., P.O. Box 8063, Pensacola, Fla. 32305. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcined kaolin*, in bulk, in tank vehicles, from the plantsite and storage facilities of Engelhard Minerals & Chemicals Corp. at or near McIntyre, Ga; Freeport Kaolin Co. at or near Gordon, Ga.; Burgess Pigments Co. at or near Sandersville, Ga.; and Kaolin Co. at or near Dry Branch, Ga., to the plant site and storage facilities of Monsanto

Co. located at or near Gonzales, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143424 (Sub-No. 1TA), filed July 12, 1977. Applicant: AAA MOVING & STORAGE CO., INC., 2414 University Boulevard, Tuscaloosa, Ala. 35401. Applicant's representative: Harris & Harris, 1406 Union Bank Towers, Montgomery, Ala. 36104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between all points and places in Bibb, Blount, Cullman, Fayette, Jefferson, Lamar, Marion, Pickens, Shelby, Tuscaloosa, Walker, Calhoun, and Winston Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, Calif. 90502; Department of Defense, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310.

No. MC 143429 (Sub-No. 1TA), filed July 8, 1977. Applicant: BILL BARTON, d.b.a. Mac B Co., 2916 Princeton Street, Plano, Tex. 75075. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock wool, glass mineral wool, mineral wool paper, bulk mineral wool unsuitable only for machine processing*, in bales and bags, and high temperature cement, from Texarkana, Ark., to points in Texas, Oklahoma, Louisiana, New Mexico, Mississippi, Missouri, and Kansas, under a continuing contract, or contracts, with Mineral Fibers Co., and INSCO (a corporation), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mineral Fibers Co., P.O. Box 1349, Texarkana, Ark. INSCO (a corporation), P.O. Box 26292, Dallas, Tex. 75226. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 143441R (Sub-No. 1TA), filed July 7, 1977. Applicant: AARDEMA CARTAGE, INC., P.O. Box 576, Midlothian, Ill. 60445. Applicant's representative: Philip A. Lee, 120 West Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap splits* (a material between hides and leather) from Chicago, Ill., to Milwaukee, Wis.; (2) *splits* (a material between hides and leather) from Fon du lac, Milwaukee, Sheboygan, Wis., and Red Wing, Minn., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William Grainer, Inc., Thomas B. Weinstein, Assistant Manager, 2252 North Elston Avenue, Chicago, Ill. 60614; Triangle Tanning Co., Joseph A. Burik, General Manager and Treasurer, 1823 West Webster Avenue, Chicago, Ill. 60614. Send protests to Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 143470TA, filed July 7, 1977. Applicant: ROBERT CLIFFORD CAST, 151 Gratis, Ohio 45330. Applicant's representative: Robert Clifford Cast (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, on flat bed vehicles, from August, Washington, Greenville, Atlanta, and Lumber City, Ga.; Bruce, Philadelphia, and Meridian, Miss.; and Birminghan, Oplika, Decatur, Haleyville, and Tuscaloosa, Ala., to Gratis, Ohio; (2) *pallets*, on flat bed vehicles, from Gratis, Ohio, to Richmond, Ind., under a continuing contract with Donald E. Tolson. Supporting shipper: Donald E. Tolson, Partner, Tolson & Lawson Pallett Manufacturing, Box 151, Gratis, Ohio 45330. Send protests to Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 143473TA, filed July 7, 1977. Applicant: TRI-COUNTY DELIVERY, INC., 3627 Buena Vista Drive SE., Hubbard, Ohio 44425. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 930, Columbus, Ohio 44425. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, television sets, radios, and tape recorders*, between Youngstown, Ohio, on the one hand and points and places in Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Lawrence, Mercer, Venango, Washington, and Westmoreland Counties, Pa.; and Doddridge, Hancock, Harrison, Marion, Marshall, Monogalia, Ohio; Pleasants, Ritchie, Wetzel, and Wood Counties, W. Va., under a continuing contract with Hamburg Bros., Inc., for 180 days. Supporting shipper: Hamburg Bros., Inc., 904 Tod Ave., Youngstown, Ohio 44502. Send protests to James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22451 Filed 8-3-77;8:45 am]

[Notice No. 203]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 4, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-76979. By application filed July 25, 1977, NIDEROST, INC., d.b.a. Niderost, Inc., 2300 Canyon Road, P.O. Box 898, Ellensburg, Wash. 98926, seeks temporary authority to lease the operating rights of Pattons, Inc., 2300 Canyon Road, Ellensburg, Wash. 98926, under section 210a(b). The transfer to Niderost, Inc., d.b.a. Niderost Inc., of the operating rights of Pattons, Inc., is presently pending.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-22446 Filed 8-3-77;8:45 am]

[Revised Service Order No. 1252, I.C.C. Order No. 2, Amdt. No. 2]

NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CO.

Rerouting or Diversion of Traffic

To all railroads:

Upon further consideration of I.C.C. Order No. 2 (New York, Susquehanna and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 2 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the care service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director Office of the Federal Register.

Issued at Washington, D.C., July 26, 1977.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc.77-22453 Filed 8-3-77;8:45 am]

FEDERAL MARITIME COMMISSION

SOUTH CAROLINA STATE PORTS AUTHORITY AND MOLLER STEAMSHIP CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by August 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Marion S. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402.

Agreement No. T-3498, between South Carolina State Ports Authority (Authority) and Moller Steamship Company (Moller), as agent for Maersk Line (Maersk), provides for the five-year preferential use (with renewal options) of Berth No. 1 and the lease of 4.04 acres of land at the Columbus Street Terminal in Charleston, South Carolina. The preferential use is limited to Tuesday of each week and may be subject to change upon mutual agreement. Authority will construct a fenced and paved parking lot including other improvements and install an office trailer building. As compensation, Moller will pay: (1) $3,504 per month as rental; (2) wharfage and crane service charges at the published tariff rates effective on the agreement's commencement date; and (3) dockage and any other service charges for any Maersk ship at Authority's tariff rate effective at the time of service. Wharfage paid under the agreement is subject to a minimum annual guarantee of 100,00 short tons for the first year, 125,000 short tons for the second year, and 150,000 short tons for each succeeding year of the agreement and any extension thereof. Moller will pay 75 percent of the tariff rate on wharfage exceeding 150,000 tons annually and 50 percent of the tariff rate on wharfage exceeding 250,000 tons annually. Upon its approval, Agreement No. T-3498 will supersede Agreement No. T-3105, which is between the same parties.

By Order of the Federal Maritime Commission.

Dated: August 1, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22470 Filed 8-3-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP77-105]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Rejecting Proposed Revision of PGA Clause, Granting Waiver, Initiating Hearing, and Establishing Procedures

JULY 26, 1977.

On June 30, 1977, Colorado Interstate Gas Company (CIG) tendered for filing proposed changes to its FPC Gas Tariff[1] which, based on the twelve months ended March 31, 1977, as adjusted, would increase jurisdictional revenues by $19,958,671 annually, including purchased gas adjustments and excluding surcharges. CIG requests that the proposed rate increase be permitted to become effective on August 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

CIG also tendered for filing proposed tariff changes which would permit CIG to alter its method of calculating purchased gas cost adjustments.[2] For the reasons stated below, the Commission shall reject these proposed tariff changes for filing.

Public notice of CIG's filing was issued on July 11, 1977, providing for protests or petitions to intervene to be filed on or before July 22, 1977.

CIG states that the principal reasons for its proposed rate increase are the addition of certain facilities, increased operating costs, the need to increase depreciation rates to 6.2% for storage properties and 4.62% for transmission properties, and the need for a rate of return of 10.89% including a 15.0% allowance on common equity.

Based upon a review of CIG's filing, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept CIG's proposed rate increase for filing, suspend its use for five months or until January 1, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

The Commission notes that CIG tendered for filing both Nineteenth Revised Sheet Nos. 5 and 6 and Alternate Revised Sheet Nos. 5 and 6. The two sets of sheets differ only in that the alternate sheets exclude unrecovered purchased gas cost surcharges totaling 6.41 cents per Mcf which expire before January 1, 1977. CIG requests that should the Commission suspend CIG's proposed rate increase for five months until January 1, 1978, the alternate sheets be accepted for filing and Nineteenth Revised Sheet Nos. 5 and 6, containing provisions for the surcharges, be deemed withdrawn. In light of the action taken herein, the Commission will grant CIG's request.

CIG has included in its claimed rate base costs related to certain facilities which have not been certificated as of the date of filing in this docket. CIG requests waiver of Section 154.63(e)(2)(ii) of the Commission's regulations to permit such inclusion. CIG anticipates receiving all necessary certifications prior to the time its proposed rates become effective. The Commission shall grant the requested waiver of its regulations provided, however, that if such facilities are not certificated and placed in service on the date the proposed rates take effect subject to refund, CIG shall file revised tariff sheets which reflect exclusion of the costs associated with those facilities which have not been certificated and placed in service as of that date. CIG shall, also, submit supplemental costs and revenue data which reflect the elimination of such costs from its cost of service. The revised tariff sheets and supplemental data shall also reflect the actual advance payment balance in Account No. 166 as of December 31, 1977.

The proposed revisions of Tariff Sheet Nos. 63 through 66 and 67 A and B would permit CIG to include in its annual August 15 PGA filings an estimate of the positive or negative balance in its unrecovered purchased gas cost account as of the following September 30 rather than the actual balance in the account as of the preceeding June 30. Section 154.38 of the Commission's regulations does not provide for the use of an estimated rather than actual unrecovered purchased gas cost balance. Good cause does not exist to grant waiver of the regulation. Accordingly, the Commission shall reject CIG's proposed revisions of Tariff Sheet Nos. 63 through 66 and 67 A and B. *Municipal Light Boards* v. *F.P.C.*, 450 F.2d 1341, 1346 (1971).

The Commission finds: (1) It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges set forth in Alternate Nineteenth Revised Sheet Nos. 5 and 6 as proposed by CIG, and that the same be accepted for filing and suspended as hereinafter ordered.

(2) Good cause exists to reject Second Revised Sheet Nos. 63, 64 and 65, Twelfth Revised Sheet No. 66 and Second Revised Sheet Nos. 67 A and B.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed herein by CIG.

(B) Pending hearing and decision, CIG's proposed Alternate Nineteenth Revised Sheet Nos. 5 and 6 are hereby accepted for filing and suspended for five months, or until January 1, 1978, when they shall be permitted to become effective, subject to refund, upon motion

[1] Nineteenth Revised Sheet Nos. 5 and 6; Alternate Nineteenth Revised Sheet Nos. 5 and 6.

[2] Second Revised Sheet Nos. 63, 64, 65, Twelfth Revised Sheet No. 66; Second Revised Sheet Nos. 67A and 67B.

filed by CIG in accordance with the provisions of the Natural Gas Act.

(C) Nineteenth Revised Sheet Nos. 5 and 6 are hereby deemed to be withdrawn by CIG.

(D) Second Revised Sheet Nos. 63, 64 and 65, Twelfth Revised Sheet No. 66 and Second Revised Sheet Nos. 67 A and B are hereby rejected.

(E) The Commission staff shall prepare and serve top sheets on all parties, on or before November 30, 1977.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(G) CIG's request for waiver of Section 154.63(e)(2)(ii) of the Commission's regulations is hereby granted *provided, however*, that CIG file revised tariff sheets and supplemental cost and revenue data on or before January 1, 1978, which shall reflect the exclusion of costs associated with facilities not certificated and placed in service as of December 31, 1977 and which shall reflect the actual advance payment balance in Account No. 166 as of December 31, 1977.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22252 Filed 8-3-77;8:45 am]

[Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416]

ILLINOIS POWER CO.

Order Waiving Notice Provisions, Accepting for Filing and Suspending Proposed Increased Rates

JULY 26, 1977.

On June 30, 1977, Illinois Power Company (Company) tendered for filing proposed increases in its demand charges for short-term firm capacity and for Maintenance Power Capacity for service to seven municipals.[1] The filing would increase the Company's revenues by $151,148 or 16.67 percent, based on the 12-month period ending April 30, 1977, for this service. Company requests waiver of the notice provisions in order to permit acceptance of its filing effective July 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to waive the notice provision, accept for filing and suspend the proposed increased rates and charges tendered by the Company on June 30, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on June 30, 1977, are hereby accepted for filing effective July 1, 1977, with the request for waiver of the notice provisions hereby granted.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company on June 30, 1977.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company on June 30, 1977, are hereby suspended and the use thereof deferred until July 2, 1977, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

ATTACHMENT A.—*Illinois Power Co.*

Dated: May 20, 1977.
Filed: June 30, 1977.
Effective: Aug. 1, 1977, subject to refund.

Designation	Other party	Description
Supplement No. 3 to rate schedule FPC No. 72	City of Highland, docket No. ER77-411	Modification No. 3.
Supplement No. 3 to rate schedule FPC No. 71	City of Mascoutah, docket No. ER77-413	Do.
Supplement No. 4 to rate schedule FPC No. 66	City of Freeburg, docket No. ER77-413	Do.
Supplement No. 3 to rate schedule FPC No. 69	City of Princeton, docket No. ER77-414	Do.
Supplement No. 4 to rate schedule FPC No. 67	City of Peru, docket No. ER77-415	Do.
Supplement No. 3 to rate schedule FPC No. 70	Cities of Breese and Carlyle, docket No. ER77-416	Do.

[FR Doc.77-22253 Filed 8-3-77;8:45 am]

[Docket No. RI77-51]

WALTER K. ARBUCKLE, ET AL.

Order Granting Petition for Special Relief and Permitting Intervention

JULY 26, 1977.

On March 29, 1977, Walter K. Arbuckle, et al. (Arbuckle) filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76) for the sale of natural gas to Colorado Interstate Gas Company (CIG) from the UPRR Chace No. 1 Well and the UPRR Irene No. 1 Well, Simpson Ridge Field, Carbon County, Wyoming. Subsequently, Arbuckle filed additional information on June 21, 1977.

Arbuckle is an independent small producer which was issued a small producer certificate in Docket No. CS75-81 on October 4, 1974. Holding a 100 percent working interest in the leases, Arbuckle is presently selling natural gas from the Chace Well to CIG at a rate of 17.9 cents per Mcf at 14.65 psia pursuant to a contract dated September 25, 1967.

In order to increase production to an economically viable level in the Chace Well and to begin production in the Irene Well which is presently shut-in, Arbuckle plans to install, maintain and operate gas compression equipment. Without such equipment, abandonment is imminent. Therefore, Arbuckle requests that the Commission authorize it to collect $1.05 per Mcf for the sale of natural gas to CIG.

In an amendment to their gas purchase agreement, executed March 15, 1977, CIG formally expressed its willingness to increase the price on the compressed gas to compensate seller for the cost of compression and provide a fair return on Arbuckle's interest in the above stated wells.

Notice of Arbuckle's petition for special relief was issued on April 6, 1977 and was published in the FEDERAL REGISTER. CIG filed a timely petition to intervene.

Based on an analysis of data submitted by Arbuckle, Staff estimates that 566,199 Mcf remain to be produced over a period of four years from the Chace Well. Production from the Irene Well has never been established. Staff concludes that the requested special relief is warranted on a cost basis.[1]

After reviewing the costs to be incurred, and the reserves to be recovered, we determine that Arbuckle's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds: The petition for special relief filed by Arbuckle meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) The petition for special relief of Arbuckle is hereby granted.

(B) Arbuckle is authorized to collect $1.05 per Mcf at 14.65 psia for the natural gas from the Chace Well and the Irene Well, Simpson Ridge Field, Carbon County, Wyoming, effective upon either the date of issuance of this order or the date the remedial work is completed, whichever is later.

(C) The authorization is subject to the following conditions: (1) Within 30 days of the date of issuance of this order, Arbuckle must file the appropriate rate change filings in accordance with Section 154.94 of the Commission's Regulations under the Natural Gas Act (18 C.F.R. §154.94); (2) Within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein, Arbuckle must file a statement signed by CIG in Docket No. RI77-51 setting forth the date on which the remedial work was completed.

(D) CIG is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*, that the admission of CIG in the manner provided shall not be construed as recognition by the Commission that CIG might be aggrieved because of any order or orders entered in this proceeding, and that CIG agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A

Walter K. Arbuckle, et al., Docket No. RI77-51: Unit cost of gas

Line No.	Item (a)	Amount (b)
1	Net working interest volumes:	
2	Gas—1,000 ft³ at 14.65 lb/in²a [1]	421,818
3	Liquids—barrels	0
4	Cost of production:	
5	Return on rate base at 15 pct [2]	270,208
6	D.D. & A [3]	121,724
7	Production expense [4]	74,989
8	Subtotal	416,499
9	Allocated to gas [5]	416,499
10	Regulatory expense [6]	422
11	Total cost of production	416,921
12	Unit cost of gas (cents per 1,000 ft³):	
13	Cost of production [7]	98.78
14	Production tax [8]	4.15
15	Total unit cost of gas at 14.65 lb/in²a	102.93

[1] 566,199 Mcf times 0.745 net working interest.
[2] Line 11 of sheet 3 times 0.15 times 4 yr productive life.
[3] Line 6, sheet 2.
[4] Based on estimated 1977 production expense of $16,570 escalated 5 pct year for the 4 yr productive life.
[5] Line 8 times line 12, sheet 2.
[6] Line 2 times 0.1 cents per 1,000 ft³ per opinion No. 749.
[7] Line 11 divided by line 2.
[8] 4.03 pct of line 15.

Investment and Allocation of Costs

Line No.	Item (a)	Amount (b)
1	Investment.	
2	Remaining net book value Jan. 1, 1977	$214,224
3	Compression installation	90,000
4	Total investment	304,224
5	Less salvage value [1]	33,000
6	Depreciable investment	271,224
7	Depreciation per unit of production [2]	0.643068
8	Allocation of costs: [3]	
9	Gas—MMBtu [4]	445,963
10	Liquids—MMBtu	0
11	Total—MMBtu	445,963
12	Percentage allocated to gas [5]	100

[1] Staff estimate.
[2] Line 6 divided by line 2, sheet 1.
[3] Modified Btu method per opinion No. 749.
[4] 421,818 Mcf times 1.057 MMBtu/Mcf.
[5] Line 9 divided by line 11.

[1] The tender first submitted on May 31, 1977, was found to be deficient and was corrected by the June 30th answer to our deficiency letter and is designated in the Attachment to this order.

[1] See Appendix A

Average Investment and Annual Rate Base

Line No.	Year	Annual N.W.I. production	Beginning of year investment	Depreciation [1]	End of year investment	Average [2] investment
	(a)	(b)	(c)	(d)	(e)	(f)
1	Average investment:					
2	1	226,423	$204,224	$145,587	$158,637	$231,431
3	2	116,556	158,637	75,008	83,629	121,133
4	3	54,910	83,629	35,307	48,322	65,975
5	4	23,835	48,322	15,322	33,000	40,661
6	Total	421,818		271,224		459,200
7	Average annual investment [3]					$114,800
8	Annual rate base:					
9	Average annual investment					114,800
10	Average annual working capital allowance [4]					2,348
11	Total annual rate base					$117,148

[1] Col. (b) times line 7, sheet 2.
[2] (Col. (c) plus col. (e)) divided by 2.
[3] Col. (f), line 10 divided by 4 yr productive life.
[4] 0.125 times line 7, sheet 1 divided by 4 yr productive life.

[FR Doc.77-22254 Filed 8-3-77;8:45 am]

[Docket No. ER77-331]

CENTRAL POWER AND LIGHT CO.

Initial Rate Schedule Filing

JULY 28, 1977.

Take notice that on July 11, 1977, Central Power and Light Company ("Company") tendered for filing as initial rate schedules the Company's contracts and service agreements under which it provides wholesale electric service to various electric cooperatives, municipalities, and government agencies. The Company indicates that based on sales, revenue, and cost studies submitted with the filing the Company shows a rate of return of 3.39 percent on wholesale service for the 12-month period ending December 31, 1976. According to the Company copies of the filing have been served on the Company's jurisdictional wholesale customers and upon the Public Utility Commission of the State of Texas.

The Company states that no changes to the rate schedules, contracts, and service agreements are proposed in the initial filing.

Any person desiring to be heard or to protest the application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22340 Filed 8-3-77;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES

Order Approving Settlement

JULY 28, 1977.

On January 17, 1977, the Presiding Administrative Judge in these proceedings certified to the Commission the proposed Settlement Agreement entered into by Delmarva Power & Light Company and Subsidiaries (Delmarva) and the Public Service Commission of the State of Delaware and the State Corporation Commission of the State of Virginia. The Commission finds that with the modifications as stated below, the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings in this docket were initiated on September 29, 1975 when Delmarva Power and Light Company and its wholly owned Maryland and Virginia affiliates filed for an increase in the earned rate of return allowable in the Power Supply Agreement which governs their power pooling transactions on a cost of service basis. The increase proposed would have been from 8.625% to 9.9% including a 15.4% return for common equity at December 31, 1975. By order of October 31, 1975, the Commission accepted the filing, suspended it for ninety days to become effective subject to refund on January 31, 1976. Formal and informal settlement conferences among the parties resulted in the proposed settlement agreement which provides for a system-wide 9.2% overall allowable rate of return.

Public notice of the filing and certification was issued on February 17, 1977, with comments due on or before March 9, 1977. Comments were received from the Public Service Commission of Maryland on February 4, 1977, which stated that it neither supports nor opposes the settlement. Staff filed comments generally supporting the settlement on March 10, 1977, but observing that the agreement does not provide for interest on refunds as required by Commission Order No. 513-A.

Additionally, by supplementary comments of May 31, 1977, Staff recommended that increased monthly payments to the Delaware company for periods prior to the settlement approval be limited to amounts collected subject to refund in ER 76-151. No objections were received to Staff's recommendation. We believe that the recommendations made by Staff are in the public interest and should be adopted.

The Commission finds: The proposed Settlement Agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The Settlement Agreement certified to the Commission in these proceedings on January 17, 1977, is hereby accepted as of the date of issuance of this order, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, Delmarva shall file the revised Power Supply Agreement. This compliance filing shall include monthly billing data under the proposed settlement rates for the period commencing January 30, 1976, to June 30, 1977. Such billing data shall address the following specific considerations:

(a) With respect to that portion of the tax effect of liberalized depreciation which is to be continued on a "flow-thru" basis, the intent is evidently to clarify without affecting the end result. To accomplish this purpose in the proposed billing procedure, it is necessary to apply the appropriate tax factor in determination of the tax effect of "flow-thru" depreciation.

(b) The billing format should be designed to reflect the inclusion of a provision for deferred income taxes applicable to that portion of liberalized depreciation for which normalization is claimed, and clearly delineate the basis upon which normalized is distinguished from "flow-thru" depreciation

(C) Within 30 days after the compliance rate filings are accepted for filing, Delmarva shall refund any excess revenues collected, if any with interest computed at 9% per annum.

(D) Refund obligations to be determined on a monthly basis comparing rates under (1) the proposed increase and (2) settlement rates. Where the proposed rates collected subject to refund in any given month exceed the settlement rates, the excess shall be refunded with interest at 9% as ordered above.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against PG&E or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22347 Filed 8-3-77;8:45 am]

[Docket No. CP77-289]

EL PASO NATURAL GAS CO.

Amendment to Application

JULY 27, 1977.

Take notice that on July 19, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-289 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the construction and operation of certain compressor and pipeline facilities and the relocation and modification of certain metering facilities and the sale, delivery and transportation of natural gas as necessary to assist Applicant in effectuating the Clay Basin Interim Storage Arrangements for the future protection of service to its East of California (EOC) customers' Priority 1 and 2 requirements, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is stated that on March 11, 1977, in Docket No. CP77-289, and on March 10, 1977, in Docket No. CP76-285, Applicant and Mountain Fuel Resources, Inc., (Resources), respectively, filed applications for authorization to commence the immediate installation of those facilities necessary to permit additional injections of gas into Resources' Clay Basin Storage Field (Clay Basin Field), located in Daggett County, Utah, so as to allow Applicant to store natural gas volumes for later use in protecting its EOC customers' Priority 1 and 2 requirements, pursuant to certain storage arrangements between Applicant, Resources and Northwest Pipeline Corporation (Northwest). It is indicated that on March 17, 1977, in Docket Nos. CP77-289 and CP76-285, Applicant and Resources, respectively, received temporary certificates authorizing the construction and installation of those facilities described in their respective applications. It is further indicated that on June 6, 1977, Applicant and Resources each filed with the Commission amendments to their respective applications seeking limited term authorization to operate the Clay Basin Field facilities which were authorized to be constructed under such temporary certificates in order to permit greater injections of gas into the Clay Basin Field for the account of Northwest. On July 1, 1977, Applicant and Resources received temporary certificates authorizing the operation of the subject facilities, it is said.

It is stated that the Clay Basin Interim Storage Arrangements contemplate that (1) during the period commencing May 1, 1977, and extending through April 30, 1978, Applicant will deliver to Northwest, at certain points of interconnection between their respective facilities in the San Juan Basin area of northwest New Mexico and southwest Colorado, for transportation and delivery by Northwest to Resources at a point of interconnection between Northwest's interstate mainline system and Resources' Clay Basin lateral pipeline near Dutch John, Utah, certain quantities of gas which would otherwise be sold and delivered by Applicant in satisfaction of its customers' Priority 3, 4 and 5 requirements, (ii) Resources will receive from Northwest, transport, inject and store such quantities in the Clay Basin Field, and (iii) equivalent quantities will be redelivered by Northwest to Applicant at a delivery point in southwest Colorado from time to time during the period November 1, 1977, through December 31, 1979, and so long thereafter as required to eliminate any imbalances in previous redeliveries.

Additionally, to facilitate the financing of the quantities of gas to be stored in the Clay Basin Field, Applicant has entered into various arrangements with Clay Basin Storage Company (Storage Company) whereby Applicant has assigned its agreements with Northwest and Resources, respectively, to Storage Company for implementation of the Clay Basin Interim Storage Arrangements, and has otherwise provided for the purchase and subsequent disposition by Storage Company of such stored volumes, it is indicated.

Specifically, by this amendment, Applicant seeks authorization to:

(i) Construct and operate certain compressor and pipeline facilities and relocate and modify metering facilities necessary to effectuate the Clay Basin Interim Storage Arrangements;

(ii) Sell certain quantities of gas to Storage Company and deliver such quantities to Northwest, for the account of Storage Company, at existing points of interconnection between the facilities of Applicant and Northwest located in the San Juan Basin; and

(iii) Receive at a point of interconnection with Northwest's facilities in southwest Colorado; transport and deliver to the purchasers thereof, for the account of Storage Company, through use of Applicant's existing interstate system, gas volumes which are redelivered to Applicant by Northwest for Storage Company's account.

Applicant asserts that requested authorization would materially assist it in its efforts to provide for the protection of service for the Priority 1 and 2 requirements of its EOC customers in future winters.

Applicant indicates that it would sell certain quantities of gas to Storage Company and would deliver such quantities to Northwest, for Storage Company's account, as set forth in the Interim Storage Agreement dated July 6, 1977, between Applicant and Storage Company. It is stated that such quantities of gas would be made available by Applicant through the assignment of a system-wide Priority 2 classification to the sales so to be made to Storage Company (and deliveries to be made to Northwest for Storage Company's account), thereby effectively utilizing quantities which would otherwise be available for system-wide sale and delivery by Applicant for use in serving requirements classified in Priorities 3, 4 and 5. It is indicated that Applicant anticipates that it would sell some 16,700,000 Mcf of gas to Storage Company (and deliver such quantity to Northwest for the account of Storage Company) during the period continuing through April 30, 1978. Applicant states that Storage Company would pay it a rate equivalent to the rate in effect at the time of sale under Rate Schedule G of Applicant's FPC Gas Tariff, Original Volume No. 1, for all sales made to it, and that the quantities so purchased by Storage Company would be transported by Northwest and delivered to Resources for injection into the Clay Basin Field.

It is indicated that Applicant and Northwest have entered into a Gas Transportation and Exchange Agreement dated March 24, 1977, which agreement has been assigned to Storage Company. It is stated that pursuant to such agreement Northwest would accept deliveries from Applicant for Storage Company's account on a best efforts basis, at various delivery points in the San Juan Basin area, during the period commencing on the date of first deliveries and extending through April 30, 1978; such deliveries not to exceed the daily capacity available in Northwest's transmission facilities for the receipt and transportation of Storage Company's gas as such capacity may exist from time to time. Applicant states that Northwest would concurrently deliver equivalent quantities on a Btu basis to Resources at a point of interconnection between Northwest's facilities and Resources' Clay Basin lateral pipeline for injection and storage by Resources in the Clay Basin Field for Storage Company's account.

Further, from time to time during the period November 1, 1977, through December 31, 1979, and so long thereafter as required to correct any previous imbalances, Northwest would deliver to Applicant for Storage Company's account, quantities of gas equivalent on a Btu basis to the quantities which Northwest previously so received from Applicant and transported and delivered to Resources for Storage Company's account; such deliveries of gas to Applicant for Storage Company's account to be made at the point of interconnection of Applicant's and Northwest's existing systems situated near Ignacio, Colorado, it is said. It is indicated that by the gas transportation and exchange agreement the redelivery of such equivalent quantities by Northwest to Applicant for Storage Company's account would be made by exchanging volumes otherwise available to Northwest in the San Juan Basin area for the quantities held by Resources for Storage Company's account in the Clay Basin Field. However, it is asserted that in the event that during the term of said agreement, Applicant has an emergency on its system requiring additional volumes to protect service to the Priority 1 and 2 requirements to its EOC customers,

the agreement also provides that Northwest would use its best efforts to effectuate earlier redelivery of such quantities of Storage Company's gas then stored in the Clay Basin Field as can be so redelivered without (i) reducing the aggregate of the quantities of gas then stored in the Clay Basin Field for the accounts of both Storage Company and Northwest below 27,000,000 Mcf, and (ii) prejudicing Northwest's ability to insure deliveries to its own high priority customers.

It is indicated that the parties have agreed that Northwest would be reimbursed for such transportation and exchange service as follows:

(i) Storage Company shall pay Northwest a rate of 16.03 cents per Mcf for transporting gas from the points by Northwest to Resources;

(ii) Storage Company shall purchase from Northwest at Northwest's average cost of purchased gas, as it may be from time to time, all compressor fuel attributable to the transportation of gas which Northwest receives from Applicant for Storage Company's account, including the fuel consumed by Applicant's temporary compression facilities, and the fuel requirements of Resources, which requirements are attributable to the injection of the gas which it receives from Northwest for Storage Company's account; and

(iii) For gas redelivered by Northwest to Applicant for Storage Company's account in the event of an emergency on Applicant's system requiring increased volumes of gas to insure deliveries to meet Priority 1 and 2 requirements of Applicant's EOC customers, Storage Company shall reimburse Northwest for all withdrawal costs incurred by Northwest in connection with such emergency deliveries under Resources's Storage Service Rate Schedule S–1.

Applicant indicates that Resources would accept delivery on a best efforts basis of the gas volumes transported and delivered to Resources by Northwest, for Storage Company's account, and would transport and inject such gas into the Clay Basin Field during the period extending through April 30, 1978. Applicant further indicates that the point at which Resources is to receive such gas from Northwest is the point of interconnection between the pipeline facilities of Resources and Northwest located near Dutch John Daggett County, Utah, and that storage of the gas volumes received by Resources, for the account of Storage Company, would be accomplished pursuant to an agreement dated March 21, 1977, between Storage Company (as Applicant's assignee), Resources and Northwest which is on file with the Commission as Resource's Interim Storage Service Rate Schedule S–2. As set forth in such Rate Schedule S–2, the quantities of gas which Resources has so undertaken to receive from Northwest for Storage Company's account, and to inject and store in the Clay Basin Field, are those quantities up to the maximum volumes of gas which can be injected and stored in excess of those volumes delivered by Northwest to Resources for its own account pursuant to arrangements between those parties, it is stated.

It is stated that upon redelivery by Northwest to Applicant for Storage Company's account, Applicant proposes to transport and deliver the quantities of gas so received by use of its existing interstate system pursuant to the Interim Storage Agreement, and that such arrangements contemplate the use of such quantities either in connection with other, long-term storage projects for the protection of Priority 1 and service to Applicant's EOC customers in future winters, or directly, for the immediate protection of such EOC Priority 1 and 2 requirements during the 1977–78 and 1978–79 winter season, and through December 31, of the 1979–80 winter season, to the extent such quantities can be made available by Northwest during those winter periods under the terms of the gas transportation and exchange agreement.

Applicant states that it and its major EOC distributor customers (Arizona Public Service Company, Southern Union Company, Southwest Gas Corporation and Tucson Gas and Electric Company) have entered into agreements providing for the purchase by said EOC Distributors of such stored supplies under certain terms and conditions which enable the disposition of such stored quantities in a manner which would contribute to the protection of service of the Priority 1 and 2 requirements of all EOC customers. These arrangements contemplate that such quantities of gas would be billed by Storage Company to the EOC Distributors and that Applicant would make a concurrent adjustment in its billings to the EOC Distributors to reflect a portion of the gas which the EOC Distributors received from Applicant as purchased from Storage Company rather than Applicant, it is indicated. It is stated that such sales by Storage Company would be made at a rate equivalent to the rate in effect at the time of delivery for Applicant's own sales of gas to the respective distributor customers at the respective sales point locations.

Applicant states that in addition to the certificate authorization necessary to implement the Clay Basin Interim Storage Arrangement, Applicant would require modification of the currently effective Priorities and curtailment provisions of its FPC Gas Tariff respecting Rules Concerning Storage Operation To Protect Priorities 1 and 2 and Surcharge Related to Storage Operations. These currently effective provisions provide for storage service on Applicant's interstate system for protection of Applicant's EOC customers' Priority 1 and 2 requirements, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 23, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22339 Filed 8-3-77;8:45 am]

[Docket No. ER77-440]

GREEN MOUNTAIN POWER CORP.

Proposed Tariff Change

JULY 28, 1977.

Take notice that Green Mountain Power Corporation (GMPC) on July 12, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff as filed with the Federal Power Commission on May 23, 1972 (Docket No. E–7878). GMPC indicates that the Docket No. E–7878 pertained to a transmission and generation contract between Green Mountain Power Corporation and Central Vermont Public Service Corporation (CVPS). GMPC further indicates that these contracts terminated May 31, 1977. GMPC states that the proposed tariff changes were brought about when both parties (GMBC and CVPS) agreed to extend the terms of the agreements from June 1, 1977 through October 31, 1977, subject to the following changes: the generation and transmission contracts were amended to provide that GMPC would sell and transmit to CVPS, 15 MW of capacity and associated energy from its No. 5 gas turbine plant, located in Berlin, Vermont.

According to GMPC copies of this filing have been sent to the Vermont Public Service Board and to Central Vermont Public Service Corporation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22342 Filed 8-3-77;8:45 am]

[Docket No. ER77-498]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Proposed Tariff Change

JULY 28, 1977.

Take notice that Iowa-Illinois Gas and Electric Company (Applicant), on July 5, 1977, tendered for filing pursuant to section 35.13 of the regulations under the Federal Power Act a proposed change in its Rate Schedule WES–M (applicable only to the cities of Buffalo, Callender, and Farnhamville, Iowa), FPC Wholesale Electric Tariff, Original Volume No. 1. The change, proposed to be effective October 1, 1977, would increase revenues from jurisdictional sales and service by $42,425 based on the 1976 test period, according to Applicant.

Applicant states that the reason for the proposed increased revenues is because its operating income has declined to a level which provides an inadequate return. Applicant further states that it is essential in the interest of preserving its financial integrity that its revenues and operating income be restored to a level to adequately meet the operating expenses necessary to provide good electric service and to attract the additional capital needed.

Applicant proposes an effective date of October 1, 1977, and there requests waiver of the Commission's notice requirements.

According to Applicant copies of the filing were served upon the cities of Buffalo, Callender, and Farnhamville, Iowa, and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22346 Filed 8-3-77;8:45 am]

[Docket No. ER77-427]

MINNESOTA POWER & LIGHT CO.

Order Granting Intervention, Denying Motion to Reject, Denying Motion for Reconsideration, and Establishing Additional Procedures

JULY 28, 1977.

On July 1, 1977, the Commission issued an order in the above-entitled proceeding that, inter alia, accepted for filing the proposed rate increases submitted by the Minnesota Power and Light Company (MPL) to 17 municipalities[1], two rural electric cooperatives[2], MPL's wholly-owned subsidiary[3] and one transmission service customer[4]. In addition, the Commission established certain procedures and suspended the proposed rate increases for 5 months, to become effective December 8, 1977, subject to refund.

On June 28, 1977, several wholesale customers (Petitioners) filed a document entitled "Protest Of Named Wholesale Customers; Request For Rejection Of Tendered Rate Schedules or, In The Alternative, Full Term Suspension Thereof; And Petition To Intervene".

In support of their petition to intervene, the Petitioners state that: (1) Petitioner Stuntz Cooperatives Light & Power Association owns and operates a system for retail distribution of electric power and energy as a REA cooperative; (2) the remaining Petitioners own and operate a municipal electric distribution system and are engaged in the retail distribution of electric power and energy in and around their respective community; and (3) the Petitioners purchase electric power and energy from MPL at wholesale for resale, except the City of Wadena which purchases electric power and energy at wholesale from the United States Bureau of Reclamation, which is transmitted to Wadena over the facilities of Otter Tail Power Company and MPL. Our review indicates that the Petitioners have shown sufficient justification for permitting them to participate as intervenors in this proceeding.

In support of their motion to reject or, in the alternative, suspend for 5 months, the Petitioners have raised several issues concerning the proposed rate increases. We will not reject MPL's filing. For it was noted in *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341, 1346 (1971), that:

> A "rejection" of a filing * * * is more like a motion to dismiss on the face of the pleading, and indeed goes even beyond that. It is appropriate where the filing is so deficient on its face that the agency may properly return it to the filing party without even awaiting a responsive filing by any other party in interest.

In this case, MPL's filing is not deficient on its face and, therefore, rejection is not appropriate. Petitioners alternate request for a five-month suspension period has been mooted by our order of July 1, 1977, which suspended the proposed filing for 5 months. Petitioners have alleged a "price squeeze" issue and to conform with our Order No. 563, additional procedures must be set so as to effectuate these policies. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present their case, including a prima facie showing, on the price squeeze issue.

On July 12, 1977, MPL submitted for filing a document entitled "Answer of Minnesota Power & Light Company To Protest And Petition To Intervene of Wholesale Customers" (Answer), and a second document entitled "Motion For Reconsideration." In its Answer, MPL essentially denies the allegations raised by the Petitioners in their pleading. In support of its Motion for Reconsideration of the July 1st Order, MPL states that the Commission failed to consider, that the June 8th filing reflects major changes in MPL's overall costs incurred as the result of the commencement of commercial operation of the Square Butte Project (a 340 million nine-month generating plant and higher voltage system leased and operated by the Square Butte Electric Cooperative). Our July 1st Order found that a hearing should be held on the question of the lawfulness of MPL's filing and suspended that filing for 5 months to become effective December 8, 1977, subject to refund. However, none of the arguments presented convince us that a change in the suspension period is warranted. The length of a suspension period is within the Commission's discretion. *Municipal Light*

[1] See Attachment.

[2] The rural electric cooperative customers and their respective rate schedules are:
Supplement No. 7 to Rate Schedule FPC No. 112 (Supersedes Supplement No. 6). Stuntz Cooperative Light & Power Association—Schedule 86.
Supplement No. 10 to Rate Schedule FPC No. 52 (Supersedes Supplement No. 8). United Power Association—Schedule 86.
Supplement No. 10 to Rate Schedule FPC No. 53 (Supersedes Supplement No. 9). United Power Association (Itasca)—Schedule 86.

[3] MPL's wholly-owned subsidiary and its rate schedules are described and designated as follows:
Supplement No. 11 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 9), Superior Water, Light & Power Company—Schedule 94.
Supplement No. 12 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 10). Rider for Standby Service.
By order dated July 21, 1977, the Commission consolidated Docket Nos. ER77-427 and ER77-473. In Docket No. ER77-473, Superior Water, Light & Power Company (Superior) submitted for filing an increase in rates for service to Dahlberg Light and Power Company. Superior stated that the purpose of the proposed increase is to recover a proportionate share of the increased cost of power purchased from MPL due to MPL's proposed rate increase in Docket No. ER77-427.

[4] The July 1st order states that MPL proposed a rate increase to 3 transmission service customers (City of Wadena, United Power Association and City of Virginia). That statement is inaccurate. MPL proposed a rate increase to one transmission service customer (City of Wadena) inasmuch as MPL's contract to service the City of Wadena permits MPL to unilaterally seek changes in the rates for service to the City of Wadena. MPL is precluded by contract from increasing the transmission service rate to United Power Association (UPA) prior to June 18, 1979. Consequently, no increase in rates to UPA is being sought in this proceeding. In addition, the City of Virginia is not a transmission service customer nor a purchaser of firm power from MPL.

Boards v. *F.P.C.*, 450 F. 2d 1341 (D.C. Cir. 1971). The pleadings before us, in our judgment, sustain the 5 months suspension period.

The *Commission finds:* (1) Good cause exists to deny the motion to reject MPL's filing.

(2) Good cause exists to deny MPL's Motion for reconsideration.

(3) Good cause exists to establish additional procedures to effectuate the Commission's policy announced in Order No. 563.

(3) Good cause exists to establish additional procedures to effectuate the Commission's policy announced in Order No. 563.

(4) The participation in this proceeding of Village of Aitkin, City of Biwabik, City of Brainerd, Village of Buhl, City of Ely, City of Gilbert, Village of Grand Rapids, Village of Hibbing, Village of Keewatin, Village of McKinley, Village of Mountain Iron, Village of Naswauk, City of Staples, City of Two Harbors, City of Virginia, City of Wadena and Stuntz Cooperative Light and Power Association may be in the public interest.

The *Commission orders:* (A) The motion to reject and motion for reconsideration are hereby denied.

(B) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present their case, including a *prima facie* showing, on the price squeeze issue. Also, MPL shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Petitioners shall file their case-in-chief on the price squeeze issue within 30 days after MPL's response.

(C) The Village of Aitkin, City of Biwabik, City of Brainerd, Village of Buhl, City of Ely, City Gilbert, Village of Grand Rapids, Village of Hibbing, Village Keewatin, Village of McKinley, Village of Mountain Iron, Village of Naskwauk, City Staples, City of Two Harbors, City of Virginia, City of Wadena and Stuntz Cooperative Light and Power Association are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations by the Commission; *Provided, however*, that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petition to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The order of July 1, 1977, issued in this proceeding shall remain in full force and effect except as hereinabove modified.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

Minnesota Power & Light Co., Municipal Rate Schedule Designations
Docket No. 77-427
(Filed June 8, 1977)

	Designations	Descriptions
(1)	Supp. No. 9 to rate schedule FPC No. 103 (supersedes Supp. No. 7).	City of Biwabik—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 103 (supersedes Supp. No. 8).	Rider for standby service.
(2)	Supp. No. 9 to rate schedule FPC No. 96 (supersedes Supp. No. 7).	City of Brainerd—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 96 (supersedes Supp. No. 8).	Rider for standby service.
(3)	Supp. No. 9 to rate schedule FPC No. 104 (supersedes Supp. No. 7).	City of Ely—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 104 (supersedes Supp. No. 8).	Rider for standby service.
(4)	Supp. No. 9 to rate schedule FPC No. 106 (supersedes Supp. No. 7).	City of Gilbert—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 106 (supersedes Supp. No. 8).	Rider for standby service.
(5)	Supp. No. 9 to rate schedule FPC No. 100 (supersedes Supp. No. 7).	Village of Grand Rapids—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 100 (supersedes Supp. No. 8).	Rider for standby service.
(6)	Supp. No. 9 to rate schedule FPC No. 107 (supersedes Supp. No. 7).	Village of Keewatin—schedule 85).
	Supp. No. 10 to rate schedule FPC No. 107 (supersedes Supp. No. 8).	Rider for standby service.
(7)	Supp. No. 9 to rate schedule FPC No. 117 (supersedes Supp. No. 7).	Village of McKinley—schedule 85.
	Supp. 10 to rate schedule FPC No. 117 (supersedes Supp. No. 8).	Rider for standby service.
(8)	Supp. No. 9 to rate schedule FPC No. 123 (supersedes Supp. No. 7).	Village of Mountain Iron—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 123 (supersedes Supp. No. 8).	Rider for standby service.
(9)	Supp. No. 9 to rate schedule FPC No 116 (supersedes Supp. No. 7).	Village of Naskwauk—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 116 (supersedes Supp. No. 8).	Rider for standby service.
(10)	Supp. No. 9 to rate schedule FPC No. 98 (supersedes Supp. No. 7).	Village of Pierz—schedule 85
	Supp. No. 10 to rate schedule FPC No. 98 (supersedes Supp. No. 8).	Rider for standby service.
(11)	Supp. No. 9 to rate schedule FPC No. 115 (supersedes Supp. No. 7).	Village of Proctor—schedule 88
	Supp. No. 10 to rate schedule FPC No. 115 (supersedes Supp. No. 8).	Rider for standby service.
(12)	Supp. No. 9 to rate schedule FPC No. 99 (supersedes Supp. No. 7).	Village of Rondall—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 99 (supersedes Supp. No. 8).	Rider for standby service.
(13)	Supp. No. 14 to rate schedule FPC No. 111 (supersedes Supp. No. 12).	City of Staples—schedule 85.
	Supp. No. 15 to rate schedule FPC No. 111 (supersedes Supp. No. 13).	Rider for standby service.
(14)	Supp. No. 2 to rate schedule FPC No. 124 (supersedes Supp No. 1).	City of Two Harbors—schedule 85.
(15)	Supp. No. 12 to rate schedule FPC No. 119 (supersedes Supp. No. 10).	Village of Aitkin—schedule 85.
	Supp. No. 13 to rate schedule FPC No. 119 (supersedes Supp. No. 11).	Rider for standby service
(16)	Supp. No. 9 to rate schedule FPC No. 121 (supersedes Supp. No. 7).	Villages of Aitkin—schedule 85.
	Supp. No. 10 to rate schedule FPC No. 121 (supersedes Supp. No. 8).	Rider for standby service
(17)	Supp. No. 9 to rate schedule FPC No. 105 (supersedes Supp. No. 8).	Village of Hibbing—schedule 85.

[FR Doc 77-22349 Filed 8-3-77;8:45 am]

[Docket No. RP74-100 (PGA-77-5 and PGA77-5a)]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting PGA Rate Filing; Correction

JULY 13, 1977.

In FR Doc. 77-14976, appearing on page 27060 in the issue for Thursday, May 26, 1977, in paragraph 6, line 18 Change RP77-57 to RP76-96. This notice was first issued by the Federal Power Commission on May 18, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22361 Filed 8-3-77;8:45 am]

[Docket No. ER77-436]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 28, 1977.

Take notice that Niagara Mohawk Power Corporation, (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Central Gas & Electric Corporation (CG&E), dated April 12, 1977.

Niagara states that there is presently on file an agreement with CG&E dated February 14, 1975, and that this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 88. Niagara further states that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22343 Filed 8-3-77;8:45 am]

[Docket No. ER77-418]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Memorandum

JULY 28, 1977.

Take notice that on July 7, 1977, Northern Indiana Public Service Company (Northern Indiana) tendered for filing Memorandum No. 69 providing for use of release capacity under the Supplemental Electric Service Agreement between Commonwealth Edison Company of Indiana, Inc. and Northern Indiana dated January 1, 1960, as amended.

Northern Indiana requests waiver of the Commission's notice requirements to allow for an effective date of July 1, 1976.

Northern Indiana indicates that copies of the filing were served upon Commonwealth Edison Company of Indiana, Inc. and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22341 Filed 8-3-77;8:45 am]

[Docket No. CP77-508]

NORTHERN NATURAL GAS CO.

Application

JULY 25, 1977.

Take notice that on July 13, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-508 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 250 Mcf of natural gas per day for the City of Perryton, Texas (Perryton), and the construction and operation of certain facilities required for the receipt and redelivery of such gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport the proposed volumes of natural gas for Perryton pursuant to a gas transportation agreement dated June 28, 1977, between Applicant and Perryton. Applicant states that Perryton has contracted for the purchase of natural gas from Alpar Resources, Inc. (Alpar), and that such gas would be used by Perryton's high priority customers. It is stated that Perryton has advised Applicant that its current daily entitlements from its supplier, High Plains Natural Gas Company, are not adequate to meet the peak day requirements of the high priority customers served by Perryton. It is asserted that the contract to purchase gas from Alpar and the transportation service requested of Applicant are an effort on the part of Perryton to assure adequate and reliable service to such high priority customers.

Applicant proposes to transport up to 250 Mcf of natural gas per day for Perryton from the point of receipt from Alpar in Hemphill County, Texas and would redeliver equivalent volumes to Perryton in Ochiltree County, Texas. It is indicated that Perryton would pay Applicant 1.0 cent per Mcf for all gas transported and redelivered to Perryton by Applicant pursuant to the terms of the agreement.

Applicant also proposes to construct and operate a side valve and meter at the point of receipt of gas from Alpar in Hemphill County, Texas and a side valve and meter at the point of redelivery to Perryton in Ochiltree County, Texas, in order to accommodate the receipt of gas from Alpar and the redelivery of gas to Perryton. The estimated cost of the proposed facilities is $22,095; Perryton has agreed to reimburse Applicant for the total actual cost of constructing such facilities, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22338 Filed 8-3-77;8:45 am]

[Docket No. ER76-818]

NORTHERN STATES POWER CO.

Filing Pursuant To Order

JULY 28, 1977.

Take notice that Northern States Power Company (NSPC) on June 9, 1977 tendered for filing pursuant to the Commission's Order approving the settlement proposal, issued May 23, 1977, the Seventh Revised Schedule A's to NSPC's Firm Power Service Resale Agreements which are to be effective as of January 1, 1977, for the following wholesale customers.

City:	7th revised schedule A
Anoka, Minn.	No. 338
Arlington, Minn.	No. 378
Brownton, Minn.	No. 324
Buffalo, Minn.	No. 369
Chaska, Minn.	No. 323
Granite Falls, Minn.	No. 355
Kasota, Minn.	No. 318
Kasson, Minn.	No. 379
Lake City, Minn.	No. 361
North St. Paul, Minn.	No. 371
St. Peter, Minn.	No. 325
Shakopee, Minn.	No. 368
Waseca, Minn.	No. 380
Winthrop, Minn.	No. 364
Home Light & Power Co., Jasper, Minn.	No 335
Town of Valley Springs, S. Dak.	No. 366

Comments regarding said filing may be sent to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Comments will be considered by the Commission in determining the appropriate action to be taken. Comments must be filed on or before August 12, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22344 Filed 8-3-77;8:45 am]

[Docket No. ER77-407]

OHIO EDISON CO.

Proposed Tariff Change

JULY 28, 1977.

Take notice that Ohio Edison Company (Ohio) on July 11, 1977, tendered for filing a proposed change in its FPC electric service tariff FPC No. 66, an Amendment No. 1 to the Interconnection Agreement between The Dayton Power and Light Company and Ohio Edison Company. Ohio indicates that the Amendment provides for a new rate for short term power approximating the cost of such service so as to make sale of such power feasible.

According to Ohio a copy of the filing was served upon The Dayton Power and Light Company with whom the new agreement has been reached and a copy of the filing was also served upon The Public Utilities Commission of Ohio.

Ohio requests an effective date of August 12, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22345 Filed 8-3-77;8:45 am]

[Docket No. ER77-422]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Order Accepting for Filing and Suspending Notices of Cancellation and Providing for Expedited Hearing; Correction

JULY 7, 1977.

In FR Doc. 77-19500 appearing on page 35204 in the issue for Friday, July 8, 1977, insert under "The Commission orders:"

"(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall establish a hearing date on an expedited basis in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure."

Ordering paragraphs "(C)" and "(D)" in the June 30, 1977 order should be redesignated "(D)" and "(E)" respectively. This notice was issued by the Federal Power Commission on June 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22348 Filed 8-3-77;8:45 am]

[Project No. 1862, Docket No. E-6454]

CITIES OF TACOMA AND CENTRALIA, WASHINGTON

Order Granting Motions for Joinder and Consolidating Proceedings

JULY 21, 1977.

The City of Tacoma, Washington, on January 26, 1977, as licensee of Project No. 1862 on the Nisqually River, moves the Commission to order the City of Centralia, Washington, to be joined as a necessary party to these proceedings, or alternatively to apply for a project license. Centralia on February 14, 1977, and March 11, 1977, filed responses objecting to the motion. The Commission staff filed a response on February 10, 1977, supporting Tacoma's motion, and the Washington State Department of Fisheries and Department of Game (Fisheries and Game) on February 14, 1977, filed a response opposing Tacoma's motion.

On February 17, 1977, the staff filed a motion in Docket No. E-6454 asking the Commission to issue a show cause order, or other appropriate action, directed to Centralia to require it to show why it should not file an application for a license with respect to its Yelm Project on the Nisqually River, and comments in opposition were filed by Centralia on March 25, 1977. Fisheries and Game petitioned to intervene on March 15, 1977.

On October 14, 1941, the Commission issued a license to the City of Tacoma for Project No. 1862, including the Alder and LaGrande Dams (2 FPC 1052). On December 27, 1974, the Nisqually Indian Tribe filed a petition alleging that it was not notified that the project would involve lands of the reservation and would appropriate its treaty rights to hunt and fish, and also requesting that Tacoma be required to provide fish conserving facilities. By order of October 26, 1976, the Commission ordered a hearing on these matters.

In its motion of January 26, 1977, to which is attached an affidavit of J. D. Cockrell, Superintendent of its Department of Utilities, Light Division, Tacoma alleges that Centralia is the owner and operator of a non-federally licensed diversion dam, canal and hydroelectric generating facilities located downstream from Tacoma's facilities but above the Nisqually Indian Reservation. Tacoma alleges further that the Centralia Project utilizes the River for electric power production and Tacoma is obligated to provide up to 720 cfs of flow for Centralia. However, as a nonlicensed Project owner Centralia is not obligated to maintain sufficient flows in the River for the benefit of the other downstream parties and therefore is a necessary party to the hearings pending. The affidavit states that Centralia is obligated to maintain 150 cfs for fish passage in the main channel but has not always done so and that an increase in the minimum releases from LaGrande would be undesirable both economically and contractually.

Staff argues that the participation of Centralia is necessary for a full consideration and resolution of the matters and issues in this proceeding and contends that the Commission has authority to require that Centralia be joined.

Centralia points out that pursuant to Section 23(b) of the Federal Power Act it filed a declaration of intention to construct its proposed Yelm diversion project and that the Commission issued an order on May 8, 1953, finding that the interests of interstate or foreign commerce would not be affected by the project nor would lands or reservations of the United States. As a non-licensee, Centralia says that the Commission has no authority to impose conditions on it and that there is no basis for joining it, particularly because it has a run-of-the-river project and cannot interfere with the river's natural flow since the diverted waters rejoin the main stream.

Fisheries and Game say the problem here is primarily one of destruction of fish through lowering or fluctuation of water levels. Since Tacoma constructed its facilities after those of Centralia, Fisheries and Game say that it is not inappropriate to require Tacoma to take such measures as are necessary for the protection of the fisheries. This, they say, may include a requirement that Tacoma consider the amount of diversion and provide flows over and above that diversion as necessary to maintain sufficient flows in the river. Tacoma could, it adds, make arrangements to coordinate with Centralia for whatever water in the main channel is required.

In view of the complaint of the Tribe and the effect of the Yelm Project on river flow between the intake and outlet of its diversion facilities it is reasonable that Centralia be required to participate in these proceedings. In that way the relation between the operations of Project No. 1862 and the Yelm Project can be determined along with the needs of the river fishery. We agree with Staff that we have broad powers under Section 309 to perform any and all acts necessary to carry out our responsibilities. See *Niagara Mohawk Power Corp. v. F.P.C.*, 379 F.2d 153 (CADC–1967). This could include bringing other parties into the proceeding as the staff notes in Bangor Hydro-Electric Co., Project No. 2600, issued June 29, 1972. Centralia says that there was no suggestion in the Bangor case that the Commission could impose conditions on the government agencies there required to file testimony. While this may be true and we could not now impose conditions on Centralia, we could do so if its project were subject to our license jurisdiction as contended in the motion for an order to show cause filed by the staff and discussed below.

In its motion to show cause the staff refers to the Commission's order of May 8, 1953, finding that the interests of interstate or foreign commerce would not be "affected" by the Yelm Project noting that at that time the state of the law was such for a project on a non-navigable stream to be jurisdictional it has to affect downstream navigability. However, the staff says in 1965 the Supreme Court found in *F.P.C. v. Union Electric Company* (Taum Sauk) 381 U.S. 90 (1965) that an effect on interstate commerce also refers to an effect through the generation of electricity. It would appear to Staff that the Yelm Project affects interstate commerce by the generation of electricity because it is interconnected with the Bonneville Power Administration's (BPA) transmission system at Centralia's B street substation. The staff further notes that even though the Commission had found no effect on interstate commerce, after *Taum Sauk* it is now subject to license. *Nantahala Power and Light Co. v. F.P.C.*, 384 F.2d 200, 206 (CA4–1967).

Centralia finds speculative the staff's argument that the Commission was operating under an erroneous view when it found that the Yelm Project would not affect the interests of interstate or foreign commerce. Further, Centralia says, the staff's motion is based on an incomplete factual premise, for Centralia purchases all of its power requirements from BPA except for the small amount of power which it generates at its project, which is used completely in Centralia's system. Thus the power from the Yelm Project, it says, is all used within the City and none is sold into interstate commerce over the Bonneville grid.

Centralia's argument does not reflect the implications of the Taum Sauk case which found that, entirely apart from navigation, our licensing jurisdiction extended to where, under Section 23(b) "the interests of interstate or foreign commerce would be affected", embodying the full measure of Congress' authority under the Commerce Clause of the Constitution. Assuming as true that all of Centralia's generation is used by Centralia and none enters the BPA grid, it would appear that interstate commerce on the grid is affected because part of the load that would otherwise be served by BPA is served by Centralia itself. The more energy that Centralia generates the less energy that will have to be supplied by the interstate BPA grid. Therefore Centralia "affects" the interests of interstate commerce.

It should be observed that we are here dealing with language that is different than that in Section 201 of Part II of the Federal Power Act[1] or Section 1 of the Natural Gas Act[2] where "affecting" interstate commerce is not a ground of jurisdiction. Here it is a ground by the wording of the statute and the interpretation of Taum Sauk. The Nantahala case is entirely in point to show that the jurisdiction found by the Court in Taum Sauk applies even though we had previously found no jurisdiction. The Court said:

> When, however, the Commission determines that a change in the underlying facts, or a correct exposition of the applicable law, discloses that the facility does affect commerce, continued maintenance and operation is conditioned upon the procurement of a license.

Under these circumstances and in the interests of an expeditious determination of the issues herein discussed, we believe that a hearing should be set so that the Commission may determine on a record whether Centralia should apply for a license for its Yelm Project. It thus becomes even more appropriate that Centralia be made a party to the proceeding in Project No. 1862. Since these matters are closely interconnected, the proceedings in Project No. 1862 and Docket No. E–6454 will be consolidated.

We are directing the Administrative Law Judge to convene a prehearing conference to explore the facts concerning the question of Commission jurisdiction over the Yelm Project. In the event the parties are able to agree on the facts bearing on jurisdiction, the Presiding Administrative Law Judge shall then require briefs and forward the question to the Commission with his initial decision consistent with Sections 1.29 and 1.30 of the Rules of Practice and Procedure (18 CFR §§ 1.29, and 1.30). If there is disagreement on the issues of fact relating to jurisdiction, the Presiding Judge shall proceed with a hearing on that question.

Any hearing that might be necessary on the issue of Commission jurisdiction over the Yelm Project shall be conducted, to the extent possible, simultaneously with the present ongoing hearing on the complaint of the Nisqually Indian Tribe regarding the effect of Project No. 1862 and the Yelm Project on the fisheries resource and what remedial measures, if any, should be taken.

Furthermore, the Administrative Law Judge shall provide Centralia an opportunity to cross-examine any witnesses who have testified during the phase of the hearing already completed. We leave it to the Presiding Judge to schedule the presentation of evidence by Centralia and any other party on the impact of the Yelm Project on the fisheries resource and also the presentation of evidence by parties, if needed, on the jurisdictional issue.

The Commission further finds: It is necessary and appropriate to carry out the provisions of the Federal Power Act that:

(a) Centralia be joined as a party in these proceedings;

(b) The proceedings in Project No. 1862 be consolidated with those in Docket No. E–6454.

(c) A hearing be set on the question of Commission jurisdiction over the Yelm Project.

The Commission orders: (A) Centralia is hereby joined as a party in these proceedings.

(B) The proceedings in Project No. 1862 are consolidated with those in Docket No. E–6454.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 4(e), 4(g), and 23(b) thereof, and the Commission's Rules of Practice and Procedure, a hearing shall be held respecing jurisdiction of the unlicensed Yelm Project, owned and operated by the City of Centralia.

(D) The Administrative Law Judge, who has been assigned to conduct hearings on Project No. 1862, shall preside over the consolidated hearings, with authority to establish and change all procedural dates and to rule on all motions with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(E) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent they are modified and supplemented herein.

KENNETH F. PLUMB,
Secretary

[FR Doc.77-22337 Filed 8-3-77;8:45 am]

[Docket No. RI77-1]

UNITED SPECIALTIES CO.

Order Granting Special Relief; Correction

JULY 14, 1977.

In FR Doc. 77-16507 appearing on page 29908 in the issue for Friday, June 10, 1977, change "November 5, 1974" to "March 23, 1975" in paragraph 2, line 8 and in ordering Paragraph (B), line 13.

[1] 16 U.S.C. § 824
[2] 15 U.S.C. § 717

This order was first issued by the Federal Power Commission on June 3, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22350 Filed 8-3-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST OF IOWA BANKSHARES, INC.

Formation of Bank Holding Company

First of Iowa BankShares, Inc., Delhi, Iowa, has applied for the Board's approval under § 3(a) (1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 95 percent or more of the voting shares of Delhi Savings Bank, Delhi, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 26, 1977.

Board of Governors of the Federal Reserve System, July 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22390 Filed 8-3-77;8:45 am]

U. B. FINANCIAL CORP.

Proposal To Continue To Engage in Insurance Activity

U. B. Financial Corp., Phoenix, Arizona, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to continue to act as broker or agent for the sale, by mail solicitation, of credit related life and accident and health insurance, solely in connection with extensions of credit by H. S. Pickrell Company, Phoenix, Arizona. Notice of the application was published on May 28, 1977, in *the Mesa Tribune*, a newspaper circulated in Mesa, Arizona; on May 30, 1977, in *The Arizona Republic*, a newspaper circulated in Phoenix, Arizona; on June 1, 1977, in *the Tucson Daily Citizen*, a newspaper circulated in Tucson, Arizona; and on June 2, 1977, in *the Daily Herald Dispatch* and *the Daily Bisbee Review*, newspapers circulated in Sierra Vista, Arizona, and Bisbee, Arizona, respectively.

Such insurance activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 26, 1977.

Board of Governors of the Federal Reserve System, July 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22391 Filed 8-3-77;8:45 am]

U. B. FINANCIAL CORP.

Proposed Retention of H. S. Pickrell Co.

U. B. Financial Corp., Phoenix, Arizona, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain an office of H. S. Pickrell Company, Phoenix, Arizona, located in Mesa, Arizona. Notice of the application was published on June 16, 1977, in the Mesa Tribune, a newspaper circulated in Mesa, Arizona.

Applicant states that H. S. Pickrell engages in the following activities: (1) The organizaiton, making, acquiring, purchasing, arranging for, holding, warehousing and selling, for its own account and for the account of others, loans of all types, and other extensions of credit, secured by mortgages or deeds of trust on real property such as would be made by a mortgage company; and (2) servicing loans and other extensions of credit for any person. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 26, 1977.

Board of Governors of the Federal Reserve System, July 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22392 Filed 8-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

HANDICAPPED PERSONNEL PREPARATION

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in sections 631, 632, and 634 of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, and 1434), the U.S. Commissioner of Education has established a closing date of October 14, 1977 for receipt of applications for new and continuation training grants under Part D of the Act.

Applications must be recived by the U.S. Office of Education Application Control Center on or before the aforementioned date.

A. *Availability of funds and estimated number and amount awards.* The estimated total amount of funds available under this grant program for Fiscal Year 1978 is $45,750,000. An estimated 775 grants will be awarded, with an average totaling $62,000.

B. *Applications sent by mail.* An application sent by mail should beaddressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.451. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than October 11, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted by the Application Control Center after 4:00 p.m., Washington, D.C. time on the closing date.

D. *Program information and forms.* Information and applications may be obtained from the Division of Personnel Preparation, Bureau of Education for the Handicapped, U.S. Office of Education, Washington, D.C. 20202.

E. *Applicable regulations.* Awards under the Handicapped Personnel Preparation program will be governed by the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the regulations which apply specifically to this program.

(45 CFR Parts 121 and 121f. Amendments to Part 121f were published in the FEDERAL REGISTER on April 19, 1977, 42 FR 20298–20300).

(20 U.S.C. 1431, 1432, and 1434.)

Dated: August 1, 1977.

(Catalog of Federal Domestic Assistance No. 13.451 Handicapped Personnel.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-22472 Filed 8-3-77;8:45 am]

HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support for research and related purposes related to education of the handicapped. This announcement covers applications for new awards only for the Student Research program.

Under the Student Research program, the Office of Education is interested in a broad range of student initiated and directed research and research-related projects focusing on the education of handicapped children. Two award cycles are planned for Fiscal Year 1978. Proposals received for the first cycle will not be held over for the second cycle, but may be resubmitted.

Applications must be received by the U.S. Office of Education Application Control Center on or before the following dates: First Cycle, October 10, 1977; and for the Second Cycle, March 17, 1978.

A. *Availability of funds and estimated number and amount of awards.* The estimated total amount of funds available for support of Student Research projects is $250,000. Based on a median grant amount in recent years of approximately $5,000, we anticipate that about 33 new grants will be awarded. The range of funding for student projects has been from $350 to over $20,000. However, the large majority of awards have been for under $7,500.

B. *Multiple Year awards.* While there is no legal limit on the duration of projects, the vast majority of student directed projects are for one year or less due to the limited tenure of students at applicant institutions. In the event that assistance is provided for multiple year projects, grant awards will be made for budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined pursuant to 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

C. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.443A. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than October 5, 1977 for First Cycle, and March 13, 1978 for Second Cycle, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mailrooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mailrooms or other documentary evidence or receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

D. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. Washington, D.C. time on the closing date.

E. *Program information and forms.* Further information and application forms may be obtained from the Research Project Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue, S.W., (Donohoe, 3165), Washington, D.C. 20202.

F. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the regulations governing Research in the Education of the Handicapped (45 CFR Parts 121 and 121h).

(20 U.S.C. 1441, 1442.)

(Catalog of Federal Domestic Assistance No. 13.443 Handicapped Research and Demonstration.)

Dated: August 1, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-22473 Filed 8-3-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

INDIAN TRIBES PERFORMING LAW AND ORDER FUNCTIONS

Determination; Amendment

JULY 21, 1977.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968—Pub. L. 90–351, 42 U.S.C. 3781(d), placed responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 1375 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law and order functions they have responsibility to exercise. Determinations concerning Indian tribes not listed are made on an individual basis upon application by such tribes under provisions of the Regulations of the Law Enforcement Assistance Administration, Department of Justice. The Secretary's authority to make such determinations was delegated to the Commissioner of Indian Affairs by 230 DM 1.

It has been determined by the Commissioner of Indian Affairs that the Bad River Band of Lake Superior Tribe of Chippewa Indians of Wisconsin has responsibility for exercising all of the six law and order functions shown in the published listing.

Therefore, the listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) is amended by revising the entry for the Bad River Band of Wisconsin to read as follows:

Tribal entities recognized by the Federal Government and listed by State	To employ tribal police	To establish a tribal court	To adopt a tribal law and order code	To undertake correction functions	To undertake programs aimed at preventing adult crimes and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
Wisconsin Bad River Band	X	X	X	X	X	X

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-22456 Filed 8-3-77;8:45 am]

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Buerau of Land Management, U.S. Department of the Interior, will meet September 23-26 in Needles, California, and at various field locations on public lands in the California Desert.

The meetings will be held at the Elks Lodge, 1000 Lily Hill Drive, Needles, California, beginning at 8 a.m. on Friday, September 23 and Saturday, September 24.

The committee will consider the work program for preparation of the California Desert Plan, including impact of the budget reduction, implementation of the resolution adopted by the committee at its previous meeting and the status of the work schedule; public participation in planning, including implementation of the public affairs plan, BLM organizational responsibility for public affairs, and a response to the committee resolution on public involvement; interim management of desert resources, including relationship of interim actions to the desert plan, the Cadiz environmental assessment record, implementation of existing management framework plans and description of other major interim actions to be brought to the committee at its next three meetings; a report on the implementation of wilderness provisions of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Section 603; review of the Committee charter, including consideration of standing subcommittees and committee composition; and the management framework plan for the East Mojave Planning Unit, including the relationship of alternative management decisions to the overall plan for the California Desert.

The committee will depart after the meeting for a field review of the Bureau of Land Management's East Mojave Planning Unit, including camping overnight September 24 and 25.

All meetings of the committee and any subcommittees that may be established will be open to the public and participation is invited. Time will be made available beginning at 10 a.m., Saturday, September 24, for brief oral statements by the public on subjects under consideration by the committee. Such statements should be reduced to writing and filed with the committee chairman in order to assure a complete public record. Persons who wish to make oral statements should contact the Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Planning Staff, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

Dated: July 27, 1977.

JAMES B. RUCH,
Acting State Director.

[FR Doc.77-22469 Filed 8-3-77;8:45 am]

[SAC 065037]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. SAC 065037 on November 3, 1960, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 32 N., R. 5 W.,
Sec. 20, Lot. 15.
T. 32 N., R. 6 W.,
Sec. 18, $SE^1/_4NW^1/_4$ and $NE^1/_4SW^1/_4$.

The area aggregates approximately 84.61 acres in Shasta County, California.

The applicant desires that the land be withdrawn and reserved in connection with the construction of the Trinity River Division, Central Valley Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on April 14, 1961, page 3207, FR Doc. 61-3369.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before September 6, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described land in T. 32 N., R. 5 W., is temporarily segregated from the operation of the public land laws including the mining laws (30 U.S.C., Ch. 2) and the mineral leasing laws. The patented lands in T. 32 N., R 6 W., are segregated by the mining and mineral leasing laws only to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77-22466 Filed 8-3-77;8:45 am]

[M 20539]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 26, 1977.

The Department of Agriculture filed application, Serial No. M 20539, on January 7, 1972, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

LEWIS AND CLARK NATIONAL FOREST; WOOD LAKE CAMPGROUNDS

Unsurveyed, but probably will be when surveyed:
T. 19 N., R. 9 W.,
Sec. 6, $W^1/_2NW^1/_4SW^1/_4NE^1/_4$, $SW^1/_4SW^1/_4NE^1/_4$, $SE^1/_4NE^1/_4NW^1/_4$, $E^1/_2SW^1/_4NE^1/_4NW^1/_4$, $NE^1/_4SE^1/_4NW^1/_4$, $E^1/_2NW^1/_4SE^1/_4NW^1/_4$, $N^1/_2SE^1/_4SE^1/_4NW^1/_4$, $S^1/_2NW^1/_4NE^1/_4SE^1/_4$, $N^1/_2SW^1/_4NE^1/_4SE^1/_4$, $NE^1/_4NW^1/_4SE^1/_4$, $N^1/_2NW^1/_4NW^1/_4SE^1/_4$, and $N^1/_2SE^1/_4NW^1/_4SE^1/_4$.

The area described contains 80 acres in Lewis and Clark County, Montana.

The applicant desires that the land be reserved for a public campground.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on February 1, 1972, Volume No. 37, Page No. 2459, Document No. 72-1422.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given than an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22467 Filed 8-3-77;8:45 am]

[M37718]

MONTANA

Order Providing for Opening of Public Lands

JULY 28, 1977.

Pursuant to an amendment of claim under Section 316 of the Act of October 21, 1976, 43 U.S.C. 1746, the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 16 N., R. 20 E.,
Sec. 19, Lots 4 and 5.

The area described contains 72.81 acres in Fergus County, Montana.

The subject lands are located in the Judith Mountains approximately 10 air miles northeast of Lewistown. Topography is mainly a high ridge flanked by a very steep west and south slope. Vegetation consists primarily of pine and fur trees, soils are shallow rocky loam with numerous rock outcrops. No surface water exists on the tract. The lands will be managed for multiple resource use with the adjoining public lands.

At 10 a.m. on September 6, 1977, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands will be open to the operation of the public land laws.

The mineral rights in the lands have always been in the United States; therefore, the mineral status of the land is not affected by this order.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22468 Filed 8-3-77;8:45 am]

NEVADA

Filing of Plats of Survey and Order Providing for Opening of Lands

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective 10:00 a.m. on September 29, 1977:

MOUNT DIABLO MERIDIAN, NEVADA

T. $1^1/_2$ N., R. 69 E.
T. 2 N., R. 69 E.

2. The area in T. 2 N., R. 69 E. surveyed and resurveyed is mountainous. The elevation ranges from 5,700 to 6,800 feet above sea level. The soil varies from sandy loam along the creeks to gravel and limestone in the mountains. Vegetation consists of sagebrush and rabbit brush. Timber consists of juniper and pinon. The town of Ursine is in Section 35.

3. The land surveyed in T. $1^1/_2$ N., R. 69 E. ranges from about 5,600 to 5,750 feet above sea level and is rolling land. The soil varies from sandy clay to rocky. Vegetation consists of sagebrush, native grasses and the timber is juniper and pinon. Access into the township is by trail roads.

4. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on September 29, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, NV 89509.

Date signed: July 28, 1977.

LOYD C. MILLER,
Chief, Branch of Records and Data Management.

[FR Doc.77-22440 Filed 8-3-77;8:45 am]

[NM31159]

NEW MEXICO

Application

JULY 29,1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one $10^3/_4$-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 2, $SW^1/_4SW^1/_4$; Sec. 3, Lot 2 $NE^1/_4SE^1/_4$; Sec. 11, $SW^1/_4NE^1/_4$, $N^1/_2NW^1/_4$, $SE^1/_4NW^1/_4$, $NW^1/_4SE^1/_4$, $S^1/_2SE^1/_4$; Sec. 14, $NE^1/_4NE^1/_4$, $SW^1/_4NE^1/_4$, $SE^1/_4SW^1/_4$, $W^1/_2SE^1/_4$; Sec. 23, $E^1/_2NW^1/_4$.
T. 32 N., R. 11 W.,
Sec. 28, $W^1/_2SE^1/_4$ and $SE^1/_4SE^1/_4$; Sec. 33, $NE^1/_4NE^1/_4$; Sec. 34, $W^1/_2NW^1/_4$, $SE^1/_4NW^1/_4$, $E^1/_2SW^1/_4$, and $SW^1/_4SE^1/_4$.

This pipeline will convey natural gas across 4.662 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22441 Filed 8-3-77;8:45 am]

(NM 31161, 31163, 31164, 31171 and 31172)

NEW MEXICO

Applications

JULY 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five $4^1/_2$-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 9 W.,
Sec. 8, $W^1/_2NE^1/_4$.
T. 31 N., R. 11 W.,
Sec. 1, lot 3; Sec. 10, $N^1/_2SE^1/_4$ and $SW^1/_4SE^1/_4$.
T. 32 N., R. 11 W.,
Sec. 28, $W^1/_2SW^1/_4$; Sec. 33, $N^1/_2NW^1/_4$
T. 27 N., R. 13 W.,
Sec. 26, $S^1/_2S^1/_2$.

These pipelines will convey natural gas across 2.027 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22442 Filed 8-3-77;8:45 am]

(NM31147)

NEW MEXICO

Application

JULY 27, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act

of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 6⅝-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.,
Sec. 30, lots 5, 6, 7, 8, and 9.
T. 32 N., R. 11 W.,
Sec. 2, N½SW¼ and S½SE¼; Sec. 23, SE¼SW¼; Sec. 25, N½N½, SE¼NW¼, and SE¼NE¼; Sec. 26, N½NE¼ and NE¼NW¼.

This pipeline will convey natural gas across 3.458 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22443 Filed 8-3-77;8:45 am]

(NM 31173 and 31174)

NEW MEXICO

Applications

JULY 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 27 E.,
Sec. 29, SW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼; Sec. 30, SE¼SE¼; Sec. 31, E½NE¼, N½SE¼, and SW¼SE¼.
T. 18 S., R. 27 E.,
Sec. 6, lots 2, 3, SE¼NW¼, and NE¼SW¼.
T. 10 S., R. 29 E.,
Sec. 23, SW¼SE¼; Sec. 26, E½SE¼, and NW¼SE¼; Sec. 35, E½E½.
T. 11 S., R. 30 E.,
Sec. 5, lot 3, SE¼SW¼; Sec. 8, SW¼SE¼.

These pipelines will convey natural gas across 4.890 miles of public lands in Chaves and Eddy Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22444 Filed 8-3-77;8:45 am]

[NM 31176]

NEW MEXICO

Application

JULY 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 8, SE¼SE¼.

This pipeline will convey netural gas across 0.144 mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22454 Filed 8-3-77;8:45 am]

(OR16909)

OREGON

Proposed Withdrawal and Reservation of Lands

JULY 28, 1977.

The Corps of Engineers, U.S. Department of the Army, on October 18, 1976, filed application, Serial No. OR 16909, for the withdrawal of the following described lands from settlement, sale, location, or entry under the public land laws, including the mining laws (30 U.S.C. Ch. 2) and the mineral leasing laws, subject to valid existing rights:

WILLAMETTE MERIDIAN

T. 22 S., R. 13 W.,
Sec. 19, lot 1, W½SW¼NW¼, and W½E½SW¼NW¼.

Containing 68.80 acres in Douglas County.

The applicant desires that the lands be reserved for use in connection with its existing civil works projects and facilities at the mouth of the Umpqua River.

On or before September 7, 1977 all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before September 7, 1977. Upon determination by the State Director that a public hearing will be held, a notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.-16B.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 7, 1977.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22455 Filed 8-3-77;8:45 am]

MOTORIZED VEHICLES ON PUBLIC LANDS

Closure to Use

Notice is hereby given that use of motorized vehicles on certain public land within the Rogue Wild and Scenic River boundary in Josephine County, Oregon is prohibited in accordance with the provisions of 43 CFR 6010.4. This closure does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or vehicles authorized by permit or contract.

The area affected by this closure is located approximately 9 miles NW of Grants Pass, Oregon. The legal description of the closed land is:

WILLAMETTE MERIDIAN

T. 36 S., R. 7 W.,
Sec. 11, Tax Lots 100, 1500, and 1600 all lying between Shan Creek and Griffin Park, including the site of the former Riverbanks Mobile Park, total acres 114.13.

The use of this public land by motorized vehicles has caused excessive soil disturbance, is in conflict with other more passive and contemplative uses of the National Wild and Scenic River Corridor, is inflicting adverse indirect impacts on other adjacent lands, and is unacceptable due to the high fire danger.

The closure is effective immediately and will remain in effect no later than December 30, 1978 or sooner when scheduled Activity Planning for the Recreation Section of the Rogue Wild and Scenic River under the administration of the Bureau of Land Management is completed. Prior to a decision on permanent closure of the identified land, public comment will be accepted through scheduled public participation in the formulation of the Activity Plan.

Common points of vehicular access to the area will be posted. Maps showing the area described above are available for examination at the Medford District Office, Bureau of Land Management, 310 West Sixth Street, Medford, Oregon.

Dated: July 28, 1977.

GEORGE C. FRANCIS,
District Manager.

[FR Doc.77-22438 Filed 8-3-77;8:45 am]

[Serial No. A9224]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Bureau of Reclamation, Department of the Interior filed application Serial No. A 9224 on September 8, 1975, for a withdrawal in relation to the following lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 7 S., R. 14 W.,
Sec. 15, N½SW¼; Sec. 17, S½SE¼; Sec. 19, SE¼; Sec. 20, NW¼; Sec. 30, Lots 1, 2, and 3, NW¼NE¼, E½NW¼, NE¼SW¼.
T. 8 S., R. 15 W.,
Sec. 4, Lot 2; Sec. 6, NW¼NW¼.
T. 7 S., R. 16 W.,
Sec. 22, E½; Sec. 23, Lot 1, N½SW¼, NW¼SE¼; Sec. 24, SE¼NE¼; Sec. 27, Lot 3; Sec. 30, S½NW¼SE¼.
T. 7 S., R. 17 W.,
Sec. 34, NE¼SE¼.
T. 8 S., R. 18 W.,
Sec. 12, NE¼NW¼; Sec. 17, S½SW¼, SE¼; Sec. 19, N½NE¼.
T. 9 S., R. 18 W.,
Sec. 11, S½SW¼; Sec. 12, S½NW¼NW¼; Sec. 15, NW¼NW¼; Sec. 16, S½SE¼NW¼, NW¼SW¼; Sec. 17, S½SW¼SW¼, SE¼SW¼.
T. 9 S., R. 19 W.,
Sec. 24, Lot 1, NW¼NE¼.
T. 8 S., R. 21 W.,
Sec. 3, Lots 1, 2, 3, and 4; Sec. 4, Lot 1.

The areas described aggregate 2,105.42 acres in Yuma County, Arizona.

The applicant desires that the lands be reserved for protection of constructed irrigation works within the Wellton-Mohawk Division of the Gila Project, Arizona.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 14, 1975, Volume No. 40, Page No. 48148, Document No. 75-27534, and an amended notice was published in the FEDERAL REGISTER on November 25, 1975, Volume No. 40, Page No. 54593, Document No. 75-31693.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be schedulued and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204 (g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22424 Filed 8-3-77;8:45 am]

[A-9697]

ARIZONA

JULY 28, 1977

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Department of the Army, U.S. Corps of Engineers, Los Angeles District, P.O. Box 2711, Los Angeles, California 90053, filed a withdrawal application, Serial No. A-9697, on September 15, 1976.

The surface of the following described lands has been transferred out of Federal ownership with the minerals reserved to the United States; it is proposed to withdraw the mineral estate from location and entry under the mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 N., R. 2 E.,
Sec. 15, lots 1 to 24, inclusive;
Sec. 17, E½NE¼, NE¼NW¼NE¼, NE¼SE¼, and N½SE¼SE¼.

The areas described aggregate 270.00 acres in Maricopa County.

The applicant desires that the lands be reserved for construction, operation, and maintenance of the Adobe Dam, a Congressionally authorized flood control project and proposed recreational development.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 12, 1976, Volume No. 41, Page No. 44716, Document No. 76-29747, and a corrected notice was published in the FEDERAL REGISTER on December 1, 1976, Volume No. 41, Page Nos. 52724-52725, Document No. 76-35353.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B. All previous

comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the mining laws, including the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22425 Filed 8-3-77;8:45 am]

[Serial No. A 9134]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Forest, U.S. Department of Agriculture filed application Serial No. A 9134 on July 25, 1975, for a withdrawal in relation to the following described lands.

GILA AND SALT RIVER, MERIDIAN ARIZONA

T 3 N., R. 8 E.,
Sec 16, E½ and E½W½.

The area described aggregates 480 acres in Maricopa County.

The applicant desires that the lands be reserved as a Research Natural Area for scientific study of desert vegetation.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 14, 1975, Volume No. 40, Page No. 48147, Document No. 75-27535.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

FR Doc 77-22426 Filed 8-3-77;8:45 am]

[A-9275]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. A-9275 on October 28, 1975, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

CORONADO NATIONAL FOREST

ELGIN RESEARCH NATURAL AREA

T 21 S., R. 18 E.,
Sec. 26, W½W½E½NE¼, W½NE¼, E½NW¼, E½SW¼, E½SE¼SW¼SW¼, W½W½NE¼SE¼, and W½SE¼.

The areas described aggregate 355 acres in Santa Cruz County Arizona.

The applicant desires that the lands be reserved as a Research Natural Area for the purpose of conducting scientific studies on natural trends in vegetation change following the removal of domestic livestock.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on January 8, 1976, Volume No. 41, Page 1503, Document No. 76-455.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22427 Filed 8-3-77;8:45 am]

ARIZONA

[A 9131]

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A 9131 on July 24, 1975, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 22 N., R. 8 E., (Elden Pueblo)
Sec. 32, SE¼NE¼SW¼, N½N½NE¼SE¼SW¼, N½N½NW¼SW¼SE¼, and that part of the SW¼NW¼SE¼ not included in the area withdrawn by Public Land Order No. 3584 for U.S. Highways 89 and 89A roadside zones.
T. 23 N., R. 8 E., (Medicine Fort)
Sec. 7, S½SE¼NW¼SE¼, E½SW¼SE¼, and those parts of the S½SW¼NE¼SE¼ and W½SE¼SE¼ not included in the area withdrawn by Public Land Order No. 3584 for U.S. Highways 89 and 89A roadside zones.
T. 21 N., R. 10 E., (Ridge Ruin)
Sec. 7, SE¼;
Sec. 18, N½NE¼.
T. 22 N., R. 10 E., (LeBarron Ruin)
Sec. 33, SW¼NE¼.

The areas described aggregate approximately 351 acres in Coconino County.

The applicant desires that the lands be reserved and protected for their historic values. The lands contain valuable archaeological ruins and have been nominated to the National Register of Historic Sites.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 14, 1975, Volume Number 40, Page Number 48147, Document Number 75-27533.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22428 Filed 8-3-77;8:45 am]

[A 8985]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 27, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A 8985 on March 28, 1975, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

CORONADO NATIONAL FOREST

Pole Bridge Canyon Research Natural Area

Beginning at a point which is located S. 19° 55' E., and 2,075.00 feet from the corner common to secs. 13 and 24, T. 18 S., R. 29 E., and secs. 13 and 24, T. 18 S., R. 29½ E., thence S. 34°38' E., 1446.25 feet; thence S. 26°30' W., 2317.80 feet; thence S. 8°0' E., 1338.27 feet; thence S. 34°50' E., 1246.83 feet; thence S. 37°15' W., 1232.10 feet; thence S. 80°23' W., 642.33 feet; thence N. 40°14' W., 1251.48 feet; thence N. 83°45' W., 842.30 feet; thence S. 88°33' W., 643.18 feet; thence N. 22°5' W., 1407.86 feet; thence N. 4°0' W., 858.05 feet; thence N. 21°54' W., 553.11 feet; thence N. 19°45' E., 2000.81 feet; thence N. 82°5' E., 1112.70 feet; thence N. 53°24' E., 1673.60 feet; thence S. 86°42' E., 656.26 feet; to the point of beginning.

A portion of the tract is surveyed in T. 18 S., R. 29 E., and is situated in the SE¼NE¼, E½SW¼, SE¼ sec. 24 and the NE¼, NE¼NW¼, NE¼SE¼ sec. 25. A portion of the tract is unsurveyed in T. 18 S., R. 29½ E., and when surveyed will probably be located in the W½ sec. 24 and W½ sec. 25.

The area as described contains approximately 460.94 acres in Cochise County, Arizona.

The applicant desires that the lands be reserved for a Research Natural Area to preserve several rare species of Southern Arizona Pine—principally Apache Pine, Arizona Pine and Chihuahua Pine for scientific study.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 5, 1975, Volume Number 40, Page Number 24221, Document Number 75-14663.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22429 Filed 8-3-77;8:45 am]

[A 8800]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Forest Service, United States Department of Agriculture, filed application Serial Number A 8800 on November 25, 1974, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 13 N., R. 13 E.,
Sec. 7, Lots 2 to 8 inclusive, Lots 11 and 12.

The area described aggregates 341.13 acres in Coconino County.

The subject lands which lie within the boundaries of the Sitgreaves National

Forest were reconveyed to the United States under section 8 of the Taylor Grazing Act of June 28, 1934, as amended 43 U.S.C. 315g (1970). The lands are presently under Bureau of Land Management jurisdiction and the applicant requests the lands be transferred to the National Forest System.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 19, 1974, Volume No. 39, Page No. 43857, Document No. 74-29533.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

Currently, the above-described lands are administered by the Bureau of Land Management and are not subject to the operation of the public land laws, including the mining and mineral leasing laws. Section 205(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756) provides for transfer of lands within boundaries of the National Forest System to the Secretary of Agriculture which have been acquired pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). The withdrawal, if effected, will place the administration of these lands under the Forest Service, Department of Agriculture and the lands will become subject to all laws and regulations applicable to the National Forest System.

In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior. All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22430 Filed 8-3-77;8:45 am]

[A 9339]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A 9339 on January 14, 1976, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 13 N., R. 12 E.,
Sec. 25, $S\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$;
Sec. 33, $E\frac{1}{2}$, $SE\frac{1}{4}SW\frac{1}{4}$.

The areas described aggregate 480 acres in Coconino County, Arizona.

The subject lands which lie within the boundaries of the Sitgreaves National Forest were reconveyed to the United States under section 8 of the Taylor Grazing Act of June 28, 1934, as amended 43 U.S.C. 315g (1970). The lands are presently under Bureau of Land Management jurisdiction and the applicant requests the lands be transferred to the National Forest System.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on February 19, 1976, Volume No. 41, Page No. 7534, Document No. 76-4742.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforder in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

Currently, the above-described lands are administered by the Bureau of Land Management and are not subject to the operation of the public land laws, including the mining and mineral leasing laws. Section 205(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756) provides for transfer of lands within boundaries of the National Forest System to the Secretary of Agriculture which have been acquired pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). The withdrawal, if effected, will place the administration of these lands under the Forest Service, Department of Agriculture and the lands will become subject to all laws and regulations applicable to the National Forest System.

In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22412 Filed 8-3-77;8:45 am]

ARIZONA

[A-9682]

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Department of the Army, Los Angeles District, Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053, filed a withdrawal application, Serial No. A-9682, on August 27, 1976.

The applicant proposes to withdraw the following described lands from all forms of appropriation under the public land laws and from all forms of appropriation under the public land laws and from location and entry under the general mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 5, N., R. 1 E.,
Sec. 23, $NW\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}N\frac{1}{2}NE\frac{1}{4}$, and $NW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$;
Sec. 24, $W\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 27, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}W\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$, and $SE\frac{1}{4}$;
Sec. 34, $N\frac{1}{2}N\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$.

The areas described aggregate 770.00 acres in Maricopa County.

The surface of the following described lands has been transferred out of Federal ownership with minerals reserved to the United States; it is proposed to withdraw the mineral estate from location and entry under the mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 5 N.,R. 1 E.,
Sec. 23, $S\frac{1}{2}$;
Sec. 24, $W\frac{1}{2}SW\frac{1}{4}$;
Sec. 25, $W\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}E\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, and $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$;
Sec. 26, all;
Sec. 35, $N\frac{1}{2}$.

The area described aggregates 1,540.00 acres in Maricopa County.

The applicant desires that the lands be reserved for construction, operation, and maintenance of a Congressionally authorized flood control project, including the location of the dam and appurtenances, and reservoir uses.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 14, 1976, Volume No. 41, Page No. 54546, Document No. 76-36550.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22413 Filed 8-3-77;8:45 am]

[A-9590]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A-9590 on May 26, 1976, for a withdrawal in relation to the following described lands:

COCONINO NATIONAL FOREST

RED MOUNTAIN GEOLOGIC AREA: GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 25 N., R. 5 E.,
Sec. 20, $S\frac{1}{2}N\frac{1}{2}$ and $S\frac{1}{2}$;
Sec. 21, Lots 3 to 8, inclusive, and $W\frac{1}{2}SE\frac{1}{4}$;
Sec. 28, $W\frac{1}{2}E\frac{1}{2}$ and $W\frac{1}{2}$;
Sec. 29, all.

The areas described aggregate approximately 1,907.87 acres in Coconino County.

The applicant desires that the lands be reserved to preserve a geologically unique area within the San Francisco Peaks volcanic field.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 28, 1976, Volume No. 41, Page 26590, Document No. 76-18585.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on Ocober 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22414 Filed 8-3-77;8:45 am]

[Serial No. 6630]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Bureau of Land Management, Department of the Interior filed application Serial No. A 6630 on November 22, 1971, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 14 N., R. 11 W.,
Sec. 19, $SE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$, $E\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $W\frac{1}{2}E\frac{1}{2}SE\frac{1}{4}$, $W\frac{1}{2}E\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;
Sec. 20, $SW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$.

The area described aggregates 310 acres in Mohave County.

The applicant desires that the lands be reserved for their public recreational and scenic values. The site, known as the Burro Creek Campground, has been developed by the Bureau of Land Management for recreation and campground purposes.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 30, 1976, Volume No. 41, Page No. 43203, Document No. 76-28586, and a corrected notice was published December 1, 1976, Volume No. 41, Page No. 52725.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All

interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations

[FR Doc.77-22415 Filed 8-3-77;8:45 am]

[Serial Number A 9140]

ARIZONA

Amendment of Right-of-Way Application A 9140 To Include Additional Lands in Right-of-Way

By publication of October 26, 1976, 41 FR 46890, notice was given that El Paso Natural Gas Company, a corporation of El Paso, Texas, had filed an application pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), for a pipeline right-of-way for the transportation of crude oil across certain public lands in the State of Arizona.

Notice is hereby given that said company, on February 3, 1977, filed a request for amendment of the application to include the following described lands:

T. 7 S., R. 12 E., GSR Mer., Arizona
Sec. 29, NW¼SW¼, S½SW¼, SW¼SE¼.

Interested persons should express their interest and views to the State Director, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 27, 1977.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc.77-22416 Filed 8-3-77;8:45 am]

[Serial No. A 9683]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Corps of Engineers, Department of the Army, filed application Serial No. A 9683 on August 27, 1976, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 6 S., R. 21 W.,
Sec. 31, all that part lying east of the 650-foot wide right-of-way for the Gila Gravity Main Canal.
T. 7 S., R. 21 W.,
Sec. 5, all that part lying east of the 650-foot wide right-of-way for the Gila Gravity Main Canal and west of a line parallel to and ¼-mile east of said canal;
Sec. 6, all that part lying east of the 650-foot wide right-of-way for the Gila Gravity Main Canal;
Sec. 8, all that part of the north 1800 feet thereof lying east of the 650-foot wide right-of-way for the Gila Gravity Main Canal and west of a line parallel to and ¼-mile east of said canal.

The areas described aggregate approximately 310 acres in Yuma County.

The applicant desires that the lands be reserved for use of the Department of the Army as an integral part of Yuma Proving Ground for military purposes. The land is presently occupied by the Department of the Army under a Memorandum of Understanding with the Bureau of Reclamation.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 14, 1976, Volume No. 41, Page No. 54546-54547, Document No. 76-36551.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations

[FR Doc.77-22417 Filed 8-3-77;8:45 am]

[Serial No. A 7598]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Bureau of Land Management, Department of the Interior filed application Serial No. A 7598 on August 21, 1974, for a protective withdrawal of the mineral estate in relation to the following described lands:

GILDA AND SALT RIVER MERIDIAN, ARIZONA

T. 2 N., R. 3 E.,
Sec. 3, Lots 15 and 16;
Sec. 12, Lots 1, 2, 3, and 4, W½NE¼, W½NW¼.
T. 3 N., R. 3 E.,
Sec. 17, Lot 1;
Sec. 20, Lot 1;
Sec. 26, Lot 1, SW¼SE¼, E½SE¼;
Sec. 34, NE¼NW¼;
Sec. 35, SE¼NE¼, E½SE¼.
T. 2 N., R. 4 E.,
Sec. 4, Lots 3, 4, 5, 6, 9, 10, 11, and 12;
Sec. 5, Lot 1, SE¼NE¼, SE¼SE¼;
Sec. 6, Lots 1 through 7, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 17, Lots 1, 2, 3, 6, 7, 8, 9, and 12.
T. 3 N., R. 4 E.,
Sec. 30, SE¼SW¼, W½SE¼;
Sec. 31, Lots 1, 2, 4, 5, 6, 7, 8, and 9, SE¼NE¼.

The areas described aggregate 2,537.06 acres of non-public lands in Maricopa County, Arizona.

The applicant desires the mineral estate of the lands be reserved to preclude mining activity and desecration of the lands' recreational values and open space. The surface rights have been transferred out of Federal ownership and most of the lands are within an area designated by the City of Phoenix as the Phoenix Mountain Preserve.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 18, 1974, Volume No. 39, Page No. 33581 and 33582, Document No. 74-21577.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22418 Filed 8-3-77;8:45 am]

[A-9281]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A-9281 on November 3, 1975, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 13 N., R. 13 E.,
Section 7, S½S½S½NE¼ and SE¼.

The area described aggregates 180.00 acres in Coconino County.

The subject lands which lie within the boundaries of the Sitgreaves National Forest were reconveyed to the United States under Section 8 of the Taylor Grazing Act of June 28, 1934, as amended 43 U.S.C. 315g (1970). The lands are presently under Bureau of Land Management jurisdiction and the applicant requests the lands be transferred to the National Forest System.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 24, 1975, Volume No. 40, Page No. 59458-59459, Document No. 75-34690.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

Currently, the above-described lands are administered by the Bureau of Land Management and are not subject to the operation of the public land laws, including the mining and mineral leasing laws. Section 205(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756) provides for transfer of lands within boundaries of the National Forest System to the Secretary of Agriculture which have been acquired pursuant to Section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). The withdrawal, if effected, will place the administration of these lands under the Forest Service, Department of Agriculture, and the lands will become subject to all laws and regulations applicable to the National Forest System.

In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22419 Filed 8-3-77;8:45 am]

[A-9291]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. A-9291 on November 20, 1975, for a withdrawal in relation to the following described lands:

COCONINO NATIONAL FOREST
ELDEN ENVIRONMENTAL STUDY AREA

T. 21 N., R. 7 E., GSR Mer., Arizona,
Sec. 1, S½;
Sec. 2, Lots 7 and 8, and SW¼ (less 14.25 acres in HES 86), and S½SE¼.
T. 21 N., R. 8 E., GSR Mer., Arizona,
Sec. 6, Lots 6 and 7, NE¼SW¼, NW¼SE¼, SW¼, and N½SW¼SE¼SW¼; Sec. 7 Lot 7.

The areas described aggregate approximately 778.00 acres in Coconino County.

The applicant desires that the lands be reserved for conducting science demonstration classes for students of public schools in the area. The lands contain unique geological features, historical and archaeological sites, which make them valuable for educational purposes.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 28, 1976, Volume No. 41, Page No. 26591, Document No. 76-18586.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM

Manual Section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when affected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22420 Filed 8-3-77;8:45 am]

[A-8736]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A 8736 on October 11, 1974, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA
CORONADO NATIONAL FOREST
DRAGOON SPRING STAGE STATION HISTORIC SITE

T. 16 S., R. 23 E.,
Sec. 32, SW¼NW¼NW¼SE¼, SE¼NE¼NE¼SW¼, NE¼SE¼NE¼SW¼, NW¼SW¼NW¼SE¼.

The area described contains 10 acres in Cochise County.

The applicant desires that the lands be reserved for their historical value. The site is the old Dragoon Spring Stage Station constructed by the Butterfield-Overland Stage Company in the 1850's. This site has been nominated for inclusion in the National Register of Historic Sites.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 29, 1974, Volume Number 39, Page Number 41557, Document Number 74-27886.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregate lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22421 Filed 8-3-77;8:45 am]

[A-8755]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, United States Department of Agriculture, filed application Serial Number A-8755 on October 21, 1974, for a withdrawal in relation to the following described lands:

GILA & SALT RIVER MERIDIAN, ARIZONA

T. 10 N., R. 1 W.,
Sec. 33, Mineral Survey No. 1933.

The area described aggregates approximately 54.766 acres in Yavapai County.

The subject lands which lie within the boundaries of the Prescott National Forest were reconveyed to the United States under section 8 of the Taylor Grazing Act of June 28, 1934, as amended 43 U.S.C. 315(g) (1970). The lands are presently under Bureau of Land Management jurisdiction and the applicant requests the lands be transferred to the National Forest System.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

Currently, the above-described lands are administered by the Bureau of Land Management and are not subject to the operation of the public laws, including the mining and mineral leasing laws. Section 205(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756) provides for transfer of lands within boundaries of the National Forest System to the Secretary of Agriculture which have been acquired pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). The withdrawal, if effected, will place the administration of these lands under the Forest Service, Department of Agriculture and the lands will become subject to all laws and regulations applicable to the National Forest System.

In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effects of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22422 Filed 8-3-77;8:45 am]

[A-9602]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. A-9602 on June 7, 1976, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

TONTO NATIONAL FOREST
BRAZALETES PUEBLO SITE

T 7 N., R. 6 E., Unsurveyed
Beginning at Corner No. 1 which lies N. 60°00'00" E. 15,630 feet from the corner common to T. 7 N., Rgs. 5 and 6 E., and T. 6 N., Rgs. 5 and 6 E.; thence N. 65° 00'00" E., 6,600 feet to Corner No. 2; thence S. 26°20'00" E., 3,000 feet to Corner No. 3; thence S. 64°45'00" W., 6,700 feet to Corner No. 4; thence N. 24°25'48" W., 3,028.57 feet to the point of beginnng.
All of the lands, when surveyed, will be situated in approximately Sections 22, 27, 28, and 33.

The area, as described, aggregates approximately 460.10 acres in Maricopa County, Arizona.

The applicant desires that the lands be reserved as an important archaeological site. The site has been accepted in the National Register of Historical Places, published in the March 11, 1975 FEDERAL REGISTER.

A notice of the proposed withdrawal was published in the Federal Register on July 15, 1976, Volume No. 41, Page No. 29190-29191, Document No. 76-20387, and corrected notice was published in the FEDERAL REGISTER on August 5, 1976, Volume No. 41, Page No. 32764. Document No. 76-22811.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22423 Filed 8-3-77;8:45 am]

Geological Survey

EARTHQUAKE STUDIES ADVISORY PANEL

Public Meeting

Pursuant to Public Law 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Monday, September 12, 1977, and continuing through Tuesday, September 13, 1977. The Advisory Panel will meet in the Petroleum Hall of the Green Center, Colorado School of Mines, Golden, Colorado 80401.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is chaired by Professor Nathan M. Newmark and is composed of persons drawn from the fields of geology, geophysics, engineering, rock mechanics, and socio-economics, primarily from the academic community.

(3) *Agenda.* Review of the program plans forFiscalYear1978.

For more detailed information about the meeting, please call Dr. Robert M. Hamilton, Chief, Office of Earthquake Studies, Reston, Virginia 22092 (703-860-6472).

V. E. MCKELVEY,
Director,
U.S. Geological Survey.

[FR Doc 77-22387 Filed 8-3-77;8:45 am]

Office of the Secretary

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

Open Meetings and Briefings

AGENCY: Department of the Interior.

ACTION: Notice of open meetings.

SUMMARY: The Department of the Interior will hold open meetings on August 9 and 10, 1977 concerning the proposed Surface Mining Control and Reclamation Act of 1977. At each meeting the Department will report on the status of its planning to implement the Act and will provide a summary of the major provisions of the Act. The August 9th meeting will particularly address questions from the general public and citizen interest groups. The August 10th meeting will address questions from interested coal mining industry representatives. Both meetings will be open to the public to the extent that space permits.

DATES: The meetings will be held on August 9 and 10, 1977, at 12:30 p.m.

ADDRESS: Department of the Interior Auditorium, 18th & C Streets, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Reeves, Director, Surface Mining Task Force, 202-343-4237.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

JULY 29, 1977.

[FR Doc 77-22380 Filed 8-3-77;8:45 am]

[Order No. 2989, Amdt. No. 1]

NORTHERN MARIANA ISLANDS

Trust Territory of Pacific Islands

JULY 22, 1977

Subject: Government of the Northern Mariana Islands of the Trust Territory of the Pacific Islands. It is intended that the provisions of Secretary's Order No. 2989 remain in effect until the articles and sections specified in Section 1003(b) of the Northern Mariana Islands Commonwealth Covenant (P.L. 94-241) including the constitution of the Northern Mariana Islands are made effective by the President. Part XIV of the Order is therefore amended to read as follows:

PART XIV. EFFECTIVE DATE

This Order shall be effective as of April 1, 1976. It shall remain in effect until those articles and sections of the Covenant specified in Section 1003(b)

of the Covenant become effective, or until it is superseded or revoked, whichever occurs first.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc.77-22457 Filed 8-3-77;8:45 am]

TRUCKEE AND CARSON RIVER BASINS OF CALIFORNIA AND NEVADA—NEWLANDS, TRUCKEE STORAGE, AND WASHOE PROJECTS

Revision of Operating Criteria and Procedures for Coordinated Operation and Control

For the past 10 years, approximately, operating criteria and procedures (OCAP) have been annually prescribed for the coordinated operation of the Newlands, Truckee River Storage, and Washoe Reclamation Projects in the Truckee and Carson River Basins in Nevada and California. These OCAP were published in their entirety in the FEDERAL REGISTER on March 12, 1973 (38 FR 6697), and have been reimplemented in substantially the same form each year since that date.

The current severe drought, now in its second year, complicates the implementation of the OCAP.

In recognition of the legal and climatic circumstances, Section B of the OCAP as published in the FEDERAL REGISTER on March 12, 1973 (33 FR 6697), is hereby temporarily suspended. In the meantime, Stampede Reservoir will be operated to meet the general objectives stated for that reservoir in the present OCAP. The operation of that reservoir and releases of water therefrom will be conducted by the Secretary of the Interior in consultation with the Pyramid Lake Tribe, the Bureau of Reclamation, the Bureau of Indian Affairs, and the U.S. Fish and Wildlife Service. To fulfill the general objectives of the OCAP, the maximum amount of water will be conserved for storage in that reservoir to meet the contingencies of a continued drought. There will be a continuous reassessment of the water requirements of the watershed including requirements of the Pyramid Lake Fishery.

Floriston Rates may be modified temporarily to facilitate better distribution of the drought-limited water supply.

All other provisions of the OCAP as published on March 12, 1973, shall continue in effect for the period ending October 31, 1977, until further notice.

Dated: July 26, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-22545 Filed 8-3-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Consent Orders and Termination of Investigation

Notice is hereby given that—(1) The Commission hereby issues the attached orders as final orders in this investigation, thereby terminating the investigation. The orders are the subject of agreement between the Commission investigative attorney, the complainants—GTE Sylvania, Inc., and Philco Consumer Electronics Corp., and the respondents—Tokyo Shibaura Electric Co., Ltd.; Toshiba America, Inc.; Hitachi, Ltd.; Hitachi Kaden Hanbai Kabushiki Kaisha; Hitachi Sales Corp. of America; Sharp Corp.; Sharp Electronics Corp.; Sanyo Electric Co., Ltd.; Sanyo Electric, Inc.; Sanyo Electric Trading Co., Ltd.; Mitsubishi International Corp.; and Mitsubishi Electric Sales Corp.

(2) These orders are issued under the authority of sections 337 and 333 of the Tariff Act of 1930, as amended (19 U.S.C. 1337 and 1333), and under the applicable provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.). The Commission retains jurisdiction under section 337 to enforce these orders in the manner provided therein. These orders are issued on the basis of the consent of the parties, and do not constitute a determination of whether there is a violation of section 337 in this investigation. In entering into these orders, the parties have waived their rights to such a determination to be made after opportunity for a hearing and decision on notice and in accordance with the Administrative Procedure Act and Part 210 of the Commission's rules of practice and procedure, as amended (19 CFR Part 210).

(3) In issuing these orders, the Commission hereby waives the requirement of § 210.51(c) of its rules (19 CFR 210.51(c)) pursuant to § 201.4(b) of the rules (19 CFR 201.4(b)), having determined that there is good and sufficient reason therefor. However, compliance with these orders will be subject to further amendments to the Commission's Rules to govern proceedings of this nature.

(4) These orders do not constitute precedent for any future order of the Commission.

(5) The texts of the orders are attached.

Issued: July 29, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

COLOR TELEVISION RECEIVING SETS

CERTIFICATE OF SERVICE

I, Kenneth R. Mason, hereby certify that

[337-TA-23]

COLOR TELEVISION RECEIVING SETS

CERTIFICATE OF SERVICE

I, Kenneth R. Mason, hereby certify that the attached Notice of Consent Orders and Termination of Investigation was served upon Wilhelm Zeitler, Esq., personally, and upon the following parties via first class mail, on July 29, 1977.

KENNETH R. MASON,
Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

Preston Brown, Esq., Curtis, Mallet-Prevost, Colt & Mosle, 888 17th Street, NW., Washington, D.C. 20006.

Robert D. Pillero, Esq., Curtis, Mallet-Prevost, Colt & Mosle, 100 Wall Street, New York, N.Y. 10005.

H. William Tanaka, Esq., Lawrence Walders Esq., Tanaka, Walders & Ritger, Federal BVr Building West, 1819 H Street, NW., Washington, D.C. 20006.

Bruce Clubb, Esq., Bruce H. Jackson, Esq., Baker & McKenzie, 815 Connecticut Avenue, Washington, D.C. 20006.

Charles F. Schirmeister, Esq., Reid & Priest, 40 Wall Street, New York, N.Y. 10005.

John T. Dolan, Esq., Crummy, Del Deo, Dolan & Purcell, Gateway I, Newark, N.J. 07102.

Peter Gartland, Esq., Wender, Murase & White, 400 Park Avenue, New York, N.Y. 10022.

William L. Dickey, Esq., Wender, Murase & White, 1600 M Street, NW., Suite 1080, Washington, D.C. 20036.

Robert H. Huey, Esq., Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street, N.W., Washington, D.C. 20006.

David Vaughan, Esq., Mudge, Rose, Guthrie & Alexander, 1701 Pa. Avenue, NW., Washington, D.C. 20006.

Donald J. Zoeller, Esq., John P. Hederman, Esq., Mudge, Rose, Guthrie & Alexander, 20 Broad Street, New York, N.Y. 10005.

Gail T. Cumins, Esq., Sharretts, Paley, Carter & Blauvelt, 80 Broad Street, New York, N.Y. 10004.

Donald Campbell Brown, Esq., Whitman & Ranson, 522 Fifth Avenue, New York, N.Y. 10036.

ADDITIONAL COPIES TO

John T. Fischbach, Esq., Asst to Gen Counsel for Intl Affairs, Federal Trade Commission, 6th & Pa. Ave., N.W., Washington, D.C. 20580.

Joel Davidow, Esq., Chief Foreign Commerce Section, Antitrust Division, Department of Justice, Tenth & Pa. Ave. N.W., Washington, D.C. 20530.

Bernard Feiner, Esq., Assistant General Counsel, Dept of Health, Education and Welfare, 5360 North Building, Washington, D.C. 20201.

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondents having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondents having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order;

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondents concede that the Commission has, jurisdiction of the subject mater of this investigation and over the respondents signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondent that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III.—DEFINITIONS

As used in this Consent Order: (A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondent" shall mean: (1) Sharp Corporation, and (2) Sharp Electronics Corporation.

(C) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation or other legal or business entity other than the above respondents or their majority owned and/or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States or for import into the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as part of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to each respondent and to each of its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with Section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

A respondent shall not: (1) Sell any color television receiving set or sets in the United States or for shipment or export to the United States, for resale in the United States at any price in a predatory manner as defined by United States law; or

(2) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reduction of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(3) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

A respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program for the purpose or with the effect of

(1) Raising, lowering, fixing, determining, establishing, controlling, maintaining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up, profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating, apportioning, assigning, limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VII.—REPORTING

With respect to each of the five consecutive fiscal years the first of which begins in 1977, each respondent shall separately review, determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs as defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered, including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor that the independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year: *Provided, however*, That a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year. Further, a special report containing the information provided for in

items (1) through (7) of the first paragraph of this Section VII and covering the period from the effective date of this Consent Order to September 30, 1977, shall be filed with the Commission by December 31, 1977. However, the special report need not include a statement of the independent United States auditor.

All such reports delivered pursuant to the provisions of this Section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven (7) years after the effective date of this Order and thereafter the reports shall be returned to the filing respondents.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondents.

In determining whether a respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VIII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by any respondent.

(B) For the purposes of securing compliance with this Consent Order, each respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined, provided, however, that no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to any respondent made, be permitted access to and the right to inspect and copy in said respondent's principal office during the office hour of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to and the right to inspect and copy the records of respondents' independent United States auditors used in reporting upon respondents' reports required in Section VII hereof.

(D) Each respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondents or their United States counsel.

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit compliance with any order or direction of any government, governmental body or agency having jurisdiction over a respondent: *Provided, however*, That such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which a respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over such respondent.

Compliance by any respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provision of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by any respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law.

XI.—SERVICE OF CONSENT ORDER

Each repondent is ordered and directed to:

(A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States;

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI(A) above, a conformed copy of this Consent Order upon each successor;

(C) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI (A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI (B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. Its provisions shall not apply to color television receiving sets imported and sold by respondents prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII above.

Its provisions also shall not apply to color television receiving sets sold by a respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII, above.

XIII.—MODIFICATION

This consent Order constitutes a settlement and resolution of Investigation No. 337-TA-23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues raised in the proceeding or an admission that any respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By order of the Commission.

Dated: July 29, 1977.

KENNETH R. MASON,
Secretary.

The above Order is Consented to:

For Complainants:

EDWARD J. GOLDSTEIN,
CURTIS, MALLET-PREVOST,
COLT & MOSLE,
PETER FLEMMING, Jr.,
Counsel for GTE Sylvania Inc. and Philco Consumer Electronics Corp.

For Respondents:

WENDER MURASE & WHITE,
PETER J. GARTLAND,
Counsel for Sharp Corp. and Sharp Electronics Corp.

For Commission Investigative Staff.

WILHELM A. ZEITLER,
Commission Investigative Attorney.

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by any respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondents related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondents that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis.[1] It is expressly provided, however, that nothing contained herein shall require any respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to, the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuit board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe benefits such as bonuses and incentives, vacations, holidays, health care, pension, paid sick leave and other time off, group insurance, employee welfare, disability wage continuation, etc.).

3. Factory indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling, freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions/bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies/expenses, tooling and utility costs, occupancy costs, testing gc/burn-in, general overhead, plant management, accounting, personnel, quality control supervision, industrial engineering, production engineering, maintenance, purchasing/procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, interest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

[1] The "Special Report" provided for under Section VII of this Consent Order shall be in accordance with generally accepted United States accounting principles. However, it will not constitute non-compliance with this Consent Order if annual reports prepared subsequent to the Special Report are not prepared on a basis consistent with the Special Report.

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondents having appeared and denied the mterial allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondents having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337") or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order;

It is hereby ordered, That:

I. TARIFF ACT OF 1930

The Commission has, and respondents concede that the Commission has, jurisdiction of the subject matter of this investigation and over the respondents signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II. SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondents that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III. DEFINITIONS

As used in this Consent Order: (A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondents" shall mean: (1) Hitachi, Ltd., (2) Hitachi Kaden Hanbai Kabushiki Kaisha, and (3) Hitachi Sales Corporation of America.

(C) "Person" shall mean an individual, or any nongovernmental partner-

ship, firm, association, corporation or other legal or business entity other than the above respondents or their majority owned and/or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States or for import into the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as part of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to each respondent and to each of its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with Section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

A respondent shall not: (1) Sell any color television receiving set or sets in the United States or for shipment or export to the United States, for resale in the United States at any price in a predatory manner as defined by United States law; or

(2) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reducation of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(3) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

A respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program, for the purpose or with the effect of:

(1) Raising, lowering, fixing, determining, establishing, controlling, maintaining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating apportioning, assigning limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VII.—REPORTING

With respect to each of the five consecutive fiscal years the first of which begins in 1977, each respondent shall separately review, determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs as defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered, including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor that the independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year: *Provided, however*, That a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year. Further, a special report containing the information provided for in items (1) through (7) of the first paragraph of this Section VII and covering the period from the effective date of this Consent Order to September 30, 1977, shall be filed with the Commission by December 31, 1977. However, the special report need not include a statement of the independent United States auditor.

All such reports delivered pursuant to the provisions of this Section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven (7) years after the effective date of this Order and thereafter the reports shall be returned to the filing respondents.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondents.

In determining whether a respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VIII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by any respondent.

(B) For the purposes of securing compliance with this Consent Order, each respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined: *Provided, however*, That no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to any respondent made, be permitted access to and the right to inspect and copy in said respondent's principal office during the office hour of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to and the right to inspect and copy the records of respondents' independent United States auditors used in reporting upon respondents' reports required in Section VII hereof.

(D) Each respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondents or their United States Counsel.

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit compliance with any order or direction of any government, governmental body or agency having jurisdiction over a respondent, provided, however, that such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which a respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over such respondent.

Compliance by any respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provision of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by any respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law.

XI.—SERVICE OF CONSENT ORDER

Each respondent is ordered and directed to: (A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States:

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI(A) above, a confirmed copy of this Consent Order upon each successor;

(C) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI(A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI(B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII.—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. Its provisions shall not apply to color television receiving sets imported and sold by respondents prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII above.

Its provisions also shall not apply to color television receiving sets sold by a respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII. above.

XIII.—MODIFICATION

This Consent Order constitutes a settlement and resolution of Investigation No. 337-TA-23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues raised in the proceeding or an admission that any respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By Order of the Commission.

Dated: July 29, 1977.

KENNETH R. MASON,
Secretary.

The above Order is Consented to:

For complainants:

EDWARD J. GOLDSTEIN,
CURTIS, MALLET-PROVOST,
(COLT & MOSLE),
PETER FLEMMING, JR.,
Counsel for GTE Sylvania Inc., and Philco Consumer Electronic Corp.

For respondents:

TANAKA, WALDERS & RITGER,
LAURENCE R. WALDERS,
Counsel for Hitachi, Ltd., Hitachi Kaden Hanbai Kabushiki Kaisha, and Hitachi Sales Corp. of America.

For Commission Investigative Staff:

WILHELM A. ZEITLER,
Commission Investigative Attorney.

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by any respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondents related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondents that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis.[2] It is expressly provided, however, that nothing contained herein shall require any respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to, the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuit board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe benefits such as bonuses and incentives, vacations, holidays, health care, pensions, paid sick leave and other time off, group insurance, employee welfare, disability wage continuation, etc.).

3. Factor indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling, freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions/bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies/expenses, tooling and utility costs, occupancy costs, testing/qc/burn-in, general overhead, plant management, accounting, personnel, quality control supervision, industrial engineering, production engineering, maintenance, purchasing/procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, interest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

[2] The "Special Report" provided for under Section VII of this Consent Order shall be in accordance with generally accepted United States accounting principles. However, it will not constitute non-compliance with this Consent Order if annual reports prepared subsequent to the Special Report are not prepared on a basis consistent with the Special Report.

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondents having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondents having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order;

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondents concede that the Commission has, jurisdiction of the subject matter of this investigation and over the respondents signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondents that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III.—DEFINITIONS

As used in this Consent Order:

(A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondents" shall mean

(1) Sanyo Electric Company, Ltd.,

(2) Sanyo Electric, Inc., and (3) Sanyo Electric Trading Company, Ltd.

(C) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation or other legal or business entity other than the above respondents or their majority owned and/or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States or for import into the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as part of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to each respondent and to each of its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with Section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

A respondent shall not:

(1) Sell any color television receiving set or sets in the United States or for shipment or export to the United States, for resale in the United States at any price in a predatory manner as defined by United States law; or

(2) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reduction of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(3) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

A respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program, for the purpose or with the effect of:

(1) Raising, lowering, fixing, determining, establishing, controlling, maintaining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up, profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating, apportioning, assigning, limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VII.—REPORTING

With respect to each of the four consecutive fiscal years the first of which begins in 1977 and the first six months of the fifth consecutive fiscal year, each respondent shall separately review, determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs as defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor that the independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year: *Provided, however*, That a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year. Further, a special report containing the information provided for in items (1) through (7) of the first paragraph of this Section VII and covering the period from the effective date of this Consent Order to November 30, 1977, shall be filed with the Commission by March 1, 1978. However, the special report need not include a statement of the independent United States auditor.

All such reports delivered pursuant to the provisions of this Section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven (7) years after the effective date of this Order and thereafter the reports shall be returned to the filing respondents.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondents.

In determining whether a respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VIII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by any respondent.

(B) For the purposes of securing compliance with this Consent Order, each respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined: *Provided, however*, That no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to any respondent made, be permitted ac-

cess to and the right to inspect and copy in said respondent's principal office during the office hour of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to and the right to inspect and copy the records of respondents' independent United States auditors used in reporting upon respondents' reports required in Section VII hereof.

(D) Each respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondents or their United States counsel.

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit compliance with any order or direction of any government, governmental body or agency having jurisdiction over a respondent: *Provided, however,* That such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which a respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over such respondent.

Compliance by any respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provision of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by any respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law

XI.—SERVICE OF CONSENT ORDER

Each respondent is ordered and directed to: (A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States;

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI (A) above, a conformed copy of this Consent Order upon each successor;

(C) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI (A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI (B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII.—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. It provisions shall not apply to color television receiving sets imported and sold by respondents prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VI above.

Its provisions also shall not apply to color television receiving sets sold by a respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII, above.

XIII.—MODIFICATION

This Consent Order constitutes a settlement and resolution of Investigation No. 337–TA–23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues raised in the proceeding or an admission that any respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By Order of the Commission.

KENNETH R. MASON,
Secretary.

Dated: July 29, 1977.

The above Order is Consented to:

For Complainants:

EDWARD J. GOLDSTEIN,
CURTIS, MALLET-PREVOST,
COLT & MOSLE,
PETER FLEMMING, Jr.,
Counsel for GTE Sylvania Inc., and Philco Consumer Electronics.

For Respondents:

SHARRETTS, PALEY, CARTER & BLAUVELT,
GAIL T. CUMINS,
Counsel for Sanyo Electric Company, Ltd., Sanyo Electric, Inc. and Sanyo Electric Trading Company, Ltd.

For Commission Investigative Staff:

WILHELM A. ZEITLER,
Commission Investigative Attorney.

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by any respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondents related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondents that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis.[3] It is expressly provided, however, that

[3] The "Special Report" provided for under Section VII of this Consent Order shall be in accordance with generally accepted United States accounting principles. However, it will not constitute non-compliance with this Consent Order if annual reports prepared subsequent to the Special Report are not prepared on a basis consistent with the Special Report. nothing contained herein shall require any respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to, the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuit board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe benefits such as bonuses and incentives, vacations, holidays, health care, pension, paid sick leave and other time off, group insurance, employee welfare, disability/wage continuation, etc.).

3. Factory indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling, freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions/bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies/expenses, tooling and utility costs, occupancy costs, testing/qc/burn-in, general overhead, plant management, accounting, personnel, quality control supervision, industrial engineering, production engineering, maintenance, purchasing/procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, interest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

[Investigation No. 337–TA–23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondents having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondents having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order:

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondents concede that the Commission has, jurisdiction of the subject matter of this investigation and over the respondents signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondents that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III.—DEFINITIONS

As used in this Consent Order:

(A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondents" shall mean

(1) Tokyo Shibaura Electric Company, Ltd., and

(2) Toshiba America, Inc.

(C) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation or other legal or business entity other than the above respondents or their majority owned and or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States or for import into the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as part of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to each respondent and to each of its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with Section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

A respondent shall not:

(1) Sell any color television receiving set or sets in the United States or for shipment or export to the United States, for resale in the United States at any price in a predatory manner as defined by United States law; or

(2) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reduction of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(3) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

A respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program, for the purpose or with the effect of:

(1) Raising, lowering, fixing, determining, establishing, controlling, main-

taining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up, profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating, apportioning, assigning, limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VII.—REPORTING

With respect to each of the five consecutive fiscal years the first of which begins in 1977, each respondent shall separately review, determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs as defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered, including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor that the independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year: *Provided, however,* That a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year. Further, a special report containing the information provided for in items (1) through (7) of the first paragraph of this Section VII and covering the period from the effective date of this Consent Order to September 30, 1977, shall be filed with the Commission by December 31, 1977. However, the special report need not include a statement of the independent United States auditor.

All such reports delivered pursuant to the provisions of this Section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven (7) years after the effective date of this Order and thereafter the reports shall be returned to the filing respondents.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondents.

In determining whether a respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VIII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by any respondent.

(B) For the purposes of securing compliance with this Consent Order, each respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined, provided, however, that no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to any respondent made, be permitted access to and the right to inspect and copy in said respondent's principal office during the office hour of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to and the right to inspect and copy the records of respondents' independent United States auditors used in reporting upon respondents' reports required in Section VII hereof.

(D) Each respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondents or their United States counsel.

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit complaince with any order or direction of any government, governmental body or agency having jurisdiction over a respondent: *Provided, however,* That such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which a respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over such respondent.

Compliance by any respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provisions of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by any respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law.

XI.—SERVICE OF CONSENT ORDER

Each respondent is ordered and directed to:

(A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States;

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI(A) above, a conformed copy of this Consent Order upon each successor;

(C) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI (A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI (B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII.—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. Its provisions shall not apply to color television receiving sets imported and sold by respondents prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII above.

Its provisions also shall not apply to color television receiving sets sold by a respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII, above.

XIII.—MODIFICATION

This Consent Order constitutes a settlement and resolution of Investigation No. 337-TA-23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues raised in the proceeding or an admission that any respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By order of the Commission.

Dated: July 29, 1977.

KENNETH R. MASON,
Secretary.

The above Order is Consented to:

For Complainants:

EDWARD J. GOLDSTEIN,
CURTIS, MALLET-PROVOST,
COLT & MOSLE,
PETER FLEMMING JR.,
Counsel for GTE Sylvania Inc. and Philco Consumer Electronics Corp.

For Respondents:

MUDGE ROSE GUTHRIE
& ALEXANDER,
DAVID A VAUGHN,
Counsel for Tokyo Shibaura Electric Co., Ltd. and Toshiba America, Inc.

For Commission Investigative Staff:

WILHELM A. ZEILTER,
Commission Investigative Attorney.

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by any respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondents related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondents that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis.* It is expressly provided, however, that nothing contained herein shall require any respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to, the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuit board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe benefits such as bonuses and incentives, vacations, holidays, health care, pension, paid sick leave and other time off, group insurance, employee welfare, disability, wage continuation, etc.).

3. Factory indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling, freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions, bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies' expenses, tooling and utility costs, occupancy costs, testing/qc/burn-in, general overhead, plant management, accounting, personnel, quality control supervision, industrial engineering, production engineering, maintenance, purchasing procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, in-

*The "Special Report" provided for under Section VII of this Consent Order shall be in accordance with generally accepted United States accounting principles. However, it will not constitute non-compliance with this Consent Order if annual reports prepared subsequent to the Special Report are not prepared on a basis consistent with the Special Report.

terest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by the respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondent related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondent that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis. It is expressly provided, however, that nothing contained herein shall require the respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuit board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe benefits such as bonuses and incentives, vacations, holidays, health care, pension, paid sick leave and other time off, group insurance, employee welfare, disability/wage continuation, etc.).

3. Factory indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling, freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions/bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies/expenses, tooling and utility costs, occupancy costs, testing/qc/burn-in, general overhead, plant management, accounting, personnel, quality control supervision, industrial engineering, production engineering, maintenance, purchasing/procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, interest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondent having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondent having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order:

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondent concedes that the Commission has, jurisdiction of the subject matter of this investigation and over the respondent who is signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondent that the law had been violated or alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III. SETTLEMENT

It appears that MIC has never engaged in the business of manufacturing color television receiving sets and has not on a continuous and systematic basis engaged in the importation, distribution and/or sale of color television receiving sets in the United States since October 1, 1974. If MIC shall at any time enter into the business of importation and/or distribution, and/or sale of imported color television receiving sets in the United States on a continuous and systematic basis, MIC shall become subject to all of the terms and conditions of the Consent Order entered into by the other respondents to the Complaint and Consolidated Amended Complaint. The Consent Order to which MIC would be subject in such circumstances is attached hereto as Exhibit A.

By order of the Commission.

Dated: July 29, 1977.

KENNETH R. MASON,
Secretary.

The above Order is Consented to:

For Complainants:

EDWARD J. GOLDSTEIN.
CURTIS, MALLET-PREVOST,
COLT & MOSLE,
PETER FLEMMING, JR.,
Counsel for GTE Sylvania Inc. and Philco Consumer Electronics Corp.

For Respondent:

REID & PRIEST.
CHARLES F. SCHIRMEISTER.
Counsel for Mitsubishi International Corp.

For Commission Investigative Staff:

WILHELM A. ZEILTER,
Commission Investigative Attorney.

EXHIBIT A

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation: and

The respondent having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondent having denied any violation of Section

337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order;

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondent concedes that the Commission has, jurisdiction of the subject matter of this investigation and over the respondent signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondent that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III.—DEFINITIONS

As used in this Consent Order: (A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondent" shall mean (1) Mitsubishi International Corporation.

(C) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation or other legal or business entity other than the above respondent or its majority owned and/or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States or for import into the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as pat of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to the respondent and to its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owned business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

The respondent shall not: (1) Sell any color television receiving set or sets in the United States or for shipment or export to the United States, for resale in the United States at any price in a predatory manner as defined by United States law; or

(2) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reduction of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(3) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

The respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program, for the purpose or with the effect of:

(1) Raising, lowering, fixing, determining, establishing, controlling, maintaining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating, apportioning, assigning, limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VII.—REPORTING

With respect to each of the five consecutive fiscal years the first of which begins in 1977, the respondent shall determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs as defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered, including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year, provided, however, that a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year. Further, a special report containing the information provided for in items (1) through (7) of the first paragraph of this Section VII and covering the period from the effective date of this Consent Order to September 30, 1977, shall be filed with

the Commission by December 31, 1977. However, the special report need not include a statement of the independent United States auditor.

All such reports delivered pursuant to the provisions of this section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven years.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondent.

In determining whether the respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VIII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by the respondent.

(B) For the purposes of securing compliance with this Consent Order, the respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined, provided, however, that no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to any respondent made, be permitted access to and the right to inspect and copy in said respondent's principal office during the office hour of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to the right to inspect and copy the records of respondents' independent United States auditors used in reporting upon respondents' reports required in Section VII hereof.

(D) Each respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondents or their United States counsel

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit compliance with an order or direction of any government, governmental body or agency having jurisdiction over the respondent, provided, however, that such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which the respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over the respondent.

Compliance by the respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provision of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by any respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law.

XI.—SERVICE OF CONSENT ORDER

The respondent is ordered and directed to: (A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States;

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI(A) above, a conformed copy of this Consent Order upon each successor;

(c) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI (A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI (B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII.—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. Its provisions shall not apply to color television receiving sets imported and sold by respondents prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII above.

Its provisions also shall not apply to color television receiving sets sold by the respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII, above.

XIII.—MODIFICATION

This Consent Order constitutes a settlement and resolution of Investigation No. 337-TA-23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues

raised in the proceeding or an admission that any respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By Order of the Commission.

Dated:

Secretary.

The above Order is Consented to:

For Complainants:

CURTIS, MALLET-PREVOST, COLT & MOSLE,

For Respondents:

REID & PRIEST, *Counsel for Mitsubishi International Corp.*

For Commission Investigative Staff:

APPENDIX A

This Appendix A is for reporting purposes only and neither this Appendix A, nor anything set forth in this Consent Order, constitutes a concession or admission by any respondent regarding a standard of cost pursuant to which a finding of predatory pricing may be made.

Total costs attributable to color television receiving sets for reporting purposes shall include (1) all costs directly related to the manufacture, marketing and sale of such color television receiving sets, and (2) an appropriate allocation of all costs incurred by respondents related in part to the manufacture, marketing and sale of color television receiving sets and related in part to a product or business other than color television receiving sets, and (3) an appropriate allocation of all other costs incurred by respondents that are not related specifically to any product or business. All costs and all allocated costs shall be determined on the basis of generally accepted United States accounting principles applied on a consistent basis.[5] It is expressly provided, however, that nothing contained herein shall require any respondent to change its existing accounting systems and methods. Consistent with the foregoing, costs shall include, but will not be limited to, the following:

1. Materials (including integrated circuits, transistors, diodes, printed circuits board, resistors (fixed and potentiometers), capacitors (ceramic, electrolytic, wound film), coils and transformers, cathode ray tube, deflection yoke, cabinet, tuner, metal components, plastic components, speaker, and miscellaneous components).

2. Direct labor (including skilled, semi-skilled and unskilled production, technician, testing personnel and an allocation of fringe vacations, holidays, health care, pension, paid sick leave and other time off, group insurance, employee welfare, disability/wage continuation, etc.).

3. Factory indirect labor (including semi-skilled, skilled labor, technicians, craftsmen, foremen, and an appropriate allocation of fringe benefits such as referred to in Paragraph 2 above).

4. Distribution costs outside the United States (including warehousing, handling, transportation and insurance).

5. Export expenses (including cartage/drayage, shipping charge, and brokerage charge).

6. Shipping costs (including ocean freight, insurance, duties and customs clearance charges).

7. Distribution costs in the United States (including warehousing, handling freight-in and insurance).

8. Marketing and sales costs in the United States and outside the United States (including freight-out, commissions/bonuses/sales salaries, incentives, cooperative advertising expense, customer financing, warranty, rebates, sales administration, reserve for bad debts arising from the sale of color television receivers occurring on or after the effective date of this Consent Order, sales returns and allowances and all deductions from revenues not accounted on invoices).

9. Factory overhead (including supplies/expenses, tooling and utility costs, occupancy costs, testing/qc/burn-in, general overhead, plant management, accounting, personnel quality control supervision, industrial engineering, production engineering, maintenance, purchasing/procurement, inventory control, depreciation, taxes other than income taxes, interest, product design, product engineering, and royalties).

10. General administrative costs (including divisional and corporate-wide expenses such as home office administrative costs, interest, taxes other than income taxes, research and development, product design and product engineering, accounting and auditing and legal incurred in the ordinary course of business, public relations and administrative salaries).

[5] The "Special Report" provided for under Section VII of this Consent Order shall be in accordance with generally accepted United States accounting principles. However, it will not constitute non-compliance with this Consent Order if annual reports prepared subsequent to the Special Report are not prepared on a basis consistent with the Special Report.

[Investigation No. 337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

CONSENT ORDER

Complainants GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, having filed a Complaint and Consolidated Amended Complaint; and

The United States International Trade Commission ("Commission") having initiated an investigation pursuant to Notices of Investigation; and

The respondent having appeared and denied the material allegations of the Complaint and Consolidated Amended Complaint; and

The Commission having determined it has jurisdiction of the subject matter of this proceeding and the Commission having determined that the Consolidated Amended Complaint states a cause of action under Section 337 of the Tariff Act of 1930, 19 U.S.C. Section 1337 and all acts amendatory thereof and supplementary thereto; and

Before the making of any findings of fact or conclusions of law, and before the hearing or adjudication of any issue of fact or law herein, and the respondent having denied any violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), or as alleged in the Complaint and Consolidated Amended Complaint, and all of the parties hereto having consented to the entry of this Consent Order:

It is hereby ordered, That:

I.—TARIFF ACT OF 1930

The Commission has, and respondent concedes that the Commission has, jurisdiction of the subject matter of this investigation and over the respondent signatory hereto for the purposes of issuing and enforcing this Consent Order, and the Protective Order dated September 17, 1976.

II.—SETTLEMENT PURPOSES ONLY

This Consent Order is for settlement purposes only and does not constitute a determination by the Commission or an admission by respondent that the law has been violated as alleged in the Complaint and Consolidated Amended Complaint or Notices of Investigation or otherwise.

III.—DEFINITIONS

As used in this Consent Order: (A) "Complainants" shall mean GTE Sylvania Incorporated and Philco Consumer Electronics Corporation, and each of them.

(B) "Respondent" shall mean Mitsubishi Electric Corporation.

(C) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation or other legal or business entity other than the above respondent or its majority owned and/or controlled subsidiaries, their successors or assigns.

(D) "United States" shall mean the fifty States, the District of Columbia and Puerto Rico.

(E) "Color Television Receiving Set" shall mean any color television receiving set manufactured in any country other than the United States for shipment or export to the United States for resale in the United States. Color television receiving sets shall include:

(1) A finished color television receiving set which at the time of importation is fully assembled, whether or not tested or packaged, for distribution to the purchaser as a color television receiving set; and

(2) A color television receiving set which at the time of importation is not fully assembled, whether or not in the cabinet, but substantially complete as a finished color television receiving set, as defined in Subsection (1) above, at least to the point where the color picture tube is in place as part of the set; and

(3) A kit which at the time of importation contains all of the components necessary to make it a color television receiving set as defined in Subsections (1) and (2) above.

IV.—APPLICABILITY

The provisions of this Consent Order shall apply to respondent and to its officers, directors, employees, controlled (whether by stock ownership or otherwise) and/or majority owner business entities, successors and assigns, and to each of them, and to all other persons who receive actual notice of this Consent Order by service in accordance with Section XI hereof.

V.—INDIVIDUAL CONDUCT PROHIBITED

Respondent shall not: (1) Give to any person a discount, allowance, credit, rebate, gratuity, financing and credit benefit, or any other monetary inducement to purchase, or other deduction or term which results directly or indirectly in a reduction of the price of a color television receiving set sold in the United States or for shipment or export to the United States, for resale in the United States, for which appropriate descriptive financial records are not maintained by respondent; or

(2) Unlawfully hinder, restrict, limit or prevent directly or through another, any company incorporated in the United States or any subsidiary thereof from buying or selling color television receiving sets from or to any other person in the United States or in Japan in a manner which has an effect on United States commerce and which is in connection with the importation of color television receiving sets into the United States or the sale of such imported sets in the United States or for shipment or export to the United States for resale in the United States.

VI.—CONCERTED CONDUCT PROHIBITED

Respondent in connection with the importation of color television receiving sets into the United States or for shipment or export to the United States for resale in the United States shall not unlawfully with any other person or persons, initiate, enter into, adhere to, maintain or further, directly or indirectly, any contract, agreement, combination, conspiracy, understanding, plan or program, for the purpose or with the effect of:

(1) Raising, lowering, fixing, determining, establishing, controlling, maintaining or stabilizing the price, price level, price ceiling, price floor, net price, discount, rebate, allowance, mark-up, profit margin, warranty, or any term or condition of sale at which any other person sells any color television receiving set in the United States or for shipment or export to the United States for resale in the United States; or

(2) Allocating, dividing, rotating, apportioning, assigning, limiting or imposing or attempting to impose any limitations or restrictions respecting (a) the person or persons to whom, or (b) the markets or territories in which, or (c) the volume at which any person may sell color television receiving sets in the United States or for shipment or export to the United States for resale in the United States; or

(3) Hindering, restricting, limiting, or preventing any person from buying or selling color television receiving sets from or to any other person in the United States in a manner which has an effect on United States commerce.

VIII.—REPORTING

With respect to each of the five consecutive fiscal years the first of which begins in 1977, respondent shall separately review, determine and report in English under oath to the Commission, on an annual basis, the following: (1) Total unit volume of all color television receiving sets sold in the United States or for shipment or export to the United States for resale in the United States, (2) total unit volume in each screen size for such color television receiving sets, (3) aggregated revenues for all such color television receiving sets, (4) aggregated revenues in each screen size for such color television receiving sets, (5) total aggregated costs are defined in Appendix A for such color television receiving sets, (6) total aggregated costs as defined in Appendix A in each screen size for such color television receiving sets, and (7) whether any such color television receiving set has been sold for less than the total variable costs of such set.

The reports provided for herein shall contain a statement of the manner in which such review and determination was conducted and the factors that were considered, including the methods or method of cost allocation. All amounts set forth in such reports shall be expressed in United States dollars, with disclosure of any exchange rate(s) used to calculate such dollar amounts, including the date(s) on which such rate(s) were controlling.

In addition, respondent shall provide a statement of its independent United States auditor that the independent United States auditor has reviewed respondent's records in conjunction with its annual audit and that the independent United States auditor has reviewed the report required hereby and on the basis of such annual audit does not find any inconsistency between the data in the report and any information which it learned during its annual audit.

Such report, containing the information provided for in items (1) through (7) of the first paragraph of this Section VII, with the oath of the respondent and the statement of the independent United States auditor, shall be delivered to the Commission not later than one hundred and fifty (150) days after the close of each fiscal year: *Provided, however,* That a preliminary report containing the information required under items (1), (2), (3) and (4) of the first paragraph of this Section VII shall be delivered to the Commission not later than ninety (90) days after the close of each fiscal year.

All such reports delivered pursuant to the provisions of this Section shall be maintained for a period of five (5) years after the date of such delivery but no later than seven (7) years after the effective date of this Order and thereafter the reports shall be returned to the filing respondent.

All such reports shall be deemed to be proprietary and business confidential and no information contained in or obtained from any such report shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of a legal proceeding or as otherwise required by law upon reasonable written notice to the respondent.

In determining whether respondent is in compliance with the provisions of Sections V and VI hereof, the Commission may consider evidence that the information provided in the reporting requirements of this Section VII is incomplete or inaccurate.

VII.—INSPECTION AND COMPLIANCE

(A) In determining whether there has been compliance with the prohibitions of this Consent Order, the Commission may consider evidence of any material differences between the revenues and costs reported pursuant to the reporting requirements of Section VII hereof. Further, in determining whether there has been compliance with the provisions of this Consent Order, the Commission may consider evidence of all special economic and competitive circumstances presented by respondent.

(B) For the purposes of securing compliance with this Consent Order, respondent shall retain any and all records made and received in the usual and ordinary conduct of its color television receiving set business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain, and in summary form for a period of seven (7) years from the close of the fiscal year to which they pertain from which the accuracy of the statements and reports described in Section VII above, may be determined: *Provided, however,* That no such record need be retained for more than two years from the close of the last fiscal year for which a report is required.

(C) For the purpose of determining or securing compliance with this Consent Order, and for no other purposes, and subject to any privilege recognized by federal courts of the United States, during the period from filing the first report required herein up to and including two years from the close of the last fiscal year for which a report is required, duly authorized representatives of the Commission shall, upon reasonable written notice by the Commission or its staff, to the respondent made, be permitted access to and the right to inspect and copy in said respondent's principal office during the office hours of said respondent, and in the presence of counsel or other representative if said respondent chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form, in the possession of or under the control of said respondent relating to any of the matters contained in this Consent Order and further shall have access to and the right to inspect and copy the records of respondent's independent United States auditors used in reporting upon respondent's reports required in Section VII hereof.

(D) Respondent shall make available for consultation with the duly authorized representative of the Commission, in the presence of counsel, the individual or individuals who were responsible for the preparation of the report described in Section VII hereof and/or who have knowledge of the substance of the matters contained therein.

(E) No information obtained by the means provided in Section VIII shall be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Consent Order or as otherwise required by law, upon reasonable written notice to respondent or its United States counsel.

IX.—GOVERNMENTAL ACTION

This Consent Order shall not prohibit compliance with any order or direction of any government, governmental body or agency having jurisdiction over respondent, provided, however, that such compliance shall not constitute a defense to a violation of this Consent Order except insofar as such a defense is recognized under United States law.

Nothing contained in this Consent Order shall be construed to constitute a waiver of any defense recognized under the laws of the United States, which respondent may have as a result of compliance with any order or directive of any government, governmental body or agency having jurisdiction over such respondent.

Compliance by respondent with any order or directive of the Japanese Government issued in implementation of and in accordance with the provisions of the agreement between the Government of the United States of America and the Government of Japan relating to color television receivers as set forth in notes between said governments dated May 20, 1977, shall not be a violation of this Consent Order.

X.—ENFORCEMENT

Each provision of this Consent Order shall be construed independently of any other provision, and compliance with any one provision shall not excuse a violation of any other provision.

Should the Commission have reason to believe that a violation has occurred, a hearing shall be held upon notice. The issues at the hearing shall be: (a) Whether a violation has occurred in fact, and (b) if so, a determination of the appropriate remedy. In determining whether there has been a violation, the Commission may consider evidence of any special competitive or economic circumstances presented by respondent in defense of the alleged violation.

Nothing contained herein shall limit any right of review provided by law.

XI.—SERVICE OF CONSENT ORDER

Respondent is ordered and directed to:

(A) Serve, within thirty (30) days after the effective date of this Consent Order, a conformed copy of this Consent Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution or sale of such respondent's color television receiving sets in the United States or for shipment or export to the United States for resale in the United States;

(B) Serve, within thirty (30) days after the succession of any of the persons referred to in Section XI(A) above, a conformed copy of this Consent Order upon each successor;

(C) Maintain such records as will show the name, title and address of each such officer, director, managing agent, agent and employee upon whom the Consent Order has been served, as described in Section XI(A) and (B) above, together with the date on which service was made; and

(D) The obligations set forth in Section XI (B) and (C) above shall remain in effect for a period of seven (7) years after the effective date of this Consent Order.

XII.—EFFECTIVE DATE

This Consent Order is to become effective as of the date of its issuance by the Commission. Its provision shall not apply to color television receiving sets imported and sold by respondent prior to such issuance, except that such sets which are imported and sold in the period from the beginning of the fiscal year beginning in 1977 but prior to the issuance of this Consent Order shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII above.

Its provisions also shall not apply to color television receiving sets sold by respondent to a United States customer for importation into the United States prior to such issuance, except such sets which are delivered and paid for in the period from the beginning of the fiscal year beginning in 1977 but prior to such issuance shall be included for the purpose of compliance with items (3) and (5) of the first paragraph of Section VII, above.

XIII.—MODIFICATION

This Consent Order constitutes a settlement and resolution of Investigation No. 337-TA-23 and the Complaint and the Consolidated Amended Complaint, and does not constitute a determination of any of the factual or legal issues raised in the proceeding or an admission that respondent has engaged in the conduct prohibited hereby, or an admission that said conduct violates Section 337. Any of the parties to this Consent Order may apply to the Commission at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Consent Order, for the amendment or modification of any of the provisions thereof, or for the enforcement or compliance therewith.

By Order of the Commission.

Dated:

Secretary.

The above Order is Consented to:

For Complainants:

EDWARD J. GOLDSTEIN,
CURTIS, MALLET-PREVOST,
COLT & MOSLE,
PETER ELEMMING, JR.,
Counsel for GTE Sylvania Inc., and Philco Consumer Electronics Corp.

For Respondent:

BAKER & MCKENZIE,
BURCH E. CLUBB,
Counsel for Mitsubishi Electric Corp.

For Commission Investigative Staff:

WILHELM A. ZEILTER,
Commission Investigative Attorney.

[FR Doc.77-22360 Filed 8-3-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Fourth Circuit Panel; Meetings

Chairman: Wesley M. Walker. The second and third scheduled meetings of the nominating panel for the Fourth Circuit of the United States Circuit Judge Nominating Commission is as follows:

(1) The second meeting will be held on Wednesday, August 17, 1977, at 9:30 a.m., Courtroom of the United States District Court, Charles Raper Jones Federal Building, 401 West Trade Street, Charlotte, North Carolina. The purpose of this meeting will be to discuss and evaluate pending applications. This meeting will be closed to the public pursuant to P.L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

(2) The third meeting will be held on Tuesday, August 30, 1977, at 9:30 a.m., Courtroom of the United States District Court, Charles Raper Jones Federal Building, 401 West Trade Street, Charlotte, North Carolina. The purpose of this meeting will be to conduct interviews of applicants and to determine the recommendations to be made to the President. This meeting will be closed to the public pursuant to P.L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JULY 28, 1977.

[FR Doc.77-22433 Filed 8-3-77;8:45 am]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By Notice dated June 2, 1977, and published in the FEDERAL REGISTER on June 9, 1977; (42 FR 29569), Wyeth Laboratories, Inc., 611 E. Nield Street, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Pethidine, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of Pethidine is granted.

Dated: July 28, 1977.

DANIEL P. CASEY,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-22388 Filed 8-3-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By Notice dated June 1, 1977, and published in the FEDERAL REGISTER on June 7, 1977; (42 FR 29111), Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Amphetamine	II
Methamphetamine	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: July 8, 1977.

DANIEL P. CASEY,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-22389 Filed 8-3-77;8:45 am]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

COPYRIGHT LAW AND PROCEDURE

Extension of Time for Filing Requests for Oral Responses to Reports

The June 21, 1977 issue of the Federal Register at page 31506 included a Notice from the National Commission on New Technological Uses of Copyrighted Works (CONTU) announcing the availability of committee reports on copyright protection for computer software and automated data bases. The Commission is disseminating these reports in order to elicit responses from interested parties. The Commission invited written comments or requests to testify by August 1, 1977.

The time for receipt of such requests has been extended until September 1, 1977. Written comments on the two committee reports and requests to appear should be submitted before September 1, 1977 in order to allow the Commission adequate time to schedule hearings and to consider the responses. Requests and comments should be mailed to Arthur J. Levine, Executive Director, CONTU, Washington, D.C. 20558.

If you are interested in receiving the reports, please write to Carol Risher, Information Officer, CONTU, Washington, D.C. 20558, 202-557-0996.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works.

[FR Doc.77-22439 Filed 8-3-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSIC ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Music Advisory Panel (Jazz Section) to the National Council on the Arts will be held on August 24-27, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: August 1, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-22383 Filed 8-3-77;8:45 am]

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Artists-in-Schools Advisory Panel to the National Council on the Arts will be held on August 24, 1977, from 8:30 a.m. to 5 p.m., August 25, from 9 a.m. to 5:30 p.m. and August 26, from 9 a.m. to 12:30 p.m., in the Marriott Inn, Orms and Charles Streets, Providence, Rhode Island 02904.

A portion of this meeting will be open to the public on August 24, 1977, from 8:30 a.m. to 11 a.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of policy.

The remaining session of this meeting August 24, from 1:30 p.m. to 5 p.m., August 25, from 9 a.m. to 5:30 p.m. and August 26, from 9 a.m. to 12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and Humanities.

JULY 28, 1977.

[FR Doc.77-22434 Filed 8-3-77;8:45 am]

LITERATURE ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held on August 24-26, 1977, from 9 a.m. to 5:30 p.m., and August 27, 1977, from 9 a.m. to 1 p.m., in Room 1422 Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on August 27, 1977, from 11 a.m. to 1 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of policy.

The remaining sessions of this meeting August 24-26, from 9 a.m. to 5:30 p.m. and August 27, from 9 a.m. to 11 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

JULY 28, 1977.

[FR Doc.77-22435 Filed 8-3-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44, 44, and 41 to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company which revised the Technical Specifications for operation of the Oconee Nuclear Station, Unit Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments authorized changes in the Technical Specifications to permit irradiation of the remaining Oconee Nuclear Station, Units Nos. 1, 2 and 3 reactor vessel surveillance specimens at Crystal River Unit 3. An exemption to that provision of Appendix H to Title 10 of the Code of Federal Regulations Part 50, which would have otherwise required irradiation of the Oconee capsules in the Oconee vessels, has also been granted. Such action was in response to a generic failure of first-generation design Surveillance Specimen Holder Tubes (SSHTs) at Oconee and other operating Babcock & Wilcox 177 fuel assembly reactors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 10, 1977, (2) Amendments Nos. 44, 44 and 41 to License Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of July 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-22090 Filed 8-3-77;8:45 am]

[Docket No. PRM-30-53]

IDATA, INC.

Withdrawal of Petition for Rule Making

Notice is hereby given that the Nuclear Regulatory Commission has received a letter from Idata, Inc. withdrawing its petition for rule making PRM-30-53.

Idata, Inc. by letter dated April 24, 1973, petitioned the Atomic Energy Commission to amend 10 CFR Part 30 "Rules of General Applicability to Licensing by Byproduct Materials," by adding photo-identification credentials and materials containing not more than 1 microcurie of promethium-147 per item to the list of products whose possession and use are exempt from licensing requirements under § 30.15. The petition also proposed complementary amendments to §§ 32.14, 32.15 and 32.16 to make the substance of those licensing regulations applicable. By letter dated June 1, 1977, the petitioner has withdrawn its petition for rule making from further consideration by the Nuclear Regulatory Commission.

Copies of the petition and the letter withdrawing the petition are available for public inspection at the Commission's Public Document Room at 1717 H Street, Northwest, Washington, D.C.

Dated at Washington, D.C. this 28th day of July, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22221 Filed 8-3-77;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), which revised Technical Specifications for operating of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment to the Technical Specifications incorporates revised pressure-temperature operating limits based on data obtained from the material surveillance program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 18, 1976, (2) Amendment No. 31 to License No. DPR-36, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-22091 Filed 8-3-77;8:45 am]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Order for Modification of License

I. Northeast Nuclear Energy Company, The Hartford Electric Light Company,

Western Massachusetts Electric Company, and Connecticut Light and Power Company, P.O. Box 270, Hartford, Connecticut 06101 (the Licensees), are the holders of Operating License No. DPR-65 which authorizes the operation of a nuclear power reactor known as Millstone Nuclear Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2560 megawatts thermal (rated power). The facility is a pressurized water reactor (PWR) located at the Licensees' site in Waterford, Connecticut.

II. In conformance with the evaluation of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the Licensees on April 21, 1975, and supplemented on October 7, 1976, the Technical Specifications issued March 2, 1977 for the facility limit the reactor core peak linear heat generation rate to 16.3 kW/ft.

The ECCS performance evaluation submitted by the Licensees was based upon a previously approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, § 50.46 and Appendix K. The evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

On July 6, 1977, the NRC staff was informed by the Licensees that errors had been discovered by Combustion Engineering (CE) in the small break ECCS analysis for the facility. This analysis is described in CENPD-137P, "Calculative Methods for the CE Small Break LOCA Evaluation Model," August 1974. The errors, consisting of non-conservative input values to the generic small break model are described below:

(1) Peak Linear Heat Generation Rate (PLHGR)—The small break LOCA analysis assumed that the initial PLHGR was 15.25 Kw/ft while the present operating limit for the facility, contained in the Technical Specifications, is 16.30 Kw/ft. It is expected that upon reanalysis, the increase in initial PLHGR will cause an increase in the initial stored energy in the fuel and ultimately increase the peak fuel clad temperature (PCT) predicted for the LOCA.

(2) High Pressure Safety Injection (HPSI) Flow Rate—The small break LOCA analysis assumed a HPSI flow rate which was 12 percent higher than the flow measured at the facility. It is expected that upon reanalysis, the decrease in HPSI flow will decrease the cooling capability of the HPSI system resulting in an increase in the PCT.

CE has made a preliminary evaluation of these errors based on a set of analyses performed for another CE reactor. This analysis showed that for a decrease in HPSI flow of about 13% and an increase in PLHGR of 1.85 Kw/ft, the PCT for the worst small break accident increased 250°F over the previous worst small break PCT. Therefore, it was concluded that a specific Millstone Unit No. 2 analysis would result in less than a 400° F increase in PCT for the worst small break. The previous analysis showed that the PCT for the worst small break was 1606°F. Upon reanalysis it is expected that the small breaks will remain nonlimiting for Millstone Unit No. 2. We concur with CE's conclusions.

Accordingly, the operating limit PLHGR, contained in the Technical Specifications, is still based upon the limiting large break LOCA, the calculation of which is unaffected by these errors. Therefore, the existing PLHGR for the facility remains appropriately conservative.

The staff has instructed the Licensees to provide a revised LOCA analysis for a spectrum of small breaks. The staff expects that when final revised calculations for the facility are submitted using the corrected plant specific model input data they will demonstate that operation with a peak linear heat generation rate of 16.3 Kw/ft will fully conform to the criteria of 10 CFR § 50.46(b). Such revised calculations, fully conforming to the requirements of 10 CFR § 50.46, are to be provided for the facility as soon as possible.

Upon notification by the NRC staff on July 7, 1977, the Licensees promptly confirmed the conservatism of existing operating limits for the facility and committed by letter dated July 7, 1977, to provide a reanalysis to correct the errors. The NRC staff believes that the Licensees' action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut: (1) Letter dated July 7, 1977 from Northeast Nuclear Energy Company to G. Lear, Chief, Operating Reactors Branch No. 3, and (2) This Order for Modification of License. In the Matter of Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (Millstone Nuclear Power Station, Unit No. 2), Docket No. 50-336.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered*, That Facility Operating License No. DPR-65 is hereby amended by adding the following new provision:

As soon as possible, the Licensees shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein.

Dated in Bethesda, Maryland this 25th day of July, 1977.

For the Nuclear Regulatory Commission.

HAROLD R. DENTON,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-22092 Filed 8-3-77;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Provisional Operating License No. DPR-21 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, for operation of the Millstone Nuclear Power Station, Unit No. 1, located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will provide for (1) a 5% decrease in the allowable Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) for reactor core flow less than 90% of rated flow; (2) an increase in the power level, from 10% to 20%, below which the Rod Worth Minimizer (RWM) must be operable; and (3) changes to the secondary containment test program to delete the 5 mile per hour requirement on wind speed for the secondary containment integrity test and change the completion requirement for the test.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 3, March 29, and May 9, 1977, (2) Amendment No. 40 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 26th day of July 1977.

For the Nuclear Regulatory Commission.

STANLEY J. NOWICKI,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-22223 Filed 8-3-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulator Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. 40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment incorporates into the Technical Specifications limiting conditions for operation and surveillance requirements for shock suppressors (snubbers) on safety related systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 2, 1976, as supplemented by letter dated December 21, 1976, (2) Amendment No. 27 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of July 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch, No. 3, Division of Operating Reactors.

[FR Doc.77-22093 Filed 8-3-77;8:45 am]

TOPICAL REPORT

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG-0179, "Regulatory and Other Responsibilities as Related to Transportation Accidents."

NUREG-0179 presents the views and understandings of the author concerning the functional responsibilities of the different parties involved in dealing with transportation accidents that involve radioactive materials. It was prepared in response to numerous inquiries and is based on present practices, existing regulations, discussions with many of the groups involved, and available formal opinions. The establishment of responsibility for new activities and any significant reassignment of responsibility will be effectuated by the Nuclear Regulatory Commission and the Department of Transportation pursuant to a Memorandum of Understanding between these agencies or through rule making, as appropriate, and such responsibilities are unaffected by NUREG-0179.

The report is available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161. (Paper copy: $3.50, Microfiche: $3.00)

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 26th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 77-22222 Filed 8-3-77;8:45 am]

[Docket No. 50-423]

NORTHEAST NUCLEAR ENERGY CO., ET AL.[1]

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Northeast Nuclear Energy Company, et al., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 18, 1977 and May 9, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Maine Power Company as an owner of the Millstone Nuclear Power Station, Unit No. 3, and increases the ownership shares in the units for Massachusetts Municipal Wholesale Electric Company and Montaup Electric Company.

The information was filed by Northeast Nuclear Energy Company in connection with their application for a construction permit and operating license for a pressurized nuclear reactor. Northeast Nuclear Energy Company, et. al. was issued a construction permit on August 9, 1974 for the Millstone Nuclear Power Station, Unit No. 3. Construction is underway on a site located on the north shore of Long Island Sound, in the Town of Waterford, New London County, Connecticut.

The original antitrust portion of the application was submitted on October 31, 1972 and the Notice of Receipt of Application for a Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595). The Notice of Hearing was also published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595).

A copy of all of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with re-

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[1] The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric Department, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

spect to the Central Maine Power Company and the Massachusetts Municipal Wholesale Electric Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before September 26, 1977.

Dated at Bethesda, Maryland, this 21st day of July, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-21776 Filed 7-27-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-31]

CASUALTY REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Marine Casualty Report.—A report on the collision between the Norwegian bulk carrier SS BAUNE and the U.S. tankship KEYTRADER in the lower Mississippi River on January 18, 1974, has been made available to the public. The report No. USCG/NTSB-MAR-77-1, was released jointly by the National Transportation Safety Board and the U.S. Coast Guard on July 27.

The report indicates that the bow of the BAUNE penetrated about 20 feet into the two forward cargo tanks on the starboard side of the KEYTRADER. Gasoline spilled from the ruptured cargo tanks onto the maindecks of both vessels and onto the surrounding water and ignited; the flames were not extinguished for 53 hours. The collision and fire damaged both vessels extensively, killed six persons, and injured three others; ten persons are missing.

The Safety Board has determined that the probable cause of this casualty was the failure of the KEYTRADER's pilot to correctly interpret the BAUNE's movements, which led him to make a port turn to position his ship for an improper starboard-to-starboard passing with the BAUNE.

Contributing to the accident were the operation of both vessels at speeds that did not allow sufficient time to establish a radar trackline, compounded by the inadequate use of the shipboard radar to evaluate a safe passing manuever; the failure to establish communications; the inadequacy of sound signals under existing environmental conditions; and the failure of the BAUNE to maintain a lookout.

As a result of its analysis of this accident, the Safety Board on June 15 recommended in recommendation No. M-77-7 that the Maritime Administration of the U.S. Department of Commerce develop a plan covering both Collision Avoidance System (CAS) and Marine Radar Interrogation Transponders (MRIT) for early installation of electronic collision avoidance aids aboard ships that are navigating by radar on inland waterways. The Board believes that CAS or MRIT would have significantly increased the probability of mutual detection of the KEYTRADER and the BAUNE and would have indicated that the BAUNE was moving upriver and not out of an anchorage area—as was assumed by the pilot of the KEYTRADER.

As a further result of its analysis, the Safety Board also on June 15 recommended (M-77-1 through 6) that the Coast Guard: Set guidelines to determine the maximum safe speeds for vessels navigating with radar in limited visibility on inland waters; develop minimum standards for manually processing radar data to evaluate movements of approaching radar contacts on inland waters; develop and disseminate information about drawbacks in using sound signals between vessels, including the effects of environmental conditions on sound; and develop guidelines to determine the maximum strength of a current that can allow two-way movement of vessels navigating by radar in limited visibility. (See 42 FR 31851, June 23, 1977.)

Aviation Safety Recommendations A-77-52 and 53.—Corrective measures to eliminate misunderstandings between pilot and controller regarding altitude or vector assignments have been recommended by the Safety Board as a result of its investigation of the near midair collision last November 17 between TWA Flight 373 (a B-727) and TWA Flight 516 (a DC-9) near Appleton, Ohio. Two crewmembers were injured as the pilot of TWA 516 took evasive action. Investigation of the incident revealed that neither the flightcrew of TWA 373 nor the air traffic controller understood or heard correctly each other's message regarding altitude assignment.

The Safety Board believes that such a communications problem could have resulted in a midair collision, and has focused its investigation on the adequacy of actual communications procedures in the air traffic control system. As a result of this investigation, the Safety Board on July 25 recommended that the Federal Aviation Administration—

Amend the language of ATP Handbook 7110.65 to specify that a controller who issues an altitude assignment and/or a vector heading assignment to an aircraft in flight be required to request readback of the clearance if he does not receive one from the crew. Pilot acknowledgment without readback should not be accepted by the controller. (A-77-52)

Instruct FAA Air Carrier District Office Chiefs and General Aviation District Office Chiefs to alert their personnel to the circumstances surrounding this incident; and require those facilities to take all appropriate action to assure that pilots are made aware of communications procedural requirements and understand why strict adherence to recommended procedures is essential to safe flight. (A-77-53)

Both recommendations are designated "Class II," requesting priority followup.

Aviation Safety Recommendations A-77-54 and 55.—Failure of the main rotor hub tension/torsion strap assembly, P/N 206-010-105-3, caused three Bell Model 206B helicopter accidents within the past 14 months, the Safety Board advised the Federal Aviation Administration on July 26. The strap assembly failures resulted in immediate separation of the main rotor hub and blade installation from the rotorcraft. The Board cited these accidents involving Bell Model 206B helicopters:

On April 17, 1976, N14856 crashed into the Gulf of Mexico; the pilot was killed. The strap assembly had accumulated a total time of 1,811:40 hours when it failed.

On December 11, 1976, N49669 was involved in an accident when the main rotor hub and blade installation separated from the rotorcraft during rotor runup before takeoff from an oil rig platform. The main rotor hub and blade installation was hurled into the Gulf of Mexico. Total time on the failed strap assembly was 2,000 hours.

On March 17, 1977, N90071 crashed into the Gulf of Mexico when its main rotor hub and blade installation separated about one minute after takeoff from an oil rig platform; the pilot died in the crash. Total time on the failed strap assembly was 799:50 hours.

The Safety Board is aware that three Airworthiness Directives have been issued as a result of these accidents. However, in view of the catastrophic consequences that result from such failures and since metallurgical examination of the failed strap wires from these three accidents has disclosed several types of fractures, stretches, and rolls, and evidence of corrosion, the Board believes that further corrective action is necessary. Accordingly, the Board recommends that FAA—

Issue an Airworthiness Directive to reduce the service life of the tension/torsion strap assembly, P/N 206-010-105-3 and -5, from 1,200 hours to 600 hours until the cause of these failures can be determined and eliminated. (A-77-54)

Expedite the development of a tension/torsion strap fabricated from a material less susceptible to fatigue and corrosion than that currently used and require retrofit as soon as the replacement strap is available. (A-77-55)

Both recommendations are designated "Class I," asking for urgent followup action.

RESPONSES TO SAFETY RECOMMENDATIONS

Marine: M-74-2.—U.S. Coast Guard on July 21 responded to one of the recommendations which was issued by the Safety Board following investigation into the collision of the tug CAROLYN and WEEKS Barge No. 254 with the Chesapeake Bay Bridge and Tunnel on September 21, 1972. The recommendation asked that Coast Guard determine the effects of fatigue on personnel error as a cause of marine casualties, with particular reference to the sizes of crews carried on towing vessels. (Report No. USCG/NTSB-Mar-74-2)

Coast Guard reports that in June 1975 Operational Research, Inc., was contracted for a study on personnel practices. In addition to training and qualification standards, the study is to identify practical methods by which Coast Guard can improve human safety performance. Coast Guard notes that as there is no single pattern of behavior which appears to be common to a large number of accidents, it is difficult to demonstrate that a change to the man-machine system is practical. To better understand the problem of human "cause," individual-oriented factors, such as medical or medication problems, complacency, personality conflicts, stress reactions and others will be researched. Coast Guard expects the program will extend over several years in view of the complexity of the program involving task analysis, training specifications, simulator research, and other factors.

Marine: M-77-7.—The Maritime Administration (MarAd) on July 22 advised the Safety Board that it has no authority to establish guidelines to provide for the use of MRIT and CAS by vessels that are navigating by radar on inland waters. The letter is in response to the recommendation issued following investigation of the collision of the SS BAUNE and the tankship KEYTRADER in the lower Mississippi River, January 1974. (See first item of this notice regarding release of report on this accident.)

MarAd's response notes, however, its support in recent years for the use of MRIT and CAS. MarAd states that a mandatory requirement for installing CAS on newly constructed U.S. flag tankers has been an integral part of MarAd's Construction-Differential Subsidy (CDS) Program since 1972. The use of CDS funds to offset the cost of providing other types of U.S. flag vessels with this equipment is encouraged by MarAd.

Performance specifications developed by MarAd and the Radio Technical Commission for Marine Services (RTCM) were recently incorporated in the U.S. Coast Guard's proposed rule requiring all vessels of 10,000 gross tons and over, entering U.S. ports, to have a second radar with a computer-aided CAS which meets RTCM performance specifications. MarAd says that if adopted in its present form, the new rule will provide for the mandatory procurement and installation of this equipment on both U.S. and foreign flag vessels of 10,000 gross tons and over entering U.S. ports.

Further, MarAd reports that its Office of Advanced Ship Operations is now engaged in research and development efforts dealing with MRIT. According to MarAd, this device has been evaluated technically and appears to have significant potential to improve the operation of CAS, and perhaps Vessel Traffic Systems. MarAd states, "The MRIT system could prove to be both operationally feasible and marketable; however, international acceptance of the system will be necessary before the maximum benefit can be realized."

MarAd's ongoing program to improve marine navigational safety is highlighted by research at the Computer-Aided Operations Research Facility at the National Maritime Research Center, Kings Point, New York. MarAd says that this facility is a sophisticated research simulator dedicated exclusively to solving marine oriented problems, and that it is being used to conduct experiments to enhance navigational safety and equipment, especially CAS and MRIT, and to identify human factors which contribute to marine casualties.

MarAd indicates that it will continue its work to prevent or reduce the risk of ship collisions through the expanded use of automated radar detection systems.

Aviation: A-74-105 through 114.—The Safety Board on July 28 requested the Federal Aviation Administration to provide a written status report on the ten recommendations issued as a result of the Board's special study, "Safety Aspects of Emergency Evacuations from Air Carrier Aircraft." FAA's last letter to the Safety Board in response to these recommendations is dated May 9, 1975 (40 FR 24252, June 5, 1975), and the Board is aware that FAA has since taken several actions to resolve the recommendations.

NOTE: The above notice consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. The marine casualty report and safety recommendation letters in their entirety are available to the general public: single copies are obtainable without charge. Copies of the full text of responses to recommendations and any Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 1, 1977.

[FR Doc.77-22436 Filed 8-3-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

SALT LAKE CITY DISTRICT ADVISORY COUNCIL

Public Meeting

The Salt Lake City District Advisory Council will hold a public meeting at 9:00 a.m., Thursday, August 25, 1977 in the Federal Building, 128 South State Street, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Clair R. Hopkins, District Director, U.S. Small Business Administration, 2237 Federal Building, Salt Lake City, Utah 84138, 801-588-5804.

Dated: July 29, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-22368 Filed 8-3-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

[CGD 77-138]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 9, 1977 to June 1, 1977 (List No. 10-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/206/1, Type SS 5001, 50-person survival capsule launching system (winch-type); approved as an alternate to a lifeboat davit for a maximum working load of 17,000 lbs. on a single-part fall; identified by general arrangement drawing SS 5001, revision A dated March 31, 1977, and drawing list SS 5001, revision E dated April 22, 1977, electrical components determined suitable for use in Class I, Group D hazardous locations as defined by 46 CFR 111.80-5, approved for installation with Lake Shore, Inc. Model LS-1711 E lifeboat winch (Approval 160.015/111/1) for use

on artificial islands, fixed structures, and drilling rigs, both self-propelled and nonself-propelled, manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, California 92041, effective June 1, 1977. (It supersedes Approval No. 160.032/206/0 dated June 17, 1976 to show new system designation and drawing references.)

INFLATABLE LIFE RAFTS

Approval No. 160.051/50/1, inflatable life raft, 6-person capacity; identified by general arrangement drawing 5RA1053, revision A dated March 8, 1977 and drawing list dated April 26, 1977, canopy supported by cross arch tubes, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/50/0 dated December 23, 1974 to show drawing revision.)

Approval No. 160.051/51/1, inflatable life raft, 15-person capacity; identified by general arrangement drawing 5RA-1060, revision A dated March 8, 1977 and drawing list dated April 26, 1977, canopy supported by center strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/51/0 dated December 23, 1974 to show drawing revisions.)

Approval No. 160.051/52/1, inflatable life raft, 20-person capacity; identified by general arrangement drawing 5RA-1069, revision A dated February 22, 1977 and drawing list dated April 26, 1977, canopy supported by center strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/52/0 dated December 23, 1974 to show drawing revisions.)

Approval No. 160.051/53/1, inflatable life raft, 25-person capacity with "Ocean Service Equipment"; identified by general arrangement drawing 5RA1063, revision B dated March 8, 1977 and drawing list dated April 26, 1977, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/53/0 dated May 22, 1975 to show drawing revisions.)

Approval No. 160.051/81/1, inflatable life raft, 25-person capacity with "Limited Service Equipment"; identified by general arrangement drawing 5RA1063, revision B dated March 8, 1977 and drawing list dated April 26, 1977, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/81/0 dated May 22, 1975 to show drawing revisions.)

Approval No. 160.051/88/1, inflatable life raft, 10-person capacity; identified by general arrangement drawing 5RA-1010, revision D dated March 8, 1977 and drawing list dated April 26, 1977, canopy supported by center strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/88/0 dated February 27, 1976 to show drawing revisions.)

Approval No. 160.051/91/1, inflatable life raft, 8-person capacity; identified by general arrangement drawing 5RA1078, revision A dated March 8, 1977 and drawing list dated April 26, 1977, canopy supported by center strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/91/0 dated July 19, 1976 to show drawing revisions.)

Approval No. 160.051/92/1, inflatable life raft, 12-person capacity; identified by general arrangement drawing 5RA-1081, revision A dated March 8, 1977 and drawing list dated April 26, 1977, canopy supported by center strut-tube, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24893, effective May 25, 1977. (It supersedes Approval No. 160.051/92/0 dated July 30, 1976 to show drawing revisions.)

MARINE BUOYANT DEVICE

Approval No. 160.064/162/0, adult large, Model Nos. SSV–75L, SSV–15L, SSV–16L, or SSV–415L, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/162/0 dated May 19, 1972.)

Approval No. 160.064/163/0, adult X-Large, Model Nos. SSV–75XL, SSV–15XL, SSV–16XL, or SSV–415XL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/163/0 dated May 19, 1972.)

Approval No. 160.064/164/0, adult XX-Large, Model Nos. SSV–75XXL, SSV–15XXL, SSV–16XXL, or SSV–415XXL, foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/164/0 dated May 19, 1972.)

Approval No. 160.064/165/0, adult XXX-Large, Model Nos. SSV–75XXXL, SSV–15XXXL, or SSV–16XXXL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/165/0 dated May 19, 1972.)

Approval No. 160.064/166/0, adult small, Model Nos. SSV–75S, SSV–15S, SSV–16S or SV–415S, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/166/0 dated May 19, 1972.)

Approval No. 160.064/167/0, adult medium, Model Nos. SSV–75M, SSV–15M, SSV–16M or SSV–415M, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/167/0 dated May 19, 1972.)

Approval No. 160.064/168/0, adult small, Model Nos. SSV–10S, SSV–70S, SSV–400S, SSV–401S or SSV–402S, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III, PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/168/0 dated May 19, 1972.)

Approval No. 160.064/169/0, adult medium, Model Nos. SSV–10M, SSV–70M, SSV–400M, SSV–401M or SSV–402M, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/169/0 dated May 19, 1972.)

Approval No. 160.064/170/0, adult large, Model Nos. SSV–10, SSV–70, SSV–400, SSV–401 or SSV–402L, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/170/0 dated May 19, 1972.)

Approval No. 160.064/171/0, adult X-large, Model Nos. SSV–10, SSV–70, SSV–400, SSV–401 or SSV–492XL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/171/0 dated May 19, 1972.)

Approval No. 160.064/172/0, adult XX-large. Model Nos. SSV–10, SSV–70, SSV–400, SSV–401, or SSV–402XXL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/172/0 dated May 19, 1972.)

Approval No. 160.064/173/0, adult XXX-large, Model Nos. SSV–10, SSV–70, SSV–400, SSV–401 or SSV–402XXXL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/173/0 dated May 19, 1972.)

Approval No. 160.064/177/0, adult small, Model No. FJB–60S, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/177/0 dated May 19, 1972.)

Approval No. 160.064/178/0, adult medium, Model No. FJB–60M, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/178/0 dated May 12, 1972.)

Approval No. 160.064/179/0, adult large, Model No. FJB–60L, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/179/0 dated May 12, 1972.)

Approval No. 160.064/180/0, adult X-large, Model No. FJB–60XL, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/180/0, dated May 12, 1972.

Approval No. 160.064/181/0 adult small, Model No FJ–50S, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/181/0 dated May 12, 1972.)

Approval No. 160.064/182/0, adult medium, Model No. FJ–50M, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/182/0 dated May 12, 1972.)

Approval No. 160.064/183/0, adult large, Model No. FJ–50L, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL file No. MQ 29, factory location: Highway 10, Saulk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/183/0 dated May 12, 1972.

Approval No. 160.064/184/0, adult X-large, Model No. FJ–50XL, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/184/0 dated May 19, 1972.)

Approval No. 160.064/199/0, adult small, Model No. SSV–500S, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/199/0 dated May 19, 1972.)

Approval No. 160.064/200/0, adult medimum, Model No. SSV–500M, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/200/0 dated May 19, 1972.)

Approval No. 160.064/201/0, adult large, Model No. SSV–500L, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/201/0 dated May 19, 1972.)

Approval No. 160.064/202/0, adult X-large, Model No. SSV–500XL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/202/0 dated May 19, 1972.)

Approval No. 160.064/203/0, adult XX-large, Model No. SSV–500XXL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/203/0 dated May 19, 1972.)

Approval No. 160.064/204/0, adult XXX-large, Model No. SSV–500XXXL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/204/0 dated May 19, 1972.)

Approval No. 160.064/246/0, adult petite, Model Nos. SSV–21, SSV–25, SSV–35 or SSV–31, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379,

Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/246/0 dated May 12, 1972.)

Approval No. 160.064/247/0, adult small, Model Nos. SSV–21, SSV–25, SSV–35, or SSV–31, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1972. (It is an extension of Approval No. 160.064/247/0 dated May 12, 1972.)

Approval No. 160.064/248/0, adult medium, Model Nos. SSV–21, SSV–25, SSV–35 or SSV–31, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1972. (It is an extension of Approval No. 160.064/248/0 dated May 12, 1972.)

Approval No. 160.064/249/0, child large, Model No. SSV–22 or SSV–32, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/249/0 dated May 12, 1972.)

Approval No. 160.064/250/0, child medium, Model No. SSV–22 or SSV–32, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1972. (It is an extension of Approval No. 160.064/250/50/0 dated May 12, 1972.)

Approval No. 160.064/255/0, adult small, Model No. FJ–51, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/255/0 dated May 12, 1972.)

Approval No. 160.064/256/0, adult medium, Model No. FJ–51, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, factory location: Highway 10, Sauk Rapids, Minnesota 56379, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/256/0 dated May 12, 1972.)

Approval No. 160.064/257/0, adult large, Model No. FJ–51, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It is an extension of Approval No. 160.064/257/0 dated May 12, 1972.)

Approval No. 160.064/1136/0, adult, Model Nos. IWV–220 and IWV–222, cloth covered unicellular plastic foam "Work Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, P.O. Box 1498, St. Cloud, Minnesota 56301, effective June 1, 1977. (It supersedes Approval No. 160.064/1136/0 dated September 3, 1976.)

Approval No. 160.064/1144/0, Adult Universal, Model No. Rodney 1, cloth covered unicellular plastic foam "Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 203, Type III PFD, manufactured by Taylortec, Inc., 2549 Hickory Avenue, Metairie, Louisiana 70003, effective May 24, 1977.

Approval No. 160.064/1173/0, adult small, Model No. JAD100, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Tretnon, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1174/0, adult medium, Model No. JAD100, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1175/0, adult large, Model No. JAD100, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1176/0, adult small, Model No. JAD200, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1177/0, adult medium, Model No. JAD200, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1178/0, adult large, Model No. JAD200, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1179/0, adult small, Model No. JAD300, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1180/0, adult medium, Model No. JAD300, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report File No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1181/0, adult large, Model No. JAD300, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report File No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1182/0, adult extra large, Model No. JAD300, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report File No. MQ 272, Type III PFD, manufactured by East Wind Industries, Inc., 1514 Chestnut Avenue, Trenton, New Jersey 08611, effective May 26, 1977.

Approval No. 160.064/1256/0, adult large, Model No. H–2, cloth covered unicellular plastic foam "Sailing & Kayaking Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 280, factory location: 90 Washington Drive, Centerport, New York 11721, Type III PFD, manufactured by Extrasport, Inc., Herishok Division, P.O. Box 22, Halesite, New York 11743, effective May 24, 1977.

Approval No. 160.064/1257/0, adult medium, Model No. H–3, cloth covered unicellular plastic foam "Sailing & Kayaking Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.64 and UL/MD report file No. MQ 280, factory location: 90 Washington Drive, Centerport, New York 11721, Type III PFD, manufactured by Extrasport, Inc., Herishok Division, P.O. Box 22, Halesite, New York 11743, effective May 24, 1977.

Approval No. 160.064/1258/0, adult small, Model No. H–4, cloth covered unicellular plastic foam "Sailing & Kayaking Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.64 and UL/MD report file No. MQ 280, factory location: 90 Washington Drive, Centerport, New York 11721, Type III PFD, manufactured by Extrasport, Inc., Herishok Division, P.O. Box 22, Halesite, New York 11743, effective May 24, 1977.

Approval No. 160.064/1276/0, adult small, Model No. SU–S, cloth covered unicellular plastic foam "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective May 24, 1977.

Approval No. 160.064/1277/0, adult medium, Model No. SU–M, cloth covered unicellular plastic foam "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective May 24, 1977.

Approval No. 160.064/1278/0, adult large, Model No. SU–L, cloth covered unicellular plastic foam "Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective May 24, 1977.

Approval No. 160.064/1279/0, adult X-large, Model No. SU–XL, cloth covered unicellular plastic foam "Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective May 24, 1977.

SOUND-POWERED TELEPHONE STATION

Approval No. 161.005/4/6, sound-powered telephone station relay for operation with hand generator, non-locking, splashproof, dwg. 60–162–4 dated February 23, 1977, for connecting in parallel with hand generator bell on machinery space sound-powered telephone station to operate separately powered audible signal, manufactured by Henschel Corporation, Amesbury, Massachusetts 01913, effective May 26, 1977. (It supersedes Approval No. 161.005/4/5 dated February 2, 1976.)

Approval No. 161.005/5/6 sound-powered telephone station relay for operation with hand generator, locking, splashproof, dwg. 60–164–2 dated February 23, 1977, for connecting in parallel with hand generator bell on machinery space sound-powered telephone stations to operate separately powered audible signal, manufactured by Henschel Corporation, Amesbury, Massachusetts 01913, effective May 26, 1977. (It supersedes Approval No. 161.005/5/5 dated February 2, 1976.)

Approval No. 161.005/55/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, with attached 4" bell, Model SWT4, dwg. No. 55, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Company, Inc., 524 W. 23rd Street, New York, New York 10011, effective May 17, 1977. (It is an extension of Approval No. 161.005/55/0 dated July 17, 1972.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/30/2, Oceco Type E21B flame arrester, cast iron body, fixed bank assembly, aluminum or stainless steel arrester plates, bolted end covers, approved for sizes 3", 4", 6", 8", 10", and 12", formerly with extensible bank assembly, dwg. No. HOC–195–A, manufactured by The Johnston & Jennings Company, 4700 West Division Street, Chicago, Illinois 60651, effective May 9, 1977. (It supersedes Approval No. 162.-016/30/2 dated June 17, 1976 to show minor changes.)

Dated: July 27, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc 77-22405 Filed 8-3-77;8:45 am]

Federal Aviation Administration

FLIGHT SERVICE STATION AT CHARLOTTESVILLE, VIRGINIA

Notice of Relocation

Notice is hereby given that on or about July 25, 1977, the Flight Service Station at Charlottesville, Va., will be relocated to Leesburg, Va., where it will be consolidated with the Washington Flight Service Station. It will continue to provide service to the general aviation public in the Charlottesville area without interruption from the new location. Communications to the Flight Service Station should be addressed as follows:

Washington Flight Service Station, Department of Transportation, Federal Aviation Administration, Air Route Traffic Control Center, Intersection Routes 7 and 654, Leesburg, Virginia 22075.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354.)

Issued in New York, N.Y., on July 18, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc 77-22122 Filed 8-3-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., August 8, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Personal actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1035-77 Filed 8-1-77;12:27 pm]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:45 a.m., August 8, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Bank of Clarksville, to be located at 201-203 South Third Street, Clarksville, Tennessee.

Application for consent to establish a branch:

Combank/Casselberry, Casselberry, Florida, at the northwest corner of Palm Springs Road and State Road 436, Unincorporated Seminole County (P.O. Altamonte Springs), Florida.

Application for consent to add $100,000 subordinated capital note to the bank's capital structure:

Citizens Bank, Cairo, Georgia.

Application for consent to merge and establish branches:

Barnett Bank of Pensacola, Pensacola, Florida, an insured State nonmember bank, for consent to merge with Barnett Bank of North Pensacola, Escambia County (P.O. Pensacola), Florida, also an insured State nonmember bank, under the charter and title of Barnett Bank of Pensacola, and to establish the sole office of Barnett Bank of North Pensacola as a branch of the resultant bank.

Citizens Bank of Palm Beach County, West Palm Beach, Florida, an insured State nonmember bank, for consent to merge under its charter and title with First Forest Hill Bank of Palm Beach County, Palm Beach County (P.O. West Palm Beach), Florida, also an insured State nonmember bank, and to establish the sole office of First Forest Hill Bank of Palm Beach County as a branch of the resultant bank.

Citizens & Northern Bank, Ralston, Pennsylvania, an insured State nonmember bank, for consent to merge under its charter and title with Sullivan County National Bank, LaPorte, Pennsylvania, and to establish the two offices of Sullivan County National Bank as branches of the resultant bank.

Northern Central Bank, Williamsport, Pennsylvania, an insured State nonmember bank, for consent to merge under its charter and title with The Guaranty Trust and Safe Deposit Company of Shamokin, Pa., Shamokin, Pennsylvania, and to establish the three offices of The Guaranty Trust and Safe Deposit Company of Shamokin, Pa. as branches of the resultant bank.

Application for consent to merge, establish four branches, and retire capital debentures:

The Commerce Bank and Trust Company of Maryland, Bethesda, Maryland, an insured State nonmember bank, for consent to merge under its charter with Potomac National Bank, Potomac, Maryland, with the title "Potomac Valley Bank;" to establish the four approved offices of Potomac National Bank as branches of the resultant bank; and to retire an $800,000, 9 percent subordinated capital debenture, presently an obligation of Potomac National Bank, following consummation of the merger.

Application for consent to merge, establish five branches, and exercise trust powers:

Augusta Bank & Trust Company, Augusta County (P.O. Fishersville), Virginia, an insured State nonmember bank, for consent to merge under its charter, and with the title "Planters Bank & Trust Company of Virginia," with Planters Bank and Trust Company, Staunton, Virginia, also an insured State nonmember bank; to establish the five offices of Planters Bank and Trust Company as branches of the resultant bank; and to exercise full trust powers.

Recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: Bank of Picayune, Picayune, Mississippi.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(10)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1036-77 Filed 8-1-77;12:27 pm]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 11:00 a.m., August 8, 1977.

PLACE: Board Room, Sixth Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Crested Butte State Bank, to be located at Sixth Street and Elk Avenue, Crested Butte, Colorado.

Paonia State Bank, to be located at 128 Grand Avenue, Paonia, Colorado.

Treasure State Bank, to be located at 114 Sixth Street South, Glasgow, Montana.

Application for consent to establish an unmanned automatic branch:

The Arizona Bank, Phoenix, Arizona, at 2727 South 48th Street, Tempe, Arizona.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Schall, Boudreau & Gore, Inc., San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Chapman and Cutler, Chicago, Illinois, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of Northeast Bank of Houston, Houston, Texas.

Strasburger, Price, Kelton, Martin & Unis, Dallas, Texas, in connection with the receivership of Sharpstown State Bank, Houston, Texas.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the publication for comment of amendments to Part 311 of the Corporation's rules and regulations, entitled "Rules Governing Public Observation of Meetings of the Corporation's Board of Directors."

Memorandum and resolution proposing the final adoption of a new Part 343 of the Corporation's rules and regulations, to be entitled "Insured State Nonmember Banks Which are Municipal Securities Dealers."

Memorandum and resolution proposing that the Chairman be authorized to consent to amendments to a Loan Agreement entered into between Southern Bancorporation, Inc., Greenville, South Carolina, and First Union National Bank of North Carolina, Charlotte, North Carolina, and to execute amendments to a Guaranty Agreement entered into between the Corporation and First Union National Bank of North Carolina.

Recommendation with respect to the payment of a 25 percent third dividend in connection with the receivership of Swope Parkway National Bank, Kansas City, Missouri.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding the transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation with respect to the status of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands, as of June 30, 1977.

Reports with respect to security transactions authorized by the Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1037-77 Filed 8-1-77;12:27 pm]

4

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTERED CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 147, pp. 38960 and 39961, Monday, August 1, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 3, 1977, 9:30 a.m.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open and closed meeting

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012

CHANGES IN THE MEETING:

THE OPEN AND CLOSED PORTION OF THE MEETING PREVIOUSLY SCHEDULED FOR THE ABOVE DATE HAS BEEN CANCELLED.

No. 58, August 2, 1977.

[S-1043-77 Filed 8-2-77;11:57 am]

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: July 29, 1977, 4:00 p.m.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Consideration of Price List for Certain FOLA Data Copies.

Consideration of Amendment to FHLBB Resolution Nos. 77-435 and 77-436 Regarding Olympic Federal Savings and Loan Association, San Francisco, California, and First Federal Savings and Loan Association of Fresno, Fresno, California.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.

No. 57, August 1, 1977.

[S-1034-77 Filed 8-1-77;12:27 pm]

6

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10:00 a.m., Monday, August 8, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Computer purchased by the Federal Reserve Bank of Richmond.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: August 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board

[S-1042-77 Filed 8-2-77;9:07 am]

7

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10:00 a.m., Wednesday, August 3, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. a. Proposed amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) and Y (Bank Holding Companies), to require certain municipal securities dealers to file with the Board information about persons associated with them as municipal securities principals or municipal securities representatives. (Proposed earlier for public comment: Docket No. R-0090).

b. In connection with the proposed amendments to Regulations H and Y, establishment of a system of records under the Privacy Act of 1974 dealing with persons who are or seek to be municipal securities principals or representatives and are associated with certain financial institutions. (Proposed earlier for public comment; Docket No. R-0091).

2. Possible amendments to the Board's Rules Regarding Delegation of Authority to delegate to the Director of the Division of Banking Supervision and Regulation certain authority in connection with administration of Municipal Securities Rulemaking Board rules.

3. A possible Board interpretation of Regulation B (Equal Credit Opportunity) to clarify the meaning of § 202.8, Special Purpose Credit Programs, by defining the phrase "expressly authorized by law". (Proposed earlier for public comment; Docket No. R–0100).

4. Proposal by the Federal Reserve Bank of Atlanta for approval of conceptual design for the Miami Branch building.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202–452–3204.

Dated: July 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–1044–77 Filed 8–2–77;12:55 pm]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 10, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public:

Docket 29–K, *Hannahville Indian Community.*
Docket 226, *Caddo* (two items).
Docket 326–K, *Western Shoshone* (three items).

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006, Telephone 202–653–6184.

[FR Doc.S–1038–77 Filed 8–1–77;3:35 pm]

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, August 8, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda:

1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone 202–275–7535.

Dated: August 1, 1977.

[FR Doc.S–1041–77 Filed 8–1–77;4:09 p.m.]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, August 11, 1977 (NM–77–24).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. *Railroad/Highway Accident Report.* Collision of a Burlington Northern Freight Train With a Bus, Stratton, Nebraska, August 8, 1976.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–1039–77 Filed 8–1–77;3:40 pm]

11

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: Immediately following open meeting, Thursday, August 11, 1977 (NM–77–25).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. *Opinion and Order.* Administrator v. Overstreet, SE–3581; disposition of appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[FR Doc.S–1040–77 Filed 8–1–77;3:40 pm]

federal register

THURSDAY, AUGUST 4, 1977
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

FEDERAL COMMUNICATIONS COMMISSION

■

LAND MOBILE RADIO SERVICES

Consolidation of Regulations

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 90, 91 and 93]

[Docket No. 21348; FCC 77-521]

LAND MOBILE RADIO SERVICES

Consolidation of Regulations

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of Proposed Rule Making.

SUMMARY: This Notice proposes to consolidate Parts 89, 91 and 93 of the Commissions rules for the purpose of clarification, simplification, and reregulation of the various licensing, technical, and operational requirements in the Private Land Mobile Radio Services operating under those rules.

DATES: Comments due by January 4, 1978, and reply comments by February 2, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Taube, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, (202) 632-6497.

In the matter of amendment of the Commission's rules governing the Private Land Mobile Radio Services to provide a new part 90 that re-regulates and consolidates Parts 89, 91, and 93.

Adopted: July 21, 1977.

Released: July 27, 1977.

1. Notice of Proposed Rule Making is hereby given in the above entitled matter. The purpose of this proceeding is to examine and to consolidate and re-regulate as necessary the Commission's Rules that govern the Private Land Mobile Radio Services. These rules are contained in Parts 89, 91, and 93 of Volume V of the Commission's Rules and cover, respectively, the Public Safety, Industrial, and Land Transportation Radio Services.

BACKGROUND

2. The Commission's Rules for the Private Land Mobile Radio Services are presently in three separate rule parts that contain procedures for obtaining licenses, and the technical standards of those licenses. Part 89 (Public Safety) encompasses local governmental and public emergency radio uses; Part 91 (Industrial) covers radio operations for various commercial, manufacturing, and utility activities; and Part 93 (Land Transportation) combines the radio services for passenger and freight carrying land-based vehicles.

3. The radio services in the separate rule parts are distinguishable with respect to the activities which may be licensed, permissible communications, and most of the available frequencies. However, most of the general provisions in each part are very similar and often are identical both in language and in intent. These provisions include general eligibility requirements, definitions, application procedures, most of the technical and operational standards, emergency operation requirements, and developmental licensing procedures. Additionally, a number of special provisions relating to frequency selection are similar in language and effect in each of the three rule parts. These provisions cover frequency assignment policies, coordination requirements, cooperative-use procedures, and the land-mobile spectrum management program that has been developed in the Chicago Region. Rules for certain specialized uses of land mobile radio facilities also appear on an across-the-board basis. These include provisions for secondary non-voice signalling methods, automatic vehicle monitoring (AVM), and UHF-sharing. Finally, provisions for the use of special frequency bands are included almost identically in each of these rule parts to cover operations in bands from 72-76 MHz to 900 MHz and above.

4. In light of the commonality of major portions of Parts 89, 91, and 93, the Commission has studied the possibility of consolidating these rule parts into one new comprehensive rule part. It appears that consolidation, which can include required re-regulation of the rules, could be readily accomplished and would have many advantages. From the standpoint of simplification, consolidation of the rules should enhance comprehension and facilities referencing and research. Administratively, rule change actions would be less complicated and rules maintenance requirements would be significantly reduced.

5. The rule consolidation effort also provides an excellent opportunity to consider necessary de-regulation of land-mobile radio provisions. Here, we would delete or modify standards, requirements, and limitations that are no longer applicable or no longer serve valid purposes. This aspect alone would appear to warrant that a proceeding of this nature be undertaken.

6. Essentially, the proposals would involve rule changes of both an editorial and substantive nature. The proceeding is not intended, however, to alter the purposes and standards of the various land-mobile radio services; nor are we here concerned with frequency reallocation matters, the authorization of innovative procedures or requirements, or matters dealing with competitive or divergent interests. Nevertheless, the proposals for the indicated re-regulation purposes are unusually complex, extensive, and voluminuos. In light of these factors and to enhance public response, the Commission coordinated the contemplated rule changes with representative groups for the land mobile community to pre-review the proposals as to format, clarity, and effectiveness. One major organization, the Land Mobile Communications Council (LMCC) has provided a number of important suggestions, many of which have been included in the proposals. The LMCC summary report and its recommendations are available to interested persons in the Docket File for this proceeding. Additionally, while it is not feasible to discuss each change involved in this proceeding, the following paragraphs detail the revised rules structure as would appear in Part 90, and significant modifications are specifically noted. Further, Attachment A is a quick-reference summary of the rule changes proposed herein and includes a cross-reference table showing where present rule sections would appear in Part 90. Attachment B is the complete proposed Part 90.

THE PROPOSALS

7. In consideration of the foregoing, the Commission finds that it is appropriate to revise and amend its rules to consolidate Parts 89, 91, and 93 into one new rule part for the land mobile radio services, to be designated as Part 90. A similar rule making action was recently completed for consolidation and re-regulation of private operational-fixed (microwave) radio provisions in new rule Part 94.[1]

8. Part 90 would be divided into seventeen subparts as contrasted to the thirty-four subparts throughout the present Parts 89, 91, and 93. Generally, radio services would no longer be separate subparts as at present but would be included under the broader categories of Public Safety, Industrial, or Land Transportation Services. Two exceptions would be separate subparts for the Special Emergency Service and the Radiolocation Service. The initial subpart (subpart A) contains general information as to the basis and purpose of the private land mobile rules and describes the content and organization of Part 90. One new provision (§ 90.5) would include references to other parts of the Commission's Rules that are often of important to applicants and licensees in the private land mobile services. Definitions are included in this subpart, a number of which are new definitions and others are modified as necessary to reflect current standards. Many matters that appear as "general information" in present Parts 89, 91, and 93 are not considered appropriate for inclusion in this subpart. For example, Part 89, includes application requirements and procedures, technical standards, and operating requirements all as general information. In the proposed Part 90, however, these matters are covered in separate more pertinent rule subparts.

9. Proposed Subparts B, C, D, E, and F cover, respectively the Public Safety, the Special Emergency, the Industrial, the Land Transportation, and the Radiolocation Radio Services. Each Subpart sets forth for each radio service it covers the standards for eligibility, permissible communications, any special conditions, and a listing of the frequencies assignable together with their limitations. One radio service, the State Guard Service would be deleted as a separate service

[1] See the Report and Order in Docket 19869, adopted April 23, 1975 (40 FR 93, May 13, 1975).

with provision made for licensing State Guard functions in the Local Government Radio Service (see § 90.17 (b) and (c)).[2] The only other re-classification in radio services would expand the present Industrial Radiolocation service to become the Radiolocation Radio Service to incorporate all radiolocation functions (see Subpart F).

10. One change in Part 90 that should be helpful is that each radio service would contain for ready-reference virtually every frequency that may be regularly assigned in the particular service involved, as well as those frequencies shared on a secondary basis with licensees in other services, available only on a renewal basis under "grandfathered" provisions, or assignable under limited conditions or for special uses, including developmental uses. The frequencies would be listed in tables supplemented by a description of special additional frequencies assignable. This should greatly simplify an applicant's search for appropriate frequencies, particularly in the Land Transportation services where the frequencies are not presently listed in a table format. The only exception to the frequency lists is the frequency 4883.2 kHz, which is available in all of the services without the necessity of specific authorization, but only in Alaska (see § 90.253). Another change that should aid in frequency selection applies to the limitations on the assignable frequencies. We have eliminated redundant provisions and combined and renumbered many of these limitations, while others are modified to simplify the language. Finally, we have included as a supplement to Part 90, a single complete numerical listing of every frequency assignable together with a description of radio services for the frequency, general uses, and any special uses. Specific comments as to the format and usefulness of this supplemental listing would be particularly helpful.

11. Two modifications of special note applicable to eligibility provisions in the radio services rule parts include § 90.35 (a) in Subpart C. This rule applies to eligibility in the medical services category in the Special Emergency Radio Service, and contains new language to emphasize the present requirements that associations, governmental entities, and governmental agencies may hold licenses for medical operations only when they actively participate in, and provide direct operational control of, the medical services communications activities to be conducted. Another change to note is in the eligibility provisions of the Special Industrial Radio Services in § 90.73 of Subpart D. Here, present provisions have been modified to clarify the categories that may be licensed in this radio service. See also the deletions in the Taxicab Radio Service of limitations on use of communication units in that service that apply to certain specified taxicab-related activities. These units are already countenanced under the rules describing permissible communications.

12. Many provisions that are presently included under individual radio services subparts of Parts 89, 91, and 93, concern matters that will not be included in the services sections in Part 90. These include points of communication, secondary non-voice signalling, requirements for relay and control stations, etc., all of which would appear in other appropriate subparts of Part 90.

13. Proposed subpart G contains the licensing procedures for private land mobile station applications. Provisions therein generally conform to present rule requirements for filing and processing license requests. Some changes to note include the addition of a section (now in Part 1 of the Commission's Rules) as to procedures for Canadian licensees to operate in the United States when permitted under treaty agreements (§ 90.121); the elimination of references to construction permits, as these are no longer issued; and the deletion of requirements, including the use of Form 456, for notification to a Commission field office of commencement of operation, as presently contained in Parts 89, 91, and 93 in numerous sections. In addition, we have extensively expanded the rules concerning procedures for making changes in authorized stations. For example, Section 90.135 describes and clarifies each specific type of change that requires an application for modification of license.

14. The Commission's policies for assignment and use of frequencies in the private land mobile services are now detailed in proposed Subpart H. Important information is included in this subpart with respect to such matters as intersystem interference, frequency coordination, and cooperative use. Note, however, that cooperative use provisions are the subject of the rule making proceeding in Docket 18921, and when action is taken in that proceeding, the new rules will be incorporated into proposed Subpart H. One change from present policy deletes the requirement for applicants to select the highest order of frequencies available as the necessary exceptions to this standard have rendered the requirement relatively meaningless.

15. Technical standards of a general nature are detailed in Subpart I. Of note is new § 90.207 which sets forth not only the emissions that may be authorized under this part, but also the references to the types of operations in which they may be utilized. One present requirement being deleted as unwarranted is that applicants will no longer need to furnish a description of tone codes for non-voice signalling operations. Those technical standards which apply to specialized operations are set forth in Subpart J. That subpart includes secondary non-voice signalling provisions, and the special requirements for radiotelegraphy, radiofacsimile, automatic vehicle monitoring, and radio call boxes. Subpart J also consolidates the various present rule provisions for the authorizations and operation of relay repeater, (including vehicular repeater), and control stations. This should be particularly advantageous in the design of systems for private land mobile operations.

16. There are a number of special frequencies or frequency bands which are available on a general basis in the private land mobile services. They are noted in the frequency tables but the standards applicable to these bands are extensive and, therefore, they have been referenced and included in Subparts K, L, and M. Subpart K contains the special standards for the frequency 4383.8 kHz, and the bands 27.235-27.275 MHz, 72-76 MHz, 216-220 MHz, 450-470 MHz (secondary cross-service fixed), and 1427-1435 MHz. Provisions for substitution of frequencies below 25 MHz are also included in this subpart. Subpart L deals exclusively with the special standards, requirements, and procedures for authorizations in the band 470-512 MHz on the frequencies derived from the Commission's UHF-TV Sharing Program. Similarly, Subpart M governs special licensing and use of frequencies in the 806-821 MHz and 851-866 MHz bands.

17. Subpart N covers operating requirements. Many of these requirements relating to such matters as permissible and prohibited communications, interstation communication limitations, points of communication, and operation of mobile units by persons other than the licensee, presently appear in differing formats, in Parts 89, 91, and 93, either in general provisions or under application procedures, or in the radio services subparts. There is also presently a somewhat random pattern as to where station-identification requirements can be found. Incorporation of each of these operational requirements into one Subpart in Part 90 has enabled us to provide language which is consistent and which should facilitate comprehension and compliance. To the same end, we have combined the various provisions as to control point and dispatch requirements. Another clarifying provision appears in § 90.419(a), concerning the present provisions in Part 89 that permit secondary fixed uses of Public Safety and Special Emergency base station frequencies. Such secondary fixed uses are intended to be authorized only on frequencies below 450 MHz, and this provision reflects this limitation. It also appears to the Commission that present special provisions which allow Industrial and Land Transportation stations to utilize base station frequencies for fixed station communications under certain restricted circumstances involving urgent need to contact mobile units should be extended to the Public Safety and Special Emergency Services on frequencies above 450 MHz. Section 90.419(b) reflects this change. Note, also, the new provision in § 90.341(b), added to permit licensees

[2] There is no apparent need for the eligibility group presently covered by the State Guard Radio Service to be distinguished from other governmental entities as the functions to be served by radio communications can be met in the Local Government Radio Service. The only frequency specifically assignable for State Guard operations is 2726 kHz and this frequency is included in the list available in the Local Government Radio Service.

sharing a tower to appoint one licensee to perform inspection and logging functions. This is not now authorized in the rules but has been allowed on a case-by-case basis.

18. Subpart O sets forth the special requirements for licensing of stations in the Chicago Region under the Chicago Land Mobile Spectrum Management Program. The program applies to major areas in Illinois, Indiana, Iowa, Michigan and Wisconsin.

19. The developmental licensing procedures are contained in Subpart P. The final subpart, Subpart Q, includes the provisions that apply to formalized emergency communications plans for the Industrial and Land Transportation Services. The Industrial plan, the Industrial Communications Emergency Plan (ICEP), contains the requirements recently adopted in Docket 19312 (FCC 75-1285). The Land Transportation Industries Communications Emergency Plan (LATICEP) will be revised in a separate Commission action.

CONCLUSION

20. As stated, the Commission believes that the proposals in this proceeding can contribute substantially to understanding and compliance with rule standards and requirements for the licensing and operation of private land mobile systems. We find, therefore, that proposed rulemaking to adopt these modifications would serve the public interest. It is recognized, however, that in rule changes as voluminous as those proposed herein, there are bound to be provisions that could be further clarified, consolidated, or, in the interest of de-regulation, deleted. Interested persons are urged, therefore, to recommend other possible modifications that can be incorporated within the scope of this rulemaking action. At the same time, it would be helpful if any observed omissions and errors were noted so that they could be corrected. Further, there are and will be a number of concurrent Commission rulemaking proceedings that affect or change specific rules being proposed herein. Such changes will be included at the time final action is taken in this docket.

21. In accordance with the foregoing, Notice of Proposed Rule Making is hereby given to revise Parts 89, 91, and 93 of the Commission's rules by establishment of a new Part 90 that consolidates such rule parts. The specific rule changes proposed are set forth in attachment B. Authority for these proposed amendments are contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

22. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before January 4, 1976, and reply comments on or before February 2, 1976. In accordance with the provisions of § 1.419(b) of the Commission's rules an original and fourteen copies of all statements, briefs, and comments filed shall be furnished the Commission. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. The Commission may also take into account other relevant information before it, in addition to specific comments invited by this Notice.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

ATTACHMENT A.—*Cross reference*

Present section No.	Proposed section and title	Summary of changes proposed
89.1	90.1—Basis and purpose	Minor rewording.
89.3	90.7—Definitions	Deletions and additions as necessary—minor reorganization and clarification.
89.5	NA	
89.7	90.415—Prohibited uses	Minor rewording.
89.9	90.115—Ineligibility of foreign governments	Do.
89.11	90.151—Assignment of station authorizations	Do.
89.12	90.243—Mobile relay stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
	90.245—Fixed relay stations	
	90.247—Vehicular repeater stations	
	90.249—Control stations	
89.13 and 89.14.	90.179—Cooperative use of stations	Awaits resolution of docket 18921.
89.15 (a), (b), and (c).	90.175—Frequency coordination requirements	Minor rewording.
89.15 (d) and (e).	90.177—Protection of certain radio receiving locations.	No change.
89.17	90.411—Civil defense communications in the public safety and special emergency radio services.	Do.
89.51	90.113—Station authorization required	Minor rewording
89.53(a)	90.117—Applications for radio station authorizations.	Do.
89.53 (b), (c), and (d).	NA	
89.55(a)	90.117—Applications for radio station authorization.	Minor rewording, added reference to fees information.
89.55(b)	90.127(a)—Filing of applications	Minor rewording, added Chicago filing address information.
89.55(c)	90.119(b)—Application forms 90.127(b)—Filing of applications	Information set forth in 2 new sections with minor rewording.
89.55(d)	90.139—Preliminary processing of applications	No change.
89.55(e)	90.137—Applications for operation at temporary location.	Minor rewording.
89.55(f)	90.129(e)—Supplemental information to be routinely submitted with applications.	Do.
89.56	90.147—Mailing address furnished by licensee	No change.
89.57	90.125—Who may sign applications	Paragraph (c) expanded.
89.59 (a) and (b).	90.119(a)—Application forms	Minor rewording, referenced form 1046, eliminated construction permit.
89.59(d)	90.119(d)—Application forms	Minor rewording.
89.59(e)	90.145—Special temporary authority	Do.
89.59(f)	NA	Requirement to file form 456 deleted.
89.59(g)	90.119(b) Application forms	Minor rewording.
89.60	90.483 Chicago region	No change.
89.61	90.145 Special temporary authority	Minor rewording—added an eligibility statement requirement.
89.63	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording.
89.65	90.143—Grants of application	Do.
89.67	90.139—Preliminary processing of applications	Deleted reference to alien restrictions.
89.69	90.131—Amendment or dismissal of applications	No change.
89.71	90.153—Time in which stations must be placed in operation.	Minor rewording, deleted construction permit requirements.
89.73	90.149—License term	Minor rewording with clarification.
89.75	90.135—Modification of license	Rewritten to specify changes requiring applications to be approved.
89.77	90.155—Discontinuance of station operation	No change.
89.79	90.191(c)—Police radio service	Do.
89.81	90.487—Special provisions relating to frequency assignments in the Chicago region	Do.
89.101(a), (b) (1), and (g).	90.173—Policies governing the assignment of frequencies.	Deletions and additions as necessary—minor rewording and clarification.
89.101(b)(2)	90.253—Use of the frequency 4363.8 kHz	Combines applicable provisions in this and other sections.
89.101(c)	90.257—Assignment and use of frequencies in the band 72-76 MHz.	Do.
89.101(d)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Do.
89.101(e)	90.263—Substitution of frequencies below 25 MHz.	Combines applicable provisions.
89.101 (h),-(i), and (l).	See various frequency tables in subpts. B, C, and F.	Extensive deletions, additions and rearrangements as necessary, minor rewording and clarification.
89.101 (p) and (q).	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	No change.
89.102	90.241—Radio call box operations	Minor rewording.
89.103	90.213—Frequency tolerance	Includes part of SSB requirements from sec. 89.124—minor rewording.
89.105	90.207—Types of emission	Reworded to reference each operation with types of emission permitted.
89.107	90.209—Bandwidth limitations	Minor rewording and includes schedule from SSB requirements in sec. 89.124.
89.109	90.211—Modulation requirements	Minor rewording and clarification.
89.111	90.205—Power	Do.
89.113(a)	90.427—Precaution against unauthorized operation.	Minor rewording combined with other sections.
89.113 (b), (c), (d), and (e).	90-429—Control point and dispatch point requirements.	Minor rewording and rearrangement.

Present section No.	Proposed section and title	Summary of changes proposed
89.115	90.215—Transmitter measurements	Minor rewording.
89.117	90.203—Type acceptance required	Combined with other sections.
89.119	do	Do.
89.120	90.239—Interim provisions for operation of Automatic Vehicle Monitoring (AVM) systems.	Minor rewording.
89.122	90.237—Interim provisions for operation of radioteleprinter and radiofacsimile devices.	Do.
89.123	Subpt. L—Authorization in the band 470-512 MHz (UHF-TV sharing).	Combined with other sections.
89.124	NA	Rearranged by including technical standards in other appropriate sections.
89.126	90.235—Secondary fixed tone-signalling and alarm operations.	Minor rewording.
89.151 (a), (b), (d), and (e).	90.403—General operating procedure.	Added priority to safety-of-life-or-property communications.
89.151(c)	90.19(b)—Police radio service	Combined with other sections.
89.153	90.425—Station identification	Combined with rules for industrial and land transportation.
89.155	90.403—General operating procedure	Combined with other sections.
89.156	90.423—Operations on board aircraft	Minor rewording.
89.157	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Combined with other sections.
89.159	90.409—Emergency operation of public safety and special emergency mobile stations at fixed locations.	No change.
89.161(a)	90.417—Interstation communications	Combined with other sections.
89.161(b)	90.253—Use of the frequency 4363.8 kHz	Minor rewording.
89.163 (a), (b), and (e).	90.433—Operator license requirements	Do.
89.163(d)	90.431—Unattended operation	Do.
89.163(f)	90.427—Precautions against unauthorized operation.	Minor rewording, combined with other sections.
89.165	90.435—Posting of operator license	Minor rewording.
89.167	90.437—Posting station licenses and transmitter identification cards or plates.	Do.
89.169	90.439—Inspection of stations	No change.
89.171	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
89.173	90.449—Answers to a notice of violation	Minor rewording.
89.175	90.443—Contents of station records	No change.
89.177	90.445—Form of station records	Do.
89.179	90.447—Retention of station records	Do.
89.201	90.503—Eligibility	Minor rewording.
89.203	90.505—Showing required	Do.
89.205	90.507—Limitations on use	Do.
89.207	90.509—Frequencies available for assignment	No change.
89.209	90.511—Interference	Minor rewording.
89.211	90.513—Special provisions	Do.
89.213	90.515—Change or cancellation of authorization without hearing	No change except title.
89.215	90.517—Report of operation	Minor rewording.
89.251, and 89.253.	90.17(a)—Local government radio service	Minor rewording and rearrangement.
89.255	90.419—Points of communication	Combined with other sections.
89.257	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.259 (a) and (f).	90.17(b)—Local government radio service	Combined, renumbered limitations, included all frequencies in table.
89.259(b)	90.173—Policies governing the assignment of frequencies.	Combined with other sections.
89.259(c)	NA	Deleted.
89.259(d)	90.17(e)—Local government radio service	Minor rewording.
89.259(g)	90.17(c)—Local government radio service	Renumbered and reworded with certain exceptions noted for sec. 89.259(g) (4), (5), and (7).
89.259(g)(4)	90.249—Control stations	Combined with other sections.
89.259(g)(5)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
89.259(g)(7)	NA	Deleted.
89.259(h)	NA	Do.
89.301 and 89.303.	90.19(a)—Police radio service	Minor rewording and rearrangement.
89.305 (a), (b), and (c).	90.419—Points of communications	Combined with other sections.
89.305(d)	90.19(b)—Police radio service	Do.
89.307(b)	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.307(c)	90.19(b)—Police radio service	Do.
89.309 (a) and (g).	90.19(d)—Police radio service	Combined, renumbered limitations, included all frequencies in the table.
89.309(b)	90.173—Policies governing the assignment of frequencies.	Combined with other sections.
89.309(e)	90.19 (f) and (g)—Police radio service	Minor rewording
89.309(d)	NA	Deleted.
89.309(e)	90.19(g)—Police radio service	Minor rewording.
89.309(h)	90.19(e)—Police radio service	Renumbered and reworded limitations with certain exceptions noted for secs. 90.304(h) (1), (2), and (4).
89.309(h)(1)	NA	Deleted.
89.309(h)(2)	90.173(d)—Policies governing the assignment of frequencies.	Minor rewording.
89.309(h)(4)	90.249—Control stations	Combined with other sections.
89.309(i)	NA	Deleted.
89.351 and 89.353.	90.21(a)—Fire radio service	Minor rewording and rearrangement.
89.355	90.419—Points of communications	Combined with other sections.
89.357	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.359, (a) and (f).	90.21(b)—Fire radio service	Combined, included all frequencies in the table—renumbered limitations.
89.359(b)	90.173—Policies governing the assignment of frequencies.	Combined with other sections.
89.359(c)	90.21(a)—Fire radio service	Minor rewording.
89.359(d)	NA	Deleted.
89.359(g)	90.21(c)—Fire radio service	Renumbered and reworded limitations with certain exceptions noted for secs. 89.359(g) (1), (3), and (4).
89.359(g)(1)	NA	Deleted.

Present section No.	Proposed section and title	Summary of changes proposed
89.359(g)(2)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
89.359(g)(4)	90.249—Control stations	Combined with other sections.
89.359(h)	NA	Deleted.
89.401 and 89.403.	90.23(a)—Highway maintenance radio service	Minor rewording and rearrangement.
89.405	90.419—Points of communications	Combined with other sections.
89.407(b)	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.407(c)	90.23(e)—Highway maintenance radio service	Included in limitation on particular frequencies.
89.409 (a) and (e).	90.23(b)—Highway maintenance radio service	Combined—included all frequencies in table—renumbered limits.
89.409(b)	NA	Deleted.
89.409(c)	90.23(e)—Highway maintenance radio service	Minor rewording.
89.409(f)	90.23(c)—Highway maintenance radio service	Renumbered and reworded limits except as noted for sec. 89.409(f)(1).
89.409(f)(1)	90.249—Control stations	Combined with other sections.
89.409(g)	90.173—Policies governing the assignment of frequencies.	Do.
89.409(h)	NA	Deleted.
89.451 and 89.453.	90.25(a)—Forestry-conservation radio service	Minor rewording and rearrangement.
89.455	90.419—Points of communications	Combined with other sections.
89.457	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.459 (a) and (d).	90.25(b)—Forestry-conservation radio service	Combined—included all frequencies in table, renumbered limitations.
89.459(b)	NA	Deleted.
89.459(e)	90.25(c)—Forestry-conservation radio service	Renumbered and reworded limits with exception noted for sec. 89.459(e)(1).
89.459(e)(1)	90.249—Control statinns	Combined with other sections.
89.501(f)	90.173(b)—Policies governing the assignment of frequencies.	Do.
89.501(g)	NA	Deleted.
89.501	90.33—Scope	Minor rewording.
89.503	90.35—Medical services	Minor rewording. 1st sentence of (b) deleted.
89.505	90.37—Rescue organization	Minor rewording.
89.507	90.39—Veterinarians	Do.
89.509	90.41—Disaster relief organization	Do.
89.511	90.43—School buses	Do.
89.513	90.45—Beach patrols	Do.
89.515	90.47—Establishments in isolated areas	Do.
89.517	90.49—Communication standby facilities	Do.
89.519	90.51—Emergency repair of public communications facilities.	Do.
89.521	90.419—Points of communication	Combined with other sections, minor rewording.
89.523(a)	90.243—Mobile relay stations	Do.
89.523(b)	NA	Specific requirement for monitoring deleted. See sec. 90.403(c).
89.523(c)	NA	Deleted.
89.523(d)	90.55—Paging operations	Minor rewording.
89.525(a) and (e).	90.53(a)—Frequencies available	Combined—included all frequencies in table. Renumbered limitations.
89.525(b)	NA	Deleted.
89.525(c)	90.53(d)—Frequencies available	Minor rewording.
89.525(d)	90.53(a)—Frequencies available	Do.
89.525(f)	90.53(b)—Frequencies available	Renumbered and reworded limitations except as noted for secs. 89.525(f) (1), (13), and (22).
89.525(f)(1)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
89.525(f)(13)	NA	Deleted.
89.525(f)(22)	90.249—Control station	Combined with other sections.
89.551	90.17(c)—Local government radio service	State guard radio service moved to category of local government radio service.
89.553	90.405—Permissible communications	Combined with other sections.
89.555	90.419—Points of communication	Do.
89.559	90.17 (b) and (c)—Local government radio service.	Included in local government radio service.
89.601	90.351—Scope	Minor rewording and rearrangement.
89.602	90.353—Definitions	No change.
89.603	90.351—Scope	Minor rewording and rearrangement.
89.604	90.355—Eligibility	No change.
89.605	90.387—Station identification	Do.
89.651	90.379—Limitations on power and antenna height.	Do.
89.652	90.381—Restrictions on operational fixed stations	Do.
89.653	90.389—Restriction on interconnection	Do.
89.655	90.385—Restrictions and limitations on permissible communications, on use, and on mode of operation.	Do.
89.656	90.393—Special conditions governing the furnishing of radio equipment by licensees.	Do.
89.657	90.373—Restrictions on licensing manufacturers in the 806–821 MHz, and 851–866 MHz bands.	Do.
89.658	90.383—Acceptability of transmitters for licensing in the 806–821 MHz, and 851–866 MHz bands.	Do.
89.701	90.357—Forms to be used	Do.
89.702	90.359—Supplemental information to be furnished by applicants for facilities under this subpart.	Do.
89.703	90.391—Supplemental reports required of licensees authorized under this subpart.	Do.
89.704	90.363—Processing of applications	Do.
89.751	90.365—Selection and assignment of frequencies	Do.
89.801	90.375—Trunked systems loading requirements	No change (except title).
89.802	90.377—Conventional systems loading requirements.	Do.
89.803	90.369—Other criteria to be applied in assigning channels for use in conventional systems of communication.	No change.
89.804	90.395—Number of systems authorized in a geographical area.	No change (except title).

Present Section Number	Proposed Section and Title	Summary of Changes Proposed
90.305	Limitation on the number of frequencies assignable for conventional systems.	No change.
90.309	90.371—Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.	Do.
90.307	90.367—Special licensing requirements for radio stations used to provide service to persons other than the licensee	Do.
90.303	90.361—Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.	Do.
91.1	90.1—Basis and purpose	Minor rewording.
91.2	90.415—Prohibited uses	Combined with other sections
91.3	90.7—Definitions	Deletions and additions as necessary. Minor reorganization and clarification.
91.4	90.115—Ineligibility of foreign governments	Minor rewording.
91.5	90.151—Assignment of station authorization	Minor rewording.
91.6	90.17—Cooperative use of radio services	Action deferred for resolution of docket 18921.
91.7	90.243—Mobile relay stations 90.245—Fixed relay stations 90.247—Vehicular repeater stations 90.249—Control stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
91.8(a)	90.173 (a) and (b)—Policies governing the assignment of frequencies.	Minor rewording.
91.8(b)	90.175—Frequency coordination requirements	Do.
91.8(b)	NA	Deleted.
91.8(c)	Various radio services sections under limitation on number of frequencies assignable.	Minor rewording.
91.8(d)	NA	Deleted.
91.8(e)	90.173(g)—Policies governing the assignment of frequencies.	Minor rewording.
91.8(f)	90.173(c)—Policies governing the assignment of frequencies.	Do.
91.8(g)	90.257—Assignment and use of frequencies in the band 72–76 MHz.	Combines applicable provisions in this and other sections.
91.8(h)	90.173(e)—Policies governing the assignment of frequencies.	Minor rewording.
91.8(i)	NA	Deleted.
91.8(j)	Various radio services sections under limitation on number of frequencies assignable.	Minor rewording.
91.8 (k) and (m).	90.177—Protection of certain radio receiving locations.	No change.
91.8(l)	90.261—Assignment and use of frequencies in the band 450–470 MHz for fixed operations.	Do.
91.9	90.179—Cooperative use of radio stations	Action deferred for resolution of docket 18921.
91.80	90.147—Mailing address furnished by licensee	No change.
91.81	90.113—Station authorization required	Minor rewording.
91.82(a)	90.117—Applications for radio station authorization.	Do.
91.82 (b), (c), and (d).	NA	Deleted
91.83	90.145—Special temporary authority	Minor rewording—added a requirement for eligibility statement.
91.84(a)	90.119—Application forms	Combined with other sections.
91.84(b)	90.127(a)—Filing of applications	Minor rewording—added Chicago filing address.
91.84(c)	90.127(b)—Filing of applications	Combined with other sections.
91.84(d)	90.139—Preliminary processing of applications	No change.
91.84(e)	90.137—Applications for operation at temporary location.	Minor rewording.
91.84(f)	90.129(e)—Supplemental information to be routinely submitted with applications.	Do.
91.85	90.125—Who may sign applications	Paragraph (c) expanded.
91.86(a)(b)	90.119(a)—Application forms	Minor rewording—reference to form 104f added—eliminate reference to construction permit.
91.86(d)	90.119(d)—Application forms	Minor rewording.
91.86(e)	90.145—Special temporary authority	Do.
91.86(f)	NA	Requirement deleted.
91.86(g)	90.119(b)—Application forms	Minor rewording.
91.87(a)	90.119(c)—Application forms	Do.
91.87(b)	90.483—Chicago region	No change.
91.88(a)	90.129(f)—Supplemental information to be routinely submitted with applications.	Minor rewording
91.88(a)(1)	90.173—Policies governing the assignment of frequencies.	Do
91.88(b)	Various services sections under limitation on number of frequencies assignable.	Do
91.88(c)	NA	Deleted.
91.88 (d), (e), (f), (g), (h), (i), (j), (k), and (l).	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording—combined with other sections.
91.89	90.143—Grants of applications	Minor rewording.
91.90	90.139—Preliminary processing of applications	Deleted reference to alien restrictions.
91.91	90.131—Amendment or dismissal of applications	No change.
91.92	90.153—Time in which stations must be placed in operation.	Minor rewording—deleted construction permit requirements.
91.93	90.149—License term	Minor rewording and clarification.
91.94	90.135—Modification of license	Rewritten to specify changes.
91.95	NA	Deleted.
91.96	90.155—Discontinuance of station operation	No change
91.97	90.487—Special provisions relating to frequency assignments in the Chicago region.	Do.
91.101(a)	NA	Deleted.
91.101(b)	90.253—Use of the frequency 4383.8 kHz	Combined with other sections.
91.102	90.213—Frequency tolerance	Do.
91.103(a)	90.207(a)—Types of emission	Combined with other sections—referenced each operation with type of emission permitted.
91.103(b)	90.233—Secondary base-mobile nonvoice signalling operations.	Combined with other sections—deleted requirement for submission of coding system.
91.103(c)	NA	
91.104	90.209—Bandwidth limitations	Combined with other sections.
91.105	90.211—Modulation requirements	Do.
91.106	90.205—Power	Do.

Present section No.	Proposed section and title	Summary of changes proposed
91.107(a)	90.427—Precautions against unauthorized operation.	Minor rewording.
91.107 (b), (c), (d), and (e).	90.429—Control point and dispatch point requirements.	Do.
91.108	90.215—Transmitter measurements	Combined with other sections—minor rewording.
91.109 (a) and (b).	90.203—Type acceptance required	Combined with other sections.
91.109(c)	NA	Deleted.
91.110	90.203—Type acceptance required	Combined with other sections.
91.112	NA	Rearranged by including technical standards in other appropriate sections.
91.113	90.237—Interim provisions for operation of radio teleprinter and radio fusimile devices.	Combined with other sections.
91.114	Subpart L—Authorizations in the band 470–512 MHz (UHF–TV Sharing).	Do.
91.116	NA	Deleted.
91.120	90.239—Interim provisions for operation of automatic vehicle monitoring (AVM) systems.	Combined with other sections.
91.151 (a) and (b).	90.405—Permissible communications	Do.
91.151(c)	90.419—Points of communication	Do.
91.151(d)	90.403—General operating requirements	Do.
91.151(e)	90.407—Communications permitted during emergency situations.	Do.
91.151(f)	90.405—Permissible communications	Do.
91.152	90.425—Station identification	Combined with other sections reorganized.
91.153	90.403—General operating procedure	Minor rewording.
91.154	90.433—Operator license requirements	Do.
91.155	90.435—Posting of operator license	Reorganized.
91.156	90.437—Posting station license and transmitter identification cards and plates.	Do.
91.157	90.439—Inspection of stations	Minor rewording.
91.158	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
91.159	90.449—Answer to a notice of violation	Do.
91.160	90.443—Content of station records 90.445—Form of station records 90.447—Retention of station records	Separated and reorganized with minor rewording.
91.162	90.423—Operations on board aircraft	No change.
91.201	90.503—Eligibility	Minor rewording.
91.202	90.505—Showing required	Do.
91.203	90.507—Limitations on use	Do.
91.204	90.509—Frequencies available for assignment	No change.
91.205	90.511—Interference	Minor rewording.
91.206	90.513—Special provisions	Do.
91.207	90.515—Change or cancellation of authorization without hearing.	No change except title.
91.208	90.517—Report of operation	Minor rewording.
91.251	90.63(a)—Power radio service	Minor rewording—combined with other sections.
91.251 (d) and (e).	90.61—General eligibility	Combined with other sections.
91.252(a)	90.123—Full disclosures	Do.
91.252(b)	90.63(b)(2)—Power radio service	Minor rewording.
91.252(c)	90.63(e)(4)—Power radio service	Do.
91.252(d)	90.63(b)(1)—Power radio service	Do.
91.252(e)	90.211(e)—Modulation requirements	Do.
91.252(f)	90.233—Secondary base mobile nonvoice signaling operations.	Combined with other sections.
91.253(a)	NA	Not necessary.
91.253 (b) and (c).	90.235—Secondary fixed tone signaling and alarm operations.	Combined with other sections.
91.253(d)	90.421(h)—Operation of mobile units in vehicles not under the control of the licensee.	Minor rewording.
91.254(a)	90.63(c)—Power radio service	Included all frequencies in table. Renumbered limitations.
91.254(b)	do	Renumbered and reworded limitations except as noted for 91.254 (b), (6), (7), (8), (10), (26), (28), (29), (30), and (35).
91.254(b)(6)	NA	Deleted.
91.254(b)(7)	NA	Do.
91.254(b)(8)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording—combined with other sections.
91.254(b)(10)	90.263—Substitution of frequencies below 25 MHz.	Minor rewording.
91.254(b)(26)	90.261—Assignment and use of frequencies in the band 450–470 MHz for fixed operations.	Combined with other sections.
91.254(b)(28)	NA	Deleted.
91.254(b)(29)	90.173—Policies governing the assignment of frequencies.	Minor rewording.
91.254(b)(30)	90.249—Control stations	Combined with other sections.
91.254(b)(35)	90.259—Assignment and use of frequencies in the bands 216–220 MHz and 1427–1435 MHz.	Combined with other sections. Minor rewording.
91.255(a)	NA	Deleted.
91.255(b)	90.63(e)(3)—Power radio service	Minor rewording.
91.301	90.65(a)—Petroleum radio service	Minor rewording. Combined with other sections.
91.302(a)	90.123—Full disclosures	Minor rewording.
91.302(b)	90.65(d)(4)—Petroleum radio service	Do.
91.302(c)	90.211(e)—Modulation requirements	Do.
91.302(d)	90.233—Secondary base mobile nonvoice signalling operations.	Combined with other sections.
91.302(e)	90.65(c)(4)—Petroleum radio service. 90.65(c)(4)—Petroleum radio service.	Made into frequency limitation and exception to limit on number of frequencies.
91.303(a)	NA	Not necessary.
91.303(b)	90.235—Secondary fixed tone signalling and alarm operation.	Combined with other sections.
91.304(a)	90.65(b)—Petroleum radio service	Included all frequencies in table. Renumbered limitations.
91.304(b)	90.65(c)—Petroleum radio service	Renumbered and reworded limits except as noted for secs. 91.304(b) (4), (5), (6), (8), (27), (29), (31), (32), (33), and (37).
91.304(b)(4)	NA	Deleted.
91.304(b)(5)	NA	Do.
91.304(b)(6)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording—combined with other sections.
91.304(b)(8)	90.263—Substitution of frequencies below 25 MHz.	Minor rewording.

Present section No.	Proposed section and title	Summary of changes proposed
91.304(b)(27)	90.259—Assignment and use of frequencies in the bands 216–220 MHz and 1427–1435 MHz.	Combined with other sections.
91.304(b)(29)	90.261—Assignment and use of frequencies in the bands 450–470 MHz for fixed operations.	Do.
91.304(b)(31)	NA	Deleted.
91.304(b)(32)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
91.304(b)(33)	90.249—Control stations	Combined with other sections.
91.304(b)(37)	90.259—Assignment and use of frequencies in the bands 216–220 MHz and 1427–1435 MHz.	Do.
91.305(a)	90.65(d)—Petroleum radio service	Minor rewording.
91.305(b)	90.65(d)—Petroleum radio service	Do.
91.351	90.67(a)—Forest products radio service	Minor rewording combined with other sections.
91.352	90.123—Full disclosures	Combined with other sections.
91.353	NA	Not necessary.
91.354(a)	90.67(b)—Forest products radio service	Included all frequencies in table. Renumbered limitations.
91.354(b)	90.67(c)—Forest products radio service	Reworded and renumbered limitations except as noted for secs. 91.354(b) (4), (5), (6), (7), (8), (29), (31), (32), (33), and (35).
91.354(b) (4) and (5).	NA	Deleted.
91.354(b)(6)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Minor rewording. Combined other sections.
91.354(b)(7) and 91.354(b)(35).	90.259—Assignment and use of the frequencies in the bands 216–220 MHz and 1427–1435 MHz.	Minor rewording. Combined with other sections.
91.354(b)(8)	90.263—Substitution of frequencies below 25 MHz.	Minor rewording.
91.354(b)(29)	90.261—Assignment and use of frequencies in the bands 450–470 MHz for fixed operations.	Combined with other sections.
91.354(b)(31)	NA	Deleted.
91.354(b)(32)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
91.354(b)(33)	90.249—Control stations	Combined with other sections.
91.355(a)	NA	Deleted.
91.355(b)	90.67(d)—Forest products radio service	Minor rewording.
91.401	90.69(a)—Motion picture radio service	Minor rewording. Combined with other sections.
91.402	90.123—Full disclosures	Combined with other sections.
91.403	NA	Not necessary.
91.404(a)	90.69(b)—Motion picture radio service	Included all frequencies in table. Renumbered limitations.
91.404(b)	90.69(c)—Motion picture radio service	Renumbered and reworded limitations except as noted for secs. 91.404(b)(2), (5), and (12).
91.404(b)(2)	90.263—Substitution of frequencies below 25 MHz.	Minor rewording.
91.404(b)(5)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.404(b)(12)	90.259—Assignment of frequencies in the bands 216–220 MHz and 1427–1435 MHz.	Do.
91.405(a)	NA	Deleted.
91.405(b)	90.69(b)—Motion picture radio service	Minor rewording.
91.451	90.71(a)—Relay press radio service	Minor rewording. Combined with other sections.
91.452	90.123—Full disclosures	Combined with other sections.
91.454(a)	90.71(b)—Relay press radio service	Included all frequencies in table renumbered limitations.
91.454(b)	90.71(c)—Relay press radio service	Reworded and renumberee limitations except as noted for sec. 91.454(b) (2), (10), (11), (12), and (13).
91.454(b)(2)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.555, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.454(b)(10)	NA	Deleted.
91.454(b)(11)	90.173—(i) Policies governing the assignment of frequencies.	Minor rewording.
91.454(b)(12)	90.249—Control stations	Minor rewording. Combined with other sections.
91.454(b)(13)	90.259—Assignment and use of frequencies in the bands 216–220 MHz and 1427–1735 MHz.	Do.
91.455(a)	NA	Deleted.
91.455(b)	90.71(d)—Relay press radio service	Minor rewording.
91.501	90.73(a)—Special industrial radio service	Combined with other sections.
91.502(a)	90.123—Full disclosures	Do.
91.502(b)	90.73(a)—Special industrial radio service	Incorporated into eligibility paragraph.
91.502(c)	90.83(b)—Special industrial radio service	Only change was to delete unenforceable sec. 91.502(c)(4).
91.502(d)	90.73(a)—Special industrial radio service	Minor rewording. Combined with other sections.
91.503(a)	90.243—Mobile relay stations	Combined with other sections.
91.503(b)	90.257—Assignment and use of frequencies in the band 72–76 MHz.	Minor rewording. Combined with other sections.
91.503(c)	90.73(g)—Special industrial radio service	Minor rewording.
91.504(a)	90.73(e)—Special industrial radio service	Included all frequencies in table renumbered limitations.
91.504(b)	90.73(d)—Special industrial radio service	Reworded and remunbered limitations except as noted for secs. 91.504(b), (6), (7), (8), (10), (26), (27), (28), (29), (30), (33), (34), and (36).
91.504(b) (6) and (7).	NA	Deleted.
91.540(b)(8)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz	Minor rewording. Combined with other sections.
91.504(b)(10)	90.263—Substitution of frequencies below 25 MHz.	Minor rewording.
91.504(b)(26)	90.261—Assignment and use of frequencies in the band 450–470 MHz for fixed operations.	Combined with other sections.
91.504(b)(27)	NA	Deleted.
91.540(b)(28)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
91.504(b)(29)	90.249—Control stations	Minor rewording. Combined with other sections.
91.504(b) (30) and (36).	90.259—Assignment and use of frequencies in the bands 216–220 MHz and 1247–1435 MHz.	Do.
91.504(b)(33)	90.257—Assignment and use of frequencies in the band 72–76 MHz.	Do.
91.504(b)(34)	NA	Deleted.
91.504(c)	90.73(e)(5)—Special industrial radio service	Minor rewording.
91.504(d)	90.73(e)(4)—Special industrial radio service	Do.
91.505	90.73(e)(3)—Special industrial radio service	Do.
91.551	90.75(a)—Business radio service	Minor rewording. Combined with other sections.
91.552(a)	90.75(a)—Business radio service	Do.
91.552(b)	90.123—Full disclosures	Combined with other sections.

Present section No.	Proposed section and title	Summary of changes proposed
91.552(c)	90.173—Policies governing the assignment of frequencies.	Minor rewording.
91.552(d)	NA	Deleted.
91.552 (f) and (g)	90.75(c)—Business radio service	Minor rewording. Included in frequency limitations.
91.553(a)	90.243—Mobile relay stations	Minor rewording. Combined with other sections.
91.553(c)	90.75(f)—Business radio service	Minor rewording.
91.554(a)	90.75(b)—Business radio service	Included all frequencies in table. Renumbered limitations.
91.554(b)	90.75(e)—Business radio service	Reworded and renumbered limitations except as noted for secs. 91.554(b) (6), (7), (8), (34), (35), (38), (45), and (48).
91.554(b) (6) and (7).	NA	Deleted.
91.554(b) (8)	90.257—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.554(b) (9)	90.249—Control stations	Do.
91.554(b) (34)	NA	Deleted.
91.554(b) (35)	90.173—Policies governing the assignment of frequencies.	Minor rewording.
91.554(b) (38)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.554(b) (45) and (48).	90.259—Assignment of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Minor rewording. Combined with other sections.
91.554 (c) and (d).	90.75 d—Business radio service	Minor rewording.
91.555	90.217—Exemption from technical standards	No change.
91.556	90.75(d)—Business radio service	Minor rewording.
91.601	90.103—Radiolocation service	Minor rewording. Combined with other sections.
91.602(a)	90.125—Full disclosures	Combined with other sections.
91.602(b)	90.129(c)—Supplemental information to be routinely submitted with applications.	Minor rewording. Combined with other sections.
91.602(c)	NA	Deleted.
91.603(a)	90.203—Type acceptance required	Combined with other sections.
91.603(b)	90.103(a)—Radiolocation service	Minor rewording. Combined with other sections.
91.604 (a)	90.103(b)—Radiolocation service	Renumbered limitations.
91.604(b)	90.103(c)—Radiolocation service	Renumbered and reworded limitations.
91.605	90.103(e)—Radiolocation service	No change.
91.606	90.103(c)(7)—Radiolocation service	Minor rewording. Combined with other sections.
91.726 and 91.727.	90.79(a)—Manufacturers radio service	Combined definition and permissible communications with eligibility.
91.728(a)	90.125—Full disclosures	Combined with other sections.
91.728(b)	90.79(b)—Manufacturers radio service	Minor rewording.
91.729(a)	90.243—Mobile relay stations	Minor rewording. Combined with other sections.
91.729(b)	90.79(b)—Manufacturers radio service	Minor rewording.
91.729(d)	90.257—Assignment and use of frequencies in the band 72-76 MHz.	Combined with other sections.
91.730(a)	90.79(c)—Manufacturers radio service	Included all frequencies in table renumbered limitations.
91.730(b)	90.79 d—Manufacturers radio service	Reworded and renumbered limits except as noted for secs. 91.730(b) (3), (4), (14), (16), (17), (18), (19), and (22).
91.730(b)(3)	90.257—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.730(b)(4)	NA	Deleted.
91.730(b)(14)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.730(b)(16)	NA	Deleted.
91.730(b)(17).	90.173(d)—Policies governing the assignment of frequencies.	Minor rewording.
91.730(b)(18)	90.249—Control stations	Minor rewording. Combined with other sections.
91.730(b) (19) and 91.730(b)(21).	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Do.
91.751	90.81(a)—Telephone maintenance radio service	Do.
91.752(a)	90.125—Full disclosures	Combined with other sections.
91.752(b) and 91.752(c).	90.81(b)—Telephone maintenance radio service	Minor rewording. Combined with other sections.
91.753	90.243—Mobile relay stations	Do.
91.754(a)	90.81(c)—Telephone maintenance radio service	Included all frequencies in table. Renumbered limitations.
91.754(b)	90.81(d)—Telephone maintenance radio service	Rewording and renumbered limitations except as noted for secs. 91.754(b) (3), (4), (10), (12), (13), (14), (16), and (18).
91.754(b)(3)	90.257—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.754(b)(4)	NA	Deleted.
91.754(b)(10)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
91.754(b)(12).	NA	Deleted.
91.754(b)(13)	90.173(d)—Policies governing the assignment of frequencies.	Minor rewording.
91.754(b)(14)	90.249—Control stations	Minor rewording. Combined with other sections.
91.754(b)(16) and 91.754(b)(18).	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Do.
93.1	90.1—Basis and purpose	Minor rewording.
93.2	90.415—Prohibited uses	Minor rewording. Combined with other sections.
93.3 and 93.4	90.179—Cooperative use	Awaits resolution of docket 18921.
93.5	90.115—Ineligibility of foreign governments	Minor rewording.
93.6	90.151—Assignment of station authorization	Do.
93.7	90.7—Definitions	Deletions and additions as necessary. Minor reorganization and clarification.
93.8(a)	90.173(a)—Policies governing the assignment of frequencies.	No change.
93.8(b)	90.173(g)—Policies governing the assignment of frequencies.	Minor rewording.
93.8(c)	90.173(c)—Policies governing assignment of frequencies.	Do.
93.8(d)	90.257—Assignment and use of frequencies in the band 72-76 MHz.	Combined with other sections.
93.8(e)	90.173(e)—Policies governing the assignment of frequencies.	Minor rewording.
93.8(h)	Various services sections in the frequency limitations.	Do.
93.9(a)	90.175—Frequency coordination requirements	Do.

Present section No.	Proposed section and title	Summary of changes proposed
93.9(b) and 93.9(c)	90.177—Protection of certain radio receiving locations.	No change.
93.10	90.247—Vehicular repeater stations	Minor rewording. Combined with other sections.
93.50	90.147—Mailing address furnished by licensee	No change.
93.51	90.113—Station authorization required	Minor rewording.
93.52(a)	90.117—Applications for radio station authorizations.	Do.
93.52 (b), (c), and (d).	NA	Deleted.
93.53	90.145—Special temporary authority	Minor rewording added an eligibility statement requirement.
93.54(a)	90.117—Applications for radio station authorization.	Minor rewording. Referenced fee information.
93.54(b)	90.127(a)—Filing of applications	Minor rewording. Added Chicago filing address information.
93.54(c)	90.127(b)—Filing of applications	Minor rewording. Combined with other sections.
93.54(d)	90.139—Preliminary processing of applications	No change.
93.54(e)	90.137—Applications for operation at temporary locations.	Minor rewording.
93.54(f)	90.129(e)—Supplemental information to be routinely submitted with applications.	Do.
93.55	90.125—Who may sign applications	Paragraph (c) expanded.
93.56 (a) and (b).	90.119(a)—Application forms	Minor rewording. Referenced form 1046, eliminated reference to construction permit.
93.56(d)	90.119(b)—Application forms	Minor rewording.
93.56(e)	NA	Deleted.
93.56(f)	90.119(b)—Application forms	Minor rewording.
93.56(g)	90.145—Special temporary authority	Do.
93.57(a)	90.119(c)—Application forms	Do.
93.57(b)	90.483—Chicago region	No change.
93.58	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording.
93.59	90.143—Grants of applications	Do.
93.60	90.139—Preliminary processing of applications	Deleted reference of alien restrictions.
93.61	90.131—Amendment or dismissal of applications	No change.
93.62	90.153—Time in which stations must be placed in operation.	Minor rewording. Deleted construction permit.
93.63	90.149—License term	Minor rewording
93.64	90.133—Modification of license	Rewritten to specify changes requiring applications to be approved.
93.65	90.155—Discontinuance of station operation	No change.
93.67	90.487—Special provisions relating to frequency assignment in the Chicago region.	Do.
93.101(a)(1)	NA	Deleted.
93.101(a)(2)	90.253—Use of the frequency 4583.8 kHz	Combined with other sections.
93.101(b)	90.261—Assignment and use of frequencies in the band 440-470 MHz for fixed operations.	Do.
93.102	90.213—Frequency tolerance	Minor rewording. Combined with other sections.
93.103(a)	90.207(a)—Types of emission	Minor rewording. Referenced each operation with types of emission permitted.
93.103(b)	90.233—Secondary base/mobile nonvoice signalling operations.	Minor rewording. Eliminated requirement for submission of coding systems.
93.103(c)	NA	Deleted.
93.104	90.209—Bandwidth limitations	Minor rewording. Combined with other sections.
93.105	90.211—Modulation requirements	Do.
93.106	90.205—Power	Do.
93.107(a)	90.427—Precaution against unauthorized operation.	Minor rewording.
93.107 (b), (c), (d) and (e).	90.429—Control point and dispatch point requirements.	Minor rewording and rearrangement.
93.108	90.215—Transmitter measurements	Minor rewording.
93.109	90.203—Type acceptance required	Minor rewording. Combined with other sections.
93.110	do	Do.
93.112	See various frequency tables in subpts. K and F.	Extensive deletions, additions and rearrangement as necessary. Minor rewording and clarification.
93.113	90.237—Interim provisions for operation of radioteleprinter and radio-facsimile devices.	Minor rewording.
93.114	Subpart L—Authorization in the band 470-512 MHz (UHF-TV sharing).	Combined with other sections.
93.116		Unnecessary.
93.120	90.239—Interim provisions for operation of automatic vehicle monitoring (AVM) systems.	Minor rewording.
93.151(a)	90.405—Permissible communications	Minor rewording. Combined with other sections.
93.151(b)	90.417—Interstation communications	Combined with other sections.
93.151(c)	90.419—Points of communications	Minor rewording. Combined with other sections.
93.151(c)(4)	90.417—Interstation communications	Combined other sections.
93.151(d)	90.409(a)—General operating procedure	Minor rewording.
93.151(e)	90.407—Communications permitted during emergency situations.	Combined with other sections.
93.151(f)	90.405(c)—Permissible communications	Minor rewording. Combined with other sections.
93.151(g)	90.415—Civil defense communications in the fixed radio services	Do.
93.152	90.425—Station identification	Reorganized. Combined with rules for public safety and industrial.
93.153	90.409—General operating procedure	Minor rewording. Combined with other sections.
93.154	90.433—Operator license requirements	Minor rewording.
93.155	90.425—Station identification	Do.
93.156	90.437—Posting station licenses and transmitter identification cards or plates.	Do.
93.157	90.439—Inspection of stations	No change.
93.158	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
93.159	90.443—Answer to a notice of violation	Minor rewording.
93.160	90.443—Content of station records	Separated and reorganized. Minor rewording.
	90.445—Form of station records	Do.
	90.447—Retention of station records	Do.
93.161	90.527—Land transportation industries communications emergency plan (LATICEP).	No change.
93.162 and 93.163.		

Present section No.	Proposed section and title	Summary of changes proposed
93.164	90.423—Operations on board aircraft	Minor rewording.
93.201	90.503—Eligibility	Do.
93.202	90.505—Showing required	Do.
93.203	90.507—Limitations on use	Do.
93.204(a)	90.509—Frequencies available for assignment	Do.
93.204(b)	Various land transportation radio services under additional frequencies available, or limitation on number of frequencies assignable.	
93.205	90.511—Interference	Do.
93.206	90.513—Special provisions	Do.
93.207	90.515—Change or cancellation of authorization without hearing.	No change except title.
93.208	90.517—Report of operation	Minor rewording.
93.251(a)	90.89(a)—Motor carrier radio service	Minor rewording. Combined with other sections.
93.251(b)	90.123—Full disclosures	Combined with other sections.
93.252	90.89 (b) and (c)—Motor carrier radio service	Placed frequencies in table form. Minor rewording of limitations.
93.253(a)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
93.253(b)	90.257—Assignment and use of frequencies in the band 72-76.	Do.
93.253(d)	NA	Deleted.
93.253(e)	90.89(e)(2)—Motor carrier radio service	Minor rewording.
93.254	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.255	NA	Deleted.
93.351(a)	90.91(a)—Railroad radio service	Minor rewording. Combined with other sections.
93.351(b)	90.123—Full disclosures	Combined with other sections.
93.352 (a), (c), and (f).	90.91 (c) and (d)—Railroad radio service	Placed frequencies in table form. Minor rewording of limitations.
93.352(b)	90.257—Assignment and use of frequencies in the band 72-76 MHz.	Minor rewording. Combined with other sections.
93.352(d)	90.249—Control stations	Do.
93.352(e)	90.91(e)—Railroad radio service	Minor rewording.
93.353(a)	90.261—Assignment and use of frequencies 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
93.353(b)	90.257—Assignment and use of frequencies in the band 72-76 MHz.	Do.
93.353(c)	90.91(c)—Railroad radio service	Included in frequency table. Minor rewording of limitation.
93.353(d)	NA	Deleted.
93.353(e)	90.91(e)(2)—Railroad radio service	Minor rewording.
93.353(f)	90.91(e)—Railroad radio service	Do.
93.355	90.243—Mobile relay stations 90.245—Fixed relay stations 90.247—Vehicular repeater stations 90.249—Control stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
93.356	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.357(a)	90.91(b)—Railroad radio service	Minor rewording.
93.357(b)	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Minor rewording. Combined with other sections.
93.352(e)	90.91(d)(3) and (d)(4)—Railroad radio service	Incorporated as assignment limitations on the appropriate frequencies. Minor rewording.
93.357(d)	90.91(b)—Railroad radio service	No change.
93.401(a)	90.93(a)—Taxicab radio service	Minor rewording. Combined with other sections.
93.401(b)	90.123—Full disclosures	Combined with other sections.
93.402	90.93 (b) and (c)—Taxicab radio service	Placed frequencies in table form. Minor rewording of limitations.
93.403	NA	Deleted.
93.404	90.255 Assignment and use of frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.405	90.412—Civil defense communications in the taxicab radio service.	Minor rewording.
93.501(a)	90.95(a)—Automobile emergency radio service	Minor rewording. Combined with other sections.
93.501(b)	90.123—Full disclosures	Combined with other sections.
93.502(a)	90.405—Permissible communications	Minor rewording. Combined with other sections.
93.502(b)	90.95(a)—Automobile emergency radio service	Minor rewording. Combined with eligibility provisions.
93.502(c)	90.95—Automobile emergency radio service	Minor rewording.
93.503	90.95 (c) and (d)—Automobile emergency radio service.	Placed frequencies in table form. Minor rewording of limitations.
93.504	90.225—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.505	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.

ATTACHMENT B

A new Part 90 in Volume V of the Commission's Rules is proposed to be added as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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90.1 Basis and purpose.
90.3 Organization and applicability of the rules.
90.5 Other applicable rule parts.
90.7 Definitions.

Subpart B—Public Safety Radio Services

90.15 Scope.
90.17 Local government radio service.
90.19 Police radio service.
90.21 Fire radio service.
90.23 Highway maintenance radio service.
90.25 Forestry-conservation radio service.

Subpart C—Special Emergency Radio Service

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90.35 Medical services.
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Subpart D—Industrial Radio Services

Sec.
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90.63 Power radio service.
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Subpart E—Land Transportation Radio Services

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90.89 Motor carrier radio service.
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Subpart F—Radiolocation Service

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90.103 Radiolocation service.

Subpart G—Applications and Authorizations

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90.115 Ineligibility of foreign governments.
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90.137 Applications for operation at temporary locations.
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90.145 Special temporary authority.
90.147 Mailing address furnished by licensee.
90.149 License term.
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90.153 Assignment of station authorization.
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90.157 Discontinuance of station operation.

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APPLICATIONS FOR AUTHORIZATIONS IN THE 806-821 MHz AND 851-866 MHz BANDS

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90.503 Eligibility.
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Subpart Q—Emergency Communications Pursuant to the Industrial Communications Emergency Plan (ICEP) and the Land Transportation Industries Communications Emergency Plan (LATICEP)

90.525 Industrial Communications Emergency Plan (ICEP).
90.527 Land Transportation Industries Communications Emergency Plan (LATICEP).

Supplement "A"—Alphabetical index
Supplement "B"—Combined frequency list.

Subpart A—General Information

§ 90.1 Basis and purpose.

(a) *Basis.* The rules in this part are promulgated under Title II of the Communications Act of 1934, as amended which vests authority in the Federal Communications Commission to regulate radio transmission and to issue licenses for radio stations. All rules in this part are in accordance with applicable treaties and agreements to which the United States is a party.

(b) *Purpose.* This part states the conditions under which radio communications systems may be licensed and used in the Public Safety, Special Emergency, Industrial, Land Transportation, and Radiolocation Radio Services. These rules do not govern radio systems employed by agencies of the Federal government.

§ 90.3 Organization and applicability of the rules.

The Rules in this part are divided in seventeen subparts as follows:

(a) Subpart A contains general information and definitions for use in this part.

(b) Subparts B, C, D, E, and F set forth the radio services governed under this part and include eligibility provisions, listing of frequencies available for each radio service, and special requirements and limitations applicable to a particular radio service.

(c) Subpart G describes the procedures and requirements for filing applications and licensing radio stations under this part.

(d) Subpart H provides requirements for selection of frequencies.

(e) Subpart I contains general technical standards for use of equipment under this part.

(f) Subpart J contains standards for certain specialized uses.

(g) Subpart K contains standards for the use of certain frequencies or frequency bands.

(h) Subpart L contains special regulations for operation in the 470-512 MHz band.

(i) Subpart M contains special regulations for operation in the 806–821 and 851–866 MHz bands.

(j) Subpart N sets forth system operating requirements.

(k) Subpart O contains special regulations for operation in the Chicago Land Mobile Spectrum Management District.

(l) Subpart P provides regulations for the authorization of developmental operations.

(m) Subpart Q contains regulations for emergency operations in the Industrial Radio Services (ICEP), and in the Land Transportation Radio Services (LATICEP).

§ 90.5 Other applicable rule parts.

Other Commission rule parts of importance that may be referred to with respect to licensing and operations in radio services governed under this part include the following:

(a) Part 0 of the Commission's Rules describes the Commission's organization and delegations of authority. This part also lists available Commission publications, and standards and procedures for access to Commission records, and location of Commission Field Offices.

(b) Part 1 includes rules of practice and procedure for adjudicatory proceedings including hearing proceedings, rule making proceedings; procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and for forfeiture proceedings; and the requirements for environmental impact statements.

(c) Part 2 contains the table of frequency allocations and special requirements in International regulations, agreements, and treaties. This part also contains standards and procedures concerning marketing of radio frequency devices, and for obtaining equipment type acceptance and type approval.

(d) Part 5 contains standards and procedures for obtaining experimental authorizations.

(e) Conditions under which the operations of incidental and restricted radio devices are permitted are in Part 15.

(f) Part 17 contains detailed requirements for construction, marking, and lighting of antenna towers.

(g) Part 18 deals with the operation of industrial, scientific, and medical (ISM) devices that are not intended for radio communication.

(h) Part 94 governs licensing and operation of private operational-fixed radio stations on frequencies above 952 MHz (Microwave).

§ 90.7 Definitions.

Antenna height above average terrain (AAT). Height of the center of the radiating element of the antenna above the average terrain.

Antenna height above sea level. The height of the topmost point of the antenna above mean sea level.

Antenna structure. Structure on which an antenna is mounted.

Assigned frequency. Center of a frequency band assigned to a station.

Assigned frequency band. The frequency band the center of which coincides with the frequency assigned to the station and the width of which equals the necessary bandwidth plus twice the absolute value of the frequency tolerance.

Authorized bandwidth. The frequency band, specified in kilohertz and centered on the carrier frequency containing those frequencies upon which a total of 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

Automatic Vehicle Monitoring (AVM). The use of non-voice signalling methods from and to vehicles to make known at fixed points the location of the vehicles. AVM systems may also transmit status and instructional messages related to the vehicles involved.

Average terrain. The average elevation of terrain between 2 and 10 miles from the antenna site.

Base station. A station at a specified site authorized to communicate with mobile stations.

Carrier frequency. The frequency of an unmodulated electromegnetic wave.

Channel loading. The number of mobile transmitters authorized to operate on a particular channel within the same service area.

Control point. Any place from which a transmitter's functions may be controlled.

Control station. An Operational Fixed Station, the transmissions of which are used to control automatically the emissions or operation of another radio station at a specified location.

Developmental operation. A specially licensed operation for the purpose of testing concepts in the use of radio appropriate to the radio services governed by this part.

Dispatch point. Any place from which radio messages can be originated under the supervision of a control point.

Effective radiated power (ERP). The power supplied to an antenna multiplied by the relative gain of the antenna in a given direction.

Fixed relay station. A station at a specified site used to communicate with another station at another specified site.

Frequency advisor. An individual or entity that has been recognized by the Commission for the purpose of coordinating the assignment of frequencies, by recommending, to applicants, upon request, appropriate frequencies for which to apply.

Harmful interference. For the purposes of resolving conflicts between stations operating under this part, any emission, radiation, or induction which specifically degrades, obstructs, or interrupts the service provided by such stations.

Interzone station. A fixed station in the Police Radio Service using radio telegraphy (A1 emission) for communications with interzone stations in other zones and with zone stations within the same zone.

Land mobile radio service. A mobile service between base stations and land mobile stations, or between land mobile stations.

Line A. An imaginary line within the U.S., approximately paralleling the U.S.-Canadian border, north of which Commission coordination with Canadian authorities in the assignment of frequencies is generally required. It begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., then along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., to 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

Line C. An imaginary line is Alaska approximately paralleling the border with Canada, East of which Commission coordination with Canadian authorities in the assignment of frequencies is generally required. It begins at the intersection of 70° N., 144° W., thence by great circle arc to the intersection of 60° N., 143° W., thence by great circle arc so as to include all the Alaskan Panhandle.

Mobile relay station. A base station in the mobile service authorized to retransmit automatically on a mobile service frequency communications which originate on the transmitting frequency of the mobile station.

Mobile service. A service of radiocommunication between mobile and base stations, or between mobile stations.

Mobile station. A station in the mobile service intended to be used while in motion or during halts at unspecified points. This includes hand carried transmitters.

Person. An individual, partnership, association, joint stock company, joint venture, trust, corporation, or local government entity.

Radio call box. A transmitter used by the public to request fire, police, medical, road service, or other emergency assistance.

Radiodetermination. The determination of position, or the obtaining of information relating to position, by means of the propagation of radio waves.

Radiofacsimile. A system of radiocommunication for the transmission of fixed images, with or without half-tones, with a view to their reproduction in a permanent form.

Radiolocation. Radiodetermination used for purposes other than those of radionavigation.

Radionavigation. Radiodetermination used for the purposes of naviation, including obstruction warning.

Radio teleprinting. Radio transmissions to a printing telegraphic instrument having a signal-actuated mechanism for automatically printing received messages.

Secondary operation. Radio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from those primary operations.

Signal booster. A device which automatically amplifies and transmits received base station transmissions with no change in frequency or authorized bandwidth.

Station authorization. A license issued by the Commission for the operation of a radio station.

Telecommand. The transmission of non-voice signals for the purpose of remotely controlling a device.

Telemetering (also telemetry). The transmission of non-voice signals for the purpose of automatically indicating or recording measurements at a distance from the measuring instrument.

Vehicular repeater station. A mobile station authorized to retransmit automatically on a mobile service frequency, communications to or from hand-carried mobile units.

Zone station. A fixed station in the Police Radio Service using radio-telegraphy (A–1 emission) for communications with other similar stations in the same zone and with an interzone station in the same zone.

Subpart B—Public Safety Radio Services

§ 90.15 Scope.

The Public Safety Radio Services include the Local Government, Police, Fire, Highway Maintenance and Forestry-Conservation Radio Services. Rules as to eligibility for licensing, frequencies available, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.17 Local Government Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, and similar governmental entity, including a district and an authority, but not including a school or park district or authority is eligible to hold authorizations in the Local Government Radio Service to operate radio stations for transmission of communications essential to official activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Local Government Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section.

Local government radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz: 1730.	Base or mobile	1
Megahertz:		
37.10	do	2
37.18	do	2
37.30	do	2
39.06	Mobile	2, 3
39.10	Base or mobile	2
39.18	do	2
39.86	do	2
39.90	do	2
39.98	do	2
45.08	do	
45.12	do	
45.16	do	
45.20	do	
45.24	do	
45.28	do	
45.32	do	
45.36	do	
45.40	do	
45.44	do	
45.48	do	
45.52	do	
45.56	do	
45.60	do	
45.64	do	
46.52	do	
46.54	do	
46.56	do	
46.58	do	
72.00 to 76.00	Operational fixed	4
153.740	Mobile	
153.755	do	
153.785	do	
153.800	do	
153.815	do	
153.845	do	
153.860	do	
153.875	do	
153.905	do	
153.920	do	
153.935	do	
153.965	do	
153.980	do	
153.995	do	
154.025	Base or mobile	
154.040	do	5
154.055	do	5
154.085	do	5
154.100	do	5
154.115	do	5
154.4525 to 154.460	Fixed	6
154.965	Base or mobile	
154.980	do	
154.995	do	
155.025	do	
155.040	do	
155.055	do	
155.085	do	
155.100	do	
155.115	do	
155.145	do	
155.715	do	
155.745	do	
155.760	do	
155.775	do	
155.805	do	
155.820	do	
155.835	do	
155.865	do	
155.880	do	
155.895	do	
155.925	do	
155.940	do	
155.955	do	
155.985	Mobile	
156.000	do	
156.015	do	
156.745	Base and mobile	
158.760	do	
158.775	do	
158.805	do	
158.820	do	
158.835	do	
158.865	Mobile	
158.880	do	
158.895	do	
158.925	do	
158.940	do	
158.955	do	
173.30375	Fixed or mobile	7, 8
173.210	do	8, 9
173.390	do	8, 9
173.39625	do	7, 8
450 to 470	Fixed	10
453.025	Central control, fixed	11
453.050	Base or mobile	12
453.075	Central control, fixed	11
453.100	Base or mobile	12
453.125	Central control, fixed	11
453.150	Base or mobile	13
453.175	Central control, fixed	11
453.200	Base or mobile	12
453.225	do	
453.250	do	13
453.275	do	
453.300	do	13
453.325	do	
453.350	do	13
453.375	do	
453.400	do	13
453.425	do	
453.450	do	12
453.475	do	
453.500	do	12
453.525	do	
453.550	do	12
453.575	do	
453.600	do	12
453.625	do	
453.650	do	12
453.675	do	
453.700	do	12
453.725	do	
453.750	do	12
453.775	do	
453.800	do	12
453.825	do	
453.850	do	12
453.875	do	
453.900	do	12
453.925	do	
453.950	do	12
453.975	do	
458.025	Radio call boxes, fixed	11, 13
458.050	Mobile	12
458.075	Radio call boxes, fixed	11, 13
458.100	Mobile	12
458.125	Radio call boxes, fixed	11, 13
458.150	Mobile	12
458.175	Radio call boxes, fixed	11, 13
458.200	Mobile	12
458.225	do	
458.250	do	12
458.275	do	
458.300	do	12
458.325	do	
458.350	do	12
458.375	do	
458.400	do	12
458.425	do	
458.450	do	12
458.475	do	
458.500	do	12
458.525	do	
458.550	do	12
458.575	do	
458.600	do	12
458.625	do	
458.650	do	12
458.675	do	
458.700	do	12
458.725	do	
458.750	do	12
458.775	do	
458.800	do	12
458.825	do	
458.850	do	12
458.875	do	
458.900	do	12
458.925	do	
458.950	do	12
458.975	do	
470 to 512	Base or mobile	14
806 to 821	Mobile	15
851 to 866	Base or mobile	15
952 and above	Operational fixed	16
1427 to 1435	Operational fixed, base or mobile	17
2450 to 2500	Base or mobile	18
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is shared with the Special Emergency Radio Services and is available for assignment to the official state guard or comparable organization of a state, territory, possession, or the District of Columbia which is shown to be duly created by law and subject to the control of the highest official of the governmental entity involved, and may be used for emergency communications and for essential communications related to training and maintenance of an efficient organization. In addition to base and mobile stations, this frequency may be assigned to fixed stations on a secondary basis to base or mobile stations. Upon a showing of need, the use of a second frequency in the band 2505–3500 kHz may be made available to these organizations through appropriate arrangements with Government agencies for restricted area use on a shared basis with maxi-

mum power input, emission, and hours of operation determined on the basis of the technical conditions involved in using the selected frequency in the particular area.

(2) This frequency is shared with the Police Radio Service.

(3) The maximum output power of any transmitter authorized to operate on this frequency shall not exceed 2 watts. Applicants for this frequency need not demonstrate compliance with the frequency coordination provisions of § 90.175.

(4) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(5) This frequency is not available for assignment in this service in Puerto Rico or the Virgin Islands.

(6) This frequency is assignable for fixed stations to provide emergency call box service in accordance with § 90.241(a).

(7) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2 kHz. The carrier frequency must be maintained within 0.0005 percent, and the authorized bandwidth may not exceed 6 kHz.

(8) This frequency is available on a shared basis with several Industrial Radio Services. On this frequency the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized, and moble stations used to control remote objects and devices may be operated in the continuous transmit mode. Operational fixed stations communicating with two receiving locations or with three or more receiving locations all of which are located within an angle of azimuth of 160° must employ directional antennas having a front-to-back ratio of at least 20dB. Ominidirectional antennas having unity gain may be employed at other stations.

(9) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(10) The frequencies available for fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(11) Available for radio call box communications related to safety on highways in accordance with the provisions of § 90.241(c).

(12) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(13) Available for medical services mobile operations in the Special Emergency Radio Service in accordance with § 90.53(b)(13).

(14) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(15) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(16) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(17) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(18) Available only on a shared basis with stations in other services, and subject to no protection from interference from industrial, scientific or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.263.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz, are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the varied frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) The frequency 39.06 MHz may be assigned notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.19 Police Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, and similar governmental entity including a governmental institution authorized by law to provide its own police protection, is eligible to hold authorizations in the Police Radio Service to operate radio stations for transmission of communications essential to official police activities of the licensee.

(b) *Police zone and interzone stations.* (1) Fixed zone and interzone stations may be authorized in the Police Radio Service. An unlimited number of zone stations may be authorized in a single zone, but only one interzone station will be authorized in any zone. (A zone is normally considered to be a single state.) Request to rezone a state to provide more than one interzone station must be supported by an adequate showing of need based upon the volume of traffic or the necessity for more expeditious handling of traffic. In addition, the request shall include a showing that all licensees of all affected zone stations have been notified and afforded an opportunity to comment on the request.

(2) In addition to the points of communication permitted by § 90.419, zone and interzone stations are authorized to intercommunicate in accordance with the operating procedure prescribed by the Commission. Copies of such procedure are available from the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(c) *International police radiocommunication.* Police radio licensees which are located in close proximity to the borders of the United States may be authorized to communicate internationally. Request for such authority shall be written and signed and submitted in duplicate. The request shall include information as to the station with which communication will be conducted, and the frequency, power, emission, etc., that will be used. If authorized, such international communication must be conducted in accordance with Article 5 of the Inter-American Radio Agreement, Washington, D.C., 1949 which reads as follows:

Article 5. *Police radio stations.* When the American countries authorize their police radio stations to exchange emergency information by radio with similar stations of another country, the following rules shall be applied:

(a) Only police radio stations located close to the boundaries of contiguous countries shall be allowed to exchange this information.

(b) In general, only important police messages shall be handled, such as those which would lose their value because of slowness and time limitations if sent on other communcation systems.

(c) Frequencies used for radiotelephone communications with mobile police units shall not be used for radiotelegraph communications.

(d) Radiotelephone communications shall be conducted only on frequencies assigned for radiotelephony.

(e) Radiotelegraph communications shall be conducted on the following frequencies: 2804 kHz calling, 2808 kHz working, 2812 kHz working, 5195 kHz day calling, 5135 kHz day working, 5140 kHz day working.

(f) The characteristics of police radio stations authorized to exchange information shall be notified to the International Telecommunication Union, Geneva, Switzerland.

(g) The abbreviations contained in Appendix 9 of the Atlantic City Radio Regulations shall be used to the greatest possible extent. Service indications are as follows: "P", priority, for messages that are to be sent immediately, regardless of the number of other messages, are to be transmitted in the order of receipt.

(h) The message shall contain the preamble, address, text, and signature, as follows:

Preamble. The preamble of the message shall consist of the following: the serial number preceded by the letters "NR", service indications, as appropriate; the group count according to standard cable count system; the letters "CK", followed by numerals indicating the number of words contained in the text of the message; office and country of origin (not abbreviations); day, month, and hour of filing;

Address. The address must be as complete as possible and shall include the name of the addressee with any supplementary particulars necessary for immediate delivery of the message;

Text. The text may be either in plain language or code;

Signature. The signature shall include the name and title of the person originating the message.

(d) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Police Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (e) of this section:

Police radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1610	Base or mobile	1, 2, 3
1618	do	1, 2, 3
1626	do	1, 2, 3
1634	do	1, 2, 3
1642	do	1, 2, 3
1650	do	2, 3
1658	do	2, 3
1666	do	2, 3
1674	do	2, 3
1682	do	2, 3
1690	do	1, 2, 3
1698	do	1, 2, 3
1706	do	1, 2, 3
1714	do	2, 3
1722	do	2, 3
1730	do	2, 3
2326	do	1, 2
2366	do	1, 2
2382	do	2
2390	do	1, 2
2406	do	2
2414	do	2
2422	do	2
2430	do	2
2442	do	2
2450	do	2
2458	do	2
2466	do	2
2474	do	2
2482	do	2
2490	do	2, 3
2804	Fixed	4
2808	do	4
2812	do	4
5135	do	4, 5
5140	do	4
5195	do	4, 6
7480	do	4, 7, 8
7805	do	4, 7
7935	do	4, 7
Megahertz:		
27.02	Mobile	
27.04	Base or mobile	
27.06	do	
27.08	do	
27.10	do	9
27.12	do	
37.14	do	
37.16	do	
37.18	do	9
37.20	do	
37.22	do	
37.24	do	
37.26	do	9
37.28	do	
37.30	do	
37.32	do	
37.34	Mobile	
37.36	Base or mobile	
37.38	Mobile	
37.40	Base or mobile	
37.42	Mobile	
39.02	Base or mobile	
39.04	do	
39.06	do	9, 10
39.08	do	
39.10	do	9
39.12	do	
39.14	do	
39.16	do	
39.18	do	9
39.20	do	
39.22	do	
39.24	do	
39.26	Mobile	
39.28	Base or mobile	
39.30	Mobile	
39.32	Base or mobile	
39.34	Mobile	
39.36	Base or mobile	
39.38	Mobile	
39.40	Base or mobile	
39.42	do	
39.44	do	
39.46	do	11
39.48	do	
39.50	do	9
39.52	do	
39.54	do	
39.56	do	
39.58	do	9
39.60	do	
39.62	do	
39.64	do	
39.66	Mobile	
39.68	Base or mobile	
39.70	Mobile	
39.72	Base or mobile	
39.74	Mobile	
39.76	Base or mobile	
39.78	Mobile	
39.80	Base or mobile	
39.82	do	9
39.84	do	
39.86	do	
39.88	do	
39.90	do	9
39.92	do	
39.94	do	
39.96	do	
39.98	do	9
42.02	do	2, 3, 12
42.04	do	2, 3, 12
42.06	do	2, 3, 12
42.08	do	2, 3, 12
42.10	do	2, 3, 12
42.12	do	2, 3, 12
42.14	do	2, 3, 12
42.16	do	2, 3, 12
42.18	Mobile	2, 12
42.20	do	2, 12
42.22	do	2, 12
42.24	do	2, 12
42.26	do	2, 12
42.28	do	2, 12
42.30	do	2, 12
42.32	Base or mobile	2, 3, 12
42.34	do	2, 3, 12
42.36	do	2, 3, 12
42.38	do	2, 3, 12
42.40	do	2, 3, 12
42.42	do	2, 3, 12
42.44	do	2, 3, 12
42.46	do	2, 3, 12
42.48	do	2, 3, 12
42.50	do	2, 3, 12
42.52	do	2, 3, 12
42.54	do	2, 3, 12
42.56	do	2, 3, 12
42.58	do	2, 3, 12
42.60	do	2, 3, 12
42.62	do	2, 3, 12
42.64	do	2, 3, 12
42.66	Mobile	2, 12
42.68	do	2, 12
42.70	do	2, 12
42.72	do	2, 12
42.74	do	2, 12
42.76	do	2, 12
42.78	do	2, 12
42.80	Base or mobile	2, 3, 12
42.82	do	2, 3, 12
42.84	do	2, 3, 12
42.86	do	2, 3, 12
42.88	do	2, 3, 12
42.90	do	2, 3, 12
42.92	do	2, 3, 12
42.94	do	2, 3, 12
42.62	do	2, 3, 12
44.66	do	2, 3, 12
44.70	do	2, 3, 12
44.74	do	2, 3, 12
44.78	Mobile	2, 12
44.82	do	2, 12
44.86	do	2, 12
44.90	do	2, 12
44.94	Base or mobile	2, 3, 12
44.98	do	2, 3, 12
45.02	do	2, 3, 12
45.06	do	2, 3, 12
45.10	do	
45.14	do	
45.18	do	
45.22	do	
45.26	Mobile	
45.30	do	
45.34	do	
45.38	do	
45.42	Base or mobile	
45.46	do	
45.50	do	
45.54	do	
45.58	do	
45.62	do	
45.66	do	
45.70	do	
45.74	Mobile	
45.78	do	
45.82	do	
45.86	Base or mobile	11
45.90	do	
45.94	do	
45.98	do	
46.02	do	
72.00–76.00	Operational fixed	13
154.650	Mobile	
154.665	Base or mobile	12
154.680	do	12
154.695	do	12
154.710	Mobile	
154.725	Base or mobile	
154.740	do	
154.755	do	
154.770	Mobile	
154.785	Base or mobile	
154.800	do	
154.815	do	
154.830	Mobile	
154.845	Base or mobile	
154.860	do	
154.875	do	
154.890	Mobile	
154.905	Base or mobile	12
154.920	do	12
154.935	do	12
154.980	Mobile	
155.01	Base or mobile	
155.07	do	
155.13	do	
155.19	do	
155.25	do	
155.31	do	
155.370	do	
155.415	do	
155.430	do	
155.445	do	1,
155.460	do	12
155.475	do	14
155.490	do	
155.505	do	12
155.520	do	
155.535	do	
155.550	do	
155.565	do	
155.580	do	
155.595	do	
155.610	do	
155.625	do	
155.640	do	
155.655	do	
155.670	do	
155.685	do	
155.700	do	
155.730	do	
155.79	do	
155.85	Mobile	
155.91	do	
155.97	do	
156.03	do	
156.09	do	
156.15	do	
156.210	Base or mobile	
158.730	do	
158.790	do	
158.850	do	
158.910	Mobile	
158.970	do	
159.030	do	
159.090	Base or mobile	
159.150	do	
159.210	do	

Frequency or band	Class of station(s)	Limitations
Megahertz:		
450–470	Fixed	15
453.050	Base or mobile	16
453.100	do	16
453.150	do	16
453.200	do	16
453.250	do	16
453.300	do	16
453.350	do	16
453.400	do	16
453.450	do	16
453.500	do	16
453.550	do	16
453.600	do	16
453.650	do	16
453.700	do	16
453.750	do	16
453.800	do	16
453.850	do	16
453.900	do	16
453.950	do	16
458.050	Mobile	16
458.100	do	16
458.150	do	16
458.200	do	16
458.250	do	16
458.300	do	16
458.350	do	16
458.400	do	16
458.450	do	16
458.500	do	16
458.550	do	16
458.600	do	16
458.650	do	16
458.700	do	16
458.750	do	16
458.800	do	16
458.850	do	16
458.900	do	16
458.950	do	16
460.025	Base or mobile	
460.050	do	
460.075	do	
460.100	do	
460.125	do	
460.150	do	
460.175	do	
460.200	do	
460.225	do	
460.250	do	
460.275	do	
460.300	do	
460.325	do	
460.350	do	
460.375	do	
460.400	do	
460.425	do	
460.450	do	
460.475	do	
460.500	do	
460.525	do	17, 18, 20
460.550	do	17, 18, 20
462.950	do	17, 19
462.975	do	17, 19
465.025	Mobile	
465.050	do	
465.075	do	
465.100	do	
465.125	do	
465.150	do	
465.175	do	
465.200	Mobile	
465.225	do	
465.250	do	
465.275	do	
465.300	do	
465.325	do	
465.350	do	
465.375	do	
465.400	do	
465.425	do	
465.450	do	
465.475	do	
465.500	do	
465.525	do	17, 18, 20
465.550	do	17, 18, 20
467.950	do	17, 19
467.975	do	17, 19
470–512	Base or mobile	21
806–821	Mobile	22
851–866	Base or mobile	23
952 and above	Operational fixed	24
1427 to 1435	Operational fixed, Base or mobile	25
2450 to 2500	Base or mobile	25
10,550 to 10,680	do	

(e) Explanation of assignment limitations appearing in the frequency table of paragraph (d) of this section:

(1) The use of this frequency is on a secondary basis to any Canadian station.

(2) The frequency is available for assignment only in accordance with a geographical assignment plan.

(3) Base stations operating on this frequency and rendering service to state police mobile units may be authorized to use a maximum plate input power to the final radio frequency stage in excess of the maximum indicated in § 90.205 but not in excess of 10,000 watts: *Provided*, That such operation is secondary to other stations.

(4) This frequency is available for assignment to zone and interzone stations for use with type A1 emission only and a maximum plate input power of 1000 watts to the final radio frequency stage of the transmitter.

(5) This frequency may be assigned to fixed, stations in Alaska for point-to-point radiotelephone communications, using type A3 emission with a maximum plate input power of 1000 watts to the final radio frequency stage of the transmitter, on a secondary basis to zone and interzone stations and further subject to the condition that no harmful interference is caused to the service of any station, which in the discretion of the Commission may have priority on the frequency with which interference results.

(6) This frequency is authorized for use as a calling frequency; however, the transmission of operating signals or a single short radio telegram is permissible on a secondary basis to any calling signals.

(7) This frequency may be used only during that period of time between 2 hours after local sunrise and 2 hours before local sunset.

(8) This frequency may be assigned to fixed stations in the Police Radio Service in Alaska for point-to-point radiotelephone communication, using type A3 emission and a maximum output power of 750 watts.

(9) This frequency is shared with the Local Government Radio Service.

(10) The maximum output power of any transmitter authorized to operate on this frequency, after June 1, 1956, shall not exceed two watts. Licensees holding a valid authorization as of June 1, 1956, for base or mobile station operation on this frequency, with a power in excess of two watts, may continue to be authorized for such operation without regard to this power limitation.

(11) This frequency is reserved for assignment to stations for intersystem operations only: *Provided, however*, That licensees holding a valid authorization to use this frequency for local base or mobile operations as of June 1, 1956, may continue to be authorized for such use.

(12) This frequency is reserved primarily for assignment to state police licensees. Assignment to other police licensees will be made only where the frequency is required for coordinated operation with the state police system to which the frequency is assigned. Any request for such assignment must be supported by a statement from the state police system concerned indicating that the assignment is necessary for coordination of police activities.

(13) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(14) This frequency is available nationwide for use in police emergency communications networks operated under statewide law enforcement emergency communications plans. Operations authorized on this frequency which are not in accordance with this limitation may continue until January 1, 1985.

(15) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(16) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(17) This frequency is available for assignment, without regard to the coordination requirement of § 90.175 for the development and operation of non-voice systems. F2, F4, or F9 emission will be authorized for use of this frequency, except that telemetry, telecommand, or automatic vehicle location systems may not be operated. F3 emission may also be authorized when required to supplement non-voice operation. Transmitters type-accepted under this part for use of F3 emission may also be used for non-voice operation on this frequency, provided that the audio keying signal is passed through the low pass audio frequency filter required in the transmitter for F3 emission, and provided further that the transmitter is so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission. Operation on this frequency is exempted from the station identification requirements of § 90.425.

(18) This frequency is shared until March 1, 1986, with Fire Radio Service Licensees authorized for its use prior to July 16, 1974, and operations in the Police Radio Service are on a secondary basis to such Fire Radio Service use.

(19) This frequency is available in this service only for systems licensed in this service prior to April 16, 1976, until March 1, 1986. Use of this frequency is shared with, and is on a primary basis to, operations by licensees in the Special Emergency Radio Service.

(20) Until March 1, 1986, use of this frequency is on a secondary basis to Special Emergency licensees authorized prior to April 16, 1976.

(21) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(22) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(23) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(24) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(25) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(f) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 33.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(g) *Limitation on number of frequencies assignable.* Normally only one base and one mobile station frequency, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) The frequency 39.06 MHz may be assigned notwithstanding this limitation.

(3) A licensee may use, without specific authorization from the Commission any mobile service frequency between 40 MHz and 952 MHz listed in paragraph (d) of this section for communications in connection with physical surveillance, stakeouts, raids, and other such activities. Such use shall be on a secondary basis to operations of licensees regularly authorized on the assigned frequencies. The maximum power that may be used for such communications is 2 watts into the antenna. Other provisions of this part, including the requirements for station identification, shall apply.

(4) In addition to the frequencies assigned for mobile service operation, one base station frequency above 152 MHz may be assigned as a common frequency to all licensees in a particular area to permit intersystem communication between base stations or mobile stations or both. This frequency use will not be authorized in any area where all available frequencies are required for independent systems.

(5) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.21 Fire Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, or similar governmental entity, and persons or organizations charged with specific fire protection activities are eligible to hold authorizations in the Fire Radio Service to operate radio stations for transmission of communications essential to official fire activities of the licensee. Applications from persons or organizations other than governmental entities must be accompanied by a statement from the governmental entity having legal jurisdiction over the area to be served, supporting the request.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Fire Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Frequency or band	Class of station(s)	Limitations
[illegible]	Base or mobile	
[illegible]	Mobile or fixed	1
[illegible]	Base or mobile	
[illegible]	Mobile	
[illegible]	Base or mobile	
[illegible]	Mobile	
[illegible]	Base or mobile	
[illegible]	do	
[illegible]	do	
[illegible]	do

services and are available only in accordance with the provisions of § 90.257.

(4) This frequency is not available for assignment to stations in this service in Puerto Rico or the Virgin Islands.

(5) This frequency may be assigned to stations in the Fire Radio Service, only at points within 240 km. (150 mi.) of New York, N.Y.

(6) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(7) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(8) This frequency is available to Fire Radio Service licensees authorized prior to July 16, 1974, until March 1, 1986, on a shared basis with, and primary to operations in the Police Radio Service.

(9) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 Mhz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) The assignment of an additional frequency or frequencies may be authorized notwithstanding this limitation for common, intra-county, intra-fire-district, or intrastate fire coordination operations. The frequency or frequencies requested must be in accordance with a frequency utilization plan, for the area involved, on file with the Commission.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.23 Highway Maintenance Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, and similar governmental entity is eligible to hold authorizations in the Highway Maintenance Radio Service to operate stations for transmission of communications essential to official highway activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Highway Maintenance Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Highway maintenance radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
33.02	Base or mobile	1
33.06	do	1
33.10	do	1
37.90	do	1
37.92	do	
37.94	do	1
37.96	do	
37.98	do	1
45.68	do	
45.72	do	
45.76	do	
45.80	do	
45.84	do	
47.02	do	2
47.04	do	2
47.06	do	2
47.08	do	
47.10	do	
47.12	do	2
47.14	do	
47.16	do	
47.18	do	
47.20	do	
47.22	do	
47.24	do	
47.26	do	
47.28	do	
47.30	do	
47.32	do	
47.34	do	
47.36	do	
47.38	do	
47.40	do	
72.00 to 76.00	Operational fixed	3
150.995	Base or mobile	4
151.010	do	4
151.025	do	4
151.040	do	4
151.055	do	4
151.070	do	4
151.085	do	4
151.100	do	4
151.115	do	4
151.130	do	4
156.045	Mobile	
156.060	do	
156.075	do	
156.105	Base or mobile	
156.120	do	
156.135	do	
156.165	do	5
156.180	do	5
156.195	do	5
156.225	do	5
156.240	do	5
157.050	do	6
157.110	do	6
158.985	Mobile	5
159.000	do	5
159.015	do	5
159.045	do	5
159.060	do	5
159.075	do	5
159.105	Base or mobile	5
159.120	do	5
159.135	do	5
159.165	do	5
159.180	do	
159.195	do	
450.470	Fixed	7
453.050	Base or mobile	8
453.100	do	8
453.150	do	8
453.200	do	8
453.250	do	8
453.300	do	8
453.350	do	8
453.400	do	8
453.450	do	8
453.500	do	8
453.550	do	8
453.600	do	8
453.650	do	8
453.700	Base or mobile	9
453.750	do	8
453.800	do	8
453.850	do	8
453.900	do	8
453.950	do	8
458.050	Mobile	8
458.100	do	8
458.150	do	8
458.200	do	8
458.250	do	8
458.300	do	8
458.350	do	8
458.400	do	8
458.450	do	8
458.500	do	8
458.550	do	8
458.600	do	8
458.650	do	8
458.700	do	8
458.750	do	8
458.800	do	8
458.850	do	8
458.900	do	8
458.950	do	8
470–512	Base or mobile	9
806–821	Mobile	10
851–866	Base or mobile	10
952 and above	Operational fixed	11
14.47–1435	Operational fixed, base or mobile.	12
2450–2500	Base or mobile	13
10,550 to 10,680.	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is shared with the Special Emergency Radio Service.

(2) This frequency will be assigned only in accordance with a geographical assignment plan and is reserved primarily for assignment to Highway Maintenance systems operated by states. The use of this frequency by other Highway Maintenance licensees will be authorized only where such use is necessary to coordinate activities with the particular state to which the frequency is assigned. Any request for such use must be supported by a statement from the state concerned.

(3) The frequencies available for use at operational fixed stations in the band

72–76 MHz are listed in § 90.257(a)(1). These frequencies, are shared with other services and are available only in accordance with the provisions of § 90.257.

(4) This frequency is not available for assignment to stations in the Highway Maintenance Radio Service located in Puerto Rico and the Virgin Islands.

(5) This frequency is reserved for assignment for use in highway maintenance systems operated by licensees other than states.

(6) This frequency is only assigned to Highway Maintenance stations licensed for its use prior to April 28, 1952. Such use may continue on a secondary basis to any government or non-government radio operation.

(7) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(8) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(9) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952 and above is governed by Part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.25 Forestry-Conservation Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, and similar governmental entity, or persons or organizations charged with specific forestry-conservation activities are eligible to hold authorizations in the Forestry-Conservation Radio Service to operate radio stations for transmission of communications essential to official forestry-conservation activities of the licensee. Application from persons or organizations other than governmental entities must be accompanied by a statement from the governmental entity having legal jurisdiction over the area to be served, supporting the request.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Forestry-Conservation Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Forestry-conservation radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2312	Base or mobile	1
2328	do	1
2336	do	1
2351	do	1
Megahertz:		
30.86	do	2
30.90	do	2
30.94	do	2
30.98	do	2
31.02	do	2
31.06	do	2 3 4
31.10	do	2 3 4
31.14	do	2 3 4
31.18	do	3 4
31.22	do	3 4
31.26	do	3 4
31.30	do	3 4
31.34	do	3 4
31.38	do	3 4
31.42	do	3 4
31.46	do	3 4
31.50	do	3 4
31.54	do	3 4
31.58	do	3 4
31.62	do	3 4
31.66	do	3 4
31.70	do	3 4
31.74	do	3 4
31.78	do	3 4
31.82	do	3 4
31.86	do	3 4
31.90	do	3 4
31.94	do	3 4
31.98	do	3 4
44.64	do	
44.68	do	
44.72	do	
44.76	do	
44.80	do	
44.84	do	
44.88	do	
44.92	do	
44.96	do	
45.00	do	
45.04	do	
72.00 to 76.00	Operational fixed	5
151.145	Base or mobile	6
151.160	do	6
151.175	do	6
151.190	do	6
151.205	do	6
151.220	do	6
151.235	do	6
151.250	do	6
151.265	do	6
151.280	do	6
151.295	do	6
151.310	do	6
151.325	do	6
151.340	do	6
151.355	do	6
151.370	do	6
151.385	do	6
151.400	do	6
151.415	do	6
151.430	do	6
151.445	do	6
151.460	do	6
151.475	do	6
151.490	do	6, 7
151.505	do	7
151.520	do	7
151.535	do	7
151.550	do	7
151.565	do	7
151.580	do	7
151.595	do	7
151.610	do	7
151.625	do	7
151.640	do	7
151.655	do	7
151.670	do	7
151.685	do	7
151.700	do	7
151.715	do	7
151.730	do	7
151.745	do	7
151.760	do	7
151.775	do	7
151.790	do	7
151.805	do	7
151.820	do	7
151.835	do	7
151.850	do	7
151.865	do	7
151.880	do	7
151.895	do	7
170.425	do	4, 9, 10
170.475	do	4, 9, 11
170.575	do	4, 9, 10
171.425	do	4, 9, 11
171.475	do	4, 9, 12
171.575	do	4, 9, 11
171.625	do	4, 9, 10
172.275	do	4, 11, 1
172.375	do	4, 9, 10
450–470	Fixed	14
453.050	Base or mobile	14
453.100	do	14
453.150	do	14
453.200	do	14
453.250	do	14
453.300	do	14
453.350	do	14
453.400	do	14
453.450	do	14
453.500	do	14
453.550	do	14
453.600	do	14
453.650	do	14
453.700	do	14
453.750	do	14
453.800	do	14
453.850	do	14
453.900	do	14
453.950	do	14
458.050	Mobile	14
458.100	do	14
458.150	do	14
458.200	do	14
458.250	do	14
458.300	do	14
458.350	do	14
458.400	do	14
458.450	do	14
458.500	do	14
458.550	do	14
458.600	do	14
458.650	do	14
458.700	do	14
458.750	do	14
458.800	do	14
458.850	do	14
458.900	do	14
458.950	do	14
470–512	Base or mobile	15
806–821	Mobile	16
851–866	Base or Mobile	16
952 and above	Operational fixed	17
14.47–1435	Base or mobile	18
2450–2500	Base or mobile	19
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The use of this frequency is on a secondary basis to any Canadian station.

(2) This frequency is shared with the Motor Carrier Radio Service.

(3) This frequency is available for assignment only in accordance with a geographical assignment plan. This frequency may be used for conservation activities on a secondary basis to any station using the frequency for forest fire prevention, detection and suppression.

(4) This frequency is reserved primarily for assignment to state licensees. Assignments to other licensees will be made only where the frequency is required for coordinated operation with the state system to which the frequency is assigned. Any request for such assignment must be supported by a statement from the state system concerned, indicating that the assignment is necessary for coordination of activities.

(5) The frequencies available for use as operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a) (1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(6) This frequency is not available for assignment to stations in this service located in Puerto Rico or the Virgin Islands.

(7) This frequency is shared with stations in the Special Industrial Radio Service and evidence of interservice coordination is required.

(8) This frequency is shared with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands. All applications for the assignment of a new frequency or to change existing facilities in such a manner as to require frequency coordination as specified in § 90.175 for stations in Puerto Rico or the Virgin Islands, shall be accompanied by evidence of interservice frequency coordination.

(9) This frequency will be assigned only to licensees directly responsible for the prevention, detection, and suppression of forest fires, on a secondary basis to any U.S. Government station.

(10) This frequency will be assigned for use only in areas west of the Mississippi River.

(11) This frequency will be assigned for use only in areas east of the Mississippi.

(12) In addition to agencies responsible for forest fire prevention, detection and suppression, this frequency may be assigned to conservation agencies which do not have forest fire responsibilities on a secondary basis to any U.S. Government stations. *Provided*, That such assignment is necessary to permit mobile relay operation by such agencies.

(13) The frequencies available for use as fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(14) This frequency is available in this service on a shared basis with all other Public Safety Services.

(15) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(16) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(17) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(18) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(19) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27–265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 35 MHz may be assigned in connection with the operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

Subpart C—Special Emergency Radio Service

§ 90.31 Scope.

The Special Emergency Radio Service covers the licensing of the radio communications of the following categories of activities: Medical services, rescue organizations, veterinarians, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. Rules as to eligibility for licensing, permissible communication, classes and number of stations, and any special requirements as to each of these categories are set forth in the following sections. Frequencies available for these categories of services are shown in a separate frequency table.

§ 90.35 Medical services.

(a) *Eligiblity.* The following persons are eligible to hold authorization to operate radio stations for the delivery or rendition of medical services to the public and on a secondary basis, for transmission of messages related to the efficient administration of organizations and facilities engaged in medical services operations.

(1) Hospital establishments that offer services, facilities and beds for use beyond 24 hours in rendering medical treatment.

(2) Institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments.

(3) Ambulance companies regularly engaged in providing medical ambulance services.

(4) Rescue organizations for the limited purpose of participation in providing medical services.

(5) Associations comprised of two or more of the organizations eligible under paragraph (a) (1), (2), (3), and (4) of this section, for the purpose of active participation in and direct operational control of the medical services communication activities of such organizations.

(6) Physicians, schools of medicine, and oral surgeons, which may include an association of physicians or oral surgeons in a locality (such as a county, city, or metropolitan area), which is chartered by a national or state association of physicians or oral surgeons, provided that such association shall be subject fully to the provisions of § 90.179 governing the cooperative use of radio stations and provided further, that stations authorized to such associations may be used only for messages related to the medical activities of its members. This does not include associations whose primary purpose is to provide a communications service.

(7) Governmental entities and governmental agencies for their own medical activities.

(8) Governmental entities and governmental agencies for providing medical services communications to other eligible persons through direct participation in and direct operational control of the system, such as through central dispatch service.

(b) *Communications plans.* In the event that the applicant is participating in an area-wide medical communications plan, the plan may be filed with the application. A listing of current plans will be made available upon request to applicants and other interested parties in connection with the development of radio communications systems. In addition, copies of plans will be maintained for public inspection in the license records

of the Commission's Washington, D.C. offices.

(c) *Class and number of stations available.* (1) The number and classes of stations which may be authorized will depend upon the frequencies selected and the demonstrated system requirements.

(2) Subject to the provisions of § 90.421, communication units of a mobile station authorized under this section may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordination is required for medical services activities.

§ 90.37 Rescue organizations.

(a) *Eligibility.* Persons or organizations operating a rescue squad are eligible to hold authorizations to operate radio stations for transmission of messages pertaining to the safety of life or property and urgent messages necessary for the rendition of an efficient emergency rescue service.

(b) *Class and number of stations available.* Each rescue squad will be authorized to operate one base station, and a number of mobile units (excluding hand carried mobile units) not exceeding the number of vehicles actually used in emergency rescue operations. In addition, each rescue squad will be authorized to operate a number of hand carried mobile units not exceeding two such units for each radio equipped vehicle actually used in emergency rescue operations.

§ 90.39 Veterinarians.

(a) *Eligibility.* A veterinarian, veterinary clinic, or a school of veterinary medicine is eligible to hold authorizations to operate radio stations for the transmission of messages pertaining to the care and treatment of animals.

(b) *Class and number of stations available.* Each licensee may be authorized to operate one base station and two mobile units. Additional base stations or mobile units will be authorized only on a showing of need.

§ 90.41 Disaster relief organizations.

(a) *Eligibility.* Organizations estatblished for disaster relief purposes having an emergency radio communications plan are eligible to hold authorizations to operate radio stations for the transmission of communications relating to the safety of life or property, the establishment and maintenance of temporary relief facilities, and the alleviation of the emergency situation during periods of actual or impending emergency, or disaster, and until substantially normal conditions are restored.

(b) *Special eligibility showing.* The initial application from a disaster relief organization shall be accompanied by a copy of the charter or other authority under which the organization was established and a copy of its communications plan. The plan shall fully describe the operation of the radio facilities and describe the method of integration into other communications facilities which normally would be available to assist in the alleviation of the emergency condition.

(c) *Class and number of stations available.* Disaster relief organizations may be authorized to operate the number of base, mobile, and fixed stations required.

§ 90.43 School buses.

(a) *Eligibility.* Persons or organizations operating school buses on a regular basis over regular routes are eligible to hold authorizations ot operate radio stations for the transmission of messages pertaining to either the efficient operation of the school bus service or the safety or general welfare of the students they are engaged in transporting.

(b) *Class and number of stations available.* Each school bus operator may be authorized to operate one base station and a number of mobile units not in excess of the total of the number of buses and maintenance vehicles regularly engaged in the school bus operation. Additional base stations or mobile units will be authorized only in exceptional circumstances when the applicant can show a specific need.

§ 90.45 Beach patrols.

(a) *Eligibility.* Persons or organizations operating beach patrols having responsibility for life-saving activities are eligible to hold authorizations to operate radio stations for the transmission of messages required for the safety of life or property.

(b) *Class and number of stations available.* Eligibles in this category will be authorized to operate base, mobile, and fixed stations in the stated area served by the beach patrol. The number of such stations requested shall be justified.

§ 90.47 Establishment in isolated areas.

(a) *Eligibility.* Persons or organizations maintaining establishment in isolated areas where public communications facilities are not available and where the use of radio is the only feasible means of establishing communication with a center of population, or other point from which emergency assistance might be obtained if needed, are eligible to hold authorizations to operate radio stations for the transmission of messages only during an actual or impending emergency endangering life, health or property for the transmission of essential communications arising from the emergency. The transmission of routine or non-emergency communications is strictly prohibited.

(b) *Special eligibility showing.* The initial application requesting a station authorization for an establishment in an isolated area shall be accompanied by a statement describing the status of public communication facilities in the area of the applicant's establishment; the results of any attempts the applicant may have made to obtain public communication service, and; in the event radio communications service is to be furnished under subparagraph (d) (2) of this section, a copy of the agreement involved must be submitted.

(c) *Class and number of stations available.* Persons or organizations in this category may be authorized to operate not more than one fixed station at any isolated establishment and not more than one fixed station in a center of population.

(d) *Communication service rendered and received.* (1) The licensee of a station at any establishment in an isolated area shall make the communication facilities of such station available at no charge to any person desiring the transmission of any communication permitted by paragraph (a) of this section.

(2) For the purpose of providing the communications link desired the licensee of a station at an establishment in an isolated area either may be the licensee of a similar station at another location or may obtain communication service under a mutual agreement from the licensee of any station in the Public Safety or Special Emergency Radio Services or any other station which is authorized to communicate with the special emergency fixed station.

§ 90.49 Communications standby facilities.

(a) *Eligibility.* A communications common carrier operating communications circuits that normally carry essential communication of such a nature that their disruption would endanger life or public property is eligible to hold authorizations for standby radio facilities for the transmission of messages only during periods when the normal circuits are inoperative due to circumstances beyond the control of the user. During such periods the radio facilities may be used to transmit any communication which would be carried by the regular circuits.

(b) *Special eligibility showing.* Initial applications for authorization to operate a standby radio facility must include a statement describing radio communication facilities desired, the proposed method of operation, a description of the messages normally being carried, and an explanation of how their disruption will will endanger life or public property.

(c) *Class and number of stations available.* Eligibles in this category may be authorized to operate the number of fixed stations as standby radio facilities required. Any such fixed station may be licensed for operation either at a specified location or for itinerant operation. In the latter case the area of desired operation must be specified by the applicant.

§ 90.51 Emergency repair of public communications facilities.

(a) *Eligibility.* Communications common carriers are eligible in this service for radio facilities to be used in effecting expeditious repairs to interruption of public communications facilities where such interruptions have resulted in disabling intercity circuits or service to a multiplicity of subscribers in a general area. Stations authorized under this section may be used only when no other means of communication is readily available, for the transmission of messages relating to the safety of life and property and messages which are necessary for the efficient restoration of the public communication facilities which have been disrupted.

(b) *Class and number of stations available.* Eligibles in this category may be authorized to operate the number of base, mobile and fixed stations required.

§ 90.53 Frequencies available.

(a) The following table indicates frequencies available for assignment to stations in the Special Emergency Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (b) of this section. (Frequencies below 450 MHz indicated for base or mobile stations may be authorized to fixed stations on a secondary basis to stations in the mobile service):

Special emergency radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kiloherts:		
2000-3000	Fixed	1
2726	Base or mobile	2
3201	do	
Megahertz.		
33.02	do	3
33.04	do	
33.06	do	3
33.08	do	
33.10	do	3
35.64	Base	4
35.68	do	4
37.90	Base or mobile	3
37.94	do	3
37.98	do	3
43.64	Base	4
43.68	do	4
45.92	Base or mobile	
45.96	do	
46.00	do	
46.04	do	
47.42	do	5
47.46	do	
47.50	do	
47.54	do	
47.58	do	
47.62	do	
47.66	do	
72.00 to 76.00	Operational fixed	6
150.775	Mobile	7
150.790	do	7
152.0075	Base	4
155.160	Base or mobile	8
155.175	do	8
155.205	do	8
155.220	do	
155.235	do	8
155.265	do	8
155.280	do	
155.295	do	8
155.325	do	8, 9
155.340	do	10
155.355	do	8, 9
155.385	do	8, 9
155.400	do	8, 9
157.450	Base	4, 11
163.260	do	4
450 to 470	Fixed	12
458.025	Mobile	13, 14
458.075	do	13, 14
458.125	do	13, 14
458.175	do	13, 14
460.525	Base or mobile	16, 17
460.550	do	16, 17
462.950	do	16, 18
462.975	do	16, 18
463.000	do	14, 15, 19
463.025	do	14, 15, 19
463.050	do	14, 15, 19
463.075	do	14, 15, 20
463.100	do	14, 15, 20
463.125	do	14, 15, 20
463.150	do	14, 15, 20
463.175	do	14, 15, 20
465.525	Mobile	16, 17
465.550	do	16, 17
467.950	do	16, 18
462.975	do	16, 18
468.000	do	14, 15, 16, 18
468.025	do	14, 15, 19
468.050	do	14, 15, 19
468.075	do	14, 15, 20
468.100	do	14, 15, 20
468.125	do	14, 15, 20
468.150	do	14, 15, 20
468.175	do	14, 15, 20
806 to 821	do	21

(b) Explanation of assignment limitations appearing in the frequency table of paragraph (a) of this section:

(1) Appropriate frequencies in the band 2000–3000 kHz which are designated in Part 83 of this chapter as available to Public Ship Stations for telephone communications with Public Coast Stations may be assigned on a secondary basis to Special Emergency fixed stations for communication with Public Coast Stations only, provided such stations are located in the United States and the following conditions are met:

(i) That such fixed station is established pursuant to the eligibility provisions of § 90.47 and that the isolated area involved is an island or other location not more than 300 statute miles (480 km) removed from the desired point of communication and isolated from that point by water.

(ii) That evidence is submitted showing that an arrangement has been made with the coast station licensee for the handling of emergency communications permitted by § 81.302(b) and § 90.47(d) of this Chapter.

(iii) That operation of the Special Emergency fixed station shall at no time conflict with any provision of Part 83 of this chapter and further, that such operation in general shall conform to the practices employed by Public Ship Stations for radiotelephone communication with the same Public Coast Station.

(2) This frequency is shared with the Local Government Radio Service where it is available for State Guard operations.

(3) This frequency is shared with the Highway Maintenance Radio Service.

(4) This frequency will be assigned only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on this frequency are not authorized.

(5) This frequency is reserved for assignment only to national organizations eligible for disaster relief operation under § 90.41.

(6) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies, are shared with other services and are available only in accordance with the provisions of § 90.257.

(7) This frequency may be authorized only for voice transmission from a portable (hand-held unit) that is not airborne, to an ambulance or other emergency vehicle for automatic retransmission (vehicular repeater) on a regular mobile frequency to a base station facility. Operation on this frequency is limited to 2.5 watts output power.

(8) Any application for use of this frequency shall be accompanied by a signed statement that all licensees in other radio services who operate on a frequency 15 kHz removed and are located 16 to 56 km. (10–35 mi.) from the proposed base station have been notified of the applicant's intent to file, together with an acceptable engineering report indicating that harmful interference to the operation of existing stations will not be caused. In no instance will an application be granted in this service where the distance between the proposed station and existing base stations is less than 16 km. (10 mi.).

(9) This frequency is assignable only to those hospitals described in § 90.35(a)(1) and to those ambulance companies which need to communicate with a hospital authorized on this frequency, while providing an ambulance service.

(10) This frequency is authorized for use under § 90.35(a) for the rendition and delivery of medical services, and may be designated by common consent as an inter-system mutual assistance frequency under an area-wide medical communications plan.

(11) Operations on this frequency are limited to 30 watts transmitter output power.

(12) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land-Transportation Radio Service where they are assigned for land mobile operations.

(13) This frequency is authorized for use under § 90.35(a) for telemetry or voice transmission with maximum transmitter output power of 1 watt from a portable telemetering unit to an ambulance for automatic retransmission (vehicular repeater) to a hospital or other medical care facility. This frequency is also available in the Local Government Radio Service for highway radio call box operations. (See § 90.17 (b) and (c)(11).)

(14) The continuous carrier mode of operation may be used for telemetry transmission on this frequency.

(15) For applications for new radio systems received after August 15, 1974, the eight frequency pairs listed below will only be assigned in a block for shared operations under § 90.35(a) subject to the following:

(i) For uniformity in usage, these frequency pairs may be referred to by channel name as follows:

Frequencies base and mobile	Mobile only (Megahertz	Channel name
Megahertz		
463.000	468.000	MED-1
463.025	468.025	MED-2
463.050	468.050	MED-3
463.075	468.075	MED-4
463.100	468.100	MED-5
463.125	468.125	MED-6
463.150	468.150	MED-7
463.175	468.175	MED-8

(ii) Except as provided in subparagraphs (v) and (vi) of this paragraph, mobile or portable stations must employ equipment which is both wired and equipped to transmit/receive, respectively, on each of these eight frequency pairs with transmitters operated on the 468 MHz frequencies.

(iii) Except as provided in subparagraph (vi) of this paragraph, base or control stations must employe equipment which is both wired and equipped to transmit/receive, respectively, on at least four (three, if bio-medical telemetry operation is not employed in the system) of these eight pairs.

(iv) Multi-channel equipment requirement for use of these frequency pairs are intended to afford capability for alternating use of the individual frequencies, and ability to conduct simultaneous operations is not required. These requirements may be met in a single equipment unit or in any combination of equipment units suitable to a licensee's operations. The multi-channel requirements may be satisfied by several single-channel base stations in a mobile relay system provided that each control station can access all of the base stations and that any mobile unit located anywhere in the area of coverage can activate each of the base frequencies involved.

(v) Portable (hand-held) units operated with a maximum output power 2.5 watt are exempted from the multi-channel equipment requirements specifitd in subparagraph (ii) in this paragraph.

(vi) Stations located in areas above line A, as defined in § 90.7, will be required to meet multi-channel equipment requirements only for those frequencies up to the number specified in subparagraph (ii) and (iii) of this paragraph which have been assigned to the licensee after coordination with Canada in accordance with the applicable U.S.-Canada agreement.

(16) This frequency is primarily authorized for use under § 90.35(a) in the dispatch of medical-care vehicles and personnel for the rendition or delivery of medical services. This frequency may also be assigned for intra-system and inter-system mutual assistance purposes.

(17) This frequency is available in this service only for systems licensed in the service prior to April 16, 1976, until March 1, 1986. Use of this frequency is shared with and is primary to operations in the Police Radio Service.

(18) Until March 1, 1986, use of this frequency is on a secondary basis to Police Radio Service licenses authorized prior to April 16, 1976.

(19) This frequency is primarily authorized for use, under § 90.35(a) for operations in bio-medical telemetry systems. F2, F3, and F9 emissions may be authorized. On a secondary basis, this frequency may be utilized for any other permissible communications consistent with § 90.35.

(20) This frequency is primarily authorized for use under § 90.35(a), for communications between medical facilities vehicles and personnel related to medical supervision and instruction for treatment and transport of patients in the rendition or delivery of medical services. F2 and F3 emissions are authorized. On a secondary basis, this frequency may be utilized for any other permissible communications consistent with § 90.35, including bio-medical telemetry transmissions, and F9 emission may be additionally authorized.

(21) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(22) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(23) This frequency band is available in this service subject to the provisions of § 90.259.

(24) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(c) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(d) *Limitation on number of frequencies assignable.* Normally only one frequency below 450 MHz will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) An additional frequency may be assigned for paging operations from those frequencies available under § 90.53(b)(4).

(3) The frequency 155.340 MHz may be assigned as an additional frequency when it is designated as a mutual assistance frequency as provided in § 90.53(b)(10).

(4) Additional frequencies may be assigned for fixed station operations.

(5) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.55 Paging Operations.

Paging operations may be authorized in the Special Emergency Radio Service only on those frequencies available in accordance with § 90.53(b)(4). Paging operations on other frequencies authorized prior to August 15, 1974, may continue for the balance of the license term then effective. In addition, such operations, except those on 162.6625 MHz, may be renewed until January 1, 1980, on a secondary basis to regularly authorized operations in the Special Emergency Radio Service. Paging operations authorized on the frequency 162.6625 MHz prior to May 14, 1975, may continue until the end of the license term then effective

Subpart D—Industrial Radio Services

§ 90.59 Scope.

The Industrial Radio Services include the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Business, Manufacturers, and Telephone Maintenance Radio Services. Rules as to eligibility for licensing, specific frequencies available, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.61 General eligibility.

In addition to the eligibility shown in each Industrial Radio Service, eligibility is also provided for any corporation proposing to furnish nonprofit radiocommunication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary provided the party served is regularly engaged in any of the eligibility activities set forth in the particular service involved. Eligibility is also provided, except in the Business Radio Service, for a nonprofit corporation or association that is organized for the purpose of furnishing a radiocommunication service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.179.

§ 90.63 Power Radio Service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Power Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) The generation, transmission, or distribution of electrical energy for use by the general public or by the members of a cooperative organization.

(2) The distribution of manufactured or natural gas by means of pipe line, for use by the general public or by the members of a cooperative organization, or, in a combination of that activity with the production, transmission or storage of manufactured or natural gas preparatory to such distribution.

(3) The distribution of steam by means of pipe line or, of water by means of pipe line, canal, or open ditch, for use by the general public or by the members

of a cooperative organization, or in a combination of that activity with the collection, transmission, storage, or purification of water or the generation of steam preparatory to such distribution.

(4) The providing of a supporting service by a corporation directly related to activities of its parent corporation, of another subsidiary of the same parent, or of its own subsidiary, where the party served is regularly engaged in any of the eligibility activities set forth in this section.

(b) *Special use of service.* (1) Radio facilities licensed to an electric power entity, in addition to being used primarily for the installation and maintenance of the electric power system, may also be used for the installation and maintenance of any other wireline facilities where such facilities employ in whole or in part the same pole line or duct distribution system as that of the electric power entity and where the licensee has the responsibility to maintain such additional wireline facilities through common ownership or contractual arrangement.

(2) Persons licensed under the provisions of subparagraph (a)(2) of this section may utilize their radio facilities in conjunction with the supplying of liquefied petroleum gas to consumers in areas beyond gas distribution pipe lines.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Power Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (d) of this section:

Power radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2202	Base or mobile	1
2505	do	1
4637.5	do	1
Megahertz:		
27.46	Base or mobile	
27.48	do	
27.50	do	
27.52	do	
27.54	do	
27.56	do	
27.58	do	
27.60	Base, mobile or operational fixed	2
27.62	Base or mobile	
27.64	do	
27.66	do	
27.68	do	
27.70	do	
27.72	do	
27.74	do	
27.76	do	
27.78	do	
27.80	do	
27.82	Operational fixed, base Or mobile	2
27.84	Base or mobile	
27.86	do	
27.88	do	
27.90	do	
27.92	do	
27.94	do	
27.96	do	
27.98	do	
48.00	do	
48.02	do	
48.04	do	
48.06	do	
48.08	do	
48.10	do	
48.12	do	
48.14	do	
48.16	do	
48.18	do	
48.20	do	
48.22	do	
48.24	do	
48.26	do	
48.28	do	
48.30	do	
48.32	do	
48.34	do	
48.36	do	
48.38	do	
48.40	do	
48.42	do	
48.44	do	
48.46	do	
48.48	do	
48.50	do	
48.52	do	
48.54	do	
72-76	Operational fixed	3
153.410	Base or mobile	
153.425	do	4
153.440	do	4
153.455	do	4
153.470	do	
153.485	do	4
153.500	do	4
153.515	do	4
153.530	do	
153.545	do	4
153.560	do	4
153.575	do	4
153.590	do	
153.605	do	4
153.620	do	4
153.635	do	4
153.650	do	
153.665	do	4
153.680	do	4
153.695	do	
153.710	do	
153.725	do	
154.460 to 154.4675	Fixed or mobile	6, 7
158.130	Base or mobile	
158.145	do	8
158.160	do	8
158.175	do	8
158.190	do	
158.205	do	8
158.220	do	8
158.235	do	8
158.250	do	
158.265	do	8
160.635	Operational fixed	10
168.480	do	10
169.475	do	10
169.500	do	10
169.525	do	10
170.225	do	10
170.250	do	10
170.275	do	10
170.300	do	10
170.325	do	10
171.025	do	10
171.050	do	10
171.075	do	10
171.100	do	10
171.125	do	10
171.825	do	10
171.850	do	10
171.875	do	10
171.900	do	10
171.925	do	10
173.20875	Fixed or mobile	7, 11
173.21	do	11, 12
173.25	Base or mobile	9
173.30	do	9
173.35	do	9
173.39	Fixed or mobile	11, 12
173.39625	do	7, 11
216-220	Base or mobile	13
406.125	Operational fixed	10
406.175	do	10
409.575	do	10
409.725	do	10
412.825	do	10
412.875	do	10
412.725	do	10
412.775	do	10
450-470	Fixed	14
451.025	Base or mobile	
451.050	do	
451.075	do	
451.100	do	
451.125	do	
451.150	do	
451.175	do	15
451.200	do	
451.225	do	15
451.250	do	
451.275	do	15
451.375	do	15
451.425	do	15
451.475	do	15
451.525	do	15
451.575	do	15
451.625	do	15
451.675	do	15
456.025	Mobile	
456.050	do	
456.075	do	
456.100	do	
456.125	do	
456.150	do	
456.175	do	15
456.200	do	
456.225	do	15
456.250	do	
456.275	do	15
456.375	do	15
456.425	do	15
456.475	do	15
456.525	do	15
456.575	do	15
456.625	do	15
456.675	do	15
462.475	Base or mobile	15
462.525	do	15
467.475	Mobile	15
467.525	do	15
470 to 512	Base or mobile	16
806 to 821	Mobile	17
851 to 866	Base or mobile	17
952 and above	Operational fixed	18
1427 to 1435	Base, mobile or operational fixed	19
2450 to 2500	Base or mobile	19
8400 to 8500	do	20
10,550 to 10,680	do	20

(d) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (c) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency may be assigned only to stations operating in an interconnected or coordinated utility system in accordance with an operational communications plan which sets forth all points of communications. Authorizations at variance with an established operational communications plan will be made only on a secondary basis.

(3) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(4) This frequency is shared with the Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(5) This frequency is not available for assignment in this service in the States of Arkansas, Louisiana, Oklahoma, and Texas. In these states, this frequency is available to the Petroleum and Forest Products Radio Services.

(6) This frequency is available primarily for assignment to multiple address fixed stations employing omnidirectional antennas used for Power Utility peak load shaving and shedding and to mobile stations used for the remote control of objects and devices. The maximum power that may be authorized to fixed stations is 300 watts output, and the maximum power that may be authorized for mobile stations is 1 watt output. A1, A2, F1, or F2 emission may be authorized. This frequency may also be assigned to operational fixed stations employing directional antenna systems (front-to-back ratio of 20 dB) when such stations are located at least 120 km. (75 mi.) from the boundaries of any urbanized area of 200,000 or more population, (U.S. Census of Population, 1960, vol. I, fig. 46, p. S36). The maximum power output of the transmitter for such fixed stations may not exceed 50 watts. A1, A2, F1, or F2 emission may be authorized.

(7) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(8) This frequency is share with Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

(9) This frequency is not available for assignment in this service in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington. In these states this frequency is available only in the Petroleum and Forest Products Radio Services.

(10) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithsatnding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(11) This frequency is available on a shared basis with other Industrial Radio Services and the Local Government Radio Service. On this frequency the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode. Operational fixed stations communicating with two receiving locations or with three or more receiving locations all of which are located within an angle of azimuth of 160° must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed at other stations.

(12) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwith may not exceed 3 kHz.

(13) This band is available to stations operating in this service subject to the provisions of § 90.259.

(14) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(15) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(16) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(17) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(18) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(19) This frequency band is available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(20) Use of this frequency is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) Persons eligible under the provisions of subparagraph (a)(2) of this section who are engaged in the distribution of natural gas directly to consumers and who have a substantial requirement for mobile service communication with a gas supplier may be authorized to operate on the Petroleum Radio Service frequency or frequencies assigned to the supplier. However, such operation shall be limited to communications in a local area common to both parties, and shall relate only to gas supply and distribution activities. The application of any person seeking a frequency assignment under the provisions of this paragraph shall be accompanied by a written statement from the natural gas supplier which concurs in the need for such intercommunication and consents to the use by the natural gas distributor of the frequency or frequencies involved.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of Subpart P, notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.65 Petroleum radio service.

(a) *Eligibility.* Persons primarily engaged in prospecting for, producing, collecting, refining, or transporting by means of pipeline, petroleum or petroleum products (including natural gas) are eligible to hold authorizations in the Petroleum Radio Service to operate radio stations for transmissions of communications essential to such activities of the licensee: However, persons engaged solely in the containment or cleanup of oil spills will only be assigned those frequencies designated by limitations (30) and (31) in this section.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Petroleum Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Petroleum radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1014	Base or mobile	1, 2, 3, 4
1628	do	1, 2, 3, 4
1652	do	1, 2, 3, 4
1676	do	1, 2, 3, 4
1700	do	1, 2, 3, 4
2292	do	1, 2, 3, 5
2398	do	1, 2, 4, 5
4637.5	do	1, 2, 4, 5
Megahertz:		
25.02	do	3, 4
25.04	do	6
25.06	do	3, 4
25.08	do	6, 7
25.10	do	3, 4
25.12	do	
25.14	do	3, 4, 7
25.16	do	
25.18	do	3, 4
25.20	do	
25.22	do	4, 5
25.24	do	
25.26	do	4, 5
25.28	do	
25.30	do	4, 5
25.32	do	
25.34	do	4, 5, 8
25.36	do	4, 5
25.70	do	4, 5, 8
30.74	do	4, 5
30.78	do	4, 5, 8
30.82	do	
33.18	do	
33.20	do	
33.22	do	
33.24	do	
33.26	do	
33.28	do	
33.30	do	
33.32	do	
33.34	do	
33.36	do	
33.38	do	
36.25	do	9
41.71	do	9
48.56	do	10
48.58	do	10
48.60	do	10
48.62	do	10
48.64	do	10
48.66	do	10
48.68	do	10
48.70	do	10
48.72	do	10
48.74	do	10
48.76	do	10
48.78	do	10
48.80	do	10
48.82	do	10
48.84	do	10
48.86	do	10
48.88	do	10
48.90	do	10
48.92	do	10
48.94	do	10
48.96	do	10
48.98	do	10
49.00	do	10
49.02	do	10
49.04	do	10
49.06	do	10
49.08	do	10
49.10	do	10
49.12	do	10
49.14	do	10
49.16	do	10
49.18	do	10
49.20	do	10
49.22	do	10
49.24	do	10
49.26	do	10
49.28	do	10
49.30	do	10
49.32	do	10
49.34	do	10
49.36	do	10
49.38	do	10
49.40	do	10
49.42	do	10
49.44	do	10
49.46	do	10
49.48	do	10
49.50	do	10
72 to 76	Operational fixed	11
150.980	Base or mobile	6
153.035	do	12
153.050	do	12
153.065	do	4, 5, 13
153.080	do	4, 5, 13
153.095	do	4, 5, 13
153.110	do	4, 5, 13
153.125	do	4, 5, 13
153.140	do	4, 5, 13
153.155	do	4, 5, 13
153.170	do	4, 5, 13
153.185	do	4, 5, 13
153.200	do	4, 5, 13
153.215	do	4, 5, 13
153.230	do	4, 5, 13
153.245	do	4, 5, 13
153.260	do	4, 5, 13
153.275	do	4, 5, 13
153.290	do	4, 5, 13
153.305	do	4, 5, 13
153.320	do	4, 5, 13
153.335	do	4, 5, 13
153.350	do	4, 5, 13
153.365	do	13
153.380	do	13
153.395	do	13
153.425	do	14
153.440	do	10, 15
153.455	do	14
153.485	do	14
153.500	do	10, 15
153.515	do	14
153.545	do	14
153.560	do	10, 15
153.575	do	14
153.605	do	14
153.620	do	10, 15
153.635	do	14
153.665	do	14
153.680	do	10, 15
154.4675 to 154.4750	Fixed or mobile	16, 17, 18
154.585	Mobile	6, 19
158.145	Base or mobile	6, 19
158.160	do	10, 21
158.175	do	20
158.205	do	20
158.220	do	10, 21
158.235	do	20
168.265	do	20
168.280	do	13
168.295	do	13
168.310	do	13
168.325	do	13
168.355	do	10
168.370	do	4, 5, 10
168.415	do	13
168.430	do	4, 5, 13
168.445	Mobile	6, 22
169.480	Base or mobile	6
169.495	Operational fixed	23
169.450	do	23
169.475	do	23
169.500	do	23
169.525	do	23
170.225	do	23
170.250	do	23
170.275	do	23
170.300	do	23
170.325	do	23
171.025	do	23
171.050	do	23
171.075	do	23
171.100	do	23
171.125	do	23
171.825	do	23
171.850	do	23
171.875	do	23
171.900	do	23
171.925	do	23
173.20375	Fixed or mobile	16, 18, 24
173.21	do	16, 24, 25
173.25	do	10, 21
173.30	do	10, 21
173.35	do	10, 21
173.39	do	16, 24, 25
173.39625	do	16, 18, 24
216 to 220	Base or mobile	26
406.125	Operational fixed	23
406.175	do	23
406.675	do	23
406.725	do	23
412.625	do	23
412.675	do	23
412.725	do	23
412.775	do	23
450.470	Fixed	27
451.175	Base or mobile	28
451.225	do	28
451.275	do	28
451.375	do	28
451.425	do	28
451.475	do	28
451.525	do	28
451.550	Base or mobile	4, 5, 10
451.575	do	28
451.600	do	28
451.625	do	28
451.650	do	4, 5, 10
451.675	do	28
451.700	do	4, 5, 10
451.750	do	4, 5, 10
454.000	do	6
459.000	do	6
456.175	Mobile	28
456.225	do	28
456.275	do	28
456.325	do	28
456.375	do	28
456.425	do	28
456.475	do	28
456.525	do	28
456.550	do	10
456.575	do	28
456.600	do	10
456.625	do	28
456.650	do	10
456.675	do	28
456.700	do	10
456.750	do	10
462.475	Base or mobile	28
462.525	do	28
467.475	Mobile	28
467.525	do	28
470 to 512	Base or mobile	29
806.821	Mobile only	30
851.866	Base or mobile	30
952 and above	Operational fixed	31
1427 to 1435	Operational fixed, base or mobile	26
2450 to 2500	Base or mobile	32
8400 to 8500	do	33
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) Use of this frequency is limited to an amplitude modulation mode of operation.

(3) This frequency is available for assignment only to stations utilized for geophysical purposes.

(4) Geophysical operations may use tone or impulse signalling for purposes other than indicating failure of equipment or abnormal conditions on this frequency. All such tone or impulse signalling shall be on a secondary basis and subject to the following limitations:

(i) Maximum duration of a single non-voice transmission, may not exceed three minutes.

(ii) The bandwidth utilized for secondary tone or impulse signalling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(iii) Frequency loading resulting from the use of secondary tone or impulse signalling will not be considered in whole or in part, as a justification for authorizing additional frequencies in the licensee's mobile service system.

(iv) The maximum transmitter output power for tone or impulse transmissions shall not exceed 50 watts.

(5) This frequency is available for assignment to geophysical stations on a secondary basis to other Petroleum licensees. Geophysical stations must cease operations on this frequency immediately upon receiving notice that interference is being caused to mobile service stations.

(6) This frequency is primarily available for oil spill containment and cleanup operations and for training and drills essential in the preparations for the containment and cleanup of oil spills. It is secondarily available for general base-

mobile operations in the Petroleum Radio Service on a non-interference basis. Secondary users of this frequency are required to be present in their area of operation or upon notice by the Commission or a primary user that harmful interference is being caused to oil spill containment and cleanup activities in other areas.

(7) Operation on this frequency is secondary to stations in the maritime mobile service operating in accordance with the International table of frequency allocations.

(8) This frequency is shared with the Motor Carrier Radio Service.

(9) This Government frequency is available for shared Government/non-Government use by stations engaged in oil spill containment and cleanup operations and for training and drills essential in the preparation for containment and cleanup of oil spills. Such use will be confined to inland and coastal waterways.

(10) This frequency is shared with the Forest Products Radio Service.

(11) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services, and are available only in accordance with the provisions of § 90.257.

(12) This frequency is shared with the Special Industrial Radio Service.

(13) This frequency is shared with the Forest Products and Manufacturers Radio Services.

(14) This frequency is shared with Power and Forest Products Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma and Texas. Elsewhere this frequency is available in the Power Radio Service.

(15) This frequency is available for assignment in this service only in the States of Arkansas, Louisiana, Oklahoma and Texas. Elsewhere this frequency is available in the Power Radio Service.

(16) The maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized. Mobile stations used to control remote objects and devices may be operated in the continuous transmit mode. Operational fixed stations communicating with two receiving locations or with three or more receiving locations all of which are located within an angle of azimuth of 160° must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed at other stations.

(17) This frequency band is shared with the Special Industrial Radio Service.

(18) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2 kHz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(19) This frequency is limited to a maximum power of 20 watts.

(20) This frequency is shared with Power and Forest Products Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas and Washington. Elsewhere, this frequency is available only in the Power Radio Service.

(21) This frequency is available for assignment in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas and Washington. Eleswhere it is available in the Power Radio Service.

(22) This frequency is limited to a maximum power of 75 watts.

(23) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(24) This frequency band is shared with Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business and with the Local Government Radio Service.

(25) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent, and the authorized bandwidth may not exceed 3 kHz.

(26) This band is available to stations operating in this service subject to the provisions of § 90.259.

(27) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(28) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(29) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(30) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(31) Assignment of frequencies to operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(32) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(33) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.255.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available for assignment in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) Persons eligible in this service who are engaged in the transportation of natural gas by pipeline and who have a substantial requirement for mobile service communication with a public utility company purchasing such gas for distribution to the consumer may be authorized to operate on the Power Radio Service frequency or frequencies assigned to such distributor(s). However, such operation shall be limited to communications in the local area common to both parties and shall relate only to gas supply and distribution activities. The application of any person seeking a frequency assignment under the provisions of this paragraph shall be accompanied by a written statement from the natural gas distributor which concurs in the need for such intercommunication, and consents to the use by the natural gas supplier of the frequencies involved.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the [illegible] 30.57 MHz, 30.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(3) Authorizations for multiple frequencies for geophysical operations will be granted on the frequencies governed by the limitations in subparagraphs (c)(3) and (c)(4) of this section notwithstanding this limitation. However, each geographical exploration party may only use a maximum of four frequencies at any one time.

(4) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.67 Forest products radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Forest Products Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) Tree logging, tree farming, or related woods operations, including related hauling activities, if the hauling activities are performed under contract to, and exclusively for, persons engaged in woods operations;

(2) Manufacturing lumber, plywood, hardboard, or pulp and paper products from wood fiber by persons eligible under the provisions of subparagraph (1) of this paragraph.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Forest Products Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Forest products radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1670	Base or mobile	1
1700	do	1
2398	do	1
Megahertz:		
25.01	do	
29.73	do	
29.75	do	
29.77	do	
29.79	do	
30.08	do	
30.10	do	
37.44	do	
37.88	do	
48.50	do	2
48.58	do	2
48.60	do	2
48.62	do	2
48.64	do	2
48.66	do	2
48.68	do	2
48.70	do	2
48.72	do	2
48.74	do	2
48.76	do	2
48.78	do	2
72–76	Operational fixed	4
152.480	Base or mobile	5
153.050	do	6
153.065	do	6
153.080	do	6
153.095	do	6
153.110	do	6
153.125	do	6
153.140	do	6
153.155	do	6
153.170	do	6
153.185	do	6
153.200	do	6
153.215	do	6
153.230	do	6
153.245	do	6
153.260	do	6
153.275	do	6
153.290	do	6
153.305	do	6
153.320	do	6
153.350	do	6
153.365	do	6
153.380	do	6
153.395	do	6
153.425	do	6
153.440	do	6
153.455	do	6
153.485	do	6
153.500	do	6
153.515	do	6
153.560	do	6
153.575	do	6
153.605	do	6
153.620	do	6
153.635	do	6
153.650	do	6
153.680	do	6
154.570	Mobile	9
154.600	do	9
154.625	Base or mobile	1
157.740	do	10
158.145	do	2, 11
158.190	do	10
158.175	do	10
158.205	do	10
158.220	do	2, 11
158.235	do	10
158.265	do	10
158.280	do	6
158.295	do	6
158.310	do	6
158.325	do	6
158.355	do	2
158.370	do	6
158.415	do	6
158.430	do	6
158.460	do	6
169.425	Operational fixed	12
169.430	do	13
169.475	do	13
169.500	do	13
169.525	do	13
170.225	do	13
170.250	do	12
170.275	do	12
170.300	do	12
170.325	do	12
171.025	do	12
171.050	do	12
171.075	do	12
171.100	do	12
171.125	do	12
171.825	do	12
171.850	do	12
171.875	do	12
171.900	do	12
171.925	do	12
173.20375	Fixed or mobile	13, 14
173.21	do	13, 15
173.25	Base or mobile	2, 11
173.30	do	2, 11
173.35	do	2, 11
173.39	Fixed or mobile	13, 15
173.39625	do	13, 14
216–220	Base or mobile	16
406.125	Operational fixed	12
406.175	do	12
406.675	do	12
406.725	do	12
412.625	do	12
412.675	do	12
416.725	do	12
412.775	do	12
450–470	Fixed	17
451.175	Base or mobile	18
451.225	do	18
451.275	do	18
451.375	do	18
451.425	do	18
451.475	do	18
451.525	do	18
451.550	do	18
451.575	do	18
451.600	do	18
451.625	do	18
451.650	do	18
451.675	do	18
451.700	do	18
451.750	do	18
456.175	Mobile	18
456.225	do	18
456.275	do	18
456.375	do	18
456.425	do	18
456.475	do	18
456.525	do	18
456.550	do	18
456.575	do	18
456.600	do	18
456.625	do	18
456.650	do	18
456.675	do	18
456.700	do	18
462.475	Base or mobile	18
462.525	do	18
467.475	Mobile	18
467.525	do	18
470–512	Base or mobile	19
806–821	Mobile	20
851–866	Base or mobile	20
952 and above	Operational fixed	21
1427–1435	Operational fixed, base or mobile	16
2450–2500	Base or mobile	22
8400–8500	do	23
10,550–10,680	do	

(c) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency is shared with the Petroleum Radio Service.

(3) This frequency is shared with the Special Industrial Radio Service.

(4) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(5) This frequency is available in this service and in the Special Industrial Radio Service on a secondary basis to one-way paging Communications authorized in the Business Radio Service.

(6) This frequency is shared with the Petroleum and Manufacturers Radio Services.

(7) This frequency is shared with the Power and Petroleum Radio Service and is available in this service only in the States of Arkansas, Louisiana, Oklahoma and Texas. Elsewhere it is available in the Power Radio Service.

(8) This frequency is available for assignment in this service only in the States of Arkansas, Louisiana, Oklahoma, and Texas. Elsewhere, this frequency is available in the Power Radio Service.

(9) Authorizations to operate on this frequency will be issued for A2 or F2 emission for tone signalling or for a combination of such emission with A3 or F3 emission with a maximum bandwidth of 20 kHz. The output power shall not exceed 2 watts. The maximum distance between any transmitter and the center of the radiating portion of its antenna shall not exceed 8 m. (25 ft.) Operation on this frequency is secondary to stations in the Business Radio Service.

(10) This frequency is shared with Power and Petroleum Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas and Washington.

(11) This frequency is available for assignment in this service, only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas and Washington. Elsewhere it is available in the Power Radio Service.

(12) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(13) This frequency is available on a shared basis with the Local Government Radio Service and Industrial Radio Services as follows: Special Industrial, Business, Power, Protection, Manufacturers, Forest Products, Industrial Radio Location, Motion Picture, Relay Press, and Telephone Maintenance. On this frequency the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emissions may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode. Operational fixed stations communicating with two receiving locations or with three or more receiving locations all of which are located within an angle of azimuth of 160° must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed at other stations.

(14) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum deviation may not exceed 2.5kHz. For AM transmitters the highest modulating frequency may not exceed 2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(15) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(16) This band is available to stations in this service subject to the provisions of § 90.259.

(17) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(18) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(19) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(20) Subpart M contains rules for assignment of frequencies in the 806–821 MHz and 851–866 MHz bands.

(21) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(22) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(23) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service (See also § 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.253.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(e) Limitation on number of frequencies assignable. Normally only one frequency or pair of frequencies in the pair frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operations of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.69 Motion picture radio service.

(a) *Eligibility.* Persons primarily engaged in the production or filming of motion pictures are eligible to hold authorizations in the Motion Picture Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Motion Picture Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Motion picture radio service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1626	Base or mobile	1
1652	do	1
2292	do	1
2388	do	1
4637.5	do	1
Megahertz:		
72 to 76	Operational fixed	3
152.87	Base or mobile	3
152.90	do	3
152.93	do	3
152.96	do	3
152.99	do	3
153.02	do	3
173.225	do	4
173.275	do	4
173.325	do	4
173.375	do	4
806 to 821	Mobile	5

Frequency or band	Class of station(s)	Limitations
Megahertz:		
851 to 866	Base or mobile	5
952 and above	Operational fixed	6
1427 to 1435	Base, mobile or operational fixed.	7
2450 to 2500	Base or mobile	8
8400 to 8500	do	9
10,550 to 10,680.	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(3) This frequency is shared with the Special Industrial Radio Service.

(4) This frequency is shared with the Relay Press Radio Service.

(5) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(6) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this chapter.

(7) This band is available in this service subject to the provisions of § 90.259.

(8) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(9) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service.

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available for in accordance with § 90.255.

(3) Frequencies in the band 73–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permited.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be asisgned in connection with operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment for developmental operation to applications in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz, may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.71 Relay press radio service.

(a) *Eligibility.* Persons primarily engaged in the publication of a newspaper or in the operation of an established press association are eligible to hold authorizations in the Relay Press Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Relay Press Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Relay press radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.0 to 76.0	Operational fixed	1
173.225	Base or mobile	2
173.275	do	2
173.325	do	2
173.375	do	2
452.975	do	
453.000	do	
457.975	Mobile	
458.000	do	
806 to 821	do	3
851 to 866	Base or mobile	3
952 and above.	Operational fixed	4
1427 to 1435	Operational fixed, base or mobile.	5
2450 to 2500	Base or mobile	6
8400 to 8500	do	7
10,550 to 10,680.	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The frequencies available in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(2) This frequency is shared with the Motion Picture Radio Service.

(3) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(4) Assignment of frequencies for operational fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(5) This band is available in this service subject to the provisions of § 90.259.

(6) Available only on a shared basis with stations in other services and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(7) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See Section 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available for in accordance with § 90.255.

(2) Frequencies in the band 73–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single application in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.73 Special industrial radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Special Industrial Radio Service to operate radio stations for the transmission of only those communications essential to such activities of the licensee. (Persons engaging in some activities which are eligible under this paragraph and in some which are not, and desiring to use radio in connections with both types of activities should apply for authorization in the Business Radio Service.)

(1) The operation of farms, ranches, or similar land areas, for the quantity production of crops or plants; vines or trees (excluding forestry operations); or for the keeping, grazing or feeding of livestock for animal products, animal increase, or value enhancement. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the gathering or

processing of products grown or raised for them by others.

(2) Plowing, soil conditioning, seeding, fertilizing, or harvesting for agricultural activities.

(3) Spraying or dusting of insecticides, herbicides, or fungicides, in areas other than enclosed structures.

(4) Livestock breeding service.

(5) The operation of a commercial business regularly engaged in the construction of roads, bridges, sewer systems, pipelines, airfields, or water, oil, gas, or power productions, collection, or distribution systems. Other engineering projects, normally classified as heavy construction activities, will be considered on the merits of the showing made, however, the construction of buildings is not included in this category.

(6) The operation of mines for the recovery of solid fuels, minerals, metal, rock, sand and gravel from the earth or the sea, including the exploration for and development of mining properties.

(7) Maintaining, patrolling or repairing gas or liquid transmission pipelines, tank cars, water or waste disposal wells, industrial storage tanks, or distribution systems of public utilities. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the containment and cleanup of industrial liquid spillage.

(8) Acidizing, cementing, logging, perforating, or shooting activities, and services of a similar nature incident to the drilling of new oil or gas wells, or the maintenance of production from established wells.

(9) Supplying chemicals, mud, tools, pipe, and other materials or equipment unique to the petroleum and gas production industry, as the primary activity of the applicant if delivery, installation or application of these materials requires the use of specifically fitted conveyances.

(10) The delivery of ice or fuel to the consumer for heating, lighting, refrigeration or power generation purposes, by means other than pipelines or railroads when such products are not to be resold following their delivery. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the servicing of the equipment that uses or consumes the products delivered.

(11) The delivery and pouring of ready mixed concrete or hot asphalt mix.

(b) *Special limitation on use of service.* Communications relating to any of the following shall not be transmitted by any station licensed in the Special Industrial Radio Service.

(1) Sales reports or the dispatching of salesmen;

(2) Payrolls, accounts, or inventory controls.

(3) Any mesage relating to the retail delivery of any item or product, except where such retail delivery is specifically included in the eligibility provisions of this section.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Special Industrial Radio Service together with the class of station(s) to which they are normally assigned, and the specific assignment limitations which are explained in paragraph (d) of this section

Special industrial radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz		
151.490	Base or mobile	2, 8
151.505	do	4
151.520	do	2
151.535	do	4
151.550	do	2
151.565	do	4
151.580	do	2
151.595	do	4
151.610	do	2
151.625	do	4
151.640	do	2
151.655	do	4
151.670	do	2
151.685	do	4
151.700	do	2
151.715	do	4
151.730	do	2
151.745	do	4
151.760	do	2, 11
151.775 to 154.0075	Land or mobile	11, 12, 13
154.0125		
154.015	Base or mobile	7
154.025	do	2, 9
154.04	do	7
154.085	do	2
154.100	do	7
154.115	do	2
154.130	do	7
154.145	do	2
154.160	do	7
154.175	do	2
154.190	do	7
154.205	do	2
154.220	do	7
154.235	do	2
154.250	do	7
154.265	do	2
154.280	do	7
154.295	do	2
154.310	do	7
154.325	do	2
154.340	do	7
154.355	do	2
154.370	do	7
154.385	do	2
154.400	do	7
154.415	do	2
154.430	do	7
154.445	do	2
154.460	do	7
154.475	do	2
154.490	do	7
154.505	do	2
154.520	do	7
154.535	do	2
154.550	do	7
154.565	do	2
154.580	do	7
154.595	do	2
154.610	do	7
154.625	do	2
154.640	do	7
154.655	do	2
154.670	do	7
154.685	do	2
154.700	do	7
154.715	do	2, 11
154.730	do	7
154.745	do	2, 11
154.760	do	7
154.775	do	2, 10
154.790	do	7
154.805	do	2, 10
154.820	do	7
154.835	do	2, 10
154.850	do	7
154.865	do	2, 10
154.880	do	7
154.895	do	2, 10
154.910	do	7
154.925	do	2, 10
154.940	do	7
154.955	do	2, 10
154.970	do	7
154.985	do	2, 10
155.000	do	7
155.015	do	2, 11
155.030	do	7
155.045	do	2, 10
155.060	do	7
155.075	do	2, 10
155.090	do	7
155.105	do	2, 10
155.120	do	7
155.135	do	2, 10
155.150	do	7
155.165	do	2, 10
155.180	do	7
155.195	do	2, 10
155.210	do	7
155.225	do	2, 10
155.240	do	7
155.255	do	2, 10
155.270	do	7
155.285	do	2, 10
155.300	do	7
155.315	do	2, 10
155.330	do	7
155.345	do	2, 10
155.360	do	7
155.375	do	2, 10
155.390	do	7
155.405	do	2, 10
155.420	do	7
155.435	do	2, 10
155.450	do	7
155.465	do	2, 10
155.480	do	7
155.495	do	2, 10
155.510	do	7
155.525	do	2, 10
155.540	do	7
155.555	do	2, 10
155.570	do	7
155.585	do	2, 10
155.600	do	7
155.615	do	2, 10
155.630	do	7
155.645	do	2, 10
155.660	do	7
155.675	do	2, 10
155.690	do	7
155.705	do	2, 10
155.720	do	7
155.735	do	2, 10
155.750	do	7
155.765	do	2, 10
155.780	do	7
155.795	do	2, 10
155.810	do	7
155.825	do	2, 10
155.840	do	7
155.855	do	2, 10
155.870	do	7
155.885	do	2, 10
155.900	do	7
155.915	do	2, 10
155.930	do	7
155.945	do	2, 10
155.960	do	7
155.975	do	2, 10
155.990	do	7
156.005	do	2, 10
156.020	do	7
156.035	do	2, 10
156.050	do	7
156.065	do	2, 10
156.080	do	7
156.095	do	2, 10
156.110	do	7
156.125	do	2, 10
156.140	do	7
156.155	do	2, 10
156.170	do	7
156.185	do	2, 10
156.200	do	7
156.215	do	2, 10
156.230	do	7
156.245	do	2, 10
156.260	do	7
156.275	do	2, 10
156.290	do	7
156.305	do	2, 10
156.320	do	7
156.335	do	2, 10
156.350	do	7
156.365	do	2, 10
156.380	do	7
156.395	do	2, 10
156.410	do	7
156.425	do	2, 10
156.440	do	7
156.455	do	2, 10
156.470	Fixed	18
156.480	Base or mobile	7
156.485	do	2, 10
156.500	do	7
156.515	do	2, 10
156.530	do	7
156.545	do	2, 10
156.560	do	7

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency will be assigned only for operation in a permanent area, normally within 120 km. (75 mi.) of a specified reference point.

(3) Operation on this frequency is limited to a maximum output of 2 watts; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station, on a secondary basis to mobile service operations provided that the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 25 feet (7.6 m).

(4) This frequency will be assigned only to stations used in itinerant operations.

(5) This frequency is shared with the Forest Products Radio Service.

(6) The frequencies available in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(7) This frequency is available on a shared basis in the Manufacturers, Special Industrial, and Railroad Radio Services and interservice coordination is required. All communications must be conducted within the boundaries or confines of plant, factor, shipyard, mill, mine, farm, ranch, or construction area. All operations on this frequency are subject to the provisions of § 90.257(b).

(8) This frequency is not available to stations in Puerto Rico or the Virgin Islands. Elsewhere, this frequency is shared with the Forestry-Conservation Radio Service and interservice coordination is required.

(9) This frequency is available in this service and in the Forest Products Radio Service on a secondary basis to one-way paging communications authorized in the Business Radio Service.

(10) This frequency is shared with the Motion Picture Radio Service.

(11) This frequency band is shared with the Petroleum Radio Service.

(12) In this frequency band the maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized. Mobile stations used to control remote objects and devices may be operated in the continuous transmit mode. Operational fixed stations communicating with two receiving locations or with three or more receiving locations all of which are located within an angle of azimuth of 160° must employ directional antennas having a front-to-back ratio of at least 20 dB. Ominidirectional antennas having unity gain may be employed at other stations.

(13) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters, the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(14) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(15) This frequency band is shared with other Industrial Radio Services as follows: Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and the Local Government Radio Service.

(16) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(17) This frequency band is available to stations in the service subject to the provisions of § 90.259.

(18) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(19) Operational fixed assignments on this frequency will only be made to an itinerant fixed control or relay station on a secondary basis to land-mobile stations in this service, provided that the fixed relay or control station is to be associated with base and mobile facilities authorized to use other frequencies available for itinerant operation in this service. All such use of these frequencies for fixed systems is limited to locations 161 or more km. (100 mi.) from the center of any urbanized area of 200,000 or more population, except that the distance may be 120 km. (75 mi.) if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. The centers of urbanized areas of 200,000 or more population are determined from the appendix, page 226, of the U.S. Commerce publication, "Air Line Distance Between Cities in the United States." Urbanized areas of 200,000 or more population are defined in the U.S. Census of Population, 1960, volume 1, table 23, page 1–50.

(20) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(21) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(22) Assignment of frequencies for operational-fixed stations in the bands 952 and above is governed by Part 94 of this chapter.

(23) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(24) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also § 90.253)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The following frequencies are available only in Puerto Rico and the Virgin Islands. These "Base and Mobile" and "Mobile Only" frequencies are available on a shared basis in the Forestry-Conservation Railroad Radio Services, respectively. These "Mobile Only" frequencies may be assigned to a control station associated with a mobile relay system if it is also assigned to the associated mobile station. All applications for the assignment of a new frequency, or to change existing facilities in such a manner as to require frequency coordination as specified in section 90.175, shall be accompanied by evidence of frequency coordination with the sharing service.

Base and mobile:	*Mobile only*
159.240	160.410
159.255	160.425
159.270	160.440
159.285	160.455
159.300	160.470
159.315	160.485
159.330	160.500
159.345	160.515
159.360	160.530
159.375	160.545
159.390	160.560
159.405	160.575
159.420	160.590
159.435	160.605

(5) Land mobile service frequencies above 152 MHz which are listed elsewhere in this part as available to the Petroleum, Forest Products, and Manufacturers Radio Services, are also available, with the exception of the frequency 154.57 MHz, for assignment in this service for use in Hawaii, Puerto Rico, and the Virgin Islands, subject to the same limitations as apply in the Petroleum, Forest Products, and Manufacturers Radio Services. Operation on such frequencies is secondary to stations operating in the Petroleum, Forest Products, or Manufacturers Radio Services and their use will be terminated if they are needed in the areas concerned in any of those services.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Authorization for more than one mobile frequency in the band 72–76 MHz will be issued notwithstanding this limitation.

(4) Frequencies in the 25–30 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(g) *Limitation on itinerant operation.* Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies that are not restricted to a permanent area of use by the limitation of subparagraph (d)(2) of this section.

§ 90.75 Business radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Business Radio Service to operate stations for transmission of communications necessary to such activities of the licensee:

(1) The operation of a commercial activity.

(2) The operation of educational, philanthropic, or ecclesiastical institutions.

(3) Clergymen activities.

(4) The operation of hospitals, clinics or medical associations.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Business Radio Service together with the class of station(s) to which they are normally assigned, and the specific assignment limitations, which are explained in paragraph (c) of this section.

Business radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz		
27.39	Base or mobile	
27.41	do	
27.43	do	1, 2
27.45	do	1, 2
27.47	do	1, 2
27.49	do	1, 3
27.51	Mobile	4
27.53	do	4
30.76	Base or mobile	1, 2
30.84	do	1, 2
30.84	Mobile	4, 22
30.86	Base or mobile	1, 2
30.92	do	1, 2
30.96	do	1, 2
31.00	do	1, 2
31.04	do	1, 2
31.16	do	1, 2
31.20	do	1, 2
31.24	do	1, 2
33.14	Mobile	4
33.16	Base or mobile	1, 2
35.02	do	1, 22
35.04	Base or mobile	1, 3
35.06	do	1, 2
35.08	do	1, 2
35.10	do	1, 2
35.12	do	1, 2
35.14	do	1, 2
35.18	do	1, 2
35.20	do	1, 2
35.22	do	1, 2
35.86	do	1, 2
35.90	do	1, 2
35.94	do	1, 2
35.96	do	1, 2
35.98	do	1, 2
42.96	Base or mobile	1, 2
42.98	Mobile	4, 22
43.00	Base or mobile	1, 2
72.10–75.80	Operational fixed	7
150.815	Base or mobile	9
150.815	do	9
150.875	do	9
150.905	do	9
150.935	do	9
150.965	do	9
151.025	do	9
151.055	do	9
151.085	do	9
151.115	do	9
151.145	do	9
151.175	do	9
151.205	do	9
151.235	do	9
151.265	do	9
151.295	do	9
151.325	do	9
151.355	do	9
151.385	do	9
151.415	do	9
151.445	do	9
151.475	do	9
151.625	do	13
151.655	do	13
151.685	do	13
151.715	do	13
151.745	do	13
151.775	do	13
151.805	do	13
151.835	do	13
151.865	do	13
151.895	do	13
151.925	do	13
151.955	do	13
151.985	do	13
152.360	do	9
152.390	do	9
152.420	do	9
152.480	Base	10, 11, 12
154.515	Base or mobile	1, 2
154.540	do	1, 2
154.570	Mobile	4, 13, 22
154.600	do	4, 14, 22
154.625	Base	10, 11, 15
157.560	Base or mobile	9
157.620	do	9
157.680	do	9
157.740	Base	10, 11, 12, 16
158.160	do	10, 11, 12, 15
158.425	Operational fixed	17
159.450	do	17
159.475	do	17
159.500	do	17
159.525	do	17
159.550	do	17
159.575	do	17
159.600	do	17
159.625	do	17
159.650	do	17
159.675	do	17
159.700	do	17
159.725	do	17
159.750	do	17
159.775	do	17
159.800	do	17
159.825	do	17
159.850	do	17
159.875	do	17
159.900	do	17
159.925	do	17
159.950	do	17
159.975	do	17
160.000	do	17
160.025	do	17
160.050	do	17
160.075	do	17
160.100	do	17
160.125	do	17
160.150	do	17
160.175	do	17
160.200	do	17
160.225	do	17
160.250	do	17
160.275	do	17
160.300	do	17
160.325	do	17
160.350	do	17
160.375	do	17
160.400	do	17
160.425	do	17
160.450	do	17
160.475	do	17
160.500	do	17
160.525	do	17
160.550	do	17
160.575	do	17
160.600	do	17
160.625	do	17
160.650	do	17
160.675	do	17
160.700	do	17
160.725	do	17
160.750	do	17
160.775	do	17
160.800	do	17
160.825	do	17
160.850	do	17
160.875	do	17
160.900	do	17
160.925	do	17
160.950	do	17
160.975	do	17
161.000	do	17
161.025	do	17
161.050	do	17
161.075	do	17
161.100	do	17
161.125	do	17
161.150	do	17
161.175	do	17
161.200	do	17
161.225	do	17
161.250	do	17
161.275	do	17
161.300	do	17
161.325	do	17
161.350	do	17
161.375	do	17
161.400	do	17
161.425	do	17
161.450	do	17
161.475	do	17
161.500	do	17
161.525	do	17
161.550	do	17
161.575	do	17
161.600	do	17
161.625	do	17
161.650	do	17
161.675	do	17
161.700	do	17
161.725	do	17
161.750	do	17
161.775	do	17
161.800	do	17
161.825	do	17
161.850	do	17
161.875	do	17
161.900	do	17
161.925	do	17
161.950	do	17
161.975	do	17
162.000	do	17
162.025	do	17
162.050	do	17
162.075	do	17
162.100	do	17
162.125	do	17
162.150	do	17
162.175	do	17
162.200	do	17
162.225	do	17
162.250	do	17
162.275	do	17
162.300	do	17
162.325	do	17
162.350	do	17
162.375	do	17
162.400	do	17
162.425	do	17
162.450	do	17
162.475	do	17
162.500	do	17
162.525	do	17
162.550	do	17
162.575	do	17
162.600	do	17
162.625	do	17
162.650	do	17
162.675	do	17
162.700	do	17
162.725	do	17
162.750	do	17
162.775	do	17
162.800	do	17
162.825	do	17
162.850	do	17
162.875	do	17
162.900	do	17
162.925	do	17
162.950	do	17
162.975	do	17
163.000	do	17
163.025	do	17
163.050	do	17
163.075	do	17
163.100	do	17
163.125	do	17
163.150	do	17
163.175	do	17
163.200	do	17
163.225	do	17
163.250	do	17
163.275	do	17
163.300	do	17
163.325	do	17
163.350	do	17
163.375	do	17
163.400	do	17
163.425	do	17
163.450	do	17
163.475	do	17
163.500	do	17
163.525	do	17
163.550	do	17
163.575	do	17
163.600	do	17
163.625	do	17
163.650	do	17
163.675	do	17
163.700	do	17
163.725	do	17
163.750	do	17
163.775	do	17
163.800	do	17
163.825	do	17
163.850	do	17
163.875	do	17
163.900	do	17
163.925	do	17
163.950	do	17
163.975	do	17
164.000	do	17
164.025	do	17
164.050	do	17
164.075	do	17
164.100	do	17
164.125	do	17
164.150	do	17
164.175	do	17
164.200	do	17
164.225	do	17
164.250	do	17
164.275	do	17
164.300	do	17
164.325	do	17
164.350	do	17
164.375	do	17
164.400	do	17
164.425	do	17
164.450	do	17
164.475	do	17
164.500	do	17
164.525	do	17
164.550	do	17
164.575	do	17
164.600	do	17
164.625	do	17
164.650	do	17
164.675	do	17
164.700	do	17
164.725	do	17
164.750	do	17
164.775	do	17
164.800	do	17
164.825	do	17
164.850	do	17
164.875	do	17
164.900	do	17
164.925	do	17
164.950	do	17
164.975	do	17
165.000	do	17
165.025	do	17
165.050	do	17
165.075	do	17
165.100	do	17
165.125	do	17
165.150	do	17
165.175	do	17
165.200	do	17
165.225	do	17
165.250	do	17
165.275	do	17
165.300	do	17
165.325	do	17
165.350	do	17
165.375	do	17
165.400	do	17
165.425	do	17
165.450	do	17
165.475	do	17
165.500	do	17
165.525	do	17
165.550	do	17
165.575	do	17
165.600	do	17
165.625	do	17
165.650	do	17
165.675	do	17
165.700	do	17
165.725	do	17
165.750	do	17
165.775	do	17
165.800	do	17
165.825	do	17
165.850	do	17
165.875	do	17
165.900	do	17
165.925	do	17
165.950	do	17
165.975	do	17
166.000	do	17
166.025	do	17
166.050	do	17
166.075	do	17
166.100	do	17
166.125	do	17
166.150	do	17
166.175	do	17
166.200	do	17
166.225	do	17
166.250	do	17
166.275	do	17
166.300	do	17
166.325	do	17
166.350	do	17
166.375	do	17
166.400	do	17
166.425	do	17
166.450	do	17
166.475	do	17
166.500	do	17
166.525	do	17
166.550	do	17
166.575	do	17
166.600	do	17
166.625	do	17
166.650	do	17
166.675	do	17
166.700	do	17
166.725	do	17
166.750	do	17
166.775	do	17
166.800	do	17
166.825	do	17
166.850	do	17
166.875	do	17
166.900	do	17
166.925	do	17
166.950	do	17
166.975	do	17
167.000	do	17
167.025	do	17
167.050	do	17
167.075	do	17
167.100	do	17
167.125	do	17
167.150	do	17
167.175	do	17
167.200	do	17
167.225	do	17
167.250	do	17
167.275	do	17
167.300	do	17
167.325	do	17
167.350	do	17
167.375	do	17
167.400	do	17
167.425	do	17
167.450	do	17
167.475	do	17
167.500	do	17
167.525	do	17
167.550	do	17
167.575	do	17
167.600	do	17
167.625	do	17
167.650	do	17
167.675	do	17
167.700	do	17
167.725	do	17
167.750	do	17
167.775	do	17
167.800	do	17
167.825	do	17
167.850	do	17
167.875	do	17
167.900	do	17
167.925	do	17
167.950	do	17
167.975	do	17
168.000	do	17
168.025	do	17
168.050	do	17
168.075	do	17
168.100	do	17
168.125	do	17
168.150	do	17
168.175	do	17
168.200	do	17
168.225	do	17
168.250	do	17
168.275	do	17
168.300	do	17
168.325	do	17
168.350	do	17
168.375	do	17
168.400	do	17
168.425	do	17
168.450	do	17
168.475	do	17
168.500	do	17
168.525	do	17
168.550	do	17
168.575	do	17
168.600	do	17
168.625	do	17
168.650	do	17
168.675	do	17
168.700	do	17
168.725	do	17
168.750	do	17
168.775	do	17
168.800	do	17
168.825	do	17
168.850	do	17
168.875	do	17
168.900	do	17
168.925	do	17
168.950	do	17
168.975	do	17
169.000	do	17
169.025	do	17
169.050	do	17
169.075	do	17
169.100	do	17
169.125	do	17
169.150	do	17
169.175	do	17
169.200	do	17
169.225	do	17
169.250	do	17
169.275	do	17
169.300	do	17
169.325	do	17
169.350	do	17
169.375	do	17
169.400	do	17
169.425	do	17
169.450	do	17
169.475	do	17
169.500	do	17
169.525	do	17
169.550	do	17
169.575	do	17
169.600	do	17
169.625	do	17
169.650	do	17
169.675	do	17
169.700	do	17
169.725	do	17
169.750	do	17
169.775	do	17
169.800	do	17
169.825	do	17
169.850	do	17
169.875	do	17
169.900	do	17
169.925	do	17
169.950	do	17
169.975	do	17
170.000	do	17
170.025	do	17
170.050	do	17
170.075	do	17
170.100	do	17
170.125	do	17
170.150	do	17
170.175	do	17
170.200	do	17
170.225	do	17
170.250	do	17
170.275	do	17
170.300	do	17
170.325	do	17
170.350	do	17
170.375	do	17
170.400	do	17
170.425	do	17
170.450	do	17
170.475	do	17
170.500	do	17
170.525	do	17
170.550	do	17
170.575	do	17
170.600	do	17
170.625	do	17
170.650	do	17
170.675	do	17
170.700	do	17
170.725	do	17
170.750	do	17
170.775	do	17
170.800	do	17
170.825	do	17
170.850	do	17
170.875	do	17
170.900	do	17
170.925	do	17
170.950	do	17
170.975	do	17
171.000	do	17
171.025	do	17
171.050	do	17
171.075	do	17
171.100	do	17
171.125	do	17
171.825	do	17
171.850	do	17
171.875	do	17
171.900	do	17
171.925	do	17
172.20375	Mobile	18, 19
173.210	do	18, 20
173.300	do	18, 20
173.40625	do	18, 19
216 to 220	Base or mobile	21
100.125	Operational fixed	17
100.175	do	17
100.675	do	17
400.725	do	17
112.625	do	17
112.675	do	17
112.725	do	17
112.775	do	17
157.525	Mobile	4, 14, 22, 33
157.550	do	4, 14, 22, 33
157.575	do	4, 14, 22, 33
157.600	do	4, 14, 22, 33
160.650	Base or mobile	24, 25, 36
160.675	do	24, 25, 36
160.700	do	24, 25, 36
160.725	do	24, 25, 36
160.750	do	24, 25, 36
160.775	do	24, 25, 36
160.800	do	24, 25, 36
160.825	do	24, 25, 36
160.850	do	24, 25, 36
160.875	do	24, 25, 36
160.900	do	1, 26
160.925	do	1, 26
160.950	do	1, 26
160.975	do	1, 26
161.000	do	1, 26
161.025	do	1, 26
161.050	do	1, 26
161.075	do	1, 26
161.100	do	1, 26
161.125	do	1, 26
161.150	do	1, 26
161.175	do	1, 26
161.200	do	1, 26
161.225	do	1, 26
161.250	do	1, 26
161.275	do	1, 26
161.300	do	1, 26
161.325	do	1, 26
161.350	do	1, 26
161.375	do	1, 26
161.400	do	1, 26
161.425	do	1, 26
161.450	do	1, 26
161.475	do	1, 26
161.500	do	1, 26
161.525	do	1, 26
161.550	do	1, 26
161.575	do	1, 26
161.600	do	1, 26
161.625	do	1, 26
161.650	do	1, 26
161.675	do	1, 26
161.700	do	1, 26
161.725	do	1, 26
161.750	do	1, 26
161.775	do	1, 26
161.800	do	1, 26
161.825	do	1, 26
161.850	do	1, 26
161.875	do	1, 26
161.900	do	1, 26
161.925	do	1, 26
161.950	do	1, 26
161.975	do	1, 26
162.000	do	1, 26
162.025	do	1, 26
162.050	do	1, 26
162.075	do	1, 26
162.100	do	1, 26
162.125	do	1, 26
162.150	do	1, 26
162.175	do	1, 26
162.200	do	1, 26
162.225	do	1, 26
162.250	do	1, 26
162.275	do	1, 26
162.300	do	1, 26
162.325	do	1, 26

Frequency or band	Class of station(s)	Limitations
Megahertz:		
463.350	do	1, 26
463.375	do	1, 26
463.400	do	1, 26
463.425	do	1, 26
463.450	do	1, 26
463.475	do	1, 26
463.500	do	1, 26
463.525	do	1, 26
463.550	do	1, 26
463.575	do	1, 26
463.600	do	1, 26
463.625	do	1, 26
463.650	do	1, 26
463.675	do	1, 26
463.700	do	1, 26
463.725	do	1, 26
463.750	do	1, 26
463.775	do	1, 26
463.800	do	1, 26
463.825	do	1, 26
463.850	do	1, 26
463.875	do	1, 26
463.900	do	1, 26
463.925	do	1, 26
463.950	do	1, 26
463.975	do	1, 26
464.000	do	1, 26
464.025	do	1, 26
464.050	do	1, 26
464.075	do	1, 26
464.100	do	1, 26
464.125	do	1, 26
464.150	do	1, 26
464.175	do	1, 26
464.200	do	1, 26
464.225	do	1, 26
464.250	do	1, 26
464.276	do	1, 26
464.300	do	1, 26
464.325	do	1, 26, 29
464.350	do	1, 26
464.375	do	1, 26, 29
464.400	do	1, 26
464.425	do	1, 26, 29
464.450	do	1, 26
464.475	do	1, 26, 29
464.500	do	1, 3, 26, 30
464.525	do	1, 26, 29
464.550	do	3, 30
464.575	do	1, 26, 29
464.600	do	1, 26
464.625	do	1, 26
464.650	do	1, 26
464.675	do	1, 26, 29
464.700	do	1, 26
464.725	do	1, 26
464.750	do	1, 26
464.775	do	1, 26, 29
464.800	do	1, 26
464.825	do	1, 26, 29
464.850	do	1, 26
464.875	do	1, 26, 29
464.900	do	1, 26
464.925	do	1, 26, 29
464.950	do	1, 26
464.975	do	1, 26, 29
465.000	Base	10, 30
465.650	Mobile	4, 25, 26, 31
465.675	do	4, 25, 26, 31
465.700	do	4, 25, 26, 31
465.725	do	4, 25, 26, 31
465.750	do	4, 25, 26, 31
465.775	do	4, 25, 26, 31
465.800	do	4, 25, 26, 31
465.825	do	4, 25, 26, 31
465.850	do	4, 25, 26, 31
465.875	do	4, 25, 26, 31
465.900	do	1, 27
465.925	do	1, 27
465.950	do	1, 27
465.975	do	1, 28
466.000	do	1, 28
466.025	do	1, 26
466.050	do	1, 26
466.075	do	1, 26
466.100	do	1, 26
466.125	do	1, 26
466.150	do	1, 26
466.175	do	1, 26
466.200	do	1, 26
466.225	do	1, 26
466.250	do	1, 26
466.275	do	1, 26
466.300	do	1, 26
466.325	do	1, 26
466.350	do	1, 26
466.375	do	1, 26
466.400	do	1, 26
466.425	do	1, 26
466.450	do	1, 26
466.475	do	1, 26
466.500	do	1, 26
466.525	do	1, 26
466.550	do	1, 26
466.575	do	1, 26
466.600	do	1, 26

Frequency or band	Class of station(s)	Limitations
Megahertz:		
466.625	do	1, 26
466.650	do	1, 26
466.675	do	1, 26
466.700	do	1, 26
466.725	do	1, 26
466.750	do	1, 26
466.775	do	1, 26
466.800	do	1, 26
466.825	do	1, 26
466.850	do	1, 26
466.875	do	1, 26
466.900	do	1, 26
466.925	do	1, 26
466.950	do	1, 26
466.975	do	1, 26
467.000	do	1, 26
467.025	do	1, 26
467.050	do	1, 26
467.075	do	1, 26
467.100	do	1, 26
467.125	do	1, 26
467.150	do	1, 26
467.175	do	1, 26
467.750	do	4, 13, 22, 23
467.775	do	4, 13, 22, 23
467.800	do	4, 13, 22, 23
467.825	do	4, 13, 22, 23
467.850	do	4, 13, 22
467.875	do	4, 13, 22
467.900	do	4, 13, 22
467.925	do	4, 13, 22
468.200	do	1, 26
468.225	do	1, 26
468.250	do	1, 26
468.275	do	1, 26
468.300	do	1, 26
468.325	do	1, 26
468.350	do	1, 26
468.375	do	1, 26
468.400	do	1, 26
468.425	do	1, 26
468.450	do	1, 26
468.475	do	1, 26
468.500	do	1, 26
468.525	do	1, 26
468.550	do	1, 26
468.575	do	1, 26
468.600	do	1, 26
468.625	do	1, 26
468.650	do	1, 26
468.675	do	1, 26
468.700	do	1, 26
468.725	do	1, 26
468.750	do	1, 26
468.775	do	1, 26
468.800	do	1, 26
468.825	do	1, 26
468.850	do	1, 26
468.875	do	1, 26
468.900	do	1, 26
468.925	do	1, 26
468.950	do	1, 26
468.975	do	1, 26
470 to 512	Base or mobile	12
806 to 821	Mobile	13
851 to 866	Base or mobile	13

Frequency or band	Class of station(s)	Limitations
Megahertz:		
953 and above.	Operational fixed	34
1427 to 1435	Operational fixed, base or mobile.	21
10,550 to 10,680.	Base or mobile	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Operation on this frequency is limited to a maximum output power of 110 watts.

(2) This frequency will be assigned only for operation in a permanent area, normally within 120 km. (75 mi.) of a specified reference point.

(3) This frequency will be assigned only to stations used in itinerant operations.

(4) Operation on this frequency is limited to a maximum output power of 2 watts; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station on a secondary basis to mobile service operations, provided, that the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 8 m. (25 ft.).

(5) Reserved.

(6) Operation on this frequency is limited to a maximum output power of 1 watt and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station on a secondary basis to mobile service operations, provided, that the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 8 m. (25 ft.).

(7) The frequencies available in the band 72–76 MHz are listed in §90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(8) Use of this frequency in this service is limited to stations located in Puerto Rico and the Virgin Islands.

(9) This frequency is shared with the Taxicab Radio Service and is available for assignment in the Business Radio Service only to stations which are used exclusively in areas outside of Standard Metropolitan Statistical Areas of 50,000 or more population (1950 Census). Operations on this frequency are on a secondary basis to operations in the Taxicab Radio Service.

(10) This frequency is assigned only for one-way paging communications to mobile receivers. Only A2, A3, F2, or F3 emissions may be authorized.

(11) This frequency is also available for base or mobile stations in the Special Industrial and Forest Products Radio Services on a secondary basis to paging operations in the Business Radio Service.

(12) This frequency will not be assigned to stations for use at temporary locations.

(13) This frequency may be used for mobile operation for radio remote control and telemetering functions. A1, A2, F1, or F2 emission may be authorized and mobile stations used to control remote objects or devices may be operated in the continuous carrier transmit mode.

(14) This frequency may be used for mobile operation for radio remote control and telemetering functions. A1, A2, F1, or F2 emission may be authorized. The use of the continuous carrier transmit mode for these purposes is permitted only for stations authorized and continuously licensed since before May 21, 1971.

(15) Operation on this frequency is limited to a maximum output power of 20 watts.

(16) Operation on this frequency is limited to a maximum output power of 75 watts.

(17) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(18) This frequency is available on a shared basis with other Industrial Radio Services as follows: Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and the Local Government Radio Service and may be used in this service only for the purpose of remote control and telemetering. The maximum power output of the transmitter may not exceed 1 watt. Only A1, A2, F1, or F2 emission may be authorized and mobile stations used to control remote objects and devices may be operated in the continuous carrier transmit mode.

(19) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(20) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz, and the maximum frequency deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.5 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(21) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(22) This frequency may not be used aboard aircraft in flight.

(23) This frequency is used on a shared and cooperative basis with on board stations in the maritime mobile service, and may be used for communications concerned with cargo handling from a dock, or cargo handling facility, to a vessel alongside. Any number of the frequencies covered by this limitation may be authorized to one licensee for this purpose. Mobile relay stations may be temporarily installed at or in the vicinity of a dock or cargo handling facility and used when a vessel is alongside the dock or cargo handling facility in the following manner:

For on-vessel mobile relay use:

457.525 MHz, 457.550 MHz, 457.575 MHz, 457.600 MHz.

For associated mobile use:

467.750 MHz, 467.775 MHz, 467.800 MHz, 467.825 MHz.

The following frequencies are to be used for single-frequency simplex:

457.525 MHz, 457.550 MHz, 457.575 MHz, 457.600 MHz.

The effective radiated power (ERP) on this frequency shall not exceed 2 watts. For an on-vessel mobile relay station the center of the radiating portion of the antenna shall be over 3 m. (10 ft.) above the vessel's highest working deck.

(24) Operation on this frequency is limited to a maximum power output of 20 watts.

(25) This frequency is available for assignment to stations located on or near airports serving urbanized areas of 200,000 or more population. U.S. Census of Population, 1960, vol. 1, table 23, page 1–50, and may be assigned only to persons engaged in furnishing commercial air transportation service, or to a nonprofit corporation or association for the purpose of furnishing radio communications service to persons so engaged on a nonprofit cost-sharing basis. Stations on this frequency may be used only in connection with the servicing and supplying of aircraft at the airport.

(i) The amplified signal is retransmitted only on the exact frequency of the originating base station.

(ii) The booster is equipped with automatic gain control circuitry which will limit the total output of the booster to 500 milliwatts under all conditions.

(iii) All such devices are installed with sufficient isolation between receiving and retransmitting circuits to prevent oscillation.

(iv) The power of any emission, except on frequencies within the 460.6375–460.8875 MHz band or on which there is an input signal to the booster, shall be attenuated at least 35 decibels below the total power output of the booster.

(v) In the event control of the booster is impaired due to its activation by signals other than those intended by the licensee to be retransmitted, the licensee shall provide the booster with means of control such that it will be activated only by signals intended to be retransmitted, and boosters so provided with such means of control shall also be provided with an automatic time-delay or clock device which will deactivate the booster not more than three minutes after its activation.

(vi) If signal boosters are to be used in conjunction with other facilities, the number of such boosters must be stated on the license application.

This frequency may also be assigned to low power (2 watts or less) stations in the Business Radio Service for use in areas removed by 8 km. (5 mi.) from the boundaries of airports serving any urbanized areas of 200,000 or more population, U.S. Census of Population, 1960 vol. 1 table 23, page 1–50. All such use is restricted to confines of an industrial complex or manufacturing yard area. Finally, this frequency is also available for assignment to stations in the Business Radio Service for use at locations removed by 120 or more km. (75 mi.) from the boundaries of airports in urbanized areas of 200,000 or more population, U.S. Census of Population, 1960, vol. 1 table 23, page 1–50. Maximum permissible output power is 110 watts for this use.

(26) This frequency may be assigned to fixed stations in the Business Radio Service in accordance with the provisions of § 90.261.

(27) Within the boundaries of urbanized areas of 200,000 or more population as defined in the U.S. Census of Population, 1960, vol. 1, table 23, page 1–50, this frequency may be assigned only to persons rendering a central station commercial protection service.

(28) This frequency may be assigned only to persons rendering a central station commercial protection service.

(29) This frequency will be assigned only to stations whose control point location is within 805 m. (½ mi. direct) of the transmitter location. Maximum power output may not exceed 110 watts, and the overall height of the antenna above ground may not exceed 30 m. (100 ft.).

(30) Operation on this frequency is limited to a maximum output power of 35 watts.

(31) Maximum permissible power output for stations on airports is 3 watts. Each station authorized on this frequency will be classified and licensed as a mobile station. Any units of such a station, however, may provide the functions of a base station on a secondary basis to mobile service operations provided that the vertical separation between the control point or ground level and the center of the radiating portion of the antenna of any units so used shall not exceed 8 m. (25 ft.).

(32) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(33) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(34) Assignment of frequencies to operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new station will be authorized in this band, nor will expansion of existing systems be permitted.

(3) Licensees holding a valid authorization on January 1, 1973, to operate on the frequencies 406.025, 406.075 MHz may continue to be authorized for such operations until the expiration of their present license on a secondary basis to stations operating in accordance with the table in Section 2.106 of this Chapter.

(4) Frequencies separated by 12.5 kHz from regularly assigned frequencies in the 457.525–460.650, 460.875–464.975, and 465.875–469.975 MHz bands may be assigned for use by mobile stations of two watts or less output power which may also serve the function of a base, fixed, or mobile relay station. All operation shall be on a secondary, non-interference basis to regularly assigned adjacent frequency operations and shall be entitled to no protection from such stations. Wide area operations will not be authorized. The area of normal day-to-day operation shall be described in the application in terms of a maximum distance from its approximate geographic center (latitude and longitude). Mobile stations, when used as fixed stations, shall be exempt from the limitations of Section 90.75(e). Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 7 m. (20 ft.) above the ground.

(i) No limit shall be placed on the length or height above ground of any commercially manufactured radiating transmission line when the transmission line is terminated in a non-radiating load and is routed at least 7 m. (20 ft.) interior to the edge of any structure or is routed below ground level.

(ii) Sea-based stations may utilize antennas mounted not more than 7 m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

(5) Low-power mobile stations of 100 mW or less output power may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the bands 460.650–460.875 MHz and 465.650–465.875 MHz listed in paragraph (c) of this section, for one-way, non-voice biomedical telemetry operations in hospitals, or in medical or convalescent centers.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of Subpart P, notwithstanding this limitation.

(3) Frequencies in the 457 and 467 MHz bands may be assigned collectively as provided by paragraph (c) (23) of this section notwithstanding this limitation.

(4) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequencies bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239 notwithstanding this limitation.

(f) *Limitation on intinerant operation.* Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies that are not restricted to a permanent area of use by the limitation of paragraph (c) (2) of this section.

§ 90.79 Manufacturers radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following manufacturing activities are eligible to hold authorizations in the Manufactuers Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) The mechancal or chemical transformation of substances into new products within such establishments as plants, factories, shipyards, or mills which employ, in that process, power-driven machines and materials-handling equipment.

(2) The assembly of components of manufactured products within such establishments as plants, factories, shipyards, or mills where the new product is neither a new structure nor other fixed improvement. Establishments primarily engaged in the wholesale or retail trade, or in service activities, even though they fabricate or assemble any or all the products or commodities handled, are not eligible in this service.

(3) The providing of supporting services or materials by a corporation to its parent corporation, to another subsidiary of its parent or to its own subsidiary, where such supporting services or materials are directly related to those regular activities of such parent or subsidiary which constitute the basis for eligibility in this service.

(b) *Special limitations on use.* The following limitations are applicable to the use of stations in this service:

(1) Authorized stations may be used only for the transmission of communications related to the operation of the plant, such as for security, production control or materials-handling. Communications related to the retail distribution of the licensees products are not permitted.

(2) Base station will only be authorized in this service for operation at specified and permanent locations.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Manufacturers Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (d) of this section:

Manufacturers radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.02	Mobile	1, 2
72.04	do	1, 2
72.06	do	1, 2
72.08	do	1, 2, 3
72.10	do	1, 2
72.12	do	1, 2
72.14	do	1, 2
72.16	do	1, 2, 3
72.18	do	1, 2
72.20	do	1, 2
72.22	do	1, 2
72.24	do	1, 2, 3
72.26	do	1, 2
72.28	do	1, 2
72.30	do	1, 2
72.32	do	1, 2, 3
72.34	do	1, 2
72.36	do	1, 2
72.38	do	1, 2
72.40	do	1, 2, 3
72.44	do	2, 4
72.48	do	2, 4
72.52	do	2, 4
72.56	do	2, 4
72.60	do	2, 4
75.44	do	2, 4
75.48	do	2, 4
75.52	do	2, 4
75.56	do	2, 4
75.60	do	2, 4
153.050	Base or mobile	5
153.065	do	5
153.080	do	5
153.095	do	5
153.110	do	5
153.125	do	5
153.140	do	5
153.155	do	5
153.170	do	5
153.185	do	5
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5
153.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5
153.320	do	5
153.335	do	5
153.350	do	5
153.365	do	5
153.380	do	5
153.395	do	5
158.280	do	5
158.295	do	5
158.310	do	5
158.325	do	5
158.415	do	5
158.430	do	5
173.20375	Fixed or mobile	6, 7, 9, 10
173.2100	do	7, 8, 9, 10
173.3900	do	7, 8, 9, 10
173.39625	do	6, 7, 9, 10
216–220	Base or mobile	11

Frequency or band	Class of station(s)	Limitations
Megahertz:		
450–470	Fixed	13
451.175	Base or mobile	13
451.225	do	13
451.275	do	13
451.375	do	13
451.425	do	13
451.475	do	13
451.525	do	13
451.575	do	13
451.625	do	13
451.675	do	13
456.175	Mobile	13
456.225	do	13
456.275	do	13
456.375	do	13
456.425	do	13
456.475	do	13
456.525	do	13
456.575	do	13
456.625	do	13
456.675	do	13
462.200	Base or mobile	
462.225	do	
462.250	do	
462.275	do	
462.300	do	
462.325	do	
462.350	do	
462.375	do	
462.400	do	
462.425	do	
462.450	do	
462.475	do	13
462.500	do	
462.525	do	13
467.200	Mobile	
467.225	do	
467.250	do	
467.275	do	
467.300	do	
467.325	do	
467.350	do	
467.375	do	
467.400	do	
467.425	do	
467.450	do	
467.475	do	13
467.500	do	
467.525	do	13
470–512	Base or mobile	14
806–821	Mobile	15
851–866	Base or mobile	15
902 and above.	Operational fixed	16
1427 to 1435	Operational fixed, base or mobile	1
2450 to 2500	Base or mobile	17
5400 to 8500	do	18
10,550 to 10,680.	do	

(d) **Explanation of assignment limitations appearing in the frequency tabulation of paragraph (c) of this section:**

(1) This frequency is shared with fixed stations in other services and is subject to no protection from interference.

(2) All communications on this frequency must be conducted within the boundaries or confines of plant, factory, shipyards, mill, or other manufacturing area. All operations on this frequency are subject to the provisions of § 90.257(b).

(3) This frequency is shared with the Radio Control (R/C) Service, part of the Personal Radio Services, where it is used solely for the radio control of models.

(4) This frequency is available on a shared basis in the Manufacturers, Special Industrial and Railroad Radio Services and interservice coordination is required.

(5) This frequency is shared with the Forest Products and Petroleum Radio Services. The output power of all transmitters operating on this frequency shall not exceed 110 watts.

(6) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(7) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

(8) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 1700 Hz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1200 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 3 kHz.

(9) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services. Evidence of interservice coordination is required.

(10) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 db. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(11) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(12) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is on a secondary basis to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(13) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(14) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(15) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(16) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(17) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(18) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of Subpart P notwithstaning this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239 notwithstanding this limitation.

§ 90.81 Telephone maintenance radio service.

(a) *Eligibility.* Communications common carriers primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire, and radio communications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 are eligible to hold authorizations in the Telephone Maintenance Radio Service to operate radio stations for transmission of communications in accordance with paragraph (b) of this section.

(b) *Special limitations on use.* The facilities authorized in this service shall only be used for transmission of communications directly related to the construction, repair, maintenance or operation of communications common carrier facilities. The facilities authorized in this service shall not be used for administrative or other sales related business activities of the licensee, nor for the transmission of any common carrier or public correspondence communication.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Telephone Maintenance Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in parargaph (d) of this section:

Telephone maintenance radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
35.16	Base or mobile	1
43.16	Mobile	1
151.985	Base or mobile	1
158.34	Mobile	1
216 to 220	Base or mobile	2
450 to 470	Fixed	3
451.175	Base or mobile	4
451.225	do	4
451.275	do	4
451.300	do	1
451.325	do	1
451.350	do	1
451.375	do	1
451.400	do	1
451.425	do	1
451.450	do	1
451.475	do	1
451.500	do	4
451.525	do	4
451.575	do	4
451.625	do	4
451.675	do	4
456.175	Mobile	1
456.225	do	1
456.275	do	1
456.300	do	1,5
456.325	do	1,5
456.350	do	1,5
456.375	do	4
456.400	do	1,5
456.425	do	1
456.450	do	1,5
456.475	do	4
456.500	do	1,5
456.525	do	4
456.575	do	4
456.625	do	4
456.675	do	4
462.475	Base or mobile	4
462.525	do	4
467.475	Mobile	1
467.525	do	1
470 to 512	Base or mobile	6
806 to 821	Mobile	7
851 to 866	Base or mobile	7
952 and above	Operational fixed	8
1427 to 1435	Operational fixed, base or mobile	2
2450 to 2500	Base or mobile	9
8400 to 8500	do	10
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) This frequency may be assigned only to a communications common carrier primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire.

(2) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(3) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(4) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. Except for assignments made to non-wire-line radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21, it may be assigned only when all of the base and mobile frequencies in the 450–470 MHz band for which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(5) This frequency may be assigned to auxiliary test stations.

(6) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(7) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(8) Assignment of frequencies to operational-fixed stations in the bands 952 and above is governed by Part 94 of this Chapter.

(9) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(10) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also 90.253)

(1) The frequencies 27.235, 27.245, 27.255, 27. 265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation;

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment of applicants in this service subject to the provisions of Subpart P. notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

Subpart E—Land Transportation Radio Services

§ 90.85 Scope.

The Land Transportation Radio Services include the Motor Carrier, Railroad, Taxicab and Automobile Emergency Radio Services. Rules as to eligibility for licensing, permissible communications, assignable frequencies, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.87 General eligibility.

In addition to the eligibility shown in each Land Transportation Radio Service, eligibility is also provided for any corporation proposing to furnish nonprofit radiocommunication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary provided the party served is regularly engaged in any of the eligibility activities set forth in the particular service involved. Eligibility is also provided for a nonprofit corporation or association that is organized for the purpose of furnishing a radiocommunication service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.179.

§ 90.89 Motor carrier radio service.

(a) *Eligibility.* Persons primarily engaged in providing a common or contract motor carrier transportation service in any of the following activities are eligible to hold authorizations in the Motor Carrier Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee. For purposes of this rule, an urban area is defined as being one or more contiguous, incorporated or unincorporated cities, boroughs, towns, or villages, having aggregate population of 2500 or more persons.

(1) The transportation of passengers between urban areas.

(2) The transportation of property between urban areas.

(3) The transportation of passengers within a single urban area.

(4) The transporation, local distribution or collection of property within a single urban area.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Motor Carrier Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (c) of this section:

Motor carrier radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
30.66	Base or mobile	1, 2
30.74	do	1, 2
30.82	do	1, 2
30.86	do	1, 3
30.90	do	1, 3
30.94	do	1, 3
30.98	do	1, 3
31.02	do	1, 3
31.06	do	1, 3
31.06	do	1
31.10	do	1, 3
31.12	do	1
31.14	do	1, 3
43.70	do	1
43.72	do	4
43.74	do	4
43.76	do	4
43.78	do	4
43.80	do	4
43.82	do	4
43.84	do	4
43.86	do	5, 6
43.88	do	5, 6
43.90	do	5, 6
43.92	do	5, 6
43.94	do	5, 6
43.96	do	5
43.98	do	5
44.00	do	5
44.02	do	5
44.04	do	5
44.06	do	5
44.08	do	5
44.10	do	5
44.12	do	5
44.14	do	5
44.16	do	5
44.18	do	5
44.20	do	5
44.22	do	5
44.24	do	5
44.26	do	5
44.28	do	5
44.30	do	5
44.32	do	5
44.34	do	5
44.36	do	5, 6
44.38	do	5, 6
44.40	do	5, 6
44.42	do	5, 6
44.44	do	5, 6
44.46	do	1
44.48	do	1
44.50	do	1
44.52	do	1
44.54	do	1
44.56	do	1
44.58	do	1
44.60	do	1
72.0–76.0	Operational fixed	7
159.495	Base or mobile	8
159.510	do	8
159.525	do	8
159.540	do	8
159.555	do	8
159.570	do	8
159.585	do	8
159.600	do	8
159.615	do	8
159.630	do	8
159.645	do	8
159.660	do	8
159.675	do	8
159.690	do	8
159.705	do	8
159.720	do	8
159.735	do	8
159.750	do	8
159.765	do	8
159.780	do	8
159.795	do	8
159.810	do	8
159.825	do	8
159.840	do	8
159.855	do	8
159.870	do	8
159.885	do	8
159.900	do	8
159.915	do	8
159.930	do	8
159.945	do	8
159.960	do	8
159.975	do	8
159.990	do	8
160.005	do	8
160.020	do	8
160.035	do	8
160.050	do	8
160.065	do	8
160.080	do	8
160.095	do	8
160.110	do	8
160.125	do	8
160.140	do	8
160.155	do	8
160.170	do	8
160.185	do	8
160.200	do	8
450 to 470	Fixed	9
452.325	Base or mobile	10
452.375	do	10
452.425	do	10
452.475	do	10
452.625	do	
452.650	do	
452.675	do	
452.700	do	
452.725	do	
452.750	do	
452.775	do	10
452.800	do	
452.825	do	10
452.850	do	
452.875	do	10
457.325	Mobile	10
457.375	do	10
457.465	do	10
457.475	do	10
457.625	do	
457.650	do	
457.675	do	
457.700	do	
457.725	do	
457.750	do	
457.775	do	10
457.800	do	
457.825	do	10
457.850	do	
457.875	do	10
470 to 512	Base or mobile	11
806 to 821	Mobile	12
851 to 866	Base or mobile	12
952 and above	Operational fixed	13
1427 to 1435	Operational fixed, base or mobile	14
2450 to 2500	Base or mobile	15
8400 to 8500	do	16
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is available for assignment in this service only to common and contract motor carriers of passengers within a single urban area.

(2) This frequency is available on a shared basis with the Petroleum Radio Service.

(3) This frequency is available on a shared basis with stations in the Forestry-Conservation Radio Service.

(4) This frequency is available for assignment in this service only to common and contract motor carriers of passengers between urban areas.

(5) This frequency is available for assignment in this service only to common and contract motor carriers of property between urban areas.

(6) In addition to single frequency operation, this frequency is available to base and mobile stations for the paired frequency mode of operation. For two frequency systems, the separation between base and mobile transmit frequencies is 500 kHz with the base stations transmitting on the higher of the two frequencies.

(7) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(8) This frequency is available for assignment in this service only to common and contract motor carriers of property.

(9) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Industrial Radio Services where they are assigned for land mobile operations.

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450–460 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for these frequencies must be coordinated with all services involved.

(11) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(12) Subpart M contains rules for assignment of frequencies in 806–821 and 851–866 MHz bands.

(13) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(14) This frequency is available to stations in this service subject to the provisions of § 90.259.

(15) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(16) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also § 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(3) The frequency band 33.00–33.01 MHz may be used for developmental operations subject to the provisions of Subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands

and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.91 Railroad radio service.

(a) *Eligibility.* Railroad common carriers which are regularly engaged in the transportation of passengers or property when such passengers or property are transported over all or part of their route by railroad are eligible to hold authorizations in the Railroad Radio Service to operate radio stations for transmission of communications and to assure safety of operations essential to such activities of the licensee.

(b) The following limitations are applicable to the use of stations licensed in this service:

(1) Stations licensed in this service may be used to provide communications service for the operation of land motor vehicles that are engaged in the pick-up, delivery, or transfer between railroad stations of property that is shipped, continued in, or destined for shipment by railroad common carriers. When such operations are conducted on frequencies in the 160–162 MHz band, they are on a secondary basis to regular railroad radio communications.

(2) Operational Fixed stations licensed to operate in this service may be used by railroads notwithstanding the provisions of § 90.415(b) to handle public telegraph messages as agents of telegraph common carriers in those instances where such public telegraph service cannot be efficiently provided through other railroad facilities.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Railroad Radio Service, together with the class of stations(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (d) of this section:

Railroad radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.0 to 76.0	Operational fixed	1
72.44	Mobile	2
72.48	do	2
72.52	do	2
72.56	do	2
75.60	do	2
75.44	do	2
75.48	do	2
75.52	do	2
75.56	do	2
75.60	do	2
160.215	Base or mobile	3, 4
160.230	do	3, 4
160.245	do	3, 4
160.260	do	3, 4
160.275	do	3, 4
160.290	do	3, 4
160.305	do	3, 4
160.320	do	3, 4
160.335	do	3, 4
160.350	do	3, 4
160.365	do	3, 4
160.380	do	3, 4
160.395	do	3, 4
160.410	do	3, 4, 5
160.425	do	3, 4, 5
160.440	do	3, 4, 5
160.455	do	3, 4, 5
160.470	do	3, 4, 5
160.485	do	3, 4, 5
160.500	do	3, 4, 5
160.515	do	3, 4, 5
160.530	do	3, 4, 5
160.545	do	3, 4, 5
160.560	do	3, 4, 5
160.575	do	3, 4, 5
160.590	do	3, 4, 5
160.605	do	3, 4, 5
160.620	do	3, 4
160.635	do	3, 4
160.650	do	3, 4
160.665	do	3, 4
160.680	do	3, 4
160.695	do	3, 4
160.710	do	3, 4
160.725	do	3, 4
160.740	do	3, 4
160.755	do	3, 4
160.770	do	3, 4
160.785	do	3, 4
160.800	do	3, 4
160.815	do	3, 4
160.830	do	3, 4
160.845	do	3, 4
160.860	do	3, 4, 6
160.875	do	3, 4, 6
160.890	do	3, 4, 6
160.905	do	3, 4, 6
160.920	do	3, 4, 6
160.935	do	3, 4, 6
160.950	do	3, 4, 6
160.965	do	3, 4, 6
160.980	do	3, 4, 6
160.995	do	3, 4, 6
161.010	do	3, 4, 6
161.025	do	3, 4, 6
161.040	do	3, 4, 6
161.055	do	3, 4, 6
161.070	do	3, 4, 6
161.085	do	3, 4, 6
161.100	do	3, 4, 6
161.115	do	3, 4, 6
161.130	do	3, 4, 6
161.145	do	3, 4, 6
161.160	do	3, 4, 6
161.175	do	3, 4, 6
161.190	do	3, 4, 6
161.205	do	3, 4, 6
161.220	do	3, 4, 6
161.235	do	3, 4, 5
161.250	do	3, 4, 6
161.265	do	3, 4, 6
161.280	do	3, 4, 6
161.295	do	3, 4, 6
161.310	do	3, 4, 6
161.325	do	3, 4, 6
161.340	do	3, 4, 6
161.355	do	3, 4, 6
161.370	do	3, 4, 6
161.385	do	3, 4, 7
161.400	do	3, 4, 7
161.415	do	3, 4, 7
161.430	do	3, 4, 7
161.445	do	3, 4, 7
161.460	do	3, 4, 7
161.475	do	3, 4, 7
161.490	do	3, 4, 7
161.505	do	3, 4, 7
161.520	do	3, 4, 7
161.535	do	3, 4, 7
161.550	do	3, 4, 7
161.565	do	3, 4, 7
169.425	Operational fixed	8
169.450	do	8
169.475	do	8
169.500	do	8
170.225	do	8
170.250	do	8
170.275	do	8
170.300	do	8
170.325	do	8
171.025	do	8
171.050	do	8
171.075	do	8
171.100	do	8
171.125	do	8
171.825	do	8
171.850	do	8
171.875	do	8
171.900	do	8
171.925	do	8
406.125	do	8
406.175	do	8
409.675	do	8
409.725	do	8
412.625	do	8
412.675	do	8
412.725	do	8
412.775	do	8
450–470	do	9
452.325	Base or mobile	10
452.375	do	10
452.425	do	10
452.475	do	10
452.775	do	10
452.825	do	10
452.875	do	10
452.900	do	10
452.925	do	11
452.950	do	11
457.325	Mobile	10
457.375	do	10
457.425	do	10
457.475	do	10
457.775	do	10
457.825	do	10
457.875	do	10
457.900	do	10
457.925	do	11
457.950	do	11
470 to 512	Base or mobile	12
806 to 821	Mobile	13
851 to 866	Base or mobile	13
962 and above	Operational fixed	14
1427 to 1435	Operational fixed, base or mobile	15
2450 to 2500	Base or mobile	16
8400 to 8500	do	17
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) The frequencies available for assignment to operational fixed stations in the band 72.0 to 76.0 MHz are listed in § 90.257(a)(1). These frequencies which are shared with other services, are available only in accordance with the provisions of § 90.257.

(2) This frequency is available on a shared basis in the Manufacturers, Special Industrial, and Railroad Radio Services and interservice coordination is required. All communications must be conducted within the boundaries or confines of railroad terminals or yards. All operations on this frequency are subject to the provisions of § 90.257(b).

(3) This frequency may be used for the following:

(i) End-to-end, fixed point-to-train, or train-to-train communications in connection with the operation of railroad trains over a track or tracks extending through yards and between stations upon which trains are operated by timetable, train order, or both, or the use of which is governed by block signals.

(ii) Intercommunication between adjacent base stations, provided interference is not caused to communications involving radio stations aboard railroad rolling stock.

(iii) Transmission of tone signals for signalling purposes or for remote control of locomotives, including slave locomotives placed within a train to assist the lead locomotive by providing, among other functions auxiliary starting, pulling and braking actions; and radio controlled cab indicator devices that are placed within a locomotive to give visual signals to the operator of the locomotive.

(4) This frequency may also be used for the transmission of tone or voice communications, including such communications when prerecorded, for purposes of automatically indicating abnormal conditions of trackage and railroad rolling stock when in motion, on a secondary basis to other stations on this frequency. All such operations shall be subject to the following:

(i) The output power shall not exceed 30 watts.

(ii) The bandwidth used shall not exceed that authorized to the licensee for voice transmissions on the frequency concerned.

(iii) The station shall be so designed and installed that it can normaly be activated only by its associated automatic control equipment and, in addition, it shall be equipped with a time delay or clock device which will deactivate the station within three (3) minutes following activation by the last car in the train.

(iv) Stations authorized pursuant to the provisions of this subparagraph are exempt from the station identification requirements of § 90.425.

(5) This frequeney is shared with and must be coordinated with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands.

(6) In Puerto Rico and the Virgin Islands only, this frequency is available on a shared basis with remote pickup broadcast stations.

(7) In Puerto Rico and the Virgin Islands only, this frequency is not available to stations operating in the Railroad Radio Service.

(8) This frequency will be assigned only for transmitting hydrological or meteorological data. The use of this frequency is on a secondary basis to Federal Government stations, and the hydrological or meteorological data being handled must be made available on request to governmental agencies. Other provisions of this part notwithstanding, an operational fixed station operating on this frequency shall not engage in communications with any station in the mobile service unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations on this frequency should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

(9) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to status in the Public Safety and Industrial Radio Services where they are assigned for land mobile operations.

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450–460 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for this frequency must be coordinated with all services involved.

(11) This frequency may be assigned primarily for stations used for the purpose of controlling slave locomotives that are placed within a train to assist the lead locomotive by providing, among other functions, auxiliary starting, pulling, and braking actions. Additionally, on a secondary basis this frequency may be assigned for remote control of all types of locomotives and, within a railroad yard or terminal area, for remote control of cab indicator devices placed with a locomotive to give visual signals to the operator of the locomotive. (A1, A2, F1 or F2 emissions may be authorized).

(12) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(13) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(14) Assignment of frequencies for operational-fixed stations in the band 952 MHz and above is governed by Part 94 of this Chapter.

(15) This frequency band is available to stations in this services subject to the provisions of § 90.259.

(16) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(17) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Additional frequency available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(3) Base and mobile stations authorized as of April 1, 1968, to operate on frequency 161.61 MHz may continue to be authorized for such operation on a secondary basis to the Maritime Mobile service. The licensees of such stations may renew, modify, reinstate, or assign their licenses in those cases where such assignment accompanies a change of ownership of the licensee's business to the assignee, and may expand existing systems when using that frequency; however, they will not be authorized to establish any new systems on the frequency.

(4) Stations authorized for operation on or before June 11, 1962, on the frequencies 169.575, 170.375, 171.175, 171.975, or 406.050 MHz may continue to be authorized for such operation on a secondary basis to Government stations.

(5) The frequency band 33.00–33.01 MHz may be used for developmental operation subject to the provisions of Subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of vehicular repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation

§ 90.93 Taxicab radio service.

(a) *Eligibility.* Persons regularly engaged in furnishing to the public for hire a nonscheduled passenger land transportation service (which may also include the occasional transport of small items of property) not operated over a regular route or between established terminals are eligible to hold authorizations in the Taxicab Radio Service to operate radio stations for the transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Taxicab Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (c) of this section:

Taxicab radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
152.270	Base or mobile	
152.285	do	1
152.300	do	1, 2
152.315	do	1
152.330	do	2
152.345	do	1
152.360	do	1, 2
152.375	do	2
152.390	do	
152.405	do	1
152.420	do	1, 2
152.435	do	1
152.450	do	
157.530	Mobile	
157.545	do	1
157.560	do	1, 2
157.575	do	
157.590	do	
157.605	do	1
157.620	do	1, 2
157.635	do	1
157.650	do	
157.665	do	1
157.680	do	1, 2
157.695	do	1
157.710	do	
450 to 470	Fixed	
452.050	Base or mobile	
452.100	do	
452.150	do	
452.200	do	
452.225	do	
452.250	do	
452.275	do	
452.300	do	
452.350	do	
452.400	do	
452.450	do	
452.500	do	
457.050	Mobile	
457.100	do	
457.150	do	
457.200	do	
457.225	do	
457.250	do	
457.275	do	
457.300	do	
457.350	do	
457.400	do	
457.450	do	
457.500	do	
470 to 512	Base or mobile	4

Frequency or band	Class of station(s)	Limitations
Megahertz:		
806 to 821	Mobile	5
851 to 866	Base or mobile	5
952 and above.	Operational fixed	6
1427 to 1435	Base, mobile, or operational fixed	7
2450 to 2500	Base or mobile	8
5650 to 5925	....do	9
10,500 to 10,680	....do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is available for assignment only to base or mobile stations operating wholly within standard Metropolitan Areas having 50,000 or more population (1950 Census).

(2) This frequency is available on a secondary basis to Business Radio Service licensees for use at stations outside Standard Metropolitan Areas having 50,000 or more population (1950 Census).

(3) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public-Safety and Industrial Radio Services where they are assigned for land mobile operations.

(4) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(5) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(6) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(7) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(8) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(9) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that: (See also § 90.253)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(3) The frequency band 33.00–33.01 MHz may be used for developmental operation subject to the provisions of Subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

§ 90.95 Automobile emergency radio service.

(a) *Eligibility.* Persons regularly engaged in any of the following activities are eligible to hold authorizations in the Automobile Emergency Radio Service to operate radio stations for transmission of communications required for dispatching repair trucks, tow trucks or other road service vehicles to disabled vehicles.

(1) The operation of a private emergency road service for disabled vehicles by associations of owners of private automobiles.

(2) The business of providing to the general public an emergency road service for disabled vehicles.

(b) *Special permissible communications.* On a secondary basis, the transmission of communications by associations of owners of private automobiles which provide emergency road service for the purpose of reporting traffic conditions is authorized.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Automobile Emergency Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations which are explained in paragraph (c) of this section:

Automobile emergency radio service frequency table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
150.815	Base or mobile	1, 2, 3
150.830	....do	1, 2, 3
150.845	....do	1, 2, 3
150.860	....do	1, 2, 3
150.875	....do	1, 2, 3
150.890	....do	1, 2, 3
150.905	....do	3, 4
150.920	....do	3, 4
150.935	....do	3, 4
150.950	....do	3, 4
150.965	....do	3, 4
157.470	....do	5, 6
157.485	....do	5, 6
157.500	....do	5, 6
157.515	....do	5, 6
460 to 470	Fixed	7
455.525	Base or mobile	8
455.550	....do	8
462.575	....do	8
462.600	....do	8
470 to 512	Base or mobile	9
806 to 821	Mobile	10
851 to 866	Base or mobile	10
952 and above.	Operational fixed	11
1427 to 1435	Operational fixed, base, or mobile.	12
2450 to 2500	Base or mobile	13
5650 to 5925	....do	14
10,500 to 10,680	....do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) This frequency is available only for stations (other than those aboard aircraft) which are operated by or on behalf of persons who provide to the general public an emergency road service for disabled vehicles.

(2) Only one of the frequencies 150.815, 150.830, 150.845, 150.860, 150.875, or 150.890 MHz may be assigned to the same licensee in a given area.

(3) This frequency is not available to stations in this service in Puerto Rico or the Virgin Islands.

(4) This frequency is available for assignment to base stations and to mobile stations (other than those aboard aircraft) which are operated by or on behalf of associations of owners of private automobiles.

(5) This frequency is available for assignment to stations, other than those aboard aircraft, which are operated by or on behalf of persons who provide to the general public an emergency road service for disabled vehicles: Except that; at the discretion of the Commission this frequency may also be operated by or on behalf of associations of owners of private automobiles upon a showing that all other frequencies available for assignment to such stations are currently assigned to other stations for use in the area concerned and that the use of the requested frequency, in each case, will be less likely to result in mutual harmful interference than would the use of a frequency otherwise available to the station.

(6) Only one of the frequencies 157.470, 157.485, 157.500, or 157.515 MHz may be assigned to the same licensee in a given area.

(7) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public-Safety and Industrial Radio Services where they are assigned for land mobile operations.

(8) This frequency is available for assignment to stations which are operated by or on behalf of associations of owners of private automobiles for single-frequency operation.

(9) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(14) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area.

The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that: (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–027 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(3) The frequency band 33.00–33.01 MHz may be used for developmental operation subject to the provisions of Subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

Subpart F—Radiolocation Service

§ 90.101 Scope.

The Radiolocation Service accommodates the use of radio methods for determination of direction, distance, speed, or position for purposes other than navigation. Rules as to eligibility for licensing, permissible communications, frequencies available, and any special requirements are set forth in the following section, except that the operation of Automatic Vehicle Monitoring (AVM) systems is governed by interim provisions set forth in § 90.239.

§ 90.103 Radiolocation service.

(a) *Eligibility.* The following persons are eligible for authorizations in the Radiolocation Service to operate stations to determine distance, direction, speed, or position by means of radiolocation devices, for purposes other than navigation:

(1) Persons having a requirement to provide a radiolocation service in connection with their own activities.

(2) A corporation or association that will furnish radiolocation service to other persons.

(3) A corporation that will furnish a nonprofit radio communication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary where the party to be served is regularly engaged in any of the eligibility activities set forth in this paragraph.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Radiolocation Service, together with the class of station(s) to which they are normally assigned, and the specific assignment limitations, which are explained in paragraph (c) of this section:

Radiolocation service frequency table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
70 to 90	Radiolocation land or mobile.	1
90 to 110	Radiolocation land	
110 to 130	Radiolocation land or mobile.	2
1605 to 1715	....do	4, 5, 6
1715 to 1750	....do	5, 6
1750 to 1800	....do	5, 6, 7
3230 to 3400	....do	6, 8
Megahertz:		
2450 to 2500	....do	9
2600 to 3100	....do	10, 11
3100 to 3300	....do	11
3300 to 3500	....do	12, 13
3500 to 3700	....do	13
5250 to 5350	....do	13
5350 to 5460	....do	10, 14
5460 to 5470	....do	10, 15
5470 to 5600	....do	10, 11
5600 to 5650	....do	10, 16
8500 to 8600	....do	12, 17
9000 to 9200	....do	10, 14
9200 to 9300	....do	12
9300 to 9500	....do	10, 15, 18
9500 to 10,000	....do	12
10,000 to 10,500	....do	12, 13, 19
10,500 to 10,550	....do	20
10,550 to 14,000	....do	12
15,700 to 17,700	....do	12
24,050 to 24,500	....do	12
33,400 to 36,000	....do	12

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to stations licensed in the International Fixed Service (Part 23 of the Commission's Rules).

(2) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to the LORAN Navigation System; all operations are limited to radiolocation land stations in accordance with Footnote US104, Section 2.106 of this Chapter.

(3) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to stations licensed in the International Fixed Service (Part 23 of this Chapter) and the Maritime Mobile Service (Part 83 of this Chapter).

(4) Non-Government radiolocation service in this band is on a secondary basis to stations in the aeronautical radionavigation service operating on 1638 or 1708 kHz.

(5) Station assignments on frequencies in this band will be made subject to the conditions that the maximum output power shall not exceed 375 watts and the maximum authorized bandwidth shall not exceed 2 kHz.

(6) Because of the operation of stations having priority on the same or adjacent frequencies in this or in other countries, frequency assignments in this band may either be unavailable or may be subject to certain technical or operational limitations. Therefore, applications for frequency assignments in this band shall include information concerning the transmitter output power; the type and directional characteristics of the antenna and the minimum hours of operation (GMT).

(7) This band is shared with the Disaster Communications Service (Part 99) and operations are on a secondary basis to that service between local sunset and local sunrise, or at any time during an actual or imminent disaster. Local sunrise and sunset times shall be derived from the 1946 American Nautical Almanac. Each frequency assignment in this band is on an exclusive basis within the daytime primary service area to which assigned. The daytime primary service area is the area where the signal intensities are adequate for radiolocation purposes during the hours from sunrise to sunset from all stations in the radiolocation system of which the station in question is a part; that is, the primary service area of the station coincides with the primary service area of the system. The normal minimum geographical separation between stations of different licensees shall be at least 580 km. (360 mi.) when the stations are operated on the same frequency or on different frequencies separated by less than 3 kHz. Where geographical separation of less than 580 km. (360 mi.) is desired under these circumstances it must be shown that the desired separation will result in protection ratio of at least 20 decibels throughout the daytime primary service area of other stations. Applications in this band are placed on Public Notice in accordance with Section 1.962 of this Chapter. Where the number of applicants requesting authority to serve an area exceeds the number of frequencies available for assignment; or where it appears that fewer applicants or licensees than the number before it should be given authority to serve a particular area; or where it appears that an applicant, either directly or indirectly, seeks to use more than 25 kHz of the available spectrum space in this band, the applications may be designated for hearing.

(8) Frequencies in this band may only be assigned to radiolocation stations which are also assigned frequencies in the 1605–1800 kHz band, provided the use of frequencies in this band is necessary for the proper functioning of the particular radiolocation system. Operations in this band are on a secondary basis to stations operating in accordance with the Commission's Table of Frequency Allocations contained in § 2.106 of this Chapter.

(9) This band is allocated to the radiolocation service on a secondary basis to other fixed or mobile services and must accept any harmful interference that may be experienced from such services or from the industrial, scientific, and medical (ISM) equipment operating in accordance with Part 18 of this Chapter.

(10) Speed measuring devices will not be authorized in this band.

(11) This frequency band is shared with and is on a secondary basis to the Maritime Radionavigation Service (Part 83) and to the Government Radiolocation Service.

(12) This frequency band is shared with and is on a secondary basis to the Government Radiolocation Service.

(13) Operations in this band are limited to survey operations using transmitters with a peak power not to exceed 5 watts into the antenna.

(14) This frequency band is shared with and is on a secondary basis to the Aeronautical Radionavigation Service (Part 87) and to the Government Radiolocation Service.

(15) The non-Government Radiolocation Service in this band is secondary to the Maritime Radionavigation Service (Part 83), the Aeronautical Radionavigation Service (Part 87) and the Government Radiolocation Service.

(16) This frequency band is shared with and is on a secondary basis to the Maritime Radionavigation Service (Part 83) and the Government Meteorological Aids Service.

(17) Operation in this frequency band is on a secondary basis to airborne Doppler radars at 8800 MHz.

(18) Radiolocation installations will be coordinated with the Government Meteorological Aids Service, and insofar as practicable, will be adjusted to meet the needs of that service.

(19) Operations in this band are on a secondary basis to the Amateur Radio Service (Part 97). Pulsed emissions are prohibited.

(20) This band is restricted to radiolocation systems using type A0 emission with a power not to exceed 40 watts into the antenna.

(21) Non-Government pulse-ranging radiolocation stations in this band are secondary to the Government Radiolocation Service, the Amateur Radio Service and the Amateur Satellite Service. Stations authorized pursuant to this footnote must cease operation on or before January 1, 1981. All power and antenna height specifications shall be made on a case-by-case basis.

(d) *Additional frequencies for automatic vehicle monitoring (AVM) systems.* The frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for AVM operations in accordance with § 90.239 except that for corporations rendering service to others under paragraph (a) (2) of this section, such operations are limited to the 904–912 MHz and 918–926 MHz bands.

(e) *Other additional frequencies available.* Radiolocation stations in this service may be authorized, on request, to use frequencies allocated exclusively to Federal Government stations, in those instances where the Commission finds, after consultation with the appropriate Government agency or agencies, that such assignment is necessary or required for coordination with Government activities.

Subpart G—Applications and Authorizations

§ 90.111 Scope.

This subpart contains the procedures and requirements for the filing of applications for authority to operate radio facilities under this part.

§ 90.113 Station authorization required.

No radio transmitter shall be operated in the services governed by this part except under and in accordance with a proper authorization granted by the Commission.

§ 90.115 Ineligibility of foreign governments.

No station authorization in the radio services governed by this part shall be granted to or held by a foreign government or its representative.

§ 90.117 Applications for radio station authorizations.

Persons desiring a radio station authorization must first submit an appropriate application. Prescribed application forms are listed in § 90.119. They may be obtained from the Washington, D.C., office of the Commission, or from any of its engineering field offices. (See § 90.145 for information regarding special temporary authorizations.)

§ 90.119 Application forms.

The following application forms shall be used—

(a) Except as provided for in paragraph (c) of this section, Form 400 shall be used to apply:

(1) For new base, fixed, or mobile station authorizations governed by this part.

(2) For modification or for modification and renewal of an existing authorization. (See § 90.135.)

(3) For the Commission's consent to the assignment of an authorization to another person or entity. In addition, the application shall be accompanied by a letter from the assignor setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of the station, and that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Form 1046 may be used in lieu of this letter.

(b) Except as provided for in paragraph (c) of this section, Form 405–A shall be used to apply for a renewal without modification of a station license.

(c) Form 425 shall be used in lieu of Form 400 and 405(a) to submit applications specifying any frequency in the band 470–512 MHz.

(d) A separate application shall be submitted on FCC Form 703 whenever it is proposed to change, as by transfer of stock ownership, the control of a corporate licensee.

§ 90.121 Canadian registration.

Form 410 shall be filed by Canadian licensees desiring to operate in the United States under the terms of Article 2 and 3 of the Convention between the United States and Canada concerning Operation of Certain Radio Equipment or Stations (which entered into force May 15, 1952). This form may be obtained from the Department of Communications, Ottawa, Canada. That department should also be consulted by U.S. licensees desiring to operate in Canada.

§ 90.123 Full disclosures.

(a) Each application shall contain full and complete disclosures with regard to the real party or parties in interest and as to all matters required to be disclosed by the application forms.

(b) Each application shall be clear and complete in itself without cross reference to information previously filed. An application for modification of an existing station must show in precise detail all particulars of the desired operation, including those not affected by the modification.

§ 90.125 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in fact in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies must, however, conform in all other particulars to such originals.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, Section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to Section 312(a)(1) of the Communications Act of 1934, as amended.

§ 90.127 Filing of applications.

(a) All applications for station authorizations and related correspondence shall be submitted to the Commission's Office at Washington, D.C. 20554, directed to the attention of the Secretary.

(b) Unless otherwise specified, an application should be filed at least sixty days prior to the desired date of Commission action. Applications for renewal should be filed no more than 90 days nor less than 30 days prior to the end of the license term. When timely and sufficient application for renewal of the license has been made, the license shall not expire until Commission action on the application has been completed.

§ 90.129 Supplemental information to be routinely submitted with applications.

Each application shall be accompanied by the appropriate information listed below:

(a) Evidence of frequency coordination as required by § 90.175.

(b) Description of any equipment proposed to be used if it does not appear on the Commission's current Radio Equipment List, Equipment Acceptable for Licensing, and designated for use under this part.

(c) A functional system diagram and a detailed description of the manner in which the interrelated stations will operate, if the station is part of a system involving two or more stations at different fixed locations.

(d) Agreements and statements required under § 90.179 if the stations will be cooperatively shared with others under the provisions of that section.

(e) Applicants proposing to construct a radio station in the vicinity of radio astronomy observatories in West Virginia or in the vicinity of a radio receiving zone in Colorado must submit the statements prescribed by § 90.177.

(f) Statements required in connection with developmental operation, as specified in § 90.505.

(g) The narrative statement required by Subpart I, Part 2 of this chapter concerning environmental impact, if required. See Section 1.1101–1.1319.

(h) Requests for authorization to communicate with foreign stations in accordance with § 90.19(c) or § 90.417;

(i) Showings required in connection with the use of frequencies in the band 806–866 MHz as specified in Subpart M.

(j) Any statements or showings required in connection with the use of the frequency requested.

(j) Any other statements or other data specifically required under special circumstances which are set forth in the applicable subpart of this part, by the particular form on which the application is filed or upon request by the Commission.

(k) If the applicant proposes to use a shared (community) repeater, the name of the owner of the shared repeater, (2) the names and call signs of the other licensees of that repeater, and (3) the identification (if any) assigned the repeater by the Commission.

§ 90.131 Amendment or dismissal of applications.

(a) Any application, except for mutually exclusive applications or those against which a petition to deny has been filed, may be amended as a matter of right at any time prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner as required for the original application. The procedures for amending applications mutually exclusive under this part, applications against which a petition to deny has been filed, and applications designated for hearing are set forth in § 1.918.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designed for hearing.

§ 90.135 Modification of license.

(a) The following changes in authorized stations require an application for modification of license:

(1) Any change in frequency.

(2) Any change in the type of emission.

(3) Any increase in power beyond that authorized.

(4) Any increase in antenna height beyond that authorized.

(5) Any increase in the number of transmitters or control points beyond that authorized.

(6) Any change in the authorized location of the base or fixed transmitter or control point or the area of mobile operation

(7) Any change in ownership, control or corporate structure.

(8) Any change in class of station.

(b) The following changes do not require an application for modification of license:

(1) Change in mailing address of licensee.

(2) Change in name only of licensee, without changes in the ownership, control, or corporate structure.

(3) Any other change not listed in Paragraph (a) of this section.

(4) In case of a change listed in Subparagraph (1) or (2) of this paragraph, the licensee shall promptly notify the Commission of such change.

The notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name or address, the call signs and classes of all radio stations authorized to the licensee under this part and the radio service in which each station is authorized. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554, and to the Engineer in Charge of the Radio District in which the station is located, and a copy shall be maintained with the license of each station until a new license is issued.

§ 90.137 Applications for operation at temporary locations.

(a) An application for authority to operate a base station or a fixed station at temporary locations may be submitted in accordance with the following:

(1) When one or more individual transmitters are to be operated by a licensee as a base station or as a fixed station as unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations.

(2) The application must specify the general geographic area within which the operation will be confined. The area may be specified as a city, a county or counties, a state or states or other definable geographic area.

(b) When any unit or units of a base station or fixed station which are authorized for operation at temporary locations actually remain or are intended to remain at the same location for more than one year, an application for a separate authorization specifying the fixed location shall be made as soon as possible, but not later than thirty days after the expiration of the one year period.

§ 90.139 Preliminary processing of applications.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is for administrative convenience and does not indicate the acceptance of the application for filing and processing.

(b) Applications which are incomplete with respect to answers, supplementary statements, execution, or other matters of a formal character shall be deemed to be defective and may be returned to the applicant with a brief statement as to such defects. In addition, if an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, failure to comply with such request will be deemed to render the application defective, and such application may be dismissed. Applications will also be deemed to be defective and may be returned to the applicant in the following cases:

(1) Statutory disqualification of applicant;

(2) Proposed use or purpose of station would be unlawful;

(3) Requested frequency is not allocated for assignment for the service proposed.

(c) Applications which are not in accordance with the provisions of this chapter, or other requirements of the Commission, will be considered defective and may be dismissed unless accompanied by a request in accordance with § 90.151 of this part.

§ 90.141 Resubmitted applications.

Any application which has been returned to the applicant for correction will be processed in its original position in the processing line if it is resubmitted and received by the Commission within 30 days (45 days outside continental United States) from the date on which it was returned to the applicant. Otherwise it will be treated as a new application for the purpose of processing considerations.

§ 90.143 Grants of applications.

(a) The Commission will grant an application for a station authorization

without a hearing if it is in proper form, and conforms with all rule requirements, and would serve the public interest, convenience or necessity.

(b) The Commission may grant any application in part, or add privileges, terms, or conditions not requested. When such action is taken without a hearing, the applicant may accept the authorization as granted, or may return it to the Commission along with a written request for a hearing. Any such request for hearing must be made within 30 days from the date of the grant, or from its effective date, if a later date is specified. Upon receipt of a request for hearing, the Commission will vacate the grant and designate the application for hearing in the usual manner.

§ 90.145 Special temporary authority.

(a) In circumstances requiring the temporary use of radio facilities, the Commission may issue special temporary authority for new or modified operations. A request for special temporary authority may be made in letter form signed in accordance with § 90.125 of this part. It should be submitted, in duplicate, at least 10 days prior to the date of the proposed operation. However, in cases of emergency involving danger to life or property, or due to damage to equipment, the request may be made by telephone or telegraph under the condition that a letter request is submitted within the following 10 days. All requests for special temporary authority shall be clear and complete within themselves and shall not rely on any pending application.

(b) Every request for special temporary authority should contain the following information:

(1) Name and address of the applicant;

(2) Need for special action, including a description of any emergency or damage to equipment;

(3) Type of operation to be conducted (such as field test, dispatching, etc.);

(4) Purpose of operation;

(5) Times and dates of operation;

(6) Class of station and name of radio service;

(7) Location, including geographical coordinates if known, of transmitter and/or mobile area of operations;

(8) Number of fixed transmitters and number of mobile units;

(9) Operating frequency;

(10) Output power of the transmitter;

(11) Type of emission;

(12) Description of antenna, including height above ground and power gain;

(13) Statement of eligibility for a radio service under this part.

§ 90.147 Mailing address furnished by licensee.

Each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose.

§ 90.149 License term.

(a) Licenses for stations authorized under this part will normally be issued for a term of five years from the date of original issuance, modification, or renewal, except that, in some instances, a term of from one to five years will be applied, the term varying as may be necessary to permit the orderly scheduling of renewal applications.

(b) Authorizations for stations engaged in developmental operation under subpart P of this part will be issued upon a temporary basis for a specific period of time, but in no event to extend beyond one year from date of original issuance, modification or renewal.

§ 90.151 Requests for waiver.

Requests for waiver shall show the nature of the waiver or exception desired, and set forth the reasons in support thereof to include a showing that unique circumstances are involved and that there is no reasonable alternative solution within existing rules. Applications may be dismissed if the accompanying petition for waiver of rules does not set forth reasons which, sufficient if true, would justify a waiver or exception.

§ 90.153 Assignment of station authorization.

A station authorization and the rights it grants shall not be transferred, assigned, or in any manner disposed of to any person, unless the Commission shall, after obtaining full information, decide that the transfer, assignment, or disposal is in the public interest, convenience or necessity and give its consent in writing.

§ 90.155 Time in which station must be placed in operation.

All stations authorized under this part must be placed in operation within eight months from the date of grant or the authorization shall be invalid and must be returned to the Commission for cancellation.

§ 90.157 Discontinuance of station operation.

If a station licensed under this part discontinues operation on a permanent basis, the licensee shall forward the station license to the Commission for cancellation. A copy of the request for cancellation shall be sent to the Engineer in Charge of the district in which the station is located. For the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

Subpart H—General Policies Governing the Intersystem Assignment Coordination and Use of Frequencies

§ 90.171 Scope.

This Subpart contains detailed information concerning the policies under which the Commission assigns frequencies for the use of licensees under this part, frequency coordination procedures, and procedures under which licensees may cooperatively share radio facilities.

§ 90.173 Policies governing the assignment of frequencies.

(a) The frequencies which ordinarily may be assigned to stations in the services governed by this part are listed in Subparts B, C, D, E, and F of this part. Except as otherwise specifically provided in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.

(b) All applicants and licensees shall cooperate in the selection and use of frequencies in order to reduce interference and make the most effective use of the authorized facilities. Licensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements. If the licensees are unable to do so, the Commission may impose restrictions including specifying the transmitter power, antenna height, or area or hours of operation of the stations concerned. Further the use of any frequency at a given geographical location may be denied when, in the judgment of the Commission, its use in that location is not in the public interest; the use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions, contained in this part or in the station authorization.

(c) Frequencies allocated for Federal government radio stations under Executive Order of the President may be authorized for the use of stations in these services upon appropriate showing by the applicant that such assignment is necessary for inter-communication with government stations or required for coordination with activities of the Federal Government, and where the Commission finds, after consultation with the appropriate government agency or agencies, that such assignment is necessary.

(d) The radio facilities authorized under this part are intended for use in connection with and as an adjunct to the primary governmental or business activities of the licensee.

(e) Persons requesting authority to operate in the band 25–50 MHz should recognize that this band is shared with various services in other countries and that harmful interference may be caused by the propagation of signals in this band from distant stations. No protection from such harmful interference generally can be expected.

(f) In the 150–170 MHz band, no application will be granted which proposes a base station located less than 16 km. (10 mi.) from an existing base station on a frequency 15 kHz removed. In the Taxicab Radio Service, the minimum separation is 12 km. (7 mi.).

(g) In the states of Alaska and Hawaii, and in areas outside the continental limits of the United States and the adjacent waters, the frequencies above 150.8 MHz which are listed elsewhere in this part as available for assignment to base stations or mobile stations in the Industrial and Land Transportation Radio Services, are also available for assignment to operational fixed stations in the same service, on a secondary basis.

(h) In the Local Government, Police, and Fire Radio Services, base stations may be authorized to operate on frequencies below 450 MHz which are available to mobile stations. In the Forestry-Conservation and Highway Maintenance Radio Services, base stations may be authorized to operate on any frequencies which are available to mobile stations. Such base station operation will be on a secondary basis only, and should it result in harmful interference to mobile stations, the base stations will be required to vacate such mobile-only frequency, if the interference cannot otherwise be eliminated.

(i) In the 450–470 MHz band, the frequencies are ordinarily assigned in pairs, with the mobile station transmit frequency 5 MHz above the paired base station transmit frequency. A mobile station may be assigned the frequency which would normally be assigned to a base station for single-frequency operation. However, this single-frequency operation may be subject to interference that would not occur to a two-frequency system.

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraph (e) of this section, each application: (1) for a new frequency assignment, or (2) for a change in existing facilities by increasing the authorized power, raising the authorized antenna height, or changing the authorized station location or the location of the antenna; or (3) for the addition of a base station within the licensee's existing area of operation, shall include a showing of frequency coordination as set forth in either paragraph (a) or (b) of this section.

(a) For frequencies below 470 MHz:

(1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 120 km. (75 mi.) of the proposed station, together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply. In addition, for frequencies in the range 150–170 MHz, a report based on a field study indicating the degree of probable interference to existing stations located between 16 and 56 km. (10 and 35 mi.) (12 and 56 km. for taxicabs) from the proposed station, operating on a frequency 15 kHz removed, and a statement that the licensee of all such stations have been notified of the applicant's intention to apply. Or,

(2) A statement from a frequency coordinating committee recommended the frequency which, in the opinion of the committee, will result in the least amount of interference to all existing stations operating in the particular area. The Committee's recommendations may appropriately include comments on technical factors such as power, antenna height and gain, terrain, and other factors which may serve to mitigate any contemplated interference. If the frequency recommended is in the 150–170 MHz band, is 15 kHz removed from a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished.

(b) For frequencies between 470 and 512 MHz:

(1) A report showing that the frequencies applied for are available for assignment in accordance with the applicable loading and separation standards, as specified in § 90.317 and § 90.303, or:

(2) A statement from a frequency coordinating committee recommending specific frequencies which are available for assignment in accordance with the loading standards and mileage separations applicable to the specific radio service involved.

(c) Any recommendation submited in accordance with Subparagraphs (a)(2) or (b)(2) of this section is purely advisory in character and is not binding on either the applicant or the Commission. The recommendation may not contain statements implying that anyone other than the Commission has the power to grant or deny applications. Applicants are advised not to purchase radio equipment on specific frequencies until a valid authorization has been obtained.

(d) Applications for facilities near the Canadian border north of line A or east of line C in Alaska may require coordination with the Canadian government. See Section 1.955 of this chapter.

(e) The following applications need not be accompanied by evidence of frequency coordination:

(1) Applications in the Police, Highway Maintenance, or Forestry Conservation Radio Services from States requesting frequencies available only in accordance with a geographical assignment plan.

(2) Applications in the Special Emergency Radio Service, except as required by § 90.53(b)(8).

(3) Applications for a Federal Government frequency.

(4) Applications for a frequency allocated primarily for the operation of and affording no protection from industrial, scientific, and medical (ISM) devices, (27 MHz band).

(5) Applications for a frequency in the 72–76 MHz band for operational fixed stations.

(6) Applications for a frequency in the band 216–220 MHz.

(7) Applications for a frequency below 25 MHz.

(8) Applications for a frequency above 512 MHz.

(9) Applications for a frequency allocated primarily for developmental operation.

(10) Applications in the Business Radio Service for a frequency below 450 MHz where both frequencies immediately adjacent (± 20 or 30 kHz) are available for assignment in that service, or where the frequency is available pursuant to § 90.75(d)(4).

(11) Applications in the Special Industrial Radio Service or the Business Radio Service specifying an itinerant operation only.

(12) Application in the Radiolocation Radio Service.

§ 90.177 Protection of certain radio receiving locations.

This section pertains to applications for new or modified authorizations in the vicinity of the National Radio Astronomy Observatory, Green Bank, Pocahontas County, West Virginia, the Naval Radio Research Observatory, Sugar Grove, Pendleton County, West Virginia, or the Table Mountain Radio Receiving Zone, Boulder County, Colorado.

(a) Any applicant for a new permanent base or fixed station, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location within the boundaries described in paragraph (b) of this section shall notify the Director, National Radio Astronomy Observatory, P. O. 2, Green Bank, West Virginia 24944, in writing, of the technical parameters of the proposal.

(1) The notification shall be made prior to, or simultaneously with the filing of the application with the Commission.

(2) The notification shall state the geographical coordinates of the antenna, antenna height, antenna directivity, proposed frequency, type of emission and effective radiated power.

(3) After receipt of such applications the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20 day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(4) The provisions of this paragraph do not apply to applications for mobile, temporary base, or temporary fixed stations.

(b) The area of concern for the National Radio Astronomy Observatory or the Naval Radio Research Observatory is the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west.

(c) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado. Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado, under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the Research Laboratories of the Department of Com-

merce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07'50" N. Latitude, 105°14'40" W. Longitude, resulting from new assignments (other than mobile stations) or from modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength (millivolt per meter) in authorized bandwidth of service	Power flux density [1] (decibel watt per square meter) in authorized bandwidth of service
Below 540 kHz	10	-65.8
540 to 1600 kHz	.50	-91.8
1.6 to 470 MHz	10	-65.8
470 to 890 MHz	.50	-78.2
Above 890 MHz	1	-85.8

[1] Equivalent values of power flux density are calculated assuming a free space characteristic impedance of 376.7≈120 π ohms.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data indicating whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities. In such instance, the following is a suggested guide for determining whether coordination is appropriate:

(i) All stations within 2.4 km. (1.5 statute miles.)

(ii) Stations within 4.8 km. (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km. (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 80 km. (50 statute miles) with 25 kW or more ERP in the primary plane of polariaztion in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, NOAA/OT/NBS, Time and Frequency Division, Boulder Laboratories, Boulder, Colorado 80302; in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which, in fact, permits a signal at the reference point in excess of the field strength specified herein.

§ 90.179 Cooperative use of radio stations.

This section will be composed in accordance with the decision in Docket 18921, now pending.

Subpart I—General Technical Standards

§ 90.201 Scope.

This subpart sets forth the general technical requirements for use of frequencies and equipment in the radio services governed by this part. Such requirements include standards for acceptability of equipment, frequency tolerance, modulation, emissions, power, and bandwidths. Special additional technical standards applicable to certain frequency bands and certain specialized uses are set forth in Subparts J, K, M, and N.

§ 90.203 Type acceptance required.

(a) Except as specified in paragraph (b) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in Section 2.803 (of Part 2) must be of a type which is included in the Commission's current Radio Equipment List as type accepted or type approved for use under this part; or, be of a type which has been type accepted or type approved by the Commission for use under this part in accordance with the procedures in subparagraph (2) of this paragraph.

(1) The Commission periodically publishes a list of equipment entitled "Radio Equipment List, Equipment Acceptable for Licensing." Copies of this list are available for public reference at the Commission's offices in Washington, D.C., and at each of its field offices. This list includes type accepted and type approved equipment and, also, until such time as it may be removed by Commission action, other equipment which appeared in this list on May 16, 1955.

(2) Any manufacturer of radio transmitting equipment (including signal boosters) to be used in these services may request type acceptance or type approval for such equipment following the procedures set forth in Subpart J of Part 2 of this chapter. Type acceptance or type approval for an individual transmitter or signal booster also may be requested by an applicant for a station authorization by following the procedures set forth in Part 2 of this chapter. Such equipment if approved or accepted will not normally be included in the Commission's "Radio Equipment List" but will be individually enumerated on the station authorization.

(b) Type acceptance is not required for the following:

(1) Transmitters used in developmental operations in accordance with Subpart P.

(2) Transmitters used for police zone and interzone stations authorized as of January 1, 1965.

(3) Transmitting equipment used in the band 1427–1435 MHz.

(4) Transmitters used in radiolocation stations in accordance with Subpart F authorized prior to January 1, 1974, for Public Safety and Land Transportation applications (Old Parts 89 and 93).

(5) Transmitters used in radiolocation stations in accordance with Subpart F authorized for industrial applications (Old Part 91).

(c) Radiolocation transmitters for use in Public Safety and Land Transportation applications marketed prior to January 1, 1974, must meet the applicable technical standards in this part, pursuant to Section 2.805 of this chapter.

(d) Radiolocation transmitters for use in Public Safety and Land Transportation applications marketed after January 1, 1974, must comply with the requirements of paragraph (a) of this section.

§ 90.205 Power.

(a) The power which may be used by a station in these services shall be no more than the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception. In cases of harmful interference, the Commission may order a change in power or antenna height or both. Applications for authorizations must specify no more power than the actual power necessary for satisfactory operation.

(b) Except where otherwise specifically provided, the maximum power that will be authorized is as follows:

Frequency range (megahertz)	Maximum output power	Maximum effective radiated power (watts)
1.3 to 3	[1] 1500	
3 to 25	[1] [2] 750	
25 to 100	300	
100 to 216	[3] 350	
216 to 220	[3] [4] 350	[4]
220 to 470	[3] 350	
470 to 512		1000
806 to 821	[5]	[6]
851 to 866	[7]	[6]
1427 to 1435	[8]	
2450 to 2500	5	
2500 to 10,550	[6]	[6]
10,550 to 10,680	3	[6]
Above 10,680	[6]	[6]

[1] For single sideband operations (A3J emission) below 10 MHz, the authorized power shall be stated in terms of peak envelope power, which is the average power supplied to the antenna transmission line by a transmitter during 1 radio frequency cycle at the highest crest of the modulation envelope taken under conditions of the modulation envelope taken under conditions of normal operation. The maximum peak envelope power permitted is 2 kW.

[2] In the frequency band 3 to 6 MHz, stations in the industrial services and the radiolocation radio service may be authorized up to 1500 W.

[3] Except as noted in footnote 5 the maximum output power in the motor carrier, taxicab, railroad, and auto emergency radio services is 75 W.

[4] To be specified in the authorization.

[5] In the frequency band 450 to 470 MHz, stations in the land transportation radio services are limited to 75 W, however, they may be authorized up to 350 W for developmental operations in accordance with subpt. P.

[6] Specified in subpt. M.

[7] The output power of a transmitter on any authorized frequency in this band shall not exceed 200 W.

(c) The output power shall not exceed by more than 20 percent either the output power shown in the Radio Equipment List (available in accordance with Section 90.203(a)(1)) for transmitters included in this list or when not so listed, the manufacturer's rated output power for the particular transmitter specifically listed on the authorization.

§ 90.207 Types of emissions.

Normally operations authorized in the services governed by this part are intended to provide voice communications between stations. Accordingly, except as otherwise provided for in the following paragraphs, stations in these services will be authorized to use only A3 or F3 emission.

(a) Authorizations to use A3 or F3 emission also include the use of emissions for tone signals or signalling devices whose sole functions are to establish and to maintain communications and for operations in the Public Safety and Special Emergency Radio Services, to activate emergency warning devices used solely for the purpose of advising the general public or emergency personnel of an impending emergency situation.

(b) The use of F3 emission in these services will be authorized only on frequencies above 25 MHz.

(c) Only A3J emission will be authorized for telephony systems on frequencies below 25 MHz.

(d) For tone paging operations only A1, A2, F1, or F2 emission will be authorized.

(e) For radioteleprinter operations that may be authorized in accordance with § 90.237, only F2 or F9 emission will be authorized.

(f) For radiofacsimile operations that may be authorized in accordance with § 90.237, only F4 emission will be authorized.

(g) For AVM systems that may be authorized in accordance with § 90.239, only F1, F2, F3, F9, or P9 emission will be authorized.

(h) For telemetry operations only A1, A2, F1, F2, or F9 emission will be authorized.

(i) For call box operations that may be authorized in accordance with § 90.241, only A1, A2, F1, F2, or F3 emissions will be authorized.

(j) For radiolocation operations as may be authorized in accordance with Subpart F, unless otherwise provided for any type of emission may be authorized upon a satisfactory showing of need.

§ 90.209 Bandwidth limitations.

(a) Each authorization issued to a station licensed under this part will specify the maximum authorized bandwidth to be occupied by the emission. The bandwidth in kilohertz will appear as a prefix to the emission classification. The specified band will contain those frequencies upon which 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

(b) The maximum authorized bandwidth of emission corresponding to the type of emission specified in § 90.207 of this part and the maximum authorized frequency deviation in the case of frequency or phase modulated emission shall be as follows:

(1) For all type A1 emission, the maximum authorized bandwidth shall be 0.25 kHz.

(2) Except as noted in subparagraph 3, the maximum authorized bandwidth for type A3 emission shall be 8 kHz.

(3) For type A3J operations below 10 MHz, the bandwidth occupied by the emission shall not exceed 3500 Hz. The frequency coinciding with the center of the authorized frequency band of emission shall be the assigned frequency. Both the authorized carrier frequency and assigned frequency shall be specified in the authorization. The authorized carrier frequency shall be 1400 Hz lower in frequency than the assigned frequency. Only upper sideband emission shall be used. In the case of regularly available double sideband radiotelephone channels, and assigned frequency for A3J emission is available either 1.6 kHz below or 1.4 kHz above the double sideband radiotelephone assigned frequency.

(4) For all F3 emission, on frequencies below 947 MHz, the maximum authorized bandwidth shall be 20 kHz and the maximum authorized frequency deviation shall be 5 kHz. However, stations authorized for operation on or before December 1, 1961, in the frequency band 73.0–74.6 MHz may continue to operate with a bandwidth of 40 kHz and a deviation of 15 kHz. For stations operating on frequencies above 947 MHz, except as provided in subparagraph (5), of this section the maximum authorized bandwidth and frequency deviation will be specified in the station authorization.

(5) The maximum authorized bandwidth shall be 25 MHz in the frequency band 10,550–10,680 MHz and 50 MHz in the frequency bands above 16,000 MHz.

(6) For all other types of emissions the maximum authorized bandwidth shall not be more than that normally authorized for voice operations.

(c) Except as noted in paragraph (d), the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 50 percent, but not more than 100 percent of the authorized bandwidth: at least 25 decibels;

(2) On any frequency removed from the assigned frequency by more than 100 percent, but not more than 250 percent of the authorized bandwidth: at least 35 decibels;

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: at least 43 plus 10 $\log_{10}$ (mean output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

(d) For single sideband operations (A3J) below 10 MHz, the carrier frequency power shall be at least 40 dB below the peak envelope power and the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 1.75 kHz up to and including 5.25 kHz: At least 25 dB;

(2) On any frequency removed from the assigned frequency by more than 5.25 kHz and up to and including 8.75 kHz: At least 35 dB;

(3) On any frequency removed from the assigned frequency by more than 8.75 kHz: At least 43 plus 10 $\log_{10}$ (mean output power in watts) dB.

(e) When radiation in excess of that specified in paragraphs (c) and (d) of this section results in harmful interference, the Commission may require appropriate technical changes in equipment to alleviate the interference.

§ 90.211 Modulation requirements.

(a) For those transmitters subject to the provisions of paragraph (d) of this section, the maximum audio frequency required for satisfactory radiotelephony intelligibility in the radio services governed by this part is considered to be 3000 Hertz. (2800 Hz for single sideband operations below 25 MHz) For all others, the overall frequency response of the audio and modulating circuits may correspond approximately with that required for satisfactory intelligibility.

(b) When amplitude modulation is used for radiotelephony, the modulation percentage shall be sufficient to provide efficient communication and normally should be maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) Each transmitter shall be equipped with a device which automatically prevents modulation in excess of that specified in this subpart which may be caused by greater than normal audio level. This requirement shall not be applicable to transmitters authorized to operate as mobile stations with a maximum output power of 2 watts or less.

(d) Each transmitter in the frequency ranges 25 to 50, 72.0 to 73.0, 75.4 to 76, 150.8 to 174, 450 to 512, 806 to 821, and 851 to 866 MHz which is equipped with a modulation limiter in accordance with paragraph (c) of this section shall be equipped with an audio low-pass filter. Such filter shall be installed between the modulation limiter and the modulated stage and shall meet the specifications contained in paragraph (e) or (f) of this section. The provisions of this paragraph do not apply to transmitters of licensed radio-communications systems operating wholly within the limits of one or more of the territories or possessions of the United States or Alaska, or Hawaii, except those systems operating in the frequency ranges 806 to 821 MHz and 851 to 866 MHz.

(e) Except as provided in paragraph (f) of this section, at audio frequencies between 3 kHz and 15 kHz, the low-pass filter required by the provisions of paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kHz by at least

$$40 \log_{10} (f/3) \text{ decibels}$$

where "f" is the audio frequency in kHz. At audio frequencies above 15 kHz, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kHz

(f) For stations authorized in the 450–470 MHz band on or after November 1, 1967, and for all stations authorized in the 470–512, 806–821, and 851–866 MHz bands, at audio frequencies between 3 kHz and 20 kHz, the low-pass filter required by the provisions of paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kHz by at least:

60 $\log_{10}$ (f/3) decibels.

where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

§ 90.213 Frequency tolerance.

(a) A licensee in the services governed by this part shall maintain the carrier frequency of each authorized transmitter within the following percentage of the assigned frequency:

Frequency range	Fixed and base stations		Mobile stations	
	Over 200 W	200 W or less	Over 2 W	2 W or less
	Percent	*Percent*	*Percent*	*Percent*
Megahertz:				
Below 25 [1]	[2] 0.01	0.01	0.01	0.02
25 to 50	.002	.002	.002	.005
50 to 450	[3] .0005	.0005	.0005	.005
450 to 470	[4] [5] .00025	[4] [6] .00025	.0005	[6] .0005
470 to 512	[5] .00025	[5] .00025	.0005	.0005
806 to 821	[7] .00015	[7] .00015	.00025	.00025
851 to 866	.00015	.00015	.00025	.00025
1427 to 1435	[5] .03	[5] .03	.03	.03
2450 to 2500	([8] [9])		([8] [9])	
2500 to 10,550	([8] [9])		([8] [9])	
10,550 to 10,680	([8] [9])		([8] [9])	
Above 10,680	([8] [9])		([8] [9])	

[1] For single sideband radiotelephony operations below 30 MHz, the carrier frequency shall be maintained within 50 Hz of the authorized carrier frequency.
[2] Radiolocation stations operating in frequency bands above 130 kHz must operate with a frequency tolerance of 0.005 pct.
[3] Stations in the petroleum radio service used in geographical operations and employing nonvoice techniques must operate with a frequency tolerance of 0.005 pct.
[4] Stations authorized for operation on or before Dec. 1, 1961, in the frequency band 73.0–74.6 MHz may operate with a frequency tolerance of 0.006 pct.
[5] Operational fixed stations controlling mobile relay stations, (through use of the associated mobile frequency) may operate with a frequency tolerance of 0.0005 pct.
[6] A frequency tolerance of 0.0005 pct is permitted in the railroad radio service for base stations operating on 452.925, 452.950, 457.925, or 457.950 MHz and used for remote control purposes in railroad yard and terminal areas.
[7] For control stations, the frequency tolerence is 0.00025 pct.
[8] For fixed stations with a power above 200 W, the frequency tolerence is 0.01 pct if the necessary bandwidth of the emission does not exceed 3 kHz. For fixed station transmitters with a power at 120 W or less and using time division multiplex the frequency tolerence may be increased to 0.05 pct.
[9] To be specified in the station authorization.
[10] Radiolocation equipment using pulse modulation shall meet the following frequency tolerance: The frequency at which maximum emission occurs shall be within the authorized frequency band and shall not be closer than 1.5/T MHz to the upper and lower limits of the authorized frequency band where T is the pulse duration in microseconds.

(b) For the purpose of determining the frequency tolerance applicable to a particular transmitter in accordance with the foregoing provisions of this section, the power of a transmitter shall be the maximum rated output power as specified by the manufacturer.

§ 90.215 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter authorized to operate with an output power in excess of two watts is maintained within the tolerance prescribed in Section 91.213. This determination shall be made, and the results entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or its stability;

(b) The licensee of each station shall employ a suitable procedure to determine that the transmitter output power of each transmitter authorized to operate with an output power in excess of two watts does not exceed the maximum figure specified on the current station authorization. On authorizations stating only the input power to the final radio frequency stage, the maximum permissible output power is 75 percent for frequencies below 25 MHz and 60 percent of the input power for frequencies above 25 MHz. If a non-DC final radio frequency stage is utilized, then the output power shall not exceed 75 percent of the input power. This determination shall be made, and the results thereof entered into the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may increase the transmitter power input;

(c) The licensee of each station shall employ a suitable procedure to determine that the modulation of each transmitter, which is authorized to operate with an output power in excess of two watts, does not exceed the limits specified in this part. This determination shall be made and the following results entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the modulation characteristics.

(d) The determinations required by paragraphs (a), (b), and (c) of this section may, at the opinion of the licensee, be made by a qualified engineering measurement service, in which case the required record entries shall show the name and address of the engineering measurement service as well as the name of the person making the measurements.

(e) In the case of mobile transmitters, the determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: Provided, That the measurements are made under load conditions equivalent to actual operating conditions; and provided further, that after installation in the mobile unit the transmitter is given a routine check to determine that it is capable of being received satisfactorily by an appropriate receiver.

§ 90.217 Exemption from technical standards.

Transmitters used at stations licensed in the Business Radio Service which have an output power not exceeding 120 milliwatts are exempt from the technical requirements set out in this subpart: Provided, however, that the sum of the bandwidth occupied by the emitted signal plus the bandwith required for frequency tolerance shall be so adjusted that any emission appearing on a frequency 40 kHz or more removed from the assigned frequency is attenuated at least 30 dB below the unmodulated carrier. Such transmitters may operate in the continuous carrier transmit mode.

Subpart J—Non-Voice and Other Specialized Operations

§ 90.231 Scope.

This subpart sets forth requirements and standards for licensing and operation of non-voice and other specialized radio uses (other than radiolocation). Such uses include secondary signalling, radioteleprinter, radiofacsimile, automatic vehicle monitoring (AVM), radio call box, relay, vehicular repeater, and control station operations.

§ 90.233 Secondary base/mobile non-voice signalling operations.

On a secondary basis to voice operations, the use of A2, A9, F2, or F9 emission may be authorized to base/mobile operations in accordance with the following limitations and requirements:

(a) Authorizations are limited to mobile service frequencies below 950 MHz.

(b) Maximum duration of a transmission for each distinct non-voice message, including automatic repeats of the message, may not exceed two seconds. There must be a break in the carrier between each such transmission.

(c) Required station identification for non-voice operations must be made by F3 or A3 emission and may be given by the base station for a base/mobile system.

(d) Secondary non-voice operations under this section may not be authorized for tone paging, telemetry, radiolocation, AVM, radioteleprinter, radiofacsimile, or radio call box operations. These operations are authorized under other sections of this part.

§ 90.235 Secondary fixed tone signalling and alarm operations.

In the Local Government, Police, Fire, Highway Maintenance, Forestry Conservation, Power, and Petroleum Radio Services, fixed operations may be authorized for tone or impulse signalling on mobile service frequencies above 25 MHz within the area normally covered by the licensee's mobile system on a secondary basis to the primary mobile service operation of any other license for the purposes described in paragraphs (a) and (b):

(a) In the Public Safety Radio Services, the only purposes for which such secondary signalling may be used are:

(1) Indication of equipment malfunction.

(2) Actuation of a device to indicate the presence of an intruder, fire, or other hazardous condition on the property under the protection of the licensee.

(3) Indication of an abnormal condition in facilities under the jurisdiction of the licensee that, if not promptly reported, would result in danger to human life.

(4) Transmissions that may be necessary to verify status of equipment; adjust operating conditions; correct any abnormal condition; or to activate devices that alert the public to a condition affecting the imminent safety of life or property.

(5) Confirmation of status, when an operation or correction has been accomplished, or when an alerting device has been activated.

(b) In the Power and Petroleum Radio Services, the only purposes for which such secondary signalling may be used are:

(1) Indication of failure of equipment or service used in the facilities of the licensee.

(2) Indication of an abnormal condition in the production, transmission, collection, distribution, refining, or transporting facilities of the licensee, which if not promptly corrected would result in failure of the equipment affected.

(3) Transmission from the point where alarms or other operational data are received as may be necessary to verify status of equipment or processes; verify or adjust operating conditions; restore lost service; place standby equipment in operation; or to correct any abnormal conditions which would otherwise result in the immediate or continued failure in the licensee's operations.

(4) Confirmation of status or operating conditions, or that an operation or correction intended to be accomplished in subparagraph (3) of this paragraph has occurred.

(c) All such secondary signalling shall be subject to the following technical requirements:

(1) The bandwidth shall not exceed that authorized to the licensee for the primary operations on the frequency concerned.

(2) The output power shall not exceed 30 watts (at the remote site).

(3) A1, A2, A9, F1, F2, and F9 emission may be authorized. In the Police Radio Service A3 or F3 emission may also be authorized.

(4) For systems authorized in the Public Safety Services after June 20, 1975, to be used for the purposes outlined in paragraph (a) of this section, the maximum duration of any one non-voice signal may not exceed two seconds and shall not be transmitted more than three times. The maximum duration of any one voice alarm shall not exceed six seconds and shall not be transmitted more than three times. For systems authorized prior to this date, any one alarm or warning may be transmitted a maximum of five times and each transmission shall not exceed six seconds; such system to include existing facilities and additional facilities which may be authorized as a clear and direct expansion of the existing system.

(5) For systems authorized in the Petroleum Radio Service after June 1, 1976, each transmission for any one alarm, warning, corrective action, or requirement, positive confirmation, checkback, or other purpose set forth in paragraph (b) of this section, shall be limited to a maximum duration of two seconds and shall not be repeated more than three times. For systems authorized prior to June 1, 1976, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed six seconds.

(6) For systems authorized in the Power Radio Service after June 1, 1976, each transmission for any one alarm, warning corrective action, or requirement, positive confirmation, check-back, or other purpose set forth in paragraph (b) of this section, shall be limited to a maximum duration of two seconds and shall not be repeated more than five times. For systems authorized prior to June 1, 1976, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed six seconds.

(7) Systems employing automatic interrogation shall be limited to non-voice techniques and shall not be activated for this purpose more than ten seconds out of any 60 second period. This ten second time frame includes both transmit and response times.

(8) Frequency loading resulting from the use of secondary signalling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(9) A mobile service frequency may not be used exclusively for secondary signalling.

(10) Automatic means shall be provided to deactivate the transmitter in the event the carrier remains on for a period in excess of three minutes.

(11) Operational fixed stations authorized pursuant to the provisions of this paragraph are exempt from the requirements of Sections 90.137(b), 90.425, and 90.429.

(12) Base, mobile relay, or mobile stations may transmit secondary tone or impulse signals to receivers at fixed locations subject to the conditions, and for the purposes set forth in this section.

§ 90.237 Interim provisions for operations of radioteleprinter and radiofacsimile devices.

These provisions authorize and govern the use of radioteleprinter and radiofacsimile devices for base station use (other than on mobile-only or paging-only frequencies) in the radio services (except inthe Radiolocation and Special Emergency Radio Services) in this part. In the Business Radio Service the authority extends only to those frequencies subject to the coordination requirements set forth in 90.175.

(a) Information must be submitted with an application to establish that the minimum separation between a proposed radioteleprinter or radiofacsimile base station and the nearest co-channel base station of another licensee operating a voice system is 120 km. (75 mi.) for a single frequency mode of operation, or 56 km. (35 mi.) for a two frequency mode of operation. Where this minimum mileage separation cannot be achieved, either agreement to the use of F2, F4, or F9 emission must be received from all existing co-channel licensees using voice emission within the applicable mileage limits, or if agreement was not received, the licensee of the radioteleprinter or radiofacsimile system is responsible for eliminating any interference with pre-existing voice operations. New licensees of voice operations. New licensees of voice operations will be expected to share equally any frequency occupied by established radioteleprinter or radiofacsimile operations.

(b) The application must list the manufacturer and model number of the radioteleprinter or radiofacsimile system to be employed, or contain a detailed technical description of the system.

(c) Transmitters type-accepted under this part for use of F3 emission may also be used for F2, F4, or F9 emission for radioteleprinter or radiofacsimile, provided the keying signal is passed through the low pass audio frequency filter required for F3 emission. The transmitter must be so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3.

(d) Frequencies will not be assigned exclusively for F2, F4, or F9 emission for radioteleprinter or radiofacsimile (except where specifically provided for in the frequency limitations).

(e) The requirements in this part applicable to the use of F3 emission are also applicable to the use of F2, F4, or F9 emission for radioteleprinter and radiofacsimile transmissions.

(f) The station identification required by § 90.425 must be given by voice.

§ 90.239 Interim provisions for operation of automatic vehicle monitoring (AVM) systems.

(a) These provisions authorize, to persons eligible in the radio services of this part, the licensing of Automatic Vehicle Monitoring (AVM) systems that utilize non-voice radio techniques to determine the location of vehicles. Authority is also provided for the transmission of

voice and/or non-voice messages relating to vehicles being located.

(b) The use of F1, F2, F3, F9, or P9 emissions is authorized for operaiton of transmitters in AVM systems subject to paragraph (e)(2)(iii) of this section.

(c) Frequencies for AVM operations are assignable as follows:

(1) Licensees for pulse-ranging AVM systems, requiring 8 MHz bandwidth may be authorized in the 904-912 MHz or 918-926 MHz band provided that:

(i) A licensee will not be assigned a second frequency band in the same geographic area until showing is made that the frequency band already assigned is being used to provide location data for not less than 5,000 vehicles.

(ii) Operations will not cause interference to government stations which operate in these bands and can tolerate interference from industrial, scientific, and medical (ISM) devices and from government stations which operate in these bands.

(2) AVM systems requiring bandwidths not exceeding 1 MHz may be authorized in the 903-904 or 926-927 MHz bands on a developmental basis in accordance with subpart P.

(3) Applicants requiring not more than 25 kHz bandwidth per frequency in the 25–50 MHz, 150–170 MHz and 450–512 MHz bands may either utilize base-mobile frequencies presently assigned the applicant, or be asisgned base-mobile frequencies available in the service in which eligibility has been established, provided that:

(i) For transmission between vehicles and base stations, each frequency in a single-frequently mode of operation will provide location data for approximately 200 vehicles, or both frequencies in a two-frequency mode of operaiton will provide location data for approximately 400 vehicles, except that for frequencies in the 450–512 MHz band that are assigned in pairs in accordance with the allocation plan for the band, the requirement is that location data be provided for approximately 200 vehicles for each frequency pair; and a showing is made that 50 percent of the vehicles will be in operation within the system by the end of the second year of the initial license term, and 70 percent will be in operation within the system by the end of the initial license term; except that if these vehicle loading standards will not be met, frequencies will be assigned only on a secondary non-interference basis to any authorized radiotelephony operation.

(ii) The minimum separation between a proposed AVM station and the nearest co-channel base station of another licensee operating a voice system is 75 miles (120 km) for a single frequency mode of operation or 35 miles (56 km) for a two-frequency mode of operation. Where the minimum mileage separation cannot be achieved, agreement to the use of F1, F2, F9, or P9 emission must be received from all existing co-channel licensees using voice emissions within the applicable mileage limits. If there is interference with voice operations and required agreement was not received, or operation was authorized on a secondary non-interference basis, the licensee of the AVM system is responsible for eliminating the interference.

(iii) Frequencies additional to any assigned under subparagraph (i) of this paragraph will not be assigned to the same licensee in the same geographic area until each of such licensee's frequencies for AVM operation is shown to accommodate not less than 90 percent of the frequency loading requirements specified in subparagraph (i) of this paragraph.

(d) Each application to license an AVM system shall include the following supplemental information:

(1) A detailed description of the manner in which the system will operate, including a map or diagram.

(2) For wide band frequency operation, the necessary or occupied bandwidth of emission whichever is greater.

(3) The data transmission characteristics as follows:

(i) The vehicle location update rates;

(ii) Specific transmitter modulation techniques used;

(iii) For codes and timing scheme: A table of bit sequences and their alphanumeric or indicator equivalents, and a statement of bit rise time, bit transmission rates, bit duration, and interval between bits;

(iv) A statement of amplitude-versus-time of the interrogation and reply formats, and an example of a typical message transmission and any synchronizing pulsts utilized.

(4) A plan to show implementation schedule during the initial license term.

(e) Technical standards.

(1) AVM stations authorized for operation below 512 MHz must comply with the technical standards applicable to the frequency band prescribed in this chapter, including the requirement for type acceptance of equipment used.

(2) Pending final development of technical standards, utilization of non-type accepted transmitters by stations authorized for operation above 512 MHz will be permissible provided that:

(i) The output power of transmitters used in pulse ranging systems shall not exceed 1 kW PEP;

(ii) The output power of transmitters used in non-pulse ranging systems shall not exceed 300 watts.

(iii) Emissions will be authorized on a case-by-case basis dependent on the requirements of the specific technique utilized.

(3) Transmitters to be operated at signposts, or from vehicles to signposts for location signalling purposes may be employed with output power not to exceed 250 milliwatts, and their operation is secondary to regular co-channel operations on the frequency being utilized.

(4) Pending development of further specific technical standards for AVM systems, the Commission, on a case-by-case basis, may impose additional appropriate technical requirements to assure efficient and effective frequency utilization.

(f) VM stations are exempted from the identification requirements of § 90.425; however, the Commission may impose automatic station identification requirements when determined to be necessary for monitoring and enforcement purposes.

§ 90.241 Radio call box operations.

(a) The frequencies in the 72–76 MHz band listed in § 90.17(b) may be assigned in the Local Government Radio Service for operation of radio call boxes to be used by the public to request fire, police, ambulance, road service, and other emergency assistance, subject to the following conditions and limitations:

(1) Maximum transmitter power will be either 2.5 watts plate input to the final stage or 1 watt output.

(2) Antenna gain shall not exceed zero dBd (referred to a half-wave dipole) in any horizontal direction.

(3) Only vertical polarization of antennas shall be permitted.

(4) The antenna and its supporting structure must not exceed 20 feet (6.1 meters) in height above the ground.

(5) Only A1, A2, F1, or F2 emission shall be authorized.

(6) The transmitter frequency tolerance shall be 0.005 percent.

(7) Except for test purposes, each transmission must be limited to a maximum of two seconds and shall not be automatically repeated more than two times at spaced intervals within the following 30 seconds. Thereafter, the authorized cycle may not be reactivated for one minute.

(8) All transmitters installed after December 10, 1970, shall be furnished with an automatic means to deactivate the transmitter in the event the carrier remains on for a period in excess of three minutes. The automatic cutoff system must be designed so the transmitter can be only manually reactivated.

(9) Frequency selection must be made with regard to reception of television stations on channels 4 (66–72 MHz) and 5 (76–82 MHz) and should maintain the greatest possible frequency separation from either or both of these channels, if they are assigned in the area.

(b) Frequencies in the band 154.4525 to 154.460 MHz may be assigned to fixed stations in the Local Government Radio Service for the purpose of providing emergency call box service. The maximum power output of the transmitter is 20 watts. A1, A2, F1, or F2 emission may be authorized. The authorized bandwith may not exceed 6 kHz. For FM transmitters, the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained with 0.0005 percent of the center of the frequency band.

(c) Frequencies in the 450–470 MHz band which are designated as available for assignment to central control stations and radio call box installations in § 90.17(b) or § 90.17(e)(11) may be assigned in the Local Government Radio Service for highway call box systems subject to the following requirements:

(1) Call box transmitters shall be installed only on limited access highways and may communicate only with central control stations of the licensee.

(2) Maximum transmitter power for call boxes will be either 2.5 watts input to the final amplifier stage or one watt output. The central control station shall not exceed 25 watts effective radiated power (ERP).

(3) The height of a call box antenna may not exceed 7 meters (20 feet) above the ground, the natural formation, or the existing man-made structure (other than an antenna supporting structure) on which it is mounted. A central station transmitting antenna, together with its supporting structure shall not exceed 15 m. (50 ft.) above the ground surface.

(4) Only F1, F2, F3, or F9 emission may be authorized for non-voice signalling, radiotelephony, and multiplexed voice and non-voice use. The provisions in this part applicable to the use of F3 emission are also applicable to the use of F1, F2, or F9 emission for call box transmitters.

(5) The station identification required by § 90.425 shall be by voice and may be transmitted for the system from the central control station. Means shall be provided at each central control station location to automatically indicate the call box unit identifier when a call box unit is activated.

(6) Call box installations must be so designed that their unit identifier is automatically transmitted when the handset is lifted.

(7) Each application for a call box system must include a description of the non-voice transmitting equipment. This description shall specify the character structure, bit rate, modulating tone frequencies, identification codes, and the method of modulation (i.e., frequency shift, tone shift, or tone phase shift).

(8) Call box installations may be used secondarily for the transmission of information from roadside sensors. Central control station transmitters may be used secondarily to interrogate call box roadside sensors and for the transmission of signals to activate roadside signs.

(9) Each call box transmitter must be provided with a timer which will automatically deactivate the transmitter after 2 minutes unless the central control station operator reactivates the timer cycle.

(10) The central control station must include facilities that permit direct control of any call box in the system.

(11) Call box transmitter frequency tolerance shall be 0.001 percent.

(12) Transmitters type-accepted under this part for use of F3 emission may be used for F1, F2, or F9 emission provided that the audio tones or digital data bits are passed through the low pass audio filter required to be provided in the transmitter for F3 emission. The transmitter must be adjusted and operated so that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission.

(d) In addition to the frequencies available pursuant to § 90.17(b) the frequencies set forth in § 90.17(c)(11) may be used for central control station and call box installations in areas where such frequencies are available for fixed system use subject to the requirements and limitations of that section and subject to the provisions of subdivisions (1), (4), (5), (6), (7), (8), (9), (10), and (12) of paragraph (c) of this section.

(e) In accordance with subpart P of this Part, the frequencies available pursuant to § 90.17(b) and § 90.17(c)(11) for central control station and call box installations may be assigned for developmental operation as part of a highway safety communication program which is designed to provide radio communications directly with motorists to and from their motor vehicles.

§ 90.243 Mobile relay stations.

(a) Mobile relay stations under this part may be authorized only as follows.

(1) On frequencies below 450 MHz, mobile relay stations may be authorized to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry Conservation, Power, Petroleum, Forest Products, Telephone Maintenance, and Railroad Radio Services.

(2) Mobile relay stations will be authorized on frequencies between 450 MHz and 470 MHz in all of the services governed by this part except for the Radiolocation, Motor Carrier, Taxicab and Automobile Emergency Radio Services.

(3) Mobile relay stations will be authorized on frequencies between 470 MHz and 512 MHz in all of the services that have been allocated such frequencies.

(b) Special provisions for mobile relay operations:

(1) In the Special Emergency Radio Service, Medical Services systems in the 150–160 MHz band are permitted to be cross-banded for mobile and central station operations with mobile relay stations authorized to operate in the 450–470 MHz band.

(2) In the Business Radio Service, mobile relay stations operating on frequencies below 450 MHz will only be authorized when all control and mobile stations are operated on frequencies designated for low power operation (2 watts or less). For such operations the maximum output power shall not exceed 1 watt and the mobile relay antenna system shall not be more than 13 m. (40 ft.) above ground.

(3) In the Railroad Radio Service, mobile relay operation shall be on a secondary basis to other co-channel operations.

(4) Except where specifically precluded, a mobile relay station may be authorized to operate on any frequency available for assignment to base stations.

(5) A mobile station associated with mobile relay station(s) may not be authorized to operate on a frequency below 25 MHz.

(c) Technical requirements for mobile relay stations.

(1) Each new mobile relay station with an output power of more than one watt, and authorized after January 1, 1972, that is activated by signals below 50 MHz shall deactivate the station upon cessation of reception of the activating continuous coded tone signal. Licensees may utilize a combination of digital selection and continuous coded tone control where required to insurance selection of only the desired mobile relay station.

(2) Mobile relay stations controlled by signals above 50 MHz or authorized prior to January 1, 1972, to operate below 50 MHz are not required to incorporate coded signal or tone control devices unless the transmitters are consistently activated by undesired signals and cause harmful interference to other licensees. If activation by undesired signals causes harmful interference, the Commission will require the installation of tone control equipment within 90 days of a notice to the licensee.

(3) Except in the Railroad Radio Service, each new mobile-relay station authorized after January 1, 1972, shall be equipped for automatic deactivation of the transmitter within 5 seconds after the signals controlling the station cease.

(4) Except in the Railroad Radio Service, each new mobile relay station authorized after January 1, 1972, during periods that it is not controlled from a manned fixed control point; shall have an automatic time delay or clock device that will deactivate the station not more than 3 minutes after its activation by a mobile unit.

(5) In the Railroad Radio Service, each mobile relay station, regardless of the frequency or frequencies of the signals by which it is activated shall be so designated and installed that it will be deactivated automatically when its associated receiver or receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(6) Multiple mobile relay station radio systems shall use wireline or radio stations on fixed service frequencies of any necessary interconnect circuits between mobile relay stations for the purpose of permitting automatic intercommunications on fixed service frequencies for any spective communication ranges.

§ 90.245 Fixed relay stations.

Except where specifically provided for, fixed relay stations shall be authorized to operate only on frequencies available for use by operational fixed stations.

§ 90.247 Vehicular repeater stations.

A mobile station authorized to operate on a mobile service frequency above 25 MHz may be used as a vehicular repeater to extend the communications range of hand-carried units subject to the following:

(a) Vehicular repeaters and or associated hand-carried transmitters may be assigned separate base mobile frequen-

cies for this use (including, in the Railroad Radio Service, any "base only" frequency in the 450–470 MHz range) in addition to the number of frequencies normally assignable to the licensee.

(b) In the Business and Special Industrial Radio Services on frequencies below 450 MHz, only low-power frequencies (2 watts or less output power) may be assigned for use by vehicular repeaters or by hand-carried transmitters whose communications are directed to vehicular repeaters, when separate frequencies are assigned for that purpose.

(c) Except as provided in paragraph (d) of this section, hand-carried transmitters whose communications will be automatically relayed by mobile stations shall be limited to a maximum output power of 2.5 watts.

(d) In the Railroad Radio Service, use of vehicular repeaters is on a secondary basis to the stations of any other licensee. Hand-carried units used in connection with vehicular repeaters in the Railroad Radio Service may operate only above 150 MHz and are limited to a maximum output power of 6 watts. The frequency and maximum power shall be specified in the station authorization.

(e) In the Railroad Radio Service, the output power of a mobile repeater station, when transmitting as a repeater station on the frequency used for communication with its associated park-carried or hand-carried units, shall not exceed 6 watts except when the same frequency is also used by the same station for direct communication with vehicular mobile units or with one or more base stations.

(f) When automatically retransmitting messages originated by or destined for hand-carried units, each mobile station shall activate the mobile transmitter only with a continuous coded tone, the absence of which will de-activate the mobile transmitter. The continuous coded tone is not required when the mobile unit is equipped with a switch that activates the automatic mode of the mobile unit and an automatic time-delay device that de-activates the transmitter after any uninterrupted transmission period in excess of three minutes.

§ 90.249 Control stations.

Control stations associated with land mobile stations under this part shall be authorized to operate subject to the following:

(a) *Frequencies for control stations.* (1) Control stations may be authorized to operate on frequencies available for use by operational fixed stations.

(2) A control station associated with mobile relay station(s) may, at the option of the applicant, be assigned the frequency of the associated mobile station. In the Railroad Radio Service such a control station may be assigned any mobile service frequency available for assignment to mobile stations in that service. Such operation is on a secondary basis to use of the frequency for regular mobile service communications. In the band 450–470 MHz, such operation is subject to the provisions of paragraph (b) of this section.

(3) Control and fixed stations in the Public Safety and Special Emergency Radio Services may be authorized on a temporary basis to operate on frequencies available for base and mobile stations between 152 and 450 MHz, where there is an adequate showing that such operations cannot be conducted on frequencies allocated for assignment to operational fixed stations. Such operation will not be authorized initially or renewed for periods in excess of one year. Any such authorization shall be subject to immediate termination if harmful interference is caused to stations in the mobile service, or if the particular frequency is required for mobile service operations in the area concerned.

(b) Control station operating on frequencies in the band 450–470 MHz shall comply with the following requirements if they are located within 120 km. (75 mi.) of the center of urbanized areas of 200,000 or more population as defined in the U.S. Census of Population, 1960, Vol. 1, Table 23, Page 50. The centers of urbanized areas are determined from the Appendix, Page 226 of the U.S. Commerce Publication "Airline Distance Between Cities in the United States".

(1) If the station is used to control one mobile relay station or two or more mobile relay stations located within 45 degrees of azimuth, a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the control station. For other situations where a directional antenna cannot be used, a cardioid, directional or omnidirectional antenna may be employed. In each case, the antenna used must, be consistent with reasonable design, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station, and limit radiation in other directions to the extent feasible.

(2) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed by more than 6 dB, the signal strength produced by a unit of the associated mobile station at the antenna terminal of the mobile relay receiver. When the station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location within one-fourth mile (0.4 km) of the control station site.

(c) A base station which is used intermittently as a control station for one or more associated mobile relay stations of the same licensee shall operate only on the mobile service frequency assigned to the associated mobile relay station when operating as a base station and on the mobile service frequency assigned to the associated mobile station when operating as a control station. Authority for such dual classification and use must be shown on the station authorization. When operating as a control station, the licensee must meet all control station requirements. In the Railroad Radio Service, base stations used intermittently as control stations shall operate only on a mobile service frequency which is available for assignment to base stations.

Subpart K—Standards for Special Frequencies or Frequency Bands

§ 90.251 Scope.

This subpart sets forth special requirements applicable to the use of certain frequencies (4383.8 kHz) or frequency bands. (27.235–27.275, 72–76, 216–220, 450–470, and 1427–1435 MHz).

§ 90.253 Use of the frequency 4383.8 kHz.

The frequency 4383.8 kHz may be used by any station authorized under this part, to communicate with any other station in the state of Alaska for emergency communications. The maximum power permitted is 150 watts peak envelope power (PEP). Airborne operations will not be permitted. All stations operating on this frequency must be located in or within 50 nautical miles (92.6 km) of the state of Alaska.

§ 90.255 Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.

(a) Effective September 10, 1976, station authorizations for the use of 27.235, 27.245, 27.255, 27.265, and 27.275 MHz will be issued only to applicants in the Personal Radio Services. Licenses in the Radio Services under this part authorizing the use of these frequencies shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

(b) Prior use of these frequencies is subject to the following limitations:

(1) The bandwidth of emission shall not exceed 8 kHz.

(2) The output power shall be limited to no more than 20 watts.

(3) All operation is subject to interference from the operation of industrial, scientific, and medical devices on the frequency 27.12 MHz.

(4) The frequency 27,255 MHz is shared with the Citizens Radio Service.

§ 90.257 Assignment and use of frequencies in the band 72–76 MHz.

(a) The following criteria shall govern the authorization and use of frequencies within the band 72–76 MHz by fixed stations. (for call box operations see § 90.-241).

(1) The following frequencies in the band 72–76 MHz may be used for fixed operations:

Megahertz

72.02	72.04	72.06	72.08	72.10	72.12	72.14	72.16
72.18	72.20	72.22	72.24	72.26	72.28	72.30	72.32
72.34	72.36	72.38	72.40	72.42	72.46	72.50	72.54
72.58	72.62	72.64	72.66	72.68	72.70	72.72	72.74
72.76	72.78	72.80	72.82	72.84	72.86	72.88	72.90
72.92	72.94	72.96	72.98	75.42	75.46	75.50	75.54
75.58	75.62	75.64	75.66	75.68	75.70	75.72	75.74
75.76	75.78	75.80	75.82	75.84	75.86	75.88	75.90
75.92	75.94	75.96	75.98				

(2) All authorizations are subject to the condition that no harmful interference will be caused to television reception on channels 4 and 5.

(3) The applicant must agree to eliminate any harmful interference caused by his operation to TV reception on either channel 4 or 5 that might develop by whatever means are necessary. Such action must be taken within 90 days of notification by the Commission. If such interference is not eliminated within the 90-day period, operation of the fixed station will be discontinued.

(4) Vertical polarization must be used.

(5) Whenever it is proposed to locate a 72–76 MHz fixed station less than 128 km. (80 mi.) but more than 16 km. (10 mi.) from the site of a TV transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, the fixed station shall be authorized only if there are fewer than 100 family dwelling units (as defined by the U.S. Bureau of the Census), excluding units 112 or more km. (70 mi.) distant from the TV antenna site, located within a circle centered at the location of the proposed fixed station. The radius shall be determined by use of the following chart entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would be Destroyed". Two charts are available, one for channel 4, and one for channel 5. The Commission may, however, in a particular case, authorize the location of a fixed station within a circle containing 100 or more family dwelling units upon a showing that:

(i) The proposed site is the only suitable location.

(ii) It is not feasible, technically or otherwise, to use other available frequencies.

(iii) The applicant has a plan to control any interference that might develop to TV reception from his operations.

(iv) The applicant is financially able and agrees to make such adjustments in the TV receivers affected as may be necessary to eliminate any interference caused by his operations.

(v) All applications seeking authority to operate with a separation of less than 16 km. (10 mi.) will be returned without action.

(b) The following criteria shall govern the authorization and use of frequencies within the band 72–76 MHz by mobile stations in the Special Industrial, Manufacturers, and Railroad Radio Services.

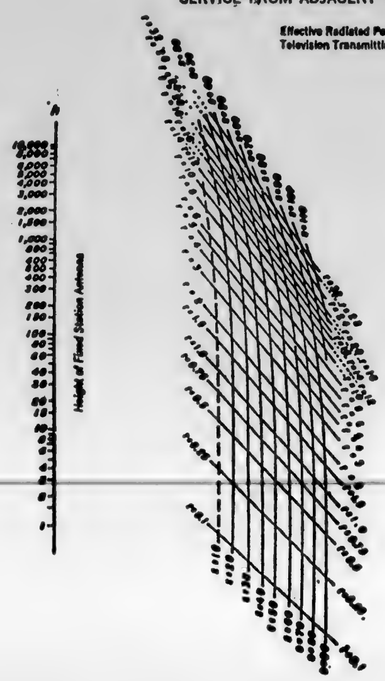
(1) Mobile operation on frequencies in the 72 to 76 MHz band is subject to condtion that no interference is caused to the reception of television stations operating on channels 4 or 5. Interference will be considered to occur whenever reception of a regularly used television signal is impaired by signals radiated by stations operating under these rules in the 72 to 76 MHz band regardless of the quality of such reception or the strength of the signal used. In order to minimize the hazard of such interference, it shall be the duty of the licensee to determine whether interference is being caused to television reception, wherever television receivers other than those under the control of the licensee, are located within 31m. (100 ft.) of any point where the stations licensed under these rules may be operated. In any case, it shall be the responsibility of the licensee to correct, at its own expense, any such interference and if the interference cannot be eliminated by the application of siutable techniques, the operation of the offending transmitter shall be suspended. If the complainant refuses to permit the licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment of the original reception, the licensee is absolved of further responsibility.

(2) The maximum transmitter output power that will be authorized is .6 watt; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may be used to provide the operational functions of a base or fixed station. The antennas of transmitters operating on these frequencies must be directly mounted or installed upon the transmitting unit: Except that when permanently installed aboard a vehicle, antenna and transmitter may be separated as required for convenience in mounting. Horizontal polarization will not be allowed; and the gain of antennas employed shall not exceed that of a halfwave dipole. The maximum bandwidth that will be authorized is 20 kHz. Tone control transmissions are permitted.

FOR CHANNEL 4

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

Effective Radiated Power of TV Station.....100 kw.
Television Transmitting Antenna Height.....500 ft.



EXPLANATION OF SCALE HEADINGS:

P—effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space.
For a directional antenna use the power in the main lobe.

h—height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles from such antenna in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

s—separation in miles between the television station antenna and the 72–76 MHz fixed station antenna.

r—distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service area is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f—frequency in MHz of 72–76 MHz fixed stations.
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

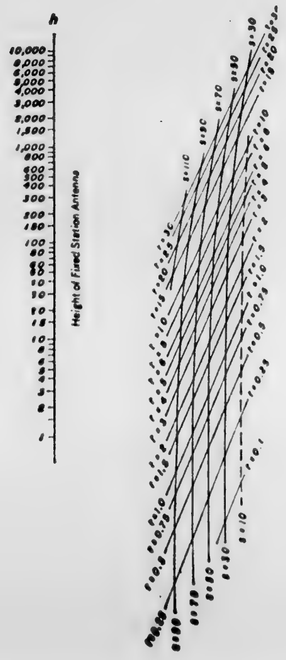
1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P-h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curve, read the value of r for the appropriate value of S.

REVISED JANUARY 1963

FOR CHANNEL 5

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

Effective Radiated Power of TV Station.....100 kw.
Television Transmitting Antenna Height.....500 ft.



EXPLANATION OF SCALE HEADINGS:

P - effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space
For a directional antenna use the power in the main lobe.

h - height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles from such antenna in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

s - separation in miles between the television station antenna and the 72–76 MHz fixed station antenna.

r - distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service area is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f - frequency in MHz of 72–76 MHz fixed stations
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P-h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curves, read the value of r for the appropriate value of S.

REVISED JANUARY 1963

§ 90.259 Assignment and use of frequencies in the bands 216–220 MHz and 1427–1435 MHz.

Frequencies in the bands 216–220 MHz and 1427–1435 MHz may be assigned to applicants under this part provided the band is listed in the individual radio service under which they establish eligibility. Use of these bands is limited to telemetering purposes only and all operation is secondary to Federal Government operations. Base stations authorized in this band shall be used to perform telecommand functions with associated mobile telemetering stations. Base stations may also command actions by the vehicle itself, but will not be authorized solely to perform this function. Airborne use will not be authorized. Each application will be coordinated with the Federal Government by the Federal Communications Commission and is subject to such technical and operational limitations as may be imposed by the government. Each application should include precise information concerning emission characteristics, transmitter frequency deviation, output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation.

§ 90.261 Assignment and use of frequencies in the band 450–470 MHz for fixed operations.

The following frequencies may be assigned for fixed operations, on a secondary basis to land mobile operations, to eligibles in the services indicated. All such use of these frequencies for fixed systems is limited to locations 85 or more miles (136.79 or more km) from the center of any urbanized area of 600,000 or more population, except that the distance may be 65 miles (104.6 km), if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, the separation between transmit-receive frequencies is 5 MHz. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distance Between Cities in the United States." Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Vol. 1, table 20, pages 1–74.

(a) The following frequencies may be assigned to fixed stations in the Public Safety and Special Emergency Radio Services, on a secondary basis to land mobile operations in the Industrial (except Business) and Land Transportation Radio Services.

FREQUENCIES (MHZ)

451.025	452.150	456.400	457.625
451.050	452.175	456.425	457.650
451.075	452.200	456.450	457.675
451.100	452.225	456.475	457.700
451.125	452.250	456.500	457.725
451.150	452.275	456.525	457.750
451.175	452.300	456.550	457.775
451.200	452.325	456.575	457.800
451.225	452.350	456.600	457.825
451.250	452.375	456.625	457.850
451.275	452.400	456.650	457.875
451.300	452.425	456.675	457.900
451.325	452.450	456.700	457.975
451.350	452.475	456.725	458.000
451.375	452.500	456.750	462.200
451.400	452.525	456.775	462.225
451.425	452.550	456.825	462.250
451.450	452.575	456.850	462.275
451.475	452.700	456.875	462.300
451.500	452.725	456.900	462.325
451.525	452.750	456.925	462.350
451.550	452.775	456.950	462.375
451.575	452.800	456.975	462.400
451.600	452.825	457.000	462.425
451.625	452.850	457.025	462.450
451.650	452.875	457.050	462.475
451.675	452.900	457.075	462.500
451.700	452.975	457.100	462.525
451.725	453.000	457.125	467.200
451.750	456.025	457.150	467.225
451.775	456.050	457.175	467.250
451.825	456.075	457.200	467.275
451.850	456.100	457.225	467.300
451.875	456.125	457.250	467.325
451.900	456.150	457.275	467.350
451.925	456.175	457.300	467.375
451.950	456.200	457.325	467.400
451.975	456.225	457.350	467.425
452.000	456.250	457.375	467.450
452.025	456.275	457.400	467.475
452.050	456.300	457.425	467.500
452.075	456.325	457.450	467.525
452.100	456.350	457.475	
452.125	456.375	457.500	

(b) The following frequencies may be assigned to fixed stations in the Industrial Radio Services (except Business) on a secondary basis to land mobile operations in the Public Safety, Special Emergency, and Land Transportation Radio Services.

FREQUENCIES MHZ

452.050	453.525	457.800	460.175
452.100	453.550	457.825	460.200
452.150	453.575	457.850	460.225
452.200	453.600	457.875	460.250
452.225	453.625	457.900	460.275
452.250	453.650	458.050	460.300
452.275	453.675	458.100	460.325
452.300	453.700	458.150	460.350
452.325	453.725	458.200	460.375
452.350	453.750	458.225	460.400
452.375	453.775	458.250	460.425
452.400	453.800	458.275	460.450
452.425	453.825	458.300	460.475
452.450	453.850	458.325	460.500
452.475	453.875	458.350	460.525
452.500	453.900	458.375	460.550
452.625	453.925	458.400	460.575
452.650	453.950	458.425	460.600
452.675	453.975	458.450	460.625
452.700	457.050	458.475	465.025
452.725	457.100	458.500	465.050
452.750	457.150	458.525	465.075
452.775	457.200	458.550	465.100
452.800	457.225	458.575	465.125
452.825	457.250	458.600	465.150
452.850	457.275	458.625	465.175
452.875	457.300	458.650	465.200
452.900	457.325	458.675	465.225
453.050	457.350	458.700	465.250
453.100	457.375	458.725	465.275
453.150	457.400	458.750	465.300
453.200	457.425	458.775	465.325
453.225	457.450	458.800	465.350
453.250	457.475	458.825	465.375
453.275	457.500	458.850	465.400
453.300	457.525	458.875	465.425
453.325	457.550	458.900	465.450
453.350	457.575	458.925	465.475
453.375	457.600	458.950	465.500
453.400	457.625	458.975	465.525
453.425	457.650	460.025	465.550
453.450	457.675	460.050	465.575
453.475	457.700	460.075	465.600
453.500	457.725	460.100	465.625
	457.750	460.125	
	457.775	460.150	

(c) The following frequencies may be assigned to fixed stations in the Land Transportation Radio Services on a secondary basis to land mobile operations in the Public Safety and Industrial (except Business) Radio Services.

FREQUENCIES MHZ

451.025	453.500	457.075	460.550
451.050	453.525	457.125	460.575
451.075	453.550	457.175	460.600
451.100	453.575	457.975	460.625
451.125	453.600	458.000	462.200
451.150	453.625	458.050	462.225
451.175	453.650	458.100	462.250
451.200	453.675	458.200	462.275
451.225	453.700	485.225	462.300
451.275	453.750	458.250	462.325
451.300	453.775	458.275	462.350
451.325	453.800	458.300	462.375
451.350	453.825	458.325	462.400
451.375	453.850	458.350	462.425
451.400	453.875	458.375	462.450
451.425	453.900	458.400	462.475
451.450	453.925	458.425	462.500
451.475	453.950	458.450	462.525
451.500	453.975	458.475	465.025
451.525	456.025	458.500	465.050
451.550	456.050	458.525	465.075
451.575	456.075	458.550	465.100
451.600	456.100	458.575	465.125
451.625	456.125	458.600	465.150
451.650	456.150	458.625	465.175
451.675	456.175	458.650	465.200
451.700	456.200	458.675	465.225
451.725	456.225	458.700	465.250
451.750	456.250	458.725	465.275
451.775	456.275	458.750	465.300
451.825	456.300	458.775	465.325
451.850	456.325	458.800	465.350
451.875	456.350	458.825	465.375
451.900	456.375	458.850	465.400
451.925	456.400	458.875	465.425
451.950	456.425	458.900	465.450
451.975	456.450	458.925	465.475
452.000	456.475	458.950	465.500
452.025	456.500	460.025	465.525
452.075	456.525	460.050	465.550
452.125	456.550	460.075	465.575
452.175	456.575	460.100	465.600
452.975	456.600	460.125	465.625
453.000	456.625	460.150	467.200
453.050	456.650	460.175	467.225
453.100	456.675	460.200	467.250
453.150	456.700	460.225	467.275
453.200	456.725	460.525	467.300
453.225	456.750	460.250	467.325
453.250	456.775	460.275	467.350
453.275	456.825	460.300	467.375
453.300	456.850	460.325	467.400
453.325	456.875	460.350	467.425
453.350	456.900	460.375	467.450
453.375	456.925	460.400	467.475
453.400	456.950	460.425	467.500
453.425	456.975	460.450	467.525
453.450	457.000	460.475	
453.475	457.025	460.500	

(d) Frequencies subject to section 90.75(c)(26) may be used secondarily for fixed operations subject to the technical limitations of this section.

§ 90.263 Substitution of frequencies below 25 MHz.

Frequencies below 25 MHz when shown in radio service frequency listings under this part will be assigned to base or mobile stations only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant. These frequencies are available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases, a substitute frequency, if found to be available, may be assigned from the following bands 1605–1750, 2107–2170, 2194–2495, 2505–2850, 3155–3400, or 4438–4650 kHz. Since such assignments are in certain instances subject to additional technical and operation limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation. (This section is not applicable to the Radiolocation Radio Service, Subpart F.)

Subpart L—Authorization in the Band 470–512 MHz (UHF–TV Sharing)

§ 90.301 Scope.

This subpart governs the authorization and use of frequencies by land mobile stations in the band 470–512 MHz on a geographically shared basis with Television Broadcast stations. Under this special sharing plan, different radio services are allocated different specific frequencies in this band depending upon the geographic urban area involved as fully detailed in the following rule sections.

§ 90.303 Availability of frequencies.

(a) Frequencies in the band 470–512 MHz are available for assignment in the urbanized areas listed below. The specific frequencies available to each radio service are listed in Section 90.311.

Frequency availability for land mobile use

Urbanized area	Geographic center: North latitude	Geographic center: West longitude	Channel	Frequencies (megahertz)
Boston, Mass.	42°21'24"	71°03'24"	14	470-476
			16	482-488
Chicago, Ill.[1]	41°50'08"	87°38'02"	14	470-476
			15	476-482
Cleveland, Ohio[2]	41°29'51"	81°41'50"	14	470-476
			15	476-482
Dallas/Fort Worth, Tex.	32°47'09"	96°47'30"	16	482-488
Detroit, Mich.[3]	42°19'48"	83°02'57"	15	476-482
			16	482-488
Houston, Tex.	29°45'26"	95°21'37"	17	488-494
Los Angeles, Calif.	34°03'15"	118°14'28"	14	470-476
			20	506-512
Miami, Fla.	25°46'57"	80°11'32"	14	470-476
New York	40°45'00"	73°59'39"	14	470-476
Northeastern N.J.			14	470-482
Philadelphia, Pa.	39°56'58"	75°09'21"	14	470-476
			20	506-512
Pittsburgh, Pa.	40°26'19"	80°00'41"	14	470-476
			18	494-500
San Francisco	37°46'39"	122°24'40"	14	470-476
Oakland, Calif.			15	476-482
Washington, D.C.	38°53'51"	77°00'33"	17	488-494
Maryland			18	494-500
Virginia				

[1] In the Chicago, Ill., urbanized area, channel 15 frequencies may be used for paging operations in addition to low power base/mobile usages, where applicable protection requirements for ultrahigh frequency television stations are met.
[2] Channels 14 and 15 are not available in Cleveland, Ohio, until further order from the Commission.
[3] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

§ 90.305 Location of stations.

(a) The transmitter site(s) for base station(s), including mobile relay stations, shall be located not more than 80 km. (50 mi.) from the geographic center of the urbanized area listed in § 90.303.

(b) Mobile units shall be operated within 48 km. (30 mi.) of their associated base station or stations. Such units may not be operated aboard aircraft in flight.

(c) Control stations must be located within the area of operation of the mobile units.

(d) Base and control stations shall be located a minimum of 1.6 km. (1 mi.) from local television stations operating on UHF TV channels separated by 2, 3, 4, 5, 7, and 8 TV channels from the television channel in which the base station will operate.

§ 90.307 Protection criteria.

The tables and figures listed in § 90.309 shall be used to determine the proper power (ERP) and antenna height of the proposed land mobile base station and the proper power (ERP) for the associated control station (control station antenna height shall not exceed 31 m. (100 ft.) above average terrain (AAT)).

(a) Base stations operating on the frequencies available for land mobile use in any listed urbanized area and having an antenna height (AAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel television stations in accordance with the values set out in Tables A and E of this subpart, except for Channel 15 in New York, N.Y., and Cleveland, Ohio, and Channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in Tables B and E.

(b) For base stations having antenna heights between 152–914 meters (500–3,000 ft.) above average terrain, except as noted in paragraph (f), the effective radiated power must be reduced below 1 kilowat in accordance with the values shown in the power reduction graph in Figure A, except for Channel 15 in New York, N.Y., and Cleveland, Ohio, and Channel 16 in Detroit, Mich., where the effective radiated power must be reduced in accordance with Figure B. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the Grade B contour of a co-channel TV station, (Grade B contour defined in Section 73.683(a)) an authorization will not be granted unless it can be shown that actual terrain considerations are such as to provide the desired protection at the Grade B contour, or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the Grade B contour will be achieved.

(c) Mobile units and control stations operating on the frequencies available for land mobile use in any given urbanized area shall afford protection to co-channel and adjacent channel television stations in accordance with the values set forth in Table C and paragraph (d) of this section except for Channel 15 in New York N.Y., and Cleveland, Ohio, and Channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in Table D and paragraph (d) of this section.

(d) The minimum distance between a land mobile base station and a protected adjacent channel television is 90 miles (145 km) when mobile units are associated with it.

(e) The television stations to be protected (co-channel, adjacent channel, IM, and IF) in any given urbanized area, in accordance with the provisions of subparagraphs (a), (b), (c), and (d) of this paragraph, are identified in the Commission's publication "TV stations to be considered in the preparation of Applications for Land Mobile Facilities in the Band 470–512 MHz." The publication is available at the offices of the Federal Communications Commission at Washington, D.C. or upon the request of interested persons.

(f) For stations in the Los Angeles urbanized area with antenna elevations of 457 m. or more (1,500 ft.) above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna height (above sea level)	Power, effective radiated power (watts)
1,500 to 2,000 ft (457 to 609 m)	155
2,000 to 2,500 ft (609 to 762 m)	100
2,500 to 3,000 ft (762 to 914 m)	70
3,000 to 3,500 ft (914 to 1,066 m)	50
3,500 to 4,000 ft (1,066 to 1,219 m)	40
4,000 to 4,500 ft (1,219 to 1,371 m)	30
Above 4,500 ft (1,371 m)	25

NOTE.—Existing stations may continue to use presently authorized powers until Jan. 1, 1980.

§ 90.309 Tables and figures.

(a) *Directions for using the tables.*

(1) Using the method specified in 73.611 or charts or maps of suitable scale, determine the distances (i) between the proposed land mobile base station and the protected co-channel television station and (ii) between the proposed land mobile base station and the protected adjacent channel television station. If the exact mileage does not appear in Table A for protected co-channel television stations (or Table B for Channel 15 in New York and Cleveland and Channel 16 in Detroit) or Table E for protected adjacent channel television stations, the next lower mileage separation figure is to be used.

(2) Entering the proper table at the mileage figure found in paragraph (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 (15 m) to 500 (152 m) feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in the proper table, use the power figure beneath the next greater antenna height.

(3) The lowest power found using the tables mentioned in (1) and (2) above is the maximum power that may be employed by the proposed land mobile base station.

(4) In determing the average elevation of the terrain, the elevations between 2 (3 km) and 10 (16 km) miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 (17 km) miles. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest co-channel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 (12 m) to 100 (30 m) feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 (61 m) to 400 (122 m) feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic charte may be used. The average elevation of the 8-mile distance between 2 (3 km) and 10 (17 km) miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps (Scale 1:2400) whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

(5) Applicants for base stations in the Miami, Fla., urbanized area may, in lieu of calculating the height of average terrain, use 10 feet (3 m) as the average terrain height.

TABLE A.—*Base station—cochannel frequencies (50 dB protection) maximum effective radiated power (ERP)*[1]

Distance in miles[2]	Antenna height in feet (AAT) 50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
162 (260 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
160 (257 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	800
155 (249 km)	1,000	1,000	1,000	1,000	1,000	875	775	700	625	575
150 (241 km)	1,000	1,000	950	875	725	625	550	500	450	400
145 (233 km)	850	750	650	575	500	440	400	350	320	300
140 (225 km)	600	575	475	400	350	300	275	250	230	225
135 (217 km)	450	400	325	300	255	240	200	185	165	150
130 (209 km)	350	300	245	200	185	160	145	125	120	100
125 (201 km)	225	200	170	150	125	110	100	90	80	75
120 (193 km)	175	150	125	105	90	80	70	60	55	50

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.

TABLE B.—*Base Station—cochannel frequencies (40 dB protection) maximum effective radiation power (ERP)*[1]

Distance in miles[2]	Antenna height in feet (AAT) 50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
120 (200 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
125 (201 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	850	750	725
120 (193 km)	1,000	1,000	1,000	1,000	900	750	675	600	550	500
115 (185 km)	1,000	1,000	800	725	600	525	475	425	375	350
110 (177 km)	850	700	600	500	425	375	325	300	275	225
105 (169 km)	600	475	400	325	275	250	225	200	175	150
100 (161 km)	400	325	275	225	175	150	140	125	110	100
95 (153 km)	275	225	175	125	110	95	80	70	60	50
90 (145 km)	175	125	100	75	50					

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.

TABLE C.—*Mobile and control station—distance between associated base station and protected cochannel TV station*

[50 dB protection]

Effective radiated power (watts) of mobile unit and control station:	Distance Miles	Distance Kilometers
200	177	249
150	161	243
100	145	233
50	135	217
25	125	201
10	117	188
5	111	180

TABLE D.—*Mobile and control station—distance in miles between associated land mobile base station and protected cochannel television station*

[40 dB protection][1]

Effective radiated power (watts) of mobile unit and control station:	Distance Miles	Distance Kilometers
200	130	209
150	125	201
100	120	193
50	115	185
25	110	177
10	105	169
5	100	161

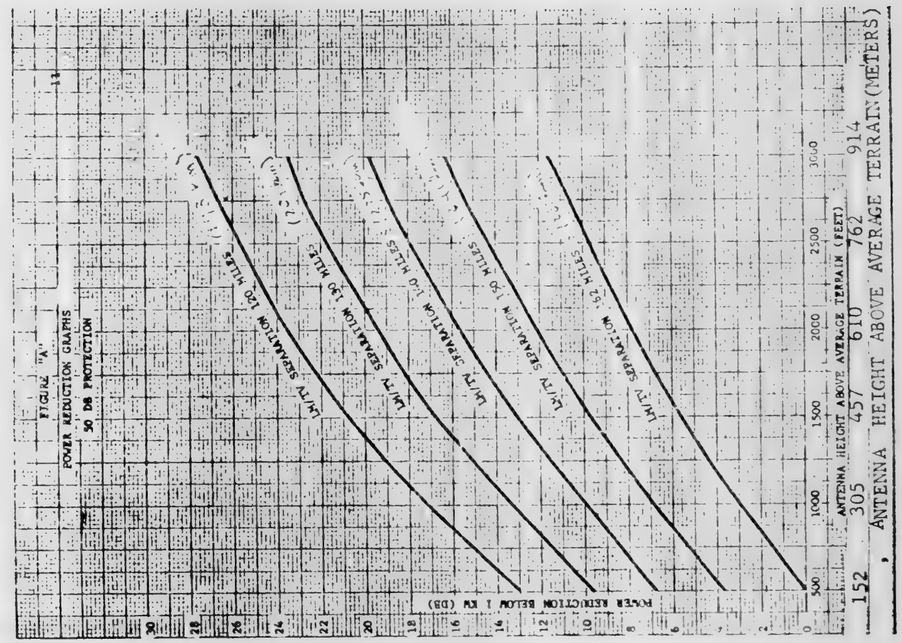


TABLE E.—*Base station adjacent channel frequencies minimum effective radiated power (ERP)*[1]

Distance in miles[2][3]	Antenna height in feet (AAT) 50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
97 (156 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
99 (159 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	750
66 (106 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	850	650	600
64 (103 km)	1,000	1,000	1,000	1,000	1,000	1,000	750	675	500	450
63 (101 km)	1,000	1,000	1,000	1,000	1,000	850	650	550	425	375
62 (99 km)	1,000	1,000	1,000	1,000	925	775	625	500	375	325
61 (98 km)	1,000	1,000	1,000	1,000	875	725	575	450	350	275
60 (96 km)	1,000	1,000	925	875	775	650	525	425	325	250

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.
[3] The maximum distance is 90 miles (144 km) where there are mobile units associated with the base station. See sec. 90.307(a).

TABLE "F"

DECIBEL REDUCTION/POWER EQUIVALENTS dB reduction below 1 kw	ERP permitted (figures rounded)
1	795
2	630
3	500
4	400
5	315
6	250
7	200
8	160
9	125
10	100
11	80
12	65
13	50
14	40
15	30
16	25
17	20
18	15
19	12
20	10
21	8
22	6
23	5
24	4
25	3
26	2.5
27	2

(b) *Directions for Using the Figures.*

(1) Determine antenna height above average terrain. (According to 90.309(a)(4)).

(2) Locate this value on the antenna height axis.

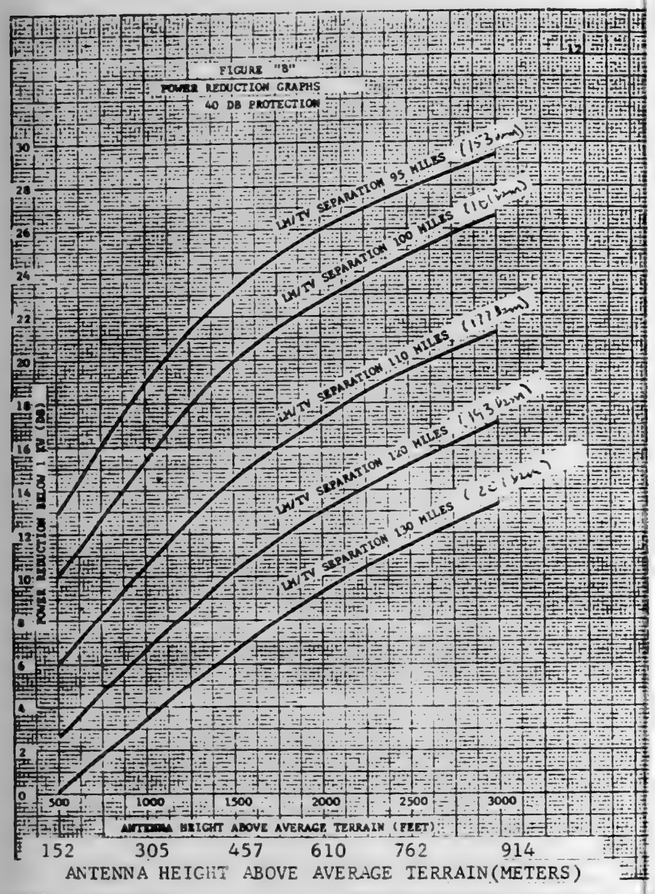
(3) Determine the separation between the I.M antenna site and the nearest protected co-channel TV station. (According to 73.611).

(4) Draw a vertical line to intersect the I.M/TV separation curve at the distance determined in step 3 above. For distances not shown on the graph use linear interpolation.

(5) From the intersection of the I.M/TV separation curve draw a horizontal line to the power reduction scale.

(6) The power reduction in dB determines the reduction below 1 kw that must be achieved.

(7) See Table F for dB power equivalents.



§ 90.311 Frequencies.

Except as provided for in § 90.315, the following frequencies in the band 470–512 MHz may be assigned to eligibles in the services as indicated below. The first and last assignable frequencies are shown. Assignable frequencies occur in increments on 25 kHz. The separation between base and mobile transmit frequencies is 3 MHz for two frequency operation.

These frequency charts will be included in the forthcoming Report and Order. They will be identical to those adopted in the Docket 20909 proceeding.

(1) Channel availability in the General Access Pool in any of the urbanized areas referred to in the table depends upon whether that channel is presently assigned to users in one of the service pools. If unassigned, or should a channel subsequently become unassigned, it will be treated as available in the General Access Pool.

(2) Frequencies in the General Access Pool will be made available to applicants after all channels presently assigned are substantially loaded in accordance with the standards set out in 90.313 of this section. Channels from the General Access Pool will be assigned starting with the lowest frequency available at the time and progress towards the high end of the General Access Pool. Normally, each channel should be substantially filled before the next one will be assigned.

(b) Miami, Fla., Dallas, Tex., and Houston, Tex. urbanized areas.

Channel 14 (Miami)	Channel 16 (Dallas)	Channel 17 (Houston)
470.3125 to 475.9875	482.3125 to 487.9875.	488.3125 to 493.9875.

(1) Base station frequencies for the Public Safety Radio Service will be assigned serially beginning at 470.7125 MHz for Miami, 482.7125 MHz for Dallas, and at 488.7125 MHz for Houston and progressing a channel at a time upward and downward from those points.

(2) Base station frequencies for the Petroleum, Forest Products, and Manufacturers Radio Services will be assigned serially beginning at 470.3125 MHz for Miami, 482.3125 MHz for Dallas, and 488.3125 MHz for Houston and progressing upward from those points a channel at a time.

(3) Base station frequencies for the Special Industrial Radio Service will be assigned serially beginning at 471.4375 MHz for Miami, 483.4375 MHz for Dallas and 489.4375 MHz for Houston and progressing a channel at a time upward and downward from those points.

(4) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 484.3625 MHz for Dallas, and 489.3625 MHz for Houston and progressing a channel at a time upward and downward from those points.

(5) Base station frequencies for the Power and Telephone Maintenance Radio Services will be assigned serially beginning at 471.2625 MHz for Miami, 483.2625 MHz for Dallas, and 489.2625 MHz for Houston and progressing a channel at a time upward and downward from those points.

(6) Base station frequencies for the Railroad, Motor Carrier, and Automobile Emergency Radio Services will be assigned serially beginning at 471.7825 MHz for Miami, 483.7825 MHz for Dallas, and 489.7825 MHz for Houston and progressing upward and downward from those points a channel at a time.

(7) Base station frequencies for the Taxicab Radio Service will be assigned serially beginning at 472.9875 MHz for Miami, 484.9875 MHz for Dallas, and 490.9875 MHz for Houston and progressing a channel at a time downward from those points.

§ 90.313 Frequency loading criteria.

(a) Execpt as provided for in paragraph (b), the maximum channel loading on frequencies in the 470–512 MHz band is as follows:

(1) 50 units in the Public Safety Radio Services.

(2) 70 units in the Industrial Radio Services (except business).

(3) 90 units in the Business Radio Service.

(4) 150 units in the Taxicab Radio Service, except in the New York Northeast New Jersey urbanized areas where the loading is 200 units.

(5) 70 units in the Railroad, Motor Carrier, and Automobile Emergency Radio Services except in the intra-urban passenger carrier sub-category of the Motor Carrier Radio Service where the loading is 150 units.

(b) If a licensee has exclusive use of a frequency, then the loading standards in paragraph (a) may be exceeded. If it is a shared channel, the loading standards can be exceeded upon submission of a signed statement by all those sharing the channel agreeing to the increase.

(c) A unit is defined as one vehicular mobile unit or two hand-carried transmitter-receivers for the Public Safety Services, three hand-units for the Industrial, and Land Transportation Services. Loading standards will be applied in terms of the number of units actually in use or to be placed in use within 8 months following authorization. A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency pair. Channel capacity may be reached either by the requirements of a single licensee or by several users sharing a channel. Until a channel is loaded to capacity it will be available for assignment to other users in the same area. A frequency pair may be reassigned at distances 64 km. (40 mi.), (32 km. (20 mi.) for Channel 15, Chicago: Channel 20, Philadelphia and Channel 17, Washington or more from the location of base stations authorized on that pair without reference to loading at the point of original installation. Following authorization, the licensee shall notify the Commission either during or at the close of the 8 months period of the number of units in operation. In the Industrial Radio Services, if the base station facility is to be used by more than a single licensee, the frequency assigned to it will not be reassigned for use by another facility within 64 km. (40 mi.) or 32 km. (20 mi.) where applicable) for a period of 12 months, *Provided*, That the facility is constructed within 90 days from the date of the first grant, meets the loading standards to at least 50 percent within 9 months, and meets all loading standards within 12 months.

§ 90.315 Special provisions governing use of frequencies in the 488–494 MHz band (TV Channel 17) in the Southern Louisiana Offshore Zone.

(a) The frequency bands from 490–491 and 493–494 MHz will be available for assignment to stations governed by this part within the Southern Louisiana Offshore Zone. The boundaries of the Southern Louisiana Offshore Zone are from longitude 87°45′ on the east to longitude 94°00′ on the west, and from the three mile limit along the Gulf of Mexico shoreline on the north to the limit of the outer continental shelf on the south. These frequencies may also be assigned to fixed stations located on shore designed to provide communications service within the zone.

(b) Offshore Base/Mobile, and offshore and shore fixed stations may be authorized.

(c) F2, F3, F4, F9, and A2, A3, A4, and A9 emissions may be authorized.

(d) Offshore stations shall afford co-channel protection to TV Channel 17, Bude, Miss. Station operating parameters shall be in accordance with the values given in Table I.

TABLE 1.—*Protection of cochannel television stations by offshore stations operating in the southern Louisiana zone (65 dB protection); maximum effective radiated power (in watts)*

Distance from transmitter to TV channel 17, Bude, Miss. (in miles):	Antenna height above sea level		
	100 ft	150 ft	200 ft
210	1,000	1,000	1,000
205	1,000	900	800
200	900	730	650
195	780	640	560
190	640	520	460
185	520	420	370
180	420	340	300
175	340	270	240
170	270	220	190
165	220	175	150
160	175	140	120
155	140	110	95
150	110	85	75
145	85	65	55
140	65	50	40
135	50	40	30
130	40	30	25

NOTE.—To determine the maximum permissible effective radiated power:

(1) As specified in sec. 73.611 determine the distance between the proposed station and channel 17, Bude, Miss. If the exact mileage does not appear in table 1, the next lower mileage separation figure should be used.

(2) Opposite the distance the ERPs are given that may be used for antenna heights of 100, 150, or 200 ft AbL. If the exact antenna height is not shown, the ERP allowed will be that shown for the next higher antenna height.

(e) Shore stations communicating in the point-to-point with offshore stations will be permitted at least the same ERP as the offshore station, but only in the direction of the offshore station. A directional antenna shall be used and the rearward radiated power from the antenna in a sector ±22½° from the line joining the shore antenna to Bude, Miss., shall not exceed those shown in Table 2.

(f) To provide co-channel protection to TV Channel 17, no shore station will be allowed closer than 120 miles from Bude, Miss., coordinates 31° 22′ 19″ N and 90° 45′ 05″ W.

(g) To provide adjacent channel protection to TV Channel 18 in Lake Charles, Louisiana, no shore or offshore stations shall be allowed within an 80 mile distance of Lake Charles, Louisiana, whose coordinates are 30°13′45″ N and 93°12′52″ W.

(h) Surface mobile stations shall not operate with an effective radiated power in excess of 25 watts within 20 miles of the three mile limit. In all other areas, the effective radiated power shall not exceed 100 watts with 30 foot maximum antenna height.

(i) No airborne station shall be operated with an effective radiated power in excess of 1 watt or at heights in excess of 1,000 feet above mean sea level and shall not be operated outside the limits of the zone specified in Table A. However, to provide adjacent channel protection to TV channel 18, no airborne subscriber station shall operate within an 80 mile radial distance of Lake Charles, Louisiana.

(j) The following frequencies are available for assignment in all services for use in the Southern Louisiana Zone as defined in paragraph (a) of this section.

PAIRED FREQUENCIES (MHz)

Transmit (or receive)	*Receive (or transmit)*
490.025–490.975	493.025–493.975

Only the first and last assignable frequencies are shown. Frequencies shall be assigned in pairs with 3 MHz spacing between transmit and receive frequencies. Assignable frequency pairs shall occur in increments of 25 kHz.

(k) Fixed stations operating point-to-point shall be assigned frequencies beginning with 490.025/493.025 MHz and progressing upwards utilizing available frequencies towards the end of the band. Offshore Base/mobile stations shall be assigned frequencies beginning at 490.975/493.975 MHz and progressing downwards utilizing available frequencies towards the beginning of the band. All frequency assignments are subject to the conditions specified in § 91.8.

(l) Bandwidths other than 25 kHz may be authorized upon an adequate showing of need. An application requesting such authorization shall fully describe the modulation, emission and

TABLE 2.—*Maximum rearward effective radiated power allowed for shore stations in the southern Louisiana zone; rearward effective radiated power (in watts) from shore antenna in a sector ±22½° from the line joining the shore antenna to Bude, Miss.*

Distance from transmitter to TV channel 17, Bude, Miss. (in miles):	Antenna height above ground				
	100 ft.	150 ft.	200 ft.	500 ft.	750 ft.
180	320	280	240	140	125
180	250	210	175	125	100
175	175	150	130	100	70
170	130	110	100	75	50
165	95	82	70	50	35
160	65	55	50	40	25
155	45	40	35	30	20
150	35	30	25	20	15
145	25	25	18	15	10
140	18	15	13	10	7
135	13	10	9	7	5
130	10	7	6	5	3
125	7	6	4	3	2
120	5	4	3	2	1

NOTE.—As an example of the use of tables 1 and 2, assume an offshore station located just north from Bude, Miss. with an antenna height of 100 ft. Table 1 allows this station 1 kW ERP. Now assume the shore station communicating with the offshore station is 210° from Bude, Miss. The shore station will be allowed the same ERP as the offshore station (1 kW). Now assume the shore station is 205° from Bude, Miss. The shore station will be allowed the same ERP as the offshore station (1 kW) from the line joining the shore antenna to Bude, Miss. (on bearing 122.6° T). (250 W forward power to 15 W rearward power is a power ratio of 16.8 or 12.2 dB).

bandwidth desired, the bandwidth to be occupied, and justification for the request.

Subpart M—Special Regulations Governing Licensing and Use of Frequencies in the 806–821 MHz and 851–866 MHz Bands

§ 90.351 Scope.

This subpart sets out the regulations governing the licensing and operations of conventional and trunked stations authorized in the 806–821 MHz and 851–866 MHz bands. It includes eligibility requirements, application procedures, operational, and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

§ 90.353 Definitions.

Conventional radio system. A method of operation in which one or more radio frequency channels are assigned to mobile and base stations but are not employed as a trunked group. An "urban-conventional system" is one whose transmitter site is located within 15 miles (24 km) of the geographic center of any of the first 50 urbanized areas (ranked by population) of the United States. A "suburban-conventional system" is one whose transmitter site is located more than 15 miles (24 km) from the geographic center of the first 50 urbanized areas. See Table 21, Rank of Urbanized Areas in the United States by Population, Page 1–87, U.S. Census (1970); and Table 1 of paragraph (h) of 90.365.

Geographic center. The geographic center of an urbanized area is defined by the coordinates given at Table 1 of paragraph (h) of § 90.365.

Trunk (telephony). A one or two-way channel provided as a common traffic artery between switching equipment.

Trunk group. All of the trunks of a given type or characteristic that extend between two switching points.

Trunked radio system. A method of operation in which a number of radio frequency channel pairs are assigned to mobile and base stations in the system for use as a trunk group.

APPLICATIONS FOR AUTHORIZATIONS IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.355 Eligibility.

The following persons are eligible for licensing in the 806–821 MHz and 851–866 MHz bands.

(a) Any person eligible for licensing under Subparts B, C, D, or E of this part.

(b) Any person proposing to provide private dispatch service to any person eligible for licensing under Subpart B, C, D, or E of this part on a not-for-profit, cost-shared basis.

(c) Any person except wire line telephone common carriers proposing to provide, on a commercial basis, base station and ancillary facilities for the use of persons eligible for licensing under Subparts B, C, D, or E of this part.

§ 90.357 Forms to be used.

Applications for conventional and trunked radio facilities shall be submitted on FCC Form 400, and such applications shall be filed with the Commission, at its offices in Washington, D.C. Where the facility is to be established in the Chicago Regional area FCC Form 425 shall be used and all such applications shall be filed with the Chicago Regional Office. In addition, FCC Form 400–S shall be filed by all applicants.

§ 90.359 Supplemental information to be furnished by applicants for facilities under this subpart.

(a) Applicants for conventional or trunked systems of communication shall, in addition to the information required by FCC Form 400 or FCC Form 425, furnish the following data and material:

(1) Where the applicant is a person proposing to provide dispatch service to eligibles under § 90.179 on a not-for-profit, cost-shared basis, he shall furnish:

(i) A copy of the plan or agreement under which service will be offered. It must be in sufficient detail to show that such service will be provided at cost.

(ii) A statement of the purposes for which the system is to be used and of the planned mode of operation.

(iii) The names and addresses of each person to participate in the sharing arrangement.

(iv) A statement showing that each participant is eligible to use the system for the purposes for which it is to be employed.

(2) Where the applicant is a person proposing to provide dispatch service to eligibles under this part on a commercial basis, he shall supply:

(i) A statement of the purposes for which the system is to be used and of the planned mode of operation.

(ii) A statement certifying that no person not eligible to use the proposed facility for the purposes for which it is to be authorized will be offered or provided service over or through the licensee's base station facility.

(iii) A copy of the basic agreement under which the dispatch service will be offered.

(3) Where the applicant is subject to the provisions of § 90.373 he shall furnish the following information:

(i) A list of any trunked stations licensed to the applicant.

(ii) A list of any trunked stations licensed to any other person or entity directly or indirectly controlled by the applicant or which directly or indirectly controls the applicant.

(4) All applicants for conventional radio systems shall furnish a list of all conventional radio systems licensed to them or proposed by them within 64 km. (40 mi.) from the location of the base station transmitter site of the facility applied for.

(b) All applicants for conventional systems shall specify the number of vehicle or portable units to be placed in operation upon grant of the authorization and the number of such units that will be placed in operation within 8 months of the date of grant.

(c) All applicants of trunked systems shall specify the number of mobile units to be placed in operation within the term of the license; Provided, however, Where the applicant applies for more than the minimum 5 channels, and elects to construct in 5-channel stages, he shall so specify and shall state the number of mobile units to be placed in operation by the end of two years from the date of the grant of his station authorization.

(d) Each applicant shall furnish a functional system diagram illustrating the inter-relationship of all stations being applied for, together with technical details (including antenna height (AAT) and effective radiated power (ERP)), together with his proposed area of coverage and the signaling methods he will employ.

§ 90.361 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.

(a) No application for a conventional or trunked radio system proposing radio facilities to be made available for use by a single user or by multiple users on a commercial basis may be amended so as to substitute a new entity except in the following circumstances:

(1) The amendment does not involve a substantial change in the ownership or control of the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's insolvency, bankruptcy, incapacity, or death.

(b) A license to operate a radio facility for the purposes described in paragraph (a) of this section may not be assigned or transferred prior to the completion of construction of the facility; *Provided, however,* The Commission may give its consent to the assignment or transfer of control of such a license where the applicant shows:

(1) That the assignment or transfer does not involve a substantial change in ownership or control of the authorized radio facilities; or,

(2) That the assignment or transfer is involuntary due to the licensee's insolvency, bankruptcy, incapacity, or death.

POLICIES GOVERNING THE PROCESSING OF APPLICATIONS AND THE SELECTION AND ASSIGNMENT OF FREQUENCIES FOR USE IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.363 Processing of applications.

Applications for facilities to operate in the 806–821 MHz and 851–866 MHz bands will be processed as follows:

(a) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

(b) All applications in pending status will be processed in the order in which they are received. The order in which they are received will be determined by the time and date on which the original proposal was filed with the Commission.

(c) Each application will then be reviewed to determine whether it can be granted. Should it be granted, frequencies or channels will be assigned by the Commission in accordance with its assignment policies and loading criteria.

(d) Where, upon examination, it is determined that the proposal must be dismissed, that application will be returned; and the priority accorded it will no longer obtain.

(e) Where, upon examination, it is determined that the proposal cannot be granted or dismissed, but that it must be designated for hearing, such action will be taken.

§ 90.365 Selection and assignment of frequencies.

(a) The Commission will select and assign frequencies for operation in the 806–821 MHz and 851–866 MHz bands.

(1) For trunked systems, the assignment of frequencies will be made, in accordance with applicable loading criteria, in minimum groups of five and in maximum groups of twenty channel pairs. All mobile and control station frequencies will be chosen from those allocated in the 806–821 MHz band. Mobile station transmitting frequencies will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25 kHz channeling; and base station transmitting frequencies will be selected by the Commission and assigned from those allocated in the 851–866 MHz band, commencing with Channel No. 1 at 865.9875 MHz, followed by Channel No. 2 at 865.9625 MHz, and proceed to the band end with uniform 25 kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(2) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, the applicant may either be required to share a channel, or, if the applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, he may be licensed to use such channel or channels on an exclusive basis in his area of operation.

(3) For conventional systems, mobile station transmitting frequencies, as well as those for use by control stations, will be selected from those allocated in the 806–821 MHz band. Mobile and control station transmitting frequencies will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz, and proceed to the band end with uniform 25 kHz channeling. Base station transmitting frequencies will be selected and assigned from those allocated in the 851–866 MHz band, with Channel No. 1 commencing at 851.0125 MHz, followed by Channel No. 2 at 851.0375 MHz, and proceed to the band end with uniform 25 kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(b) Stations authorized by the Commission to operate in the 806–821 and 851–866 MHz band will be afforded protection solely on the basis of the mileage separation criteria set out below. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(1) For trunked systems, the minimum separation between co-channel systems must be 112 km. (70 mi.) except that no trunked system shall be less than 168 km. (105 mi.) distant from co-channel wide area trunked systems on any of the following mountain top sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

(2) For urban-conventional systems, co-channel base stations will be authorized only when the separation between the centers of the urban areas involved is at least 160 km. (100 mi.).

(3) For suburban-conventional systems, co-channel base stations will be authorized only when the separation between the centers of the suburban loading areas involved is at least 176 km (110 mi.).

(4) For a suburban conventional system to operate co-channel with an urban conventional system, the distance between the center of the urban area and the center of the suburban loading area must be at least 176 km. (110 mi.).

(5) The minimum distance from any of the following four sites: Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson (California) to the center of the nearest co-channel "urban" area, must be 192 km. (130 mi.) and to the center of the nearest co-channel suburban loading area (for a suburban-conventional station), must be 208 km. (130 mi.).

(c) Notwithstanding the provisions of paragraph (b)(2) of this section, where an assigned channel of an urban-conventional system is not fully loaded in accordance with applicable loading criteria, and where the transmitter site of that system is located within 24 km. (15 mi.) from the center of the urbanized area involved, the Commission may issue additional authorizations for facilities to be located within 24 km. (15 mi.) of the center of that urbanized area until the channel in question is occupied in conformity with applicable loading criteria.

(d) Notwithstanding the provisions of paragraph (b)(3) of this section, where an assigned channel of a suburban-conventional system is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for facilities to be located within 40 km. (25 mi.) of the transmitter site of the first station authorized until the channel in question is occupied in conformity with applicable loading criteria.

(e) Notwithstanding the provisions of paragraph (b)(5) of this section, where a channel is assigned for use at either Santiago Peak, Sierra Peak, Mount Lukens, or Mount Wilson (California) and the channel is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for wide-area-coverage facilities to be located at the same site area until the channel in question is occupied in conformity with applicable loading criteria. A channel previously assigned at one such site area may not be used at any of the three remaining designated mountain-top sites.

(f) UHF television translator stations using UHF output channels from Channel 70 through Channel 83, shall operate on a secondary basis to land mobile stations using the UFH bands allocated under this subpart for land mobile use, and, accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(g) Pending further negotiations with Canada and Mexico, land mobile stations operating in the 806–890 MHz band shall do so on a secondary basis to any Canadian or Mexican television station placed in operation on television channels in this band.

(h) See table below.

TABLE 1. *Urbanized areas*

Urbanized area	Geographic center: North latitude	Geographic center: West longitude
Akron, Ohio	41°06'00"	81°30'44"
Albany-Schenectady-Troy, N.Y.	42°39'01"	73°45'01"
Atlanta, Ga.	33°45'10"	84°23'37"
Baltimore, Md.	39°17'26"	76°36'45"
Birmingham, Ala.	33°31'01"	86°48'36"
Boston, Mass.	42°21'24"	71°03'34"
Buffalo, N.Y.	42°53'12"	78°52'30"
Chicago, Ill.	41°52'28"	87°38'22"
Cincinnati, Ohio	39°06'07"	84°30'35"
Cleveland, Ohio	41°29'51"	81°41'50"
Columbus, Ohio	39°57'47"	82°00'17"
Dallas, Tex.	32°47'09"	96°47'35"
Dayton, Ohio	39°45'32"	84°11'43"
Denver, Colo.	39°44'58"	104°59'22"
Detroit, Mich.	42°19'46"	83°02'57"
Fort Lauderdale-Hollywood, Fla.	26°07'20"	80°09'00"
Fort Worth, Tex.	32°44'55"	97°19'44"
Houston, Tex.	29°45'26"	95°21'37"
Indianapolis, Ind.	39°46'07"	86°09'46"
Jacksonville, Fla.	30°19'44"	81°39'47"
Kansas City, Mo.-Kans.	39°04.56"	94°35'29"
Los Angeles, Calif.	34°03.15"	118°14.26"
Louisville, Ky.-Ind.	38°14'47"	85°45'40"
Miami, Fla.	25°46'37"	80°11'32"
Memphis, Tenn.-Mississippi	35°08'46"	90°03'13"
Milwaukee, Wis.	43°02'19"	87°54'15"
Minneapolis-St. Paul, Minn.	44°58'57"	93°15'43"
New Orleans, La.	29°58'53"	90°04'10"
New York-northeastern New Jersey	40°45'16"	73°59'39"
Norfolk-Portsmouth, Va.	36°51'10"	76°17'28"
Oklahoma City, Okla.	35°28'20"	97°31'04"
Omaha, Nebr.-Iowa	41°15'42"	95°56'14"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Phoenix, Ariz.	33°27'12"	112°04'28"
Pittsburgh, Pa.	40°26'19"	80°00'00"

§ 90.367 Limitation on the number of frequencies assignable for conventional systems.

(a) The maximum number of frequency pairs that may be assigned to

any one licensee for the operation of a conventional radio system shall be five, except for licensees in the Taxicab Radio Service.

(b) Where an applicant proposes to operate a conventional radio system to provide facilities for the use of a single person or entity eligible under Subparts B, C, D, or E of this part, he may be assigned only the number of frequency pairs justified on the basis of the requirements of the proposed user of the system.

(c) No more than five frequency pairs may be assigned to any person proposing to operate one or more conventional radio systems to provide facilities for use by more than a single entity, if there is any overlap of the 40 dBu contour of the proposed new facility and any of the 40 dBu contours of any station authorized to that person, or to any person or entity in which he has a direct or indirect interest.

NOTE.—For the purposes of this subsection, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this subpart.

§ 90.369 Other criteria to be applied in assigning channels for use in conventional systems of communication.

(a) In every case, the Commission will examine a proposal to determine the requirements of the applicant in terms of the number of mobile units to be served, together with the nature of the activities the applicant is engaged in. Where the applicant shows that the channel will be loaded to 70 percent of its assigned capacity, as defined in § 90.377 then that channel will be made available to that applicant for his exclusive use in the area in which he proposes to operate. Where the showing made justifies the assignment of more than one channel to the applicant, then additional frequencies will be made available for his use.

(b) Where an applicant proposes to furnish service to eligibles under Subparts B, C, D, or E of this part on a commercial basis, using a conventional system of communication, his application will be considered on the same basis as that of an applicant for private or shared communication facilities.

(c) In loading channels, the Commission will further consider the mode of operation planned; the purposes for which the system is to be used, as noted; the persons to be served by the station and other factors. The other factors shall include the following:

(1) Mobile relay or repeater operations will not be assigned on channels to be used in two-frequency simplex mode, and conversely.

(2) Systems employing full duplex mode of operation will not be licensed on frequencies assigned for mobile relay or two-frequency simplex systems.

(3) Applicants in one service group, where possible, will not be required to share with applicants in other service groups, where the loading criteria of the services involved are different, except where circumstances require it.

(4) Push-to-talk operations will not be licensed on channels which are to be used under other modes of operation, except in those cases where it is shown that such method of operation is feasible.

(d) The Commission, in addition to the foregoing standards, set out at paragraph (c) of this section, may take into consideration any other factor which might enable the persons licensed to use a given channel or channels in more efficient and effective ways.

(e) There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this chapter.

(f) No applicant shall be required to obtain any approval from a state or local regulatory authority to operate facilities authorized pursuant to these rules. State or local regulation may be exercised only to the extent that it does not limit competition or otherwise conflict with these rules. There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this subpart.

§ 90.371 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

(a) The maximum number of frequency pairs that may be assigned for the operation of a trunked radio system shall be twenty. The minimum number of frequencies that may be assigned for the operation of such a system shall be five.

(b) No more than a single trunked system will be authorized to any one licensee to provide radio facilities for the use of more than a single person or entity where the 40 dBu contour of the proposed facility will overlap the 40 dBu contour of any existing facility of the licensee, or of any concern in which he has a direct or indirect interest, or for which applications are pending except where the applicant shows:

(1) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user or,

(2) That radio systems previously authorized to the applicant are being operated to at least 90 percent of their authorized capacity.

NOTE.—For the purposes of this paragraph the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this chapter.

§ 90.373 Restriction on licensing manufacturers in the 806–821 MHz and 851–866 MHz bands.

No person engaged in the manufacture or production of radio frequency ("RF") equipment to be used in systems authorized under this subpart, or any person directly or indirectly controlled (through stock ownership or otherwise) by such manufacturing entity, may be licensed to operate more than one trunked system of communication to be used in providing base station and ancilliary facilities to eligibles under Subpart B, C, D or E of this part.

CHANNEL LOADING REQUIREMENTS FOR TRUNKED AND CONVENTIONAL SYSTEMS OPERATING IN THE 806–821 AND 851–866 MHz BANDS

§ 90.375 Trunked systems loading requirements.

(a) Trunked systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) See table below:

TABLE 1.—*Loading requirements for trunked systems*

Service group [1]	Vehicular radio units [2]		
	5-channel systems	10-channel systems	20-channel systems
Police and fire group	300	750	1,500
Business radio group [3]	500	1,000	2,000
Motor carrier group (urban and interurban passenger motor carriers only)	800	1,600	2,500
Other services group [3]	400	800	1,600
Mixed service group	500	1,000	2,000

[1] No provision is made for use for trunked systems by persons eligible in the taxicab radio service, since this mode of communication is not compatible with normal transmission requirements of taxicab companies.
[2] For loading trunked systems of communication, no distinction is made between vehicular and portable mobile units.
[3] When the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

(c) Each applicant for trunked facilities shall certify that a minimum of 70 percent of the mobile units specified in his application will be placed in operation not later than the date on which the term of his license for the system expires.

(d) Any licensee, at any time his authorized trunked system is occupied to 90 percent of its specified capacity, may appy for additional channels. Assignments will be made based, first, upon the availability of frequencies for use by the licensee; and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

(e) Licensees of trunked facilities must commence construction within six months from the date of grant and complete construction within one year; Provided, however, That a licensee of a "trunked" facility assigned more than the minimum five-channel group may elect to construct the facility in stages. In this event, the licensee shall complete construction of the basic five-channel group of the authorized facility within the time limits given above; Provided, further, That should the licensee elect to proceed in this manner, then he must demonstrate that at the end of a two-year period from the date of the grant of his station authorization, the constructed facility is occupied to a minimum of 70 percent of the loading required, notwithstanding the provisions of paragraph (c) of this section.

§ 90.377 Conventional systems loading requirements.

(a) Conventional systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) See table below:

TABLE 1.—*Loading requirements for conventional systems*

Service group	Channel loading-units per channel vehicular/portable		
	Single licensee	2 to 5 licensees	Over 5 licensees
Police and fire group	50/100	40/80	30/60
Business radio group	90/180	70/140	50/100
Taxicab radio group [1]	150	125	100
Motor carrier radio group (urban and interurban passenger motor carriers, only)	150/300	125/250	100/200
Other services group [2]	70/140	50/100	40/60
Mixed service group		70/140	50/100

[1] No loading criteria for portable units in the taxicab radio group are given, since the requirements for units of this type has not been established in that service.
[2] Where the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

(c) Every applicant for a conventional system of communication shall certify that a minimum of 70 percent of the mobile units specified in his application will be placed in operation not later than 8 months after the date of grant of his license for the system.

(d) Where licensees, authorized under the provisions of paragraph (c) of this section, do not load the channel or channels assigned in accordance with specified loading criteria, any (assigned channel) not so occupied shall be available for assignment to other applicants. All authorizations for conventional systems are issued subject to this condition.

(e) Any licensee, at any time its authorized conventional system is occupied to 90 percent of its specified capacity, may apply for additional channel pairs. Assignments will be made based, first, upon the availability of frequencies for use by the licensee, and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

TECHNICAL REGULATIONS REGARDING THE USE OF FREQUENCIES IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.379 Limitations on power and antenna height.

(a) The maximum effective radiated power and antenna height, respectively, for base stations used in suburban-conventional systems of communication operating in the 851–866 MHz band shall be no greater than 500 watts (27 dBw) and 152 m. (500 ft.) above average terrain (AAT), or the equivalent thereof determined from Table 1 of paragraph (c) of this section. These are maximum values, and applicants will be required to justify power levels and antenna heights requested. For service area requirements less than 32 km. (20 mi.) in radius, see Table 3 of paragraph (c) of this section.

(b) The maximum effective radiated power and antenna height, respectively, for base stations used in trunked and urban conventional systems authorized in the 851–866 MHz band shall be no greater than 1 kilowatt (30 dBw) and 304 m. (1000 ft.) above average terrain (AAT), or the equivalent thereof determined from Table 1 of paragraph (c) of this section. These are maximum values, and applicants will be required to justify power levels and antenna heights requested. For service area requirements less than 32 km. (20 mi.) in radius, see Table 3 of paragraph (c) of this section.

(c) See table below:

TABLE 1.—*Equivalent powers and antenna heights for base stations in the 851–866 MHz band which have a requirement for a 32 km (20 mi) service area radius*

Antenna height (AAT) (feet) (meters)	Effective radiated power (watts) [1, 2]	
	Urban/trunked	Suburban
Above 5,000	65	15
4,501 to 5,000	65	15
4,001 to 4,500	70	20
3,501 to 4,000	75	25
3,001 to 3,500	100	30
2,501 to 3,000	140	35
2,001 to 2,500	200	50
1,501 to 2,000	350	80
1,001 to 1,500	600	160
501 to 1,000	[3] 1,000	220
Up to 500	1,000	[4] 500

[1] Power is given in terms of effective radiated power (ERP).
[2] Applicants in the Los Angeles, Calif., area who demonstrate a need to serve both the downtown and fringe areas will be permitted to utilize an ERP of 1 kw at the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson.
[3] Stations with antennas below 1,000 ft (AAT) will be restricted to a maximum power of 1 kw (ERP).
[4] Stations with antenna below 500 ft (AAT) will be restricted to a maximum power of 500 W (ERP).

TABLE 2.—*Equivalent powers and antenna heights for suburban-conventional base stations in the 851–866 MHz band which have a requirement for less than 20 mi service area radius—maximum effective radiated power (watts)*

Service area radius, miles (kilometers)	Base station antenna height (AAT) (feet)					
	401–500	301–400	201–300	101–200	51–100	0–50
20 (32)	500	500	500	500	500	500
19 (30)	400	500	500	500	500	500
18 (29)	310	385	500	500	500	500
17 (27)	235	300	385	500	500	500
16 (26)	175	220	285	440	500	500
15 (24)	130	160	215	330	500	500
14 (22)	95	120	155	240	480	500
13 (21)	70	85	115	175	350	500
12 (19)	50	60	80	125	250	500
11 (18)	35	45	60	90	180	360
10 (16)	25	30	40	60	120	240
9 (14)	15	20	25	40	80	160
8 (13)	10	12	15	25	50	100
7 (11)	6	7	10	15	30	60
6 (10)	3	4	5	7	15	30
5 (8) or less	1	2	3	4	8	16

TABLE 3.—*Equivalent powers and antenna heights for urban-conventional and trunked system base stations in the 851–866 MHz band which have a requirement for less than 20 mi service area radius—maximum effective radiated power (watts)*

Service area radius (miles)	Base station antenna height (AAT)							
	751–1,000	501–750	401–500	301–400	201–300	101–200	51–100	0–50
20	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
19	800	1,000	1,000	1,000	1,000	1,000	1,000	1,000
18	640	830	1,000	1,000	1,000	1,000	1,000	1,000
17	480	625	960	1,000	1,000	1,000	1,000	1,000
16	360	470	720	900	1,000	1,000	1,000	1,000
15	270	350	540	675	875	1,000	1,000	1,000
14	200	260	400	500	650	1,000	1,000	1,000
13	140	180	280	350	450	700	1,000	1,000
12	100	130	200	250	325	500	1,000	1,000
11	70	90	140	175	230	350	700	1,000
10	45	60	90	110	145	220	440	1,000
9	30	40	60	75	100	150	300	600
8	20	25	40	50	65	100	200	400
7	15	20	30	40	50	80	160	320
6	8	10	16	20	25	40	80	160
5 or less	5	6	9	12	15	25	50	100

(d) The maximum output power of the transmitter for mobile stations is 100 watts (20 dBw).

§ 90.381 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806–821 and 851–866 MHz bands.

(1) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference not be caused to stations of licensees authorized to use the frequency for mobile service communication.

(2) Control stations shall in all cases employ directional antennas with the main lobe of radiation directed toward the station, or stations, being controlled. In each case, the antenna used, consistent with reasonable design, shall produce a radiation pattern that provides only the coverage necessary to permit satistfactory control of each mobile relay station and limits radiation in other directions to the extent feasible.

(3) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed, by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced there by a unit of the associated mobile station. When the fixed station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location which is not more than one-fourth mile from the control station site.

(4) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available, upon request, for inspection by Commission personnel.

§ 90.383 Acceptability of transmitters for licensing in the 806–821 and 851–866 MHz bands.

Except for transmitters used in developmental stations, each transmitter utilized by a station authorized for operation in these bands must be a type which is included on the Commission's current Radio Equipment List, or be of a type which has been type-accepted by the Commission for use in these bands.

OPERATING REQUIREMENTS IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.385 Restrictions and limitations on permissible communications, on use, and on mode of operation.

(a) Systems licensed to provide service to persons or entities eligible under Subparts B, C, D, or E of this part may, in conformity with the following restrictions, be used:

(1) Only for purposes expressly allowed under this part.

(2) Only by persons who are eligible for facilities, either under this subpart or in the radio services included under Subparts B, C, D, or E of this part.

(3) Only for the transmission of messages or signals permitted in the service in which the participants are eligible.

(4) Only in the private dispatch mode of operation.

(b) Except as provided at paragraph (c) of this section, radio systems licensed under this subpart may be used for voice communications (telephony), only.

(c) Notwithstanding any contrary provisions in this subpart, a system licensed for use by a person or entity eligible under Subparts B, C, D, or E of this part may be employed for any purpose or operated in any manner, including the use of F2, F4, and F9 emissions, which is consistent with the regulations governing the service in which the user is eligible: Provided, That the loading standard which applies to the system is met and the channel or channels are assigned to that person or entity for its exclusive use.

§ 90.387 Station identification.

(a) Conventional systems of communication shall be identified in accordance with existing regulation governing such matters.

(b) Trunked systems of communication shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30-minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned to the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it should be at a rate of between 15 to 20 words per minute; and it should be transmitted by the means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz. The level of modulation is to be high enough to be clearly discernible, but low enough not to be disruptive of voice communications in progress.

§ 90.389 Restriction on interconnection.

Radio systems licensed under this subpart may be interconnected with the wire line facilities of any telephone company; Provided, however, Such interconnection is accomplished at a control point or control station, which is situated at a fixed location (not in a mobile unit), licensed to the user, where a person immediately responsible for the operation of the base station is on duty, and where all of the requirements of § 90.429 are met. Provided, further, That such interconnection may not be accomplished at any control station or control point facility licensed to or used by, any person other than the licensee.

§ 90.391 Supplemental reports required of licensees authorized under this subpart.

(a) Licensees providing service to persons eligible either under Subparts B, C, D, or E of this part on a not-for-profit, cost-shared basis, shall, prior to furnishing service to any user not previously identified, notify the Commission of his intention to do so and furnish the Commission with sufficient information as to the prospective user to enable it to determine whether this person is eligible to participate in the sharing arrangement. Service to the participant may commence 30 days ofter such notification, unless the licensee is advised, in writing, of any deficiency in the licensees' showing or in the eligibility of the person to be served. In the latter case, until the deficiency is corrected or the user is shown to be qualified and eligible, he may not participate in the use of the system.

(b) Where a licensee provides service under the terms of an agreement, on a not-for-profit, cost-shared basis, such agreement may not be modified in any material respect until the changes in the terms and conditions are reported to, and approved by the Commission.

(c) Where a licensee provides service on a commercial basis, he shall not modify, in any material respect, the basic agreement under which such service is provided until the changes in its terms and conditions are reported to, and approved by, the Commission.

(d) Licensees offering service on a commercial basis to any person or entity eligible under either Subpart B, C, D, or E of this part, or to the public, must report, annually and at the time of filing applications for renewal of license, the number of mobile units being serviced; and such licensees shall, at that time, give the name and full address of each customer; the number of mobile units operated by each of them; and such other data as the party reporting may feel would be helpful in determining channel occupancy of the system, together with a certification that the terms of the basic agreement under which service is provided have not been modified or changed in any material respect. Such data shall be current as of the day and date falling 30 days prior to the date on which such licensees are required to file for renewal of their licenses, or, for the annual reports, at the close of the 12-month period covered by the annual report. The licensees of systems of the type covered by the provisions of this rule shall maintain records which, if referred to, will support any of the information required to be filed in the subject report. These records shall be available to the Commission upon request.

(e) Licensees furnishing service to eligible persons on a not-for-profit, cost-shared basis, shall, within 30 days of the close of the first full calendar year of operation, and each year thereafter, submit a report setting out the following information:

(1) A certification that during the period covered by the report, services have been offered and provided in accordance with the terms and conditions of the agreement approved by the Commission; that said agreement has not been notified or changed, except with the express approval of the Commission; and that records have been kept which show that service and facilities were made available on a not-for-profit, cost-shared basis. These records shall be available to the Commission upon request.

(2) A list of persons served during the period covered by the report.

(3) The number of mobile units operated by each user and a statement showing whether these units are of the vehicular or portable type.

(4) The total number of units served by the system during the period of the report, together with the number served on January 1st and on December 31st of the year of the report, and the average number of such mobile units served during this period of time.

(f) Licensees of trunked systems serving only themselves shall report annually, and at the time of filing applications for renewal of licenses, the number of mobile units being served, together with such other data as the licensees may feel would be helpful to the Commission in determining channel occupancy of their systems. Records supporting the information required in these reports shall be maintained by the licensees and shall be available to the Commission upon request.

(g) All licensees of conventional systems, in addition to the other requirements of this section, shall report the number of vehicular and portable units placed in operation within 8 months of the date of the grant of his license. Such reports shall be filed within 30 days from that date.

(h) All licensees of trunked systems shall report, within seven (7) months of the date of the grant, whether or not construction of the authorized facility has begun, and, within thirteen months of the date of the grant, whether or not construction of the facility has been completed.

OTHER PROVISIONS GOVERNING THE USE OF THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.393 Special conditions governing the furnishing of radio equipment by licensees.

Every licensee of a trunked or conventional system furnishing base station facilities on a commercial basis, under this subpart, shall afford users the option of purchasing, leasing, or renting the associated control and mobile station radio gear. Should a user elect to lease or to rent the equipment and should the lease or rental arrangement involve no more than five (5) transmitting receiving units, the user must be given the further right to cancel the lease or rental agreement at any time, without penalty, on ten days' written notice.

§ 90.395 Number of systems authorized in a geographical area.

There shall be no limit on the number of trunked systems authorized to operate in any one given area except that imposed by allocation limitations and no person authorized to operate any trunked radio facility shall have a right to protest any other proposal on grounds other than violation of any inconsistency with the provisions of this subpart. All grants are made subject to the conditions and standards set out in this subpart.

§ 90.397 Special licensing requirements for radio systems used to provide service to persons other than the licensee.

Where a conventional or a trunked radio system is to be used to provide radio facilities to a single user or to multiple users, on a commercial basis, any associated control points, control stations, and mobile radio stations shall be authorized only to the user of those particular facilities.

Subpart N—Operating Requirements

§ 90.401 Scope.

The subpart prescribes general operating requirements for stations licensed under this part. This includes station operating procedures, points of communication, permissible communications, methods of station identification, control requirements, and station record keeping requirements.

§ 90.403 General operating requirements.

(a) Each licensee shall restrict all transmissions to the minimum practicable transmission time and shall employ an efficient operating procedure designed to maximize the utilization of the spectrum.

(b) Communications involving the imminent safety-of-life or property are to be afforded priority by all licensees.

(c) Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring

the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.

(d) Stations licensed in this part shall not continuously radiate except where required for tests as permitted in Section 93.405, except where specifically permitted by this part, where specifically authorized in the station authorization, or on an as needed basis in the Radiolocation Radio Service.

(e) The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization and until such deviation is corrected. For transmissions concerning the imminent safety-of-life or property, the transmissions shall be suspended as soon as the emergency is terminated.

§ 90.405 Permissible communications.

Stations licensed under this part may transmit only the following types of communication:

(a) Any communication related directly to the imminent safety-of-life or property;

(b) Communications directly related and necessary to those activities which make the licensee eligible for the station license held under this part. In addition, when communication service is provided under the cooperative sharing provisions of § 90.179, the licensee providing such service may transmit communications related to the activities for which the parties receiving the service would be eligible to be licensed.

(c) Communications for testing purposes required for proper station and system maintenance. However, each licensee shall keep such tests to a minimum and shall employ every measure to avoid harmful interference.

§ 90.407 Communications permitted during emergency situations.

The licensee of any station authorized under this part may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication without regard to § 90.405, but in accordance with the following:

(a) As soon as possible after the beginning of such emergency use, notice is sent to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the emergency and the use to which the station is being put;

(b) The emergency use of the station be discontinued as soon as substantially normal communication facilities are again available, and the Commission in Washington, D.C., and the Engineer in Charge be notified immediately when such special use of the station is terminated; and

(c) The Commission may at any time order discontinuance of such special use of the authorized facilities.

§ 90.409 Emergency operation of Public Safety and Special Emergency mobile stations at fixed locations.

During an emergency requiring a local communication center, any mobile transmitter authorized in the Public Safety or Special Emergency Radio Services may be operated temporarily as a base station at a fixed location for a period not to exceed ten days. If operation for a longer period is required, such operation must be specifically authorized.

§ 90.411 Civil Defense Communications in the Public Safety and Special Emergency Radio Services.

The licensee of any radio station licensed in the Public Safety or Special Emergency Radio Services may, on a voluntary basis, transmit communications necessary for the implementation of civil defense activities assigned such station by local civil defense authorities during an actual or simulated emergency, including drills and tests. Such communications, however, must relate to the activity or activities which form the basis of the licensee's eligibility in the radio service in which he is authorized.

§ 90.413 Civil Defense Communications in the Taxicab Radio Service.

In addition to communications permitted by § 90.405, stations in the Taxicab Radio Service may be used for the transmission of the following:

(a) Messages relating to the dispatch of taxicabs which are temporarily diverted from their normal public passenger transportation activities to the performance of civil defense transportation functions.

(b) Messages relating to the activities of the civil defense agency in those cases where other communications facilities including the Radio Amateur Civil Emergency Service, Disaster, or Domestic Public Services are inoperative or inadequate, either in fact or during a simulated civil defense emergency: Provided, That:

(1) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(2) In the event such use is to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature or termination of any such series of tests.

(3) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

§ 90.415 Prohibited Uses.

Stations licensed under this part shall not:

(a) Transmit program material of any kind for use in connection with broadcasting; or

(b) Render a communications common carrier service, except for stations in the Special Emergency Radio Service providing communications standby facilities under § 90.49, or operational fixed stations licensed in the Railroad Radio Service handling public telegraph messages as agents of telegraph common carriers pursuant to § 90.91(b)(2).

§ 90.417 Interstation communication.

(a) Any station licensed under this part may communicate with any other station without restriction as to type, service, or licensee when the communications involved relate directly to the imminent safety-of-life or property.

(b) Any station licensed under this part may communicate with any other station licensed under this part, with U.S. Government stations, and with foreign stations, in connection with mutual activities, provided that where the communication involves foreign stations prior approval of the Commission must be obtained, and such communication must be permitted by the government that authorizes the foreign station. Communications by Police Radio Service stations with foreign stations will be approved only to be conducted in accordance with artice 5 of the Inter-American Radio Agreement, Washington, D.C., 1949, the provisions of which are set forth in § 90.19(c).

§ 90.419 Points of communication.

Normally, operations licensed under this part are intended to provide intrastation mobile communications. For example, a base station is intended to communicate with its associated mobile stations and mobile stations are intended to communicate between associated mobile stations and associated base stations of the licensee. Accordingly, operations between base stations at fixed locations are permitted only in the following situations:

(a) Base stations licensed in the Public Safety and Special Emergency Radio Services may communicate with other base stations, operational fixed stations, or fixed receivers authorized in these services on frequencies below 450 MHz only on a secondary basis.

(b) Base stations licensed on any frequency in the Industrial and Land Transportation Radio Services and on base station frequencies above 450 MHz in the Public Safety and Special Emergency Services may communicate on a secondary basis with other base stations, operational fixed stations, or fixed receivers authorized in these services only when:

(1) The messages to be transmitted are of immediate importance to mobile stations; or

(2) Wireline communications facilities between such points are inoperative, economically impracticable, or unavailable from communications common carrier sources. Temporary unavailability due to a busy wireline circuit is not considered to be within the provisions of this subparagraph.

(c) Operational fixed stations may communicate with units of associated mobile stations only on a secondary basis.

(d) Operational fixed stations licensed in the Industrial and Land Transportation Radio Services may communicate on a secondary basis with associated base stations licensed in these services when:

(1) The messages to be transmitted are of immediate importance to mobile stations; or

(2) Wireline communications facilities between such points are inoperative, economically impracticable, or unavailable from communications common carrier sources. Temporary unavailability due to a busy wireline circuit is not considered to be within the provisions of this subparagraph.

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

Mobile station transmitters may be installed in vehicles operated by persons other than the licensee as provided in the following paragraphs when necessary for the licensee to meet his requirements in connection with the activities for which he is licensed. The number of units so installed, together with units installed in vehicles operated by the licensee, must not exceed the number of mobile units authorized to the licensee. When an insufficient number of units is licensed to cover such additional units, the license must be modified to add a sufficient number of mobile units. The licensee is responsible for taking any necessary precaution to effectively eliminate the possibility of unauthorized operation of transmitters when not under the control of the licensee.

(a) Mobile units licensed in the Local Government Radio Service may be installed in any vehicle which in an emergency would require cooperation and coordination with the licensee, and in any vehicle used in the performance, under contract, of official activities of the licensee. This includes ambulances, emergency units of public utilities, lifeguard units, and vehicles of contractors or other persons or agencies performing for the licensee under contract one or more of its local government functions. This provision does not permit the installation of radio units in non-emergency vehicles not performing governmental functions under contract but with which the licensee might wish to communicate.

(b) Mobile units licensed in the Police Radio Services may be installed in any vehicle which in an emergency would require cooperation and coordination with the activities of the licensee. This includes emergency units of public utilities, lifeguard emergency units, ambulances, fire department vehicles and rural school buses.

(c) Mobile units licensed in the Fire Radio Service may be installed in emergency vehicles which may be alerted during a fire emergency. This includes emergency units of public utilities and water departments.

(d) Mobile units licensed in the Highway Maintenance Radio Service may be installed in vehicles of contractors or other persons having a direct responsibility for official highway activities.

(e) Mobile units licensed in the Forestry-Conservation Radio Services may be installed in vehicles of forestry cooperators, and persons having a direct responsibility in the prevention, detection, and suppression of forest fires.

(f) Mobile units licensed in the medical services category of the Special Emergency Radio Service may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordination is required for medical services activities.

(g) Mobile units licensed in the Industrial Radio Services may be installed in vehicles of persons furnishing under contract to the licensee and for the duration of the contract, a facility or service directly related to the activities of the licensee.

(h) Mobile units licensed to an electric utility in the Power Radio Service on frequencies designated for use by an interconnected utility system may be installed in any vehicle operated by an organization or association comprised of interconnected electric utilities forming interconnections, power pools or groups.

(i) Mobile units authorized in the Automobile Emergency Radio Service may be installed in the vehicles of persons furnishing a private emergency road service to its members pursuant to a contract with the association.

§ 90.423 Operations on board aircraft.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, and except as may be provided in other sections of this part with respect to operation on specific frequencies, mobile stations first authorized after September 14, 1973, under this part may be operated aboard aircraft for air-to-mobile, air-to-base, air-to-air and air-to-ship communications subject to the following:

(1) Operations are limited to aircraft that are regularly flown at altitudes below one mile (1.6 km) above the earth's surface;

(2) Transmitters are to operate with an output power not to exceed ten watts;

(3) Operations are secondary to land-based systems;

(4) Such other conditions, including additional reductions of altitude and power limitations, as may be required to minimize the interference potential to land-based systems.

(b) Exceptions to the altitude and power limitations set forth in paragraph (a) of this section may be authorized upon a showing of unusual operational requirements which justify departure from those standards, provided that the interference potential to regular land-based operations would not be increased.

(c) Mobile operations aboard aircraft in the services governed by this part, under licenses in effect September 14, 1973, may be continued without regard to provisions of paragraph (a) of this section, as follows:

(1) Operations may be continued only for the balance of the term of such licenses if aircraft involved are regularly flown at altitudes greater than one mile (1.6 km) above the earth's surface.

(2) Operations may be continued for one additional renewal license term if the aircraft involved are regularly flown at altitudes below one mile (1.6 km) above the earth's surface.

(d) Operation of radiolocation mobile stations may be authorized without regard to limitations and conditions set forth in paragraph (a), (b), and (c) of this section.

§ 90.425 Station identification.

Except as otherwise provided in this part, stations licensed under this part shall transmit identification as designated by this section.

(a) *Time of identification.* Each licensee shall transmit a station identification at the end of each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) of an operating period that has no substantial interruption. As an exception to this requirement, base and mobile stations licensed in the Railroad Radio Service may be identified at the beginning of each transmission or exchange of transmissions not exceeding three minutes.

(b) *Type of identification.* Unless otherwise provided, each station licensed under this part shall be identified by the transmission of the assigned call sign, given by voice (A3 or F3 emission) in plain language, in English. For fixed relay, vehicular repeater, and mobile relay stations, this identification requirement may be met by the transmission of the call sign of the associated controlling station. Other station identifiers that are arranged in a manner which cannot be confused with an assigned radio station call sign, may be employed as follows:

(1) In the Public Safety and Special Emergency Radio Services, mobile units operating above 30 MHz may employ an identifier in lieu of the assigned call sign that contains, at least, the name of the governmental subdivision under which the unit is licensed. The licensee must notify in writing the Engineer in Charge

of the district in which the unit operates of the specific identifiers used by the mobile units.

(2) In the Industrial Radio Services, mobile units communicating with a base station may transmit, once during each exchange of transmissions, any unit identifier, in lieu of the assigned call sign, which is on file in the station records of such base station, except that, when the base station transmits on a different frequency, the assigned call sign of either the mobile or the base station also must be transmitted.

(3) In the Land Transportation Radio Services, licensees may request the Commission's local Engineer-in-Charge to approve use of special mobile unit designations in lieu of the assigned call sign. This authority will not be granted where it appears that harmful interference to international operations may be caused by stations operating on frequencies below 50 MHz or by stations operating in areas within 50 miles of an international boundary; or, where it appears that the proposed method of identification will not adequately distinguish the mobile units of the applicant from the mobile units of other licensees in the area.

(4) In the Railroad Radio Service, stations may be identified by the name of the railroad and the train number, caboose number, engine number or name of fixed wayside station; or, if that is not practicable, by such other number or name as may be specified by the railroad concerned for the use of employees of the railroad to identify the fixed point or mobile unit. Where identification is made by other than a train number, caboose number or engine number, a list of such identification shall be maintained by the railroad. An abbreviated name or initial letters of the railroad may be used where such name or initial letters are in general usage. In those cases where it is shown that no difficulty would be encountered in identifying the transmissions of a particular station, as for example where stations of one licensee are located in a yard isolated from other radio installations, approval may be given to a request from the licensee for permission to omit the station identification.

(5) Nothing in this section shall be construed as prohibiting the transmission of station or unit identifiers, in addition to the assigned station call sign, which may be necessary for system operation.

(c) *Exception for mobile units in the public safety radio services.*

(1) When the station identification is regularly transmitted in 30 minute intervals, a single mobile unit in each general geographic area may be assigned responsibility for such identification. For the purposes of this paragraph, the term "each general geographic area" means an area not smaller than a single city or county and not larger than a single district administratively established for the service in which the radio system operates.

(2) A mobile station that operates on the transmitting frequency of the associated base station is not required to transmit any identification.

(d) *Special provisions for identification in the radiolocation service.*

(1) Stations in the Radiolocation Service operating on frequencies below 3400 kHz shall identify on each carrier frequency by transmission of the assigned call sign at the beginning and end of each period of operation. Such identification shall be by the Morse Code signals specified in the Telegraph Regulations annexed to the International Telecommunication Convention, Geneva, 1959, using A1 or A2 emission. For the latter emission, either the modulating audio frequency or modulated emission may be keyed.

(2) Stations in the Radiolocation Service operating on frequencies above 3400 kHz are not required to identify except upon specific instruction from the Commission.

(e) *Exemption for special uses.* A station which is transmitting for telemetering purposes or for the activation of devices which are employed solely as a means of attracting attention, or for remote control purposes, or which is retransmitting by self-actuating means a radio signal received from another radio station or stations, are exempted from any station identification requirements.

§ 90.427 Precautions against unauthorized operation.

Each transmitter shall be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by and under the control of the licensee. Provisions of this part authorizing certain unlicensed persons to operate stations, or authorizing unattended operation of stations in certain circumstances, shall not be construed to change or diminish in any respect the responsibility of station licensees to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations and transmitter units in accordance with the terms of the licenses of those stations.

§ 90.429 Control point and dispatch point requirements.

(a) *Control point required.* Unless permitted to be operated on an unattended basis, each station shall be provided with a control point;

(b) *Control point defined.* A control point is an operating position:

(1) Which must be under the control and supervision of the licensee;

(2) Where a person immediately responsible for the operation of the transmitter is stationed;

(3) Where the monitoring facilities required by this part are installed.

(c) *Control point location.* The location of the control point will be specified in the station license and will be assumed to be the same as that of the transmitting equipment unless an application for a different location has been approved by the Commission.

(d) *Control point facilities required.* At each control point, the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmiter is radiating, or, a pilot lamp or meter which will provide continuous visual indication when the transmitter circuits have been placed in a condition to produce radiation. The provisions of this subparagraph shall not apply to hand-carried transmitters or transmitters installed on motorcycles. The control point for a transmitter utilized to activate another radio station may employ a single pilot lamp or meter as an indication of the activation of local and remote transmitters.

(2) Equipment to permit the person responsible for the operation of the transmitter to monitor aurally all transmissions originating at dispatch points under his supervision;

(3) Facilities which will permit the person responsible for the operation of the transmitter either to disconnect the dispatch point circuits from the transmitter or to render the transmitter inoperative from any dispatch point under his supervision; and

(4) Facilities which will permit the person responsible for the operation of the transmitter to turn the transmitter carrier on and off at will.

(e) *Dispatch point.* A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point who is responsible for the operation of the transmitter. Dispatch points may be installed without authorization from the Commission.

§ 90.431 Unattended operation.

No person is required to be in attendance at a station when transmitting during normal rendition of service and when either:

(a) Transmitting for telemetering purposes, or;

(b) Retransmitting by self-actuating means a radio signal received from another radio station or stations

§ 90.433 Operator license requirements.

No operator license or permit is required for the operation of stations licensed under this part except as follows:

(a) *Maintenance and tests.* All transmitter adjustments or tests during the installation, servicing, or maintenance or a radio station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person holding a first-or-second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment. Only persons holding a radiotelegraph first-or-second-class operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse Code.

(b) *Operation during the course of normal rendition of radiotelegraph service.* Only a person holding a commercial radiotelegraph operator license of any class issued by the Commission shall operate a station when transmitting radiotelegraphy by any type of the Morse Code. Generally, only police zone and interzone stations will be transmitting radiotelegraphy.

§ 90.435 Posting of operator license.

Each person required to have an operator's license under this section shall post, or have immediately available at a place he is normally based or on duty, the original of his license, except that when he is performing duty at a station where he is not normally based, he shall have on his person a valid license identification card (FCC Form 785–F).

§ 90.437 Posting station licenses and transmitter identification cards or plates.

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible photocopy of the authorization for each base or fixed station at a fixed location shall be posted at every control point of the station.

(c) A Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign of the station, shall be affixed on each mobile station readily visible for inspection.

(d) If the transmitter is not in view of the operating position or is not readily accessible, then:

(1) A transmitter Identification Card or plate shall be affixed to the control equipment at the transmitter operating position or posted adjacent to it. The posting of the Transmitter Identification Card is not required for radio transmitters operated on railroad rolling stock.

(2) A Transmitter Identification Card or plate legibly indicating the call sign and the licensee's name and address shall be affixed, readily visible for inspection, to each transmitter operated at a fixed location.

§ 90.439 Inspection of stations.

All stations and records of stations in these services shall be made available for inspection at any reasonable time and any time while the station is in operation upon reasonable request of an authorized representative of the Commission.

§ 90.441 Inspection and maintenance of tower marking and associated control equipment.

(a) The licensee of any radio station with an antenna structure that must be painted or illuminated as specified in the station authorization is required to maintain the tower marking and associated control equipment in accordance with the following:

(1) The tower lights shall be checked at least once each 24 hours. Assurance that such lights are functioning properly shall be accomplished by visually observing either the tower lights or by observing an automatic indicator that registers any failure of such lights. Alternately, an automatic alarm system which detects any failure of the tower lights and indicates such failure to the licensee may be used but must be properly maintained.

(2) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within 30 minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(3) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(4) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(5) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

(b) Licensees operating stations licensed under this part which share a tower used for antenna and/or antenna supporting purposes with other licensees under this part or under this chapter, may designate in writing one licensee to be responsible for maintenance and inspection of the tower, and maintenance of the inspection log. In such cases, a copy of the agreement must be filed with the Commission to be maintained in each participating licensee's station file. Each licensee remains individually responsible for meeting the inspection, maintenance and recordkeeping requirements.

§ 90.443 Content of station records.

Each licensee of a station in these services shall maintain records in accordance with the following:

(a) For all stations, the results and dates of the transmitting measurements required by § 90.215 of this part and the name of the person or persons making the measurements.

(b) When service or maintenance duties are performed on stations, the responsible operator shall sign and date an entry in the station record giving:

(1) Pertinent details of all duties performed by and under the supervision of the operator;

(2) The operator's name and address, and;

(3) The class, serial number and expiration date of the operator's license. Information stipulated in subparagraphs (2) and (3) of this paragraph need be entered only once in the station record at any station where the responsible operator is employed on a full time basis and an operator's license is properly posted.

(c) For stations whose antenna or antenna supporting structure must be illuminated, the licensee will record:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not provided.

(3) Any observed or otherwise known failure of a tower light by indicating:

(i) The nature of such failure.

(ii) The date and time the failure was observed or otherwise noted.

(iii) The date, time, and nature of adjustments, repairs or replacements made.

(iv) The identification of the Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) The date and time notice was given to the Flight Service Station of the Federal Aviation Administration that the required illumination was resumed.

(4) The completion of the 3-month periodic inspection required by § 90.441 of this part by indicating:

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements or repairs were made.

§ 90.445 Form of station records.

(a) Station records shall be kept in an orderly manner, and in such detail that the data required are readily available. Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record.

(b) Each entry in the records of each station shall be signed by a person qualified to do so, having actual knowledge of the facts to be recorded.

(c) No record or portion thereof shall be erased, obliterated, or wilfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry, who shall strike out the erroneous portion, initial the correction made, and indicate the date of correction.

§ 90.447 Retention of station records.

Records required by this part shall be retained by the licensee for at least one year.

§ 90.449 Answers to a notice of violation.

Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act or treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 10 days from such receipt or such other period as may be specified, send a written answer to the office of the Commission originating the original notice. If an answer

cannot be sent, or an acknowledgement made within such period, acknowledgement and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. The reply shall set forth the steps taken to prevent a recurrence of improper operation.

Subpart O—Chicago Land Mobile Spectrum Management

§ 90.481 Scope.

This subpart sets forth special provisions for the filing of applications for authority to operate new or modified radio facilities in the Chicago region and the Chicago land mobile spectrum management district.

§ 90.483 Chicago region.

The Chicago Region is defined to consist of the counties listed below:

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

§ 90.485 Applications.

Applicants for new base, mobile, or fixed stations on frequencies below 950 MHz (excluding applications in the Radiolocation Service) and located in the Chicago Region, as defined in section 90.483, and licensees proposing to modify, renew, or assign existing authorizations for such stations located in the Chicago Region shall submit Form 425.

§ 90.487 Special Provisions Relating to frequency assignments in the Chicago region.

(a) The table below reflects the basic frequency assignment methodology for use in the Chicago Region. Category I consists of the Police and Fire Radio Services and their present frequencies. Category II consists of other radio services and their frequencies:

CATEGORY I

Police Radio Service
Fire Radio Service

CATEGORY II

GROUP A

Forestry-Conservation Radio Service
Highway Maintenance Radio Service
Local Government Radio Service
Special Emergency Radio Service

GROUP B

Power Radio Service
Telephone Maintenance Radio Service
Railroad Radio Service

GROUP C

Petroleum Radio Service
Forest Products Radio Service
Manufacturers Radio Service
Relay Press Radio Service
Motion Picture Radio Service
Automobile Emergency Radio Service
Business Radio Service
Taxicab Radio Service
Motor Carrier Radio Service
Special Industrial Radio Service

(b) Frequencies in Category I are available only to those who establish eligibility in that Category. Frequencies in Category II are available to all persons who establish eligibility in Category II; and are also available to Category I eligibles on a secondary basis.

(c) To the extent practicable, frequencies from the service within which an applicant has established eligibility will be assigned to that applicant. If no suitable frequency is available, then a search will be made of frequencies of other services in the same group as the applicant. Access to the frequencies of a different group will be permitted only on a case-by-case basis and only when no suitable frequency is available in the group in which eligibility is established.

(d) Where services which presently share frequencies are in different categories or groups, the shared frequencies will only be available to the lower priority category or group; except for the eleven low band frequencies shared by police and local government which go to Category I. Licensees who presently operate on these frequencies may continue to do so even though the frequencies do not appear in their eligibility pool.

(e) The eligibility, permissible communications, points of communications, technical requirements and assignment limitations reflected in the various subparts of this part will also govern in the Chicago Region. Station limitations for the service in which licensee eligibility is established will govern the use of a station even though the frequency assigned may not be from the service in which eligibility was established; except in the case of mobile relay stations which will only be permitted on frequencies previously available for mobile relay use.

(f) Frequency coordination procedures of Section 90.175 are required in the Chicago region after August 31, 1977.

NOTE.—The above frequency assignment methodology for inter-service sharing will not be implemented until further notice by the Commission.

Subpart P—Developmental Operation

§ 90.501 Scope.

This subpart contains the procedures and requirements for the filing of applications for developmental licenses. It includes special requirements related to developmental operation, restrictions on operations, and special reports required when the development operation is to seek operational data or techniques directed toward the extension of that service.

§ 90.503 Eligibility.

Those persons who are eligible to operate stations in services under this part on a regular basis are also eligible to obtain an authorization for developmental operation in those particular radio services.

§ 90.505 Showing required.

(a) Except as provided in paragraph (b) of this section, each application for developmental operation shall be accompanied by a showing that:

(1) The applicant has an organized plan of development leading to a specific objective;

(2) The actual transmission by radio is essential to proceed beyond the present stage of the program;

(3) The program has reasonable promise of substantial contribution to the expansion or extension of the radio art, or is investigating new unexplored concepts in radio transmission and communications;

(4) The program will be conducted by qualified personnel;

(5) The applicant is legally and financially qualified, and possesses adequate technical facilities to conduct the proposed program; and

(6) The public interest, convenience, and necessity will be served by the proposed operation.

(b) The provisions of paragraph (a) of this section do not apply when an application is made for developmental operation solely for the reason that the frequency requested is restricted to such developmental use.

§ 90.507 Limitations on use.

Stations used for developmental operation shall conform to all technical and operating requirements of Subparts I and N of this part, unless specifically exempted in the instrument of authorization.

§ 90.509 Frequencies available for assignment.

Stations engaged in developmental operation may be authorized to use a frequency or frequencies available in the service in which they propose to operate. The number of channels assigned will depend upon the specific requirements of the developmental program and the number of frequencies available in the particular geographical area where the station is to operate.

§ 90.511 Interference.

The operation of any station engaged in developmental work shall not cause harmful interference to the operation of stations regularly licensed under any part of the Commission's rules.

§ 90.513 Special provisions.

(a) The developmental program as described by the application for authorization shall be followed unless the Commission shall otherwise direct.

(b) Where some phases of the developmental program are not covered by the general rules in this chapter and the rules in this part, the Commission may specify additional requirements or conditions as deemed necessary in the public interest, convenience, or necessity.

(c) The Commission may, from time to time, require a station engaged in developmental work to conduct special tests which are reasonable and desirable to the authorized developmental program.

§ 90.515 Change or cancellation of authorization without hearing.

Every application for authority to engage in developmental operation shall be accompanied by a statement signed by the applicant in which it is agreed that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms or to cancellation in its entirety at any time, upon reasonable notice but without a hearing, if, in the opinion of the Commission, circumstances should so require.

§ 90.517 Report of operation.

A report on the results of a developmental program shall be filed with and made a part of each application for renewal of authorization. In cases where no renewal is requested, such report shall be filed within 60 days of the expiration of such authorization. Matters which the applicant does not wish to disclose publicly may be so labeled; they will be used solely for the Commission's information, and will not be publicly disclosed without permission of the applicant. The report shall include comprehensive and detailed information on:

(a) The final objective.
(b) Results of operation to date.
(c) Analysis of the results obtained.
(d) Copies of any published reports.
(e) Need for continuation of the program.
(f) Number of hours of operation on each frequency.

This report is not required if the sole reason for the developmental authorization is that the frequency of operation is restricted to developmental use only.

Subpart Q—Emergency Communications Pursuant to the Industrial Communications Emergency Plan (ICEP) and the Land Transportation Industries Communications Emergency Plan (LATICEP)

§ 90.525 Industrial Communications Emergency Plan (ICEP).

(a) *Scope and objectives.* This section contains the rules and regulations providing for emergency operations for all Industrial Radio Service Licensees of the Federal Communications Commission, and an Industrial Communications Emergency Plan (ICEP) prepared pursuant to and by the authority of Sections 1, 4(i), 301, 303, 307, 308, 309, 312, 316, 318, 319 and 606 of the Communications Act of 1934 as amended, and Executive Order 11490, as amended. The objective of this subpart is to provide for the development of detailed communications plans containing the designation of facilities, mutually compatible operational arrangements, procedures, and interconnecting facilities, for the continued operation of industrial radio stations on a voluntary, organized basis during times of war, grave national crisis, or other National, State or Operational (Local) emergency situations.

(b) *Industrial communications emergency plan (ICEP) defined.* The Industrial Communications Emergency Plan (ICEP) is a plan containing procedures for the development of detailed communications plans of Industrial Radio Service licensees based on essential communications requirements of industry, including communications with interested Government Agencies during emergencies on a National, State, or Operational (Local) Area level.

(c) *Emergency situation.* An emergency situation is a situation posing a threat to the safety of life and/or property on a National, State, or Operational (Local) level.

(d) *Activation and termination.* In an emergency situation communications elements of the ICEP may be activated and terminated by competent authorities as defined in the Detailed Operational ICEPs.

(e) *National, State and local emergency operation.* Detailed data, information and instructions for emergency operation of mutually compatible facilities, systems and arrangements will be set forth in the Detailed Operational ICEPs which are considered a supplement to the ICEP.

(f) *Participation of class A citizens radio service licensees.* Industrial entities may utilize their Citizens Radio Service Class A facilities, licensed to them under Section 95.41(a) of the Commission's Rules, in the operation of their own Detailed Operational Industrial Communications Emergency Plans as developed in accordance with the procedures established in this subpart.

(g) *Emergency Communications Authorization (ECA).* (1) A radio station licensee in any industry covered by the Industrial Communications Emergency Plan (ICEP) may be granted an Emergency Communications Authorization (ECA) by the Federal Communications Commission. Each ECA shall remain in effect concurrently with the terms of the approved Detailed Operational Industrial Communications Emergency Plans provided:

(2) The licensee functioning within the terms of the ECA has demonstrated his willingness to cooperate with others by agreeing to provide service or interconnection as part of a communication emergency plan.

(3) The licensee is included in an FCC approved intra-company plan to utilize its radio facilities as emergency backup for other communications services used by the licensee.

(4) An ECA will be issued to each industrial entity for each communications system plan approved by the Commission.

(5) Any industrial radio service participating in the ICEP may withdraw from participation by giving thirty (30) days'

written notice and by submitting his Emergency Communications Authorization (ECA) to the Federal Communications Commission for cancellation.

(h) *Tests of approved interconnecting systems and facilities.* After detailed emergency communication systems plans are completed, or segments of the system are completed, system operational tests may be necessary. When deemed necessary, these tests shall be conducted as specified in the approved operational plans. Results of these tests shall be furnished to the FCC Engineer in Charge (EIC), the Chief, Emergency Communications Division of the FCC, and to others concerned. These tests would be used as training exercises for personnel at all levels.

§ 90.527 Land Transportation Industries Communications Emergency Plan (LATICEP).

(a) *Scope and objective.* This section applies to those stations licensed under this part and operating in a system for which a National Defense Emergency Authorization has been issued. The section provides for operation of stations within the United States during a grave national crisis or war. The objective is to provide for flexible operation of communications equipment during such an emergency to fulfill emergency communication requirements and needs.

(b) *Definition of terms.* (1) National Defense Emergency Authorization (NDEA). A National Defense Emergency Authorization is an authorization issued by the Federal Communications Commission to the licenses of land transportation stations, subject to the provisions of this part, for operation in accordance with the Interim Basic Land Transportation Industries Communications Emergency Plan (LATICEP) including the annexes and supplements to that plan.

(2) *Emergency action notification.* The Emergency Action Notification is the notice (with or without an Attack Warning) to all licensees and regulated services of the Federal Communications Commission and to the general public of the existence of an Emergency Action Condition. The Emergency Action Notification is released upon direction of the President of the United States and is disseminated only via the Emergency Action Notification System.

(3) *Emergency action condition.* The Emergency Action Condition is the period of time between the transmission of an Emergency Action Notification and the transmission of the Emergency Action Condition Termination.

(4) *Emergency action notification system.* The Emergency Action Notification System is the system by which all licensees and regulated services of the Federal Communications Commission, and the general public, are notified (with or without an Attack Warning) of the existence of an Emergency Action Condition resulting from a grave national crisis or war. The Emergency Action Notification System consists only of the following approved facilities, systems, and arrangements:

(i) *First method.* From the President of the United States via the White House Communications Agency to the Associated Press (AP) and United Press International (UPI); thence via automatic selective switching and teletype Emergency Action Notification to all standard, FM, and television broadcast and other stations (including Land Transportation stations) subscribing to the AP and UPI Radio Wire Teletype Networks.

(ii) *Second method.* From the President of the United States via the White House Communications Agency to specified control points of the nationwide commercial Radio and Television Broadcast Networks, the American Telephone and Telegraph Co. and other specified points via a dedicated teletypewriter network; thence to all affiliates via any available commercial Radio and Television internal network alerting facilities.

(iii) *Third method.* Off-the-air monitoring of a standard, FM, or television broadcast station by other standard, FM, and television broadcast stations and FCC licensees (including Land Transportation licensees) for receipt of the Emergency Action Notification. All broadcast station licensees are required to install, maintain, and operate radio receiving equipment for receipt of the Emergency Action Notification at this level.

(iv) *Fourth method.* Off-the-air monitoring of standard, FM, and TV broadcast stations by the general public who are listening or viewing or whose receivers can be activated by standardized selective signaling transmitted by said stations.

(5) *Emergency action condition termination.* The Emergency Action Condition Termination is the notice to all licensees and regulated services of the Federal Commission and to the general public of the termination of an Emergency Action Condition. The Emergency Action Condition Termination is released upon direction of the President of the United States and is disseminated only via the Emergency Action Notification System.

(c) *Emergency operation.* (1) A National Defense Emergency Authorization will be issued on a system basis by the Commission to those licensees who are engaged in essential activities for which an approved National Industry Advisory Committee Emergency Plan has been adopted, provided, the licensee has submitted to the Commission a certification of willingness to participate in and conform to the emergency communications plan applicable to his stations licensed under this part for which coverage is desired, has ceftified thereon a willingness to interconnect facilities where necessary with those of similar licensees and to cooperate with such licensees in providing emergency communications. Once issued, a National Defense Emergency Authorization is effective for each station in the system concurrently with the regular license for that station. A National Defense Emergency Authorization may be terminated by the Commission upon a finding that, for any reason, the facilities are no longer capable of providing effective emergency communications in accordance with the National Industry Advisory Committee Emergency Plan concerned.

(2) Over and above the permissive provisions of all applicable rules and notwithstanding any provisions of this chapter or license restrictions to the contrary, systems covered by a National Defense Emergency Authorization and operated by licensees participating in the Land Transportation Industries Communications Emergency Plan (LATIC EP) are authorized to operate in accordance with the provisions of this paragraph under the emergency conditions and for the periods of time specified above:

(i) To share facilities with, or interconnect with, any other communications facilities necessary to accomplish transportation industry's communications requirements where such sharing and/or interconnection is mutually acceptable.

(ii) To use mobile frequencies to provide point-to-point services and to effect tie-ins between established fixed services.

(iii) To use any type of modulation, including multiplex, so long as the occupied bandwidth does not exceed that normally authorized on the frequency involved, and to use any operating power not exceeding the maximum specified under Part 93, subject to mutual resolution of any resulting interference.

(iv) To test periodically any facility established for emergency use under this section.

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Eligibility	90.71(a)
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Eligibility	90.73(a)
Frequencies available	90.73(c)
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Eligibility	90.93(a)
Frequencies available	90.93(b)
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SUPPLEMENT B.—*Combined frequency list*

Frequency	Services	Special limitations
Kilohertz		
70-90	IR	Radiolocation.
90-110	IR	Do.
110-130	IR	Do.
1605-1715	IR	Do.
1610	PP	
1614	IP	Geophysical.
1618	PP	
1626	PP	
1628	IM, IP	Do.
1630	PF	
1634	PP	
1642	PP	
1650	PP	
1652	IM, IP	Do.
1658	PP	
1666	PP	
1674	PP	
1676	IP, IF	Do.
1682	PP	
1690	PP	
1698	PP	
1700	IP, IF	Do.
1706	PP	
1714	PP	
1715-1750	IR	Radiolocation.
1722	PP	
1730	PP	
1750-1800	IR	Do.
2000-3000	FS	Communication with public coast.
2212	PO	
2226	PO	
2236	PO	
2244	PO	
2292	IW, IP, IM, IS	
2326	PP	
2366	PP	
2382	PP	
2390	PP	
2398	IW, IP, IF, IM, IS	
2406	PP	
2414	PP	
2422	PP	
2430	PP	
2442	PP	
2450	PP	
2458	PP	
2466	PP	
2474	PP	
2482	PP	
2490	PP	
2505-3500	FS	State guard.
2726	FS	Do.
2804	PP	Zone, interzone.
2808	PP	Do.
2812	PP	Do.
3201	FS	
3230-3400	IR	Radiolocation.
4383.8	(1)	Alaska emergency frequency.
4637.5	IW, IP, IM, IS	
5135	PP	Zone, interzone.
5140	PP	Do.
5195	PP	Do.
7480	PP	Do.
7805	PP	Do.
7935	PP	Do.
Megahertz		
25.02	IP	Geophysical.
25.04	IP	Oil spill.
25.06	IP	Geophysical.
25.08	IP	Oil spill.
25.10	IP	Geophysical.
25.12	IP	
25.14	IP	
25.16	IP	
25.18	IP	
25.20	IP	
25.22	IP	
25.24	IP	
25.26	IP	
25.28	IP	
25.30	IP	
25.32	IP	
27.43	IB	
27.45	IB	
27.49	IB	Itinerant.
27.51	IB	Low power (2 W).
27.53	IB	Do.
29.71	IF	
29.73	IF	
29.75	IF	
29.77	IF	
29.79	IF	
30, 565	-----	Developmental.
Megahertz		
30.58	IS	
30.62	IS	
30.64	IS	
30.66	IP, LM	
30.68	IF	
30.70	IP	
30.72	IF	
30.74	IP, LM	
30.76	IB	
30.78	IP	
30.80	IB	
30.82	IP, LM	
30.84	IB	Low power (2 W).
30.86	PO, LM	
30.88	IB	
30.90	PO, LM	
30.92	IB	
30.94	PO, LM	
30.96	IB	
30.98	PO, LM	
31.00	IB	
31.02	PO, LM	
31.04	IB	
31.06	PO, LM	
31.08	LM	
31.10	PO, LM	
31.12	LM	
31.14	PO, LM	
31.16	IB	
31.18	PO	State use.
31.20	IB	
31.22	PO	Do.
31.24	IB	
31.26	PO	Do.
31.28	IS	
31.30	PO	Do.
31.32	IS	
31.34	PO	Do.
31.36	IS	
31.38	PO	Do.
31.40	IS	
31.42	PO	Do.
31.44	IS	
31.46	PO	Do.
31.48	IS	
31.50	PO	Do.
31.52	IS	
31.54	PO	Do.
31.56	IS	
31.58	PO	Do.
31.60	IS	
31.62	PO	Do.
31.64	IS	Do.
31.66	PO	Do.
31.68	IS	
31.70	PO	Do.
31.72	IS	
31.74	PO	Do.
31.76	IS	
31.78	PO	Do.
31.80	IS	
31.82	PO	Do.
31.84	IS	
31.86	PO	Do.
31.88	IS	
31.90	PO	Do.
31.92	IS	
31.94	PO	Do.
31.96	IS	
31.98	PO	Do.
31.99-32.0	PL, PP, PF, PH, PO, PS	Developmental.
33.0-33.1	PL, PP, PF, PH, PO, PS	Do.
33.02	PH, PS	
33.04	PS	
33.06	PH, PS	
33.08	PS	
33.10	PH, PS	
33.12	IS	Low power (2 W).
33.14	IB	Do.
33.16	IB	Maximum power (100 W).
33.18	IP	
33.20	IP	
33.22	IP	
33.24	IP	
33.26	IP	
33.28	IP	
33.30	IP	
33.32	IP	
33.34	IP	
33.36	IP	
33.38	IP	
33.40	IB	Low power (½ W).
33.42	PF	Low power (10 W).
33.44	PF	

Frequency	Services	Special limitations
Megahertz		
33.46	PF	Mobile only.
33.48	PF	
33.50	PF	Do.
33.52	PF	
33.54	PF	Do.
33.56	PF	
33.58	PF	Do.
33.60	PF	
33.62	PF	Do.
33.64	PF	
33.66	PF	Do.
33.68	PF	
33.70	PF	
33.72	PF	
33.74	PF	
33.76	PF	
33.78	PF	
33.80	PF	
33.82	PF	
33.84	PF	
33.86	PF	
33.88	PF	
33.90	PF	
33.92	PF	
33.94	PF	
33.96	PF	
33.98	PF	
33.99-34.0	PL, PP, PF, PH, PO, PS	Developmental.
35.0-35.01		Do.
35.02	IB	Low power (2 W).
35.04	IB	Itinerant.
35.06	IB	Maximum power (110 W).
35.08	IB	Do.
35.10	IB	Do.
35.12	IB	Do.
35.14	IB	Do.
35.16	IT	Wireline common carrier.
35.18	IB	Maximum power (110 W).
35.28	IS	
35.32	IS	
35.36	IS	
35.40	IS	
35.44	IS	
35.48	IS	
35.52	IS	
35.64	FS	Paging only.
35.68	PS	Do.
35.70	IB	
35.72	IB	
35.74	IS	
35.76	IS	
35.78	IS	
35.80	IS	
35.82	IS	
35.84	IS	
35.86	IS	
35.88	IB	Maximum power (110 W).
35.90	IB	Do.
35.92	IB	Do.
35.94	IB	
35.96	IB	
35.98	IB	
35.99-36.0		Developmental.
37.0-37.01		Do.
37.02	PP	Mobile only.
37.04	PP	
37.06	PP	
37.08	PP	
37.10	PL, PP	
37.12	PP	
37.14	PP	
37.16	PP	
37.18	PL, PP	
37.20	PP	
37.22	PP	
37.24	PP	
37.26	PL, PP	
37.28	PP	
37.30	PP	
37.32	PP	
37.34	PP	
37.36	PP	
37.38	PP	
37.40	PP	
37.42	PP	
37.44	IF	
37.46	IW	
37.48	IW	
37.50	IW	
37.52	IW	
37.54	IW	
37.56	IW	
37.58	IW	
37.60	IW	Interconnected utility systems.
37.62	IW	
37.64	IW	
37.66	IW	
37.68	IW	
37.70	IW	
37.72	IW	
37.74	IW	
37.76	IW	
37.78	IW	
37.80	IW	
37.82	IW	
37.84	IW	De.
37.86	IW	
37.88	IF	
37.90	PH, PS	
37.92	PH	
37.94	PH, PS	
37.96	PH	
37.98	PH, PS	
37.99-38.0	PL, PP, PF, PH, PO, PS	Developmental.
39.0-39.01	PL, PP, PF, PH, PO, PS	Do.
39.02	PP	
39.04	PP	
39.06	PL, PP	Low power (2 W).
39.08	PP	
39.10	PL, PP	
39.12	PP	
39.14	PP	
39.16	PP	
39.18	PL, PP	
39.20	PP	
39.22	PP	
39.24	PP	
39.26	PP	Mobile only.
39.28	PP	
39.30	PP	Do.
39.32	PP	
39.34	PP	Do.
39.36	PP	
39.38	PP	Do.
39.40	PP	
39.42	PP	
39.44	PP	
39.46	PP	
39.48	PP	Intersystems operation.
39.50	PL, PP	
39.52	PP	
39.54	PP	
39.56	PP	
39.58	PL, PP	
39.60	PP	
39.62	PP	
39.64	PP	
39.66	PP	Mobile only.
39.68	PP	
39.70	PP	Do.
39.72	PP	
39.74	PP	Do
39.76	PP	
39.78	PP	Mobile.
39.80	PP	
39.82	PP, PP	
39.84	PP	
39.86	PP	
39.88	PP	
39.90	PL, PP	
39.92	PP	
39.94	PP	
39.96	PP	
39.98	PL, PP	
39.99-40.0	PL, PP, PF, PH, PO, PS	Developmental.
42.0-42.01	PL, PP, PF, PH, PO, PS	Do.
42.02	PP	State police.
42.04	PP	Do
42.06	PP	Do.
42.08	PP	Do
42.10	PP	Do.
42.12	PP	Do.
42.14	PP	Do.
42.16	PP	Do.
42.18	PP	Do
42.20	PP	State police (mobile).
42.22	PP	Do.
42.24	PP	Do.
42.26	PP	Do.
42.28	PP	Do.
42.30	PP	Do
42.32	PP	Do.
42.34	PP	Do.
42.36	PP	State police.
42.38	PP	Do.
42.40	PP	Do.
42.42	PP	Do.
42.44	PP	Do.
42.46	PP	Do.
42.48	PP	Do.
42.50	PP	Do.
42.52	PP	Do
42-54	PP	Do.
42.56	PP	Do.
42.58	PP	Do
42.60	PP	Do.
42.62	PP	Do.
42.64	PP	Do.
42.66	PP	State police (mobile).
42.68	PP	Do.
42.70	PP	Do.
42.72	PP	Do.
42.74	PP	Do.
42.76	PP	Do.
42.78	PP	Do.
42.80	PP	State police
42.82	PP	Do.
42.84	PP	Do.
42.86	PP	Do.
42.88	PP	Do.
42.90	PP	Do.
42.92	PP	Do.
42.94	PP	Do.
42.96	IB	Maximum power (100 W).
42.98	IB	Low power (2 W).
43.00	IB	Maximum power (110 W).
43.02	IS	
43.04	IS	Itinerant.
43.06	IS	
43.08	IS	
43.10	IS	
43.12	IS	
43.14	IS	
43.16	IT	
43.18	IS	
43.28	IS	
43.32	IS	
43.36	IS	
43.40	IS	
43.44	IS	
43.48	IS	
43.52	IS	
43.64	FS	1-way paging.
43.68	PS	Do
43.70	LM	Operation between urban areas.
43.72	LM	Do.
43.74	LM	Do.
43.76	LM	Do.
43.78	LM	Do.
43.80	LM	Do.
43.82	LM	Do.
43.84	LM	Do
43.86	LM	Do.
43.88	LM	Do.
43.90	LM	Do
43.92	LM	Do.
43.94	LM	Do.
43.96	LM	Do.
43.98	LM	Do.
44.00	LM	Do.
44.02	LM	Do
44.04	LM	For operation between urban areas.
44.06	LM	Do
44.08	LM	Do.
44.10	LM	Do.
44.12	LM	Do.
44.14	LM	Do.
44.16	LM	Do.
44.18	LM	Do.
44.20	LM	Do.
44.24	LM	Do
44.26	LM	Do.
44.28	LM	Do.
44.30	LM	Do.
44.32	LM	Do.
44.34	LM	Do.
44.36	LM	Do
44.38	LM	Do.
44.40	LM	Do.
44.42	LM	Do.
44.44	LM	Do.
44.46	LM	Operation within an urban area.
44.48	LM	Do.
44.50	LM	Do.
44.52	LM	Do.
44.54	LM	Do.
44.56	LM	Do.
44.58	LM	Do.
44.60	LM	Do.
44.62	PP	State police
44.64	PO	
44.66	PP	Do
44.68	PO	
44.70	PP	Do.
44.72	PO	
44.74	PP	Do
44.76	PO	
44.78	PP	State police (mobile only).
44.80	PO	
44.82	PP	Do.
44.84	PO	
44.86	PP	Do.
44.88	PO	
44.90	PP	Do.
44.92	PO	

Frequency	Services	Special limitations
Megahertz		
44.94	PP	State police.
44.96	PO	
44.98	PP	Do.
45.00	PO	
45.02	PP	Do.
45.04	PO	
45.06	PP	Do.
45.08	PL	
45.10	PP	
45.12	PL	
45.14	PP	
45.16	PL	
45.18	PP	
45.20	PL	
45.22	PP	
45.24	PL	
45.26	PP	Mobile.
45.28	PL	
45.30	PP	Do.
45.32	PL	
45.34	PP	Do.
45.36	PL	
45.38	PP	Do.
45.40	PL	
45.42	PP	
45.44	PL	
45.46	PP	
45.48	PL	
45.50	PP	
45.52	PL	
45.54	PP	
45.56	PL	
45.58	PP	
45.60	PL	
45.62	PP	
45.64	PL	
45.66	PP	
45.68	PH	
45.70	PP	
45.72	PH	
45.74	PP	Do.
45.76	PH	
45.78	PP	Do.
45.80	PH	
45.82	PP	Do.
45.84	PH	
45.86	PP	Intersystem operation.
45.88	PF	Do.
45.90	PP	
45.92	PS	
45.94	PP	
45.96	PS	
45.98	PP	
46.00	PS	
46.02	PP	
46.04	PS	
46.06	PF	
46.08	PF	
46.10	PF	
46.12	PF	
46.14	PF	
46.16	PF	
46.18	PF	
46.20	PF	
46.22	PF	Mobile.
46.24	PF	Do.
46.26	PF	Do.
46.28	PF	Do.
46.30	PF	Maximum power 10 W.
46.32	PF	Mobile.
46.34	PF	Do.
46.36	PF	
46.38	PF	
46.40	PF	
46.42	PF	
46.44	PF	
46.46	PF	
46.48	PF	
46.50	PF	
46.52	PL	
46.54	PL	
46.56	PL	
46.58	P	
47.02	PH	State use.
47.04	PH	Do.
47.06	PH	Do.
47.08	PH	Do.
47.10	PH	Do.
47.12	PH	Do.
47.14	PH	Do.
47.16	PH	Do.
47.18	PH	Do.
47.20	PH	Do.
47.12	PH	Do.
47.14	PH	Do.
47.16	PH	Do.
47.18	PH	Do.
47.20	PH	Do.
47.22	PH	Do.
47.24	PH	Do.
47.26	PH	Do.
47.28	PH	Do.
47.30	PH	Do.
47.32	PH	Do.

Frequency	Services	Special limitations
Megahertz		
47.36	PH	Do.
47.38	PH	Do.
47.40	PH	Do.
47.42	PS	Disaster relief.
47.44	IS	
47.46	PS	
47.48	IS	
47.50	PS	
47.52	IS	
47.54	PS	
47.56	IS	
47.58	PS	
47.60	IS	
47.62	PS	
47.64	IS	
47.66	PS	
47.68	IS	
47.70	IW	
47.72	IW	
47.74	IW	
47.76	IW	
47.78	IW	
47.80	IW	
47.82	IW	
47.84	IW	
47.86	IW	
47.88	IW	
47.90	IW	
47.92	IW	
47.94	IW	
47.96	IW	
47.98	IW	
48.00	IW	
48.02	IW	
48.04	IW	
48.06	IW	
48.08	IW	
48.10	IW	
48.12	IW	
48.14	IW	
48.16	IW	
48.18	IW	
48.20	IW	
48.22	IW	
48.24	IW	
48.26	IW	
48.28	IW	
48.30	IW	
48.32	IW	
48.34	IW	
48.36	IW	
48.38	IW	
48.40	IW	
48.42	IW	
48.44	IW	
48.46	IW	
48.48	IW	
48.50	IW	
48.52	IW	
48.54	IW	
48.56	IP, IF	
48.58	IP, IF	
48.60	IP, IF	
48.62	IP, IF	
48.64	IP, IF	
48.66	IP, IF	
48.68	IP, IF	
48.70	IP, IF	
48.72	IP, IF	
48.74	IP, IF	
48.76	IP, IF	
48.78	IP, IF	
48.80	IP, IF	
48.82	IP, IF	
48.84	IP, IF	
48.86	IP, IF	
48.88	IP, IF	
48.90	IP, IF	
48.92	IP, IF	
48.94	IP, IF	
48.96	IP, IF	
48.98	IP, IF	
49.00	IP, IF	
49.02	IP, IF	
49.04	IP, IF	
49.06	IP, IF	
49.08	IP, IF	
49.10	IP, IF	
49.12	IP, IF	
49.14	IP, IF	
49.16	IP, IF	
49.18	IP, IF	
49.20	IP, IF	
49.22	IP, IF	
49.24	IP, IF	
49.26	IP, IF	
49.28	IP, IF	
49.30	IP, IF	
49.32	IP, IF	
49.34	IP, IF	
49.36	IP, IF	
49.38	IP, IF	
49.40	IP, IF	
49.42	IP, IF	
49.44	IP, IF	

Frequency	Services	Special limitations
Megahertz		
49.46	IP, IF	
49.48	IP, IF	
49.50	IP, IF	
49.52	IS	
49.54	IF, IS	
49.56	IS	
49.58	IF, IS	
72.0–76.0	PL, PP, PF, PH, PO, PS, IW, IP IF, IM, IX, IS, IB, IX, LM, LR	Fixed, noninterference with TV channels 4 and 5.
150.815	IB, LA	IB use limited to Puerto Rico and Virgin Islands.
150.830	LA	
150.845	IB, LA	Do.
150.860	LA	
150.875	IB, LA	Do.
150.890	LA	
150.905	IB, LA	Do.
150.920	LA	
150.935	IB, LA	Do.
150.950	LA	
150.965	IB, LA	Do.
150.980	IP	Oil spill.
150.995	PH, IB	Do.
151.010	PH	
151.025	PH, IB	Do.
151.040	PH	
151.055	PH, IB	Do.
151.070	PH	
151.085	PH, IB	Do.
151.100	PH	
151.115	PH, IB	Do.
151.130	PH	
151.145	PO, IB	Do.
151.160	PO	
151.175	PO, IB	Do.
151.190	PO	
151.205	PO, IB	Do.
151.220	PO	
151.235	PO, IB	Do.
151.250	PO	
151.265	PO, IB	Do.
151.280	PO	
151.295	PO, IB	Do.
151.310	PO	
151.325	PO, IB	Do.
151.340	PO	
151.355	PO, IB	Do.
151.370	PO	
151.385	PO, IB	Do.
151.400	PO	
151.415	PO, IB	Do.
151.430	PO	
151.445	PO, IB	Do.
151.460	PO	
151.475	PO, IB	Do.
151.490	PO, IS	Itinerant use.
151.505	IS	
151.520	IS	
151.535	IS	
151.550	IS	
151.565	IS	
151.580	IS	
151.595	IS	
151.625	IB	Do.
151.655	IB	Maximum power 110 W.
151.685	IB	Do.
151.715	IB	Do.
151.745	IB	Do.
151.775	IB	Do.
151.805	IB	Do.
151.835	IB	Do.
151.865	IB	Do.
151.895	IB	Do.
151.925	IB	
151.955	IB	
151.985	IT	Communications common carrier.
152.0075	PS	1-way paging.
152.270	LX	
152.285	LX	For use within SMA's over 50,000.
152.300	IB, LX	For LX use within SMA's over 50,000
152.315	LX	For use within SMA's over 50,000.
152.330	LX	Do.
152.345	LX	For LX use within SMA's over 50,000.
152.360	IB, LX	For use within SMA's over 50,000.
152.375	LX	Do.
152.390	LX	Do.
152.405	LX	For LX use within SMA's over 50,000.
152.420	IB, LX	For use within SMA's over 50,000.
152.435	LX	
152.450	LX	
152.465	IF, IS, LX	IB 1-way paging.
152.480	IF, IS, IB	
152.870	IM, IS	

Frequency	Services	Special limitations
Megahertz		
152.885	IS	
152.900	IM, IS	
152.915	IS	
152.930	IM, IS	
152.945	IS	
152.960	IM, IS	
152.975	IS	
152.990	IM, IS	
153.005	IS	
153.020	IM, IS	
153.035	IP, IS	
153.050	IP, IF, IX	
153.065	IP, IF, IX	
153.080	IP, IF, IX	
153.095	IP, IF, IX	
153.110	IP, IF, IX	
153.125	IP, IF, IX	
153.140	IP, IF, IX	
153.155	IP, IF, IX	
153.170	IP, IF, IX	
153.185	IP, IF, IX	
153.200	IP, IF, IX	
153.215	IP, IF, IX	
153.230	IP, IF, IX	
153.245	IP, IF, IX	
153.260	IP, IF, IX	
153.275	IP, IF, IX	
153.290	IP, IF, IX	
153.305	IP, IF, IX	
153.320	IP, IF, IX	
153.335	IP, IF, IX	
153.350	IP, IF, IX	
153.365	IP, IF, IX	
153.380	IP, IF, IX	
153.395	IP, IF, IX	
153.410	IW	
153.425	IW, IP, IF	See limitations for precluded areas.
153.440	IW, IP, IF	Do.
153.455	IW, IP, IF	Do.
153.470	IW	
153.485	IW, IP, IF	Do.
153.500	IW, IP, IF	Do.
153.515	IW, IP, IF	Do.
153.530	IW	
153.545	IW, IP, IF	Do.
153.560	IW, IP, IF	Do.
153.575	IW, IP, IF	Do.
153.590	IW	
153.605	IW, IP, IF	Do.
153.620	IW, IP, IF	Do.
153.635	IW, IP, IF	Do.
153.650	IW	
153.665	IW, IP, IF	Do.
153.680	IW, IP, IF	Do.
153.695	IW	
153.710	IW	
153.725	IW	
153.740	PL	Mobile.
153.755	PL	Do.
153.770	PF	Do.
153.785	PL	Do.
153.800	PL	Do.
153.815	PL	Do.
153.830	PF	Maximum power 10 W.
153.845	PL	Mobile.
153.860	PL	Do.
153.875	PL	Do.
153.890	PF	Do.
153.905	PL	Do.
153.920	PL	Do.
153.935	PL	Do.
153.950	PF	Do.
153.965	PL	Do.
153.980	PL	Do.
153.995	PL	Do.
154.010	PF	Do.
154.025	PL	
154.040	PL	Not available in Puerto Rico and Virgin Islands.
154.055	PL	Do.
154.070	PF	Do.
154.085	PL	Do.
154.100	PL	Do.
154.115	PL	Do.
154.130	PF	Do.
154.145	PF	Do.
154.160	PF	Do.
154.175	PF	Do.
154.190	PF	Do.
154.205	PF	Do.
154.220	PF	Do.
154.235	PF	Do.
154.250	PF	Do.
154.265	PF	Do.
154.280	PF	Do.
154.295	PF	Do.
154.310	PF	Do.
154.325	PF	Do.
154.340	PF	Do.
154.355	PF	Do.
154.370	PF	Do.
154.385	PF	Do.
154.400	PF	Do

Frequency	Services	Special limitations
Megahertz		
154.415	PF	Do.
154.430	PF	Do.
154.445	PF	Do.
154.45625	PL, IW, IP, IF, IS, IB, IX	Remote control and telemetry
154.46375	PL, IW, IP, IF, IS, IB, IX	Do.
154.47125	PL, IW, IP, IF, IS, IB, IX	Do.
154.47875	PL, IW, IP, IF, IS, IB, IX	Do
154.490	IS	
154.515	IB	Maximum power 110 W.
154.540	IB	Do.
154.570	IF, IB	Low power, 2 W
154.585	IF	Oil spill 20 W.
154.600	IF, IB	Low power, 2 W
154.625	IF, IS, IB	IB 1-way paging.
154.650	PP	Mobile
154.665	PP	State police.
154.680	PP	Do.
154.695	PP	Do.
154.710	PP	Mobile
154.725	PP	
154.740	PP	
154.755	PP	
154.770	PP	Do
154.785	PP	
154.800	PP	
154.815	PP	
154.830	PP	Do.
154.845	PP	
154.860	PP	
154.875	PP	
154.890	PP	Do.
154.905	PP	State police
154.920	PP	Do.
154.935	PP	Do.
154.950	PP	Mobile.
154.965	PL	
154.980	PL	
154.995	PL	
155.010	PP	
155.025	PL	
155.040	PL	
155.055	PL	
155.070	PP	
155.085	PL	
155.100	PL	
155.115	PL	
155.130	PP	
155.145	PL	
155.160	PS	Adjacent channel coordination required.
155.175	PS	Do.
155.190	PP	
155.205	PS	Do.
155.220	PS	
155.235	PS	Do
155.250	PP	
155.265	PS	Do
155.280	PS	
155.295	PS	Do
155.310	PP	
155.325	PS	Hospital/ambulance use, coordination required.
155.340	PS	Radition and delivery medical services.
155.355	PS	Hospital/ambulance use, coordination required.
155.370	PP	
155.385	PS	Do
155.400	PS	Do.
155.415	PP	
155.430	PP	State police.
155.445	PP	Do.
155.460	PP	Nationwide police emergency channel.
155.475	PP	
155.490	PP	State police.
155.505	PP	
155.520	PP	
155.535	PP	
155.550	PP	
155.565	PP	
155.580	PP	
155.595	PP	
155.610	PP	
155.625	PP	
155.640	PP	
155.655	PP	
155.670	PP	
155.685	PP	
155.700	PP	
155.715	PL	
155.730	PP	
155.745	PL	
155.760	PL	
155.775	PL	
155.790	PP	

Frequency	Services	Special limitations
Megahertz		
155.805	PL	
155.820	PL	
155.835	PL	
155.850	PP	Mobile.
155.865	PL	
155.880	PL	
155.895	PL	
155.910	PP	Do.
155.925	PL	
155.940	PL	
155.955	PL	
155.970	PP	Do.
155.985	PL	Do.
156.000	PL	Do.
156.015	PL	Do.
156.030	PP	Do.
156.045	PH	Do.
156.060	PH	Do.
156.075	PH	Do.
156.090	PP	Do.
156.105	PH	
156.120	PH	
156.135	PH	
156.150	PP	Do.
156.165	PH	State use not permitted.
156.180	PH	Do.
156.195	PH	Do.
156.210	PP	
156.228	PH	Do
156.240	PH	Do.
157.450	PS	1-way paging.
157.470	LA	
157.485	LA	
157.500	LA	
157.515	LA	
157.530	LX	
157.545	LX	For use within SMA's over 50,000.
157.560	IB, LX	IB outside, LX inside SMA's (50,000).
157.575	LX	For use within SMA's over 50,000
157.590	LX	
157.605	LX	Do.
157.620	IB, LX	IB outside, LX inside SMA's (50,000).
157.635	LX	For use within SMA's over 50,000
157.650	LX	
157.665	LX	Do.
157.680	IB, LX	IB outside, LX inside SMA's (50,000).
157.695	LX	For use within SMA's over 50,000.
157.710	LX	
157.725	IF, IS, LX	For use within SMA's over 50,000.
157.740	IF, IS, IB	1-way paging.
158.130	IW	
158.145	IW, IP, IF	See limitations for precluded areas.
158.160	IW, IP, IF	Do.
158.175	IW, IP, IF	Do.
158.190	IW	
158.205	IW, IP, IF	Do
158.220	IW, IP, IF	Do.
158.235	IW, IP, IF	Do.
158.250	IW	
158.265	IW, IP, IF	Do.
158.280	IP, IF, IX	
158.295	IP, IF, IX	
158.310	IP, IF, IX	
158.325	IP, IF, IX	
158.340	IT	Mobile, communications common carrier.
158.355	IP, IF	
158.370	IP, IF	Itinerant.
158.385	IS	
158.400	IS	
158.415	IP, IF, IX	Oil spill, mobile.
158.430	IP, IF, IX	
158.445	IP	1-way paging.
158.460	IF, IS, IB	
158.730	PP	
158.745	PL	
159.510	LM	
159.525	LM	
159.540	LM	
159.555	LM	
159.570	LM	
159.585	LM	
159.600	LM	
159.615	LM	
159.630	LM	
159.645	LM	
150.610	LM	
159.675	LM	
159.690	LM	
159.705	LM	
159.720	LM	
159.735	LM	
159.750	LM	
159.765	LM	
159.780	LM	
159.795	LM	

Frequency	Services	Special limitations
Megahertz		
159.810	LM	
159.825	LM	
159.840	LM	
159.855	LM	
159.870	LM	
159.885	LM	
159.900	LM	
159.915	LM	
159.930	LM	
159.945	LM	
159.960	LM	
159.975	LM	
159.990	LM	
160.005	LM	
160.020	LM	
160.035	LM	
160.050	LM	
160.065	LM	
160.080	LM	
160.095	LM	
160.110	LM	
160.125	LM	
160.140	LM	
160.155	LM	
160.170	LM	
160.185	LM	
160.200	LM	
160.215	LR	
160.230	LR	
158.760	PL	
158.775	PL	
158.790	PP	
158.805	PL	
158.820	PL	
158.835	PL	
158.850	PP	
158.865	PL	Mobile.
158.880	PL	Do.
158.895	PL	Do.
158.910	PP	Do.
158.925	PL	Do.
158.940	PL	Do.
158.955	PL	Do.
158.970	PP	Do.
158.985	PH	Mobile, State use not permitted.
159.000	PH	Do.
159.015	PH	Do.
159.030	PP	Mobile.
159.045	PH	Mobile, State use not permitted.
159.060	PH	Do.
159.075	PH	Do.
159.090	PP	
159.105	PH	State use not permitted.
159.120	PH	Do.
159.135	PH	Do.
159.150	PP	
159.165	PH	Do.
159.180	PH	
159.195	PH	
159.210	PP	
159.225	PO	
159.240	PO, IS	IS use in Puerto Rico and Virgin Islands only.
159.255	PO, IS	Do.
159.270	PO, IS	Do.
159.285	PO, IS	Do.
159.300	PO, IS	Do.
159.315	PO, IS	Do.
159.330	PO, IS	Do.
159.345	PO, IS	Do.
159.360	PO, IS	Do.
159.375	PO, IS	Do.
159.390	PO, IS	Do.
159.405	PO, IS	Do.
159.420	PO, IS	Do.
159.435	PO, IS	Do.
159.450	PO	
159.465	PO	
159.480	IP	Oil spill.
159.495	LM	
160.245	LR	
160.260	LR	
160.275	LR	
160.290	LR	
160.305	LR	
160.320	LR	
160.335	LR	
160.350	LR	
160.365	LR	
160.380	LR	
160.395	LR	
160.410	IS, LR	IS use in Puerto Rico and Virgin Islands only.
160.425	IS, LR	Do.
160.440	IS, LR	Do.
160.455	IS, LR	Do.
160.470	IS, LR	Do.
160.485	IS, LR	Do.
160.500	IS, LR	Do.
160.515	IS, LR	Do.
160.530	IS, LR	Do.
160.545	IS, LR	Do.
160.560	IS, LR	Do.
160.575	IS, LR	Do.
160.590	IS, LR	Do.
160.605	IS, LR	Do.
160.620	LR	
160.635	LR	
160.650	LR	
160.665	LR	
160.680	LR	
160.695	LR	
160.710	LR	
160.725	LR	
160.740	LR	
160.755	LR	
160.770	LR	
160.785	LR	
160.800	LR	
160.815	LR	
160.830	LR	
160.845	LR	
160.860	LR	
160.875	LR	
160.890	LR	
160.905	LR	
160.920	LR	
160.935	LR	
160.950	LR	
160.965	LR	
160.980	LR	
160.995	LR	
161.010	LR	
161.025	LR	
161.040	LR	
161.055	LR	
161.070	LR	
161.085	LR	
161.100	LR	
161.115	LR	
161.130	LR	
161.145	LR	
161.160	LR	
161.175	LR	
161.190	LR	
161.205	LR	
161.220	LR	
161.235	LR	
161.250	LR	
161.265	LR	
161.280	LR	
161.2	LR	
161.310	LR	
161.325	LR	
161.340	LR	
161.355	LR	
161.370	LR	
161.385	LR	Not available in Puerto Rico and Virgin Islands.
161.400	LR	Do.
161.415	LR	Do.
161.430	LR	Do.
161.445	LR	Do.
161.460	LR	Do.
161.475	LR	Do.
161.490	LR	Do.
161.505	LR	Do.
161.520	LR	Do.
161.535	LR	Do.
161.550	LR	Do.
161.565	LR	Do.
161.250	PS	1-way paging.
166.250	PF	Available only within 150 mi of New York City.
169.425	IW, IP, IF, IS, LR	Hydrological or meteorological.
169.450	IW, IP, IF, IS, IB, LR	Do.
169.475	IW, IP, IF, IS, IB, LR.	Do.
169.500	IW, IP, IF, IS, IB, LR	Do.
169.525	IW, IP, IF, IS, IB, LR	Do.
170.150	PF	Available only within 150 mi of New York City.
170.225	IW, IP, IF, IS, IB, LR	Hydrological or meteorological.
170.250	IW, IP, IF, IS, IB, LR	Do.
170.275	IW, IP, IF, IS, IB, LR	Do.
170.300	IW, IP, IF, IS, IB, LR	Do.
170.325	IW, IP, IF, IS, IB, LR	Do.
170.425	PO	State use west of Mississippi River.
170.475	PO	State use.
170.575	PO	State use west of Mississippi River.
171.025	IW, IP, IF, IS, IB, LR	Hydrological or meteorological.
171.050	IW, IP, IF, IS, IB, LR	Do.
171.075	IW, IP, IF, IS, IB, LR	Do.
171.100	IW, IP, IF, IS, IB, LR	Do.
171.125	IW, IP, IF, IS, IB, LR	Do.
171.425	PO	State use east of Mississippi River.
171.475	PO	State use west of Mississippi River.
171.575	PO	State use east of Mississippi River.
171.825	IW, IP, IF, IS, IB, LR	Hydrological or meteorological.
171.850	IW, IP, IF, IS, IB, LR	Do.
171.875	IW, IP, IF, IS, IB, LR	Do.
171.900	IW, IP, IF, IS, IB, LR	Do.
171.925	IW, IP, IF, IS, IB, LR	Do.
172.225	PO	State use west of Mississippi River.
172.275	PO	State use east of Mississippi River.
172.375	PO	State use west of Mississippi River.
173.20375	PL, IW, IP, IF, IS, IB, IX	Remove control and telemetry.
173.2100	PL, IW, IP, IF, IS, IB, IX	Do.
173.225	IM, IY	
173.250	IW, IP, IF	See limitations for precluded areas.
173.275	IM, IY	
173.300	IW, IP, IF	Do.
173.325	IM, IY	
173.350	IW, IP, IF	Do.
173.375	IM, IY	
173.39625	PL, IW, IP, IF, IS, IB, IX	Remote control and telemetry.
173.390	PL, IW, IP, IF, IS, IB, IX	Do.
216–220	IW, IP, IF, IS, IB, IX, IT	Telemetry.
451.025	IW	
451.050	IW	
451.075	IW	
451.100	IW	
451.125	IW	
451.150	IW	
451.175	IW, IP, IF, IM, IT	
451.200	IW	
451.225	IW, IP, IF, IM, IT	
451.250	IW	
451.275	IW, IP, IF, IM, IT	
451.300	IW	
451.325	IW	
451.350	IW	
451.375	IW, IP, IF, IM, IT	
451.400	IT	
451.425	IW, IP, IF, IM, IT	
451.450	IT	
451.475	IW, IP, IF, IM, IT	
451.500	IT	
451.525	IW, IP, IF, IM, IT	
451.550	IP, IF	
451.575	IW, IP, IF, IM, IT	
451.600	IP, IF	
451.625	IW, IF, IP	
451.650	IP, IF	
451.675	IW, IP, IF, IM, IT	
451.700	IP, IF	
451.725	IS	
451.750	IP, IF	
451.775	IS	
451.800	IS	
451.825	IS	
451.850	IS	
451.875	IS	
451.900	IS	
451.925	IS	
451.950	IS	
451.975	IS	
452.000	IS	
452.025	IS	
452.050	LX	
452.075	IS	
452.100	LX	
452.125	IS	
452.150	LX	
452.175	IS	
452.200	LX	
452.225	LX	
452.250	LX	
452.275	LX	
452.300	LX	
452.325	LI, LJ, LU, LV, LR	
452.350	LX	
452.375	LI, LJ, LU, LV, LR	
452.400	LX	
452.425	LI, LJ, LU, LV, LR	
452.450	LX	

Frequency	Services	Special limitations
Megahertz		
452.475	LI, LJ, LU, LV, LR	
452.500	LX	
452.525	LA	Single frequency simplex.
452.550	LA	
452.550	LA	Do.
452.575	LA	Do.
452.600	LA	Do.
452.625	LI, LJ, LU, LV	
452.650	LI, LJ, LU, LV	
452.675	LI, LJ, LU, LV	
452.700	LI, LJ, LU, LV	
452.725	LI, LJ, LU, LV	
452.750	LI, LJ, LU, LV	
452.775	LI, LJ, LU, LV, LR	
452.800	LI, LJ, LU, LV	
452.825	LI, LJ, LU, LV, LR	
452.850	LI, LJ, LU, LV	
452.875	LI, LJ, LU, LV, LR	
452.900	LR	
452.925	LR	
452.950	LR	
452.975	IY	
453.000	IY	
453.025	PL	Highway call box and medical telemetry.
453.050	PL, PP, PF, PH, PO	
453.075	PL	Do.
453.100	PL, PP, PF, PH, PO	
453.125	PL	Do.
453.150	PL, PP, PF, PH, PO	
453.175	PL	Do.
453.200	PL, PP, PF, PH, PO	
453.225	PL	
453.250	PL, PP, PF, PH, PO	
453.275	PL	
453.300	PL, PP, PF, PH, PO	
453.325	PL	
453.350	PL, PP, PF, PH, PO	
453.375	PL	
453.400	PL, PP, PF, PH, PO	
453.425	PL	
453.450	PL, PP, PF, PH, PO	
453.475	PL	
453.500	PL, PP, PF, PH, PO	
453.525	PL	
453.550	PL, PP, PF, PH, PO	
453.575	PL	
453.600	PL, PP, PF, PH, PO	
453.625	PL	
453.650	PL, PP, PF, PH, PO	
453.675	PL	
453.700	PL, PP, PF, PH, PO	
453.725	PL	
453.750	PL, PP, PF, PH, PO	
453.775	PL	
453.800	PL, PP, PF, PH, PO	
453.825	PL	
453.850	PL, PP, PF, PH, PO	
453.875	PL	
453.900	PL, PP, PF, PH, PO	
453.925	PL	
453.950	PL, PP, PF, PH, PO	
453.975	PL	
454.0–455.0	(1)	
455.0–456.0	(2)	
456.025	IW	Mobile only
456.050	IW	Do.
456.075	IW	Do.
456.100	IW	Do.
456.125	IW	Do.
456.150	IW	Do.
456.175	IW, IP, IF, IM, IT	Do.
456.200	IW	Do.
456.225	IW, IP, IF, IM, IT	Do.
456.250	IW	Do.
456.275	IW, IP, IF, IM, IT	Do.
456.300	IT	Do.
456.325	IT	Do.
456.350	IT	Do.
456.375	IW, IP, IF, IM, IT	Do.
456.400	IT	Do.
456.425	IW, IP, IF, IM, IT	Do.
456.450	IT	Do.
456.475	IW, IP, IF, IM, IT	Do.
456.500	IT	Do.
456.525	IW, IP, IF, IM, IT	Do.
456.550	IP, IF	Do.
456.575	IW, IP, IF, IM, IT	Do.
456.600	IP, IF	Do.
546.625	IW, IP, IF, IM, IT	Do.
456.650	IP, IF	Do.
456.675	IW, IP, IF, IM, IT	Do.
456.700	IP, IF	Do.
456.725	IS	Do.
456.750	IP, IF	Do.
456.775	IS	Do.
456.800	IS	Base, mobile, fixed.
456.825	IS	Mobile only.
456.850	IS	Do.
456.875	IS	Do.
456.900	IS	Do.
456.925	IS	Do.
456.950	IS	Do.
456.975	IS	Do.
457.000	IS	Do.
457.025	IS	Do.
457.050	LX	Do.
457.075	IS	Do.
457.100	LX	Do.
457.125	IS	Do.
457.150	LX	Do.
457.175	IS	Do.
457.200	LX	Do.
457.225	LX	Do.
457.250	LX	Do.
457.275	LX	Do.
457.300	LX	Do.
457.325	LI, LJ, LU, LV LR	Do.
457.350	LX	Do.
457.375	LI, LJ, LU, LV LR	Do.
457.400	LX	Do.
457.425	LI, LJ, LU, LV LR	Do.
457.450	LX	Do.
457.475	LI, LJ, LU, LV, LR	Do.
457.500	LX	Do.
457.525	IB	Mobile only 2 W.
457.550	IB	Do.
457.575	IB	Do.
457.600	IB	Do.
457.625	LI, LJ, LU, LV	Mobile only.
457.650	LI, LJ, LU, LV	Do.
457.675	LI, LJ, LU, LV	Do.
457.700	LI, LJ, LU, LV	Do.
457.725	LI, LJ, LU, LV	Do.
457.750	LI, LJ, LU, LV	Do.
457.775	LI, LJ, LU, LV, LR	Do.
457.800	LI, LJ, LU, LV	
457.825	LI, LJ, LU, LV, LR	
457.850	LI, LJ, LU, LV	
457.875	LI, LJ, LU, LV, LR	
457.900	LR	
457.925	LR	
457.950	LR	
457.975	IY	
458.000	IY	
458.025	PS	Highway call box; medical telemetry.
458.050	PL, PP, PF, PH, PO	
458.075	PS	Do.
458.100	PL, PP, PF, PH, PO	
458.125	PS	Do.
458.150	PL, PP, PF, PH, PO	
458.175	PS	Do.
458.200	PL, PP, PF, PH, PO	
458.225	PS	
458.250	PL, PP, PF, PH, PO	
458.275	PS	
458.300	PL, PP, PF, PH, PO	
458.325	PS	
458.350	PL, PP, PF, PH, PO	
458.375	PS	
458.400	PL, PP, PF, PH, PO	
458.425	PS	
458.450	PL, PP, PF, PH, PO	
458.475	PS	
458.500	PL, PP, PF, PH, PO	
458.525	PL	
458.550	PL, PP, PF, PH, PO	
458.575	PL	
458.600	PL, PP, PF, PH, PO	
458.625	PL	
458.650	PL, PP, PF, PH, PO	
458.675	PL	
458.700	PL, PP, PF, PH, PO	
458.725	PL	
458.750	PL, PP, PF, PH, PO	
458.775	PL	
458.800	PL, PP, PF, PH, PO	
458.825	PL	
458.850	PL, PP, PF, PH, PO	
458.875	PL	
458.900	PL, PP, PF, PH, PO	
458.925	PL	
458.950	PL, PP, PF, PH, PO	
458.975	PL	
459.000	IP	Oil spill cleanup.
459.0 to 460.0	(3)	
460.025	PP	
460.050	PP	
460.075	PP	
460.100	PP	
460.125	PP	
460.150	PP	
460.175	PP	
460.200	PP	
460.225	PP	
460.250	PP	
460.275	PP	
460.300	PP	
460.325	PP	
460.350	PP	
460.375	PP	
460.400	PP	
460.425	PP	
460.450	PP	
460.475	PP	
460.500	PP	
460.525	PS	Medical care dispatch.
460.550	PS	Do.
460.575	PF	
460.600	PF	
460.625	PF	
460.650	IB	20 w, airport use.
460.675	IB	Do
460.700	IB	Do.
460.725	IB	Do.
460.750	IB	Do.
460.775	IB	Do.
460.800	IB	Do
460.825	IB	Do.
460.850	IB	Do.
460.875	IB	Do.
460.900	IB	110 w, central station protection.
460.925	IB	Do.
460.950	IB	Do.
460.975	IB	Do.
461.000	IB	Do.
461.025	IB	Do
461.050	IB	Do.
461.075	IB	Do.
461.100	IB	Do.
461.125	IB	Do.
461.150	IB	Do
461.175	IB	Do.
461.200	IB	Do
461.225	IB	Do
461.250	IB	Do
461.275	IB	Do
461.300	IB	Do
461.325	IB	Do
461.350	IB	Do
461.375	IB	Do
461.400	IB	Do
461.425	IB	Do.
461.450	IB	Do.
461.475	IB	Do.
461.500	IB	Do.
461.525	IB	Do.
461.550	IB	Do
461.575	IB	Do.
461.600	IB	Do
461.625	IB	Do
461.650	IB	Do
461.675	IB	Do
461.700	IB	Do
461.725	IB	Do
461.750	IB	Do
461.775	IB	Do.
461.800	IB	Do
461.825	IB	Do
461.850	IB	Do
461.875	IB	Do.
461.900	IB	Do
461.925	IB	Do.

Footnote at end of table.

Frequency	Services	Special limitations
Megahertz		
461.950	IB	Do.
461.975	IB	Do.
462.000	IB	Do.
462.025	IB	Do.
462.050	IB	Do.
462.075	IB	Do.
462.100	IB	Do.
462.125	IB	Do.
462.150	IB	Do.
462.175	IB	Do.
462.200	IM	
462.225	IM	
462.250	IM	
462.275	IM	
462.300	IM	
462.325	IM	
462.350	IM	
462.375	IM	
462.400	IM	
462.425	IM	
462.450	IM	
462.475	IW, IP, IF, IM, IT	
462.500	IM	
462.525	IW, IP, IF, IM, IT (4)	
462.550–462.725		
462.750	IB	Base only, 1-way paging.
462.775	IB	Do.
462.800	IB	Do.
462.825	IB	Do.
462.850	IB	Do.
462.875	IB	Do.
462.900	IB	Do.
462.925	IB	Do
462.950	PS	
462.975	PS	
463.000	PS	Med 1
463.025	PS	Med 2.
463.050	PS	Med 3.
463.075	PS	Med 4.
463.100	PS	Med 5.
463.125	PS	Med 6.
463.150	PS	Med 7.
463.175	PS	Med 8.
463.200	IB	110 W.
463.225	IB	Do.
463.250	IB	Do.
463.275	IB	Do.
463.300	IB	Do.
463.325	IB	Do.
463.350	IB	Do.
463.375	IB	Do.
463.400	IB	Do.
463.425	IB	Do.
463.450	IB	Do.
463.475	IB	Do.
463.500	IB	Do.
463.525	IB	Do
463.550	IB	Do.
463.575	IB	Do.
463.600	IB	Do.
463.625	IB	Do.
463.650	IB	Do.
463.675	IB	Do.
463.700	IB	Do.
463.725	IB	Do.
463.750	IB	Do.
463.775	IB	Do.
463.800	IB	Do.
463.825	IB	Do.
463.850	IB	Do.
473.875	IB	Do.
463.900	IB	Do.
463.925	IB	Do.
463.950	IB	Do.
463.975	IB	Do.
464.000	IB	Do.
464.025	IB	Do
464.050	IB	Do.
464.075	IB	Do
464.100	IB	Do
464.125	IB	Do.
464.150	IB	Do.
464.175	IB	Do.
464.200	IB	Do.
464.225	IB	Do.
464.250	IB	Do
464.275	IB	Do
464.300	IB	Do.
464.325	IB	110 W, local control only.
464.350	IB	110 W.
464.375	IB	110 W, local control only
464.400	IB	110 W.
464.425	IB	110 W, local control only
464.450	IB	110 W
464.475	IB	110 W, local control only.
464.500	IB	35 W, itinerant use.
464.525	IB	110 W, local control only.
464.550	IB	35 W, itinerant use
464.575	IB	110 W, local control only.
464.600	IB	110 W.
464.625	IB	Do.
464.650	IB	Do.
464.675	IB	110 W, local control only.
464.700	IB	110 W.
464.725	IB	Do.
464.750	IB	Do.
464.775	IB	110 W, local control only.
464.800	IB	110 W.
464.825	IB	110 W, local control only.
464.850	IB	110 W.
464.875	IB	110 W, local control only.
464.900	IB	110 W.
464.925	IB	110 W, local control only
464.950	IB	110 W.
464.975	IB	110 W, local control only.
465.000	IB	35 W, 1-way paging
465.025	PP	
465.050	PP	
465.075	PP	
465.100	PP	
465.125	PP	
465.150	PP	
465.175	PP	
465.200	PP	
465.225	PP	
465.250	PP	
465.275	PP	
465.300	PP	
465.325	PP	
465.350	PP	
465.375	PP	
465.400	PP	
465.425	PP	
465.450	PP	
465.475	PP	
465.500	PP	
465.525	PP	Nonvoice.
465.550	PP	Do.
465.575	PF	
465.600	PF	
465.625	PF	
465.650	IB	2 W, airport use.
465.675	IB	Do.
465.700	IB	Do.
465.725	IB	Do.
465.750	IB	Do.
465.775	IB	Do.
465.800	IB	Do.
465.825	IB	Do.
465.850	IB	Do.
465.875	IB	2 W, airport use, telemetry.
465.900	IB	110 W, central station protection.
465.925	IB	Do.
465.950	IB	Do.
465.975	IB	Do.
466.000	IB	Do.
466.025	IB	110 W, mobile; directional fixed.
466.050	IB	Do.
466.075	IB	Do.
466.100	IB	Do.
466.125	IB	Do.
466.150	IB	Do.
466.175	IB	Do.
466.200	IB	Do.
466.225	IB	Do.
466.250	IB	Do.
466.275	IB	Do.
466.300	IB	Do.
466.325	IB	Do.
466.350	IB	Do.
466.375	IB	Do.
466.400	IB	Do.
466.425	IB	Do.
466.450	IB	Do.
466.475	IB	Do.
466.500	IB	Do.
466.525	IB	Do.
466.550	IB	Do.
466.575	IB	Do.
466.600	IB	Do.
466.625	IB	Do.
466.650	IB	Do.
466.675	IB	Do.
466.700	IB	Do.
466.725	IB	Do.
466.750	IB	Do.
466.775	IB	Do.
466.800	IB	Do.
466.825	IB	Do.
466.850	IB	Do.
466.875	IB	Do.
466.900	IB	Do.
466.925	IB	Do.
466.950	IB	Do.
466.975	IB	Do.
467.000	IB	Do.
467.025	IB	Do.
467.050	IB	Do.
467.075	IB	Do.
467.100	IB	Do.
467.125	IB	Do.
467.150	IB	Do.
467.175	IB	Do.
467.200	IM	Mobile only.
467.225	IM	Do.
467.250	IM	Do.
467.275	IM	Do.
467.300	IM	Do.
467.325	IM	Do.
467.350	IM	Do.
467.375	IM	Do.
467.400	IM	Do.
467.425	IM	Do.
467.450	IM	Do.
467.475	IM, IW, IP, IF, IT	Do.
467.500	IM	Do.
467.525	IM, IW, IP, IF, IT	Do.
467.550–467.725	(4)	
467.750	IB	2 W, telemetry.
467.775	IB	Do
467.800	IB	Do
467.825	IB	Do
467.850	IB	Do
467.875	IB	Do.
467.900	IB	Do.
467.925	IB	Do.
467.950	PS	Medical care dispatch.
467.975	PS	Do.
468.000	PS	Med 1.
468.025	PS	Med 2.
468.050	PS	Med 3.
468.075	PS	Med 4.
468.100	PS	Med 5.
468.125	PS	Med 6.
468.150	PS	Med 7.
468.175	PS	Med 8.
468.200	IB	110 W, mobile; directional fixed.
468.225	IB	Do.
468.250	IB	Do.
468.275	IB	Do.
468.300	IB	Do.
468.325	IB	Do.
468.350	IB	Do.
468.375	IB	Do.
468.400	IB	Do.
468.425	IB	Do.
468.450	IB	Do.
468.475	IB	Do.
468.500	IB	Do.
468.525	IB	Do.
468.550	IB	Do.
468.575	IB	Do.
468.600	IB	Do.
468.625	IB	Do.
468.650	IB	Do.
468.675	IB	Do.
468.700	IB	Do.
468.725	IB	Do.
468.750	IB	Do.
468.775	IB	Do.
468.800	IB	Do.
468.825	IB	Do.
468.850	IB	Do.
468.875	IB	Do.
468.900	IB	Do.
468.925	IB	Do.
468.950	IB	Do.
468.975	IB	Do.
469.000	IB	Do.
469.025	IB	Do.
469.050	IB	Do.
469.075	IB	Do.
469.100	IB	Do.
469.125	IB	Do.
469.150	IB	Do.
469.175	IB	Do.
469.200	IB	Do.
469.225	IB	Do.
469.250	IB	Do.
469.275	IB	Do.
469.300	IB	Do.
469.325	IB	Do.
469.350	IB	Do.
469.375	IB	Do.
469.400	IB	Do.
469.425	IB	Do.
469.450	IB	Do.
469.475	IB	Do.
469.500	IB	35 W, itinerant.
469.525	IB	110 W, mobile; directional fixed.
469.550	IB	35 W, itinerant.
469.575	IB	110 W, mobile; directional fixed.
469.600	IB	110 W.

Frequency	Services	Special limitations
Megahertz		
469.625	IB	Do.
469.650	IB	Do.
469.675	IB	110 W, mobile; directional fixed.
469.700	IB	Do.
469.725	IB	Do.
469.750	IB	Do.
469.775	IB	Do.
469.800	IB	Do.
469.825	IB	Do.
469.850	IB	Do.
469.875	IB	Do.
469.900	IB	Do.
469.925	IB	Do.
469.950	IB	Do.
469.975	IB	Do.
470.000–470.0125		
470.2875	(2)	
470–512	(1)	Available in 13 urbanized areas only in accordance with provisions of subpt. L.

[1] All services.
[2] Domestic public.
[3] Remote pickup broadcast.
[4] Citizen's class A.

[FR Doc.77-22030 Filed 8-3-77;8:45 am]

federal register

THURSDAY, AUGUST 4, 1977
PART III



CONSUMER PRODUCT SAFETY COMMISSION

■

IDENTIFICATION OF CERTAIN TOYS AND OTHER ARTICLES PRESENTING POTENTIAL PUNCTURE OR LACERATION INJURY HAZARDS DUE TO SHARP POINTS

Technical Requirements

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1500]

IDENTIFICATION OF CERTAIN TOYS AND OTHER ARTICLES PRESENTING POTENTIAL PUNCTURE OR LACERATION INJURY HAZARDS DUE TO SHARP POINTS

Proposed Technical Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed Regulation.

SUMMARY: The Commission is proposing a regulation that would establish technical requirements for toys and other articles intended for use by children under 8 years of age. These requirements would identify sharp points on such children's articles that could injure children. If the Commission identifies sharp points on particular children's articles that present an unreasonable risk of injury to children under 8 years of age, it will initiate rulemaking proceedings to ban those articles.

DATES: Comments must be received on or before September 6, 1977. The proposed effective date woud be 365 days after publication of final requirements.

ADDRESS: Send comments to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6550).

SUPPLEMENTARY INFORMATION: On January 7, 1975, the Consumer Product Safety Commission, pursuant to section 2(f)(1)(D) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261(f)(1)(D)), proposed regulations to ban toys intended for children under 8 years of age[1] that present an unreasonable risk of personal injury from puncture or laceration hazards due to sharp points (40 FR 1491). The proposed regulations also set forth test criteria for determining whether toys intended for children under 8 years of age present these hazards.

At the Commission meeting of April 7, 1977, the Commission voted to withdraw its proposed regulations and to repropose the sharp point test criteria, with certain changes, as a technical requirements regulation.

The effect of the technical requirements regulation proposed in this document, if issued in final form, would be to identify toys containing sharp points that the Commission preliminarily believes are hazardous to children under 8 years of age. Because such toys may not always present a mechanical hazard under the FHSA (section 2(s), 15 U.S.C. 1261(s)), the Commission is not proposing a regulation that would automatically classify such toys as banned hazardous substances. Instead, the Commission will regulate such toys on a product-by-product basis whenever the test procedures identify them as presenting sharp points and the Commission believes that they present a mechanical hazard as defined in the FHSA.

The Commission's reasons for its proposal of this product-by-product regulatory approach for toys with points and the manner in which the Commission will use this approach are discussed below.

RATIONALE FOR REPROPOSAL

The Commission has decided to withdraw the January 7, 1975 proposed regulation and to repropose the sharp point test criteria, with certain changes, as a technical requirements regulation for the following reasons:

1. The proposed banning regulation of January 7, 1975 and the technical requirements regulation proposed below include in their scope all products intended for children within an age span ranging from 0 to 8 years. However, the Commission believes that it would be unwise to attempt to apply a single sharp-point test criterion in a self-executing banning regulation to the numerous products which make up the play environment of children between the ages of 0 and 8 years. Sharp point tests on toys conducted by the Commission staff showed that some points which were classified sharp by the test instrument and were accessible by the criteria of the proposed regulations do not constitute an unreasonable risk of injury.

The Commission therefore believes that factors other than the tip geometry of a point, such as construction material of the point and its location on a toy and the intended use and foreseeable misuse of the toy, should be considered when making a determination that a toy presents a mechanical hazard under the FHSA (section 2(s), 15 U.S.C. 1261(s)).

2. Staff analyses of the Commission's injury data associated with products intended for children indicate that injuries to young children are predominantly lacerations, punctures and avulsions. However, many of these injuries appear to occur as a result of some form of violent activity such as swinging or throwing the product, or running and subsequently falling on it. This type of activity and the resultant potential risk of injury associated with children's products was never intended to be addressed by the proposed banning regulations of January 7, 1975. Rather, that proposal was aimed at the casual handling of toys, which includes the range of activity associated with unpacking, handling, operating, and playing with toys, including foreseeable misuse and types of play not intended by the manufacturer.

For the reasons discussed above, the Commission is proposing in the regulation below certain technical requirements for manufacturers to follow in designing and manufacturing toys without sharp points.

Toys that do not comply with the technical requirements will be reviewed by the Commission and its staff on a product-by-product basis for further regulatory action. Under this approach, toys not meeting the technical requirements would not be classified as banned hazardous substances under the FHSA until they are the subject of a completed proceeding under section 2(f)(1)(D) of the FHSA (15 U.S.C. 1261). In contrast, under the approach that was proposed in January 1975, toys not meeting the sharp point test criteria would have been automatically banned.

The Commission believes that consumers, state and local governments, and other interested persons should be given an opportunity to comment on the technical requirements regulation followed by a product-by-product banning approach before the Commission adopts it.

BACKGROUND

In response to the Commission's January 1975 proposed regulations on sharp points, comments were received from 29 individual toy manufacturers or importers, seven trade associations, two retailers, two consumers, one consumer group, one nonprofit organization, and one unidentifiable commentor.

The Commission's responses and conclusions to the major issues raised in the comments that are pertinent to the proposal are discussed below.

1. *Injury data.* In response to comments that injuries reflected in the Commission's National Electronic Injury Surveillance System (NEISS) are not caused by toys themselves but are merely associated with the toy, the Commission believes some commentors may have misunderstood how the Commission uses NEISS surveillance data.

The Commission points out that NEISS surveillance data are primarily an indicator of need and not a justification for regulation because NEISS does not distinguish between product-caused and product-related injuries and does not identify whether an injury resulted from the normal use or the reasonably foreseeable misuse of a product. Such information is obtained through in-depth investigations that are performed by the Commission. However, NEISS surveillance data provide information on the type and severity of injuries and the ages of those being injured. Therefore, NEISS data are only one factor the Commission uses in making its findings of an unreasonable risk of injury pursuant to the FHSA. In addition, the Commission offers the following explanation of how NEISS surveillance data are applicable to the regulation proposed below.

A review of NEISS injury data indicates that a substantial number of children under 8 years of age are receiving laceration and puncture injuries from toy-related accidents. In calendar year 1976 an estimated 43,300 children under 8 years of age were treated in hospital emergency rooms for such injuries.

In order to determine the extent to which lacerations and punctures are occurring from toys intended for children under 8 years of age, the Commission staff divided toys into the following three categories.

a. Toys primarily intended for use by children under the age of 8 years.

b. Toys primarily intended for use by children 8 years to 14 years of age.

c. Toys intended for use by children in both age groups.

Of the estimated 43,300 injuries treated in 1976, an estimated 9,000 were associated with products intended specifically for use by children under 8 years of age. An additional 30,800 injuries were associated with products intended for use by children in both the under 8 year and in the 8-to-14 year age groups.

In addition based on NEISS estimates, laceration and puncture injuries accounted for over half (approximately 53 percent) of all toy related injuries to children under 8 years of age.

The Commission points out that injuries of the type addressed by the regulation being proposed are serious enough to require emergency room treatment as shown by the fact that NEISS surveillance data are obtained from reports of injuries that are treated in hospital emergency rooms. The Commission believes that a purchaser of toys for children under 8 years of age does not expect such articles to cause laceration or puncture injuries to the children using them. The Commission therefore finds toys that can puncture or lacerate skin and cause bleeding, during normal use or reasonably foreseeable misuse, constitute an unreasonable risk of injury.

The Commission recognizes some commentors were concerned that reports of punctures accounted for a small percentage of the reported toy-related injuries reflected in the January 7, 1975 proposal. The Commission points out that many puncture wounds, however, are often reported in NEISS as foreign body lodgments or lacerations. Further, the proposed regulation below is directed also to the reduction of laceration injuries.

The Commission finds that while many toy-related puncture and laceration injuries may be scratches and finger pricking causing minor bleeding, there are a sufficient number of injuries which are more severe. Such injuries warrant the adoption of reasonable regulations to reduce or eliminate their occurrence.

The Commission emphasizes that the proposed technical requirements are intended to set a standard of safety to reduce the risks of injury not only for the products currently available to young children but also fort he new and redesigned products for which there is no hazard experience data available to the Commission. The Commission estimates that between 3,000 to 5,000 new children's products are introduced into the marketplace each year. It is anticipated therefore that the technical requirements proposed below will reduce the occurrence of puncture and laceration injuries associated with the new products that will be available for children.

The injury reports and the Commission staff's analysis of injuries related to sharp points on toys may be seen in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C., during working hours Monday through Friday

2. *Sharp point test criteria.*—a. *Sharp point tester.* The proposed January, 1975 regulations prescribed a sharp point tester developed for the Commission by the National Bureau of Standards (NBS). The sharp point tester was designed to distinguish, on the basis of sharpness, between the sharp and dull points that children can contact during the casual handling of toys. Casual handling includes the range of activity associated with unpacking, handling, operating, and playing with toys, including foreseeable misuse andother types of play not intended by the manufacturer. While foreseeable misuse certainly includes the throwing or swinging of toys at high velocities, under those conditions, the degree of injury that results is more a function of velocity than the detailed geometry of the point. Thus, this regulation stops short of considering the highest forces that may be involved in children's play. NBS data indicated that a force of 16.5 pounds was reasonably representative of the forces commonly involved in the handling of toys by children under 8.

In determining the sharpness of various points to develop the sharp point tester, NBS considered data from three sources:

i. Subjective evaluation by 50 adult males and 50 adult females (nonphysicians) of the sharpness of a set of manufactured conical metal points. The 100 adults rated each point as either too sharp, intermediate, or sufficiently dull for use in children's toys under casual handling conditions.

ii. Subjective evaluation by 37 physicians of a similar set of conical points. The physicians rated each point as acceptable or unacceptable for use in children's toys under casual handling conditions.

iii. Actual skin puncture tests performed with the metal points used in the subjective evaluation tests. The skin puncture tests, performed on both human cadaver skin and pigskin samples, were designed to determine what combinations of force and point configuration are necessary to cause punctures that penetrate human skin.

The results from the two groups in the subjective evaluation tests and the results of the skin puncture tests indicated a similar demarcation between sharp and dull points. From these results, NBS developed a sharp point tester capable of judging the sharpness of a point of any shape based on its penetration into a gaging slot of specified width, length, and depth. This tester was included in the sharp point test method proposed on January 7, 1975 by the Commission.

The gaging slot dimensions for the tester found by NBS to best distinguish between points that are sharp and dull to children were a slot with a width of 0.040 inch and a penetration depth allowance of 0.020 inch. The dimension for slot length was based on the NBS conclusion that if two edges of a piece of sheet metal meet at an included angle of 120 degrees or less, a point exists. Using this conclusion and the penetration depth allowance of 0.020 inch, a gaging slot length of 0.070 inch was selected to classify as sharp a 120-degree corner on sheet metal if it has no tip radius.

NBS also incorporated as part of the tester's operation a 0.5 pound spring which a test point must override before an indication is made that the point is sharp. NBS determined that if a point was flexible and could not retain its shape under a force of 0.5 pound than the point would be incapable of puncturing skin.

b. *Articulated probe.* A three-knuckle articulated probe, designed by Underwriters Laboratories (UL) to simulate the penetration of a finger into a small slot or hole, was specified in the proposal on January 7, 1975 for use in determining the accessibility of sharp points to children. A point that is accessible to this probe was determined to be accessible to a child and therefore subject to the sharp point test. The dimensions for the probe were based on the depth of penetration of fingers into slots and holes having respective widths and diameters ranging from 0.125 inch to 1.0 inch. The penetration data wre taken from a study of the finger penetration ability of 100 adult males, 100 adult females, and 100 children. The dimensions used to construct the probe were set so that no more than five percent of the group with the greatest finger penetration (adult females) could reach into the slots and holes to a length greater than that of the probe.

c. *Use and abuse test procedures.* The proposed regulations referenced Commission regulations that prescribe test procedures for simulating the use and abuse of toys and games (16 CFR 1500.50 through 1500.53, published in the FEDERAL REGISTER on January 7, 1975 (40 FR 1480)). These tests are performed in order to simulate the normal use and reasonably foreseeable damage or abuse that is included in the statutory definition of mechanical hazard.

As the regulations were originally proposed, any toy intended for children under 8 years of age would be classified as a hazardous substance and, therefore, a banned hazardous substance if such toy failed to comply with the accessibility and sharp point test method before or after being subjected to the appropriate use and abuse tests.

d. *Skin puncture tests.* i. The Commission received several comments to the

[1] The Commission intends that the scope of this technical requirements regulation will include other articls intended for use by children under 8 years of age as well as toys. However in an effort to simplify reading the preamble, the term toy(s) hereafter will be used inclusively for both toys and other articles intended for use by children.

January 7, 1975 proposal which criticized the use of the skin puncture tests NBS performed on human cadaver skin and pigskin samples to establish the test criteria. These tests and other NBS tests described previously have resulted in a determination of what sharpness of metal points is undersirable for use in any toy. The NBS tests are described in NBS report 10739 [2] which may be seen in the Office of the Secretary.

The Commission points out that the NBS skin puncture tests identified as sharp certain conical metal points in a set of 35 such points and that NBS designed a tester that discriminates these conical metal points from points that NBS identified as dull. Such sharp points correlate with the conical metal points that, as described previously, 100 nonphysician adults and 37 physicians determined subjectively to be too sharp for use in children's toys during casual handling. In addition, the Commission has already concluded that points on toys that can puncture or lacerate skin and produce bleeding during normal use or reasonably foreseeable misuse constitute an unreasonable risk of injury. The Commission therefore concludes that there is sufficient research on which to base the technical requirements regulation being proposed below.

ii. Some comments to the January 7, 1975 proposal questioned the technical validity of the skin puncture tests because such tests were conducted on skin samples backed by a rigid plate. The Commission points out that in several places on a child's anatomy (knuckles, forehead, etc.) the resiliency of subdermal tissue is at a minimum and the dermal layer is backed by a rigid bone structure. Therefore, the tests represented certain real-life conditions. In addition, it is difficult to duplicate the resistance to punctures afforded by the resiliency of all of the dermal and subdermal tissue and still maintain the repeatability of the skin puncture tests. The Commission finds no reason to discount the technical validity of the NBS skin puncture research and therefore does not accept the comments.

iii. Additional commentors alleged that the physical properties of skin have not been identified sufficiently to correlate the variations of skin support conditions in both pigskin and human cadaver skin, and that, therefore, the NBS research does not support the test requirements in the sharp point proposal of January 7, 1975.

Based on a NBS literature search of 28 current publications on the subject, the use of skin samples from one preselected area of the skin surface, and medical consultations, the Commission finds that NBS has addressed the various differences between human and animal skin and has established preliminary relationships. Accordingly, the Commission concludes that sufficient studies of skin support conditions have been made to support the type of regulation proposed below.

e. *Force level.* NBS has indicated that during normal use or reasonably foreseeable use of toys, a 5-year-old child can exert a force of at least 16.5 pounds. Many of the commentors questioned NBS's selection of 16.5 pounds as being representative of the force that may be generated by children playing with toys. These commentors believe that this force is greater than the force level that a child could normally exert when playing with toys and twelve commentors believe it is impractical to expect a child to apply 16.5 pounds to a point.

The Commission disagrees with the commentors and points out that the NBS report on the skin puncture potential of points (identified above in footnote 2) indicates that 5-year-old children can exert a force of 16.5 pounds. Further, NBS classified the set of conical points into sharp and dull groups according to tests of the points' skin-puncture potential at 16.5 pounds. NBS noted a strong similarity between the classification of points by their puncture potential at 16.5 pounds and the classification of the same points into sharp and dull groups by the subjective evaluation tests.

Although it is difficult to determine the exact level of force that children will generate when playing with toys, the Commission finds that children at play engage in many activities such as grabbing, holding, crawling, sitting, and rolling that can result in high forces being unintentionally exerted. The Commission therefore finds that the 16.5-pound force used by NBS to define the skin-puncture potential of the conical points is representative of the level of force that can be generated by children playing with toys.

Regarding the criticism that there are inconsistent force levels in the sharp point regulations proposed on January 7, 1975, the use and abuse regulations (16 CFR 1500.50 through 1500.53), and the proposed regulations for sharp edges on toys (16 CFR 1500.18(a)(16) and 1500.47) published in the FEDERAL REGISTER on January 7, 1975 (40 FR 1488), the Commission notes that the proposed sharp edge regulations have not been issued as final regulations and the force level utilized in those regulations may ultimately be changed in response to public comments. Because the merits of that determination should not be addressed in this proceeding, the Commission finds that the comment cannot be further considered at this time.

The Commission finds no inconsistency between the force levels proposed as part of the sharp point test criteria in the regulation below and the maximum levels of force prescribed in the use and abuse regulations because the two are designed to approximate different actions of a child. The sharp point test criteria in the regulation proposed below are derived in part from data related to the gripping strength of young children and the tensile forces specified in the use and abuse regulations are derived from data related to the pulling-strength capabilities of children in designated age groups.

CHANGES TO PROPOSED REGULATION

1. *Test criteria.* In response to public comments and based on continuing staff analysis of the proposal of January 7, 1975, the Commission (a) modified one dimension of the sharp point test instrument, (b) included a test-application force and (c) revised the accessibility criteria by developing two new accessibility test probes. These changes and the reasons supporting them are discussed below in paragraphs 2, 3 and 4.

2. *Sharp point test instrument.* NBS developed a sharp point test instrument that judged the sharpness of a point based on its penetration into a gaging slot of specified width, length, and depth. This tester was included in the sharp point test procedure proposed on January 7, 1975 by the Commission.

As discussed above in paragraph 2—a under the heading "Background," the gaging slot dimensions for the tester found by NBS to best distinguish between points that are sharp and dull to children were a slot with a width of 0.040 inch, a penetration depth allowance of 0.020 inch, and a length of 0.070 inch.

Based on Commission staff recommendations and additional tests conducted on a sample of toys with sharp point test instruments having gaging slots of various lengths, the Commission conclues that a reduction in the length of the gaging slot from 0.070 inch to 0.045 inch is appropriate to identify sharp corners on toys. Such a slot length will identify sharp right-angle corners which have not been rounded-off that the Commission believes present a puncture or laceration hazard. Accordingly, the gaging slot in the sharp point test instrument in the proposed regulation below has been modified to include a rectangular gaging slot measuring 0.040 inch in width, 0.045 inch in length and 0.020 inch in depth.

Detailed engineering drawings for a suggested sharp point tester described in proposed § 1500.48 below are available at a minimum cost from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

3. *Sharp point test-application force.* In response to a commentor's suggestion, the Commission has established a maximum force of 1.0 pound that may be applied to a point when it is inserted into the gaging slot of the tester. The commentor contended and the Commission staff verified, that if excessive force was used when applying a point to the sharp point tester some points with configurations that barely prevent entry into the gaging slot may be shaved or extruded and cause a false indication of sharpness. Section 1500.48(d)(2)(iii) below now includes the 1.0 pound test-application force.

4. *Accessibility criteria.*—a. *Probes.* In reexamining the research supporting the proposed articulated probe, the Commission finds that the probe, designed by UL, was intended to prevent electric shock where simple contact results in serious injury. UL based the design of the articulated probe on the finger penetration depth of 100 adult males, 100 adult females, and 100 children. The Commission therefore has redrafted the accessibility criteria to simulate only accessibility for children's fingers.

The Commission selected the anthropometric measurements [3] of young children for the lengths and the diameters of the small and middle fingers as well as the dimensions for hand clearance. Because children up to the age of 8 years are in a period of rapid growth, the anthropometric measurements were divided into two age groups—0 to 3 years and over 3 years up to 8 years of age.

To insure protection of the greatest number of children in each age group, the Commission selected anthropometric measurements that reflect the following assumptions:

i. That the younger children in each age group have narrower hands and therefore can reach into openings which would be inaccessible to an older child.

ii. That the older children in each age group have longer fingers and therefore can touch the inside components of toys which would be inaccessible to a younger child.

Furthermore, anthropometric data are not available for the dimensions of a child's index finger. Those dimensions have been approximated by averaging the respective dimensions of the small and middle fingers of children in the two age groups.

In the 0 to 3-year age group, measurements for a fifth-percentile 3-month-old's small and middle fingers were averaged and used to approximate the diameter of the index finger. Measurements for a 95th-percentile 3-year-old's small and middle fingers were averaged and used to approximate the length of the index finger. The minimum hand-clearance measurement of a fifth-percentile 3-month-old child was selected. These measurements were then used to define the dimensions of probe A.

For explanatory purposes, the various percentiles refer to how the size and proportions of one child within a particular age range compare with respect to the size and proportions of other children in the same age range. For example, a fifth-percentile 3-month-old child represents a child of this age, the size of whom is such that 95 percent of the children of the same age are larger and only five percent are smaller.

Similarly for the over 3-year to 8-year age group, measurements for the small and middle fingers of a fifth-percentile child 37–42 months of age were averaged and used to approximate the diameter of the index finger. Measurements for the small and middle fingers of a 95th-percentile child 85–96 months of age were averaged and used to approximate the length of the index finger. The minimum hand-clearance dimensions for a fifth-percentile child 37–42 months of age were selected. These dimensions were then used to define the dimensions of probe B.

Accordingly, probes A and B shown in figure 2 of the regulation below are to be used as follows:

Probe A is to be used to determine the accessibility of points in holes, recesses, or openings on toys intended for children 3 years of age or less.

Probe B is to be used to determine the accessibility of points in holes, recesses, or openings on toys intended for children over 3 years up to 8 years of age.

The Commission notes that the accessibility probes are articulated in two rather than three places, as was the proposed articulated probe, because only two finger joints customarily go through an opening that will not accept the entire hand.

Detailed engineering drawings to enable the construction of the redesigned accessibility probes shown in figure 2 of the regulation below are available at a minimal cost from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Based on staff recommendations and the anthropometric measurements from the University of Michigan study on the physical characteristics of children (cited in footnote 3, above) for two age groups—0 to 3 years and over 3 years up to 8 years of age, the Commission has defined accessibility for holes, recesses, and openings on toys and other children's articles as follows (holes, recesses, and openings will be referred to hereafter in this paragraph 4 as openings).

b. *Finger access.* Section 1500.48(c)(3)(i) of the proposed regulation provides that access into openings large enough to accept a child's hand and arm but too small to admit the child's torso (body trunk) shall be determined by the dimensions of the entrance of the opening. Such openings include openings that are larger than the width of a child's hand but smaller than the breadth of a child's shoulders. For the reasons given below, the Commission finds that a depth-of-insertion factor of two and one-quarter multiplied by the minor dimension of an opening is appropriate to determine the accessibility of points in such openings.

The Commission defines a minor dimension of an opening as the diameter of the largest sphere that will pass through the opening. The minor dimension of an opening can be determined by using a pair of calipers. This dimension multiplied by two and one-quarter determines the maxium depth of insertion for accessibility.

The Commission points out that the value of two and one-quarter is the approximate average of the ratio of arm length to shoulder breadth for a 50th percentile child in each of the two age groups—0 to 3 years and over 3 years to 8 years of age. For example, the depth of insertion into an opening with a minor dimension slightly smaller than the breadth of a child's shoulders will be slightly less than the length of the child's arm.

The Commission notes that the detachable extensions of the accessibility (finger) probes shown in figure 2 of the regulation below correlate with the dimensions discussed above and are therefore appropriate for determining the accessibility of points recessed in openings that are larger than the diameter for hand clearance but smaller than the dimension for shoulder breadth. For testing purposes, the appropriate insertion depth should be marked on the probe extension by any suitable means and is the distance from that mark to the tip, of the simulated finger. The probe, attached to the probe extension, should be inserted in any direction into the opening up to the depth of the previously made mark. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement and any point that can be contacted by the finger portion of the probe, forward of the probe collar, shall be considered accessible.

d. *Total accessibility.* The Commission has decided that openings larger than the breadth of a child's shoulders shall be considered totally accessible.

For the 0 to 3-year age group, the Commission believes that a shoulder breadth measurement of 7.36 inches is appropriate. This measurement represents a fifth-percentile one-year-old child, since children who are under one-year of age are less mobile and therefore are less likely

the youngest age category is 0–3 months of age and for the over 3-year to 8-year age group, the youngest age category is 37–42 months of age.

c. *Hand access but not shoulder access.* Section 1500.48(c)(3)(ii) of the proposed regulation provides that access into openings large enough to accept a child's hand and arm but too small to admit the child's torso (body trunk) shall be determined by the dimensions of the entrance of the opening. Such openings include openings that are larger than the width of a child's hand but smaller than the breadth of a child's shoulders. For the reasons given below, the Commission finds that a depth-of-insertion factor of two and one-quarter multiplied by the minor dimension of an opening is appropriate to determine the accessibility of points in such openings.

The Commission defines a minor dimension of an opening as the diameter of the largest sphere that will pass through the opening. The minor dimension of an opening can be determined by using a pair of calipers. This dimension multiplied by two and one-quarter determines the maxium depth of insertion for accessibility.

The Commission points out that the value of two and one-quarter is the approximate average of the ratio of arm length to shoulder breadth for a 50th percentile child in each of the two age groups—0 to 3 years and over 3 years to 8 years of age. For example, the depth of insertion into an opening with a minor dimension slightly smaller than the breadth of a child's shoulders will be slightly less than the length of the child's arm.

The Commission notes that the detachable extensions of the accessibility (finger) probes shown in figure 2 of the regulation below correlate with the dimensions discussed above and are therefore appropriate for determining the accessibility of points recessed in openings that are larger than the diameter for hand clearance but smaller than the dimension for shoulder breadth. For testing purposes, the appropriate insertion depth should be marked on the probe extension by any suitable means and is the distance from that mark to the tip, of the simulated finger. The probe, attached to the probe extension, should be inserted in any direction into the opening up to the depth of the previously made mark. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement and any point that can be contacted by the finger portion of the probe, forward of the probe collar, shall be considered accessible.

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For the 0 to 3-year age group, the Commission believes that a shoulder breadth measurement of 7.36 inches is appropriate. This measurement represents a fifth-percentile one-year-old child, since children who are under one-year of age are less mobile and therefore are less likely

[2] "The skin Puncture Potential of Points Associated With Certain Toys," dated April 27, 1972.

[3] All measurements were obtained from the University of Michigan's study, "Physical Characteristics of Children as Related to Death and Injury for Consumer Product Design and Use" (Highway Safety Research Institute, The University of Michigan, Ann Arbor, Mich. 48105).

to climb into cavities than children who are one-year of age or older.

For the over 3-year to 8-year age group, the Commission believes that a shoulder breadth measurement of 9.00 inches is appropriate. This measurement represents a fifth percentile child in the age category of 37–42 months.

The Commission believes that since significant growth occurs within the 0 to 3-year and the over 3-year to 8-year age groups, the measurements of 7.36 and 9.00 inches, respectively, provide an appropriate margin of safety in the tests for accessibility.

The Commission believes that for toys intended for children 0 to 3-years of age, access into openings with a minor dimension (defined above in paragraph 4c) of 7.36 inches or larger shall be considered totally accessible to a child. For toys intended for children over 3 years to 8 years of age, access into openings with a minor dimension of 9.00 inches or larger shall be considered totally accessible to a child. Because openings that are totally accessible to children in the 0–8 years age span may contain smaller openings that are not totally accessible to such children, access into these smaller openings shall be determined by the appropriate procedures explained above in paragraphs 4 b or c.

e. *Inaccessible points.* From the results of sharp point tests conducted on a representative sample of toys, the Commission observes that tabs, wires and other protrusions do not present a puncture or laceration hazard if such protrusions are flush with a protecting surface which is part of the toy. The Commission therefore has decided that a point shall be considered inaccessible if it is protected by an adjacent surface and any gap between the point and the adjacent surface does not exceed 0.020 inch, either before or after application of the appropriate use and abuse test procedures (16 CFR 1500.50 through 1500.53).

Accordingly, the accessibility criteria explained above in this paragraph 4 is included below in proposed § 1500.48(c).

5. *Product-by-product regulatory approach.* The technical requirements regulation concerning toys containing points is proposed under the authority of section 10 of the FHSA as a regulation for the efficient enforcement of the FHSA. Like the use and abuse regulations (16 CFR 1500.50 through 1500.53), the proposed regulation would establish testing criteria but would not itself ban any toy intended for children under 8 years of age. The testing criteria include the sharp point test instrument, the accessibility probes, and the use and abuse tests. If any toy contains points that are identified as sharp, the Commission and its staff will evaluate the toy to determine if it presents a mechanical hazard.

If any such toy does appear to present a mechanical hazard under section 2(s) of the FHSA, the Commission will propose that it be classified as a hazardous substance (and thus a banned hazardous substance) according to sections 2(f)(1)(D), 2(q)(1)(A), and 3(e)(1) of the FHSA (15 U.S.C. 1261, 1262). Interested persons will be notified of the proposal and will have an opportunity to comment to the Commission, in accordance with the Administrative Procedure Act (5 U.S.C. 553). Notification will be by publication of the proposal in the FEDERAL REGISTER or by actual notice to the manufacturer of the affected toy, with notice to the general public, where appropriate. After the Commission and its staff evaluate all comments received, the Commission will issue a final regulation classifying the toy as a hazardous substance (and thus a banned hazardous substance) if the Commission believes that the toy presents a mechanical hazard.

If the Commission decides that a toy containing a point, identified as sharp by the test criteria, does not present a mechanical hazard, the Commission will not initiate regulatory action against that toy.

For example, the Commission notes that certain toys manufactured from soft plastics, such as one some polyethylenes, have molded-in protrusions which indicate a sharp point when tested, but which in reality are too flexible to cause a puncture or laceration injury (e.g., the thin bayonet of certain plastic toy soldiers). The Commission recognizes that the test instrument is not always able to distinguish between soft plastic points that do or do not present a mechanical hazard to children under 8 years of age. However, the Commission is proposing in this document a regulation establishing technical requirements applicable to toys which may contain hazardous sharp points regardless of the material composition of those toys. Since this proposed regulation does not contain automatic banning provisions, the Commission will review those toys which fail the sharp point test criteria on a product-by-product basis. The Commission therefore encourages manufacturers of children's products to make every effort to insure that their product lines comply with the technical requirements because products which fail the test criteria may be subject to additional regulatory action, which may lead to those products being declared banned hazardous substances.

6. *Use and abuse test procedures.* The proposed regulation below would require testing for sharp points before and after application of the appropriate use and abuse test procedures (16 CFR 1500.50 through 1500.53). These test procedures, published as final regulations in the FEDERAL REGISTER of January 7, 1975 (40 FR 1480), do not in and of themselves ban toys and games. Rather, they are for use in exposing potential hazards that result from the normal use or the reasonably foreseeable damage or abuse to which toys and games may be subjected.

The use and abuse test procedures are to be used whenever they are referenced in regulations that are issued pursuant to the FHSA. Such regulations may identify particular mechanical hazards as defined by section 2(s) of the FHSA, which provides, in part, that (a toy) may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury from points.

Bite tests for various age categories are among the Commission's use and abuse test procedures for simulating normal use or reasonably foreseeable damage or abuse. With regard to the bite tests, the Commission finds, based on staff recommendations, that there is some doubt whether children can bite at the force levels specified in each of the bite tests and maintain these forces for the specified ten seconds.

The Commission's research for the bite test procedures and force levels included a study by Dr. Wilton M. Krogman.[4] A copy of the study by Dr. Krogman may be seen in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

After reconsidering the Krogman study and the staff's recommendations, the Commission concludes that the bite tests prescribed by §§ 1500.51(c), 1500.52(c), and 1500.53(c) should not be referenced in the proposed regulation below.

EXEMPTIONS

1. *Individual products.* In the case of both bicycles and baby cribs, the Commission notes that these products are covered by comprehensive FHSA regulations that address the hazard of sharp points. Therefore, the Commission proposes to exempt from the technical requirements regulation the bicycles and baby cribs in categories that are addressed in the following three sets of individual product banning regulations:

a. Full-size baby cribs (16 CFR 1500.18(a)(13) and Part 1508) promulgated in the FEDERAL REGISTER of November 21, 1973 (38 FR 32129).

b. Bicycles (16 CFR 1500.18(a)(12) and Part 1512), amended November 13, 1975 (40 FR 52815 and 52828), published in the FEDERAL REGISTER in entirety as amended January 28, 1976 (41 FR 4144) and corrected (printer's error) February 6, 1976 (41 FR 5386).

c. Non-full-size baby cribs (16 CFR 1500.18(a)(14) and Part 1509) promulgated in the FEDERAL REGISTER of February 12, 1976 (41 FR 6238).

2. *Model and craft kits.* An industry association requested that any sharp point regulation exempt model and craft kits because the data, test methods, and other criteria on which the regulation would be based are wholly inapplicable and irrelevant to the essential nature and use patterns of such kits.

The Commission considers adding such an exemption unnecessary because most children under 8 years of age do not have the dexterity and the reading

[4] "Manual and Oral Strengths of American White and Negro Children, Ages 3–6," by Dr. Wilton Krogman (the study by Dr. Krogman, dated September 1, 1971, was sponsored by the Closure Committee of the Glass Container Manufactuers Institute, Inc.).

ability necessary for assembling complicated model and craft kits. The Commission believes also that model and craft kits in the marketplace today are usually not intended for use by children under 8 years of age. Therefore, the Commission finds that such kits are excluded from the scope of the proposed regulation below.

For purposes of the exclusion, the Commission recognizes that model and craft kits are articles containing components which may be unfinished and which require assembly or other necessary processing by the user in order to arrive at a finished product.

3. *Toys and other articles with functional sharp points.* The Commission is proposing to exempt from the technical requirements those toys that have sharp points by reason of their functional purpose, such as needles for toy sewing machines, provided the toy is identified by a conspicuous, legible, and visible label as having sharp points. The Commission is also proposing an exemption for other children's articles that have sharp points by reason of their functional purpose, such as tips on writing instruments. For purposes of both exemptions, non-functional sharp points may not be present on the toy or other article.

PREEMPTION

Section 18(b)(1)(B) of the FHSA, as amended, states:

"Except as provided in paragraphs (2), (3), and (4), if under regulations of the Commission promulgated under or for the enforcement of section 2(q) a requirement is established to protect against a risk of illness or injury associated with a hazardous substance, no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.

The regulations proposed below are requirements established to protect against the hazard of sharp points on toys intended for children under 8 years of age and they are Commission regulations issued for the enforcement of section 2(q) of the FHSA. Therefore, if the regulations proposed below are issued in final form, the Commission believes and intends that state and local governments would be prohibited from establishing or enforcing any non-identical requirement that addresses the hazard of sharp points on toys intended for children under 8.

The Commission's proposed regulations are "technical requirements" that establish manufacturing criteria for toys intended for children under 8. As long as states or local governments use these same criteria it regulate such toys, their regulations would be considered to be identical to the Commission's regulations. Even if a state or local government were to impose different penalties or use different procedures to regulate toys, there would be no preemption as long as the manufacturing criteria were identical. As an example, if a state were to ban automatically any toy not meeting the criteria, the Commission's position is that such a ban is not preempted by the Commission's technical requirements.

EFFECTIVE DATE

It is contemplated that the effective date will be 365 days from publication of a final regulation establishing technical requirements to identify toys with potentially hazardous sharp points for all products subject to the regulation and introduced into interestate commerce after that date. For purposes of the regulation, introduction into interstate commerce is defined as follows: A toy manufactured outside the United States is introduced into interstate commerce when it is first brought within a U.S. port of entry. A toy manufactured in the United States is introduced into interstate commerce (a) at the time of its first interstate sale, or (b) at the time of its first intrastate sale if one or more of its components and/or raw materials were received interstate.

ENVIRONMENTAL CONSIDERATIONS

An assessment of the potential environmental impact has been made of proposed § 1500.48 establishing technical requirements to identify toys and other articles that are intended for use by children under 8 years of age and that have sharp points presenting a potential puncture or laceration injury hazard. The Commission concludes that there are no potentially significant environmental impacts associated with the proposal. Therefore, there is no need for an environmental impact statement. A copy of the environmental assessment is on file at the Commission and may be inspected at the Office of the Secretary.

METRIC CONVERSION

Throughout the regulation English figures are used. The metric approximations in parentheses are included for convenience and information only.

THE PROPOSAL

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(s), 10(a), 74 Stat. 378 (15 U.S.C. 1261, 1269)) in accordance with the provisions of 5 U.S.C. 553, and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a))), the Commission proposes to amend 16 CFR Part 1500 by adding a new § 1500.48, as follows:

§ 1500.48 Technical requirements for determining a sharp point in toys and other articles intended for use by children under 8 years of age.

(a) *Objective.* The sharp point test prescribed by paragraph (d) of this section will be used by the Commission in making a preliminary determination that points on toys and other articles intended for use by children under 8 years of age, and such points exposed in normal use or as a result of reasonably foreseeable damage or abuse of such toys and articles, present a potential risk of injury by puncture or laceration under section 2(s) of the Federal Hazardous Substances Act (15 U.S.C. 1261(s)). The Commission will further evaluate points that are identified as presenting a potential risk of puncture or laceration injury to determine the need for individual product regulatory action.

(b) *Scope.*—(1) *General.* The sharp point test of paragraph (d) of this section is applicable to toys or other articles that are introduced into interstate commerce on or after (365 days after the publication in the FEDERAL REGISTER of a final regulation). The sharp point test shall be applied to any portion of the test sample before and after subjecting the test sample to the use and abuse tests of §§ 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section).

(2) *Exemptions.* (i) Toys and other children's articles that are the subject of any of the following regulations are exempt from this § 1500.48: The regulations for bicycles, non-full-size baby cribs, and full-size baby cribs (Parts 1508, 1509, and 1512 of this chapter).

(ii) Toys that by reason of their functional purpose necessarily present the hazard of sharp points and that do not have any nonfunctional sharp points are exempt from this § 1500.48: *Provided,* Each toy is identified, by a conspicuous, legible, and visible label at the time of any sale, as having functional sharp points. An example of such toys is a toy sewing machine with a needle.

(iii) Articles, besides toys, intended for use by children that by reason of their functional purpose necessarily present the hazard of sharp points and that do not have any nonfunctional sharp points are exempt from this § 1500.48. An example of such articles is a ball-point pen.

(c) *Accessibility*—(1) *General.* Any point that is accessible either before or after the tests of §§ 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section) are performed shall be subject to the sharp point test of paragraph (d) of this section.

(2) *Accessible points.* (i) An accessible point for a toy or article intended for children 3 years of age or less is one that can be contacted by any portion forward of the collar of the accessibility probe designated as probe A in figure 2 of this section.

(ii) An accessible point for a toy or article intended for children over 3 years up to 8 years of age is one that can be contacted by any portion forward of the collar of the accessibility probe designated as probe B in figure 2 of this section.

(iii) An accessible point for a toy or article intended for children of ages spanning both age groups is one that can be contacted by any portion forward of the collar of either probe A or B, as shown in figure 2 of this section.

(3) *Insertion depth for accessibility.* (i) For any hole, recess, or opening having a minor dimension [6] smaller than the collar diameter of the appropriate probe, the total insertion depth for accessibility shall be up to the collar on the appropriate probe. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement.

(ii) For any hole, recess, or opening having a minor dimension larger than the collar diameter of probe A but less than 7.36 inches (186.9 millimeters), when probe A is used, or a minor dimension larger than the collar diameter of probe B but less than 9.00 inches (228.6 millimeters), when probe B is used, the total insertion depth for accessibility shall be determined by inserting the appropriate probe with the extension shown in figure 2 in any direction up to two and one-quarter times the minor dimension of the hole, recess, or opening, measured from any point in the plane of the opening. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement.

(iii) For any hole, recess, or opening having a minor dimension of 7.36 inches (186.9 millimeters) or larger when probe A is used, or a minor dimension of 9.00 inches (228.6 millimeters) or larger when probe B is used, the total insertion depth for accessibility is unrestricted unless other holes, recesses, or openings within the original hole, recess, or opening are encountered with dimensions specified in paragraph (c) (3) (i) or (ii) of this section. In such instances, the appropriate paragraphs (c) (3) (i) or (ii) of this section shall be followed. If both probes are to be used, a minor dimension that is 7.36 inches (186.9 millimeters) or larger shall determine unrestricted access.

(4) *Inaccessible points.* Points shall be considered inaccessible without testing with a probe if they lie adjacent to a surface of the test sample and any gap between the point and the adjacent surface does not exceed 0.020 inch (0.50 millimeter) either before or after the tests of §§ 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section) are performed.

(d) *Sharp point test method*—(1) *Principle of operation.* The principle of operation of the sharp point tester shown in figure 1 of this section is as follows: A rectangular opening measuring a maximum of 0.040 inch (1.02 millimeters) wide by 0.045 inch (1.15 millimeters) long in the end of the slotted cap establishes two reference dimensions. Depth of penetration of the point being tested determines sharpness. If the point being tested can contact a sensing head that is recessed a minimum distance of 0.015 inch (0.38 millimeter) below the end cap and can move the sensing head a further 0.005 inch (0.12 millimeter) against a 0.5-pound (2.2-newton) force of a return spring, the point shall be identified as sharp. A sharp point tester of the general configuration shown in figure 1 of this section or one yielding equivalent results shall identify a sharp point. In conducting tests to determine the presence of sharp points, the Commission will use the sharp point tester shown in figure 1 of this section and the accessibility probes designated as A or B in figure 2 of this section.

(2) *Procedure.* (i) The sample to be tested shall be held in such a manner that it does not move during the test.

(ii) Part of the test sample may need to be removed to allow the sharp point testing device to test a point that is accessible by the criteria of paragraph (c) of this section. Such dismantling of the test sample could affect the rigidity of the point in question. The sharp point test shall be performed with the point supported so that its stiffness approximates but is not greater than the point stiffness in the assembled sample.

(iii) Using the general configuration shown in figure 1 of this section, the adjustment and operation of the sharp point tester is as follows: Hold the sharp point tester and loosen the lock ring by rotating it so that it moves towards the indicator lamp assembly a sufficient distance to expose the calibration reference marks on the barrel. Rotate the gaging cap clockwise until the indicator lamp lights. Rotate the cap counterclockwise until an equivalent of five divisions (the distance between the short lines on the cap) have passed the colibration reference mark. Lock the gaging cap in this position by rotating the lock ring until it fits firmly against the cap. Insert the point into the gaging slot in all directions in which it was accessible by the criteria of paragraph (c) of this section, and apply a force of not more than 1.00 pound (4.45 newtons). A glowing light identifies the point as sharp.

(e) For the purpose of conformance with the technical requirements prescribed by this § 1500.48, the English figures shall be used. The metric approximations are provided in parentheses for convenience and information only.

Interested persons are invited to submit, on or before September 6, 1977, written comments regarding this proposal. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, at the above address, during working hours Monday through Friday.

Dated: July 29, 1977.

SADYE E. DUNN,
Deputy Secretary,
Consumer Product Safety Commission.

[6] The minor dimension of an opening is the diameter of the largest sphere that will pass through the opening.

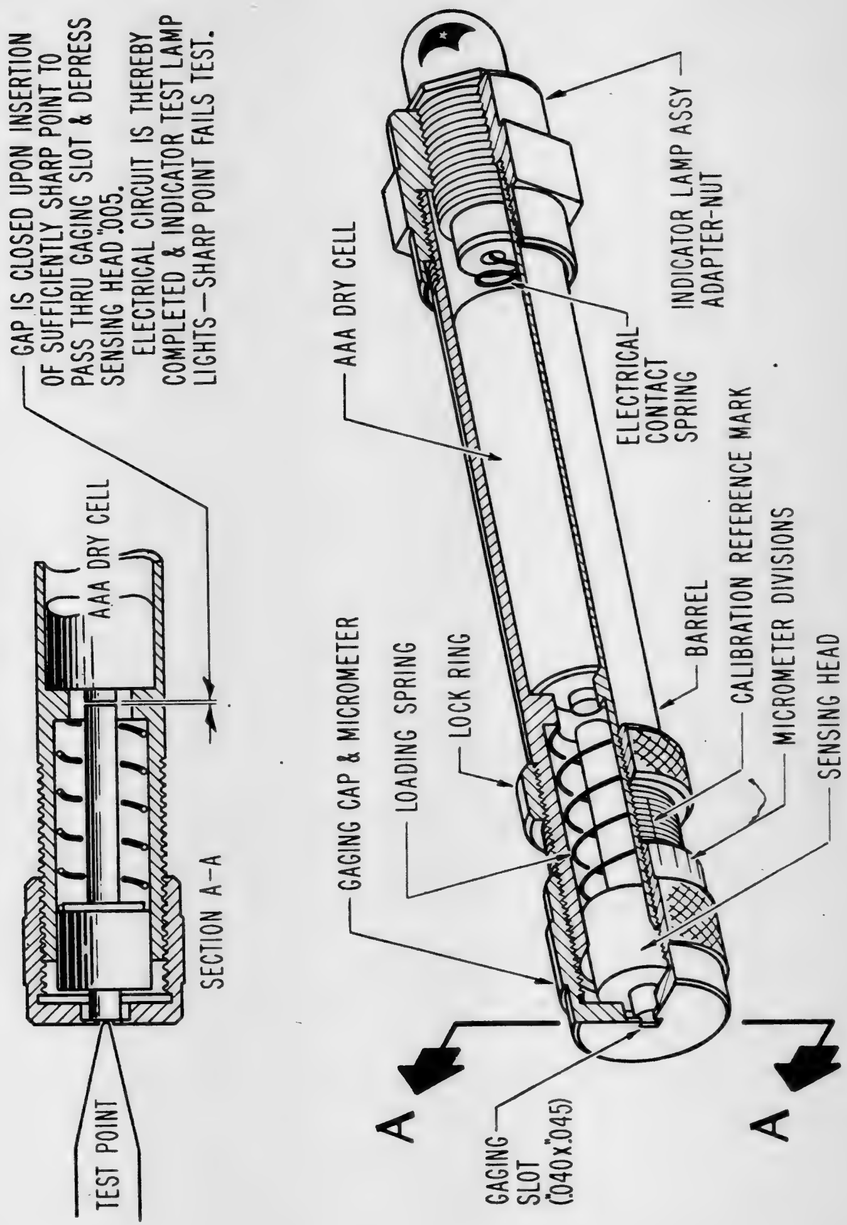
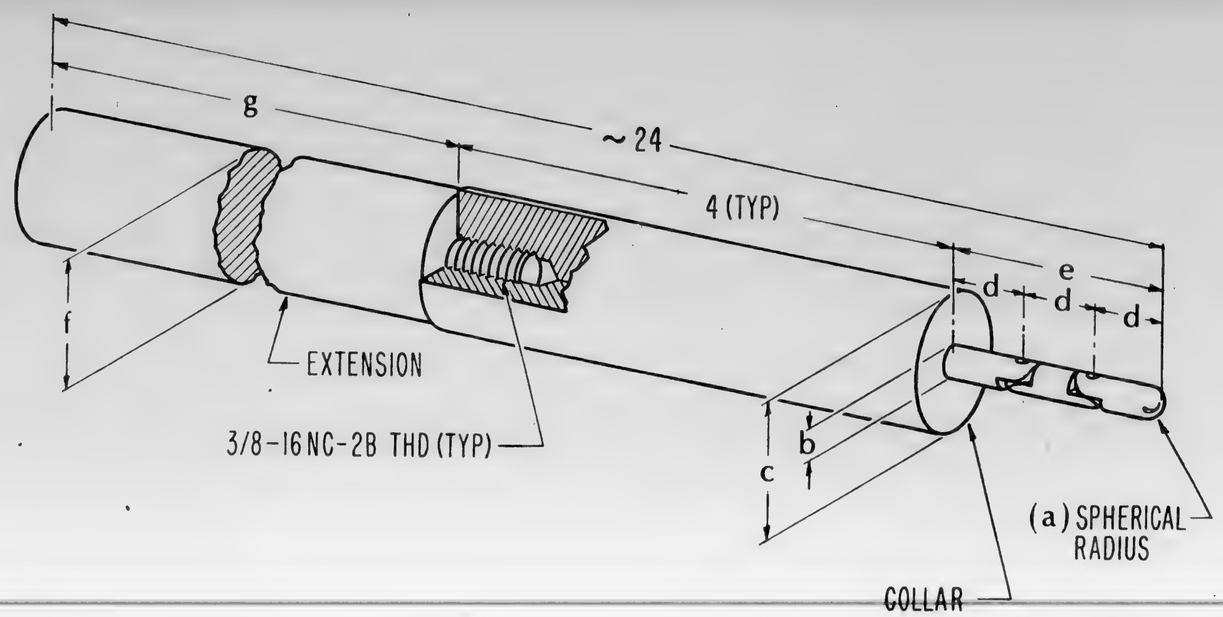


FIG 1—SHARP POINT TESTER



		a	b	c	d	e	f	g
(CHILDREN 0-36 MONTHS INCL)	PROBE A	.110	.220	1.020	.577	1.731	1	18 9/32
(" 37-96 " ")	PROBE B	.170	.340	1.510	.760	2.280	1 1/2	17 25/32

ALL DIMENSIONS IN INCHES

FIG 2—ACCESSIBILITY PROBES

[FR Doc.77-22300 Filed 8-3-77, 8:45 am]



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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 4746..... Pub. L. 95–84
To extend certain authorities of the Secretary of the Interior with respect to water resources research and saline water conversion programs, and for other purposes. (Aug. 2, 1977; 91 Stat. 400). Price: $0.35.

H.R. 7556..... Pub. L. 95–86
"Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978". (Aug. 2, 1977; 91 Stat. 419). Price: $0.40.

H.R. 7557..... Pub. L. 95–85
"Department of Transportation and Related Agencies Appropriation Act, 1978". (Aug. 2, 1977; 91 Stat. 402). Price: $0.35.

H.R. 2..... Pub. L. 95–87
Surface Mining Control and Reclamation Act of 1977. (Aug. 3, 1977; 91 Stat. 445). Price $0.95.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Associate Director for Interagency and External Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3373(g) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * * *

(g) *Office of Interagency and External Affairs.* (1) The Associate Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22549 Filed 8–4–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Assistant Secretary for Research and Demonstration is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(i)(8) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(8) One Special Assistant to the Deputy Assistant Secretary for Research and Demonstration.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22550 Filed 8–4–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Assistant Secretary for Employment Standards is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a)(59) is added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(59) One Staff Assistant to the Assistant Secretary for Employment Standards.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22551 Filed 8–4–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Secretary (Public Affairs) is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(73) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(73) One Special Assistant to the Assistant Secretary (Public Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22553 Filed 8–4–77;8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and Humanities

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of two positions of Assistant Director for State and Community Operations in the National Endowment for the Arts to Assistant Director for Federal-State Partnerships to more accurately reflect the duties of the positions.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3182(a)(13) is amended as set out below:

§ 213.3182 National Foundation on the Arts and Humanities.

(a) National Endowment for the Arts. * * *

(13) Until September 30, 1980, two Assistant Directors for Federal-State Partnerships.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22552 Filed 8–4–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine portions of Honolulu County in Hawaii because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Honolulu County, Hawaii, July 25, 1977. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the infested areas.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, Emergency Programs, Room 748, Federal Building, Hyattsville, Md. 20782 (301-436-8073).

SUPPLEMENTARY INFORMATION: This amendment quarantines portions of Honolulu County in Hawaii because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Hawaii and a new paragraph (a)(1) relating to the State of Hawaii is added to read:

§ 82.3 Areas quarantined.

(a) • • •

(1) *Hawaii.* (i) The premises of Koolau Pets, 45-1045 Kamehameha Highway, Kaneohe, in Honolulu County.

(ii) The premises of Parrot Place, 719 Kamehameha Highway, Pearl City, in Honolulu County.

• • • • • •

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of July 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-22477 Filed 8-4-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

PART 2—NONADJUDICATIVE PROCEDURES

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Disclosure of Material Pertaining to Consent Order Settlements; Withdrawal of Matter From Adjudication to Consider Consent Agreements

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: These rules amend the Commission's rules governing disclosure of material pertaining to consent order settlements so as to make available for public inspection and copying, at the beginning of the period for public comment on such order, material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act. These rules also provide for a form of automatic withdrawal of proceedings from adjudication where consent agreements have been signed, thus eliminating, in most cases, the need for the Administrative Law Judge to certify and the Commission to consider, all motions to withdraw a matter from adjudication.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202-523-3865).

SUPPLEMENTARY INFORMATION: On September 1, 1976, the Commission published in the FEDERAL REGISTER (41 FR 36823) a proposal to amend its rules governing disclosure of material pertaining to consent order settlements so as to make available for public inspection and copying, at the beginning of the period for public comment on such order, factual material reasonably related to the merits of each order that is not exempt from disclosure under the Freedom of Information Act; to make explicit that confidential records of consent negotiations are subject to the Commission's Freedom of Information Act rules; and to add to the rule governing consent negotiations in matters withdrawn from adjudication the same provisions for FEDERAL REGISTER publication applicable to all other consent order settlements. The Commission also published for comment a petitioner's request that all documents submitted by a party during consent negotiations, including nonfactual material reflecting the negotiating process and draft settlement proposals, be placed on the public record at the beginning of the comment period.

The Commission determined that most documents submitted by the respondent or proposed respondent would be made available to assist in public comment. The only exception would be where the documents are otherwise exempt from mandatory disclosure under the Freedom of Information Act, such as documents which would reveal trade secrets or confidential commercial or financial information, or documents the disclosure of which would interfere with a related enforcement proceeding. The Commission also determined to examine the effect of this change at the end of a one year period, particularly its impact on consent negotiations.

DISCUSSION OF MAJOR COMMENTS

Some commenters suggested that no amendment of existing rules is necessary, because the public now has adequate information and might be misled by additional materials. Parties to consent negotiations might choose to litigate instead, it was suggested, if the additional, potentially damaging disclosure required by the proposal were adopted. The Commission has concluded, however, that the material to be disclosed may promote more informed public comments, and that outside persons will be protected against damaging disclosures through application of the appropriate exemptions in the Freedom of Information Act.

Other commenters urged the Commission to adopt the petitioner's request for disclosure of nonfactual negotiation material as well. They contended that the public comment process would be improved by disclosure of the negotiation context, that such disclosure would have no significant "chilling" effect on consent negotiations, and that such documents must be disclosed in any event to requesters under the Freedom of Information Act. Although a colorable claim might be made that all non-factual documents submitted to the Commission in the course of consent negotiations can be withheld under Exemption 7(A) of the Freedom of Information Act, 5 U.S.C. 552(b)(7)(A), the Commission believes that the public comment process will be improved by disclosure of

such material reasonably related to the merits of the order actually accepted by the Commission. The Commission is mindful of the possibility of risk to the negotiating process, however, and for that reason it will review the effect of this rule change after one year.

Finally, one commenter suggested that the Commission limit disclosure to "factual material reasonably related to the effect of the proposed order and not exempt from disclosure under the Freedom of Information Act which the Commission considered determinative in formulating the proposed order" and provide notice to the investigated party of the documents to be disclosed. The Commission rejects the first suggestion as administratively awkward and inappropriate. The broader public record disclosure in the Commission's amendment will be of greater benefit to the comment process. The second suggestion requires no specific amendment. The Commission has directed that notice be given to the investigated party prior to placing any documents received from it on the public record. This notice is independent of any notice afforded under a grant of confidential treatment.

Accordingly, and pursuant to 15 U.S.C. § 46 (f), (g) and 5 U.S.C. § 552, the Commission hereby amends its Rules of Practice §§ 2.34, 2.35, and 3.25, 16 CFR §§ 2.34, 2.35, and 3.25, as set forth below.

1. By revising § 2.34 to read as follows:

§ 2.34 Disposition.

Upon receiving an executed agreement conforming with the requirements of § 2.32, the Commission may: (a) Accept it; (b) reject it and issue its complaint; or (c) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place the order contained therein and any initial report of compliance submitted pursuant to § 2.33 on the public record, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby; material submitted to the Commission reasonably related to the merits of the order that is not exempt from disclosure under the Freedom of Information Act, and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested person. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require), and decision, in disposition of the proceeding.

2. By deleting § 2.35 as follows:

§ 2.35 [Deleted]

3. By amending § 3.25 to read as follows:

§ 3.25 Consent agreement settlements.

• • • • • •

(b) A proposal to settle a matter in adjudication by consent agreement shall be submitted by way of a motion to withdraw the matter from adjudication for the purpose of considering the proposed consent agreement. Any such motion shall be accompanied by a consent agreement containing a proposed order executed by one or more respondents and conforming to the requirements of § 2.32; the consent agreement itself, however, shall not be placed on the public record unless and until it is accepted by the Commission as provided herein.

(c) If the agreement accompanying the motion has also been executed by complaint counsel, including the appropriate Bureau Director, the Secretary shall issue an order withdrawing the matter from adjudication with respect to those respondents signing the proposed consent agreement, and all proceedings before the Administrative Law Judge shall be stayed with respect to such respondents, pending a determination by the Commission pursuant to paragraph (f) of this section.

(d) If the agreement accompanying the motion has not been executed by complaint counsel, the Administrative Law Judge may certify the matter to the Commission together with his recommendation if he determines, in writing, that there is a likelihood of settlement. The filing of a motion to withdraw a matter from adjudication under this subsection and certification thereof to the Commission shall not stay proceedings before the Administrative Law Judge unless the Administrative Law Judge or the Commission shall so order. Upon certification of a motion to withdraw a matter from adjudication pursuant to this subsection, the Commission may, if it is satisfied that there is a likelihood of settlement, issue an order withdrawing the matter from adjudication for the purpose of considering the proposed consent agreement.

(e) If a matter is withdrawn from adjudication pursuant to paragraphs (c) or (d) of this section, the Commission will treat the matter as being in a nonadjudicative status with respect to those respondents signing the proposed consent agreement.

(f) After the matter has been withdrawn from adjudication, the Commission may (1) accept the agreement, (2) reject it and return the matter to adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place it on the public record, together with any initial report of compliance submitted pursuant to § 2.33, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby; material submitted to the Commission reasonably related to the merits of the order that is not exempt from disclosure under the Freedom of Information Act; and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will return the matter to adjudication for further proceedings or take such other action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

(g) This rule will not preclude the settlement of the case by regular adjudicatory process through the filing of an admission answer or submission of the case to the Administrative Law Judge on a stipulation of facts and an agreed order.

By direction of the Commission, dated July 27, 1977.

CAROL M. THOMAS,
Secretary.

DISSENTING STATEMENT BY COMMISSIONER DOLE JOINED IN BY COMMISSIONER DIXON

I share with the majority of the Commission the desire that the public comment period for consent orders be as meaningful and constructive as possible. Such comments can be extremely helpful to the Commission in making the final determination on whether to accept a consent order. I would have preferred, however, that factual material submitted by respondents, reasonably related to the merits of a consent order, be placed on the public record pursuant to an experimental rules change and that nonfactual material reflecting the negotiating process not be so included.

I am concerned that the step taken by the majority of the Commission today may well lessen the Commission's ability to obtain consent orders. It is beyond doubt that consent orders are vitally important law enforcement tools. Our staff has presented strong and, in my opinion, persuasive arguments that the majority's determination will inhibit respondents' willingness to participate in meaningful consent negotiations. The negotiation process is by nature delicate; successful negotiations depend in large part upon good faith give-and-take discussions. Ideas and possible order provisions are discussed by counsel, often without the respondent's prior review. Some proposals are rejected and others are accepted in the process of fashioning a consent order which would serve the public interest. Staff advises that respondent's counsel often produce facts which would be hotly contested in litigation.

I fear that the Commission's action today will result in disincentives to settlement, and I am not prepared to take this risk. The consent order procedure must remain a strong and viable option to the expense and time involved in litigation.

[FR Doc.77-22546 Filed 8-4-77;8:45 am]

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

RESCISSION OF OBSOLETE PARTS

AGENCY: Federal Trade Commission.

ACTION: Final Rescission of Certain Trade Practice Rules.

SUMMARY: Action taken is rescission of obsolete trade practice rules for eleven industries:

1. Commercial dental laboratory industry.
2. Frozen food industry.
3. Wall coverings industry.
4. Manifold business forms industry.
5. Wire rope industry.
6. Tobacco distributing industry.
7. Ribbon industry.
8. Hand knitting yarn industry.
9. Venetian blind industry.
10. Gladiolus bulb industry.
11. Fountain pen and mechanical pencil industry.

The Commission considered public comments received on proposed rescission of these rules and concluded that none merits retention or modification in the public interest. Accordingly all are being rescinded.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION WRITE OR CALL:

Charles H. Slayman, Jr., Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, telephone 202–724–1193.

SUPPLEMENTARY INFORMATION: Interested persons were invited by the Commission, in 41 FR 2398, to submit written statements for the public record on proposed rescission of trade practice rules for 50 industries published in Title 16 (Commercial Practices) of the Code of Federal Regulations. This document concerns 11 of those 50. Separate documents cover the other 39.

Written statements received were placed on the Commission's Public Record No. 215–55–1–2 for examination by anyone during regular business hours.

Written requests were received to retain trade practice rules for 11 industries the subjects of this document. Recently the request to retain 16 CFR Part 47 (manifold business forms) was withdrawn. Retention requests were submitted by various industry members and trade associations concerning trade practice rules for the other 10 industries. However, still other trade associations agreed to rescission of Part 138 (ribbon), Part 191 (venetian blind) and Part 226 (fountain pen and mechanical pencil). Except for Part 18 (commercial dental lab), each part contains a section defining the industry or industry products. Except for Part 105 (tobacco distributing), each part contains sections (other than definitions) referring by name to the particular industry or industry products. Each part contains sections on deceptive and anticompetitive acts or practices. The Commission considered comments received and determined to rescind the following provisions of these trade practice rules:

(i) Group II rules because they were merely expressions of the trade and were not Commission interpretations of law;

(ii) Industry committee references because authority to establish such committees was rescinded in 1971;

(iii) Stereotype sections (e.g., commercial bribery, sales below cost, prohibited discrimination, etc.) because acts or practices covered are not limited to particular industries; and

(iv) Particularized sections (e.g., deception as to size of gladiolus bulbs, etc.) where a showing is not made that retention or modification is in the public interest. Public interest does not require these administrative interpretations of Commission administered laws to obtain compliance with those laws.

To date, the Commission has not granted any request to retain or amend trade practice rules. However, the Commission (June 10, 1977: 42 FR 29916) invited public comments on proposed amendments to Part 23 (jewelry). Commission action on Part 27 (brick) and Part 195 (bedding) will be reported soon.

Accordingly the Commission hereby announces its final rescission of obsolete trade practice rules published in the following Parts of Title 16 of the Code of Federal Regulations:

Part 18—Commercial Dental Laboratory Industry.
Part 22—Frozen Food Industry.
Part 35—Wall coverings Industry.
Part 47—Manifold Business Forms Industry.
Part 66—Wire Rope Industry.
Part 105—Tobacco Distributing Industry.
Part 138—Ribbon Industry.
Part 177—Hand Knitting Yarn Industry.
Part 191—Venetian Blind Industry.
Part 206—Gladiolus Bulb Industry.
Part 226—Fountain Pen and Mechanical Pencil Industry.

The Commission notes that rescission of trade practice rules and industry guides does not relieve anyone of duties to comply with Commission administered laws. Therefore rescission is not an invitation to engage in unfair or deceptive or anticompetitive acts or practices in violation of law.

(Secs. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 46, 57a); 16 CFR 1.5, 1.6, 17.1.)

Issued: August 5, 1977.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22557 Filed 8-4-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER B—REGULATIONS UNDER THE FEDERAL POWER ACT

[Order No. 569; Docket No. RM77-24]

PART 35—FILING OF RATE SCHEDULES

Filing of Changes

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission's regulations governing the filing of certain changes in rate schedules by public utilities. A utility requesting a rate increase was previously required to submit certain cost of service data 60 days prior to the date that such changed rate was proposed to become effective. This rulemaking changes the mandatory minimum notice time between filing of the data required and the proposed effective date of the increased rates to 30 days. The change reflects a decision of the D.C. Circuit Court of Appeals. This amendment brings the Commission's regulations in line with the terms of the Federal Power Act.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Lilo Schifter, Office of General Counsel, 202–275–4275.

By this order, the Commission amends the regulations governing the filing of certain changes in rate schedules by public utilities to reflect the decision of the Court of Appeals for the D.C. Circuit in *Indiana & Michigan Electric Co.* v. *F.P.C.*, 502 F. 2d 336 (D.C. Circuit 1974), cert. den. 420 U.S. 946 (1975).

Sections 35.13(b)(4)(i) and 35.13(b)(5)(i) of the Commission's regulations presently provide that a filing utility requesting a rate increase shall submit certain cost of service data and testimony 60 days prior to the date that such changed rate is proposed to become effective. Indiana & Michigan Electric Co.[1] found that the practical effect of this requirement is to impose a de facto 60-day notice requirement on utilities seeking a rate increase and that such a requirement contravenes the terms of Section 205(d) of the Federal Power Act, imposing a statutory waiting period for utilities seeking a rate increase of only 30 days. Accordingly, we shall conform our regulations by amending §§ 35.13(b)(4)(i) and 35.13(b)(5)(i) to change the mandatory minimum notice time between filing of the data and testimony required by these sections and the proposed effective date of the increased rates to 30 days. Section 35.22(b)(5) is amended to conform the provisions of that section with the 30 day requirement.

While enlargement of the statutory minimum notice period of 30 days may not be mandated by the Commission, it would be helpful to the Commission's proper exercise of the ratemaking authority under the Federal Power Act if more than 30 days are available for the evaluation of rate increase filings and related pleadings. We, therefore, welcome if the utilities file their rate increases more than 30 days (but less than 90 days) prior to the proposed effective date.

The Commission finds: (1) In view of the nature of these amendments compliance with the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

[1] 502 F. 2d at p. 340.

(2) The amendment to the Commission's regulations herein prescribed is necessary and appropriate for the administration of the Federal Power Act.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 205 and 309 thereof (49 Stat. 851, 858 and 859; 16 U.S.C. 824(d) and 825(h)) orders: (A) Subparagraphs (b)(4)(i) and (b)(5)(i) of § 35.13 in Part 35, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations are revised to read as follows:

§ 35.13 Filing of changes in rate schedules.

* * * * *

(b) In addition the following material shall be submitted: * * *

(4)(i) Except as provided in paragraph (b)(4)(ii) of this section, if the rate schedule provides for an increased rate, then the filing public utility shall submit a statement showing its cost of the service to be supplied under the new rate schedule according to supporting statements A through O as described below.

* * * * *

(5)(i) A utility filing for an increase in rates and charges shall be prepared to go forward at a hearing on reasonable notice on the data which have been submitted and sustain the burden of proof, imposed by the Federal Power Act, of establishing that its proposed charges are just and reasonable and not unduly discriminatory or preferential or otherwise unlawful within the meaning of the Act. The Commission is desirous of avoiding delay in processing rate filings. To this end, if the rate schedule provides for an increase in rate which exceeds $50,000 in revenues for the test period, the filing utility shall submit with its rate increase filing testimony and exhibits of such composition, scope and format that they would serve as the company's case-in-chief in the event the matter is set for hearing. In addition to whatever material the utility chooses to submit as part of its case, except for increases resulting from changes made in fuel clauses and increases of rates comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions, the exhibits shall include full cost of service data, as identified in subparagraph (4)(iii) of this paragraph, statements A through O, and the accompanying testimony should include an explanation of these exhibits.

* * * * *

§ 35.22 [Amended]

(B) In § 35.22 in Part 35, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations "Research and development clauses" amend paragraph (b)(5) by deleting "60 days" as the minimum notice period and substituting "30 days" therefor.

(C) The amendment adopted herein shall be effective upon issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22609 Filed 8-4-77;8:45 am]

SUBCHAPTER C—REGULATIONS UNDER THE FEDERAL POWER ACT

SUBCHAPTER F—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM75-27; Order 561-A]

UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES AND NATURAL GAS COMPANIES

Supplemental Order

AGENCY: Federal Power Commission.

ACTION: Supplemental order.

SUMMARY: The Commission is denying applications for rehearing of Order No. 561 (42 FR 9161, published February 15, 1977, amending CFR Parts 101, 104, 141, 201, 204 and 260) and clarifying one minor point related to use of the "Allowance for Funds Used During Construction" (AFUDC) formula. Several parties to this proceeding, filed applications for rehearing of the Commission's previous order which determined the maximum rates to be used in computing the AFUDC and provided accounting and reporting requirements for AFUDC. The Commission found that the rehearing applications presented no facts or principles of law which would require modification of its previous order.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

L. H. Drennan, Jr., Chief Accountant, Office of Chief Accountant, 202–275–4031.

On March 4, 1977, El Paso Natural Gas Co. (El Paso), Public Systems,[1] three bulk power suppliers for rural electric cooperatives (Oglethorp),[2] and eight investor-owned public utilities (Private Group)[3] filed Applications for Rehearing of our Order No. 561, issued February 2, 1977, in Docket No. RM75–27. On March 7, 1977, Pennsylvania Power & Light Co. (PP&L) filed a separate Application for Rehearing. On April 1, 1977, an order was issued granting application for rehearing by the aforementioned petitioners for the purpose of further consideration of Order 561. On April 18, 1977, pursuant to Section 1.34(d) of the Commission's Rules of Practice and Procedure, the Public Service Commission of the State of New York (New York) and the Private Group filed responses to Applications for Rehearing filed by the Private Group and Public Systems, respectively.

SHORT-TERM DEBT

El Paso's application stated that it fully supported the Commission's objective in the instant rulemaking proceeding of providing adequate compensation for funds devoted to construction but believed that the formulas devised by the Commission and promulgated pursuant to Order No. 561 fall short of accomplishing this objective. El Paso submits that the approach adopted by the Commission is grounded upon two erroneous assumptions, i.e. (i) that short-term debt is the first source of funds for construction purposes, and (ii) that short-term debt is used exclusively for construction. El Paso proposed that instead of the formula adopted by the Commission that the rate for AFUDC be expressed as follows:

$$R = d\left(\frac{D}{D+P+C}\right) + p\left(\frac{P}{D+P+C}\right) + c\left(\frac{C}{D+P+C}\right)$$

In this formula R represents the AFUDC rate and the other symbols have the same meaning as defined in Order No. 561 except that D would equal the sum of long-term and short-term debt and d would equal the weighted average interest rate for D. El Paso states that this formula is grounded upon the more realistic assumption that construction work in progress is financed by funds provided according to the pro rata capitalization of the company, including short-term debt, if any. In the event, however, that the Commission chooses to retain the formula set forth in Order No. 561, El Paso requests clarification in cases where short-term debt exceeds construction work in progress to ensure that negative AFUDC rates do not result.

Public Systems states that the Commission correctly concludes that short-term debt is the primary source of funds for the construction of new utility plant and the procedures for the calculation of AFUDC reflect this fact. However, Public Systems expressed concern over the statement in Order No. 561 that the AFUDC method established was not for the purposes of establishing a method for allocating short-term interest cost for the purpose of a rate proceeding. They believe that such statement may be interpreted as an invitation to include the cost of construction related short-term borrowings in the development of AFUDC and to recognize the same costs in the development of the allowed return in rate proceedings. Public Systems also objects to any possible recognition of costs associated with bank or other

[1] See Appendix A for members of Public Systems.

[2] Oglethorp Electric Membership Corp., North Carolina Electric Membership Corp., and Old Dominion Electric Cooperative, Inc.

[3] Jersey Central Power & Light Co., Long Island Lighting Co., Metropolitan Edison Co., New England Power Co., Northeast Utilities Co., Pacific Power & Light Co., Pennsylvania Electric Co., and Pennsylvania Power & Light Co.

borrowings, such as compensating bank balances, in determining short-term debt cost. They believe that recognition of such costs should be sanctioned, if at all, only in general rate proceedings after a hearing on the record.

PP&L also disagrees with the Commission's premise in Order No. 561 that all short-term debt should be allocated to financing construction work in progress. PP&L states that there are many instances when a utility can specifically identify the utilization of short-term debt for purposes other than financing construction work in progress and in such cases, it would be erroneous to include this debt in the AFUDC computation.

As we stated in Order No. 561, it is generally impossible to specifically trace the source of funds used for various corporate purposes and it was not the purpose of the proposed rule to do so. We recognize that short-term debt is a source of funds that can be used for many corporate purposes other than construction. However, short-term debt cost is a valid cost of conducting utility operations and a mechanism for the recovery of such cost should be provided for within the regulatory framework. Recovery of capital costs is usually provided for through the rate of return allowance in a general rate proceeding. However, in a typical rate case situation, short-term debt cost does not lend itself to reasonable measurement for use in setting future rates since, as El Paso graphically illustrated in the Appendix to its Application, the amount of short-term debt that a company has outstanding can fluctuate widely over short periods of time. In addition, the interest rate for short-term debt often changes at frequent intervals. On the other hand, the cost of short-term debt can be effectively measured and capitalized for subsequent recovery (through depreciation charges in rates) since under our formula the balances and rates for the forthcoming year are estimated annually, with appropriate adjustments to the amounts capitalized if the estimates used are not reasonably reflective of actual experience. Therefore, we do not believe that we should modify Order No. 561 with respect to the weight given short-term debt in the formula.

El Paso's point on possible negative AFUDC rates in situations where short-term debt exceeds construction work in progress is well taken. We believe that this matter can best be clarified by stating herein that if short-term debt balances exceed construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication the maximum total AFUDC rate to be utilized will be the weighted average short-term debt rate. In instances where this occurs, the entire credit for AFUDC will be recorded in Account 432, Allowance for borrowed funds used during construction—Credit.

We do not believe that Public System's concerns are well founded with regard to the inclusion of short-term debt for rate of return purposes or the potential recognition in certain instances of short-term debt costs arising from such items as compensating balances. Order No. 561 neither changes the Commission's policy with respect to treatment of short-term debt in capitalization used for rate of return purposes nor does it grant blanket approval for recognition of compensating balances and commitment fees in costing short-term debt. The burden of proof is upon the companies to justify such items before they will be permitted.

STATE COMMISSION RATE DETERMINATIONS

Both Public Systems and Oglethorp object to the provision in Order No. 561 that the cost rate to be used for common equity be the rate granted common equity in the last rate proceeding before the body having primary rate jurisdiction or, if such rate is not available, the average rate actually earned during the preceding three years. They believe that the return on equity rate should be based upon determinations of the Federal Power Commission, whether the FPC has primary rate jurisdiction or not. Public Systems and Oglethorp believe that the approach adopted by the Commission is an unjustified abdication of statutory responsibility. On the other hand, Private Group urges that Order No. 561 be amended to provide that, if a state ratemaking agency having primary rate jurisdiction over an electric utility has prescribed a method of determining or applying an AFUDC rate, such electric utility may use such State Commission-directed rate rather than the rate developed under the formula in Order 561.

In its response to the application for rehearing filed by Public Systems, the Private Group stated the following:

> Order No. 561 is designed to provide an orderly method for accrual of AFUDC month-by-month during the on-going operations of a public utility. For the most part, the facilities constructed by an electric utility cannot be segregated as between those which will be employed solely for retail service and those which will be employed solely for wholesale service; instead, allocation procedures for joint use facilities are required and appropriate methods of allocation have been developed and are routinely applied. Under those circumstances, the utility must have a single AFUDC rate to apply to facilities under construction which will ultimately serve both groups of customers. A reasonable recognition of, and accommodation to, the Federal-State relationship involves the use of a cost rate for common equity which is equal to that last approved by the body having primary rate jurisdiction.

We fully agree with the above response by the Private Group with respect to the cost rate for equity funds. We believe that this argument is also supportive of the Commission's adoption of a uniform method for all jurisdictional companies to follow so that a single rate is developed for each company. Additionally, since the financial statements of electric utilities and natural gas companies are used by government agencies, investors, the general public, and others for purposes other than setting rates, it is important that a uniform method be used. This is especially important in an area such as AFUDC which has such a material impact on the earnings and cost determinations of utilities. We shall therefore deny rehearing on this point.

THE RELOCATION OF AFUDC IN THE INTEREST CHARGES SECTION OF THE INCOME STATEMENT

The Private Group and PP&L urged that Order No. 561 be revised to eliminate the provision that directs the relocation of the allowance for borrowed funds as a credit to the interest charge section of the income statement. New York in its response to application for rehearing filed by Private Group supported this position. These parties argue that the relocation required by Order No. 561 is likely to have an adverse effect on the ability to finance both debt and preferred stock securities due to coverage test requirements included in mortgage indentures and corporate charters. PP&L also questions whether the relocation of a portion of AFUDC as a reduction of interest charges will better inform readers of the financial statements as to the nature of the capitalized allowance for borrowed funds as stated in Order No. 561. They argue that such reclassification may in fact mislead readers of financial statements if such amount is considered a reduction of the actual amount of interest a company must pay.

We are unpersuaded by these arguments that we should modify Order No. 561 with respect to the location of the interest portion of AFUDC in the income statement. We purposely did not require that the amount of interest charged to the income statement be shown net of interest capitalized but instead required that the gross interest charges be shown in the income statement with a separate line item for the capitalized allowance for borrowed funds. This enables readers of financial statements to be informed as to the total interest liability incurred for the year as well as to any lesser amount of interest entering into the determination of net income for the year. We continue to believe that the readers of the financial statements will be better informed with this form of accounting disclosure than other suggested methods. Furthermore, the change in the location on the income statement for the allowance for interest capitalized does not in itself change either the nature of the item or the degree of protection afforded security holders by earnings of a utility.

NET-OF-TAX AFUDC RATE

Public Systems objects to the normalization of income tax benefits of construction interest through the use of a net-of-tax AFUDC rate and asks that Order No. 561 be revised to prohibit this practice.

Public Systems' arguments are misplaced. The proposed plant instructions pertaining to computation of income taxes were deleted when the Commission adopted Order No. 561 because these matters were previously spoken to in the Commission's Order Nos. 530, 530–A and 530–B in Docket Nos. R–424 and R–446.

These orders are currently under review by the D.C. Circuit (*Public Systems, et al., v. FPC*, CADC Nos. 76–1609, 76–1830.)

OTHER MATTERS

Private Group states in their application that in order for the AFUDC rate to be fully compensatory, estimates of weighted average embedded long-term debt and preferred stock costs as they are expected to exist during the current year should be used rather than the effective weighted average cost of the long-term debt and preferred stock at the end of the prior year as required by Order No. 561.

Private Group also argues that compounding of AFUDC should be permitted monthly rather than semi-annually, since utility accounting is on an accrual basis. If, however, the Commission considers the timing of cash outlays for interest and dividend to be relevant, Private Group argues that quarterly compounding would be more appropriate than semi-annual compounding since dividends on preferred and common stock and interest on short-term debt are almost invariably paid quarterly, and these items account in the aggregate for more than half of the AFUDC accrual. The remainder of the accrual relates to long-term debt which is normally paid semi-annually.

Public Systems objects to the provisions of Order No. 561 which indicate that amounts capitalized for AFUDC for the year will not be required to be adjusted if the gross AFUDC rate actually used for the year does not exceed by more than 25 basis points the rate that would be derived from the formula by use of actual thirteen monthly balances of construction work in progress and the actual weighted average cost and balances for short-term debt outstanding during the year. Public System argues that this provision creates an incentive to "misestimate" AFUDC and pocket additional prospective but unjustified revenues. Public System assumes that this provision was intended to ease accounting burdens but submits that the governing statutes do not contemplate such windfalls in the name of administrative convenience.

Oglethorp states that Order No. 561 excludes all non-investor sources of funds from the AFUDC computation on the ground that such sources are treated as rate base deductions but argues that some non-investor funds may not be treated as rate base deductions and hence could be incorrectly also overlooked for AFUDC purposes. Oglethorp believes the Order should be modified to provide that all non-investor funds which are not deducted from rate base should be included in the AFUDC formula at zero cost.

The requirement that the AFUDC rate for the current year be based on the effective weighted average cost of the long-term debt and preferred stock at the end of the prior year and the requirement that the AFUDC be compounded no more frequently than semi-annually may, in some instances, tend to slightly understate the cost of capital used for construction. Conversely, there may be relatively minor items of consumer contributed capital which are not considered in either the ratemaking process or through AFUDC and there may well be some instances in which the estimates used exceed by up to 25 basis points the rate that would be derived from actual experience.

We conclude that Order No. 561 should not be modified with respect to these matters. When considered together the proposed modifications tend to offset each other. We believe that Order No. 561 clearly provides for a rate for AFUDC which is in the zone of reasonableness, based upon uniform standards which can be effectively implemented and administered.

In light of the above, we believe that the applications for rehearing filed by the aforementioned applicants should be denied.

The Commission finds: The application for rehearing filed on March 4, 1977, by El Paso, Public Systems, Oglethorp and Private Group and on March 7, 1977, by PP&L present no facts or principles of law which would require modification of Order No. 561.

The Commission Orders: (A) The applications for rehearing filed by El Paso, Public Systems, Oglethorp and Private Group on March 4, 1977, and PP&L on March 7, 1977, are denied.

(B) The Secretary shall cause prompt publication of the Order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

PUBLIC SYSTEMS SPONSORING THE APPLICATION FOR REHEARING OF ORDER NO. 561

Anaheim, California
Azusa, California
Banning, California
Bowling Green, Ohio
Bryan, Ohio
Colton, California
Croswell, Michigan

Electric cities of North Carolina and its members, the following municipalities:

VIRGINIA

Blackstone	Iron Gate
Culpeper	Manassas
Franklin	Wakefield
Harrisonburg	

NORTH CAROLINA

Albemarle	Forest City
Apex	Fountain
Ayden	Fremont
Belhaven	Gastonia
Benson	Granite Falls
Black Creek	Greenville
Bostic	Hamilton
Cherryville	Hertford
Clayton	Highlands
Concord	High Point
Cornelius	Hobgood
Dallas	Hookerton
Davidson	Huntersville
Drexel	Kings Mountain
Edenton	Kingston
Elizabeth City	LaGrange
Enfield	Landis
Farmville	Laurinburg
Fayetteville	Lexington
Lincolnton	Rocky Mount
Louisburg	Scotland Neck
Lucama	Selma
Lumberton	Sharpsburg
Macclesfield	Shelby
Maiden	Smithfield
Monroe	Southport
Morganton	Stantonsburg
Murphy	Statesville
New Dern	Tarboro
Newton	Wake Forest
Oak City	Walztonburg
Pikeville	Washington
Pinetops	Waynesville
Pineville	Wilson
Red Springs	Windsor
Robersonville	Winterville

Municipals and Cooperatives in the State of Florida:

Alachua	Leesburg
Bartow	Mount Dora
Bushnell	Newberry
Chattahoochee	Ocala
Fort Meade	Quincy
Lake Helen	Williston

In the State of Kentucky: Frankfort.

Indiana Municipal Electric Association and its members, the following municipalities in Indiana:

Town of Bainbridge
Town of Bargersville
Town of Centerville
Town of Covington
Town of Darlington
Town of Edinburg
Town of Flora
Town of Greendale
City of Greenfield
Town of Hagerstown
Lawrenceburg Utilities
Lawrenceburg
City of Lebanon
City of Linton
Town of Middletown
Town of Paoli
Town of Pendleton
City of Rising Sun
Town of Rockville
City of Scottsburg
Town of South Whitley
Town of Thorntown
City of Tipton
Town of Veedersburg
Town of Waynetown

NEPCO Customer Rate Committee (successor to the Power Planning Committee of the Municipal Electric Association of Massachusetts, Inc.) and its members the following Massachusetts municipal light departments and plants:

Ashburnham	Paxton
Boylston	Peabody
Danvers	Princeton
Georgetown	Shrewsbury
Groton	Sterling
Hingham	Templeton
Holden	Wakefield
Hudson	West Boylston and Manchester Electric Company
Hull	New Hampshire Electric Cooperative, Inc.
Ipswich	Littleton, New Hampshire
Littleton	
Mansfield	
Marblehead	
Merrimac	
Middleton	
North Attleboro	

City of Riverside, California.
Vermont Electric Cooperative, Inc., Johnson, Vermont.
Village of Clinton, Michigan.
Village of Sebewaing, Michigan.

[FR Doc.77–22608 Filed 8–4–77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 770-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Imperial County APCD

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Imperial County APCD portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: September 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111, Attn.: Dave Souten (415–556–7288).

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 27001, EPA published a Notice of Proposed Rulemaking for revisions to the Imperial County Air Pollution Control District Rules and Regulations submitted on November 10, 1976, by the California Air Resources Board for inclusion in the California SIP.

The changes contained in the abovementioned submittal and being acted upon by this rulemaking include the following: additions to the "Definitions" rule; the addition of a rule exempting agricultural operations from the visible emissions and quantity of emissions rules; the addition of an exemption to the "Nuisance" rule for odors emanating from agricultural operations; a new rule governing livestock feed yards; and the addition of an exemption for agricultural operations from the prohibitions rules.

A list of the Rules being considered by this action was published as part of the Notice of Proposed Rulemaking and can be found in 42 FR 27001 (May 26, 1977). The Notice of Proposed Rulemaking provided for a 30-day public comment period. EPA noted the deficiency that the term "agricultural operations" is not defined in the APCD rules and regulations. Although the Imperial County APCD sent a letter defining the term, the deficiency remains since definitions must be part of the rules and regulations in order to become a portion of the applicable SIP. No other public comments were received.

It is the purpose of this notice to approve Rule 100, *Definitions* and Rule 131.5, *Livestock Feed Yards* and incorporate them into the California SIP.

EPA is disapproving Rule 114.5, *Exceptions* and Rule 148.D(3), *Miscellaneous Exceptions*. These rules exempt "agricultural operations" from the visible emissions rules and the quantity of emissions rules. Because the term "agricultural operations" is not defined in the Imperial County APCD rules and regulations, the rules could be interpreted to exempt stationary sources to which the rules and regulations now apply. In addition, no data has been submitted which demonstrate that these exemptions will not interfere with attainment and maintenance of the National Ambient Air Quality Standards. This action adds Imperial County APCD to the disapproval notice in 40 CFR 52.236.

Rule 117, *Nuisance* is not appropriate for inclusion in the SIP because it is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, EPA is taking no action on this rule.

The California Air Resources Board has certified the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

(Secs. 110 and 301, Clean Air Act, as amended (40 U.S.C. 1857c–5 and 1857g).)

Dated: August 1, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(35) * * *

(viii) Imperial County APCD.

(A) Rules 100, 114.5, 131.5, and 148.D (3).

* * * * *

2. Section 52.236 is added as follows:

§ 52.236 Rules and regulations.

(a) Since the following Air Pollution Control District (APCD) rules do not define the term "agricultural operations," the rules are disapproved because they could render certain emission limitations rules unenforceable.

(1) Southeast Desert Intrastate:

(i) Imperial County APCD.

(A) Rule 114.5, *Exceptions* submitted on November 10, 1976.

(B) Rule 148.D(3), *Miscellaneous Exceptions*, submitted on November 10, 1976.

[FR Doc.77-22487 Filed 8-4-77;8:45 am]

[FRL 770-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to announce the approval of a revision to the Illinois State Implementation Plan addressing the ozone episode situation.

EFFECTIVE DATE: Immediately effective.

FOR FURTHER INFORMATION CONTACT:

Ms. Maxine Borcherding, Illinois State Specialist, Air Programs Branch, Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Ill. 60604 (312–353–2205).

SUPPLEMENTARY INFORMATION: On January 31, 1972, the State of Illinois submitted to the Administrator of the United States Environmental Protection Agency an implementation plan to achieve and maintain the National Ambient Air Quality Standards. The plan was approved by the Administrator on May 31, 1972 (37 FR 10862) with several exceptions, including disapproval of regulations pertaining to Prevention of Air Pollution Emergency Episodes. These deficiencies were corrected and the episode plan was fully approved on October 28, 1973 (38 FR 29297).

On April 9, 1976, the Illinois Pollution Control Board revised its emergency episode regulations after due notice and public hearings. The regulations (Illinois Pollution Control Board Regulations, Chapter 2, Part IV) took effect on April 19, 1976, and were submitted to U.S. Environmental Protection Agency (USEPA) on July 22, 1976, as revisions to the Illinois State Implementation Plan (SIP).

The new regulations primarily address ozone episode situations and would revise the plan as follows: (1) The regulations specifically state that Illinois Environmental Protection Agency has sole authority for declaring episode stages; (2) The requirement for a forecast of 24 hours of poor dispersion before an ozone episode can be declared has been revised to allow the declaration of an episode whenever specified ozone levels occur one day and are expected to recur the next day, or if an air stagnation advisory is received for any area within the State; (3) The term "Ozone Advisory" replaces the former designation of "Ozone Watch," and is issued when a two-hour average of 0.07 ppm of ozone is measured; (4) Episode stages have been set for concentration levels occurring for a one-hour period at any monitoring station as follows: ozone yellow alert level has been raised from 0.10 to 0.17 ppm; ozone red alert level has been decreased from 0.40 to 0.30 ppm; ozone emergency level has been decreased from 0.60 to 0.50 ppm; (5) The regulations establish a procedure for filing emission reduction contingency plans and requirements for reduction of pollution levels during periods of high concentrations. Indirect sources of pollution such as large government agencies, parking garages, and fleet vehicle operations are included among sources required to file emission reduction contingency plans.

Notice of receipt of this revision request and the establishment of a 30-day period for public comment was published in the January 19, 1977, FEDERAL REGISTER (42 FR 3657). Copies of the regulations are available for public inspection during normal working hours at the Illinois Pollution Control Board, 309 West Washington Street, Suite 300, Chicago, Ill. 60606. Copies of the regulations are also available at the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Ill. 62706; and at Air Programs Branch, Air and Hazardous Materials Division, USEPA, Region V, 230 South Dearborn, Chicago, Ill. 60604.

In response to the January 18, 1977, FEDERAL REGISTER notice, EPA received two substantive comments. The issues raised were as follows:

(1) The proposal was criticized by the City of Chicago Department of Environmental Control for giving sole authority for the declaration of episode stages to the State. The City alleged that it had authority to declare air pollution episodes under its home rule authority, and was concerned about the possibility that the State may declare an episode alert for the City of Chicago only.

The Clean Air Act gives the states primary responsibility for development of air pollution programs. These revised regulations reserve authority to declare episodes to the Director of the Illinois Environmental Protection Agency to provide for statewide uniformity in conducting air pollution episodes and to prevent confusion on the part of the public which would be caused by conflicting episode orders by a number of air pollution control agencies.

On December 17, 1976, the Commissioner of the City of Chicago Department of Environmental Control signed the 1977–1978 interagency agreement for air pollution control between the Illinois Environmental Protection Agency and the Chicago Department of Environmental Control. In doing so, the City agreed to conduct its episode program in accordance with Part IV of the Illinois Pollution Control Regulations. It is, therefore, incumbent upon the City to adjust its program so as to be in conformity with its agreed role.

With respect to the geographic limitations on the declaration of episodes, the nature of the ozone problem is such that the likelihood of finding monitored violations solely within the corporate limits of the City of Chicago is extremely small, and we do not expect that this situation will arise in practice.

In addition, Rule 402(f) of the revised regulations stipulates that an advisory shall be declared for the entire Illinois portion of any air quality control region if any part of that region meets advisory criteria. Alert and Emergency declarations are made for portions of the alert area meeting the applicable criteria or causing those criteria to be met elsewhere. While we note the reluctance of the City of Chicago to accept a role which reduces its authority to declare air pollution episodes, the Agency has determined that these objections are outweighed by the advantages of a uniform statewide program.

(2) The proposal was also criticized by the Chicago Lung Association for the increase in the yellow alert level from 0.10 ppm to 0.17 ppm.

While retaining the existing 0.10 limitation would have been preferable, the 0.17 ppm level is consistent with the minimum EPA requirements. The impact of raising the yellow alert level to 0.17 ppm is offset by the fact that the advisory level is to be maintained at 0.07 ppm level, and the red alert and emergency levels have been decreased to 0.3 and 0.5 ppm, respectively. The revised regulations provide for more stringent emission reductions at lower ambient air concentrations of oxidants. Therefore, these revised regulations will result in greater protection to the public, and, therefore, should be approved.

EPA approval. After review of all relevant materials, the Administrator has determined that the proposed revision is consistent with current EPA policies and goals set forth in the requirements of section 110(a)(9) (A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that the proposed revision will not interfere with any applicable ambient air quality standard. Therefore, the Administrator is approving this proposed Illinois revision.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart O—Illinois

1. In § 52.720, paragraph (c)(12), is added as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(12) On June 22, 1976, the Director of the Illinois Environmental Protection Agency submitted revised emergency episode regulations.

(42 U.S.C. 1857c-5.)

Dated: August 1, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-22488 Filed 8-4-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21246; RM-2851]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations In Heidelberg, Miss.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns a first Class A FM channel to Heidelberg, Miss. Petitioner, New Laurel Radio Station, Inc., states that the FM station would provide Heidelberg with a first full-time local broadcast service.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202–632–7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. Heidelberg, Miss. Report and order (Proceeding Terminated).

Adopted: July 29, 1977.

Released: August 2, 1977.

1. The Commission has under consideration the Notice of Proposed Rule Making, adopted May 13, 1977, 42 FR 27268, proposing the assignment of Channel 257A to Heidelberg, Miss., as a first FM assignment to that community. The Notice was issued in response to a petition filed by New Laurel Radio Station, Inc. ("petitioner"), licensee of AM Station WAML, Laurel, Miss. Petitioner filed supporting comments reaffirming its intention to apply for a station if the channel is assigned and to build a station if authority is granted. No oppositions to the petition were filed.

2. Heidelberg (pop. 1,112), situated in Jasper County (pop. 15,995),[1] is located approximately 24 kilometers (15 miles) northeast of Laurel, Miss., and 153 kilometers (95 miles) northwest of Mobile, Ala. There is no local broadcast service in Heidelberg.

3. In support of its proposal, petitioner submitted information with respect to Heidelberg and its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 257A to Heidelberg, Mississippi. A demand has been shown for its use, and it would provide the community with a first local aural service. It can be made without affecting any existing assignments and would be consistent with the applicable minimum spacing requirements.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. In view of the foregoing, it is ordered, That effective September 12, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the city listed below as follows:

[1] Population figures are taken from the 1970 U.S. Census.

City and Channel No.

Heidelberg, Miss., 257A.

7. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-22592 Filed 8-4-77;8:45 am]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Amendment of Rules in the Maritime Service Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the Report and Order appearing in the FEDERAL REGISTER June 17, 1977 at 42 FR 30999.

EFFECTIVE DATE: July 18, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Walter E. Weaver, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 2, 13, 81 and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, Docket No. 20813.

Released: July 29, 1977.

1. The Report and Order in the instant proceeding (FCC 77-380; 42 FR 30999), was released on June 10, 1977. The (First) Errata was released on June 21, 1977, and a Second Errata was released on July 18, 1977.

2. We have received a number of inquiries regarding the requirements imposed by the text of § 81.209(c)(2). In general these inquiries seek to determine if the intent of this section was to impose a receiver selectivity substantially less than the channel width, with particular reference to the A1 Morse calling channels.

3. In the case of the A1 Morse working channels, the channel width is uniformally 500 Hz in the bands between 4 and 26 MHz. The text of § 81.209(c)(2) is directed to those bands. This is not correct, however, in the case of the A1 Morse calling channels, where the channel width varies with megacycle order, being: 400 Hz at 4 MHz; 800 Hz at 8 MHz; 1200 Hz at 12 MHz; 1600 Hz at 16 MHz; and 2000 Hz at 22 MHz and at 26 MHz.

4. Clarification is necessary and can be provided by deleting the receiver selectivity for the A1 Morse working frequencies. We are, therefore amending § 81.209(c)(2) to delete the phrase "500 Hz removed", appearing at the end of that subparagraph. Section 81.209(c)(2) is, therefore amended to read as follows:

In § 81.209(c), subparagraph (2) is amended to read as follows:

§ 81.209 Watch on ship calling frequencies.

* * * * *

(c) * * *

(2) Have a selectivity capability such that it will reject signals on adjacent channels.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22523 Filed 8-4-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 6)]

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Safety Inspection of Augmenting Equipment

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The rule established by this rulemaking proceeding relieves commonly controlled carriers which jointly maintain a uniform safety program of the duty to inspect equipment leased between them at the point of augmentation, provided that they remain under common control and that the equipment leased is inspected within the 24 hour period immediately preceding the time of augmentation. Thus, under the revised rule, all leased equipment will still be subject to an inspection to insure that it complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. However, the revised rule will allow commonly controlled carriers to provide a less costly and more expeditious service to the shipping public.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTARY INFORMATION: On April 25, 1977, the Interstate Commerce Commission published a proposed rule (42 FR 21114) to revise the regulation in 49 CFR 1057.4(c). As the Commission stated at that time, the purpose of the proposed rule was to establish a more efficient procedure for allowing commonly controlled carriers to lease equipment between themselves than existed previously, thereby improving service to the shipping public.

Interested members of the public were invited to submit written comments concerning the proposed rule. Comments were received from a national organization of the trucking industry, and from five separate groups of commonly controlled motor carriers. All of the comments were favorable to the proposed revision. Several commenters, however, raised questions, or made suggestions, which have prompted changes in the regulation as proposed.

PURPOSE

The proposal for the revision of 49 CFR 1057.4(c) was initiated after the Section of Motor, Water, Forwarder Operations, in the Commission's Bureau of Operations, conducted a study of the effectiveness and efficiency of the existing regulation. Under the regulation all motor carriers leasing equipment have been required to inspect the equipment at the point of augmentation to insure that it conformed to the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. It has, however, been the practice of the Commission's Motor Carrier Leasing Board to grant a petition for waiver of this regulation where the petitioning carriers are under common control and jointly maintain and administer a uniform safety program, in order to avoid needless duplication of effort, time, and cost. In those instances where waivers have been granted, the petitioning carriers were still obligated to inspect leased equipment. However, a single inspection took place at a time earlier than at the point of augmentation. Under the rule as revised in this proceeding, affected motor carriers need no longer file petitions for waiver, or, in the alternative, inspect leased equipment at the point of augmentation. These carriers will still be required, nonetheless, to inspect leased equipment within the 24 hour period immediately preceding the time of augmentation in the manner otherwise prescribed in the regulation. Thus, under the revision, the safety aspect of the regulation will be preserved, but affected carriers will be enabled to operate more efficiently to the benefit of the shipping public.

TIME AND NATURE OF THE INSPECTION

The revision to 49 CFR 1057.4(c) as originally proposed indicated, in part, that the exemption would apply provided that the equipment leased is inspected on the day it is to be leased. Several commenters have stated that this "same day" requirement is too restrictive since they perform trucking operations around the clock. They claim, therefore, that the time of the lease and that of the inspection may not readily be accomplished on the same calendar day. Therefore, these commenters have requested that a 24 hour period be allowed in lieu of the same day requirement, arguing that this modification would not subvert the intention of the regulation. We agree, provided that the inspection is accomplished prior to the time of augmentation to insure that the equipment conforms to the Motor Carrier Safety Regulations of the Department of Transportation before it changes hands.

One commenter has asked that we clarify the nature of the inspection required when equipment is leased between commonly controlled carriers jointly maintaining and administering a uniform safety program. Simply stated, the inspection requirement is the same which has previously existed and which is still clearly outlined in the regulation. The revision to 49 CFR 1057.4(c) enacted herein does not modify the nature of the inspection, but merely alters the time it may be accomplished without necessitating the filing of petitions for waiver by affected motor carriers.

The final revision to the regulation in 49 CFR 1057.4(c) reflects one additional modification to the rule as proposed. The sentence immediately following the newly incorporated exemption paragraph in the regulation begins with the phrase, "If an inspection is required * * *" and thereafter sets forth requirements pertaining to the nature of the inspection. The words, "If an inspection is required" will be deleted, since leased equipment still must always be inspected for safety purposes, irrespective of whether the parties engaging in the lease are commonly controlled and jointly maintain a uniform safety program.

(5 U.S.C. 553 and 559, and 49 U.S.C. 304.)

NOTE.—This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

Accordingly, 49 CFR 1057.4(c) is amended to read as follows:

§ 1057.4 Augmenting equipment.

* * * * *

(c) *Safety inspection of equipment by the authorized carrier.* It shall be the duty of the authorized carrier, before taking possession of the equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of the carrier in order to insure that the said equipment complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. However, where carriers leasing equipment are commonly controlled and jointly maintain and administer a uniform safety program, no such inspection at the point of lease is required; *Provided,* That both carriers remain under common control and the equipment be inspected within the 24 hour period immediately preceding the time of augmentation and found to meet the requirements of the Motor Carrier Safety Regulations of the Department of Transportation. The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier, and if his inspection discloses that the equipment does not comply with the requirements of the said safety regulations, possession thereof shall not be taken. When such an inspection has been made, the authorized carrier or an officer or partner thereof, or a safety director or other supervisory employee responsible for safety compliance, shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized to do so by such carrier as its representative. When equipment other than a power unit is leased, a form of report applicable to such equipment may be used.

* * * * *

(5 U.S.C. 553 and 559 (49 U.S.C. 304).)

[FR Doc.77-22611 Filed 8-4-77;8:48 am]

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 35345 (Sub-No. 2)]

PART 1251—REPORTS OF FREIGHT FORWARDERS

Freight Forwarder Report of Freight Loss and Damage Claims; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: The Report and Order, approved by the Commission July 1, 1977, and published in the FEDERAL REGISTER July 19, 1977, page 37001, shows: "EFFECTIVE DATE: Year Ended December 31, 1975." It should read: "EFFECTIVE DATE: Year Ended December 31, 1978."

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7331.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22610 Filed 8-4-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Clarification of Tagging Requirements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: A new section is added to require tagging of freshly killed migratory birds received, possessed, or given as a gift. Wording in present regulations allows a hunter to avoid possible charges of hunting without a license or exceeding possession limit by stating that another hunter had given him the birds; this requirement tightens that loophole by placing accountability on the hunter who took the birds. Also, "Migratory bird preservation facility" is redefined to include "taxidermists."

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202-343-9242).

SUPPLEMENTARY INFORMATION: On March 10, 1977, the Service published a proposed rule in the FEDERAL REGISTER [42 FR 13321] to amend § 20.11 and to add a new § 20.40 to Part 20 of Title 50 of the Code of Federal Regulations. The amendment to § 20.11 would insert the word "taxidermist" in paragraph (ii) of the definition of "Migratory bird preservation facility" in order to clarify the fact that taxidermists fall within the scope of that definition. The proposed § 20.40 would require that any freshly killed migratory game birds received, possessed, or given as a gift, except at personal abodes, have a tag attached identifying the hunter who took the birds, the total number taken, and the date such birds were taken.

Public comments were requested on these proposed rules, and comments received no later than May 18, 1977, have been considered. Comments received were favorable to the proposal. Two comments were from State agencies and one comment was from a waterfowl organization. The comment from the waterfowl organization suggested that "took" might be misconstrued to mean "accepted." However, in § 10.12 of Part 10 of Title 50, CFR, "took" or "take" is defined to mean pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. This definition is applicable to Part 20. The final rule is therefore adopted as proposed. The principal author of this document is Margaret Cash, Division of Law Enforcement.

Accordingly, Part 20, Subchapter B, Chapter I of Title 50, Code of Federal Regulations, is amended, as follows:

1. Add the word "taxidermist" to § 20.11(ii) under Subpart B. As revised, paragraph (ii) reads:

§ 20.11 Meaning of terms.

* * * * *

"Migratory bird preservation facility" means:

* * * * *

(ii) Any taxidermist, cold storage facility or locker plant which, for hire or other consideration; or

* * * * *

2. Add a new § 20.40 to Subpart D to read:

§ 20.40 Gift of migratory game birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 2, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-22563 Filed 8-4-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Final rule.

SUMMARY: This rule enlarges the possible grounds for appeals by prisoners of the Commission's decisions. The rule replaces the present general criteria, which did not indicate what specific issues might be most relevant in such appeals. The purpose of the rule is to help the prisoner focus on the relevant issues as well as to make the Commission's reviewing process more efficient.

EFFECTIVE DATE: This rule becomes effective on September 6, 1977.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: The rule is adopted as proposed. A total of four comments were received on the proposal. Three prisoners felt that the new appeal grounds were a considerable improvement from their point of view. One probation officer also sent a favorable comment.

The appeal grounds are designed to encompass any possible and relevant basis for relief, in both parole, recission, and revocation proceedings. The grounds include the possibility of a prisoner making his appeal on the basis of actual harm caused by errors of procedure (actual harm being defined as a different decision than would have resulted had corrected procedure been followed). Prisoners will therefore benefit from careful study of the possible appeal grounds before presenting their appeals; however, the absence of lengthy discussion of any ground selected will not foreclose consideration of that point by the Commission.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective September 6, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

In § 2.25, paragraph (f) is revised as follows:

§ 2.25 Regional appeal.

* * * * *

(f) Appeals under this section may be based on the following grounds:

(1) That the guidelines were incorrectly applied as to any or all of the following:

(i) Severity rating;

(ii) Salient factor score;

(iii) Time in custody;

(2) That a decision outside the guidelines was not supported by the reasons or facts as stated;

(3) That especially mitigating circumstances (for example, facts relating to the severity of the offense or the prisoner's probability of success on parole) justify a different decision;

(4) That a decision was based on erroneous information, and the actual facts justify a different decision;

(5) That the Commissionn did not follow correct procedure in deciding the case, and a different decision would have resulted if the error had not occurred;

(6) There was significant information in existence but not known at the time of the hearing.

(7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

[FR Doc.77-22720 Filed 8-4-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission

ACTION: Final rule.

SUMMARY: The procedures relating to the organization of the Commissioners in the Commission's headquarters office in Washington, D.C., for the purpose of voting on national appeals and cases referred to them by the Regional Commissioners, are being revised to indicate which Commissioners will preside over and direct such voting, and how Commissioners will be substituted for by other Commissioners in the case of absence or vacancy. The purpose of the rule is to clarify the exercise of internal administrative authority which had hitherto been undefined, and not to affect the voting procedures themselves.

EFFECTIVE DATE: This rule is effective August 3, 1977.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: Since these internal administrative rules will not have any effect on the balance of voting power or any other matter which might affect the disposition of cases, this rule is made effective without public comment. The Commission has also determined that the orderly administration of its current caseload will be served by making the change effective immediately.

Accordingly, pursuant to the provisions of 18 U.S.C. § 4203(a)(1) and § 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective August 3, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

In § 2.1, paragraphs (c) and (d) are revised as follows:

§ 2.1 Definitions.

As used in this part:

* * * * *

(c) The term "National Appeals Board" refers to the Vice Chairman of the Commission and two other National Commissioners who are assigned in the headquarters office of the Commission in Washington, D.C. The Vice Chairman shall be the Chairman of the National Appeals Board. In the absence or vacancy of the Vice Chairman the Chairman of the Commission functions as the Chairman of the National Appeals Board. In the absence or vacancy of a member the Chairman of the Commission functions as a member of the National Appeals Board.

(d) The term "National Commissioners" refers to the Chairman of the Commission and the three members of the National Appeals Board. The Vice Chairman of the Commission shall be the Chairman of the National Commissioners. In the absence or vacancy of the Vice Chairman, the Chairman of the Commission shall be Chairman of the National Commissioners.

* * * * *

[FR Doc.77-22723 Filed 8-4-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Commission is publishing a rule that would permit any three Commissioners to obtain full Commission review of any decision to grant or deny parole. This rule arises from the need to ensure that no parole is granted or denied by a minority of Commission members, in a case where the full Commission would clearly decide otherwise. The purpose of the rule is to provide an extraordinary review procedure as part of the Commission's existing system of internal checks and balances.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: On June 10, 1977, the Commission published a proposal to permit review by the entire Commission (on the referral of three Commissioners) of any level of Commission decisionmaking, whether Regional Commissioner or National Appeals Board.

Two comments were received regarding the proposal. One prisoner felt that the procedure would be unfair in a case where a parole had been granted, while a probation officer felt that the regulation was well taken.

The Commission does not contemplate the use of such a procedure except in the most unusual case where its statutory mandate, at 18 U.S.C. § 4206(a)(2) (requiring that a release not "jeopardize the public welfare"), might not be served by a release, or where a denial of parole was clearly unwarranted. The case of a denial of a parole already granted, would, therefore, be likely to involve a very serious offender whose case would justify the use of such an extraordinary remedy. Moreover, the requirement for a three-vote referral ensures that such review will be taken only where the gravity of the issue makes it appropriate. Finally, a change of decision under § 2.24(at the regional level) is a not-infrequent occurrence that reflects the Commission's belief that the quality of its decisionmaking is enhanced through a system of internal checks and balances.

The rule is made effective immediately in order that the procedure be available in any future case in which a parole or a denial of parole might be contrary to the statutory requirements. Thus, the emergency nature of this publication arises from the need to ensure the fullest possible compliance with 18 U.S.C. § 4206.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective August 3, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

§ 2.54 is amended by adding paragraph (c) to read as follows:

§ 2.54 Reviews pursuant to 18 U.S.C. 4203/4215.

* * * * *

(c) Notwithstanding the provisions of §§ 2.23-2.26 and § 2.28, any decision made by a Regional Commissioner or the National Appeals Board shall, upon the petition of not less than three Commissioners, be referred to the full Commission for review and, by majority vote, affirmed, modified, or reversed. Such petition must be submitted to the Chairman of the Commission and be acted upon by the Commission not later than 30 days from the date of entry of the decision to be reviewed. The prisoner shall receive a written notice of this referral, which shall stay the decision in his case until such review has been completed. Following review by the full Commission, the prisoner shall be informed in writing of the Commission's decision and, if parole is denied, of the reasons therefor.

[FR Doc.77-22724 Filed 8-4-77;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Order of Succession to Act as Secretary

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document provides the order in which Assistant Secretaries of the Department of Agriculture shall act as Secretary in the event two or more shall have taken office simultaneously.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, (202-447-6035).

SUPPLEMENTARY INFORMATION: Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended by adding to § 2.5 the following new sentence at the end of paragraph (a):

§ 2.5 Order in which Assistant Secretaries and the General Counsel shall act as Secretary.

(a) * * * In the event that any two or more Assistant Secretaries shall have taken office simultaneously, they shall act as Secretary in the order they are listed herein.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: August 1, 1977.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc.77-22556 Filed 8-4-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 104]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 7-13, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendaitons and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is easier than last week. Average f.o.b. price was $7.21 per carton the week ended July 30, 1977, compared to $6.82 per carton the previous week. Track and rolling supplies at 225 cars were down 25 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be han-

died should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of as specified. The committee meeting was held on August 2, 1977.

§ 910.404 Lemon Regulation 104.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August, 7, 1977, through August 13, 1977, is established at 275,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: August 4, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22856 Filed 8-4-77;1:09 pm]

[Pear Reg. 16]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipment of Beurre D'Anjou variety winter pears shipped from Oregon (except the Medford District), Washington, and California, and certain quality requirements for shipments from designated areas of Oregon and Washington, during the period August 8 through September 30, 1977. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: August 8, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the applicable provisions of the marketing agreement and Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Control Committee, established under the marketing agreement and order. It is hereby found that the regulation of Beurre D'Anjou variety of winter pears, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. The committee estimates that about 6 million boxes of Beurre D'Anjou pears will be produced this year as compared with 6.9 million in 1976 and 5.3 million in 1975. Shipments of Beurre D'Anjou pears from the production area are expected to begin about August 12, 1977. The grade, quality and size regulations hereinafter provided, are designed to prevent the handling, from August 8 through September 30, 1977, of any Beurre D'Anjou pears of lower grades and smaller sizes than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

In addition to the basic grade and size requirements specified for Beurre D'Anjou variety pears, the regulation permits the handling of such pears bearing limited damage from skin punctures, however, this reduction in market desirability would be offset by the requirement that any pears thus affected be of a specified higher grade and larger size.

The requirement regarding Beurre D'Anjou variety pears grown in the Oregon and Washington districts and shipped to domestic markets whereby certification that the core temperature of such pears has been lowered to 35 degrees F., or less prior to shipment and must have an average pressure test of 14 pounds, is designed to assure proper ripening of such pears.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 8, 1977. A reasonable determination as to supply of, and the demand for, Beurre D'Anjou variety winter pears must await the development of the crop thereof, and adequate information thereon was not available to the Control Committee until July 7, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such pears. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were submitted to the Department as soon as practicable after such meeting was held; shipments of the current crop of such pears are expected to begin soon after August 8, 1977; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committe; information concerning such provisions and effective time has been disseminated among handlers of such pears; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 927.316 is added which reads as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through September 30, 1977, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirement or are handled in accordance with paragraph (b) of this section: *Provided*, That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler during the aforesaid period: *Provided*, That, pears of such variety which bear unhealed skin punctures not exceeding $^{3}/_{16}$ of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size; *Provided further*, That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through September 30, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 51.1300–51.1323); "135 size," "165 size," and "180 size," shall mean that the pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, or 180 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by $11^{1}/_{2}$ inches wide by $8^{1}/_{2}$ inches deep); and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 2, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22616 Filed 8-4-77;8:45 am]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Handling Regulation

Correction

In FR Doc. 77-21932 appearing on page 38380 in the issue for Thursday, July 28, 1977, in § 946.332(e)(1)(iii), middle column, page 38381, the line "such special purpose shipments and or" was printed twice. The first of these should be removed and "such handler's certificate applicable to" substituted therefor.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Expenses and Rate of Assessment for 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $218,880 and a rate of assessment of $1.50 per ton of salable prunes handled, for the maintenance and functioning of the Prune Administrative Committee. This regulation would enable the Committee to collect assessments from handlers on all prunes handled and use the resulting funds for its expenses.

DATE: Comments due August 19, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The marketing agreement, and Order No. 993, both as amended, regulate the handling of dried prunes produced in California. They are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 691–674). The Committee, established under the order, is responsible for its local administration.

The proposal is as follows:

§ 993.328 Expenses of the Prune Administrative Committee and rate of assessment for the 1977–78 crop year.

(a) *Expenses.* Expenses in the amount of $218,880 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1977, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.50 per ton of salable prunes handled by him as the first handler thereof.

Dated: August 2, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-22617 Filed 8-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 108]

ASYLUM

Identification of Reasons for Denial

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This is a notice of proposed rule making setting forth proposed amendments to the regulations of the Immigration and Naturalization Service pertaining to asylum. These amendments are necessary to require that a district director denying an application for asylum because it is "clearly lacking in substance" shall identify the feature or features which make the application insubstantial in his written denial order, and to reflect the agreement reached between this Service and the Department of State concerning the processing of last-minute applications for asylum submitted by citizens of the People's Republic of China ordered deported to Hong Kong. The intent of these amendments is to provide the detailed reasons for denial to aliens whose applications for asylum are denied because they are "clearly lacking in substance", and to prevent delay caused by the filing of last-minute applications for asylum where the State Department has indicated that it does not wish to be consulted in the particular class of cases.

DATES: Representations must be received on or before September 6, 1977.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: This is a notice of proposed rule making issued in accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) proposing amendments to 8 CFR 108.2. This proposal amends the existing regulation in two respects.

The first proposed amendment reflects the desire of the Service that where an asylum application is denied because it is "clearly lacking in substance", the reasons for this determination must be set forth Accordingly, it is proposed to amend the existing regulation to provide that where an application is denied for the reason that it is clearly lacking in substance, the required written denial must identify the feature or features of the application which make it insubstantial.

The second proposed amendment is the result of consultations between the Service and the Office of the Coordinator for Humanitarian Affairs of the Department of State concerning the problems raised by last-minute requests for asylum from aliens who could have applied for a hearing under section 243(h) of the Immigration and Nationality Act, with particular reference to the specific problems of the citizens of the People's Republic of China who have fled to Hong Kong and who have resided there for a substantial period of time. That office, in a letter which is being made an Appendix to this regulation, stated that it would deny requests for asylum submitted by citizens of the People's Republic of China who have fled to Hong Kong and who have resided there for a substantial period of time provided: (a) They are being deported to Hong Kong and not the People's Republic of China and (b) that the Colony will accept them. The existing regulation provides that where an application is denied for the reason that it is clearly lacking in substance, notification shall be given to the Department of State with opportunity to supply a statement containing matter favorable to the application and departure shall not be enforced until 30 days following the date of notification unless a reply has been received from the Department of State prior to that time. Since the Department of State has advised that it is unlikely that citizens of the People's Republic of China being deported to Hong Kong will be persecuted, and that last-minute requests for asylum may be handled by the Service without consultation with the Department of State, it is proposed to add a proviso to the 30-day provision of the existing regulation referred to above, stating that there need be no delay of departure in any class of cases in which the Service has been officially notified by the Department of State that it does not desire to be consulted.

The Service invites submission of written data, views and arguments concerning the proposed rule. Oral representations may not be made in any manner. All relevant material received on or before the closing date for submission of representations will be considered.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations by revising § 108.2 and by adding an Appendix to Part 108 as set forth below.

In Part 108, in § 108.2, it is proposed to revise the existing first paragraph and redesignate it paragraph (a) and add a new paragraph (b). As revised, § 108.2 reads as follows:

§ 108.2 Decision.

(a) The applicant shall appear in person before an immigration officer prior to adjudication of the application, except that the personal appearance of any children included in the application may be waived by the district director. The district director shall request the views of the Department of State before making his decision unless in his opinion the application is clearly meritorious or clearly lacking in substance. The district director may approve or deny the application in the exercise of discretion. The district director's decision shall be in writing, and no appeal shall lie therefrom. If an application is denied for the reason that it is clearly lacking in substance, the written denial must identify the feature or features of the application which make it insubstantial, and notification shall be given to the Department of State, with opportunity to supply a statement containing matter favorable to the application, and departure shall no be enforced until 30 days following the date of notification unless a reply has been received from the Department of State prior to that time; *Provided,* however, there need be no delay of departure in any class of cases in which the Service has been officially notified by the Department of State that it does not desire to be consulted. A case shall be certified to the regional commissioner for final decision if the Department of State has made a favorable statement, but, notwithstanding, the district director has chosen to deny the application. If any decision will be based in whole or in part upon a statement furnished by the Department of State, the statement shall be made a part of the record of proceeding, and the applicant shall have an opportunity for inspection, explanation, and rebuttal thereof as prescribed in § 103.2(b)(2) of this chapter. A denial under this part shall not preclude the alien, in a subsequent expulsion hearing, from applying for the benefits of section 243(h) of the Act and of Articles 32 and 33 of the Convention Relating to the Status of Refugees.

(b) One class of cases in which the Department of State has notified the Service that it does not desire to be consulted is the following: The alien resided in Hong Kong for a substantial period after leaving the People's Republic of China, the Service proposes to deport him to Hong Kong which will accept him, and the alien has had an opportunity before requesting asylum to apply for section 243(h) withholding of deportation to Hong Kong. A pertinent letter from the Department of State dated November 9, 1976, is published as an Appendix to this Part.

It is proposed to add an Appendix to Part 108 which reads as follows:

APPENDIX

MR. JAMES F. GREENE, *Deputy Commissioner, Immigration & Naturalization Service, 425 I Street NW., Washington, D.C.*

November 9, 1976.

DEAR MR. GREENE: Thank you for your letter of October 22, 1976, with which you enclosed a copy of your proposed amendment to 8 CFR 108.2, and in which you call particular attention to the paragraph concerning citizens of the People's Republic of China who have fled to Hong Kong. You requested our comments and or suggested changes in the proposed amendment. We have no suggested changes and the language as submitted is acceptable to the Department of State.

We understand that you are concerned over the problems raised by last minute requests for asylum from aliens who could have applied earlier for a hearing under Section 243(h) of the Immigration and Nationality Act, with particular reference to the specific problems of citizens of the People's Republic of China who have fled to Hong Kong and have resided there for a substantial period of time. There is no likelihood that these aliens will be persecuted within the meaning of the Convention Relating to the Status of Refugees if they are deported to Hong Kong nor have we any specific reason to believe that any of such persons will be returned by that government to countries where they will face such persecution. Our policy is to deny such requests for asylum provided: (a) They are deported to Hong Kong and not the People's Republic of China and (b) that the Colony will accept them.

We agree that such last minute requests concerning the return of Chinese to Hong Kong as described above can be handled by the Immigration and Naturalization Service without consultation with the Department through our office. We understand that during the deportation hearings all such aliens will have available to them the various benefits of the Immigration and Nationality Act, including withholding of deportation under Section 243(h) and the application of the Convention Relating to the Status of Refugees whenever appropriate in their cases. If there are any questions concerning individual asylum requests in such cases or if a case appears to be politically sensitive, we are prepared to provide you with an advisory opinion by telephone or in writing on an urgent basis.

I hope the increased flexibility provided your office as outlined above regarding Chinese from Hong Kong will be helpful to you.

Sincerely,

JAMES L. CARLIN,
Deputy Coordinator for Humanitarian Affairs, Department of State.

(Sec. 103; 66 Stat. 173 (8 P.S.C. 1103).)

Dated: August 2, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-22612 Filed 8-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking Regarding Energy Efficiency Improvement Targets; Corrections

AGENCY: Federal Energy Administration.

ACTION: Proposed rulemaking; corrections.

SUMMARY: This document corrects errors made in the proposed rulemaking regarding energy efficiency improvement targets for ten types of consumer products, which appeared at pages 36648 and following of the July 15, 1977, FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Old Post Office Building, Room 307, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–4635).
Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).
William J. Dennison (Office of General Counsel), 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9750).

SUPPLEMENTARY INFORMATION: FR Doc. 77–20285, appearing at 42 FR 36648–36670, July 15, 1977, is corrected as follows:

A. Page 36655; In col. 2, paragraph 3, line 11, change "Data" to "Dana", and in paragraph 3, line 13, change "Publication" to "Publications".

B. Page 36659:

1. Freezers: In col. 1, Stage III, paragraph 3, line 5, change "6.4 trillion" to "6.1 trillion".

2. Dishwashers: In col. 2, Stage I, paragraph 1, line 3, change "$21.00" to "$20.90"; Stage I, paragraph 1, line 5, change "$24.00" to "$24.22"; Stage II, paragraph 2, line 4, change "$78" to "$81"; Stage II, paragraph 3, line 3, change "$10.4 million" to "$7.0 million"; Stage III, paragraph 2, line 4, change "$117 million" to "$119 million"; Stage III, paragraph 2, line 7, change "$200 million" to "198 million"; Stage IV, paragraph 2, line 2, change "5.9 percent" to "6.2 percent"; Stage IV, paragraph 2, line 2, change "289,000 dishwashers" to "303,800 dishwashers".

In col. 3, Stage IV, paragraph 3, line 2, change "437 production workers" to "459 production workers".

3. Gas clothes dryers: In col. 3, Stage II, paragraph 3, line 2, add "is" between "manufacturers" and "adequate"; Stage II, paragraph 3, line 13, change "$4.9 million" to "$4 million"; Stage II, paragraph 1, line 1, change "Stage II" to "Stage III".

C. Page 36660:

1. Electric clothes dryers: In col. 1, Stage I, line 5, change "$5.20" to "$5.22"; Stage II, paragraph 2, line 4, change "less than 1 percent" to "about 1 percent".

2. Electric water heaters: In col. 2, Stage I, paragraph 1, line 6, change "$18.50" to "$18.54"; col. 3, Stage IV, paragraph 4, line 6, change "$6 million" to "$1.4 million".

D. Page 36661:

1. Gas water heaters: In col. 1, Stage I, line 3, change "24" to "$24.00"; col. 2, Stage IV, paragraph 4, line 1, change "$5 million" to "$2 million".

2. Room air conditioners: In col. 3, Stage II, paragraph 3, line 13, change "$36.5 million" to "$36.8 million"; Stage III, paragraph 2, line 2, change "shipment" to "shipments"; State III, paragraph 3, line 4, change "20 trillion" to "21 trillion"; Stage III, paragraph 3, line 7, change "380 million" to "308 million".

E. Page 36662:

1. Room air conditioners: In col. 1, delete the first six paragraphs; col. 1, Stage IV, paragraph 5, line 5, change "93 percent" to "95 percent"; Stage IV, paragraph 5, line 6, change "12 sizeable firms" to "13 sizeable firms"; Stage IV, paragraph 5, line 7, change "seven percent" to "five percent".

2. Home heaters (gas vented): In col. 2, Stage II, between paragraph 2 and paragraph 3, insert the following:

Stage III. Benefits exceed costs for the household sector in the purchase and use of higher-priced, more efficient home heaters (gas vented), resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 700,000 home heaters (gas vented) complying with the proposed target initially costs households an additional $17 million but lowers life cycle operating costs by $55 million, yielding a net benefit of $38 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in an annual energy savings of 2.7 billion cubic feet of natural gas, which is equivalent to 3 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 40 billion cubic feet of natural gas, or 45 trillion Btu's over the 15-year life of an average home heater (gas vented).

Stage IV. Negative impacts from implementation of the proposed home heater (gas vented) target are not of substantial consequence.

Demand in 1980 might reasonably increase by 1.8 percent, or 12,600 home home heaters (gas vented), because of the higher purchase price of more energy-efficient products.

Employment might temporarily increase by 30 production workers, or about 2 percent of home heater (gas vented) employment, in response to lower demand.

3. Oil vented home heaters: Delete the entire section, and add the following:

Oil Vented Home Heaters

FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 12 percent for oil vented home heaters is the maximum improvement which is technologically and economically feasible. A summary of economic findings for oil vented home heaters follows:

Stage I. The total price increase resulting from implementation of the selected design options is $200 per unit which yields a production-weighted price increase of $31.00 in current prices and $35.93 in 1980 prices.

Stage II. Both scarce material supplies and investment funds are sufficiently available to permit the implementation of the proposed target for oil vented home heaters.

No scarce materials are affected by the proposed target.

Profitability and growth of the manufacturers is adequate to finance total industry investment of 1.2 million which amounts to about $197 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cumulative cost for each design option. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $900 thousand.

Stage III. Benefits exceed costs for the household sector in the purchase and use of higher-priced, more efficient oil vented home heaters, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 40 thousand oil vented home heaters complying with the proposed target initially costs households an additional $1.4 million but lowers life cycle operating costs by $4.8 million, yielding a net benefit of $3.4 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in an annual energy savings of 1.3 million gallons of fuel oil, which is equivalent to 173 billion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 19 million gallons, or 2.6 trillion Btu's, over the 15-year life of an average oil vented home heater.

Stage IV—Negative impacts from implementation of the proposed oil vented home heater target are not of substantial consequence because the relatively small replacement demand shows signs of declining below current low levels during the next decade. Comprehensive data concerning demand, employment, and industry structure for oil vented home heaters are not presently available but the data which are available imply that the impacts are not of substantial consequence."

F. Page 36663:

1. Monochrome televisions: In col. 1, change "*Statge IV*" to "*Stage IV*".

2. Color televisions: In col. 1, Stage IV, paragraph 1, line 3, change "televisoin" to "television".

G. Page 36664:

1. Microwave ovens: In col. 1, Stage I, paragraph 1, line 3, change "$20.00" to "$1.50"; Stage I, paragraph 1, line 5, change "$23.18" to "$1.74"; Stage III, paragraph 3, line 10, change "$150 thousand" to "$86 thousand".

In col. 2, Stage III, paragraph 2, line 5, change "1.5 million" to "$1.7 million"; Stage III, paragraph 2, line 6, change "$1.7 million" to "$2 million"; Stage III, paragraph 2, line 7, change "$0.2 million" to "$0.3 million"; State III, paragraph 3, line 5, change ".5 billion Btu's" to "47.7 billion Btu's"; Stage III, paragraph 3, line 7, change "7.5 billion Btu's" to "720.8 billion Btu's".

2. Clothes washers: In col. 2, Stage II, paragraph 3, line 13, change "$65.0 million" to "$66.7 million"; Stage III, paragraph 2, line 1, change "6.1 million" to "7 million"; col. 3, Stage III, paragraph 2, line 3, change "693 million" to "697 million"; Stage III, paragraph 2, line 1, change "11 million" to "7 million"; Stage III, paragraph 3, line 4, change "44 trillion" to "28 trillion"; Stage III, paragraph 3, line 7, change "303 trillion" to "304 trillion".

H. Page 36665: Delete Tables 24 and 26 and add the following:

TABLE 24.—*Energy factors and cost of implementation*

Consumer product	Production-weighted			Projected costs in 1980		
	Energy savings (percent)	Purchase price increase		Number of shipments (millions)	Initial purchase cost (millions)	Cost increased (millions)
		Current	1980			
Refrigerators, refrigerator-freezers	32.0	$39.00	$45.20	7.1	$3,703	$321
Freezers	23.0	33.00	38.30	1.8	636	69
Room air-conditioner	23.0	47.00	54.50	6.0	1,739	327
TV, color	35.0	0	0	10.0	5,560	0
TV, black and white	65.0	0	0	3.5	406	0
Room heater, gas	12.0	21.00	24.30	.7	203	17
Clothes washer	32.0	1.00	1.20	6.1	1,980	7
Dryer, electric	7.0	4.50	5.22	4.2	1,168	22
Dryer, gas	15.0	4.60	5.30	1.0	301	5
Dishwasher	20.0	20.90	24.22	4.9	1,420	119
Water heater:						
Gas	20.0	17.00	19.70	3.1	503	61
Electric	15.0	16.00	18.54	4.1	570	76
Cooking range:						
Gas	51.0	35.00	40.60	2.4	793	97
Electric	3.0	6.00	7.00	4.4	1,708	31
Total				59.3	20,680	1,152

TABLE 26.—*Additional capital investment requirements by industry for each consumer product to achieve energy efficiency improvement targets*[1]

Consumer product	Capital investment (millions)	Capital investment per unit of energy saved (mills per kilowatt hour)
Dishwasher	$7.0	0.4
Refrigerator,refrigerator-freezer	7.5	.1
Room air-conditioner	7.5	.3
Freezer	7.0	.8
Water heater, gas	2.6	.04
Water heater, electric	1.4	.03
Cooking range, gas	1.3	.02
Room heater, gas	1.2	.1
Clothes washer	.8	.02
Dryer, electric	.8	.2
Cooking range, electric	.6	.4
Dryer, gas	.4	.1
TV, color	0	0
TV, black and white	0	0
Total	38.1	.1

[1] FEA analysis and testimony at May 1976 hearings.

I. Page 36665: In col. 1, paragraph 1, line 7, change "$1,154" to "$1,152"; col. 3, paragraph 2, line 2, change "$41.1 million" to "$38.1 million".

J. Page 36666: In col. 1, paragraph 2, line 6, change "$41.1 million" to "$38.1 million"; paragraph 2, line 18, change "$41 million" to "$38.1 million"; Stage III, paragraph 1, line 12, change "$1,154" to "$1,152"; Stage III, paragraph 1, line 15, change "$19.46" to "19.43"; Stage III, paragraph 1, line 16 change "$368.20" to "$368.17".

Issued in Washington, D.C., July 29, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22382 Filed 8-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 320]

[Docket No. 77N-0194]

CERTAIN ANTICONVULSANTS

Proposed Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would establish bioequivalence requirements for certain oral drug products used to treat convulsions (anticonvulsants). Available data suggest that the various marketed brands of the same oral anticonvulsant may not have a comparable therapeutic effect. The proposed regulations would assure the bioequivalence of different brands of an anticonvulsant drug product and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by October 4, 1977. The Commissioner proposes that the final regulation based on this proposal be effective 30 days after its dates of publication in the FEDERAL REGISTER.

ADDRESSES: Written comments (four copies, identified with Docket No. 77N-0194) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

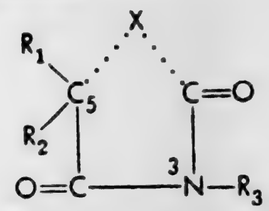
FOR FURTHER INFORMATION CONTACT:

Jerome P. Skelly, Bureau of Drugs (HFD-522), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4750).

SUPPLEMENTARY INFORMATION: Regulations in Subpart C of 21 CFR Part 320 published in the FEDERAL REGISTER of January 7, 1977 (42 FR 1624) set forth procedures for the Commissioner, on his own initiative or in response to a petition from an interested person, to propose and to establish a bioequivalence requirement for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. Data available to FDA suggest that there is well-documented evidence of actual bioequivalence differences in oral formulations of phenytoin and phenytoin sodium and potential bioequivalence differences in oral formulations of other anticonvulsants among currently marketed brands of the same drug product produced by various manufacturers, based on the criteria set forth in § 320.52 (21 CFR 320.52). Therefore, the Commissioner, on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for the following oral anticonvulsants: phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, paramethadione, trimethadione, phenacemide, and primidone. The evidence on which the Commissioner bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

BACKGROUND

Orally administered anticonvulsants are used primarily in the prophylaxis of epileptic seizures, i.e., to reduce the number and severity of seizures in patients with epilepsy. Although no one oral anticonvulsant drug product is equally effective in all types of epilepsy, they are presented together on the basis that they are members of a class of drugs that have close structural commonality, similar physicochemical and pharmacological properties and whose dose must be individualized which in turn requires close monitoring of patients. All of them are derivatives of either barbiturates (primidone being a structural analog of phenobarbital), hydantoins (phenytoin, phenytoin sodium, ethotoin, mephenytoin), and phenacemide (a substituted acetylurea derivative), oxazolidinediones (paramethadione and trimethadione), or succinimides (ethosuximide, methsuximide, and phensuximide). All contain the following structural common denominator:



The substituent at x varies with the chemical class, e.g.,

Hydantoins —NH—
Oxazolidinediones—O—
Succinimides —CH_2—
Acetylureas —NH_2—

Except for anticonvulsant agents selectively active against absence (petit mal) seizures, a phenyl or similar aromatic group at R_1 or R_2 appears essential for antiepileptic activity (Ref. 1).

Although their specific modes of action are not fully understood, these products have anticonvulsant activity and are effective for the various types of epilepsy, i.e., primidone is indicated for grand mal, psychomotor and focal seizures; phenytoin and ethotoin for grand mal and psychomotor seizures; mephytoin for psychomotor seizures; mephenytoin for grand mal, focal, Jacksonian, and psychomotor seizures; phenacemide for severe epilepsy, particularly mixed forms of psychomotor seizures; ethosuximide, methsuximide, phensuximide, paramethadione, and trimethadione for petit mal.

Most anticonvulsant drugs are almost completely absorbed after oral administration; however, the rate of absorption differs with the various drugs. The rate of excretion is generally slow and varies from subject to subject. The anticonvulsant agents are widely distributed in the body. Hydantoins, especially phenytoin, reach highest concentrations in the brain, liver, and salivary glands. Oxazolidinediones and succinimides are freely distributed throughout body water. Phenytoin and probably paramethadione and trimethadione cross the placental barrier. Phenytoin and primidone appear in the milk of nursing mothers (Ref. 2).

With the exception of paramethadione, most of the anticonvulsants are crystalline solids. Although phentoin sodium, ethosuximide, and trimethadione are fairly soluble in water, the other oral anticonvulsants are either insoluble or very slightly soluble in water.

Because of the similarity of chemical structure, physicochemical and pharmacological properties, and the necessity for individualized dosage requiring close monitoring of patients during administration of each drug product, these anticonvulsant drug products are being considered as a class in establishing a bioequivalence requirement. While phenobarbital sodium fall within the same

class by virtue of their structure and use as anticonvulsants, these drug products are not proposed at this time for inclusion as drugs of the anticonvulsant class presenting bioequivalence problems. The agency has reached this decision based on the lack of significant documented evidence of bioequivalence problems with phenobarbital commensurate with its extensive production by numerous manufacturers and use over the years.

EVIDENCE TO ESTABLISH A BIOEQUIVALENCE REQUIREMENT

The following criteria as set forth in § 320.52 were considered by the Commissioner in determining that a bioequivalence requirement should be established:

1. *Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.* Studies conducted under an FDA contract (Ref. 3) evaluated the relative bioavailability in 12 normal human volunteers of 11 lots of 100 mg phenytoin sodium capsules manufactured by 8 different companies. The studies demonstrated that several of the drug products exhibited statistically significant differences in the various parameters studied, e.g., the time of peak plasma concentration of the drug products ranged from 2.6 to 6 hours and the peak plasma concentration from 0.93 to 1.44 micrograms per milliliter (mcg/ml). The same studies also showed that on the basis of the area under the plasma level-time curve, one drug product was 31 percent more bioavailable than the reference product.

A recent single-dose crossover study involving six volunteers (Ref. 4) compared the bioavailability of four brands of phenytoin tablets with that of a micronized phenytoin-acid suspension. Significant differences between various products were found with regard to the areas under the serum phenytoin concentration-time curves (AUC), the peak serum phenytoin concentration (Cmax) and time to peak (Tmax).

Cmax, Tmax, and AUC's for the various brands of phenytoin

Brand	Cmax (micrograms per milliliter	Tmax (hours)	AUC (micrograms per hour per milliliter
A	6.3±0.5	12.2±3.9	327±33
B	2.7±0.2	12.3±3.9	124±20
C	9.1±1.5	5.2±1.4	429±44
D	6.1±0.5	7.8±3.2	283±44
E (suspension)	11.4±1.0	7.2±1.1	480±66

The areas under the serum phenytoin concentration-time curves for the tablets were 26, 59, 68, and 90 percent of the AUC of the suspension. The peak serum phenytoin concentrations using the different tablets were 24, 54, 55, and 80 percent of the peak serum concentration of the suspension.

A bioavailability study (Ref. 5) submitted in support of an abbreviated new drug application (ANDA) demonstrated that the test products, 30 mg and 100 mg phenytoin sodium capsules, were only 70 percent (30 mg capsules) and 66 percent (100 mg capsules) as bioavailable as the reference capsule product on the basis of the area under the 0- to 72-hour plasma concentration time curve.

In another bioavailability study (Ref. 6) submitted in support of an ANDA, the test product, an oral phenytoin suspension, showed a significantly greater rate of absorption over the reference oral phenytoin suspension as demonstrated by a 46 percent increase in peak plasma concentration, a 67 percent reduction in time of peak plasma concentration, and a 32 percent increase in the 0- to 12-hour area under the plasma concentration-time curve.

This criterion is therefore considered to be applicable to drug products containing either phenytoin or phenytoin sodium.

2. *Evidence that these drug products exhibit a narrow therapeutic ratio, e.g., there is less than a twofold difference in median lethal dose (LD_{50}) and median effective dose (ED_{50}) values, or have less than a twofold difference in the minimum toxic concentrations and minimum effective concentrations in the blood, and safe and effective use of the drug products requires careful dosage titration and patient monitoring.* The absorption, metabolism, and excretion of anticonvulsants varies widely, yet these drug products must be limited to a relatively narrow blood concentration range from that producing the desired therapeutic effect to that associated with significant toxic response or lack of therapeutic response. (See table below.) This necessitates individualized dosage of these drug products and therefore calls for close monitoring of patients undergoing anticonvulsant therapy (Refs. 7 through 11). For example, data indicate an effective plasma concentration of 10 to 20 mcg/ml for phenytoin. Concentrations as low as 8 mcg/ml may be adequate for seizure control in some patients. However, nystagmus (involuntary rapid eyeball movement) is usually evident at 20 mcg/ml, ataxia (muscular incoordination) at 30 mcg/ml, and lethargy occurs at 40 mcg/ml or higher (Ref. 1). With primidone, minimum effective blood levels for the control of seizures in patients are over 5 mcg/ml. Levels over 15 mcg/ml or 20 mcg/ml may be associated with continuous side effects (Ref. 7). Data are not available to determine the relationship between plasma concentration and adverse effects for ethotoin, mephenytoin, phenacemide, paramethadione, trimethadione, methsuximide, and phensuximide. However, blood levels for these drug products vary from patient to patient as with phenytoin and primidone requiring individualized dosage and close monitoring of patients during administration of each drug product. Similar symptoms of toxicity are also produced. It is therefore logical to apply this criterion to these anticonvulsants as well.

Effective and toxic blood levels of some anticonvulsants

Drug	Minimum effective concentration (microgram per milliliter)	Toxic (microgram per milliliter)
Phenytoin	10	20
Primidone	5	12
Ethosuximide	40	100

3. *Competent medical determination that a lack of bioequivalence of such drug products would have serious adverse effect in the treatment or prevention of a serious disease or condition.* The management of epileptic seizures and acute convulsive episodes is the major indication for anticonvulsant therapy. Significant changes in drug availability could change blood levels from optimal to toxic or subtherapeutic. Large differences in drug product bioavailability when undetected would increase the potential for epileptic seizures or toxic reactions. For example, a report on the hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate, in May and June 1967 (Ref. 12) indicated that an increased incidence of seizures was observed in patients in six government-operated hospitals when different brands of phenytoin sodium were used. A number of other reports recognize and document the potential for variable phenytoin sodium absorption among different lots of the same drug product and among different brands with a possible change in bioavailability (Refs. 13, 14, and 15). Because of the similarity in structure, pharmacology, and physicochemical properties, it is logical to apply this criterion to all of the other previously named oral anticonvulsants.

4. *Physicochemical evidence that:* (a) *The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children).* Phenytoin is practically insoluble in water. Phenytoin sodium is fairly soluble in water but is converted to the less soluble acid form in the stomach. Ethotoin is insoluble in water; methsuximide (2.8 mg/ml) and phensuximide (4.2 mg/ml) are slightly soluble in water; mephenytoin, phenacemide, and primidone (0.5 mg/ml) are very slightly soluble in water; and paramethadione is sparingly soluble in water (Ref. 2). Therefore, for these oral anticonvulsant drugs the amount of fluid required to dissolve any of these drugs at the recommended dose level exceeds the volume of fluid present in the stomach.

(b) *The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application.* Dissolution studies conducted by FDA (Ref. 16) on phenytoin sodium capsules (100 mg) of seven different manufacturers revealed that three of the drug products dissolved less than 50 percent in 30 minutes (see results below). The rotating basket apparatus described in the United States Pharmacopeia at 50 rpm and water at 37° C was used to determine the dissolution rates.

Dissolution Profile of Phenytoin Sodium (100 mg) Capsules

Product:	Percent dissolved in 30 minutes
A	80
B	33
C	36
D	58
E	83
F	88
G	18
H	112

Based on this criterion, evidence suggests a bioequivalence difference between drug products in capsule form containing phenytoin sodium marketed by different manufacturers.

(c) *The particle size and/or surface area of the active drug ingredient is critical in determining its bioavailability.* The effect of particle size and salt form on absorption is well illustrated in a study (Ref. 17) of plasma phenytoin levels in dogs given equivalent 25 mg/kg peroral doses of: (1) phenytoin sodium in particle size of 5 to 25 microns; (2) phenytoin (acid form) in particle size of 10 to 50 microns; and (3) phenytoin (acid form) crystallized in flat plates averaging about 3 millimeters in diameter. The sodium salt preparation was absorbed more rapidly than the acid preparation reaching higher peak levels at earlier time periods. The sodium salt is converted to phenytoin (acid form) in the stomach with the resultant precipitation of the insoluble acid in fine microcrystalline particles which are more readily absorbed. The 10- to 50-micron crystal preparation of phenytoin (acid form) gave 15 times the peak blood levels of that obtained from flat plates of the phenytoin (acid form) preparation which showed practically no absorption.

In another study (Ref. 18) using (1) two preparations of phenytoin sodium capsules (100 mg) in particle sizes less than 100 microns for one preparation and 5 to 30 microns for the other preparation and (2) phenytoin (acid form) in a particle size of 100 x 100 to 300 microns, the plasma levels of phenytoin in epileptic patients were significantly higher after treatment with either of the two phenytoin sodium preparations than after treatment with the same dose of the free acid. This was confirmed by both short- and long-term studies, and in the long-term studies, increased plasma levels of phenytoin were accompanied by better control of generalized seizures.

Evidence therefore suggest that, based on this criterion, drug products containing phenytoin and phenytoin sodium present bioequivalence differences.

(d) *Specific inactive ingredients, e.g., hydrophilic or hydrophobic excipients and lubricants, either may be required for absorption of the active drug ingredient or therapeutic moiety or alternatively, if present, may interfere with such absorption.* An outbreak of phenytoin intoxication occurred in epileptic patients in Australia during 1968–1969. Reports (Refs. 15 and 19) indicated a fourfold increase in peak plasma phenytoin levels with attendant increase in toxicity. The excipient in the responsible phenytoin sodium capsules had been changed by the manufacturer from calcium sulfate to lactose several months before the outbreak of the intoxication and this change was causally related to the altered blood phenytoin concentrations.

This criterion is therefore applicable to drug products containing phenytoin sodium.

THE BIOEQUIVALENCE REQUIREMENT

On the basis of these data, the Commissioner tentatively concludes that the evidence meets one or more of the criteria set forth in § 320.52 and he proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following anticonvulsants: phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, paramethadione, trimethadione, phenacemide, and primidone. The proposed bioequivalence requirement would be applicable to all manufacturers of such drug products and would require each manufacturer, except a manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, to: (1) conduct an in vitro dissolution test comparing its drug product to a specified reference material and (2) conduct an in vivo bioavailability study comparing its drug product to a specified reference material. Under this proposed requirement, the test drug product would be deemed to meet the bioequivalence requirement if (1) the in vitro data show that the dissolution rate for the test drug product is not less than 60 percent in 30 minutes and not less than 85 percent in 60 minutes, and (2) the in vivo data show that the test drug product meets the following conditions:

1. The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC); and

2. In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

3. Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of adsorption that are not attributable to subject variability.

The Commissioner advises that further in vivo studies may be required where data submitted in the application differ significantly from data involving valid studies reported in literature or obtained by the agency using a validated protocol and method.

The Commissioner proposes that a manufacturer of a drug product selected by the FDA as the reference material and a manufacturer of any drug product subject to the requirements of the section proposed below who has previously conducted in vivo tests in humans to demonstrate bioavailability bioequivalence of his drug product in accordance with the provisions of the proposed section below would be required to conduct in vitro dissolution testing on three consecutive lots/batches of their product to demonstrate consistent dissolution performance. A manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section would be required to conduct an in vivo bioavailability study comparing the reference material with a solution or suspension of an equivalent amount of the anticonvulsant contained in the reference material.

A manufacturer of a drug product subject to this proposed section who has previously conducted in vivo bioavailablity/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation (DESI) notice, may request the FDA to evaluate such studies to determine whether (1) such studies now fulfill the requirements uder this proposed section or (2) such studies are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To obtain data necessary to correlate in vivo data with in vitro data, the Commissioner proposes that the same lot/batch of the test product and one of the three lots/batches of the reference material used in the in vitro tests be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to the effective date of this proposed section.

General guidelines for the conduct of in vivo testing are set forth in § 320.25 (21 CFR 320.25). Specific guidelines for in vivo testing and for in vitro dissolution testing of anticonvulsants are on file in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposed section is named in the guideline for in vivo bioavailability studies for anticonvulsants.

The Commissioner proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days following the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days following the effective date of the final regulation. The proposed effective date of the final regulation is 30 days following the date of its publication in the FEDERAL REGISTER. The Commissioner believes this will be sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and

submit them to FDA. The Commissioner advises, however, that in meeting an in vivo bioavailability requirement for some anticonvulsants, the agency may require a manufacturer to conduct a pilot study to determine optimal sampling times and volume of sample needed. An additional extension up to 180 days may be granted by the Commissioner upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for conducting in vivo bioavailability studies. In the event that a manufacturer submits a protocol for evaluation by FDA, the Commissioner will grant an extension of time necessary for the initial review of the protocol.

The Commissioner advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) (21 U.S.C. 321(p)) of the Federal Food, Drug, and Cosmetic Act, requiring either an approved full or abbreviated new drug application as a condition to lawfully market the product. Marketing of such a drug product shall be in accordance with the requirements of § 320.58 (21 CFR 320.58).

Certain oral anticonvulsant drugs are covered by a DESI notice (DESI 5856) published in the FEDERAL REGISTER on August 26, 1970 (35 FR 13594) and amended on July 29, 1976 (41 FR 31588). The DESI notice set forth requirements for the marketing of these products and offered an opportunity for hearing concerning certain indications. These requirements specify that an ANDA must contain the information specified in § 314.1(f) (21 CFR 314.1(f)) and, for oral anticonvulsant dosage forms, shall include data of the kind required for the drug at the time of submission of the application to show that it is bioavailable in the formulation proposed for marketing. After a final bioequivalence requirements for oral anticonvulsants is promulgated, the submission of evidence that the drug meets the bioequivalence requirement, i.e., that it is comparable in vivo and in vitro to the specified reference material, would be required in lieu of evidence of bioavailability. Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Drugs is issuing a followup notice to DESI 5856 setting forth the legal status and the conditions for marketing specific oral dosage forms of phenytoin and phenytoin sodium.

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer, under § 320.56 (21 CFR 320.56), would be required to conduct the in vitro dissolution test on a sample of each batch of the oral anticonvulsant to assure batch-to-batch uniformity.

REFERENCES

Copies of all references cited below are on public display in the office of the Hearing Clerk, Food and Drug Administration.

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4. Pentikainen, P. J., P. J. Neuvonen, and S. M. Elfving, "Bioavailability of Four Brands of Phenytoin Tablets," European Journal of Clinical Pharmacology, 9:213–218, 1975.

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The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055, 76 Stat. 795 as amended (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 320 be amended by adding new Subpart D consisting at this time of § 320.105 to read as follows:

Subpart D—Bioequivalence Requirements for Specific Drug Products

§ 320.105 Certain oral anticonvulsants.

(a) *Applicability.* The requirements of this section apply to all single active ingredient oral dosage form drug products containing the anticonvulsants phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, phenacemide, primidone, paramethadione, or trimethadione.

(b) *Bioequivalence requirement for in vitro testing.* (1) Each manufacturer of a drug product subject to this section, except as provided for in paragraph (b)(3) of this section, shall conduct an in vitro dissolution test comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vitro testing if it dissolves not less than 60 percent in 30 minutes and not less than 85 percent in 60 minutes.

(3) Each manufacturer of a drug product subject to this section selected by the Food and Drug Administration as the reference material and each manufacturer of a drug product subject to this section who has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product in accordance with the provisions of this section shall conduct an in vitro dissolution test on three consecutive lots/batches of their drug product to demonstrate consistent dissolution performance.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *Bioequivalence requirement for in vivo testing in humans.* (1) Each manufacturer of a drug product subject to this section, other than a manufacturer of the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vivo testing in humans of the following conditions are met:

(i) The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC); and

(ii) In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

(iii) Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with a solution or suspension of an equivalent amount of the anticonvulsant contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of time up to 180 days upon request for the submission of the results of the required in vivo test when pilot studies are required prior to commencing such tests. An extension of time necessary for an initial review of a protocol will be granted by the Food and Drug Administration when a protocol is submitted.

(5) Each manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies prior to the effective date of this section may request an evaluation of such studies to determine whether (i) such studies now fulfill the requirements under this section or (ii) such studies are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology. Any such request shall contain the new drug application number, the established (generic) name of the drug product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) If the manufacturer holds an approved or pending full new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Neuropharmacological Drug Products (HFD–120), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. If the manufacturer holds an approved or pending abbreviated new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

(d) *Reference material and guidelines for testing.* (1) The reference material to be used in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Anticonvulsants." The same lot/batch of the test drug product and one of the three lots/batches of the reference material used in the in vitro test shall be used in the in vivo test unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to the effective date of this section.

(2) Guidelines for the conduct of in vivo and in vitro tests of anticonvulsants are on file in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and are available on request to that office.

Interested persons may, on or before October 4, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 20, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-22362 Filed 8-4-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

OFFICE OF THE FEDERAL REGISTER

AUGUST AND SEPTEMBER 1977 LEGAL DRAFTING WORKSHOPS ARE FULL. ADDITIONAL WORKSHOPS ARE SCHEDULED.

WHO: Any local, state, or Federal employee who drafts or reviews documents for publication in the FEDERAL REGISTER.

COST: One hundred-fifty dollars for each participant. Federal employees send an Optional Form 37 or a Form 170 to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

WHAT: The workshop covers the following areas:

1. Legal Drafting Techniques—Preferred usage, organization, clarity.
2. Writing for your audience—Who is your audience, measuring the writer-reader gap, how to use readability formulas.
3. Legal Drafting Exercises—Regulations, preambles.
4. Critique of participant's drafts to check for use of legal drafting techniques and for substance.
5. How to comply with new preamble requirements.
6. The regulatory process—Where has it been, where is it going?

WHY: The workshop aims to improve the participant's ability to design and draft clear documents which make the FEDERAL REGISTER more readable.

WHEN: October 20, 21, 25, 1977; November 17, 18, 21, 1977; December 15, 16, 19, 1977; January 19, 20, 23, 24, 1978;[1] February 16, 17, 20, 1978; March 16, 17, 20, 21, 1978;[1] April 20, 21, 24, 1978; May 18, 19, 22, 1978.

MORE INFORMATION: Write: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408 or call: 202–523–5240.

[1] These workshops will meet mornings only. Workshop dates are subject to change.

CIVIL AERONAUTICS BOARD

[Docket No. 31221; Order 77–8–3]

AMERICAN AIRLINES, INC.

Order Regarding Emergency Air Transportation Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of August 1977.

On July 28, 1977, American Airlines, Inc., filed an application pursuant to section 416(b) of the Act for an exemption to serve Burlington, Vermont, in lieu of Montreal, Canada, during the period of an anticipated strike by the Canadian air traffic controllers expected to begin August 4 or 5, 1977.[1] The carrier indicates that it will reroute its Chicago-Montreal flights to Burlington and provide bus service between Burlington and Montreal. American cites similar authority granted by the Board in the past, particularly a blanket exemption granted by Order 76–6–170 to all U.S. carriers to provide similar emergency service during a strike by Canadian air controllers.

Upon consideration of the request, the Board has determined that an emergency may be created affecting all U.S.-Canadian flights should the work stoppage materialize. However, because of the number of requests which may be submitted[2] and the desire of the Board to respond expeditiously and effectively to this situation, we have decided to delegate authority to the Director, Bureau of Operating Rights, beginning August 1, 1977, and terminating on August 31, 1977 (unless sooner terminated or extended), to grant or deny, in whole or in part, any and all requests for exemptions or special operating authorizations which may arise out of this situation. Our sole purpose in taking this action is to alleviate, to the extent possible, any hardships on the traveling public which would inevitably result from the projected strike.

Accordingly, it is ordered, That:

1. Authority be delegated to the Director, Bureau of Operating Rights (the Director), beginning August 1, 1977, to act for the Board on requests for emergency exemption under section 416(b) of the Act and/or for special operating authority for the transportation of persons, property, and mail for the duration of the imminent work stoppage by the Canadian air traffic controllers;

2. In the absence of a further order of the Board, the delegation of authority in paragraph 1 shall expire not later than August 31, 1977;

3. In the exercise of delegated authority, the Director is authorized in his discretion to act before the receipt of answers, and petitions for review of the Director shall not stay the effective date thereof;

4. Applications subject to the procedures established may be made orally pursuant to 14 CFR 300.2(c)(5), but such applications shall be put into telegraphic or written form within 24 hours and, if in telegraphic form, shall be followed within 5 days with a written notice served in accordance with the Board's rules of practice;

5. Any interested person objecting to any provision of this order shall file such objections with the Board within 5 days from the date of service of this order, but the filing of objections shall not stay the effectiveness of this order;

6. This order may be amended or revoked at any time at the discretion of the Board; and

7. This order shall be served on all certificated air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–22570 Filed 8–4–77;8:45 am]

[1] We have been advised orally by American that the strike date has been changed to August 2, 1977.

[2] Operations of Allegheny Airlines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Hughes Airwest, North Central Airlines, Northwest Airlines, United Air Lines, and Western Air Lines would also be affected.

[3] All Members concurred.

[Docket No. 29123; Agreements C.A.B. 26555–26557, R–1 through R–19 etc.; Order 77–7–142]

INTERNATIONAL AIR TRANSPORT

Order Relating to North Atlantic Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of July 1977.

By Order 77–5–91, May 18, 1977, the Board generally approved agreements among the carrier members of the International Air Transport Association (IATA) establishing fares over the North Atlantic through March 31, 1978. However, the Board disapproved the increases proposed in Miami-London first-class fares and economy-class promotional fares, on the grounds that the earnings of National Airlines, Inc. (National), the only U.S. carrier serving the Miami-London route, would be adequate under existing fares and excessive under the proposed fares.[1]

[1] The subject IATA agreements superseded a previous North Atlantic fare package approved in major part by Order 77–3–54, March 9, 1977 which, however, disapproved all normal economy-fare increases, all Miami-London increases, and placed conditions on other portions of the agreement. As a result, the IATA carriers submitted new agreements intended to satisfy the Board's objections to the previous package. Miami-London fares, for instance, were proposed to be increased in more moderate amounts than those previously disapproved in Order 77–3–54.

Petitions for reconsideration of Order 77–5–91 have been filed by National Airlines, Inc. (National) and by Pan American World Airways, Inc., (Pan American). An answer in support of Pan American). An answer in support of Pan American's petition has been submitted by Trans World Airlines, Inc. (TWA).

In support of its petition, National alleges that the Board has illegally transformed the public interest test of section 412(b) of the Act into an absolute rule of ratemaking, by using National's return on investment (ROI) as the only consideration in acting on Miami-London fares, and by disapproving increases when it forecast National's ROI to be above 12 percent; that the domestic 12-percent ROI standard developed in Phase 8 of the Domestic Passenger-Fare Investigation, Docket 21866–8, has been applied here as a rule in violation of section 553 of the Administrative Procedure Act; and that the Board, through its use of a simple arithmetic test for determining the public interest in the context of an IATA agreement, has used the agreement approval procedure as a de facto device to prescribe passenger fares in foreign air transportation, and thus create for itself authority which Congress denied the Board when it expanded the Board's authority over international fares in 1972.[2] National asserts further that the Board's failure to evaluate the agreement on an overall industry basis favors National's competitors, because at the same time the Board denied National a fare increase by treating National's earnings separately, it allowed Pan American and TWA to enjoy yields higher than National by combining their earnings in approving fare increases on their route;[3] that the Board has advanced no reason for such discriminatory treatment and is required to "play by the same rules" with all whom it regulates;[4] and that the Board's action is not premised on advantages to the public which National's lower fares over Miami will bring, since if fare levels were the Board's concern, it would cause TWA, whose earnings are much higher and who carries many more passengers, to charge lower fares as well.[5] Finally, National contends that the Board's adjustments to National forecast are arbitrary, capricious and an abuse of discretion under section 706 of the Administrative Procedure Act since the Board acted without substantial evidence and did not even describe how the adjustments were made; and that the Board was incorrect in assuming National's load factor through next March will not decline, since National's competitor British Airways will offer 40 percent more seats than National per departure in addition to increasing its frequencies to a daily schedule.

In its petition, Pan American alleges that the Board has arbitrarily treated the Miami-London market as if it were not part of the overall North Atlantic market, and by singling out Miami-London fares for separate treatment the Board is, in effect, repudiating its findings in Order 77–3–54 that the revenue need of Pan American and TWA justifies promotional-fare increases in all other North Atlantic markets. Elaborating on this point, Pan American contends that North Atlantic fares constructed over a Miami-London routing undercut fares over New York-London for every city in the southern United States, including at least 49 cities which generate a significant amount of traffic, and thus Pan American and other carriers will either have to give up this traffic or reduce their own fares over New York from these interior points to the level of those on the Miami-London sector; and that if they do hold their fares to the Miami level, they will not only lose revenue but will also bear a heavier pro-rate burden, resulting in a substantial loss of the revenue to which the Board found Pan American entitled for a reasonable return.[6] Finally, Pan American denies the Board's statement in Order 77–5–91 that Miami may, in many cases, be a more convenient departure gateway than New York; the carrier asserts that connecting service from New York to Europe is much superior to that out of Miami, and that there is a far greater number of European destinations served directly from New York than are served directly from Miami.

In its answer TWA states that it supports Pan American's petition, contending that the Board's disapproval of Miami-London fare increases will deprive the North Atlantic carriers of all or a substantial portion of the revenues the Board found to be needed, because of the undercut situation; that TWA, which is the only carrier certificated to provide direct service to Europe from many cities such as Tulsa, Oklahoma City, and Phoenix, will lose traffic from these points to connections over Miami; and that the Board's action prefers the Miami gateway as compared to New York.

Upon careful review of Order 77–5–91, the petitions and answer thereto, and all other relevant matters, the Board finds that the petitions do not set forth facts sufficient to warrant reversal of our earlier action and they will, therefore, be denied.

We reject out of hand National's assertions that there is no adequate basis for treating fares on the Miami-London route separately from the rest of the North Atlantic IATA fare package, and that an IATA agreement must always be considered only as a single, homogenous mass. While the carriers' earnings forecasts are based on the total effect of an agreement's provisions, this does not preclude the Board from disapproving any individual portion it finds to be adverse to the public interest; and although the profitability of individual markets usually cannot be distinguished from that of the overall market in a given ratemaking area, in some cases it is so different that it cannot be ignored. This is clearly the situation with the Miami-London market, which is clearly separable and due to its particular characteristics has historically shown good earnings. For this reason the Board has treated this market separately and has omitted National from our computation of composite carrier ROI in the general North Atlantic market during the past three years of high profits for National, profits over the 12 percent guideline. Our rationale was clearly articulated in Orders 75–3–101, March 27, 1975, 76–4–175, April 30, 1976, and 77–3–54, March 9, 1977, as well as in the order at issue here, where in each case the Board disapproved increases in Miami-London fares because we found National's earnings to be adequate under existing fares and because the carrier had not shown a clear need for an increase. There is even earlier precedent. In Order 74–4–144, April 26, 1974, the Board disapproved a U.S.-Mexico IATA agreement to the extent it would have increased U.S. west coast-Mexico fares, on the basis that Western Airlines, Inc. (Western), the only U.S. carrier serving those routes, was in an excess earnings position and required no fare increase; and the Board has rejected arguments made by Western which are similar to those National presents here.[7]

National is in error in arguing that the Board could not have been concerned with fare levels and public benefits since it permitted TWA, which carries more passengers and has higher earnings than National, to increase its fares. The Board's concern with fare levels was an important factor; indeed, it goes to the heart of the matter. There is no reason for Miami-London passengers to pay

[2] Pub. L. 92–259. National contends in particular that by delaying its decision until May 18, 1977 when the new fares were proposed for effect June 1, the Board gave the carriers no choice but to refile the existing fares on short notice, since there was no time for the carriers to reconvene and submit a new agreement, and any tariff filing to implement the higher fares would surely have been suspended; and that this conduct is a clear abuse of discretion. National also cites *Pan American World Airways, Inc.* v. *C.A.B.*, 14 AVI 17, 448 (D.C. D of C, 1976); and *Moss* v. *C.A.B.*, 430 F. 2d 891 (D.C. Cir. 1970).

[3] National notes that TWA's adjusted ROI including the fare increases would be about 17 percent.

[4] Citing *Continental Air Lines, Inc.* v. *C.A.B.*, 443 F. 2d 745 (D.C. Cir., 1971).

[5] National also claims that National's low costs were of little interest to the Board in Docket 25908, Transatlantic Route Proceeding, where the Board recommended Pan American rather than National to serve Houston-Europe.

[6] Pan American has cited the relevant fare constructions and undercuts; and submits that while most of the undercuts occur in the 22/45-day excursion fare, which accounts for about 20 percent of its traffic, the undercuts extend to the 14/21-day excursion fare in many markets. Pan American's prorate argument refers to the fact that in computing each carrier's share of a ticket using a joint routing, the domestic portion will be larger in relation to the transatlantic portion if the through international fare is reduced.

[7] See Order 76–8–22, August 5, 1976; see also Orders 77–4–132, April 26, 1977, 74–8–117, August 29, 1974, 74–12–49, December 13, 1974, 75–2–102, February 25, 1975, 75–3–96, March 26, 1975, 75–8–13, July 24, 1975, and 76–11–7, November 3, 1976.

fares in excess of National's economic costs on this route and provide it unjust enrichment because the U.S. carriers on other North Atlantic routes—Pan American and TWA—require a fare increase. Were there a direct, competitive relationship between carriers serving the same routes, where one carrier was achieving good returns and the others were experiencing poor earnings, our actions in preventing unjust enrichment of the favorably situated carrier would, of course, be considerably attenuated. This is, in fact, the current situation with TWA and Pan American. We are not unmindful of TWA's adjusted ROI forecast of 17.11 percent under the new IATA fares, and were it possible to consider Pan American's and TWA's routes separately, we would certainly do so. However, it is patently impossible to set aside fares on TWA's extensive route network for separate treatment and we must, therefore, evaluate such fares on the basis of a composite Pan American/TWA ROI. Miami-London fares, however, must be evaluated in light of National's particular earnings.

National also argues that the Board used a 12 percent ROI figure as an inflexible, maximum ceiling. It is true that the Board, in evaluating international fare increases, has used the 12 percent figure as a guideline which represents a reasonable long-term return on investment. In the instant case we estimated National's ROI, after adjustments, at 12.36 percent under existing fares, and National has provided no basis for concluding that its present earnings are inadequate and that it is entitled to the 13.39 percent ROI which we estimated it would earn with the proposed fare increase. We may note also that while National alleges that the 12 percent ROI guideline has become a ceiling, the carrier has historically achieved returns well above 12 percent. The Board's view on use of a 12 percent ROI guideline in international rate cases will be articulated fully in a subsequent order, and National has presented no arguments which would convince us that this practice is unreasonable or that it constitutes promulgation of a rule without proper notice as defined by section 551 and 553 of the Administrative Procedure Act. The proper return on investment is an issue in the North Atlantic Fare Investigation, Docket 27918, which National cites. Pending completion of that proceeding, however, the Board is not enjoined from making appropriate adjustments to the carriers' economic justification for IATA agreements.

In this connection, we are not persuaded that our adjustment to National's forecast load factor was wrong. National forecast a load factor of 53.8 percent for the year ending March 1978, compared to load factors of 58.4 percent and 57.3 percent during the historical periods ended September 1976 and December 1976, respectively. The Board upped National's forecast load factor to the December 1976 year-end figure of 57.3 percent. National argues that it cannot maintain this historical load-factor level since it will suffer increased competition from British Airways, which has increased its frequencies and no longer restricts the number of seats available for sale. We do not believe National has made a convincing case that it will lose such a significant amount of traffic to British Airways that it will not be able to achieve the historical load factor. The Miami-London market has shown healthy growth—enough, we believe, for both carriers to achieve good load factors as high as those already experienced. Mindful of National's allegations, we have reviewed even more recent data, for the year ended March 31, 1977 (a period when Nation's results were not colored by the September 1, 1975—January 20, 1976 strike), and find that the carrier achieved a 62.5 percent load factor during the period. Its forecast for March 1978 reflects traffic growth of only 2.9 percent over the year ended March 1977, compared to a capacity increase of 19.3 percent. In these circumstances, the Board cannot conclude that our adjustments in Order 77-5-91, holding National to a 57.3 percent load factor, were unreasonable.[8]

The three carriers also argue that the Board ignored the undercuts via Miami of fares from other U.S. cities to London and the injury to Pan American and TWA which would allegedly result from holding Miami-London fares at status quo. The carriers cite, for example, that the 22/45-day excursion fare from New Orleans to London is $24 or $44 lower via Miami than via New York, depending on season. The Board gave most careful consideration to this argument and concluded that the carriers had made no showing that this problem is so serious as to justify approval of otherwise unwarranted increases in transatlantic fares to/from Miami. It is strange indeed that until Pan American filed its instant petition, no U.S. or foreign-flag transatlantic carrier provided the Board with any worthwhile analysis of the undercuts, although the U.S. carriers all alleged significant impact. Nonetheless, while the analysis submitted by Pan American is useful, it does not demonstrate that Pan American or TWA would suffer such an adverse impact as to warrant approval of otherwise unwarranted Miami-London fare increases. Neither Pan American nor TWA has provided an estimate of the diversion and dilution they anticipate, or of the damage they have suffered from undercuts via Miami which have been in existence for some time. In any event, it is doubtful that all the interior U.S.-New York-Europe fares cited by Pan American have to be reduced to the level of the combination over Miami in order to prevent diversion of traffic via Miami. A large number of the undercuts listed by Pan American amount to $20 or less, and if, as the carrier contends, New York is such a superior gateway for transatlantic travel, then few passengers would inconvenience themselves by flying via Miami for such a small savings. Furthermore, even assuming Pan American and TWA hold these fares to the level of the Miami combination, and therefore suffer the maximum possible revenue dilution, the information supplied by Pan American leads to the conclusion that such dilution would be de minimis, amounting to less than one-tenth of one percent of its transatlantic passenger revenues.[9]

Accordingly, it is ordered, That:

The petitions of National Airlines, Inc. and Pan American World Airways, Inc. for reconsideration of Order 77-5-91 be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22567 Filed 8-4-77;8:45 am]

[8] The process of adjustment was indicated clearly in Appendix B of the Board's order. The procedure employed was the standard DPFI methodology for making a load factor adjustment. This adjustment reduces capacity to the required load factor and uses the resulting percentage reduction to decrease direct operating costs, and makes the same percentage adjustment to 75 percent of the carrier's investment and interest expense. Order 77-5-91 did not, as National contends, violate section 706 of the Administrative Procedure Act. Section 706 merely sets forth the scope of judicial review of agency orders, providing that the reviewing court shall set aside actions found to be, inter alia, "arbitrary, capricious, an abuse of discretion * * *," or "unsupported by substantial evidence * * *." The Board's action, which was based on National's own justification and its regular Form 41 reports, and employed standard regulatory methodology of long usage, easily passes these tests.

[9] In reviewing Pan American's assertions, we took the 17 U.S. cities for which the carrier supplied North Atlantic passenger enplanements, applied Pan American's own traffic distribution by fare category in conjunction with the cited undercuts. The maximum possible revenue dilution on this traffic would range from $159,000 to $290,000 depending on seasonality, compared to Pan American's forecast third and fourth freedom passenger revenue of $333,991,000.

[10] All Members concurred except Chairman Kahn who did not participate.

[Docket Nos. 3050, etc.; Order 77-7-151]

NORTH CENTRAL AIRLINES ET AL.

Order Regarding Baltimore-Detroit Nonstop Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of July 1977.

On February 15, 1977, North Central Airlines filed an application for nonstop authority on a subsidy-ineligible basis, between Baltimore, Maryland, and Detroit, Michigan. Contemporaneously therewith, the State of Maryland and North Central filed a joint petition for an order to show cause or, in the alternative, a motion for hearing on the application. If awarded the authority requested, North Central proposes to provide first single-plane service between Baltimore, on the one hand, and Milwaukee, and Green Bay, Wisconsin; Lansing, Grand Rapids, Escanaba, and Marquette, Michigan, on the other hand. Additionally, the carrier proposes first single-carrier service between Baltimore, on the one hand, and Madison, Marinette, and Wausau/Stevens Point, Wisconsin; Muskegon, Iron Mountain, Hancock, and Kalamazoo/Battle Creek, Michigan, on the other.

In support of their joint petition, Maryland and North Central allege that the carrier would provide two daily nonstop round trips in the market with DC-9-30 aircraft. The parties state that these flights would be scheduled to complement the single round trip in the market now operated by the incumbent, United. The petitioners argue at length that the Baltimore-Detroit market has been subject to a history of serious service deficiencies, culminating in United's currently inadequate service. Petitioners' dissatisfaction with United's service stems from their belief that United has focused on the parallel Detroit-Washington (National) market and has provided the Baltimore-Washington International Airport (BWI) with only a marginal level of service due to its perceived satellite status. Maryland and North Central also contend that the Baltimore-Detroit authority does not efficiently integrate with United's system since the carrier is "boxed in at Baltimore" and its use of Detroit as an active connecting center has declined. In contrast, although North Central's application involves an extension outside its present system to Baltimore, the petitioners maintain that the requested authority will effectively integrate into North Central's predominantly east-west system. According to Maryland and North Central, an award of Baltimore-Detroit non-stop authority to the carrier would: (1) insure improved service in this market since North Central's operations would be provided exclusively at BWI; (2) provide first single-plane and single-carrier service in the numerous markets recited above; (3) reduce North Central's subsidy need in the first normal year of operations by more than $173,000 using Subpart K methodology or by over $759,000 employing functional costing; (4) cause only minimal diversion from United amounting to only .03% or .04% of the incumbent carrier's fiscal year 1976 revenues, depending upon the methodology employed; (5) result in significant strengthening of North Central's route system by increasing the average hop and passenger haul of the carrier.

Answers in support of the joint petition were filed by Delta County Airport Board, Marquette Area Chamber of Commerce, Marquette County Airport Committee, Brown County and the Green Bay Area Chamber of Commerce, the Greater Detroit Chamber of Commerce and Board of Wayne County Road Commissioners, and the Michigan Department of State Highways and Transportation, Aeronautics Commission. The City of Grand Rapids, the Grand Rapids Area Chamber of Commerce, and the County of Kent jointly petitioned for leave to intervene.

Both Allegheny Airlines and Northwest Airlines filed applications for nonstop authority between Detroit and Baltimore, motions to consolidate their applications with that of North Central, and answers to the joint petition of Maryland and North Central. In their respective answers, both Allegheny and Northwest oppose acting upon North Central's application by show-cause procedures, relying upon the doctrine of *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945) in support of their positions. Further, Allegheny notes that while North Central's application would involve a major off-route extension, Allegheny already serves both Detroit and Baltimore and would only require the removal of its one-stop restriction to provide nonstop service in the market. Northwest contends that it can provide the same principal service benefits as North Central, that it has stronger authority at Detroit, and that, as principal carrier in the Detroit-Washington (National) market, it may suffer serious diversion should a carrier other than itself be awarded the Detroit-Baltimore authority in issue.

United filed a consolidated answer to the application of North Central and joint petition of Marvland and North Central, objecting both to the use of show-cause procedures, and the petitioners' alternative motion for hearing. In support of its position, United questions whether the Detroit-Baltimore market is capable of supporting two carriers, arguing that: (1) the market is currently receiving adequate service, (2) United's own attempt to operate a second daily round-trip flight in the market in the first half of 1976 generated an average load factor of only 32 percent; (3) North Central's passenger and revenue forecasts are exaggerated; and (4) according to United's forecast, North Central would suffer a net loss, after return and tax, which would effectively increase the carrier's subsidy by lowering the earnings on its subsidy ineligible system.

Maryland and North Central filed a joint motion for leave to file an unauthorized document, accompanied by a joint reply directed solely to the answer of United.[1] In its joint reply, Maryland and North Central continue to urge the Board to set the application of North Central for hearing; however, the petitioners concede that the issuance of an order to show cause with respect to the authority requested is no longer appropriate in light of outstanding competing applications of Allegheny and Northwest.

Upon consideration of the above pleadings and of all relevant facts, we have decided to institute the Baltimore-Detroit Nonstop Proceeding for the purpose of considering whether the public convenience and necessity require competitive nonstop service between Baltimore and Detroit. Accordingly, we are consolidating for hearing the applications of North Central, Northwest, and Allegheny in Dockets 30501, 30573, and 30583, respectively.

The Board's O&D Traffic Survey shows the Baltimore-Detroit market as generating over 57,000 O&D plus interline connecting passengers in calendar 1975. While this level of traffic might not be sufficient by itself to justify granting priority of hearing to an application for competitive service in the market, it is probable that the Survey substantially understates the actual and potential traffic, in part because of the proximity of the Washington and Baltimore metropolitan areas and their respective airports. In this regard, we note that in the Washington-Baltimore Adequacy-of-Service Investigation, 30 C.A.B. 1215 (1960), the Board found that published origin-destination figures understate Baltimore's actual traffic. Similarly, there is reason to believe that 1975 survey figures understate the potential of the Baltimore-Detroit market. Total Baltimore-Detroit traffic declined in both 1974 and 1975. It appears likely that these decreases were the result, in whole or part, of severely depressed conditions in the automotive industry, which had a pronounced effect on the economy of Detroit. Against such a backdrop, we find that consideration of the competitive nonstop service in issue is justified in light of the possible passenger inconvenience being suffered by persons who live or work within readier access to Baltimore-Washington International Airport than to National Airport. We are also concerned with exploring means to minimize traffic congestion at National Airport.

Finally, while North Central has submitted an environmental evaluation along with its joint petition, Northwest and Allegheny have not submitted sufficient information for us to determine the environmental consequences of their certificate amendment applications at this time. Therefore, we will require Northwest and Allegheny to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow these carriers, and all other carriers filing applications in this proceeding, 30 days from the date of adoption of this order to file their environmental evaluations.

Accordingly, it is ordered, That:

1. The joint motion of the State of Maryland and North Central Airlines for hearing is granted;

2. To the extent not granted in paragraph 1, above, the joint petition of the

[1] We shall grant the joint motion of Maryland and North Central for leave to file an otherwise unauthorized document. The joint reply is brief, and will not unduly expand the record, delay any proceeding, or prejudice and party.

State of Maryland and North Central Airlines is denied;

3. A proceeding to be known as the Baltimore-Detroit Nonstop Proceeding, Docket 31212, is instituted and shall be set for hearing before an Administrative Law Judge of the Board at a time and place hereinafter designated, as the orderly administration of the Board's docket permits;

4. The proceeding instituted in paragraph 3, above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in competitive nonstop air transportation between Baltimore, Maryland, and Detroit, Michigan?

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service? and

(c) What terms, conditions and/or limitations, if any, should be placed on the operation of such carrier(s)?

5. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

6. Insofar as they conform to the scope of the proceeding set forth in paragraph 4, above, the applications of North Central Airlines in Docket 30501, Northwest Airlines in Docket 30573, and Allegheny Airlines in Docket 30583, are consolidated with the proceeding instituted by paragraph 3, above;

7. The State of Maryland, United Air Lines, Delta County Airport Board, Marquette Area Chamber of Commerce, Marquette County Airport Committee, Brown County and the Green Bay Area Chamber of Commerce, the Greater Detroit Chamber of Commerce and Board of Wayne County Road Commissioners, the Michigan Department of State Highways and Transportation, Aeronautics Commission, the City of Grand Rapids, the Grand Rapids Area Chamber of Commerce, and the County of Kent are made parties to the proceeding instituted by paragraph 3, above;

8. The joint motion of the State of Maryland and North Central Airlines for leave to file an unauthorized document is granted;

9. Northwest Airlines, Allegheny Airlines and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of adoption of this order;

10. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 20 days from the service date of this order and answers thereto shall be filed within 10 days thereafter; and

11. This order shall be served upon all parties to the proceeding instituted by paragraph 3, above, and all persons contained in the service list attached to the joint petition of the State of Maryland and North Central Airlines, Inc. for an order to show cause or, in the alternative, motion for hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc.77-22569 Filed 8-4-77;8:45 am]

[Docket Nos. 30679, 29312; Order 77-7-144]

SOUTHERN AIRWAYS, INC.

Order Regarding Florida-Atlanta Competitive Nonstop Case

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of July 1977.

INTRODUCTION

On April 9, 1976, the County of Volusia, Florida, the City of Daytona Beach, Florida, the Volusia County Airports Advisory Board, the Volusia County Council of Governments, and the Daytona Beach Chamber of Commerce (the Daytona Beach Parties) petitioned the Board for an investigation of the need for first competitive nonstop service between Daytona Beach and Atlanta. On April 12, 1976, the Sarasota-Manatee Airport Authority, the Manatee County Chamber of Commerce, and the Sarasota County Chamber of Commerce (the Sarasota Parties) also petitioned the Board to institute an investigation of the need for an additional air carrier at Sarasota-Bradenton, and for competitive nonstop service between Sarasota and Atlanta and Daytona Beach and Sarasota-Brandenton. By Order 77-3-167, the Board instituted the Atlanta-Daytona Beach/Sarasota-Bradenton Nonstop Proceeding, Docket 30679, to examine the need for first competitive service in the Atlanta-Daytona Beach and Atlanta-Sarasota markets.

On May 25, 1976, Southern Airways, Inc., filed an application in Docket 29312 for a certificate amendment to add a new segment in whole or in part to its Route 98. The new authority would permit operations between the terminal point Atlanta, Ga., the intermediate points Tallahassee, Panama City, Eglin A.F.B., Pensacola, Tampa-St. Petersburg-Clearwater, Sarasota-Bradenton, Orlando, Gainesville, Jacksonville, Daytona Beach, Melbourne, West Palm Beach, Ft. Lauderdale, and Miami, Fla., and the terminal point Key West, Fla.

On August 30, 1976, civic representatives from Tallahassee[1] moved for hearing on Southern's application "insofar as it promises new and improved air transportation services for Tallahassee." The Tallahassee parties argue that Tallahassee is the state capitol, the home of three universities, and the economic center of Leon County which has experienced rapid population growth since 1970; that the present carriers authorized to serve Tallahassee are not providing the necessary service in Tallahassee's intra-Florida markets; that traffic to and from Tallahassee responds well to service improvements; and, that the Board indicated (in Order 69-9-132) that it would institute an investigation into the air service needs of those Florida points north of Miami.

Southern and a number of civic parties[2] have filed answers in support of the Tallahassee motion. Air Sunshine, Delta Air Lines and Eastern Air Lines have filed answers in opposition.

DISCUSSION

The Board has decided to add the issue of new service in the Tallahassee-Atlanta market to the pending Atlanta-Daytona Beach/Sarasota-Bradenton Nonstop Proceeding, Docket 30679. We have also decided not to add any other markets to that proceeding nor to institute separate cases with respect to the remaining Tallahassee markets.

We believe that the addition of the Tallahassee-Atlanta market to the pending Daytona/Sarasota case represents an appropriate use of the Board's resources. The Tallahassee-Atlanta market is the largest monopoly market encompassed by the Tallahassee parties' motion, having generated 86,180 local O&D and interline connecting passengers in the year ended December 31, 1975 (over 235 passengers per day), and is slightly larger than the Atlanta-Sarasota/Bradenton market already in issue. Notwithstanding the general decline in growth which characterized nationwide air traffic in recent years, the Tallahassee-Atlanta market grew at a rate of 11.7 percent per year between 1970 and 1975. Continuation of this traffic growth rate would produce a market in excess of 120,000 annual passengers (or about 329 per day) by 1978. Eastern is the monopoly nonstop operator while Southern, which holds restricted authority in the market, operates a one-stop round trip daily except Saturday.

Equally important, the market presents the same basic issue of first competitive service between the major connecting hub at Atlanta, and an important Florida community, including the opportunity for the institution of improved direct service via Atlanta from Tallahassee to points north and west of Atlanta. It also necessarily includes the question of whether a restriction in the certificate of a local service carrier should be lifted in order to permit that carrier to provide nonstop competitive service. Eastern is the incumbent carrier in all three Atlanta-Florida markets while Southern is already a party to Docket 30679. Under all these circumstances, we believe that the modest expansion of the Daytona Beach-Sarasota

[2] All Members concurred.

[1] The City of Tallahassee and the Tallahassee Chamber of Commerce (the Tallahassee Parties) jointly.

[2] The Atlanta parties, Gainesville, Broward County, the Fort Walton Beach parties, the Satasota-Manatee Airport Authority, the Pensacola parties, and the Tampa Bay parties (Counties of Hillsborough and Pinellas, Fla., the Greater Tampa Chamber of Commerce, and the City of Tampa).

proceeding to include an additional, reasonably large Atlanta-Florida market will not unduly expand the case. On the contrary, the examination of the need for competitive service between Atlanta and Tallahassee can be conducted with a minimum of additional time and effort.

None of the other markets presents the same combination of size and potential service benefits to warrant separate investigation. Nor do they pose issues sufficiently related to those under consideration in Docket 30679 so that consolidation would be conducive to the proper dispatch of the Board's business. See Part 399.60 of the Board's Policy Statements and Rule 12 of the Board's Rules of Practice. All of the remaining Tallahassee markets are smaller than the Atlanta market, service is reasonably good, and the markets are not of a size which would warrant a commitment of time or effort looking toward additional authorizations. Furthermore, all are intra-Florida markets which, in contrast to Atlanta, will not serve as useful gateways to beyond points. Improved direct access to points north or west of Atlanta, including the Midwest, was, of course, at the heart of the communities' petitions which led to institution of the Atlanta-Daytona Beach/Sarasota case. See Order 77-3-167, pp. 1-2.

In reaching this conclusion, we are not suggesting that improved air service is not desirable or that the existing service is necessarily acceptable for the longer term. Rather, we are indicating our judgment that, at the present time, the Board's workload should be directed to applications and requests which hold promise of greater public benefits. While we fully recognize, in this connection, that the Board in 1969, indicated that it had "* * * decided to institute an investigation to determine air service requirements at various Florida points north of Miami and between these points and Atlanta * * *,"[3] we believe that the press of competing applications and the changes in circumstances which have occurred in the intervening years require that we limit our consideration to the needs of the Atlanta-Tallahassee market.

We do not believe that consideration of the service needs of the remaining markets, either in the pending case or in other proceedings, is warranted. The Tallahassee-Miami market is the second largest market for which the Tallahassee parties seek improved service. It generated 76,000 passengers in 1975. Unlike the Atlanta-Tallahassee market, however, two carriers (Southern and Eastern) already hold nonstop authority, although the service provided is generally one-stop. (Eastern provides two round trips per day via Tampa; Southern provides four round trips per day via Orlando.) Given other, more pressing needs, we are unprepared to consider the need for a third nonstop authorization in the market.

The Tallahassee-Orlando market generated only 46,000 local O&D and interline connecting passengers in 1975. Southern provides six daily nonstop round trips in this market and operated at an average load factor of 54 percent in 1975 and 55 percent for the first eight months of 1976.

The Tallahassee-Tampa market, with 46,000 local O&D and interline connecting passengers in 1975, is identical in size to Tallahassee-Orlando. Eastern provides two daily nonstop round trips in this city pair, and its service is supplemented by the services of Sun Air Lines and Air Florida (two intra-Florida carriers) which provide a total of four nonstop round trips per day in the market. Eastern experienced an average load factor of 64 percent in 1975 and this decreased to 60 percent for the first eight months of 1976.

The Tallahassee-Eglin A.F.B./Panama City/Pensacola/Sarasota/Fort Lauderdale/Jacksonville markets are smaller, single-plane markets which collectively generated 23,000 local O&D interline connecting passengers in 1975, or only 63 per day.[4] In each of these markets, at least one of three certificated carriers, Eastern, National, or Southern, holds nonstop authority. Air Florida, the commuter airline, provides the only single-plane service between Tallahassee and Sarasota/Bradenton.

Tallahassee-Daytona Beach/Gainesville/Key West/Melbourne/West Palm Beach do not enjoy single-plane service; however, they generated a combined traffic total of only 11,000 local O&D and interline connecting passengers in 1975.[5] Eastern, National or Southern holds nonstop authority in each of the city-pairs save Tallahassee-Key West, where no carrier is presently certificated, and Tallahassee-Daytona Beach where Eastern and National hold one-stop rights.

CONCLUSION

We are mindful of the Tallahassee parties' desire for improved air service and our obligation to foster the development of a sound air transportation system. In view of our current commitment to a number of ongoing routes proceedings, as well as numerous other existing hearing matters, the Board must be guided by its obligation to hear those requests which promise the greatest public benefits. These factors lead us to conclude that consideration of the need for first competitive service in the Tallahassee-Atlanta market only, and consideration of that need in connection with the pending Atlanta-Daytona Beach/Sarasota case, is required by the public interest and in keeping with the proper dispatch of the Board's business.

Southern's application in Docket 29312 was dismissed by Order 77-3-167. Consequently, the carrier, and other interested applicants, will be required to file applications, along with appropriate motions to consolidate, in Docket 30679. The motions to consolidate, along with all other matters still pending in Docket 30679, will be disposed of by subsequent order. In this connection, the presiding administrative law judge is authorized, of course, to establish a new date for the prehearing conference in order to allow the orderly disposition of pending matters.

Accordingly, it is ordered, That: 1. The motion of the City of Tallahassee and the Tallahassee Chamber of Commerce, insofar as it requests an immediate hearing with respect to the need for first competitive nonstop service in the Tallahassee-Atlanta market, be granted;

2. This proceeding shall hereafter be known as the Florida-Atlanta Competitive Nonstop Case, Docket 30679;

3. The proceeding shall include consideration of the following issues:

a. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop air transportation between Atlanta, Georgia, on the one hand, and Daytona Beach, Sarasota-Bradenton, and/or Tallahassee, Florida, on the other hand?

b. If the answer to (a) is in the affirmative, which air carrier or air carriers should be authorized to engage in such service?

c. What terms, conditions, and/or limitations, if any, should be attached to any new authority which may be awarded?

4. Any authority granted in said proceeding shall be in the form of a new segment and shall be ineligible for Federal subsidy;

5. Applications within the expanded scope of the proceeding and motions to consolidate shall be filed within twenty (20) days from the date of service of this order, and answers thereto shall be filed within ten (10) days thereafter; and

6. Except to the extent granted here, the motion of the City of Tallahassee and the Tallahassee Chamber of Commerce filed in Docket 29312 be denied, and Docket 29312 is closed.[6]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[7]
Secretary.

[FR Doc.77-22568 Filed 8-4-77;8:45 am]

[3] Southern Airways Route Realignment Investigation, Order 69-9-132, September 24, 1969, p. 6.

[4] The 1975 traffic in certain of these markets is slightly understated. National was not operating due to strike from September 1, 1975, through January 7, 1976. Also, the traffic of commuter operations and the intra-Florida airlines is not included in the Board's O&D surveys.

[5] See footnote (4) above.

[6] Pleadings filed jointly in Dockets 29312 and 30679 shall be considered in connection with Docket 30679.

[7] All members concurred.

DEPARTMENT OF AGRICULTURE

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF JUNE 15, 1977

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of June 15, 1977. Persons interested in a particular action and environmental statement should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land management planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wilderness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

EINAR L. ROGET,
Deputy Chief, Forest Service.

JULY 29, 1977.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF JUNE 15, 1977

Washington Office, USDA Forest Service, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Great Bear Wilderness Study	Flathead, Lewis and Clark National Forests, Mont.	Wilderness study	Chief	July 1977	
*A Proposal to Reconstruct Big Creek Dam Using Mechanized Equipment.	Bitterroot National Forest (Selway-Bitterroot Wilderness), Mont.	Dam reconstruction	do	May 1977	July 1977.
*Elkhorn Wilderness Study Area	Helena National Forest, Mont	Wilderness study	do	January 1978	September 1978.
*St. Vrain Wilderness Study	Arapaho and Roosevelt National Forests, Colo.	do	do	November 1976	July 1977.
Comanche-Big South	Roosevelt National Forest, Colo	Wild and scenic river proposal	do	May 1978	December 1978.
Phelps Dodge (Copper Basin)	Prescott National Forest, Ariz	Land exchange	do	March 1976	July 1977.
Flaming Gorge National Recreation Area.	Ashley National Forest, Utah-Wyoming	Management plan	do	August 1976	December 1977.
Salmon River Wild and Scenic River	Idaho	Legislation	do	June 1975	September 1977.
*Teton Corridor Wilderness Study-Proposal.	Bridger-Teton National Forest, Wyo	do	do	September 1976	July 1977.
*Snow Mountain	Mendocino National Forest, Calif	Wilderness study	do	January 1978	July 1978.
Tuolumne Wild and Scenic River Study.	Stanislaus National Forest, Calif	Wild and scenic river study	do	October 1977	April 1978.
*North Fork American River Wild and Scenic.	Tahoe National Forest, Calif	do	do	December 1977	December 1978.
*North Fork American River Wilderness Study Area.	do	Wilderness study	do		
Mount Shasta Wilderness Study Area	do	do	do	October 1977	January 1978.
*Sheep Mountain Wilderness Study Area.	Angeles National Forest, Calif	do	do	January 1978	July 1978.
*Cougar Lakes	Gifford Pinchot and Snoqualmie National Forests Wash.	do	do	June 1977	July 1978.
*Illinois River Study	Siskiyou National Forest, Oreg	Legislation	do	May 1977	March 1978.
Lower Minam	Wallowa-Whitman National Forest, Oreg	Wilderness study	do	July 1977	June 1978.
Lake Forest Enterprises	Superior National Forest, Minn	Land exchange	do	July 1976	October 1977.
AuSable Wild and Scenic River Study	Huron National Forest, Mich	Legislation	do	August 1977	September 1978.
Manistee Wild and Scenic River Study	Manistee National Forest, Mich	do	do	February 1978	Do.
Round Lake Wilderness Study Area	Chequamegon National Forest, Wis	do	do	December 1977	October 1978.
Flynn Lake Wilderness Area	do	do	do	do	Do.
Cranberry Wilderness Area	Monongahela National Forest, W. Va	do	do	October 1977	April 1978.
*Granite	Tongass National Forest, Alaska	Timber sale	do	September 1977	April 1978.
*Alaska Lumber and Pulp Operating Period 1981-86.	do	do	do	July 1979	December 1979.
*Ketchikan Pulp Co. 1979-84 Operating Period.	do	do	do	December 1977	July 1978.
Sopchoppy Wilderness Study Plan	Apalachicola National Forest, Fl	Legislation	do	November 1977	March 1978.

Regional office, region 1—Northern Region, USDA, Forest Service, Federal Bldg., Missoula, Mont. 59807

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Beaverhead National Forest	Beaverhead National Forest, Mont	Land management plan	Regional forester	February 1977	September 1977.
Sapphires	Bitterroot National Forest, Mont	do	do	September 1977	March 1978.
*Bertie Lord-Meadow-Cameron	do	do	do	August 1977	December 1977.
Timber Management	do	Rescurce plan	do	September 1977	January 1978.
*Lowell	Clearwater National Forest, Idaho	Land management plan	do	March 1976	August 1977.
Clearwater Working Circle Timber Management Plan.	do	Revised timber management plan.	do	September 1977	March 1978.
Clearwater-St. Joe Divide	Clearwater and Panhandle National Forests, Idaho.	Land management plan	do	November 1977	
Silvicultural Use of Herbicides in Northern Idaho.	do	Herbicide use	do	July 1977	September 1977.
Pryor Mountain Complex	Custer National Forest, Mont	Land management plan	do		
Ashland	Custer National Forest, Mont	do	do	September 1977	December 1977.
Beartooth Face [1]	Custer and Gallatin National Forests, Mont.	do	do	do	March 1978.
Beartooth Plateau [1]	Custer, Gallatin, and Shoshone National Forests, Mont. and Wyo.	do	do	July 1976	December 1977.
Coeur d'Alene	St Joe National Forest, Idaho	do	do	July 1977	
Big Creek/North Fork	do	do	do	September 1977	
Smith Creek	Idaho-Panhandle National Forests, Idaho.	do	do	July 1975	July 1977.
Tungsten	do	do	do	August 1977	
Upper Priest	Kaniksu National Forest, Idaho	do	do	September 1977	
Upper Rock Creek	Deerlodge National Forest, Mont	do	do	February 1977	August 1977.
Little Boulder-Whitetail	do	do	do	September 1977	January 1978.
Eastside-Lockhart-Browns Gulch	do	do	do	March 1978	July 1978.
Highlands	do	do	do	November 1978	March 1979.
Anaconda/Hamilton Transmission Line.	Deerlodge and Bitterroot, Lolo National Forests, Mont.	Powerline	Forest supervisors	March 1978	July 1978.
Anaconda	Deerlodge National Forest, Mont	Land Management plan	Regional forester	June 1978	September 1978.
Island	Flathead National Forest, Mont	do	do	October 1977	April 1978.
Logan	do	do	do	August 1977	February 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Hornet	Kootenai National Forest, Mont	do	do	April 1977	October 1977.
Pinkham-Alkali-Fortine	do	do	do	March 1977	September 1977.
*Vermilion-Beaver-Marten	do	do	do	August 1977	February 1978.
*Lick Mountain-Rock Candy	do	do	do	July 1977	January 1978.
*Star	do	do	do	September 1977	March 1978.
Ziegler	do	do	do	October 1977	April 1978.
*Hoodoo-Fisher	do	do	do	December 1977	June 1978.
Rocky Mountain Fronrt	Lewis and Clark National Forest, Mont	do	do	June 1977	December 1977.
Smith River and Logging Pilgrim	do	do	do	December 1977	June 1978.
Yogo-Bear and Dry Wolf	do	do	do	July 1978	
*Placid-Blanchard	Lolo National Forest, Mont	do	do	February 1977	September 1977.
*Big Hole	do	do	do	May 1976	Do.
East Shore Flathead Lake	Flathead National Forest, Mont	do	do	June 1977	November 1977.
*Hungry Horse West	do	do	do	December 1977	June 1978.
West Half Yellowstone	do	do	do	October 1977	January 1978.
Hilgard-Taylor	do	do	do	June 1978	October 1978.
Buck Creek-Yellow Mule	do	Road construction	do	September 1976	July 1977.
Mike Horse	Helena National Forest, Mont	Land management plan	do	December 1977	June 1978.
Magpie Confederate	do	do	do	July 1976	January 1978.
Colorado-Unionville-Travis	do	do	do	November 1976	June 1978.
East Belt	do	do	do	September 1977	March 1978.
Nevada-Stemple-Little Prickly Pear	do	do	do	December 1978	
*Keeler	Kootenai National Forest, Mont	do	do	July 1977	December 1977.
*West End	Lolo National Forest, Mont	do	do	August 1977	January 1978.
*Lower Rock Creek	do	do	do	September 1977	March 1978.
*Sacajawea-Cutoff	do	do	do	August 1977	January 1978.
West Nezperce	Nezperce National Forest, Idaho	do	do	January 1979	June 1979
*Gospel Hump	do	do	do	October 1978	March 1979.
Meadow Creek	do	do	do	January 1978	June 1978.
Hot Point	do	do	do	September 1977	February 1978.
Timber Management Plan	do	do	do	do	Do.
Western Spruce Budworm Management.	Northern region Montana, Idaho, North and South Dakota.	Management of spruce budworm.	do	March 1977	July 1977.

Regional office, region 2—Rocky Mountain Region, USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225

*Boulder Grand Divide	Arapaho and Roosevelt National Forests, Colo.	Land management plan	Regional forester	November 1976	July 1977.
*East Grand County	Arapaho National Forest, Colo	do	do	August 1977	February 1978.
Norbeck Wildlife Preserve	Black Hills National Forest, S. Dak and Wyo.	do	do	July 1977	December 1977.
*East River	Gunnison National Forest, Colo	do	do	December 1975 (amended July 1977).	September 1977.
*Grand Mesa-Muddy Creek and West Elk.	Gunnison and Grand Mesa National Forests, Colo.	do	do	June 1978	September 1978.
*North Hayden	Medicine Bow National Forest, Wyoming.	do	do	December 1977	June 1978.
*Huston Park Area (Proposed Cheyenne Water Diversion Project).	do	do	do	December 1976	July 1977.
Bear Creek Uranium Project	do	Mineral development	Regional forester, USGS and NRC.	do	Do.
Management of Prairie Dogs	All lands administered as a part of the Nebraska National Forest, South Dakota and Nebraska.	Management of prairie dogs	Forest supervisor	June 1977	October 1977.
*Southern San Juan	Rio Grande and San Juan National Forests, Colo., Carson National Forest, N. Mex.	Land management plan	Regional forester	September 1977	July 1978.
*South Fork	Rio Grande National Forest, Colo	do	do	Deferred, pending legislation involving Goose Creek (Deep Creek-Decker Creek-RD roadless area).	
Timber Management Supplement	do	Resource plan	do	July 1977	
Comanche-Big South Unit	Roosevelt National Forest Colo	Land management plan	do	May 1978	December 1978.
Timber Management	do	Resource plan	do	February 1978	August 1978.
*Bears Ears Unit	Routt National Forest, Colo	Land management Plan	do	June 1976	September 1977.
*Williams Fork	do	do	do	October 1977	July 1978.
*Arkansas Planning Unit	San Isabel National Forest, Colo	do	do	November 1977	March 1978
*Dolores	San Juan National Forest, Colo	do	do	September 1976	September 1977.
*Pagosa Springs	do	do	do	August 1977	February 1978.
*South Animas	do	do	do	September 1977	March 1978.
*Piedra	do	do	do	January 1978	July 1978.
*DuNoir Special Management Unit	Shoshone National Forest, Wyo	do	do	July 1977	November 1977.
*Beartooth Plateau Unit (with region 1).	Shoshone, Gallatin, and Custer National Forests, Montana and Wyoming	do	do	July 1976 (supplement July 1977).	October 1977.
*Thompson Creek and Upper Crystal Units.	White River National Forest, Colo.	do	do	August 1976	November 1977.
*Upper Eagle Unit	do	do	do	August 1977	January 1978.
*Eagle-Aspen	do	do	do	March 1977	July 1977.
Timber Management	do	Resource plan	do	February 1976	do

Regional office, region 3—Southwestern Region, USDA, Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87102

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Barometer	Apache-Sitgreaves National Forest, Ariz.	Land management plan	Regional forester	July 1977	January 1978.
Sitgreaves	do	Resource plan	do	do	Do.
*Manzano Mountain	Cibola National Forest, N. Mex	Land management plan	do	June 1977	December 1977.
Cinder Hills	Coconino National Forest, Ariz	do	do	March 1978	October 1978.
Oak Creek	do	do	do	January 1979	June 1979.
Huachuca	Coronado National Forest, Ariz	do	do	July 1977	November 1977.
Rosemont	do	Land exchange	Forest supervisor	do	Do.
*Gila	Gila National Forest, N. Mex	Resource plan	Regional forester	October 1978	June 1979.
*Gilita Unit	do	Land management plan	do	September 1977	February 1978.
Algaecide Treatment	do	Weed control	Forest supervisor	December 1976	July 1977.
Geothermal Leasing	do	Mineral leasing	do	June 1977	December 1977.
Williams Unit	Kaibab National Forest, Ariz	Land management plan	Regional forester	September 1977	February 1978.
South Kaibab	do	Resource plan	do	do	Do.
Eagle Creek Dam and Reservoir	Lincoln National Forest, N. Mex	City water storage	Forest supervisor	April 1977	October 1977.
*Ruidoso Unit	do	Land management plan	Regional forester	January 1978	April 1978.
Cloudcroft Unit	do	do	do	July 1979	November 1978.
*Thumb Butte Unit	Prescott National Forest, Ariz	do	do	June 1978	September 1978.
*Tesuque Unit (Santa Fe Unit Enlarged.	Santa Fe National Forest, N. Mex	do	do	December 1977	June 1979.
*Pecos Unit	do	do	do	September 1977	December 1977.
*Upper Salt Unit	Tonto National Forest, Ariz	do	do	June 1978	November 1978.

Regional office, region 4—Intermountain Region, USDA, Forest Service, 324–25th St., Ogden, Utah 84401

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land management, herbicide, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Timber Management Plan	Ashley National Forest, Utah	Resource plan	Regional forester	May 1977	December 1977.
*High Uintas South Slope	do	Land Management plan	do	August 1977	February 1978.
*Daggett-Flaming Gorge	do	do	do	October 1977	April 1978.
Timber Management Plan	Boise National Forest, Idaho	Resource plan	do	May 1976	December 1977.
*Landmark Planning Unit (amended final).	do	Land Management plan	do	do	September 1977.
*Union Pass Planning Unit	Bridger-Teton National Forest, Wyo	do	do	January 1977	October 1977.
*Greys-Salt River Planning Unit	do	do	do	August 1977	March 1978.
*Timber Management Plan	do	Resource plan	do	September 1977	March 1978.
*Diamond Creek Planning Unit	Caribou National Forest, Idaho	do	do	May 1976	October 1977.
*Bear River Planning Unit	do	do	do	June 1977	November 1977.
*Challis-Squaw Creek Planning Unit	Challis National Forest, Idaho	do	do	December 1977	June 1978.
*Paunsaugunt-Sevier Planning Unit	Dixie National Forest, Utah	do	do	July 1977	December 1977.
*Fremont Planning Unit	Fishlake National Forest, Utah	do	do	September 1977	Do.
*Tushar Mountains Planning Unit	do	do	do	May 1978	November 1978.
*Mount Moriah Planning Unit	Humboldt National Forest, Nev	do	do	October 1977	June 1978.
*Moab Planning Unit	Manti-LaSal National Forest, Colo.-Utah.	do	do	January 1978	April 1978.
*Ferron-Price Planning Unit	Manti-LaSal National Forest, Utah	do	do	do	July 1978.
*Warren Planning Unit	Payette National Forest, Idaho	do	do	November 1977	March 1978.
*McCall Planning Unit	do	do	do	September 1977	December 1977.
*Timber Management Plan	Salmon National Forest, Idaho	Resource plan	Regional forester	June 1978	December 1978.
*Leesburg Planning Unit	do	Land Management Plan	do	June 1977	September 1977.
*Leadore Planning Unit	do	do	do	do	Do.
*Divide Planning Unit	do	do	do	January 1978	June 1978.
*Albion Planning Unit	Sawtooth National Forest, Idaho	do	do	September 1977	February 1978.
*Island Park Planning Unit	Targhee National Forest, Idaho	do	do	July 1977	January 1978.
*Big Hole Mountains Planning Unit	do	do	do	November 1977	March 1978.
*Timber Management Plan	do	Resource plan	do	February 1978	August 1978.
Island Park Geothermal Leasing	do	do	Forest supervisor	July 1978	January 1979.
*Alpine Planning Unit	Toiyabe National Forest, Nevada-California.	Land management plan	Regional forester	June 1976	August 1977.
*Hobble-Diamond Planning Unit	Uinta National Forest, Utah	do	do	September 1977	February 1978.
*North Slope Planning Unit	Wasatch National Forest, Utah	do	do	March 1976	September 1977.
*Salt Lake	do	do	do	July 1977	December 1977.

Regional office, region 5—California Region, USDA, Forest Service, 630 Sansome St., San Francisco, Calif. 94111

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*San Gabriel	Angeles National Forest, Calif	Land management plan	Regional forester	May 1977	October 1977.
Bouquet Canyon	do	Recreation plan	do	September 1977	March 1978.
*Trabuco	Cleveland National Forest, Calif	Land management plan	do	August 1977	Do.
*Descanso	do	do	do	June 1979	June 1980.
Volcanoville	Eldorado National Forest, Calif	do	do	June 1976	July 1977.
Timber Management Plan	do	Resource plan	do	March 1977	August 1977.
Sierra Ski Ranch	do	Winter sports	Forest supervisor	do	July 1977.
*Mammoth	Inyo National Forest, California	Land management plan	Regional forester	December 1977	June 1978.
Mono Basin	do	do	do	do	do.
*Bishop Creek	do	do	do	July 1977	December 1977.
Timber Management Plan	do	Resource plan	do	June 1978	December 1978.
Long Valley KGRA	Inyo National Forest and associated national resource lands.	Geothermal leasing, exploration, and development.	Forest supervisor Inyo National Forest, and Bakersfield district manager, BLM.	do	do.
*North Siskiyou	Klamath National Forest, Calif., Rogue River National Forest, Oreg., Siskiyou National Forest, Oreg.	Land management plan	Regional forester	May 1978	do.
*Almanor Planning Unit	Lassen National Forest, Calif	do	do	August 1977	June 1978.
Big Sur Coastal	Los Padres National Forest, Calif	do	do	December 1976	July 1977.
*Mt. Pinos	do	do	do	June 1978	December 1978.
*Middle Eel Planning Unit	Mendocino National Forest, Calif	do	do	March 1978	September 1978.
Mendocino National Forest Timber Management Plan.	do	Resource plan	do	September 1977	February 1978.
*Medicine Lake	Modoc National Forest, Calif	Land management plan	do	July 1977	November 1977.
Warner Mountain	do	do	do	December 1977	May 1978.
*Mohawk Planning Unit	Plumas National Forest, Calif	do	do	July 1976	July 1977.
*Feather River	do	do	do	March 1978	December 1978.
Twin Valley	do	do	do	October 1979	July 1980.
Eastern Plumas	do	do	do	November 1979	June 1981.
Timber Management Plan	Angeles, Cleveland, Los Padres, and San Bernardino National Forests, Calif.	Resource plan	do	July 1977	September 1977.
Big Bear Basin	San Bernardino National Forests, Calif	Land management plan	do	do	December 1977.
*Plateau	Sequoia National Forests, Calif	do	do	November 1978	April 1979.
*Hume	do	do	do	May 1979	October 1979.
*Tule	do	do	do	May 1980	November 1980.
*South Fork Mountain	Shasta-Trinity National Forests, Calif	do	do	August 1977	November 1977.
*Girard-McCloud	do	do	do	September 1977	December 1977.
Rancheria	Sierra National Forests, Calif	do	do	September 1976	July 1977.
*Eastern	do	do	do	September 1977	March 1978.
*Huntington-Dinkey	do	do	do	April 1978	September 1978.
Chiquito-Bass Lake	do	do	do	July 1978	January 1979.
*Mariposa	do	do	do	November 1978	April 1979.
Timber Management Plan	do	Resource plan	do	September 1977	February 1978.
Fox Supplement	do	Land management plan	do	do	February 1978.
*Chimney Rock Section of G–O Road	do	Project	do	July 1977	November 1977.
Timber Management Plan	Tahoe National Forest, Calif	Resource plan	do	September 1977	January 1978.
*Foresthill-Hell Hole	Tahoe and Eldorado National Forest, Calif.	Land management plan	do	October 1978	June 1979.
*Nevada City	Tahoe National Forest, Calif	do	do	October 1979	May 1980.
Downieville	do	do	do	October 1980	May 1981.
*Unit Plan for National Forest lands in Tahoe Basin Management Unit.	Lake Tahoe Basin	do	do	October 1978	July 1979.

Regional office, region 6—Pacific Northwest Region, USDA, Forest Service, 319 SW. Pine St., Portland, Oreg. 97208

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Colville-East	Colville, National Forest, Wash	do	do	November 1977	June 1978.
*Harvey Creek	do	do	do	October 1977	May 1978.
*Kettle Range	do	do	do	December 1976	October 1977.
*Sullivan-Salmo	do	do	do	June 1977	January 1978.
*Tonasket	Colville and Okanogan National Forests, Wash.	do	do	September 1977	April 1978.
*10-Yr Timber Management Plan	Colville National Forest, Wash	Resource plan	do	October 1977	June 1978.
*Deschutes	Deschutes National Forest, Oreg	Land management plan	do	August 1977	January 1978.
*Panhandle	Deschutes, Umpqua and Winema National Forests Oreg.	do	do	March 1978	December 1978.
*Fremont	Fremont National Forest, Oreg	do	do	December 1977	May 1978.
*10-Yr Timber Management Plan	Lakeview Federal Sus. yield unit, Fremont National Forest, Oreg.	Resource plan	do	July 1977	December 1977.
*10-Yr Timber Management Plan	Klamath Basin W.C., Fremont and Winema National Forests, Oreg.	do	do	do	March 1978.
*Bear Creek	Gifford Pinchot National Forest, Wash	Land management plan	do	June 1977	November 1977.
*Cowlitz	do	do	do	October 1977	April 1978.
*Lone Tree	do	do	do	November 1977	May 1978.
*Trapper-Siouxon	do	do	do	April 1976	July 1977.
Upper Cispus	do	do	do	July 1977	January 1978.
*Naches-Tieton-White River	Gifford Pinchot, Mount Baker-Snoq. and Wenatchee National Forests. Wash.	do	do	June 1977	July 1978.
*Desolation	Malheur, Umatilla, and Wallowa-Whitman National Forests, Oreg.	do	do	February 1978	August 1978.
*John Day	Malheur and Umatilla National Forests, Oreg.	do	do	February 1976	February 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Silvies-Malheur	Malheur, Ochoco and Wallowa-Witman National Forests, Oreg.	do	do	July 1977	April 1978.
*South Fork	Malheur and Ochoco National Forests, Oreg.	do	do	May 1976	November 1977.
*10-Year Timber Management Plan	Malheur, Umatilla and Wallowa-Whitman National Forests, Oreg.	Resource Plan	do	November 1977	March 1978.
Green River	Mount Baker-Snoq. National Forest, Wash.	Watershed Mangement plan	do	February 1979	November 1979.
*Mt. Baker	do	Land management plan	do	August 1977	February 1978.
*Skykomish	Mount Baker-Snoq. and Wenatchee National Forests, Wash.	do	do	September 1977	June 1978.
*10-Yr Timber Management Plan	Mount Baker-Snoq. National Forest, Wash.	Resource plan	do	March 1978	November 1978.
*Badger-Jordan	Mount Hood National Forest, Oreg	Land Management plan	do	December 1976	October 1977.
*Bull Run	do	do	do	August 1976	January 1978.
*Clackamas	do	do	do	June 1978	November 1978
*Mt. Hood Interagency	do	do	do	March 1976	August 1977.
Mount Hood Meadows	Mount Hood National Forest, Oreg	Ski area development	Forest Supervisor	May 1977	October 1977.
*10-Yr Timber Management Plan	do	Resource plan	Regional Forester	August 1976	August 1977.
Grassland	Ochoco National Forest, Oreg	Land Management plan	do	August 1978	January 1979.
*Ochoco-Crooked River	do	Land Management plan	do	September 1977	March 1978.
*10-Yr Timber Management Plan	do	Resource plan	do	April 1977	November 1977.
*North Central Washington Spruce Budworm Project.	Okanogan and Wenatchee National Forests, Wash.	Infestation evaluation	do	February 1977	August 1977.
*Canal Front	Olympic National Forest, Wash	Land Management plan	do	March 1978	August 1978.
*10-Yr Timber Management Plan	Shelton Sus. yield unit, Olympic National Forest, Wash.	Resource plan	do	January 1978	May 1978.
Do	Olympic W. C. Olympic National Forest, Wash.	do	do	November 1978	March 1979.
Do	Rogue River National Forest, Oreg	do	do	September 1977	March 1978.
*McLoughlin-Klamath	Rogue River and Winema National Forests, Oreg.	Land Management plan	do	April 1977	December 1977.
*North Siskiyou	Rogue River and Siskiyou National Forests, Oregon and Klamath National Forest, Calif.	do	do	March 1978	December 1978.
Upper Rogue	Rogue River and Umpqua National Forests Oreg.	do	Regional forester	November 1977	April 1978.
*Chetco-Greyback	Siskiyou National Forest, Oreg	do	do	July 1977	December 1977.
Coquille	do	do	do	January 1978	December 1978.
*Rogue-Illinois	do	do	do	November 1976	July 1977.
*10-Year Timber Management Plan	do	Resource plan	do	September 1977	March 1978.
*Alsea	Siuslaw National Forest, Oreg	Land Management plan	do	August 1978	February 1979.
*Hebo	do	do	do	August 1977	May 1978.
Siuslaw	Siuslaw National Forest, Oreg	Land management plan	do	April 1979	October 1979.
*10-Yr Timber Management Plan	do	Resource plan	do	December 1977	June 1978.
*Elgin	Umatilla National Forest, Oreg	Land management plan	do	November 1977	May 1978.
*Grande Ronde	Umatilla and Wallowa-Whitman National Forests, Oreg.	do	do	August 1976	November 1976.
*Heppner	Umatilla National Forest, Oreg	do	do	March 1978	October 1978.
*Umpqua	Umpqua National Forest, Oreg	do	do	June 1977	November 1977.
Applegate Creek Water Impoundment	do	Water project	Forest supervisor	August 1977	January 1978.
*10-Yr Timber Management Plan	do	Resource plan	Regional forester	March 1977	October 1977.
*Burnt Powder	Wallowa-Whitman National Forest, Oreg.	Land managment plan	do	September 1977	February 1978.
Mount Howard	do	Recreation development	Forest supervisor	January 1978	June 1978.
Kittitas	Wenatchee National Forest, Wash	Land management plan	Regional forester	November 1977	May 1978.
*Bellnap Springs	Willamette National Forest, Oreg	Geothermal development	do	December 1977	Do.
Breitenbush	do	do	do	October 1976	October 1977.
Chiloquin	Winema National Forest, Oreg	Land management plan	do	November 1978	April 1979.

Regional Office, region 8—Southern Region, USDA, Forest Service, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309

Conecuh	Conecuh National Forest, Ala	do	do	November 1976	September 1977.
Lake Russell	Chattahoochee National Forest, Ga	do	do	February 1978	November 1978.
Oconee	Oconee National Forest, Ga	do	do	August 1978	February 1979.
South Sl p	Chattahoochee National Forest, Ga	do	do	September 1976	February 1978.
Chattahoochee Timber Plan	do	Resource plan	do	February 1978	August 1978.
Laurel River	Daniel Boone National Forest, Ky	Land management plan	do	February 1976	September 1977.
Licking River	do	do	do	October 1977	January 1978.
Cumberland River	do	do	do	December 1977	May 1978.
Beaver Creek Wilderness	do	Prospecting	do	February 1977	November 1977.
Ocala Timber Plan	Ocala National Forest, Fla	Resource plan	do	November 1977	March 1978.
Wakulla	Apalachicola National Forest, Fla	Land management llan	do	do	May 1978.
Francis Marion	Francis Marion National Forest, S.C	do	do	April 1977	September 1977.
Massanutten	George Washington National Forest, Va	do	do	July 1976	December 1977.
Cave Mountain Lake	Jefferson National Forest, Va	do	do	February 1974	September 1977.
Mt. Rogers NRA	do	Resource plan	do	September 1977	July 1978.
High Knob	do	Land management plan	do	December 1977	June 1978.
Revised 10-Yr Timber Plan	do	Resource plan	do	August 1977	April 1978.
Vernon	Kisatchie National Forest, La	Land management plan	do	September 1976	August 1977.
Kisatchie	do	do	do	October 1977	March 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Holly Spring-Tombigbee Timber Plan	Holly Spring-Tombigbee National Forest, Miss.	Resource plan	do	March 1977	September 1977.
Black Creek	Desota National Forest, Miss	Land management plan	do	October 1977	January 1978.
Croatan Timber Plan	Croatan National Forest, N.C	Resource plan	do	December 1977	September 1978.
Fourche La Fave	Ouachita National Forest, Ark	Land management plan	do	October 1977	May 1978.
Maumelle-Saline	do	do	do	October 1977	February 1978.
Tiak	do	do	do	December 1976	October 1977.
Talimena	do	do	do	November 1977	June 1978.
Ouachita Timber Plan	do	Resource plan	do	October 1977	April 1978.
Ozark Timber Plan	Ozark National Forest, Ark	do	do	April 1977	November 1977.
St. Francis	St. Francis National Forest, Ark	Land management plan	do	April 1976	August 1977.
Wedington	Ozark National Forest, Ark	do	do	August 1977	March 1978.
Lee Creek	do	do	do	October 1977	Do.
Mulberry	do	do	do	December 1977	May 1978.
Sabine	Sabine National Forest, Tex	do	do	Deferred	
Sam Houston	Sam Houston National Forest, Tex	do	do	do	
Anelina Timber Plan	Angelina National Forest, Tex	Resource plan	do	do	
Davy Crockett Timber Plan	do	do	do	do	
Caribbean	Caribbean National Forest, Puerto Rico	Land management plan	do	January 1978	August 1978.
Osceola	Osceola National Forest, Fla	do	do	July 1978	January 1979.
Piedmont Working Circle Timber Plan	Sumter National Forest, N.C	Resource plan	do	July 1978	Do.
Evangeline	Kisatchie National Forest, La	Land management plan	do	November 1977	May 1978.

Regional office, region 9—Eastern Region, USDA, Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wis. 53203

Buzzard Swamp Unit	Allegheny National Forest, Pa	do	do	October 1976	September 1977.
Mill Creek Unit	do	do	do	June 1978	December 1978.
Timber Management Plan	do	Resource plan	do	November 1976	August 1977.
Do	Chequamegon National Forest, Wis	do	do	October 1976	September 1977.
Do	Green Mountain National Forest, Vt	do	do	December 1976	July 1977.
Do	Hiawatha National Forest, Mich	do	do	September 1977	March 1978.
Willow Springs Unit	Mark Twain National Forest, Mo	do	do	September 1976	August 1977.
Fredericktown Unit	do	do	do	August 1978	February 1979.
Salem/Potosi Unit	do	do	do	February 1979	August 1979.
Monongahela	Monongahela National Forest, W. Va	do	do	February 1977	September 1977.
Spruce Knob Lakes Recreation Complex.	do	Recreation	do	August 1977	January 1978.
Shavers Fork Unit	do	Land management plan	do	September 1977	February 1978.
Fluorspar Activities in Lust Creek	Shawnee National Forest, Ill	Mining related	Forest supervisor	June 1977	December 1977.
Waterville Unit	White Mountain National Forest, N.H	Land management plan	Regional forester	do	November 1977.
Presidential Unit	do	do	do	October 1977	March 1978.
Wild River Unit	do	do	do	April 1978	September 1978.

Regional office, region 10—Alaska Region, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Councilon Environmental Quality (or estimated date)	Estimated date of final
1976-86 Chugach National Forest Timber Management Plan Revision.	Chugach National Forest, Alaska	Program plan	Forest supervisor	September 1977	March 1978.
*Cannery Creek	do	Timber sale	do	January 1977	August 1977.
*Phase II, Upper Prince William Sound	do	Land use plan	Regional forester	August 1977	February 1978.
*Valley Timber Sale	do	Timber sale	Forest supervisor	September 1976	July 1977.
Naked Island	do	do	do	March 1977	October 1977.
Siwash Bay	do	do	do	August 1977	January 1978.
Chugach Moose-Fire Management Program.	do	Prescribed burning	do	March 1977	August 1977.
Copper River	Chugach National Forest, Alaska	Land management plan	Regional forester	March 1978	July 1978.
*Seal Creek	Tongass National Forest, Alaska	Timber sale	Forest supervisor	August 1978	January 1979.
Cowee Creek	do	do	do	May 1978	Do.
*Karta	do	Land management plan	Regional forester	August 1976	Postponed.
*Dall Island	do	do	do	September 1978	February 1979.
*TODAHL	do	Timber sale	do	August 1977	December 1977.
*Patterson River	do	do	Forest supervisor	September 1977	February 1978.
*Rocky Pass	do	Land management plan	Regional forester	July 1977	December 1977.
Management Plan	do	do	do	December 1978	June 1979.
SE. Alaska Area Guide Tongass National Forest.	All areas	Area guide	do	April 1977	November 1977.

[1] Custer National Forest is the lead forest.
[2] Shoshone National Forest, R-2 is lead forest, originally the Beartooth Highway Planning Unit.

FOREST SERVICE FIELD ADDRESSES

Northern Region, R-1, USDA, Forest Service, Federal Building, Missoula, Montana 59807.
Southwestern Region, R-3, USDA, Forest Service, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.
California Region, R-5, USDA, Forest Service, 630 Sansome Street, San Francisco, California 94111.
Southern Region, R-8, USDA, Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309.
Alaska Region, R-10, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802.
Southeastern Area, S&PF, SA, USDA, Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309.
Rocky Mountain Region, R-2, USDA, Forest Service, POB 25127, 11177 West Eighth Avenue, Denver, Colorado 80225.
Intermountain Region, R-4, USDA, Forest Service, 324 25th Street, Ogden, Utah 84401.
Pacific Northwest Region, R-6, USDA, Forest Service, 319 SW Pine Street, Portland, Oregon 97208.
Eastern Region, R-9, USDA, Forest Service, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Northeastern Area, S&PF, NA, USDA, Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

[FR Doc.77-22315 Filed 8-4-77;8:45 am]

Forest Service

LOWER MINAM WILDERNESS STUDY AREA REPORT

Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 9 a.m. on October 15, 1977, in the Eastern Oregon State College Classroom Building Auditorium, La Grande, Oreg., on a proposal for the future management of the Lower Minam Wilderness Study Area comprised of approximately 34,000 acres within the Wallowa-Whitman National Forest in the Counties of Union and Wallowa in the State of Oregon.

A brochure containing a map and information about the proposal may be obtained from the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oreg. 97814.

Individuals and organizations may express their views by appearing at this hearing, or may submit written comments for inclusion in the official record to the Forest Supervisor, P.O. Box 907, Baker, Oreg. 97814. Those persons wishing to present oral testimony at the hearing should notify the Forest Supervisor, P.O. Box 907, Baker, Oreg. 97814, prior to October 8, 1977.

Dated: July 29, 1977.

R. A. RESLER,
Acting Chief, Forest Service.

[FR Doc.77-22613 Filed 8-4-77;8:45 am]

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

The Pacific Crest National Scenic Trail Advisory Council will meet on August 29-31, 1977, at the Thunderbird Inn at the Quay in Vancouver, Wash. The meeting will begin on August 29 at 1 p.m. On August 31, a field trip to view portions of the trail, on or near the Gifford Pinchot National Forest, begins at 8 a.m.

The purpose of the meeting is to provide orientation to the Council members and to receive Council recommendations. The meeting will include a review of trail status through council and agency reports, discussion of sanitation measures needed, status of rights-of-way and use of volunteers.

The meetings will be open to the public. Persons who wish additional information concerning the meeting should contact Donald A. Warman, Recreation Staff, Pacific Northwest Region, Forest Service, P.O. Box 3623, Portland, Oreg. 97208, phone 503-221-3644.

CHESTER A. SHIELDS,
Acting Deputy Chief.

[FR Doc.77-22614 Filed 8-4-77;8:45 am]

Office of the Secretary

NATIONAL FOREST SYSTEM ADVISORY COMMITTEE

Notice of Intent To Establish

The Secretary of Agriculture proposes to establish a National Forest System Advisory Committee in compliance with Section 11 of the National Forest Management Act of 1976 (Pub. L. 94-588) for a two-year period.

The purpose of this Committee is to advise the Secretary of Agriculture on questions of policy, programs, and procedures affecting the administration of the National Forest System.

The Secretary has determined that establishment of the Committee is necessary and in the public interest in connection with the duties imposed on the Department of Agriculture and the Forest Service by law.

Comments of interested persons concerning the establishment of this Committee may be submitted to the Forest Service, USDA, National Forest System, Room 3021-S, P.O. Box 2417, Washington, DC 20013, on or before August 22, 1977.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Deputy Chief for National Forest System during regular business hours (7 CFR 1.27(b)).

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

AUGUST 2, 1977.

[FR Doc.77-22529 Filed 8-4-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ALASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 noon on August 27, 1977, in the Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska 99501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to review proposal for SAC project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22558 Filed 8-4-77;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m. on September 6, 1977, in the Midwestern Regional Office Conference Room, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss Chicago Desegregation progress; prepare report for total SAC and Special Education Program for Handicapped Children; select cities to be visited.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22559 Filed 8-4-77;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 3:00 p.m. on September 12, 1977 in the Midwestern Conference Room 3280, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss reports from Education Subcommittee. Plan future meetings, place and dates. Plan activities for calendar year Jan.-Dec. 1978.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22560 Filed 8-4-77;8:45 am]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 9:00 p.m. on September 9, 1977, in the St. Paul Holiday Inn, 161 St. Anthony St. Paul, Minnesota 55103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to: (1) Discuss action on American Indian women problems; (2) Preparations for American Indians report release; (3) Proposal for Police/Community Relations study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22561 Filed 8-4-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Title Change in Noncareer Executive Assignment

By notice of October 9, 1973, FR Doc. 73-21478, the Civil Service Commission authorized the Department of Agriculture to make a change in title of the position of Assistant Administrator, International Trade, Foreign Agricultural Service. This is notice that the title of this position is now being changed to Assistant Administrator, International Trade Policy, Foreign Agricultural Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22564 Filed 8-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Title Change in Noncareer Executive Assignment

By notice of February 4, 1976, FR Doc. 76-3376 the Civil Service Commission authorized the Department of the Interior to fill by noncareer executive assignment the position of Deputy Assistant Secretary —Land and Water Resources (Program Analysis). This is notice that the title of this position is now being changed to Deputy Assistant Secretary—Land and Water Resources.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22555 Filed 8-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Proposal To Revise General Determination No. 1 (Revised)

AGENCY: Domestic and International Business Administration.

ACTION: Notice of Intent to amend General Determination No. 1 (Revised) (38 FR 20484 et seq.).

SUMMARY: It is proposed to amend Foreign Excess Property General Determination No. 1 (Revised) by broadening the scope of certain categories of property presently covered by general determination and by including new categories of property, the importation of which would relieve domestic shortages or otherwise be beneficial to the economy of this country.

DATE: Comments due August 19, 1977. Any written communication in connection with this notice should be addressed to:

Foreign Excess Property Officer, Room 6895, U.S. Department of Commerce, Washington, D.C. 20230

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Frank Creel, who can be reached by telephone on 202-377-4913.

SUPPLEMENTARY INFORMATION: Section 302.4 of the Department of Commerce Foreign Excess Property Regulations (15 CFR Part 302) authorizes the Deputy Assistant Secretary for Resources and Trade Assistance to make a general determination that the importation of particular foreign excess property (FEP) would relieve domestic shortages or otherwise be beneficial to the economy of this country and to amend or withdraw any general determination he may issue. Inclusion of property on general determination facilitates the processing of applications to import FEP by avoiding the otherwise applicable case-by-case internal review. Moreover, persons proposing to purchase FEP abroad are put on notice that authorization to import property covered by general determination will be granted, provided all other requirements of the FEP Regulations are satisfied.

Interested parties are invited to submit written comments concerning the proposed amendments to General Determination No. 1 (Revised). All timely comments will be carefully considered prior to publication of the revised general determination in the FEDERAL REGISTER.

It is proposed to issue General Determination No. 1 on or about September 1, 1977. It is further proposed that General Determination No. 1 will be effective on August 5, 1977. The proposed provisions are less restrictive than those currently in force and delaying their effect would only result in the extension of the more involved application procedures required for foreign excess property not included in General Determination No. 1 (Revised).

It is proposed to amend General Determination No. 1 (Revised) to read as follows:

GENERAL DETERMINATION NO. 1

Importation of foreign excess property consisting of the following listed items would relieve domestic shortages or would otherwise be beneficial to the economy of this general determination and to the requirements of § 302.4 of the Foreign Excess Property Regulations (15 CFR Part 302), foreign excess property specified below may be imported into the United States, unless otherwise prohibited by law.

(a) Used non-combat military motor vehicles. All used non-combat military motor vehicles, irrespective of rated capacity, including general purpose trucks such as cargo, carryall, chassis, panel, pickup, dump, platform, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars.

(b) Used parts and components for noncombat military motor vehicles.

(c) Combat military motor vehicles and parts and components thereof.

NOTE.—Military motor vehicles enumerated on the U.S. Munitions Import List are also subject to the import permit requirements of the Department of the Treasury under the Mutual Security Act of 1954, as amended. See 26 CFR Part 180.

(d) Pneumatic tires and inner tubes, excluding passenger car tires and inner tubes. Unused tires subject to this general determination shall prior to entry into the customs territory of the United States (i) be branded with the letters "N.F.C." (Not First Class) in one inch type on each sidewall of each tire so as to be clearly visible above the bead area, or (ii) be buffed so as to remove from each sidewall thereof the name of the manufacturer and trade name(s). Inner tubes must be stamped with indelible ink in one inch block type with the letters "N.F.C.".

(e) Used power transformers, 10001 kilovolt-amperes and above.

(f) Compressed gas cylinders.

(g) Metal scrap, ferrous and non-ferrous.

(h) Used ships, boats, floating equipment (including barges, dry docks and pontoons),

and parts and components thereof. (Excludes battleships, cruisers, aircraft carriers, destroyers and submarines which are not subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended; 40 U.S.C. 472(d)(2)).

Any of the property described above may be entered into the economy of the United States on presentation of the original FEP Import Authorization to the District Director of Customs for his endorsement at the time of entry: *Provided*, The requirements in paragraph (d) above relating to unused pneumatic tires and innertubes are complied with to the satisfaction of the District Directors of Customs at the port of entry.

Nothing in General Determination No. 1 shall be construed to exempt the importer from presentation of such other entry documents, or conforming with any procedures, required by the U.S. Customs Service.

General Determination No. 1 may be amended or withdrawn by the Deputy Assistant Secretary and notice of such amendment or withdrawal shall be published in the FEDERAL REGISTER (15 CFR 302.4.)

Dated: August 2, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-22572 Filed 8-4-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

Preliminary Management Plan; Public Hearing Change

Notice is hereby given of a change in the meeting date as published in the FEDERAL REGISTER on July 29, 1977 (42 FR 38625) for a public meeting concerning a draft environmental impact statement for the proposed implementation of a preliminary management plan for the Atlantic Foreign Pelagic Longline Fishery.

The meeting scheduled for August 26, 1977, at the Club Nautico, San Juan, Puerto Rico, 4 to 7 p.m. will now be held on August 24, 1977 at 4:30 to 6:30 p.m. The location remains unchanged.

Dated: August 2, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22619 Filed 8-4-77;8:45 am]

ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

Preliminary Management Plan; Supplemental Notice of Public Hearing

Notice was given on July 22, 1977, (42 FR 37583) of the availability of a draft environmental impact statement for the proposed implementation of a Preliminary Management Plan (DEIS/PMP) for the Atlantic Foreign Pelagic Longline Fishery and meetings scheduled for public comment upon the DEIS/PMP.

Additional meetings have now been scheduled. Individuals or organizations wishing to comment on the DEIS/PMP may do so at public meetings to be held in conjunction with the South Atlantic Fishery Management Council, which is currently working on the Fishery Management Plan for this fishery. The times and locations are listed below:

AUGUST 22, 1977, SAVANNAH, GA.

Downtowner Motor Inn, 201 W. Oglethorpe Avenue, 7:30 to 10 p.m.

AUGUST 25, 1977, JACKSONVILLE, FLA.

Jacksonville City Council Chamber, City Hall—15th Floor, 220 E. Bay Street, 7:30 to 10 p.m.

AUGUST 26, 1977, CHARLESTON, S.C.

South Carolina Wildlife and Marine Resources Department. 217 Ft. Johnson Road, 7:30 to 10 p.m.

SEPTEMBER 1, 1977, MIAMI, FLA.

Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, 7:30 to 10 p.m.

SEPTEMBER 2, 1977. WEST PALM BEACH, FLA.

West Palm Beach Fishing Club, 5th Street and Flagler. 7:30 to 10 p.m.

Copies of the DEIS/PMP are available for inspection from the Regional Director, National Marine Fisheries Service, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702 (telephone: 813-893-3141). Written comments on the DEIS/PMP from the public may be submitted to the Regional Director not later than September 4, 1977 at the above address.

Dated August 2, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22622 Filed 8-4-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL; SCIENTIFIC AND STATISTICAL COMMITTEE, AND ADVISORY PANEL

Public Meeting

Notice is hereby given of a meeting of the North Pacific Fishery Management Council established by Section 302, and its Scientific and Statistical Committee and Advisory Panel, established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The North Pacific Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee will assist the Council in development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

The meetings will be held Thursday and Friday, August 25-26, 1977, in the Elk's Lodge, Kodiak, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Public hearings on Council management plans and activities.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Progress report and update from Council's Draft Management Planning teams.
4. Review of foreign fishing activities and permits for foreign fishing applications (if any).
5. Other Council business.

The meetings will be open to the public and there will be seating for approximately 100 members of the public available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about August 15, 1977:

Mr. Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 96813.

At the discretion of the Council, the Committee, or the Panel, as apropriate, interested members of the public may be permitted to speak at times which will allow orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Date: August 2, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22620 Filed 8-4-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Supplemental Notice of Public Meetings

Notice was given in the FEDERAL REGISTER on July 18, 1977, (42 FR 36857) of meetings scheduled by the South Atlantic Fishery Management Council for the purpose of providing an opportunity for public input and to serve as a fact-finding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery. Additional meetings have been scheduled. These meetings will convene at 7:30 p.m. and adjourn at 10:00 p.m. at the following locations and dates:

August 22, 1977—Downtowner Motor Inn, 201 W. Oglethorpe Avenue, Savannah, Georgia.
August 25, 1977—Jacksonville City Council Chamber, City Hall, 15th Floor, 220 East Bay Street, Jacksonville, Florida.
August 29, 1977—S. C. Wildlife and Marine Resources Dept., 217 Ft. Johnson Road, Charleston, South Carolina.
September 1, 1977—Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida.
September 2, 1977—West Palm Beach Fishing Club, 5th Street and Flagler, West Palm Beach, Florida.

Interested members of the public may present their views on matters related to the billfish fishery and on the management plan under development. Additional information relative to these meetings can be obtained by contacting:

Dr. Jackson Davis, Project Manager, Billfish Management plan, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

Member of the public wishing to submit written comment should do so by addressing the Project Manager. To receive due consideration and facilitate inclusion of such statements in the record of the meetings, typewritten statements should be submitted by September 12, 1977.

Dated: August 2, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22621 Filed 8-4-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-3]

OFFICE OF BUDGET AND PROGRAM EVALUATION

Statement of Functions and Organization and Delegation of Authority

This order effective July 14, 1977 supercedes the material appearing at 38 FR 31548 of November 15, 1973.

SECTION 1. *Purpose.*—.01 This order prescribes the functions and organization of the Office of Budget and Program Evaluation (the "Office").

.02 This revision reflects the consolidation of the Office of Budget and Program Analysis and the Office of Program Evaluation, and the establishment of the positions of Deputy Director for Budget and Deputy Director for Program Evaluation (Section 2.).

SEC. 2. *Status and line of authority.*—.01 The Office of Budget and Program Evaluation (OBPE), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration.

.02 The Deputy Director for Budget shall supervise the Budget Coordination and Reports Division and the program review staffs, advise and assist the Director as assigned with respect to the budget functions of the Office, perform the functions of the Director during the latter's absence, and serve as the Executive Secretary of the Department of Commerce Budget Committee.

.03 The Deputy Director for Program Evaluation shall advise and assist the Director in the area of program evaluation, including its relationship to zero-base budgeting, shall develop an annual program evaluation plan, and shall supervise the Program Evaluation Staff.

SEC. 3. *Functions.*—Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters relating to development of plans, guidance and program analysis to assure consistency of resource allocation with policies of the Department, budget formulation, presentation and justification and execution, analysis and reporting of fiscal and program status, and program evaluation; and

b. Establish and maintain a close working relationship with the Office of Management and Budget (OMB), the Budget and Appropriations Committees of the Congress, and other Government agencies as appropriate.

SEC. 4. *Specified authority.*—In addition to the authority implicit in and essential to carrying out the functions assigned to the Office and related to the exercise of such functions, the Director OBPE:

a. Is delegated the authority vested in the Assistant Secretary for Administration pertaining to budget planning and management, analysis and reporting of fiscal and program status, and program evaluation, subject to applicable provisions of law, regulation, and instructions of the Assistant Secretary; and

b. As the Departmental Budget Officer, shall be the adviser to, and representative of the Assistant Secretary for Administration and of the Department, on all program, budget and evaluation matters set forth in Section 3. of this order.

SEC. 5. *Organization.*—Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Budget Coordination and Reports Division.* This Division shall:

a. Establish standards, criteria and procedures for preparing budget estimates and justifications, including the maintenance of the Budget and Program Analysis Handbook; and the development of standards, procedures and operational instructions for resource allocation systems in the Department, such as zero-base budgeting;

b. Coordinate budget programs and activities that require consolidated action by the Department, and coordinate the preparation of budget estimates.

c. Interpret OMB directives on budget matters;

d. Maintain information on the status of Congressional actions on the Department's budget;

e. Prepare budget summaries and analyses;

f. Maintain the Department's budget history;

g. Maintain liaison with OMB staff and with staffs of Budget and Appropriations Committees on budget matters as necessary to carry out the Division's responsibilities;

h. Establish reporting requirements from operating units on fiscal plans and status, budget execution, and program accomplishments; and analyze, consolidate or otherwise treat the reports as will best meet the needs of the Secretary and Secretarial Officers, incorporating material furnished by the Program Staffs; and

i. Prepare special reports or briefings for the Secretary and Secretarial Officers on significant fiscal, budget and program execution problems, incorporating material furnished by the Program Staffs.

.02 The *Business and Economics Programs Staff* and the *Science and Environment Programs Staff* for their respective areas of responsibility, as shown in Appendix A, shall:

a. Develop advance program guidance and plans for resource allocation in accordance with policy goals of the Department, and recommend new or revised policy positions which are associated with program development and budgeting;

b. Examine and analyze all budget proposals in terms of effective allocation of Departmental resources, conformance to policies, adequacy of justification and appropriation language, existence of statutory authorization, feasibility and economy of operations, accuracy and consistency of schedules, and for conformity with instructions governing submission of budget estimates;

c. Review zero-based decision packages for consistency with Departmental policy goals and priorities and make recommendations for changes in content and levels of resources to policy officials, including the Secretary and Under Secretary;

d. Participate in the identification of major issues and problems to be covered by special studies and evaluations;

e. Monitor, advise and assist operating units in the development and operation of systems for integrating the results of planning and programming with budgeting, including development of criteria for and review of program memoranda and special analytical studies for completeness, timeliness, adequacy, development of alternatives and factual content;

f. Review and evaluate the Department's program structure and recommend modifications as necessary;

g. Participate in the review of legislative proposals affecting the Department's plans and programs;

h. Examine and clear apportionment requests;

i. Provide technical assistance to operating units on budget matters;

j. Analyze fiscal and program plans and reprograming proposals for continuous review of the status of obligations, expenditures and program progress;

k. Evaluate budgeting policies and programs and make recommendations to appropriate officials for improvements; and

l. Provide continuous liaison and be the point of contact between officials in assigned program areas and appropriate staff of the Office of the Secretary and OMB on budget matters.

.03 The *Program Evaluation Staff* shall: a. Interpret Presidential initiatives in the areas of operational evaluation;

b. Conduct special studies to evaluate the effectiveness of Departmental programs in meeting objectives established through legislation or other appropriate authority;

c. Identify major program, or operational issues and problems, and undertake analyses to resolve them;

d. Advise and assist the Director, OBPE, and the operating units in the application of program evaluation techniques and systems requirements of zero-base budgeting; and

e. Advise and assist operating units in the development and operation of systems for the identification of program objectives and for the evaluation of the results of actions taken against these objectives.

SEC. 6. *Department of Commerce Budget Committee.*—The Department of Commerce Budget Committee shall consist of the Director as Chairman, and the budget officers and the officers responsible for program analysis in each operating unit. The Committee will meet on call from the Chairman for the purpose of advising and assisting in the development of budget policies and programs, and systems of integration of the results of zero-base budgeting throughout the Department.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX A

AREAS OF RESPONSIBILITY FOR THE BUSINESS AND ECONOMICS PROGRAMS STAFF AND THE SCIENCE AND ENVIRONMENT PROGRAMS STAFF, OBPE

Business and Economics Program Staff

Office of the Secretary
Bureau of Economic Analysis
Bureau of the Census
Economic Development Administration
Regional Action Planning Commissions
Domestic and International Business Administration
Office of Minority Business Enterprise
U.S. Travel Service
Maritime Administration

Science and Environment Programs Staff

National Oceanic and Atmospheric Administration
National Bureau of Standards
Patent and Trademark Office
National Technical Information Service
Office of Telecommunications
National Fire Prevention and Control Administration

[FR Doc.77-22543 Filed 8-4-77;8:45 am]

OFFICE OF PROGRAM EVALUATION

Revocation

This order effective July 14, 1977, revokes the material appearing at 40 FR 56707 of December 4, 1975.

Revocation. Department Organization Order 20-13, dated October 22, 1975 is hereby revoked.

Explanation. The personnel, funds, property, and records of the Office of Program Evaluation have been consolidated with the Office of Budget and Program Analysis to form the Office of Budget and Program Evaluation.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-22544 Filed 8-4-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 5, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On April 1, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 F.R. 17510) of proposed additions to Procurement List 1977, November 18, 1976 (41 F.R. 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1977:

Class 7105

Frame, Picture, 7105-00-053-0170, 7105-00-061-5334, 7105-00-052-8697, 7105-00-052-8695.

The above for GSA Supply Distribution facilities in Regions 8, 9 and 10.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-22547 Filed 8-4-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 8, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a) (2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 3920

Truck, Hand, 3920-00-847-1305.

Class 8465

Suspenders, Individual Equipment Belt, 8465-00-001-6471.

SIC 7349

Janitorial Services, ERDA Offices at Rogers Hotel and First Street Bldg., Idaho Falls, Idaho.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-22548 Filed 8-4-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

The following is a list of environmental impact statements received by the Council on Environmental Quality from July 25 through July 29, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (September 19, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Final

Western Spruce Budworm Management Plan, July 26: Proposed is the management of western spruce budworm on 987,319 acres out of a total infestation of 3,151,985 acres. The preferred method of treatment is long-term silvicultural management on 934,019 acres and short-term aerial application of carbaryl (Sevin-4-oil) on 53,300 acres in the spring and summer of 1977. The application of Sevin will result in decline of population of some soil-inhabiting invertebrates, destruction of beneficial insect populations, and the elimination of honeybees in the treated areas. Comments made by: EPA, USDA, State and local agencies, concerned groups and individuals. (ELR Order No. 70906.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NAT'L OCEANIC AND ATMOSPHERIC ADMIN.

Draft

Atlantic Foreign Pelagic Longline Fishery—Preliminary Fisheries Management Plan, July 25: Proposed is the approval of a Preliminary Fisheries Management Plan for the Atlantic pelagic longline fishery off the Atlantic and Gulf of Mexico coasts and off Puerto Rico and the Virgin Islands. The proposed action provides for prohibition of the retention of all billfishes captured by foreign pelagic longline vessels and regulates the catch of sharks in the Fishery Conservation Zone. This action is expected to have beneficial effects on the environment at the local, regional, and international levels. (ELR Order No. 70899.)

Virgin Islands Coastal Zone Management,[1] Virgin Islands, July 28: The proposed action consists of approval and implementation of the Coastal Management Program of the Virgin Islands. Implementation of the project will restrict or prohibit certain land and water uses in parts of the Virgin Islands coasts, while promoting and encouraging development and use activities in other parts. The program will provide an improved decisionmaking process for determining coastal land and water uses and siting of facilities of national interest, and will lead to increased long-term protection and benefit from the State's coastal resources. (ELR Order No. 70920.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

[1] Following consultation between CEQ and DOC/NOAA, the 45 day review period for this Draft EIS has been reduced by 15 days.

Draft

Delta Coves Subdivision, Permit, Contra Costa County, Calif., July 25: Delta Coves plans to provide building sites for 495 single family dwellings and 64 condominium units. This development would occupy 310 acres in the southeastern part of Bethel Island in the Sacramento-San Joaquin Delta. The development, in addition to providing residential lots, will include commercial and recreational facilities. A Department of the Army permit is required to breach the levee system and provide access for the proposed inland harbor/lagoon. (Sacramento District), (ELR Order No. 70900.)

Halstead Local Flood Protection (2), Harvey County, Kans., July 26: Proposed is the construction of a horseshoe levee on the northeast, and southeast boundaries of the city of Halstead, Kansas, in order to provide protection from periodic flooding. Project plans call for the enlargement of the river channel to a bottom width of 60 feet for a length of 3.5 miles, and the realignment of 800 feet of channel in the vicinity of Warkentin Homestead. A total of 240 acres of land and water would be required including 26 acres of flood plain forest, 4 acres of upland trees, 122 acres of cropland, and 23 acres of pastureland. (Tulsa District), (ELR Order No. 70909.)

Hocking River at Logan and Nelsonville (2), Ohio, July 28, Proposed is the construction of the Logan and Nelsonville Local Protection Projects on the Hocking River to be operated as units of the plan of water resources development for the Central Ohio Water Development Region. The proposed plan consists of approximately 5.4 miles of channel modification along the Hocking River and approximately 3,500 feet of earthen levee along the Hocking River and Oldtown Creek at Logan, Ohio. Associated recreation facilities at both Logan and Nelsonville include four stream access sites, 3.65 miles of biking and walking trails and development of two low density parks. (Huntington District) (ELR order No. 70922.)

South Harrisburg Flood Control Improvements, Pennsylvania, July 28: Proposed is a plan for flood control improvements for the Paxton Creek and Susquehanna River area, South Harrisburg, Pennsylvania. The plan calls for a flood wall approximately 4,200 feet in length which will provide protection against backwater flooding from the Susquehanna River. The Paxton Creek channel will be seized to accommodate the Agnes flood flow as modified by a detention reservoir at Asylum Run, and the flow in the existing Paxton Creek will be reversed and also diverted to the Susquehanna River in the area south of I-83. Twelve businesses will be evacuated or relocated. (Baltimore District) (ELR Order No. 70924.)

Brazos Island Harbor, Channel Improvement, Cameron County, Tex., July 27: Proposed is the enlargement of the turning basin, main channel, and entrance channel of the Brazos Island Harbor, Texas. The main channel would be deepened to 42 feet over a bottom width of 300 feet from the entrance channel to the turning basin extension, a distance of 14.8 miles. The turning basin extension would be deepened to 42 feet and widened to varying widths of 325 to 400 feet. Adverse effects are localized turbidity, destruction or disturbance of benthic communities, and release of some objectionable odors. (Galveston District). (ELR order No. 70915.)

Final

Walnut Creek Project, Contra Costa County, Calif., July 27: The Walnut Creek project, now 43% complete, consists of construction of rectangular concrete-lined channels and flood control structures in Walnut Creek and the lower reaches of its principal tributaries. Completed portions of the project have resulted in the elimination of most of the riparian vegetation on the surrounding flood plain and the intensive urbanization in the form of towns, housing developments, shopping centers, roads, and utilities. (Sacramento district.) Comments made by: EPA, DOI, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70911.)

Dallas to Vancouver Channel, Columbia River, Oregon, Wash., July 25: Proposed is the continued maintenance of the navigation channel between Vancouver and The Dalles (River Mile 106 to River Mile 190) on the Columbia River to a 17-foot depth and 300-foot width and continuation of the present permit process in the same area. Included is the maintenance of pile dikes and other small navigation projects conducted by the Corps of Engineers within the project area. Locations of previous and future dredge and disposal sites are outlined. Adverse effects include removal of river bottom habitat and organisms. (Portland district.) Comments made by: EPA, DOC, DOI, FPC, AHP, USDA, State and local agencies, and concerned groups and individuals. (ELR Order No. 70903.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of NEPA Coordination, Energy Research and Development Administration, E-201, ERDA, Washington, D.C. 20545, 301-353-4241.

Draft

High Flux Neutron Source Facility, Richland, Wash., Benton County, Wash., July 27: Proposed is the construction and operation of a deuterium-lithium High Flux Neutron Source Facility at the ERDA Hanford Reservation, Richland, Washington. The purpose of the proposed facility is to provide an experimental neutron irradiation facility for providing a neutronic environment similar to that anticipated in a fusion power reactor. The facility will consist of a Test Building and an Accelerator Building with an interconnecting transport tunnel for the deuteron (deuteron ion) beam. A linear accelerator will generate 30 MeV deuterons to produce neutrons using the deuteron-lithium stripping reaction in a liquid lithium target. (ELR Order No. 70916.)

Final

Brookhaven National Laboratory, Suffolk County, N.Y., July 28: proposed is the continued operation of Brookhaven National Laboratory in Upton, Brookhaven Town, New York. Twenty acres of the 5265-acre site may not be suitable for future uses because of contamination. Research and development activities of the laboratory require the use of 200 million kWh of electricity and 7 million gallons of fossil fuels annually. Radioactive contamination risk is considered small. Comments made by: USDA, DOT, NSF, HEW, DOI, EPA, State and local agencies, and concerned interest groups. (ELR Order No. 70918.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Coleto Creek Power Station and Cooling Reservoir, Goliad County, Tex., July 27: Proposed is the issuance of a New Source NPDES permit for the discharge of sanitary and cooling water effluents from Central Power and Light Company's proposed Coleto Creek

Power Station. Central Power and Light Co. proposes to build a two-unit, coal-fired power plant (ultimate load capacity, 1100 Mw) in eastern Goliad County, which would be designed to help meet load projections and diversify the fuel base of CPL. Unit 1 is scheduled for completion in 1979, Unit 2 between 1986 and 1988. (Region VI.) (ELR Order No. 70913.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Final

Central Rock Mine, SPR, Fayette County, Ky., July 29: The proposed project involves the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act (P.O. 94-163). This action is part of the Early Storage Reserve and proposes to store 14 million barrels of oil in an underground limestone mine located in Lexington, Kentucky. The proposed storage of oil at Central Rock Mine would be implemented at an existing underground limestone mine presently owned and operated by the Central Rock Company. Adverse socio-economic impacts may result if the limestone mine is closed temporarily. Comments made by: DOC, HEW, DOD, NRC, and State agencies. (ELR Order No. 70927.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4791.

Draft

Solomon Gulch Project, Alaska, July 26: Proposed is the issuance of a license to the Copper Valley Electric Association, Inc., authorizing the enlargement of the present dam at Solomon Lake, construction of a penstock, powerhouse, transmission line and ancillary facilities, and the operation of these project works for electric power supply to service areas in and around the Towns of Valdez and Glenhallen, Alaska. The dam and powerhouse, with generating equipment having a rated capacity of 12,000-kW, would be located on Solomon Gulch Creek, approximately 4 miles south of Valdez. Adverse effects include the permanent alteration of about 440 acres of wildlife habitat. (ELR Order No. 70908.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Final

Bunker Hill Elderly Housing Project, Los Angeles County, Calif., July 28: Proposed is the development of 1,100 units of housing for low income elderly and handicapped in Los Angeles, California. Development will include a multipurpose service center, retail commercial space, and parking garages for an estimated population of 1,500. The project is located in the Central Business District of Los Angeles and within the Bunker Hill Urban Development Project. Increased levels of air pollution from fugitive dust emissions and increased levels of noise may be expected during construction. Comments made by: HEW, State and local agencies, and concerned groups and individuals. (ELR Order No. 70923.)

West Campus Planned Community, King Co.-King County, Wash., July 25: Proposed is the development of West Campus, a 1,600-acre planned community in South King County, Washington. The Quadrant Corporation has requested HUD/FHA subdivision approval for mortgage insurance for 508 single family lots and open space. The total development proposes 6,325 single and multi-family residential units. Negative impacts include erosion and sedimentation and increased demand on public services and infrastructure. Comments made by: USDA, COE, EPA, HEW, DOI, DOT, State and local agencies. (ELR Order No. 70902.)

Section 104(H)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Vallejo, Calif., Vallejo River Park, Solano County, Calif., July 26: Proposed is the development of a neighborhood-community park located in northwest Vallejo, adjacent to Mare Island Strait in Solano County, California. The site is 3,800 feet in length and about 630 feet in average width, with approximately one half mile of water frontage. The Park will total approximately 75 acres and will be known as River Park. Phase One will include tennis courts, softball complex, and overlook picnic area; Phase Two will include the east picnic area, children's playground, and miscellaneous facilities. (ELR Order No. 70910.)

Corcoran, Calif., Corcoran Fringe Wastewater Facil, Kings County, Calif., July 27: Proposed is the use of Federal funds for the Corcoran Fringe Wastewater Facilities Project. The project will provide a community wastewater collection system in Corcoran, California at an estimated cost of 3.3 million dollars. Short term impacts include: noise, dust, and vibration; possible excavation damage to trees and shrubs; and traffic delays and inconveniences. Long term impacts include consumption of electrical energy and the potential for development of vacant parcels. (ELR Order No. 70912.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Rio Puerco Livestock Grazing Program, Sandoval and McKinley Counties, N. Mex., July 28: Proposed is the initiation of an intensive livestock grazing management program through the implementation of Allotment Management Plans on 393,083 acres of public land in the Rio Puerco Resource Area, Albuquerque District. The proposed action would include consolidation of 96 existing allotments into 61. Grazing systems which reserve sufficient forage for wildlife would be implemented and range improvements would be constructed to facilitate these systems. By the year 2000, the proposed action would approximately double forage production in the Rio Puerco ES Area. (ELR Order No. 70921.)

NATIONAL AERONAUTICS AND SPACE ADMIN.

Contact: Mr. Nathaniel Cohen, Director, Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

Final

Ames Research Center—Institutional,[2] California, July 11: This statement supersedes the original Institutional Environmental Impact Statement for Ames Research Center, California, dated July 1971. It describes the current mission, facilities, community settings, and environmental effects associated with the present baseline activities at the installation. The major adverse impact is the noise imposed upon the surrounding communities by the operation of certain wind tunnels. Comments made by: EPA, USN, DOI, AHP, DOT, State and local agencies. (ELR Order No. 70928.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Truk District Airport, Caroline Islands, Truk, Caroline Isles, July 28: The statement refers to the development of the Truk District Airport. The project involves repositioning the existing runway to the northwest such that the new centerline coincides with the northwest edge of the existing runway. The development also includes extending and paving the runway to 6,000 ft. with provisions for an additional 900 ft. extension, perimeter fencing and the construction of a protective structure to ensure against possible wave overtopping during typhoons. The adverse impacts of the project are the loss of agricultural land, the loss of naturally occurring coral and fish habitat, and the increase in air and noise pollution associated with the airport. Comments made by: COE, HEW, USCG, EPA, USDA, HUD, USN, USA, local agencies and interested groups. (ELR Order No. 70919.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

9.5 Mile New Hampshire, Route 101, Relocation, Rockingham County, N.H., July 26: Proposed is the relocation of 9.5 miles of New Hampshire Route 101 from, roughly, Interstate Route 93 in Manchaster to Interstate Route 95 in Hampton. Project termini are N.H. Route 101 approximately 2 miles west of Candia Center and N.H. Route 101 approximately 1.5 miles east of the town of Raymond. The road will be an ultimate 4-lane facility, passing through rural wooded land. Adverse effects include acquisition of 260 acres of land and the relocation of two homes, one mobile home, one cabin, and two storage trailers. (Region 1.) (ELR Order No. 70905.)

U.S. 95 and I-515 Spur, East Leg, Clark County, Nev., July 25: Proposed is the construction of a 20-mile segment of U.S. 95 from Los Vegas to an unincorporated area of Clark County. The leg has been declared a Federal Aid Priority Primary Route. Part of the segment has been approved as a spur of I-15 (I-515 Spur). Adverse effects include the acquistion of 600 acres resulting in the loss of natural vegetation, wildlife habitat and an expanse of open desert terrain in the Las Vegas Valley, the relocation of many families

[2] Due to administrative oversight, the notice of availability concerning the NASA Final EIS, Ames Research Center—Administrative EIS, was omitted from the CEQ Federal Register entry of July 22, 1977. The statement was received by the Council on July 11, 1977 and the 30-day no administrative action period began on that date.

and businesses, loss of low-income housing, increased air and noise pollution, and an undetermined impact on one archaeological site. Comments made by: COE, HEW, DOI, EPA, State, local agencies, and concerned interest groups. (ELR Order No. 70904.)

New Hampshire Route 9, Sullivan, Nelson, and Stoddard Communities, Cheshire County, N.H., July 26: Proposed is the improvement of a deficient two-lane section of N.H. Route 9 located in the communities of Sullivan, Nelson, and Stoddard. Four two-lane corridors will be constructed on new location with a minimum 200 foot controlled access right-of-way. The adverse impacts include acquisition of property, residences and businesses, increased noise levels and intrusion upon conservation areas, wetlands and wildlife habitat. (Region 1.) Comments made by: EPA, DOI, HUD, USDA, COE, FPC, AHP, State, local agencies, and conservation groups. (ELR Order No. 70907.)

I-505—Industrial Freeway, Oregon, Multnomah County, Oreg., July 25: The proposed freeway project is located in the northwest section of Portland, Oregon's Northwest Industrial District and would consist of a 3-mile long, 4-lane elevated Interstate freeway spur (I-505) connecting Interstate 405 to St. Helens Road (U.S. 30). Adverse impacts are the relocation of several families and the costs incurred by business and industrial firms forced to vacate their premises during construction. Noise and air pollution levels will also be increased. Comments made by: DOI, DOT, EPA, State, local agencies, and concerned persons and groups. (ELR Order No. 70901.)

Loop 1 (Mo Pac Blvd.), South Section, Travis County, Tex., July 29: The statement refers to the construction of a 4.3 mile section of Loop 1 (Mo Pac Boulevard) from R.M. Highway 2244 south to U.S. Highway 290 West, southwest of the city of Austin, Texas in Travis County. This is a proposed six-lane freeway facility having frontage roads in selected areas as required to control access and establish local traffic travel. The proposed project will require the relocation of one business, consume 315 acres of open, undeveloped land, and cause air and noise pollution during construction. (Region 6.) Comments made by: HEW, HUD, COE, USDA, DOI, EPA, State, local agencies, and concerned citizens. (ELR Order No. 70925.)

Loop 1 (Mo Pac Blvd.), North Section, Travis County, Tex., July 29: The 5.7 mile section of Loop 1 considered in this statement is the northern portion of a 16.5 mile north-south freeway which traverses the City of Austin. The project extends from F.M. Highway 1325, south to 0.2 mile north of R.M. 2222 (Northland Drive). Development of the six-lane, controlled access facility will require the relocation of five businesses and four residences. (Region 6.) Comments made by: HEW, COE, USDA, DOI, EPA, State and local agencies. (ELR Order No. 70926.)

Supplement:

I-40, I-10—U.S. 90 (S-1), St. Charles County, La. July 27: This statement supplements a final EIS filed with CEQ in March 1972. The proposed action is the moving of people and freight from I-10 West, in St. Charles Parish, to U.S. 90 in the vicinity of Boutte, selecting a bridge site at Luling, and a specific alignment. The settlement of litigation concerning this proposed action called for reconsideration of the action proposed in the final EIS as well as that of other alternatives. Alternatives include mass transit, and ten other possible highway corridors from I-10 to U.S. 90, using the determined bridge site at Luling. (Region 6.) (ELR Order No. 70914.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-22574 Filed 8-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

BOLD EAGLE

Draft Environmental Impact Statement; Public Hearing

Notice is hereby given that an informal public hearing will be held for the purpose of soliciting comments on the Draft Environmental Impact Statement for the proposed exercise "Bold Eagle 78".

Bold Eagle 78 is a joint readiness exercise directed by the Joint Chiefs of Staff and sponsored by the United States Readiness Command. This proposed exercise is scheduled to be conducted in the southeastern United States, preferably at the Eglin Air Force Base Test Range Complex, Fla., and adjacent coastal water during the period October 11 to November 11, 1977. Other installations under consideration include Fort Polk, La., and Fort Stewart, Ga. This exercise will involve approximately 18,000 personnel in join air and ground operations. Airborne assault and mechanized forces will be engaged in ground tactical operations for less than six days.

Adverse impacts include increased air pollution, damage to vegetation caused by track vehicle operations, and the possible disturbance of the Red-Cockaded Woodpecker and Okaloosa Darter, both endangered species.

A Draft Environmental Impact Statement (DESI) for this proposed action was filed with the Council on Environmental Quality (CEQ) on 8 July 1977. Copies are available from:

United States Readiness Command, Attn: RCJ4-L, MacDill Air Force Base, Fla. 33608.
United States Air Force Forces, Readiness Command, Attn: DEEV, Langley Air Force Base, Va. 23665.
United States Army Forces, Readiness Command, Attn: AFOP-JTX, Fort McPherson, Ga. 30330.
Armament Development and Test Center (AFSC), Attn: OI, Eglin Air Force Base, Fla. 32542.
Headquarters, 5th Infantry Division (Mechanized) and Fort Polk, Attn: G3, Fort Polk, La. 71459.
Headquarters, 24th Infantry Division and Fort Stewart, Attn: G3, Fort Stewart, Ga. 31313.

In addition, copies have been forwarded to the following locations for public reference:

Office of the Mayor, City of Fort Walton Beach, Fla.
Office of the Mayor, City of Valparaiso, Fla.
Office of the Mayor, City Crestview, Fla.
Office of the Mayor, Town of Mary Esther, Fla.
Office of the Mayor, Town of Niceville, Fla
Office of the Mayor, Town of Shalimar, Fla.
Chamber of Commerce, Crestview, Fla.
Chamber of Commerce, Fort Walton Beach, Fla.
Chamber of Commerce, Niceville-Valparaiso, Fla.
Public Library, Crestview, Fla.
Public Library, Fort Walton Beach, Fla.
Public Library, Niceville, Fla.
Public Library, Valparaiso, Fla.

The presiding officer will be Col. Harold W. Gardner, Chief Trial Judge, USAF Trial Judiciary, Forrestal Bldg., Washington, D.C. 20314, telephone 202-693-5810.

The following procedures will be followed during the informal public hearing. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to, or in lieu of, oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of public hearing. Written communications should be submitted to USREDCOM RCJ4-L, MacDill Air Force Base, Fla. 33608.

The informal pulic hearing for the Eglin Air Force Base vicinity will be held at the following time and place: 8 p.m., 15 August 1977, Choctawhatchee High School, Fort Walton Beach, Fla.

This notice and any changes will be released to the local news media.

For further information, contact Lt Col Torsten Rothman, at 202-695-1422.

VAN L. CRAWFORD JR.,
Colonel, U.S. Air Force,
Deputy Director of Administration.

[FR Doc.77-22795 Filed 8-4-77;9:33 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 774-6]

WATER PROGRAMS

Determination of Primary Enforcement Responsibility, State of Minnesota

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated May 20, 1977, has been received from the Commissioner of Health, requesting a determination that the Minnesota Department of Health has met requirements for primary enforcement responsibility for public water systems in the State of Minnesota, in accordance with the provisions of this Act.

In response, I have determined that the Minnesota Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Minnesota. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemotions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Environmental Health Division, Minnesota Department of Health, 717 Delaware St. SE., Minneapolis, Minn. 55440

Water Supply Branch, Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, Ill. 60604.

Any interested person may comment upon the State submission by writing to the U.S. EPA, Region V Office. Written comments must be submitted on or before August 30, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 10 a.m. on August 31, 1977, in the Board Room, Minnesota Department of Health, 717 Delaware St. SE., Minneapolis, Minn. 55440.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. EPA, Region V, or the Environmental Health Division of the Minnesota Department of Health, or by calling Joseph Harrison at 312–353–2151 or Gary Englund at 612–296–5330.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the determination is affirmed, it shall become effective as of the date of this notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: July 22, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator, Environmental Protection Agency, Region V.

[FR Doc.77-22793 Filed 8-4-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-563]

CB EQUIPMENT

Cut-Off Date for Manufacture

AUGUST 1, 1977.

Domestic and Offshore manufacturers of CB equipment that was type-accepted prior to September 10, 1976 are reminded that manufacture of such equipment must cease as of August 1, 1977.

Although importation and marketing of the subject equipment may continue beyond August 1, 1977, importers, distributors, and sellers are cautioned that assurance and evidence of pre-August 1, 1977 manufacture should be obtained from off-shore suppliers before the equipment is imported, or marketed, in order, to assure strict compliance with the Commission's Rules.

Marketing of this type of equipment must cease no later than January 1, 1978.

Action by the Commission August 1, 1977. Commissioners Lee, Quello and Fogarty with Commissioners Washburn and White concurring.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22575 Filed 8-4-77;8:45 am]

FM AND TV TRANSLATOR APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: July 29, 1977.

Notice is hereby given pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules, that on September 16, 1977, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.519(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 15, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on September 15, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

FM TRANSLATOR APPLICATIONS

BPFT-433 K288BB Cortez, Dolores, Mancos & Redmesa, Colo., Radio San Juan, Inc. Req: Change output frequency to Channel 285, 104.9 MHz.

BPFT-434 (new), Peterson, Minn., Peterson Good News Translators, Inc. Req: Channel 257, 99.3 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-435 (new), Morris, Minn., Minnesota Public Radio, Inc. Req: Channel 257, 99.3 MHz, 10 watts. Primary: KSJR-FM, Collegeville, Minn.

BPFT-436 (new), Marquette, Mich., Taconite Broadcasting, Inc. Req: Channel 288, 105.5 MHz, 10 watts. Primary: WMQT-FM, Ishpeming, Mich.

BPFT-437 (new), Carlin, Nev., Carlin TV District. Req: Channel 240, 95.9 MHz, 10 watts. Primary: KSRN-FM, Reno, Nev.

BPFT-438 (new), Newcastle, Wyo., Midland Broadcasting Company of Wyoming. Req: Channel 296, 107.1 MHz, 1 watt. Primary: KOLL-FM, Gillette, Wyo.

BPFT-439 (new), Ashland and Washburn, Wis., Chequamegon Christian Message, Inc. Req: Channel 265, 100.9 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-440 (new), Hanover, Pa., Calvary Bible Church of Hanover. Req: Channel 228, 93.5 MHz, 1 watt. Primary: WRBS-FM, Baltimore, Md.

BPFT-441 (new), Stevens Point and Plover, Wis., Central Wisconsin Inspirational Radio. Req: Channel 261, 100.1 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-442 (new), Hurricane, Utah, Julie P. Miner. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KDXU-FM, St. George, Utah.

BPFT-443 (new), Waynesboro, Va., The Louisa Area Christian Radio Association. Req: Channel 257, 99.3 MHz, 1 watt. Primary: WIVE-FM, Ashland, Va.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3266 (new), Eugene, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794–800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3267 (new), Glide Sutherlin, Oakland and Winchester, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794–800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3268 (new), Scottsburgh, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794–800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3269 (new), Klamath Falls, Oreg., Southern Oregon Education Company. Req: Channel 22, 518–524 MHz, 100 watts. Primary: KSYS-TV, Medford, Oreg.

BPTT-3270 K74DW Toole, Glacier and Liberty Counties, Mont., East Butte TV Club, Inc. Req: Change primary TV station to CHAT-TV, Channel 6, Medicine Hat, Alberta, Canada.

BPTT-3272 (new), Dryden, Wash., Upper Wenatchee Valley Television Association. Req: Channel 57, 728–734 MHz, 20 watts. Primary: KSPS-TV, Spokane, Wash.

BPTT-3281 W49AB York, Pa., Newhouse Broadcasting Corp. Req: Change frequency to Channel 62, 758–764 MHz.

BPTT-3282 (new), Crossville, Tenn., WCPT-TV, Inc. Req: Channel 20, 506–512 MHz, 100 watts. Primary: WCPT-TV, Crossville, Tenn.

BPTT-3283 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc., Req: Channel 63, 764–770 MHz, 100 watts. Primary: KTXS-TV, Sweetwater, Tex.

BPTT-3284 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc. Req: Channel 65, 776–782 MHz, 100 watts. Primary: KRBC-TV, Abilene, Tex.

BPTT-3286 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc. Req: Channel 69, 800–806 MHz, 100 watts. Primary: KTBC-TV, Austin, Tex.

BPTT-3287 (new), Grand Marais, Minn., Channel 10, Incorporated. Req: Channel 61, 752–758 MHz, 100 watts. Primary: WDIO-TV, Duluth, Minn.

BPTT-3288 (new), Grand Portage, Minn. Channel 10, Incorporated. Req: Channel 69, 800–806 MHz, 100 watts. Primary: WDIO-TV, Duluth, Minn.

BPTT-3289 (new), Kilauea Military Camp, Hawaii. Hawaii Public Broadcasting Authority. Req: Channel 61, 752–758 MHz, 100 watts. Primary: KMEB-TV, Wailuku, Hawaii.

BPTT-3290 (new), Naalehu, Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 63, 764–770 MHz, 10 watts. Primary: KMEB-TV, Wailuku, Hawaii.

BPTT-3291 (new), Pahala, Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 67, 788–794 MHz, 100 watts. Primary: KMEB-TV, Wailuku, Hawaii.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5838 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 5, 76–82 MHz, 10 watts. Primary: KSPS-TV, Spokane, Wash.

BPTTV-5839 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 8, 180–186 MHz, 10 watts. Primary: KREM-TV, Spokane, Wash.

BPTTV-5840 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 10, 192–198 MHz, 10 watts. Primary: KXLY-TV, Spokane, Wash.

BPTTV-5841 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 12, 204–210 MHz, 10 watts. Primary: KHQ-TV, Spokane, Wash.

[FR Doc.77-22579 Filed 8-4-77;8:45 am]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: August 4, 1977.

Notice is hereby given, pursuant to section 1.573(d) of the Commission's rules, that on September 21, 1977, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 20, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on September 20, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to section 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-10365 (new), Marco, Fla., Neopolitan Broadcasting Co., Inc. Req: 101.1 mHz; Channel No. 266C. ERP: 100 kW; HAAT: 660 ft.

BPH-10366 (new), Marco, Fla., Collier Broadcasting Co. Req: 101.1 mHz; Channel No. 266C. ERP: 100 kW; HATT: 663.7 ft.

BPH-10368 (new), Winchendon, Mass., WGAW, Inc. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kW; HATT: 300 ft.

BPH-10373 (new), Bryan, Tex., Scott & Davis Enterprises. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 ft.

BPH-10376 (new), Portales, N. Mex., Portales Broadcasting Co., Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 299.2 ft.

BPH-10378 (new), Laredo, Tex., Radio Laredo, Inc. Req: 98.1 mHz; Channel No. 251C. ERP: 44 kW; HAAT: 566 ft.

BPH-10384, WQHQ, Andalusia, Ala., Triple H Broadcasting, Inc. HAS: 98.1 mHz; Channel No. 251C. ERP: 26 kW; HAAT: 215 ft. (Lic). Req: 98.1 mHz; Channel No. 251C. ERP: 100 kW; HAAT: 250 ft.

BPH-10399 (new), La Belle, Fla., La Belle Broadcasting, Inc. Req: 92.1 mHz; Chapnel No. 221A. ERP: 3 kW; HAAT: 300 ft

BPH-10410 (new), Fabens, Tex., Algie A. Felder. Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: 47 ft.

BPH-10411 (new), Red Bluff, Calif., Concerned Communications Corp., Req: 95.9 mHz; Channel No. 240A. ERP: .280 kW; HAAT: 1012 ft.

BPH-10412 KXXA, Little Rock, Ark., Pulaski Broadcasting, Inc., HAS: 95.7 mHz; Channel No. 239C. ERP: 26.4 kW; HAAT: 297 ft. (Lic). Req: 95.7 mHz; Channel No. 239C. ERP: 100 kW; HAAT: 953 ft.

BPH-10418 (new), Pendleton, Oreg., Pendleton Broadcasting Co., Req: 107.7 mHz; Channel No. 299C. ERP: 27.5 kW; HAAT: 610 ft.

BPH-10468 (new), Carpinteria, Calif., Pacific West Broadcasters, Req: 101.7 mHz; Channel No. 269A. ERP: .220 kW; HAAT: 920 ft.

BPH-10492 KLPC-FM, Lompoc, Calif., Robert D. Janecek, HAS: 92.7 mMz; Channel No. 224A. ERP: 2.5 kW; HAAT: —270 ft. (Lic). Req: 92.7 mHz; Channel No. 224A. ERP: .550 kW; HAAT: 705 ft.

BPH-10493 (new), Hinesville, Ga., Liberty Broadcasting Co., Inc., Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 222.7 ft.

BPH-10494 (new), Liberal, Kans., Lawrence E. Steckline, Req: 99.3 mHz; Channel No. 257A. ERP: 2.69 kW; HAAT: 316 ft.

BPH-10495 (new), Merkel, Tex., Big Country Broadcasting Co. Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-10497 KLEM-FM, Le Mars, Iowa, KLEM, Inc. HAS: 99.5 mHz; Channel No. 258C. ERP: 47 kW; HAAT: 150 ft. (LIC). Req: 99.5 mHz; Channel No. 258C. ERP: 100 kW; HAAT: 149.9 ft.

BPH-10498 (new), Clear Lake, Iowa, Mad Hatter Broadcasting, Inc. Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: 300 ft.

BPH-10499 (new), Ridgecrest, Calif., KLOA Radio. Req: 104.9 mHz; Channel No. 285A. ERP: .75 kW; HAAT: 1 ft.

BPH-10515 (new), Rawlins, Wyo., Korral Radio, Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 118 ft.

BPH-10517 (new), Starkville, Miss., Charisma Broadcasting Co. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 300 ft.

BPH-10518 (new), Sulphur Springs, Tex., Gilbert Group, Inc. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-10520 VELV-FM Ellensville, N.Y., Catskill Broadcasting Corp. Has: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: —320 ft. (Lic). Req. 99.3 mHz; Channel No. 257A. ERP: .059 kW; HAAT: 1626 ft.

BPH-10521 (new), Casper, Wyo., Energy Capitol Broadcasting, Inc. Req: 95.5 mHz; Channel No. 238C. ERP: 100 kW; HAAT: 1908 ft.

BPH-10523 (new), Coeur D' Alene, Idaho. Idaho Broadcasting Co. Req: 103.1 mHz; Channel No. 276A. ERP: 2.2 kW; HAAT: 346 ft.

BPH-10537 (new), Clay Center, Kans., Taylor Communications, Inc. Req: 100.9 mHz; Channel No. 265A. ERP: 2.86 kW; HAAT: 253 ft.

BPH-10539 (new), Alamogordo, N.M., Kinn, Inc. Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: —625 ft.

BPH-10541 KAWY Casper, Wyo., Modcom Corp. Has: 94.5 mHz; Channel No. 233C. ERP: 25 kW; HAAT: —126 ft. (Lic). Req: 94.5 mHz; Channel No. 233C. ERP: 100 kW; HAAT: 1908 ft.

BPH-10545 (New), Concordia, Kans., General Broadcasting Co., Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 1.25 kW; HAAT: 153.1 ft.

BPH-10551 (new), Delano, Calif., Hosea Wilson. Req: 105.3 mHz; Channel No. 287B. ERP: 50 kw; HAAT: 500 ft.

BPH-10553 (new), Coquille, Oreg., KWRO Broadcasting Corp., Req: 102.3 mHz; Channel No. 272A. ERP: 3 kw; HAAT: 16.5 ft.

BPH-10573 KUAM Agana, Guam, Pacific Broadcasting Corp. Has: 93.9 mHz; Channel No. 230C. ERP: 3.9 kw; HAAT: 77 ft. (Lic.). Req: 93.9 mHz Channel No. 230C. ERP: 2 kw; HAAT: 947 ft.

BPED-2319 WERG Erie, Pa., Gannon College. Has: 89.1 mHz; Channel No. 206D. TPO: .01 kw. (Lic). Req. 89.9 mHz; Channel No. 210A. ERP: 3 kw; HAAT:—127 ft.

BPED-2363 (new), Richardson, Texas St. Luke's Educational Foundation. Req: 88.1 mHz; Channel No. 201D. TPO: .01 kw.

BPED-2399 WWGC Carrollton, Ga., West Georgia College. Has: 89.3 mHz; Channel No. 207D. TPO: .01 kw. (Lic). Req: 90.5 mHz; Channel No. 213A. ERP: .168 kw; HAAT: 82.2 ft.

BPED-2408 (new), Havre, Mont., Northern Montana College. Req: 90.1 mHz; Channel No. 211D. TPO: .01 kw.

BPED—2118 WRUW-FM Cleveland, Ohio, Case Western Reserve University. Has: 91.1 mHz; Channel No. 216D. TPO: .01 kw. (Lic). Req: 91.1 mHz; Channel No. 216A. ERP: 1 kw; HAAT: 282.4 ft.

BPED-2420 WTGM Norfolk, Va., Hampton Roads ETV Ass'n., Inc. Has: 89.5 mHz; Channel No. 208B. ERP: 26.5 kw; HAAT: 320 ft. (Lic). Req: 89.5 mHz; Channel No. 208B. ERP: 23 kw; HAAT: 630 ft.

BPED-2422 (new), Ballwin, MO., YMCA of Greater St. Louis. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2423 (new), Berlin, Conn., Berlin Board of Education. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2425 KPLU-FM Tacoma, Wash., Pacific Lutheran University, Inc. Has: 88.5 mHz; Channel No. 203C. ERP: 40 kw; HAAT: 130 ft. (Lic). Req: 88.5 mHz; Channel No. 203C. ERP: 100 kw; HAAT: 620 ft.
BPED-2426 (new), Sioux City, Iowa, Morningside College. Req: 88.3 mHz; Channel No. 202D. TPO: .01 kw.
BPED-2427 (new), Owatonna, Minn., Pillsbury Baptist Bible College. Req: 90.5 mHz; Channel No. 213D. TPO: .01 kw.
BPED-2430 WCLK Atlanta, Ga., Clark College. Has: 91.9 mHz; Channel No. 220A. ERP: .054 kw; HAAT: 340 ft. (Lic). Req: 91.9 mHz; Channel No. 220A. ERP: 2.5 kw; HAAT: 330 ft.
BPED-2431 WVCS California, Pa., Student Activities Ass'n., Inc. Has: 91.9 mHz; Channel No. 220D. TPO: .01 kw. (Lic). Req: 91.9 mHz; Channel No. 220A. ERP: 3 kw; HAAT: 157 ft.
BPED-2433 KUOR-FM Redlands, Calif., University of Redlands. Has: 89.1 mHz; Channel No. 206A. ERP: .7 kw; HAAT: -500 ft. (Lic). Req: 89.1 mHz; Channel No. 206A. ERP: 1.84 kw; HAAT: —509 ft.
BPED-2437 (new), Santa Clara, Calif., Board of Trustees of Santa Clara College. Req: 89.1 mHz; Channel No. 206D. TPO: .01 kw.
BPED-2442 (new), Beaufort, S.C., South Carolina ETV Commission. Req: 89.9 mHz; Channel No. 210C. ERP: 48 kw; HAAT: 1,100 ft.
BPED-2446 WPGT Roanoke Rapids, N.C., Roanoke Christian School. Has: 90.1 mHz; Channel No. 211A. ERP: .860 kw; HAAT: 84 ft. (Lic). Req: 90.1 mHz; Channel No. 211A. ERP: .760 kw; HAAT: 177 ft.
BPED-2450 (new), Mansfield, Ohio, The Mansfield Christian School. Req: 90.7 mHz; Channel No. 214D. TPO: .01 kw.
BPED-2454 (new), Radford, Va., Radford College. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2465 WVIK Rock Island, Ill., Augustana College. Has: 91.1 mHz; Channel No. 216D. TPO: .01 kw. (Lic). Req: 88.5 mHz; Channel No. 203C. ERP: 100 kw; HAAT: 477.5 ft.
BPED-2466 (new), Mankato, Minn., South Minnesota Corp. for Public Broadcasting. REQ: 89.7 mHz; Channel No. 209C. ERP: 100 kW; HAAT: 881.3 ft.
BPED-2467 (new), Stone Ridge, N.Y., Ulster County Community College. REQ: 90.9 mHz; Channel No. 215B. ERP: 10 kW; HAAT: 34 ft.
BPED-2472 (WCUW), Worcester, Mass., WCUW, Inc. HAS: 91.3 mHz; Channel No. 217A. ERP: .08 kW; HAAT: —37 ft. (Lic). REQ: 91.3 mHz; Channel No. 217A. ERP: .265 kW; HAAT: 143 ft.
BPED-2473 (new), Prairie View, Tex., Prairie View A & M University. REQ: 91.3 mHz; Channel No. 217C. ERP: 9.76 kW; HAAT: 413 ft.
BPED-2480 (WSDH), Sandwich, Mass., Sandwich Massachusetts Public School. HAS: 91.7 mHz; Channel No. 219D. TPO: .01 kW. (Lic). REQ: 91.5 mHz; Channel No. 218A. ERP: .31C kW; HAAT: 152 ft.
BPED-2484 (new), Minneapolis, Minn., Center for Communication and Development. REQ: 89.7 mHz; Channel No. 209D. TPO: .01 kW.
BPED-2517 (KVLU), Beaumont, Tex., Lamar University. HAS: 91.3 mHz; Channel No. 217C. ERP: 24 kW; HAAT: 550 ft. (Lic). REQ: 91.3 mHz; Channel No. 217C. ERP: 40 kW; HAAT: 450 ft.
BMPED-1508 (KPBX-FM), Spokane, Wash., Spokane Public Broadcasting Association. HAS: 91.1 mHz; Channel No. 216D. TPO: .01 kW. (Lic). HAS: 91.1 mHz; Channel No. 216C. ERP: 4.2 kW; HAAT: 542 ft. (CP). REQ: 91.1 mHz; Channel No. 216C. ERP: 100 kW; HAAT: 1530 ft.

[FR Doc.77-22576 Fied 8-4-77;8:45 am]

[Report No. I-372]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

AUGUST 1, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES:

560-DSE-P/L-77 Heritage Village Church and Missionary Fellowship, Inc., Charlotte, N.C. For authority to construct a transmit/receive satellite earth station at this location. Lat. 35°08'05", Long. 80°51'27". Rec. freq: 3700–4200 mHz. Trans. freq: 5925–6425 MHz. Emission 36000F9. With a 10 meter antenna.
561-DSE-P/L-77 Florida Cabletelevision, Inc., Broward County, Fla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 26°07' 14", Long. 80°10'34". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.
562-DSE-P/L-77 Opp Cabletelevision, a Division of the Utility Board, Opp, Al. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°15'55", Long. 86°17'45". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 6 meter antenna.
563-DSE-P-77 Lakeland Cablevision, Inc., Detroit Lakes, Minn. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°50'43", Long. 95°50'51". Rec. freq: 3700–4200 MHz. Emission (none listed). With a 5 meter antenna.
566-DSE-ML-77 KCCS-TV Cable, Inc., Valdez, Ala. Modification of license to permit the reception of signals of WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV Channel 27, Portsmouth, Va.

The following Cox Cable Communications, Inc. applications are requesting modification of license to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Ga., WYAH-TV, Channel 27, Portsmouth, Va. and signals of the Madison Square Garden Event.

568-DSE-ML-77 KB99 Spokane, Wash.
569-DSE-MP/L-77 KD55 El Cajon, Calif.
570-DSE-ML-77 WB90 Roanoke, Va.
571-DSE-ML-77 WB75 Manchester, Conn.
572-DSE-ML-77 KB64 Lubbock, Tex.
573-DSE-ML-77 KB86 Lamont, Calif.
574-DSE-ML-77 WB51 Saginaw, Mich.
575-DSE-P/L-77 Fox Cities Communications, Inc., Appleton, Wis. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°14' 42". Long. 88°23'46". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
576-DSE-P-77 Frank Caliri, dba. Gavilan Communications, Gilroy, Calif. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°01'26", Long. 121°29'07". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
577-DSE-P/L-77 Greer Associates, Greer, S.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°56'22", Long. 82°15'13". Rec. freq: 3700–4200 MHz. Emission 36000-F9. With a 5 meter antenna.
579-DSE-P/L-77 RCA American Communications, Inc., Wallops Island, Va. For authority to construct and operate channels of communication by means of a transmit-only communications satellite earth station at this location for operation with a domestic communications satellite system. Trans. freq: 5925–6425 MHz. Emission 36000F9. With an 11 meter antenna.
580-DSE-P/L-77 Starkville TV Cable Co. Starkville, Miss. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°26'58", Long. 88°46' 23". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
581-DSE-R-77 American Satellite Corp. (WB27), Vernon Valley, N.Y. Renewal of license for this fixed earth station to: 8-29-80.
582-DSE-R-77 American Satellite Corp. (KB25), Murphy, Tex. Renewal of license for this fixed earth station to: 8-29-80.
583-DSE-R-77 American Satellite Corp. (KB26), Nuevo, Calif. Renewal of license for this fixed earth station to: 8-29-80.
584-DSE-P/L-77 Norman Cable TV, Inc., Norman, Okla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°13'39", Long. 97°27' 07". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.2 meter antenna.
567-DSE-MP/L-77 Cox Cable Communications, Inc. (WE21), Pensacola, Fla. Modification of construction permit/license to permit the reception of signals of the Madison Square Garden Events.
578-DSE-ML-77 Gillis G. Conoley (KD41), Taylor, Tex. Modification of license to permit the reception of signals from WYAH-TV, Channel 27, Portsmouth, Va.
585-DSE-P/L-77 Wood River Cable-Vision, Inc., Ketchum, Idaho. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°41' 01", Long. 114°22'03". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
586-DSE-P/L-77 West Texas Microwave Co., Midland, Tex. Forauthority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°53'44", Long. 102°24' 55". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

[FR Doc.77-22577 Filed 8-4-77;8:45 am]

[Report No. I-370]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

JULY 25, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

277-CSG-R-77 Comsat General Corp. (WA30), Clarksburg, Md. Renewal of license for this fixed developmental earth station, from 8-5-77 to 8-5-79.
548-DSE-R-77 Western Union Telegraph Co. (WB20), Glenwood, N.J. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.
549-DSE-R-77 Western Union Telegraph Co. (KB22), Steele Valley, Calif. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.
550-DSE-R-77 Western Union Telegraph Co. (WB24), Estill Fork, Ala. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.
551-DSE-R-77 Western Union Telegraph Co. (WB25), Lake Geneva, Wis. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.
552-DSE-R-77 Western Union Telegraph Co. (KB23), Cedar Hill, Tex. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

AMENDMENTS

Report No. I-365, dated 7-5-77 Columbia Cable TV Co., 511-DSE-P/L-77, Columbia, S.C. To permit the reception of program material distributed by Home Box Office, Inc.
Report No. I-178, dated 10-28-75 RCA Alaska Communications, Inc., Nuiqsut, Alaskan, 82-DSE-P-76. To change coordinates to Lat. 70°12'39", Long. 150°59'27".
RCA Alaska Communications, Inc., Circle, Alaskan, 86-DSE-P-76. To change coordinates to Lat. 65°49'38", Long. 144°03'58".
RCA Alaska Communications, Inc., Arctic Village, Alaskan, 87-DSE-P-76. To change coordinates to Lat. 68°07'32", Long. 145°-32'10".
RCA Alaska Communications, Inc., Chitina, Alaskan, 91-DSE-P-76. To change coordinates to Lat. 61°30'57", Long. 144°26'09".
Report No. I-218, dated 4-5-76 RCA Alaska Communications, Inc., Eagle Village, Alaskan, 263-DSE-P/L-76. To change coordinates to Lat. 64°46'48", Long. 141°06'50".
Report No. I-122, dated 4-12-76 RCA Alaska Communications, Inc., Nikolski, Alaska, 278-DSE-P-76. To change coordinates to Lat. 52°56'27", Long. 168°51'27".
Report No. I-224, dated 4-19-76 RCA Alaska Communications, Inc., Ivanoff Bay, Alaskan, 294-DSE-P/L-76. To change coordinates to Lat. 55°54'07", Long. 159°29'15".
Report No. I-232, dated 5-17-76 RCA Alaska Communications, Inc., Minto, Alaska, 317—DSE—P/L—76. To change coordinates to Lat. 65°09'10", Long. 149°20'23".
RCA Alaska Communications, Inc., Manley Hot Springs, Alaska, 318-DSE-P/L-76. To change coordinates to Lat. 64°59'52", Long. 150°38'26".
Report No. I-234, dated 5-24-76 RCA Alaska Communications, Inc., Saint Marys, Alaska, 339-DSE-P/L-76. To change coordinates to Lat. 62°03'07", Long. 163°10'29".
Report No. I-240, dated 6-7-76 RCA Alaska Communications, Inc., Shageluk, Alaska, 352-DsE-P/L-76. To change coordinates to Lat. 62 39'21", Long. 159°31'48".
539-DSE-P-77 Athena Cablevision of Corpus Christi, Corpus Christi, Tex. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 27°43'15", Long. 97°23'45". Rec. freq: 3700–4200 mHz Emission 36000F9. With a 5 meter antenna.
540-DSE-P/L-77 Jacksonville Television Cable Co., Jacksonville, N.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°-48'42", Long. 77°26'48". Rec. freq: 3700–4200 GHz. Emission 36000F9. With a 6 meter antenna.
541-DSE-P/L-77 Coosa Cable Co., Inc., Pell City, Ala. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°35'15" Long. 86°17'08". Rec. freq: 3700–4200 GHz. Emission 36000F9. With a 5 meter antenna.
542-DSE-P/L-77 Vision, Ltd., Anchorage, Alaska. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 61°10'49". Long. 149°53'04". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 14 foot horn (not parabolic) antenna.
543-DSE-P-77 American Satellite Corp., Greenbelt, Md. Authority to construct and operate a transmit/receive satellite earth station at this location. Lat. 38°59'59", Long. 76°50'20". Trans. freq: 5925–6425 MHz. Rec. freq: 3700–4200 MHz. Emission 64F9Y. With a 10 meter antenna.
544-DSE-P/L-77 Eastern Telecom Corp., Monroeville, Pa. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°28'13", Long. 79°45'32". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
545-DSE-P/L-77 Micro-Wave TV, Inc., Jessup, Ga. For authority to construct, own and operate a domestic communications satellite receive-ony earth station at this location. Lat. 31°38'47", Long. 81°58'59". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
546-DSE-P/L-77 CATV Service Co., Hackettstown, N.J. For authority to construct a domestic communications satellite receive-only earth station at this location. Lat. 40°49'55", Long. 74°53'05". Rec. freq: 3700–4200 GHz. Emission 36000F9. With a 5 meter antenna.
547-DSE-P-77 RCA American Communications, Inc., Johnson, Tex. For authority to construct, operate and establish channels of communication by means of two colocated communication satellite earth stations at this location. Lat. 29°33'38", Long. 95°05'10". Trans. freq: 5925–6375 MHz. Rec. freq: 3700–4200 MHz. Emission 36000-F9. With a 11 meter antenna.
553-DSE-P L-77 Teleprompter Corp., Sault Ste. Marie, Mich. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°27'39" Long. 84°18'54". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
554-DSE-P L-77 Kier View Cable Co., Inc., Anadarko, Okla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°03'05" Long. 98°14'56". Rec. freq: 3700–4200 MHz Emission 36000F9. With a 5 meter antenna.
555-DSE-P L-77 RCA Alaska Communications, Inc. Transportable No. 8, Alaska For authority to construct, operate and establish channels of communications by means of a transportable communications satellite earth station No. 8 at Tiglukpuk Drill Site near Anaktuvuk Pass, Alaska Lat. 68°23'58" Long. 151°35'59". Trans. freq: 5925–6425 MHz. Rec. freq: 3700–4200 MHz. Emission 45F9. With a 4.5 meter antenna.
556-DSE-P L-77 Cox Cable Communications, Inc., Moline, Ill. For authority to construct, own and cperate a domestic communications satellite receive-only earth station at this location. Lat. 41°29' 08" Long. 90°28'52". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.
557-DSE-P-77 The State Board of Regents of Florida, a public corporation of the State of Florida acting for and in behalf of the University of South Florida, Tampa, Fla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 28°03'24" Long. 82°24'43". Rec freq: 3700–4200MHz. Emission 36000F9. With a 10 meter antenna.
Report No. I-218 Dated 4-5-76, RCA Alaska Communications, Inc., Yoyukuk, Alaska 264 DSE-P L-76. To change coordinates to: Lat. 64°52'58" Long. 157°42'24".
558-DSE-P L-77 Teleprompter Corp., Iron Mountain, Mich. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°49'01" Long. 88°03'02". Rec. freq: 3700–4200 MHz Emission 36000F9. With a 4.5 meter antenna.
559-DSE-ML-77 Teleprompter Corp., Muscoy, Calif. Modification of license to convert the existing private receive-only earth station into a common-carrier facility.

[FR Doc.77-22578 Filed 8-4-77;8:45 am]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: July 29, 1977.

Notice is hereby given, pursuant to Section 1.571(c) of the Commission's Rules, that on September 5, 1977, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 5, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the Offices of the Commission in Washington, D.C. by the close of business on September 5, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in

the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to Section 1.571(c) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

APPENDIX

BMP-14,164 KWYO, Sheridan, Wyo., Wycom Corp. Has: 1410 kHz, 500 W, 1 kW-LS, U. Req: 1410 kHz, 500 W, 5 kW-LS, U.
BP-20324 WPGC, Morningside, Md., First Media, Inc. Has: 1580 kHz, 10 kW, DA-Day. Req: 1580 kHz, 50 kW, DA-Day.
BP-20251 WETB, Johnson City, Tenn., Press, Inc. Has: 790 kHz, 1 kW, Day. Req: 790 kHz, 5 kW, Day.
BP-20257 WNTS, Beech Grove, Ind., S & M Broadcasting Co., Inc. Has: 1590 kHz, 5 kW, DA-Day (Indianapolis). Req: 1590 kHz, 500 W, 5 kW-LS, DA-2, U (Beech Grove).
BP-20258 (new), Whitefish, Mont., Big Mountain Broadcasting Co., Inc. Req: 1400 kHz, 250 W, 1 kW-LS, U.
BP-20259 WTLN, Apopka, Fla., Alton Rainbow Corp. Has: 1520 kHz, 5 kW, DA-Day. Req: 1520 kHz, 10 kW, DA-Day.
BP-20266 KDTH, Dubuque, Iowa, Telegraph Herald, Inc. Has: 1370 kHz, 1 kW, 5 kW-LS, DA-N, U. Req: 1370 kHz, 5 kW, DA-N, U.
BP-20269 WILD, Boston, Mass., Sheridan Broadcasting Corp. Has: 1090 kHz, 1 kW, Day. Req: 1090 kHz, 5 kW (1 kW CH), Day.
BP-20270 KUHL, Santa Maria, Calif., KUHL Broadcasting, Inc. Has: 1440 kHz, 1 kW, DA-N, U. Req: 1440 kHz, 1 kW, 5 kW-LS, DA-N, U.
BP-20272 KWIZ, Santa Ana, Calif., The Voice of the Orange Empire, Inc., Ltd. Has: 1480 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1480 kHz, 5 kW, DA-2, U.
BP-20275 WBLA, Elizabethtown, N.C., Bladen Broadcasting Corp. Has: 1440 kHz, 1 kW, Day. Req: 1440 kHz, 5 kW, Day.
BP-20279 WDSM, Superior, Wis., WDSM, Inc. Has: 710 kHz, 5 kW DA-N, U Req: 710 kHz, 5 kW, 10 kW-LS, DA-N, U.
BP-20290 (new), Surfside Beach-Garden City Beach, S.C., Lower Grand Strand Broadcasting Co., Inc. Req: 1270 kHz, 5 kW, DA-Day.
BP-20296 (new), Madison, W. Va., Gerald E. Davis, tr/as Capital Communications. Req: 1450 kHz, 250 W, 1 kW-LS, U.
BP-20297 (new), Bentonville, Ark., JEM Broadcasting Co. Req: 1190 kHz, 250 W, Day.
BP-20298 (new), Wray, Colo., Robert D. Zellmer & Marjorie M. Zellmer, Joint Tenants, d/b/as KRDZ Broadcasters. Req: 1470 kHz, 1 kW, Day.
BP-20303 WIXY, East Longmeadow, Mass., Executive Broadcasting Corp. Has: 1600 kHz, 5 kW, Day. Req: 1600 kHz, 2.5 kW, 5 kW-LS, DA-N, U.
BP-20304 KWYK, Farmington, N. Mex., Basin Broadcasting Co. Has: 960 kHz, 1 kW, Day. Req: 960 kHz, 5 kW, Day.
BP-20307 KHYM, Gilmer, Tex., J. R. McClure, tr/as KHYM Broadcasting Co. Has: 1060 kHz, 5 kW, Day. Req: 1060 kHz, 10 kW, Day.
BP-20308 WRBX, Chapel Hill, N.C., Carolina Triangle Broadcasting Corp. Has: 1530 kHz, 5 kW, DA-Day. Req: 1530 kHz, 10 kW, DA-Day.
BP-20309 WICH, Norwich, Conn., WICH, Inc. Has: 1310 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1310 kHz, 5 kW, DA-2, U.
BP-20310 WTAW, College Station, Tex., Radio Bryan, Inc. Has: 1150 kHz, 1 kW, Day. Req: 1150 kHz, 500 W, 1 kW-LS, DA-N, U.
BP-20311 KALE, Richland, Wash., KALE, Inc. Has: 960 kHz, 1 kW, DA-N, U. Req: 960 kHz, 1 kW, 5 kW-LS, DA-N, U.
BP-20317 (new), Banner Elk, N.C. Tal-Flo Broadcasters, Inc. Req: 1190 kHz, 1 kW, Day.
BP-20318 WAAN, Waynesboro, Tenn., Waynesboro Broadcasting Co., Has: 1480 kHz, 1 kW, Day. Req: 1400 kHz, 250 W, 1 kW-LS, U.
BP-20319 KFNW, Fargo, N. Dak., Northwestern College, Has: 1170 kHz, 1 kW, Day. Req: 1170 kHz, 10 kW, DA-Day.
BP-20322 KVIL, Highland Park, Tex., Fairbanks Broadcasting Co. of Texas, Inc. Has: 1150 kHz, 1 kW, DA-Day. Req: 1150 kHz, 1 kW, DA-2, U.
BP-20323 WAGL, Lancaster, S.C., Palmetto Broadcasting System, Inc. Has: 1560 kHz, 10 kW, Day. Req: 1560 kHz, 50 kW, DA-2, Day.
BP-20325 KBSN, Crane, Tex., Albert L. Crain, Has: 970 kHz, 1 kW, Day. Req: 810 kHz, 1 kW, Day.
BP-20326 (new), Madison, W. Va., Boone Broadcasting Co. Req: 1450 kHz, 250 W, 1 kW-LS, U.
BP-20328 (new), Marshalltown, Iowa, MIN Broadcasting Co. Req: 1190 kHz, 250 W, Day.
BP-20329 (new), Kalkaska, Mich., Kaltrim Broadcasting Co. Req: 1420 kHz, 500 W, Day.
BP-20330 (new), Paris, Tenn., J Star Broadcasting Co., Inc. Req: 1000 kHz, 500 W, DA-Day.
BP-20335 KMAV, Mayville, N. Dak., KMAV, Radio Inc. Has: 1520 kHz, 250 W, Day. Req: 1520 kHz, 2.5 kW, Day.
BP-20337 (new), Washington, La., Mamou Broadcasting, Inc. Req: 1190 kHz, 250 W, Day.
BP-20341 WGKA, Atlanta, Ga., WGKA, Inc. Has: 1190 kHz, 1 kW, Day. Req: 1190 kHz, 10 kW (2.5 kW-CH), Day.
BP-20348 (new), Huntsville, Ark., Mountain Media Corp. Req: 1190 kHz, 250 W, Day.
BP-20402 (new), Albertville, Ala., Benny Caryle Broadcasting, Inc. Req: 1190 kHz, 1 kW, Day.
BP-20512 WRPL, Charlotte, N.C., Voice of Charlotte Broadcasting Co. Has: 1540 kHz, 1 kW, Day. Req: 1540 kHz, 10 kW, DA-Day.
BP-20593 (new), Murray, Ky., Heritage Broadcasting Co., Inc. Req: 1000 kHz, 250 W, DA-2, U.
BP-20603 (new), Van Buren, Ark., Crawford County Communications, Inc. Req: 1060 kHz, 500 W, DA-Day.
BP-20622 (new), Aberdeen, Miss., Mississippi Broadcasting Co., Req: 1190 kHz, 1 kW, Day.
BP-20737 (new), Lillington, N.C., Harnett Broadcast, Inc. Req: 1370 kHz, 2.5 kW, DA-Day.
BP-20775 (new), Phoenixville, Pa., Suburban Communications, Inc. Req: 690 kHz, 500 W, DA-Day.
BP-20794 (new), Marshalltown, Iowa, Marshalltown Radio Corp., Req: 1190 kHz, 500 W, DA-Day.

[FR Doc.77-22580 Filed 8-4-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 230]

GENERAL OHIO S&L CORP.

Receipt of Application for Permission To Acquire Control of Central Savings and Loan Co.

AUGUST 2, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from General Ohio S&L Corporation, Columbus, Ohio, a multiple savings and loan holding company, for approval of acquisition of control of The Central Savings and Loan Company, Columbus, Ohio, an insured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by a purchase of the entire outstanding stock of the Central Savings and Loan Company by General S&L Corporation. Following said acquisition, it is proposed that the Railroad Savings and Loan Company, an insured subsidiary of General Ohio S&L Corporation, be merged into The Central Savings and Loan Company. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before September 6, 1977.

J. J. FINN,
Secretary, Federal Home Loan Bank Board.

[FR Doc.77-22566 Filed 8-4-77;8:45 am]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND PACIFIC ALASKA LINE INC.

Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 25, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreements Nos. T-3499 and T-3500 between the Port of Seattle (Seattle) and Pacific Alaska Line, Inc., (Pacific) provide for five-year renewable leases to Pacific of certain terminal facilities located at Terminal 105, Seattle, Washington. Agreement No. T-3499 grants to Pacific the lease of land, submerged land, pier and dock facilities in exchange for a monthly rental of $15,811. Agreement No. T-3500 grants to Pacific the lease of land and office space in exchange for a monthly rental of $705. The leased facilities are described in detail in the respective agreements and will be used by Pacific in connection with its maritime commerce activities.

Although these agreements may not be subject to section 15 of the Shipping Act, 1916, interested parties are given an opportunity to comment thereon if they so desire.

By order of the Federal Maritime Commission.

Dated: August 2, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22565 Filed 8-4-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI77-641]

ARKANSAS LOUISIANA GAS CO. vs. DYCO PETROLEUM CORP.

Petition for Declaratory Order

JULY 27, 1977.

Take notice that on July 12, 1977 Arkansas Louisiana Gas Company (Petitioner), which has its principal place of business at the Slattery Building, Shreveport, Louisiana, filed in Docket No. CI77-641 a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR § 1.7(c)).

On July 7, 1970 Petitioner executed an agreement with McCulloch Oil Corporation (McCulloch) whereby Petitioner agreed to purchase and McCulloch agreed to sell natural gas. A certificate of public convenience and necessity pertaining to this contract was issued to McCulloch by the Federal Power Commission on February 18, 1972 in Docket No. CI71-87.

Petitioner states that Dyco operates a certain well covered under the above-described contract pursuant to a farmout arrangement with McCulloch. Petitioner further alleges that Dyco has refused to deliver to it gas from a certain well subject to the contract and that Dyco intends to sell such gas on the intrastate market. Petitioner states that, inasmuch as sales from the subject well are dedicated in interstate commerce, Dyco must continue to sell the gas to Petitioner unless or until Dyco secures from the Commission abandonment authorization pursuant to Section 7(b) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 22, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with Section 1.8 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8).

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22518 Filed 8-4-77;8:45 am]

[Docket Nos. E-7631, E-7633 and E-7713]

CITY OF CLEVELAND, OHIO v. CLEVELAND ELECTRIC ILLUMINATING CO.

Order in Compliance With Court Opinion Requiring Further Briefs

JULY 26, 1977.

On July 1, 1977, the U.S. Court of Appeals for the District of Columbia Circuit in *City of Cleveland et al.* v. *Federal Power Commission* ____ F.2d ____ (1977) (Case No. 73-1282) issued an "Opinion On Motion For An Order Directing Compliance With Mandate." That Opinion requires the Commission to expand the remanded proceedings in this docket to cover the issue of whether a prior oral agreement existed as to the energy rates, as well as demand rates (i.e. ratchet clause, which rendered void the January 20, 1970, letter agreement as amended covering load transfer service between Cleveland Electric Illuminating Company (CEI) and the City of Cleveland, Ohio (Cleveland) between February 4, 1970, and May 17, 1972. The Court thus modified the Commission's November 5, 1976, and January 5, 1977, orders in this docket which limited the proceedings on remand from the Court's previous decision herein[1] to the issue of whether or not there was a pre-existing oral agreement as to the demand charges for load transfer service which voided the January 20, 1970, letter agreement, as amended; particularly the ratchet clause contained therein.

Accordingly, the Commission shall establish dates for submission of supplemental briefs on the "energy charge" issue as set forth above and in the Court's July 1, 1977 opinion. Pending receipt of and consideration of these supplemental briefs, the Commission shall defer action on Cleveland's June 8, 1977, application for rehearing of Opinion No. 644-B ____ FPC ____ issued May 9, 1977, in this proceeding.[2]

The Commission orders: (A) On or before August 17, 1977, all parties shall file Initial Briefs regarding the "energy charge" issue. On or before September 19, 1977, all parties shall file responding briefs on the "energy charge" issue.

(B) The Secretary shall ensure that this order is promptly published in the FEDERAL REGISTER.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR. Doc.77-22517 Filed 8-4-77;8:45 am]

[Docket No. ER77-175]

FLORIDA POWER & LIGHT CO.

Order Denying Motion for Reconsideration

JULY 26, 1977.

On June 28, 1977, Florida Power and Light Company (FP&L) filed a document entitled "Application . . . For Rehearing" in which it requests rehearing of the May 31, 1977 order[1] issued in this docket.

The May 31 order was issued in response to FP&L's "Application For Rehearing" of our April 12, 1977 order in this docket. As we indicated in our May 31, 1977 order, Section 1.34 of the Commission's Rules of Practice and Procedure requires a final decision or order before an application for rehearing can lie. Since the April 12, 1977 order was interlocutory, no application for rehearing was permitted. However, the Commission treated the application as a motion for reconsideration and considered the merits of FP&L's filing. We see no need to treat this application any differently.

The single argument raised by FP&L in this application was similarly raised in its prior application as well as in its Response to the Petition to Intervene of New Smyrna Beach. The argument was discussed in both the April 12 order and the May 31 order. We reiterate our statement contained in the May 31 order: "Repetition of an argument previously rejected in a Commission order is not a ground for reconsideration of that order."

[1] *City of Cleveland et al.* v. *F.P.C.* 525 F. 2d 845 (CADC 1976).

[2] By order issued July 8, 1977, ____ FPC ____ (1977) in this proceeding, the Commission granted rehearing of Opinion No. 644-B for purposes of further consideration.

[1] Order Granting Motion For Reconsideration and Establishing Procedures.

The Commission finds: (1) FP&L's arguments, allegations, and contentions in its filing of June 28, 1977 raise no issues of fact or law not considered when this Commission issued its May 31, 1977 order in this proceeding.

(2) Good cause does not exist to reconsider the Commission's May 31, 1977 order.

The Commission orders: (A) FP&L's motion for reconsideration is hereby denied.

(B) The Secretary shall cause the prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22516 Filed 8-4-77;8:45 am]

[Docket No. ER77-438]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 26, 1977.

Take notice that Niagara Power Corporation (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Consolidated Edison Company of New York, Inc. (Con Ed) dated April 12, 1977.

Niagara indicates that there is presently on file an agreement with Con Ed dated February 14, 1975, and this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 90. Niagara states that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22507 Filed 8-4-77;8:45 am]

[Docket No. ER77-437]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 26, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Long Island Lighting Company (LILCO), dated April 12, 1977.

Niagara states that there is presently on file an agreement with LILCO dated February 14, 1975, and that this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 91. Niagara further states that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22508 Filed 8-4-77;8:45 am]

[Docket No. CP77-507]

NORTHWEST PIPELINE CORP.

Application

JULY 26, 1977.

Take notice that on July 13, 1977, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP77-507 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,500,000 with no single project to exceed $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22506 Filed 8-4-77;8:45 am]

[Docket No. ER76-826]

PENNSYLVANIA POWER & LIGHT CO.

Certification of Settlement Agreement

JULY 26, 1977.

Take notice that Presiding Administrative Law Judge Nahum Litt on June 28, 1977, certified to the Commission a settlement agreement entered into between Pennsylvania Power & Light Company (PP&L) and certain resale customers of PP&L who are intervenors in the proceedings in the above-noted docket: the Boroughs of Ephrata, Quakertown, Watsontown, Perkasie, St. Clair, Hatfield, Catawissa, Lehighton, Weatherly and Schiyekill Haven, Pennsylvania, and Citizens Electric Company of Lewisburg, Pennsylvania (customers).

The Presiding Judge indicates that PP&L states that the customers and PP&L have agreed to the settlement agreement. The Presiding Judge further indicates that PP&L states that it believes that the Commission Staff will support the settlement agreement.

Any person who wishes to comment on the settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 12, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22511 Filed 8-4-77;8:45 am]

[Docket No. ER77-402]

PHILADELPHIA ELECTRIC CO.

Order Accepting for Filing Proposed Rate Schedules, Denying Motion To Reject, Suspending Proposed Rate Schedules, Granting Intervention, and Establishing Procedures

JULY 26, 1977.

On May 27, 1977, Philadelphia Electric Company (PE) tendered for filing proposed changes in its Electric Service Tariff, applicable for service to the Borough of Lansdale, Pennsylvania, (Lansdale). PE indicates that the proposed changes would increase revenues from jurisdictional sales and service by $2,133,792 (222%) based on the 12-month period ending June 30, 1978. PE requests its filing be made effective July 27, 1977.

Notice of tendered filing was issued on June 10, 1977, with all protests or petitions to intervene due on or before June 17, 1977.

On June 14, 1977, Lansdale filed a motion to extend the time for filing petitions to intervene or protest to the proposed tariff changes. The Commission granted such extension until July 1, 1977. On that date, Lansdale filed a Motion to Reject, Protest and Petition to Intervene.

In support of its motion to reject, Lansdale asserts that PE's filing fails to comply with Section 35.13 of the Commission's Rules and Regulations in that PE has not supplied certain required statements and workpapers in support of its rate increase proposal.

Lansdale also challenges PE's proposed auxiliary service provision as being anti-competitive and discriminatory in effect on Lansdale, and argues that the provision attempts to virtually isolate Lansdale from any economically feasible alternatives other than full-requirements service by PE. Lansdale urges that the effectiveness of this provision be deferred pending final Commission determination on the matter. In the alternative, Lansdale requests a full five-month suspension period.

On July 11, 1977, PE filed an answer opposing the motion to reject, arguing for no more than a one-day suspension. PE argues as to the necessity of its rate increase, the sufficiency of the workpapers, and the fairness of the auxiliary service provision.

We will not reject PE's filing. As noted in *Municipal Light Boards* v. *FPC*, 450, F 2d 1341, 1346 (1971):

> A "rejection" of a filing . . . is more like a motion to dismiss on the face of the pleading and indeed goes even beyond that. It is appropriate where the filing is so deficient on its face that the agency may properly return it to the filing party without even waiting a responsive filing by any other Party.

In this case, PE's filing is not deficient on its face. A preliminary review of the Company's proposal indicates that the filing has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful. Hearing procedures will be established to determine the lawfulness of this filing.

The Commission finds: (1) Good cause exists to deny the motion to reject and to accept for filing and suspend the proposed rates tendered by the Company on May 27, 1977, as hereinafter ordered.

(2) The participation in this proceeding of the Borough of Lansdale may be in the public interest.

The Commission orders: (A) The proposed increased rates and changes tendered by PE on May 27, 1977, are hereby accepted for filing.

(B) The motion to reject filed by the Borough of Lansdale is denied.

(C) The Borough of Lansdale is hereby permitted to intervene in the proceeding, subject to the Rules and Regulations of the Commission. *Provided, however*, that the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *provided further*, that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the filing tendered by PE in this proceeding.

(E) Pending such hearing or decision thereon, the increased rates and charges tendered by the Company on May 27, 1977, are hereby suspended and the use thereof deferred for one day until July 28, 1977, when they shall become effective subject to refund.

(F) The Secretary shall cause prompt publication of this Order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22519 Filed 8-4-77;8:45 am]

[Docket No. ER77-503]

PUBLIC SERVICE CO. OF COLORADO

Proposed Tariff Change

JULY 26, 1977.

Take notice that Public Service Company of Colorado (PSCO) on July 5, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff. PSCO states that the proposed change is Supplement No. 9 (Supplement) to PSCO's Contract for Interconnections and Transmission Service with the United States Department of the Interior, Bureau of Reclamation, Pick-Sloan Missouri Basin Program—Western Division, Colorado River Basin Project (USBR), on file with the Commission under PSCO's FPC Rate Schedule No. 7.

PSCO indicates that the Supplement, dated June 30, 1976, grants PSCO further extension of the termination date of its Temporary Tap (Henderson Temporary Point of Delivery) to the Green Mountain-Summit 115 kV Transmission line of the USBR. PSCO also indicates that the Supplement also establishes procedures for sectionalizing the USBR's Green Mountain Facilities and/or Hayden-Green Mountain 138 kV Transmission line in the event of an overload condition. In addition, PSCO indicates, the Supplement provides transmission service by the USBR to PSCO at the Loveland Boyd-East Sub and West Tap.

PSCO states that copies of the filing were served upon all parties and affected state commissions.

Anyone desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22509 Filed 8-4-77;8:45 am]

[Docket No. ER77-504]

PUBLIC SERVICE CO. OF COLORADO

Tariff Change

JULY 26, 1977.

Take notice that Public Service Company of Colorado (PSCO) on July 5, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff. PSCO states that the proposed change is an Agreement between the Colorado-Ute Electric Association, Inc. (Colorado-Ute) and PSCO. PSCO further states that the Agreement supplements and will be operated consistent with the principles of the Power Purchase and Transmission Service Agreement between Colorado-Ute and PSCO, dated October 9, 1967, on file with the Commission under PSCO's FPC Rate Schedule No. 12.

PSCO indicates that the Agreement provides for the interconnection of elec-

trical facilities of Colorado-Ute and PSCO at PSCO's Boone Substation. PSCO further indicates that the interconnection is of mutual benefit in that it delays the necessity for each company to build addition 230 kV transmission line capacity between Midway Substation and Boone Substation.

PSCO requests waiver of the Commission's notice requirements to allow for an effective date of April 9, 1976.

PSCO states that copies of the filing were served upon all parties to the Agreement and the affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22510 Filed 8-4-77;8:45 am]

[Docket No. CP76-428]

SEA ROBIN PIPELINE CO.

Filing of Original Tariff Sheets

JULY 21, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 235 through 258 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and Mid Louisiana Gas Company dated June 14, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed, and the transportation service certificated in Docket No. CP76-428 commences.

The Company states that copies of these tariff sheets have been mailed to Mid Louisiana Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22512 Filed 8-4-77;8:45 am]

[Docket No. CP76-428]

SEA ROBIN PIPELINE CO.

Filing of Original Tariff Sheets

JULY 21, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 283 through 307 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and United Gas Pipe Line Company dated June 11, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed and the transportation service certificated in Docket No. CP76-428 commences.

The Company states that copies of these tariff sheets have been mailed to United Gas Pipe Line Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22513 Filed 8-4-77;8:45 am]

[Docket No. ER77-424]

SOUTHWESTERN PUBLIC SERVICE CO.

Rate Filing

JULY 27, 1977.

Take notice that on July 5, 1977, the Southwestern Public Service Company (Southwestern) of Amarillo, Texas, tendered for filing a new contract and rate schedule for electric power service to the City of Canadian, Canadian, Texas. Southwestern indicates that this service would be rendered through Southwestern's 115 kV and 69 kV transmission line to its connection with North Plains Electric Cooperative, Inc. (North Plains), from which point the power and energy would be wheeled over North Plains' 69 kV and 12.5 kV lines to connect with the City of Canadian's distribution system, the connection thereto being the metering point and point of service.

Southwestern states that Canadian is a partial-requirements customer and the new contract for firm power requires Canadian to negotiate firm power requirements one year in advance for better planning of high cost plant additions by Southwestern.

Southwestern states that the base cost of fuel adjustment is set at 9 mills per kWh and provides for a 4.4% loss adjustment to the point of the sale.

Southwestern requests the Commission to waive the 30 day notice requirement and make the proposed new rate effective on June 1, 1977.

Any person desiring to be heard or to protest said filing shall file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before August 12, 1977. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Rules of Practice and Procedure. This filing is on file with the Commission and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22515 Filed 8-4-77;8:45 am]

[Docket Nos. ER76-303 and ER76-399]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Denying in Part and Granting in Part Petitions for Rehearing

JULY 26, 1977.

On April 29, 1977, this Commission issued an Order on Reconsideration in the above-captioned proceeding. In our order we determined that Wisconsin Michigan Power Company's (the Company's) service contracts with the Town of Florence, the City of New London and the City of Shawano (the Cities) permit the Company to file unilateral rate increases, but that such increases may not surpass the rate level of the Company's large user (industrial) retail rate. Applications for Rehearing of the order were filed on May 27, 1977, by the Company and on May 31, 1977, by the Cities.[1] On June 24, 1977, the Commission issued a Notice of Intent to Act. The Company filed on June 27, 1977, a motion requesting stay of its filing and refund obligations, as set forth in ordering paragraph (B) of the Order on Reconsideration, pending Commission action of the

[1] The Notice of Intent to Act, issued June 24, 1977, stated incorrectly that the Cities' Application was untimely filed. Thirty days after issuance of the Order on Reconsideration was May 29, which was a Sunday; May 30 was a legal holiday. Under Section 1.13 of the Commission's Rules of Practice and Procedure, therefore, the period for applications for rehearing ran through May 31.

applications for rehearing. The Company's motion was granted by order issued June 30, 1977. For the reasons set forth below, we shall deny the Company's application and shall grant in part and deny in part the Cities' application for rehearing.

REHEARING APPLICATION OF THE COMPANY

In its Application for Rehearing Wisconsin Michigan takes exception to the Commission's finding that the contracts in question impose as a ceiling on wholesale rates the industrial retail rate in effect at the time of the filing. The Company argues that the Commission erred in disregarding two contractual doctrines: (1) In a contract involving mutual promises the inability of one party to perform as promised, although through no fault of his own, constitutes a failure of consideration relieving the other party of his obligation to perform as reciprocally promised; and (2) a contract may be modified by a subsequent course of dealing between the parties.

The Company is reiterating an argument raised in its earlier Answer to Motion for Reconsideration[2] and dealt with in our Order on Reconsideration, issued April 29, 1977.[3] The assertion is that, since the contracts[4] with the petitioning Cities were entered into prior to the imposition of this Commission's jurisdiction over wholesale sales, the unforeseen superseding requirement of obtaining this Commission's approval of the Company's wholesale rate filings relieves the municipal customers, by operation of law, of their obligation to "automatically . . . accept" the retail industrial rate. Consequently, the Company reasons, Wisconsin Michigan is relieved of its reciprocal obligation to offer automatically to the municipal customers a rate equivalent to the industrial retail rate level.

In a case involving a contract clause very similar to that in the instant proceeding, the District of Columbia Circuit Court of Appeals addressed the impact on contract terms of a superseding regulatory authority. In *Anderson Power and Light* v. *F.P.C.* (which was consolidated with *Richmond Power and Light* v. *F.P.C.*), 481 F. 2d 490 (1973),[5] Indiana and Michigan Electric Company's (I&M's) contract with Anderson Power and Light (Anderson), a municipally owned electric power company, was entered into in 1957, before the Federal Power Commission's jurisdiction over the sales thereunder was established in 1965.[6] The contract provided, in pertinent part, that I&M would supply electric energy "at the rate and under the provisions of the regularly filed and published tariff selected by the customer (Anderson) and known as Tariff I.P. * * * as long as said tariff is in effect * * *."[7] Tariff I.P. was an industrial retail tariff on file with the Public Service Company of Indiana.[8]

When in 1972 I&M filed with the Federal Power Commission a new rate schedule purporting to increase Anderson's rates above the rate level of the then effective Tariff I.P., the Commission initially reasoned that, in light of its superseding jurisdiction, any references in the contract to the state regulatory commission should simply be read as references to the Federal Power Commission as the new "appropriate regulatory authority." The Commission accordingly interpreted the I&M-Anderson contract in terms of Section 205 of the Federal Power Act and denied motions to reject I&M's filing.

The court in Anderson, while finding fault with the Commission's conclusions, approved the approach: [9]

> The Commission seems to be saying that it is simply interpreting the contract, in light of changed circumstances, to accomplish what the parties intended. And we have no quarrel in principle with this approach to contract interpretation.[10]
>
> * * * * * *
>
> We think that if one is to construe the Anderson–I&M contract, in light of changed circumstances, to reflect as nearly as one can the intentions of the parties to the contract, the only possible result is to construe it as not permitting I&M to change the rate simply by filing a new tariff with the Federal Power Commission.

In interpreting the contract between I&M and Anderson, the court referred to the evident fact that, whether a rate filing is subject to state or federal jurisdiction, the filing is subject to review and approval by the appropriate regulatory commission: [11]

> The issue under Memphis is not whether the parties contemplated change by the appropriate regulatory authority, for *under the law every electric power contract must contemplate such change.* (Emphasis added.)

The court's observation in Anderson is consistent with our position that the changed circumstance of federal [12] rather than state [13] jurisdiction over Wisconsin Michigan's sales to Cities did not materially alter the requisite procedures, as they were understood and intended by the parties, regarding wholesale rate changes. These procedures inherently contemplated the intervening step, required by law, of regulatory review and approval. If, moreover, we are to construe the Cities' contracts with the Company so as best to effectuate, in light of changed circumstances, the intention of the parties, then we cannot jettison a key contractual element—rate parity—on the strength of the assertion, shown to be incorrect, that the change in regulatory jurisdiction rendered the Cities' promised performance impossible.

Rate parity was also a key feature in the I&M-Anderson contract. The court in Anderson observed: "The parties to both the Richmond and the Anderson contracts intended that the municipal buyers receive electricity under the same tariff that governed I&M's industrial retail customers." [14] In reference to the Richmond contract," the court made clear that the parties were perfectly free to impose as a ceiling on the wholesale rate the effective industrial retail rate level.[15]

> The accommodation reached in the contract serves both (parties') interests by permitting I&M to seek changes in its Tariff I P on file with the Public Service Commission of Indiana, but requiring that Richmond be served under the same tariff as that used by I&M for its own industrial retail customers. We see no reason why the integrity of this contractual undertaking is any less deserving of protection under the Act than one for a single fixed rate.

In both the Richmond and the Anderson cases the court's interpretation of the contracts preserved the rate parity concept intended by the contracting parties. In so doing, the court found the fact that Anderson's contract predated this Commission's jurisdiction to be of no substantive significance. Similarly, in

[2] The Cities' Motion for Reconsideration was filed July 14, 1976, in the instant dockets; Wisconsin Michigan's Answer was filed July 29, 1976.

[3] See *Discussion*, mimeo page 10.

[4] The contracts for the three Cities vary somewhat but effectuate the same result. Article III, Section 2 of the contract between the Company and New London, signed on June 21, 1949, states:

> It is hereby agreed and understood that should there be any revision and or change in said Rate VII approved by the Wisconsin Public Service Commission, at any time during the life of this contract, then the Distributor shall under this contract automatically receive and accept such revised rates.

The comparable sections of the contracts with Florence and Shawano are set forth in the Order on Reconsideration, issued April 29, 1977, mimeo page 7.

[5] Cert. den., sub nom. Indiana and Michigan Electric Co. v. Anderson Power and Light, et al., 414 U.S. 1068 (1973).

[6] 481 F. 2d 490, 493, 498.

[7] Ibid. at 498.

[8] Ibid. at 494

[9] Ibid. at 499, 500–501. See also *Williston on Contracts*, Third Edition Section 600 at 284–285; and *Simpson on Contract* § 102 at 209–210 (2d ed. 1965):

> The cardinal or fundamental rule of interpretation of contracts, to which all others are subordinate, is that a contract could receive that interpretation which will *best* effectuate the intention of the parties. (Emphasis added.)

[10] See *W. C. Shepherd Co.* v. *Royal Indemity Co.*, 5 Cir., 192 F. 2d 710, 715 (1951); *Pacific Portland Cement Co.* v. *Food Machinery & Chemical Corp.*, 9 Cir. 178 F. 2d 541, 551–553 (1949); RESTATMENT OF CONTRACTS § 235, Comment e and Illustration 8, at 324–325 (1932).

[11] 481 F. 2d 490, 499.

[12] Wisconsin Michigan's contract with Shawano was entered into in 1934; its contracts with New London and Florence were signed in 1949. In 1952 the Court of Appeals for the Seventh Circuit affirmed this Commission's assertion of jurisdiction over the sales made under these contracts. *Wisconsin Michigan Power Co.* v. *F.P.C.*, 197 F. 2d 472, cert. den. 345 U.S. 934 (1953).

[13] In Wisconsin Michigan, supra, the State of Wisconsin noted that it had in fact regulated the rates in question. 197 F. 2d 472, 479.

[14] Ibid at 501.

[15] The Richmond contract, though entered into after the Federal Power Commission obtained jurisdiction over the sales thereunder, was in all other pertinent respects identical to the Anderson contract. 481 F 2d 490, 498–499.

[16] 481 F. 2d 490, 497.

Opinion No. 432, this Commission concluded: [16]

> We are in accord with the Examiner's view that these agreements are not fixed rate contracts, since they plainly contemplate an escalation arrangment to maintain parity between the rates of the retail users and the wholesale rates.
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> • • • • •
>
> The contracts as we construe them thus provide for an automatic contractual acceptance of a rate change, subject to the requirements of filing under Section 205 with FPC.
>
> In interpreting these contracts it should be remembered that many changes have intervened in the law and in the power economy since the execution of these contracts in the 1930's. It is not our purpose to reject rate increase filings by hyper-technical interpretation of contract provisions which clearly contemplated a procedure for rate adjustments. On the contrary, the effective exercise of the rate-making powers of this Commission will insure that contractual provisions for rate adjustments can be utilized by the seller in a manner fair to the purchaser.

Thus, the Commission supported the Company's claim [17] 13 years ago that the contracts contemplated parity between the wholesale and the industrial retail rate levels. We fail to see how it can be fair to the purchasers for the Company to disavow the parity provision 13 years later, when, having apparently outlived its usefulness as a floor to wholesale rates, the provision is ostensibly viewed by the Company as a vexatious ceiling.[18]

The Company's allegation that the Commission's Order on Reconsideration in this proceeding is inconsistent with our earlier contract interpretation ruling in Wisconsin Electric Power Company, order issued April 19, 1974, in Docket No. E–8619, is incorrect. Twice in the Order on Reconsideration (mimeo. pages 15, 17) we noted that the conclusion reached in the April 19, 1974 order was accurate as far as it went, but that it was incomplete. The order affirmed the Company's right to file unilateral rate changes, but it made no reference to the rate ceiling affirmed in Opinion No. 432; neither did the pleadings in Docket No. E–8619.

In the event that the Commission does not reverse its Order on Reconsideration on the grounds of failure of consideration, Wisconsin Michigan requests a hearing to develop the evidence on the parties' course of dealing subsequent to the issuance of Opinion No. 432. The Company's request is based on two arguments: (1) The Commission's order constituted an improper summary judgment; (2) in its Answer to Motion for Reconsideration the Company did not have enough time to develop and present the facts regarding the parties' dealings over the last ten years as a background to its legal arguments.

The Company notes that the Commission's conclusions, which were based not on evidence developed at hearing but on factual assertions in the pleadings, constitute summary judgment on the pleadings. The Company correctly states that summary judgment on the pleadings can be entered against it only if the Company's factual version is accepted in all respects. But the Company goes on to contend that summary judgment would not lie for even an "ultimate" conclusion if the conclusion is a "factual conclusion" and is disputed. Its authority is *Sears, Roebuck and Co.* v. *GSA*, No. 75–2127 at 5–8 (D.C. Cir. April 1, 1977). Wisconsin Michigan argues that the Commission has not assumed the accuracy of the Company's "factual conclusion" that the parties' conduct in the last ten years demonstrates that their contracts have been amended in the manner alleged by the Company.

In Sears, Roebuck the factual conclusion at issue was whether the appellant would be commercially harmed by the disclosure of information under the Freedom of Information Act. We believe the more pertnient precedent to be the District of Columbia Circuit's ruling in *Pennsylvania Gas and Water Company* v. *F.P.C.*, 463 F. 2d 1242 (1972), inasmuch as it deals specifically with this Commission's authority to grant summary judgment: [19]

> We find no conflict in fundamental facts calling for a hearing; we do find that the FPC has placed interpretations on and *drawn conclusions from the facts* which differ from those urged by Penn Gas, and that *the Commission's expertise entitled it to do so*, and that it has done so reasonably. (Emphasis added).

The Company's Answer to Motion for Reconsideration consists of nine pages of extensive factual presentation and legal argument plus 24 pages of appendices. The appendices contain: (A) Certain letters exchanged between Wisconsin Michigan and this Commission and from the Company to the Cities; (B) back-up computations for comparative billings of the industrial retail rate in effect in 1974 and the wholesale rate filed in Docket No. E–8619; and (C) similar computations for the industrial retail rate in 1975 and the wholesale rate filed in Docket No. ER76–303. Nowhere in its Answer did the Company suggest that its presentation was incomplete or request a hearing or more time in which to improve its case. Nor has it made any such request in the nearly 12 months which have passed since its Answer was filed.

In the concluding paragraph of its Answer Wisconsin Michigan requested that the Commission deny Cities' motion for reconsideration on the basis that the parties' conduct has modified their contracts in the manner alleged by the Company. In order to have made such a request, the Company must clearly have regarded its presentation as an adequate basis for the Commission to rule thereon.

Wisconsin Michigan points out that in our Order on Reconsideration (mimeo page 14) we remarked on the lack of certain information concerning the precise amount and timing of wholesale filings in relation to industrial retail filings. This circumstance does not, however, invalidate our ultimate conclusion. In the very next sentence we wrote (mimeo pages 14–15):

> But even if we find persuasive the Company's assertion that it no longer look to state approval of its industrial retail rate as the event which triggers an equivalent wholesale filing, the Company has not proven enough.
>
> • • • • •
>
> • • • even if the Company ceased to view the industrial retail rate level and the wholesale rate level as being in lock step, nevertheless it was bound by its contract to set the wholesale rates no higher than the industrial retail rate level.

Thus, even after we assumed the truth of the Company's assertion that it no longer regards the timing and levels of its retail and wholesale filings as being in lock step, we still concluded (contrary to the "ultimate factual conclusion" of the Company) that the parties' conduct had not evidenced a clear intent to dispense with the retail rate ceiling on wholesale rates. We therefore find that the conclusions in our Order on Reconsideration were based on sufficient information and that the order was a proper exercise of this Commission's authority.

REHEARING APPLICATION OF THE CITIES

The Cities request that the Commission modify its Order on Reconsideration to reject the filing in Docket No. ER76–303 with respect to Shawano and New London and to order refunds of all amounts collected under that filing in excess of the previous approved rate. Alternatively, the Cities request that the order be clarified to provide that the refunds ordered therein will be based on the Company's retail industrial rate in effect on November 28, 1975, the date on which the filing in Docket No. ER76–303 was tendered.

The Cities cite a number of cases as authority for their request that the Commission reject Wisconsin Michigan's filing with respect to Shawano and New London. But in three of the cases cited—*Mobile*,[20] *Sierra* [21] and *Sam Rayburn Dam Electric Cooperative* v. *F.P.C.*[22]—the contracts in question were found to be fixed-rate. Accordingly, any unilateral filing by the utility company would have been inconsistent and therefore invalid.

The Cities also cite Richmond (supra). As has been discussed in this order, Richmond (and Anderson) dealt with contracts which tied the wholesale rate to a given retail rate. The court found that I&M's filing which raised the wholesale rate over the retail rate level was inconsistent with its contractual obligations and should have been rejected.[23] We do not, however, read the final paragraph in the court's opinion as reaching the issue of which procedure this Commission must necessarily follow in excising improper rate levels in a Richmond-type filing. The contracts in the instant case give Wisconsin Michigan the right to make unilateral rate filings, but the contracts limit the amount of the rate change. We regard it as unnecessary to reject Wisconsin Michigan's entire filing with respect to Shawano and New London, when only that portion of the filed rate which surpasses the industrial retail rate in effect at the time of the wholesale filing is in violation of the contract restriction. We consequently affirm our Order on Reconsideration requiring the Company to refund to Shawano and New London that portion of the rate which has been found to exceed the contract restriction. We believe this to be the equitable remedy in light of the fact that the Cities did not properly identify and raise their contract restriction argument until several months after Wisconsin Michigan filed the rate change in Docket No. ER76-303.

The Cities do however raise a valid point in their alternative pleading. They note that the Order on Reconsideration is ambiguous as to the industrial retail rate level at which the Company must file its revised tariffs and consequently as to the amount of refunds payable to the Cities. As we held in our previous order, state approval of Wisconsin Michigan's industrial retail rate is the triggering event for the filing of a corresponding wholesale rate. We shall therefore amend finding paragraph (2) and ordering paragraph (B) of our Order on Reconsideration, issued April 29, 1977, to direct Wisconsin Michigan to file revised tariff sheets reflecting rates reduced to the level of the Company's industrial retail rate in effect as of November 28, 1975, and to make appropriate refunds (at 9 percent per annum interest) of any amounts in excess thereof collected after March 1, 1976.

The Commission finds: (1) Good cause exists to deny Wisconsin Michigan Power Company's application for rehearing of our Order on Reconsideration, issued April 29, 1977.

(2) Good cause exists to deny that part of the Cities' application for rehearing which requests the rejection of Wisconsin Michigan's filing in Docket No. ER76–303 as it pertains to the Cities of New London and Shawano.

(3) Good cause exists to grant that part of the Cities' application for rehearing which requests clarification of the Order on Reconsideration as to the industrial retail rate level at which the Company must file its revised tariffs and pay refunds. Finding Paragraph (2) of the Order on Reconsideration, issued April 29, 1977, should be amended to read:

> (2) It is proper and appropriate in the public interest that Wisconsin Michigan Power Company be directed to eliminate from the rates which became effective March 1, 1976, in Docket No. ER76–303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975.

The Commission orders: (A) Wisconsin Michigan Power Company's application for rehearing of the Order on Reconsideration, issued April 29, 1977, is hereby denied.

(B) That part of the Cities' application for rehearing which requests the rejection of Wisconsin Michigan's rate filing in Docket No. ER76–303 as it pertains to the Cities of New London and Shawano is hereby denied.

(C) That part of the Cities' application for rehearing which requests clarification as to the industrial retail rate level at which the Company must file its revised tariffs and pay refunds is hereby granted, and Finding Paragraph (2) of the Order on Reconsideration is hereby amended as set forth in Finding Paragraph (3), supra.

(D) Within 60 days of the date of issuance of this order, Wisconsin Michigan Power Company shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 percent per annum interest of any amounts collected after March 1, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975.

(E) Wisconsin Michigan Power Company shall file a report with this Commission attesting to its compliance with the refund obligations imposed in Ordering Paragraph (D), supra, within 15 days of such compliance.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–22514 Filed 8–4–77;8:45 am]

[16] 31 FPC 1445, 1449 (1964). The Opinion was not appealed.

[17] The Company's position is summarized in our Order on Reconsideration, mimeo page 11, footnote 11.

[18] The Supreme Court has written: But while it may be that the Commission may not normally impose upon a public utility a rate which would produce less than a fair return, it does not folow that the public utility may not itself agree by contract to a rate affording less than a fair return and that, if it does so, it is entitled to be relieved of its improvident bargain [citation omitted]. In such circumstances the sole concern of the Commission would seem to be whether the rate is so low as to adversely affect the public interest • • •. *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1955).

[19] 463 F. 2d 1242, 1252. See also *Citizens for Allegan County, Inc.* v. *F.P.C.*, 414 F. 2d 1125, 1128 (1969).

[20] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

[21] *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[22] 515 F. 2d 998 (1975).

[23] 481 F. 2d 490, 501.

[Docket No. ER77–521]

ARIZONA PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 21, 1977, Arizona Public Service Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to six of its customers.[1] The filing would increase the Company's revenues by $937,638, based on the 12-month period ending December 31, 1976.[2] The Company proposes an effective date of September 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 21, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 21, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commisson order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until February 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–22587 Filed 8–4–77;8:45 am]

[Docket No. ER77–519]

CLEVELAND ELECTRIC ILLUMINATING CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 20, 1977, Cleveland Electric Illuminating Company (Company) ten-

[1] Electrical District No. 3, Electrical District No. 7, Maricopa County Municipal Water Conservation District No. 1, Buckey Water Conservation and Drainage District, Electrical District No. 8, and Electrical District No. 1.

[2] Rate Schedule Designation to be provided to the Comapny by future letter.

dered for filing proposed modifications to the pooling agreement which contains increased rates and charges for short-term power and system capacity for members of the CAPCO Power Pool.[1] The amount of increase cannot be determined at this time.[2] The Company requests waiver of the notice requirements to permit an effective date of August 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unjust.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges in the agreement tendered by the Company on July 20, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges in the agreement tendered by the Company on July 20, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Waiver of the notice requirements is hereby granted.

(D) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until August 2, 1977, when they shall became effective subject to refund.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22589 Filed 8-4-77;8:45 am]

[Docket Nos. CI75-173, etc.]

GULF OIL CORP.

Order Approving Settlement Proposal

JULY 29, 1977.

Pursuant to Section 7(b) of the Natural Gas Act (15 U.S.C. § 717f(b)), Gulf Oil Corporation (Gulf) filed in the above-mentioned dockets applications (Docket Nos. CI75-173, CI77-131, CI77-149, CI77-199, CI77-255, and CI77-266) for Commission authorization to abandon sales of natural gas, in which Gulf proposed to terminate the present sales as certificated and instead deliver gas from the supplies involved to Texas Eastern Transmission Corporation (Texas Eastern) under Gulf's FPC Gas Rate Schedule No. 278.[1]

The above-entitled proceedings were consolidated and set for hearing by Commission orders issued February 28 and March 14, 1977. Pursuant to an order of the Presiding Administrative Law Judge issued April 28, 1977, a prehearing and settlement conference was held on June 14, 1977, during which Gulf presented a settlement proposal. The proposal was certified to the Commission by Presiding Administrative Law Judge Allen C. Lande on June 15, 1977. Notice of the certification of the settlement proposal was issued on June 22, 1977, and appeared in the FEDERAL REGISTER on June 30, 1977, at 42 FR 33370.

Under the terms of the settlement proposal, Gulf and the current pipeline purchasers will promptly execute short-term renewal contracts which will permit Gulf to collect the applicable renewal contract rate in accordance with the Commission's Regulations for the sales of gas involved in these proceedings. The renewal contracts will provide for a primary term to run until the conclusion of the proceedings in Docket Nos. CI77-95, et al.,[2] and any judicial review thereof, and thereafter the contracts will be in effect for successive secondary monthly terms, subject to termination by either party at the conclusion of the primary term. Upon Commission approval of the settlement proposal Gulf's abandonment applications will be withdrawn without prejudice. If Gulf prevails on its abandonment applications in Docket Nos. CI77-95, et al., then Gulf may terminate the short-term renewal contracts and refile its abandonment applications in the instant proceedings to be heard de novo. If Gulf does not prevail on its applications in Docket Nos. CI77-95, et al., then Gulf and the current pipeline purchasers will enter into new five-year-term renewal contracts if the short-term contracts are terminated.

No objections to the settlement proposal were raised at the prehearing and settlement conference. Written comments on the settlement proposal were filed by Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), Texas Eastern, Algonquin Gas Transmission Company (Algonquin) and the Commission Staff.

Texas Eastern and Algonquin briefly state their support of the settlement proposal.

In its comments, Michigan Wisconsin states that it remains strongly opposed to the original abandonment applications, but that it supports the terms of the settlement proposal in the belief that the public interest will best be served by avoiding the necessity of lengthy and possibly unnecessary proceedings in these dockets, "so long as gas continues to flow to the jurisdictional pipelines which have relied upon Gulf to provide the certificated service for which it has sought abandonment authorization in these proceedings," and so long as the pipelines preserve their right to oppose the abandonment applications in the event that they are refiled under the terms of the settlement proposal.

Staff also opposes the original abandonment applications, but states that it does not oppose the settlement proposal in view of the fact that the issues involved here are essentially similar to those involved in the proceedings in Docket Nos. CI77-95, et al., and in consideration of the possibility of eliminating the time and expense of holding hearings in these proceedings. Staff also emphasizes that "the language of the settlement proposal is to be interpreted to provide that Gulf may collect the Commission's renewal contract rate ceiling for continued sales under the prescribed renewal contracts only in accordance with the Commission's Regulations, and only if permitted by the Commission's Regulations and the Commission's interpretation of its Regulations."

As Staff points out, the settlement proposal submitted by Gulf would essentially serve to postpone the question of the need for a hearing and decision in these proceedings pending judicial review of Opinion No. 799, and would permit Gulf to collect a renewal contract rate in the interim for its continued sales to the present pipeline purchasers from the gas supplies involved. If Gulf does not prevail in a final decision in the other proceedings, it would not press further with the applications involved in these proceedings. If Gulf does ultimately prevail, however, it may refile the instant abandonment applications.

We agree with Michigan Wisconsin and Staff that the prospect of eliminating lengthy, costly, and possibly unnecessary proceedings is a significant factor favoring the adoption of the settlement proposal. Another significant factor is the fact that none of the parties

[1] Pennsylvania Power Co., Toledo Edison Co., Ohio Edison Co., and Duquesne Light Co. are the other members.

[2] Rate Schedule Designations to be provided to the Company by future letter.

[1] Gulf's FPC Gas Rate Schedule No. 278 includes a base contract that has been interpreted by the Commission to be a warranty contract. The warranty contract has been the subject of proceedings in Docket No. CI64-26. See Opinion No. 692, 51 F.P.C. 1340 (1974); Opinion No. 692-A, 52 F.P.C. 503 (1974); Opinion No. 780, issued October 15, 1976; and Opinion No. 780-A, issued December 9, 1976.

[2] Gulf filed similar applications for abandonment authorization in Docket Nos. CI77-95, et al., in which Gulf proposed to terminate presently-certificated sales and instead deliver the gas involved to Texas Eastern under the warranty contract. The Commission denied those abandonments in Opinion Nos. 799, issued May 10, 1977, and 799-A, issued July 6, 1977. Gulf has filed an appeal of Opinion Nos. 799 and 799-A in the U.S. Court of Appeals for the Third Circuit in *Gulf Oil Corp.* v. *F.P.C.*, No. 77-1893.

opposes the settlement proposal. No party alleges that it will suffer undue harm during the period that a final resolution of the proceedings in Docket Nos. CI77-95, et al., is pending, and consequently, we will approve the settlement proposal. Our approval of the settlement proposal is based on our understanding that Gulf will receive the renewal contract rate under the terms of the settlement proposal and the prescribed renewal contracts only if Gulf is otherwise entitled to collect such rate.

The Commission finds: The settlement proposal submitted by Gulf is in the public interest.

The Commission orders: The settlement proposal submitted by Gulf in the above-entitled proceedings on June 14, 1977, and certified to the Commission by Presiding Administrative Law Judge Allen C. Lande on June 15, 1977, is hereby approved.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22583 Filed 8-4-77;8:45 am]

[Docket No. ER77-522]

KANSAS CITY POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 22, 1977, Kansas City Power and Light Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to twelve of its customers.[1] The filing would increase the Company's revenues by $2,916,000.00, based on the 12-month period ending June 30, 1978.[2] The Company proposes an effective date of August 31, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly preferential or discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 22, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 22, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until January 31, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22590 Filed 8-4-77;8:45 am]

[Docket No. ER77-388]

LAKE SUPERIOR DISTRICT POWER CO.

Order Granting Late Intervention

AUGUST 1, 1977.

On May 16, 1977, Lake Superior District Power Company (Lake Superior) submitted for filing proposed contracts for wholesale electric service to Medford Electric Utility and to the City of Wakefield. Notice of this filing was issued on June 6, 1977 with all protests, comments and petitions to intervene due on or before June 13, 1977.

On July 11, 1977, an untimely petition to intervene was filed by the Public Service Commission of Wisconsin.

Upon consideration of the late petition to intervene filed on behalf of this petitioner, the Commission finds that good cause exists to grant the petition to intervene.

The Commission finds: Participation by the above-named petitioner in this proceeding may be in the public interest and good cause exists for permitting such intervention.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in this proceeding as hereinbefore discussed, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene; *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedule heretofore established for the orderly and expeditious disposition of the proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22585 Filed 8-4-77;8:45 am]

[Docket No. ER77-211]

MT. CARMEL PUBLIC UTILITY CO.

Extension of Time

JULY 29, 1977

On July 27, 1977, Commission Staff filed a motion to extend the time for filing its response to the Village of Allendale, Illinois, Motion of July 18, 1977, to compel the Mt. Carmel Public Utility Company to comply with the Commission Order issued March 31, 1977, in the above designated docket.

Upon consideration, notice is hereby given that the date for filing responses to the July 18 Motion is extended to and including August 19, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22586 Filed 8-4-77;8:45 am]

[Docket No. ER77-511]

NEW YORK POWER POOL

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 11, 1977, the New York Power Pool (Pool) tendered for filing proposed superseding New York Power Pool Agreement containing increased rates and charges for Power Pool members.[1] The amount of increase or decrease involved cannot at this time be determined from the change in computation of rates filed by the Pool as it will depend on the mechanics of day-to-day operation.[2] The Pool proposes waiver of the notice requirements to permit an effective date of April 4, 1977. It also requests waiver of filing of statements A through O.

A preliminary review of Pool's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly preferential or discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Pool on July 11, 1977, as hereinafter ordered.

[1] Missouri Power and Light Company, City of Marshall, Mo., City of Armstrong, Mo., City of Higginsville, Mo., City of Salisbury, Mo., City of Slater, Mo., City of Gardener, Kan., City of Pomona, Kan., City of Prescott, Kan., Missouri Public Service Company, Coffey County Rural Electric Cooperative Association, Inc., United Electric Cooperative, Inc. (Formerly Sugar Valley Electric Cooperative Association, Inc.).

[2] Rate Schedule Designation to be provided to the Company by future letter.

[1] Participants in the Pool include Central Hudson Gas and Electric Corp., Consolidated Edison Co. of New York, Long Island Lighting Co., New York State Electric and Gas Corp., Niagara Mohawk Power Corp., Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corp., Power Authority of the State of New York.

[2] Rate Schedule Designation to be provided to the Company by future letter.

The Commission orders: (A) The proposed increased rates and charges tendered by the Pool on July 11, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Pool.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Pool are hereby suspended and the use thereof deferred until April 5, 1977, when they shall become effective subject to refund.

(D) The Waiver of filing of Statements A through O by the Pool and Waiver of the notice requirements are hereby granted.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22588 Filed 8-4-77;8:45 am]

[Docket No. ER76-739]

PUBLIC SERVICE CO. OF INDIANA, INC.

Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion To Suspend or To Reject and Granting Interventions

AUGUST 1, 1977.

On June 7, 1976, Public Service Company of Indiana, Inc. (PSCI), filed a notice terminating the Kentucky-Indiana Pool Planning and Operating (KIP) Agreement and all amendments and supplements thereto as of July 1, 1976. The KIP Agreement is presently on file at the Commission as PSCI Rate Schedule FPC No. 225. The instant notice purports to terminate only contractual planning functions pursuant to Section 6.01 of the Agreement. For the reasons hereinafter stated the Commission shall accept PSCI's Notice of Termination for filing, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and institute an investigation pursuant to Sections 202, 206 and 307 of the Federal Power Act to determine if such termination is just and reasonable and consistent with the public interest.

Public notice of PSCI's filing was issued for publication in the FEDERAL REGISTER on July 28, 1976, with protests, petitions, or responses due on or before August 20, 1976. On August 20, 1976, the Electric and Water Plant Board of the City of Frankfort, Kentucky (Frankfort) filed a Petition to Intervene, a request for an investigation and motion requesting rejection of PSCI's filing or, in the alternative, suspension of its operation for five months pursuant to Section 205 of the Federal Power Act. On August 20, 1976, the Indiana Municipal Electric Association and the Cities and Towns of Bainbridge; Bargersville; Centerville; Covington; Darlington; Edinburg; Flora; Greendale; Greenfield; Hagerstown; Lawrenceburg Utilities, Lawrenceburg; Lebanon; Linton; Middletown; Paoli; Pendleton; Rising Sun; Rockville; Scottsburg; South Whitley; Thorntown; Tipton; Veedersburg; and the Town of Waynetown, all located in the State of Indiana (IMEA Cities), filed a Petition to Intervene and a request for investigation to determine whether PSCI's filing is in the public interest. Frankfort and IMEA Cities shall hereinafter be referred to as Municipal Intervenors.

Municipal Intervenors state that they are municipal electric utilities purchasing their power from members of KIP.[1] As a result, Municipal Intervenors state that they are likely to be adversely affected if PSCI's costs are increased or reliability of service decreased due to termination of KIP.[2] Frankfort itself states that since it is seeking to enter the bulk supply business, termination of KIP may adversely affect its opportunities to obtain bulk power supply, coordination, joint planning services and necessary support services in the KIP area. Municipal Intervenors also state that their interests are not represented by the persons now parties to the proceeding. Wherefore, Municipal Intervenors respectfully request that they be permitted to intervene in this proceeding.

In their petitions Municipal Intervenors state that PSCI has not supplied the specific information required by 18 C.F.R. § 35.13(a)[3] of the Commission's Regulations, and that the Commission would be "derelict" in carrying out its duties under Section 202(a) of the Act if it did not order an investigation. Frankfort separately requested by motion that the Commission either reject PSCI's filing as insufficient, or in the alternative, suspend its operation for five months pursuant to Section 205 of the Act pending the outcome of an investigation and hearing.

On September 3, 1976, KU and Indianapolis Power and Light Company (IP&L), filed late Petitions to Intervene and Answers in opposition to Municipal Intervenors' prior filings. KU and IP&L state that since they did not contest PSCI's right under the KIP Agreement to terminate joint planning functions, and since they assumed that no entity not a party to KIP had standing to challenge PSCI's action, they did not respond by the Commission's August 20, 1976, intervention deadline. KU and IP&L further state that they did not receive Municipal Intervenor's petitions until August 23, 1976. Accordingly, KU and IP&L respectfully request leave to intervene out of time. The Commission's review indicates that good cause exists to grant KU and IP&L intervention despite their petition being late filed.

On September 7, 1976, PSCI filed a response in opposition to Municipal Intervenors' Petitions to Intervene advancing substantially the same grounds advanced by KU and IP&L[4]. Together, the KIP Companies state that Municipal Intervenors' petitions, and attendant requests, are "substantive nullities" and should be rejected. In support thereof, the KIP Companies state that said intervenors have not demonstrated an interest, pursuant to Section 1.8 of the Commission's Regulations, sufficient to justify granting them intervention; that Frankfort's motion to reject or suspend PSCI's submittal is inappropriate because PSCI's filing does not modify or cancel current rate schedules on file with the Commission covering existing commitments for various transactions under KIP; and that the Commission has no authority under Section 202(a), Section 205 or any other provision of the Federal Power Act to order public utilities to engage in planning activities, to compel regional interconnection and coordination (or planning therefor); or to order the requested investigation and hearing.

The KIP Companies state that Municipal Intervenors are not members of KIP and will not be directly affected by termination of the joint planning functions of KIP. KU and IP&L separately state that since their interests in seeking to minimize costs are identical to Municipal Intervenors', said Intervenors' interests are adequately represented by KU and IP&L.

The KIP Companies further state that since PSCI's action affects only contractual planning functions, not rate schedules or rates and services thereunder, and since physical interconnections among the KIP Companies will remain intact, coincident with the fact that preexisting Interconnection and Pooling Agreements suspended during the effectiveness of KIP, will be reactivated upon its termination, Municipal Intervenor's action in the proceeding" as required by 18 C.F.R. § 1.8(b)(2).

In the sum, the KIP Companies view PSCI's submittal as an informational filing not subject to the requirements of 18 C.F.R. Part 35 governing changes in rate

[1] Frankfort is a total requirements customer of Kentucky Utilities Company (KU). IMEA Cities are total requirements customers of Public Service Company of Indiana, Inc.

[2] Presumably these allegations relate to the impact of PSCI's action on current KIP operations and on existing rate schedules covering transactions under KIP.

[3] By alleging the applicability of 18 C.F.R. § 35.13(a) and Section 205 of the Act, Municipal Intervenors have characterized PSCI's filing as a rate schedule change.

[4] PSCI, KU and IP&L shall hereinafter be referred to as the KIP Companies. East Kentucky Power Cooperative, Inc. is the forth member of KIP, is not a party to this proceeding and is excluded in the foregoing reference.

schedules, and therefore, not subject to rejection or suspension. They point out that KIP was entered into voluntarily consistent with the policy expressed in Section 202(a) of the Federal Power Act, and that the instant filing merely indicates the exercise of a contractual right reserved under the KIP Agreement. PSCI asserts that the KIP Companies' position is supported by the legislative history underlying Sections 202 and 205.

The Commission's review of the filing in this docket indicates that two basic issues exist: whether, pursuant to 18 C.F.R. § 1.8, Municipal Intervenors have standing to intervene and whether the Commission has authority to reject, suspend or institute an investigation regarding PSCI's termination of the joint planning functions of KIP.

The Commission concludes that Municipal Intervenors have met the requirements of 18 C.F.R. § 1.8 and that their intervention may be in the public interest. The Commission believes that as wholesale customers of the KIP companies, said intervenors may be directly affected by proven increased costs, decreased reliability or anticompetitive effects resulting from the instant termination.

Since the KIP Agreement is a rate schedule currently on file at the Commission[5] and since the KIP Companies' commitment to engage in planning, coordination and pooling is a service under that rate schedule, PSCI's June 7 filing purportedly terminating the service, is a rate schedule change within the meaning of Section 2.4 of the Commission's Regulations and is subject to the requirements of Section 205 of the Federal Power Act. Furthermore, PSCI's June 7 filing is the first step in terminating KIP in its entirety since PSCI stated therein that it "will submit notices of termination of the rate schedules attached to the KIP Agreement at the appropriate times." Since the foregoing attached rate schedules were entered into while the KIP Agreement planning provisions were in effect, the Commission's review indicates that customers purchasing electric power under these rate schedules might be required to bear increased costs or reduced reliability of service as a result of PSCI's filing. Consequently, the Commission has an obligation to determine if PSCI's filing is consistent with the standards of Section 205 and 206 of the Federal Power Act, and the Commission's Regulations thereunder.

PSCI's statement in its June 7 filing that contractual planning functions under KIP will terminate "as of July 1, 1976" does not meet the thirty day notice requirement of Section 205(d) of the Federal Power Act. Consequently, implicit in PSCI's filing is a request for waiver of such requirement which request is permitted by Sections 1.7(b), 1.14(a) and 35.11 of the Commission's Regulations. With regard thereto, the Commission notes that the June 7 filing merely purports to terminate the future planning functions of KIP, but does not address, or purport to change, rate schedules underlying KIP. Accordingly, the Commission concludes that good cause exists to waiver the aforesaid notice requirement under its Regulations and to grant PSCI's implicit request, thus assigning an effective date of July 1, 1976, to its June 7 filing.

Attached to PSCI's June 7 filing was a letter dated June 1, 1976, from PSCI's management to the other KIP members which stated the reasons for its actions: "(D)ue to the inability of the parties to agree: (i) Upon the terms and conditions for the inclusion of our two proposed nuclear generating units in the pool, (ii) upon revisions in the KIP Agreement that we feel are financially vital to our Company; and, (iii) upon operating procedures that are financially important to our Company, we have no alternative other than to terminate this KIP Agreement." The Commission shall accept these reasons as meeting the requirements of 18 C.F.R. 35.13(a) for filing purposes and shall accept PSCI's submittal for filing, giving it the effective date of July 1, 1976, stated above. Accordingly, Frankfort's motion requesting rejection of PSCI's filing shall be denied.

Commission review of Municipal Intervenors' request that PSCI's filing be suspended for five months pursuant to Section 205 of the Federal Power Act indicates that a grant of such request is neither warranted by the circumstances surrounding PSCI's filing, nor necessary to carry out Commission responsibilities to protect the public interest under the Act. Accordingly Frankfort's motion requesting a five month, suspension of PSCI's filing shall be denied.

Section 202(a) of the Federal Power Act mandates that "It shall be the duty of the Commission to promote and encourage such interconnection and coordination . . . ". The importance of encouraging coordinated planning and operation of bulk power supply systems has been a cornerstone of Commission policy for many years. In the 1964 National Power Survey, the Commission reviewed the various ways in which coordination can reduce the overall cost of power through savings in reduced reserve requirements, through utilization of larger and more economical bulk power supply facilities, and in other ways. The Commission concluded: "What is now needed is acceleration of the trend toward increasingly comprehensive coordination over expanding geographic areas." In the 1970 National Power Survey, the Commission stated: "The large increase in the electric power requirements anticipated during the next decade makes it imperative that electric utilities accelerate coordinated planning and operations in order to optimize the use of resources and to minimize the environmental impact of electric facilities."

The Commission has broad authority to consider public utility actions touching the "public interest" under all sections of the Federal Power Act, including Section 202(a). See *Gulf States Utilities* v. *F.P.C.*, 411 U.S. 747 (1973). Recognizing this authority and the possible harm to the public interest as a result of the termination of the planning function under the KIP Agreement, the Commission at its meeting of January 4, 1977, directed the staff to meet with representatives of the KIP Pool and representatives of the Municipal Intervenors. Among the matters mentioned for discussion were the reasons for the impending breakup of the pool, the possibilities for keeping the pool in being, the economic effects of termination of the members, and the alternatives available to pool members.

A Notice of Conference was issued on January 6, 1977, and on February 10, 1977, FPC's staff held the meeting, and reported to the Commission at the regular agenda meeting of May 18, 1977, that the information reluctantly elicited was not sufficient to get a clear understanding of the necessity for the termination and its future effects.

As a follow-up to the foregoing effort, the Commission directed staff to contact the East Central Area Commission Reliability Council (ECAR) to determine the impact of termination of KIP on power supply in the region. Staff contacted a number of ECAR officials and reported at the agenda meeting of June 29 that none of the officials contacted were familiar in any detail with the problems within KIP.

Subsequent contacts by Staff with officials of the Kentucky Public Service Commission and Eastern Kentucky Power Cooperative the smallest of the four KIP members, did not shed light on the basis or the public interest effects of PSCI's submittal.

Wherefore, the Commission shall order an investigation of the circumstances surrounding PSCI's filing in order to effectuate its Section 202(a) duties of protecting the public interest and promoting and encouraging voluntary interconnection and coordination. The importance of power pooling for the efficient planning and operation of power systems cannot be questioned thus making the impending breakup of the KIP power pool a matter of the utmost seriousness. It is not enough to know that the KIP members were unable to agree on the treatment of two nuclear units proposed to be built by PSCI. To effectuate its 202(a) responsibilities the Commission must know the extent of the efforts made to preserve the planning functions of this pool, the reasons why they could not be preserved, the alternatives available to pool members, and the extent to which the problems of this pool may be typical of other pools, since it may be that legislative proposals need to be formulated

[5] PSCI Rate Schedule FPC No. 225, filed pursuant to Section 205(c) of the Act. 18 C.F.R. § 35.2(b) defines a rate schedule as "a statement of (1) electric service as defined in paragraph (a) of this section (2) rates and charges for or in connection with that service, and (3) all classifications, practices, rules, regulations, or contracts which in any manner affect or relate to the aforementioned service, rates and charges."

or to allow the Commission to respond to Congressional inquiries on legislation now pending.[6] Certainly the Commission has the authority to investigate such matters for this purpose under Section 307.[7] In addition, the Commission needs to know the economic impact on the

Wherefore, the Commission's review indicates that PSCI's filing has not been shown to be in the public interest. Accordingly, the Commission shall accept PSCI's June 7 Notice of Termination for filing, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and institute an investigation under Sections 202, 206, 307 and 311 of the Federal Power Act to determine if such termination is consistent with the public interest.

In order to expedite this investigation we shall order a pre-hearing conference at which a Presiding Administrative Law Judge shall set further procedural dates, establish procedures for expeditious discovery of the relevant facts, and receive the views of the parties on such other matters as affect the conduct of the investigation herein ordered.

The Commission finds: (1) Good cause exists to accept for filing PSCI's Notice of Termination filed herein on June 7, 1976, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and deny Frankford's motion to reject the filing or to suspend its operation for five months.

(2) It is necessary and proper in the public interest and to aid in enforcement of the Federal Power Act that the Commission enter upon an investigation of the circumstances surrounding the termination of joint planning functions of the KIP Agreement.

(3) Good cause exists to grant the Petitions to Intervene of the Municipal Intervenors, KU and IP&L, as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly Sections 202, 206, 307, and 311 thereof, and the Commission's Rules and Regulations, the Commission hereby institutes an investigation of the circumstances surrounding the termination of joint planning functions of the KIP Agreement.

(B) PSCI's June 7 submittal is hereby accepted for filing, the implicit request for waiver of notice requirements as permitted by Section 35.11 of the Commission's regulations is hereby granted, and the filing is hereby assigned an effective date of July 1, 1976.

(C) Frankfort's motion to reject PSCI's filing or to suspend its operation for five months, is hereby denied.

(D) A prehearing conference shall be held at 10 A.M., August 22, 1977, for the purpose of setting further procedural dates, establishing procedures for expeditious discovery of the relevant facts, and receiving the views of the parties on such other matters as affect the conduct of the investigation herein ordered.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the pre-hearing conference and at the later hearings, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies and limitations expressed in this order.

(F) Municipal Intervenors, KU and IP&L are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective Petitions to Intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22582 Filed 8-4-77;8:45 am]

[Docket No. CP77-513]

TENNESSEE GAS PIPELINE

Application

JULY 29, 1977.

Take notice that on July 20, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-513 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for two years of up to 2,000 Mcf of natural gas per day for Owens-Corning Fiberglas Corporation, an existing direct industrial customer of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Owens-Corning owns and operates an industrial plant located in Anderson, South Carolina, where it utilizes natural gas in the manufacture of fiberglass products. In order to moderate the effects of curtailment imposed upon its system, Owens-Corning has entered into a contract with Kilroy Properties, Inc. (Kilroy) for the purchase by Owens-Corning of natural gas produced from the East Chatham Field Jackson Parish, Louisiana, it is indicated. It is stated that Owens-Corning would pay, for gas purchased from Kilroy, a total initial price of $2.00 per million Btu's, which price would escalate to $2.15 at the end of the 12-month period following initial deliveries under said contract. It is further stated that in order to make such gas available to it, Owens-Corning has made arrangements with Applicant and Transco for the transportation and delivery of such gas to Owens-Corning at its Anderson, South Carolina plant.

Applicant proposes (1) to receive from Kilroy at an interconnection of Applicant and Kilroy's facilities in Jackson Parish, Louisiana, up to a Maximum Daily Quantity (MDQ) of 2,000 Mcf, and (2) through the utilization of existing facilities, to transport and deliver to Transco for the account of Owens-Corning, equivalent daily volumes of natural gas, up to said MDQ, at an existing interconnection between Applicant and Transco's facilities in Acadia Parish, Louisiana or when required by operating conditions, at other mutually agreeable existing interconnections between the facilities of Applicant and Transco for a period of 2 years.

Applicant indicates that it has entered into a transportation contract dated July 15, 1977, with Owens-Corning and Transco, which contract provides that Applicant would receive into its pipeline facilities at its Main Line Valve 44 plus 9.7 miles near the East Chatham Field in Jackson Parish, Louisiana, such volumes as Owens-Corning would cause Kilroy to make available to Applicant and which determines its operating conditions would permit it to receive, up to the MDQ. It is stated that Applicant would transport and deliver equivalent quantities of gas to Transco for the account of Owens-Corning at Applicant's Main Line Valve 509 plus 3.5 miles in Acadia Parish, Louisiana, or at other mutually agreeable points.

It is indicated that Owens-Corning would pay Applicant each month for the proposed transportation service (1) a demand charge to be determined by multiplying 45.0 cents by the MDQ, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 5.73 cents multiplied by (a) the total of the daily volumes delivered by Applicant during such month or (b) the number of days in said month multiplied by 66⅔ percent of the MDQ, whichever is greater, less any applicable annual minimum bill credit as provided therein.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22584 Filed 8-4-77;8:45 am]

[Docket Nos. CP69-82, CP72-34, and CP75-282]

TEXAS EASTERN TRANSMISSION CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Findings and Order Vacating and Partially Vacating Certificates of Public Convenience and Necessity

AUGUST 1, 1977.

On June 22, 1977, Texas Eastern Transmission Corporation (TETCO) filed petitions, with respect to orders issued pursuant to Section 7(c) of the Natural Gas Act, asking the Commission to (1) vacate in part the certificate issued in Docket No. CP69-82, (2) allow TETCO to withdraw its applications for certificates in Docket Nos. CP72-34 and CP75-282, and (3) vacate the certificates issued in Docket Nos. CP72-34 and CP75-282. Transcontinental Gas Pipe Line Corporation (Transco) joined TETCO in its petition in Docket No. CP75-282. The requests are more fully set forth in the petitions.

Docket No. CP69-82: Following a statutory hearing, the Commission issued, on May 6, 1969, authorization for a major expansion program involving an aggregate 330 miles of 36-inch pipeline loop, 193,500 compressor horsepower, and other facilities (41 FPC 596). The capacity increase was to have been constructed over a three-year period and would have totaled 229,506 Mcf per day (102,003 Mcf per day during 1969, 76,502 Mcf per day during 1970, and 51,001 Mcf per day during 1971) at a total estimated cost of $177,295,000. The order authorized sales increases to sole requirements customers aggregating 64,022 Mcf per day. The remaining capacity increase was reserved for emergency utilization pending acquisition of additional gas supplies. TETCO was to file for additional authorizations to make additional sales. All facilities were to be built by November 1, 1971. Later orders extended the time to December 31, 1976.

Only that portion of the facilities necessary to obtain a capacity increase of 64,022 Mcf per day, the quantity of additional sales authorized, was ever built. These consisted of approximately 92 miles of 36-inch loopline, 114,900 horsepower and minor appurtenant facilities at a cost of $51,900,000, as reported in a progress statement filed by TETCO March 2, 1970. TETCO now seeks an order that would (1) vacate that portion of the authorization relating to the remaining facilities consisting of 238 miles of 36-inch loop line, 78,400 horsepower and appurtenant facilities and (2) terminate proceedings in this docket.

After the certificate application was filed, the Public Service Commission of New York (PSC) filed a notice of intervention requesting a formal hearing in this docket. Because the request was prompted chiefly by TETCO's proposal to limit expanded first year service to its sole requirement customers, PSC withdrew the request after receiving assurances from TETCO that it intended to meet the increased needs of all customers regardless of whether they had other sources of supply. Since PSC withdrew its request for a formal hearing, no impediment remains to our granting TETCO's petition to vacate its certificate in part. In any event, PSC's objection to allocating a pipeline's incremental supply to full requirement customers is no longer relevant to this docket. TETCO has constructed only that portion of the new facilities necessary to handle the additional sales actually authorized. It has not sought authorization for any additional sales, nor has it constructed the facilities to handle its uncommitted capacity, even though the deadline of December 31, 1976, has passed. To reopen these proceedings is therefore unnecessary.

Docket No. CP72-34: After a statutory hearing in this docket, the Commission, on January 21, 1972, authorized the construction of a 4,500 horsepower addition to TETCO's Joaquin, Texas, compressor station within one year of the order (47 FPC 135). By later orders the time for such construction was extended to January 20, 1976. These facilities have not been constructed. In view of the gas shortage, TETCO no longer has need for the additional capacity and requests authorization to withdraw its application. TETCO also requests the Commission to vacate the order granting a certificate of public convenience and necessity issued in this matter.

The Commission does not consider it appropriate to allow TETCO to withdraw its application in this docket. The application was considered on the merits and a certificate issued. Furthermore, permission to withdraw the application would be superfluous in the face of an order vacating the certificate.

Docket No. CP75-282: By an order issued on June 4, 1975, the Commission, following a statutory hearing, authorized TETCO and Transcontinental Gas Pipe Line Corporation (Transco) to construct and operate facilities to exchange gas in Neuces County, Texas. The total cost of the interconnection was estimated to be $49,050. The facilities were to have been completed by June 6, 1976. Because they have been unable to secure the measuring station site at reasonable cost, Applicants do not intend to construct the interconnection. The gas supplies will continue to be delivered at another point.

TETCO and Transco request authority to withdraw their application and request the Commission to vacate the order issuing a certificate of public convenience and necessity in this matter.

For the reasons set forth above in the discussion of Docket No. CP72-34, the Commission does not consider permission to withdraw the application an appropriate form of relief.

The Commission finds: (1) The requests by Texas Eastern Transmission Corporation that the Commission partially vacate the certificate of public convenience and necessity issued in Docket No. CP69-82 and terminate those proceedings and that the Commission completely vacate the certificate issued in Docket No. CP72-34 are in the public interest and should be granted.

(2) The request by Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation that the Commission vacate the certificate of public convenience and necessity issued in Docket No. CP75-282 is in the public interest and should be granted.

(3) The requests by Texas Eastern Transmission Corporation that it be allowed to withdraw its applications in Docket Nos. CP72-34 and CP75-282 and by Transcontinental Gas Pipe Line Corporation that it be allowed to withdraw its application in Docket No. CP75-282 are not in the public interest and should not be granted.

The Commission orders: (A) The certificate of public convenience and necessity granted to Texas Eastern Transmission Corporation in Docket No. CP69-82 by Commission order of May 6, 1969, as amended, is vacated insofar as it applies to facilities authorized but not constructed as of December 31, 1976.

(B) The proceeding in Docket No. CP69-82 is terminated.

(C) The certificate of public convenience and necessity issued to Texas Eastern Transmission Corporation in Docket No. CP72-34 by Commission order of August 9, 1971, as amended, is vacated

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[6] See e.g., H.R. 6831, National Energy Act; H.R. 6660, Electric Utility Act of 1977; H.R. 2615, Electric Utility Rate Reform and Regulatory Improvement Act; H.R. 2393, Federal Power Commission Reform Act of 1977; and H.R. 823, Electric Rate Regulatory Reform Act of 1977.

[7] Section 307 provides in part: "The Commission may investigate any * * * matters * * * in obtaining information to serve as a basis for recommending further legislation concerning matters to which this Act relates.".

(D) The certificate of public convenience and necessity issued to Texas Eastern Transmission Corporation and to Transcontinental Gas Pipe Line Corporation in Docket No. CP75-282 by Commission order of June 4, 1975, is vacated.

(E) The request by Texas Eastern Transmission Corporation that it be allowed to withdraw its application in Docket No. CP72-34 is denied.

(F) The request by Texas Eastern Transmission Corporation and by Transcontinental Gas Pipe Line Corporation that they be permitted to withdraw their application in Docket No. CP75-282 is denied.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22581 Filed 8-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA WAIVER PETITION NO. HS-77-9]

FORE RIVER RAILROAD CO.

Notice of Petition for Exemption From the Hours of Service Act

The Fore River Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61-64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-77-9, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before August 31, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on July 29, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77-22530 Filed 8-4-77;8:45 am]

FEDERAL RESERVE SYSTEM

BANCO CENTRAL, S.A.

Order Approving Formation of Bank Holding Company

Banco Central, S.A., Madrid, Spain, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of the formation of a bank holding company through acquisition of all the voting shares of Banco Central y Economias ("Bank"), Hato Rey, Puerto Rico. Bank, a new bank organized under the laws of the Commonwealth of Puerto Rico, proposes to purchase assets and assume liabilities, including deposit liabilities, of Banco Economias, San German, Puerto Rico. Bank would be the successor to Banco Economias and, accordingly, the proposed acquistion of voting shares of Bank is treated in this Order as a proposed acquistion of voting shares of Banco Economias.

Notice of the application has been given to the Secretary of the Treasury of the Commonwealth of Puerto Rico, who has advised the Board that he has no objection to approval of the application. Published notice of the application has been dispensed with because of the emergency that exists.[1] The Act does not require such notice. The Board has considered the application and the comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a Spanish commercial bank with total assets of approximately $8.5 billion and total deposits of approximately $7.2 billion, is the second largest commercial bank in Spain. Applicant has 1,181 offices, including six foreign branches, and nine representative offices. Applicant also plans to establish an agency in New York City.[2]

Banco Economias, the assets and liabilities of which Bank will acquire, is the sixth largest of 15 nongovernment-owned banking organizations operating in Puerto Rico, and holds deposits of approximately $199 million, or 4.1 percent of the total deposits in commercial banks in the Commonwealth of Puerto Rico.[3] Applicant does not now operate in Puerto Rico, and it does not appear that any meaningful competition would be eliminated as a result of the proposal. Consummation of the proposal should, in fact, have a salutary effect on competition by restoring Bank to a condition that will enable it to compete with other banking organizations in the market. Therefore, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant are considered satisfactory and its future prospects appear favorable. Without consummation of this proposal, the financial resources and future prospects of Banco Economias would be considered poor, and if it is to continue as a viable banking institution it must be acquired by a sound and well-managed organization such as Applicant. Applicant will provide Bank with needed financial and managerial resources and will greatly improve its future prospects. These factors lend great weight toward approval. Considerations relating to the convenience and needs of the community to be served also lend weight toward approval, as the continuity of banking services by a locally-chartered institution would be maintained in areas now served by Banco Economias. It is the Board's judgment, therefore, that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant appears to qualify, upon consummation of the proposed transaction, as a foreign bank holding company under section 225.4(g)(1) of Regulation Y, and as such it will be exempt from certain of the nonbanking prohibitions of the Act applicable to domestic bank holding companies. Specifically, a foreign bank holding company may, without the Board's prior approval, retain and acquire shares of any company that is not engaged, directly or indirectly, in any activities in the United States except those incidental to such company's international or foreign business. Applicant does not itself engage in any nonbanking activity in the United States and it does not own, directly or indirectly, more than five percent of the shares of any company located in the United States. Applicant is in the process of submitting information to clarify whether Board approval is necessary for the retention of shares it holds directly or indirectly in any foreign company on the basis of that company's direct activities in the United States. Under section 4(a)(2) of the Act, Applicant would have a two-year period from the time it becomes a bank holding company to secure such approval or to dispose of shares of any such company in excess of five percent.

On the basis of the record, the application is approved for the reasons summarized above, subject to the issuance of all necessary regulatory approvals for Bank to commence business as an insured bank. The transaction shall not be made before the thirtieth day after the effective date of this Order, or later than three months after the effective date of this Order unless such period is extended for good cause by the Board or the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[4] effective July 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22531 Filed 8-4-77;8:45 am]

PREFERRED MANAGEMENT CO.

Correction

In F.R. document 77-18668 appearing at page 33379 of the issue for Thursday, June 30, 1977, footnote 2 should have read:

[2] Applicant also provides management consulting and investment advice to Bank and leases real and personal property to Bank. Upon consummation of the acquisition of additional shares of Bank by Applicant, these activities would be exempt from the prohibitions of § 4 and § 4(a)(2) of the Act (12 U.S.C. § 1843(a)(2)).

Board of Governors of the Federal Reserve System, August 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22532 Filed 8-4-77;8:45 am]

SUMMIT HOLDING CORP.

Formation of Bank Holding Company

Summit Holding Corporation, Tamarac, Florida, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 90 per cent or more of the voting shares of Summit Bank, Tamarac, Florida. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. §1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1977.

Board of Governors of the Federal Reserve System, August 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22533 Filed 8-4-77;8:45 am]

[Docket No. TCR 76-126]

UNION FINANCIAL CORP.

Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

Union Financial Corporation, Denver, Colorado ("UFC") (formerly Stuarco Oil Company, Inc. ("Stuarco")), has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sales of various oil and gas properties during 1973 and 1974 were necessary or appropriate to effectuate the policies of § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act"). UFC has also requested a final certification pursuant to § 6158(c)(2) of the Code that UFC has (before the expiration of the period prohibited property is permitted to be held under the BHC Act by a bank holding company) disposed of all the property the disposition of which is necessary or appropriate to effectuate § 4 of the BHC Act.[1]

In connection with these requests, the following information is deemed relevant for purposes of issuing the requested certification:[2]

1. UFC is a corporation organized under the laws of the State of Colorado on March 25, 1966.

2. On August 28, 1969, UFC acquired ownership and control of 990 shares, representing 100 percent of the outstanding voting shares, of UNB Corporation, Denver, Colorado ("UNB").[3] On that date UNB owned and controlled 57,360 shares, representing 95.6 percent of the outstanding voting shares, of Union National Bank (later United Bank & Trust), Denver, Colorado ("Bank").

3. UFC became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct and indirect ownership and control at that time of more than 25 percent of the outstanding voting shares of UNB, and by virtue of its indirect ownership and control at that time, through UNB, of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on July 2, 1971.[4] UFC would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its direct and indirect ownership and control on that date of more than 25 percent of the outstanding voting shares of UNB and Bank, respectively. At the time of each of the sales described in paragraph 4 below UFC directly and indirectly owned and controlled more than 25 percent of the outstanding voting shares of UNB and Bank, respectively.

4. On or about May 31, 1973, UFC sold substantially all of its drilling rigs and related equipment to Exeter Drilling Contractors, Denver, Colorado, for cash. On October 1, 1973, after receiving written bids, UFC sold substantially all of its producing oil and gas properties and its undeveloped oil and gas properties to the highest bidder, Terra Resources, Houston, Texas, for cash.[5] Shortly thereafter, various minor mineral interests were sold to the major stockholders of UFC at an appraised value of $23,000. Concurrently, certain other office furniture, fixtures, and leasehold improvements were sold to one of UFC's stockholders at an independently appraised value. All of the foregoing transactions were for cash.

5. On each of the dates set forth in paragraph 4, UFC held property acquired by it on or before July 7, 1970, the disposition of which was necessary or appropriate to effectuate § 4 of the BHC Act if UFC were to continue to be a bank holding company beyond December 31, 1980, which property was "prohibited property" within the meaning of §§ 6158(b)(1) and 1103(c) of the Code.

6. Neither UFC nor any subsidiary of UFC holds any interest in any of the purchasers of the property described in paragraph 4 (the "Purchasers"), or in any subsidiary of any of the Purchasers.

7. None of the Purchasers, or any subsidiary of any of the Purchasers, holds any interest in UFC or any subsidiary of UFC.

8. No officer, director (including honorary or advisory director) or employee with policy-making functions of UFC or any subsidiary of UFC also holds any such position with any of the Purchasers or any subsidiary of any of the Purchasers.

9. UFC does not control in any manner the election of a majority of the directors, or exercise a controlling influence over the management or policies, of any of the Purchasers or any subsidiary of any of the Purchasers.

10. UFC does not presently own or control any property the disposition of which would be necessary or appropriate to effectuate § 4 of the BHC Act if UFC were to remain a bank holding company beyond December 31, 1980.

On the basis of the foregoing information and other facts of record, it is hereby certified that:

(A) at the time of the sales described in paragraph 4 above, UFC was a qualified bank holding corporation, within the meaning of § 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of that subsection;

(B) the property sold by UFC as described in paragraph 4 above was "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code;

(C) UFC has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) disposed of all of the property the disposition of which is necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by UFC and upon the facts set forth above

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[1] The Federal Deposit Insurance Corporation has asked the Board to act on this application as soon as possible for reasons related to the condition of Banco Economias.

[2] Banking data are as of December 31, 1976.

[3] Deposit and market data within Puerto Rico are as of June 30, 1976.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] Pursuant to §§ 2(d)(2) and 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in § 6158(a) shall be treated as made before the sale, and the certification described in § 6158(c)(2) shall be treated as made before the close of the calendar year following the calendar year in which the last such sale occurred, if application for such certification was made before the close of December 31, 1976. UFC's application for such certification was postmarked December 31, 1976.

[2] This information derives from UFC's correspondence with the Board concerning its request for this certification, UFC's Registration Statment filed with the Board pursuant to the BHC Act, and other records of the Board.

[3] UNB engages in no other activity than the holding of Bank's stock.

[4] UNB similarly became a bank holding company on December 31, 1970, by virtue of its direct ownership and control of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on December 30, 1971.

[5] In connection with its request for this certification, UFC submitted a copy of its Tax Return Schedule showing the oil and gas properties and leasehold equipment it sold during 1973-74. Those properties and equipment were located in the following States: Colorado, Nebraska, Wyoming, Texas, Oklahoma, Louisiana and Montana. In addition, pursuant to § 1102(d) of the Code, UFC submitted an itemization of all oil and gas leases and related property and equipment divested during the period 1970-1974.

In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by UFC, or that UFC has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 C.F.R. § 265.2(b)(3), effective July 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22534 Filed 8-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 26, 1977, from 9:30 a.m. to 4:00 p.m., Room 3E1, 1776 Peachtree St., NW, Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Miami, FL, USPO & Courthouse. The The meeting will be open to the Public."

Dated: July 22, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22499 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 25, 1977, from 9:30 a.m. to 4:00 p.m., Room 102E, 1776 Peachtree St., NW, Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Charlotte, North Carolina, Federal Building. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22500 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 23, 1977, from 9:30 a.m. to 4 p.m., Room 3E1, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Louisville, Kentucky, U.S. Post Office-Court House-Custom House. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22501 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 24, 1977, from 9:30 a.m. to 4:00 p.m., Room 102E, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Lexington, Kentucky, U.S. Post Office and Court House. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22502 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 24 & 25, 1977, from 9:30 a.m. to 4:00 p.m., Room 3E1, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Atlanta, Georgia, U.S. Courthouse. The meeting will be open to the public."

Dated: July 22, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22504 Filed 8-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR E-166]

SUPPLY AND PROCUREMENT

Elimination of Use of Cash Shopping Plates in GSA Self-Service Stores

1. *Purpose.* This bulletin provides advance notice to agencies that on or about October 1, 1977, GSA will discontinue the issuance and use of cash shopping plates.

2. *Expiration date.* This bulletin expires on December 31, 1977.

3. *Background.* For several years GSA has offered both cash and charge shopping plates for the convenience of agency personnel using GSA self-service stores. A recent review and analysis of this practice and expenses associated therewith disclosed that the cost of handling cash transactions compared unfavorably with that of handling charge transactions, and outweighed the benefits derived from providing a cash purchase capability. Consequently, GSA will discontinue the issuance of cash shopping plates and will not accept them for purchases of items at its self-service stores.

4. *Recommended actions.* Agencies should take action to inform their authorized holders of GSA self-service store cash shopping plates of the information in this bulletin and advise them to arrange for the issuance of a charge shopping plate, if needed. Futher, the holders of cash shopping plates should be advised to either destroy the plates or return them to the GSA regional office that issued them.

5. *Additional information.* Inquiries concerning the discontinuance of the use of cash shopping plates should be directed to the appropriate GSA regional retail services activity.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc.77-22573 Filed 8-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of September 1977:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Date and time: September 7-9; 9:30 a.m.
Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open—September 7. Closed—Otherwise.
Contact: Mrs. Zelia Diggs, Room 11-101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4333.

Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.
Agenda: On September 7, the meeting will be open for discussion of NIMH policy issues. These will incude current administrative, legislative and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Date and time: September 19-20; 9:30 a.m.
Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open—September 19. Closed—September 20.
Contact: Rhoda L. Christensen, Parklawn Building, Room 16-86, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4703.
Purpose: Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.
Agenda: September 19 will be devoted to a discussion of the Fiscal Year 1978 Budget, Status of Third Special Report to the U.S. Congress on Alcohol and Health, Progress Report on Intramural Research, Institute Goals and Priorities. Agenda items are subject to change as priorities dictate.

September 20, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

PSYCHIATRIC NURSING EDUCATION REVIEW COMMITTEE

Date and time: September 26; 9:00 a.m.
Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open Meeting.
Contact: Dr. M. Leah Gorman, Room 8C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4423.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatric nursing manpower development and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 a.m. to 3:00 p.m., on September 26, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute. Attendance by the public will be limited to space available.

PARAPROFESSIONAL MANPOWER DEVELOPMENT REVIEW COMMITTEE

Date and time: September 29-30, 9:00 a.m.
Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open Meeting.
Contact—Vernon R. James, Room 8C-02 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, 301-443-1333
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to paraprofessional manpower development and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 a.m. to 4:30 p.m., on September 29 and 30, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute. Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact persons listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office for Public Affairs, NIAAA, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: August 1, 1977.

CAROLYN T. EVANS,
Committee Management Officer,
Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-22504 Filed 8-4-77;8:45 am]

[Docket No. 76F-0446]

E. I. DUPONT DE NEMOURS & CO.

Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The notice of filing pertaining to a petition (FAP 6B3243) submitted by E. I. duPont de Nemours & Co. proposing that the food additive regulations be amended to provide for the safe use of nylon 66 resins reinforced with calcium silicate intended to contact food is amended to provide that such regulation provide for the safe use of 3-(triethoxysilyl) propylamine.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5)), 72 Stat. 1786 (21 U.S.C. 348 (b)(5)), notice was given in the FEDERAL REGISTER of November 23, 1976 (41 FR 51655) that a petition (FAP 6B3243) had been filed by E. I. duPont de Nemours & Co., 1007 Market St., Wilmington, DE 19898, proposing that § 177.1500 Nylon resins (21 CFR 177.1500, formerly § 121.2502, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for the safe use of nylon 66 resins reinforced with calcium silicate for use as articles or components of articles intended for repeated use in contact with nonacidic food.

Notice is given that, in addition, the petition proposes that such regulation provide for the safe use of 3-(triethoxysilyl) propylamine as a component of the reinforced nylon 66 resins.

Dated: July 25, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.77-22505 Filed 8-4-77;8:45 am]

Food and Drug Administration

[Docket No. 76N-0245, DESI 5856]

PHENYTOIN AND PHENYTOIN SODIUM

Drug for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that all single entity non-controlled-release oral dosage forms of phenytoin or phenytoin sodium are new drugs and require approved abbreviated new drug applications (ANDA's) in order to market in interstate commerce. It also affirms that all combinations and controlled-release products are new drugs and require approved "full" new drug applications (NDA's).

DATES: Notice effective August 5, 1977.

ANDA's for single entity non-controlled-release products being marketed commercially on August 5, 1977, must be submitted by February 1, 1978.

Submissions in support of a claimed exemption from the new drug provisions of the Federal Food, Drug, and Cosmetic Act must be submitted by October 4, 1977.

ADDRESSES: Communications pursuant to this notice should be identified with the reference number DESI 5856 and FDA Docket Number 76N-0245, addressed to the attention of the office named below, the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857.

Original full new drug applications and supplements thereto: Division of Neuropharmacological Drug Products (HFD-120), Room 10B-45, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for protocols for bioavailability studies: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Submissions concerning exemption from new drug provisions of the act: Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Department of Health, Education, and Welfare, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 5856, Docket No. 76N-0245) published in the FEDERAL REGISTER of July 29, 1976 (41 FR 31588), the Director of the Bureau of Drugs concluded that diphenylhydantoin (now officially named phenytoin) in oral form is regarded as a new drug (as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act")) and is effective for control of grand mal and psychomotor seizures. The notice stated that all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named in the notice (as defined in 21 CFR 310.6) must have an approved new drug application as a condition to lawfully marketing that product. One phenytoin product was named in the notice: Dilantin (oral) Suspension (NDA 8-792) held by Parke, Davis & Co., Joseph Campau Ave. at the River, Detroit, MI 48232.

Just prior to this notice, the Food and Drug Administration (FDA) had published a revision of a booklet entitled "Holders of Approved New Drug Applications for Drugs Presenting Actual or Potential Bioequivalence Problems" (Department of Health, Education, and Welfare Publication No. (FDA)-76-3009 dated June 1976); because of the color of its cover, it has become known as the "Blue Book." It identified phenytoin as a drug presenting an actual or potential bioequivalence problem and listed two firms that are holders of approved new drug applications for phenytoin oral suspension. The Blue Book stated that phenytoin sodium capsules were related drugs and indicated that no new drug application had been approved for this dosage form. The Blue Book also stated that as of June 1976 a new drug application was not required for marketing phenytoin sodium capsules. The Blue Book statement that a new drug application is not required as a condition for marketing phenytoin sodium capsules is rescinded and superseded by this DESI notice.

Because of the discrepancies between the Blue Book and the DESI notice, questions have arisen whether FDA considers phenytoin tablets, capsules, phenytoin sodium capsules, or other dosage forms of phenytoin, to be related to the phenytoin oral suspension identified in the DESI notice and therefore a new drug requiring an approved new drug application for marketing. The purpose of this notice is to resolve these questions.

The legal status and conditions for marketing such products are discussed below.

I. SINGLE ENTITY NON-CONTROLLED-RELEASE ORAL FORMS OF PHENYTOIN OR PHENYTOIN SODIUM INTENDED FOR USE FOR THE CONTROL OF GRAND MAL AND PSYCHOMOTOR SEIZURES:

A. *Legal status.* Such products are regarded as new drugs as defined in section 201(p) of the act, and subject to the requirements of section 505 of the act, for the following reasons:

1. The Food and Drug Administration is not aware of a past finding by experts that any such product is generally recognized as safe and effective.

2. The finding of an actual or potential bioavailability/bioequivalence problem precludes a finding that such products are generally recognized as safe and effective. The finding that such problems exist was published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26168).

3. The July 29, 1976 DESI notice referenced 21 CFR 310.6 concerning drug products which may be identical, related, or similar to phenytoin oral suspension. The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other non-reviewed drugs. Paragraph (b) expands on this to say:

Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director concludes that the finding of effectiveness for phenytoin oral suspension is also applicable to other single entity non-controlled-release oral dosage forms of phenytoin and phenytoin sodium, provided such dosage forms fulfill bioavailability/bioequivalence requirements. Accordingly, such products are subject to the ANDA provisions of the July 29, 1976 DESI notice, as amended by this notice.

B. *Conditions for marketing.* The DESI notice stated that approval of a new drug application must be obtained prior to marketing any product covered by the notice that was not subject to an approved or effective new drug application on July 29, 1976, and, for products covered by such applications, a supplemental application containing certain data was required. The notice also indicated that an abbreviated new drug application (21 CFR 314.1(f)) would be accepted to fulfill this requirement. The notice did not indicate that such applications or supplements must contain data to show that the drug is biologically available in the formulation marketed or proposed to be marketed. Because phenytoin is currently identified by FDA as a drug with an actual or potential bioequivalence problem, the DESI notice of July 29, 1976 is hereby amended to require bioavailability data as part of the applications or supplements. Protocols for bioavailability studies are available upon request from the Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

The DESI notice did not address the conditions for continuing to market a product covered by the notice that was not then subject to an approved or effective new drug application. Because the FDA has not previously identified these products as new drugs, because phenytoin is medically necessary for the treatment of epilepsy, and because appropriate bioavailability studies must be completed and submitted as part of the abbreviated new drug applications in order to evaluate the safety and effectiveness of these products, any single entity, non-controlled-release oral dosage form of phenytoin or phenytoin sodium intended to control grand mal and psychomotor seizures that was marketed commercially on August 5, 1977 may continue to be marketed without an approved new drug application until May 2, 1978, provided that (1) on or before February 1, 1977 the sponsor submits an abbreviated new drug application to FDA for the product and that (2) FDA does not issue a nonapprovable letter regarding such application. The Food and Drug Administration believes that this allows the manufacturer adequate time to conduct the appropriate scientific studies and to prepare and submit the required application, as well as allowing FDA sufficient time to review and evaluate these applications. This special provision for continuation of marketing, which applies only to products marketed on or before the publication of this notice, is consistent with the District Court's order in *Hoffmann-LaRoche, Inc. v. Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the FEDERAL REGISTER of September 22, 1975 (40 FR 43531) and March 2, 1976 (41 FR 9001).

II. COMBINATION *NON-CONTROLLED-RELEASE* ORAL DOSAGE FORMS OF PHENYTOIN OR PHENYTOIN SODIUM AND ONE OR MORE OTHER ACTIVE INGREDIENTS INTENDED TO CONTROL GRAND MAL AND PSYCHOMOTOR SEIZURES.

A. *Legal status.* Such products are regarded as new drugs as defined in section 201(p) of the act, and subject to the requirements of section 505 of the act, for the following reasons:

1. Single-entity products containing phenytoin or phenytoin sodium are regarded as new drugs, as discussed above. It follows then that such a drug in combination with other drug(s) is also a new drug. 21 CFR 310.3(h)(1).

2. The Food and Drug Administration is not aware of a past finding by experts that any combination containing phenytoin or phenytoin sodium is generally recognized as safe and effective.

3. The new drug status of a combination product is not necessarily dependent upon the new drug status of any of its active ingredients. Even if one or more of the individual drug substances were not new, the combination of them could create a "new drug". 21 CFR 310.3(h)(2). Past experience of FDA has established that combining two or more active ingredients, each of which is safe and effective for a particular indication, may result in a product which is either less safe, or less effective, or both. For this reason, FDA has determined that the combination of two or more drugs, even ones that individually are generally recognized as safe and effective, cannot create a combination that is always and immediately recognizable as safe and effective. The agency, therefore, has required that new combinations have separate NDA's containing evidence demonstrating the safety and effectiveness of the combination product. In addition, FDA has established a policy regarding fixed combination drugs that requires that each component make a contribution to the claimed effects and that the dosage of each be such that the combination is safe and effective for a significant patient population. 21 CFR 300.50 and 314.1(c)(2), item 12.c. The Food and Drug Administration is not aware of any combination containing phenytoin or phenytoin sodium that meets these requirements, except those already approved in full new drug applications. No combination containing phenytoin or phenytoin sodium was reviewed in the Drug Efficacy Study.

For these reasons, together with the bioavailability/bioequivalence problems with the single entity product, the Director concludes that the finding of effectiveness for the oral suspension form of phenytoin is not applicable under 21 CFR 310.6 to phenytoin or phenytoin sodium in combination with one or more other active ingredients. Accordingly, the DESI notice of July 29, 1976 does not authorize an ANDA for any combination. Further, FDA does not have in its files sufficient publicly available data and information to justify a conclusion that the requirements for safety and effectiveness data in a full NDA can be waived and ANDA's allowed. However, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct his own preclinical and clinical studies regarding safety and effectiveness. An applicant may be able to include in his application published articles and other publicly available data and information that provide an adequate basis for approval of the application.

B. *Conditions for marketing.* Prior approval of a full NDA is a requirement for marketing any combination product containing phenytoin or phenytoin sodium and one or more other active ingredients that is intended to control grand mal and psychomotor seizures. The Food and Drug Administration is not aware of a significant patient population requiring treatment with a combination product. Patients now being treated with combination drugs may continue to be treated with the single entity components. The Food and Drug Administration does not believe that any such fixed combination is "medically necessary" under the order in *Hoffmann-LaRoche* cited above and thus will not permit marketing to continue pending completion of the necessary clinical studies and approval of a full NDA. However, those products which are subjects of requests for hearing pursuant to the July 29, 1976 notice may continue to be marketed pending a ruling on a hearing request.

Regulatory action is to be taken with respect to such combinations under Category IV of Compliance Policy Guide 7132C.08—Marketed New Drugs Without Approved NDA's or ANDA's. The FEDERAL REGISTER of September 23, 1976 (41 FR 41770) gave notice of the availability of this document.

III. CONTROLLED-RELEASE ORAL DOSAGE FORMS OF PHENYTOIN OR PHENYTOIN SODIUM EITHER AS A SINGLE ENTITY OR IN COMBINATION WITH ONE OR MORE OTHER ACTIVE INGREDIENTS INTENDED FOR USE FOR THE CONTROL OF GRAND MAL OR PSYCHOMOTOR SEIZURES.

A. *Legal status.* Such products are regarded as new drugs as defined in section 201(p) of the act, and subject to the requirements of section 505 of the act for the following reasons:

1. Single entity non-controlled-release forms of phenytoin and phenytoin sodium and combinations of these drugs with one or more other active ingredients are new drugs as discussed in sections I and II above.

2. Any controlled-release dosage form that contains a quantity of active ingredients which is not generally recognized as safe for administration as a single dose is regarded as a new drug. 21 CFR 200.31. Further, the newness of a dosage, or method or duration of administration, may cause a product to be regarded as a new drug. 21 CFR 310.3(h)(5).

3. The Food and Drug Administration is not aware of a past finding by experts that any controlled-release product containing phenytoin or phenytoin sodium, whether it contains a single active ingredient or a combination of ingredients, is generally recognized as safe and effective.

4. No single entity or combination controlled-release products containing phenytoin or phenytoin sodium were reviewed in the Drug Efficacy Study. Any controlled-release claim for products containing phenytoin or phenytoin sodium, because of bioavailability/bioequivalence problems and the long half-life of the drug, requires studies to establish the precise nature of the claim. For these reasons and reasons discussed in section II above, the Director concludes that the finding of effectiveness for the single entity oral suspension is not applicable under 21 CFR 310.6 to any controlled-release product, and that the July 29, 1976 notice does not authorize ANDA's for such products.

B. *Conditions for marketing.* Prior approval of a full NDA is a requirement for marketing any controlled-release product containing phenytoin or phenytoin sodium. All controlled-release dosage forms containing these drugs known to FDA to be marketed without an approved NDA have been removed from the market as a result of regulatory action by the agency.

IV. "GRANDFATHER" STATUS.

The Food and Drug Administration is not aware of any phenytoin products on the market that can qualify either for the "grandfather" exemption from the new drug requirements of section 505 of the act contained in section 201(p) of the act for products marketed prior to June 25, 1938, or for the "grandfather" exemption from the effectiveness standards otherwise applicable to new drugs contained in section 107(c) of the Drug Amendments of 1962. Parke, Davis & Co. has marketed Dilantin (phenytoin sodium) Capsules for many years without an approved new drug application, contending that the product was so "grandfathered". At the time of publication of the Blue Book, the "grandfather" issue with respect to phenytoin sodium capsules had not been resolved, but subsequently Parke, Davis & Co. waived its claims and submitted an abbreviated new drug application (ANDA 84-349) for Dilantin Capsules containing 30 milligrams and 100 milligrams phenytoin sodium per capsule that was approved August 27, 1976. No other firm has claimed exemption from section 505 of the act under the "grandfather" clauses. A person may not claim exempt status for his product merely because an identical, related, or similar product may be entitled to such an exemption. The Food and Drug Administration has long maintained that approval of applications under section 505 of the act approves only the products named in the application; likewise, an exemption from the application requirements of section 505 of the act applies only to the particular products that meet all of the requirements for an exemption. If any manufacturer believes his product is entitled to an exemption from the new drug provisions of the act, he may file on or before October 4, 1977 documentation in support of the contention. The

requirements governing such a submission are contained in 21 CFR 314.200(e)(2). Failure to submit such documentation shall constitute a waiver of all claims to exemption under section 201(p). Such submissions shall be filed in quintuplicate, identified with FDA Docket Number 76N-0245 and directed to the Hearing Clerk (address given above).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 29, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc 77-22336 Filed 8-4-77;8:45 am]

Public Health Service

ADMINISTRATOR, HEALTH SERVICES ADMINISTRATION

Delegations of Authority

Notice is hereby given that pursuant to the authority delegated to the Assistant Secretary for Health on July 29, 1974, (39 F.R. 32171) by the Secretary of Health, Education, and Welfare, the Assistant Secretary for Health on July 25, 1977 made the following delegations of authority under the Health Maintenance Organization Act of 1973 (Public Law 93-222) to the Administrator, Health Services Administration. Unless otherwise noted, the citations below refer to sections of the Public Health Service Act, as amended by Public Law 93-222:

1. Authority under Section 1303 to authorize grants and contracts for feasibility surveys;

2. Authority under Section 1304 to authorize grants and contracts and to make loan guarantees for planning and for initial development costs;

3. Authority under Section 1305 to make loans and loan guarantees for initial operation costs;

4. Authority under Section 6 of Public Law 93-222 for provision of health services for Indians and domestic agricultural migratory and seasonal workers;

5. Authority under Section 1308.

Except for the authority (a) to waive the Secretary's right of recovery under Sections 1308(a)(2)(A) and 1308(b)(3); (b) to sell loans and guarantee such loans under Section 1308(c); (c) to issue notes or other obligations under Section 1308(d); and (d) to sell assets under Section 1308(e), the authorities delegated herein may be redelegated by the Administrator, Health Services Administration. A redelegation by the Administrator, Health Services Administration, or the bureau director acting as his designee, of authority to make loans and to guarantee loans shall contain the provision that the approval of loans and loan guarantees may be made only with the concurrence of the appropriate loan officer except where written authorization to approve the loans and loan guarantees is given by the Administrator, Health Services Administration, or the bureau director acting as his designee.

The Assistant Secretary for Health's delegation of March 19, 1975, (40 F.R. 15118-15119) to the Administrator, Health Services Administration, has been superseded.

Dated: July 25, 1977.

R. MOURE,
Executive Officer,
Public Health Service.

[FR Doc.77 22432 Filed 8-4-77;8:45 am]

REGIONAL HEALTH ADMINISTRATORS AND ADMINISTRATOR, HEALTH RESOURCES ADMINISTRATION

Delegations of Authority

Notice is hereby given that pursuant to the authority delegated to the Assistant Secretary for Health on May 22, 1975, (40 F.R. 25079) by the Secretary of Health, Education, and Welfare, the Assistant Secretary for Health on July 25, 1977 made the following delegations of authority under Part B of Title VI of the Public Health Service Act (42 U.S.C. 291j-1 *et seq.*) concerning loan guarantees and loans for modernization and construction of hospitals and other medical facilities. The Assistant Secretary for Health's delegation of April 5, 1976, (41 F.R. 17807-17808) to the Regional Health Administrators and the Administrator, Health Resources Administration, has been superseded.

1. To the Regional Health Administrators, the authority to enter into agreements to make loans and to guarantee loans; the authority to make such loans and to guarantee such loans; the authority to modify the terms and conditions of such agreements, loans, and loan guarantees; the authority to carry out the responsibilities of the Secretary under such agreements, loans, and loan guarantees, except for the authority to waive the Secretary's right of recovery under Sections 623(e)(1) and 627(d) of the Act; and the authority to afford State agencies an opportunity for a hearing and to conduct such hearings under Section 623(c) of the Act. These authorities may be redelegated by the Regional Health Administrators with further redelegation prohibited. A redelegation by any Regional Health Administrator of authority to make loans and to guarantee loans shall contain the provision that the approval of loans and loan guarantees may be made only with the concurrence of the appropriate loan officer except where written authorization to approve the loans and loan guarantees is given by the Regional Health Administrator.

2. To the Administrator, Health Resources Administration, the authority delegated to the Assistant Secretary for Health under Part B of Title VI of the Public Health Service Act, except the authority to enter into agreements to make loans and to guarantee loans; the authority to make such loans and to guarantee such loans; the authority to modify the terms and conditions of such agreements, loans, and loan guarantees; the authority to carry out the responsibilities of the Secretary under such agreements, loans, and loan guarantees; and the authority to afford State agencies an opportunity for a hearing and to conduct such hearings under Section 623(c) of the Act. This delegation includes the authority to waive the Secretary's right of recovery under Sections 623(e)(1) and 627(d) of the Act. These authorities may be redelegated, except for the authority to issue notes or other obligations under Section 626(b) of the Act; to sell loans and guarantee such loans under Sections 627(b) and 627(c) of the Act; and to waive the Secretary's right of recovery under Sections 623(e) and 627(d) of the Act.

Dated: July 25, 1977.

R. MOURE,
Executive Officer,
Public Health Service.

[FR Doc.77-22431 Filed 8-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-12752]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, Department of the Interior, on October 21, 1976, filed application, Serial No. I-12752, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, except the mining and mineral leasing laws and the Recreation and Public Purposes Act.

BOISE MERIDIAN, IDAHO

SAYLOR CREEK WILDLIFE LEAVE AREAS

T. 5 S., R. 9 E.,
Sec. 23, W½SW¼;
Sec. 26, NW¼NW¼, W½SE¼;
Sec. 27, NE¼NE¼;
Sec. 34, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 35, E½ SW¼, N½SE¼.
T. 6 S., R. 10 E.,
Sec. 32, E½NW¼, W½SE¼, SE¼SE¼.
T. 6 S., R. 12 E.,
Sec. 20, W½NE¼, N½SE¼;
Sec. 22, W½NW¼, E½NE¼;
Sec. 27, SW¼NW¼, NW¼SW¼;
Sec. 28, NE¼, NW¼SW¼, N½SE¼, SW¼SE¼.
T. 7 S., R. 9 E.,
Sec. 1, SW¼SW¼.
T. 7 S., R. 10 E.,
Sec. 3, SW¼SW¼;
Sec. 4, lots 1, 2;
Sec. 6, lot 2, W½SE¼;
Sec. 8, E½SE¼;
Sec. 9, S½SW¼;
Sec. 10, E½NW¼, W½SE¼;
Sec. 14, NW¼SW¼, SE¼SW¼;
Sec. 15, E½NE¼;
Sec. 17, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 21, NE¼NW¼, SW¼NW¼, S½SE¼;
Sec. 22, NE¼NW¼, SW¼SE¼;
Sec. 23, W½NE¼, NE¼SE¼;
Sec. 26, S½NW¼;
Sec. 27, W½NW¼, NW¼SW¼;
Sec. 28, NE¼NE¼.

T. 7 S., R. 12 E.,
Sec. 1, lots 3, 4, E½SW¼;
Sec. 2, lot 4, S½SE¼;
Sec. 3, lots 1, 2;
Sec. 11, N½NE¼, SW¼NE¼, E½W½, W½SE¼;
Sec. 12, E½NW¼;
Sec. 14, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 23, SE¼NW¼, E½SW¼, E½NE¼;
Sec. 24, W½NW¼, NE¼SW¼;
Sec. 25, SW¼NW¼;
Sec. 26, NE¼SE¼, E½SW¼, NE¼NW¼;
Sec. 27, S½SW¼SW¼;
Sec. 34, N¼NW¼NW¼.
T. 7 S., R. 13 E.,
Sec. 6, lots 8, 9, E½E½E½SE¼;
Sec. 7, E½E½E½E½;
Sec. 18, E½E½E½E½;
Sec. 19, E½E½E½E½;
Sec. 30, E½E½E½NE¼, E½E½NE¼SE¼.
T. 8 S., R. 12 E.,
Sec. 1, lots 1, 2, SE¼NE¼, NE¼SE¼.
The area described contains 4,934.33 acres.

The Bureau of Land Management desires that the lands be withdrawn and reserved to assure protection of public values, including wildlife habitat, outdoor recreation and other public purposes. The wildlife habitat values for upland game birds are of particular importance.

On or before September 6, 1977, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, Federal Building, 550 West Fort Street, Post Office Box 042, Boise Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the FEDERAL REGISTER.

The above described lands are temporarily segregated from the operation of the public land laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West West Fort Street, Post Office Box 042, Boise, Idaho 83724

VINCENT S. STROBEL,
Chief, Branch of
L & M Operations.

[FR Doc.77-22498 Filed 8-4-77;8:45 am]

Office of the Secretary

TRANS-ALASKA PIPELINE SYSTEM CRITIQUE

Meeting

Notice is hereby given that the Department of the Interior, as part of its review responsibilities, will conduct a Trans-Alaska Pipeline System (TAPS) critique session on August 18 and 19 in Anchorage, Alaska.

TAPS is the largest privately-funded construction project in U.S. history to date. It is the intention of the Department to assess how well the terms and conditions attached to the use of public lands have served their purpose, and how future use of public lands for similar purposes might be benefited by the experience gained in the construction of this project.

Among the objectives of the critique will be:

(1) To determine the effectiveness of the Stipulations between the U.S. Government and the pipeline owners for the Agreement and Grant of Right-of-Way for TAPS construction;

(2) To pinpoint positive aspects of the Stipulations in respect to environmental impact abatement during the use of public land, while identifying areas of inadequacy in the Stipulations for better results, if any, in future pipeline or other projects requiring extensive use of Federal land;

(3) To consider the effectiveness of the organization used for Federal and State roles;

(4) To assess the effectiveness of the Federal-State agreement;

(5) To consider the question of balance between government and private interests in the monitoring efforts.

The critique will be conducted in a workshop format. Topics to be treated are the technical, environmental, socioeconomic, and governmental administrative aspects of TAPS.

Participants in the critique will be representatives of concerned Federal agencies, Alaska State and local officials, the Alaska congressional delegation, relevant congressional committees, Alyeska and its oil company owners, environmental organizations, labor unions, business and civic organizations in Alaska, the Alaskan Federation of Natives and other native organizations, and academic groups.

The public is invited to attend the critique. The daily sessions will begin at 9 a.m. on the campus of the University of Alaska, 2651 Providence Drive, Anchorage, Alaska 99504. Space will be limited and will be available on a first-come-first-served basis. Persons desiring to attend should contact Terry Adlhock, Room 3425, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, telephone: 202-343-2036, or the Alaska Pipeline Office, 808 E St., Anchorage, Alaska 99501, Telephone: 907-272-3422, specifying which of the workshop sessions they wish to attend.

GARY J. WICKS,
Acting Assistant Secretary for
Land and Water Resources.

AUGUST 3, 1977.

[FR Doc 77-22796 Filed 8-4-77;9:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-22]

FRESH CUT FLOWERS

Report to the President

AUGUST 1, 1977.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to fresh cut flowers.

The investigation to which this report relates was undertaken to determine whether—cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles.

The investigation was instituted on February 12, 1977, upon receipt of a petition filed on January 31, 1977, by the Growers Division of the Society of American Florists and Ornamental Horticulturists.

Notice of the institution of the investigation and of the dates when and cities where public hearings would be held was issued on February 16, 1977. Notice of the starting times of the public hearings, of the buildings wherein they would be held, and of a change of date and city for the Florida hearing was issued on March 17, 1977. The notices were posted at the Commission's offices in Washington, D.C., and New York City, and were published in the FEDERAL REGISTER on February 22 and March 22, 1977, respectively (42 FR 10347 and 15474). The public hearings were duly held at the times and places announced. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard.

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic growers and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearings

and in briefs filed by interested parties.

A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

DETERMINATION OF THE COMMISSION

On the basis of its investigation, the Commission determines (Vice Chairman Parker not participating) that cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

VIEWS OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On January 31, 1977, the Growers Division of the Society of American Florists and Ornamental Horticulturists petitioned the United States International Trade Commission for import relief pursuant to section 201 of the Trade Act of 1974. Following receipt of the petition, the Commission instituted an investigation on February 12, 1977, to determine whether cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Section 201(b)(1) of the Trade Act requires that each of the following conditions must be satisfied before the Commission can make an affirmative determination.

(1) Imports of an article into the United States are increasing (either actually or relative to domestic production);

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury; and

(3) Increased imports are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competive with the imported article.

DETERMINATION

On the basis of information obtained in the present investigation, we have determined that fresh cut flowers, provided for in item 192.20 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Because our negative determination is based on the lack of evidence supporting the "serious injury" criterion, it is unnecessary to discuss the other criteria of section 201 of the Trade Act of 1974.

DOMESTIC INDUSTRY

For the purpose of this investigation we have concluded that the relevant domestic industry consists of those facilities in the United States devoted to the production of fresh cut flowers.

SERIOUS INJURY OR THE THREAT THEREOF

Evidence developed during the investigation shows that the domestic producers of fresh cut flowers are being injured by imported fresh cut flowers. However, in order for the requirement of section 201 to be met, such injury must be "serious injury." When making a determination of serious injury, the Commission is directed by the Trade Act to take into account all economic factors which it considers relevant, including the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry. The act further directs that the threat of serious injury is to be considered in light of a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment. In our opinion, imports of fresh cut flowers are not causing injury to the domestic industry of the magnitude necessary for an affirmative determination in this case. The evidence supporting this conclusion is discussed below.

The facts do not support a finding that there is significant idling of productive facilities in the domestic industry. In the period 1972–76, the wholesale value of domestic fresh cut flower production increased by 12 percent—from $252 million to $283 million. During the same period, U.S. exports of fresh cut flowers more than tripled in value, rising from $4.3 million to nearly $14 million. The acreage devoted to fresh cut flower production was the same in 1976 as it was in 1972.

There is no significant unemployment (or underemployment) in the domestic industry. The average annual number of employees increased by 6 percent over the period 1972–76.

The evidence regarding profitability of the domestic fresh cut flower industry does not support a finding of serious injury. Responses to the Commission questionnaire show that sales have increased every year since 1972 and that despite a decline in average operating margins for the industry from 1972 to 1974, such margins rose from 4.9 percent in 1974 to 7.7 percent in 1976. Since 1974, profit margins have increased by 57 percent. In addition, prices of imported fresh cut flowers have generally been the same as or higher than prices received by U.S. growers for the same flower type, thereby negating any tendency toward price depression. The foregoing facts indicate that the average operating profit margin for the industry is healthy, and the trend for such margins is positive at this time.

The trends evidenced in the above-mentioned factors indicate that at this time there is no threat of serious injury. Moreover, we note that a recent Department of State telegram from the U.S. Embassy in Bogota, Colombia, reports that the Minister of Agriculture for Colombia is attempting to implement a program whereby carnation and pompon chrysanthemum exports to the United States would be limited to be consistent with the absorptive capacity of the U.S. market.

CONCLUSION

On the basis of the considerations discussed above, we conclude that imports of fresh cut flowers are not a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Our determination is, therefore, in the negative.

The petitioner in this proceeding has recommended that the United States negotiate an orderly marketing agreement with Colombia to restrict the volume of fresh cut flower imports entering the United States. We do not believe that the Commission has the authority to recommend the negotiation of orderly marketing agreements to the President as a remedy in section 201 cases. However, it seems that in light of the market conditions in the U.S. industry, some form of marketing agreement may be given consideration by the President under his authority to negotiate trade agreements.[2]

By order of the Commission.

Issued: August 2, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-22562 Filed 8-4-77;8:45 am]

[1] Attached to the original report sent to the President. These materials are available for inspection at the U.S. International Trade Commission, except for information submitted in confidence.

[2] Commissioner Ablondi states that in light of the unanimous negative determination made by the Commission in this investigation, he does not join in the recommendation that the President give consideration to "some form of marketing agreement."

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this First day of August, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training

Applications received during the week ending July 29, 1977

Name of applicant	Location of enterprise	Principal product or activity
Sterling Alloy Casting Corp	Rock Falls, Ill.	Manufacture of grey iron castings.
McClure Sawmill Co.	McClure, Ill.	Sawmill and stave mill.
Pentajay Co.	The Plains, Ohio	Retail sales—grocery store.
Brooks Inc.	Sun Prairie, Wis.	Retail sale and service of construction equipment
Viking Coca Cola Bottling Co.	St. Cloud, Minn.	Manufacture of soft drinks.
Bean Rouge Manor, Inc.	Bushnell, Ill.	Nursing facility.
A. J. Hochstettler	Wharton, Ohio	Grain elevator.
Krakauer Bros., Inc.	Breckville, Ohio	Manufacture of pianos.
Monon & Evans Co.	Monon, Ind.	Trailer manufacture facility.
Bedford County Press	Everett, Pa.	Newspaper printing and publishing
Jefferson Associates, Ltd.	Charles Town, W. Va.	Nursing home care.
Spring Hope Grocery Co., Inc.	Spring Hope, N.C.	Retail sale of fuel oil.
Gaby Hosiery Mill (tenant of the city of Dandridge).	Dandridge, Tenn.	Knitting and finishing of hosiery.
Wilson's Ice Cream Co., Inc.	Lumberton, N.C.	Manufacture of ice cream and frozen dessert products.
Tri-County Farmers Co-op.	Ipava, Ill.	Provides grain storage and marketing services and farm supplies to farmers.
Ross Seed Co.	Fisher, Minn.	Certified seed and custom cleaning.
Coca Cola Bottling Co.	Portland, Ind.	Manufacture of coke and allied products; wholesale candy and tobacco.
Latham Asphalt & Paving Co., Inc.	Ludington, Mich.	Manufacture of bituminous concrete and ready mixed concrete.
Industrial Metal Works, Inc.	Amelia, La.	Sheet metal fabrication and specialized metal design
Superior Concrete Accessories, Inc.	Parsons, Kans.	Manufacture of wire reinforcements for concrete.
Eddy County Equipment, Inc.	New Rockford, N.D.	Sales and service of agricultural equipment.
Superior Concrete Accessories, Inc.	Parker, Ariz.	Manufacture of wire reinforcements for concrete.
Brookstone Co., Inc.	Peterborough, N.H.	Retail sales of hardware homewares and miscellaneous gifts.

[FR Doc.77-22602 Filed 8-4-77;8:45 am]

EXTENDED BENEFITS AND FEDERAL SUPPLEMENTAL BENEFITS

Ending of Extended Benefit Period and Federal Supplemental Benefit Period in Massachusetts

This notice announces the ending of the Extended Benefit Period and the Federal Supplemental Benefit Period in the State of Massachusetts, effective on August 6, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91–373; 84 Stat. 695, 708) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks. An extended Benefit Period commenced in the State of Massachusetts on September 22, 1974.

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular benefits and Extended Benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which is payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Massachusetts on January 5, 1975.

The statutes also provide that benefit periods in a State will trigger off when unemployment in the State is no longer at the high levels set in the Acts. A benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator. In Massachusetts both the Extended Benefit Period and the Federal Supplemental Benefit Period have triggered off.

DETERMINATION OF "OFF" INDICATORS

The employment security agency of the State of Massachusetts has determined in accordance with the applicable statutes and regulations that the average rate of insured unemployment in the State for the period consisting of the week ending on July 16, 1977, and the immediately preceding twelve weeks, was less than 5 percent.

Therefore, I have determined in accordance with the applicable statutes and regulations, and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was an Extended Benefit "off" indicator and a Federal Supplemental Benefit "off" indicator in the State of Massachusetts for the week ending on July 16, 1977, and that both the Extended Benefit Period and the Federal Supplemental Benefit Period in that State terminates on August 6, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Extended Benefits or Federal Supplemental Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end

of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State. There will not be an additional eligibility period of Extended Benefits.

Individuals currently filing claims for Extended Benefits or Federal Supplemental Benefits will receive written notices from the Massachusetts Division of Employment Security of the end of the Extended Benefit Period and the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Extended Benefits and Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Extended Benefits and Federal Supplemental Benefits in the State of Massachusetts should contact the nearest State Employment Office of the Massachusetts Division of Employment Security in their locality.

Signed at Washington, D.C., on August 2, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc 77-22600 Filed 8-4-77;8:45 am]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Fiscal Year 1978 State Planning Estimates Programs and Areas To Be Renewed Without Competition and Areas Open for Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: This notice is a correction of areas to be renewed without competition for Fiscal Year 1978 funds provided under section 303 of the Comprehensive Employment and Training Act (CETA) of 1973 as amended.

SUPPLEMENTARY INFORMATION: Pursuant to 29 CFR 97.211, the Employment and Training Administration announced areas to be renewed without competition by a notice of the Federal Register of July 8, 1977, Volume 42, No. 131, page 35330. Due to a computer error in failing to enter plan information from an approved modification, United Migrant Opportunity Services of Wisconsin was erroneously omitted from the list of areas to be renewed without competition. United Migrant Opportunity Services will not have to compete for Fiscal Year 1978 funds for the State of Wisconsin provided their performance continues during the grant negotiation period to be at an acceptable level.

Signed at Washington, D.C., this 25th day of July 1977.

PAUL A. MAYRAND,
Chief, Division of Farmworker Programs.

[FR Doc.77-22601 Filed 8-4-77;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS AND THE HUMAITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1130 from 9:30 am. to 5:30 pm. on August 29.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Anthropology/Sociology submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22535 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1023 from 9:30 am. to 5:30 pm. on August 29.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Russian submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22536 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130 from 9:30 a.m. to 5:30 p.m. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of History submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22537 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Philosophy submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22538 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130 from 9:30 a.m. to 5:30 p.m. on August 31

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Political Science submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22539 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on August 25.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Drama, Film, American Studies, Afro-American Literature Composition and Rhetoric submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22540 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1023 from 9:30 am. to 5:30 pm. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Linguistics submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer

[FR Doc 77-22541 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 am. to 5:30 pm. on August 27.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of English and American Literature submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated April 28,

1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22542 Filed 8-4-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Adivsory Group on White House Information Systems is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Sciece and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorties Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A–63, Revised.

1. NAME OF GROUP: Advisory Group on White House Information Systems.

2. PURPOSE AND FUNCTION: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the Reorganization Team. The Advisory Group will consider the implications for policy initiatives that may be appropriate to exploit advances that may be identified, but it will not consider or propose specific computer and supporting systems or the procurement of same. The Group will submit a report and briefing for appropriate officials in the Executive Branch upon completion of its activities.

3. EFFECTIVE DATE OF ESTABLISHMENT AND DURATION: The Advisory Group is established to provide advice to the Director of the Office of Science and Technology Policy and to the Special Assistant to the President for Budget and Organization, and is established until December 1, 1977. Due to the need to provide a prompt followup to related efforts by the President's Reorganization Project, the Office of Management and Budget has agreed to waive the requirement for a 15-day delay between the publication of this notice and the filing of the charter for this Advisory Group.

4. MEMBERSHIP: Membership of the Advisory Group on White House Information Systems will consist of approximately six members who are particularly knowledgeable in the areas of information and automation.

5. ADVISORY GROUP OPERATION: The Advisory Group on White House Information Systems will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), OSTP policy and procedures, OMB Circular No. A–63, Revised, and other directives and instructions issued in implementation of the Act.

FRANK PRESS,
Director.

[FR Doc.77-22564 Filed 8-4-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), P.L. 92–463, Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on August 25 and 26, 1977.

The purpose of this two-day meeting is: To review research priorities; consider a proposal for a nutrition project; review other project proposals; review the status of Planning Grants; review and update the list of eligible universities under Title XII; and review the questionnaire to be sent to the university community to expand the information on university interests and capabilities for participating in the Title XII program.

The meeting will begin each day at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Ramada Inn, Rosslyn, 1900 Fort Myer Drive, Arlington, Virginia. The meeting room designation will be posted in the lobby of the Inn on each day of the meeting. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator of the Technical Assistance Bureau, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 701–235–9001.

Dated: July 30, 1977.

ERVEN J. LONG,
Aid for International Development, Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc.77-22615 Filed 8-4-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 452]

ASSIGNMENT OF HEARINGS

AUGUST 1, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 116677 (Sub-No. 3), Sheridan Travel Bureau, Inc., now being assigned November 2, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC 116519 (Sub-No. 40), Frederick Transport Ltd., now being assigned November 7, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC 139579 (Sub-No. 4), George H. Golding, Inc., now being assigned November 10, 1977 (2 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC-F-13140, Marty's Express, Inc.—Purchase—Kruse Trucking Co., MC 39249 (Sub-No. 19), Marty's Express, Inc., now being assigned October 3, 1977 (1 day), for hearing in Philadelphia, Pa., in a hearing room to be later designated.

MC 141776 (Sub-No. 4), Foodtrain, Inc., now being assigned October 4, 1977 (1 day), in Philadelphia, Pa., in a hearing room to be later designated.

MC 142785 (Sub-No. 1), Brotherly Love Express, Inc., now being assigned October 5, 1977 (1 day), in Philadelphia, Pa., in a hearing room to be later designated.

MC 143173, Dependable Delivery Service, Inc., now being assigned October 6, 1977 (2 days), in Philadelphia, Pa., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22595 Filed 8-4-77;8:45 am]

[No. 36589]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. AND UNIT-TRAINSHIP, INC.

Joint Petition—Experimental Piggyback Train Service

Present: Dale W. Hardin, Commissioner, to whom this matter has been assigned for action thereon.

By petition filed May 12, 1977, the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milwaukee) and Unit-Trainship, Inc. (UTI) seek an order declaring the lawfulness of the proposed innovative service described in their petition or a finding of exemption under section 12(1)(b) of the Interstate Commerce Act. Replies were filed June 9, 1977, by the Burlington Northern, Inc., and June 13, 1977, by the Union Pacific Railroad Co.

The Milwaukee and UTI propose to establish dedicated nonstop piggyback train service on a round-trip basis with established mutually agreed upon schedules and subject to existing railroad rates applicable on Freight, All Kinds, between Chicago, Ill., on the one hand and Seattle/Tacoma, Wash., and Washington/Portland, Oreg., on the other. UTI, acting in the capacity of a broker, contractually undertakes to provide the Milwaukee with a minimum of 60 loaded or empty trailers or containers three times a week in each direction. In return for the guarantee of a minimum fixed amount of revenue for each 60 unit train, UTI receives a commission equal to 10 percent of the applicable tariff rate applying to the revenue traffic carried by the Milwaukee pursuant to the agreement. UTI receives 20 percent of the tariff rate for revenue traffic offered but not accommodated by the Milwaukee, excluding empty units tendered by UTI to satisfy minimum guarantees. In addition to promoting traffic UTI will prepare a comprehensive manifest for the Milwaukee and take over billing and collecting. Each Monday the Milwaukee will submit a statement of charges and UTI will undertake to remit payment within the specified period less its compensation and credit for each unit not accommodated and for failure to accommodate units.

The Milwaukee on its part agrees to provide and control all rail services necessary to accommodate traffic generated by UTI in accordance with the terms of the agreement. It will pay penalties for its failure to accommodate the agreed upon level of generated traffic, and it will retain sole liability for traffic tendered to it through the agreement that is lost, damaged, stolen or delayed.

Because of the novelty of the experimental proposal, interested persons are urged to participate in the development of a record in this proceeding. All statements should address the underlying lawfulness of the proposal with respect to the applicable provisions of the Interstate Commerce Act, 49 U.S.C. 1 et seq., the Elkins Act, 49 U.S.C. 41(1), and such issues as: (1) the status of UTI, (2) whether the proposal constitutes a special service such as would require tariff publication, and (3) the penalty aspect of the agreement.

It is ordered: Pursuant to section 5(e) of the Administrative Procedure Act, 5 U.S.C. 554(e), and in the exercise of the Commission's sound discretion thereunder, this petition for a declaratory order is granted to determine the lawfulness of the proposed arrangement between petitioners.

Petitioners, the Burlington Northern Inc., and the Union Pacific Railroad Co. are made parties to this proceeding. All other persons desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 25, 1977. As soon as practicable the Commission will serve a list of the names and addresses of all persons whom service of statements under the Commission's modified procedure shall be made and the schedule to be followed.

A copy of this order shall be served upon petitioners, the Burlington Northern Inc., and the Union Pacific. Copies shall also be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and given to the public along with a copy of the petition and the attached draft agreement by delivery to the Director, Office of the Federal Register for publication.

Dated at Washington, D.C., this 27th day of July, 1977.

By the Commission, Commissioner Hardin.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22594 Filed 8-4-77;8:45 am]

[Section 5a Application No. 58 (Amendment No. 2)]

MACHINERY HAULERS ASSOCIATION

Agreement

JULY 27, 1977.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed July 20, 1977 by:
Charles W. Singer, Singer & Sullivan, 2440 East Commercial Blvd., Ft. Lauderdale, Fla. 33308 (of Counsel).

The Amendments involve: (1) Proposed broadening of commodity scope jurisdiction to include general commodities, (2) expansion of rate committee's jurisdiction regarding consideration of matters jointly with foreign carriers, (3) increasing the size of the Rate Committee, (4) granting the Association power to meet and otherwise cooperate and confer with other organizations of common carriers, approved under section 5a by this Commission, with reference to specified matters, and (5) other incidental changes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 6, 1977. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22593 Filed 8-4-77;8:45 am]

[Notice No. 96]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 2, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protest to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 347TA), filed July 6, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank truck vehicles, from plant-site of Merichem Co. and/or storage facilities of Merichem Co. in Houston, Tex., to all points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Oklahoma for 180 days. Supporting shipper(s): Merichem Co., 1914 Haden Road, Houston, Tex. 77015. Send protests to: Mensing District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610, Federal Bldg., Houston, Tex. 77002.

No. MC 43038 (Sub-No. 463TA), filed July 19, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Rd., Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, excluding trailers, in secondary movements, in truckaway service between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and on the other, points in the states of Virginia and West Virginia. Restriction: The operations authorized herein are restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., K. R. Hammond, Manager, Vehicle Transportation Dept., Ford Division General Office, P.O. Box 1529B Dearborn, Mich. 48121. Send protests to: Interstate Commerce Commission, Bureau of Operations, Erma W. Gray, Secretary, 604 Federal Bldg. and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 43038 (Sub-No. 464TA), filed July 19, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Rd., Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, excluding trailers*, in secondary movements in driveaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and on the other, points in the States of Virginia and West Virginia. Restriction: The operations authorized herein are restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co., for 180 days.

Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., K. R. Hammond, Manager, Vehicle Transportation, Ford Division General Office, P.O. Box 1529B, Dearborn, Mich. 48121. Send protest to: Erma W. Gary, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Bldg. and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 43268 (Sub-No. 65TA), filed July 11, 1977. Applicant: WELLS CARGO, INC., 1775 East 4th St., Reno, Nev. 89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission in bulk and Classes A and B explosives), between Carson City, Nev., and Ridgecrest, Calif., via U.S. Highway 395, serving all intermediate points, restricted against traffic originating south of Ridgecrest, Calif., on the one hand, and points and places within 4 miles of the California-Nevada state line on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 57 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.

No. MC 47171 (Sub-No. 94TA), filed July 22, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4255, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials, equipment*, and *supplies* used in the installation, manufacture, packaging, and sale of floor coverings, from Lyerly, Ga., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Washington, D.C., for 180 days. Supporting shipper(s): Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, S.C. 29602. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 69492 (Sub-No. 55TA), filed July 22, 1977. Applicant: HENRY EDWARDS d.b.a. HENRY EDWARDS TRUCKING CO. P.O. Box 97, Clinton, Ky. 42031. Applicant's representative: Mr. Walter Harwood, Attorney, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, and such other commodities* as are manufactured and/or dealt in by rubber manufacturers from the plantsite and warehouse facilities of The General Tire & Rubber Co., at or near Mayfield, Ky., and the plantsite and warehouse facilities of The Goodyear Tire & Rubber Co. at or near Union City, Tenn., to points in Michigan on and east of U.S. Hwy. 27 from the Indiana-Michigan State Line to its junction with Michigan Hwy. 21, thence on and south of Michigan Hwy. 21 eastwards to Port Huron, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The General Tire & Rubber Co., One General St., Akron, Ohio 44329; The Goodyear Tire & Rubber Co., 1144 East Market St., Akron, Ohio 44316. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Bldg., Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 106956 (Sub-No. 4TA), filed July 19, 1977. Applicant: SYLVESTER TRUCKING CO., 2930 Gradwohl Rd., Toledo, Ohio 43617. Applicant's representative: Wilhemina Boersma, 1600 First Federal Bldg., 1001 Woodward Ave., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, between Kripke Tuschman facilities in Toledo, Ohio, on one hand, and on the other, Wayne County, Branch County, Kalamazoo County, Genesee County, and Ingham County in Michigan, and DeKalb County and Allen County in Indiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kripke-Tuschman Ind., Inc., 5000 North Detroit Ave., Toledo, Ohio 43612. Send protests to: Keigh D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 107496 (Sub-No. 1092TA), filed July 22, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Water reducing admixtures*, in bulk, in metered tank vehicles from North Judson, Ind., to points in Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Ohio, Kentucky, West Virginia, Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Penn-Dixie Chemical Co., 2 Porete Ave., North Arlington, N.J. 07032. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 111401 (Sub-No. 494TA), filed July 21, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Oka. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds and liquid feed supplements*, in bulk, in tank vehicles from the facilities of Cargill, Inc. at Garden City, Kans. to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Transportation Assistant Kathy

Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 114569 (Sub-No. 184TA), filed July 12, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, cocoa, chocolate, and products related thereto* (except in bulk), and materials, supplies, equipment, and machinery, used in the manufacture, production, distribution or sale of confectionery, cocoa, chocolate, and products related thereto; From the facilities of Hershey Foods Corp., at or near Oakdale, Calif.; to Chicago, Ill.; Cincinnati, Ohio; Detroit, Mich.; East St. Louis, Ill.; Derry Township, Dauphin County, Pa.; Kansas City, Mo.; Milwaukee, Wis.; St. Paul, Minn.; and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hershey Foods Corp., Hershey, Pa. 17033. Send protests to: Charles F. Mayers, Dist. Supv. Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114632 (Sub-No. 118TA), filed July 21, 1977. Applicant: APPLE LINES, INC., 212 Southwest Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in descriptions in motor carrier certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Dodge City, Kans., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, West Virginia, and Wisconsin, for 180 days. Supporting shipper(s): Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, Kans. 67801, Max Kline, Assistant Manager, Beef Department. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 119555 (Sub-No. 16TA), filed July 14, 1977. Applicant: OIL & INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from the United States-Canada International Boundary Line, located at or near the port of entry of International Falls, Minn., to Duluth and St. Paul, Minn., restricted to traffic originating in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Van Waters & Rogers, 2313 Wycliff St., St. Paul, Minn. 55114. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Ave., North Billings, Mont. 59101.

No. MC 120761 (Sub-No. 23TA), filed July 12, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories thereto*, from the plantsite and storage facilities of ELK Corp., at or near Stephens and Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas for 180 days. Applicants has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): ELK Corp., P.O. Box 37, Stephens, Ark. 71764. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 121664 (Sub-No. 22 TA), filed July 12, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, A PARTNERSHIP, d.b.a. HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Drewry Road, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue, South Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, particleboard and plywood*, between points in Alabama, Florida, Georgia, Kentucky, Mississippi and Tennessee, restricted to shipments originating at or destined to a facility of Moore-Hadley, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Moore-Hadley, Inc., P.O. Box 2607, Birmingham, Ala. 35202. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 123233 (Sub-No. 77TA), filed July 20, 1977. Applicant: PROVOST CARTAGE, INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada, H1J 1C4. Applicant's representative: J.P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Chicago, Ill., and its Commercial Zone, to the Ports of Entry on the International Boundary Line, between the United States and Canada located in Michigan and New York. Restricted to the transportation of traffic in foreign commerce destined to points in Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clinton Corn Processing, Inc., Subsidiary of Standard Brands, Inc., P.O. Box 340, Clinton, Iowa 52732. Send protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 123387 (Sub-No. 8TA), filed July 7, 1977. Applicant: E. E. HENRY, an individual, 1923 Sparrow Rd., Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (except in bulk), from Laredo, Tex., to points in North Carolina, Virginia, West Virginia, Maryland, Delaware, and the District of Columbia, for 180 days. Supporting shipper(s): De-Mar Internationale, Ltd., Donald P. Eden, Ex Vice President, 1285 North King St., Hampton, Va. 23669. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room 10502, Federal Bldg., 400 North 8th St., Richmond, Va.

No. MC 123765 (Sub-No. 10TA), filed July 21, 1977. Applicant: *BARRY* TRANSFER & STORAGE CO., INC., 120 E. National Avenue, Milwaukee, Wis. 53205. Applicant's reprsentative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* manufactured, shipped, or received by Outboard Marine Corp., its subsidiaries and divisions (except commodities in bulk), between Milwaukee, Manawa and Beloit, Wisconsin, and Waukegan and Galesburg, Ill. Restriction: Restricted to traffic orginating at and/or destined to, the plantsites, warehouses and distribution facilities of Outboard Marine Corp., its subsidiaries and divisions, for 180 days. Supporting shipper(s): Outboard Marine Corp., 100 Sea Horse Drive, Waukegan, Ill. 60085 (Roland Ronshausen). Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 129951 (Sub-No. 3TA), filed July 15, 1977. Applicant: HARLEY I. KEETER, 6379 Valmont Drive Boulder, Colo. 80301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and ore concentrates*, from Boulder County, Colo., to ports of entry located at the International boundaries in the States of Washington and Idaho for 90

days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hendricks Mining Co., Inc., 3000 N. 63rd, Boulder, Colo. 80301. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 135082 (Sub-No. 49TA), filed July 21, 1977. Applicant: Bursch Trucking, Inc., d.b.a., Roadrunner Trucking, Inc., P.O. Box 26748, 415 Rankin Road, NE., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones, President, P.O. Box 26748, Albuquerque, N. Mex. 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, from Prescott, Ariz., to points in California, Colorado, Oklahoma, Nevada, New Mexico, Texas, and Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Forest Industries, P.O. Box 7548, Phoenix, Ariz. 85011, Attention: Homer Davenport, General Traffic Manager. Send protests to: Darrell W. Hammons, District Supervisor, 1106 Federal Office Building, 517 Gold Avenue, SW., Interstate Commerce Commission, Bureau of Operations, Albuquerque, N. Mex. 87101.

No. MC 136008 (Sub-No. 84TA), filed July 22, 1977. Applicant: Joe Brown Co., Inc., 8005 South I–35, Suite 102, Oklahoma City, Okla. 73149. Applicant's representative: John Tipsword, 8005 South I–35, Suite 102, Oklahoma City, Okla. 73149. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and building materials* from the plantsite of United States Gypsum Co., Southard, Okla. to Colorado, Kansas, Missouri, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Gypsum Co., 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Transportation Assistant Kathy Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138861 (Sub-No. 5TA), filed July 6, 1977. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 "M" Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive oil and lubricants*, in containers, from Bay Way, N.J., and Bradford and Emlenton, Pa., to points in Connecticut, Florida, Indiana, Kentucky, Massachusetts, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and West Virginia for 180 days. Supporting shipper(s): Shore Sales Co., 97 River Street, Beverly, Mass. 01915. Send protests to: Gerald H. Curry District Supervisor, 24 Weybosset Street, Room 102, Providence, R.I. 02903.

No. MC 139360 (Sub-No. 8TA), filed July 19, 1977. Applicant: RAEMARC, INC., 153 Taylor, Racine, Wis. 53403. Applicant's representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* (except commodities in bulk), used in the manufacture of agricultural, industrial and contruction machinery and equipment; (2) *parts and attachments* for agricultural, industrial and construction machinery and equipment between the manufacturing and storage facilities of J. I. Case Co., at or near Racine, Wisconsonne, and Wausau, Wis.; Bettendorf and Brulington, Iowa; Terre Haute, Ind.; and Rock Island, Ill.; on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin, under contract with J. I. Case Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. I. Case Co. 700 State St., Racine, Wis. 53404. Send protests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 139577 (Sub-No. 7TA), filed July 20, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago St., Friesland, Wis. 53935 Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures and ends* from Friesland, Wis. to Fairmont, Minn., Scottville, Mich. and Hart, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stokley-Van Camp, Inc., 941 North Meridian St., Indianapolis, Ind. 46206. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 140216 (Sub-No. 4TA), filed July 18, 1977. Applicant: JOHN E. WAY, JR., doing business as WAY MESSENGER SERVICE, 205 East King St., Lancaster, Pa. 17602. Applicant's representative: John M. Musselman, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* between Lancaster, Pa., on the one hand, and, on the other, Baltimore, Md., and Washington, D.C.; and between York, Pa., on the one hand, and, on the other, Baltimore, Md., New York, N.Y., and Washington, D.C.; service to be limited to expedited pickups and expedited deliveries by messenger drivers of minimum gross weight straight trucks, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Charles F. Mayers, Dist. Supv. Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg. P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 140849 (Sub-No. 12TA), filed July 18, 1977. Applicant: ROBERTS TRUCKING CO., INC., P.O. Drawer G, U.S. Highway 271 South, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabrics, piece goods, materials, and supplies* used in the manufacture of clothing; (2) *clothing*, from: (1) Pauls Valley and Idabel, Okla.; to Roswell, Ga.; Hopkinsville, Ky.; and Nashville, Tennessee; (2) from Roswell, Ga.; Hopkinsville, Ky.; and Nashville, Tenn. to Pauls Valley and Idabel, Okla.; under a continuing contract with Kellwood Co., for 180 days. Supporting shipper: Kellwood Co., P.O. Box 656, Pauls Valley, Okla. 73075. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143423 (Sub-No. 1TA), filed July 12, 1977. Applicant: WILLIAM T. AUSTIN, d.b.a. AUSTIN TRUCKING CO., Route 5, Box 249, Decatur, Ala. 35601. Applicant's representative: D. H. Markstein, Jr., 512 Massey Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical wire cable and insulated copper wire*, from the plantsite of Cerro Wire & Cable Co., Division of Cerro Corp., at Hartselle, Ala., to points in Georgia, Indiana, Louisiana, Mississippi, Missouri, North Carolina, Tennessee, Texas, Illinois, South Carolina, Florida, Kentucky, Michigan, Pennsylvania, and New York; (2) *sugar* from Gramercy, La., to Decatur, Ala., from Decatur, Ala., to points in and east of North Dakota, South Dakota, Kansas, Oklahoma, and Texas, under contract with VIPCO, Inc., Decatur, Ala., for 180 days. Supporting shipper(s): Cerro Wire & Cable Co., 201 Cedar Cove Rd., Hartselle, Ala. 35640. Vipco, Inc., 1302 Southfield Industrial Park, Decatur, Ala. 35602. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143471TA filed July 6, 1977. Applicant: SHERIDAN HEIGHTS, INC., doing business as KNECHT TRANSPORT, 301 Mount Rushmore Rd., Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*

as are handled or dealt in by wholesalers, warehousers, retailers, manufacturers, processors or distributors of building materials and supplies; hardware; plumbing supplies; electrical supplies; cement materials and landscaping materials: I. Between the plant sites, warehouses, stores, outlets or other facilities of Knecht Industries, Inc., including their wholly owned, unincorporated divisions of Building Material Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes and Knecht Lumber Co., located in Campbell County, Wyo., and Pennington County, S. Dak., on the one hand, and on the other hand, points in California, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming; and II. Between construction sites and dealers of Knecht Industries, Inc., including their wholly owned, unincorporated divisions of Building Materials Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes, and Knecht Lumber Co., located in Montana, Nebraska, North Dakota, South Dakota and Wyoming, on the one hand, and on the other hand, points in California, and Wyoming, on the one hand, and on the other hand, points in California, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. Both parts under a continuing contract or contracts with Knecht Industries, Inc. and their wholly owned, unincorporated divisions of Building Materials Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes and Knecht Lumber Co. Restriction: Against commodities in bulk in tank vehicles in both parts for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Knecht Industries, Inc., 301 Mount Rushmore Rd., Rapid City, S. Dak. 57701, Keith Danley, Director of Purchasing. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 455, Federal Building, Pierre, S. Dak. 57501.

PASSENGER APPLICATION

No. MC 143475TA, filed July 7, 1977. Applicant: Potomac Valley Transit Authority, One Virginia Ave., Petersburg, W. Va. 26847. Applicant's representative: Kenneth W. Dyche, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, over regular routes, turn over the same route. Passengers limited to transportation of no more than 20 passengers in any one vehicle, between Romney, W. Va.; and Cumberland Md.; via Springfield and Ridgely, W. Va.; and serving all intermediate points as follows: From Romney over West Virginia Route 28 to Cumberland, and return over the same route. Between Piedmont, W. Va.; and Cumberland, Md.; via Westernport, Md.; and Keyser, W. Va.; and serving all intermediate points as follows: From Piedmont, over Maryland Route 36 to Westernport; thence from Westernport over Maryland Route 135 to junction with U.S. Route 220; thence from the junction over U.S. Route 220 to Keyser; thence from Keyser over West Virginia Route 46 to junction with West Virginia Route 28; thence from the junction over West Virginia Route 28 to Cumberland; and return over the same route. Between Romney, W. Va.; and Cumberland, Md.; via Keyser, W. Va.; and serving all intermediate points as follows: From Romney over U.S. Route 50 to junction with U.S. Route 220; thence from the junction over U.S. Route 220 to Keyser; thence from Keyser over West Virginia Route 46 to junction with Mineral County Route 9; thence from the junction over County Route 9 to junction with West Virginia Route 28; thence from the junction over West Virginia Route 28 to Cumberland; and return over the same route. Between Petersburg, W. Va.; and Winchester, Va. via Moorefield and Wardensville, W. Va.; and serving all intermediate points; as follows; From Petersburg over U.S. Route 220 to Moorefield; thence from Moorefield over West Virginia Route 55 to Wardensville; thence from Wardensville over West Virginia Route 259 to junction with U.S. Route 50; thence from the junction over U.S. Route 50 to Winchester; and return over the same route. Between Moorefield, W. Va.; and Harrisonburg, Va.; via Baker, W. Va.; and serving all intermediate points as follows: From Moorefield over West Virginia Route 55 to Baker; thence from Baker over West Virginia Route 259 to junction with Interstate Route 81; thence from the junction over Interstate Route 81 to Harrisonburg; and return over the same route. Between Keyser, W. Va.; and Piedmont, W. Va. via Westernport, Md.; and serving all intermediate points as follows: From Keyser over U.S. Route 220 to junction with Maryland Route 135; thence from the junction over Maryland Route 135 to Westernport; thence from Westernport over Maryland Route 36 to Piedmont; and reand their baggage, in the same vehicle with passengers, in round-trip special and charter operations: limited to transportation of no more than twenty (20) passengers in any one vehicle as follows Authority is requested for operations beginning and ending at places and points in Grant, Hampshire, Hardy, Mineral and Pendleton Counties of West Virginia and extending to places and points in the States of Maryland, Virginia, Pennsylvania, Delaware, New Jersey, The District of Columbia, and that part of the State of New York that is south of Interstate Highway 84, including all of Long Island, for 180 days. Supporting shipper: Region 8 Planning & Dev. Council, P.O. Box 887, Petersburg, W. Va. 26847. J. A. Niggermyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va 26003.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary

[FR Doc 77-22596 Filed 8-4-77 8:45 am]

[Volume No. 26]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 77–20881 appearing at page 37468 in the issue for Thursday, July 21, 1977, on page 37474, in the third column, the paragraph beginning "No. MC 11274 (Sub-No. 25)" should begin "No. MC 111274 (Sub-No. 25)".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., August 10, 1977.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Monthly Report of Managing Director's Actions Pursuant to Delegated Authority (June).

2. Agreement No. 9975-6: Petition to extend the duration of the Japan-East Coast U.S.A. Containership Service Agreement to August 22, 1980.

3. Agreement No. 10117-3: Modifications of the U.S. North Atlantic Spain Rate Agreement, regarding voting procedures, self-policing features, and amount of financial guarantee.

4. Agreement No. 10107-2: Application for Intermodal Authority by Trans-Pacific Freight Conference and eight nonconference competitors.

5. Agreements Nos. 8718-5 and 9731-7: Extensions of the Japanese Flag Containership Service Agreements in the trade between Japan and California and between Japan and California, Hawaii and Alaska, to August 22, 1980.

6. Docket No. 77-10—Agreement Nos. 10072 nd 10072-1 (Establishment of Conference of Passenger and Cruise Lines), Determination whether to Review Discontinuance by the Administrative Law Judge.

Portions closed to the public:

1. Agreement No. 10286: Italy-U.S.A. North Atlantic Pool Agreement, establishment of cargo and revenue pooling agreement.

2. Docket No. 75-3—*Chevron Chemical Company* v. *Mitsui O.S.K. Lines, Ltd.*, (Freight Overcharge Claim); Petition for Reconsideration of Adoption of Initial Decision.

3. Docket No. 77-4—Agreements Nos. 9902-3, 9902-4, 9902-5, and 9902-6 (Modification of Euro-Pacific Joint Service Agreement), Petition for Reconsideration and Motion for Stay of the Commission's Order of Conditional Approval of Agreement No. 9902-5 Pendente Lite.

4. Docket No. 77-21—In the Matter of Continued Qualification for Independent Ocean Freight Forwarder License No. 1744R—Orlando A. Puig d.b.a. Houston Export International; Determination whether to Review Discontinuance by Administrative Law Judge.

5. Docket Nos. 77-27—Trailer Marine Transport Corp., and 77-28—Gulf Caribbean Marine Lines, Inc., General Increases in Rates—Motion to Vacate Suspension.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-1045-77 Filed 8-2-77;2:33 pm]

2

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER July 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 3, 1977.

CHANGES IN THE MEETING: Addition of the following open item to the meeting:

1. Board consideration of temporary suspension of Regulation Q (Interest on Deposits) penalty for early withdrawal of time deposits for Johnstown, Pennsylvania disaster area.

Previously announced open items:

1. (a) Proposed amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) and Y (Bank Holding Companies), to require certain municipal securities dealers to file with the Board information about persons associated with them as municipal securities principals or municipal securities representatives. (Proposed earlier for public comment; docket no. R-0090).

(b) In connection with the proposed amendments to Regulations H and Y, establishment of a system of records under the Privacy Act of 1974 dealing with persons who are or seek to be municipal securities principals or representatives and are associated with certain financial institutions. (Proposed earlier for public comment; docket no. R-0091).

2. Possible amendments to the Board's Rules Regarding Delegation of Authority to delegate to the Director of the Division of Banking Supervision and Regulation certain authority in connection with administration of Municipal Securities Rulemaking Board rules.

3. A possible Board interpretation of Regulation B (Equal Credit Opportunity) to clarify the meaning of § 202.8, Special Purpose Credit Programs, by defining the phrase "expressly authorized by law". (Proposed earlier for public comment; docket no. R-0100).

4. Proposal by the Federal Reserve Bank of Atlanta for approval of conceptual design for the Miami Branch building.

NOTE.—The initial notice for this meeting was received by the FEDERAL REGISTER on July 26, 1977, seven days in advance of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: August 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1046-77 Filed 8-3-77;1:52 pm]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. TXI Subpart M Application (Not. No. 7139-B) Doc. 30887.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary. (202-673-5068).

SUPPLEMENTARY INFORMATION: On May 16, 1977, Texas International Airlines (TXI) filed an application requesting the removal of certain restrictions on its certificate of public convenience and necessity in order to permit certain additional service. Order 77-5-167, dated May 31, 1977, directed TXI to file additional material for the Board's consideration of this application. On July 15, 1977, TXI filed a supplement to its application with the required information and on July 25, 1977, supplemental statements requesting dismissal were filed by American and Delta. On July 26, 1977, the Bureau of Operating Rights submitted its recommendation to the Board.

TXI's application was filed under Subpart M of the Board's Rules of Practice (14 CFR § 302.1301-1315). Under the provisions of Subpart M the Board was required to stay or dismiss TXI's application by July 29, 1977, or the application would have automatically moved forward to the next procedural stage.

On July 29, 1977, the Board voted to dismiss the application and to so notify TXI and to issue the order after discussion of the language to be used in the order. So that the order can issue with minimum delay the following Board Members have voted that agency business requires the addition of this Docket 30887, Application of Texas International Airlines, Inc., for amendment of its certificate of public convenience and necessity under Subpart M procedures, to the agenda of its August 2, 1977, meeting and that no earlier announcement of the addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1047-77 Filed 8-2-77;4:15 pm]

4

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.[1]

2. Docket 26573, application of American Airlines for renewal of its temporary Islip-Chicago authority (Memo. No. 7307, BOR).

3. Docket 29554, Airwest's application for authority between Las Vegas-Albuquerque-El Paso-Midland Odessa-San Antonio-Corpus Christi and Houston and between Phoenix/Tucson-San Antonio-Houston and New Orleans and motion for immediate hearing (Memo. No. 7314, BOR, BLJ).

4. Docket 25342, complaint of aviation consumer action project against the local service carriers (Memo. No. 6563-A, BOR, OCCR, OGC).

5. Docket 20826 et al., bush route phase of Alaska service investigation (Memo. No. 7302, OGC).

6. Dockets 25427 and 25457, Laker Airways, Ltd., "Skytrain" Service Order 77-6-68, target date for Board ruling on petition for reconsideration filed by Laker Airways (Memo. No. 7316, OGC).

7. Docket 28807, Trans International Airlines, enforcement proceeding, notice of change of target date (Memo. No. 7309, OGC).

8. Docket 31103, American's application for exemption to provide free transportation to cargo agents from various points to Fort Worth, Tex., and return (Memo. No. 7308, BE).

9. Docket 31122, fare-effectiveness rule proposed by United (tariff sched. for eff. 8-15) (Memo. No. 6967-A, BE).

10. Dockets 15529 and 27589, baggage and liability rules case and domestic baggage liability rules investigation (Memos. Nos. 7132-A and 7132-B, BE).

11. Request of Air B.V.I., Ltd., to use a notice of deliberate overbooking of its own wording (Memo. No. 7313, BE).

12. Docket 30756, Pan American's request for permission to hold discussions on North Central Pacific cargo rates (Memo. No. 7310, BE, BIA).

13. Docket 29100, subsidy rate amendment two to Order 76-12-159, class rate VIII (Memo. No. 5972-J, BE, OC).

14. Docket 31160, complaint of TWA against Frontier's proposed assembly group fares in various Las Vegas markets (sched. for eff. 8-15) (BE).

15. Docket 31201, complaint of Century Air Freight, an air freight forwarder, against addition by Airlift of container loading service provisions offering service by the carrier on its premises, applicable to traffic moving to from San Juan, P.R. (sched. for eff. 8-15) (BE).

16. Docket 30985, application of Pan American for extension of embargo on all cargo destined for Caracas not holding confirmed reservations due to lack of storage facilities (BE).

17. Docket 30332, disposition of various IATA agreements dealing with currency matters, and cargo matters, Agreements CAB 26701, 26703, 26704, and 26707 (BE).

18. Docket 31031, disposition of complaint by Seaboard against a cargo tariff filed by KLM (BE).

19. Docket 27813, petition by Qantas for reconsideration of Order 77-5-133 dealing with combination fares over Pago Pago, Agreement CAB 25711 (BE).

20. Docket 31161, disposition of complaint by Seaboard against a cargo tariff filed by TWA (BE).

21. Dockets 31202 and 31203, disposition of complaints by Seaboard against cargo tariffs filed by KLM (BE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1048-77 Filed 8-2-77 4:16 pm]

5

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: August 2, 1977, 9:35 a.m.

PLACE: Room 812, 500 North Capitol Sreet, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Consideration of litigation matter. Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

AUGUST 2, 1977.

[S-1049-77 Filed 8-3-77 9:04 am]

6

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 38689, July 29, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 5, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The following additional matter will be considered by the Commission at the open meeting:

Consideration of a proposed rule which would prohibit mutual funds from implementing arrangements involving the use of their assets to finance the distribution of shares as an interim measure.

The following additional matters will be considered by the Commission at the closed meeting, immediately following the open meeting: Institution of administrative proceedings; settlement of injunctive actions.

Chairman Williams and Commissioners Evans and Pollock determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

AUGUST 2, 1977.

[S-1050-77 Filed 8-3-77 9:04 am]

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 8, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, August 9, 1977, at 10 a.m. An open meeting will be held on Wednesday, August 10, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)A, and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 9, 1977 will be:

Formal order of investigation.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings.
Referral of investigative filed to Federal, State, or self-regulatory authorities.
Regulatory matters arising from or bearing enforcement implications.
Freedom of Information Act appeals.
Request for confidential treatment.
Personnel matter.
Application for reinstatement.

The subject matter of the open meeting scheduled for Wednesday, August 10, 1977, will be:

1. Consideration of proposals submitted by CBOE, Amex, PHLX, MSE, and PSE to amend their respective rules setting forth option exercise price intervals.

2. Consideration of a proposal permitting self-regulatory organizations to establish criteria on which to base recommendations for permanent extensions of time for the

[1] The ratification process provides an entry in the Board's minutes of items already adopted by the Board through the written notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room, Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428, following the meeting.

filing of Part I of Form X–17A–5, which is the monthly report submitted by clearing firms.

3. Consideration of the adoption of Rule 2a–5 under the Investment Company Act of 1940. Rule 2a–5 would declare that certain persons would not be deemed interested persons under the statutes of the Act.

4. Consideration of a petition for Commission review filed by Mortgage Investors of Washington regarding an extension of time requested by the company to file their annual report for the year ended March 31, 1977.

5. Consideration of the publication of releases regarding: (1) Reporting provisions relating to the remuneration received by officers and directors and (2) the disclosure of criminal litigation involving taxation.

6. Consideration of an application filed by Air Pollution Industries, Inc., pursuant to section 12(h) of the Securities Exchange Act of 1934 for an order which would exempt the company from certain reporting requirements.

FOR FURTHER INFORMATION CONTACT:

Edward B. Horahan at 202–376–8072 or Howard B. Scherer at 202–755–1280.

AUGUST 2, 1977.

[S–1051–77 Filed 8–3–77;9:04 am]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, August 10, 1977.

PLACE: Chairman's Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) *Freedom of Information Act Appeal* 77–2–FOIA–40. Request, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

(2) *Freedom of Information Act Appeal* 77–2–FOIA–134. Request by an attorney representing an employer charged with discrimination, against whom a lawsuit has been filed by the Commission, for the internal memorandum upon which the Commission based its vote to commence litigation.

(3) *Designation of 706 Agency.* Recommendation that the Sioux Falls, S. Dak., Human Relations Commission be designated as one to which the Commission may defer charges.

(4) *Washington State Human Rights Commission.* Recommendation that the Commission allocate additional fiscal year 1977 funds to this State agency for the processing of more charges.

(5) *Revisions of EEOC's procedural regulations.*

Portions closed to the public:

(1) *Litigation authorization; General Counsel recommendations.* Matters closed to the public under sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

(2) *Proposed procurement; processing of EEO–4 survey.* This matter is continued from the meeting of August 2. Commission approval is requested to contract with an organization to process the State and local government information report, identified as the EEO–4 survey.

(3) *Proposed budget request for fiscal year 1979.*

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued August 3, 1977.

[S–1052–77 Filed 8–3–77;10:19 am]

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given that, in addition to the matters already on the agenda for consideration at the meeting of the Federal Deposit Insurance Corporation's Board of Directors scheduled for 10:45 a.m. on Monday, August 8, 1977 (public notice of which was given on August 1, 1977), the Board of Directors will also consider an application from the Anchor Savings Bank, New York (P.O. Brooklyn), New York, an insured mutual savings bank, for consent to merge under its charter and title with North New York Savings Bank, White Plains, N.Y., also an insured mutual savings bank, and to establish the five offices of North New York Savings Bank as branches of the resultant bank.

The time, date, place, and closed status of the meeting remain unchanged.

Dated: August 2, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S–1053–77 Filed 8–3–77;10:47 am]

10

NATIONAL SCIENCE BOARD.

TIME AND DATE: August 19, 1977. Closed session: 8:30 a.m.; open session: 2:00 p.m.

PLACE: National Science Foundation. Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Minutes—191st meeting.
2. Chairman's report.
3. Director's report.
4. Board committee reports.
5. NSF advisory groups.
6. Site visits.

Portions closed to the public:

1. Minutes—closed session, 191st meeting.
2. Report of ad hoc committee on NSF staff and NSB nominees.
3. Possible options for RANN organization and leadership.
4. Grant and contracts—proposed awards.
5. NSF budget for fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Vernice Anderson (202–632–5840).

[S–1054–77 Filed 8–3–77;11:23 am]

federal register

FRIDAY, AUGUST 5, 1977

PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

LAETRILE

Commissioner's Decision on Status

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0048]

LAETRILE

Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces that he has compiled a comprehensive administrative record containing information about the drug Laetrile in general and, specifically, about two issues concerning Laetrile's "new drug" status: (1) Whether Laetrile is generally recognized by qualified experts as a safe and effective cancer drug, and (2) whether Laetrile is exempt from the premarket approval requirements for new drugs by virtue of the "grandfather" provisions of the Federal Food, Drug, and Cosmetic Act. The Commissioner concludes, after careful review of this administrative record, including oral argument presented at a public hearing, that: (1) Laetrile is not generally recognized by qualified experts as a safe and effective cancer drug, and (2) Laetrile is not exempt from the premarket approval requirements for new drugs by virtue of the "grandfather" provisions of the act. Distribution of Laetrile in interstate commerce is thus illegal and subject to regulatory activity by the Food and Drug Administration. Conclusions on other issues related to the controversy concerning Laetrile are also set out.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: The transcript of oral argument presented at the public hearing, affidavits, written testimony, and all other submissions compiled as the administrative record for this proceeding may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. In addition, one copy of the administrative record (except two videotapes of interviews with cancer patients who had been treated with Laetrile) is available for public examination at the following Food and Drug Administration offices during regular business hours: 850 Third Ave., Brooklyn, NY 11232; 880 W. Peachtree St., Altanta, GA 30309; 433 W. Van Buren St., Chicago, IL 60607; 1009 Cherry St., Kansas City, MO 64106; 1521 W. Pico Blvd., Los Angeles, CA 90015; 909 First Ave., Seattle, WA 98104.

FOR FURTHER INFORMATION CONTACT:

Tenny P. Neprud, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockille, MD 20857, 310-44-3480.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of February 18, 1977 (42 FR 10066), the Commissioner announced that he was initiating a rulemaking proceeding to comply with the opinion of the Court of Appeals in *Rutherford* v. *United States*, 542 F.2d 1137 (10th Cir. 1976), and the order of the District Court in *Rutherford* v. *United States*, 424 F. Supp. 105 (W. D. Okla. 1977). In those proceedings, the Food and Drug Administration (FDA) was ordered to develop an administrative record concerning the following two issues:

1. Whether the product Laetrile (also known as vitamin B-17 and amygdalin) is a "new drug" within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) in that it is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in the cure, mitigation, treatment, or prevention of cancer in man ("the new drug issue").

2. Whether, if Laetrile is a "new drug" within the meaning of the act, it is exempt from the premarket approval requirements of section 505 of the act (21 U.S.C. 355) in that:

(a) At any time before June 25, 1938, it was subject to the Food and Drugs Act of 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use as its present labeling ("the 1938 grandfather issue," 21 U.S.C. 321(p)(1)); or

(b) It meets each of the following conditions: (1) On October 9, 1962, it was commercially used or sold in the United States; (2) On October 9, 1962, it was generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use in the cure, mitigation, treatment, or prevention of cancer in man; (3) On October 9, 1962, it was not covered by an effective new drug application (NDA) under section 505 of the act (21 U.S.C. 355); (4) It is currently intended solely for use under conditions prescribed, recommended, or suggested in its labeling on October 9, 1962 ("the 1962 grandfather issue," Pub. L. 87-781, section 107(c)(4)).

The February 18, 1977, notice included detailed information regarding the submission of testimony. In response to the notice, over 400 submissions totaling more than 5,500 pages were received. These submissions, representing the views of both proponents and opponents of Laetrile, came from cancer patients, consumers, experts in drug testing and cancer therapy, physicians, State governments, universities, hospitals, and interested organizations.

The District Court, in directing FDA to develop an administrative record, suggested that the agency invite the following individuals to participate in the administrative proceeding: Dr. Dean Burk, Ernst Krebs, Jr., Mike Culbert, Edward Griffin, and Mike Spencer, *Rutherford* v. *United States*, *supra*, 424 F. Supp. at 108. The three individuals whose addresses could be obtained were specifically invited to give their views (R 3, 4, 5).[1] (Kenneth Coe, attorney for plaintiff Glen Rutherford, who had proposed that FDA be required to invite the five named individuals, could not provide the addresses for Griffin and Spencer and agreed that invitations to the three individuals whose addresses he could supply would suffice.) Mr. Griffin did receive notice of the proceeding and he participated (see R 404). Written submissions were received from Dr. Burk (R 302) and Mr. Griffin (Tr. Ex. 1) and from plaintiff Glen Rutherford (R 258).

The Bureau of Drugs, FDA, presented evidence probative of the new drug and grandfather status of Laetrile. For the purposes of the administrative proceeding, separation of functions requirements were observed between the Commissioner and persons advising him and the Bureau of Drugs and persons advising it (see 21 CFR 10.55).

The February 18, 1977 notice stated that oral argument would be held in Kansas City on May 2. A subsequent notice published in the FEDERAL REGISTER of March 25, 1977 (42 FR 16191) set forth the exact time and place: beginning at 9 a.m. on May 2 at the Radisson Muehlebach Hotel, Kansas City, MO. Dr. John Jennings, Associate Commissioner for Medical Affairs, presided over the oral argument. Approximately 40 persons filed written requests to make oral presentations; others took advantage of the opportunity to speak without the filing of such a request as time allowed. Every person who wished to participate in, and who was present at, the oral argument was given a opportunity to express his or her views. In all, 47 persons made presentations. The transcript of the oral argument has been made a part of the record of the administrative proceeding.

Individuals named by the District Court were again notified of the exact time and place of the argument (R 253-55, see also R 247). Oral presentations were made by Edward Griffin (Tr. at 11), Michael L. Culbert (Tr. at 35), Ernst T. Krebs, Jr. (Tr. at 228) and Dr. Dean Burk (Tr. at 401). In addition, plaintiff Glen L. Rutherford and his attorney, Kenneth Coe, Esq., spoke at oral argument (Tr. at 297, 442).

Written submissions presented at the time of oral argument were made part of the record and considered despite the fact that they were received at a date later than the one set forth in the February 18, 1977, notice. The record of this proceeding was, however, closed at the conclusion of the oral argument. Submissions received thereafter have been docketed with the FDA Hearing Clerk but have not been considered as part of the record. The Commissioner's opinion is based entirely upon the administrative record and does not reflect information brought to FDA's attention subsequent to the closing of that record.

No legal memoranda were solicited by the Commissioner in this proceeding. One such memorandum was submitted by the American Cancer Society and has been made a part of this docket in the Hearing Clerk's office.

In the Commissioner's opinion, the use of Laetrile in the United States has become a genuine public health problem. Increasingly, doctors dealing with cancer patients are finding that the patients are coming to legitimate therapy too late, having delayed while trying Laetrile. It seems clear that another substantial group of persons afflicted with cancer is avoiding effective therapy altogether and using Laetrile instead. The question has become one of life and death for these patients and for others who may be convinced to use Laetrile in the future. For this reason the Commissioner has considered not only the evidence in the record addressed to the specific legal issues remanded to FDA by the courts, but also the great amount of evidence submitted by both proponents and opponents of Laetrile regarding other issues of importance to the controversy over the use of the drug. Since the Commissioner's discussion of these issues is necessarily detailed, he is setting forth, for the reader's convenience, an outline of that discussion as follows:

[1] Submissions to the record are referred to by the number assigned to them upon filing by the Hearing Clerk. When exhibits or attachments accompany a submission, they follow the record number of that submission, e.g., "R 12, Ex. A". References to the transcript of the oral argument are cited as "Tr. at" with the applicable page number supplied. Written submissions presented to the energy at the time of oral argument are referred to as transcript exhibits, e.g., Tr. Ex. 1.

I. LAETRILE

A. DEFINITION OF CANCER

B. COMPOSITION AND IDENTITY OF "LAETRILE"

1. Glossary.
2. What is Amygdalin?
3. What is Laetrile (with a capital L)?
4. What is laetrile (with a small l)?
5. What is Sarcarcinase?

C. CLAIMS FOR LAETRILE

1. Treatment (Cure or Mitigation of Cancer.
2. Analgesic (Pain Killer).
3. Prevention of Cancer.
4. Facilitation of Other Cancer Therapy.
5. Hemoglobin Index.
6. Reduction of Odor Associated with Malignancy.
7. Sickle Cell Anemia.
8. Parasitic Diseases.
9. Regulating Intestinal Flora.
10. Hypotensive Effect.

D. THEORIES OF LAETRILE'S ACTION

II. THE "NEW DRUG" ISSUE

A. GENERAL RECOGNITION OF EFFECTIVENESS

1. Objective Evidence of Effectiveness.
   (a) What are the Required Studies?
   (b) The Need for Controlled Studies.
   (c) The "Evidence" of Laetrile's Effectiveness.
      (i) Case Reports.
      (ii) Animal Testing of Laetrile.
2. Testimony of Experts.
   (a) Experts Opposed to Laetrile.
   (b) Supporters of Laetrile.

B. GENERAL RECOGNITION OF SAFETY

1. Lack of Adequate Testing.
2. Testimony of Experts.

III. THE "GRANDFATHER" ISSUE

A. THE 1938 GRANDFATHER CLAUSE

B. THE 1962 GRANDFATHER CLAUSE

1. Composition.
2. Investigational Use.
3. Conditions of Use in Labeling.
4. Lack of General Recognition of Safety in 1962.
   (a) The Prerequisites.
      (i) Lack of General Knowledge of Use.
      (ii) Lack of General Knowledge of Formulation.
      (iii) Lack of General Knowledge of Conditions of Use Suggested.
      (iv) Lack of Safety Data in Scientific Litecature.
      (v) Lack of Showing of Safety by Adequate Testing.
   (b) Statements by Experts.
   (c) Lack of General Recognition of Effectiveness in 1962.

IV. THE POPULARITY OF LAETRILE

A. LAETRILE AND OTHER UNPROVEN REMEDIES

1. The History of Cancer Quackery in the United States.
2. Similarities Between Laetrile Promotion and That of Other Recent "Unproven" Cancer Remedies.
   (a) Mantle of Science.
   (b) Attacks on the "Establishment."
   (c) Claimed Parallel with Scientific Pioneers.
   (d) Reliance on Testimonials.
   (e) Lack of Scientific Publication.
   (f) Nonexpert Supporters.
   (g) Simplistic Theories of Causation and Reliance on Diet.
   (h) A Painless Cure.
   (i) Only Proponents can Effectively Use the Drug.

B. WHY DO PEOPLE USE LAETRILE?

1. The Emotional Reaction to Discovery of Cancer.
2. The Role of Loved Ones.
3. Methods of Promotion of Laetrile.
4. The Sampson Survey.

C. THE LAETRILE TESTIMONIALS

V. OTHER ISSUES REGARDING LAETRILE

A. USE OF LAETRILE OUTSIDE THE UNITED STATES

B. CLAIMS THAT LAETRILE IS A VITAMIN OR FOOD

1. A Vitamin or Food May Be a Drug As Well.
2. Is Laetrile a Vitamin?
   (a) Proponents' Claims.
   (b) Vitamin Experts' Position.
3. Dangers of Ingestion of "Vitamin B-17."

C. FREEDOM OF CHOICE

1. Balancing Freedoms.
2. The Choice Is Not Free.

D. ALLEGATIONS OF BIAS

E. LIMITING USE TO TERMINAL PATIENTS

1. Who Is Terminal.
2. Effects on Other Patients.

F. USE CONCURRENTLY WITH OTHER THERAPY

VI. CONCLUSIONS

I. LAETRILE

A. DEFINITION OF CANCER

Laetrile has been, over the years, recommended for use in the treatment of cancer. An understanding of the issues concerning the drug requires that the term "cancer" be defined. Cancer has been stated to include "* * * all malignant neoplasms regardless of the tissue of origin including malignant lymphoma, Hodgkins disease, and leukemia" (R 173, Att., "Laws and Regulations Relating to the Diagnosis and Treatment of Cancer," State of California, Division 2, Chapter 7, Section 1705). For an almost identical definition by the American Cancer Society, Inc., see R 173, Att., "American Cancer Society, Inc., Medical Affairs Department, (State) Cancer Remedy Act." A neoplasm is a new and abnormal growth such as a tumor. Malignant neoplasms are "neoplasms that are characterized by unregulated, uncontrolled, and unrestrained growth and proliferation" (R 190 at ¶ 14; R 194 at 3; R 195 at ¶ 11). It has been said that the "distinguishing feature of cancer is its ability to invade, erode and to metastasize to more or less distant parts" (R 183, Att. 7 at 15). Metastasis, in relation to cancer, means the transfer or spread of the cancer from one site to another, usually through the blood stream or the lymphatic system. In this process, cells may travel throughout the body; when they finally lodge they begin to grow as a new cancer.

There are more than 100 different entities involved in the disease known as "cancer." These many forms of clinical cancer differ materially in terms of the factors which cause them as well as in terms of populations they affect, their prognosis, and the ease with which they may be treated (Tr. at 144; cf. R 190 at ¶ 14; R 186 at ¶ 7-9). The cause of cancer is not a question addressed in this proceeding. It should be noted, however, that the record includes indications that various cancers are associated with chronic irritation (e.g., a high frequency of cancer of the groin in textile workers whose jobs required straddling a metal shaft) (R 318 at 37), with cancer-causing chemical substances called carcinogens (e.g., a high frequency of lung cancer in chimney sweepers and coal miners probably caused by inhaling dust particles) (id.), with irradiation (id. at 38), with virus (Tr. at 223; R 318 at 38), and with hereditary effects (R 318 at 38).

Two novel theories, neither of which has gained acceptance by the scientific community, have been at various times espoused by Laetrile's proponents to explain how cancer is caused. The first of these theories is said to have been first developed by Professor John Beard of Scotland. In 1902, Professor Beard announced his "findings" that the cancer cell and the "trophoblast" cell were one and the same (R 318 at 60). Trophoblast cells are present during pregnancy and they prepare a niche in the uterine wall where the fertilized egg can nestle (R 318 at 56). According to Beard, they share several characteristics with cancer cells: Both are invasive, erosive, corrosive and can be carried through the blood stream to other parts of the body (R 318 at 57). Beard believed that trophoblast cells could be expected to develop at various places in the body from precursor cells distributed throughout the body during the embryonic stage. If the pancreas gland were functioning properly it

would, in his theory, produce enzymes which destroy these trophoblast cells. If such enzymes were not produced, cancer would occur (R 318 at 58–59).

The proponents of Laetrile have more recently taken the position that cancer is a metabolic deficiency or dietary disease (cf. R 302, Ex. H at 76–77). It is claimed that cancer is a "• • • systemic, chronic, metabolic deficiency disease" (Tr. at 348) or "• • • a chronic or metabolic disease that is not caused by some mysterious virus" (Tr. at 234). The "nutritional deficiency" theory is refuted by at least one expert (Tr. at 223).

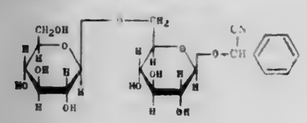
B. COMPOSITION AND IDENTITY OF "LAETRILE"

Several terms, such as "Laetrile," "laetrile(s)," "amygdalin," "nitriloside(s)," "vitamin B–17," and "Sarcarcinase" have in many instances been used interchangeably by both proponents and opponents of Laetrile. There are, however, distinctions among these terms, which must be understood in order to deal with the issues in this proceeding. The Commissioner will discuss in detail what the record indicates about the meaning of the terms "amygdalin," "Laetrile," "laetrile" and "Sarcarcinase."

1. Glossary

The following glossary provides a definition or description of the above terms and others that will be used in this opinion:

Amygdalin: A specific chemical entity having the chemical formula:



beta-Cyanogenic glucosides, beta-cyanophoric glucosides; beta-cyanogenetic glucosides: Terms used interchangeably in the record. In general, they are used in the record to include compounds which can break down to yield cyanide and glucose. The terms are used to refer to amygdalin, a glucoside present in kernals or seeds of practically all fruits (see, e.g., R 302, Ex H at 75; R 173, Att., California Administrative Code, Section 10400.1 at 16; Tr. at 272). *beta*-Cyanogenic glucosides belong to the large class of chemicals known as *beta*-cyanogenic glycosides. (See definition of glucosides and glycosides below.)

beta-Glucosidase: An enzyme present in plants that participates in the metabolism of glucosides. The enzyme has been identified in apricot and peach kernels and catalyzes the breakdown of amygdalin to free two molecules of glucose and a molecule of mandelonitrile. The enzyme is found only in trace amounts in animal tissues (R 173, Att., "The Vitamin Fraud in Cancer Quackery" (hereinafter "Vitamin Fraud") at 345).

beta-Glucuronidase: An enzyme present in animal tissues that participates in the metabolism of glucuronic acid derivatives (also called glucuronosides). The enzyme reportedly catalyzes the breakdown of "Laetrile" (1-mandelonitrile-*beta*-glucuronic acid) to free glucuronic acid and mandelonitrile.

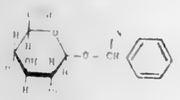
Enzymes: Chemical compounds (all of them proteins) produced by living organisms that serve as catalysts in metabolic reactions. The suffix "-ase" is given to most enzymes.

Glucoside: A term applied to any glycoside having glucose as its sugar constituent.

Glucuronide; glucuronoside: Terms used in the record to refer to chemical derivatives of glucuronic acid. As an example, Laetrile is identified as 1-mandelonitrile-*beta*-glucuronic acid" in the Merck Index 9th Ed., at 702 and as "laevo-mandelonitrile-*beta*-glucuronoside" in the book *Control for Cancer* (R 318 at 73).

Glucosides: A broad term which encompasses glucosides. Not all glycosides are glucosides (cf. The Condensed Chemical Dictionary, 7th Ed. at 455).

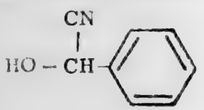
Laetrile: A specific chemical entity having the chemical formula:



[illegible] acid (Merck Index, 9th Ed. at 702). The name "Laetrile" was purportedly coined by Ernest T. Krebs, Jr. (R 318 at 73).

laetrile: A term used interchangeably with "Laetrile," "amygdalin," "nitriloside," and "vitamin B–17" (R 302, Ex. A; R 183, Att. 10c). The term is also used to include a number of compounds, in which case it may appear as "laetriles."

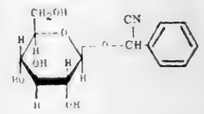
Mandelonitrile: A specific chemical entity having the chemical formula:



(Merck Index, 9th Ed. at 743).

Nitriloside: A term proposed by Ernst T. Krebs, Jr., for all cyanophorioglycosides of dietary significance (R 302, Ex. H. at 75).

Prunasin: A specific chemical entity having the chemical formula:



Mandelonitrile Glucoside (Merck Index, 9th Ed. at 743).

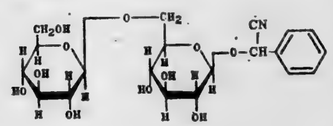
Sarcarcinase: The name given to an enzyme preparation developed by Dr. E. T. Krebs, Sr., and described by him in a 1933 patent application as a mixture of the following enzymes—amygdalase, prunase, oxynitrilase, catalase, peroxydase, and a proteolytic enzyme. He also suggested the presence of isomaltase and a lipase and perhaps other enzymes (R 424).

Vitamin B–17: Described as a group of compounds which include water-soluble, essentially nontoxic, sugary compounds found in over "800 plants" (R 302, Ex. H at 75) used interchangeably with "nitriloside," "Laetrile," "amygdalin," "beta-cyanogenic glucosides" and "cynophoric glucosides" (e.g., R 302, Ex. H at 75; R 302, Ex. A).

2. What is Amygdalin?

Amygdalin was reportedly first isolated from bitter almonds by the French chemists Robiquet and Burton-Charland in 1830 (R 173, Att., "Vitamin Fraud" at 345). The name "amygdalin" was derived from the word "amygdala", Greek for almond (R 302, Ex. L at ¶ 9). Amygdalin is a chemical compound composed of two glucose molecules and one molecule of mandelonitrile. Mandelonitrile is a chemical in which cyanide is combined with benzaldehyde (cf., R 173, Att., "Vitamin Fraud" at 345). The German chemists Liebig and Wohler observed that an enzyme preparation (later called emulsin) from bitter almonds was capable of hydrolyzing amygdalin, i.e., breaking it down into the two glucose molecules, the benzaldehyde molecule and a hydrogen cyanide molecule (id.). It was later shown that this hydrolysis occurs through the action of two enzymes (*beta*-D-glucosidase and *beta*-oxynitrilase) which are present in emulsin (id.). The *beta*-D-glucosidase hydrolyzes the *beta*-D-glucoside bond and thus frees the two glucose molecules from the mandelonitrile. *beta*-Oxynitrilase is the catalyst for the breakdown of mandelonitrile into benzaldehyde and hydrogen cyanide (id.).

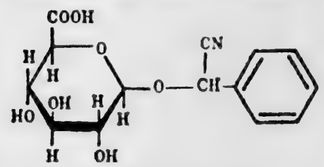
Amygdalin may be extracted from apricot kernels (id.), and is present in seeds of other members of the rose family (R 416 at ¶ 31A). The Commissioner concludes that amygdalin, a cyanogenic glucoside, is a chemical having the chemical name D-mandelonitrile-*beta*-D-glucosido-6-*beta*-D-glucoside (Merck Index, 9th Ed. at 81, compounds 630; R 183, Att. 10b). The chemical structure of amygdalin is:



3. What is Laetril (With a Capital L)?

The term "Laetrile" has been used interchangeably with "amygdalin," "laetrile," "vitamin B–17," "nitrilosides," and "*beta*-cyanogenetic glucosides" (R 173, Att., Laws and Regulations Relating to the Diagnosis and Treatment of Cancer 10400.1 at 16; R 302, Ex. A; Tr. at 405, 272, 465). It appears, however, that the term "Laetrile" (with a capital L) has been used by the drug's proponents to refer to a particular substance. There are essentially two versions of what that substance is:

(a) The term has been used to refer to a specific chemical compound which was prepared in 1952 by Ernst T. Krebs, Jr., who is said to have derived the name "Laetrile" from the compound's chemical name: laevo-mandelonitrile-*beta*-glucuronoside (R 318 at 73; see also R 262; R 183, Att. 16 at 1 and 2). This chemical is related to, but is distinctly different from, amygdalin. It is claimed that the laveo-mandelonitrile-*beta*-glucuronoside was derived by Ernst T. Krebs, Jr., while working with the apricot extract his father had prepared and studied some 20 years earlier (R 318 at 70–73). The chemical structure of this material is depicted in several places (R 318 at 154, 157, 162) and is in agreement with the chemical name. The chemical structure of this version of Laetrile is:



(b) In a 1965 affidavit, however, Dr. Krebs, Sr., stated that the name "Laetrile" was devised in 1949 by his son, Ernst T. Krebs, Jr., for a form of amygdalin which Dr. Krebs, Sr., was producing at that time (R 183, Att. 13). As can be seen from the diagrams set out in this opinion, the chemical structure of amygdalin is different from that of Laetrile as described by Mr. Krebs, Jr.

In the second version of the identity of Laetrile, the source of the name is stated as follows: "Because this apricot preparation was 'Laevorotatory' (left-handed) to polarized light, and because Amygdalin was chemically a 'mandelonitrile,' Krebs, Jr., united the first and the last syllables to invent a name for the new cancericidal drug—LAETRILE" (R 183, Att. 7 at 24).

The confusion about the meaning of the term "Laetrile" is long-standing and may in part be the result of a desire on the part of promoters to continue to use drugs containing amygdalin while justifying the use of the drugs by theories associated with the Laetrile of Krebs, Jr. For example, in a February 17, 1953 letter to Dr. Ian Macdonald, the Chairman of the Cancer Commission of the California Medical Association, Ernst T. Krebs, Jr., advised that he was forwarding "• • • samples of the biosynthetically degraded amygdalin in which one dextrose was removed by prunasin and the resulting compound, in the presence of platinum black, was oxidized to the corresponding glucuronoside" (R 183, Att. 14). (Note: the compound thus obtained should have been 1-mandelonitrile-*beta*-glucuronoside or "Laetrile" as described by E. T. Krebs, Jr., R 318 at 73.) The Cancer Commission of the California Medical Association, in its 1953 report, stated: "Chemical analyses done independently for the Commission have identified in the product distributed as Laetrile only the presence of a natural laetrile termed amygdalin" (R 378, Att. 15 at 326).

The question of the identity of the material distributed as "Laetrile" arose again in the early 1960's when the Cancer Advisory Council of the State of California was gathering information on Laetrile in order to enforce the 1959 California law dealing with cancer quackery. In 1963 the Council reported that the California State Department of Public Health had examined different varieties of Laetrile and found that the products were markedly different in composition but did contain varying percentages of amygdalin (R 183, Att. 16, App. 7 and 8). A Canadian Medical Association report published in 1965 found that the United States and Canadian versions of the drug were different—a larger percentage of the Canadian version than of the United States version was found to be made up of amygdalin (R 189; see also R 378, Att., "Supplementary Report by the Cancer Advisory Council" at 1–2).

The record reveals a number of references by Laetrile proponents which use the terms "Laetrile" and "amygdalin" interchangeably (see, e.g., Tr. at 238 and 246, and the book Control for Cancer (R 318)). Even some labels for the drug use the terms synonymously: one identifies the product as "Laetrile (Amygdalin) 400 mg capsules" (R 183, Att. 10a; see also R 183, Att. 10d). The National Cancer Institute, in its October 1975 "Background Statement on Laetrile" notes the fact that supporters of the drug have used the names "Laetrile" and "amygdalin" interchangeably. The report then correctly identifies amygdalin as mandelonitrile - *beta* - gentiobioside (this chemical name for amygdalin is listed in the Merck Index, 9th Ed. at 81, compound No. 630) and states that the compound actually tested in 1957, 1960, 1969, 1973, and 1975 by the National Cancer Institute was amygdalin (R 173, Att., "NCI Testing of Laetrile (Amygdalin)").

Yet it is not possible simply to conclude that the many references to Laetrile as a specific substance are a hoax on the part of Mr. Krebs, Jr., and that Laetrile as used is simply amygdalin. A number of reports by Dr. Manuel Navarro of the Philippines stated that the Laetrile of Ernst T. Krebs, Jr., was in use (R 318 at 155, 161)), as did a report by Dr. John A. Morrone of New Jersey (R 318 at 205).

Additional confusion is added to the record by an article "Nitrilosides (Laetriles) Their Rationale and Clinical Utilization in Human Cancer (December 1962)," by Ernst T. Krebs, Jr., and Dr. N. R. Bouziane, in which the authors report on their use of "non-toxic nitrilosides (Laetrile), to which the trophoblast is susceptible, on terminal cancer cases for two years in Canada • • •" (R 318 at 187). While the article refers to "cyanophoric glucosides and cyanophoric glucuronosides" (id. at 189), the authors do not identify the "Laetrile" they had been using and about which they were reporting. The authors cite a chemical compound in their discussion (id. at 190) that is not amygdalin nor is it "Laetrile" as described and named by Ernst T. Krebs, Jr. (id. at 73).

While the prevailing confusion over the true identity of material called "Laetrile" would be a severe drawback to anyone seeking to show through testing that Laetrile was safe and effective, this lack of uniformity has been adopted by Laetrile proponents as a means of discounting data showing the drug to be ineffective and thus unsafe. An example is found in the statement by Ernst T. Krebs, Jr., that "The • • • single negative report on Laetrile, which is based upon the observations of unidentified investigators in unidentified institutions administering a purported Laetrile not obtained from the only source of the material, is to be found in California Medicine, 78:320 (1953)" (emphasis added) (R 318 at 251). It should be recalled that at least some of the material supplied to the California Cancer Commission was sent by Ernest T. Krebs, Jr., himself (R 183, Att. 14). In May of 1971, Mr. McNaughton of the pro-Laetrile McNaughton Foundation, in a meeting with FDA's Ad Hoc Committee of Oncology Experts, stated that data obtained prior to 1968 are frequently not valid because of the variability of Laetrile formulations (R 173, Att. "Report of the Ad Hoc Committee of Oncology Consultants" at 1). See also statement of Robert Bradford, President of the Committee for Freedom of Choice in Cancer Therapy, Inc.: "As an aside, an important aspect of animal tests, and indeed, of human tests has been from time to time the availability of amygdalin which did not meet the specified identification criteria, that is, for its use. Tests with defective materials, as Sloan-Kettering found out, will not be efficacious. Defective material likewise will not be effective in humans" (Bradford, Tr. at 350).

In its 1971 report to FDA, the Ad Hoc Committee of Oncology Consultants

agreed that uncertainty about the identity of the drug tested makes the test results obtained questionable. The Committee stated that because of the variability in composition of early preparations, doubt was cast on the bulk of the 1970 McNaughton Foundation Notice of Claimed Investigational Exemption for a New Drug (IND) for Laetrile, which was based almost exclusively on such early material (R 173, "Report of the Ad Hoc Committee of Oncology Consultants" at 1). The Committee further suggested that any protocol for study contain a full description of the drug (formulation, stability etc.) (id. at 4).

There is, quite simply, no one answer to the question "What is Laetrile?". In the glossary to this opinion, the chemical composition of Laetrile is considered to be that described by Ernest T. Krebs, Jr. Yet if some other substance is being used to treat cancer patients, testing of that "Laetrile" would be of no relevance.

Because different persons have used the terms "Laetrile" and "amygdalin" to mean different substances, uniformity of definition will not be possible in discussing the evidence in the record. For this reason, the Commissioner will not, in quoting or citing parts of the administrative record, attempt to define or to determine the identity of the material under discussion but will simply use the term as it appears in that portion of the record. Attempts to identify the material referred to will be made only when necessary for a rational resolution of an issue, e.g., a reference to Sarcarcinase as amygdalin or as Laetrile will not be accepted blindly.

4. What is laetrile (With a Small l)?

As noted in the glossary, the term "laetrile" (with a small l) has been used interchangeably with or synonymously for: nitriloside, Laetrile, vitamin B–17, and amygdalin (e.g., R 302, Ex. A; R. 183, Att. 10c; R 378, Att. 6). The term has, however, also been used to describe a class or group of compounds. For example, amygdalin and prunasin are described as "two common Laetriles" (R 173, Att., "Vitamin Fraud" at 345). It has been stated that: "The term LAETRILE is used to designate the laevorotatory containing glucosides in general and the corresponding glucuronoside in particular. The former are found in plants whereas the latter are synthetic" (italics in original) (R 318 at 155). (See also, R 318, at 240 ¶ 9 which defines natural laetriles as *beta*-cyanogenetic glucosides and glucuronosides.) The Commissioner concludes that the term "laetrile" is an imprecise term and that it does not imply a specific chemical compound. The term is, rather, a broad or generic term for a group of compounds of unknown number.

5. What is Sarcarcinase?

Dr. Ernst T. Krebs, Sr., claims to have developed a product called "Sarcarcinase" in 1926 (R. 183, Att. 13). "Sarcarcinase" is stated to be a registered trademark in the United States and 10 other countries (with registrations dating from March 1933 to January 1934) (see R. 260; R 259). The process for preparing the product is stated to be patented in 15 countries including the United States (see R. 260). It is also reported that Sarcarcinase was used in Japan in 1934 and in Czechoslovakia in 1935 (R. 259). Other references in the same timespan refer to an "enzyme preparation" or "enzyme injection" used within the United States as well as several foreign countries (id.).

Ernst T. Krebs, Jr., stated at oral argument that as early as 1932 his father "* * * observed the use of amygdalin, or laetrile; made it available across the country and abroad under the term 'Sarcarcinase' to physicians, to researchers" (Tr. at 238). He also stated, "* * * the first amygdalin was used—1932—it was labeled as 'Sarcarcinase' " (Tr. at 246). Sarcarcinase was not, however, amygdalin nor did it contain amygdalin in any quantity. Rather, in the words of Dr. Krebs, Sr.'s 1933 patent application, Sarcarcinase was "an enzyme for treatment of malignant growths." The patent application actually describes the product as "an enzyme complex" containing "amygdalase, prunase, oxynitrilase, catalase, peroxydase and proteolytic enzyme" plus a suggestion of "isomaltase and a lipase with possibly others" (Patent application attached to R 424 and to R 259).

Amygdalin is not an enzyme. As will be discussed in more detail below, enzymes are chemicals which catalyze the breakdown of other chemicals and which are often named by attaching the ending "-ase" to the chemical which they attack. Thus, "amygdalase," stated by Dr. Krebs, Sr., to be part of his enzyme complex, may have been meant to describe an enzyme which would break down amygdalin.

It has been argued that Sarcarcinase contained some quantity of amygdalin (R 183, Att. 13, and Att. 7 at 23). An expert chemist has stated, however, that much or all of the small amounts of amygdalin in the apricot kernels used in making Sarcarcinase would be destroyed by enzyme action when the kernels are ground up and that only a small fraction of any that remained would survive the rest of the process (R 424). It should be noted that, even if there were any amygdalin in Sarcarcinase, that would not make that drug equivalent to a drug made up of amygdalin either totally or in greater proportions either in a scientific sense or in a legal sense.

There is some indication that Dr. Krebs, Sr., had abandoned Sarcarcinase even at the time when the patent applications were being obtained. One submission by a Laetrile proponent states that Dr. Krebs, Sr., "* * * resigned himself to the fact that there was no sense continuing this particular research to identify the toxic element or elements in the apricot extract he prepared (sometime after 1926) until he acquired the additional knowledge necessary to understand the mysteries that were occurring in his test tubes. He put his extract aside and returned his books" (R 318 at 42). Krebs himself states that in 1936 he developed a new product, whose "active principle" was amygdalin of 66 percent purity (R 183, Att. 13). (The inactive ingredients of this preparation are not identified.) It is not clear whether it is Sarcarcinase or this new product about which Krebs, Sr., speaks when he states that his "apricot extract" was "so toxic that he and colleagues who were experimenting with him were reluctant to continue its use, except in dire circumstances" (R 183, Att. 7 at 23). It was apparently these toxicity problems that led Krebs, Jr., to seek to improve his father's work (id.). Since "Laetrile" was not developed until 1952 by Krebs, Jr., any statement that "Laetrile" was sold as Sarcarcinase in the 1930's is patently erroneous.

C. CLAIMS FOR LAETRILE

Laetrile (or amygdalin) has been recommended over the years primarily for use in the treatment and, more recently, "control" of cancer. The claims appear to vary in relation to the sophistication of the intended audience. Thus in the 1962 new drug application (NDA) for Laetrile submitted by Ernst T. Krebs, Jr., to FDA, the drug was claimed to be a palliative (i.e., a drug that mitigates the symptoms of a disease without curing it) to be used with other recognized therapies (R 201, Ex. B at 102). By contrast, in a pamphlet in use in 1965, apparently addressed in part to prospective patients, it is stated that "Laetrile does not palliate, it acts chemically to kill the cancer cell selectively * * *," and use of other cancer therapies concurrently is discouraged (R 201, Ex. C # III). The following claims have been made for Laetrile (amygdalin):

1. Treatment (Cure or Mitigation) of Cancer

The pamphlet discussed above and others obtained from Dr. Krebs, Sr., by FDA investigators at the same time recommended Laetrile for treatment of cancer (see, generally, R 201, Ex. C). Dr. Krebs, Sr., in a pamphlet entitled "The Treatment of Breast Cancer with Laetrile by Iontophoresis" promotes the drug for treatment of a number of cancers (R 183, Att. 7 at 26–27 and 30).

A label for 400 mg capsules of "Laetrile (Amygdalin)" claims that the "nontoxic cyanide glucoside is used for specific treatment of cancer by physicians or under directions of a physician" (R 173, Att. 102). Amygdalin has been promoted (as an ingredient of "Bitter Food Tablets") for the cure, mitigation, and treatment of cancer in man (R 173, Att., *United States* v. *Spectro Foods*, Civ. No. 76–101 (D.N.J., Jan. 28, 1976) Findings 16 through 23).

As noted above, some claims are limited to palliation. (See, e.g., R 216 at 348; R 318 at 175; Tr. at 238.) Recently, Laetrile has been touted as a "control" for cancer. Proponents of Laetrile making this claim assert that no "cure" for cancer exists (see Tr. at 303). Control for Cancer is also the title of a paperback book on Laetrile (R 318). It is not entirely clear

from the record whether "control" means palliation. Laetrile therapy is said to be responsible for increased appetite and weight gain and an increased "sense of well-being" among treated cancer patients (R 318 at 158 and 165).

2. Analgesic (Pain Killer)

An information booklet for physicians about amygdalin makes the claim that the product is a nontoxic analgesic that is highly effective in relieving the pain of terminal cancer (R 183, Att. 10b). The booklet claims that the oral route is the most convenient route of administration for both patient and physician.

NOTE.—The Commissioner points out that both proponents and opponents have warned against oral use of amygdalin or Laetrile.

See R 318 at 167; "* * * it (Laetrile) should never be given by mouth because the HCl (of the stomach) is capable of hydrolyzing the Laetrile"; see also R 318 at 158. Compare R 173, Att., Interview with Robert C. Eyerly, American Cancer Society: "Taken orally, it (Amygdalin) is decomposed in the intestinal tract by *beta*-glucosidase into highly lethal hydrogen cyanide." "Orally it (Laetrile) is extremely toxic due to the release of hydrogen cyanide on contact with the hydrochloric acid of the gastric juice (R 318 at 205).

A label for "The Original Laetrile" claims that the product "relieves pain due to malignancy" (R 183, Att. 9). For another claim that Laetrile reduces cancer-connected pain, see Tr. at 44. It has also been asserted that the hydrogen cyanide and benzaldehyde liberated by hydrolysis of Laetrile are potent analgesics (R 318 at 164).

3. Prevention of Cancer

With the advent of their theory that cancer is a deficiency disease and that that deficiency can be overcome by their product, either characterized as a provitamin for vitamin B–12 (R 201, Ex. C, No. IV), or as new vitamin B–17 (see R 183, Att. 10c), proponents of Laetrile have promoted it as a preventative for cancer (see the above references and R 198, Ex. 2 (transcript of the film World Without Cancer); cf. Tr. at 465). (See also R 173, Att., *United States* v. *Spectro Foods*, supra, Findings 16 through 23.) While proving that Laetrile (or amygdalin) did not prevent cancer would be extremely difficult, the record does contain evidence that at least one person taking it as a preventative did contract cancer (Tr. at 120).

4. Facilitation of Other Cancer Therapy

While, as noted above, some labeling recommends against use of other cancer therapies with Laetrile, it has been stated that "* * * if you combine toxic chemotherapy with Laetrile, you can give very high doses of toxic chemotherapy with no side effects, physical and no effects on the blood. That is, you don't get neucophenia (leukopenia?) and you don't get chromositophenia (chromocytompenia?)" (Tr. at 480).

5. Hemoglobin Index

One set of labeling for "Laetrile (Amygdalin)," which appears at two points in the record, recommends the product "for raising hemoglobin index and red count * * *" (R 183, Att. 9; R 201, Ex. C, No. I).

6. Reduction of Odor Associated with Malignancy

It is also claimed that topical application of Laetrile relieves fetor (odor) resulting from the secondary infection of ulcerated carcinoma and that parenteral administration takes care of fetor associated with internal cancers. This action is ascribed to the "antiseptic" properties of HCN and benzaldehyde, which is converted by the cells to benzoic acid (R 318 at 158 and 165).

7. Sickle Cell Anemia

It is theorized that nitriloside (Laetrile) might be of value in the treatment of sickle cell anemia because of the release of cyanide and the subsequent formation of thiocyanates (R 217, article by R. G. Houston). (See also Tr. at 465.) This claim is reportedly refuted by experts in sickle cell hemoglobin (R 416 at 23).

8. Parasitic Diseases

The Houston article also references a report by Navarro and others of the clinical control of schistosomiasis (a snail-borne infection) with nitriloside (Laetrile) (R 217, Houston article at 58). The possibility of using Laetrile to treat parasitic diseases such as schistosomiasis or malaria is discussed in the book Control for Cancer but there are no reports of actual use in the book (R 318 at 111–12).

9. Regulating Intestinal Flora

It has also been suggested that amygdalin has some utility in regulating intestinal flora (Tr. at 476).

10. Hypotensive Effect

It has also been claimed that use of Laetrile causes a hypotensive effect (i.e., it reduces blood pressure), at least in cancer patients (R 318 at 165; cf. Tr. at 465).

In addition to these claims by Laetrile proponents (developers, distributors, and promoters), numerous comments from interested citizens contained references to or claims for its therapeutic effects as a cancer cure or as a preventative. There are also references to relief, attributed to Laetrile, from other ailments unrelated to cancer, e.g., arthritis (R 391).

D. THEORIES OF LAETRILE'S ACTION

A thorough understanding of the manner in which a compound achieves its therapeutic or beneficial effects is highly desirable. A cancer drug which had been shown to be safe and effective would not, however, be denied marketing approval simply because its action could not be explained. Experience has shown that a good theory to explain or predict the action of a chemical in the body does not assure success; neither does a weak theory, or even what turns out to be a totally incorrect theory, mean certain failure.

Some cancer patients may be turning to Laetrile in the mistaken belief that its use is supported by a respectable —even if not widely accepted—scientific theory. (Unproven remedies throughout the years have benefited from the use of the type of "scientific" theories associated with Laetrile (see, generally, R 413).) The Commissioner finds from the record that the theories advanced for Laetrile's supposed action are based on false or questionable assumptions. An understanding of these theories, furthermore, points up important differences between the "Laetrile" whose use is "justified" by the theories of Krebs, Jr., and the amygdalin-containing products actually being used.

Since a large part of the Laetrile theory of action deals with enzymes, the Commissioner believes that a few brief introductory comments about enzymes would be useful. Enzymes are protein molecules manufactured in the cells of the body which help the cells perform chemical reactions involving other compounds. As an example, trypsin, a common enzyme, aids in the metabolism of proteins in food by breaking these large molecules into smaller, easier-to-handle pieces. Enzymes generally are very specific in the types of chemicals they will attack. Frequently, the name of an enzyme is derived from the compounds that enzyme will break down. The ending "-ase" is often used to indicate an enzyme.

The chemical "*beta*-glucosidase" appears frequently in the Laetrile record. The name of this chemical indicates that it is an enzyme (-ase) and, furthermore, the name indicates that it attacks glucose-containing compounds (glucosides) from which it will liberate glucose molecules. As an example, *beta*-glucosidase liberates two molecules of glucose from amygdalin. If the chemical compound does not contain glucose molecules, *beta*-glucosidase will not attack it. In a similar vein, *beta*-glucuronidase will attack chemical compounds that contain glucuronic acid. (These chemical compounds are called "glucuronides" or "glucuronosides" or "glucuronic acid derivatives.")

The original theory of Ernst T. Krebs, Jr., for Laetrile's action involved two enzymes, rhodanese and *beta*-glucosidase (R 318 at 72). Krebs claimed that normal cells produced these two enzymes, while cancer cells were deficient in rhodanese. In cancerous areas, the theory continues, the *beta*-glucosidase accumulates in great quantities (R 318 at 72).

According to the theory, when Laetrile comes into contact with the cancerous areas it is hydrolyzed by the enzyme *beta*-glucosidase to liberate cyanide and benzaldehyde. In normal cells, the enzyme rhodanese converts the liberated cyanide to the less toxic thiocyanate. Cancer cells, lacking rhodanese, are said to be killed by the liberated cyanide

when it reacts with cellular components. Rhodanese from normal cells cannot protect cancer cells because, it is claimed, cancer cells produce chorionic gonadotropic hormone that effectively blocks the action of rhodanese (R 318 at 153). In later versions of the theory, the benzaldehyde is also considered to be responsible for killing the cancer cells, either alone or in concert with the cyanide. According to this theory, benzaldehyde is normally converted by a cell to benzoic acid by oxidation. Cancer cells are said to oxidize the benezaldehyde at a slower rate than normal cells, making it toxic to cancer cells and nontoxic to normal cells. (See Krebs, Jr., "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)" (R 183, Att. 10c at 80).)[3]

In fact, it has been reported that only traces of *beta*-glucosidases have been found in animal tissues and even less in experimental tumors than in such organs as liver and spleen (R 173, Att., "Vitamin Fraud" at 345). Apparently for this reason, Krebs, Jr., at one time modified his theory. In the modified version it is *beta*-glucuronidase rather than *beta*-glucosidase which is abundant in cancerous areas. This change is reflected in a 1955 pamphlet co-authored by Dr. Krebs, Sr., and Dr. Arthur T. Harris, in which it is stated: "As soon as the Laetrile *beta*-glucuronidase, which bathed the cancer cell, because of its affinity for sugar split the glucoside (or sugar radical) from the Laetrile molecule" (R 183, Att. 7 at 24). (See also R 318 at 151–53.)

The change in theory is important. *beta*-Glucuronidase hydrodyzes (breaks down) *beta*-glucuronosides (or "*beta*-glucuronic acids" or "*beta*-glucuronides") but does not hydrolyze *beta*-glucosides (R 318, Att. 16 at 24). Thus, *beta*-glucuronidase will hydrolyze "Laetrile" of the formulation devised by Krebs, Jr. (i.e., laevo-mandelonitrile-*beta*-glucuronoside), but it will not hydrolyze amygdalin (D-mandelonitrile-*beta*- D-glucosido-6-*beta*-D- glucoside) or other "nitrolosides" found in nature. What this means is that amygdalin, which has been sold as "Laetrile," would not be hydrolyzed by the body to liberate cyanide (R 183, Att. 16 at 41).

Recognition of this fact apparently led Krebs, Jr., to formulate his version of Laetrile in the first place. He is reported to have stated in a manuscript that "the natural laetriles have been abandoned for the more specific synthetic laetrile tailored as specific glucuronsidic substrates for the tumor *beta*-glucuronidase" (R 183, Att. 16 at 14).

The specificity of *beta*-glucuronidase for glucuronides (or glucuronosides) and its lack of activity against glucsides (such as amygdalin) is rigorously addressed in the record:

> Numerous glucuronides are hydrolyzed by beta-glucuronidase. * * * Mentyl-alpha-D-glucuronide and alpha-and beta-methyl-D-glucosides are not split by the enzyme.
>
> Further checking of this important point is consistent with the idea that the enzyme in question (beta-glucuronidase) not hydrolyze the beta-glucosides, which are the only Laetriles actually utilized by the Krebs' for human treatment (R 183, Att. 16 at 24).

(It should be remembered that the Cancer Commission of the California Medical Association had determined that the material labeled "Laetrile" was in fact amygdalin—a glucoside and not a glucuronoside (R 183, Att. 15 at 326).)

The conclusion seems justified that the presence of the terminal carboxyl group on position 6 appears to be the important factor in determining a specificity which is markedly different from that of B. Glucosidase * * * (R 183, Att. 16 at 25).

(The Commissioner points out that amygdalin has two glucose molecules but does not have a carboxyl group. Laetrile, as reportedly prepared, described, and named by Ernst T. Krebs, Jr., in the late 1940's or early 1950's (R 318 at 73) does have a carboxyl group on position 6 (the glucuronic acid portion of the molecule).)

Dr. Krebs, Sr., in his 1955 pamphlet on Laetrile appears to recognize that "animal *beta*-glucuronidase" and *beta*-glucosidase are different substances. (He characterizes the latter as a "prepared enzyme.") He does claim that the two enzymes react with Laetrile in the same manner (R 183, Att. 7 at 24).

There is some indication that Ernst Krebs, Jr., in later years abandoned his attempt to develop a Laetrile that could be broken down by *beta*-glucuronidase and began treating *beta*-glucuronidase and *beta*-glucosidase as equivalent. In a 1962 letter, Krebs, Jr., seems to refer to the former as an example of the latter: "beta glucosidases (e.g., beta glucuronidase)" (R 183, Att. 16, App. 12 at 2) and seeks, in describing an experiment with water fleas he had designed, to extrapolate results obtained with *beta*-glucosidase to results with *beta*-glucuronidase he feels is found in malignant lesions (id. at 4). (See also Krebs' 1970 article "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)" in which he again equates *beta*-glucosidase with *beta*-glucuronidase (R 183, Att. 10c at 82).)

Three other problems with this theory are quickly identifiable: (1) there is evidence that *beta*-glucuronidase is not particularly abundant in malignant tissues. The record shows that "* * * *beta*-glucuronidase is found in all tissues of the animal body and in particularly high concentrations in spleen, liver, and endocrine organs, as well as in plasma and in tumors arising from estrogen-influenced tissues. Per gram of tissue, the spleen and liver have a higher concentration of *beta*-glucuronidase than do most tumors," (R 183, Att. 16 at 15 and App. 14). It is further stated, "Such a statement as '* * * the malignant cell * * * is virtually an island surrounded by a sea of *beta*-glucuronidase' is sheer nonsense" (R 183, Att. 16 at 15 and App. 14).

(2) There is no evidence that cancer cells are deficient in the enzyme rhodanese. In reviewing the record, the Commissioner has not found any support for the bald assertion by the Krebs and other Laetrile proponents that cancer cells are deficient in the production of a hydrogen cyanide-inactivating enzyme called rhodanese. If there is any scientific support for that assertion, it is indeed strange that it has never been cited by the Krebs' or otherwise brought to the attention of the scientific community. The record shows, in fact, that: "There is no evidence of pronounced differential between the rhodanese content of comparable normal and cancerous tissue" (R 378, Att. 9 at 346).

(3) The complete breakdown of Laetrile into cyanide may require an enzyme not found in animal tissues. Hydrolysis of Laetrile by *beta*-glucuronidase (and hydrolysis of amygdalin by *beta*-glucosidase) only represents the first step in breaking down the molecules to release hydrogen cyanide and benzaldehyde (which are supposed to kill the cancer cell). The first reaction in each case would yield mandelonitrile plus (for Laetrile) glucuronic acid or (for amygdalin) glucose. Mandelonitrile must then be hydrolyzed or broken down to yield hydrogen cyanide and benzaldehyde (R 416 at ¶ 8).

Enzymes present in apricot kernels (specifically oxynitrilase) will hydrolyze mandelonitrile to cyanide and benzaldehyde, but this enzyme is not reported to exist in animal tissues (R 399 at ¶ 7B). Nor does the record show that any other enzyme capable of breaking down the mandelonitrile exists in animal tissues (or in malignant lesions). Thus, if Laetrile were injected into the blood stream and did go to the malignant lesion, even if it were broken down into mandelonitrile and gulcuonic acid, it might never be further broken down to yield hydrogen cyanide and the supposed action of that substance in killing the cancer cell would never take place.

At one time, Ernst T. Krebs, Jr., apparently attempted to deal with some of these problems by separating out the elements of the apricot extract his father had prepared. The fact that both *beta*-glucosidase and oxynitrilase are present in apricot pits and thus in the extract provides the potential for the whole breakdown process to occur in the apricot extract itself at the time when it is prepared. Krebs, Jr., sought to prevent this from happening (and perhaps sought to reduce toxicity) by separating amygdalin from "emulsin" by purifying the apricot extract. Emulsin contains, among other things, *beta*-glucosidase and *beta*-oxynitrilase (R 173, Att., "Vitamin Fraud" at 345).

Ernst T. Krebs, Jr., reportedly separated amygdalin from emulsin in 1952 and "* * * advised their administration separately in order to avoid the premature trigger-off of HCN (hydrogen cyanide) from the chemical breakdown in the somatic (or normal) tissue * * *" (R 183, Att. 7 at 23). It is further stated that by injecting the cyanogenetic glucoside (amygdalin) followed 15 minutes later by the enzyme *beta*-glucosidase a "high degree of safety" as well as cancerolytic effect was obtained (id. at 23–24).

If the *beta*-glucosidase preparation preparation reached the same area of the body that the amygdalin had reached, its presence would lead to the breakdown of amygdalin to release mandelonitrile (see R 416 at ¶ 18; R 183, Att. 7 at 31). While Ernst T. Krebs, Jr., apparently recommended that the second injection be of emulsin (R 183, Att. 7 at 23), Dr. Krebs, Sr., states that his second injection would consist only of the enzyme *beta*-glucosidase (id. at 24). If the second injection did contain emulsin, the presence of the oxynitrilase in that complex might in fact lead, assuming the emulsin caught up with the amygdalin in the body, to breakdown of the mandelonitrile to release hydrogen cyanide (and benzaldehyde). However, there is little reason to believe that this release of cyanide would occur only in or near tumor cells. (In the same article in which Ernst T. Krebs, Sr., explained the process of injecting the *beta*-glucosidase, he stated his understanding that it was the *beta*-glucuronidase "which bathed the cancer cell" that acted to break down the amygdalin (id. at 25).) It should be noted that, since the time of the 1955 pamphlet, no evidence has appeared, at least in this record, that two injections, one containing *beta*-glucosidase, are being used in Laetrile therapy.

In light of the above, one must be concerned that products are being used that contain not only amygdalin but emulsin. As the Krebs themselves recognized, unless emulsin is separated from amygdalin (both of which exist in the apricot extract), there may occur the premature trigger-off of HCN (hydrogen cyanide) from the chemical breakdown in the somatic (or normal) tissue (R 183, Att. 7 at 23). It is this type of cyanide poisoning which has occurred from ingestion of Laetrile and from eating apricot kernels. (See R 378, California Morbidity, Nov. 14, 1975, No. 45.)

It is thus clear that the theory propounded by the promoters of Laetrile is based on faulty and unproven assumptions. The invention of Laetrile as described by Krebs, Jr., and his suggestion that an injection of amygdalin be followed by an injection of emulsin were two different ways to deal with the fact that enzyme *beta*-glucosidase does not exist in human tissues. What is perhaps most important about the proffered theoretical justification for Laetrile's action is that, even if they were accepted, they would not justify the administration of amygdalin alone.

II. The "New Drug" Issue

The Commissioner will now address the first of the two issues remanded to the agency: Whether Laetrile is a "new drug" within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq. (hereinafter the act). Based upon a careful review of the administrative record, as detailed below, the Commissioner finds that Laetrile is not generally recognized by qualified experts as a safe and effective cancer drug. Accordingly, the Commissioner concludes as a matter of law that Laetrile is a new drug and thus subject to the premarket approval requirements of the act.

The term "new drug" is defined by section 201(p)(1) of the act (21 U.S.C. 321(p)(1)) as follows:

> Any drug * * * the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof * * *.

Although the act defines "new drug", it does not contain a definition of "generally recognized as safe and effective."

In 1973, the Supreme Court, in a series of four cases (*Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); *Ciba Corp.* v. *Weinberger*, 412 U.S. 640 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); *USV Pharmaceutical Corp.* v. *Weinberger*, 412 U.S. 655 (1973)) involving the procedures adopted and utilized by FDA to regulate new drugs pursuant to the Drug Amendments of 1962 (76 Stat. 780), established the legal principles that are applicable and controlling here. In Hynson, the Court discussed "general recognition" as it pertains to the effectiveness of a drug as follows:

> The thrust of § 201(p) is both qualitative and quantitative. The Act, however, nowhere defines what constitutes "general recognition" among experts. * * * We agree with FDA, however, that the statutory scheme and overriding purpose of the 1962 amendments compel the conclusion that the hurdle of "general recognition" of effectiveness requires at least "substantial evidence" of effectiveness for approval of an NDA. In the absence of any evidence of adequate and well-controlled investigation supporting the efficacy of (a drug), a fortiori (that drug) would be a "new drug" subject to the provisions of the Act. 412 U.S. at 629–30.
>
> * * * * *
>
> We accordingly have concluded that a drug can be "generally recognized" by experts as effective for intended use within the meaning of the Act only when that expert consensus is founded upon "substantial evidence" as defined in § 505(d). 412 U.S. at 632.

The term "substantial evidence" is defined in the last sentence of section 505(d), 21 U.S.C. 355(d), as:

> evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

In Bentex, based upon its discussion of the term "general recognition" in Hynson, the Court concluded:

> Whether a particular drug is a "new drug" depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation and backed by substantial support in scientific literature. 412 U.S. at 652.

It accordingly held that "the reach of scientific inquiry under both section 505(d) and under section 201(p) is precisely the same" (id.).[4]

The requirements that a drug have not only controlled clinical investigations but also publication of the studies concerning it in the scientific literature are designed to assure that the community of qualified experts in general is aware of the data concerning the drug. Thus, one could not obtain general recognition just by doing the required studies without publishing them in the scientific literature, making them available to other scientists. (Studies submitted to scientific publications must undergo peer review before they are published. A study published in a scientific journal is thus more likely to form a basis for expert recognition than is one published by the lay press.) A practical effect of the statutory system, as the Supreme Court acknowledged in Hynson, supra, is that drugs will have accumulated for themselves sufficient scientific evidence to justify approval of an NDA "long before they are in a position to drop out of active regulation by ceasing to be a 'new drug'" (412 U.S. at 631).

Under the Supreme Court's authoritative interpretation of the act, therefore, general recognition of the safety and effectiveness of Laetrile depends upon two criteria: (1) Controlled clinical investigations conducted by qualified experts establishing the safety and effectiveness of the drug and published in the scientific literature, and (2) expert consensus, based upon that evidence, that the drug is safe and effective. Both requirements must be met in order for Laetrile to escape the need for premarket approval under the act; however, a finding of a failure to meet either set of requirements is sufficient to classify the drug as a new drug.

With respect to the first criterion, the safety of Laetrile must be established by adequate tests by all methods reasonably

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[3] In his 1933 patent application for Sarcarcinase, Dr. Ernst T. Krebs, Sr., discussed his own theory of cancer, apparently now abandoned by Laetrile proponents. He perceived a malignant protein ("* * * a so-called abnormal glucosido-protein * * *") in cancer cells and explained why his enzyme extract, prepared from apricot kernels, should be effective against those cells (R 424). He believed that the enzyme would break up the abnormal gluco-protein and thus be an effective treatment against cancer (R 318 at 40–41). While it is claimed that some positive effects were observed in cancers in mice, the extract proved to be toxic and Dr. Krebs, Sr., discontinued working on the extract (id. at 42).

[4] Section 505(d) of the act (21 U.S.C. 355(d)) sets forth the standards applicable to obtain marketing approval of a new drug. With respect to reports of investigations which are required to be submitted concerning the safety of a drug, the act provides that such reports must include "adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof".

applicable (see 21 U.S.C. 355(d); 21 CFR 314.111(a)(1)). In addition, the effectiveness of Laetrile must be established by "substantial evidence," which the statute (21 U.S.C. 355(d)) defines as evidence consisting of adequate and well-controlled clinical investigations. (Clinical investigations are studies involving human beings as test subjects.) The requirements for an adequate and well-controlled clinical investigation are set forth in 21 CFR 314.111(a)(5) (see discussion below). Both types of testing must be available to the community of experts in the evaluation of drug safety and effectiveness by means of publication in the scientific literature.

For satisfaction of the second criterion, a showing must be made of recognition among the qualified experts which is "general." It has been held that a genuine difference of opinion among experts on the question of general recognition is sufficient to show that such recognition of a drug's safety does not exist (see *United States* v. *An Article of Drug, Etc.*, 294 F. Supp. 1307, 1311 (N.D. Ga. 1968) aff'd 415 F. 2d 390 (5th Cir. 1969); *United States* v. *354 Bulk Cartons, Etc.*, 178 F. Supp. 847, 853 (D.N.J. 1959); *Merritt Corp.* v. *Folsom*, 165 F. Supp. 418, 421 (D.D.C. 1958)). This interpretation of "general recognition" has been criticized as requiring "unanimous" recognition (see *United States* v. *7 Cartons, More or Less, Etc.*, 293 F. Supp. 660, 662–63 (S.D. Ill. 1968) aff'd 424 F. 2d 1364 (7th Cir. 1970). For purposes of completeness, the Commissioner in his opinion will consider "general recognition" to require, as the 7 Cartons Court suggested, recognition "extensively, though not universally; most frequently, but not without exception" (id.).

A. GENERAL RECOGNITION OF EFFECTIVENESS

1. Objective Evidence of Effectiveness

The Courts thus have determined that, as a matter of law, no "general recognition" of a drug's effectiveness can exist absent adequate and well-controlled clinical investigations and substantial support in the scientific literature. There are no clinical investigations of Laetrile's effectiveness, published or otherwise, which are even arguably adequate and well-controlled. (See, e.g., R 185 at ¶ 19; R 186 at ¶12; R 390 at ¶ 19). For this reason, Laetrile cannot escape "new drug" status as "generally recognized" as safe and effective. It is thus a new drug without an approved new drug application whose sale or distribution, where interstate commerce is involved, is illegal.

There is, however, an apparent public lack of understanding of what the required studies consist of and why they are required. The Commissioner will thus include in this opinion a discussion of what adequate and well-controlled studies are and why they are needed. He will then discuss the deficient "evidence" of effectiveness submitted by Laetrile's proponents.

(*a*). *What Are the Required Studies.* "(A)dequate and well-controlled clinical investigations," as those terms are used in the act (21 U.S.C. 355(d)) are defined in detail by regulation (21 CFR 314.111(a)(5)(ii)). These regulations, discussed with approval by the Supreme Court in *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 617–19, were upheld in *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970) and *Pharmaceutical Manufacturers Ass'n* v. *Richardson*, 318 F. Supp. 301 (D. Del. 1970). Simply stated, such investigations are designed to determine whether an improvement noted after administration of a drug is in response to the drug or whether it is caused by some other factor. To do this, patients as nearly identical in their disease state as possible are divided into groups and treated, insofar as possible, exactly the same in all respects except one: One group receives the test drug; the other receives a placebo (a substance that looks just like the test drug but is not a drug). Since a patient might feel better through knowledge of receiving the test drug, and since the investigator might subconsciously record better results because of the knowledge that he or she were administering the test drug, the experiment is "double-blind"; Neither the patient nor the investigator knows until after the experiment which patient is getting the test drug and which the placebo. If, at the end of the investigation, the patients receiving the drug did better than those not receiving it, one can be fairly certain that it was the drug and not some other factor that caused the improvement.

(b) *The Need for Controlled Studies.* In 1962, the Congress of the United States, after extensive hearings,[1] concluded that testimonial evidence of a drug's effectiveness—even including testimonials and illustrative "case histories" by physicians—was simply not reliable. It passed the law requiring that effectiveness be shown by "adequate and well-controlled clinical investigations" which is discussed elsewhere in this opinion.

The Supreme Court examined this issue closely in 1973 and determined that Congress' decision and FDA's enforcement of that decision were supported by the evidence elicited at the congressional hearings:

> (The FDA's) strict and demanding standards, *barring anecdotal evidence indicating that doctors "believe" in the efficacy of a drug*, are amply justified by the legislative history. The hearings underlying the 1962 Act show a marked concern that impressions or beliefs of physicians, no matter how fervently held, are treacherous. (Emphasis added.)

Weinberger v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 619. It noted:

> the conclusion of Congress, based upon hearings, that clinical impressions of practicing physicians and poorly controlled experiments do not constitute an adequate basis for establishing efficacy.

(id., 412 U.S. at 630).

Since both the Congress and the Supreme Court have spoken on this question, no further discussion by the Commissioner of the need for adequate and well-controlled studies,[2] rather than reliance on testimonial evidence, to show a drug's effectiveness is legally necessary. However, there is a continued public belief in testimonial or anecdotal evidence, fostered even by the lawyer of one of Laetrile's supporters. (See oral argument of Kenneth Coe, in which he contends that the safety and effectiveness of Laetrile has been shown by "anecdotes of people who have been diagnosd as terminal with cancer, anecdotes of people who have been cured of cancer, anecdotes of people who are walking around today, that are here today—well" (Tr. at 453). For this reason, the Commissioner will discuss the evidence in the record illustrating the need for scientific studies to show a drug's effectivness.

In his affidavit (R 175, Ex. A at ¶ 3), Dr. William Beaver, an expert in drug testing, notes that critics of well-controlled studies "often point out the undisputed fact that great strides have been made in therapy in the past without the benefit of this experimental device, but simply on the basis of the uncontrolled observations of astute clinicians * * *. (However), these critics often fail to mention the thousands of drugs which, on the basis of 'clinical experience,' were once accorded an 'indispensable place' in therapy, and which are now known to be useless." Dr. Beaver states (id. at ¶ 4): "The function of the controlled clinical trial is not the 'discovery' of a new drug or therapy. Discoveries are made in the animal laboratory, by chance observation, or at the bedside by an astute clinician. The function of the formal controlled clinical trial is to separate the relative handful of discoveries which prove to be true advances in therapy from a legion of false leads and unverifiable clinical impressions, and to delineate in a scientific way the extent of and the limitations which attend the effectiveness of drugs." See also affidavit of Bryant L. Jones (R 431 at ¶ 8): "Most medical mistakes of past centuries were a direct result of beliefs that were predicated on conviction rather than evidence. Most medical advances in modern times can be traced directly to the scientists insistence on valid scientific evidence to support use of today's drugs."

Because of the insidious nature of cancer, it is all the more important that the effectiveness of a drug purported to be useful in the treatment of cancer be demonstrated by well-controlled clinical studies and not solely by testimonials or anecdotes. Cancers in humans vary greatly in their behavior, i.e., their rate of growth, pattern of spread, effects on the normal organs of the person, and the types of clinical symptoms or signs they produce. There is wide variability in the pattern of spread and the outcome for an individual. The effects of cancer on an individual have an element of randomness, that is, an element of chance. Physicians are therefore simply unable to predict the outcome of any cancer at any stage of development with great accuracy. Patients with terrible and widely spread cancer will occasionally have miraculous or unexpected remissions of the disease. Untrained clinical investigators who administer any remedy to a large enough group of patients with cancer will ultimately observe a miraculous outcome. This apparently miraculous outcome may well mislead the untrained investigator into belief that the remedy was responsible for the result (R 390 at ¶ 14–15).

It has been noted above that, in an adequate and well-controlled study, neither the patient nor the investigator is told that the test drug is being administered because, if they knew, they might report results based merely on high expectations. This problem of assigning improvement to a drug when the improvement was simply a result of high expectations is known as the problem of the "placebo effect." The placebo effect is particularly common in cancer patients. A study of the placebo effect among 288 cancer patients undergoing controlled trials of oral analgesics showed that 112 patients received 50 percent or greater relief from placebo (i.e., non-drug formulations (R 186 at ¶ 13).

In his affidavit (R 185 at ¶ 20f) Dr. Daniel S. Martin states: "Humans are very susceptible, particularly when ill and desperate with hope, to the power of positive suggestion—namely, when given a 'drug' by an authority figure (e.g., a physician) with the firm statement and promise they will now begin to feel better, to have pain relief, to eat better, and to get well, these hopeful patients frequently do just what they have been told to expect." This, Dr. Martin states "is termed the placebo effect." Dr. Martin also explains that "Cancer is a chronic disease which some patients can live with for years before dying of the disease. During this slow death there are periods of 'ups' as well as 'downs,' and it is not surprising to have a Laetrile patient ascribe the 'up' to Laetrile, when it was merely coincidental timing" (id.). Similarly, Dr. Carl M. Leventhal states (R 184 at ¶ 7): "(P)sychogenic responses, popularly known as the placebo effect, are well documented and have been shown to occur from 30 to 70 percent of patients who are treated for pain."

The need for controlled testing as opposed to testimonial or ancedotal evidence of effectiveness is well-recognized by experts in the evluation and use of drugs. As Dr. Bayard H. Morrison states: "The problem is the anecdote doesn't permit you to know what happened yesterday. It doesn't permit you to know what is really going on today and certainly it doesn't give you any insight at all in what will happen to a given patient tomorrow, next week, or next year. To really know what a drug, any treatment, does to a patient you have to be able to evaluate him in the context of a large group whose disease you can follow carefully over a considerable period of time" (Tr. at 150).

(*c*) *The "Evidence" of Laetrile's Effectiveness.* (i) *Case Reports.*—The proponents of Laetrile (or amygdalin) have not submitted anything to the record that could be characterized as an adequate and well-controlled clinical study of Laetrile. In the regulation which defines adequate and well-controlled clinical investigations, it is clearly stated that: "Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered," even as corroborative evidence for adequate and well-controlled studies (21 CFR 314.111(a)(5)(ii)(c)). Yet that kind of report is the only "evidence" of Laetrile's effectiveness which has been submitted.

Because of the possible public belief in this kind of report, the Commissioner will discuss those submitted to this record. In addition, evaluations, submitted to the record, of earlier "case histories" or testimonials relating to use of Laetrile will be discussed.

(*a*) Reports Submitted to This Record

(*1*) Dr. Binzel

Phillip E. Binzel, Jr., M.D., Scientific Advisor to the Committee for Freedom of Choice, and in private practice as a family physician since 1955, appeared at the hearing to make an oral presentation (Tr. at 360–364) and to submit written testimony (Tr. Ex. 13). Dr. Binzel's submission at the hearing (id.) was a report of a study he conducted on more than 200 cancer patients to whom he administered a nutritional program, including Laetrile. Dr. Binzel stated that he had excluded from his report the following patients: "1: Those who were alive but who had been under treatment for less than 4 months. 2: Those who had died within the first 3 months of treatment. These are the patients whose disease was already too far advanced for any form of treatment to be beneficial * * *. 3: Those on whom there is not sufficiently adequate follow-up information to know for certain what their present condition is" (id.).

After the above exclusions, there remained 107 patients in Dr. Binzel's study who had been treated between 4 months and $2^1/_2$ years and who, according to Dr. Binzel, "are spread pretty equally throughout those time periods" (id.). He reported that 57 patients had primary carcinoma, and 50 patients had proven metastatic carcinoma at the time they started "nutritional therapy" (id.).

Dr. Binzel's exclusion from his study of patients for whom adequate followup information could not be obtained can be expected to exclude those patients who were dissatisfied with Laetrile treatment and left his care. That exclusion, together with the exclusion from consideration of patients who died within 3 months of the first treatment, would be expected to bias the study in favor of effectiveness.

Dr. Binzel states that he "did not attempt to differentiate between those patients who have had surgery and or cobalt and or chemotherapy and those who had none of these 'conventional' treatment" (Tr. Ex. 13, "Nutrition and the Cancer Patient" at 2). This, as Dr. Binzel notes, presents a "very valid question." Without knowing whether the patients in whom he saw improvement had had other, recognized effective, treatments, his conclusions cannot be evaluated (cf. 21 CFR 314.11(a)(5)(ii)(a)(2)(iii)).

Dr. Binzel's three-page "study," which was submitted without supporting documentation, simply lacks the details necessary to permit scientific evaluation and would not, for that reason, be considered by experts in drug evaluation even as corroborative of adequate and well-controlled studies if such studies existed (21 CFR 314.11(a)(5)(ii)(c)).

(*2*) Dr. Richardson

Edward Griffin, at the oral argument in this proceeding, submitted page proofs of a book entitled Laetrile Case Histories, The Richardson Cancer Clinic Experience by John A. Richardson and Patricia Griffin (Tr. Ex. 1.) Griffin stated: "Previously the opponents of Laetrile have said that there is no evidence that Laetrile works. There has been evidence of course, known to those of us who have been close to the subject. But admittedly, there has not been a great deal of medically documented evidence open to the public. And I believe that with the publication of this book at least we will be able to put an end once and for all to this claim of there not being any evidence" (Tr. at 15–16). Dr. Richardson does not claim to have conducted a research program and his case histories in no way even approximate an adequate and well-controlled clinical investigation.

Dr. Richardson's license for the practice of medicine has been revoked by the State of California (R 183 at 13) because he was found to have discouraged patients from seeking conventional therapy and to have practiced a type of treatment of cancer patients characterized as "an extreme departure from the standard practice of medicine" (R 179, Ex. B at 5). The California State Board of Medical Quality Assurance stated that these two findings established "gross negligence" on the part of Dr. Richardson (id. at 10). Dr. Richardson did not choose to appear in the administrative proceeding in which his license was ordered revoked (id. at 1–2).

A number of obvious questions are raised by Dr. Richardson's book: (1) There is no indication in this book—nor is there in the other reports in this section—of the chemical composition of the "Laetrile" which was used. Since there are variations in the composition of the drugs called by the name "Laetrile," this fact leaves the reader with no certainty

[1] See, e.g., Hearings on S. 1552 before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 87th Cong., 1st Sess., pt. 1, at 195, 282, 411–12. For a detailed discussion of the Congressional decision in 1962 to require adequate testing of drugs' effectiveness, see *Pharmaceutical Manufacturers Ass'n* v. *Richardson, supra*, 318 F. Supp. at 306 et seq.

[2] It should be noted that other types of testing are required to show a drug's safety, some of which must be completed before clinical investigations to show effectiveness can begin. (See 21 U.S.C. 355(d).)

as to what substance is claimed to be effective.

(2) The technique for selecting patients for reporting is hardly scientific. The book states: "Out of (a group of approximately 4,000 cancer patients), we selected a cross-section of about 500 for our study. We were able to establish contact and a working relationship with only about 250 of these. The cases with the weakest medical histories were discarded, as were those which were overly repetitious. The remainder (62) are contained in the study; but by no means do they represent our entire files" (Tr. Ex. 1 at 118–19).

It is absolutely incredible that anyone would expect to show the effectiveness of a drug by describing 62 out of over 4,000 patients with a selection process of the type Richardson describes. The Commissioner has no means of knowing what happened to the other 3,938 or more patients. No details are given to show how the 500 patients representing a "cross-section" of the 4,000 were chosen. The failure "to establish contact and a working relationship" with half of the patients that were chosen illustrates a serious lack of followup. Logic suggests that those patients who were not benefited by Laetrile would be less likely to be willing to develop a "working relationship" with Dr. Richardson's office. Clearly patients who had died would not be available for such a relationship. The discarding of weak medical histories has never been an accepted practice in the study of any drug. What constitutes the weakness of a medical history is not explained.

(3) There is some question whether what Richardson claimed to be positive effects were in fact positive. The authors admit that one of the weaknesses of the study is the shortage of cases involving 5-year survival or longer (Tr. Ex. 1 at 120).

Indeed, the case histories section of the book (Tr. Ex. 1 at 126–276) list for each of the 13 different groupings of cancer the expected death rate for those cancers in terms of percentage survival over a set number of years, usually 5 years. Many of the patients simply had not survived long enough at the time of the book's writing to constitute successes.

For example, six cases of female breast cancer are reported (Tr. Ex. 1 at 126–137). According to Dr. Richardson, these women have received metabolic therapy, including Laetrile, for periods varying from 13 to 32 months with an average of less than 21 months. Since Dr. Richardson states (Tr. Ex. 1 at 126): "Two out of every 3 patients with cancer of the breast who do not use Laetrile but choose instead to submit to orthodox therapies will be dead within five years," the fact that he has six patients who have survived 13 to 32 months with a mean of less than 21 months does not provide any evidence of the effectiveness of Dr. Richardson's treatment.

Dr. Richardson recognizes that some of the patients whom he has selected may not have had cancer. See, e.g., Tr. Ex. 1 at 148, patient B1381 where Dr. Richardson, in discussing the chest x-rays of a patient, states that the period of May 73 to January 77 represented: "A three-and-one-half-year remission of *probable* cancer of the lung." (Emphasis added). For several other patients, Dr. Richardson does not quote from the pathology report but merely reports that such a report was positive for cancer (see, e.g., patient P131B (Tr. Ex. 1 at 167)).

(4) Dr. Richardson relies in many instances upon what patients have told him about their medical histories, either orally or in writing. Some patient reports upon which he relies are hardly credible. (See, e.g., patient C106MA (Tr. Ex. 1 at 146): "The patient states the local doctors strongly recommended removal of both lungs and the permanent hospitalization of the patient, who then would be forever dependent on machines to do her breathing.")

(5) Some patient reports are so sketchy as to provide no basis for any conclusion. See, e.g., patient B144J (Tr. Ex. 1 at 202–203: There is no information regarding how the diagnosis of cancer was made. There is no indication that Dr. Richardson ever characterized the size of the tumor or whether he relied on the patient's description. There is no indication whether the patient had received any Laetrile since January 1970. There is no indication that there has been any contact with the patient since February 1976.

(6) As noted above, for each of the 13 groups of cancer which Dr. Richardson has used in his book he cites the anticipated fatality rates for patients receiving only orthodox treatment. As discussed elsewhere in this opinion, cancers are very different in their behavior, i.e., their rate of growth, their pattern of spread, their effects on the normal organs of the person and the types of clinical symptoms or signs that they produce (R 390 at ¶ 14). Experts in the testing of cancer drugs stress that the effects of cancer on a person have an element of randomness and that the ability to predict the outcome of any cancer at any stage of development varies (id.). In light of the regularity with which cancer patients' diseases vary from their expected courses, it would have been surprising if Dr. Richardson were unable to report that 62 out of 4,000 (c. 1½ percent) of patients he saw had remissions for periods of up to, but often much shorter than, 5 years.

Thus, the Richardson book is not only not the kind of adequate and well-controlled clinical investigation necessary to show the effectiveness of a drug, it is not even on its face a particularly credible recounting of medical case histories.

(3) Dr McDonald

Lawrence Patton McDonald, M.D., a urologist, and a member of the United States House of Representatives, submitted a statement in which he reported the following observations after treating almost 200 cancer patients (R 509 at 3):

"(1) Most patients had proven cancer and had had surgery and radiation and or chemotherapy. Most cases would have been hopeless by routine medical standards.

"(2) Perhaps 30–35% received minimal to no benefit from the program.

"(3) Approximately 40–45% received notable benefits from the program such as improved appetite, improved interest in life, weight gain, lessening or cessation of pain. This category ultimately died but were individually pleased with their improvements.

"(4) About 20% were in the category of marked improvement. In some cases this has been miraculous with these same patients doing very well today."

Dr. McDonald provided no details whatsoever other than those quoted above. Dr. McDonald's report was not, nor does it appear to have been submitted as, an adequate and well-controlled clinical investigation.

(4) Dr. Soto

Although Dr. Mario H. Soto appeared and testified (Tr. at 478–481) at the oral argument and was given an opportunity (Tr. at 481) to submit for the record data from his treatment of cancer patients with Laetrile, no data have been received from him.

(b) Case Reports Evaluated Previously

Much of the evaluation of case reports has been done in California, where Laetrile originated and was, along with a number of other "unproven" remedies, responsible for the 1959 passage of a State law aimed at cancer quackery. In 1952, the Cancer Commission of the California Medical Association collected information on 44 patients treated with Laetrile, all of whom either had active disease or were dead of their disease, with 1 exception. In some instances, the members of the Cancer Commission had the opportunity of seeing the patients thus treated. The conclusions of the Cancer Commission were that, of those alive with disease at the time of the study, no patient had been found with objective evidence of control of cancer under treatment with Laetrile. Nine patients who died from cancer after treatment with Laetrile were autopsied. Histological studies done for the Commission by five different pathologists showed no evidence of any chemotherapeutic effect (R 378, Att. 15 at 320–326; R 183, Att. 16 at 2–19 and App. 2–3).

In June 1962, the Cancer Advisory Council of the State of California Department of Public Health examined a total of 35 case histories of cancer patients treated with Laetrile. The Council unanimously judged these cases inadequate for any critical evaluation of Laetrile. "Many of the cases had received orthodox treatment; objective evidence of benefit was absent or insufficient, most of the documentation (dealt) with subjective improvement; some contained no pathological proof of malignancy; many were 1961 cases without followup; the duration of treatment was frequently unknown because the data reported the period of hospitalization only and often discharge dates were not shown" (R 183, Att. 16 at 30–31).

Thirty-six clinical records translated into English from the French were evaluated by the Cancer Advisory Council in December 1962. The Council reached the following conclusions:

1. The records failed to indicate that the patients treated with Laetrile secured either palliation or regression of their cancerous affliction as a result of the therapy.

2. In several instances, there was absolutely no evidence presented as to the response of the patient to the therapy.

3. In other instances, objective evidence documenting the statement of benefits, was not provided.

4. In one group of 17 of these cases, sufficient followup was absent. The longest period of followup was 14 months, 12 days and 23 days of hospitalization. The next longest was 381 days and the last was 127.

5. Results which were reported as "improved" were without meaning since no criteria, subjective or objective, were provided.

6. The evidence presented lends no credence to the alleged efficacy of Laetrile and Vitamin B_{15} in the treatment, durative or palliative, of advanced cancer (R 183), Att. 16 at 34–35).

In preparing its 1963 report, the Cancer Advisory Council also reviewed about 16 pounds of documentary material delivered by Laetrile proponents. The material contained a total of 63 case histories, 15 of which were submitted by two doctors in the United States (Dr. Ray Evers, Allusia, Ala., and Dr. John R. Morrone, Jersey City, N.J.).

The opinion [of the Cancer Advisory Council] on review of these cases is that they give no credence to the claimed curative effects of Laetrile in human cancer nor in those animal cancers where it had been investigated. The evidence of palliative response, both subjective and objective, is tenuous and poorly documented. Except in the cases in which death intervened and one or two others in which there was questionable diagnosis of cancer, no followup has been recorded, with the result that the final outcome of the cases is not recorded (R 183, Att. 16 at 35–36).

In January 1963, the McNaughton Foundation and the North End Medical Center, both in Montreal, Canada, submitted to the Cancer Advisory Council of the California State Department of Public Health a total of 14 clinical records on patients treated with Laetrile. These were not complete records but were abstracts furnished by various hospitals in Canada to the McNaughton Foundation. The Cancer Advisory Council appointed a committee of three physicians highly qualified and actively engaged in the treatment of cancer to review and evaluate these records. Each physician made an independent evaluation.

The committee reported: "These 14 records provided by the McNaughton Foundation were examined and fail to indicate that the patient treated with Laetrile secured either palliation or regression of their cancerous affliction as a consequence of the therapy. In several instances, there is absolutely no evidence presented as to the response of the patient to the therapy and in other instances objective evidence which documents claims of benefit is not provided. It is concluded from careful review of these records that they are inadequate as reports of therapeutic use of Laetrile, and they do not indicate that therapeutic benefit resulted from treatment with Laetrile, and do not indicate that this agent is of value in the treatment, cure, or palliation of cancer. In only one instance is there a statement by the examining physician indicating that a definite beneficial effect from Laetrile *might* have occurred" (emphasis in original) (R 378, Att. 14 at 26).

In 1971–72, the FDA, together with the National Cancer Institute, investigated and evaluated 12 clinical histories submitted by Dr. Ernesto Contreras of Mexico covering his experience with Laetrile in the treatment of cancer (see R 184, Ex. 3). FDA was able to obtain documentation covering the full course of the disease in 7 of the 12 case reports. All seven patients whose records were reviewed had received treatment other than Laetrile, including surgery, chemotherapy, or radiotherapy, or more than one of these approaches, either before, after, or concurrently with Laetrile therapy (R 184, Ex. 3; R 198 at 9–10).

Most of the alleged improvements stated, in the 7 case reports which could be evaluated, to be associated with Laetrile treatment have been found to be associated with one or more of the following events in the patient's disease (see R 183, Att. 16 at 10–11):

a. *Subjective improvement* was interpreted as being evidence of the agent's affecting the neoplasm, rather than being due to the general effect on the host, whether by metabolic or psychologic reasons.

b. Phases in the *natural history* of malignant neoplasm not infrequently observed in patients who are receiving no treatment whatever were interpreted as being due to the therapy employed (emphasis in original). * * * (For example.) occasional patients with widespread peritoneal carcinomatosis will exhibit regression of their disease following simple exploratory procedures.

c. Patients reported as showing regression of cancer with Laetrile were either receiving concurrent treatment by other methods, or had in their recent past been treated by some (orthodox therapy) and were exhibiting a degree of control of their disease *entirely attributable to the previous treatment* (Emphasis in original). * * *

d. A few of the patients treated did not have proof of the presence of cancer in the form of histological diagnoses, the evidence being more or less inferential, as radiographic observation of lesions in the lung, or a surgeon's diagnosis of a lesion as cancerous on observations of gross pathology at operation, without confirmation with biopsy.

e. Very few of the clinical records to which the Cancer Commission had access contained any sort of satisfactory evidence as to objective, accurate evaluation of the progress of the primary neoplasm or its metastases while under treatment.

(ii) *Animal Testing of Laetrile.*—As indicated elsewhere in this opinion, general recognition of Laetrile's effectiveness among experts in the evaluation of drug effectiveness could only be based upon adequate and well-controlled clinical (i.e., human) investigations. Thus, even if Laetrile had been shown to be effective in animal test systems, and the Commissioner concludes it has not, that fact would not remove Laetrile from the category of "new drug."

Nevertheless, in the interest of providing the public with all the information available in the record concerning this drug, the Commissioner will discuss the animal tests done with amygdalin about which there is controversy. Amygdalin has been extensively tested in animal systems. From the tests done, Dr. Dean Burk, president of the Dean Burk Foundation, Inc., has selected three tests done in the United States as showing a positive effect (R 302). In each case the laboratories which ran the tests found them to be negative. Dr. Burk also cites two foreign reports, one of which was not published (id.). His contentions, and the evidence relating to each in the record, will be discussed point by point and other animal testing done with the drug will be noted.

(a) Tests Claimed to Show a Positive Effect

(1) Sloan-Kettering

Dr. Burk includes the following in his list of animal studies showing a positive effect for amygdalin:

Sloan-Kettering Cancer Center (New York), with CD_2F_1 mice bearing spontaneous mammary carcinomas: Inhibition of formation of lung metastases, inhibition of growth of primary tumors, and greater health and appearance of animal hosts, upon treatment with 1–2 gm crystalline amygdalin kg body weight/day (Report of K. Sugiura, June 13, 1973) (R 302, Ex. A at 15).

Regarding the studies conducted at Sloan-Kettering, C. Chester Stock, Ph. D., Vice President and Associate Director for Administrative and Academic Affairs, Sloan-Kettering Institute for Cancer Research, stated in his affidavit (R 195) that:

We have tested amygdalin at high doses, 1000 mg/k/day, in over a dozen transplantable tumor systems and one induced tumor system without seeing any action against the tumors. The chemotherapeutic agents effective in clinical cancer have had or would have had their activities detected in one or more of those systems.

In spite of demonstrated utility of transplanted experimental animal tumor systems, some individuals believe that use of spontaneous animal tumors is more appropriate for seeking drugs for use in man. It was considered that this would be true of the advocates of the use of Laetrile who believe it needs to be used for relatively long periods of time.

Consequently, Dr. K. Sugiura in my laboratory looked for the effects of amygdalin on the growth of spontaneous mammary tumors in CD_2F_1 mice and also on metastatic spread to lungs of the hosts. Early observations of Sugiura featured an apparent inhibition of the appearance of metastases in the lungs of mice given daily (except Sunday) doses of 2000 mg/k of amygdalin in his 3 initial experiments. The treated mice showed lung metastases in 20% while 80% of the controls had metastases. The mice had been injected until death or until the primary tumors were over 2.5 cm in diameter. The data from these experiments were leaked to the press unfortunately before they could be checked adequately. Subsequent experiments, in some of which Dr. Sugiura participated, some conducted with Dr. Daniel Martin of the Catho-

lic Medical Center of Brooklyn and Queens and some which were independent by other investigators in our Institute, showed that the initial results were not consistently observable. In some experiments there were more metastatic mice in the treated than in the control mice. In the latest experiment in which Dr. Sugiura read the lungs of the mice without knowing what treatment they had received, there was essentially no difference found between the treated and control groups (R 195 at ¶ 10).

In his affidavit (R 185), Daniel S. Martin, M.D., states that: "My laboratory's tests with Laetrile demonstrated Laetrile to be without effect (on spontaneous tumors in experimental animals). Further, these negative tests on these animal tumors were confirmed by three other investigators at Memorial Sloan-Kettering Cancer Center in New York. One of the latter investigators (Dr. K. Sugiura) reported his initial experiments to demonstrate Laetrile to have anti-cancer activity, but his subsequent results were negative. A degree of variability in results is common in biological research, and the final opinion is based on whatever the majority of the findings are. In this instance, the totality of the data clearly and unequivocally reveals Laetrile to be without anti-cancer activity" (R 185 at ¶ 21 (c–d)).

(2) Southern Research Institute

Dr. Burk's citations continue:

Southern Research Institute (Birmingham, Alabama) for the National Cancer Institute, in a majority of 280 BDF, mice bearing Lewis lung cancers, treated with up to 400 mg crystalline amygdalin per kg body weight, with respect to increased life span (Report, December 3, 1974) (R 302, Ex. A at 15).

The results of two studies conducted by Southern Research Institute for the National Cancer Institute were published in the scientific literature in 1975. One of the studies involved an experiment "in which four transplantable rodent tumors (L1210 lymphoid leukemia, P388 lymphocytic leukemia, B16 melanoma, and Walker 256 carcinosarcoma) were used to investigate the antitumor activity of amygdalin MF * * * alone and in combination with *beta*-glucosidase" (R 184, Ex. 3b at 939). No antitumor activity was observed in any of the four tumor systems tested with amygdalin alone or in combination with *beta*-glucosidase (*id.*; see also R 173, Att., Memorandum, March 12, 1973).

The second study, in which amygdalin MF (i.e., amygdalin provided by the McNaughton Foundation) was evaluated alone or in combination with *beta*-glucosidase against three transplantable rodent tumors (Ridgeway osteogenic sarcoma, Lewis lung carcinoma, and P388 leukemia), showed that amygdalin alone or in combination with *beta*-glucosidase did not demonstrate antitumor activity against any of these three tumor systems (R 184, Ex. 3C at 952–53).

At the oral argument, Bayard H. Morrison, M.D., Assistant Director at the National Cancer Institute stated that the Institute:

has sponsored—other organizations have conducted—tests of Laetrile at various dosage levels in a variety of animal tumor systems, probably exceeding 15 or more, probably closer to 20.

This indeed really is about the most extensive that NCI and other laboratories in the aggregate have tested of essentially a nonactive substance. For in all of these tests which include tumors ranging from carcinomas, sarcomas, lymphomas, any kind of tumor which parallels to a large degree the human type of tumor, the results have been essentially negative. There have been occasional, marginal evidences of activity which have not been reproducible.

So, in balance, Laetrile has failed the test of demonstrating activity in the preclinical animal tumor systems that we know now predict for activity in human cancer.

And I should add that of the 30 or 40 drugs that are now regularly available and known to have effect in certain forms of human cancer, all of these drugs have demonstrated activity, significant activity, in one or more of these animal tumor systems (Tr. at 146A–47).

The proponents of Laetrile question the statistical controls and experimental design employed in the studies conducted by Southern Research Institute (see R 302, Ex. E). They suggest the utilization of methods of statistical analysis developed for use in judging results obtained with physical, rather than biological, systems. One of the research scientists at the National Cancer Institute responsible for the studies conducted by Southern Research Institute points out that "[t]he variation in all biological systems is far greater than that involving physical phenomena" (R 438 at 1). He suggests that it is, for that reason, not possible to use the internal statistical analyses suggested by the proponents of Laetrile (*id.*).

(3) Scind Laboratories

Dr. Burk's third reference is:

Scind Laboratories, University of San Francisco, 400 rats bearing Walker 256 carcinoma (200 treated with amygdalin, 200 controls), with 80 percent increase in life span at optimum dosages (500 mg amygdalin/kg body weight) (October 10, 1968). Cf. FDA–IND application No. 6734, pp. 247–8, 00080–00093 (R 302, Ex. A at 15).

The Scind Laboratory data were submitted to FDA in support of the McNaughton Foundation's IND for amygdalin in 1970. An ad hoc committee of cancer experts evaluated these data during its review of the IND. In its report, the Committee stated: "We are particularly cognizant of the lack of adequate evidence of *in vitro* antineoplastic characteristics. The Scind Laboratory data in the initial submission of IND 6734, April 6, 1970, concerning two experiments with a Walker 256 system are considered unacceptable because of inadequate documentation of status of animals, percentage of tumor take, rate of growth, and accounting for acute deaths[,] and the other substantial lack is a statistical analysis. Scind Laboratory, in a letter dated October 18, 1968, filed with [an] October 31, 1970, amendment, states 'Laetrile, when administered without Beta glucosidase has *little or no effect* upon transplanted rodent tumor systems tested.' (emphasis theirs [i.e., Scind Laboratory's])" (R 184, Ex. 2 at 1).

(4) Pasteur Institute

Dr. Burk's fourth reference is:

Pasteur Institute (Paris), with human cancer strain maintained in mice treated at optimal dosage of 500 mg Amygdalin Marsan/kg body weight/day; increased life span and delayed tumor growth up to 100 percent (Dec. 6, 1971 report by M. Metianu) (R 302, Ex. A at 15).

In a sworn affidavit (R 422), a medical officer in the Bureau of Drugs, who is trained in medicine and experienced in scientific research and who is fluent in both French and German, commented on the cited studies conducted at the Pasteur Institute in Paris and the Institute von Ardenne in Dresden (see discussion below).

The medical officer, through the American Embassy in Paris, learned that the report entitled, "Anti-Tumor Toxicity and Activity" was written on the letterhead of the Institute Pasteur and was an internal report of the Institute that has never been published in any scientific journal. In the affidavit, the medical officer states that the fact that the report "represents preliminary work only and has not been published in any scientific journal since it was prepared six years ago raises my suspicions that the preliminary results obtained could not be reproduced" (R 422 at ¶ 6).

(5) Institut von Ardenne

The fifth reference cited by Dr. Burk is:

Institut von Ardenne (Dresden, Germany), H strain mice bearing Ehrlich ascites carcinoma treated with bitter almond amygdalin ad libitum in addition to the regular chow diet; increased life span and decreased rate of cancer growth, treatment beginning 15 days before cancer inoculation (Arch Geschwulstforsch 42, 135–7, 1973) (R 302, Ex. A at 15).

After reviewing the article published in the Arch. Geschwulstforsch, the Bureau of Drugs medical officer made the following comments:

The author's terms (in the summary section): "feeding with bitter almonds," "prolongation of survival" (due to feeding with bitter almonds), and "inhibition of tumor growth" are not adequately defined in the subsequent text or by the content of the text and thus are uninterpretable.

The description of the methodology is deficient for a number of reasons. It fails to provide information whether the mice were kept singly or caged in groups. It fails to provide information on the techniques for demonstrating whether and how much of the bitter almonds had been eaten by each experimental mouse. It fails to inform on the origin, quality, and composition of the bitter almonds with respect to the latter alleged role of "amygdaline" and HCN. Due to these failings it is not possible to draw conclusions from any differences of events between experimental and control animals—if such differences could be demonstrated at all. The author also fails to give the age of the mice and the body weight of each individual mouse of each group and at each weighing date. The use of sole mean values in this paper is potentially misleading. (The scientific evaluation of data requires implementation of variabilities of the individual measurements.)

The author makes statements on "tumor growth" which are based on implications, indirect deductions, and on arbitrary assumptions.

The term "tumor growth" is potentially misleading for the Ehrlich ascites cancer which consists of a cancer cell suspension in the peritoneal fluid. The study fails to use precise methods of measuring the number of cancer cells present in each mouse.

* * * * *

In my opinion, this article fails to provide any evidence that bitter almonds are effective in inhibiting the growth of tumors (R 422 at ¶ 7).

(b) Other Tests

As noted above, the two tests done by the Southern Research Institute and the Sloan-Kettering studies now completed have demonstrated conclusively, in the view of most experts, that amygdalin, either alone or in conjunction with the enzyme *beta*-glucosidase, exhibits no antitumor effect. These results are in accord with the negative findings of three earlier animal studies commissioned by the National Cancer Institute. Those tests are summarized in the record as follows:

1957: Amygdalin was tested with three transplanted mouse tumor systems used at the time by the NCI Cancer Chemotherapy National Service Center (CCNSC) to screen compounds for anti-cancer activity. Amygdalin produced no significant inhibition or growth of the carcinoma 775 or sarcoma 180 tumors, and produced no significant increase in the lifespan of mice with leukemia L1210 tumors.

1960: Material from a different source was tested against the same three mouse tumors. The compound failed to show antitumor activity.

1969: Amygdalin was tested alone and in combination with beta-glucosidase against leukemia L1210 in mice. Amygdalin was inactive against the tumor, alone and in combination with the enzyme. Toxic side effects increased when the drug and enzyme were given together (R 173, Att., "NCI Testing of Laetrile (Amygdalin)"):

A study, entitled "Failure of Amygdalin to Arrest B16 Melanoma and BW5147 AKR Leukemia," Hill et al., Cancer Research, 36:2102–07, June 1976, appears as Exhibit 3 to R 170. The December 9, 1976 report of yet another animal test of amygdalin is Exhibit 3D to R 184. The drug was found not to be active against human breast and colon tumor xenografts in athymic mice.

The failure of Laetrile (or amygdalin) to show any effect in animal systems is important because those systems have shown an ability to predict effectiveness in humans. See the statement of Dr. James F. Holland (R 396): "No drug has been proved active in human cancer which does not show anti-cancer activity in experimental animals. Human cells are not so different from other mammalian cancer cells that an active drug does not act on at least one other mammalian system * * *. Laetrile is completely inactive against animal cancers. It has been repeatedly tested in reputable laboratories against a broad spectrum of rodent neoplasms. Inasmuch as no drug has been found active against cancer which isn't active in the screening tumors, there is no basis to consider Laetrile a candidate chemotherapeutic compound against human cancer * * *. No scientifically accepted data whatever have been presented indicating evidence of benefit from Laetrile."

See also the statement of Dr. Bayard H. Morrison, Assistant Director of the National Cancer Institute: [O]f the 30 or 40 drugs that are (now) regularly available and known to have effect in certain forms of human cancer all of these drugs have demonstrated activity, significant activity, in one or more of these animal tumor systems." (Tr. at 147).

One comment theorized that the reason why animal tests do not show Laetrile to have any anticancer activity is because the laboratory animals are bred to have defective immune rejection systems (R 235 at 7). This theory assumes that Laetrile is hydrolyzed by an enzyme that is in greater concentration at the cancer site than at other locations in the body. The comment explains that: "If, because of a defective immune system, laboratory animals produce no hydrolyzing enzyme at the cancer, (sic) site, that fact alone would explain why Laetrile doesn't work on laboratory animals. It can't work on any organism that has a defective immune system.'" (See R 235 at 7–8). No evidence has been submitted to support the comment's theory.

The Commissioner concludes that the animal studies conducted to date fail to show that Laetrile (or amygdalin) has anticancer activity in laboratory animals. As has been noted previously, even if these tests showed that the drug had anticancer activity in laboratory animals, such findings would not be relevant to the question whether it is generally recognized by qualified experts as a safe and effective anticancer drug, since general recognition must be based upon testing in human beings. The lack of positive effect in test animals is of some importance, since a clear showing of success in animals might suggest the propriety of clinical testing in humans. The failure of amygdalin to produce an anticancer effect in animals is added reason for skepticism concerning the claims that it is effective in humans.

2. Testimony of Experts

(a) Experts Opposed to Laetrile. The evidence that experts in the evaluation of drug safety and effectiveness do not "generally" recognize Laetrile as effective for any therapeutic use is overwhelming. (It should be remembered that for recognition to be general it must be shown that most qualified experts recognize the drug's safety and effectiveness. The fact that a few persons claiming expertise believe the drug safe and effective is thus not sufficient.) The record contains statements that Laetrile is not considered as an effective cancer therapy from several organizations with members who are experts in cancer drug evaluation—e.g., the American Cancer Society, the American Medical Association, the Committee on Neoplastic Diseases of the American Academy of Pediatrics—and from a large number of the Nation's most eminent and well-qualified experts in the area of cancer drug evaluation. It is difficult to conceive of a clearer showing of a lack of "general" recognition of a drug's effectiveness than the expression of the views of these many experts.

The Commissioner will describe the qualifications of some of these experts and either quote from or summarize the views which they have expressed. Each of the submissions referred to contains a great deal of information concerning Laetrile and the consensus of expert opinion about it, and the following excerpts are meant only to be illustrative of the views each expert expressed:

Arthur I. Holleb, M.D., Senior Vice President for Medical Affairs, American Cancer Society, Inc., submitted an affidavit (R173). His curriculum vitae lists his membership in and leadership of several professional societies, which include the James Ewing Society and the American Radium Society. He also serves on the Cancer Commissions of the American College of Surgeons and the American College of Radiology and is editor-in-chief of CA, a cancer journal published by the American Cancer Society.

Dr. Holleb stated (R 173 at ¶ 3) that he had reviewed three basic documents attached as exhibits to his affidavit and supporting documents for these basic documents and that the information contained therein was true and correct. Submitted as an attachment to Dr. Holleb's affidavit is a "Statement Concerning Laetrile" by Frank J. Rauscher, Jr., Ph. D., Former Director, National Cancer Program, National Cancer Institute. Dr. Rauscher states, "There is no evidence that Laetrile works. Over the last decade, or more, NCI has repeatedly conducted tests of Laetrile in a variety of animal tumor systems. Most have been completely negative. The others have shown only marginal levels of activity which could not be reproduced. The animal systems used are those which have detected the active properties of the scores of drugs which, unlike Laetrile, have proven to be of demonstrable value in patients with many forms of cancer. The therapeutic benefits as well as the attending side effects of these materials have been clearly and amply documented in clinical literature based on carefully conceived, meticulously conducted and monitored clinical trials. The same cannot be said for Laetrile where clinical reports are largely anecdotal and unsubstantiated. Thus, there is no laboratory or clinical evidence of the effectiveness of Laetrile" (*id.* at 2).

See also testimony of R. Lee Clark, M.D., President, American Cancer Society, in which he states: "The American Cancer Society views Laetrile as having no proven value in the treatment of human cancers. The Society has made a continuing review of all the literature and other information available and finds no evidence that treatment with Laetrile results in objective benefits to

patients with cancer. Since 1956, the National Cancer Institute, in conjunction with the cancer research centers of America, has reviewed over 300,000 drugs, chemicals, antibiotics, and other agents including Laetrile to evaluate them in regard to their usefulness in cancer treatment. From this research, more than forty specific agents have been found to have an effect against cancer in animal and in man. Although several trials have been made with Laetrile, it has never been proved effective in cancer in any way whatsoever" (R 307 at 1).

Frederick N. Silverman, M.D., Chairman, Committee on Neoplastic Diseases, American Academy of Pediatrics, submitted testimony (R 233 and 317) which included the following comments from his committee: "Laetrile has never been shown to exhibit any efficacy in the treatment of neoplastic disease in children. It cannot be regarded as safe if it is used in lieu of drugs currently employed either as accepted treatment or in carefully designed investigative treatment protocols."

William R. Barclay, M.D., testified (Tr. 269–281) for the American Medical Association (AMA). The AMA supports the "FDA's contention that laetrile is a new drug and is neither generally recognized by experts as safe and effective for its purported use nor should (it) be distributed in interstate commerce until such time as its safety and efficacy for the treatment of cancer have been established through controlled preclinical and clinical studies" (Tr. at 272).

Dr. Barclay discussed (Tr. at 274) a May 1965 report in the Canadian Medical Association Journal which "concluded that laetrile could not be considered as a palliative in cancer therapy on the basis of the biological rationale advanced by the manufacturer." He further states that: "the American Cancer Society has long pointed out through its continuous reviews of the scientific literature that laetrile is not a proven or generally recognized treatment for cancer. The American Medical Association likewise views laetrile as ineffective in the treatment of cancer" (Tr. at 275–276). At its 1976 Clinical Convention, the AMA adopted the following resolution pertaining to the profession's view of Laetrile: "*Resolved:* That the American Medical Association continue to inform the public of the danger of delay in the diagnosis and treatment of malignancies by methods not generally recognized by the medical profession as beneficial and effective; and be it *Further resolved*, That the American Medical Association inform the public that the safety and efficacy of amygdalin for the treatment or palliation of malignancies is unproven and that the use of amygdalin in such cases exploits the victims of malignancies and their families by preying upon the emotions of the hopelessly ill, in some cases for the profit of the unscrupulous." Dr. Barclay (Tr. at 276) states: "We believe that experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs are virtually unanimous in their recognition of the ineffectiveness of laetrile for the treatment of cancer." The AMA testimony concludes (Tr. 280): "It is clear that laetrile is not generally recognized by experts qualified to evaluate the safety and effectiveness of drugs as safe and effective."

W. Sherwood Lawrence, M.D., a Medical Officer of the State of California Department of Health, Public Health Division, Food and Drug Section, serves as the Executive Secretary of the State of California Cancer Advisory Council. He is the custodian of the records of the Council and is knowledgeable of the work of the Council and the study that the Council has conducted (R 183 at 1). Dr. Lawrence states (R 183 at 17): "The evaluation by the Council of all the clinical data available here and in Canada has failed to establish any evidence of clinical efficacy. The proponents have never published competent well-designed controlled clinical studies demonstrating the slightest efficacy of Laetrile in the cure, amelioration or control of cancer. Laetrile (amygdalin) is not generally recognized by qualified experts as either safe or effective in cancer therapy."

Jonathan E. Rhoads, M.D., is National Chairman of the National Cancer Advisory Board, a surgeon, former President of the American Cancer Society and a member of a number of organizations focusing on research, including the American Association for Cancer Research and the American Institute on Nutrition. He made a presentation at the oral argument (Tr. at 109–115), on behalf of himself, as a citizen, and the American Cancer Society. Dr. Rhoads stated (Tr. at 114): "The position of the American Cancer Society is that Laetrile can be toxic in some doses and some modes of administration. But that more importantly, it is unsafe because its effectiveness has not been demonstrated scientifically so that reliance on it may lead patients to forego better treatment. Laetrile certainly has not been proven effective as a cancer treatment or cure and is not generally recognized by qualified experts as safe and effective for cancer."

Jesse L. Steinfeld, M.D., is Dean of the School of Medicine, Medical College of Virginia, Richmond, Va.; he was formerly Deputy Director of the National Cancer Institute; United States Surgeon General; Deputy Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare; and Chairman of the Department of Oncology and Director of the Comprehensive Cancer Center at the Mayo Clinic. His professional experience includes over 20 years of involvement in cancer research, particularly with respect to the metabolic effects in cancer patients that occur as cancers grow and metastasize (R 194). Dr. Steinfeld was recognized as an expert in the evaluation of the safety and effectiveness of cancer drugs by the Court in *Durovic* v. *Richardson*, 479 F. 2d 242, 248 (7th Cir.), cert. denied 414 U.S. 944 (1973). He states that neither amygdalin nor any other cyanogenic glycoside is generally recognized by himself or by experts generally, to be safe and effective for any medical purpose (id. at 5). Dr. Steinfeld also states: "I have reviewed the clinical records of a number of patients who have received laetrile as treatment for cancer, while I was in California. In that review, there was no evidence to support the view that laetrile was of value to cancer patients. I have reviewed the volumes of material submitted to the FDA in 1970, requesting an Investigational New Drug Application (IND) for laetrile. The application was not approved because of serious flaws or deficiences in both the animal and human trials" (id. at 8).

Richard H. Lange, M.D., is Chief, Section of Nuclear Medicine, Ellis Hospital, Schenectady, N.Y. He submitted verified testimony (R 385) in which he cited his experience in the field of internal medicine, nuclear medicine, and his particular interests in the problem of cancer. Dr. Lange states: "When one reviews the extensive information presently available from leading experts on cancer, there is no evidence to suggest that Laetrile is in any way an effective cancer drug. * * * The theory that Laetrile is effective because it destroys cancer cells by producing a release of cyanide has never had any scientific support, nor has the newer claim in the prior approach that cancer is caused by a vitamin B–17 deficiency and that Laetrile is vitamin B–17. No scientific group has recognized Laetrile as a vitamin. * * * Evidence of an anti-tumor effect in animals must be suggested or proven before a drug can be used in human clinical trials. Without such proof of effectiveness, the concept of scientific investigation would be altered; the gates would be open to all sorts of quacks and utter confusion would result. Placebo effects and personal testimonials must be separated from competent objective scientific investigation which is free from bias, personal prejudice or emotional involvement" (R 385 at 1–2).

Michael B. Shimkin, M.D., is Professor of Community Medicine and Oncology, School of Medicine, University of California, San Diego, and has had 40 years of experience in cancer research, teaching, and clinical treatment of patients. He has authored or co-authored over 280 publications on clinical and laboratory cancer research (R 192). Dr. Shimkin states: "My knowledge about amygdalin ('Laetrile') spans some 30 years. At no time, nor now, has there been evidence that this material is useful in the prevention or treatment of cancer in man or in experimental animals. I know of no expert of cancer in chemotherapy who has evidence of usefulness of amygdalin in the treatment of cancer, nor of any recognized journals or textbooks in medicine that indicate such usefulness. I know of no laboratory or clinical studies of amygdalin that demonstrate scientifically any significant, repeatable benefit in animals or in man" (id. at ¶ 12).

Bernard C. Korbitz, M.D., is Chief of the Chemotherapy Section, Department of Oncology at the Radiologic Center, Inc., Nebraska Medical Hospital, Omaha, Nebr. He has been involved in various aspects of cancer research and cancer therapy since approximately 1954. His professional training and experience includes the authorship or co-authorship of approximately 40 articles relating to cancer hematology and internal medicine (R 181). Dr. Korbitz states: "To date, there has been no bona fide or substantiated evidence that Laetrile has any significant anti-tumor effect in any of the rodent animal systems evaluated. I have reviewed reports by Dr. Navarro in the Philippine Medical Journal who purported to have produced good results in cancer patients using larger doses. In reviewing his studies there is no objective evidence to support these claims that Laetrile is effective in any dose range against cancer" (id. at 3). Dr. Korbitz also states, "There is no objective evidence of any sort from pre-clinical or sketchy clinical reports to indicate that Laetrile has any benefit in the treatment of cancer patients" (id. at 4).

Susan J. Mellette, M.D., is Associate Professor of Medical Oncology, Medical College of Virginia and has had over 20 years experience in a private practice essentially limited to patients with metastatic malignant diseases. In 1975 she was President of the American Association for Cancer Education, an organization of medical and dental school faculty interested in cancer teaching in professional schools (R 420). Dr. Mellette states, "My views on the substance Laetrile are based on reports of the ineffectiveness of amygdalin which have been published in the standard scientific literature and also on two books and other printed materials put out by proponents of Laetrile which I have read. In the latter, I have found only unsubstantiated testimonials and hearsay in the patient reports and so-called scientific arguments which reach unwarranted conclusions without appropriate experimental methodology" (R 420 at 1).

Daniel S. Martin, M.D., has been involved in general cancer research since 1946. Since 1950, he has worked in cancer chemotherapy, and since 1958 in cancer immunology as well. His professional bibliography includes over 100 publications, the vast majority of which resulted from research in cancer immunology and chemotherapy (R 185). Dr. Martin states, "The proponents of Laetrile claim that their clinical studies in cancer patients demonstrated that Laetrile often reduced the size of a malignant tumor and caused some tumors to completely regress. *Evidence*—none; i.e., no *objective* evidence to support such a claim. No 'hard' patient data, no tumor measurements of the progress of the disease state, no biochemical data, no survival data, etc. The pro-Laetrilists do not present any competent scientific evidence that Laetrile is effective for the treatment of cancer. Only testimonials—'anecdotal' evidence—are presented that the Laetrile-cancer patients and their doctors 'believe' in its efficacy. Belief, however, is not adequate for reliance of drug efficacy. Only strict scientific standards should be employed; namely, adequately documented scientific, well-controlled, evidence of objective antineoplastic effects in humans. The fact that a great many cancer patients have received Laetrile and attest to its benefits is not evidence. Mere clinical experience *per se* is not a substitute for lack of appropriate objective documentation of clinical efficacy" (emphasis in original) (id. at ¶ 20e).

Harold James Wallace, Jr., M.D., is Director of Cancer Control and Rehabilitation at Roswell Park Memorial Institute, Buffalo, N.Y. He has had extensive training in the clinical pharmacology of cancer drugs and has participated directly in the clinical testing of a number of new anti-cancer drugs. He has, over the past 20 years, conducted and published the results of controlled clinical trials of drugs, radiation therapy, and other treatments of cancer (R 199). He is a cured cancer patient (Tr. at 170). Dr. Wallace states: "There is no evidence in either animal models or in the large numbers of patients who have received amygdalin that it is effective in any way in preventing cancer, causing a regression or remission of cancer, or improving the life expectancy of the cancer patient. Neither has there been any evidence that it decreases the symptoms of pain, weakness, or depression from cancer in any direct way. It is not analgesic or antiemetic in character. The anecdotal evidence claimed by amygdalin proponents has not been presented to me or to any scientific forum for critical review and these claims have not been substantiated by documentation in medical records available for review" (R 199 at ¶ 14).

John T. P. Cudmore, M.D., is a Board-certified surgeon whose professional experience includes the practice at oncology for the past 20 years. Dr. Cudmore stated that his work requires him to be acquainted with the literature related to drugs used in the treatment of cancer published in professional journals, and that he regularly attends meetings of experts at which drugs used in the treatment of cancer are discussed and evaluated (R 178). Dr. Cudmore states (id. at ¶ 10): "In my practice of oncology in San Diego since 1956, I have examined numerous patients after their treatments with amygdalin or Laetrile in nearby Tijuana, Mexico. I have never seen any evidence of cure or palliation with Laetrile. I can conclude from my personal experience that Laetrile or amygdalin is ineffective in the treatment and prevention of cancer." In support of these statements Dr. Cudmore discusses in his affidavit the case histories of nine patients who have received Laetrile, all of whom in his opinion received no benefits therefrom. Dr. Cudmore states (id. at ¶ 8): "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for the use in treatment or prevention of cancer."

Sidney Weinhouse, Professor of Biochemistry at Temple University School of Medicine, is a researcher in the field of cancer for the past 30 years, editor of the journal, Cancer Research, and a member of the Board of Directors of the American Cancer Society (R 384). He made the following statement regarding Laetrile: "Although widely touted for its curative effects on cancer for many years, there is no shred of evidence from any reputable cancer researcher that this substance has any therapeutic value. I know of no reputable scientist who has published evidence for the effectiveness of Laetrile" (id. at 1).

Bryant L. Jones, M.D., is a Medical Director in the Commissioned Corps of the United States Public Health Service (R 431). Since 1960, first in the pharmaceutical research industry and then in government, he has worked with the design and evaluation of clinical investigations, the purpose of which were to determine the safety and effectiveness of drugs (id. at ¶ 2). Dr. Jones states, "I am presently responsible for the review and evaluation of protocols and reports concerning the use of drugs subject to New Drug Applications (NDA's) and Notices of Claimed Investigational Exemption for New Drugs (IND's). I review such protocols and reports for the purpose of determining whether or not they provide scientifically acceptable standards of safety and effectiveness. I would estimate that I have reviewed several thousands such reports, most of which were and are directly related to and involve drugs intended for use in the field of oncology, which is the management of cancer" (id. at ¶ 3). Dr. Jones states, "I have made a careful review of the statements which are part of the record in this proceeding identified as:

1. Comments: C0001 through C0247.
2. Testimony: TS 01 through 14.
3. Letters: Let No. 1 through 49.
4. Oral arguments: OR 01 through 11.

When submissions were received by the Hearing Clerk, they were assigned both a number-letter code (used here by Dr. Jones) and an R number, utilized for purposes of citation in this opinion.) I have evaluated each statement and report which purports to show that Laetrile, amygdalin, or any of the cyanogenetic glycosides are safe or effective in the treatment of cancer, as a palliative, as an analgesic, or for any medical purpose. None of the statements or reports are adequate, well-controlled scientific studies. The reports I have examined fail to measure up to the principles applicable to adequate, well-controlled scientific studies in every particular. The studies not only fail to measure up to minimum standards applicable to adequate, well-controlled scientific studies, but also fail to present any scientifically acceptable, objectively documented clinical evidence of safety and effectiveness for amygdalin, Laetrile, or any cyanogenic glycoside" (id. at ¶ 6).

George J. Hill, II., M.D., is Professor and Chairman of the Department of Surgery and Associate Dean for Clinical Affairs of the Marshall University School

of Medicine, Huntington, West Virginia (R 170). His professional duties involve the medical management of cancer and require that he be familiar with drugs that are generally recognized as safe and effective in treating cancer. He keeps abreast of the consensus of informed opinion by reading medical literature concerning cancer and its management, by attending meetings of experts where methods of treatment that are recognized as safe and effective are described and discussed, and through teaching, conducting research, and exchanging views with his colleagues who are experts in the field (id. at ¶ 12). He has himself conducted studies on amygdalin, the reports of which have been published and are attached as Exhibits 2 and 3 to his affidavit. He states, "In the course of my investigation of amygdalin's potential as an antitumor agent, an extensive review of both popular and scientific literature relating to it and Laetrile was conducted. Most reports in the scientific literature supporting Laetrile have appeared in foreign medical journals. Only one preliminary report purporting to support use of Laetrile was found in an American journal. The favorable reports concerning clinical use of Laetrile or amygdalin were testimonials based on individual case reports. There were no adequate, well-controlled clinical studies which demonstrated or purported to demonstrate that amygdalin or Laetrile were safe and effective for use in the medical management of cancer. Neither were there any favorable clinical reports in which an attempt was made to measure any objective parameters for adequate periods of followup to determine any possible drug-induced effect. The literature also contains reports concerning a limited number of carefully monitored clinical cases in which use of amygdalin failed to result in any objective benefit in the management of cancer" (id. at ¶ 9–10). Dr. Hill also states, "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized among experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in cancer management, or for any other known medical use. I know of no medical school where use of amygdalin for treatment or prevention of cancer is taught. I know of no medical expert qualified through scientific training and experience in the control of cancer who advocates use of amygdalin" (id. at ¶ 13).

Vincent T. DeVita, Jr., M.D., is Professor of Medicine at the George Washington University School of Medicine, Washington, DC, and is a diplomate of the American Board of Internal Medicine, with subspeciality certification in Hematology and Medical Oncology (R 169). Dr. DeVita has been Director of the Division of Cancer Treatment, National Cancer Institute, since 1974. His job requires that he regularly attend meetings of experts at which drugs used in the treatment of cancer are discussed and evaluated and that he be acquainted with the literature published in professional journals relating to drugs used in the treatment of cancer (R 169 at ¶ 1–10). Dr. DeVita states (id. at ¶ 18–19), "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in the treatment or prevention of cancer. I know of no adequate, well-controlled clinical study which shows it to be safe and effective for use in the treatment or prevention of cancer in humans. I know of no medical school where use of amygdalin is taught, and of no recognized medical text which prescribes, recommends, or suggests its use. Neither do I know of any expert in cancer chemotherapy who is of the opinion that it is useful in the treatment or prevention of cancer, or that there is evidence that it is useful in the medical management of cancer."

R. L. Meckelnburg, M.D., is Director, Department of Nuclear Medicine, Wilmington Medical Center, Wilmington, Delaware, and a physician concerned with the care and treatment of cancer patients by means of chemotherapy (R 154). He described his limited experience with treating patients with Laetrile in the years 1963–1967. Although Dr. Meckelnburg states (and the Commissioner agrees) that the study was not a clinically controlled series, he reports that "the results of these treatments were uniformly unsuccessful." Dr. Meckelnburg noted, "The individuals who were most interested in promoting the use of Laetrile failed to administer the drug in a manner consistent with good clinical investigative methodologies, particularly the use of the double blind control and crossover models of study." He concluded, "The promulgation of the drug as a preventive for cancer in the light of today's knowledge is totally absurd" (id.).

Robert C. Eyerly, M.D., is a physician and surgeon on the staff of the Geisinger Clinic in Danville, Pennsylvania, and a diplomate of the American Board of Surgery (R. 167). He currently serves as Chairman of th Committee on Unproven Methods of Cancer Management, American Cancer Society. This Committee's chief concern is, "With methods that are promoted as having established value in diagnosis, prevention, treatment, or control of cancer, despite a lack of competent scientific evidence to support claims made for them. The Committee reviews material assembled by its staff, mostly from published sources, to find out what kind of claims are made, and they evaluate scientific literature to see if it contains evidence to support such claims" (id. at ¶ 5–7). Dr. Eyerly states, "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for administration to humans for the treatment or prevention of cancer, or for any other purpose" (id. at ¶ 10).

Several experts qualified by scientific training and experience in the field of cancer research and cancer treatment submitted similar statements attesting that they knew of no cyanogenic glycoside that is generally recognized as safe and effective for the treatment, prevention, or cure of cancer, for the relief of pain associated with cancer, or for any medical purpose. They also stated that the composition of these cyanogenic glycosides, in general, and of amygdalin, in particular, is such that they do not recognize them, and the cyanogenic glycosides are not generally recognized among experts qualified through scientific training and experience to evaluate drugs, as safe and effective for the treatment of cancer, for prophylaxis against cancer, for relief of pain associated with cancer, or for any medical use. These experts further stated that the scientific literature contains no reports of adequate, well-controlled, scientific studies or other evidence upon which recognition of safety and effectiveness may be predicated. They did not know of any recognized medical text in which the use of amygdalin or any other cyanogenic glycoside is recommended for the treatment of cancer. They did not know of any medical school where use of these substances for such purpose is taught. They did not know of any expert in cancer chemotherapy who is of the view that there is evidence that these substances have any useful effect in treating cancer. They did not know of any report in the scientific literature describing an adequate, well-controlled study which demonstrates that amygdalin or any other cyanogenic glycoside is safe and effective (Dr. Daniel S. Martin, R 185; Dr. Joseph F. Ross, R 190; Dr. Charles G. Moertel, R 186; Dr. Jesse L. Steinfeld, R 194; Dr. C. Chester Stock, R 195; Dr. Harold James Wallace, R 199; Dr. Peter H. Wiernik, R 200; Dr. Emil J. Freireich, R 390; Dr. David T. Carr, R 176). The qualifications of the individuals not previously discussed are set forth in the following paragraphs:

Joseph F. Ross, M.D., is Professor of Medicine at the University of California School of Medicine at Los Angeles, California, and Director of the United States Public Health Service-funded Research Training Program in Hematology and Hematologic Oncology at UCLA. He submitted an affidavit (R 190) in which he described his educational background and experience in teaching medical students and physicians. He is actively involved in the medical care of cancer patients. Dr. Ross listed his membership in several societies and councils which deal with cancer treatment and his membership on the editorial boards of several scientific publications.

Charles G. Moertel, M.D., is Chairman of the Department of Oncology at the Mayo Clinic, Director of the Mayo Comprehensive Cancer Center, and Professor of Medicine at the Mayo Medical School, Rochester, Minnesota. He described his educational background and experience

which have included serving as Editor of Cancer Yearbook, Associate Editor of Cancer Medicine, serving on the editorial board of Cancer, serving on a number of cancer committees, being involved in clinical research in pharmacology concerning cancer chemotherapy and clinical oncology, and publishing as author or co-author over 200 articles, abstracts, and editorials in recognized medical and scientific journals (R 186).

C. Chester Stock, Ph.D., is Vice President and Associate Director for Administrative and Academic Affairs of the Sloan-Kettering Institute for Cancer Research, New York, New York, and Professor Emeritus in Biochemistry at Cornell University. He described his educational background and experience as including serving as a member of several boards and societies concerned with cancer research and serving as Chief of the Division of Experimental Chemotherapy at Sloan-Kettering, where for many years he has had a major responsibility in the development of new drugs for the treatment of cancer (R 195).

Peter H. Wiernik, M.D., is Professor of Medicine, University of Maryland School of Medicine and Chief, Clinical Oncology Branch, National Cancer Institute, Baltimore Cancer Research Center. His educational background and experiences include duties as a reviewer for 9 medical-scientific journals, co-editor of 2 journals and the author or co-author of over 140 articles, editorials, and abstracts which have appeared in medical-scientific literature most of which deal directly with cancer (R 200).

Emil J. Freireich, M.D., is Head of the Department of Developmental Therapeutics and Professor of Medicine, and Chief, Division of Oncology at the University of Texas Medical School at Houston, Texas. His educational background and experience includes membership in several societies and committees concerned directly with cancer treatment. In addition, Dr. Freireich serves as a member of editorial boards of medical and scientific journals concerned with cancer research and, as such, reviews and evaluates scientific papers relating to the causes, treatments and control of cancer. He has published in internationally recognized journals over 250 articles, the majority of which have been concerned with cancer (R 390).

David T. Carr, M.D., is Professor of Medicine at the Mayo Medical School, Associate Director for Cancer Control and Community Relations of the Mayo Comprehensive Cancer Center, and a member of several professional societies and committees concerned with the treatment of cancer. His professional education and experience include the responsibility for a program of public education about cancer. His special interests are internal medicine and medical oncology, and he is regularly engaged in the medical management of cancer (R 176 (see also Tr. at 180–89)).

Several other experts submitted testimony in which they stated that, in their experience, Laetrile was not effective in the treatment of cancer. Their qualifications are set out in the following paragraphs:

James F. Holland, M.D., Professor and Chairman, Department of Neoplastic Diseases; Chief, Division of Medical Oncology; and Director, the Cancer Center, Mount Sinai School of Medicine, is a physician who has worked exclusively in cancer medication for over 26 years, specializing in cancer chemotherapy. He states, in his verified testimony, that he is thoroughly familiar with the action of drugs on cancer (R 396).

Carl M. Leventhal, M.D., is Deputy Director of the Bureau of Drugs, Food and Drug Administration. He holds the rank of Medical Director in the Commissioned Corps of the Public Health Service and is Assistant Professor of Neurology and Pathology at Georgetown University. As Deputy Director of the Bureau of Drugs, he participates in meetings in which the status of Laetrile is discussed and evaluated (R 184).

William A. Nolen, M.D., is Chief of Surgery at the Meeker County Hospital, Litchfield, Minnesota. He has served on the board of editors of the Minnesota State Medical Journal and has written a number of articles, editorials, and books on subjects of public health interest, including a book entitled Healing: A Doctor in Search of a Miracle, in which he describes his personal experience with a patient who lost her life because she chose Laetrile for treatment of an early cancer, thereby delaying conventional medical treatment (R 188).

Thomas H. Jukes, Ph.D., is Professor of Medical Physics and Research Biochemist at the University of California, Berkeley, California. He is a member of several professional societies, serves on the editorial boards of several scientific publications, has written three books and over 250 articles in scientific journals and has conducted research in the vitamin and cancer fields (R 416 (see also R 41)).

Robert S. K. Young, M.D., Ph.D., is a physician and has a doctorate in pharmacology. He serves as adjunct Assistant Professor of Pharamacology at Georgetown University School of Medicine and Dentistry and is group leader for the Oncologic Drug Class, Bureau of Drugs, Food and Drug Administration (R 201 (see also R 430)).

(b) *Supporters of Laetrile.*—In contrast to the great amount of evidence that experts in drug evaluation do not generally recognize Laetrile (or amygdalin) as effective, the evidence in the record to the contrary is meager. The Commissioner will outline qualifications of those persons who claim any modicum of training or experience in the area of drug evaluation whose support for the use of Laetrile appears in the record. The submissions of the following three physicians are discussed under II.A.1.c. above, "The 'Evidence' of Laetrile's Effectiveness":

John A. Richardson, M.D., stated in testimony (Tr. at 462–463) that he had been in general practice for 25 years and since 1971 had been engaged in nutritional using Laetrile, amygdalin, or vitamin B–17 and that he had treated, over the past 6 years, between 4,000 and 5,000 cancer patients. Dr. Richardson made no claim to special training or board certification in the area of oncology or of training or experience in the evaluation of the safety and effectiveness of drugs. Dr. Richardson's license to practice medicine has been revoked (R 183 at 13).

Philip E. Binzel, Jr., M.D., stated that he has been a family physician since 1955 and currently serves as scientific advisor to the Committee for Freedom of Choice (Tr. Ex. 13). He stated that he has treated over 400 patients in the last 3 years with a "metabolic therapy" for cancer (Tr. at 360–361). No special training in oncology or in the evaluation of drug safety or effectivenes is claimed.

Lawrence (Larry) Patton McDonald, M.D., who stated that he has been a urologist since 1963, is a former member of the State of Georgia Medical Education Board, and is currently a member of the U.S. House of Representatives. He stated that he was a member of several societies and associations, including the American Society of Clinical Urologists, the Southeastern Section of the American Urological Association, and the American Association of Physicians and Surgeons (R 509). No showing has been made that Dr. McDonald has a specific expertise in cancer treatment or in the evaluation of the safety and effectiveness of drugs.

Dr. Edward M. Arana, who spoke at the oral argument in this proceeding, identified himself only as a practicing dentist in Carmel, California (Tr. 472–A).

Ernst T. Krebs, Jr., spoke at oral argument in this proceeding (Tr. at 228–248). While he is referred to as Doctor, he did not complete his medical training and is a doctor only by virtue of an honorary degree. No special training in the area of cancer therapy or in the evaluation of safety and effectiveness of drugs has been shown for Mr. Krebs, Jr.

Paul Hart, M.D., spoke at oral argument. He described himself as having been employed at a pathology laboratory that dealt with the effects of radiation from atomic bombing in Japan and that was associated with Deaconess Hospital in Boston (Tr. at 457–58), and as being a diplomate of the National Board of Medical Examiners (Tr. at 457). He stated that he has an interest in "the Carl O. Simonton, M.D., psychotherapeutic approach to cancer therapy * * *" (Tr. at 458). While he indicated a personal respect for various Laetrile proponents, he did not give an opinion as to whether or not Laetrile is generally recognized by experts qualified to evaluate the safety and effectiveness of drugs as safe and effective for use in cancer therapy.

Dr. Mario Soto spoke at oral argument. He described himself as being former head of the chemotherapy departments of two different Mexican hospitals. He stated that he is an independent investigator for the National Cancer Institute and a conventional oncologist and chemotherapist. He is medical direc-

tor of a Laetrile clinic in Tijuana, Mexico (Tr. at 478–479).

Dean Burk, Ph. D., who spoke at oral argument and provided a written submission (R 302), is a biochemist and is president of the Dean Burk Foundation, Inc. He stated at oral argument that he had spent 50 years in research on cancer and vitamins, 35 of which were with the National Cancer Institute (Tr. at 402). His position is that Laetrile is not a drug but a vitamin.

An affidavit of Chauncey D. Leake, Ph. D., prepared for another proceeding, was submitted to this record (R 302, Ex. K). The affidavit indicates that he is Senior Lecturer in Pharmacology at the University of California School of Medicine, San Francisco. His curriculum vitae showed that he has a history of teaching, participation in organizations dealing with medicine and pharmacology, editing of journals, and authorship of books and articles.

An affidavit of Charles Gurchot, also apparently prepared for another proceeding, was submitted as Exhibit L to R 302. His degree is in chemistry and physiology. Now semi-retired, he has taught pharmacology, biochemistry and chemistry at several schools of medicine and is a member of a number of scientific societies.

James Cason, Ph. D., submitted a statement in which he states that he has been a chemistry professor for some 35 years, has published over 100 research papers in scholarly journals and has served on the editorial boards of Organic Syntheses, and the Journal of Organic Chemistry (R 217). He is currently a professor of chemistry at the University of California, Berkely (id.). While he states his opinion that a diet high in nitrilosides leads to a low incidence of cancer, he gives no opinion as to whether or not Laetrile (or Amygdalin) is generally recognized by qualified experts to be a safe and effective cancer drug.

The statute requires that "general recognition" be among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs (21 U.S.C. 321 (p) (1)). Few of the proponents of Laetrile who have made submissions to this record possess the necessary training and experience to qualify them as such experts. The Commissioner has, however, for purposes of completeness, considered as coming within the category of "experts" for this purpose, persons, including those listed above, who have exhibited even a small modicum of scientific experience or experience in the area in which they have offered submissions. The weight to be given the testimony of such persons, of course, must correspond to their expertise, cf. *United States* v. *1,048,000 Capsules, More or Less, Etc.*, 347 F. Supp. 768, 771 (S.D. Tex. 1972), aff'd 494 F.2d 1158 (5th Cir. 1974).

The Commissioner concludes that, the lack of adequate and well-controlled clinical investigations published in the scientific literature aside, the record clearly demonstrates that the overwhelming majority of experts in the evaluation of the safety and effectiveness of drugs do not recognize Laetrile as effective. Even the proponents of Laetrile, while they may argue that the majority is wrong, could hardly be heard to argue this point. Laetrile is thus a new drug within the meaning of the act.

B. GENERAL RECOGNITION OF SAFETY

As noted above, for a drug to be exempt from new drug status under 21 U.S.C. 321(p)(1) it must be recognized by "experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs" to be both safe and effective under the conditions of its intended use. While lack of such recognition of Laetrile's effectiveness has already been shown, the Commissioner will discuss in addition the evidence on the question of general recognition of the drug's safety. He finds that such recognition does not exist.

1. Lack of Adequate Testing

As has been discussed above, for a drug to be generally recognized as safe it must have accumulated at least the amount of evidence of safety that would be required for approval of a new drug application and that evidence must be generally available to the community of experts through publication in the scientific literature. In order for a new drug application for a drug to be approved, there must exist as to that drug "adequate tests by all methods reasonably applicable" that show the drug's safety (21 U.S.C. 355(d); cf. 21 CFR 314.111 (a) (1)).

An attempt to show that Laetrile had been proven by adequate testing to be safe for use in man was made in 1970 when the McNaughton Foundation submitted to FDA a notice of claimed investigational exemption for a new drug (IND) for Laetrile. The FDA terminated that exemption because of a lack of evidence of safety. Subsequent to the termination, the IND was referred to an Ad Hoc Committee of Oncology Consultants. The report of this committee is submitted with R 184 as Exhibit 2. This report states, "The Committee concurs with the action of the Commissioner in termination of IND 6734." Addressing the toxicity question, the Committee concluded (id. at 2), "Although it is often stated in the IND that amygdalin is non-toxic, data to demonstrate this lack of toxicity are absent, particularly with respect to the oral route."

The animal studies done to show Laetrile's safety did not justify use of the dosage suggested in the IND. "[T]he sponsor wishes to begin oral studies in patients at 2.95 mg/kg (oral); this is to be compared with a documented safe oral dose in dogs of 7.5 mg/kg daily for 6 months * * *. On the basis of documented data, if substantiated, then a proper starting dose that might be considered in man, would be 1/10 of 7.5 mg/kg or 0.75 mg/kg (oral). The proposed starting dose of 2.95 mg/kg is 1/100 of the oral acute LD_{50} in mice. It is considered to be dangerous to base the starting dose for a chronic (6 + weeks) study in man on a single dose study in mice. It is also dangerous to initiate human studies while the nature of the toxicity has not been elucidated in large animal species. No documented data are presented in the IND to permit a higher starting dose" (id. at 3–4).

Dr. W. Sherwood Lawrence, Executive Secretary for the State of California Cancer Advisory Council states (R 183 at 17), "An extensive review of the world's scientific literature has been made by the Council. The evidence available for the determination of the recognition of safety of the compound is characterized by the lack of a body of scientifically sound information such that experts qualified by experience and training to make such determinations are unable to do so. In the absence of such a determination by qualified experts Laetrile (amygdalin) cannot be considered to be generally recognized as safe."

There is thus an absence of scientifically sound data upon which experts qualified by training and experience to evaluate the safety and effectiveness of drugs could base an opinion that Laetrile is safe for use in man. In the absence of such data the Commissioner must conclude that the safety of use of Laetrile in man has never been, and is not now, "generally recognized" by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs.

2. Testimony of Experts

The Commissioner's conclusion of lack of general recognition among experts of Laetrile's safety is supported by testimony of such experts in the administrative record. (The qualifications of the experts whose statements are quoted have been discussed above.)

As one expert notes, while the toxicity of injected Laetrile has not been studied, there is evidence that amygdalin when ingested (eaten) is harmful to humans, evidence that has led to cautions on the part of Laetrile promoters themselves: In discussing the use of Laetriles, Dr. W. Sherwood Lawrence states (R 183 at 16), "There has never been a formal evaluation of the safety of these compounds to determine their safety. Although the proponents claim Laetriles are non-toxic, there are bonafide reports of clinical toxicity on oral intake (California Morbidity Reports, Ankara), and even fatality (Bitter Almond Poisoning, Zmedizinfrul). Furthermore the proponents themselves are aware of this toxicity as evidence by the proposed labeling submitted in an application for an exemption for an Investigational New Drug which warned: 'CAUTION: Laetrile is not to be taken orally. It is extremely toxic by this route of administration * * *.' There are no studies adequately showing the distribution, activity and metabolic fate of the parenterally administered compound. Chronic effects are not studied and reported in depth. There is cause for the concern as other similar beta-cyanogenetic compounds cause serious toxic effects when ingested on a chronic basis, e.g., Tropical Ataxic Neuropathy in Nigeria (Attachment 20).

Effects of industrial poisoning from chronic low concentration exposure are well-known." (See also, for discussion of toxicity of Laetrile, section V.B.3. below, "Dangers of Ingestion of 'Vitamin B–17'".)

Dr. Robert C. Eyerly reports, "One of the unproven remedies for cancer management which the committee (on Unproven Methods of Cancer Management) investigated is the drug Laetrile. Other names for Laetrile include amygdalin and prunasin. These compounds are classified as cyanogenic glycosides. Cyanogenic glycosides, including amygdalin, are generally regarded as toxic substances, rather than as foods, because when they break down they liberate hydrogen cyanide, one of the most toxic substances known" (R 167 at ¶ 8).

Dr. Robert S. K. Young states (R 430 at ¶¶ 4, 5, and 7). "The FDA does not have authenticated or validated data on the toxicity of amygdalin in humans. It does not have scientific studies or the data upon which scientific studies might be constructed, in humans receiving amygdalin which would allow it to define the toxic effects of this drug. There are no such reports in the medical literature. Nevertheless, Dr. Nepier from Germany has reported that amygdalin causes hypotension and hemoglobinurea in humans. There have been reported cases of cyanide poisoning in humans who ate apricot kernels. The symptomatology includes dyspnea, cyanosis, vomiting, prostration, convulsions, stupor, and paralysis. Since these toxic effects are caused by the cyanide, which is a constituent part of amygdalin, amygdalin could cause the same toxic effects. Although it is possible that amygdalin can be given to humans in doses which are non-toxic in man, the drug is unsafe for use in humans. There is no scientific evidence that the drug can cure or is effective as a treatment for any human cancer." Dr. Young also states (id. at ¶¶ 2–3), "There is a difference between a drug's toxicity and a drug's safety. The toxic effects of a drug are those effects which are not beneficial to the person taking the drug, but are deleterious. The safety of a drug is defined by the context of its use and includes consideration of issues such as a disease for which the drug is intended, the alternative remedies which are available and their efficacy and safety, and the possible abuse of the drug by those who do not have the disease for which the drug is intended. Acute toxicity tests of amygdalin have been carried out in animals. It appears that relatively large quantities of amygdalin can be given parenterally. When given by the oral route, however, the toxicity of amygdalin is greatly increased (by a factor of approximately twenty-five times)."

James F. Holland, M.D., indicated that he does not accept the theory of proponents of Laetrile that patients should be allowed to take Laetrile since, even if it is ineffective, it cannot hurt. He states (R 396 at 1), "It can hurt by interfering with patients' acceptance of indicated therapy in the mistaken and false hope of potential benefit from Laetrile. Delayed operation, refused radiotherapy, skipped chemotherapy all risk an increasing cancer morbidity and mortality because of the premise that Laetrile is active. This is a very dangerous side effect, indeed."

In addressing whether or not Laetrile is safe, Dr. Carl M. Leventhal states (R 184 at ¶ 19), "The question of whether Laetrile is now, or ever was, generally recognized as safe goes beyond the absence of any evidence indicating the lack of toxicity of the drug. The safety of a drug for human use depends, in large measure, on the therapeutic effectiveness of the particular drug. When patients forego effective forms of therapy and turn instead to worthless potions and nostrums, their disease may progress while effective therapies are foresaken. In the case of cancer, treatment with an ineffective drug will inevitably and inexorably lead to the patient's death. Seen in this light, an ineffective cancer drug is inherently unsafe and even lethal, because of the patient deaths which will necessarily ensue."

Dr. Harold J. Wallace, Jr., states (Tr. at 174) that: "The safety of the various forms of amygdalin has not been tested by the usual scientific methods of clinical pharmacology. There is evidence that the crude oral form can and has caused toxicity in humans and may cause death. There has been no documentation of the usual parameters that we require of drugs when used in a clinical situation. We don't have blood levels achieved, activation, clearance, metabolism, distribution or excretion of amygdalin compounds in man, as is usualy required in the preclinical and clinical evaluation testing of chemotherapeutic compounds or other drugs."

Dr. Frank Rauscher, a former Director of the National Cancer Institute (NCI), and currently associated with the American Cancer Society, said in his statement concerning Laetrile, while he was Director, NCI: "Assertions of the non-toxic nature of Laetrile have not been demonstrated in vigorous clinical studies. Even if this claim is true, there is no basis whatsoever for recommending the clinical use of any non-toxic agent if it cannot be expected to produce objective clinical benefits" (R 173, Att. "Statement Concerning Laetrile" at 2–3).

Dr. Thomas H. Jukes states (R 41 at 1): "Laetrile is not generally recognized by experts as safe. In the presence of the enzyme beta-glucosidase, Laetrile is hydrolized to glucose and mandelonitrile. Mandelonitrile readily decomposes with the liberation of hydrocyanic acid, which is extremely poisonous at low levels. The enzyme beta-glucosidase is widely distributed in materials of plant origin. The potential danger that laetrile may be decomposed with liberation of hydrocyanic acid makes it unsafe."

Dr. George J. Hill, II, after noting that ineffective remedies for cancer can lead to delay in treatment and "needless and untimely death," states: "In the absence of scientific evidence of effectiveness, no drug intended for use in treating cancer can be regarded as safe" (R 170 at ¶ 11).

Dr. Joseph F. Ross noted that that delay in cancer therapy because of use of Laetrile "results in loss of life, tragic suffering, and shortened life span" (R 190 at 8) and that use of the drug is "hazardous to the health of cancer patients" (id. at 7). He states: "Additionally, the use of 'Laetrile,' Vitamin B–17, 'Aprikern' and other such amygdalin containing materials when ingested presents a definite health hazard. The action of gastrointestinal fluids and enzymes releases the C=N (cyanide) radical from the compound and this may produce acute cyanide poisoning" (id. at 8).

Several additional experts submitted affidavits in which they state that neither amygdalin nor any other cyanogenic glycoside has ever been generally recognized as safe (Dr. Charles G. Moertel, R 186 at ¶ 12; Dr. Jesse L. Steinfeld, R 194 at 5–6; Dr. Peter G. Wiernik, R 200 at ¶ 16; Dr. Emil J. Freireich, R 390 at ¶ 19; and others).

III. THE "GRANDFATHER" ISSUE

Because Laetrile is not generally recognized by qualified experts as safe and effective (see discussion above), it is subject to the Act as a "new drug" unless it is exempted from the statute's provisions under either of the two "grandfather clauses." These two exceptions, described in more detail below, limit the protection provided to the public with respect to certain drugs that fulfill a number of carefully defined conditions. Accordingly, the courts have recognized the narrowness of the exceptions. *United States* v. *Allan Drug Corp.*, 357 F. 2d 713, 718 (10th Cir. 1966) cert. denied 385 U.S. 899 (1966): "Since we are dealing with a Grandfather Clause exception, we must construe it strictly against one who invokes it."; *Durovic* v. *Richardson, supra*, 479 F. 2d at 250 n. 6; *United States* v. *An Article of Drug* * * * *"Bentex Ulcerine"* * * *, 469 F. 2d 875, 878 (5th Cir. 1972), cert. denied 412 U.S. 938 (1973); *United States* v. *1,048,000 Capsules, More or Less, Etc., supra*, 347 F. Supp. at 770.

The Court in Bentex Ulcerine held, 469 F. 2d at 878, that any party seeking to show that a drug comes within the grandfather exemptions "must prove every essential fact necessary for invocation of the exemption," Accordingly, the Commission concludes that Laetrile will not qualify for grandfather clause exemption unless each of the essential facts has been proved by evidence submitted in the record.

In the February 18, 1977 FEDERAL REGISTER notice initiating this proceeding, proponents of Laetrile were informed of their obligation to bring forth evidence that would support their claim that Laetrile qualifies for this exception. The notice set forth the provisions of a regulation (21 CFR 314.200(e)(2)) that detailed the format to which submissions directed to the grandfather clause exceptions should conform (42 FR 10069). Failure to submit formulas, labeling and

evidence of marketing in that format was stated to constitute a waiver of any contention that Laetrile was exempt from new drug provisions of the act. Failure to submit evidence in the format has resulted in such a waiver.

Despite the waiver, the Commissioner, in order to fully address the issue remanded by the courts, has culled the entire record for evidence that might arguably be relevant to the grandfather status of Laetrile. He has considered this evidence in determining whether the essential facts necessary to invoke the grandfather clause exemptions have been proved. Moreover, against the chance that it should later be held that those contending that Laetrile's use is illegal must prove the nonexistence of the essential facts necessary for the invocation of the grandfather clause exceptions, the Commissioner has considered the evidence in the record in light of this possibility.

The essential facts necessary to invoke the two exemptions are discussed, together with the evidence relevant to each, below. The Commissioner's conclusions on these issues may be summarized as follows:

(1) Contentions that Laetrile qualifies for either grandfather clause exception are waived.

(2) Evidence presented does not prove the existence of each essential fact necessary to the invocation of either grandfather clause.

(3) While it is of course not possible to prove a negative with regard to the existence of each of the essential facts involved, the record assembled contains substantial evidence, constituting a clear preponderance of the evidence submitted, that these essential facts do not exist.

A. THE 1938 GRANDFATHER CLAUSE

To qualify for exemption from the definition of a new drug under the 1938 grandfather clause, it must be shown that the drug "at any time prior to the enactment of this chapter [1938] * * * was subject to the Food and Drugs Act of June 30, 1906, as amended, and * * * at such time its labeling contained the same representations concerning the conditions of its use; * * *" 21 U.S.C. 321(p)(1).

Thus, to qualify for this exemption, it must be proved that (1) the identical drug (2) bearing labeling containing the identical representations concerning the conditions of its use (3) was introduced into interstate commerce in the United States (or was manufactured in a Federal territory or the District of Columbia) after June 30, 1906 and prior to the enactment of the act in 1938. The exemption applies only to drugs whose labeling with respect to representations as to conditions of use has undergone no changes whatsoever from the labeling utilized prior to the passage of the 1938 act, and whose composition is completely identical to its composition prior to this passage. If any change in representations for conditions of use in labeling or any change in composition has occurred since the enactment of the 1938 act, such change precludes the applicability of the 1938 exemption. The proof required would necessarily involve the production of quantitative formulas, labeling, and evidence of marketing both for the pre-1938 use and for the present use. While submissions to the administrative record contained a number of references to use of Laetrile or its predecessors before 1938, no proof was submitted to show that what was termed "Laetrile" or "amygdalin" as used before 1938 was the same drug which is now being marketed. Nor is there any indication whatever that the labeling of the various drugs claimed to have been marketed before 1938 contained representations concerning conditions of use which are identical to the representations associated with the presently marketed drug. It should be noted that the term "labeling" is defined in the act to include not only "all labels" but also, "other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article," 21 U.S.C. 321(m). This definition has been given a broad interpretation, see, e.g., *Kordel* v. *United States*, 335 U.S. 345, 347–50 (1948); *United States* v. *Urbuteit*, 335 U.S. 355, 357 (1948).

A number of submissions in the record referred to use of substances claimed to be related to Laetrile or amygdalin in ancient times. While each of these statements was hearsay unsupported by any sort of corroborating evidence and thus cannot be considered trustworthy, it is apparent that even if accepted at face value these claims would not justify invocation of the 1938 grandfather clause. Examples of such claims in the record include those found in a McNaughton Foundation article entitled "Information for Physicians: Amygdalin, The Non-Toxic Analgesic" which cites use by the Chinese 3,500 years ago as well as use by the Greeks and the Romans (R 183, Att. 106 at ¶ 1). See also *Hanson* v. *United States*, 417 F. Supp. 30, 36 (D. Minn.) aff'd 540 F.2d 947 (8th Cir. 1976) (copy of opinion attached to R 173), noting that plaintiffs in that court action had introduced hearsay concerning the use of amygdalin by ancient Egyptians, evidence upon which the court did not rely; affidavit of Chauncey Leake, Ph.D.—recommendation of almonds for various purposes (not to cure cancer) by a first century Greek surgeon (R 302, Ex. K); statement by John J. O'Conner, Jr., in support of a Maryland State bill on Laetrile—bitter almond used by Chinese for the treatment of tumors 3,500 years ago; use by Greeks and by Romans (Tr. Ex. 4, Att. at 22).

Other submissions mentioned that amygdalin was prepared by two Frenchmen in 1830 and analyzed by two Germans shortly thereafter. (See R 183, Att. 10b at ¶ 1; R 302, Ex. K; R 168, Att. at 345; R 80, Att.) No claims were made that these 19th century experimenters used amygdalin to treat cancer. There is a claim, however, that a Russian physician used amygdalin for that purpose in 1845. The reference is to a report in the Gazette Medicale De Paris, Tome XIII, Samedi, Le 13 Septembre 1845, by Dr. Inosemtzeff. This article is referred to in a number of submissions. (See, e.g., R 259, Att. at 1.) It was not, however, itself submitted and in thus not part of the record available for analysis by the Commissioner. According to the description in the "Listing of Documents Relative to * * * Laetrile" attached to R 259, a submission by Mr. Wynn Earl Westover, the author of the 1845 article was a professor of surgery at the Imperial University of Moscow, and his article described two cases of cancer apparently successfully controlled for 11 years and 3 years, respectively, by the use of amygdalin (for other references to this article, see R 260, Att. at 1; R 302, Ex. L at ¶ 5).

As is obvious, this "evidence" relating to ancient and 19th century use is irrelevant to the 1938 grandfather clause issue for the following reasons: (1) It does not indicate that the drug was used in the United States after June 30, 1906 and before 1938. (2) It gives no indication that the drug used was the same as Laetrile. Most of the references in fact indicate that the substances used were either some extract of almonds, or, as in the case of the alleged Russian physician, simple amygdalin. (3) no suggestion that any drug was to be used in accordance with the indications now associated with treatment with Laetrile may be found in these references. Again, where the submissions go into detail concerning the historical uses of almonds or amygdalin, it is apparent that different conditions of use are involved.

A number of claims purporting to be relevant to the 1938 grandfather issue dealt with the appearance of almond extract in various Pharmacopeia, (See, e.g., Tr. at 250; R 302, Ex. K and Ex. L, ¶ 9–12 Tr. Ex. 9.) The opinion in *Hanson* v. *United States*, *supra*, indicates that plaintiffs in that case relied upon a listing of amygdalin in the Merck Index of 1896. The references in the Pharmacopeia involve in each case some sort of almond extract. There is no indication that that extract was to be used as an injection to cure, control, or prevent cancer. The references to the Pharmacopeia, as is the case with other general, unsupported references indicating use in cancer patients in previous centuries (see, e.g., R 509 at 2) are for the reasons detailed simply not probative of grandfather status.

Of more direct relevance to possible grandfather status is the information in the record regarding the work done with what was apparently Laetrile's predecessor by Dr. Ernst Krebs, Sr. A great deal of conflicting information regarding the dates of Dr. Krebs' work was submitted to the record. There are numerous instances in the record of statements that Dr. Krebs developed a drug related in some way to modern day Laetrile either in 1920 or shortly thereafter, while a new and allegedly nontoxic form of Laetrile was developed by Ernst T. Kerbs, Jr., in 1952 or in the early 1950's. See e.g., the American Cancer Society Committee on

Unproven Methods of Cancer Management's article on Laetrile (R 167, Ex. 2); A Report on the Treatment of Cancer with Beta-Cyanogenetic Glucosides ("Laetriles") by the Cancer Advisory Council, State of California (1963) at 2 (R 183, Att. 16). The latter report may be the genesis of the 1920 date, though the former indicates that it is reporting the date "According to" Dr. Krebs. At any rate, the 1920 date appears in or is alluded to in a number of submissions (see R 173, Att., "Questions Most Frequently Asked," and Att., "Laetrile: The Making of a Myth," FDA Consumer (Dec. 1976–Jan. 1977) at 6; R 184 at ¶ 6; Tr. at 272; Tr. at 41; R 250 at 2–3; R 170, Ex. 3 at 2104; R 258, Ex. 16; R 386; Tr. Ex. 10; R 183, Ex. 3 at 33). There may have been some basis for the original statement that Dr. Krebs had begun to work or had achieved results on a substance containing amygdalin in 1920 or in the early 1920's, but nothing has been submitted to indicate what that basis is. The apparent manner in which one submission has relied upon another on this question illustrates the undersirability of relying on hearsay accounts to prove a fact of this kind. None of these statements indicate, in any case, that the materials with which Dr. Krebs was experimenting were identical to, and were used under conditions indicated in labeling which were identical to, the composition and indications for present day Laetrile.

Michael L. Culbert, representing the Committee for Freedom of Choice in Cancer Therapy at the oral hearing, stated: "Dr. Krebs, Sr., both publicly and privately and in numerous different ways, has published not only results but some labels of material that goes back to the 1920's when Dr. Stohl in Switzerland and a number of Japanese scientists and Dr. Krebs, Sr., and others were working with the original extract" (Tr. at 41). If Mr. Culbert or his group have in their possession such publications, they have not submitted them.

A document submitted which would seem, questions of credibility aside, to be the most reliable on the question of the dates of Dr. Krebs' work and that of his son is an affidavit signed and sworn to by Dr. Krebs on April 28, 1965. This affidavit, taken by an FDA employee, appears as Exhibit 6 to R 184 and as attachment 13 to R 183. Since this affidavit is under oath and is by the person most likely to know of the dates in question, the Commissioner concludes that where the dates in the affidavit are different from those appearing elsewhere, chief reliance should be placed on the affidavit. In the relevant paragraphs, Dr. Krebs says:

* * * * *

2. In 1926, I made an extract from apricot kernels which I called Sarcarcinase. This extract contained Amygdalin and 1-glucosidase. When I injected this product into rats it was toxic and killed some of them.

3. In 1936, I changed the composition of the preparation resulting from the extract of apricot kernels so that the only active principle which remained was Amygdalin.

4. During the period between 1936 and 1960, I perfected the purification process so that the purity of the Amygdalin rose from 66 percent in 1936 to 99.8 percent by 1960.

5. In 1955, I began to lyophilize the Amygdalin and I have been lyophilizing it in its final form ever since when I produce it in my laboratories.

6. In 1949, my son, Ernst T. Krebs, Jr., gave the name Laetrile to the Amygdalin I was producing and I have used the name of Laetrile ever since that time for the final form of the Amygdalin which I produce.

7. As early as 1926 and up through 1962, I first began to ship and have done so continuously thereafter the Sarcarcinase extract (cf 2), then the amygdalin (cf 3), then the purified amygdalin (cf 4), then the purified and lyophilized amygdalin (5), and then since 1949 (cf 6) the latter under the name of Laetrile to persons in other States outside of the State of California and in many other countries. Many of these persons have reported their studies in scientific and medical journals and in private communications over several decades. The above shipments were for investigational use only.

As the dates cited by Dr. Krebs illustrate, the substance with which he experimented in the 1920's and 1930's was not the same substance as that which he was using in 1962. The pre-1938 use is, for that reason alone, not sufficient to qualify Laetrile for exemption from coverage of the act under the 1938 grandfather clause.

In another document upon which the Commissioner would ordinarily place reliance, a December 15, 1962 report by FDA inspectors describing their conversations with Dr. Krebs, Sr. (R 184, Ex 5), Dr. Krebs is reported to have stated that "he began experimenting some 10 months ago with the extraction of Cyanogentic Glucoside from a mixture containing apricot pits. The purification of this glucoside was effected in the laboratories of Dr. Krebs and used in the treatment of his patients with, according to him, satisfactory results. This material assertedly liquefies malignant growths by the release of cyanide in the area. Injections are made around the area and the case of lung cancer injections are made in the apex of the trapezei." It may be that Dr. Krebs in his statement to the inspectors was speaking of his efforts to purify Amygdalin, referred to in paragraph 4 of his affidavit. On the second page of the inspectors' report, they indicate that "E. T. Krebs Jr., stated that Dr. Harry Pincus Jacobson, M.D., was the first to use 'Laetrile' on humans and that this was in June 1952. Up to the present time (December 1952) he has used the product on approximately 14 cases."

This last quotation from the inspection report comports with statements elsewhere indicating that in 1952 Mr. Krebs, Jr., developed a new product, related to the products with which his father had been working, which he called Laetrile. While the failure of the affidavit of Dr. Krebs, Sr., to mention this "improvement" by Mr. Krebs, Jr., might lead one to question whether such an improvement had taken place, an article by the senior Krebs and Dr. Arthur Harris, copyright 1955, entitled, "The Treatment of Breast Cancer with Laetrile by Iontophoresis" (R 183, Att. 7) at 23–24 states as follows:

> In 1952 the senior author's biochemist son, Ernst T. Krebs, Jr., became interested in the preparation his father had used on cancer for so many years. In his laboratory—the John Beard Memorial Foundation—he tore the drug apart and came to the conclusion that it was not only the glucoside but more particularly the cyanogenetic glucoside that had benefited cancer patients. He succeeded in separating the enzyme Emulsin from the cyanogenetic glucoside and advised their administration separately, in order to avoid the premature trigger-off of HCN from the chemical breakdown in the somatic (or normal) tissue, for this gas—HCN—was the active agent in destroying the cancer cell.
>
> Again the senior author tried each purified preparation—the cyanogenetic glucoside and the enzyme Beta-glucosidase—separately. He administered the cyanogenetic glucoside parenterally (by injection) and followed it in fifteen minutes or so with an injection of the enzyme Beta-glucosidase. The cancer victims so treated tolerated both the drug and the enzyme excellently—and were immeasurably improved. Using the chemical and the enzyme separately, therefore, gave a high degree of safety as well as enhancing its cancerolytic effect.
>
> * * * * *
>
> Because this apricot kernel preparation was "Laevorotatory" (left-handed) to polarized light, and because Amygdalin was chemically a "mandelonitrile," Krebs, Jr., united the first and last syllables to invent a name for the new cancericidal drug—LAETRILE.
>
> Krebs Jr. uncovered the vital link that united Laetrile with the Unitarian or Trophoblastic Thesis of Cancer. In the previous chapter we emphasized the known fact that most malignant lesions are focally characterized by high concentrations of the enzyme Beta-glucuronidase—one of the main attributes common to both the trophoblast cell and the cancer cell. The Beta-glucuronidase of the animal kingdom is the equivalent of Emulsin in the vegetable kingdom, and Emulsin is the very enzyme that Krebs, Jr. separated from Amygdalin to make the empirical apricot formula safe for parenteral (injection) administration to humans!
>
> This was an epochal milestone. Krebs, Jr. worked and experimented feverishly now he was on the brink of cataclysmic discoveries, discoveries which, if substantiated could mean victory over invincible Cancer!
>
> He found that when he added Emulsin to Laetrile and incubated the mixture, hydrocyanic acid gas (HCN), one of the deadliest of gaseous poisons, was given off. He found that when he added animal Beta-glucuronidase (or prepared enzyme Beta-glucosidase) to Laetrile and incubated the mixture, HCN was again given off. This, he knew then, was the reaction that took place within the body—IN THE CANCER CELL!

The need for Krebs, Jr.'s improvement was related to the lack of safety of his father's original preparation. As this article co-authored by the senior Krebs states, the original "preparation proved so toxic that he and his colleagues who were experimenting with him were reluctant to continue its use, except in dire circumstances" (id. at 23; cf R 167, Ex 2; R 170, Ex. 3 at 2014; R 386, Att. at 2–3). Again, it is apparent that the improvement in the substance used by the Krebs (father and son) after 1938 made the drug different in composition, and

also in indications for use, from the drug which was used before 1938. The 1952 date appears at several points in the record. (See e.g., R 167, Ex. 2; R 173, Att. "Laetrile: The Making of A Myth" supra; R 173, Att. 3; R 184 at ¶ 6; R 189; Tr. at 272; R 250 at 2–3; Tr. Ex. 10 at 3.)

In the submission of Mr. Wynn Earl Westover (R 259) (see also R 260), in a document entitled "Listing of Documents Relative to the Krebs Enzyme Extracts Later Known as Laetrile," at 13, there is a list of registrations of trademarks and issuances of letters patent allegedly granted for Sarcarcinase during the years 1930 through 1935. These documents have not all been submitted. Apparently submitted as representative of the patents is a patent specification from the Government of Ireland. As the above discussion indicates, the material covered in these patents is different from the material now known as Laetrile. A submission by Eric E. Conn, Professor of Biochemistry at the University of California, Davis (R 424) discusses this patent application and states that if the procedure set out in the patent is followed, "much or all of the amygdalin in the intact kernels may be destroyed by enzymes set in action by the grinding" of the kernels to produce the extract. Most of the amygdalin remaining would be lost in processing. The extract produced "would be a mixture of glycerides, esters, certain pigments and other fat-soluable compounds that might or might not also contain a small amount (less than 5 percent) of the amygdalin remaining in the finely ground kernels." Compare the claims by Robert W. Bradford, President of the Committee for Freedom of Choice in Cancer Therapy, Inc., at the oral argument, that "Laetrile was first offered for sale in a trademark assigned in 1934, that it was sold at that time in three different forms: tablets, capsules, and injectables, (and that it) pharmaceutically was the same substance used today in cancer therapy. There can be no disagreement on this point" (Tr. at 346). Mr. Bradford submitted nothing to support his claim, which is at odds with the factual information submitted in the record and discussed above.

The Westover submission (R 259) also includes copies of a number of letters by various doctors who indicate that they have used the senior Krebs' formulation in the treatment of tumors or cancer. The letters bear dates in the 1930's. Mr. Westover's submission claims that there are a large number of other letters, not submitted, which are of generally the same type. Ernst T. Krebs, Jr., appearing at the oral argument, testified that amygdalin had been used as early as 1932. He indicated that the product then in use was labeled Sarcarcinase. (See Tr. at 232, 238, 246.) Sarcarcinase is the name of the product which was, according to Mr. Westover, granted a United States trademark in 1934. (See also Tr. at 446–48.) Two affidavits, apparently prepared for some court action, by Charles Gurchot, Ph.D., and Chauncey Leake, Ph.D., indicate that the affiants were involved in the treatment of patients with Krebs, Sr.'s product in the 1930's (R 302, Ex. K and L).

The Commissioner has carefully surveyed the entire administrative record brought together for this proceeding. While it appears that Dr. Krebs, Sr., was utilizing some substance, which apparently had the trademark name of Sarcarcinase, before 1938, there is no evidence that that substance is identical in its formulation, or in its indications for use, to present day Laetrile (cf R 416 at ¶ 27(I)(7) (pg. 23)). In fact, as discussed above, the record is clear that the substance with which Dr. Krebs, Sr., experimented in the 1930's is different from the drug now being used by Laetrile proponents. The evidence suggests that the substance used by Dr. Krebs, Sr., in the 1930's was too toxic for general use. This toxicity appears to have been the reason for the work of Mr. Krebs, Jr., which, apparently, culminated in a substantial change in the formulation around 1952.

The Commissioner thus concludes that (1) no proof has been offered which shows that Laetrile was used and labeled before 1938 in a manner identical to its present use and labeling, and that (2) the evidence in the record demonstrates that present day Laetrile was not developed until after 1938. Thus, regardless of where the burden of proof lies in an administrative proceeding of this type, the Commissioner must conclude that Laetrile is not eligible for exemption from the protection to the public provided by the new drug provisions of the act because of use prior to 1938 involving identical labeling as to conditions of use.

D. THE 1962 GRANDFATHER CLAUSE

The provision that has been characterized as the "1962 grandfather clause" is set forth at section 107(c)(4) of Pub. L. 87–781 (note following 21 U.S.C. 321):

> (4) In the case of any drug which, on [October 9, 1962] the day immediately preceding the enactment date, (A) was commercially used or sold in the United States, (B) was not a new drug as defined by section 201(p) of the basic Act as then in force, and (C) was not covered by an effective application under section 505 of the Act, the amendments to section 201(p) made by this Act shall not apply to such drug when intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on that day.

The "basic Act as then in force" read in relevant part as follows:

> Sec. 201. For the purposes of this Act-
>
> * * * * *
>
> (p) The term "new drug" means—
>
> (1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this Act it was subject to the Food and Drugs Act of June 30, 1906, as amended, and '' at such time its labeling contained the same representations concerning the conditions of its use; or
>
> (2) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

The Commissioner has previously admitted that one of the conditions for 1962 grandfather status does exist— Laetrile (or amygdalin) was not covered by an effective NDA on October 9, 1962. (See 42 FR 10069). The Commissioner concludes on the basis of the information in the administrative record that Laetrile (or amygdalin) fails to meet all of the other requirements for qualifying for the 1962 grandfather clause exemption: (1) No showing has been made that a drug was used or sold on October 9, 1962 which has the same composition as a drug used or sold, or sought to be used or sold, today. (2) The record is clear that any use of drugs called "Laetrile" or "amygdalin" in cancer therapy in 1962 was for investigational use. Investigational use can not provide the basis for exemption from new drug status on October 9, 1962 (see section 201(p)(2) of the act as then in force, set forth above) and of course does not constitute commercial use or sale. (3) No showing has been made that conditions of use recommended in labeling of a drug used or sold on October 9, 1962 are the same as those now recommended in labeling for the same drug. In fact, neither present labeling nor labeling in use on October 9, 1962 has been submitted to the record. Review of labeling available for "Laetrile" before and after October 9, 1962 reveals substantial changes in the prescribed conditions of use. (4) Laetrile (or amygdalin) was not generally recognized, by experts qualified by scientific training and experience to evaluate drug safety, as safe for use in cancer therapy on October 9, 1962.

As has been noted above, the Commissioner has concluded that the proponents of the proposition that Laetrile is exempt from the act because of "grandfather" status must bear the burden of proving that it is exempt. As has also been previously noted, however, the Commissioner has made a determination based on the alternative theory that the Government must prove that at least one of the essential facts leading to exemption does not exist. Proof of a negative is obviously more feasible in some instances than in others. The record leaves no doubt that use of Laetrile (or amygdalin) on October 9, 1962 was for investigational purposes and that use of the drug in cancer therapy was not "generally recognized" by qualified experts to be safe on that date. Since neither the present composition nor the present labeling of the drug appears in the record, it may not be conclusively determined that that composition and the conditions of use suggested in that labeling are not the same as the composition and suggested conditions of use of some drug in 1962. Nonetheless, the Commissioner is able to conclude, based upon substantial evidence which constitutes the preponderance of the evidence in the record, that neither of those essential facts (i.e., identical formulation and identical conditions of use) do exist as to Laetrile (or amygdalin).

1. Composition

Clearly, for the 1962 grandfather clause to apply, the identical drug must have been used or sold in 1962 as is presently used or sold. The fact that a drug with the identical name (or names) was being used is irrelevant. Similarly, the fact that a drug in commercial use on October 9, 1962 has ingredients (such as amygdalin) in common with drugs in use today would not be sufficient under the grandfather clause if any of the ingredients of the drug, or the proportions in which those ingredients appeared in the drug, had changed (see generally 21 CFR 310.3(h)). Even a change in an inactive ingredient will make a drug a "new drug," (see 21 CFR 310.3(h)(1); *United States* v. *Article of Drug "Entrol-C Medicated,"* 513 F.2d 1127, 1130 n. 7 (9th Cir. 1975)).

The discussion earlier in this opinion of the identity of drugs characterized at different times as "amygdalin" or as "Laetrile" illustrates the wide variation in composition of these drugs. There is no evidence in the record of the present formulation of Laetrile or of amygdalin medication. Neither is there evidence of the composition of such a drug on October 9, 1962. The Commissioner thus concludes that there has been no showing that Laetrile or amygdalin as presently constituted was in use on October 9, 1962. The Commissioner also concludes, based upon the evidence of wide variation in the drugs' composition, both before and after 1962 (discussed below), that the 1962 versions and the versions of the drugs currently in use are not identical.

It should be noted that the Commissioner's decision on this point is in accord with a statement by Andrew McNaughton of the pro-Laetrile McNaughton Foundation, discussed earlier, that data on Laetrile obtained prior to 1968 are frequently not reliable because of the variability in composition of early preparations (R 173, Att., "Report of Ad Hoc Committee of Oncology Consultants"). Other evidence on the question of composition of the drugs consists of (1) analyses done of Laetrile products and (2) representations made as to the products' composition. (The discussion of the 1938 grandfather issue sufficiently catalogues and disposes of claims that drugs similar to Laetrile or amygdalin were marketed prior to 1938, and this section will thus discuss evidence postdating 1938.)

Analyses. As discussed previously, the results of analyses of drugs called "Laetrile" have often been at variance with their labeled composition. Analyses by Canadian investigators, reported in 1965, found that two versions of the drug, one manufactured in the United States and one manufactured in Canada, had different compositions. The American version contained 98±2 percent amygdalin plus .5 percent phenol. The Canadian version contained 87±2 percent amygdalin, 5 percent di-isopropylammonium iodide, and 8±2 percent sucrose (R 189, Att., "Laetrile: A Study of its Physiochemical and Biochemical Properties" at 1059).

Analyses done in 1961 and 1962 for the California Cancer Advisory Council of samples of Laetrile from various different sources—samples obtained in 1951 and 1953, samples obtained from Hale Laboratories, and samples obtained from Dr. Krebs, Sr.—also showed a variation in composition among the drugs (R 183, Att. 16 at 27). Similarities to commercial amygdalin were revealed in some tests. (See, e.g., R 183, Att. 16 at 28 and App. 8.) "The old Laetrile (1951 and 1953) was similar but not identical to amygdalin in the (infra-red examination), while the new Laetrile exhibited certain similarities and certain dissimilarities to both the old Laetrile and to amygdalin" (R 183, Att. 16, App. 8 at 1). Some samples were found to contain inorganic iodine; others did not contain that substance. (See, generally, R 183, Att. 16, App. 7 and 8.)

Claims. A new drug application submitted to FDA by Ernst T. Krebs, Jr., on October 3, 1962, lists the composition of Laetrile as:

> L-mandelonitrite-diglucoside [amygdalin] 1,000 mg.
>
> *N, N*-diisopropylammonium Iodide 50 mg.
>
> Inactive saccharides, principally sucrose 176–250 mg.

The drug was to be reconstituted with a sterile isotonic solution (R 201 Ex. B at 101–102).

Dr. Krebs, Sr., in his 1965 affidavit, stated that his preparation contained amygdalin as its only active principle and that that amygdalin, by 1960 at least, was lyophilized and 99.8 percent pure. (See R 183, Att. 13.) It is not clear whether other, inactive, ingredients were a part of the drug he prepared.

A 1953 letter from Ernst T. Krebs, Jr., to California medical authorities states that he was forwarding to Dr. Macdonald "samples of biosynthetically degraded amygdalin in which one dextrose was removed by prunasin and the resulting compound, in the presence of platinum black, was oxidized to the corresponding glucuronoside" (R 183, Att 14).

In 1965, FDA investigators obtained examples of labeling utilized by the senior Krebs' laboratory. The labeling indicates that Laetrile is "cyanide glucoside type amygdalin." Additional labeling, a pamphlet entitled "Laetrile: Directions for the Administration of Laetrile," states that the drug is to be reconstituted with water, a non-isotonic solution (see R 201 at ¶ 10a and Ex. C).

Mr. Krebs, Jr., in a 1970 article in the Journal of Applied Nutrition (R 183, Att. 10c) in which he explained his theory that Laetrile and similar substances make up Vitamin B–17, suggested the drug use of a substance clearly different from all other Laetrile drugs previously in use. While what had been used previously had apparently been a manufactured drug containing either the "Laetrile" of his own formulation or amygdalin in a more or less purified form, in this article he advised that "one gram of defatted apricot seed or kernel carries about 30 milligrams of nitriloside. Six or seven teaspoonsful will supply what our clinical investigators consider an adequate oral dose—one gram. It is best that the (beta)-glucosidase enzyme be completely heat inactivated in such material" (id. at 84). As discussed previously, this advocacy of the use of apricot kernels rather than a manufactured drug represents a change in the formulation of the product which is of particular importance because of the danger of toxicity associated with oral ingestion of apricot kernels.

The Commissioner concludes that drugs called variously Laetrile and amygdalin have no set composition, their makeup varies depending upon the manufacturer and the time of manufacture. It thus appears that any drug in use on October 9, 1962 was different in composition from Laetrile as used or proposed to be used today.

2. Investigational Use

The record is clear that use of Laetrile (amygdalin) on October 9, 1962 was for investigational, not commercial, purposes. This fact is borne out by legal documents concerned with each of the two major figures in its development—Dr. Ernst T. Krebs, Sr., and his son, Ernst T. Krebs, Jr.—and by other information in the record. Much of the evidence relating to the 1962 grandfather issue, like that relating to the 1938 grandfather issue, is not of the type which would be considered reliable evidence in a court of law. In many cases the "evidence" consists of hearsay which is not substantiated by any documentation. The record does contain, however, a sworn affidavit of Ernst T. Krebs, Sr. In this affidavit (R 183, Att. 13 at ¶ 7) Dr. Krebs describes his shipment in interstate commerce of various versions of his cancer cure, including amygdalin which he stated to have been sold after 1949 under the name of Laetrile, "up through 1962." Dr. Krebs states, "The above shipments were for investigational use only."

Ernst T. Krebs, Jr., and the John Beard Memorial Foundation were convicted in 1962, upon pleas of guilty, of charges of introducing and delivering for introduction in interstate commerce a new drug without an approved new drug application (R 183, Att. 16, App. 17). The drug involved there was another unproved remedy, called by Mr. Krebs "pangamic acid" or "Vitamin B–15." Sentence of imprisonment on those charges was suspended and the defendants placed on probation for 3 years on the condition that they not manufacture, sell, offer for sale, hold for sale, or deliver or give away any "new drug." Mr. Krebs, Jr., obtained a special order which allowed him to ship 400 vials of Laetrile to the McNaughton Foundation in Canada, "for investigational use" pro-

vided the Canadian Food and Drug Directorate acquiesced in that shipment. In a supplemental order of June 28, 1962, Ernst T. Krebs, Jr., was permitted, under certain detailed conditions, to deliver Laetrile to experts qualified by scientific training and experience to investigate the safety of drugs. The drug was not to be administered to any patient except one with extensive malignancy who was receiving Laetrile under Kreb's direction as of June 15, 1962. Thus, if Laetrile were in commercial use on October 9, 1962, and if the Laetrile involved were supplied by Mr. Krebs, Jr., he was in violation of this court order. Copies of the court papers involved in this criminal prosecution are found at appendix 17 to attachment 16 to R 183.

Use of a drug is investigational, as contrasted with commercial, when that use is for the purpose of determining whether, or demonstrating that, the drug in question is safe and effective. The record contains no evidence to suggest that, contrary to the affidavit of Dr. Krebs, Sr., or to the court order binding Ernst T. Krebs, Jr., Laetrile (or amygdalin) was being used on October 9, 1962 for other than investigational uses.

"In 1953 the Cancer Commission of the California Medical Association investigated the claims made for the use of Laetrile in cancer treatment and condemned its use" (R 168, Att. "Vitamin Fraud"). The activities that led to the Medical Association action were apparently based upon Dr. Krebs' use of Laetrile. As shown by labeling collected during a 1952 FDA inspection, the Laetrile then in use was labeled, "Caution: New Drug limited by Federal Law to investigational use." (See R 184, Ex. 5.)

A submission to the record which contains much information about the use of Laetrile at about the crucial date of October 9, 1962 is the 1963 report of the California State Cancer Advisory Council entitled "Treatment of Cancer with Beta-cyanogenetic Glucosides ('Laetriles')" (R 183, Att. 16). While the Council concluded that use of Laetrile was not warranted in any context, its report does not contradict Krebs' claims that use was investigational at that time.

Other references to the use of Laetrile prior to 1962 do not specify whether or not the use mentioned was investigational, see R 183, Atts. 5, 6; R 307 at 1; R 64; R 174, Ex. 2; Tr. at 81–82.

A pamphlet entitled Information for Physicians, Amygdalin The Non-Toxic Analgesic provides information about what it states to be the experience of various doctors around the world in administering amygdalin to patients. Some of the statements indicate use by doctors before 1962—that use appears to be investigational and was not, with the exception of 10 cases reported by a New Jersey doctor, in the United States (R 183, Att. 10 (b)).

The article by Levi et al., "Laetrile: A study of its Physiochemical and Biochemical Properties," discussed above, refers to Laetrile as "a drug manufactured and distributed until recently for clinical trial in Canada and the United States to determine its value as a palliative in cancer therapy" (R 189, Att. at 1057).

In 1970 the McNaughton Foundation submitted an IND for Laetrile, which was disapproved by FDA (R 184 at ¶ 9). An IND is a notice, filed by persons interested in the development of a drug product, which seeks permission to distribute an unapproved new drug for the purpose of conducting clinical investigations of it in humans. Such clinical investigations must be completed to form the basis for an NDA for the drug. The fact that Laetrile's proponents were still seeking to investigate its use in 1970 is additional evidence that any use of the drug on October 9, 1962 was investigational.

3. Conditions of Use in Labeling

In order to qualify for the 1962 grandfather clause, Laetrile (or amygdalin) would need to "be intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on" October 9, 1962 (section 107(c)(4) of Pub. L. 87–781). Conditions of use include, among other things, what the drug is recommended for, how it is to be administered, and in what quantities it is to be administered. Under the statute, any change in those conditions from October 9, 1962 to the present disqualifies the drug from exemption. (See *United States v. Allan Drug Corp. supra.*) Here, no submission contains either labeling now in use or proposed for use, or labeling used on October 9, 1962.

Since no labeling in use on October 9, 1962 has been submitted, the indications found in labeling in use in years prior to that time will be discussed as illustrative of the variation in proposed conditions of use apparent in the record. The Commissioner will then review labeling from dates after October 9, 1962. As the following discussion demonstrates, not only do the proposed conditions for use of Laetrile (amygdalin) vary from before October 9, 1962 to after that date, no two sets of labeling propose the same conditions.

Before October 9, 1962

A new drug application (NDA) submitted to FDA by the John Beard Memorial Foundation and Ernst T. Krebs, Jr., on October 3, 1962 indicates that Laetrile was a lyophilized water-soluble powder for use in the palliation of human cancer. Excerpts from the NDA, attached as Exhibit B to R 201, provide information concerning its intended uses: It was to be administered by injections of 1 gram each, which were to be either every day or every second day and either intravenously or intramuscularly. Intravenous administration was stated to be preferred. The average administration was stated to be every other day for a total of 10 injections. Apparently, a total of 20 grams of Laetrile were expected to be administered. Dosages, frequency, and route of administration are described as varying widely with each individual case. The application indicated that Laetrile often produces a temporary hypotensive reaction shortly after injection, especially in hypertensive patients. Laetrile is not indicated for use to the exclusion of surgery, radiation, or other chemotherapeutic substances where those find any indication.

The proposed labeling in the NDA is, of course, not an example of labeling in commercial use at the time of the NDA's submission. The NDA does, however, state the indications which Mr. Krebs, Jr., thought to be most appropriate for the use of Laetrile at that time. Thus, if Laetrile had been commercially used at that time, it is reasonable to believe that the indications proposed in the NDA would be the ones proposed in any labeling used for such a commercial product.

An article by Dr. Krebs, Sr., and Dr. Arthur T. Harris, entitled "The Treatment of Breast Cancer With Laetrile By Iontophoresis" (copyright 1955 by the John Beard Memorial Foundation) (R 183, Att. 7) proposes three different methods of utilizing Laetrile. At page 30, the three main methods of administering Laetrile and its auxiliary Beta-glucosidase" are described as: (1) Parenteral administration (injection into the muscle), (2) iontophoresis, discussed below, and (3) tamponade.

Perhaps the most bizarre of the proposed methods of administration for Laetrile is "Iontophoresis". This new procedure developed by the senior Krebs for treatment of cancers "especially in the breast" is described as "infinitely more effective and thorough." The procedure is described as follows:

> It is to force by galvanic current the Laetrile through the skin and into as well as between the individual cancer cells. The apparatus we use is a simple galvanic instrument (or, preferably, one of the modern instruments with resistors instead of tubes). The positive pole lead goes to the tumor site—the breast—the negative to the back. The solution of Laetrile is soaked in gauze and covered by a block tin electrode, then positioned firmly over the tumor. The negative pad, well moistened, is positioned on the back, and the current turned on. Slowly the amperage is raised to 10 milliamperes' then 15, never more than 20 except in a very thick chest wall. In fifteen to thirty minutes, depending on the size of the growth, the pad has become almost dry: the Laetrile has been driven into—not around—the cancer cells (id. at 26–27).

The action of iontophoresis is described in more detail on pages 30–31. Apparently it is expected that the iontophoresis therapy will liquify the tumor mass, and a physician will thus be able to draw out, with an aspirating needle, the "cancer-juice" before administering the next iontophoresis treatment (id. at 32). Iontophoresis therapy involves administration every 2 to 5 days (id. at 31).

This article, which has been quoted and referred to previously, explains some of the history and theories of Laetrile's use. The article promotes the "Howard Beard Anthrone Test" for the diagnosis of cancer (id. at 34). This test involves analysis of the urine of the patients (see id. at 16–19). The authors recommend against biopsies to determine whether tumors are malignant (id. at 27–28). The

authors state their opposition to surgery prior to "control" of the cancer by Laetrile (id. at 35).

Laetrile (amygdalin) is apparently currently in use as an oral medication. Nothing in the record, other than conclusory statements of the most general kind, indicates that any version of the drug was in use as an oral medication on October 9, 1962. The only statement that such a drug was ever used orally before that date which purports to be based on first-hand knowledge is the statement of Charles Gurchot, Ph.D. (R 302, Ex. L at ¶ 8), that between 1933 and 1934 a Dr. Lewis administered amygdalin orally as well as intramuscularly and intravenously. Dr. Gurchot states that use in California, in which he participated between 1934 and 1945, involved administration intramuscularly and intravenously (id. at ¶ 14). As discussed above in the section on the 1938 grandfather clause, the "amygdalin" Dr. Gurchot states he was involved in using is different from that used at later dates.

After October 9, 1962

Variations in the conditions for use of Laetrile (or amygdalin) proposed in its labeling continued after the critical October 9, 1962 date. In 1965, an FDA inspection of Krebs' Laboratories produced labeling for Laetrile which suggested a new set of conditions for its use (see, generally, R. 201, Ex. C:). The laebls on the packages of the drug stated "For raising hemoglobin index and red count[;] relieves pain due to malignancy." (Similar labels were obtained by California State health officials in 1971 (R 183, Att. 9).)

In a pamphlet published by Krebs' Laboratories, obtained in the 1965 inspection, injections at various sites were indicated for various types of cancer—brachial vein for cancer of lungs; brachial vein and innominate artery for breast cancer; external carotid or one of its branches for cancer of the neck, thyroid, face, and temple area; brachial vein for cancer of liver, gastro-intestinal tract and the spleen; the vault of the vagina, the abdominal aorta, or the internal iliac arteries for cancer of the uterus and ovaries; the scrotal sac for cancer of the prostate and testicle (R 201, Ex. C, II).

Two pamphlets obtained in the 1965 inspection are in fact inconsistent with each other in some instances, though the similarities in printing style indicate that they were printed at about the same time. One states the dose of Laetrile to be administered to be "(g)enerally speaking 10 mgs. per pound of patient's weight, with "occasionally" 15 mgs. per pound and "very rarely" 20 mgs. per pound (id.). The second states that: "The usual daily dose of Laetrile now is 20 mgs. of the glucoside Amygdalin for every pound of the patient's weight, or even twice this, particularly in bone cancer." Three gms. are recommended for a 150-pound person and 4 gms. for a 175-pound patient, i.e., over 20 mgs. per pound (id. at Ex. C, III). (While no labeling indicating such conditions was submitted, it should be noted that Dr. Binzel, at oral argument, talked of injections of from 9 to 15 grams of amygdalin at one time (Tr. at 363). The page proofs of Dr. Richardson's book indicate that he uses intravenous injections of "6–9 gms. or more" of Laetrile during the first month of treatment with intravenous or intramuscular injections of 3 grams thereafter (Tr. Ex. 1 at 124).)

More important, however, are the difference between the conditions recommended in the labeling collected in 1965 and those in that submitted with the 1962 NDA. In the 1962 NDA, Laetrile was to palliate, not to cure; in the 1965 labeling it is stated: "Laetrile does not palliate, it acts chemically to kill the cancer cells selectively without injury to the normal tissues of the body" (R 201, Ex. C). While the 1962 NDA stated that Laetrile was not indicated to the exclusion of other recognized cancer therapies, the labeling collected in 1965 states: "The less drugs and medicines given, during the Laetrile treatment the better. What should be especially avoided is sulphur and sulphur drugs and *other cancer therapies*, * * *" (emphasis added) (id.). Even more frightening to those who are concerned that utilization of therapies of proven effectiveness will be delayed until too late because of use of Laetrile is the statement in the pamphlet in use in 1965 that: "Being harmless * * * Laetrile should be used first instead of last as generally has been done when everything else has been tried and hope is gone" (id.). An affidavit submitted by Dr. Robert S. K. Young describes the medical importance of the numerous variations between the 1962 labeling and that of 1965 (see ¶ 11 of R 201).

The labeling discussed, which bears the name of Krebs Laboratories and of Dr. Krebs, Sr., appears as Ex. C to R 201. It should be noted that there is no copyright or other date on the labeling that was found in Dr. Krebs' establishment in 1965. One of the phamplets, that which contains some of the statements quoted above, is described as a "pre-1963 pamphlet" in the affidavit of Dr. Sherwood Lawrence (R 183 at 4). It appears as attachment 8 to that affidavit.

A pamphlet published by the McNaughton Foundation suggests intravenous dosages of amygdalin of from 3 to 6 grams a day administered over a 24-hour period (R 183, Ex. 10b at 5). That pamphlet, which cites references dated May 11, 1970 and thus must have been published thereafter, described the use of amygdalin as an analygesic, yet also indicates that the drug inhibits the growth of malignancies (id. at 1).

The record contains labeling for Laetrile (or amygdalin), which was in use after October 9, 1962, which clearly recommends oral administration of the drug. See R 183, Att. 10a—capsules, 400 mg.; R 183 Att. 4c—capsules, 400 and 500 mg.; R 183, Att. 10b—amygdalin tablets which may be broken up and added to drinking water or food (½ to 2 grams per day recommended); R 183, Att. 10d—"Magydalin" capsules with 500 mgs. of "pure crystalline LAETRILE (amygdalin)".

While in 1962 Laetrile was proposed in the NDA as a palliative, the labeling in the record makes clear that it has been touted since that time as a treatment for cancer (see R 183, Att. 10a.; see also R 201, Ex. C, discussed above). Mr. Krebs, Jr., claims Vitamin B–17, which may be or may contain Laetrile, to be "antineoplastic" and to be instrumental in "therapy" for cancer (Journal of Applied Nutrition, Vol. 22, "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)," at 75, 81 (R 183, Att. 10c).

In a transcript dated November 18, 1974, prepared by FDA, of a film entitled "World Without Cancer", produced by the proponents of the use of Laetrile, the claim is made that 15 percent of persons with advanced metastasized cancer will be saved by "vitamin therapy," which from the context includes vitamin B–17 (Laetrile). The film claims that, of those with cancer diagnosed early, at least 80 percent will be saved by vitamin therapy. Of those who are healthy with no clinical evidence of cancer, the film's narrator states that close to 100 percent can expect to be free from cancer as long as they utilize vitamin B–17. The use of the term "vitamin B–17" indicates that the film was made after 1962, since Laetrile was not claimed to be a "vitamin" until after that time (see, generally, exhibit 2 to R 198).

As discussed above, to qualify for exemption from the "new drug" definition of 21 U.S.C. 321 (p) pursuant to the "1962 grandfather clause," the proponents of Laetrile (or amygdalin) would need to show among other things that the drug in question is now "intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on" October 9, 1962. No evidence in the record shows either that the drug was used or that any conditions of use were recommended for it on that date. Evidence in the record indicates that conditions of use recommended prior to the critical date not only conflict with each other, but also conflict with recommendations after that date, which themselves conflict with each other. The Commissioner concludes, on the basis of the evidence in the record, that Laetrile as now known is not intended solely for use under conditions recommended in labeling on October 9, 1962.

4. Lack of General Recognition of Safety in 1962

As discussed above, a drug could not escape new drug status under the "1962 grandfather clause" if it were a "new drug" on October 9, 1962. To have been exempted from new drug status on that date, Laetrile (or amygdalin) would have to have been "generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof" (21 U.S.C. 321(p)(1) (1962)), and that general recognition would have to be based upon use other than investigational use

(21 U.S.C. 321 (p)(2) (1962)). The Commissioner has elsewhere discussed the evidence that demonstrates that Laetrile and amygdalin (to the extent that they are different) are not now generally recognized by qualified experts as safe for use under the conditions prescribed, recommended or suggested in their labeling. While the present lack of general recognition of the substances would not necessarily demonstrate that they were not so generally recognized in 1962, that fact does provide evidence of the earlier lack of recognition.

The evidence in the record provides a number of independent grounds upon which the Commissioner concludes that Laetrile (or amygdalin) was not generally recognized by experts in drug safety evaluation as safe on October 9, 1962. That conclusion is supported (1) by the proven lack of a number of prerequisites to such general recognition: lack of knowledge among such experts generally of Laetrile's use, of Laetrile's formulation, and of the proposed conditions of Laetrile's use; lack of data published in the scientific literature supporting Laetrile's safety as a cancer drug; and lack of scientific testing sufficient to show safety; (2) by statements in the record by experts in the evaluation of the drug safety that Laetrile was not generally recognized as safe as a cancer drug by themselves and their peers on October 9, 1962; and (3) by abundant evidence that Laetrile was not generally recognized by appropriately qualified experts to be effective in cancer therapy on October 9, 1962. The Commissioner concludes that the showing in the record on each of these points is itself sufficient to demonstrate that Laetrile (or amygdalin) was a new drug in 1962.

(a) *The Prerequisites.* (i) *Lack of General Knowledge of Use.*—A number of submissions to the administrative record indicated that the use, and the details of the use, of Laetrile or amygdalin were simply not generally known to the community of experts in the safety evaluation of drugs on October 9, 1962. Thus, there could not be any sort of "general" recognition of the substances' safety in 1962. (See, e.g., the oral testimony of Dr. Rhoads, the national chairman of the National Cancer Advisory Board (Tr. at 110–111; Tr. Ex. 5); oral testimony of Dr. Carr, professor in medicine at the Mayo Medical School (Tr. at 181).)

(ii) *Lack of General Knowledge of formulation.*—The variability in, and uncertainty about, the composition of the drug in use at that date (discussed in detail above) means that "general recognition" of the drug's safety by experts in drug safety evaluation would be impossible. The fact was recognized in *Durovic* v. *Richardson, supra*, 479 F. 2d at 251, in which another unproven cancer remedy was ruled not to be exempted from regulation by the 1962 grandfather clause.

(iii) *Lack of General Knowledge of Conditions of Use Suggested.*—Equally important, the variation in and uncertainty about the conditions of use suggested in the labeling of Laetrile (or amygdalin) on October 9, 1962, also discussed in detail above, means that such general recognition could not have existed. The law as of that date is clear that general recognition must be of safety "for use under the conditions prescribed, recommended, or suggested in the labeling" of the drug (21 U.S.C. 321(p)(1) (1962)). If experts throughout the country could not have known of those conditions of use, recognition of safety by them could not have existed.

(iv) *Lack of Safety Data in Scientific Literature.*—The existence of published data available in the scientific literature on the safety of a drug is a prerequisite to general recognition by experts of that drug's safety within the meaning of 21 U.S.C. 321(p). *Weinberger* v. *Bentex Pharmaceuticals, Inc., supra*, 412 U.S. at 652; see *United States* v. *41 Cases, More or Less*, 420 F. 2d 1126, 1130 (5th Cir. 1970); *United States* v. *1,048,000 Capsules, More or Less, supra*, 347 F. Supp. at 771. The record lacks any reference to any such published data available to experts on October 9, 1962.

In fact, the record demonstrates that, while data showing the lack of Laetrile's effectiveness have been published in the scientific literature, data upon which an expert in the evaluation of drug safety could make a judgment that Laetrile was safe for use in cancer therapy do not exist in the scientific literature available to experts generally even today.

(v) *Lack of Showing of Safety by Adequate Testing.*—As noted in the sections of this opinion dealing with the new drug issue, the Supreme Court has held in *Weinberger* v. *Bentex Pharmaceuticals, Inc., supra* that "general recognition," as those terms are used in 21 U.S.C. 321(p), requires the same type of showing of safety and efficacy necessary for approval of an NDA pursuant to 21 U.S.C. 355(d). For approval of an NDA prior to October 9, 1962, the application was required to contain "adequate tests by all methods reasonably applicable to show whether or not such drug is safe" for its intended uses, and those tests were required to in fact show that the drug was safe (21 U.S. 355(d) (1962)). It appears from the record that no such tests existed for Laetrile (or amygdalin) on October 9, 1962. Were there a question about the lack of such studies, that question could be resolved by the fact that, at approximately the time in question, NDA's for Laetrile and for a combination of Laetrile and iodomine were submitted to the FDA. Both applications were declared to be incomplete because of the lack of required data to show safety and effectiveness. (See, generally, the letter from John L. Harvey, FDA Deputy Commissioner, to K. F. Ernst, M.D., April 30, 1963 (R 183, Att. 16, App. 18).)

(b) *Statements by Experts.* Even setting aside the above important prerequisites to general recognition, the evidence in the record that Laetrile was not generally recognized as safe by experts in the evaluation of drug safety on October 9, 1962 is extremely strong.

The plethora of statements of experts in drug evaluation that Laetrile (or amygdalin) is not now generally recognized as safe is discussed elsewhere. Some of the experts focused upon the October 9, 1962 date. (See affidavit of Dr. Emil J. Freireich: "Neither amygdalin nor any other cyanogenic glycoside was generally recognized as safe for any (use in the treatment of cancer or prophylaxis against cancer or relief of pain associated with cancer, or for any medical use) on October 10, 1962" (R 390 at ¶ 19; accord affidavit of Dr. Daniel T. Carr, (R 176 at ¶ 15).) For a similar statement that Laetrile was not generally recognized as safe by appropriately qualified experts in 1962, see affidavit of Dr. Carl M. Leventhal (R 184 at ¶ 13).

Even more compelling evidence on this question can be gleaned from statements of experts in drug safety evaluation made near the October 9, 1962 date. Fortunately, at just about that date the State of California Cancer Advisory Counsel was polling just that type of expert concerning Laetrile (R 183, Att. 16 at 37–38). (Since the Krebs Laboratory was located in California, it would seem that experts in the California area would be most likely to be aware of recognition of Laetrile or amygdalin's safe us as cancer therapy.) The experts polled, representing each of the medical schools in the California university system, were asked about the drug's efficacy rather than their views on the question of the safety of Laetrile's use in cancer therapy. Clayton G. Loosli, M.D., Dean of the University of Southern California School of Medicine, speaking for the members of the school's faculty, indicated that Laetrile, while extensively investigated, was in the unanimous opinion of the faculty without value in the treatment of human cancer. He stated that "further, we consider its use not only not valuable even as a placebo but harmful in that use of Laetrile prevents patients from receiving what otherwise might be an effective modality of treatment" (id., App. 10). J. B. deC. M. Saunders, M.D., Dean of the University of California School of Medicine at San Francisco, speaking for the clinical staff of his medical school, gave their opinion that the use of Laetrile was of no value in the treatment of cancer. He said "(i)t may not only delay or interfere with conventional therapy (surery and radiation) but indeed could seriously jeopardize whatever chances the patient may have for cure. The unscrupulous use of unproven cancer 'remedies' such as Laetrile tragically increases the human suffering already associated with cancer (id.).

The only evidence submitted by proponents of Laetrile that experts qualified to evaluate the safety of drugs generally recognized the drug as safe when used in cancer therapy were two affidavits by Charles Gurchot, Ph.D., and Chauncey D. Leake, Ph.D., (R 302, Exs. K and L). The Gurchot affidavit states in paragraph 14 that amygdalin in liquid and solid form was used prior to 1962 (between 1934 and 1945) by Gurchot, under the supervision of five named medical doctors at the University of California Medical School at San Francisco (R 302, Ex. L). This amygdalin

was, according to his statement, administered "on patients intramuscularly and intravenously" (id.). At the same time, the amygdalin preparation he used, he states, was used by "about a dozen physicians throughout California through the University of California Medical Schools and as recommended by members of the Hospital Staff of the University of California Medical School at San Francisco" (id.). Gurchot states that these physicians were qualified by medical and scientific training and professional experience to evaluate the safety of substances such as amygdalin and that they recognized it as safe (id.). The Gurchot affidavit should be compared, in the first instance, to the 1962 statement, already discussed, of the Dean of the University of California Medical School at San Francisco, which states, "Laetrile is not, *nor has it been*, in clinical use or in experimental trials in this institution * * *" (emphasis added) (R 183, Att. 16, App. 10 at 8).

Even were the Commissioner to credit Dr. Gurchot's statement, he would have to conclude that, whatever had happened in the years 1934–1945, that experience did not form a basis for general recognition by qualified experts of safety in 1962, since even the faculty of the medical school in which Gurchot claimed the experiments had taken place had no knowledge of them. It should also be noted that, as discussed in the section on the 1938 grandfather clause, the "amygdalin" Gurchot could have been using would not have been the same substance in use today. His evidence, in addition, speaks only of investigational, as opposed to commercial, use of the drug—an improper basis for "general recognition" (see discussion above). In light of these facts, and of the other information in the record on this issue, Gurchot's statement in paragraph 16 of his affidavit indicating his belief that the general recognition of safety requirement for exemption from new drug status did exist for amygdalin on or prior to October 10, 1962 must be questioned.

The affidavit of Chauncey D. Leake, Ph.D., indicates that he is familiar with Dr. Gurchot's use of amygdalin in the mid-1930's and 1940's at the University of California Medical School Hospital in San Francisco. He states that at that time, i.e., in the 1930's, "it was generally held by physicians and other scientists familiar with it, that amygdalin was safe when used in the treatment of cancer as well as in its use as an expectorant or cough suppressant" (R 302, Ex. K at ¶ 6). This conclusion does not, however, indicate recognition by anybody in 1962; it does not, as demonstrated elsewhere, deal with the drug presently being used (see affidavit of Dr. Krebs, Sr., (R 183, Att. 13)); it refers only to physicians and scientists "familiar with it", thus not addressing the question of whether recognition was general.

(c) *Lack of General Recognition of Effectiveness in 1962.*—Experts in the evaluation of the safety of a drug do not conclude that a drug is safe, if that drug is intended for the treatment of a life-threatening disease, if it has not been shown to be effective. The record illustrates a broad consensus of cancer researchers and physicians that Laetrile presents a grave danger to patients who might be helped by orthodox therapy. The concern is that such patients may be induced to turn instead to this ineffective drug, their disease may progress while effective therapies are foresaken, and the use of the ineffective cancer drug will inevitably and inexorably lead to the patient's death. (See, e.g., R 396 at 1; R 384; R 170 at ¶ 11; R 183 at 18; R 266, Ex. 3 at 865; R 192 at ¶ 14; R 193 at 1; and R 195 at ¶ 13.) Thus, even if it were shown, as it has not been, that experts in 1962 generally were aware of the drug, its formulation, its conditions of use, and of toxicity data concerning it published in the scientific literature, the alleged nontoxicity of Laetrile (or amygdalin) would not form a sufficient basis for general recognition of safety in 1962.

At the time of the 1962 amendments to the act, it was made clear that, where drugs utilized for life-threatening diseases are involved, evidence of effectiveness is essential to proof of safety. The Senate report on the amendments stated:

> The Food and Drug Administration now requires, in determining whether a "new drug" is safe, a showing as to the drug's effectiveness where the drug is offered for use in the treatment of a life-threatening disease, or where it appears that the "new drug" will occasionally produce serious toxic or even lethal effects so that only its usefulness would justify the risks involved in its use.

(S. Rep. No. 1744, 87 Cong. 2d. Sess., 1962 U.S. Code Cong. Ad. News 2884, 2891.) The report made it clear that the amendments were "in no way intended to affect any *existing authority of the (FDA) to consider and evaluate the effectiveness of a new drug in the context of passing upon its safety*" (emphasis added) (id. at 2892).

As the Court held, when dealing with a similar unproven cancer remedy, in *Durovic* v. *Richardson, supra*, lack of general recognition of the effectiveness of a drug intended for treatment of a life-threatening disease on October 9, 1962 means that general recognition of its safety could not have existed:

> (A) drug offered for use in the treatment of cancer is now, and was before the amendments, a new drug unless it has achieved general recognition among the experts as safe and effective for such use (479 F. 2d at 250).

The evidence in the record overwhelmingly demonstrates that, among experts in the evaluation of the safety and effectiveness of drugs, Laetrile (or amygdalin) is not recognized as effective (see discussion above). It is a fair inference, absent any indication to the contrary, that a drug not recognized as effective now was not so recognized on October 9, 1962.

Again, however, the record supplies evidence of opinions of such experts given at almost exactly the time in question. As noted above, the medical schools in California were asked their opinions of Laetrile's effectiveness. Each of the medical schools contacted stated that Laetrile was never used in their institutions and that they concluded that it was not effective and had not been shown by testing to be effective. (See, in addition to the letters discussed above, letters from Dean David B. Hinshaw, M.D., Dean of Loma Linda University Medical School, Dr. M. H. Simmers, Coordinator, Cancer Training, California College of Medicine, Sherman M. Mellinkoff, Dean, University of California, Los Angeles Medical School.) These letters are printed as appendix 10 to R 183, Att. 16; see also R 183, Att. 16 at 38. The report states that Robert H. Alway, M.D., Dean of Stanford University School of Medicine, also indicated that Laetrile was of no value in cancer treatment and was not part of the treatment program at his medical school (R 183, Att. 16 at 38). The report also states that two other professors involved with cancer therapy and research concurred in this evaluation (id.). The report of the California Cancer Advisory Counsel itself constitutes convincing evidence that at about the time of the crucial date, October 9, 1962, experts did not generally recognize Laetrile as safe for the treatment of cancer, in particular because it was considered to be a worthless treatment for a life-threatening disease. As has been pointed out elsewhere, no adequate and well-controlled clinical investigations, the prerequisite for general recognition by experts of a drug's effectiveness (*Weinberger* v. *Hynson, Wescott and Dunning, Inc., supra*) exist as to Laetrile. Thus, even were the testimony in the record on this question less conclusive than it is, it would be necessary to find that there was no general recognition by experts that Laetrile was safe for use for any purpose on October 9, 1962.

The Commissioner thus concludes that Laetrile (or amygdalin) does not qualify for exemption from the new drug provision of the act by virtue of compliance with the 1962 grandfather clause.

IV. The Popularity of Laetrile

A. Laetrile and Other Unproven Remedies

Laetrile, as far as is known, has nothing in common scientifically with any of the other "unproven" cancer remedies of the past.[8] Yet the method of promotion of the drug and the arguments advanced for its use are markedly similar to those of past cancer frauds.

1. The History of Cancer Quackery in the United States

Through the ages there have been literally thousands of supposed remedies

[8] Dr. Ernst Krebs, Sr., though he thought people should be allowed to use his Laetrile, and a number of other remedies since forgotten by the public, is on record as stating that he could see no rationale for Krebiozen, the last of the highly publicized "unproven" cancer remedies (R 183, Att. 14 at 2).

for cancer, generally so outlandish that it seems incredible that people once believed in them. One historian of health quackery pointed out that the promotion of "unproven" cancer cures has a long history in this country:

> Cancer quackery appeared in America during colonial times, one example being the alleged "Chinese Stones" vended by a purported Frenchman, Francis Torres, who hawked his cures from town to town. During the nineteenth century, an alert physician, Caleb Tichnor, bemoaned the breed of cancer quack, (each of whom offers) his "secret specific" to the panicked citizenry who, "like a drowning person grasping at straws seize upon the frail hope that is offered by the hand of ignorant charlatanry!" "Dr. Johnson's Mild Combination Treatment for Cancer" offered the first serious legal challenge to the 1906 Pure Food and Drug Act, requiring the Congress to enact the Sherley Amendment of 1912. At this same time, Dr. Arthur J. Cramp of the American Medical Association devoted fifty pages in his first Nostrums and Quackery volume to a detailed account of ten major cancer 'cures' deceiving the American people. Compiling a third volume in 1936, Dr. Cramp pointed to twenty-nine purported cancer cures, stating that "hardly a week has passed when the Bureau of Investigation of the American Medical Association has not received one or more letters in which the writers stated that they had discovered, or had in their possession, a 'sure cure' for cancer."
>
> Nor has cancer quackery diminished as the twentieth century has progressed. Indeed, with the decline of contagious diseases, due mainly to the chemotherapeutic revolution, and the consequent rise of cancer into second place as a cause of death, cancer quackery has expanded. The 1971 edition of *Unproven Methods of Cancer Management*, published by the American Cancer Society, described fifty-four promotions offering hope to cancer sufferers but deemed devoid of value by ACS. The 1976 edition of *Unproven Methods of Cancer Management* cites in its appendix seventy-one such methods (R 400 at 1–2; see also R 400, Ex. 2).

Evaluation of approximately 60 of these methods may be found as attachments to R 400, Ex. 2.

Each decade seems to have an unproven cancer remedy that is promoted so effectively that it attracts a large following and becomes a cause celebre. In the 1940's and early 1950's, the Koch Antitoxins were heavily promoted as a specific cure for cancer. The Koch Antitoxins thesis, promoted by William F. Koch, M.D., advanced "the theory that cancer is caused by a microorganism resembling the spirochete of syphilis, which could be destroyed by a differential poison of his invention" (R 183, Att. 3 at 43). "The Koch medications, known collectively as Koch's Synthetic Antitoxins or oxidation catalysts, were individually packaged in 2 ml ampules. Malonide and glyoxylide (were) claimed to be present in a concentration of one part in a trillion parts of water, and parabenzoquinone one part in a million parts of water" (id.). "Glyoxylic acid, of which glyoxylide is the anhydride (the resulting element after water is removed), is a normal constituent of the human body. About two grams are formed daily—at any given time there are about five milligrams in the human body, whether healthy or diseased. It would take a trillion 2 ml ampules of Koch's glyoxylide to equal the amount produced daily by the body, and two and one half billion ampules to equal the amount present in the body at any one time" (id. at 44). Even so, cancer patients paid as much as $300 per injection for this worthless remedy (R 400, Ex. 2, ACS "Koch Antitoxins").

Another unproven cancer remedy whose promotion reached substantial proportions in the 1950's was the medications of Harry Hoxsey. Two liquid mixtures played the central role in the Hoxsey remedy. The "brownish black liquid" contained potassium iodide and "some of all of the following inorganic substances as the individual case may demand: Licorice, red clover, burdock root, stillingia root, berberis root, poke rot, cascara, Aromatic USP 14, prickly ash bark, (and) buckthorn bark (R 400, Ex. 2, ACS "Hoxsey Method"). The "pink liquid" was composed of lactate of pepsin and other ingredients (R 416, Ex. 6 at 368).

Hoxsey and his spokesmen were frank to confess that they did not completely know why his colored mixtures cured cancer. They asserted that they had been kept too busy treating cancer patients and fighting court battles to keep their clinic open "to spare the time, personnel, and facilities for objective study" (id. at 369). Hoxsey's hypothesis "held that a major chemical imbalance in the body caused normal cells to mutate into a cancerous form, and his medicines restored the original chemical environment, checking and killing the cancerous cells" (id. at 369). The proponents of the Hoxsey remedy, like the Laetrile proponents of today, condemned the only treatments then recognized as having value in cancer therapy. The Hoxsey proponents held that "X-ray and radium (had) no place in the treatment of cancer * * *. They further upset basic cell metabolism rather than do anything to correct it" (id. at 369).

Harry Hoxsey promoted his unproven cancer remedy for more than 30 years until 1960, when after years of numerous local, State, and federal court actions, the sale of the Hoxsey medicines was stopped in the United States. At the time of the 1960 permanent injunction banning the sale of Hoxsey remedy at the Taylor Clinic, more than 10,000 patients were receiving the remedy. (See, generally, R 400, Ex. 2, ACS "Hoxsey Method"; R 416, Ex. 6.)

In 1964 a California State government report stated that, at that time, "Possibly no other unproven treatment for cancer has received so much public attention or approbation as Krebiozen. This agent has been the subject of intense scrutiny by scientists and government officials, and loudly discussed by the press and by the general public. The events surrounding the introduction of Krebiozen as a potential cancer cure and the subsequent trials to test its capabilities produced an air of notoriety seldom seen in the medical world" (R 183, Att. 3 at 59).

Unlike Harry Hoxsey's backwoods herb remedy, Krebiozen, the most heavily promoted unproven cancer remedy of the 1960's, had an aura of high scientific prestige. The drug's principal proponent in the United States was Dr. Andrew C. Ivy, then Vice-President in charge of the Chicago Professional Colleges, Distinguished Professor of Physiology and Head of the Department of Clinical Science, University of Illinois (id.) Krebiozen was reportedly produced originally in Argentina by Stevan Durovic, M.D., a Yugoslavian physician, and brought to the United States in 1949 (R 400, Ex. 2, ACS "Krebiozen and Carcalon"). "According to Dr. Durovic, the original 2 grams of powder, from which he said 200,000 doses were prepared, was obtained as an extract of the blood of 2,000 Argentinian horses which had previously been injected with a sterile extract of *Actinomyces bovis*, a microorganism which causes a disease called 'lumpy jaw' in cattle" (id.). "Food and Drug Administration analyses of Krebiozen ampules (showed) that those sold before 1960 (were) different from those sold in 1963, and that neither contain(ed) any of the powder identified in July 1963 by Dr. Stevan Durovic as Krebiozen, and found to be creatine monohydrate, which will not dissolve in mineral oil. * * * analyses of Krebiozen ampules shipped before 1960 showed they contained nothing but mineral oil, while ampules shipped since then contained mineral oil plus minute amounts of amyl alcohol and 1-methylhydantoin, a derivative of creatine which will dissolve in mineral oil" (id.).

In 1963, a committee of 24 cancer experts was appointed by the Director of the National Cancer Institute to review clinical records on 504 patients treated with Krebiozen, and to recommend whether the Institute should sponsor clinical trials of Krebiozen. The committee unanimously concluded that Krebiozen was an ineffective cancer drug and strongly urged that no clinical trial be undertaken (id.).

In November 1964, Drs. Ivy and Durovic and other proponents of Krebiozen were indicted on 49 counts for violations of the Federal Food, Drug, and Cosmetic Act, mail fraud, mislabeling, making false statements to the government, and conspiracy. All of the defendants were acquitted in January 1966, after a 9-month jury trial (id.). Although the acquittal meant that the government did not prove its case beyond a reasonable doubt, it did not have any bearing on the question of whether Krebiozen was a safe and effective cancer drug. As an unapproved new drug, its distribution in interstate commerce remained illegal. In spite of the acquittal, the Krebiozen boom collapsed shortly thereafter.

2. *Similarities Between Laetrile Promotion and That of Other Recent "Unproven" Cancer Remedies*

The promotion of Laetrile in the 1970's is completely in character with the historical pattern of the promotion of other unproven cancer remedies such as the Koch Antitoxins, the Hoxsey method, and Krebiozen. These characteristics include the following:

(1) The proponents "don the mantle of science while at the same time traducing the reputable scientists of their day" (R 400 at 3).

(2) The proponents claim that "prejudice of organized medicine hinders their efforts" and they "challenge established theories and attack prominent scientists with bitter criticism" (R 400, Ex. 2 "Unproven Methods of Cancer Management—1976" at 3) (hereinafter cited as "Unproven Methods").

(3) The proponents "cite examples of physicians and scientists of the past who were forced to fight the rigid dogma of their day" (id.).

(4) The proponents rely mainly on testimonials and anecdotes as evidence that their remedy is a safe and effective cancer therapeutic agent (see R 400 at 4).

(5) The proponents "do not use regular channels of communication (current, reputable scientific journals) for reporting scientific information" (R 400, Ex. 2 "Unproven Methods" at 2–3). The main channels of communication are the mass media, popular journalism, and word of mouth (see R 400 at 4–5).

(6) The proponents' "chief supporters tend to be prominent statesmen, actors, writers, lawyers, even members of state or national legislatures—persons not trained or experienced in the natural history of cancer, the care of patients with cancer, or in scientific methodology." (See R 400, Ex. 2 "Unproven Methods" at 3.)

(7) The proponents often offer a simplistic theory for causation of the disease frequently involving claims that dietary management can counteract virulent pathologic processes (R 266, Ex. 3 at 865).

(8) The proponents' remedy is "easy and pleasant, compared with the frightening therapies wielded by orthodoxy, the surgical knife, harsh chemical drugs, poisonous radiation" (R 400 at 8).

(9) The proponents claim that the mode of administration of the drug and the method of treatment can only be learned from them (R 400, Ex. 2, "Unproven Methods" at 3).

The record illustrates the remarkable conformity of the Laetrile promotion to this pattern:

(*a*) *Mantle of Science.*—Throughout history, promoters of unproven cancer remedies have couched the explanation for the remedies in pseudoscientific terms. "Impressive and plausible to the layman, such arcane explanations, to true scientific specialists, came off as nonsensical balderdash" (R 400 at 3). The promoters of Laetrile have presented a series of shifting theories to explain the alleged anticancer activity of Laetrile. These theories have been examined in detail above. (See, generally, R 318.)

(*b*) *Attacks on the "Establishment."*—The proponents of Laetrile have often accused government agencies and organized medicine of making untruthful and irresponsible statements regarding the experimental evidence of Laetrile's anticancer activity. (See, e.g., R 302, Ex. A at 14–16; R 509 at 3–4.) In other instances, proponents of Laetrile have chastized the orthodox methods of cancer treatment and management, i.e., surgery, radiation, and chemotherapy. (See, e.g., Tr. at 16–27, 297–316, and 417–426).

The most vocal arguments challenging established orthodox treatments have been concerned with the issue of freedom of choice, discussed elsewhere in this opinion. These arguments, many of them from cancer patients or their relatives and friends, hold that the "bureaucracy" has no right to interfere with the physician-patient relationship by withholding from them a treatment in which they believe and which they want. (See, generally, Tr. at 55–56, 255–256, and 454–456.)

(*c*) *Claimed Parallel with Scientific Pioneers.*—To combat criticism from the established medical societies and government agencies that Laetrile had not been shown to be safe and effective, its proponents compare the originators of the drug and physicians who prescribe Laetrile with earlier scientists who were persecuted and ostracized for their scientific theories: Copernicus, Newton, Freud, Galileo, and Semmelweiss. (See, e.g., R 318 at 61–63; R 198, Ex. 2 at 3–5).

(*d*) *Reliance on Testimonials.*—As previously discussed, the proponents of Laetrile rely on testimonials and anecdotes as evidence that the drug is safe and effective in the treatment of cancer. In reviewing the administrative record, the Commissioner has not encountered even one study that meets the legal and scientific standards for making a determination that Laetrile is safe and effective. Proponents claim that physicians using Laetrile are too busy treating patients to be able to maintain the records needed to document adequately the case histories they present. (See, e.g., Tr. Ex. 1 at 117.)

(*e*) *Lack of Scientific Publication.*—Good science demands that evidence that a drug is safe and effective be presented in a manner whereby that evidence can be reviewed and evaluated by other scientists. Usually this evidence is published in scientific journals and presented for discussion at symposia and other meetings. Historically, "the main reliance of unorthodox promoters rests on the anecdotal evidence of testimonials from laymen, and the main channel for reaching an audience is through the mass media. In earlier days newspaper advertising trumpeted the promise of cancer cures, bolstered by the faces and words of grateful testifiers, not infrequently already dead of the disease" (R 400 at 4–5). The proponents of Laetrile have relied heavily on popular journalism, advertisements, radio and television, "health" organizations and word of mouth to spread their claims that Laetrile is a safe and effective anticancer drug. (See, e.g., R 318; R 302, Ex. A and H; R 198, Ex. 2.) A number of experts active in the management of cancer have submitted testimony stating that the scientific literature contains no reports of adequate, well-controlled studies upon which Laetrile can be regarded as generally recognized as safe and effective. (See, e.g., R 185 at 5; R 186 at 4; R 390 at 6.)

(*f*) *Nonexpert Supports.*—The proponents of Laetrile are well-organized and, through organizations such as the Committee for Freedom of Choice in Cancer Therapy, have conducted active campaigns to move the discussion of the safety and effectiveness of the drug from the scientific to the political arena. These organized efforts have encouraged cancer patients and others to write their local, state, and congressional representatives demanding that Laetrile be "legalized." These efforts are addressed not to discussions of the scientific merits of Laetrile as a cancer drug, but rather to the issue of "freedom of choice" discussed elsewhere in this opinion. Such action on the part of the Laetrile proponents is typical of other unproven cancer remedies. Failing to win acceptance in the established medical community, proponents seek sympathetic allies in places of political power. (See R 400 at 6–7.)

(*g*) *Simplistic Theories of Causation and Reliance on Diet.*—The latest claims being made for Laetrile are that it is a "vitamin," and that cancer is a vitamin deficiency disease. The basis for these claims is discussed elsewhere in this opinion. It is sufficient to note here only that this simplistic theory of cancer prevention and treatment is common to other unproven cancer remedies. Cancer patients are told that they can cure or control their cancer by strict adherence to a special diet that includes a special "vitamin" even though this "vitamin" is not recognized by nutritional experts. (See R 266, Ex. 3 at 865–66.)

(*h*) *A Painless Cure.*—Laetrile, like other unproven cancer remedies, is promoted as a harmless cancer remedy free of the side effects associated with orthodox methods of treatment such as radiation and chemotherapy. Many of the statements submitted by cancer patients and their relatives and friends reflect the proponents' claims that Laetrile is free of side effects. (See, e.g., R 17; R 48; R 137.)

(*i*) *Only Proponents Can Effectively Use the Drug.*—In common with the supporters of other unproven cancer remedies, the proponents of Laetrile stress, as did Robert W. Bradford of the Committee for Freedom of Choice in Cancer Therapy, that "you" do not and cannot expect to get results from Laetrile treatment unless you are a trained metabolic physician" (Tr. at 349). These arguments are used to explain why orthodox physicians (i.e., those not trained in the proper use of Laetrile) do not see any evidence of Laetrile's effectiveness as a cancer drug.

B. WHY DO PEOPLE USE LAETRILE?

Throughout history persons afflicted with cancer have turned away from the medical establishment to a series of what most euphemistically might be called "unproven remedies." Laetrile is the most recently publicized of these remedies, but, as the discussion above illustrates, it follows on the heels of other widely publicized therapies such as Krebiozen and the Hoxsey cure. Thoughtful persons have questioned the reasons for this troubling phenomenon. Why do people bet their lives, or the lives of their loved ones, on a therapy which is rejected by almost everyone trained and experienced in cancer research and treatment?

Much evidence in the record addresses this question. The answer lies in the fear that cancer engenders—and that proven therapies for cancer engender—and the need of patients and families for hope in a situation where the hope offered by

the legitimate therapies is often modest. The use of "unproven remedies' is, in the opinion of observers, in large part attributable to the loved ones of the cancer victim, in whom both fear and the need for hope are magnified by sympathy and by the guilt that one feels at being unable to relieve the suffering of a person one loves. This situation is, unfortunately, skillfully exploited by the purveyors of "unproven" cancer remedies, of which Laetrile is only the most publicized.

1. The Emotional Reaction to Discovery of Cancer

"[W]hen cancer afflicts an individual, he is frequently faced with a circumstance which is virtually without hope. First of all, the cancer patient must be terrified by the diagnosis * * *. It would be enough to terrify any lay person to simply be told that he has cancer. But more important than that is the fact that once he is told that he has cancer, he is told by he doctor that the treatments that we have available are very often disfiguring; they can be painful; they can be unpleasant; they can even be risky" (Tr. at 204).

The cancer patient must thus cope with two wounds simultaneously. The first is to the body itself (R 423 at 1). "The other wound is to the psyche, reflected in the loss of the feeling of being invulnerable, a feeling which is basic to ordinary day by day living" (id.). The cancer patient senses suddenly that the future is limited. Social and work mobility are seen as curtailed; so are the patient's functional role in the family and the community. In addition, the patient senses a new dependence on others and may fear that he or she will become a burden on the family (id. at 2). "The initial psychological status of the patient and family is characterized by disorientation, anxiety, guilt, fear of pain and suffering" (R 421 at 1).

Dr. Robert C. Eyerly, Chairman of the American Cancer Society's Committee on Unproven Methods of Cancer Management, states that, "Indeed, we've found that the major reason cancer patients use Laetrile is fear * * * fear that the disease is incurable, that surgery or other therapy is mutilating, and that the medical profession is not to be trusted" (R 173, Att. "Laetrile: Focus on the Facts").

In this climate of anxiety and fear, the medical establishment—which, unlike the proponents of "unproven" remedies, feels an obligation to be honest with the patient and his family—cannot always offer hope: "[P]robably the most important factor (explaining why cancer patients choose to use Laetrile) has been the failure of modern medicine and technological advances to cure or adequately control some cancers. These unfulfilled expectations lead patients to disappointments in standard medicine and to attempt a cure of their disease by pseudoscientific methods" (R 398 at ¶ 9).

Physicians, trained in the saving of life and the alleviation of suffering but unable, in some cases, to do either with cancer patients, may contribute to the frustration. "Many patients sense a feeling of frustration and hopelessness conveyed, perhaps unconsciously, by the physician who tells them the nature and probable outcome of their disease—a natural feeling on the part of the physician who is discouraged by his recognition that he cannot cure the patient. Patients sensing this hopelessness frequently are unwilling to 'abandon hope' and therefore seek (unorthodox therapies)" (R 190, Ex. 4, Editorial at 327). Glen W. Davidson, Ph.D., Chairman of the Department of Medical Humanities, Southern Illinois University School of Medicine, testified that, "* * * when primary emphasis for treatment is placed on 'cure' and the physician's abilities, rather than on 'coping' and the patient's abilities, the patient is placed in an inappropriate and ineffective dependency relationship. When the physician can no longer promise 'cure' and then attempts to refer the patient out of his practice, or leaves the patient to institutional care of others, the patient feels abandoned. The patient has already had his coping abilities undermined. And many patients react to unfulfilled expectations and violated trust with anger and panic" (R 387 at 2).

A patient facing cancer and the lack of positive assurance from the physician that the cancer can be cured may simply give up hope that what the physician can do for the patient can work. This lack of confidence in proven remedies is tragic in an era when, in the case of many cancers, a significant percentage of patients can be cured or have their lives extended. See, e.g., R 173, Att. ACS, 1977 Cancer Facts at 3. Laetrile's proponents expend great efforts to encourage this feeling. Much of the oral argument of Laetrile proponents in this proceeding was addressed not to the effectiveness of Laetrile but to the ineffectiveness of proven remedies (see., e.g., Tr. at 16 et seq.; Tr. at 228). With real hope extingished, the use of Laetrile or other unproven remedies is a way of avoiding an acceptance on a conscious level of the consequences of the disease: "The decision to use Laetrile indicates that, at the subconscious level, patients and their families have given up on conventional therapy and, in fact, have accepted the inevitability of death. On the more superficial level, patients choosing Laetrile are persons who believe that they do not require the use of sophisticated, anti-cancer treatments. This reflects an ambivalence which many patients feel at the time they are required to make decisions about cancer therapy. If patients can maintain denial about the seriousness of their cancer, then they can permit themselves to experiment with a bizarre apricot-extract, such as Laetrile" (R 433 at ¶ 13). "Human beings have become accustomed to using the psychological techniques of denial in dealing with real problems" (R 390, Ex. 3 at 386). "The decision to use Laetrile is, in essence, an attempt 'magically' to avoid the reality of cancer" (R 433 at ¶ 9).

2. The Role of Loved Ones

Patients with a diagnosed malignancy frequently encounter ostracism in their private, social, and vocational roles (R 387 at 1). At this point, the caring of loved ones and their sympathetic willingness to continue to associate with and to share the suffering of the cancer patient assume great importance to the patient. This caring relationship, quite understandably, leads to a dependence by the patient on the loved one and a corresponding feeling of responsibility in the nonpatient: "Many patients in their initial response to cancer diagnosis surrender control to those closest to them, further complicating the issue of informed choice. Highly anxious relatives with little or no medical understanding of cancer as a disease entity fall prey to the emotional appeal of the proponents of Laetrile" (R 421 at 2). "Cancer patients are most vulnerable to the manipulations of others when they feel they are (1) being abandoned, (2) unable to control pain, and (3) unable to maintain a 'sense of dignity' by being able to make decisions for themselves. Attempts at guarding oneself from all three fears are often incompatible. Many cancer patients feel they are in a 'double-bind.' If they don't follow their physician's treatment plan, the disease process won't be arrested. If they don't follow the competing, and often contradictory advice from relatives and friends, they will be abandoned. And if they assert their own feelings they will be ostracized by others at the very time they most need support from others" (R 387 at 1–2). Thus, some patients pay the price of what benefits are available from orthodox treatments in order not to be abandoned by family and friends—"a psychological analogue to the theological concept of being 'cast into Hell' * * *" (id. at 2). In many cases, it is family and friends who, amplifying the patient's feelings, try to get their anger and panic under control by manipulating the patient into use of medically unacceptable remedies. (See id. at 2.) The families of cancer patients, particularly parents of children with cancer, are understandably desperate for anything that will cure cancer. They often are beset by irrational feelings of guilt, and seek to assuage these feelings with the assurance that "* * * 'we did everything for our child' even to the point of foolishness in going after an unproven cure * * *" (R 394 at 2).

The shared responsibility of the loved ones of cancer patients for the patients' involvement with Laetrile (or other unproven remedies) helps to explain why these families have been among the most vociferous proponents of Laetrile. "This reaction can be understood because such persons, whether they are family members or friends, have to justify the deceased's use of Laetrile by suggesting that the patients were considerably helped by the drug, that their lives were prolonged to a significant extent, or, at the least, that they did not suffer a great deal of pain during treatment with the drug. To do otherwise would require them to acknowledge that they made a mistake

and misled the patients or that they went along with decisions which were clearly erroneous. Living with that kind of guilt is very difficult and the advocacy of Laetrile is a way of avoiding it" (R 433 at ¶ 15). It is only those family members who did not participate in, or dissented from, the decision to use Laetrile who, after the patient's death, raise their voices against the drug's use (see, e.g., R 47; R 429; R 300; R 348).

3. Methods of Promotion of Laetrile

As is obvious from the above discussion, the cancer victim and his or her family are extremely vulnerable to the kind of persuasion used so skillfully by Lactrile's promoters. This persuasion may take the form of highly polished and thus convincing films and books (see Tr. at 331) or of personal visits. The fact that many persons involved in Laetrile promotion believe strongly in the drug makes their presentations, because sincere, all the more compelling. In his affidavit, one cancer patient, speaking from his own experience, stated that "immediately after a diagnosis of cancer, most patients and family members are susceptible to something such as Laetrile, which offers a painless treatment with certain results" (R 388 at 2). The patient also stated that, somehow, the names of cancer patients in his area had been obtained by certain persons helping to spread the Laetrile theory. He indicated that Laetrile proponents exerted constant pressure on him and his wife to quit orthodox medical treatment and try Laetrile. Testimonials from patients who spoke in glowing terms of their recovery or successful treatment with Laetrile were offered to supported the proponents' claim (id.). Laetrile promoters are diligent in searching out persons with reported cancer to offer their product. One physician noted that he had a patient who, within 24 hours of his being diagnosed as having lung cancer, received information in the mail telling him he ought to take Laetrile and where and how to get it (Tr. at 184).

Laetrile proponents are keenly aware of the involvement of family members and friends in decisions to accept unproven remedies and actively seek to persuade them of the drug's benefits. One woman who had had surgery and chemotherapy for treatment of breast cancer commented: "My biggest problem has been coping with well-meaning relatives and friends who swallow this propaganda of unprofesisonals and then try to make me feel guilty because I don't take their advice * * *" (R 96).

Laetrile proponents play upon the victim's frustration with a medical establishment that cannot offer the certainty of a cure. Some patients reportedly turn to Laetrile precisely because it is "illegitimate," behavior that appears to be "an anger reaction toward legitimate medicine" (R 387 at 3). This antagonism toward the medical establishment is fanned by Laetrile proponents (as it has been by the purveyors of previous "unproven" remedies) to a pitch that most observers would consider absurd. When a speaker at the oral argument asked the audience, which consisted predominantly of Laetrile supporters, if "you really think that a quarter of a million physicians across the country can let people die because they want to make a profit off of them§", the audience response was a loud chorus: "Yes" (Tr. at 191).

Laetrile proponents also play upon and build the cancer patient's fear of legitimate cancer therapies. (See R 421 at 2: "The promise of a painless cure through Laetrile, as opposed to ordothox medical methods with their side effects capitalizes on the fear of pain and suffering".) "Slash (or cut), burn, and poison" are the code words of the Laetrile supporters for the proven remedies of surgery, radiation and chemotherapy (see, e.g., Tr. at 291, 357, 463). A videotape of an interview with a cancer patient (R 419, Ex. B; see also R 197 at ¶ 7) that is part of the record shows graphically the costs of this sort of propaganda. The victim is a woman who, at the time her breast cancer was discovered, was given a reasonably good prognosis of recovery after surgery. Out of fear of surgery she tried Laetrile therapy. Though the tumor grew to involve her whole breast she continued to avoid conventional therapy, even trying, after Laetrile did not help, an "asparagus" diet cure, garlic, and finally a fruit and vegetable diet with hot baths. When, nearly at death's door, she returned to the surgeon, it was too late for surgery to be effective. She then was convinced to try radiation therapy, which she testified she had avoided because the negative descriptions of it in Prevention magazine, to which she had long subscribed. The radiation therapy helped reduce the size of her tumor and make her more comfortable, but her expected survival was greatly diminished by her delay in obtaining effective treatment. This kind of disparagement of conventional thearpy, a bulwark of the campaigns of Laetrile proponents, is perhaps the most morally reprehensible aspect of the pattern of the drug's promotion.

4. The Sampson Survey

While the conclusions about the reasons for use of Laetrile expressed in the record are based upon a multitude of experiences by various witnesses with patients taking Laetrile, it is interesting to note the conclusions of the one attempt to survey Laetrile patients about their reasons for using the drug.

Based upon about 20 interviews with cancer patients who abandoned orthodox therapy in favor of Laetrile, Dr. Wallace I. Sampson, Clinical Associate Professor of Medicine, Stanford University School of Medicine, stated that about 75 percent of the patients reported that they had serious problems with their physicians. About 75 percent believed in Laetrile's therapeutic rationale and effectiveness. About 75 percent of the patients were involved in other methods of therapy that included high doses of Vitamin C, megavitamin therapy, and immunotherapy given by unqualified individuals. Dr. Sampson is of the opinion that the patients receiving Laetrile were involved in other types of unorthodox therapy because of their outlook on life (i.e., they seek nonrational, magical solutions to the problems of dread and often uncurable illness) or perhaps because of difficulties in relating to a standard physician. A large majority of the patients believed that there is a conspiracy to keep Laetrile off the market. Less than 10 percent of the patients tried to inform themselves about Laetrile from non-Laetrile sources. (See Tr. at 118–119; R 398 at 4.)

C. THE LAETRILE TESTIMONIALS

Unproven cancer remedies like Laetrile are invariably supported by numerous testimonials of persons who pronounce themselves satisfied with the results they, or their deceased friends and relatives, have achieved with the drug. The present widespread use of Laetrile as an alternative to remedies of proven effectiveness illustrates the problems to which such "evidence" of a drug's effectiveness leads, and it is a legitimate question to ask why there are so many such testimonials.

The Commissioner does not doubt the honesty or the sincerity of the many testimonials for Laetrile, but many of the positive experiences reported may be accounted for by explanations other than the claimed effectiveness of the drug. The placebo effect discussed above undoubtedly accounts for some of the reports, particularly those claiming decrease in pain and increased sense of well-being. Experts interested in the question have provided other explanations. Most of the patients reporting Laetrile "cures" appear actually to have had the benefit of other, proven effective therapies. Some of those who believe themselves cured may never have had cancer at all. Others may simply not be cured, despite their belief.

Many of the testimonials and anecdotes concerning the effectiveness of Laetrile replay the same scenario. The cancer patient is told he has cancer and agrees to surgery, radiation, and or chemotherapy. After some time, the patient, feeling nauseous, weak, and general malaise, in desperation turns to Laetrile. Within a few days or weeks after stopping orthodox treatment and starting to use Laetrile, the patient feels better, has an appetite, and is able to move about on his own. The patient in all sincerity attributes his recovery and feeling of well-being to his decision to reject orthodox medical treatment and to choose Laetrile. (See, e.g., R 9; R 35; R 223; R 267; R 315; R 391; R 483.) Many families of deceased cancer patients who had orthodox therapy and who then used Laetrile believe that the patient benefited from the Laetrile and might still be alive if they had turned to Laetrile earlier. (See, e.g., R 19; R 208; R 279.)

It is easy to understand how such a situation could develop. A doctor may prescribe 10 applications of a proven cancer drug, perhaps after surgery. The cancer may have been totally removed by the surgery or it may have been totally destroyed by, for instance, the 7th

of the 10 applications of the effective drug. Because the physician cannot know this, and because he cannot risk the chance that some cancer remains, he has prescribed the recognized treatment regimen. Use of cancer drugs (referred to as chemotherapy) or of radiation may involve unpleasant side effects. The patient, sickened by the side effects of the drug and importuned by Laetrile proponents, may stop the chemotherapy before the prescribed regimen is completed. As the side effects clear up, the patient feels better. If a full cure has been accomplished, it will be attributed to Laetrile. If it has not, the surviving family may well believe that, since the patient felt better after stopping chemotherapy and starting Laetrile, the therapy was only received "too late." See R 184 at ¶ 7:

> Testimonials attesting to a feeling of general improvement and cessation of pain in patients upon abandonment of radiation and chemotherapy in favor of Laetrile treatment do not indicate that Laetrile is effective in curing cancer or in relieving pain. The feeling of well being experienced by these patients derives from two phenomena, one physical and the other psychological. Chemotherapy and radiation treatments produce unpleasant side effects in most patients. When such therapies are stopped, the side effects they produce disappear. This natural physical effect in the case of these patients is reinforced when Laetrile is administered because of the patients' expectation that the treatment will have a beneficial effect.

Dr. John A. Richardson, himself a major proponent of Laetrile therapy, stated that 85 percent of the 4,000 to 5,000 patients treated with Laetrile at his clinic had previously received some type of orthodox medical treatment (Tr. at 463).

Sometimes conventional and Laetrile therapies are administered simultaneously, with any beneficial effects attributed by patients to the latter. Dr. Emil J. Freireich is involved in the development of cancer drugs. He stated that:

> (W)e have numerous patients who are receiving developmental therapy drugs which have at the time, real promise, and subsequently prove to be useful and are introduced into practice, who unbeknownst to us, were also taking therapy with laetrile and when their disease responds to therapy, (they) inadvertently ascribe it to the effectiveness of the unproven remedy, whose administration is revealed to us subsequently. When we compare the responses of patients on a given therapy who have received laetrile at the same time, with those who received none, there is no significant difference, which indicates clearly that those observed responses were due to the cancer chemotherapy drugs which were being administered by us and not by the additional use of laetrile (R 390 at ¶ 20.)

For other testimony on the propriety of attributing to Laetrile cures that may be caused by other, proven effective, drugs, see, generally, R 174 at ¶ 9 and R 185 at ¶ 20e.

"Some people who believe that Laetrile cured them never had cancer to begin with" (R 174 ¶ 9). In a number of the "case histories" submitted to show Laetrile's effectiveness, there is no acceptable showing that the patient ever had cancer. (See, e.g., R 183, Att. 16, App. 2; R 184, Ex. 2; R 378, Att. "Supplementary Report," cf. evaluation of case histories above.)

In one 1955 pamphlet, Dr. Krebs, Sr., discouraged biopsy, the procedure often used to determine whether a tumor is malignant (cancerous) (R 183, Att. 7 at 14). He urged instead that a special urine test, not generally accepted by the medical community as useful, be the means for diagnosing cancer (id. at 16). Even where the diagnosis has been done by someone other than a Laetrile proponent, a mistake is possible. Some cancers which are discussed in reference to Laetrile are very difficult to diagnose histologically. Thus, a diagnosis of cancer may often on later review be reversed. (See Tr. at 141.)

"Many cancer patients have given testimonials believing themselves cured, only to discover later that they still have the disease" (R 174 at ¶ 9). Since he is involved in the testing of cancer drugs, Dr. Emil J. Freireich is in a good position to follow up on patients who leave his program to use Laetrile. Dr. Freireich reports that "(I)n virtually every instance, (Laetrile patients treated in our department and subsequently followed by our tumor registry, have been) found to have evidence, not only of progressive disease, but to have expired after receiving such unsuccessful treatment, and a significant fraction eventually return to our clinic for more developmental therapy" (R 390 at ¶ 20).

An illustration of what, in all likelihood, explains most Laetrile testimonials appears in the record:

> Testimonials fail to provide objective evidence that there has been control or regression of a tumor which is attributable to the use of Laetrile * * *. To illustrate why such data are important, let us examine two typical versions of testimonials from women who state that their cancer of the breast was cured by Laetrile. The first testimonial is from Jane Doe. She discovered a lump in her breast and based upon the urging of friends has consumed on her own initiative a number of Laetrile tablets. It is also possible that she saw a doctor who administered injections and prescribed a special diet. In a month, the lump has disappeared, and Jane Doe sings the praises of Laetrile. "It cured my cancer; I am living proof." This is not credible evidence. The lump detected may have been caused by a variety of conditions. Without laboratory confirmation that a malignant condition existed, there is no basis to assume that it was cancer and that Laetrile contributed to its disappearance. The second testimonial is from Dorothy Doe. She had objectively diagnosed cancer, underwent a mastectomy, and postoperative chemotherapy or radiation treatments. The physician informs Dorothy that an additional surgical procedure may be necessary. Dorothy decides against further unpleasant treatment and takes Laetrile. Now, six months or three years later—time makes little difference—she, too, sings the praises of Laetrile. Dorothy's experience does not constitute evidence. It is possible that her orthodox treatment was successful; it is possible that she still has cancer, but that it will not manifest itself for another year or, indeed, as is sometimes the case, for another dozen years. The point is that there are no objective data upon which to assess Dorothy's condition at the time Laetrile was administered and the effects of Laetrile. In the absence of such data, there is no basis for a claim that Laetrile was effective (R 191 at ¶ 14).

As another affidavit states,

> * * * It is a certainty that any substance without significant toxic or harmful effect, including mystical activities, faith healing and all other types of non-toxic or non-harmful remedies will be effective in a small fraction of the very large population of patients with hopeless terminal cancer. Those individuals who fail to respond to such treatment, that is, who have the expected outcome, which is progression of their cancer and death, are no longer living and those rare individuals who have the exceptional or miraculous outcomes frequently live for long periods of time. It is obvious that a large number of individuals can be identified who have unusual outcomes. These individuals are of course easily convinced of the effectiveness of such treatments and are free to testify to their effectiveness for as long as their disease remains in control. Such testimonials contribute no significance toward our understanding of the effectiveness of any treatment for cancer. Evidence accumulated in the proven, objective, medical and scientific fashion is the only evidence that can be of use in evaluating the potential of any treatment for influencing the course of malignant disease (R 390 at ¶ 21).

Dr. Melvin Krant, Professor of Medicine and Psychiatry and Director of Cancer Programs at the University of Massachusetts Medical Center, reviewed a number of the testimonials submitted to the record from patients and relatives and friends of patients who have been treated with Laetrile. He stated that the testimonials "do not offer evidence for effectiveness because frequently the treatments with Laetrile were taken after other treatments such as surgery, radiation, or chemotherapy. At times, the Laetrile was taken in conjunction with other modes of therapy such as chemotherapy. In such instances, it is impossible to know whether the Laetrile added anything to the patient's response. There are no objective ways to measure the patient's response. In many instances, it seems like the main emphasis of the testimonials is on the patient's emotional reaction to being treated. Because the testimonials are not presented in a scientific manner, it is also impossible to determine if there were any side effects from Laetrile administration" (R 453 at 1-2).

V. Other Issues Regarding Laetrile

A. Use of Laetrile Outside the United States

Laetrile's proponents have sometimes sought to give the impression that Laetrile is in use around the world and that it is only the United States' overly restrictive drug laws or an evil conspiracy among drug companies, physicians, and bureaucrats that is preventing marketing of the drug in this country. (See, e.g., the claim, in a 1963 publication, Control for Cancer by Glenn D. Kittler, that Laetrile was being studied in several countries in addition to the United States: Canada, the Philippines, Japan, England, Belgium, Italy, Union of South Africa,

and Mexico (R 318 at 31).) The book also reported that the drug was registered in Iran in 1962 (id.). (See also the reference to the use of Laetrile (or Amygdalin) in West Germany in the late 1960's (R 302, Ex. G).) (Cf. R 198, Ex. 2 at 24, (transcript of film World Without Cancer); Tr. at 424.)

The record reflects no international recognition or use of the drug. The State Department and the United States Mission to the World Health Organization made an effort to determine whether Laetrile, Amygdalin, Vitamin B–17, or such drug under any other name was known and approved elsewhere in the world. The State Department sent inquiries to all American embassies instructing embassy officials to ascertain the status of the drug in their respective host countries, and the mission to the World Health Organization made telephone inquiries of member states throughout Western Europe. The following information was obtained:

The American Embassy in Mexico advised that in 1974 the Mexican government gave provisional approval, contingent upon the presentation of evidence of Laetrile's effectiveness in treating cancer, to two laboratories in that country to manufacture the drug. This approval was cancelled in late 1976 because no positive results were obtained in research carried out at the Medical Center General Hospital. The decision to ban Laetrile has been appealed by Laetrile proponents and is now in the Mexican courts (R 426; see also Tr. at 430).

The mission to the World Health Organization had been told by some European contacts that "Laetrile" can be "purchased across the counter in Geneva without prescription" (R 426). The American Embassy in Switzerland, upon inquiry, was told that Laetrile is not sold on the Swiss market and is not approved there. One company does sell "small quantities of Laetrile," "exclusively to cancer research scientists" primarily in Western Europe. The company told the American embassy in Bern that "Laetrile is not made available commercially, nor is it sold as a cancer 'cure'" (id.).

In Madagascar, Laetrile is known as Amygdalin and is considered a poison by health authorities. Its use is prohibited. In Chile, Laetrile is also known as azaribina and its use is prohibited under any circumstance. This prohibition followed receipt of Newsletter 172 from the World Health Organization which described the potential dangers of use of the drug. The importation or use of Laetrile (Amygdalin) is illegal in the Republic of Korea (id.).

Health officials in Guyana reported that Laetrile has been used there. The Minister of Health indicated that he was not aware of FDA's prohibition of the use of Laetrile, however, and that, since the United States standards are closely followed in that country, his country would also ban the drug (R 426).

The State Department inquiry drew 69 responses from around the world. Each of the countries not already mentioned responded by indicating that "Laetrile," "Amygdalin," and "Vitamin B–17" were unknown or were not approved for use for treating cancer or any other use. The responding countries included the Philippines, Japan, the United Kingdom, Belgium, Italy, South Africa, and the Republic of Germany, as well as France, Korea, Taiwan, Hong Kong, India, and others from every part of the globe (id.). The United States Mission at the World Health Organization confirmed that Laetrile "is not registered and by definition, unavailable," in any of WHO's member states throughout western Europe (id.).

B. Claims That Laetrile Is a Vitamin or Food

Proponents of Laetrile (or amygdalin) have in recent years contended that their product is a vitamin or that it is a natural food substance rather than a drug. These claims are properly irrelevant to the questions this administrative proceeding was intended to address. However, in light of the interest in the vitamin issue demonstrated by the submissions to the record, the Commissioner will take this opportunity to discuss it. The potential safety problems presented by this concept will also be discussed.

1. A Vitamin or Food May Be a Drug As Well

This question is irrelevant to the issues in this administrative proceeding because, even if Laetrile (or amygdalin or "laetrile") were a vitamin (or a food), it would still be a drug. Any substance, including a vitamin or food, is a drug and subject to regulation as such if it is intended for use in the "diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals * * *" (21 U.S.C. 321(g)(1)). (See *Rutherford* v. *United States*, *supra*, 542 F. 2d at 1140; *United States* v. *General Research Laboratories*, 397 F. Supp. 197, 200 (C.D. Cal. 1975).[7] As the previous discussion illustrates, there is no question that Laetrile or amygdalin has been recommended in the treatment of cancer. In fact, in the very article in which Ernst T. Krebs, Jr., explained his theory that his product was "Vitamin B–17", he promoted it for cancer treatment. (See R 183, Att. 10c.

[7] Section 411 of the act (21 U.S.C. 350) deals specifically with vitamins and minerals. Section 411(a)(1)(B) does limit the authority of the Secretary to classify a vitamin as a drug "solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful." The vitamin provisions do not, however, affect FDA's authority to classify and regulate vitamins as drugs if they are represented to be for use in the diagnosis, cure, mitigation, treatment, or prevention of disease. The conference committee report states, "Except as specifically provided, the conference substitute does not alter the drug or food provisions of the Federal Food, Drug, and Cosmetic Act. If a product containing vitamins, minerals or other ingredients is a drug within the meaning of Section 201(g) of the Act, the Secretary may, with regard to such product, exercise his authority under Chapter V of the Act" H. R. Rep. No. 1005, 94th Cong. 2d. Sess. (April 2, 1976); (see also, 122 Cong. Rec. H3244-H3248, April 12, 1976).

It has been suggested that the claims that Laetrile (or amygdalin) is a vitamin or a food are simply an effort to establish that the substance is covered by the food requirements of the Federal Food, Drug, and Cosmetic Act and its regulations rather than those requirements applied to drugs. (See, generally, Tr. at 216, 225, 405; R 173, Att. "Questions most frequently asked about 'Laetrile,'" at 1; R 416 at ¶ 16.) One court has called the attempts by Laetrile proponents to represent Laetrile as something other than a drug, "a patently absurd and transparent attempt to avoid the drug labeling provisions of the Federal Food, Drug, and Cosmetic Act." *United States* v. *Spectro Foods Corp.*, Civil No. 76–101 (D.N.J., Jan. 29, 1976) (R 173, Att.). The Commissioner does not agree that Laetrile is a vitamin. (See discussion below.) It is clear, however, that even if Laetrile were a vitamin (or a food) it would be subject to the drug provisions of the act.

2. Is Laetrile a Vitamin?

This administrative proceeding was not intended to address the issue of whether Laetrile is a vitamin, and testimony on that issue was not solicited. Nevertheless, a considerable amount of evidence in the record addresses this issue. It appears that (a) Laetrile proponents classify amygdalin and certain related substances as a vitamin under their own definition of that term and (b) experts in the vitamin area, utilizing the criteria against which each of the legitimate vitamins have been assessed, conclude that amygdalin and other nitrilosides are not a vitamin.

(a) Proponents' Claims.—The idea that Laetrile could be considered a vitamin first appears in a pamphlet,[8] in use in 1965, published by Krebs Laboratories and entitled "Cancer Is A Deficiency Disease: The Deficiency of Cyanide Sugars" (R 201, Ex. C, No. IV). In that pamphlet, amygdalin and other "cyanogenetic glucosides" are characterized as pro-vitamins for vitamin B–12. This means that they participate in the formation of vitamin B–12. It is stated that "during the process of formation the liver is thoroughly fumigated and rendered sterile (id.). The real anticancer effect of amygdalin is said to be not this formation but the release of cyanide in the cancer cells by the mechanism discussed above under "Theories of Action." It is interesting to note that another Laetrile proponent, Dr. Navarro of the Philippines, states that vitamin B–12 should never be administered to cancer patients (R 318 at 165).

The pro-vitamin theory had apparently been set aside by 1970 when an article by Ernst T. Krebs, Jr., referred to previously, "The Nitrilosides (Vitamin B–17—Their Nature, Occurrence and

[8] The Krebs were no strangers to the "vitamin" area. Ernst T. Krebs, Jr.'s, marketing of another of his inventions, "Vitamin B–15" ("pangamic acid"), led to his plea of guilty to a charge of causing the introduction into interstate commerce of an unapproved new drug in 1962 (R 185, Att. 16, App. 17 at 7).

Metabolic Significance (Antineoplastic Vitamin B–17)," was published (R 183, Att. 10c). In this article, Krebs, Jr., uses the term "vitamin B–17 (nitriloside)" as "a designation proposed to include a large group of water-soluble, essentially non-toxic, sugary compounds found in over 800 plants, many of which are edible" (id. at 75). He indicates that the compounds "are collectively known chemically as beta-cyanophoric glycosides. They comprise molecules made of sugar, hydrogen cyanide, a benzene ring or an acetone" (id.). These compounds could be hydrolyzed by beta-glucosides to a sugar, free hydrogen cyanide, and benzaldehyde or acetone (id.). He states that amygdalin is one of the most common of the nitrilosides and that it "occurs in the kernels or seeds of practically all fruits" (id.).

Mr. Krebs, Jr., in this article, attempts to build a theory that vitamin B–17 is a specific dietary factor that could be used to prevent and to cure cancer. He explains that prevention and cure occur through the cytotoxic (toxic to cells) compounds of vitamin B–17—hydrogen cyanide and benzaldehyde—through mechanisms discussed elsewhere in this opinion (id. at 80). He concludes that: "In nitriloside or vitamin B–17 we have a new vitamin in which all of us are severely deficient" (id. at 84). The theory that Laetrile (or laetriles) constitutes a vitamin has found another proponent in the person of Dr. Dean Burk, a biochemist and president of the Dean Burk Foundation, Inc. (see, generally, R 302; Tr. at 401 et seq.).

Clearly, whether or not a given substance comes within the definition of vitamin depends upon the definition chosen. In his affidavit, Burk defines a vitamin as a substance which is "virtually non-toxic, water-soluble, an exogenous nutrient or food factor, and active in relatively small, essentially catalytic, non-calorific amounts, and is essential or beneficial in normal metabolism and/or physiologic functioning to *overcome deficiency lesions and symptoms of nutritional disease*" (emphasis in original) (R 302 at 4). Dr. Burk continues that in animal experimentation "* * * the deficiency lesions and symptoms of nutritional disease are best illustrated by the action of amygdalin in lengthening of animal lifetime or decreasing development of metastases, or both, and increase in health and well-being * * *" (id.). (See also Tr. at 408 and 465.)

Thus, even by the Burk definition, the claim that Laetrile is a vitamin depends in large part on the substance's ability to combat cancer, an ability not shown by testing convicing to drug experts in general. Proponents of the vitamin theory claim that the higher the everyday diet is in nitrilosides, the lower the incidence of cancer (R 73 at 36). Others claim that it may not be only high nitriloside levels that account for this observation but that other dietary elements (e.g., vitamin C) may play a role. (See, generally, R 318). These claims are based upon assertions that in some geographical areas, where the normal diet contains nitrilosides in abundance, cancer does not exist. Evaluation of the prevalence of cancers requires careful studies by competent epidemiologists and suitable cancer registries, which contain reports by professional pathologists (R 399 at ¶ 9). What evidence does exist in this area indicates a complete lack of the correlation between high nitriloside diet and low cancer incidence that the Vitamin B–17 proponents claim. The record contains citations to numerous reports showing that a variety of cancers do occur in populations consuming nitriloside-containing diets. These include findings that cases of most of the recognized cancers appear in the Kampala Cancer Registry, Uganda (id.). There are also references to published papers from the Ibadon Cancer Registry, Nigeria on Burkitt's lymphosarcoma, Kaposis sarcoma and breast cancer, cancer of the bladder in Kenya, and the cancer incidence in Bantu (id.). Some cancers that are rare or absent in North America and Western Europe occur in the populations which consume high levels of nitrilosides (id.).

In the film "World Without Cancer," the people of the Kingdom of Hunza in the Himalayan mountains are said to eat a diet containing over two hundred times more nitrilosides than the average American diet and to prize above all other foods the apricot seed. It is stated that "[v]isiting medical teams from the outside world report that there never has been a case of cancer in Hunza" (R 198, Ex. 2 at 8). However, in 1955, a Japanese medical expedition studied the Hunza people and reported that they have many diseases, including cancer (R 173, Att. "Questions Most Frequently Asked" No. 6; Tr. at 338).

Similarly, the film claims that the Eskimos eat a high nitriloside diet and are "found to be totally free of cancer" (R 198. Ex. 2 at 8). The Eskimos have also been found to have cancer (R 173, Att. "Questions Most Frequently Asked" No. 6; Tr. at 339). In commenting on another reference to "the diets of the cancer-free population" (R 217 at 2), Thomas H. Jukes, Ph.D., states correctly: "There are no cancer-free populations" (R 416 at ¶ 28(C)).

(b) *Vitamin Experts' Position.*—Numerous nutrition experts and organizations concerned with nutritional science provide support in the record for the Commissioner's conclusions that "Laetrile," or "amygdalin," or "nitriloside," is not a nutrient or vitamin. (See, e.g., R 173, Att. "Questions Most Frequently Asked" (American Cancer Society); R 168, Att. "The Vitamin Fraud" and R 399 at ¶ 12(C) (David M. Greenberg, Ph.D.); R 416 (Thomas H. Jukes, Ph.D.); R 378, Att. Editorial; Att. American Institute of Nutrition letter; R 169 at ¶ 17 (Vincent T. DeVita, Jr., M.D.); R 191 at ¶ 11 (Philip S. Schein, M.D.); R 227 at 3 (National Council on Drugs).) The steps which are necessary to establish that a substance is a vitamin are described in the record. These steps include the publication in reputable journals of a complete description of the research procedures, and confirmation, by other scientists, of the results obtained. If the work cannot be repeated, the existence of the vitamin is not recognized (see R 416 at ¶ 15). Additional steps include demonstrating the presence of the purported vitamin in foods, determination of its exact chemical molecular structure, the demonstration of its effectiveness, and its chemical synthesis. After these steps are completed, the Food and Nutrition Board of the National Academy of Sciences sets up Recommended Daily Allowances for the vitamin which then must be adopted by the Food and Drug Administration (id.).

The lack of scientific evidence of any effect, which has prevented Laetrile from being recognized by experts as a safe and effective drug, also prevents recognition of its claimed status as a vitamin. (See e.g., R 416 at ¶ 16: "(T)here are no data available to show that a disease state is produced or alleviated by the exclusion from (or) addition to the diet of amygdalin".) Other experts emphasize that there is no evidence that (1) laetriles (*beta*-cyanogenic glucosides, vitamin B–17) are essential nutritional components nor that (2) they promote any physiological process vital to the existence of any living organism. (See R 168 Att. at 347; R 395.)

A compelling point made by experts in this area is that if there were a vitamin B–17, and if cancer were a vitamin B–17 deficiency disease, then every animal deprived of the vitamin would get cancer while no animal given the vitamin in sufficient amounts would get cancer. It is noted, that "No person given adequate vitamin C, for example, ever gets scurvy" (R 198 at 5). Stated another way: "The key to the term 'vitamin' is that the absence of vitamins from the diet in an experimental animal or a human being must lead to the appearance of a nutritional deficiency disease, which is prevented or cured by adding the vitamin to the diet. Laetrile has no such property" (R 416 at ¶ 14).

It is further stated that "(no vitamin has) the property of destroying tissue, such as cancer tissue, that is claimed of Laetrile. Such a property would be incompatible with the action of vitamins" (Tr. at 223). Other experts in this area rejected the claimed vitamin status in part on the grounds, discussed below, that amygdalin is, or can be, harmful to the body. It is pointed out that, amygdalin properly belongs to the class of compounds termed "toxicants occurring naturally in foods". (R 416 at ¶ 27(A)(1)).

3. Dangers of Ingestion of "Vitamin B–17"

As has been demonstrated above, the presence of *beta*-glucosidase, oxynitralase, and amygdalin together in apricot pits presents the potential for a combination that would release cyanide and cause poisoning of the individual consuming an extract of the pits. Additionally, though *beta*-glucosidase is not present in animal tissues, it, and other substances capable of breaking down amygdalin, may be present in the digestive track and thus may break down orally consumed amygdalin to release cyanide in the body. It is therefore with great concern that the Commissioner views the emergence of the theory that human beings should step up their consumption of "naturally occurring" nitrilosides such as amygdalin.

In his vitamin B–17 article, Ernst T. Krebs, Jr., notes that while the "stupidity" of "political power" may keep prepared vitamin B–17 off the market, six or seven teaspoonsful of defatted apricot seed or kernel would supply what is considered to be an adequate oral dose of nitrilosides (R 183, Att. 10c at 84). He suggested, "It is best that the *beta*-glucosidase enzyme be completely heat inactivated in such material" (id.). He does not indicate how much heat inactivation should be accomplished, nor does he cite any support for the idea that it can be.

There are documented cases of poisoning, some fatal, due to the consumption of apricot pits or kernels. The toxic element in these cases is the hydrogen cyanide which is released from the cyanogenetic glucosides by the action of the enzymes (including *beta*-glucosidase) present in apricot kernels (R 378, Att. "California Morbidity Reports," Att. "Hazards to Health"). The suggestion by Mr. Krebs, Jr., that the *beta*-glucosidase be "inactivated" can be taken as tacit—too tacit—acknowledgement that the kernels and/or pits present a hazard when consumed unless the enzymes are first destroyed. The Commissioner notes that other proponents of Laetrile clearly state that amygdalin products should never be given by mouth because the hydrochloric acid in the stomach is capable of hydrolyzing the drug (R 318 at 158). A 1954 document, "The Rationale and Clinical Evaluation of Laetrile-*Beta*-Glucosidase Palliative Therapy" states, "CAUTION: Laetrile (1-mandelonitrile-*beta*-glucuronidase) is NOT TO BE TAKEN ORALLY. It is extremely toxic by this route of administration, since the gastric hydrochloric acid acts to hydrolize the glucoside with the release of hydrogen cyanide" (R 388, Ex. 5).

Dr. Burk seeks to support the idea that Laetrile or amygdalin is a food and, among other things, may be safely consumed by an allegation that "* * * laetrile is listed in the HEW–FDA GRAS list (foods 'Generaly Regarded (sic) as Safe') under the heading of natural extractive from bitter almond, apricot or peach kernels" (R 302 at 3; see also Ex. B). The material to which Dr. Burk refers is "Bitter almond (free from prussic acid)" which does appear on the generally recognized as safe (GRAS) list, 21 CFR 182.20. (Prussic acid is another name for hydrogen cyanide.) The material on the GRAS list, however, is an oil extracted from peach, almond, or apricot kernels. After cold pressing the oil from its source, it is processed to effect enzymatic hydrolysis of amigdalin. There is no amygdalin present after the hydrolysis step. The final product is essentially benzaldehyde. "Thus the material listed for flavor use * * * is not amygdalin and thus neither is it Laetrile" (R 415 at 2). Dr. Burk's contention is thus incorrect and has no basis in fact.

The idea that foods containing nitrilosides may be safely consumed is also supported by stories of "non-toxic" nature of nitrilosides which are found in the diets of various peoples. This claimed nontoxicity is not borne out by reality. In some parts of Africa two important human diseases—human ataxic neuropathy and endemc goitre—appear to be associated with high cassava intake (R 183, Att. 20 at 161; R 378, Att. 6). (Cassava contains linamarin, a commonly consumed nitriloside (R 217, Att. "Sickle Cell Anemia" at 51).) It is also reported that cows have been killed by eating large amounts of young millet, which is particularly high in nitrilosides, and intoxication of other animals has been reported. (See R 416, Ex. 5 at 302.) There have been reports in this country of toxicity and, in some cases fatalities, in humans from consumption of amygdalin-containing substances (See, e.g., R 378, Att. "California Morbidity"; see also R 378, Att. "Hazards to Health; Cyanide Poisoning from Apricot Seeds Among Children in Central Turkey," Sayer et al.). Thus there is ample and clear indication that the consumption of "nitrilosides" is not without hazard. To urge the public to consume "apricot pit milkshakes" or similar foods in order to be sure to get an ample supply of amygdalin or "vitamin B–17" or "nitrilosides" is irresponsible and foolhardy.

C. FREEDOM OF CHOICE

The administrative record contains many comments not directed to the legal issues of Laetrile's "new drug" or "grandfather" status or even to the question of whether the drug is safe or effective for use in cancer therapy. Rather these comments support the proposition that a person should be free to choose his or her own cancer therapy, at least if the drugs involved are not overtly toxic (see, e.g., Tr. at 33; R 231; R 238; R 242; R 209; R 211; R 283; R 500; R 155; R 272). The issue of "freedom of choice" is irrelevant to the issues remanded to the agency by the Rutherford courts. Nevertheless, because of the demonstrated public interest in this issue, the Commissioner has given it, and submissions addressing it, careful consideration.

The very act of forming a government, of course, necessarily involves the yielding of some freedoms in order to obtain others. In passing the 1962 Amendments to the act—the amendments that require that a drug be proved effective before it may be marketed—Congress indicated its conclusions that the absolute freedom to choose an ineffective drug was properly surrendered in exchange for the freedom from the danger to each person's health and well-being from the sale and use of worthless drugs. This is in fact the same decision made by those in government who have decided over the years that only those persons may practice medicine who have been certified by experts to be qualified to actually help the patients who would choose to seek their assistance.

Some would argue that the lawmakers' well-considered decision to prohibit the use of drugs not shown to be effective was the wrong one. One alternative suggested is that a drug such as Laetrile should be marketed with labeling which indicates that experts do not consider it to be effective. The present use of Laetrile vividly illustrates the impracticability of such a solution. There can be few patients taking Laetrile in this country today who do not know that the government and most experts consider it worthless. Yet the drug continues to be used, to the detriment of cancer patients who might otherwise be helped by conventional treatment.

The choice to use Laetrile is seldom, in any case, a free one. As the discussion above (Why Do People Use Laetrile?) illustrates, a cancer patient is a person beset by immense stresses, physical, psychological, emotional and societal; and the persuasion that the patient and his family are subjected to by Laetrile proponents is seldom limited to a rational laying out of competing arguments. The information that the proponents of Laetrile provide is false—that the drug cures, palliates, relieves pain, "controls" cancer. As Dr. Sampson's survey, discussed above, indicates, few Laetrile patients make an effort to hear the argument against Laetrile therapy. The idea that a reasoned free choice is involved in the selection of Laetrile rather than legitimate therapy is thus ultimately an illusion. (See R 421 at 1.)

The record contains the views of many persons who have considered the issue of "freedom of choice" in cancer therapy. Each represents a thoughtful attempt to deal with this question, which, while irrelevant to the legal issues which are the subject of this opinion, is troubling to those concerned with the Laetrile problem. These comments may be grouped roughly as supporting the two responses to the "freedom of choice" argument set forth above: (1) The surrender of an absolute freedom to choose among cancer remedies in order to obtain the greater freedom from the suffering associated with use of ineffective remedies is a rational decision; and (2) the "choice" of unproven cancer remedies cannot fairly be characterized as "free."

1. Balancing Freedoms

Reverend Allan W. Reed, Director, Department of Pastoral Services and School for Pastoral Care, Massachusetts General Hospital, considered the ethical side of the "freedom of choice" question. He states "The ethical issues of a group of legislating for an individual, thereby threatening the principal (of) freedom of choice, contrasts with the ethical principal of a government protecting its citizens from fraud and abuse. In the case of a drug for which there is no proven efficacy, the ethical weight is on the side of protection of the citizens" (R 148).

Leroy G. Kerney, Chief of the Department of Spiritual Ministry at the Clinical Center, National Institutes of Health, pointed out that, "Freedom of the indi-

vidual is important. But when the freedom to accept any drug for treatment and the freedom to injure oneself collide, a judgement must be made: Stop signs or restrictions on turning at certain corners restrict my freedom in driving, but, at the same time, they protect my freedom from hurting myself and others in traffic" (R 414 at 3).

J. Philip Wogaman is Dean and Professor of Christian Social Ethics at the Wesley Theological Seminary and past president of the American Society of Christian Ethics. He noted an "initial presumption" in favor of freedom from governmental prohibition bu concluded that Laetrile should be banned for three reasons: (1) The ban prevents fraud in the medical marketplace; (2) "[M]isrepresentation in the field of medicine is particularly serious because it undermines public confidence in medicines that are of real value"; (3) "(T)here is a real danger that persons may be led by false hopes in a worthless drug to neglect treatment at a time when it could be most effective" (R 417 at 2–3).

Dr. James F. Holland of the Mount Sinai School of Medicine points out that the freedom achieved by regulation of drug products is often the freedom to live: "For the patient ignorant of the inerness of Laetrile as an anticancer drug, there is an overriding concern that he not be denied his individual freedom by untimely death from cancer from having relied on Laetrile to help. This is a cruel deprivation of individual freedom, since the patient does not get a second chance" (R 396 at 2).

James Harvey Young, Ph.D., a historian of health quackery, discussed the past use of the freedom of choice concept and phrased his conclusions concerning the validity of application of that concept to health care in colorful terms. He states that acceptance of the primacy of the freedom to choose medical therapies "leads only toward the license of those ancient days, when 'the toadstool millionaires,' preaching religion and spouting patriotism, operating without restraint, fleeced and often killed their gullible victims. That is a fate from which seven decades of constructive legislation, beginning with the Pure Food and Drugs Act of 1906, has somewhat rescued the nation. Complex, modern, industrial, urbanized society, with standards of medical judgment far more precise than those existing in the nineteenth century, cannot afford to let the nation's health concerns be governed by a distored definition of that great symbol, 'freedom', which would return piratical anarchy to the realm of health" (R 400 at 11–12).

2. The Choice Is Not Free

The discussion above of "Why People Use Laetrile?" describes the many pressures that induce cancer patients and their families to make the decision to use Laetrile. Orville Eugene Kelly is a cancer patient who has founded an organization called "Make Today Count," which now has 103 chapters in 30 states, to help other cancer patients and their families deal with the problems that discovery of cancer entails. He addressed the question of "freedom of choice" in an affidavit submitted to the record (R 389). He notes from personal experience that patients and their families are often susceptible to arguments that a painless drug like Laetrile can cure them (id. at 2) and describes the persistence with which those arguments are made. He himself has tried to present the counter-arguments to other cancer patients. "But it is difficult to convince some of these people that the substance Laetrile is ineffective as a therapy for cancer when they have watched a film, listened to tapes, and heard testimonials from other patients, quite sincere in their beliefs that Laetrile has helped them" (id. at 3). He asks: "(I)s it a fair choice if (the cancer patients) are being pressured by Laetrile proponents?" (id.).

The constant efforts of Laetrile proponents are emphasized by those dealing with cancer patients. See, e.g., statement of Helene Brown, Executive Director of Community Cancer Control, Los Angeles, "that far from exercising a free and informed choice patients are confronted with enormous pressures to use Laetrile instead of conventional forms of therapy and that representatives attesting to the worth of Laetrile make untrue, misleading and unsubstantiated claims" (R 393 at 5).

The presentations of the Laetrile proponents are made, as discussed in more detail elsewhere, to patients and families deprived of their normal decisionmaking abilities. See statement of John J. Dawson, M. Div., Director, Patient and Family Support, Mountain States Tumor Institute: "Research conducted at the Mountain States Tumor Institute and elsewhere indicates that the emotional trauma of a cancer diagnosis severely impairs the patient's and families' ability to engage in rational decisionmaking processes" (R 421 at 1).

Other submissions reflect a similar conclusion, see the statement of Rev. Reed: "The ability of (cancer patients and their families) to protect themselves is often severely limited by the emotional situation in which they find themselves" (R 418). (See also R 414 at 4; R 433 at ¶ 14.)

The Commissioner thus concludes as follows:

(1) To the extent that any freedom has been surrendered by the passage of the legislation which bans from the marketplace drugs that have not been proven to be effective, that surrender was a rational decision which has resulted in the achievement of a greater freedom from the dangers to health and welfare represented by such drugs.

(2) The choice of Laetrile therapy, by persons under the severe stresses associated with discovery of cancer and in response to misinformation presented persuasively by Laetrile's proponents, cannot be regarded as a choice which is free.

D. ALLEGATIONS OF BIAS

Several submissions charged that FDA is too biased against Laetrile to conduct a fair hearing. Aside from general allegations of bias (R 313; R 248; R 353; R 507, R 302; R 73, Att. at 43; Tr. at 444–45), these submissions fall into two general categories: (1) the administrative rulemaking proceeding should have been conducted by someone other than FDA (R 144; R 505; R 222; Tr. at 12, 29, 75, 444–45); and, (2) the drug approval process administered by FDA is wrong (R 235; R 258; R 144; R 509; Tr. Ex. 1).

It is difficult for an agency charged with bias to rebut such charges persuasively. Nonetheless, the Commissioner feels that a complete decision requires some rebuttal of charges that he regards as erroneous and misdirected. Insofar as comments suggesting that the proceedings should have been conducted by someone other than FDA, it should be noted that FDA was required by court order to assemble an administrative record and make appropriate determinations therefrom. The task could not have been delegated to anyone else, and, even had the agency been able to do so, it is not likely that any tribunal chosen by FDA would have satisfied those persons who are convinced that the agency is biased. The FDA is, of course, the agency designated by Congress to evaluate the safety and effectiveness of drugs and, as such, it is the agency with expertise in this area.

The comments charging that the requirements for drug approval administered by FDA are wrong contained statements to the effect that testimonial evidence should be accepted as adequate proof of safety and effectiveness or that the cost of a clinical trial is too great a burden for the proponents of Laetrile to bear. Laetrile proponents place particular emphasis on the cost factors, stating that because clinical trials are expensive, FDA somehow favors only large drug companies.

As has been discussed above, FDA is bound by the requirements of law regarding drug safety and effectiveness. Those requirements have been challenged in court before, by the very drug companies toward whom Laetrile proponents allege FDA has a positive, favorable bias. These "favored" groups did not prevail, and the safety and effectiveness provisions were upheld.

In Pharmaceutical Manufacturers Ass'n v. *Richardson, supra*, a trade association whose membership includes major drug firms sought to enjoin the FDA regulations establishing the standards of evidence necessary to demonstrate the effectiveness of drug products (21 CFR 314.111). Pointing out that Congress could not have had testimonial evidence, clinical impressions, practical experience, or the unsubstantiated subjective views of medical practitioners in mind when it defined "substantial evidence," the court upheld the regulations. As one witness in the case pointed out, the approach which assumed that a collection of impressions would furnish the truth, "did not prevent doctors from having unbounded faith in the curative powers of leeches for hundreds of years before scientific evaluation became the preferred means of judging efficacy of therapy" (318 F. Supp. at 307).

In *Upjohn Company* v. *Finch*, 422 F.2d 944 (6th Cir. 1970), a drug manufacturer sought review of an FDA order revoking marketing approval for seven combination antibiotic drugs. Stating that testimonial evidence was not enough to meet the standard of substantial evidence, the court held that "the record of commercial success of the drugs in question and their widespread acceptance by the medical profession, do not, standing alone, meet the standards of substantial evidence, prescribed by 21 U.S.C. 355(d)" (422 F. 2d at 954). Although the cost of developing the proper scientific evidence of safety and effectiveness is high, placing this burden upon those who wish to sell drugs is more than justified by the need to protect the consumer from harmful, useless, and fraudulent drugs.

The Commissioner acknowledges that the FDA is biased in one sense; the agency is committed to requiring that drugs meet the standards of safety and effectiveness required by law. The standards are designed to protect the public from drugs which are not both safe and effective. While the standards are rigorous, they are not mysterious. They are accepted by the scientific community and can be applied by any scientists who seriously wants to prove the value of a drug. The proponents of Laetrile choose to attack the standards. They have not attempted to meet them.

E. LIMITING USE TO TERMINAL PATIENTS

There has been concern expressed in the submissions to the record that Laetrile might be approved for use by "terminal" cancer patients. Such an approval would be theoretically justified only on the grounds that since such patients might be considered beyond the help of other therapies, Laetrile cannot hurt them. Approval of a drug for use by terminal patients is not possible under the act; however, in light of the interest in this issue the Commissioner will discuss the evidence relating to it.

One submission objected to the possible use of Laetrile by terminal patients on the grounds that approval of such use constitutes sanction of an inhumane fraud upon the patients involved, one which wastes the financial resources of the patients and their families uselessly (R 190 at ¶ 17). Two other arguments were expressed by a number of submitters: (1) there is no such thing as a "terminal" patient and (2) allowing use by a subgroup of cancer patients would lead to increased use by patients who could be helped by legitimate therapy.

1. Who is Terminal?

Dr. Peter H. Wiernik, Chief of the Clinical Oncology Branch of the National Cancer Institute's Baltimore Cancer Research Center, states, "One major difficulty in making a particular chemical available for terminal patients only, is that no one can prospectively define the term 'terminal' with any accuracy. A patient can be said to be terminal only after he dies. Many patients who are critically ill respond to modern day management of cancer" (R 200 at ¶ 18).

D. Joseph F. Ross, Professor of Medicine at the University of California School of Medicine at Los Angeles, is actively involved in the medical care of cancer patients. He states, "[T]he distinction of 'terminal' patients from 'non-terminal' patients may not be reliably determined and an assumption that Laetrile may be given to such patients with impunity may deprive such patients of therapeutic measures which could help them" (R 190 at ¶ 17). Cf. R 393, Ex. 1 at 2: "Medical history is full of miracles." "No one knows if and when any patient is going to die." (Helene Brown, Executive Director of Cancer Control Los Angeles); see also R 173, Att. "Questions Most Frequently Asked * * *" at 2).

2. Effects on Other Patients

Approval for use of Laetrile by "terminal" patients, assuming some way could be found to define that class of individuals so as to exclude all those who might be helped by legitimate therapy, would still pose a risk to other patients who could be helped. This effect would, the evidence in the record shows, occur in two ways. First, approval for even this limited use would encourage illegitimate use of the type now occurring in this country.

Historian James Harvey Young, based upon his study of past "unproven" medical cures, states, "Permitting Laetrile's use in terminal cases gives it a credence among the public at large that will expand its use in early cases, for people will prefer taking a 'vitamin' to confronting the surgeon's knife" (R 400 at 11).

Dr. Samuel C. Klagsbrun, a psychiatrist who works with cancer patients at St. Luke's Hospital in New York, states, "Permitting Laetrile to be used by any population of cancer victims would have the correlative effect of creating the misimpression in the minds of other cancer victims that the drugs is, in fact, safe and effective for a broader population" (R 433 at ¶ 12).

A second danger from such a limited approval of Laetrile is that the limitation would be extremely difficult to enforce. Kenneth A. Durrin, Acting Director, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, submitted an affidavit describing the detailed and costly regulation of "controlled substances" under the Controlled Substances Act (CSA) and then considered the possibility of approval of Laetrile "for terminal patients only" (R 435). He stated his conclusion as to the practicality of preventing the diversion of Laetrile from "terminal" patients, if approved for such patients, to others who might be helped by legitimate therapy: "Absent the kinds of controls available under the CSA—and indeed even with such controls—it is my opinion that a drug such as Laetrile could not effectively be restricted to a class of terminally ill cancer patients. For example, absent a quota on production, manufacturers would not be limited to producing an amount of Laetrile sufficient only to provide a source of supply for terminally ill cancer patients. Manufacturers would not be restricted in the channels in which they could permissibly distribute thn drug. They would not be required to report transactions in Laetrile. The amount of Laetrile which could be imported into this country would be unlimited.

"Given such unrestricted and unfettered availability of Laetrile, it is my opinion that there would be no practical way of limiting access to the drug to terminally ill cancer patients only. It is completely unrealistic to suggest that any other result would occur" (id. at ¶ 18–19).

The Commissioner concludes that approval of Laetrile restricted to "terminal" patients would lead to needless deaths and suffering among (1) patients characterized as "terminal" who could actually be helped by legitimate therapy and (2) patients clearly susceptible to the benefits of legitimate therapy who would bn misled as to Laetriles' utility by the limited approval program or who would be able to obtain the drug through the inevitable leakage in any system set up to administer such a program.

F. USE CONCURRENTLY WITH OTHER THERAPY

Some persons not familiar with the problem of drug interactions have suggested that Laetrile might be approved for use concurrently with legitimate cancer therapy. This theory would logically extend to allow any worthless drug to be used as long as effective therapy was also utilized. Such a limited use program would, of course, involve the problems of administration discussed in the previous section. Particularly in light of the Laetrile proponents' practice of dissuading patients from what they characterize as the "cut, burn, and poison" techniques of legitimate therapy, any seeming government sanction of Laetrile would inevitably involve encouragement of use of "painless" Laetrile therapy alone and thus would result in needless suffering and loss of life (cf. R 191 at ¶ 17).

More important, it simply has not been shown by any sound scientific evidence that the administration of Laetrile along with other therapy may not either make such therapy more dangerous or interfere with its effects. Dr. James F. Holland states (R 396 at 2), "That Laetrile is inert as an anticancer drug does not mean it may not interfere with the metabolism of and compromise the effects from known anticancer treatments. This would require years of study to elucidate, and it is not a worthwhile undertaking since Laetrile itself has no anticancer activity. One does not seek further information on why not to use Laetrile. If there is no good reason to do something, the best reason exists not to do it" (emphasis in original). Thus, the same reasons that justify the law's ban on use of drugs not shown to be effective form an equally strong basis for

the ban on that use where the use will be concurrent with other therapy.

VI. Conclusions

The Commissioner, after careful review of the administrative record amassed in this rule making proceeding, makes the following conclusions:

(1) Although the terms "Laetrile," "laetrile," "amygdalin," "Sarcarcinase," "vitamin B–17," and "nitriloside" have been used interchangebly, the chemical identity of the substances to which these terms refer has varied over the years. The identity of material referred to or called by any of those names is often not known. All too frequently terms have been used haphazardly or imprecisely by proponents, as well as opponents, of Laetrile:

"Laetrile," as described by Ernst T. Krebs, Jr., is: 1-mandelonitrile-*beta*-glucuronic acid.

"Amygdalin" is: D-mandelonitrile-*beta*-D-glucosido-6-*beta*-D-glucoside.

"Sarcarcinase" is the name given by Dr. E. T. Krebs, Sr., to a mixture of 6, possibly more, enzymes extracted from apricot pits.

(2) Neither Laetrile nor any other drug called by the various terms mentioned above nor any other product which might be characterized as a "nitriloside" is generally recognized by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs to be safe and effective for any therapeutic use.

(3) Animal studies conducted to date show that Laetrile has no anticancer activity in laboratory animals. Even if such activity were shown, the data would not be relevant to the issue of whether Laetrile is generally recognized by qualified experts as a safe and effective anticancer drug in humans.

(4) Neither Laetrile, amygdalin, nor any other drug called by the various terms set out in conclusion (1) is exempted from the "new drug" definitions of the act (21 U.S.C. 321(p)) by virtue of compliance with either the "1938 grandfather clause" (21 U.S.C. 321(p)(1)) or the "1962 grandfather clause" (section 107(c)(4) of Pub. L. 87–781).

(5) The history and promotion of Laetrile are characteristic of other unproven cancer remedies. Laetrile's popular acceptance by laymen lies not in credible proof of its effectiveness, but rather in the fears of orthodox medical treatment and the false hope, fostered by Laetrile's proponents, that suffering and eventual death can be avoided through Laetrile.

(6) Laetrile is not in general use as cancer therapy anywhere in the world.

(7) There is no evidence that "Vitamin B–17" is generally recognized among experts in the field of nutrition or nutrition research as a vitamin. Even if there were such recognition, "Vitamin B–17" would still be subject to regulation as a drug under the Federal Food, Drug, and Cosmetic Act because of the claims made for its use in cancer therapy.

(8) The safety of ingesting amygdalin, Laetrile and/or apricot or peach kernels or pits has not been established. There is, in fact, evidence of frank toxicity from ingestion of the kernels or pits.

(9) There is no basis in law or in fact for the use of Laetrile or related substances in the treatment of cancer.

The foregoing opinion in its entirety constitutes the Commissioner's findings of facts and conclusion of law. Distribution of Laetrile, amygdalin, or any other substance called by the various terms set out in conclusion (1) in interstate commerce is in violation of the Federal Food, Drug, and Cosmetic Act and subject to regulatory action.

Dated: July 29, 1977.

Donald Kennedy,
Commissioner of Food and Drugs.

[FR Doc.77–22310 Filed 8–4–77;10:00 am]

Federal Register

FRIDAY, AUGUST 5, 1977

PART III



DEPARTMENT OF JUSTICE

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission, Justice.

ACTION: Final rules.

SUMMARY: The Parole Commission has adopted a procedure whereby federal prisoners will be notified of their ultimate release dates at the outset of their terms of imprisonment. This procedure is necessary to reduce the degree of uncertainty with which federal prisoners presently serve their sentences of imprisonment. The purpose of the procedure is to achieve a significant degree of certainty while not foregoing the advantageous features of the parole system.

EFFECTIVE DATE: September 6, 1977, for all prisoners sentenced on that date or thereafter. For prisoners sentenced prior to September 6, 1977, the substantive provisions of the amended rules (setting presumptive release dates) will apply at the next scheduled in-person hearing (initial, review, rescission, or revocation).

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION:

(A) The Proposal and Its Purpose

On June 10, 1977, the United States Parole Commission published a proposal whereby Federal prisoners would be notified of their ultimate release dates at the outset of their terms of imprisonment (42 FR 29934). The purpose of this proposal, which is now adopted as a final rule, was to achieve a substantial reduction of indeterminacy in Federal prison sentences (i.e. increasing certainty on the part of the prisoner as to what his total incarceration will be), without foregoing the significant advantages of the present federal parole system. Among the advantages offered by the federal parole system are: (1) Release decision-making by a small, independent, collegial body of correctional experts adhering to a national parole policy (promoting reduction of unwarranted disparity in punishments); and (2) the ability to account for intervening factors not foreseeable at the time of sentencing, through systematic review of each prisoner's case (promoting fairness to the individual and avoiding excessive use of confinement).

(B) Public Comment

The proposal prompted numerous letters from the public, among which were letters from prisoners, families of prisoners, corrections officials, probation officers, one legislator, and one prison ministry organization. The majority of these letters endorsed the proposal because of the certainty it would bring to prisoners and to those awaiting a prisoner's return to society, thus increasing the stability of the prisoner's community support.

Corrections officials also favored the proposal. Chairman Ira Blalock of the Oregon State Parole Board wrote that a similar system adopted in Oregon has been administratively successful and generally beneficial. Chairman Blalock also pointed out that the proposal was consistent with the recommendations of criminologists and of the American Bar Association's Draft Standards Relating to the Legal Status of Prisoners (American Criminal Law Review, January 1977). Assistant Director Roy Gerard of the Federal Bureau of Prisons wrote that the new system will make prison management easier and more efficient, inmates will be better informed and less anxious, and the processing of parole procedures will be improved.

Finally, Representative Robert W. Kastenmeier, Chairman of the House Subcommittee on the Courts, Civil Liberties, and the Administration of Justice, and a key architect of the Parole Commission and Reorganization Act of 1976, wrote:

> I whole-heartedly endorse such a new rule. I believe it is entirely consistent with the intent of Congress that federal prisoners be provided with clear, consistent parole policies which will permit them to know at an early date when they can expect release.

This comment shared the position taken by the 1977 Report of the Senate Subcommittee on National Penitentiaries:

> First, the subcommittee must see that the Parole Commission continues to administer the guidelines system in a way that is consistent with the intention that indeterminancy be reduced to the extent consistent with the law.
>
> The legislation attempted to provide inmates with knowledge of their parole status, so that the typical inmate would know the prospective time of his release, plan for this, and not make release plans when he has no hope of early release. The legislation attempts to achieve this without creating procedural requirements that would be the basis for extensive and continuous litigation. At present, prospective parole information is not being given to all the prison population, and this would be of future concern to the Subcommittee. [at page 2 of the Report]

The most common criticism of the proposal from prisoners was its distinction between sentences of less than seven years and sentences of seven years or more. The effects of this demarcation are that: (1) A prisoner with a sentence of seven years or more and a minimum term of imprisonment must await the completion of his minimum term before receiving his initial hearing, whereas all prisoners with sentences of less than seven years receive an initial hearing at the outset of incarceration; and (2) in all of the longer sentences, a presumptive release date cannot be set if it would result in a date more than four years from the date of the initial hearing.

The seven-year mark as a divider between short and long sentences for the purpose of setting a prisoner's entitlement to hearings is a figure already selected by Congress at 18 U.S.C. 4208(h). That section uses the seven-year mark to distinguish between those sentences in which interim hearings are required every eighteen months and those sentences (of seven years or more) in which interim hearings are required every twenty-four months. Moreover, the Commission decided that, for its present administrative purposes, a four-year effective limit on the setting of presumptive release dates is a practical restriction, as well as one which coincides with the statutory scheme. Whether the limit may be expanded in the future is a question which the Commission reserves for further deliberation.

Other comments urged that the Commission adopt a similar policy with regard to federal parolees serving new federal sentences for crimes committed while on parole, by informing such prisoners at the outset of the total combined length of the new confinement and the consecutive parole violator term (the remaining time on the original sentence). This proposal raises substantial questions beyond the scope of the present rule-making (for example, the problem of federal parolees serving new state sentences, in whose situations the Commission could not set a combined release date). However, the proposal will be taken under study.

One comment suggested that the Commission's plan contained an inherent paradox, stating that "* * * if the purpose of parole is to determine the extent of rehabilitation and fitness for return to society, how can the [Commission] make such determinations without a longer period of incarceration?" The point this writer missed is that, in the federal system, seriousness of the offense and likelihood of favorable parole outcome are the principal standards by which parole decisions are made. (See 18 U.S.C. 4206). A prisoner's release date is not tied to the outward indicia of his rehabilitative efforts.

(C) Changes From the Proposal

The proposal was adopted substantially as set forth in the Federal Register of June 10, 1977, with one exception. The five-year limit on presumptive release dates in the case of sentences of seven years or more was reduced to four years, in order to coincide with the occurrence of the second interim (statutory) review hearing at forty-eight months from the initial hearing. Thus, in a case in which no presumptive release date was set at the initial hearing, the second interim review hearing would be conducted as a four-year reconsideration hearing pursuant to §§ 2.12(c)(2) and 2.14(c).

The amended rules also make clear that the formal rescission procedures of § 2.34 apply to presumptive parole dates, a point not covered in the proposal. This is consistent with the Commission's statement that the intent of the proposal is that release will normally be granted at the presumptive date (42 FR 29934). By the same token, the amended rules also contain a clear statement that once set, a presumptive release date shall not be advanced except under clearly exceptional circumstances.

(D) Summary of the Principal Amendments

Adoption of this proposal required numerous conforming amendments, in addition to the substantive changes. For the convenience of the reader, the Commission's rules (together with changes effected by accompanying documents) are republished in their entirety. A summary of the principal amendments covered by this document follows.

In § 2.1, the term effective date of parole is defined to distinguish that term from the term presumptive parole date. An effective date of parole is a parole date that has been approved following an in-person hearing held within six months of such date, or following a pre-release record review. Thus, a presumptive parole date become an effective date of parole when approved following a pre-release record review, or when approved following an interim hearing which is held within six months of the presumptive parole date. However, the term effective date of parole also includes the familiar grant of parole with a few months delay for the development of a release plan. The term presumptive release date encompasses both presumptive release by parole (a presumptive parole date), as well as presumptive release through the accumulation of good time (mandatory release pursuant to 18 U.S.C. 4163 and 4164).

In § 2.12, the principal features of the proposal (the holding of early initial hearings and the setting of presumptive release dates) are codified. The reader should not fail to note that the setting of presumptive release dates (either by parole or by mandatory release) will be pursuant to the Commission's guidelines at § 2.20 (including decisions above or below the guideline ranges).

In § 2.13, a number of provisions relating to the conduct of the initial hearing as restructured. The only substantive change is the requirement that if a release date is set in excess of six months from the date of the hearing, reasons must be given as in the case of a parole denial.

In § 2.14, the three types of proceedings subsequent to the initial hearing are fully described: Interim hearings pursuant to 18 U.S.C. 4208(h); pre-release reviews; and four-year reconsideration hearings. It is important to note that under no circumstances will a prisoner go without the periodic reviews to which he is entitled by section 4208(h).

In § 2.29, the terms of an effective date of parole are set forth. (The good conduct condition is omitted since it is already contained in § 2.34.)

In § 2.34, the amendment at paragraph (a)(3) permits the Commission to defer consideration of disciplinary infractions until the commencement of the next interim hearing or the pre-release review required by § 21.4(b). Since, as a practical policy, the Commission considers only those disciplinary infractions that have been the subject of formal findings following an Institutional Disciplinary Committee hearing, a delay until the next scheduled review will not operate to the prisoner's disadvantage (through loss of evidence, etc.).

(E) Effective Date

These amended rules will become effective as follows: (1) In the case of prisoners sentenced on September 6, 1977, or thereafter (including prisoners with one or more multiple sentences imposed on September 6, 1977, or thereafter), all provisions of the amended rules shall apply from the initial hearing onward;

(1) In the case of prisoners sentenced prior to September 6, 1977, the amended rules will apply, excepting the provisions of § 2.12(a), at the first regularly scheduled in-person hearing that is held on September 6, 1977, or thereafter. Thus, following the first hearing (initial, review, rescission, or revocation hearing) that is held on September 6, 1977, or thereafter, each prisoner sentenced prior to September 6, 1977, will be notified of a presumptive release date according to the procedures of § 2.12 (c), (d), and (e), and related provisions.

(F) Further Consideration of These Amended Rules

The Commission intends to evaluate the first four months of the operation of these rules at its meeting in January, 1978. Therefore, public comment by interested persons will continue to be welcome and will be considered at that time.

(G) Conclusion

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below to become effective in the manner described above.

Dated: August 2, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
Parole Commission.

Sec.

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AUTHORITY: 28 CFR Chapter 1, Part O Subpart I, and (18 U.S.C. 3655, 4164, 4201-4218, 4254-5, and 5005-5041).

§ 2.1 Definitions.

As used in this part:

(a) The term "Commission" refers to the United States Parole Commission.

(b) The term "Commissioner" refers to members of the United States Parole Commission.

(c) The term "National Appeals Board" refers to the Vice Chairman of the Commission and two other National Commissioners who are assigned in the headquarters office of the Commission in Washington, D.C. The Vice Chairman shall be the Chairman of the National Appeals Board. In the absence or vacancy of the Vice Chairman the Chairman of the Commission functions as the Chairman of the National Appeals Board. In the absence or vacancy of a member the Chairman of the Commission functions as a member of the National Appeals Board.

(d) The term "National Commissioners" refers to the Chairman of the Commission and the three members of the National Appeals Board. The Vice Chairman of the Commission shall be the Chairman of the National Commissioners. In the absence or vacancy of the Vice Chairman, the Chairman of the Commission shall be Chairman of the National Commissioners.

(e) The term "Regional Commissioner" refers to Commissioners assigned to the Commission's regional offices.

(f) The term "eligible prisoner" refers to any Federal prisoner eligible for parole pursuant to this Part and includes any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole.

(g) The term "parolee" refers to any Federal prisoner released on parole or as if on parole pursuant to 18 U.S.C. 4164 or 4205(f). The term "mandatory release" refers to release pursuant to 18 U.S.C. 4163 and 4164.

(h) The term "effective date of parole" refers to a parole date that has been approved following an in-person hearing held within six months of such date, or following a pre-release record review.

(i) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms as used in Chapter 311 of Part IV of Title 18 of the United States Code or Chapter I, Part O, Subpart V of Title 28 of the Code of Federal Regulations.

§ 2.2 Eligibility for parole: adult sentences.

(a) Unless otherwise provided by statute, a Federal prisoner confined and serving a maximum term or terms of more than one year may not be released on parole prior to completion of one-third of such term or terms, or prior to completion of ten years of a life sentence or of a sentence of over thirty years (18 U.S.C. 4205(a)).

(b) If the court has designated a minimum term (which may be less than but not more than one-third of the maximum sentence imposed), a Federal prisoner serving a maximum term of more than one year may not be released on parole prior to completion of the court-designated minimum term (18 U.S.C. 4205(b)(1)).

(c) In cases in which the court designates only a maximum term and specifies that the Commission may release on parole at any time, the prisoner may be released on parole in the discretion of the Commission (18 U.S.C. 4205(b)(2)).

(d) A Federal prisoner sentenced to a maximum term or terms of at least six months but not more than one year prior to May 14, 1976 is eligible for parole consideration after service of one-third of such term or terms.

(e) A Federal prisoner sentenced under 18 U.S.C. 924(a) or 26 U.S.C. 5871 for violation of Federal gun control laws is eligible for parole consideration as if sentenced under 18 U.S.C. 4205(b)(2).

(f) A Federal prisoner committed under 18 U.S.C. 3651 for a period of six months or less with a period of probation to follow is not eligible for parole.

§ 2.3 Same: Narcotic Addict Rehabilitation Act.

A Federal prisoner committed under the Narcotic Addict Rehabilitation Act may not be released on parole prior to completion of at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Commission, the Surgeon General or his designated representative must certify that the prisoner has made sufficient progress to warrant his release and the Attorney General or his designated representative must also report to the Commission whether the prisoner should be released. Recertification by the Surgeon General prior to reparole consideration is required (18 U.S.C. 4254).

§ 2.4 Same: juvenile delinquents.

A committed juvenile delinquent may be released on parole at any time in the discretion of the Commission (18 U.S.C. 5041).

§ 2.5 Same: youth offenders.

A committeed youth offender may be released on parole at any time in the discretion of the Commission (18 U.S.C. 5017(a)).

§ 2.6 Withheld and forfeited good time.

(a) While neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from receiving a parole hearing, § 4206 of Title 18 of the United States Code permits the Commission to parole only those prisoners who have substantially observed the rules of the institution.

(b) Forfeiture of statutory good time not restored shall be deemed, in itself to indicate that the prisoner has violated the rules of the institution to a serious degree.

§ 2.7 Committed fines.

In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine, or until the fine commitment order is discharged according to law as follows:

(a) An indigent prisoner may make application to a U.S. Magistrate in the District wherein he is incarcerated or to the chief executive officer of the institution setting forth, under the institutional regulations, his inability to pay such fine; if the magistrate or chief executive officer shall find that the prisoner, having no assets exceeding $20 in value except such as are by law exempt from being taken on execution for debt, is unable to pay the fine, and if the prisoner takes a prescribed oath of indigency, he shall be discharged from the commitment obligation of the committed fine sentence.

(b) If the prisoner is found to possess assets in excess of the exemption in paragraph (a) of this section, nevertheless if the chief executive officer of the institution or U.S. Magistrate shall find that retention of all such assets is reasonably necessary for his support or that of his family, upon taking of the prescribed oath concerning his assets the prisoner shall be discharged from the commitment obligation of the committed fine sentence. If the chief executive officer of the institution or U.S. Magistrate shall find that retention by the prisoner of any part of his assets is reasonably necessary for his support or that of his family, the prisoner upon taking of the prescribed oath concerning his assets, shall be discharged from the commitment obligation of the committed fine sentence upon payment on account of his fine or that portion of his assets in excess of the amount found to be reasonably necessary for his support or that of his family.

(c) Discharge from the commitment obligation of any committed fine does not discharge the prisoner's obligation to pay the fine as a debt due the United States.

§ 2.8 Mental competency proceedings.

(a) Whenever a prisoner or parolee is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary hearing to determine his mental competency shall be conducted by a panel of hearing examiners or other official(s) (including a U.S. Probation Officer) designated by the Commission.

(b) At the competency hearing, the hearing examiners or designated official(s) shall receive oral or written psychiatric or psychological testimony and other evidence that may be available. A preliminary determination of the prisoner's mental competency shall be made upon the testimony, evidence, and personal observation of the prisoner. If the examiner panel or designated official(s) determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be temporarily postponed.

(c) Whenever the hearing examiners or designated official(s) determine that a person is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Commissioner for review. If the Regional Commissioner concurs with their findings, he shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner or parolee has recovered sufficiently to understand the nature of and participate in the proceedings and, in the case of a parolee, may order such parolee transferred to a Bureau of Prison's facility for further examination. In any such case, the Regional Commissioner shall require a progress report on the mental health of the prisoner at least every six months. When the Regional Commissioner determines that the prisoner has recovered sufficiently, he shall reschedule the hearing for the earliest feasible date.

(d) If the Regional Commissioner disagrees with the findings of the hearing examiners or designated official(s) as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

§ 2.9 Study prior to sentencing.

(a) When an adult Federal offender has been committed to an institution by the sentencing court for observation and study prior to sentencing, under the provisions of 18 U.S.C. 4205(c), the report to the sentencing court is prepared and submitted directly by the United States Bureau of Prisons.

(b) The court may order a youth to be committed to the custody of the Attorney General for observation and study at an appropriate classification center or agency. Within sixty days from the date of the order, or such additional period as the court may grant, the Commission shall report its findings to the court (18 U.S.C. 5010(e)).

§ 2.10 Date service of sentence commences.

(a) Service of a sentence of imprisonment commences to run on the date on which the person is received at the penitentiary, reformatory, or jail for service of the sentence: *Provided, however,* That any such person shall be allowed credit toward the service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed.

(b) The imposition of a sentence of imprisonment for civil contempt shall interrupt the running of any sentence of imprisonment being served at the time the sentence of civil contempt is imposed, and the sentence or sentences so interrupted shall not commence to run again until the sentence of civil contempt is lifted.

(c) Service of the sentence of a committed youth offender or a person committed under the Narcotic Addict Rehabilitation Act commences to run from the date of conviction and is interrupted only when such prisoner or parolee (1) is on bail pending appeal; (2) is in escape status; (3) has absconded from his or her district of supervision; or (4) comes within the provisions of subsection (b) of this section.

§ 2.11 Application for parole; notice of hearing.

(a) A federal prisoner (including a committed youth offender or prisoner sentenced under the Narcotic Addict Rehabilitation Act) desiring to apply for parole shall execute an application form as prescribed by the Commission. Such forms shall be available at each federal institution and shall be provided to each prisoner who is eligible for an initial parole hearing pursuant to § 2.12. Prisoners committed under the Federal Juvenile Delinquency Act shall be considered for parole without application and may not waive parole consideration. A prisoner who receives an initial hearing need not apply for subsequent hearings.

(b) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. If a prisoner waives parole consideration, he may later apply for parole and may be heard during the next visit of the Commission to the institution at which he is confined, provided that he has applied at least 45 days prior to the first day of the month in which such visit of the Commission occurs.

(c) A prisoner who fails to submit either an application for parole or a waiver form shall be referred to the Commission's representatives by the chief executive officer of the institution. The prisoner shall then receive an explanation of his right to apply for parole at a later date.

(d) In addition to the above procedures relating to parole application, all prisoners prior to initial hearing shall be provided with an inmate background statement by the Bureau of Prisons for completion by the prisoner.

(e) At least thirty days prior to the initial hearing (and prior to any hearing conducted pursuant to § 2.14), the prisoner shall be provided with written notice of the time and place of the hearing and of his right to review the documents to be considered by the Commission, as provided by § 2.55. A prisoner may waive such notice, except that if such notice is not waived, the case shall be continued to the time of the next regularly scheduled proceeding of the Commission at the institution in which the prisoner is confined.

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a federal institution, or as soon thereafter as practicable, in the following cases:

(1) A prisoner with no minimum term of imprisonment; and

(2) A prisoner with a minimum term of imprisonment and a maximum term or terms of less than seven years.

(b) In the case of a prisoner with a minimum term of imprisonment and a maximum term or terms of seven years or more, an initial hearing shall be conducted at least thirty days prior to the completion of the minimum term of imprisonment, or as soon thereafter as practicable.

(c) Following initial hearing: (1) The Commission shall set a presumptive release date (either by parole or by mandatory release), or set an effective date of parole, in the case of every prisoner with a maximum term or terms of less than seven years.

(2) In the case of a prisoner with a maximum term or terms of seven years or more, the Commission shall either set a presumptive release date, if such date falls within four years of the initial hearing, or continue the prisoner to a four-year reconsideration hearing pursuant to § 2.14(c), or set an effective date of parole.

(d) Notwithstanding the above paragraph, a prisoner may not be paroled earlier than the completion of any judicially set minimum term of imprisonment or other period of parole ineligibility fixed by law.

(e) A presumptive parole date shall be contingent upon a continued record of good conduct and the establishment of a suitable release plan, and shall be subject to the provisions of §§ 2.14 and 2.34. In the case of a prisoner sentenced under the Narcotic Addict Rehabilitation Act, 18 U.S.C. 4254, a presumptive parole date shall also be contingent upon certification by the Surgeon General pursuant to § 2.3 of these rules.

§ 2.13 Initial hearing: procedure.

(a) An initial hearing shall be conducted by a panel of two hearing examiners. The examiners shall discuss with the prisoner his offense severity rating and salient factor score as described in § 2.20, his institutional conduct and, in addition, any other matter the panel may deem relevant.

(b) A prisoner may be represented at a hearing by a person of his choice. The function of the prisoner's representative shall be to offer a statement at the conclusions of the interview of the prisoner by the examiner panel, and to provide such additional information as the examiner panel shall request. Interested parties who oppose parole may select a representative to appear and offer a statement. The presiding hearing examiner shall limit or exclude any irrelevant or repetitious statement.

(c) At the conclusion of the hearing, the panel shall orally inform the prisoner of its recommendation and, if such recommendation is for denial, of the reasons therefor. Written notice of the official decision, or the decision to refer under § 2.17 or § 2.24, shall be mailed or transmitted to the prisoner within 21 days of the date of the hearing, except in emergencies. If parole is denied, or a release date is set in excess of six

months from the date of the hearing, the prisoner shall also receive in writing the reasons therefor.

(d) In accordance with 18 U.S.C. 4206, reasons for parole denial may include the following, with further specification as appropriate:

(1) The prisoner has not substantially observed the rules of the institution or institutions in which confined;

(2) Release, in the opinion of the Commission, would depreciate the seriousness of the offense or promote disrespect for the law; or

(3) Release, in the opinion of the Commission, would jeopardize the public welfare.

In lieu of, or in combination with, the above reasons the prisoner shall be furnished with a guidelines evaluation statement containing his offense severity rating and salient factor score (including the points credited on each item of such score) as described in § 2.20, as well as the specific factors and information relied upon for any decision to continue such prisoner for a period outside the range indicated by the guidelines.

(e) No interviews with the Commission or any representative thereof, shall be granted to a prisoner unless his name is docketed for a hearing in accordance with Commission procedures. Hearings shall not be open to the public.

(f) A full and complete record of every hearing shall be retained by the Commission. Upon a request, pursuant to § 2.55, the Commission shall make available to any eligible prisoner such record as the Commission has retained of the hearing.

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* The purpose of an interim proceeding required by 18 U.S.C. 4208(h) shall be to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing.

(1) Notwithstanding a previously ordered presumptive release date or four-year reconsideration hearing, interim hearings shall be conducted by an examiner panel pursuant to the procedures of § 2.13 (b), (c), (e), and (f) at the following intervals from the date of the last hearing:

(i) In the case of a prisoner with a maximum term or terms of less than seven years, every eighteen months (until released).

(ii) In the case of a prisoner with a maximum term or terms of seven years or more, every twenty-four months (until released).

(2) However, in the case of a prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately preceding completion of the minimum term.

(3) Following an interim hearing, the Commission may:

(i) Order no change in the previous decision;

(ii) Advance a presumptive release date, or the date of a four-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a four-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances;

(iii) Retard or rescind a presumptive parole date for reason of disciplinary infractions. In a case in which disciplinary infractions have occurred, the interim hearing shall be conducted in accordance with the procedures of § 2.34(a).

(b) *Pre-release reviews.* The purpose of a pre-release review shall be to determine whether the conditions of a presumptive release date by parole have been satisfied.

(1) At least sixty days prior to a presumptive parole dates, an examiner panel shall review the case on the record, including a current institutional progress report.

(2) Following review and recommendation, the Regional Commissioner may:

(i) Approve the parole date;

(ii) Advance or retard the parole date as provided by § 2.29(c);

(iii) Retard the parole date or commerce rescission proceedings as provided by § 2.34.

(3) A pre-release review pursuant to this section shall not be required if an in-person hearing has been held within six months of the parole date.

(c) *Four-year reconsideration hearings.* A four-year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures of § 2.13 to determine whether the setting of a presumptive release date would be appropriate at that time.

(1) A four-year reconsideration hearing shall be ordered following initial hearing in any case in which a release date is not set.

(2) Following a four-year reconsideration hearing, the Commission may:

(i) Set a presumptive release date, if such date falls within four years of the hearing; or

(ii) Continue the prisoner to a further four-year reconsideration hearing if no presumptive release date is set.

§ 2.15 Petition for consideration of parole prior to date set at hearing.

When a prisoner has served the minimum term of imprisonment required by law, the Bureau of Prisons may petition the responsible Regional Commissioner for reopening the case under § 2.28 and consideration for parole prior to the date set by the Commission at the initial or review hearing. The petition must show cause why it should be granted, i.e., an emergency, hardship, or the existence of other extraordinary circumstances that would warrant consideration of early parole.

§ 2.16 Parole of prisoner in state, local, or territorial institution.

(a) Any person who is serving a sentence of imprisonment for any offense against the United States, but who is confined therefor in a state reformatory or other state or territorial institution, shall be eligible for parole by the Commission on the same terms and conditions, by the same authority, and subject to recommittal for the violation of such parole, as though he were confined in a Federal penitentiary, reformatory, or other correctional institution.

(b) Federal prisoners serving concurrent state and Federal sentences in state, local, or territorial institutions shall be furnished upon request parole application forms. Upon receipt of the application and any supplementary classification material submitted by the institution, parole consideration shall be made by an examiner panel of the appropriate region on the record only. If such prisoner is released from his state sentence prior to a Federal grant of parole, he shall be given a personal hearing as soon as feasible after receipt at a Federal institution.

(c) Prisoners who are serving Federal sentences exclusively but who are being boarded in state, local or territorial institutions may be provided hearings at such facilities or may be transferred by the Bureau of Prisons to Federal Institutions for hearings by examiner panels of the Commission.

§ 2.17 Original jurisdiction cases.

(a) A Regional Commissioner may designate certain cases for decision by a quorum of Commissioners as described below, as original jurisdiction cases. In such instances, he shall forward the case with his vote, and any additional comments he may deem germane, to the National Commissioners for decision. Decisions shall be based upon the concurrence of three votes with the appropriate Regional Commissioner and each National Commissioner having one vote. Additional votes, if required, shall be cast by the other Regional Commissioners on a rotating basis as established by the Chairman of the Commission.

(b) The following criteria will be used in designating cases as original jurisdiction cases:

(1) Prisoners who have committed serious crimes against the security of the Nation, e.g., espionage or aggravated subversive activity.

(2) Prisoners whose offense behavior: (i) Involved an unusual degree of sophistication or planning or (ii) Was part of a large scale criminal conspiracy of a continuing criminal enterprise.

(3) Prisoners who have received national or unusual attention because of the nature of the crime, arrest, trial, or prisoner status, or because of the community status of the offender or his victim.

(4) *Long-term sentences.* Prisoners sentenced to a maximum term of forty-five years (or more) or prisoners serving life sentences.

(c) (1) Any case designated for the original jurisdiction of the Commission shall remain an original jurisdiction case unless designation is removed pursuant to this subsection.

(2) A case found to be inappropriately designated for the Commission's original jurisdiction, or to no longer warrant such designation, may be removed from original jurisdiction under the procedures specified in paragraph (a) of this section following a regularly scheduled hearing or the reopening of the case pursuant to § 2.28. Removal from original jurisdiction may also occur by majority vote of the Commission considering an appeal pursuant to § 2.27. Where the circumstances warrant, a case may be redesignated as original jurisdiction pursuant to the provisions of paragraphs (a) and (b) of this section.

§ 2.18 Granting of parole.

The granting of parole to an eligible prisoner rests in the discretion of the United States Parole Commission. As prerequisites to a grant of parole, the Commission must determine that the prisoner has substantially observed the rules of the institution or institutions in which he has been confined; and upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, must determine that release would not depreciate the seriousness of his offense or promote disrespect for the law, and that release would not jeopardize the public welfare (i.e., that there is a reasonable probability that, if released, the prisoner would live and remain at liberty without violating the law or the conditions of his parole).

§ 2.19 Information considered.

(a) In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

(1) Reports and recommendations which the staff of the facility in which such prisoner is confined may make;

(2) Official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

(3) Presentence investigation reports;

(4) Recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge and prosecuting attorney; and

(5) Reports of physical, mental, or psychiatric examination of the offender.

(b) There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available (18 U.S.C. 4207). The Commission encourages the submission of relevant information concerning an eligible prisoner by interested persons.

§ 2.20 Paroling policy guidelines; statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Parole Commission has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established specifically for cases with good institutional adjustment and program progress.

(c) These time ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) Guidelines for reparole consideration are set forth at § 2.21.

(g) The Commission shall review the guidelines, including the salient factor score, periodically and may revise or modify them at any time as deemed appropriate.

Guidelines for decision-making

[Customary total time to be served before release (including jail time)]

Offense characteristics—severity	Offender characteristics—parole prognosis (salient factor score) (months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Low				
Escape (unarmed); institution or penalty area (if voluntary return or apprehension within 6 hours, or if no force or threat of force was used, and no new criminal conviction for escape); release (absent) less than 7 d.				
Marijuana or soft drugs, simple possession (small quantity for own use)			1–14	
Property offenses (theft or possession of stolen property) less than $1,000				
Low moderate				
Alcohol law violations				
Counterfeit currency (passing, possession) less than $1,000				
Immigration Law violations				
Income tax evasion less than $10,000				
Property offenses (forgery, fraud, theft, embezzlement, interstate transportation of stolen or forged securities, receiving stolen property with intent to resell) less than $1,000			12–16	16–20
Selective Service Act violations				
Moderate				
Bribery of a public official or a witness				
Counterfeit currency (passing, possession) $1,000 to $14,999				
Drugs:				
Marijuana, possession with intent to distribute, sale (small scale, e.g., less than 50 lb)				
"Soft drugs", possession with intent to distribute/sale (less than $200)				
Escape (secure program or institution; or absent 7 d or more—no fear or threat used)	12–16	16–20	20–26	24–30
Firearms Act, possession/purchase/sale (single weapon not sawed-off shotgun or machine gun)				
Income tax evasion ($10,000 to $20,000)				
Making threatening communications				
Misprision of felony				
Property offenses (theft/forgery/fraud/embezzlement, interstate transportation of stolen or forged securities, receiving stolen property $1,000 to $14,999)				
Smuggling/transporting of aliens				
Theft of motor vehicle (not multiple theft or for resale)				
High				
Counterfeit currency (passing/possession $20,000 to $100,000)				
Counterfeiting (manufacturing)				
Drugs:				
Marijuana, possession with intent to distribute/sale (medium scale, e.g., 50 to 1,000 lb)				
"Soft drugs", possession with intent to distribute/sale ($500 to $5,000)	16–20	20–26	26–36	36–48
Explosives, possession/transportation				
Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine guns(s), or multiple weapons)				
Mann Act (no force—commercial purpose)				
Theft of motor vehicle for resale				
Property offenses (theft/forgery/fraud/embezzlement, interstate transportation of stolen or forged securities, receiving stolen property $5,000 to $20,000)				

Offense characteristics—severity of offense behavior (examples)	Offender characteristics—parole prognosis (salient factor score) (in months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Very high: Robbery (weapon or threat) Breaking and entering (bank or post office entry or attempted entry to vault). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). "Soft drugs", possession with intent to distribute/sale (over $5,000). "Hard drugs", possession with intent to distribute/sale (not exceeding $100,000). Extortion Mann Act (force) Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) over $100,000 but not exceeding $500,000. Sexual act (force)	26-36	36-48	48-60	60-72
Greatest: Aggravated felony (e.g., robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking Drugs: "Hard drugs", possession with intent to distribute/sale (in excess of $100,000). Espionage Explosives (detonation) Kidnaping Willful homicide	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation in severity possible within the category.			
YOUTH/NARA				
Low: Escape (open institution or program (e.g., CTC, work release)—absent less than 7 d). Marihuana or soft drugs, simple possession (small quantity for own use). Property offenses (theft or simple possession of stolen property) less than $1,000.	6-10	8-12	10-14	12-18
Low moderate: Alcohol law violations Counterfeit currency (passing/possession less than $1,000). Immigration law violations Income tax evasion (less than $10,000). Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000. Selective Service Act violations	8-12	12-16	16-20	20-26
Moderate: Bribery of a public official (offering or accepting) Counterfeit currency (passing possession $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute sale (small scale (e.g., less than 50 lb)). "Soft drugs," possession with intent to distribute sale (less than $500). Escape (secure program or institution, or absent 7 d or more—no fear or threat used). Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Income tax evasion ($10,000 to $50,000) Mailing threatening communication(s) Misprison of felony Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s) Theft of motor vehicle (not multiple theft or for resale)	9-13	13-17	17-21	21-28
High: Counterfeit currency (passing/possession $20,000 to 100,000). Counterfeiting (manufacturing) Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lbs)). "Soft drugs", possession with intent to distribute/sale ($500 to $5,000). Explosives, possession/transportation Firearms Acts, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Mann Act (no force—commercial purposes) Theft of motor vehicle for resale Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $20,000 to $100,000.	12-16	16-20	20-26	26-32
Very high: Robbery (weapon or threat) Breaking and entering (bank or post office entry or attempted entry to vault). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lbs or more)). "Soft drugs", possession with intent to distribute/sale (over $5,000). "Hard drugs", possession with intent to distribute/sale (not exceeding $100,000). Extortion Mann Act (force) Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) over $100,000 but not exceeding $500,000. Sexual act (force)	20-27	27-34	34-41	41-48

Offense characteristics—severity of offense behavior (examples)	Offender characteristics—parole prognosis (salient factor score) (in months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Greatest: Aggravated felony (e.g., robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking Drugs: "Hard drugs", possession with intent to distribute/sale (in excess of $100,000). Espionage Explosives (detonation) Kidnapping Willful homicide	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation in severity possible within the category.			

NOTES.—1. These guidelines are predicated upon good institutional conduct and program performance.

2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.

3. If an offense behavior can be classified under more than 1 category, the most serious applicable category is to be used.

4. If an offense behavior involved multiple separate offenses, the severity level may be increased.

5. If a continuance is to be given, allow 30 d (1 mo) for release program provision.

6. "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes. "Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD, and hashish.

7. Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsummated, the conspiracy will be rated one step below the consummated offense.

SALIENT FACTOR SCORE

Case name ..... Register No. .....

Item A ..... ☐

No prior convictions (adult or juvenile)=3.
1 prior conviction=2.
2 or 3 prior convictions=1.
4 or more prior convictions=0.

Item B ..... ☐

No prior incarcerations (adult or juvenile)=2.
1 or 2 prior incarcerations=1.
3 or more prior incarcerations=0.

Item C ..... ☐

Age at first commitment (adult or juvenile):
26 or older=2.
18 to 25=1.
17 or younger=0.

Item D ..... ☐

Commitment offense did not involve auto theft or check(s) (forgery/larceny)=1.
Commitment offense involved auto theft or check(s)=0.

Item E ..... ☐

Never had parole revoked or been committed for a new offense while on parole, and not a probation violator this time=1.
Has had parole revoked or been committed for a new offense while on parole, or is a probation violator this time=0.

Item F ..... ☐

No history of heroin or opiate dependence=1.
Otherwise=0.

Item G ..... ☐

Verified employment (or full-time school attendance) for a total of at least 6 mo during the last 2 yr in the community=1.
Otherwise=0.

Total score ..... ☐

§ 2.21 Reparole consideration guidelines.

(a) If revocation is based upon administrative violation(s) only [i.e., violations other than new criminal conduct] the following guidelines shall apply.

	Customary time to be served before rerelease (months)
Positive supervision history (examples): a. No serious alcohol drug abuse and no possession of weapon(s) [and] b. At least 8 months from date of release to date of violation behavior [and] c. Positive employment/school record during supervision [and] d. Present violation represents first instance of failure to comply with parole regulations of this term	0 8
Negative supervision history (examples): a. Serious alcohol/drug abuse (e.g. readdiction to hard drugs) or possession of weapon(s) [or] b. Less than 8 months from date of release to date of violation behavior [or] c. Negative employment/school record during supervision [or] d. Negative attitude toward supervision demonstrated by lack of positive efforts to cooperate with parole (aftercare) plan or by repetitious or persistent violations	8 16

(b) (1) If a finding is made that the prisoner has engaged in behavior constituting new criminal conduct, the appropriate severity rating for the new criminal behavior shall be calculated. New criminal conduct may be determined either by a new federal, state, or a local conviction or by an independent finding by the Commission at revocation hearing. As violations may be for state or local offenses, the appropriate severity level may be determined by analogy with listed federal offense behaviors.

(2) The guidelines for parole consideration specified at 28 CFR 2.20 for the poor parole risk category shall then be applied. The original sentence type (i.e. adult, youth), shall determine the applicable guidelines for the parole violator term. Time served on a new state or federal sentence shall be counted as time in custody. This does not affect the computation of the total violator term as provided by §§ 2.47 (b) and (c) and 2.52 (c) and (d).

(c) The above are merely guidelines. A decision outside these guidelines (either above or below) may be made when circumstances warrant. For example, violations of an assaultive nature, or violations by a person with a history of assaultive conduct or by a person with a history of repeated parole failure may warrant a decision above the guidelines. Minor offense(s) (e.g., traffic infractions, disorderly conduct) shall normally be treated under administrative violations.

§ 2.22 Communication with the Commission.

Attorneys, relatives, or interested parties wishing a personal interview to discuss a specific case with a representative of the Commission must submit a written request to the appropriate regional office setting forth the nature of the information to be discussed. Such personal interview may be conducted by Staff Personnel in the regional offices. Personal interviews, however, shall not be held by an examiner or member of the Commission except under the Commission's appeals procedures.

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole.

(b) Hearing examiners shall function as two-man panels except as provided by §§ 2.43 and 2.47 and the concurrence of two examiners shall be requested for their recommendation. In the event of a divided recommendation by the panel, the appropriate regional Administrative hearing Examiner shall cast the deciding vote.

(c) In the event the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under paragraph (b) of this section will be referred to another hearing examiner.

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision upon review at the Regional Office and docketing, unless action is initiated by the regional Commissioner pursuant to § 2.24.

§ 2.24 Review of panel recommendation by the Regional Commissioners.

(a) A Regional Commissioner may review the recommendation of any examiner panel and refer this recommendation, prior to written notification to the prisoner, with his recommendation and vote to the National Commissioners for consideration and any action deemed appropriate. Written notice of this referral action shall be mailed or transmitted to the prisoner within twenty-one days of the date of the hearing. The Regional Commissioner and each National Commissioner shall have one vote and decisions shall be based upon the concurrence of two votes. Action shall be taken by the National Commissioners within thirty days of the date of referral action by the Regional Commissioner, except in emegencies.

(b) Notwithstanding the provisions of paragraph (a) of this section, a Regional Commissioner may:

(1) On the motion of the Administrative Hearing Examiner, modify or reverse the recommendation of a hearing examiner panel that is outside the guidelines to bring the decision closer to (or to) the nearer limit of the appropriate guideline range; or

(2) On his own motion, modify the recommendation of a hearing examiner panel to bring the decision to a date not to exceed six months from the date recommended by the examiner panel.

§ 2.25 Regional appeal.

(a) A prisoner or parolee may submit to the responsible Regional Commissioner a written appeal of a decision to grant, rescind, deny, or revoke, parole, except that an appeal of a Commission decision pursuant to § 2.17 shall be pursuant to § 2.27. This appeal must be filed on a form provided for that purpose within thirty days from the date of entry of such decision.

(b) The Regional Commissioner may affirm the decision, order a new institutional hearing on the next docket, order a regional appellate hearing, reverse the decision, or modify a continuance or the effective date of parole. Reversal of a decision or the modification of a decision by more than one hundred eighty days whether based upon the record or following a regional appellate hearing shall require the concurrence of two out of three Regional Commissioners. Decisions requiring a second or additional vote shall be referred to other Regional Commissioners on a rotating basis as established by the Chairman.

(c) Regional appellate hearings may be held at the regional office before the Regional Commissioner. If a regional appellate hearing is ordered, attorneys, relatives and other interested parties who wish to appear must submit a written request to the Regional Commissioner stating their relationship to the prisoner and the general nature of the information they wish to present. The Regional Commissioner shall determine if the requested appearances will be permitted. The prisoner shall not appear personally.

(d) Within 30 days of receipt of the appeal, except in emergencies, the Regional Commissioner shall inform the applicant in writing of the decision and the reasons therefor.

(e) If no appeal is filed within thirty days of the date of the entry of the original decision, such decision shall stand as the final decision of the Commission.

(f) Appeals under this section may be based on the following grounds:

(1) That the guidelines were incorrectly applied as to any or all of the following:

(i) Severity rating;

(ii) Salient factor score:

(iii) Time in custody;

(2) That a decision outside the guidelines was not supported by the reasons or facts as stated;

(3) That especially mitigating circumstances (for example, facts relating to the severity of the offense or the prisoner's probability of success on parole) justify a different decision;

(4) That a decision was based on erroneous information, and the actual facts justify a different decision;

(5) That the Commission did not follow correct procedure in deciding the case, and a different decision would have resulted if the error had not occurred;

(6) There was significant information in existence but not known at the time of the hearing;

(7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

§ 2.26 Appeal to National Appeals Board.

(a) Within 30 days of entry of a Regional Commissioner's decision under § 2.25, a prisoner or parolee may appeal to the National Appeals Board on a form provided for that purpose. However, any matter not raised on a regional level appeal may not be raised on appeal to the National Appeals Board. The National Appeals Board may, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level.

(b) The National Appeals Board shall act within 60 days of receipt of the appellant's papers, to affirm, modify, or reverse the decision.

(c) Decisions of the National Appeals Board shall be final.

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the entry of the decision on a form provided for this purpose. Attorneys, relatives and other interested parties who wish to submit written information in support of a prisoner's appeal should send such information to the National Appeals Board Analyst, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537. Appeals of original jurisdiction cases shall be reviewed by the Commission at its next quarterly meeting. A quorum of five Commissioners shall be required and all decisions shall be by majority vote. This appellate decision shall be final.

(b) Attorneys, relatives, or other interested parties who wish to speak for or against parole at such consideration must submit a written request to the Chairman of the Commission stating their relationship to the prisoner and the general nature of the material they wish to present. The Chairman shall determine if the requested appearances will be permitted.

(c) If no appeal is filed within thirty days of the entry of the decision under § 2.17, that decision shall stand as the final decision of the Commission.

§ 2.28 Reopening of cases.

Notwithstanding the appeal procedure of §§ 2.25 and 2.26, the appropriate Regional Commissioner may, on his own motion, reopen a case at any time upon the receipt of new information of substantial significance and may then take any action authorized under the provisions and procedures of § 2.25. Original jurisdiction cases may be reopened upon the motion of the appropriate Regional Commissioner under the procedures of § 2.17.

§ 2.29 Release on parole.

(a) A grant of parole shall not be deemed to be operative until a certificate of parole has been delivered to the prisoner.

(b) An effective date of parole shall not be set for a date more than six months from the date of the hearing. Residence in a Community Treatment Center as part of a parole release plan generally shall not exceed one hundred and twenty days.

(c) When an effective date of parole has been set by the Commission, release on that date shall be conditioned upon the completion of a satisfactory plan for parole supervision. The appropriate Regional Commissioner may, on his own motion, reconsider any case prior to release and may reopen and advance or retard an effective parole date. An effective parole grant may be retarded for up to one hundred and twenty days without a hearing for development and approval of release plans.

(d) When an effective date of parole falls on a Saturday, Sunday, or legal holiday, the Warden of the appropriate institution shall be authorized to release the prisoner on the first working day preceding such date.

§ 2.30 False or withheld information.

All paroles are ordered on the assumption that information from the prisoner has not been fraudulently given to or withheld from the Commission. If evidence comes to the attention of the Regional Commissioner that a prisoner willfully concealed or misrepresented information deemed significant, the Regional Commissioner may initiate action pursuant to § 2.34(b) to determine whether such parole should be revoked or rescinded.

§ 2.31 Parole to detainers; statement of policy.

(a) Where a detainer is lodged against a prisoner, the Commission may grant parole if the prisoner in other respects

meets the criteria set forth in § 2.18. The presence of a detainer is not in itself a valid reason for the denial of parole.

(b) The Commission will cooperate in working out arrangements for concurrent supervision with other jurisdictions where it is feasible and where release on parole appears to be justified.

§ 2.32 Parole to local or immigration detainers.

(a) When a state or local detainer is outstanding against a prisoner whom the Commission wishes to parole, the Commission may order either of the following:

(1) "Parole to the actual physical custody of the detaining authorities only." In this event, release is not to be effected except to the detainer. When such a detainer is withdrawn, the prisoner is not to be released unless and until the Commission makes a new order of parole.

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected even though the detainer might be withdrawn, providing there is an acceptable plan for community supervision.

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission may order one of the following:

(1) "Parole for deportation only." In this event, release is not to be effected unless immigration officials make full arrangements for deportation immediately upon release.

(2) "Parole to the actual physical custody of the immigration authorities only." In this event, release is not to be effected unless immigration officials take the prisoner into custory—regardless of whether or not deportation follows:

(3) "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether or not immigration officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainer" means release to the "physical custody" of the authorities who have lodged the detainer. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole to such detainer. If the authorities who lodged the detainer do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order of the Commission.

§ 2.33 Release of plans.

(a) A grant of parole is conditioned upon the approval of release plans by the Regional Commissioner. In general, the following factors are considered as elements in the prisoner's release plan.

(1) Availability of legitimate employment and an approved residence for the prospective parolee; and

(2) Availability of necessary aftercare for a parolee who is ill or who requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Commission is satisfied that another place of residence will serve the public interest more effectively or will improve the probability of the applicant's readjustment.

(c) Where the circumstances warrant, the Commission on its own motion, or upon recommendation of the probation officer, may require that an adviser who is a responsible, reputable, and law-abiding citizen living in or near the community in which the releasee will reside be available to the releasee. Such advisor shall serve under the direction of and in cooperation with the probation officer to whom the parolee is assigned.

§ 2.34 Rescission of parole.

(a) When an effective date of parole or mandatory parole has been set by the Commission, release on that date shall be conditioned upon continued good conduct by the prisoner. If a prisoner has been granted parole and has subsequently been charged with institutional misconduct sufficient to become a matter of record, the Regional Commissioner shall be advised promptly of such misconduct. The prisoner shall not be released until the institution has been notified that no change has been made in the Commissioner's order to parole.

(1) Upon receipt of information that a prisoner has violated the rules of the institution, the Regional Commissioner may retard the parole grant for up to sixty days without a hearing or may retard the parole grant and schedule the case for a rescission hearing. If the prisoner was confined in a Federal prison at the time of the order retarding parole, the rescission hearing shall be scheduled for the next docket of parole hearings at the institution. If the prisoner was residing in a Federal community treatment center or a state or local halfway house, the rescission hearing shall be scheduled for the first docket of parole hearings after return to a Federal institution. When the prisoner is given written notice of the Commission action retarding parole, he shall be given notice of the charges of misconduct to be considered at the rescission hearing. The purpose of the rescission hearing shall be to determine whether rescission of the parole grant is warranted. At the rescission hearing the prisoner may be represented by a person of his choice and may present documentary evidence.

(2) An institution discipline committee hearing conducted by the institution resulting in a finding that the prisoner has violated the rules of his confinement, may be relied upon by Commission as conclusive evidence of institutional misconduct.

(3) Consideration of disciplinary infractions in cases with presumptive parole dates may be deferred until the commencement of the next in-person hearing or the prerelease record review required by § 2.14(b). While prisoners are encouraged to earn the restoration of forfeited or withheld good time, the Commission will consider the prisoner's overall institutional record in determining whether the conditions of a presumptive parole date have been satisfied.

(4) If the parole grant is rescinded, the prisoner shall be furnished a written statement of the findings of misconduct and the evidence relied upon.

(b) (1) Upon receipt of new information, adverse to the prisoner regarding matters other than institutional misconduct, the Regional Commissioner may refer the case to the National Commissioners under the procedures of § 2.17(a) with his recommendation and vote, to retard a previously granted parole. If parole is retarded the case shall be scheduled for a hearing on the next docket of parole hearings or at the first docket of parole hearings following return to a federal institution.

(2) The prisoner shall be given notice of the nature of the new adverse information upon which the rescission consideration is to be based. The hearing shall be conducted in accordance with the procedures set out in §§ 2.12 and 2.13. The purpose of the hearing shall be to determine if the parole grant should be rescinded or if a new parole date should be established.

§ 2.35 Mandatory release in the absence of parole.

A prisoner shall be mandatorily released by operation of law at the end of the sentence imposed by the court less such good time deductions as he may have earned through his behavior and efforts at the institution of confinement. If released pursuant to 18 U.S.C. 4164, such prisoner shall be released, as if on parole, under supervision until the expiration of the maximum term or terms for which he was sentenced less 180 days. If released pursuant to 18 U.S.C. 4205(f), such prisoner shall remain under supervision until the expiration of the maximum term or terms for which he was sentenced. Insofar as possible, release plans shall be completed before the release of any such prisoner.

§ 2.36 Same; youth offenders.

A prisoner committed under the Youth Corrections Act must be initially released conditionally under supervision not later than two years before the expiration of the term imposed by the court.

§ 2.37 Reports to police departments of names of parolees; statement of policy.

Names of parolees under supervision will not be furnished to a police department of a community, except as required by law. All such notifications are to be regarded as confidential.

§ 2.38 Community supervision by United States Probation Officers.

(a) Pursuant to sections 3655 and 4203 (b) (4) of Title 18 of the United States Code, United States Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to parolees and mandatory releasees under the Commission's jurisdiction.

(b) A parolee or mandatory releasee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.39 Jurisdiction of the Commission.

(a) Jurisdiction of the Commission over a parolee shall terminate no later than the date of expiration of the maximum term or terms for which he was sentenced, except as provided by § 2.35, § 2.43, or § 2.52.

(b) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(c) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

(d) Upon the termination of jurisdiction, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

§ 2.40 Conditions of release.

(a) The conditions of release are printed on the release certificate and are binding regardless of whether the parolee signs the certificate. The following conditions are deemed necessary to provide adequate supervision and to protect the public welfare:

(1) The parolee shall go directly to the district named in the certificate (unless released to the custody of other authorities). Within three days after his arrival, he shall report to his parole adviser, if he has one, and to the United States Probation Officer whose name appears on the certificate. If in any emergency the parolee is unable to get in touch with his parole adviser or his probation officer or his office, he shall communicate with the United States Parole Commission, Washington, D.C. 20537.

(2) If the parolee is released to the custody of other authorities, and after release from the physical custody of such authorities, he is unable to report to the United States Probation Officer to whom he is assigned within three days, he shall report instead to the nearest United States Probation Officer.

(3) The parolee shall not leave the limits fixed by his certificate of parole without written permission from the probation officer.

(4) The parolee shall notify his probation officer within two days of any change in his place of residence.

(5) The parolee shall make a complete and truthful written report (on a form provided for that purpose) to his probation officer between the first and third day of each month, and on the final day of parole. He shall also report to his probation officer at other times as the probation officer directs.

(6) The parolee shall not violate any law, nor shall he associate with persons engaged in criminal activity. The parolee shall get in touch within two days with his probation officer or office if he is arrested or questioned by a law-enforcement officer.

(7) The parolee shall not enter into any agreement to act as an informer or special agent for any law-enforcement agency.

(8) The parolee shall work regularly unless excused by his probation officer, and support his legal dependents, if any, to the best of his ability. He shall report within two days to his probation officer any changes in employment.

(9) The parolee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use, or administer marihuana or narcotic or other habit-forming drugs, unless prescribed or advised by a physician. The parolee shall not frequent places where such drugs are illegally sold, dispensed, used, or given away.

(10) The parolee shall not associate with persons who have a criminal record unless he has permission of his probation officer.

(11) The parolee shall not have firearms (or other dangerous weapons) in his possession without the written permission of his probation officer, following prior approval of the United States Parole Commission.

(b) The Commission or a member thereof may at any time modify or add to the conditions of release pursuant to this section, on its own motion or on the request of the U.S. Probation Officer supervising the parolee. The parolee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following such ten day period, the Commission shall have 21 days, exclusive of holidays, to order such modification of or addition to the conditions of release.

(c) The Commission may require a parolee to reside in or participate in the program of a residential treatment center, or both, for all or part of the period of parole.

(d) The Commission may require a parolee, who is an addict, within the meaning of section 4251(a), or a drug dependent person within the meaning of section 2(8) of the Public Health Service Act, as amended, to participate in the community supervision program authorized by § 4255 for all or part of the period of parole.

(e) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

(f) The notice provisions of paragraph (b) of this section shall not apply to modification of parole or mandatory release conditions pursuant to a revocation proceeding or pursuant to paragraph (e) of this section.

(g) A parolee may appeal an order to impose or modify parole conditions under the procedures of §§ 2.25 and 2.26 as applicable not later than thirty days after the effective date of such conditions.

§ 2.41 Travel by parolees and mandatory releasees.

(a) The probation officer may approve travel outside the district without approval of the Regional Commissioner in the following situations:

(1) Vacation trips not to exceed thirty days.

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities.

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Regional Commissioner is required for other travel (including travel outside the contiguous forty-eight states, employment more than fifty miles outside the district, and vacations exceeding thirty days). A request for such permission shall be in writing and must demonstrate a substantial need for such travel. In cases falling under the criteria of § 2.17, the concurrence of two out of three Commissioners shall be required to grant such permission.

(c) A special condition imposed by the Regional Commissioner prohibiting certain travel shall supersede any general rules relating to travel as set forth above.

§ 2.42 Probation Officer's Reports to Commission.

A supervision report shall be submitted by the responsible probation officer to the Commission for each parolee or mandatory release after the completion of 12 months of continuous supervision and annually thereafter. The probation officer shall submit such additional reports as the Commission may direct.

§ 2.43 Early termination of parole.

(a) (1) Upon its own motion or upon request of the parolee, the Commission may terminate supervision, and thus jurisdiction, over a parolee prior to the expiration of his maximum sentence. A committed youth offender may be granted an early termination of jurisdiction (unconditional discharge) at any time after one year of continuous supervision on parole.

(2) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parole to determine the need for continued supervision. In calculating such two-year prior there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(3) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in 18 U.S.C. 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law. Such hearing may be conducted by a hearing examiner or other official designated by the Regional Commissioner.

(4) If supervision is not terminated under paragraph (a)(3) of this section the parolee may request a hearing annually thereafter, and a hearing shall be conducted with respect to such termination of supervision not less frequently than biennially.

(5) In calculating the five-year period referred to in paragraph (a)(3) of this section, there shall not be included any period of release on parole prior to the most recent such release or any period served in confinement on any other sentence.

(6) When termination of jurisdiction prior to the expiration of sentence is granted in the case of a youth offender, his conviction shall be automatically set aside. A certificate setting aside his conviction shall be issued in lieu of a certificate of termination.

(b) The Regional Commissioner in the region of supervision may release a parolee from supervision pursuant to this section if warranted by the circumstances of the case and reports of the supervising probation officer. Except that, in the case of a parolee previously considered pursuant to § 2.17, the decision to grant termination of supervision must also be pursuant to the provisions of § 2.17.

(c) A parolee may appeal an adverse decision under paragraphs (a) (3) or (4) of this section pursuant to §§ 2.25, 2.26 or § 2.27 as applicable.

§ 2.44 Summons to appear or warrant for retaking of parolee.

(a) If a parolee is alleged to have violated the conditions of his release, and satisfactory evidence thereof is presented, the Commission or a member thereof may:

(1) Issue a summons requiring the offender to appear for a preliminary interview or local revocation hearing.

(2) Issue a warrant for the apprehension and return of the offender to custody.

A summons or warrant may be issued or withdrawn only by the Commission, or a member thereof.

(b) Any summons or warrant under this section shall be issued as soon as practicable after the alleged violation is reported to the Commission, except when delay is deemed necessary. Issuance of a summons or warrant may be withheld until the frequency or seriousness of violations, in the opinion of the Commission, requires such issuance. In the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be withheld, or a warrant may be issued and held in abeyance pending disposition of the charge.

(c) A summons or warrant may be issued only within the prisoner's maximum term or terms except that in the case of a prisoner released as if on parole pursuant to 18 U.S.C. 4164, such summons or warrant may be issued only within the maximum term or terms, less one-hundred eighty days. A summons or warrant shall be considered issued when signed and placed in the mail at the Commission Headquarters or appropriate regional office.

(d) The issuance of a warrant under this section suspends the running of a sentence until such time as the parolee may be retaken into custody and a final determination of the charges may be made by the Commission.

(e) A summons or warrant issued pursuant to this section shall be accompanied by a statement of the charges against the parolee, the applicable procedural rights under the Commission's regulations and the possible actions which may be taken by the Commission. A summons shall specify the time and place the parolee shall appear for a revocation hearing. Failure to appear in response to a summons shall be grounds for issuance of a warrant.

§ 2.45 Same, youth offenders.

(a) In addition to the issuance of a summons or warrant pursuant to § 2.44 above, the Commission or a member thereof, when of the opinion that a youth offender will be benefitted by further treatment in an institution or other facility, may direct his return to custody or issue a warrant for his apprehension and return to custody.

(b) Upon his return to custody, such youth offender shall be scheduled for a revocation hearing.

§ 2.46 Execution of warrant and service of summons.

(a) Any officer of any Federal correctional institutional or any Federal officer authorized to serve criminal process within the United States, to whom a warrant is delivered shall execute such warrant by taking the prisoner and returning him to the custody of the Attorney General.

(b) On arrest of the parolee the officer executing the warrant shall deliver to him a copy of the Warrant Application listing the charges against the parolee, the applicable procedural rights under the Commission's regulations and the possible actions which may be taken by the Commission.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the parolee is to be continued under supervision by the probation officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the parolee must continue to abide by all the conditions of release.

(d) A summons to appear at a preliminary interview or revocation hearing shall be served upon the parolee in person by delivering to the parolee a copy of the summons. Service shall be made by any federal officer authorized to serve criminal process within the United States, and certification of such service shall be returned to the appropriate regional office of the Commission.

§ 2.47 Warrant placed as a detainer and dispositional Review.

(a) In those instances where a parolee is serving a new sentence in an institution, a parole violation warrant may be placed against him as a detainer. Such warrant shall be reviewed by the regional Commissioner not later than 180 days following notification to the Commission of such placement. The parolee shall receive notice of the pending review, and shall be permitted to submit a written application containing information relative to the disposition of the warrant. He shall also be notified of his right to request counsel under the provisions of § 2.48(b) to assist him in completing his written application.

(b) Following a dispositional review under this section, the Regional Commissioner may:

(1) Let the detainer stand and order further review at an appropriate time;

(2) Withdraw the detainer and: (i) Order reinstatement of the parolee to supervision upon release from custody, or (ii) Close the case if the expiration date has passed;

(3) Order a revocation hearing to be conducted by a hearing examiner or an official designated by the regional Commissioner at the institution in which the parolee is confined.

Following a revocation hearing conducted pursuant to this section, the Commission may take any action specified at § 2.52 including the ordering of concurrent or consecutive service of all or part of any violator term imposed. Such revocation hearing shall be conducted under the applicable procedures at § 2.50, and the parolee may be represented by his own or appointed counsel as provided in § 2.48(b).

(c) It shall be the general policy of the Commission that, in the absence of substantial mitigating circumstances the violator term of a parolee convicted of a new offense subsequent to release on parole shall run consecutively to any term imposed for the new offense.

§ 2.48 Revocation by the Commission, preliminary interview.

(a) *Interviewing Officer.* A parolee who is retaken on a warrant issued by a Commissioner shall be given a preliminary interview by an official designated by the Regional Commissioner to enable the Commission to determine if there is probable cause to believe that the parolee has violated his parole as charged, and if so, whether a revocation hearing should be conducted. The official designated to conduct the preliminary interview may be a United States Probation Officer in the district where the prisoner is confined, provided he is not the officer who recommended that the warrant be issued.

(b) *Notice and Opportunity to Postpone Interview.* At the beginning of the preliminary interview, the interviewing officer shall ascertain that the Warrant Application has been given to the prisoner as required by § 2.46(b), and shall advise the prisoner that he may have the preliminary interview postponed in order to obtain representation by an attorney or arrange for the attendance of witnesses. The prisoner shall also be advised that if he cannot afford to retain an attorney he may apply to a United

States District Court for appointment of counsel to represent him at the preliminary interview and the revocation hearing pursuant to 18 U.S.C. 3006A. In addition, the prisoner may request the Commission to obtain the presence of persons who have given information upon which revocation may be based. Such adverse witnesses shall be requested to attend the preliminary interview unless the prisoner admits a violation or has been convicted of a new offense while on supervision or unless the interviewing officer finds good cause for their non-attendance. Pursuant to § 2.49(a) a subpoena may issue for the appearance of adverse witnesses or the production of documents.

(c) *Review of the charges.* At the preliminary interview, the interviewing officer shall review the violation charges with the prisoner, apprise the prisoner of the evidence which has been presented to the Commission, receive the statements of witnesses and documentary evidence on behalf of the prisoner, and allow cross-examination of those witnesses in attendance. Disclosure of the evidence presented to the Commission shall be made pursuant to § 2.50(e).

(d) At the conclusion of the preliminary interview, the interviewing officer shall inform the parolee of his recommended decision as to whether there is probable cause to believe that the parolee has violated the conditions of his release, and shall submit to the Commission a digest of the interview together with his recommended decision.

(1) If the interviewing officer's recommended decision is that no probable cause may be found to believe that the parolee has violated the conditions of his release, the responsible regional Commissioner shall review such recommended decision and notify the parolee of his final decision concerning probable cause as expeditiously as possible following receipt of the interviewing officer's digest. A decision to release the parolee shall be implemented without delay.

(2) If the interviewing officer's recommended decision is that probable cause may be found to believe that the parolee has violated a condition (or conditions) of his release, the responsible regional Commissioner shall notify the parolee of his final decision concerning probable cause within 21 days of the date of the preliminary interview.

(3) Notice to the parolee of any final decision of a regional Commissioner finding probable cause and ordering a revocation hearing shall state the charges upon which probable cause has been found and the evidence relied upon.

(e) Release notwithstanding probable cause: If the Commission finds probable cause to believe that the parolee has violated the conditions of his release, reinstatement to supervision or release pending further proceeding may nonetheless be ordered if it is determined that:

(1) Continuation of revocation proceedings is not warranted despite the violations found; or

(2) Incarceration pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations, and that the parolee is not likely to fail to appear for further proceedings, and that the parolee does not constitute a danger to himself or others.

(f) Conviction as probable cause: Conviction of a Federal, State, or Local crime committed subsequent to release on parole or mandatory release shall constitute probable cause for the purposes of this section and no preliminary interview shall be conducted unless otherwise ordered by the regional Commissioner.

(g) Local revocation hearing: A postponed preliminary interview may be conducted as a local revocation hearing by an examiner panel or other interviewing officer designated by the regional Commissioner provided that the prisoner has been advised that the postponed preliminary interview will constitute his final revocation hearing.

§ 2.49 Place of revocation hearing.

(a) If the prisoner requests a local revocation hearing, he shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, if the following conditions are met:

(1) The prisoner has not been convicted of a crime committed while under supervision; and

(2) The prisoner denies that he has violated any condition of his release.

(b) If there are two or more alleged violations, the hearing may be conducted near the place of the violation chiefly relied upon as a basis for the issuance of the warrant or summons as determined by the regional Commissioner.

(c) A prisoner who voluntarily waives his right to a local revocation hearing, or who admits any violation of his release, or who is retaken following conviction of a new crime, shall be given a revocation hearing upon his return to a Federal institution. However, the Regional Commissioner may, on his own motion, designate a case for a local revocation hearing.

(d) A prisoner retaken on a warrant issued by the Commission shall be retained in custody until final action relative to revocation of his release, unless otherwise ordered by the regional Commissioner under § 2.48(d)(2). A parolee who has been given a revocation hearing pursuant to the issuance of a summons under § 2.44 shall remain on supervision pending the decision of the Commission.

(e) Local revocation hearings shall be scheduled to be held within sixty days of the probable cause determination. Institutional revocation hearings shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the prisoner was retaken. However, if a prisoner requests and receives any postponement of his preliminary interview or revocation hearing, or consents to a postponed revocation proceeding initiated by the Commission; or if a prisoner by his actions otherwise precludes the prompt conduct of such proceedings, the above stated time limits may be extended.

§ 2.50 Revocation hearing procedure.

(a) A revocation hearing shall be conducted by a hearing examiner panel or, in a local revocation hearing only, may be conducted by another official designated by the Regional Commissioner. In the case of a revocation hearing conducted by such other official or in the case of a revocation hearing conducted by a single examiner pursuant to § 2.47, a recommendation relative to revocation shall be made by the concurrence of two examiners on the basis of a review of the record. A revocation decision may be appealed under the provisions of § 2.25 and § 2.26, or § 2.27 as applicable.

(b) The purpose of the revocation hearing shall be to determine whether the prisoner has violated the conditions of his release and, if so, whether his parole or mandatory release should be revoked or reinstated.

(c) The alleged violator may present witnesses and documentary evidence in his behalf. However, the presiding hearing officer or examiner panel may limit or exclude any irrelevant or repetitious statement or documentary evidence.

(d) At a local revocation hearing, the Commission may on the request of the alleged violator or on its own motion, request the attendance of persons who have given statements upon which revocation may be based. Those witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator unless the presiding hearing officer or examiner panel finds good cause for their non-attendance. Adverse witnesses will not be requested to appear at institutional revocation hearings.

(e) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at the revocation hearing. The hearing officer or examiner panel may disclose documentary evidence by permitting the alleged violator to examine the document during the hearing, or where appropriate, by reading or summarizing the document in the presence of the alleged violator.

(f) In lieu of an attorney, an alleged violator may be represented at a revocation hearing by a person of his choice. However, the role of such non-attorney representative shall be limited to offering a statement on the alleged violator's behalf with regard to reparole or reinstatement to supervision.

§ 2.51 Issuance of a subpoena for the appearance of witnesses or production of documents.

(a)(1) Preliminary Interview or Local Revocation Hearing: If any person who has given information upon which revocation may be based refuses, upon request by the Commission to appear, the regional Commissioner may issue a subpoena for the appearance of such witness. Such subpoena may also be issued at the discretion of the regional Commissioner in the event such adverse witness is judged unlikely to appear as requested.

(2) In addition, the regional Commissioner may, upon his own motion or upon a showing by the parolee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) Both such subpoenas may also be issued at the discretion of the regional Commissioner if it is deemed necessary for orderly processing of the case.

(b) A subpoena issued pursuant to paragraph (a) of this section above may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district in which the parole proceeding is being conducted, or in which such person may be found, to require such person to appear, testify, or produce evidence. The court may issue an order requiring such person to appear before the Commission, and failure to obey such an order is punishable by contempt.

§ 2.52 Revocation of parole or mandatory release.

(a) Whenever a parolee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence, that the parolee has violated a condition of the parole, the Commission may take any of the following actions:

(1) Restore the parolee to supervision including where appropriate: (i) Reprimand (ii) Modification of the parolee's conditions of release (iii) Referral to a residential community treatment center for all or part of the remainder of his original sentence; or

(2) Revoke parole.

(b) If parole is revoked pursuant to this section, the Commission shall also determine, on the basis of the revocation hearing, whether reparole is warranted or whether the prisoner should be continued for further review.

(c) A parolee whose release is revoked by the Commission will receive credit on service of his sentence for time spent under supervision, except as provided below:

(1) If the Commission finds that such parolee intentionally refused or failed to respond to any reasonable request, order, summons or warrant of the Commission or any agent thereof, the Commission may order the forfeiture of the time during which the parolee so refused or failed to respond, and such time shall not be credited to service of the sentence.

(2) If the parolee has been convicted of a new offense committed subsequent to his release on parole, which is punishable by a term of imprisonment, forfeiture of the time from the date of such release to the date of execution of the warrant shall be ordered, and such time shall not be credited to service of the sentence. An actual term of confinement or imprisonment need not have been imposed for such conviction; it suffices that the statute under which the parolee was convicted permits that trial court to impose any term of confinement or imprisonment in any penal facility. If such conviction occurs subsequent to a revocation hearing (i) which the Commission makes an independent finding of violation of conditions of parole), the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate. However, in no event shall the violator term imposed under this subsection, taken together with the time served before release, exceed the total length of the original sentence.

(d)(1) Notwithstanding the above, prisoners committed under the Narcotic Addict Rehabilitation Act or the Youth Corrections Act shall not be subject to any forfeiture provision, but shall serve uninterrupted sentences from the date of conviction, except as provided in § 2.10 (b) and (c).

(2) The commitment of a juvenile offender under the Federal Juvenile Delinquency Act may not be extended past the offender's twenty-first birthday unless the juvenile has attained his nineteenth birthday at the time of his commitment, in which case his commitment shall not exceed the lesser of two years or the maximum term which could have been imposed on an adult convicted of the same offense.

§ 2.53 Mandatory parole.

(a) A prisoner (including a prisoner sentenced under the Narcotic Addiction Rehabilitation Act, Federal Juvenile Delinquency Act, or the provisions of 5010 (c) of the Youth Corrections Act) serving a term or terms of five years or longer shall be released on parole after completion of two-thirds of each consecutive term or terms or after completion of thirty years of each term or terms of more than 45 years (including life terms), whichever comes earlier, unless pursuant to a hearing under this section, the Commission determines that there is a reasonable probability that the prisoner will commit any Federal, State, or local crime or that the prisoner has frequently or seriously violated the rules of the institution in which he is confined. If parole is denied pursuant to this section such prisoner shall serve until the expiration of his sentence less good time. The forfeiture of statutory good time shall be deemed in itself to indicate that the prisoner has frequently or seriously violated the rules of the institution or institutions in which he has been confined.

(b) When feasible, at least sixty days prior to the scheduled two-thirds date, a review of the record shall be conducted by an examiner panel. If a mandatory parole is ordered following this review no hearing shall be conducted.

(c) A prisoner released on mandatory parole pursuant to this section shall remain under supervision until the expiration of the full term of his sentence unless the Commission terminates parole supervision pursuant to § 2.43 prior to the full term date of the sentence.

(d) A prisoner whose parole has been revoked and whose parole violator term is five years or more shall be eligible for mandatory parole under the provisions of this section upon completion of two-thirds of the violator term and shall be considered for mandatory parole under the same terms as any other eligible prisoners.

§ 2.54 Reviews pursuant to 18 U.S.C. 4203/4215.

(a) The Attorney General, within thirty days after entry of a Regional Commissioner's decision, may request in writing that the National Appeals Board review such decision. Within sixty days of the receipt of the request the National Appeals Board shall, upon the concurrence of two members, affirm, modify or reverse the decision, or order a rehearing at the institution or regional level. The Attorney General and the prisoner affected shall be informed in writing of the decision, and the reasons therefor.

(b) Notwithstanding the above provision, the Commission, by majority vote, may, upon its own motion, review any decision of a Regional Commissioner relative to grant or denial of parole, imposition of parole conditions or revocation of parole, upon the receipt of new and significant information. Referrals for this purpose may be made by not less than three Commissioners. Such review by the Commission must be made within thirty days following the entry of the decision by the Regional Commissioner. Following the review the Commission shall inform the affected prisoner in writing of its action and, if parole is denied, the reasons therefor.

(c) Notwithstanding the provisions of §§ 2.23–2.26 and § 2.28, any decision made by a Regional Commissioner or the National Appeals Board shall, upon the petition of not less than three Commissioners, be referred to the full Commission for review and, by majority vote, affirmed, modified, or reversed. Such petition must be submitted to the Chairman of the Commission and be acted upon by the Commission not later than 30 days from the date of entry of the decision to be reviewed. The prisoner shall receive a written, notice of this referral, which shall stay the decision in his case until such review has been completed. Following review by the full Commission, the prisoner shall be informed in writing of the Commission's decision and, if parole is denied, of the reasons therefor.

§ 2.55 Disclosure of Records.

(a) Prior to an initial parole hearing conducted pursuant to § 2.13 or any review hearing thereafter, a prisoner may review reports and other documents in the institution file which will be considered by the Commission at his parole hearing. These documents are generally limited to official reports bearing on the prisoner's offense behavior, personal history, and institutional progress. Review of such reports shall be permitted by the Bureau of Prisons pursuant to its regulations within seven days of a request by the prisoner, except that in the case of reports which must be sent to the originating agency for clearance pursuant to paragraph (c) of this section, a reasonable amount of time shall be permitted to obtain such clearance. Copies of reports and documents may be furnished under applicable Bureau of Prisons regulations.

(b) A report shall not be disclosed to the extent it contains:

(1) Diagnostic opinions which, if known to the prisoner, could lead to a serious disruption of his institutional program;

(2) Material which would reveal sources of information obtained upon a promise of confidentiality; or

(3) Any other information which, if disclosed, might result in harm, physical or otherwise, to any person. The term "otherwise" shall be deemed to include the legitimate privacy interests of such person under the Privacy Act of 1974.

(c) It shall be the duty of the agency which originated any report or document referred to in paragraph (a) of this section to determine whether or not to apply any of the exceptions to disclose set forth in paragraph (b) of this section. If any report or portion thereof is deemed by the originating agency to fall within an exception to disclosure, such agency shall prepare and furnish for inclusion in the institution file a summary of the basic contents of the material to be withheld, bearing in mind the need for confidentiality or impact on the prisoner, or both. In the case of a report prepared by an agency other than the Bureau of Prisons, the Bureau shall refer such report to the originating agency for a determination relative to disclosure, if the report has not been previously cleared or prepared for disclosure.

(d) Upon request by the prisoner, the Commission shall make available a copy of any record which it has retained of a parole or parole revocation hearing pursuant to 18 U.S.C. 4208(f).

(e) Except for deliberative memoranda referred to in paragraph (f) of this section, reports or documents received at regional offices which may be considered by the Commission at any proceeding shall be forwarded for inclusion in the prisoner's institutional file so that he may review them pursuant to paragraph (a) of this section. Such reports will first be referred by the Commission to originating agencies pursuant to paragraph (c) of this section for a determination relative to disclosure if the report has not previously been cleared or prepared for disclosure.

(f) Duplicate copies of records in a prisoner's institutional file as well as deliberative memoranda among Commission Members or staff which do not contain new factual information relative to the parole release determination are retained in Parole Commission regional office files following initial hearing. Records maintained in these files, shall be made available to prisoners, parolees, mandatory releasees, their authorized representative and members of the public upon written request in accordance with applicable law and Department of Justice regulations at 28 CFR Part 16, Subparts C & D. The Commission reserves the right to invoke statutory exemptions to disclosure of its files in appropriate cases under the Freedom of Information Act or Privacy Act text provisions and Alternate Means of Access.

§ 2.56 Special parole terms.

(a) The Drug Abuse Prevention and Control Act, 21 U.S.C. 801 to 966, provides that, on conviction of certain offenses, mandatory "special parole terms" must be imposed by the court as part of the sentence. This term is an additional period of supervision which follows the completion of the regular sentence (including competition of any period on parole or mandatory release).

(b) At the time of release under the regular sentence, whether under full term expiration or under a mandatory release certificate or a parole certificate, a separate Special Parole Term certificate will be issued to the prisoner by the Bureau of Prisons.

(c) Should a releasee be found to have violated conditions of release during supervision under his regular sentence, i.e., before commencement of the Special Parole Term, he will be returned as a violator of his basic supervision period under his regular sentence; the Special Parole Term will follow unaffected, as in paragraph (a) of this section. Should a releasee violate conditions of release during the Special Parole Term he will be subject to revocation on the Special Parole Term as provided in § 2.52, and subject to reparole or mandatory release under the Special Parole Term:

(d) If the prisoner is reparoled under the revoked Special Parole Term a certificate of parole to Special Parole Term is issued by the Commission. If the inmate is mandatorily released under the revoked "special parole term" a certificate of mandatory release to Special Parole Term will be issued by the Bureau of Prisons.

(e) If the prisoner is terminated from regular parole under § 2.43, the Special Parole Term commences to run at that point in time. Early termination from supervision from a Special Parole Term may occur as in the case of a regular parole term, except that the time periods considered shall commence from the beginning of the Special Parole Term.

§ 2.57 Prior orders.

Any order of the United States Board of Parole entered prior to May 14, 1976, including, but not limited to, orders granting, denying, rescinding or revoking parole or mandatory release, shall be a valid order of the United States Parole Commission according to the terms stated in the order.

§ 2.58 Absence of hearing examiner.

In the absence of a hearing examiner, a regional commissioner may exercise the authority delegated to hearing examiners in § 2.23.

§ 2.59 Appointment of committees.

The Chairman shall appoint four permanent committees, as follows: (a) Policy, (b) Budget, (c) Personnel and training, (d) Research, and in addition such ad hoc committees as may from time to time be approved by a majority of the Commissioners, to study, review, and recommend to the Commission and Chairman regarding policies and procedures of the Commission. Such Committees shall be appointed from among the Commissioners.

[FR Doc.77-22623 Filed 8-4-77;8:45 am]

Federal Register

FRIDAY, AUGUST 5, 1977

PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Annual Operating Plan for FY 1978

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Annual Operating Plan for FY 1978

PUBLICATION FOR COMMENT

The Office for Civil Rights (OCR) is issuing its proposed FY 1978 Annual Operating Plan for public comment. The plan, set forth in detail in the accompanying narrative and charts, establishes the numbers of complaint investigations, compliance reviews, and the other related activities which will be conducted by the investigative, managerial, and non-clerical support staff of OCR's Headquarters and ten Regional offices.

Responses to OCR's solicitation for comments should be received no later than September 6, 1977, and should be addressed to:

Director
Office for Civil Rights
Department of Health, Education, and Welfare
Washington, D.C. 20201

OCR will review its proposed plan in light of the comments received and, within the overall staffing levels included in the plan, will revise the plan to reflect suggestions which have merit. Commentators who recommend OCR undertake activities in addition to those proposed in the plan are urged to indicate the specific activity they would displace, together with the reason for their position, or to identify the specific area to be changed and the impact of that change on the remaining elements of the proposed plan.

Persons seeking clarification of any of the provisions of the proposed plan may contact the Office for Civil Rights, at the above address.

DAVID S. TATEL,
Director.

AUGUST 1, 1977.

OFFICE FOR CIVIL RIGHTS

PROPOSED ANNUAL OPERATING PLAN FOR FY 1978

I. Purpose

The Office for Civil Rights (OCR) within the Office of the Secretary is responsible for assuring that Federally assisted programs are free from unlawful discrimination. The Annual Operating Plan (AOP) represented in the narrative and charts below describes the compliance and compliance related activities OCR will undertake in FY 1978 to carry out that responsibility.

II. Jurisdiction

OCR is charged with enforcing the following statutes and executive orders as they relate to the expenditures of HEW funds:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities;

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs;

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified handicapped persons on the basis of physical or mental handicap in federally assisted programs;

Sections 799A and 855 of the Public Health Service Act, which require that schools of medicine and nurse training, as a condition of receiving Federal support, must provide assurances that there is no discrimination on the basis of sex in admissions;

Executive Order 11246, as amended, which prohibits employment discrimination on the basis of race, color, sex, religion, and national origin and requires affirmative action on the part of Federal contractors and subcontractors;

Title VII of the Education Amendments of 1972 (referred to as the Emergency School Aid Act or ESAA), which provides aid to desegregating institutions;

Age Discrimination Act of 1975, which prohibits discrimination in all federally funded programs on the basis of an individual's age.

III. Balanced Compliance Program

OCR has established as its goal for FY 1978 the conduct of a balanced compliance program designed in view of existing resources to be responsive to the needs of all protected groups served by all institutions and programs over which OCR has jurisdiction. There are two major assumptions underlying the development of this annual operating plan. First, it is OCR's best judgment regarding the implementation of a balanced enforcement program that 55 percent of the total investigative time should be assigned to complaint investigations and 45 percent to compliance reviews. Reserving 45 percent of the time for reviews allows OCR the flexibility to conduct OCR selected compliance reviews as well as pre-grant and pre-award reviews required by law.

Second, OCR recognizes that limiting the resources assigned to complaint processing will result in an increase in the backlog of complaints. However, OCR intends to insure that this resulting increase in the backlog is only a short-term phenomenon. Through increased resources and efficiencies, OCR plans to attempt to reduce the backlog and become current in complaint processing by the end of fiscal year 1980 or 1981. Last year's Annual Operating Plan which indicated that the backlog could be reduced by the end of this fiscal year, was totally unrealistic and disregarded OCR's other lawful responsibilities. The proposed fiscal year 1978 operating plan, unlike last year's, represents an effort to utilize existing resources to fulfill OCR obligations to complainants and at the same time to fulfill other statutory responsibilities. The principle of this plan, together with similar plans for future fiscal years, which will reflect increased resources and efficiencies, will lay the ground work for the elimination of the complaint backlog and the permanent installation of a balanced and responsible enforcement program. The annual operating plan for FY 1978 represents an effort to use resources to meet OCR's obligations to complainants in the fairest and most expeditious manner possible and, at the same time, allow OCR to carry out its other statutory responsibilities.

The essential elements of a balanced compliance program are:

Compliance reviews;
Pre-award and pre-grant reviews;
Complaint investigations; and
Expansion of civil rights responsibilities into all HEW programs.

Balance will be achieved by distributing staff resources and determining numbers of activities to be conducted in a manner that insures coverage of all of OCR's legislative and executive order authorities and all types of recipients/contractors (for example, public school districts, colleges and universities, vocational schools and programs, hospitals, nursing homes, medical laboratories, and various state and local government agencies receiving Federal financial assistance). Since complaint investigations and pre-funding reviews are limited in scope, compliance reviews will be planned and scheduled to include those issues, jurisdictions, and protected groups which would not otherwise be addressed or which would receive inadequate attention were OCR's activities limited to complaint activities.

The actual numbers of activities to be conducted are computed on a total expected OCR staff of 1102 positions[1] in FY 1978. Subtracted from this total is a 3 percent vacancy rate considered acceptable by the Office of Management and Budget. The staffing figures in the plan indicate professional staff only.

IV. Compliance Program

A. Complaint Investigations.—A complaint is an allegation that an HEW contractor or a recipient of HEW funds has violated one or several of the legal authorities OCR is responsible for enforcing by discriminating against an individual or group of individuals. OCR will begin FY 1978 with a backlog of approximately 3025 complaints. During the fiscal year, it expects to receive an additional 2455 complaints. By allocating 232 person years or 55 percent of its total investigative staff, OCR will be able to resolve 42 percent of the backlog and will investigate 10 percent of the new receipts, or a total of 1501 complaints. Within the total staff allocation for complaints, the distribution of resources to the regions to conduct complaint investigations will be based on each region's proportion of the total complaints on hand as of October 1, 1977, and the total number of complaints expected to be received during the fiscal year.

During FY 1978, each regional office will first bring to completion all complaint investigations active on the first of October. All remaining complaints (backlogged and new receipts) will be divided by enforcement area (race, national origin, sex, and handicap), and investigative resources allocated in proportion to the number of complaints in each enforcement area. For example, if 25 percent of a regional office's complaints allege national origin discrimination, then 25 percent of that office's complaint investigation staff, remaining after the assignment of staff to active complaints, will be allocated to the investigation of national origin complaints. Within the proportions established for each regional office, OCR will investigate backlogged and newly received complaints on a one-to-one ratio and within these categories, in chronological order by date of receipt. The proportions for each regional office will be revised on a semi-annual basis and the allocation of resources altered to conform to changes in the proportions. Certain complaint investigations will be consolidated as follows:

1. Before any complaint investigation is initiated, the Regional Office will determine if there are other similar allegations on hand against the same recipient/contractor. If so, all such complaints will be consolidated into one investigation.

2. If a compliance review of a recipient/contractor is scheduled, investigation of all outstanding complaints against the recipient/contractor will be incorporated into the review.

During FY 1978, OCR will concentrate heavily on developing new techniques for increasing complaint handling efficiency. Revised Complaint Handling Procedures, improved work measurements, better policy articulation, improved training, and new approaches to resolving complaints will help OCR reduce its backlog and handle new complaints more efficiently and expeditiously.

B. Pre-Funding Activity.—Under Federal law and executive order OCR, is responsible for conducting a variety of pre-funding reviews. Pre-grant reviews are required to ensure compliance with the civil rights requirements of Section 706 of the Emergency School Aid Act (ESAA). During FY 1978, OCR will allocate 61.44 investigative person years to the processing of ESAA applications, including Title VI action on ineligible or waiver-denied applicant school districts. Routine health and human development pre-grant clearances relevant to Title VI compliance will require a total of 15.5 person years during FY 1978. Also since under Executive Order 11246, OCR has been designated a compliance agency by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), 16.1 investigative person years will be devoted to the conduct of pre-award reviews to determine the equal employment compliance status of prospective recipients of HEW contracts in excess of $1 million. In addition to these three specific areas of pre-funding activity, OCR will be working with the HEW principal operating components (POC's) through OCR's new Office of Program Review and Assistance to develop uniform, effective pre-grant review procedures for the Department's funding programs.

C. Compliance Reviews.—A compliance review is an OCR initiated investigation of the policies and practices of a recipient of Federal funds to determine whether that recipient is in compliance with the legal authorities OCR enforces. Unlike a complaint investigation or a required pre-funding review, a compliance review allows OCR to select the site of an investigation, the jurisdiction(s) under which the investigation will be conducted, and the issue(s) the investigation will include. Thus, compliance reviews provide OCR with a tool essential to addressing those areas of discrimination not targeted by complaints or pre-grant reviews.

During FY 1978, OCR will conduct 185 compliance reviews requiring a staff allocation of approximately 113 investigative person years. Investigative staff from the regional offices as well as staff from the headquarters Compliance and Enforcement Office's Compliance Program Branch will participate in the investigations, assisted by staff from the Office of Policy, Planning and Research where policy and procedures are not firmly established.

The reviews will be geographically disbursed and, on a national level, will cover a comprehensive range of issues in all program areas and under all jurisdictional authorities. The selection of the actual issues and jurisdictions to be covered will be made following an assessment of the issues and jurisdictions covered in the complaint investigations and pre-funding reviews to be conducted. Types of recipients and issues to be addressed in compliance reviews include:

Program area	Recipient	Issue
Elementary and secondary education.	State education agencies	Potential discriminatory impact of all policies affecting the treatment of students and the employment of faculty by SEA's.
		Employment within agency.
	Vocational/technical schools	Admission to schools.
		Admission to programs.
	Nonvocational/technical State administered schools.	Admission to schools.
		Admission to programs.
	Local education agencies.	Discipline.
		Special education.
		Migrant education.
Higher education	State education agencies which administer formerly dual systems.	Failure to eliminate vestiges of formal racial duality.
		Potential discriminatory impact of all policies affecting the treatment of students and employment of staff and faculty by public higher education institutions.
		Agency employment.
	Other State education agencies	Potential discriminatory impact of policies.
		Agency employment.
	Professional schools	Admissions.
		Retention.
		Supportive services.
	Graduate schools (nonprofessional)	Admissions.
		Retention.
		Supportive services.
	Undergraduate schools	Admissions.
		Retention.
		Supportive services.
		Employment.
	Community colleges	Retention.
		Supportive services.
		Employment.
Nonprofit organizations.		Do.
Health and human development.	Residential health facilities, (e.g., hospitals, nursing homes).	Site selection.
		Access to facilities.
		Room assignment.
		Comparability of treatment.
	Nonresidential health and human development facilities (e.g., family health centers, vocational rehabilitation centers and work shops).	Site selection.
		Access to facilities.
		Access to services.
		Delivery of services.
	State and local health and human development agencies.	Policies affecting the location and provision of services.
		Adequacy of monitoring vendors.
		Adequacy of complaint handling procedures.

During the fiscal year, OCR will also complete 44 on-going elementary and secondary education Title VI reviews specifically aimed at ensuring equal educational opportunity for non-native English speakers (commonly referred to as *Lau* reviews) and will continue, subject to careful reevaluation and possible limitation, the comprehensive reviews of the public school systems in New York City, Philadelphia, Chicago, and Los Angeles now underway. In addition, OCR will conduct Title VI student assignment reviews where evidence indicates that unconstitutional segregation or its effects exists and where constitutionally acceptable remedies are achievable. These reviews will cover Title IX and Section 504 issues as well.

V. Support

Conduct of the compliance activities described in IV above requires a variety of regional and headquarters support staff. While, with few exceptions, these staff will not participate directly in the conduct of reviews and investigations, they will provide the management and staff support necessary to the full development and implementation of the balanced compliance program. The descriptions below are not meant to be exhaustive, nor do they delineate all of the

[1] This is the staffing level expected to be authorized by Congress. However, the Office of Management and Budget job ceilings may prevent OCR from attaining the authorized level. Accordingly, the activities projected in this AOP may have to be reduced to reflect actual staffing levels.

functions to be performed by the staff. They are meant only to explain the activities which are most critical to the implementation of the compliance program.

A. Regional Management and Professional Support Staff. This staff of 111 provides overall regional office management and management support, including reporting, assessments of regional progress, evaluations of compliance activities, provision of data collection services, provision of administrative support services, and coordination of the correspondence of the regional office, which is largely prepared by the regional investigative staffs.

B. Headquarters Staff.

Unit	Professional staff
Office of the Director	4
Executive Secretariat	3
Office of Inter-Governmental Affairs	8
Office of Public Affairs	7
Office of the Assistant Director, Administration and Management	27
Office of the Deputy Director, Compliance and Enforcement	3
Division of Operational Planning and Support	7
Division of Technical Review and Assistance	65
Division of Training	10
Office of the Associate Director, Policy, Planning and Research	2
Division of Policy and Procedures	32
Division of Planning and Research	12
Office of the Deputy Director, Program Review and Assistance	2
Division of Program Planning and Appraisal	8
Division of Intra-Departmental Technical Assistance	13
Total	203

1. Director.—In addition to the Director, the staff will include the Executive Secretariat responsible for document control; the Office of Public Affairs responsible for planning and directing a comprehensive civil rights public information program; and the Office of Inter-Governmental Affairs responsible for liaison with the Congress, Federal Departments and agencies, and State and local governments and their representative organizations. All three of these offices are responsible for coordinating the preparation of responses to the large volume of congressional, governmental, and other correspondence received by OCR; much of the actual letterwriting is done by the staffs of the operational and policy divisions.

2. Administration and Management.—This staff will provide financial management and personnel and supply services, as well as support of information systems (the automated case tracking system and the other elements of the overall information management system). In addition to providing management analysis, the staff will coordinate the development of the short-term and annual operating plans.

3. Compliance and Enforcement.—This office will provide a wide range of support services to the compliance program and will be the direct link between headquarters and the regions. Staff will oversee the conduct of the compliance activities to ensure that all policies, procedures, and standards are uniformly and effectively implemented. They will also provide direct technical assistance to the regions in the development of cases. Approximately one-third of the staff will participate in the compliance reviews conducted by the regions.

The staff assigned to training will develop, maintain, and administer an OCR staff training program. FY 1978 will be the first year of implementation of an intensive training program designed to provide staff with the skills necessary to implement an effective compliance program. This first year will focus on investigation and negotiation skills development.

4. Policy, Planning and Research.—Roughly two thirds of this staff will be devoted to the development of policies and procedures. Organized by type of discrimination (age, sex, race, handicap) and by function (legislative analysis, dissemination), this staff will concentrate its efforts on developing policies and procedures in all areas, including but not limited to:

Complaint investigation and compliance review procedures.
Guidelines for state health and human development agencies.
Anti-discrimination provisions for the location of health and human development facilities and services.
Policy on vocational education programs.
Policy on discipline in schools.
Title IX policies.
Guidelines, standards, and remedies for language barrier problems in all facilities.
Procedures for monitoring corrective action agreements.
Policy on recipient/contractor record keeping.
Procedures for full implementation of the 504 regulation.

The remaining staff will be responsible for long range planning, research and evaluation, and the design and conduct of surveys and other bulk data collection activities. Projects stemming from this last activity may, subject to the availability of funds, include: the Adams Higher Education state plan evaluation instrument, the survey of college and university enrollments and degrees conferred, the comprehensive urban review data collection efforts, vocational education survey, special school survey, planning and development of a comprehensive health and human development survey, and the elementary and secondary education survey.

In addition, staff will provide data collection and analysis support in the development of individual cases.

5. Program Review and Assistance.—This office, created in FY 1977, is to carry out the new efforts of the Department to infuse civil rights responsibilities into the activities of the HEW program agencies (principal operating components or POC's). It is these agencies that have direct contact with the recipients and beneficiaries of Federal funds. The staff will concentrate their FY 1978 efforts on developing and promoting civil rights responsibilities and providing technical assistance. The focus will be on those operating agencies which have the most critical civil rights responsibilities.

Specific objectives to be accomplished in FY 1978 include:

1. Develop and implement a Self-Assessment Guide with POC's.
2. Develop short and long range goals for OCR, POC civil rights initiatives.
3. Develop a civil rights orientation program for POC program and contracting officers.
4. Develop pre-award grant and contract clearance procedures to be implemented jointly by POC's and OCR.
5. Participate in the revision of the procurement manual used by POC's.
6. Develop consolidated language for all assurances required in grant applications and in contracts.
7. Establish a process for OCR clearance of Vocational Education State Plans.
8. Coordinate, with the POC's, the 504 technical assistance effort of the Department.
9. Develop and implement the initial phase of an OCR/POC technical assistance, education and advocacy program.

C. General Counsel.

Unit:	Professional staff
Headquarters	33
Regions	36
Total	69

The staff of the Civil Rights Division of the Office of the General Counsel (OGC) work in direct support of OCR's compliance program. In addition to OGC involvement in preparing a case for and following it through the administrative enforcement process, emphasis will be placed on OGC involvement in all aspects of OCR's program, including participation in the development and conduct of reviews and investigations, reviews of pertinent legislation and regulations, provision of formal opinions, and participation in the development of policies and procedures.

VI. Work Measurement

To determine investigative staff requirements for complaint and review activity, standard times for each type of activity were computed and then applied against the number of activities to be performed during FY 1978.

The standard time for complaints is 44 person days per investigation. This is an average. The actual work time required to process any one given complaint can vary from as little as a day to as much as the equivalent of several months, depending on the nature of the allegation. OCR has set a goal to increase its efficiency in the investigation of complaints by 30 percent by the end of the fiscal year. Since this goal will be attained throughout the year, the numbers of new investigations planned for FY 1978 reflect an overall increase of 15 percent.

The standard times for reviews are as follows:

Type:	Person days per review
ESAA applications	14
Executive order 11246 preaward revisions.	23
Lau reviews	20
Brown reviews	406
State elementary and secondary education agencies.	118
Vocational/technical schools	84
Health pre-grant reviews	1
Monitoring of Adams State higher education systems.	84
Nonvocational technical State administered elementary and secondary education schools.	84
Elementary and secondary school district discipline practices.	62
Elementary and secondary school district special education programs.	46
Elementary and secondary school district migrant education practices.	76
Formerly dual State higher education systems.	169
Other State higher education systems.	157
Professional schools	105
Graduate schools	105
Undergraduate schools	111
Community colleges	105
Nonprofit organizations	81
Residential health facilities	118
Nonresidential health and human development facilities.	35
State and local health and human development agencies.	149

The time required to conduct any given review depends on the number of issues investigated and the number of jurisdictional authorities covered. The standard times above assume that each type of review listed will cover the issues delineated in Section III and will be conducted under all applicable authorities.

The final standard times for both complaints and reviews shown on the activity charts are stated in person years. A person year contains 169 person days, that figure representing the number of days available to each investigator for complaint and review activity. The 169-day figure was derived by subtracting from the total working days available in a year, Federal holidays, average annual and sick leave, and an average of days an investigator can be expected to spend performing other activities not directly related to the conduct of specific complaint investigations and reviews, such as providing technical assistance, answering non-case related correspondence, attending meetings and conferences, and participating in training. During FY 1978 efforts will be made to reduce the amount of time spent by investigators on non-case related activities. In addition, for all activities on the charts on which some investigative work will have been completed prior to October 1, the standard times have been reduced by 50 percent.

VII. AOP Monitoring and Adjustment

OCR will regularly monitor progress under the AOP. At the end of the second quarter of the fiscal year it will revise the second six months of the plan as required by assessments of the first six months. The revising will include both the numbers and kinds of activities and the time measures used. For example, if incoming complaints are being received at a rate different than expected at the beginning of the fiscal year, the proportions will be recomputed; or if the standard times previously estimated for completing compliance activities were inaccurate, they will likewise be recomputed and built into the plan.

SUMMARY

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	344	44.02	82	18.14	77	17.04	503	79.20
SEX	504	59.25	82	18.17	80	17.72	666	95.14
NATIONAL ORIGIN	104	13.46	22	4.87	23	5.09	149	23.42
HANDICAP	70	9.10	56	12.41	57	12.63	183	34.14
TOTALS	1022	125.83	242	53.59	237	52.48	1501	231.90

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION I

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	20	2.60	2	.44	2	.44	24	3.48
SEX	22	3.97	6	1.33	6	1.33	34	6.63
NATIONAL ORIGIN	1	.13	1	.22	1	.22	3	.57
HANDICAP	4	.52	1	.22	1	.22	6	.96
TOTALS	47	7.22	10	2.21	10	2.21	67	11.64

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION II

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	27	3.51	14	3.10	13	2.88	54	9.49
SEX	34	4.42	12	2.66	12	2.66	58	9.74
NATIONAL ORIGIN	5	.65	5	1.12	5	1.12	15	2.89
HANDICAP	10	1.30	10	2.21	10	2.21	30	5.72
TOTALS	76	9.88	41	9.09	40	8.87	157	27.84

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION III

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	21	2.73	9	1.99	8	1.77	38	6.49
SEX	38	3.38	8	1.77	7	1.55	53	6.70
NATIONAL ORIGIN	8	1.04	1	.22	2	.44	11	1.70
HANDICAP	7	.91	6	1.33	6	1.33	19	3.57
TOTALS	74	8.06	24	5.31	23	5.09	121	18.46

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION IV

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	49	.37	17	3.76	16	3.54	82	13.67
SEX	33	4.03	10	2.21	10	2.21	53	8.45
NATIONAL ORIGIN	3	.33	2	.44	2	.44	7	1.21
HANDICAP	8	1.04	13	2.88	13	2.88	34	6.80
TOTALS	93	11.77	42	9.29	41	9.07	176	30.13

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION V

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	49	5.98	7	1.55	7	1.55	63	9.08
SEX	148	17.24	17	3.76	17	3.76	182	24.76
NATIONAL ORIGIN	10	1.30	1	.22	1	.22	12	1.74
HANDICAP	17	2.21	9	1.99	9	1.99	35	6.19
TOTALS	224	26.73	34	7.52	34	7.52	292	41.77

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VI

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	109	14.18	23	5.09	23	5.09	155	24.36
SEX	59	7.68	13	2.88	13	2.88	85	13.44
NATIONAL ORIGIN	34	4.42	6	1.33	6	1.33	46	7.08
HANDICAP	9	1.17	6	1.33	6	1.33	21	3.83
TOTALS	211	27.45	48	10.63	48	10.63	307	48.71

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VII

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	2	.26	3	.66	3	.66	8	1.58
SEX	22	1.69	5	1.12	5	1.12	32	3.93
NATIONAL ORIGIN	7	.91	1	.22	1	.22	9	1.35
HANDICAP	5	.65	4	.89	4	.89	13	2.43
TOTALS	36	3.51	13	2.89	13	2.89	62	9.29

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VIII

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	8	1.04	2	.44	1	.22	11	1.70
SEX	36	3.77	4	.89	3	.66	43	5.32
NATIONAL ORIGIN	1	.13	2	.44	2	.44	5	1.01
HANDICAP	1	.13	2	.44	3	.66	6	1.23
TOTALS	46	5.07	10	2.21	9	1.98	65	9.26

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION IX

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	42	5.14	4	.89	4	.89	50	6.92
SEX	49	6.37	6	1.33	6	1.33	61	9.03
NATIONAL ORIGIN	23	2.99	3	.66	3	.66	29	4.31
HANDICAP	6	.78	5	1.12	5	1.12	16	3.02
TOTALS	120	15.28	18	4.00	18	4.00	156	23.28

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION X

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	17	2.21	1	.22	0	0	18	2.43
SEX	63	6.70	1	.22	1	.22	65	7.14
NATIONAL ORIGIN	12	1.56	0	0	0	0	12	1.56
HANDICAP	3	.39	0	0	0	0	3	.39
TOTALS	95	10.86	2	.44	1	.22	98	11.52

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

PLANNED COMPLIANCE REVIEW ACTIVITY - FY 1978

(Staff time shown in investigative person years)

TYPE OF REVIEW	BOSTON		NEW YORK		PHILA.		ATLANTA		CHICAGO		DALLAS		KANSAS CITY		DENVER		SAN FRAN.		SEATTLE		TOTAL 1/	
	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF
1. Emergency School Aid Act Pre-Grant Reviews	24	1.92	53	4.24	59	4.72	200	16.00	46	3.68	255	20.40	18	1.44	55	4.40	47	3.76	11	.88	768	61.44
2. Executive Order 11246 Pre-Award Reviews of Contractors	11	1.43	12	1.56	14	1.82	19	2.47	24	3.12	12	1.56	9	1.17	4	.52	15	1.95	4	.52	124	16.12
3. Health Agency and Program Pre-Grant Reviews	211	1.37	204	1.32	216	1.40	326	2.11	480	3.12	250	1.62	192	1.24	91	.59	341	2.21	88	.57	2399	15.55 2/
4. Monitoring of Adams State Higher Education Systems					3	1.53	3	1.53			2	1.02									8	4.08
5. Equal Educational Services Reviews of Major City School Systems			1	2.00	1	6.00			1	6.00							1	6.00			4	20.00
6. Reviews of Elementary and Secondary School District Language Programs (Lau)											43	5.16					1	.12			44	5.28
7. Comprehensive Reviews of Elementary and Secondary School Districts in the North and West (Brown)									4	9.6							2	4.80	1	2.40	7	16.80
8. Reviews of State Elementary and Secondary Education Agencies																					10	7.00
9. Reviews of Elementary and Secondary Vocational Technical Schools/Programs																					9	3.33
10. Reviews of Elementary and Secondary Special Purpose State Administered Schools																					8	2.96
11. Reviews of Elementary and Secondary School District Discipline Practices																					10	3.70
12. Reviews of Elementary and Secondary School District Special Education Programs																					10	2.70
13. Reviews of Elementary and Secondary School District Migrant Eucation Practices																					2	.90

14. Reviews of Formerly Civil State Higher Education Systems												2	2.00		
15. Reviews of State Higher Education Systems															
16. Reviews of Individual Schools															
17. Reviews of Graduate Schools															
18. Reviews of Undergraduate Schools															
19. Reviews of Community, Colleges/Community Colleges Systems															
20. Reviews of Non-Profit Organizations															
21. Reviews of Professional Health Facilities															
22. Reviews of Non-Professional Health Facilities															
23. Reviews of State Health Agencies															
24. Reviews of Non-Residential Human Development Facilities															
25. Reviews of State Human Development Agencies															
26. TOTALS															

(Continued) Page 2

[FR Doc.77-22486 Filed 8-4-77;8:45 am]

federal register

FRIDAY, AUGUST 5, 1977

PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions; Index to General Wage Determination Decisions as of July 1, 1977

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their date of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77-4147	July 1, 1977.
Delaware:	
DE77-3042	Apr. 1, 1977.
Florida:	
FL77-1044	Mar. 1, 1977.
FL77-1028	Mar. 18, 1977.
FL77-1034; FL77-1043	Apr. 1, 1977.
FL77-1049	Apr. 29, 1977.
FL77-1065	May 13, 1977.
FL77-1091	July 8, 1977.
Illinois:	
IL76-2124; IL76-2125; IL 76-2127; IL76-2129.	Oct. 8, 1976.
IL76-2141	Oct. 29, 1976.
IL76-2143	Nov. 12, 1976.
IL76-2153	Nov. 26, 1976.
IL76-2149	Dec. 10, 1976.
IL77-2030	Mar. 4, 1977.
IL77-2068	June 10, 1977.
Indiana:	
IN76-2005	Jan. 23, 1976.
IN77-2008; IN77-2009; IN 77-2016; IN77-2017.	Feb. 11, 1977.
IN77-2082; IN77-2084; IN 77-2085.	May 13, 1977.
IN77-2101	June 24, 1977.
Maryland:	
MD77-3021	Jan. 14, 1977.
MD77-3077	June 3, 1977.
Michigan:	
MI77-2053; MI77-2054	May 6, 1977.
MI77-2055	May 13, 1977.
MI77-2071	June 3, 1977.
Nevada:	
NV77-5061	June 17, 1977.
NV77-5072	July 8, 1977.
New Mexico:	
NM77-4116	June 17, 1977.
New Jersey:	
NJ77-3093	July 8, 1977.
North Dakota:	
ND77-5062	June 10, 1977.
Oklahoma:	
OK77-4150	July 1, 1977.
OK77-4163; OK77-4164; OK77-4165; OK77-4166; OK77-4167.	July 15, 1977.
OK77-4168; OK77-4171	July 29, 1977.
Tennessee:	
TN77-1036	Mar. 25, 1977.
Texas:	
TX77-4070	Apr. 1, 1977.
TX77-4101	May 13, 1977.
TX77-4111	June 10, 1977.
Virginia:	
VA77-3088; VA77-3089; VA 77-3090; VA77-3091.	July 1, 1977.
Wyoming:	
WY77-5054	May 20, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL77-1027 (AL77-1079)	Mar. 18, 1977.
Florida:	
FL77-1024 (FL77-1098)	Feb. 25, 1977.
Illinois:	
IL76-2015 (IL77-2112)	Feb. 27, 1976.
IL76-2121 (IL77-2113)	Oct. 11, 1976.
Maryland:	
MD77-3020 (MD77-3086)	Jan. 14, 1977.
Texas:	
TX76-4172 (TX77-4172)	May 7, 1976.
Utah:	
UT77-5006 (UT77-5075)	Jan. 28, 1977.

Signed at Washington, D.C. this 29th day of July 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

DECISION #DE77-3042 - Mod. #3
(42 FR-17756 - April 1, 1977)
State of Delaware

Change:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS:					
New Castle County	$13.10	.75	1.00		.02
Kent & Sussex Counties	11.15	.70	1.00		.02
LABORERS - BUILDING CONSTRUCTION:					
New Castle County:					
Group 1 - General construction, dumpmen, & truck spotters	8.10	.90	.50		
Group 2 - Caulkers, operators of pneumatic & electric tools, vibrating machines, concrete saws, pumps, pot tenders, sewer pipelayers, demolition (use of hand tools), driller (except core, diamond, of multiple wagon), mason's plasterers tenders, cement workers, mobile buggy operators, portable power saw operators, scaffold builders, hook-up men, signal men, stripping of flat arch & form work (also cleaning & oiling thereof), tool room attendant, gunite material & rebound workers, and shoring workers	8.35	.90	.50		
Group 3 - Burners & welders, Caisson workers, top men (when excavations for caissons are dug eight feet or more below the natural grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level), driller (core, diamond, or multiple wagon), Gunite Industrial fume stack, nozzle, and rod workers, Sandblaster (nozzlemen), Tunnelling, underpinning excavation (when an underpinning excavation is dug eight feet or more below					

MODIFICATIONS P. 1

DECISION NO. AR77-4147 - Mod. #2
(42 FR 34155 - July 1, 1977)
Union & Ouachita Counties,
Arkansas

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS	$8.15	.40	.35		.04

MODIFICATIONS P. 3

DECISION #DE77-3042 - Mod. #3 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached), working under compressed air	8.60	.90	.50		
Group 4 - Blasters, laborers engaged in unloading, placing, and assisting in the installation of well point systems or deep well systems as long as needed on the job for such work	9.35	.90	.50		
Group 5 - Caisson workers (bottom men)	8.70	.90	.50		
LABORERS - HEAVY & HIGHWAY CONSTRUCTION:					
New Castle County:					
Common laborers, landscapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitmen, puddlers, rubber magazine tenders, railroad trackmen, signal men	6.10	.90	.50		
Pipelayers	6.25	.90	.50		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caisson & coffer dams (open-air, below 8')	6.40	.90	.50		

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1028 - Mod. # 4					
(42 FR-15262 - March 18, 1977)					
Alachua County, Florida					
Change:					
Laborers:					
Air tool operator	4.90	.20			.02
Mortar mixers	4.90	.20			.02
Pipelayers (concrete & clay)	4.90	.20			.02
Line Construction:					
Linemen	9.69	.25	3%		1%
Cable splicers	9.89	.25	3%		1%
Winch truck operator	7.76	.25	3%		1%
Heavy equipment operator	9.39	.25	3%		1%
Flat bed pick-up driver	6.84	.25	3%		1%
Groundmen, 1st class	5.69	.25	3%		1%
Groundmen, 2nd class	4.49	.25	3%		1%
Plasterers	7.65	.30	.30		.02
Decision # FL77-1034 - Mod. # 3					
(42 FR 17761 - April 1, 1977)					
Martin & Palm Beach Counties, Florida.					
Change:					
Electricians:					
Electricians	10.33	3.5%	3%+6%	6%	1.5%
Cable splicer	11.36	3.5%	3%+6%	6%	1.5%
Line Construction:					
Linemen	10.92	3.5%	3%		3/8 of 1%
Cable splicers	11.22	3.5%	3%		3/8 of 1%
Winch truck operator	8.70	3.5%	3%		3/8 of 1%
Groundmen	5.94	3.5%	3%		3/8 of 1%
Truck drivers	7.15	3.5%	3%		3/8 of 1%
Heavy equipment operator	10.92	3.5%	3%		3/8 of 1%

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1043 - Mod. # 3					
(42 FR 17762 - April 1, 1977)					
Pinellas County, Florida					
Change:					
Air conditioning or refrigeration mechanic	10.38	.55	.95		.08
Electricians:					
Commercial	8.20	5%	7%+3%		3/4 of 1%
Industrial	10.20	5%	7%+3%		3/4 of 1%
Decision # FL77-1044 - Mod. # 3					
(42 FR 17764 - March 1, 1977)					
Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station), Florida					
Change:					
Bricklayers	8.00	.50	.20		
Electricians:					
Electricians	8.74	.45	3%+.48		1%
Cable splicers	8.99	.45	3%+.48		1%
Stonemasons	8.00	.50	.20		
Sheet metal workers	10.24	.30+c	.30	.50	.04
Add:					
Footnote:					
c. Employer contributes 3% of gross payroll to Stabilization Administration of the Sheet Metal Industry.					

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1049 - Mod. # 2					
(42 FR 22080 - April 29, 1977)					
Leon County, Florida					
Change:					
Electricians	9.25		3%		0.5%
Decision # FL77-1065 - Mod. # 4					
(42 FR-24575 - May 13, 1977)					
Brevard & Volusia Counties (Cape Kennedy, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site only), Florida.					
Change:					
Electricians:					
Base Zone (within 40 miles of the Union Office, 215 Ridgewood Ave., Daytona Beach):					
Electricians	8.74	.45	3%+.48		1%
Cable splicers	8.99	.45	3%+.48		1%
Zone 1 (beyond 40 miles from the Union Office):					
Electricians	9.19	.45	3%+.48		1%
Cable splicers	9.44	.45	3%+.48		1%
Decision # FL77-1091 - Mod. # 1					
(42 FR 35538 - July 8, 1977)					
Broward County, Florida.					
Change:					
Bricklayers:					
Blocklayers, bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo mechanic, and tile setters	9.65	.63	.55		.03
Plumbers, pipefitters	10.65	.60	.80		.07

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2124 - Mod. #3 (41 FR 44616 - October 8, 1976) Ford, Iroquois & Kankakee, Counties, Illinois					
CHANGE:					
Bricklayers:					
Kankakee County:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Cleaners and Caulkers; Cement Masons	$10.80	.80	.75		
Carpenters:					
Iroquois & Kankakee Cos:					
Carpenters, Millwrights; Piledrivermen & Soft Floor Layers	11.04	.65	.80		.01
Plasterers:					
Iroquois & Kankakee Cos.	10.60	.80	.75		
ADD:					
Plumbers & Steamfitters:					
Iroquois & Kankakee Cos.	12.03	.35	1.00		.08
DECISION #IL76-2125 - Mod. #5 (41 FR 44620 - October 8, 1976) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Carpenters: LaSalle, Marshall, Bureau Cos; & N.W. Cor. of Livingston Co:					
Carpenters, Piledrivermen & Soft Floor Layers	10.98	.65	.60		.03
Millwrights	11.23	.65	.60		.03

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2127 - Mod. #4 (41 FR 44627 - October 8, 1976) McLean County, Illinois					
CHANGE:					
Cement Masons	$11.63	.55			
Electricians:					
Remainder Of County	11.20	.50	3%+.40		.002
Plumbers & Steamfitters	11.20	.50	1.10		.15
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
DECISION #IL76-2129 - Mod. #2 (41 FR 44625 - October 8, 1976) Cass, Morgan & Scott Counties, Illinois					
CHANGE:					
Carpenters:					
Carpenters & Soft Floor Layers	9.75	.55	.25		.02
Piledrivermen	10.25	.55	.25		.02
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		

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MODIFICATIONS P. 9

DECISION #IL76-2141 - Mod. #3
(41 FR 47733 - October 29, 1976)
Boone, DeKalb DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

OMIT:
Under Laborers:
DuPage, Lake & Will Counties
Lake County

ADD:
Under Laborers:
Lake County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: LAKE COUNTY SEWER & WATER MAIN EXTENSIONS					
CLASS 1					
General Laborers; Top Laborers & Flagmen	$8.55	.57	1.10		
CLASS 2					
Second Bottom Men	8.775	.57	1.10		
CLASS 3					
Well Point System-Jackhammer Men (Tampers & Vibrators) Bottom Men, Pipelayers on Drains & Pipelayer Men; All Tunnel Work	8.90	.57	1.10		
LABORERS: STREET PAVING & GRADE SEPARATION					
CLASS 1					
General, Asphalt & Asphalt Plant Laborers; Flagmen	8.55	.57	1.10		
CLASS 2					
Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmen, Mitre B Spreaders	8.825	.57	1.10		
CLASS 3					
Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw	8.90	.57	1.10		

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2143 - Mod. #4 (41 FR 50133 - November 12, 1976) Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Carpenters:					
Iroquois & Kankakee Counties; (N. of Garver & Guthrie) in Ford County	$11.04	.65	.80		.01
Marshall & Putnam Cos;(Peru Ottawa & Streator & Vicinities) in LaSalle County	10.98	.65	.60		.03
Grundy County; Marseilles & Vicinity) in LaSalle County	11.965	.65	.53		
Livingston County	11.11	.40	.50		.05
DECISION #IL76-2149 - Mod. #5 (41 FR 54128 - December 10, 1976) Adams, Brown, Cass, Christian, Logan, Mason, Menard, Morgan, Pike, Sangamon, Schuyler & Scott Counties, Illinois					
CHANGE:					
Carpenters & Piledrivermen:					
Sangamon Co; (Illiopolis & Vicinity)	11.015	.45	.90		.08
Logan County	10.75	.45	.55		.06
Remainder of District #6	10.75	.55	.45		.06
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2153 - Mod. #4 (41 FR 52253 - November 26, 1976) Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawerence, Marion, Richland, Wabash, Wayne & White Counties, Illinois					
CHANGE:					
Laborers	$8.30	.30	.30		.035
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
DECISION #IL77-2030 - Mod. #3 (42 FR 12584 - March 4, 1977) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawerence, Richland, Wabash & Wayne Counties, Illinois					
CHANGE:					
Bricklayers:					
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointers, Caulkers, Cleaners, Marble Tile & Terrazzo Workers	10.60		.50		
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
Cement Masons & Plasterers:					
Coles, Cumberland & Effingham Cos; Southern part of Douglas County:					
Cement Masons	11.18				
Plasterers	11.10				

DECISION #IL77-2068 - Mod. #2
(42 FR 30108 - June 10, 1977)
DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

OMIT:
Under Laborers:
DuPage, Grundy, Lake & Will Counties
Lake County

ADD:
Under Laborers:
Lake County

LABORERS: LAKE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1					
Building & Plasters Laborers; General Laborers (Wrecking & Demolition) Fireproofing & Fire Shop Laborers	$8.55	.57	1.10		
CLASS 2					
Cement Gun Laborers & Hose	8.625	.57	1.10		
CLASS 3					
Chimney Laborers (Over 40'); Scaffold Laborers; Wall Men or Wreckers	8.65	.57	1.10		
CLASS 4					
Stone Derrickmen & Handlers	8.75	.57	1.10		
CLASS 5					
Jackhammer Men (Tampers & Vibrators) Power Driven Concrete Saws	8.775	.57	1.10		
CLASS 6					
Caisson Diggers, Well Point System; Chimney Laborers (on Firebrick)	8.90	.57	1.10		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN76-2005 - Mod. #4 (41 FR 3602 - January 23, 1976) Marion County, Indiana					
Change:					
Electricians, not exceed 2½ stories above ground	$6.05	4%	7%		½%
Truck drivers	7.865	$20.00a	$22.00b	c	
DECISION NO. IN77-2008 - Mod. #4 (42 FR 8908 - February 11, 1977) Decatur County, Indiana					
Change:					
Electricians	11.50	4%	7%		.5%
Glaziers	12.39				
Ironworkers:					
East ½ of Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Lathers	10.88	.61	.35		.04
Plumbers; Steamfitters	11.60	.50	.30		.05
Roofers:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
DECISION NO. IN77-2009 - Mod #3 (42 FR 8910 - February 11, 1977) Clark, Floyd, & Harrison Counties, Indiana					
Change:					
Electricians	11.60	.50	3%+.40		½%
Plumbers; Steamfitters	12.05	.50	1.00	a	.02

DECISION NO. IN77-2016 - Mod. #3 (42 FR 8915 - February 11, 1977) Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, & Shelby Counties, Indiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Boone, Hancock, Hendricks, Johnson, & Morgan Cos.	$11.14	.40	.35		.06
Carpenters:					
Boone, Hamilton, Hancock, Hendricks, Johnson (excl. city of Edinburgh), Morgan, & Shelby (Twps. of Moral, Van Buren, & Camp Atterbury Area) Cos.:					
Carpenters; Millwrights	11.45	.70	.60		.08
Electricians	11.50	4%	7%		.5%
Glaziers	12.39				
Ironworkers:					
Boone Co. (NW ¼)	10.34	.90	1.25		.02
Lathers:					
Boone (SE ¼), Hamilton, Hendricks, Johnson, Madison Morgan, & Shelby Cos.	10.88	.61	.35		.04
Plumbers; Steamfitters:					
Madison Co.	11.25	.50	.55	c	.15
Roofers:					
Remaining Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Power equipment operators:					
Remaining Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

MODIFICATIONS P. 15

DECISION NO. IN77-2017 - Mod. #4
(42 FR 8920 - February 11, 1977)
Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$12.30	.50	.75		
Electricians:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.30	.40	3%+.30		.06
Blackford & Jay Cos.	11.00	.40	3%+.30		.2%
Wabash Co.	10.75	.40	3%+.30		.2%
Ironworkers	11.20	.90	1.20		.02
Lathers:					
Blackford & Jay Cos.	9.15		.35		.01
Painters:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells (excl. area to the south city limits of Bluffton), & Whitley Cos.: Brush; Paperhangers; Rollers; & Tapers	8.60	.42	.45		.10
Sandblasters; Spray; Steam-cleaning & pressure water blasting	9.60	.42	.45		.10
Plasterers:					
Blackford, Huntington, Jay, Wabash, & Wells Cos.	9.65	.75			.01
Plumbers; Steamfitters:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.35	.45	.75		.07
Jay Co.	11.25	.50	.55	f	.15
Tile setters:					
Wabash Co.	9.60	.75	.80		.04
Power equipment operators:					
Remaining Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

MODIFICATIONS P. 16

DECISION NO. 1N77-2082 - Mod. #3
(42 FR 24588 - May 13, 1977)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Lake & Porter Cos.	$11.51	.81	.72		.12
Bricklayers;					
Lake, LaPorte, & Porter Cos.: Bricklayers; Marble setters & stonemasons	11.85	.75	.55		.05
St. Joseph Co.:					
Bricklayers; Stonemasons	10.76	1.00	.65		.06
Marble setters; Terrazzo workers; & Tile setters	9.10	1.00	.65	a	.01
Carpenters:					
St. Joseph Co.:					
Building construction: Carpenters; Millwrights; Piledrivermen; Soft floor layers	10.25	.55	.65		.08
Cement masons:					
Building construction:					
Lake Co. (Hammond Area)	11.42	.90	.60		.03
LaPorte Co.; Porter Co. (Eastern ½ of Co.)	10.95	.90	1.00		.06
Electricians:					
Lake Co.	11.40	5%	8.3%		.7%
LaPorte & Porter Cos.	11.40	3½%	7½%		.2%
St. Joseph Co.	11.25	4.8%	7%		.2%
Ironworkers:					
LaPorte (Rem. of Co.), & St. Joseph Cos.	10.55	.90	1.33		.03
Lathers:					
Lake & Porter Cos.	11.19		.40		
Plasterers:					
Lake Co. (Hammond Area)	10.21	.90	.60		.01
LaPorte, Porter (Eastern ½ west to, but not incl. Chesterton) Cos.	10.87	.90	1.00		.06
Plumbers:					
LaPorte Co. (Michigan City, Trail Creek, & Long Beach)	12.37	.50	.60		.02

MODIFICATIONS P. 17

DECISION NO. 1N77-2082 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck drivers:					
Lake & Porter Cos.:					
2 to 3 axles	$8.70	28.00e	22.00e	.45	
4 axles	8.90	28.00e	22.00e	.45	
5 axles	9.10	28.00e	22.00e	.45	
6 axles	9.30	28.00e	22.00e	.45	

DECISION NO. 1N77-2084 - Mod. #3
(42 FR 24555 - May 13, 1977)
Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana

Change:					
Asbestos workers:					
Switzerland Co.	$12.46	.60	.85		.02
Bricklayers; Stonemasons:					
Crawford Co.	9.19	.85	.50		
Electricians:					
Brown Co.	10.75	.40	3%+.50		.01
Crawford, Lawrence, & Orange Cos.	11.65	.40	3%		½%
Jackson, Jefferson, Scott, & Washington Cos.	11.60	.50	3%+.40		½%
Jennings Co.	11.50	4%	7%		½%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.40	.70	3%+.40		.5%

MODIFICATIONS P. 18

DECISION NO. 1N77-2084 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaziers:					
Brown, Jackson (No. of #50), Jennings (Except from North Vernon, s/w to the corner of Jennings Co.), & Lawrence (No. of #54)	$12.39				
Ironworkers:					
Switzerland Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Lathers:					
Brown, & Jackson Cos.	10.88	.61	.35		.04
Switzerland Co.	12.52		.25		.025
Plumbers; Steamfitters:					
Crawford, Jefferson, Scott, & Switzerland Cos.	12.05	.50	1.00	c	.02
Jennings Co.	11.60	.50	.30		.05
Roofers:					
Brown, Jackson, Jennings, & Lawrence Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Switzerland Co.	12.32		.85		.01
Power equipment operators:					
Brown Co.:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08
Omit:					
Laborers' schedule					
Add:					
Laborers' schedule					

MODIFICATIONS P. 19

DECISION NO. 1N77-2084 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP I	$7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

MODIFICATIONS P. 20

DECISION NO. 1N77-2085 - Mod #3
(42 FR 24562 - May 13, 1977)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.	12.46	.60	.85		.02
Electricians:					
Fayette, Franklin, Henry, Randolph, Union, & Wayne Cos.	11.00	.40	3%+.30		.2%
Ohio Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.40	.70	3%+.40		.5%
Glaziers:					
Fayette, Henry, Randolph, Rush, Union (N/W ½ of Co.), & Wayne Cos.	12.39				
Ironworkers:					
Fayette (Part of Co.), Franklin, Ohio, & Ripley Cos.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Randolph Co. (Rem. of Co.)	11.20	.90	1.20		.02
Lathers:					
Franklin, Ohio, Ripley, & Union Cos.	12.52		.25		.025
Rush Co.	10.88	.61	.35		.04
Plasterers:					
Randolph Co.	9.65	.75			.01

MODIFICATIONS P. 21

DECISION NO. 1N77-2085 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers; Steamfitters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	$11.25	.50	.55	c	.15
Roofers:					
Fayette, Franklin, Rush, Union, & Wayne Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Ohio & Ripley Cos.	12.32		.85		.01
Power equipment operators:					
Fayette, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

DECISION NO. 1N77-2101 - Mod. #1
(42 FR 32460 - June 24, 1977)
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana

Change:					
Asbestos workers:					
Allen & Grant Cos.	12.30	.50	.75		
Dearborn Co.	12.46	.60	.85		.02
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Benton & Tippecanoe Cos.:					
Bricklayers; Marble setters; & Stonemasons	10.19	.48	.60		.02
Terrazzo Workers & tile setters	10.19	.48	.60		.02
Marion Co.:					
Bricklayers; Stonemasons	11.14	.40	.35		.06

MODIFICATIONS P. 22

DECISION NO. 1N77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Vigo Co.:					
Bricklayers; Stonemasons	$11.15	.40	.70		.01
Marble setters; Terrazzo workers; & Tile setters	10.75	.40	.70		.01
Carpenters; Millwrights; Piledrivermen; & Soft floor layers:					
Bartholomew Co. (Camp Atterbury) & Marion Co.:					
Carpenters; Millwrights	11.45	.70	.60		.08
Benton & Tippecanoe Cos.:					
Carpenters; Piledrivermen; & Soft floor layers	9.86	.60	.40		.02
Millwrights	10.21	.60	.40		.02
Vigo Co.:					
Carpenters & Soft floor layers	10.03	.45	.70		.02
Millwrights	11.45	.70	.60		.08
Piledrivermen	10.28	.45	.70		.02
Electricians:					
Allen Co.	11.30	.40	3%+.30		.06
Bartholomew & Marion Cos.	11.50	4%	7%		.5%
Benton & Tippecanoe Cos.	10.80	.40	3%		½%
Dearborn Co.:					
Up to & incl. 18 mi. radius from Hamilton Co., Ohio Court House	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co., Ohio Court House	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co., Ohio Court House	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co., Ohio Court House	12.40	.70	3%+.40		.5%

DECISION NO. IN77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delaware					
Delaware Co.	$11.00	.40	3%+.30		.2%
Grant Co.	10.75	.40	3%+.30		.2%
Monroe Co.	10.75	.40	3%+.50		.01
Vanderburgh Co.	11.65	.40	3%		1%
Vigo Co.	11.35	.40	3%+.50		.01
Glaziers:					
Bartholomew, Delaware, M Marion, Monroe, Tippecanoe, & Vigo Cos.	12.39				
Ironworkers:					
Allen, Delaware (Northeastern 1/3 of Co.), Grant (excluding s/w portion) Cos.	11.20	.90	1.20		.02
Benton & Tippecanoe Cos.	10.34	.90	1.25		.02
Dearborn Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Vigo Co.	10.60	.90	1.90		.10
Lathers:					
Bartholomew, Marion, Monroe, & Vigo Cos.	10.88	.61	.35		.04
Dearborn Co.	12.52		.25		.025
Painters:					
Allen & Grant Cos.:					
Brush; Paperhangers; Rollers; & Tapers	8.60	.42	.45		.10
Sandblasters; Spray	9.60	.42	.45		.10
Benton & Tippecanoe Cos.:					
Brush	9.85				
Structural steel	10.10				
Sandblasting	10.85				
Spray	13.12				
Plasterers:					
Delaware & Grant Cos.	9.65	.75			.01
Plumbers; Steamfitters:					
Allen Co.	11.35	.45	.75		.07
Bartholomew (excluding Camp Atterbury) Co.	11.60	.50	.30		.05
Delaware Co.	11.25	.50	.55	g	.15

DECISION NO. IN77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Bartholomew, Marion, & Monroe Cos.:					
Composition; Waterproofers	$10.78	.50	.50		
Slate, tile, asbestos, & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Benton & Tippecanoe Cos.:					
Composition	10.60	.50	.28		
Slate, tile, & asbestos	10.85	.50	.28		
Dearborn Co.	12.32		.85		.01
Vigo Co.:					
Roofers; Kettlemen	9.70	.40	.20		
Power equipment operators:					
Allen, Benton, Delaware, Grant, Marion, & Tippecanoe Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08
Line Construction:					
Vanderburgh County:					
Linemen; Line truck ops.; Hole digger; Stool handling cable splicer	11.65	.40	3%		
Groundman	10.29	.40	3%		
Truck driver	10.60	.40	3%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3021 - Mod. #3 (42 FR-3153 - January 14, 1977) Allegany & Garrett Counties, Maryland					
Change:					
Electricians - Allegany County	$10.15	.50	3% + .25		1%
Electricians - Garrett County	10.55	.50	3% + .25		1%
Truck Drivers - Heavy & Highway Construction:					
Group 1	7.79	.70	.80		
Group 2	7.94	.70	.80		
Group 3	8.14	.70	.80		
Group 4	8.34	.70	.80		
Group 5	8.57	.70	.80		
DECISION #MD77-3077 - Mod. #3 (42 FR-28760 - June 3, 1977) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, Harford, Howard, and Baltimore City, Maryland					
Omit:					
Harford County for building construction only					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2053 - Mod. #3 (42 FR 23377 - May 6, 1977) Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties, Michigan					
CHANGE:					
Electricians:					
Calhoun County; Sunfield, Vermontville, Kalamo, Bellevue Eaton & Brookfield Twps, in Eaton County	$11.42	.40	6%		.01
Plumbers:					
Allegan County (Remainder) & Kalamazoo County	11.71	.60	.86		
Calhoun Co; & Bellevue, Olivet, Hastings & Charlotte in Eaton County	11.19	1.30	.63		
Berrien County (except City of Niles & Vicinity)	11.46	.84	.60		
City of Niles & Vicinity in Berrien County	10.60	.48	.80		.10
Jackson County	11.20	.87+.30	.80		.02
Truck Drivers:					
Calhoun County:					
Less Than 8 cubic yards	7.95	a21.00	a12.00	.20	
8 cubic yards & Over - Semi-Tandem	8.05	a21.00	a12.00	.20	

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2054 - Mod. #3 (42 FR 23384 - May 6, 1977) Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Counties, Michigan					
CHANGE:					
Carpenters:					
Remainder of Counties & the West 5 miles of Sanilac County:					
Carpenters & Piledrivermen	$10.24	.60	.60		.01
Soft Floor Layers	9.38	.60	.50		.01
Electricians:					
Bay County & Southern ½ of Iosco County	12.45	.40	3%+.30		.5%
Plumbers & Steamfitters:					
Bay & Iosco Cos; N. ½ of Tuscola & the N.W. ¼ of Huron (running from Port Autin south to Sanilac County Line)	10.74	.75	.50	1.60	
Saginaw & S. ½ of Tuscola (incl. Carco, Washjamerga & South to Lapeer County Line)	10.33	.79	1.02		.01
Sheet Metal Workers:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	11.11	.75	1.00		.03
DECISION #MI77-2055 - Mod. #3 (42 FR 24614 - May 13, 1977) Genesee, Lapeer, Saginaw, St. Clair & Shiawassee Counties, Michigan					
CHANGE:					
Plumbers:					
Saginaw County	10.33	.79	1.02		.01
Sheet Metal Workers:					
Saginaw County	11.11	.75	1.00		.03

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2071 - Mod. #3 (42 FR 28763 - June 3, 1977) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan					
CHANGE:					
Bricklayers & Stonemasons:					
Washtenaw County	$13.33		1.00		
Cement Masons:					
Washtenaw County	13.13		1.00		
Marble Masons:					
Washtenaw County	13.33		1.00		
Plasterers:					
Washtenaw County	13.33		1.00		
Tile & Terrazzo Workers:					
Washtenaw County	13.33		1.00		
Plumbers & Steamfitters:					
Washtenaw County	10.86	.85+.15	.75		.10
Remainder of Counties:					
Pipefitters	10.55	1.55	1.30	1.35	.05
Roofers:					
Washtenaw County:					
Composition	10.50	.85	.50	1.05	.10
Slate & Tile	11.25	.85	.50	1.05	.10
ADD:					
Under Laborers - Building & Heavy Construction					
Residential Construction					

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. #NV77-5072 - Mod. #1 (42 FR 35562 - July 8, 1977) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Brick Tenders	$10.02	.66	$1.35		
Cement Masons:					
Cement Masons	8.85	1.00	.70	2.00	.08
Floor Finishing Machine	9.20	1.00	.70	2.00	.08
Electricians:					
Electricians; Equipment Operators; Linemen	13.22	.73	1% + 1.30		.05
Cable Splicers	13.55	.73	1% + 1.30		.05
Groundman	80%JR	.73	1% + 1.30		.05
Painters:					
Brush; Roller	9.56	.75	.60	1.50	.06
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	9.91	.75	.60	1.50	.06
Power Equipment Operators: (Except Piledriving and Steel Erection)					
Group 7	9.56	.95	2.00	.30	
Group 7-A	9.27	.95	2.00	.30	
Group 7-B	9.16	.95	2.00	.30	
Group 7-C	8.92	.95	2.00	.30	
Roofers	13.25	.65			
Truck Drivers:					
Group 1	10.29	.42	.75		
Group 2	10.40	.42	.75		
Group 3	10.45	.42	.75		
Group 4	10.61	.42	.75		
Group 5	10.79	.42	.75		
DECISION #NV77-5061 - Mod. #3 (42 FR 31074 - June 17, 1977) Clark County (does not include the Nevada Test Site), Nevada					
Change:					
Brick Tenders	$10.02	.66	$1.35		
Roofers	13.25	.65			
Truck Drivers:					
Group 1	9.97	.51	.70		
Group 2	10.08	.51	.70		
Group 3	10.13	.51	.70		
Group 4	10.29	.51	.70		
Group 5	10.47	.51	.70		
Group 6	10.97	.51	.70		

MODIFICATIONS P.30

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NM77-4116 - Mod. #4 (42 FR 31094 - June 17, 1977) Statewide, New Mexico					
CHANGE:					
LATHERS (ZONE I)	$9.105	.57			.02

CHANGE - LABORERS CLASSIFICATION DEFINITIONS FOR BUILDING, HEAVY CONSTRUCTION AND RESIDENTIAL CONSTRUCTION GROUP II AND GROUP III TO READ AS FOLLOWS:

GROUP II

Air power tool operator, asphalt rakers, cutting torch operators, demolition, gunite rebound men, fog machine operators, power buggy operators, rodmen, sandblasters (potmen), window washers, wagon, core and diamond driller tenders outside.

GROUP III

Wagon core, diamond drillers

DECISION #NJ77-3093 - Mod. #1 (42 FR-35567 - July 8, 1977) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Power Equipment Operators:					
Group 9 - Field engineer: Party chief	$11.27	7%	15%	h	3%
Group 15 - Field engineer: transit/instrument man	9.95	7%	15%	h	3%
Group 16 - Field engineer: rodman/chainman	7.97	7%	15%	h	3%
Change:					
Electicians & Cable splicers:					
Zone 3	13.30	6%	3% + .55		.02
Zone 12	13.53	6%	3% + .55		.02
Zone 14	11.20	6%	3% +1.00		.02
Laborers - Building construction:					
Zone 17	8.15	.60	.45		.02
Lathers	10.90	.15	.40		.02
Line Construction:					
Zone 2:					
Linemen & Equipment operators	13.33	6%	8%		
Cable splicers	14.41	6%	8%		
Groundmen	9.33	6%	8%		
Zone 5:					
Linemen, Cable splicers, Line equipment operators, & Groundmen	12.95	6%	3% + .50		
Zone 8:					
~~Linemen & Equipment operators~~	~~13.14~~	~~6%~~	~~3% + .55~~		
Groundmen & Winch operators	11.28	6%	3% + .55		
Zone 9:					
Linemen & Equipment operators	13.14	6%	3% + .60		
Groundmen & Line truck operators	11.28	6%	3% + .60		
Zone 11:					
Linemen & Equipment operators	12.85	6%	3% + .55		
Groundmen & Winch operators	12.00	6%	3% + .55		

DECISION #NJ77-3093 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Zone 13:					
Linemen, Line truck operators, Equipment operators, & Cable splicers	$11.20	6%	3% + 1.00		½ of 1%
Groundmen	6.67	6%	3% + 1.00		½ of 1%
Painters:					
ZONE 3					
Painters on new construction and major alterations	9.85	.70	.55	.30	.05
Painters on repaint work	8.90	.70	.55	.30	.05
Spraying or application of hazardous or dangerous materials on repaint work	9.50	.70	.55	.30	.05
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	10.00	.70	.55	.30	.05
Repaint work as described above	9.05	.70	.55	.30	.05
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steam-cleaning, spraying or application of hazardous materials	10.45	.70	.55	.30	.05

DECISION #NJ77-77-3093 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Zone 4	$11.51	.65	1.00	.85	.16
Plumbers & Steamfitters:					
Zone 2	11.67	.65	1.00	.75	.10
Zone 8					
Steamfitters	11.25	.78	1.01	1.13	.06
Sprinkler fitters:					
Zone 1	12.58	.65	.95		.07
Marblesetters, Terrazzo workers, & Tilesetters' finishers:					
Zone 1					
Terrazzo workers finishers	9.49	.76	1.95		

DECISION #ND77-5062 - Mod. #2 (42 FR 30125 - June 10, 1977) Burleigh, Cass, Grand Fork, Morton, Richland, Steele, Walsh and Ward Cos., North Dakota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Cass, Grand Forks, Richland and Steele Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone (A) Within 0-15 miles of each main P.O.					
Electricians	$9.97	.40	3%	6%	1½%
Cable Splicers	10.45	.40	3%	6%	1½%
Zone (B) Within 15-30 miles of each main P.O.					
Electricians	10.57	.40	3%	6%	1½%
Cable Splicers	11.18	.40	3%	6%	1½%
Zone (C) Over 30 miles of each main P.O.					
Electricians	11.45	.40	3%	6%	1½%
Cable Splicers	11.95	.40	3%	6%	1½%
Burleigh, Morton and Ward Cos.					
Zone mileage from main P.O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) within 0-25 miles of each main P.O.					
Electricians	10.00	.40	3%	6%	1½%
Cable Splicers	10.40	.40	3%	6%	1½%
Zone (B) Over 25 miles from main P.O.					
Electricians	11.75	.40	3%	6%	1½%
Cable Splicers	12.15	.40	3%	6%	1½%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	10.35	* .52	.70		.05
PLUMBERS:					
Burleigh and Morton Counties	11.40	.40	.55		.02

DECISION ND77-5062 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Cass and Richland Counties	$8.30				
SHEET METAL WORKERS:					
Burleigh, Grand Fork, Morton, Steele and Ward Counties	10.60		.20		

DECISION NO. OK77-4150 - Mod. #2
(42 FR 34228 - July 1, 1977)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ROOFERS	$ 9.15	.60	.25		.04
IRONWORKERS	10.10	.45	.60		.12
PLUMBERS-PIPEFITTERS	10.97	.50	.85		.10
TERRAZZO WORKERS	10.05		.30		
TILE LAYERS	10.05		.30		
MARBLE SETTERS	10.05		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4150

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachiments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4163 - Mod. #1
(42 FR 36764 - July 15, 1977)
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Zone I	$10.05	.50	3%+.50		1/2%
Zone II	10.30	.50	3%+.50		1/2%
Zone III	10.55	.50	3%+.50		1/2%
CABLE SPLICERS:					
Zone I	10.30	.50	3%+.50		1/2%
Zone II	10.55	.50	3%+.50		1/2%
Zone III	10.80	.50	3%+.50		1/2%
IRONWORKERS	10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	10.38	.45	.40		.05

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4163 - Mod. #1

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachiments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
MARBLE SETTERS	10.05		.30		
TERRAZZO WORKERS	10.05		.30		
TILE LAYERS	10.05		.30		
ADD:					
POWER EQUIPMENT OPERATORS: Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4164 - Mod. #1
(42 FR 36766 - July 15, 1977)
Muskogee, Adair and Cherokee Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TERRAZZO WORKERS	$ 9.90		.30		
TILE LAYERS	9.90		.30		
ROOFERS	9.15	.60	.25		.04
IRONWORKERS	10.10	.45	.65		.12

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4164

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachiments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS: Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4165 - Mod. #1
(42 FR 36769 - July 15, 1977)
Wagoner County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	$10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4165

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4166 - Mod. #1
(42 FR 36771 July 15, 1977)
McIntosh County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
TERRAZZO WORKERS	9.90		.30		
TILE LAYERS	9.90		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4166

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4167 - Mod. #1
(42 FR 36773 July 15, 1977)
Pittsburg County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	$10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
CEMENT MASONS	7.00				
TERRAZZO WORKERS	9.90		.30		
TILE SETTERS	9.90		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4167

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, Bailer operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4168 - Mod. #1
(42 FR 38884 July 29, 1977)
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes & Rogers Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CEMENT MASONS:					
Cement masons	$9.67		.40		.16
Power tool operators	8.92		.40		.16
ROOFERS	9.15	.60	.25		.04

DECISION NO. OK77-4171 - Mod. #1
(42 FR 38887 July 29, 1977)
Oklahoma, Cleveland, Caddo, Kingfisher, Canadian, Grady, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MARBLE MASONS	$10.05		.30		
TERRAZZO WORKERS	10.05		.30		
TILE SETTERS	10.05		.30		
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

Decision # TN77-1036, Mod. # 1,
(42FR 16375 - March 25, 1977)
Davidson County, Tennessee.

Add:

POWER EQUIPMENT OPERATORS					
Backhoe	5.93				
Bulldozer	5.55				
Driller	5.65				
Front End Loader	5.93				
Mixer	5.15				
Oiler	6.12				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4070 - Mod. #4					
(42 FR 17765 - April 1, 1977)					
Bowie County, Texas					
Change:					
Carpenters:					
Carpenters	$ 8.20				.01
Millwrights	10.35				.04
Piledrivermen	8.85				.01
Plumbers & pipefitters	10.25	.50	.55		.05
Soft floor layers	8.20				.01
DECISION #TX77-4101 - Mod. #6					
(42 FR 24705 - May 13, 1977)					
Bexar County, Texas					
Change:					
Plasterers	9.76				.01
DECISION #TX77-4111 - Mod. #3					
(42 FR 30141 - June 10, 1977)					
Bee, Kleberg & Nueces Cos., Texas					
Change:					
Plumbers & steamfitters	8.565	.335	.35		.035

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA77-3088-Mod. #1 (42 FR 34261-July 1, 1977) RADFORD ARMY AMMUNITION PLANT, VIRGINIA					
CHANGE: BOILERMAKERS	10.30	.90	.90		.02
DECISION NO. VA77-3090-Mod. #1 (42 FR 34264-July 1, 1977) THE INDEPENDENT CITIES OF NORFOLK, CHESAPEAKE, PORTSMOUTH, AND VIRGINIA BEACH, VIRGINIA					
CHANGE: IRONWORKERS: REINFORCING, ORNAMENTAL, STRUCTURAL, RIGGERS, FENCE ERECTORS, MACHINERY MOVERS	9.60	.60	.85		.08
LINE CONSTRUCTION: LINEMEN AND CABLE SPLICERS	9.35	8%	8%		1%
DECISION NO. VA77-3089-Mod. #1 (42 FR 34261-July 1, 1977) HENRICO COUNTY AND THE INDEPENDENT CITY OF RICHMOND, VIRGINIA					
CHANGE: BOILERMAKERS	10.30	.90	.90		.02
ELECTRICIANS: ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		½%
ZONE II- remainder of City of Richmond and the County of Henrico	11.24	5%	3%		½%
LATHERS: PLASTER AND DRYWALL FINISH	9.24		.20		.01
SHEET ROCK APPLICATOR	7.54		.20		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA77-3089-Mod. #1 (Cont'd) (42 FR 34261-July 1, 1977) HENRICO COUNTY AND THE INDEPENDENT CITY OF RICHMOND, VIRGINIA					
Change: LINEMEN AND CABLE SPLICERS: ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		½%
ZONE II-remainder of City of Richmond and the County of Henrico	11.24	5%	3%		½%
DECISION NO. VA77-3091-Mod. #1 (42 FR 34266-July 1, 1977) YORK COUNTY AND THE CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe), Virginia					
Change: BOILERMAKERS	10.30	.90	.90		.02
IRONWORKERS: STRUCTURAL, ORNAMENTAL, REINFORCING, FENCE ERECTORS, AND MACHINERY MOVERS	9.60	.60	.85		.08
PLUMBERS AND STEAMFITTERS	9.60	.45	.45		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #WY77-5054 - Mod. #3 (42 FR 26188 - May 20, 1977) Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming					
Change: ELECTRICIANS: Converse and Natrona Counties Contracts over $150,000: Electricians	$10.15	.62	3%+.35		3/4of1%
IRONWORKERS: Structural; Ornamental; Reinforcing	10.60	.65	1.15		.10
PLUMBERS; STEAMFITTERS: Goshen, Laramie and Platte Counties					
Zone 1 (15 miles radius from Cheyenne Post Office)	9.32	.75	.60	1.00	.18
Zone 2 (30 miles radius beyond zone 1)	10.17	.75	.60	1.00	.18
Zone 3 (45 miles radius beyond zone 2)	11.09	.75	.60	1.00	.18
Zone 4 (Jurisdiction beyond zone 3)	12.31	.75	.60	1.00	.18
Zone 5 (Footnote "b")					
General Contracts $700,000.00 or less	9.32	.75	.60	1.00	.18
General Contracts over $700,000.00	9.82	.75	.60	1.00	.18

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL77-1079 DATE: Date of Publication
Supersedes Decision No.: AL77-1027 dated March 18, 1977 in 42 FR-15260
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

*Counties: Colbert & Lauderdale

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.16	.45	.40		.05
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers, blocklayers, stonemasons	9.455				
Saw operator	9.705				
Carpenters:					
Carpenters, soft floor layers	8.90		.25		.10
Piledrivermen	9.05		.25		.10
Millwrights	9.15		.25		.10
Cement masons:					
Cement masons	8.06				
Power tool operators	8.21				
Electricians:					
Electricians	10.05	.40	3%+.30		1%
Cable splicers	10.30	.40	3%+.30		1%
Elevator constructors	9.14	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Ironworkers	8.855	.50	.50		.03
Laborers:					
Common	5.50	.25	.40		
Air tool operator (jackhammer, vibrator)	5.70	.25	.40		
Plasterers' tenders	5.50	.25	.40		
Mason tenders	5.50	.25	.40		
Mortar mixers	5.50	.25	.40		
Pipelayers	5.70	.25	.40		
Painters:					
Commercial	8.00		.25		.05
Industrial	8.75		.25		.05
Plasterers	8.31				
Plumbers, steamfitters	10.40	.40	.50		.08
Roofers	6.10		.20		.10
Sheet metal workers	9.50	.55	.60		.05
Sprinkler fitters	10.35	.65	.95		.08

AL77-1079 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	9.38	.35	.35		
GROUP B	8.04	.35	.35		
GROUP C	7.34	.35	.35		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.) shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ¼ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 ton crane & over) outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port.), conveyor, fireman stationary equip., mechanic helper, oiler, outboard motor boat & pump operators

Oiler driver - additional $ .10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150', including jibs; all scraper operators - additional $.25 per hour.

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Orange
DECISION NUMBER: FL77-1098 DATE: Date of Publication
Supersedes Decision No.: FL77-1024 dated February 25, 1977 in 42 FR-28738
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.26	.35	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	8.45	.50	.40		.03
Stonemasons	8.45	.50	.40		.03
Marble masons	8.45	.50	.40		.03
Plasterers	8.45	.50	.40		.03
Cement masons	8.45	.50	.40		.03
Carpenters:					
Carpenters	8.55	.50	.40		.05
Piledrivermen	8.85	.50	.40		.05
Soft floor layers	8.55	.50	.40		.05
Electicians:					
Electrical contracts less than 20,000	7.50	.55	3%		1%
All other work	9.80	.55	3%		1%
Elevator constructors	8.88	.545	.35	4%+a&b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a&b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	7.60	.25	.20		.01
Ironworkers:					
Structural & ornamental	9.33	.65	.60	.65	.05
Reinforcing	9.33	.65	.60	.65	.05
Laborers:					
Air tool operators	6.85	.25	.10		
Laborers	6.30	.25	.10		
Mason tenders	6.85	.25	.10		
Mortar mixers	6.45	.25	.10		
Pipelayers (concrete & clay)	6.45	.25	.10		
Plasterers tenders	6.45	.25	.10		
Lathers	8.35	.35	.25		.15
Linemen:					
Linemen	9.61	.40	1%		¼ of 1%
Cable splicers	10.31	.40	1%		¼ of 1%
Groundmen:					
Up to 1 year experience	3.92	.40	1%		¼ of 1%
Over 1 year experience	5.55	.40	1%		¼ of 1%

FL77-1098 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen (Cont'd):					
Heavy equipment operator	9.61	.40	1%		¼ of 1%
Winch truck operator	7.68	.40	1%		¼ of 1%
Pick up or flat bed operator	6.28	.40	1%		¼ of 1%
Painters:					
Brush	7.65	.40	.40		.06
Spray	8.15	.40	.40		.06
Paperhangers	8.15	.40	.40		.06
Sandblasters	8.15	.40	.40		.06
Plumbers	9.18	.35	.40	.50	.10
ROOFERS:					
Roofers	7.40	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Roofers' helpers	5.30	.35	.25		.15
Sheet metal workers	10.24	.30	.30	.50	.04
Sprinkler fitters	10.16	.60	.90		.10
Terrazzo workers	8.45	.25	.40		.03
Tile setters	8.45	.25	.40		.03
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS (WHERE APPLICABLE):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FL77-1098 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.48	.50	.35		.05
GROUP II	8.30	.50	.35		.05
GROUP III	7.32	.50	.35		.05
GROUP IV	6.21	.50	.35		.05

GROUP I: Cranes, derricks. clam shells, draglines, piledriver (including auger & boring machines for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LeTourneau Model L-60 2 or 3 twenty cu. yd. scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging). mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 tons cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)

GROUP II: Bulldozers. bridge cranes (20 tons & under), highlift or fork-lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl.. 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width. concrete paver & scrapers

GROUP III: Concrete pumps, front end loader (2cy or less not used as hoist) mobile winch trucks, self-propelled sub-grader asphalt paving machine concrete mixer, tractors. air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers street sweeping machines

GROUP IV: Tractor operated sweeper. trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck drivers, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers., combination pump, compressor & combustion type welding machine, conveyor (motor operated), welding machine op (3 or more combustion type, pulver mixer, compressor (1 to and including 3 compressors within 3 cu. ft. radius).

SUPERSEDEAS DECISION

STATE: ILLINOIS
COUNTIES: Peoria and Tazewell
DECISION NUMBER: IL77-2112
DATE: Date of Publications
Supersedes Decision No. IL76-2015, dated February 27, 1976 in 41 FR 8643
DESCRIPTION OF WORK: Building (Including Residential) and Dredging Consruction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.51	.81	.72		.12
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS AND STONEMASONS	11.06	.45	.55		.10
CARPENTERS:					
Residential					
Peoria County:					
Chillicothe & Vicinity	9.78	.55	.50		.03
Tazewell County & Remainder of Peoria County	11.11	.40	.50		.05
Commerical					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen & Soft Floor Layers	10.98	.65	.60		.03
Millwrights	11.23	.65	.60		.03
Tazewell County & Remainder of Peoria County:					
Carpenters & Soft Floor Layers	11.11	.40	.50		.05
Millwrights & Piledrivermen	11.61	.40	.50		.05
CEMENT MASONS	10.60	.70	.80		.05
ELECTRICIANS	10.77	.40	3%+.50		1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.445	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.73	.55	.45		
IRONWORKERS	11.075	.65	.925		.025
LATHERS	11.12	.40	.40		.01
LEAD BURNERS	9.25	.35		c	.01
MARBLE-TILE & TERRAZZO WORKERS	10.16	.50	.60		.01
MARBLE & TILE HELPERS	9.44	.50			
TERRAZZO HELPERS:					
Terrazzo Helpers & Floor machine Operator	9.57	.50			
Base Machine Operator	9.57	.50			

DECISION NO. IL77-2112

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	10.30	.55	.30		.03
Structural Steel & Spray	10.80	.55	.30		.03
PLASTERERS	10.60	.70	.80		.01
PLUMBERS & STEAMPITTERS:					
Peoria County & North of Highway #98 in tazewell Co.	11.84	.505	1.02		.15
Remainder of Tazewell County	10.72	.40	.85		.11
ROOFERS	11.10	.70	.40		.025
SHEET METAL WORKERS	11.22	.50	.75		.08
SPRINKLER FITTERS	11.65	.65	.95		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; c-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

A. Six Paid Holidays; A through F.

b. Employer contributes 4% of regulur hourly rate to vacation Pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday and Good Friday and Christmas Eve Providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

DECISION NO. IL77-2112

ILL-28-LAB-1

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.85	.40	.60		.035
CLASS 2	9.975	.40	.60		.035
CLASS 3	10.10	.40	.60		.035
CLASS 4	10.025	.40	.60		.035
CLASS 5	10.225	.40	.60		.035
CLASS 6	9.975	.40	.60		.035
CLASS 7	10.10	.40	.60		.035

CLASS 1 - Bricklayers tenders, Common Laborers, carpenter tenders, cement mason tenders, concrete form dismantler, Stone & tile derrickmen, Tool Crib men, Window washers, Wrecking & dismantling Old Buildings, wall men & house movers, Curing concrete

CLASS 2 - Cement men & sack shakers, concrete saw, drill operator, jackhammer, Kettlemen & carriers, men handling hot stuff, singalling & spotting of buckets on rig or rig men paving breaker, plasterers tenders, air tamper chain saw,

CLASS 3 - Gunnite pumpmen, sandblasting pump men, tile layers or laterial sewer, Unloading & handling of creosote materials.

CLASS 4 - Power wheel barrow or buggies

CLASS 5 - Cutting & Acetylene torch, gunnite nozzle men, sandblasting nozzle men, woodblock setters

CLASS 6 - Concrete form dismatler in composite crew with carpenters, compactor rammer type, setting up and using laser beam equipment

CLASS 7 - Setting up and using concrete burning bars, underpinning & shoring of existing buildings.

DECISION NO. IL77-2112

ILL-34-LAB-1

LABORERS: REMAINDER OF TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	$9.65	.60	.60		.035
SEMI-SKILLED	9.85	.60	.60		.035
SKILLED	10.05	.60	.60		.035

UNSKILLED:
Carpenter Tender, Tool Cribmen, Cleaning & Oiling of Machinery, Firemen or Salamander Tenders, Flagmen, Gravel Box Men, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Pile Driver Helpers, Asphalt Plant Helpers, Wrecking Laborers, Fireproofing Laborers, Surveyors & Instrument Men Helpers, Janitors, Driving of Stakes, String Lines for all Machinery, Unloading & Laborers w/Steel Workers & Re-Bars, Mason Tenders, Scaffold Workers, Laborers with De-Watering Systems, Plaster Tenders

SEMI-SKILLED:
Handling of materials treated w/oil, crosote & asphalt, Track Laborers, Cement Handlers, Concrete Workers (Wet), Cloride Handlers, Tunnel Helpers in Free Air, Batch Dumpers, Kettle & Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies, Sewer Workers, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag), Cofferdam Workers, Concrete Paving, Placing, Cutting & Tying of Reinforcing, Deck Hand, Dredge Hand & Shore Laborers, Bank Men on Floating Plant, Asphalt Workers & Layers w/ Machine, Grade Checker, Dumpmen, Spotter where grade is to be established, Power Tools, Chain Saw Operators, Jackhammer & Drill Operators, Air Tamping Hammermen, Tree Topping, Signalling & Spotting of Rigs & Equipment.

SKILLED:
Caisson Workers plus depth, Gunnite Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners & Torchmen, Layout Man and/or Tile Layer, Steel Form Setters-Street & Highway, Concrete Saw Operator, Screenman on Asphalt Pavers, Front end man on Chip Spreader, Laborers tending Masons w/hot materials or foreign materials are used, Multiple Concrete Duct-Leadman, Lutemán, Curb Asphalt Machine Operator, Ready-Mix Scalemen, Permanent, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine & Coring Machine Operators, Underpinning and Shoring or Buildings, Dynamite Shooter.

DECISION NO. IL77-2112

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.57	.45	.55		.05
GROUP 2	11.37	.45	.55		.05
GROUP 3	10.995	.45	.55		.05
GROUP 4	10.72	.45	.55		.05
GROUP 5	10.11	.45	.55		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanic, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant opeators and plant engineers, 3 drum joist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oiler, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types). motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, rose carrier and helicopter

GROUP 2 - Trench machine pumpcrete-belt crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tunneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

DECISION NO. IL77-2112

POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 3 - Tractor (trank type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar laoders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pullign power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-are without attachments, curb machine, truck cranes oiler, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, & similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity) oulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL67-2112 ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

GROUP I - Drivers on axle trucks hauling less than 9 tons, air compressors and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; fork lifts up to 6,000 lbs. capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch truck, hydrolifts trucks, or similar equipment when used for transportation purposes; fork lifts over 6,000 lb. capacity; winch truck; 4-axle combination units; ticket writers

GROUP III - 2-3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mehcanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:
a- Per Week Per Employee

DREDGING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.57	.45	.55		.05
GROUP 2	11.37	.45	.55		.05
GROUP 3	10.995	.45	.55		.05
GROUP 4	10.72	.45	.55		.05
GROUP 5	10.11	.45	.55		.05

GROUP 1 - Operators on hydraulic dipper or clamshell dredges, Engineers and Repairemen, Operators on work boats,
GROUP 2 - Power Winches 1-2-3 Drums
GROUP 3 - Security Engineer
GROUP 4 - cranemen on dipper dredges, operators on launches or power boats
GROUP 5 - Firemen & Oilers

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Champaign & Vermillion
DECISION NUMBER: IL77-2113 DATE: Date of Publication
Supersedes Decision No. IL76-2121, dated October 11, 1976, in 41 FR 43573
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.00	.55	.50		.01
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS:					
Champaign County:					
Bricklayers; Stonemasons	10.62	.35			.03
Marble, Tile, Terrazzo Workers	10.85				
Vermilion County:					
Bricklayers; Stonemasons; Marble, Terrazzo Workers	9.35	.30	.50		
Tile Setters	9.10	.30	.50		
CARPENTERS:					
Champaign county:					
Carpenters & Soft Floor Layers	11.015	.45	.90		.08
Millwrights & Piledrivermen	11.515	.45	.90		.08
Vermillion County:					
North of Rossvile					
Carpenters; Soft Floor Layers Millwrights & Piledrivermen	10.50	.50	.70		.01
Remainder of County					
Carpenters & Soft Floor Layers	10.865	.75	.80		.05
Millwrights & Piledrivermen	11.345	.75	.80		.05
CEMENT MASONS & PLASTERERS:					
Champaign County:					
Cement Masons	10.975	.35	.25		.025
Plasterers	10.365	.35			.025
Vermillion County:					
Cement Masons & Plasterers	7.75				
ELECTRICIANS:					
Champaign County	12.00	.40	3%+.30		.3%
Vermillion County	11.52	.40	3%+.50		.25%
ELEVATOR CONSTRUCTORS:					
Constructors	10.30	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Champaign County	9.94	.45	.15		
IRONWORKERS	10.05	.50	1.00		.08
LATHERS	10.14	.35	.20		.01
LEAD BURNERS	9.25	.35		c	.01

DECISION NO. IL77-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
CHAMPAIGN COUNTY:					
Brush	10.77	.55	.40		.04
Open and Erected Steel	11.77	.55	.40		.04
Vermillion County:					
Brush	10.80				
Spray	11.80				
PLUMBERS & STEAMFITTERS:					
Champaign County	11.40	.35	1.15		.12
Vermillion County	10.62	.35	1.05		.25
ROOFERS:					
Champaign county:					
Roofers	10.90	.55	.30		.03
Helpers	80%JR				
Vermillion County	9.35				
SHEET METAL WORKERS	11.39	3%+.60	.67		.12
SPRINKLER FITTERS	11.65	.65	.95		.08

WELDERS: receive rate prescribed for craft performing opeation to which welding is incidental.

PAID HOLIDAYS: (WHERE APPLICABLE)
a-New Year's Day; B-Memorial Day C-Independnece Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contibutes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Nine paid holidays. A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. IL77-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Champaign County:					
Unskilled	9.95	.30	.30		.035
Semi-skilled	10.15	.30	.30		035
Skilled	10.30	.30	.30		.035
Vermillion County:					
Unskilled	9.50	.45	.60		.035
Semi-skilled	9.70	.45	.60		.035
Skilled	9.85	.45	.60		.035

UNSKILLED - All sewer workers plus depth pay, Asphlat plant laborers, Bankmen on floating plant, Barch dumpers, Carpenters tenders, Cleaning lumber, Cofferdam workers plus depth pay, Deck hand, Dredge hand and shore laborer, Dispatchers, Driving of stakes, Stringlines for all machinery, Fencing laborers, Firemen or Salamander tenders; Fireproofing laborers; Fire shop laborers; Flagmen; Form handlers, Gravel box men, Dumpmen and Spotters; Janitors, Laborers with de-watering systems; Landscapers, Laying of sod, Material checkers, Material handlers, Pit men, Plaster installers, Planting of trees, Removal of trees, Rip rap men, Rod and chairemen, Scaffold workers, Tool cribmen, Tractor laborers, Unloading explosives, Unloading and carrying Lath, Unlaoding and carrying re-bars, wrecking, dismanteling building, Wallmen and housemovers, Wrecking laborers, Writer or scale tickets

SEMI-SKILLED - Asphalt workers with machine, asphalt raker and layers, Cement handlers, cement silica, clay, Fly ash, line and plasters handler (bulk or bay) Chain saw; Chloride handlers, concrete workers (wet); Grade checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle and Tar men; Mason tenders; Mortar mixer operators; Motorized buggies or motorized unit used for wet concrete or handling of building materials, On concrete paving, placing, Cutting and Typing or Reinforcing, Signal man on crane tank cleaning, Tunnel helpers in free, air, Vibrator operators

SKILLED: - Air tamping hammerman, Caisson workers plus depth, Concrete burning machine operator, Concrete saw operator, corming machine operator, Gunnite nozzle men, Jackhammer and drill operators, Laborers handling masterplate or similar materials, Laborers tending masons with hot material or where foreign material are used, Laser beam operator, Layout man and/or tile Layer leadman on sewer work lutemen, Multiple concrete duct - Leadman, Plasterer tenders, ready mix scalemen, portable or temporary plant, Screenman on asphalt pavers, Steel form setters - street and highway, Welders, cutters, burners and torchmen

DECISION NO. IL77-2113

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.00	.40	.75		.13
CLASS II	10.95	.40	.75		.13
CLASS III	10.75	.40	.75		.13
CLASS IV	7.25	.40	.75		.13

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mehcanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on asphalt, Large rollers & rollers on asphalt, Geavel Macadam & brick surfacm, Rosm carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, farm tractor with ½ yard bucket and/or backhoe attachment, Trench machine cutting over 24" Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 14S capacity or less, trench Machine cutting 24" & under, backfiller, Elevating machine, Power Blade, asphalt Plant Engineer, Well drilling machines, Paint Machine, Pipe cleaning machine, Pipe wrapping machine, Pipe bending machine, Apsco paver, Boring machine, w/o winch, Head equipment, Greasers, Barger Green Loaders, Formless paver, farm Tractor with less than half-yard bucket and other attachments except backhow, Well point System

CLASS IV - Power Sub-Grader, Bull Float, Form grader, finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air tuggers, Truck crane drivers, House Elevators when used for temporary heat, Samll rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill Flexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self propelled concrete saw, Striping machine (Motor driven), Form tamper, seaman tiller, Bulk cement Plant Equipment Greaser

DECISION NO. IL77-2113

ILL-82-TD-1-2-3

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including pulled by separate units, truck drirer helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tolls, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle truckd hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2, 3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-xzle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Maryland COUNTIES: Allegany and Garrett

DECISION NO.: MD77-3086 DATE: Date of Publication

Supersedes Decision No. MD77-3020 dated January 14, 1977 in 42 FR 3151

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.10	.60	.70		
BOILERMAKERS	11.15	.70	1.00		.02
BRICKLAYERS	10.34		.40		
CARPENTERS	10.45	.45	.25		.02
CEMENT MASONS	10.59	.45			
ELECTRICIANS:					
Allegany County	10.15	.50	3%+.25		1%
Garrett County	10.55	.50	3%+.25		1%
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS" HELPERS (PROBATIONARY)	50%JR				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.24	.60	.90		
LATHERS	9.25		.35		.01
LINEMEN - Allegany County:					
Linemen	10.15	.50	3%+.25		1%
Equipment Operator	9.64	.50	3%+.25		1%
Truck driver	6.60	.50	3%+.25		1%
Groundmen	6.60	.50	3%+.25		1%
LINEMEN _ Garrett County:					
Linemen	10.55	.50	3%+.25		1%
Equipment operator	10.04	.50	3%+.25		1%
Truck driver	7.00	.50	3%+.25		1%
Groundmen	7.00	.50	3%+.25		1%
MARBLE MASONS	10.34		.40		
MILLWRIGHTS	10.81	.45	.25		.02
PAINTERS:					
Brush, rollers, wall covering hangers	7.95		.50		
Spray, sandblasting & use of toxic materials	8.45		.50		
PILEDRIVERMEN	10.75	.45	.25		.02
PLASTERERS	10.59	.45			
PLUMBERS & STEAMFITTERS	9.25	.50	.50	1.00	.05

DECISION NO. MD77-3086	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	9.05	.45	.40		
Mopmen - composition	9.30	.45	.40		
Helpers - composition (1st year)	3.50	.45	.40		
Helpers - composition (2 year)	5.60	.45	.40		
Slaters	9.20	.45	.40		
SHEET METAL WORKERS	10.20		.25	1.80	.02
SPRINKLER FITTERS	11.31	.65	.95		.08
STONE MASONS	10.34		.40		
TERRAZZO WORKERS	10.34		.40		
TILE SETTERS	10.34		.40		

FOOTNOTES:

a-Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

b-Employer contributes 4% of basic hourly rate for 5 years of service or more and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

DECISION NO. MD77-3086	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group I	7.71	.80	.90		
Group II	7.74	.80	.90		
Group III	7.85	.80	.90		
Group IV	7.91	.80	.90		
Group V	7.96	.80	.90		
Group VI	8.05	.80	.90		
Group VII	8.54	.80	.90		
Group VIII	8.16	.80	.90		
Group IX	8.16	.80	.90		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Unskilled & landscape workers

Group II - Handy man, tool checker, dump men & spotter

Group III - Power tool operators, mortar mixer by hand, scaffold builder, hod carrier, concrete puddler, rammer, pipelayer, chainman - rodman, & grade checker

Group IV - Mortar mixer by machine

Group V - Large wacker

Group VI - Blaster/dynamite, & wagon drill operators (air track)

Group VII - Tunnel workers: caisson, driller, & mucker

Group VIII - Tunnel workers: unskilled laborers

Group IX - Gunnite workers. Nozzlemen & gun operators

DECISION NO. MD77-3086 BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	9.83	.75	.85		.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' " .60					
210' to 249' " .80					
250' to 299' " 1.00					
300' and over " 1.25					
Group 2	9.40	.75	.85		.10
Group 3	9.06	.75	.85		.10
Group 4	8.82	.75	.85		.10
Group 5	8.70	.75	.85		.10
Group 6	8.35	.75	.85		.10
Group 7	10.23	.75	.85		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6, another man), Eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader

Group 2 - Tractor with attachments (2 or more), bulldozer

Group 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4) single compressors (over 210 C.F.M.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop

Group 4 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader

Group 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator

Group 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 C.F.M.)

Group 7 - Operators handling or setting steel, stone, prestressed concrete or machinery, tower cranes

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DECISION NO. MD77-3086

BUILDING CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Group 1	7.91	.70	.80		
Group 2	8.06	.70	.80		
Group 3	8.26	.70	.80		
Group 4	8.45	.70	.80		
Group 5	8.69	.70	.80		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group 1 - Dumpmen and flagmen
Group 2 - Pick-ups, dumps (under 5 yds., capacity), straight trucks
Group 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds., capacity), transit mix, dumps (5 to 9 yd., capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
Group 4 - Dump trucks (10 to 15 yds., capacity)
Group 5 - Dump trucks (over 15 yd., capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched eqiupment (where not self-loaded)

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Bexar
DECISION NO.: TX77-4172
DATE: Date of Publication
Supersedes Decision No. TX76-4172, dated May 7, 1976, in 41 FR 19037.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING INSTALLERS	$ 3.50				
BRICKLAYERS	7.27	.30	.30		.05
CARPENTERS	4.89				
CEMENT MASONS	4.00				
DUCT INSTALLERS	4.60				
ELECTRICIANS:					
Single or multiple family dwellings or apartments up to and including 8 units not exceeding 2 stories	6.35	.30	1%		1/2%
Over 8 units or over 2 stories	9.23	.30	1%		1/2%
FORM SETTERS	4.50				
GLAZIERS	5.60				
INSULATION INSTALLERS	4.50				
LABORERS	2.89				
LATHERS	7.955				
PAINTERS	4.63				
PLASTERERS	6.65				
PLUMBERS & PIPEFITTERS	7.70				
ROOFERS	4.53				
SHEETROCK INSTALLERS	5.00				
SOFT FLOOR LAYERS	5.00				
TAPERS	4.00				
TILE SETTERS	4.73				
TRUCK DRIVERS	3.00				
POWER EQUIPMENT OPERATORS:					
Foundation drill operator (crawler mounted)	3.25				
Front end loader	3.60				
Tractor	3.75				

SUPERSEDEAS DECISION

STATE: Utah COUNTIES: Statewide
DECISION NUMBER: UT77-5075 DATE: Date of Publication
Supersedes Decision No. UT77-5006 dated January 28, 1977, in 42 FR 5668.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.56	.52	$ 1.17		
BOILERMAKERS	11.575	.775	1.00	.50	.02
BRICKLAYERS	10.96	.45	.32+1.10		.09
BRICK TENDERS	8.30	.35	.35		
CARPENTERS:					
Building Construction:					
Carpenters	9.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	10.00	.55	.60		.03
Millwrights	10.35	.55	.60		.03
Piledrivermen	11.98	.55	.60		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Carpenters	9.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	10.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Carpenters	10.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	11.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03

DECISION NO. UT77-5075 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Heavy & Highway Construction (Cont'd)					
Zone 3: Area over 60 miles from the above-named Cities:					
Carpenters	$ 11.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	12.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03
CEMENT MASONS:					
Building Construction:					
Cement Masons	9.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	9.63	.55	.60		.03
Swing Scaffold; Swing Stage	9.75	.55	.60		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Cement Masons	9.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	9.63	.55	.60		.03
Swing Scaffold, Swing Stage	9.75	.55	.60		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Cement Masons	10.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	10.63	.55	.60		.03
Swing Scaffold; Swing Stage	10.75	.55	.60		.03
Zone 3: Area over 60 miles from the above-named Cities:					
Cement Masons	11.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	11.63	.55	.60		.03
Swing Scaffold; Swing Stage	11.75	.55	.60		.03

DECISION NO. UT77-5075 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	$ 10.09	.51	.30		.03
ELECTRICIANS:					
North section of Utah - Box Elder, Cache, Davis County (north of 41st Parallel), Morgan, Rich, Weber Counties:					
Zone 1: That area 10 miles on either side of Interstate Hwy. #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Hwy. #91 - Interstate 15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Hwy #91:					
Electricians; Technicians	11.00	.70	3%+.50		8/10%
Cable Splicers	11.25	.70	3%+.50		8/10%
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel and south of the 40th Parallel in Cache, Morgan, Weber Cos.:					
Electricians; Technicians	11.50	.70	3%+.50		8/10%
Cable Splicers	11.75	.70	3%+.50		8/10%

DECISION NO. UT77-5075 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
North Section of Utah (Cont'd)					
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Hwy. #87:					
Electricians; Technicians	$ 12.00	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%
Electricians; Technicians point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91:					
Electricians; Technicians	12.00	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%
Zone 4: All other area west of Zones 3 and 3-A in Box Elder County:					
Electricians; Technicians	13.75	.70	3%+.50		8/10%
Cable Splicers	14.00	.70	3%+.50		8/10%
In the above areas on any job or project not exceeding $35,000 electrical, labor and material including, Zone 1 rates shall apply.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: Cont'd)					
South section of Utah (Remaining Counties):					
Zone 1: Davis County (south of 41st Parallel); Salt Lake Co.; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5° thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel)					
Area A: Ten miles either direction (east or west) from Interstate Hwy. #15), bounded on the north by the 41st Parallel and on the south by the 40th Parallel:					
Electricians; Technicians	$ 11.00	.70	3%+.50		8/10%
Cable Splicers	11.50	.70	3%+.50		8/10%
Area B: The balance of Zone 1 that lies in Davis, Salt Lake, Utah Counties:					
Electricians; Technicians	11.75	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
South section of Utah (Remaining Counties): (Cont'd)					
Area C: That portion of the remainder of Zone 1 that lies in Tooele County:					
Electricians; Technicians	$ 12.50	.70	3%+.50		8/10%
Cable Splicers	13.00	.70	3%+.50		8/10%
Zone 2: Remainder of Counties and all portions of Counties not included in Zones 1 and 2 of south section of Utah:					
Electricians; Technicians	13.75	.70	3%+.50		8/10%
Cable Splicers	14.25	.70	3%+.50		8/10%
ELEVATOR CONSTRUCTORS	10.03	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.02	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.015				
GLAZIERS:					
Iron, Washington Counties	12.88	.35	.40		.05
Remaining Counties	8.34	.51	.20	b	
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Structural	10.65	.65	1.15		.05
LATHERS	9.37	.50	.50		.01
LINE CONSTRUCTION WORKERS:					
Groundman	7.67	.45	3%		1/2%
Line Equipment Serviceman	9.15	.45	3%		1/2%
Line Equipment Mechanic:					
Base Shop	9.15	.45	3%		1/2%
Right-of-way	9.77	.45	3%		1/2%
Line Equipment Operators	9.30	.45	3%		1/2%
Linemen	10.32	.45	3%		1/2%
Cable Splicers	11.35	.45	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 10.35	.20			
PAINTERS:					
Area north of the 41st Parallel:					
Brush; Roller	9.41	.51	.50		.03
Spray; Sandblaster; Steeplejack	9.66	.51	.50		.03
Spray (swing stage); Sandblaster (swing stage)	9.86	.51	.50		.03
Remaining part of State;					
Brush; Roller	9.20	.51	.30		.02
Brush (swing stage); Brush (steel and bridge); Spray, Sandblaster; Steeplejack	9.50	.51	.30		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	9.75	.51	.30		.02
Wallcovering Hanger	9.45	.51	.30		.02
PLASTERER TENDERS	8.40	.35	.35		
PLASTERERS	9.40	.50	.60		.01
PLUMBERS; Pipefitters:					
Zone 1: Within a 15 mile radius from the center of each City, namely Salt Lake City, Ogden and Provo, Utah	10.10	.51	1.00		.06
Zone 2: Zone 1 plus 15 miles	10.40	.51	1.00		.06
Zone 3: Zone 2 plus 15 miles	10.75	.51	1.00		.06
Zone 4: zone 3 plus 15 miles	12.10	.51	1.00		.06
Zone 5: All areas beyond Zone 4	12.60	.51	1.00		.06
REFRIGERATION & AIR CONDITIONING:					
Under 50 tons	9.95	.51	1.00		.04
50 tons and over	10.10	.51	1.00		.04
ROOFERS	9.39	.57	.35		.05
SHEET METAL WORKERS	10.19	.54	.59		.08
SOFT FLOOR LAYERS	8.15	.51	.12		
SPRINKLER FITTERS	10.68	.65	.95		.08
TERRAZZO WORKERS	10.35	.20			
TILE SETTERS	10.35	.20			

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within a employee's vacation period he shall be allotted an additional day's vacation. Any employee who has served continuously with one company for 12 or more years as of October 31, 1969, will continue to receive an additional week's vacation. For those employees who have voluntarily quit or are terminated prior to working 12 months, there will be accumulated for such employee by each individual employer for all straight time hours worked, 6% of his gross income for such straight time hours upon termination of such employment.

HOLIDAYS:
Straight time shall be paid when the following holidays are worked:
New Year's Day; President's Day; Memorial Day; Independence Day; Pioneer Day; Labor Day; Thanksgiving Day and Christmas Day.
Other than temporary employees shall be paid for all such holidays regardless upon which day in the week the holiday shall fall. When work is performed on a holiday, an additional straight time rate shall be paid. No work will be performed on Labor Day.

LABORERS Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.45	.40	.35		.04
Group 2	7.58	.40	.35		.04
Group 3	7.70	.40	.35		.04
Group 4	7.95	.40	.35		.04
Group 5	8.45	.40	.35		.04

LABORERS
Building Construction

Group 1: General Laborer (all classifications not included in Groups 2, 3, 4, 5)

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete pump (head hoseman); Signalman and Dumpman on Concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser instrument operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
	AREA 1	AREA 2	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.45	$ 8.95	.40	.35		.04
Group 2	7.58	9.08	.40	.35		.04
Group 3	7.70	9.20	.40	.35		.04
Group 4	7.95	9.45	.40	.35		.04
Group 5	8.45	9.95	.40	.35		.04
Tunnel and Shaft Work						
Group 1	7.60	9.10	.40	.35		.04
Group 2	7.70	9.20	.40	.35		.04
Group 3	7.90	9.40	.40	.35		.04
Group 4	8.35	9.85	.40	.35		.04

*LABORERS - AREA DEFINITION: See "Area Definition" - following Truck Drivers.

LABORERS
Heavy and Highway Construction

Group 1: General Laborers (all classifications not included in Groups 2, 3, 4, or 5)

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS
Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler; Nipper; Tapman; Vibrator; Screedmen

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2	$ 7.82	$ 8.82	.90	$ 1.565	.75	.05
Group 3	8.19	9.19	.90	1.565	.75	.05
Group 4	8.38	9.38	.90	1.565	.75	.05
Group 4-A	8.49	9.49	.90	1.565	.75	.05
Group 5	8.49	9.49	.90	1.565	.75	.05
Group 6	8.97	9.97	.90	1.565	.75	.05
Group 7	9.13	10.13	.90	1.565	.75	.05
Group 7-A	9.25	10.25	.90	1.565	.75	.05
Group 8	9.56	10.56	.90	1.565	.75	.05
Group 8-A	9.63	10.63	.90	1.565	.75	.05
Group 9	9.79	10.79	.90	1.565	.75	.05
Group 10	9.96	10.96	.90	1.565	.75	.05
Group 11	10.42	11.42	.90	1.565	.75	.05
Group 11-A	11.33	12.33	.90	1.565	.75	.05
Group 11-B	11.80	12.80	.90	1.565	.75	.05
Group 12	12.07	13.07	.90	1.565	.75	.05

*POWER EQUIPMENT OPERATORS - AREA DEFINITIONS: See "Area Definition" - following Truck Drivers

POWER EQUIPMENT OPERATORS
Building Construction

Group 2: Assistant to Engineer; Elevator Operator; Hydraulic Monitor; Material Loader or Conveyor Operator

Group 3: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant Continuous mix); Pump Operator; Truck Crane Oiler

Group 4: Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator - 1 drum; Slip Form Pumps

Grup 4-A: Heavy Duty Repairman and Welder

Group 5: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 6: A Frame Truck and Tugger Hoist; Fork Lift (construction jobsite); Kolman Loader and similar; Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.); McGinnis Internall Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 7: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without dozer

Group 7-A: Tractor Operator (bulldozer or tractor-drawn scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or dragf-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Motor Patrol

Group 10: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount); Tower Crane (Linden type or similar designa and capacity)

Group 11: Remote Controlled Cranes and Derricks; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 11-B: Operator of Helicopter (when used in erection work)

Group 12: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:* Heavy and Highway Construction	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.01	$ 9.01	.90	$ 1.615	.85	.14
Group 2	8.29	9.29	.90	1.615	.85	.14
Group 3	8.64	9.64	.90	1.615	.85	.14
Group 4	8.82	9.82	.90	1.615	.85	.14
Group 4-A	8.93	9.93	.90	1.615	.85	.14
Group 5	8.93	9.93	.90	1.615	.85	.14
Group 6	9.39	10.39	.90	1.615	.85	.14
Group 7	9.54	10.54	.90	1.615	.85	.14
Group 7-A	9.65	10.65	.90	1.615	.85	.14
Group 8	9.95	10.95	.90	1.615	.85	.14
Group 8-A	10.01	11.01	.90	1.615	.85	.14
Group 9	10.07	11.07	.90	1.615	.85	.14
Group 10	10.23	11.23	.90	1.615	.85	.14
Group 11	10.67	11.67	.90	1.615	.85	.14
Group 11-A	11.63	12.63	.90	1.615	.85	.14
Group 11-B	12.08	13.08	.90	1.615	.85	.14
Group 12	12.24	13.24	.90	1.615	.85	.14

*SEE AREA DEFINITION following Truck Drivers

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 1: Repairman Helper

Group 2: Asphalt Plant Fireman; Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Repairman Helper - Field

Group 3: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on street, highways, airports and canals); Truck Crane Oiler; Boxman, Asphalt Plant

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper - multiple-purpose; Front End Loader (up to and including 1 cu. yd. struck MRC); Hoist Operator - 1 drum; Line Master; Slip Form Pumps

Group 4-A: Slurry Seal Machine or similar

Group 5: Air Compressor Operator (2 or more compressors); Batch Operator (asphalt plant); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Small rubber-tired tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Lube and Service Engineer (mobile and grease rack); Concrete Conveyor (building site)

Group 6: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled units on streets, highways, airports and canals); Engineer-locomotive; Fork Lift (construction jobsite); Kolman Loader (and similar); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck MRC); Maginnis Internal Full Slab Vibrator (on airports, highways, canal and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Surface Heater (self-propelled); Gradesetter

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 7: Bridge Crane; Chip Box Spreader (Flaherty-type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marin); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High Lift (40 ft. or similar); Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-Joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor Combination; Pavement Breaker, truck mounted, compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Compressor Drill combination; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Mechanical Burm, Curb and/or Curb and Gutter Machine, Concrete or Asphalt; Self-propelled Compactor with or without dozer; Drilling and Boring Machinery, Horizontal and Vertical (not to apply to waterliners, wagon drills or jackhammers); Self-propelled Compactor (with multiple-propulsion power units)

Group 7-A: Side Boom Operator; Tractor Operator (Bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, up to and

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-mor Loader and Adams Elegrader; Euclid Loader and similar types; Koehring Skooper (or similar) (up to 5 cu. yds. struck MRC); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck MRC); Mechanical Trench Shield; Mucking Machine Operator; Rubber-tired Scrapers (under 35 cu. yds. struck MRC); Saurman-type Dragline (under 5 cu. yds. struck MRC); Self-propelled Boom-type Lifting Devixe (center mount) (10 ton capacity or less MRC); Self-propelled Elevating Grade Plane; Soil Stabilizer (P&H or equal); Subgrader (automatic subgrader - fine grader); Tri-batch Paver; Tunnel Mole (or similar); Asphalt Plant Engineer; Engineer, crushing plant; Combination Backhoe and Loader (3/4 yds. and over struck MRC)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bull-dozer or tractor-drawn scraper or drag-type shovel or boom attach-ment, larger than D-7 or similar)

Group 9: Combination Mixer and Compressor (gunite); Highline Cable-way Signalman; Motor Patrol; Tower Crane (Linden-type or similar designs and capacity)

Group 10: D.W. 10, 20, etc. (Tandem Scrapers); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck MRC); Locomotive (over 100 tons) (single or multiple units); Pre-stree Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck MRC); Tractor (tandem scrapers); Universal Equip-ment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, gradeall, etc.) (up to and including 5 cu. yds. struck MRC); Self-propelled Boom-type lifting device (center mount (over 10 tons)

Group 11: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar) (5 cu. yds. and over struck MRC); Multiple Pro-pulsion power unit earth movers (up to and including 75 cu. yds. struck MRC); Power Equipment with Shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck MRC); Remote-controlled Cranes and Derricks; rubber-tired Scrapers (35 cu. yds. and over struck MRC); Slip Form Paver (concrete or asphalt); Tandem Tractors; tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck MRC up to 18 cu. yds. MRC); Multi-purpose earth moving machines (2 or more scrapers) (over 75 cu. yds. struck MRC); Power Shovels and Drag-lines (over 7 cu. yds. struck MRC)

Group 11-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 12: Cranes over 125 tons)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Steel Erection					
Group 1	$ 9.22	.75	$ 1.615	.85	.14
Group 2	9.60	.75	1.615	.85	.14
Group 3	10.61	.75	1.615	.85	.14
Group 4	10.75	.75	1.615	.85	.14
Group 4-A	11.04	.75	1.615	.85	.14
Group 5	11.52	.75	1.615	.85	.14
Group 6	11.93	.75	1.615	.85	.14
Group 6-A	12.49	.75	1.615	.85	.14
Group 7	13.47	.75	1.615	.85	.14
Piledriving					
Group 1-A	8.78	.75	1.615	.85	.14
Group 1-B	9.11	.75	1.615	.85	.14
Group 1-C	9.26	.75	1.615	.85	.14
Group 2-A	9.89	.75	1.615	.85	.14
Group 2-B	10.10	.75	1.615	.85	.14
Group 3	10.40	.75	1.615	.85	.14
Group 3-A	10.78	.75	1.615	.85	.14
Group 4	11.33	.75	1.615	.85	.14
Group 5	11.48	.75	1.615	.85	.14
Group 6	12.49	.75	1.615	.85	.14

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Assistant to Engineer (oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6)(structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Fork Lift

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual-purpose A-Frame or Boom Truck; Boom Cat; Chacago Boom; Crawler Cranes and Truck Cranes (15 tons MRC or less); Self-propelled Boom-type Lifting Device (center mount)(10 ton capacity or less MRC); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons MRC); Derricks; Highline Cableway; Gantry Rider (or similar equipment); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); 2 or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1-A: Assistant to Engineer (deckhand, fireman, oiler)

Group 1-B: Compressor Operator

Group 1-C: Assistant to Engineer (truck crane oiler)

Group 2-A: Operator of Tugger Hoist (hoisting materials only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machines (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frame; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator or Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) up to and including 1 cu. yd. rating; Self-propelled Boom-type lifting device (center mount) (over 10 tons); Truck Cranes Operator (up to and including 25 tons) (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) over 2 cu. yd. rating; Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS*	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS - Water level capacity (bottom, end and side) (including Dumpster Trucks, Euclid type Trucks, Turnawagons, Turnarockers and Dumpcrete)						
Less than 8 yards	$ 8.47	$ 9.97	.58	.75	$ 1.00	.10
8 yds. and less than 14 yds.	8.62	10.12	.58	.75	1.00	.10
14 yds. and less than 35 yds.	8.77	10.27	.58	.75	1.00	.10
35 yds. and less than 55 yds.	8.97	10.47	.58	.75	1.00	.10
55 yds. and less than 75 yds.	9.17	10.67	.58	.75	1.00	.10
75 yds. and less than 95 yds.	9.37	10.87	.58	.75	1.00	.10
95 yds. and less than 105 yds.	9.57	11.07	.58	.75	1.00	.10
105 yds. & less than 130 yds.	9.69	11.19	.58	.75	1.00	.10
130 cu. yds. and over to be paid one-half cent ($.005) per cu. yds. capacity per hour in addition to rate for 105 yards and less than 130 yards						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity):						
Pickup	8.295	9.795	.58	.75	1.00	.10
Less than 10 tons	8.37	9.87	.58	.75	1.00	.10
10 tons and less than 15 tons	8.52	10.02	.58	.75	1.00	.10
15 tons and less than 20 tons	8.62	10.12	.58	.75	1.00	.10
20 tons and over	8.77	10.27	.58	.75	1.00	.10

TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRANSIT MIX TRUCKS:						
4½ yards capacity and less	$ 8.495	$ 9.995	.58	.75	$1.00	.10
Over 4½ yards to and including 6½ yards capacity	8.595	10.095	.58	.75	1.00	.10
Over 6½ yards capacity	8.695	10.195	.58	.75	1.00	.10
CONCRETE PUMPING TRUCKS	8.695	10.195	.58	.75	1.00	.10
WATER, FUEL & OIL TANK TRUCKS:						
Less than 1200 gallons	8.345	9.845	.58	.75	1.00	.10
1200 gallons to less than 2500 gallons	8.47	9.97	.58	.75	1.00	.10
2500 gallons to less than 4000 gallons	8.62	10.12	.58	.75	1.00	.10
4000 gallons to less than 6000 gallons	8.92	10.42	.58	.75	1.00	.10
6000 gallons to less than 10,000 gallons	9.17	10.67	.58	.75	1.00	.10
10,000 gallons to less than 15,000 gallons	9.42	10.92	.58	.75	1.00	.10
15,000 gallons to less than 20,000 gallons	9.67	11.17	.58	.75	1.00	.10
20,000 gallons to less than 25,000 gallons	9.92	11.42	.58	.75	1.00	.10
2500 gallons and over	10.17	11.67	.58	.75	1.00	.10
OILER SPREADER OPERATOR (on single man operation where Boot Man is required)	9.17	10.67	.58	.75	1.00	.10

TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
CONSTRUCTION JOB SERVICEMEN:						
Telescopic Manlift Truck	$ 8.67	$10.17	.58	.75	$1.00	.10
Fork Lift (under 6 tons) and Straddle Truck	8.67	10.17	.58	.75	1.00	.10
Truck Driver Helper	8.245	9.745	.58	.75	1.00	.10
Chauffeurs	8.245	9.745	.58	.75	1.00	.10
Warehousemen (counter clerk)	8.42	9.92	.58	.75	1.00	.10
Washers	8.445	9.945	.58	.75	1.00	.10
Tireman and Greaser	8.87	10.37	.58	.75	1.00	.10
Gas Station Attendants	8.295	9.795	.58	.75	1.00	.10
Fork Lift (over 6 tons)	8.77	10.27	.58	.75	1.00	.10
Teamster Mechanic	9.48	10.98	.58	.75	1.00	.10
Teamster Mechanic Helper	9.23	10.73	.58	.75	1.00	.10
Teamster Welder	9.48	10.98	.58	.75	1.00	.10
Teamster Driving two Horses	9.245	10.745	.58	.75	1.00	.10
Teamster Driving three or more horses	9.345	10.845	.58	.75	1.00	.10
Sweeper or Vacuum Truck	8.62	10.12	.58	.75	1.00	.10

*SEE AREA DEFINITION following this page.

AREA DEFINITIONS

Laborers
(Heavy and Highway Construction)
Power Equipment Operators
Building Construction)
(Heavy and Highway Construction)
Truck Drivers

Area 1: All areas included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S. E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;
Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence northerly to the S. E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S. E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S. E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;
Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning; commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning

AREA 2: All areas not included in Area 1 as defined.

[FR Doc.77-22312 Filed 8-4-77;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF JULY 1, 1977

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

Abbreviations:

(B)—Building Construction
(D)—Dredging
(F)—Flood Control Construction
(H)—Heavy Construction
(Hw)—Highway Construction
(R)—Residential Construction
Mod.—Modification
(HE)—Heavy Engineering
(LE)—Light Engineering
(U)—Utility
(W&S)—Water and Sewer

Signed at Washington, D.C. this 29th day of July 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL77-1042 (Hw)
41 FR 17753 - 4/1/77
AUTAUGA COUNTY
Decision #AL77-1063 (W&S)
42 FR 24553 - 5/13/77
Decision #AL77-1064 (H)
42 FR 24553 - 5/13/77
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL77-1072 (H)
42 FR 28729 - 6/3/77
Decision #AL76-1009 (R)
41 FR 2540 - 1/16/76
(D,Hw) - See Statewide
BARBOUR COUNTY
(H,W&S) - See Autauga County
(D,Hw) - See Statewide
BIBB COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL77-1075 (R)
42 FR 28756 - 6/3/77
Decision #AL77-1066 (W&S)
42 FR 24554 - 5/13/77
Decision #AL77-1067 (H)
42 FR 24554 - 5/13/77
(D,Hw) - See Statewide
BULLOCK COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
BUTLER COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CALHOUN COUNTY
Decision #AL77-1071 (W&S)
42 FR 28728 - 6/3/77
Decision #AL77-1083 (H)
42 FR 32458 - 6/24/77
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
Mod. #1 - 42 FR 8925 - 2/11/77
(D,Hw) - See Statewide
CHAMBERS COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CHEROKEE COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CHILTON COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
(H) - See Baldwin County

ALABAMA (Cont'd.)

CLARKE COUNTY
(D, Hw) - See Statewide
(H,D) - See Baldwin County
CLAY COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CLEBURNE COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
COFFEE COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL76-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL77-1027 (B)
42 FR 15260 - 3/18/77
Mod. #1 - 42 FR 17735 - 4/1/77
Mod. #2 - 42 FR 24567 - 5/13/77
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CONECUH COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
COOSA COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
COVINGTON COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CRENSHAW COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CULLMAN COUNTY
Decision #AL77-1048 (R)
42 FR 22067 - 4/29/77
(D,Hw) - See Statewide
(H, W&S) - See Blount County
DALE COUNTY
(H,W&S) - See Autauga County
(D,Hw) - See Statewide
DALLAS COUNTY
(H, W&S) - See Autauga County
(D,Hw)- See Statewide
DE KALB COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
ELMORE COUNTY
(H, W&S) - See Autauga County
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide
(H, W&S) - See Calhoun County

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
FRANKLIN COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
GREENE COUNTY
(H) - See Calhoun County
(D,Hw) - See Statewide
(W&S) - See Calhoun County
HALE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
HENRY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
HOUSTON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
JACKSON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
(R) - See Cullman County
JEFFERSON COUNTY
Decision #AL77-1086 (B)
42 FR 34153 - 7/1/77
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
(H, W&S) - See Calhoun County
LAMAR COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
(H, W&S) - See Blount County
LAWRENCE COUNTY
Decision #AL77-1025 (B)
42 FR 12577 - 3/4/77
Mod. #1 - 42 FR 20048 - 4/15/77
Mod. #2 - 42 FR 24566 - 5/13/77
(D,Hw) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County
LEE COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LIMESTONE COUNTY (Cont'd.)
(R) - See Cullman County
(H, W&S) - See Blount County
LOWNDES COUNTY
(D,Hw) - See Statewide
(H,W&S) - See Autauga County
MACON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
MADISON COUNTY
Decision #AL77-1040 (B)
42 FR 17752 - 4/1/77
Mod. #1 - 42 FR 28731 - 6/3/77
(D,Hw) - See Statewide
(H, W&S) - See Blount County
MARENGO COUNTY
(H) - See Baldwin County
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
(H, W&S) - See Blount County
MARSHALL COUNTY
(R) - See Madison County
(H, W&S) - See Blount County
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL77-1039 (B)
42 FR 20988 - 4/22/77
(D,Hw) - See Statewide
(H,R) - See Baldwin County
MONROE COUNTY
(H,R) - See Baldwin County
(D,Hw) - See Statewide
MONTGOMERY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
(R) - See Cullman County
(H, W&S) - See Blount County
PERRY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
PICKENS COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
RANDOLPH COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
RUSSELL COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - Calhoun County
SUMTER COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
TALLADEGA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
TUSCALOOSA COUNTY
Decision #AL77-1053 (B)
42 FR 23294 - 5/6/77
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
(H) - See Baldwin County
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County

ALASKA

STATEWIDE
Decision #AK77-5052 (B,H,Hw,D,R)
42 FR 26115 - 5/20/77
Mod. #1 - 42 FR 34138 - 7/1/77

ARIZONA

STATEWIDE
Decision #AZ77-5058 (B,H,Hw)
42 FR 31056 - 6/17/77
APACHE COUNTY
(Navajo and Hopi Indian
Reservations in Apache, Coconino, Navajo Cos.)
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5059 (R)
42 FR 31065 - 6/17/77
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5060 (R)
42 FR 31070 - 6/17/77
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ARKANSAS

STATEWIDE
Decision #AR77-4072 (Construction Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
42 FR 17754 - 4/1/77
Mod. #1 - 42 FR 23267 - 5/6/77
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLARK COUNTY
(B) - See Garland County
(B,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR77-4106 (B)
42 FR 27563 - 5/27/77
Mod. #1 - 42 FR 28732 - 6/3/77
Mod. #2 - 42 FR 31045 - 6/17/77
Mod. #3 - 42 FR 34138 - 7/1/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR77-4114 (B)
42 FR 30106 - 6/10/77
Mod. #1 - 42 FR 34139 - 7/1/77
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR77-4112 (B)
42 FR 30104 - 6/10/77
Mod. #1 - 42 FR 34138 - 7/1/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,HW) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR77-4107 (B)
42 FR 28757 - 6/3/77
Mod. #1 - 42 FR 31045 - 6/17/77
Mod. #2 - 42 FR 34138 - 7/1/77
Decision #AR77-4034 (R)
42 FR 10223 - 2/18/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
Decision #AR77-4147 (B)
42 FR 34155 - 7/1/77
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #CA77-5039 (B,H,Hw,D)
42 FR 20991 - 4/22/77
Mod. #1 - 42 FR 30081 - 6/10/77
Decision #CA77-5040 (R)
42 FR 21012 - 4/22/77
Mod. #1 - 42 FR 30082 - 6/10/77

ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA77-5041 (B,D,H,Hw)
42 FR 23295 - 5/6/77
Mod. #1 - 42 FR 28732 - 6/3/77
Decision #CA77-5042 (R)
42 FR 23306 - 5/6/77
Mod. #1 - 42 FR 28733 - 6/3/77
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA77-5043 (B,H,Hw,D)
42 FR 26122 - 5/20/77
Mod. #1 - 42 FR 28733 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision #CA77-5044 (R)
42 FR 26130 - 5/20/77
Mod. #1 - 42 FR 28735 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #CO77-5066 (H,Hw)
42 FR 34157 - 7/1/77
ADAMS COUNTY
Decision #CO77-5067 (B)
42 FR 34165 - 7/1/77
Decision #CO75-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(H,Hw) - See Statewide
ALAMOSA COUNTY
(H,Hw) - See Statewide
ARAPAHOE COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
ARCHULETA COUNTY
(H,Hw) - See Statewide
BACA COUNTY
(H,Hw) - See Statewide
BENT COUNTY
(H,Hw) - See Statewide
BOULDER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CHAFFEE COUNTY
(H,Hw) - See Statewide
CHEYENNE COUNTY
(H,Hw) - See Statewide
CLEAR CREEK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CONEJOS COUNTY
(H,Hw) - See Statewide
COSTILLA COUNTY
(H,Hw) - See Statewide
CROWLEY COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELTA COUNTY
Decision #CO77-5070 (B)
42 FR 34182 - 7/1/77
(H,Hw) - See Statewide
DENVER COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
DOLORES COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EAGLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EL PASO COUNTY
Decision #CO77-5068 (B)
42 FR 34172 - 7/1/77
(H,Hw) - See Statewide
FREMONT COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
GILPIN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GRAND COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GUNNISON COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
HINDSDALE COUNTY
(H,Hw) - See Statewide
HUERFANO COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
KIOWA COUNTY
(H,Hw) - See Statewide
KIT CARSON COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LA PLATA COUNTY
(H,Hw) - See Statewide
LARIMER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #CO77-5069 (B)
42 FR 34177 - 7/1/77
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide
MESA COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide

COLORADO (Cont'd.)

MOFFAT COUNTY
(H,Hw) - See Statewide
MONTEZUMA COUNTY
(H,Hw) - See Statewide
MONTROSE COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OTERO COUNTY
(B) - See Las Animas County
(H,Hw) - See Statewide
OURAY COUNTY
(H,Hw) - See Statewide
PARK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
PHILLIPS COUNTY
(H,Hw) - See Statewide
PITKIN COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
PROWERS COUNTY
(H,Hw) - See Statewide
PUEBLO COUNTY
(B) - See Las Amimas County
(H,Hw) - See Statewide
RIO BLANCO COUNTY
(H,Hw) - See Statewide
RIO GRAIDE COUNTY
(H,Hw) - See Statewide
ROUTT COUNTY
(H,Hw) - See Statewide
SAGUACHE COUNTY
(H,Hw) - See Statewide
SAN JUAN COUNTY
(H,Hw) - See Statewide
SAN MIGUEL COUNTY
(H,Hw) - See Statewide
SEDGWICK COUNTY
(H,Hw) - See Statewide
SUMMIT COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
TELLER COUNTY
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WELD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
YUMA COUNTY
(H,Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2172 (B,H,Hw,R)
41 FR 56574 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
Decision #CT76-2173 (B,H,Hw,R)
41 FR 56581 - 12/28/76
Mod. #1 - 42 FR 30083 - 6/10/77
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT77-3045 (R)
42 FR 20055 - 4/15/77
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #DE77-3042 (B,H,Hw)
42 FR 17756 - 4/1/77
Mod. #1 - 42 FR 30084 - 6/10/77
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL77-1028 (B)
42 FR 15262 - 3/18/77
Mod. #1 - 42 FR 18788 - 4/8/77
Mod. #2 - 42 FR 22069 - 4/29/77
Mod. #3 - 42 FR 28738 - 6/3/77
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Mod. #2 - 42 FR 10206 - 2/18/77
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL77-1065 (B,H,Hw)
42 FR 24575 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28739 - 6/3/77
Mod. #3 - 42 FR 31045 - 6/17/77
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL77-1015 (B,H)
42 FR 10224 - 2/18/77
Mod. #1 - 42 FR 17736 - 4/1/77
Mod. #2 - 42 FR 22068 - 4/29/77
Mod. #3 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
CALHOUN COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
Mod. #3 - 42 FR 12564 - 3/4/77
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL77-1029 (B)
42 FR 15264 - 3/18/77
Mod. #1 - 42 FR 17737 - 4/1/77
Mod. #2 - 42 FR 28738 - 6/3/77
Decision #FL77-1003 (R)
42 FR 4081 - 1/21/77
Decision #FL76-1141 (Hw)
41 FR 56589 - 12/28/76
(D) - See Brevard County

FLORIDA (cont'd)

DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL77-1021 (B)
42 FR 10226 - 2/18/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 17736 - 4/1/77
Mod. #3 - 42 FR 22068 - 4/29/77
Mod. #4 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Mod. #1 - 41 FR 54101 - 12/10/76
Mod. #2 - 42 FR 3133 - 1/14/77
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL77-1004 (R)
42 FR 3141 - 1/14/77
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County
HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76

FLORIDA (cont'd)

HILLSBOROUGH COUNTY (Cont'd.)
(Hw) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL77-1049 (B)
42 FR 22080 - 4/29/77
Mod. #1 - 42 FR 28739 - 6/3/77
(Hw) - See Alachua County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
LIBERTY COUNTY
(Hw) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(Hw) - See Alachua County
MARTIN COUNTY
Decision #FL77-1034 (B)
42 FR 17761 - 4/1/77
Mod. #1 - 42 FR 22069 - 4/29/77
Mod. #2 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MONROE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County

FLORIDA (cont'd)

OKALOOSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
OKEECHOBEE COUNTY
(Hw) - See Charlotte County
ORANGE COUNTY
Decision #FL77-1024 (B)
42 FR 11193 - 2/25/77
Mod. #1 - 42 FR 17737 - 4/1/77
Mod. #2 - 42 FR 22069 - 4/29/77
Mod. #3 - 42 FR 27556 - 5/27/77
Mod. #4 - 42 FR 28738 - 6/3/77
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL77-1043 (B)
42 FR 17762 - 4/1/77
Mod. #1 - 42 FR 22070 - 4/29/77
Mod. #2 - 42 FR 28739 - 6/3/77
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co
POLK COUNTY
Decision #FL77-1060 (B)
42 FR 26093 - 5/20/77
(Hw) - See Brevard Co. (Remainder of Co
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Alachua County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County

FLORIDA (Cont'd)

SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(Hw) - See Alachua County
SUWANNEE COUNTY
Decision #FL77-1061 (B)
42 FR 26093 - 5/20/77
(Hw) - See Alachua County
TAYLOR COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy etc.)
(Remainder of County)
Decision #FL77-1044 (B)
42 FR 17764 - 4/1/77
Mod. #1 - 42 FR 22070 - 4/29/77
Mod. #2 - 42 FR 28739 - 6/3/77
(Hw) - See Brevard County
(Remainder of County)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Alachua County

GEORGIA

STATEWIDE
Decision #AR-4033 (Hw)
39 FR 38984 - 5/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23029 - 5/30/76
Mod. #3 - 41 FR 7888 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
Mod. #5 - 42 FR 17737 - 4/1/77
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

BAKER COUNTY
Decision #GA77-1031 (R)
42 FR 16355 - 3/25/77
(Hw) - See Statewide
BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide

GEORGIA (Cont'd.)

CHATHAM COUNTY
Decision #GA77-1009 (B)
42 FR 5623 - 1/28/77
Mod. #1 - 42 FR 8932 - 2/11/77
Mod. #2 - 42 FR 11183 - 2/25/77
Mod. #3 - 42 FR 24967 - 5/13/77
Mod. #4 - 42 FR 34141 - 7/1/77
(Hw) - See Statewide
(D,R) - See Bryan County
CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10818 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24033 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
Mod. #1 - 42 FR 15249 - 3/18/77
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA77-1005 (B)
42 FR 5621 - 1/28/77
Mod. #1 - 42 FR 10206 - 2/18/77
Mod. #2 - 42 FR 16344 - 3/25/77
Mod. #3 - 42 FR 17737 - 4/1/77
Mod. #4 - 42 FR 23268 - 5/6/77
Mod. #5 - 42 FR 34140 - 7/1/77
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(R) - See Clayton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide
DECATUR COUNTY
(R) - See Baker County
(Hw) - See Statewide

GEORGIA (Cont'd.)

DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewidm
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See Baker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide
GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

HALL COUNTY
Decision #GA77-1068 (B)
42 FR 26136 - 5/20/77
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County

GEORGIA (Cont'd.)

LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
Mod. #1 - 42 FR 5613 - 1/28/77
Mod. #2 - 42 FR 20048 - 4/15/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 34140 - 7/1/77
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #GU77-5026 (B,H,Hw,R)
42 FR 13757 - 3/11/77

HAWAII

STATEWIDE
Decision #H177-5030 (B,H,Hw,D,R)
42 FR 12579 - 3/4/77
Mod. #1 - 42 FR 16345 - 3/25/77
Mod. #2 - 42 FR 20048 - 4/15/77
Mod. #3 - 42 FR 22071 - 4/29/77
Mod. #4 - 42 FR 24567 - 5/13/77

IDAHO

STATEWIDE
Decision #ID77-5045 (B,H,Hw)
42 FR 24577 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28740 - 6/3/77
Mod. #3 - 42 FR 34141 - 7/1/77
ADA COUNTY
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd.)

BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Mod. #1 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL76-2149 (H,Hw)
41 FR 54128 - 12/10/76
Mod. #1 - 42 FR 3135 - 1/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/76
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 12566 - 3/4/77
Mod. #4 - 42 FR 17739 - 4/1/77
Mod. #5 - 42 FR 23270 - 5/6/77
Mod. #6 - 42 FR 28743 - 6/3/77
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 10210 - 2/18/77
Mod. #3 - 42 FR 28744 - 6/3/77
BOND COUNTY
Decision #IL77-2018 (H,Hw)
42 FR 10228 - 2/18/77
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/76
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 12567 - 3/4/77
Mod. #3 - 42 FR 17739 - 4/1/77
Mod. #4 - 42 FR 23270 - 5/6/77
Mod. #5 - 42 FR 28743 - 6/3/77
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
Mod. #1 - 42 FR 7027 - 2/4/77
Mod. #2 - 42 FR 10208 - 2/18/77
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL76-2142 (H,Hw)
41 FR 50126 - 11/12/76
Mod. #1 - 42 FR 10208 - 2/18/77
Mod. #2 - 42 FR 23270 - 5/6/77
CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
CARROLL COUNTY
(D) - See Adams County
(H,Hw) - See Bureau County

ILLINOIS (Cont'd.)

CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
(D) - See Adams County
CHAMPAIGN COUNTY
Decision #IL76-2121 (B)
41 FR 43573 - 10/1/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 7026 - 2/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 4062 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
Mod. #1 - 42 FR 4063 - 1/21/77
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 23269 - 5/6/77
Mod. #5 - 42 FR 28742 - 6/3/77
CLARKE COUNTY
Decision #IL77-2030 (B)
42 FR 12584 - 3/4/77
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 28742 - 6/3/77
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 4063 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 12567 - 3/4/77
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL76-2122 (B,H,Hw,R)
41 FR 43576 - 10/1/76
Mod. #1 - 42 FR 987 - 1/4/77
Mod. #2 - 42 FR 5613 - 1/28/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CRAWFORD COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County

ILLINOIS (Cont'd.)

DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL77-2068 (B,R)
42 FR 30108 - 6/10/77
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 28741 - 6/3/77
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
Mod. #3 - 42 FR 28743 - 6/3/77
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL77-2029 (B)
42 FR 11206 - 2/25/77
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(D) - See Adams County
(H,Hw) - See Fulton County
HARDIN COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County
HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County

ILLINOIS (Cont'd)

JACKSON COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
JO DAVIESS COUNTY
(D) - See Adams County
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 28741 - 6/3/77
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
MC LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
Mod. #2 - 42 FR 28742 - 6/3/77
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACAUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76

ILLINOIS (Cont'd)

MADISON COUNTY (Cont'd.)
Mod. #1 - 42 FR 4062 - 1/21/77
Mod. #2 - 42 FR 17738 - 4/1/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 28740 - 6/3/77
(D) - See Adams County
(H,Hw) - See Bond County
MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Adams County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL76-2015 (B,D,R)
41 FR 8643 - 2/27/76
Mod. #1 - 41 FR 20120 - 5/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 28740 - 6/3/77
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
POPE COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PULASKI COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(B) - See Bond County
(D) - See Adams County
(H,Hw) - See Alexander County

ILLINOIS (Cont'd)

RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
Mod. #1 - 42 FR 7026 - 2/4/77
Mod. #2 - 42 FR 12566 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28742 - 6/3/77
(D) - See Adams County
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Adams County
SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 23269 - 5/6/77
Mod. #3 - 42 FR 28742 - 6/3/77
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(D,H,Hw) - See Adams County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County

TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(D) - See Adams County
(B) - See Alexander County
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
(D) - See Adams County

ILLINOIS (Cont'd.)

WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/16/76
Mod. #1 - 41 FR 20124 - 5/14/76
(B,H,Hw) - See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

STATEWIDE
Decision #IN77-2033 (H,Hw)
42 FR 24596 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
ADAMS COUNTY
Decision #IN77-2017 (B)
42 FR 8920 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24570 - 5/13/77
Mod. #3 - 42 FR 32448 - 6/24/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN77-2018 (B)
42 FR 32460 - 6/24/77
Decision #IN77-2019 (B)
42 FR 8940 - 2/11/77
(H,Hw) - See Statewide
BARTHOLOMEW COUNTY
Decision #IN77-2095 (B)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BLACKFORD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
BOONE COUNTY
Decision #IN77-2016 (B)
42 FR 8915 - 2/11/77
Mod. #1 - 42 FR 24570 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
BROWN COUNTY
Decision #IN77-2084 (B)
42 FR 24555 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IL77-5058 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
Decision #IN77-2092 (B)
42 FR 8910 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CLAY COUNTY
Decision #IN77-2022 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
(D) - See Clark County

INDIANA (Cont'd.)

DAVIESS COUNTY
Decision #IN77-2021 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
DECATUR COUNTY
Decision #IN77-2008 (B)
42 FR 8908 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24569 - 5/13/77
Mod. #3 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
DEKALB COUNTY
Decision #IN77-2010 (R)
42 FR 8912 - 2/11/77
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #IN77-2094 (R)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
Decision #IN77-2022 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #IN77-2085 (B)
42 FR 24562 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
(H,Hw) - See Statewide
FLOYD COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
Decision #IN77-2023 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
GRANT COUNTY
Decision #IN77-2070 (R)
42 FR 24555 - 5/13/77
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
Decision #IN77-2024 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #IN77-2011 (R)
42 FR 8912 - 2/11/77
(B) - See Boone County
(H,Hw) - See Statewide

INDIANA (Cont'd.)

HANCOCK COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
HARRISON COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
Decision #IN77-2095 (R)
42 FR 27552 - 5/27/77
(H,Hw) - See Statewide
(B) - See Boone County
HENRY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
JACKSON COUNTY
Decision #IN77-2012 (R)
42 FR 8913 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
(B) - See Brown County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
JEFFERSON COUNTY
Decision #IN77-2013 (R)
42 FR 8913 - 2/11/77
(D) - See Clark County
(B) - See Brown County
(H,Hw) - See Statewide
JENNINGS COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
JOHNSON COUNTY
Decision #IN77-2014 (R)
42 FR 8914 - 2/11/77
(H,Hw) - See Statewide
(B) - See Boone County
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN77-2082 (B,H,Hw)
42 FR 24588 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
Decision #IN77-5038 (D)
42 FR 15802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.)

LAWRENCE COUNTY
Decision #IN77-2096 (R)
42 FR 27552 - 5/27/77
(B) - See Brown County
(H,Hw) - See Statewide
MADISON COUNTY
Decision #IN77-2097 (R)
42 FR 27553 - 5/27/77
(B) - See Boone County
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
Mod. #3 - 42 FR 12568 - 3/4/77
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
Decision #IN77-2025 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Fayette County
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
Decision #IN77-2026 (R)
42 FR 10199 - 2/18/77
(B) - See Brown County
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
Decision #IN77-2027 (R)
42 FR 10199 - 2/18/77
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.)

POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RIPLEY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RUSH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
SHELBY COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
Decision #IN77-2098 (R)
42 FR 27553 - 5/27/77
(B) - See Adams County
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(B) - See Brown County
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
Decision #IN77-2099 (R)
42 FR 27554 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
Decision #IN77-2028 (R)
42 FR 10200 - 2/18/77
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
Decision #IN77-2015 (R)
42 FR 8914 - 2/11/77
(B) - See Brown County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
WELLS COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/[illegible]/77
APPANOOSE COUNTY
Decision #IA77-4042 (H,Hw)
42 FR 11211 - 2/25/77
AUDUBON COUNTY
Decision #IA77-4110 (H,Hw)
42 FR 30079 - 6/10/77
BENTON COUNTY
Decision #IA77-4041 (Hw)
42 FR 11210 - 2/25/77
BLACK HAWK COUNTY
Decision #IA77-4089 (B,H,Hw)(City of Waterloo & abutting Municipalities
42 FR 23345 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30482 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
(H,Hw) - See Audubon County
CARROLL COUNTY
(H,Hw) - See Audubon County

CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA77-4090 (B,H,Hw
42 FR 23348 - 5/6/77
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

IOWA (Cont'd)

CLAY COUNTY
None
CLAYTON COUNTY
(D) - See Allamakee County
CLINTON COUNTY (City of Clinton and abutting municipalities)
Decision #IA77-4099 (B,H,Hw)
42 FR 24607 - 5/13/77
(D) - See Allamakee County

CRAWFORD COUNTY
(H,Hw) - See Audubon County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA77-4100 (B,H,Hw)
42 FR 24609 - 5/13/77
Mod. #1 - 42 FR 27558 - 5/27/77
DICKSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA77-4091 (B,H,Hw)
42 FR 23351 - 5/6/77
(D) - See Allamakee County
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
(H,Hw) - See Audubon County
GRUNDY COUNTY
(D) - See Allamakee County
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
(H,Hw) - See Audubon County
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
(H,Hw) - See Audubon County
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(D) - See Allamakee County
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA77-4092 (B,H,Hw)
42 FR 23354 - 5/6/77
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
(D) - See Allamakee County
LINN COUNTY
Decision #IA77-4093 (B,H,Hw)
42 FR 23357 - 5/6/77

IOWA (Cont'd.)

LOUISA COUNTY
(D) - See Allamakee County
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
(D) - See Allamakee County
O'BRIEN COUNTY
None
OSCEOLA COUNTY
None
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA77-4094 (B,H,Hw)
42 FR 23360 - 5/6/77
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA77-4117 (B,H,Hw)
42 FR 32470 - 6/24/77
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
(H,Hw) - See Audubon County
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
Mod. #3 - 42 FR 13716 - 3/11/77
(D) - See Allamakee County
SHELBY COUNTY
(H,Hw) - See Audubon County
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA77-4095 (B,H,Hw)
42 FR 23363 - 5/6/77
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA77-4096 (B,H,Hw)
42 FR 23366 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/28/76
Mod. #2 - 42 FR 16346 - 3/25/77
Mod. #3 - 42 FR 18791 - 4/8/77
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS77-4025 (Hw, W&S)
42 FR 10235 - 2/18/77
Mod. #1 - 42 FR 15251 - 3/18/77
Mod. #2 - 42 FR 20048 - 4/15/77
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS77-4024 (Hw, W&S)
42 FR 10234 - 2/18/77
Mod. #1 - 42 FR 17741 - 4/1/77
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - See Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS77-4084 (Hw)
42 FR 20059 - 4/15/77
Mod. #1 - 42 FR 26101 - 5/20/77
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #KS77-4019 (R)
42 FR 7056 - 2/4/77
Mod. #1 - 42 FR 26100 - 5/20/77
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #MO77-4075 (B,H,Hw)
42 FR 18815 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Mod. #3 - 42 FR 28745 - 6/3/77
Decision #MO77-4076 (R)
42 FR 18820 - 4/8/77
Mod. #1 - 42 FR 27558 - 5/27/77
Mod. #2 - 42 FR 30085 - 6/10/77
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS77-4149 (B)
42 FR 34188 - 7/1/77
(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #KS77-4047 (R)
42 FR 11212 - 2/25/77
Decision #KS77-4081 (B)
42 FR 18809 - 4/8/77
Mod. #1 - 42 FR 23273 - 5/6/77
MMod. #2 - 42 FR 27559 - 5/27/77
Decision #KS77-4023 (Hw, W&S)
42 FR 10233 - 2/18/77
Mod. #1 - 42 FR 17740 - 4/1/77
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS77-4080 (B)
42 FR 18806 - 4/8/77
Mod. #1 - 42 FR 22072 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
Decision #KS77-4079 (R)
42 FR 18803 - 4/8/77
Mod. #1 - 42 FR 22071 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
(Hw) - See Douglas County

KANSAS (Cont'd.)

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADAIR COUNTY
Decision #KY76-1093 (R)
41 FR 37472 - 9/3/76
Decision #KY76-1112 (H,Hw)
41 FR 43579 - 10/1/76
ALLEN COUNTY
Decision #KY76-1128 (H,Hw)
41 FR 50144 - 11/12/76
Mod. #1 - 41 FR 54106 - 12/10/76
ANDERSON COUNTY
Decision #KY76-1114 (H,Hw)
41 FR 44633 - 10/8/76
BALLARD COUNTY
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18708 - 4/8/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #KY75-1105 (R)
40 FR 49950 - 10/24/75
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
Decision #KY76-1092 (R)
41 FR 37471 - 9/3/76
Decision #KY76-1113 (H,Hw)
41 FR 43582 - 10/1/76
Decision #KY77-1088 (B)
42 FR 34192 - 7/1/77
(D) - See Ballard County
BOURBON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #KY77-1059 (B)
42 FR 24615 - 5/13/77
(D) - See Ballard County
(H,Hw) - See Anderson County
BOYLE COUNTY
Decision #KY76-1096 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County
Decision #KY76-1101 (R)
41 FR 40366 - 9/17/76

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #KY76-1080 (R)
41 FR 30532 - 7/23/76
Mod. #1 - 41 FR 38709 - 9/10/76
(D) - See Ballard County
(H,Hw) - See Anderson County
BULLITT COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Statewide
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
(R) - See Boone County
CARTER COUNTY
Decision #KY76-1111 (R)
41 FR 43456 - 10/1/76
(H,Hw) - See Anderson County
CASEY COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
CHRISTIAN COUNTY
Decision #KY77-1084 (B)
42 FR 32473 - 6/24/77
Decision #KY76-1118 (R)
41 FR 45801 - 10/15/76
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
Decision #KY76-1097 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Adair County
CLINTON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
CUMBERLAND COUNTY
(H,Hw,R) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 21987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 42 FR 17741 - 4/1/77

KENTUCKY (Cont'd)

DAVIESS COUNTY (Cont'd.)
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76
(D) - See Ballard County
(H,Hw) - See Allen County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY77-1010 (B)
42 FR 8941 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 17742 - 4/1/77
Mod. #3 - 42 FR 24572 - 5/13/77
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
Mod. #1 - 42 FR 988 - 1/4/77
Mod. #2 - 42 FR 7030 - 2/4/77
Mod. #3 - 42 FR 11186 - 2/25/77
Mod. #4 - 42 FR 17742 - 4/1/77
Mod. #5 - 42 FR 24571 - 5/13/77
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
R(R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County

KENTUCKY (Cont'd)

HANCOCK COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1078 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
Mod. #4 - 42 FR 11185 - 2/25/77
Mod. #5 - 42 FR 17741 - 4/1/77
(H,Hw) - See Allen County
(D) - See Ballard County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY77-1058 (B)
42 FR 24612 - 5/13/77
Mod. #1 - 42 FR34142 - 7/1/77
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY77-1002 (R)
42 FR 1684 - 1/7/77
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair cOunty
LESLIE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(D) - See Ballard County
(R) - See Carter County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
LIVINGSTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY77-1011 (B)
42 FR 8944 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 23273 - 5/6/77
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(R)-- See Laurel County
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,H,Hw,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
(R) - See Clay County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(R) - See Adair County
(H,Hw) - See Adair County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
WARREN COUNTY
Decision #KY77-1035 (B)
42 FR 18812 - 4/8/77
Mod. #1 - 42 FR 24572 - 5/13/77
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #LA77-4104 (B,Hw,R)
42 FR 26137 - 5/20/77
Mod. #1 - 42 FR 28745 - 6/3/77
Mod. #2 - 42 FR 30085 - 6/10/77
Mod. #3 - 42 FR 34142 - 7/1/77
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd.)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH
Decision #LA77-4030 (R)
42 FR 10237 - 2/18/77
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #LA77-4031 (R)
42 FR 10237 - 2/18/77
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd.)

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.)

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,Hw,D) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
Decision #ME76-2159 (Hw)
41 FR 52173 - 11/26/76
AROOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Aroostook County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

MARYLAND

ALLEGANY COUNTY
Decision #MD77-3020 (B)
42 FR 3151 - 1/14/77
Mod. #1 - 42 FR 13717 - 3/11/77
Mod. #2 - 42 FR 20984 - 4/22/77
Decision #MD77-3021 (H,Hw)
42 FR 3153 - 1/14/77
Mod. #1 - 42 FR 20984 - 4/22/77
Mod. #2 - 42 FR 31046 - 6/17/77
ANNE ARUNDEL COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H) - See Baltimore City
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
BALTIMORE CITY
Decision #MD77-3080 (Hw)
42 FR 32476 - 6/24/77
Decision #MD77-3077 (B,H)
42 FR 28760 - 6/3/77
Mod. #1 - 42 FR 34144 - 7/1/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
Mod. #2 - 42 FR 15253 - 3/18/77
(D) - See Anne Arundel County
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #MD77-3085 (R)
42 FR 34195 - 7/1/77
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
MONTGOMERY COUNTY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20982 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(R) - See Frederick County
(Hw) - See Anne Arundel County
WICOMICO COUNTY
Decision #MD77-3036 (R)
42 FR 12613 - 3/4/77
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Anne Arundel County
(Hw) - See Caroline County
Decision #MD77-3035 (B)
42 FR 12613 - 3/4/77

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA76-2095 (B,H,Hw, & Marine)
41 FR 34501 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 42 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
Mod. #3 - 41 FR 55266 - 12/17/76
Mod. #4 - 42 FR 7031 - 2/4/77
Mod. #5 - 42 FR 13717 - 3/11/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76

MASSACHUSETTS

MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw,R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 13718 - 3/11/77
Mod. #5 - 42 FR 16438 - 3/25/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision #MA76-2103 (B,H,Hw,R)
41 FR 35373 - 8/20/76
Mod. #1 - 41 FR 46814 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA76-2104 (B,H,Hw,R)
41 FR 37485 - 9/3/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16349 - 3/25/77
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 3136 - 1/14/77
Mod. #4 - 42 FR 7032 - 2/4/77
Mod. #5 - 42 FR 16349 - 3/25/77

MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51318 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
ALCONA COUNTY
Decision #MI77-2050 (B,H)
42 FR 23369 - 5/6/77
Mod. #1 - 42 FR 27560 - 5/27/77
Mod. #2 - 42 FR 28746 - 6/3/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI77-2051 (B,H)
42 FR 23374 - 5/6/77
Mod. #1 - 42 FR 28746 - 6/3/77
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI177-2053 (B,H)
42 FR 23377 - 5/6/77
Mod. #1 - 42 FR 28747 - 6/3/77
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI177-2054 (B,H)
42 FR 23384 - 5/6/77
Mod. #1 - 42 FR 28748 - 6/3/77

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #MI177-2041 (R)
42 FR 16355 - 3/25/77
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKERSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #MI77-2035 (R)
42 FR 12614 - 3/4/77
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI77-2055 (R)
42 FR 24619 - 5/13/77
Mod. #1 - 42 FR 28748 - 6/3/77
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide
IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County

MICHIGAN (Cont'd.)

ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(Hw, W&S) - See Statewide
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI77-2071 (B,H,R)
42 FR 28763 - 6/3/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #MI77-2052 (R)
42 FR 23[illegible] - 5/13/77
Mod. #1 - 42 FR 28746 - 6/3/77
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Ionia County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 43885 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OSCEOLA COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCODA COUNTY
(Hw, W&S) - See Statewide
(B,H) - See Alcona County
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN77-2048 (H,Hw)
42 FR 26157 - 5/20/77
ANOKA COUNTY
Decision #MN77-2043 (B,R)
42 FR 23390 - 5/6/77
Mod. #1 - 42 FR 28749 - 6/3/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #MN77-2031 (H,Hw)
42 FR 12616 - 3/4/77
BELTRAMI COUNTY
Decision #MN77-2034 (H,Hw)
42 FR 12617 - 3/4/77
BENTON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #MN77-2032 (H,Hw)
42 FR 12616 - 3/4/77
BLUE EARTH COUNTY
Decision #MN77-2044 (B)
42 FR 23395 - 5/6/77
Mod. #2 - 42 FR 28749 - 6/3/77
(H,Hw) - See Aitkin County
BROWN COUNTY
Decision #MN77-2066 (H,Hw)
42 FR 20127 - 4/22/77
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL77-5038 (D)
42 FR 18802- 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #MN77-2033 (H,Hw)
42 FR 12617 - 3/4/77
CROW WING COUNTY
Decision #MN77-2064 (H,Hw)
42 FR 20126 - 4/22/77
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DAKOTA COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(H,Hw) - See Aitkin County
(D) - See Anoka County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

MAHOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN77-2045 (B,R)
42 FR 23400 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
Decision #MN77-2065 (H,Hw)
42 FR 20127 - 4/22/77
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN77-2047 (B,R)
42 FR 23412 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN77-2046 (B,R)
42 FR 23405 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
(D) - See Anoka County
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #MS76-1137 (Hw)
41 FR 55271 - 12/17/76
Mod. #1 - 42 FR 3136 - 1/14/77
Decision #MS76-1139 (W&S)
41 FR 55259 - 12/17/76
ADAMS COUNTY
Decision #AR-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ATTALA COUNTY
(D,Hw, W&S) - See Statewide
BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
BOLIVAR COUNTY
Decision #MS77-1069 (B)
42 FR 26094 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Adams County
CHOCTAW COUNTY
(Hw, W&S) - See Statewide
CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
DE SOTO COUNTY
Decision #MS77-1054 (B)
42 FR 23265 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS76-1142 (B)
41 FR 56593 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HANCOCK COUNTY
Decision #MS77-1030 (B,H)
42 FR 16356 - 3/25/77
Mod. #1 - 42 FR 18791 - 4/8/77
Mod. #2 - 42 FR 22072 - 4/29/77
(D) - See Statewide
(F) - See Adams County
(R) - See George County
HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HINDS COUNTY
Decision #MS77-1032 (B)
42 FR 16359 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.)

HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 29651 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B,R) - See Forrest County
KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAFAYETTE COUNTY
Decision #MS77-1062 (B)
42 FR 25294 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEFLORE COUNTY
Decision #MS77-1055 (B)
42 FR 23265 - 5/6/77
(F) - See Adams County
((D,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.)

LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LOWNDES COUNTY
Decision #MS77-1078 (B)
42 FR 31044 - 6/17/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NOXUBEE COUNTY
Decision #MS77-1057 (H)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County
PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

RANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SHARKEY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County
SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SMITH COUNTY
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County
STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County
SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WALTHALL COUNTY
((D,Hw,WW&S)-sSee Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

WARREN COUNTY
Decision #MS77-1033 (B)
42 FR 16361 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YALOBUSHA COUNTY
Decision #MS77-1056 (B)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #MO77-4113 (H,Hw)
42 FR 30112 - 6/10/77
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide
CASS COUNTY
Decision #MO77-4075 (B)
42 FR 18815 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Decision #MO77-4076 (R)
42 FR 18820 - 4/8/77
Mod. #1 - 42 FR 27558 - 5/27/77
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #MO77-4134 (B)
42 FR 34195 - 7/1/77
Decision #MO77-4148 (R)
42 FR 34198 - 7/1/77
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.

GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,R,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #MO77-4033 (B)
42 FR 10240 - 2/18/77
Mod. #1 - 42 FR 13718 - 3/11/77
Mod. #2 - 42 FR 26101 - 5/20/77
Mod. #3 - 42 FR 30086 - 6/10/77
JEFFERSON COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACLEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
LINCOLN COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide

MISSOURI (Cont'd)

MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See STatewide
NEW MADRID COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See STatewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd.)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT77-5021 (B)
42 FR 12631 - 3/4/77
Mod. #1 - 42 FR 15255 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
Mod. #3 - 42 FR 20984 - 4/22/77
Mod. #4 - 42 FR 26105 - 5/20/77
Decision #MT77-5034 (H,Hw)
42 FR 13765 - 3/11/77
Mod. #1 - 42 FR 15256 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
Mod. #3 - 42 FR 26108 - 5/20/77
Mod. #4 - 42 FR 30086 - 6/10/77
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT77-5057 (R)
42 FR 28769 - 6/3/77
Mod. #1 - 42 FR 34145 - 7/1/77
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide
RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE77-4001 (H,Hw)
42 FR 1685 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE77-4040 (B)
42 FR 11223 - 2/25/77
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4184 (Channel Stabilizatic
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE77-4021 (H,Hw)
42 FR 8946 - 2/11/77
CEDAR COUNTY
Decision #NE77-4067 (B)
42 FR 15272 - 3/18/77
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE77-4115 (B,R)
42 FR 30131 - 6/10/77
Mod. #1 - 42 FR 34145 - 7/1/77
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33198 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE77-4135 (B)
42 FR 34201 - 7/1/77
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(B) - See Hall County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

MORRILL COUNTY
(B) - See Banner County
(H,H) - See Adams County
NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #NE76-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(D) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSONCOUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV77-5146 (B,H,Hw)
42 FR 22082 - 4/29/77
Mod. #1 - 42 FR 24572 - 5/13/77
Mod. #2 - 42 FR 28751 - 6/3/77
Mod. #3 - 42 FR 31048 - 6/17/77
CARSON COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV77-5061 (R)(Excluding Nevada Test Site)
42 FR 31074 - 6/17/77
(B,H,Hw) - See Statewide
Decision #NV77-5012 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range)
42 FR 8947 - 2/11/77
Mod. #1 - 42 FR 20051 - 4/15/77
Mod. #2 - 42 FR 22073 - 4/29/77
Mod. #3 - 42 FR 28751 - 6/3/77
Mod. #4 - 42 FR 31047 - 6/17/77
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See STatewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV77-5031 (R)
42 FR 15278 - 3/18/77
Mod. #1 - 42 FR 18792 - 4/8/77
Mod. #2 - 42 FR 22073 - 4/29/77
Mod. #3 - 42 FR 31047 - 6/17/77
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH77-2001 (B,H,Hw,R)
42 FR 4087 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
MERRIMACK COUNTY
Decision #NH77-2002 (B,H,Hw, & Marine)
42 FR 4090 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
ROCKINGHAM COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #NH77-2003 (B,H,Hw,R, & Marine)
42 FR 5625 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 24573 - 5/13/77
STRAFFORD COUNTY
Decision #NH77-2004 (B,H,Hw, & Marine)
42 FR 5629 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ77-3079 (B,H,Hw)
42 FR 31080 - 6/17/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47027 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Mod. #2 - 42 FR 7034 - 2/4/77
Mod. #3 - 42 FR 12570 - 3/4/77
Mod. #4 - 42 FR 20985 - 4/22/77
Decision #NJ77-3038 (B,H,Hw)
42 FR 28779 - 6/3/77
(D) - See Atlantic County
BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
Mod. #1 - 42 FR 30086 - 6/10/77
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

NEW MEXICO

STATEWIDE
Decision #NM77-4103 (Streets, Highways, Utilities and Light Engineering Construction)
42 FR 26179 - 5/20/77
Decision #NM77-4116 (Building, including residential in McKinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval, & Valencia Cos., but not on the Navajo Indian Reservation, and Heavy construction.
42 FR 31094 - 6/17/77
Mod. #1 - 42 FR 34146 - 7/1/77
BERNALILLO COUNTY
(E,F,HW,R) - See Statewide
CATRON COUNTY
(B,F,HW) - See Statewide
CHAVES COUNTY
(B,F,HW) - See Statewide
COLFAX COUNTY
(B,F,HW) - See Statewide
CURRY COUNTY
(B,F,HW) - See Statewide
DE BACA COUNTY
(B,F,HW) - See Statewide
DONA ANA COUNTY
(B,F,HW) - See Statewide
Decision #NM77-4039 (R)
42 FR 10254 - 2/18/77
EDDY COUNTY
(B,F,HW) - See Statewide
GRANT COUNTY
(B,F,HW) - See Statewide
GUADALUPE COUNTY
(B,F,HW) - See Statewide
HARDING COUNTY
(B,F,HW) - See Statewide
HIDALGO COUNTY
(B,F,HW) - See Statewide
LEA COUNTY
(B,F,HW) - See Statewide
LINCOLN COUNTY
(B,F,HW) - See Statewide
LOS ALAMOS COUNTY
(B,F,HW) - See Statewide
LUNA COUNTY
(B,F,HW) - See Statewide
McKINLEY COUNTY
(B,F,HW,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,Hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY77-3000 (B,H,Hw)
42 FR 22098 - 4/29/77
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY77-3025 (B,H,Hw)
42 FR 31105 - 6/17/77
Decision #NY77-3044 (R)
42 FR 31110 - 6/17/77
Decision #CT77-3001 (D)
42 FR 999 - 1/4/77
BROOME COUNTY
Decision #NY77-3011 (B,H,Hw)
42 FR 24621 - 5/13/77
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL77-3038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CHAUTAUQUA COUNTY
Decision #NY77-3008 (B,H,Hw)

42 FR 26171 - 5/20/77
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY77-3001 (B)
42 FR 17766 - 4/1/77
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY77-3012 (B,H,Hw)
42 FR 24625 - 5/13/77
(D) - See Bronx County
ERIE COUNTY
Decision #NY77-3015 (B,H,Hw)
42 FR 8973 - 2/11/77
Mod. #1 - 42 FR 20051 - 4/15/77
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY77-3009 (B,H,Hw)
42 FR 8956 - 2/11/77
Mod. #1 - 42 FR 11189 - 2/25/77
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY77-3004 (B,H,Hw)
42 FR 34208 - 7/1/77
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY77-3013 (B,H,Hw)
42 FR 24631 - 5/13/77
Mod. #1 - 42 FR 31049 - 6/17/77
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY77-3003 (B,H,Hw)
42 FR 34204 - 7/1/77
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY77-3081 (B,H,Hw)
42 FR 34215 - 7/1/77
ONONDAGA COUNTY
Decision #NY77-3006 (B,H,Hw)
42 FR 8951 - 2/11/77
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY77-3084 (B,H,Hw)
42 FR 34220 - 7/1/77
(D) - See Bronx County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
(D) - See Cayuga County
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - See Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY77-3007 (B,H,Hw)
42 FR 17771 - 4/1/77
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (Cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY77-3005 (B,H,Hw)
42 FR 28795 - 6/3/77
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY77-3076 (B,H,Hw)
42 FR 28801 - 6/3/77
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
Decision #NC77-1076 (R)
42 FR 30079 - 6/10/77
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(R) - See Alexander County
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
AVERY COUNTY
Decision #NC77-1012 (B)
42 FR 12662 - 3/4/77
Mod. #1 - 42 FR 15257 - 3/18/77
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42128 - 9/24/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
(Sewer & Water, H,Hw) - See Statewide
BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #NC77-1013 (R)
42 FR 7065 - 2/4/77
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21119 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BURKE COUNTY
Decision #NC77-1014 (B)
42 FR 7065 - 2/4/77
Decision #NC77-1018 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHOWAN COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County

NORTH CAROLINA (Cont'd.)

CUMBERLAND COUNTY
Decision #NC76-1024 (D)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(B) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC77-1046 (
42 FR 18778 - 4/8/77
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (B)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
Decision #NC77-1017 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
GUILDFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County

NORTH CAROLINA (Con't.d)

HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See STatewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
MECKLENBURG COUNTY
Decision #NC75-1115 - (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 41 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B,R) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDLR COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water,H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd)

ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See STatewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(R) - See Alexander County
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCLY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
Mod. #1 - 42 FR 13719 - 3/11/77
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
Decision #ND77-5002 (B)
42 FR 30125 - 6/10/77
Mod. #1 - 42 FR 34147 - 7/1/77

(Hw) - See Statewide
CASS COUNTY
(B) - See Burleigh County
(Hw) - See Statewide
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MCHENRY COUNTY
(Hw) - See Statewide
MCINTOSH COUNTY
(Hw) - See Statewide
MCKENZIE COUNTY
(Hw) - See Statewide
MCLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH77-2063 (H,Hw)
#2 FR 20036 - 4/15/77
Mod. #1 - 42 FR 23276 - 5/6/77
Mod. #2 - 42 FR 30086 - 6/10/77
ADAMS COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH77-2069 (B)
42 FR 24636 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
ASHLAND COUNTY
Decision #OH77-2088 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
ASHTABULA COUNTY
Decision #OH77-2080 (B,R)
42 FR 24655 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Mod. #2 - 42 FR 31050 - 6/17/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
Decision #OH77-2086 (R)
42 FR 26095 - 5/20/77
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #OH77-2079 (B)
42 FR 24652 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Decision #OH76-2030 (R)
41 FR 9000 - 3/5/76
(H,Hw) - See Statewide

OHIO (Cont'd.)

CARROLL COUNTY
Decision #OH77-2090 (R)
42 FR 20097 - 5/20/77
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
Decision #OH77-2057 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH77-2081 (B)
42 FR 24661 - 5/13/77
Mod. #1 - 42 FR 30092 - 6/10/77
Mod. #2 - 42 FR 32452 - 6/24/77
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
Mod. #1 - 42 FR 17744 - 4/1/77
(B) - See Butler County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
Decision #OH77-2058 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH77-2075 (B)
42 FR 24638 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
COSHOCTON COUNTY
Decision #OH77-2059 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide
CRAWFORD COUNTY
Decision #OH77-2060 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide
CUYAHOGA COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide

OHIO (Cont'd)

DARKE COUNTY
Decision #OH77-2072 (R)
42 FR 24666 -5/13/77
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #OH77-2067 (R)
42 FR 23421 - 5/6/77
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH77-2078 (B)
42 FR 24649 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #OH77-2089 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
Decision #OH77-2073 (B,R)
42 FR 24642 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(B) - See Clarke County
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(R) - See Coshocton County
(H,Hw) - See Statewide
HAMILTON COUNTY
(B) - See Butler County
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
(R) - See Crawford County
Decision #OH77-2077 (B)
42 FR 24647 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
(R) - See Carroll County
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
Decision #OH77-2087 (R)
42 FR 26095 - 5/20/77
Mod. #1 - 42 FR 31050 - 6/17/77
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Ashtabula County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
LORAIN COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
(B) - See Fulton County
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH77-2076 (B,R)
42 FR 24644 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
Mod. #2 - 42 FR 34147 - 7/1/77
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
Decision #OH77-2061 (R)
42 FR 20047 - 4/15/77
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(R) - See Belmont County
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Clark County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(R) - See Knox County
(H,Hw) - See Statewide
MUSKINGUM COUNTY
Decision #OH77-2062 (R)
42 FR 20047 - 4/15/77
(B) - See Clark County
(H,Hw) - See Statewide
NOBLE COUNTY
(R) - See Belmont County
(H,Hw) - See Statewide
OTTAWA COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
PORTAGE COUNTY
(B,R) - See Ashtabjla County
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
(B) - See Erie County
(R) - See Ashland County
(H,Hw) - See Statewide
ROSS COUNTY
(R) - See Fayette County
(B) - See Clark County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
(R) - See Darke County
STARK COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide
SUMMIT COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide
TRUMBULL COUNTY
(B,R) - See Mahoning County
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH77-2074 (B)
42 FR 24640 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
UNION COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
Decision #OH77-2091 (R)
42 FR 26097 - 5/20/77
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Hancock County
(H,Hw) - See Statewide
WYANDOT COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK77-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
42 FR 17777 - 4/1/77
Mod. #1 - 42 FR 23279 - 5/6/77
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK77-4036 (R)
42 FR 10261 - 2/18/77
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
CANADIAN COUNTY
Decision #OK77-4038 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4109 (B)
42 FR 28807 - 6/3/77
Mod. #1 - 42 FR 32452 - 6/24/77
Mod. #2 - 42 FR 34148 - 7/1/77
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK77-4060 (R)
42 FR 13786 - 3/11/77
Decision #OK77-4150 (B)
42 FR 34227 - 7/1/77

OKLAHOMA (cont'd)

COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK76-4160 (B)
41 FR 43629 - 10/1/76
Mod. #1 - 42 FR 4069 - 1/21/77
Mod. #2 - 42 FR 11189 - 2/25/77
Mod. #3 - 42 FR 22074 - 4/29/77
Mod. #4 - 42 FR 34148 - 7/1/77
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
MCINTOSH COUNTY
Decision #OK77-4065 (B)
42 FR 15287 - 3/18/77
Mod. #1 - 42 FR 17744 - 4/1/77
Mod. #2 - 42 FR 22075 - 4/29/77
Mod. #3 - 42 FR 26111 - 5/20/77
Mod. #4 - 42 FR 28752 - 6/3/77
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK77-4062 (B,H,Hw)
42 FR 13787 - 3/11/77
Mod. #1 - 42 FR 16350 - 3/25/77
Mod. #2 - 42 FR 22075 - 4/29/77
Mod. #3 - 42 FR 26111 - 5/20/77
Mod. #4 - 42 FR 34148 - 7/1/77
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK77-4066 (B)
42 FR 15289 - 3/18/77
Mod. #1 - 42 FR 22075 - 4/29/77
Mod. #2 - 42 FR 26111 - 5/20/77
Mod. #3 - 42 FR 28752 - 6/3/77
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK77-4037 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4087 (B)
42 FR 22107 - 4/29/77
Mod. #1 - 42 FR 26112 - 5/20/77
Mod. #2 - 42 FR 32452 - 6/24/77
Mod. #3 - 42 FR 34148 - 7/1/77
WAGONER COUNTY
Decision #OK77-4088 (B)
42 FR 22110 - 4/29/77
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR77-5063 (B,H,Hw,D)
42 FR 34230 - 7/1/77
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75

OREGON (Cont'd.)

LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County
MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA77-3060 (H,Hw)
42 FR 26179 - 5/20/77
Mod. #1 - 42 FR 32455 - 6/24/77
Mod. #2 - 42 FR 34150 - 7/1/77
Decision #PA77-3028 (B)
42 FR 20098 - 4/15/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31051 - 6/17/77
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4738 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
Mod. #4 - 42 FR 8937 - 2/11/77
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA77-3061 (B)
42 FR 30133 - 6/10/77
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA77-3054 (B)
42 FR 24677 - 5/13/77
Mod. #1 - 42 FR 30096 - 6/10/77
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA77-3029 (B)
42 FR 10263 - 2/18/77
Mod. #1 - 42 FR 16351 - 3/25/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 23284 - 5/6/77
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
Mod. #1 - 42 FR 12574 - 3/4/77
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA76-3208 (B)
41 FR 27535 - 7/2/76
Mod. #1 - 41 FR 43567 - 10/1/76
Mod. #2 - 41 FR 44604 - 10/8/76
Mod. #3 - 42 FR 10217 - 2/18/77
Mod. #4 - 42 FR 16352 - 3/25/77
Mod. #5 - 42 FR 23283 - 5/6/77
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA77-3016 (B,R)
42 FR 5632 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 22078 - 4/29/77
Mod. #4 - 42 FR 23280 - 5/6/77
Mod. #5 - 42 FR 32454 - 6/24/77
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76
Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
Mod. #4 - 42 FR 24574 - 5/13/77
Mod. #5 - 42 FR 32453 - 6/24/77
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA77-3023 (H,Hw)
42 FR 5640 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 22076 - 4/29/77
Mod. #3 - 42 FR 32454 - 6/24/77
Mod. #4 - 42 FR 34149 - 7/1/77
CAMBRIA COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
CAMERON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CARBON COUNTY
Decision #PA77-3043 (B)
42 FR 18783 - 4/8/77
Mod. #1 - 42 FR 26112 - 5/20/77
(H,Hw) - See Adams County
CENTRE COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

CLINTON COUNTY
Decision #PA77-3039 (B)
42 FR 18778 - 4/8/77
Mod. #1 - 42 FR 20986 - 4/22/77
Mod. #2 - 42 FR 23281 - 5/6/77
Mod. #3 - 42 FR 30095 - 6/10/77
Mod. #4 - 42 FR 31054 - 6/17/77
COLUMBIA COUNTY
Decision #PA76-3210 (B)
41 FR 30486 - 7/23/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 42 FR 10218 - 2/18/77
Mod. #3 - 42 FR 16352 - 3/25/77
Mod. #4 - 42 FR 23283 - 5/6/77
Mod. #5 - 42 FR 32453 - 6/24/77
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA77-3030 (B)
42 FR 10266 - 2/18/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31051 - 6/17/77
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberlamd County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA77-3053 (B)
42 FR 24672 - 5/13/77
Mod. #1 - 42 FR 31055 - 6/17/77
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA77-3058 (B)
42 FR 24702 - 5/13/77
Mod. #1 - 42 FR 30099 - 6/10/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
(H,Hw) - See Butler County
FULTON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA77-3055 (B)
42 FR 24688 - 5/13/77
Mod. #1 - 42 FR 30097 - 6/10/77
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA77-3050 (B)
42 FR 24669 - 5/13/77
Mod. #1 - 42 FR 32455 - 6/24/77
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA77-3026 (B)
42 FR 7066 - 2/4/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 20052 - 4/15/77
Mod. #3 - 42 FR 22076 - 4/29/77
Mod. #4 - 42 FR 23284 - 5/6/77
Mod. #5 - 42 FR 31051 - 6/17/77
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #PA77-3078 (B)
~~42 FR 32478 - 6/24/77~~
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

LEBANON COUNTY
Decision #PA77-3031 (B)
42 FR 18839 - 4/8/77
Mod. #1 - 42 FR 20986 - 4/22/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31052 - 6/17/77
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA77-3056 (B)
42 FR 24698 - 5/13/77
Mod. #1 - 42 FR 34149 - 7/1/77
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA77-3059 (B)
42 FR 26176 - 5/20/77
(H,Hw) - See Adams County
LYCOMING COUNTY
(H,Hw) - See Adams County
Decision #PA77-3032 (B)
42 FR 16373 - 3/25/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31053 - 6/17/77
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
MONROE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision PA77-3033 (B)
42 FR 10268 - 2/18/77
Mod. #1 - 42 FR 22076 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 42 FR 34149 - 7/1/77
NORTHUMBERLAND COUNTY
Decision #PA77-3049 (B)
42 FR 21043 - 4/22/77
Mod. #1 - 42 FR 23285 - 5/6/77
Mod. #2 - 42 FR 31054 - 6/17/77
(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHYUKILL COUNTY
Decision #PA77-3034 (B)
42 FR 20100 - 4/15/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 42 FR 31053 - 6/17/77
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA77-3057 - (B)
42 FR 24700 - 5/13/77
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYCOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3090 (B)
40 FR 33643 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75
Mod. #1 - 42 FR 4069 - 1/21/77

RHODE ISLAND

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BRISTOL COUNTY
Decision #R176-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
Mod. #1 - 42 FR 20052 - 4/15/77
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #R176-2151 (B,H,Hw,R, & Marine)
41 FR 50186 - 11/12/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #R176-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA

ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/77
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC76-1115 (R)
41 FR 44657 - 10/8/76
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC77-1070 (B)
42 FR 26182 - 5/20/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC76-1067 (R)
41 FR 22024 - 5/28/76
Mod. #1 - 41 FR 23889 - 6/11/76
Decision #SC75-1059 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
Mod. #2 - 41 FR 18267 - 4/30/76
Mod. #3 - 41 FR 20129 - 5/14/76
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC76-1100 (R)
41 FR 38739 - 9/10/76
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
CHESTER COUNTY
Decision #SC77-1077 (R)
42 FR 30080 - 6/10/77
Decision #SC77-1019 (B)
42 FR 8990 - 2/11/77
Mod. #1 - 42 FR 12574 - 3/4/77
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH CAROLINA (Cont'd.)

CLARENDON COUNTY
Decision #SC76-1008 (R)
41 FR 36399 - 8/27/76
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B,R) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 41 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH CAROLINA (Cont'd.)

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC77-1008 (B)
42 FR 4101 - 1/21/77
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMIC COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/7/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH DAKOTA

STATEWIDE
Decision #SD76-5039 (H,Hw)
41 FR 17300 - 4/23/76
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD77-5065 (B)
42 FR 31114 - 6/17/77
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD77-5064 (B)
42 FR 31113 - 6/17/77
(H,Hw) - See Statewide
Decision #SD77-5019 (R)
42 FR 8990 - 2/11/77
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #TN77-1041 (Hw)
42 FR 17784 - 4/1/77
ANDERSON COUNTY
Decision #TN77-1052 (B)(Oak Ridge, Energy Research Development Administration Only)
42 FR 23427 - 5/6/77
Mod. #1 - 42 FR 32456 - 6/24/77
Decision #AR76-5041 (F)
41 FR 22017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(Hw) - See Statewide
BEDFORD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17301 - 4/23/76
Decision #TN75-1098 (R)
40 FR 44476 - 9/26/75
(F) - See Anderson County
(Hw) - See Statewide
CHEATHAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CROCKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CUMBERLAND COUNTY
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN77-1036 (B)
42 FR 16375 - 3/25/77
(F) - See Anderson County
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DYER COUNTY
Decision #TN76-1140 (R)
42 FR 56593 - 12/28/76
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
(F) - See Anderson County
(Hw) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FENTRESS COUNTY
(F)- See Anderson County
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd.)

GILES COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMILTON COUNTY
Decision #TN77-1031 (B,H)
42 FR 17782 - 4/1/77
Mod. #1 - 42 FR 20183 - 4/15/77
(F) - See Anderson County
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
KNOX COUNTY
Decision #TN77-1037 (B)
42 FR 17780 - 4/1/77
Mod. #1 - 42 FR 23288 - 5/6/77
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(F) -See Anderson County
(Hw) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D,R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LEWIS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MACON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MADISON COUNTY
Decision #TN77-1051 (B)
42 FR 23426 - 5/6/77
(F) - See Anderson County
(Hw) - See Statewide
MARION COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
Decision #KY77-1084 (B)
42 FR 32473 - 6/24/77
(F) - See Anderson County
(Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN77-1022 (B)
42 FR 12667 - 3/4/77
(F) - See Anderson County
(Hw) - See Statewide
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN77-1047 (B,H,W&S, & Utility)
42 FR 23422 - 5/6/77
Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TEXAS

ANDERSON COUNTY
Decision #TX77-4136 (R)
42 FR 34241 - 7/1/77
Decision #TX77-4130 (H (Excluding tunnels and dams), Hw,
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32505 - 6/24/77
ANDREWS COUNTY
Decision #TX77-4120 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32485 - 6/24/77
ANGELINA COUNTY
(H,Hw) - See Anderson County
ARANSAS COUNTY
Decision #TX77-4124 (H (Excluding tunnels and dams,) (Hw)
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32493 - 6/24/77
Decision #AL77-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/[illegible]/77
ARCHER COUNTY
Decision #TX77-4118 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32482 - 6/24/77
ARMSTRONG COUNTY
Decision #TX77-4044 (B)
42 FR 11226 - 2/25/77
Mod. #1 - 42 FR 17746 - 4/[illegible]/77
Mod. #2 - 42 FR 20054 - 4/[illegible]/77
Mod. #3 - 42 FR 23289 - 5/[illegible]/77
Mod. #4 - 42 FR 26114 - 5/[illegible]/77
Mod. #5 - 42 FR 28753 - 6/[illegible]/77
Mod. #6 - 42 FR 34150 - 7/[illegible]/77
Decision #TX77-4137 (R)
42 FR 34243 - 7/1/77
(H,Hw) - See Archer County

TEXAS (Cont'd.)

ATASCOSA COUNTY
Decision #TX77-4122 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32499 - 6/24/77
AUSTIN COUNTY
Decision #TX77-4125 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32495 - 6/24/77
BAILEY COUNTY
Decision #TX77-4119 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32484 - 6/24/77
Decision #TX77-4138 (R)
42 FR 34245 - 7/1/77
BANDERA COUNTY
(H,Hw) - See Atascosa County
BASTROP COUNTY
Decision #TX77-4026 (R)
42 FR 10270 - 2/18/77
(H,Hw) - See Austin County
BAYLOR COUNTY
(H,Hw) - See Archer County
BEE COUNTY
Decision #TX77-4111 (B)
42 FR 30141 - 6/10/77
Mod. #1 - 42 FR 34151 - 7/1/77
Decision #TX77-4139 (R)
42 FR 34247 - 7/1/77
(H,Hw) - See Aransas County
BELL COUNTY
Decision #TX77-4126 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32497 - 6/24/77
Decision #TX77-4053 (B)
42 FR 12668 - 3/4/77
Mod. #1 - 42 FR 23289 - 4/8/77
Mod. #2 - 42 FR 26114 - 5/20/77
Mod. #3 - 42 FR 27561 - 5/27/77
Mod. #4 - 42 FR 30100 - 6/10/77
BEXAR COUNTY
Decision #TX76-4080 (R)
41 FR 19037 - 5/7/76
Decision #TX77-4101 (B)
42 FR 24705 - 5/13/77
Mod. #1 - 42 FR 27562 - 5/27/77
Mod. #2 - 42 FR 30100 - 6/10/77
(H,Hw) - See Atascosa County

TEXAS (Cont'd)

BLANCO COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Bailey County
BOSQUE COUNTY
Decision #TX77-4140 (R)
42 FR 34247 - 7/1/77
(B,R,Hw) - See Bell County
BOWIE COUNTY
Decision #TX77-4070 (B)
42 FR 17785 - 4/1/77
Mod. #1 - 42 FR 23290 - 5/6/77
Mod. #2 - 42 FR 34151 - 7/1/77
Decision #TX77-4129 (H (Excluding tunnel and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32503 - 6/24/77
BRAZORIA COUNTY
Decision #TX77-4132 (H (Excluding tunnels and dams), Hw,
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32507 - 6/24/77
Decision #TX77-4027 (R)
42 FR 10270 - 2/18/77
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX77-4054 (B)
42 FR 12671 - 3/4/77
Mod. #1 - 42 FR 16354 - 3/25/77
Mod. #2 - 42 FR 17746 - 4/1/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 24574 - 5/13/77
Mod. #5 - 42 FR 28754 - 6/3/77
Mod. #6 - 42 FR 31056 - 6/17/77
Decision #TX77-4131 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32506 - 6/24/77
BREWSTER COUNTY
Decision #TX77-4121 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32487 - 6/24/77
BRISCOE COUNTY
(H,Hw) - See Archer County

BROOKS COUNTY
Decision #TX77-4123 (H (Excluding tunnels and dams), Hw,
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32491 - 6/24/77

TEXAS (Cont'd)

BROWN COUNTY
(H,Hw) - See Andrews County
BURLESON COUNTY
(H,Hw) - See Brazos County
BURNETT COUNTY
(H,Hw) - See Austin County
CALDWELL COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Aransas County
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Andrews County
CAMERON COUNTY
Decision #TX77-4105 (B)
42 FR 26142 - 5/20/77
(H,Hw) - See Brooks County
CAMP COUNTY
Decision #TX77-4141 (R)
42 FR 34249 - 7/1/77
(H,Hw) - See Bowie County
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CASS COUNTY
(H,Hw) - See Bowie County
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CHAMBERS COUNTY
Decision #TX77-4133 (H (Excluding tunnels and dams), Hw,
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32509 - 6/24/77
(D) - See Aransas County
CHEROKEE COUNTY
(H,Hw,R) - See Anderson County
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CLAY COUNTY
(H,Hw) - See Archer County
COCHRAN COUNTY
(H,Hw,R) - See Bailey County
COKE COUNTY
(H,Hw) - See Andrews County
COLEMAN COUNTY
(H,Hw) - See Andrews County
COLLIN COUNTY
Decision #TX77-4028 (R)
42 FR 10271 - 2/18/77
Decision #TX77-4097 (B-excluding Dallas-Fort Worth Regional Airport)
42 FR 23429 - 5/6/77

TEXAS (Cont'd.)

COLLIN COUNTY (Cont'd.)
Decision #TX77-4128 (H (Excluding tunnel and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32501 - 6/24/77
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
COLORADO COUNTY
(H,Hw) - See Austin County
COMAL COUNTY
(H,Hw) - See Atascosa County
COMANCHE COUNTY
(H,Hw) - See Andrews County
CONCHO COUNTY
(H,Hw) - See Andrews County
COOKE COUNTY
Decision #TX77-4127 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32499 - 6/24/77
CORYELL COUNTY
(B,H,Hw) - See Bell County
COTTLE COUNTY
(H,Hw) - See Bailey County
CRANE COUNTY
(H,Hw) - See Andrews County
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Andrews County
CROSBY COUNTY
(H,Hw,R) - See Bailey County
CULBERSON COUNTY
(H,Hw) - See Brewster County
DALLAM COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DALLAS COUNTY
(B,H,Hw,R) - See Collin County
DAWSON COUNTY
(H,Hw) - See Bailey County
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Cooke County
DE WITT COUNTY
(H,Hw) - See Aransas County
DICKENS COUNTY
(H,Hw) - See Bailey County

TEXAS (Cont'd.)

DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Atascosa County
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DUVAL COUNTY
(H,Hw) - See Brooks County
EASTLAND COUNTY
(H,Hw) - See Andrews County
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
Mod. #3 - 41 FR 56554 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
Mod. #5 - 42 FR 12575 - 3/4/77
(H,Hw) - See Andrews County
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Atascosa County
ELLIS COUNTY
(B,H,Hw,R) - See Collin County
EL PASO COUNTY
Decision #TX77-4071 (B)
42 FR 17757 - 4/1/77
Mod. #1 - 42 FR 20054 - 4/15/77
Mod. #2 - 42 FR 20936 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 34151 - 7/1/77
(H,Hw) - See Brewster County
ERATH COUNTY
(H,Hw) - See Andrews County
FALLS COUNTY
(B,H,Hw) - See Bell County
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FAYETTE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Bailey County
FLOYD COUNTY
(H,Hw,R) - See Bailey County
FOARD COUNTY
(H,Hw) - See Bailey County
FORT BEND COUNTY
(H,Hw,R) - See Brazoria County
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd.

FRIO COUNTY
(H,Hw) - See Atascosa County
GAINES COUNTY
(H,Hw) - See Bailey County
GALVESTON COUNTY
(D) - See Aransas County
(H,Hw,R) - See Brazoria County
Decision #TX77-4102 (B)
42 FR 24707 - 5/13/77
Mod. #1-42 FR 27562 - 5/27/77
Mod. #2-42 FR 28754 - 6/3/77
Mod. #3-42 FR 31096 - 6/17/77
Mod. #4-42 FR 34151 - 7/1/77
GARZA COUNTY
(H,Hw,R) - See Bailey County
GILLESPIE COUNTY
(H,Hw) - See Austin County
GLASSCOCK COUNTY
(H,Hw) - See Andrews County
GOLIAD COUNTY
(H,Hw) - See Aransas County
GONZALES COUNTY
(H,Hw) - See Austin County
GRAY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
GRAYSON COUNTY
(B,H,Hw) - See Collin County
GREGG COUNTY
Decision #TX77-4055 (B)
42 FR 12673 - 3/4/77
Mod. #1 - 42 FR 23290 - 5/6/77
Decision #TX77-4142 (R)
42 FR 34251 - 7/1/77
(H,Hw) - See Bowie County
GRIMES COUNTY
(H,Hw) - See Brazos County
GUADALUPE COUNTY
(H,Hw) - See Atascosa County
HALE COUNTY
(H,Hw,R) - See Bailey County
HALL COUNTY
(H,Hw) - See Archer County
HAMILTON COUNTY
(H,Hw) - See Bell County
HANSFORD COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HARDEMAN COUNTY
(H,Hw) - See Archer County
HARDIN COUNTY
(H,Hw) - See Chambers County
HARRIS COUNTY
(B) - See Galveston County
(H,Hw,R) - See Brazoria County
(D) - See Aransas County

TEXAS (Cont'd.)

HARRISON COUNTY
Decision #TX76-4196 (B)
41 FR 56601 - 12/28/76
Mod. #1 - 42 FR 12575 - 3/4/77
(H,Hw) - See Bowie County
(R) - See Gregg County
HARTLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HASKELL COUNTY
(H,Hw) - See Bailey County
HAYES COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
HEMPHILL COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HENDERSON COUNTY
(H,Hw,R) - See Anderson County
HIDALGO COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
HILL COUNTY
(B,H,Hw) - See Bell County
(R) - See Bosque County
HOCKLEY COUNTY
(H,Hw,R) - See Bailey County
HOOD COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4143 (R)
42 FR 34253 - 7/1/77
HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
HOUSTON COUNTY
(H,Hw) - See Anderson County
HOWARD COUNTY
Decision #TX77-4144 (B,R)
42 FR 34255 - 7/1/77
(H,Hw) - See Andrews County
HUDSPETH COUNTY
(H,Hw) - See Brewster County
HUNT COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
HUTCHINSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
IRION COUNTY
(H,Hw) - See Andrews County
JACK COUNTY
(H,Hw) - See Cooke County
JACKSON COUNTY
(D,H,Hw) - See Aransas County
JASPER COUNTY
(H,Hw) - See Anderson County

TEXAS (Cont'd.)

JEFF DAVIS COUNTY
(H,Hw) - See Brewster County
JEFFERSON COUNTY
Decision #TX77-4098 (B,R)
42 FR 23433 - 5/6/77
Mod. #1 - 42 FR 34151 - 7/1/77
(D) - See Aransas County
(Hw) - See Chambers County
JIM HOGG COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
JIM WELLS COUNTY
(H,Hw) - See Aransas County
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Bailey County
KARNES COUNTY
(H,Hw) - See Aransas County
KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
KENDALL COUNTY
(H,Hw) - See Atascosa County
KENEDY COUNTY
(D) - See Aransas County
(H,Hw) - See Brooks County
KENT COUNTY
(H,Hw) - See BAiley County
KERR COUNTY
(H,Hw) - See Atascosa County
KIMBLE COUNTY
(H,Hw) - See Andrews County
KING COUNTY
(H,Hw) - See Bailey County
KINNEY COUNTY
(H,Hw) - See Atascosa County
KLEBERG COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Bailey County
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
LAMB COUNTY
(H,Hw,R) - See Bailey County
LAMPASAS COUNTY
(H,Hw) - See Bell County
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
LAVACA COUNTY
(H,Hw) - See Aransas County

TEXAS (Cont'd)

LEE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
LEON COUNTY
(H,Hw) - See Brazos County
LIBERTY COUNTY
(H,Hw) - See Chambers County
LIMESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County
LIPSCOMB COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Aransas County
LLANO COUNTY
(H,Hw) - See Austin County
LOVING COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
LUBBOCK COUNTY
(H,Hw,R) - See Bailey County
Decision #TX76-4197 (B)
41 FR 56602 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Mod. #2 - 42 FR 8940 - 2/11/77
Mod. #3 - 42 FR 12575 - 3/4/77
Mod. #4 - 42 FR 23288 - 5/6/77
Mod. #5 - 42 FR 28753 - 6/3/77
Mod. #6 - 42 FR 31056 - 6/17/77
LYNN COUNTY
(H,Hw,R) - See Bailey County
McCULLOCH COUNTY
(H,Hw) - See Andrews County
McLENNAN COUNTY
(R) - See Bosque County
(B,H,Hw) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Atascosa County
MADISON COUNTY
(H,Hw) - See Brazos County
MARION COUNTY
(H,Hw) - See Bowie County
MARTIN COUNTY
(H,Hw) - See Andrews County

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Austin County
MATAGORDA COUNTY
(H,Hw,R) - See Brazoria County
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
MEDINA COUNTY
(H,Hw) - See Atascosa County
MENARD COUNTY
(H,Hw) - See Andrews County
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Andrews County
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Brazos County
MILLS COUNTY
(H,Hw) - See Andrews County
MITCHELL COUNTY
(H,Hw) - See Andrews County
MONTAGUE COUNTY
(H,Hw) - See Archer County
MONTGOMERY COUNTY
(H,Hw,R) - See Brazoria County
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
MORRIS COUNTY
(H,Hw) - See Bowie County
MOTLEY COUNTY
(H,Hw) - See Bailey County
NACOGDOCHES COUNTY
(H,Hw) - See Anderson County
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Anderson County
NOLAN COUNTY
(H,Hw) - See Andrews County
NUECES COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
OCHILTREE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Chambers County
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Anderson County
PARKER COUNTY
(H,Hw) - See Cooke County
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Archer County
PECOS COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Anderson County
POTTER COUNTY
(H,Hw) - See Archer County
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Brewster County
RAINS COUNTY
(H,Hw) - See Bowie County
RANDALL COUNTY
(H,Hw) - See Archer County
(D)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Andrews County
REAL COUNTY
(H,Hw) - See Atascosa County
RED RIVER COUNTY
(H,Hw) - See Bowie County

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
REFUGIO COUNTY
(D,H,Hw) - See Aransas County
ROBERTS COUNTY
(H,Hw) - See Archer County
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Brazos County
ROCKWALL COUNTY
(B,H,Hw,R) - See Collin County
RUNNELS COUNTY
(H,Hw) - See Andrews County
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Bowie County
SABINE COUNTY
(H,Hw) - See Anderson County
SAN AUGUSTINE COUNTY
(H,Hw) - See Anderson County
SAN JACINTO COUNTY
(H,Hw) - See Anderson County
SAN PATRICIO COUNTY
(R) - See Bee County
(D,H,Hw) - See Aransas County
SAN SABA COUNTY
(H,Hw) - See Andrews County
SCHLEICHER COUNTY
(H,Hw) - See Andrews County
SCURRY COUNTY
(H,Hw) - See Bailey County
SHACKELFORD COUNTY
(H,Hw) - See Bailey County
SHELBY COUNTY
(H,Hw) - See Anderson County
SHERMAN COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX77-4145 (R)
42 FR 34257 - 7/1/77
Decision #TX77-4057 (B)
42 FR 12673 - 3/4/77
Mod. #1 - 42 FR 23290 - 5/6/77
(H,Hw) - See Bowie County
SOMERVELL COUNTY
(H,Hw) - See Cooke County
STARR COUNTY
(H,Hw) - See Brooks County
(B) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Bailey County
STERLING COUNTY
(H,Hw) - See Andrews County

TEXAS (Cont'd)

STONEWALL COUNTY
(H,Hw) - See Bailey County
SUTTON COUNTY
(H,Hw) - See Andrews County
SWISHER COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4029 (R)
42 FR 10271 - 2/18/77
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
Mod. #1 - 41 FR 56555 - 12/20/76
Mod. #2 - 42 FR 4071 - 1/21/77
Mod. #3 - 42 FR 23288 - 5/6/77
(H,Hw) - See Andrews County
TERRELL COUNTY
(H,Hw) - See Brewster County
TERRY COUNTY
(H,Hw,R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Bailey County
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
TOM GREEN COUNTY
Decision #TX77-4108 (B)
42 FR 28810 - 6/3/77
Mod. #1 - 42 FR 32456 - 6/24/77
(H,Hw) - See Andrews County
TRAVIS COUNTY
Decision #TX77-4006 (B)
42 FR 4105 - 1/21/77
Mod. #1 - 42 FR 16354 - 3/25/77
Mod. #2 - 42 FR 20053 - 4/15/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 27561 - 5/27/77
(R) - See Bastrop County
(H,Hw) - See Austin County
TRINITY COUNTY
(H,Hw) - See Anderson County
TYLER COUNTY
(H,Hw) - See Anderson County
UPSHUR COUNTY
(R) - See Gregg County
(H,Hw) - See Bowie County
UPTON COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
UVALE COUNTY
(H,Hw) - See Atascosa County
VAL VERDE COUNTY
(H,Hw) - See Atascosa County

TEXAS (Cont'd.)

VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Bowie County
VICTORIA COUNTY
(D,H,Hw) - See Aransas County
WALKER COUNTY
(H,Hw) - See Brazos County
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Brazoria County
WARD COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Brazos County
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
WHARTON COUNTY
(H,Hw) - See Brazoria County
WHEELER COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
WICHITA COUNTY
Decision #TX77-4146 (R)
42 FR 34259 - 7/1/77
Decision #TX77-4007 (B)
42 FR 4107 - 1/21/77
Mod. #1 - 42 FR 11190 - 2/25/77
Mod. #2 - 42 FR 20053 - 4/15/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 26114 - 5/20/77
Mod. #5 - 42 FR 28753 - 6/3/77
Mod. #6 - 42 FR 34150 - 7/1/77
(H,Hw) - See Archer County
WILBARGER COUNTY
(H,Hw) - See Archer County
WILLACY COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Atascosa County
WINKLER COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
WOOD COUNTY
(H,Hw) - See Bowie County
(R) - See Smith County

TEXAS (Cont'd.

YOAKUM COUNTY
(H,Hw,R) - See Bailey County
YOUNG COUNTY
(H,Hw) - See Bailey County
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County

UTAH

STATEWIDE
Decision #UT77-5006 (B,H,Hw)
42 FR 5603 - 1/28/77
Mod. #1 - 42 FR 10220 - 2/18/77
Mod. #2 - 42 FR 17746 - 4/1/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 28754 - 6/3/77
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
Mod. #1 - 42 FR 3140 - 1/14/77
ADDISON COUNTY,
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Mod. #5 - 42 FR 4073 - 1/21/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
ALBEMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38784 - 9/10/76
Decision #VA75-3094 (B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FR 48847 - 10/17/75
Mod. #2 - 41 FR 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20987 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 48374 - 9/17/76
Mod. #2 - 41 FR 48569 - 10/1/76
AMELIA COUNTY
Decision #AP-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76
BLAND COUNTY
Decision #VA76-3253 (Hw)
41 FR 42154 - 9/24/76

VIRGINIA (Cont'd.)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Allegheny County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(B,Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA77-3090 (B)
42 FR 34264 - 7/1/77
Decision #VA77-3082 (Hw)
42 FR 32510 - 6/24/77
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albermarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albermarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albermarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B, W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albermarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44680 - 10/8/76
Mod. #1 - 42 FR 20054 - 4/15/77
(B, W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #VA77-3089 (B)
42 FR 34261 - 7/1/77
(Hw) - See Amelia County

VIRGINIA (Cont'd.)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUISA COUNTY
(Hw) - See Albemarle County
LOUDOUN COUNTY
(Hw) - (See Albemarle County
LUNEBURG COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albemarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B, W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albemarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(D) - See Accomack County
(B,Hw) - See Chesapeake City
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
(Hw) - See Albemarle County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY (Radford Army Ammunition Plant)
Decision #VA77-3088 (B)
42 FR 34261 - 7/1/77
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albemarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd.)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA77-3091 (B, W&S)
42 FR 34266 - 7/1/77
(D,Hw) - See Accomack County
(R) - See Hampton County

WASHINGTON

STATEWIDE
Decision #WA77-5055 (B,H,Hw,D)
42 FR 31115 - 6/17/77
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIA COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5119 (R)
41 FR 54148 - 12/10/76
Mod. #1 - 42 FR 13721 - 3/11/77
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #WA77-5008 (R)
42 FR 4109 - 1/21/77
(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC77-3040 (B,Hw, W&S)
42 FR 15293 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20987 - 4/22/77
Mod. #3 - 42 FR 23291 - 5/6/77
Mod. #4 - 42 FR 27562 - 5/27/77
Mod. #5 - 42 FR 32457 - 6/24/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #DC76-3171 (R)
41 FR 21027 - 5/21/76

WEST VIRGINIA

STATEWIDE
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42 FR 10172 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17750 - 4/1/77
Mod. #4 - 42 FR 30101 - 6/10/77
BARBOUR COUNTY
Decision #WV77-3007 (B)
42 FR 10221 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17751 - 4/1/77
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL77-5056 (D)
42 FR 13757 - 3/11/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
FAYETTE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GILMER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GREENBRIER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35948 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MC DOWELL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONONGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(D) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

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42 FR 20105 - 4/15/77
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42 FR 18841 - 4/8/77
Mod. #1 - 42 FR 23293 - 5/6/77
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ASHLAND COUNTY
Decision #IL77-5038 (D)
42 FR 18302 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Statewide
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41 FR 55292 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
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(B) - See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #WI76-2160 (B)
41 FR 55297 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Claire County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
DANE COUNTY
Decision #WI76-2161 (B,R)
41 FR 55299 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
DODGE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
DOUGLAS COUNTY
(B,D,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
EAU CLAIR COUNTY
Decision #WI76-2162 (B,R)
41 FR 54150 - 12/10/76
(H,Hw, W&S) - See Statewide
FLORENCE COUNTY
(H,Hw, W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw, W&S) - See Statewide
FOREST COUNTY
(H,Hw, W&S) - See Statewide
GRANT COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw, W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
JACKSON COUNTY
(H,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw, W&S) - See Statewide
JUNEAU COUNTY
(H,Hw, W&S) - See Statewide
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41 FR 53261 - 12/3/76
KENOSHA COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
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41 FR 55301 - 12/17/76
Mod. #1 - 42 FR 20987 - 4/22/77
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
LA CROSSE COUNTY
Decision #WI76-2155 (B,R)
41 FR 52280 - 11/26/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
(D) - See Buffalo County

WISCONSIN (Cont'd.

LA FAYETTE COUNTY
(H,Hw, W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
MANITOWOC COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MARATHON COUNY
Decision #WI76-2168 (B)
41 FR 55303 - 12/17/76
Mod. #1 - 42 FR 20987 - 4/22/77
(H,Hw, W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County
MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
MENOMINEE COUNTY
(H,Hw, W&S) - See Statewide
MILWAUKEE COUNTY
Decision #WI77-2092 (B,R)
42 FR 32511 - 6/24/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MONROE COUNTY
(H,Hw, W&S) - See Statewide
ONCONTO COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
ONEIDA COUNTY
(H,Hw, W&S) - See Statewide
OUTGAMIE COUNTY
(H,Hw, W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Claire County
(H,Hw, W&S) - See Statewide
PIERCE COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
POLK COUNTY
Decision #WI76-2158 (B)
41 FR 55303 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
PORTAGE COUNTY
(H,Hw, W&S) - See Statewide
PRICE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

RACINE COUNTY
Decision #WI76-2169 (B,R)
41 FR 56620 - 12/28/76
Mod. #1 - 42 FR 20987 - 4/22/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #WI76-2163 (B)
41 FR 54152 - 12/10/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
RUSK COUNTY
(H,Hw, W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
SAWYER COUNTY
(H,Hw, W&S) - See Statewide
SHAWANO COUNTY
(H,Hw, W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw, W&S) - See Statewide
TREMPEALEAU COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
VERNON COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
VILAS COUNTY
(H,Hw, W&S) - See Statewide
WALWORTH COUNTY
(H,Hw, W&S) - See Statewide
WASHBURN COUNTY
(H,Hw, W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WINNEBAGO COUNTY
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41 FR 54154 - 12/10/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
WOOD COUNTY
(H,Hw, W&S) - See Statewide

WYOMING

STATEWIDE
Decision #WY77-5071 (Hw)
42 FR 34269 - 7/1/77
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
Decision #WY77-5054 (B,H)
42 FR 26188 - 5/20/77
Mod. #1 - 42 FR 34152 - 7/1/77
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(B,H) - See Converse County
(Hw) - See STatewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARIMIE COUNTY
(B,H) - See Converse County
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
NIOBRARA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
PARK COUNTY
(Hw) - See STatewide
PLATTE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(H,Hw) - See Statewide
SWEETWATER COUNTY
(Hw) - See Statewide
TETON COUNTY
(Hw) - See Statewide
UNITA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide

WYOMING (Cont'd.

WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide

[FR Doc.77-22311 Filed 8-4-77;8:45 am]

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8-8-77
PAGES
39953–40167

federal register

MONDAY, AUGUST 8, 1977



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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Airworthiness directives; Hawker Siddeley Aviation, Ltd., models DH–104 and BH–125 airplanes (2 documents) 34866–7; 7–7–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6714 ..... Pub. L. 95–88
International Development and Food Assistance Act of 1977. (Aug. 3, 1977; 91 Stat. 533). Price: $.35.

H.R. 692 ..... Pub. L. 95–89
To amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and Small Business set-aside programs, and for other purposes. (Aug. 4, 1977; 91 Stat. 553). Price: $.35.

S.J. Res. 79 ..... Pub. L. 95–90
To amend the Federal Home Loan Bank Act. (Aug. 4, 1977; 91 Stat. 564). Price: $.35.

S. 826 ..... Pub. L. 95–91
"Department of Energy Organization Act". (Aug. 4, 1977; 91 Stat. 565). Price: $.70.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the regulations governing the insuring of oranges grown in California effective with the 1977 and succeeding crop years, and is a revision of the California Orange Crop Insurance Regulations for the 1963 and Succeeding Crop Years, as amended, as published in the FEDERAL REGISTER (28 FR 6528, June 26, 1963). The revisions made in this document are nonsubstantive and deal with the format in an effort to improve the clarity.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3197).

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation, in accordance with the provisions of the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)), regarding the procedure for notice and public participation, published the California Orange Crop Insurance Regulations in the FEDERAL REGISTER as a notice of proposed rule making (42 FR 33313, June 30, 1977), allowing the public an opportunity to file written data, views, or comments on the proposed regulations, but none were received. The proposed regulations were considered nonsubstantive in nature and dealt with the restructuring of the document to place the meaning of terms sections at the beginning; elimination of the application section in favor of utilizing the Standard Application Form (FCI–12), authorization for the Manager to extend the closing dates for the taking of applications, and minor editorial changes for clarity.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), 7 CFR Part 406 is revised to read as set forth below and the regulations contained therein are hereby issued to be in force with respect to California Orange Crop Insurance contracts for the 1977 and succeeding crop years until amended or superseded.

Subpart—Regulations for the 1977 and Succeeding Crop Years

Sec.

406.1 Availability of California orange crop insurance.
406.2 Premium rates and amounts of insurance.
406.3 Application for insurance.
406.4 Public notice of indemnities paid.
406.5 Creditors.
406.6 The policy.

AUTHORITY: The provisions of this subpart are issued under secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.

§ 406.1 Availability of California orange crop insurance.

Orange crop insurance shall be offered for the 1977 and succeeding crop years under the provisions of § 406.1 through § 406.6 in counties in California within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors for orange crop insurance. The counties designated by the Manager for orange crop insurance under this subpart for the 1977 and succeeding crop years are as follows: California: Fresno, Kern, and Tulare.

§ 406.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance per acre which shall be shown on the county actuarial table on file in the office for the county. Such premium rates and amounts of insurance may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section 7 of the Policy set forth in § 406.6 if the insured is a partnership, corporation, or any other joint enterprise and there is no break in the continuity of participation. Upon dissolution of such enterprise, such premium reduction may be credited to the contract of any member or stockholder thereof if the Corporation determines that such person is operating only land formerly operated by the dissolved enterprise. Upon formation of a joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

§ 406.3 Application for insurance.

An application for insurance, on a form prescribed by the Corporation, may be submitted at the office for the county for the Corporation. Prior to the closing date for the filing of applications, the Corporation reserves the right to discontinue the taking of applications in any county upon its determination that the insurance risk involved is excessive, or to limit the amount of insurance. Such closing date shall be the September 30 immediately preceding the beginning of the crop year. The Corporation further reserves the right to reject any application or to exclude any definitely identified acreage for any crop year of the contract if upon inspection it deems the risk on such acreage is excessive. If any such acreage is to be excluded, the insured shall be notified of such exclusion before insurance attaches for the crop year for which the acreage is to be excluded. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county by amendment to the regulations upon his determination that no adverse selectivity exists: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

§ 406.4 Public notice of indemnities paid.

The Corporation shall provide for posting annually at each county courthouse a listing of the indemnities paid in the county.

§ 406.5 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract other than as provided in the Policy set forth in § 406.6.

§ 406.6 The policy.

The provisions of the policy for California Orange Crop Insurance for the 1977 and Succeeding Crop Years are as follows:

CALIFORNIA ORANGE CROP INSURANCE POLICY

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person against unavoidable loss of production of the insured's orange crop due to freeze. No

term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

TERMS AND CONDITIONS

1. *Meaning of terms.* For purposes of insurance on oranges the terms:

(a) "Acreage report" means the form prescribed by the Corporation for initially reporting and revising (if necessary) all of the insured's acreage and share therein or oranges in the county.

(b) "Actuarial table" means the forms and related materials approved by the Corporation which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, and related information regarding orange crop insurance in the county.

(c) "Box" or "Boxes" means a standard field box as prescribed in the Agricultural Code of California.

(d) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(e) "Contract" means the application, this policy, and the actuarial table.

(f) "County" means the county shown on the application and any additional insurable land located in a local producing area bordering on the county, as shown on the actuarial table.

(g) "Crop year" means the period beginning October 1 and extending through September 30 of the following year and shall be designated by the calendar year in which the insurance period begins.

(h) "Harvest" means any severance of oranges from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable oranges from the ground.

(i) "Insurable acreage" means the acres of oranges as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, grown on the following: (1) land classified as insurable by the Corporation and shown as such on the actuarial map or appropriate land identification list or (2) land owned or operated by a person to whom a grove classification is assigned by the Corporation or as otherwise provided on the actuarial table.

(j) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(k) "Person" or "Insured" means an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(l) "Potential" means the production which would have been produced before freeze damage occurred, and shall include oranges which (1) were picked before the freeze damage occurred; (2) remained on the trees after the freeze damage occurred; (3) were lost from freeze; and (4) were lost from an uninsured cause. The potential shall not be less than 200 boxes per acre and shall not include oranges lost or harvested before insurance attaches for any crop year, or oranges lost by normal dropping.

(m) "Share" means the share of the insured as landlord, owner-operator, or tenant in the insured oranges as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect. and no other share in the orange crop shall be deemed to be insurable.

(n) "Tenant" means a person who rents land from another person for a share of the crop or proceeds therefrom.

(o) "Time of loss" means the earlier of (1) the date harvest is completed on the unit or (2) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(p) "Unit" means all insurable acreage in the county of either Navel or Valencia oranges located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Cause of loss.* (a) The insurance provided is against unavoidable freeze loss occurring within the insurance period to oranges which are set from the annual bloom.

(b) The contract shall not cover any loss or damage: (1) to the blossoms or trees; (2) due to neglect or malfeasance of the insured, any member of the insured's household, tenants, or employees; (3) due to failure to follow recognized good grove management practices; or (4) due to any cause other than freeze.

3. *Oranges insured.* (a) The oranges insured shall be either or both Navel or Valencia varieties as designated on the insured's application for insurance, and not excluded by the following provisions of this section, which are located on insurable acreage as shown on the actuarial table, and in which the insured has a share on the date insurance attaches: *Provided,* That (1) the oranges can be expected to mature each crop year in the normal maturity period for the variety and (2) the trees have reached at least the sixth growing season after being set out.

(b) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 200 boxes per acre. If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the potential on such acreage to 200 boxes per acre. If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of his contract. If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 200 boxes per acre; however, if the production from such acreage is 200 or more boxes per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including such acreage.

(c) The Corporation reserves the right for any crop year to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year.

4. *Life of contract and contract changes.* (a) The contract shall be in effect for the crop year specified on the application, and may not be canceled for such crop year. Thereafter, either party may cancel insurance on either variety of oranges for any crop year by giving written notice to the other by the July 31 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsections (b), (c), and (d) of this section, the contract shall continue in force for each succeeding crop year.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

(c) If the premium for any crop year is not paid by the Septemer 30 following the calendar year in which the insurance period begins, the contract shall terminate for the succeeding crop year: *Provided,* That the date of payment for a premium (1) deducted from a loss claim shall be the date the insured signs such claim or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(d) The contract shall terminate if no premium is earned for three consecutive years.

(e) The Corporation reserves the right to change the terms and conditions of the contract from year to year. Notice thereof shall be mailed to the insured or placed on file and made available for public inspection at the office for the county by July 15 immediately preceding the crop year for which such changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in subsection (a) of this section.

(f) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre from among those shown on the county actuarial table. For any crop year, the insured may with the consent of the Corporation change the amount of insurance per acre which was previously elected by notifying the Corporation in writing not later than September 30 immediately preceding such crop year.

5. *Responsibility of the insured to report acreage and share.* (a) The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of insured oranges in the county in which the insured has a share and show the share therein. Such report shall also include a designation of any acreage which is uninsurable or excluded under the provisions of section 3 above. This report shall be revised by the insured for any crop year before insurance attaches if the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

(b) If the insured does not submit a report for any crop year in accordance with the provisions of subsection (a) of this section, the Corporation may elect to determine by units the insured acreage and share or

declare the insured acreage for any unit(s) to be "zero."

6. *Insurance period.* Insurance attaches each crop year on October 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the tenth day after the application is received in the office for the county, and as to any portion of the orange crop, shall cease upon the earlier of harvests or March 31 of the crop year.

7. *Annual premium.* (a) The annual premium for each insurance unit is earned and payable on the date insurance attaches and shall be determined by multiplying the applicable amount of insurance per acre times the applicable premium rate, times the insured's share at the time insurance attaches and, where applicable, applying the premium reduction or adjustment herein provided.

(b) In counties where the actuarial table does not provide for adjustments in premium, the total annual premium on all units shall be reduced as follows after consecutive years of insurance without a loss for which an indemnity was paid on any unit hereunder (eliminating any year in which a premium was not earned): 5 percent after one and two years; 10 percent after three and four years; 15 percent after five years; 20 percent after six years; and 25 percent after seven or more years. However, if the insured has a loss for which an indemnity is paid hereunder, the number of such consecutive years of insurance without a loss shall be reduced by three years, except that where the insured has seven or more such years, a reduction to four shall be made and where the insured has three or less such years, a reduction to zero shall be made: *Provided,* That if at any time, the cumulative indemnities paid hereunder exceed the cumulative premiums earned hereunder from the start of the insuring experience through the previous crop year, the 5, 10, or 15 percent premium reductions in this subsection shall not thereafter apply until such cumulative premiums equal or exceed such cumulative indemnities.

(c) In counties where the actuarial table provides for adjustments in premiums, the provisions of subsection (b) of this section shall not apply.

(d) If there is no break in the continuity of participation, any premium reduction or adjustment applicable under subsection (b) or (c) of this section shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured; (2) the contract of the person who succeeds the insured as the insured's transferee in operating only the same grove or groves, if the Corporation finds that such transferee had previously actively participated in the grove operations involved; or (3) the contract of the same insured who stops operating a grove in one county and starts operating a grove in another county.

(e) If there is a break in the continuity of participation, subsection (b) of this section or any reduction in premium earned under subsection (c) of this section shall not thereafter apply.

8. *Notice of damage or loss.* (a) The insured shall give notice to the office for the county immediately after freeze damage to the oranges becomes apparent, giving the date(s) of such damage so that an inspection and determination of the extent of damage can be made prior to harvest.

(b) If a loss is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest.

(c) If a loss is to be claimed on any unit and if damage occurs within the seven-day period prior to the start of harvest or during harvest, notice of damage must be given immediately to the office for the county.

(d) Notwithstanding any other provisions of this section, no insured freeze damage shall be deemed to have occurred on any acreage unless a notice of damage therefor is given to the office for the county within 30 days after the end of the insurance period for Navel oranges and 60 days after the end of the insurance period for Valencia oranges.

(e) The Corporation reserves the right to reject any claim if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

(f) There shall be no abandonment of the orange crop to the Corporation.

9. *Claim for loss.* (a) Any claim for loss for any unit shall be submitted to the Corporation on a form prescribed by the Corporation within 60 days after the time of loss, but no later than July 31 for Navel oranges and September 30 for Valencia oranges of the crop year. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) Losses shall be adjusted separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the amount of insurance for the unit by the average percent of insured damage in excess of 10 percent (i.e. average damage 45%−10%=35% payable); and (2) multiplying this product by the insured share: *Provided,* That for the purpose of determining the amount of loss, the insured share shall not exceed the insured's share in the orange crop at the time of loss or the beginning of harvest, whichever is earlier.

(c) The average percent of damage to the oranges for any unit shall be the ratio of the number of boxes of oranges lost from freeze to the potential. In determining the number of boxes of oranges lost, the average percent of damage shall be applicable only to fruit which was not or could not be packed as fresh fruit.

(d) Any oranges which (1) are or could be marketed as fresh fruit or (2) are harvested prior to an inspection by the Corporation shall be considered as undamaged.

(e) The determination of serious freeze damage to oranges will be made by the Corporation in accordance with the Agricultural Code of California, and such determination shall be the actual oranges lost as shown by cuts made of representative samples of fruit in the grove, regardless of whether or not damaged fruit can be separated from undamaged fruit without cutting: *Provided,* That for any portion of the Navel orange crop which has 55 percent or less damage, the percent so determined shall be increased one additional percentage point for each full percent of damage in excess of 30 percent; however, the total allowable percent of damage shall not exceed 80 percent. If the actual percent of damage as determined by such cuts is in excess of 80, the percent of damage so determined shall be allowed.

(f) Any oranges on the ground as a result of freeze which are not marketed shall be considered as damaged the greater of 70 percent or the percent of damage determined by cuts made of repersentative samples of oranges in the grove, including any increased percentage in the case of Navels; however, if over 90 percent of the potential production on any acreage is on the ground as a result of freeze, the percent of damage for such oranges shall be considered 90 percent.

(g) A final grove inspection to determine the extent of serious freeze damage to oranges which are unharvested at the end of the insurance period shall be made within 30 days after the end of the insurance period for Navels and 60 days for Valencias, or as soon thereafter as possible.

(h) It shall be a condition precedent to payment of any claim that the insured furnish production records and any other information required by the Corporation regarding the manner and extent of damage, including authorizing the Corporation to examine and obtain any record pertaining to the production and or marketing of the oranges insured under this contract from the packinghouse and the Naval Orange and Valencia Orange Administrative Committees established under orders issued by the U.S. Department of Agriculture, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. The Corporation has the right to delay the final determination of the average percent of damage and the settlement of any claim until the insured makes available to it complete records of the marketing of the oranges for the crop year.

(i) If the Corporation determines that frost protection equipment was not properly utilized or properly reported, the indemnity otherwise computed for the unit shall be reduced by the percentage of premium reduction allowed for frost protection equipment It is the responsibility of the insured to provide the Corporation a record of dates showing each use of frost protection equipment, including the starting and ending times for the period of use.

(j) If any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same be brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

10. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for loss is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

11. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right or remedy including the right to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

12. *Collateral assignment.* Upon submission and approval of forms prescribed by the Corporation, the insured may assign the right to an indemnity for any crop year and the assignee shall have the right to submit the loss notices and forms as required by the contract.

13. *Transfer of insured share.* If the insured transfers all or any part of the insured share in any crop year, the Corporation will, upon submission and approval of forms prescribed by the Corporation, continue to provide protection according to the provisions of the policy to the transferee for such crop year with respect to the transferred share

and the transferee shall have the same rights and responsibilities under the contract as the transferor for the current crop year.

14. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made and shall execute all papers required and take appropriate action to secure such rights.

15. *Records and access to grove.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the harvesting, storage, shipments, sale, or other disposition of all insured variety(s) of oranges produced on each unit and on any uninsured acreage of such oranges in the county in which the insured has a share. Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

16. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

W. OTTO JOHNSON,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.77-22786 Filed 8-5-77;8:45 am]

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the regulations governing the insuring of citrus grown in the Arizona-Desert Valley region effective with the 1977 crop year and is a revision of the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1974 and Succeeding Crop Years, as published in the FEDERAL REGISTER of June 26, 1974 (39 FR 23045). The revisions made in this document are nonsubstantive and deal with the format in an effort to improve the clarity.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3197.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation, in accordance with the provisions of the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)), regarding the procedure for notice and public participation, published the Arizona-Desert Valley Citrus Crop Insurance Regulations in the FEDERAL REGISTER on June 30, 1977, as a notice of proposed rule making (42 FR 33310) allowing the public an opportunity to file written data, views, or comments on the proposed regulations, but none were received. The proposed regulations were considered nonsubstantive in nature and dealt with the restructuring of the document to place the meaning of terms section at the beginning; elimination of the application section in favor of utilizing the Standard Application Form (FCI-12), and minor editorial changes for clarity.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), 7 CFR Part 409 is revised to read as set forth below and the regulations contained therein are hereby issued to be in force with respect to Arizona-Desert Valley Citrus Crop Insurance contracts for the 1977 and Succeeding Crop Years until amended or superseded.

Subpart—Regulations for the 1977 and Succeeding Crop Years

Sec.

409.30 Availability of Arizona-Desert Valley Citrus Crop Insurance.
409.31 Premium rates and amounts of insurance.
409.32 Application for insurance.
409.33 Public notice of indemnities paid.
409.34 Creditors.
409.35 The policy.

AUTHORITY: The provisions of this subpart are issued under secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.

§ 409.30 Availability of Arizona-Desert Valley Citrus Crop Insurance.

Citrus crop insurance shall be offered for the 1977 and succeeding crop years under the provisions of §§ 409.30 through 409.35 in counties in Arizona and the Desert Valley within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors of the Corporation for citrus crop insurance. The counties designated by the Manager for citrus crop insurance under this subpart for the 1977 and succeeding crop years are as follows: Arizona, Maricopa.

§ 409.31 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and the amounts of insurance per standard box which shall be shown on the county actuarial table on file in the office for the county. Such premium rates and amounts of insurance may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section 8 of the Policy set forth in § 409.35 if the insured is a partnership, corporation, or any other joint enterprise and there is no break in the continuity of participation. Upon dissolution of such enterprise, such premium reduction may be credited to the contract of any member or stockholder thereof if the Corporation determines such person is operating only land formerly operated by the dissolved enterprise. Upon formation of a joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

§ 409.32 Application for insurance.

An application for insurance on a form prescribed by the Corporation, may be submitted at the office for the county for the Corporation. Prior to the closing date for the filing of applications, the Corporation reserves the right to discontinue the taking of applications in any county upon its determination that the insurance risk involved is excessive or to limit the amount of insurance. Such closing date shall be the September 30 immediately preceding the beginning of the crop year. The Corporation further reserves the right to reject any application or to exclude any definitely identified acreage for any crop year of the contract if upon inspection it deems the risk on such acreage is excessive. If any such acreage is to be excluded, the insured shall be notified of such exclusion before insurance attaches for the crop year for which the acreage is to be excluded. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county by amendment to the regulations, upon his determination that no adverse selectivity exists: *Provided however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

§ 409.33 Public notice of indemnities paid.

The Corporation shall provide for the posting annually at each county courthouse a listing of the indemnities paid in the county.

§ 409.34 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract other than as provided in the Policy set forth in § 409.35.

§ 409.35 The policy.

The provisions of the policy for Arizona-Desert Valley Citrus Crop Insurance for the 1977 and Succeeding Crop Years are as follows:

ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person against unavoidable loss of production of the insured's citrus crop due to freeze. No

term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

TERMS AND CONDITIONS

1. *Meaning of terms.* For purposes of insurance on citrus the terms: (a) "Acreage report" means the form prescribed by the Corporation for initially reporting and revising (if necessary) all of the insured's acreage and share therein of citrus in the county, the location of acreage by types of citrus, the age of trees, and the estimated production by boxes.

(b) "Actuarial table" means the forms and related material approved by the Corporation which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, and related information regarding citrus crop insurance in the county.

(c) "Box" or "Boxes" means a standard field box as prescribed in the Agricultural Code of California.

(d) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(e) "Contract" means the application, this policy, and the actuarial table.

(f) "County" means the county shown on the application and any additional insurable land located in a local producing area bordering on the county, as shown on the actuarial table.

(g) "Crop Year" means the period beginning October 1 and extending through September 30 of the following year and shall be designated by the calendar year in which the insurance period begins.

(h) "Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

(i) "Insurable acreage" means the acres of citrus as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, grown on the following: (1) land classified as insurable by the Corporation and shown as such on the actuarial map or appropriate land identification list of (2) land owned or operated by a person to whom a grove classification is assigned by the Corporation or as otherwise provided on the actuarial table.

(j) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(k) "Person" or "Insured" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(l) "Potential" means the production which would have been produced before freeze damage occurred and shall include citrus which (1) was picked before the freeze damage occurred; (2) remained on the trees after the freeze damage occurred; (3) was lost from freeze; and (4) was lost from an uninsured cause. The potential shall not be less than 150 boxes per acre and shall not include citrus lost before insurance attaches for any crop year or citrus lost by normal dropping.

(m) "Share" means the share of the insured as landlord, owner-operator, or tenant in the insured citrus as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share in the citrus crop shall be deemed to be insurable.

(n) "Tenant" means a person who rents land from another person for a share of the crop or proceeds therefrom.

(o) "Time of loss" means the earlier of (1) the date harvest is completed on the unit; (2) the calendar date for the end of the insurance period; or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(p) "Types of citrus" means any of the following six types of fruit: Type I, Navel oranges; Type II, Orlando tangeloes and sweet oranges; Type III, Valencia oranges; Type IV, Grapefruit; Type V, Lemons; and Type VI, Kinnow mandarins and Minneola tangelos.

(q) "Unit" means all insurable acreage in the county of any of the six citrus types referred to in subsection (p) of this section located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Cause of loss.* (a) The insurance provided is against unavoidable freeze loss occurring within the insurance period to the citrus fruit which is set from the annual bloom.

(b) The contract shall not cover any loss or damage (1) to the blossoms or trees; (2) due to neglect or malfeasance of the insured, any member of the insured's household, tenants, or employees; (3) due to failure to follow recognized good grove management practices; or (4) due to any cause other than freeze.

3. *Citrus insured.* (a) The citrus insured shall be any of the type(s) of citrus as defined in section 1(p), and not excluded by the following provisions of this section, which is located on insurable acreage as shown on the actuarial table, and in which the insured has a share on the date insurance attaches: *Provided*, That (1) the citrus fruit can be expected to mature each crop year in the normal maturity period for the variety and (2) the trees have reached at least the sixth growing season after being set out.

(b) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 150 boxes per acre. If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the per acre potential on such acreage to 150 boxes per acre. If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of this contract. If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 150 boxes; however, if the production from such acreage is 150 or more boxes per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including the undesignated acreage.

(c) The Corporation reserves the right for any crop year to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year.

4. *Life of contract and contract changes.* (a) The contract shall be in effect for the crop year specified on the application, and may not be canceled for such crop year. Thereafter, either party may cancel insurance on any type of citrus for any crop year by giving written notice to the other by the July 31 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsections (b), (c), and (d) of this section, the contract shall continue in force for each succeeding crop year.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

(c) If the premium for any crop year is not paid by the September 30 following the calendar year in which the insurance period begins, the contract shall terminate for the succeeding crop year: *Provided*, That the date of payment for a premium (1) deducted from a loss claim shall be the date the insured signs such claim, or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(d) The contract shall terminate if no premium is earned for three consecutive years.

(e) The Corporation reserves the right to change the terms and conditions of the contract from year to year. Notice thereof shall be mailed to the insured or placed on file and made available for public inspection at the office for the county by the July 15 immediately preceding the crop year for which such changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in subsection (a) of this section.

(f) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre from among those shown on the county actuarial table. For any crop year, the insured may with the consent of the Corporation change the amount of insurance per acre which was previously elected by notifying the Corporation in writing not later than the closing date for filing applications for such crop year.

5. *Responsibility of the insured to report acreage data.* (a) The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of citrus in the county in which the insured has a share and show the share therein. Such report shall also include a designation of (1) the location of the acreage by types of citrus, (2) age of trees, (3) estimated production by boxes, and (4) any acreage which is uninsurable or excluded under the provisions of section 3 above. This report shall be revised by the insured for any crop year before insurance attaches if

the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

(b) If the insured does not submit an acreage report for any crop year in accordance with the provisions of subsection (a) of this section, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage for any unit(s) to be "zero."

6. *Insurance period.* Insurance attaches each crop year on October 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the tenth day after the application is received in the office for the county, and as to any portion of the citrus crop, shall cease upon the earlier of harvest or January 31 for Types I, II, and V and March 31 for Types III, IV, and VI of the crop year.

7. *Amount of insurance.* The amount of insurance for any crop year for any unit shall be determined by multiplying the estimated production in boxes for the unit for that crop year as reported by the insured or as determined by the Corporation, whichever is smaller, by the applicable amount of insurance per box and multiplying the product thereof by the insured's share: *Provided, however,* That the amount of insurance for any crop year for any unit shall not exceed the product of the insured acreage thereon times the maximum amount of insurance per acre shown on the actuarial table times the insured's share; and, the amount of insurance per acre shall be based on not less than 150 standard field boxes per acre.

8. *Annual premium.* (a) The annual premium for each insurance unit is earned and payable on the date insurance attaches and shall be determined by multiplying the higher of (1) the estimated production in boxes reported by the insured for that crop year for the unit or (2) 150 boxes times the number of acres in the unit, times the applicable amount of insurance per box, times the applicable premium rate, times the insured's share at the time insurance attaches, and where applicable, applying the premium reduction or adjustment herein provided. There will be no revision in premium if the actual production differs from the estimated production applicable for the crop year as provided in section 5 above.

(b) In counties where the actuarial table does not provide for adjustments in premium, to total annual premium on all units shall be reduced as follows after consecutive years of insurance without a loss for which an indemnity was paid on any unit hereunder (eliminating any year in which a premium was not earned): 5 percent after one and two years; 10 percent after three and four years; 15 percent after five years; 20 percent after six years; and 25 percent after seven or more years. However, if the insured has a loss for which an indemnity is paid hereunder, the number of such consecutive years of insurance without a loss shall be reduced by three years, except that where the insured has seven or more such years, a reduction to four shall be made and where the insured has three or less such years, a reduction to zero shall be made: *Provided,* That if at any time, the cumulative indemnities paid hereunder exceed the cumulative premiums earned hereunder from the start of the insuring experience through the previous crop year, the 5, 10, or 15 percent premium reductions in this subsection shall not thereafter apply until such cumulative premiums equal or exceed such cumulative indemnities.

(c) In counties where the actuarial table provides for adjustments in premium, the provisions of subsection (b) of this section shall not apply.

(d) If there is no break in the continuity of participation, any premium reduction or adjustment applicable under subsection (b) or (c) of this section shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured; (2) the contract of the person who succeeds the insured as the insured's transferee in operating only the same grove or groves, if the Corporation finds that such transferee had previously actively participated in the grove operation involved; or (3) the contract of the same insured who stops operating a grove in one county and starts operating a grove in another county.

(e) If there is a break in the continuity of participation, subsection (b) of this section or any reduction in premium earned under subsection (c) of this section shall not thereafter apply.

9. *Notice of damage or loss.* (a) The insured shall give notice to the office for the county immediately after freeze damage to the citrus becomes apparent, giving the date(s) of such damage so that an inspection and determination of the extent of damage can be made prior to harvest.

(b) If a loss is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest.

(c) If a loss is to be claimed on any unit and if damage occurs within the seven-day period prior to the start of harvest or during harvest, notice of damage must be given immediately to the office for the county.

(d) Notwithstanding any other provision of this section, no insured freeze damage shall be deemed to have occurred on any acreage unless a notice of the damage therefore is given to the office for the county within 30 days after the end of the insurance period.

(e) The Corporation reserves the right to reject any claim if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

(f) There shall be no abandonment of the citrus crop to the Corporation.

10. *Claim for loss.* (a) Any claim for loss for any unit shall be submitted to the Corporation on a form prescribed by the Corporation within 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) Losses shall be adjusted separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the amount of insurance for the unit by the average percent of insured damage in excess of 10 percent (i.e. average damage 45% −10% = 35% payable); and (2) multiplying this product by the insured share: *Provided,* That for the purpose of determining the amount of loss, the insured share shall not exceed the insured's share in the citrus crop at the time of loss or the beginning of harvest, whichever is earlier.

(c) The average percent of damage to the citrus for any unit shall be the ratio of the number of boxes of citrus lost from freeze to the potential. In determining the number of boxes of citrus lost, the average percent of damage shall be applicable only to fruit which was not or could not be packed as fresh fruit.

(d) Any citrus which (1) is or could be marketed as fresh fruit or (2) is harvested prior to an inspection by the Corporation shall be considered as undamaged.

(e) The determination of serious freeze damage to citrus will be made by the Corporation in accordance with the state laws for the county, and such determination shall be the actual citrus lost as shown by cuts made of representative samples of fruit in the grove, regardless of whether or not damaged fruit can be separated from undamaged fruit without cutting.

(f) Any fruit on the ground as a result of freeze which is not picked up and marketed shall be considered as damaged the greater of 70 percent or the percent of damage determined from cuts of representative samples of fruit in the grove.

(g) A final grove inspection to determine the extent of serious freeze damage to fruit which is unharvested at the end of the insurance period shall be made within 30 days after the end of the insurance period or as soon thereafter as possible.

(h) It shall be a condition precedent to payment of any claim that the insured furnish production records and any other information required by the Corporation regarding the manner and extent of damage, including authorizing the Corporation to examine and obtain any records pertaining to the production and/or marketing of the citrus insured under this contract from the packinghouse and the Navel Orange, Valencia Orange, Grapefruit and Lemon Administrative Committees established under orders issued by the U.S. Department of Agriculture, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. The Corporation has the right to delay the final determination of the average percent of damage and the settlement of any claim until the insured makes available to it complete records of the marketing of the citrus for the crop year

(i) If the Corporation determines that frost protection equipment was not properly utilized or properly reported, the indemnity otherwise computed for the unit shall be reduced by the percentage of premium reduction allowed for frost protection equipment. It is the responsibility of the insured to provide the Corporation a record by dates showing each use of frost protection equipment including the starting and ending times for the period of use.

(j) If any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same be brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

11. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for loss is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

12. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right or remedy including the right to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

13. *Collateral assignment.* Upon submission and approval of forms prescribed by the Corporation, the insured may assign the right to an indemnity for any crop year and the assignee shall have the right to submit the loss notices and forms as required by the contract.

14. *Transfer of insured share.* If the insured transfers all or any part of the insured share in any crop year, the Corporation will, upon submission and approval of forms prescribed by the Corporation, continue to provide protection according to the provisions of the policy to the transferee for such crop year with respect to the transferred share and the transferee shall have the same rights and responsibilities under the contract as the transferor for the current crop year.

15. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made and shall execute all papers required and take appropriate action to secure such rights.

16. *Records and access to grove.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the harvesting, storage, shipments, sale, and other disposition of all citrus produced on each unit and on any uninsured acreage of such citrus in the county in which the insured has a share. Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

17. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

W. O. JOHNSON,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.77-22785 Filed 8-5-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 566, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 29–August 4, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period July 29–August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 200,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.866 Valencia Orange Regulation 566 (42 F.R. 38379) are hereby amended to read as follows:

§ 908.866 **Valencia Orange Regulation 566.**

* * * * * * *

(b) * * *

(1) * * *

(i) District 1: 312,000 cartons;

(ii) District 2: 488,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 3, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22780 Filed 8-5-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

1977 Price and Allocation Interpretations

AGENCY: Federal Energy Administration.

ACTION: Notice of Interpretations.

SUMMARY: Attached are five Interpretations issued by the General Counsel or Regional Counsels of the Federal Energy Administration (FEA) between June 6 and July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Laura Holtz, Office of General Counsel, Federal Building, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202–566–2085).

SUPPLEMENTARY INFORMATION: FEA Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice cited above.

Issued in Washington, D.C., August 2, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

APPENDIX

No.	To	Date	Category
1977-17	Francis O. Scarpulla.....	June 6	Allocation.
1977-18	Ball Marketing Enterprise, et al.	June 13	Price.
1977-19	Sterling Stations, Inc.....	June 21	Allocation.
1977-20	John Douglas Hattenbauer.	June 22	Do.
1977-21	Suburban Propane Gas Corp.	July 11	Price.

INTERPRETATION 1977–17

To: Francis O. Scarpulla, Esq.

Date: June 6, 1977.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(IX)—AI—Definition of Wholesale Purchaser-Reseller.

This is in response to a request for interpretation dated July 12, 1976 submitted by you on behalf of six named consignees under contract with Union Oil Company of California (Union) concerning whether or not these consignees may be considered wholesale purchaser-resellers under 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations of the Federal Energy Administration (FEA). Since the test for such characterization depends primarily on the facts of each individual case, this Interpretation applies solely to the six persons filing the request.

FACTS

The facts upon which this interpretation is based are as follows: [1] All of the named consignees entered wholesale consignment agreements with Union between 1964 and 1972. At present, each of these agreements is memorialized in a standard form contract prepared by Union ("Commercial Consignment Agreement," Form No. 3–4H06, Rev. April 1973) (hereinafter, Agreement).

The Agreement provides that the consignee will handle, advertise for sale, and sell within defined geographic areas only those products provided by Union as consignor. Title to all products remains in Union until a sale of the products is consummated by the consignee, at which time he is entitled to a commission in accordance with a schedule attached to the Agreement.

The consignee is obligated to: Sell the consigned products at prices established by Union; use his best efforts to promote the sale of the products within his defined territory; hire all necessary employees, and indemnify Union for any liability arising from operation of any workmen's compensation, unemployment, pension, or retirement program; pay all necessary license fees and all business expenses incurred in the handling, storage, and distribution of the consigned products and in providing equipment therefor; and be responsible for loss or damage to the consigned products. The Agreement expressly states that neither the consignee nor his employees are to be considered employees of Union.

Union, as consignor, must deliver whatever quantity of product the consignee requires for sale and pay the scheduled commissions for product sold. Union also retains the right of prior approval of most credit sales proposed by the consignee beyond a minimum amount and may revoke such approval at any time. The Agreement may be terminated by either party upon seven (7) days notice.

The affidavits submitted reveal that each consignee spends a significant amount of time developing his own customer contacts and accounts. The accounts could similarly be terminated by the consignee (prior to adoption of FEA regulations) without the need to notify Union or obtain its concurrence. The accounts provided directly by Union consisted almost exclusively of a minute number of house accounts, and Union representatives rarely, if ever, initiated customer contacts in the consignee's territory or accompanied him on sales calls. The consignee is responsible for all facets of his service, and customers' complaints are handled by him rather than by Union. Union never evaluates the quality of service provided by the consignee. Although the consignees lease their bulk plants from Union at nominal rent, each has invested in his own transportation and other related equipment. Often in soliciting their own customers, the consignees provide storage tanks either free or at low rent.

ISSUE

The issue presented for interpretation is whether consignees operating pursuant to this agreement and in the manner described above qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that consignees which sell and distribute allocated products pursuant to the terms of the contractual agreement set forth above and under the circumstances described qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8.

Wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form" Several situations exist in the industry in which firms take possession of allocated products without taking title. Consignment is one such situation.

FEA Ruling 1975–8 states that the phrase "as by consignment" is included in the definition of wholesale purchaser-reseller to make clear that firms which obtain and resell or otherwise transfer allocated products should not be automatically excluded from the category solely on the ground that they fail to take legal title to the product. This explicitly recognizes that consignment relationships have long existed in the petroleum industry under which consignees perform essentially the same functions as jobbers and, accordingly, should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees who have a substantial degree of operational independence in the conduct of their business (as opposed to merely providing a distribution service between a supplier and customers or functioning like a supplier employee) fully qualify as wholesale purchaser-resellers and should be subject to the same benefits and obligations of the allocation program which apply to jobbers.

According to Ruling 1975–8, a consignee who operates in a substantially equivalent manner to an independent jobber will generally have most (but not necessarily all) of the following characteristics: (1) Appropriate facilities and equipment for the conduct of the business of selling and distributing his supplier's products; (b) responsibility, independent of his supplier, for internal financial management and physical and other administrative operations; (c) responsibility for expenses and liabilities arising from and connected with the business of transfer and sale of his supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing products solely to customers designated by the supplier. Such consignees should qualify as wholesale purchaser-resellers.

In the factual situation presented herein, the six named consignees possess a full measure of authority in distributing and selling Union's products. They do not simply provide a delivery service, but rather actively solicit customers for consigned products, negotiate terms and conditions for sales, and draft orders and invoices. They are responsible for all aspects of conducting their respective businesses. Indeed, the obligations imposed on the consignees by the Agreement itself satisfy in full the first three elements stated in Ruling 1975–8. The only restrictions imposed by the Agreement are that the consigned products be fully accounted for and sold at authorized prices. There is no limitation expressed regarding sales to particular customers or in specified amounts. Rather, the Agreement exhorts the consignees to develop sales and states that Union will provide product in "such quantity * * * as consignee requires for sale * * *. It is also clear from the information submitted that the consignees retained the power to terminate accounts (subject since 1973 to FEA restrictions), without notice to or approval by Union. The named consignees thus possess all of the characteristics of business independence discussed in Ruling 1975–8.

Thus it is our opinion that the six consignees requesting this Interpretation are wholesale purchaser-resellers as that term is defined in 10 CFR 211.51 and explained in Ruling 1975-8.

INTERPRETATION 1977–18

To: Ball Marketing Enterprise, et al.

Date: June 13, 1977.

Rules Interpreted: §§ 212.31, 212.82.

Code: GCW—PI—Definition of Firm.

This is in response to your letter of August 31, 1976, in which you requested, on behalf of Ball Marketing Enterprise ("BME"), Ball Marketing, Inc. ("BMI"), and Great Southern, that BME, BMI, and Great Southern constitute separate and distinct "firms," under the definition of "firm" in 10 CFR 212.31, for purposes of FEA price controls. This interpretation also concerns the definition of "refiner" in 10 CFR 212.31, the definition of "firm" in 10 CFR 212.82 and related terms.

We understand that your request for interpretation was prompted by a preliminary finding by FEA's area office in New Orleans that Great Southern and BME constitute a single firm for purposes of FEA price regulations.

FACTS

1. Great Southern is a producer of oil and gas, conducting extensive drilling operations in Louisiana for the discovery, production and sale of natural resources. Great Southern is also a "refiner," as defined in § 212.31, by virtue of the fact that it contracts to have crude oil and gas refined and sells the refined covered products. (Section 212.31 states, in part, that "'Refiner' includes any owner of covered products which contracts to have those covered products refined and then sells the refined covered products to resellers, retailer, reseller-retailers or ultimate consumers.")

2. Fifty percent of the shares of Great Southern are held by Mr. Robert McAdams or members of his family. The remaining 50 percent of the shares of Great Southern are held by Mr. Baker Littlefield or members of his family. Mr. McAdams is not related in any way to Mr. Littlefield.

3. BME, a dissolved partnership, was formed on May 15, 1973, for the purpose of "brokering and reselling petroleum products." The partners in this venture were Mr. McAdams, Mr. Littlefield, and Mr. Charles Goss. The latter was the managing partner of BME. During its existence, BME was a "reseller," as defined in § 212.31, and purchased refined petroleum products from Great Southern for resale. Following the incorporation of BMI, the business activities of BME were discontinued and taken over by BMI.

4. BMI was chartered on March 5, 1976. Its outstanding capital stock is owned by Messrs. McAdams, Littlefield, and Goss in portions of one-third each. It continues to purchase refined petroleum products from Great Southern as a "reseller." BMI purchases more than five percent of the covered products it sells from Great Southern, as did BME.

5. BMI pays no more for products purchased from Great Southern than it pays for products purchased from other producers or refiners. Great Southern makes no price concessions to BMI in sales of refined petroleum products to BMI.

6. Great Southern and BMI maintain separate accounts and records under separate management. BME also maintained separate books of account under separate management.

7. Great Southern has filed Form FEO–96 independently, without including BME or BMI as part of the reporting entity.

ISSUE

Are Great Southern and BME/BMI part of a single "firm" for price control purposes under FEA regulations?

INTERPRETATION

The entity consisting of Messrs. McAdams and Littlefield, Great Southern, BME and its successor, BMI, constitutes a single "firm" for price control purposes under FEA regulations.

It is not true, as stated in the interpretation request, that "the definition of firm has obviously substantially changed since Phase II (of the Economic Stabilization Program) and any rulings relating to the Phase II definition cannot and do not apply whether well settled or not under the Phase IV regulations." In an Interpretation issued to the president of Enterprise Products Co. on February 12, 1975 ("Enterprise Interpretation") FEA stated as follows (emphasis added):

In a series of rulings during Phase II of the Economic Stabilization Program the major questions concerning inter-corporate control and control by individuals for purposes of price regulations were fully answered and settled. Under Phase IV Q&A 8–5, CLC Release 367, August 20, 1973, Phase II rulings were deemed not legally binding during Phase IV but were to be used as guidance in the absence of any specific legal interpretation which might be issued. Nothing in the few rulings issued by CLC in Phase IV or by FEA is contrary to the pertinent Phase II rulings discussed in this interpretation. Since these Phase II rulings thus firmly settled this area of the law, and *since the same applicable definitions and concepts to which those rulings relate were continued essentially unchanged in Phase IV and under the FEA regulations*, the FEA believes that it is appropriate to apply the pertinent Phase II rulings in this interpretation.

FEA then quoted in the Enterprise Interpretation the Phase II definition of "firm" and cited related Phase II definitions to show that the concept of "direct or indirect control," which brings within the "firm" all entities "controlled" by the firm, remains essentially the same under FEA regulations. Therefore, because of the definitional similarities considered and explained in the Enterprise Interpretation, Phase II rulings as well as FEA rulings and Interpretations are pertinent to the central question in this Interpretation concerning control.

The starting point for understanding the definition of "firm" is FEA's definition of that term in § 212.31; which reads as follows:

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The FE[A] may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

For general price control purposes, FEA has selected the first of the four definitional options listed above.[2] Under FEA's definition of "firm" applicable to refiners in § 212.82, and under FEA's definition of "seller" applicable to resellers and retailers in § 212.92, this determination is expressed as follows:

"Firm" (or in the case of resellers or retailers, "seller") means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

It is clear from the general definition of "firm" in § 212.31 and the definition of "parent," "parent and its consolidated entities" and "unconsolidated entity" in § 212.31 that an "individual" can be the "parent"—i.e., the entity or part of the "firm" to which one ultimately looks to determine the extent or degree of intra-firm control. This matter was expressly considered in CLC Ruling 1972–55 (37 FR 11694, June 10, 1972), where the "firm" was determined to consist of an individual person plus the two corporate entities which he controlled.

It is also clear that control by the individual is not diluted or diminished by the vesting of stock ownership or control in members of the individual's family. FEA's definition of "parent and its consolidated entities" and "unconsolidated entity" include a statement that "An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren." A similar statement was included in the Phase II definition of "firm."

Based on the foregoing considerations, neither "individual" nor family control preclude inclusion of Great Southern and BME/BMI in the same "firm." The only remaining question to be considered relates to the 50 percent-50 percent division of control of Great Southern between Messrs. McAdams and Littlefield and the 33⅓ percent-33⅓ percent-33⅓ percent division of control of BMI between Messrs. McAdams, Littlefield, and Goss—i.e., whether a division of control in equal shares, in which no one individual appears to have a predominate position, constitutes an effective means by which the consequences of control can be avoided for purposes of FEA price regulations.

Rulings and Interpretations issued under Phase II and the current price control program affirm that—

* * * the division of ownership or control into exactly equal shares or interests (e.g., 50%-50%, 33⅓%-33⅓%-33⅓%) w(ill) not serve to defeat the purpose of the regulations and rulings concerning control.[3]

For example, under CLC Ruling 1972–77 (37 FR 13652, July 12, 1972), companies A and B each owned a one-half interest in company C which they operated as a joint-venture. Control of C on the part of both A and B (whether deemed direct or indirect) was presumed. The result was that A plus C was considered a single entity and B plus C was considered a single entity, for the purpose of determining the size of the annual sales or revenues of the firm (price category determination), while for other purposes under the Economic Stabilization Program A and B were required to decide which of them would consider C as belonging to it in its entirety.

In the Enterprise Interpretation, a situation even more closely analogous to the present one was presented. There, two individuals each owned 50 percent of an incorporated propane resale business. These two individuals, not acting on a joint-venture basis in any formal sense, together acquired control of two propane retailers. FEA ruled that the "firm" for purposes of price regulations consisted of the two individuals concerned, the resale company, the two retail entities, and any other firm directly or indirectly controlled by the two individuals or their resale company.

In the present case, Messrs. McAdams and Littlefield control Great Southern since they each own 50 percent of the capital stock of that corporation. They also control BMI (and controlled its predecessor, BME) on the basis of their combined two-thirds ownership or interest. BME/BMI did not constitute a subsequent acquisition, as in the Enterprise case, but was created by the two individuals concerned for the express purpose of reselling petroleum products. As in the Enterprise case, BME/BMI has purchased a substantial portion of its products for resale from its affiliate, Great Southern.

CLC Ruling 1972–77 and FEA's Enterprise Interpretation have as a shared element the commonality of interest between the two individuals or venturors in the business or businesses they jointly controlled. It is of little significance whether this finds expression in formal agreement or formal organization, such as under a written joint-venture or partnership agreement, or through less formal but not less purposeful design. The definition of "firm" includes "*any* * * * individual, joint-venture, partnership * * * or *any other entity however organized* * * *." [Emphasis added.] Thus, whether the controlling parent is viewed as two individual "entities" or a single joint "entity" the result is the same: all entities controlled directly or indirectly by the parent are part of the "firm" for price control purposes.

In CLC Ruling 1972–81 (37 FR 15009, July 27, 1972), individual A owned 50 percent of corporation L and 50 percent of corporation M. The two corporations were described as "interdependent" and as performing "complementary functions" because L sold raw materials to M for processing. CLC held that the "firm" included the entities A, L, and M. Although the fact portion of the ruling stated that the remaining stock in L and M was held by relatives of A, the ruling did not turn on the question of family control. The ruling was based on the fact that A held 50 percent of the shares of both L and M and on the complementarity of functions performed by L and M.

[1] On July 22 and 27, 1976 Union responded to the initial request for interpretation and supporting data submitted therewith. Subsequently, counsel for the petitioners provided a response to the Union letters and submitted declarations and affidavits from the six consignees in support of the request. The individual wholesale consignment distributors are: J. C. Lansdowne, Visalia; E. L. Mangiaracina, Roseville; J. A. Martin, Mariposa; R. A. Ramsey, Siskiyou; D. M. Seals, Merced; M. J. Soelzl, Fresno. All information submitted by Union and its consignee agents has been considered in postulating the facts upon which this Interpretation is based.

[2] The second and third options under the general definition of "firm" in § 212.31 were used by CLC and FEA primarily in connection with profit margin regulations no longer effective. The fourth option has been used only in special circumstances, such as in connection with the granting of exceptions.

[3] Enterprise Interpretation, February 12, 1975.

The factor of corporate interdependence or complementarity was also present in the Enterprise case, where propane was channelled through the resale business to the retail outlets for ultimate sale and where control of the retail outlets was apparently obtained for the sole purpose (and under an erroneous view of applicable regulations) of obtaining the benefits of markups at both the wholesale and retail level with respect to the sale of the same propane.

It appears that similar interdependence is present in the case of Great Southern and BME/BMI. BME and BMI were formed by the owners of Great Southern for the purpose of reselling the same products which Great Southern contracts to have refined. BMI does in fact purchase a substantial portion of its products from Great Southern. The fact of common ownership or control of Great Southern and BME/BMI, plus the business relationship between the two companies involving the purchase and sale of refined petroleum products, is sufficient to show interdependence of the kind present in CLC Ruling 1972–81 and FEA's Enterprise Interpretation.

In our view, the interdependence or complementarity present in this case merely serves to confirm the appropriateness of the conclusion already reached concerning control of Great Southern and BME/BMI by the same parent. Because of the often unusual or complex interrelationships between corporate or other business entities, it cannot be expected that any single concept of "firm" would provide a basis for application of price controls which every company would consider most appropriate. However, the "control" basis for identfying business amalgamations is well understood in the industry and is generally easy to apply. Moreover, the "control" basis usually results in a "firm" which consists of or includes business entities which perform interdependent or complementary functions in addition to being under common control.

Furthermore, as previously explained by FEA,[4] the broad "control" basis for the definition of "firm" is appropriate for general pricing purposes because FEA's regulations generally permit prices to be increased to reflect increased costs incurred. Unless "costs" were restricted to the "outside" costs of the "firm"—i.e., costs incurred in trading with persons not under the direct or indirect control of the parent—a "firm" could improperly magnify "costs" through a series of intracorporate sales or transfers of petroleum products at prices reflecting a margin of profit added at each sale or transfer within the firm. Thus, for cost pass-through purposes, the costs which may be passed through are the costs to the "firm" as broadly defined in § 212.82 (or the costs to the "seller" under the same definition in § 212.92), unless otherwise specifically provided. This concept of "firm" serves to assure only a dollar-for-dollar pass-through of actual costs incurred by the "firm" concerned.

That Great Southern may have not in fact treated BMI differently from other purchases similarly situated, through discounted prices or otherwise, is not controlling. The fact that the spirit or purpose of an FEA regulation of general applicability may not have been actually violated or contravened in a specific case does not normally provide a valid basis in the context of a legal interpretation for nonapplication of that regulation to the firm concerned.

Since the basis for FEA's definition of "firm" is control rather than corporate organization, the fact that BMI and Great Southern are separately incorporated and independently organized is not significant. Lack of "managerial" supervision is also not controlling.[5]

INTERPRETATION 1977–19

To: Sterling Stations, Inc.

Date: June 21, 1977.

Rules Interpreted: §§ 211.9, 211.106, 210.62.

Code: GCR(X)—AI—Base Period Supply Obligations, Normal Business Practices.

This is in response to your request for an interpretation of the Mandatory Petroleum Allocation Regulations on behalf of your client, Sterling Stations, Inc.

FACTS

Until approximately May 15, 1976, Sterling Stations, Inc. ("Sterling"), operated branded independent retail gasoline stations at four locations in the Seattle area. Texaco, Inc. ("Texaco"), is the base period supplier of gasoline for each of these stations and delivered gasoline to each of them during the base period and thereafter until the stations were closed by Sterling in May, 1976.

During 1975 Sterling began to experience heavy operating losses at the four stations. In December 1975, it offered to sell the stations to Gull Oil Company ("Gull"), which owns a number of retail service stations in western Washington which sell unbranded motor gasoline supplied to Gull by Texaco.

Gull inquired of Texaco as to whether the motor gasoline allocations for the four stations could be transferred to Gull as a successor to Sterling with the understanding that Gull would receive the total allocation (approximately four million gallons per year) as a jobber, rather than as the operator of the individual stations. Texaco refused to agree to this proposal.

In late April 1976 Sterling again offered to sell the stations to Gull if Gull would take over separately each station's base period use and convert the outlets from branded to non-branded outlets. Gull accepted this proposal from Sterling and requested Texaco to agree to transfer the individual Sterling allocations to Gull after the sale. It is unclear as to whether Texaco refused to agree to the transfer of the allocations at the four Sterling stations to Gull on a nonbranded basis. In its comments dated August 6, 1976, Texaco states that when first approached by Gull Texaco responded that it would honor its obligations under FEA regulations and would continue to supply and deliver gasoline to the four retail outlets, but that it would not agree to transfer the allocations for the four stations to Gull as a jobber. Texaco states that at no time did it indicate to either Gull or Sterling that it was unwilling to continue to deliver gasoline to the stations as mandated by FEA regulations. Texaco does not address the second proposal which Sterling asserts was made to Texaco, that Texaco supply the stations individually on a non-branded basis after the sale to Gull. For purposes of this interpretation, however, it is assumed that Gull proposed that Texaco continue to deliver motor gasoline to the four stations individually in accordance with applicable FEA regulations after the sale to Gull, except that Texaco would deliver the product on a non-branded basis. It is also assumed that Texaco refused this request and that, solely because of Texaco's refusal, the sale to Gull was not consummated. All four stations were closed during the week of May 10, 1976.

ISSUE

The issue presented for interpretation is whether and to what extent Texaco has a supply obligation to the successor on the site of Sterling's motor gasoline retail sales outlets.

INTERPRETATION

It is our opinion that pursuant to § 211.106 (c) the allocation of a motor gasoline retail sales outlet is transferred to the successor on the site, and therefore Texaco would have a supply obligation to Gull if the sale of the stations by Sterling had been consummated. The base period practices to be applied to Texaco's supplier/purchaser relationship with Gull would be those formerly in effect between Texaco and Sterling, except to the extent that Gull failed to qualify for such treatment under the objective criteria applied by Texaco to its customers.

10 CFR 211.106(c) (1) provides in part that:

A wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet for purposes of § 211.11 if it vacates the site on which it conducts such business.

Accordingly, Sterling would be considered to have gone out of business at the four outlets as of May 1976, assuming that Sterling vacated the premises. If Gull had subsequently purchased the stations from Sterling and reopened them, Gull would have been entitled to receive the allocation at each station from Texaco under 10 CFR 211.106 (c) which provides that:

The right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to the former operator's successor on the site: *Provided*, Such successor established the same on-going business on the site within a reasonable period of time, as determined by FEO, after its predecessor vacates the premises.

In your request, you indicated that instead of asking to be supplied by Texaco on terms identical to those under which Texaco supplied Sterling, Gull requested first that it be supplied as a jobber and, second, that Texaco sell non-branded product to Gull. FEA regulations do not require Texaco to agree to such requests. 10 CFR 210.62 provides in part that:

Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter.

The transfer of the allocation at the four stations from Sterling to Gull under 10 CFR 211.106(c) does not obligate Texaco to alter its normal business practices with respect to sales to those four stations. On the contrary, 10 CFR 210.62 requires in general the continuation of base period normal business practices. Such practices may be altered by mutual agreement between the supplier and customer under certain circumstances, and in some instances may be altered unilaterally by the supplier if the supplier provides an adequate downward price adjustment or other compensation to the customer.

You have also argued in your request that 10 CFR 211.9(c) which provides that "the supplier/purchaser relationships required by this part shall not be altered by . . . changes in the brand or franchise under which a wholesale purchaser-reseller maintains its ongoing business" means that Texaco is required to agree to the request by Gull to purchase nonbranded product. In fact, 10 CFR 211.9(c) means that if there is a change in brands the purchaser will still be entitled

[4] See Enterprise Interpretation, Interpretation 1976–8 (May 28, 1976), and Interpretation 1976–8 (October 18, 1976).

[5] See "Tesoro" Interpretation issued August 21, 1975.

to receive an allocation from its base period supplier. This section of FEA regulations would apply to situations in which a retail gasoline station which obtained product from a supplier in 1972 (the base period) under the particular brand had changed to another supplier using a different brand in the period between 1972 and 1974. Under 10 CFR 211.9(c) the customer would nevertheless be entitled to return to its 1972 base period supplier after FEA regulations became effective in 1974. 10 CFR 211.9 does not confer on a purchaser the right to require that its supplier supply non-branded gasoline when the purchaser takes over operation of a branded retail station. Accordingly, Texaco's refusal to agree to sell gasoline to Gull on a non-branded basis at the four stations is not inconsistent with FEA regulations.

Consideration of the second issue raised in your request for interpretation, i.e., whether Sterling has any recourse against Texaco in a civil action for damages under the Federal Energy Administration Act of 1974 or any other federal legislation, is unnecessary in light of our conclusion that the actions alleged to have been taken by Texaco are consistent with FEA regulations.

INTERPRETATION 1977–20

To: John Douglas Hattenhauer.

Date: June 22, 1977.

Rules Interpreted: §§ 211.9(c), 211.25(a).

Code: GCR(X)—AI—Base Period Supply Obligations, Supplier/Purchaser Relationship.

You have requested an interpretation of the Mandatory Petroleum Allocation Regulations of the Federal Energy Administration ("FEA"), 10 CFR Part 211, concerning your rights as a Texaco consigneee distributor. Copies of your request letters were forwarded to Texaco, Inc. ("Texaco") for comment. Comments were received from Texaco.

FACTS

According to your submissions, you are a Texaco consignee located in The Dalles, Oregon. Your contractual relationship with Texaco consists of a Consignment Agreement (Form S–82) dated January 1, 1975, as modified by a Consignment Agreement to Cover Direct Deliveries (Form S–368B) dated January 1, 1975, and by an agreement relating to commissions on emergency deliveries (Form S–368) also dated January 1, 1975. The Form S–368B Agreement provides that Texaco may make deliveries or cause deliveries of product to be made at any time to four retail gasoline outlets located in Hood River, Mosier, Highway 80 N. and Highway 197, The Dalles, and 3902 W. 6th, The Dalles. The Form S–368B Agreement also provides that you will receive a smaller commission when direct deliveries are made by Texaco. At issue in your request are deliveries to three of the four outlets which are the subject of the agreements, the Hood River outlet and the two outlets in The Dalles.

You indicated in your request that you purchased the business on January 1, 1975 from Walter N. Nester, who was a Texaco consignee from 1960 until his retirement on December 31, 1974. Nester supplied the Hood River outlet during the base period from January through August, 1972. Texaco began supplying the outlet in September 1972. Nester supplied the two outlets in The Dallas through all of 1972, and thereafter until August 1974 when Texaco began direct deliveries to those stations. At the time FEA regulations became effective Texaco assigned Nester a base period volume for the two stations in The Dallas, but did not assign him an allocation for the station at Hood River. In 1974 when Texaco began direct deliveries the allocation for the two stations in The Dalles was shifted to the Texaco terminal in Portland. This represented a decrease in Nester's total base period volume of 1,004,494 gallons.

QUESTIONS PRESENTED

The following questions are presented for interpretation:

1. Whether your firm or Texaco is the base period supplier of the retail sales outlets in Hood River and The Dalles;

2. Whether your entering into the Form S–368B Agreement caused a termination of the supplier/purchaser relationship between your firm and the three retail sales outlets.

INTERPRETATION

It is our opinion that your firm is a wholesale purchaser-reseller and thus the base period supplier of the retail sales outlets in Hood River and The Dallas. As such, you are entitled to receive an allocation from the consignee's supplier based on the amount of product distributed by the consignee during the base period. In an interpretation issued April 24, 1975 to the National Association of Texaco Consignees, Inc., FEA determined that Texaco consignees are wholesale purchaser-resellers as that term is defined in 10 CFR 211.51 and thus subject to the provisions of 10 CFR Part 211. See also FEA Ruling 1975–8, Qualification of Certain Consignees as Wholesale Purchaser-Resellers (June 11, 1975).

10 CFR 211.9 provides generally that supplier/purchaser relationships which existed during the base period are to be maintained for the duration of the Mandatory Allocation Program. Since Mr. Nester supplied the two retail sales outlets in The Dalles during the base period 1972 and the outlet in Hood River for the period January through August, 1972, supplier/purchaser relationships existed between Nester and these outlets.

With respect to your purchase of Nester's business, 10 CFR 211.9(c) provides that "The supplier/purchaser relationships required by this Part shall not be altered by (1) changes in the ownership or right of possession of the real property on which a wholesale purchaser or end-user maintains its ongoing business or end use * * *." Therefore, Nesters' supply obligation to the three outlets was transferred to you upon your acquisition of the business from Nester.

As Nester's successor, you are a wholesale purchaser-reseller and are thus entitled to receive from the base period supplier, Texaco, an amount of product equal to Nester's base period purchases from Texaco, with certain adjustments as provided in 10 CFR 211.10 and 211.13. This volume would include amounts purchased during the base period that were supplied to the three retail sales outlets in question.

As the supplier to the three outlets, you retain the obligation to supply them unless the supplier purchaser relationships involved are terminated with the express written approval of FEA. In this regard, the Mandatory Petroleum Allocation Regulations provide that supplier purchaser relationships existing in the base period shall be maintained or restored despite alternative arrangements that may have been made since the base period. Accordingly, it is our opinion that the Form S–368B agreement with Texaco did not terminate your base period supply obligations to the three retail outlets.

Under FEA operating procedures, the Regional Offices may, in their discretion, grant approval to the termination of a base period relationship and reassign the supply obligation if the wholesale purchaser-reseller (in this case, the motor gasoline retail sales outlets) and its base period supplier agree in writing to the termination, and the prospective new supplier agrees in writing to assume a permanent supply obligation with the wholesale purchaser-reseller. Otherwise, an exception from the regulations is required to terminate a base period relationship and reassign a wholesale purchaser-reseller to a new supplier. Neither an application for assignment nor an exception request with respect to these motor gasoline outlets has been received by FEA.

It is our opinion, therefore, that Texaco may not unilaterally or by virtue of the Form S–368B Agreement assume the obligation to supply the Hood River or The Dalles outlets, or reduce the amount of your base period volume by an amount which represents the base period volume of the outlets involved.

INTERPRETATION 1977–21

To: Suburban Propane Gas Corp.

Date: July 11, 1977.

Rules Interpreted: § 212.53(a).

Code: GCW—PI—Export Sales Exemption.

This is in response to a letter of June 29, 1976, supplemented by letters of May 12, 1977 and May 16, 1977 on behalf of Suburban Propane Gas Corporation (Suburban) requesting an interpretation of 10 CFR 212.53(a) which deals with the prices which may be charged for covered products sold for export under the Mandatory Petroleum Price Regulations of the Federal Energy Administration ("FEA").

FEA is aware that Suburban is a defendant in a civil action brought by El Dorado Marketing Co. of Laredo, Gas Del Oro, Inc. and Gas Del Oro International, Inc., (collectively designated hereinafter as "Companies"), in the United States District Court for the Southern District of Texas, Laredo Division, in which the Court stayed further proceedings pending final determination by FEA of certain complaints filed by El Dorado Marketing Co. of Laredo and Gas Del Oro, Inc. with FEA. The complaints concern Suburban's prices in certain sales of propane, butane and butane-propane mixes which the Companies assert to be in excess of maximum lawful prices permitted by FEA regulations.

This interpretation relates only to the general application of 10 CFR 212.53(a) and is not to be interpreted as a determination of either the validity of the Companies' complaints or whether prices charged in specific transactions between the parties are otherwise lawful or unlawful.

In formulating this interpretation, FEA took into account third party comments by the Companies dated August 30, 1976, December 18, 1976 and May 13, 1977 submitted with reference to the interpretation request. In accordance with 10 CFR 205.84, Suburban was afforded an opportunity to respond to the third party submissions and written replies by Suburban dated September 2, 1976, January 3, 1977 and June 6, 1977 were received. These submissions were also taken into account by FEA in formulating this interpretation.

FACTS

Suburban resells butane, propane and butane-propane mixes and the prices it charges in sales of covered products are subject to Subpart F of Part 212 of FEA regulations.

Suburban resells covered products to various third parties among which are the Companies. Since Suburban sold such products during the applicable base periods found in Part 211 of FEA's allocation regulations, Suburban is a base period supplier of both Gas del Oro, Inc. and Gas del Oro International, Inc.

The Companies resell all or part of their purchases from Suburban to Mexican customers either directly or through sales to other exporting companies. However, they have refused to formally certify to Subur-

ban that any of the covered products purchased are for export, although in many of the transactions between the parties it is apparent that shipping documents accompanying the transfer of the product from Suburban's control to the Companies reflect that the product is destined for export. Since February 1, 1974, when its latest contract with the Companies terminated, Suburban has been charging the Companies free market prices in sales of butane, propane and butane-propane mixes except when informed by the Companies that the shipment of purchased product is not for ultimate export. In its complaint to FEA, the Companies allege that Suburban's charging of such free market prices constitutes a violation of FEA price regulations.

ISSUE

Are prices charged by a supplier of covered products in sales to a domestic purchaser exempt from FEA price regulations, pursuant to 10 CFR 212.53(a), if the domestic purchaser fails to expressly certify that the products are for export?

INTERPRETATION

Covered products sold for export are exempt from FEA price regulations (10 CFR 212.53(a)):

The prices charged for export sales [of covered products], including sales to a domestic purchaser which certifies the product is for export, are exempt. (Bracketed portion deleted on July 23, 1976.)

As FEA has pointed out in the past, the policy underlying the export exemption is quite clear and has been given effect since the wage and price control programs of the Cost of Living Council:

Price controls were implemented to benefit United States consumers and the domestic economy. Export sales are exempt from such regulations, not only because there is no intention to benefit foreign buyers through price controls, but also to encourage that the best possible prices be obtained in such sales and thereby to assist in maintaining a favorable trade balance. FEA Ruling 1975–7 (40 FR 30037, July 17, 1975)

Thus, it is the act of exportation which confers upon the sale an exemption from FEA price controls. Clearly this exemption applies to the exporter of record. In addition, 10 CFR 212.53(a) expressly extends the export sales exemption to cases where a supplier sells product to a domestic purchaser who "certifies" to the supplier that the product is for export.

The purpose of the certification is to enable the supplier to ascertain with certainty that the product to be sold is, in fact, destined for export and to provide FEA with a means of verifying that the sale to the domestic purchaser was intended as a sale for export. The export sales regulation does not specify what constitutes certification, but it may be assumed that appropriate language reflecting the purchasers' intent to export the product in bills of lading, invoices or other customary business records transmitted between the supplier and purchaser and associated with the sale will suffice as a certification in the absence of a separate document so designated.

In a case where the domestic purchaser refuses, for whatever reason, to execute a certification that the product is being purchased for export, the export sales exemption will nonetheless apply if certification can be constructively established by a showing that at the time of the sale to the domestic purchaser, the sale was understood by the parties to be intended for export. Such a showing may be made by a supplier claiming the exemption if documentation or other evidence associated with the sale including but not limited to contracts, invoices and other business records clearly shows that the domestic purchaser intended to export the product at the time of the sale and that the supplier was aware of the purchaser's intent at the time of the sale.

A means is therefore available if a domestic purchaser should arbitrarily refuse to provide a supplier with an express certification in order that the scope of the export sales regulation (i.e., to exempt sales to domestic purchasers of products which are destined for export) will not be circumscribed by the unilateral action of the purchaser.

In short, the certification required by 10 CFR 212.53(a) may be constructively shown by a supplier claiming the export sales exemption by the facts and circumstances surrounding the sale in question as discussed hereinabove.

[FR Doc.77-22725 Filed 8-4-77;8:45 am]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Dishwashers

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for dishwashers. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–4635).

Jim Merna, (Media Relations), Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9833).

Michael Skinker, (Office of General Counsel), Room 5116 Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9750) or (202–566–9380).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for dishwashers pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). Dishwasher test procedures were proposed by notice issued March 17, 1977 (42 FR 15423, March 22, 1977), and a public hearing on the proposed test procedures was held on May 9, 1977. The definition of "dishwasher" was proposed at 41 FR 19980, May 14, 1976.

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners have been prescribed in Subpart B and several other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Part 430 which have so far been established, including provisions in today's notice, is as follows:

Subpart A—General Provisions

Sec.
430.1 Purpose and Scope
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and Scope.
430.22 Test Procedures for Measures of Energy Consumption.
* * * * *
(c) Dishwashers.
* * * * *
(f) Room Air Conditioners.
430.23 Units To Be Tested (Reserved).
430.24 Representations Regarding Measures of Energy Consumption.
* * * * *
(c) Dishwashers.
* * * * *
(f) Room Air Conditioners.

Appendices to Subpart B

* * * * *
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
* * * * *
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.

B. DISCUSSION OF COMMENTS

Comments were received from industry, consumers, and both federal and state agencies. Comments from industry accounted for a majority of the comments received. Most of the comments were directed toward technical areas of the proposed test procedures, although some of them were specifically directed toward the information that was to be placed on the label, such as the comment that requested that the label recommend that only "full loads" be used by the consumer in the dishwasher. Since the comments which were directly concerned with the content of the label were applicable to the labeling program under section 324 of the Act, rather than to the prescription of final test procedures, they were forwarded to the Federal Trade Commission for consideration in developing labeling rules applicable to dishwashers. The major issues raised by the comments on the proposed test procedures are discussed below.

1. TEST LOAD

Several comments addressed the size and the use of the proposed test load. One manufacturer stated that its four-place setting countertop dishwasher was excluded from the proposed test procedures, and recommended that the test procedures provide for a four-place setting test load for smaller load capacity

dishwashers. Other comments questioned whether or not dishwashers that are too small to handle the proposed eight-place setting test load would have to be tested at all. One comment suggested that it would be better to use a test load equivalent to the place setting for which the dishwasher was designed. It was also suggested that a washing index or performance rating be provided which would reflect how effective the dishwasher under test is at washing dishes.

After the comments were received, FEA, in conjunction with NBS, re-evaluated the need for a standard test load in the test procedures. FEA was interested in what effect the use or size of a test load would have on the energy consumption of the different load capacity dishwashers when operated on the normal cycle or the truncated normal cycle.

Based on over 30 tests on six different models of dishwashers, NBS concluded that there was an insignificant variation in the energy consumed by the internal boost heater between tests conducted with a load and those conducted without a load for dishwashers when operated on the normal cycle. Since none of the models tested had boost heaters that were thermostatically controlled for the normal cycle, the boost heater operated continuously during the wash and rinse cycles, whether or not a load was present. The test results showed that the boost heater consumed nearly a constant amount of energy independent of the number of dishes being washed or the temperature of the water.

In light of the NBS test results, and based on NBS' recommendation, FEA has determined that the use of a standard test load for the testing of any size dishwasher model when operated on the normal cycle or the truncated normal cycle is unnecessarily burdensome on industry and should not be required. Accordingly, 2.6 of Appendix C has been changed to delete the requirement of a test load. Should these test procedures be modified at a later date to require the testing of dishwashers when operated on any other specified cycle type, the need for a test load for other cycle types will be re-evaluated at that time.

The only remaining issue concerning the use of a test load is the suggestion that FEA develop test procedures that provide a means of rating the cleaning performance of a dishwasher. With respect to dishwashers, a performance rating is not necessary to derive the measures of energy consumption required by the Act and specified in the test procedures. Therefore, it is not included in the final test procedures for dishwashers. In the view of both agencies, the final test procedures can be used to provide information which is likely to assist consumers in making purchasing decisions.

2. "BASIC MODEL" DEFINITION

A number of comments were received on the proposed definition for the "basic model" of dishwashers in § 430.2. Some were uncertain whether physical differences which did not affect energy consumption—such as many styling differences and convenience features—would serve to constitute a variety of basic models for purposes of the test procedures. FEA has modified this definition to clarify that a single basic model includes units with any variety of different physical characteristics if these characteristics do not affect energy consumption differently than the physical characteristics of other units within the basic model. For example, the existence of an adjustable rack in one dishwasher should not of itself cause that dishwasher to be in a different basic model than other dishwashers with fixed racks. Further, different tub geometries should result in different basic models where the geometries affect energy consumption. As in the proposed definition, the final definition requires all units in a given basic model to have essentially identical electrical characteristics.

3. "NORMAL CYCLE" DEFINITION

Some of the comments focused on the proposed definition of "normal cycle" which contained the statement "and typically characterized by six water changes." The industry pointed out that the use of six water changes was not always typical nor required to clean a load of dishes under the "normal cycle." Concern was expressed that this portion of the definition might restrict future design innovations toward using fewer water changes while maintaining acceptable performance levels. FEA concurs with these comments and has, therefore, changed the definition of "normal cycle" in section 1.3 of Appendix C by deleting the requirement of six water changes.

4. ENERGY SAVING FEATURES

In the proposed test procedures for dishwashers only the normal cycle (the cycle recommended by the manufacturer for washing a full load of normally soiled dishes) and the truncated normal cycle (the normal cycle interrupted to eliminate the power dry feature) were dealt with. Some of the comments requested that the definition of the truncated normal cycle be modified to include other energy savings features, in addition to the power dry interrupt. Although the suggested comments identified some further energy saving features and cycle types, they did not provide—and FEA does not have available at this time—sufficient consumer usage data for these features or cycles to allow FEA to prescribe test procedures which would accurately reflect the estimated annual operating cost or energy factor of dishwashers containing these particular features or cycles. FEA agrees with the NBS recommendation that until such time as complete and reliable consumer usage data are available for further cycle types than the normal cycle and the truncated normal cycle, the final dishwasher test procedures not make allowance for other energy savings features than the power dry interrupt.

The industry and other interested persons are encouraged to provide any reliable data to FEA as it becomes available concerning usage by the consumer of dishwashers with any energy saving features beyond the power dry interrupt or cycles beyond the normal or truncated normal cycles. This data would be considered by FEA in deciding whether or not to expand the final test procedures to take account of other energy savings features than the power dry interrupt and to include further cycle types than the normal and truncated normal cycles.

FEA agrees with NBS that testing of the normal cycle is representative of actual average consumer usage of dishwashers.

5. ANNUAL OPERATING COST

The estimated annual operating cost is one method to assist the consumer in making a purchasing decision when this information is provided on an appliance label. One manufacturer commented that since the proposed energy factor calculation permitted the 50 percent usage credit for the truncated normal cycle but the proposed estimated annual operating cost calculation did not reflect this credit, the estimated annual operating cost calculation should permit this credit for the truncated normal cycle. FEA concurs and has adopted this change in § 430.22(c)(2) by allowing for a 50 percent usage credit when determining the estimated annual operation cost for dishwashers having a truncated normal cycle.

As discussed above, FEA has determined that it is inappropriate at this time to use a modified definition of the truncated normal cycle to account for other energy saving features than the power dry interrupt in the calculation of the estimated operating cost for dishwashers. FEA has accordingly determined not to promulgate § 430.22(c)(2) as proposed, until such time as complete and reliable usage data are available on cycle types other than the normal cycle and the truncated normal cycle. Proposed § 430.22(c)(2) provided for the estimated annual operating cost of any other cycle types, to be specified, than the normal cycle and the truncated normal cycle. When further usage data is available, FEA will consider modifying the calculations for determining the estimated annual operating cost to include other cycles in addition to the normal and truncated normal cycles.

6. ANNUAL USE CYCLES VS. LOAD SIZE

One consumer comment alleged that the representative average use cycle of 416 cycles per year was too high for large size dishwashers. This comment suggested an approach to vary the average annual use cycle depending upon load capacity. However, no data was presented to support the claim that 416 cycles per year is too high for large size dishwashers, and NBS has recommended this figure for all dishwashers.

The proposed change has not been adopted in the final rule because of the absence of annual usage data to support the claim that large capacity dishwashers

are used less frequently than smaller capacity dishwashers. If statistically valid survey data becomes available which reveals that purchasers of 12 or more place setting dishwashers use their dishwashers less frequently than purchasers of eight or less place setting dishwashers, then FEA and NBS will review the determination that 416 cycles is the representative average usage of dishwashers, regardless of size. It is likely, however, that large dishwashers generally are used no less frequently but are used with about the same frequency to wash more dishes than their smaller counterparts.

7. NUMBER OF UNITS TO BE TESTED

Proposed § 430.23(c) provided for sampling of each basic model to be tested when testing of dishwashers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers.

The comments expressed objections to the sampling provision for dishwashers similar in substance to the objections raised to the sampling plan proposed for room air conditioners by notices issued July 22, 1976 (41 FR 31237, July 27, 1976) and March 24, 1977 (42 FR 16811, March 30, 1977). It was pointed out by the comments, however, that there was no large burden on the industry to test dishwashers because there are fewer basic dishwasher models compared to the number of room air conditioner models and that the test procedures for dishwashers are much easier to conduct. One manufacturer specifically stated that the intent of the sampling plan for dishwashers appeared to be acceptable primarily because of the relative simplicity of dishwasher energy testing, although he recommended minor technical changes in the wording of the sampling plan for statistical correctness and clarity.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, in monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. FEA, NBS, and FTC are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, proposed § 430.23(c) has been limited in the final test procedures to testing which section 323(c) of the Act requires regarding the advertising of dishwashers. The sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(c) of the final test procedures. Section 430.24(c) is similar to proposed § 430.23(c), but contains several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

Manufacturers are not required test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(c). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In response to comments from the industry, certain technical changes have also been made in the sampling language. Specifically, the mean of the sample is required to be within ±5 percent of the estimate of the true mean of the basic model population.

8. TEST VOLTAGE

One of the comments recommended the use of 115 volts as the standard test voltage rather than the 120 volts required by 2.2 of Appendix C since most dishwashers are nameplate rated at 115 volts and are actually operated at that voltage. FEA agrees with the NBS recommendation that this change be adopted and has amended 2.2 of Appendix C accordingly.

9. TEST WATER TEMPERATURE

One manufacturer felt that the requirement of 2.3 of Appendix C that the test water temperature be maintained between 138°F to 142°F was unduly and unnecessarily restrictive and therefore recommended that the range be increased to 135°F to 145°F.

NBS conducted tests on solenoid valves which control the flow of hot water into the dishwasher to determine if the recommended change in the test water temperature would affect the volume of water consumption per cycle and therefore have an impact on the amount of energy consumption. The test results showed less than a 1 percent variation in the flow rate when the water temperature was permitted to vary from 135°F to 145°F. Therefore, NBS recommended that the requested change be adopted and FEA concurs. Accordingly, 2.3 of Appendix C has been changed to permit the temperature of the test water to range from 135°F to 145°F.

With respect to water temperature, the Consumer Product Safety Commission (CPSC) suggested that the test method for measuring the energy consumption of dishwashers include a method to measure the difference in the annual energy consumption between a water heater set at 145°F and one set at 130°F. The principal interest of the CPSC is to encourage consumers voluntarily to set back the thermostatic control on their water heaters to 130°F in order to reduce or eliminate the hazard of scald injuries around the home from hot water.

The dishwasher is presently the only household appliance which requires water at temperatures greater than 130° F to operate effectively. CPSC believes that many, if not most, homes with dishwashers would consume less energy if the thermostat on their water heater was set at 130° F and these consumers had dishwashers with internal boost heaters capable of raising the water temperature coming into the dishwasher high enough to clean dishes adequately. This suggestion assumes that homeowners would turn down water heater thermostats if they bought dishwashers with internal boost heaters.

FEA appreciates the data provided by CPSC and is sympathetic to the goals CPSC seeks to achieve. However, the test procedures for dishwashers are designed to be representative of typical consumer usage. Under present technology no dishwasher detergent exists that is effective at a temperature of 130° F. Also, most dishwashers are not designed to delay the washing and rinsing process until an internal boost heater sufficiently elevates the water temperature adequately to clean dishes using existing detergents. It is also unclear whether the use of an internal boost heater to elevate the temperature of the water coming into the dishwasher would actually save energy, since NBS has determined that the efficiency of heating water within the dishwasher is less than the efficiency of heating water in the central home water heater, whether it is a gas, oil, or electric water heater. For these reasons, FEA is at this time unable to include provisions in the dishwasher test procedures to account for voluntarily lower thermostatic water heater settings. FEA will consider this comment with respect to the prescription of test procedures for other household products that use hot water, and with respect to test procedures for water heaters themselves. FEA will also review the applicability of this suggestion to the dishwasher test procedures should the state of detergent or dishwasher technology change to accommodate lower water heater temperatures.

10. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, FEA has incorporated some minor editorial and substantive changes in the proposed test procedures in the final rule that were not discussed above.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for dishwashers prescribed today are included in Subpart B and are substantially the same as those proposed, with the addition of the changes discussed above. As with the proposed procedures, test methods and conditions incorporate the approach contained in the Association of Home Appliance Manufacturers (AHAM) draft supplement (DW-2EC) for measuring energy consumption for a normal dishwasher cycle to the AHAM dishwasher standard DW-1. The test procedures also used the definition of the term "oil" contained in the American Society for Testing and Materials (ASTM) D396-71. For purposes of FEA's program, the incorporated approach remains applicable as presently written, regardless of any subsequent amendment by AHAM of either the standard or supplement, until further amendment by FEA.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards.

The Administrator has transmitted copies of the test procedures for dishwashers, which incorporate the above mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition in accordance with section 32(c). Neither official has any comments nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for dishwashers.

2. GENERAL PROVISIONS

Also prescribed today are certain program definitions, including definitions for "dishwasher," "gas," "natural gas," "oil," and "propane." The definition of the term "basic model" for dishwashers has been added. These definitions were previously proposed in Subpart A (41 FR 19977, May 14, 1976; 42 FR 15423, March 22, 1977). Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

It should be noted that some of the definitions prescribed today may be applicable to test procedures for other appliances. While these definitions are final, comments to the effect that any of these definitions are inapplicable to a particular appliance will be evaluated to determine whether amendment or modification is appropriate.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final dishwasher test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(c) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for dishwashers supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of dishwashers or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of dishwashers must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-384; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective September 10, 1977.

Issued in Washington, D.C. August 3, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding paragraph (3) as part of the definition of "basic model," and by adding in appropriate alphabetical order definitions of "dishwasher," "gas," "natural gas," "oil" and "propane" to read as follows:

§ 430.2 Definitions.

• • • • • •

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and:

• • • • • •

(3) With respect to dishwashers, which have electrical characteristics which are essentially identical and which do not have any differing physical or functional characteristics which affect energy consumption.

• • • • • •

"Dishwasher" means a cabinet-like appliance which with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or electrical means and discharges to the plumbing drainage system.

• • • • • •

"Gas" means either natural gas or propane.

• • • • • •

"Natural gas" means natural gas as defined by the Federal Power Commission.

• • • • • •

"Oil" means heating oil grade No. 2 as defined in American Society for Testing and Materials (ASTM) D396-71.

• • • • • •

"Propane" means a hydrocarbon whose chemical composition is predominantly C^3H^8, whether recovered from natural gas or crude oil.

• • • • • •

2. Section 430.22 is amended by adding a paragraph (c), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

• • • • • •

(c) *Dishwashers.* (1) The estimated annual operating cost for dishwashers not having a truncated normal cycle as defined in 1.5 of Appendix C to this subpart shall be—

(i) When electrically-heated water is used, the product of the following three factors: (A) The representative average use cycle of 416 cycles per year, (B) the total per-cycle energy consumption for the normal cycle as defined in 1.3 of Appendix C to this subpart in kilowatt-hours per cycle, determined according to 4.4 of Appendix C to this subpart, and (C) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year, and

(ii) When gas-heated or oil-heated water is used, the product of: The representative average use cycle of 416 cycles per year times the sum of (A) the product of the per-cycle machine electrical energy consumption for the normal cycle in kilowatt-hours per cycle, determined according to 4.3 of Appendix C to this subpart, times the representative average unit cost in dollars per kilowatt-hours as

provided by the Administrator plus (B) the product of the per-cycle water energy consumption for gas-heated or oil-heated water for the normal cycle, in Btu's per cycle, determined according to 4.2 of Appendix C to this subpart, times the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for dishwashers having a truncated normal cycle as defined in 1.5 of Appendix C to this subpart shall be—

(i) When electrically-heated water is used, the product of the following three factors: (A) The representative average use cycle of 416 cycles per year, (B) one-half the sum of (1) the total per-cycle energy consumption for the normal cycle as defined in 1.3 of Appendix C to this subpart plus (ii) the total per-cycle energy consumption for the truncated normal cycle as defined in 1.5 of Appendix C to this subpart, each in kilowatt-hours and determined according to 4.4 of Appendix C to this subpart, and (C) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year, and

(ii) When gas-heated or oil-heated water is used, the product of: The representative average use cycle of 416 cycles per year times the sum of (A) one-half the product of the per-cycle machine electrical energy consumption for the normal cycle as defined in 1.3 of Appendix C to this subpart, determined according to 4.3 of Appendix C to this subpart, times the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, plus one-half the product of the per-cycle machine electrical energy consumption for the truncated normal cycle as defined in 1.5 of Appendix C to this subpart, determined according to 4.3 of Appendix C to this subpart, times the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) one-half the product of the per-cycle water energy consumption for gas-heated or oil-heated water for the normal cycle as defined in 1.3 of Appendix C to this subpart, in Btu's per cycle, determined according to 4.2 of Appendix C to this subpart, times the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator, plus one-half the product of the per-cycle water energy consumption for gas-heated or oil-heated water for the truncated normal cycle as defined in 1.5 of Appendix C to this subpart, in Btu's per cycle, determined according to 4.2 of Appendix C to this subpart, times the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(3) The energy factor for dishwashers, expressed in cycles per kilowatt-hour shall be—

(i) For dishwashers not having a truncated normal cycle, as defined in 1.5 of Appendix C to this subpart, capable of being preset, the reciprocal of the total per cycle energy consumption for the normal cycle in kilowatt-hours per cycle, determined according to 4.4 of Appendix C to this subpart, and

(ii) For dishwashers having a truncated normal cycle, as defined in 1.5 of Appendix C to this subpart, capable of being preset, the reciprocal of one-half the sum of (A) the total per-cycle energy consumption for the normal cycle plus (B) the total per-cycle energy consumption for the truncated normal cycle, each in kilowatt-hours per cycle and determined according to 4.4 of Appendix C to this subpart.

(4) Other useful measures of energy consumption for dishwashers shall be those measures of energy consumption for dishwashers which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix C to this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (c), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(c) *Dishwashers.* (1) Except as provided in paragraph (c)(4) of this section, no manufacturer, distributor, retailer, or private labeler of dishwashers may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22 (c) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption there is a probability of not less than 0.95 that the mean of the sample is within ±5 percent of the estimate of the true mean of such measures of the basic model.

(2) The sample selected for paragraph (c)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (c)(1) of this section are satisfied at each rating.

(4) Whenever a rule applicable to dishwashers is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix C, to read as follows:

* * * * *

APPENDIX C—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF DISHWASHERS

1. *Definitions.*—1.1 "Cycle" means a sequence of operations of a dishwasher which performs a complete dishwashing operation, and may include variations or combinations of the functions of washing, rinsing and drying.

1.2 "Cycle type" means either any complete sequence of operations capable of being preset on the dishwasher prior to the initiation of machine operation.

1.3 "Normal cycle" means the cycle type recommended by the manufacturer for completely washing a full load of normally soiled dishes, including the power-dry feature.

1.4 "Power-dry feasure" means that function in a cycle in which electrically-generated heat is introduced into the washing chamber for the purpose of improving the drying performance of the dishwasher.

1.5 "Truncated normal cycle" means the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse operation.

2. *Testing conditions.*—2.1 *Installation.* Install the dishwasher in accordance with the manufacturer's instruction, except that undercounter dishwashers need not be installed under a counter.

2.2 *Electrical supply.* Maintain the electrical supply to the dishwasher within two percent of 115 volts and within one percent of its nameplate frequency as specified by the manufacturer.

2.3 *Water temperature.* Maintain the water supply temperature between 135°F and 145°F.

2.4 *Water pressure.* Maintain the pressure of the water supply between 32.5 and 37.5 pounds per square inch.

2.5 *Ambient and machine temperature.* Maintain the room ambient air temperature between 70°F and 85°F, and assure that the dishwasher is at room ambient temperature at the start of each test cycle.

2.6 *Load.* The dishwasher shall be tested on the normal cycle and the truncated normal cycle without a test load.

3. *Test cycle and measurements.*—3.1 *Test cycle.* Perform a test cycle by establishing the testing conditions set forth in 2 of this Appendix, setting the dishwasher to the cycle type to be tested, initiating the cycle and allowing the cycle to proceed to completion.

3.2 *Machine electrical energy consumption.* Measure the machine electrical energy consumption, Me, specified as the number of kilowatthours of electrical energy consumed during the entire test cycle, using a kilowatthour meter having a resolution no larger than 0.001 kilowatthours and a maximum error no greater than one percent.

3.3 *Water consumption.* Measure the water consumption, specified as the number of gallons delivered to the dishwasher during the entire test cycle, using a water meter having a resolution no larger than 0.1 gallon and a maximum error no greater than 1.5 percent for all water flow rates from one to five gallons per minute and for all water temperatures encountered in the test cycle.

3.4 *Reported values.* State the reported values of machine electrical energy consumption and water consumption as measured.

4. *Calculation of derived results from test measurements.*—4.1 *Per-cycle water energy consumption using electrically heated water.* Calculate for the cycle type under test the per-cycle water energy consumption using electrically heated water, W_e, expressed in kilowatt-hours per cycle and defined as:

$$W_e = V \times T \times K,$$

where
V = reported water consumption in gallons per cycle for the cycle type under test.
T = nominal water heater temperature rise = 90°F.
K = specific heat of water in kilowatt-hours per gallon per degree fahrenheit = .00240.

4.2 *Per-cycle water energy consumption using gas-heated or oil-heated water.* Calculate for the cycle type under test the per-cycle water energy consumption using gas-heated or oil-heated water, W_g, expressed in Btu's per cycle and defined as:

$$W_g = \frac{V \times T \times C}{e},$$

where
V and T are defined in 4.1 of this Appendix, and
C = specific heat of water in Btu's per gallon per degree fahrenheit = 8.1966.
e = nominal gas or oil water heater efficiency = 0.75.

4.3 *Per-cycle machine electrical energy consumption.* Use the measured value recorded in 3.2 as the per cycle machine electrical energy consumption, M_e, expressed in kilowatt-hours per cycle.

4.4 *Total per-cycle energy consumption.* Calculate for the cycle type under test the total per-cycle energy consumption, E_t, expressed in kilowatt-hours per cycle, and defined as the sum of the per-cycle machine electrical energy consumption, M_e, plus the per-cycle water energy consumption of electrically-heated water, W_e, calculated for the cycle type, determined according to 4.3 and 4.1, respectively.

[FR Doc.77-22783 Filed 8-5-77;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Payment of Dividends; Bad Debts

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: 12 CFR 7.6125 interprets the statutory requirement of 12 U.S.C. 56 that national banks deduct bad debts (frequently referred to as "statutory bad debts") from net profits then on hand in order to compute funds available for the payment of dividends. The revised ruling is intended to clarify further the meaning of the term "bad debts" as that term is used in the statute. Confusion over what constitutes a bad debt became evident when certain overdue real estate loans were being classified as statutory bad debts even though appropriate long-term workout schedules had been arranged which were reasonably expected to result in little or no loss to the bank.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard H. Neiman, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219. Tel. No. (202-447-1884).

SUPPLEMENTARY INFORMATION: On December 14, 1976, the Comptroller of the Currency published in the FEDERAL REGISTER (41 FR 54600) for comment a proposed revision of 12 CFR 7.6125, an interpretive ruling relating to the payment of dividends and bad debts. The primary purpose of the proposed revision was to clarify the meaning of the term "bad debt" as that term is used in 12 U.S.C. 56.

In response to the proposed revision, ten comments were received. Those commenting included national banks, bank holding companies, law firms, trade associations, and national bank examiners.

DISCUSSION OF MAJOR COMMENTS

Virtually all of the comments received were favorable and agreed that the proposed revision had met its stated purpose of clarifying the meaning of the term "bad debt", as that term is used in 12 U.S.C. 56. One commenter remarked that it was a positive step that should bring clarity and understanding to an area which was previously subject to individual interpretation and varying contention over definitions.

1. *Installment Loans.* Paragraph (b) of the proposed ruling provided in part that "installment loans on which any payment is six months past due will be considered matured even though acceleration of the total debt may not have occurred." The former ruling provided that "installment obligations on which interest is past due for six months are statutory bad debts subject to other conditions of the statute, to the extent that payments of principal are in default."

One commenter suggested a clarification of the term "installment loans." The definition which the commenter suggested, would limit such loans to those loans payable in four or more installments, the proceeds of which are used primarily for personal, family or household purposes. According to the commenter, loans which do not fall within this definition, but are payable in installments, would be subject to the general rule that such loans are statutory bad debts (assuming interest is six months past due) only to the extent that payments of principal are in default. In response to this comment it should be pointed out that one of the purposes of revising the paragraph on installment loans was to delete the provision that such loans could be classified as statutory bad debts only to the extent that payments of principal were in default. Under the revised ruling, any installment loan on which any payment is six months past due and is not well secured or in the process of collection will be considered a statutory bad debt for the full amount of the loan. As stated in the proposed ruling, this change is in part a result of the complexity of computing interest on installment loans and is also intended to establish a more definite standard with regard to such loans. After careful consideration, the Comptroller believes there should not be a distinction between consumer-type installment loans and those for business or commercial purposes with regard to the payment of dividends and hence has adopted the language of the proposed ruling.

2. *Net Profits Then On Hand.* Four commenters suggested a clarification of the phrase "net profits then on hand" as that term is used in 12 U.S.C. 56. Two of these commenters apparently have based their suggestion on the inaccurate assumption that "net profits then on hand" is limited to net profits of the current year. However, in fact, the phrase "net profits then on hand" as used in 12 U.S.C. 56 represents a cumulative figure and is not limited to net profits of the current year. Nonetheless, the comments suggest that enough confusion may exist concerning the phrase "net profits then on hand" that an interpretive ruling further defining this phrase may be appropriate. However, the Comptroller has concluded that a separate ruling, rather than an addition to the presently proposed ruling, would be preferable. Accordingly, the modification to 12 CFR 7.6125 is being adopted without reference to a separate definition for the phrase "net profits then on hand."

3. *Documentation.* Paragraph (e)(2) of the proposed ruling required a bank to maintain, at a minimum, monthly progress reports on its collection efforts. One commenter suggested that the documentation provision should instead provide that progress reports be prepared on a basis which bears a reasonable relationship to the collection plan and, at a minimum, as often as a payment is required under the collection plan. The Comptroller believes that in most if not all situations an effective collection plan requires monthly monitoring at a minimum. Some situations will require more frequent monitoring and these will be dealt with on an individual basis. Therefore, the Comptroller has left the documentation requirement unchanged from the proposed ruling.

DRAFTING INFORMATION

The principal drafters of this document were Mr. John M. Miller, Acting Deputy Chief Counsel and Mr. Richard H. Neiman, Staff Attorney.

ADOPTION OF AMENDMENT

12 CFR Part 7 is amended by revising § 7.6125 to read as follows:

§ 7.6125 Payment of dividends; bad debts.

(a) *General.* Pursuant to the provisions of 12 U.S.C. 56, bad debts must be deducted from net profits then on hand in computing funds available for payment of dividends. Bad debts, as that term is used in the statute, means matured obligations due a national bank on which interest is past due and unpaid for six months unless the debts are well secured and in the process of collection. Every type of overdue indebtedness owing to the bank must be considered, including loans and investment securities. The six month period of default on interest may begin at any time, regardless of when the debt matures.

(b) *Matured debt.* Whether a debt has matured for purposes of the statute usually will be determined by applicable contract law. Generally, a debt is matured when all or part of the principal

is due and payable as the result of demand, arrival of the stated maturity date, acceleration by contract or by operation of law. Nevertheless, any demand debt on which the payment of interest is six months past due will be considered matured even though payment of the debt has not been demanded. Installment loans on which any payment is six months past due will be considered matured even though acceleration of the total debt may not have occurred.

(c) *Well secured debt.* A debt is well secured within the meaning of the statute if it is secured by collateral in the form of liens on, or pledges of, real or personal property, including securities, having a realizable value sufficient to discharge the debt in full, or by the guaranty of a financially responsible party. In the event that the loan is partially secured, only that portion not properly secured will be considered a statutory bad debt.

(d) *Debt in the process of collection.* A debt is in the process of collection if collection of the debt is proceeding in due course, either through legal action, including judgment enforcement procedures, or, in appropriate circumstances, through collection efforts not involving legal action which are reasonably expected to result in repayment of the debt or in its restoration to current status. In any case, the bank should have a plan of collection setting forth the reason for the selected method of collection, the responsibilities of the bank and the borrower, and the expected date of repayment of the debt or its restoration to current status.

(e) *Miscellaneous.* (1) *Debts of bankrupt or deceased debtors.* A claim duly filed against the estate of a bankrupt or deceased debtor is considered as being in the process of collection. The obligation will be considered well secured if it meets the criteria set forth above; or the claim of the bank against the estate has been duly filed, the statutory period for filing claims has expired and the assets of the estate are adequate to discharge all obligations in full.

(2) *Documentation.* The bank must maintain in its files documentation to support its evaluation of the security. In addition, the bank must retain, at a minimum, monthly progress reports on its collection efforts, noting and explaining any deviation from the collection plan.

Dated: August 2, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-22706 Filed 8-5-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 9, Amdt. 10]

PART 123—DISASTER LOANS

New Physical Disaster Policy for Farmers Having a Partial Crop Loss

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes the criteria SBA will use to establish the physical damage when a farmer suffers a partial production loss. This rule results from farmer's being defined in Pub. L. 94-305 as small businesses eligible for SBA assistance.

EFFECTIVE DATE: August 8, 1977.

ADDRESSES: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, (202-653-6470).

SUPPLEMENTARY INFORMATION: Section 123.0(a) advises that disaster policy may be changed without advance notice due to the emergency nature of disasters. In this instance SBA has indications that there is an immediate need for this rule in the agricultural portions of the country. Therefore, a delay in the effective date of this policy could cause additional suffering. Any interested person is, however, invited to send written comments, in duplicate, to the Associate Administrator for Finance and Investment. The complete address appears under the "Addresses" hearing.

Pursuant to the authority of Section 5(b)(6) of the Small Business Act (15 U.S.C. 634) Part 123, Chapter I, Title 13 of the Code of Federal Regulations, is amended by redesignating the paragraph after § 123.2(a)(3) "Evidence of Loss" as subparagraph (i) and inserting a new subparagraph (ii) to read as follows:

§ 123.2 Eligibility.

(a) * * *

(1) * * *

(2) * * *

(3) *Evidence of loss.* * * * (i) * * *

(ii) Assistance may be extended for full or partial farm production losses upon presentation of evidence supporting the physical loss. The applicant must present evidence of the expected production after the effects of the disaster compared to a normal year's production. The amount of a partial loss will be established by an estimate of the damage by a Farmers Home Administration or other U.S. Department of Agriculture employee or other knowledgeable person, not the applicant, acceptable to SBA. A normal year's total production is the applicant's average production per animal (number X production) or per acre (acres X yield) for the four (4) years immediately proceeding the disaster. The applicant's own records will be used to establish the average production. When the applicant has no records or has been operating the farm for less than four years, the records for the county maintained by the Crop Reporting Service, Agricultural Stabilization and Conservation Service, Agricultural Extension Service of the State College or other reliable and complete record may be used to establish the past four years' production.

* * * * *

Dated: July 21, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-22633 Filed 8-5-77;8:45 am]

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 301—ESTABLISHMENT AND ORGANIZATION

Office of Special Projects

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This regulation describes the functions and responsibilities of a newly created office within the Economic Development Administration, the Office of Special Projects.

DATES: Effective date: August 8, 1977. Comments by: September 7, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202-377-5441).

SUPPLEMENTARY INFORMATION: The Office of Special Projects was created by an amendment to Department of Commerce Organization Order 45-1.

Because this regulation relates to the EDA grant and loan program, it is exempted from the procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding this regulation to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 301 is amended by the addition of a new § 301.42 and by renumbering the present § 301.42 as § 301.43. New § 301.42 reads as follows:

§ 301.42 Office of Special Projects.

The Office of Special Projects serves as the principal staff office of the Assistant Secretary. It provides advice, direction and coordination for the development and implementation of selected innovative economic development programs and projects to assist selected urban areas, special areas such as the Mexican-American border and Puerto Rico, and special groups identified by the Assistant Secretary. In accomplishing these functions, the Office develops

necessary implementation plans, strategies and procedures, and it coordinates, as appropriate, with other Federal, State, and local organizations.

§ 301.43 [Redesignated from § 301.42]

(Department of Commerce Organization Order 45-1 as amended (40 FR 5549, as amended); sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended, (40 FR 56702, as amended).)

ROBERT T. HALL,
Assistant Secretary for Economic Development.

AUGUST 1, 1977.

[FR Doc.77-22634 Filed 8-5-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-SO-25; Amdt. 39-3003]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Aviation Corp. Models G-159 and G-1159

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 77-13-01 to allow for a grant of extension for the structural modification of Grumman G-159 and G-1159 nose landing gear drag struts on an individual aircraft basis. This change is permitted because of unavailability of parts for the modification.

DATES: Effective date: August 8, 1977. Compliance required within 10 hours time in service after June 21, 1977 (original effective date of the AD).

ADDRESSES: Grumann American Aviation Corporation Aircraft Service Change No. 226 may be obtained from Grumman American Aviation Corporation, P.O. Box 2206, Savannah, Georgia 31402, telephone 912-964-3000. A copy of the Service Change is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320. Telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: When AD 77-13-01 was issued, modification kits were to be made available by Grumman American Aviation Corporation in sufficient numbers so that those operators desiring to install the structural modification in lieu of the placard could do so in a reasonable time. It has since been learned that kits cannot be produced in sufficient quantity to permit compliance within a reasonable period of time. Since the danger of the drag strut penetration of the cockpit floor occurs during a very severe landing or following a crash and does not occur during normal operations, the FAA feels that an extension of the compliance time for the structural modification may be given to operators on an individual basis, provided they submit adequate justification for their need to utilize the jumpseat.

Operators desiring an extension of the compliance time for the structural modification should send documentation with justification for the need for an extension to the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320. Also required is evidence of a firm commitment from Grumman American Aviation Corporation or any other approved source on the available date for the modification kit for that serial number aircraft. Each request for an extension will be handled on an individual aircraft basis.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Curtis Jackson, Engineering and Manufacturing Branch, Flight Standards Division, and Ronald R. Hagadone, Office of the Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2919, AD 77-13-01 is amended to read as follows:

GRUMMAN AMERICAN AVIATION CORPORATION (GAAC). Applies to Grumman American Aviation Corporation, Model G-159, all serial numbers, and Model G-1159, serial numbers 1 through 208 and 775, airplanes certificated in all categories.

Compliance required within 10 hours time in service after June 21, 1977, unless already accomplished.

To prevent injury to an occupant of any jumpseat located between fuselage stations 119 and 169 on Grumman American Aviation Corporation Models G-159 and G-1159 airplanes, accomplish one of the following:

(a) Install a placard either on the bulkhead adjacent to the jumpseat or at any equivalent location approved by the Federal Aviation Administration utilizing a minimum of 3/16 inch high letters with the wording: "Jumpseat Occupancy During Taxi, Takeoff, or Landing Prohibited," or

(b) Modify in the following manner:

1. The Model G-159 nose landing gear drag strut fused or bulkhead modification in accordance with GAAC Aircraft Service Change No. 226, Part I or II, or later FAA-approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

2. The Model G-1159 nose landing gear wheel well bulkhead is modified to eliminate drag strut penetration in accordance with GAAC Aircraft Service Change No. 226, Part II, or later FAA approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, or

(c) Upon a grant of extension of compliance time by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, the required placard may be removed for the length of the extension. Interested operators must furnish documentation with justification for the need of an extension to the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320. Also required in this documentation is evidence of a firm commitment from Grumman American Aviation Corporation on the available date for the modification kit for that serial number aircraft. Each request for an extension will be handled on an individual aircraft basis.

When either of the modifications described in paragraph b(1) or b(2) are accomplished, or the individual grant of extension is issued in accordance with paragraph (c), the required placard of paragraph (a) may be removed.

This amendment becomes effective August 8, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 as amended, (49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on July 29, 1977.

PHILLIP M. SWATEK,
Director.

[FR Doc.77-22496 Filed 8-5-77;8:45 am]

[Docket No. 17066, Amdt. 39-3005]

PART 39—AIRWORTHINESS DIRECTIVES

Eiriavion OY Model PIK-20D Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of certain Eiriavion OY Model PIK-20D sailplanes by individual telegrams dated July 7, 1977. The AD requires replacement or repair of the wing to prevent wing structural failure.

DATES: Effective August 8, 1977, except with respect to certain persons specified in the body of the AD. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Smitty's Soaring Service, Deansboro Road, Route 12B, Clinton, New York 13323, or from Sailplane Repair Service, Inc., 216 Commerce Drive, P.O. Box 1462, Fort Collins, Colorado 80522. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on June 24, 1977, and made effective immediately by telegram as to all known operators of Eiriavion OY Model PIK-20D sailplanes having certain serial numbers because of possible insufficient bonding of the wing main spar shear web to the wing upper panel spar cap. That AD required either replacement of wing panels or wing repair in accordance with a method to be approved by the FAA, Europe, Africa, and Middle East Region to prevent failure. Subsequently, the FAA determined that a specific repair procedure developed by the manufacturer provides an acceptable corrective action.

An AD superseding the AD adopted on June 24, 1977, was adopted on July 6, 1977, and issued by individual telegrams dated July 7, 1977. The superseding AD requires, in the alternative, replacement of wing panels, repair in accordance with the aircraft manufacturer's service bulletin, or repair in accordance with some other FAA-approved means of compliance.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Eiriavion OY Model PIK-20D sailplanes by individual telegrams. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The principal authors of this document are P. Cormacci, Europe, Africa, and Middle East Region, E. Newberger, Flight Standards Service, and J. Jeffrey, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

EIRIAVION OY (formerly MOLINO OY). Applies to Model PIK-20D sailplanes with serial numbers 20510 through 20532, 20534 through 20540, 20542 through 20544, 20546, 20548, 20552, 20555, and 20556.

To prevent separation of wing upper panel spar cap and wing main spar shear web, before further flight, unless already accomplished, comply with paragraph (a), (b), or (c).

(a) Replace wing panels with new wing panels identified by the manufacturer as serviceable replacements.

(b) Repair existing wing panels in accordance with appendix 1 of Eiriavion Service Bulletin No. M 17, dated June 17, 1977, at an FAA certificated repair station that is a manufacturer's authorized repair facility. Following rebonding, visually inspect the affected area to ensure that the new resin forms a continuous bond on both sides of the wing shear web for its full length.

(c) Repair in accordance with an alternate means of compliance which must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium.

NOTE.—Copies of the applicable service bulletin are available at the following manufacturer's authorized repair facilities:

Smitty's Soaring Service, Deansboro Road Route 12B, Clinton, New York 13323:

Sailplane Repair Service, Inc., Rich Roberts, 216 Commerce Drive, P.O. Box 1462, Fort Collins, Colorado 80522.

This amendment is effective August 8, 1977, as to all persons except those persons to whom it was made immediately effective by the telegram dated July 7, 1977, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 28, 1977.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.77-22497 Filed 8-5-77;8:45 am]

[Docket No. 74-WE-42-AD; Amdt. 39-2999]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment of an existing airworthiness directive (AD) clarifies the type of main tank pump which is to be operated during certain phases of flight in McDonnell Douglas DC-8 series airplanes, which incorporate Pratt & Whitney JT3D engines.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles California 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: After issuing AD 74-23-06 experience reveals that a lack of clarity exists as to which type of pump must be used during the regimes of flight specified in the AD.

After thorough review and study the FAA has determined that all fuel tank boost pumps must be operative and that the fuel tank reservoir feed pump has no effect on engine acceleration. Therefore, the FAA is amending AD 74-23-06 to clarify that only the fuel tank boost pumps must be operated during those regimes of flight specified in the AD.

Since this amendment provides a clarification and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Marvin F. Rammelsberg, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2005 (39 FR 39717), AD 74-23-06 is amended as follows:

Add a new paragraph to read:

(4) One reservoir feed pump may be inoperative provided:

(a) The affected reservoir feed pump switch position is placarded inoperative.

(b) Established maintenance procedures for this item are followed.

(c) Sufficient fuel is carried in the associated tank to provide a minimum of 2000 pounds of additional fuel in excess of the fuel (including reserves) needed for the flight.

(d) Fuel Loading and Management is in accordance with the FAA approved Airplane Flight Manual.

This amendment becomes effective August 10, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif. on July 26, 1977.

ROBERT H. STANTON,
Director, Federal Aviation Administration, Western Region.

[FR Doc.77-22495 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-SW-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, Bogalusa, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Bogalusa, La., to provide controlled airspace for aircraft executing a VOR/DME instrument approach procedure established for the George R. Carr Memorial Air Field.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Bogalusa, La.

On May 16, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 24752) stating that the Federal Aviation Administration proposed to designate a transition area at Bogalusa, La., to provide controlled airspace for aircraft executing an instrument approach procedure established for the George R. Carr Memorial Air Field and coincident with this action, the airport would be changed from VFR to IFR.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended effective 0901 GMT, October 6, 1977, as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the following transition area is added.

BOGALUSA, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the George R. Carr Memorial Air Field (Latitude 30°48'41.6" N., Longitude 89°51' 53.9" W.), and within 2.5 miles either side of the Picayune VOR 335 radial extending 1 mile from the 5-mile radius.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 26, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-22491 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-SW-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone, Hobbs, New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Hobbs, N.M. (Lea County Airport), control zone to coincide with the hours of operation of the Hobbs Air Traffic Control Tower (ATCT) which were reduced from continuous to 0600 to 2200 local time daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours of operation to conform to the air traffic control tower hours of operation.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart F, § 71.171 (42 FR 355) of FAR Part 71, the Hobbs, N.M., control zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the air traffic control tower hours of operation. Special weather observations are provided on a 24-hour basis which is one of the requirements for a continuous control zone operation.

A traffic survey was completed on March 31, 1977, which indicated insufficient activity to retain the continuous control tower operation. On October 6, 1977, the air traffic control tower hours of operation will be reduced to 0600 to 2200 local time daily. This will necessitate a similar reduction in the control zone hours of operation.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355) is amended, effective 0901 GMT, October 6, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355), the Hobbs, N.M., control zone is amended by adding the following sentence:

This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 26, 1977.

PAUL J. BAKER,
Director,
Southwest Region.

[FR Doc.77-22492 Filed 8-5-77;8:45 am]

[Airspace Docket No. 76-RM-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Delta, Utah, 700 Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Delta, Utah, 700 foot transition area to provide controlled airspace for aircraft executing VOR approaches at the Delta Municipal Airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde A. Powers, Airspace Specialist, Operations, Procedures and Airspace Branch, ARM-538, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010, telephone 303-837-3937.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on Thursday, June 16, 1977, (42 FR 30638) which proposed to alter the Delta, Utah, 700 foot transition area to provide airspace for aircraft executing a new VOR instrument approach procedure to runway 16 and an amended VOR instrument approach procedure (amendment 1) to runway 34 for the Delta, Utah, Municipal Airport. No objections were received in response to this notice.

DRAFTING INFORMATION

The principal authors of this document are Clyde A. Powers, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel, Rocky Mountain Region.

Accordingly, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective October 6, 1977, as follows:

Amend § 71.181 (42 FR 440) so as to alter the following 700 foot transition area to read:

DELTA, UTAH

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Delta Municipal Airport (latitude 39°23'00" N., longitude 112°30'35" W.); and within 10.5 miles northwest and 5 miles southeast of the Delta VORTAC 203° radial, extending from the 9-mile radius area to 18.5 miles southwest of the VORTAC; within 5 miles east of the Delta VORTAC 186° radial, extending from the 9-mile radius area to 13 miles south of the VORTAC; within 8 miles west and 6.5 miles east of the Delta VORTAC 360° radial, extending from the 9-mile radius area to 30 miles north of the VORTAC • • •

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on July 27, 1977.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.77-22493 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-CE-19]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone, Emporia, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the designation of the Emporia, Kansas, control zone from a continuous to a part-time control zone. This action is necessary because the Emporia Flight Service Station is reducing its hours of operation and will make additional airspace available without undue restriction.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the designation of the Emporia, Kansas, control zone from a continuous to a part-time control zone. The Emporia, Kansas, Flight Service Station will reduce its hours of operation effective August 1, 1977. This action removes the availability of weather and communications which are mandatory requirements for the operation of a control zone. Therefore, this action is necessary in order to have the control zone effective only during the hours of operation of the Emporia Flight Service Station. The control zone will be effective during the specific dates and times established in advance by a Notice to Airman. The effective dates and times will thereafter be continuously published in the Airman's Information Manual. Since there is no present alternative to this action, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than thirty (30) days after its publication.

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Air Traffic Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

Accordingly, the Federal Aviation Administration revises § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171), by amending the following Control Zone:

EMPORIA, KANSAS

Within a 5 mile radius of the Emporia, Kansas, Municipal Airport (Latitude 38°20'-00" N, Longitude 096°11'15" W) and 1.5 miles either side of the 010° bearing from the airport extending from the 5 mile radius to 6 miles north. This Control Zone is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on July 29, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-22494 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-GL-04]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to provide additional controlled airspace in proximity to Lada Airport, Petersburg, Michigan, to accommodate a proposed instrument procedure into the Lada Airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the Lada Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the 700-foot floor of controlled airspace. In addition aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order the comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 29515 of the FEDERAL REGISTER dated June 9, 1977, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Petersburg, Michigan. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440), the following transition area is added:

PETERSBURG, MICHIGAN

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lada Airport (latitude 41°53'15" N, longitude 83°40'45" W) and within 2 miles each side of the Carleton, Michigan VORTAC 226° radial extending from the 5-mile radius area to 9.5 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81, Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on July 27, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region

[FR Doc.77-22698 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-GL-05]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the Federal action is to designate additional controlled airspace near Pulaski, Wis., to accommodate a new VOR/DME instrument approach procedure into the Carter Airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The circumstance which created this action was a request from Carter Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 29516 of the FEDERAL REGISTER, dated June 9, 1977, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Pulaski, Wis. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440) the following transition area is added:

PULASKI, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Austin-Straubel Airport, Green Bay, Wis. (latitude 44°29'16" N., longitude 88°07'-49" W.); within 2½ miles each side of the Green Bay ILS southwest localizer course extending from the 9-mile radius to 8 miles southwest of the OM; within 5 miles to the southwest side and 8 miles to the northeast side of the Green Bay 326° radial, extending from the 9-mile radius area to 10 miles northwest of the VORTAC; and within 5 miles each side of the Green Bay ILS localizer northeast course extending from the 9-mile radius to 14 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81, Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on July 27, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-22699 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-GL-06]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Camp McCoy Army Airfield, Fort McCoy, Wis., to accommodate a new NDB Runway 29 instrument approach procedure into the Camp McCoy Airfield.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The circumstance which created this action was a request from the Department of the Army to provide Camp McCoy Airfield with this instrument approach. This development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 29514 of the FEDERAL REGISTER, dated June 9, 1977, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fort McCoy, Wis. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440), the following transition area is added:

FORT MCCOY, WIS.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Camp McCoy Army Airfield (latitude 43°57'15" N., longitude 90°44'15" W.), and within 3.5 miles each side of the 109° bearing from the Camp McCoy RBN, extending from the 11-mile radius to 7.8 miles east of the Camp McCoy RBN, excluding that portion that overlies the LaCrosse, Wis., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81, Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on July 27, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-22700 Filed 8-5-77;8:45 am]

[Airspace Docket No. 77-GL-07]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area and Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to expand the existing control zone serving Delta County Airport, Escanaba, Mich., and to designate additional controlled airspace to encompass revisions to existing approach procedures.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of aircraft utilizing various instrument approach procedures in instrument weather conditions and other aircraft operating under visual conditions. The expansion and slight alteration to the control zone boundary is mainly a redefinition of the boundary. The additional airspace required for the transition area would lower the floor of controlled airspace in this area from 1,200' above ground to 700' above ground. The circumstance which created this action was the need to update existing procedures and the addition of a new procedure (LOC Rwy 9) serving this airport. A review of the terminal airspace requirements necessitates the FAA to add the additional airspace to insure that all procedures will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 29513 of the FEDERAL REGISTER, dated June 9, 1977, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the control zone at Escanaba, Mich. It was further proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Escanaba, Mich. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.171 (42 FR 355), the following control zone is amended to read:

ESCANABA, MICH.

Within a 5 statute mile radius of Escanaba VORTAC (latitude 45°43'19" N., longitude 87°05'31" W.); within 3 statute miles each side of the Escanaba VORTAC 007° and 101° radials, extending from the 5-mile radius zone to 8.5 statute miles north and east of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 266° radial extending from the 5-mile radius zone to 8 statute miles west of the VORTAC.

In § 71.181 (42 FR 440), the following transition area is added:

ESCANABA, MICH.

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Escanaba VORTAC; within 3 statute miles each side of the Escanaba VORTAC 007° radial from the 6.5-mile radius zone to 8.5 statute miles north of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 101° radial from the 6.5-mile radius zone to 9 statute miles east of the VORTAC; within 3 statute miles north and 4 statute miles south of the Escanaba VORTAC 270° radial from the 6.5-mile radius zone to 13.5 statute miles west of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81, Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on July 27, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-22701 Filed 8-5-77;8:45 am]

Title 15—Department of Commerce

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 4b—PRIVACY ACT

Changes in Appendices to Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending Appendix A to Part 4b of title 15, "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment", to the Privacy Act regulations to reflect organizational changes. Appendix C to Part 4b of title 15 is also being amended to delete references to a General Services Administration government-wide system of records which applied to Commerce but is no longer maintained by GSA.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph O. Smiroldo, Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3707).

SUPPLEMENTARY INFORMATION: The appendices were originally published as part of the 1976 Compilation—Volume IV, pages 691-701—and in the daily edition of the FEDERAL REGISTER—October 2, 1975, pages 45619-45632; October 30, 1975, page 50662; and November 3, 1975, page 51168.

The Department has made four changes in the appendices to the regulations. These changes, which are of a technical rather than substantive nature, are described below for the benefit of the public.

In Appendix A, "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment:"

1. Delete "Office of Energy Programs" and the corresponding address.

This Office (now renamed Office of Energy & Strategy Resource Policy) is not an Operating Unit of the Department as defined in Department regulations and should not be listed separately. The appropriate official to contact for records within the jurisdiction of this unit is the individual designated for records of the Office of the Secretary and all Departmental Staff Offices, the Director, Office of Organization and Management Systems.

2. Change the designated Privacy Officer for the Office of Minority Business Enterprise from "Assistant Director, Field Operations and Administration," to "Privacy Officer, Office of Chief Counsel." This change reflects actual delegation of responsibility.

3. Change the designated Privacy Officer for the United States Travel Service from "Executive Director" to "Director, Office of Administration." The position of Executive Director no longer exists.

In Appendix C, "Systems of Records Noticed by Other Agencies and Applicable to Records of the Department and Applicability of this part thereto:"

4. Delete "Federal motor vehicle accidents" from the column entitled "Category of records"; delete "General Services Administration" from the column entitled "Other Federal Agency"; delete the related footnote 3; and both above and below, change footnote 4 to 3. This deletion is made because the General Services Administration noticed in the FEDERAL REGISTER on June 9, 1977 at page 29561 that these records no longer meet the criteria for a Privacy Act system of records.

Because these changes pertain solely to agency organization and management, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are unnecessary.

Dated: July 1, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-19898 Filed 8-5-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Amicus Curiae Briefs

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule describes procedures for interested persons who wish to file an amicus curiae brief with the Commission.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

John T. Irick, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3731.

SUPPLEMENTARY INFORMATION: Amicus curiae briefs may be filed only with the approval of the Commission, except those of Federal and state governmental agencies. Motions requesting permission to file or supporting papers must identify the interest of the applicant(s) and state how such interest would be affected by a Commission decision of the issue(s) appealed. The motion should also contain information which demonstrates why an amicus curiae brief would be desirable.

Parties to the proceeding will be given notice of motions requesting to file amicus curiae briefs or of the Commission's request and will be given a reasonable opportunity, time permitting, to comment on the desirability of an amicus curiae brief.

Except for those instances in which the Commission grants extensions for good cause shown, an amicus curiae must file its brief within the period allowed parties in subsection (b) of Rule 3.52, 16 CFR 3.52(b). Although a person requesting amicus curiae treatment may file a brief with the motion, the brief will only be considered if the motion is granted. While no specific time limit is placed on when a motion seeking leave may be filed, such motions should be filed within a reasonable time after the filing of notices of appeal as specified in subsection (a) of Rule 3.52, 16 CFR 3.52(a).

Accordingly, 16 CFR § 3.52 is amended by adding a new subsection (h) to read as follows:

§ 3.52 Appeal from initial decisions.

* * * * *

(h) *Briefs of Amicus Curiae.*—A brief of an amicus curiae may be filed by leave of the Commission granted on motion with notice to the parties or at the request of the Commission, except that such leave shall not be required when the brief is presented by an agency or officer of the United States; or by a State, territory, commonwealth, or the District of Columbia, or by an agency or officer of any of them. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and state how a Commission decision in the matter would affect the applicant or persons it represents. The motion shall also state the reasons why a brief of an amicus curiae is desirable. Except as otherwise permitted by the Commission, an amicus curiae shall file its brief within the time allowed the parties whose position as to affirmance or reversal the amicus brief will support. The Commission shall grant leave for a later filing only for cause shown, in which event it shall specify within what period such brief must be filed. A motion for an amicus curiae to participate in oral argument will be granted only for extraordinary reasons.

AUTHORITY: 15 U.S.C. § 46(g).

By direction of the Commission dated July 25, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22773 Filed 8-5-77;8:45 am]

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Appeal From Initial Decision

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This amendment will permit each party at least five days to file a notice of appeal from an initial decision in response to another party's timely notice of appeal. Patterned after a similar provision in Rule 4(a) of the Federal Rules of Appellate Procedure, it is intended to add flexibility to the filing deadline now in the rule.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack Schwartz, Assistant to the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3615.

Accordingly, pursuant to the authority of 15 U.S.C. 46(g), 16 CFR Part 3 is amended by revising § 3.52(a) to read as follows:

§ 3.52 Appeal from initial decision.

(a) *When may file; notice of intention.*—Any party to a proceeding may appeal an initial decision to the Commission: *Provided*, That within ten (10) days after completion of service of the initial decision such party files a notice of intention to appeal. *Provided further*, That if a timely notice of intention to appeal is filed by a party, any other party may file a notice of intention to appeal within five (5) days after service of the first notice, or within the time otherwise prescribed by this subsection, whichever period last expires.

By direction of the Commission dated May 19, 1977.

JOHN A. DUGAN,
Acting Secretary.

[FR Doc.77-22772 Filed 8-5-77;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-1]

SUBCHAPTER D—WATER PROGRAMS

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

Amendment; Correction

Correction

In FR Doc. 77-20768 appearing on page 37205 in the issue of Wednesday, July 20, 1977, the signature at the end of the document should read as follows:

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

[FRL 772-5; PP 7F1889/R133]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Bentazon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide bentazon. The amendment was requested by BASF Wyandotte. This rule establishes a maximum permissible level for residues of bentazon on lima beans.

EFFECTIVE DATE: Effective on August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460, 202–426–2632.

SUPPLEMENTARY INFORMATION: On May 23, 1977, notice was given (42 FR 26240) that BASF Wyandotte Corp., 100 Cherry Hill Road, PO Box 181, Parsippany NJ 07054, had filed a pesticide petition (PP 7F1889) with the EPA.

This petition proposed that 40 CFR 180.355 be amended to establish a tolerance for combined residues of the herbicide bentazon (3-isopropyl-1*H*-2,1,3-benzothiadiazin - 4(3*H*) - one - 2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodity lima beans (succulent) at 0.05 part per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition have previously been evaluated in connection with a tolerance established on May 26, 1977 (42 FR 26978) for combined residues of bentazon and its 6- and 8–hydroxy metabolites in or on the raw agricultural commodity group seed and pod vegetables (dry) at 0.05 ppm. The 0.05 ppm tolerance on lima beans (succulent) should have been established along with this tolerance but was not because it had been inadvertently omitted from the original notice of filing (41 FR 3191). Thus, the pertinent data and conclusions of the rulemaking document of May 26, 1977, are included in this document by reference. It has been determined that this tolerance will protect the public health.

Any person adversely affected by this regulation may, on or before September 7, 1977, file written objections with the Hearing Clerk, EPA, East Tower, Rm. 1019, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specifiy both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on August 8, 1977, Part 180 is amended as set forth below.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: August 1, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.355 is amended in paragraph (a) by alphabetically inserting a tolerance of 0.05 ppm on lima beans to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

Commodity:	*Parts per million*
* * * * *	
Beans, lima (succulent)	0.05
* * * * *	

[FR Doc.77-22626 Filed 8-5-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–25—GENERAL

Utilization of Service Station Self-Service Pumps

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulations.

SUMMARY: This document establishes a policy that Interior employees driving Government-owned or leased vehicles shall utilize service station self-service pumps when such use is feasible and economically advantageous.

DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone 202–343–3185.

SUPPLEMENTARY INFORMATION: Because this amendment relates only to internal Departmental procedures, the proposed rulemaking procedures are inapplicable. The primary author of this document is Charles H. Young, Property Management Officer, Office of Administrative and Management Policy, telephone 202–343–3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

JULY 29, 1977.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations is amended as set forth below.

Subpart 114–25.3 is amended by adding 114–25.303 to read as follows:

§ 114–25.303 Gasoline for use in motor vehicles.

In addition to using unleaded gasoline as required by FPMR 101–25.303, Interior employees shall use self-service pumps when such use will result in the purchase of gasoline at the lowest available price.

[FR Doc.77-22777 Filed 8-5-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77–116]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Use of Birth Registration for Officer Licenses

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing the issuance of an original license to allow a birth registration to be used to establish proof of citizenship. Present regulations do not provide for acceptance of a birth registration. In some cases, an applicant for a license does not have a birth certificate and must use a birth registration. The use of a birth registration is an acceptable alternative to a birth certificate.

EFFECTIVE DATE: This amendment is effective on August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: Since this amendment provides for an alternative to an existing requirement, under 5 U.S.C. 553(b), notice of proposed rulemaking and public procedure are unnecessary, and the amendment may be made effective in less than 30 days after publication in the FEDERAL REGISTER, because 5 U.S.C. 553(d) does not apply.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Commander Lloyd Burger, Project Manager, Office of Merchant Marine Safety and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

Accordingly, Part 10 of Title 46 of the Code of Federal Regulations is amended by revising § 10.02–5(c) to read as follows:

§ 10.02–5 Requirements for original licenses.

* * * * *

(c) * * *

(1) An original or certified copy of—

(i) A birth certificate; or

(ii) A birth registration.

* * * * *

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).)

Dated: July 29, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-22797 Filed 8-5-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20620; RM–2426; FCC 77–537]

PART 15—RADIO FREQUENCY DEVICES

Operation of Wide-Band Swept RF Equipment Used as Anti-Pilferage Devices

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: Report and Order in Docket No. 20620, adopting new provisions under Subpart F of Part 15 of the rules for operation of wide-band swept RF equipment. The existing rules have been updated to meet requirements of manufacturers and commercial establishments, such as stores, libraries, etc., in the development and use of anti-theft, anti-pilferage devices.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Wash., D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Don Olmstead, RF Devices and Experimental Branch, Office of Chief Engineer, 202–632–7095.

SUPPLEMENTARY INFORMATION:

Adopted: July 27, 1977.

Released: August 5, 1977.

In the matter of the amendment of Part 15 to provide for the operation of wideband swept RF equipment used as anti-pilferage devices, Docket No. 20620, RM–2426.

1. This proceeding was initiated in response to a petition for rulemaking filed by Checkpoint Systems, Inc. (Checkpoint) on July 30, 1974,[1] along with related pleadings,[2] to provide for the operation of swept frequency anti-pilferage devices. The petition for rulemaking was placed on public notice and in response comments were received from the 3–M Company (3–M) and Knogo Corporation (Knogo) questioning the necessity for additional provisions for anti-pilferage equipment. Both 3–M and Knogo produce anti-pilferage devices which operate within the existing Part 15 Rules. In view of these contentions, the Commission issued a Notice of Inquiry[3] seeking information as to the need for additional rules; and if so, the form these rules should take. After considering the comments the Commission concluded that reasonable grounds existed for the issuance of a notice of proposed rulemaking.[4]

2. Only three parties submitted comments: Checkpoint, Knogo and Schlage Electronics (Schlage). Checkpoint and Knogo also submitted reply comments.[5] The Schlage comments were filed late with a motion to accept late filed comments stating that they had just become aware of the Commission's proposal in this docket. To the extent possible the Schlage comments will be considered; however, many aspects of their filing, while relevant, go beyond the scope of this proceeding and would require extensive study and coordination before they could be adopted. To avoid further delay (such as a further notice of proposed rulemaking) in finalizing this docket, the Schlage comments are being treated as a separate petition for rulemaking (RM–2831) with their concurrence.

3. Checkpoint manufactures electronic detection systems used as anti-pilferage devices in retail and department stores, libraries, and other commercial establishments. An RF generator that sweeps over the frequency range of operation is used to detect a tag that is concealed in, or attached to, the protected article. When the frequency sweep detects one of the tags, each of which contains a resonant printed circuit, the operator is alerted to the presence of a protected item. Normally the tag is deactivated or removed at the cashier's desk before the protected item is carried through the gate housing the anti-pilferage equipment. In the case of library books the circuit labels are permanently affixed under the book pockets or under the bindings and the anti-pilferage equipment is deactivated or circumvented to permit removal after the books have been properly checked out.

4. In general, all of those commenting agreed with the proposal to provide additional regulations for the operation of wide band swept RF equipment for use as anti-pilferage devices. Even Knogo which had originally opposed any rule changes, has changed its position and now supports this proceeding. All agree that pilferage is a serious and expensive problem to libraries, government agencies, retail outlets, etc., and the consumer is the one who must ultimately pay the cost; that anti-pilferage devices are an effective deterrent; and, that more liberal rules will provide greater flexibility in the design and operation of these devices, thus permitting wider use, without materially increasing the risk of interference to other users of the radio spectrum.

5. The Commission proposed a field strength of 50 μV/m at 30 meters on the emissions within the bands of operation specified, with the requirement that all emissions falling outside these bands to be kept below 5 μV/m at 3 meters. All the comments agreed that the field strength proposed by the Commission was too low for efficient operation of swept-radio frequency equipment; that it would impair the operating efficiency of such equipment without a countervailing benefit to the public interest; and, that operation with higher field strengths (6 dB above the field strength proposed by the Commission) does not cause harmful interference or adverse environmental effects while at the same time providing a greater potential for development of existing uses and also new applications. New applications in the health care field are currently under study by Knogo to provide patient monitoring systems which would replace physical and chemical restraints used in many institutions.

6. Checkpoint has requested a field strength of 100 μV/m at 30 meters, and Knogo has requested 300 μV/m at 30 meters. Schlage supports a field strength of 100 μV/m at 30 meters. In support of the higher field strengths it is pointed out that daily use of hundreds of Checkpoint systems operating at 100 μV/m at 30 meters over the period of several years has not resulted in a single complaint of interference. It is also claimed that the higher power is necessary to insure reliable operation of security systems since there is normally high ambient radio frequency noise in retail stores caused by fluorescent lighting, air conditioning, elevators, cash registers, etc., which would overwhelm a system with less power. In addition, anti-pilferage devices are installed inside buildings which can be expected to attenuate the signals radiated from these devices and further reduce the chance of interference.

7. Because of the factors mentioned above, the Commission believes that a field strength of 100 μV/m at 30 meters can be considered to be acceptable and is not likely to cause interference.[6] In addition, these devices operate on a non-interference basis to licensed services, and in the unlikely event that a situation should arise involving harmful interference, it would be local to the interfered service and thus easily identified and corrected.

8. With respect to the Commission's proposal that spurious emissions be kept to less than 5 μV/m at 3 meters, or "approximately 40 dB down," the comments agreed that it is desirable to suppress

[1] RM–2426.

[2] With the rulemaking request, Checkpoint filed a petition for waiver of the present Part 15 requirements to permit it to market the proposed system during the pendency of the rulemaking. This waiver was granted by the Commission on December 13, 1974. The Knogo Corporation requested a stay of the waiver which was denied by the Commission on February 26, 1975.

[3] Docket No. 20620, released October 16, 1975 (40 FR 48942).

[4] Notice of Proposed Rulemaking and Order Denying Petition For Reconsideration, released July 7, 1976 (41 FR 28537).

[5] Additional comments were filed by Checkpoint objecting to any further delay as a result of new issues raised by the Schlage comments. Also, an informal comment was filed by Gettysburg College, Gettysburg, Pennsylvania, on August 3, 1976, requesting that the final decision in this docket should not require them to modify their recently installed Checkpoint system in the school library. A letter was also received from Sentronic International which is discussed in paragraph 16 of this Order.

[6] The original Checkpoint waiver for operation pending the outcome of this rulemaking permitted an emission level of 100 μV/m at 30 meters. This was modified to 50 μV/m at 30 meters when the NPRM was adopted on June 24, 1976. Systems already installed were permitted to continue operating at the higher strength pending outcome of this proceeding.

all emissions a minimum of 40 dB relative to the maximum field strength at a distance of 30 meters. But it was argued by Checkpoint that the Commission's proposal assumes that the field strength varies inversely with the square of the distance, when in fact it is more nearly the cube of the distance in this case, and that the desired result would be obtained by using the standard 1 μV/m at 30 meters. The Commission agrees that the original proposal may have been too stringent. Accordingly, the limits for out of band emissions are revised, and the rules will provide that out of band emissions shall be suppressed at least 40 dB below the fundamental.

9. The Commission's original waiver for Checkpoint permitted them to use the frequencies 5±0.5 MHz and 8.2±0.8 MHz. In the NPRM the Commission proposed three frequencies for anti-pilferage equipment using swept frequency techniques, namely 2±0.3 MHz, 4.5±0.45 MHz and 8±0.6 MHz. The waiver was also modified to confine the frequency bands Checkpoint could use to 4.05 to 4.95 MHz and 7.4 to 8.6 MHz.[7] Checkpoint does not object to changing the center frequency from 5.0 to 4.5 MHz for future installations, but contends that to make this relatively minor change on equipment presently located in the field would result in serious disruption of service and severe economic hardship without countervailing benefits. Checkpoint states that approximately 20 million circuit labels have been permanently affixed to books in 400 libraries. These labels are located under or in book pockets and bindings. It would be necessary to remove the old labels before new ones could be installed in order to make the system work. This would be very time consuming and result in the libraries being without the security system for a substantial period of time, as well as costing Checkpoint at least 3 million dollars.

10. The center frequency was changed from 5.0 to 4.5 MHz to avoid any potential interference with the standard frequency/time signal at 5.0 MHz. Future systems will be required to use a center frequency of 4.5 MHz. However, since no complaints of interference have been received from the limited number of systems already installed, and because of the problems mentioned above, the Commission will permit the presently installed systems operating on 5.0 MHz to continue operation indefinitely (including expansion to update systems), subject to the condition that any interference complained of be immediately eliminated.

11. Though the Commission's proposal to change the band from 8.2±0.8 MHz to 8.0±0.6 MHz appears relatively minor, Checkpoint states that this would significantly affect the use of this frequency, since operation of wide-band swept-radio frequency devices depend on a fixed deviation from the center frequency, and not on the absolute bandwidth swept by the system. The minimum fixed deviation required is plus or minus ten percent (10 percent) of the center frequency. Under the present state of the art it is not economically feasible because of technical reasons, according to Checkpoint, to develop and market a system requiring a lesser deviation due to the costs involved. Resonant circuits (tags) cannot be mass-produced with a frequency tolerance better than plus or minus 7.5 percent. The transmitter must sweep entirely through the center frequency of the tag to be detected, thus the deviation must be at least plus or minus 10 percent if the frequency tolerance of the tag is only 7.5 percent. Since at least a few thousand tags are required for each installation, significant increases in cost of the tags would quickly price any anti-pilferage system out of many markets. Checkpoint states that present cost per tag is very low "* * * because all processing is done in continuous rolls of material two feet wide and 10,000 feet long. Each roll contains 300,000 double-sided printed circuits attached together." To improve the tag to operate with a tolerance of less than plus/minus 7.5 percent would require each circuit to be individually measured and adjusted in the manufacturing process which could substantially increase the price of each tag.

12. It appears that requiring the frequency sweep to be confined to 7.4–8.6 MHz, (8.0±0.6 MHz) rather than 7.4–9.0 MHz, (8.2±0.8 MHz) would place a substantial economic hardship on the manufacturers and users. It is also noted that none of the systems presently in operation using 7.4–9.0 MHz have caused interference nor does it appear likely that they will. In view of the above, we are accepting Checkpoint's argument and have expanded the band at 8 MHz to 7.4–9.0 MHz (8.2±0.8 MHz) instead of 7.4–8.6 MHz (8.0±0.6 MHz) as proposed in our notice. In the unlikely event that operation of such an anti-pilferage device were to cause harmful interference, it becomes subject to the general requirement in sections 15.3 and 15.311 and the operator will be required to stop operating the device until such time as the harmful interference is eliminated.

13. The proposed rules evaluated the interference effect of the anti-pilferage signal on the basis that this signal would move across the band and not remain at a fixed point in the band for any length of time. However, in the absence of a specific requirement that the signal sweep through the authorized band, there is a danger that some person may elect to operate at a fixed frequency, and thereby increase the interference potential to licensed equipment operating on such fixed frequency. To minimize this possibility, we have added a requirement that the signal sweep through not less than half the authorized band at a minimum rate of forty sweeps per second (40 hertz).

14. No objections were raised to the provision that swept frequency anti-pilferage devices require certification. As stated in the proposal, measurements shall be made with the frequency sweep stopped using an average reading field strength meter. Out of band emissions shall be checked over the frequency range 300 kHz to 300 MHz. Also, the measurement report shall include spectrum analyzer photographs of the broadband signal emitted by such equipment during normal operation.

15. By letter, dated February 14, 1977, from Sentronic International, a division of General Nucleonics, Inc. (Sentronic), the Commission was asked to hold in abeyance final action in this docket pending further study of the possible effects of low level radiation on people. In general Sentronic maintains that more information is needed on the genetic, clinical, physiological, biological, and behavioral effects of long-term, low level radiofrequency exposures; and, that standards, based on that information, should be developed which are more strict than those presently in use. While we agree that health considerations are an important factor, it would appear that studies of such a complex nature would take many years. If action in this docket were to be held in abeyance, then it would be incumbent on the Commission to stay the grant of almost any new telecommunications facility, since the radiated power density of a Checkpoint system is over one million times less than that generated by a citizens-band transmitter. The problem of personal hazard was discussed in both the Notice of Inquiry and at some length in the Notice of Proposed Rulemaking particularly with respect to pacemakers. Tests have been conducted by both manufacturers of pacemakers and anti-pilferage equipment. The Food and Drug Administration has sponsored an open public meeting on this subject. While final definitive information is not available, the results to date indicate little or no adverse effects. In the absence of strong reasons for the present standards to be changed, postponement of this docket is unwarranted. As stated in the Notice, our regulations are designed to eliminate interference while those of the FDA are intended to minimize personal hazard. Accordingly, at this time the Commission is adopting regulations dealing only with the radio interference potential of anti-pilferage devices. If the studies now underway to evaluate the effect of low level RF radiation on people should find that the present technical specifications constitute a hazard to the people, the Commission will at that time review the technical specifications adopted herein.

16. In writing rules for new devices to operate under Part 15, consideration must be given to the possible electromagnetic pollution that may be created by the new device—in this instance, the swept frequency anti-pilferage device. We are aware that anti-pilferage systems exist which use magnetic tapes and do not require access to the RF spectrum. The comments received herein show that the RF operated systems are in general less costly and have a greater degree of flexibility in their use. We consider these advantages of the RF operated systems to outweigh the disadvantages of possible spectrum pollution.

17. In consideration of the foregoing, the Commission finds that amendment of the rules as contained below is in the public interest. Authority for these rule amendments is contained in sections 4(i), 302, 303(g), and 303(r) of the Communications Act of 1934, as amended.

18. Accordingly, *it is ordered*, That effective September 12, 1977, Part 15 of the Commission's rules is amended as set forth below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; sec. 302, 82 Stat. 290; (47 U.S.C. 154, 302, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[8]
VINCENT J. MULLINS,
Secretary.

Part 15 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 15.305 paragraph (c) is added to read as follows:

§ 15.305 General technical specification.

* * * * *

(c) Alternative to paragraphs (a) and (b) of this section, a wide-band swept field disturbance sensor may be operated on any frequency listed below subject to the technical requirements set out in §§ 15.321 and 15.323.

Center frequency (MHz):		*Band limits (MHz)*
2	±0.3	(1.7–2.3)
4.5	±0.45	(4.05–4.95)
8.2	±0.8	(7.4–9.0)

2. Two new §§ 15.321 and 15.323 are added to read as follows:

§ 15.321 Emission limitations for operation under § 15.305(c).

(a) The field strength shall not exceed 100 μV/m at 30 meters on emissions within the bands specified.

(b) Out of band emissions shall be suppressed at least 40 dB below the level of the fundamental. The measurement procedure involved will be discussed in an OCE bulletin.

(c) A minimum frequency deviation of one-half the authorized maximum deviation is required on all specified frequencies.

(d) A minimum frequency modulation rate of 40 hertz is required for all operations.

§ 15.323 Measurement requirements for operation under § 15.305(c).

Measurements shall be made with the frequency sweep stopped using an average reading field strength meter. Measurements on all frequencies shall be made using a loop antenna. Out of band emissions shall be checked over the frequency range 300 kHz to 300 MHz. In addition, the measurement report shall include spectrum analyzer photographs of the broadband signal emitted.

[FR Doc.77-22732 Filed 8-5-77;8:45 am]

[7] Equipment marketed prior to August 1, 1976, could continue to use the original waiver frequencies.

[8] Commissioner Washburn absent.

[Docket No. 20708; RM-2551; RM-2693]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Versailles, Indiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a first Class A FM channel to Versailles, Indiana. Petitioner, James Robert Albritton, states that this action will provide Versailles with an opportunity to acquire its first local aural broadcast service.

EFFECTIVE DATE: September 12, 1977

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: July 29, 1977.

Released: August 5, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Versailles, Indiana), Docket No. 20708, RM-2551, RM-2693.

1. The Commission has under consideration the Notice of Proposed Rulemaking in the above-entitled proceeding, adopted February 4, 1976, 41 FR 7120, proposing the assignment of FM Channel 276A to Versailles, Indiana. James Robert Albritton ("petitioner") originally proposed Channel 280A for Versailles, but in Docket No. 21121, Second Report and Order,[1] the Commission assigned Channel 280A to Versailles. However, a Commission staff study revealed that Channel 276A could be assigned to Versailles in conformance with the minimum mileage separation requirements, if the transmitter site were to be located approximately 10 kilometers (6 miles) north of Versailles. Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned, and to promptly build the station, if authorized.

2. On April 30, 1976, Mid America Radio, Inc. ("Mid America"), licensee of FM Station WXTZ, Indianapolis, Indiana, filed a counterproposal (RM-2693) in which it proposed the assignment of Channel 237A to Versailles in lieu of Channel 276A. Mid America states that it does not take issue with the ostensible desirability of assigning a first Class A channel to Versailles, but because of the existence of certain special and unique circumstances, it believes the public interest would better be served by the substitution of Channel 237A for 276A. Mid America argues that substitution of Channel 237A for 276A would prevent irreparable injury from being caused to the public that WXTZ serves, without materially altering Mr. Albritton's basic proposal. Mid America further states that on April 7, 1972, WXTZ filed a "major change" application with a view toward changing, inter alia, its transmitter location (BPH-7867, granted May 22, 1972), and at that time it was thought that WXTZ's proposed 70 dBu contour would cover the entire city limits of Indianapolis. Mid America notes that, around that time, the Indianapolis city limits were expanded so as to be virtually coincident with those of Marion County, and that it was not until the Commission was considering the allocation to Batesville that WXTZ discovered that its 70 dBu contour did not fully cover the revised Indianapolis city limits. Mid America contends that, if the Versailles proposal were to be adopted, WXTZ would be substantially impaired in its ability to move closer to Indianapolis to permit it to serve its city of license in a manner contemplated by the Commission. It adds that the existing WXTZ transmitter location has created a situation of only a marginally sufficient signal existing over the center of the city of Indianapolis where there is an area of interference. Mid America asserts that computer analyses have been undertaken and no feasible solution short of moving the transmitter location has been found and, therefore, the only realistic option is to move its transmitter. It contends that large areas would be made unavailable to WXTZ if Channel 276A were to be assigned to Versailles, but that would not be true if the Commission were to allocate Channel 237A to Versailles. Mid America claims that efforts are already underway and have been underway for some time to secure a new transmitter location for WXTZ.

3. Mid America states that substitution of Channel 237A for Channel 276A would have no adverse effect on Mr. Albritton's proposal, and that the channel may be used in the center of Versailles with concomitant savings in terms of STL's, telephone lines, etc., which would be necessary were Mr. Albritton required to maintain separate transmitter/studio facilities. However, it acknowledges that the availability of Channel 237A to Versailles, Indiana, is contingent upon a favorable resolution in a rule making to move Channel 237A from Falmouth, Kentucky, to Versailles, Kentucky, in Docket No. 20877.

4. Since the Commission, on May 9, 1977, adopted a Report and Order in Docket No. 20877 (42 FR 25505) which, among other things, retained the assignment of Channel 237A at Falmouth, Kentucky, Mid America's counterproposal to assign Channel 237A to Versailles is no longer workable and must be denied. However, the counterproposal is also being treated as an objection to the proposed assignment of Channel 276A to Versailles, but the Commission believes

[1] 40 FR 19644, 41 FR 13378, March 30, 1976.

that this objection is not well taken, as will be shown below.

5. Station WXTZ is located in the northern portion of the expanded city of Indianapolis and operates with 13 kW (11.2 dBk) and 850 feet a.a.t. from a tower which extends 312 meters (1,022 feet) above ground. It is noted that the 70 dBu contour encompasses most of the expanded city with the exception of small portions of the southern part of the city, about three percent of the city area.

6. The distance between Station WXTZ and the required Versailles transmitter site, about 10 kilometers (6 miles) north of that community, is approximately 116 kilometers (72.3 miles) which allows about 11.7 kilometers (7.3 miles) leeway in the southeasterly direction. This leaves about fifty percent of the city area in which WXTZ could move its transmitter site if it desires. Assuming that WXTZ were to operate with maximum facilities as it now operates, a site 8 kilometers (5 miles) in the southeasterly direction, or 8.5 kilometers (5.3 miles) in the southerly direction, would allow it to completely encompass the city limit with a 70 dBu signal. There is a leeway of about 16 kilometers (10 miles) in the southerly direction in which the transmitter site may be relocated.

7. Mid America has asserted that its station places only a marginally sufficient signal over the center of the city of Indianapolis where it encounters an area of interference. However, it does not indicate the signal level there or the type of interference it alleges it suffers. Without a proper showing, we are unable to conclude that a signal level of 80 dBu (10 mV/m) which is expected in the area would be only "marginally sufficient." There is also question of whether a change in the transmitter site or an increase in the signal level would alleviate any such interference problem or would just move it to another area. The Commission believes that, although the assignment of Channel 276A to Versailles, Indiana, would somewhat limit the flexibility in the choice of an alternate transmitter site for Station WXTZ, a provision for a first local aural broadcast station to a community without such a facility presents a more important public interest consideration. Such a conclusion is consistent with the stated objective of the Commission's allocation priorities. The channel is the only one available for assignment to this area.

8. The Canadian Government has given its concurrence to the proposed assignment of Channel 276A to Versailles, Indiana.

9. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. In view of the foregoing: *It is ordered*, That effective September 12, 1977, § 73.202(b) of the Commission's rules, the FM Table of Assignments, as regards Versailles, Indiana, is amended as follows:

City and Channel No.
Versailles, Indiana, 276A.

11. *It is further ordered*, That, the counterproposal filed by Mid America Radio, Inc. (RM-2693) is denied.

12. *It is further ordered*, That, this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-22730 Filed 8-5-77;8:45 am]

[Docket No. 21174; RM-2790]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Palm Springs, Calif., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a third FM channel (Class B) to Palm Springs, California, at the request of Joe F. Mackey. The Commission's FM criteria ordinarily would limit the number of assignments to a community the size of Palm Springs to one or two channels. However, since Palm Springs' population exceeds 50,000 during certain portions of the year due to the influx of tourists and visitors, and because it is located in an area isolated from major markets by mountainous terrain, the Commission believes that a third channel for Palm Springs would be consistent.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: July 29, 1977.

Released: August 5, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Palm Springs, California), Docket No. 21174, RM-2790.

1. On March 18, 1977, at the request of Joe F. Mackey ("petitioner"), the Commission adopted a Notice of Proposed Rulemaking, 42 FR 16450, proposing the assignment of Class B Channel 291 to Palm Springs, California, as its third FM assignment. Supporting comments and reply comments were filed by petitioner. Comments in opposition were filed by Tourtelot Broadcasting Company ("Tourtelot"), licensee of Stations KDES and KDES-FM, Palm Springs, California, and Glen Barnett ("Barnett"), licensee of Stations KWXY and KWXY-FM, at nearby Cathedral City, California.

2. Palm Springs, (pop. 20,936) in Riverside County (pop. 459,074),[1] is located in south central California, approximately 173 kilometers (108 miles) east of Los Angeles. Local service is provided by three full-time AM stations—KCMJ (Class III); KDES (Class III); KPSI (Class IV) and one FM station—KDES-FM (Channel 284). In addition to the educational FM channel (202D) which is assigned to Station KPSH-FM at Palm Springs, commercial FM Channel 265A is also assigned. There are three applications pending on Channel 265A.

3. Petitioner states that Palm Springs has long been noted as one of the nation's leading resort areas. It is said to be the retail and financial center of Coachella Valley with 34 percent of its employed citizens engaged in services and 22 percent in retail trade. Petitioner claims that the population of Palm Springs has increased from 20,936 to 29,132 persons between 1970 and 1975. Petitioner reaffirms his intention to apply for the channel, if assigned, and to construct and operate a station if granted.

4. In supporting comments petitioner emphasizes the influx of population to Palm Springs during the months of January through May and October through December. According to petitioner, estimates of the Riverside County Planning Department puts the additional tourist population at 50,000 to 60,000 for the area and the Coachella Valley Association of Governments places the total population of Palm Springs for eight of the twelve months of the year at approximately 64,410, with a weighted average throughout a year of 52,507. Petitioner contends that the Commission's population criteria (limiting a city under 50,000 population to one or two FM channels) are only guidelines and under the circumstances here there are no impediments to the assignment. Petitioner also asserts that, since Palm Springs is already intermixed with a Class B and Class A channel, the addition of a second Class B channel would not contravene the Commission's policy on intermixture.

5. In opposing comments, Tourtelot argues that petitioner has failed to demonstrate the basis for his population estimates. It states that, while the Coachella Valley Association of Governments substantiates the peak population for the city currently at 64,410, the Association notes that this figure refers to the maximum number of people present within the city at a specific time only. Tourtelot points out that in a 1976 study conducted for the Community Redevelopment Agency of the City of Palm Springs, the average monthly population of Palm Springs was 38,583 during 1976. Tourtelot acknowledges that the total population of Palm Springs may reach the level of 50,000 during the months of February and March, however. Tourtelot contends that there are a sufficient number of aural services available to Palm Springs and the surrounding Coachella Valley. In this connection it states that there are three FM stations which place city grade contours over Palm Springs. Moreover, Tourtelot asserts that, since petitioner must locate his station 15 miles east of Palm Springs, Station KWXY-FM, Cathedral City, would place a far superior signal over the city than petitioner's proposed facility.

6. Barnett, in opposition to the proposal, argues that the existence of Station KWXY-FM at Cathedral City should have been taken into account in proposing a third channel for Palm Springs. He contends that the number of AM and FM channels already assigned to Palm Springs, plus available outside service from Station KWXY-FM, provide a sufficient choice of program fare and that the proposed channel could better serve the public interest if assigned elsewhere. Barnett questions whether a transmitter located in the area proposed could serve the entire city due to multipath reflections and shadow effects of the surrounding mountains.

7. In response, petitioner points out that Tourtelot and Barnett both serve Palm Springs, and thus it argues that it is obvious that their opposition to assignment of another channel to that city is solely on economic grounds. Petitioner states that Barnett's questions about the adequacy of coverage are unsupported by engineering opinion and contends that they also are misplaced. Petitioner asserts that they should be deferred until an application is tendered. On the question of the need for the assignment, petitioner argues that Tourtelot's submission of an excerpt from a 1976 study conducted for the Community Redevelopment Agency of the City of Palm Springs is not otherwise identified and that its worth has not been demonstrated. Moreover, petitioner asserts that, even if Palm Springs' present and projected population is slightly smaller than as previously shown, the opponents do concede that it is a burgeoning community in a growing area.

8. We have carefully considered the record in this proceeding and find that it would be in the public interest to assign Channel 291 to Palm Springs, California. Under normal circumstances, the Commission's FM assignment criteria would limit the number of assignments to a community of the size of Palm Springs to one or two channels. However, on occasion this limit in the number of assignments has been relaxed where special considerations have been found.[2] Palm Springs is a growing resort community, with the officially recognized 1970 population of 20,936 inhabitants, and is located in an area which is isolated from large major markets by mountainous terrain. The petitioner has alleged that during the tourist seasons, the population of the community reaches as much as 64,410 persons, with the weighted average of 52,507 for the year. Tourtelot in opposition acknowledges that the population of the community could exceed 50,000 persons for at least two months. Thus, it is reasonable to conclude that, during certain portions of the year, the population of Palm Springs exceeds 50,000 persons. With these points in mind it is clear that a third channel for Palm Springs would be consistent with the spirit of the population criteria even if it is not consistent with its literal terms. Another consideration in favor of the proposed assignment is that the use of the channel here would not result in significant preclusion because the communitie located in the two precluded areas each has at least one FM assignment or station and at least one AM station. As to the assertion that stations located in other communities provide service to Palm Springs, we must point out that such stations are not called upon to provide programs directed to meeting the special needs, interests and problems of the community as are local stations.

9. Although intermixture is involved, it presents no problem in this instance as Palm Springs is already intermixed with a Class A and a Class B assignment and there are three mutually exclusive applications[3] pending for the Class A channel. None of these applicants has opposed the proposed Class B channel assignment. Moreover, any qualified party may apply for the new Class B channel, including, if they so desire, the applicants for Channel 265A at Palm Springs, which could relinquish any interest in that channel and seek instead to use the Class B channel which we are assigning in this Report and Order.

10. Mexican concurrence has been obtained for the assignment of Channel 291 to Palm Springs, California.

11. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules: *It is ordered*, That, effective September 12, 1977, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended for the city listed below, to read as follows:

City and Channel No.
Palm Springs, California, 265A, 284, 291.

12. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-22731 Filed 8-5-77;8:45 am]

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[1] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

[2] See, for example, Fresno, Calif., 38 F.C.C 2d 525 (1972); Colorado Springs, Colo., 44 F.C.C. 2d 1047 (1974).

[3] Applications filed by Gray-Schwartz Broadcasting (BPH-9903); KPSI Radio Corporation (BPH-10069); and Westminster Broadcasting Corp. (BPH-10266).

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. FE 77-02; Notice 2]

PART 529—MANUFACTURERS OF MULTISTAGE AUTOMOBILES

Correction

In FR Doc. 77-21507 appearing on page 38369, in the issue for Thursday, July 28, 1977. On page 38372, § 529.3(b)(2), (7) and (8) should read:

§ 529.3 Definitions.

* * * * * *

(b) * * *

(2) "Completed automobile" means an automobile that requires no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting.

* * * * * *

(7) "Incomplete automobile manufacturer" means a person who manufactures an incomplete automobile by assembling components none of which, taken separately, constitute a complete automobile.

(8) "Intermediate manufacturer" means a person, other than the incomplete automobile manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete automobile.

[Docket No. 77-02, Notice 04]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY STATEMENT: This amendment adds certain tire size designations to Standard No. 109, New Pneumatic Tires—Passenger Cars. This addition is made pursuant to a request from the Rubber Manufacturers Association to permit the production of tires with the specified designations.

EFFECTIVE DATE: September 7, 1977, if objections are not received.

FOR FURTHER INFORMATION CONTACT:

John A. Diehl, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1715.

SUPPLEMENTARY INFORMATION: According to agency practice, regular amendments are published modifying the

Appendix of Standard No. 109. Guidelines were published in the FEDERAL REGISTER on October 5, 1968 (33 FR 14964), and amended August 31, 1974 (39 FR 28980), specifying procedures by which routine additions could be made effective 30 days from publication in the FEDERAL REGISTER, if no objections are received. If objections are received, rulemaking procedures for the issuance of motor vehicle safety standards (49 CFR Part 553) are followed.

The principal authors of this document are John A. Diehl, Office of Crash Avoidance, and Roger Tilton, Office of Chief Counsel.

Accordingly, Appendix A of 49 CFR 571.109 is amended subject to the 30 day provision indicated above, as specified below.

§ 571.109 [Appendix Amended]

Amendment requested by Rubber Manufacturers Association:

In Table I–HH, the following new tire size designation and corresponding values are added.

(Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 1, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

TABLE I—HH.—*Tire load rating, test rims, minimum size factors, and section widths for 'P/75' series ISO-type tires*

Tire size[1] designation	Maximum tire loads (kilograms) at various cold inflation pressures									Test rim width (inches)	Minimum size factor (millimeter)	Section[2] width (millimeter)
	120	140	160	180	200	220	240	260	280			
P185/75R13	390	420	450	480	505	530	555	575	595	5	778	184
P215/75R14	535	575	615	650	690	720	755	785	815	6	878	216
P225/75R14	575	620	665	705	745	780	815	850	880	6	900	223
P205/75R15	515	555	595	620	665	695	725	755	785	5½	877	203
P215/75R15	555	600	645	685	720	755	790	820	850	6	903	216
P225/75R15	605	650	695	740	780	815	850	885	920	6	925	223
P235/75R15	650	700	750	795	840	880	920	955	990	6½	950	235

[1] The letters D for diagonal and B for bias belted may be used in place of the R.

[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in § 4.2.2.2.

[FR Doc.77-22606 Filed 8-5-77;8:45 am]

[Docket No. 77–02; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY STATEMENT: This amendment adds certain tire size designations to Standard No. 109, *New Pneumatic Tires—Passenger Cars*. This addition is made pursuant to a request from the European Tyre and Rim Technical Organisation to permit the production of tires with the specified designations.

EFFECTIVE DATE: September 7, 1977, if objections are not received.

FOR FURTHER INFORMATION CONTACT:

John A. Diehl, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1715).

SUPPLEMENTARY INFORMATION: According to agency practice, regular amendments are published modifying the Appendix of Standard No. 109. Guidelines were published in the FEDERAL REGISTER on October 5, 1968 (33 FR 14964), and amended August 31, 1974 (39 FR 28980), specifying procedures by which routine additions could be made effective 30 days from publication in the FEDERAL REGISTER, if no objections are received. If objections are received, rulemaking procedures for the issuance of motor vehicle safety standards (49 CFR Part 553) are followed.

The principal authors of this document are John A. Diehl, Office of Crash Avoidance, and Roger Tilton, Office of Chief Counsel.

Accordingly, Appendix A of 49 CFR 571.109 is amended subject to the 30 day provision indicated above, as specified below.

§ 571.109 [Appendix Amended]

Amendment requested by European Tyre and Rim Technical Organisation:

In Table I–S and Table I–DD, the following new tire size designations and corresponding values are added.

(Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 1, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

TABLE I—DD.—*Tire load ratings, test rims, minimum size factors, and section widths for "55 series" radial ply tires*

Tire size[1] designation	Maximum tire loads (pounds), at various cold inflation pressures (pounds per square inch)												Test rim width (inches)	Minimum size factor (inches)	Section width[2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
2																
205/55R14	720	770	810	860	900	940	980	1,020	1,060	1,090	1,130	1,160	1,200	6	30.59	8.19
25/55R14	845	905	960	1,015	1,070	1,120	1,170	1,220	1,265	1,310	1,355	1,400	1,440	6½	32.19	8.98

[1] The letter H, S, or V may be included in any specified tire size designation adjacent to the R.

[2] Actual section width and overall width shall not exceed the specified section width by more than 7 pct.

TABLE I—S.—*Tire load ratings, test rims, minimum size factors, and section widths for "60 series" radial ply tires*

Tire size[1] designation	Maximum tire loads (pounds), at various cold inflation pressures (pounds per square inch)												Test rim width (inches)	Minimum size factor (inches)	Section width[2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
185/60R14	715	760	810	850	895	935	975	1,015	1,050	1,085	1,120	1,155	1,190	5½	29.30	7.40
195/60R14	770	825	875	920	965	1,010	1,055	1,095	1,135	1,175	1,210	1,250	1,285	6	30.50	7.80
195/60R15	795	850	900	950	995	1,040	1,085	1,130	1,170	1,210	1,250	1,290	1,325	6	31.54	7.80
205/60R15	870	930	985	1,040	1,090	1,140	1,190	1,235	1,280	1,325	1,365	1,410	1,450	6	32.45	8.19

[1] The letters H, S, or V may be included in any specified tire size designation adjacent to the R.

[2] Actual section width and overall width shall not exceed the specified section width by more than 7 pct.

[FR Doc.77-22607 Filed 8-5-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1271]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1271).

SUMMARY: There is a shortage of high capacity cars for transporting bulk shipments of fertilizer, grain, grain products, soybeans or soybeans products at stations on the Union Pacific Railroad. Simultaneously there is a surplus of smaller capacity cars suitable, except for size, for transporting such freight. Service Order No. 1771 authorizes the Union Pacific to substitute sufficient smaller cars for larger cars ordered to transport the shipment offered regardless of tariff requirements, requiring the use of the larger cars. Consent of the shipper is required before any substitution is made.

DATES: Effective August 3, 1977. Expires October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202–275–7840, Telex 89–2742.

SUPPLEMENTAL INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 2nd day of August, 1977.

It appearing, That there is an acute shortage of freight cars on the Union Pacific Railroad Company for transporting shipments of fertilizer, grain, grain products, soybeans or soybean products; that certain tariff provisions require the use of cars of specified cubic or weight carrying capacities; that the carrier is unable to furnish sufficient such cars to transport shipments of such weights; that cars of lesser capacity are available; that such cars cannot be used because of certain tariff provisions; that there is immediate need to use every available car for transportation of these products; that the inability of the carrier to furnish sufficient large-capacity cars results in great economic loss; and that present regulations and practices with respect to the use, supply, control, movement, and distribution of freight cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1271 Distribution of freight cars.

(a) Subject to the concurrence of the shipper, the Union Pacific Railroad Company may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of fertilizer, grain, grain products, soybeans or soybean products regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions (b) and (c).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (------) cu. ft. and of (------) lbs. or greater capacity ordered. Smaller cars furnished. authority ICC Service Order No. 1271.

(f) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 12:01 a.m., August 3, 1977.

(k) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That, a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Robert S. Turkington not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22768 Filed 8-5-77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURES

[Ex Parte No. 327]

PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Rate Incentives for Capital Investment

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 FR, June 22, 1977, page 31602, the authority citation was inadvertently omitted. This correction is to show the proper authority citation.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. 202–275–7428.

SUPPLEMENTARY INFORMATION: The above captioned document was issued under: Section 206 of the Railroad Revitalization and Regulatory Reform Act; Section 15(19) of the Interstate Commerce Act—49 U.S.C. 15(19), Public Law 94–210 and 5 U.S.C. 553 and 559, Administrative Procedure Act.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22770 Filed 8-5-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Subchapter B—Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation and Importation of Wildlife

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for Mississippi Sandhill Crane

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a rulemaking which determines Critical Habitat for the Mississippi sandhill crane (*Grus canadensis*

pulla). This rulemaking is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act). In accordance with Section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect this Critical Habitat.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In the FEDERAL REGISTER of September 3, 1975 (40 FR 40521–40522), the Fish and Wildlife Service published a proposed determination of Critical Habitat for the Mississippi sandhill crane (*Grus canadensis pulla*). This Critical Habitat was described as being a five-sided area of land, water, and airspace in Jackson County, Mississippi, between the West Pascagoula River and the Jackson-Harrison County line, and bounded by the following coordinates: 30°33′ N 88°37′ W, 30°25′ N 88°37′ W, 30°22′ N 88°44′ W, 30°29′ N 88°51′ W, 30°33′ N 88°51′ W.

SUMMARY OF COMMENTS

The Governor of Mississippi expressed opposition to the designation of the entire proposed area as Critical Habitat, though he indicated that a smaller area might be acceptable. Also opposing the designation as proposed were 15 local governmental and commercial organizations, and approximately 477 private citizens, most of whom had signed petitions on the matter.

The Mississippi Game and Fish Commission responded favorably to a determination of Critical Habitat which would assist in the preservation of the Mississippi sandhill crane, but did not comment on the necessity of including the entire proposed area. Also favoring the proposal in general were eight major National and local conservation organizations, including Monitor, Inc., which expressed the views of 14 additional organizations; and 26 private citizens. The U.S. Forest Service concurred that the approximately 150 acres of land administered by it within the designated area should be included as Critical Habitat. The Mississippi Wildlife Federation favored the designation of a smaller area as Critical Habitat. Approximately ten other parties wrote to provide or request information, without indicating a position on the matter.

BASIS FOR DETERMINATION

The proposal of September 3, 1975, involved a relatively large area which corresponded roughly to the overall range of the Mississippi sandhill crane. The same area had been determined to be Critical Habitat in an emergency rulemaking published on June 30, 1975 (40 FR 27501–27502). The area delineated below in the final determination of Critical Habitat represents a considerable reduction. The decision to make this reduction was based on a more thorough assessment of available biological data, particularly that provided by the Mississippi Sandhill Crane Recovery Team. After reviewing this information, it became apparent that much of the land area in the original proposal is of little or no known use to the crane. There are winter feeding sites in farmland to the north of the Critical Habitat zones delineated below, but these sites are scattered over a large area, and their use by the cranes varies with the crops and other factors. Nonetheless, all Federal agencies should be aware of the presence of the feeding sites and other areas of sporadic, but possibly important use within the overall zone originally proposed in the FEDERAL REGISTER of September 3, 1975, as described above and bounded by the following coordinates: 30°33′ N 88°37′ W, 30°25′ N 88°37′ W, 30°22′ N 88°44′ W, 30°29′ N 88°51′ W, 30°33′ N 88°51′ W. Federal agencies are required by Section 7 of the Endangered Species Act of 1973 to insure that their actions do not jeopardize the continued existence of Endangered species, and this requirement should be considered with respect to any actions within or near the area delineated above.

The Critical Habitat areas delineated below include all known breeding, summer feeding, and roosting sites of the Mississippi sandhill crane. Also included are the flight paths connecting the more important sites. At present these areas are the only ones that can be said with certainty to be necessary for the survival and recovery of the crane, and that can be specifically delineated as Critical Habitat. Should more precise information become available regarding other sites within the originally proposed zone, or should range expansions or reintroductions of the crane occur, the recognized Critical Habitat could be increased.

EFFECTS OF THE RULEMAKING

Most of the persons who commented on the proposal apparently were confused regarding the meaning and implications of a Critical Habitat designation. For example, many persons expressed concern that the designation would automatically halt or greatly restrict all human activities and development within the entire designated area. Many

seemed to think that Section 7 provisions would apply to the actions of all parties, not just Federal agencies. Perhaps most unfortunately, many persons apparently thought that the Fish and Wildlife Service could arbitrarily determine or not determine, enlarge or reduce a Critical Habitat area based on non-biological factors.

It should be realized that Critical Habitat is not created by a government agency; it already exists in nature, and in most cases has existed for countless centuries. All species of wildlife have their own Critical Habitat, a term which has been interpreted (40 FR 17764 as meaning habitat necessary to the normal needs or survival of a species. Although such habitat does exist, its precise location and perimeters are not generally known to the public and government agencies. The function of the Fish and Wildlife Service is to biologically delineate such habitat, with easily identified boundaries, so that other Federal agencies may conveniently refer to this information in following their responsibilities under Section 7. Although disagreements may arise regarding what habitat is actually necessary for a species, or how to most accurately delineate an area, the final determination must express a consensus of the best biological information that is available.

A Critical Habitat designation points out specific areas within the United States where Federal agencies may have to assess their actions relative to possible effects on Endangered species. This requirement itself is the only direct meaning of a Critical Habitat determination. No specific kinds of actions would be affected, regardless of the extent of the Critical Habitat, unless such actions actually could be considered detrimental to the species involved. For more information, please contact the "Proposed Provisions for Interagency Cooperation" in the FEDERAL REGISTER of January 26, 1977.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species in Washington, D.C. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

FINAL RULEMAKING

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Mississippi sandhill crane. The Director also has considered other information received by the Service, both prior to and subsequent to the publication of the proposed Critical Habitat determination in the FEDERAL REGISTER of September 3, 1975. Based on this review, the areas delineated below are determined to be Critical Habitat for the Mississippi sandhill crane.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. Ronald M. Nowak, Office of Endangered Species.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 29, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, § 17.95(b), Part 17, Subpart I, Title 50 of the Code of Federal Regulations is amended by adding the following Critical Habitat description after the Critical Habitat description for the American peregrine falcon.

Subpart I—Interagency Cooperation

§ 17.95 Critical Habitat—Fish and Wildlife.

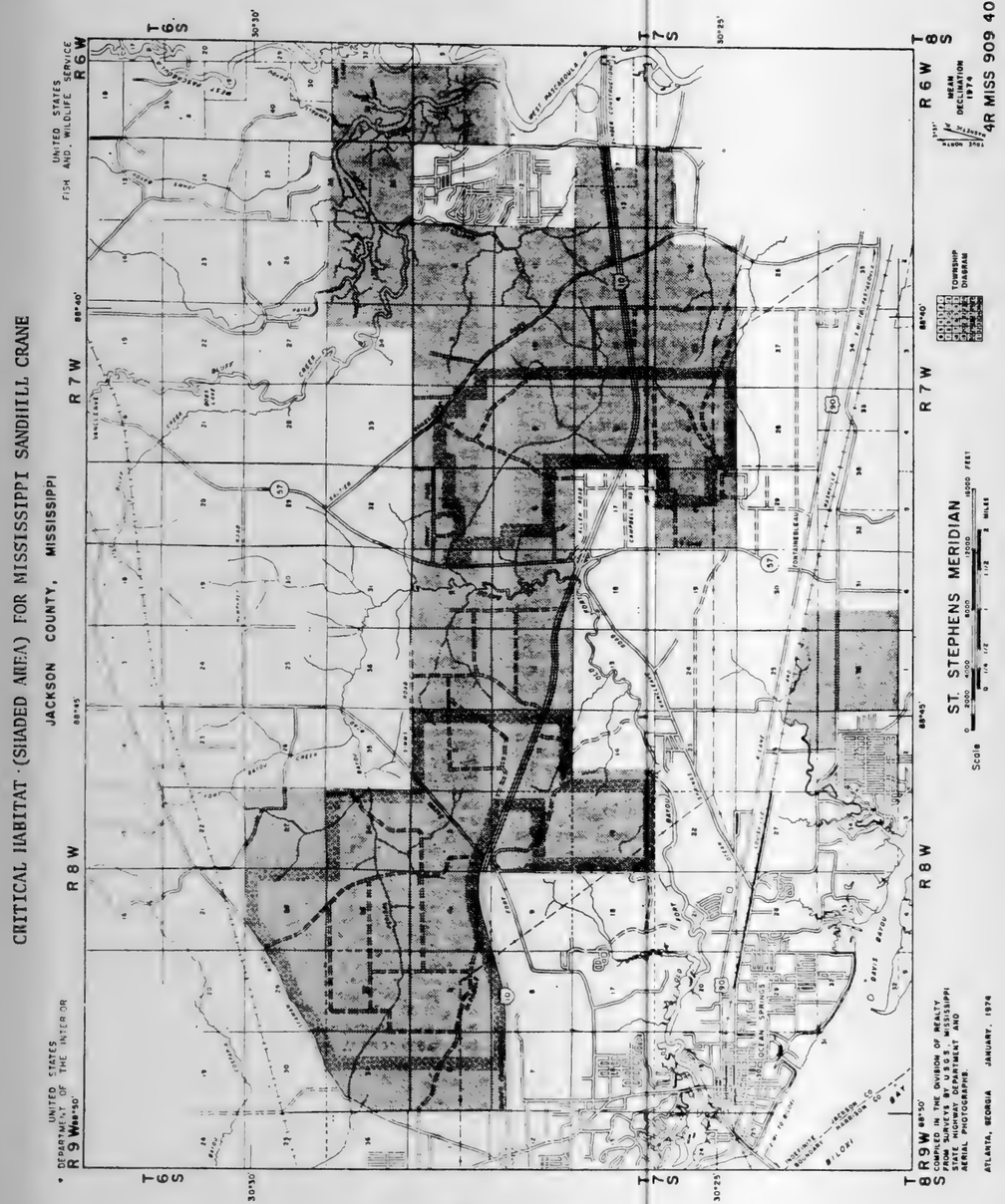
* * * * *

(b) Birds.

* * * * *

Mississippi Sandhill Crane (*Grus canadensis pulla*).

MISSISSIPPI. Areas of land, water, and airspace in Jackson County, with the following components (St. Stephens Base Meridian): T6S R6W Sec. 31; T6S R7W E½ of E½ Sec. 34, Sec. 35–36, S½ Sec. 38; T6S R8W Sec. 27, those portions of Sec. 28–31 south of Seaman Road, Sec. 32–34; T7S R6W N½ of N½ Sec. 3, Sec. 6; T7S R7W Sec. 2–11, Sec. 13–16, Sec. 20–22, W½ Sec. 23, W½ of E½ Sec. 23, NE¼ of NE¼ Sec. 23, N½ of N½ Sec. 24, that portion of the SW¼ of SW¼ Sec. 30 south of the Louisville and Nashville Railroad, W½ of W½ Sec. 31, W½ Sec. 37, that portion of the E½ Sec. 37 north of U.S. Interstate Highway 10; T7S R8W Sec. 1–3, that portion of Sec. 4 north of U.S. Interstate Highway 10, Sec. 5–6, those portions of Sec. 7–8 north of U.S. Interstate Highway 10, Sec. 10–12, W½ of W½ Sec. 14, Sec. 15, that portion of Sec. 25 south of the Louisville and Nashville Railroad, that portion of the SE¼ of Sec. 26 south of the Louisville and Nashville Railroad and southeast of Davis Bayou, N½ of NE¼ Sec. 35, Sec. 36.



[FR Doc.77-22722 Filed 8-5-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Extension of Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes an amendment which would extend the current minimum grade, size, and container requirements for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett variety pears through July 31, 1978. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

DATES: Comments must be received on or before August 23, 1977. Proposed effective dates: September 1, 1977, through July 31, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Pear Regulation 7 (42 FR 35973) currently in effect requires that shipments of fresh pears meet certain grade, size, and container requirements through August 31, 1977. This proposed amendment would continue these requirements for the period September 1, 1977, through July 31, 1978, as recommended by the Pear Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917). This marketing agreement and order regulates the handling of fresh pears, plums, and peaches grown in California, and is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Fresh shipments of California Bartlett pears from the 1977 crop have been estimated at 4,210 carlots by the Pear Commodity Committee, as compared with 4,159 carlots shipped in 1976, and 3,819 carlots shipped in 1975. Shipments of pears from the production area are currently underway.

The grade and size requirements are designed to permit shipment of ample supplies of fruit of acceptable grades and sizes in the interest of both growers and consumers. The container requirements are necessary to assure that the fruit contained therein is protected during transit, and that containers are properly marked as to variety. The proposed amendment is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

The proposal is that § 917.445 Pear Regulation 7 (42 FR 35937) be amended to read as follows:

§ 917.445 Pear Regulation 7.

(a) During the period September 1, 1977, through July 31, 1978, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 85 percent by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 150: *Provided*, That a handler may ship, during any day from any shipping point, a quantity of such pears which are smaller then the size known commercially as size 150 if (i) such smaller pears are not smaller than the size known commercially as size 165, and (ii) the quantity of such smaller pears shipped from such shipping point does not, at the end of any day during the aforesaid period, exceed 5.263 percent of such handler's total shipments of such pears, shipped from the same shipping point, which are not smaller than the size known commercially as size 150;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety; and

(4) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) there is an approved top pad in each carton that will cover the fruit with no more than ¼ inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom: *Provided*, That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 150" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 150 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 39 pears.

(3) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 165 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 43 pears.

(4) "Standard pear box" means the container so designated in Section 1380.9 of the Regulations of the California Department of Food and Agriculture.

(5) "U.S. No. 1", "U.S. Combination" and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (Summer and Fall) 7 CFR 51.1260–51.1280.

(6) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

Dated: August 3, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-22781 Filed 8-5-77;8:45 am]

[7 CFR Part 929]

HANDLING OF CRANBERRIES GROWN IN CERTAIN STATES

Allotment Transfers and Disposition of Growers Annual Allotment Certificate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish procedures governing the transfer of

unused allotment and cranberries among growers and the disposition of each grower's annual allotment certificate. The proposal is designed to keep the Cranberry Marketing Committee informed of transfers in connection with filing deficiencies in allotment or cranberries and to enable the committee to check compliance with regulations applicable to handlers of cranberries.

DATE: Comments must be received on or before August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 929.101 et seq.) currently in effect pursuant to the applicable provisions of the amended marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal to amend said rules and regulations was recommended by the Cranberry Marketing Committee established under the order as the agency to administer the terms and provisions thereof.

Section 929.49(c) of the order specifies, in part, that as a condition to a transfer of allotment or cranberries each grower or handler shall furnish a full report to the committee, including the names of the parties, the quantity involved in the transaction and other necessary information. This proposal would establish the procedure by which such information shall be furnished to the committee. The proposal is designed to keep the committee informed of transfers in connection with filling deficits in allotment or cranberries and to enable the committee to ascertain that no handler has handled cranberries in excess of a grower's annual allotment and any transferred allotment.

The proposal is to add a new section reading as follows:

§ 929.151 Allotment transfers and disposition of the Growers Annual Allotment Certificate.

(a) Growers who transfer or receive the transfer of cranberries or allotment to fill deficiencies pursuant to § 929.49(c) shall report the details of such transfer to the committee on CMC forms T3 through T6, as applicable, within 10 days of the effective date of such transfer.

(b) Growers may enter into an agreement with a handler or handlers as to the disposition of the grower's annual allotment. The terms of the agreement shall be contained on CMC form T7 or a similarly executed agreement acceptable to the committee, and shall include the following:

(i) The quantity of allotment available to the handler for transfer;

(ii) The effective date of the agreement; and

(iii) The signature of the grower and the handler or their authorized representatives.

Any transfer effected by the handler pursuant to this agreement shall be documented on committee forms and submitted to the committee within 10 days of the effective date of such transfer.

(c) Each grower shall submit to the committee his annual allotment certificate within 10 days following the completion of his harvest: *Provided*, That each grower may authorize a handler to submit the annual allotment certificate to the committee. Notification that the handler agrees to perform this service shall be provided to the committee and the terms of the agreement shall be contained on CMC for T7 or similarly executed agreement acceptable to the committee. Each handler shall submit the allotment certificate to the committee by January 15 of each year. Each allotment certificate submitted by the grower or his authorized handler shall show quantities of cranberries purchased by handlers and the dates on which such purchases were made. Each certificate shall be signed by the handler and indicate the date on which any transfers were submitted to the committee.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same, in duplicate, with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than August 23, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 3, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agriculture Marketing Service.

[FR Doc.77-22782 Filed 8-5-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

MANDATORY PETROLEUM ALLOCATION REGULATIONS

Proposed Amendments Clarifying Entitlements Treatment of Exchanges for the Strategic Petroleum Reserve

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) proposes to adopt amendments to the domestic crude oil allocation (entitlements) program to clarify the entitlements treatment of exchanges or matching purchase and sales transactions which the Federal Government enters into in connection with the acquisition of crude oil for storage in the Strategic Petroleum Reserve (SPR). The proposed amendments would provide that refiners or firms other than refiners which enter into exchanges or matching purchase and sales transactions with the Federal Government for the delivery of crude oil for storage in the SPR would not earn entitlements for the delivery of that crude oil. In such cases, the entitlements would be earned by the refiner or other firm from which the Federal Government purchases crude oil for purposes of satisfying its obligation pursuant to the exchange or matching purchase and sale transaction.

DATES: Comments by August 18, 1977, 4:30 p.m.; Requests to speak by August 11, 1977, 4:30 p.m.; Hearing date: August 18, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OL, Washington, D.C. 20461; Hearing Location: 12th and Pennsylvania Avenue, NW., Room 3000B, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202–566–9161.

Allen Hoffard (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Michael E. Carosella (SPR Program Office), 1726 M Street NW., Room 330, Washington, D.C. 20461, 202–634–5500.

Douglas McIver (Entitlements Program Office), 2000 M Street NW., Room 6128I, Washington, D.C. 20461, 202–254–8660.

Michael Paige or Fred Wolgel (Office of General Counsel), 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–9565 (Paige); 202–566–2454 (Wolgel).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On April 25, 1977, FEA adopted amendments to the entitlements program which provide that any refiner or firm other than a refiner that sells imported crude oil to the United States Government for storage in the SPR shall receive entitlement issuances for those volumes delivered and accepted by the United States Government for storage in the SPR (42 FR 21761, April 29, 1977). The value of the entitlement benefits received by refiners or other firms for SPR sales serves to reduce the Government's payment obligation for the imported crude oil purchased by the amount of the benefits earned. Refiners obtain entitlement issuances for SPR sales by adjusting the volume of their crude oil runs to stills to include the actual volumes of imported crude oil delivered to and accepted for delivery by the United States Government for storage in the SPR in the month following the month in which delivery was made to the Government. Firms other than refiners receive entitlement issuances for sales of imported crude oil to the Federal Government on the same basis as is provided for refiners.

Concurrently with the April 25, 1977, final rule, FEA issued a notice of proposed rulemaking setting forth conforming amendments to the Mandatory Petroleum Price Regulations, 10 CFR Part 212, for sales of crude oil to the SPR, and solicited further comments on the issues pertaining to the modification to the entitlements program for sales of domestic crude oil for the SPR (42 FR 21789, April 29, 1977). On May 27, 1977, FEA issued the conforming amendments to the price regulations to provide for sales of both domestic and imported crude oil to the SPR (42 FR 27908, June 1, 1977). FEA is currently evaluating the comments received with respect to modification of the entitlements program to permit purchases of domestic crude oil for the SPR.

Title I, Part B of the Energy Policy and Conservation Act, Pub. L. 94–163 (EPCA) requires FEA to acquire up to one billion barrels of crude oil and refined petroleum products for storage in the SPR. The first amendment to the SPR Plan, effective June 20, 1977, requires FEA to store 250 million barrels of crude oil in the SPR by December 22, 1978. To meet this goal, FEA has already commenced crude oil acquisition activities.

Section 160 of the EPCA permits the Administrator of FEA to acquire crude oil for the SPR by "purchase, *exchange* or otherwise" (emphasis added). In order to obtain deliveries of imported crude oil for the SPR as efficiently and inexpensively as possible, it has become necessary to enter into exchange agreements or matching purchase and sales transactions with refiners or other firms. For example, because the Federal Government will make use of commercial terminals to receive shipments of imported crude oil for the SPR, if a SPR shipment should arrive at the terminal earlier than scheduled, it may be less expensive for the Government to enter into an exchange agreement with regard to the shipment rather than to incur demurrage charges. In such a situation, the Federal Government may prefer to enter into an agreement to exchange the early arriving shipment, purchased from one firm, for a later arriving shipment, title to which is in a second firm. Similarly, if unanticipated opportunities for SPR site fill should develop, crude oil exchanges may offer the best and possibly the only means of taking advantage of such opportunities. In such instances, the Government may find it advisable to accept a shipment of crude oil and agree to subsequently reimburse the supplier in kind. Because of scheduling and delivery difficulties such as those described above, such exchanges are necessary in order to facilitate the acquisition of crude oil for the SPR.

When the Federal Government enters into an exchange agreement with a refiner or other firm, the Government must purchase an approximately equal volume of crude oil from another firm for delivery to the first firm pursuant to its obligation under the exchange. Because the first firm actually delivers crude oil to the Government, there has been uncertainty among refiners and other firms as to which firm would receive entitlement issuances for sales of crude oil to the SPR.

II. PROPOSED AMENDMENTS

To clarify the entitlements treatment of exchanges associated with SPR acquisitions, FEA is proposing for public comment in this notice an amendment to § 211.67(d)(6) to provide that a refiner would not earn entitlements for delivery of crude oil to the Federal Government for storage in the SPR, where that delivery is part of an exchange or part of a matching purchase and sale transaction which has the same effect as such an exchange. In such cases, the entitlements would be earned by the refiner or other firm from which the Government purchases crude oil for purposes of satisfying its obligation pursuant to the exchange or matching purchase and sale transaction. The entitlement issuances to such refiner or other firm would be on the same basis as those with respect to refiners or other firms from which imported crude oil is acquired for storage in the SPR. Section 211.67(d)(7) also would be amended to provide the same entitlements treatment for firms other than refiners that enter into exchange agreements or matching purchase and sales transactions with the Federal Government. The proposed amendments would not affect the treatment of crude oil exchanges or matching purchase and sales transactions under § 211.67(g).

An example of the application of the proposed amendments is as follows: The Government will contract to receive barrels of crude oil delivered to the SPR in the month of July from firm A, in exchange for which the Government will deliver 100 barrels of crude oil to firm A in September. In September, the Federal Government purchases 100 barrels of crude oil from firm B to be delivered to firm A and thus fulfill the Government's obligation under the exchange agreement. Under the amendments proposed today, firm B would earn entitlements for delivering 100 barrels of crude oil to the Government for redelivery to firm A on the same basis as if the imported crude oil were delivered to the Federal Government for storage in the SPR. Thus, firm B's September sale to the Government would be reported in October as an adjustment to firm B's August crude oil runs to stills.

III. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURE

A. WRITTEN COMMENTS

Interested persons are invited to submit data, views or arguments with respect to these proposed amendments to Executive Communications, FEA, Box OL, Washington, D.C. 20461. Comments should be identified on the outside envelope and on the document with the designation "Clarifying Amendmens on Entitlements Treatment of Exchanges for the Strategic Petroleum Reserve." Fifteen copies should be submitted. All comments received by 4:30 p.m., e.s.t., August 18, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Request Procedure.* A public hearing on the subject matter of this notice will be held at the time and place indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in the proposed amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, may make a written request for an opportunity to make oral presentation. Requests to testify at the public hearing should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., August 11, 1977. Such requests may be hand delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.s.t., August 15, 1977 and must submit 50 copies of his or her statement to Executive Communications Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C., before 4:30 p.m., e.s.t., on August 17, 1977.

2. *Conduct of the Hearing.* The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of

each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be the subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications, FEA, Box OL before 4:30 p.m., e.s.t., August 16, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this proposal has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 3, 1977.

ERIC J. FYGI,
Acting General Counsel.

Section 211.67 is amended by adding the following at the ends of the first sentences of subparagraphs (6) and (7) of paragraph (d):

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(6) * * *; and, *Provided further*, That, is any case where the United States Government acquires imported crude oil for storage in the Strategic Petroleum Reserve pursuant to an exchange or pursuant to a matching purchase and sale transaction which has the same effect as such an exchange, the refiner from which that imported crude oil is acquired for storage in the Strategic Petroleum Reserve shall not be eligible for any entitlement issuances under this subparagraph (6), but a refiner or firm other than a refiner from which the United States Government acquires imported crude oil for purposes of satisfying its obligation pursuant to the aforementioned exchange or matching purchase and sale shall be eligible for entitlement issuances on the same basis as refiners from which imported crude oil is acquired for storage in the Strategic Petroleum Reserve.

(7) * * *; and, *Provided further*, That, in any case where the United States Government acquires imported crude oil for storage in the Strategic Petroleum Reserve pursuant to an exchange or pursuant to a matching purchase and sale transaction which has the same effect as such an exchange, the firm from which that imported crude oil is acquired for storage in the Strategic Petroleum Reserve shall not be eligible for any entitlement issuances under this subparagraph (7), but a refiner or firm other than a refiner from which the United States Government acquires imported crude oil for purposes of satisfying its obligation pursuant to the aforementioned exchange or matching purchase and sale shall be eligible for entitlement issuances on the same basis as refiners from which imported crude oil is acquired for storage in the Strategic Petroleum Reserve.

[FR Doc.77-22771 Filed 8-5-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The proposed amendment (1) authorizes a Licensee to incur reasonably necessary expenditures which, together with its total investment attributable to such assets, may not exceed 20 percent of its Private Capital ("overline limit"), to maintain, preserve, or (subject to prior SBA approval) make improvements designed to render assets in liquidation saleable, pending disposition, and (2) in addition to the foregoing, permits require expenditures to be made for prior mortgage interest and principal payments, taxes, and necessary insurance coverage allocable to such assets in an aggregate amount which, together with Licensee's total investment attributable thereto, does not exceed 35 percent of its Private Capital.

Where additional Financing is provided to a Portfolio concern over which temporary Control has been taken to protect a Licensee's original investment, the proposed amendment would require the plan of divestiture already approved by SBA to be resubmitted only where it requires significant changes.

It is further proposed that the existing requirement that Licensees maintain fidelity insurance in the minimum amount of $25,000 be rescinded.

DATES: Comments must be received on on before September 7, 1977, in triplicate, by the Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, telephone 202-653-6584.

Notice is hereby given that pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, it is proposed to amend, as set forth below, §§ 107.810, 107.901(f), and 107.1104 of Part 107, Chapter I, Title 13 of the Code of Federal Regulations.

1. Section 107.810 would be amended to read as follows:

§ 107.810 Assets in liquidation.

(a) A Licensee shall dispose of assets acquired in total or partial liquidation of a Portfolio asset, within a reasonable period of time.

(b) (1) A Licensee may incur reasonably necessary expenditures for maintenance and preservation of such assets, and

(2) A Licensee may, subject to prior written SBA approval, incur reasonably necessary expenditures for improvements to render such assets saleable: *Provided, however*, That aggregate expenditures made pursuant to paragraphs (a) and (b) of this section plus Licensee's total investment attributable to such assets, shall not exceed its overline limit under § 107.301(d), except as specifically approved in writing by SBA.

(3) In addition to the amounts authorized by paragraphs (a) and (b) of this section, a Licensee may make the following required expenditures allocable to such assets in an aggregate amount which, together with its total investment attributable thereto, and its expenditures pursuant to paragraphs (a) and (b) of this section do not exceed 35 percent of its Private Capital, except as specifically approved by writing by SBA: (i) Prior mortgage interest and principal payments, (ii) taxes and (iii) necessary insurance coverage.

(c) Application for SBA approval under paragraphs (b)(2) and (b)(3) of this section shall specify all expenses estimated to be necessary pending disposal of the assets.

2. Section 107.901(f) would be amended to read as follows:

§ 107.901 Control of small concern.

* * * * *

(f) A Licensee which has assumed Control of a Small Concern may later provide additional Financing, without an exemption under § 107.1004(b)(1), and shall within 30 days resubmit its divestiture plan for SBA approval only where the additional Financing requires significant changes in such SBA-approved plan on file in order to effect divestiture of Control.

3. Section 107.1104 (Fidelity insurance) would be repealed:

§ 107.1104 [Reserved]

APPENDIX—[AMENDED]

4. Subdivision X of Appendix A—Audit Guide for Small Business Investment Companies, dealing with fidelity bonds, would be rescinded.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 1, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-22790 Filed 8-5-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-NE-13]

CONTROL ZONE AND TRANSITION AREA [1]

Alteration of Control Zone and 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the description of the control zone and 700-foot transition area at Burlington International Airport, Burlington, Vermont. This alteration is needed to provide controlled airspace for aircraft executing revised VOR and radar standard instrument approach procedures to Runway 1 at the airport. This action will enlarge the control zone and transition area.

DATE: Comments must be received on or before September 2, 1977.

ADDRESSES: Send comments in triplicate to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7; Attention: Rules Docket Clerk, Docket No. 77-NE-13, 12 New England Executive Park, Burlington, Massachusetts 01803.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617-273-7285.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 77-NE-13, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 2, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amending Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR PART 71) to alter the description of the Burlington, Vermont, control zone and 700-foot transition area serving the Burlington International Airport, Burlington, Vermont. This alteration will provide controlled airspace for aircraft executing revised VOR and radar standard instrument approach procedures to Runway 1 at the Burlington International Airport, Burlington, Vermont. The intended effect of this action is to insure separation of aircraft using these approach procedures in instrument weather conditions, and other aircraft operating under visual conditions. The alteration would be reflected on appropriate aeronautical charts and maps.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations as follows:

1. In § 71.171 of Part 71 (42 FR 440), the following control zone is amended to read as follows:

§ 71.171 [Amended]

BURLINGTON, VERMONT, CONTROL ZONE

"Within a 7-mile radius of the center, (lat. 44°28'17" N., long. 73°19'13" W), of Burlington International Airport, Burlington, Vermont; within 2.5 miles each side of Runway 33, extending from the 7-mile radius zone to 8 miles southeast of the runway end; within 3 miles each side of the Burlington, Vermont VORTAC 201° radial, extending from the 7-mile radius zone to 8.5 miles southwest of the VORTAC."

2. In § 71.181 of Part 71 (42 FR 440), the following 700-foot transition area is amended to read as follows:

§ 71.181 [Amended]

BURLINGTON, VERMONT, 700-FOOT TRANSITION AREA

"That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, (lat. 44°28'17" N., long. 73°19'13" W), of Burlington International Airport, Burlington, Vermont; within 9.5 miles northeast and 4.5 miles southwest of the Burlington ILS northwest localizer course, extending from the 14-mile radius area to 18.5 miles northwest of the Burlington LOM; within 3.5 miles each side of the Burlington, Vermont VORTAC 201° radial, extending from the 14-mile radius area to 12 miles southwest of the VORTAC; excluding that airspace that coincides with Plattsburgh, New York and Highgate, Vermont transition areas."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

[1] Map filed as part of original.

Issued in Burlington, Massachusetts, on July 22, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.77-22697 Filed 8-5-77;8:45 am]

[14 CFR Part 71]

[Docket No. 77-SO-32]

TRANSITION AREA, COLUMBIA, MISSISSIPPI

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Columbia-Marion County, Mississippi, Airport, and additional controlled airspace is required for containment of IFR operations. This proposed rule will designate the Columbia, Mississippi, transition area and will lower the base of controlled airspace in the vicinity of the airport from 1200 to 700 feet to accommodate the anticipated IFR operations.

DATES: Comments must be received on or before: September 6, 1977.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. Telephone 404-763-7947.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 6, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Columbia, Mississippi, 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Columbia-Marion County Airport. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

COLUMBIA, MISSISSIPPI

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Columbia-Marion County Airport (Lat. 31°17'45" N., Long. 89°48'50" W.)

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on July 28, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-22489 Filed 8-5-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-19]

TRANSITION AREA, FORT HUACHUCA, ARIZONA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Fort Huachuca, Arizona, 700 foot transition area. This proposal is necessary in order to provide controlled airspace for radar vector procedures north of Fort Huachuca, Arizona.

DATES: Comments must be received on or before August 31, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone: 213 536-6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 31, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to Federal Aviation Administration, Chief, Airspace and Aviation Boulevard, Lawndale, Califor- Procedures Branch, AWE-530, 1500 nia 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSALS

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot transition area at Fort Huachuca, Arizona. The present 700 foot transition area was found to be inadequate to provide controlled airspace for radar vector procedures north of Fort Huachuca.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

FORT HUACHUCA, ARIZONA

Following "* * * extending clockwise from a line 5 miles * * *"; delete "* * * northwest of and parallel to the 033° radial * * *" and substitute therein: * * * "west of and parallel to the 357° radial" * * *

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on July 20, 1977.

FRANK HAPPY,
Acting Deputy Director,
Western Region.

[FR Doc.77-22490 Filed 8-5-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 441]

MOBILE HOME SALES AND SERVICE

Modification of Designated Issues Concerning Proposed Trade Regulation Rules; Extension of Time for Comments; Deadline for Notifications of Interest

Correction

In FR Doc. 77-21727, appearing at page 38390, in the issue of Thursday, July 28, 1977, make the following changes:

On page 39391, in the second column: (1) In the second paragraph, which begins with the number "22", in the fourth line, the word "arisoing" should read "arising"; (2) in the third paragraph, which begins with the number "23", in the fourth line, the word "or" should read "of"; (3) in the sixth paragraph, which begins with the number "18", in the last line, the word "two" should read "tow".

On page 38392, in the first column, in the fifth paragraph which begins with the number "10", the sentence should end with a question mark. On the same page, in the second column, the second paragraph, number "13(b)", in the fourth line, the word "mantain" should read "maintain".

[16 CFR Parts 801, 802 and 803]

HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

Correction

In FR Doc. 77-21767 appearing on page 39040 in the issue for Monday, August 1, 1977, on page 39041 in the 3rd column, the 17th and the last entries in the table should be corrected to read as follows:

As originally proposed. Section:	As revised, section
* * * * *	
802.25	802.32
* * * * *	
803.35	803.11

On page 39043, in the first column, the 18th line should read, "* * * such acquisitions may, if consumated, * * *".

On page 39046, in the 2nd column, the 3rd paragraph, the 15th line should read, "* * * exemptions do not apply. These broad * * *".

On page 39048, in paragraph (2), the 5th line "* * * (foun-)dation, fund, institution, society, union, * * *".

On page 39051, the "Example" which appears in § 801.21 should be deleted and included in § 801.20.

On page 39053, § 802.22 (b)(1) should read:

§ 802.22 Acquisitions of voting securities recrossing same notification threshold.

* * * * *

(b) * * *

(1) The acquiring person and all other persons required by this section and these rules to file notification previously filed notification with respect to an earlier acquisition of voting securities of the same issuer;

Also, on page 39053 in the "Example" appearing after § 802.22 (b)(3), that portion beginning with the 6th line should read:

"* * * level. Thus, if in example No. 1 to § 802.21, A had disposed of some voting securities so that it held less than 15% and $15 million of the voting securities of B, * * *"

On page 39054, § 802.51 (a)(1) should read:

§ 802.51 Acquisitions involving only foreign persons.

(a) * * *

(1) The aggregate annual sales of the acquiring and acquired persons in or into the United States or the aggregate total assets of the acquiring and acquired persons located in the United States (other than assets held solely for investment purposes) exceeded $100 million; and

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Payment Under Medicare for Items and Services Rendered by Indian Health Service Hospitals and Skilled Nursing Facilities and by Certain Veterans' Administration Hospitals

AGENCY: Health Care Financing Administration, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed amendments would revise the Medicare regulations to permit payment for items and services rendered Medicare patients by hospitals and skilled nursing facilities of the Indian Health Service (IHS) and by certain Veterans' Administration (VA) hospitals. With certain exceptions, IHS hospitals and skilled nursing facilities and VA hospitals were previously excluded from receiving Medicare payments under the general prohibition against Medicare payments to Federal providers.

The amendments incorporate the provisions of section 401 of the Indian Health Care Improvement Act (Pub. L. 94-437) and section 115(a) of the Veterans Omnibus Health Care Act (Pub. L. 94-581) into the regulations. For IHS facilities the change will permit them to receive Medicare reimbursement for services to Medicare beneficiaries and use that reimbursement to improve their facilities. For VA hospitals and the non-VA hospitals with which VA hospitals have agreements to treat certain types of patients, the change will permit extension by the Medicare program of coverage to a wider range of those services furnished in VA hospitals than previously permitted.

DATES: Consideration will be given to written comments or suggestions received on or before September 22, 1977.

When commenting please refer to BHI-1-P.

Agencies and organizations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5225 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Russell, Bureau of Health Insurance, Health Care Financing Administration, Telephone 301-594-8260.

SUPPLEMENTARY INFORMATION: The proposed amendments incorporate into the Medicare regulations provisions of section 401 of Pub. L. 94-437 (the Indian Health Care Improvement Act) and section 115(a) of Pub. L. 94-581 (the Veterans Omnibus Health Care Act).

The Medicare law (title XVIII of the Social Security Act (42 U.S.C. 1395)) generally prohibits payment (other than for emergency services) (1) to any Federal provider of services except providers which have been determined to be providing services to the general public as community institutions or agencies, (2) to any provider of services for items or

services which the provider is obligated under a law of the United States or contract with the United States to render at public expense, and (3) for items or services which are paid for directly or indirectly by a governmental entity. Therefore, prior to enactment of Pub. L. 94–437, payment could not be made under Medicare for services (other than for emergency services) rendered by Indian Health Service (IHS) hospitals and skilled nursing facilities (SNF's) except in the case of certain hospitals in Alaska that had been determined to be serving the general public as community institutions. Likewise, prior to the enactment of Pub. L. 94–581, payment could not be made under Medicare for services (other than for emergency services) rendered by Veterans' Administration (VA) hospitals except for the treatment of end-stage renal disease by certain VA hospitals that were determined to be serving the general public as community institutions for purposes of end-stage renal disease treatment only. The exception for end-stage renal disease treatment was pursuant to a Memorandum of Understanding between the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare.

Section 401 of Pub. L. 94–437 (which amended 42 U.S.C. 1395f and 1395n and added 1395qq), by permitting payment to be made for services rendered Indians by IHS hospitals and SNF's, notwithstanding their status as Federal providers, eliminates a technical impediment to participation in Medicare by IHS facilities. Medicare payments would be made to IHS hospitals and SNF's under this amendment, whether or not the Medicare beneficiary who receives the services would otherwise be entitled to free care from the IHS.

Section 115(a) of Pub. L. 94–581 (which amended 38 U.S.C. 5053(d)), by permitting Medicare payment to certain VA hospitals and non-VA hospitals with which they have agreements to share facilities, makes it possible to extend Medicare coverage of services rendered in VA hospitals to services other than end-stage renal disease services. At the same time this will encourage the sharing of scarce medical resources between VA and non-VA health care facilities. The amendments would require that the non-VA hospital be participating in the Medicare program and that the Medicare beneficiary treated in the VA hospital not be a veteran eligible for care from the VA.

The proposed amendments are to be issued under the authority contained in sections 1102, 1814 (c) and (d), 1835(d), 1862(a)(3), 1871, and 1880 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 303, as amended, 79 Stat. 325, as amended, 79 Stat. 331; 90 Stat. 1408, 42 U.S.C. 1302, 1395f (c) and (d), 1395n(d), 1395y (a)(3), 1395hh, 1395qq; Pub. L. 94–581, 90 Stat. 2842.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: June 6, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: July 30, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 405.101 is amended by revising the material in paragraph (a) which precedes paragraph (a) (1) to read as follows:

§ 405.101 Hospital insurance benefits; general.

(a) An individual who meets the conditions for entitlement to hospital insurance benefits provided under Part A of title XVIII of the Act is eligible to have payment made on his behalf, or to him (for certain hospital services), subject to the conditions, limitations, and exclusions set out in this part and in the Act, for:

* * * * *

2. Sections 405.154 and 405.155 are revoked and reserved.

§ 405.154 [Reserved]

§ 405.155 [Reserved]

3. Section 405.252 is amended by revising the material preceding paragraph (a) and by revoking and reserving paragraphs (b) and (c) to read as follows:

§ 405.252 Conditions prohibiting payment of benefits.

In addition to any other limitation, condition, or exclusion set out in this part or in the Act, payment of supplementary medical insurance benefits may not be made under the following circumstances:

* * * * *

(b) [Reserved]
(c) [Reserved]

* * * * *

4. Sections 405.311a and 405.311b are added to read as follows:

§ 405.311a Nonreimbursable expenses; items or services furnished by a Federal provider of services or other Federal agency.

(a) Payment may not be made under title XVIII of the Act for expenses incurred for any items or services that are furnished by a Federal provider of services or other Federal agency, except that:

(1) Payment may be made for emergency hospital services where the conditions in § 405.152 or § 405.249 are met;

(2) Payment may be made to a participating Federal provider which has been determined to be providing services to the public generally as a community institution or agency; and

(3) Payment may be made to participating hospitals and skilled nursing facilities of the Indian Health Service, notwithstanding § 405.311.

(b) For purpose of paragraph (a) (2) of this section, Veterans' Administration (VA) hospitals which have contracts or agreements with participating non-VA hospitals pursuant to 38 U.S.C. 5053(d) are considered community institutions with respect to items and services furnished pursuant to those contracts or agreements. Payment may be made, in accordance with such contracts or agreements either to the VA hospital or to the non-VA hospital, for items and services furnished to individuals who are not veterans eligible for care from the Veterans' Administration.

§ 405.311b Nonreimbursable expenses; items or services which a provider or other person is obligated to furnish at public expense under a law of, or contract with, the United States.

Payment may not be made to any provider of services or other person (except a hospital or skilled nursing facility of the Indian Health Service) for items or services which such provider or person is obligated by a law of, or contract with, the United States to furnish at public expense.

5. Section 405.312 is amended by revising paragraph (e) to read as follows:

§ 405.312 Nonreimbursable expenses; items or services paid for by governmental entity.

* * * * *

(e) Payment may be made to participating hospitals and skilled nursing facilities of the Indian Health Service in accordance with §§ 405.311a and 405.311b.

* * * * *

[FR Doc.77–22788 Filed 8–5–77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301, 404]

[LR–295–76]

INCOME TAX RETURN PREPARERS

Public Hearing on Proposed Regulations

On page iii of the issue of Wednesday, August 3, 1977, under Highlights, in the last line of the eighth entry, the date was incorrect. For the convenience of the reader, the Highlight entry is being reprinted in its entirety:

INCOME TAX

Treasury/IRS proposes regulations relating to persons who prepare for compensation income tax returns and claims for refunds and announces public hearing on proposed regulations (2 documents); comments by 9–2–77; public hearing on 9–19–77..... **39227, 39233**

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 70a]

PROTECTION OF INDIVIDUAL PRIVACY RECORDS

Proposed Amendment of Rules

AGENCY: Office of the Secretary, Labor Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Department of Labor regulations on privacy to correct or clarify systems of records which are exempted under section 3 (j) and (k) of the Privacy Act and to add exemptions for three new systems of records.

DATE: Comments may be submitted until September 7, 1977.

ADDRESS: Send comments to Mr. Seth Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Room N2428, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Sofia P. Petters (202–523–8065).

SUPPLEMENTARY INFORMATION: In FR Doc. 77–2873, published in the FEDERAL REGISTER (42 FR 6105) of February 1, 1977, the Department of Labor published a notice of adopted rulemaking. Notice is hereby given that the Secretary of Labor proposes to amend 29 CFR Part 70a by amending the exemption rule for systems of records identified as:

DOL–LMSA–1: LMSA index cards and case files.
LMSA–4: PWBP—Division of Enforcement and Special Investigation Staff: Case files.
LMSA–16: Investigatory files—Special Investigation Staff.
OASAM–3: General investigation file.

In the published notice for the exemption of DOL/LMSA–1, certain lines were omitted as were the notices for exemptions for DOL/LMSA–4 and 16. Further, in order to avoid possible confusion, the Secretary proposes to amend the rules by publishing the systems notice for the general exemptions under sec. 3(j) separately from those of the specific exemptions under sec. (k). The Secretary also proposes to amend the exemption rule to include three new systems identified as DOL/ETA–18: Analysis of Delayed and Never Filers for Unemployment Insurance, DOL/ETA–19: Impact of Disqualification Provisions of State Unemployment Insurance Laws, and DOL/LMSA–17: Investigatory Files—PWBP, Division of Enforcement. DOL/ETA–18 and 19 are statistical records maintained by contractors, ABT Associates, Inc., Cambridge, Mass., and Stanford Research Institute, Menlo Park, Calif., under a research study contract with the Employment and Training Administration. The purpose of the study is to collect data from state agencies and individuals for the preparation of reports under section 906 of the Social Security Act, to determine the extent of and the reasons for delayed filing or never filing for unemployment benefits, and to determine the impact of the disqualification provisions of state unemployment insurance laws. The records will be used solely for statistical purposes and no information from the system of records will be used in making determinations about identifiable individuals. Personal identifying information will be destroyed after all necessary cross references have been accomplished. The contractors will furnish the Federal agency with statistical information without personal identifiers.

DOL/LMSA–17 is comprised of investigatory files formerly associated with and published as a part of DOL/LMSA–16: Special Investigations File. These records have been segregated and are maintained in two locations under different systems managers. These records have not changed their character as investigatory files and continue to be exempted under subsections (j)(2) and (k)(2) of the Act.

This amendment is proposed under the authority of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a.

Signed at Washington, D.C., this 28th day of July 1977.

RAY MARSHALL,
Secretary of Labor.

Section 70a.13 of Title 29 of the Code of Federal Regulations is amended as follows:

§ 70a.13 Exemptions.

(a) * * *

* * * * *

(5) The Department of Labor has published notice of intention to exempt the following record systems under the general exemption:

(i) DOL/LMSA–1: LMSE Index Cards and Case Files, Division of Enforcement.

(A) *Purpose.* The information contained in the system of records primarily relates to activities carried out under the Labor-Management Reporting and Disclosure Act of 1959 and related statutes and executive orders. Disclosure of information would substantially compromise the effectiveness of the Division's

investigations. Knowledge of such investigations would enable subjects to take action to prevent detection, conceal evidence or escape prosecution. Disclosure of information could lead to the intimidation of, or harm to, informants, witnesses and their families; and could jeopardize the well-being of investigative personnel or their families.

(B) *Exemption.* Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/LMSA-1 is exempted from the provisions of 5 U.S.C. 552a, except for the requirements of subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the Act.

(ii) DOL/LMSA-4: PWBP, Division of Enforcement and Special Investigations Staff Case Files. Criminal Law Enforcement.

(A) *Purpose.* The information contained in the system of records relates to activities under the Welfare and Pension Plan Disclosure Act, Title I of the Employee Retirement Income Security Act of 1974 and related statutes and executive orders. The reasons for the exemption are the same as those set forth in paragraph (a)(5)(i)(A) of this section which are hereby incorporated by reference.

(B) *Exemption.* Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/LMSA-4 is exempted from the provisions (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the Act.

(iii) DOL/LFSA-16: Investigatory Files—Special Investigation Staff; Criminal Law Enforcement.

(A) *Purpose.* The information contained in the system of records relates to activities under the Welfare & Pension Plan Disclosure Act, Title I of the Employee Retirement Income Security Act of 174 and related statutes and executive orders. The reasons for the exemption are the same as those set forth in paragraph (a)(5)(i)(A) of this section which are hereby incorporated by reference.

(B) *Exemption.* Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/LMSA-16 is exempted from the provisions of 5 U.S.C. 552a, except for the requirements of subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the Act.

(iv) DOL/LMSA-17: Investigatory Files—PWBP, Division of Enforcement; Criminal Law Enforcement.

(A) *Purpose.* The information contained in the system of records relates to activities under the Welfare and Pension Plan Disclosure Act and the Employee Retirement Income Security Act of 1974. The reasons for the exemption are the same as those set forth in paragraph (a)(5)(i)(A) of the section which are hereby incorporated by reference.

(B) *Exemption.* Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/LMSA-17 is exempted from the provisions of 5 U.S.C. 552a, except for the requirements of subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the Act.

(v) DOL/OASAM-3: General Investigations File.

(A) *Purpose.* Information contained in the system of records relates to the enforcement of various criminal laws. The reasons for the exemption are the same as those set forth in paragraph (a)(5)(i)(A) of this subsection which are hereby incorporated by reference.

(B) *Exemption.* Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/OASAM-3 is exempted from the provisions of 5 U.S.C. 552a, except for the requirements of subsection (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the Act.

(b) *Special exemptions.*

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(2) * * *

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(iii) * * *

(A) *Purpose.* DOL/ETA-18, Analysis of Delayed and Never Filers for Unemployment Insurance; and DOL/ETA-19, Impact of Disqualification Provisions of State Unemployment Insurance Laws. These systems of records contain personal information furnished by individuals and state unemployment compensation agencies for the purpose of a study required by section 906 of the Social Security Act. The records are maintained by the contractors only until all pertinent cross-references have been completed. Data will be transmitted to the Employment and Training Administration in statistical form only without personal identifiers. The agency will not use the data to make any determinations about individuals. Imposing the procedural requirements of the Privacy Act for access to the records will only impede the progress of the study and will be of no benefit to the individuals involved.

(B) *Exemption.* Under the authority of subsection (k)(4), DOL/ETA-18 and DOL/ETA-10 are exempted from the provisions of subsections (e)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Act.

* * * * *

(d) * * *

* * * * *

(2) OASAM-3, General Investigation File, is exempt under subsections (k)(2), (3), and (5) as material relating to civil law enforcement investigations, including shared information, files maintained in connection with assisting the U.S. Secret Service to provide protective services to government officials, and investigative material compiled to determine the suitability, eligibility and qualifications of DOL contractors. In the first two instances, the material is exempted from the requirements of paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and (f) of the Act. Contract investigations are exempt from the provisions of (c)(3), (d), and (f). Civil Law enforcement material is exempted until such time as a determination is made based upon the information except that information which would reveal the identity of a confidential source will continue to be exempted. Contract information is exempt to the extent that disclosure would reveal the identity of a source when an express pledge of confidentiality has been given or the circumstances indicate that confidentiality has been implied. These exemptions are necessary to preserve the integrity of the investigations and to prevent the intimidation or harassment of informants, witnesses or their families.

(3) LMSA-1, Index Cards, Division of Enforcement, relates to investigations under the Labor-Management Reporting and Disclosure Act and E.O. 11441. In accordance with subsection (k)(2) of the Act, this system is exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). Disclosure of information related to civil law enforcement would enable the subject of the investigation to take action to prevent detection of illegal activities and could lead to the harassment or intimidation of witnesses, informants, or their families or could do harm to the well-being of investigative personnel or their families.

(4) DOL/LMSA-4: PWBP-Division of Enforcement and Special Investigations Staff Case Files, relates to the card index and case files of the Special Investigations Staff of the Division of Enforcement of Pension and Welfare Benefits Programs. In accordance with subsection (k)(2) of the Act, this system is exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). Disclosure of information contained in the civil investigative file would enable subjects of the investigations to take action to prevent detection of illegal activities, conceal evidence or otherwise escape detection or avoid the consequences of violation of the law. Disclosure of information could lead to the harassment or intimidation of witnesses, informants or their families or could do harm to the well-being of investigative personnel or their families.

(5) DOL/LMSA-16: Investigatory Files—Special Investigations Staff, relates to criminal and civil law enforcement investigations under the Welfare & Pension Plans Disclosure Act, E.O. 11441, and title I of the Employee Retirement Income Security Act of 1974. In accordance with the provisions of subsection (k)(2) of the Act, this system is exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). Disclosure of information contained in the files could jeopardize the effectiveness of the investigation and enable the subject of the investigation to take action to prevent detection or otherwise avoid the consequences of violation of the law. Further, disclosure could lead to the intimidation or harassment of witnesses, informants, or their families or could do harm to investigative personnel or their families.

(6) DOL/LMSA-17: Investigatory Files—PWBP, Division of Enforcement, relates to criminal and civil law enforcement investigations under the Welfare and Pension Plans Disclosure Act, E.O. 11441, and title I of the Employee Retirement Income Security Act of 1974. In accordance with the provisions of subsection (k)(2) of the Act, this system is exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). Discosure of information contained in the files could jeopardize the effectiveness of the investigation and enable the subject of the investigation to take action to prevent detection or otherwise avoid the consequences of violation of the law. Further, disclosure could lead to the intimidation or harassment of witnesses, informants, or their families or could do harm to investigative personnel or their families.

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[FR Doc.77-22598 Filed 8-5-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 865]

PERSONNEL REVIEW BOARDS

Subpart A—Air Force Board for Correction of Military Records

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is considering amendment to the rule covering the Air Force Board for Correction of Military Records. A review by the Board of its procedures revealed an apparent need for elaboration in certain paragraphs of this rule. The amendments are intended to result in clearer understanding by persons desiring correction of their military records.

DATES: Comments must be received by September 12, 1977.

ADDRESSES: Comments should be submitted to: Frank S. Dispenza, Deputy Executive Secretary, Air Force Board for the Correction of Military Records, Office of the Assistant Secretary of the Air Force, Washington, D.C. 20330.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank S. Dispenza, Deputy Executive Secretary, Air Force Board for the Correction of Military Records, Office of the Assistant Secretary of the Air Force, Washington, D.C. 20330 (202-697-2391).

SUPPLEMENTARY INFORMATION:

On March 29, 1977, the Department of the Air Force, DOD, published a final rule (42 FR 16623) to revise 32 CFR 865, Subpart A, Air Force Board for Correction of Military Records. Since that time, further review by the Board of its procedures has revealed an apparent need for clarification by addition of further information to the sections on Actions by the Secretary of the Air Force, Release of Records of Proceedings to the Applicant, counsel, and the public. Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments.

These proposed amendments are issued under the authority of Sections 1552, 8012, 70A Stat. 116, 488; 10 USC 1552, 8012.

The amendments are proposed to read as follows:

§ 865.7 [Amended]

1. In Section 865.7, a new subparagraph (d) is added to read as follows:

§ 865.7 Review of application.

* * * * *

(d) *Written proceedings.* When the Board determines that the record should be corrected or that the application be denied, the determination of the Board will be made in writing. The writings (proceedings) will include, but not be limited to, all facts of record, and statement of ground(s) upon which the Board's determination is based. Where the Board concludes complete relief should not be granted, written proceedings will address applicant's claim(s) of constitutional, statutory, and/or regulatory violation rejected by the Board and/or reviewing authority. In those cases involving the characterization of an individual's discharge or dismissal from the military service, the factors required by Air Force regulations to be considered for determination of the character of and reason for the discharge or dismissal in question shall be included.

2. Section 865.13 is revised to read as follows:

§ 865.13 Action by the Secretary of the Air Force.

All records of proceedings, except those finalized by the Board under the authority contained in § 865.12(a)(5) or denied by the Board without a hearing, will be forwarded to the Secretary of the Air Force who will direct such action in each case as he determines to be appropriate, which may include the return of the record to the Board for further consideration when deemed necessary. Those cases returned for further consideration will be accompanied by a brief statement setting out the reasons for such action and any specific instructions. If the Secretary's decision is to deny relief, such decision shall be in writing and, unless he expressly adopts in whole or in part the findings, conclusions and recommendations of the Board, he shall include a brief statement of the ground(s) for denial. All Secretarial decisional documents shall be furnished to the applicant and counsel.

3. Section 865.14 is amended by revising subparagraphs (f) and (g) to read as follows:

§ 865.14 Staff action.

* * * * *

(f) *Release of record of proceedings to the applicant and counsel.* After action on the record by the Secretary of the Air Force, his designee, by the Board acting under the authority in § 865.12(a)(5), or when the Board denies an application without a hearing, the Board will furnish applicant and counsel a copy of the record of proceedings and all decisional documents. Privileged or classified material may be deleted only if a written statement of the bases for deletion is provided. The statement will not reveal the nature of the withheld material.

(g) *Release of record of proceedings to the public.* After action on the record by the Secretary of the Air Force, his designee, by the Board acting under the authority contained in § 865.12(a)(5), or when the Board denies an application without a hearing, the Board will release for public inspection and copying, at a designated reading room within the Washington, D. C. Metropolitan Area, a sanitized and indexed copy of the record of proceedings and all decisional documents. To the extent required and to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from all documents. Privileged or clasified material may be deleted only if a written statement of the bases for deletion is provided. The statement will not reveal the nature of the withheld material. An index of record of proceedings shall be formulated so as to enable those who represent applicants to isolate from all those decisions that are indexed those cases that may be similar to an applicant's case and which indicate the grounds for which the Board and/or the Secretary granted or denied relief. The index will be published quarterly and available for public inspection and sale at the reading room. Inquiries concerning the index or reading room should be addressed to Air Force Board for Correction of Military Records, Department of the Air Force, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-22776 Filed 8-5-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 157]

[CGD 76-088b]

TANK VESSELS CARRYING OIL IN BULK

Miscellaneous Rules Providing for Protection of Marine Environment

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for proposed rules.

SUMMARY: On June 27, 1977, the Coast Guard published proposed requirements in the FEDERAL REGISTER (42 FR 32684) concerning installation and use of approved cargo monitors on board tank vessels carrying oil in bulk. This notice extends the comment period to September 2, 1977. The original closing date was August 11, 1977. Two requests have been

received to extend the comment period in order to allow additional time for a thorough review of the proposal.

DATES: As explained above, comments must be received on or before September 2, 1977.

ADDRESSES: As explained in the notice of proposed rulemaking published on June 27, 1977, comments should be submitted to the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

DRAFTING INFORMATION

The principal persons involved in drafting this notice are: Lowell F. Martin, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

(46 U.S.C. 391a; 49 U.S.C. 1655(b); 49 CFR 1.46.)

Dated: August 3, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-22798 Filed 8-5-77;8:45 am]

[46 CFR Part 162]

[CGD 76-088a]

OIL POLLUTION PREVENTION EQUIPMENT

Approval Requirements; Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for proposed rules.

SUMMARY: In the FEDERAL REGISTER of June 27, 1977 (42 FR 32686) the Coast Guard proposed amendments that would add approval procedures and specifications for oil-water separators, cargo monitors, bilge monitors, and bilge alarms to the existing approval requirements for engineering equipment used on merchant vessels. This notice extends the comment period to September 2, 1977. The original closing date was August 11, 1977. Two requests have been received to extend the comment period in order to allow additional time for a thorough review of the proposal.

DATES: As explained above, comments must be received on or before September 2, 1977.

ADDRESSES: As explained in the notice of proposed rulemaking published on June 27, 1977, comments should be submitted to the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

DRAFTING INFORMATION

The principal persons involved in drafting this notice are: Lowell F. Martin, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

(33 U.S.C. 1321(j), 46 U.S.C. 391a, 49 U.S.C. 1665(b)(1), and 49 CFR 146.)

Dated: August 3, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-22799 Filed 8-5-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 1880]

PUBLIC ADMINISTRATIVE PROCEDURES; FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

Payments in Lieu of Taxes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: Rulemaking is proposed to implement the Act of October 20, 1976 (31 U.S.C. 1601). The Act provides for Payments in Lieu of Taxes to units of local government to ameliorate the fiscal burden of tax exempt Federal land within their boundaries. This proposed rulemaking defines the unit of local government entitled to receive payments in lieu of taxes, and sets forth procedures to establish the amount of payments.

DATES: Comment by September 7, 1977.

ADDRESS: Send comments to the Director (210), Bureau of Land Management, 1800 C St. NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Edward P. Greenberg, 202-343-3624

SUPPLEMENTARY INFORMATION: The principal author of this document is Billy R. Templeton of the Bureau of Land Management, Division of Legislation and Regulatory Management, assisted by Lyle Rising of the Office of Solicitor, Department of the Interior.

The Act of October 20, 1976 (31 U.S.C. 1601 et seq.) provides for payments in lieu of lieu of taxes to qualified units of local government to offset the tax burden of certain tax exempt Federal lands within their boundaries.

Section 6(c) of the Act, authorizes the Secretary of the Interior to determine which units of local government are units of general government which are eligible for payments authorized by Section 1 of the Act. Section 6(c) further provides that this determination is to be made on the same principles as are used by the Bureau of the Census for general statistical purposes.

A unit of general government is a unit of that type of government which, within its state, is the principal provider of governmental services affecting the use of entitlement lands. Generally, units of local government will be eligible for payment to the extent that they have been identified by the Bureau of the Census or county-type areas. Listed below is a preliminary list of units of local government eligible for payment under Section 1 of the Act to the extent that such units of government contain entitlement lands within their boundaries.

Alabama	Counties.
Alaska	Boroughs, and the cities of Juneau and Sitka (City/Boroughs).
Arizona	Counties.
Arkansas	Counties.
California	Counties, and the city of San Francisco (City/County).
Colorado	Counties, and the city of Denver (City/County).
Connecticut	Towns.[1]
Delaware	Counties.
District of Columbia.	City of Washington.
Florida	Counties, and the County of Duval (City of Jacksonville).
Georgia	Counties, and the independent city of Columbus.
Guam	Counties, and the city of Honolulu (City/County).
Hawaii	Counties.
Idaho	Counties.
Illinois	Counties, and the County of Marion (City of Indianapolis).
Indiana	Counties.
Iowa	Counties.
Kansas	Counties.
Kentucky	Counties.
Louisiana	Parishes, and the Parish of Orleans (City of New Orleans) and Parish of East Baton Rouge (City of Baton Rouge).
Maine	Towns.[1]
Maryland	Counties, and the independent city of Baltimore.
Massachusetts	Towns[1] and County of Nantucket (Township of Nantucket), and County of Suffolk (City of Boston).
Michigan	Counties.
Minnesota	Counties.
Mississippi	Counties.
Missouri	Counties, and the independent city of St. Louis.
Montana	Counties.
Nebraska	Counties.
Nevada	Counties, and the independent city of Carson City.
New Hampshire.	Towns.[1]
New Jersey	Counties.
New Mexico	Counties.
New York	Counties (counties of Bronx, Kings, New York, Queens, and Richmond are all New York City).
North Carolina.	Counties.
North Dakota	Counties.
Ohio	Counties.
Oklahoma	Counties.
Oregon	Counties.
Pennsylvania	Counties, and the County of Philadelphia (City of Philadelphia).
Puerto Rico	Municipios.
Rhode Island	Towns.[1]
South Carolina.	Counties.
South Dakota	Counties, except Shannon, Todd, and Washabough, which are attached to other counties for government purposes.
Tennessee	Counties, and the metropolitan government of Nashville and Davidson county.
Texas	Counties.
Utah	Counties.
Vermont	Towns.[1]
Virginia	Counties, and the 38 independent cities.
Virgin Islands	Virgin Islands.
Washington	Counties.
West Virginia	Counties.
Wisconsin	Counties.
Wyoming	Counties.

[1] Where organized town governments exist. If towns are unincorporated or the town governments are inactive, payments shall be made to counties.

State governments have been asked to help implement the Act by providing information needed to compute payments this year. These requests were made because, without adequate information to make all payments, equitable payments could not be made to any of the qualified units of local government.

Payments will not be made for exchanged lands or for lands which, at the time they were acquired from the states were receiving payments in lieu of taxes from the states but were not subject to the payment of real estate taxes.

State, local, and Federal agencies will be consulted as appropriate in resolving any conflicts arising from computation of payments and establishment of eligibility for payments.

The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Under the authority of the Act of October 20, 1976 (31 U.S.C. 1601 et seq.), it is proposed to amend Group 1800, Subchapter A, Chapter II, Title 43 of the Code of Federal Regulations by adding Part 1880 to read as follows:

Group 1800—Public Administrative Procedures

PART 1880—FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

Subpart 1881—Payments in Lieu of Taxes

Sec.
1881.0-1 Purpose.
1881.0-3 Authority
1881.0-5 Definitions.
1881.1 Procedures.
1881.1-1 Procedures, Section 1 payments.
1881.1-2 Procedures, Section 3 payments.
1881.1-3 Procedures, Absence of information.
1881.2 Use of payments.
1881.3 Protests.
1881.4 Appeals.

§ 1881.0-1 Purpose.

The regulations establish procedures for making payments in lieu of taxes to units of local government for certain federal lands within their boundaries.

§ 1881.0-3 Authority.

The authority for these regulations is the Act of October 20, 1976, Pub. L. 94-565, 90 Stat. 2662, 31 U.S.C. §§ 1601-1607, hereinafter referred to as "the Act."

§ 1881.0-5 Definitions.

(a) A "government," as that term is used by the Bureau of the Census for general statistical purposes, is an organized entity having substantial autonomy and whose officers are either popularly elected or appointed by publicly elected officials. Other indicia of governmental character include (1) a high degree of responsibility to the public for performance of duties of a governmental nature, (2) power to levy taxes, and (3) power to issue debt paying interest exempt from Federal taxation.

(b)(1) "Unit of general government" means a unit of that type of government which, within its state, is the principal provider of governmental services affecting the use of entitlement lands. Those services of government include (but are not limited to) maintenance of land records, police protection, fire protection, taxation, land use planning, search and rescue and road construction. Ordinarily, a unit of general government will be a county. However, where a smaller unit of government is the principal provider of governmental services affecting the use of public lands within a state, the smaller unit, even though within a larger unit of government, will be considered a general unit of government and will receive payments under the Act. These units of general government will ordinarily be "towns" or townships within states having nonexistent or nearly nonexistent county governments. The term "unit of general government" also includes:

(i) Governments with the functions of a unit of general government in that state combined with another type of government such as city, township, parish, borough or county, e.g., a city and county as in the City and County of Denver.

(ii) Cities located outside of any of the units of general government for that state and administering functions commonly performed by those units of general government.

(iii) Alaskan boroughs in existence on October 20, 1976.

(iv) The Governments of the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

(b)(2) The term "unit of general government" excludes single purpose or special purpose units of local government such as school districts or water districts.

(c)(1) "Entitlement lands" are lands owned by the United States which are:

(i) Within the National Park System including wilderness areas;

(ii) Within the National Forest System including wilderness areas and also including those areas of Superior National Forest, Minnesota, set forth in 16 U.S.C. §§ 577d and 577d-1 (1970);

(iii) Administered by the Secretary of the Interior through the Bureau of Land Management;

(iv) Water resource projects administered by the Bureau of Reclamation or Corps of Engineers; or

(v) Dredge disposal areas administered by the Corps of Engineers.

(2) "Entitlement lands" do not include:

(i) Lands which were owned or administered by State and local governments which at time of acquisition by the Federal government were not subject to State and local taxes.

(ii) Any land for which any money was paid to a unit of local government pursuant to the Act of August 28, 1937 (50 Stat. 875) or the Act of May 24, 1939 (53 Stat. 753) in that fiscal year.

(d) "Money transfers" means those money or cash payments made by or through the State government to entitled units of local government pursuant to the laws set forth in section 4 of the Act.

(e) "Authorized officer" means that official within the Bureau of Land Management delegated the authority to carry out the provisions of the Act.

§ 1881.1 Procedures.

§ 1881.1 Procedures, Section 1 payments.

(a) The authorized officer shall determine which governments are units of general government eligible to receive payments under section 1 of the Act in accordance with section 6(c) of the Act and the definitions in § 1881.0-5 of these regulations. In resolving questions about the eligibility of any unit of general government and the status of entitlement lands, the authorized officer may consult with the Bureau of the Census, officials of the appropriate State and local government, and officials of the agency administering the entitlement lands.

(b) In order to determine which units of local government are entitled to receive payments under the Act (the minimum payment is $100), the authorized officer shall obtain the data necessary for making computations pursuant to the formula in section 2 of the Act as follows:

(1) The amount of entitlement lands within the boundaries of each unit of local government and the amount of payments made directly to those governments pursuant to the laws listed in section 4 of the Act shall be obtained from the administering Federal agencies;

(2) The amount of money transfers made by the State to eligible units of local government pursuant to the laws listed in section 4 of the Act shall be obtained from the Governor or his designated officials;

(3) The population of each unit of local government shall be obtained from current Bureau of the Census statistics.

(c) The authorized officer shall compute and certify the amount of payment to be made each unit of local government based on (1) the formula and limitations set forth in section 2 of the Act and (2) the amount of actual appropriations.

(d) If money actually appropriated by Congress for distribution during any fiscal year is insufficient to provide full payment to each unit of local government, all payments made to eligible recipients in that fiscal year shall be reduced proportionally, to the extent determined necessary by the authorized officer.

(e) No computation will be certified by the authorized officer for payment until the Governor of the State in which the unit of local government is located or his delegate has provided the authorized officer with:

(1) a statement of the amount of all money transfers received during the previous fiscal year[2] by each entitled unit of local government from the State from revenues derived under those laws listed in Section 4 of the Act; and

(2) to the extent practicable, a determination that those lands formerly owned or administered by a State or local government and acquired by the Federal Government were subject to State and local real property taxes at the time of conveyance to the Federal Government.

§ 1881.1–2 Procedures, Section 3 payments.

(a) The authorized officer shall make payments to qualified units of local government under section 3 of the Act, provided that the administering agencies supply information as follows:

(1) Acreage of entitlement land within the boundaries of each qualified unit of local government; and

(2) Such other information as may be required to certify payments to qualified units of local government.

(b) Payments received by counties shall be distributed by those counties to affected units of local government and affected school districts, as defined in section 3 of the Act, within 30 days of the receipt of such payment. Distribution shall be in proportion to the tax revenues collected by the affected units of local government and school districts in the year prior to acquisition of the entitlement lands by the Federal Government.

§ 1881.1–3 Procedures, Absence of information.

The authorized officer shall certify payments under the Act only to the extent sufficient data is available to determine the amount due the qualified units of local government.

[2] For Fiscal Year 1977, the transition quarter, July 1, 1976 to September 30, 1976, shall be excluded.

§ 1881.2 Use of Payments.

The monies paid to entitled units of local government may be used for any governmental purpose.

§ 1881.3 Protests.

(a) Computation of payments shall be based upon Federal land records.

(b) Any affected unit of local government may protest the results of the computations of its payment to the authorized officer.

(c) Any protesting unit of local government shall submit sufficient evidence to show error in the computations or the data on which the computations are based.

(d) All protests to the authorized officer shall be filed by the first business day of the calendar year following the end of the fiscal year for which the payments were made.

(e) The authorized officer shall consult with the affected unit of local government and the administering agency to resolve conflicts in land records.

§ 1881.4 Appeals.

Any affected unit of local government whose protest has been rejected by the authorized officer may appeal to the Interior Board of Land Appeals pursuant to the provisions of 43 CFR, Part 4.

GARY J. WICKS,
Secretary of the Interior.

AUGUST 3, 1977.

[FR Doc.77-22769 Filed 8-5-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

INTERFACE OF THE INTERNATIONAL TELEX SERVICE WITH DOMESTIC TELEX AND TWX SERVICES

Order Extending Time for Filing Comments and for Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This order extends, at the request of RCA Global Communications, Inc., the time for filing responsive comments in Docket No. 21005.

DATES: Responsive Comments must be received on or before August 8, 1977, and Replies on or before August 22, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, International Programs Staff, Common Carrier Bureau (202–632–3214).

Order. In the matter of Interface of the International Telex Service with the Domestic Telex and TWX Services, Docket No. 21005.[1]

Adopted: August 1, 1977.

Released: August 3, 1977.

1. We have before us for consideration a request filed by RCA Global Communications, Inc. (RCA) on July 21, 1977 seeking extension of the time in which to file responsive comments in the above-referenced proceeding from August 1 until September 15, 1977. In support of its request, RCA cites the press of regulatory matters—in particular, Docket No. 18875 and 20778—and the absence of key personnel due to the vacation period. RCA asserts that the requested extension is needed to permit it to provide the Commission with more meaningful data on the issues under consideration in this proceeding.

2. We find that RCA has not shown good cause for an extension of six weeks. By Order adopted June 10, 1977, we have already granted one extension of six weeks for the filing of responsive comments in this proceeding. Noting that we were there granting the fifth extension of time, we stated that any further extension should be granted only on a showing of specific hardship. We find that RCA has not demonstrated such hardship. RCA does not cite any specific scheduling conflicts within the proceedings it cites but only the general allegation that it will be required to prepare for the proceedings. Indeed, in Docket No. 20778, we recently extended the date for filing cost studies until November 15, 1977. Therefore, the August 1 date cannot be said to conflict any more with that deadline than does the September 15 date RCA seeks. Further, with respect to Docket No. 18875, RCA notes a tight schedule extending until November 1, 1977. Again, the August 1 date conflicts no more than would the date sought.

3. However, we do recognize the need for some additional time because of conflicts caused by the recent Congressional hearings and the disruption occasioned by the power blackout in New York City. Therefore, although we do not find that RCA has justified a six-week extension, we do find that an extension of one week is warranted.

4. Accordingly, pursuant to § 0.303(c) of the Commission's Rules and Regulations, 47 CFR 303(c) (1977), *It is ordered*, That the above-referenced Motion for Extension of Time of RCA Global Communications, Inc. is granted to the extent that the date for filing responsive comments in this proceeding is extended until August 8, 1977, and that the date for filing replies is extended until August 22, 1977; and that the RCA Motion is otherwise denied in all respects.

FEDERAL COMMUNICATIONS COMMISSION,
PHILIP V. PERMUT,
Acting Deputy Chief, Common Carrier Bureau.

[FR Doc.77-22733 Filed 8-5-77;8:45 am]

[1] See 42 FR 23615, May 10, 1977 and 42 FR 32556, June 27, 1977.

[47 CFR Part 73]

[Docket No. 20418; RM-2346; RM-2727]

ADDING NEW VHF STATIONS IN THE TOP 100 MARKETS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Action taken herein extends by about 5 weeks the time for filing comments and reply comments to a Notice of Proposed Rule Making in Docket 20418 (VHF Drop-Ins) at the request of Holston Valley Broadcasting Corporation, licensee of UHF Television Station WKPT–TV, Channel 19, Kingsport, Tennessee. WKPT–TV was granted the extension to obtain assistance from an expert on television audience ratings.

DATES: Comments are due on or before October 1, 1977, and reply comments on or before November 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202–632–7792).

SUPPLEMENTARY INFORMATION:

Adopted: July 25, 1977.

Released: August 4, 1977.

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming.

1. Holston Valley Broadcasting Corporation, licensee of UHF Television Station WKPT–TV, Channel 19, Kingsport, Tennessee ("WKPT"), requests a three month extension of time for filing comments in this proceeding from August 22, 1977, to November 22, 1977, and for filing reply comments from September 22, 1977, to December 22, 1977. Alternatively, WKPT asks for an extension of time to October 1, 1977, for comments, and November 1, 1977, for reply comments. The request is opposed by the Group for the Advancement of Television Service ("GATS"), proponent of the Johnstown drop-in proposal, and partially opposed by South Central Broadcasting Corporation ("South Central"), licensee of Television Station WTVK, Knoxville, Tennessee.

2. WKPT states as reasons for granting the extension the length of the Memorandum Opinion and Order and Notice of Proposed Rulemaking in this proceeding and its attendant documents and studies included in the record. WKPT further notes that the study entitled "Impact on WKPT–TV (Channel 19, ABC) by the Knoxville Channel 8 Drop-In" was not added to the docket until May 13, 1977, when called to the Commission's attention by WKPT. Furthermore, WKPT argues that the due date for comments falls within a traditional summer vacation period for both members of the Commission and parties interested in this proceeding.

3. We are unconvinced that these reasons are cause for extending the filing deadlines. The deadlines have been extended once already based upon the unexpected delay in making certain studies and documents, including the one mentioned by WKPT, available to the parties. As GATS states in its opposition, all of the above factors were already considered in establishing the present filing dates.

4. However, WKPT asserts one more ground for extension which we find merits consideration. WKPT has employed Dr. C. A. Kellner of Marshall University to assist it in preparing comments in response to reliance upon ARB television audience survey data in the Commission's Notice. Dr. Kellner was formerly employed by ARB, and WKPT considers him to be an expert regarding television audience reporting data and related matters. WKPT states that Dr. Kellner's educational background and professional experience would be of importance to the Commission in properly evaluating the impact upon WKPT–TV from the proposed Channel 8 drop-in at Knoxville. Unfortunately, we are told, Dr. Kellner has just undergone surgery and is now convalescing, but hopes to be able to complete his work on the project. For this reason, WKPT asks that we grant it an extension of time for comments.

5. GATS opposes an extension of comment dates because it believes the public and parties to the proceeding should receive a prompt disposition of other drop-in proposals. It says that WKPT should attempt to find a qualified expert to replace Dr. Kellner, or that separate comment dates should be established for the Knoxville drop-in only so as not to delay other proposals. South Central objects to a three month extension but states that an extension to October 1, would be equitable to all concerned.

6. We find insufficient reason to extend the comment deadline for three months, but we think a shorter extension would allow all parties time to perfect their comments and would not unduly delay the proceeding as GATS fears. We shall not establish a separate deadline for Knoxville as proposed by GATS, because we think it would be administratively more efficient to receive comments on all drop-ins at the same time. The Commission has stated that opportunity will be given for comment on the Johnstown/Altoona drop-in proposals after the ITS terrain study of that area is completed, but progress on that study indicates that it should be completed in time for comment within the extended dates of the general proceeding.

7. We conclude that it would be in the public interest to receive the information WKPT seeks from Dr. Kellner regarding the audience impact a Knoxville drop-in would have on this neighboring UHF station. UHF impact is a difficult area for precise prediction, and the advice of experts outside the Commission could be of great value. The statements attached to the Notice by the Commissioners indicate that a full record is desired for consideration at the time of final decision in this rule making proceeding. Therefore, we shall grant a two month extension, but deny the request for a three month extension for filing comments and reply comments in this proceeding.

8. Accordingly, *it is ordered*, That the subject request is granted to the extent that the time for filing comments to the Notice of Proposed Rulemaking in Docket 20418 IS EXTENDED to October 1, 1977, and the time for filing reply comments IS EXTENDED to November 1, 1977.

9. *It is further ordered*, That the subject request is denied in all other respects.

10. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-22787 Filed 8-5-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 173, 174, 178, 179]

[Docket No. HM-139 Notice No. 77-7]

INDIVIDUAL EXEMPTIONS, CONVERSION TO REGULATION OF GENERAL APPLICABILITY

Transportation of Hazardous Materials

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials in incorporate a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments by September 6, 1977.

ADDRESS COMMENTS TO: Section of Dockets, Office of Hazardous Materials Operations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Dr. C. Hugh Thompson, Chief Regulations Division, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590 (202–426–2075).

SUPPLEMENTARY INFORMATION: Each of the proposed amendments described in the table below is founded upon either: (1) Actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations. Primary drafters of this proposal are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Operations, and George W. Tenley, Jr., Office of the Assistant General Counsel for Materials Transportation Law.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from the proposals.

Adoption of an amendment derived from an existing exemption would obviate the need for that exemption and effectively terminate it. Upon such termination, the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt anv of these proposals each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for which the exemption application requested is anticipated. Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued and prefix "SP" means a special permit exists under previous authorities. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

Proposed amendments of hazardous materials regulations to terminate special permits and exemptions

Application No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 4041–No	U.S. Department of Defense; United Technologies; Hercules Inc.	173.65(a)	Authorizes shipments of ammonium perchlorate, particle size of 5 to 15 μm as high explosives in DOT specification 17H or 37A steel drums each having a minimum of 0.003 in thick polyethlene liner. Maximum capacity 30 gal. (Modes 1 and 2)	To revise paragraph (a)(3) to read: (3) Specification 17H or 37A (secs. 178.118 and 178.131 of this subchapter). Metal drums (single-trip). Authorized only for ammonium perchlorate in the 5 to 15 μm range. Maximum capacity 30 gal.
E 5208–No	U.S. Department of Defense.	172.101, 173.54 (b), 173.89 (a), (b).	Authorizes shipments of ammunition for cannon with tear gas projectiles, class A and ammunition for cannon with tear gas projectiles, class B in accordance with 49 CFR 173.54(a). (Modes 1 and 2).	To amend sec. 172.101 to add ammunition for cannon with tear gas projectiles, class A and ammunition for cannon with tear gas projectiles, class B to read as in footnote below.[1] To revise sec. 173.54 to read: sec. 173.54 Ammunition for cannon. (a) Ammunition for cannon. (a) Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles, or shell must be packed and properly secured in strong wooden or metal containers, or in plastic containers of approved military specifications complying with sec. 173.7(a). (b) Each outside package must be plainly marked "AMMUNITION FOR CANNON WITH EXPLOSIVE PROJECTILES," "AMMUNITION FOR CANNON WITH SMOKE PROJECTILES," "AMMUNITION FOR CANNON WITH INCENDIARY PROJECTILES," "AMMUNITION FOR CANNON WITH ILLUMINATING PROJECTILES," OR "AMMUNITION FOR CANNON WITH TEAR GAS PROJECTILES," as appropriate. To revise sec. 173.89 to read: Sec. 173.89 Ammunition for cannon with empty projectiles, inert-loaded projectiles, solid projectiles, tear gas projectiles, or without projectiles or shell. (a) Ammunition for cannon with empty projectiles, inert-loaded projectiles, solid projectiles, tear gas projectiles, or without projectiles or shell, must be well packed and properly secured in strong wooden or metal containers. (b) Each outside package must be plainly marked "AMMUNITION FOR CANNON WITH EMPTY PROJECTILES," "AMMUNITION FOR CANNON WITH INERT-LOADED PROJECTILES," "AMMUNITION FOR CANNON WITH SOLID PROJECTILES," "AMMUNITION FOR CANNON WITHOUT PROJECTILES," OR "AMMUNITION FOR CANNON WITH TEAR GAS PROJECTILES" as appropriate.
E 5573–No	Austin Powder Co.	173.182(c)(4)	Authorizes shipment of nitro carbo nitrate in DOT 23G specification cylindrical fiberboard boxes as prescribed by sec. 173.182(c)(4) except maximum net weight is 65 lb instead of 50 lb. (Modes 1 and 2.)	To revise paragraph (c)(4) to read: (4) Specification 23G (sec. 178.218 o this subchapter). Cylindrical fiberboard box. Maximum net weight not over 65 lb.
E 6145–No	Kerr-McGee Chemical Corp.; Union Carbide Corp.	173.154(a)	Authorizes shipments of sodium perchlorate or magnesium perchlorate, wet with 10 pct or more of water, equally distributed within the cargo tank in DOT specification MC 303, MC 304, MC 306, MC 311, or MC 312 cargo tank with additional requirements. (Mode 1.)	To add paragraph (a)(4) to read: (4) Specification MC 303, MC 304, MC 306, MC 311, or MC 312 (secs. 178.341, 178.342, and 178.343 of this subchapter). Tank motor vehicles. Tanks must comply with sec. 178.340-8. Discharge valves must be located inside the tank or at a point outside the tank where the line enters or leaves the tank. Valve seat must be located inside the tank or within the welded flange, its companion flange, nozzle, or coupling. Each product discharge opening shall have a secondary closing means, remote from tank filling or discharge openings, for operation in event of fire or other accident. Tanks may have heating coils if an inorganic heating medium is used. Authorized only for sodium perchlorate or magnesium perchlorate, wet, with 10 pct or more or water, equally distributed within the cargo tank.

Application No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendemtn
E 6628–No	E. I. du Pont de Nemours & Co., Inc.	173.2 (i)(22)	Authorizes shipments of sulfuric acid in DOT specification 111A100W6 tank cars constructed of type 304–L stainless steel. NOTE.—This change is to prohibit the use of a car having bottom outlets and was inadvertently omitted in Docket No. HM–139 dated June 2, 1977. (Mode 2.)	To add a sentence at the end of par. (i)(22) to read: Bottom outlets prohibited.
E 6662–No	Hercules Inc., Pennwalt Corp.	173.154(a)	Authorizes shipment of dicumyl peroxide and an organic peroxide, solid, n.o.s. in DOT specification 57 metal portable tanks. Tanks must have a fusible plug having a fusing temperature between 70° C. and 90° C. and 90° C. (Modes 1 and 2.)	To add par. (a)(3) to read (3) Specification 57 (sec. 178.253 of this subchapter). Portable tanks. Tanks must have a fusible plug having a fusing temperature between 70° C. and 90° C. Authorized only for dicumyl peroxide, dry and a,a'-bis(t-butylperoxy) diisopropylbenzene, solid.
E 6682–No	Foote Mineral Co.	173.308(a)	Authorizes shipment of lithium metal foil wound on nonsparking spools, packed in hermetically sealed, tin-coated steel cans, and overpacked in DOT specification 21C fiber drums. (Modes 1 and 2.)	To add par. (a)(3) to read: (3) Specification 21C (sec. 178.224 of this subchapter). Fiber drums with inside hermetically sealed tin-coated steel cans with a miminum wall thickness of 0.015 in. Not more than 4 spools made of nonsparking material may be packed in each inside container with not more than 2½ lb net weight of product in each inside container. Each metal can shall be individually separated with double-faced corrugated partitions and noncombustible packing material. Authorized only for lithium metal in ribbons.
E 6941–No	Mobay Chemical Corp.; Allied Chemical Corp.; BASF Wyandotte Corp.	173.346(a)(12)	Authorizes shipments of toluene diisocyanate in tank motor vehicles that comply with DOT specifications MC 304, and MC 307 except bottom discharge outlets are equipped with external ball valves of the Hill-McCanna type or equivalent. (Mode 1.)	To amend par. (a)(12) to read: (12) Specifications MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 (secs. 178.341, 178.342, and 178.343 of this subchapter). Tank motor vehicles. Tank motor vehicles designed and constructed to specification MC–304 or MC–307 except for bottom outlets equipped with external ball valves may be used only for toluene diisocyanate.
E 6943–No	Mason & Hanger-Silas Mason Co., Inc.; Rockwell International Corp.; ERDA; Lawrence Livermore Lab	173.65(d)	Authorizes shipment of triaminotrinitrobenzene (TATB), trichlortrinitrobenzene (TCTNB), and hexanitrostilbene (HNS) as reagents in accordance with 49 CFR 173.65(d). (Modes 1, 2, and 4.)	To revise par. (d) to read: (d) The following materials may be shipped dry, in quantities not exceeding 4 oz in 1 outside package, by rail freight, or highway, as drugs, n.o.s., or medicines, n.o.s., without any other requirements when in securely closed bottles or jars cushioned to prevent breakage: (1) Ammonium picrate (2) Dipicrylamine. (3) Dipicryl sulfide. (4) Dinitrophenylhydrazine (5) Nitroguanidine (6) Picramide. (7) Picric acid. (8) Picryl chloride (9) Trinitroanisole. (10) Trinitrobenzene. (11) Trinitrobenzoic acid (12) Trinitro-m-cresol. (13) Trinitronaphthalene. (14) Trinitroresorcinol (15) Trinitrotoluene. (16) Urea nitrate. (17) Triaminotrinitrobenzene (18) Trichlortrinitrobenzene. (19) Hexanitrostilbene. Not authorized for transportation by air
E 7507–No	Witco Chemical Corp.	173.119(m)(8)	Authorizes shipment of certain flammable liquids which are also corrosive, and organic peroxide solutions in 12P/2U composite packaging as prescribed in the regulations except capacity may be 6 gal instead of 5. (Modes 1 and 3.)	To revise paragraph (m)(8) to read: (8) Specification 12P (sec. 178.211 of this subchapter). Fiberboard boxes with inside specification 2U (sec. 178.24 of this subchapter) polyethylene containers not over 6 gal capacity each. Authorized only for material which will not react dangerously with or cause decomposition of polyethylene. Not authorized for transportation by air.
		173.221(a)(9)		To revise paragraph (a)(9) to read: (9) Specification 12P (sec. 178.211 of this subchapter). Fiberboard boxes with inside specification 2U (sec. 178.24 of this subchapter) polyethylene containers not over 6 gal capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.
E 7514–No	Olin Corp.	173.217(a)	Authorizes shipment of certain oxidizing materials in a DOT specification 12B fiberboard box with 2 inside polyethylene bottles each with a net weight not over 16 lb. (Modes 1, 2 and 3.)	To add paragraph (a)(7) to read: (7) Specification 12B (sec. 178.205 of this subchapter). Fiberboard boxes with inside polyethylene bottles with a minimum wall thickness of 0.015 in. Not more than 2 polyethylene bottles may be packed in 1 box and each bottle shall contain not more than 16 lb net weight of commodity. Container must be such that it will not react dangerously with or be decomposed by the conmodity.
E 7525–No	Connecticut Valley Arms, Inc.	173.107(d)	Authorizes percussion caps in DOT specification 12B fiberboard box with inside plastic cans packed tightly inside chipboard boxes. (Modes 1 and 2.)	To add paragraph (d)(2) to read: (2) Specification 12B (sec. 178.205 of this subchapter). Fiberboard box. Caps must be packed in inside plastic cans containing not more than 100 caps each. Cans must then be packed in a chipboard box with not more than 8 such chipboard boxes tightly packed in the 12B fiberboard box. The completed package must be such that the explosion of part of the caps will not cause the explosion of all the caps.
E 7537–No	Pennwalt Corp.	173.157(b)(3)	Authorizes shipments of benzoyl peroxide wet with at least 20 pct water by weight in accordance with 49 CFR 173.157(b)(3) except the net weight (dry weight) in each outside box may not exceed 50 lb. (Mode 1.)	To revise par. (b)(3) to read: (3) Specification 12B (sec. 178.205 of this subchapter). Fiberboard box with securely closed inside plastic containers made of polyethylene film at least 0.004 in thick. Net weight (dry weight) in each inside container may not exceed 10 lb. Each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Net weight (dry weight) in each outside box may not exceed 50 lb.
E 7602–No	Gaspro, Inc.	173.850	Authorizes shipment of calcium oxide, an ORM–B material, in non-DOT specification dry bulk containers not over 40,000 lb net weight by cargo vessel. (Mode 3.)	To add par. (a)(7) to read: (7) Sift-proof bulk freight container with net weight not over 40,000 lb.
E 7626–No	Commercial Metals Co.; Johnson Scan Star.	173.1025	Authorizes shipments of nonferrous metal borings, shavings, turnings, or cuttings in plastic lined freight containers. Freight containers with open tops must have lading protected from weather and water. Lading must be at or below 150° F. when loaded. (Mode 3.)	To amend sec. 173.1025 to read. Metal borings, shavings, turnings or cuttings, when offered for transportation by water, must be prepared for shipment in compliance with sec. 173.510 and must be packaged in a metal barrel or drum, or, for nonferrous material only, in compressed bales wrapped in burlap provided the burlap shows no sign of oil, or, in plastic lined freight containers. Freight containers with open tops must have lading protected from weather and water and the lading must be at or below 150° F when loaded.

Application No.	Applicatn or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 7649-N	Ford Motor Co.	173.306(d)	Requests authority to ship a nonflammable, compressed gas in authorized DOT specification cylinders in the trunks of passenger automobiles when the container is part of a tire inflator system.	To add paragraph (d)(4) to read: (4) A cylinder which is part of a tire inflator system in a motor vehicle, charged with a nonliquefied, nonflammable compressed gas is excepted from the requirements of pts. 170-189 of this subch. except: (i) Unless otherwise authorized by the Department, each cylinder must be in compliance with 1 of the cylinder specifications in pt. 178 and authorized for use in Sec. 173.302 for the gas it contains. (ii) Each cylinder must be in compliance with the filling requirements of Sec. 173.301. (iii) Each cylinder must be securely installed in the trunk of the motor vehicle and the valve must be protected against accidental discharge.
E 7655-No.	Tennessee Eastman Co.	173.119(m)	Authorizes shipment of a flammable liquid which is also corrosive in a DOT specification 19A wooden box with an inside 1-gal polyethylene jug. (Mode 1.)	To revise par. (m)(2) to read: (2) Specifications 15A, 15B, 15C, 16A, or 19A (sec. 178.168, 178.169, 178.170, 178.185, and 178.190 of this subchapter). Wooden boxes with inside containers which must be glass, earthenware, or polyethylene, not over 1-gal capacity each, cushioned with noncombustible packing material in sufficient quantity to absorb the contents of the inner container.
E 7782-N	Eastman Kodak Co.	176.800(a)	Waives the general stowage requirements specified in 49 CFR 176.800(a) for hazardous materials in limited quantities when loaded in transport vehicles and freight containers. (Mode 3.)	To revise paragraph (a) to read: (a) Each package of a corrosive material being transported on a vessel must be stowed well away from living quarters, foodstuffs, and cargo of an organic nature except when in limited quantities and loaded in transport vehicles and freight containers.
7797-N	Food Materials Corp.	172.100(g)	Requests an exemption to ship certain flammable liquids with a flash point greater than 73° F in 1-gal and 55-gal quantities per package aboard passenger and cargo-only aircraft respectively, as now generally authorized for flammable liquids, n.o.s. (Modes 4 and 5.)	To revise par. (g)(3) to read: (3) For flammable liquids the net quantity limitation for carriage aboard a passenger-carrying aircraft or railcar is 1 gal per package, and for cargo-only aircraft is 55 gal per package if: (i) The material has a flash point of 73° F or higher; (ii) The material does not meet the definition of any other hazard class as defined in this part, and (iii) The flash point, or an indication that the flash point is 73° F or higher, is marked on the outside package.

[1] See the following table:

Sec. 172.101 Hazardous materials table—(continued)

(1) *W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quality 1 package (a) Passenger carrying aircraft or railcar	(6) Maximum net quality 1 package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
(Add)	Ammunition for cannon with tear gas projectile.	Class A explosive.	Explosives A.	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with tear gas projectile	Class B explosives.	Explosive B	do	173.89	do	do	1,2	5	

NOTE: The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., August 1, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-22603 Filed 8-5-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Correction in the Room Number for the Nitrites and Nitrosamines Meeting

The room number for the Expert Panel on Nitrites and Nitrosamines meeting was incorrectly stated in the August 2, 1977, FEDERAL REGISTER (Vol. 42, No. 148), 39123.

The meeting will be held in the Jefferson Auditorium, South Building, Department of Agriculture, 18th and Independence Avenue SW., Washington, D.C., August 17, 1977, at 9:30 a.m.

Done at Washington, D.C., on August 4, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-22831 Filed 8-5-77;8:45 am]

Forest Service

LAND MANAGEMENT PLAN, MOHAWK UNIT, PLUMAS AND TAHOE NATIONAL FORESTS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the land management plan, Mohawk Unit, Plumas and Tahoe National Forests, Calif. USDA-FS-R5-FES(Adm)76-06.

The environmental statement concerns a proposed land management plan for the 120,000 acres of National Forest lands known as the Mohawk Unit of the Plumas and Tahoe National Forests, in Plumas and Sierra Counties, Calif. Twenty-six thousand acres within this Unit have been inventoried as "roadless."

This final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on August 1, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

Regional Forester, USDA, Forest Service, 630 Sansome Street, Room 529, San Francisco, Calif. 94111.

Forest Supervisor, USDA, Forest Service, Plumas National Forest, 159 Lawrence Street, Quincy, Calif. 95971.

Forest Supervisor, USDA, Forest Service, Tahoe National Forest, Highway 49 and Coyote Streets, Nevada City, Calif. 95959.

A limited number of copies are available, upon request, from Forest Supervisor Lloyd Britton, Plumas National Forest, Box 1500, Quincy, Calif. 95971.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Acting Deputy Chief.

JULY 29, 1977.

[FR Doc.77-22767 Filed 8-5-77;8:45 am]

GREAT BEAR WILDERNESS STUDY AREA REPORT

Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 10 a.m. on September 6, 1977, at the Outlaw Inn, Kalispell, Montana, and 10 a.m. on September 8, 1977, at the Rainbow Hotel, Great Falls, Montana, on a proposal for the future management of the Great Bead Wilderness Study Area comprised of approximately 386,560 acres within the Flathead and Lewis & Clark National Forests in the Counties of Flathead, Teton and Pondera in the State of Montana.

A brochure containing a map and information about the proposal may be obtained from the Forest Supervisor, Flathead National Forest, 290 North Main Street, P.O. Box 147, Kalispell, Montana 59901.

Individuals and organizations may express their views by appearing at this hearing, or may submit written comments for inclusion in the official record to the Great Bear Wilderness Study, P.O. Box 147, Kalispell, Montana 59901. Comments must be received by October 8, 1977, in order to be considered in the preparation of the final proposal. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester, Northern Region, Missoula, Montana 59801, prior to August 26, 1977.

JOHN R. MCGUIRE,
Chief, Forest Service.

[FR Doc.77-22950 Filed 8-5-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 28178]

WORLD JET INC., d.b.a. SILVAS AIR LINES

Hearing

Notice is hereby given that a public hearing in the above-entitled proceeding is assigned to be held on September 13, 1977, at 10 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents filed in the official docket of this case which is available in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 1, 1977

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.77-22763 Filed 8-5-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

System of Records

The Department of the Army, for administrative purposes, is reidentifying certain systems of records under the Privacy Act of 1974, which were published in the FEDERAL REGISTER of August 18, 1975; September 9, 1975; and July 25, 1977. Systems of records affected are identified below along with the new identification assigned. The system name and contents remain unchanged.

Former identification	*New identification*
A0302.06DAIG (40 FR 35177)	A0302.06aDAIG
A0609.18DAAG (40 FR 35212)	A0609.18aDAAG
A0702.04DAAR (40 FR 35219)	A0702.04aDAAR
A0708.02DAPC (40 FR 35225)	A0708.02aDAPC
A0708.21DACA (42 FR 27836)	A0708.21bDACA
A0727.050SA (40 FR 35241)	A0727.05aOSA
A0915.01DASG (40 FR 35254)	A0915.01aDASG
A1010.07TRADOC (40 FR 35265)	A1010.07aTRADOC
A1011.04DAPE (40 FR 41980)	A1011.04aDAPE
A1207.08DAIG (40 FR 35275)	A1207.08aDAIG

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

AUGUST 1, 1977.

[FR Doc.77-22721 Filed 8-5-77;8:45 am]

Department of the Navy

RAMP INDUSTRIES, INC.

Intent To Grant Limited Exclusive Patent License

Pursuant to the provistons of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces it intention to grant to RAMP Industries, Inc., a corporation of the State of New York, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned U.S. Patent Number 3,868,572 issued February 25, 1975, entitled "Audio Transmission and Reception Assembly," inventors Rubin P. Kaufman, Jack B. Rosenfeld, and Elaine Schiller.

This license will be granted unless by October 7, 1977, an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, Va. 22217 and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, Va. 22217 within 60 days from the publication of this notice. Also, copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, Va 22217; Telephone No. 202–692–4005.

Dated: August 2, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc 77-22778 Filed 8-5-77;8:45 am]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y., on September 27–28, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically, subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 3, 1977.

[FR Doc.77-22690 Filed 8-5-77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y., on September 7, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as Infrared and Night Vision Sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 3, 1977.

[FR Doc.77-22691 Filed 8-5-77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at Naval Air Systems Command, 1421 Jefferson Davis Highway, Room 110, Arlington, Virginia on August 23-24, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with tactical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include details of classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 3, 1977.

[FR Doc.77-22692 Filed 8-5-77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, on August 29–30, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The mircrowave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 3, 1977.

[FR Doc.77-22693 Filed 8-5-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 772-4]

MOTOR VEHICLE POLLUTION CONTROL; RECALL ORDER, CHRYSLER CORP.

Public Hearing

On February 8, 1977, a notice was published in the FEDERAL REGISTER (42 FR 7983) setting forth the details of a recall order issued by the Environmental Protection Agency (EPA), to the Chrysler Corp. on December 8, 1976. The order required Chrysler to recall 208,000 of its 1975 model year cars with the 360 and 400 cubic inch displacement engines due to EPA findings that a substantial number of these vehicles are not meeting the Federal carbon monoxide standard. The notice also described Chrysler's response of January 19, 1977, which requested a public adjudicatory hearing to contest the findings of the Administrator. No date or location of the hearing was announced in the notice, pending prehearing discovery and decisions on possible petitions for intervention.

Since the publication of the notice, the time for the filing of petitions for intervention has elapsed without any such petitions being filed. The date for the commencement of the hearing has been established as September 19, 1977. The hearing will begin at 10 am. and is to be held in Room 2126 of the Mall area of the U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Interested parties may inspect the hearing docket at the Office of the Hearing Clerk (A–110), Room 1019E, at the above address between the hours of 8 a.m. and 4:30 p.m. The Hearing Clerk may be contacted at 202–755–7733.

Dated: August 1, 1977.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement (EN–329).

[FR Doc 77-22625 Filed 8-5-77;8:45 am]

[FRL 772-6; OPP-210007A]

OFFICE OF PESTICIDE PROGRAMS

Response to Petition To Suspend Certain Products Containing Nitrosamines

On February 3, 1977, the U.S. Environmental Protection Agency (EPA) received from Congressman Andrew Maguire and Henry Waxman, the Migrant Legal Action Program, Inc., the Maricopa County Legal Aid Society, and several migrant farmworkers a petition to suspend the registrations of certain pesticide products containing nitrosamines, in accordance with section 6(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.). Specifically, the petition referred to the following: Treflan E.C. (EPA Reg. No. 1471–35), Trysben 200 (EPA Reg. No. 352–250), and Benzac 1281 (EPA Reg. No. 264–92). The full text of the petition was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10886).

This document serves as EPA's response to the petition. The attachments referred to are available for public scrutiny in Room 447, East Tower, ATTN: Ms. Suzanne Harker, Office of Special Pesticide Review (WH–566), EPA, 401 M St. SW., Washington, D.C. 20460 (telephone 202–755–5687).

Dated: July 29, 1977

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs

NITROSAMINE PETITION DECISION DOCUMENT

A. BACKGROUND

On February 3, 1977 the Agency received from Congressmen Andrew Maguire and Henry Waxman, the Migrant Legal Action Program, the Maricopa County Legal Aid Society, and migrant farmworkers a petition to suspend the registration of Treflan (EPA Reg. No. 1471–35), Trysben 200 (EPA Reg. No 352–250), and Benzac 1281 (EPA Reg. No. 264–92), pursuant to section 6(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

The petitioners claimed:

The continued use of nitrosamine-containing herbicides will have an unreasonable adverse effect on the environment and constitutes an imminent hazard to man during the time required for cancellation. The risks involved in the case of Trysben 200, Benzac and Treflan far outweigh their benefits when viewed in light of the fact that: (a) These three herbicides have been found to contain significant quantities of nitrosamines; (b) nitrosamines are known to be potent carcinogens; and (c) there is a high risk of human exposure to these herbicides in both agricultural and garden use.

The Office of Special Pesticide Reviews (OSPR) in the Office of Pesticide Programs was assigned the responsibility for gathering information necessary to respond to the petition and recommending a response. In accordance with OSPR procedures, a Working Group was established consisting of the OSPR Project Manager and representatives of other concerned offices within the Agency.

In order to compile information necessary to respond to the petition in an informed way, a number of sources of information and advice were utilized.

To evaluate the potential risks associated with use of the subject products it was necessary to identify use practices and to determine the amount of exposure to the nitrosamines contained in each product. Information on these issues was sought through FIFRA section 21(b) hearings, which were held in Phoenix, Arizona on March 7, 1977 and in Washington, D.C. on March 9, 1977, and through public comment. Notice of these hearings and opportunity for comment was published in the FEDERAL REGISTER on February 24, 1977. Information on use practices also was sought from the registrant of each product. Evidence of benefits associated with the use of these products, including the feasibility of using alternative products, was provided by the registrants, users, the U.S. Department of Agriculture, and this Agency. The comment period ended April 5, 1977.

This document summarizes and discusses the information which the Working Group has compiled and relates the recommendations of the Working Group concerning the disposition of the petition.

B. DISCUSSION AND SUMMARY OF RECOMMENDATIONS

The petition asks the Administrator to suspend the registrations of three pesticide products on the basis that they contain carcinogenic contaminants. Under the statute, suspension is an interim remedy which may be utilized to halt the distribution, sale and use of a product during the lengthy period of time required to complete cancellation proceedings, wherein the ultimate fate of a registration is determined. Accordingly, in order to suspend, a cancellation proceeding must be in progress or be initiated at the same time as the suspension proceeding. In both suspension and cancellation proceedings, the basic statutory test under FIFRA applies, i.e. whether the pesticide causes an "unreasonable adverse effect on the environment." This term is defined (FIFRA section 2(bb)) so as to require the Administrator to balance the risks associated with the use of a pesticide against its benefits.

The key distinctions between cancellation and suspension, for present purposes, are the period of time to be con-

sidered in balancing risks and benefits, and the intensity and thoroughness of the review. Essentially, cancellation decisions involve intensive analyses and weighing of the risks and benefits associated with indefinite future use, while suspension decisions involve preliminary assessments of the likelihood that risks will exceed benefits during the period of time (usually two years) necessary for cancellation proceedings.

Accordingly, the aim of the Working Group has been to determine in as sound a manner as possible in the limited period of time available whether the risks associated with the use of these products during the period of time necessary for cancellation proceedings exceed the benefits which would result from their use during this period. For purposes of this analysis the Working Group assumed that two years would be required for cancellation proceedings.

For the reasons developed fully below, the Working Group has concluded that, based on the available data, the risks associated with the use of Treflan for a two-year period are substantially exceeded by the benefits which would result from its use during the period, and accordingly recommends against the suspension of Treflan. With respect to Trysben and Benzac the Working Group has concluded that, based on available data, the risks and the benefits are both essentially zero and the extremely low risks that have been identified do not justify the extraordinary commitment of Agency time and resources which a suspension proceeding would entail. Therefore the Working Group recommends against suspension of these pesticides. At the same time it recommends that the Agency require certain labeling changes in order to keep individual exposure to a minimum.

With respect to all three pesticides, however, the Working Group has concluded that the oncogenic risk criterion of 40 CFR 162.11(a)(3) has been met or exceeded; and, therefore, that a rebuttable presumption against registration (RPAR) should be issued against these pesticides. The Working Group recommends that the resource efficient OSPR policy of proceeding against all pesticides in a generic group be followed by not issuing an RPAR against these three nitrosamine-containing pesticides until the Agency has determined what other pesticides contain these nitrosamines, so that a common RPAR proceeding may be conducted. The Working Group further recommends that the Agency assign a priority ranking to these pesticides for RPAR attention in accordance with its usual procedures for prioritization of OSPR chemicals (see OSPR Project Manager Manual, 1976), and that in the course of pre-RPAR review it determine whether other risk criteria (in addition to the oncogenic criterion) have been met or exceeded. In the Working Group's view, these RPAR recommendations are consistent with a deadline for issuance of an RPAR of October 1, 1977, and recommends that this deadline be established.

The findings of the analyses conducted to reach these conclusions are summarized below.

C. TREFLAN

Treflan (common name trifluralin) is registered by Elanco Products Division, Eli Lilly Co.; it is a pre-emergent soil-incorporated herbicide used primarily on soybeans and cotton, and, to a lesser extent, on other field crops and fruits and vegetables to control broadleaf weeds and annual grasses. Between 24–30 million acres of these crops are treated annually with Treflan. Treflan is not registered for use around the home.

Although the petition limited its discussion on Treflan to its use on cotton, we have estimated the exposure to and risks associated with all registered uses of Treflan. This approach was taken because the petitioners called for suspension of the registration of the product, not just its use on cotton.

1. *Analysis of nitrosamines in Treflan.* In the tests cited in the petition Fine found 154 ppm nitrosodipropylamine (NDPA) in Treflan.

After Fine's report had been presented (September 1976), Elanco changed its manufacturing process specifically to reduce the formation of NDPA in trifluralin. Tests conducted by Fine and by the OPP Technical Services Division Chemical and Biological Investigation Branch (CBIB) showed average levels of NDPA of 19 ppm and 12 ppm, respectively, in Treflan produced by this improved process.[1] The analyses discussed below are based on Treflan containing 16 ppm NDPA because this level represents an upper limit of NDPA in the Treflan currently being produced.

Elanco expects to be able to reduce NDPA levels by yet an additional order of magnitude by August, 1978.

2. *Exposure to nitrosamines in Treflan.* The two primary routes of human exposure to Treflan are inhalation and skin absorption during application and subsequent field work such as chopping, thinning, and weeding. The field monitoring data used to assess inhalation exposure were supplied by Elanco. No other data were available.

(a) *Inhalation exposure.* Elanco had collected air samples using a personal air monitoring device consisting of a pump and a charcoal adsorber tube. Agency personnel who reviewed this method concluded that it would probably give a reliable measure of vapor concentration of NDPA but would neglect any NDPA present on particulates in the air. However, Elanco's results have been used as the basis for calculating exposure to NDPA because of a lack of any alternative air measurements. It is recognized that additional but unquantifiable exposure of applicators could result from inhalation under dusty conditions.

[1] Treflan samples were collected by Agency inspectors at the Lilly Tippecanoe labs on February 10, 1977, and were sent half to Thermo Electron Research Center. Thus, CBIB's and the contractor's tests were conducted on the same sample.

(i) *Applicator inhalation exposure.* Applicator exposure to NDPA in Treflan was estimated on the basis of the results of field studies conducted by Elanco and submitted to EPA on February 14, 1977. These studies involved the use of both Treflan containing NDPA at ca. 160 ppm and Treflan containing NDPA at ca. 6 ppm; both Treflan and NDPA were measured in the air surrounding the applicators and application equipment.

The total number of applicators to which these calculations apply is estimated to be 470,000. It was concluded that the average annual work time for the majority of Treflan applicators was approximately 15 hours apiece; from the testimony at the Phoenix hearing, it was concluded that a small but undetermined number of applicators could spend up to 450 hours per year apiece applying Treflan.

Inhalation exposure to NDPA during the two years required for cancellation proceedings was calculated as follows: Air concentration × volume of air inhaled (1.8 m^3/hr × hours of exposure per year (15 for applicators; 100 for fieldworkers) × 2 years ÷ (70 × 365). The last two numbers convert the total two year exposure to a daily average over the lifetime of an individual. The air concentration of NDPA in the breathing zone of the applicators was estimated to be 0.0024 $\mu g/m^3$, based on (1) conversion of the Elanco air monitoring data to a median value (as discussed in detail in the Appendix of Attachment 1), and (2) the assumption that the air concentration of NDPA resulting from the use of Treflan containing 16 ppm NDPA would be tenfold lower than the air concentration of NDPA measured by Elanco when using Treflan containing 160 ppm NDPA.

The lifetime daily average exposure to NDPA from Treflan containing 16 ppm NDPA is thus computed to be 0.005 μg day for applicators.

The significance of the air concentration of NDPA used in these calculations—0.0024 $\mu g/m^3$—can be illustrated by comparing this level with the maximum air concentration assuming total volatilization of NDPA immediately into the first two meters of air over the treated area. Using this theoretical approach, we calculated that applicators would be continuously exposed to a maximum air concentration of 1.8 $\mu g/m^3$ NDPA. Such a concentration could never be attained, however, since wind and diffusion processes would continuously disperse the NDPA.

(ii) *Fieldworker inhalation exposure.* Fieldworker exposure was evaluated on the basis of data submitted by Elanco on March 23, 1977. Elanco had collected air samples above four fields which had been treated with Treflan four to six weeks earlier. Levels of NDPA in the Treflan used in these tests ranged from 77.7 to 458 ppm.

Fieldworker inhalation exposure was calculated in the same manner as for applicators. The highest level of NDPA detected—0.032 $\mu g/m^3$ (disregarding an arguably aberrant value of 1.80 $\mu g/m^3$)—was found at the breathing zone of one of the workers. However, 70 to 77 air samples had no detectable NDPA, as shown in Table III of Attachment 1. The median air concentration of NDPA in air over these fields was estimated to be 0.0013 $\mu g/m^3$, based on (1) conversion of the Elanco air monitoring data to a median value (as discussed in detail in the Appendix of Attachments (1) and (2) the assumption that air concentration of NDPA resulting from the use of Treflan containing 16 ppm NDPA would be tenfold lower than the air concentration of NDPA measured by Elanco over fields treated with Treflan containing NDPA at levels ranking from 77.7–458 ppm. The lifetime daily average exposure to NDPA from two years use of Treflan containing 16 ppm NDPA is computed to be 0.0018 ng/day for fieldworkers.

The total number of fieldworkers exposed to trifluralin and NDPA was estimated to be in the neighborhood of 38,000. On the basis of testimony given at the FIFRA section 21(b) hearings, it was concluded that fieldworker exposure to Treflan is limited to cotton production.

On April 26, 1977, the Agency received from Elanco a second study of NDPA concentrations in air and soil over and in Treflan-treated cotton fields in Arizona. This information was not received in time to permit full consideration in the exposure analysis. However, a cursory review of these new data shows that they would have little impact on exposure estimates.

(b) *Dermal exposure.* From testimony given at the FIFRA section 21(b) hearing in Phoenix, the Working Group concluded that Treflan applicators and fieldworkers may experience dermal exposure to NDPA. Dermal exposure of applicators may occur during mixing, loading, and spraying operations, and during equipment cleaning; dermal exposure of fieldworkers may occur during chopping, weeding, and thinning in cotton fields.

Since there are no published studies of residues on surfaces resulting from either vapor or particulate levels of NDPA, it was necessary to estimate potential dermal exposure to NDPA using the average ratio of dermal and inhalation exposures measured in other pesticide spray application situations. It was assumed that these other applications would provide a reasonable model for estimating dermal exposure to Treflan applicators and fieldworkers. The daily average lifetime dermal exposure to NDPA is calculated to be 0.16 ng/day for applicators and 0.059 ng/day for fieldworkers, assuming ten percent absorption of the NDPA that reaches the skin.

(c) *Unquantifiable exposures.* Several unquantifiable aspects of actual field use of the pesticides are not accounted for in these calculations and, taken together, would increase the inhalation, dermal, and/or oral exposure to an unknown extent. The factors are sporadic in occurrence for most individuals, but could be continuous for others.

The sporadic exposures include accidental spillage of the compound on the skin or clothing during mixing and loading it into spray equipment and cleaning out plugged spray nozzles by blowing into the spray rigs. The unquantifiable routine exposures for some individuals include such factors as wearing clothing contaminated with the pesticide for several days and eating food with unwashed hands. Families of workers could also be exposed in their dwellings, perhaps ultimately through contaminated clothing of the worker.

The aggregate of these unquantifiable exposures, averaged over the entire population at risk, will increase the average total exposure to an unknown extent. Another potential factor that would cause the exposure estimates to be higher than the calculated values is the failure of the air sampling method to measure airborne particulates. The magnitude of these over-estimates is not likely to be large if averaged over the entire population at risk. However for the individuals accidentally exposed or careless in routine handling of the pesticide, these exposures could be large.

For a comprehensive discussion of exposure, see Attachment 1.[2]

3. *Risk associated with use of Treflan.* In order to assess the carcinogenic risk to man resulting from exposure to a chemical, it is necessary to extrapolate data from animal experiments conducted at high levels of exposure. Virtually all competent scientists, however, recognize that this type of extrapolation is at best highly speculative and based on many unverifiable assumptions. Thus, the estimate of the resulting number of cases of cancer produced in man should be viewed as a rough measure of hazard that incorporates as well as possible both the degree of carcinogenic activity of a chemical and the exposure levels to which man is suspected to be subjected.

The carcinogenic risks associated with use of Treflan were evaluated using the estimates of average lifetime daily inhalation exposure summarized above in part 2 and carcinogenic data from animal experiments. Because the only animal inhalation experiment available used nitrosodimethylamine (DMN), it was necessary in evaluating the risk from inhaling NDPA to assume that the ratio of carcinogenic potencies of NDPA to DMN via inhalation is the same as the potency ratio via drinking water (=1.65).

Using the one-hit model for low dose extrapolation, the number of cases of cancer expected to be induced in 470,000 spray applicators during the two years required in the event of cancellation would be about 0.0029 from inhalation plus about 0.093 from dermal exposure for a total of about 0.096 from both exposure routes combined. This implies that the chances are about 1 out of 10 that there may be at least one person among the 470,000 applicators who will get cancer as a result of two years inhalation and dermal exposure to Treflan containing 16 ppm NDPA. Stated another way, each of these applicators has about one chance in 5,000,000 of getting cancer.

Using the one-hit model for the estimated 38,000 field workers, the number of cases of cancer induced by 2-year exposures would be about 0.00008 due to inhalation plus about 0.0026 due to dermal exposure for a total of about 0.0027 cases for both exposure routes combined. This implies that the chances are about 3 out of 1,000 that there may be at least one person among the 38,000 field workers who will get cancer as a result of two years inhalation exposure to Treflan containing 16 ppm of NDPA. Stated another way, each of these field workers has about one chance in 14,000,000 of getting cancer.

If the same exposure and animal response data are used for a log-probit extrapolation the total number of cases for both exposure routes would be about 2×10^{-4} cases in spray applicators and 3×10^{-11} cases in fieldworkers. All of these calculations assume the use of Treflan containing ca. 16 ppm NDPA during the two-year period, not the use of either Treflan manufactured prior to 1977 or Treflan containing further reduced levels of NDPA.[3]

There are also risks associated with the unquantifiable exposures mentioned in part C–2–c which have not been explicitly considered in the calculation. It is estimated that the additional number of cases of cancer in the population due to these exposures is small, since the exposures will occur in only a small fraction of the population at risk. However, for the individuals experiencing these unquantifiable exposures, the associated risk could be larger than the risks to these individuals which we have been able to quantify. Our concern for these individuals and for this risk is not trivial. But to the extent that it results from use or application practices which are at odds with label warnings or common

[2] Inhalation and dermal exposure of field workers to NDPA has been quantified only for treated cotton fields. As soon as information on exposure is available for tractor drivers and field workers in other treated crops, the Agency will determine the associated risks and consider such in the risk/benefit analysis.

[3] If the number of cases of cancer were calculated for the purpose of suspension from the date this petition was submitted to the Agency, about half of the two year exposure would be to Treflan containing 160 ppm NDPA (the concentration cited in the petition) and about half to Treflan containing 16 ppm NDPA. This would result in the number of cases of cancer expected to be induced to be 5.5 times higher than noted in the body of this document using the one-hit linear model. The Agency has determined, however, that almost all Treflan containing the higher level cited in the petition has been used and that Treflan now contains 16 ppm NDPA as an upper limit. Accordingly, estimates based on 16 ppm NDPA were utilized by the Working Group.

sense, or from preventable accidents, our concern for this group of individuals is tempered by the realization that the remedy of a more careful practice of one's trade seems more appropriate than administrative remedies.

It is recognized that the risk estimates are very inexact due to the uncertainty in air concentration of NDPA in particulate form, the lack of dermal penetration data on NDPA, the uncertainties in the exposure estimates under field conditions, the applicability of animal carcinogenesis data to man, the carcinogenic response in man at very low doses and other factors discussed in the exposure and risk background documents. Therefore, the calculations should only be regarded as a rough indication that the risks of NDPA exposure from use of Treflan appear very small.[4]

For a detailed discussion of risk, see Attachment 2.

4. *Benefits associated with use of Treflan.* The FIFRA requires that the Administrator take into account not only the economic, social, and environmental costs, but also the benefits of the use of any pesticide when determining whether its continued use during the time required for cancellation proceedings would be likely to result in an unreasonable risk to man or the environment.

In conducting the benefit analysis the Agency must first look at available alternatives. If it is found that another pesticide is as effective at the same or lower cost as the product in question, no benefit derives from the use of the subject product. If, however, no other pesticide is as effective at the same or lower cost as the subject product, a benefit is derived from the use of the subject product. In this case, the Agency must analyze the impact of prohibiting use of this product. Those areas of impact which must be examined include the impact on production and prices of agricultural commodities, retail food prices, and other elements of the agricultural economy. The remainder of this part summarizes the Treflan benefits analysis.

(a) *Alternatives to Treflan.* The feasibility of using alternative weed control methods was examined by the National Herbicides Assessment Team, consisting of representatives of the USDA Agricultural Research Service, the USDA Economic Research Service, and state land grant universities; this group's full report may be found in Attachment 3.

The feasibility of alternative weed control methods was analyzed in terms of per acre yield (efficacy) and cost relative to Treflan. Other dinitroanilines were not considered as alternatives as they are also likely to contain nitrosamines. Following is a summary of the conclusions reached by the Team. It should be noted that although the members of the Team represent many years of experience in assessing the efficacy of various pesticides, their conclusions should be viewed as preliminary because of the time constraints imposed on their study. Those pesticides in parentheses were later identified as ones which could potentially contain nitrosamines.

Alternatives to Treflan for use on soybeans: Lasso, Dynap, Sencor, Lorox, Amiben, (Vernam), and cultivation

Alternatives to Treflan for use on cotton: Karmex, Caparol, Lasso, Cotoran, Dacthal, Prefar and (Zorial), followed by cultivation

Alternatives to Treflan for use on fruits and vegetables: Prefar, Alanap, Devrinol, Amiben, Furloe, Sinbar, Dalapon, TOK, Lorox, (Tillam, Enide[5] and Eptam), mechanical cultivation, and hand weeding

Alternatives to Treflan for use on other field crops: Lasso, Amiben, (Vernam and Eptam), mechanical cultivation, and hand weeding

The Team concluded for all of these use sites that the efficacy of these alternative weed control methods is less than that associated with use of Treflan and/or that these alternatives are more costly than Treflan.

The petition submitted to the Agency listed eight products which might serve as alternatives to Treflan. Of these, two (nitralin and fluoridifen) are not presently on the market, and three (dinitramine, vernolate, and diphenamid) potentially contain nitrosamine contaminants. Of the remaining three pesticides, chlorobromuron and chloramben are not registered for use on cotton and, together with linuron, were found to be less efficacious and/or more costly on the use sites for which they are registered.

(b) *Economic Impact of Suspending Treflan.* Because the alternatives to Treflan were found to be less effective and/or more costly than Treflan, it was necessary to analyze the economic impact of a possible suspension. This task was performed by EPA and USDA economists. In their analyses they used information provided by the National Herbicides Assessment Team which included information on acreage treated by trifluralin, weed control input requirements and yield differences for the alternatives most likely to be used in place of trifluralin. Any error in these field estimates would, of course, result in corresponding errors in the economic predictions. It should also be noted that the economic analysis was based on use of all the pesticides listed above in part C-4-a although, as has been noted, some of those pesticides may also contain nitrosamines. The full report of the economists may be found in Attachment 3.

It should be noted that the following analyses are based on the same assumptions which underlie most economic analyses, i.e., that those market forces not specifically included in the models remain constant. Examples of these forces include consumer tastes and preferences, the state of technology (in this case, with respect to agricultural practices and changes in the efficacy of alternative pesticides), etc. Because these forces are not fully taken into consideration in the economic analysis and because the assumptions utilized in the analysis may or may not adequately represent the considered sectors of the economy, the resulting conclusions should be viewed as a general indication of the possible effects of a suspension.

(i) *Short-Run Impact.* These impacts were estimated separately for each agricultural sector which would be affected. Partial budgeting techniques, combined with various assumptions regarding demand elasticity, were used to reach the following conclusions:

Production costs for soybeans would increase by $36.0 million. Due to the widespread use of Treflan for soybeans (38% of the U.S. acreage), the substantial cost increase, and the expected yield declines, 4.5 million acres might shift to corn production. The price of soybeans would increase by 24% over current prices.

Cotton production costs would increase by $5.9 million on the 8.3 million acres currently treated. Also, yield declines on this acreage might be as high as 12 percent. The resultant impact on cotton producers who use Treflan would be a reduction in income of $77 million.

Income losses for other agricultural sectors using Treflan would be $25.8 million for peanut, sugar beet and sunflower producers and $38.2 million for fruit and vegetable growers.

The income of all agricultural producers would decline by $521 million as a result of increased cost and reduced yields.

Due primarily to the increased corn production, which would significantly lower corn prices, the consumers of agricultural products in aggregate would be relatively better off in the short run. The monetary cost of a suspension would be borne primarily by the agricultural sectors during the first year following suspension.

(ii) *Long-Run Impact.* As the economic impact of a suspension must be evaluated in terms of the time required for cancellation proceedings, approximately two years, we must look beyond the short run (one year) estimates described above in part C-4-b-i. The USDA and EPA economists used the EPA Linear Programming Model to evaluate these long run impacts. This model assumes market adjustment in 1-3 growing seasons although it could take up to five years for the market fully to adjust. Thus, the long run impacts discussed below represent the movement that the market would begin to take during the second year of suspension.

The linear programming model used in this analysis was designed to evaluate the impact of pesticide regulatory policy on major sectors of U.S. agriculture. As such, the model addresses such issues as the ability to meet food, feed and fiber demands, cost of production, land allocation, monetary returns to the agricultural sector and the impact of alternative policy on these parameters. The model was not designed to assess consumer level impacts directly, but has been utilized to draw inferences concerning such impacts. For a number of reasons, principal of which is an extremely inelastic demand component of the model, such inferences may tend to overestimate actual results. Therefore, the conclusions which were drawn from the analysis are expressed at the farm level.

The most critical assumptions in the modelling effort relate to yield and cost changes following a pesticide restriction. In the case of Treflan for soybean and cotton production, these estimates were derived by biological scientists who were considered expert in the area of herbicide use. The estimates were not necessarily directly supportable by field research and are therefore considered to be tentative at this time. However, due to the assumption that the biologists worked under, namely that alternative herbicides would not be available in sufficient supply to satisfy a void created by suspension, the biological data should be considered as extreme upper bound estimates of yield losses in the long run. The assumption of supply availability has more merit for the short run impact estimation previously discussed.

Conclusions reached in this analysis were:

Increases in the cost of production plus yield effects, if passed on to the consumer in their entirety, would increase the price of soybeans by $1.17 per bushel, or approximately a 20 percent increase over recent prices.

Coincident with a price increase for soybeans, production would decline by 66 million bushels (4.5 percent) even after a substantial increase in planted acres of 4.4 million acres (an increase of 8.3 percent).

The impact on soybeans would transmit through the entire feedgrain economy, raising corn production costs by as much as $0.14 per bushel and corn prices by 5 percent.

Production and yield impacts associated with cotton could result in an added cost of $29.00 per bale for raw cotton, or a 10 percent increase. Translated to price impacts, this could result in an increase of 13.4 percent over the recent price of $216.30 per bale. The impact on final prices for finished cotton products was not estimated. To meet current cotton demand from domestic and international sectors following suspension, an increase in planting of 1.2 million acres (12.3 percent) would be required.

Overall Impact: Due to the inelastic nature of demand for agricultural products, the gross effect of the impact on the agricultural sector would be borne by consumers. Under the assumed changes in yield and cost the increase in consumer expenditures could be as high as $3.8 billion. Of this, $0.35 billion would be accounted for by increases in production cost and $3.45 would be in the form of windfall gains to the agricultural sector. However, these windfall gains would not be distributed equally between those farmers directly affected by the suspension and the rest of agriculture. The majority of the gain would go to the latter.

5. *Risk/Benefit Analysis.* The risk estimates in part C-3 indicate that the use of Treflan containing NDPA impurities would probably result in a very small number of cancer cases: Each of the 470,000 applicators has about one chance in 5,000,000 of getting cancer as a result of two years exposure to Treflan; and each of the 38,000 fieldworkers has about one chance in 14,000,000 of getting cancer from such exposure. Unquantifiable exposures might raise these averages but probably not by much, considering all the uncertainties. For certain individuals, the sporadic exposure resulting from accidental spillage and mis-handling of the pesticide will be very hazardous.

In the short run (one growing season), the economic impact of suspending Treflan would be a $521 million decrease in income to growers due to an increase in production costs and a decrease in per acre yield. In the long run, prices of agricultural commodities would rise. When compared with alternatives, the benefits of Treflan are that it does not require rain activation and that, with one annual application, it controls a wide variety of weeds and broadleaf grasses.

The Working Group finds that the small risks of Treflan use considering both the quantifiable and unquantifiable factors, do not outweigh the benefits derived from its use.

6. *Conclusions and Recommendations.* Nitrosodipropylamine (NDPA) is a suspected human carcinogen present as a contaminant in Treflan. Between 24-30 million acres of soybeans, cotton, fruits and vegetables, and other field crops are treated annually with Treflan.

Because risk associated with the use of Treflan during the two years required in the event of cancellation are exceeded by the benefits derived from its use, an imminent hazard does not exist, and the Working Group recommends against the suspension of Treflan.

Failure to find imminent hazard, however, does not mean that the Working Group has determined that the risk associated with the continued use of Treflan is acceptable. Rather, it means that during the two years required in the event of cancellation proceedings, which is the time period relevant to the decision of whether or not to issue a suspension order, the risks do not appear to outweigh the benefits.

40 CFR 162.11(a)(3)(ii)(A) provides that if any pesticides ingredient has been found to induce oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure, a rebuttable presumption against registration (RPAR) shall be issued. Since Treflan is known to contain a carcinogenic contaminant, a rebuttable presumption against the reregistration of this product must be issued.

Evidence gathered by the Agency indicates that NDPA is present in a number of pesticides. Thus the Agency is requiring all pesticide registrants and applicants to test their products for NDPA and other potential nitrosamine contaminants. Since it is the practice of the Office of Special Pesticide Reviews to examine all pesticides containing a given ingredient as a class rather than to examine each one individually as it is called to our attention, the Agency should initiate an RPAR action against all products containing NDPA. This RPAR should be based not only on the presence in the pesticides of the carcinogenic nitrosamine, but also on all other RPAR risk criteria.

The timing of the examination of given pesticide ingredients and the issuance of an RPAR should follow the published prioritization criteria of the Agency (Office of Special Pesticide Reviews Project Manager Procedures Manual, 1976) rather than the timing of petitions or referrals sent to the Agency. These weighted prioritization criteria include: amount of production, oncogenicity, and other chronic toxicity, acute toxicity, persistence, biomagnification, and bioaccumulation, and environmental mobility. In the Working Group's view, this RPAR recommendation is consistent with a deadline for issuance of an RPAR of October 1, 1977 and recommends that this deadline be established.

If the information on other pesticides containing NDPA is not available to the Agency by October 1, 1977, the Agency should proceed with the issuance of an RPAR against Treflan on that date.

Finally, as indicated above, there are significant deficiencies in exposure data which should be rectified. The Working Group therefore recommends that the Agency require the registrant (under 40 CFR 162.8(d)) to conduct further studies on exposure questions and particularly on the questions of respiratory exposure due to particulates and dermal exposure. The Working Group recommends that exposure studies be designed jointly by Agency scientists and registrants.

Protocols should be finalized within 30 days and data should be developed and submitted as soon as possible. Deadlines for completion of studies should be imposed which are designed to produce as much data as possible before the next growing season. Of course, if these or any other data reflect that exposure concerns are more serious than currently anticipated, the Agency can reconsider the suspension question at that time. In any event, any exposure data submitted would be utilized in the RPAR process.[6]

D. TRYSBEN AND BENZAC

Trysben 200 and Benzac 1281, registered by E. I. Du Pont de Nemours and Amchem Products, Inc., respectively, are trade names for trichlorobenzoic acid

[4] A comparison of these exposures to Treflan with other common nitrosamine exposures may be useful to set the problem in context. The total annual exposure of a spray applicator is about 2,160 ng/year, but Fine has estimated the nitrosamine content of 16 slices of bacon is about 2,000 ng and the DMN intake from 20 cigarettes is about 1,600 ng.

[5] Diphenamid (Enide) has been tested for nitrosamines; none were found at a sensitivity of 1 ppm. Although this product is registered for use on cotton and soybeans, it was not included in the Team's recommendations for alternatives for cotton and soybeans.

[6] The Working Group also considered label changes to provide protecting against exposure because of careless handling, wearing contaminated clothing, and other similar problems. However, the Working Group concluded that current labels contain strong warnings against these hazards which could not be significantly strengthened. Accordingly, the Working Group decided not to

dimethylamine salt. These products are recommend label alterations in this area. used to control broadleaf weeds on utility pipelines, rights-of-way, and other industrial sites, on ditchbanks and fencerows, and around farm buildings. A total of approximately 10,000 acres are treated annually with these products.

1. *Analyses of Nitrosamines in Trysben and Benzac.*—(a) *Trysben.* In the tests cited in the petition Fine found 187 ppm nitrosodimethylamine (DMN) in Trysben. These results were based on samples taken from one gallon containers. Du Pont informed the Administrator by letter on September 14, 1976 that DMN was formed by a chemical reaction of a pesticidal ingredient with sodium nitrite, which was used as a corrosion inhibitor in the one gallon containers but not in the 5 and 30 gallon drums. Du Pont further stated that production and sale of the one gallon container had been discontinued. Tests conducted by Fine and by the OPP CBIB showed levels of 1.3 and 2.0 ppm DMN in Trysben samples taken from a five gallon container.[1]

(b) *Benzac.* In the tests cited in the petition Fine found 640 ppm DMN in Benzac. These results were based on samples from one gallon containers, a size which also utilized sodium nitrite as a corrosion inhibitor. In a February 23, 1977 letter to the Director of the Office of Special Pesticide Reviews, Amchem stated that the other two size containers, 5 and 30 gallon drums, do not use this corrosion inhibitor. Nevertheless, tests conducted by Fine and by CBIB on Benzac samples taken from a five gallon drum showed DMN at average levels of 277 and 355 ppm.[1]

2. *Exposure to Nitrosamine in Trichlorobenzoic Acid.* Based on estimates from Du Pont and Amchem, it is believed that there may be 45 Benzac and 450 Trysben applicators using automated equipment such as railroad tank cars or trucks. Benzac users may spend as many as 200 hours per year applying the pesticide; Trysben users, 320 hours. In addition, there may be 5 Benzac and 60 Trysben back-pack operators using hand-gun sprayers; Benzac handgun operators apparently apply the pesticides for only one hour apiece per year; Trysben hand-gun operators, 24 hours/year.

(a) *Inhalation Exposure.* No information was available concerning the air concentration of DMN resulting from use of these products. However, the air concentration of DMN was estimated by analogy with other spray application situations in which air concentrations could be related to application rates. The range of this relationship is about 5–100 $\mu g/m^3$ per pound per acre. As a conservative estimate, the factor 100 $\mu g/m^3$ was used in the following formula to calculate the air concentration of DMN: 15 pounds per acre $\times$ 100 $\mu g/m^3$ $\times$ concentration of DMN in the pesticide (3 ppm in Trysben; 300 ppm in Benzac). The calculated air concentration of DMN is 0.0045 $\mu g/m^3$ for Trysben and 0.45 $\mu g/m^3$ for Benzac. Inhalation exposure to DMN during the two years required for cancellation proceedings was then calculated as follows: Air concentration $\times$ volume of air inhaled (1.8 m^3/hr) $\times$ hours of exposure per year (24 for Trysben; 1 for Benzac) $\times$ 2 years $\div$ (70 $\times$ 365). The last two numbers convert the total two year exposure to a daily average over the lifetime of an individual. The daily lifetime average inhalation exposure of the applicator to DMN in Benzac would be 0.063 ng/day. From the data furnished by the registrant, about five people would have this exposure to DMN from the use of Benzac. From use of Trysben, which currently contains less than 3 ppm DMN, the daily lifetime average inhalation exposure for the 60 hand-gun users is calculated to be 0.015 ng DMN per day. Professional applicators who wear adequate clothing and respirators would have even less exposure.

The inhalation exposure of operators of automated equipment to DMN is expected to be much lower than that of hand-gun operators given the greater distance of the operator from the spraying apparatus and the protection afforded by the cab on automated equipment.

(b) *Dermal Exposure.* Since there are no published studies of residues on surfaces resulting from either vapor or particulate levels of DMN, it was necessary to calculate potential dermal exposure to DMN using the same model and assumptions discussed in part C–2–b above. Using this model and the inhalation exposures estimated above, the value for daily lifetime average dermal exposure to DMN from two years use of Trysben is calculated to be 0.49 ng/day; and of Benzac, 2.1 ng/day.

Exposure to DMN is more thoroughly discussed in Attachment 1.

3. *Risk Associated with Use of Trichlorbenzoic Acid.* In order to assess the carcinogenic risk to man of exposure to a chemical, it is necessary to extrapolate data from animal experiments conducted at high levels of exposure. Virtually all competent scientists, however, recognize that this type of extrapolation is at best highly speculative and based on many unverifiable assumptions. Thus, the estimate of the resulting number of cases of cancer produced in man should be viewed as a rough measure of hazard that incorporates as well as possible both the degree of carcinogenic activity of a chemical and the exposure levels to which man is suspected to be subjected.

Using the one-hit model, the number of cancer cases for back-pack operators due to two years inhalation and dermal exposure to Trysben containing 3 ppm of DMN would be about 2.2×10^{-5} cancer cases in the population of approximately 60 people. This implies that the chances are about 2 out of 100,000 that there may be at least one person among the 60 Trysben handgun applicators who will get cancer as a result of two years exposure to Trysben containing 3 ppm DMN. Stated another way, any one of these users would have about one chance in 2,700,000 of getting cancer from Trysben use.

Using the one-hit model for the approximately five back-pack users of Benzac the number of cancer cases due to two years inhalation and dermal exposure would be about 7.9×10^{-4}. This implies that the chances are about 1 out of 130,000 that there may be at least one person among the 5 Benzac users who will get cancer as a result of two years exposure. Stated another way, any one of these users has about one chance in 630,000 of getting cancer.

In addition to these calculated risks, there are also the same types of unquantifiable exposures as discussed in section C–2–c. The same uncertainties in the risk estimates apply for the Trysben and Benzac users as for the Treflan users. The calculations should be regarded as indicating roughly that the risks of exposure appear very small.

If the log-probit model with a slope of one were used to calculate the number of cases for these people, the result would be about 10^{-11} cancer cases in Trysben hand-gun users and about 10^{-10} cancer cases in Benzac hand-gun users.

4. *Benefits Associated With Use of Trysben and Benzac.* Picloram/2,4–D is registered for essentially the same uses as Trysben and Benzac and currently is the most commonly used pesticide for controlling broadleaf weeds along fencerows, utility rights-of-way, and pipelines. However, at least one sample of 2,4–D has been found to contain nitrosodiethanolamine. If picloram/2,4–D remains on the market, there would be minimal economic impact from the suspension of Trysben and Benzac because there is apparently only negligible difference in efficacy and cost between picloram/2,4–D and the trichlorobenzoic acids and thus users of the suspended products would likely shift to picloram/2,4–D.

Another alternative herbicide not suspected of containing nitrosamines is Pramito 25E (common name prometone). However, prometone costs approximately $67.50 per acre more than Trysben or Benzac and may not be as effective as the products in question. With approximately 10,000 acres currently being treated with Trysben or Benzac, the minimum total cost of shifting to prometone would be $675,000.

5. *Risk/Benefit Analysis.* Approximately 500 persons apply Trysben and or Benzac annually using automated equipment. The risk associated with such use is expected to be minimal due to the protection afforded by the cab and the positioning of the spray nozzles relative to the cab.

The risk associated with hand-gun application of the two products is potentially greater. The risk estimates in section 3 indicate that a very small number of cancer cases would be caused by this use of these two products. The average estimates are that each of the 60 Trysben hand gun users has about one chance in 2,700,000 of getting cancer from two years exposure and that each of the 5 Benzac hand gun users has about one chance in 630,000 of getting cancer.

If these products were suspended, it is likely that current users of such products would shift to picloram/2,4-D, which is approximately equal to the trichlorobenzoic acids in efficacy and cost. Because picloram/2,4-D is an equivalent alternative to Trysben and Benzac, benefits are valued at zero.

6. *Conclusions and Recommendations.* Nitrosodimethylamine (DMN) is a suspected human carcinogen present in Trysben and Benzac. Approximately 10,000 acres of non-crop land are treated annually with Trysben and Benzac.

The problem presented to the Agency is what action is appropriate when the risks posed by a pesticide are small and not appreciable and the advantages are zero. While an RPAR action against pesticides containing oncogenic ingredients is mandatory upon the Agency, the extraordinary action of suspension is discretionary. The Working Group recommends against the suspension of Trysben and Benzac (1) because it finds that there will be no appreciable difference in hazard to the individuals coming in contact with these pesticides and no significant threat of danger to their health whether their registrations are immediately suspended or whether these registrations are canceled in the near future, if warranted; and (2) because it finds that a disruptive, resource intensive effort in this discretionary, small hazard situation will delay other, mandatory efforts by the Agency on pesticides posing potentially greater hazards to man and the environment.

A recommendation by the Working Group not to suspend Trysben and Benzac does not mean that the Agency will not take action to reduce the risks these pesticides pose to applicators during the next two years. A statement of Agency policy on N-nitroso compounds (of which nitrosamines are a subclass) will require labeling changes on all products containing carcinogenic nitrosamines. In addition, the Working Group recommends that Trysben and Benzac labels provide that application of these herbicides be made by either automated equipment or individuals completely protected with clothing, goggles, and respirators.

Further, failure to find imminent hazard does not mean that the Working Group has determined that the risks associated with the continued use of Trysben or Benzac are acceptable. 40 CFR 162.11(a)(3)(ii)(A) provides that if any pesticide ingredient has been found to induce oncogenic effects due to oral, inhalation, or dermal exposure, a rebuttable presumption against registration (RPAR) shall be issued. Since Trysben and Benzac are known to contain a carcinogenic contaminant, rebuttable presumptions against the reregistrations of these products must be issued.

Evidence gathered by the Agency indicates that DMN is present in a number of pesticides. Thus the Agency is requiring all pesticide registrants and applicants to test their products for DMN and other potential nitrosamine contaminants. Since it is the practice of the Office of Special Pesticide Reviews to examine all pesticides containing a given ingredient as a class rather than to examine each one individually as it is called to our attention, the Agency should initiate an RPAR action against all pesticides containing DMN. This RPAR should be based not only on the presence in the pesticides of the carcinogenic nitrosamine, but also on all other RPAR risk criteria.

The timing of the examination of given pesticide ingredients and the issuance of an RPAR should follow the published prioritization criteria of the Agency (Office of Special Pesticide Reviews Project Manager Procedures Manual, 1976) rather than the timing of petitions or referrals sent to the Agency. These weighted prioritization criteria include: amount of production, oncogenicity, and other chronic toxicity, acute toxicity, persistence, biomagnification, and bioaccumulation, and environmental mobility. In the Working Group's view, this RPAR recommendation is consistent with a deadline for issuance of an RPAR of October 1, 1977 and recommends that this deadline be established.

If the information on other pesticides containing DMN is not available to the Agency by October 1, 1977, the Agency should proceed with the issuance of an RPAR against Trysben and Benzac on that date.

Finally, as indicated above, there are significant deficiencies in exposure data which should be rectified. The Working Group therefore recommends that the Agency require the registrant (under 40 CFR 162.8(d)) to conduct further studies on exposure questions and particularly on the questions of respiratory exposure due to particulates and dermal exposure. The Working Group recommends that exposure studies be designed jointly by Agency scientists and registrants. Protocols should be finalized within thirty days and data should be developed and submitted as soon as possible. Of course, if these or any other data reflect that exposure concerns are more serious than currently anticipated, the Agency can reconsider the suspension question at that time. In any event, any exposure data submitted would be utilized in the RPAR process.

[FR Doc.77-22627 Filed 8-5-77;8:45 am]

[1] Both the Benzac and Trysben samples were collected at the Dupont Biochemicals Department in Philadelphia, PA on February 11, 1977.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 869]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21782–CW–TC–77 Marianas Telephone Co. Consent to Transfer of Control from Air Guam Inc., Transferor to Guam International Motors Inc., Transferee. Station WWA347, Alutom, Island of Guam

21783–CD–P–77 Pacific Northwest Bell Telephone Company, (KOE520), C.P. to relocate facilities, change antenna system and replace transmitter operating on 35.26 MHz, located at Lookout Mountain 4.7 Miles SE of Bellingham, Washington

21784–CD–P–77 Platteville Telephone Company, (KSJ826), C.P. for additional facilities to operate on 454.625 MHz located 0.7 mile south of Platteville, Wisconsin

21785–CD–P–77 Alan H. Rosenson Trust d/b/a All Florida Communications Co. (KIN645), C.P. to relocate facilities and change antenna system operating on 43.22 MHz at Loc No 4: 7150 West 32nd Ave Hialeah, Florida.

21786–CD–P–(2)–77 Waco Communications Inc. (KLB498), C.P. to relocate facilities and change antenna system operating on 152.06 MHz from Loc. No. 1 to Loc No 3. 817 South First Street, Temple, Texas; and for additional facilities to operate on 152.06 MHz at Loc. No. 5: 1200 Block of North 16th Street, Waco, Texas

21787-CD P 77 Philadelphia Mobile Telephone Company (KGI775), C.P. to relocate facilities operating on 454.300 MHz to a new Loc. No. 2: Lewis Tower Bldg., 225 S. 15th Street, Philadelphia, Pennsylvania.

21788-CD-P-(2)-77 Sully Buttes Telephone Cooperative, Inc. (new), C.P. for a new station to operate on 152.06 and 152.66 MHz to be located 4 miles East 0.50 mile South of Onida, South Dakota.

21789-CD-P-77 Advance Business Communications, Inc. (new), C.P. for a new 1-way signaling station to operate on 158.70 MHz to be located at 202–204 South Main Street, Aberdeen, South Dakota.

21790-CD-P-77 Telpage of Tennessee, Inc. (new), C.P. for a new 1-way signaling station to operate on 152.24 MHz to be located at Dug Gap Mtn., approximately 4 miles SW. of Dalton, Georgia.

21791-CD-P-77 Pueblo Telephone Secretarial Service, Inc. (new), C.P. for a new 1-way signaling station to operate on 152.24 MHz to be located at 2226 TV Lane, Pueblo, Colorado.

21792-CD-P-(2)-77 Electropage, Inc. (KMD986), C.P. for additional facilities to operate on 72.58 and 72.88 MHz, Control at a new Loc. No. 4: 4799 24th Street, Sacramento, California.

21793-CD-P-(2)-77 General Communications Service, Inc. (KOE254), C.P. to change antenna system and replace transmitter operating on 152.03 and 152.06 MHz at Loc. No. 6: Atop Mt. Eden—4 miles NE. of Flagstaff, Arizona.

21794-CD-P-77 General Communications Service, Inc. (KUO575), C.P. to change antenna system and replace transmitter operating on 152.24 MHz located Atop Mt. Elden, 4 miles NE. of Flagstaff, Arizona.

21795-CD-P-77 Empire Paging Corporation (KAA209), C.P. for additional facilities to operate on 152.24 MHz at a new Loc. No. 3: 5 Horizon Road, Fort Lee, New Jersey

CORRECTION

21492-CD MP-(2)-77 Airsignal of Colorado, Inc. (KWU523), Correct File Number to read: 21492-CD-MP-77. All other particulars are to remain as reported on PN No. 868, dated July 25, 1977.

MAJOR AMENDMENT

21172-CD-77, ARCH, A Joint Venture (KDS495), Amend to change frequencies to 870.000–870.960 MHz at Loc. No. 1; and to 880.000–880.960 MHz at Loc. No. 2; and to change the antenna systems and effective radiated powers. All other particulars of operation remain as reported in PN No. 856, dated May 2, 1977.

21237-CD-P-77, James D. & Lawrence Garvey d.b.a. RADIOFONE (KUS290), Amend to lower and side mount antenna with tip at 295' AGL with maximum lobes at 135 and 315 degrees. All other particulars of operation remain as reported in PN No. 857, dated May 9, 1977.

RURAL RADIO

60350 CR-P L-77 Robert H. Jones Ranch (new), C.P. and license for a new Rural Subscriber station to operate on 158.49, 152.03, 158.52 and 152.06 MHz to be located 5 miles N.E. of Cedar Grove on Hwy. 344, 2 miles E. of Hwy. 344 on dirt road, Cedar Grove, N. Mex.

60351-CR-P/L-77 Puerto Rico Communications Authority (new), C.P. and license for a new Rural Subscriber station to operate on 459.375, 459.400, 459.425, 459.450, 459.475, 459.500, 459.525 and 459.550 MHz to be located at Bo. Guanajibo, Carr. 344 Km. 2.1, Hormigueros, P.R.

60352-CR-P/L-77 Same as above except located at Bo. Lajas Arriba, Carr. 117, Km. 5.4, Lajas, P.R.

60353-CR-P L-77 Same as above except located at Bo. Guanajibo, Carr. 343, Km. 2.4, Hormigueros, P.R.

60354-CR-P/L-77 Same as above except located at Bo. Lavadero, Carr. 343, Km. 4.0, Hormigueros, P.R.

60355-CR-P L-77 Same as above except located at Bo. Maria, Carr. 417, Km. 7.0, Aguada, P.R.

60356-CR-P L-77 Same as above except located at Bo. Cerro Gordo, Carr. 417, Km. 9.4, Aguada, P.R.

60357-CR-P L-77 Same as above except located at Bo. Lavadero, Parcela No. 95, Hormigueros, P.R.

60358 CR-P L-77 Same as above except located at Bo. Sabana Alta, Carr. 3311, Km. 1.8, Cabo Rojo, P.R.

60359 CR P L-77 Same as above except located at Bo. Llanos Tuna Sector La Capilla, Cabo Rojo, P.R.

60360-CR-P L-77 Same as above except located at Bo. Llanos Tuna, Carr. 312, Km. 2.9, Cabo Rojo, P.R.

60361-CR-P L-77 Same as above except located at Bo. Playa El Combate, Carr. 3301, Km. 3.0, Cabo Rojo, P.R.

60362-CR P L-77 Same as above except located at Barrio Llanos Costa, Carr. 301, Km. 8.1, Cabo Rojo, P.R.

60363-CR-P L-77 Same as above except located at Barrio Pedernales, Carr. 307, Km. 3.2, Cabo Rojo, P.R.

60364-CR-P L-77 Same as above except located at Bo. Plan Bonito, Carr. 102, Km. 10.8, Cabo Rojo, P.R.

60365-CR-P L-77 Same as above except located at Bo. Cerro Gordo, Carr. 405, Km. 4.4, Anasco, P.R.

60366-CR-P L-77 Same as above except located at Bo. Tres Hermanos, Carr. 401, Km. 0.6, Anasco, P.R.

60367-CR-P L-77 Same as above except located at Bo. La Plata, Carr. 327, Km. 1.1, Lajas, P.R.

60368-CR P L 77 Same as above except located at Bo. Atalaya, Carr. 411, Km. 9.8, Aguada, P.R.

60369-CR-P L-77 Same as above except located at Bo. Cerro Gordo, Aguada, P.R.

60370-CR P L-77 Same as above except located at Bo. Papayo, Carr. 324, Km. 2.3, Lajas, P.R.

60371-CR P L-77 Same as above except located at Bo. Olivares, Carr. 303, Km. 3.3, Lajas, P.R.

60372-CR-P L-77 Same as above except located at Bo. Candelaria, Carr. 101, Km. 21.6, Lajas, P.R.

60373-CR-P L-77 Same as above except located at Bo. Paris, Carr. 306, Km. 3.6, Lajas, P.R.

60374-CR-P L-77 Same as above except located at Bo. Maguayo, Carr. 305, Lajas, P.R.

POINT TO POINT MICROWAVE RADIO SERVICE

3204-CF-ML-77 American Telephone and Telegraph Company (KKN30), 333 N Sixth St., Baton Rouge, Louisiana. Lat. 30°36'59" N., Long. 91°11'06" W. Mod. of lic. to delete frequencies 3770V, 3850V, 3930V, 4010V, 4070V, MHz toward Livonia and add to KLT46 South Central Bell Telephone Company. (Partial transfer.)

3205-CF-ML-77 South Central Bell Telephone Company (KLT46), 333 North 6th Street, Baton Rouge, Louisiana. Lat. 30°-26'59" N., Long. 91°11'06" W. Mod. of lic. to add frequencies 3770V, 3850V, 3930V, 4010V, 4170V MHz toward Livonia from AT&T Co. (Partial transfer.)

3206-CF-ML-77 Same, (KLT45) 1.1 miles WSW. of Livonia, Louisiana. Lat. 30°33'28" N., Long. 91°34'18" W. Mod. of Lic. to add frequencies 3730V, 3810V MHz toward Baton Rouge and 3710H, 3790H, 3870H, 3950H, 4110H MHz toward Cecelia from AT&T Co. (Partial transfer.)

3207-CF-ML-77 Same, (KLT44) 1.4 mile ENE. of Cecelia, Louisiana. Lat. 30°20'37" N., Long. 91°49'40" W. Mod. of lic. to add frequencies 3750H, 3830H, 3910H, 3990H, 4150H MHz toward Lafayette and 3750H, 3830 MHz from AT&T Co. (Partial transfer.)

3208-CF-ML-77 Same, (KLK84) 530 South Buchanan Street, Lafayette, Louisiana. Lat. 30°13'32" N., Long. 92°01'10" W. Mod. of lic. to add frequencies 3710H, 3790H MHz toward Cecelia and 3710H, 3790H, 3870H, 3950H MHz toward Maxie from AT&T Co. (Partial transfer.)

3209-CF-ML-77 Same, (KTF66) 1.5 miles SE. of Maxie, Louisiana. Lat. 30°18'27" N., Long. 92°22'52" W. Mod. of lic. to add frequencies 3750H, 3830H, 3910H, 3990 MHz toward Fenton and 3750H, 3830H, 3910H MHz toward Lafayette from AT&T Co. (Partial transfer.)

3210-CF-ML-77 Same, (KTF67) 3.4 miles SE. of Fenton, Louisiana. Lat. 30°20'10" N., Long. 92°52'39" W. Mod. of lic. to add frequencies 3710H, 3790H, 3970H, 3950H MHz toward Lake Charles and 3710H, 3790H, 3870H MHz toward Maxie from AT&T Co. (Partial transfer.)

3211-CF-ML-77 Same, (KVU60) 315 Division Street Lake Charles, Louisiana. Lat. 30°13'51" N., Long. 93°12'57" W. Mod. of lic. to add frequencies 3850H, 3750V, 3830V MHz toward Edgerly and 3750H, 3830H MHz toward Fcbtib from AT&T Co. (Partial transfer.)

3212-CF-ML-77 Same, (KVU61) 2 miles North Edgerly, Louisiana. Lat. 30°15'31" N., Long. 93 30'09" W. Mod. of lic. to add frequencies 3810H, 3710V, 3790V MHz toward Peveto and 4030V MHz toward Lake Charles from AT&T Co. (Partial transfer.)

3213-CF-AL-(7)-77 American Telephone and Telegraph Co. Application for consent to assignment of radio station license American Telephone and Telegraph Company assignor to South Central Bell Telephone Company; Assignee for station KKP88 Livonia, Louisiana; KKP89 Cecelia, Louisiana; KKP90 Lafayette, Louisiana; KKP91 Maxie, Louisiana; KKP92 Fenton, Louisiana; KKY47 Lake Charles, Louisiana and KLR97 Edgerly, Louisiana.

3294-CF-P-77 Satellite Business Systems (new), IBM Plant, South Road, Poughkeepsie, New York. (Lat. 41°39'18" N., Long. 75°56'24" W.) C.P. for a new station on frequencies 2121.6V and 2128.0V toward Lloyd Hill on azimuth 13.8°.

3295-CF-P-77 Same, (new), Lloyd Hill, Fallkill Rd., (Hyde Park) New York. (Lat. 41°49'21" N., Long. 75°53'06" W.) C.P. for a new station on frequencies 21171.6V and 2173.0V toward Poughkeepsie on azimuth 193.8° and 2168.4V and 2174.8V toward Kingston on azimuth 331.0°.

3256-CF-P-77 Same, (new) IBM Plant, Neighborhood Road, Kingston, New York. (Lat. 41°58'14" N., Long. 73°59'42" W.) C.P. for a new station on frequencies 2118.4V and 2124.8V toward Poughkeepsie on azimuth 150.9°.

3226-CF-R-77 Matanuska Telephone Association, Inc. (WHB64), Eagle River, Alaska. Application for Renewal of developmental radio station license.

3227-CF-P-77 Same, (WHB63), Anchorage, Alaska. Application for Renewal of developmental radio station license.

3232-CF-MP-77 General Telephone Company of the Northwest, Inc. (WCG238), Lakeside Corner of 9 Street and N. Lake Ave., Lakeside, Oregon. Lat. 43°34'34" N., Long. 124°10'17" W. C.P. to increase output, correct coordinates of receive-only station on frequency 2162.4H MHz toward Lakeside PR. from passive reflector to HUSR, Oregon.

3233-CF-MP-77 Same, (KON76), Humr 3 miles South of Lakeside, Oregon. Lat. 43°-31'59" N., Long. 124°10'32" W. C.P. to correct coordinates of receive-only station and increase output power on frequency 2112.4H MHz toward Lakeside PR, Oregon.

CORRECTION

3163-CF-P-77 RCA Alaska Communications, Inc., (WBA87) corrected to read Renewal of radio station license. All other particular remain as reported on PN 868 date 7-25-77.

3147-CF-P-77 Hargray Telephone Company, Inc., (WQQ44) U.S. Highway 278, Hilton Head Island, South Carolina corrected file number. All other particular remain as reported on PN 868 dated 7-25-77.

2952-CF-P-77 Big Bend Telephone Company, (WBB258) corrected file number. All other particular remain as reported on PN 865 dated 7-5-77.

3057-CF-P-77 Illinois Bell Telephone Company, (KSO95) corrected frequency to read 5989.7V MHz Weldon. All other particular remain as reported on PN 866 dated 7-11-77.

[FR Doc.77-22728 Filed 8-5-77;8:45 am]

[FCC 77-515; RM-2756]

FM BROADCAST STATIONS; CERTAIN CITIES IN MISSOURI

Table of Assignments; Memorandum Opinion and Order—Proceeding Terminated

In the matter of amendment of §73.-202(b), Table of Assignments, FM Broadcast Stations (Caruthersville, Dexter, Malden and Portageville, Missouri), RM-2756.

Adopted: July 14, 1977.

Released: July 27, 1977.

1. The Commission has before it a petition for reconsideration filed by Communications Systems, Inc. ("CSI"), license of Station KFMP(FM), Cape Girardeau, Missouri, of the Broadcast Bureau's action, adopted February 3, 1977, by Memorandum Opinion and Order (Mimeo 77851), which denied certain changes in the FM Table of Assignments which were designed to permit changing the designation of petitioner's channel from Class B to Class C.[1] An opposition has been submitted by Jim Southard, Cecil Poff, and Solan Lott, petitioners for an FM channel at Blytheville, Arkansas. A motion to strike was filed by Tri-County Broadcasting Co., Inc., licensee of Station KTCB(AM), Malden, Missouri, and applicant for an FM station at Malden (BPH-10018).

2. The Memorandum Opinion and Order denied petitioner's request to have its facility upgraded because, in order to do so, an applied for FM channel at Malden would have to be deleted and substitutions of Class A channels at three Missouri communities would have to be made. After weighing the public interest benefits and detriments of petitioner's request, the Commission, by delegated authority, denied the petition. Note was made of the fact that petitioner had not provided the data to support its allegation that a first aural service could be provided to any area by the increased facilities. Without such service, the provision for a first local service at Malden was thought to have a higher priority than an extension of service to already served areas.[2]

3. In its petition for reconsideration, CSI in effect deals with five areas in which it says the Commission erred. First, it argues that the Bureau lacked the delegated authority to take the action. Second, it contends that its station has been discriminatorily placed in a "degraded" status as the only Class B station in Zone II. Third, CSI claims that assignment of the Malden FM channel was premised upon early "activation" of the channel, which did not occur. Fourth, CSI avers that the *Anamosa, Iowa*, case[3] provides precedent for a grant of petitioner's request for Class C status here. Fifth, it alleges that the Commission's rejection of petitioner's claims of first aural service is based on erroneous assumptions. Each of these points is discussed below.

4. In their opposition, Jim Southard, et al., complain that this petition for reconsideration is repetitive and identical to previous requests that have been denied by the Commission. They also contend that it has no substantive merit. They urge the Commission to dispose of this proceeding promptly so we can consider forthwith their conflicting petition for an FM channel at Blytheville, Arkansas. We agree that this matter should be resolved and we turn to the points raised by CSI.

5. Petitioner's first contention is that the Bureau did not have delegated authority to issue its Memorandum Opinion and Order. Petitioner argues that this matter should have been referred to the Commission because there was no precedent dispositive of the issues presented. Further, it asserts that if any delegated authority existed for the dismissal of its petition for reconsideration, then it was vested in the General Counsel under § 0.251 (c) and (d).

6. We find that the Bureau's action was properly taken pursuant to delegated authority found in § 0.281(b) (6) of the Commission's rules. There was no need to refer the matter to the Commission since no novel question was presented. Contrary to petitioner's assertions, the issues presented by the petition were of a routine nature,[4] namely weighing the comparative factors used in choosing between communities and in evaluating the importance of the service each proposal could provide. The General Counsel's authority, under § 0.251(c) of the Commission's rules, to dismiss repetitious petitions for reconsideration applies only to rulemaking proceedings of general applicability and not to those subject areas already in the exclusive jurisdiction of a particular Bureau.[5] In any event, by virtue of the present consideration of this case by the Commission, petitioner's argument on the point of action by delegated authority in effect becomes moot.[6]

7. The remaining issues deal with the substantial matter of the Commission's assignment policies in choosing between

[1] The Memorandum Opinion and Order also dismissed an alternative petition for reconsideration of two previous actions which had denied the identical relief. See Cape Girardeau, Mo., et al., 51 F.C.C. 2d 492 and 54 F.C.C. 2d 896 (1975). An appeal of these actions is presently pending before the D.C. Circuit Court of Appeals, sub. nom. *Communications Systems, Inc. v. F.C.C.*, No. 75-1992, filed October 8, 1975.

[2] Petitioner's allegations that a first aural service could be provided were found insufficient for two reasons. First, it failed to provide the measurement data that would show that the proposed area of first aural service was not already served at least in part by AM Station KMOX, St. Louis, Missouri, as appeared to be the case. Second, petitioner assumed that it could utilize facilities of 275 meters (900 ft) and 100 kW power in order to provide the alleged first aural service, but the Federal Aviation Administration had previously announced an objection to this proposal, and the Commission had not been notified up to that time that this position had changed as petitioner had asserted. We have been informed by a recent letter that the FAA had no objection to facilities of 100 kW power at 282 meters (923 ft.) HAAT.

[3] *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974); 60 F.C.C. 2d 1041 (1976).

[4] Moreover, we do not believe, as petitioner implies, that a question arises because there was no specific statement that the case was a routine one.

[5] By virtue of § 1.429(i) of the Commission's rules, the Bureau has authority to dismiss as repetitious a second petition for reconsideration in the Bureau's area of responsibility. See §§ 1.429(a) (Note); 1.420 and 0.281(b) (6) of the Commission's rules. See also § 1.106(k) (3). If at that point a petitioner wishes to offer any new information or arguments not previously before the acting authority it may do so in a new petition for rule making. This was done here, and full consideration was given to the merits of petitioner's filing in the Memorandum Opinion and Order.

[6] The Motion to Strike CSI's petition, submitted by Tri-County Broadcasting, cites § 1.106 of the Commission's rules for its argument that CSI has violated the Commission's procedural requirements by directing its petition for reconsideration to the Commission. In addition the Motion asserts that under § 1.43(c) of the Commission's rules, separate pleadings should have been submitted for reconsideration of the Memorandum Opinion and Order of February 3, 1977, and of the Commission's action of February 26, 1975, and August 13, 1975. As to these contentions, CSI responds that §§ 1.404(c) and 1.115(a) apply and that § 1.43(c) was misstated. However, we find that both parties are incorrect as to the applicable provision because § 1.429(a) governs rulemaking proceedings and permits referral of petitions for reconsideration to the Commission. Thus, CSI is not barred from requesting Commission action. Regarding the requirement of filing separate pleadings, CSI is correct about § 1.43. The applicable provision is § 1.44 which does not require separate pleadings in the instant situation.

Malden and Cape Girardeau. The Commission is chiefly concerned in the assignment of FM channels that a distribution be made on a fair and equitable basis and be in accordance with well established priorities. Although we would favor the upgrading of an existing Class B station to Class C status, a different result might be necessary if the effect would be a net loss to the public. Here our concern focussed on the loss of Malden's only FM channel. CSI, pursuant to the principle announced in the Anamosa, Iowa, case of 1974, sought to overcome this concern by demonstrating that some area would receive a first aural service. However, a proper showing had not been submitted by February 3, 1977, the date of the Bureau action although CSI's petition in this proceeding originally was filed on June 17, 1976. The measurement data was not received until March 15, 1977, along with the petition for reconsideration, and FAA approval was not received until April 18, 1977. Without this data the Bureau properly found no basis for concluding that an upgrading of CSI's facilities would serve the public interest when the consequence would be to deny a first fulltime local aural service to Malden, Missouri.

8. Petitioner contends that its station has somehow been placed in a "degraded" status by having to operate with Class B facilities in a zone designated for higher powered Class C facilities and in competition with these stations. Further, it argues that the station should be restored to the Class C status it originally had when assigned to Cape Girardeau. However, it was the voluntary choice of CSI's predecessor to locate in Zone I thereby making it a Class B station. Then, pursuant to §§ 73.206(b)(2), 73.208 and 73.211(c) of the Commission's rules, the Commission gave the station the protection afforded a Class B assignment. When CSI purchased this facility, it had notice of the class of station and the location of the transmitter as well as the extent of the power and height then in use. With this in mind, there is no basis for considering the proposal as representing a restoration of Class C status, as this particular station never had such status. It was not the Commission that decided how this station was to compete with a Class C station at Cape Girardeau: that was a voluntary choice of the applicant. Nor, in any event, has it been demonstrated that the station cannot survive in competition with Station KGMO-FM, which we note is itself operating at Cape Girardeau with facilities equivalent to those of Class B stations—28.5 kW at 52 meters (170 ft.) HAAT.[1]

9. We do not believe, as petitioner argues, that having a Class C and a Class B station licensed to the same community can be viewed as being in conflict with our intermixture policy. That policy is designed to distribute certain classes of channels on an equitable basis, taking into account various factors in chosing between a Class A or a Class B/C channel. Petitioner claims that the relief it seeks is similar to that provided in the Anamosa, Iowa, case where the Commission avoided intermixture of a Class A assignment and a Class C assignment, at Iowa City, Iowa, by returning its second Class C channel and by deleting the Class A assignment which had been assigned as a substitute for the second Class C channel. This was done even though the result was that Anamosa could not have a first local FM service. Contrary to its assertions, petitioner's situation is not like the one involved in that case.[2] There is no policy against the kind of intermixture that allegedly affects petitioner. In fact, there is little reason to refer to it as intermixture at all since the frequency is referred to in the Commission's Rules as a Class B/C channel. See § 73.206. The Commission's intermixture policy is designed to avoid the combination in a community of a Class A channel with either a Class B or a Class C assignment. It was not intended to cover intermixture in the technical sense of a Class B and a Class C operation. It is only by choice of a transmitter site by the applicant that the actual class of station is established. The economic consequences of the allegedly unwise choice here must be assumed by the applicant and its successors in interest. Necessarily, the Commission needs to rely on this choice in taking other actions regarding that channel or adjacent channels.

10. Petitioner also argues that the Malden assignment was conditioned upon early activation of the channel, but no such condition was specified. Nor is there a policy requiring us to delete an assigned channel if not activated within a certain stated period. Moreover, the June 29, 1976, submission of an application for the Malden channel was not unreasonably late, and it did not prejudice the use of the channel elsewhere in the interim. In any event, no harm is involved since we are considering this petition seeking deletion of the Malden channel on its merits.

11. Although reconsideration of the previous action would have been repetitious, this did not preclude consideration of petitioner's proposal in terms of a new petition for a rule making where we could consider CSI's assertion of significant first aural service. Petitioner argues that the Bureau relied on erroneous assumptions as to the coverage of Station KMOX(AM), St. Louis, in its Memorandum Opinion and Order. In this regard, CSI asserts that Station KMOX(AM) does not provide 0.5mV/m service to the area in question that would purportedly be served for the first time by petitioner's upgraded facilities[3] and that this first service area would be of the following dimensions, depending on the height of petitioner's antenna, as follows (all are approximate figures and all assume 100 kW power):

Height above average terrain	Area	Population
207 m (680 ft)	346 km² (133 mi²)	700
275 m (900 ft)	572 km² (220 mi²)	1,750
336 m (1,110 ft)	770 km² (296 mi²)	2,100

12. After reviewing petitioner's engineering study, it appears that petitioner is substantially correct that the coverage of Station KMOX(AM) in the purportedly unserved area is less than 1 percent asuming facilities of 275 meters (900 ft.) HAAT with 100 kW power.[4] Its first aural service showing is defective nonetheless because it fails to depict Station KMMX(FM) at Poplar Bluff, Missouri (Channel 238) and Station KTJJ(FM) at Farmington, Missouri (Channel 253). The extent of coverage of the alleged first aural service area is approximately 35 percent from the Poplar Bluff station and 100 percent from the Farmington station assuming petitioner's proposed facilities of 100 kW power at 275 meters (900 ft.) HAAT. Thus, contrary to CSI's assertions, there would be no first aural or FM service to any area.[5] A second aural service could be provided to an area of 377 sq. km. (145 sq. mi.) and a population of 1,150 also assuming facilities of 100 kW and 275 meters (900 ft.) HAAT. However, the Commission does not believe that the provision of this service outweighs the first local aural nighttime service to be provided to Malden. The result is consistent with the Commission's announced priorities of service in the Anamosa, Iowa, case, supra at 524–525. (See and compare prioritites (2), (3) and (4).) Therefore, the Bureau's Memorandum Opinion and Order must be affirmed.

12. *Accordingly, it is ordered*, That the "Petition to Set Aside Broadcast Bureau's Memorandum Opinion and Order and For Commission Reconsideration of the Commission's Orders released February 26, and August 13, 1975" filed by Com-

[1] Station KGMO-FM has submitted an application (BPH-10024) to operate with 100 kW at approximately 105 meters (345 ft.) HAAT. With these proposed facilities its 60 dBu contour should extend 32 miles. Petitioner's present facility's 60 dBu contour extends 22 miles.

[2] Furthermore, there were other reasons for our action in Anamosa, Iowa. The Iowa City proponent of the second Class C channel was able to demonstrate that it would serve a substantial first FM service area and population. As will be discussed later, no such first FM service exists in petitioner's proposed coverage area. Thus, its reliance on Anamosa is misplaced.

[3] Petitioner has tendered an application for an increase in facilities to 100 kW power at approximately 275 meters (900 ft.) HAAT.

[4] The engineering study reveals a depiction of the 0.5 mV/m contour of Station KMOX(AM) as extending 75 miles. However, its measurement data indicate that the contour should reach 82 miles. At point 15 of measurements, the signal reads 0.51 mV/m at 81.3 miles. We also note that its data regarding Station KMOX was not offered in time to take into account earlier.

[5] There would be no first aural or FM service to any area even if petitioner's facilities were increased to 336 meters (1,100 ft.) HAAT.

munications Systems, Inc., on March 15, 1977, is denied.

13. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22785 Filed 8-5-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 71, "VHF Automated Radiotelephone Systems". Notice of 2nd meeting, Wednesday, August 24, 1977, 9:30 a.m. (Full-day meeting). Conference Room A-110, 1229-20th Street NW., Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Introduction of attendees; adoption of agenda.
3. Acceptance of SC-71 Summary Record.
4. Morning session (9:45 a.m.–11:45 a.m.). Presentation and discussion of automated VHF radio system characteristics.
5. Afternoon Session (1.45 p.m.–4 p.m.). Presentation and discussion of digital selective calling techniques as applicable to VHF automated systems.
6. Other business.
7. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Blvd., Arlington, VA 22201. Phone: 703-525-2664.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone 202-632-6490).

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22727 Filed 8-5-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact Re Rhode Island, Maine, Iowa, Oregon, Georgia, Michigan, Louisiana and Idaho Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation by the States of Rhode Island, Maine, Iowa, Oregon, Georgia, Michigan, Louisiana and Idaho of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assesments of the State Plans for Rhode Island, Maine, Iowa, Oregon, Georgia, Michigan, Louisiana and Idaho are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box OM, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., August 18, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 3, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22791 Filed 8-5-77;8:45 am]

SYNTHETIC NATURAL GAS

Availability of a Supplement to Indiana Gas Company Draft Environmental Impact Statement

AGENCY: Federal Energy Administration.

ACTION: Notice of availability.

SUMMARY: On December 23, 1976, the Federal Energy Administration (FEA) made available to the Counsel on Environmental Quality and the Public a draft environmental impact statement concerning the assignment of synthetic natural gas feedstocks to an Indiana Gas Company Synthetic Natural Gas plant (41 FR 56842). A public hearing was held on January 25, 1977, to receive comments from interested parties. The written comment period closed on April 8, 1977. As a result of comments received FEA determined that the draft environmental impact statement should be supplemented by inclusion of a conservation section.

DATE: Comments by September 19, 1977.

ADDRESS: Written comments to: Mr. Finn K. Neilsen, Acting Directors, Speciality Fuels, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833; Finn K. Neilsen (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730; Joel Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The draft conservation section addresses energy conservation in two steps. First, it estimates the amount of gas which can be saved through conservation programs and the costs associated with the installation of energy conservation devices; second, it lists various possible means of implementing the identified conservation programs and discusses the practicality, effectiveness, and timeliness of such programs.

Single copies of the draft conservation section may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the draft conservation section will also be available for public review in the FEA Freedom of Information Reading Room, Room 2107, Federal Building, 12th and

Pennsylvania Avenue NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

B. COMMENT PROCEDURE

Interested parties are invited to submit written comments with respect to the draft conservation supplement to the Indiana Gas Company draft environmental impact statement to Mr. Finn K. Neilsen, FEA, Room 6318, 2000 M Street, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Draft EIS, Indiana Gas Company SNG Plant". Five (5) copies should be submitted. All comments and related information should be received by FEA by September 19, 1977, in order to ensure consideration.

Any information or data, submitted in response to the Indiana Gas Company draft EIS, considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., August 3, 1977.

J. PETER LUEDTKE,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22719 Filed 8-5-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-43]

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF FRESNO

Post Approval Amendment of Conversion Application Final Action

AUGUST 3, 1977.

Notice is hereby given that on July 29, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77-488, approved the amendment to the application of First Federal Savings and Loan Association of Fresno, Fresno, California, for permission to convert to the stock form of organization. The application to convert was approved on July 13, 1977, by Resolution No. 77-436. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-22775 Filed 8-5-77;8:45 am]

[No. AC-42]

OLYMPIC FEDERAL SAVINGS AND LOAN ASSOCIATION

Post Approval Amendment of Conversion Application; Final Action

AUGUST 3, 1977.

Notice is hereby given that on July 29, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 77-487, approved the amendment to the application of Olympic Federal Savings and Loan Association, San Francisco, California, for permission to convert to the stock form of organization. The application to convert was approved on July 13, 1977, by Resolution No. 77-435. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-22774 Filed 8-5-77;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC WESTBOUND CONFERENCE AND THE FAR EAST CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 29, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Wilkan Turk, Jr., Esq., Burlingham Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Essentially, Agreement 8200, as amended, permits the Pacific Westbound Conference and the Far East Conference, both of whom are engaged in our trades from the United States to the Far East, to discuss and agree upon the rates and rules applicable to the transportation of cargoes in vessels of their member lines from ports of the United States to various Far Eastern ports (overland common point cargoes excluded).

Agreement 8200-5, the subject of this notice, would amend that arrangement to permit discussion and agreement as well on the rates and rules applicable to the transportation of cargo from points in the United States (including overland common point and mini-landbridge cargoes) to points overseas in the Far East.

By order of the Federal Maritime Commission.

Dated: August 3, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22762 Filed 8-5-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-518]

ALABAMA POWER CO.

Notice of Filing of Initial Rate Schedule

AUGUST 2, 1977.

Take notice that Alabama Power Company (Alabama) on July 18, 1977, tendered for filing an Agreement with Dixie Electric Cooperative, Inc., intended as an initial rate schedule. Alabama indicates that the filing is for the proposed Cecil delivery point of the Dixie Electric Cooperative, Inc. Alabama further indicates that the delivery point will be served at the Company's applicable revision to Rate Schedule REA-1 incorporated in FPC Electric Tariff Original Volume No. 1 of Alabama Power Company as allowed to become effective, subject to refund, by Commission order in FPC Docket No. ER76-659.

According to Alabama, copies of the filing were served upon Dixie Electric Cooperative, Inc., and its Agent, Alabama Electric Cooperative.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22662 Filed 8-5-77;8:45 am]

[Docket Nos. ER77-493 and ER77-480]

BLACKSTONE VALLEY ELECTRIC CO. AND MONTAUP ELECTRIC POWER CO.

Order Accepting for Filing, Suspending Proposed Increased Rates and Consolidating Proceedings

JULY 29, 1977.

On July 1, 1977, Blackstone Valley Electric Company (Company) tendered for filing cost of capital computations for use in determining transmission rentals to Montaup Electric Company.[1] The filing would increase the Company's revenues by $21,612, or 4.45 percent, based on the 12-month period ending December 31, 1977.

The Company proposes an effective date of August 1, 1977, with a five month suspension until January 1, 1978 in order to comply with a prior settlement agreement. It also requests consolidation of this docket with docket No. ER77-480.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 1, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charge tendered by the Company on July 1, 1977, are hereby accepted for filing.

(B) The proceeding in Docket No. ER77-493 is hereby consolidated with the proceeding in Docket No. ER77-480 for purposes of hearing and decision.

(C) Pending hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until January 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22674 Filed 8-5-77;8:45 am]

[1] Rate Schedule Designation to be provided to the Company by future letter.

[Docket No. ER77-525]

BOSTON EDISON CO.

Notice of Tariff Filing

AUGUST 1, 1977.

Take notice that Boston Edison Company (Edison) on July 25, 1977, tendered for filing a letter agreement between itself and Montaup Electric Company (Montaup) providing for the use of certain transmission facilities. Edison and Montaup, which has filed a certificate of concurrence, have requested that the agreement be allowed to become effective as of December 1, 1975, and therefore request waiver of the Commission's notice requirements.

Edison indicates that the purpose of the agreement is to provide an independent contractual basis for the use of the facilities for the purposes described in subsections (a) through (e) of Section 13.2 of the New England Power Pool Agreement and for the movement of power from Montaup's Canal Unit No. 2 to the Montaup system and to provide an alternative path for the movement of power from Edison's Pilgrim Unit No. 1 to the Edison system. Edison states that it has served copies of the filing upon Montaup and upon the Secretary of the New England Power Pool Management Committee.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to ake protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22668 Filed 8-5-77;8:45 am]

[Docket Nos. ER77-494 and ER77-480]

BROCKTON EDISON CO. AND MONTAUP ELECTRIC POWER CO.

Order Accepting for Filing, Suspending Proposed Increased Rates and Consolidating Proceedings

JULY 29, 1977.

On July 1, 1977, Brockton Edison Company (Company) tendered for filing cost of capital computations for use in determining transmission rentals to Montaup Electric Company.[1] The filing would increase the Company's revenues by $53,220, or 6.4 percent, based on the 12-month period ending.

The Company proposes an effective date of August 1, 1977, with a five month suspension until January 1, 1978, in order to comply with a prior settlement agreement. It also requests consolidation of this docket with Docket No. ER77-480.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 1, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 1, 1977, are hereby accepted for filing.

(B) The proceeding in Docket No. ER77-494 is hereby consolidated with the proceeding in Docket No. ER77-480 for purposes of hearing and decision.

(C) Pending hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until January 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22673 Filed 8-5-77;8:45 am]

[1] Rate Schedule Designation to be provided to the Company by future letter.

[Docket No. ER77-514]

CENTRAL POWER AND LIGHT CO.

Tariff Change Application

AUGUST 1, 1977.

Take notice that Central Power and Light Company (Company), on July 12, 1977, tendered for filing proposed FPC Electric Tariff, Original Volume No. 1. The Company indicates that the proposed tariff would increase revenues from jurisdictional sales and service by $1,012,302 based upon the twelve (12) month period ending June 30, 1978.

The Company estimates its rate of return on its jurisdictional rate base, for sales for resale for the calendar year year ending December 31, 1976, to be 4.21%. The Company further states that such return is substantially below its weighted cost of capital, imbedded cost of debt and preferred stock, and therefore will not attract the capital for planned construction and expansion programs. According to the Company, the proposed rates are based upon a 10.89% overall rate of return.

The Company indicates that copies of the filing have been served upon the Company's jurisdictonal customers and upon the Public Utilities Commission of the State of Texas. The proposed effective date of the tariff is August 7, 1977, and the Company therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest the application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22656 Filed 8-5-77;8:45 am]

[Docket No. CI77-119]

CITIES SERVICE OIL CO.

Order Setting Matter of Hearing

JULY 29, 1977.

On November 19, 1976, Cities Service Oil Company (Cities) filed in Docket No. CI77-119 an application for Commission authorization to abandon a sale of casinghead gas made under a percentage sales contract. Such sale was made to Phillips Petroleum Company, the plant operator, pursuant to a contract dated April 30, 1959. Cities terminated said contract on February 10, 1976, pursuant to Section 15 of the contract; such termination was effective on April 30, 1976.

Cities' application was published in the FEDERAL REGISTER on December 16, 1976 at 41 FR 54991. Timely petitions to intervene were filed on January 3, 1977, by Phillips and by American Liberty Oil Company (American Liberty).

Phillips processes the subject gas at the Artesia Plant in Eddy County, New Mexico. American Liberty owns the plant and is the actual buyer of the gas. American Liberty then sells the gas to Transwestern Pipeline Company (Transwestern) under a contract dated January 29, 1960, as amended. American Liberty operates under a small producer certificate issued in Docket No. CS73-276.

In its application Cities asserts that abandonment should be permitted on the grounds that the contract between Cities and Phillips had expired, that Cities is desirous of processing the gas in its own plant, and that it is making "contractual arrangements" to sell and deliver its gas directly to Transwestern. By additional information filed April 29, 1977, Cities states that in the event its application for abandonment is allowed, Transwestern will receive more gas over the reservoir life than under the present arrangement.

In their petitions to intervene, Phillips and American Liberty request that Cities' application for abandonment be denied, or in the alternative, that it be set for formal hearing. They allege that allowance of the abandonment application will result in processing costs, increased costs for Transwestern, earlier abandonment of Cities' gas sales, and higher consumer costs. In addition, Phillips states that Cities' application should be denied since Cities has not negotiated a replacement contract covering the subject gas.

We find that a hearing is desirable to determine, on the record, whether the present or future public convenience or necessity will be served by permitting the abandonment proposed herein.

The Commission finds: Cities' application for abandonment filed in Docket No. CI77-119 should be set for hearing.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, and the Commission's Rules of Practice and Procedure, a public hearing under Section 7(b) of the Act shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to determine whether the present or future public convenience or necessity permit the proposed abandonment.

(B) A Presiding Administrative Law Judge shall be designated by the Chief Administrative Law Judge for that purpose. Such Presiding Administrative Law Judge shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of motions to intervene, motions to consolidate and sever, and motions to dismiss, as provided in the Rules of Practice and Procedure).

(C) Cities and any party supporting Cities shall file their direct testimony and evidence on or before August 16, 1977. Phillips and American Liberty, and any party supporting Phillips and American Liberty, shall file their testimony and evidence on or before August 30, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) The Presiding Administrative Law Judge shall preside at a hearing to be held on September 15, 1977, at 9:30 A.M., E.D.T. in a hearing room at the address noted in Ordering Paragraph (A).

(E) Phillips and American Liberty are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22671 Filed 8-5-77;8:45 am]

[Docket No. CP77-299]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Petition To Amend

AUGUST 1, 1977.

Take notice that on July 20, 1977, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP77-299 a petition to amend the Commission's order of May 3, 1977 issued in the instant docket (57 FPC ------), pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to permit the deleting of the second sentence from ordering paragraph (D)(2) and all of (D)(3) and permit the total volumes delivered to Stearns-Roger, Incorporated (Stearns-Roger) to be governed by the first sentence of ordering paragraph (D)(2), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to the Commission's order of May 3, 1977, issued in the instant docket, it was granted authorization to transport up to 1,000 Mcf of natural gas per day for Stearns-Roger for use in the operation of Pilot Plant located near Homer City, Pennsylvania, which is being operated to conduct research on the experimental Bi-Gas process for producing pipeline quality gas from coal.

Stearns-Roger's only supplier of natural gas is Columbia Gas of Pennsylvania, Inc., (Columbia Pa.), it is indicated.

Petitioner states that construction of the Bi-Gas Pilot Plant was delayed and was not completed until May, 1976. Petitioner further states that in anticipation of its needs, Stearns-Roger gave Columbia Pa. an estimate of its natural gas requirements for the Pilot Plant in January of 1974, and that in April, 1975, Columbia Pa. allocated volumes averaging 405 Mcf per day to Stearns-Roger for Pilot Plant. It is stated that upon completion of the Pilot Plant, it was determined that substantially higher volumes than those previously allocated where needed for its operation, and that Stearns-Roger indicated that at least 667 Mcf per day on a noncurtailed basis was needed to operate properly the Pilot Plant. Applicant states that as a result of its needs, Stearns-Roger contracted to purchase not less than 7,000 Mcf nor more than 25,000 Mcf per month of natural gas from ONG Exploration, Inc., for a two-year period and Petitioner and Panhandle Eastern Pipe Line Company applied for authorization to transport up to 1,000 Mcf per day for Stearns-Roger. It is asserted that the difference between Stearns-Roger's contract demand from Columbia Pa. of an average of 405 Mcf per day and Stearns-Roger's estimated of the need for at least 667 Mcf per day could determine the success of the research and experimentation to be conducted in the production of pipeline quality gas from coal.

Petitioner states that the second sentence of ordering paragraph (D)(2) of the subject order contains the restriction that in no event should the total volumes delivered to Stearns-Roger exceed its contract demand with its suppliers, and that ordering paragraph (D)(3) of the subject order limits the volumes of gas transported hereunder to curtailment experienced by Stearns-Roger in the eligible Priority 2 or 3 categories. Consequently Petitioner requests that the Commission amend its order of May 3, 1977 and permit the total volumes delivered to Stearns-Roger to be governed by the first sentence of ordering paragraph (D)(2) which states as follows:

> The volumes of gas transported shall be utilized only for Priority 2 uses and Priority 3 uses which would be Priority 2 uses but for an interruptible contract as defined in Section 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78)

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22657 Filed 8-5-77;8:45 am]

[Docket No. RP76-159]

COLUMBIA GAS TRANSMISSION CORP.

Order Granting Petition for Continued Rate Base Treatment

JULY 29, 1977.

On September 30, 1976, Columbia Gas Transmission Corporation (Columbia) filed in Docket No. RP76-159 a petition requesting continued rate base treatment of a $60 million Alaskan advance payment made to BP Oil Corporation (BP Oil). Rate base treatment of the subject advance payment began, pursuant to Opinion No. 674 (50 FPC 1514), on November 14, 1971. Since BP Oil did not begin to repay the advance on or before November 14, 1976, the advance was excluded from rate base on that date in accordance with Opinion No. 674 which required that repayment begin within 5 years of initial rate base inclusion. Columbia's instant petition seeks rate base treatment to recommence on November 14, 1976, and to continue until the advance is fully recovered. For the reasons set out below, the Commission grants Columbia's request and allows continued rate base treatment. The rate base treatment authorized herein is subject to the Commission's final determination in Docket No. RP76-49 (the show cause proceeding instituted to investigate Alaskan advance payments made under agreements executed prior to December 28, 1973) and subject to all remaining conditions for continued rate base treatment as specified in Opinion No. 674 including the condition that all interest received on the advance be flowed through to Columbia's customers.

In Opinion No. 674, the Commission found Columbia's advance to BP Oil to be in the public interest and allowed Columbia to include the amount of the payment, $60 million, in rate base. The advance represents the first of three advance payments totaling $175 million made by Columbia to BP Oil in consideration of the right to call on BP Oil's Prudhoe Bay, Alaska, natural gas reserves. BP Oil, pursuant to the terms of the advance payment agreement, dated August 3, 1971, to repay the principal amount of the advances, plus interest, out of the revenues produced by the sale of oil from its Prudhoe Bay reserves. The interest on the amounts advanced is set at a rate equal to First National City Bank's best rate charged for 90 day loans to substantial and responsible commercial borrowers plus 0.5 percent. Columbia is currently accruing the interest due and is obligated to flow through all accrued interest to its jurisdictional customers upon payment thereof by BP Oil.

The rate base treatment of the initial BP Oil advance was allowed in Opinion No. 674 subject to three conditions: (a) Treatment would cease if repayment did not begin within five years from the date the amount of the payment was first included in rate base; (b) treatment would terminate and Columbia would be required to refund any revenues collected as a result of such treatment, if the advance payment did not result in gas production for the benefit of Columbia's customers; and (c) any portion of the advance not recovered within five years of the commencement of repayment, either through gas deliveries or other economic consideration, would be removed from rate base. The first condition together with BP Oil's failure to begin repayment within the specified period operated to terminate rate base treatment as of November 14, 1976. Columbia's present petition ensued.

In adopting the condition that repayment must commence within five years of initial rate base inclusion the Commission stated:

> In Order No. 465, in Docket No. R-411 (mimeo p. 8), we found that it was appropriate for the pipeline to remove an advance from Account 166 and rate base 5 years after its initial inclusion in Account 166 unless recoupment of the advance has commenced by gas deliveries or other economic consideration (unless otherwise directed by the Commission). We find that it would be appropriate to attach such a condition to this advance because it requires Columbia, should it desire continued rate treatment of the advance under these circumstances, to present the Commission with evidence to show: (1) Why recoupment of the advance has not commenced and (2) whether the project warrants continued rate base treatment of the advance with the attendant costs to Columbia's customers within the 48 States (50 FPC at 1517).

Accordingly, Columbia explains in its petition why the recoupment of the payment has been delayed and argues that substantial justification exists for continued rate base treatment.

Columbia states that delay in the construction of the Alyeska pipeline is primarily responsible for BP Oil's failure to begin repayment. Columbia states that it originally estimated that BP Oil would begin to repay the advance when operation of the pipeline began in early 1976. It is now anticipated that the Alyeska pipeline will commence operation in late July 1977. Columbia also notes that late initial payments will not necessarily delay the original schedule for recoupment of the total amount of the advance. Since BP Oil is to make payments equal to 50 percent of the revenues received on the sale of oil produced in Prudhoe Bay, and, since the price of this oil has risen substantially subsequent to the time of the original estimate, full recoupment still is expected in mid-1979.

Columbia states that continued rate base treatment is justified for three reasons: First, the payment to BP Oil will result in increased gas supplies which will benefit Columbia's customers. These new supplies will help to alleviate the severe gas shortage now experienced on Columbia's system. Second, the rights to BP Oil's Prudhoe Bay reserves, acquired as consideration for the advance payment, were obtained at a relatively low cost. These cost savings were realized because of a unique provision in the advance payment agreement between Columbia and BP Oil which requires BP Oil to pay interest on all monies advanced. Thus, Columbia estimates that in 1976 its customers paid $26.5 million in rates attributable to rate base treatment for the total amount of advance payments made to BP Oil ($175 million) but that this amount is offset by $16.5 million of interest accrued during 1976. The interest accrued eventually will be passed through to Columbia's customers. Third, Columbia asserts that termination of rate base treatment would have an adverse effect upon Columbia's ability to finance other new gas supply projects. It is alleged that Columbia Gas System, Inc., Columbia's parent company, will require $4 billion over the next 10 years for supply-related projects. Columbia argues that termination of

rate base treatment would require additional financing and add to an already serious financial burden.

Based on a review of the instant petition, the Commission finds that Columbia has justified continued rate base treatment of the BP Oil advance payment pursuant to the requirements set out in Opinion No. 674 (50 FPC at 1517). Continued rate base treatment shall therefore be authorized. The Commission's action however, is limited to the facts of the subject advance and should not be construed as determining any of the issues raised by the show cause order issued on December 31, 1975, in Docket No. RP76–49. The December 31, 1975, order required four pipelines, including Columbia, to show cause why rate base treatment should not be terminated for Alaskan advances made pursuant to contracts executed prior to December 28, 1973, the effective date of Order No. 499, and why appropriate refunds should not be ordered. Since the show cause order encompasses the subject advance payment to BP Oil and since the Commission has not taken final action in Docket No. RP76–49, the authorization granted by this order shall be subject to the Commission's final determination in Docket No. RP76–49. The carrying charges received by Columbia pursuant to this order shall be subject to disallowance and refund in the event required by final Commission order in Docket No. RP76–49.

Moreover, the Commission in its review of the instant petition, has had occasion to reexamine Opinion No. 674, the order authorizing initial rate base treatment of the $60 million advance, and has determined that that order requires clarification insofar as it pertains to the proper accounting treatment of the BP Oil advances. As explained above, the BP Oil advance payment agreement, dated August 3, 1971, controlling the instant advance and subsequent advance payments made by Columbia to BP Oil for a call on Alaskan reserves, requires that interest be paid by BP Oil on the outstanding principal of the advance. Opinion No. 674 could be interpreted to require Columbia to credit Account No. 166 with the interest accrued on the advance as well as principal repayments. However, account No. 166 is a rate base account and should only reflect the principal amount of the advance payments. Accordingly, the Commission shall clarify Opinion No. 674 to require Columbia to record all interest receivable by Columbia from BP Oil in Account No. 186 and to credit Account No. 242 with all interest applicable to periods during which the advances were included in Columbia's rate base. This latter Account, 242, represents the amount to be flowed through to Columbia's customers.[1] Further, the Commission requires, as a condition of the rate base treatment allowed herein, that the interest on the $175,000,000 total amount of the advances to BP Oil be flowed through to Columbia's customers as soon as possible after receipt of such interest payments by Columbia.

Columbia may, as a means of flowing through the interest to its customers, apply the interest received to Account No. 191, unrecovered purchased gas costs, or may utilize some other, equivalent method of flow through. Columbia shall be required to submit a proposed plan for the flow through of interest subject to Commission review and approval.

Public notice of Columbia's petition, issued on October 12, 1976, provided for protests or petitions to intervene to be filed on or before October 28, 1976. No petitions to intervene, notices of intervention or protests to the granting of the petition have been filed.

The Commission finds: It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Columbia be allowed to continue rate base treatment of the subject $60 million advance to BP Oil subject to the conditions specified herein.

The Commission orders: (A) Columbia is authorized to receive continued rate base treatment for its $60 million advance payment made to BP Oil. Rate base treatment shall recommence on November 14, 1976, and shall continue until the advance is repayed or until the conditions specified in Paragraphs (B) and (C) below operate to terminate rate base treatment, whichever is earlier.

(B) Opinion No. 674 issued November 6, 1973 (50 FPC 1514) shall remain in full force and effect except insofar as it requires, as a condition for continued rate base treatment, repayment of the advance to begin five years from the start of rate base inclusion. Specifically, rate base treatment remains subject to the conditions specified in Opinion No. 674 that gas be made available to Columbia's customers and that recoupment be completed within five years after commencement of repayment.

(C) The carrying charges authorized by this order are subject to disallowance and refund in the event required by final order of the Commission in Docket No. RP76–49.

(D) Within 30 days from the issuance of this order Columbia shall submit a plan, to be approved by the Commission, to ensure that all interest payments received from BP Oil will be promptly flowed through for the benefit of Columbia's customers.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.[2]

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22672 Filed 8-5-77;8:45 am]

[1] The Commission's review of Columbia's 1976 annual report, Form 2, indicates that Columbia has been using this method of accounting.

[2] Commissioner Smith, dissenting, will have a separate statement to be issued later.

[Docket No. ER77–510]

COMMONWEALTH EDISON CO.

Filing First Amendment to Interconnection Agreement

AUGUST 2, 1977.

Take notice that Commonwealth Edison Company (Edison) on July 11, 1977, tendered for filing proposed First Amendment to the Interconnection Agreement dated June 21, 1967 between Iowa-Illinois Gas and Electric Company (Iowa) and Edison.

Edison states that the parties propose to modify the charges and make other revisions in Service Schedules A, B and D of the Interconnection Agreement.

Edison proposes an effective date of August 12, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22659 Filed 8-5-77;8:45 am]

[Docket No. ER77–367]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 1, 1977.

Take notice that Duke Power Company (Duke) tendered for filing on July 14, 1977, a supplement to the Company's Electric Power Contract with South Carolina Electric Gas Company which is proposed to become effective on June 20, 1977. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 262.

Duke indicates that its contract supplement was made at the request of the customer and with agreement obtained from the customer, and provides for an increase in capacity at Delivery Point No. 1 and Delivery Point No. Temp. No. 1. Duke further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

Duke states that a copy of this filing was mailed to the South Carolina Electric and Gas Company and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22655 Filed 8-5-77;8:45 am]

[Docket No. ER77–488]

EL PASO ELECTRIC CO.

Order Granting Interventions, Denying Petition for Reconsideration, Denying Motion for Summary Disposition, Establishing Price-Squeeze Procedures, and Setting Prehearing Conference Date

AUGUST 1, 1977.

On July 1, 1977, El Paso Electric Company (El Paso) submitted for filing proposed increased rates and charges for jurisdictional sales to Rio Grande Electric Cooperative, Inc. (the Co-op), at the Dell City and Van Horn delivery points, and to Community Public Service Company (CPS).

On July 19, 1977, the Commission issued an order in this docket accepting for filing and suspending the effectiveness of the proposed rates and charges for four months, requiring the filing of revised rate schedules to exclude CWIP from its rate proposal, and calling for a public hearing.

Public Notice of El Paso's filing was issued on July 11, 1977, with all protests or petitions due on or before July 20, 1977. On July 19, 1977 CPS filed a petition to intervene in this proceeding. On July 20, 1977, the Co-op filed a Protest, Petition to Intervene, Petition for Reconsideration And Motion For Summary Disposition.

In its filing, the Co-op requests that the maximum five-month suspension period be granted in place of the four-month period called for in the July 19 order. In addition, the Co-op moves to have both CWIP and deferred fuel expenses summarily eliminated. It also protests the magnitude of El Paso's rate of return on common equity as well as El Paso's functionalization methods relating to Administrative and General Expenses (A&G) and to General Plant. The Co-op, additionally, raises a "price-squeeze" allegation and requests the opportunity to submit data requests on this issue pursuant to Commission Order No. 563. Finally, the Co-op requests that it be given notice and an opportunity to respond to El Paso's submission of revised rates, pursuant to the July 19 order, prior to their acceptance.

Since the Commission has already required El Paso to remove CWIP from its rate proposal in the July 19 order, we need not consider this allegation by the Co-op. The allegations involving deferred fuel expenses and the functionalization methods for A&G and General Plant are appropriate subjects for a public hearing which has already been established.

We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioner's request for data necessary to present its prima-facie showing on the price-squeeze issue. In addition, we shall require the Secretary to issue a public notice when El Paso submits its revised filing.

Review of the Co-op's allegations reveals no contention which would support an increase in suspension period from four months to five months.

The Commission finds: (1) Good cause exists to accept the Petitions to Intervene of Community Public Service Company and Rio Grande Electric Cooperative, Inc.

(2) Good cause exists to establish "price-squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

(3) Good cause exists to establish dates for Staff to serve "top sheets" on all parties and to set a date for a prehearing conference.

The Commission orders: (A) The petitions to intervene of Community Public Service Company and Rio Grande Electric Cooperatives, Inc. are hereby granted; *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Petition of Rio Grande Electric Cooperative, Inc. to reconsider the length of suspension period is hereby denied.

(C) Staff shall prepare and serve "top sheets" on all parties for settlement purposes on or before November 15, 1977. (See Administrative Order No. 157).

(D) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at a prehearing conference in this proceeding to be held on November 23, 1977, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss) as provided in the Rules of Practice and Procedure.

(E) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Co-op's request for data required to present its case, including a prima facie showing, on the price-squeeze issue. El Paso shall also be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Co-op shall file its case-in-chief on the price-squeeze issue within 30 days after El Paso's response.

(F) The Secretary shall issue a public notice of El Paso's filing of revised rate schedules to permit any comments, protests, or petitions by the intervenors in this proceeding.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22676 Filed 8-5-77;8:45 am]

[Docket No. RP77–18]

EL PASO NATURAL GAS CO.

Order Approving Pipeline Rate Settlement

AUGUST 1, 1977.

On May 27, 1977, the Presiding Administrative Law Judge certified to the Commission for consideration and disposition a proposed Stipulation and Agreement which, if approved, would resolve all issues in the captioned proceeding. For the reasons stated below, the Commission finds that the proposed settlement agreement is reasonable and should be approved and adopted.

This proceeding originated on November 30, 1976, when El Paso Natural Gas Company (El Paso) tendered for filing proposed tariff sheets reflecting a general rate increase of approximately $146 million based upon a cost of service for twelve months ended August 31, 1976. By order issued December 29, 1976, the Commission accepted the filing and suspended its use for five months until June 1, 1977, upon condition that El Paso file revised tariff sheets prior to June 1, 1977. In compliance with that order El Paso, on May 2, 1977, tendered substitute tariff sheets which were accepted to become effective on June 1, 1977, by letter order issued May 26, 1977.

Pursuant to the Commission's order of December 29, 1977 in this docket, "top sheets" were served by the Commission Staff on April 1, 1977. Formal and informal conferences were then held by the parties. At the final conference held on May 26, 1977, El Paso submitted to the Presiding Administrative Law Judge a proposed stipulation and agreement

and a motion requesting Commission approval thereof.

Public notice of certification of the proposed agreement was issued on May 31, 1977, providing for comments to be filed on or before June 17, 1977. Comments in support of the settlement agreement have been filed by Arizona Public Service Company, The People of the State of California and the Public Utilities Commission of the State of California, Southern Union Company, the Southern California Gas Company, San Diego Gas and Electric Company, and the Commission Staff. No adverse comments were received.

The proposed agreement provides for a $57,650,717 reduction in El Paso's originally proposed cost of service resulting in unit rate reductions of 2.83 cents per Mcf in the production area sales rates and 6.08 cents per Mcf in the rates for sales from its transmission system. The proposed settlement cost of service, set forth in Appendix A, reflects an overall rate of return of 9.17 percent including a return on common equity of 14.75 percent. The proposed settlement capitalization is set forth in Appendix B.

The agreement provides that settlement rates shall be effective as of June 1, 1977 and that refunds of excess amounts collected by El Paso shall be made with interest calculated at 9 percent per annum. Article V of the agreement provides for future, additional refunds in the event that the amounts included in the settlement cost of service for four cost items are greater than the cost actually incurred by El Paso. These four cost items involve: (1) Increased royalty and production tax expenses; (2) a severance tax enacted by the Jicarilla Apache Tribe; (3) special overriding royalty payments; and (4) additional royalty and production tax expense occasioned by Opinion No. 770–A.

These additional refunds shall be made within 60 days after the settlement rates, as adjusted for purchase gas adjustments and other surcharges placed into effect pursuant to El Paso's FPC Gas Tariff, are superseded by a change in rates effected pursuant to Section 4 or Section 5 of the Natural Gas Act. If the total amount of such refunds, inclusive of interest, is less than $10 million the amount of such refunds shall be credited to El Paso's unrecovered purchased gas cost account (Account 191). If the amount of such refunds equals or exceeds $10 million, El Paso shall make a cash refund of such amount to its jurisdictional customers.

Article VI of the proposed agreement provides for rate adjustments to track eth jurisdictional portion of increases or decreases in El Paso's net amount of advance payments if that net amount rises above or falls below $16,826,608.

Based upon a review of the record in this proceeding including the settlement agreement itself and the pleadings, evidence, and comments submitted in support thereof, the Commission finds that the proposed settlement agreement represents a reasonable resolution of the issues in this proceeding in the public interest, and that the agreement should be accordingly approved and adopted, as hereinafter ordered.

The Commission orders: (A) The Stipulation and Agreement certified on May 27, 1977, is incorporated herein by reference and is approved and adopted.

(B) Within 10 days after the date this order becomes final and nonappealable, El Paso shall file revised tariff sheets in accordance with the settlement agreement and this order.

(C) As soon as practicable but not later than 30 days after the date this order becomes final and nonappealable, El Paso shall refund all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Within 60 days after the date this order becomes final and nonappealable El Paso shall submit a report of the refunds and interest to the Commission.

(D) Any additional refunds for which provision is made in Article V of the settlement agreement shall be made in the manner prescribed in the agreement within 60 days after the date on which the settlement rates (as adjusted for purchase gas adjustments and other surcharges placed into effect pursuant to El Paso's FPC Gas Tariff) are superseded by a change in rates effected pursuant to Section 4 or Section 5 of the Natural Gas Act. Within 10 days after such date El Paso shall submit a report of the refunds and interest to the Commission.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims of contentions which may be made by the Commission, the staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against El Paso or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*El Paso Natural Gas Co., Docket No. RP77–18*

[Settlement cost of service (excludes Rhodes Storage Project)]

Line No.	Description	Amount	Line No.
	(a)	(b)	
	Cost of Service [1]		
1	Total operation and maintenance.	$730,875,658	1
2	Donations	337,202	2
3	Depreciation and amortization.	79,030,773	3
4	Depletion	1,631,886	4
5	Taxes other than income taxes.	38,787,913	5
6	State income taxes	3,251,715	6
7	Federal income tax	56,909,055	7
8	Return at 9.71 pct	91,280,607	8
9	Exploration and development (cost of service treatment.	189,815	9
10	Subtotal	1,002,354,624	10
11	Revenues deducted	(102,782,242)	11
12	Total cost of service	899,572,382	12
13	Jurisdictional cost of service (sheet 2).	864,853,217	

[1] Cost of service amounts shown are inclusive of adjustments for additional sales volumes.

APPENDIX B.—*El Paso Natural Gas Co., Docket No. RP77–18*

[Capitalization and rate of return]

Line No.	Description	Percent	Cost or allowance, percent	Return, percent	Line No.
	(a)	(b)	(c)	(d)	
1	Debt	60.58	7.97	5.55	1
2	Preferred	4.41	7.32	.32	2
3	Common	35.01	14.75	3.84	3
4	Total	100.00		9.71	4

[FR Doc.77–22683 Filed 8–5–77;8:45 am]

[Docket No. RP72–6]

EL PASO NATURAL GAS CO.

Order Denying Motion for Stay, Granting Rehearing, Modifying Curtailment Plan, Establishing Further Hearings, Consolidating Hearings, and Requiring Action To Obtain Remand of Record

JULY 29, 1977.

On June 1, 1977, we ordered the curtailment plan formulated in Opinion Nos. 697 and 697–A and clarified in orders issued December 24, 1975, October 15, 1976, and June 1, 1977, to be implemented July 1, 1977.

On June 30, 1977, the United States Court of Appeals for the District of Columbia Circuit issued its opinion on petitions for review of Opinion Nos. 697 and 697–A in *City of Willcox and Arizona Electric Power Cooperative Inc. v. FPC*, ——— F. 2d ——— (No. 74–2123, et al.). The decision requires modification of our holdings in Opinion Nos. 697 and 697–A in five specified areas:

(1) Fuel devoted to ignition and flame stabilization must receive Priority 2 status (Part II);

(2) Electricity generating turbines must not be classified with boilers, in Priorities 4 and 5, but are entitled to a higher priority (Part III);

(3) Attachments of new users up to December 19, 1974, must be incorporated in measuring uses by priority classification during the base period (Part IV);

(4) Pre-existing shortages of natural gas in California during the base period must be considered in determining California's volumetric entitlement (Part IV); and

(5) Gas used from storage facilities must be taken into account (i) to the extent its source has been from El Paso, (ii) in proportion to the actual end use of such storage gas, (iii) and with safeguards against according priority to gas both as it is pumped into storage and as it is withdrawn therefrom (Part V).[1]

On June 29, 1977, a motion for stay of the order issued June 1, 1977, was filed by the City of Willcox and Arizona Electric Power Cooperaive, Inc., ("AEPCO"), and on July 1, 1977, a telegram motion for postponement of the effective date of the tariff sheets implementing the plan was filed by Arizona Public Service Company ("APS"). Tucson Gas and Electric Company ("TG&E") filed a motion on July 8, 1977, to vacate the June 1, 1977, order insofar as it would result in placement of electric generating turbine fuel in Priority 5. On July 15, 1977, APS filed a document joining in TG&E's motion and modifying its earlier motion by indicating that it now only seeks reclassification of gas turbine fuel requirements.[2]

Objections to any stay of the June 1, 1977, order were filed on July 5, 1977, by Pacific Gas and Electric Company and Southern California Gas Company. General Motors Corporation filed objections to a stay of implementation on July 14, 1977.

On July 1, 1977, AEPCO and APS also filed separate applications for rehearing of the June 1, 1977, order. AEPCO argues that rehearing must be granted and the effectiveness of the Opinion Nos. 697 and 697–A plan stayed because of the Court's determinations concerning the classification of fuel for gas turbines used to generate electricity and of storage injection volumes. APS suggests that the effect of the June 1, 1977, order on distributor load upgrading should be reconsidered.

THE EFFECTIVE PLAN

The motions and applications for rehearing do not raise matters compelling a postponement of implementation of the Opinion Nos. 697 and 697–A plans as an interim plan. The Court's decision, however, requires us to make modifications, some of which will be accomplished herein. Others will require the development of a more complete record before appropriate modifications can be directed.

The Court's decision does not prevent the Opinion Nos. 697 and 697–A plan from being implemented pursuant to the June 1, 1977, order. The Court has not vacated Opinion Nos. 697 and 697–A, and, in its discussion on the procedures for reviewing the environmental impact of the plan, the Court has recognized that this plan may be implemented as an interim plan. The Court specifically refrained from interfering with the effectiveness of the Opinion Nos. 697 and 697–A plan at this time:

> • • • [T]his plan is officially an interim one . . .
>
> • • • [W]e refrain from staying the applicability of the interim plan until the environmental statement has issued. . .[3]

The issuance of Order No. 697 (as modified by 697–A) should not be held up pending an environmental impact statement.[4]

The Court clearly intended to permit the Opinion Nos. 697 and 697–A plan to be effective with modifications. There is no indication that the defects noted by the Court are a bar to the plan's implementation as an interim plan, nor is there any indication of a time limit within which defects must be cured. We are herein making immediate changes in the plan and establishing proceedings and the other such steps in order to affect complete remedies of all the defects in the interim plan as quickly as possible. But, in the absence of a vacation of Opinion Nos. 697 and 697–A, and, in light of the overall approach of the Court, it is appropriate to conclude that the Court envisioned that the plan contained in these Opinions would be effective as an interim plan with its required modifications to follow post haste, or, in any event, before utilization as a permanent plan.[5]

Since we are prohibited by Section 19 (a) of the Natural Gas Act from modifying Opinion Nos 697 and 697–A as long as the record in this proceeding remains with the Court, we will direct the Solicitor to seek remand of the record for the purpose of implementing the modifications set forth below.

MODIFICATIONS

Implementation of some of the modifications required by the Court's decision cannot be accomplished without further hearings. As to the first required modification, we have already required flame stabilization and ignition fuel to be placed in Priority 2 until a Commission decision is issued in the ongoing hearings (Phase) in this docket concerning the appropriate classification of such use.

The second modification, reclassification of electricity generating turbine fuel from Priorities 4 and 5, we will implement by hereby directing that such requirements be maintained in Priority 3, as requested by AEPCO, until further order of the Commission. We will direct that further hearings be held to develop a record in this proceeding to determine whether such requirements should be reclassified from Priority 3.

The third modification, incorporation of the requirements of new residential and commercial users attached up to December 19, 1974, in the base period requirements, shall be accomplished by requiring El Paso to amend its base period requirements and the end-use profiles by incorporating such additional requirements. We are limiting our order to the incorporation of only new high priority requirements, rather than all requirements, since it is apparent from the Court's discussion that its decision regarding changing the base period requirements was in response to the arguments of TG&E and APS that they had added 3,000 residential and commercial users between October 31 and December 19, 1974.[6]

In accordance with the Court's directive,[7] there will be further hearings to determine whether APS and Tucson Gas and Electric ("TG&E") were dilatory in obtaining state permission to reject new customers after December 1974, and whether an additional base period adjustment should be permitted these customers for attachments occurring between December 19, 1974, and the date of state action.

The fourth modification, consideration of pre-existing shortages of natural gas in California during the base period, cannot be implemented without obtaining additional information concerning the cause and extent of the pre-existing shortages. We, therefore, will require this matter also to be explored in further hearings in this docket. These hearings should develop a record on the following questions:

(1) What was the level of natural gas service by California distributors served by El Paso during the two years prior to initial curtailments by El Paso and the level of service during the period subsequent to the commencement of curtailments;

(2) What new requirements by customers were attached (new customers or expanded service to existing customers) during the two years immediately preceding the commencement of El Paso's curtailments;

(3) To the extent that there were unserved requirements attached during the two year

[1] Slip op., p. 56.

[2] "Joinder of Arizona Public Service Company in Motion of Tucson Gas & Electric Company to Vacate, in Part, the Approval of the Curtailment Provisions of El Paso Natural Gas Company".

[3] Slip op., p. 39.

[4] Id. 42.

[5] Id. 47.

[6] Id. 55.

[7] "Order Denying Rehearing, Further Clarifying Opinions, and Requiring Modification of Proposed Tariff Sheets", issued October 15, 1976, Paragraph (E).

[8] Slip op., p. 27, footnote 10.

[9] Id., p. 29

period preceding the commencement of El Paso curtailments, were such attachments the result of an attachment policy of the individual El Paso customers and/or state authorities, and were such attachments predicated upon the receipt of any new or increased gas supplies;

(4) What was the level of natural gas deliveries from all sources other than El Paso (separately identified by source) to California customers of El Paso during the two years prior to the commencement of curtailment by El Paso;

(5) Were there any reductions in deliveries of natural gas to California customers of El Paso from California intrastate natural gas production sources during the two years prior to El Paso's curtailment; if there were such reductions, what was the amount of such reductions and were such reductions the result of cut-backs to gas producer gas contract minimum delivery amounts by customers of El Paso or their suppliers or the result of declining gas reserves?[10]

The foregoing questions, however, do not establish the bounds of inquiry into pre-existing California shortages. The Administrative Law Judge presiding in the hearing on the preexisting California shortages may require and/or receive other evidence relevant to the inquiry.

The last modification, the treatment of customer storage injection volumes, is particularly troublesome since we have taken substantial pains in clarifying orders to establish a prioritization arrangement which we believed was most equitable. Our method is based on allocating storage injection volumes received from El Paso on the basis of the proportional end-use of all gas by the receiving customer during the winter base period. This method does not permit double accounting of storage volumes (counting it in the base volumes as in a priority both on injection and withdrawal).[11] The Court, however, has required that prioritization of storage volumes must be "in proportion to the actual end-use of such storage gas". (Emphasis added). The Court has also required that there must be "safeguards" against double accounting of the gas.

In order to satisfy this last Court-required modification, it is apparent that we will have to attempt that which we have previously believed well-nigh impossible: tracing storage gas from El Paso into its customers' storage then back out to an ultimate end-use. Further hearings to devise a methodology for allocating customer storage injection gas deliveries by El Paso which meet the Court's requirements, therefore are necessary.

In the proceeding in Docket No. RP76–38, we have required an inquiry to be conducted to determine the end-use of storage injection volumes improperly delivered by El Paso to its California customers during the effective period of the Opinion Nos. 634 and 634–A interim plan, December 15, 1972, until terminated by Commission order issued on June 21, 1977.[12] While the purpose of this inquiry differs from our object in the remanded storage portion of the proceedings in Docket No. RP72–6, a consolidation of the hearings nevertheless is appropriate. Since both inquiries involve tracing of the use of storage volumes delivered by El Paso and since the base period for the permanent plan as now expanded by the Court (October 31, 1971, to December 19, 1974) and the period in question in the proceedings in Docket No. RP76–38 overlap for the period December 15, 1972, to December 19, 1974, there exists a common question of fact: what end-use was made of the storage injection volumes delivered by El Paso during the period December 15, 1972, to December 19, 1974? The consolidated hearings, however, should be expanded beyond the confines of the common factual question to include an investigation of the use of storage injection volumes by El Paso's California customers back to the commencement of the Opinion Nos. 697 and 697–A plan base period and a determination of the best method of allocating storage injection volumes under the Opinion Nos. 697 and 697–A plan which also conforms to the Court's requirements.[13]

El Paso-delivered storage injection volumes play an important part in the service of natural gas to California markets. Since the previously effective Opinion Nos. 634 and 634–A plan contains no provision for storage injection volumes, we cannot temporarily revert to the storage feature in that plan while awaiting the results of the consolidated hearings on storage. We see no feasible alternative but to continue the treatment of storage volumes developed in the orders clarifying Opinion No. 697 and 697–A until a determination is made on the remanded storage question. Parties receiving storage injection volumes under the presently effective plan are warned that receipt of such volumes will be subject to possible future adjustment in storage injection volume authorized for delivery and to a payback obligation for amounts in excess of the volumes authorized under the storage injection allocation methodology to be developed.

APS's arguments in its application for rehearing concerning load upgrading are, in essence, a recasting of assertions contained in AEPCO's application for rehearing of the October 15, 1976, order and in El Paso's tariff filing made in compliance with the October 15, 1976, order which we found meritless in the June 1, 1977, order at p. 14–15. As such, APS is seeking a rehearing of a denial of rehearing which is not permitted by our Rules of Practice and Procedure.

The Commission finds: (1) Good cause has not been shown for staying the effective date of the tariff sheets accepted and placed in effect July 1, 1977, by our order issued June 1, 1977.

(2) The curtailment plan developed in Opinion Nos. 697 and 697–A and clarified in orders issued December 24, 1975, October 1976, and June 1, 1977, should be modified pursuant to the decision in *City of Wilcox and Arizona Power Cooperative, Inc.* v. *F.P.C., supra*, in the manner indicated above.

(3) The decision in *City of Wilcox and Arizona Power Cooperative, Inc.* v. *F.P.C., supra*, requires that further evidentiary hearings be held in this docket as set forth hereinafter.

The Commission orders: (A) The motion for stay filed by AEPCO and application for rehearing filed by APS are denied.

(B) The applications for rehearing filed by AEPCO, and the motion of TG&E are granted insofar as matters raised therein shall be the subject of further hearings ordered in Paragraphs (C) and (D) or are the subject of the modifications in the Opinion No. 697 and 697–A plan directed in Paragraph (E).

(C) As soon as may be practicable, hearings shall be convened before an Administrative Law Judge designated by the Chief Administrative Law Judge to determine the following matters:

(1) Whether requirements of gas turbine used to generate electric energy be reclassified from Priority 3;

(2) Whether APS and TG&E were dilatory in obtaining a moratorium on new attachments after the issuance of Opinion No. 697–A or whether the actions of APS and TG&E were excusable and reasonable justifying the inclusion in the base period volumes of requirements of customers attached during the period between December 19, 1974, and the imposition of a new attachment moratorium by state authorities;

(3) What was the source and extent of natural gas shortages in California which pre-existed curtailments on the El Paso System and to what extent should base period requirements (or other elements of the Opinion Nos. 697 and 697–A plan) be modified to take into consideration such pre-existing California gas shortages in order to assure a just and reasonable and not unduly preferential or discriminatory curtailment plan?

(D) Hearings shall also be held to investigate the end-use of storage injection volumes delivered by El Paso during the base period and to develop a method of allocating storage injection volumes received by customers from El Paso which will be consistent with the requirement of the Court that such gas be allocated on the basis of the actual end-use of the storage gas withdrawals originally supplied by El Paso and "with safeguards against according priority to gas both as it is pumped into storage and as it is withdrawn therefrom". Such hearings are hereby consolidated for hearing and decision with the proceedings in Docket No. RP76–38.

(E) Until further Commission order, the curtailment plan developed in Opinion Nos. 697 and 697–A and clarified in orders issued December 24, 1975, October 31, 1976, and June 1, 1977, shall remain in effect as prescribed therein; provided, however, that requirements of gas turbines used to generate electric energy shall be placed in Priority 3, ignition fuel and flame stabilization requirements shall remain in Priority 2, and requirements of new residential and commercial customers attached between October 31, 1974, and December 19, 1974, shall be included in base period requirements the foregoing modifications in the Opinion No. 697 and 697–A plan shall be effective as of the date of remand of the record by the Court. The Solicitor is hereby directed to seek remand of the record in this proceeding for the purpose of implementing these modifications.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22684 Filed 8-5-77;8:45 am]

[Dockets Nos. CP74–314, CP76–327, and CI77–526]

EL PASO NATURAL GAS CO., ET AL.

Order on Rehearing, Ruling on Motions for Deferral of Proceedings, Granting Motion To Designate Additional Parties, Granting Late Interventions and Granting Motion To Delete Respondent

JULY 29, 1977.

In the matter of El Paso Natural Gas Co., Docket No. CP74–314; Northwest Pipeline Corp., Docket No. CP76–327; and Sun Oil Co., et al., Docket No. CI77–526.

On June 3, 1977, the Commission issued an "Order Instituting Show Cause Proceeding, Ordering Filing of Evidence and Ordering Hearing." Applications for rehearing were filed on July 1, 1977, by Amoco Production Co. and William G. Webb, et al.[1] Three other applications for rehearing or reconsideration were filed on July 5, 1977, by Phillips Petroleum Co., W. Watson LaForce, Jr., et al.[2] and "Designated Respondents."[3]

The "Designated Respondents" also moved this Commission on July 5, 1977, for deferral of these proceedings (1) pending a final decision by the courts on motions for reference to the Commission of the issue of whether the Oil and Gas Lease Sale Agreements are subject to the jurisdiction of the Commission now pending in the Court of Appeals for the Fifth Circuit, and (2) pending a decision on the rehearing of the June 3, 1977, order. Amoco Production Co. filed on July 8, 1977, a joinder in the motion for deferral of proceedings. El Paso and Northwest replied in opposition on July 13, 1977, and July 15, 1977, respectively.

We will deny the motion to defer these proceedings. This order rules on the applications for rehearing and there is no advantage to be gained by awaiting a referral of the issues to the Commission. While in the Commission's view the issues in the court litigation should be referred to the Commission, failure to do so will not be cause for terminating these proceedings. This proceeding is conducted under the Commission's own jurisdiction. On the other hand, if any issues are eventually referred by the Court of Appeals there is benefit in moving along with this proceeding so the Commission will be sooner able to determine its position on any questions referred.

The Designated Respondents also contend the remedy issue should not be heard immediately with the jurisdictional issue. They also state they will be unable to prepare evidence on the remedy issue by August 19, 1977, in any event. The remedy issue should be tried together with the jurisdictional issue to save time in the long run should jurisdiction be determined so that appropriate refunds, if required, may be ordered significantly sooner. Also, records involved are already old. Further delay in collecting and submitting them for evidence would increase the possibility that at a later time they would be unavailable or unsupportable for any number of reasons due to the passage of time.

El Paso on July 15, 1977, moved for an extension of time to file evidence directed to the remedy issue. It notes certain other parties joined in the motion. Northwest also moved on July 15, 1977, for extension of time to file evidence. It proposed the same dates as El Paso, but seeks an extension of time for the filing of all of complainants' evidence. In order to assure sufficient time to the parties to discover necessary data and to prepare this evidence we will grant the motions to extend the time for filing evidence. Any further requests for alterations to the procedural schedule set forth herein shall be directed to the Administrative Law Judge designated to preside in this matter.

A motion for designation of additional respondents was filed on June 13, 1977, by Northwest Pipeline Corp. Northwest, successor in interest to twelve Oil and Gas Lease Agreements (PLA's) as a result of El Paso's divestiture of its Northwest Division, states it is now subject to demand from all PLA owners and moves that they be designated additional respondents, herein, in addition to the four interest owners designated in Appendix B of the June 3, 1977, order.[4] We will grant Northwest's motion and designate as Additional Respondents those persons set forth in Appendix B of this order.

We have also received untimely notices of intervention filed June 10, 1977, by the People of the State of California and the Public Utilities Commission of the State of California and June 22, 1977, by the State of Louisiana. Inasmuch as their untimely filings will not prejudice any party nor serve to delay these proceedings we will permit their untimely notices of intervention.

Late petitions to intervene were filed on June 22, 1977, jointly by Public Service Co. of Colorado, Western Slope Gas Co., and Cheyenne Light, Fuel & Power Co.; on July 18, 1977, by Colorado Interstate Gas Co.; and on July 21, 1977, by Cascade Natural Gas Corp. They are direct or indirect customers of Northwest and indicate a substantial interest in these proceedings not adequately represented by any other party, and a willingness to accept the record as it now stands. We will therefore permit their intervention.

Union Oil Co. filed a motion on June 21, 1977, to delete Alvin C. Johnson, Trustee, as a Respondent under GLA's 76, 78, and 349 because his production payment is now paid off and Union Oil Co. is solely responsible for any refunds that may be ordered. We will grant the motion.

We now turn to the applications for rehearing or reconsideration. The applications for rehearing raise several issues. The primary objection is that the Commission is barred by res judicata, collateral estoppel, and equitable estop-

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[10] If declining reserves are the cause, data as to reserves and production for the four years prior to commencement of curtailment by El Paso, by area, should be introduced in evidence.

[11] "Order Denying Rehearing and Accepting Tariff Sheets", Docket No. RP72–6, issued June 1, 1977, p. 6–9.

[12] "Declaratory Order on Complaint and Order Instituting Investigation", Docket No. RP76–38, issued June 21, 1977, p. 12–13.

[13] It should be noted that the assumption that storage withdrawals on a given day, contribute proportionately to every customer served that day suggested at p. 13 of the order issued June 21, 1977, in Docket No. RP76–38, may require reconsideration in light of the Court's discussion of the function of storage gas at slip op., p. 37.

[1] The application states it is submitted on behalf of all the producer applicants involved in the consolidated proceedings in William G. Webb, et al., Docket Nos. G–6887, et al., except Ralph E. Davis, Docket No. CI62–1175, and C. J. Brannan, Jr., Docket No. CI67–628. A list of those remaining producers are attached hereto as Appendix A, for convenience.

[2] The additional Respondents joining with the petition are, Henry P. Isham, Jr., Robert T. Isham, Josephine C. Jacobson, J. Robert Jones, Nancy Laforce Keyes, Frederic P. G. Lattner, Trustee, Suzanne LaForce Baber, James C. Bard, Douglas N. Bard, Ralph A. Bard, Jr., Roy E. Bard, Jr., G. B. Brainard, Jr., Continental Illinois National Bank & Trust Co. of Chicago (Tr. No. 23949 and Tr. No. 23935 Oil and Min. Div.), Eleanor Isham Dunne, Charles W. Farnham, Elizabeth B. Farrington, Minnie A. Fitting, Robert D. Fitting, Nancy H. Gerson, Jay C. Halls, and Ruth N. Halls, Trustees, Cortland T. Hill, Elsie F. Hill, Louis W. Hill, Jr., Albert L. Hopkins, Jr., George S. Isham, R. S. MacDonald, A. MacDonald, and Northern Trust Co., Trustees U/W of N. S. MacDonald, Deceased, Nora R. Ranney, Catherine H. Pumi, Edward L. Ryerson, Jr., Sabine Royalty Corp., Shaw, Isham & Co., John I. Shaw, et al, Trustee, Elizabeth B. Simpson Trust, William Simpson Revocable Trust, Sydney Stein, Jr., Northern Trust Co., Trustee, U/W of John Stuart, R. Douglas Stuart, William P. Sutter, Ralph U. Fitting III, Executor of Estate of R. U. Fitting, Jr., Deceased, J. Robert Jones, Executor of Estate of R. U. Fitting, Jr., Deceased, Kay B. Towle, Frederick P. Webster, F. P. Webster Revocable Trust, Mary S. Zick, and David Waller Dangler (present interest owners, GLA No. 66).

[3] The "Designated Respondents" are those respondents that were defendants in *El Paso Natural Gas Co.* v. *Sun Oil Co.*, 426 F. Supp. 963 (W.D. Tex. 1977), appeal pending, No. 77–1462 (5th Cir.). These include Tenneco Oil Co., Continental Oil Co., American Petrofina Co. of Texas, Crown Central Petroleum Corp., Delta Drilling Co., Mr. and Mrs. Morris Misel, W. Watson LaForce, Jr., Atlantic Richfield Co., Sun Oil Co., Mobil Oil Corp., and Union Oil Co. of California.

[4] On July 15, 1977, Northwest filed a motion seeking Commission expedition in determining the designation of additional respondents to assist in its data request of all PLA interest owners.

pel from initiating an investigation at this time. Further, it is contended the order improperly shifts the burden of proof to respondents; that the doctrine of res judicata bars the Commission from reopening issues decided in the *Webb* proceeding;[5] that the Commission has prejudged the jurisdictional issue; and that the order erroneously assumes facts unsupported by evidence.

The Commission finds the doctrine of res judicata does not preclude the Commission from instituting this proceeding at this time. The Commission has the primary responsibility under the Natural Gas Act to determine its jurisdiction under that Act in the course of administering the provisions of the Act.[6] Also, the Commission has specific authority under section 14 of the Act to undertake investigations as it deems necessary for the purposes set forth in that section. The cases cited by petitioners, *Lee v. F.T.C.*, 113 F. 2d 563 (8th Cir. 1940), pg. 7, n. 19, did not involve, as here, jurisdictional questions. The Commission has the authority to determine the reach of its own jurisdiction as a primary responsibility. Indeed, to the extent a court fails to defer to an agency on the grounds of primary jurisdiction it may be subject to reversal. *J. M. Huber Corp. v. Denman*, 367 F. 2d 104 (5th Cir. 1966); *Weymouth v. Colorado Interstate Gas Co.*, 367 F. 2d 84 (5th Cir. 1966). On the other hand, we know of no case in which an agency has been precluded from determining the breadth of its own jurisdiction in the face of a pending Court proceeding.[7] To the contrary, the Commission has been affirmed in such a situation.[8]

Moreover, the judicial proceedings are not final but are pending appeal. Not only is the proceeding not yet final, the questions raised therein may yet be referred to this Commission for consideration. A decision which is not final is not res judicata in effect. *ITT v. Electrical Workers*, 419 U.S. 428, 445–447 (1975). *NLRB v. Plasterers Local Union*, 404 U.S. 116, 122 (1971).

Nor is the settlement agreed to by parties in the court proceedings in the Colorado state court dispositive of this Commission's jurisdiction in the matter. While the settlement reached was allegedly satisfactory to all parties to the proceeding, and the complaint initiating the proceeding was withdrawn, (apparently without judicial ruling on the issue involved here), that procedure does not serve to satisfy the Commission's responsibilities under the Natural Gas Act.

The Commission also finds the doctrines of collateral estoppel and equitable estoppel do not bind the Commission to the Districts Court's finding of jurisdiction. The Commission was not a party to the court proceedings at the District Court. There is therefore no judicial estoppel. Nor is there any showing that any Respondent had relied to its detriment upon the Commission's actions. The District Court proceedings were continuing in any event. District Court had before it a motion to refer the issue to the Commission under the doctrine of primary jurisdiction. The parties to that proceeding were well aware of that motion and of El Paso's complaint before this Commission and the Commission's possible jurisdiction in this matter. Moreover, the Commission's order of April 8, 1976, did not state the Commission would not undertake proceedings in this matter, only that it would not be orderly for the Commission to commence a separate proceeding concurrently without benefit of the District Court's decision. At no time did this Commission state it would defer to the final judgment of the District Court in determining the complaint pending before the Commission. Temporary deferral worked to the convenience of the parties. They were thus not required to try similar issues at the same time. It also worked to the convenience of both the parties and the Commission by permitting utilization of much of the record before the Court in the Commission's proceedings. As Northwest points out, the evidentiary record of the judicial action will be filed with the Commission to avoid duplication of effort. While the District Court record is useful for the Commission, the record will not be enlarged on appeal as to evidentiary facts and it is therefore more appropriate for the Commission to move forward now rather than await the outcome of the appeal. Thus, the extensive expenditures in the Court litigation need not be duplicated by the Commission procedures.

Moreover, the public will not be harmed by Commission consideration of this matter. It appears the consuming public would benefit from the exercise of jurisdiction and the ordering of refunds. We do not in any prejudge this matter but recognize the diversity of interests in this proceeding and point out the royalty owners are not the only members of the public to be considered in this matter.

Respondents also suggest the Commission procedures make a mockery of the District Court decision. We do not agree. El Paso in that proceeding sought injunctive relief for alleged violations of the Natural Gas Act. The Commission proceeding goes further. While jurisdictionality is an initial issue raised, the relief, if granted, will not be injunctive relief but, pursuant to the appropriate provisions of the Natural Gas Act, certificates would be obtained, and rate schedules would be filed with the Commission. These are all responsibilities of the Commission under the Natural Gas Act and this proceeding is to determine whether such steps are required. The Distraict Court dismissed the suit for its own lack of jurisdiction because it could not find the necessary violation under the Natural Gas Act required under Section 22 of that Act before its jurisdiction vests. We do not believe our jurisdiction and authority to undertake investigations pursuant to our responsibilities under the Natural Gas Act should be limited by the forums in which third parties choose to seek injunctive relief for alleged violations of the Natural Gas Act. We think it more appropriate, and we have so notified the Court hearing the appeal of the District Court's decision that the more appropriate course is for the court to impose the doctrine of primary jurisdiction, grant the motions pending before it, and defer the pertinent issues to this Commission because the issues, under the regulatory scheme of the Natural Gas Act, have been placed within the special competence of the administrative body. See, *U.S. v. Western Pacific R. Co.*, 352 U.S. 59, 63–64 (1956).

We turn to the objection that the order improperly shifts the burden of proof from complainants to respondents. These proceedings arise upon complaint filed by El Paso seeking remedial Commisison action upon its allegations that the Respondents' actions are jurisdictional in nature. The Administrative Procedure Act provides that the proponent of a rule or order has the burden of proof. 5 U.S.C. § 556(d). El Paso should therefore bear the burden of proof in this proceeding. We will therefore modify ordering paragraph (D) of the June 3, 1977, order to delete the language placing the burden of proof on the Respondents. The existing procedural schedule for the filing of evidence is consistent with this revision on the burden of proof.

Respondents' bases for their contentions that the Commission has prejudged the jurisdictional issue and that certain factual and legal statements may be final are no set forth. To the extent the burden of proof language is removed, those concerns may be alleviated. We can state that the questions have not been prejudged and the order makes no final binding determinations except to the extent that the Commission would not, of course, undertake a lengthy and costly proceeding such as this had the pleadings not, in the first instance, raised and left unanswered significant questions about the jurisdiction of the Respondents herein. Moreover, any facts deemed erroneously assumed by the Respondents are not final and binding on the parties but may be refuted during the hearing on the record upon which the Commission's decision must be based.

Finally, we turn to the objections that the *Webb* proceeding[9] is improperly re-

[5] *William G. Webb*, Opinion No. 640, 49 FPC 17 (1973).

[6] *California v. F.P.C.*, 369 U.S. 482 (1962), cited by "Designated Respondents" is inapposite. There the Court had primary authority to determine antitrust violations and the harm of unscrambling which the court foresaw by concurrent Commission action is absent here.

[7] See also, K. Davis, Administrative Law Treatise, § 18.11 (1958), "* * * a judicial decision is not likely to be res judicata for purposes of a later administrative decision." Vol. 2, p. 623.

[8] *Ashland Oil & Refining Co v. F.P.C.* 421 F. 2d 17 (CA6, 1970).

[9] *William G. Webb*, 49 FPC 17 (1973).

opened. Respondents correctly point out the issue as to the jurisdiction of the *Webb* respondents was considered and rejected by the Commission in Opinion No. 642. Nevertheless, more significantly, another reason for this proceeding was stated in our order. As we stated:

> More particularly, (the Commission) did not view the overriding royalty interest payments in light of the changed circumstances of today such as the demands by the overriding royalty owners for increased payments to market value levels.

Although the Commission at that time rejected the contention that the Commission should regulate the sales in accordance with the *Rayne Field* case,[10] the Commission did not have before it the changed circumstances of today. The doctrine of res judicata does not apply where changed circumstances appear. As noted in footnote below there are any number of reasons that may well dictate a change in result upon review of the position of the *Webb* Respondents in light of the greater context of all the Respondents obtaining overriding royalties under today's circumstances alleged by El Paso. See *The Connecticut Light and Power Co. v. F.P.C.*, No. 76-4212 (2nd Cir., decided June 27, 1977).

The Commission finds:

(1) The assignments of error and grounds for rehearing set forth in the applications for rehearing of the Commission's order of June 3, 1977, present no facts or legal principles which would warrant any change in or modification of such order, except as provided below.

(2) The notices of intervention of the People of the State of California and the Public Utilities Commission of the State of California, jointly, the State of Louisiana and the petitions to intervene of Public Service Co. of Colorado, Western Slope Gas Co. and Cheyenne Light, Fuel & Power Co., Colorado Interstate Gas Co. and Cascade Natural Gas Corps. have demonstrated an interest in the capitioned dockets which are not represented by any other party, their participation will not delay the proceeding and their participation may be in the public interest; therefore good cause exists for permitting the filing of the late petitions to intervene and notices of intervention.

(3) **The June 13**, 1977, motion of Northwest Pipeline Corp. for designation of additional respondents should be granted.

(4) The motions of El Paso Natural Gas Co., filed July 15, 1977, and Northwest Pipeline Co., filed July 15, 1977, for modification of the procedural schedule should be granted.

(5) The motion of "Designated Respondents" for deferral of proceedings, filed July 5, 1977, and joined by Amoco Production Co. on July 8, 1977, should be denied.

(6) The Commission's ordering paragraph (D) of the June 3, 1977, order should be modified.

(7) The motion filed July 21, 1977, by Union Oil of California for deletion of Alvin C. Johnson, Trustee, as a party Respondent should be granted.

The Commission orders:

(A) The People of the State of California and the Public Utilities Commission of the State of California, jointly, and the State of Louisiana, and Public Service Co. of Colorado, Western Slope Gas Co., and Ceyenne Light, Fuel & Power Co., jointly, Colorado Interstate Gas Co. and Cascade Natural Gas Corp. are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to such matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided, however*, That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The applications for rehearing and reconsideration filed herein are denied, except as provided below.

(C) Ordering Paragraph (D) of the Commission's order of June 3, 1977, in this proceeding, is modified to delete the reference to burden of proof and the burden of proof herein shall be upon the complainants, El Paso Natural Gas Co. and Northwest Pipeline Corp.

(D) Northwest Pipeline Corp.'s motion for designation of additional Respondents is granted and the additional Respondents designated are listed in Appendix B, attached hereto, to the extent not already designated as Respondents.

(E) The motions of El Paso Natural Gas Co. and Northwest Pipeline Corp. for deferral of the procedural schedule are granted as follows:

Complainants' evidence to be filed	Sept.	6, 1977
Respondents' and staff's evidence to be filed	Oct.	6, 1977
All parties' rebuttal evidence to be filed	Oct.	21, 1977
Prehrial conference	Nov.	1, 1977

(F) The motion of "Designated Respondents" for deferral of proceedings, filed July 5, 1977, and joined by Amoco Production Co., on July 8, 1977, is denied.

(G) Alvin C. Johnson, Trustee, is deleted as a party Respondent to these proceedings as his interest may appear with respect to GI As 78, 218, and 349.

(H) The Commission.

Lois D. Cashell,
Acting Secretary.

	Webb proceeding docket Nos.
William G. Webb	G-[illegible]887
J. Glenn Turner	G-[illegible]5907
Frank A. Schultz	C-[illegible]5909
William G. Webb	C-[illegible]5909
J. Glenn Turner	[illegible]
William G. Webb	G-[illegible]197
Benson-Montin-Greer Drilling Corp.	C-[illegible]5911
J. Glenn Turner	G-19414,
Frank A. Schultz, et al	G-[illegible]5910
Benson-Montin-Greer Drilling Corp.	C-[illegible]5911
La Plata Gathering System, Inc.	C161, 812
Frank A. Schultz	C161, 815
Jack London, Jr.	C162, 1147
J. Glenn Turner and William G. Webb	C162, 1177
Do	C162, 1213
C. W. Murchison	C165, 69
Frank A. Schultz, et al	C163, 318
[illegible] Natural Gas Co.	CP70-146
Mike Abraham, Jr., J. Glenn Turner, and William G. Webb	C170, 688
Kent Elliott (Operator), et al. (Nancy Lee Qualls)	C77-, 518
K. E. McAfee	C170-689
Earl A. Benson, et al	C163, 302
B. & M. Construction Corp.	C168, 1079

PLA No.	*Interest owner*
PLA-2	Atlantic Richfield Co., CC No. 1053, P.O. Box 494, Dallas, Tex.
PLA-3	Getty Oil Co., CC No. 1054, P.O. Box 3000, [illegible] Okla. 74102
PLA-4	Grace M. Brown, CC No. 1051, 2400 Savannah St., El Paso, Tex. 79930 Catherine B. McElvain, Ind. and as executrix of estate of T. H. McElvain, deceased, CC No. 1051, P.O. Box 2148, Santa Fe, N. Mex. 87501 T. H. McElvain Oil and Gas Properties, P.O. Box 2148, Santa Fe, New Mex. 87501 James E. McElvain, executor of estate of Carl B. McElvain, CC No. 1051, Route 6-47 B, [illegible] Morris, Ill. 60450 J. Wm. McElvain, CC No. 1051, 310 Jefferson St., Morris, Ill. 60450 Estate of F. B. Mills, CC No. 1051, P.O. Box 1445, Kerrville, Tex. 78028 Mabelle McElvain Miller, CC No. 1051 73-74, P.O. Box 1445, 1224 Lois St., Kerrville, Tex. 78028 Mrs. Ruth M. Vaughn, CC No. 1051 73-74, 300 Caversham Rd., Bryn Mawr, Pa. 19010.
PLA-5	Phillips Petroleum Co., CC No. 1052, P.O. Box 2026, Houston, Tex. 77001

[10] *Texas Eastern Transmission Corp.* 28 FPC 249 (1963).

[11] See K. Davis, Administrative Law Treatise, § 18.12(1958). "* * * (res judicata) is relaxed as applied to issues of law or policy involving continuing practices * * * reasons for relaxing the doctrine include * * * changing policy, changing facts, strong public interest in avoiding perpetuation of error or undesirable policy in some concrete contexts, need for equal treatment of parties whose circumstances are the same, and other subtle or complex factors in various combinations." Each of these reasons are possibly applicable here and may, after hearing, be a basis in this case for a ruling contrary to the *Webb* decision.

PLA No.:	Interest owner
PLA-6	J. Ralph Ellis, Jr., CC No. 1050, 3819 Cabeza De Vaca, Irving, Tex. 75060. Jones Felvey II, CC No. 1050, 3605 Princeton, Dallas, Tex. 75205. First National Bank in Dallas, For the account of J. Ralph Ellis, Jr., CC No. 1050, P.O. Box 6031, Dallas, Tex. 75222. McCulloch Oil Corp., suite 1200, CC No. 1050, 6151 West Century Blvd., Los Angeles, Calif. 90045. Mountain States Natural Gas Corp., CC No. 1050, P.O. Box 35426, Tulsa, Okla. 74135. John D. Mugg, Jr., CC No. 1050, 4910 Cherry Hill Dr., Corpus Christi, Tex 78413. Amoco Production Co.,[1] CC No. 1050, P.O. 1953, El Paso, Tex. 79950. Jack B. Ryan, CC No. 1050, 1776 Lincoln St., suite 908, Denver, Colo. 80202. Texas Oil & Gas Corp., CC No. 1050, P.O. Box 22622, Dallas, Tex. 75284. U. V. Industries, 19th floor, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.
PLA-7	Amoco Production Co.,[1] CC No. 1048, P.O. Box 1953, El Paso, Tex. 79950
PLA-8	J. Ralph Ellis, Jr., CC No. 1046, 3819 Cabeza De Vaca, Irving, Tex. 75060. Jones Felvey II, CC No. 1046, 3605 Princeton, Dallas, Tex. 75205. First National Bank in Dallas, for the account of Ralph Ellis, Jr., CC No. 1046, P.O. Box 6031, Dallas, Tex. 75222. H. M. Meredith, trustee and First National Bank in Dallas, for the account of J. Ralph Ellis, Jr., CC No. 1046, P.O. Box 6031, Dallas, Tex. 75222. Mountain States Natural Gas Corp., CC No. 1046, P.O. Box 35426, Tulsa, Okla. 74135. John D. Mugg, Jr., CC No. 1046, 4910 Cherry Hill Dr., Corpus Christi, Tex. 78413. Amoco Production Co.,[1] CC No. 1046, P.O. Box 1953, El Paso, Tex. 79950. Jack B. Ryan, CC No. 1046, 1776 Lincoln St., suite 908, Denver, Colo. 80202. Texas Oil & Gas Corp., P.O. Box 22622, Dallas, Tex. 75284.
PLA-9	Amoco Production Co.,[1] CC No. 1049, P.O. Box 591, Tulsa, Okla. 74102.
PLA-10	Amoco Production Co.,[1] CC No. 1047, P.O. Box 1953, El Paso, Tex. 79950.
PLA-11	Amoco Production Co.,[1] CC No. 1045, P.O. Box 1953, El Paso, Tex. 79950.
PLA-13	Mobil Oil Corp.,[1] CC No. 1044, gas accounting, P.O. Box 3350, Dallas, Tex. 75221.
PLA-14	Champlin Petroleum Co., CC No. 1055, P.O. Box 552, Enid, Okla. 73701.

[1] Denotes interest holders who are currently party respondents in these proceedings.

[FR Doc 77-22685 Filed 8-5-77;8:45 am]

[Docket No. ER77-516]

FLORIDA POWER CORP.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 14, 1977, Florida Power Corp. (Company) tendered for filing a proposed interchange service agreement with Florida Power & Light Co. (FP&L).[1] The filing is intended to supersede an existing Letter of Operating Agreements and provides for: (1) Emergency Interchange Service, (2) Scheduled Interchange Service, and (3) Economy Interchange Service. The amount of rate increase (to FP&L) cannot be determined at this time since it depends on the interchange operations themselves. The Company proposes an effective date of August 14, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges in the agreement have not been shown to be justified and may be unjust, unreasonable, unduly preferential or discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges in the agreement tendered by the Company on July 14, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges in the agreement tendered by the Company on July 14, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges in the agreement tendered by the Company are hereby suspended and the use thereof deferred until August 15, 1977, when they shall become effective subject to refund.

[1] Rate Schedule Designation to be provided to the Company by future letter.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22679 Filed 8-5-77;8:45 am]

GULF OIL CORP.

[Docket No. CI77-635]

Order Granting Temporary Transportation Authorization and Requiring the Filing of an Application for a Permanent Certificate of Public Convenience and Necessity

JULY 29, 1977.

By letter dated March 18, 1977, the Commission Staff requested Gulf Oil Corp. (Gulf) to respond to certain inquiries concerning the facilities in which Gulf has an interest and which can be utilized to bring Federal Domain gas reserves to an onshore point. One of the questions submitted to Gulf was whether it has ever used any gas produced in the Federal Domain and brought onshore through these facilities for its own use or the use of a subsidiary. In its April 7, 1977, response, Gulf states, inter alia, that it gathers gas produced from both State and Federal Domain leases in its Venice Plant gathering system for processing in its Venice Gas Plant prior to the delivery of the residue gas to interstate pipeline purchasers at the onshore location of the plant. Gulf notes that gas is utilized from this system for shrinkage and for fuel in compressing, processing, and dehydration prior to delivery of the residue gas. Furthermore, Gulf states that gas is utilized from this system for fuel in the Gulf Venice Refinery which is located within the eVnice Plant Complex. Gulf claims, however, that the volumes of gas produced and gathered in this system from leases in the State Domain have always been in excess of the volumes of gas used in the refinery.

Gulf transports Federal Domain gas onshore to its Venice Gas Plant for processing.[1] Along the way Gulf also picks up in the same line some of its State Domain gas. The Federal Domain gas and the State Domain gas are thus commingled for the remainder of the transportation to the Venice Gas Plant. After processing, some of the gas processed at the plant is sold subject to this Commission's jurisdiction.[2] However, a portion of the processed gas is used by Gulf for non-jurisdictional purposes in its refinery operations at Venice.[3] The question

[1] A map showing the facilities in question is contained in Appendix A hereto.

[2] In addition to the gas under discussion here, Gulf has other facilities which bring onshore gas and State offshore gas to its plant.

[3] Gulf states that the amount of gas used as fuel in its refinery does not exceed the amount of gas produced and transported from the offshore State Domain.

presented is whether Gulf is required under the Natural Gas Act in the above factual situation to obtain certificate authorization for the transportation of those volumes of gas utilized by it in its refinery operations.[4]

Where a producer is dependent upon an interstate pipeline for the transportation of gas reserved for the producer's own use, the Commission has the opportunity to review the use of such gas when the pipeline files for the authorization to transport the gas. The Commission has no such opportunity for review when the producer's facilities are used for the transportation. Therefore, the Commission has determined that where a producer brings Federal Domain gas onshore for its own use, it is necessary to require the producers to file for and receive certificate authorization for the transportation of any such gas.[5]

In the instant proceeding Gulf has alleged that Federal Domain gas is not utilized in the Gulf Venice Refinery in that the amount of State Domain gas collected in its Venice system always exceeds the amount delivered to the refinery. However, it is clear from the map designated as Appendix A that some of the State Domain gas transported to the Venice plant is commingled with the stream of gas originating in the Federal Domain. It is thus necessary to examine the jurisdictional consequence of this commingling.

The lead case on commingling theory is *California, et al.* v. *Lo-Vaca Gathering Co., et al.*, 379 U.S. 366 (1965). The Supreme Court held that where a pipeline has a contract with a producer providing that all gas purchased will be used solely as fuel in the pipeline's facilities (whether located within or outside the state where the gas was produced), such gas is in interstate commerce within the meaning of Section 1(b) of the Act. The court noted that Federal jurisdiction follows the flow of energy and that an engineering and scientific test should be used rather than a legalistic or governmental test when determining whether natural gas is in interstate commerce. Finally, the court held that a sale of gas which crosses a state line at any stage of its movement from wellhead to ultimate consumption is in interstate commerce.[6] Also on point is the *Florida Parishes* case, *Louisiana Public Service Commission* v. *FPC*, 359 F.2d 525 (1966). In that case gas to be sold intrastate was intermixed during transportation with gas to be sold interstate, and both types of sales were made from the commingled stream. The court held that the mixing of intrastate gas with a substantial portion of interstate gas for pipeline transportation in one commingled stream gave the Commission jurisdiction at the outset over the entire transaction.[7]

The facts presented in the Gulf situation clearly fall within the ambit of the holdings of these landmark decisions. Following the scientific test announced in the *Lo-Vaca* decision, the State Domain gas is commingled with the Federal Domain gas at some point before it reaches the Venice Plant. This is all that is required for Federal jurisdiction to attack. Just as in the *Florida Parishes* case the gas in the Gulf situation is produced and sold (or used in the producer's refinery) within the same state but is commingled with a stream of gas, some of which is destined for transportation to other states. It follows that the State Domain gas in the Venice Plant system is in interstate commerce.

It should be noted that this position is consistent with the recently decided Opinion No. 777[8] in which certain intrastate sales of gas which had been commingled with interstate gas were held to be non-jurisdictional. The crucial fact which distinguishes that case is that all of the commingled gas there was sold within the state of origin of the intrastate gas. The Commission noted that it is necessary for the gas to move across a state line before it becomes subject to the Commission's jurisdiction. Since none of the commingled gas left the state in which the intrastate purchases were made, such transactions were not subject to the regulation of the Commission. In the Gulf situation, however, it is clear that the commingled stream of gas will cross a state line because most of the gas is sold to interstate pipelines at the tailgate of the Venice Plant. Therefore, the rule set forth in Opinion No. 777 is inapplicable to these facts.

As noted above, the Commission requires that certificate authorization be granted for the transportation through producer-owned facilities of Federal Domain gas to an onshore point. It follows that the same requirement should apply to the State Domain gas in Gulf's Venice system which is, by virtue of commingling, in interstate commerce. Therefore, we will require Gulf to file for certificate authorization to transport any gas to its Venice Plant which is utilized in the Gulf Venice Refinery where the transportation of such gas involves the commingling of Offshore Federal Domain and State Domain gas. However, in order to avoid any disruption in the refinery's operations, we will grant Gulf temporary authorization to transport such gas in its Venice system for use in the refinery provided that Gulf files for a permanent certificate pursuant to Section 7 of the Natural Gas Act within 60 days from the date of this order.

Finally, we note that one of the lines involved herein is jointly owned by Gulf, Mobil Oil Corp. (Mobil), Pennzoil Offshore Gas Operators, Inc. (POGO), and Pennzoil Louisiana & Texas Offshore Inc. (PLATO). POGO and PLATO have been advised that they must receive certificate authorization to transport any gas for their own use through such line *Pennzoil Offshore Gas Operators, Inc., supra*. Accordingly, Mobil would also need certificate authorization to perform the same act.

The Commission finds: It is necessary for Gulf to apply for and obtain a certificate of public convenience and necessity under Section 7 of the Natural Gas Act relating to the transportation in the Venice system of Federal and commingled State Domain reserves onshore for ultimate use in the Gulf Venice Refinery.

The Commission orders: (A) Gulf is required to apply for and obtain a certificate of public convenience and necessity under Section 7 of the Natural Gas Act relating to the transportation to the Venice plant of Offshore Federal Domain and commingled State Domain reserves for ultimate use in the Gulf Venice Refinery.

(B) Gulf is hereby granted temporary authorization to transport Federal and commingled State Domain reserves to the Venice plant for ultimate use in the Gulf Venice Refinery to the extent such use does not exceed the amount produced and transported from the State Domain, provided that the filing required in Ordering Paragraph (A) above is made within 60 days from the date of this order.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22680 Filed 8-5-77;8:45 am]

[Docket No. ER77-514]

GULF STATES UTILITIES CO.

Order Accepting for Filing in Part, Rejecting For Filing in Part, and Suspending Proposed Increased Rates

JULY 29, 1977.

On July 7, 1977, Gulf States Utilities Company (Gulf States) tendered for filing proposed rate schedule supplements which set forth changes in minimum bill-

[4] We recognize that in that order issuing a certificate to Gulf to sell gas to Texas Eastern Transmission Corporation pursuant to their warranty contract the Commission authorized Gulf to construct and operate "any facilities subject to the jurisdiction of the Commission necessary therefore." Texas Eastern Transmission Corp., et al., 30 FPC 1559 (1953). Gulf's certificate issued on April 6, 1964 in Docket No. CI63-123 authorizing sales to Southern Natural Gas Co. contains a similar provision (31 FPC 872). However, here some of the commingled gas which is transported by Gulf is being used for non-jurisdictional purposes in Gulf's Venice Refinery.

[5] Pennzoil Offshore Gas Operators, Inc., et al., Docket No. CI76-495, et al., order issued January 27, 1977. See also, Sabine Pipe Line Co. and Texaco Inc., Docket Nos. CP77-304 and CI77-329, orders issued July 7, 1977, and July 14, 1977.

[6] See also *FPC* v. *Arkansas Petroleum Corp.*, 379 U.S. 687 (1965).

[7] See also *Louisiana Power & Light Co.* v. *FPC*, 483 F.2d 623 (1973), in which the court found that the Hinshaw Amendment (Section 1(c) of the Act) does not relieve the Commission of jurisdiction over local branches of integrated interstate systems.

[8] Colorado Interstate Gas Co., Opinion No. 777, Docket Nos. CP75-323 and CP75-300, issued September 30, 1976.

ing demand provisions for firm power service to its Municipal and Cooperative customers.[1] The filing would increase Gulf States' revenues by $326,701, based on the period October, 1976 through June 1977.[2] Gulf States requests waiver of the notice requirements to permit effective dates of September 2, 1976, for the Cooperatives and December 1, 1976, for the Municipals.

As part of its filing, Gulf States proposes to revise billing demand provisions for service to members of the Sam Rayburn Dam Electric Cooperative[3] whose individual contracts are still in effect,[4] although no service is being rendered presently under the contracts. In its order of August 31, 1976, in Docket No. ER76-816, the Commission accepted Gulf States' proposed rate schedule changes to the members of the Sam Rayburn Dam Electric Cooperative with the exceptions of the schedules affecting Jasper-Newton Electric Cooperative and Sam Houston Electric Cooperative, who were found to have fixed-rate contracts. Since these contracts are still in effect, we shall not accept Gulf States' filing as to these customers.

Gulf States has not presented a convincing argument in support of its request for waiver of the notice requirements. We shall, therefore, deny the waiver.

A preliminary review of Gulf States' filing indicates that the proposed rate schedule supplements which would increase rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: (1) Good cause exists to accept Gulf States' rate schedule supplements, with the exception of supplements affecting Sam Houston Electric Cooperative and Jasper-Newton Electric Cooperative, for filing and to suspend the proposed increased rates and charges tendered by Gulf States on July 7, 1977, as hereinafter ordered.

(2) Good cause does not exist to grant waiver of the notice requirements to permit a retroactive effective date of September 2, 1976, for the Cooperative customers and December 1, 1976, for the Municipal customers.

The Commission orders: (A) The proposed rate schedule supplements contain increased rates and charges, tendered by Gulf States on July 7, 1977, with the exception of those affecting Sam Houston Electric Cooperative and Jasper-Newton Electric Cooperative, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by Gulf States.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by Gulf States are hereby suspended and the use thereof deferred until August 8, 1977, when they shall become effective subject to refund.

(D) Waiver of the notice requirements to permit retroactive effective dates is hereby denied.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*Gulf States Utilities Co., Docket No. ER77-514*

Designation	Other party	Description, rate
Supplement No. 6 to Rate Schedule FPC No. 117 (supersedes Supplement No. 4 to FPC No. 117)	Town of Abbeville	WSM
Supplement No. 4 to Rate Schedule FPC No. 112 (supersedes Supplement No. 3 to FPC No. 112)	City of Caldwell	WSM
Supplement No. 3 to Rate Schedule FPC No. 120 (supersedes Supplement No. 2 to FPC No. 120)	Town of Erath	WWM
Supplement No. 7 to Rate Schedule FPC No. 111 (supersedes Supplement No. 5 to FPC No. 111)	Town of Gueydan	WSM
Supplement No. 5 to Rate Schedule FPC No. 116 (supersedes Supplement No. 4 to FPC No. 116)	Houston County Electric Cooperative.	WSC
Supplement No. 7 to Rate Schedule FPC No. 113 (supersedes Supplement No. 5 to FPC No. 113)	City of Kaplan	WSM
Supplement No. 7 to Rate Schedule FPC No. 110 (supersedes Supplement No. 5 to FPC No. 110)	Kirbyville Light and Power Co.	WSM
Supplement No. * to Rate Schedule FPC No. 76 (supersedes Supplement No. 7 to FPC No. 76)	Mid-South Electric Cooperative	WSC
Supplement No. 5 to Rate Schedule FPC No. 119 (supersedes Supplement No. 3 to FPC No. 119)	Town of New Roads	WSM
Supplement No. 5 to Rate Schedule FPC No. 115 (supersedes Supplement No. 4 to FPC No. 115)	City of Newton	WSM
Supplement No. 3 to Rate Schedule FPC No. 124 (supersedes Supplement No. 4 to FPC No. 124)	Town of Rayne	WSM
Supplement No. 7 to Rate Schedule FPC No. 118 (supersedes Supplement No. 5 to FPC No. 118)	Town of St. Martinsville.	WSM
Supplement No. 7 to Rate Schedule FPC No. 114 (supersedes Supplement No. 5 to FPC No. 114)	Town of Welsh	WSM
Supplement No. * to Rate Schedule FPC No. 104 (supersedes Supplement No. 7 to FPC No. 104)	Cajun Electric Power Cooperative.	WSC
Supplement No. 7 to Rate Schedule FPC No. 95 (supersedes Supplement No. 5 to FPC No. 95)	City of Jasper	WSM
Supplement No. 8 to Rate Schedule No. 96 (supersedes Supplement No. 5 to FPC No. 96)	City of Liberty	WSM
Supplement No. 4 to Rate Schedule No. 86 (supersedes Supplement No. 5 to FPC No. 86)	City of Livingston	WSM
Supplement No. 10 to Rate Schedule FPC No. 24 (supersedes Supplement No. 7 to FPC No. 24)	Town of Vinton	WSM
Supplement No. 2 to Rate Schedule No. 123 (supersedes Supplement No. 1 to FPC No. 123	City of College Station.	WSM

[FR Doc 77-22686 Filed 8-5-77;8:45 am]

[Docket No. ES77-46]

INTERSTATE POWER CO.

Notice of Application

AUGUST 1, 1977.

Take notice that on July 21, 1977, an application was filed with the Federal Power Commission pursuant to Section 204(a) of the Federal Power Act by Interstate Power Company (Applicant), seeking orders authorizing the issuance and sale of $13,000,000 principal amount of the Company's First Mortgage Bonds ____% Series Due 2002 and of additional Common Stock of the par value of $3.50 per share.

Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

Applicant proposes to issue and sell pursuant to competitive bidding in accordance with the requirements of Section 34.1(b) of the Commission's Regulations $13,000,000 principal amount of its First Mortgage Bonds ____% Series Due 2002 and, in addition, Applicant proposes to issue a sufficient number of shares of additional Common Stock to produce proceeds to it of approximately $14,000,000. It is presently proposed that sealed, written bids for the purchase of the additional Common Stock and First Mortgage Bonds will be opened at 4:30 p.m., New York Time, on September 12, 1977 and at 11 a.m. New York Time, on September 13, 1977, respectively, and that the results of such competitive bidding will be furnished to this Commission.

According to the application, the net proceeds (approximately $13,000,000 from the sale of the New Bonds and approximately $14,000,000 to be received by the Applicant from the issuance and sale of the shares of additional Common Stock) will be used by the Applicant to discharge a portion of the short-term indebtedness incurred by the Applicant which were used to pay for a portion of its construction program and for other purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1977, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22658 Filed 8-5-77;8:45 am]

[Docket No. ER76-823]

IOWA SOUTHERN UTILITIES CO.

Notice of Certification of Settlement Agreement

AUGUST 1, 1977.

Take notice that Presiding Administrative Law Judge Samuel Z. Gordon on July 21, 1977, certified to the Commission an offer of settlement submitted by Iowa Southern Utilities Company (Iowa Southern) in this proceeding.

There are no intervening parties in this case and the Presiding Judge indicates that Iowa Southern has represented that it believes the Commission Staff will support the Settlement Agreement.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 22, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22667 Filed 8-5-77;8:45 am]

[Docket No. CP77-516]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

AUGUST 2, 1977.

Take notice that on July 22, 1977 Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-515 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to deliver certain quantities of natural gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) for the account of The Peoples Gas Light and Coke Company (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it would deliver to Michigan Wisconsin for Peoples' account 1,000,000 Mcf during the period March 1 through October 31 of each year (the Summer Period) through 1994. Applicant states that it would make such deliveries at existing points of interconnection of the facilities of Michigan Wisconsin and Applicant at a daily rate of up to 5,250 Mcf along with an additional volumes of gas for compressor fuel equal to 5 percent of the volume delivered.

It is asserted that Applicant's deliveries would enable Peoples to fulfill its delivery obligations under the Transportation and Storage Agreement dated November 29, 1974, as amended August 7, 1975, between Peoples and Michigan Wisconsin, which inter alia is the subject of Michigan Wisconsin's application filed in Docket No. CP75-182. The proposed service would have the effect of making available additional winter gas to Peoples to meet high priority firm needs, resulting in some abatement of air pollution, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22653 Filed 8-5-77;8:45 am]

[Docket No. ER77-512]

NEW BEDFORD GAS AND EDISON LIGHT CO.

Filing of Clarification of Transmission Rate Schedule

AUGUST 1, 1977

Take notice that on July 11, 1977, New Bedford Gas and Edison Light Company (New Bedford) filed, pursuant to Section 205 of the Federal Power Act and the implementing provisions of the Commission's Regulations thereunder, a letter of clarification concerning its currently effective FPC Rate Schedule No. 21.

New Bedford indicates that by the clarification tendered, New Bedford proposes to explicitly recognize the rights of Montaup Electric Company, as a party to New Bedford's FPC Rate Schedule No. 21, to utilize certain of New Bedford's 345 KV transmission facilities to effect transfers of power owned by Montaup Electric Company by right of entitlement and to effect certain other transfers as permitted by Section 13.2(a) through (e) of the New England Power Pool Agreement dated September 1, 1971, as amended.

New Bedford requests that the Commission's notice requirements be waived pursuant to Section 35.11 of its Regulations in order to allow said filing to become effective December 1, 1975.

According to New Bedford copies of the filing have been served by New Bedford upon Boston Edison Company, Montaup Electric Company, New England Power Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed

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[1] The Company tendered its filing as an alternative to a petition for rehearing in another docket on April 1, 1977. Rehearing was denied and these rate schedules were acknowledged as being submitted for filing. On April 29, 1977, the Secretary notified the Company of deficiencies in its filing by letter. The deficiencies were cured in the July 7, 1977 filing.

[2] See Attachment A for Rate Schedule Designations.

[3] Town of Vinton, La., City of Jasper, Tex., City of Livingston, Tex., and Liberty, Tex., Sam Houston Electric Cooperative, and Jasper-Newton Electric Cooperative. Sam Rayburn Electric Cooperative purchased power from Gulf States under a separate fixed rate contract which is unaffected by the instant filing.

[4] Gulf States filed notices of cancellation for the individual contracts on June 13, 1977, in Docket No. ER77-375.

on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22666 Filed 8-5-77;8:45 am]

[Docket No. ER77-511]

NEW YORK POWER POOL

Filing of Revised New York Power Pool Agreement

AUGUST 1, 1977.

Take notice that on July 11, 1977, the New York Power Pool, composed of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas & Electric Corporation, and Power Authority of the State of New York, filed revised New York Power Pool Agreement dated April 4, 1977. The New York Power Pool indicates that this Agreement will replace an existing agreement among the above listed organizations. The filing proposes that the Agreement become effective as of April 4, 1977, and waiver of the Commission's notice requirements is therefore requested.

The New York Power Pool states that the Agreement provides for charges for capability deficiency, supplemental capability and energy, emergency energy, and assured economy capability and economy energy, and a transmission compensation account is also established. The New York Power Pool further states that charges for capability deficiency and supplemental capability are based upon negotiation among the parties and economic studies. According to the New York Power Pool, charges for assured economy capability and economy energy and emergency energy are generally based upon incremental costs, and reflect the implementation of computer-operated statewide economic dispatch under the Agreement.

Any person desiring to be heard or to make any protest with reference to the New York Power Pool Agreement should, on or before August 12, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D. C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22661 Filed 8-5-77;8:45 am]

[Docket No. ER77-505]

NORTHERN INDIANA PUBLIC SERVICE CO.

Proposed Tariff, Supplement, and Cancellation

AUGUST 1, 1977.

Take notice that Northern Indiana Public Service Company (NIPSCO), on July 11, 1977, tendered for filing Fifth Revised Sheet No. 3 to its FPC Electric Tariff—Second Revised Volume No. 1, which NIPSCO indicates has been revised to include additional delivery points for the Town of Argos, Indiana, and White County Rural Electric Membership Corporation, Ulerich, Indiana. NIPSCO also tendered for filing Exhibit B–2, a supplement to the Service Agreement between NIPSCO and the Town of Argos, which NIPSCO indicates covers the supply of electric energy for resale at a delivery point located in Green Township, Marshall County, Indiana. NIPSCO also tendered for filing Exhibit B–10, a supplement to the Service Agreement between NIPSCO and White County Rural Electric Membership Corporation, which NIPSCO indicates covers the supply of electric energy for resale at a delivery point located in Jefferson Township, Carroll County, Indiana. NIPSCO requests an effective date of August 12, for the aforementioned proposed tariff and supplements.

NIPSCO also tendered for filing a notice of proposed cancellation of service at the No. 2 North Delivery Point of the La Grange County Rural Electric Membership Corporation, La Grange County, Indiana. NIPSCO requests waiver of the Commission's notice requirements to allow for an effective date of June 15, 1977, for said proposed cancellation.

According to NIPSCO copies of this filing have been served upon all customers concerned and the Public Service Commission of Indiana.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22669 Filed 8-5-77;8:45 am]

[Docket No. ER77-508]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Filing

AUGUST 8, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 11, 1977, tendered for filing as a rate schedule, a transmission agreement between Niagara and the St. Lawrence Power Company (St. Lawrence) dated July 7, 1977.

Niagara indicates that the service to be rendered by Niagara provides for the transmission of power and energy between (a) Niagara's 230 kV transmission connection at the International Border between Niagara Falls, Ontario and Niagara Falls, New York and (b) the transmission connection at the International Border between Massena, New York and Cornwall, Ontario.

Niagara further indicates that transmission capacity to be made available by Niagara to St. Lawrence will that amount scheduled on an hourly basis by St. Lawrence each day for the subsequent 24-hour period beginning at midnight. Niagara proposes an effective date of August 12, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22654 Filed 8-5-77;8:45 am]

[Docket No. RP76-89]

NORTHERN NATURAL GAS CO.

Order Accepting Stipulation and Agreement

AUGUST 1, 1977.

On April 22, 1976, Northern Natural Gas Company (Northern) tendered for filing proposed changes in its FPC Gas Tariff in this docket. The proposed changes would increase revenues from jurisdictional sales by $71,723,077 annually based on sales volumes and costs for the twelve months ended December 31, 1975, as adjusted for nine months of known and reasonable changes. On May 26, 1976, the Commission accepted for filing and suspended the effectiveness of these revised tariff sheets for the five month period to end October 27, 1976. That order also provided for a hearing and established the Top Sheet procedure. On October 15, 1976, Northern filed a motion for approval of Stipulation and Agreement to settle all the issues in the instant docket. The proffered settlement would reduce Northern's increased from $71.7 million for jurisdictional customers to $56.8 million. The Stipulation and Agreement contained four contested provisions. The Public Utilities Commission of the State of South Dakota (PUC) contests Section V of the agreement which provides that,

> Northern agrees that if its cumulative actual third party costs incurred for transporting Gulf Coast gas by October 31, 1977, are less than $4,793,000, it will refund to its jurisdictional customers the jurisdictional portion of the difference by which $4,793,000 exceeds the actual costs incurred. * * *

The PUC also contests that portion of Section II of the Settlement Agreement which provides for an increase in the weighted average straight line depreciation for all of Northern's property, except Gulf Coast, from 4.25% to 4.53%. The PUC also contests the change to a unit-of-production method of depreciation and the two portions of the Settlement dealing with advance payments. No other parties object to any portions of the Settlement.

We turn first to the Gulf Coast transportation cost question raised by PUC. PUC objects to the fact that Northern will include $4,793,000 for transporting Gulf Coast Gas during the test period, subject to refunds, for costs not actually incurred by third parties. The effect of this provision, according to PUC,

> is to cause customers to pay in advance for expenses not actually incurred. The resolution lies not in collecting money from the customers first, then refunding for the effects of actual experience at some later date, albeit with interest . . . A preferable way to treat the Gulf Coast transportation contingency would have been to either [sic] (i) required the Company to establish a realistic date for commencement of service from Gulf Coast and to reflect only the cost associated with that date in its rates or (ii) permit the Company to collect higher rates when it has established that Gulf Coast gas is flowing.[1]

Northern responds to this challenge by noting that,

> PUCSD does not question the amount of these transportation costs. The agreement merely affords Northern the only practical vehicle which will enable it to recover these costs as they are incurred. If they are not incurred, the customer is protected by means of Northern's refund obligation. In either event the customer will pay no more than the actual costs of bringing Gulf Coast gas to Northern's market area.[2]

We agree with Northern that the Settlement's inclusion of these transportation costs is a practical vehicle for recovering such costs as they are incurred. As Northern states in its comments, it does not have any pipelines in the Gulf Coast area and will have to rely on third parties to transport gas from the various blocks to Northern's system. Gas has in fact begun to flow from one of the three subject blocks (West Cameron Block 543) it is estimated that gas would be flowing from all blocks by April 1 of this year.[3] Inasmuch as the customers are fully protected by the refund provision of Section 5 of the Stipulation and Agreement, we find that the method provided for the recovery of the Gulf Coast transportation costs is just and reasonable and in the public interest and should be approved.

The Stipulation and Agreement provides for an increase in the rate of depreciation for all of Northern's property with the exception of the Gulf Coast properties from 4.25 percent to 4.53 percent, and with regard to the Gulf Coast properties, the Stipulation and Agreement allow for their depreciation on the basis of a unit-of-production methodology. PUC notes that,

> The Company accepted the Staff's recommended composite depreciation rate of 4.53 percent. The basis for the increase in the depreciation rate for the South End Supply Area was apparently due to revised forecasts of the reserves available from the South End Area. The PUC understands that the revised figures are based on American Gas Association figures collected from an industry committee that have not been revised by Staff or subject to independent analysis. Moreover, these figures were the basis of Staff's presentation in another rate proceeding which has yet to be heard and have not been cross-examined.[4]

PUC argues that,

> Docket No. RP76–89
>
> Because the depreciation rates set in this proceeding are likely to become a floor for all future rate proceedings, PUC believes that it is incumbent upon the Company to provide a more thorough explanation of the increase in the depreciation rates before it becomes established. Until a change in depreciation rates is better supported PUC recommends that the current depreciation rates remain in effect.[5]

The PUC contends that

> If the FPC approves the rate set out in the Settlement Agreement, the PUC recommends that Staff's study be attached to this Settlement Agreement as support for the depreciation rate changes in the Agreement. In the event that later events provide [sic] that an adjustment to the Settlement depreciation rates is in order, there will be a basis upon which Northern's customers can request appropriate adjustments to the rates.[6]

With respect to the revised methodology set forth in the settlement agreement with respect to Gulf Coast facilities, PUC argues:

> Where a pipeline attempts to alter significantly its depreciation rate, it must meet adequately its burden of proof. (Opinion No. 769, Docket No. RP73–113, Tennessee Gas Pipeline Co., issued July 9, 1976). Here, the Settlement provides for Northern to establish a depreciation method other than the one it applies for its other facilities. Inasmuch as (i) there is no automatic adjustment in rates provided for the additional increments in reserves that will surely be forthcoming; (ii) the overall application of this method would appear to lead to an unnecessarily high rate; and (iii) there is a lack of evidence warranting the proposed 11.5¢ MCF depreciation rate, PUC believes the straight-line method is preferable at this time for the Gulf Coast properties.

Northern argues that the increase in depreciation rate is the very minimum to which it is entitled. The Company notes that the 4.53 percent rate is obtained by using Staff's segmented composite straight line depreciation rates for its onshore operating properties. The Company appears to argue that this 4.53 percent rate is a significant decrease from the 5.28 percent rate which results in the application of the unit-of-production methodology which it has proposed, and should therefore be approved.

With respect to the change to the unit-of-production depreciation methodology for offshore facilities, Northern attacks what it characterizes as PUC's misstatements of facts. The most significant of these is Northern's quotation from page 4 of the PUC comments that,

> In 1977, production is expected to increase to 12.2 Tcf, and depreciation expenses booked could exceed $24,000,000 at the 22.86¢ Mcf rate.

According to Northern, the true figure would be $2.46 million. Northern also argues that it could support a 23.87¢ per Mcf depreciation rate for the Gulf Coast area, and can certainly support the 11.5¢ per Mcf rate set forth in the settlement.

With regard to Northern's implicit argument that because it is "giving up" the significantly higher rate of depreciation which would accrue through the use of its straight unit-of-production methodology, we suggest that the Company see our recent Opinion No. 812, issued July 20, 1977, in Texas Gas Transmission Corporation, Docket No. RP74–25. In that opinion the Commission determined that a straight unit-of-production methodology put forward by Texas Gas was insufficient to meet the requirements set forth by the Court of Appeals in *Memphis Light, Gas and Water Division v. FPC*, 504 F. 2d 225 (D.C. Cir. 1974). In other words, we are not persuaded that by abandoning the straight unit-of-production methodology put forward in the Company's filings, the Company has in fact made any concessions. It is doubtful that such a methodology, standing alone, could be approved by this Commission in light of Memphis. We will, however, approve the settlement agreement with regard to the increased composite depreciation rate. From North-

[1] Comments of PUC at 1–2.
[2] Comments of Northern Natural Gas Company at 3.
[3] See, e.g. comments of Northern Natural at 3, esp. fn. 5.
[4] Comments of PUC at 2
[5] Id.
[6] Id. at 3.
[7] Id. at 4.
[8] Comments of PUCSD at 4, quoted at Comments of Northern Natural Gas Company at 6.

ern's filings, it can be seen that the increase is supportable and justifiable. Even PUC, the only party contesting the depreciation increase, only argues that,

> Because the depreciation rates set in this proceeding are likely to become a floor for all future rate proceedings, PUC believes that it is incumbent upon the Company to provide a more thorough explanation of the increase in the depreciation rates before it becomes established. Until a change in depreciation rates is better supported, PUC recommends that the current depreciation rates remain in effect.[9]

On the basis of these arguments we are not inclined to upset the settlement.

We will also accept that portion of the settlement, challenged by PUC which applies a unit-of-production methodology to the Gulf Coast Properties of Northern. The Company filed for a 23.87 cents per Mcf depreciation rate for the Gulf Coast area. Following settlement negotiations, and providing for a 11.5% per Mcf depreciation rate for the Gulf Coast Area was certified. The testimony of Messrs. J. A. Jeters and C. W. Radda, and the accompanying exhibits, provides a prima facie case for the unit-of-production methodology for this area and for the 23.87 cent per Mcf depreciation charge. For these reasons we will accept the unit-of-production depreciation methodology for the Gulf Coast area (Offshore Louisiana and Texas) of Northern's system, and the settlement rate of 11.5 cents per Mcf applied to the volume of gas purchased by Northern from blocks for which Northern has an associated investment in operating properties. This acceptance of U.O.P. methodology is consistent with the determination in Texas Gas to allow unit-of-production methodology where the total units are reasonably known.

Two questions are raised with respect to advance payments. The first of these relates to some thirty-one advances made by Northern during the years 1970 and 1971. These advances are challenged by Staff and by PUC. In the settlement, however, it was agreed that the $488,000 related to these advance payments should continue to be reflected in the settlement rates subject to Northern's requesting Commission authorization to continue to reflect the outstanding balance of these advance payments in rate base during the recovery periods set forth in the respective contracts. Accordingly, Northern filed a petition for continued rate base treatment of advance payments on October 21, 1976. That filing was given a Docket No. RP77-3. Accordingly, it appears to us that the thirty-one advance payments challenged by Staff are not properly before us for determination in this proceeding. Those advances are specifically referred to in Docket No. RP77-3, which is also before the Commission. We will deal with those thirty-one advance payments in Docket No. RP77-3 where the issues are much more fully aired in the several comments that have been received in that docket.

[9] Comments of PUC at 2.

The final point of the settlement agreement objected to by PUC relates to an advance payment by Northern to Atlantic Richfield Company. This advance pursuant to an agreement dated November 7, 1975, provides for total repayment of the advances within five years, with 5% of the total advance to be repaid at the end of each of the first four years and the balance to be repaid at the end of the fifth year. As part of the settlement agreement, Northern agreed that the test period rate base balance in future rate proceedings for the advance payments made to Atlantic Richfield would be determined as if 10% repayment of such advances had occurred at the end of each of the first four years following the date of the initial deliveries of gas with repayment of the balance at the end of the fifth year. PUC argues that, "the settlement does not, however, provide for an automatic rate reduction at the end of each of the five years to reflect the reduction of rate base due to the repayments".[10]

In its response Northern argues that the repayment provision required by the settlement agreement,

> will be recognized during any rate proceeding in effect at the time each repayment occurs. At such time any offsetting increases in rate base also will be recognized. There are no provisions for automatic rate increases or decreases for increases or decreases in rate base.[11]

We agree with Northern that the provisions of Section VIII of the Stipulation and Agreement relating to the Atlantic Richfield advance should be approved and the conditions suggested by PUC should be rejected. This section of the Stipulation is prospective in application. In each rate proceeding in which the Atlantic Richfield advance is an issue, that advance will be but one of many elements of rate base to be considered. As the Arco advance account decreases, there may well be offsetting increases in other elements of rate base. It is not appropriate for us to require automatic reductions in rate base to account for the repayments on one advance payment.

The settlement also contains the following uncontested, significant provisions:

Section II provides for specific rates of depreciation for various segments of Northern's system;

Section III provides that the costs of two R&D projects (Canadian Arctic Gas and Northern Border Pipeline) are included in the rates subject to refund and rate reduction depending on the outcome of a similar issue involved in Texas Eastern Transmission Corporation, Docket No. RP75-73;

Section IV sets forth the cost impact of Opinion No. 770 on Northern's exploration division and it provides for refund if the national rates set therein are ultimately reduced, modified or reserved; and

Section VI states that the settlement cost of service includes increased transportation charges in the amount of $1,850,260 payable to Great Lakes. In the event Northern does not incur such projected cost increases by October 31, 1977, the company will refund the jurisdictional portion thereof with interest.

The Commission finds: The Stipulation and Agreement filed with the Commission on October 18, 1976, in the instant docket should be approved and the objections thereto denied.

The Commission orders: The Stipulation and Agreement filed with the Commission on October 18, 1976, in the instant docket is hereby approved and the objections of North Dakota Public Utilities Commission thereto denied.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22681 Filed 8-5-77;8:45 am]

[10] Comments of PUC at 7.

[11] Comments of Northern at 7.

[Docket No. ER77-277]

PENNSYLVANIA POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 11, 1977, Pennsylvania Power Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to five of its customers.[1] The filing would increase the Company's revenues by $1,353,614 or 63.61%, based on the 12-month period ending December 31, 1977.[2] The Company proposes an effective date of August 11, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 11, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 11, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until September 11, 1977, when they shall become effective subject to refund.

[1] Boroughs of Ellwood City, Grove City, New Wilmington, Wampum, and Zelienople, Pennsylvania.

[2] Rate Schedule Designation to be provided to the Company by future letter.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22680 Filed 8-5-77;8:45 am]

[Docket No. ER77-523]

PUGET SOUND POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 22, 1977, Puget Sound Power and Light Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to eleven of its customers.[1] The filing would increase the Company's revenues by $391,045, or 64%, based on the 12-month period ending October 1, 1978. The Company proposes an effective date of October 1, 1977.[2]

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 22, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 22, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company on July 22, 1977, are hereby suspended and the use thereof deferred until March 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22678 Filed 8-5-77;8:45 am]

[1] City of Des Moines, City of DuPont, City of Ellensburg, City of Oak Harbor, Kittitas County P.U.D. No. 1, Port of Bremerton, Port of Brownsville, Port of Kingston, Port of Paulsbo, Port of Seattle, Port of Skakit County.

[2] Rate Schedule Designation to be provided to the Company by future letter.

[Docket No. ER77-523]

PUGET SOUND POWER AND LIGHT CO.

Notice of Tariff Change

AUGUST 1, 1977.

Take notice that Puget Sound Power & Light Company of Bellevue, Washington (Puget Power), on July 22, 1977, tendered for filing a change in rates applicable to electric service rendered to eleven customers under its existing Wholesale For Resale Power Contracts. Puget Power states that the proposed changes would increase revenues from these customers by $397,041 based on the 12 month period ending December 31, 1976.

Puget Power states that the reason for the proposed change in rates is that its wholesale rate base and expenses have grown significantly, while revenues have failed to keep pace since the time of the last rate change.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22663 Filed 8-5-77;8:45 am]

[Docket No. RI77-14]

S.S.C. GAS PRODUCING CO.

Settlement Proposal

AUGUST 1, 1977.

Take notice that on July 25, 1977 S.S.C. Gas Producing Company (S.S.C.) filed a settlement proposal in the captioned proceeding offering to accept a rate of 48 cents/Mcf for its wells that are the subject of this proceeding.

The proposed settlement seeks to resolve the issues surrounding the November 24, 1976, petition of S.S.C. for special relief. S.S.C. is presently receiving a rate of 37.8 cents/Mcf for sales of gas from 3 wells in Bee County, Texas, to Trunkline Gas Company (Trunkline). Under the terms of the proposed settlement, S.S.C. would continue sales of gas to Trunkline at a rate of 48 cents per Mcf.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington D.C. 20426, on or before August 22, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22665 Filed 8-5-77;8:45 am]

[Docket No. E-6859]

SOUTHERN CALIFORNIA EDISON CO. AND PACIFIC GAS AND ELECTRIC CO

Order Approving Headwater Benefits Settlement

AUGUST 2, 1977

On October 26, 1976, Southern California Edison Company (Edison) requested approval of an agreement dated October 1, 1976, with Pacific Gas and Electric Company (Pacific) respecting headwater benefits in the San Joaquin River basin in California. The Commission may approve such settlements as provided in Section 13.1 of the Commission's Regulations, 18 CFR § 13.1 (1976), in lieu of a headwater benefits determination under Section 10(f) of the Federal Power Act, 16 U.S.C. § 803(f). Edison's seven upstream projects, Project Nos. 67, 120, 2017, 2085, 2086, 2174 and 2175, provide benefits to Pacific's Project No. 96, known as the Kerckhoff Project.

The agreement contains the following terms:

> a) Edison and Pacific agree that the annual payments by Pacific to Edison commencing with the year 1972 shall be $83,000, and (b) Edison and Pacific agree that the annual payment of $83,000 shall remain in effect for a minimum of five annual payments. For any periods thereafter, the annual payment amount may be reviewed and readjusted upon the written request of either party to the other in order to provide for revisions that may be appropriate by reason of changes in facilities, cost of interest, depreciation, or maintenance, or in pertinent operating conditions which might result in changes in benefit; provided that any future readjustment shall be applied only prospectively to payments after the date of the readjustment, and shall also remain in effect for a minimum of five annual payments.

Edison indicated that the increase in headwater benefits payments is a result of its increased interest rate based on imbedded cost of debt and preferred stock, and the California Public Utilities Commission's allowed return on equity.

According to the Annual Report, FPC Form 1, filed by Pacific, it has made provisions for headwater benefits payments averaging $83,000 per annum for the years 1972 through 1976 while continuing to make annual headwater benefits payments of $72,000. The proposed settlement would require Pacific to pay an additional $11,000 per annum for the past period beginning in 1972, making the total annual payments $83,000. We note that Pacific has indicated plans to expand its Kerckhoff Project. This expansion will probably affect the headwater benefits that Edison provides Pacific in the future, but construction of the facilities is not expected to begin until April 1980, and not to be completed until June 1983.

The Commission has previously made ten determinations of assessments for headwater benefits in the San Joaquin River basin. The first determination was made on January 23, 1939, for the years 1923 through 1936. The last determination, covering the years 1949 through 1953, was made on October 5, 1959 (22 FPC 646). These determinations were made in accordance with Opinion No. 36, Southern California Edison Co., Ltd. and San Joaquin Light and Power Corp. 1 FPC 567 (1939). Opinion No. 36 sets forth the portion of the annual charges for interest, maintenance, and depreciation pertaining to Edison's upstream improvements to be paid by the San Joaquin Light and Power Corp., predecessor to Pacific.

On January 1, 1965, Edison filed, pursuant to Section 13.1 of the Commission's Regulations, the first letter agreement between Edison and Pacific which set forth the amount of annual payments for headwater benefits. The agreement covered the period of 1954 through 1963, and specified future annual payments commencing with 1964 for a minimum of five years. The Commission approved these headwater benefits payments. Southern California Edison Co. and Pacific Gas and Electric Co., 33 FPC 664 (1965).

Public notice of the latest agreement was issued on June 8, 1977, and published in the Federal Register on June 21, 1977, with July 22, 1977, as the last date for filing comments. No comments were received by the Commission.

The Commission finds: The agreement of October 1, 1976, between Southern California Edison Company and Pacific Gas and Electric Company constitutes an effective and reasonable method of compensating Southern California Edison Company for benefits received by the Pacific Gas and Electric Company's Project No. 96 in the San Joaquin River basin in California.

The Commission orders: The agreement of October 1, 1976, is hereby approved with respect to settlement of headwater benefits under Section 13.1 of the Commission's Regulations under the Federal Power Act, 18 CFR § 13.1 (1976), in lieu of headwater benefits determinations under Section 10(f) of the Federal Power Act, 16 U.S.C. § 803(f), until further order of the Commission is required due to changes in conditions.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22664 Filed 8-5-77;8:45 am]

[Docket No. RP77-11]

SOUTHWEST GAS CORP.

Order Approving Pipeline Rate Settlement

AUGUST 2, 1977.

On June 14, 1977, Southwest Gas Corporation (Southwest) filed with the Commission a proposed settlement agreement in the above-captioned proceeding. The proposed agreement would settle all issues in this proceeding. For the reasons stated, the Commission shall approve the proposed agreement.

Southwest tendered for filing on November 8, 1976, a proposed rate increase of approximately $579,000 annually. The Commission, by order issued December 8, 1976, accepted the increase for filing and suspended its operation for five months until May 9, 1977. Staff served its top sheets on April 8, 1977, and a settlement conference among all parties was held on April 20, 1977. The proposed agreement is the result of that conference.

The settlement rates are based upon a settlement cost of service of $16,496,164 applicable to jurisdictional service, as shown in Appendix A. The settlement cost of service includes a rate of return of 10.11 percent with a 14 percent return on common equity, as shown in Appendix B. The agreement provides that Southwest's cost of service for volumes delivered to northern California is $1,545,699. Cost classification and allocation were computed in accordance with the United method. The parties agreed to use a rate design made up of a monthly fixed commodity charge plus a unit commodity charge for the G-1 rate schedule. The other articles in the agreement provide that the agreement shall be effective upon final Commission approval; that the agreement constitutes a negotiated settlement; that Southwest shall have the right to withdraw if any party seeks judicial review of an order approving the agreement; and that this docket shall be deemed terminated upon approval of the agreement.

Public notice of the filing of the proposed agreement was issued on July 8, 1977, with comments due on or before July 26, 1977. No adverse comments were received.

Based upon a review of the proposed agreement and the pleadings in this proceeding, the Commission finds that the agreement represents a reasonable resolution of the issues, and, therefore, should be approved.

The Commission orders: (A) The proposed agreement filed by Southwest on June 14, 1977, and incorporated herein by reference, is hereby approved.

(B) Southwest shall file within thirty (30) days of the issuance of this order Sheet No. 3-A (in accordance with Article II (C) of the agreement) reflecting the rate contained in the settlement agreement.

(C) Within forty-five (45) days of the issuance of this order, Southwest shall refund to its jurisdictional customers all amounts collected in excess of the settlement rates together with interest at the rate of 9 percent per annum. Within fifteen (15) days thereafter, Southwest shall file a report of refunds and interest with the Commission.

(D) Upon compliance with the terms of this order, this proceeding shall be terminated.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*Southwest Gas Corp., Docket No. RP77-11, settlement cost of service*

Line No.	Description	Amount	Classification		Allocation		
			Demand	Commodity	Demand	Commodity	Total
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Allocation percentages[1]				34.720	65.280	
2	Gas supply expenses	$51,780,500	$3,834,818	$47,945,682	$1,331,679	$14,861,723	$16,193,402
	Transmission expenses						
3	Operations	663,736	52,632	611,104	18,277	189,422	207,699
4	Maintenance	297,919	45,640	252,279	15,849	65,789	81,638
5	Customer accounts expenses	152,887	38,142	114,745	13,247	35,475	48,722
	Administrative and general expenses						
6	Direct FPC jurisdictional	12,597	2,747	9,850	2,747	9,850	12,597
7	Northern Nevada Jurisdictional	245,948	55,164	190,784	19,165	59,183	78,348
8	Depreciation expenses	1,033,341	225,230	820,111	78,210	254,178	332,388
9	Taxes other than income	355,103	88,777	266,326	30,828	82,555	113,383
10	Federal income taxes	984,276	246,070	738,206	85,434	228,542	313,976
11	Return at 10.11 pct	2,013,213	503,304	1,509,913	174,778	467,025	641,803
12	Total cost of service	57,559,220	5,139,116	52,420,110	1,786,462	16,255,461	18,041,923
13	Less allocated cost of service for volumes of gas delivered to Northern California						1,545,699
14	FPC jurisdictional cost of service						16,496,164

[1] Amount in percent.

APPENDIX B.—*Southwest Gas Corp., Docket No. RP77-11, settlement rate of return*

[Amounts in percent]

Line No.	Description	Capitalization ratio	Cost of allowance	Return	Line No.
	(a)	(b)	(c)	(d)	
1	Long-term debt	53.20	7.78	4.15	1
2	Preferred stock	13.80	9.12	1.26	2
3	Common equity	34.00	14.00	4.80	3
4	Total	100.00		10.11	4

[FR Doc 77-22649 Filed 8-5-77;8:45 am]

[Dockets Nos. CI77-329, CP77-304, and Docket No. CP64-97]

TEXACO, INC. AND SABINE PIPE LINE CO.

Order Granting Temporary Stay, Providing for Comments and Granting Joint Motion Subject to Certain Conditions; Correction

JULY 19, 1977.

In FR Doc. 77-21096, published in the FEDERAL REGISTER on July 22, 1977 (42 FR 37592), issued by the Federal Power Commission on July 14, 1977, please change the date in the last sentence of the paragraph preceeding Ordering Paragraph A, first column, page 37593, to July 22, 1977, in conformance with Ordering Paragraph (G).

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22670 Filed 8-5-77;8:45 am]

[Docket No. RP75-73]

TEXAS EASTERN TRANSMISSION CORP.

Order Making Settlement Final and Ordering Refunds

AUGUST 1, 1977.

On June 6, 1977, the Commission issued an order modifying and accepting Texas Eastern Transmission Corporation's (Texas Eastern) rate settlement proposal in the above captioned proceeding.

In passing judgment on the settlement the Commission modified the terms of the proposed settlement in several respects. The Commission stated that

While we do not view the changes herein wrought as momentous, we nevertheless respect the right of each party to reconsider and reject the settlement as we have revised and conditional it. Accordingly, rather than order the revised settlement into effect immediately, we shall offer the parties 30 days within which to present their views hereon. In providing the parties with this opportunity to respond, we manifest no intention of entertaining further comment on the merits with respect to specific issues. Silence will be construed as acceptance of the settlement, as revised and conditioned. Following receipt of these responses, if any, we shall issue an appropriate order finalizing our action on the matter. (Order of June 6, 1977, mimeo page 20.)

On July 6, 1977, Texas Eastern notified the Commission that it accepts the settlement as modified and approved by the Commission and that it wishes to exercise its option under the June 6th order to request a hearing on certain advance payments issues. The advance payments hearing is being initiated by separate order. No other responses to the order of June 6th were received.

In light of the foregoing, the Commission finds that the order of June 6 should be made final and that Texas Eastern should be ordered to make refunds to its customers pursuant to the settlement.

The Commission orders: (A) The Commission's order issued in this proceeding on June 6, 1977, is hereby made final.

(B) Within 15 days from the date of this order, Texas Eastern shall file revised rates in accordance with the settlement agreement as modified and approved by the Commission on June 6, 1977.

(C) Within 30 days from the date of this order, Texas Eastern shall refund to its jurisdictional customers all amounts collected in excess of the settlement rates filed pursuant to paragraph (B) above together with interest at the rate of 9 percent. Within 10 days thereafter Texas Eastern shall submit a report of refunds and interest to the Commission.

(D) No refunds associated with the reserved advance payments issue shall be required pending hearing and decision thereon.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 77-22675 Filed 8-5-77;8:45 am]

[Opinion No. 801-A; Docket Nos. RP74-48 and RP75-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Opinion and Order Denying Rehearing in Most Respects of Opinion and Order Establishing Just and Reasonable Pipeline Rates

JULY 29, 1977.

Presently before the Commission is an application for rehearing of Opinion No. 801. We deny rehearing in all respects except as to the refund condition.

On May 31, 1977, the Commission issued in this proceeding Opinion No. 801, which resolved several reserved pipeline rate issues which had not previously been settled from two rate increases filed by Transcontinental Gas Pipe Line Corporation (Transco) in Docket Nos. RP74-48 and RP75-3. Specifically, the Commission rejected rate base and cost of service treatment for unsuccessful

synthetic natural gas (SNG) project expenditures, both as originally proposed by Transco and as subsequently modified in its unilateral offer of settlement. Moreover, the Commission excluded from rate base a portion of the advance payments made by Transco to several gas producers. Finally, the Commission adopted the United rate design method for the Transco system.

On June 30, 1977, Transco applied for rehearing of the first two of these rulings, that is, expenditures for unsuccessful SNG projects and advance payments, but not as to rate design. Transco also sought rehearing as regards refunds and oral argument.

Also on June 30, 1977, Tennessee Gas Pipeline (Tennessee) petitioned the Commission for leave to intervene out of time so as to apply for rehearing of Opinion No. 801, which it did at the same time. Its rehearing goes solely to the exclusion from Transco's rate base of certain advance payments made under Order No. 499, 50 FPC 2111 (1973).

Tennessee has not advanced sufficient reasons for the Commission to find good cause to permit intervention out of time. In the first place Tennessee's petition does not indicate that it has "an interest which may be directly affected," as is required by Section 1.8(b)(2) of our Rules of Practice and Procedure. Moreover, any interest which Tennessee conceivably has in this case is adequately represented by Transco, which has sought rehearing of the very issue which concerns Tennessee. Tennessee's only interest in this proceeding relates to possible precedential impact flowing therefrom. We have already held that a desire to shape precedent does not by itself afford a basis for intervention,[1] and this is especially true when late intervention is sought. While it is clear from both Opinion No. 801 and the instant order that our rate base exclusion of certain advance payments was founded upon a review of the specific facts in this case and not a per se application of a "30 day rule", as claimed by Tennessee, we shall nonetheless entertain Tennessee's arguments on rehearing and shall construe Tennessee's application for rehearing as an application for reconsideration amicus curiae.[2]

(1) Expenditures for Unsuccessful SNG Projects. We deny Transco's application for rehearing concerning its SNG project expenditures, rejecting all of its many legal arguments, which we shall consider seriatim.

Transco first argues that the Commission's denial of rate base and cost of service treatment for unsuccessful SNG project costs contravenes the "prudent investment" test, which applies to the Commission, Transco asserting that these SNG costs are "admittedly prudent."

No one can argue with the proposition that the Commission espouses the "prudent investment" concept of rate base valuation. However, even if these SNG project expenditures are assumed to be prudent, rate base inclusion or even Transco's settlement proposal of only cost of service amortization is not necessarily mandated. Part and parcel of the "prudent investment" theory is the "used and useful" requirement; that is, only prudent investment for utility property which is used and useful to provide service to the utility's customers should be compensated. To say the least, the "used and useful" criterion should not take Transco by surprise, and it would be disingenuous to argue that the SNG studies and coal options for abandoned projects involved herein are "used and useful." While the Commission has, after long and careful deliberation, used a more liberal interpretation of "used and useful" in specific situations,[3] such is not the present case.

Transco then advances the pro forma appellate challenges of no "reasoned decisionmaking" and arbitrary and capricious establishment of a new standard, although it does not explain how the Commission has acted so badly.

Perusal of pages 5–8 of Opinion 801 should demonstrate that we fully articulated the reasons for our decision. Moreover, as discussed above, the standard which Transco failed to satisfy, "used and useful," is not arbitrary and capricious.

Transco proceeds to argue that Opinion No. 801 is contrary to prior Commission policy permitting the recovery of unsuccessful projects designed for systemwide benefit, and that, since the Commission herein retroactively changed that policy, it has been denied due process.

Transco has not been denied due process by Opinion No. 801. In the first place the Commission's decisions[4] cited by Transco are clearly distinguished from the instant proceeding, as we found in Opinion No. 801. Moreover, assuming arguendo that the Commission had through adjudicatory decisions developed a policy of allowing recovery of unsuccessful project costs, application of a changed policy in a current adjudication is not necessarily proscribed by due process.[5]

Transco next argues that, if the Commission relied in its decison upon Opinion No. 624,[6] such reliance is erroneous.

Apart from the fact that Transco's complete lack of explanation for this assertion warrants no serious consideration by the Commission, we nonetheless point out that at page 6 of Opinion No. 801 we stated in no uncertain terms that reliance upon Opinion No. 624 "is not completely warranted."

Transco furthermore assails the Commission's reliance upon Opinion Nos. 728 and 728–A. It interprets those decisions as supporting recovery of these SNG project costs.

Again Transco has failed to provide more than bold assertions. In any event we acted properly in considering the precedent of Opinion No. 728.[7] In Opinion No. 801 we recognized that there are obvious differences between Opinion No. 728 and Transco's proposal, and yet we also realized that our rejection of a full cost of service tariff for an SNG project in Opinion No. 728 establishes Commission regulatory policy which is appropriately applied to the instant case. This policy is, of course, that SNG expenditures which do not qualify as R & D can be recovered, if at all, only through the price paid for actual SNG production sold in interstate commerce.

Transco adds that it was error to consider the fact that SNG is nonjurisdictional until commingled with natural gas in interstate commerce. In support it asserts that the record demonstrates that it had never intended to treat these projects as unregulated. Transco adds that the Commission should not have equated the risk of these SNG projects to that of independent producers.

Again Transco states no basis for rehearing. The fact that a pipeline does not actually intend to sell SNG in intrastate, instead of interstate, commerce does not alter the need for the Commission to apply the very strict standards stated in Opinion No. 801 to very attempt to recover the costs of SNG projects. Furthermore, our analogy to the shareholder risk attendant the production activities of independent producers is merely illustrative and not the dispositive finding in our overall decision.

Finally, Transco questions whether the Commission considered its unilateral offer of settlement on its merits.

Scrutiny of pages 7 and 8 of Opinion No. 801 reveal that in fact the Commission rejected this offer of settlement only after assessing it on its merits. Transco's willingness in this offer of settlement to abandon rate base treatment for all four unsuccessful SNG projects and even cost of service amortization for its nephtha gasification project does not benefit its customers so as to offset the previously established reasons for denying any recovery of such unsuccessful SNG project expenditures.

(2) Advance Payments. In Opinion No. 801 the Commission allowed rate base inclusion for the following advance payments: the entire $9,000,000 advance to Occidental Petroleum ($6,659,106 governed by Order No. 465, 48 FPC 1550 (1972), and $2,340,894 governed by Order No. 499); and $4,241,000 out of $6,006,250 of advances to Cities Service Oil, Skelly Oil and Getty Oil (all governed by Order No. 499). Transco now seeks rehearing of the exclusion from rate base of the $1,765,250 of Order No. 499 advances made to Cities Service, Skelly and Getty. We deny rehearing in all respects.

Alleging that these advances were reasonable and appropriate, Transco assigns error to their rate base exclusion in Opinion No. 801. In support thereof it asserts that there is uncontroverted evidence that Transco acted in good faith and obtained the best possible terms under the circumstances. Transco characterizes Opinion No. 801 as arbitrary and capricious for disallowing prudent investment and as unsupported by substantial evidence. It moreover claims violation of its due process rights by the Commission's retroactive application of the new timing standard, which it views as too vague and imprecise.

In denying Transco's application for rehearing we first reject its contention that the excluded advance payments were prudently incurred. Prudency is not determined solely by the presence or absence of a good faith bargain. In Order No. 499 we expressly stated that, to be included in rate base, advances had to be expended by the recipient "producer within a reasonable time from the date such amounts advanced are included in the pipeline's rate base." Evidence introduced by Staff indicated that the advance payments at issue were not expended within a "reasonable time" and Transco did not successfully rebut this evidence. This timing standard predates Transco's advance payments to Skelly, Getty and Cities Service; thus, there is no retroactive application. Nor is this standard too imprecise.

While Transco argues that it could not have obtained better terms from these producers in light of the competitive conditions at that time, this does not establish prudency of investment. In that the advance payment program extended the "used and useful" doctrine to its broadest possible meaning, with pipelines making interest free loans with the consumers' capital, participating pipelines had a public utility burden of providing adequate protection to those consumers. If the producers as a class ignored the reasonable timing standard set by the Commission, it was incumbent upon the pipelines to apprise the Commission of this fact, not to merely acquiesce to the hard bargains struck by the producers.

Tennessee likewise challenges our exclusion of the unexpended front-end advance payments made under Order No. 499. It first argues that Order No. 499 did not set any specific timing standard other than one of reasonableness. It points to the order on reconsideration of Order No. 499, 51 FPC 818, for the Commission's intention to treat the timing issue on a case by case basis.

We do not refute what Tennessee says, but we do reiterate that the record in this case supports the exclusion of advances made to but not expanded by the producers within 30 days of the end of the adjusted test period.

Tennessee next reads precedent cited in Opinion No. 801 as not supporting what it calls the "30-day line of credit test."

In the first place such Commission precedent[8] does evince the Commission's commitment to enforce a reasonable timing relationship between when the advance is made and when it is expended, including in Natural Gas Pipe Line a "line of credit" approach. Tennessee's reordering of Opinion No. 722 does not comport with that made in Opinion No. 769–A,[9] which we incorporate herein. Secondly, in Opinion No. 801 we cited these decisions, supra note 8, as prior Commission proclamations of its intention to draw a timing relationship, but not as espousal of any specific timing interval. As noted above, we left that to each case.

Tennessee next argues that the Commission has erred by adopting Staff's 30 day rule as an irrebuttable presumption, noting that the Commission has subsequently adopted this same 30 day rule in other cases. It also seeks to justify Transco's failure to rebut Staff's case, which it attacks as not supported by substantial evidence.

As we more fully explained in Opinion No. 769–A, supra note 9, we have not established an irrebuttable presumption. Transco does, however, have a heavy burden of proof, which it did not satisfy: Apart from the burden of proof being imposed upon Transco by Section 4(e) of the Natural Gas Act, it also was faced with the previously considered timing policy expressed in Order No. 499. In this context Staff's evidence made a well pleaded case for a 30 day rule in this case. To excuse Transco from adequately responding in rebuttal to this case would indeed improperly shift the burden of proof.

Tennessee adds that Staff's timing theory, adopted in Opinion No. 801, is legally erroneous for it considers the producers' need for funds, not the pipelines' need for new gas supplies.

Tennessee has again failed to advance a cogent challenge to Opinion No. 801. It is not enough for Transco to show that it needed more gas and that its advance payments succeeded in this regard. As we stated in Opinion No. 769–A, we would have been flexible in entertaining evidence as to reasonable financing practices from the perspective of either producer or pipeline. Transco refused to submit any evidence in this regard, and by therefore excluding certain front-end advance payments we did not run afoul of *United Gas Pipe Line Company* v. *FPC*, 551 F. 2d 461 (D.C. Cir., 1977); Transco had a full opportunity to be heard and was on notice that the reasonableness of its front-end advances had been challenged. This is legally distinguishable from the summary disposition of the interest reimbursement arrangement in United.

Tennessee concludes by raising the specter of retroactivity. We reject this argument on the grounds stated above in rejecting Transco's application for rehearing.

(3) Miscellaneous. Transco reasserts on rehearing its prior request for oral argument. In Opinion No. 801 we inadvertently failed to specifically reject Transco's request for oral argument but we now reject it. No purpose would be served by granting oral argument.

In addition Transco seeks rehearing of the effective period of the rates for which refunds are ordered, that being February 1, 1975, to October 1, 1975. Transco argues that the proper refund period should be February 1, 1975, to July 1, 1975, because as of July 1, 1975, it had in effect advance payment trackers.

We do grant rehearing in this regard. While we had originally rejected these advance payment trackers by our order of January 30, 1976, in these same dockets, we subsequently granted rehearing of that order on March 26, 1976, and permitted those trackers to become effective as of July 1, 1975, subject to further adjudication in Dockets Nos. RP74–48 and RP75–3 (AP76–1). Accordingly, refunds related to advance payments should be made for the period from February 1, 1975, to July 1, 1975.

The Commission further orders: The assignments of error and grounds for rehearing set forth in Transco's application for rehearing of Opinion No. 801 and Tennessee's application for reconsideration amicus curiae) present no facts or legal principles that would warrant any change in or modification of the Commission's Opinion No. 801, except concerning the refund period.

The Commission orders: (A) The application for rehearing filed by Transco and the application for reconsideration amici curiae are hereby denied, except to the extent that ordering paragraphs (B) and (C) of Opinion 801 are amended to include a refund period from February 1, 1975, to July 1, 1975, relative to advance payment exclusion.

(B) Good cause has not been shown to grant Transco's request for oral argument.

(C) Transco's July 8, 1977, request for an extension of time within which to comply with ordering paragraph (B) of Opinion 801 is denied to the extent that it requests 60 days from the issuance of the instant order; however, Transco shall comply with ordering paragraph (B) within, 15 days of the date of issuance of this order.

By the Commission.[10]

LOIS D CASHELL,
Acting Secretary.

[FR Doc.77-22687 Filed 8-5-77;8:45 am]

[1] Permian Basin Area Rate Proceeding, 26 FPC 193, 194 (1961).

[2] See, Permian Basin Area Rate Proceeding, 32 FPC 1182 (1964).

[3] E.g. advance payment, construction work in progress, and research and development rulemakings.

[4] Southern Natural Gas Company, 29 FPC 323 (1963); Midwestern Gas Transmission Company, et al., 32 FPC 993 (1964).

[5] E.g., *Retail, Wholesale and Department Store Union* v *N.L.R.B.*, 466 F.2d 380 (D.C. Cir. 1972).

[6] Tennessee Gas Pipeline Company, 48 FPC 149 (1972).

[7] Transwestern Coal Gasification Company, Opinion No. 728, Docket No. CP73–211; issued April 21, 1975.

[8] Natural Gas Pipe Line Company of America, Docket No. RP73–110, issued September 4, 1974; and Columbia Gas Transmission Corporation (Getty), Opinion No. 722, Docket No. RP71–8, et al., issued March 7, 1975.

[9] Tennessee Gas Pipe Line Corporation, Opinion No. 769–A, Docket No. RP73–113, issued May 31, 1977.

[10] Commissioner Holloman, dissenting, filed a separate statement, which is filed as part of the original document.

[Docket No. ER77-509]

UNION ELECTRIC CO.

Filing of Wholesale Electric Agreement

AUGUST 2, 1977.

Take notice that on July 11, 1977, Union Electric Company (Union) tendered for filing a new Wholesale Electric Service Agreement dated June 27, 1977 between the City of Rolla, Missouri and Union. Union states that said Agreement primarily provides for increased contract capacity.

Union proposes an effective date of August 12, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 22660 Filed 8-5-77;8:45 am]

[Opinion No. 815; Docket Nos. RP74-20, RP74-83]

UNITED GAS PIPE LINE CO.

Opinion and Order on Reserved Issues and Otherwise Approving Settlement Agreement

JULY 29, 1977.

APPEARANCES

Stephen Wakefield, Robert Webb, David Thornberry, D. M. Chrestman, and I. Jay Golub for United Gas Pipe Line Company.
Harry L. Albrecht for Natural Gas Pipeline Company of America.
Howard E. Wahrenbrock for Mississippi Valley Gas Company, Mobile Gas Service Corporation, and Clarke-Mobile Counties Gas District.
John M. Kuykendall, Jr., for Mississippi Valley Gas Company.
John F. Harrington, Christopher T. Boland, and Robert O. Koch, Steve H. Finch for Texas Gas Transmission Corporation.
Robert W. Scherry, Jr., for Mid Louisiana Gas Company.
Patrick McElligot for Willmut Gas & Oil Company.
William T. Miller for United Municipal Distributors Group.
J. David Mann, Jr., for Laclede Gas Company.
Platt W. Davis, III, and Jack D. Head and J. Evans Attwell for Texas Eastern Transmission Corporation.
Linda E. Buck, Jas. R. Patton, David B. Robinson and Harry E. Barsh for the State of Louisiana Department of Conservation.
Edward S. Kirby, James R. Lacey, William R. Duff and Carl W. Ulrich for Public Service Electric and Gas Company.
Michael J. Manning, Jefferson D. Giller, for Entex, Inc.
Ronald G. Kuehn, Jr., Phillip C. Wrangle for Southern Natural Gas Company.
George Webber and Norman A. Flaningan, Charles R. Brown and Henry Sullivan for Consolidated Gas Supply Corporation.
Patricia A. Curran for Federal Power Commission.

Smith, Commissioner:

This case involves the reasonableness of a proposed Stipulation and Agreement negotiated between United Gas Pipe Line Company (United), various of its jurisdictional customers[1] and the Commission staff. The procedure adopted below resulted in the proffer of the proposed settlement and the development of an evidentiary record at hearing on several reserved issues covered in the proposed Stipulation and Agreement. The record and Stipulation comes before us upon certification by the Presiding Administrative Law Judge without recommendation.

PROCEDURAL HISTORY

On September 21, 1973, United filed a proposed increase in its FPC gas tariff in Docket No. RP74-20 which would increase jurisdictional revenues by approximately $34.9 million. On November 6, 1973, the Commission accepted these increased rates for filing, suspending their effectiveness until April 6, 1974. On April 15, 1974, United filed an additional rate increase in Docket No. RP74-83 which would result in a further increase in jurisdictional revenues of approximately $92.9 million. By order of May 16, 1974, these latter rates were accepted by the Commission, subject to refund, to become effective on November 1, 1974. These two separate proposals were consolidated for purposes of hearing and decision.

In Docket No. RP75-30 United filed for a further rate increase which became effective, subject to refund, on May 20, 1975. Thus, the instant proceeding on the lawfulness of the proposed rates is concerned solely with the "locked-in" period between April 6, 1974, and May 19, 1975.

[1] By order issued November 6, 1973, in Docket No. RP74-20 intervention was granted the following parties: Memphis Light, Gas and Water Division; Public Service Electric & Gas Co.; Laclede Gas Co.; Arkansas Louisiana Gas Co.; United Gas, Inc. (now Entex, Inc.); New Orleans Public Service Inc.; Southern Natural Gas Co.; Florida Gas Transmission Co.; Pub. Service Com'n of the State of New York; Mississippi Valley Gas Co. and Mobile Gas Service Corp.; the State of Louisiana; Mississippi River Transmission Corp.; Natural Gas Pipeline Co. of America; Willmut Gas & Oil Co.; Philadelphia Gas Works; Consolidated Gas Supply Corp.; United Municipal Distributors Group (MDG); Texas Gas Transmission Corp.; Algonquin Gas Transmission Co.; and Texas Eastern Transmission Corp.

On December 12, 1973, intervention was granted Philadelphia Electric Co., Mid Louisiana Gas Co., Louisiana Gas Service Co. and Columbia Gas Transmission Corp. Moreover, on July 31, 1974, the Alabama Public Service Commission was granted intervention with Mississippi Public Service Com'n granted intervention on March 6, 1975.

Settlement negotiations ensued between United, Commission Staff and various of United's customers affected by the proposed increased rates. These negotiations resulted in a proposed Stipulation and Agreement which was apparently circulated by United on August 1, 1975, but is unsigned by any party. By agreement of the parties to this stipulation, a procedural schedule was established for the submission of testimony and evidence regarding this settlement proposal and for a hearing to be held on certain reserved issues on December 2, 1975.

On December 2, 1975, witnesses appearing on behalf of United and Commission staff were presented for cross-examination before Presiding Administrative Law Judge Graham W. McGowan. Subsequent to this hearing, on December 24, 1975, Presiding Judge McGowan certified the unsigned proposed Stipulation and Agreement (Exhibit A) and the evidentiary record developed by the parties to the Commission. This certification was noticed by the Commission's Secretary on January 13, 1976. 41 FR 3141. Comments pursuant to this notice were filed by Entex, Inc., Natural Gas Pipe Line Co. of America, Texas Gas Transmission Corp., Mississippi River Transmission Corp., Texas Eastern Transmission Corp., the United Municipal Distributors' Group (MDG), Commission staff and United. Reply comments were filed by United and the State of Louisiana. No parties objected to the settlement although adverse positions with respect to the reserved issues were taken by certain parties as detailed below.

Subsequent to certification on June 15, 1976, the United Municipal Distributors' Group (MDG) petitioned the Commission with a request that any refunds found appropriate in this case "be assessed at a 9 percent interest rate from October 10, 1974, forward rather than at the 7 percent interest provided for in the Stipulation and Agreement herein * * *" *Petition*, pg. 1. On the authority of *American Public Gas Ass'n* v. *FPC*, ---- F. 2d ----, (D.C. Cir. 1976), CADC No. 75-1104, (May 19, 1976), MDG argues that, as a matter of law, the settlement must be revised to reflect the alleged lawful interest rate. This petition was noticed in the FEDERAL REGISTER (41 FR 27876) on July 7, 1976. On July 9, 1976, United filed an answer in opposition to the relief requested by MDG's Petition, stating that the parties negotiating this settlement did not make the stipulated interest rate of 7 percent contingent in any fashion on the outcome of the APGA appeal whereas when an item was contingent upon the outcome of another proceeding the parties expressly so provided, and that any stipulated interest rate (7 percent) is a "significant factor" in any rate proceeding. Answer, pg. 3 MDG's request is addressed on its merits in Part III of this Opinion, infra.

Moreover, on July 28, 1976, Laclede Gas Company (Laclede) filed supplemental comments to the instant settlement agreement and requested that the record be reopened to give further consideration to the Agreement's stipulated rate of return in light of other developments. On August 9, 1976, Brooklyn Union Gas Company joined in Laclede's motion. United responded to Laclede's motion on August 12, 1976, opposing the reopening and stating that movants had failed to demonstrate good cause therefor under applicable Commission regulations. See, 18 C.F.R. § 1.33. Laclede's motion was denied by operation of law on August 27, 1976. See, 18 C.F.R. § 1.12(e).

THE PROPOSED STIPULATION AND AGREEMENT

Cost of Service. The parties to the proposed Stipulation and Agreement have agreed that United's jurisdictional cost of service for the locked-in period should be based on the twelve months actual operating experience ended April 30, 1975. The jurisdictional cost of service was agreed to be $422,160,271, based upon jurisdictional sales volumes of 741,234,988 Mcf at 14.73 psia. During this period, it was further stipulated, United collected from its jurisdictional customers' revenues in the amount of $428,018,396. See, Exhibit A, Appendices A and A-1.

Refunds. The parties have agreed that the refund amount is 0.79032c Mcf of jurisdictional sales volumes during the locked-in periods and that during the period the jurisdictional sales volumes is 822,545,012 at 14.73 psia, leaving a refund amount of $6,500,738. The parties have agreed to a 7 percent annual interest rate to accrue monthly until refunds are paid.

RESERVED ISSUES

I. *Purchased Gas Cost.* The stipulated jurisdictional cost of service reflects $72,906,838 of purchased gas costs attributable to 134,578,270 Mcf of currently noncertificated purchases (at an average price of 54.17c per Mcf) which United alleges are not jurisdictional producer sales under the Natural Gas Act. Commission staff regards this item of expense excessive by $8,752,329, representing the difference between the price by United for this supply and the price determined "just and reasonable" under the Commission's applicable national rate. Under the proposed Stipulation and Agreement, however, United has assumed no obligation to refund any portion of these purchased gas costs "unless some or all of the producers making such non-certificated sales to United States shall be required by order of the Federal Power Commission, in any proceeding involving such producers, to refund some portion of the amounts received during the refund [locked-in] period for such gas sales to United." Exhibit A, Art. II, pg. 8-9. The parties have agreed that in the event of a refund to United by these producers United itself would refund 81.5 percent (the allowable jurisdictional portion thereof) of such refunds from producers by crediting its Deferred Purchased Gas Cost Account.

II. *Advance Payments.* The proposed Stipulation indicates a cost of service item representing the effect of rate base treatment of advance payments in the aggregate amount of $79,238,960. These various advances are classified into three severable groups under the stipulation. See, Exhibit A Appendix E.

(A) The parties have agreed to no refund liability for those advances which are listed in Part A of Appendix E. All parties apparently concur that these payments were "reasonable and appropriate" under outstanding Commission orders. See, FPC Order No. 465, 48 FPC 1550, 1555, (1972); FPC Order No. 499, 50 F.P.C. 2111, 2115 (1973), reh. denied, 51 F.P.C. 818 (1974).

(B) In Part B of Appendix E of the proposed Stipulation advances in the amount of $65,150,718 are covered. Commission staff suggests that only $41,770,071 of this expense is "reasonable and appropriate," and, therefore, that United's cost of service be reduced by $23,380,647. According to the proposed Stipulation United has agreed to remove each advance listed in Part B to the extent it is finally determined that its recipient "will fail to make expenditures at least equal to the amount advanced by United" in conformance with the terms and purposes for which the particular advance was made, and to refund such excluded amounts to the jurisdictional customers for the instant locked-in period. It is apparent from a reading of the proposed stipulation that the parties consider failure to expend the full amount advanced by United for the purposes leading to the advancement is the single event which would trigger United's refund obligation with respect to these advances. Staff challenges the reasonableness of this provision on the merits under applicable law.

(C) With respect to United's 50 percent interest in an advance payment to TransOcean Oil, Inc., which it received in an exchange with Southern Natural Gas Co. for an assignment of a 50 percent interest to Southern in advance payment agreements with ECEE, Inc. and Pinto, Inc., the parties have agreed that rate base treatment of these amounts—listed in Part C of Appendix E to the Stipulation—shall be governed by the final decision, no longer subject to judicial review, of the issue in Docket Nos. RP72-91, et al. The parties to this proceeding do not contest the reasonableness of this stipulation.

III. *Interest Payments to Producers* Under the proposed Stipulation and Agreement the parties have agreed on $48,893,220 of other operation and maintenance expenses. Exhibit A, Appendix A. Commission staff challenges this amount as excessive by $1,644,956, this amount representing the cost of interest reimbursement payments by United on loans to producers to finance exploration and production ventures.

IV. *Income Tax.* The parties have stipulated $18,892,596 as the federal income tax expense in United's total cost of service. Exhibit A, Appendix A. MDG challenges this stipulated figure as excessive by an indeterminate amount by virtue of United's alleged tax savings during the test period resulting from the use of consolidated federal income tax filings.

NON-CONTESTED ISSUES

The total cost of service agreed upon by the parties reflects $30,714,948 of purchased gas costs (84,257,859 Mcf at an average price of 36.45¢) from producers holding small producer exemptions. See, Order No. 428, 45 F.P.C. 454 (1971), as amended. The parties have agreed that United shall collect the full amount of these costs, subject to possible refund in the event that the pipeline is required to refund any part of these costs incurred during the test period. See, Opinion No. 742, 54 F.P.C. —— (August 28, 1975) aff'd, Opinion No. 742-A, 55 F.P.C. —— (July 27, 1976), where small producer refunds were only required prospectively from July 27, 1976.

The total cost of service also reflects $8,535,315 of purchased gas (13,928,064 Mcf at an average price of 61.28¢) classified as emergency purchases by United. See, Order No. 491, 50 F.P.C. 742 (1973) rev'd, Consumer Federation of America 515 F.2d 347 (D.C. Cir. 1975). The parties have agreed that the full cost of these emergency purchases shall be collected by United, subject to possible refund if the company is ordered to refund any portion of these costs for the refund period by final Commission order in Docket No. RP72-133.

DISCUSSION

I.

Commission staff and MGD challenged United's purchased gas costs as excessive. They contend the producers from whom United purchased this gas are actually jurisdictional and that United has unlawfully included in its cost of service the full, actual cost of its purchased gas rather than excluding the cost of gas purchased from non-certificated producers above the applicable area or national rate. The Commission staff argues "that the payments in excess of the national rate which United paid to the (allegedly non-jurisdictional) producers * * * should not be recoverable from the jurisdictional ratepayer." Staff comments p. 10. MDG generally echoes staff argument on this issue.

There is no question that United actually paid the full amount for its purchased gas which is included in its cost of service and which is now challenged as excessive.

Commission staff and MDG argue that as a matter of law, any pipeline sale for resale out of a commingled supply requires that the pipeline's purchase price of any element of that commingled supply be limited to the federally regulated rate in the interest of full and complete protection of the jurisdictional consumer. United responds that the Act explicitly limits the Commission's authority to regulate the price of natural gas which

is not sold "in interstate commerce," 15 U.S.C. § 717(b), and that sales "in" interstate commerce require that the purchased gas, even if commingled with gas imported from another state, must subsequently cross a state line. In the instant case the parties seem to agree that United's purchases within Louisiana will not, subsequent to purchase and commingling with interstate gas, pass into another state. If we were to accept the instant evidentiary record as an adequate factual predicate upon which to decide the jurisdiction of the Commission over the various sales indirectly challenged in this proceeding, these stipulated facts would bring this case within the ambit of Colorado Interstate Gas Co., Opinion No. 777, 56 F.P.C. ---- (September 30, 1976). In that case the Commission decided, on similar facts, that producer sales were not jurisdictional even though the gas purchased was commingled with interstate jurisdictional supplies and ultimately sold to jurisdictional customers at federally-regulated rates. However, the instant proceeding is not the appropriate case in which to decide this jurisdictional question.

It is quite apparent that a decision on this issue requires a threshold finding of Commission jurisdiction over these non-certificated sales. This subsidiary finding is of great consequence to the respective producers as well as the purchasing pipeline, United. However, no producer selling to United at a price above the applicable national or area rate ceiling has entered an appearance in this proceeding, and the Commission is wary of entering a final decision as to the jurisdictionality of these sales without first having the benefit of these producers' views. In cases such as this, the Commission is fully authorized to determine the appropriate case in which a particular issue will be addressed. Fort Pierce Util. Authority v. FPC, 526 F. 2d 993, 999 (5th Cir. 1976). The Commission has an ongoing proceeding initiated pursuant to a staff motion in a separate docket requesting that the Commission institute a show cause proceeding to determine the jurisdictional issue upon which its objection is predicated in this proceeding.[3] In the exercise of our discretion, therefore, the Commission finds that it is appropriate to address the issue of the jurisdictional character of these presently non-certificated sales to United in Docket No. CP76-238.

An additional reason in support of the deferral of decision on this jurisdictional question is the fact that the rates at issue in this proceeding have, in large measure, been derived through settlement among the interested parties. The Stipulation and Agreement of the parties. (Exhibit A, pp. 8-9) provides that

> The parties to this Stipulation and Agreement agree that those costs incurred by United to purchase the gas from producers under sales which have not been certificated are to be included in their entirety in United's cost of service for the Refund Period. United shall have no obligation to refund any portion of such purchased gas costs to any of its customers unless some or all of the producers making such non-certificated sales to United shall be required by order of the Federal Power Commission, in any proceeding involving such producers, to refund some portion of the amounts received during the refund period for such gas sales to United. In the event that such refunds are required and are ultimately made to United by the producers, United agrees that it shall refund the jurisdictional portion of such amounts which it actually receives to its jurisdictional customers.

This contingent refund obligation assumed by United will fully protect its jurisdictional ratepayers in the event that the Commission ultimately determines in Docket No. CP76-238 that the non-certificated producer sales are, and have been, jurisdictional and bound by the applicable national or area rate ceiling. Since the only ground upon which Commission staff and MDG object to the inclusion of this expenditure for purchased gas by United is the difference in cost levels which would result from finding that these producers were bound by the federally regulated rate ceiling, it is clearly in the public interest to approve the instant settlement rates, as they are subject to a contingent refund obligation upon United in respect to excessive purchased gas costs.

Recently, in *United Gas Pipe Line Co.* v. *FPC*, 551 F.2d 460 (D.C. Cir. 1977), the Circuit Court of Appeals for the District of Columbia reversed this Commission's summary exclusion of certain interest reimbursements by United to producers which were alleged by the pipeline to be a permissible alternative to the advance payments authorized by Commission regulations. In so ruling, the court construed the various Commission orders[4] establishing the experimental advance payments program.

> [W]e have found nothing in the Commission's orders setting up the advance payment program to indicate that the producers who were given such payments had to demonstrate an actual *need* for them. It is apparent that the Commission instituted the advance payment program merely as a means to enhance significantly the supply of natural gas in the interstate system during a period of critical nationwide gas shortages. It declared that the program was expected to intensify the development of new sources of natural gas supplies and thus alleviate the supply shortage, but it never expressly mandated that a producer show that but for the advance payments it would not be able to obtain the necessary exploration and development capital. We think it unreasonable for the Commission now to adopt such a standard for United's interest reimbursement arrangements when they apparently constitute an alternative means for attaining the same goal as the Commission's own advance payment program. (United supra, at pg. 464, footnotes omitted).

Implicitly, the court found it unreasonable without a previously expressed mandate to impose a standard of need for advance payments by producers for both standard advance payments and for "an[y] alternative means for attaining the same goal." In the instant case, both advance payments and interest reimbursements made by United are in issue. While a hearing was had on both of these issues such that the question of summary disposition is not involved in these proceedings, our decision on each of these issues is rendered with deference to the court's partial construction of our advanced payment orders.

(A) *Advance Payments.* The Commission's advance payments experiment was an attempt to stimulate exploration and development by the producers of natural gas by permitting interest-free loans from jurisdictional pipelines. The advance payment regulations created the impetus for interstate pipelines to advance capital to producers by permitting the pipelines to include the carrying charges of these loans in their respective rate bases. In a series of Commission orders which first established, and then refined, the advanced payment program, the Commission undertook to define the legal standard which would govern whether any particular advance payment to a producer would qualify for rate base treatment. The controversy in this as well as other recent cases dealing with advance payments relates to when the particular advances are to be properly included in the company's rate base, rather than whether such items of expense are ever to be reflected in rate base.

Commission staff has consistently taken the position that all advance payments must be related in both time and amount to the respective producer-recipient's need for such capital. Upon this theory, Commission staff has developed a thirty-day rule, holding in effect that any advance payment which is not expended by the producer-recipient within thirty days of the date the rates become effective (end of a locked-in period) in a particular rate case is front-ended and improperly reflected in the rate base of the pipeline for recovery from its consumers through the particular rates in

[3] See, "Order to Produce Data," United Gas Pipeline Company & Certain Producer Respondents, Docket No. CP76-238, issued January 25, 1977.

[4] See, FPC Order No. 410, 44 F.P.C. 1142 (October 2, 1970); FPC Order No. 441, 46 F.P.C. 1178 (November 10, 1971); FPC Order No. 465, 48 F.P.C. 1550 (December 20, 1973); and FPC Order No. 499, 50 F.P.C. 2111 (December 28, 1973). In the instant case each of the advance payments involved were made pursuant to FPC Order No. 465, supra, with the exception of two which are governed by FPC Order No. 499, supra.

[4] On April 5, 1977, United filed with the Commission a motion requesting that the Commission consider the United decision, supra, in its disposition of the issues at bar in the instant dockets. This motion was responded to by Laclede on April 18, 1977. Laclede does not oppose the procedure suggested in United's motion but notes that an issue with similar multi-docket ramifications is presented by the return to be allowed on United's preferred stock. While United's motion was technically deemed denied under Commission Regulations, the Commission will, of course, take cognizance of any relevant pronouncements of law in considering the issues involved in this case.

issue. The Commission has refused to adopt the Commission staff's thirty-day rule as the measure of the reasonableness and appropriateness of any particular advance, opting instead to decide the issue on a case-by-case basis which will appreciate the particular factual context within which each advance payment was made. In the instant case, Commission staff predicated its position upon the thirty-day rule of thumb in recommending that certain of United's advance payments be disallowed rate base treatment for purposes of determining the just and reasonable rates to be determined in this proceeding.

It is clear from the instant evidentiary record that $23,380,650 of the $79,238,960 of advanced payments made by United had not been expended by the various producer-recipients either during the locked-in period involved in this case or within thirty days subsequent to the end of this period. According to Commission staff's rule of thumb, therefore, the $23,380,650 of unexpended advances are, by definition, front-end and should be disallowed from United's rate base. In Tennessee Gas Pipeline Co., Opinion No. 769, 55 F.P.C. ---- (July 9, 1976), mimeo., pg. 31, the Commission held that front-end advance payments were presumptively extravagant under Order No. 499, 50 F.P.C. 2111 (1973), although the definition of front-end was left by the Commission to a case-by-case determination. Various front-end definitions have been advanced in cases on this point before the Commission, among which is the Commission staff's thirty day rule of thumb. As the Commission recently reiterated:

> To begin with, a determination of reasonableness and appropriateness requires consideration of the common business practices of producers; however, we would have also considered evidence by the pipeline as to how it could reasonably finance its installment payments to the producers for specific expenditures. In other words a pipeline might be able to show that thirty days is too short. (*Tennessee Gas Pipeline Co.*, Opinion No. 769-A, ---- F.P.C. ---- (May 31, 1977 mimeo., pg. 9).

Clearly, the threshold issue is one of fact, to be determined with reference to the evidence introduced into the record.

In the instant case, Commission staff has come forward with various reasons that expenditure of advanced payments within thirty days of the end of the locked-in period must demarcate front-end advances (which are includable in the company's rate base) from others which have been made but are not appropriately recoverable from consumers through the rates herein considered. Staff's evidentiary presentation boils down to the concern that advances which have not been expended by the producer-recipient in furtherance of exploration and development were imprudently advanced in terms of timing and the carrying charges on this imprudent expenditure cannot properly be passed on to the consumer through these just and reasonable rates. United's presentation, of course, defends the prudence of the timing of its advanced payments expenditures.

A finding that the advances are front-end, does not end the inquiry, for the Commission has held only that front-end advanced payments are "presumptively extravagant," a finding which may be rebutted by a showing that the front-end advance is, nevertheless, reasonable and appropriate because a positive benefit is conferred on the consumer. See, e.g., *Tennessee, supra*, at mimeo. pg. 32; *Transcontinental Gas Pipe Line Corp.*, Opinion No. 801, ---- F.P.C. ---- (May 31, 1977), mimeo. pg. 22. The advance payment agreement must be viewed as a whole in order to determine whether the overall cost of the expenditure to the consumer will be less than it would be otherwise, regardless of the front-end nature of the payment. The incentive for exploration and development by producers will cost the consumer, but if the total cost of a particular advance is, or could be, less if front-end, the incentive to the pipeline to bargain for more favorable terms from producers would have been destroyed if front-end or lump sum advances were strictly precluded. Accordingly, the question of whether a particular advance is "reasonable and appropriate" is properly resolved by determining on the whole of the evidence whether the incentive underlying the particular advanced payment was achieved at the lowest possible cost to the consumers.

In the instant case, United has made no showing whatsoever to rebut the presumption that the front-end advances are extravagant. In the absence of such showing, the Commission finds that those sums advanced and not expended by the respective recipient-producers within thirty days of the end of the locked-in period in this case represent an extravagant expenditure by United and accordingly are not "reasonable and appropriate" for rate base treatment in this case.

(B) *Interest reimbursements.* While the Commission has consistently construed the purpose of the advance payments program to be the creation of an alternative supply of capital available to producers to spur immediate exploration and development activity, the court in *United* supra, found that the incentive for production and development by producers would be created as well by pipeline reimbursement of the carrying charges assessed the producer for capital procured from any source, including the normal capital markets. It is true that interest-free capital does provide an incentive to producers to step up exploration and development activities. United's alternative program of paying the interest charges on its producers' other capital commitments provides, in effect, interest-free loans to producers not substantively distinguishable from ordinary advance payments, other than the source of the capital.

The *United* court remanded to the Commission the question whether United's various interest reimbursement agreements "effected the same result as the advance payment program and did so at a lower cost to the consumer and at less risk to the pipeline." *United*, supra, at pg. 465. If the purpose of the advance payments program is perceived as the court viewed it—i.e., stimulation of current exploration and development for new reserves of gas, rather than the creation of an alternative source of capital for producers stymied in their efforts at capital formation—then it is clear that United's alternative program did "effect the same result as the advance payment program."

The question that remains is whether, judged under the standards applied to standard advance payments, these interest reimbursements qualify for cost of service (O&M expense) treatment as "reasonable and appropriate."

The question is whether interest reimbursement upon capital otherwise procured should be included in O&M expense unless the capital upon which the interest is advanced by United was actually expended in the activities intended to be inspired by the advance payment program. If the underlying capital was not so expended, the interest on that capital would be deemed unreasonable and inappropriate for recoupment in this rate case. The record in this case indicates that United advanced monies for the purpose of interest reimbursement, but it does not indicate that the underlying capital for which the interest is covered was, in fact, expended by the respective recipient-producer either within thirty days of the end of the locked-in period involved in this case or expended entirely for the purposes which the advanced payment program intended. Consequently, we cannot on this record make a finding that these expenditures should be included in United's cost of service.

Accordingly, we are required to remand this limited issue to the Presiding Administrative Law Judge for further proceedings to elicit evidence with respect to the timing and amount of producer expenditures of those funds upon which United assumed the obligation to pay interest. Pending decision on this issue, the terms of the Stipulation and Agreement with respect to United's refund liability on the increment associated with its interest reimbursements is found to fully protect United's consumer's interests. Consequently, we approve the Stipulation and Agreement, and reserve this question for further proceedings and determination on the merits of this issue.

III. MISCELLANEOUS ISSUES

Having disposed of the three primary issues reserved for hearing and decision by the stipulation among the parties, we turn now to several subsidiary issues raised during the hearings by individual parties. We note at the outset, however, that these issues are resolved by substantial agreement of the vast majority of parties to be affected and the Commission staff.

(A) *Federal income tax allowance.* The Stipulation and Agreement provides

for a Federal income tax component of $18,892,596 by agreement of substantially all affected parties. At hearing it was established that this component of the stipulated cost of service was arrived at through an application of the statutory 48 percent tax rate. Tr. 28. MDG argues that the use of the 48 percent statutory rate should be disallowed in favor of the alleged effective tax rate for the test period in this case. MDG relies upon *FPC* v. *United Gas Pipe Line Co.*, 386 U.S. 237 (1967), as assertedly requiring the use of only the actual taxes paid by a jurisdictional utility in determining just and reasonable rates.

This Commission's review of a proffered settlement provides a different context from that in which adverse parties present a disputed factual issue for decision. MDG's argument is predicated solely upon the fact that the settlement cost of service Federal income tax component was derived through the use of the statutory rate. This was not substantial evidence that the settlement cost of service is inflated or excessive in any respect. While United certainly bears the burden of substantiating the reasonableness of its rate increase, we cannot find on this record any evidence that the agreed-upon use of the statutory rate is not just and reasonable. Furthermore, customers of United, each with an interest similar to MDG's in this proceeding, have compromised any objection which they may have had with respect to this issue in the interest of overall settlement. The significant fact in this case is that the Federal income tax figure agreed to by the parties herein in settlement was one element leading to settlement. Because settlements of litigation are favored and upon the principles expressed in *Pennsylvania Gas & Water Co.* v. *FPC*, 463 F. 2d 1242 (D.C. Cir. 1972), we conclude that the record evidence in this case supports the instance settlement in respect to the tax component.

(B) *Interest rate on refunds.* On June 15, 1976, MDG filed a petition with the Commission which requested that United be assessed interest on any refund liability arising in this case at the rate of 9 percent from October 10, 1974, rather than at the rate of 7 percent as stipulated by the parties in their settlement of his case. MDG suggests that this modification of the proffered Stipulation and Agreement is required by *American Public Gas Association* v. *FPC*, ____ F. 2d ____ (D.C. Cir. 1976), wherein the Commission's decision to apply the increased 9 percent interest rate only to refunds on rate filing made after October 10, 1974, was reversed. On July 9, 1976, United answered MDG's petition in opposition to any change in the stipulated interest rate for refunds in this case.

The parties to this settlement have explicitly stipulated an interest rate to be applied to refunds in his proceeding. Nothing in the *APGA* decision limits the discretion of parties in settlement negotiations to agree to a lesser, or even greater, interest rate on refunds than 9 percent for the period after October 10, 1974. Similarly, the *APGA* decision does not bar the Commission from accepting such agreements where appropriate.

We have previously stated that with respect to pending settlement agreements filed prior to December 6, 1976, where there is an indication of actual bargaining for a particular refund interest rate during the course of negotiations, the Commission will apply the settled upon interest rate. *Rate of Interest on Amount Subject to Refund*, RM74-18, Order Denying Rehearing and Further Clarifying Order No. 513-A, issued December 6, 1976, mimeo, p. 5. See also, *Natural Gas Pipeline Co. of America*, Opinion No. 762-A, Docket No. RP-74-96, issued December 6, 1976. However, where the Commission has no evidence to indicate the interest rate was bargained for as an integral and key part of the settlement, it has applied the 9 percent rate, *Northern Natural Gas Co.*, Docket Nos. RP74-75, et al., July 27, 1976.

United points out that the interest rate on refunds is an important element of any rate proceeding. But MDG is not directly controverted in its statement that the 7 percent rate "was not a negotiated figure but rather was included simply because that was what Order 513 seemed to require." MDG, pg. 3. Thus, the pleadings fail to demonstrate the interest rate was an integral or key part of the settlement. MDG's requested modification of the settlement is therefore accepted as consistent with the Commission's Rules in Section 154.67, 18 CFR 154.67.

The Commission finds:

(1) United Gas Pipe Line Co. is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to this order are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) The proposed Stipulation and Agreement is just and reasonable, as modified by the provisions of this Opinion and Order.

(3) The collection of that portion of the instant increased rates attributable to United's noncertificated purchases is reasonable, subject to a contingent refund liability should it be determined that these purchases were made at a cost to United in excess of the applicable "just and reasonable", federally regulated price.

(4) The collection of that portion of the instant increased rates attributable to the $23,380,650 of United's advance payments herein determined to be a front-end and extravagant expediture has not been shown to be just and reasonable under the Act and United should be required to file revised tariff sheets in this regard as necessary to conform to this order.

(5) The collection of that portion of the instant increased rates attributable to the $1,644,956 of other operation and maintenance expense reflecting United's reimbursement of interest on loans procured by producers (as alternatives to standard advance payment agreements) is reasonable as conditioned in the Stipulation and Agreement upon refund liability in the event that, upon remand such reimbursements are found not "reasonable and appropriate".

(6) In all other respects the Stipulation and Agreement is found to be an adequate and just compromise of the matters at issue in this case and acceptance and approval of such Stipulation and Agreement is deemed to be in the public's interest and in conformance with the standards of the Natural Gas Act.

The Commission orders:

(A) The increased rates filed by United as reflected in the Stipulation and Agreement between the parties are disallowed to the extent that they do not conform to this opinion and order.

(B) Because the parties have stipulated refund procedures, United shall be required to undertake those refund obligations triggered in respect to finding Paragraph (4), supra, within sixty days of the issuance of this Opinion and Order.

(C) Within 60 days of the issuance of this Opinion and Order, United shall file revised tariff sheets for the Refund Period—April 6, 1974, through May 19, 1975—as required by finding paragraph (4), supra, which substitute sheets shall be subject to Commission review and approval.

(D) Within 30 days of the Commission's approval of Applicant's substitute tariff sheets in accordance with Paragraph (C) above, Applicant shall refund to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in accordance with Paragraph (C) above, together with interest at a rate of nine percent per annum from the date of payment to Applicant to the date of refund.

(E) Within 15 days after refunds have been made United shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and adjudicated rates; monthly adjudicated rate increase, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells natural gas at retail.

(F) Nothing herein shall be construed as removal of United's refund liability with respect to finding paragraphs (2) and (5), supra, which is contingent upon final Commission decisions in other proceedings.

(G) Upon any final Commission decision in the two proceedings referred to in (D) supra, triggering the stipulated refund obligations agreed upon among the parties to this case, the obligations shall be satisfied within 60 days of any such final Commission decision together with an obligation upon United to file substitute tariff sheets necessary to reflect the pertinent changes required by any such adverse resolution within the same 60 days.

By the Commission.[*]

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22688 Filed 8-5-77;8:45 am]

[Docket No. ER77-203]

WISCONSIN ELECTRIC POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 18, 1977, Wisconsin Electric Power Co. (Company) completed its tender for filing[1] of a proposed Power Supply Agreement with Wisconsin Michigan Power Co.[2] The filing would increase the Company's return on equity, although it would reduce pooling charges by an estimated $186,382, based on the 12-month period ending December 31, 1977. The Company proposes waiver of the notice requirements to permit an effective date of January 1, 1977.

A preliminary review of the Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

Good cause exists to accept for filing and suspend the proposed increased rates and charge in the Power Supply Agreement tendered by the Company on July 18, 1977, as hereinafter ordered.

The Commission orders:

(A) The proposed increased rates and charges in the Power Supply Agreement tendered by the Company on July 18, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges in the Power Supply Agreement tendered by the Company are hereby suspended and the use thereof deferred until January 2, 1977, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22677 Filed 8-5-77;8:45 am]

[*] Commissioner Holloman, dissenting, filed a separate statement which is filed as part of the original document.

[1] The Company tendered its filing initially on April 27, 1977, but was notified of a filing deficiency by Commission letter.

[2] Rate Schedule Designation to be provided to the Company by future letter.

FEDERAL RESERVE SYSTEM

B.O.C. CORP.

Acquisition of Bank

B.O.C. Corp., Sheridan, Wyo., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the Wyoming Security Bank, Sheridan, Wyo. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 30, 1977.

Board of Governors of the Federal Reserve System, August 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-22764 Filed 8-5-77;8:45 am]

CENTRAL BANCSHARES, INC.

Formation of Bank Holding Company

Central Bancshares, Inc., Browerville, Minn., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 92 percent or more of the voting shares of Lee State Bank, Browerville, Minn. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 30, 1977.

Board of Governors of the Federal Reserve System, August 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22765 Filed 8-5-77;8:45 am]

FIRST MIDWEST BANCORP., INC.

Order Approving Acquisition of Bank

First Midwest Bancorp., Inc., St. Joseph, Mo. ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of the Farmers Bank of Gower, Gower, Mo. ("Bank"), through the acquisition of 100 percent of the voting shares of L.W.J.S. Corp., Gower, Mo., a one-bank holding company with respect to Bank. L.W.J.S. Corp., which is engaged in no activities other than the ownership of shares of Bank, is to be dissolved upon consummation of the proposed transaction. Accordingly, the acquisition of L.W.J.S. Corp. is treated herein as an acquisition of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the 16th largest banking organization in Missouri, controls five banks with aggregate deposits of approximately $168.6 million,[1] representing approximately 0.89 percent of total deposits in commercial banks in Missouri. Applicant's acquisition of Bank, the 527th largest bank in the State, would increase its share of total deposits in the State by 0.02 percent and would not alter its ranking among other banking organizations in the State. Consummation of Applicant's proposal would not result in a significant increase in the concentration of banking resources in Missouri.

Bank holds deposits of approximately $5.2 million, representing 10.5 percent of the total deposits in commercial banks in the Clinton County banking market, and thereby ranks as the smallest of five banks located in the market.[2] None of Applicant's banking subsidiaries is located in this market, although four of its subsidiary banks are located in the St. Joseph banking market, which is adjacent to the relevant market.[3] These banks are located from 17.7 to 29.3 miles from Bank. It does not appear that any of these four banks derives significant amounts of deposits or loans from the service area of Bank; nor does it appear that any significant competition currently exists between any of Applicant's subsidiary banks, on the one hand, and Bank, on the other hand.

Missouri's restrictive branch banking laws prohibit branching by Applicant's

[1] All banking data are as of December 31, 1976.

[2] The Clinton County banking market, the relevant geographic market for the purposes of analyzing the competitive effects of the subject proposal, is approximated by all of Clinton County, Mo.

[3] The St. Joseph banking market is approximated by Buchanan County, less Rush and Bloomington townships, Andrew County and western De Kalb County, all in Missouri, and northern Doniphan County in Kansas.

banking subsidiaries into the Clinton County market. Moreover, the market's ratios of deposits per banking office and population per banking office are substantially below the State averages, and the total population of Clinton County is relatively small, suggesting that the Clinton County market is not attractive for de novo entry. On the basis of the facts of record, the Board concludes that consummation of the subject proposal would not have any significant adverse effects on existing or potential competition in any relevant area, and that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and the future prospects for each appear favorable. Applicant proposes to retire the acquisition debt associated with this proposal over a 15-year period. It appears that Applicant has the resources to amortize such debt while maintaining adequate capital levels at each of its subsidiary banks. Indeed, Applicant appears capable of amortizing this acquisition debt in less than 15 years while preserving sufficient capital levels. Accordingly, considerations relating to banking factors are consistent with approval. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application, since Applicant proposes, among other things, to increase the number of hours Bank will be open for business each week, offer higher rates of interest on time accounts than are currently available from Bank, and offer an additional type of certificate of deposit.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors, effective August 1, 1977

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22766 Filed 8-5-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A 8684]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Forest Service, U.S. Department of Agriculture filed application Serial No. A 8684 on September 30, 1974, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

CORONADO NATIONAL FOREST

Goudy Canyon Research Natural Area

Beginning at a point from which the Webb Peak Triangulation Station bears N. 89°32'03" E., 4,360.94'; thence N. 44°45'W., 1,076.09'; thence N. 06°47' W., 627.04'; thence N. 32°58' W., 325.59'; thence S. 89°-30' W., 279.39'; thence S. 19°38' W., 771.86'; thence S. 49°27' W., 846.67'; thence S. 76°-40' W., 2,143.79'; thence S. 20°59' W., 4,860.15'; thence S. 02°06' E., 896.89'; thence S. 48°46' E., 1,199.12'; thence N. 80°22' E., 2,506.74'; thence N. 14°20' E., 3,915.43'; thence N. 37°41' E., 2,685.98' to the point of beginning.

This tract, when surveyed, will probably be located within sections 25, 35, and 36, Township 8 S., Range 23 E., and section 30, Township 8 S., Range 24 E.

The area as described contains approximately 560 acres in Graham County.

The applicant desires that the lands be designated as a Research Natural Area to preserve virgin stands of Douglas fir and Mexican white pine for scientific investigation. These trees are some of the largest specimens to be found in the Southwest.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 21, 1974, Volume No. 39, Page No. 37403, Document No. 74-24398.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center Phoenix, Arizona 85073.

Dated: July 28, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22694 Filed 8-5-77;8:45 am]

[A-9613]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 28, 1977

The Department of the Army, Corps of Engineers, filed withdrawal application Serial No. A-9613 on June 29, 1976.

The applicant proposes to withdraw the following described lands from all forms of appropriation under the public land laws and from location and entry under the general mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 N., R. 3 E.,
Sec. 3, lots 3 and 4, $SW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 4, lots 1, 2, 5, 6, 7, 8, 9, and 10, $S\frac{1}{2}SE\frac{1}{4}$ and $E\frac{1}{2}SW\frac{1}{4}$.

The areas described aggregate 534.19 acres in Maricopa County.

The surface of the following described lands has been transferred out of Federal ownership with minerals reserved to the United States; it is proposed to withdraw the mineral estate from location and entry under the mining laws, including the mineral leasing laws:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 N., R. 3 E.,
Sec. 3, $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$
T. 5 N., R. 3 E.,
Sec. 27, $S\frac{1}{2}S\frac{1}{2}NW\frac{1}{4}$;
Sec. 33, lots 1, 2, 3, and 4, $NE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, and $NE\frac{1}{4}SW\frac{1}{4}$;
Sec. 34, lot 1, $N\frac{1}{2}$, $NE\frac{1}{4}SW\frac{1}{4}$, and $S\frac{1}{2}SW\frac{1}{4}$.

The areas described aggregate 884.97 acres in Maricopa County.

The applicant desires that the lands be reserved for the construction, operation, and maintenance of a Congressionally authorized flood control project and recreational development for the Cave Buttes Dam.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on August 17, 1976, Volume No. 41, Page No. 34798-34799, Document No. 76-23906.

[4] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Governors Gardner and Jackson.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before September 6, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by the action of the Secretary of the Interior.

All communications (except for public hearing requests in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-22695 Filed 8-5-77;8:45 am]

Fish and Wildlife Service

WATER RESOURCE PROJECT TYPE ACTIVITIES

Channel Modification Guidelines

CROSS REFERENCE: For a document issued jointly by the Soil Conservation Service, Department of Agriculture and the Fish and Wildlife Service, Department of the Interior relating to proposed guidelines for use of channel modification as a means of water management in water resource project type activities, see FR Doc. 77-22520 appearing in the Part II of this issue.

National Park Service

APOSTLE ISLANDS NATIONAL LAKESHORE, WISCONSIN

Availability of Environmental Assessment Development Concept Plan, Mainland Developments

The National Park Service has prepared an environmental assessment to consider the effects of alternative proposals concerning the mainland developments at Apostle Islands National Lakeshore, Wisconsin.

The assessment states the planning problem, describes components of the local and regional environment which may affect, or be affected by, the various proposals, and discusses alternative solutions.

Copies of the environmental assessment are available at Apostle Islands National Lakeshore, 1972 Centennial Drive, Rural Route, Bayfield, Wisconsin 54814; and the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102. Anyone wishing to comment on this document should submit remarks in writing to the Park Superintendent or the Regional Director at the above addresses on or before September 7, 1977.

Dated: July 22, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-22044 Filed 8-5-77;8:45 am]

[Order No. 2]

ADMINISTRATIVE TECHNICIAN, ET AL., SAGAMORE NATIONAL HISTORIC SITE

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

1. Administrative Technician. The Administrative Technician, Sagamore Hill National Historic Site, may execute, approve and administer contracts not in excess of $10,000 for supplies and equipment or services, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Technician in behalf of any area administered by the Superintendent, Sagamore Hill National Historic Site.

2. This order supersedes Order No. 1 dated August 16, 1976 (41 FR 35159). (National Park Service Order No. 77 (38 FR 7478) as amended; North Atlantic Region Order No. 2 (42 FR 27687).

Dated: June 30, 1977.

ROY F. BEASLEY, JR.,
Superintendent, Sagamore Hill National Historic Site.

[FR Doc.77-22636 Filed 8-5-77;8:45 am]

[Order No. 5]

ADMINISTRATIVE OFFICER AND PROCUREMENT AGENT, PADRE ISLAND NATIONAL SEASHORE, TEXAS

Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

Section 2. *Procurement Agent.* The Procurement Agent may execute and approve contracts not in excess of $50,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 3. *Revocation.* This order supersedes Order No. 4 dated December 6, 1976 and published in 42 FR 3699 on January 19, 1977.

(National Park Service Order No. 77-38 FR 7478 as amended; Southwest Region Order No. 5, FR 7722 as amended.)

Dated: June 10, 1977.

JOHN F. TURNEY,
Superintendent, Padre Island National Seashore.

[FR Doc.77-22643 Filed 8-5-77;8:45 am]

[Order No. 3]

ADMINISTRATIVE TECHNICIAN, RICHMOND NATIONAL BATTLEFIELD PARK

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services

Section 1. Administrative Technician. The Administrative Technician of Richmond National Battlefield Park may issue purchase orders not in excess of $10,000.00 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. This order supersedes Richmond National Battlefield Park Order No. 2, dated June 1, 1973 and published in 38 FR 17743 on July 3, 1973.

Dated June 10, 1977

SYLVESTER PUTNAM,
Superintendent.

[FR Doc.77-22639 Filed 8-5-77;8:45 am]

[Order No. 4]

ADMINISTRATIVE CLERK, ET AL., HOPEWELL VILLAGE NATIONAL HISTORIC SITE

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services

Section 1. Administrative Assistant. The Administrative Assistant of Hopewell Village National Historic Site may issue purchase orders not in excess of $2,000.00 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. This order supersedes Hopewell Village National Historic Site Order No. 3, dated September 26, 1968 and published in 33 FR 15455 on October 17, 1968.

Dated: June 2, 1977

ELIZABETH E. DISRUDE,
Superintendent.

[FR Doc.77-22642 Filed 8-5-77;8:45 am]

[Order No. 5]

ADMINISTRATIVE OFFICER, ET AL., GULF ISLANDS NATIONAL SEASHORE, FLORIDA AND MISSISSIPPI DISTRICTS

Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $100,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. *Assistant Superintendent.* The Assistant Superintendent may execute, approve, and administer contracts not in excess of $100,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 3. *Procurement and Property Management Specialist.* The Procurement and Property Management Specialist may execute, approve, and administer contracts not in excess of $100,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 4. *Administrative Service Assistant.* The Administrative Service Assistant may execute, approve, and administer contracts not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 5. *Revocation.* This order supersedes Order No. 4, dated February 14, 1976, and published in 41 FR 19993 on May 14, 1976. (National Park Service Order No. 77 (38 FR 7478), as amended; Southeast Region Order No. 5 (37 FR 7721) as amended.

Dated: June 7, 1977.

FRANKLIN D. PRIDEMORE,
Superintendent,
Gulf Islands National Seashore.

[FR Doc 77-22641 Filed 8-5-77;8:45 am]

[Order No. 2]

ADMINISTRATIVE OFFICER, FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK

Delegation of Authority regarding Executing of Contracts and Purchase Orders for Supplies, Equipment, or Services

Section 1. Administrative Officer. The Administrative Officer may execute and approve contracts and/or purchase orders not in excess of $50,000 for construction, supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 2. This order supersedes Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Order No. 1, published on June 13, 1972, 37 FR 11735.

Dated: May 31, 1977.

DIXON B. FREELAND,
Superintendent.

[FR Doc 77-22640 Filed 8-5-77;8:45 am]

[Order No. 5]

CASTILLO DE SAN MARCOS NATIONAL MONUMENT, FLA.

ADMINISTRATIVE OFFICER, CASTILLO DE SAN MARCUS NATIONAL MONUMENT, FLA.

Delegation of Authority Regarding Execution of Contracts and Issuance of Purchase Orders

1. *Administrative officer.* The administrative officer may execute, approve, and administer contracts and issue purchase orders for equipment, supplies, and services not in excess of $10,000 in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the administrative officer on behalf of any office or area administered by Castillo de San Marcos National Monument.

2. *Revocation.* This order supersedes Order No. 4 issued October 8, 1974.

(National Park Service Order No. 77 (38 FR 7478), as amended; Southeast Region Order No. 5 (37 FR 7721), as amended.)

Dated: April 18, 1977.

GEORGE F. SCHESVENTER,
Superintendent.

[FR Doc.77-22638 Filed 8-5-77;8:45 am]

BUCKSTAFF BATH HOUSE CO., ET AL.

Intention to Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 7, 1977, the Department of the Interior, through the Director, National Park Service, proposes to extend the concession contracts with the following concessioners, authorizing them to continue to operate bathhouses in Hot Springs National Park, and to obtain hot mineral waters therefrom for drinking, bathing, and such other purposes as may be authorized for a period of three (3) years from January 1, 1978, through December 31, 1980.

Buckstaff Bath House Company
Health Services, Inc.
Lamar Bath House Company
Ozark Bath House Company
Superior Bath House Company, Inc

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Southwest Regional Office, Post Office Box 728, Santa Fe, New Mexico 87501.

The foregoing concessioners have performed their obligations to the satisfaction of the National Park Service, under existing contracts which expire by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, are entitled to be given preference in the renewal of the contracts and in the negotiation of new contracts. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 7, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: July 20, 1977.

JOE BROWN,
Acting Associate Director,
National Park Service.

[FR Doc 77-22651 Filed 8-5-77;8:45 am]

EVERGLADES PARK CATERING, INC.

Intention to Extend Concession Contract

Pursuant to the provisions of Section

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Everglades Park Catering, Inc., authorizing it to continue to provide concession facilities and services for the public at Everglades National Park for a period of five (5) months from January 1, 1978, through May 31, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Southeast Regional Office, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977. An administrative decision to extend this contract for five months was made to provide the Service with sufficient time to prepare a prospectus to secure a concessioner and also to prevent the current contract expiration from occurring during the visitor season. The Secretary is also required

to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 7, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: July 29, 1977.

IRA J. HUTCHINSON,
Director, National Park Service.

[FR Doc 77-22635 Filed 8-5-77;8:45 am]

HOWARD T. ROSE CO., INC.

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Parks Service, proposes to negotiate a concession contract with Howard T. Rose Company, Inc., authorizing it to continue to provide concession facilities and services for the public at Sailors Haven Site, Fire Island National Seashore, New York for a period of five (5) years from January 1, 1977, through December 31, 1981.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, North Atlantic Region, 150 Causeway Street, Boston, Massachusetts 02114.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1976 and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Howard T. Rose Company, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of Howard T. Rose Company, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 7, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: July 20, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc 77-22648 Filed 8-5-77;8:45 am]

LE CONTE LODGE, INC.

Intention to Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 7, 1977, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with LeConte Lodge, Inc., authorizing it to continue to provide concession facilities and services for the public at Great Smoky Mountains National Park for a period of one (1) year from January 1, 1978, through December 31, 1978.

A review of the factors involved in extending the LeConte Lodge contract in terms of environmental changes has been made and it has been determined that the proposed extension will not cause any significant environmental impact and preparation of an environmental statement is not required. Any changes in operation which take place during the extended period will tend to reduce environmental impacts. The extension period will also be used to gather additional environmental impact data in preparation for a recommendation to either continue or discontinue the LeConte Lodge operation.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 7, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract

Dated: July 22, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc.77-22650 Filed 8-5-77;8:45 am]

[Order No. 6 Amendment No. 1]

PROCUREMENT AGENT, MIDWEST REGIONAL OFFICE

Delegation of Authority Regarding Purchasing Authority

Order No. 6, approved February 25, 1977, and published in the FEDERAL REGISTER May 17, 1977 (42 FR 25386) sets forth limitations on contracting and procurement authority. This amendment adds paragraph (h) to Section 2 as follows:

(h) *Regional Procurement Agent.* The Regional Procurement Agent may execute and approve purchase orders and contracts not in excess of $10,000.

(National Park Service Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: June 23, 1977

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc 77-22637 Filed 8-5-77;8:45 am]

VOYAGEURS NATIONAL PARK, MINNESOTA

Availability of Environmental Assessment on Snowmobile Operations

On June 27, 1977, in Volume 42, Number 123, page 32590 of the FEDERAL REGISTER, the National Park Service announced the availability of an environmental assessment concerning the operation of snowmobiles at Voyageurs National Park, Minnesota.

The assessment states the existing situation and describes components of the local and regional environment which may effect, or be affected by, the four alternative proposals which are addressed

Due to the widespread interest in the assessment, the National Park Service has extended the period for public review and comment for an additional period of thirty (30) days ending on August 29, 1977

Copies of the environmental assessment are available at Voyageurs National Park, P.O. Drawer 50, International Falls, Minnesota 56649; and the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102. Anyone wishing to comment on this document should submit such comments in writing to the Park Superintendent or the Regional Director at the above addresses on or before August 29, 1977.

Dated: July 29, 1977

MERRILL D. BEAL,
Regional Director,
Midwest Region

[FR Doc 77-22645 Filed 8-5-77;8:45 am]

VOYAGEURS NATIONAL PARK, MINN.

Availability of Environmental Assessment on Landing of Aircraft

On June 27, 1977, in Volume 42, Number 123, page 32590 of the FEDERAL REGISTER, the National Park Service announced the availability of an environmental assessment concerning the landing of aircraft at Voyageurs National Park, Minn.

The assessment states the existing situation and describes components of the local and regional environment which may affect, or be affected by, the four alternative proposals which are addressed.

Due to the widespread interest in the assessment, the National Park Service has extended the period for public review and comment for an additional period of thirty (30) days ending on August 29, 1977.

Copies of the environmental assessment are available at Voyageurs National Park, P.O. Drawer 50, International Falls, Minn. 56649; and the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebr. 68102. Anyone wishing to comment on this document should submit such comments in writing to the Park Superintendent or the Regional Director at the above addresses on or before August 29, 1977.

Dated: July 29, 1977.

MERRILL D. BEAL,
Regional Director
Midwest Region

[FR Doc.77-22646 Filed 8-5-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. NORTHWEST COLLISION CONSULTANTS

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h), that a proposed consent judgment and a competitive impact statement have been filed with the United States District Court for the Western District of Washington at Seattle in Civil No. C75-837V. The complaint in this case alleges that an association of auto body repair shops, Northwest Collision Consultants, and its members have conspired to fix the cost of auto body repair jobs, to eliminate discounts on new parts used in repairing damaged automobiles, and to fix the hourly rates that auto body repair shops charge.

The proposed judgment will enjoin the defendant and its members from having any agreement or understanding or from attempting to influence any other auto body repair shop regarding the cost of auto body repair jobs, the prices or discounts at which parts are sold the hourly rates charged, or the profit margins utilized. The judgment also prohibits understandings whereby an auto body repair shop would refuse or would not attempt to obtain a repair job. In addition, the defendant is directed to collect and hold until further order of the Court any written materials which it distributed in the past that refered to any price, discount, profit margin or cost of doing business in the automobile repair industry.

Public comment is invited on or before October 3, 1977. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco office, Antitrust Division, Department of Justice, San Francisco, California 94102.

Dated: July 29, 1977.

JOHN H. SHENEFIELD,
Acting Assistant Attorney General, Antitrust Division.

Anthony E. Desmond, James E. Figenshaw, Christopher S. Crook, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, Room 16432, San Francisco, California 94102; Telephone 415-556-6300; Attorneys for the United States.

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON AT SEATTLE

United States of America, plaintiff, v. *Northwest Collision Consultants*, defendant.

Civil No. C75-837V.
Filed: July 29, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendant, Northwest Collision Consultants, by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: July 29, 1977.

For the plaintiff: John H. Shenefield, Acting, Assistant Attorney General; William E. Swope, Charles F. B. McAleer, Anthony E. Desmond, James E. Figenshaw, Christopher S. Crook, Robert J. Ludwig, Attorneys, Department of Justice.

For the Defendant: Kane, Vandeberg & Hartinger, Washington Plaza Building, One Washington Plaza, Suite 2100, Tacoma, Washington 98402. G. Perrin Walker, Attorney for Defendant.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

United States of America, Plaintiff, v. *Northwest Collision Consultants*, Defendant.

Civil No. C75-837V
Filed: July 29, 1977

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 3, 1975, and defendant, Northwest Collision Consultants, having appeared by its counsel, and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without admission by any party in respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section I of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Defendant" means defendant Northwest Collision Consultants;

(B) "Person" means any individual, partnership, corporation, association, firm or any other business or legal entity;

(C) "Parts" means any portion of an automobile except the engine and its components;

(D) "Body repair job" means the application of new or used parts and labor to the damaged bodies of automobiles for the purpose of repairing them;

(E) "Hourly rate" means the time charge applied to the length of time that each body repair job requires; and

(F) "Body repair shop" means any person engaged in the performance and sale of a body repair job.

III

The provisions of this Final Judgment shall apply to the defendant and to each of its officers, directors, agents, employees, members, chapters, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from directly or indirectly:

(A) Entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, or program, to fix, establish, or maintain (1) prices charged by body repair shops in the performance and sale of body repair jobs, (2) prices, discounts, markups, or other terms or conditions at which new or used parts are sold by body repair shops, (3) hourly rates charged by body repair shops, or (4) profit margins utilized by body repair shops;

(B) Advocating, suggesting, urging, inducing, compelling, or in any other manner influencing or attempting to influence any person to use or adhere to (1) any price to be charged by a body repair shop in the performance and sale of a body repair job, (2) any price, discount, markup, or other term or condition at which new or used parts are to be sold by a body repair shop, (3) any hourly rate to be charged by a body repair shop, or (4) any profit margin to be utilized by a body repair shop;

(C) Policing, urging, coercing, influencing, or attempting to influence in any manner any body repair shop or any other person, or devising or putting into effect any procedure (including but not limited to picketing) the effect of which is to fix, maintain, or stabilize (1) prices to be charged by a body repair shop in the performance and sale of a body repair job, (2) any price, discount, markup, or other term or condition at which new or used parts are to be sold by a body repair shop, (3) any hourly rate to be charged by a body repair shop, or (4) any profit margin to be utilized by a body repair shop; and

(D) Entering into, adhering to, maintaining or furthering, any contract, agreement, understanding, plan or program with any other person not to accept or attempt to obtain any body repair job.

V

Defendant is ordered and directed:

(A) Within 60 days after entry of this Final Judgment to serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon each of those persons who are or have been officers or members of defendant at any time since January 1, 1974;

(B) To serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon all of its future members at such time as they become members;

(C) To collect from its members and hold until further order of the Court any printed or written materials distributed be defendant, including but not limited to the document entitled "Projected Operating Costs," and without regard to whether said materials are filled out or blank, which refer in any manner to (1) Any price charged or to be charged by a body repair shop in the performance and sale of a body repair job, (2) any price, discount, markup, or other term or condition at which new or used parts are sold or are to be sold by a body repair shop, (3) any hourly rate charged or to be charged by a body repair shop, (4) any profit margin utilized or to be utilized by a body repair shop, or (5) any cost of doing business as a body repair shop; and

(D) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsections A and C of this Section V.

VI

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in the possession or under the control of defendant, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint of interference from it, to interview officers, directors, agents, partners, members, or employees of defendant, who may have counsel present, regarding any such matters.

(B) Defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

VIII

Entry of this Final Judgment is in the public interest.

Dated: _____

United States District Judge.

APPENDIX A

Re: Final Judgment in *United States* v. *Northwest Collision Consultants*, Civil No. C75-837V

DEAR SIR: Enclosed herewith is a copy of a Final Judgment entered _____, 1977 in *United States* v. *Northwest Collision Consultants*, Civil No. C75-837V. The terms of the Final Judgment require that a copy of said Judgment as well as this letter be served upon you. You should read the terms of the Final Judgment carefully and note that you as a member of the association are bound by its provisions. The purpose of this letter is to enable you to better understand those provisions.

The essence and intent of the Final Judgment is that you should make your own pricing and profit decisions without consulting with any other body repair shop or organization of body repair shops. These decisions include not only the total cost or bottom line figure of body repair jobs, but also the cost of parts (including whether or not some discount is given), hourly rates, and profit margins. It is, for example, illegal and a violation of the terms of the Final Judgment to attempt to influence another person to utilize a particular margin in his body repair business. In this connection, you are directed to immediately return to this office all copies in your possession of any "Projected Operating Costs" sheets, whether or not these sheets have been filled out, and any other materials you have relating to the cost of doing business which have been distributed by this office.

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON AT SEATTLE

United States of America, Plaintiff, v. *Northwest Collision Consultants*, Defendant.

Civil No. C75-837V.

Filed: July 29, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. §§ 16 (b)-(h), Pub. L. 93-528 (December 21, 1974)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On December 3, 1975, the United States filed a civil complaint under section 4 of the Sherman Act (15 U.S.C. § 4), alleging that defendant Northwest Collision Consultants, violated section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were that the defendant and various co-conspirators agreed (1) to raise, fix, and maintain hourly rates charged by body repair shops; (2) to eliminate discounts on new parts utilized in the performance of body repair jobs; and (3) to raise, fix, and maintain prices charged by body repair shops for the performance of body repair jobs.

II. PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

In the automobile repair industry, the cost of a body repair job consists of two ingredients: (1) a charge for the parts utilized in the repair of the damaged automobile and (2) a time charge or hourly rate applied to the length of time that each body repair job requires. The time charge or hourly rate includes not only wages paid to the employees of body repair shops, but also includes taxes, insurance, office and other administrative expenses, and a profit margin. The new parts utilized in body repair jobs are all manufactured outside the State of Washington and generally sold to new car dealers who in turn sell the parts to body repair shops.

The defendant Northwest Collision Consults (NCC) is a Washington corporation composed of body repair shops located in the Greater Seattle-Tacoma Area and other communities in Western Washington. The Government contends that beginning in December of 1973 and continuing through December of 1974, the defendant and its members combined and conspired to raise the total cost of body repair jobs by raising and maintaining the hourly rates charged by body repair jobs and also by agreeing to eliminate any discounts on the new parts that are necessary for the repair of the damaged automobile. The effects of this combination and conspiracy, the Government contends, were that competition among members of the defendant was restricted, prices of body repair jobs were maintained at noncompetitive levels, and the owner of damaged automobiles were prevented from receiving competitive bids or competitive prices for body repair jobs.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is similar to an earlier consent judgment published in 41 FR 28550 on July 12, 1976. The Government later withdrew its consent to said earlier judgment following an apparent misunderstanding with defendant's counsel over the interpretation of said judgment. This misunderstanding has now been resolved.

The proposed consent judgment is binding upon all of defendant's members and expressly requires the defendant to serve all of its present members and all of its future members with copies of the judgment. Defendant NCC is prohibited by the consent judgment from having any agreement or understanding concerning any of the following: (1) The total price or cost of a body repair job, (2) any price, discount, or markup at which parts are sold, (3) any hourly rate charged by a body repair shop, or (4) any profit margin utilized by a body repair shop. In addition, the consent judgment contains express prohibitions against attempting to influence any other body repair shop in the prices, discounts, hourly rates, and profit margins which that shop employs. The consent judgment also prohibits any understanding that a body repair shop would not accept or attempt to obtain any body repair job. Finally, the defendant is required to collect from its members and hold until further order of the Court any written materials which it distributed in the past that referred to any price for a body repair job, any discount on parts, any hourly rate, any profit margin, or any cost of doing business as a body repair shop.

To assist defendant's members in understanding and abiding by all the provisions of the consent judgment, the defendant is required to accompany its service of the judg-

ment with a letter, the text of which is appended to the judgment, which explains those provisions.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to section 5(a) of the Clayton Act (15 U.S.C. § 15(a)), as amended, this judgment may not be used as prima facie evidence in private litigation.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), any persons wishing to comment upon the proposed judgment may, for a sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Attention Anthony E. Desmond, Chief, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, Calif. 94102. The Department of Justice will file with the Court and publish in the FEDERAL REGISTER such comments and its response to them. In evaluating any and all such comments, the Department will determine whether there is any reason for withdrawal of its consent to the proposed judgment.

VI. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT CONSIDERED BY THE UNITED STATES

An alternative to the proposed Consent Judgment considered by the Department of Justice was a full trial on the merits. It was determined that such a trial involving substantial expense to the United States as well as the commitment of manpower, was not warranted since the equitable remedies set forth in the proposed Consent Judgment will be effective to restore competition in the automobile body repair business in the western areas of the State of Washington. Moreover, the remedies set forth in the proposed Consent Judgment provide for all the relief requested in the Complaint

VII. DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were determinative in formulating a proposal for a consent judgment, none are being filed by the plaintiff pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)).

Dated: July 29, 1977.

JAMES E. FIGENSHAW,
CHRISTOPHER S. CROOK,
Attorneys, Department of Justice.

[FR Doc.77-22779 Filed 8-5-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

PRIVACY ACT OF 1974

Notice of Systems of Records

Pursuant to 5 U.S.C. 552a(e)(11), section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes notice of systems of records DOL/ETA–18 and DOL/ETA–19, to be established by the Employment and Training Administration; and DOL/LMSA–17 established by the Division of Enforcement, Pension and Welfare Benefits Programs. DOL/ETA–18 will be maintained by ABT Associates, Inc., Cambridge, Mass., under a research study contract to collect data from state agencies and individuals for the purpose of a statistical report under section 906 of the Social Security Act, 42 U.S.C. 1106. DOL/ETA–19 will be maintained by Stanford Research Institute, Menlo Park, Calif., under a similar contract to collect data from state agency records and individuals. The purpose of the study is to determine the extent of and the reasons for delayed filing or never filing for unemployment benefits and to determine the impact of the disqualification provisions of state unemployment insurance laws. ABT Associates, Inc., and Stanford Research Institute are contractors within the meaning of 5 U.S.C. 552a(m) of sec. 3 of the Privacy Act. These systems are exempted under 5 U.S.C. 552a(k)(4) of the Act as records to be used solely for statistical purposes.

DOL/LMSA–17 is an investigatory record, formerly a part of DOL/LMSA–16. These records have been segregated and are now established as a separate system. This system is exempted under 5 U.S.C. 552a (j)(2) and (k)(2) of the Act.

Signed at Washington, D.C., this 28th day of July 1977.

RAY MARSHALL,
Secretary of Labor.

DOL/ETA–18

System name:

Analysis of Delayed and Never Filers for Unemployment Insurance

System location:

ABT Associates, Inc., Cambridge, Mass.

Categories of individuals covered by the system:

Individuals in employment covered by the unemployment insurance system, unemployment insurance claimants.

Categories of records in the system:

Name, wage information, unemployment insurance claim information, questionnaire responses supplied by the individual, and SSN supplied by the individual.

Authority for maintenance of the system:

Sec. 906 of the Social Security Act, 42 U.S.C. 1106.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A research study to estimate the extent of and the reasons for delayed or never-filed for unemployment benefits. Records to be compiled are solely for statistical purposes to be used by the contractor in the conduct of this study.

Storage:

Questionnaires and tapes. When questionnaire responses have been transferred to tape, questionnaires will be destroyed.

Retrievability:

By name until merger of data sources has been completed.

Safeguards:

Only ABT Associates research staff will have access to the data files.

Retention and disposal:

Questionnaires will be destroyed after responses have been transferred to tape. When all necessary cross references and file mergers of state agency administrative information and questionnaire data have been completed, personal identifiers will be destroyed. Data tapes provided to the Federal Government will have no personal identifiers.

System manager and address:

Dr. David Stevens, Project Director ABT Associates, Inc., Cambridge, Mass.

Notification procedure:

Contact Systems Manager.

Record access procedure:

Contact Systems Manager.

Contesting record procedures:

Contact Systems Manager.

Record source categories:

State employment security agency quarterly wage files and unemployment insurance claim files, information voluntarily submitted by questionnaire respondents. Source of mailing addresses for non-filers to be determined.

Systems exempted from certain provisions of the Act:

Statistical records. In accordance with subsection (k)(4) of sec. 3 of the Act, information maintained in the system of records consisting of questionnaires and tapes is exempt from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f). The sole purpose in collecting the information contained in the system is for the preparation of a statistical report in accordance with section 906 of the Social Security Act. The information will not be used in whole or in part in making any determination about an identifiable individual. Identifiable information will be destroyed after all necessary cross-references have been accomplished and the resulting data will be transmitted by the contractor to the Federal agency without personal identifiers.

DOL/ETA–19

System name:

Impact of Disqualification Provisions of State Unemployment Insurance Laws.

System location:

Stanford Research Institute, Menlo Park, Calif.

Categories of individuals covered by the system:

Disqualified unemployment insurance claimants and unemployment insurance beneficiaries.

Categories of records in the system:

Personal and labor force characteristics of unemployment insurance claimants.

Authority for maintenance of the system:

Social Security Act, section 906, 42 U.S.C. 1106.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Records to be compiled are solely for statistical purposes to be used by the contractor in the conduct of his research.

Storage:

All questionnaires and computer tapes will be stored in locked files with access limited to personnel involved in the study.

Retrievability:

Indexed by contractor's control number.

Safeguards:

All materials will be kept in locked file cabinets. Rooms will also be locked.

Retention and disposal:

After the data are entered on computer, the questionnaires and the master file of names and addresses will be destroyed. The final analytical tapes will become the property of the Federal agency and will not contain personal identifiers.

Systems manager and address:

Dr. Henry Felder, Project Director, Center for the Study of Welfare Policy, Stanford Research Institute, Menlo Park, Calif. 94025.

Notification procedure:

Contact Systems Manager.

Record access procedure:

Contact Systems Manager.

Contesting record procedures:

Contact Systems Manager.

Record source categories:

State agency records containing unemployment insurance information; and information voluntarily submitted by unemployment insurance claimants.

Systems exempted from certain provisions of the Act:

Statistical Records. In accordance with subsection (k)(4) of section 3 of the Privacy Act, information maintained in the system of records consisting of questionnaires and tapes is exempt from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f). The sole purpose in collecting the information contained in the system is for the preparation of a statistical report under section 906 of the Social Security Act. The information will not be used in whole or in part in making any determination about an identifiable individual. Identifiable information will be destroyed after all necessary cross-references have been accomplished and the resulting data will be transmitted by the contractor to the Federal agency without personal identifiers.

DOL/LMSA–17

System name:

Investigatory Files—PWBP, Division of Enforcement.

System location:

Department of Labor, Washington, D.C. 20210. Files also may be maintained at field locations.

Categories of individuals covered by the system:

Records are maintained on defendants, respondents, witnesses and other individuals involved in investigations and enforcement actions instituted by the Department of Labor under the Employee Retirement Income Security Act of 1974.

Categories of records in the system:

The system contains information gathered by PWBP in connection with investigations by it into possible violations of the Welfare and Pension Plans Disclosure Act and the Employee Retirement Income Security Act of 1974. Such information may be derived from materials filed with the Department of Labor, the Department of the Treasury and the U.S. Board of Parole, court records, articles from publications, published financial data, employee benefit plan information, corporate information, bank information, securities brokerage firm information, telephone data, statements of witnesses, information received from Federal, State, local, and foreign regulatory and law enforcement organizations, and other sources. This record also contains the work product of government personnel and consultants involved in the investigations.

Authority for maintenance of the system:

29 U.S.C. 1132, 1134, 1135, and 1136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and the information contained in these records may be used for the following:

1. By Department of Labor, Department of Justice, Treasury Department, Commerce Department and other Federal government personnel and consultants investigating possible violations of the Employee Retirement Income Security Act of 1974.

2. In any proceeding where the Employee Retirement Income Security Act of 1974 is in issue or in which the Secretary of Labor, any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the Employee Retirement Income Security Act of 1974, is a party or otherwise involved in an official capacity.

3. When considered appropriate and pursuant to 29 U.S.C. 1134(a), records in this system concerning any matter which is the subject of an investigation by the Department of Labor under the Employee Retirement Income Security Act of 1974 may be made available to any person actually affected by the matter under investigation, and to any department or agency of the United States.

4. Where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, or, if such agency is participating in the particular investigation, the relevant records may continue to be used by the agency to investigate possible violations of laws administered by it and to bring appropriate proceedings.

5. A record from this system of records may be disclosed to a Federal, State, local, or foreign governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. At the discretion of the staff, records from this system may be given or shown to anyone during the course of an investigation if the staff has reason to believe that the person to whom it is disclosed may have further information about the matter discussed therein, and those matters appear relevant to the subject of the investigation.

Policies and practices for storing, retrieving, retaining, and disposing of records in the system:

Storage:

Records may be maintained in hard copy, microfilm and machine readable form.

Retrievability:

Records are indexed by name.

Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal:

Records are maintained indefinitely.

System manager(s) and address:

Assistant Director, Division of Enforcement, PWBP, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

Exemption:

(a) *Criminal law enforcement.* The principal function of the Enforcement Division, Pension and Welfare Benefit Programs, pertains to the enforcement of the provisions of the Employee Retirement Income Security Act of 1974. It conducts investigations to prevent and detect violations of the Employee Retirement Income Security Act of 1974. These investigations sometime develop evidence of criminal violations. They may then be continued by PWBP under a grant of jurisdiction from the Department of Justice. When so continued investigations in appropriate cases will result in criminal prosecutions. Its activities, including joint investigations with the Department of Justice, are carried out under the provisions of the Title 18, U.S. Code, Secs. 664, 1027 and 1954, the Welfare and Pension Plans Disclosure Act and Title I of the Employee Retirement Income Security Act of 1974. In accordance with subsection (j) (2) of the Privacy Act, 5 U.S.C. 552a, an investigative material contained in the index and investigatory files of the Enforcement Division is exempt from all parts of the Act except subsections (b), (c) (1) and (2), (e) (4) (A) through (F), (e) (6), (7), (9) (10), and (11), and (i). The disclosure of information compiled in investigations which may result in criminal prosecution, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations by the PWBP and the Enforcement Division. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of their criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would significantly reduce the effectiveness of the subject investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in criminal activities related to pension and welfare benefit plans.

(b) *Other law enforcement.* In accordance with subsection (k) (2) of the Privacy Act, any investigatory material maintained in the index and investigatory files of the Enforcement Division, Pension and Welfare Benefit Programs which is deemed not to be exempt under subsection (j) (2) of the Act is exempt from subsections (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I), and (f) of 5 U.S.C. 552a. The disclosure of information contained in such investigative files including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the subject investigative activity. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would also impede significantly the effectiveness of the investigatory activities of the Enforcement Division.

[FR Doc 77-22597 Filed 8-5-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Proposal Review Panel for the Office for the International Decade of Ocean Exploration, Ad Hoc Subpanel for the SES Project.

DATE AND TIME: August 23-26, 1977, 9 a.m. to 5 p.m.

PLACE: Pepper Tree Motor Hotel, 3850 State Street, Santa Barbara, Calif. 93105.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7356.

PURPOSE OF PANEL: To provide the IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Seagrass Ecosystem Studies (SES).

AGENDA: Detailed review and evaluation of proposals for support of the SES Project.

REASON FOR CLOSING: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 1, 1977.

[FR Doc.77-22702 Filed 8-5-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Revised Notice of Meeting

The meeting notice for the meeting to be held on August 11-13, 1977 in Room 1046, 1717 H Street NW., Washington, D.C., is revised as detailed below. This revision involves the addition of an item and a related schedule change to discuss the implementation of recommendations in ACRS reports to the Nuclear Regulatory Commission.

SATURDAY, AUGUST 13, 1977

8:30 a.m. to 4 p.m.: Executive Session (Open/Closed).—The Committee will complete preparation of its reports to the NRC on matters discussed during this meeting. Portions of this session will be closed as required to protect matters involved in NRC adjudicatory proceedings. A portion of this meeting will include discussion with representatives of the Nuclear Regulatory Commission Staff to discuss implementation of recommendations in ACRS reports to the Nuclear Regulatory Commission. The request for this portion of the meeting, which will be open to the public, was received on July 27, 1977 by the ACRS Office after the agenda for the 208th meeting had been formulated and transmitted to the FEDERAL REGISTER for publication. Prompt resolution is needed to insure expeditious implementation of ACRS recommendations related to public health and safety. This session is scheduled from 10 a.m. to 11 a.m.

Dated: August 4, 1977

JOHN C. HOYLE,
Advisory Committee Management Officer

[FR Doc 77-22802 Filed 8-5-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SITING EVALUATION SUBCOMMITTEE

Meeting Postponed

The August 9, 1977 meeting of the ACRS Siting Evaluation Subcommittee has been postponed indefinitely.

Notice of this meeting was published in the FEDERAL REGISTER, page 37880, on July 25, 1977.

Dated: August 1, 1977.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc 77-22524 Filed 8-5-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE VERMONT YANKEE NUCLEAR POWER PLANT

Meeting Postponed

The August 16, 1977 meeting of the ACRS Subcommittee re the Vermont Yankee Nuclear Power Plant has been postponed indefinitely. Notice of this meeting was published in the FEDERAL REGISTER, page 38945, on August 1, 1977.

Dated: August 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-22876 Filed 8-5-77;8:45 am]

[Docket Nos. 50-325, 50-324]

CAROLINA POWER & LIGHT CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 7 and 29 to Facility Operating Licenses Nos. DPR-71 and DPR-62, issued to Carolina Power & Light Co., which revised technical specifications for operation of the Brunswick Seam Electric Plant, Unit Nos. 1 and 2 (the facilities) located in Brunswick County, N.C. The amendments are effective as of the date of their issuance.

The amendments revise numerous provisions in the Environmental technical specifications relating to limitations and monitoring requirements for non-radiological liquid effluents.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised technical specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action greater than that which has already been predicted and described in the Commission's final environmental statement for the facilities dated January 1974.

For further details with respect to this action, see (1) the application for amendments dated January 11, 1977, (2) Amendment No. 7 to License No. DPR-71, (3) Amendment No. 29 to License No. DPR-62, and (4) Commission's related environmental impact appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Southport Brunswick County Library, 109 W. Moore Street, Southport, N.C. 28461. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of July 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-22707 Filed 8-5-77;8:45 am]

[Docket Nos. STN 50-491, STN 50-492, and STN 50-493]

DUKE POWER CO. (CHEROKEE NUCLEAR STATION, UNIT NOS. 1, 2, AND 3)

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Cherokee Nuclear Station, Unit Nos. 1, 2, and 3, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on June 10, 1976 (41 FR 23489).

Since that time, the Atomic Safety and Licensing Board has determined that additional activities may be authorized. The additional activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(3) and include final foundation preparation and inspection and fill placement, compaction, and testing for the Nuclear Service Water (NSW) Pond Dam; all work required to construct the NSW Pond Spillway and discharge channel; work required to install the NSW pipe in the yard; work required to construct the NSW intake structure.

Any activities undertaken pursuant to this additional authorization are entirely at the risk of the Duke Power Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Supplemental Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on July 26, 1977. A copy of (1) the Supplemental Partial Initial Decision; (2) the Partial Initial Decision dated May 21, 1976; (3) the applicant's Preliminary Safety Analysis Report and amendments thereto; (4) the applicant's Environmental Report, and amendments thereto; (5) the staff's Final Environmental Statement dated October 1975; (6) the Commission's letters of authorization, dated May 28, 1976 as amended January 19, 1977, and February 23, 1977; and (7) the Commission's further letter of authorization dated July 28, 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Cherokee County Library, 300 East Rutledge Avenue, Gaffney, South Carolina.

Dated at Bethesda, Maryland, this 28th day of July 1977.

For the Nuclear Regulatory Commission.

R. W. FROELICH,
Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-22528 Filed 8-5-77;8:45 am]

[Docket No. 50-247]

INDIAN POINT NUCLEAR GENERATING STATION UNIT NO. 2

Availability of Initial Decision of the Atomic Safety and Licensing Board and Issuance of Amendment to Facility Operating License No. DPR-26

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that initial decision, dated June 17, 1977, has been issued by the Atomic Safety and Licensing Board in the above captioned proceeding authorizing issuance of a license amendment to the Consolidated Edison Co. of New York, Inc., for operation of Indian Point Nuclear Generating Station Unit No. 2, located in Westchester County, N.Y.

The initial decision is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, N. Y. 10548. The initial decision is also being made available at the New York State Division of the Budget, State Capitol, Albany, N.Y. 12224, and the Tri-State Regional Planning Commission, One World Trade Center, 56 South Street, New York, N.Y. 10048.

Any decision or action taken by the Atomic Safety and Licensing Board in connection with the initial decision may be reviewed by the Atomic Safety and Licensing Appeal Board.

Pursuant to the above mentioned initial decision, the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility

Operating License DPR-26 to Consolidated Edison Co. of New York, Inc., for operation of a pressurized water nuclear reactor known as the Indian Point Nuclear Generating Station Unit No. 2. The license is amended by a change which states that the final termination date of once-through cooling is May 1, 1982.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. The application for the license amendment complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license amendment is effective as of its date of issuance.

Copies of the (1) Initial Decision dated June 17, 1977, and (2) Amendment No. 32 to Facility Operating License DPR-26 are available for public inspection at the above designated locations in Washington, D.C., and New York. Single copies of both items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 29th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-22708 Filed 8-5-77;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government organization, siting, design, operation, and quality assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by Member Countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide, SG-D7, "Safety Related Electrical Power Systems," has been developed. An IAEA Working Group, consisting of Mr. J. Kollmannsberger, Germany; Mr. G. Kvist, Sweden; and Mr. C. J. Wylie (Duke Power Co.), United States of America, developed this draft from an IAEA collation during a meeting on May 5, 1977, and we are soliciting public comment on it. Comments on this draft received by November 1, 1977, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

(5 U.S.C. 522(a).)

Dated at Rockville, Md. this 22d day of July 1977.

For the Nuclear Regulatory Commission

ROBERT B. MINOGUE,
Director, Office of Standards Development.

FR Doc.77-22709 Filed 8-5-77;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO., CENTRAL IOWA POWER COOPERATIVE, AND CORN BELT POWER COOPERATIVE

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-49 issued to Iowa Electric Light & Power Co., Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised technical specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the technical specifications which will reduce DAEC's operating limit minimum critical power ratio (MCPR), allowing an increase of up to 5 percent power. The power increase resulting from this license amendment is separate from the power increase sought by the licensees in their submittal of June 24, 1977, as a result of a modified ECCS analysis. This latter licensing action was noticed in the FEDERAL REGISTER on July 28, 1977 (42 FR 38442). The proposed changes will not result in any change in the present safety limit MCPR of 1.06 which has been previously reviewed and approved.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 17, 1977, as supplemented by letters dated July 6, 1977, and July 11, 1977, (2) Amendment No. to License No. DPR-49, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this ...

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-22710 Filed 8-5-77;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-63 issued to Niagara Mohawk Power Corp. (the licensee), located in Oswego County, N.Y.

In accordance with the licensee's application for amendment dated December 7, 1976, the amendment would revise the provisions in the Technical Specifications relating to the spent fuel pool. As amended, the Technical Specifications would permit the licensee to replace the storage racks in the present spent fuel storage pool, increasing its capacity from 1,140 fuel assemblies to 1,984 fuel assemblies.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 7, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioners contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arvin E. Upton, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated December 7, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego City Library, 120 E. Second Street, Oswego, N.Y.

Dated at Bethesda, Md., this 2d day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc 77-22718 Filed 8-5-77;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO., THE HARTFORD ELECTRIC LIGHT CO., WESTERN MASSACHUSETTS ELECTRIC CO., AND CONNECTICUT LIGHT AND POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Provisional Operating License No. DPR-21, issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility), located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revised the Technical Specifications for the facility to update the Limiting Conditions for Operation and Surveillance Requirements for hydraulic snubbers and to authorize a change in the method of verifying operability of the reactor vessel safety/relief valves.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 22, 1976 (as supplemented by letter dated June 15, 1977) and March 4, 1976, (2) Amendment No. 41 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washingtn, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-22711 Filed 8-5-77;8:45 am]

[Docket No. 50-133]

PACIFIC GAS AND ELECTRIC CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

PACIFIC GAS AND ELECTRIC COMPANY

(HUMBOLDT BAY POWER PLANT, UNIT NO. 3), FACILITY OPERATING LICENSE NO. DPR-7

This action is in reference to a notice published by the Commission on June 23, 1977, in the FEDERAL REGISTER (42 FR 31847) entitled "Proposed Issuance of Amendment to Facility Operating License".

The members of the Board and their addresses are as follows:

Frederic J. Coufal, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Gustave A. Linenberger, Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. David R. Schink, Department of Oceanography, Texas A & M University, College Station, Texas 77840

Dated at Bethesda, Maryland, this 29th day of July 1977.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Chairman.

[FR Doc 77-22526 Filed 8-5-77;8:45 am]

[Docket No. 50-133]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued

Amendment No. 15 to Facility Operating License No. DPR-7, issued to Pacific Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Humboldt Bay Power Plant, Unit No. 3 (the facility) located near Eureka, California. The amendment is effective as of its date of issuance.

This amendment incorporates into the Humboldt Bay Power Plant, Unit No. 3 Technical Specifications revised reactor vessel pressure-temperature limits for hydrostatic testing, heatup and cooldown, and critical operation. This amendment does not authorize restart of the facility which is presently not in operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 19, 1977, (2) Amendment No. 15 to License No. DPR-7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Humboldt County Library, 636 F. Street, Eureka, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc 77-22712 Filed 8-5-77;8:45 am]

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER AND LIGHT CO., ALLEGHENY ELECTRIC COOPERATIVE, INC.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Pennsylvania Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 12, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Allegheny Electric Cooperative, Inc. as an owner of the Susquehanna Steam Electric Station, Units 1 and 2.

The information was filed by Pennsylvania Power and Light Company in connection with their application for construction permits and operating licenses for two boiling water nuclear reactors. The Pennsylvania Power and Light Company was issued two construction permits on November 2, 1973 for their Susquehanna Steam Electric Station, Units 1 and 2. Construction is underway on a site located in Salem Township, Luzerne County, Pennsylvania.

The original antitrust portion of the application was submitted on March 23, 1971 and Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on May 7, 1971 (36 FR 8529). The Notice of Hearing was published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20090).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Allegheny Electric Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before August 23, 1977.

Dated at Bethesda, Maryland, this 16th day of June, 1977.

For The Nuclear Regulatory Commission.

ANTHONY BOURNIA,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-20443 Filed 8-5-77;8:45 am]

[Docket Nos. 50-387A and 50-388A]

PENNSYLVANIA POWER AND LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE INC.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated July 28, 1977:

You have requested additional antitrust advice pursuant to Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited nuclear generating station.

The initial application relating to Susquehanna Station, Units 1 and 2, was reviewed in 1972. The Department advised your predecessor commission that so long as Pennsylvania Power and Light (PP&L) acted to amend certain provisions in its wholesale power contracts, an antitrust hearing would not be necessary. Those contracts have since been satisfactorily amended.

PP&L has now agreed to sell, and Allegheny Electric Cooperative, Inc. has agreed to purchase a 10 percent undivided ownership interest (105MW) in each of the Susquenhanna Units. You have asked the Department to render antitrust advice concerning Allegheny's acquisition of an ownership interest in Susquehanna Station.

Allegheny Electric Cooperative, Inc. is an association consisting of rural electric cooperatives in Pennsylvania. Allegheny supplies the demand and energy requirements of its member cooperatives only. Its 1975 annual peak demand was 368.44 MW. Allegheny does not own any existing generation or transmission. (As part of its agreement with PP&L, Allegheny will purchase approximately 47 miles of transmission line from that company. The line will be owned and paid for by Allegheny, but constructed and operated by PP&L.) In 1976, its power was supplied by the following sources:

Power Authority of the State of New York (134.45 MW).
Pennsylvania Electric Company (163.48 MW.
Metropolitan Edison Company (21.43 MW.
West Pennsylvania Power Company (31.22 MW).
Jersey Central Power & Light Company (17 MW).

On the basis of our review of the information submitted by Allegheny, as well as other relevant information, we conclude that an antitrust hearing will be necessary with respect to Allegheny's acquisition of an ownership interest in Susquehanna Station.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by September 7, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW, Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust & Indemnity Group, Nuclear Reactor Regulation.

[FR Doc 77-22804 Filed 8-5-77;8:45 am]

[Docket No. PRM-50-22]

PUBLIC INTEREST RESEARCH GROUP, ET AL

Filing of Petition for Rulemaking

Notice is hereby given that William B. Schultz, Esquire, and John Abbotts, Esquire, have filed with the Nuclear Regulatory Commission a petition for rulemaking dated July 5, 1977, on behalf of the Public Interest Research Group (PIRG), Community Action Research Group (CARG), Critical Mass Energy Project, Environmental Action, Inc., and New York Public Interest Research Group (NY PIRG).

The petitioners request the Commission to initiate rulemaking to promulgate regulations for nuclear power plant decommissioning which would require plant operators to post bonds, to be held in escrow, prior to each plant's operation, to insure that funds will be available for proper and adequate isolation of radioactive material upon each plant's decommissioning. The petitioners state that the regulations should also require that nuclear power plants already in operation establish plans and immediately post bonds, to be held in escrow, to insure proper decommissioning.

The petitioners state that a formula should be established for setting an adequate bond to cover the costs of guarding and/or disposing of decommissioned power reactors, both for reactors which have been licensed and for those which will be licensed in the future, and that the Commission should establish general procedures to be followed in isolating radioactive components from decommissioned reactors.

The petitioners state that at the end of its useful life, a nuclear power reactor and associated structures are contaminated with radioactive isotopes that take thousands of years to decay and which will require several millions of dollars to isolate. It is the view of petitioners that the proposed regulations would insure that the power companies which operate reactors, and not future generations, bear the cost of decommissioning. The petitioners contend also that since decommissioning will not occur until after the 40-year operating license has expired, and may require substantial capital expenses for hundreds of years thereafter, companies which are now financially stable may not have the capacity to pay decommissioning and guardianship costs when necessary.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Docketing and Service Branch by October 7, 1977.

Dated at Washington, D.C., this 3d day of August 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22717 Filed 8-5-77;8:45 am]

[Docket Nos. 50-443, 50-444; Construction Permit Nos. CPPR-135, CPPR-136]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Order Reinstating Certain Construction Activities

Pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), and Title 10, Chapter 1, Code of Federal Regulations, Parts 2 and 50, and pursuant to the Memorandum and Order of the Atomic Safety Licensing and Appeal Board (ALAB-423) dated July 26, 1977, it is hereby ordered that Construction Permit No. CPPR-135 and Construction Permit No. CPPR-136 issued on July 7, 1976 to Public Service Company of New Hampshire, et. al., for Seabrook Station, Units 1 and 2, and suspended effective 6 p.m. (e.d.t.) on April 8, 1977, be reinstated in full as of 12:01 a.m., August 1, 1977.

Date of Issuance: July 29, 1977.

For The Nuclear Regulatory Commission.

HAROLD R. DENTON,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-22525 Filed 8-5-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.115, Revision 1, "Protection Against Low-Trajectory Turbine Missiles," describes methods acceptable to the NRC staff for protecting essential systems against potential low-trajectory missiles in the event of a gross turbine failure. The regulatory guide addresses protection by means of turbine orientation and placement or by barriers. It is recognized that there are other methods of demonstrating adequate protection from potential turbine missile damage. Such alternatives, if proposed by applicants, will be reviewed by the staff and approved if found acceptable. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, Washington, D.C. 20555, attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 1st day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development

[FR Doc 77-22715 Filed 8-5-77;8:45 am]

SAFEGUARDS CONTINGENCY PLANS AND UPGRADED SAFEGUARDS FOR STRATEGIC SPECIAL NUCLEAR MATERIAL

Public Meetings

Notice is hereby given that the staff of the Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Contingency Planning Branch, will meet with those fuel-cycle licensees and their transportation agents who will be required by the proposed rule published for comment on May 19, 1977 (42 FR 25744) to submit safeguards contingency plans. The meeting will be held August 23 and 24, 1977, from 9 a.m. to 5 p.m., at the facilities of the Defense Industrial Security Institute, which are located at the Defense General Supply Center near Chester, Virginia.

On July 5, 1977, a proposed rule to require upgraded physical protection for highly enriched uranium and plutonium in NRC licensed activities was published for comment (42 FR 34310). This proposed rulemaking is part of an orderly strengthening of safeguards announced by the Commission in its memorandum and order issued January 21, 1977 (42 FR 5150). Appropriate members of NRC staff will meet with fuel-cycle licensees and their transportation agents concerning the proposed rule to upgrade safe-

guards on August 25, 1977, from 9 a.m. to 3 p.m. This meeting will also be held at the facilities of the Defense Industrial Security Institute near Chester, Virginia.

Although the primary purpose of the meetings is to give additional information to affected licensees and transportation agents as to implementation of the proposed rules, attendance is open to the interested public but limited to the space available. Persons desiring to attend either of the meetings should inform T. F. Carter, Jr., Chief, Contingency Planning Branch, Division of Safeguards, phone: 301-427-4191, before August 15, 1977, so that appropriate arrangements can be made for their attendance. Members of the public may be permitted to make oral statements in connection with the subject of either meeting, time and circumstances permitting. Statements would be limited to one per public attendee at either meeting, not to exceed 15 minutes in delivery. No participation by a member of the public need be permitted other than the making of a statement by that person. NRC staff need not respond at the meetings to any statement made by a member of the public other than to acknowledge the statement.

Dated at Silver Spring, Md., this 29th day of July, 1977.

For the Nuclear Regulatory Commission.

CLIFFORD V. SMITH, Jr.,
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc 77-22716 Filed 8-5-77;8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO., AND CLEVELAND ELECTRIC ILLUMINATING CO.

Davis-Besse Nuclear Power Station, Unit No. 1; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and the Cleveland Electric illuminating Company, for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment removes a condition which stipulated the amount of time allowed from date of issuance of the operating license for completing the installation of the gaseous radwaste treatment system oxygen monitors.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 5 to License No. NPF-3, and (2) the Commission's related Safety Evaluation supporting Amendment No. 5 to License No. NPF-3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items 1 and 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 21 day of July 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-22713 Filed 8-5-77;8:45 am]

TOLEDO EDISON CO., ET AL.

Oral Argument

In the Matter of the Toledo Edison Company and the Cleveland Electric Illuminating Company, (Davis-Besse Nuclear Power Station, Units 1, 2, and 3), Docket Nos. 50-346A, 50-500A, 50-501A. The Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2), Docket Nos. 50-440A, 50-441A.

Notice is hereby given that, in accordance with the Appeal Board's order of July 27, 1977, oral argument on the appeals from the Licensing Board's January 6, 1977 initial decision in this antitrust proceeding is calendared for 10 a.m. on Tuesday, September 20, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: July 27, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-22527 Filed 8-5-77;8:45 am]

[Dockets Nos. 50-280, 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 32 and 31 to Facility Operating Licenses Nos. DPR-32 and DPR-37, issued to Virginia Electric & Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Stations, Units Nos. 1 and 2 (the facilities) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments permit a brief outage period for the Boron Injection Tank recirculation flow path, while the reactors are operating, during which time the flow path may be serviced or repaired.

The application for the amendments comlies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 23, 1977, (2) Amendments Nos. 32 and 31 to Licenses Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-22714 Filed 8-5-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 2, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Laboratory Performance Evaluation, annually, water analysis labs providing data for EPA, Ellett, C. A., 395-5867.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

A Survey of Occupational Employment in Nuclear energy, Activities, 1977, ERDA-601, other (see SF-83), establishments with nuclear activities, Strasser, A., 395-5867.

VETERANS ADMINISTRATION

Request for Identifying Information Re Veterans Loan Records, FL 26-626, on occasion, correspondents, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration:
- Chlorates and Perchlorates, DIB-9003, single time, producers of chlorates and perchlorates, C. Louis Kincannon, 395-3211.
- Crystal Growth, DIB-9005, single time, crystal growers, C. Louis Kincannon, 395-3211.
- Polypropylene Resins, DIB-9006, single time, producers of polypropylene resins, C. Louis Kincannon, 395-3211.
- Personnel Problems at On-Site Locations in Communist Countries; Personnel Problems in Representation Offices in Communist Countries, DIB-6035P, DIB-6036P, single time, U.S. companies who have sent Personnel to on-site locations. Lowry, R. L., 395-3772.

REVISIONS

DEPARTMENT OF COMMERCE

Economic Development Administration:
- Petition by a Firm for Certification of Eligibility to Apply for Adjustment, Assistance, ED-435, on occasion, import-impacted firms, Lowry, R. L., 395-3772.
- Local Public Works Application, ED-101LPW, on occasion, local and state governments; Indian Tribes, Lowry, R. L., 395-3772.
- Local Public Works Application Supplement, ED-101LPW-S, on occasion, local and state governments; Indian Tribes, Lowry, R. L., 395-3772.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Change Form—Recognitions and agreements, CSC 913-B, on occasion, government agencies, Marsha Traynham, 395-4529.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Claim for Reimbursement (Child Care Program), FNS-82, monthly, Institution administered by FNS, Human Resources Division, 395-3532.

Statistical Reporting Service:
- Potato Stocks Quality Survey, annually, potato growers, Marsha Traynham, 395-4529.
- Monthly Cold Storage Survey, monthly, refrigerated warehouses, Marsha Traynham, 395-4529.

Food and Nutrition Service, Regulations for the National School Lunch Program, on occasion, State agencies and school food authorities, Human Resources Division, 395-3532.

Statistical Reporting Service, Survey of Vegetables for Processing, other (see SF-83), vegetable processors, Marsha Traynham, 395-4529.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Follow-Up Schedule of Expenditures Abroad for Property Plant, and Equipment, BE 133 B, annually, Corporations having foreign affiliates, Marsha Traynham, 395-4529.

Economic Development Administration, Application for Technical Assistance Report Through Government Staff or by Private Contract, ED-302, on occasion, EDA qualified applicants, Lowry, R. L., 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:
- Application for Project Mortgage Insurance, FHA-2013, on occasion, all multifamily sponsors, Housing, Veterans, and Mortgagees Application for Property Appraisal and Commitment, etc., FHA-2800, on occasion, FHA approved lending Institutions, Human Resources Division, 395-3532.

VELMA BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-22916 Filed 8-5-77;8:45 am]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period July 11, 1977 through July 22, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF AGRICULTURE

System names:
(1) Office of Operations Personnel File.
(2) Parking applications.
(3) Secretary's Controlled Correspondence.

Report Date. June 30, 1977.

Point-of-Contact:
Mr. Douglas S. Wood, U.S. Department of Agriculture, Room 2321-S, Washington, D.C. 20250.

Summary. The three systems are administrative records to be used in the office of operations.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

System Name. Transfer of U.S. Students in Foreign Medical Schools to U.S. Schools.

Report Date. July 8, 1977.

Point-of-Contact:
Phillip C. Spiller, Privacy Act Coordinator, Health Resources Administration, Room 9A07, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland 20857.

Summary. This system is intended to implement the Health Professions Educational Assistance Act of 1977 by assisting U.S. citizens in foreign medical schools who wish to transfer to U.S. schools.

DEPARTMENT OF DEFENSE

System Name. Boston Equal Employment Opportunity (EEO) Skills Bank.
Report Date. July 11, 1977.
Point-of-Contact:
Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Room 5H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.
Summary. The proposed system will establish a skills bank to provide guidance and assistance toward applying for jobs offering upward mobility opportunities.

NATIONAL SCIENCE FOUNDATION

System Name. Visiting Women Scientists Roster.
Report Date. July 12, 1977.
Point-of-Contact:
Mr. Herman G. Fleming, NSF Privacy Act Officer, National Science Foundation, Washington, D.C. 20550.
Summary. Purpose of the system is to maintain a list of women scientists to visit high schools and encourage young women to consider careers in science and technology.

DEPARTMENT OF THE INTERIOR

System Names:
(1) National Water Data Exchange Water Data Sources Directory.
(2) National Water Data Exchange User Accounting System.

Report Date. July 13, 1977.

Point-of-Contact:

Mr. Warren Dahlstrom, U.S. Department of the Interior, Washington, D.C. 20240.

Summary. The two systems will assist users of water data in the location, identification, and acquisition of needed data, and refer requester of data to the most expedient organization or individuals.

UNITED STATES INTERNATIONAL TRADE COMMISSION

System Name. Proposed Amendments to Financial Disclosure Regulations for Commission Employees.

Report Date. July 20, 1977.

Point-of-Contact:

Rhond Roth, General Counsel's office, U.S. International Trade Commission, Washington, D.C. 20436.

Summary. The proposal will increase and change the number and kind of individuals in the system of records who must submit statements of employment and financial interest.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System Names:

(1) The 1978 Survey of Disabled and Nondisabled (Statistics).

(2) Curricula Vitae of Consultants to the National Center for Health Statistics.

Report Date. July 18, 1977.

Point-of-Contact:

Mr. John D. Young, Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Summary. The first system will evaluate the public's knowledge of government disability programs; the second will list potential consultants to assist National Center for Health Statistics.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-22696 Filed 8-5-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Advisory Group on White House Information Systems.

DATE: August 24 and 25, 1977.

TIME: 9 a.m. to 5:30 p.m.

PLACE: Room 308, Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

TYPE OF MEETING: Open, subject to space limitations. Those wishing to attend must call the contact person below at least 48 hours in advance of the meeting.

CONTACT PERSON:

Dr. Joel A. Snow, Advisory Group Executive Secretary, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500; Telephone 202-395-3153.

PURPOSE OF ADVISORY GROUP: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the Reorganization Team.

AGENDA: 9 a.m. to 5:30 p.m.—This first (organizational) panel meeting will include presentations on history and background of EOP information needs by EOP staff members; and panel discussions of these presentations, possible issues and alternatives, definition of study agenda and priorities, and future meeting agenda.

The Committee Management Secretariat, OMB, has waived the requirement of 15 days publication of notice of determination in the FEDERAL REGISTER prior to the groups' establishment.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc.77-22703 Filed 8-5-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0280]

A B SMALL BUSINESS INVESTMENT COMPANY, INC.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that AB Small Business Investment Company, Inc. (AB), Schoolhouse Road, Cheshire, Connecticut 06410, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.1004 of the Regulations governing small business investment companies (SBIC) (13 CFR 107.1004)), for approval of a conflict of interest transaction.

AB desires to provide financing in the amount of $100,000 to Mr. Joseph Stasiak for the purpose of enabling that individual to purchase 100 percent of the stock of Cooper's Supermarket (Cooper's), Vista, New York, from Bozzuto's, Inc. (Bozzuto's), in order to operate Cooper's as his own business enterprise. Cooper's is an asset which was acquired by Bozzuto's several years ago in payment of its debts to Bozzuto's. Since this acquisition, the supermarket has been operated by Bozzuto's under the management of Mr. Stasiak.

In accordance with the definition of the term "Associate of a Licensee," set forth ulnder § 107.3 of the Small Business Administration's (SBA) Regulations, Bozzuto's is an Associate of AB through its ownership of 100 percent of AB's outstanding common shares. Mr. Stasiak is also an Associate of AB due to his position as the manager of Cooper's for Bozzuto's.

Pursuant to the provisions of §§ 107.1004 and 107.1301 of SBA Regulations, these affiliations require A B to obtain an exemption from §§ 107.1004(b)(5) and 107.1001(g), respectively, in order to provide the necessary financing to Mr. Stasiak.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit written comments to SBA on the proposed financing. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by A B in a newspaper of general circulation in Vista, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 29, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-22632 Filed 8-5-77;8:45 am]

[SBLC No. 0006]

ALLIED LENDING CORP.

Issuance of Small Business Lending Corporation Participation Agreement

On October 18, 1976, a notice was published in the FEDERAL REGISTER (41 FR 45923) stating that an application had been filed by Allied Lending Corp., Washington, D.C. 20006, with the Small Business Administration (SBA), pursuant to section 120.4(b) of the Regulations governing loan policy and participation (13 CFR 120.4 1977) or a participation agreement as a "Subsection (b) Lender" or small business lending company (SBLC).

Interested parties were given until close of business November 2, 1976, to submit their comments to SBA. Allied also published a similar notice in a newspaper of general circulation. No comments were received.

Notice is hereby given that, pursuant to section 120.4(b) of the regulations, after giving consideration to the application and all other pertinent information SBA had issued, June 14, 1977, Small Business Lending Company Participation Agreement No. 0006 to Allied Lending Corp. to operate as an SBLC in SBA Regions III and IV.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans.)

Dated: July 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-22629 Filed 8-5-77;8:45 am]

[License No. 03-03 0127]

AMERICAN VENTURE CAPITAL COMPANY

Issuance of Small Business Investment Company License

On March 18, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 15161) stating that an application had been filed by American Venture Capital Company, Suite 200, Axe Wood West, Skippack Pike and Butler Pike, Ambler, Pennsylvania 19002, with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company (SBIC).

Interested parties were given until the close of business March 28, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issue License No. 03-03-0127 to American Venture Capital Company to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, the Small Business Investment Companies.)

Dated: August 2, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-22789 Filed 8-5-77;8:45 am]

[Declaration of Disaster Loan Area No. 1351]

NEW YORK

Declaration of Disaster Loan Area

Park Avenue between 111th and 116th Streets in East Harlem, New York County, New York City, N.Y., constitutes a disaster area because of damage resulting from a fire which occurred on July 4, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on September 26, 1977, and for economic injury until the close of business on April 28, 1978, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, N.Y. 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-22628 Filed 8-5-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by September 6, 1977. Addressed to: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1. Motor vehicle, 2. Rail freight, 3. Cargo vessel, 4. Cargo-only aircraft, 5. Passenger-carrying aircraft.

New exemptions

Application No.	Applicant	Regulation(s) affected	Nature of application
7804-N	Igloo Corp., Houston, Tex.	49 CFR 178.35a	To manufacture, mark and sell inside polyethylene containers, similar to DOT Specification 2SL, for shipment of certain hazardous materials. (Modes 1, 2, and 3.)
7805-N	Dow Chemical U.S.A., Freeport, Tex.	49 CFR 173.119	To authorize shipment of a flammable liquid in non-DOT portable tanks. (Modes 1 and 3.)
7807-N	U.S. Environmental Protection Agency, Washington, D.C.	49 CFR 173.119	To authorize shipment of gasoline in non-DOT belly tanks and fuel containers. (Mode 1.)
7808-N	Whitmire Research Laboratories Inc., St. Louis, Mo.	49 CFR 173.34(d)(1), Note 1	To authorize shipment of certain nonflammable compressed gases in DOT 39 aluminum cylinders without safety relief devices. (Modes 1, 2, and 4.)
7809-N	U.S. Rubber Reclaiming Co., Vicksburg, Miss.	49 CFR 173.201	To authorize shipment of ground rubber in non-DOT specification polyethylene bags. (Modes 1 and 2.)
7811-N	Burdick & Jackson, Laboratories Inc., Muskegon, Mich.	49 CFR 178.210	To authorize handholes in DOT 12A fiberboard boxes authorized for flammable and corrosive liquids. (Modes 1, 2, 3, and 4.)
7812-N	Capel Klang, South San Francisco, Calif.	49 CFR 172.202(b)	To authorize use of shipping papers with a further description juxtaposed between the shipping name and hazard class. (Mode 1.)
7813-N	Lithium Corporation of America, Gastonia, N.C.	49 CFR 173.245b(a)(5)	To authorize shipment of lithium hydro-oxide monohydrate in 65 gal capacity DOT 21C fiber drums net weight not over 550 lb. (Modes 1, 2, and 3.)
7814-N	U.S. Department of Defense, Washington, D.C.	49 CFR 176.83(a), 176.76(a)(1)	To authorize transportation by cargo vessel, privately owned motor vehicles equipped with a charged cylinder tire inflator not overpacked. (Mode 3.)
7815-N	Miller Transporters Inc., Jackson, Miss.	49 CFR 173.119(m)	To authorize transportation of acrylonitrile in MC 305 and MC 306 tank motor vehicles. (Mode 1.)
7817-N	Agfa-Gevaert Inc., Teterboro, N.J.	49 CFR 172.202	To authorize use of shipping papers which do not show the hazard classification for certain n.o.s. descriptors. (Modes 1, 2, 3, 4 and 5.)
7818-N	Asiatic Petroleum Corp., New York, N.Y.	49 CFR 173.264(b)(4)	To authorize shipment of anhydrous hydrofluoric acid in non-DOT portable tanks (Modes 1, 2 and 3.)
7819-N	Hugonnet, S.A., Paris, France	49 CFR 173.119(a), b), 173.245, 173.247, 173.272, 173.294, 173.346, 173.347, 173.348, 173.349, 173.361, 173.362(a)	To authorize shipment of flammable, corrosive, and Class B poisonous liquids in non-DOT portable tanks. (Modes 1, 2 and 3.)
7820-N	....do....	49 CFR 173.32(a)(2), 173.119, 173.125, 172.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.346	To authorize shipment of certain flammable, corrosive, and poison B liquids in non-DOT specification portable tanks. (Modes 1, 2 and 3.)
7821-N	Linden Chlorine Products, Inc., Cranford, N.J.	49 CFR 173.314	To authorize shipment of anhydrous hydrogen chloride in DOT 105A600W tank cars. (Mode 2.)

This notice of receipt of applications for new exemptions published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on August 1, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations

[FR Doc.77-22604 Filed 8-5-77;8:45 am]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing applications awaiting disposition.

DATES: Comments by August 25, 1977, addressed to: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of special permit or exemption
3395-X	Rebhold, Chemicals, Inc., Austin, Tex.	3395
3711-X	Mc B Manufacturing Chemists, Norwood, Ohio.	3711
4230-X	Fenwal, Incorporated, Ashland, Mass.	4230
6547-X	Victor B. Metz, Woodland, Calif.	6547
6712-X	Air Products and Chemicals, Allentown, Pa.	6712
6932-X	Fauvel-Girel, Paris, France.	6932
7005-X	Phillips Petroleum Co., Bartlesville, Okla.	7005
7010-X	Great Lakes Chemical Corp., Alexandria, Va.	7010
7010-X	Dow Chemical Co., Midland, Mich.	7010
7082-X	Iceloo Corp., Houston, Tex.	7082
7418-X	Seatrain Lines, Inc., Weehawken, N.J.	7418
7131-X	Nalco, Inc., Chicago, Ill.	7131
7410-X	Roux Laboratories, Inc., Jacksonville, Fla.	7410
7446-X	Kaiser Aluminum & Chemical Corp., Erie, Pa.	7116
7470-X	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.	7470
7480-X	Mi or Company, Inc., Milwaukee, Wis.	7180
7810-X	Allied Chemical Corp., Morristown, N.J.	7810
6554-P	Kiefer McNeil Division, McNeil Corp., Medina, Ohio.	6554
6614-P	Georgia-Pacific Corp., Montebello, Calif.	6614
7792-P	Vistron Corp., Cleveland, Ohio.	7792 N

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on August 1, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-22605 Filed 8-5-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Dept. Order No. 150-87]

COMMISSIONER OF INTERNAL REVENUE

Authority to Undertake Certain Tax Audits and Checks and to Furnish Tax Return Information Related Thereto to the Assistant Secretary (Administration) and Others

In accordance with the authority vested in me as Secretary of the Treasury, including 26 U.S.C. 7602, 26 U.S.C. 6103(c) and (g)(2), Reorganization Plan No. 26 of 1950, Executive Order No. 11222, 31 CFR Part 0, and for the purpose of promoting public confidence in the Department of the Treasury and its administration of the Federal tax system, it is hereby ordered that:

1. Introduction.—The Commissioner of Internal Revenue shall conduct tax audits, tax checks and income tax filing record checks as provided for by this Order.

2. Definitions.—As used in this Order, the term:

(a) "Income tax filing record check" means a search by IRS of its records to verify that a tax return has been filed with it for the immediately preceding year.

(b) "Tax Audit" means a review by IRS to determine the correct Federal income tax liability of an individual for the immediately preceding two years.

(c) "Tax Check" means a search by IRS of its records to determine:

(1) Whether the individual has filed returns with respect to Federal income taxes for the immediately preceding three years;

(2) Whether there has been a failure to pay any tax within 10 days after notice and demand, or whether there has been assessed a penalty under the Internal Revenue Code of 1954, as amended, for negligence in the current year or immediately preceding three years;

(3) Whether there is a record of an investigation for possible criminal offenses under the internal revenue laws, and the results of any such investigation; and

(4) Whether there is a record of a civil penalty assessed, or proposed for assessment, under the Internal Revenue Code of 1954, as amended, for fraud.

3. Tax Audits.—(a) Prior to the nomination by the President of a person to a position in the Department or an international financial institution, the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause a tax audit to be performed.

(b) Prior to the appointment by the Secretary (or as soon thereafter as practicable) of a person to a position:

(1) Of a confidential or policy determining character (Schedule C or Noncareer Executive Assignment) with the Department at Grades GS-14 through 18, inclusive, or Executive Schedule Levels V and IV, or similar position on other pay systems compensated at comparable rates, or

(2) With an international financial institution,

the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause a tax audit to be performed.

(c) Promptly after the effective date of this Order, the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause a tax audit to be performed with respect to each person who, prior to this Order being issued, has entered on duty in a position described in subsection (a) or (b) of this section.

4. Tax Checks.—(a) On an annual basis, and as close to the anniversary date of the appointment to the position as is practicable, the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause a tax check with respect to the immediately preceding year to be performed with respect to each person who then continues to serve in a position described in section 3 of this Order.

(b) Prior to effectuation of a personnel action assigning a person to any category of positions as specified below, the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause a tax check to be performed with respect to each person selected:

(1) By the President or the Secretary or his designees to a position described in section 3 of this Order;

(2) For initial entry into any position at any grade from GS-14 through 18, inclusive, or Executive Schedule Levels V and IV, or similar positions in other pay systems compensated at comparable rates; and

(3) For initial appointment as an expert; consultant, or advisory committee member.

5. Income Tax Filing Record Checks.—Prior to a person entering on duty in a position by appointment or promotion from within the Department and on an annual basis, as close to the anniversary date of the appointment to a position as is practicable, the Commissioner, upon request therefor as provided in section 6(b) of this Order, shall cause an income tax filing record check to be performed with respect to each person who then continues to serve in a position described in section 4(b)(2) or (3) of this Order.

6. Procedure.—(a) The Assistant Secretary (Administration), or his designee, shall request each person subject to a tax audit or tax check (or both) under this Order to execute an appropriate form providing the information necessary to identify the person and locate his or her tax records and authorizing the disclosure of tax return information as provided in this Order. The original of the executed form shall remain on file with the Assistant Secretary (Administration), or his designee. A copy of the executed form shall accompany each request to the Commissioner for a tax audit or tax check. If the person declines to execute the form, the tax audit or tax check (or both) shall nevertheless be performed as specified in this Order based on such information as is available from other sources.

(b) The Commissioner shall cause a tax audit or check (or both), as appropriate under this Order, to be made upon receipt of a request therefor from the Assistant Secretary (Administration), or his designee.

(c) Upon completion of such tax audit or check (or both), the results shall be forwarded (if an appropriate disclosure authorization has been executed), for information purposes, to the Assistant Secretary (Administration), or his designees; or as requested; or to IRS officers. This shall be done in a manner consistent with sections 7 and 8 of this Order.

(d) In the case of income tax filing record checks, a list of the names and social security numbers of those persons for whom such checks are to be made shall be furnished to the Commissioner, or his designee, on a staggered basis throughout the year by the Assistant Secretary (Administration), or his designee. Upon receiving these lists, the Commissioner shall cause, as soon as is practicable, a tax filing record check to be made on each person listed.

(e) Upon completion of such income tax filing record checks, the results shall be forwarded to IRS officers for appropriate tax administration enforcement action, if warranted, in accordance with section 8 of this Order.

7. Disclosure—To the extent permitted by the executed disclosure authorization, the Commissioner, or his designee, shall furnish the results of a tax audit or tax check in summary form to the Assistant Secretary (Administration), or his designee. The underlying documentation including audit reports, tax returns and return information shall also be furnished to the Assistant Secretary (Administration), or his designee, when specifically requested in writing by the Assistant Secretary (Administration). Any or all of the same information shall similarly be furnished directly to:

(1) The President,

(2) Representatives of the Executive Office of the President,

(3) The Secretary, or

(4) The Deputy Secretary,

when the Commissioner is requested to do so, in writing, by the Assistant Secretary (Administration). The Assistant Secretary (Administration) may also provide this information, on his own initiative, to any of the above persons or other Treasury officers who have a need to know such information, such as those exercising personnel administration functions in the various Bureaus or Offices of the Department.

8. Non-Disclosure.—In any instance in which a tax audit or tax check has been performed by the Internal Revenue Service, and no individually signed disclosure authorization has been provided, and in the case of income tax filing record checks, the results of such tax audit or tax check or income tax filing record checks shall not be disclosed under this Order to anyone not employed by the Internal Revenue Service, but such results shall be furnished to appropriate officials of the Internal Revenue Service for such tax administration enforcement action as is warranted.

9. Circumstances Warranting Immediate Disclosure.—The Commissioner shall on his own initiative furnish to the Assistant Secretary (Administration), immediately following the event, the information that a civil penalty for fraud has been assessed, or is proposed for assessment, or an investigation for a possible criminal offense under the internal revenue laws has been commenced or completed with respect to any Treasury officer, employee, consultant, advisory committee member, or other person serving in the Department or an international financial institution and described in section 3 or 4 of this Order, who has provided a written disclosure authorization under section 6(a) of this Order. Such information shall not be furnished under this Order with respect to a person who has not provided an individually signed disclosure authorization.

10. Confidentiality.—It is the policy of the Department of the Treasury to make every effort to protect the privacy of all taxpayers, including its own officers and employees. Accordingly, disclosures under this Order shall be kept to the minimum necessary to promote public confidence in the Department and the administration of the Federal tax system.

11. Effect on Other Regulations and Programs.—(a) Notwithstanding any other provisions of this Order:

(1) The Internal Revenue Service shall conduct and review tax audits, checks and income tax filing record checks in accordance with this Order with regard to its employees and those in the Office of Chief Counsel, IRS, at Grades GS-15 and below; but the results of such audits, checks, and income tax filing record checks shall not be forwarded to the Assistant Secretary (Administration), except as provided for by section 9 of this Order. Each employee of the Internal Revenue Service or Office of Chief Counsel, who would otherwise be subject to a tax audit or tax check (or both) under the provisions of this Order, shall be asked to execute an appropriate disclosure authorization so that tax return information may be provided to persons authorized to receive it under section 7 of this Order.

(2) Information forwarded to the Assistant Secretary (Administration), with respect to Internal Revenue Service officers and those in the Office of Chief Counsel, at Grades GS-16 and above, will, after the review process, be returned to the Commissioner or Chief Counsel, as appropriate, for safekeeping.

(3) All disclosure authorizations executed by employees or officers of the Internal Revenue Service or Office of Chief Counsel will remain on file with the Commissioner, or his designee, or the Chief Counsel, or his designee, as appropriate.

(b) In addition, nothing in this Order precludes the Internal Revenue Service, or other Services, Bureaus or Offices of the Department which administer Federal tax or revenue laws, from adopting, with respect to their officers and employees, more stringent provisions than are provided for in sections 3, 4 and 5 of this Order, as may be allowed by law.

(c) The requirements of this Order are in addition to any other audit procedures administered by the Internal Revenue Service and applicable to all taxpayers generally. Nothing in this Order is intended to affect, in any way, the process by which the Internal Revenue Service selects returns for audit under the usual procedures applicable to all taxpayers.

(d) Nothing in this Order affects the authority of those Treasury officers, in individual Bureaus or Offices of the Department, who exercise personnel administration functions.

12. Supersession.—This Order supersedes those provisions of Administrative Circular No. 189 (Revised) which are inconsistent herewith.

13. Effective Date.—This Order is effective July 29, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-22682 Filed 8-5-77;8:45 am]

Office of the Secretary

[Supplement to Dept. Circular Public Debt Series—No. 17-77]

TREASURY NOTES OF SERIES H-1980

Announcement of Interest Rate

AUGUST 3, 1977.

The Secretary of the Treasury announced on August 2, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series No. 17-77, dated July 28, 1977, will be 6¾ percent per annum. Accordingly, the notes are hereby redesignated 6¾ percent Treasury Notes of Series H-1980. Interest on the notes will be payable at the rate of 6¾ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-22729 Filed 8-5-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 453]

ASSIGNMENT OF HEARINGS

AUGUST 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 121644 (Sub-No. 2), S & W Freight Lines, Inc., now being assigned September 12, 1977 (2 weeks), at Memphis, Tenn., in a hearing room to be later designated.

MC 100666 (Sub-No. 343), Melton Truck Lines, Inc., and MC 115162 (Sub-No. 353), Poole Truck Line, Inc., now being assigned September 21, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127810 (Sub-No. 3), Sherman & Boddie, Inc., now being assigned September 15, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134477 (Sub-No. 150), Schanno Transportation, Inc., now being assigned October 11, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 139261 (Sub-No. 6), Buckeye Express, Inc., now being assigned October 11, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142268 (Sub-No. 14), Gorski Bulk Transport, Inc., now being assigned October 11, 1977, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 108053 (Sub-No. 134), Little Audrey's Transportation Co., Inc., now being assigned October 12, 1977 (3 days), at Seattle, Wash., in a hearing room to be later designated.

MC 134068 (Sub-No. 31), Kodiak Refrigerated Lines, Inc., MC 138875 (Sub-No. 53), Shoemaker Trucking Co., MC 138875 (Sub-No. 39), Shoemaker Trucking Co., and MC 138875 (Sub-No. 54), Shoemaker Trucking Co., now being assigned October 17, 1977 (1 week), at Seattle, Wash., in a hearing room to be later designated.

MC 107107 (Sub-No. 452), Alterman Transport Lines, Inc., now being assigned for continued hearing on October 4, 1977 (4 days), at Miami, Fla., in a hearing room to be later designated.

MC 11207 (Sub-No. 389), Deaton, Inc., application dismissed.

MC 115730 (Sub-No. 29), the Mickow Corp., now assigned September 21, 1977, at Chicago, Ill., is canceled and application dismissed.

MC 1263 (Sub 25), McCarty Truck Line, Inc.; MC 118142 (Sub 141), M. Bruenger & Co., Inc.; MC 123389 (Sub 33), Crouse Cartage Co.; MC 119765 (Sub 43), Eight Way Xpress, Inc.; MC 133119 (Sub 108), Heyl Truck Lines, Inc.; MC 134134 (Sub 21), Mainliner Motor Express, Inc.; MC 135874 (Sub 66), LTL Perishables, Inc.; MC 139850 (Sub 8), Four Star Transportation, Inc.; MC 139876 (Sub 3), ABC Transit Co., Inc.; MC 22301 (Sub 24), Sioux Transportation Co., Inc.; MC 139999 (Sub 19), Redfeather Fast Freight, Inc.; MC 115180 (Sub 97), Onley Refrigerated Transportation, Inc.; MC 113651 (Sub 205), Indiana Refrigerator Lines, Inc.; MC 2052 (Sub 10), Blair Transfer, Inc., and MC 44989 (Sub 5), Williams Truck Line, Inc., now assigned September 8, 1977, at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 136168 (Sub 5), Wilson Certified Express, Inc., now assigned September 14, 1977, at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 114273 (Sub 290), CRST, INC., now assigned September 7, 1977, at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 142614, Van Rees Trucking, Inc., now assigned September 12, 1977, at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 142845, David Beneux Produce and Trucking, Inc., now assigned September 13, 1977, at Memphis, Tenn., and will be held in Room 978, Federal Office Building, 167 North Main Street.

MC 100666 (Sub 341), Melton Truck Lines, Inc., now assigned September 12, 1977, at Memphis, Tenn., and will be held in Room 978, Federal Office Building, 167 North Main Street.

MC-C-9684, Carl R. Rieber, Inc. v. Trans-Bridge Lines, Inc., now assigned September 8, 1977, at Memphis, Tenn., and will be held in Room 978, Federal Office Building, 167 North Main Street.

MC 141033, Continental Contract Carrier Corp., now assigned September 7, 1977, at Memphis, Tenn., and will be held in Room 978, Federal Office Building, 167 North Main Street.

No. 36580, oilfield pipe or tubing, Colorado to points in the Southwest, now assigned September 7, 1977, at Dallas, Tex., and will be held in the Tax Court Room, Room 330, U.S. Post Office and Courthouse Building, Bryan and Ervay Streets.

MC 133095 (Sub 130), Texas-Continental Express, Inc., now assigned September 12, Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 139973 (Sub 15), J. H. Ware Trucking, Inc., now assigned September 13, 1977, at Dallas, Tex., and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 105045 (Sub 64), R. L. Jeffries Trucking Co., Inc., now assigned September 14, 1977, at Dallas, Tex., and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 4405 (Sub 551), Dealers Transit, Inc., now assigned September 15, 1977, at Dallas, Tex., and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 142487 (Sub 1), J. & K. K., Inc., now assigned September 7, 1977, at Olympia, Wash., and will be held in the 6th Floor Hearing Room, Highways and License Building, 12th and Capitol Way.

MC-F-12921, Osborne Group, Inc.—Control—Washington-Oregon Lumber Freighters, Inc., now assigned September 19, 1977, at Portland, Oreg., and will be held in Room 103, Pioneer Courthouse, 555 Southwest, Yamhill Street.

MC 138875 (Sub 37), Shoemaker Trucking Co., now assigned September 14, 1977, at Portland, Oreg., and will be held in Room 103, Pioneer Courthouse, 555 Southwest, Yamhill Street.

MC 128631 (Sub 53), Pack Transport, Inc., now assigned September 7, 1977, at Seattle, Wash., and will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 143006, Dorwin Trucking Co., Inc., now assigned September 12, 1977, at Seattle, Wash., and will be held in Room 3086, Federal Building, 915 Second Avenue.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22758 Filed 8-5-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 3, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43408—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd., (No. 26), for itself and interested rail carriers. Rates on general commodities, from Middle East ports west of Karachi and northeast of Aden (excluding Aden and Karachi), to rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22759 Filed 8-5-77;8:45 am]

[Ex Parte No. MC-101]

INITIAL PROCESSING OF MOTOR CARRIER FINANCE PROCEEDINGS

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental Notice and Policy Statement.

SUMMARY: Supplemental Notice that the Commission will, beginning September 26, 1977, closely scrutinize all tendered applications in motor carrier finance proceedings prior to their being docketed and that it will reject applications found to be incomplete.

DATES: Comments must be received on or before August 26, 1977. The new practices will be instituted, unles modified by subsequent order, on or after September 26, 1977.

ADDRESS: Comments should refer to docket Ex Parte No. MC-101. An original and 11 copies should be submitted to the Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

G. M. Bober, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. 202-275-7564.

SUPPLEMENTARY INFORMATION: Notice of this proceeding was originally published in the FEDERAL REGISTER on June 27, 1977 at page 32609. The comment date and compliance date were extended on July 22, 1977, by the entire Commission after consideration of the petition tendered by Wilmer Hill, Chairman of the Committee on Practice and Procedure, Motor Carrier Lawyers Association.

H. G. HOMME, JR.
Acting Secretary.

[FR Doc.77-22794 Filed 8-5-77;8:45 am]

[AB 12 (Sub-No. 56)]

SOUTHERN PACIFIC TRANSPORTATION CO., ABANDONMENT BETWEEN BRENHAM AND GIDDINGS IN WASHINGTON, FAYETTE AND LEE COUNTIES, TEXAS

Notice

JULY 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line of railroad between Giddings and Brenham, a distance of 34.92 miles, in Washington, Fayette, and Lee Counties, Texas, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because there are alternative railheads in close proximity to the subject line, and there is an adequate highway network to accommodate a diversion from rail to motor carrier. Consequently, no serious adverse impact to rural and community development will result. In addition, no significant increases in air pollution, fuel consumption, or ambient noise levels will occur.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before September 12, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-22761 Filed 8-5-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:30 a.m., August 3, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 31127 and 31162, domestic general fare increase proposed by all carriers. (Not. No. 7318, BE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202–673–5068).

SUPPLEMENTARY INFORMATION: This case involves a general fare increase, applicable to all carriers nation-wide, scheduled to take effect beginning on August 15, 1977. In the public interest, the Board should decide this case as quickly as possible so that no matter what the outcome might be there will be adequate advance notice to avoid confusion to the carriers, travel agents, and members of the traveling public. Accordingly the following Members have voted that agency business requires that the Board meet on less than seven days' notice:

Chairman Alfred E. Kahn.
Member G. Joseph Minetti.
Member Lee R. West.

Vice Chairman Richard J. O'Melia was not present and did not vote.

[S–1056–77 Filed 8–3–77;5:01 pm]

2

U.S. COMMISSION ON CIVIL RIGHTS.

TIME AND DATE: 9 a.m.–12 p.m.; 2:30–4:30 p.m., Monday, August 15, 1977; 10–11 a.m., 1:30–4 p.m., Tuesday, August 16, 1977.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public 9 a.m. to 12 p.m., Monday, August 15, 1977:

AGENDA

I. Approval of agenda.
II. Approval of minutes of last meeting.
III. Staff director's report:
(A) Status of funds.
(B) Personnel report.
(C) Correspondence:
(1) Letter from Health, Education, and Welfare Secretary Califano re report on Fort Wayne school desegregation.
(2) Letter from Secretary Califano re age discrimination study.
(3) Letter from Secretary Califano Title I PSFA funds.
(4) Letter from Secretary of Transportation Adams re report on sex discrimination in the United States Code.
(5) Letter from Federal Reserve Board Chairman Burns re letter on Equal Credit Opportunity Act.
IV. Report on civil rights developments in the Rocky Mountain region.
V. Discussion of SAC chairperson conference and SAC reorganization (no written material).
VI. Discussion re Florida SAC recommendations on citizenship requirements for police officers.
VII. Discussion re Texas SAC recommendations on School desegregation in Corpus Christi (no written material).
VIII. Discussion re request for hearing on alleged police abuse in Philadelphia.
IX. Discussion re request for Puerto Rican hearing in Chicago.
X. Discussion re proposed letter to President on universal voter registration.
XI. Discussion of administration of Justice issues.
XII. Approval of design for unemployment and underemployment study.
XIII. Decision on age discrimination hearings.

Portion open to the public 2:30–4:30 p.m., Monday, August 15, 1977.

MATTERS TO BE CONSIDERED: Approval of proposed fiscal year 1979 budget.

Portion open to the public 10–11 a.m., Tuesday, August 16, 1977: Press conference to release the Commission's national media study report.

Portion closed to the public: 1:30–4 p.m., Tuesday, August 16, 1977.

MATTER TO BE CONSIDERED: Review of a draft Commission report on women in poverty.

FOR FURTHER INFORMATION CONTACT:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S–1059–77 Filed 8–10–77;10:18 am]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 am., August 9. 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be colsed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: Hedging definition/proposed policy for Commission approval; proposed regulation 1.61; Eastern Rolling Mills, Inc.—Exemption or exclusion from registration as a commodity trading advisor.

Portions closed to the public: Enforcement matter.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (254–6314).

[S–1055–77 Filed 8–3–77;3:51 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 12, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BS CONSIDERED: Market surveillance meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (254–6314).

[S–1058–77 Filed 8–4–77;9:33 am]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in open session at 4:05 p.m. on August 3, 1977, by telephone conference call, to consider the following matters:

Adoption of a resolution temporarily suspending the prepayment penalty for early withdrawal of time deposits by depositors who have suffered a demonstrable economic loss to property directly related to the flooding occurring on July 19–20, 1977, throughout seven Pennsylvania counties.

Adoption of a resolution regarding the restructuring of a loan from the Corporation to European-American Bank & Trust Co., New York, N.Y., in connection with the bank's purchase of assets and assumption of liabilities of Franklin National Bank, New York, N.Y. (in liquidation).

In calling the meeting, the Board of Directors determined that Corporation business required consideration of the matter on less than seven days' notice to the public and that no earlier notice of the meeting was possible.

Dated: August 3, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S–1062–77 Filed 8–4–77;11:10 am]

6

AUGUST 3, 1977.

FEDERAL POWER COMMISSION.

TIME AND DATE: August 10, 1977, 10 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary (202–275–4166).

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 8552B.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 7653RD MEETING, AUGUST 10, 1977, REGULAR MEETING, PART I—10 A.M.

G–1. Docket No. RP77–103, Algonquin Gas Transmission Co.
G–2. Docket No. RP76–38, Arizona Electric Power Cooperative, Inc., and the City of Willcox, Ariz. v. El Paso Natural Gas Co.
G–3. Docket No. RP74–50–5, Florida Hydrocarbons Co. and Florida Gas Transmission Co.
G–4. Docket No. RI77–98, infill wells drilled pursuant to New Mexico Oil Conservation Commission Order No. R–1670–T.
G–5. Docket No. RI77–48, Elms Brothers & Co.
G–6. Docket No. RI77–87. North American Royalties, Inc.
G–7. Docket No. RI77–35. Dixie Well Service, Inc.
G–8. Docket No. CI76–14, San Salvador Development Co., Inc., et al.
G–9. Docket No. CI74–319, James M. Forgotson, operator, Gulf Coast Venture.
G–10. Docket No. CI77–306, Transco Exploration Co.
G–11. Docket No. CP76–511, Natural Gas Pipeline Co. of America.
G–12. Docket No. CP76–517, Natural Gas Pipeline Co. of America.
G–13. Docket Nos CP77–21, et al., Tennessee Gas Pipeline Co., Columbia Gulf Transmission Co. and Southern Natural Gas Co.; Docket No. CI76–730, Mobil Oil Corp.; Docket No. CI77–120, Texaco, Inc.
G–14. Docket No. CP77–216, Distrigas of Massachusetts Corp.; Docket Nos. CP77–217 and CP77–218, Distrigas Corp.
G–15. Docket No. CP77–440, Sea Robin Pipeline Co.
G–16. Docket No. CP77–449, Natural Gas Pipeline Co. of America
G–17. Docket No. CP77–397, Northern Natural Gas Co.
G–18. Docket No. CP77–362, Texas Gas Transmission Corp.
G–19. Docket No. CP76–246, Northern Natural Gas Co.
G–20. Docket No. CP77–489, Southern Natural Gas Co., Natural Gas Pipeline Co. of America, Columbia Gulf Transmission Co. and United Gas Pipeline Co.
G–21. Docket No. G–3072, Exxon Corp.

MISCELLANEOUS AGENDA, 7653RD MEETING, AUGUST 10, 1977, REGULAR MEETING, PART I

M–1. Docket No. R–406, purchased gas adjustment provisions in natural gas pipeline companies' FPC gas tariff.
M–2. Docket No. RM74–16, natural gas companies annual report of proved domestic gas reserves: FPC Form No. 40.
M–3. Docket No. RM75–19, end use rate schedules.
M–4. Docket No. RM76–13, the need for site selection and facility operation criteria for liquefied natural gas importation and storage terminals.
M–5. Docket No. EM76–15, regulation of small producers.
M–6. Docket No. RM76–19, application for small producer certificate and annual statement for independent producers holding small producer certificates—new Form No. 151.
M–7. Docket No. RM76–28, corporate and financial report for class C and class D natural gas companies—new FPC Form No 155.
M–8. Docket No. RM76–33, corporate and financial reports for class A and class B natural gas companies—New Form Nos 154A and 154M.
M–9. Docket No. RM77–12,petitions for proposed rulemaking for interim rate for sales of natural gas for 1977–78 biennium; petition for rulemaking for gas dedicated on or after January 1, 1973, for period 1977–78.
M–10. Docket No. RM77–13, national rates for jurisdictional sales of natural gas from wells commenced on or after January 1, 1977, for the period January 1, 1977, to December 31, 1978.
M–11. Docket No. RM77–14, the initial research and development program of gas research institute, payments by interstate pipeline companies for the funding thereof, and corresponding pipeline rate adjustments.
M–12. Docket No. RM77–16, petition for declaration of a pricing policy with respect to jurisdictional Alaskan natural gas.
M–13. Docket No. RM77–20, petition for notice of proposed rulemaking concerning pipeline transportation.
M–14. Docket No. RM77–21, revisions to uniform systems of accounts for natural gas companies to provide accounts for base load liquefied natural gas terminaling and processing facilities.
M–15. Docket No. RM77–23, revision in section 157 of title 18 of the code of federal regulations to provide for the exemption from certificate regulation of certain sales of natural gas flared prior to coal mining operations.
M–16. Docket No. RM74–17, amendments to schedule pages 106, 219, and 221 of FPC annual report Forms No 1 and No 2 to extend reporting of security holders and voting power disclosure and debt holder disclosure.
M–17. Docket No. RM75–7, amendments to schedule pages 104 and 105 of annual report Forms No. 1 and No. 2 to extend reporting of business interests and securities held by company officers and directors
M–18. Docket No. RM75–12, revisions to FPC annual report Forms No 1 and No. 2 to obtain future financing requirements.
M–19. Docket No. RM75–20, revisions to certain schedule pages of FPC annual report Forms No 1 and No. 2 to obtain additional information on non-utility affiliates
M–20. Docket No. RM75–27, amendments to uniform system of accounts for public utilities and licensees and for natural gas companies (classes A, B, C, and D) to provide for the determination of rate for computing the allowance for funds used during construction and revisions of certain schedule pages of FPC reports.
M–21. Docket No. RM76–37, statement of general policy concerning access to the regulatory information system (RIS) data bases, standard reports on microform or data on magnetic tape by other than FPC personnel
M–22. Docket No. RM76–38, certification of compliance with approved State's coastal zone management program in applications for authorization to import or export natural gas and certification or license applications, where applicable
M–23. Docket No. RM77–1, just and reasonable rate of return on equity for natural gas pipeline companies and public utilities
M–24. Docket No. RM77–3, implementation of section 382(b) and 382 (c) of the energy policy and Conservation Act of 1975.
M–25. Docket No. RM77–17, amendments to uniform systems of accounts for public utilities and licenses (all classes), to regulations prescribing FPC Form No. 9 and to FPC Form Nos. 1, 1–F, 2, 2–A, and 9, concerning account 264, amortization reserve —Federal.
M–26 Docket No RM77–22, petition for rulemaking on rate of interest on amounts subject to refund.

GAS AGENDA, 7653RD MEETING, AUGUST 10, 1977, REGULAR MEETING, PART II

CG–1. Docket No. RP72–157 (PGA No. 77–9), Consolidated Gas Supply Corp
CG–2. Docket No. RP72–157 (PGA No. 77–8b), Consolidated Gas Supply Corp.
CG–3. Docket No. RP73–8 (PGA Nos. 77–9c and 77–10b). North Penn Gas Co.
CG–4. Docket No. RP72–133 (PGA No. 77–2a). United Gas Pipe Line Co.
CG–5. Docket No. RP77–96, Natural Gas Pipeline Co. of America.
CG–6. Docket Nos. G–2017, et al., Texas Gas Transmission Corp.
CG–7. Phillips Petroleum Co., FPC gas rate schedule No. 600; Texas Pacific Oil Co., Inc., FPC gas rate schedule No. 121.
CG–8. Docket No. CP77–39, Iowa Power and Light Co.
CG–9. Docket No. CP77–322, United Gas Pipe Line Co. and Southern Natural Gas Co.
CG–10. Docket No. CP77–122, Sea Robin Pipeline Co.

CG–11, Docket No. CP77–408, El Paso Natural Gas Co.; Docket No. CP77–411, Southwest Gas Corp.
CG–12, Docket Nos. CP77–369 and CP77–370, Transcontinental Gas Pipe Line Corp.
CG–13, Docket No. CP77–347, Western Gas Interstate Co.
CG–14, Docket No. CP77–339, Columbia Gas Transmission Corp.
CG–15, Docket No. CP77–230, Florida Gas Transmission Co., United Gas Pipe Line Co.
CG–16, Docket No. CP77–109, Texas Eastern Transmission Corp.
CG–17, Docket No. CP76–403, Texas Gas Transmission Corp.; Docket No. CP77–426, Transcontinental Gas Pipe Line Corp.
CG–18, Docket No. CP76–410, El Paso Natural Gas Co.
CG–19, Docket No. CP77–249, Trunkline Gas Co.
CG–20, Docket No. CP75–326, Transcontinental Gas Pipe Line Corp.
CG–21, Docket No. CI76–407, Columbia Gas Development Corp.; Docket No. CP76–132, Transcontinental Gas Pipe Line Corp.
CG–22, Docket No. CP77–11, Northern Natural Gas Co.; Docket No. CP77–17, Trunkline Gas Co., Panhandle Eastern Pipe Line Co.; Docket No. CP77–92, Trunkline Gas Co., Panhandle Eastern Pipe Line Co.; Docket No. CP77–54, Northern Natural Gas Co.
CG–23, Docket No. CP70–188, Texas Gas Transmission Corp.
CG–24, Docket No. CP77–427, Transcontinental Gas Pipe Line Corp.; Docket No. CP77–480, Panhandle Eastern Pipe Line Co., Trunkline Gas Co.
CG–25, Docket No. CP76–363, Transcontinental Gas Pipe Line Corp.
CG–26, Docket No. CP63–177, Texas Eastern Transmission Corp., Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CG–27, Docket Nos. CP67–381, CP68–166, and CP69–71, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CG–28, Docket No. CP73–43, Mountain Fuel Supply Co.
CG–29, Docket No. CP74–126, El Paso Natural Gas Co.; Docket No. CP74–162, Natural Gas Pipeline Co. of America.
CG–30, Docket No. CP74–213, Michigan Wisconsin Pipe Line Co.
CG–31, Docket No. CP75–301, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., and Michigan Wisconsin Pipe Line Co.
CG–32, Docket No. CP76–362, Texas Eastern Transmission Corp., Transcontinental Gas Pipeline Corp., Northern Natural Gas Co.
CG–33, Docket No. CP76–492, National Fuel Gas Supply Corp. and National Fuel Gas Storage Corp.
CG–34, Docket No. CP76–492, National Fuel Gas Supply Corp., National Gas Storage Corp.

KENNETH F. PLUMB,
Secretary.

[S–1057 Filed 8–3–77;5:05 pm]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, August 10, and Thursday, August 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Wednesday, August 10—9 a.m.—Review of fiscal year 1979 budget; 1:30 p.m.—Review of fiscal year 1979 budget (continued). Thursday, August 11—9 a.m.—Review of fiscal year 1979 budget (continued); 1:30 p.m.—Review of fiscal year 1979 budget (continued).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

[S–1061–77 Filed 8–4–77;10:30 am]

8

U.S. PAROLE COMMISSION.

National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C., headquarters).

TIME AND DATE: Wednesday, August 17, 1977, 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to 5 U.S.C. 552b(c)(10) and 28 CFR 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst (202–724–3094).

[S–1060–77 Filed 8–4–77;10:18 am]

federal register

MONDAY, AUGUST 8, 1977

PART II



FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-42, AOR's 1977-34, 1977-35, and 1977-36]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Requests 1977-34 through 1977-36 have been made public at the Commission. Copies of these requests were made available on August 2, 1977. These copies of the advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-34: Is the political committee of a corporation required to allow its administrative and executive personnel who make political contributions by payroll deduction to earmark those contributions as a matter of right, instead of privilege, if the committee also accepts contributions by check from administrative and executive personnel and allows earmarking of those contributions? Requested by Carolyn F. Shain, Secretary of the Nationwide Political Participation Committee, Columbus, Ohio.

AOR 1977-35: May a Federal officeholder accept an honorarium from an organization before which the officeholder makes an appearance, subsequently return the honorarium to the paying organization, and thereby avoid having the original payment considered as an honorarium "accepted" for purposes of the limits on honoraria in 2 U.S.C. 441i? Requested by Senator Bob Dole, U.S. Senate, Washington, D.C.

AOR 1977-36: Do the Federal preemption provisions of 2 U.S.C. 453 and 108.7 of the Commission's regulations permit a registered political committee supporting Federal candidates to disregard a State statute providing that copies of statements and reports (required pursuant to the Federal Election Campaign Act of 1971, as amended) be filed in a different manner and with additional State offices than as specified in 2 U.S.C. 439? Requested by R. G. Leith, Secretary-Treasurer of the Western Air Line Political Action Committee, Los Angeles, California.

Date: August 2, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc. 77-22705 Filed 8-5-77;8:45 am]

[Notice 1977-43, AOR 1977-37]

ADVISORY OPINION REQUEST

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-37 has been made public at the Commission. Copies of AOR 1977-37 were made available on August 4, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on this advisory opinion request on or before September 7, 1977. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons who desire additional time in which to respond to this advisory opinion request should request in writing an extension of the comment period. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

The Commission today publishes in its entirety an advisory opinion request of the National Education Association. The subject matter of the request concerns the legality under the Federal Election Campaign Act of 1971, as amended, and regulations prescribed by the Federal Election Commission under that Act, of a proposal by the NEA Political Action Committee to raise political contributions from NEA members. The advisory opinion request, designated as AOR 1977-37, is reprinted below in the form submitted to the Commission by counsel for NEA-PAC:

JULY 25, 1977.

Re Request for an Advisory Opinion on Behalf of the National Education Association's Political Action Committee.

FEDERAL ELECTION COMMISSION,
Office of General Counsel, Advisory Opinion Section, 1325 K Street NW., Washington, D.C.

Gentlemen: This letter constitutes a request for an advisory opinion from the Federal Election Commission concerning the permissibility under Section 441b(b)(3)(A) of the Federal Election Campaign Act (hereinafter the "Act"), and Section 114.5 of the Commission's Rules and Regulations (hereinafter the "Rules"), of two systems which the National Education Association (hereinafter the "NEA") proposes to use in order to collect from its members voluntary contributions to the NEA's Political Action Committee (hereinafter the "NEA-PAC"). I make this request pursuant to Section 112.1 of the Rules as the authorized agent for the NEA-PAC.

STRUCTURE AND OPERATION OF THE NEA

The NEA is a nationwide employee organization with a current membership of approximately 1.7 million. Over 98% of the NEA's members are public school teachers, supervisors, and administrators, who come within the Active membership category. Although other membership categories are available for retired teachers, educational secretaries, paraprofe sionals, etc., Active members are the only ones relevant for present purposes. Accordingly, the term "member" will be used hereinafter to mean Active members.

The NEA has an annual membership structure. An individual who joins agrees to pay dues for an entire membership year, which runs from September 1 through the following August 31. Although the NEA re-enrolls the majority of its members each year, there are certain states in which membership is "continuous." This means that a person's membership automatically is renewed from membership year to membership year, absent withdrawal.

Membership in the NEA is voluntary and in no case is it required as a condition either for obtaining or maintaining employment. In certain jurisdictions where an NEA affiliate is recognized as the exclusive collective bargaining representative, however, a nonmember of the NEA may be required by statute or contract to pay a fee to the NEA to offset his or her fair share of the costs of such representation.

The NEA has as state affiliates an association in every state, the District of Columbia and Puerto Rico, and representing educators employed in the Overseas Dependent Schools operated by the United States Department of Defense. It also has some 10,500 local affiliates, each of which is comprised essentially of employees within a particular school district. Although the NEA's State and local affiliates are required to meet certain minimum standards in order to retain their NEA affiliation, they are separately organized, self-governing entities.

The annual membership dues of the NEA presently are $30, and will increase to $35 as of the 1978-79 membership year. These dues are collected by the NEA's local affiliates and transmitted to the state affiliates, which in turn forward them to the NEA.

REVERSE CHECKOFF

The majority of NEA members prefer to pay their dues by means of payroll deduction and the local affiliates attempt to secure an appropriate checkoff system through agreement with local boards of education. NEA members are asked, in addition, to make a voluntary contribution of $1 each year to the NEA-PAC and, again, most members prefer to have this contribution handled through payroll deduction. Many boards of education are mechanically unable, or at least unwilling, to deduct different amounts for different employees (i.e., $31 for NEA members who wish to contribute $1 to the NEA-PAC; $30 for NEA members who do not wish to make such a contribution). In order to deal with this problem, the NEA has in the past set the amount of the deduction in these school districts at $31 for all NEA members and those who did not wish to make a contribution to the NEA-PAC could request a rebate. The $1 generally was paid to them within a few weeks after the receipt of the request, and in all cases well before an equivalent amount had in fact been deducted. This system is referred to hereinafter as a "reverse checkoff."

The Commission has taken the position that the reverse checkoff is unlawful. Specifically, it contends that the contribution constitutes "a condition of membership" in violation of section 441b(b)(3)(A) of the Act. (See, e.g., transcript of Commission testimony before the Committee on House Administration, March 16, 1977, pp. 69-70, 73, 77;[1] * * *) The NEA proposes to make certain modifications in its collection system which we believe are sufficient to cure the alleged statutory defect. These modifications are described below.

PROPOSED COLLECTION SYSTEMS

SYSTEM 1

In its March 16, 1977 testimony before the Committee on House Administration, the Commission (represented by Vice-Chairman Harris, Commissioner Springer, General Counsel Oldaker, and Assistant General Counsel Swillinger) indicated that the reverse checkoff could be utilized if it was one of several means by which an individual might become an NEA member. The right of an individual to pay directly his or her membership dues in cash winthout a NEA-PAC contribution was conceded to be an acceptable alternative (T. at 72-73, 85-86, 94). Using this testimony as a point of departure, the NEA has developed and submits to the Commission for its approval, the following system for collecting from its members political contributions to the NEA-PAC:

1. *New NEA Members and NEA Members Who Are Re-enrolled Annually.* Except as otherwise provided in Paragraph 4 below, an individual who otherwise is eligible for NEA membership may use any one of the following methods to become an NEA member:

(a) The individual may at the time of NEA enrollment pay the full amount of his or her NEA annual dues in cash or by check. An individual who chooses this method may be asked at the time of enrollment to make a voluntary contribution to the NEA-PAC, and will be informed that such a contribution is not required as a condition of NEA membership. Unless an individual affirmatively agrees to make a NEA-PAC contribution, it will not be included in the amount which he or she must pay to become an NEA member. Any subsequent solicitation during the membership year will be made in the same manner. This method is referred to hereinafter as the "annual cash payment option."

(b) The individual may pay his or her NEA annual dues in several installments (the precise number of which may vary from state to state but will in no case be less than three) in cash or by check. An individual who chooses this method may be asked at the time of his or her enrollment to make a voluntary contribution to the NEA-PAC and will be informed that such a contribution is not required as a condition of NEA membership. Unless an individual affirmatively agrees to make a NEA-PAC contribution, it will not be included in the amount which he or she must pay to become an NEA member. Any subsequent solicitation during the membership year will be made in the same manner. This method is referred to hereinafter as the "installment cash payment option."

(c) The individual may at the time of NEA enrollment agree to pay his or her NEA annual dues by means of payroll deduction. In order to avoid checkoffs of different amounts for individuals employed in the same school district, the total amount checked off will include, in addition to dues, an amount identified as a voluntary contribution to the NEA-PAC. The individual will be informed of his or her right not to make such a contribution, and that, upon written request, an amount equal to the NEA-PAC contribution promptly will be paid to him or her. This system is referred to hereinafter as the "reverse checkoff."

Prior to being enrolled as an NEA member, an individual will be informed that the foregoing methods are available to him or her, and afforded an opportunity to choose the method that he or she prefers.

2. *NEA Members Who Have "Continuous" Membership.* Except as otherwise provided in Paragraph 4 below, any current NEA member who has "continuous" membership (i.e., whose membership continues from membership year to membership year, absent withdrawal) will be informed prior to each membership year that he or she may use any of the methods set forth in Paragraph 1 above to pay his or her NEA annual dues.

3. *Individuals Required to Pay a Service Fee to the NEA.* Except as otherwise provided in Paragraph 4 below, a non-member of the NEA who is required by statute or contract to pay a fee to the NEA to offset the costs of collective bargaining representation (hereinafter a "service fee"), may use any of the methods set forth in Paragraph 1 above to pay his or her service fee.

4. *Individuals Required to Use a Checkoff.* If an individual is required by statute or contract to pay membership dues or a service fee to the NEA by means of payroll deduction, thereby precluding use of the annual or installment cash payment option, a contribution to the NEA-PAC will not be included in the checkoff unless the individual affirmatively indicates that such a contribution may be included.

5. *Choice of Method.* The NEA-PAC will not accept any contributions obtained through a reverse checkoff unless the individual has been informed of the methods set forth in Paragraph 1 above and afforded an opportunity to choose the method that he or she prefers.

The foregoing is precisely the type of collection system which the Commission sanctioned in its March 16 testimony before the Congressional Committee, but the Commission did include one caveat. It stated that the alternative means by which an individual might become an NEA member could not be so burdensome as to the illusory (T. at 85-86, 94). Although we find it difficult to believe that three payments per year of some $12 each could be deemed burdensome, particularly when the average annual teacher's salary is in excess of $13,000, we would be willing, if necessary, to increase the number of installments and reduce even further the amount an individual would have to pay at any one time under the installment cash payment option.

In this letter we have made frequent reference to the position taken by the Commission before the Congressional Committee, and our reasons for doing so should be understood.

The reverse checkoff was the focal point of the March 16 hearing and the statements made by the Commission regarding the circumstances under which it could be used were a major factor in the Committee's decision not to recommend to the full House of Representatives disapproval of the Commission's proposed rules and regulations. In short, the hearing constitutes a form of "legislative history" which must properly be read as indicating a congressional intent to construe the Act as permitting the type of collection system proposed above.

A second, and more important reason is that the position taken by the Commission at the Committee hearing is legally sound. Since under the collection system proposed above an individual could avoid even the minimal burden of requesting a rebate simply by paying his or her NEA dues in cash or by check, a NEA-PAC contribution could in no sense be a "condition of membership." The deduction of the $1 (which in any event is offset by the rebate) is at most a condition of utilizing payroll deduction to pay NEA dues, and payroll deduction simply is an administrative convenience that the NEA is under no obligation to provide.

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Nor does the proposed system run afoul of the Act's prohibition against involuntary contributions. In its March 15 testimony before the Congressional Committee the Commission essentially conceded that the reverse checkoff, even without the cash payment options, was not subject to attack on voluntariness grounds (T. at 69-70, 97, 99). The availability of the options would, if anything reduce rather than increase vulnerability in this regard.

SYSTEM 2

Unlike most other employee organizations, the NEA has an annual membership structure. An individual who joins the NEA agrees to pay dues for a full membership year, which runs from September 1 through the following August 31. Under the reverse checkoff as previously operated, the total amount checked off included, in addition to the NEA annual dues, an additional $1 which was identified as a voluntary contribution to the NEA-PAC. If an individual chose not to make such a contribution, the full $1 was paid to him or her promptly and in most cases within a few months after the start of the membership year (although at the time of payment only about $20-30 actually had been checked off).

In contending that the reverse checkoff violates the "condition of membership" prohibition in the Act, the Commission has cited the fact that the individual does not receive the $1 until after at least some part of the NEA-PAC deduction has been made. In order to deal with this objection, and still meet the requirement of many boards of education that the same amount be deducted for all members employed in the school district, the NEA requests Commission approval of the following collection system:

The total amount deducted would continue to include $1 in addition to NEA annual dues. And, again as before, the individual would be informed of his or her right not to make such a contribution to the NEA-PAC and that, upon request, an amount equal to the NEA-PAC contribution would be paid to him or her. However, unlike the prior system, an individual who did not wish to make a NEA-PAC contribution would be paid the entire $1 in cash or by check at the time of enrollment, or where there is "continuous" membership, before the beginning of the membership year.

Since the individual would receive the entire $1 prior to the commencement of his or her membership for the year in question, there would in effect be a pre-membership reimbursement system, and the subsequent deduction could in no sense constitute a condition of membership. Moreover, these dollars would never even become involved in the NEA-PAC financing mechanism. The NEA, rather than the NEA-PAC, would pay the $1 to the prospective member and the amount deducted would be forwarded directly to the NEA as reimbursement. In essence, the NEA would be advancing $1 to the individual prior to his or her becoming a member and the individual would be paying the NEA back on a monthly basis throughout the membership year.

[1] The letter "T" followed by numbers refers to pages in the transcript of the March 16 hearing.

CONCLUSION

The NEA submits that political contributions obtained through either of the two collection systems described above would not violate the "condition of membership" prohibition or any other provision of the Act, and respectfully requests an advisory opinion from the Commission to this effect.

Sincerely,

ROBERT H. CHANIN,
Deputy Executive Director and General Counsel.

Dated: August 3, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.11-22875 Filed 8-5-77;8:45 am]

federal register

MONDAY, AUGUST 8, 1977

PART III



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 560]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of the Union of the Soviet Socialist Republics, and are published herewith.

Dated: July 28, 1977.

LARRY L. SNEAD,
Acting Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Jan.-Dec. 1977 — Application No. UR-77-0136 For Use of Issuing Office

State: USSR

1. Name of Vessel Stolin
2. Vessel No.: Hull No. PE 0222 Registration No. 123
3. Name and Address of Owner: Name Vladivostokskaia Baza Tralovogo i Refrigeratornogo Flota; Address 243, Kalinina st., Vladivostok, USSR; Cable Address Vladivostok; Baza Tralovogo i Refrigeratornogo Flota — Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Refrigerating Seiner/Trawler
6. Tonnage (Gross) 686,0 (Net) 216,0
7. Length 49.1 M. 8. Breadth 10.47 M. 9. Draft 5.1 M.
10. Horsepower 1.320 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1976
14. Number and Nationality of Personnel 25 USSR; Officers 15 Crew 10 Other (Specify)
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (2), Other; International Radio Call Sign U I T N; Radio Frequencies Monitored 500 kcs, 156.8 mcs; Other Working Frequencies 454, 480, 2115, 3023.5, 4200 and 6321 kcs; 156.3 mcs; Schedule H - 8
16. Navigation Equipment: Loran C ( ), Loran A (1), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (2), Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompass
17. Cargo Capacity (MT): Salted Fish ____, Fresh Fish ____, Frozen Fish ____, Fish Meal ____, Other Refrigerated Fish 80
18. Cargo Space — Number: Freezer; Name: 1 Refrigerated Fish; Dry Hold; Tanks; Other
19. Processing Equipment (Indicate daily capacity,MT): Ice Plant 2 pcs 12,5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea	1977	Pollock		Midwater Trawl
Aleutian and Washington California Area	-"-	Hake and other finfishes		- " -

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Jan.-Dec. 1977 — Application No. U-R-77-0134 For Use of Issuing Office

State: USSR

1. Name of Vessel SELETS
2. Vessel No.: Hull No. PE-0221 Registration No. 116
3. Name and Address of Owner: Name Vladivostokskaia Baza Tralovogo i Refrigeratornogo Flota; Address 243, Kalinina st., Vladivostok, USSR; Cable Address Vladivostok; Baza Tralovogo i Refrigeratornogo Flota — Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Refrigerating Seiner/Trawler
6. Tonnage (Gross) 686.0 (Net) 216.0
7. Length 49.1 M. 8. Breadth 10.47 M. 9. Draft 5.1 M.
10. Horsepower 1,320 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1976
14. Number and Nationality of Personnel 25 USSR; Officers 15 Crew 10 Other (Specify)
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (2), Other; International Radio Call Sign UIKM; Radio Frequencies Monitored 500 kcs, 156.8 mcs; Other Working Frequencies 454,480,2115,3023,5, 4200 and 6321 kc 156.3 mcs; Schedule H-8
16. Navigation Equipment: Loran C ( ), Loran A (1), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (2), Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompass
17. Cargo Capacity (MT): Salted Fish ____, Fresh Fish ____, Frozen Fish ____, Fish Meal ____, Other Refrigerated Fish 80
18. Cargo Space — Number: Freezer; Name: 1 Refrigerated Fish; Dry Hold; Tanks; Other
19. Processing Equipment (Indicate daily capacity,MT): Ice Plant 2 pcs 12.5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea and Aleutian, Washington-California Area	1977	Pollock		Midwater Trawl
	-"-	Hake and other finfishes		- " -

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Jan.-Dek/1977

Application No. UR-77-0135
For Use of Issuing Office

State: USSR

1. Name of Vessel SOKOLOVKA
2. Vessel No.: Hull No. PE 0220 Registration No. 115
3. Name and Address of Owner
   Name Vladivostokskaia Baza Tralovogo i Refrigeratornogo Flota
   Address 243, Kalinina st., Vladivostok, USSR
   Cable Address Vladivostok
   Baza Tralovogo i Refrigera-tornogo Flota
   Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Refrigerating Seiner/Trawler
6. Tonnage (Gross) 686 (Net) 216.0
7. Length 49.1 M. 8. Breadth 10.47 M. 9. Draft 5.1 M.
10. Horsepower 1.320 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1976
14. Number and Nationality of Personnel 25 USSR
    Officers 15 Crew 10 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other
    International Radio Call Sign UIKL
    Radio Frequencies Monitored 500 kcs, 156.8 mcs
    Other Working Frequencies 454, 480, 2115, 3023.5, 4200 and 6321 kcs; 156.3 mcs
    Schedule H-8
16. Navigation Equipment: Loran C ( ), Loran A (1), Omega ( ),
    Decca ( ), Navsat ( ), Radar (1), Fathometer (2),
    Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompas
17. Cargo Capacity (MT)
    Salted Fish
    Fresh Fish
    Frozen Fish
    Fish Meal
    Other Refrigerated Fish 80
18. Cargo Space — Number — Name
    Freezer 1 Refrigerated Fish
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    Ice Plant 2 pcs 12,5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contenplated Catch (MT)	Gear to be Used
Bering Sea Aleutian and Washington-California Area	1977	Pollock		Midwater Trawl
	-"-	Hake and other finfishes		- " -

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Jan.-Dec./1977

Application No. UR-77-0029
For Use of Issuing Office

State: USSR

1. Name of Vessel SURAZH
2. Vessel No.: Hull No. PE-0224 Registration No. 134
3. Name and Address of Owner
   Name Vladivostokskaia Baza Tralovogo Refrigeratornogo Flota
   Address 243, Kalinina st., Vladivostok, USSR
   Cable Address Vladivostok
   Baza Tralovogo i Refrigerator-nogo Flota
   Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Refrigerating Seiner/Trawler
6. Tonnage (Gross) 686.0 (Net) 216.0
7. Length 49.1 M. 8. Breadth 10.47 M. 9. Draft 5.1 M.
10. Horsepower 1.320 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1976
14. Number and Nationality of Personnel 25 USSR
    Officers 15 Crew 10 Other (Specify)
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (2),
    Other 1
    International Radio Call Sign UPGY
    Radio Frequencies Monitored 500 kcs, 156.8 mcs
    Other Working Frequencies 454, 480, 2115, 3023,5, 4200 and 6321 kcs; 156.3 mcs
    Schedule H-8
16. Navigation Equipment: Loran C (1), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (1), Fathometer (2),
    Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompas
17. Cargo Capacity (MT)
    Salted Fish
    Fresh Fish
    Frozen Fish
    Fish Meal
    Other Refrigerated Fish 80
18. Cargo Space — Number — Name
    Freezer 1 Refrigerated Fish
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    Ice Plant 2 pcs 12.5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contenplated Catch (MT)	Gear to be Used
Bering Sea, Aleutian, and Washington California Area	01.01-12.30/1977	Pollock		Midwater Trawl
	-"-	Hake and other finfishes		- " -

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Jan.-Dec./1977

Application No. UR-77-0033 For Use of Issuing Office

State: USSR

1. Name of Vessel SEBEZH
2. Vessel No.: Hull No. No Registration No. 127
3. Name and Address of Owner
   Name: Vladivostokskaia Baza Tralovogo i Refrigera-tornogo Flota
   Address: 243, Kalinina st.,
   Vladivostok, USSR
   Cable Address: Vladivostok Baza Tralovogo i Refrigera-tornogo Flota

   Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Refrigerating Seiner /Trawler/
6. Tonnage (Gross) 686,0 (Net) 216,0
7. Length 49.1 M. 8. Breadth 10.47 M. 9. Draft 5.1 M.
10. Horsepower 1.320 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1976
14. Number and Nationality of Personnel 25 USSR
    Officers 15 Crew 10 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (1), Telegraphy (2),
    Other
    International Radio Call Sign
    Radio Frequencies Monitored 500 kcs, 156.8 mcs
    Other Working Frequencies 454, 480, 2115, 3023.5, 4200 and 6321 kcs; 156.3 mcs
    Schedule H-8
16. Navigation Equipment: Loran C ( ), Loran A (1), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (2), Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompass
17. Cargo Capacity (MT)
    Salted Fish
    Fresh Fish
    Frozen Fish
    Fish Meal
    Other Refrigerated Fish 80
18. Cargo Space (Number / Name)
    Freezer 1 Refrigerated Fish
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    Ice Plant 2 pcs 12.5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contenplated Catch (MT)	Gear to be Used
Bering Sea, Aleutian, and Washington-California Area	01.01-12.30/1977	Pollock		Midwater Trawl
		Hake and other finfishes		- " -

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

UR-77-0238

Permit Period Applied For: 1977

Application No. UR-77-0238 For Use of Issuing Office

State: USSR

1. Name of Vessel SULAK
2. Vessel No.: Hull No. 0868 Registration No. 708
3. Name and Address of Owner
   Name: Base of Trawling and ~~Refrigerating~~ Marina
   Address: VLADIVOSTOK
   Kalinin Street 243
   Cable Address: VLADIVOSTOK 43
   Base of Trawling Marina

   Name and Address of Charterer
4. Homeport and State of Registry: VLADIVOSTOK, USSR
5. Type of Vessel fish processing base
6. Tonnage (Gross) 18011 (Net) 11076
7. Length 174.31 M. 8. Breadth 24 M. 9. Draft 7.32 M.
10. Horsepower 5500 shp. 11. Maximum Speed 14.3 kt.
11. Propulsion: Diesel (/), Steam (-), Diesel/Electric (-),
    Other
13. Date Built 1966
14. Number and Nationality of Personnel 286 USSR
    Officers 47 Crew 236 Other (Specify) 3 Hag.Spec.
15. Communications: VHF-FM (2), AM/SSB, Voice (2), Telegraphy 4),
    Other
    International Radio Call Sign UPTO
    Radio Frequencies Monitored 500 kc 156.8 mc
    Other Working Frequencies 454; 480; 2115; 3023.5; 4200; 6321 kc.
    Schedule H-24
16. Navigation Equipment: Loran C (1), Loran A (1), Omega (-), Decca (1), Navsat (-), Radar (2), Fathometer (2), Other Radio direction finder, gyrocompas
17. Cargo Capacity (MT)
    Salted Fish -
    Fresh Fish -
    Frozen Fish 6630
    Fish Meal 913
    Other 312 fish oil
18. Cargo Space (Number / Name)
    Freezer
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    FREEZER - 4 100
    PRESERVES LINE 50
    FISHMEAL PLANT 20
    FISH DRESSING LINE 40
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contenplated Catch (MT)	Gear to be Used
Washington-California area	1977	Hake	Reception and processing of fish from catching Soviet trawlers	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[FR Doc.77-22630 Filed 8-5-77;8:45 am]

federal register

MONDAY, AUGUST 8, 1977

PART IV



DEPARTMENT OF AGRICULTURE

Soil Conservation Service

■

COMPLIANCE WITH THE NATIONAL ENVIRNOMENTAL POLICY ACT, 1969; USE OF CHANNEL MODIFICATION AS A MEANS OF WATER MANAGEMENT; AND GUIDE FOR ENVIRONMENTAL ASSESSMENT

General Guidelines and Procedures

Title 7—Agriculture

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—SUPPORT ACTIVITIES

PART 650—COMPLIANCE WITH NEPA

General Guidelines

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This revised rule prescribes the general guidelines for SCS's compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). These revised rules are intended to streamline the NEPA process making the environmental impact statement a more integral part of the decisionmaking process. Sections 650.10 and 650.11 are not being used at present.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

R. M. Davis, Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On February 8, 1977, the Soil Conservation Service published in the FEDERAL REGISTER (42 FR 7959) proposed revisions of its rules for the preparation of environmental impact statements (EIS). During the 30-day commenting period ten (10) letters of comment were received from four (4) Federal Agencies; four (4) state agencies, one (1) conservation law foundation; and one (1) national newspaper association. All written comments were given consideration in developing the final guidelines. The full text of all comments received is on file and available for public inspection in:

Room 6105, South Agriculture Building, Environmental Services Division, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013

The principal points raised by those submitting written comments and the response of the SCS to each, are as follows:

Comment: It was pointed out that the proposed regulations should be significantly changed to more accurately reflect the goals of NEPA.

Respone: Numerous subsections of 7 CFR Part 650 have been changed. See the response to the other specific comments for a discussion of the changes made. Title 7 CFR Part 650 was prepared using the Council on Environmental Quality (CEQ) Guildelines, 40 CFR Part 1500 as a guide, and adapted to meet the specific requirements of the SCS Federal actions.

Comment: Since SCS provides technical assistance as well as financial assistance, the rationale for limiting the applicability of the regulations should be discussed.

Response: NEPA applies to all of SCS's assistance whether it be financial, technical, or both. However, Part 650, Subpart A, applies only to SCS's implementation of section 102(2)(C) of NEPA for those project-type actions which may lead to a decision of whether or not to prepare an EIS. SCS compliance with NEPA in its nonproject-type Federal assistance programs is or will be addressed in rules published for each program.

Comment: A question was raised concerning conservation districts and local sponsors being local government units.

Response: Conservation districts are created by State statute as subdivisions of State government. Organizations must have authority granted by State statute to install, operate and maintain measures prior to being accepted as sponsors.

Comment: In order to capture the spirit of NEPA, §§ 650.3(d) and 650.8(b)(3) should be reworded to more fully define the environment. Socioeconomic aspects and civil rights impacts were suggested for inclusion.

Response: We agree. Subsections 650.3(d) and 650.8(b)(3) have been modified as suggested.

Comment: A requirement should be added that a minimum of 90-days should elapse after filing a draft EIS with CEQ before administrative action can be taken.

Response: No change has been made relating to the 90-day waiting period. The preparation and review processes used in SCS exceed 90 days after a draft EIS has been made available to the public. The more significant 30-day waiting period after a final EIS has been made available to the public is addressed in § 650.9(d).

Comment: Specific references to laws and statutes other than NEPA should be included. The suggestions included the Endangered Species Act, the Wild and Scenic Rivers Act, the Coastal Zone Management Act, the National Historic Preservation Act, Executive Order 11593, and the Archeological and Historic Preservation Act.

Response: Subsection 650.1 as now worded covers environmentally related activities of other Federal agencies. The SCS implicitly follows laws, executive orders, court orders, and the rules and regulations of other Federal agencies which impact on SCS-assisted actions. Reference to each specific authorization is not repeated in 7 CFR Part 650 to avoid duplication.

Comment: Subsection 650.3(c) should be modified to include measures installed on public lands.

Response: Subsection 650.3(c) has been modified as suggested.

Comment: Subsection 650.4(b) should include the climate and cultural resources. Furthermore, "future uses" should be expanded.

Response: Subsection 650.4(b) has been reworded to reflect "alternative futures." Specific references to climate and cultural resources have not been incorporated. This section is intended to reflect the significant existence or resources present. To identify only a few resources would imply that other equally important resources are not significant.

Comment: Subsection 650.4(c) should be modified to reflect alternative plans ranging from "no development" through "total development."

Response: SCS uses an interdisciplinary environmental assessment and planning proceduce which emphasizes a broad interest in the planning process. Water resource projects are formulated using the Water Resources Council's Principles and Standards as a planning tool (38 FR 24778). Because of the vast differences in resources in different regions of the country, it is not practical to constrain interdisciplinary planners in the alternatives to study. The elements identified in § 650.4 (a) through (d) are planning principles accepted by planners in general. Therefore, no change has been made in this section.

Comment: Subsections 650.4(d) and 650.5 (a) and (b) should be modified so agencies representing various interests can have access not only to the final plan for evaluation, but also to the alternative plans and the scoring mechanism by which the alternatives were ranked to evaluate potential tradeoffs.

Response: SCS uses an interdisciplinary approach in planning and assessing environmental impacts of proposed Federal actions. Other agencies, groups, and individuals with expertise or special interest are invited to participate in the environmental assessment and planning process. Information collected and analyzed is public information. Agencies, groups, and individuals are welcome to review information and urged to participate in the planning process consistent with 7 CFR Part 661.

Comment: Subsection 650.6(c) should be modified to have public notices published in a newspaper for three consecutive weeks prior to a public meeting. Furthermore, § 650.9(a)(3) should be made consistent with § 650.6(c).

Response: Public notices are to be published in a newspaper serving the area where the action is proposed prior to a public meeting or hearing. Where statutes require a longer or different notification procedure, the statutes will be followed. SCS will notify people of impending public action. Subsection 650.9(a)(3) concerns the availability of a draft EIS and a single public announcement is sufficient.

Comment: Section 650.7 places the responsibility upon the responsible Federal official (RFO) for determining whether or not a proposed Federal action is a major action significantly affecting the human environment within the meaning of section 102(2)(C) of NEPA. Specific criteria should be added to clearly define when an EIS is or is not needed.

Response: The intent of § 650.7 is the preparation of an environmental assessment by an interdisciplinary team for each proposed Federal action. Based upon the actual case-by-case assessment, a decision is made by the RFO on the need for an EIS. The decision is based on environmental impacts, accumulated impacts, water quality, effects on cultural resources, social and civil rights impacts,

and other effects likely to result from a proposed federally assisted action. However, § 650.7(a) has been modified to state that major Federal actions involving realignment or increasing channel capacities, and those watershed projects requiring congressional action, after the effective date of these rules, will automatically require the preparation of an EIS. A uniform national criteria covering environmental amenities cannot realistically be made. Individual actions need to be assessed on a case-by-case basis and a determination made concerning impacts upon existing resources. The RFO will counsel with other Federal, State, and local agencies, as well as groups and individuals, prior to making a decision concerning the need for an EIS.

Comment: Subsections 650.7(a) (1) through (5) should be reworded to include concern for lands capable of agricultural production, and for cultural resources as factors to consider in determining the need for an EIS.

Response: We agree. Subsections 650.7 (a) (1) through (5) have been modified as suggested.

Comment: The negative declaration has been eliminated as a NEPA procedure. In its place is a notice of intent which will not be circulated. This should be changed.

Response: We agree. Subsection 650.7 (c) has been modified to require the notice of intent to be prepared, published in the FEDERAL REGISTER, and circulated to interested agencies and individuals when a decision has been made to prepare an EIS. Two new §§ 650.3 (f) and (g) titled Environmental Impact Appraisal and Notice of Intent have been added to define these terms.

Comment: All environmental considerations of a Federal action should be evaluated simultaneously in a single document. It would then be easier to determine the accumulated impacts caused by the proposed Federal action.

Response: We agree with the concept that environmental considerations should be evaluated simultaneously for interrelated proposed actions. Title 7 CFR Part 650 contains attempts to implement this concept.

Comment: Subsection 650.8(b)(6) should be revised to address the need to analyze and describe the cumulative effects of all proposed actions in the area, whether relative to the proposed SCS action or not.

Response: The SCS regulations are intended to include those proposed actions which are similar in nature and those projects whose impacts when accumulated with the impacts resulting from SCS actions would contribute to the effects on the impacted area.

Comment: Subsections 650.8 (a) and (b) appear to be prepared consistent with CEQ's memorandum to heads of agencies dated February 10, 1976, which confirms the concept to reduce the volume of an EIS so that it can be more easily used in the decisionmaking process. The memorandum also contained several recommendations for reducing the volume of the EIS without sacrificing the quality of information presented. We suggest that these recommendations be included in the regulations in order to maintain the quality of the EIS.

Response: We agree. Subsections 650.8 (a) and (b) have been reworded to be more consistent with CEQ's memorandum. The entire revision of Part 650 is designed to streamline the EIS. The ultimate product of the revised guidelines will be a document which contributes significantly to the decisionmaking process.

Comment: Value judgments have been written into the compliance with NEPA guidelines in lieu of making scientific studies and conclusions.

Response: The entire NEPA process involves making an interdisciplinary environmental assessment. Recommendations and conclusions resulting from the environmental assessment form the basis for deciding on the need for an EIS and provide the decision maker with documented facts on environmental impacts discussed in an EIS.

Comment: Subsection 650.9(a) does not require that copies of the EIS be furnished to the Environmental Protection Agency (EPA) for review and comment in accordance with section 309 of the Clean Air Act and section 1500.9(b) of the CEQ Guidelines.

Response: Subsection 650.9(a)(1)(i) states that "Federal agencies who have jurisdiction by law * * *." This includes EPA.

Comment: "Prime" should be deleted from subsection 650.20(c)(7) so that all agricultural land is included.

Response: Agricultural production lost in Federal actions may be a conscious tradeoff made by those responsible for the action. However, prime farmland is a fixed resource which is diminishing at an accelerated rate and should be protected to the fullest extent practicable.

Having considered the comments received, and other relevant information, the Administrator concludes that the proposed rules, with changes, should be adopted as set forth below. Accordingly, Title 7 Chapter VI, Subchapter F, Part 650, Subpart A, and § 650.20 of Subpart B are hereby amended, and will be effective on August 8, 1977.

Dated: August 2, 1977.

(Catalog of Federal Domestic Assistance programs numbered 10.901 and 10.904 National Archives Reference Services.)

B. M. DAVIS,
Administrator,
Soil Conservation Service.

Subpart A—Preparation of Environmental Impact Statements for Project-Type Actions—Guidelines

Sec.
650.1 Purpose.
650.2 Applicability.
650.3 Definition of terms.
650.4 Environmental assessment in the planning process.
650.5 Obtaining information during environmental assessment.
650.6 Public involvement during environmental assessment.
650.7 Criteria for determining whether an EIS is to be prepared.
650.8 EIS format and content.
650.9 EIS distribution and comment.

Subpart B—Related Environmental Concerns

Sec.
650.20 Reviewing and commenting on EIS's prepared by other agencies

* * * * *

AUTHORITY: 42 U.S.C. 4332(2)(C); Executive Order 11514, 16 U.S.C. 1001–1008; 7 U.S.C. 1010–1011; 16 U.S.C. 590 a–f, q; 7 CFR 2.62.

Subpart A—Preparation of Environmental Impact Statements for Project-Type Actions—Guidelines

§ 650.1 Purpose.

This part prescribes SCS guidelines for the preparation, coordination, and review of environmental impact statements (EIS's) as required by section 102(2)(C) of NEPA of 1969. These guidelines are consistent with Executive Order 11514, dated March 5, 1970, as amended and the CEQ Guidelines for Preparation of Environmental Impact Statements, 40 CFR Part 1500. The assessment of environmental quality in SCS-assisted programs is carried out in harmony with the activities and procedures of those to whom assistance is provided. The SCS Administrator maintains liaison with CEQ. SCS policies and procedures relating to NEPA are coordinated with CEQ. SCS-assisted projects are also coordinated with Federal, State, and local agencies and other concerned individuals and groups to ensure the proper consideration of environmental values.

§ 650.2 Applicability.

(a) This part applies to those land and water resource projects or federally assisted actions for which State and local units of government receive Federal financial assistance from SCS. (7 CFR Parts 620–623 and 640–643). These regulations are effective on the date of publication of the final regulations.

(b) These regulations shall not apply to projects or independent portions of projects for which an environmental assessment has been made and an EIS or negative declaration filed with CEQ in accordance with the previous SCS rules, 7 CFR Part 650 (41 FR 24975) dated June 22, 1976. For those projects the June 22, 1976, guidelines will be utilized until completion.

§ 650.3 Definition of terms.

(a) *Environmental assessment.* The environmental assessment is an inseparable part of the planning process. The environmental assessment provides a range of concise and pertinent environmental data as well as social and economic information to indicate the need for an EIS, resources available, and alternatives for decisionmaking on the use and development of resources.

(b) *Federally assisted actions.* An action which is formulated and carried out by local units of government with financial assistance provided by the SCS. Measures located on nonfederal land are under the jurisdiction and control of the local units of government. Measures located on Federal land are under the jurisdiction and control of the

Federal land managing agency. (See 7 CFR 620.21.)

(c) *Responsible Federal officials.* The SCS Administrator is the responsible Federal official (RFO) for compliance with NEPA regarding proposed legislation, programs, legislative reports, regulations, and program EIS's. SCS State Conservationists (STC's) are the RFO's for complying with the provisions of NEPA in other SCS-assisted actions. When an SCS-assisted major Federal action involves more than one State, the Administrator will designate one STC as the RFO for that action.

(d) *Interdisciplinary planning.* SCS uses an interdisciplinary environmental assessment and planning process in which individuals and groups having different technical expertise jointly assess existing future environmental quality. The interdisciplinary group considers complexity of problems, structure, and function of natural resources, and the economic, social, and other effects of alternative actions. Effective interdisciplinary planning is closely related to public involvement in the planning process.

(e) *Statement of findings.* A statement of findings is a concise written rationale by the RFO regarding implementation of the proposed action. It will briefly describe significant concerns that were encountered in the decisionmaking process. The statement of findings will be prepared on proposed actions requiring an EIS after the 30-day administrative action period has expired following the notice of availability of the final EIS as published in the FEDERAL REGISTER by CEQ. The statement of findings will be signed and dated by the STC.

(f) *Environmental impact appraisal.* For proposed project actions for which it has been determined that an EIS will not be prepared, an environmental impact appraisal (EIA) will be prepared to document the rationale for not preparing an EIS. The EIA will respond to the five questions in § 650.7(a) (1) through (5). It will be dated and signed by the STC.

(g) *Notice of intent.* A notice of intent is a brief statement inviting public reaction to the decision by the RFO whether or not to prepare an EIS for a major Federal action. The notice of intent will be published in the FEDERAL REGISTER, circulated to interested agencies, groups, individuals, and published in a newspaper(s) serving the area of the proposed action.

(h) *Administrative action.* For purposes of these guidelines, the signing of a statement of findings constitutes administrative action on those actions where an EIS is prepared.

§ 650.4 Environmental assessment in the planning process.

Environmental assessment and initial planning efforts for land and water resource projects are interrelated and commence simultaneously. Procedures for making environmental assessments are contained in SCS's, "Guide for Environmental Assessment," issued in March 1977. This combined effort will utilize an interdisciplinary approach. Factors to be considered in the assessment are dependent on the planning objectives. The environmental assessment continues through the planning process. The interrelated environmental assessment and planning elements are as follows:

(a) Identify the planning objectives and study needs of the sponsoring local organizations. Emphasize that environmental quality objectives are coequal with national economic development objectives.

(b) Inventory and evaluate the resource base giving due consideration to alternative futures. Environmental factors are to be studied consistent with the planning objectives.

(c) Formulate alternative plans and display impacts taking into consideration Floodplain Management (Executive Order 11988) and Protection of Wetlands (Executive Order 11990). Alternatives affecting flood plains or wetlands will be considered only where there is no practicable other way of solving the problem and the proposal includes all practical measures to minimize harm to these resources.

(d) Analyze and compare alternative plans. Alternative plans will reflect environmental considerations as appropriate.

§ 650.5 Obtaining information during environmental assessment.

(a) *Use of available data.* SCS will make use of available reports, plans, and publications which relate to the environmental issues involved.

(b) *Study by SCS.* The SCS will perform surveys and investigations using an interdisciplinary team. Information related to flood plain management and protection of wetlands will be incorporated into the environmental assessment.

(c) *Study by others.* SCS will determine if additional studies are necessary and will enter into contracts or other arrangements with qualified organizations or individuals to produce needed environmental data.

§ 650.6 Public involvement during environmental assessment.

(a) *General considerations for developing public involvement*—(1) *Identification of interested public.* Public involvement begins with the initial steps of the interrelated environmental assessment and planning process. The interested public consisting of, but not limited to individuals, groups, organizations, and governmental agencies, are to be encouraged to participate in and contribute to the interrelated planning process and environmental assessment activities.

(2) *Early public review.* Public involvement will include an early discussion of flood plain management and protection of wetlands, where appropriate. Where involved, these resources will be inventoried and presented at public meetings and in public notices.

(3) *Documentation.* A reviewable record of public involvement in the environmental assessment and planning process will be maintained by the RFO.

(b) *Public meetings.* The RFO, after consultation with the sponsors, will determine when public meetings or hearings are to be held. Environmental information will be presented and discussed along with other appropriate information. To the extent practical, pertinent information should be made available prior to the meetings.

(c) *Public notices.* Notice of each public meeting or hearing discussed in paragraph (b) of this section will be published in a newspaper(s) serving the area where the action is proposed. Where official action by the local units of government involved in the proposed is governed by State statute, the public notice and mailing requirements of the statute will be followed.

§ 650.7 Criteria for determining whether an EIS is to be prepared.

(a) *Actions which require an EIS.* (1) Major Federal actions which involve channel realignment or work to increase channel capacities.

(2) Watershed projects requiring congressional action after the effective date of these rules.

(3) All other actions which are determined to be major Federal actions significantly affecting the quality of the human environment.

(b) *Criteria for determining if an action is a major Federal action significantly affecting the quality of the human environment.* The RFO will determine the need for an EIS on an individual case basis. An EIS will be prepared if the proposed action is a major Federal action significantly affecting the quality of the human environment. An environmental assessment, using a systematic interdisciplinary analysis and evaluation of data and information responding to the five provisions of Section 102(2)(C) of NEPA, will assist the RFO in deciding if the action will require the preparation of an EIS.

The analysis and evaluation of environmental concerns will generate questions such as the following:

(1) *Environmental impact.* Will the proposed action significantly affect the quality of the human environment? e.g., significantly alter or destroy valuable wetlands, prime and unique farmland, cultural resources, threatened and endangered species, water quality, fish and wildlife habitats, wilderness and scenic areas, or perennial stream ecosystems?

(2) *Adverse environmental impacts which cannot be avoided.* What are the important environmental amenities that would be lost if the proposed action were implemented?

(3) *Alternatives.* Are there alternative methods that would achieve the planning objectives with essentially a similar commitment of resources while avoiding major adverse environmental impacts? e.g., flood plain management and protection of wetlands.

(4) *Short-term uses versus long-term productivity.* Will the proposed actions, when added to other similar actions, foreclose the enhancement of significant

long-term productivity as a tradeoff for short-term uses?

(5) *Commitment of resources.* Will the proposed action irreversibly and irretrievably commit the use of important resources? e.g., prime and unique farmland.

(c) *When to prepare an EIS.* If it is determined that the proposed action is a major Federal action that will generate significant adverse effects on the quality of the human environment, the RFO will prepare an EIS. As soon as the decision to prepare an EIS is made, the RFO will circulate a Notice of Intent. (See § 650.3(g).)

(d) *When an EIS is not prepared.* An EIS will not be prepared if the RFO determines, on the basis of the environmental assessment, that the proposed action is not a major Federal action, or is a major Federal action which will not significantly adversely affect the quality of the human environment. The RFO will distribute a notice of intent and an environmental impact appraisal to interested agencies and individuals. A notice of intent announcing the decision not to prepare an EIS, and the availability of the environmental impact appraisal, will be published in the FEDERAL REGISTER and in a newspaper(s) serving the area of the proposed action. Single copy requests for the environmental impact appraisal will be filled without charge. A charge may be made for multiple copy requests. Implementation of the proposed action will not be initiated until 30 days after the notice of intent has been published in the FEDERAL REGISTER.

(e) *Lead agency.* In certain instances, several Federal agencies may have program responsibilities relative to a major Federal action with significant impacts upon the quality of the human environment. If it is mutually decided that SCS is the lead agency, the RFO will coordinate the input of all concerned agencies in the development of the EIS. If it is mutually decided that another agency is the lead agency, SCS will cooperate in the development of an EIS. In actions involving several departments or agencies within USDA, the role of SCS will be determined in consultation with the USDA Office of the Coordinator of Environmental Quality Activities.

(f) *List of EIS's.* A current list of land and water resource projects on which EIS's are to be prepared is to be maintained by the STC.

(g) *EIS's for more than one project action.* The SCS, in certain instances will prepare an EIS covering several similar actions which are interrelated in purpose and scope. If the actions involve more than one state, the Administrator of SCS will designate one STC as the RFO.

§ 650.8 EIS format and content.

(a) *General.* The EIS should be written in concise and nontechnical language in order for it to be used as a tool in the decisionmaking process. The EIS is a public disclosure of the major environmental issues surrounding a proposed action as set forth in Section 102(2)(C) of NEPA to ensure that environmental factors are considered in decisions pertaining to the proposed action. The EIS should explain how the scope of the statement and its level of detail have been delineated in accordance with environmental issues and problems involved in the proposed action. Data and analyses in the EIS should be commensurate with the importance of the impact on the quality of the human environment as determined by the environmental analysis. Less important material should be summarized, consolidated, or simply referenced.

(b) *Sections to be included in the EIS.* The following sections will be included in the EIS. The RFO may include additional sections, maps, drawings, photographs, and other data.

(1) *Title page.*

(2) *Summary of proposed action, impacts, and alternatives.*

(3) *Environmental impact of the proposed action.* This section should contain a brief description of the environmental impacts both within and outside the planning area that may result if the proposed action is implemented. In general, the EIS will describe the impacts of the proposed action on cultural, physical, and natural resources; terrestrial and aquatic ecosystems; prime and unique farmland; and demographic and social effects, including civil rights impacts on minority groups and low-income persons.

(4) *Any adverse environmental effects which cannot be avoided should the proposal be implemented.* This section should analyze and describe those adverse impacts of the proposed action which are unavoidable.

(5) *Alternatives to the proposed action.* This section should contain an analysis and description of alternatives studied during the interrelated environmental assessment and the planning process. Environmental impacts of each alternative shall be described and appropriately displayed.

(6) *The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* This section should analyze and describe the cumulative effects of the proposed action when added to other similar actions, in an area or region. The long-term consequences on the environment should be described. This section should disclose the consequences of short-term uses of man's environment which subsequently may produce long-term impacts.

(7) *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* This section should identify the extent to which the proposed action will curtail or change man's use and enjoyment of resources within the planning area.

(8) *Consultation and review with appropriate Federal, State and local agencies and others.* This section will briefly describe the overall processes of consultation and coordination with interested agencies, groups, and individuals during the environmental assessment and planning process. A listing of agencies and groups requested to review the draft EIS should be included in this section of the draft EIS. This section should be expanded in the final EIS to provide a response to significant environmental concerns and comments received on the draft EIS and indicate where revisions were made in the EIS.

(9) *Appendices.* The draft and final EIS's should contain appropriate appendices, as necessary, to assist the decision maker in understanding the environmental conditions and impacts regarding the proposed action.

§ 650.9 EIS distribution and comment.

(a) *Draft EIS's.* The following steps will be taken in filing and distributing draft EIS's for review and comment:

(1) *CEQ and others.* Five copies of the draft EIS's will be sent to CEQ by the RFO. At the same time the RFO will send copies to:

(i) *Federal agencies* who have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) *State and local agencies.* OMB Circular No. A-95 (Revised) through its system of State and areawide clearinghouses provides a means for obtaining the views of State and local environmental agencies which can assist in the preparation and review of EIS's.

(iii) *Organizations, groups, and individuals.* A copy of the draft EIS will be sent to the appropriate official of each organization or group and each individual who has requested a copy. A charge may be made for multiple copy requests.

(2) *Time period for comment.* The time period for review ends 45 days after the date CEQ publishes the notice of public availability of the draft EIS in the FEDERAL REGISTER. A 15-day extension of time for review and comment will be considered by the RFO when such requests are submitted in writing. If neither comments nor a request for an extension is received at the end of the 45-day period it will be presumed that the agency or party from whom comments were requested has no comments to make.

(3) *News releases.* In addition to the CEQ FEDERAL REGISTER notice of availability, the RFO shall announce the availability of the draft EIS in a newspaper(s) serving the area.

(4) *Revising a draft EIS.* If significant changes in the proposed action are made as a result of comments on the draft EIS, a revised draft EIS may be necessary. The revised draft EIS will be recirculated for comment in the same manner as a draft EIS.

(b) *Final EIS's.* After the review period for the draft EIS, the RFO will prepare a final EIS, making adjustments where necessary by taking into consideration and responding to significant comments and opposing viewpoints received on the draft EIS. The following

steps will be taken in filing and distributing final EIS's:

(1) Letters of comment will be appended to the final EIS. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the commentators may be appended in lieu of the actual letter.

(2) The RFO shall send five copies of the final EIS to CEQ and a copy of the final EIS to each State and Federal agency, organization, group, and individual who furnished comments on the draft EIS. Single copy requests for copies of the final EIS will be provided. A charge may be made for multiple copy requests.

(c) *Supplements to EIS's.* (1) If SCS determines that it is necessary to clarify or amplify a point of concern raised after the final EIS is filed with CEQ, appropriate clarification or amplification will be sent to CEQ with informational copies furnished to those who received copies of the final EIS. The waiting periods are not applicable.

(2) If the RFO determines that the final EIS previously filed becomes inadequate due to a major change in the plan for the proposed action which significantly affects the quality of the human environment, a new EIS will be prepared, filed, and distributed as provided in paragraphs (a) and (b) of this section.

(d) *Administrative action.* The RFO will take no administrative action sooner than 30 days after the final EIS has been made available to the public and the notice of availability of the final EIS has been published in the FEDERAL REGISTER by CEQ.

(e) *Expedited procedures.* When unusual circumstances make it necessary to take action with significant impact on the quality of the human environment without observing the review provisions of paragraphs (a), (b), and (c) of this section, the STC shall request the Administrator to consult with CEQ concerning alternative arrangements.

Subpart B—Related Environmental Concerns

§ 650.20 Reviewing and commenting on EIS's prepared by other agencies.

(a) *SCS employees assigned to review and comment* on EIS's prepared by other agencies are to be familiar with SCS policies and guidelines contained in this part, and NEPA.

(b) *EIS's received for review by SCS for which SCS has expertise or interest* shall be responded to promptly. Comments are to be objective with the intent to offer suggestions to help minimize adverse impacts of the proposed action to ensure the health and welfare of the agricultural community. Comments are to be based on knowledge readily available. Field office technical guides, soil surveys, field investigation reports, and other resource data and reference materials developed by SCS and other agencies should be used and cited. It is not intended that special surveys or investigations be conducted to acquire additional information for use in preparing comments.

(c) *The SCS reviewer should consider the following kinds of concerns*—(1) *The suitability or limitations of the soils for the proposed action.* Would an alternative route, location, or layout minimize land use problems and adverse environmental impacts?

(2) *Provisions for control of erosion and management of water during construction.* Are there resources downstream that would be affected by sediment from the construction area, and does the statement provide for adequate control measures? Will lack of erosion control cause air pollution? Is the stockpiling of topsoil for future use considered in the EIS?

(3) *Provisions for soil and water conservation management measures on project lands, rights-of-way, access roads, and borrow areas.* Does the statement indicate that enduring soil and water practices are to be installed and maintained?

(4) *The effect of water discharges from project lands or rights-of-way onto other properties.* Will discharges cause erosion or flooding on other lands? Will discharges affect water quality?

(5) *The effects of disruption of the natural drainage patterns and severance of private land units.* Does the statement indicate that natural drainage patterns will be maintained? Will bridges, culverts, and other water control structures be located to ensure that adjacent lands are not flooded or otherwise restricted in use? Does the EIS describe the effects of severance on private land ownerships?

(6) *The impact on existing soil and water conservation management systems.* To what extent will conservation systems be altered, severed, or suffer blocked outlets? Will land use or cover be affected?

(7) *Impacts on prime and unique farmland.* Would an alternative location or route require less prime farmland? Does the EIS consider secondary effects on prime farmland? What benefits are foregone if prime farmland is taken?

(8) *Impacts on ecosystems.* Does the EIS describe impacts on major plant communities, and terrestrial and aquatic ecosystems?

(9) *Impacts on SCS-assisted projects.* Does the statement reflect the effect of the proposed action on present or planned SCS assisted projects?

(d) *EIS's referred to SCS for departmental comments.* EIS's referred by the USDA Coordinator for Environmental Quality Activities to the SCS national office may designate SCS as the lead agency for preparing comments for USDA. In this case, the SCS national office determines whether inputs from STC's and other USDA agencies are needed. If so, STC's and other USDA agencies are requested to forward comments to the Environmental Services Division for use in preparing the USDA response.

(e) *EIS's referred to SCS for agency comments.* EIS's received by the SCS national office are screened by the Director, Environmental Services Division to determine which office within SCS will prepare comments. If the proposed action is within one State, the draft EIS will be forwarded to the appropriate STC and he will reply directly to the agency requesting the comments. If the proposed action involves more than one State, one STC will be designated to forward SCS comments directly to the agency requesting the comments. In some cases, the action may be national or regional in scope, and require inputs from several offices within SCS. In this instance, comments will be assembled in the Environmental Services Division for preparation of a response to the agency requesting comments. A copy of each response prepared by a STC should be sent to the Director, Environmental Services Division.

(f) *EIS's sent to SCS offices other than the national office.* If a STC receives an EIS from another agency, he is to respond to the initiating agency. A copy of his comments should be sent to the Director, Environmental Services Division.

(1) *EIS's addressed to SCS area or field offices.* If an EIS is received by a field or area office of SCS, the STC will coordinate the response.

(2) *EIS's submitted to conservation districts.* SCS may furnish needed soil, water, and related resource information to the district for their use in preparing comments.

(g) *Distribution of SCS comments on other agencies' draft EIS's.* Five copies of review comments made by SCS on draft EIS's prepared by other Federal agencies are to be sent to CEQ.

(h) *Third party requests for a copy of SCS comments on another* agency's EIS will be filled after SCS has forwarded copies of its letter of comments to CEQ.

[FR Doc.77-22522 Filed 8-5-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

WATER RESOURCES PROJECT TYPE ACTIVITIES

Channel Modification Guidelines

AGENCY: Soil Conservation Service (Department of Agriculture) and Fish and Wildlife Service (Department of the Interior).

ACTION: Notice of Proposed Guidelines for Use of Channel Modification as a Means of Water Management in water resource project type activities of the Soil Conservation Service (SCS). The guidelines are not intended to have the force of rules or regulations, but are published for the information of the interested public.

SUMMARY: Stream channel modifications can both (1) protect, restore, or bring new farmland into production by removing surface and subsurface water from such lands, and (2) destroy productive wetlands and aquatic habitats which have value to fish, wildlife, and other environmental resources .This situation has resulted in confrontations between agricultural and environmental interests on proposed SCS projects where channel modifications have been planned. The draft guidelines set forth conditions under which channel modifications can be considered acceptable (or unacceptable) in such projects by planners of the Soil Conservation Service and the U.S. Fish and Wildlife Service (FWS).

An earlier version of the guidelines was tested on SCS projects in North Dakota and Louisiana. They apply only to flood prevention projects, small watershed projects, and resource conservation and development projects of the SCS.

The guidelines document discusses their background, describes the types of channel modifications, sets out the draft guidelines themselves, prescribes a procedure for coordinated planning, and outlines a method of resolving issues between SCS and FWS.

The guidelines would restrict the planning of channel modifications which would jeopardize endangered or threatened species, or drain or alter productive wetlands. They also would prohibit such modifications unless they can be accomplished with "little or no" adverse effect on (1) streams which are or may become wild and scenic rivers or which flow through parks, wilderness areas or refuges, or (2) "important fish and wildlife values" after providing appropriate mitigation or protective measures.

DATES: Comments of agencies and the interested public are invited and should be received by no later than September 15, 1977.

ADDRESSES: Comments should be addressed to the following: Lynn Greenwalt, Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, or R. M. Davis, Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dr. F. Eugene Hester, Associate Director, U.S. Fish and Wildlife Service, (202-343-5715).

Mr. Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service (202-447-4527).

Accordingly, the following proposed guidelines are published for informational purposes.

Dated: August 2, 1977.

LYNN G. GREENWALT,
Director,
Fish and Wildlife Service.

B. M. DAVIS,
Administrator,
Soil Conservation Service.

DRAFT CHANNEL MODIFICATION GUIDELINES

Prepared by U.S. Department of the Interior, Fish and Wildlife Service; U.S. Department of Agriculture, Soil Conservation Service

JUNE 1, 1977

CHANNEL MODIFICATION GUIDELINES

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CHANNEL MODIFICATION GUIDELINES

I. INTRODUCTION

A. *Purpose.* These guidelines are promulgated by the Soil Conservation Service (SCS) and Fish and Wildlife Service (FWS) to guide their personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. They will be used in the planning of all SCS projects or measures which qualify for either technical, financial, and/or credit assistance under the authorities for flood prevention projects, small watershed projects, and resource conservation and development projects. These program authorities contain provisions for maintaining and enhancing fish and wildlife resources as well as achieving other water management objectives.

B. *Policy.* It is the policy of the SCS and FWS that care and effort will be made to maintain and restore streams, wetlands, and riparian vegetation as functioning parts of a viable ecosystem upon which fish and wildlife resources depend.

It is also the policy of SCS and FWS to use an interdisciplinary planning process which will permit a balancing of the need to maintain a viable naturally functioning ecosystem and projected food and fiber, economic, and social needs.

The application of these guidelines, the resource inventory, interpretation, and planning assistance provided by the SCS and FWS will insure identification and consideration of alternatives to channel modification.

C. *Applicability.* These guidelines are effective on the date signed by both the SCS and FWS and will be used for all new planning starts, and other projects in the planning phase as determined to be practical by the SCS after consultation with the FWS. The guidelines are not to be applied retroactively to projects approved for construction except when preparing supplements or revisions which result in increases in the amount of channel modification and/or type of channel modification which increases the potential adverse environmental impact (re: section III B.).

After the guidelines have been used for a reasonable length of time, one year or more, their applicability and effectiveness will be reviewed. Subsequently changes will be made as determined necessary or these guidelines may be terminated at the request of either agency.

II. BACKGROUND

Congress has recognized that erosion, floodwater, and sediment can cause damage in the watersheds of the rivers and streams of the United States. It has found that loss of life and damage to property constitutes a menace to the national welfare and that the Federal Government should cooperate with states and their political subdivisions for the purposes of preventing such damages and of furthering the conservation, development, utilization, and disposal of water. In so doing this action will also preserve, protect, and improve the Nation's land and water resources and the quality of the environment.

Congress has also recognized that rivers and streams, wetlands, and riparian vegetation constitute a valuable resource which is vital to the public interest in naturally functioning ecosystems, water transport, and maintenance of fish and wildlife populations Dependent upon the situation, wetlands can serve as (1) natural flood detention areas; (2) sediment and debris traps; (3) water purifiers and in recycling nutrients; (4) groundwater recharge areas; (5) nursery areas for aquatic animal species; (6) important habitats for a wide variety of plant and animal species, some of which have been depleted to the point that their continued survival is endangered; and (7) areas which produce highly valuable crops of timber, fish and wildlife.

High flows in rivers and streams and periodic overflow have significant value in maintaining meandering channels and in cleansing and redistributing substrates. This action by water provides riffle pool or other habitat for fish spawning and rearing, production of aquatic invertebrates. It also provides diverse plant successional areas and other types of shoreline habitat that fulfill fish and wildlife food and cover requirements. However, it is also recognized that many areas adjacent to streams and wetlands are well suited for and have a long history of agricultural and urban uses.

Channel modification, used in a sensitive manner, is one method that can be utilized in solving specific water management problems. It may be needed to restore a water course impaired or damaged naturally or through man's unwise use or management of adjacent or upstream lands. It may also be needed to provide a safe and healthy environment and for the maintenance of existing agricultural productivity However, channel modification can cause serious damage to fish and wildlife resource values. In addition to the direct impacts on the stream and immediate environs, the practice has on occasion, led directly or indirectly to major drainage of wetlands, clearing of bottomland forests for intensive agriculture and increased flooding and siltation in downstream areas. Channel modification for flood control, drainage, and irrigation projects has often resulted in severe conflict with the function of the associated ecosystems, changing or reducing both the variety and abundance of fish and wildlife resources.

Because of the variety of values associated with water, it is incumbent upon the SCS and FWS to continue to share their technical expertise to help insure decisions which will result in the maximum benefits to assure long-term agricultural productivity and optimum environmental quality.

III. GUIDELINES

A. *Alternatives.* The guidelines for channel modification will be used when formulating alternative plans under the Water Resources Council's Principles and Standards. The planning process will include an inventory of resources, including fish and wildlife habitats and its geographic delineation. It will also identify appropriate means for minimizing adverse impacts on habitat values. Measurement of habitat values will be determined on a case-by-case basis in accordance with general procedures to be promulgated by the FWS and developed in consultation with the SCS.

Alternative plans will be formulated to (1) emphasize environmental quality; (2) optimize national economic development; and (3) provide varying mixes of the components of the environmental quality and national economic development objectives. For each alternative plan, there will be a display or accounting of relevant beneficial and adverse effects. A comparison of the displays will identify trade-offs between the environmental quality and economic development objectives. Within this framework and in consideration of the requirements of the National Environmental Policy Act, equal consideration will be given to environmental, and economic and technical aspects in the decisionmaking process.

In compliance with the mandates in NEPA and the Water Resources Council's Principles and Standards, the Fish and Wildlife Service will assist the Soil Conservation Service develop, evaluate, and recommend alternatives, if any, to channel modification when it is expected to cause, directly or indirectly, measurable losses of fish and wildlife resources. The alternatives will be recommended when they meet all the following tests; (1) are consistent with the Water Resources Council's Guidelines for Principles and Standards; (2) make a significant contribution to project objectives; and (3) result in less damage to fish and wildlife habitat. The following three broad types of alternatives will be considered singly or in combination:

1. *Soil and water conservation practices.*

2. *Nonstructural.*—Nonstructural measures may include, but are not limited to land use regulation, land acquisition, providing for the maintenance of aquatic areas, flood plain zoning, flood proofing existing buildings, flood forecasting, flood warning, providing flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.

3. *Structural.*—Structural alternatives to channel modification include but are not limited to reservoirs, flood ways, dikes, levees (including set back levees), flood walls, pumping plants, diversions, and wetland development and restoration.

B. *Types of channel modification.* Channel modification is defined in these guidelines to include actions, such as riprapping, selective snagging, clearing and snagging, widening, deepening, realignment and lining, listed generally in order of ascending impact on fish and wildlife resources.

1. *Riprapping.* The placement of irregular permanent material such as rock in critical areas along the watercourse to protect the earth materials against excessive erosive forces.

2. *Selective Snagging.* The selective removal of obstructions from a channel to increase its capacity to convey water. This includes, but is not limited to, the removal of downed timber, and accumulations of debris or obstructions.

3. *Clearing and snagging.* The removal of obstructions from the channel and stream banks, including the removal of vegetation and accumulations of bedload material to increase its capacity to convey water. It may include the removal of sediment bars, drifts, logs, snags, boulders, piling, piers, headwalls, and debris.

4. *Widening.* The overall widening of a channel to restore or increase its capacity to convey water. This usually involves clearing, snagging, and excavation of a portion of the channel side slope(s). Where practical, widening is performed on one side only with appropriate consideration given to alternating from one side to the other.

5. *Deepening.* The overall deepening of a channel to increase its capacity to convey water and/or provide drainage. Deepening usually involves clearing or snagging and excavation of a portion of the channel bottom and the channel side slope(s).

6. *Realignment.* The construction of a new channel, or a new alignment, and may involve the clearing, snagging, widening and/or deepening of the existing channel where the new alignment coincides with the existing channel. It may include straightening the alignment to restore or increase the capacity of the echannel to convey water.

7. *Lining.* Placement of a nonvegetative smooth protective lining over all or part of the perimeter of a channel to prevent erosion or to increase the capacity of the channel to convey or conserve water.

C. *Channel modification as an alternative.* The following criteria will be utilized in the planning process for determining when channel modification can be considered an alternative. If used, channel modification will be the minimum required, either alone or in combination with other measures. It will be accomplished using the lease damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channels riparian habitat as possible. Construction practices may include, but are not limited to, such things as seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt vegetation of disturbed areas.

Channel modification may be considered as an alternative for project purposes for which the SCS is currently authorized by law and which are in conformance with agency (SCS) policy and regulations: *Provided*, The modification is designed to resolve specific problems and would not cause, directly or indirectly, any of the following to occur.

1. Jeopardize the continued existence of endangered species and threatened species designated or formally proposed[1] or result in the destruction or modification of habitat of such species which is determined to be critical under the Endangered Species Act of 1973, or species similarly classified under law of the state(s) in which the project is located.

2. Result in restricted access to use of streams or stream-segments developed specifically for recreation or fish and wildlife use by the general public where monetary benefits based on such use are used in the project evaluations.

[1] Applicable only during a six month period immediately following the date a proposal is published in the FEDERAL REGISTER by the FWS in compliance with the Endangered Species Conservation Act of 1973.

3. The intent or purpose is to drain or Ifoah
otherwise alter wetland types 3 through 20,[2] or the result of the modification would be to indirectly alter wetlands types 3 through 20 and provisions for appropriate mitigation or compensation by establishment of similar habitat values in the project area is not provided. Wetland types 1 and 2 with important fish and wildlife habitat values will be treated in accordance with item 3 below, and their preservation will be strongly recommended when they are adjacent to types 3 through 20 or are needed to maintain a balanced aquatic or simiaquatic ecosystem.

Also, Channel modification will not be considered as an alternative unless it can be accomplished with little or no direct or indirect adverse[3] effect on:

1. Stream or stream segments now designated or undergoing study under the Wild and Scenic Rivers Act or officially designated pursuant to other Federal or state(s) legislative actions for their important natural, esthetic, or recreational values.

2. Streams located in or flowing through or contiguous to established wilderness areas, parks, refuges, or other areas set aside pursuant to Federal or state(s) legislative actions for fish and wildlife esthetic, or recreational values.

3. Important fish and wildlife habitat values in the project impact area, state, or nation after providing for all appropriate mitigation, compensation, or preservation measures. (Measurement of habitat values will be determined on a case-by-case basis in accordance with general procedures to be promulgated by the FWS and developed in consultation with the SCS.)

IV. COORDINATION AND INTERACTION

The FWS and SCS recognize that the application of the above guidelines can most effectively be accomplished through cooperative effort during all planning phases of a water resource project. The FWS and the SCS will work cooperatively with state fish and wildlife agencies to inventory and assess the fish and wildlife resources and to plan alternatives, enhancements, replacement or necessary mitigation measures and be involved as requested throughout the planning process.

The level of effort to be devoted by FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation.

Even though FWS discontinues participation in planning they will eventually, as prescribed by law, become involved with reviewing and commenting on the completed watershed plan. In such instances, FWS will not oppose the project plan on the basis of channel modifications unless it is clearly evident that the plan is not in conformance with the provisions of these guidelines after consultation with SCS determining this to be the case.

The following procedures will be used in the planning of future water resource projects. The coordination identified is between the field levels of the FWS and SCS; however, both agencies recognize that planning will always involve state fish and wildlife agencies, as well as the interested public and sponsoring agencies at all stages throughout the planning process.

[2] Wetland types as described in FWS circular No. 39 or subsequent publications.

[3] Rule of reason must be used in applying these guidelines and determining the actual net effects and their significance at the field level considering the value of the resource and importance of the project objectives.

Coordination of field level planning[1]

Process	SCS action	FWS action
Preapplication...	Potential application under consideration. Notifies FWS that potential application is being considered and issues invitation to meetings.	Participate in meetings.
	Assists sponsors in developing information when appropriate. (Normally requires from one to several days.) Request from FWS available fish and wildlife information and viewpoints concerning potentials for and impacts of a probable project.	Furnishes available information and FWS viewpoint concerning potentials for and impacts of a probable project. If requested, participates jointly with SCS and State fish and wildlife agency in any preliminary fish and wildlife studies needed and report findings as may be required. (Field level letter.)
Application...	Receives application. Notifies FWS in writing that application has been received and when field examination is to begin. Issues invitation to FWS to participate in all meetings and in study and evaluation of available information. (Field examination may require a few days to several weeks.)	Participates in meetings.
	Initiates field examination and assembles available information, coordinates study and evaluation of available information and data. Begins environmental assessment.	Participates in field examination. Assembles and furnishes available fish and wildlife information and data. Participates in study and evaluation of available information and data and in identification of problems and study needs and potential solutions worthy of further study.
	Identifies problems and needs, potential solutions, and broad alternatives worthy of further study. Request FWS to work cooperatively with SCS and State fish and wildlife agency in any special studies required in this step.	Works cooperatively with SCS and State fish and wildlife agency in any special studies required and in preparing an appropriate report.
	Prepares field examination report (includes pertinent fish and wildlife information from FWS) and provides copy to FWS.	Provides inputs (letter report) for the field examination report.
	Requests FWS to participate in developing a plan of study. Prepares the study plan.	Participates with SCS in developing a plan of study. FWS will advise as to scope and detail of specific studies needed, capability of FWS to perform studies and its desire to participate in design of any contracts to secure necessary information.
	Requests planning authority (submits views of FWS with request for planning authorization.)	
Planning.....	Receives notice of planning authorization. Notifies FWS in writing. Initiates and coordinates preliminary investigation (PI) and continues environmental assessment. Notifies FWS in writing. (PI may require from several weeks to 2 yr.)	Participates in meetings and preparation of joint FWS-State fish and wildlife agency-SCS fish and wildlife inventory, assessment, base line data, and report.
	SCS initiates preparation of PI report and update of the study plan. Requests FWS participation in PI and update of plan of study.	Furnishes additional inputs to problems, needs, alternatives and impacts as the PI process progresses and jointly makes recommendations for mitigation, compensation, and enhancement. Furnishes inputs for the PI report and updating of study plan.
	Sends PI report to FWS and others.....	Participates with SCS to review the PI report with the public.
Detailed planning.	Coordinates the detailed planning stage and continuation of the environmental assessment. Notifies FWS that detailed planning is to commence and issues invitation to participate in detailed planning and in meetings.	Participates with SCS and others in detailed planning of alternatives and their components. Works cooperatively with State fish and wildlife agency and SCS to formulate the alternatives and to assess fish and wildlife impacts. Works cooperatively with SCS and State in preparation of recommendations for mitigation, compensation, and enhancement for initial draft plan and, when prepared, an EIS. Participates in meetings. Provides detailed report in accordance with Fish and Wildlife Coordination Act and sec. 12 of Public Law 83-566.
	Prepares initial draft plan and, when required, an EIS. Initiates local field review and issues invitation to FWS to participate in this review. Provides FWS with initial draft plan and an EIS, if prepared.	Provides review comments on initial draft and participates in local field review.
Review (formal)..	Prepares a draft plan and EIS, if required, and circulates for interagency review.	Provides comments to Interior and works with SCS in an attempt to resolve issues, if warrented.
	SCS prepares final plan and EIS, if required. Forwards plan and EIS through system for approval and authorization.	Review plan and EIS according to FWS and Interior instructions.
Operations.....	Receives notice of authorization for installation. Notifies FWS. (Regional and area offices.) Prepares construction plans and invites FWS to review them.	Reviews pertinent construction plans.
	Notifies FWS of supplement when the channel modification guidelines are applicable. (See page 2.) Prepares supplemental plans when necessary and circulates for local field review.	Participates in formulating supplemental plan when the channel modification guidelines are applicable. Same involvement as in planning and provides inputs for supplemental plan. Also provides comments on supplemental plan when circulated for local field review.
	Forwards supplemental plan for approval. Provides FWS copy to supplemental plan.	
Maintenance.....	Advises FWS and State fish and wildlife agency of regularly scheduled maintenance inspections with project sponsors during the life of the project.	Participates in maintenance inspections at FWS discretion. If appropriate, makes recommendations for changes in O&M agreement if necessary to insure that proper maintenance is accomplished.

[1] All steps apply to planning for small watershed projects. Appropriate steps will be followed for Public Law 534 and resource conservation and development measures planning.

NOTES.—1. SCS notifies FWS when planning is suspended, project action terminated, or other stop actions are taken.

2. The level of effort to be devoted by FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation.

V. RESOLUTION OF ISSUES

General

It is recognized that issues may develop which cannot be resolved at the field level. When issues arise, it will be the practice of the FWS and SCS to refer such cases and issues to the next higher respective administrative level for resolution and ultimately, if necessary, to the Secretaries of Agriculture and Interior. The Secretary of Agriculture will seek the advice and counsel of the Secretary of the Interior in reaching his decision. Consultation between the two agencies will, at each level, occur throughout the decision process.

Procedure

1. Most of the problems in applying the guidelines will be identified at the field planning level. When this occurs, the SCS Planning Staff Leader will consult directly with the FWS Field Supervisor (Ecological Services), and attempt to resolve the issue.

2. Should the SCS Planning Staff Leader and FWS Area of Field Supervisor be unable to reach agreement, the issue should be referred and coordinated as follows:

USDA:

In consultation with USDI

State conservationist, SCS.	Regional director and/or area manager, FWS as appropriate.
Administrator, SCS.	Director, FWS.
Assistant Secretary for Conservation, Research and Education.	Assistant Secretary, Fish and Wildlife and Parks.
Secretary of Agriculture.	Secretary of the Interior.

The decision on whether channel modification will be part of a project plan shall rest with the Secretary of Agriculture. If disagreement still exists at the Secretary's level, the FWS views and recommendations will be appended to the project plan.

At all levels in the decision process the desires and needs of the local sponsors, environmental groups, state and federal agencies, and interested public will be taken fully into account.

Dated: ----------.

----------,
Director,
Fish and Wildlife Service.

Dated: ----------.

----------,
Administrator,
Soil Conservation Service.

[FR Doc.77-22520 Filed 8-5-77;8:45 am]

Soil Conservation Service

GUIDE FOR ENVIRONMENTAL ASSESSMENT

General Procedures

Agency: Soil Conservation Service, USDA.
Action: Notice.
Summary: This document provides a general guide for environmental assessment for the use of Soil Conservation Service (SCS) personnel in providing resource conservation planning assistance.

The guide establishes a systematic interdisciplinary assessment process to insure that all significant environmental factors will be considered in the process of making planning decisions. This document was originally published as a field guide in March 1977, and is now in use by SCS personnel.

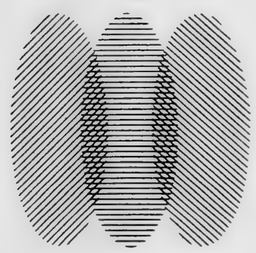
The purpose of publishing this notice in the FEDERAL REGISTER is to inform public interest groups and other organizations of the overall process being used by SCS personnel in conducting technical analyses of the environment as an integral part of planning.

Following is a full copy of the SCS, "Guide for Environmental Assessment."

Dated: August 2, 1977.

B. M. DAVIS,
Administrator, Soil Conservation Service.

GUIDE FOR
ENVIRONMENTAL
ASSESSMENT



Foreword

This guide was prepared as part of an overall SCS effort to refine and systematize the assessment part of planning. The material presented here is a generalized guide for conducting environmental assessment. An introduction to selected analytical assessment techniques is also included. Evaluation criteria, detailed procedures, and technical standards were intentionally omitted. SCS technical specialists establish these items for regional and local geographic areas in keeping with national standards for each technical field.

This guide represents the combined thinking of many individuals and groups within SCS. The guide was developed under the leadership of Gerald R. Lowry of the Environmental Services Division, Washington, D.C. Parts of the material were adapted from Environmental Assessment Procedure, SCS, USDA, Washington, D.C., May 1974. Comments by James Cooley, Frank Busby, and other persons at the University of Georgia and Utah State University were helpful in organizing the contents. R. C. Solomon, U.S. Corps of Engineers, Vicksburg, Mississippi, provided comments. SCS technical personnel at the Washington office, the four TSC's, and state offices provided much useful review and comment towards refining the guide.

March 1977

SCS GUIDE FOR ENVIRONMENTAL ASSESSMENT

I. Introduction
   A. NEPA
   B. Philosophy

II. Initial phase of assessment
   A. Counsel sponsors
   B. Identify study needs
   C. Establish interdisciplinary team
   D. Obtain resource data
   E. Make field examination
   F. Summarize initial assessment

III. Detailed phase of assessment
   A. Develop strategy for detailed assessment
   B. Describe present conditions
   C. Predict future conditions
   D. Calculate impacts
   E. Summarize detailed assessment

IV. Supplemental phase of assessment

V. Appendixes
   A. Selected assessment references
   B. An example of an environmental matrix
   C. An example of a network analysis
   D. An example of a checklist evaluation system

I. INTRODUCTION

This publication is a general guide for environmental assessment for Soil Conservation Service personnel to use in resource planning. Detailed procedures for assessment within each technical field are provided by specialists at Washington, TSC, and state office levels.

Environmental assessments and impact statements (EIS's) have become a central part of resource planning and an important basis from which an organization's technical capabilities and resource ethics are viewed. EIS's reflect the assessments on which they are based. Accordingly, it is imperative that we maintain high standards for conducting environmental assessments and selecting and training personnel who do this work.

A. The National Environmental Policy Act (NEPA) of 1969 requires all agencies of the federal government to:
   1. Use a systematic interdisciplinary approach in planning and decisionmaking that may have an impact on man's environment.
   2. Identify and develop methods and procedures for environmental assessment in consultation with the Council on Environmental Quality.
   3. Include with reports on proposed major federal actions significantly affecting the human environment detailed statements of environmental impact, adverse impacts that cannot be avoided, alternatives to the proposed action, relationships between short-term and long-term productivity, irreversible or irretrievable commitments of resources, and the comments of other organizations with jurisdiction by law or special expertise.
   4. Utilize ecological information in planning and developing resource-oriented projects.

   Additional information about NEPA, environmental impact statements, and environmental assessment in planning is contained in SCS Environment Memoranda and 7 CFR 650.

B. Philosophy and Guidelines
   1. Environmental assessment is that integral part of planning that identifies and estimates the potential effects of alternative solutions on the environment. Assessments document existing environmental conditions and predict probable conditions for selected alternative futures. Environment is defined as the complex of circumstances, objects, and conditions that surround and significantly influence organisms, individuals, or communities. Environmental assessment recognizes the reality that our cultural system is based on, linked to, and part of nature.

   The immediate purpose of assessment is to display the environmental consequences of different alternative futures to expedite decisionmaking. Such displays minimize the risk of having unanticipated consequences during plan implementation. An ultimate objective of environmental assessment is to aid the long-term optimization of resource use mandated by Section 101 of NEPA.
   2. The most important characteristics of a good assessment are objectivity, reliability of data base, and accuracy of impact predictions. Environmental assessment in planning is based on the ecological principle that "everything affects everything," but it immediately recognizes that we cannot afford to consider all causes or measure all effects. In practice, it is necessary to be reasonable, use commonsense and be professional in identifying major, operationally significant properties and potential effects. Equally important, the results must be condensed into clear, objective summaries and displays to aid decisionmaking by sponsors, agency managers, and concerned publics. Readability and good illustrations are important.
   3. Although environmental assessments are part of all resource planning projects, the scale, scope, and intensity should vary in proportion to the complexity of the project and the importance of the potential impacts. SCS relies primarily on interdisciplinary teams (IDT's) to determine the intensity and extent of assessment efforts.
   4. Strategy for environmental assessments must be specific to the situation. There is no standard method. Persons making assessments must follow the technical literature and adapt new methods of making assessments as rapidly as better techniques become available. The material in this guide must also be adapted to individual planning programs and resources areas on a case-by-case basis. Technical specialists with training in ecology are needed as key members of assessment teams.
   5. The objective of environmental assessment is to provide adequate environmental information to decision makers, not to provide all-inclusive data bases on complex environments. Adequacy means that the support file and reports contain enough environmental data for sound resource planning.
   6. Environmental assessment information must be readily available to decision makers and interested public groups throughout planning. This is done by establishing a reviewable record in the form of correspondence, technical summaries, reports, and all other significant environmental data. This should be retained in the planning support file (the same support file established for other planning activities). The support file should be organized systematically for easy retrieval of data. The reviewable record of planning is needed during later stages of planning and for

postconstruction evaluations. The support file is documentation of compliance with NEPA and other environmental laws. This material also becomes part of an increasingly extensive resource planning data base for other uses.

7. An extensive body of literature is available on the subject of environmental assessment. A list of references that provides an introduction to this literature is included in Appendix A. At appropriate points in this guide, useful references are cited.
8. A schematic diagram can be used to illustrate a generic SCS environmental assessment process (figure 1). Note that the diagram is divided into three major phases: initial, detailed, and supplemental. Within each phase, individual steps or tasks are depicted separately. The same sequential pattern is reflected in the organization of this guide and provides an expanded explanation of assessment.
9. Figure 2 illustrates the general relationship of assessment to the six steps of the USDA Procedures for Planning Water and Related Land Resources. Although the material in this guide generally applies to the full spectrum of resource planning actions, it is especially suited to project planning, such as watershed projects and RC&D measures. Careful study of the RC&D and PL-566 planning handbooks, precedence diagrams, and planning flow charts will help in understanding the relation of assessment tasks to other items in planning.

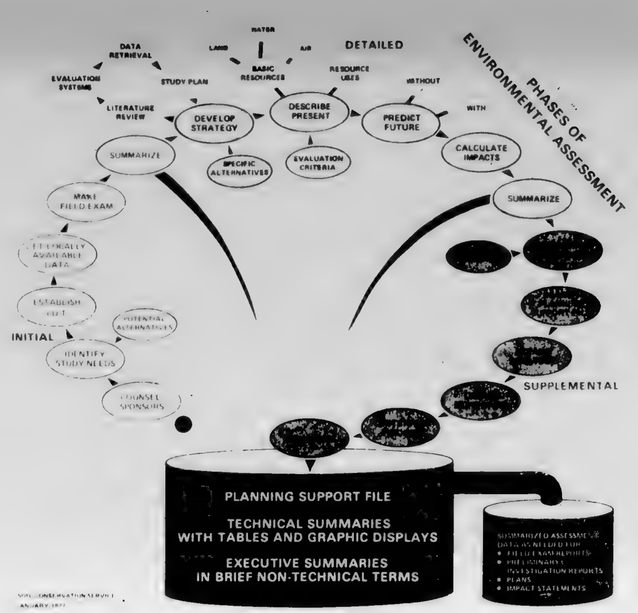
II. INITIAL PHASE OF ASSESSMENT

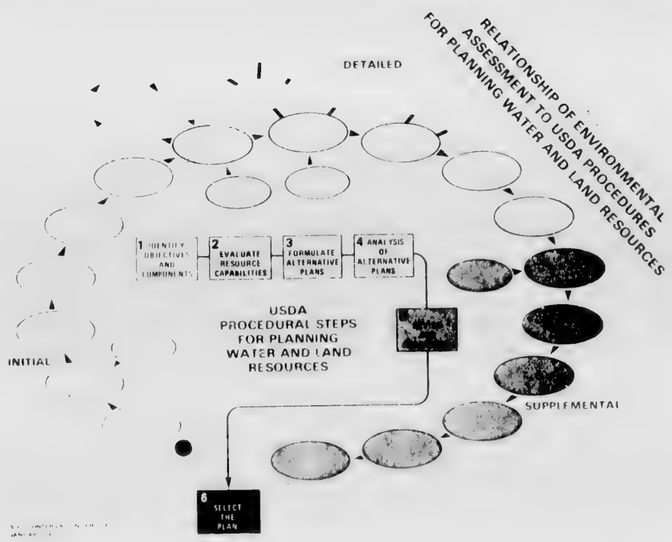
A. Counsel sponsors

Assessment activities should begin with environmental counseling in response to requests for assistance. Sponsors should be encouraged to think about environmental factors as they formulate and specify objectives for the proposed action. These objectives eventually are refined as part of the component needs and provide essential guidance for designing and focusing assessment. Tell sponsors about SCS planning constraints, NEPA, and other environmental considerations, especially the NEPA requirement for considering a variety of planning alternatives. Help the sponsors recognize the many public interest groups that are concerned about changes in the natural resource base.

B. Initial identification of study needs

Some combination of district conservationists, RC&D coordinators, area conservationists, resource conservationists, watershed staff leaders, and sponsor representation may perform this task. Size, complexity, and diversity of resources and potential effects determine the extent of this activity. On complex planning actions (such as a watershed project), an initial assessment conference can be held to accomplish the following:





1. On the basis of the original request for assistance and the sponsors' broad policy decisions, identify objectives and set broad boundaries for technical assessment that encompass the goals.
2. Identify the potential alternatives or range of alternatives likely to be considered, the probable zones of project influence (impact zones), and list the technical specialists needed. These estimates are the basis for initial assessment efforts and will be refined as planning proceeds. Identification of impact zones is important since they influence the extent and intensity of subsequent assessment efforts. These zones vary considerably according to the kind of effect being assessed.
3. Identify concerned public interest groups who should participate in or be informed about assessment activities. Do this early so that such groups actively participate and are consulted throughout assessment.
4. Identify and briefly document initial study needs as the beginning of the support file for each action. Also, include aerial photos, soil surveys and interpretations, copies of the request for assistance, and other readily available data.

C. Establish the interdisciplinary team

1. On the basis of the initial identification of study needs, assemble an interdisciplinary team (IDT). The IDT is the critical link in the assessment process. The IDT is a constantly evolving group of resource experts who interact with one another and the public to provide technical planning information to project decision makers. The task of the IDT is to provide information on present and alternative future environments as a rational basis for selecting plans. The IDT is the core group that assists sponsors with other phases of planning, including public participation. Ordinarily, the IDT core is of fewer persons during initial and supplemental assessment than are needed during the detailed phase.

Designate an IDT leader to be responsible for managing assessment and establishing a workable record. The team leader is central to the successful accomplishment of the assessment part of planning. He/she is responsible for coordinating and synthesizing team efforts. This individual may be at the field, area, or State office level of SCS, depending on the scale and scope of the action.

2. As the IDT performs its work, periodically reexamine the possible need for additional experts on the IDT. Such action does not mean that all members participate in each activity, task, or stage. Members participate when their skills can have a significant effect on the assessment effort. People in other agencies and educational institutions, members of special interest groups, and consultants are sources of additional expertise.

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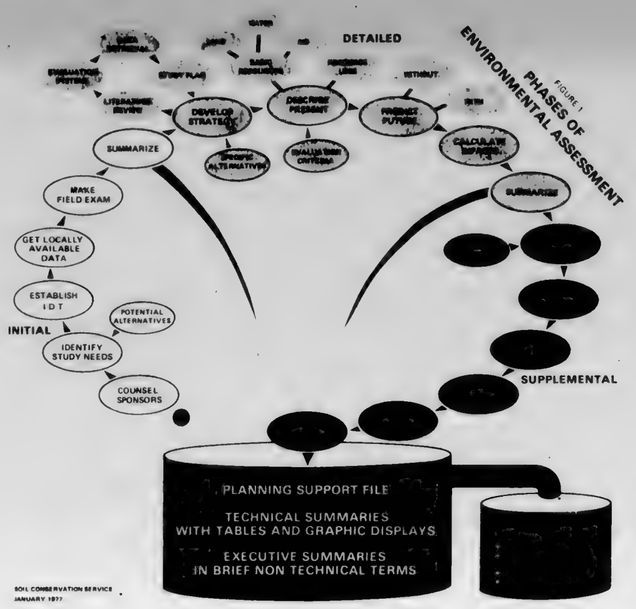


FIGURE 1
PHASES OF ENVIRONMENTAL ASSESSMENT

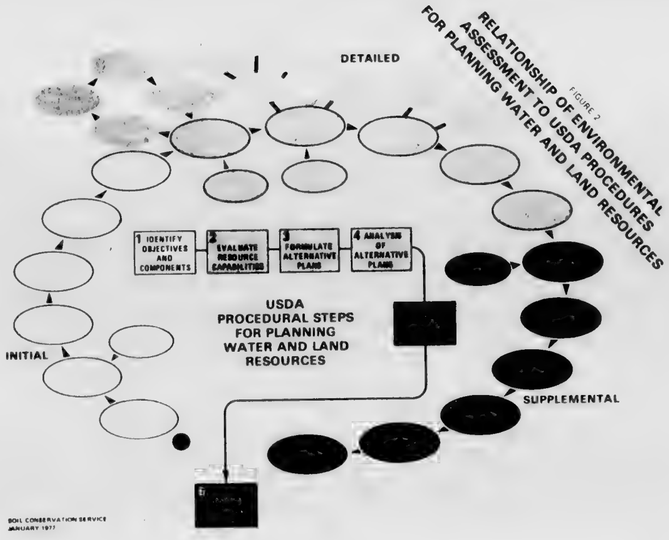


FIGURE 2
RELATIONSHIP OF ENVIRONMENTAL ASSESSMENT TO USDA PROCEDURES FOR PLANNING WATER AND LAND RESOURCES

1. On the basis of the original request for assistance and the sponsors' broad policy decisions, identify objectives and set broad boundaries for technical assessment that encompass the goals.
2. Identify the potential alternatives or range of alternatives likely to be considered, the probable zones of project influence (impact zones), and list the technical specialists needed. These estimates are the basis for initial assessment efforts and will be refined as planning proceeds. Identification of impact zones is important since they influence the extent and intensity of subsequent assessment efforts. These zones vary considerably according to the kind of effect being assessed.
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Designate an IDT leader to be responsible for managing assessment and establishing a reviewable record. The team leader is central to successful accomplishment of the assessment part of planning since he is responsible for coordinating and synthesizing team efforts. This individual may be at the field, area, or state office level of SCS, depending on the scale and scope of the action.
2. As the IDT performs its work, periodically reexamine the possible need for additional expertise. The IDT approach does not mean that all members participate in each activity, task, or stage. Members participate when their skills can have a significant effect on the assessment effort. People in other agencies and educational institutions, members of special interest groups, and consultants are sources of additional expertise.

3. It is essential that IDT members appreciate that concisely written records, displays, and data collections are the expected output of assessment activities. Written documents encourage precision, contribute to the reviewable record of planning, and support decisionmaking as a final objective.
4. Effective participation on IDT's includes keeping an open mind, avoiding prejudgment, and interchanging ideas with other participants. The reasoning behind recommendations should be clear and objective. The IDT should point out concerns, limitations, alternatives, and areas of possible tradeoff. Balance and objectivity should be preserved. Members of the IDT should discuss and plan collection of data to avoid overlap and inefficiency.
5. Make every effort to insure that IDT's have disciplinary strengths that reflect the economic, physical, biological, social, and other factors being considered. Balance in project emphasis occurs most easily when there is a balance of disciplinary influence on decisionmaking documents. Invite personnel from other concerned agencies and interested private organizations to participate as IDT members as their interests appear.

D. Obtain resource data
Examine locally available resource information such as the following:
1. Aerial photos and published maps.
2. Soil maps and interpretations.
3. Land use, cover types, water quality, and social and economic factors.

E. Make field examination
The field examination is a broad nonintensive analysis of resource factors and environmental concerns in the probable impact zones. Judgmental planning techniques are normally used. Sponsors and concerned environmental groups should participate to the extent possible in the initial assessment. RC&D and watershed handbooks provide additional guidance for field examinations to supplement the following key steps:
1. Before going to the field, brief the IDT on:
a. Sponsors' objectives
b. Locally available resource data
c. Potential alternatives
d. Analytical approaches to be used to obtain a broad overview analysis of the existing resource base and potential impacts
2. Make a visual inspection of the planning area and probable impact zones.

Matrix analysis can be used to identify and document broad areas of environmental concern early in planning. See Appendix B for an example of a matrix. Refer to Leopold, et al., 1971, Appendix A, for a discussion of the matrix method. Matrices usually consist of two-dimensional arrays of environmental factors versus potential alternatives and ratings of relative effect at matrix intersections. The object is to acquire broad data quickly because some studies will not proceed beyond the initial phase. Matrices are very useful visual aids for displaying preliminary environmental relationships at public meetings. Completed matrices should usually be supplemented by narratives to clarify key interactions.

In selecting potential alternatives and probable plan elements, take care to allow the unique aspects of the project area to dictate plan evolution. Always study the alternative of no project.

Experienced IDT's working on routine problems may elect not to use a matrix but proceed directly to abbreviated checklists and narrative reports. Any data collected at the field examination stage should, to the extent possible, be designed to dovetail with data collected later during more intensive phases of assessment.
3. Hold an IDT group meeting after the field examination. This meeting should feature open discussion, challenge, compromise, and consensus within and among specialists. The consensus must neither suppress nor ignore inputs of an individual specialist. Keep notes and a reviewable record of group consensus or its lack. Display facts and their sources apart from opinions and recommendations.

Provide written summaries containing data and recommendations to the team leader as soon as possible after completion of the field assessment. This material will become the basis for an overall initial assessment summary for use in the policy formation part of planning. Record interdisciplinary dissent and technical controversy to the extent reasonable. This meeting is a good time to plan for IDT participation in presenting initial assessment data at public meetings.

F. Initial assessment summary
Prepare an initial assessment summary consisting of environmental data, assessment matrices, and generalized narratives, as appropriate and needed to fit planning needs. Enter this initial assessment summary in the planning support file along with other data and findings. For watershed projects, the initial assessment summary can probably be prepared as a part of the field examination report. For RC&D measures, it could be as simple as a brief written narrative report to the RC&D Measure Steering Committee following a technical field review.

III. DETAILED PHASE OF ASSESSMENT

This is the primary data collection and future prediction phase of assessment. It begins when project decision makers agree to advance planning beyond the initial stages and begin selecting alternatives for detailed study. When this has been done, the team leader should reconvene the IDT to develop strategy for detailed assessment. At the same time, determine the need for adding or deleting individual specialists. It is also an appropriate time to discuss further public participation.

The emphasis during the detailed phase of assessment is on developing an indepth portrait of existing conditions (quality and quantity) and estimating future conditions and impacts (direct, indirect, primary, secondary, tertiary, onsite, offsite, and other).

It is the responsibility of individual members of the IDT to specify the extent of data collection for their area of expertise. This guide is not intended to provide detailed technical procedures for assessment for each technical discipline. Such procedures are selected, developed, and disseminated in the form of various SCS technical guides and publications. Some of the detailed procedures are obtained directly from the published literature in the technical field. Each professional staff specialist is responsible for keeping abreast of the latest and best evaluation procedures in his field. Guidance and training will be provided by appropriate SCS specialists as needed.

Because of the variety and complexity of resource evaluations that SCS is concerned with, it is worth repeating that environmental assessments must be tailored to each planning situation. The examples in this guide are seldom applied "as is."

Following are some points to consider in making detailed assessment studies:
- Put all technical contributions in writing. Oral conclusions, no matter how useful, do not support decisionmaking.
- Edit data summaries and narrative reports of assessment primarily for technical content to expedite their completion.
- Make a special effort to present data clearly, concisely, accurately, and objectively. Environmental data are often complex, and public understanding of ecological consequences is the goal.
- To improve efficiency, concentrate assessment in areas of significant impact for the alternatives being considered.
- Hold periodic briefings to help accomplish meaningful consensus among IDT members.
- Continue data collection until the resulting assessment summaries provide a data base that reasonably addresses the probable and significant concerns in relation to each alternative being considered.
- Record data in systematic form for permanent retention in support files.

Following is a set of procedural steps that can be adapted to the planning needs of individual projects:

A. Develop a strategy for detailed assessment
1. Review the literature
The first step in developing a detailed assessment strategy is to obtain and review literature and other planning information pertinent to the impact zone and the specific alternatives being considered. A variety of organizations may have planning materials related directly to the sponsors' concerns. Search for data describing past environmental conditions in the area. The literature review should be in proportion to the scope and scale of the project.

Persons who work on IDT's need to become familiar with the information resources available at area colleges and universities. Rapid entry to this literature can be accomplished by talking to staff specialists, each of whom often has personal collections for his own discipline. Use computerized literature retrieval systems (for example, CAIN, USDA, Washington, D.C., has 700,000 bibliographic citations from the National Agricultural Library, January 1976). Experienced IDT members already have much of the needed literature and will spend little time on this step. Following are some additional potential sources of information:
- Colleges and universities
- U.S. Fish and Wildlife Service, Bureau of Land Management, and Bureau of Reclamation
- Environmental Protection Agency and the Corps of Engineers
- U.S. Forest Service, Extension Service, Agricultural Research Service, Agricultural Stabilization and Conservation Service, and Economic Research Service
- State agencies (such as geological surveys, state historical groups, departments of natural resources)
- U.S. Geological Survey
- National Park Service (National Register of Historic Places)
- Regional planning agencies
- Private environmental organizations
- Consulting firms

2. Select an evaluation system
After existing pertinent literature has been retrieved and examined, select a system or systems for detailed environmental assessment. Detailed assessment methods include comprehensive matrix analysis, network analysis, checklist approaches, overlay methods, and a variety of other systems of evaluation.

Depending on the size, complexity, and kind of planning action being considered, certain methods are more useful than others. Publications are available that discuss the advantages, disadvantages, and situational utility of the

different systems of assessment. (See Jain and Urban, 1975, Appendix A.) For many SCS-assisted planning actions, network analysis to trace and find impacts, followed by the development of specific checklists to schedule data collection, is the most efficient strategy for detailed assessment. Note that the complexity and detail of any assessment method must be carefully tailored to the unique aspects of each planning situation. A brief discussion of four major systems follows:

a. The overview type of matrix analysis was discussed in connection with the initial phase of assessment. Matrix analysis indicates mainly areas of first-order environmental interaction. For detailed assessment, more complex matrices that account in greater detail for alternative planning actions can be prepared. For example, stepped or three-dimensional matrices are sometimes used to help account for second-order cause and effect sequences.

b. Ecological or network analysis is the systematic tracing of cause-and-effect sequences that lead to significant impacts. The resulting network diagrams help identify the interrelationships between components of ecological systems. (See Appendix C for an example.) Whereas matrix analysis identifies areas of environmental concern, network analysis shows what these concerns are and what data are needed to measure their effects.

This tracing of causes and effects is the part of assessment that requires the greatest technical skill and is the point where interdisciplinary influence is most vital. It permits analysts to discover unsuspected effects and impacts and leads naturally from past conditions to predictions of future conditions. It tends to be a deductive method because existing conditions and probable effects are estimated and then environmental data are collected to document conditions and aid in predicting impacts.

Analyze each alternative and plan element, including future without a plan, to determine potential impacts. Impacts may be caused by the inputs required to carry out a measure, by the measure itself, or by the outputs resulting from it.

Determine which evaluation factors would change as a consequence of developing each alternative. Network analysis should surface all significant impacts of the first, second, and subsequent orders.

Temper the tracing of causes and effects so that only significant effects are ultimately considered. Significance

is established by determining whether an effect is of sufficient magnitude to have a material bearing on decisionmaking. The IDT makes this determination and documents its reasoning in the support file. Be sure to include all environmentally important information without overloading planning with excessive detail.

There are assessment situations where previous network diagramming has thoroughly delineated the ecological relationships and the IDT can proceed directly to preparing the checklists. Any decision to skip network analysis should be a deliberate one made by the IDT after the field examination.

Some degree of network analysis is needed in most detailed assessment efforts. For very large projects with numerous alternatives and subcomponents, network analysis can be done by project subareas to prevent schematic displays from becoming too complex. Note that completed network diagrams are a convenient basis for preparing work schedules and report outlines.

c. Checklist assessment systems are general listings of resource elements and parameters that can be investigated to detect possible impacts. General checklists are excellent as reminders of environmental data that may be needed. Such checklists are also useful as a format for displaying data in environmental assessment summaries. Use checklist systems with some kind of network analysis for best results. This will help in identifying those evaluation factors unique to specific projects and help avoid the collection of more data than are needed. Appendix D is an example of a general checklist system for environmental assessment (adapted from Environmental Assessment Procedure, SCS, 1974).

Each major element in the SCS checklist system (such as land, water, air) is evaluated according to specific parameters (such as volume of flow, dissolved oxygen, etc.). Each parameter is an individual impact indicator. Considered in total, these parameters can signal the consequences of different resource actions.

Considerable technical skill is needed to decide which parameter on a checklist needs to be studied during assessment. Evaluation standards need to be applied to the original assessment data to interpret importance. Evaluation standards are provided by SCS specialists for each technical field. For example, SCS Engineering Technical Release 58, provides information on selecting water-quality parameters and evaluating data.

d. Overlay methods consist of superimposed sets of maps containing various kinds of resource use interpretations, basic resource data, and project alternatives. At any point in the analysis, alternative locations on the overlay map that transmit the most light are the least environmentally damaging. Overlay maps are very useful in displaying data on linear corridor proposals (such as pipeline or highway locations) for the purpose of selecting the least damaging route. Overlay systems lend themselves well to computerization. McHarg, 1969, (Appendix A) provides an extensive treatment of this subject.

3. Resource data retrieval
After the possible effects and potential impacts have been anticipated through network or other analysis, IDT members can prepare specific checklists of those evaluation parameters needed to characterize the present and predict possible future environmental conditions. Once this is done, as in the last column of the network analysis example, retrieve from existing sources any of the needed data to minimize expensive field collection. Examples of possible sources include STORET, WATSTORE, and NAWDEX [1/] for water-quality data. Persons working on IDT's should keep themselves well informed of sources of data for their disciplines and geographic areas.

Examine the retrieved data and pertinent literature with the dual objective of improving the design of the assessment model and of satisfying as much of the checklist of needed environmental data as possible. Prepare a field checklist of the data and information that must be collected in the field.

4. Written study plan
As the last step in developing strategy, prepare a written plan for completing detailed assessment. This can range from a simple work schedule for a minor proposal to a detailed critical-path analysis for a highly complicated project. (See RC&D Handbook and Watershed Protection Handbook.) Clearly specify the following items:
- Team leader
- Components of work
- Time periods for completing work
- Responsible team members for each data summary
- Scheduled completion dates for summaries
- Team member responsible for preparing overall assessment summaries

[1/] These acronyms are titles of water-quality data systems maintained by the U.S. Environmental Protection Agency and U.S. Geological Survey.

B. Describe present conditions
This part of the detailed assessment is devoted primarily to collecting data on existing environmental conditions using the field checklists as a guide. Some data are collected by IDT members working separately and other parts of the data are collected jointly but interpreted individually. Some of the data can be collected and interpreted by consulting firms functioning as IDT members. Hold periodic team meetings to coordinate field work and provide interdisciplinary influence on data interpretation.

To simplify organization and review of support files and various summaries and reports, environmental assessment can be organized and displayed in the format of basic resources (land, water, air) and resource uses (such as crop production, recreation, wildlife habitat, fish habitat, social uses, natural area, historical, and municipal water supply). A comprehensive example of this format is contained in Appendix D. This pattern of data display lends itself well to most SCS-assisted projects and is easily understood by non-SCS persons cooperating in assessment.

Describe fully the existing environment in terms of quantity and quality for each basic resource and resource use factor. In evaluating basic resources and resource uses, specify all significant physical, biological, social, and economic components, and their interactions. Evaluate only those parameters identified as significant during network or other analysis or discovered as significant during field work.

C. Predict future conditions (with and without project)
A variety of techniques is available to assist in estimating future conditions including trend extrapolation, pattern identification, probabilistic forecasting, models, simulations, and scenarios. (See Handbook of Forecasting Techniques, Appendix A.) Expert judgment about existing systems and forecasting methods is needed to produce reliable data. Some agents of change to consider in predicting future environmental conditions with and without project are:
- Successional changes in ecosystems that are occurring or will occur
- Cultural disturbances that are occurring or will occur
- Probable physical events
- Hypothetical changes associated with different alternatives

Forecasts of future environmental conditions are often based directly or indirectly on current conditions. Such methods yield useful predictions for natural, social, or economic systems that tend toward dynamic equilibrium or apply to short time periods. Conversely, basing forecasts on existing conditions is often a poor method for disturbed or unstable systems or for long time periods.

The prediction of future conditions includes anticipating futures that would be associated with each alternative including future without a plan. Alternatives are generated by sponsors, concerned publics, and the IDT during planning. Continue the evaluation of alternatives until the cause-and-effect sequences and data needs delineated by network or other analysis have been traced and satisfied. Following are some general considerations relating to predicting future environmental conditions.

1. All predictions are based on conceptual models of reality. These models range from totally intuitive to highly rational. Both may yield useful predictions of future environmental conditions. Technical specialists on the IDT at the project planning level should select the methods for forecasting future conditions. Specialist members of IDT's must be well informed about and use those methods, models, and techniques that are most acceptable profassionally in the disciplines they represent.

   Complex models requiring major investments in staff and equipment are, in most cases, not justified for typical SCS-assisted projects unless the resulting computer hardware and software can be made to apply to other projects of that type.
2. Extrapolation of existing trends is the most common method of forecasting future conditions without the project. It is done by extending past environmental trend data to future points in time. Proper use of this technique includes guarding against the problem of inadequate trend data and using common sense in evaluating the resulting predictions. Uncertainties and the limitations inherent in all forecasting methods can be recognized by assigning ranges of values to predicted future conditions.
3. Consider the limits of prediction. Past efforts to predict specific conditions in the future have often proved to be highly inaccurate. Future conditions are often very difficult to predict, particularly beyond 20-25 years. This is one reason for expanding probable error limits for predictions of future conditions as prediction time is extended. This is also a valid reason for limiting predictions of future conditions to as short a period of time as practicable.
4. Past experience with similar proposals or similar resources responding to analogous changes may offer a convenient model for predicting probable futures. Using analogous situations, with carefully stated assumptions, is sometimes ~~the only practical means of predicting impact (Dickert, 1974)~~. Future predictions based on these kinds of analogies are usually credible.

5. Network analysis is an excellent way to identify potential environmental conditions associated with alternative futures and to detect otherwise obscure trend factors (Appendix C).
6. In constructing models for predicting future environmental conditions, be especially alert to the value of the "what if" approach to detecting obscure trends. The "what if" technique is stimulating the intuition and imagination of IDT members by postulating a variety of resource management situations and their resulting impacts, even some unlikely ones.

D. Calculate environmental impacts

The differences between future conditions without the project and predicted conditions under the various with-project alternatives are the environmental impacts. If predictions of future conditions are adequate, determination of impacts is essentially a bookkeeping task and usually does not require additional field work. Specify impacts as clearly as possible in technical terms and do not label them as good or bad in a technical sense unless the evidence is coercive. The broader labeling of impacts as favorable or unfavorable in a public policy sense should be done later in planning (such as when a draft EIS is prepared) after public participation has clarified the political value judgments.

E. Detailed assessment summaries

The planning support file should contain a reviewable record consisting of data, reports, specific and overall technical summaries, and other material relating to detailed assessment. The resulting store of data can be assembled and arrayed in various forms to fit a variety of planning needs. Needs will vary depending on the program and the actual type of measure.

This guide is not meant to stimulate separate new assessment reports. To the extent possible, assessment summaries should be written as inputs to (or actual parts of) field examination reports, preliminary investigation reports, draft and final EIS's, and various other documents needed throughout planning.

The two general kinds of assessment summaries described below may be adapted to meet individual planning needs:

1. Technical assessment summary with tabular and graphical displays.--This summary is an indepth documentation of the assessment findings of the IDT. It contains, the environmental data, conclusions, and recommendations for each ~~alternative considered. Environmental assessment checklists~~ and network diagrams may be appropriate analytical and display devices to use.

   Assessment summaries normally are based on and supported by written reports and summaries prepared by each technical field represented on the IDT. Exact format and content are the responsibility of the IDT leader and individual specialists. Bringing assessment summaries together in a

truly interdisciplinary atmosphere of comment, challenge, controversy, consensus, and synergy is a major task of the IDT leader.

2. Executive assessment summary.--This summary is an overall narrative in laymen's language, accompanied by limited graphic and tabular summaries of data. These summaries can be provided to sponsors and other interested public groups as needed during planning. Executive summaries may make recommendations about mitigation or enhancement measures, preferable alternatives, or the need for additional study based on purely technical considerations. A brief summary of the supporting reasoning should be included.

   In project planning, these summaries are normally prepared just before the preliminary report or the preliminary investigation report in RC&D and watershed planning, respectively. In some other situations, assessment summaries can be prepared as preliminary drafts of technical appendixes or as preliminary draft EIS's, as appropriate.

IV. THE SUPPLEMENTAL PHASE OF ASSESSMENT

As the need for additional environmental data arises during later stages of planning, the IDT should reassess its earlier work and make any needed supplemental assessment. Plan formulation often requires repeating parts of the overall planning process. As noted in USDA Procedures for Water and Related Land Resources, one of the reasons for reiteration of planning is that the level of detail in environmental assessment is inadequate as a basis for selecting a recommended plan. When this is so, it is necessary to make additional assessment for selected alternatives unless the needed data can be obtained from the planning support file.

Supplementary assessment basically consists of convening the IDT, discussing the new planning needs, expanding the strategy for assessment, preparing a list of needed supplementary data, collecting the data, revising or adding to the predictions of alternative future conditions, and revising the summaries and displays of data for decision makers. This work should proceed rapidly because of the existing extensive data base and analytical models used during earlier phases of assessment. Maximum advantage should again be taken of existing data retrieval sources. Again, all new significant environmental information should be placed in the planning support file. It may be necessary to go through more than one cycle of supplementary assessment in response to overall planning needs.

# # # # #

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Appendix B.--A list of selected references relating to environmental assessment

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Appendix B.—
AN EXAMPLE OF A MATRIX TO DISPLAY BROAD AREAS OF ENVIRONMENTAL RELATIONSHIP

ENVIRONMENTAL FACTORS		POTENTIAL ALTERNATIVES				
		Future without a plan	Single purpose impoundment	Land treatment	Channel alteration	Multiple purpose impoundment
BASIC RESOURCES						
LAND	Cover type	◐	○		○	◑
	Erosion hazard	◑		■	○	
	Flood hazard	●	●		●	●
WATER	Lake quantity		○			○
	Lake quality	○	◑			◑
	Stream length		◑		○	◑
	Stream quality	◑	◑	◑	■	◑
	Ground-water quantity		○		◑	○
	Ground-water quality				◑	○
AIR	Particulates & toxic gases					
	Odor		○			○
	Noise		○		○	○
RESOURCE USES						
Crop production		◑		○		
Pasture production				■		
Woodland production			◑			◑
Wildlife production		○	◑	◑	○	◑
Recreation		◑	■		◑	●
Municipal & industrial water		◪				●
Mineral extraction						
Low-flow augmentation						◪
Irrigation water						
Fish production		◑	●		■	■
Economic development—National			○		○	◑
Economic development—Regional		◑	◑		◑	●
Social values			○			■
Unique cultural/historical/natural			○			○
Visual		○	◑	○	■	○

RELATIONSHIP

○ Slight ◑ Moderate ● Important

Appendix C.—
AN EXAMPLE OF A NETWORK DIAGRAM FOR ANALYZING PROBABLE ENVIRONMENTAL IMPACTS

APPENDIX D.--An example of a general checklist system for environmental evaluation

Checklist systems of evaluation are commonly used environmental assessments. Presented here is a general system that, with variations to meet individual programs and local conditions, can be used as a reminder of the environmental conditions that should be analyzed. This material was adapted directly from Environmental Assessment Procedure, Soil Conservation Service, USDA, May 1974. Some changes were made in response to suggestions from the field. TSC's and states should modify this system as necessary to meet regional and local conditions. Also, note that SCS technical specialists change these methods as better techniques become accepted in each technical field.

Using this procedure

The basic procedure for using this system consists of selecting the basic resource and resource use data sheets needed for a particular project, adding or deleting individual parameters, collecting data and entering values on the sheet, developing relative weightings for each parameter, and summarizing the data. These activities should be done by a balanced IDT using detailed technical procedures and evaluation criteria approved by specialists in each technical field.

Display of output for decision makers

The procedure provides four tabulations of data to assist environmental analysts and decision makers: (1) basic resource quantity levels, (2) basic resource quality levels, (3) resource use ratings, and (4) resource use summary ratings. For each tabulation predictions of future conditions with and without project are made.

Individual assessment sheets in this example contain a mixture of metric and English units of measure. The units listed for each parameter represent the standard in each technical field at the time this guide was written. Metric units are gradually being adopted and users should change English units to metric units as appropriate.

Present conditions

The profile of present conditions describes the physical, biological, economic, social, and other characteristics of the area likely to be affected by the proposed actions. Judgment is critical, both in determining impact boundaries and in selecting relevant indicators. The impact boundaries vary, depending on whether the focus of the indicator and the extent of the proposed action are local or regional and on whether the boundaries are determined by political, economic, cultural, hydrologic, or ecologic units. For example, the area of influence of a proposed watershed project may well extend beyond the hydrologic boundaries of the project area. This is particularly true for economic effects if the primary trade center is outside the boundaries of the proposed project. The impact of a project on a large stream may influence conditions far beyond other project boundaries.

The profile of present conditions can be started during the initial phase of assessment. As alternatives are considered in greater detail, the profile can be refined and further focused on significant effects. When completed, the profile should clearly present the existing significant conditions, problems, needs, and the rationale for proposed alternatives.

This assessment system requires the compilation and evaluation of many kinds of data. Some of the data can be obtained from outside sources, such as federal, regional, state, and local agencies, regional and state clearinghouses, planning authorities, river commissions, and universities.

If needed information is not available, it is necessary to collect new data. Appropriate agencies such as the USDA, Agricultural Research Service, U.S. Environmental Protection Agency, and corresponding state agencies such as health, air quality, and water quality agencies should be asked to assist with the development of data collection and interpretative procedures. American Society for Testing and Materials and other standards are available for measuring indicators. Their use provides uniformity and acceptance of the measurements and is encouraged.

Predicting probable conditions that would occur under the without action and various with-project alternatives

Predict conditions following the without action alternative and each with-project alternative being considered. Estimate the impact both during installation and throughout the expected life of the action. Identify and evaluate cause-effect relationships between the alternatives and the environmental indicators being considered. The evaluation for each alternative is to be set forth in enough detail to insure that all significant interaction relationships are considered. Procedures for predicting future environmental conditions, to the extent they are available, are provided by technical specialists in SCS.

Basic resources

Land quantity levels

Dominant land use categories can be used for assessing land quantity and quality. Land use can be subdivided as needed by different technical specialists.

Often it will be desirable to consider cover types in addition to land use in land quantity analyses. When this is done, we suggest using the classification system detailed in "A Land Use and Land Cover Classification System for Use with Remote Sensor Data," Professional Paper 964, U.S. Geological Survey, 1976. The first level of the USGS classification system is also shown in the following example.

A sample form for assessing land quantity levels for each dominant land use and cover type follows. Entries are in terms of acres of each dominant land use or cover type.

ASSESSMENT SHEET

Land quantity levels

Description of area: (County, watershed, state, major land resource area, etc.)

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Land use						
Cropland	acres					
Pastureland	acres					
Rangeland	acres					
Forestland	acres					
Wildlife land	acres					
Urban land	acres					
Recreation land	acres					
Other land uses, e.g., surface-mined land	acres					
Water	acres					
Total	acres					
Cover type						
Urban or built-up land	acres					
Agricultural land	acres					
Rangeland	acres					
Forestland	acres					
Water	acres					
Wetland	acres					
Barren land	acres					
Tundra	acres					
Perennial snow or ice	acres					
Total	acres					

NOTE: The IDT may decide to use one or both of these classification systems.

Land quality levels

The guidelines for assigning quality levels to the land types shown in this section need to be tailored to local conditions. Much of the information used for evaluation indicators can be taken from existing records, such as soil surveys, range studies, woodland soil-site studies, soil interpretation records for named kinds of soils, and from other sources.

Examples of quality indicators to be considered for land uses are soil limitations such as degree and kind of erosion, flood hazard, and deposition (wind and water). Other indicators are important for one land use and not for another.

Cropland.--Soil management systems, production potential, water management system.

Pastureland.--Production potential, soil management systems, water management system.

Rangeland.--Quality or condition, woody plants, poisonous plants.

Forestland.--Suitability, species composition, stocking, forage production (understory potential).

Wildlife land.--Wildlife habitat management system.

Urban land.--Land developed to include design that overcomes soil and/or site limitations.

Recreation land.--Land developed to include design that overcomes soil and/or site limitations.

Other land uses.--For example, mined land.

ASSESSMENT SHEET

Land quality levels

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Gross erosion	acres					
A. ____ton or less/ac/yr						
B. ____to___t/ac/yr						
C. ____to___t/ac/yr						
D. ____to___t/ac/yr						
E. ____t/ac/yr or more						
Flood hazard [1] total flood plain	acres					
A. Previously flood proofed						
B. Subject to flooding						
C. No. of inhabitable properties						
D. No. of commercial & industrial properties						
Deposition, wind, or water (expressed in terms of range and kind of deposition in study area)						
Prime and unique farmland	acres					
Wetland, by category and type [2]	acres					
Salinity	acres					
Alkalinity	acres					

[1] May be expressed in frequency and/or duration.

[2] Classify wetland by category and type as in U.S. Fish and Wildlife Service Circular 39.

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Considerations for specific uses						
Cropland						
Soil management systems	acres					
A. Adequate (item code 690)						
B. Not adequate						
Production potential	acres					
A. More than 90% of potential						
B. 70 to 90% of potential						
C. 50 to 70% of potential						
D. 30 to 50% of potential						
E. Less than 30% of potential						
Water management systems	acres					
A. Drainage, total [1] 1. Adequate 2. Not adequate						
B. Irrigation 1. Adequate 2. Not adequate						

[1] Total acres of cropland that would benefit from drainage practices whether installed or not.

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Pastureland						
Production potential	acres					
A. More than 90% of potential						
B. 70 to 90% of potential						
C. 50 to 70% of potential						
D. 30 to 50% of potential						
E. Less than 30% of potential						
Soil management systems	acres					
A. Adequate						
B. Not adequate						
Water management systems	acres					
A. Drainage, total [1] 1. Adequate 2. Not adequate						
B. Irrigation 1. Adequate 2. Not adequate						

[1] Acres of pastureland that would benefit from drainage practices whether installed or not.

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	Future conditions: Planning alternatives: With project: 1	2	3
Rangeland						
Quality or condition	acres					
A. Excellent ecological condition						
B. Good ecological condition						
C. Fair ecological condition but sufficient cover to protect soil						
D. Fair ecological condition with slight to moderate erosion or poor ecological condition but with sufficient plant cover to protect soil						
E. Poor ecological condition with insufficient plant cover to protect soil						
Woody plants	acres					
A. No problems						
B. Problems						
Poisonous plants	acres					
A. No problems						
B. Problems						

D-9

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	Future conditions: Planning alternatives: With project: 1	2	3
Forestland						
Wood production forests						
Woodland suitability (site class for indicator species)	acres					
A 1 B 2 C 3 D 4 E 5						
Acceptable growing stock	acres					
A. Stand has more than 70% acceptable growing stock						
B. Stand has 50 to 70% acceptable growing stock						
C. Stand has less than 50% acceptable growing stock						
Stocking (density)	acres					
A. More than 70% stocked						
B. 50 to 70% stocked						
C. Less than 50% stocked						

D-10

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	Future conditions: Planning alternatives: With project: 1	2	3
Wood production forests (con.)						
Forage production (understory)	acres					
A. More than 80% of potential						
B. 70 to 80% of potential						
C. 50 to 70% of potential						
D. 30 to 50% of potential						
E. Less than 30% of potential						
Environmental forests	acres					
Acceptable growing stock						
A. More than 70%						
B. 50 to 70%						
C. Less than 50%						
Stocking density						
A. More than 70%						
B. 50 to 70%						
C. Less than 50%						

D-11

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	Future conditions: Planning alternatives: With project: 1	2	3
Forestland (con.)						
Christmas, tree and speciality forests	acres					
Production potential						
A. More than 70%						
B. 50 to 70%						
C. Less than 50%						
Wildlife land						
Wildlife habitat management system	acres					
A. Adequate						
B. Not adequate						
Urban land (includes specialized land uses)						
Land developed to include designs that overcome the soil and/or site limitations						
A. Adequate						
B. Not adequate						
Recreation land						
Land developed to include designs that overcome soil and/or site limitations	acres					
A. Adequate						
B. Not adequate						

D-12

ASSESSMENT SHEET

Land quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Other land uses (example follows)	acres					
Mined land						
Active	acres					
Stabilized and revegetated, including control of sediment and leachates						
A. Adequate						
B. Not adequate						
Inactive	acres					
Stabilized and revegetated, including control of sediment and leachates						
A. Adequate						
B. Not adequate						
Subsidence						
Area affected	acres					

Water quantity levels

The water resource includes surface and underground water and both quantity and quality are measured.

Describe streams in terms of average monthly discharge in cubic feet per second (cfs) and average annual discharge volume in acre-feet. Give minimum flows in cubic feet per second (cfs). Summations of periods with a 50-percent chance of no-flow occurrence in any one year can be shown as days/year. If significant for a possible use, give other frequencies and times. Describe stream size by width and depth increments for channel reaches. If pools and riffles are significant, show them in miles or percentage of the channel reach in question. Give streambank length in miles as measured on one or both sides, depending on the width of the stream.

Give storage in lakes or reservoirs in acre-feet; but if sustained yield is important because of municipal or industrial water use, show the sustained yield in million gallons per day (mgd). Give surface area of a water body in acres. If average depth is significant, show the area as an average depth of acres by depth increment, i.e., less than 3 feet deep, 80 acres; from 3 to 5 feet deep, 100 acres; etc. Give ground-water volume available for use on an annual basis in acre-feet. Show depth to the ground-water aquifer if significant for a possible use. If annual ground-water use exceeds recharge, give the expected life in years.

Other physical properties of a water resource should be inventoried where necessary to determine the impact of the proposed project. A sample assessment sheet of quantity indicators follows.

ASSESSMENT SHEET

Water quantity levels

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Streams						
Perennial	miles					
Intermittent	miles					
Ephemeral	miles					
Average discharge by months	cfs					
Average annual discharge	ac-ft					
Minimum flow	cfs/days					
No flow	days/yr					
Stream size by reach width ___ to ___ depth ___ to ___	miles					
Streambank	miles					
Type of stream channel[1/]						
Lakes or reservoir						
Effective storage	ac-ft					
Surface area	acres					
less than feet deep _____	acres					
to ____ feet deep	acres					
Shoreline	miles					
Ground water						
Major springs	no.					
Available storage	ac-ft					
Expected life	years					

[1/] Natural or manmade.

Water-quality levels

Water quality must be related to uses and standards. Most states have developed standards for their water resources.

Some of the more common water-quality indicators are shown on the sample water-quality level assessment sheet. Other indicators may need to be added and some may need to be deleted. The pertinent indicators may need to be measured at several locations in the project area, depending on need and proposed use.

Considerable data are available from federal agencies, including the Environmental Protection Agency (EPA) and the U.S. Geological Survey (USGS), and their corresponding state agencies. Local government agencies such as water and sanitary districts are also good sources. The IDT will determine what data are available and make arrangements for any additional testing. Procedures for sampling and testing should be in accordance with recognized standards. These include: Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association; the water section of the American Society for Testing and Materials book of standards; or applicable methods in EPA manuals for analyzing water.

ASSESSMENT SHEET

Water quality levels

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Physical properties						
Discharge	cfs					
pH	no.					
Odor intensity index	no.					
Turbidity	Jackson units					
Suspended solids	mg/l					
Water temperature	°C					
Air temperature	°C					
Radio activity	μCi/ml					
Electrical conductance	μmho/cm					
Chemical properties						
Major cations						
Ca^{++} (calcium)	mg/l					
Mg^{++} (magnesium)	mg/l					
Na^{+} (sodium)	mg/l					
SAR (sodium adsorption ratio)	no.					
Acidity	meq/l					
Alkalinity	meq/l					

D-17

ASSESSMENT SHEET

Water quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Major anions						
Cl^{-} (chloride)	mg/l					
$SO_4^{=}$ (sulfate)	mg/l					
HCO_3^{-} (bicarbonate)	mg/l					
DO (dissolved oxygen)	mg/l					
COD (chemical oxygen demand)	mg/l					
Dissolved solids	mg/l					
Nitrogen compounds	mg/l					
Phosphorus	mg/l					
Toxic chemicals	mg/l					
Biological properties						
Coliforms (USPHS total)	MPN/100 ml					
Coliforms, fecal	MPN/100 ml					
Streptococcus, fecal	MPN/100 ml					
BOD (biological oxygen demand)	mg/l					

D-18

Air quality levels

Air quality is an important consideration in environmental assessment. Examples of indicator groupings considered important for assessing air quality are particulate matter, polluting gases, odor, patterns of movement, noise, and visibility. Use standard units of measure (ASTM or others) where applicable. Indicators in addition to those shown on the air quality level assessment sheet that follow may be important in some areas and should be used.

D-19

ASSESSMENT SHEET

Air quality levels

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
(Consult ASTM D-1356 for definitions)						
Particulate matter						
Pollen, peak season	months					
Pollen, count	no./m^3					
Smoke, fly ash	g/m^2/month					
Dust and other particulate matter	g/m^2/month					
Less than 2 microns	g/m^2/month					
2 to 20 microns	g/m^2/month					
More than 20 microns	g/m^2/month					
Visibility	miles or km					
Polluting gases						
Carbon monoxide	mg/m^3					
Nitric oxide, nitrogen dioxide	mg/m^3					
Ozone	mg/m^3					
Sulfur dioxides	mg/m^3					
Ammonia	mg/m^3					
Hydrogen sulfide	mg/m^3					
Hydrocarbons	mg/m^3					

D-20

ASSESSMENT SHEET

Air quality levels (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Other odiferous components	mg/m^3					
Odor-						
Odor	odor units/ft^3					
Patterns of movement	months and duration					
Inversions						
Air drainage and frost pockets	acres affected					
Noise						
Noise spectrum	frequency					
Intensity	decibels					
Repetitive character	frequency and duration					
Season of occurrence	month					
Time of occurrence	time of day					
Neighborhood	type					

Resource Uses

The quantity and quality determinations made in the previous section have a bearing on the suitability of the water, land, and air for each resource use. A lake may store floodwater, municipal water, and sediment while providing fish and aquatic organism habitat, recreation for boating and swimming, and an esthetically pleasing view. Various resource uses are evaluated as follows.

Cropland production

Crop production is rated in terms of expected/potential for all major crops. Expected is an expression of all average yields now. Expected future without action and with various alternatives reflects the influence of projected levels of management within a specific time frame. Potential production reflects the same time frame as expected but assumes (within reason) the use of known improved cultural and management techniques and technology. The list of crops includes those extensively grown and/or important crops produced in the study area. Standard units of measure are used for each crop. These differ according to the crop. The procedure follows.

1. Determine what production information is available.
2. Develop table showing by crop average yield per acre and acres grown.
3. Analyze data using soil surveys, aerial photographs, and/or overlays showing extent and location of major soils or groups of soils where each crop is grown. Example: corn may be grown mostly on moderately deep to deep, well to moderately well drained soils, including dominant mapping units; i.e., Chester, Duffield, Berks, etc. Take into account model cropping systems.
4. Analyze all the data collected using best experts available, arrive at consensus of potential production, expected production without program and with various alternative programs. Potential production may also differ for the various alternatives.
5. Expand production data to complete "Production potential" portion of assessment sheets depicting "Land quality levels."

RESOURCE USE
for

Cropland production

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Corn						
expected potential	bushels					
Wheat						
expected potential	bushels					
Soybeans						
expected potential	bushels					
Sugar beets						
expected potential	tons					
Grain sorghum						
expected potential	cwt					
Rotation pasture						
expected potential	aum					
Hay						
expected potential	tons					
Summary rating						

Fish habitat

Fish habitat evaluation usually includes consideration of the following four factors: (1) physical features of water areas, (2) biological productivity, (3) water quality, and (4) threatened or endangered species.

For lakes and ponds, display total acres in the physical feature inventory. Depth, water quality, and other data may also be displayed, as appropriate.

For streams, a model can be devised for each watershed, using selected stream features. Suggested features to consider are width, flow, pool-riffle ratio, percentage stream shade, pool quality, and riffle quality.

Biological productivity evaluations may include the following factors:

1. Fish (pounds of fish, diversity of species, and size relationship). If practical, determine the pounds of fish per mile by sampling. Consider local adaptation in rating diversity of species. Consider the percentage of fish of catchable size and the presence or absence of young of the year fish.
2. Benthic organisms. Beck's Diversity Index or a similar procedure can be used.
3. Other vertebrates present.
4. Water-quality limitations for fish and other aquatic organisms.

Threatened or endangered aquatic species, if present, should be evaluated and recorded.

RESOURCE USE
for

Fish habitat

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Lakes or ponds	acres					
Water quality	rating					
Biological productivity						
Fish	lb/ac					
Threatened or endangered species	number					
Streams						
Physical features	mi/mi value					
Biological productivity						
Fish	lb/mi					
Diversity	rating					
Size	rating					
Benthic organisms	index					
Other vertebrates (list)	no.					
Water quality	rating					
Threatened or endangered species (list)	number					

Summary rating

Industrial water supply

Evaluation of the industrial water supply is related to the needs of the industry to be served and to the type of industry. Limit the evaluation to (1) the current and projected needs of existing industries that depend on the supply, (2) the estimated current and projected needs of any new industries identified by the sponsors that will depend on the supply, and (3) the currently available supply and its potential for meeting the projected industrial demand.

Industrial need.--Industry representatives or the sponsor's consultants should identify the current and projected needs of the industry in million gallons per day for the projected life of the project. Show need by months if the demand is seasonal.

Quantity available.--Industry representatives or the sponsor's consultants should furnish the present and projected quantity and the source of industrial water supply. Show quantity by months if the supply varies. If the present and projected supply is interrelated with other uses such as recreation during certain seasons, indicate any restrictions, water rights, etc.

Quality available.--The ideal quality of water required for industrial use varies widely for the many purposes to which water is put. As a request, it is difficult to organize the quality requirements of water used for each of the many different industrial processes into standards. Individual industries have established specific water-quality criteria. When developing water resource projects with industrial water, be sure that the water quality will be suitable for the intended industrial use.

People employed.--Show numbers of people now employed and projected to be employed.

Net benefits.--Estimate the net benefits in dollars resulting from the improved industrial water supply.

Quality of the effluent.--The various state agencies have published water-quality standards. The Permit Assistance and Evaluation Division, Office of Water Enforcement, U.S. Environmental Protection Agency, Washington, D.C. 20460, has published "Interim Effluent Guidance for NPDES Permits," which establishes effluent criteria for specific industries. Publications can be obtained from the EPA regional offices. All industries are expected to meet minimum EPA criteria (by best practicable control technology currently available) by July 1, 1977. These agencies should be consulted to rate the quality of industrial effluent as adequate or not adequate.

Quantity of effluent.--Industry representatives or the sponsor's consultants should furnish the current quantity of effluent in million gallons per day and an estimate of the future quantity for the evaluation period. If the quantity varies, show the variation by months.

RESOURCE USE
for

Industrial water type industry

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Industrial need	mgd					
Quantity available	mgd					
People employed	no.					
Quality of effluent						
A. Adequate	mgd					
B. Not adequate	mgd					
Quantity of effluent	mgd					

Summary rating

Irrigation water

Evaluate water as a resource for irrigation of agricultural crops. Relate water requirements to water supply under present conditions, future without action, and identifiable alternative development plans. Assess the irrigation water not used by evapotranspiration that becomes available for other uses. Describe the economic feasibility of each alternative action in terms of net benefits.

Evaluate irrigation water requirements by considering such things as the extent and characteristics of the lands to be irrigated; type and quality of crop to be grown; consumptive use of each crop under the existing climatic conditions; irrigation method to be used; water application efficiency considering proper application depth, rate, and timing of irrigation; reuse of tailwater; and special water uses for plan quality, cooling, and frost protection. Evaluate efficiency of conveyance of the irrigation water from the point of supply to the point of use by considering such things as the type of and extent of the conveyance system; adequacy of control and measuring structures; seepage and management losses.

Assess the water supply available under present, future without action, and each alternative action in terms of quantity and quality. Evaluate separately water supplies available for diversion from direct streamflow and from storage, both surface and ground water. This evaluation includes assessment of the availability and quality of the water supply with respect to the irrigation season and the dependability of the supply. Legal restraints on availability must also be considered.

RESOURCE USE
for

Irrigation water

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Irrigation water requirements	ac-ft/yr					
Area served	acres					
Water use efficiency	%					
Conveyance efficiency	%					
Available supply						
Direct flow	ac-ft/yr					
Reservoir storage	ac-ft/yr					
Ground-water storage	ac-ft/yr					
Reuse	ac-ft/yr					
Quality	rating					
Adequacy to meet requirements	%					
Availability vs. time of need	rating					
Return waters						
Surface flow	ac-ft/yr					
Ground-water recharge	ac-ft/yr					
Quality	rating					
Summary rating						

Low flow

Evaluate low-flow maintenance or augmentation for effectiveness in improving stream characteristics. An alternative to the low-flow use section is to show the impact on other resource uses, e.g., fish resource use, municipal water supply use, industrial water supply use.

Low-flow maintenance or augmentation is accomplished by releasing water from impoundments or other sources into a stream in a predetermined manner. The purpose of such releases is to augment or increase the rate or duration of flow in a particular reach or in the entire stream unit in order to improve or enhance one or more of the environmental factors listed on the following resource use sheet.

As previously indicated under Water quantity levels, minimum flow is shown in cubic feet per second (cfs) with periods of no-flow given in days for the frequency of occurrence commensurate with the possible uses. Data on duration of no flow may be useful in evaluating the impact on other environmental factors such as fish and recreation.

Minimum-flow data may be readily available for some streams. If not, frequency analyses of stream-gage data from federal and state agencies or special studies are required.

The needs for water to improve or enhance other resource uses should be developed in consultation with personnel who have expertise in the particular fields under consideration. For example, the EPA provides data on the need for, value of, and impact of storage and releases for water-quality control in federal projects.

Assign a rating of 1 to 5 to low-flow augmentation for the resource use. Consider all environmental consequences of the low-flow regulation action, both adverse and beneficial. Even though storage and release of water may be planned for only one purpose, e.g., water quality, weigh both the positive and negative effects of the other resource uses in making the composite rating for low flow.

RESOURCE USE
for

Low flow

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Minimum flow	cfs/days					
Water quality	needed cfs					
Fish	needed cfs					
Wildlife	needed cfs					
Recreation	needed cfs					
Esthetic	needed cfs					
Summary rating						

Mineral extraction

This evaluation should be based on the quantity indicators for land and the quality indicators for land, water, and air. Because the potential hazards and environmental degradation due to surface mining, underground mining, and fluid mineral extraction are different, evaluate each of these categories of mineral extraction separately.

Surface mining (quarries, pits).--Surface mining of materials such as copper, iron, phosphate, and oil shale is generally on a large scale because of low unit value and/or large tonnage requirements.

Sand and gravel, dimension stone, and coal operations may be large or small.

Any surface mining operation generates large volumes of waste material, and all have the potential for contributing to air and water pollution because of extraction or processing procedures. Dewatering of deep pits or quarries can result in local lowering of the water table.

Spoil banks and gob piles themselves are often sterile and expensive to restore to a useful purpose. Abandoned (orphan) spoil banks will probably not be rehabilitated because of the high costs and the low priority for public funding.

Reclamation laws may or may not be adequate to insure proper reclamation of areas still subject to surface mineral extraction operations.

Spoil banks and gob piles are often major sediment sources, and runoff from coal-mined areas is acid and high in iron and sulphates.

Underground mining.--Underground mining and the associated processing operations often result in large volumes of waste material. Some of this material may accumulate as waste rock piles at the mine. These piles may be unstable and may be a major sediment source. More waste material is generated, usually as sludge or slurry, at processing or cleaning plants. Crushing or smelting operations may generate significant air pollution.

Underground excavations sometimes collapse, and this results in some degree of surface subsidence, which can be detrimental to overlying roads, railroads, dams, or buildings.

Waste water from mine dewatering or seepage, as well as waste water from cleaning and processing operations, may be of extremely poor quality.

Fluid mineral extraction.--Extraction of fluid (oil and gas) or fluidized (brine, sulfur) minerals can result in surface subsidence.

Ground-water contamination can result from improperly cased or sealed wells.

The potential hazard of spills must be considered, both at the well and at associated bulk storage and loading facilities.

RESOURCE USE
for
Mineral extraction

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without Project	With project: 1	2	3
Active strip mines or quarries						
Industrial need	ton					
Quantity available	ton					
People employed	no.					
Pollution control						
Air						
Adequate	acre					
Not adequate	acre					
Water						
Adequate	acre					
Not adequate	acre					
Underground mines and processing plants						
Industrial need	ton					
Quantity available	ton					
People employed	no.					
Waste stabilization						
Adequate	acre					
Not adequate	acre					
Pollution control						
Air						
Adequate	no. of mines					
Not adequate	no. of mines					
Water						
Adequate	no. of mines					
Not adequate	no. of mines					

RESOURCE USE
for
Mineral extraction (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Fluid mineral extraction and facilities						
Industrial need	ton or bbl					
Quantity available	ton or bbl					
People employed	no.					
Pollution control						
Air						
Adequate	no. or acres					
Not adequate	no. or acres					
Water						
Adequate	no. or acres					
Not adequate	no. or acres					
Summary rating						

Municipal water supply

Municipal water supply is assessed on the quantity and quality of water needed and available under present and future conditions.

Municipal water supply needs are predicted from unit consumption per capita or number of hookups; such data are obtained from local municipal water utility organizations, water companies and districts, planning commissions, and demographic organizations.

Municipal water-quality ratings are determined by local or general Public Health Service drinking water standards. Consider the practicability of treating water to meet required standards and quality management.

Consider reuse of water for municipal, industrial, irrigation, or other resource uses. Sanitation districts and similar organizations can provide data relative to quantity and quality of effluent.

Cost and economic feasibility of municipal water may be useful in ranking the resource for this use compared to other possible uses.

RESOURCE USE
for

Municipal water

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Population	no.					
Total hookups	no.					
Consumption per capita or hookup	gal					
Municipal water needs	mgd					
Quantity available	mgd					
Quantity vs. need	pct					
Quality	rating					
Water reuse						
Quantity	mgd					
Quality	rating					

Summary rating

Pastureland production

Pastureland production is rated in terms of expected/potential in terms of animal unit months (aum). Expected is an expression of the average yield now. Expected future without action and with various alternatives reflect the influence of projected levels of management within a specific time frame. Potential pastureland production is a projection of possible yield within the same time frame as the expected but using, within reason, known improved cultural and management techniques and technology.

The same procedure used for cropland production can be adapted to determining pastureland production.

RESOURCE USE
for

Pastureland production

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Forage - expected potential	aum/ acre					

Summary rating

Rangeland production

Rangeland production is expressed in terms of expected/potential range condition class for each range site. The range condition class designation reflects both quality and amount of production. Expected means that this is the present condition class level and that under future without action and alternatives. Potential means the condition rating possible with existing technology. The range condition class for a specific range site is determined in accordance with criteria in the local technical guide. Where local experience data are available and the grazing situation (season of use, kind and class of livestock, size of grazing units, etc.) is known, the range condition class can be further interpreted in terms of animal unit months of available grazing.

RESOURCE USE
for

Rangeland production

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Range site A[1]						
expected	range condition class					
potential						
Range site B[1]						
expected	range condition class					
potential						
Range site C[1]						
expected	range condition class					
potential						
Range site D[1]						
expected	range condition class					
potential						
Etc.						
expected	range condition class					
potential						
Summary rating						

[1] Use local name for each range site.

Recreation

Evaluate recreation as a use on the basis of the resources and activities available. Evaluate each significant activity as well as quality factors such as proximity, access, and water quality compared to the local and state water-quality standard for the proposed use, i.e., swimming, boating, etc.

Population in local area of influence.--Determine the present population in the local area of influence (usually a 2-hour drive). For columns headed future without and with, estimate the project population that will generate future demand, for example, 5 to 10 years after installation. Round out population to the nearest thousand. Finer calculations imply accuracy that is not consistent with the method.

Resource analysis.--Evaluate resource use on the basis of the resources and recreation activities available. The resources should include the quantity and quality of recreation land and water in the watershed and in the local area of influence. Calculate the quantity on the basis of acres of recreation land per 1,000 people and compared with standards for the state or with standards that provide adequate recreation opportunities for all persons.

Quality factors, such as proximity and access, should reflect the needs of the people in the specific area being served and reasonably or substantially attainable. Compare the water quality with local and state standards for the proposed use. The following quality ratings can be used: 1, unsuited; 2, poor; 3, neutral or fair; 4, good; and 5, excellent. Overall, the land or site must be suitable for the purpose for which it is intended.

Rate recreation facilities and developments within the watershed according to the same scale. When these areas are viewed or inventoried, note the following items to facilitate calculations of supply; number of campsites, number of picnic tables, square feet or linear feet of beach, acres of boating waters, fishing waters, and open hunting areas.

Activity analysis.--Estimates of supply (recreation visits per year) on existing recreation areas are based on the items listed, on the latest inventories by the National Association of Conservation Districts and the Bureau of Outdoor Recreation, or on estimates by the State Comprehensive Outdoor Recreation Plan, local recreation commission, etc. Base the estimate of supply in the future without action on the loss of facilities and installation of new or additional recreation facilities by other agencies, government units, programs, private entrepreneurs, etc. Supply in alternatives is based on the future without action and the net addition or loss of facilities provided by the alternatives. In the alternative columns record only those activities on which the project would make a major impact.

Estimates of the demand for visitor days per year are generally based on local surveys. These surveys are based on population in the local area of influence, participation rates (see TSC Technical Notes, BOR Surveys, etc.), or the utilization of existing facilities on heavy-use days. Often estimates of supply (availability) and demand (use) can be obtained from reports already prepared, e.g., North Atlantic regional water resource studies, river basin studies, Appalachia reports, state comprehensive outdoor recreation plans, etc. Future demand can also be based on the estimated future population times participation rates.

Generally, future participation rates are expected to be higher than present because of increased leisure time, greater mobility, improved facilities, and higher income. Record supply and demand for all activities in the "Present" and "Future without action" columns. In the alternative columns, record the supply and demand for only those activities on which the project would make a major impact. Obtain totals of the supply columns and demand columns for all activities in the "Present" and "Future without action" columns.

To determine the effect of the project alternatives, total the entries in the supply columns and demand columns for activities where there is a major impact created by the alternative.

The opportunity index for the activities to be influenced by the project is obtained by dividing the subtotal for supply column by the subtotal for demand column and multiplying by 100.

Quality and uniqueness of the activity must also be considered along with the quantity even though such an evaluation is often subjective. If desired, supply and demand can be converted to dollar evaluations for later use in the economic analysis.

RESOURCE USE
for

Recreation

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Population in local area of influence (LAI)	no.					
Recreation land						
Quantity in LAI[1]	acres					
Quantity in 1,000 pop in LAI	acres					
Quantity in watershed	acres					
Quality in watershed						
Adequate[2]	acres					
Not adequate	acres					
Proximity	rating[3]					
Access	rating					
Hunting land	acres					
Recreation facilities and development	rating					
Recreation water						
Quantity in LAI	acres					
Quantity per 1,000 pop. in LAI	acres					
Quantity in watershed	acres					
Quality in watershed	rating					
Fishing water, stream	miles					
Fishing water, lakes	acres					

[1] LAI, local area of influence, generally a 2-hour drive.

[2] Land is developed to include design that overcomes the soil limitations.

[3] Rating scale: 1, unsuited, 2, poor; 3, neutral or fair; 4, good; 5, excellent.

RESOURCE USE
for
Recreation (con.)

Description of area: _____

Parameters	Unit	Present conditions 1/	Future conditions: Planning alternatives 2/ — Without project	With project: 1	2	3
Ratio of supply to demand in local area of influence						
Camping	visits per					
Supply	year					
Demand						
Picnicking	visits per					
Supply	year					
Demand						
Swimming	visits per					
Supply	year					
Demand						
Boating	visits per					
Supply	year					
Demand						
Fishing	visits per					
Supply	year					
Demand						
Hunting	visits per					
Supply	year					
Demand						
(other)	visits per					
Supply	year					
Demand						
Total	visits per					
Supply	year					
Demand						

1/ Record supply and demand for all major activities in the local area of influence (LAI).

2/ Record supply and demand for all major activities influenced by the project alternatives.

RESOURCE USE
for
Recreation (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives — Without project	With project: 1	2	3
Total opportunity 3/	visits per					
Supply	year					
Demand						
Opportunity index 4/	percent					
Summary	rating					

3/ Total opportunity: the supply and demand of all major activities influenced by the project alternatives.

4/ Opportunity index: total supply divided by total demand times 100.

Wildlife habitat

The wildlife habitat evaluation is based on the quantity, quality, and degree of interspersion of each kind of wildlife habitat in the area under consideration. Most wildlife habitat is created, improved, or maintained by planting vegetation, manipulating existing vegetation, inducing natural establishment of plants, or by combination of such actions; thus, wildlife use and land use go hand-in-hand.

The measurable factors are the vegetative types and conditions according to the various land uses as related to wildlife needs. All significant wildlife species in the project area, both game and nongame, should be considered.

The initial unit of measure is actual acres. The value unit is a quality-size relationship. It is determined by analyzing the habitat condition present or expected on the land.

Wildlife habitat can be grouped into three basic categories for purposes of this assessment procedure: openland habitat, woodland habitat, and wetland habitat. Wetland areas can be recorded by type.

Each habitat model should contain at least three major components:

1. The percentage occurrence component, which is a percentage relationship of habitat elements to one another on a given area.
2. The mangement condition, which is an expression of vegetative quality.
3. The interspersion factor, which considers distribution of vegetation.

In the model each component is assigned a point value expressed in tenths (0-1.0) and used to determine an acre value. These values are not intended to portray all the factors influencing the populations of wildlife on a given area. But, it is assumed that other factors will remain constant or at least not be affected by the activities. For this reason models will vary for each land resource area. It is necessary to make assessments for each major woodland type and possibly for each primary agricultural area within the area being appraised. Assessments should also be made for the site of each proposed structure.

Land use figures can be obtained from the land quantity assessment sheets, crop and pasture management data from cropland and pastureland assessment field notes, and forest types, amounts, and management data from the woodland production field notes.

In most places, it is necessary to make an evaluation for (1) structural works of improvement and for (2) land use and treatment since it is important to separate direct and indirect effects. The effects of the structural works are more direct and immediate; the effects of land use and treatment are based more on land use changes and conservation practices expected or predicted over the life of the project.

The total acreage of the area being evaluated and the total acreage of each structure site are assessed an acre-value for open land habitat and woodland habitat. Thus, there may be 50,000 acres in the area and this acreage may have a 10,000 acre-value as woodland wildlife habitat and a 45,000 acre-value as open land wildlife habitat.

Determine and record key open land and woodland wildlife species. Note threatened or endangered species on the assessment sheets for open land, woodland, or wetland habitat, both by entire area and site locations.

For each alternative, predict future conditions by using projected land use and management figures.

RESOURCE USE
for

Wildlife habitat

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Site location (impoundments, channels, etc.)						
Open land	ac/ac-value					
Major species Threatened or endangered species	numbers list					
Woodland (by type)	ac/ac-value					
Major species Threatened or endangered species	numbers list					
Wetland (by type)	ac/ac-value					
Major species Threatened or endangered species	numbers list					
Total area (land use and treatment)						
Open land	ac/ac-value					
Major species Threatened or endangered species	numbers list					
Woodland (by type)	ac/ac value					
Major species Threatened or endangered species	numbers list					
Wetland (by type)	acres					
Major species Threatened or endangered species	numbers list					
Summary rating						

Woodland production

Forests used primarily for wood production are rated in terms of expected/potential average annual growth or average yield of wood. Expected means the amount of production that is estimated to exist or will exist under future without action and under the alternatives presented. Potential means the average amount of growth or production that is possible with fully stocked stands for the age classes that exist. The standard unit of measure used for wood production is cubic feet, but it may be desirable in some study areas to use other units of measure or to refine the factors used.

Environmental forest,[2/] Christmas tree areas, and specialty forests are rated in terms of acre equivalent acres/total acres. To determine equivalent acres, convert total acres in production to full production acres for the type of forest or use.

[2/] Environmental forests are those forests known to be devoted to uses that totally exclude them from production of wood products. Examples might be residential areas, parks, or recreation areas, etc.

RESOURCE USE
for

Woodland Production

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Wood production forest						
Wood products Expected Potential	ft^3 or bd ft					
Forage production Expected Potential	aum					
Environmental forests[1/]	acres					
Christmas tree areas [1/]	acres					
Specialty crop forests [1/]	acres					
Summary rating						

[1/] Acre equivalent over acres.

Economic

Economic analyses are provided in accordance with the SCS Economics Guide and SCS policy. Economic considerations are important in identifying problems and alternatives. Economic impacts should be viewed from both a national and regional viewpoint. National economic development effects are commonly referred to as primary benefits, i.e., flood damage reduction, recreation, fish and wildlife habitat, irrigation, drainage, municipal and industrial water supply, and water quality. Regional external economies are not included as national economic effects. Costs of resource use are external or induced costs and should be included in total installation costs.

Regional effects are gains or losses in regional income and employment. Regional income includes benefits accruing to residents of the region, economies external to the region, and increases in regional wages and salaries. Measurements of external economies utilize input-output (I-O) regional studies. Employment data are presented in terms of additional man-years, which include seasonal and year-long employment.

RESOURCE USE
for

Economic (national)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
National viewpoint						
Flood damages	avg. annual $					
Flood damage reduction	avg. annual $					
Other benefits	avg. annual $					
Costs	avg. annual $					
Net benefits	avg. annual $					
Regional viewpoint						
Benefits accruing to residents of the region	avg. annual/$					
Regional cost	avg. annual/$					
Net regional benefits	avg. annual/$					
New regional employment	man-years					

Summary rating

Visual quality

Visual resources are made up of topography, diversity of geologic materials, diversity of vegetation texture and density, distribution and visual condition of water in lakes and streams, and compatability of land use, including farms, forests, and urban areas. An area of high visual quality could include all these items. An area of water has been found to be a consistent preference. An area with low visual quality would have predominantly one kind of relief, one kind of geologic material, very little water, and visually incompatible land uses.

Geologic surface material.--Esthetic value is enhanced by the presence of a wide variety of geologic materials. Use should be compatible with geologic materials. Mudflats around a lake are undesirable, but rocky shores are very desirable. A high-quality geologic surface material would be pleasing to view and convenient to use according to the purpose, i.e., a rocky, erosion-free shore or bank on a lake or stream, a sand beach for swimming, good deep soil for farming, etc. A low-quality area would have predominantly the same material regardless of use.

Water-land ratio.--Visual quality is assumed to be high if about 10 percent of a large area is covered with well-distributed water bodies or stream corridors, average if 3 to 5 percent covered, and low if 2 percent or less is covered.

For high visual quality, the water must be visible from several places, have an irregular shoreline, and contrast with the surrounding land. Streams should have some flow most of the season for a high-quality rating.

Sound.--This item refers to sounds caused directly by improvements such as a pumping plant or indirectly, e.g., by automobiles or motorboats. A noisy diesel pumping plant in a residential area might be unsuitable and rate 1 on a numerical scale of 1 to 5, but an electric plant might be less objectionable and rate 2 or 3. The ideal would be a very low noise level, 5.

Odor.--Waste disposal systems and sewage lagoons may be unsuitable, rating 1, if they create disagreeable odors near a residential area or recreation area but may be tolerated, rating 2 or 3 on a numerical scale of 1 to 5, if in a relatively unused area such as a forest or farm. Here again, the ideal would be the absence of objectionable odors, rating 5.

Visibility.--This item refers to particles in the air that hamper visibility. Probably the greatest threat in SCS projects comes from blowing dust. The presence of blowing dust in quantities substantial enough to reduce visibility is not acceptable. A slight hazard would be fair or neutral and rate 3, and the absence of the threat would be excellent or 5.

Linear structures.--Linear structures may enhance or detract from the visual quality of the landscape. A linear structure in an area of topographic diversity may enhance the visual quality by interrupting the pattern. Conversely, a linear structure located in a flat landscape may detract by visually changing the horizon line or by blocking views of distant mountains or coastlines. The impact of the linear structure on the landscape can be lessened if the structure is made from materials that "fit" with the surroundings and provide a welcome break in the pattern.

Dams.--Dams constructed with SCS assistance are generally made of earth. They have a mechanical principal spillway and usually an earth emergency spillway. Dams add water and open space, thus expanding the view, which is generally an improvement. Dams may add or detract from the visual quality of the landscape. The rating depends on how well the dam and pool fit into the landscape. The scars caused by borrow pits and emergency spillways may have a negative effect on the visual quality of the dam and, if substantial, reduce the rating by one point.

Recreation facilities.--These include shelter houses, restrooms, swimming beaches, boat docks, and parking lots. Such facilities generally are accepted as a part of the total project and may either add or detract from the visual quality of the area. Facilities on the shoreline may disrupt the continuity of the view and detract from the visual quality unless properly located and designed to fit in the landscape. Normally, recreation facilities are rated 2, 3, or 4 unless there is a very outstanding feature present in the development.

Other structures.--Buildings, pumping plants, sewage treatment plants, and other structures associated with SCS projects are usually relatively small and, if well planned, neither add nor detract from the visual quality of the area. They may detract if located close to a residential or recreation area and do not "fit" well with their surroundings. Normal rating would be 2 or 3 on a numerical scale of 1 to 5; 1, unsuited; 2, poor; 3, neutral; 4, good; and 5, excellent.

RESOURCE USE
for

Visual quality of the landscape

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Land						
Visual quality of land	rating					
Geologic surface material	rating					
Water						
Water-land ratio	rating					
Visual quality of water body or stream	rating					
Air						
Sound	rating					
Odor	rating					
Visibility	rating					
Manmade objects						
Linear structures (dikes, spoils, channels)	rating					
Dams	rating					
Recreation facilities (shelter houses, restrooms, swimming beaches, boat docks, etc.)	rating					
Other structures (buildings, pumping plants, sewage treatment plants, etc.)	rating					

Summary rating

Social

Program activities of SCS have a significant impact on the social well-being of the nation's citizenry. This impact needs to be measured during planning and taken into account in decisionmaking and in preparing environmental impact statements. Factors that may be pertinent include population (total density and stratification), health factors (adequacy of domestic water supply, sewage disposal, doctors, dentists, hospitals, residences for the aged), housing (total, adequacy), and education (pupil/classroom ratio). Data from secondary sources are usually obtained for social evaluations. An excellent source of information about social assessment is, "A Guide to the Preparation of the Social Well-being Account, Social Assessment Manual," by Stephen Fitzsimmons, Lurrie Stuart, and Peter Wolff, July 1975.

RESOURCE USE
for
Social

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Without project	Future conditions: With project, Planning alternatives 1	2	3
Total population	no.					
Population density	no./mi^2					
Age						
Under 5	pct					
5-14	pct					
15-44	pct					
45-64	pct					
64 and over	pct					
Water supply						
Individual systems	no.					
Community	gal/capita/day					
Sewage disposal						
Individual systems served by public system	no. of pop.					
Health						
Doctors per 1,000 pop.	no.					
Dentists per 1,000 pop.	no.					
Hospitals (beds per 1,000 pop.)	no.					
Residence for aged (beds per 1,000 pop.)	no.					
Vector control	acres					
Housing						
Total	no.					
Adequacy (safe, sanitary, decent)	pct					
Person per household	no.					

RESOURCE USE
for
Social (con.)

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Without project	Future conditions: With project, Planning alternatives 1	2	3
Education						
Pupils per classroom	no.					
Pupil teacher	ratio					
Median school completed	yr					
Outmigration	no/year					
Median family income	$/yr					
Below poverty level of _____/year	pct					
Income distribution						
Less than $3,000	pct					
$3,000 to 10,000	pct					
Greater than $10,000	pct					
Safety of life						
Level of flood protection to populated areas	freq.					

Summary rating

Unique cultural, historical, archeological, architectural, and natural resources

Factors for this activity include landmarks and cultural resources.

Landmarks.--Landmarks are generally made up of components of the natural system that have some prehistorical, historical, or other unique characteristic.

Cultural resources.--Factors (impacts) are related to man's influence and include such things as prehistorical, historical, and present cultural groups, migration, patterns of living, etc. Develop factors as necessary to display these resources and resource uses.

Threatened species.--List name of animal species and approximate population in impact zone. List name of plant species and acres present in affected area. Note whether the designation is by state or federal listing.

RESOURCE USE
for
Unique, Cultural, Historical, and Natural

Description of area: _____

Parameters	Unit	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Use density	no. of people/mi^2					
Landmarks						
Historical sites and monuments	no.					
Unique natural geologic areas	no.					
Archeological sites	no.					
Architectural sites	no.					
Scientific sites	no.					
Cultural resources						
Population migration	pct					
Ethnic groups	no.					
Seasonal homes	no.					
Threatened or endangered species						
Animals	no.					
Plants	acres					

Summary rating

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Summarizing checklist assessment data for decision makers

Checklist assessment findings may be reflected in a variety of ways in program planning documents. A short executive summary of the assessment and a map of the project area are usually needed. Such narrative summaries will usually be prepared by the interdisciplinary team and highlight significant impacts and include recommendations about specific alternatives. Overview summaries containing brief summaries of the ratings by the interdisciplinary team may also be useful. A general format for this section is shown on the opposite page.

More detailed technical summaries may also be needed to support planning documents. The second section may contain quantity and quality rating sheets for those resources that are likely to be affected by the proposed action and rating sheets for each resource use.

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SUMMARY RATINGS

Description of area: _____

Basic resources and resource uses	Present conditions	Future conditions: Planning alternatives: Without project	With project: 1	2	3
Land quantity					
Land quality					
Water quantity					
Water quality					
Air quality					
Cropland production					
Fish habitat					
Industrial water supply					
Irrigation water					
Low flow					
Mineral production					
Municipal water supply					
Pastureland production					
Rangeland production					
Recreation					
Wildlife habitat					
Woodland production					
Economic national					
Economic regional					
Visual quality of landscape					
Social					
Unique, cultural, historical, and natural					

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[FR Doc.77-22521 Filed 8-5-77;8:45 am]



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	HEW/HSA			HEW/HSA
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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER.

Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6884..... Pub. L. 95–92
International Security Assistance Act of 1977. (August 4, 1977; 91 Stat. 614). Price $.35.

H.R. 6138..... Pub. L. 95–93
Youth Employment and Demonstration Projects Act of 1977. (August 5, 1977; 91 Stat. 627). Price $.40.

presidential documents

Title 3—The President

Memorandum of August 1, 1977

Eligibility of Egypt for the Purchase of Defense Articles and Defense Services Under the Arms Export Control Act, as Amended

[Presidential Determination No. 77–17]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, August, 1, 1977.

Pursuant to the authority vested in me by section 3(a)(1) of the Arms Export Control Act, as amended, I hereby find that the sale to Egypt of defense articles and defense services will strengthen the security of the United States and promote world peace.

You are requested, on my behalf, to report this finding to the Congress.

This finding further amends Presidential Determination No. 73–10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 FR 12799), No. 74–9 of December 13, 1973 (39 FR 3537), No. 75–2 of October 29, 1974 (39 FR 39863), No. 75–21 of May 20, 1975 (40 FR 24889), No. 76–1 of August 5, 1975 (40 FR 37205), No. 76–12 of April 14, 1976 (41 FR 18281), and No. 77–5 of November 5, 1976 (41 FR 50625), and supersedes Presidential Determination No. 76–11 of March 25, 1976 (41 FR 14163). It shall be published in the FEDERAL REGISTER.

Jimmy Carter

cc: The Secretary of Defense

[FR Doc.77–23026 Filed 8–5–77;2:50 pm]

Memorandum of August 5, 1977

Occupational Safety and Health

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 5, 1977.

I have frequently expressed my commitment to review and reform the Federal role in combatting safety and health hazards in the workplace. My aim is to improve the effectiveness of our efforts to protect the health and safety of American workers.

The Secretary of Labor, Ray Marshall, and the Assistant Secretary for Occupational Safety and Health, Eula Bingham, have already moved vigorously to make our approach to occupational safety and health more sensible and effective. On May 19, 1977, the Labor Department announced a program to redirect the resources of the Occupational Safety and Health Administration (OSHA) away from trivial problems and toward more serious hazards to safety and health.

In another step towards common sense priorities, the Department of Labor announced on July 19 a program to reduce OSHA paperwork and streamline its recordkeeping requirements. The nation's 3.4 million small businesses will be exempt from filling out complicated job health and safety forms, and the paperwork for 1.5 million larger employers will be cut in half. Over the coming weeks, the Administration will take additional steps to reduce unnecessary burdens and allow OSHA to concentrate on the most serious hazards.

To complement these internal changes at OSHA, I have asked Ray Marshall and Bert Lance to head an interagency task force that will consider ways to strengthen the Federal role in protecting workplace safety and health. This task force will report to me with its first recommendations for action by April 30, 1978.

In addition to the Secretary of Labor and the Director of the Office of Management and Budget, this interagency group on worker safety and health protection will include the Departments of Commerce, Health, Education and Welfare and the Council of Economic Advisers, the Domestic Policy Staff, and the Small Business Administration. From time to time, I expect other departments and agencies to participate actively.

I want to be sure that federal programs actually do reduce threats to the health and safety of American workers, and that they help employers make the necessary adjustments. The inquiry will concentrate upon:

- Exploration of incentives that might supplement workplace safety regulations. These might include improved education and information services, economic aid and tax incentives to help employers improve workplace safety, changes in workers' compensation and liability laws and deterrent penalty structures.

- Evaluation of the government-wide administration of Federal workplace safety and health activities. This will include investigation of duplication, overlap and gaps in Federal agency jurisdiction.

- Review of other ways to improve the safety and health efforts of all Federal agencies, including those programs that affect Federal employees, and the resources devoted to them.

As you know, improvement of Federal health and safety protection measures is a matter of intense concern to the American people. This effort will be part of our larger program of looking at innovative approaches to many regulatory issues. It will help shape our reform program in other regulatory areas and will, I am confident, be one of this Administration's most valuable accomplishments.

You may be asked to contribute time, resources, and staff to this effort. I know I can count on your assistance.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-23107 Filed 8-5-77;4:57 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

AGENCY Civil Service Commission

ACTION Final Rule.

SUMMARY The position of Confidential Assistant to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs is excepted under Schedule C because it is confidential in nature

EFFECTIVE DATE August 9, 1977

FOR FURTHER INFORMATION CONTACT

William Bohling, 202–632–4533

Accordingly 5 CFR 213.3304(d)(2) is added as set out below

§ 213.3304 Department of State.

• • • • •

(d) *Bureau of Oceans and International Environmental and Scientific Affairs* • • •

(2) One Confidential Assistant to the Assistant Secretary

• • • • •

(5 U S C 3301, 3302, EO 10577, 3 CFR 1954 1958 Comp p 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc 77 22865 Filed 8 8–77;8 45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY Civil Service Commission

ACTION Final rule

SUMMARY The position of Secretary (Stenography) to the Assistant Secretary for European Affairs is excepted under Schedule C because of its confidential nature

EFFECTIVE DATE August 9, 1977

FOR FURTHER INFORMATION CONTACT

William Bohling, 202–632–4533

• • • • •

Accordingly, 5 CFR 213.3304(i) is added as set out below

§ 213.3304 Department of State.

• • • • •

(i) *Office of the Assistant Secretary for European Affairs* (1) One Secretary (Stenography) to the Assistant Secretary.

• • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22864 Filed 8–8–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The title of one position of Public Information Specialist to the Special Assistant to the Secretary (Public Affairs) is changed to Public Information Specialist to the Assistant Secretary (Public Affairs) to reflect the current title of superior.

EFFECTIVE DATE: August 9, 1977

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(65) is amended as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(65) One Public Information Specialist to the Assistant Secretary (Public Affairs)

• • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22867 Filed 8–8–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of the Schedule C position of Special Assistant to the Assistant to the Secretary and Director, Office of Revenue Sharing to the title of Assistant to the Director, Office of Revenue Sharing, because the revised title is more descriptive of the position's duties and the reporting relationship.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(67) is amended as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(67) One Assistant to the Director, Office of Revenue Sharing.

• • • • •

(U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22868 Filed 8–8–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C one position of Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks because the position is confidential in nature.

EFFECTIVE DATE: August 9, 1977

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(a)(5) is amended as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(5) Five Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and Legislative Affairs.

• • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–22861 Filed 8–8–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts under Schedule C one position of Confidential Assistant to the Assistant Secretary for Policy, Budget, and Administration because the position is confidential in nature.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(a)(31) is amended as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(31) Two Confidential Assistants to the Assistant Secretary for Policy, Budget, and Administration.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22862 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Deputy Director, Office of Communications is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(a)(34) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(34) Deputy Director, Office of Communications.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22857 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: Ten positions of Regional Representative, one position of Secretary to each of ten Regional Representatives, and one position of Confidential Staff Assistant to the Deputy Assistant Secretary of Labor for Veterans' Employment.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a)(60), (61), and (62) are added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(60) Ten Regional Representatives.

(61) One Secretary to each of ten Regional Representatives.

(62) One Confidential Staff Assistant to the Deputy Assistant Secretary for Veterans' Employment, Employment and Training Administration.

* * * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22863 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Three positions of Special Assistant to the Commissioner of Education are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(c)(14) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * * *

(c) *Office of Education.* * * *

(14) Three Special Assistants to the Commissioner of Education.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22859 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One additional position of Special Assistant to the Deputy Assistant Secretary for Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(r)(8) is amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(8) Two Special Assistants to the Deputy Assistant Secretary for Education.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22860 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to make headnote changes reflecting organizational redesignations and to change the title of one Schedule C position to reflect its current superior. The following are headnote changes: From Office of the Assistant Administrator for Conservation and Environment to Office of the Assistant Administrator for Conservation; from Office of the Assistant Administrator for Management and Administration to Office of the Associate Administrator for Management and Administration; and, from Office of the Assistant Administrator for Policy and Analysis to Office of the Assistant Administrator for Energy Information and Analysis. The title change is as follows: from Special Assistant to the Assistant Administrator, Office of the Assistant Administrator for Management and Administration to Special Assistant to the Associate Administrator, Office of the Associate Administrator for Management and Administration.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388 (g), (h), (h)(2), and (k) are amended as set out below:

§ 213.3388 Federal Energy Administration.

* * * * * *

(g) *Office of the Assistant Administrator for Conservation.* * * *

(h) *Office of the Associate Administrator for Management and Administration.* * * *

(2) One Special Assistant to the Associate Administrator.

* * * * * *

(k) *Office of the Assistant Administrator for Energy Information and Analysis.* * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22858 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary (Stenography) to the Deputy Administrator of the Federal Highway Administration is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3394(d)(5) is added as set out below:

§ 213.3394 Department of Transportation.

* * * * * *

(d) Federal Highway Administration.* * *

(5) One Secretary (Stenography) to the Deputy Administrator.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-22866 Filed 8-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Up to 20 positions of Program Assistant, to be filed by individuals whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for administration of other programs, are excepted under Schedule A because it is not practicable to examine for the positions. New appointments may not be made under this authority after December 31, 1977.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3113(a)(7) is added as set out below:

§ 213.3113 Department of Agriculture.

(a) *General.* * * *

(7) Not to exceed 20 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1977.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23005 Filed 8-8-77;8:45 am]

PART 713—EQUAL OPPORTUNITY

Age Group Coverage—Nondiscrimination on Account of Age

Correction

In FR Doc.77-21001, appearing on page 37530 in the issue of Friday, July 22, 1977, the second word in the third line of § 713.512, now reading "many", should read "any".

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 980—VEGETABLES: IMPORT REGULATIONS

Minimum Grade, Size, Quality, and Maturity Requirements

Correction

In FR Doc. 77-21833, appearing at page 38384 in the issue of Thursday, July 28, 1977, the eighth entry under the heading "Advance notice" in the table on page 38385 should read, "1 d.".

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[Amdt. 2]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1976 and Subsequent Crops

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the General Regulations Governing Price Support for the 1976 and Subsequent Crops to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of barley, corn, oats, rye, sorghum and wheat. Previously, eligible cooperatives were authorized to obtain on behalf of their members only price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of wheat and feed grain producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS) 202–447–4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977, (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1,900 favored the proposal and about 2,700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and national organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and national organizations submitting comments favoring the proposal include commodity groups, State cooperative councils, and national cooperative organizations. Also, several State governors, and members of Congress supported this action. These organizations and members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the basis that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below:

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting the statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This option was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of wheat and feed grains placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about six percent of total U.S. grain sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more grain than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected six percent participation in wheat and feed grains over the next five years, it is not expected that the expanded program will have any significant affect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multi-national private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for wheat and feed grains.

Frequently cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000-limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *."

(4) *Tax Advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to those comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.3 of the General Regulations Governing Price Support for the 1976 and Subsequent Crops of grains and Similarly Handled Commodities is hereby amended as follows:

§ 1421.3 Eligible producer.

* * * * *

(g) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, or his designee, pursuant to Part 1425 of this chapter, to obtain price support on a crop of barley, corn, oats, rice, rye, sorghum, soybeans and wheat may obtain price support on the eligible warehouse stored production of such crop of the commodity on behalf of its members. When used in this subpart and on applicable forms, the term "producer" means both an eligible producer as defined in paragraphs (a), (b), and (c) of this section and an approved cooperative association.

* * * * *

NOTE.—It is hereby certified that the economic and inflationary effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107.

Signed at Washington, D.C., on July 26, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22813 Filed 8-8-77;8:45 am]

[Amdt. 6]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Barley Loan and Purchase Program

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the 1970 and Subsequent Crops Barley Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of barley. Previously, eligible cooperatives were authorized to obtain on behalf of their members only price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of barley producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS) 202-447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977, (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1,900 favored the proposal and about 2,700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and National Organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and National Organizations submitting comments favoring the proposal include commodity groups, State Cooperative Councils, and National Cooperative Organizations. Also several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the basis that: (1) USDA CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below:

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because

it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member-delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting the statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of barley placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about two percent of total U.S. barley sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more barley than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected two percent participation in barley over the next five years, it is not expected that the expanded program will have any significant effect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multinational private grain firms.

(3) *Unlawful Action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual procedures. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for barley.

Cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000 limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *"

(4) *Tax advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to those comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.50 of the 1970 and Subsequent Crops Barley Loan and Purchase Program is hereby amended as follows:

§ 1421.50 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and Subsequent Crops of barley.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22814 Filed 8-8-77;8:45 am]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Sorghum Loan and Purchase Program; Cooperatives Which May Participate

AGENCY Commodity Credit Corporation, USDA

ACTION Final rule.

SUMMARY This rule amends the 1970 and Subsequent Crops Sorghum Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of sorghum. Previously, eligible cooperatives were authorized to obtain on behalf of their members price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of sorghum producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT

Charlie B. Robbins, (ASCS), P.O. Box 2415, Washington, D.C. 20013. 202-447-4634.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views concerning the proposal To afford additional time for comment, the original comment period was extended an additional fifteen 15 days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613)

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5000 comments. Of these, about 1900 favored the proposal and about 2700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and National Organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demands, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and National Organizations submitting comments favoring the proposal include commodity groups, State Cooperative Councils, and National Cooperative Organizations. Also, several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the bases that: (1) USDA/CCC was proposing to delegate its loan functions to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below:

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool scale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan procooperatives, the primary organization grams. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of sorghum placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about 5 percent of total U.S. sorghum sales under

loan during the next five years. The proposed action, therefore, will not give cooperatives access to more sorghum than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected 5 percent participation in sorghum over the next five years, it is not expected that the expanded program will have any significant affect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multi-national private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for wheat.

Cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burly Tobacco Growers' Association v. Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), *cert. denied*, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000 limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitations shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *."

(4) *Tax advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to the comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.210 of the 1970 and Subsequent Crops Sorghum Loan and Purchase Program is hereby amended as follows:

§ 1421.210 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and subsequent crops of sorghum.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107.

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22815 Filed 8-8-77;8:45 am]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Wheat Loan and Purchase Program

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the 1970 and Subsequent Crops Wheat Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of wheat. Previously, eligible cooperatives were authorized to obtain on behalf of their members price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of wheat producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS) 202-447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION

On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views concerning the proposal. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5000 comments. Of these, about 1900 favored the proposal and about 2700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and National organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support

The State and National Organizations submitting comments favoring the proposal include commodity groups, State Cooperative Councils, and National Cooperative Organizations. Also, several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the bases that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below:

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of wheat placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about 12 percent of total U.S. wheat sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more wheat than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected 12 percent participation in wheat over the next five years, it is not expected that the expanded program will have any significant effect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multinational private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for wheat.

Cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association v. Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000 limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *."

(4) *Tax advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to the comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.460 of the 1970 and Subsequent Crops Wheat Loan and Purchase Program is hereby amended as follows:

§ 1421.460 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and subsequent crops of wheat.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107.

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22816 Filed 8-8-77;8:45 am]

[Amdt. 6]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Oats Loan and Purchase Program

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the 1970 and Subsequent Crops Oats Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouses stored production of oats. Previously, eligible cooperatives were authorized to obtain on behalf of their members price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of oats producers

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS), 202-447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views concerning the proposal. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1,900 favored the proposal and about 2,700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and National organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and National Organizations submitting comments favoring the proposal include commodity groups, State Cooperative Councils, and National Cooperative Organizations. Also, several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the bases that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the elibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members Producers may also obtain price support at the county ASCS offices. The rules does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of oats placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about 1 percent of total U.S. oat sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more oats than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected 1 percent participation in oats over the next five years, it is not expected that the expanded program will have any significant affect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multi-national private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commentors contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for oats.

Cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000 limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitations * * *"

(4) *Tax advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives

All comments received have been considered in connection with this final rule. After giving careful consideration to the comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.245 of the 1970 and Subsequent Crops Oats Loan and Purchase Program is hereby amended as follows:

§ 1421.245 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and subsequent crops of oats.

NOTE: It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 77-22817 Filed 8-8-77;8:45 am]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Corn Loan and Purchase Program

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the 1970 and Subsequent Crops Corn Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of corn. Previously, eligible cooperatives were authorized to obtain on behalf of their members price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of corn producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS) (202) 447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Sup-

port for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views concerning the proposal. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1,900 favored the proposal and about 2,700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and national organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and national organizations submitting comments favoring the proposal include commodity groups, State cooperative councils, and national cooperative organizations. Also, several State governors and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the basis that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage.

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sell his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of corn placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about 4 percent of total U.S. corn sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more corn than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limit financial advantages to cooperatives and their projected 4 percent participation in corn over the next five years, it is not expected that the expanded program will have any significant affect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multi-national private grain firms.

(3) *Unlawful Action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for corn.

Cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000-limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *"

(4) *Tax Advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to the comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.90 of the 1970 and Subsequent Crops Corn Loan and Purchase Program is hereby amended as follows:

§ 1421.90 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and subsequent crops of corn.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107.

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22818 Filed 8-8-77;8:45 am]

[Amdt. 6]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Rye Loan and Purchase Programs

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the 1970 and Subsequent Crops Rye Loan and Purchase Program to permit approved cooperative marketing associations to obtain on behalf of their members price support on their eligible warehouse stored production of rye. Previously, eligible cooperatives were authorized to obtain on behalf of their members price support loans on eligible cotton, honey, rice and soybeans. This amendment is intended to increase the marketing options of rye producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles B. Robbins, (ASCS) 202-447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending the General Regulations Governing Price Support for the 1976 and Subsequent Crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barely, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views concerning the proposal. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1,900 favored the proposal and about 2,700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and national organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and national organizations submitting comments favoring the proposal include commodity groups, State cooperative councils, and national cooperative organizations. Also, several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constituents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farms Organization and their members. These comments opposed the proposal on the basis that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members.

Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as an individual or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below:

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators because it would not permit them to obtain CCC price support loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity is transferred by the sale to inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producer and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirments of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of rye placed under CCC price support loan by cooperatives on behalf of their members would greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about 5 percent of total U.S. rye sales under loan during the next five years. The proposed action, therefore, will give cooperatives access to more rye than they now have and could not result in their acquistion of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantages to cooperatives and their projected 5 percent participation in rye over the next five years, it is not expected that the expanded program will have any significant affect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multinational private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative rather than its producer-members. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for rye.

Cited by these commenters as support for their contention that the proposal is unlawful in the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert. denied, 383 U.S. 907 (1966). The Court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86-80, 73 Stat. 167, 178), referring to a $50,000-limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: (3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization, or other persons, but the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *"

(4) *Tax Advantage.* Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to the comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR 1421.335 of the 1970 and Subsequent Crops Rye Loan and Purchase Program is hereby amended as follows:

§ 1421.335 Purpose.

This supplement contains program provisions which, together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1976 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1970 and subsequent crops of rye.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11821 and OMB Circular A-107

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22819 Filed 8-8-77;8:45 am]

[Amdt. 1]

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

Subpart—Eligibility Requirements for Price Support

COOPERATIVES WHICH MAY PARTICIPATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations which set forth the eligibility requirements which approved cooperative marketing associations must meet to obtain price support on behalf of their members. Previous regulations limited the commodities on which cooperatives may participate in authorized price support programs to cotton, rice, honey and soybeans. This amendment will add barley, corn, oats, rye, sorghum and wheat to the list of commodities on which approved cooperatives may obtain price support loans on behalf of their members. The amendment is intended to increase the marketing options of wheat and feed grain producers.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS), 202-447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Tuesday, April 12, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19149) announcing that the Secretary of Agriculture was considering amending 7 CFR Part 1425, "Cooperative Marketing Associations, Eligibility Requirements for Price Support" to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, oats, rye, sorghum and wheat in order to afford producers of these commodities the same marketing tool as is currently available to producers of certain other commodities. Comments were solicited on the proposal and interested persons were given thirty (30) days to express their views. To afford additional time for comment, the original comment period was extended an additional fifteen (15) days by a notice published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23613).

DISCUSSION OF MAJOR COMMENTS

This Department received nearly 5,000 comments. Of these, about 1900 favored the proposal and about 2700 opposed it. The major issues raised by the comments received are discussed below.

COMMENTS SUPPORTING THE PROPOSAL

The comments supporting the proposal came from individuals and a wide range of State and National organizations and elected representatives in Congress. Individual producers indicated that the proposed action would provide use of a marketing tool that would give them additional marketing options. Further, they stated that these options would create more competition and directly benefit individual producers as well as independent grain dealers by providing access to specified volume units of grain. Cooperative managers indicated that the proposal would provide a more orderly marketing system that would release grains at the time they are needed to satisfy domestic and export demand, which would in turn benefit all farmers including those that did not participate in a pool of commodities on which a cooperative would participate in price support.

The State and National Organizations submitting comments favoring the proposal include commodity groups, State Cooperative Councils, and National Cooperative Organizations. Also, several State governors and Members of Congress supported this action. These organizations and Members of Congress stated that an expanded program would improve the economic position of their members and constitutents by providing additional marketing options. They further stated that the proposal was a positive step towards improving the voice of producers in their marketing efforts.

COMMENTS OPPOSING THE PROPOSAL

Of the comments opposing the proposal, approximately 1,800 were received from the National Farmers Organization and their members. These comments opposed the proposal on the bases that: (1) USDA/CCC was proposing to delegate its loan function to cooperatives, and (2) nonmembers of cooperatives would be discriminated against because they would be required to become members of the cooperatives to participate in the price support program. Neither contention is valid.

Commodity Credit Corporation does not propose to delegate any of its loan functions to cooperatives. A grain cooperative that meets the eligibility requirements for participation in the program may be approved by Commodity Credit Corporation to obtain loans on or sell commodities on behalf of its members. Producers may also obtain price support at the county ASCS offices. The rule does not discriminate against nonmembers of cooperatives because all producers have the option of participating in authorized price support programs as individuals or marketing through a cooperative. The rule does not require that a producer become a member of a cooperative before he can participate individually in a price support program.

Other commenters opposed the proposal for reasons which may be grouped into the following four main categories: (1) Discrimination, (2) Monopoly, (3) Unlawful action, and (4) Unfair tax advantage. Each of these will be discussed separately below.

(1) *Discrimination.* Some commenters stated that the proposal would discriminate against private elevators beause it would not permit them to obtain CCC price suppor loans on commodities acquired from producers, as would be the case for approved cooperatives.

Only those cooperatives which meet the eligibility requirements established by CCC are permitted to obtain price support loans on behalf of their members on commodities delivered to them for marketing. An eligible producer is not required to market his commodity through the cooperative in order to obtain price support. He may obtain price support individually through the county ASCS office or he may obtain price support through a cooperative marketing association. A participating cooperative is required to distribute loan advances and pool sale proceeds (profits realized from marketing commodities delivered by members) to the members who delivered the commodity. The member delivering the commodity to the cooperative maintains an equity interest in the proceeds from the sale of that commodity. Conversely, when a producer sells his commodity to a private elevator, title and all interest in the commodity its transferred by the sale to the elevator. All profits realized from the sale of the commodity inure to the benefit of the elevator and not the producers. Accordingly, to provide price support to an elevator for commodities it purchased from producers would benefit the elevator rather than the producers and would be inconsistent with the intent of Congress in enacting statutes under which price support is administered.

Some commenters stated that the proposed rule would give grain marketing cooperatives an unfair advantage in that they would have access to a free of cost inventory for merchandising or processing. This objection was rejected because, except for a short-term increase in cash flow, the proposed action provides little relief from the basic inventory financing requirements of cooperatives. These needs must still be met by the banks for cooperatives or through other lending arrangements. Extending the program will provide little relief from the inventory financing requirements of regional cooperatives, the primary organization expected to use the expanded loan program. These needs must still be met by the banks for cooperatives or other lending institutions. There is little or no likelihood that the expanded program will be a major source of working capital for cooperatives. Moreover, interest rates for CCC loans are not lower than commercial rates to an extent that would give the cooperative any significant market advantage. In any event, any marginal financial advantages accruing to cooperatives would be passed on to farmer members.

(2) *Monopoly.* Some commenters stated that the proposal would give grain marketing cooperatives control of a sufficient quantity of grain to enable them to acquire a monopoly on the supply of grain. These comments are not economically valid. In that regard, it is not expected that the combined volume of wheat and feed grains placed under CCC price support loan by cooperatives on behalf of their members will greatly exceed that which would be placed under loan by such farmers in the absence of the proposed action. Moreover, grain cooperatives are expected to put only about six percent of total U.S. grain sales under loan during the next five years. The proposed action, therefore, will not give cooperatives access to more grain than they now have and could not result in their acquisition of sufficient stocks to acquire a monopoly.

Other commenters opposed the proposal on the basis that it would tend to favor cooperatives with an unfair competitive advantage. Given the limited financial advantage to cooperatives and their projected six percent participation in wheat and feed grains over the next five years, it is not expected that the expanded program will have any significant effect on competition, nor will the marginal financial advantage of the program give participating cooperatives a significant competitive edge over local, regional or multi-national private grain firms.

(3) *Unlawful action.* While this Department has for many years made price support available to producers through approved cooperative marketing associations on such commodities as cotton, peanuts, rice, and tobacco, some commenters contend that the proposed action is unlawful. The rationale for such contention is that since the cooperative is not itself a "producer", it may not receive price support. This contention misses the point. The regulation is not premised on the extension of price support to a cooperative for the benefit of the cooperative. Under the proposal, price support will be made to producers collectively through their cooperatives, for the benefit of the individual producers. The proposal is merely, therefore, an alternative method for carrying out the intent of the statutes under which price support must be made available for wheat and feed grains.

Frequently cited by these commenters as support for their contention that the proposal is unlawful is the case of *Tennessee Burley Tobacco Growers' Association* v. *Commodity Credit Corporation*, 350 F. 2d 34 (6th Cir. 1965), cert denied, 383 U.S. 907 (1966). The court in this case did not consider the question whether a cooperative approved by CCC could, under the price support statutes, receive price support on behalf of its producer-members. The legality of the long standing practice followed by this Department of making price support available to producers through cooperative marketing associations was undisturbed by the decision in this case. Cooperatives have been utilized by CCC for making price support available to producers for nearly 40 years. During this period numerous changes have been made in price support legislation by the Congress which has left undisturbed the administrative practice in question, although it has been fully familiar with the process. In fact, utilization of cooperatives has expressly been recognized and sanctioned by the Congress. For example, when appropriating funds to carry out this Department's functions and programs for the 1960 fiscal year, Congress, in the 1960 appropriation act (Pub. L. 86–80, 73 Stat. 167, 178), referring to a $50,000 limitation on the amount of price support which could be extended through loans, purchases, or purchase agreements, stated: "(3) that in the case of any loan to, or purchase from, a cooperative marketing organization, * * * such limitation shall not apply to the amount of price support received by the cooperative marketing organization or other persons shall be included in determining the amount of price support made available to any person through such cooperative marketing organization or other persons shall be included in determining the amount of price support received by such person for purposes of such limitation * * *"

(4) Tax advantage. Certain commenters contended that cooperatives already have a tax advantage and that to permit them to participate in price support would further enhance this advantage. Cooperatives do not operate as business entities whose primary purpose is profit and return on investment. Therefore, all sales proceeds, less costs of doing business, are returned to its members. The proposal will have no effect on the present tax status of cooperatives.

All comments received have been considered in connection with this final rule. After giving careful consideration to those comments, it has been determined that the arguments opposing the proposal were not valid reasons for not expanding the list of commodities.

FINAL RULE

Accordingly, 7 CFR Part 1425 is amended as follows:

1. The table appearing in paragraph (a) of § 1425.3, which contains a list of commodities and final dates for submission by cooperatives marketing associations of applications for approval to participate in authorized price support programs on behalf of their members is revised to read as follows:

§ 1425.3 Application.

(a) * * *

Commodity:	*Date*
Barley	June 1.[1]
Corn	Oct. 1.
Cotton	Aug. 1.
Honey	July 1.[1]
Oats	June 1.[1]
Rice	Aug. 1.
Rye	June 1.[1]
Sorghum	Oct. 1.
Soybeans	Sept. 1.
Wheat	June 1.[1]

[1] Cooperatives submitting applications for approval to participate in 1977 crop price support programs must do so by Oct. 1, 1977.

* * * * *

2. The two tables appearing in paragraph (b) of § 1425.6 which contain a list of commodities, units and amount per unit are revised to read as follows:

§ 1425.6 Financial condition.

* * * * *

(b) * * *

Commodity	Unit	Amount per unit
Barley	Bushel	$0.10
Corn	do	.10
Cotton	Bale	5.00
Honey	Hundredweight	1.00
Oats	Bushel	.10
Rice	Hundredweight	.40
Rye	Bushel	.10
Sorghum	Hundredweight	.15
Soybeans	Bushel	.30
Wheat	do	.10

* * * * *

Commodity	Unit	Amount per unit
Barley	Bushel	$0.05
Corn	do	.05
Cotton	Bale	2.50
Honey	Hundredweight	.50
Oats	Bushel	.05
Rice	Hundredweight	.20
Rye	Bushel	.05
Sorghum	Hundredweight	.10
Soybeans	Bushel	.15
Wheat	do	.05

* * * * *

NOTE.—It is hereby certified that the economic and inflationary effects of this action have been carefully evaluated in accordance with Executive Order 1821 and OMB Circular A–107.

Signed at Washington, D.C., on July 26, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77–22820 Filed 8–8–77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Stay for Faceted, Patinaed and Leaded Glass

AGENCY: Consumer Product Safety Commission.

ACTION: Stay of Standard for Architectural Glazing Materials as it applies to faceted, patinaed and leaded glass.

SUMMARY: The Commission stays the application of the Standard for Architectural Glazing Materials as it applies to patinaed, faceted and leaded glass used in "category I" products pending action by the Commission on a petition from the Stained Glass Association of America to amend the standard to exclude certain decorative glass. In the event that petition is denied, the stay in the effective date applies during judicial review of the standard currently pending before the U.S. Court of Appeals for the District of Columbia.

DATES: The stay for faceted, patinaed, and leaded glass in category I applications is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Division of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301–492–6629.

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Consumer Product Safety Commission promulgated a standard for Architectural Glazing Materials designed to eliminate or reduce the unreasonable risks of injury associated with architectural glazing materials. (42 FR 1428). The standard is designed to ensure that the glazing materials used in certain architectural products either do not break when impacted with a specified energy, or break with such characteristics that they are less likely than other glazing materials to present an ureasonable risk of injury.

On March 4, 1977, the Stained Glass Association of America (SGAA), filed, in the U.S. Court of Appeals for the District of Columbia, a petition for review of the Standard. On April 20, 1977, SGAA petitioned the Commission under section 10 of the CPSA, 15 U.S.C. 2059, to amend the Standard to exempt decorative glass (petition CP 77–12). On June 21, 1977, the SGAA filed a motion with the Commission requesting that the Standard be stayed for the products that were described in SGAA's petition. SGAA pointed out that decorative glass of the types described in the petition cannot be manufactured to conform to the standard, are used for decorative and artistic purposes, and their use is extremely limited. SGAA also argued that the standard effectively eliminates all of its products from use in glazed panels and decorative glass as an art form. On June 30, the Commission, in view of the arguments raised by SGAA granted a limited stay of the standard for certain decorative glass. The stay is limited to faceted glass, patinaed glass and leaded glass used in "category I" products, 16 CFR 1201.2(a)(3). The Order of the Commission is set forth below:

IN THE MATTER OF STAINED GLASS ASSOCIATION OF AMERICA, ET AL., PETITIONERS V. CONSUMER PRODUCT SAFETY COMMISSION, RESPONDENTS

ORDER

On consideration of petitioner's motion for stay the Commission orders a stay in the Standard for Architectural Glazing Material as it applies to faceted, patinaed and leaded glass as set forth below pending action on the petition of SGAA to amend the Standard to exempt "decorative glass" CP 77–12, or if that petition is denied, pending judicial review of the Standard.

The Standard for Architectural Glazing Materials, 16 CFR 1201, is stayed as it applies to "Faceted Glass," "Patinaed Glass" and "Leaded Glass" as defined below, used in "Category I products" only, 16 CFR 1201.2(a)(3), where such glazing meets the following criteria:

1. The coloring, texturing, or other design qualities and materials of the panels are permanently irremovable without destroying the material.

2. The panel's primary purpose is decorative or artistic.

3. The panel is conspicuously colored or textured so as to be plainly visible and plainly identifiable as aesthetic or decorative rather than functional (other than for the purpose of admitting or controlling admission of light components or heat and cold).

4. The panel is divided into segments by conspicuous and plainly visible lines.

The definitions set forth below shall apply to the glazing material for which a stay is granted:

Faceted Glass means glass made up of pieces of slab dalle imbedded in a matrix of concrete or epoxy.

Patinaed Glass means glass made by creating a design on a piece of glass by a process in which various chemical coatings are fused by firing in such manner that the design is permanently integrated into the glass.

Leaded Glass means a decorative composite glazing material made of individual pieces of glass whose circumference is enclosed by lengths of durable metal such as lead or zinc and the pieces of glass are completely held together and supported by such metal.

Dated June 30, 1977

For the Commission.

RICHARD E. RAPPS,
Secretary, Consumer
Product Safety Commission.

Dated: August 3, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer
Product Safety Commission.

[FR Doc.77–22884 Filed 8–8–77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5847; 34–13819; 35–20122; 39–477; IC–9877; IA–603]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Miscellaneous Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: These rule amendments update information and correct certain organization designations.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles A. Moore, Records and Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549, 202–523–5550.

SUPPLEMENTARY INFORMATION: These amendments correct the address of the Los Angeles Regional Office, update the mailing address for Freedom of Information and Privacy Act requests, reflect current copying fees, and correct an omission of regional office addresses in 17 CFR 200.80(c)(1). Because these amendments involve matters relating to organization management and practices, the prior notice and publication procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

Part 200, Chapter II, Title 17 of the Code of Federal Regulations is amended as follows:

Subpart D—Information and Requests

1. Section 200.80 of Subpart D is amended by revising paragraphs (c)(1), (c)(2), (d)(2), (d)(6)(ii) and (d)(9)(ii), as follows:

§ 200.80 Commission records and information.

* * * * *

(c)(1) *Public reference facilities.* The Commission has a specially staffed and equipped public reference room located at 1100 L Street, NW., Washington, D.C. (202–523–5360) and public reference facilities in its regional offices. Coin-operated machines, which are available to requesters on a do-it-yourself basis, can be used to make immediate copies up to 8½ x 14 inches in size of materials that are available for inspection in the Washington, D.C., New York City, Chicago and Los Angeles offices.

(i) The public reference rooms in Washington, New York, Chicago and Los Angeles have available for public inspection all of the publicly-available records of the Commission as described in paragraph (a) of this section.

(ii) All other regional offices of the Commission have available for public examination the materials set forth in paragraph (a)(2) of this section, as well as copies of registration statements and recent annual reports filed pursuant to the Securities Exchange Act of companies having their principal offices in their respective regions in microform; and paper copies of active broker-dealer and investment adviser applications originating in their respective regions; and paper copies of Regulation A (17 CFR 200.251 et seq.) notifications filed in their respective regions. Certain of the materials described in paragraph (a)(1) of this section may also be available at particular regional offices.

The addresses of the Commission's regional offices are:

Atlanta Regional Office, 1375 Peachtree Street, NE, Suite 788, Atlanta, Georgia 30309, (404–881–4768). Office hours—9 a.m. to 5:30 p.m. e.s.t.

Boston Regional Office, 150 Causeway Street, Boston, Massachusetts 02114, (617–223–2721). Office hours—9 a.m. to 5:30 p.m. e.s.t.

Chicago Regional Office, Everett McKinley Dirksen Building, 210 South Dearborn Street, Room 1204, Chicago, Illinois 60604, (312–253–7390). Office hours—8:45 a.m. to 5:15 p.m. c.s.t.

Denver Regional Office, Two Park Central, Room 640, 1515 Arapaho Street, Denver, Colorado 80202, (303–837–2071). Office hours—8 a.m. to 4:30 p.m. m.s.t.

Fort Worth Regional Office, 503 U.S. Courthouse, 10th and Lamar Streets, Fort Worth, Texas 76102, (817–334–3393). Office hours—8:30 a.m. to 5 p.m. c.s.t.

Los Angeles Regional Office, 10960 Wilshire Boulevard, Suite 1710, Los Angeles, California 90024, (213–473–4511). Office hours—8 a.m. to 4:30 p.m. p.s.t.

New York Regional Office, 26 Federal Plaza, New York, New York 10007, (212-264-1615) Office hours—9 a.m. to 5:30 p.m. e.s.t.
Seattle Regional Office, 3040 Federal Building, 915 Second Street, Seattle, Washington 98174, (206-442-7990). Office hours—8:30 a.m. to 5 p.m. p.s.t.
Washington Regional Office, Ballston Center Tower 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703-557-8201). Office hours—9 a.m. to 5:30 p.m. e.s.t.

(2) *Public reference inquiries.* Inquiries concerning the nature and extent of records available at the Commission's public reference room in Washington or at its other public reference facilities may be made in person or by telephone. The addresses and telephone numbers of all Commission Regional Offices are set forth at paragraph (c) (1) of this section. Written inquiries may be addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549, or to a particular regional office.

(d) • • •

(2) *Requests for copies of records.* Requests for copies of Commission records may be made either in person at the public reference room or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D. C. 20549. Each request for information under the Freedom of Information Act should be clearly and prominently identified by a legend on the first page, such as "Freedom of Information Act Request," and addressed to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D. C. 20549.

• • • • • •

(6) • • •

(ii) The application should be delivered to the Office of the Freedom of Information Act Officer, 1100 L Street, N.W., Washington, D.C., or sent by mail to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

• • • • • •

(9) • • •

(ii) *Misdirected written requests.* The Commission cannot assure that a timely or satisfactory response will be given to written requests for inspection or copies of records that are directed to the Commission other than in the manner prescribed in paragraphs (d) (1) and (2) of this section. Any staff member who receives a written request for records should promptly forward the request to the Freedom of Information Act Officer. Misdirected requests for records will be considered to have been received for purposes of paragraph (d) of this section only when they have been actually received by the Freedom of Information Act Officer. The Commission will not entertain any appeal from an alleged denial or failure to comply with a misdirected request unless it is clearly shown that the request was in fact received by the Freedom of Information Act Officer.

• • • • • •

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

2. Section 200.308 of Subpart H is amended by revising paragraphs (a) (2) and (b) (1) to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) • • •

(2) The application shall be delivered to the Securities and Exchange Commission, Privacy Act Officer, Room 6335, 1100 L Street, N.W., Washington, D.C. or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

• • • • • •

(b) • • •

(1) Such statement of disagreement shall be delivered to the Securities and Exchange Commission, Privacy Act Officer, Room 6335, 1100 L Street, NW., Washington, D.C. or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549, within 30 days after receipt by the individual of the Commission's order denying the amendment or correction. For good cause shown this period can be extended for a reasonable time.

• • • • • •

3. Section 200.309 of Subpart H is amended by revising the second sentence of paragraph (e) (2) to read as follows:

§ 200.309 General provisions.

• • • • • •

(e) • • •

(2) • • • Any staff member who receives a written request for information, access or amendment should promptly forward the request to the Privacy Act Officer. Misdirected requests for records will be considered to have been received by the Commission only when they have been actually received by the Privacy Act Officer in cases under § 200.308(a) (2). The Commission will not entertain any appeal from an alleged denial or failure to comply with a misdirected request unless it is clearly shown that the request was in fact received by the Privacy Act Officer.

4. Section 200.310 of Subpart H is amended by revising the fourth and fifth sentences to read as follows:

§ 200.310 Fees.

• • • Records will be copied onto 8½ x 14 inch pages at a cost of 10 cents per page. Copying machines are provided in the public reference room in the Commission's Washington, D.C., New York, Los Angeles and Chicago Offices, where the individual may make copies at a cost of 10 cents per page.

SHIRLEY E. HOLLIS,
Assistant Secretary

AUGUST 1, 1977.

[FR Doc.77-22871 Filed 8-8-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTERS A AND B—RULES AND REGULATIONS UNDER THE FEDERAL POWER ACT

[Docket No. RM77-18; Order No. 570]

CHANGE IN PROCEDURE CONCERNING APPLICATIONS UNDER PART I OF THE FEDERAL POWER ACT

AGENCY: Federal Power Commission

ACTION: Final rule.

SUMMARY: The Commission hereby amends specific sections of its rules and regulations in order to clarify the criteria used to determine when applications filed under Part I of the Federal Power Act should be set for formal, evidentiary hearing. The effect is to dispense with the cumbersome and rather confusing shortened procedure now used to process certain Part I applications, and to allow the Commission to act on these and all other Part I applications after any required public notice has been issued and opportunity for hearing has been afforded.

EFFECTIVE DATE: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Don Garber, Office of General Counsel, 202-275-4296.

SUPPLEMENTARY INFORMATION On April 29, 1977, the Commission issued a Notice of Proposed Rulemaking in this proceeding (42 FR 23160, May 6, 1977), wherein it proposed to amend specific sections of the rules and regulations in order to clarify the criteria used to determine when applications filed under Part I of the Federal Power Act should be set for formal, evidentiary hearing. No responses to the Commission's notice have been received.

As stated in the aforementioned notice, the reason for revising these sections is to prevent confusion and delay in processing certain applications[1] now required by the Commission's rules and regulations, unless the shortened procedure of § 1.32(b) [2] is requested, to be set for hearing. The effect of the proposed rulemaking would be to allow the Commission to act on these and all other Part I applications after any public notice has been issued and opportunity for hearing has been afforded. Proceedings in which substantial and relevant issues of fact are disputed would continue to involve full hearings before administrative law judges, with attendant cross-examination, briefing, and initial decision.

These amendments to the Commission's rules and regulations would apply to those applications currently pending before the Commission as well as all applications filed after the effective date of said amendments.

The Commission finds. (1) The notice and opportunity to participate in this rulemaking proceeding through the submission, in writing, of views, comments, and suggestions respecting the matter described above, is consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) In view of the purpose, intent, and effect of the amendments herein ordered, good cause exists for making them effective upon issuance of this order.

(3) It is appropriate and in the public interest in administering Part I of the Federal Power Act that the rules and regulations under the Federal Power Act be amended as herein provided.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h), orders:

PART 1—RULES OF PRACTICE AND PROCEDURE

(A) Paragraph (b) of § 1.32 in Part I, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 1.32 Shortened procedures.

• • • • • •

(b) *Noncontested proceedings.* In any proceeding required by statute to be set for hearing, the Commission when it appears to be in the public interest and to be the interest of the parties to grant the relief or authority requested in the initial pleading, and to omit the intermediate decision procedure, may after a hearing during which no opposition or contest develops, forthwith dispose of the proceedings upon consideration of the pleadings and other evidence filed and incorporated in the record: *Provided,* (1) The applicant or initial pleader requests that the intermediate decision procedure be omitted and waives oral hearing and opportunity for filing exceptions to the decision of the Commission; and (2) no issue of substance is raised by any request to be heard, protest or petition filed subsequent to publication in the FEDERAL REGISTER of the notice of the filing of an initial pleading and notice or order fixing of hearing, which notice or order shall state that the Commission considers the proceeding a proper one for disposition under the provisions of this section and shall otherwise conform with the requirements of § 1.19. Requests for the procedure provided by this section may be contained in the initial pleading or subsequent request in writing to the Commission. The decision of the Commission in such proceeding after noncontested hearing, will be final, subject to reconsideration by the Commission upon application for rehearing as provided by statute.

[1] Applications for license authorizing construction of major projects, license for constructed major projects, renewal of licenses for major projects, and substantial alteration to licenses for major projects

[2] 18 CFR 1.32(b) (1976)

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

(B) Paragraph (b) of § 3.114 in Part 3, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 3.114 Licenses.

• • • • • •

(b) Applications under the Federal Power Act for license authorizing construction of major projects; for license for constructed major projects; and for renewal of licenses for major projects are processed in the manner stated in § 3.113.

• • • • • •

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

(C) Section 4.32 in Part 4, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 4.32 Hearing on application.

A hearing upon an application may be ordered by the Commission, in its discretion, either upon its own motion or upon the motion of any party in interest. The hearing shall be limited to the issues specified by order or orders of the Commission.

PART 5—APPLICATION FOR AMENDMENT OF LICENSE

(D) Section 5.1 in Part 5, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 5.1 Amendment of license.

Where a licensee desires to make a change in the physical features of the project or its boundary, and/or make an addition or betterment and/or abandonment or conversion, of such character as to constitute an alteration of the license, application for an amendment of the license shall be filed with Commission, fully describing the changes licensee desires to make. Furthermore, the provisions of § 2.81(a) of this chapter shall apply to all applications for amendment of license as defined therein. If it is determined that approval of the application for amendment of license would constitute an alteration of license pursuant to Section 6 of the Act, public notice of such application shall be given at least 30 days prior to action upon the application. The application for amendment of license shall be verified, shall conform to § 131.30 of this chapter and shall be filed in accordance with § 4.31 of this chapter.

PART 6—SURRENDER OR TERMINATION OF LICENSE

(E) Section 6.1 in Part 6, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 6.1 Application for surrender.

Every application for surrender of a license shall state the reason therefor; and, except in the case of an application for surrender of a license for a minor project, or for a transmission line only, shall be executed by the licensee and filed in same form and manner as the application for license, and shall be accompanied by the license and all amendments thereof. Public notice of such application shall be given at least 30 days prior to action upon the application.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

§ 16.6 [Deleted]

(F) Paragraph (f) of § 16.6 in Part 16, Subchapter B of Chapter I, Title 18 of the Code of Federal Procedures is deleted.

(G) The amendments adopted herein shall be effective upon issuance of this order.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22915 Filed 8-8-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart L—Resources and Exclusions

EXCLUSION OF THE VALUE OF A HOME

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The rule provides that the entire value of a home shall be excluded in the counting of resources to determine an individual's eligibility for supplemental security income benefits. It is necessary to reflect section 1613(a)(1) of the Social Security Act (42 U.S.C. 1382b(a)(1)), as amended by section 5 of Pub. L. 94-569.

EFFECTIVE DATE: August 9, 1977.

ADDRESSES: Although this rule is being published as a final rule without a prior Notice of Proposed Rule Making, consideration will be given to any data, views, or arguments pertaining to the rule, which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before September 23, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Vera Schlosser, Office of Policy and Regulations, Office of Program Policy and Planning, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 301–594–7332.

SUPPLEMENTARY INFORMATION: Section 1611(a) of the Social Security Act (42 U.S.C. 1382(a)) provides that, for an aged, blind, or disabled individual or spouse to be eligible for supplemental security income benefits, his or her resources may not exceed certain specified amounts. Section 1613(a)(1) of the Act (42 U.S.C. 1382b(a)(1)) formerly provided that when an individual's eligibility for supplemental security income benefits was determined, a home should be excluded to the extent that its value did not exceed the amount which the Secretary determined to be reasonable. However, section 1613(a)(1) of the Act was amended by section 5 of Pub. L. 94–569, enacted October 20, 1976, to exclude the total value of a home.

The present regulation (20 CFR 416.1212) excludes the home up to $25,000 ($35,000 in Alaska and Hawaii). In accordance with section 1613(a)(1) of the Act, as amended by section 5 of Pub. L. 94–569, § 416.1212 is being revised to provide that effective October 1976, the entire value of a home is excluded when determining whether the statutory resource limitation is exceeded.

Since this rule contains the same language as the Act, the Secretary finds that publication of a prior Notice of Proposed Rule Making would be impracticable and unnecessary (5. U.S.C. 553(b)(3)(B)). Although the Notice of Proposed Rule Making is being dispensed with, consideration will be given to any data, views, or arguments pertaining to this rule if submitted in writing to the Commissioner of Social Security.

As section 5 of Pub. L. 94–569, was effective October 1976, operating personnel have been alerted to this change and the need to process such cases under the newly enacted legislation. That action was necessary to insure prompt recognition and equitable handling of these cases, on an interim basis, pending publication of final regulations.

(Secs. 1102, 1613, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1470, as amended, and 1475; 42 U.S.C. 1302, 1382b, and 1383.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 18, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 2, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by revising paragraph (a) of § 416.1212 to read as follows:

§ 416.1212 Exclusion of the home.

(a)(1) Prior to October 1976, a home is excluded in determining the resources of an individual (and spouse, if any) to the extent its current market value does not exceed $25,000 ($35,000 in Alaska and Hawaii). Where the current market value of the home exceeds $25,000 ($35,000 in Alaska and Hawaii), only the excess is counted toward the resource limitation as defined in § 416.1205.

(2) Effective October 1976, the entire value of a home is excluded in determining the resources of an individual (and spouse, if any).

* * * * *

[FR Doc.77–22801 Filed 8–8–77;8:45 am]

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 602—FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

Temporary Alien Labor Certification Program 1977 Adverse Effect Rates

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This rulemaking document contains the 1977 Adverse Effect Rates, that is, the minimum wage rates which the Department has determined must be offered and paid by the employers of temporary alien agricultural workers. The purpose of the adverse effect rates, and thus of this rule, is to prevent the employment of such aliens from having an adverse effect on the wages of U.S. workers who are similarly employed.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Aaron Bodin, Chief, Division of Labor Certifications, United States Employment Service, Room 8410, 601 D Street, NW., Washington, D.C. 20213, telephone 202–376–6295.

SUPPLEMENTARY INFORMATION: On April 1, 1977, at 42 FR 17486, the Employment and Training Administration published the 1977 Adverse Effect Rates as proposed rulemaking. On April 19, 1977, at 42 FR 20312, the 1977 Adverse Effect Rate for West Virginia, which had been inadvertently omitted from the April 1 document, was published as proposed rulemaking. Comments on all the proposed 1977 Adverse Effect Rates were due by May 2, 1977.

Only three comments were received on the proposed rulemaking. All three comments stated that the 1977 rates were too low. All three comments requested the Department to publish the methodology by which it arrived at the 1977 Adverse Effect Rates. The Department's methodology was the same as that used for determining the 1976 Adverse Effect Rates, which had been published in the FEDERAL REGISTER at 41 FR 25018 on June 22, 1976. The Department is re-publishing the methodology and the reasons therefor below for the convenience of the public:

METHODOLOGY FOR DETERMINING THE ADVERSE EFFECT RATE: REASONS FOR SELECTING THE METHODOLOGY

The following is reprinted in relevant part from the FEDERAL REGISTER issue of June 22, 1976, at 41 FR 25018:

Last year (1975) and since 1968, the prior year's adverse effect rate was adjusted by the percentage change in the United States Department of Agriculture (U.S.D.A.) hourly farm wage rate (without room or board). This data was published in the U.S.D.A. publication Farm Labor (Publication Code No. La 1). The data was expressed as a yearly average on a State by State basis.

In 1974, which was a transition year, U.S.D.A. began utilizing a different survey method, publishing average farm wage rates on a quarterly basis, and publishing rates expressed by method of pay and type of work performed. No annual data is published. Data is listed in a State by region format with the New England States not reported separately. In view of this new manner of expressing average wage data by U.S.D.A., it is necessary that the Department of Labor adjust its method of adjusting its "adverse effect" rates.

The movement of wage rates and not absolute wage rates are utilized to update the § 602.10b adverse effect rates for workers performing similar tasks, therefore, it was deemed desirable that the choice of what data to utilize from U.S.D.A. should coincide with the crop affected. In the States for which adverse effect rates are being published, temporary foreign agricultural workers are imported primarily for crop harvesting activities, e.g., to pick apples in the eastern seaboard States and to cut sugar cane in Florida. It is reasonable, therefore, to utilize the average wage rate that most closely coincides with the type of work performed by these workers. The category which closely resembles that task for which data is obtained by U.S.D.A. is Field and Livestock Workers.

Although, U.S.D.A. also obtains data based upon Piece-Rate methods of pay to farmworkers, this data was determined to be less desirable than the data utilized in view of the limited data available from some States, and the inclusion of Packing House Workers, Machine Operators and Supervisors in this category.

To determine the adverse effect rate for this year the Department of Labor sought, and obtained, average hourly wage rates for Field and Livestock Workers from U.S.D.A. for calendar years 1974 and 1975. This data is not published by U.S.D.A. However, the primary data, which is the basis for the statistics in Farm Labor, was utilized in responding to the Department of Labor's request. The U.S.D.A. response was as follows:

"The sample design for the Quarterly Agricultural Labor Survey is such that the valid wage rates for the individual states in New England cannot be produced. Because of the limited use of hired agricultural labor in New England and limited resources available to us, it was decided to treat New England as a single unit for sampling purposes. We have examined the results when calculated for individual states and find them too variable for release. Consequently, we can provide only the annual average rate for New England as a whole."

"NOTE.—For documentation of the methodology utilized in the Quarterly Agricultural Labor Survey, we suggest that the section on "Sources and Reliability of Estimates" as published on p. 2 of the enclosed Farm Labor release be used."

To obtain this year's (1976) adverse effect rate the prior year's rate was adjusted by the percentage change in the U.S.D.A. farm wage rate for Field and Livestock Workers between 1974 and 1975. For the individual New England States the prior year's adverse effect rates for each State was adjusted by the percentage change in all the New England States.

THIS YEAR'S COMMENTS

As noted above, all three of the comments received this year stated that the proposed 1977 Adverse Effect Rates were too low. They asserted that higher rates were necessary to prevent adverse effect with respect to American workers. One commenter suggested that the rate be set at the wage that would be paid if alien workers were excluded from the country. At the present time, the Department does not posses an economic model or the data by which such a hypothetical rate could be calculated.

Another commenter suggested that the following methodology be used to determine the adverse effect rate:

(1) Locate for each State the quarter during the previous year in which the greatest number of agricultural workers were employed. This number is set by the U.S. Department of Agriculture Statistical Reporting Service and it varies from State to State.

(2) Determine the consumer price index increase from the previous year.

(3) Multiply the increase by the average piece rate wage paid to these workers.

(4) This figure should be the adverse effect rate offered to U.S. workers prior to certifying alien workers.

The Department is giving consideration to the proposed methodology. At the present time, however, the Department has the following concerns regarding suggested methodology:

(a) The commenter made no showing that the present rate adversely affects U.S. workers;

(b) Except for the fact that the wage rate produced would probably be higher, the suggested methodology was not supported by reasons as to why it would succeed in assuring that U.S. workers would not be adversely affected;

(c) The Department does not presently have adequate data on average piece rates; and

(d) The commenter gave no reason for pegging the rate to the consumer price index.

Another commenter stated that the use of aliens in and of itself adversely affected U.S. workers. The Department would like to note, however, that the Immigration and Nationality Act, by which the labor certification program is authorized, allows for the admission of aliens for temporary agricultural labor. It does not seem probable, therefore, that Congress meant the Act to be administered in such a way as to preclude such admissions altogether.

One commenter noted that Social Security taxes do not have to be paid by alien workers or their employers. Thus, domestic workers doing the same work get less take-home pay, and employers incur less expense when they employ alien workers. The Department would like to note that domestic workers in the long run, benefit from belonging to the Social Security system. Nevertheless, the Department is taking a serious look at this matter with a view towards adverse effect rates in future years.

One commenter enclosed a theoretical analysis of the impact of the adverse effect rate. The Department found the analysis very interesting. The analysis, however, was based on many assumptions, including the following:

(1) A perfectly competitive labor market;

(2) Perfect knowledge of alternatives by U.S. workers;

(3) Perfect mobility of U.S. workers;

(4) Employers will not pay wages above what is minimally necessary to meet their labor demands;

(5) Offered employment of equal desirability, workers will choose jobs which offer the highest wages;

(6) The short run quantity of capital and other nonhuman resources remain constant; and

(7) Consumer tastes, technology, price of working conditions, wages in alternate occupations, labor force participation rates, and population remain constant.

The Department believes that the list of assumptions above reveals the enormity of the problem in using such an economic model to construct an adverse effect rate for various crops and for various areas of the country. To do so would require a great deal of time, personnel and money. The Department must construct its adverse effect rate in a way which is at the same time (1) fair, (2) reasonable, (3) cost effective, and (4) geared as much as possible to the reality of agricultural crops, areas and existing wage factors.

The Department believes that its present methodology meets these criteria and, as much as any alternative suggested by the commenters, protects the wages of U.S. workers from being adversely affected by alien labor. The Department is making the regulation effective immediately upon publication because it finds that, in view of the imminence of the harvest season, it is in the public interest to protect the wage rates of American workers by having the regulation in effect at the start of the harvest season. The Department also finds that it is both unnecessary and impracticable to delay the effective date in light of the fact that growers and workers have been on notice with respect to this year's wage rates since April 1, 1977, the date of proposed rulemaking.

Consequently, the Department is publishing as final rulemaking the 1977 Adverse Effect Rates which it proposed. This final rulemaking document was prepared under the direction and control of William B. Lewis, Administrator, United States Employment Service. Accordingly, 20 CFR 602.10b Wage rates, paragraph (a)(1), is revised to read as follows:

§ 602.10b Wage rates.

(a) (1) Except as otherwise provided in this section, the hourly wage rates set forth below shall be offered and paid to agricultural workers. The Department has found that, unless these wage rates are offered and paid, the wage rates of similarly employed U.S. workers will be adversely affected.

State:	*Rate*
Connecticut	$2.75
Maine	2.84
Massachusetts	2.70
New Hampshire	2.97
Rhode Island	2.72
Vermont	2.93
New York	2.70
Maryland	2.43
Virginia	2.63
Florida (sugar cane only)	3.23
West Virginia	2.74

* * * * *

Signed at Washington, D.C., this 15th day of July 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc 77–22792 Filed 8–8–77;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–457]

PART 25—MORTGAGEE REVIEW BOARD

Composition of the Board

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is revising membership of the Mortgagee Review Board responsible for withdrawing HUD approval from Mortgagees. A change is needed in part to improve the effectiveness of the Board and in part to reflect the Department's desire to be more responsive to public considerations.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter E. Novick, Rm. 9224, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, 202–755–6740.

SUPPLEMENTARY INFORMATION: In Part 25, published September 18, 1975 (40 FR 43026), the Secretary established a Mortgagee Review Board and gave it all powers necessary and incident to withdrawing approval from mortgagees

engaged in mortgage insurance under the National Housing Act, 12 U.S.C. 1701. An amendment to this Part, published June 14, 1977 (42 FR 30361), listed as Board members: The Assistant Secretary for Housing—Federal Housing Commissioner, Chairman; the General Counsel; and the Assistant Secretary for Administration, or their designees. The Inspector General, or designee, serves as a nonvoting advisor to the Board. This amendment to Part 25:

1. Includes as a Board member the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Because this revision involves the Department's internal management, comment and public procedure are unnecessary under 5 U.S.C. 553 and 24 CFR Part 10. Moreover, good cause exists for making the Amendment effective upon publication.

Findings of inapplicability with respect to Environment and Inflation are not required.

Accordingly, 24 CFR Part 25.2 is amended to read as follows:

§ 25.2 Composition of the Board.

(a) Members. The Board consists of the following members: The Assistant Secretary for Housing—Federal Housing Commissioner, Chairman; the General Counsel; the Assistant Secretary for Administration; the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, or their designees

(Sec 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., July 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-22958 Filed 8-8-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER M—FORESTRY

PART 141—GENERAL FOREST REGULATIONS

Trespass

AUGUST 2, 1977.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION Final rulemaking.

SUMMARY: This amendment permits Bureau officials to accept proposed settlements for damages to Indian trust property when such settlements are less than the value claimed. It results in an efficiency measure by implementing field authority and lessening correspondence to the Commissioner of Indian Affairs for concurrence.

DATE Effective date August 9, 1977.

ADDRESS None.

FOR FURTHER INFORMATION CONTACT

Mr. Gregory J. Stevens, 1951 Constitution Avenue, NW., Washington, D.C. 20245. Telephone 202–343–6067.

SUPPLEMENTARY INFORMATION: The primary author of this document is Gregory J. Stevens, Forester, Bureau of Indian Affairs and can be reached at 202–343–6067.

The authority for the Commissioner of Indian Affairs to issue these regulations is contained in 230 DM 1 and 2 (5 U.S.C. 301) and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The revision was proposed pursuant to the authority contained in section 6 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 466). Beginning on page 50299 of the November 15, 1976, FEDERAL REGISTER (41 FR 50299), there was published a notice of proposed rulemaking to revise Part 141 of Subchapter M, Chapter I, Title 25 of the Code of Federal Regulations. The public was given until December 15, 1976, to submit written comments, suggestions, or objections regarding the proposed revision. Since there have been no comments received, the revision as proposed is hereby adopted.

The Solicitor's Regulations were revised effective January 19, 1977. Regulation No. 28 is now Solicitor's Regulations Manual I.4.1. The change is reflected in the final rule.

Subchapter M, of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to read as published in FEDERAL REGISTER, Vol. 41, No. 221, Page 50299, Monday, November 15, 1976, a copy of which is attached.

These regulations shall become effective on August 9, 1977, as published herein and shall remain in effect until they are amended, revoked or superseded.

RAYMOND V. BUTLER,
Acting Deputy, Commissioner of Indian Affairs.

Section 141.22 is revised as follows:

§ 141.22 Trespass.

(a) Federal Statutes provide that:

(1) Willful and unauthorized setting fire to timber, underbrush, or grass or other inflammable material upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, is punishable by fine of not more than $5,000 or imprisonment of not more than 5 years, or both.

(2) Whoever, having kindled or caused to be kindled, a fire in or near any forest timber, or other inflammable material on such lands, leaves said fire without totally extinguishing it, or permits such fire to spread beyond his control or leaves such fire unattended shall be fined not more than $500 or imprisoned not more than 6 months, or both.

(3) The unlawful cutting or wanton injury or destruction of trees standing, growing, or being upon such lands is punishable by fine of not more than $1,000 or imprisonment of not more than one year, or both.

(4) Section 1 of the Act of June 25, 1948 (62 Stat. 787 (18 U.S.C. 1853)), provides penalties for the unlawful cutting of timber on Government lands and on Indian lands under Government supervision.

(b) The Secretary may mark and forbid the removal of timber from restricted or trust Indian lands or direct its removal to a point of safekeeping when he has reason to believe that such timber was unlawfully cut. Any such timber that can be positively identified as Indian trust property should be sold to prevent its deterioration. When any timber cut in trespass is found to be removed to land not under Government supervision, the owner of the land should be notified that such timber is Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any timber sold under this § 141.22 may be disposed of under the provisions of this Part 141 insofar as they are applicable. The Secretary may accept payment of damages in full in the settlement of civil trespass cases without resort to court action. The Secretary may also accept a recommended settlement per Solicitor's Regulations Manual I.4.1 when exercised in accordance with regulations contained in 344 DM 3.

All other matters relating to the collection of debts under this section will be in accordance with Departmental Manual, Part 344.

[FR Doc.77-22999 Filed 8-8-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Virgin Islands State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: Three new paragraphs are added to 29 CFR 1952.254 to codify the approval of developmental steps under the Virgin Islands State Plan. The State's public information program, remedial legislative amendments, and field operations manual are approved.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Mabel Stanton, Project Officer, Department of Labor, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, Washington, D.C. 20210.

A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours

at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N-3620, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, N.Y. 10036; Department of Labor, Occupational Safety and Health Division, Building No. 1, Second Floor, Government Complex, Room 207, Lagoon Street, Frederiksted, St. Croix, Virgin Islands 00840.

SUPPLEMENTARY INFORMATION: Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 11, 1973, notice was published in the FEDERAL REGISTER (38 FR 24896), of the approval of the Virgin Islands Plan and adoption of Subpart S of Part 1952 containing the decision and describing the plan. The Virgin Islands has submitted supplements to the plan involving developmental changes. (See Subpart B, 29 CFR Part 1953.)

DESCRIPTION OF THE SUPPLEMENTS

(1) Public Information Program: The Virgin Islands public information program contains provisions for radio and television coverage, as well as newspaper coverage, and distribution of standards through the Chamber of Commerce, the Virgin Islands Division of Business and Licenses, and the Administrator's Office.

(2) Remedial Legislative Amendments: Act No. 3852, 24 VIC, Chapter 2, Section 1, deletes reference to "political subdivisions," since there are no political subdivisions within the Territory, and substitutes the term "department."

Section 2 adds a new section equivalent to the Federal Act on "Variations, Tolerances and Exemptions" which will provide the authority for exemptions for national defense.

Section 3 amends the Virgin Islands legislation by adding a section on "Disclosure of Confidential Trade Secrets," which was referenced in Section 43, but had not been enacted. It mirrors the Federal statute on the subject.

(3) Field Operations Manual: The Virgin Islands Field Operations Manual is modeled after the Federal Field Operations Manual.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Virgin Islands plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

DECISION

After careful consideration, the Virgin Islands plan supplements described in 2 (a), (b), and (c) above are hereby approved under Subpart B of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart S of 29 CFR Part 1953 is hereby amended to reflect these approved plan changes. Accordingly, § 1952.254 of Subpart S is hereby amended as follows:

§ 1952.254 Completed developmental steps.

* * * * *

(f) The Virgin Islands has developed and implemented an effective Public Information Program.

(g) The Virgin Islands amended its legislation to (i) delete reference to "political subdivisions" and substitute the term "department," and (ii) to add new sections (1) "Variations, Tolerances and Exemptions," and (2) "Disclosure of Confidential Trade Secrets."

(h) The Virgin Islands' Field Operations Manual (FOM) modeled after the Federal FOM has been developed by the State, and approved by the Assistant Secretary.

Signed at Washington, D.C., this 29th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22923 Filed 8-8-77;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Approval of Plan Supplements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Approval of Alaska's Administrative Regulations and Compliance Manual.

SUMMARY: This document gives notice of the approval of developmental plan changes relating to the State's compliance manual and administrative regulations applicable to inspections, citations and proposed penalties; the Alaska Occupational Safety and Health Review Board; recording and reporting occupational injuries and illnesses; variances; and consulting and training.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202–523–8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the review of changes and progress in State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan. Further, a notice of approval of a Revised Developmental Schedule was published on December 21, 1976, in the FEDERAL REGISTER (41 FR 56314). On January 26, 1976, and September 28, 1976, the State of Alaska submitted to the Seattle Regional Office of the Occupational Safety and Health Administration supplements to the plan involving developmental changes. On July 9, 1976, and December 28, 1976, notices of submission and opportunity for public comment on the supplements were published in the FEDERAL REGISTER (41 FR 28313 and 41 FR 56336). In addition, on April 14, and May 13, 17, and 18, 1977, Alaska submitted assurances and additional plan supplements amending certain aspects of the originally published supplement in response to comments resulting from Federal review. The supplements covered by this notice are described below.

DESCRIPTION OF PLAN SUPPLEMENTS

A. *Compliance manual.* In response to the commitment contained in 29 CFR 1952.243(b) the State has developed and subsequently revised a compliance operations manual entitled, "DOSH Operations Manual" for use by the State's compliance staff in carrying out the goals of the Alaska occupational safety and health program. On April 14, and May 17, and 18, 1977, the State submitted the following amendments to its manual.

1. Chapter VIII was revised, to remove from the State's definition of "repeat violation," the one year time limitation for non-fixed establishments.

2. Chapter IX was revised to amend the State's definition of "imminent danger" to parallel the Federal definition and to clearly state that a health hazard constitutes an imminent danger situation, when there is a present possibility that the hazard creates a possibility that exposed employees will contract an illness or disease and the probable consequence of such illness or disease is death or serious physical harm.

3. Chapter XI has been revised to change the penalty amount for failure to post a citation to $500.00 and the maximum normal penalty for failure to abate violations to ten times the daily additional penalty proposed.

B. *Administrative regulations.* In response to the commitment contained in 29 CFR 1952.243(g) the State has sub-

mitted rules covering inspections, citations and proposed penalties; the Alaska Occupational Safety and Health Review Board; recording and reporting of occupational injuries and illnesses; variances; and consulting and training (Alaska Administrative Code, Title 8, Chapter 61, sections .020 through .460). These rules correspond to the Federal regulations 29 CFR Parts 1903, 1904, 1905 and 2200. By letters dated April 14, 1977, and May 17, 1977, the State submitted the following assurances.

1. Section 8.61.080, which is comparable to 29 CFR 1903.11, will be revised to provide that upon the Commissioner's determination that a safety or health complaint meets the requirements set forth for formal complaints and that there is reasonable grounds to believe that the alleged violation exists, an inspection will be conducted as soon as practicable to determine if such alleged violation exists; and that inspections under this section will not necessarily be limited to matters referred to in the complaint.

2. Section 8.61.130, which is comparable to 29 CFR 1903.18, will be revised to provide for notification to employers for failure to abate. A new State § 8.61.145 is added to explain the abatement period provision which is also in § 1903.18 to which § 8.61.145 is comparable.

3. Section 8.61.330, which is comparable to 29 CFR 1905.5, will be revised to state that all variances granted shall have only future effect.

4. Section 8.61.360 will be revised to provide for publication of adequate variance applications as provided in § 1905.14 (b). As a matter of practice the State does publish such applications in local and State-wide newspapers.

5. Section 8.61.170, which is comparable to 29 CFR 2200.2, will be revised to include the incorporation of the following additional rules from the Alaska Rules of Civil Procedures: Rule 4, Service of Process; Rule 24, Intervention; and Rules 26 through 37, Depositions and Discovery.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

PUBLIC PARTICIPATION

On July 9, 1976, and December 28, 1976, notice was published in the FEDERAL REGISTER describing the supplements and allowing 30 days for interested persons to submit written data, views, and arguments concerning whether the supplements should be approved. No public comments concerning these supplements were received.

DECISION

After careful consideration, the Alaska plan supplements described in A and B above are hereby approved under Subpart B of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, in accordance with the above, Subpart R of 29 CFR Part 1952 is hereby amended to reflect these approved plan changes. Accordingly, § 1952.244 of Subpart R is hereby amended as follows:

§ 1952.244 Completed developmental steps.

* * * * *

(f) In accordance with § 1952.243(g) Alaska has adopted regulations covering inspections, citations, and proposed penalties, Alaska Occupational Safety and Health Review Board procedures; recording and reporting occupational injuries and illnesses; variances; and consulting and training which were approved by the Assistant Secretary on August 2, 1977.

(g) In accordance with § 1952.243(b) Alaska has developed a Compliance Manual which is modeled after the Federal Field Operations Manual and was approved by the Assistant Secretary on August 2, 1977.

(Sec. 18 Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 2d day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22972 Filed 8-8-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATION

San Pablo Bay, California

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule redesignates the agency using the danger zone in San Pablo Bay, California, and extends the period of use of the danger zone until September 30, 1982. The Navy Coastal River Division 11 is designated the user agency in accordance with its request.

DATE: Effective August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard, 202-693-5070 or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: The Corps of Engineers published proposed rules soliciting comments on this matter in the FEDERAL REGISTER on May 24, 1977 (42 FR 26437) with the comment period expiring on June 15, 1977. One comment was received from the California State Lands Commission which did not object to the reestablishment of the danger zone but requested the five year review period be shortened to two years. Shortening the time between reviews would not be in the interest of the national defense and would entail an almost continuous review to keep the regulation current.

Accordingly, 33 CFR 204.216 is amended as set forth below, effective August 9, 1977.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; (33 U.S.C. 3).)

Dated: July 25, 1970.

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

Section 204.216 is amended as follows:

§ 204.216 San Pablo Bay, California; gunnery range, Department of the Navy, Coastal River Division Eleven, Mare Island, Vallejo.

(a) *The Danger Zone.* * * *

NOTE.—The danger zone will be used until September 30, 1982, after which it shall be subject to review to determine the further need thereof.

(b) *The Regulations.* The Commanding Officer, Coastal River Division Eleven, Department of the Navy, Mare Island, Vallejo, California, will conduct gunnery practice in the area during the period April 1 through September 30, between the hours of 10 a.m. and 3 p.m. on the first Wednesday of each month and the third full weekend (Saturday and Sunday) of June. No vessels shall enter or remain in the danger zone during the above stated periods except those vessels connected with the gunnery practice operations. All firing will be from the southerly portion of the danger zone in a northerly direction, and only during good visibility. The public will be notified prior to each firing by a Notice to Mariners issued by the U.S. Coast Guard and the area will be patrolled by boat and searched by radar to insure a clear range. A safety officer will always be aboard the firing boat to guarantee that all safety precautions are observed. The regulations in this section will be enforced by the Commandant, 12th Naval District and such agencies as he may designate.

[FR Doc.77-22830 Filed 8-8-77;8:45 am]

Title 35—Panama Canal

CHAPTER I—CANAL ZONE REGULATIONS

PART 69—PROFESSIONS AND OCCUPATIONS

Subpart B—Practice of Medicine and Dentistry

REVISION OF LICENSING REGULATIONS TO EXEMPT PHYSICIAN'S ASSISTANTS

AGENCY: Canal Zone Government.

ACTION: Final rule.

SUMMARY: This document revises 35 CFR Part 69, Subpart B, which governs the practice of medicine in the Canal Zone. The amendment, by exempting them from licensure, will permit utilization of trained military physician's assistants to perform paramedical work in Canal Zone health care facilities. The prior regulations authorized commissioned medical and dental officers of the U.S. Armed Forces, in the discharge of their official duties, to practice in the Canal Zone without local licensing. This revision extends that exemption to physician's assistants on active military duty.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr Thomas Constant, Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004, telephone 202-724-0104.

Accordingly, § 69.312(a) of Title 35 is revised to read as follows:

§ 69.312 Exemption from licensure.

* * * * *

(a) Commissioned medical or dental officers of the Armed Forces or Public Health Service of the United States or physician's assistants of the Armed Forces.

* * * * *

Effective Date: This amendment is effective June 1, 1977.

(2 C Z C § 1191, 76A Stat. 41; 35 CFR 3.1(a)(4).)

Dated July 21, 1977.

CLIFFORD L. ALEXANDER,
Secretary of the Army.

[FR Doc.77-22945 Filed 8-8-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 29—DEPARTMENT OF LABOR

Procurement Regulations

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Labor Procurement Regulations to conform the Department of Labor Procurement Regulations to Government-wide regulations (the Federal Procurement Regulations) and to update departmental regulations to reflect current departmental policies and responsibilities.

EFFECTIVE DATE: This rule shall be effective on September 8, 1977.

FOR FURTHER INFORMATION CONTACT

Theodore Goldberg, Assistant Director, Division of Grants and Procurement Policy, OGPAMP, OASAM, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Telephone: 202-523-9174.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to the authority of the Secretary of Labor contained in the Act of March 4, 1913 (37 Stat. 736, 29 U.S.C. 551), the Secretary proposed to amend 41 CFR Chapter 29, the Department of Labor Procurement Regulations (DOLPR). The proposed amendments added procurement requirements needed to implement and supplement current Federal Procurement Regulations (FPR) deleted entries no longer applicable, provided for changes in titles and responsibilities due to departmental reorganization, modified language involving personal pronouns denoting gender to reflect departmental policy, modified DOLPR numbering and text to conform the DOLPR with the current FPR, updated references, and corrected typographical erorrs.

Significant changes included in the proposal were: Section 29-1.401 changed delegations of contracting officer authority and procurement responsibilities; § 29-3.205 limited use of authority for procurement from, or grants, to educational institutions; § 29-3.210 (formerly § 29-1.352) prescribed specific actions to be taken by program officials and contracting officers when noncompetitive procurements are contemplated; §§ 29-3.203 and 29-3.603-1, covering small purchase procedures, were changed to conform to the current FPR requirements including the change from $2,500 to $10,000 limitation on small purchases; § 29-3.604-4 provided for the use of imprest funds for common carriers; § 29-3.604-5 encouraged the use of imprest fund procedures for small purchases of $150 or less; § 29-3.802 made limitations on divulging Government cost estimates for proposed procurements more specific and set forth requirements for DOL requests for proposals; §§ 29-3.805-50, 29-3.805-51, 29-3.805-52, 29-3.805-53, and 29-3.805-54 provided DOL requirements in evaluating proposals, negotiating with prospective contractors, and selecting contractors. Part 29-61 was proposed to be deleted in its entirety.

COMMENTS AND CHANGES

On June 21, 1977, the proposed amendments were published as a proposed rule in the FEDERAL REGISTER (42 FR 31462). The public was given until July 21, 1977, to comment.

Written comments were received from the Small Business Administration in which that agency requested that § 29-1.706-54, covering the proposed ceiling of $750,000 below which procurement for construction would be set aside for exclusive small business participation, be amended to raise the ceiling to $1 million to reflect the rise in the construction cost index. Section 29-1.706-54 was amended to accommodate this concern and the ceiling was increased to $1 million. The requirement in § 29-3.210-50 (b), authorizing use of noncompetitive procurement where it is impossible to draft for an invitation for bids adequate specifications or any other adequately detailed description of the required property or services, has been deleted. This is a justification for using negotiation, not for using noncompetitive procurement.

In connection with this rulemaking, a sentence was added to § 29-1.401(c)(5)(ii) to make clear the intent of the Assistant Secretary for Administration and Management that further redelegation of authority delegated by that section was restricted to officials in the National Office. Other nonsubstantive changes which are editorial in nature have been made. Public comment on these changes is not deemed necessary.

Accordingly, Chapter 29 of Title 41 of the Code of Federal Regulations is amended as set forth below:

PART 29-1—GENERAL

1. The table of contents of Subpart 29-1.0 is amended to revise a caption which reads:

* * * * *

29-1.008-50 Department of Labor (DOL) Agency implementation.

* * * * *

§ 29-1.006-4 [Amended]

2. Section 29-1.006-4 is amended by substituting the word "Agencies" for the words "administrations and offices" in the second sentence, and by substituting the words "the Assistant Secretary's" for the word "his" in the third sentence.

3. Section 29-1.008-50 is revised to read as follows:

§ 29-1.008-50 Department of Labor (DOL) Agency implementation.

DOL Agencies may implement or supplement the FPR or the DOLPR with internal instructions whose applicability is not DOL-wide, but nevertheless necessary to implement or supplement the FPR or the DOLPR. DOL Agencies may request publication in the DOLPR of procurement instructions and other procurement material considered of interest to the general public. Such instructions shall not extensively repeat, paraphrase, or otherwise restate the FPR or the DOLPR and shall be numbered in accordance with § 1-1.007-2 of this title, except that the numbers prescribed there and in § 29-1.007-2 shall be suffixed by the alphabetic abbreviation or other symbol of the respective Agency issuing the instructions. Whether the instructions are to be published as part of the DOLPR or not, such proposed instructions and material that implement or supplement the DOLPR or the FPR must be submitted, prior to their publication, for the review and concurrence of the Assistant Secretary for Administration and Management and of the Solicitor. In the case of internal procurement instructions, the purpose of such review is to ascertain that such instructions are consistent with the FPR and the DOLPR and that they do not contain material which should be issued as the DOLPR. In the case of instructions or other material submitted for inclusion in the DOLPR, after concurrence by interested DOL Agencies, the necessary arrangements will be made for publication of such instructions or other material in the FEDERAL REGISTER.

§ 29–1.009–2 [Amended]

4. Section 29–1.009–2 is amended by substituting the word "Agency" for the words "administration or office" in the third sentence of paragraph (a), and by substituting the words "this official" for the word "he" in the fourth sentence of paragraph (c).

5. To conform the DOLPR's numbering system with that of the FPR, the table of contents for Subpart 29–1.3 is revised to delete §§ 29–1.310, 29–1.310–4, and 29–1.352, since these sections are being redesignated and transferred to other parts of the DOLPR. The revised table of contents reads as follows:

Subpart 29–1.3—General Policies

Sec.	
29–1.302	Procurement sources.
29–1.302–3	Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
29–1.302–50	Contracts between the Government and former Government employees.
29–1.303	Approval signatures.
29–1.305	Specifications.
29–1.305–3	Deviations from Federal Specifications.
29–1.310	[Reserved].
29–1.310–4	[Reserved].
29–1.315	Use of liquidated damages provisions in procurement contracts.
29–1.315–2	Policy.
29–1.318	Disputes clause.
29–1.318–1	Contracting officer's decision under a Disputes clause.
29–1.350	Buying in.
29–1.351	Refunds from contractors.
29–1.352	[Reserved].
29–1.353	Standards of conduct.
29–1.354	Violations of law.

6. Section 29–1.302–50 is revised to read:

§ 29–1.302–50 Contracts between the Government and former Government employees.

Negotiated contracts or grants or amendments to existing contracts or grants which constitute new procurement (including those for the rental of real or personal property) may be entered into with former employees of DOL or with firms in which former employees are known to have a substantial interest, within a period of 1 year subsequent to the termination of the individual's employment by DOL, only with the prior written approval of the Assistant Secretary for Administration and Management.

§ 29–1.310 and 29–1.310–4 [Deleted]

7. Section 29–1.310 entitled "Responsible prospective contractor." and § 29–1.310–4 entitled "General policy." are deleted from Subpart 29–1.3 and are transferred to a new Subpart 29–1.12.

§ 29–1.315–2 [Amended]

8. Section 29–1.315–2 is amended by substituting the words "the contracting officer" for the word "he" in the second sentence of paragraph (a), and by substituting "(under $10,000)" for "(under $2,500)" in paragraph (a)(3)(iv).

§ 29–1.350 [Amended]

9. Section 29–1.350 is amended by substituting the words "the contractor's" for "his" in the sixth sentence.

§ 29–1.352 [Deleted]

10. Section 29–1.352 entitled "Sole source procurement." is deleted from Subpart 29–1.3 and is redesignated and transferred to Subpart 29–3.2.

11. The table of contents for Subpart 29–1.4 is revised to delete § 29–1.451 entitled "Regional administrative officer purchasing authority." and to redesignate § 29–1.454 as § 29–1.453, and reads as follows:

Subpart 29–1.4—Procurement Responsibility and Authority

Sec.	
29–1.400	Scope of subpart.
29–1.401	Responsibility of the head of the procuring activity.
29–1.402	Authority of contracting officers.
29–1.404	Selection, designation, and termination of designation of contracting officers
29–1.404–1	Selection.
29–1.404–2	Designation.
29–1.404–50	Modification of authority.
29–1.404–51	Continuity of responsibility.
29–1.405	Ratification of unauthorized contract awards.
29–1.450	Contracting officer's representative.
29–1.451	[Reserved]
29–1.452	Responsibility of procurement officials to question requirements and reaffirm their validity
29–1.453	Independence of procurement officials to carry out responsibilities.
29–1.454	[Reserved]

12. Section 29–1.401 is revised to read as follows:

§ 29–1.401 Responsibility of the head of the procuring activity.

(a) *First tier delegation.* In the DOL, contracting officer and grant officer authority and procurement responsibility have been delegated from the Secretary of Labor through the Assistant Secretary for Administration and Management to the following officials, or officers acting in their behalf:

(1) The Assistant Secretary for Employment and Training.

(2) The Assistant Secretary for Occupational Safety and Health.

(3) The Assistant Secretary for Employment Standards.

(4) The Deputy Under Secretary for International Affairs.

(5) The Commissioner of Labor Statistics.

(6) The Regional Administrators—Office of the Assistant Secretary for Administration and Management (OASAM).

(7) The Director, Administrative Programs and Services, OASAM.

(b) *Delegations and limitations.* Except for the restriction set forth in § 29–1.401(c)(5)(ii), the delegations noted in paragraph (a) above may be further redelegated within limitations by these officers within their respective areas of assigned responsibility. However, prior to such redelegations, contracting officers should consider the following factors to determine the extent to which authority should be redelgated: Volume of procurement programs; presence of, or capability of obtaining adequately trained personnel; consolidation of smaller procurement programs and offices on a geographical basis; and the overall strengthening of the procurement process by the selection of qualified personnel. In accordance with § 29–1.404–2, copies of every further redelegation must be furnished to the Assistant Secretary for Administration and Management, Attention: ABA.

(c) *Responsibilities.* The responsibilities of the delegations above are described as follows:

(1) *The Assistant Secretary for Employment and Training,* or an officer acting in that capacity, is assigned the responsibility for procurement and the issuance of grants for program property and services, except as otherwise delegated under paragraph (c)(7) of this section, required to fulfill the statutory and regulatory responsibilities imposed on the Assistant Secretary for Employment and Training.

(2) *The Assistant Secretary for Occupational Safety and Health,* or an officer acting in that capacity, is assigned the following responsibilities:

(i) Issuance of grant agreements with States required to fulfill the statutory and regulatory responsibilities imposed on the Assistant Secretary for Occupational Safety and Health.

(ii) Reimbursement to States, pursuant to Section 7(c)(1) of the Occupational Safety and Health Act of 1970, as amended (Pub. L. 91–596, 84 Stat. 1590), for services, facilities, and personnel of the States used to carry out the statutory and regulatory responsibilities imposed on the Assistant Secretary for Occupational Safety and Health.

(iii) Issuance of grants, pursuant to Section 21(b) of the Act, for the conduct of short-term training of personnel.

(3) *The Assistant Secretary for Employment Standards,* or an officer acting in that capacity, is assigned the responsibility for medical supplies and services required under the Federal Coal Mine Health and Safety Act of 1969, as amended (Pub. L. 91–173, 84 Stat. 742).

(4) *The Deputy Under Secretary for International Affairs,* or an officer acting in that capacity, is assigned the responsibility for procurement of supplies and services, except as otherwise delegated under paragraph (c)(7) of this section, required for economic research services in support of foreign economic and trade policy formulation; training and orientation of foreign nationals; and overseas exhibitions required to fulfill the statutory and regulatory responsibilities imposed on the Deputy Under Secretary for International Affairs.

(5) *The Commissioner of Labor Statistics,* or an officer acting in that capacity, is assigned the following responsibilities:

(i) Procurement of statistical and economic research services, including grants, except for those delegated under paragraph (c)(7) of this section, required to fulfill the statutory and regulatory responsibilities imposed on the Commissioner of Labor Statistics.

(ii) Procurement needed for operation of the National Office of the Bureau of Labor Statistics: (A) Using FEDSTRIP for General Services Administration (GSA) common cataloged and supplied office furnishings, equipment, and supplies; (B) using GSA Federal Supply Schedule contracts for all items except automatic data processing (ADP) hardware and software, office copiers, and ADP communication devices; and (C) using the imprest fund for small purchase items in accordance with § 29–3.604. This authority may be redelegated only to officials in the National Office.

(iii) Sale of special statistics developed by the Bureau of Labor Statistics in accordance with the Act of April 13, 1934 (29 U.S.C., Sec. 9 (1970)).

(6) *The Regional Administrators—OASAM,* or officers acting in that capacity, are assigned the following responsibilities within their respective regions:

(i) Procurement of property and services required for the regional offices, including all imprest fund purchases and GSA Federal Supply Schedule purchases. Purchases of office machines, e.g., typewriters, adding machines, and calculators, must be written against blanket purchase orders maintained for such equipment by the Director, Administrative Programs and Services, OASAM.

(ii) Procurement of all automatic data processing (ADP) hardware and software for the regional offices, with prior approval from the Director, Office of Grants, Procurement and ADP Management Policy.

(7) *The Director, Administrative Programs and Services, OASAM,* or an officer acting in that capacity, is assigned the following responsibilities:

(i) Procurement of all property and services required for the operation of the DOL, and program-related property and services not specifically delegated to other officials in paragraphs (c)(1), (2), (3), (4), (5), and (6) of this section.

(ii) Procurement of all supplies and services, including program-related, through the imprest fund and from GSA Federal Supply Schedules required for the DOL National Office, except for authority delegated in § 29–1.401(c)(5); and the purchases of advertising required for the DOL National Office.

(iii) Procurement of all automatic data processing (ADP) hardware and software for the DOL National Office, only with prior approval from the Director, Office of Grants, Procurement and ADP Management Policy, OASAM.

(8) *The Director, Office of Grants, Procurement and ADP Management Policy, OASAM,* or an officer acting in that capacity, is assigned the following responsibilities:

(i) Developing and publishing departmentwide procurement and grant regulations, guidelines, and policies.

(ii) Reviewing and evaluating administrative adequacy of the Department's procurement and grant operations

(iii) Providing technical advice and assistance to those DOL officials and officers delegated procurement and grant responsibilities. This includes interpreting the Federal Procurement Regulations as they apply to the Department's procurement operations, and obtaining the advice of the Solicitor as required.

§ 29–1.402 [Amended]

13. In line four of the first paragraph of § 29–1.402, the word "authorty" should be spelled "authority."

14. Section 29–1.404–50 is amended to read:

§ 29–1.404–50 Modification of authority.

To effect modification of a contracting officer's authority, a new designation (appointment) shall be issued revoking the present appointment.

15. Section 29–1.450 is amended to read:

§ 29–1.450 Contracting officer's representative.

(a) * * * The designation of the contracting officer's representative and the responsibilities delegated to that official * * *

(b) A person assigned to a procurement office and performing primary duties in a position within a procurement office, and under the supervision of a contracting officer, does not require written designation as a representative of the contracting officer nor designation in a contractual document to perform assigned duties. Such a person is considered to be an employee of the contracting officer, acting in the latter's behalf and, as such, has the authority and responsibility to perform under the terms and conditions of employment, and to act as assigned by the contracting officer. The contracting officer, however, shall not authorize such an employee, acting as a representative of the contracting officer, to sign any contractual document or letter in those instances where the signature of a contracting officer is required.

* * * * * *

§ 29–1.451 [Deleted]

16. Section 29–1.451 entitled "Regional administrative officer purchasing authority." is deleted in its entirety.

§ 29–1.452 [Amended]

17. In line seven of paragraph (o) of § 29–1.452, the word "makes" should be substituted for the word "make."

18. Section 29–1.508–2 is revised to read:

§ 29–1.508–2 Failure or refusal to furnish Standard Form 119.

The contracting officer may take any of the actions authorized in § 1–1.508–2 of this title provided that the contract file is documented to justify the action taken.

19. Section 29–1.601–1 is revised to read:

§ 29–1.601–1 Definitions.

"Debarring Officer" means the Assistant Secretary for Administration and Management, who is the DOL official authorized to invoke debarment or suspension measures as authorized by § 1–1.602–1 (d), (f), and (g) of this title; and to include on the "DOL Debarred, Suspended, and Ineligible Bidders' List," defined below, those concerns and individuals determined to be subject to such measures in accordance with § 1–1.602–1 (a), (b), (c), and (e) of this title.

20. Section 29–1.602 is amended to correct organizational titles and make editorial changes and reads as follows:

§ 29–1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Debarring Officer shall establish and maintain a list of concerns and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited for contracts with the DOL. The list shall be designated as the "DOL Debarred, Suspended, and Ineligible Bidders' List," and compliance with its use throughout DOL is mandatory. The Debarring Officer shall keep the list current and publish and distribute it bi-monthly to heads of DOL procuring activities who shall be responsible for its redistribution. The list shall be marked "For Official Use Only" to reduce inspection of its contents by other than DOL personnel required to have access thereto. The head of an Agency may request, in writing, that a concern or individual be placed on the "DOL Debarred, Suspended, or Ineligible Bidders' List" in accordance with procedures of this subpart. This official may initiate the request personally, or may do so by endorsing the recommendation of the responsible Agency contracting officer. If all necessary information is not readily available, a preliminary report concerning actions that may warrant debarment may be submitted, to be followed as soon thereafter as practicable by a completely documented report. The Debarring Officer, based on the preliminary report, may determine that a suspension is warranted. The Debarring Officer will also be responsible for making for DOL the determinations, administrative and otherwise, which are permitted under § 1–1.602–1 (d), (f), and (g), and § 1–1.604 of this title and for maintaining liaison with the General Services Administration and otherwise complying with § 1–1.606 of this title. Upon a showing by the head of an Agency that it would be in the public's best interest to make an exception for a particular procurement action and allow an award to a debarred concern or individual, the Debarring Officer may determine that an exception is warranted.

21. In § 29–1.604–1, paragraph (a) is revised to read as follows:

§ 29–1.604–1 Procedural requirements relating to the imposition of debarment.

(a) *Initiation of debarment action.* The Debarring Officer shall determine whether the request for debarment has sufficient merit to warrant further processing. This official shall communicate

the decision to the head of the Agency recommending debarment.

(1) *Notice to contractors.* If the Debarring Officer decides further action in the matter is warranted, this official shall send a letter by registered mail, return receipt requested, to notify the concern or individual that debarment is being proposed stating, as a minimum, in addition to the items required in § 1–1.604–1 of this title, the following:

* * * * *

22. The table of contents for Subpart 29–1.7 is revised to delete §§ 29–1.708 and 29–1.708–3, entitled respectively "Certificate of competency program." and "Conclusiveness of certificate of competency.," and to redesignate § 29–1.706–53 as § 29–1.706–3 to conform to FPR numbering. The table of contents reads as follows:

Subpart 29–1.7—Small Business Concerns

Sec.

29–1.702	Small business policies.
29–1.704	Agency program direction and operation.
29–1.704–1	Small business advisor.
29–1.704–2	Small business specialists.
29–1.704–3	Responsibilities of the procurement office.
29–1.706	Procurement set-asides for small business.
29–1.706–3	Withdrawal or modification of set-asides.
29–1.706–50	Procurement set-asides for small business when an SBA representative is not available.
29–1.706–51	General.
29–1.706–52	Review of set-aside recommendations initiated by small business specialist.
29–1.706–53	[Reserved]
29–1.706–54	Small business set-asides for proposed procurement.
29–1.708	[Reserved]
29–1.708–3	[Reserved]
29–1.709	Records and reports.
29–1.713	Contracts with the Small Business Administration.
29–1.713–2	Policy.

23. Section 29–1.704–1 is revised to read as follows:

§ 29–1.704–1 Small business advisor.

The Director, Office of Grants, Procurement and ADP Management Policy, OASAM, or designee, under the policy direction of the Assistant Secretary for Administration and Management, is designated as DOL's small business advisor. The small business advisor shall have the responsibility, as a collateral duty, for establishing and implementing the small business program, including the minority business program, and for guiding the small business specialists in executing the program. The advisor will be the central point of contact for inquiries concerning the small business program from industry, the Small Business Administration (SBA), the Congress, and others. Duties shall include developing a plan of operation to increase the share of contracts awarded to small business by DOL.

§ 29–1.704–2 [Amended]

24. In line four of paragraph (b) of § 29–1.704–2, the word "the" should be substituted for the word "his."

25. Paragraph (b) of § 29–1.704–3 is revised to read as follows:

§ 29–1.704–3 Responsibilities of the procurement office.

* * * * *

(b) The procurement office shall insure that bidders' mailing lists identify small business and minority business concerns and that all solicitations state the applicable small business size standard and product classification.

* * * * *

§ 29–1.706–52 [Amended]

26. Section 29–1.706–52 is amended to substitute the word "the" for the word "his" on line eight.

§ 29–1.706–53 [Redesignated and amended]

27. Section 29–1.706–53 is redesignated § 29–1.706–3 to conform with FPR numbering and is amended to substitute the word "Withdrawal" for the word "Withdrawals" in the first line, and to add the words "or she" after the word "he" on the eleventh line.

28. Section 29–1.706–54 is revised to read as follows:

§ 29–1.706–54 Small business set-asides for proposed procurement.

(a) Each proposed procurement for construction estimated to cost between $10,000 and $1 million shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of § 1–1.706–3 of this title, and § 29–1.706–3 only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction procurements in excess of $1 million shall be considered on a case-by-case basis.

§§ 29–1.708 and 29–1.708–3 [Deleted]

29. Sections 29–1.708 and 29–1.708–3 are deleted in their entirety.

30. Paragraph (a) of § 29–1.709 is revised to read as follows:

§ 29–1.709 Records and reports.

(a) A semiannual small business report shall be prepared by each procuring activity in accordance with § 1–16.804–3 of this title and shall be forwarded to the Director, Office of Grants, Procurement and ADP Management Policy, OASAM, Attention: ABA, not later than the 30th day following the end of the 6-month and 12-month periods covered respectively by the report.

* * * * *

§ 29–1.709 [Amended]

31. The penultimate line in paragraph (b) of § 29–1.709 is amended to add the word "on" after the word "Report."

32. The introductory paragraph in § 29–1.1002 is amended to read:

§ 29–1.1002 Availability of invitations for bids and requests for proposals.

A contracting officer may limit the availability of publicized unclassified invitations for bids and requests for proposals provided that they are made available for perusal at the issuing office and *Provided, further,* That the contracting officer:

* * * * *

33. The table of contents for Part 29–1 is corrected by deleting the caption "Subpart 29–1.50 [Reserved]."

34. Part 29–1 is corrected by deleting the entry of the part entitled "Subpart 29–1.50 [Reserved]."

35. This new Subpart 29–1.12 entitled "Responsible Prospective Contractors." is added to the DOLPR in lieu of § 29–1.310, to conform the numbering system to that of the FPR. The table of contents for this subpart reads:

Subpart 29–1.12—Responsible Prospective Contractors

Sec.

29–1.1202 General policy.

36. The new subpart reads as follows:

Subpart 29–1.12—Responsible Prospective Contractors

§ 29–1.1202 General policy.

(a) A contracting officer's duty to contract only with a responsible contractor does not preclude that official's disclosing to the contractor those actions the contractor might take to become "responsible" within the meaning of §§ 1–1.1203–1 and 1–1.1203–2 of this title. The contracting officer should consider the use of DOL staff in order to qualify a contractor as responsible only when such assistance is within the spirit of the Small Business Administration's program objectives; or is the only way a marginal organization, for which there is no substitute in a given geographic area, can be made eligible, such as in a program for the disadvantaged.

(b) Such DOL staff assistance can take many forms. In cases of borderline financial responsibility, the contracting officer should encourage the contractor's use of available financing techniques. These include, but are not limited to, performance guarantees, advance payments, or Small Business Administration loans. In cases where either the inadequacy of a contractor's accounting system or the contractor's inability to conform to the requirements of the Equal Opportunity Clause is a barrier to the award of a contract, the contracting officer should consider, on a case-by-case basis, the practicality of arranging for assistance to the contractor. Such assistance may take the form of either staff assistance from the Department or, in instances of an equal opportunity problem, the assistance of the applicable compliance agency. In this manner, the services of specialists could be made available to the contractor, when appropriate, to overcome the obstacle to award.

(c) Nothing herein, however, shall be construed, directly or indirectly, as placing on the contracting officer the burden of always finding a contractor "responsible" or, alternatively, initiating and pursuing a course of action which, with the help of the Department's staff, will lead to a finding of responsibility. Rather, only where the situation warrants it, is it the policy of DOL to encourage positive involvement of a contracting officer in assisting a contractor to become responsible. Where the circumstances clearly warrant a finding of nonresponsibility and also indicate the impracticality of the DOL's attempting to take steps to cure the contractor's deficiencies, it is the policy of the DOL that the contracting officer make a finding of nonresponsibility.

PART 29–2—PROCUREMENT BY FORMAL ADVERTISING

37. The table of contents for Subpart 29–2.1 is revised to delete § 29–2.102–50 entitled "Limitation on procurement by formal advertising." and reads as follows:

Subpart 29–2.1—Use of Formal Advertising

Sec.

29–2.101	Meaning of formal advertising
29–2.102	Policy
29–2.102–50	[Reserved].
29–2.102–51	Specification requirement.
29–2.105	Solicitation for informational or planning purposes.

§ 29–2.102–50 [Deleted]

38. Section 29–2.102–50 entitled "Limitation on procurement by formal advertising." is deleted in its entirety.

Subpart 29–2.2 [Amended]

39. The table of contents of Subpart 29–2.2 is amended to correct the caption number "29–2.205–50" to read "29–2.205–5."

§ 29–2.202–1 [Amended]

40. Line 14 of § 29–2.202–1 is amended to substitute "20 or 30 calendar days" for "15 or 30 days."

§ 29–2.202–2 [Amended]

41. Line nine of the provision required in § 29–2.202–2 is amended to substitute the word "the" for the word "he."

42. Section 29–2.202–3 is revised to read:

§ 29–2.202–3 Place and method of delivery of supplies.

To the maximum extent practicable, invitations for bids issued by DOL shall stipulate "f.o.b. destination." Only where it is determined to be in the Government's best interest, may the contracting officer deviate from this policy.

§ 29–2.202–52 [Amended]

43. Line 11 of paragraph (a) of § 29–2.202–52 is amended by substituting the words "the contracting officer" for the word "he."

44. Section 29–2.202–53(a) is amended to read:

§ 29–2.202–53 Prebid conference.

(a) *General.* A prebid conference is a procedure, generally reserved for complex procurements, whereby prospective suppliers (and their subcontractors, if known) are invited to a meeting presided over by the contracting officer, where there is discussed any unusual aspect of a particular procurement for which an invitation for bids (IFB) or a request for proposals (RFP) has been issued. Whenever the contracting officer deems it in the DOL's best interest (but only, in the case of IFB's, after approval of the Director, Administrative Programs and Services, Office of the Assistant Secretary for Administration and Management), a prebid conference is authorized.

* * * * *

§ 29–2.205–50 [Amended]

45. The heading for § 29–2.205–50 entitled "Release of bidders mailing lists" is corrected to read, "29–2.205–5 Release of bidders mailing lists."

§ 29–2.301 [Amended]

46. Line two of § 29–2.301 is amended to substitute the words "or the bidder's" for the word "his."

47. Section 29–2.303–1 is amended to read as follows:

§ 29–2.303–1 General.

The contracting officer may not alter the late bid regulations and procedures of § 1–2.303 of this title or in this § 29–2.303 in response to a bidder's argument either that the bid is only slightly late (e.g., several minutes) or that none of the other bidders has been prejudiced by the late bid.

§ 29–2.402 [Amended]

48. Section 29–2.402 is amended to substitute the word "representatives" for "representative" on line 11 and to delete the word, "his" on line 21

49. Section 29–2.402–50 is amended to correct pronouns limiting gender and reads:

§ 29–2.402–50 Firm-bid rule.

Under the "firm-bid rule," a bidder is bound after the bid opening by the bid submitted and may not, in the absence of the exceptions provided in the mistakes in bids procedures of § 1–2.406 of this title, withdraw the bid prior to the time of award or until after the expiration of the period provided in the bid for bid acceptance. It is the Department's policy, on the other hand, that it will not be bound by its invitation for bids, except that if it does make an award based on bids submitted in response to its invitation, it must award to that responsible supplier submitting the lowest responsive bid. Aside from that, however, the Department will not be bound by any bid it receives. The Department's preferred position is justified judicially on the basis that laws concerning the advertising and award of public contracts may be construed as primarily for the Government's own benefit and protection. Therefore, no bidder acquires any enforceable rights from the Department until the valid acceptance of the bid by an official authorized to do so. The mere submission of a bid does not, in and of itself, bestow a right or grant an interest in any prospective procurement.

§ 29–2.402–52 [Amended]

50. Section 29–2.402–52 is amended to substitute the word "a" for the word "his" in line two of paragraph (a); to substitute the word "conducive" for the word "conductive" in line seven of paragraph (b); and to substitute the word "that official" for the word "he" in line three of paragraph (c).

§ 29–2.404–1 [Amended]

51. Section 29–2.404–1 is amended to delete the word, "he" on line five.

§ 29–2.407–3 [Amended]

52. Section 29–2.407–3 is amended to delete the words, "or requests for proposals" on lines one and two.

53. Section 29–2.407–8 is amended to delete pronouns limiting gender and reads:

§ 29–2.407–8 Protests against award.

(a) *Protests before award.* If, after bid opening but prior to award, a protest against award has been lodged and it is necessary to make an award before the matter is resolved, the contracting officer shall obtain and place in the file the written approval of the head of the agency. Prior to making an award, the head of the agency will inform the Comptroller General of the Department's intent to award and obtain advice from the Comptroller General concerning the status of the protest in accordance with § 1–2.407–8(b) of this title.

(b) *Protests after award.* In the event of a protest after award, consideration of its merit and a determination regarding its resolution, including any required reports to the Comptroller General, shall be made by the head of the agency and, where required, that official shall obtain assistance from the Solicitor

PART 29–3—PROCUREMENT BY NEGOTIATION

54. The table of contents for Subpart 29–3.1 is revised to delete § 29–3.101–50 entitled "Late proposals" and reads as follows:

Subpart 29–3.1—Use of Negotiation

Sec.

29–3.100	Scope of subpart.
29–3.100–50	Other procedures applicable to negotiated procurements.
29–3.101	General requirements for negotiation
29–3.101–50	[Reserved]
29–3.101–51	Limitations on use of requests for quotations
29–3.103	Dissemination of procurement information

§ 29–3.100–50 [Amended]

55. Section 29–3.100–50 is amended to correct the entry in the list of applicable sections to read "1–2.407–2—Responsible bidder—reasonableness of price."

§ 29–3.101–50 [Deleted]

56. Section 29–3.101–50 entitled "Late proposals." is deleted in its entirety.

57. Section 29–3.103(a) is amended to read as follows:

§ 29–3.103 Dissemination of procurement information.

(a) During the interval between the initiation of the request for proposals and the making of an award, the limitations on communication between DOL representatives, procurement and other-

wise, and prospective suppliers shall be the same as those provided in § 29–2.202–52 of this chapter for formally advertised solicitations. Moreover, no prospective supplier shall be given an advantage over competitors of advance knowledge that proposals are to be requested.

* * * * *

58. The table of contents for Subpart 29–3.2 is revised to amend § 29–3.203 and to add new §§ 29–3.205 and 29–3.205–50, and §§ 29–3.210 and 29–3.210–50 which are redesignated and transferred from § 29–1.3. The revised table of contents reads as follows:

Subpart 29–3.2—Circumstances Permitting Negotiation

Sec.	
29–3.202	Public exigency.
29–3.203	Purchases not in excess of $10,000.
29–3.204	Personal or professional services.
29–3.204–50	Criteria for determining whether services are personal.
29–3.205	Services of educational institutions.
29–3.205–50	Limitations.
29–3.210	Impracticable to secure competition by formal advertising.
29–3.210–50	Noncompetitive procurements.
29–3.211	Experimental, developmental, or research work.

59. Section 29–3.203 is revised to read as follows:

§ 29–3.203 Purchases not in excess of $10,000.

When determining whether or not the amount involved in any one transaction exceeds $10,000, the full or gross purchase price is controlling. Any prompt payment discount or the trade-in value of any article (to be offered to the vendor in exchange) is not to be deducted to qualify a procurement for the exception of § 1–3.203 of this title.

§ 29–3.204—50 [Amended]

60. Section 29–3.204–50 entitled "Criteria for determining whether services are personal." is amended by deleting the word "his" on line three, and by substituting the words "the contracting officer" for the word "he" on line five.

61. Section 29–3.205 is added and reads as follows:

§ 29–3.205 Services of educational institutions.

§ 29–3.205–50 Limitations.

(a) This authority shall be used only for the procurement of or the issuance of grants for specialized noncommercial services which are customarily performed by educational institutions. Use of this authority for any services other than those listed in § 1–3.205(a) of this title shall require a written determination with supporting facts by the head of the procuring activity that the particular type of service is available only from educational institutions.

(b) Proposals shall be solicited from as many educational institutions as are known to possess the required capability. This shall be consistent with § 1–3.101(c) of this title. Solicitation of a single educational institution shall require a written justification for sole source procurement in accordance with the requirements of § 29–3.210 of this chapter.

(c) Where the circumstances of both paragraphs (a) and (b) of this section pertain in the same case, the required determinations shall be combined and made by the head of the procuring activity.

62. Section 29–3.210 is added and reads as follows:

§ 29–3.210 Impracticable to secure competition by formal advertising.

§ 29–3.210–50 Noncompetitive procurements.

(a) It is a basic Department of Labor procurement policy that the selection of contractors shall be based on competition among responsible suppliers. This requirement for maximum competition exists regardless of whether the procurement is formally advertised or negotiated. However, there are circumstances where one organization or individual has exclusive or predominant capability by reason of experience, specialized facilities, or technical competence to perform the work within the time required and at a reasonable price. To insure that DOL procurements conform fully with the basic policy prescribing competitive procurement, any proposed noncompetitive procurement in excess of $10,000 must be fully justified and approved by the Assistant Secretary for Administration and Management or, in the case of research contracts of $25,000 or more, by the Assistant Secretary for Policy, Evaluation and Research. The contracting officer is responsible for assuring that proposed noncompetitive procurements below these dollar levels are in compliance with FPR and DOLPR requirements regarding maximum competition.

(b) The DOL recognizes that noncompetitive awards may be made where the items or services are unique; where time is of the essence and only one known source can meet the Government's needs within the required time frame; or where it is necessary that the desired items manufactured by one source be compatible and interchangeable with existing equipment. In the event that a nonprofit, tax-exempt, or volunteer citizens' group falls within one of the preceding examples, a noncompetitive procurement may be justified. However, there is no authority justifying a sole source procurement when the factors are based solely on a firm's status as either a nonprofit organization, a tax-exempt entity, or a volunteer citizens' group. In addition, there is no authority justifying a sole source procurement on the basis that a firm can perform the services with greater ease than any other firm.

(c) Where follow-on contracts are anticipated, sufficient data should be obtained to permit competition of later contracts. In study or research contracts, where practical, the contractor's work papers shall be stipulated as a deliverable end product along with the final report. Work papers may supply sufficient background so that competition may be possible for future procurements of research effort based on a previously delivered final report of a study or research contract.

63. Section 29–3.211 is amended to delete pronouns limiting gender and reads:

§ 29–3.211 Experimental, developmental, or research work.

The determination referred to in § 1–3.211 of this title shall be made by the head of the procuring activity for requirements of $25,000 or less. Otherwise the head of the procuring activity shall forward the matter together with recommendations to the head of the agency for that official's determination.

§ 29–3.305 [Amended]

64. Section 29–3.305 is amended to correct the FPR reference on line six by substituting "§ 1–3.305" for "§ 1–2.305."

§ 29–3.404–4 [Amended]

65. Section 29–3.404–4 is amended to correct a typographical error. On line 10, the word "provide" should be substituted for the word "provides."

§ 29–3.404–7 [Amended]

66. Section 29–3.404–7 is amended to substitute the words "the individual" for the word "he" on line 19 of the section, and to substitute a semicolon for the comma on line 22.

67. Section 29–3.405–5 is revised to reorganize content, correct the title of an official, and correct typographical errors, and reads as follows:

§ 29–3.405–5 Cost-plus-a-fixed-fee contract.

(a) *Limitations.* There is no departmentwide fixed-fee ceiling schedule other than the limitations imposed in § 1–3.405–5(c)(2) of this title. Within those limitations, the head of each procuring activity may establish a fee ceiling for the activity.

(b) *Administrative limitations.* In addition to the statutory limitations described in § 1–3.405–5(c)(2) of this title, fees under cost-plus-a-fixed-fee type contracts are subject to the administrative limitations set forth below:

(1) Nine percent of the estimated cost, exclusive of the fee, for any cost-plus-a-fixed-fee contract for experimental, evaluation, developmental, or research work; or

(2) Six percent of the estimated cost, exclusive of the fee, for any other cost-plus-a-fixed-fee contract. Fixed fees within the limitations imposed by § 1–3.405–5(c)(2) of this title and in excess of those cited herein shall be submitted to the Director, Office of Grants, Procurement and ADP Management Policy, OASAM, Washington, D.C., 20210, Attn: ABA, for approval. The request for approval shall include a detailed justification setting forth the rationale supporting the proposed fee in terms of the factors prescribed in § 1–3.808–2 of this title.

(c) *Contractor's investment in work-in-process.* The head of each procuring activity has been delegated the authority

to make the determination described in § 1–3.405–5(d)(1)(ix) of this title.

68. Section 29–3.405–50 is amended to correct grammatical and typographical errors, and reads:

§ 29–3.405–50 Cost-plus-award-fee contract.

(a) *Description.* The use of this type of cost-reimbursement contract is relatively new and stems from the desire on the part of the Government to introduce incentives into cost-reimbursement contracting situations where finite measures of performance necessary for cost-plus-incentive-fee contracts are absent. The use of this type of contract requires a willingness on the part of the contractor to accept a unilateral Government determination of a suitable level of fee for the performance of the contract. By terms of the contract, this determination by the Government of the fee is excluded from the scope of the Disputes clause. The contractor's performance itself is measured against criteria included in the contract. The contractor's performance relative to these criteria is a subject for discussion between the parties at various intervals during the period of contract. The mechanics of the fee determination are unusual in that two fee elements are involved. First, there is a fee in a fixed amount or "base" fee. Second, there is a fee that is variable, the "award" fee. Maximizing the second part of the fee is the basis of the contractor's motivation to be responsive to the results of progress discussions at the periodic reviews of the contractor's performance.

(b) *Application.* The cost-plus-award-fee contract shall not be used where it is clear that a cost-plus-a-fixed-fee or cost-plus-incentive-fee contract is more appropriate.

(c) *Limitations.* The base fee shall not exceed 3 percent of the estimated cost of the contract exclusive of fee. The maximum fee (base fee plus award fee) shall not exceed the limits in §§ 1–3.405–5(c)(2) of this title, and 29–3.405–5(b).

§ 29–3.406–1 [Amended]

69. In § 29–3.406–1, line six is amended to substitute the word "are" for the word "is."

§ 29–3.409 [Amended]

70. Section 29–3.409 entitled "Indefinite delivery type contracts." is amended to correct typographical errors as follows:

(a) In line five of paragraph (a)(1), the word "exist" is substituted for the word "exists."

(b) Paragraphs (b) and (c) are amended to delete subparagraph headings and read:

(b) *Requirements contract.* This is another form of term contract wherein, for the full duration of the specific contract period, all the needs for a particular item or service are placed with a contractor by a simple order. Each order incorporates the terms and conditions of the basic requirements contract under which the order is placed. Procuring activities using this contract form shall stipulate a maximum quantity beyond which the contractor is not obligated to deliver the items that may be ordered under the contract. In addition, where possible, such contracts shall obligate the Department, by guarantee or otherwise, to order some stated minimum amount of the item in question, thus converting it to an indefinite quantity contract as defined in § 1–3.409(c) of this title. This will thereby protect the Department in the event of drastic changes in the demand or supply of the item or in the event of a technological breakthrough. In the absence of an obligation on the Department to procure a minimum quantity, funds are only obligated when a particular order is placed. The order, therefore, becomes the obligating document and must contain appropriation symbols and dollar amounts.

(c) *Indefinite quantity contract.* When used, this contract can only obligate funds covering the low (i.e., the minimum or guaranteed) end of the range of quantities the Department can purchase. Where there is no obligation on the Department to procure a minimum quantity and where payment is to be made from a central revolving fund (e.g., "Working Capital Fund"), the basic contract award shall state that the appropriation data cited is not for the purpose of indicating the obligation, but rather that the money reserved for the purpose of paying invoices under the contract is being identified.

71. The table of contents for Subpart 29–3.6 is amended to add a new § 29–3.604–5 entitled "Limitations" and reads as follows:

Subpart 29–3.6—Small Purchases

29–3.602	Policy.
29–3.602–50	Purchasing authority.
29–3.603	Competition.
29–3.603–1	Solicitation.
29–3.603–2	Data to support small purchases.
29–3.604	Imprest funds (petty cash) method.
29–3.604–3	Agency responsibilities.
29–3.604–4	Use of imprest funds.
29–3.604–5	Limitations.
29–3.604–6	Procurement and payment.
29–3.604–50	Designation of cashiers.
29–3.604–51	Instructions for cashiers.
29–3.604–52	Accountability of imprest funds.
29–3.605	Purchase order forms.
29–3.605–3	Agency order forms.
29–3.605–50	Cancellation of purchase orders.
29–3.605–51	Duplicate purchase orders.
29–3.606	Blanket purchase arrangements.
29–3.606–1	General.
29–3.606–3	Establishment of account.
29–3.606–4	Documentation.

72. Paragraph (b) of § 29–3.602–50 is amended to update references and reads:

§ 29–3.602–50 Purchasing authority.

* * * * *

(b) *Delegations.* See § 29–1.401(c) of this chapter.

73. Paragraphs (a) and (c) of § 29–3.603–1 are revised to read as follows:

§ 29–3.603–1 Solicitation.

(a) Quotations or offers for purchases estimated not to exceed $5,000 may be solicited by use of written request, telegrams, telephone, or "in-person" contact, whichever is considered by the purchasing officer to be the most appropriate for the particular transaction. Quotations or offers for purchases estimated to exceed $5,000 must be in writing and in accordance with § 1–3.603–1(d) of this title and § 1–16.201 entitled "Request for Quotations."

* * * * *

(c) In the absence of urgency, and where the estimated dollar amount of the purchase is between $1,000 and $10,000, quotations shall be obtained from at least three sources of supply.

74. Section 29–3.604–4 is revised to incorporate the GSA authorization to use the imprest fund to make payments to common carriers and reads:

§ 29–3.604–4 Use of imprest funds.

Purchases made from imprest funds shall follow the policy of purchasing satisfactory merchandise at fair prices without favoritism to any vendor. The item to be purchased, its price, and the quantity involved generally govern the action to be taken. If a special item costing only a few dollars is required, a minimum amount of time and expense should be devoted to consummating the transaction. However, where feasible, purchases should be made from firms offering prices most advantageous to the Department. A vendor may be reimbursed by a payment from imprest funds for the cost of the supplies and the parcel post or other delivery charges which the vendor has already prepaid. Payments to common carriers for line haul transportation are allowable up to $100.00.

75. Section 29–3.604–5 is added and reads as follows:

§ 29–3.604–5 Limitations.

Officials responsible for small purchases should consider the use of imprest fund procedures for purchases amounting to $150 or less.

76. Section 29–3.604–6 is amended to change organization terms and correct typographical errors in paragraphs (a) through (e) which read as follows:

§ 29–3.604–6 Procurement and payment.

Purchases through use of imprest funds shall be accomplished as follows:

(a) Requisitioning offices shall submit a requisition, D/L Form 1–1, to the Department's imprest fund cashier showing necessary information such as estimated cost, unit of issue, quantity, description, delivery requirements, and appropriation chargeable.

(b) The imprest fund cashier shall prepare D/L Form 1–110 showing appropriate information.

(c) If the method of purchase is cash upon delivery of merchandise, the vendor's representative will sign D/L Form 1–110 indicating receipt of cash and will be furnished a copy of the form. One copy shall be forwarded to the requisitioning office and the original and two copies shall be retained by the imprest fund cashier.

(d) If the method of purchase requires pickup of the merchandise, D/L Form

1–110 is to be signed by the DOL representative authorized to make the actual purchase upon receipt of the cash by this individual. One copy shall be retained by the imprest fund cashier. The original and three copies shall be submitted to the vendor who shall sign the four copies upon supplying the merchandise and receiving the cash. The vendor may retain one copy. The DOL representative shall return the original and two copies to the imprest fund cashier as well as cash register receipt, sales slip, or invoice, whichever shall be furnished by the vendor. Any excess funds are returned to the cashier at this time. One copy of D/L Form 1–110 shall be forwarded to the requisitioning office, and the imprest fund cashier shall retain the original and two copies.

(e) A purchase for which cash is advanced must be confirmed and the receipt returned not later than the fifth working day following the date of the advance; otherwise, the cashier shall take immediate action to recover the cash advanced.

* * * * *

77. Section 29–3.604–51 is amended to delete the pronoun limiting gender and to correct typographical errors and reads:

§ 29–3.604–51 Instructions for cashiers.

Prescribed procedures for operating an imprest fund are contained in the Treasury Department "Manual of Procedures and Instructions for Cashiers Operating under Executive Order No. 6166." This manual is furnished by the Treasury Department for use by each person who is designated as a cashier.

§ 29–3.605–50 [Amended]

78. Line eight of § 29–3.605–50 is amended by substituting the words "the vendor's" for the word "his."

§ 29–3.605–51 [Amended]

79. Line five of § 29–3.605–51 is amended by substituting the words "the vendor's" for the word "his."

§ 29–3.606–4 [Amended]

80. Line four of § 29–3.606–4 is amended by substituting the words "the vendor" for the word "him."

§ 29–3.705 [Amended]

81. In § 29–3.705, line three of paragraph (a) is amended by substituting the words "the contracting officer" for the word "he."

§ 29–3.707–50 [Amended]

82. In § 29–3.707–50, paragraph (b) is amended by deleting the word "his" from the next to the last line of that paragraph.

83. The table of contents for Subpart 29–3.8 is revised to add new entries and reads as follows:

Subpart 29–3.8—Price Negotiation Policies and Techniques

Sec.

29–3.802 Preparation for negotiation
29–3.805–50 Criteria for award.
29–3.805–51 Evaluation of technical proposals.
29–3.805–52 Competitive range
29–3.805–53 Conduct of discussions.
29–3.805–54 Selection of contractor.
29–3.809 Contract audit as a pricing aid.
29–3.809–50 Procedures.

84. Section 29–3.802 is revised and reads as follows:

§ 29–3.802 Preparation for negotiation.

(a) *General.* At no time shall a prospective offeror be advised in the Request for Proposals (RFP) or otherwise furnished the Department's cost estimate or the amount of funds it has available to effect a particular procurement. In addition, RFP's shall avoid any statement which, while not indicating a specific sum, indicates a range within which that sum may be determined. Exceptions to the above policy shall be limited to the extremely unusual circumstance wherein the parameters of a study proposal are necessarily vague. In such case, the Director, Office of Grants, Procurement and ADP Management Policy, OASAM, may authorize the publication in the RFP, or otherwise, an indication of what the Department considers an estimate of either the range in costs or professional labor time (e.g., 2 to 3 work-years) which the contractor will be required to expend to perform the work contemplated. Such range will never be narrowed to the point where the maximum is less than 50 percent more than the minimum. This exception, when authorized, shall be accompanied by suitable language in the form of a disclaimer as to any guarantee of the accuracy of the Department's estimate and inviting proposals, even if they contradict the Department's estimate, with the concomitant assurance that proposals outside the estimated range of the Government's estimate will not be rejected solely for that reason.

(b) *Request for Proposals.* (1) the RFP shall require that the proposal be in two parts: a "Technical Proposal" and a "Business Proposal." Each proposal shall be separate and complete in itself so that evaluation of one may be accomplished independently of and concurrently with the other. The RFP shall provide that the "Technical Proposal" not contain any reference to cost. However, it shall provide that resource information such as data concerning labor hours and categories, materials, subcontracts, travel, and computer time shall be included in the "Technical Proposal" so that the offeror's understanding of the scope of work may be evaluated.

(2) The instructions to the offerors concerning the "Business Proposal" shall require submission of cost information in sufficient detail to allow a complete cost analysis. (See § 1–3.807–3 of this title for requirements for cost or pricing data.) Categories and amounts of labor, materials, travel, and computer time, as well as information with regard to contractor past performance (including contracts or subcontracts for like services or supplies), financial capacity, certifications and representations, and other pertinent administrative and business information should also be requested.

(3) Evaluation criteria must be developed by technical personnel at the time of initiation of the procurement request for inclusion by the contracting officer in the RFP. These criteria and their relative importance or weight require the exercise of judgment on a case-by-case basis, since the criteria must be tailored to the requirements of each particular procurement. These criteria must be submitted to the contracting officer in sufficient time to allow for this review before the issuance of the request for proposals. Since these criteria will serve as the standards against which all proposals will be evaluated, it is imperative that they be chosen carefully to emphasize those factors considered to be critical to the selection of a contractor.

85. Section 29–3.805–50 is revised to read as follows:

§ 29–3.805–50 Criteria for award.

(a) The RFP must set forth all significant matters which affect the opportunities of suppliers to compete on an equal basis, including any special evaluation factors. Evaluation factors are defined as (1) any minimum standards which will be required with respect to any particular element of the procurement, as well as (2) reasonably definite information as to the degree of importance to be given particular factors in relation to one another. Although a mathematical formula need not be used in the evaluation process, when the numerical rating is used, the RFP must inform the offerors of the major factors to be considered and the broad scheme of scoring to be used.

(b) An example of a mathematical evaluation process is set forth herein. The evaluation factors are examples only and should be changed to meet the particular needs of the individual request for proposals.

CRITERIA FOR AWARD

Prospective suppliers are advised that the selection of an offeror for contract award is to be made after a careful evaluation of the proposals received by a panel of specialists within the Department. Each panelist will evaluate the proposals for acceptability with emphasis on the various factors enumerated below, assigning to that factor a numerical weighting within the range shown for each of these factors. The scores will then be averaged to select an offeror or develop a list of offerors.

Negotiations will be initiated, if necessary, with one or more of the offerors within the competitive range, as the situation warrants, beginning with the head of the list, i.e., the offeror with the highest score, determined by the factors shown below:

	Points
A. Supplier's collective experience as it relates to the work required by the proposed contract	1–20
B. Educaton and experience of supplier's key personnel as they relate to the work required by the proposed contract	1–20
C. Supplier's resources and facilities	1–20
D. Planned approach in accomplishing the proposed work and its indication of the supplier's understanding of the work required	1–40

NOTE.—While proposed cost will usually not be point-scored in evaluation of proposals in response to an RFP, the overall cost proposal will be analyzed and examined relative to the decision regarding the award of the procurement. The RFP should inform offerors of the cost factor's relative importance—whether the procurement is intended to achieve a minimum standard of technical excellence at the lowest cost, or whether cost is considered secondary to technical excellence.

(c) Whenever the contract is to have a fixed price, price may not be disregarded in selecting a contractor. This is particularly true where more than one acceptable offer from technically qualified sources remains for consideration after conduct of negotiations. If a lower priced, lower scored offer meets the Government's needs, acceptance of a higher priced, higher scored offer shall be supported by a specific determination by the contracting officer that the technical superiority of the higher priced offer warrants the additional cost involved in the award of a contract to that offeror.

(d) For award of cost-reimbursement contracts, the estimated costs and proposed fees shall not be the controlling factors where offerors are not substantially equal on a technical basis. However, where offerors are substantially equal as to technical ability and resources, the price becomes the controlling factor, and the contract should be awarded to the lowest offeror. The award of cost-reimbursement contracts requires procurement personnel to exercise informed judgments as to whether submitted proposals are realistic with regard to proposed costs and technical approaches.

(e) The RFP evaluation criteria shall not be modified except by a formal amendment to the RFP.

86. Section 29–3.805–51 is added and reads as follows:

§ 29–3.805–51 Evaluation of technical proposals.

(a) The technical proposals received by the contracting officer shall be forwarded to the technical evaluators for evaluation; the business portion of the proposals shall be retained by the contracting officer for evaluation.

(b) The technical evaluators shall evaluate each proposal in strict conformity with the evaluation criteria of the RFP and shall assign each proposal a score. A technical ranking shall then be compiled. The technical evaluators shall then identify each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

(c) The technical evaluators shall then determine whether any proposal which has been rated as unacceptable might be considered acceptable upon the furnishing of clarifying data by the offeror, and the contracting officer will be so informed. The contracting officer will arrange for the submission of clarifying data in writing or by consultation, and furnish it to the technical evaluators for their consideration.

(d) It is essential to the competitive procurement process that all information contained in offerors' proposals be maintained in strict confidence. In no event, during the evaluation period, shall any offeror be told the number of proposals received, prices, cost ranges, or the Government cost estimate. Discussions with offerors relative to any aspect of the procurement shall be held only with the contracting officer or his authorized representative.

(e) A technical evaluation report shall be prepared and signed by the technical evaluators, furnished to the contracting officer, and maintained as a permanent record in the contract file. The report shall reflect the scoring of each proposal and the ranking of the proposals, and shall identify each proposal as acceptable or unacceptable. The report shall also include a narrative evaluation specifying the strengths and weaknesses of each proposal, and any reservations or qualifications that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal shall be included.

87. Section 29–3.805–52 is added and reads as follows:

§ 29–3.805–52 Competitive range.

The competitive range consists of the proposals of those offerors which, based either on an evaluation by a mathematical formula or by other means, are grouped more or less at the same level and are competitive with one another. In all cases it is important that the criteria used in establishing a competitive range be meaningful and realistic and in no way arbitrary. Determining firms which are and firms which are not within a competitive range is a matter of administrative discretion which must be exercised in a reasonable manner. A determination of the limits of the competitive range requires the comparison of each proposal against the other proposals. Therefore, there is no way to predetermine the number of or percentage of proposals that will be competitive with one another. The limits of what constitutes competitive range in a particular case is a judgment matter for determination by the contracting officer. Such discretion will be reasonable and justified and shall not be exercised in an arbitrary or capricious manner.

88. Section 29–3.805–53 is added and reads as follows:

§ 29–3.805–53 Conduct of discussions.

(a) In accordance with § 1–3.805–1(a) of this title, where discussions or other negotiations are to be conducted, the contracting officer must negotiate regarding the work to be performed, the cost or price of the work, and other relevant topics with all those offerors within the competitive range.

(b) The contracting officer shall point out to each such offeror the ambiguities, uncertainties, and deficiencies, if any, in its proposal. This official shall give each offeror a reasonable opportunity (with a common cutoff date for all) to support, clarify, correct, improve, or revise its proposal. Discussions with one offeror will not identify areas in which another has apparently achieved a higher evaluation or provided more detail. Nor will information be transmitted by the Government which could give one offeror a competitive advantage over another. Cost estimates made by the Government will not be disclosed.

(c) Careful judgment will be exercised in determining the extent of discussions. In some cases, good business practice may require more than one round of discussions with all of the offerors within the competitive range. The time available, the expense and administrative limitations, and the size and significance of the procurement should all be considered in deciding on the type, duration, and depth of the discussions.

(d) In order to terminate negotiations properly, the contracting officer shall advise each offeror within the competitive range that (1) negotiations are being conducted, (2) offerors are being asked for "best and final offer," not merely to confirm or reconfirm prior offers, and (3) any revision or modification of proposals must be submitted by the cutoff date.

89. Section 29–3.805–54 is added and reads as follows.

§ 29–3.805–54 Selection of contractor.

After the close of discussions and the receipt of any addenda to proposals, the contracting officer shall determine whether another technical evaluation is required prior to award. The contracting officer shall then select for award the offeror or offerors whose proposal(s) offers the greatest advantage to the Government, cost or price, technical and other factors considered.

90. Section 29–3.809–50 is revised to read as follows:

§ 29–3.809–50 Procedures.

The Assistant Secretary for Administration and Management shall perform or obtain reviews of indirect cost data in the establishment of provisional and fixed overhead rates and the performance of audits as a pricing aid upon request of a head of a procuring activity. All such requests shall be in writing and shall be directed to the Director of Audit and Investigations in Washington, D.C. or to the Regional Administrator for Audit in the regions. Requests shall (a) describe the problem, (b) specify the purpose to be served by the audit, and (c) indicate the audit scope and depth desired.

91. Part 29–12 is revised to correct errors in assigned subpart and paragraph numbers, to delete pronouns limiting gender, and to update organizational information, and reads as follows

PART 29–12—LABOR

Subpart 29–12.12—Williams-Steiger Occupational Safety and Health Act of 1970

Sec.

29–12.1250 Scope of subpart.
29–12.1251 Basic protection
29–12.1252 Applicability.
29–12.1253 Contract clause.
29–12.1254 Notice of award.

AUTHORITY: 80 Stat. 379, 5 U.S.C. 301; sec. 207, 76 Stat. 29, 42 U.S.C. 2587; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; and sec. 204(a), 81 Stat. 888, 42 U.S.C. 639.

Subpart 29–12.12—Williams-Steiger Occupational Safety and Health Act of 1970

§ 29–12.1250 Scope of subpart.

This subpart extends the standards and policies of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to persons who are receiving occupation or job training under Department of Labor contracts but who are not employees of the contractor.

§ 29–12.1251 Basic protection.

The Occupational Safety and Health Act of 1970 provides the following basic protection for employees:

(a) It requires the employer to furnish to each employee employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees.

(b) It requires the employer to comply with occupational safety and health standards promulgated under the Act which are published in Chapter XVII of Title 29, Code of Federal Regulations.

§ 29–12.1252 Applicability.

The Department of Labor shall require its contractors providing occupational and job preparation training to persons who are not employees to protect such persons as though they were employees with respect to the provisions of Federal or State occupational safety and health standards, as applicable.

§ 29–12.1253 Contract clause.

The following clause shall be included in all contracts with the Department of Labor which provide for occupational or job preparation training (including basic education, counseling, personal and cultural development, recreational activities, and work-experience training) when the trainees are not employees of the contractor:

OCCUPATIONAL SAFETY AND HEALTH ACT

(a) In the performance of this contract, the contractor agrees to provide all trainees, who are not employees, with safety and health protection which shall be at least as effective as that which would be required under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) if the trainees were employees of the contractor thereunder.

(b) All records pertaining to injuries and illnesses of trainees who are not employees shall be maintained in accordance with the provisions of Part 1904 of Title 29 of the Code of Federal Regulations.

(c) Contractor agrees to include the substance of this clause in all subcontracts which provide for the training of persons who are not employees of the subcontractor.

(d) Failure of the contractor to comply with the provisions of this clause shall be grounds for the termination of this contract or the invocation of the "Debarred, Suspended, and Ineligible Bidders" procedures of the Federal Procurement Regulations and the Department of Labor Procurement Regulations.

§ 29–12.1254 Notice of award.

Contracting officers of the Department of Labor shall submit a notice of award of a contract containing the clause in § 29–12.1253 to the Occupational Safety and Health Administration (OSHA) Regional Administrator within the region where the contract is to be performed at the following addresses:

REGION I

Regional Administrator, OSHA, U.S. Department of Labor, John F. Kennedy Federal Building, Government Center, Room 1804, Boston, Mass. 02203.

REGION II

Regional Administrator, OSHA, U.S. Department of Labor, 1515 Broadway (1 Astor Plaza), Room 3455, New York, NY 10036.

REGION III

Regional Administrator, OSHA, U.S. Department of Labor, Suite 2100, 3535 Market Street, Philadelphia, PA 19104.

REGION IV

Regional Administrator, OSHA, U.S. Department of Labor, 1375 Peachtree Street, N.E., Suite 587, Atlanta, GA 30309.

REGION V

Regional Administrator, OSHA, U.S. Department of Labor, 230 S. Dearborn Street, Room 3263, Chicago, IL 60604.

REGION VI

Regional Administrator, OSHA, U.S. Department of Labor, Room 602, 555 Griffin Square Building, Dallas, TX 75202.

REGION VII

Regional Administrator, OSHA, U.S. Department of Labor, 911 Walnut Street, Room 3000, Kansas City, MO 64106.

REGION VIII

Regional Administrator, OSHA, U.S. Department of Labor, Room 15010, 1961 Stout Street, Denver, CO 80202.

REGION IX

Regional Administrator, OSHA, U.S. Department of Labor, Room 9470, Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102.

REGION X

Regional Administrator, OSHA, U.S. Department of Labor, Room 6048, 909 First Avenue, Seattle, WA 98174.

PART 29–26—CONTRACT MODIFICATIONS

92. Section 29–26.400 is amended to correct an FPR reference and to provide for changes in organizational terms, and reads as follows:

§ 29–26.400 Scope of subpart.

This subpart prescribes the policy and procedures for execution of novation agreements and change of name agreements by a single Agency and novation or change of name agreements affecting more than one Agency. (See also § 1–30.710 of this title on assignment of claims in case of transfers of business or corporate mergers.)

93. Section 29–26.404–50 is amended to provide for changes in organizational titles and terms and reads as follows:

§ 29–26.404–50 Processing novation and change of name agreements.

(a) The Agency(ies) processing a proposed novation agreement shall promptly provide notice of the proposed agreement, including lists of affected contracts which are required by § 1–26.402(c)(2) of this title, to the Agencies having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the addresses listed herein as appropriate:

Directorate of Administrative Programs and Services, OASAM, Attn: ACBB.
Office of Policy, Evaluation and Research, Employment and Training Administration, Attn: TP.
Office of National Programs, Employment and Training Administration, Attn: TDX.
Office of Field Operations, Employment and Training Administration, Attn: TG.
Regional Coordination Staff, OASAM, Attn: AH.
Bureau of International Labor Affairs, Attn: IA.
Bureau of Labor Statistics, Attn: BA.

(b) All novation agreements and change of name agreements, prior to execution by the Department, shall be reviewed by the Solicitor's Office for legal sufficiency.

(c) If the Agency(ies) does not object to the proposed novation agreement within 30 days after receipt of notice, the initiating Agency shall assume acceptance of the proposed agreement.

(d) When more than one Agency has outstanding contracts with the contractor or contractors, a single agreement covering all such contracts shall be executed by the Agency having the largest unsettled dollar balance with the contractor or contractors.

(e) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor; a signed copy shall be retained in the Agency executing the agreement; and, where more than one Agency is involved, two conformed copies of the agreement shall be prepared for each affected Agency. In addition, there shall be attached to each of the conformed copies of the agreement for each affected Agency a summary of the agreement and a complete list of the contracts affected.

PART 29–51—PROVISIONS REGARDING AWARDS TO CONTRACTORS AND GRANTEES EMPLOYING FORMER DEPARTMENT OF LABOR EMPLOYEES

94. Part 29–61 is deleted in its entirety.

Signed at Washington, D.C., this 1st day of August 1977.

ALFRED M. ZUCK,
Assistant Secretary for Administration and Management.

[FR Doc.77–22784 Filed 8–8–77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

PART 194—PUBLIC SERVICE EDUCATION PROGRAMS

Award of Institutional Grants and Fellowships

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Commissioner issues final regulations (45 CFR Part 194) to establish rules, procedures, and criteria governing the award of Institutional Grants and Fellowships to improve Public Service education.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provision Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Louis J. Venuto, Bureau of Higher and Continuing Education, 7th and D Streets, SW, Regional Office Building 3, Room 3036, Washington, D.C. 20202. telephone 202–245–8082.

SUPPLEMENTARY INFORMATION: 1. *Public participation.* One written comment to the proposed regulation was received. The commentor suggested that the funding criteria for Institutional Grant awards be revised to indicate that a project can be part of an educational program which prepares persons for leadership and management positions in "institutions." The Commissioner believes that the use of the word "institutions" in this context is too vague However, the regulation has been amended (see § 194.8(c)(3) and 194.30(c)(12)) to indicate that the program may prepare persons for leadership and management positions in non-profit community service agencies.

The same commentor suggested that § 194.8(c)(V) be revised to give special consideration to education programs that have arrangements with "institutions." The Commissioner believes that this section is sufficiently clear, and no changes, therefore, have been made.

2. *Revision of stipend and institutional allowance amounts.* The statute requires the Commissioner to pay such stipends (including such allowances for subsistence and other expenses for fellows and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs. The proposed regulation set the annual stipend at $3,600; the annual dependency allowance for each qualified dependent at $300; and the annual institutional allowance for each fellow at $3,600. To achieve consistency with other comparable federally supported programs and to conform with departmental policy, dependency allowances are being eliminated and the stipend and institutional allowance are both being set at $3,900 in the final regulation.

3. *Format change.* The proposed regulations were publisted in separate Parts. Part 194 was designated to cover the Institutional Grants while Part 195 was designated for the Fellowships. In the final regulations, these two Parts have been merged into one Part 194 to cover both the Institutional Grants and the Fellowships.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Program No. 13.555; Public Service Education Programs.)

Dated: June 27, 1977

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 2, 1977

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows

1. In Part 100a § 100a.10(a) is revised by substituting a period (".") for semicolon (";") at the end of each subparagraph, by deleting the word "and" where it appears at the end of subparagraphs (31) and (36), and by adding a new subparagraph (37). As amended § 100a.10 reads as follows:

§ 100a.10 Scope.

(a) Programs. Unless inconsistent with a statute or regulation, the regulations in this part apply to the following programs:

* * * * *

(37) Public service education grants under Title IX–A of the Higher Education Act of 1965, as amended (20 U.S.C. 1134 et seq.)

* * * * *

2. A new Part 194 is added, to read as follows:

Subpart A—Public Service Institutional Grants

Sec.
194.1 Definitions
194.2 General provisions regulations.
194.3 Purpose.
194.4 Institutional eligibility
194.5 Award procedure
194.6 Authorized activities
194.7 Grant limitations
194.8 Criteria for evaluating applications and considerations for awarding grants to institutions of higher education

Subpart B—Public Service Fellowships

194.21 Definitions
194.22 Purpose
194.23 Award procedure
194.24 Eligibility for fellowships
194.25 Fellowship conditions
194.26 Vacated fellowships.
194.27 Amount of the fellowship.
194.28 Institutional allowance.
194.29 Payment procedure.
194.30 Criteria for allocating fellowships to institutions of higher education
194.31 Application requirements.
194.32 Records and reports.

AUTHORITY: Title IX, Parts A and C sections 901–904 and 941–944 of Pub. L. 89–329, as amended (20 U.S.C. 1134–1134c; 1134i–1134m), unless otherwise noted.

Subpart A—Public Service Institutional Grants

§ 194.1 Definitions.

As used in this Subpart:

"Act" means the Higher Education Act of 1965, as amended.

"Institution of higher education" is defined in section 1201 (a) of the Act (20 U.S.C. 1141(a)).

"Project" means the activity or a combination of activities for which an institutional grant is requested.

"Internship means a supervised administrative experience which provides the student with a practical introduction to a career in public service.

"Public service education" means the preparation for leadership and management careers in all levels of government and in nonprofit community service organizations.

(20 U.S.C. 1134.)

§ 194.2 General provisions regulations.

Assistance under Title IX, Part A of the Act is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1134.)

§ 194.3 Purpose.

Assistance provided under this part shall be used to establish, strengthen, and improve programs designated to prepare graduate and professional students for public service.

(20 U.S.C. 1134(a)(2).)

§ 194.4 Institutional eligibility.

Institutions of higher education which have graduate or professional programs leading to a master's or more advanced degree in public service education are eligible to apply.

(20 U.S.C. 1134a(a).)

§ 194.5 Award procedure.

(a) Grants will be made on the basis of applications submitted by eligible institutions. An application shall describe a program of activities for carrying out the purposes of this part.

(b) An application shall provide assurances that the institution has notified the appropriate State Commission (established or designated under section 1202 of the Higher Education Act of 1965, as amended) and that the State Commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

(c) Applications will be evaluated on the basis of the criteria set forth in § 194.8.

(20 U.S.C. 1134a.)

§ 194.6 Authorized activities.

Funds are to be used solely for the purposes stated in § 194.3. In meeting these purposes the funds may be used for the following activities:

(a) Faculty improvement;

(b) The expansion of graduate and professional programs of study;

(c) The acquisition of appropriate instructional equipment and materials;

(d) Cooperative arrangements among graduate and professional schools;

(e) The strengthening of graduate and professional school administration;

(f) The development of proposed graduate professional programs; and

(g) Needed innovation in graduate and professional programs.

(20 U.S.C. 1134(b).)

§ 194.7 Grant limitations.

Funds provided under this part shall not be used for:

(a) Payment in excess of 66⅔ percent of the total cost of the project or activity described in the institution's application;

(b) Payment in excess of 50 percent of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any percent of that cost, as determined by the Commissioner, which is paid from sums received (other than under this part) as Federal financial assistance;

(c) Sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity;

(d) Construction or renovation of buildings; or

(e) Fellowship assistance for students.

(20 U.S.C. 1134b (a), (c).)

§ 194.8 Criteria for evaluating applications and considerations for awarding grants to institutions of higher education.

The Commissioner shall take into account the following considerations when evaluating applications for institutional grants. These criteria replace the general criteria for direct project grant and contract programs contained in 45 CFR 100a.26(b).

(a) The extent to which the institution requests funding of activities which received assistance under this part during the preceding fiscal year but have not been completed, provided there has been substantial progress in meeting the original goals;

(b) The extent to which funding the application will assist in attaining a wider distribution throughout the United States of high quality public service education programs;

(c) The extent to which the proposed project ranks high on the criteria set forth below, with the maximum point score for each criterion as shown:

(1) It is likely to result in establishing, strengthening or improving a program which prepares graduate and professional students for public service; (20 points)

(2) The educational and other related experiences of the personnel conducting the activity or activities qualify them to plan or participate in the project, and the director is given clear responsibility, ample time, and sufficient authority; (15 points)

(3) It is related to, or is part of, an academic program which prepares persons for leadership and management positions in local and State governments and non-profit community service agencies, and for positions in program administration involving intergovernmental relations; (10 points)

(4) It is especially imaginative and innovative; (10 points)

(5) The budget is realistic in relation to its successful implementation; (10 points)

(6) It is consistent with State and regional priorities; (10 points)

(7) Procedures are planned to measure its effectiveness; (5 points) and,

(8) The overall academic program of public service education is strong enough to assure the success of the proposed project when measured by such criteria as the following: (20 points)

(i) There is a clear statement of program objectives;

(ii) Institutional resources such as facilities, equipment, and libraries are adequate;

(iii) The multidisciplinary background, education, and research ability of the faculty are of high quality;

(iv) The program offers opportunities for relevant, supervised practicum and internship experiences;

(v) The program has arrangements with government agencies or jurisdictions or other nonprofit agencies for such activities as program development, personnel exchange, and field work;

(vi) The program involves other graduate units of the institution in supportive or cooperative efforts of practical benefit to public service education; and

(vii) Graduates of the program have achieved leadership and management positions in public service careers.

(20 U.S.C. 1134a; 1134b (a).)

Subpart B—Public Service Fellowships

§ 194.21 Definitions.

As used in this Subpart:

"Fellowship" means an award by the Commissioner to an individual.

"Fellow" means a fellowship recipient.

"Institution of Higher Education" is defined in section 1201(a) of the Act (20 U.S.C. 1141(a)).

"Internship" means a supervised administrative experience which provides the student with a practical introduction to a career in public service.

"Public service education" means the preparation for leadership and management careers in all levels of government and in nonprofit community service organizations.

(20 U.S.C. 1134i.)

§ 194.22 Purpose.

The purpose of this program is to award fellowships for graduate or professional study for persons who plan to pursue or continue in a career in public service.

(20 U.S.C. 1134i.)

§ 194.23 Award procedures.

(a) Fellowships are allocated to institutions of higher education which apply for a fellowship allocation and which offer a graduate or professional program in public service education meeting the criteria described in § 194.30. Institutions receiving such an allocation shall recommend eligible students to the Commissioner for the award of fellowships.

(b) Fellowships will be awarded to cover a period of nine to twelve months of study. Individuals who are currently receiving a fellowship under this part or who have received a fellowship in the past but have interrupted their study for a period not to exceed twelve months for the purposes of work, travel, or independent study away from the campus that is supportive of the fellows' academic program are eligible to receive additional fellowships to continue study. No individual may receive assistance under this part for more than thirty-six months except that the Commissioner may award a fellowship for an additional twelve month period to allow a student who has completed all course work and comprehensive examinations (if any) for a doctoral degree to complete his or her doctoral dissertation.

(20 U.S.C. 1134i; 1134j; 1134k.)

§ 194.24 Eligibility for fellowships.

A recipient of a fellowship under this part must: (a) Have been accepted for graduate or professional study at an institution of higher education that has received an allocation of fellowships under this part;

(b) Plan to pursue a career in the public service; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident thereof, or be a permanent resident of the Trust Territories of the Pacific Islands.

(20 U.S.C. 1134i; 1134j.)

§ 194.25 Fellowship conditions.

In order to remain eligible for a fellowship, a fellow must: (a) Maintain satisfactory proficiency in the approved program in which he or she is enrolled;

(b) Continue to devote full-time study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except in an internship or other activity which is under the supervision of the institution which awarded the fellowship and is related to the approved program.

(20 U.S.C. 1134m(a) (b).)

§ 194.26 Vacated fellowships.

If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements set forth in § 194.24. The duration of a reawarded fellowship shall be for a period of graduate or professional study not in excess of the remainder of the period for which the fellowship it replaces was awarded.

(20 U.S.C. 1134i.)

§ 194.27 Amount of the fellowship.

(a) The stipend to which a fellow is entitled will be $3,900 for an academic year of twelve months.

(b) A fellow who is enrolled in the program of study for less than twelve months shall only be entitled to receive a pro rata share of these amounts. For the purposes of this section, a fellow who is enrolled in the program for the entire academic year (including summer sessions) shall be considered to be enrolled in the program for the full twelve months.

(20 U.S.C. 1134i(a).)

§ 194.28 Institutional allowance.

The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,900 per twelve month period, except that any amount charged to and collected from the fellow by the institution for tuition and other expenses required by the institution as part of the fellow's instructional program shall be deducted from this amount. If the fellow is enrolled for less than 12 months, the institution will be paid a pro rata share of this amount.

(20 U.S.C. 1134i (b).)

§ 194.29 Payment procedure.

(a) The Commissioner will pay to the approved institution of higher education the fellowship stipend and the institutional allowance for each fellowship allocated to that institution. The institution is responsible for disbursing all funds due to the fellow.

(b) The timing of payments to fellows will be left to the discretion of each institution of higher education except that no fewer than two payments a year shall be made. Institutions are responsible for recovery of excess payments made to students who, for any reason, fail to complete the academic year for which they are enrolled.

(20 U.S.C. 1134i (b).)

§ 194.30 Criteria for allocating fellowships to institutions of higher education.

The Commissioner shall take into account the following considerations in evaluating applications from institutions of higher education for fellowship allocations:

(a) The extent to which an application requests fellowships for the continuation of support for individuals awarded fellowships in a previous year;

(b) The extent to which funding the application will assist in attaining a wider distribution throughout the United States of graduate centers for study in public service; and

(c) The extent to which the graduate program of public service education ranks high (calculated according to maximum point scores as shown) on the criteria set forth below:

(1) The need for and the objectives of the public service program are justified in the application (15 points).

(2) Procedures are planned to measure the effectiveness and success of the program (5 points).

(3) Evidence is provided which demonstrates past success of graduates, if any, from the program in achieving leadership and management positions in public service careers (5 points).

(4) Institutional resources such as facilities, equipment, and libraries are adequate to support the program (5 points).

(5) The multidisciplinary background, education, research interests, and experiences of the faculty qualify them to plan and implement a successful program of public service education (15 points)

(6) The director of the program has clear responsibilities and sufficient time to devote to the program (5 points).

(7) The academic requirements are sufficient to support a high quality program (10 points).

(8) The program offers opportunities for relevant, supervised practicum and internship experiences (10 points).

(9) The program establishes arrangements with government agencies or other nonprofit agencies for such activities as program development, personnel exchange, and field work (10 points).

(10) The program will involve other graduate units of the institution in supportive or cooperative efforts of practical benefit to public service education (5 points).

(11) The program is especially imaginative or innovative and gives promise of leading to significant improvement in public service education (5 points).

(12) The program is designed to prepare persons for entry into leadership and management positions in local or State government and non-profit community service agency administration or in intergovernmental relations for which a master's degree is generally the educational level required (10 points).

(20 U.S.C. 1134k (1), (2); 1134j(4).)

§ 194.31 Application requirements.

Each application for a fellowship allocation by an institution of higher education must describe the institution's public service education program. The description should address each of the criteria set forth in § 194.30. In addition, the application must:

(a) Describe the relation of the graduate or professional program of public service education to any program activity, research or development set forth by the applicant in an application, if any, submitted pursuant to section 901 (a)(2) of the Act;

(b) Contain satisfactory assurance that:

(1) The institution will recommend to the Commissioner, for the award of fellowships under this part, for study in such program, only persons of superior promise who have demonstrated to the satisfaction of the institution a serious intent to enter or continue in the public service upon completing the program; and

(2) The institution will make continuing efforts to encourage recipients of fellowships under this part, enrolled in the program, to enter or continue in the public service upon completing the program.

(20 U.S.C. 1134k (3), (4).)

§ 194.32 Records and reports.

Each institution of higher education which receives an allocation of fellowships under this part, and each individual who is awarded a fellowship, shall keep records and submit reports which are required by the Commissioner. These reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center whose program is approved by the Commissioner, stating that the fellow is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

(20 U.S.C. 1134m(b).)

[FR Doc.77-22810 Filed 8-8-77;8:45 am]

PART 173—COMMUNITY SERVICE AND CONTINUING EDUCATION

Funding Priorities for Special Projects

AGENCY: Office of Education, HEW.

ACTION: Final Regulation.

SUMMARY: This regulation sets forth funding priorities for the Special Projects portion of the Community Service and Continuing Education Program. Priorities for Special Projects are determined annually by the Commissioner after consultation with the National Advisory Council on Extension and Continuing Education, and, to comply with program regulations, must be published in the FEDERAL REGISTER. These priorities will govern the review of applications for new awards submitted by institutions of higher education, or combination of institutions.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provision Act as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. J. Eugene Welden, Chief Community Service and Continuing Education Branch, Bureau of Higher and Continuing Education, 7th and D Streets SW., Washington, D.C. Telephone 202-245-9868.

SUPPLEMENTARY INFORMATION: Under section 106 of the Higher Education Act of 1965, as amended, the Commissioner may make grants to, or contracts with institutions of higher education or combinations of institutions to assist them in carryng out special programs and projects of community service and continuing education, including resource materials sharing, designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

There are statutory definitions set forth at section 102 of the Act, as amended (20 U.S.C. 1002) for continuing education and resource materials sharing which have not been codified to 45 CFR Part 173. The Commissioner believes that this regulation should therefore provide the statutory definitions to potential applicants. They are:

"Continuing education program" means postsecondary instruction designed to meet the educational needs and interests of adults, including the expansion of available learning opportunities for adults who are not adequately served by current educational offerings in their communities.

"Resource materials sharing program" means planning for the improved use of existing community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of educational materials, communications technology, local facilities, and such human resources as will expand learning opportunities for adults in the area being served.

Applications for new awards are to be directed to one of several priorities which are determined each year by the Commissioner and are reviewed and evaluated using criteria which are set forth in 45 CFR Part 100a and Part 173, Subpart C.

Response to comments received. The priorities were published in proposed form in the FEDERAL REGISTER on April 4, 1977, Vol. 42, No. 64, p. 17889. Comments on the proposed priorities were received for a 45 day period after the proposed rule was published. The following are summaries of the relevant comments received and the Commissioner's responses to the comments.

Comment. One commenter suggested that it was unfair of the Commissioner to limit eligibility for funding under the Special Projects program to institutions of higher education since other types of organizations are providers of continuing education programs.

Response. The Commissioner does not argue that there are worthy continuing education programs offered through a number of types of organizations. The statute, however, specifically notes that under the Special Projects authority, eligible applicants are limited to institutions of higher education and combinations of institutions of higher education.

Comment. One commenter questioned the limitation for funding to problems of national or regional significance. The commenter suggested that the priorities be redirected to address problems at the local level.

Response. The priorities which have been developed are based on the statute authorizing the Special Projects program. The law specifies that special programs and projects are to be designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution. Programs designed to solve problems at the State and local levels may be supported by the State Grant portion of the Community Service and Continuing Education program.

After consideration of the comments received, the Commissioner has decided that there are no changes necessary in the priorities which had been proposed.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.557; Higher Education University Community Service—Special Projects.)

Dated: July 7, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: August 2, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 173 of Title 45 of the Code of Federal Regulations is amended by adding an Appendix A, to read as follows:

Appendix A—Funding Priorities for Special Projects

Applications for new awards for Fiscal Year 1977 must be directed to one of the following priorities (attention may be given within the scope of any of the priorities to the special needs of particular groups, such as women or older adults):

(1) Experimentation with inter-State programs of continuing education directed to the problems of regional or national energy conservation, transportation, and/or environmental pollution;

(2) Demonstration of State and/or local government cooperation with institutions of higher education in developing, operating, and evaluating innovative educational solutions to the national problem of citizen alienation from governmental processes;

(3) Demonstration of effective regional programs of continuing education which link higher education, labor, and management in solving problems of job security, productivity, and the quality of working life; and

(4) National and regional evaluations of multi-institutional programs of continuing education for adults that are directed to the problems of employment, career mobility, and/or job re-entry. (20 U.S.C. 1005a)

[FR Doc.77-22807 Filed 8-8-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21200; RM-2784]

PART 73—RADIO BROADCAST SERVICES

FM BROADCAST STATION IN FLORENCE, OREGON

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action herein assigns a Class C channel to Florence, Oregon, as its first FM assignment. Petitioner, Gentle Shepherd Broadcasting Company, states that the channel would provide for an FM station which could render significant first and second FM service and would also provide a second aural service to a substantial area. Florence would also receive its first local aural service.

EFFECTIVE DATE: September 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 3, 1977.

Released: August 4, 1977.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Florence, Oregon).

1. The Commission herein considers the Notice of Proposed Rule Making, adopted April 15, 1977, 42 FR 21628 in the above-captioned proceeding, instituted in response to a petition filed by Gentle Shepherd Broadcasting Company ("petitioner"). The petition proposed the assignment of Class C Channel 284 as a first FM channel to Florence, Oregon. Petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned.

2. Florence (pop. 2,246) in Lane County (pop. 213,358) [1], is located on the mid-coast of Oregon, approximately 84 kilometers (52 miles) west of Eugene, and 211 kilometers (131 miles) southwest of Portland, Oregon. There is presently no local aural broadcast service in the community.

3. Petitioner states that the lumber industry plays a major role in the area's economy and the largest occupational grouping involves persons working in lumber, plywood and paper manufacturing. Petitioner has furnished sufficient information regarding the social, governmental and economic factors which demonstrate Florence's need for an FM channel assignment.

4. Channel 284 could be assigned to Florence, Oregon, in conformity with the minimum distance separation requirements. Twenty-one communities with populations greater than 2,000 persons would be precluded if Channel 284 were assigned to Florence, nine [2] of which have no FM assignments. Petitioner was requested to indicate in its comments whether alternate FM channels would be available for these communities. In response, it showed that all nine communities would have Class A channels available for assignment.

5. Petitioner submitted a Roanoke Rapids, 9 F.C.C. 2d 672 (1967) and Anamosa-Iowa City, 46 F.C.C. 520 (1974) showing which indicated that assuming a station on Channel 284 operating with facilities of 100 kW and an antenna height of 305 meters (1,000 feet), a first FM service would be provided to an area of 1,165 square kilometers (450 square miles) with a population of 4,574, and a second FM service to an area of 1,575 kilometers (608 square miles) with a population of 8,124. Since at night an AM station covers nearly all of the area within the FM service area no significant first aural service would be provided. However, a second aural service would be provided to an area of 1,165 square kilometers (450 square miles) with a population of 4,574. In comparison, a Class A station operating in Florence would provide a first service to an area of 140 square kilometers (54 square miles) with a population of 393 persons and a second FM service to an area of 186 square kilometers (72 square miles) with a population of 698 persons.

6. Ordinarily a Class A channel would be assigned to a community the size of Florence. However, Channel 284 would provide for an FM station which could render significant first and second FM service in addition to providing a second aural service to a substantial area. In light of this and since Florence would receive its first local aural service and alternate channels are available for assignment to the communities without FM assignments located in the precluded areas, we believe the public interest would be served by assigning Channel 284 to Florence, Oregon.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, *It is ordered*, That effective September 16, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the city listed below:

City	*Channel No.*
Florence, Oregon	284

9. *It is further ordered*, That this proceeding is terminated.

[1] Population figures are taken from the 1970 U.S. Census.

[2] California: Crescent City (pop. 2,586); Oregon: Altamont (15,746); Fruitdale (2,655); Myrtle Creek (2,733); Myrtle Point (2,511); Reedsport (4,039); South Medford (3,497); Sutherlin (3,070); Winston (2,468).

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-22922 Filed 8-8-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Final Supplemental Regulations Frameworks for Shooting Hours for 1977-78 Early Hunting Seasons on Certain Migratory Game Birds in the Contiguous United States, Alaska, and Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final shooting hours frameworks, that is, the outer limits for hours when shooting may begin and end, for early season migratory bird hunting regulations. The Service must annually prescribe shooting hours frameworks to States. Shooting hours were excluded from the final regulations frameworks for 1977-78 early hunting seasons on certain migratory game birds in the contiguous United States, Alaska, and Hawaii pending the expiration of a public comment period on a draft environmental assessment on shooting hours. The Service has reviewed and considered all public comments on that draft environmental assessment on shooting hours. A final environmental assessment was prepared taking into consideration the comments received. On August 1, following a review of this final environmental assessment, the Director signed a negative declaration on the final environmental assessment of the proposed shooting hours regulations, concluding that the proposed action to allow migratory bird hunting within the hours of one-half hour before sunrise until sunset is not a major Federal action which could significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, States may now select and set shooting hours within the limits of these final shooting hours frameworks for their 1977-78 early season migratory bird hunting regulations.

DATES: Effective on August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240, telephone 202-343-8827.

SUPPLEMENTARY INFORMATION: On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking, dealing specifically with final frameworks (including shooting hours) relating to migratory game bird hunting in Puerto Rico and the Virgin Islands during the 1977-78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized States could select season dates and daily bag and possession limits for 1977-78 seasons. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a fifth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977-78 seasons. The present final rulemaking is the sixth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977-78 season. Final rulemaking for shooting hours for early season migratory game bird hunting was deferred until the completion of a final environmental assessment for proposed shooting hours regulations.

BACKGROUND INFORMATION

As noted in the July 22, 1977, FEDERAL REGISTER, Defenders of Wildlife brought suit against the Secretary of the Interior et al. in U.S. District Court, Washington, District of Columbia, (Civil Action No. 76-1443), on August 3, 1976, regarding migratory game bird shooting hours starting one-half hour before sunrise and ending at sunset. Details of the litigation and Judge Gerhard A. Gesell's declaration and instruction to the U.S. Fish and Wildlife Service were described in that FEDERAL REGISTER document (42 FR 37552).

A public hearing was held in Washington, D.C., on June 21, 1977, as announced in the FEDERAL REGISTER on May 25, 1977 (42 FR 26709), in which proposed early season migratory game bird hunting regulations, including shooting hours.

were discussed. The public was invited to participate in the hearing and/or submit written statements.

In the 1977–78 regulatory cycle, the Service set forth its rationale for its proposed shooting hours in the March 10 FEDERAL REGISTER (42 FR 13311) before Judge Gesell's declaration was rendered. It subsequently completed a draft environmental assessment on shooting hours and announced the availability of the draft assessment for public comment in the FEDERAL REGISTER dated July 15, 1977 (42 FR 36495). In preparing the environmental assessment, the Service analyzed information from waterfowl hunter observation surveys, wing collection survey receipts, and other sources. The Service actively solicited comments on the draft assessment and delivered copies of the assessment to the plaintiffs in last year's lawsuit and other environmental groups. Also, a biological opinion was issued as a result of section 7 consultation under the Endangered Species Act of 1973. This opinion resulted from over 500 man hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management on the impact of migratory game bird hunting on endangered and threatened species.

In order to comply with the procedural requirements of the National Environmental Policy Act and Judge Gessel's order, the Service delayed publishing final frameworks for shooting hours relating to the early season regulations until the comment period on the shooting hours draft environmental assessment closed on July 25, 1977. Following a review of information and data in the assessment and consideration of public comments on the assessment, a final environmental assessment on shooting hours was completed on August 1, 1977. Based on that final assessment on shooting hours, the Director concluded that hunting hours beginning one-half hour before sunrise and ending at sunset for all seasons, with the exception of the September teal season when shooting hours begin at sunrise and end at sunset, do not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. The Director also determined that such shooting hours do not jeopardize the continued existence of endangered or threatened species nor are contrary to the conservation programs for those species.

REVIEW OF PUBLIC COMMENT AND THE SERVICE RESPONSE TO SAME

A total of 46 written comments on shooting hours as proposed in the various FEDERAL REGISTER publications (March 10, May 25, and July 5, 1977) were received as of July 15, 1977. These comments were tabulated and summarized in the July 22, 1977, FEDERAL REGISTER (42 FR 37552).

A total of 4 written comments on the draft environmental assessment on shooting hours published July 15, 1977 (42 FR 36495) were received as of July 25, 1977. Five additional written comments were received between July 26 and August 1. Although some comments were received after the close of the comment period, they were, nevertheless, considered in preparing the final environmental assessment for proposed shooting hours regulations.

Extensive written comments were received from the Wildlife Management Institute; the International Association of Fish and Wildlife Agencies on behalf of the fish and game agencies of each State; the Fund for Animals, Inc.; and the Executive Director of The Wildlife Society by the closing of the comment period (July 25). Other extensive comments were received from Defenders of Wildlife and the National Audubon Society after the comment period, but were considered prior to this final rulemaking.

Defenders of Wildlife (hereinafter Defenders) expressed the view that the draft environmental assessment failed to comply with the Court's instruction to consider the impact of early morning and late afternoon shooting hours on protected species because it did not relate the numbers of birds shot at particular hours to the species which are to be protected and to their population numbers, and because it contains no additional information regarding the amount of light necessary to make identifications. The final environmental assessment was expanded to provide more detailed analysis and discussion of the impact of shooting, during all periods of the day, upon populations of specific protected migratory game and nongame birds. The assessment shows that only a fraction of one percent of the harvest throughout the entire day consisted of protected waterfowl and non-waterfowl species, and only a fraction of this occurred during the 90-minute period in dispute.

The Service has already presented and discussed available information on the amount of light at various times of the day in relation to migratory bird hunting. The Service decided not to undertake additional studies on the amount of light necessary to make identifications during early morning and late afternoon hunting unless the assessment indicated that there was a significant problem associated with hunting at these times, or at other times of the day, that resulted in an adverse impact on the populations of protected waterfowl and non-waterfowl species or endangered species. In light of the inconsequential take of protected species during all hours of the day, it was decided that further studies on illumination in relation to species identification were unnecessary. It is therefore the view of the Service that the assessment complies with the Court's directive. The Wildlife Management Institute also commented upon the impact of shooting hours on protected waterfowl, and their comments were considered in revising the assessment.

Defenders and some other respondents stated the view that the sample size obtained by hunter performance surveys was small and the conclusions tentative. The Service believes that the sample was actually quite large (5,417 hunts were completely observed during an 8-year period) and the data very strong. The sample size is large enough to draw reasonable conclusions regarding the extent to which any shooting of protected species occurs.

Defenders questioned the representativeness of the hunter performance surveys, expressing the view that observers were subject to the same visibility restrictions as the hunters, that the observations were not concentrated in areas where protected species might be shot, and that combining years in which varying hunting regulations were applied precluded such an analysis. The Service notes that: (1) In cases where the observer had doubt about the identification of a particular shot bird, he confirmed the identification by checking birds possessed by the hunter immediately after the conclusion of the hunt. (2) The original purpose of the hunter performance surveys was to evaluate hunter performance in regard to waterfowl hunting regulations. Consequently, observations focused on areas of high hunting activity and success. The results likely reflect a higher incidence of the taking of protected species than would have been revealed had the observations been randomly distributed in both productive and unproductive hunting areas or in field shooting situations where hunters had little opportunity to shoot a species other than field feeding waterfowl. (3) The assessment was revised to more adequately reflect the impact of different years and geographic distribution of the various species upon the results presented in the draft assessment.

Defenders expressed the view that it is highly unlikely that hunters will keep a mistakenly shot protected species in the bag so that the validity of the observations is not necessarily confirmed by using a bag check. The Service was aware of this possibility when the observations were made. The Service is of the view that since hunters, unknown to themselves, were under direct observation, it is highly unlikely that they would have been able to dispose of bagged birds during the course of their hunts without the knowledge or suspicion of the observer, to such an extent as to provide reasonable grounds for questioning the accuracy of the findings derived from the observations. Since the intent of the Service in conducting the observations was to evaluate compliance with the hunting regulations, and the results were compiled, summarized, reviewed, and discussed annually for each of the eight years, it is highly unlikely that had this been a significant problem it would have gone unnoticed and unquestioned until now.

Defenders expressed the view that hunter performance survey data is inadequate in regard to the shooting of endangered species because the observations predate the Endangered Species Act of 1973. A review of the footnotes to Tables 4–6 reveals that no species presently listed as endangered or threatened was observed being shot during the period 1965–1972. The Service notes that under the Migratory Bird Treaty Act, it is illegal to shoot any migratory bird covered by any of the Migratory Bird Treaties unless specifically authorized in migratory bird hunting regulations. Thus, observers were instructed to record the shooting of any of these species including those that subsequently may have been classified as endangered. Thus, for example, if an observer had witnessed the shooting of a whooping crane in 1969 (an endangered species under the 1966 and 1969 Endangered Species Acts), it would have been in violation of the Migratory Bird Treaty Act, and would have been recorded during the hunter performance observations. It is therefore irrelevant that the taking prohibitions under the 1973 Endangered Species Act were not in existence during the data base years because the Migratory Bird Treaty Act already accorded endangered species such as the whooping crane "protected" status. Further, observers recorded the shooting of any birds whether covered by the treaty or not. For example, raptors were not covered under any of the Migratory Bird Treaties until 1972. Nevertheless, the shooting of hawks when and if observed was noted in the hunter performance observation studies.

Defenders expressed the view that the thrust of the assessment was too narrow because it allegedly focused only on the issue of "jeopardy" under section 7 of the Endangered Species Act of 1973. However, page 2 of the assessment specifically states that the purposes and objectives of the migratory bird hunting program is to "avoid the taking of endangered or threatened species so that their continued existence is not jeopardized and their conservation enhanced." Thus the focus of the assessment is broader than Defenders suggests and is in accord with the concept that conservation efforts for listed species should not be undermined by migratory bird hunting.

Further, the draft environmental assessment was supplemented by three additional studies on the impact of migratory bird hunting on endangered species. Two of these studies were conducted by the Office of Migratory Bird Management and one by a consultation team formally established under section 7 of the Endangered Species Act of 1973. The team did not limit their review to the "jeopardy" issue alone, but also considered the impact of migratory bird hunting upon the overall conservation programs established for listed species. As noted in the concluding paragraph of the consultation team's biological opinion (Attachment #3 to the Assessment), the "early season" regulations, including twilight shooting hours, do not jeopardize the continued existence of listed species nor undermine the various conservation efforts for those species. The Service is of the view that the environmental assessment, as supplemented by the 3 reviews under section 7, extensively analyzes the impact of hunting on endangered and threatened species as instructed by the Court.

Defenders commented that the draft assessment did not include a thorough discussion of bag limit violations and the alleged "overkill" that results. In response to this comment, the discussion of legal waterfowl shot in excess of the daily bag limit was expanded in the final assessment.

Several respondents expressed the view that the discussion in the section relating to social considerations was too limited. Consequently, the discussion was expanded in the final assessment in consideration of these views.

Several respondents suggested that varying shooting hour frameworks could be employed to control depredations, to reduce the kill of protected species in specific habitat types, or to further the specific management objectives of certain portions of the regulations. The discussion of Economic Impacts was not was expanded to include this possibility and its probable impacts.

Defenders expressed the view the discussion of Economic impacts was not supported by sufficient evidence. The Service notes that this subject was thoroughly described in the "Final Environmental Statement for the issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" and it was deemed unnecessary to repeat here.

Comments on the environmental assessment on shooting hours are available for public inspection during normal business hours at the Service's Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 2243, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241). The final environmental assessment on shooting hours supplements the discussion on shooting hours in FES 75–54.

COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Compliance with the Endangered Species Act, insofar as early season regulations frameworks are concerned, was described in detail in the FEDERAL REGISTER dated July 22, 1977 (42 FR 37552).

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species at 1612 K Street, NW., Room 1100, Washington, D.C., and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior Building, Room 2243, 18th and C Streets NW., Washington, D.C. 20240, or may be obtained by mail from these addresses.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

REGULATIONS PROMULGATION

The Rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, and July 5, and the environmental assessment on shooting hours was made available for public comment on July 15, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their shooting hours; to communicate those selections to the Service; and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these shooting hours frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final supplemental early season frameworks for shooting hours as follows:

Migratory game birds, except as noted below: One-half hour before sunrise until sunset daily.

Teal in September (see page 37557 of the July 22, 1977, FEDERAL REGISTER): Sunrise until sunset daily.

Mourning doves in the Eastern Management Unit (see page 37555 of the July 22, 1977, FEDERAL REGISTER): Twelve noon until sunset daily.

ECONOMIC IMPACT REVIEW

The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Issued in Washington, D.C., August 4, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-22970 Filed 8-8-77;8:45 am]

PART 26—PUBLIC ACCESS, USE, AND RECREATION

Opening of Unimak Island, Aleutian Islands National Wildlife Refuge, Alaska, to Public Access, Use and Recreation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access,

use, and recreation of Unimak Island, Aleutian Islands National Wildlife Refuge, with certain restrictions as delineated below under Supplementary Information, is compatible with the objectives for which the area was established, and will provide recreational opportunity to the public.

DATE: From August 9, 1977, thenceforth until amended.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, U.S. Fish and Wildlife Service, Pouch 2, Cold Bay, Alaska 99571.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special Regulations; public access, use and recreation: for individual wildlife refuge areas.

Public access, use, and recreation is permitted on Unimak Island, Aleutian Islands National Wildlife Refuge, on a year round basis, and shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Except in the event of emergency, the landing of aircraft is permitted only in the following areas:

A. The airstrip at the village of False Pass.

B. The airstrip at the Cape Sarichef Coast Guard Station.

C. The waters of all lakes, bays, and lagoons on or adjacent to Unimak Island.

2. Overflights by aircraft of less than 1,000 feet above ground level are prohibited.

3. The use of motorized vehicles is restricted to the established road system.

4. The use of boats driven by air thrust, commonly known as airboats, and jet boats is prohibited.

The provisions of this special regulation supplement the regulations which govern public use on wildlife refuge areas generally, which are set forth in Title 50 Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 1, 1977.

JOHN SARVIS,
Refuge Manager.

[FR Doc.77-22828 Filed 8-8-77;8:45 am]

PART 32—HUNTING

Opening of Sherburne National Wildlife Refuge, Minnesota to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to public hunting of Sherburne National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: September 17, 1977 through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Route 2, Zimmerman, Minnesota 55398, Phone 612-389-3323.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of ruffed grouse, pheasant, grey and fox squirrels, rabbits and hares, raccoon, fox and skunk on the Sherburne National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 18,360 acres, is delineated on a map available at refuge headquarters, Route 2, Zimmerman, Minnesota 55398 and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game subject to the following special conditions:

1. All night hunting is prohibited.
2. All motorized conveyances are prohibited from traveling off of established roads and parking areas open to such travel.
3. Parking of vehicles is restricted to designated parking areas.
4. Practice and target shooting, overnight camping and open fires are prohibited.
5. Construction or use of any permanent artificial scaffold, platform, blind or other construction is prohibited.
6. Boats, without motors, may be used on the St. Francis River only from designated river access sites.
7. Snowmobile operations are prohibited on the refuge except within the rights-of-way of County Roads 4, 5, 9, 11 and 48.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

JOHN E. WILBRECHT,
Refuge Manager.

JULY 28, 1977.

[FR Doc.77-22946 Filed 8-8-77;8:45 am]

PART 32—HUNTING

Opening of Sherburne National Wildlife Refuge, Minnesota to Public Hunting of Big Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of Sherburne National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: October 1, 1977 through December 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Route 2, Zimmerman, Minnesota 55398, Phone 612-389-3323.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Sherburne National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. The open area, comprising 18,360 acres, is delineated on a map available at the refuge headquarters, Route 2, Zimmerman, Minnesota 55398, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. All motorized conveyances are prohibited from traveling off of established roads and parking areas open to such travel.
2. Parking of vehicles is restricted to designated parking areas.
3. Practice and target shooting, overnight camping and open fires are prohibited.
4. Construction or use of any permanent artificial scaffold, platform, blind or other construction is prohibited.
5. Boats, without motors, may be used on the St. Francis River only from designated river access sites.
6. Snowmobile operations are prohibited on the refuge except within the rights-of-way of County Roads 4, 5, 9, 11 and 48.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JOHN E. WILBRECHT,
Refuge Manager.

JULY 28, 1977.

[FR Doc.77-22947 Filed 8-8-77;8:45 am]

PART 33—SPORT FISHING

Opening of Medicine Lake National Wildlife Refuge, Montana to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to Sport Fishing of Medicine Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: October 1, 1977 through September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Jay R. Bellinger, Medicine Lake, MT 59247, Telephone Number AC 406-789-2305.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing by rod, reel, pole, set lines and spear, including use of live bait on the Medicine Lake National Wildlife Refuge, Montana, only on the areas designated by signs as being open to fishing. These areas comprising 9,350 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 3035, 316 North 26th Street, Billings, Montana 59101. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Driving off improved roads or established trails is prohibited.
2. All islands in Medicine Lake proper are closed to trespass throughout the entire year.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33 The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11049 and OMB Circular A-107.

JAY R. BELLINGER,
Refuge Manager.

JULY 14, 1977.

[FR Doc.77-22948 Filed 8-8-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 76N-0019]

PART 801—HEARING AID DEVICES

Professional and Patient Labeling and Conditions for Sale; Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Stay of effective date of final rule.

SUMMARY: The Commissioner of Food and Drugs is staying until August 25, 1977, pending judicial review, the effective date of the regulations that establish professional and patient labeling and conditions for sale of hearing aids.

EFFECTIVE DATE: Sections 801.420 and 801.421 (21 CFR 801.420 and 801.421) shall be effective August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth C. Baumgartner, Office of General Counsel (GCF-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1345.

SUPPLEMENTARY INFORMATION: The Commissioner, in a final rule published in the FEDERAL REGISTER of February 15, 1977 (42 FR 9286), issued regulations under §§ 801.420 and 801.421 establishing uniform professional and patient labeling requirements and conditions for sale of hearing aid devices. The regulations prescribe the types of information that must be included in the labeling to provide hearing health professionals and patients with adequate directions for the safe and effective use of a hearing aid; specify the technical performance data that must be included in the labeling to ensure that hearing health professionals have adequate information to select, fit, and repair a hearing aid for a patient; and restrict the sale of a hearing aid to those patients who have undergone medical evaluation within the past 6 months, but with a provision that fully informed adult patient (18 years of age or older) may waive the medical evaluation because of personal or religious beliefs. The regulations were scheduled to become effective on August 15, 1977.

On July 29, 1977, a lawsuit was filed in the United States District Court for the District of Columbia seeking a declaratory judgment concerning the validity of the regulations and requesting a temporary injunction pending judicial review of the complaint. *American Speech and Hearing Association, et al. v. Joseph A. Califano, Jr., et al.*, Civil Action No. 77-1327. The court has requested a stay of the effective date of the regulations to consider the merits of the lawsuit.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201 (h), (k), (m), (n), 502, 519, 520(e), 701(a), 704, 52 Stat. 1040-1041 as amended, 1050-1051 as amended, 1055, 67 Stat. 477 as amended, 90 Stat. 564-565, 567 (21 U.S.C. 321 (h), (k), (m), (n), 352, 360i, 360j(e), 371(a), 374)) and under authority delegated to the Commissioner (21 CFR 5.1), the provisions of §§ 801.420 and 801.421 are stayed until August 25, 1977.

Dated: August 5, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23118 Filed 8-8-77;9:29 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reestablishes under Schedule C one position of Deputy Associate Director for Congressional Relations.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373(d)(3) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(d) *Office of Congressional Relations.*

* * *

(3) Deputy Associate Director for Congressional Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23130 Filed 8-8-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1133]

MILK IN INLAND EMPIRE MARKETING AREA

Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Suspension of Rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Inland Empire milk marketing order. The provisions relate to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. Suspension of the provisions was requested by a cooperative association to help it continue the association of members' milk with the order. The proposed suspension would be for September, October and November 1977.

DATE: Comments are due on or before August 18, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Inland Empire marketing area is being considered for the months of September, October and November 1977.

All persons who desire to submit written data, views or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 10 days from the date of publication of this notice in the Federal Register. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

1. In § 1133.13(c)(1) and (2), the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August,".

STATEMENT OF CONSIDERATION

The proposed action would increase the limit on the amount of producer milk that a cooperative association or other handlers may divert from pol plants to nonpool plants during the months of September through November 1977. In the case of a cooperative, the limit would be increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the milk received at or diverted from such pool plant from producers who are not members of a cooperative that has diverted milk.

The suspension with respect to diversions by cooperatives was requested by a cooperative association that supplies the market with a substantial part of its fluid milk needs and handles much of the market's reserve milk supplies. The basis for the request was that a substantial increase in milk production by producers supplying the market coupled with a decline in fluid milk sales will make it necessary for the cooperative to divert to nonpool plants more reserve milk supplies beginning in September than normally. Without the suspension, the cooperative expects that some of the milk of its member producers who have regularly supplied the fluid market will be excluded from the pool beginning in September. The cooperative asked for the suspension on an interim basis pending an opportunity to review the diversion provisions at a hearing.

As proposed by petitioner, the suspension would apply only to cooperatives. In view of the supply-demand situation in the market, it would appear that proprietary plants may have a similar need for less restrictive diversion provisions. Accordingly, it is proposed herein that the suspension apply also to proprietary handlers who may be receiving nonmember milk.

Signed at Washington, D.C., on August 4, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-22869 Filed 8-8-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1435]

PRICE SUPPORT PAYMENT PROGRAM FOR 1977-CROP SUGAR

Extension of Comment Period

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Extension of final date to receive comments on proposed rule.

SUMMARY: The purpose of this notice is to further extend the time allotted for comments on the proposed sugar payments program. This action is being taken at the request of the corn refining industry.

DATE: Additional comments must be received on or before August 15, 1977, to be sure of receiving consideration.

ADDRESS: Mail comments to Chairman, Sugar Task Force, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr., 202–447–5735.

SUPPLEMENTARY INFORMATION: On June 14, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (42 FR 30409) to advise that the Secretary of Agriculture proposes to establish a price support payments program beginning with the 1977 crop of sugar, and to provide that any written comments must be received on or before July 14, 1977. On July 13, the period for comments was extended to August 1, 1977, at the requests of sugar industry representatives; a notice to this effect was published on July 22 in the FEDERAL REGISTER (42 FR 37576). The Department has now received a formal request from a representative of the corn refining industry to further extend the date to permit his organization to take into account possible developments in the Congress and Executive Branch before submitting comments on the Department's proposal. Since such developments could have a significant impact on the proposed program, the comment period is being extended to assure all interested parties adequate opportunity to prepare written comments. Prior to adopting the program, the Department will give consideration to comments submitted in writing within the comment period, as extended to the Chairman, Sugar Task Force. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3639, South Building, 14th and Independence Avenue SW., Washington, D.C. (7 CFR 1.27 (b)).

Signed at Washington, D.C., on August 2, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-22829 Filed 8-8-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER APPLIANCES

Extension of Written Comment Period

AGENCY: Federal Energy Administration.

ACTION: Notice of extension of written comment period.

SUMMARY: The Federal Energy Administration gives notice of an extension of the written comment period relating to the establishment of procedural regulations for one aspect of the energy conservation program for consumer appliances. These proposed regulations deal with the submission and disposition of petitions requesting the Administrator to prescribe a rule to supersede a state appliance energy use of efficiency regulation. These petitions may be submitted under the Energy Policy and Conservation Act. FEA will receive written comments for an extended period beyond that originally stated. Fifteen copies are to be submitted.

DATE: Comments by August 22, 1977.

ADDRESSES: Comments to Room 3317, Federal Energy Administration, Box ND, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–4635.

James K. White (Office of the General Counsel), Room 5113, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202–566–9380.

SUPPLEMENTARY INFORMATION: By notice issued on June 8, 1977 (42 FR 30206, June 13, 1977), the Federal Energy Administration (FEA), proposed to amend Part 430 to Chapter II of Title 10 of the Code of Federal Regulations to establish a new subpart D. The proposal would establish procedural regulations for the submission and disposition of petitions for prescription of rules to supersede State appliance energy use or efficiency regulations. Such petitions are specifically authorized by section 327 (b)(1) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). A public hearing on the proposed procedures was held on July 15, 1977. At that hearing, a number of issues were raised concerning the criteria, delineated in proposed section 430.43(d)(2), for judging the burden imposed by the State regulations on interstate commerce and the State's interest in those regulations. The proposed data requirements were criticized by industry representatives on a number of grounds, including the following:

1. They require confidential pricing and other information.
2. They are burdensome as to time and cost.
3. Some items are unavailable, e.g., retail prices.
4. Because of their technical nature, they tend to exclude individual manufacturers from petitioning.
5. They raise significant anti-trust questions for trade associations petitioning on behalf of members.
6. Some items were poorly or incompletely described, particularly paragraph 430.43(d)(2)(x) of the proposed regulations relative to the state interest issue.

Respondents, however, were not prepared during the public hearing to describe alternative factual information that would eliminate their objections and satisfy the legal requirements of section 237(b)(1). Since the respondents stated that such alternative factual information could be provided, the written comment period is being extended for this purpose.

In providing alternatives to the proposed section 430.43(d)(2), commenters should discuss how the alternative criteria will provide adequate notice of the basis of a disposition of a petition. Commenters presenting alternatives should also discuss how such alternative criteria satisfy the legal meaning of the phrases "undue burden" and "State interest." Because a significant portion of a petition relating to "undue burden" and "State interest" will be the presentation of economic data, the comments should indicate the anticipated sources and method of collection of such data. In considering these data requirements, it should be recognized that the regulations anticipate the submission of petitions from transporters, retailers and distributors, as well as appliance manufacturers and associations. It is expected that economic data presented to FEA submitted would include, but not be limited to, financial constraints (capital and inventory), material scarcity (domestic and imports), market restructing, alteration of existing distribution patterns and, with respect to State interests specifically, environmental impacts, energy impacts of State regulations and other quantifiable impacts.

Comments should also evaluate each proposed alternative provision in accordance with the six criticisms identified above. States are particularly encouraged to comment on the factors which would be relevant to determining a State's interest in regulating consumer product energy efficiency. For both the State interest and undue burden questions, references to any case law in which these standards were discussed would be appropriate.

Issued in Washington, D.C., August 3, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22808 Filed 8-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 500]

[Docket No. 76N–0286]

NEW ANIMAL DRUGS

Bovine Teat Dips

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This document proposes to require that articles intended for use as teat dips on bovine dairy animals be subject to approved new animal drug applications (NADA's). This proposal is made because teat dips are deemed to be new animal drugs requiring approved NADA's. Interim marketing provisions are also proposed.

DATES: Comments by October 11, 1977.

ADDRESSES: Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard Meyers, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–3183).

SUPPLEMENTARY INFORMATION: Bovine teat dips are widely used in the dairy industry as sanitizers for preventing the spread of mastitis organisms such as various streptococcus and staphylococcus species. The term teat dip includes, but is not limited to, solutions, emulsions, sprays, creams, and ointments intended for preventing the spread of mastitis. Active ingredients of such articles generally include chlorides, iodides, and bromides, as well as quaternary ammonium compounds; they may or may not contain emollients. Teat dips are usually recommended for use after milking and are intended to prevent the spread of mastitis in the bovine dairy herd.

Use of bovine teat dips is widely recommended by Federal, State, and local agencies concerned with mastitis control and milk quality. They are also recommended for use by the National Mastitis Council, Inc., an organization whose members consist of representatives of various regulatory agencies, the veterinary medical profession; universities, milk producers and processors, and firms engaged in the production and distribution of articles used in the dairy industry.

Postmilking dipping of teats in an effective, nonirritating residual germicide, coupled with dry cow therapy, has been proven to be an effective means of mastitis control, as reported by the 1975 Report of the Committee on Mastitis of the U.S. Animal Health Association.

Teat dips have not been shown in all cases, however, to be of uniform effectiveness. The following published articles are cited and on file with the Hearing Clerk:

An article in the Journal of dairy Science, 58:209, 1974, by Philpot and Pankey, reported that 59 teat dips tested against untreated controls demonstrated a variation ranging from a 98.2 percent reduction to a 14.7 percent increase of *Streptococcus agalactiae*, a common pathogen in bovine mastitis. Approximately 20 percent of the teat dips yielded a low activity. An abstract and condensation of the article appears on page 95 of Dairy 1975 Research Report of the North Louisiana Hill Farm Experiment Station, Homer, Louisiana. Another article in the Journal of Dairy Science, 58:205, by Philpot and Pankey, reported the lack of efficacy of oil-based teat dips. This article is also abstracted and condensed and appears on page 89 in the same Louisiana Dairy 1975 Research Report. The Journal of Milk Food Technology, 38(3):132–134, March 1975, has an article by W. D. Schultze, et al., of the U.S. Department of Agriculture, on the efficacy of a commercial iodine-in-oil teat dip. The article reported that at higher iodine concentration, use of the teat dip had no effect on incidence of new infection: at the lower concentration, the teat dip was associated with an increase in new infection by *Staphylococcus aureus*.

The Commissioner of Foods and Drugs has also received complaints that teat dips injure animals. Injuries to dairy cows have been reported: An article in the Journal of the American Veterinary Medical Association, 155(2):162, July 15, 1969, by Roberts, et al., on "Concepts and Recent Developments in Mastitis Control," states that some chlorine preparations on the market have a high sodium hydroxide content and that they are highly irritating; also, some iodophors can cause severe irritation.

Contamination of the milk has been shown to occur from use of teat dips. An article in Acta Veterinaria Scandinavica (a Swedish journal), 14:338–340, 1973, on "The Effect of a Postmilking Teat Dip on the Iodine Concentration of Bulk Herd Milk" concludes that if teat dipping with iodophor disinfectants became common, there would be a considerable increase in the iodine content in dairy milk and an increase of the iodine intake of the milk-consuming population. A similar finding of an increase in iodine content in dairy milk after use of an iodophor teat dip was reported in Journal of Dairy Science, 58(5):752, 1975.

Teat dips were formerly subject to the preclearance provisions of section 408 of the act (21 U.S.C. 346a) and after December 1970 became subject to the jurisdiction of the Environmental Protection Agency (EPA) pesticide programs. The "Federal Environmental Pesticide Control Act of 1972" excluded from EPA coverage articles used as sanitizers on or in living man or another animals (Pub. L. 92–516, sec. 2). Before this enactment, the Food and Drug Administration (FDA) under the authority of the Federal Food, Drug, and Cosmetic Act, and EPA under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act had shared responsibility for regulation of marketing and use of teat dips. Since EPA no longer regulates marketing and use of teat dips, FDA is now the sole Federal agency responsible for their marketing and use.

Because teat dips are used or intended for use for preventing the spread of organisms that cause mastitis infections in milk-producing dairy cows, such articles are drugs as defined in section 201(g)(1)(B) of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 321(g)(1)(B)). Since such articles have also been shown in some instances to be ineffective, irritating, and capable of causing of unsafe residues in milk from treated cows, they are not generally recognized as safe and effective and therefore are deemed to be new animal drugs as defined in section 201(w) of the act (21 U.S.C. 321(w)). Therefore, approved NADA's are required for bovine teat dip products.

Based on an evaluation of the data currently available, the Commissioner concludes that teat dips are not required to be immediately withdrawn from the market pending NADA approval. The Commissioner further concludes, however, that this evaluation has raised questions whether each such drug is safe and effective under the labeled conditions of use. Additional data and information are required to make a final determination. The Commissioner is aware of no adequate and well-controlled studies that provide substantial evidence of effectiveness for therapeutic use of teat dips on bovine animals.

The Commissioner has determined that the following procedures shall apply to those firms currently engaged in the manufacture and distribution of teat dips requiring an approved NADA:

Persons currently marketing bovine teat dips shall, within 60 days after the effective date of a regulation based on this proposal, submit a new animal drug application (NADA) meeting the requirements of 21 CFR 514.1. Each application shall include upon submission either adequate data to establish that the animal drug is safe and effective, or protocols for and a written commitment to generate such data and to submit quarterly reports demonstrating progress. Studies establishing safety and effectiveness for the target species and meeting the requirements of 21 CFR 514.1 must be submitted within 1 year after submission of the application.

Studies to establish human safety, and meeting the requirements of 21 CFR 514.1, must be submitted within 2½ years after submission of the application. Interim marketing of articles that are the subjects of applications filed pursuant to the final regulation may continue only for 3 years and 60 days after the effective date of a final regulation based on this proposal. No new teat dips may be placed on the market after a date 60 days after the effective date of a final regulation unless they are the subject of an approved new animal drug application filed in accord with paragraphs (d) and (e) of the final regulation.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Copies of the scientific articles referenced in this document are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commisisoner (21 CFR 5.1), it is proposed that Part 500 be amended in Subpart B by adding new § 500.38 to read as follows:

§ 500.38 Bovine teat dips.

(a) Teat dips are articles generally recommended for use on dairy animals after milking; they are primarily intended to prevent the spread of mastitis in dairy herds. The term teat dip includes, but is not limited to, solutions, emulsions, sprays, creams, and ointments intended to prevent the spread of mastitis. Teat dips are articles that are labeled or otherwise intended for use in the control and reduction of microorganisms in or on bovine dairy animals. Therefore, such articles are drugs within the meaning of section 201(g) of the Federal Food, Drug, and Cosmetic Act.

(b) Because of questions raised regarding the safety and effectiveness of teat dips, they are deemed to be drugs that are not generally recognized as safe and effective and are therefore new animal drugs within the meaning of section 201(w) of the act.

(c) Teat dips for use on bovine milk-producing dairy animals are considered new animal drugs and shall be the subject of new animal drug applications (NADA's).

(d) Any person currently marketing a teat dip(s) shall, within 60 days after the effective date of a regulation based on this proposal, submit a new animal drug application. Such application shall include all the information required by § 514.1 (21 CFR 514.1), except that applications submitted that do not include the required information regarding the safety and efficacy of the drug shall include in lieu thereof protocols upon the basis of which the applicant proposes to establish that the drug is safe and effective. The protocols shall be accompanied by a commitment to carry out the required studies.

(e) Following the submission of an application pursuant to paragraph (d) of this section, the applicant shall submit:

(1) Within 1 year, data establishing that teat dips are safe and effective for the treated animal.

(2) Within 2½ years, data to establish the safety of residues in food for human consumption from the use of such drugs. The data shall include residue depletion studies, basic toxicological data to establish the safety of any required tolerance, and a method of analysis appropriate for the regulatory control of any required tolerance.

(f) Progress reports describing the status of ongoing studies shall be submitted every 3 months from the date of submission of the application.

(g) After the date 60 days following the effective date of a final regulation based on this proposal, teat dips that are introduced into interstate commerce shall be deemed to be adulterated within the meaning of section 501(a)(5) of the act unless:

(1) Such animal drug is the subject of an approved new animal drug application, or:

(2) Such animal drug is the subject of an application submitted pursuant to paragraph (d) of this section; and, the applicant is submitting data and progress reports pursuant to the requirements of paragraph (e) and (f) of this section.

(h) New animal drug applications and data required by this regulation shall be submitted to the Food and Drug Administration, Bureau of Veterinary Medicine, Associate Director for Scientific Evaluation, HFV–100, 5600 Fishers Lane, Rockville, Md. 20857.

Interested persons may, on or before October 11, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m. Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-22825 Filed 8-8-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

BUSINESS REPLY MAIL

Format Requirements

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend postal regulations to set out specific, measured format requirements for business reply mail (BRM). Mailers would be permitted to use existing BRM stocks which do not conform to the revised format requirements until July 1, 1978, except for Airmail BRM, which may be used until May 1, 1979. At the present time there may be as many BRM formats as there are BRM permit holders, despite the fact that postal regulations require adherence to distinctive, alternative formats pictured in the regulations. This proposed regulation change is intended to eliminate deviations from the prescribed BRM format so that BRM mail may be recognized readily (as it was designed to be) by postal employees who must separate it from the mailstream to collect postage and fees. In addition, the proposed new format would leave two clear areas on the address side of BRM pieces for markings which could activate mail processing facing, cancelling and sorting machinery.

DATE: Comments must be received on or before September 10, 1977.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Eugene R. McGill, 202–245–4749.

SUPPLEMENTARY INFORMATION: Under the provisions of 39 CFR 111.3 the Postal Service proposes to amend 131.234 of the Postal Service Manual as explained above, to ad a new 131.235 picturing the revised BRM format, and to ad a new 131.236 providing that samples of BRM pieces must be submitted for inspection to the post office issuing the permit before they may be distributed. Existing 131.235 and .236 would be redesignated .237 and .238 respectively.

PROPOSED PROHIBITION OF AIRMAIL BRM STATIONERY AFTER MAY 1, 1979

The Postal Service is required to permit use of domestic airmail stationery (cards and envelopes) for all first class mail categories until May 1, 1979, and to give at least six months notice of a change in the policy to permit such use. The proposed rule would forbid use of airmail BRM stationery after May 1, 1979, as to which comments are solicited. Formal notice of a change in the present policy of permitting use of airmail BRM stationery and the use of airmail embossed cards and envelopes and standard airmail envelopes in prepaid first class mail will be given at a later date.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 131—FIRST CLASS

In 131.23 of the Postal Service Manual redesignate .235 and .236 as .237 and .238 respectively; revise .234 and add new .235 and .236 reading as follows: 131.23 Business Reply Mail.

* * * * *

.234 Format Requirements.

a. Any photographic, mechanical or electrical process or any combination of such processes, other than handwriting, typewriting or handstamping, may be used to prepare the address side of business reply mail. The background of business reply mail pieces may be any light color that allows the address, postmark and other required endorsements to be readily discerned. Brilliant colors may not be used.

b. Business reply pieces, including labels, must conform to the illustration in 131.235 and must contain the following endorsements:

(1) The *permit indicium* must be printed in the upper right corner of the address side within a box measuring at least 1 inch in length and extending no further than 1¾ inches to the left of the right edge of the mail piece. The indicium must include the words "first-class", the permit number, and the name of the issuing post office (city and state).

(2) A series of horizontal bars parallel to the bottom of the permit indicium box must be printed immediately below the permit indicium. The bars must be the length of the permit indicium and must be 1/10 to 1/8 inch thick. The spacing between the bars must be equal to the thickness of the bars. A ¾ inch clear space must be left between the bottom horizontal bar and the bottom edge of the mailing piece or label.

(3) A horizontal rectangular box measuring at least ½ inch in height and 3 inches in length must be placed to the left of and immediately below the permit indicium. The box may not touch the parallel horizontal bars. The box must contain the legend "Business Reply Mail No Postage Necessary if Mailed in the United States". The legend must

appear in the form illustrated in 131.235.

(4) The legend "Postage will be paid by" must appear immediately below the rectangular box and immediately above the address lines.

(5) The complete address, including ZIP Code, must appear in accordance with sections 122.1 and 122.2. An attention or a key line immediately above the name of the individual or firm to which the piece is addressed may be included.

(6) The upper left corner of the address side is available for use by the permit holder. This area, which is above the box reading "Business Reply Mail * * *" and to the left of the clear area, may contain logos, marketing information or other matter.

(7) A company logo may be used as part of the company name on the address side provided it is located no lower on the piece than the top of the street address or post office box line, and provided the logo does not interfere with any required business reply endorsements or extend into prescribed clear area.

c. Two clear areas must be maintained on the address side of business reply mail pieces.

(1) A horizontal rectangular area in the lower right corner measuring ⅝ of an inch in height by 4¼ inches in length.

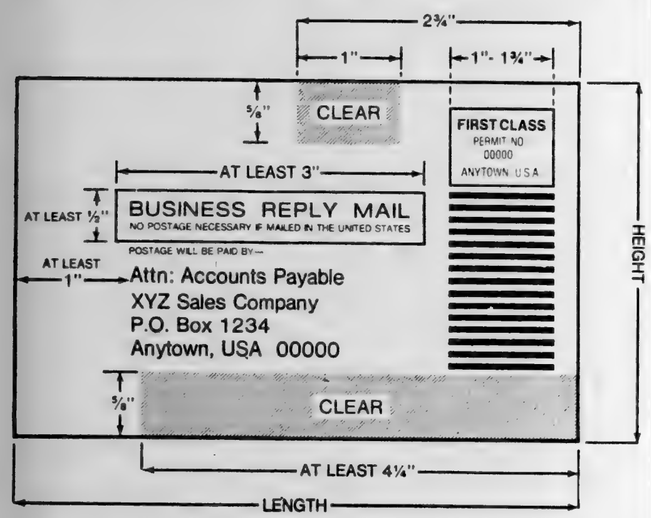
(2) A horizontal rectangular area measuring a minimum of ⅝ inch in height by one inch in length must be located along the top edge of the piece and to the left of the permit indicium. This clear area begins 2¾ inches from the right edge of the piece and extends 1 inch to the right.

d. Mailers will be given until July 1, 1978 to use existing BRM stocks which do not conform to the above format requirements, except that the use of air-mail BRM stationery is authorized until May 1, 1979.

See 131.34 for nonstandard business reply mail.

e. See 141.114g for busines reply window envelope requirements.

.235 Illustration of Business Reply Mail.



.236 Inspection. At least two weeks prior to the initial distribution of a BRM piece, two (2) samples of the piece must be submitted for inspection to the post office issuing the BRM permit. If the post office ascertains that the sample pieces do not comply with applicable postal regulations, the permit holder will be notified of the discrepancies within two weeks.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

LOUIS A. COX,
General Counsel.

[FR Doc.77-22901 Filed 8-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 774-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Revision to the Massachusetts State Implementation Plan for Pioneer Valley Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: This proposal puts forth for public comment two regulations proposed to be adopted as part of the Massachusetts State Implementation Plan for the Pioneer Valley Air Pollution Control District. The first regulation is a Stationary Source Regulation to control emissions of hydrocarbons. The second regulation proposed a program to Reduce Single Passenger Commuter Vehicle use by requiring large employers in the Pioneer Valley Air Pollution District to participate in the existing Masspool Carpooling Program currently run by the Massachusetts Executive Office of Transportation and Construction.

DATE: Comments must be received on or before September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald C. White, Chief, Mobile Source Emissions Section, Air Branch, Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203, 617-223-5630.

SUPPLEMENTARY INFORMATION: In a letter to the Regional Administrator from the Acting Commissioner of the Massachusetts Department of Environmental Quality Engineering dated May 20, 1977 the State Air Agency requested that two regulations be approved as part of the State Implementation Plan for the Pioneer Valley Air Pollution Control District. EPA is proposing to approve these regulations as submitted.

The Stationary Source Regulation is proposed to control emissions of hydrocarbons by controlling the transfer of motor vehicle fuel vapor emissions during deliveries to service stations. The regulation requires that by June 1, 1978 all service stations having stationary storage tanks with a capacity equal to or greater than 2000 gallons must have installed equipment which will prevent release to the atmosphere of no less than 90 percent, by weight, of the organic materials in the vapors. Control of emissions from petroleum storage terminals has already been approved as a statewide regulation.

The second regulation proposes that large employers in the Pioneer Valley Air Pollution Control District implement specified mandatory measures which are designed to achieve a goal of reducing the number of single-occupant commuter vehicles customarily commuting to each employment facility by 25 percent as of the base date. To achieve this reduction percentage goal these employers must take the following actions:

(a) Make available to their employees any pass program offered by the Pioneer Valley Transit Authority.

(b) Post in a conspicuous place the schedules, rates and routes of every bus which serves the facility.

(c) Publicize any applicable on-street parking restrictions.

(d) Provide incentives for bicycle commuting such as secure locking facilities.

(e) Negotiate with authorities for improved service in bus lines serving the facility.

(f) Conduct a carpooling program.

(g) Offer vanpooling opportunities at facilities of 1000 or more employees.

In addition, the regulation requires specific reporting requirements for these facilities in order that the State Air Agency can evaluate the on-going progress made through implementation of these measures towards achieving a 25% reduction in single passenger vehicle commuting.

AVAILABILITY OF INFORMATION

Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Building, Room 2113, Boston, Massachusetts 02203; the Massachusetts Division of Air and Hazardous Materials, 600 Washington Street, Boston Massachusetts 02111; and the Freedom of Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The Regional Administrator will consider all comments relating to the submittal which are received within 30 days after the date of this notice. All those who wish to ensure that their views receive formal consideration as a part of this proposal and are reflected in any record certified for judicial review must submit written comments during the comment period. All comments should be addressed to:

Mr William R. Adams Jr., Regional Administrator, Region I, Environmental Protection Agency, Room 2200, JFK Federal Building, Boston, Massachusetts 02203.

The Administrator's decision to approve or disapprove the submittal as a revision to the Massachusetts State Implementation Plan will be influenced by the comments he receives as well as by any additional technical documentation that he receives. Ultimately, the Administrator's decision will be based on whether the regulations meet the requirements of Section 110(a)(2)(A)-(H) of the Clean Air Act and EPA requirements in 40 CFR Part 51.

(Sec. 110, the Clean Air Act, as amended. (42 U.S.C. 1857c-5).)

Dated: July 25, 1977.

LESTER A. SUTTON,
Acting Regional Administrator, Region I.

[FR Doc.77-22809 Filed 8-8-77;8:45 am]

[40 CFR Part 85]

[FRL-774-5]

EMISSION CONTROL SYSTEM PERFORMANCE WARRANTY REGULATIONS

Extension of Comment Period

AGENCY. Environmental Protection Agency.

ACTION: Extension of Comment Period.

SUMMARY: This Notice extends the period for comments to the Notice of Proposed Rulemaking, published Wednesday, May 25, 1977 (42 FR 26759), regarding the emissions performance warranty of section 207(b)(2) of the Clean Air Act. A similar extension is being published today regarding the short test notice pursuant to section 207(b)(1) of the Act published on May 25 at 42 FR 26742.

DATE: All relevant material received on or before October 7, 1977, will be considered.

ADDRESS: All comments should be sent to: Director, Mobile Source Enforcement Division (EN-340), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Scibinico, Environmental Protection Agency, Mobile Source Enforcement Division (EN-340), 401 M Street SW., Washington, D.C. 20460, at 202-755-0298.

SUPPLEMENTARY INFORMATION: Requests for a 45-day extension have been received from several parties, all citing the complexity of the proposed regulation as the basis for an extension. The Agency has considered the requests, and decided that an extension would be in the best interests of all parties concerned. At present, the Agency is planning to conduct workshops on the proposal in three locations—New York, Chicago, and San Francisco—sometime during the month of September. The dates, times, and locations will be published in a future FEDERAL REGISTER notice.

Accordingly, the comment period is hereby extended to October 7, 1977.

Dated: August 1, 1977.

NORMAN D. SHUTLER,
Acting Assistant Administrator for Enforcement.

[FR Doc.77-22821 Filed 8-8-77;8:45 am]

[40 CFR Part 85]

[FRL-774-4]

EMISSION CONTROL SYSTEM PERFORMANCE WAARANTY REGULATIONS—SHORT TEST ESTABLISHMENT

Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period.

SUMMARY: This Notice extends the period for comments to the Notice of Proposed Rulemaking, published Wednesday, May 25, 1977 (42 FR 26742), regarding the short test of section 207(b)(1) of the Clean Air Act. A similar extension is being published today regarding the warranty regulation notice pursuant to section 207(b)(2) of the Act published on May 25 at 42 FR 26759.

DATE: All relevant material received on or before October 7, 1977, will be considered.

ADDRESS: All comments should be sent to: Deputy Assistant Administrator, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul Lapsley, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, 202-755-0596, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION: Requests for a 45-day extension have been received from several parties, all citing the complexity of the proposed regulation as the basis for an extension. The Agency has considered the requests, and decided that an extension would be in the best interests of all parties concerned. At present, the Agency is planning to conduct workshops on the proposal in three locations—New York, Chicago, and San Francisco—sometime during the month of September. The dates, times, and locations will be published in a future FEDERAL REGISTER notice.

Accordingly, the comment period is hereby extended to October 7, 1977.

Dated: August 1, 1977.

ERIC O. STORK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-22822 Filed 8-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 146a]

CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

AGENCY: U.S. Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Education Amendments of 1976 amended Title VI of the National Defense Education Act of 1958 to provide for a Citizen Education for Cultural Understanding Program. Under this program, the Commissioner may award grants and contracts to any public or private agency or organization to increase the understanding of students in the United States about the actions and cultures of other nations, and to enable these students to make informed judgments with respect to the international policies and actions of the United State.

DATES: Comments must be received on or before September 23, 1977.

ADDRESSES: Comments should be addressed to: Division of International Education, Room 3907, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.
Comments received will be available for inspection at the above address between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward L. Meador, 202–245–9692.

SUPPLEMENTARY INFORMATION: It is anticipated that the program will not be funded in Fiscal Year 1977–78.

SUMMARY OF COMMENTS PREVIOUSLY RECEIVED

The Citizen Education for Cultural Understanding Program is designed to stimulate locally designed educational programs to increase the understanding of students in the Untied States about the actions and cultures of other nations. In the FEDERAL REGISTER of November 29, 1976, 41 FR 52410, the Commissioner published a Notice of Intent to Issue Regulations implementing certain provisions of Pub. L. 94–482. Written comments on specified issues (and any others the public chose to raise) were requested. Comments were received through December 31, 1976, and have been studied in drafting these proposed rules. A summary of the comments received and the Office of Education's responses are set out below.

Comment. Several comments received concerning the need for regulations to define the scope and variety of eligible activities. Many commenters stated that regulations should be drafted so as to provide guidance on the intent of the program, but should not prescribe content or preclude innovative approaches.

Response. Proposed § 146a.6 adheres closely to the statute and affords maximum flexibility to applicants in fashioning their programs.

Comment. One commenter urged that the regulations set priority areas with respect to nations, peoples, and areas of interest. The majority of comments received, however, opposed regulations which would limit projects to specific nations, areas, and peoples, and that would set priorities among nations and areas.

Response. Priorities with respect to programs focusing on specific nations, peoples, or areas, are not set forth in the proposed regulations.

Comment. Many comments were received which suggested that geographic distribution should be a consideration in making awards in order to insure equal distribution of Federal funds. The commenters cautioned, however, that the overall strength of the proposal, and not the geography, should be the determining factor in the selection of programs to be funded.

Response. Geographical distribution will not be a funding criterion.

Comment. Numerous comments were received suggesting that application for programs or projects at one or another level of education be given priority over other levels.

Response. Section 603 (c) (3) specifically states that awards, "* * * may be made for projects and programs and *at all levels of education* * * *" (emphasis added). Therefore these proposed regulations establish no such priorities

Comment. Two commenters suggested that local advisory committees be required for each program.

Response. There is no legal authority for requiring projects to have local advisory committees.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Number 13.581.)

Dated: June 14, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved August 2, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended to add a new Part 146a as follows:

PART 146a—CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

Sec.
146a.1 Purpose and scope.
146a.2 General authority.
146a.3 Definitions.
146a.4 Eligible applicants.
146a.5 Applications.
146a.6 Project requirements.
146a.7 Evaluation criteria.

AUTHORITY: Sec. 603, Title VI of the National Defense Education Act of 1958 (20 U.S.C. 512a), as amended by sec. 302(b), Pub. L. 94–482 (Education Amendments of 1976), unless otherwise noted.

§ 146a.1 Purpose and scope.

(a) This part governs the awarding of Federal assistance to projects that will increase the availability to students in the United States of information about the cultures, actions, and policies of other nations so that these students might make more informed judgments with respect to the international policies and actions of the United States.

(b) The assistance provided under this part is subject to the applicable provisions of Subchapter A of this Chapter, pertaining to fiscal, administrative, and other matters (General Provisions for Office of Education Programs, 45 CFR Part 100a).

(20 U.S.C. 512a.)

§ 146a.2 General authority.

The Commissioner may award grants and contracts for projects to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures, actions, and policies of other nations in order to allow them to better evaluate the international and domestic impact of major policies of the United States and other nations. The Commissioner may make these grants and contracts for projects at all levels of education including community, adult, or continuing educational levels.

(20 U.S.C. 512a.)

§ 146a.3 Definitions.

"Student" means any person enrolled in an educational program.

(20 U.S.C. 512a.)

§ 146a.4 Eligible applicants.

(a) Any public or private non-profit agency or organization, including but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers is eligible to receive a grant or contract under this part. A profit-making organization is eligible to receive a contract.

(b) If an educational consortium applies for this assistance, it must include in its application (1) a description of the role of each member of the consortium in carrying out the project and (2) a written commitment from each participating member stating that it will perform the activities ascribed to it.

(20 U.S.C. 512a.)

§ 146a.5 Applications.

(a) Eligible applicants that wish to apply for a grant or contract must file their applications with the Commissioner before the established closing date for such applications. Each application must contain (1) a description of the proposed activities and (2) sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria set out in § 146a.7 and to determine whether the applicant will satisfy the project requirements set out in § 146a.6.

(b) Each applicant must assess the local need for the proposed project.

(20 U.S.C. 512a.)

§ 146a.6 Project requirements.

(a) Funds under this part may be used to carry out the following activities:

(1) The in-service training of teachers and other educational personnel with regard to the cultures, actions, and policies of other nations;

(2) The compilation of existing information and resources about other nations in forms useful to various types of educational programs; or

(3) The dissemination of information and resources pertaining to the cultures, actions, and policies of other nations to educators and education officials upon their request.

(b) Funds may not be used for the development of new curriculum or the acquisition of equipment or remodeling of facilities.

(20 U.S.C. 512a)

§ 146a.7 Evaluation criteria.

(a) In addition to evaluation on the basis of the criteria found in the Office of Education's General Provisions Regulations, 45 CFR 100a (26(b)), the Commissioner will also evaluate applications under this part on the basis of the following criteria:

(1) The extent to which appropriate segments of the local community were consulted on the development of the application;

(2) The degree to which the proposed project or program provides specifically for cooperation with appropriate segments of the local community; and

(3) The commitment of the agency or organization to the establishment and operation of the program as evidenced by maximum use of non-Federal resources (including financial support).

(b) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those in 45 CFR 100a (26(b)), equally in evaluating an application.

[FR Doc.77–22812 Filed 8–8–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 81]

[Docket No. 21353; FCC 77–555]

MARITIME MOBILE SERVICE

Providing High Frequencies for the Use of Narrow-Band Direct-Printing (Radioteletypewriter) Between Ships and Shore on the Inland Waterways

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Rule changes are proposed that will provide radio frequencies for use by public coast station WFN at Jeffersonville, Indiana so that teletypewriter services can be furnished to vessels on inland waters that are comparable to services already provided to vessels in areas other than the Inland Waterways. This is a follow-on to a developmental program carried out for several years.

DATES: Comments must be received on or before September 12, 1977, and reply comments must be received on or before September 22, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Walter E. Weaver, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

Adopted: July 27, 1977.

Released: August 4, 1977.

In the matter of amendment of Part 81 of the Commission's rules to provide high frequencies in the maritime mobile service for the use of narrow-band direct-printing (radioteletypewriter) between ships and shore on the Inland Waterways.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given. In the Report and Order in Docket No. 20813 (FCC 77–380), released June 10, 1977, the Commission amended Parts 81 and 83 to provide for the use of narrow-band direct-printing (radioteletypewriter) (NB–DP), among other things, on the high seas.

2. In their timely comments filed in response to the Notice of Proposed Rule Making in that proceeding, the American Commercial Barge Line (ACBL) advised, correctly, that the Commission had not included NB–DP frequencies for the continuation of that class of service at coast station WFN at Jeffersonville, Ind. As stated in the above referenced Order, the Commission noted that station WFN has been operating NB–DP with vessels of ACBL on a developmental basis since 1970.

3. In their developmental report, accompanying application (Form 503) dated April 9, 1974, station WFN is clearly satisfied with the results of their developmental program. For example, they state: (1) That the radioteletypewriter system not only met, but surpassed all expectations they had anticipated; and (2) that the test turned out so well that they expect teletype will become an integral part of the communications used on the Inland Waterways. Further, station WFN advises that, to their knowledge, no problems have arisen from the use of a teletype speed of 100 words per minute and, therefore, in the system they have under consideration, they plan to provide a switchable capability permitting operation at speeds of 60, 75, 100, 150, 200 and 300 Bauds.

4. As a part of their application, station WFN requests that the Commission provide for the following:

1. That the standard 5 level code be used for the present time, and this to be expanded to the standard 8 level code at a future time;

2. That the speed of 75 Bauds be used for the present time, and this to be expanded to a rate of 300 Bauds at a future period, so long as the signal is kept within the required bandwidth of 500 Hertz, as set forth in Section 81.133(a), of the regulations;

3. That simplex frequencies be assigned;

4. That the frequencies assigned will be assigned only to WFN;

5. That the regulations requiring a radio officer aboard be waived for vessels operating on the Inland Waterways; and

6. That WFN be issued a license for a period of 5 years.

5. Regarding WFN's request that provision be made for the use of the 5 level (7.42 unit code) teletype alphabet for the present time, such provision is currently included in Sections 81.143 and 83.143 of the rules. Regarding future use of the standard 8 level (11 unit code) teletype alphabet, it will be necessary to amend those sections of the rules at such time as conversion from the 5 unit to the 8 unit code is undertaken. It appears to us that there would be a substantial economic advantage to start out with the 8 level code rather than to effect, at a later date, conversion of a substantial number of ship stations from 5 level to 8 level.

6. Regarding the use of a speed of operation of 101.1 words per minute (75 Bauds), the current rules (Section 81.143 and 83.143) require a capability to operate at 50 Bauds, however, having met that requirement, a speed of operation of up to 100 Bauds (134.8 words per minute) is permitted. Thus, if the system to be installed at station WFN has the 50 Baud capability, no amendment of the rules is necessary in order for station WFN to operate at the requested 75 Bauds. We will look to station WFN, in their comments in response to the instant proceeding, to provide clarifying information in regard to this matter.

7. Regarding operation of the system at up to 300 Bauds (404.3 words per minute), station WFN indicates this will be in the indefinite future and we are not, therefore, proposing amendment of the rules to provide for operation at that rate. We note that Special Committee 64 (SC–64) of the Radio Technical Committee for Marine Services (RTCM) during its sessions considered operation of frequency shift keying at a variety of speeds, propagated via the ionosphere by means of high frequencies, in the course of which it gave particular attention to multipath effects. The technical studies considered by SC–64 were carried out by the Institute for Telecommunication Sciences (Office of Telecommunications, Dept. of Commerce), Boulder, Colorado. It was the conclusion of SC–64 that speeds of up to 150 words per minute should be practicable using high frequencies in the presence of multipath effects. Since the work of SC–64 did not extend to 300 Bauds (404.3 words per minute) and no other supporting data is available, we would not, therefore expect to amend the rules to provide for a speed of 300 Bauds prior to accumulation of substantial test results.

8. We do no concur, for a number of reasons, with WFN's request that simplex (transmit and receive on the same frequency) frequencies be assigned. While the simplex mode of operation may satisfy WFN's initial requirement where communication is effected with one vessel at a time, we question that that mode can be adapted, on a practicable basis, to meet the requirement for simultaneous communication with several vessels. To provide for the use of the simplex mode on currently available NB–DP frequencies, such would require that we authorize (1) WFN to use frequencies in the bands allocated for use by ship stations, or (2) place ACBL's vessels in the bands allocated for use by coast stations, neither of which would be in accordance with the Radio Regulations of the International Telecommunication Union (ITU) as amended at the World Maritime Administrative Radio Conference, Geneva, 1974. Coast stations throughout the world providing NB–DP service with ships will use the duplex (transmit and receive on different frequencies) mode of operation. On the basis of information currently available, we are not persuaded that station WFN should provide service on a simplex basis.

9. Use of the duplex mode will affect the type of equipment used aboard ACBL's vessels. If a satisfactory service is to be provided, ship station equipment must be capable of operating on the required number of frequencies and of providing the necessary selectivity. We stress that other stations will be using the frequencies 0.5 kHz removed from those being proposed for use on the Mississippi River System.

10. In Section 81.204(c), as amended by the Report and Order in Docket No.

20813, above referenced, we provided separate NB–DP frequencies for each coast station licensee. With regard to WFN's request that frequencies assigned be assigned only to station WFN, we are proposing the same approach be applied. We would note, however, that the number of countries in the world exceed the number of families of NB–DP frequencies available, so other countries will be using the same NB–DP frequencies proposed for station WFN and, thus, it is probable that the foreign use will be evident from time to time.

11. As concerns waiving the regulations which require a radio officer aboard vessels when operating on the Inland Waterways, we would expect the controls for use of the shipboard installation to be sufficiently uncomplicated to a degree such that that equipment can be satisfactorily operated by non-technical personnel. If this condition is observed, the license requirement for the operator will be a Radiotelephone Third-class Operator Permit. The operator license requirements were amended in the proceeding in Docket No. 20862 (FCC 76–631; 42 F.R. 1231) and, also, in Docket No. 20813, above referenced. Accordingly, in view of the changed operator license requirements, we doubt that a waiver will be necessary.

12. WFN also requests that they be issued a license for a period of five years. Once the rule amendments proposed herein have been finalized, we will license stations for the use of NB–DP on a regular, or five year basis.

13. The proposed amendments, as set forth below, are issued pursuant to the authority contained in Sections 4(i) and 303(c), (f), (g), and (r) of the Communications Act of 1934, as amended, and in the Final Acts of the World Maritime Administrative Radio Conference, Geneva, 1974.

14. Pursuant to the applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before September 12, 1977, and reply comments on or before September 22, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

15. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 81.204, paragraph (c) is amended to read as follows:

§ 81.204 Assignable frequencies—Narrow-band direct printing radiotelegraph and data transmission systems.

* * * * *

(c) Subject to and in accordance with the provisions of paragraph (a) and (b) of this section, coast radiotelegraph stations may, upon grant of a proper application, be authorized to employ the coast transmit frequencies specified in the indicated Series No., as set forth in paragraph (a) of this section, as follows:

(1) Ocean, Gulf of Mexico and Great Lakes areas;

Call letters:	*NB–DP Series No.*
KFS	1, 3, 28, 47
KHK	10, 22, 42
KLB	8, 33, 50
KLC	8, 17, 48
KOK	6, 30, 49
KPH	13, 14, 21, 22, 38
WAX	10, 15, 36
WCC	13, 14, 21, 22, 38
WLO	5, 15, 25, 54
WNU	2, 19, 52, 57
WOE	6, 21, 26, 42
WPA	9, 22, 44
WSC	9, 18, 40
WSL	1, 3, 28, 47

(2) Inland waterways:

Call letters:	*NB–DP Series No.*
WFN	11

[FR Doc.77-22963 Filed 8-8-77;8:45 am]

[47 CFR Parts 81, 83]

[Docket No. 21349; FCC 77–519]

RADIOTELEPHONY FREQUENCIES IN MARITIME MOBILE SERVICES ADOPTED AT ITU WORLD MARITIME ADMINISTRATIVE RADIO CONFERENCE, GENEVA, 1974

Changes in Frequencies, Operating Procedures and Other Criteria; Implementation; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: This notice is to solicit comments on the assignment of radiotelephone frequencies to coast stations in implementing the new allotment plan adopted at the World Maritime Administrative Radio Conference, Geneva, 1974.

DATE: Comments must be received on or before September 6, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau (202–632–7197).

SUPPLEMENTARY INFORMATION:

NOTICE OF INQUIRY

Adopted: July 21, 1977.

Released: August 5, 1977.

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 27500 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, Docket No. 21349.

1. In this Notice of Inquiry the Commission is seeking comments on the assignment of frequencies to public coast and ship stations operating in the maritime services. The attached Appendix shows those frequencies allocated to the United States and the provisional notifications submitted to the International Frequency Registration Board by the Commission. We are further seeking comments on the following additional matters to assist in the preparation of the Notice of Proposed Rule Making:

a. Temporary assignment of frequencies in order to develop operational experience and make adjustments to clear interference;

b. Assignment of frequencies of the same MHz order to both Class I and Class II stations; and

c. Continuing the use of HF frequencies on the inland waterways operating in the simplex mode.

2. The World Maritime Administrative Radio Conference (WARC), 1974, amended the international radio regulations applicable to stations in the maritime mobile service. The allocated spectrum space for duplex radiotelephony ship and coast stations was increased from 469.6 to 545.6 kHz, which increased the number of channels from 137 to 176. While the number of channels was increased, the number of countries sharing the channels was increased in a revised allotment plan, which may negate any benefits derived from an increase in the number of channels. Many administrations including the United States agreed to implement the plan, however, reservations were taken by these administrations which, in essence, provide for taking any steps necessary to maintain satisfactory HF links between coast stations and ships at sea, if the plan in its application should prove impossible. The United States has submitted provisional notices to the International Frequency Registration Board (I.F.R.B.) on all of the frequencies allotted to the United States for stations operated by either Government Agencies or Commission licensees.

3. The allotments to the U.S. are divided between Government and non-Government stations. In consideration of the number of non-Government frequencies allotted to public coast stations and the probability that adjustments will have to be made after implementation of the plan, we are considering the feasibility of making permanent assignments on approximately half of the frequencies and temporary assignments on the other half. At the end of a period of time, approximately 2 to 2½ years, the entire assignment plan will be evaluated and either the temporary assignments made permanent or reassignments made to satisfy operational requirements. The evaluation will be made based on reports received from the licensees, information from the users and interference reports received by the

Commission. The reports from the licensees will provide data to substantiate retention of the frequencies or requirement for any additional frequencies.

4. The Commission's rules state that the frequency assignments for Class I coast stations will include frequencies below 150 kHz or between 5000 kHz and 25,000 kHz, while the frequency assignments for Class II stations are not to include any frequency below 150 kHz or between 5000[1] and 25,000 kHz except in specified conditions (47 CFR 81.3). However, they have long made available frequencies in the 4 MHz band for assignment to both classes of stations. See 16 FR 6036, June 26, 1951. We recognized in Docket No. 20906 the implications this situation can have on what rates the public must pay for maritime mobile service when 4 MHz frequencies are allocated to Class I and Class II stations licensed to the same carrier.[2] We then indicated our intention to further explore this situation in an appropriate proceeding. Accordingly, we seek comments from all interested parties in this proceeding on the future use of the 4 MHz band for provision of radiotelephony service. In particular, we are seeking comments about the current use of the 4 MHz band by Bell System coast stations. AT&T is the licensee of three coast stations offering Class I service.[3] There are 16 coast stations offering Class II service licensed to various Bell System operating companies.[4] AT&T's Tariff F.C.C. No. 263 provides that the radio-link charge for Class I service shall be $13.50 per three minute minimum, while the radio-link charge for Class II service shall be $1.85 per three minute minimum. Since the Bell System operating companies concur in AT&T's tariff, their Class II stations charge $1.85 per three minute minimum. Eight 4 MHz frequencies are currently allocated for the common use by both the Bell System Class I and Class II stations. Of these frequencies, however, only one is actually licensed to and in use by a Class II station while all eight are licensed to and in use by the Class I stations. We are therefore concerned that a substantial number of users having a 4 MHz capability are unnecessarily precluded from communicating with Bell System Class II stations over 4 MHz frequencies allocated for use by those stations simply because they have been activated for use by AT&T Class I stations at the substantially higher rate. We recognize that, because of the limitations placed on transmitter power by our rules, a Class I station using 4 MHz frequency may be able to cover a greater area and serve more users on that frequency than a Class II station. Nevertheless, the essence of our concern is that users within this area may currently be required to communicate over 4 MHz frequencies with Class I stations when they could otherwise communicate with Class II stations at a lower rate if those stations activated 4 MHz frequencies allocated to them. We will therefore seek to determine whether a substantial number of such users exist, and, if so, whether the frequencies in the 4 MHz band should be allocated only for use by Class II stations. In doing so, we will consider the past usage by AT&T's Class I stations of those frequency bands other than 4 MHz and whether current users of 4 MHz frequencies who may be unable to communicate on that band with Class II stations will be able to communicate with Class I stations on the higher frequency bands. To this end, we require AT&T to submit in their comments frequency studies showing the usage of each of the 4 to 25 MHz frequencies assigned to its Class I stations for the past three years. If we determine that there is no substantial need for the allocation of the frequencies in the 4 MHz band to only Class II stations, we will consider their allocation to either Class I stations only, or on some other appropriate basis. We request comments and supporting data from interested parties on the following alternatives for allocation of 4 MHz frequencies:

a. Assignment of all 4 MHz frequencies to Class I stations;

b. Assignment of all 4 MHz frequencies to Class II stations;

c. Assignments of 4 MHz frequencies on the present basis;

d. Assignment of 4 MHz frequencies on a basis other than indicated above; and

e. Assignment of both MF and HF frequencies to the same coast station eliminating any class designation.

5. The Class II designator is now also applied to the inland waterways where the Commission has granted HF frequencies to coast stations to complement 2 MHz frequencies. The difference here is that these frequencies are assigned for simplex operation. While the ultimate goal is to have the inland waterways on VHF, there will be an interim period where HF frequencies will be required to satisfy the operational requirements until the VHF system can be developed and adequate VHF frequencies available to satisfy the requirement. Comments are requested on the need to establish a new class of station to differentiate between Class II regional stations providing service along the coast on 2 MHz and possibly 4 MHz and inland waterway stations which are operating simplex on MF and HF frequencies.

6. In view of the foregoing, a Notice of Inquiry is adopted. Authority for this action is contained in sections 4(i), 303 (r) and 402 of the Communications Act of 1934, as amended.

7. Interested persons may file comments on or before September 6, 1977. The form of comments and number of copies shall conform to § 1.419 of the Commission's rules which requires an original and 5 copies. Responses will be available for public inspection during regular hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

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[1] A Class I station is licensed to provide maritime mobile service over distances up to several thousand miles. A Class II station is licensed to provide service primarily of a regional character. There are no specific distance limitations placed on these classes of stations regarding their service areas, although, limitations are placed on the transmitter power that they may use (47 CFR 81.134).

[2] In Docket No. 20906, we allocated a 4 MHz frequency for use by a coast station in the Class II service rather than the Class I service since that station already was using another 4 MHz frequency in Class II service. We pointed out that essentially the same customers would be served by use of the 4 MHz frequency under consideration in the Class I as were then being served by use of another 4 MHz frequency in the Class II service. Since that stations rates for Class I service were higher than those for Class II service, we found that the station would violate Sections 201(b) and 202(a) of the Communications Act if it charged the higher Class I rate for essentially the same service to the same customers as it was providing in the Class II service (FCC 77–266, April 22, 1977).

[3] Station WOM (Pennsuco, Florida); Station WOO (Manahawkin, New Jersey); Station KMI (Point Reyes, California).

[4] WOU (New England Telephone and Telegraph Company); WOX (New York Telephone Company); WAQ (New Jersey Bell Telephone Company); WAE (The Chesapeake and Potomac Telephone Company of Virginia); WGB (The Chesapeake and Potomac Telephone Company of Virginia); WJO (Southern Bell Telephone and Telephone and Telegraph Company); WNJ (Southern Bell Telephone and Telegraph Company); WDR (Southern Bell Telephone and Telegraph Company); WAK (South Central Bell Telephone Company); KQP (Southwestern Bell Telephone Company); KCC (Southwestern Bell Telephone Company); KOU (Pacific Telephone and Telegraph Company); KLH (Pacific Telephone and Telegraph Company); KOE (Pacific Telephone and Telegraph Company); KFX (Pacific Northwest Bell Telephone Company); KOW (Pacific Northwest Bell Telephone Company).

APPENDIX

CHANNEL NUMBER	FREQUENCY (Carrier)		I.T.U. allocation						U.S. Notifications to I.F.R.B. (Coast Station located at)																			
	COAST STATION	SHIP STATION	U.S. East	U.S. West	U.S. South	U.S. Central	Hawaii	Guam	New York, NY	S Francisco, CA	Miami, FL	Mobile, AL	Hawaii	Guam	Delcambre, LA	Gran. City, IL	Jffrsnville, IN	Lorain, OH	Mrtnsville, NY	Memphis, TN	Rogers City, MI	Pttsbrgh, PA						
401	4357.4	4063.0	X	X	X	X			X	X	X	X																
403	4363.6	4069.2	X	X	X	X	X		X	X		X	X				X		X									
404	4366.7	4072.3	X	X		X			X	X																		
405	4369.8	4075.4	X	X	X		X		X	X	X	X	X															
409	4382.2	4087.8	X	X	X	X			X	X	X	X						X										
410	4385.3	4090.9	X						X																			
411	4388.4	4094.0	X	X		X			X	X									X		X							
412	4391.5	4097.1	X	X	X				X	X	X	X																
414	4397.7	4103.3	X		X				X		X	X																
416	4403.9	4109.5	X	X		X			X	X																		
417	4407.0	4112.6	X	X	X	X			X	X	X	X						X				X						
418	4410.1	4115.7				X	X						X		X	X	X	X	X	X	X	X						
419	4413.2	4418.8		X	X		X	X		X	X	X	X	X														
422	4422.5	4128.1	X	X					X	X																		
423	4425.6	4137.4	X	X	X	X			X	X	X	X			X					X								
604	6517.7	6209.3	X	X	X	X	X	X	X	X	X	X																
605	6518.8	6212.4	X	X	X	X	X	X						X				X										
802	8722.0	8198.1	X		X		X		X		X		X															
803	8725.1	8201.2				X																						
804	8728.2	8204.3	X	X	X				X	X	X				X				X									
805	8731.3	8207.4	X	X	X				X	X	X																	

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807	8737.5	8213.6				X									X	X	X	X	X	X	X	X						
808	8740.6	8216.7	X	X			X	X	X	X			X	X														
809	8743.7	8219.8	X	X					X	X																		
810	8746.8	8222.9	X	X	X				X	X	X																	
811	8749.9	8226.0	X	X	X				X	X	X																	
814	8759.2	8235.3	X	X	X	X	X		X	X	X		X									X						
815	8762.3	8238.4	X	X	X				X	X	X																	
822	8784.0	8260.1	X	X	X				X	X	X																	
824	8790.2	8266.3	X	X	X				X	X	X																	
825	8793.3	8269.4	X	X	X				X	X	X																	
826	8796.4	8272.5	X			X		X	X				X									X						
829	8805.7	8281.8	X	X	X				X	X		X																
830	8808.8	8284.9			X							X																
1201	13100.8	12330.0	X	X	X				X	X	X																	
1202	13102.9	12333.1	X	X	X	X			X	X	X							X		X								
1203	13107.0	12336.2	X	X	X	X	X		X	X	X		X			X						X						
1206	13116.3	12345.5	X	X	X				X	X	X																	
1208	13122.5	12351.7	X		X				X		X																	
1209	13125.6	12354.8	X	X	X				X	X	X																	
1210	13128.7	12357.9	X	X	X		X		X	X	X		X															
1211	13131.8	12361.0	X	X	X	X			X	X	X					X						X						
1212	13134.9	12364.1	X		X				X		X																	

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1215	13144.2	12373.4		X	X					X	X																
1222	13165.9	12395.1					X						X														
1223	13169.0	12398.2	X	X	X				X	X	X																
1225	13175.2	12404.4	X		X				X			X															
1226	13178.3	12407.5	X	X	X				X	X		X															
1228	13184.5	12413.7	X	X		X			X	X												X					
1229	13187.6	12416.8		X						X																	
1230	13190.7	12419.9	X	X	X				X	X	X																
1601	17232.9	16460.0	X		X				X		X																
1602	17236.0	16463.1	X	X	X				X	X	X																
1603	17239.1	16466.2	X	X	X				X	X	X																
1605	17245.3	16472.4	X	X					X	X																	
1607	17251.5	16478.6	X	X	X				X	X		X															
1609	17257.7	16484.8	X	X	X				X	X	X																
1610	17260.8	16487.9	X	X	X				X	X	X																
1611	17263.9	16491.0	X	X	X				X	X	X																
1616	17279.4	16506.5	X	X	X				X	X	X																
1620	17291.8	16518.9	X			X			X									X		X							
1624	17304.2	16521.3	X	X	X				X	X	X																
1626	17310.4	16537,5	X						X																		
1631	17325.9	16553.0	X						X																		
1632	17329.0	16556.1	X	X	X				X	X	X																
1641	17356.9	16584.0	X	X	X				X	X		X															

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2201	22596.0	22000.0	X	X	X			X	X	X	X			X													
2205	22608.4	22012.4	X	X	X				X	X	X																
2210	22623.9	22027.9	X						X																		
2214	22636.3	22040.3	X	X	X				X	X	X																
2215	22639.4	22043.4	X	X	X				X	X	X																
2216	22642.5	22046.5	X		X				X		X																
2222	22661.1	22065.1	X	X	X				X	X	X																
2223	22664.2	22068.2	X	X			X		X	X			X														
2227	22676.6	22080.6	X	X	X				X	X	X																
2228	22679.7	22083.7	X	X					X	X																	
2231	22689.0	22093.0	X	X	X				X	X		X															
2236	22704.5	22108.5	X	X					X	X																	
2237	22707.6	22111.6	X	X	X				X	X		X															

[FR Doc.77-22726 Filed 8-8-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Meeting

The Flue-Cured Tobacco Advisory Committee has requested that an emergency meeting be held in the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, N.C. 27605, at 2:30 p.m., on Tuesday, August 9, 1977.

The Department has received information that exceedingly dry weather in the most northern flue-cured tobacco growing area has caused a delay in the ripening of the crop and the volume that will be ready for marketing in the next three weeks does not warrant the amount of sales opportunity currently allotted to Area E. Therefore, it is necessary to hold a meeting of the Committee to discuss how to best redistribute Area E's sales opportunity and personnel back to Areas A and B where the tobacco producers can more fully utilize it at this time. Producers are now redesignating their tobacco to various warehouses, and the results of these redesignations must be reflected in the schedules which will become effective August 15, 1977. The urgency of the meeting makes it impossible to meet the 15 days' advance notice required by OMB Circular A-63, March 27, 1974.

The purpose of the meeting is to reconsider previously established sales schedules for Marketing Area E, which is scheduled to open on August 9, 1977, in an effort to study the feasibility of redistributing unused sales opportunity from Area E back to Areas A and B. Also, matters as specified in 7 CFR Part 29, Subpart G, § 29.9404 will be discussed.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. J. W. York, Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street SW., United States Department of Agriculture, Washington, D.C. 20250, 202-447-2567.

Dated: August 5, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-23064 Filed 8-8-77;8:45 am]

Farmers Home Administration

[Notice of Designation Number A492]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Pitt County, North Carolina, as a result of excessive rainfall May 24, 25, and 26, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James B. Hunt, Jr., that such designation be made.

Applications for emergency loans must be received by this Department no later than September 26, 1977, for physical losses and April 28, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 3rd day of August, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-22949 Filed 8-8-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

JOY FOOTWEAR CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Joy Footwear Corp., 440 West 27th Street, Hialeah, Fla. 33010, a producer of athletic footwear, was accepted for filing on August 1, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH.
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-22811 Filed 8-8-77; 8:45 am]

PATINOS, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Patinos, Inc., 251 Crooks Avenue, Paterson, N.J. 07503, a producer of footwear for women, was accepted for filing on August 4, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 19, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-22902 Filed 8-8-77;8:45 am]

National Oceanographic and Atmospheric Administration

AMERICAN TUNABOAT ASSOCIATION

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR Part 216), the General Permit for Category 2: Encircling Gear, Yellowfin Tuna Purse Seining, issued to American Tunaboat Association, 1 Tuna Lane, San Diego, Calif. 92101, on April 15, 1977, is modified in the following manner:

Delete the quota for spinner dolphin (whitebelly) and modify the permit to include the following quota:

Spinner dolphin (whitebelly):	
Take limit	2,120,000
Encirclement	1,402,000
Mortality limit	11,219

This modification is effective August 3, 1977.

The General Permit, as modified, is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: August 3, 1977.

WINFRED MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-22760 Filed 8-8-77;8:45 am]

GEOSTATIONARY OPERATIONAL ENVIRONMENTAL SATELLITE (GOES) DATA

Meeting

The National Oceanic and Atmospheric Administration announces a meeting to discuss the recently instituted Public Service Sectorizer for GOES data. The purposes of the meeting are to present to the users the capabilities of the GOES Public Service Sectorizer; to provide a forum for the users to state their requirements; and, to develop a schedule that meets as many of those requirements as possible. The meeting will be held at 9 a.m. on August 30, 1977, at the World Weather Building, Room 707, 5200 Auth Road, Camp Springs, Maryland. Mr. Don Winner, Chief of the Field Services Division of the National Environmental Satellite Service, is the contact for the meeting. His mailing address is: National Environmental Satellite Service, World Weather Building, Code S122, Washington, D.C. 20233.

THEODORE P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

AUGUST 3, 1977.

[FR Doc.77-22920 Filed 8-8-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLAZING MATERIALS

Clarification to Advisory Opinion

AGENCY: Consumer Products Safety Commission.

ACTION: Notice of Clarification of Advisory Opinion 248.

SUMMARY: The Commission publishes a clarification to an Office of the General Counsel advisory opinion, approved by the Commissioners, concerning a method for certifying that that architectural glazing materials conform to the commission's Standard for Architectural Glazing Materials. The clarification, which was issued on July 12, 1977, responds to an inquiry from Visador Company.

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6629.

SUPPLEMENTARY INFORMATION: On April 15, 1977, the Office of the General Counsel responded, in Advisory Opinion 248, to an inquiry from PPG Industries concerning the form for the certificate issued under section 14 of the CPSA, certifying compliance with the Architectural Glazing Standard published in the FEDERAL REGISTER of January 6, 1977 (42 FR 1428). The Office of the General Counsel advised that "in the absence of regulations to the contary, the certification necessary to comply with section 14(a) of the CPSA for the Standard for Architectural Glazing Materials must be in the form of a separate certificate (i.e., a certificate separate from the glazing material) for glazing material subject to the Standard." The opinion, which was approved by the Commission, was published in the FEDERAL REGISTER on April 27, 1977 (42 FR 25107).

By letter dated June 17, 1977, the Visador Company advised the Directorate of Compliance and Enforcement of the Commission of practical problems involved in compliance with section 14(a)(1) of the CPSA. Visador advised that it purchases approximately 40,000 to 50,000 pieces of tempered glazing material each month from five suppliers and manufactures approximately 35,000 to 40,000 door lites subject to the Standard each month. These lites are sold each month to 1,000 customers on 2,000 orders containing about ten types of door lites per order. Virador indicated that "to keep track of which certificate of compliance goes with which lite on any order boggles the mind."

In response to the problems raised by Visador, the Office of the General Counsel, with the approval of the Commission, clarified Advisory Opinion 248 in a letter to Visador dated July 12, 1977 to indicate that the certification requirements of section 14(a) of the CPSA could be met if a manufacturer issues a single continuing certificate for all complying types of products. In this way it would not be necessary for a manufacturer to accompany each order of glass with a separate certificate.

The Commission publishes below the text of the clarification to Advisory Opinion 248B, in order to apprise manufacturers of glazing materials of the Commission's clarification of its interpretation of the certification requirements under the CPSA. Other Office of the General Counsel Advisory Opinions are available upon request in the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207.

MR. JAMES SEALE,
Process Research Executive, Visador Company, 940 Visador Road, P.O. Box 5981, Jasper, Tex.

DEAR MR. SEALE: The purpose of this letter is to advise you that the Consumer Product Safety Commission is clarifying advisory opinion 248 as a result of the various problems you have raised in your letter of June 17, 1977 concerning the issuance of certificates of compliance with the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) required by section 14(a) of the Consumer Product Safety Act (CPSA). The relevant portion of section 14(a) states that the "certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered." The advisory opinion stated that the certificate issued under section 14(a) for architectural glazing material must be in the form of a document separate from the glazing material.

In your letter you stated the following:

We understand that when CPSC 1201 becomes effective on July 6, 1977, that glass manufacturers will be required to issue Certificates of Compliance to CPSC 1201 with each order of glass sent to their customers. Further, we understand that as we purchase glass (tempered) from these glass manufacturers for incorporation into architectural glazing products (Door Lites) for sale we are required to pass the Certificate of Compliance on to our customers.

The Commission has determined that, until it issues regulations regarding certification of compliance with the Architectural Glazing Materials Standard, a certifying person may issue a single continuing certificate for all complying types of products to be delivered for a specified period of time. Thus, it is not necessary to accompany *each order of glass* with a certificate.

We note that you have proposed to send letters to all your customers to notify them of the CPSC requirements. Such letter may serve as your certification so lang as it contains all of the information required by section 14(a)(1) of the Act. For example, you could advise your customers by letter that all door lites of glass they receive from you had been manufactured by either X, Y or Z manufacturer, that the glass was manufactured in either A, B or C location, and that all such glass has been certified to comply with the Commission's Standard. In recard to the requirement in section 14(a)(1) that the date of manufacture be specified, we believe you could indicate that the certification applies to all products manufactured for a specified or indefinite period of time.

We wish to emphasize that section 14(a) requires manufacturers of products subject to consumer product safety standards to issue certificates, regardless of whether the Commission has issued certification regulations. In addition, under section 14(c)(3) the Commission could, by rule, require that each consumer product subject to a consumer product safety standard be labeled to certify that it meets all applicable standards and to specify the standards that apply.

Several issues regarding the form and content of certification and labeling will be a matter for determination by the Commission as part of the regulations regarding certi-

fication the Commission plans to propose for public comment under section 14. Please do not hesitate to contact me if you have any further questions.

Sincerely,

THEODORE J. GARRISH,
General Counsel.

Dated: August 3, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22885 Filed 8-8-77;8:45 am]

[CP 77-2]

BELT-DRIVEN GRINDERS

Petition to Establish Consumer Product Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition to require that belt-driven grinders sold to consumers comply with Occupational Safety and Health Administration (OSHA) requirements for abrasive wheel machinery. The Commission denied the petition because there is a lack of data showing injuries to consumers caused by the hazards mentioned in the petition and because currently available information does not support a finding that a consumer product safety standard is necessary for this product.

FOR FURTHER INFORMATION, CONTACT:

Mark Gulak, Office of Program Mangement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

By a petition dated December 9, 1976, Mr. William G. Schuessler, Vice-President of Wissota Manufacturing Co., 2401 Nevada Avenue North, Minneapolis, Minnesota (a manufacturer of belt-driven grinders and other tools) petitioned the Commission to establish a consumer product safety standard which would require belt-driven grinders sold to consumers to conform to the OSHA standards for abrasive wheel machinery (29 CFR 1910.215). A belt-driven grinder is one in which the wheel is actuated by a system of belts and pulleys. These grinders are generally sold without a motor, and the user supplies the power source. The petition states that if the motor's revolutions per minute and pulley ratios are not correctly chosen, the wheel can be turned so fast that it exceeds its speed rating or be turned so slow that the operator has to overstress the wheel in order to grind efficiently. These factors, plus the possibility of a faulty wheel being sold, can cause the grinding wheel to rupture while it is spinning at high speed. The petition states that wheel guards are required in order to protect consumers against the hazard and requests that a consumer product safety standard be established to require that belt-driven grinders that are sold as consumer products comply with the industrial OSHA requirements.

The OSHA requirements referred to in the petition are established by the Occupational Safety and Health Administration, U.S. Department of Labor, and apply to certain employment related activities. They do not apply to products that are for consumer use. The OSHA requirements relating to grinding machinery contain the requirements of ANSI B7.1, "Safety Code for the Use, Care, and Protection of Abrasive Wheels," which is a voluntary standard approved and published by the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

The information available to the Commission through the National Electronic Injury Surveillance System (NEISS) does not distinguish between injuries caused by belt-driven grinders and those caused by direct drive grinders. It is estimated that 3,000 injuries associated with both types of power grinders were treated in hospital emergency rooms during the 12 month period ending June 30, 1976. Ninety-nine percent of the victims were treated and released from the hospital emergency room.

The Commission has reports of 29 investigations of accidents associated with power grinders. One of these cases involved a victim who was struck in the head by a fragment when the grinding wheel shattered. The Commission is also aware of one death which resulted when the victim was struck in the chest by fragments when a power grinding wheel broke. The Commission does not possess information which would indicate whether or not the grinding machines involved in these incidents had guards installed or whether they complied with OSHA requirements.

The voluntary standard concerning power grinders, ANSI B7.1, which is incorporated in the OSHA requirements, is presently undergoing a major revision. There is also a technical committee of B7.1 at work preparing a new section on bench grinders of the type used by consumers. In response to an inquiry by the Commission's staff, this subcommittee will consider the inclusion of belt-driven grinders in the scope of their activities.

The Commission is aware of only three manufacturers of belt-driven grinders. The information available to the Commission indicates that these manufacturers have been encouraged by their insurers and major retailers to conform to OSHA standards. Such encouragement could lead to a high degree of compliance with any voluntary standard that may be developed for bench grinders used by consumers.

In its review of this petition, the Commission considered the relative priority of the risk of injury associated with this product and the Commission resources available for rulemaking proceedings for all consumer products. The Commission noted that belt-driven grinding wheels are not included among products given priority designation for Commission action.

In addition, the Commission decided to deny this petition because, based on the information available, it does not appear that a mandatory standard is needed at this time to address any risk of injury associated with belt-driven grinding wheels.

Copies of the petition and other relevant materials may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, during working hours Monday through Friday.

Dated: August 3, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22883 Filed 8-8-77;8:45 am]

[CP 77-36]

VENTILATION FANS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition to require hazardous warning labels and instruction for all thermostatically controlled space ventilation cooling fans (e.g., attic fans) sold to the public. The requested label would warn the consumer against the hazards of (1) increased fire spread caused when the thermostat turns on the fan when a fire heats the air around the fan (thereby causing the fan to supply fresh air to the fire) and (2) the thermostat starting the fan while it is being cleaned or oiled by the consumer. The petition was denied by the Commission because of a lack of data showing injuries caused by these possible hazards and because presently available information does not support a finding that a consumer product safety standard requiring labels is necessary for these fans.

FOR FURTHER INFORMATION, CONTACT:

Mark Gulak, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

By a petition filed December 22, 1976, Mr. Lawrence H. Chapman of Harvey, Louisiana, petitioned the Commission to require hazardous warning labels and instructions for thermostatically controlled space ventilation cooling fans (Petition no. CP 77-3). The petition is set forth below:

"A PETITION TO ADOPT A STANDARD REQUIRING HAZARDOUS WARNING LABELING ON THERMOSTATICALLY CONTROLLED SPACE VENTILATION COOLING FANS SOLD

I. A Hazardous Warning Label shall be required on all thermostatically controlled space ventilation cooling fans sold to the public. Thermostatically controlled is defined as a heat sensitive switching device which turns the ventilation fan on at a predetermined increase in temperature and turns the fan off after a decrease in temperature.

II. The label shall contain the following basic information:

1. Warn the consumer of increased fire spread hazard created by the installation of a thermostatically controlled space ventilation cooling fan.

2. Inform the consumer that a fire protective limit disconnect switch may be installed in the motor supply circuit and for a mechanical fire door for prevention of the spread of fire due to the thermostat turning the fan on uncontrollably during the higher heat of a fire.

3. Inform the consumer of the desirability to also provide a separate manual disconnect switch within three feet of the fan unit in order to prevent mechanical injury to persons servicing the unit. Explain that while servicing the unit without turning such a switch off that it is possible for the thermostatic control to start up the unit and cause injury to the service person.

4. Warn the consumer that care and planning may be necessary prior to installation and that there may be local building codes to be considered in addition to the manufacturer's instructions and recommendations.

5. Inform the consumer of where to obtain information or advice from a manufacturer's representative closest to the consumer's location concerning usage.

III. The label shall have a black border around the label so that the label will stand out for the consumer's attention visually.

IV. The first line of the label shall be the words Life Safety Warning. This wording shall be in capital letters at least one half inch in height and taking three inches in width. The label shall be printed in bold type on a light background. It shall be so designed as to catch the visual attention of the consumer before unpackaging and installing the product. Dark colored inks or light pastel backgrounds will meet this general specification.

V. The regulation standard further provides that in addition to the hazardous warning label; an instruction sheet for installation and operation of the cooling fan unit shall be provided for the ultimate consumer.

VI. The hazardous warning label shall be permanently attached to the thermostatically controlled space ventilation cooling fan, instruction sheet, and all advertising announcements designed to incude a consumer to purchase the product.

VII. If any thermostatically controlled space ventilation fan which moves air at a velocity of 100 cubic feet per minute or higher is not in compliance with the standard herein: it shall be removed from sale until it has been brought into compliance with this hazardous warning labelling standard."

The petitioner argued that consumers are not being advised of the increased fire spread problem which he states can be caused by a fan turning on when heated by a fire or of the safety problem which exists if the fan is not turned off while being worked on. In the latter case, he states the thermostat can start the fan while it is being cleaned or oiled. The petitioner states that a disconnect switch or fusible link which would shut down the fan when a certain high temperature exists is desirable, as is a manual disconnect switch, and that consumers should be advised of the desirability of installing these features.

The information available to the Commission through the National Electronic Injury Surveillance System (NEISS) does not disclose any injuries attributable either to the spread of fire as a result of thermostatic activation of ventilation fans or to thermostatic activation of these fans while they are being worked on. In addition, the Commission's analysis of the potential hazards caused by thermostatic activation of ventilation fans under these conditions does not support a finding that labeling or instructions of the type requested in the petition is necessary to protect the public.

The Commission has learned that some knowledgeable experts in the fire protection field, such as staff members of the National Bureau of Standards and the American National Standards Institute, believe that an upper limit temperature switch on these fans is undesirable because it is preferable to remove as much heat and smoke from the attic as possible. It has also been theorized that a fire which is generating a sufficient amount of heat to operate a thermal cutoff will not be significantly affected by the operation of an attic ventilating fan with regard to either the quantity of heat generated or the overall smoke concentration in the attic. In those cases where the attics are not inhabited, injuries due to a fire in the attic are not likely to occur until the fire has burned through the ceiling. This would normally require a considerable length of time.

It is likely that the cutoff which is required by Underwriters Laboratories voluntary standard UL 507, "Electric Fans," in order to protect motors against overheating would operate in the event the fan were exposed to high temperatures caused by fire. The Commission is advised that at least 95% of thermostatically controlled attic ventilators conform to this UL requirement. Also, the voluntary standard for electric fans (UL 507) currently contains a requirement for a label which would alert the consumer to the need to disconnect the device prior to servicing.

After careful consideration, the Commission has decided to deny this petition because, based on the information available at this time, the Commission is unable to find either that the risk of injury associated with thermostatically activated space ventilation cooling fans due to the factors described in the petition is sufficient to warrant a consumer product safety rule requiring the requested labels and instructions or that the absence of such a rule unreasonably exposes consumers to a risk of injury presented by this product.

Copies of the petition and the staff briefing package to the Commission may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, during working hours Monday through Friday.

Dated: August 3, 1977.

SADYE E. DUNN,
Deputy Secretary, Consumer Product Safety Commission.

[FR Doc.77-22886 Filed 8-8-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-1540]

BROOKHAVEN NATIONAL LABORATORY, UPTON, N.Y.

Availability of Final Environmental Statement

Notice is hereby given that the Final Environmental Statement, ERDA-1540, Brookhaven National Laboratory (BNL), Upton, Long Island, N.Y., was issued pursuant to the Energy Research and Developmental Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared to support continued operation of the Laboratory.

The current cumulative impact on the environment of the operation of the various facilities and conduct of research at the Laboratory has been assessed in the environmental impact statement, as well as the anticipated future impact of continuing these operations at the BNL site.

Copies of the final statement are available for public inspection in the ERDA public document rooms loacted at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.

Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, N. Mex.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.

Richland Operations Office, Federal Building, Richland, Wash.

San Francisco Operations Office, 1333 Broadway, Oakland, Calif.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration November 28, 1975. Copies are also avail-

able for public inspection at designated Federal Depository Libraries.

A limited number of single copies are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 27830, (615-483-8611, Extension 34672). The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 28th day of July 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-22913 Filed 8-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-481; Docket No. 21335; File No. 933-M-L-63]

DELTA VALLEY RADIOTELEPHONE CO., INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: July 13, 1977.

Released: July 29, 1977.

1. We have before us for consideration an Application for Review filed by the Delta Valley Radiotelephone Co., Inc. (Delta), Stockton, Calif., pursuant to section 1.115 of our rules. Delta objects to the action taken by the Chief, Safety and Special Radio Services Bureau, under delegated authority in dismissing an application filed by Delta for a Public Coast (Class III-B) radio station at El Dorado, Calif., to provide service to vessels on Lake Folsom about 17 miles away. This class of coast station provides public correspondence radiocommunication services to ships in the very high frequency (VHF) radio maritime band.

2. The Application for Review of Delta and its application for a station authorization is opposed by the Pacific Telephone and Telegraph Co. (PT&T). PT&T is the licensee of a public coast station, KGW-464, of this class, located at Vacaville, Calif., west of, and about midway between the cities of Sacramento and Stockton, Calif., and about 50 or more miles from the location of Delta's proposed station. KGW-464 has a coverage area for its signal that includes the Sacramento River and adjacent navigable waters at and near the city of Sacramento.

3. Delta complains that it has been denied the hearing on its application that it is entitled to by the Communications Act, and that the Bureau Chief operated beyond the scope of his delegated authority by acting on a request for a rule waiver that involved "new and novel" matters on which the Bureau Chief was not permitted by Section 0.331 of the Commission's rule to act. Delta asserts that the Bureau Chief granted its requested rule waiver, which made its application not defective and not subject to dismissal without a hearing; and that once the Bureau Chief granted the waiver, it could not thereafter be withdrawn or set aside. Delta requests that we reverse the Bureau Chief and grant its application with a rule waiver, or alternatively, set the application for an evidentiary hearing.

4. Essentially, as reflected by the information in the pleadings by Delta and PT&T, and in our application files, this matter involves an application for a public coast station with a proposed coverage area that significantly overlaps the coverage area of a nearby existing station of this class. The coverage overlap is permitted by our rules in section 81.303(b), provided the proposed station is at least 30 miles from any existing station and is to serve a different boating locality. For these purposes, "boating locality" is defined, in part, in that rule section, as a port, marina, or harbor with docking or servicing facilities for not less than 10 commercial or 50 noncommercial vessels that are equipped with radio. In this instance, the proposed station of Delta is well beyond 30 miles from the existing station of PT&T but Delta has not made a showing, that the boating locality it intends to serve has the requisite number of vessels that are equipped with radio, and it requests a waiver of that requirement. Delta states that a showing is not possible in this instance because vessel operators are waiting for coast radio service before equipping their vessels with radio, in a "which comes first, the chicken or the egg" situation. PT&T asserts that the real intention of the applicant is not to serve a different boating locality at Lake Folsom as claimed, but to serve, to PT&T's detriment, the navigable waters in and around Sacramento which are already served by its station. PT&T also claims it can serve Lake Folsom with its radio signal, but that there is little or no demand for service there. The Bureau granted the rule waiver concerning a showing of boats equipped with radio with the expectation that an application for amendment would resolve the overlap problem. When the applicant failed to so amend its application, the Bureau Chief withdrew the rule waiver and dismissed the application as defective.

5. The Bureau Chief did not lack authority to act on a request for waiver of the "boating locality" requirement of section 81.303(b). Such a request did not create "new or novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines". The fact that a specific rule may not have been waived previously does not automatically place it in the above quoted category. Precedents, policy and guidelines concerning Marine VHF Public Coast stations are found throughout numerous Commission decisions in rule makings and hearings and the information contanied therein is sufficient to give a person guidelines within which to act on a request of the nature of the one before us.[1] The Chief, Safety and Special Radio Services Bureau, was clearly within the limits of authority delegated to him by this Commission. Apparently, Delta Valley had no problem with his authority when it perceived his action as a grant of the waiver.

6. It is now left to be determined whether the Bureau Chief granted an unconditional waiver—one that he could not set aside. The operative language is contained in a one sentence paragraph in the Bureau Chief's letter of August 14, 1975, to the attorneys of Delta Valley it reads as follows:

> Accordingly, the requested rule waiver is hereby granted and we are prepared to consider favorably your application upon receipt of an amendment of your application, to show coverage area computed pursuant to section 81.801 et seq (Subpart R), that excludes the Sacramento River.

7. It is clear from later actions that the Bureau Chief felt that this waiver was granted with a condition subsequent, i.e., exclusion of the Sacramento River. When the condition subsequent was not met he took the following action by letter of December 22, 1975, to the attorneys for Delta Valley which reads in pertinent part

> Your amended application does not comply with the condition specified in our referred to letter in that there is no significant change on reduction in the coverage area of your proposed station. The coverage area still includes substantial portions of the Sacramento River.
>
> Since you have not met the condition specified in our letter, your application is dismissed pursuant to section 1.958(c) of the Commission's rules (47 CFR 1.958(c)) as defective since it is not in accordance with the Commission's rules.

8. The language of August 14, 1975, lacks certain precision as to the fact that a condition subsequent was attached to the waiver. However, a fair reading shows that clearly something more was intended of Delta Valley before they could qualify for a grant. In fact in the very sentence where a grant of waiver is discussed a requirement to exclude the Sacramento River is included. That the Bureau Chief felt the grant was conditional is abundantly clear by the December 22, 1975, letter. We must conclude, however, that the waiver contained in the August 14, 1975, letter was not subject to a condition subsequent but vested immediately in Delta. Therefore, the Bureau Chief was without authority to dismiss the application of Delta.

9. However, even under these circumstances, Delta's application cannot be granted because the information of record reveals there is a substantial and material question of fact that must also be resolved concerning the primary service area of the proposed station. We note the de facto coverage area of the proposed station, as indicated by maps and charts furnished by the applicant, will extend far beyond the nearby Lake Folsom, and will, as asserted by PT&T, include most or all of the navigable waters in the Sacramento and Stockton areas now served by station KGW-464. As stated above, this overlap of coverage areas by stations located more than 30 miles apart, on different working frequencies is not, in and of itself, contrary to the public interest or inconsistent with our rules or policy. We have, in fact, authorized new service in situations where we knew there would be overlap, without destructive electrical interference, provided the stations were serving different boating localities primarily, and overlapping into each other's coverage areas and providing service therein, only incidentally. Class III (VHF) public coast stations are defined in section 81.3(j) of our rules as stations that provide maritime mobile service primarily of a local nature. The new station thus established, however, must be intended to to serve primarily, the different boating locality and not, primarily, the area already served by an existing station. The question, therefore, of the area that is to be served primarily by the proposed Delta station takes on critical significance.

10. Notwithstanding Delta's assertion that it proposes and contemplates service only to Lake Folsom, the de facto coverage area of its proposed station, together with our rule requirement that public coast stations respond to all calls directed to them, there is uncertainty concerning the location and identification of the actual primary service area of the proposed station. This uncertainty is not ameliorated by Delta's failure to respond affirmatively to our suggestion that by antenna reorientation, or otherwise, the coverage area be changed to exclude the Sacramento River. If the primary service area is in fact to be Lake Folsom, the existence of overlap in the coverages of the two stations, under these circumstances, as explained above, would not render the Delta application defective nor its grant contrary to our rules or the public interest. If, conversely, the primary service area, based on the location of the bulk of vessel traffic, numbers of calls, and other factors is to be the navigable waters on or near the Sacramento River that are already within the primary service area of an existing station, then the rule against more than a 20 per cent overlap in coverage areas would apply and the application of Delta must be considered in conflict with our rules and the public interest, and defective, and must be denied. In order to determine whether Delta is actually seeking to be a Lake Folsom facility we have specified an issue to determine whether there are alternate technical proposals that would exclude or diminish coverage of the Sacramento River.

11. Accordingly, *it is ordered*, That the Application for Review of Delta is granted to the extent provided herein and is denied in all other respects, and the petition to deny by PT&T is granted to the extent that it is made a party in this proceeding, and in all other respects, is denied.

12. *It is further ordered*, That the application of Delta for a public coast station at El Dorado, Calif., is designated for hearing at a time and place to be specified in a subsequent Order on the following issues:

(a) To determine the location of the primary service area of the station, based on the following considerations:

(1) The coverage areas of Delta's proposed station and the existing station KGW-464;

(2) The number of vessels on Lake Folsom, and number of calls, and amount of revenue expected from communication services furnished these vessels;

(3) The number of vessels other than on Lake Folsom within the coverage area of station KGW-464 with whom communications would be exchanged, location of these vessels, and amount of revenue expected to be generated from this source;

(4) Points on land with which vessels on Lake Folsom, are expected to communicate through the proposed station;

(5) The manner and extent in which the proposed station would participate in rendering assistance to Lake Folsom vessels in distress or emergency, as compared to station KGW-464;

(b) To determine whether Delta's coverage area for its proposed station could, technically, be modified to exclude the Sacramento River by antenna redesign or otherwise.

(c) To determine in light of the evidence adduced on the foregoing issues whether the application should be granted.

13. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence on issue, (a) is placed on Delta, except for issue (a) (1) and (5) which is also placed on PT&T to the extent that the issue applies to station KGW-464. The burdens of issue (b) are placed on PT&T. Issue (c) is conclusory.

14. *It is further ordered*, That to avail themselves of an opportunity to be heard, Delta and PT&T, pursuant to section 1.221(c) of the rules, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Pursuant to section 1.21(b) of the rules, the Chiefs of the Safety and Special Radio Services and the Common Carrier Bureaus are deemed parties in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION.[2]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22914 Filed 8-8-77;8:45 am]

[1] In particular, Report and Order Docket No. 19360 37 FR 13548 Par. No. 7.

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 22 through July 29, 1977

Notice is hereby given that during the week of July 22 through July 29, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be August 9, 1977, or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

AUGUST 3, 1977.

[2] Chairman Wiley concurring in the result; Commissioners Lee and Washburn dissenting; Commissioner Hooks absent.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of July 22 through July 29, 1977*

Date	Name and location of applicant	Case No.	Type of submission
July 22, 1977	Charter Oil Co., Jacksonville, Fla. (If granted: The Charter Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 11, 1977, decision and order and its purchase obligations would be reduced.)	FXE-4416	Extension of relief granted in Charter Oil Co., 5 FEA par 83,101 Mar 11, 1977).
Do	Ely Crude Oil Co., Ely, Nev. (If granted: The Ely Crude Oil Co. would be granted a stay of certain provisions of pt. 212 pending a final determination of its exception application.)	FES-4413	Stay request.
Do	Ingram Corp., A. Johnson & Co., Inc., Washington, D.C. (If granted: A. Johnson & Co., Inc. would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of the Ingram Corp.'s refinery located in Wilmington, N.C.	FEE 1449	Exception to mandatory petroleum allocation and price regulations (pt. 211 and pt. 212).
Do	Wardair Canada (1975) Ltd., Washington, D.C. (If granted: The FEA's June 22, 1977, allocation order would be modified and Wardair Canada (1975) Ltd. would receive an adjustment to its annual base period use of aviation turbine fuel.)	FEA-1402	Appeal of allocation order issued June 22, 1977.
July 25, 1977	Arent, Fox, Kintner, et al., Washington, D.C. (If granted: The FEA's June 22, 1977, information request denial would be modified and Arent, Fox, Kintner, et al., would receive access to additional FEA data concerning directions for completing FEA form P-125-S-0 and form P-125.)	FFA-1405	Appeal of information request denial dated June 22, 1977.
Do	Ball Marketing, Inc., et al., Lafayette, La. (If granted: The FEA's June 13, 1977, interpretation would be rescinded and Ball Marketing Enterprise, Ball Marketing, Inc., and Great Southern Oil & Gas Co., Inc., would be treated as separate entities for purposes of determining the maximum lawful selling prices of petroleum products under sec. 212.83.)	FIA-1403	Appeal of FEA's interpretation dated June 12, 1977.

Date	Name and location of applicant	Case No.	Type of submission
Do	Cities Service Oil Co., Tulsa, Okla. (If granted: The FEA's July 11, 1977, remedial order would be rescinded and Cities Service Oil Co. would be permitted to terminate its supplier/wholesale purchaser-reseller relationship with 23 lessees located in Massachusetts and New Hampshire.)	FRA-1404	Appeal of FEA region I's remedial order for immediate compliance dated July 11, 1977.
Do	Hughes & Hughes; Beeville, Tex. (If granted: Crude oil produced from Hughes & Hughes' East Pleasanton field unit located in Atascosa County, Tex., would be sold at upper tier ceiling prices.)	FEE-4150	Price exception (sec. 212.73).
Do	Jamar Oil Co., Tulsa, Okla. (If granted: The FEA's July 15, 1977, decision and order would be rescinded and the Jamar Oil Co. would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Foremost Petroleum Corp.)	FXA-1106	Appeal of decision and order in *Jamar Oil Co.*, 6 FEA par. ——— (July 15, 1977).
Do	North Pole Refining; North Pole, Alaska. (If granted: North Pole Refining would be treated as a separate entity for purposes of the entitlement program and for determining its maximum selling prices under sec. 212.83.)	FEE-1151	Exception to mandatory petroleum allocation and price regulations (pt. 211 and pt. 212)
July 25 1977	Aspen Park Gas Co., Inc., Conifer, Colo. (If granted: Aspen Park Gas Co. would be permitted to discontinue its early payment percentage discount which was in effect on May 15, 1973, in computing its maximum allowable price for propane.)	FEE-1152	Price exception (pt. 212)
Do	Belo Gajdos/Al Daniels d.b.a. Louis Butane Co., Robstown, Tex. (If granted: Belo Gajdos Al Daniels d.b.a. Louis Butane Co. would receive a stay of the requirements of the FEA's July 8, 1977, remedial order pending a final determination of their appeal of that order which they intend to file.)	FRS-1407	Stay request
Do	Farmers Gas & Oil Co., Ithaca, Mich. (If granted: The Farmers Gas & Oil Co. would receive a stay of the requirements of the FEA's June 28, 1977, remedial order pending a final determination of its appeal of that order.)	FRS-1393	Do.
Do	J&W Refining, Inc., Dallas, Tex. (If granted: J&W Refining, Inc., would receive an extension of the relief granted in the FEA's Apr. 13, 1977, decision and order which would relieve the firm of its entitlement purchase obligations.)	FXE-1133	Extension of relief granted in J&W Refining, Inc., 5 FEA par. 85,133 (Apr. 13, 1977).
Do	Kern County Refinery, Inc., Cerritos, Calif. (If granted: The FEA's July 21, 1977, decision and order would be rescinded and the FEA would review the entitlements exception relief granted to Kern County Refinery, Inc., during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0176	Supplemental order to decision and order in Kern County Refinery, Inc., 6 FEA par. ——— (July 21, 1977).
Do	Richard Levy, Alexandria, Va. (If granted: The FEA's June 16, 1977, information request denial would be modified and Richard Levy would receive access to an Aug 10, 1976, memorandum regarding the retroactivity of 10 CFR 212.93(b)(1)(ii).)	FFA-1108	Appeal of information request denial dated June 16, 1977.
Do	Maurice L. Brown Co., Kansas City, Mo. (If granted: Crude oil produced from the Maurice L. Brown Co.'s Midwest Federal lease located in Lea County, N. Mex., would be sold at upper tier ceiling prices.)	FEE-4155	Price exception (sec. 212.73).
Do	State of Oregon, Salem, Oreg. (If granted: The FEA's June 20, 1977, decision and order would be amended by deleting from ordering para. (2) references to H.R. 2141 or H.R. 2142 and substituting reference to H.R. 2140.)	FEX-0177	Supplemental order to decision and order in *State of Oregon*, 6 FEA par. ——— (June 20, 1977).
Do	Valentine & Sons, Inc., Glenrock, Wyo. (If granted: Valentine & Sons, Inc., would be permitted to sell at upper tier ceiling prices the crude oil which it processes from contaminated waste crude oil.)	FEE-4154	Price exception (sec. 212.73).
July 27, 1977	Leonard E. Belcher, Inc., Alexandria, Va. (If granted: Leonard E. Belcher, Inc., would receive a temporary stay of the requirements of the FEA's July 18, 1977, remedial order pending a final determination of a stay request which it intends to file.)	FRT-0046	Request for temporary stay.
July 28 1977	Independent Fuel Terminal Operators Association, et al., Washington, D.C. (If granted: The members of the Independent Fuel Terminal Operators Association, et al., would be recognized by the FEA as a properly formed "class" for the purposes of granting exception relief.)	FEE-4156	Price exception (sec. 212.92).
Do	Mohawk Petroleum Corp., Inc., Los Angeles, Calif. (If granted: The FEA's July 20, 1977, decision and order would be modified to reduce Mohawk Petroleum Corp.'s entitlement purchase obligations.)	FEX-0178	Supplemental order to decision and order in *Mohawk Petroleum Corp., Inc.*, 6 FEA par. ——— (July 20, 1977).

[FR Doc 77-22827 Filed 8-8-77;8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

R. G. Croft & Co. (Richard Garland Croft, d.b.a.), 1103 Ashpark Lane, Harbor City, CA 90702.

Theta International Freight Forwarders, (Daniel M. Riccio, d.b.a.), 1068 W. 44th Terrace, Hialeah, FL 33012.

S. A. CHIARELLA & SONS (S.A. Chiarella, d.b.a), 22 Battery Street, San Francisco, CA 94111.

Krupa Shipping Company (Gary J. Krupa, d.b.a), 1400 West 20th Street, Erie, PA 16501.

Gerald Thomas Flocco, 14 Bridgetown Street, Staten Island, N.Y. 10314.

Consulspeed Services (John Charles Grandon, d.b.a), 8501 South Sepulveda Blvd., Suite N. 312, Los Angeles, CA 90045.

James W. Haney, 81 Rains Street, Houston, TX 77003.

Transeurope Shipping, Inc., 5341 W. 104th Street, Los Angeles, CA 90045, Officer: Peter K. Laser, President.

Almar International (Alberto J. Marino, d.b.a.), 6595 NW., 36th Street, Miami, FL 33166.

E. H. Harrington & Company (Edward H Harrington, Jr., d.b.a.), 8410 NW 53rd Terrace, Miami, FL 33166.

By the Federal Maritime Commission.

Dated: August 4, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22961 Filed 8-8-77;8:45 am]

[Independent Freight Forwarder License No. 1257]

JOSEPH F. ARMENDARIZ

Order of Revocation

On July 28, 1977, Joseph F. Armendariz, 8780 East Valley Blvd., Rosemead, CA 91770, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1257 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01 (b), dated June 30, 1975;

It is ordered, that Independent Ocean Freight Forwarder License No. 1257 issued to Joseph F. Armendariz be and is hereby revoked effective July 28, 1977 without prejudice to reapply for a license in the future.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Joseph F. Armendariz.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-22962 Filed 8-8-77;8:45 am]

SECTION 7. SPECIFIC AUTHORITIES DELEGATED TO THE MANAGING DIRECTOR

Amendment No. 3 to Commission Order No. 1 (Revised)

Section 7 of the revised order is amended by the addition of subsection 7.20 to facilitate the timely processing of applications for and issuance of certificates of financial responsibility to operators whose vessels will transport oil that has been pumped through the trans-Alaska pipeline as provided by Part 543 of the Commission's rules. The added subsection 7.20 is as follows:

7.20 Authority to (a) approve applications for Certificates of Financial Responsibility (Alaska Pipeline), and to issue or reissue or transfer such Certificates; (b) issue a written notice to an applicant stating that the Commission intends to deny an application, indicating the reason therefor; (c) deny any application for a Certificate where the applicant has been issued the written notice of intention to deny, and has not submitted a timely request for a hearing on that denial; (d) rescind notices of intention to deny an application, and grant extensions of the time within which a request for a hearing may be filed; (e) revoke a Certificate upon request of the certificant; (f) revoke a Certificate for the reasons set forth in subparagraphs (4) and (5) of paragraph (a) of section 543.8 of the Commission's rules; and (g) grant or deny requests for extensions of time provided for in subdivision (v) of subparagraph (3) of paragraph (a) of section 543.6 of the Commission's rules.

KARL E. BAKKE,
Chairman.

JULY 29, 1977.

[FR Doc.77-22960 Filed 8-8-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-514]

CENTRAL POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Granting Intervention, Denying Motion for Partial Summary Judgment, Denying Request for Waiver of Notice Provisions, Providing for Hearing, and Establishing Procedures

AUGUST 3, 1977.

On July 12, 1977, Central Power & Light Company (CP&L), tendered for filing proposed increased rates and charges for jurisdictional sales to six wholesale customer.[1] The proposed rates would increase revenues to CP&L by $1,012,302 for the test period year ending June 30, 1978. CP&L requests an effective date of August 7, 1977, and therefore seeks waiver of the Commission's notice requirements.

On July 21, 1977, Magic Valley Electric Cooperative, Inc., and Rio Grande Electric Cooperative, Inc., (hereinafter referred to as "Petitioners") filed a "Protest, Petition to Intervene and Motion for Partial Summary Judgment" of the rate filing. The Petitioners allege, inter alia, that CP&L has requested an unprecedented return on equity and improperly seeks to include accumulated deferred tax credits in the capital structure. In addition, Petitioners assert that since it is clear that CP&L has no hope of justifying the requested return on equity, it is requested that partial summary judgment be granted on this issue so that the wholesale customers may be spared the imposition of paying an unjustified rate of return during the pending of these proceedings.

It is clear that Petitioners are interested parties within the meaning of Section 1.8 of the Rules of Practice and Procedure and, therefore, we conclude that good cause exists to permit intervention in this proceeding. However, we find no basis for rejecting CPL's filing or issuing a partial summary judgment. The Commission may summarily reject a filing when it is not in proper form or order or issue a summary judgment where the filing raises no dispute of fact but only a question of law which does not require ventilation of underlying facts or administrative policy. *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341 (D.C. Cir. 1971). We find no such factors here.

A review of CP&L's filing indicates that the proposed increase in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Based on a review of all the pleadings, we will accept for filing the proposed increased rates and will suspend their effectiveness for one day, i.e., to August 13, 1977, at which time they will become effective subject to refund.

The Commission finds: (1) The intervention in this proceeding of the Magic Valley Electric Cooperative, Inc. and Rio Grande Electric Cooperative, Inc. may be in the public interest.

(2) Good cause exists to deny the request for waiver of the notice provisions, to deny the motion for partial summary judgment, to accept for filing CP&L's proposed rate schedules, and to suspend the rates contained therein, all as hereinafter ordered.

(3) It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its statutory responsibilities under the Federal Power Act.

The Commission orders: (A) The Magic Valley Electric Cooperative, Inc., and Rio Grande Electric Cooperative, Inc. are hereby permitted to intervene in this proceeding; *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) CP&L's request for waiver of our notice provisions is hereby denied and the proposed rate schedules are hereby accepted for filing and suspended for one day until August 13, 1977, when they shall become effective subject to refund.

(C) Pursuant to the authority contained under the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms and conditions of service included in the proposed rate schedules.

(D) The Staff shall prepare and serve top sheets on all parties for Settlement purposes on or before December 1, 1977. (See Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on December 14, 1977, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(G) The motion for partial summary judgment filed herein by Petitioners is hereby denied.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22903 Filed 8-8-77;8:45 am]

[Docket No. CP77-519]

COLUMBIA GAS TRANSMISSION CORP.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP77-519 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Orange and Rockland Utilities, Inc. (Orange and Rockland) for 5 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas for Orange and Rockland from existing points of receipt to Applicant from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Applicant states that the gas so received would be redelivered by it to Orange and Rockland at existing points of delivery in eastern New York.

It is stated that the National Fuel Gas Supply Corporation and National Gas Storage Corporation in FPC Docket No. CP76-492 requested authorization to render long-term storage service for Orange and Rockland, et al. It is further stated that in order to take advantage of this storage service, Orange and Rockland has requested Applicant to deliver up to 1,000,000 Mcf of gas annually to Tennessee for storage injection and receive from Tennesse up to 1,000,000 Mcf annually of gas withdrawn from storage, transport and redeliver like volumes to Orange and Rockland.

Applicant states that it would deliver a portion of Orange and Rockland's CDS rate scheduled entitlement to Tennessee during summer (April 1 through October 31) injection periods at its existing South Ceredo sales meter station delivery point to Applicant located in Wayne County, West Virginia, or at such other existing

[1] The wholesale customers to whom the proposed increased rates will be applicable are as follows: Magic Valley Electric Cooperative, Inc., Nueces Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Medina Electric Cooperative, Inc., and Victoria County Electric Cooperative Company.

points of interconnection between Tennessee and Applicant as may actually be agreed upon. Such deliveries would be made by Applicant nominating a portion of its CD rate schedule purchased from Tennessee for retention by Tennessee for Orange and Rockland's account, it is indicated.

Applicant states that it would receive during the winter (November 1 through March 31) withdrawal period up to 10,000 Mcf per day from Tennessee at Tennessee's existing Milford sales meter station delivery point to Columbia located in Pike County, Pennsylvania, or at such other existing points of interconnection between the facilities of Tennessee and Columbia as may be mutually agreed upon. Applicant further states that it would transport the gas so received on an interruptible basis and redeliver it to Orange and Rockland at existing points of delivery in Eastern New York.

Applicant indicates that on the total volumes of gas delivered during the winter withdrawal period by Tennessee to Applicant for Orange and Rockland's account, it would make a transportation charge of 22.21 cents per Mcf and would retain for company-use and unaccounted-for gas a percentage of the gas so delivered, which percentage is currently 3.1 percent.

No construction is necessary to effect the proposed transportation service, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) as the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22895 Filed 8-8-77;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Filing

AUGUST 2, 1977.

Take notice that Consumers Power Company (Consumers Power) on July 22, 1977, tendered for filing Standard Service Agreements for wholesale for resale eleectric service between consumers Power and the City of Bay City, Alpena Power Company and Southeastern Michigan Rural Electric Cooperative, Inc.

Consumers Power states that the execution and filing of the Service Agreements were performed pursuant to the terms of a Settlement Agreement approved by the Commission order in this docket dated March 7, 1977.

Consumers Power states that on their effective dates, these Service Agreements cancelled and superseded contracts, FPC Nos. 1, 12 and 13, respectively.

Consumers Power states that copies of the filing were served on the affected customers, their counsel and on the Michigan Public Service Commission.

Any person desiring to protest said agreements should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.10 of the Commission's Rules of Practice and Procedure (18 CFR, 1.10). All such protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreements are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22888 Filed 8-8-77;8:45 am]

[Docket No. ER77-517]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 2, 1977.

Take notice that Duke Power Company (Duke) tendered for filing on July 17, 1977, a supplement to the Company's Electric Cooperative with Broad River Electric Cooperative, Inc. which is to become effective on August 19, 1977. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 143.

Duke states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for a new delivery point, No. 10, and increase in a capacity at Delivery Points No. 2 and No. 7. Duke further states that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

The Company states that a copy of this filing was mailed to Broad River Electric Cooperative, Inc. and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22894 Filed 8-8-77; 8:45 am]

[Docket No. ER77-442]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 3, 1977.

Take notice that Duke Power Company (Duke Power) tendered for filing by letter dated July 11, 1977, a supplement to the Company's Electric Power Contract with Haywood Electric Membership Corporation, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 136.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in capacity and reallocation of SEPA capacity and energy to preference customers. Duke Power indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

According to Duke Power a copy of this filing was mailed to Haywood Electric Membership Corporation, Inc. and to the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of

the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22906 Filed 8-8-77;8:45 am]

[Project No. 2232]

DUKE POWER CO.

Application for Approval of Easement over Project Lands

AUGUST 3, 1977.

Public notice is hereby given that an application was filed on May 20, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Duke Power Company (Correspondence to: Mr. William L. Porter, Associate General Counsel, Duke Power Company, Box 2178, Charlotte, North Carolina 28242) for Commission approval of the grant of an easement over the lands of the Catawba (Lake Wylie) Development of the Catawba-Wateree Project, FPC Project No. 2232, to the Charlotte-Mecklenburg Board of Education (Board) for construction, operation, and maintenance thereon of a sewage effluent line and outfall. The affected project lands are located on and under Lake Wylie in Mecklenburg County, North Carolina.

The subject effluent line would transport treated wastewater from a new sewage treatment plan located outside the project boundary into the waters of Lake Wylie. The easement for the line would be 340 feet long and 30 feet wide, with approximately 320 feet of the length extending into Lake Wylie. The line would be comprised of a four-inch-diameter ductile iron pipe, and would be buried a minimum of three feet below ground level. The submerged portion of the pipe would be sunk into place on the lake bottom, where it would bury itself in the mud. At the point of discharge, the pipe would be five feet below the maximum drawdown of record. The maximum discharge would be approximately 6,000 gallons per day.

The Board has obtained National Pollutant Discharge Elimination System Permit No. NC 0028711 and Corps of Engineers Permit No. 77-5A-008 for the proposed discharge and construction at Lake Wylie.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 30, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22907 Filed 8-8-77;8:45 am]

[Docket No. ER77-441]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 3, 1977.

Take notice that Duke Power Company (Duke Power) tendered for filing by letter dated July 11, 1977, a supplement to the Company's Electric Power Contract with the City of Greer, South Carolina. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 226.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in capacity and a reallocation of SEPA capacity and energy to preference customers. Duke Power indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests waiver of the Commission's notice requirements to allow for an effective date of May 20.

According to Duke Power a copy of this filing was mailed to the City of Greer and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22908 Filed 8-8-77;8:45 am]

[Docket No. ER77-443]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 3, 1977.

Take notice that Duke Power Company (Duke Power) tendered for filing by letter dated July 11, 1977, a supplement to the Company's Electric Power Contract with the City of Morganton. Duke Power indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 261.

Duke Power further indicates that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for reallocation of SEPA capacity and energy to preference customers. Duke Power states that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests an effective date of June 20, 1977, and therefore requests waiver of the Commission's notice requirements.

According to Duke Power a copy of this filing was mailed to the City of Morganton and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22910 Filed 8-8-77;8:45 am]

[Docket No. RP77-113]

EL PASO NATURAL GAS CO.

Petition for Extraordinary Relief

AUGUST 3, 1977.

Take notice that on July 21, 1977, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. RP77-113 a petition pursuant to Section 2.78(c) of the Commission's General Policy and Interpretations (18 CFR 2.78(c)) for emergency relief from the operation of certain provisions of El Paso's currently effective tariff during the 1977–1978 winter heating season on behalf of sixteen custom-

ers,[1] all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

El Paso states that pursuant to the Commission orders in Docket No. RP 77–74, it has submitted data obtained from its customers and supporting prepared testimony respecting the potential magnitude and impact of curtailment on the El Paso interstate pipeline system for the period beginning November 1, 1977, and ending March 31, 1978.

El Paso further states that in the course of soliciting customer data required by the Commission's order of May 11, 1977, in Docket No. RP77–74, it has learned that the following customers, having only Priority 1 load, are forecasting Priority 1 requirements for the forthcoming winter season in excess of their respective Winter Season Base Volumes reflected in El Paso's Tariff (all volumes are expressed in Mcf at 60° F. and 14.73 psia):

It is stated that the Commission has declared that a customer's seasonal base volume will serve as the "absolute limit" on the quantity of natural gas which El Paso is authorized to deliver to that customer until further order of the Commission.[2] El Paso states that it, therefore, has no present authority to deliver quantities of natural gas next winter to any of the sixteen customers identified above

1977–78 winter season

Customer	Winter season base volume	Forecasted priority 1 requirements	Forecast as a percent of base volume
1. Big Lake, Tex.	136,063	139,270	102.342
2. Community Public Service Co.	197,915	251,438	127.043
3. Denver City, Tex.	199,200	210,079	105.458
4. Goldsmith, Tex.	23,703	26,110	110.155
5. Grandfalls, Tex.	26,801	36,510	136.226
6. Mountainair, N. Mex.	63,781	63,963	100.337
7. Rankin, Tex.	55,535	56,901	101.001
8. Southern Utilities Co. of Patagonia	21,488	24,210	112.668
9. Spur, Tex.	76,977	78,006	102.536
10. Vaughan Well Corp.	191,217	203,414	106.379

El Paso also states that the following customers, having only Priority 1 and 2 load, are forecasting Priority 1 and Priority 2 requirements in excess of their respective Winter Season Base Volumes:

1977–78 winter season

Customer	Winter season base volume	Forecasted priority 1 and priority 2 requirements	Forecast as a percent of base volume
11. Deming, N. Mex.	385,600	439,831	114.064
12. EMW Gas Association	194,386	204,866	105.389
13. Las Cruces, N. Mex.	1,343,881	1,469,305	109.333
14. Socorro, N. Mex.	260,153	277,994	106.857
15. Tri-County Gas Co., Inc.	65,918	69,600	105.586

It is further asserted that in addition to the fifteen customers identified above, Ramgas, Inc. (which did not respond to El Paso's data request) also has only Priority 1 load and a Priority 1 requirement for natural gas which exceeds its Winter Season Base Volume, based upon El Paso's records for last winter:

1976–77 winter season

Customer	Winter season base volume	Actual 1976–77 winter season priority 1 requirements	Requirement as a percent of base volume
16. Ramgas, Inc.	26,367	35,070	133.030

in excess of their respective Winter Season Base Volume, even though the "excess gas" would be needed to prevent the curtailment of the highest priorities prescribed by the Commission and even though El Paso may be providing a 100 percent level of service for the Priority 1 and Priority 2 requirements of all other customers on the system.

El Paso states that its Tariff provides that any quantity of natural gas taken by a customer from El Paso's system during a season in excess of the total quantity that it is entitled to take shall constitute "Seasonal Unauthorized Overrun Gas" with a current penalty of $5.00 imposed for each Mcf of seasonal unauthorized overrun gas taken by a customer. El Paso further states that the tariff provides that payment of the penalty for seasonal unauthorized overrun gas would not vest any right in a customer to take unauthorized gas, nor would such payment preclude El Paso from pursuing other available remedies to prevent the taking of unauthorized overrun gas.

El Paso, therefore, proposes to waive the winter season base volumes of each of the sixteen identified customers for the period beginning November 1, 1977, and ending April 30, 1978, and further proposes to deliver each day to each of such customers during that period, and without penalty, a quantity of natural gas sufficient to provide it with the same level of service being enjoyed by other East of California customers having the same priority requirements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22870 Filed 8-8-77;8:45 am]

[1] The sixteen customers are: (1) Big Lake, Texas, (2) Community Public Service Company, (3) Denver City, Texas, (4) Goldsmith, Texas, (5) Grandfalls, Texas, (6) Mountainair, New Mexico, (7) Rankin, Texas, (8) Southern Utilities Company of Patagonia, (9) Spur, Texas, (10) Vaughan Well Corporation, (11) Deming, New Mexico, (12) EMW Gas Association, (13) Las Cruces, New Mexico, (14) Socorro, New Mexico, (15) Tri-County Gas Company, Inc., and (16) Ramgas, Inc.

[2] Opinion No. 697–A, *El Paso Natural Gas Company*, Docket No. RP72–6 (Issued December 19, 1974), mimeo at pp. 5–6.

[Docket No. CP77–524]

FLORIDA GAS TRANSMISSION CO. AND UNITED GAS PIPE LINE CO.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, (Applicants) filed in Docket No. CP77–524 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an additional delivery point for the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to exchange up to 5,200 Mcf of natural gas per day pursuant to an exchange agreement dated June 24, 1977, between Applicants. It is stated that Florida Gas would deliver natural gas to United for redelivery to Florida Gas at any mutually agreeable authorized and existing point of interconnection between their respective system.s Applicants state that the new and additional delivery point is to be located at a mutually agreeable point on United's 16-inch Lirette-Mobile line located in St. Charles Parish, Louisiana. At this point Florida Gas proposes to deliver to United up to 5,200 Mcf of natural gas per day, and United proposes to redeliver to Florida Gas on a daily basis, a total quantity of natural gas equal to the volumes of gas delivered to United at the existing authorized interconnection of Florida Gas' and United's systems in St. Landry Parish, near Arnaudville, Louisiana. All exchanges of gas made under the subject agreement would be made on a gas-for-gas basis and no charge would be incurred therefor, it is indicated.

It is stated that Florida Gas has contracted for a supply of natural gas from Florida Gas Exploration Company (Exploration) a producing affiliate, in the North St. Rose Field Area, St. Charles Parish, Louisiana, and that said quantities of natural gas are to be delivered to Florida Gas at a mutually agreeable point at or near each of Seller's wells located on Seller's leases. It is further stated that Florida Gas would construct or would cause the construction of the facilities required to deliver natural gas to United at the proposed St. Charles Parish delivery point, and would bear all expenses associated with the construction of said facilities. It is indicated that United would construct, or cause the construction of, and retain title to the facilities necessary to receive gas from Florida Gas at the point of delivery, and Florida Gas would reimburse United for all expenses so incurred.

Applicants state that the facilities required for the interconnection and exchange of natural gas proposes herein, consist of approximately 7,000 feet of 4-inch pipeline and a meter station, side valve assembly, and related facilities. Applicants indicate that upon receipt of the requested authorization herein, Florida Gas would construct the instant facilities under the authorization granted in its currently effective gas purchase budget-type certificate, issued by the Commission on May 23, 1977, in Docket No. CP77–292.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-22911 Filed 8-8-77;8:45 am]

[Dockets Nos. G-2801, CI72-50, G-10020, and CI71-722]

GETTY OIL CO. ET AL.

Order Clarifying Order Rejecting Settlement

AUGUST 3, 1977.

In the matter of Getty Oil Company (Operator) et al., Docket Nos. G-2801 and CI72-50; Phillips Petroleum Company (Operator) et al., Docket Nos. G-10020 and CI71-722.

On July 19, 1976, the Presiding Administrative Law Judge in the instant proceeding certified a settlement agreement to the Commission. That settlement would have divided Phillips Petroleum Company's (Phillips) interest in the Erath Field: one-third to Columbia Gas Transmission Corporation (Columbia); one-third to Trunkline; and one-third to Trunkline for redelivery to Phillips. At the same time, the Judge certified to the Commission an interim settlement pending final disposition in this proceeding. The proposed interim settlement, which was approved by a Commission order issued December 29, 1976, divided the Phillips interest in the Erath Field equally between Columbia and Trunkline. Each of the parties was however, to "bank" a one-sixth interest for the account of Phillips in the event that the primary settlement was approved. The one-sixth interest would operate as Phillips' proportionate one-third share of the total production available in the event that the primary settlement was approved and payback ordered.

On April 13, 1977, the Commission issued an Order Rejecting Settlement in which the primary settlement agreement, dividing the total interest of Phillips Petroleum in the Erath Field one-third to Columbia, one-third to Trunkline and one-third to Trunkline for redelivery to Phillips was rejected. A similar settlement in the Getty proceeding was also rejected by the order. The unaccepted Getty settlement would have divided Columbia Gas Transmission's present entitlement to all of Getty's interest in the Erath Field 50 percent to Columbia and 50 percent to Transco. The Commission decision on both settlements was reaffirmed on June 10, 1977, by Order on Rehearing.

On June 20, 1977, Phillips Petroleum filed a Motion for Clarification and Implementation of Settlement Agreement, and on June 28, 1977, Trunkline Gas Company filed a motion in which it urged the Commission to issue a protective order authorizing the interim disposition of Phillips' share of the gas produced from the Erath Field units one-half to Columbia and one-half to Trunkline.

On July 5, 1977, Transco filed an Answer to Motion for Protective Order in which it states that it does not oppose Phillips' and Trunkline's motions. Transco then argues that the Commission should approve the Getty settlement which was unopposed by any party or the Commission Staff. Transco suggests that the Commission inappropriately failed to apply the test set forth in Hilda B. Weinert, et al., Docket No. G-2730, et al. with respect to the evidentiary showing necessary to justify abandonment of an interstate pipeline in favor of another interstate pipeline.

On July 6, 1977, Staff filed its response in which it noted no objection to implementing the interim settlement. Columbia Gas Transmission Corporation filed its answer opposing Phillips' and Trunkline's pleadings on July 7, 1977. In this answer, Columbia contends that the April 13 Order Rejecting Settlement extinguished sub silentio the viability of the interim settlement and terminated the rights of the parties granted by that interim agreement.

Discussion

It was clearly stated in the December 29 Order Granting Motion for Interim Order that approval of the interim settlement was merely an accommodation to the parties and that the Commission was not bound to any determination on the merits of the contested primary settlement. It was the Commission's understanding that the interim settlement would be operative only from the date of approval to the issuance of a Commission decision on the contested primary settlement.[1] In our view the issuance of the April 13 Order Rejecting Settlement marked the end of the interim period.

Insofar as the interim settlement was designed to preserve the rights of the parties pending adoption or other action on the primary settlement agreement, the issuance of the April 13 order created a "locked-in" period in which the interim settlement could have been effectuated. The fact that Trunkline and Phillips were unable to enter into a replacement contract until April 29, 1977, is not persuasive.

To the extent that it is necessary to clarify the April 13 Order or the June 10 Order on Rehearing, suffice it to say that the period covered by the interim settlement ended on April 13, 1977. This is true notwithstanding Trunkline's argument that it will be irreparably damaged unless the Commission issues an order pro-

[1] See, e.g., Order Granting Motion for Interim Order issued December 29, 1976, at 3.

tecting its rights to the production attributable to Phillips' interest in the Erath Field. It should be noted that the Commission addressed this problem in the April 13 Order wherein we stated,

> As a matter of law, the Trunkline certificate could not supersede the outstanding certificate to sell to Columbia absent abandonment authorization with respect to the Columbia sale. That question was neither before the Commission nor was it considered in 1971, nor are we able to grant abandonment on this record before us now. A more appropriate construction of that certificate for the sale to Trunkline is that it allowed the excess of Phillips' interest not committed to Columbia to be sold to Trunkline. To the extent there is no excess, Trunkline's rights are non-existent.[2]

We will "clarify" our April 13 Order by stating that the interim settlement is no longer viable and has not been viable since April 13, 1977. That settlement clearly contemplated its own extinction upon the issuance of a Commission Order on the merits of the primary settlement. Thus, the Phillips' interest in the Erath Field shall continue to go to Columbia until abandonment is granted or production from Phillips' interest exceeds 100,000 Mcf/d at which point Trunkline shall be entitled to the excess pursuant to its certificate.

Concerning Transco's contention that the Commission misunderstood the factual state of affairs when distinguishing the *Hilda B. Weinert* case, we confess error. It is true that Staff did *not* oppose the Getty settlement herein. This is apparently due to the distinguishable nature of the two settlements with regard to the producer reservation. The Getty settlement contains a force majeure clause which gives Getty a right to emergency reservations of up to 100% of its interest for a period not to exceed ninety days per year. One of Staff's primary objections to the Phillips settlement was the fact that Phillips' reservation was absolute and the volumes reserved were to be used as boiler fuel.

In the April 13 Order Rejecting settlement, the Commission found that the La Gloria Field[3] test must be met before abandonment of the present pipeline purchases could be obtained. On rehearing the Commission was cited to Hilda B. Weinert, et al., Docket No. G–2730 with respect to the legal test to be applied in evaluating settlement offers. There in a January 19, 1977, Order on Rehearing the Commission concluded that in unanimously supported settlements, the La Gloria Field test was inapplicable. The question posed by unanimous settlements is whether they are in the general interest of the public.[4] It appears that in light of the Commission's misunderstanding of the facts (notably Staff's total concurrence) the inappropriate legal test was applied. Upon reconsideration we are persuaded that the Getty settlement agreement is in the public interest and should be approved. We will reverse our previous orders insofar as they reject the Getty settlement.

The Commission orders: (A) That the order issued April 13, 1977, and Order on Rehearing issued June 10, 1977, in this docket are clarified as set forth more fully above.

(B) The order issued April 13, 1977, and Order on Rehearing issued June 10, 1977, are reversed insofar as they reject the settlement agreement certified to the Commission in Docket No. G–2801 and CI72–50.

(C) The settlement agreement certified to the Commission in Docket Nos. G–2801 and CI72–50 is hereby approved.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22897 Filed 8-8-77;8:45 am]

[Docket No. ER76–555]

INTERSTATE POWER CO.

Order Approving Settlement Agreement

AUGUST 3, 1977.

On June 10, 1977, Interstate Power Company (IPC) submitted for filing in this docket a proposed Settlement Agreement. Notice of the filing of the Settlement Agreement was issued on June 1, 1977, with all protests due on or before July 6, 1977. No protests were received. Staff filed comments in support of the agreement on July 6, 1977.

IPC initially filed a rate schedule in this docket on April 23, 1976. According to that schedule, IPC proposed to increase its transmission service charges to the municipal electric systems of Adrian, Jackson, Lakefield, Luverne, Westbrook, Windom and Worthington, Minnesota. The source of the energy wheeled is the United States Bureau of Reclamation, Upper Missouri Region, Billings, Montana. The proposed rates would have increased revenues from IPC's wholesale customers by approximately $361,395.

In an order issued May 21, 1976, the Commission accepted the filing, suspended it, made it effective subject to refund, and set the matter for hearing, for the municipalities of Luverne, Adrian, Westbrook, and Worthington. With respect to the municipals of Jackson, Windsor and Lakefield, however, the Commission noted that their contracts with IPC contained no provisions for changes in rate; thus these customers were being served under currently effective, fixed rate contracts. In accordance with the rule of Mobile-Sierra,[1] the Commission rejected the filing as it relates to Jackson, Windsor and Lakefield.

At a Settlement Conference held on October 19, 1976, IPC, the Municipalities, and the Commission Staff agreed to a settlement in this proceeding. The Settlement Agreement reduces the revenue increase to Interstate's municipal wheeling customers to $300,890 to be effective July 23, 1976, or upon the expiration of the abovementioned fixed rate contracts,[2] and provides for a refund, at an annual interest rate 9 percent, of the difference between the settlement rate and the amounts actually collected by IPC. Additionally, the Agreement states that IPC is not precluded from filing future rate increase applications.

Staff analysis indicates that the settlement rate level produces an earned rate of return of 8.573 percent, including 12.33 percent for common equity. This rate is below Staff's recommendation of 8.79 percent rate of return, including 13.0 percent for common equity.

Based on our review of the record in these proceedings, including the Settlement Agreement itself, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all the issues in this proceeding, and that such settlement is in the public interest. Acordingly, the Settlement Agreement between IPC and the municipal customers should be approved.

The Commision finds: The proposed Settlement Agreement submitted to the Commission in this docket should be approved and made effective as hereinafter ordered and conditioned.

The Commisison orders: (A) The Settlement Agreement filed June 10, 1977, in these proceedings is hereby acepted, incorporated herein by reference and approved subject to the following conditions.

(B) IPC shall file within 30 days of the issuance of this order revised tariff sheets in conformance with the Settlement Agreement.

(C) Within 30 days after the settlement tariff sheets are accepted for filing, IPC shall refund amounts collected in excess of the settlement rates with interest computed at 9 percent per annum.

(D) Within 15 days after refunds have been made, Interstate shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly revenue refund; and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against IPC or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22896 Filed 8-8-77;8:45 am]

[Project No. 1440]

LAKE SUPERIOR DISTRICT POWER CO.

Order Granting Application for Surrender of License (Transmission Line)

AUGUST 3, 1977.

On January 6, 1977, Lake Superior District Power Company (LSDPC), licensee for Project No. 1440, filed an application under section 6[1] of the Federal Power Act (Act) for surrender of its license for Project No. 1440, an 88-kV transmission line with a right-of-way 100 feet wide extening about 33 miles in a general easterly direction from Ashland, Wisconsin, to Ironwood, Michigan. The right-of-way traverses lands of the United States, held in trust for the Bad River Indian Tribe, in Ashland County, Wisconsin. The license for Project No. 1440 was issued on July 29, 1938, for a period of fifty years, and was amended on Setpember 18, 1942.

On January 7, 1974, LSDPC wrote the Commission that it had become necessary to improve the subject transmission line by rebuilding it and increasing its operating voltage from 88 kV to 161 kV. The Secretary of the Commission responded, by direction of the Commission, on February 25, 1974, notifying LSDPC that a Commission staff study indicated that the subject transmission line transmitted power principally from a steam-electric station and consequently was not subject to licensing or relicensing under section 3(11)[2] of the Act. The Secretary's letter suggested that if LSDPC wished to rebuild the transmission line, it should obtain a permit from the Department of the Interior and file an application for surrender of its FPC license pursuant to part 6[3] of the Commission's Regulations under the Federal Power Act (Regulations). LSDPC filed the instant application as a result of the Secretary's letter.

Public notice of the application was issued in accordance with section 6 of the Act on March 17, 1977, with May 9, 1977 given as the last date for filing protests or petitions to intervene. The notice was published in the FEDERAL REGISTER[4] on March 23, 1977, and in newspapers in the counties in which the project is located. No protests, notices of intervention, or petitions to intervene were received.

LSDPC has obtained a grant of easement for right of way from the Bureau of Indian Affairs of the U.S. Department of the Interior, thus satisfying section 6.2[5] of the Commission's Regulations with regard to approval from the department having supervision over the lands in question. LSDPC has filed a copy of the grant, dated February 19, 1975, with the Commission, and has also returned all original license and amendment documents to the Commission. Annual charges have been paid through December 31, 1976. Accordingly, the acceptance of the surrender of the license will be effective January 1, 1977.

Because surrender of the license, per se, will not entail or permit any new construction or change in project operation, our acceptance of the instant application will not constitute a major federal action significantly affecting the quality of the human environment. Accordingly, preparation of an environmental impact statement pusuant to section 102(2)(C)[6] of the National Environmental Policy Act of 1969 will not be necessary.

The Commission finds: (1) Acceptance by the Commission of the surrender of the license for transmission line Project No. 1440 is appropriate because the subject line is not a primary line as defined in section 3(11) of the Federal Power Act.

(2) Acceptance of surrender of the license is not a major federal action significantly affecting the quality of the human environment; therefore, an environmental impact statement is not required.

(3) The effective date for surrender of the license for Project No. 1440 should be January 1, 1977.

The Commission orders: Surrender of the license for transmission line Project No. 1440 is hereby accepted as of January 1, 1977.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22893 Filed 8-8-77;8:45 am]

[Docket No. ER76–830]

MISSISSIPPI POWER & LIGHT CO.

Order Approving Settlement Agreement

AUGUST 3, 1977.

On June 1, 1977, Mississippi Power & Light Company (MP&L) by motion filed a proposed settlement agreement, executed by MP&L and the five Municipals and seven Electric Power Association customers intervening in this proceeding (Wholesale Customers),[1] requesting that the agreement be certified to the Commission for approval. On June 3, 1977, the Presiding Judge certified the proposed settlement agreement to the Commission for consideration and disposition. Pursuant to public notice of the certification issued on June 17, 1977, Staff filed comments in support of the agreement. No comments in opposition have been filed. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings in this docket were initiated on July 30, 1976, when MP&L tendered for filing a proposed rate increase of $3,406,196 (13.25%), applicable to the Wholesale Customers, based on a projected Period II 1976 test year.

By order issued August 27, 1976, the Commission accepted MP&L's submittal for filing, suspended its operation until December 1, 1976, subject to refund, established hearing procedures and required MP&L to file revised rates reflecting the elimination of Construction Work in Progress (CWIP) from rate base.[2]

On October 26, 1976, MP&L tendered for filing proposed revised rates to comply with the Commission's August 27 order which would increase revenues collected from the Wholesale Customers by $2,566,532 (10.06%) for Period II. These rates went into effect subject to refund on December 1, 1976.

On March 1, 1977, Staff filed top sheets as required by the Commission's August 27 order, and a formal prehearing conference was held on March 29, 1977, after which the parties including Staff, met to discuss the issues in dispute. At a subsequent prehearing conference held on April 28, 1977, MP&L and the Wholesale Customers reported to the Presiding Judge that they had reached an agreement in principle. At a final conference held on June 1, 1977, the parties submitted the subject proposed settlement agreement for copying into the record, and MP&L by motion requested that the proposed agreement be certified to the Commission. On June 3, 1977, the Presiding Judge certified the proposed agreement to the Commission, and on June 30, 1977, Staff submitted comments in support of it.

The settlement agreement provides (1) for a proposed Period II increase of $1,200,000 (4.70%) to become effective December 1, 1976; (2) for December 1, 1976, compliance with the Office of Chief Accountant Audits' Division Report recommendations related to MP&L's fuel clause billing practices[3]; (3) for a revised fuel clause, and revised base demand and energy rates to effectuate compliance with the fuel clause audit

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[2] Order Rejecting Settlement issued April 13, 1977, at 4.

[3] Transcontinental Gas Pipeline Corp. v. FPC, 488, F.2d 1325 (D.C. Cir. 1973).

[4] See, Hilda B. Weinert, Docket No. G–2730, Order on Rehearing issued January 19, 1977, at 6.

[1] *United Gas Pipe Line Company* v. *Mobile Sierra Company*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

[2] Jackson's, Windsor's and Lakefield's fixed rate contracts expire on August 2, 1978, April 6, 1979 and March 16, 1979, respectively.

[1] 16 U.S.C. § 799 (1970).
[2] U.S.C. § 796(11) (1970).
[3] 18 C.F.R. § 6.1–6.5 (1976).
[4] 42 Fed. Reg. 15753 (1977).
[5] 18 C.F.R. § 6.2 (1976).
[6] 42 U.S.C. § 4332(2)(C) (1970)..

[1] Coahoma Electric Power Association, Delta Electric Power Association, Magnolia Electric Power Association, Southern Pine Electric Power Association, Southwest Mississippi Electric Power Association, Twin County Electric Power Association, Yazoo Valley Electric Power Association, City of Canton, City of Durant, City of Kosiusko, City of Leland, and City of Itta Bena; all located in Mississippi.

[2] MP&L's July 30 filing contained CWIP in rate base contrary to then-applicable Commission policy.

[3] This report was publicly released on May 17, 1977, and requires that MP&L eliminate from wholesale fuel clause billings, and include in Base rates for electrical service, certain items of cost reflected in prices invoiced by System Fuel Inc., an affiliated company of MP&L's, parent company, Middle South Utilities.

report; (4) for refunds to be made with interest at 9% per annum; (5) for a moratorium on filing a further rate change until July 28, 1978; and (6) for no concession to be made with respect to any rate making principle or laws.

Based on our review of the record in this docket including the settlement agreement itself, the filings, documents and pleadings submitted, we find that the proposed settlement agreement represents a reasonable resolution of the issues in the proceeding and is in the public interest.[4] Accordingly, the proposed settlement agreement filed in this docket on June 1, 1977, should be approved.

The Commission finds: The proposed Settlement Agreement Regarding Rates For Wholesale Electric Service filed by MP&L and the Wholesale Customers on June 1, 1977, should be approved and made effective as hereinafter ordered.

The Commission orders: (A) The negotiated Settlement Agreement Regarding Rates For Wholesale Electric Service filed by MP&L and the Wholesale Customers in this docket on June 1, 1977, is hereby approved and made effective as of December 1, 1976.

(B) MP&L is hereby directed pursuant to Section 35.1(a) of the Commission's Regulations to file within 30 days revised tariff sheets in accordance with the terms of the approved settlement agreement. Therein, MP&L is further directed to include specific reference of compliance with the Office of Chief Accountant Audits Division Report released May 17, 1977.

(C) In accordance with the terms of the subject settlement agreement and consistent with the Commission's regulations, MP&L is hereby directed to refund within 30 days after acceptance of the compliance filing required by the preceding paragraph, the difference in revenues collected under the rates made effective December 1, 1976, and the revenues authorized to be collected pursuant to the terms of the settlement agreement filed on June 1, 1977, with interest at 9% per annum.

(D) MP&L is hereby directed to file a compliance report within 15 days after refunds have been made, such report to show monthly billing determinants and revenues under prior, present, and settlement rates. The report should also show the monthly settlement rate increase, the monthly revenue refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claim or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against MP&L or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22904 Filed 8-8-77;8:45 am]

[4] The earned rate of return under the proposed settlement rates will not exceed Staff's recommendation of 9.07%, including 13.25% on common equity.

[Docket No. CP77-514]

MOUNTAIN FUEL SUPPLY CO.

Application

AUGUST 2, 1977.

Take notice that on July 21, 1977, Mountain Fuel Supply Company (Applicant) 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-514 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of six taps on its interstate transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to construct, install and operate six taps on its interstate transmission system in order to make gas sales to its customers in existing distribution areas including three customers in isolated areas traversed by the transmission pipeline.

Applicant states that it has adequate gas supplies to provide the minor additional service required by three new customers and the additional service to the Western Wyoming Junior College which is already served by Applicant. The two other taps requested herein are to improve service reliability, it is indicated.

Applicant states that it installed one of these taps in 1975 in anticipation of its firm requirements as a part of the original construction of Applicant's 20-inch pipeline authorized in Docket No. CP73-213, and that it now requests authorization to connect this tap to its distribution system to maintain balanced reliable service to its existing customers in Bountiful, Utah. It is indicated that a tap for an additional delivery point is needed to balance distribution pressure in the town of Green River, Wyoming, and that expanding educational facilities at Western Wyoming Junior College near Rock Springs, Wyoming require a new tap for this existing customer.

Applicant indicates that the other three taps are for service to new gas customers requesting high priority service along the route of Applicant's pipeline. These sales are primarily for residential and commercial heating uses, it is said. Applicant states that all of the sales from the six proposed taps would be made under rate schedules authorized by the Public Service Commissions of Utah or Wyoming.

The estimated cost of the proposed facilities is $16,000, which cost would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22887 Filed 8-8-77;8:45 am]

[Docket No. E-7022]

NIAGARA MOHAWK POWER CORP.

Filing of an Application for Authorization to Transmit Electrical Energy to Canada

AUGUST 3, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 11, 1977, tendered for filing an application for authorization to transmit electrical energy to Canada.

Niagara indicates that this authorization to transmit electric energy to Canada provides for sale and transmission of electrical energy up to a maximum of 40,000 kilowatts and a maximum 200,000 megawatthours to St. Lawrence Power Company, Cornwall, Ontario.

Niagara further indicates copies of this filing have been served on St. Lawrence Power Company, the only customer presently proposed to be served under this

tariff, and upon the Public Service Commission of the State of New York, Empire State Plaza, Albany, New York 12223.

Any person desiring to be heard or to protest said application should file a petition or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22890 Filed 8-8-77;8:45 am]

[Docket No. ER77-515]

PUBLIC SERVICE CO. OF OKLAHOMA

Filing

AUGUST 3, 1977.

Take notice that Public Service Company of Oklahoma (PSCO) on July 12, 1977, tendered for filing a request for suspension of the Notice of Cancellation filed by Public Service Company of Oklahoma on May 9, 1977, and accepted by the Commission to be effective June 30, 1977, and designated as supplement No. 1 to Rate Schedule FPC No. 191 under Docket No. ER77-368.

PSCO submits in this filing an agreement dated July 8, 1977, between PSCO and the United States of America, acting through the Secretary, Department of the Interior, as represented by the Administrator, Southwestern Power Administration (SPA), in which SPA concurs in PSCO's request for a suspension.

PSCO indicates that the reason for this request is that SPA presently has a capacity shortage SPA has not foreseen and that PSCO is willing to sell emergency service to provide the unforeseen power and energy to SPA.

PSCO requests waiver of the Commission's notice requirements to allow for an effective date of July 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22909 Filed 8-8-77;8:45 am]

[Docket No. RI77-113]

SUN GAS CO.

Petition for Special Relief

AUGUST 3, 1977.

Take notice that on July 11, 1977, Sun Gas Co., a Division of Sun Oil Co., Delaware (Petitioner), P.O. Box 20, Dallas, Tex. 75221, in Docket No. RI77-113, filed a petition for special relief pursuant to Section 2.76 of the Commission's Regulations. Petitioner requests relief from the nation-wide flowing gas rate prescribed in Opinion No. 749 for the sale of Natural gas to Valley Gas Transmission, Inc. from the Hidalgo Willacy Unit, South Elsa Field, Hidalgo County, Tex. Petitioner is currently collecting a rate of 32.1165 cents per Mcf at 14.65 psia for the subject gas and requests an increase to the total rate of 49.2733 cents per Mcf at 14.65 psia. Petitioner states that the rate increase is necessary to recoup the incremental costs associated with the installation of a two-stage compressor which has resulted in an increase in the rate of gas production.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 26, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22898 Filed 8-8-77;8:45 am]

[Docket No. CP77-520]

TENNESSEE GAS PIPELINE CO. AND NORTHERN NATURAL GAS CO.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Tex. 77002, and Northern Natural Gas Co. (Northern), 2223 Dodge Street, Omaha, Nebr. 68102 (Applicants), filed in Docket No. CP77-520, a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to exchange up to 26,668 Mcf of natural gas per day pursuant to an exchange agreement dated June 30, 1977 between Applicants. The daily volumes of gas which Applicants propose to exchange are the additional daily volumes of gas, less the incremental volumes required in the handling thereof, which Midwestern Gas Transmission Co. (Midwestern) has requested authorization to import from Canada at Docket No. CP77-458 and to sell to Tennessee at Docket No. CP77-459, it is said.

It is indicated that Tennessee would cause Midwestern to deliver the gas proposed to be purchased from Midwestern to Northern for Tennessee's account at one or more of the existing points of interconnection between the facilities of Midwestern and Northern in the State of Minnesota near Genola, Morrison County; Cambridge, Isanti County; and North Branch, Chisago County, and Northern would redeliver equivalent daily volumes to Tennessee by utilizing daily volumes of gas available to Northern in southern Louisiana, at the western terminus of the Blue Water Project near Egan, La. and/or other mutually agreeable existing points where gas can be redelivered to Tennessee by or for the account of Northern. It is stated that there would be no charge by or to either party for exchanging gas.

No additional facilities are required for the exchange of gas as proposed herein, it is said.

It is indicated that pursuant to the Interim Gas Sales Agreement between Midwestern and Tennessee (Exhibit P to the application at Docket No. CP77-459), Tennessee would purchase gas from Midwestern at the point where such gas is delivered by Midwestern to Northern for Tennessee's account. The monthly charge to be paid by Tennessee for such gas, pursuant to provisions of such agreement, would be the sum of the amount paid by Midwestern to TransCanada during such month for gas purchased and delivered pursuant to the provisions of its Contract Agreement with TransCanada; plus, the amount Midwestern pays to TransCanada during such month as a compression charge pursuant to its Delivery Pressure Agreement dated July 2, 1975, as amended; plus, a transportation charge for each Mcf delivered to Northern for Tennessee's account at the respective delivery points and a monthly compressor facilities rental charge which charge would reimburse Midwestern for all costs payable to the Lessor and others pursuant to the provisions of the Lease Contracts between Midwestern and Crawford Enterprises, Inc.

Any person desiring to be heard or to make any protest with reference to said

application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22891 Filed 8-8-77;8:45 am]

[Docket No. RP75-73 (Advance Payments)]

TEXAS EASTERN TRANSMISSION CORP.

Order Initiating Hearing

AUGUST 3, 1977.

On June 6, 1977, the Commission issued an order modifying and accepting Texas Eastern Transmission Corp.'s (Texas Eastern) rate settlement proposal in the above-captioned proceeding.

In its order of June 6th, the Commission found that advance payments of $7.4 million included in the settlement should be excluded from Texas Eastern's rate base. However, in the alternative, Texas Eastern was afforded the opportunity to elect to sever this aspect of the settlement and request that the matter be set for formal hearing. The Commission stated that a decision by Texas Eastern to elect a hearing would not affect the Commission's approval of the remainder of the settlement.

On July 6, 1977, Texas Eastern notified the Commission that it accepts the settlement as modified and approved by the Commission, and that it wishes to exercise its option to request a formal hearing on the advance payments issue.

In light of the foregoing, the Commission shall establish procedures for the requested formal hearing, as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning whether the subject $7.4 million of advance payments shall be permitted to be included by Texas Eastern in its rate base.

(B) Pending hearing and decision, Texas Eastern shall be permitted to retain the $7.4 million of advance payments in rate base subject to refund.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(a), shall convene a prehearing conference in this proceeding on August 18, 1977, for the purpose of establishing procedures for the hearing to be held pursuant to this order. The Presiding Judge shall be authorized to establish procedures for the hearings, including setting dates for the serving of evidence by the parties and for the commencement of hearing. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the rules of practice and procedure.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22905 Filed 8-8-77;8:45 am]

[Docket No. CP77-522]

TEXAS EASTERN TRANSMISSION CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001 (Applicants), filed in Docket No. CP77-522, a joint application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an additional point of exchange of natural, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization to establish an additional exchange point where Texas Eastern's 30-inch pipeline No. 16 interconnects with the facilities of Texas Gas Pipe Line Corp. (Texas Gas), Jefferson County, Tex. It is stated that at such point, Texas Gas would not only deliver volumes which it sells to Texas Eastern as at present, but would also deliver to Texas Eastern, for the account of Transco, volumes which it sells to Transco but which are now delivered to Transco in Cameron Parish, La., and that Texas Eastern would in turn deliver Transco's volumes to it at authorized existing exchange points.

Applicant proposes to exchange the gas at the additional exchange point pursuant to an agreement dated February 3, 1977, between Transco and Texas Eastern, which agreement amends the existing exchange agreement between Applicants previously authorized in Docket Nos. G-4610, CP73-60, CP74-224, CP75-282, and CP76-189. Under the subject agreement dated February 3, 1977, Transco or its representative would operate and maintain the existing interconnection and metering facilities between Texas Eastern and Texas Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22889 Filed 8-8-77;8:45 am]

[Docket No. CP77-525]

UNITED GAS PIPE LINE CO.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-525, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delayed exchange of gas between itself and Delhi Gas Pipeline Corporation (Delhi), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that due to the severe shortage of natural gas it anticipates a supply deficiency which would affect its ability to meet the winter season requirements of its high priority customers, and that in order to mitigate this problem to the maximum extent possible, Applicant has entered into a gas exchange agreement with Delhi whereby Delhi would deliver up to 25,000 Mcf of gas per day to Applicant at the outlet of the Champlin Plant located in Panola County, Tex. and at other mutually agreeable points of interconnection on Applicant's system. Applicant indicates that during the months of November, December, February, and March, Applicant would retain 90 percent of the gas so delivered by Delhi and would redeliver to Delhi on a daily basis a quantity of gas equal to the million Btu's of gas received from Delhi at a rate not to exceed 16,000 Mcf during the months of April, May, June, July, August, September, and October, in addition to the volume which it is otherwise obligated to redeliver, by delivering such gas into the Victoria-Blessing system of Delhi at a point of interconnection located in Victoria County, Tex.

Applicant asserts that the proposed exchange of gas on a delayed basis would enable it to meet the requirements of its high priority customers, and that it would make volumes of gas available during winter months when the need is greatest and would allow Applicant to make up to imbalance in deliveries during warmer weather.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22892 Filed 8-8-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 2, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 29, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC is requesting extension no change clearances for the following:

Application for Radio License or Modification Thereof Under Parts 21, 23 or 25, Form 403. This form is used by applicants for a radio station or a modification of a station license. FCC estimates approximately 5,500 applications are received annually and that the average burden per response is five hours.

Application for Ground Station Authorization in the Aviation Services, Form 406. Potential respondents are those applying for a station or for assignment of grounds station authorization. These services are covered under Section 87.31 of the FCC Rules and Regulations. FCC estimates approximately 5,000 applications are filed annually and that the average burden per response is one and one-half hours.

Common Carrier Radio Licensee Qualification Report, Form 430. Form 430 is a report of licensee general type qualification information. The form will be filed initially with the application for a construction permit and will be updated thereafter on a yearly basis, unless there is a significant change in the carrier's position or an application for modification. FCC estimates approximately 550 reports are received annually and that respondent burden is two hours per response.

Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21, Form 435. This form is used by communications carriers to apply for facilities in the Point-to-Point Microwave Radio Service, the Multipoint Distribution Service, and the Local Television Transmission Service. These services are covered under Part 21, Section 21.14 of the FCC Rules and Regulations. FCC estimates approximately 750 applications are received annually and that respondent burden is two hours per response.

Application for Civil Air Patrol Radio Station Authorization, Form 480. This form must be filed by applicants for a land station used exclusively for communications of the Civil Air Patrol. FCC estimates approximately 2,000 applications are received annually and that respondent burden is three-fourth hour per response.

Application for Station License in the CB or R/C Service, Form 505. This form is required by Part 95.19 of the FCC Rules and Regulations. Applicants applying for a Radio Control License or a Citizens Band Service License must complete this form. FCC estimates approximately 7,150,000 applications are received annually and that respondent burden averages five minutes per response.

Application for Individual Amateur Radio Station and/or Operator License, Form 610. This form is required by Part 97, Sections 97.11, 97.13, and 97.47 of the FCC Rules and Regulations. The form is used to apply for or modify an amateur radio station license. FCC estimates approximately 375,000 applications are received annually and that respondent burden is five minutes per response.

Application for Alien Amateur Radio Licensee for Permit to Operate in the United States, Form 610-A. This form is required by Parts 1 and 97 of FCC's Rules to apply for or modify a reciprocal amateur radio license. Before an alien can operate an amateur radio station in the United States, an alien amateur licensee must obtain a permit for such operation from the FCC. A permit for such operation is issued only to an alien holding a valid amateur operation and station authorization from his/her government, and only when there is in effect a bilateral agreement between the U.S. and that government for such operation on a reciprocal basis by U.S. amateur radio operators. Approximately 5,000 applications

are recived annually as estimated by FCC and respondent burden is estimated to be five minutes per response.

Application for Amateur Club or Military Recreation Station License, Form 610–B. This form is required by Parts 1.922, 97.41, 97.47 of the FCC's Rules and Regulations. The application is used to apply for an amateur radio club or military recreation station license. FCC estimates approximately 5,000 applications are received annually and that respondent burden is five minutes per response.

Supplement to Application for New or Modified Radio Station Authorization, Form 714. This form must be filed as a supplement to applications for construction of antennas, except broadcast, when the antenna exceeds specifications in the Commission's Rules. Sections 1.922, 17.4(f), 81.31(b), 81.32(b), 95.37(a), 97.45 (a), and 99.13(a) of the FCC's Rules and Regulations require the use of this form. Approximately 156 applications are received annually as estimated by FCC and respondent burden is estimated to be one and one-half minutes per response.

Application for Restricted Radiotelephone Operator Permit by an Alien, Form 755. This form is used by aliens to obtain a radio operator license. Public Law 93–505 enacted November 30, 1974, removed the restriction in the Communication's Act concerning licensing of aliens and alien-affiliated entities in the Safety and Special Experimental Radio Services. Prior to this action only aliens entitled to apply for a Restricted Radiotelephone Operator Permit were those who held FAA Pilot Certificates and used the permit in connection with piloting duties. This form is required under Sections 1.89 and 13.11(b) of the Commission's Rules and Regulations. FCC estimates approximately 5,000 applications are received annually and that respondent burden averages four minutes per response.

Application for Provisional Radiotelephone 3rd Class Operator Certificate with Broadcast Endorsement, Form 756–C. This form provides for a certification by a holder of a radiotelephone 1st class operator license that he/she is responsible for technical maintenance of a radio broadcast station and that instruction has been given to the applicant in the operation of a broadcast station and that it is believed the operator is capable of performing the duties expected of a person holding a radiotelephone 3rd class operator permit with broadcast station operator endorsement. FCC estimates approximately 11,000 applications are received annually and that respondent burden averages three minutes per response.

Special Temporary Authority Rules in the Cable Television Service, Section 76.29 of FCC Rules. This section requires that in circumstances requiring temporary use of cable television facilities for operations not authorized pursuant to a valid certificate of compliance, a cable television service may request special temporary authority to operate. The FCC may grant special temporary authority, upon a finding that the public interest would be served, for a period not to exceed 90 days and may extend such authority upon a like finding for one additional period not to exceed 90 days. Specific statutory authority for this rule is derived from Section 309(f) of the Communications Act of 1934, as amended, as well as Sections 2, 4 (i) and (j), 30, 303, and 307 of the Communications Act. FCC estimates approximately 50 requests are received annually and that respondent burden averages one hour per response.

NORMAN F. HEY,
Regulatory Reports, Review Officer.

[FR Doc.77-22843 Filed 8-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N–0157; DESI 4A]

HYDROXYAMPHETAMINE HYDROBROMIDE TABLETS

Withdrawal of Approval of Pertinent Part of New Drug Application

Correction

In FR Doc. 77–19622, appearing at page 35895 in the issue of Tuesday, July 12, 1977, under the heading, "Supplementary Information", in the 9th line down, the first word now reading, "Paredine" should be corrected to read, "Paredrine".

[Docket No. 76N–0059; DESI 5798]

OXIDIZED CELLULOSE PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 77–19618 appearing at page 35895 in the issue of Tuesday, July 12, 1977, on page 35896, first column, in the ninth line from the bottom, "NDA–798" should be corrected to read, "NDA5–798".

[Docket No. 77N–0163]

LEMMON PHARMACAL CO.; STATOBEX (PHENDIMETRAZINE TARTRATE 70 MILLIGRAM) DOSAGE FORMS

Refusal to Approve Parts of New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that the Director of the Bureau of Drugs refuses to approve those parts of an abbreviated new drug application (ANDA) pertaining to Statobex (phendimetrazine tartate 70 milligrams) Tablets and Capsules (ANDA 85–095) submitted by Lemon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960 ("Lemon"). A notice of opportunity for hearing on the issue of the approvability of the application was published in the FEDERAL REGISTER of May 20, 1977 (42 FR 25917). Lemon Pharmacal did not request a hearing.

DATE: Effective August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–3650).

SUPPLEMENTARY INFORMATION: On March 23, 1976, Lemon submitted an ANDA (assigned number ANDA 85–095) for the following products:

Statobex Tablets (phendimetrazine tartrate, 35 milligram and 70 milligram), Statobex-D Tablets (phendimetrazine tartrate, 35 milligram and 70 milligram), and Statobex-D Capsules (phendimetrazine tartrate, 35 milligram and 70 milligram).

On December 28, 1976, the firm requested that the application, insofar as it pertains to the 70-milligram dosage forms, be filed over protest. On May 20, 1977 (42 FR 25917), the Director of the Bureau of Drugs published a notice of opportunity for hearing on his proposal to refuse approval of the 70-milligram dosage forms. Lemmon elected not to request a hearing on the issue and, by letter dated June 3, 1977, withdrew its request to file the application over protest.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that (1) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the 70-milligram dosage forms of Statobex are safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, and (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drugs are safe for use under such conditions.

Therefore, pursuant to the foregoing findings, approval of those parts of abbreviated new drug application 85–095 pertaining to dosage forms of Statobex containing 70 milligrams of phendimetrazine tartrate is refused.

Dated: August 2, 1977.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.77-22823 Filed 8-8-77;8:45 am]

[Docket No. 77N–0225]

VITARINE CO.

Phendimetrazine Tartrate 105-Milligram Time Release Capsules; Opportunity for Hearing on Proposal to Refuse to Approve New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse approval of an abbreviated new drug application for Phendimetrazine Tartrate 105-milligram Time Release Capsules (ANDA 83–736) by The Vitarine Co., 227–15 North Conduit Ave., Springfield Gardens, NY 11413 ("Vitarine") on the grounds that (1) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the product is safe for use under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the product is safe for use under such conditions; and (3) evaluated on the basis of the information submitted as part of the application and other public information before FDA, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under such condition of use.

DATES: Any request for a hearing must be submitted on or before September 8, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before October 11, 1977.

ADDRESSES: Requests, supporting data and information, and other comments shall be submitted, with FDA Docket No. 77N–0225 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–3650).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As required by the Drug Amendments of 1962, FDA is engaged in a Drug Efficacy Study Implementation (DESI) program under which each drug covered by a new drug application (NDA) that was approved by FDA on the basis of safety between 1938 and 1962 is review to determine whether substantial evidence exisits to demonstrate that the drug is effective for its labeled indications. As reviews are completed, notices are published in the FEDERAL REGISTER announcing the agency's conclusions on the effectiveness of the drugs reviewed.

In the FEDERAL REGISTER of February 12, 1973 (38 FR 4280), FDA published DESI Notice 11673 stating that Plegine Tablets containing 35 milligrams of phendimetrazine tartrate as a single active ingredient and marketed by Ayerst Laboratories is effective "in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restrictions." The Indications section further was to read: "The limited usefulness of agents of this class * * * should be measured against possible risk factors inherent in their use * * *." The DESI notice also stated that Plegine Tablets is regarded as a "new drug" as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act"), and that "a new drug application is required from any person marketing such drug without approval." Furthermore, "all identical, related, or similar drugs, not the subject of an approved new drug application * * * are subject to this notice," citing the current 21 CFR 310.6. Finally, referring to a prior general announcement by FDA published in the FEDERAL REGISTER of July 14, 1970 (35 FR 11273), DESI Notice 11673 advised that "marketing of such drugs may be continued * * * (by) any person who does not hold an approved or effective new drug application, (upon) the submission of an abbreviated new drug application" (ANDA) within 60 days of the notice. The July 14, 1970 announcement also permitted manufacturers to commence marketing upon the filing of an NDA or ANDA. (On September 22, 1975, FDA published in the FEDERAL REGISTER a general notice (40 FR 43531) that, in effect, revoked those portions of the July 14, 1970 announcement that were inconsistent with the District Court's order in *Hoffmann-LaRoche, Inc.* v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the September 22, 1975 notice. That order, and the September 22, 1975 notice, withdrew any "permission" from FDA for a new supplier of a drug listed in DESI notice 11673 to commence marketing upon submission of an NDA or ANDA but prior to the approval of an NDA or ANDA.)

APPLICATION FOR PHENDIMETRAZINE TARTRATE 105-MILLIGRAM TIME RELEASE CAPSULES

On May 7, 1973, Vitarine submitted an ANDA (assigned number ANDA 83–736) for the following product:

Phendimetrazine Tartrate 105-Milligram Time Release Capsules

The ANDA form of a new drug application does not contain preclinical or clinical studies demonstrating the safety or effectiveness of the drug product. 21 CFR 314.1(f). The proposed labeling for the drug product contained a statement of indications identical to that set forth in DESI Notice 11673. On June 14, 1973, January 3, 1974, and February 7, 1977, FDA informed Vitarine that an abbreviated new drug application is not acceptable for a controlled release form of phendimetrazine tartrate.

On February 28, 1977, the firm requested that the application be filed over protest, as provided for in 21 CFR 314.110(d). Under that regulation, FDA is required to reevaluate the application and either approve the application or give written notice of an opportunity for a hearing on the question of whether the application is approvable. This notice is provided pursuant to that regulation.

STATUS OF PHENDIMETRAZINE TARTRATE 105-MILLIGRAM TIME RELEASE CAPSULES AS NEW DRUGS

Section 201(p) of the act defines a "new drug" as any drug for human use "the composition of which is such that su h drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof," or any drug for human use "the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under su h conditions." Section 201(p)(1) of the act exempts from the definition of "new drug," through a "grandfather clause," a drug marketed in 1938 and subject to the Food and Drug Act of 1906. Section 107(c) of the Drug Amendments of 1962 further exempts certain new drugs from the effectiveness standards of section 201 (p).

The Food and Drug Administration has consistently asserted that the "newness" of a drug product arises from many factors. First, and most obvious, is whether the individual chemical entity contained in the product is a "new drug." 21 CFR 310.3(h)(1). As noted above, phendimetrazine tartrate has been treated by FDA as a "new drug" for many years, and has not yet been formally determined by FDA to be generally recognized as safe and effective and no longer to be a "new drug."

Second, even if the individual drug substance is not itself a "new drug," the newness of the dosage, or the method or duration of administration, may cause a drug product to be regarded as a "new drug." 21 CFR 310.3(h)(5). In the case of timed release dosage forms, the FDA deemed those which contained a quantity of active ingredients which is not generally recognized as safe for administration as a single dose under the conditions set forth in the labeling to be "new drugs" even prior to the Drug Amendments of 1962. 21 CFR 200.31. This decision was based upon the risk that the active ingredient might be released at one time or over too short an interval, resulting in an unsafe overdosage to the patient. Since the effectiveness requirements have been added to the act, concern that an inadequate or uneven release of the active ingredient would reduce or vitiate the therapeutic effect of the drug underlined the need for premarketing review of timed release products as "new drugs" under section 505 of the act.

The Bureau Director notes that the labeling approved in DESI Notice 11673 for conventional oral tablets containing 35 milligrams phendimetrazine tartrate provides for a usual dose of one 35-milligram tablet two or three times daily. It further states that dosage should be

individualized to obtain an adequate response with the lowest effective dose; that in some cases one-half tablet (17.5 milligrams) is adequate; and that dosage should not exceed two tablets (70 milligrams) three times a day. Thus, the highest dose to be given at one time is 70 milligrams. The amount of phendimetrazine tartrate in the proposed controlled release capsule (105 milligrams) is one and one-half times that amount, and three times the recommended usual dose. The Director further notes that phendimetrazine tartrate is related chemically and pharmacologically to amphetamine and appears to have a similar potential for abuse and risk of causing dependence in the user. Actual abuse of the 35-milligram dosage was a significant factor in the decision of the Department of Justice to schedule phendimetrazine under the Controlled Substances Act (see 38 FR 15721; June 15, 1973), as well as in FDA's decision to require a drug dependence warning in the labeling (see DESI Notice 11673). Because higher strength dosage forms would be even more attractive for abuse purposes, this safety problem increases if the active ingredient is "dumped" or can otherwise be extracted for immediate use.

Section 201(p)(2) of the act provides a further condition to "not new drug" status for a drug that becomes generally recognized by experts as safe and effective. It also requires that the drug have been used to a material extent or for a material time. This has generally been measured by the duration and volume of commercial marketing in the United States. There was no controlled release dosage form of phendimetrazine tartrate in the DESI program, and no such product has ever been approved for marketing under section 505 of the act. The Director is not aware that any phendimetrazine tartrate controlled released product is now generally recognized by experts as safe and effective for the indications set forth in DESI Notice 11673, nor is he aware of any such product's having been used to a material extent or for a material period in the United States.

Based on the facts set forth above, the Director of the Bureau of Drugs finds that Phendimetrazine Tartrate 105-Milligram Time Release Capsules is a "new drug" as defined in section 201(p) of the act, on the grounds that the controlled release dosage form at this dosage is not generally recognized as safe and effective and has not been used to a material extent or for a material time.

Question of Appropriate Type of Application for Controlled Release Forms of Phendimetrazine Tartrate

Vitarine's submission of an ANDA for this product is based on an interpretation of DESI Notice 11673 that phendimetrazine tartrate in a controlled release dosage form containing 105 milligram per capsule is an "identical, related, or similar drug covered by the DESI notice, which provided that an ANDA would be accepted by FDA for an identical, related, or similar drug." The Director of the Bureau of Drugs believes that this argument is founded on a misinterpretation of 21 CFR 310.6 and a misunderstanding of the nature and purpose of the ANDA.

Section 310.6 was promulgated by FDA in light of experience gathered in the DESI program. As explained in paragraph (a) of the section:

> The specific products listed in these (DESI) notices include only those that were introduced into the market through the new-drug procedures from 1938–62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during the same period or since 1962 without going through the new-drug procedures or the Academy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable.

The Director notes that the concept of "identical, related, or similar drug products" was expressed in terms of giving interested persons "the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing"; that is, to participate in the process of classifying their products as "effective" or "ineffective." The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

> Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director is not aware that experts qualified by training and experience to evaluate the safety and effectiveness of drugs have concluded that the findings in DESI Notice 11673 on the effectiveness of phendimetrazine tartrate in a noncontrolled release, 35-milligrams dosage form are applicable to a controlled release 105-milligram dosage form, nor was any evidence offered by the applicant to establish this point. Therefore, the Director finds that the controlled release product is not an identical, related, or similar drug to that described in DESI Notice 11673, and that that notice does not authorize the submission of ANDA's for such controlled release products.

Use of Abbreviated New Drug Applications by FDA

The history of the new drug provisions of the act and the agency's implementation of them, including introduction of the ANDA, is described in detail in the preamble to a notice of proposed rulemaking published in the Federal Register on June 20, 1975 (40 FR 26142). The Director will not reiterate that history here. He believes, however, that several points bear emphasizing. First, an ANDA is a new drug application; it represents a form of application in which certain information normally part of an NDA is not required because it is not essential to the agency's reaching a decision on the approvability of the drug product under section 505 of the act. This information requirement is waived because the agency already has sufficient publicly available data and information in its files to make appropriate conclusions on those elements of the drug approval decision. (Information contained in other approved NDA's may or may not be public. See 21 CFR 314.14. If not public, it may be relied upon by a second applicant only with the express permission of the first applicant. 21 CFR 314.11.) Generally, information allowed to be omitted relates to preclinical and clinical studies regarding the safety and effectiveness of the active ingredients. As the Commissioner stated in the June 20, 1975 notice:

> (A)n abbreviated NDA is appropriate only for those drugs which, from a generic standpoint, are generally recognized as safe and effective when they are properly labeled and manufactured. The submission of an abbreviated NDA has thus been required only to assure the quality of drug products and their proper labeling and manufacture, not to show the basic safety and effectiveness of the generic chemical entity involved. (40 FR 26147).

The purpose of an ANDA is to provide a means to eliminate unnecessary animal and human experimentation, to reduce the burdens on manufacturers in attempting to market duplicates of established drugs, and to ease the workload of FDA in reviewing and processing applications.

Second, in order for FDA to waive such requirements, it must affirmatively conclude that it has sufficient public information to make the requisite conclusions. Because the ANDA is an exception to the general rule requiring a complete NDA, the decision to allow use of an ANDA must be consciously and prospectively made by the agency. (See 21 CFR 314.1(a): "if the drug * * * is one for which an abbreviated new drug application has been found by the Food and Drug Administration to be sufficient * * *." (emphasis added).) These decisions are formal and are officially issued, generally by a notice in the Federal Register but on rare occasions by other public notice. These decisions cannot extend to products for which little or no public information is available and which were not considered by FDA in making the ANDA decision. The product covered by this notice illustrates why this is so. No controlled release form of phendimetrazine tartrate was reviewed in the Drug Efficacy Study and no such product has been approved for marketing in the United States. Appropriate information is needed to determine, for example, whether any medically significant differences exist in factors such as absorption rates, blood levels, metabolism and excretion between the controlled release dosage form and the conventional dosage form when used in accordance with the labeling approved in DESI Notice 11673. Other examples of unforeseen variations in drugs reviewed in the DESI program have also recently been uncovered in the process of implementing the court order in the "Hoffman-La-Roche" case (discussed earlier), including untested combinations of two or more drugs and substantial increases in the strength of the drug. Clearly, it is contrary to the public interest, as well as the language of sections 201(p) and 505 of the act and implementing regulations cited above, for FDA to waive any information essential to determine the approvability of such a drug without even being aware that such a drug may potentially be, or actually is being, marketed.

Third, the choice between NDA (including a supplemental NDA) and ANDA is not an "either-or" option. For many years, the agency has imposed on applicants using either application process a variety of requirements depending on the nature of the drug product, the types of information publicly available regarding the drug, and similar factors. Thus, some NDA's require chronic animal toxicology testing, and others do not; some ANDA's require detailed manufacturing data, and others do not; some NDA's and ANDA's require bioavalability data, and others do not. As noted, the most common distinction between the NDA and the ANDA relates to requirements for preclinical and clinical data. But this distinction should not blur the close similarity on most matters. To repeat, both the traditional "full" NDA and the most "abbreviated" ANDA are merely types of applications described in section 505 of the act.

Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission.

The Director finds that the use of an ANDA for a controlled release from of phendimetrazine tartrate would be inconsistent with the purposes of the abbreviated form of a new drug application, has not been authorized by the Food and Drug Administration, and would not fulfill the requirements of section 505 of the act regarding the requisites for approval of such a product. Because of this, the Director finds that Vitarine must submit an application in the form described in 21 CFR 314.1(c) containing reports of investigations and adequate tests to show whether or not its product is safe and effective for use under the conditions in the proposed labeling.

Lack of Information in Application

The Director finds that the ANDA for Phendimetrazine Tartrate 105-Milligram Time Release Capsules lacks any reports of preclinical or clinical investigations on the product. Because the application lacks safety and effectiveness data, the information therein has not been evaluated to determine whether it satisfies the other requirements of the act and new drug regulations. If, as a result of this notice, a hearing is requested and it is determined that a hearing will be ordered, the Bureau of Drugs will then review the other parts of the application and raise any remaining issues in the notice of hearing.

Notice of Opportunity for Hearing

Therefore, notice is given to Vitarine and all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(d) of the act refusing to approve ANDA 83–736 on the following grounds: (1) The application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the product is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drug is safe for use under such conditions; and (3) evaluated on the basis of the information submitted as part of the application and other public information before FDA with respect to the drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under such conditions of use.

If Vitarine elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and 21 CFR 314.200, it must file with the Hearing Clerk, Food and Drug Administration, (1) written notice of appearance and request for hearing by September 8, 1977, and (2) the data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by October 11, 1977. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant to file a timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Drugs will summarily enter a final order refusing to approve application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgement against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority dele-

gated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 26, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-22824 Filed 8-8-77;8:45 am]

Health Resources Administration

DRAFT GUIDELINES FOR THE DEVELOPMENT OF THE STATE MEDICAL FACILITIES PLAN

Availability

Notice is hereby given that the Department of Health, Education, and Welfare regional offices have available for distribution to the public "Draft Guidelines for the Development of the State Medical Facilities Plan" on which the Department is seeking comments during a 45-day comment period. Final guidelines will be developed based upon comments received on the draft guidelines. Title XVI of the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641), provides assistance to States through allotments, loans, loan guarantees, and interest subsidies for the construction, conversion, and modernization of medical facilities. Except for projects designed to eliminate or prevent imminent safety hazards or to prevent noncompliance with State or voluntary licensure or accreditation standards, a State must have submitted, and have approved by the Secretary, a State medical facilities plan before an application for assistance under this Title can be approved. The draft guidelines, for which comments are solicited, are the guidelines for the development of a State medical facilities plan required by section 1603 of the Act.

Comments or suggestions for improvement of the draft guidelines should be sent to: Bureau of Health Planning and Resources Development, Division of Facilities Development, Room 6-41, 3700 East-West Highway, Hyattsville, Md. 20782. Copies of the "Draft Guidelines for the Development of the State Medical Facilities Plan" may be obtained from the DHEW regional offices listed below:

DHEW Regional Office I, John F. Kennedy Federal Building, Boston, Mass. 02203.
DHEW Regional Office II, 26 Federal Plaza, New York, N.Y. 10007.
DHEW Regional Office III, P.O. Box 13716, Philadelphia, Pa. 19108.
DHEW Regional Office IV, 50 Seventh Street NE., Atlanta, Ga. 30323.
DHEW Regional Office V, 300 South Wacker Drive, Chicago, Ill. 60606.
DHEW Regional Office VI, 1200 Main Tower Building, Dallas, Tex. 75202.
DHEW Regional Office VII, 601 East 12th Street, Kansas City, Mo. 64106.
DHEW Regional Office VIII, 2017 Federal Office Building, Denver, Colo. 80294.
DHEW Regional Office IX, 50 Fulton Street, San Francisco, Calif. 94102.
DHEW Regional Office X, 1321 Second Avenue, Arcade Plaza, Seattle, Wash. 98101.

Dated: July 29, 1977.

DANIEL I. ZWICK,
Acting Deputy Administrator, Health Resources Administration.

[FR Doc.77-22803 Filed 8-8-77;8:45 am]

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1977:

Name: Graduate Medical Education National Advisory Committee.
Date and time: September 22-23, 1977, 9 a.m.
Place: Conference Room G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open for entire meeting.
Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.
Agenda: Attention will be devoted to discussion of the findings and observations of several technical panels which were established at the previous meeting. These include a redefinition of the manpower problem, the assumptions which might be developed to govern future Committee deliberations; and the implications of the GAO Report on "Problems in Training and Appropriate Mix of Physician Specialists". Discussions of specialty manpower requirements, National Health Policy Planning guidelines, and issues associated with the financing of Graduate Medical Education are contemplated. A portion of the meeting will be available for comments and participation by the public.

Limited seating will be available to the public on a first come, first served basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Frederick V. Featherstone, Bureau of Health Manpower, Room 4-42, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6430.

Agenda items are subject to change as priorities dictate.

Date: August 2, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-22826 Filed 8-8-77;8:45 am]

National Institutes of Health

EXPERMIMENTAL DESIGN SUBGROUP OF THE CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens, National Cancer Institute, National Institutes of Health, August 30, 1977, which was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35225).

Dated: JULY 29, 1977.

THOMAS E. MALONE, Ph. D.,
Deputy Director, National Institutes of Health.

[FR Doc.77-22401 Filed 8-8-77;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting time of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council, National Institute of Arthritis, Metabolism, and Digestive Diseases, which was published in the FEDERAL REGISTER on June 29, 1977, 42 FR 33071.

The Council was to have convened at 8:30 a.m. on August 18, 1977 in Conference Room 6, Building 31, National Institutes of Health, but has been changed to 1:30 p.m. The meeting will be open to the public from 1:30 p.m. to 2:30 p.m. Attendance by the public will be limited to space available.

In addition, the below listed subcommittees will have meetings on August 17 from 1 p.m. to closing and on August 18 from 9 a.m. to noon: the Digestive Diseases Subcommittee, Room 9A52; the Arthritis, Bone and Skin Subcommittee, Room 2A52; the Diabetes, Endocrine and Metabolic Diseases Subcommittee, Room 9A51; the Kidney, Urologic and Blood Diseases Subcommittee, Conference Room 6.

In accordance with the provisions set forth under Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the subcommittees meetings will be closed to the public for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

(Catalog of Federal Domestic Assistance Program No. 13.846-13.850, National Institutes of Health.)

Dated: July 29, 1977.

THOMAS E. MALON, Ph. D.,
Deputy Director, National Institutes of Health.

[FR Doc.77-22400 Filed 8-8-77;8:45 am]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Bethesda, Md., on September 15-16, 1977, in Building 31-A, Conference Room 4.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on September 15, and from 9 a.m. to adjournment on September 16, for discussions on clinical research, the feasibility of improving instrumentation and methodology in the diagnosis, treatment, and prevention of periodontal disease will be considered. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, Md., 20014 (phone number 301-496-7784), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.841, National Institutes of Health.)

Dated: July 26, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-22402 Filed 8-8-77;8:45 am]

REPORT ON CARCINOGENESIS BIOASSAY OF TRISODIUM ETHYLENEDIAMINETETRAACETATE TRIHYDRATE

Availability

Trisodium ethylenediaminetetraacetate trihydrate has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the chelating agent, trisodium ethylenediaminetetraacetate trihydrate (Na$_3$EDTA$\cdot$3H$_2$0), for possible carcinogenicity was conducted by administering the test materials in feed to Fischer 344 rats and B6C3F1 mice. The chemical was administered to 50 males and 50 females of each species at low and high concentrations, 3,750 and 7,500 ppm, for 103 weeks. Matched-control groups were composed of 20 males and 20 females of each species.

No compound-related signs of clinical toxicity were noted. Although a variety of tumors occurred among test and control animals of both species, no tumors were related to treatment. Since survival was satisfactory and showed no consistent variation among test and control groups, the absence of treatment-related tumors could not be attributed to early mortality.

Single copies of the 88-page report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: July 28, 1977.

DONALD S. FREDERICKSON, M.D.
Director, National Institutes of Health.

[FR Doc.77-22399 Filed 8-8-77;8:45 am]

AGING REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on September 8-9, 1977, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9 a.m. to 10 a.m. on September 8 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on September 8 from 10 a.m. to adjournment on September 9 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: August 1, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77-22846 Filed 8-8-77;8:45 am]

DENTAL CARIES PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Dental Caries Program Advisory Committee, National Institute of Dental Research, on September 29-30, 1977, National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on September 29, and from 9 a.m. to adjournment on September 30, to discuss research progress and ongoing plans and programs of the National Caries Program. Attendance by the public will be limited to space available.

Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, Md. 20014 (phone number 301-496-7239), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.4840, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22854 Filed 8-8-77;8:45 am]

HIGH BLOOD PRESSURE WORKING GROUP

Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group sponsored by the National Heart, Lung, and Blood Institute, October 7, 1977 from 9 a.m. to 5 p.m. at the National Institutes of Health, Building 31, A Wing, Conference Room 4.

This meeting will be open to the public. The purpose of the meeting is to discuss plans for community action programs for the control of high blood pressure. Attendance by the public will be limited to space available.

Mr. Graham Ward, Program Coordinator, National High Blood Pressure Education Program, Room 5C10, Federal Building, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, 301-496-1051 will provide detailed program information. For the agenda, list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, Maryland 20014, 301-496-4236.

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22855 Filed 8-8-77;8:45 am]

NATIONAL ADVISORY DENTAL RESEARCH COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on September 26-27, 1977, in Building 31-C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to adjournment on September 27 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on September 26, from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Edith G. Sharpless, Committee Management Officer, National Institute of Dental Research, National Institutes of Health, Building 31-C, Room 2C-39, Bethesda, Md. 20014, phone 301-496-6705, will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13-840-845 and 13-878, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22852 Filed 8-8-77;8:45 am]

NATIONAL ADVISORY ENVIRONMENTAL HEALTH SCIENCES COUNCIL, SUBCOMMITTEE OF UNIVERSITY-BASED CENTERS SUBCOMMITTEE FOR THE REVIEW OF NIEHS RESEARCH SERVICE AWARD APPLICATIONS

Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, September 19-20, 1977, in Building 18 Conference Room, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

This meeting will be open to the public on September 19, 1977, from 9 a.m. to approximately 12 noon to discuss program policies and issues, recent legislation, interagency activities and other items of interest. Attendance by the public will be limited to space available. In addition, meetings of the Subcommittee on University-based Centers and the Subcommittee for the Review of NIEHS Research Service Award Applications of the above Council will be held on September 18, 1977 at 8 p.m. at the University Motel, Chapel Hill, North Carolina.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 19, from 1 p.m. to adjournment on September 20 for the review, discussion and evaluation of individual grant applications. The Subcommittee on University-based Centers and the Subcommittee for the Review of NIEHS Research Service Award Applications of the above Council will be closed from 8 p.m. to adjournment on September 18, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Leota B. Staff, Committee Management Officer, NIEHS, Westwood Building, Room 340, Bethesda, Maryland 20014, 301-496-7483, will provide summaries of the meetings and rosters of Council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, National Institute of Environmental Health Sciences, Westwood Building, Room 340, Bethesda, Maryland 20014, 301-496-7483, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.872, 13.873, 13.874, 13.875, National Institutes of Health.)

Dated: August 1, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22850 Filed 8-8-77;8:45 am]

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, September 26, 27, and 28, 1977, Building 31, Conference Room No. 7, National Institutes of Health, Bethesda, Maryland.

This meeting will convene each day at 9 a.m. and will be open to the public from 9 a.m. until noon on September 26 for opening remarks by the Director, National Eye Institute, discussion of procedural matters, and a presentation by the intramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public from 1 p.m. until adjournment on Monday, September 26, and the entire day on Tuesday and Wednesday, September 27 and 28, until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Head, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A-25, AC 301-496-5248, will provide summaries of meetings and rosters of committee members.

Dr. William F. Raub, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-03, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated August 1, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22853 Filed 8-8-77;8:45 am]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL PLANNING SUBCOMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, September 16, 1977, at 8:30 a.m. in the Pennsylvania Room, The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on September 16, 1977, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m. on September 16, 1977, to adjournment on September 16, 1977. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

The Acting Chief, Office of Scientific and Health Reports, Mr. Robert N. Hinkel, Building 31, Room 8A02, NIH, NINCDS, Bethesda, Maryland, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. O. Malcolm Ray, Executive Secretary of the Committee, Room 1020C, Federal Building, NIH, NINCDS, Bethesda, Maryland, telephone 301-496-9234, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: August 1, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc. 77-22849 Filed 8-8-77;8:45 am]

NATIONAL ARTHRITIS ADVISORY BOARD

Meeting

Pursuant to Public Law 92-462, notice is hereby given of a meeting of the National Arthritis Advisory Board at the Key Bridge Marriott Hotel, Rosslyn, Virginia, in the Francis Scott Key Room, on September 7 and 8, 1977, 9 a.m. to 5 p.m. both days.

The entire meeting, which will be open to the public from 9 a.m. to 5 p.m. both days, is being held to discuss the Board's activities, and to initiate its evaluation of the implementation of the long-range plan to combat arthritis, formulated by the National Commission on Arthritis and Related Musculoskeletal Diseases. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22845 Filed 8-8-77;8:45 am]

NATIONAL CANCER INSTITUTE

Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552(b)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

COMMITTEE OF CANCER IMMUNOTHERAPY

Date and time: September 6-8, 1977; 7:30 a.m.
Place: Landow Building, Room C41B, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Type of meeting: Open: September 6, 7:30 a.m. to 8 p.m. Open: September 7, 8:30 a.m. to 11:30 p.m. Open: September 8 8:30 a.m. to 11:30 p.m.
Agenda: Open portion: Program planning. Closed: September 6, 8 p.m. to 11:30 p.m.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg, Building 10, Room 4B09, National Institutes of Health. Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

NATIONAL LARGE BOWEL CANCER PROJECT WORKING CADRE

Date and time: September 8-9; 7:30 p.m.
Place: Anderson Mayfair Hotel, 1600 Holcombe Boulevard, Houston, Texas.
Type of meeting: Open: September 8, 7:30 p.m. to 8:30 p.m. Closed: September 8 8:30 p.m. to 10:30 p.m. Closed: September 9, 9 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo, Room 853, Westwood Building, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Numbers, 13.393, 13.394, 13.395, National Institutes of Health.)

NATIONAL BLADDER CANCER PROJECT WORKING CADRE

Date and Time: September 12-13, 1977, 8:30 a.m.
Place: Hilton Inn, Suite 317, Logan International Airport, Boston, Massachusetts.
Type of meeting: Open September 12, 8:30 a.m. to 5 p.m.
Agenda: Open Portion: Review of Progress reports; epidemiology survey and planning. Closed: September 13, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William Straile, Westwood Building, Room 853, National Institutes of Health, Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Numbers, 13.393, 13.394, 13.395, National Institutes of Health.)

DEVELOPMENTAL THERAPEUTICS COMMITTEE

Date and time: September 14-16, 1977, 8:30 a.m.
Place: Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Maryland 20910.
Type of meeting: Open: September 14, 8:30 a.m. to 9:30 a.m.
Agenda: Open Portion: Presentations by program staff of background information on the need for and status of studies in the areas represented in the competitive and ongoing contract proposals to be considered at this meet. Closed: September 14 9:30 a.m. to 5 p.m. Closed: September 15,

9:30 a.m. to 5 p.m. Closed: September 16, 9:30 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. J. A. R. Mead, Blair Building, Room 5A03A, National Institutes of Health, Phone: 301–496–7263.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

DIET AND CANCER SCIENTIFIC REVIEW COMMITTEE

Date and time: September 21, 1977; 8:30 a.m.
Place: Building 31, Conference Room 9, National Institutes of Health.
Type of meeting: Open: September 21, 8:30 a.m. to 9:15 a.m. Closed: September 21, 9:15 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Glo B. Gori, Building 31, Room 11A03, National Institutes of Health, Phone: 301–496–6616.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

CANCER AND NUTRITION SCIENTIFIC REVIEW COMMITTEE

Date and time: September 22, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 9, National Institutes of Health.
Type of meeting: Open: September 22, 8:30 a.m. to 9:15 a.m. Closed: September 22, 9:15 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Glo B. Gori, Building 31, Room 11A03, National Institutes of Health, Phone: 301–496–6616.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

Dated: August 3, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc 77-22844 Filed 8-8-77;8:45 am]

NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL AND ITS MANPOWER SUBCOMMITTEE AND RESEARCH SUBCOMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 15–17, 1977, National Institutes of Health, Building 31, Conference Room 10, at 9 a.m.

This meeting will be open to the public on September 15 from 9 a.m. to approximately 3 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meeting of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held on September 14, 1977 at 8 p.m. in Building 31, Conference Room 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on September 15 from 3 p.m. until recess, and on September 16 from 9 a.m. to adjournment on September 17 for the review, discussion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8 p.m. to adjournment on September 14, also for the review, discussions, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, 301–496–4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, 301–496–7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22848 Filed 8-8-77;8:45 am]

NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE SCIENCE INFORMATION PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, September 19–20, 1977, at the National Institutes of Health, Building 31–C, Conference Room 7, Bethesda, Md. 20014.

This meeting will be open to the public on September 19th, from 9 a.m., to 5 p.m., to discuss the status and plans for the Institute's science information program. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on September 20th, from 9 a.m., until conclusion of the meeting, for the review, discussion, and evaluation of individual contract proposals. The portion of the meeting being closed involves the review, discussion, and evaluation of individual contract proposals. These proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals.

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, NINCDS, NIH, Building 31, Room 8A–06, Bethesda, Md. 20014, 301–496–5751, will provide summaries of the meeting and rosters of committee members.

Mr. Alfred Weissberg, Executive Secretary, NINCDS, NIH, Building 31, Room 8A–03, Bethesda, Md. 20014, 301–496–9271, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.854, National Institutes of Health.)

Dated: August 1, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-22851 Filed 8-8-77;8:45 am]

CONSENSUS COMMITTEE FOR BREAST CANCER SCREENING (TEMPORARY)

Establishment

NOTE.—This document is republished without change from the issue of Wednesday, August 3, 1977, 42 FR 39277.

The Director, National Institutes of Health, announces the establishment on July 19, 1977, of the advisory committee indicated below by the Acting Director, National Cancer Institute, under the authority of Section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act (Public Law 92–463) setting forth standards governing the establishment and use of advisory committees.

NAME: NIH Consensus Committee for Breast Cancer Screening (Temporary).

PURPOSE: The Committee shall advise the Director, NIH, and the Director, NCI, concerning the use of X-ray mammography for screening women to detect early breast cancer. Authority for this committee will expire on December 31, 1977.

Dated: July 29, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-22398 Filed 8-2-77;8:45 am]

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on September 16, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9:30 a.m., and adjourn at 3:30 p.m.

The National Council on Educational Research is established under Section 405(b) of the General Educational Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;
(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;
(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The entire meeting will be open to the public. The tentative agenda is as follows:

9:30 a.m.—Convene.
9:30–9:35 a.m.—Approve minutes.
9:30–9:45 a.m.—Adjustments of future calendar and agendas.
9:45–10:30 a.m.—Director's remarks.
10:30 a.m.–12 m—Action on proposed policy for fundamental research.
12 m–1 p.m.—Lunch.
1–2 p.m.—Status report on Fiscal Year 1978 budget, Fiscal Year 1979 budget and alternatives for any necessary replanning.
2–2:30 p.m.—Initial discussion of long-range planning for NIE especially Fiscal Year 1980 guidance to come from the council.
2:30–3:30 p.m.—Report of Review and Reports Committee: Review of Report on Resolution 19.6; Outline for Fiscal Year 1977 Report; Discussion of External Review Process.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after adoption. Minutes require approval by the Council at a subsequent meeting and are available to the public one week following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, National Institute of Education, Washington, D.C., telephone 202–254–7900.

Dated: August 5, 1977.

PETER H. GERBER,
Chief, Policy and Administrative Coordinator, National Council on Educational Research.

[FR Doc.77-23025 Filed 8-9-77;8:45 am]

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Proposed Policy Resolution on Fundamental Research Relevant to Education

Notice is hereby given that at its meeting on September 16, 1977, the National Council on Educational Research (NCER) will consider the following Proposed Policy Resolution on Fundamental Research Relevant to Education prepared by the NCER Program Committee. The Council expects to take action at that meeting related to this proposal of the Committee.

The public is invited to comment on the Proposed Resolution in writing, on or before September 8, 1977, to Mr. Peter Gerber, Chief, NCER Staff, Room 729, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208 (Telephone Number: 202–254–7900). The public is also invited to attend the Council Meeting on September 16, 1977, in Room 823 of the NIE offices. This item is tentatively scheduled for 10:30 a.m.–12 Noon. Please call the NCER staff office to confirm the time availability of seating.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH PROGRAM COMMITTEE

PROPOSED POLICY RESOLUTION ON FUNDAMENTAL RESEARCH RELEVANT TO EDUCATION FOR CONSIDERATION ON SEPTEMBER 16, 1977

I. *Allocation of Funds:* A. At least 20% of the Institute's funds shall be used to support fundamental research relevant to education by FY 1979, and by FY 1985 this shall have increased to at least 30%.

B. At least half of the minimum thus allocated (10% of the Institute's funds in FY 1979, increasing to 15% by FY 1985) shall be used for research grants to individual investigators or small groups of investigators.

II. *Research Community Involvement:* A. The major purpose of research supported under this policy shall be to extend the knowledge gained through previous or current research or to explore areas where knowledge is lacking and for which a need is evident. Since those who are most familiar with such areas of research are investigators in the field, the Institute shall, to the maximum extent possible, rely upon their assistance in identifying research needs and research to be supported. This assistance should include, but not be limited to, submission of unsolicited proposals, participation in developing guidelines, and review of proposals by groups of highly capable investigators (with multi-disciplinary and cross-disciplinary membership), including investigators close to educational practice.

B. As part of the continuing external review of NIE, the scientific quality and balance of fundamental research programs shall be evaluated regularly by outside investigators.

C. The Director shall seek to work with all major research associations and organizations whose members may be engaged in fundamental research related to education, to accumulate knowledge about such research and to coordinate the Institute's programs with such research.

III. *Coordination:* The Director shall seek through the Federal Council on Educational Research and Development and other means to coordinate fundamental research supported by Federal agencies, to identify areas of fundamental research which should have greater support by NIE or another Federal agency, and to stimulate fundamental research in such areas.

IV *Staff Responsibility for Fundamental Research.* Because the NIE staff is essential to the implementation of this policy and the support by NIE of high quality research, the Director shall insure that within NIE there is a substantial number and proportion of staff members who have competence and recent experience in fundamental research and that these researchers shall be involved in positions of responsibility affecting all decisions and activities which involve fundamental research.

V. *Reports.* Initial plans for implementation of this policy shall be conveyed to the Council within 30 days of its adoption, including resource allocations and management strategies. Similarly, by January 1, 1978 the Director shall present to the Council for its concurrence a general plan for implementation of this policy through 1985.

The Director shall include in each annual report to the Council a review of the Institute's fundamental research work and efforts to improve it, and shall present to the Council as part of the budget planning process an analysis of options for support of fundamental research under this policy including targets for the amount and proportion of funds which might be thus allocated.

Dated: August 5, 1977.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[FR Doc.77-23024 Filed 8-9-77;8:45 am]

Office of the Secretary

CONTROL OF PAPERWORK

Comments on Collection of Information and Data Acquisition Activity

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before September 8, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: August 4, 1977.

IRIS GARFIELD,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Common Core Data Survey, School Year 1977–78.

2. Agency Bureau Office. National Center for Education Statistics; Division of Elementary Secondary Education Statistics.

3. Agency Form Number(s). NCES Form 2393–2; NCES Form 2393–4.

4. Legislative Authority for This Activity. Section 406(b) of the General Education Provisions Act

"The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) Collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) Conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) Assist State and local educational agencies in improving and automating their statistical and data collection activities."
(Pub. L. 93–380; 20 U.S.C. 1221e–1.)

5. Voluntary Obligatory Nature of Response. Voluntary.

6. How Information Collected Will Be Used. Information collected will be placed in a data base computer file and stored on magnetic tape for use by policy analysts, educational planners and managers, and educational researchers. This data base will be used as a sampling frame by those desiring to select samples of local educational agencies for special-purpose studies. The data will be tabulated, analyzed, and published in a series of statistical reports for general distribution and reference purposes. Selected tabulations will appear in: Condition of Education Report; Digest of Educational Statistics; and Statistical Abstract of the United States.

7. Data Acquisition Plan. (a) Method of Collection. Mail. Data of record maintained by State Educational Agencies, previously reported by Local Educational Agencies will be compiled into NCES formats and transmitted by State Educational Agency personnel.

(b) Time of Collection. January 1978.

(c) Frequency. Annual.

8. Respondents. (a) Type. State Educational Agencies.

(i) NCES Form 2393–2 collects data about Local Educational Agencies reported previously to State Education Agencies and will be completed by State Educational Agency personnel from agency records and reports.

(ii) NECS Form 2393–4 collects data about State Educational Agencies and will be completed by State Educational Agency personnel.

(b) Number. (i) A total of 16,000 Local Educational Agency reports will be completed by the 57 State Educational Agencies, the number of Local Educational Agency reports per State varying from 17 in one State to more than 1,000 in four States.

(ii) Fifty-seven State Educational Agency reports will be compiled.

(c) Estimated Man-Hours Per Respondent. (i) Total estimated burden for the 16,000 Local Educational Agency reports is estimated to be 32,000 hours, an average of two hours per report. Range will then vary from 34 man-hours in one State to more than 2,000 man-hours in four States.

(ii) An average of 20 man-hours per respondent is estimated for the State Educational Agency report, with a range of from less than 10 hours to perhaps more than 100 hours in the larger, more complex agencies.

9. Information To Be Collected. (a) NCES Form 2393–2 (Local Educational Agency Report. October 1 pupil membership by level of instruction by grade; Prior year number of 12th grade graduates by sex; Number of pupils scheduled to be transported on or about October 1; Number of pupil transportation vehicles owned by the LEA on or about October 1 by size of vehicle; and List of schools operated by the Local Educational Agency showing name, address, grade span, type of school, full-time equivalent number of classroom teachers, and October 1 pupil membership for each school.

(b) NCES Form 2393–4 (State Educational Agency Report). Elected/appointed status of chief state school officer; Number of members of state board of education; Full-time equivalent number of agency employees by function served; Revenues for agency operations by source of revenue; Expenditures of agency operations by type of program or service; Expenditures for capital outlay; List of agency operated schools; and Data on school bus accidents and fatalities.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA AQUISITION ACTIVITY

1. Title of Proposed Activity. Application for Local Educational Agency Grants under the Emergency School Aid Act.

2. Agency Bureau/Office. U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

3. Agency Form Number. OE Form 116–1.

4. Legislative Authority For This Activity.

(a) *Basic Grants.* "The Assistant Secretary is authorized to make a grant to, or a contract with a local educational agency—

(A) Which is implementing a plan—

(i) Which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elemination or reduction of minority group isolation in such schools; or

(ii) Which has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) Which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) Which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(i) To eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) To reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) To prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) Which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates; or

(E) Which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

(i) Has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

(ii) Has agreed to apply for an equal amount of assistance under section (b)."

(Pub. L. 92–318, sec. 706(a)(1); (20 U.S.C. 1605(a)(1)); (45 CFR 185.21).)

(B) *Pilot Projects.* "The Assistant Secretary is authorized to make grants to or contracts with local educational agencies * * * for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools if * * * the local educational agency had a number of minority group children enrolled in its schools * * * which (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools."

(Pub. L. 92–318, sec. 706(b); (20 U.S.C. 1605(b)); (45 CFR 185.21).)

(C) *Bilingual Projects.* "The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English * * * the Assistant Secretary is authorized to make grants to and contracts with * * *

"(B) Local educational agencies eligible for assistance under section 706 for the purpose of engaging in such activities; or

(C) Local educational agencies which are eligible to receive assistance under section 706 for the purpose of carrying out activities authorized under section 707(a) * * *."

(Pub. L. 92–318, sec. 708(c)(1) (B) and (C); (20 U.S.C. 1607(c)(1) (B) and (C)); (45 CFR 185.51).)

(D) *Special Projects.* "The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects

carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title."

(1) *Special Arts Projects.* "(a) Any public agency or organization responsible for the administration of statewide public arts programs, such as a State Arts Council or State Arts and Humanities Commission, may apply for assistance by grant * * * for special projects that would through the arts provide opportunities for interracial and intercultural communication and understanding to help meet the special needs incident to the implementation of a plan or project described in § 185.11 or § 185.31(a) * * *."

(Pub. L. 92–318, sec. 708(a)(2); (20 U.S.C. 1607(a)(2)); (45 CFR 185.91).)

(2) *Special Student Concerns Projects.* "(a) Any public agency or organization * * * other than a local educational agency may apply for assistance by grant * * * for the conduct of special student concerns projects designed to eliminate the disproportionately high incidence of suspension, expulsion, and other disciplinary action involving minority group students in the schools of cooperating local educational agencies * * *."

(Pub. L. 92–318, sec. 708(a)(2); (20 U.S.C. 1607(a)(2)); (45 CFR 185.93).)

(3) *Other Special Projects.* "(a)(1) The Assistant Secretary may assist * * * any State or local educational agency or other public agency or organization * * * for the purpose of conducting special programs or projects which the Assistant Secretary determines will make substantial progress toward achieving the purposes of the Act."

(Pub. L. 92–318, sec. 708(a); (20 U.S.C. 1607(a)); (45 CFR 185.94).)

(4) *Special Compensatory Projects.* (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 703(b). There are authorized to be appropriated for the purpose of carrying out this title * * * and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708(a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974."

(E) Magnet School and University/Business Cooperation, and

(F) *Neutral Site Planning.* "There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $25,000,000 for fiscal year 1977 * * * for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act * * *."

"(13) Planning and design of, and conduct of programs in, magnet schools.

(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

(15) The development of plans for neutral site schools."

(Pub. L. 92–318, sec. 704(d), section 707(a); (20 U.S.C. 16003(d), 1606(a)); (45 CFR 185.102).)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information Collected Will Be Used Each application for a LEA grant under the Emergency School Aid Act will be subject to the following reviews.

A. *Statistical Data Review.* The statistical data regarding the enrollment and isolation of minority group students will be taken from the application and used to compute the extent of reduction of minority group isolation. Pilot project applications must be verified to have at least 15,000 minority group students in the district or 50 percent minority enrollment in the project schools.

B. *Eligibility/Assurances Review.* The Office for Civil Rights (OCR) has been delegated the authority to determine if districts are eligible to apply for and receive assistance under P.L. 92–318. The Office of Education is responsible for determining if the applicant has met the requirements for all other assurances.

C. *Educational Quality Review.* The educational quality score of each application will be determined by a panel of qualified persons using the criteria outlined in 45 CFR 185.14, 185.24, 185.34, 185.35, 185.54(b), 185.84, 185.91–2, 185.93–3, 185.94–3, 185.106, and 185.107, as applicable. The listing of prominent milestones outlined by the applicant will be used by OE personnel to track the progress of the project.

7. Data Acquisition Plan. (a) Method of collection: Mail. (b) Time of collection: January. (c) Frequency: Annually.

8. Respondents. (a) Type: Local educational agencies. (b) Number: 1150. (c) Estimated average man hours per respondent: 40 hours.

9. Information to be Collected. Applicants for local educational agency (LEA) grants, including basic grants, pilot projects, bilingual projects, emergency special projects, territories, special arts, special student concerns projects, magnet schools and University/Business Cooperation projects, and neutral site planning projects are required to submit the following information:

(a) A copy of the desegregation plan including attachments to document assurances. (Applicants for magnet schools and University/Business Cooperation projects and neutral site planning projects are not required to have a desegregation plan.)

(b) Enrollment data showing the number of schools currently operated by the LEA as well as the number of schools to be affected by the plan under which the LEA is operating.

(c) Enrollment data on the number and, or percentage of minority group students as defined in 45 CFR 185.02(f) currently enrolled in such school district. (Applicants for bilingual projects must also list the total non-English dominant enrollment in the LEA).

(d) Names of schools to be affected by the plan, where applicable, as well as the percentage of minority group students enrolled in such schools for

(1) School year immediately preceding the initiation of a LEA's current desegregation plan. (Applicants for magnet schools and university/business cooperation projects must provide enrollment data for two school years immediately preceding the year for which funds are requested.)

(2) School year for which funds are being requested or the next most recent school term for which such data are available.

(e) Number of schools not affected by the plan and the number and percentage of minority pupils currently enrolled.

(f) Applicants for Special Compensatory Projects Only. Names of schools, and number of students in such schools who previously received services under Title I of the Elementary and Secondary Education Act and who are not now receiving such services as a result of attendance area changes of a desegregation plan, for the project year and for the preceding year.

(g) A program narrative presented in the following manner:

Needs Assessment should be broken down into individual needs, and each need should be ranked in order of priority and presented separately. Under each component, discuss the objectives and activities associated with the particular need, the plans for evaluation of those activities, the management of resources and for pilot projects only, the plans for replication of the program. In discussing staffing, present a biographical sketch of the program director which includes his or her name, address, telephone number, background and other qualifying experience for the project. Special arts applicants must also state the prior experience in education, the arts, and interracial intercultural relations of the State director level to be employed. Also, list the name and relevant experience of other key personnel to be involved in the project.

Bilingual applicants must include a description of the plan for inservice training, and the plan for implementation of any program developed or proposed to be developed (see 45 CFR 185.52 (b) and (c)).

LEA applicants only: (1) Describe the procedures proposed for the coordination of this proposed program or project with projects, when applicable, of Titles I, III, and VII of the Elementary and Secondary Education Act of 1965 and Title IV of the Civil Rights Act of 1964 and other laws of the United States (see 45 CFR 185.13(h)).

(2) Attach a description of how nonpublic school children and staff are expected to participate in the proposed project and of the procedure by which the applicant consulted with representatives of nonpublic schools in the development of the application, and procedures for effective liaison with such persons after the receipt of the funds requested (see 45 CFR 185.42(f)).

(g) For applicants for integrated schools projects only, for each school provide the total predicted enrollment and the number and percent of minority enrollment for each school affected by the plan and each school not affected by the plan.

(h) Number of students who are expected to participate in each school, by type of project and by racial category.

(i) For each nonpublic school which enrolls students or employs staff who will participate in the proposed ESAA project (45 CFR 185.42(f)), indicate the type of grant, the total number of staff and students, by race, in each school, and the number of staff and students who will participate in each project.

(j) For 45 CFR 185.13(i), show the total local revenue and tax rate for fiscal years 1977 and 1973 and show expenditures per pupil from local revenues for the applicable fiscal years (potential 3 years), and for 45 CFR 185.103(a)(3), show expenditures per pupil for the magnet schools, by grade level organization.

(k) For 45 CFR 185.13(i)(1); list the district's transactions with nonpublic schools since June 23, 1972, including gifts, leases, loans, sales or other transactions of property or service, by name and address of nonpublic school, date of transaction and description of property or services.

(l) For 45 CFR 185.13(i)(3), give the total number of all minority or all-nonminority classes in the district and attach an educational justification of such assignments.

(m) For 45 CFR 185.13(i)(4), supply the district's current enrollment by race and type of disability in classes for the mentally retarded or for children with other learning disabilities; supply the current number and percentage of students enrolled in the first grade in the district whose primary home language is other than English. If the number of non-English dominant students is more than 100 or more than 5 percent, attach the averages of the most recent standardized reading achievement scores, by race, for students enrolled in the third and sixth grades (or the nearest grades).

(n) Provide data for advisory committees including date established; date application submitted to committee for review, date names of members and purpose published in newspaper and a copy of the minutes of the hearing must be attached. Also, indicate the names of advisory committee members, by race, organization represented, whether a parent of student affected by ESAA project or plan, classroom teacher or secondary school student. (For Special Student Concerns Projects only, indicate which members were designated by the cooperating LEAs and their advisory committees (45 CFR 185.65 (b)(2)).

(o) Provide a copy of the letter to the State Educational Agency requesting SEA comments on the application.

(p) For applicants for bilingual projects only (45 CFR 185.53(c)(3), provide (1) number and percentage of minority group children in district from an environment in which the dominant language is other than English who currently receive instruction in such language, the average number of hours per day, and the educational goals of such instruction; (2) indicate the extent to which such minority children are separated from nonminority children by or within classes for any part of the day for the provision of instructional or other services or for purposes of ability grouping or homogeneous instruction, by name of school, average number of hours of separation per day, and educational justification for separations (45 CFR 185.53(c)); and (3) explain any variation in materials used for reading instruction between the various schools in the district or between the various classrooms within such school. Variations should be described in terms of primary language, subject matter, or intended level of instruction.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Civil Rights Technical Assistance and Training Programs.

2. Agency/Bureau/Office. U.S. Office of Education Equal Educational Opportunity Programs.

3. Agency Form Number: OE Form 296.

4. Legislative Authority for this activity.—(A) *Technical Assistance.* "Sec. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. * * *"

(B) *Training Institutes.* "Sec. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary and secondary school personnel to deal effectively with special educational problems occasioned by desegregation. * * *"

C. *Grants to School Boards.* "Sec. 405. The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) Giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) Employing specialists to advise in problems incident to desegregation.

(P.L. 88-352, (42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); 414 U.S. 563 (1974)).)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information To Be Collected Will Be Used. The information will be used to determine the need for assistance and the amount of funds to be awarded.

7. Data Acquisition Plan. (a) Method of collection: Mail. (b) Time of collection: January. (c) Frequency: Annually.

8. Respondents. (a) State educational agencies, institutions of higher education, and local school districts. (b) Number: 300. (c) Estimated average man hours per respondent: 8.

9. Information To Be Collected. The standard nonconstruction application form will be used with a narrative section designed to elicit information required by the statute or regulations.

(a) (1) Applicants for State educational agency grants must furnish the total enrollment of districts which have requested assistance and which are located within the applicant's State;

(2) Applicants for training institutes must provide the number of trainees to be served, separately, in institutes for race/national origin desegregation and for desegregation pertaining to students from environments in which a dominant language is other than English, and the total public school enrollment of districts which have requested training services; and

(3) Applicants for grants to school boards must provide the total public school enrollment of the school district.

(b) Applicants for Title IV (CRA) grants, including awards for Technical Assistance to SEA's, Training Institutes, and Grants to School Boards, are required to submit a program narrative presented in the following manner:

Needs Assessment should be discussed in relation to the (1) magnitude of desegregation-related educational needs as assessed by the applicant with respect to school boards, municipalities, school districts or other governmental units and (2) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

Under each component, discuss the objectives and activities associated with the assessed needs, plans for evaluation of those activities, the management of resources; and for Grants to School Boards only, measures designed to increase community involvement.

In discussing staffing component, applications should provide a biographical sketch of the professional staff which includes background and other qualifying experience for the project. The proposed staff employed should reflect the ethnicity of the population to be served.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Right to Read Financial Status and Performance Report.

2. Agency/Bureau/office. U.S. Office of Education Right-to-Read Program.

3. Agency Form Number. OE 361.

4. Legislative Authority for This Activity. "Sec. 422. (a)(3) The Commissioner shall * * * collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes * * *". (Pub. L. 92-318, as amended, 20 U.S.C. 1231a.)

"Sec. 434. (b)(3)(C) * * * shall provide for making such reports as the Commissioner may require to carry out this functions." (Pub. L. 93-380, as amended, 20 U.S.C. 1232c.)

"Sec. 3a(1) Each federal grantor agency shall require grantees to use the standard Financial Status Report to report the status of funds for all nonconstruction grant programs * * *". Attachment H, FMC 74.7.

"Sec. 3. Grantees shall submit a performance report for each grant * * *". Attachment I, FMC 74.7.

5. Voluntary/Obligatory Nature of Response. Required to obtain or maintain benefits.

6. How Information Collected Will Be Used. Program management—analysis of fund usage, and comparison of actual program performance with planned performance.

7. Data Acquisition Plan. (a) Method of Collection: Mail; (b) Time of Collection. At end of first half of grant period, and at end of grant period; (c) Frequency. Semi-annually.

8. Respondents. (a) Type: SEA's; (b) Number: 54; (c) Estimated Average Man-Hours per Respondent: 8 hours.

(a) Type: LEA's; (b) Number: 161; (c) Estimated Average Man-Hours per Respondent: 8 hours.

(a) Type: Educational Institutions and Non-Profit Organizations; (b) Number: 75; (c) Estimated Average Man-Hours per Respondent: 8 hours.

9. Information to be Collected. All grantees submit standard financial data on OMB No. 80-R0180 Financial Status Report, and a comparison of accomplishments to objectives that were laid out in the application, and an explanation for slippages.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Financial Status and Performance Reports for Public Service Education Program, Fellowships and Institutional Grants.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

3. Agency Form Number. OE 404-1 and OE 404-2.

4. Legislative Authority for this Activity. "Sec. 942. The Commissioner shall allocate fellowships under this part among institutions of higher education with programs approved under the provision of this part for the use of individuals accepted into such program, in such manner and according to such plan as will insofar as practicable:

1. Provide an equitable distribution of such fellowships throughout the United States; and

2. Attract recent college graduates to pursue a career in public service;

3. Attract persons other than recent college graduates to pursue a career in public service; and

4. Provide additional training for individuals who by past activities, occupation, or training have demonstrated a commitment to a career in public service."

(Pub.L. 92-318, 20 U.S.C. 1134J, as amended by Pub.L. 94-482.)

"Sec. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education:

2. to establish, strengthen, and improve programs designed to prepare graduates and professional students for public service; * * *".

(Pub.L. 92-318, 20 U.S.C. 1134.)

"a. Each Federal sponsoring agency shall require recipients to use the standardized Financial Status Report to report the status of funds for all nonconstruction projects or programs." (Attachment G—OMB Circular A-110.)

"4. * * * recipients shall submit the performance or technical reports to Federal sponsoring agencies and the Financial Status Reports covering the same period * * *". (Attachment H—OMB Circular A-110.)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information Collected Will Be Used. Financial information collected will be used to determine accountability of expenditure of funds. Performance report will be used to assess whether goals and objectives are achieved.

7. Data Acquisition Plan. (a) Method of Collection: Mail; (b) Time of Collection: November; (c) Frequency: Once a year.

8. Respondent. (a) Type: Institutions of higher education; (b) Number: 100; (c) Estimated Average Man-Hours per Respondent: 5 man-hours.

9. Information To Be Collected. Financial information items are those on the OMB standard Financial Status Report form (OMB Circular No. A-110, Standard Form 269). For Fellowships, the Performance Report collects information on the number of fellowships awarded, duration of awards, and employment status. For Institutional Grants, the performance Report requires a narrative describing the actual accomplishment of the goals and objectives of the funded activities.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity. Financial Status and Performance Reports for Emergency Adult Education Program for Indochina Refugees—Discretionary.

2. Agency/bureau/office. U.S. Office of Education/Bureau of Occupational and Adult Education/Division of Adult Education.

3. Agency Form Number: OE 575-1 and OE 575-2.

4. Legislative Authority for This Activity. "Section 315. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees * * *"

(Pub. L. 94-405.)

"(a) Recipients shall use the standard Financial Status report * * * to report the status of funds for all non-construction projects."

(45 C.F.R. 100a.403, General Provisions for Programs.)

"(b) * * * grantees shall submit a performance report with each Financial Satus Report * * *"

(45 C.F.R. 100a.432, General Provisions for Programs.)

5. Voluntary obligatory nature of response. Required to maintain benefits.

6. How Information Collected Will Be Used. Information collected will be used to determine accountability of the expenditure of funds and to assess the effectiveness of projects.

7. Data Acquisition Plan. (a) Method of Collection: Mail; (b) Time of Collection: Fall; (c) Frequency: Single time.

8. Respondents. (a) Type: Local Education Agencies; (b) Number: 75; (c) Estimated Average Man-Hours per Respondent: 16.

(a) Type: State Education Agencies; (b) Number: 75; (c) Estimated Average Man-Hours per Respondent: 16.

9. Informaiton To Be Collected. Financial information items are those of the standard A-102 (FMC 74-7) Financial Status Report form. Performance Report requires a narrative which compares actual accomplishment to established goals, provides reasons for slippage, and describes cooperative efforts and benefits to participants.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Call Report—Lenders Report on Guaranteed Student Loans Outstanding.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Student Financial Assistance/Office of Guaranteed Student Loans.

3. Agency Form Number. OE 1166-3.

4. Legislative Authority for This Activity. "Sec. 428. (a)(3) Each holder of a loan with respect to which payments of interest or of administrative cost allowances are required to be made by the Commissioner shall submit to the Commissioner at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan."

(Pub. L. 89-329, as amended, 20 U.S.C. 1078.)

"Lenders of federally insured loans and direct loans and direct state loan agencies shall submit such reports and information as the Commissioner may reasonably require * * *"

(45 CFR 177.8(f).)

5. Voluntary/Obligatory Nature of Response. Required to obtain or maintain benefits.

6. How Information To Be Collected Will Be Used. (a) Monitor and evaluate the performance of lenders in the collection of inrepayment accounts and to forestall the submission of defaulted claims; (b) Justify budget projections on loan volume and collections at the lender level; (c) Long range projections on the cost to the government for future payments for interest benefits and special allowances.

7. Data Acquisition Plan. (a) Method of Collection: Mail; (b) Time of Collection: Fall; (c) Frequency: Annually.

8. Respondents. (a) Type: Colleges and Universities; (b) Number: 125 (Universe); (c) Estimated Average Man-Hours per Respondent: ½.

(a) Type: Vocational/Technical Postsecondary Institutions; (b) Number: 55 (Universe); (c) Estimated Average Man-Hours per Respondent: ½.

(a) Type: Financial Institutions; (b) Number: 20 (Universe); (c) Estimated Average Man-Hours per Respondent: ½.

(a) Type: State Institutions; (b) Number: 25 (Universe); (c) Estimated Average Man-Hours per respondent: ½.

9. Information to be Collected. A. Year Summary Activity: 1. New loan disbursements; 2. Loans bought/sold; 3. Claims and collections; 4. Total outstanding.

B. Loan Status. 1. Interim loans; 2. Repayment loans; 3. Claim status loans.

C. Past Due Accounts. 1. 30-120 days; 2. 121 days and over.

[FR Doc.77-22964 Filed 8-8-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

ALABAMA

[Docket No. NFD-517; FDAA-3045-EM]

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Alabama (FDAA-3045-EM), dated July 20, 1977, and related determinations.

DATED: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 20, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Alabama is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Alabama.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Barbour	Clay
Bibb	Coffee
Blount	Coosa
Butler	Elmore
Chambers	Escambia
Chilton	Fayette

Greene	Perry
Henry	Pickens
Lamar	Randolph
Lee	Russell
Lowndes	Shelby
Monroe	Tallapoosa
Montgomery	Tuscaloosa

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Director, Federal Disaster Assistance Administration.

[FR Doc.77-22951 Filed 8-8-77;8:45 am]

[Docket No. NFD-518, FDAA-3044-EM]

GEORGIA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Georgia (FDAA-3044-EM), dated July 20, 1977, and related determinations.

DATED: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 20, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Georgia is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Georgia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Barrow	Irwin
Berrien	Jackson
Bibb	Jasper
Bleckley	Jefferson
Burke	Johnson
Butts	Jones
Candler	Lamar
Carroll	Lanier
Charlton	Laurens
Chattahoochee	Lee
Chattooga	Lincoln
Clarke	McDuffie
Clayton	Marion
Clinch	Montgomery
Cobb	Morgan
Coffee	Oglethorpe
Cook	Pierce
Coweta	Pulaski
Crawford	Seminole
Decatur	Spalding
Dodge	Sumter
Dooly	Taliaferro
Early	Telfair
Emanuel	Troup
Fayette	Upson
Fulton	Walker
Grady	Warren
Greene	Wayne
Heard	Wheeler
Henry	Wilcox
Houston	Wilkinson

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-22952 Filed 8-8-77;8:45 am]

[Docket No. NFD-515 FDAA-3040-FM]

IDAHO

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of Idaho (FDAA-3040-EM), dated May 5, 1977.

DATED: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Idaho dated May 5, 1977, and amended on June 1, 1977, June 2, 1977, June 3, 1977, and June 14, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of May 5, 1977:

The county of Idaho.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended notice.

The county of Bear Lake.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

JAMES P. DOKKEN,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-22953 Filed 8-8-77;8:45 am]

[NFD 513 FDAA-3041-EM]

NEVADA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Nevada (FDAA-3041-EM), dated June 11, 1977.

DATED: July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Nevada dated June 11, 1977, and amended on June 30, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 11, 1977:

The county of White Pine.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-22954 Filed 8-8-77;8:45 am]

[Docket No. NFD-514; FDAA-3039-EM]

OREGON

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Oregon (FDAA-3039-EM), dated April 29, 1977.

DATED: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Oregon dated April 29, 1977, and amended on May 3, 1977, May 12, 1977, May 26, 1977, and June 2, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 29, 1977:

The county of Wallowa.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned accected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

JAMES P. DOKKEN,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-22955 Filed 8-8-77;8:45 am]

[Docket No. NFD-516; FDAA-3043-EM]

WYOMING

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice

SUMMARY: This notice amends the notice of emergency declaration for the State of Wyoming (FDAA-3043-EM), dated June 15, 1977.

DATED: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Wyoming, dated June 15, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catatastrophe declared an emergency by the President in his declaration of June 15, 1977:

The counties of:

Lincoln
Sweetwater

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amneded notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-22956 Filed 8-8-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 60216]

WYOMING

Application

JULY 29, 1977.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4-inch O.D. pipeline and for a right-of-way for their existing 6-inch O.D. pipeline and existing 4-inch O.D. pipeline originally constructed under valid lease rights for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, W[illegible]

T. 20 N., R. 95 W.,
Sec. 12, E½E½, SW¼NE¼, S½NW¼, SW¼SE¼.

The proposed pipeline will connect an existing well in section 11, T. 20 N., R. 95 W., into existing natural gas pipeline facilities in the E½ of sec. 12, T. 20 N., R. 95 W., all in Sweetwater County, Wyoming. The proposed 4-inch O.D. line would extend from said existing well in sec. 11 to the point of connection with existing facilities in section 12.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third St., Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-22921 Filed 8-8-77;8:45 am]

Geological Survey

[NTL-5]

VALUE OF NATURAL GAS FOR ROYALTY PURPOSES

On May 4, 1977, the Geological Survey published in the FEDERAL REGISTER (Vol. 42, No. 86, pp. 22610-22611) its final notice to Lessees and Operators, NTL-5. This Notice sets forth the procedures to be utilized for royalty computation purposes in determining the value of natural gas produced from Federal and Indian oil and gas leases under the jurisdiction of the Geological Survey.

Pursuant to a request by the Acting Deputy Commissioner of Indian Affairs, the application of NTL-5 to oil and gas leases on the Jicarilla Apache Indian Reservation in New Mexico is hereby suspended for an indefinite period, effective as a 7 a.m., June 1, 1977.

V. E. MCKELVEY,
Director.

[FR Doc 77-22896 Filed 8-8-77;8:45 am]

National Park Service

ISLE AU HAUT, ACADIA NATIONAL PARK, MAINE

Public Meetings and Availability of Assessment of Management Alternatives

Notice is hereby given that the National Park Service has prepared an assessment of management alternatives for the Isle au Haut unit of Acadia National Park. Public meetings will be held as indicated below to enable the public to comment on these management alternatives.

The assessment of management alternatives is available from or may be inspected at the North Atlantic Regional Office, 15 State Street, Boston, Massachusetts 02109 or the Superintendent's office, Acadia National Park, Bar Harbor, Maine 04609.

The assessment discusses five alternative ways of managing the Isle au Haut unit so as to conserve its natural qualities as a remote island. In addition to describing the alternatives, the assessment analyzes the impacts of each alternative and identifies various measures that could be employed to mitigate these impacts, as well as any adverse effects that could not be avoided should the alternative be implemented.

Three public meetings will be held to receive comments. The first will be held at 7 p.m., August 29, 1977, at the Town Hall, Isle au Haut, Maine; the second at 7 p.m., August 30, 1977, at the Council Chambers, Town Hall, Ellsworth, Maine, and the third at 7 p.m., August 31, 1977 at the Town Hall, Stonington, Maine. These meetings are being conducted to provide the widest possible involvement from individuals, organizations, and public officials.

Written statements regarding the assessment of management alternatives are also invited and may be submitted at the public meetings or may be addressed to the Superintendent, Acadia National

Park, Bar Harbor, Maine 04609. The official record for these written comments will close on September 30, 1977.

Dated: July 21, 1977.

JACK E. STARK,
Regional Director,
North Atlantic Region.

[FR Doc.77-22800 Filed 8-8-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 29, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20204. Written comments or a request for additional time to prepare comments should be submitted by August 19, 1977.

WILLIAM J. MURTAGH,
Keeper of the
National Register.

JULY 28, 1977.

ARKANSAS

Benton County

Bentonville, *Elliott House*, 303 SE 3rd St.

Cleburne County

Greers Ferry vicinity, *Stark, Isaac W., Log House*, S of Greers Ferry at Park Blvd. and Baldridge Ave.

Craighead County

Jonesboro, *Loch Bee Post Office*, Cherry and Madison Sts.

Crawford County

Van Buren, *Bryan House*, 105 Fayetteville St.
Van Buren, *Mills, Henry Clay, House*, 425 N. 15th St.

Jefferson County

Pine Bluff, *Ferguson House*, 902 E. 4th Ave.
Pine Bluff, *Yauch-Rager House*, 625 State St.

Logan County

Blue Mountain, *Chicago, Rock Island, and Pacific Railroad Depot*, off AR 10.

Sebastian County

Fort Smith, *Foster, Josiah, Building*, 222 Garrison Ave.

MARYLAND

Allegany County

Cumberland, *Two Hundred Five Columbia Street*, 205 Columbia St.

MISSISSIPPI

Coahoma County

Clarksdale vicinity, *Rufus Davis Site*, W of Clarksdale.

Hinds County

Jackson, *Spengler's Corner*, 101 N. State St.

Lowndes County

Columbus vicinity, *Butler Mound and Village Site*, S of Columbus.
Columbus vicinity, *MacKay Mound*, SE of Columbus.

NEW JERSEY

Burlington County

Burlington, *Pearson-How, Cooper, Laurence Houses*, 453-459 High St.

NORTH CAROLINA

Columbus County

Fair Bluff, Powell House, Main and Orange Sts.

Durham County

Durham, *Hill, John Sprunt, House*, 900 S. Duke St.

Forsyth County

Bethania vicinity, *Jones, Dr. Beverly, House*, SR 1611.

Orange County

Oaks, *Bingham School*, NC 54 and SR 1007.

Rowan County

Woodleaf vicinity, *Mount Vernon*, W of Woodleaf on SR 1003.

SOUTH DAKOTA

Clay County

Vermillion vicinity, *Rice Farm*, W of Vermillion.

VIRGINIA

Fauquier County

Warrenton, *Brentmoor* [*Spilman-Mosby House*], 173 Main St.
Warrenton, *Old Fauquier County Jail*, Fauquier County Courthouse Sq.

King William County

Enfield vicinity, *Seven Springs*, W of Enfield.

Surry County

Surry vicinity, *Melville*, E of Surry.

WASHINGTON

King County

Seattle, *Boeing Airplane Co. Building No. 105*, Purcell Ave.

WISCONSIN

Columbia County

Wisconsin Dells, *Weber, Jacob, House*, 825 Oak St.

Dane County

Waunakee, *Waunakee Railroad Depot*, South and Main Sts.

Jackson County

Black River Falls, *Union High School*, N. 3rd St.

Prince County

Ogema vicinity, *Johnson, Albin, Log House*, E. of Ogema.

Winnebago County

Omro vicinity, *Cole Watch Tower*, W of Omro.

[FR Doc.77-22652 Filed 8-8-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 19, 1977. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 19, 1977.

Dated: July 28, 1977.

WILLIAM J. MURTAGH,
Keeper of the
National Register.

NEW HAMPSHIRE

Cheshire County

Fitzwilliam, *Third Fitzwilliam Meetinghouse*, Village Green.

[FR Doc.77-22647 Filed 8-8-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-24]

CAST-IRON STOVES

Report to the President

JULY 25, 1977.

TO THE PRESIDENT: In accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1)), the U.S. International Trade Commission herein reports the results of an investigation relating to cast-iron stoves, stove parts, and fireplace grates.

The investigation (investigation No. TA-201-24) was undertaken to determine whether stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation, under the authority of section 201(b)(1) of the Trade Act, on March 23, 1977, following receipt of March 9, 1977, of a petition for import relief filed by the Atlanta Stove Works, Inc., Washington Stove Works, United States Stove Co., Portland Stove Foundry, Inc., and Martin Industries, Inc.

The Commission held a public hearing on this matter in Washington, D.C., on May 19 and 20, 1977.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of March 30, 1977 (42 FR 16874).

The information for this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

The Commission, being equally divided,[2] makes no determination as to whether stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

DETERMINATIONS

On the basis of the Commission investigation, Chairman Minchew determines—

That stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, are—as a result of their designation as eligible for duty-free treatment under the Generalized System of Preferences (GSP)—being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Commissioner Moore determines—

That stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, are—as a result of their designation as eligible for duty-free treatment under the GSP—being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Commissioners Bedell and Ablondi determine—

That stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

Chairman Minchew and Commissioner Moore find—

That to prevent[3] or remedy[4] such serious injury, it is necessary to suspend the designation of stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, as eligible for duty-free treatment under the GSP.

VIEWS OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONER GEORGE M. MOORE

On March 9, 1977, the U.S. International Trade Commission received a petition requesting an investigation under section 201(b)(1) of the Trade Act of 1974 with respect to imports of cast-iron stoves and cast-iron parts of stoves (including fireplace grates). On March 23, 1977, the Commission instituted an investigation to determine whether stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Section 201(b)(1) of the Trade Act requires that each of the following criteria be met if the Commission is to make an affirmative determination in this investigation and thus find a domestic industry eligible for import relief:

(1) Imports of the articles concerned are entering the United States in increased quantities;

(2) The domestic industry producing articles like or directly competitive with the imported articles concerned is being seriously injured or threatened with serious injury; and

(3) Increased imports are a substantial cause of the serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles concerned

DETERMINATION

On the basis of the evidence obtained during this investigation, we have determined that stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The serious injury, or the threat thereof, to the domestic industry which we have found to exist results from the designation of cast-iron stoves, cast-iron stove parts, and cast-iron fireplace grates as eligible articles for the purposes of duty-free entry under title V, Generalized System of Preferences (GSP), of the Trade Act, effective January 1, 1976.

THE DOMESTIC INDUSTRY

In this investigation we have concluded that the relevant domestic industry consists of the U.S. facilities used in the production of cast-iron stoves, cast-iron parts of stoves, and cast-iron fireplace grates. Such facilities consist primarily of foundries which produce cast-iron stove parts, including fireplace grates. There are 14 significant producers of the articles which are the subject of this investigation; of these firms, 8 produce cast-iron stoves, 10 produce cast-iron stove parts, and 10 produce cast-iron fireplace grates.

INCREASED IMPORTS

Imports of cast-iron stoves increased from 18,541 units in 1972 to 202,772 units in 1976, or tenfold; as a percentage of U.S. production, imports grew each year from 17 percent in 1972 to 157 percent in 1976. Imports of cast-iron fireplace grates increased irregularly from 206,323 units in 1972 to 279,359 units in 1976 and the ratio of imports to U.S. production rose from 127 percent in 1972 to 159 percent in 1976. In 1976, U.S. imports of cast-iron stoves and cast-iron fireplace grates entered duty free under the GSP accounted for 78 percent and 92 percent, respectively, of total U.S. imports of these articles. Thus, the statutory requirement of increased imports is clearly satisfied.

SERIOUS INJURY OR THE THREAT OF SERIOUS INJURY

As Chairman Minchew has based his affirmative finding on the threat of serious injury and Commissioner Moore has found in the affirmative based on present serious injury, the injury portion of their opinions will be discussed separately.

SERIOUS INJURY

The second criterion which must be satisfied if an industry is to be eligible for relief is that such industry be seriously injured, or threatened with serious injury. This criterion is written in the alternative, and as I find the relevant domestic industry to be seriously injured this discussion is devoted to that finding alone.

Although the Trade Act provides no precise definition of the term "serious injury," section 201(b)(2)(A) of the Trade Act provides that the Commission should take into account all relevant factors, including (but not limited to)—

the significant idling of the productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

Significant idling of productive facilities.—U.S. producers' utilization of their capacity for production of cast-iron

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[1] Attached to the original report sent to the President. These materials are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] Commissioners Minchew and Moore voted in the affirmative, Commissioners Bedell and Ablondi voted in the negative, and Commissioner Parker did not participate. Sec. 330(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1330(d)), provides that, where the Commissioners voting are equally divided on a determination, the Commission shall report to the President the determination of each group of Commissioners, and further, that the determination agreed upon by either group of Commissioners may be considered by the President as the determination of the Commission.

[3] Because Chairman Minchew has determined that the domestic industry is threatened with serious injury, his finding concerns the relief necessary to prevent such injury.

[4] Because Commissioner Moore has determined that the domestic industry is seriously injured, his finding concerns the relief necessary to remedy such injury.

[5] Statement of Commissioner Moore

stoves declined by almost 50 percent between 1975 and 1976 (the first year in which these articles were entitled to duty-free entry under the Generalized System of Preferences) and then declined by an additional 38 percent during the first quarter of 1977, compared with the corresponding period of 1976. U.S. producers reported that less than 25 percent of their capacity to manufacture cast-iron stoves was utilized for such purposes in January-March 1977. U.S. producers' utilization of their capacity for production of cast-iron fireplace grates declined annually during 1973–76. An overall decline of 43 percent occurred during this period. In January-March 1977, U.S. producers operated their facilities for producing cast-iron fireplace grates at only 28 percent of capacity.

The declines in capacity utilization discussed above are in part attributable to the growth in U.S. producers' capacity to produce cast-iron stoves and cast-iron fireplace grates during 1972–76; however, the principal reason for the decline was the sharp drop in U.S. production. U.S. production of stoves declined from 248,096 units in 1975 to 128,983 units in 1976, or by 48 percent. Production in 1976 was smaller than it had been in any other year since 1972—prior to the oil embargo, which led to increased fuel prices and awareness of the need to conserve energy. U.S. production of cast-iron fireplace grates declined from a high of 242,465 units in 1974 to 175,204 units in 1976. Thus it is evident that the marked decline in U.S. production of cast-iron stoves and fireplace grates has resulted in a significant idling of U.S. facilities used in the production of these articles.

The inability of a significant number of firms to operate at a reasonable level of profit.—The aggregate profit before taxes of eight U.S. producers of cast-iron stoves and stove parts on their overall company operations fell from $9.3 million in 1975 to less than $2.4 million in 1976, or by 75 percent. The ratio of net profit before taxes to net sales fell from 10.7 percent in 1975 to 3 percent in 1976, the lowest ratio reported for any year during 1972–76. Three of the eight firms reporting financial data to the Commission operated at a loss in 1976, and two other firms reported profit ratios of less than 2 percent. This performance is evidence of the inability of a significant number of firms in the industry to operate at a reasonable level of profit.

Significant unemployment or underemployment within the industry.—In 1976, average annual employment of production and related workers involved in the production of cast-iron stoves and cast-iron parts of stoves (including fireplace grates) was at the lowest level reported throughout 1972–76. In that year there were 754 employees, 19 percent fewer than the 927 employed in 1972 and 44 percent fewer than the 1,358 employed in 1975. In January–March 1977, employment declined to 691.

The number of man-hours worked by production and related workers in the manufacture of cast-iron stoves and cast-iron parts of stoves (including fireplace grates) during 1972–76 and January–March 1977 followed the same trend as that reported for the average number of production and related workers. The decline in the number of persons employed and the number of man-hours worked per employee has resulted in significant unemployment and underemployment within the industry.

It is evident from the foregoing that the sharp decline in U.S. producers' operations that occurred in 1976 and has continued in 1977 is closely tied to the implementation of the Generalized System of Preferences effective January 1, 1976. With the advent of duty-free imports from countries entitled to GSP benefits, U.S. producers' production, shipments, profits, and employment have all experienced marked declines.

Threat of Serious Injury[*]

I am in general agreement with the remarks of Commissioner Moore, and, therefore, endorse them, even though I am unable to find present serious injury.

In addition to considering the factors already discussed by Commissioner Moore in his analysis of serious injury, it is necessary to also consider other factors when considering the threat of serious injury.

Although the Trade Act provides no precise definition of what constitutes the "threat of serious injury," some factors to be considered are listed in section 201(b)(2)(B), which provides:

> with respect to threat of serious injury, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned.

(1) *Level of sales.* From 1972 to 1976, U.S. producers' shipments of cast-iron stoves, by unit, increased steadily from 107,684, in 1972, to 225,615, in 1975. In 1976, however, there was a large decline to 120,553 units. The same trend is observed with fireplace grates, with the peak year occurring in 1974, and a steady decline since that time. The same trend lines are evident in the value of shipments of both cast-iron stoves and fireplace grates.

(2) *Higher or growing inventories.* U.S. producers of cast-iron stoves and fireplace grates have traditionally carried relatively small inventories both because of storage costs and because of their ability to respond quickly to changes in demand. Inventories of stoves ran at 6 percent of domestic shipments in 1972, 2 percent in 1973, and 3 percent in 1974. However, by the end of 1975, inventories had increased to 14 percent of shipments, and, by December of 1976, had reached 20 percent. While there are indications that this high level of inventories is now being slightly reduced, it appears that levels will remain relatively high.

[*] Statement of Chairman Minchew.

As stated earlier, I concur with Commissioner Moore's analysis of serious injury. Therefore, for an explanation of the "downward trend in production, profits, wages, or employment (or increasing underemployment)" please see the remarks of Commissioner Moore.

From looking at the information obtained I have concluded that the domestic industry is being threatened with serious injury.

Substantial Cause

The third criterion which must be met before an industry is eligible for import relief is that the increased imports found to exist must be a "substantial cause" of the serious injury, or threat thereof, being suffered by the industry. The Trade Act contains both a definition of the term "substantial cause" and certain guidelines to be considered by the Commission in determining whether increased imports are a substantial cause of the requisite serious injury. Section 201(b)(4) of the Trade Act defines the term "substantial cause" to mean "a cause which is important and lot less than any other cause." The guidelines to be considered by the Commission with regard to substantial cause are contained in section 201(b)(2)(C), which states that in making its determination the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

> an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

As previously noted, annual U.S. imports of cast-iron stoves increased tenfold between 1972 and 1976, and U.S. imports of fireplace grates increased by 35 percent during the same period. The share of the U.S. market for cast-iron stoves supplied by imports increased each year during 1972–76, rising from 10.5 percent to 64.7 percent. The share of apparent U.S. consumption of cast-iron fireplace grates supplied by imports increased from about one-half of the total in 1972 to about two-thirds of the total in 1976.

While it was argued that factors other than imports were a more important cause of injury, an analysis of such factors does not support such a conclusion. It is clear that the economic recession in the United States during 1974 and 1975 was not the cause of injury sustained by the domestic industry in 1976 and January-March 1977. To the contrary, U.S. producers' shipments of cast-iron stoves were at record high levels during the height of the recession. Furthermore, contrary to allegations made at the Commission's public hearing, cast-iron stoves have not lost market share to other types of wood- or coal-burning heating stoves (such as those constructed of sheet metal). Total U.S. shipments of cost-iron stoves (both imported and U.S.-produced) grew from 50 percent of total U.S. shipments of all wood- or coal-burning heating stoves in 1972 to 60 percent of such shipments in 1975.[*] Further, there

[*] See p. A–42 of his report.

is no evidence that other economic factors were a more important cause of serious injury to the domestic industry than increased imports.

Conclusion

In view of the above, we have determined that the domestic industry producing cast-iron stoves and cast-iron stove parts (including fireplace grates) is being seriously injured or is being threatened with serious injury within the meaning of section 201 of the Trade Act of 1974, and, therefore, we have made an affirmative determination.

Finding and Recommendation With Respect to Import Relief

Section 201(d)(1) of the Trade Act provides, in part, that if the Commission finds with respect to any article, as a result of its investigation, the serious injury or threat thereof described in section 201(b)(1), it shall—

> (A) Find the amount of the increase in, or imposition of, any duty or import restriction on such article which is necessary to prevent or remedy such injury, or
>
> (B) If it determines that adjustment assistance under chapters 2, 3, and 4 can effectively remedy such injury, recommend the provision of such assistance. * * *

In view of our affirmative determination in this investigation and our finding that the serious injury or the threat of serious injury to the domestic industry was caused by the designation of cast-iron stoves, cast-iron stove parts, and cast-iron fireplace rates as eligible articles for the purposes of duty-free entry under title V of the Trade Act, we find that—

> to prevent or remedy such serious injury, it is necessary to suspend the designation of stoves, stove parts, and fireplace grates, wholly or almost wholly of cast-iron, provided for in item 653.50 of the Tariff Schedules of the United States as eligible for duty-free treatment under the Generalized System of Preferences.

Views of Commissioners Catherine Bedell and Italo H. Ablondi

On March 9, 1977, the United States International Trade Commission received a petition requesting an investigation under section 201(b)(1) of the Trade Act of 1974 with respect to imports of cast-iron stoves and cast-iron parts of stoves (including fireplace grates). On March 23, 1977, the Commission instituted an investigation to determine whether stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Section 201(b)(1) of the Trade Act requires that each of the following criteria be met if the Commission is to make an affirmative determination in this investigation and thus find a domestic industry eligible for import relief:

> (1) Imports of an article into the United States are increasing (either actually or relative to domestic production);
>
> (2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury; and
>
> (3) Increased imports are a substantial cause (i.e., an important cause and not less than any other cause) of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Determination

On the basis of the evidence obtained during this investigation, we have determined that stoves, stove parts, and fireplace grates, wholly or almost wholly of cast iron, provided for in item 653.50 of the TSUS, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. Specifically, we find in this case that the second criterion has not been satisfied, i.e., that the domestic industry producing articles like or directly competitive with the imported article is not being seriously injured nor is it threatened with serious injury.

The Domestic Industry

In this investigation we have concluded that the relevant domestic industry consists of the U.S. facilities used in the production of cast-iron stoves, cast-iron parts of stoves, and cast-iron fireplace grates. Such facilities consist primarily of foundries which produce cast-iron stove parts, including fireplace grates. There are 14 significant producers of the articles which are the subject of this investigation; of these firms, 8 produce cast-iron stoves, 10 produce cast-iron stove parts, and 10 produce cast-iron fireplace grates.

Serious Injury or the Threat Thereof

When making its determination of serious injury or threat thereof, the Commission is directed by the Trade Act to take into account all economic factors which is considers relevant, including the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry. We believe that "serious injury" is an injury which if not remedied would have permanent or lasting consequences. Such injury can be found only after examining the performance of an industry over a period of time of sufficient length to establish trends and thereby put temporary conditions into prespective. The evidence developed during this investigation shows that the U.S. cast-iron stove industry grew rapidly and prospered during the years 1972–75 before experiencing a decline in the level of operations in 1976. In our opinion, the 1976 downturn is not of sufficient magnitude and duration to support a finding of serious injury.[*] Furthermore, we believe the current outlook for the industry does not warrant a finding that the industry is being threatened with serious injury.

As indicated in the report, it is difficult to provide a precise statistical analysis of the domestic industry's capacity utilization. However, an analysis of the figures, whether or not they are exact, does reveal that U.S. producers increased their capacity to produce cast-iron stoves each year from 1972 through 1975 with a concomitant increase in the use of such capacity. In 1976, there seems to have been a decline in the ratio of U.S. production to capacity, but the sharp reduction in U.S. producers' inventories of cast-iron stoves and fireplace grates that occurred in the first quarter of 1977 should result in a significant improvement in capacity utilization during the full year 1977.

Profit on overall company operations of U.S. producers of cast-iron stoves, cast-iron parts of stoves, and cast-iron fireplace grates increased from $1.7 million in 1972 (seven firms reporting) to $9.3 million in 1975 (eight firms reporting), or by more than 440 percent. All eight firms reporting financial data to the Commission were profitable in 1974 and 1975. Although there was a decline in the profit position of the industry in 1976, the trend in overall financial performance has been positive, and it is anticipated that this trend will continue as production increases to fill depleted stocks.

The average number of production and related workers engaged in the production of cast-iron stoves, cast-iron parts of stoves, and cast-iron fireplace grates increased annually during 1972–75, rising from 927 to 1,358. Man-hours worked by these employees followed a similar trend, increasing from 1.8 million in 1972 to 2.8 million in 1975. Employment levels in 1976 reflected the downturn of capacity utilization in that year.

With respect to the threat of serious injury, the 5-year trends in sales (shipments), production, and profit are all positive, as shown in the attached figure. Furthermore, as a result in part of the unusually cold weather experienced in most of the United States during the 1976–77 winter, U.S. producers' inventories of cast-iron stoves as of March 31, 1977, has been reduced to a very favorable level of 18,950 units, compared with 45,816 units on the same date in 1976

[*] Commissioner Bedell finds, however, that the domestic industry producing cast-iron stoves, cast-iron parts of stoves, and cast-iron fireplace grates is being adversely affected by imports and such articles entered duty free under the Generalized System of Preferences (GSP). During 1976, 78 percent of all U.S. imports of cast-iron stoves and 92 percent of all U.S. imports of cast-iron fireplace grates, in terms of quantity, entered duty free under the GSP. Commissioner Bedell notes that although these imports injure the domestic industry, they do not affect it to the extent that "serious injury, or the threat thereof," can be found within the meaning of sec. 201 of the Trade Act.

U.S. producers' inventories of cast-iron fireplace grates were also reduced substantially, decreasing from 55,207 units on March 31, 1976, to 21,879 units on March 31, 1977.

It is anticipated that the following factors will have a favorable impact on demand for fuel-efficient cast-iron stoves and cast-iron fireplace grates: The renewed emphasis on conserving energy, the continuing threat of future shortages of natural gas and fuel oil, and the rapidly increasing costs of natural gas and fuel oil. U.S. producers' low inventories, their expanding production capacity, and their recent capital-intensive foundry modifications required by safety and antipollution laws provide a solid basis for U.S. producers to capitalize on any increase in U.S. demand for cast-iron stoves and fireplace grates.

CONCLUSION

On the basis of the above considerations, we have determined that the domestic industry producing cast-iron stoves and cast-iron stove parts (including fireplace grates) is not being seriously injured or threatened with serious injury by increased imports of the articles under investigation.

By order of the Commission.

Issued: August 4, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-22959 Filed 8-8-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-34]

JAMES R. FANT, M.D.

Revocation of Registration

On August 16, 1976, the Administrator of the Drug Enforcement Administration (DEA) directed to James R. Fant, M.D., the Respondent herein, an Order to Show Cause as to why Respondent's DEA Certificate of Registration (AF3921156) should not be revoked for the reason that on June 4, 1976, in the United States District Court for the Eastern District of Wisconsin, Respondent had been convicted of one count of unlawfully prescribing controlled substances, a felony violation of 21 U.S.C. 841(a)(1). Through counsel, Respondent requested a hearing on the Order to Show Cause. After preliminary procedures, including a Prehearing Conference conducted by telephone in which the Administrative Law Judge and counsel for the Government and the Respondent participated, a hearing was conducted by the Honorable Francis L. Young, Administrative Law Judge, in Washington, D.C., on March 1, 1977. Subsequent to the hearing a copy of the Wisconsin Medical Examining Board's Findings of Fact, Conclusions of Law and Decision was received by the Administrative Law Judge and placed in the record as a Government exhibit.

On June 1, 1977, Judge Young certified to the Administrator, pursuant to 21 CFR § 1316.65, the record of the proceedings in this matter, together with his recommended findings of fact and conclusions of law, and a recommended decision. Pursuant to 21 CFR § 1316.66, the Administrator hereby publishes his Final Order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found, inter alia, that as a result of complaints received from retail pharmacies concerning possible overprescribing practices of Respondent, the Drug Enforcement Administration initiated an investigation. The investigation included a review of the Schedule II controlled substance prescription files maintained by various pharmacies within the Milwaukee, Wisconsin area for prescriptions written by Respondent. Judge Young found that Respondent was overprescribing for four named individuals, that is, giving them prescriptions enabling them to obtain drugs in much larger quantities than those reasonably required for legitimate medical purposes. Respondent acknowledged said overprescribing at the hearing. Judge Young further found that on October 7, 1975, Respondent was indicted on 22 counts by the United States District Court for the Eastern District of Wisconsin (*United States v. James R. Fant*, Docket No. 75-CR-152), for knowingly and intentionally dispensing a controlled substance pursuant to prescriptions written without a legitimate medical purpose in violation of Title 21, Section 841(a)(1), United States Code and Title 21, Code of Federal Regulations, Section 1306.04(a). On June 4, 1976, in the United States District Court for the Eastern District of Wisconsin, on a plea of nolo contendere, Respondent was convicted on one count in violation of 21 U.S.C. § 841(a)(1) and 21 CFR § 1306.04(a), as charged in Count XVII of the indictment.

Judge Young further found that on May 5, 1977, the State of Wisconsin Department of Regulation and Licensing Medical Examining Board ordered that the "license of Respondent to practice medicine in the State of Wisconsin be and it is hereby revoked." In his discussion Judge Young stated that the conviction on Respondent's plea of nolo contendere to a felony relating to controlled substances provides lawful grounds for the Administrator in his discretion to revoke Respondent's registration even if Respondent's license to practice medicine in Wisconsin had not been revoked.

Judge Young concluded that Respondent's DEA registration must be revoked by virtue of the provisions of Section 823(f) of Title 21, United States Code since Respondent's license to practice medicine in Wisconsin, the State in which he practiced, has been revoked. Additionally, Respondent's DEA registration should be revoked because of his overprescribing of drugs for four named individuals in the light of his conviction on June 4, 1976, in the United States Court for the Eastern District of Wisconsin of a felony relating to a controlled substance.

Having reviewed the record of these proceedings in its entirety, the Administrator adopts the Administrative Law Judge's findings of fact; concurs that the subject registration must be revoked since Respondent's license to practice medicine in Wisconsin has been revoked; concurs that the subject registration may lawfully be revoked on the grounds of the felony conviction relating to controlled substances; and agrees that, based on Respondent's overprescribing of drugs for four named individuals, the subject registration should be revoked.

Having found that Respondent has had his Wisconsin license to practice medicine revoked; having found that Respondent has been convicted of a felony offense relating to controlled substances; and having found that under all of the circumstances of this case, that said registration should be revoked on both grounds cited, it is the Administrator's decision that the full revocation of Respondent's controlled substances registration is required. Therefore, under the authority vested in the Attorney General and redelegated to the Administrator of DEA, the Administrator hereby orders that the Certificate of Registration of James R. Fant, M.D. (DEA AF3921156) be revoked, effective immediately.

Dated: August 1, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-22899 Filed 8-8-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Oregon Plan Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Change in level of Federal enforcement.

SUMMARY: This document approves a State initiated change supplement which reflects the State's election to return jurisdiction for on-shore longshoring regulation under the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 667) to the Federal Government effective June 15, 1977.

EFFECTIVE DATE: June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3608, Washington, D.C. 20210, (202-523-8031).

SUPPLEMENTARY INFORMATION: By letter dated May 25, 1977, the State submitted a State-initiated plan change effective June 15, 1977, to OSHA's Seattle Regional Office to provide notice of repeal of its longshoring standards which are comparable to 29 CFR Part 1918 and withdraw the longshoring (1918) issue under the maritime standards from the State's developmental plan approved under section 18(b) of the Act. Coverage of public employees under the longshoring issue will be provided through Oregon's general industry rules. Therefore, Federal enforcement authority will be resumed with regard to on-shore longshoring activities in the State of Oregon.

DESCRIPTION OF THE SUPPLEMENT

Pursuant to Subpart E of 29 CFR Part 1953, the State submitted a State-initiated plan change to return jurisdiction for occupational safety and health coverage for on-shore longshoring activities to the Federal government, effective June 15, 1977.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTING AND COPYING

A copy of the State's plan and its supplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, Seattle, Washington, 98174; and the Workmen's Compensation Board, Labor and Industries Building, Salem, Oregon 97310.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Oregon supplement described above is consistent with the criteria contained in § 1902.2(c)(1) of this chapter which provides that a State plan may cover any occupational safety and health issue with respect to which a Federal standard has been promulgated under section 6 of the Act. An "issue" is considered to be an industrial, occupational or hazard grouping which is at least as comprehensive as a corresponding grouping contained in (1) one or more sections in Subpart B or R of Part 1910 of this chapter, or (2) one or more of the remaining subparts of Part 1910. Also, this change was adopted after a public hearing held in the State of Oregon. Accordingly, it is found that further public comment and notice is unnecessary.

DECISION

After careful consideration, the Oregon plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. In view of the fact that the State took action and gave notice of its termination of jurisdiction over longshoring as of June 15, 1977, and in view of the fact that employee protection should not be prejudiced and any delay in notice of Federal assumption of jurisdiction this decision is effective as of the date of cessation of State jurisdiction over longshoring activities. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Signed at Washington, D.C., this 2nd day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22971 Filed 8-8-77;8:45 am]

[V-77-7 and V-77-1]

BAKER TANK CO., ET AL.

Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of variance.

SUMMARY: This notice announces the grant of a variance to Baker Tank Company and Richmond Engineering Company, Inc., from the standards prescribed in 29 CFR 1926.451(a) (4), (5) and (10) concerning scaffolding.

DATES: The effective date of the variance is August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210, Telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 15220, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, P.O. Box 10186, Room 8018, 400 North 8th Street, Richmond, Virginia 23240.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1425 W. Pioneer Drive, Irving, Texas 75061.

I. BACKGROUND

Baker Tank Company, P.O. Box 40, Arp, Texas 75750 and Richmond Engineering Company, Inc., Box 25189, 7th and Hospital Streets, Richmond, Virginia 23260 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the safety and health standards prescribed in 29 CFR 1926.451(a)(4), (5) and (10). The standard sets general requirements for scaffolding.

The facilities affected by this application are present and future tank building projects of these companies:

Baker Tank Company, P.O. Box 40, Arp, Texas 75750.

Richmond Engineering Company, Inc., 7th and Hospital Streets, Richmond, Virginia 23260.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24343) for Baker Tank Company and on January 28, 1977 (42 FR 5440) for Richmond Engineering Company, Inc. The notices invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicants' business, which is part of the tank building industry, involves the erection of relatively large steel plate segments of circumferential rings. Due to the unique nature of the construction involved, special procedures, including special scaffolding, have been developed. For example, as opposed to more conventional scaffolds, tank scaffolds must be highly portable and have a relatively low density of occupancy by workmen. These scaffolds are raised up the shell of the tank as new rings of steel are added and work is completed at the level below.

Most plate structures are fabricated from standard length plates obtained from steel mills. These plates, each approximately 31.416 feet long, normally have brackets welded to them while they are on the ground prior to being placed into position on the tank wall. Scaffolding and guardrail supports are then attached to these brackets. If the applicants were to comply with § 1926.451(a)(5) which requires that guardrail supports be at intervals not to exceed 8 feet, and Table L-3 in § 1926.451(a)(10) which sets the maximum permissible span (distance between planking supports) for 2 x 10 inch full thickness undressed lumber at 10 feet, they assert it would be necessary to lay out each steel plate into sections with the brackets located approximately 7.854 feet apart. Instead, the applicants wish to lay out the plate into three equal sections with brackets located approximately 10'6" apart.

The planks used on the scaffolds by the applicants are rough full-dimensioned 2"×12"×12' planks of Douglas Fir or its equivalent. Douglas Fir has a

fibrer stress of 1,900 and a modulus of elasticity of 1,900,000. These characteristics of the planking meet the requirements of Scaffold Grade in § 1926.451(a)(10).

The tank scaffolds do not have toeboards as required by § 1926.451(a)(4) and (5). Instead, the applicants have stated that most tools are placed in well-designed "loose tool" containers provided for that purpose. The area directly below and far enough away from the base of the scaffold to contain anything that falls from above is roped off. Because the contour of the steel plates of the tank face is curved and the adjacent edge of the scaffold platform is straight, there is an open space between them. As a result, applicants have installed taut wire rope on the scaffold brackets that extends midway between the innermost edge of the scaffold platform and the curved plate structure of the tank face to serve as a safety line in lieu of an inner guardrail assembly. According to the applicants, less than 10 percent of the plank surface on the scaffold serves as a work location at any one time, and is normally occupied by approximately one person per 30 feet of scaffold length. About one-third of the employees work alone on the scaffolds, and the others work in groups of 2 or 3 with only one group located within a 10'6" bracket span. The employees carry their tools and equipment from one location to the next as work progresses.

III. Decision

Section 1926.451(a)(4) and (5) requires toeboards with a minimum height of 4" on all open sides and ends of platforms more than 10 feet above the ground floor. This is intended to keep tools and equipment from falling off the scaffold injuring people below. The applicants' system of keeping most tools in containers and roping off the area under and in close proximity to the scaffold accomplishes this purpose and thus provides a place of employment as safe as that required by the toeboard requirements of § 1926.451(a)(4) and (5).

Table L–3 in § 1926.451(a)(10) sets the maximum permissible span between planking supports at 10 feet for 2 × 10 inch or wider planks of full thickness undressed lumber. The applicants have proposed to use Douglas Fir or its equivalent. The increased strength of the full thickness Douglas Fir over other commonly used types of scaffold planking would provide safe scaffolding even though the span is 6" longer than the maximum span allowed under the standard.

Section 1926.451(a)(5) also requires that guardrail supports be placed at no more than 8 foot intervals. While applicants could comply with this requirement by attaching guardrail supports to the scaffolds, the applicants normally attach the guardrail supports, as well as the scaffolding supports to the brackets which are welded to the steel plates at 10'6" intervals. This practice affords considerably more stable attachments for the guardrail assembly than would exist with wooden 2 by 4s attached to the scaffold at 8 foot intervals. Moreover, the wire rope cables used for guardrails and the angle irons used for supports are at least as strong as the wooden 2 by 4s permitted by § 1926.451(a)(5). Therefore, it is determined that the guardrail assemblies supported by the brackets at 10'6" intervals are as safe as those required by § 1926.451(a)(5).

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8–76 (41 FR 25059) it is ordered that the applicants be, and they are hereby, authorized to use scaffolds in accordance with the following conditions, in lieu of complying with the toeboard and span requirements in § 1926.451(a)(4), (5), and 10):

(1) The applicants' loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long handled mauls which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgment from the scaffold area.

(2) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(3) The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12" without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12" in lieu of using a guardrail or tie-off system.

(4) Not more than three employees shall be working on a 10'6" span of scaffold planking at any time.

(5) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10'6". These brackets shall be welded to the steel plates.

(6) Scaffold planks or rough full-dimensioned 2" × 12" × 12' Douglas Fir or equivalent planking shall be used. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity. Three planks with full thickness 2" × 10" × 12' dimensions may be used in lieu of two 2" × 12" × 12' planks provided that they are clamped or bonded together at the midpoint of the span, in order to spread the weight of the employees.

(7) All planking shall be secured from movement or overlapped in accordance with 1926.451(a)(12).

(8) Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2" × 4" wood rails by 29 CFR 1926.451(a)(15). Guardrail supports shall be located at no greater than 10'6" intervals.

As soon as possible, the applicants shall give notice to affected employees of the terms of this order by the same means used to inform them of the application for variance.

This order shall become effective on August 9, 1977, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupation Safety and Health Act of 1970.

Signed at Washington, D.C. this 2nd day of August, 1977.

EULA BINGHAM
Assistant Secretary of Labor.

[FR Doc.77–22933 Filed 8–8–77;8:45 am]

[V–77–10]

INMONT CORP.

Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: I. Notice of application for variance and interim order; II. Grant of interim order.

SUMMARY: This notice announces the application of Inmont Corp. for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1910.106(h)(4)(i)(c) concerning aboveground storage tanks. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is August 9, 1977. The last date for interested persons to submit comments is September 8, 1977. The last date for affected employers and employees to request a hearing on the application is September 8, 1977.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N–3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, at the above address, telephone 202–523–7121;

or the following Regional and Area Offices

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Depatrment of Labor, Occupational Safety and Health Administration, 1400 Torrence Avenue, 2nd Floor, Calumet City, Ill. 60409.

I. Notice of Application

Notice is hereby given that Inmont Corp., 3030 West 51st Street, Chicago, Ill. 60632, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.106(h)(4)(i)(c) which sets forth the conditions for the storage of flammable and combustible liquids in aboveground tanks inside of buildings. The address of the place of employment that will be affected by the application is as follows:

Inmont Corp., 3030 West 51st Street, Chicago, Ill. 60632.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.106(h)(4)(i)(c) which requires that storage tanks inside of buildings shall be located at or above grade with adequate drainage and separated from the processing area by construction having a fire resistance rating of at least two hours.

The purpose of the standard is to prevent fire and/or explosions by eliminating vapors which are heavier than air from accumulating in spaces below grade level or pits.

The applicant uses various flammable solvents in the manufacture of printing inks. These solvents include barium lithol pigment, exempt lactol spirits, toluene, metal resinate of wood rosin, ethyl cellulose, and wax compound. The applicant states that the solvents are stored and shipped in tank trucks and railroad tank cars. These tanks are located inside its South Finished Ink Tanl. Storage Building where 26 are stored approximately 6 feet 8 inches below the earth's grade level.

The applicant asserts that it is unable to comply with the standard because sufficient space is not available to relocate the storage tanks. However, the applicant contends that it has installed a mechanical exhaust ventilation system which is designed to remove floor level vapors from spaces below grade. The applicant further contends that this exhaust which exceeds one cubic foot of air movement per minute per square foot of building area, will provide protection to employees as safe as that which would be provided if it were complying with the requirements of § 1910.106(h)(4)(i)(c).

The applicant states that the storage building is protected by a sprinkler system and the adjacent yard is protected by large wheeled dry chemical fire extinguishers.

The applicant has submitted copies of its Fire Brigade Assignments and Tank Cleaning Procedures which include sound safety practices and proper personal protective equipment for use in emergency situations.

In addition, according to the applicant, the storage building is equipped with the following safeguards:

(1) Explosion-proof electrical equipment and wiring;

(2) Extensive bonding and grounding;

(3) Tank diking;

(4) Emergency lighting;

(5) Smoke, heat, and explosion relief; and,

(6) A pumping system to handle any ground water seepage.

II. Grant of Interim Order

It appears from the application for a variance and interim order that, as required by section 6(d) of the Act, the storage of flammable solvents inside of the building in storage tanks as specified in the application will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.106(h)(4)(i)(C). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.–11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059), that Inmont Corp. be, and it is hereby, authorized to store its flammable solvents inside its South Finished Ink Tank Storage building in storage tanks below the earth's grade level in lieu of complying with the requirements in 29 CFR 1910.–106(h)(4)(i)(c) for abovegaround tanks inside of buildings, under the following conditions:

(1) The applicant shall install and properly maintain a vapor detection system.

(2) Exhaust ventilation across the storage area, in those places where flammable vapors may collect, shall maintain a level of vapor concentration below 25 percent of the lower flammable limit (LFL).

(3) Constant monitoring of the storage room atmosphere shall be conducted to assure that the level of flammable vapor concentrations is below 25 percent of the LFL. 3

(4) If the specified levels are exceeded, a distinctive alarm perceivable above ambient noise or light levels shall alert the employees when there is an emergency situation. Employees shall immediately evacuate the storage building and its surrounding area.

(5) Employees shall be trained to recognize the emergency evacuation alarm.

(6) An emergency action plan shall be implemented and enforced. The plan shall include the following procedures:

(a) Only employees, trained and educated to handle flammable liquid vapor leaks, shall be allowed to reenter the storage area to reestablish safe vapor concentrations.

(b) All untrained employees shall remain out of the area until vapor concentrations are below 25 percent of the LFL.

(c) Only upon reestablishment of the safe limit shall normal work operations resume.

(d) All employees shall be instructed in the emergency action plan procedures.

(7) Storage tanks shall not be more than 6 feet 8 inches below the earth's grade level.

(8) "No Smoking" signs shall be conspicuously displayed near the storage tanks.

(9) All exits shall be properly marked by a readily visible sign.

Inmont Corp. shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This interim order shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 2nd day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77–22934 Filed 8 8–77;8:45 am]

[V–75–10]

INTERPACE CORP.

Grant of Variance

I. Background

Interpace Corp., 260 Cherry Hill Road, Parsippany, NJ. 07054, made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.180(h)(3)(v). The standard requires that no hoisting, lowering, swinging or traveling shall be done while anyone is on the hook or load of a crane. Facilities affected by this application are:

Lock Joint Pipe Co. of Puerto Rico, Km. 0.6, S.R. 887, Carolina, P.R. 00630.

Lock Joint Pipe Co. of Puerto Rico, Km. 11.2 S.R. 14, Ponce-Juana Diaz Road, Juana Diaz, P.R. 00665.

Interpace Corp., 5622 Kansas Avenue, Kansas City, Kans. 66106.

Interpace Corp., 70001 Powell Road, Romeo, Mich. 48065.

Interpace Corp., Prairie Hill Road, South Beloit, Ill. 61080.

Interpace Corp., Edgeboro Road, East Brunswick, N.J. 08816.

Interpace Corp., Shop Road, Columbia, S.C. 29250.

Interpace Corp., 1501 Perryman Road, Perryman, Md. 21130.

Interpace Corp., Bower and Chatham Street, Lacoochee, Fla. 33537.

Notice of the application, and of the granting of an interim order, were published in the FEDERAL REGISTER on July 15, 1975 (40 FR 29771). The notice invited interested persons, including af-

fected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant uses locomotive cranes equipped with outriggers to place and remove metal forms (casings) used in the vertical pouring of concrete pipe. The casings range from 8 to 24 feet in height.

In order to attach and detach the casings as they are moved by the crane, employees ride in safety cages which are a component part of the casing handling bar. Three different cages are in use at the various locations, two circular and one oval. The two circular cages are used for the smaller diameter pipes and house one employee during the operation. The oval cage is used for larger diameter pipes. It was originally anticipated that two employees would work from this cage. However, the company now states that it will be used by only one employee.

The employees in the cages attach the chains from the casing handling bar to the casings, and then ride in the cage above the casings as they are lifted into position in order to be able to detach the chains. This process is repeated for stripping the casings from the completed pipe. The casing handling chains are equipped with spring loaded mechanisms. When the hooks of the chains are attached to the casing, the spring forces a sleeve over the mouths of the hooks.

The cages are constructed with guardrails and toeboards around the perimeter. On three quadrants, the perimeter is enclosed with heavy steel mesh. The fourth quadrant consists of four rungs approximately 10 inches apart to provide the means of entering the cage. These rungs are of non-slip surface material. According to the applicant, the cage with the smallest diameter will be equipped with heavy steel mesh to the height of the midrail of the guardrail (21 inches) to permit freedom of movement for the employee. The other two cages, having a larger diameter, will have the steel mesh to the height of the topmost rail of the guardrail (42 inches). The floor of the cages are four-way safety plate (diamond plate) to provide a non-slip surface, and the cages are equipped with a steel plate roof.

The casing handling bar is equipped with a safety lanyard secured by a safety anchor for each employee. All employees are equipped with a safety harness for attachment to the lanyard. The safety harness is worn at all times during the operation and insures that the employee remains securely within the confines of the cage. While the cage is moving the employees wear safety harnesses, stand and grasp the guardrail and vertical bars.

The casing handling bar and cage are attached to the load block of the locomotive crane. There is a safety latch across the mouth of the crane hook which is bolted in place. The beam into which the crane hook is inserted to lift the casing handling bar and cage is equipped with a preformed wire rope as a back-up safety device. All components of this apparatus have a tensile safety factor in excess of 5 to 1. The crane is equipped with a load indicating device.

III. DECISION

Section 1910.180(h)(3)(v) prohibits the hoisting, lowering, swinging, or traveling of a crane while anyone is on the load or hook. This prohibition is made because riding the load or the hook exposes the employees to hazards of falling or being struck against objects.

In the work situation described, the applicant is using a safety cage to protect the employee from the normal hazards of riding the load.

The roof and guardrails and the general structure of the cage would protect the employee from injury in the event the cage struck against an object. The employee is also protected from falling by the cage rails and by the safety harness attached to the lanyard which is worn both during a move and while hooking and unhooking the forms.

The safety cage has a tensile safety factor of 5 to 1 which is considered sufficient for a steel cage for this type of an operation.

The safety device by which the cage is attached to the crane is designed so that the cage cannot be accidentally released. In addition, the employee in the cage is in full view of the crane operator at all times.

The applicant has well-developed procedures for the use of this safety cage which require the crane operater to place and remove the forms according to an established method, eliminating any sudden or unusual movement which could cause accidents.

Accordingly, it is determined that the applicant is providing a place of employment as safe as that which would be obtained by complying with § 1910.180(h)(3)(v).

The application for variance was reviewed by the States of South Carolina, Michigan, and Maryland who have their own occupational safety and health plans. Their comments were considered in making this determination. Accordingly, they are made parties to this decision.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Interpace Corp. be, and it is hereby, authorized to move employees in the above described safety cages suspended from the crane during the process of placing and removing the casings used in the vertical pouring of concrete pipes, *Provided*, That the following conditions are observed:

1. The cages shall be constructed as described in the application with guardrails, toeboards, a steel plate roof, and a four-way safety plate floor;

2. All cages, regardless of size, shall be enclosed with steel mesh or expanded metal to the height of the top guardrail;

3. The safety latch across the crane hook shall be in place and bolted;

4. The cage may house only one employee during operation;

5. The employee in the cage shall wear the safety harness and lanyard attached to the proper location at all times when being moved in the cage or when hooking or unhooking the casings and must not allow any part of the body to extend beyond the exterior of the cage during movement;

6. Crane operators shall be experienced, and lifts shall be made in accordance with established methods;

7. The crane operator shall remain at the controls at all times when employees are in the cage;

8. The safety procedures submitted as part of the application shall be followed on all lifts involving employees;

9. A ladder shall be available at all times for emergency purposes.

10. If the load indicating device indicates that the stripping of the casings will exceed ½ the rated load of the crane, the lift shall be halted and the casing handling chains detached until the casing can be manually separated from the pipe to provide a normal lift;

11. During lifts involving an employee, the crane shall not travel at speeds that would allow excessive oscillation of the cage and/or load while moving along the tracks, and raising or lowering of employees shall not exceed that speed necessary for the immediate halting of the operation by the crane operator;

12. No lifts involving an employee shall be made in areas where there are no outrigger tracks;

13. Each hoisting unit shall have at least one holding brake mounted on the motor shaft or on a shaft in the hoist gear train. This brake shall apply automatically on power removal. The minimum torque rating of the holding brake in relation to motor torque at the point of application shall be:

125 percent when used with control braking means other than mechanical;

100 percent when used with a mechanical control braking means;

100 percent for each brake if two holding brakes are provided.

14. Inspection and maintenance procedures as described in § 1910.180 and in the variance application shall be followed to assure that the cages and cranes are in good repair.

As soon as possible Interpace Corporation shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date: This order shall become effective on August 9, 1977, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 2nd day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22935 Filed 8-8-77;8:45 am]

[V-77-2]

SCHIAVONE CONSTRUCTION CO.

Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of variance.

SUMMARY: This notice announces the grant of a variance to Schiavone Construction Company from the standards prescribed in 20 CFR 1926.904(e) concerning underground storage of explosives.

DATES: The effective date of the variance is August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Dorothy Pohlman, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3668, Washington, D.C. 20010. Telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

I. BACKGROUND

Schiavone Construction Co., Impresit Girola Lodigiani, Inc., Thomas Crimmins Contracting Co., A Joint Venture, Barbizon Hotel, Box 5140, FDR Station, New York, New York 10022 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1926.904(e). The standard requires that permanent underground storage magazines be at least 300 feet from any shaft, adit or active underground working area. The facility affected by this application is:

Tunnel on East 63rd Street between Lexington Avenue and Third Avenue, Borough of Manhattan, New York, New York.

Notice of the application, and of the granting of an interim order, was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8013). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. One written comment was received; there were no requests for hearing.

II. FACTS

The applicant is engaged in the construction of a subway tunnel for which explosives are necessary. Rather than comply with the storage requirements of § 1926.904(e), the applicant is storing the explosives in three 5' by 5' chambers cut into the rock at about 100', 200' and 235' distances from the access shaft. Access to these storage chambers is through a tunnel known as a coyote hole which has been excavated from the rock for a distance of about 247'. The first 75' of the coyote hole is a temporary section, as the area will be excavated out for the installation of a compressor plant. At the time this area is excavated the nearest chamber will be about 25' from the nearest working area.

The temporary and permanent portions of the tunnel are separated by doors of ½" plate steel lined with 4" of hardwood rather than the ¼" plate steel and 2" of hardwood required by the OSHA standards. There is also a second access tunnel that forks off of the main portion of the coyote hole. This section is also separated by a door of ½" plate steel and 4" of hardwood. These doors are bolted into the rock and reinforced concrete.

The caps and explosives have been placed in approved magazines and stored in the chambers. The caps are stored in the first chamber, approximately 100' along the coyote hole. The explosives are stored in the second and third chambers, approximately 200' and 235' from the manshaft. The applicant is using water-gel explosives which are insensitive and is limiting the amount of water-gels stored in each chamber to 500 lbs.

The applicant is complying with the other requirements for storage of explosives, such as proper ventilation and maintaining the 50' distance between caps and explosives.

III. DECISION

29 CFR 1926.904(e) requires that permanent underground storage magazines be at least 300 ft. from any shaft, adit, or active underground working area. This is intended to prevent hazard to employees should an unintended explosion occur.

One comment letter was received from the Fire Department of the City of New York supporting the application for variance. A visit was made to the worksite by members of the OSHA New York Regional Office. Aa a result of this visit they support granting the variance.

In this situation the applicant is using a low sensitivity type of explosive and is storing the explosives and caps in approved magazines in chambers which are set off at right angles from the coyote hole, or tunnel. Thus the magazines are protected from impact, making an accidental explosion highly unlikely. The chance of any accidental explosion is also made remote by the fact that the explosives which the applicant is using are cap-senstitive cartridge water-gels. These are insensitive and are highly unlikely to detonate accidentally. They are stored in approved magazines and placed in two of the chambers, with a limit of 500 lbs. per chamber, although the OSHA standards do not limit the amounts which may be stored. The caps are stored in the chamber closet to the working area and are separated from the nearest chamber containing explosives by 160 feet, rather than 50 feet as required by § 1926.904(f).

The fact that the coyote hole is cut into solid rock with the chambers at right angles means that the tunnel and chamber walls would absorb the direct impact should an unexpected explosion occur. In addition, the coyote hole is partitioned off from the access shaft adit or working areas by doors of ½" plate steel lined with 4" of hardwood rather than ¼" plate steel lined with 2" hardwood as required by 27 CFR 181.187 (a)(8) which is adopted by reference in 29 CFR 1926.904(a). These doors will be bolted into the rock and reinforced concrete and would provide additional protection to employees from the force of an explosion in one of the chambers.

In addition, the applicant is complying with the other OSHA requirements concerning storage of explosives, and with the requirmeents of the City of New York Fire Department.

For these reasons it is determined that the applicant is providing a place of employment as safe as that which would be obtained by complying with § 1926.904(e).

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Schiavone Construction Co., Imuresit Girola Lodigiani, Inc., Thomas Crimmins Contracting Co., A Joint Venture be, and it is hereby, authorized to store explosives less than 300 feet from a shaft, adit, or underground working area, provided that:

1. Ventilation in accordance with § 1926.800(c)(2) shall be maintained to the end of the coyote hole for the duration of the project.

2. The caps and explosives shall be placed in approved magazines and stored in the designated chambers cut into the rock.

3. The permanent section of the coyote hole shall be partitioned off with doors of ½" steel plate and 4" of hardwood bolted into rock and reinforced concrete.

4. The passageway shall be maintained free of loose objects.

5. Only capsensitive cartridge water gel explosives may be stored in the designated chambers.

6. Construction shall proceed according to the schedule submitted:

a. The entire length of the coyote hole and the three chambers shall be excavated;

b. Doors shall be installed separating the temporary and permanent portions of the coyote hole as described in the application;

c. The area around the temporary portion of the tunnel shall be excavated beginning with pilot tunnels on the North and South, then the entire perimeter, and finally the center core including the temporary portion of the coyote hole.

7. Access to the magazine area shall be limited to magazine keepers, powder carriers and authorized inspection personnel. Watchmen certified by the New York City Fire Department shall be on duty at all times when the magazines are loaded.

8. Explosives shall be used in delivery sequence in order to prevent deteriorated material from accumulating on the job.

As soon as possible Schiavone Construction Co., Impresit Girola Lodigiani, Inc., Thomas Crimmins Contracting Co., a joint venture shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date: This order shall become effective on August 9, 1977, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 2nd day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22936 Filed 8-8-77;8:45 am]

[V-76-10]

AMERICAN TOBACCO CO.

Grant of Variance

I. BACKGROUND

The American Tobacco Co., 245 Park Avenue, New York, N.Y. 10017, made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.159(e)(2). The standard requires that a clearance of at least 18 inches be maintained between sprinkler deflectors and top of storage to reduce the possibility of obstruction to the distribution of water.

The facilities affected by this application are:

Richmond Leaf Department, The American Tobacco Co., Lucky Strike Storage, 14th and Ingram Street, Richmond, Va. 23224.

Richmond Leaf Department, The American Tobacco Co., Tom Walker Storage, 800 Jefferson Davis Highway, Richmond, Va. 23260.

Reidsville Leaf Department, The American Tobacco Co., Lucky Strike Storage, U.S. Route 29 North, Reidsville, N.C. 27320.

Durham Leaf Department, The American Tobacco Co., Lucky Strike Storage, Ellis Road, Durham, N.C. 27702.

Lexington Leaf Department, The American Tobacco Co., Lexington Storage, Leestown Pike, Lexington, Ky. 40501.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on August 27, 1976 (41 FR 36283-85). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant operates 72 warehouses in Richmond, Va.; 62 warehouses in Reidsville, N.C.; 57 warehouses in Durham, N.C.; and 26 warehouses in Lexington, Ky. The warehouses are used to store tobacco hogsheads. According to the applicant, data and information are listed from the Richmond, Va., warehouses which are representative of the other warehouses.

The warehouses are constructed of wood, approximately 194' long with two sliding doors (8'8" wide by 9'6" high and 8'9" wide and 7'6" high) that are located at each end of the 9' center aisle. When work is being performed, the entrance doors are left open. The warehouses are only occupied when tobacco hogsheads are brought into or removed from storage. Normally, two employees operate industrial trucks in any one of the warehouses.

There is very little electrical wiring in the warehouses and the housekeeping is excellent with no debris or foreign material. "No Smoking" signs are posted, employees have ample clearance on either side of the industrial trucks to use the aisles as exitways, and a freestanding four hour fire resistant brick wall separates adjacent warehouses.

The tobacco hogsheads are 4' in diameter by 4'6" high, normally of Douglas Fir wood. They are stacked 3 high, 4 rows to a bay and 15 stacks per row, with 8"x8" wood columns separating each bay. The hogsheads stacking pattern does not allow an employee to penetrate into the storage area. However, in the outer bays of each warehouse where approximately one-third clearance exist, vertical spacing permits the sprinklers to clear the hogsheads at least 8 inches.

The applicant requested a variance to allow a clearance of at least 8 inches between the sprinkler heads and top of storage in approximately one-third of the area in each warehouse. Although §1910.159(e)(2) requires a clearance of at least 18 inches be maintained, the applicant's sprinkler systems differ from those used in other warehouses in that its protection area per sprinkler, spacing of sprinkler heads, available supply and pressure of water and pipe size used provide better coverage than that required by NFPA No. 13-1969 (the source standard for § 1910.159(e)(2)), as follows:

The protection area per sprinkler is 97.5 square feet and storage heights never exceed 13½ feet. The maximum protection area per sprinkler permitted by NFPA No. 13-1969 is 130 square feet for storage heights not in excess of 15 feet.

NFPA No. 13-1969 permits a maximum distance of 15 feet between sprinkler branch lines and sprinklers on a branch line. The distance between the applicant's sprinkler branch lines is 10 feet and between sprinklers on a branch line is 9 feet 9 inches.

The fire protection system is supplied with water from two connections to a 10 inch public water pipe: a 100,000 gallon water storage tank 150 feet above ground (for fire protection only) and a 200,000 gallon ground level water storage tank which provides suction for 100 psi, 100 gpm fire pumps.

NFPA No. 13-1969 requires that a maximum of 750 gpm of water be distributed over an area of 3,750 square feet with water available for a duration of at least two hours and an average density of 0.20 gallons of water per minute. The applicant's sprinklers distribute water over 3,750 square feet for a duration of three and one-half hours with an average density of 0.24 gpm, which is 20 percent greater than that required by the standards.

Data obtained from fire tests conducted by Factory Mutual Engineering Corporation indicates that a fire in tobacco storage warehouses can be adequately controlled with a sprinkler system designed and maintained in the manner that the applicant has done.

Sprinkler systems protecting the warehouses are dry pipe systems that are filled with compressed air which releases when a sprinkler head opens, reducing pressure at the control valve and allowing water to enter the sprinkler piping, actuating the water flow alarm. The water flow alarm sounds in three places —at the warehouse affected, where the guard or on-duty personnel would place a call to the local fire department, and over a coded paging system that is audible throughout the warehouse site to summon help from far reaches of the property.

The application for variance was reviewed by the States of Kentucky and North Carolina who have their own occupational safety and health plans. In addition to the review, a personal investigation at the Lexington, Ky., warehouses by representatives of the State of Kentucky revealed that the conditions, means, and practices to which the employees of American Tobacco Co. are exposed provide protection equal to or greater than the protection to be assured by compliance with the requirements of § 1910.159(e)(2) of the occupational safety and health standards. Both States concur with the granting of the variance.

III. DECISION

Section 1910.159(e)(2) requires that a clearance of at least 18 inches be maintained between sprinkler deflectors and top of storage to reduce the possibility of obstruction to the distribution of water.

In approximately one-third of the area of each warehouse, a clearance of at least 8 inches exists between the sprinkler heads and top of tobacco hogsheads. The applicant's sprinklers are provided with a reliable water supply from two independent sources connected to a 10 inch public water pipe—a 100,000 gallon water storage tank used for fire protection only and a 200,000 gallon water storage tank which provides 1000 gpm working at a water pressure of 100 psi. Sketches were submitted by the applicant showing the water connections, locations, and piping. Water is immediately available for fire suppression for three and one-half hours. This available supply and pressure of water, protection area per sprinkler, and a clearance of at least 8 inches between the sprinkler head and the hogshead storage, develop an average density of unobstructed water discharge of .24 gpm over an area of 3,750 square feet. This exceeds the requirements of NFPA No. 13-1969 by 20 percent.

Since the stacking pattern does not permit the employees to penetrate into the storage area, the primary function of the sprinkler systems in the tobacco storage warehouses are to protect the tobacco hogsheads. In the event of a fire, the employees would be notified first by observation or by the audible water flow alarm; thereby evacuating the warehouses by the two means of egress routes.

Tests conducted by Factory Mutual Laboratories reveal that the sprinkler systems in the applicant's tobacco warehouses are designed and maintained to provide adequate fire control.

The Emergency Organization Procedures Plan is representative of OSHA's intent to permit fire brigades where there is adequate training, organization, and planning to assure that the safety and health of employees are not jeopardized.

Accordingly, it is determined that the applicant is providing a place of employment as safe as that which would be obtained by complying with § 1910.159 (e)(2).

The application for variance was reviewed by the States of North Carolina and Kentucky who have their own occupational safety and health plans. Their evaluation, along with the investigation conducted by Kentucky, were considered in making this determination. Accordingly, they are made parties to this decision.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that the American Tobacco Company be, and it is hereby, authorized to maintain at all of the warehouses listed in the application, a clearance of at least 8 inches between the sprinkler heads and top of storage in one-third of the warehouse are and a clearance of 18 inches in the remaining area, provided that the following conditions are met:

1. The sprinkler system shall be maintained to provide a water flow over a 3,750 sq. ft. area for a duration of three and one-half hours with an average density of 0.24.

2. All employees shall be instructed in the procedures of the employer's Emergency Organization and Procedures Plan. Those employees not specifically designated as participating members of the fire brigade shall be instructed to immediately evacuate a warehouse upon detection of a fire. Those members of the fire brigade who remain behind to control or extinguish any fire shall be provided with the proper amount of equipment which has been installed, maintained, and tested in accordance with the applicable OSHA standards.

3. New employees shall be instructed in the procedures of the employer's plan immediately upon employment.

4. All exits shall be properly marked by a readily visible sign.

5. As described in the application, the conditions within the warehouses (particularly the storage of tobacco hogsheads and housekeeping) shall be maintained at all times.

As soon as possible, the American Tobacco Co. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date: This order shall become effective on August 9, 1977, and shall remain in effect until modified or revoked in accordance with section 6(b) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 2nd day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-22932 Filed 8-8-77;8:45 am]

Occupational Safety and Health Administration

MARYLAND STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Register Administrator) under a delegation of authority from the Assistant Secretary of Labor of Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17834) of the approval of the Maryland plan and the adoption of Subpart O to 29 CFR Part 1952 containing the decision.

The Maryland plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated January 28, 1977, from Harvey Epstein, Commissioner, Maryland Division of Labor and Industry, to David H. Rhone, Regional Administrator, and incorporated as part of the plan, the State submitted a standard for Chlordecone (Kepone). This standard was promulgated after public comment was requested on September 15, 1976, hearings held on October 20, 1976, and a resolution adopted by the Commissioner on January 19, 1977, pursuant to the Maryland Occupational Safety and Health Law of 1973.

2. *Decision.* Since there are no Federal standards regulating kepone, it has been determined that the State standard is not in conflict with other Federal standards.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Suite 2100, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104; Office of the Commissioner, Maryland Division of Labor and Industry, 203 E. Baltimore Street, Baltimore, Maryland 21202; and Office of the Director, Federal Compliance and State Programs, Room N-3605, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be inconsistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standard was adopted in accordance with the procedural requirements of State law and further public participation and notice would not be necessary.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Philadelphia, Pennsylvania, this 25th day of May 1977.

DAVID H. RHONE,
Regional Administrator

[FR Doc.77-22924 Filed 8-8-77;8:45 am]

MARYLAND STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Adminstrator) under a delegation of authority from the Assistant Secretary of Labor of Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in ac-

cordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, a notice was published in the FEDERAL REGISTER (38 FR 17834) of the approval of the Maryland plan and the adoption of Subpart O to 29 CFR Part 1952 containing the decision.

The Maryland plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated February 1, 1977, from Harvey A. Epstein, Commissioner, Maryland Division of Labor and Industry, to David H. Rhone, Regional Administrator, and incorporated as part of the plan, the State submitted amendments to the State standards identical to the additions, revisions, amendments and corrections to the Federal standards for carcinogens or toxic and hazardous substances of 29 CFR 1910.1003 through 1910.1004 and §§ 1910.1006 through 1910.1016. Also in accordance with the changes in the Federal standards was the deletion of the 4.4 methylene bis standards of 29 CFR 1910.1005. The Federal standards changes were published in the FEDERAL REGISTER on August 20, 1976 (41 FR 35184). The State standards were promulgated after public comment requested on September 15, 1976, hearings held on October 26, 1976 and a resolution adopted by the Commisssioner on January 19, 1977, pursuant to the Maryland Occupational Safety and Health Law of 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards changes are identical to the Federal standards changes.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Suite 2100, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104; Office of the Commissioner, Maryland Division of Labor and Industry, 203 E. Baltimore Street, Baltimore, Maryland 21202 and Office of the Director, Federal Compliance and State Programs, Room N-3605, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

b. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would not be necessary.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Philadelphia, Pennsylvania, this 25th day of April 1977.

DAVID H. RHONE,
Regional Administrator.

[FR Doc 77-22925 Filed 8-8-77;8:45 am]

MINNESOTA STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On June 8, 1973, notice was published in the FEDERAL REGISTER (38 FR 15076) of the approval of the Minnesota plan and the adoption of Subpart N of Part 1952 containing the decision.

The Minnesota plan provides for the adoption of Federal standards as State standards by reference after an opportunity for public comment and/or requests for public hearings. By notice published on May 2, 1977, in the Minnesota State Register (cited as 1 S.R. 1560) and incorporated as part of the plan, Minnesota has adopted State standards comparable to:

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Minnesota, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; and the Office of the Directorate of Federal Compliance and State Programs, Room N3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Minnesota State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

1. The amendments and revisions made to the Occupational Safety and Health Standards for Agriculture and published as 29 CFR 1928.57 (a)(5), (7), (8)(i), (9), (10), (11)(ii) and (iii), (b)(1)(iii) and (c)(1)(ii) in the FEDERAL REGISTER, Volume 41, No. 206, October 22, 1976, page 46598.

2. A new standard, 29 CFR 1910.1029 Coke Oven Emissions, published in the FEDERAL REGISTER, Volume 41, No. 206, pages 46784 through 46790, October 22, 1976.

3. Changes pertaining to carcinogen standards, published in the FEDERAL REGISTER, Volume 41, No. 163, page 35184, on August 20, 1976, deleting 29 CFR 1910.-1005 in its entirety, and deleting the laboratory provisions, paragraph (c)(6), of the following standards: §§ 1910.1003, 1910.1004 and 1910.1006 through 1910.-1016.

4. Changes made in 29 CFR Parts 1910 and 1926 as published in the FEDERAL REGISTER, Volume 41, No. 246, pages 55703 and 55704 on December 21, 1976, to revise Ground-Fault Circuit Interrupters (GFCI) protection requirements by amending 29 CFR 1910.309(c) and 29 CFR 1926.400(h).

These standards, which are contained in the Minnesota Occupational Safety and Health Codes and Rules, were promulgated after notice was published offering an opportunity for public comments and/or requests for public hearings. No written comments or requests for hearing or objections were received concerning the proposed standards. The order of adoption was published in the State Register (1 S.R. 1560) on May 2, 1977, pursuant to Minn. Stat. 182.655 (1974).

2. The standards were adopted in accordance with the procedural requirements of State law and further participation and notice would be unnecessary.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Chicago, Illinois, this 17th day of June 1977.

BARRY J. WHITE,
Regional Administrator

[FR Doc 77-22926 Filed 8-8-77;8:45 am]

MINNESOTA STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On June 8, 1973, notice was published in the FEDERAL REGISTER (38 FR 15076) of the approval of the Minnesota plan and the adoption of Subpart N to Part 1952 containing the decision.

The Minnesota plan provides for the adoption of Federal standards as State standards by reference after an opportunity for public comment and/or requests for public hearings. On May 3, 1977, the Occupational Safety and Health Administration (OSHA) adopted pursuant to section 6(c) of the Act an emergency temporary standard for occupational exposure to benzene (Volume 42, No. 85 of the FEDERAL REGISTER, pages 22525 through 22529, amended, Volume 42, No. 90 of FEDERAL REGISTER on Tuesday, May 10, 1977, page 23601). By notice published on June 13, 1977, in the Minnesota State Register (cited as 1 S.R. 1976) and incorporated as part of the plan, Minnesota has adopted this emergency temporary standard. This standard, which is contained in the Minnesota Occupational Safety and Health Codes and Rules was promulgated by order of adoption effective June 13, 1977, pursuant to Minn. Stat. Section 182.655, Subd. 11 (1976).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standard is identical to the Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the Minnesota emergency temporary standard, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 S. Dearborn Street, Chicago, Illinois 60604; State of Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; and the Office of the Directorate of Federal Compliance and State Programs, Room N3608, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public Participation.* 29 CFR 1953.-22(b)(1) provides that emergency temporary standards which are identical to or "at least as effective as" the comparable Federal standards may be approved effective upon publication under the Administrative Procedure Act requirements for good cause, 5 U.S.C. 553(b)(3)(B), for the following reasons:

1. The standard was adopted in accordance with the procedural requirements of State law which authorizes promulgation without public participation for emergency standards and participation at the Federal level would be impracticable.

2. The emergency nature of the standard requires that its approval be implemented immediately.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Chicago, Illinois this 28th day of June 1977.

BARRY J. WHITE,
Regional Administrator.

[FR Doc 77-22297 Filed 8-8-77;8:45 am]

OREGON STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the FEDERAL REGISTER (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated April 22, 1977 from M. Keith Wilson to James W. Lake and incorporated as part of the plan. State standards, comparable to 29 CFR 1928.57 as published in the FEDERAL REGISTER (41 FR 10195 through 10197) dated March 9, 1976.

These State standards, which are contained in the Oregon Code for Agricultural Operations and Farming, were promulgated after public hearings held on December 3, 1976.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. Rules addressing Cotton Ginning equipment have not been covered because there is no cotton ginning industry in the State. The State has agreed that if such equipment is introduced into Oregon, the State will adopt rules identical to or at least as effective as 29 CFR 1928.57(d). The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oregon 97310; and the Technical Data Center, Room S6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance wtih the procedural requirements of State law which included public comment and further public participation and notice would be repetitious.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington, this 14th day of July 1977.

JAMES W. LAKE,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77-22928 Filed 8-8-77;8:45 am]

WYOMING STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming plan and the adoption of Subpart BB to Part 1952 containing the decision.

Section 1952.340 of Subpart BB sets forth the State's intentions with regard

to promulgation of Federal standards covering all the issues contained in 29 CFR Parts 1910 and 1926 (with the exception of those pertaining to ship repairing, ship building, ship breaking and longshoring) and the adoption of additional vertical standards not provided by the Federal program.

Section 1952.343 of Subpart BB sets forth the State's schedule for the adoption of Federal standards as State standards. By letter dated June 14, 1977 from William W. Wilkins, State Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, to be incorporated as part of the plan in accordance with 29 CFR Part 1953, the State submitted the following amended State standards comparable to OSHA amended standards 29 CFR part 1910; amendment to §§ 1910.40, 1910.100, 1910.116, 1910.165b, 1910.171, 1910.184, and 1910.-254 dated April 28, 1975; § 1910.184(e)(9)(i) dated July 28, 1975; § 1910.184(f)(6) dated March 30, 1976; §§ 1910.1005, 1910.1003(c)(6), 1910.1004(c)(6), 1910.1006(c)(6), 1910.1007(c)(6), 1910.1008(c)(6), 1910.1009(c)(6), 1910.1010(c)(6), 1910.1011(c)(6), 1910.1011(c)(6), 1910.-1012(c)(6), 1910.1013(c)(6), 1910.1014(c)(6), 1910.1015(c)(6), and 1910.1016(c)(6) dated August 20, 1976; § 1910.101 dated January 17, 1977; § 1910.213(h)(4) dated January 17, 1977.

These standards were promulgated by the State after public hearings on December 17, 1976, and are published in the Wyoming Occupational Health and Safety General Rules and Regulations.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. In addition, the State standards are more specific in two areas, particularly with respect to the rules and regulations which apply to compressed gas cylinder storage and radial saws installation.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, CO 80202; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and the Technical Data Center, Room S 6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comments and further public participation would be unnecessary.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Denver, Colorado, this 17th day of June 1977.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc.77-22929 Filed 8-8-77;8:45 am]

WASHINGTON STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER, 38 FR 2421, of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgted under section 6 of the Act.

Sections 1952.120–124 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated March 11, 1977 from James Sullivan, Assistant Director, to James Lake ,Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1928.21, as published in the FEDERAL REGISTER (39 FR 23780) dated June 27, 1974. These standards, which are contained in Chapter 296–306 WAC, Safety Standards for Agriculture, were promulgated by emergency adoption of Temporary Labor Camp standards by reference into Chapter 296–306 WAC pursuant to RCW 34.-04.030 on February 22, 1977 by James Sullivan, Assistant Director, Department of Labor and Industries. State standards comparable to the remainder of 29 CFR 1928.21 were promulgated after public hearing in Yakima, Washington on January 16, 1975.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly they are approved. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501, and the Technical Data Center, Room S6212, 200 Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 9, 1977.

(Sec. 18, Pub L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington, this 14th day of July 1977.

JAMES W. LAKE,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77-22930 Filed 8-8-77;8:45 am]

WASHINGTON STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER, Vol. 38 FR 2421, of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated Feb. 14, 1976 from John Hillier, Assistant Director, to James Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart H Hazardous Materials, as published in the FEDERAL REGISTER (39 FR 23602) dated June 27, 1974. These standards, which are contained in Chapter 296-24 Washington Administrative Code, General Safety and Health Standards, were promulgated after public hearings held on February 19, 1976 and by adoption of Emergency Rules for Possession, Handling, and Use of Explosives on July 19, 1976, per Administrative Order No. 76-22 pursuant to Chapter 34.04 RCW.

2. *Decision.* Having reviewed the State submisssion in comparison with Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The major differences are in Anhydrous Ammonia where the State adopted the 1972 Revision of ANSI K61.1, and in Explosives and Blasting Agents where the State adopted the Bureau of Alcohol Tobacco and Firearms requirements. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective August 9, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington, this 14th day of July 1977.

JAMES W. LAKE,
Regional Administrator, Occupational Safety and Health Administration OSHA.

[TA-W-2098]

ATLAS POWDER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2098: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 25, 1977 in response to a worker petition received on May 23, 1977 which was filed on behalf of workers producing a blasting agent from ammonium nitrate and diesel fuel oil at the White Pine, Michigan field facility of Atlas Powder Company, a wholly owned subsidiary of the Tyler Corporation, Dallas, Texas.

The notice of investigation was published in the FEDERAL REGISTER on June 10, 1977 (42 FR 30013). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Atlas Powder Company and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that imports of blasting agents like or directly competitive with those produced by Atlas Powder Company are negligible.

The question raised by the petition is whether White Pine Copper Company, i.e., a firm at which the Labor Department has already certified some workers, can be considered the "workers' firm." See Notice of Determination in Nu-Car Driveway, Incorporated (TA-W-393, 41 FR 12749).

The White Pine, Michigan field facility of Atlas Powder Company produces a blasting agent from ammonium nitrate and diesel fuel oil which is sold to White Pine Copper Company and other companies.

Neither Atlas Powder Company, nor White Pine Copper Company is financially or otherwise involved in the business of the other. Atlas Powder Company owns or leases the facilities necessary to the operation of its business.

The workers upon whose behalf this petition was filed were hired and are paid by Atlas Powder Company. They are supervised by and subject to the control of Atlas Powder Company personnel only. All employment benefits which they enjoy are provided and maintained by Atlas Powder Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of blasting agents like or directly competitive with those produced at the White Pine, Michigan field facility of Atlas Powder Company have not increased as required in Section 222 of the Trade Act of 1974, and that White Pine Copper Company cannot be considered the "workers' firm". The petition is, therefore, denied.

Signed at Washington, D.C. this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 77-22737 Filed 8-8-77;8:45 am]

[TA-W-2061]

BALLETS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2061: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1977 in response to a worker petition received on May 10, 1977 on behalf of workers and former workers producing ballet, gym, custom dance, jazz and tap shoes at the Lynn, Massachusetts plant of Ballets, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ballets, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

Evidence developed in the Department's investigation reveals that sales and production at the plant have not declined.

Sales and production are equal, since all shoes are produced to order. The sales data have been adjusted for price increases. Sales adjusted increased 27 percent in value from 1975 to 1976. Beginning in the fourth quarter of 1975 and continuing through the first quarter of 1977, sales adjusted increased each quarter compared to the same quarter of the previous year.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that sales and production of ballet, gym, custom dance, jazz and tap shoes at the Lynn, Massachusetts plant of Ballets, Inc. have not declined as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22738 Filed 8-8-77;8:45 am]

[TA-W-98T]

CARLISLE TIRE AND RUBBER CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d) a termination investigation was initiated on May 27, 1976 to determine, with respect to the certification issued on September 30, 1975, whether total or partial separations from the Carlisle Tire and Rubber Company, Carlisle, Pennsylvania are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26294), correction document published July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on September 30, 1977. Since workers newly separated, totally or partially, after September 30, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 21st day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-22739 Filed 8-8-77;8:45 am]

[TA-W-1709]

C. & P. COAT CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1709: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 28, 1977 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's, misses' and children's woven coats at the Hammonton, New Jersey plant of C. & P. Coat Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C. & P. Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely:

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales to production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations

The average number of production workers at C. & P. Coat Co., Inc. decreased 50.0 percent from 1975 to 1976. The average number of hours per week declined 7.1 percent from 1975 to 1976.

Sales or Production, or Both, Have Decreased Absolutely

Production at C. & P. Coat Company in terms of quantity decreased 56.6 percent and in terms of value decreased 42.7 percent from 1975 to 1976.

Increased Imports

Imports of women's, misses' and children's woven coats decreased from 1972 to 1973, from 1,519 thousand dozen units to 1,517 thousand dozen units. In 1974, the volume of imports declined to 1,163 thousand dozen units and increased to 1,211 thousand dozen units in 1975. From 1975 to 1976, imports increased to 1,787 thousand dozen units. The ratios of imports to domestic production and consumption increased from 35.9 percent and 26.4 percent, respectively, in 1975 to 51.7 percent and 34.1 percent, respectively, in 1976.

Contributed Importantly

The manufacturer who supplied two-thirds of C. & P. Coat Company's orders in 1976, increased its contracts with foreign firms from 89.9 percent in 1975 to 95.3 percent in 1976. The share of total contracts held by domestic firms, including C. & P. Coat Company, fell in 1976 from the 1975 levels.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's, misses' and children's coats produced by C. & P. Coat Company, Inc. contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of C. & P. Coat Company, Inc., Hammonton, New Jersey, who became totally or partially separated from employment on or after February 16, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22740 Filed 8-8-77;8:45 am]

[TA-W-1987]

DACO MANUFACTURING, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1987: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1977, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's and boy's trousers at the New Bedford, Mass., warehouse and offices of Daco Manufacturing, Inc.

The petition was expanded by the Department of Labor to include workers at the New York, N.Y., sales office of Daco Manufacturing, Inc., and the Kennedy, Ala., plant of Kennedy Manufacturing, Inc., a wholly-owned subsidiary of Daco Manufacturing, Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23215). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Daco Manufacturing, Inc., it customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened or become totally or partially separated:

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

For purposes of this determination, the firm is defined as Daco Manufacturing, Inc., together with its wholly-owned subsidiary, Kennedy Manufacturing, Inc.

Average employment increased 7 percent in 1975 from 1974, decreased 8 percent in 1976 from 1975, and decreased 22 percent in the first quarter of 1977 compared to the first quarter of 1976.

Sales or Production, or Both, Have Decreased Absolutely

Daco's total sales, in value, declined 3 percent, from 1974 to 1975, 30 percent from 1975 to 1976 and 59 percent in the first quarter of 1977 compared to the first quarter of 1976.

Daco's sales of trousers declined 15 percent in quantity from 1974 to 1975, 31 percent from 1975 to 1976, and increased less than 0.5 percent in the first quarter of 1977 compared to the first quarter of 1976.

Daco's sales of leisure suits declined 72 percent in quantity from 1975 to 1976 when sales were discontinued.

Production of trousers (including the slacks sold as part of leisure suits) increased 17 percent in 1975 from 1974, decreased 30 percent in 1976 from 1975 and decreased 46 percent in the first quarter of 1977 compared to the first quarter of 1976.

Increased Imports

Imports of men's and boy's dress and sport trousers and shorts, in absolute terms and relative to domestic production, decreased in 1973 from 1972 and in 1974 from 1973 and increased in 1975 from 1974. Imports increased 32 percent from 55,508,000 units in 1975, 34.1 percent of domestic production, to 73,209,000 units in 1976, 41.9 percent of domestic production. Imports in the first quarter of 1977 were 17,152,000 units, 20 percent higher than the 14,623,000 units imported in the first quarter of 1976.

Contributed Importantly

Customers of Daco indicated that they have decreased purchases of trousers from Daco and have increased purchases of imported trousers.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' trousers produced at Daco Manufacturing, Inc., contributed importantly to the total or partial separation of workers at Daco and its affiliate and subsidiary. In accordance with the provisions of the Act, I make the following certification:

All workers at the New Bedford, Mass. warehouse and corporate office and the New York, N.Y., sales office of Daco Manufacturing, Inc., and the Kennedy, Ala., plant of Kennedy Manufacturing, Inc., who became totally or partially separated from employment on or after April 15, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22741 Filed 8-8-77;8:45 am]

[TA-W-1675]

GAYTONE FABRICS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1675: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977, in response to a worker petition received on February 7, 1977, which was filed on behalf of workers and former workers at Gaytone Fabrics, Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13085). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gaytone Fabrics, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average employment at Gaytone increased 10.0 percent from 1974 to 1975 and increased 9.1 percent from 1975 to 1976. Employment began to decline in the second quarter of 1976. Employment declined 16.7 percent in the most recent four quarter period, from April 1976 to March 1977 compared to the like period of the previous year (April 1975 to March 1976).

Sales or Production, or Both, Have Decreased Absolutely

Total sales of printed fabric at Gaytone increased 101.6 percent from 1974 to

1975 and then declined 65.7 percent from 1975 to 1976. Sales increased in the first quarter of 1976 compared to the same period in 1975 and then declined in each of the subsequent quarters in 1976 compared to the respective quarter in 1975.

INCREASED IMPORTS

Imports of cotton broadwoven print cloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratio of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 0.8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratio of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected sales and employment at Gaytone Fabrics. Manufacturers, who are customers of Gaytone, stated that imports of apparel have been a factor in reduced business with Gaytone. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabrics must be considered in determining import injury to workers producing printed fabric.

Customers of Gaytone are manufacturers who purchase finished fabric for use in the manufacture of men's and women's wearing apparel. The customers stated that imports of fabric have been a definite influence in the market for finished fabric. During the course of several investigations of firms involved in the printing and finishing of fabric (see TA–W–1628 through 1633), apparel manufacturers and converters were contacted. Converters, in general, do not import printed or finished fabric. However, some converters have recently begun to import fabric. The Department's survey of apparel manufacturers revealed that manufacturers are importing printed or finished fabric. There is a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Gaytone Fabrics, Inc., New York, N.Y., contributed importantly to the total or partial separations of the workers at that company. In accordance with the provisions of the Act, I make the following certifications:

All workers at Gaytone Fabrics, Inc., New York, N.Y., who became totally or partially separated from employment on or after April 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77 22742 Filed 8–8–77;8:45 am]

[TA–W–1887]

H & M DRESS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1887: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 23, 1977, in response to a worker petition received on March 23, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' and children's sportswear at the two Wilkes-Barre, Pa., plants of H & M Dress.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19176). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H & M Dress, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at both plants of H & M declined 41 percent in 1975 compared to 1974 and 17.4 percent in 1976 compared to 1975. Employment declined 10.3 percent in the first five months of 1977 compared to the same period in 1976. H & M closed its smaller plant on June 24, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at both of H & M's plants increased 18.8 percent in 1975 compared to 1974 and then declined 2.4 percent in 1976 compared to 1975. Production declined 22.9 percent in the first quarter of 1977 compared to the same quarter in 1976.

INCREASED IMPORTS

Imports of woven women's, misses', and children's slacks and shorts declined from 5.655 million dozens in 1972 to 4.584 million dozens in 1974, and then increased to 5.439 million dozens in 1975 and to 6.922 million dozens in 1976. Imports increased from 1.912 million dozens in the first quarter of 1976 to 2.034 million dozens in the same quarter in 1977.

CONTRIBUTED IMPORTANTLY

The evidence developed during the course of the Department's investigation revealed that the sportswear manufacturer which accounted for most of H & M's production from 1974 to the present started contracting production of children's slacks in 1975 with foreign sources and has been doing so up to the present. Production contracted by the manufacturer to foreign sources approximately doubled in 1976 compared to 1975. This manufacturer's contracts to H & M Dress declined 19 percent in 1975 compared to 1974 and 18 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' and children's sportswear produced at the Wilkes-Barre, Pa., plants of H & M Dress contributed importantly to the total or partial separation of the workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at the Wilkes-Barre, Pa., plants of H & M Dress, who became totally or partially separated from employment on or after May 24, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77–22743 Filed 8–8–77;8:45 am]

[TA–W–1848]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1848: Investigation regarding certification of eligibility to apply for

adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on March 21, 1977, which was filed on behalf of workers and former workers transporting men's, women's and children's shoes for the International Shoe Co. based at the Gratiot Street Truck Terminal, St. Louis, Mo.

The notice of investigation was published in the FEDERAL REGISTER on April 4, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the International Shoe Co., its customers, the Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relatively to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average employment of truck drivers at the Gratiot Street Truck Terminal declined 32 percent from 1974 to 1975 and increased 6 percent from 1975 to 1976. Employment declined 22 percent in the first quarter of 1977 compared to the first quarter of 1976. Since the truck drivers transport shoes and supplies between International's production plants and the warehouse, employment at the Terminal is dependent on the production levels at all of International's plants.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total shoe production for all of International's plants declined 27 percent in quantity from 1974 to 1975 and declined 3 percent from 1975 to 1976. Production declined 37 percent in the first two months of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of men's, youths' and boys' dress and casual footwear increased absolutely from 1972 to 1973, declined from 1973 to 1974 and increased from 1974 to 1975. Imports increased 33.1 percent in quantity from 1975 to 1976, and increased 8.1 percent in the first quarter of 1977 compared to the first quarter of 1976.

The ratio of imports to domestic production increased from 69.4 percent in the first quarter of 1976 to 89.1 percent in the first quarter of 1977.

Imports of women's and misses' nonrubber footwear, except athletic, increased absolutely from 1972 to 1973, declined from 1973 to 1974 and increased from 1974 to 1975. Imports increased 2.5 precent in quantity from 1975 to 1976, and then declined 18.9 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 111 percent in the first quarter of 1976 to 119.9 percent in the first quarter of 1977.

Imports of children's nonrubber footwear, except athletic declined absolutely each year from 1972 to 1975. Imports increased 42.3 percent in quantity from 1975 to 1976, and declined 4 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 76.9 percent in the first quarter of 1976 to 106.7 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

The truck fleet at the Gratiot Street Terminal is owned and operated exclusively by International. The shipment of shoes and supplies between the company's plants and the warehouse are part of an integrated multi-plant shoe production operation. The decline in employment of truck drivers during the first quarter of 1977 was due to the reduced produciton of footwear by International Shoe Co. plants.

Evidence developed in the Department's investigation of this petition and other petitions on behalf of workers producing women's, men's and children's shoes at various International Shoe Co. plants revealed that increased imports of footwear like or directly competitive with footwear produced by international contributed importantly to the absolute decline in sales or production and to the separation of employees from International Shoe Co. plants producing and transporting such footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's, women's and children's footwear transported by workers at the Gratiot Street Truck Terminal of the International Shoe Co. contributed importantly to the total or partial separation at the workers of that terminal. In accordance with the provisions of the Act, I make the following certification:

All workers at the Gratiot Street Truck Terminal of the International Shoe Co., St Louis, Mo., who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 77–22744 Filed 8–8–77;8:45 am]

[TA–W–82T]

INTERNATIONAL SHOE CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17(d) a termination investigation was initiated on July 28, 1976 to determine, with respect to the certification issued on September 12, 1975 whether total or partial separations from the Jackson, Missouri plant of International Shoe Company are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33596). No public hearing was requested and none was held.

The existing certification will expire on September 12, 1977. Since workers newly separated, totally or partially, after September 12, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 21st day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77–22745 Filed 8–8–77;8:45 am]

[TA–W–1489] and [TA–W–1490]

MAHONING VALLEY DISTRICT, WARREN AND NILES, OHIO, PLANTS, REPUBLIC STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the result of TA–W–1489, 1490: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on December 15, 1976 in response to worker petitions received on that date which were filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Mahoning Valley District, Warren and Niles, Ohio plants of the Republic Steel Corporation, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2379). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of the Republic Steel Corporation and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the United Steelworkers of America, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criterion (2) has not been met.

FINDINGS OF THE INVESTIGATION

Raw steel production at the Warren, Ohio plant declined 25.3 percent from 1974 to 1975 and then increased 30.3 percent from 1975 to 1976.

Total shipments at the Warren and Niles plants combined declined 32.9 percent from 1974 to 1975 and then increased 32.9 percent from 1975 to 1976.

The following three products accounted for 83 percent of total shipments in 1976: Hot rolled carbon sheet, cold rolled carbon sheet, and galvanized steel. Hot rolled carbon strip, silicon steel, hot and cold rolled alloy sheet and strip and alloy and carbon plate accounted for the remaining portion of shipments.

Shipments of hot rolled carbon sheet declined 18.0 percent from 1974 to 1975 and then increased 48.6 percent from 1975 to 1976.

Shipments of cold rolled carbon sheet declined 33.8 percent from 1974 to 1975 and then increased 66.3 percent from 1975 to 1976.

Shipments of galvanized steel declined 54.8 percent from 1974 to 1975 and then increased 27.4 percent from 1975 to 1976.

Total shipments of hot rolled carbon sheet, cold rolled carbon sheet and galvanized steel increased in each quarter of 1976 compared to the respective quarter in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of hot and cold rolled carbon sheet and galvanized steel at the Warren and Niles, Ohio plants in the Mahoning Valley District of the Republic Steel Corporation, Cleveland, Ohio have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22746 Filed 8-8-77;8:45 am]

[TA-W-1786]

MEADE KNITTING MILLS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1786: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on March 10, 1977 which was filed on behalf of workers and former workers producing children's sweaters at the Cherryville, North Carolina plant of Meade Knitting Mills, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Meade Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that criterion (1) has not been met.

Average employment of production workers at the Cherryville, North Carolina plant of Meade Knitting Mills increased 37.5 percent in 1976 compared to 1975, increasing in each quarter of 1976 compared to the same quarters in 1975. Average employment increased 1.3 percent in the first quarter of 1977 compared to the same quarter in 1976. There is no indication that current workers are threatened with any involuntary separations from employment at the Cherryville, North Carolina plant.

As stated in the petition, the workers at Meade Knitting Mills, Incorporated are seeking adjustment assistance benefits for unemployment experienced during 1975. Section 223(b)(1) of the Trade Act of 1974 states that a certification shall not apply to workers separated more than one year before the date of the petition. The petition was dated March 10, 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that a significant number or proportion of workers engaged in the production of children's sweaters at the Cherryville, North Carolina plant of Meade Knitting Mills, Incorporated have not become totally or partially separated as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22747 Filed 8-8-77;8:45 am]

[TA-W-1416]

NEW JERSEY STEEL AND STRUCTURAL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1416: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel reinforcing bar at New Jersey Steel and Structural Corporation, Sayreville, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1976 (42 FR 892). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America and New Jersey Steel and Structural Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criteria (1) and (2) have not been met.

New Jersey Steel and Structural Corporation produces carbon steel reinforcing bar at its Sayreville, New Jersey plant. Dollar sales and unit production increased 33.9 percent and 52.9 percent, respectively, from 1975 to 1976. Production in each quarter of 1976 was higher than production in the corresponding quarter of 1975.

Employment at the Sayreville, New Jersey plant increased 12.5 percent from 1975 to 1976. Employment in each quarter of 1976 was greater than or equal to employment in the corresponding quarter of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production have not declined and that separations of workers have not occured as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22748 Filed 8-8-77;8:45 am]

[TA-W-90T]

NICE DIVISION OF SKF INDUSTRIES, INC.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d) a termination investigation was initiated on May 27, 1976 to determine, with respect to the certification issued on September 22, 1975, whether total or partial separations from the Nice Bearing Division of SKF Industries, Philadelphia, Pennsylvania are no longer attributable to the conditions specified in such certification.

Notice of Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26296), correction document published July 6, 1976 (41 FR 27800). No public hearing was requested and none was held.

The existing certification will expire on September 22, 1977. Since workers newly separated, totally or partially, after September 22, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 21st day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-22749 Filed 8-8-77;8:45 am]

[TA-W-2126]

STEPHEN P. PARSON CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1226: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1977 in response to a worker petition received on June 6, 1977 which was filed by employees of the Stephen P. Parson Company on behalf of workers and former workers of the Stephen P. Parson Company, Incorporated, Woburn, Massachusetts who were engaged in providing sales services for leather and footwear firms.

The Notice of Investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Stephen P. Parson Company, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the criteria is not met, a negative determination must be made.

The Stephen P. Parson Company is a manufacturer's sales representative in the New England area for the Gutman Leather Company, a manufacturer of shoes and related leather items. The Gutman Leather Company is located at 1511 Webster Avenue, Chicago, Illinois. The Stephen P. Parson Company is not owned by nor is it a subsidiary of the Gutman Leather Company. The Stephen P. Parson Company sells shoes manufactured by the Gutman Leather Company.

The Stephen P. Parson Company, Inc. does not produce an article within the meaning of Section 222 (3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Negative Determination *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether the Gutman Leather Company, i.e., a firm which produces an article, namely footwear, and for whom the service is provided, can be considered the "workers' firm". See Notice of Determination in *Nu-Car Driveaway, Incorporated* (TA-W-393, 41 FR 12749).

Stephen P. Parson Co., Inc. provides sales services for the Gutman Leather Co., Inc., Chicago, Illinois.

Neither Stephen P. Parson Co., Inc. on the one hand, nor Gutman Leather Co., Inc. on the other, is financially or otherwise involved in the business of the other.

The workers for whose benefit this petition was filed were hired and are paid by Stephen P. Parson Co., Inc. They are supervised by and subject to the control of Stephen P. Parson Co., Inc. per-

sonnel only. All employment benefits which they enjoy are provided and maintained by the Stephen P. Parson Co., Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I have determined that services of the kind provided by the Stephen P. Parson Co., Inc. are not "articles" within the meaning of Section 222 (3) of the Trade Act of 1974 and that the Gutman Leather Co., Inc. cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22750 Filed 8-8-77;8:45 am]

[TA-W-1756]

TERRI LEE

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1756: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 1, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at the Upland, California plant of Terri Lee.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Terri Lee, its customers, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm, or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average weekly employment declined 18 percent in 1975 from 1974, remained the same in the first quarter of 1976 as the first quarter of 1975 and ceased in May 1976 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production declined 19 percent in 1975 from 1974 and 84 percent in 1976 from 1975. The company closed in May 1976. Quarterly production was not available.

All production was to order, so production equals sales.

INCREASED IMPORTS

Imports of women's, misses' and children's coats and jackets increased in absolute terms in 1973 from 1972, decreased in 1974 from 1973 and increased in 1975 from 1974. Imports increased from 1,517,000 dozen in 1975 to 2,252,000 dozen in 1976, an increase of 48 percent. Relative to domestic production imports decreased from 1972 to 1973 and from 1973 to 1974 an increased from 1974 to 1975. Imports increased from 35.4 percent of domestic production in 1975 to 52.2 percent in 1976.

CONTRIBUTED IMPORTANLY

Terri Lee produced exclusively for one manufacturer. This manufacturer does not buy imported women's coats. Customers of the manufacturer were contacted and they indicated that they had decreased purchases from the manufacturer and increased purchases of imported women's coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced at the Upland, California plant of Terri Lee contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Upland, California plant of Terri Lee who became totally or partially separated from employment on or after February 15, 1976 and before August 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 29 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of July 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-22751 Filed 8-8-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relates, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition no.	Articles produced
Bethlehem Mines Corp. (United Steelworkers of America).	Morgantown, Pa.	July 22, 1977	July 20, 1977	TA-W-2,222	Iron ore pellets.
Colorite Textile Print Works (Textile Workers Union of America).	Brooklyn, N.Y.	do.	July 6, 1977	TA-W-2,223	Prints on bedspreads, drapes, and quilts materials.
Edgcomb Steel & Aluminum Corp. (Teamsters Union).	Hillside, N.J.	do.	July 20, 1977	TA-W-2,224	Distributors and processors of metals.
NL Industries, Inc., Doehler Jarvis castings Div. (UAW).	Batavia, N.Y.	do.	July 19, 1977	TA-W-2,225	Magnesium dye castings.
St. Joe Minerals Corp. (United Steelworkers of America).	Monaca, Pa.	do.	July 1, 1977	TA-W-2,226	Zinc metal slabs.
Standard Dyeing (workers).	Patterson, N.J.	do.	June 24, 1977	TA-W-2,227	Dyeing of textiles.

[FR Doc 77-22752 Filed 8-8-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act"), and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union, workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Speer Electronics (IUE).	Bradford, Pa.	July 22, 1977	July 20, 1977	TA-W-2,228	Fixed carbon composition and carbon film resistor components.
Hilo Transportation & Terminal Co., Inc. (ILWU).	Hilo, Hawaii	do.	do.	TA-W-2,229	Bulk hauling of general commodities.
Peter James, Inc. (workers).	Boston, Mass.	July 25, 1977	July 18, 1977	TA-W-2,230	Women's sportswear.
V-M Corp. (workers)	Benton Harbor, Mich.	do.	do.	TA-W-2,231	Record changers and tape recorders and other audio products.

[FR Doc.77-22753 Filed 8-8-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act"), and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of July 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Betty-Ann (Baby Bonnet Workers Union).	New York, N.Y.	July 28, 1977	July 26, 1977	TA-W-2,2[illegible]	Baby bonnets, infant hats, surfers, flops, rollers, etc.
Murphy Diesel Co. (International Association of Machinists & Aerospace Workers).	Milwaukee, Wis.	do	do.	TA-W-2,2[illegible]	Diesel engines, accessories, and parts.
Yankee Maid Headwear (Baby Bonnet Workers Union).	New York, N.Y.	do	do	TA-W-2,2[illegible]	Baby bonnets, infant hats, surfers, flops, rollers, etc.

[FR Doc.77-22754 Filed 8-8-77;8:45 am]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MEETING

TIME: 9 a.m. to 5 p.m. and 8:30 a.m. to 12:30 p.m., respectively.

DATE: September 29 and September 30, 1977.

PLACE: Hyatt Regency Chicago, Illinois.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of Activities since June 1977 meeting: White House Conference on Library and Information Services; Project, Task Force and Committee Reports; Commissioners' Comments; Executive Director's Report; Old Business: New Business.

CONTACT PERSON FOR MORE INFORMATION:

Alphonse F. Trezza, Executive Director, National Commission on Libraries and Information Science, 202-653-6252.

ALPHONSE F. TREZZA,
Executive Director.

[FR Doc.77-22917 Filed 8-8-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

AD HOC ADVISORY PANEL FOR THE VERY LARGE ARRAY

Open Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the National Science Foundation announces the following meeting:

NAME: Ad Hoc Advisory Panel for the Very Large Array.

DATE: August 31, 1977.

TIME: 9:30 a.m.

PLACE: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Open.

CONTACT PERSON:

Mr. Claud M. Kellett, Executive Secretary, Ad Hoc Advisory Panel for the Very Large Array, Room 618, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7340. Anyone who plans to attend should notify Mr. Kellett prior to the meeting.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY PANEL: To advise the Director of the National Science Foundation concerning the management and future planning of the Very Large Array (VLA) Program of the National Radio Astronomy Observatory.

SUMMARY AGENDA

9:30 a.m.—Chairman's Remarks Concerning Preparation of Report.

9:45 a.m.—Presentation and Discussion of Findings—VLA Program Management (Including Transition to Operations).

10:45 a.m.—Break.

11 a.m.—Presentation and Discussion of Findings—VLA Technical Plans, Activities, and Achievements.

Noon—Recess.

1 p.m.—Presentation and Discussion of Findings—VLA Long-Range Plans.

2 p.m.—Discussion of Conclusions and Recommendations.

2:30 pm.—Break.

2:45 p.m.—Continued Discusison of Conclusions and Recommendations.

3:30 p.m.—Assignment of Writing Tasks and Scheduling.

4 p.m.—Adjourn.

Dated: August 3, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-22900 Filed 8-8-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

RISK ASSESSMENT REVIEW GROUP

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of an open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 9:00 a.m. on August 24 and 25, 1977 in Room 1062 of the Matomic Building, 1717 H Street NW., Washington, D.C.

On July 7, 1977 (42 FR 34955), NRC announced the establishment of the Review Group for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH 1400 (NUREG-75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and future courses of action which should be taken to improve this methodology and its application. The Review Group will submit a report to the Commission on or before December 31, 1977.

In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. It is anticipated that all sessions of the Review Group will be open to the public.

The purpose of the instant meeting is to review peer comments on the final report of the Reactor Safety Study. Peer group comments on the final report of the Study include testimony presented to Congressional Committees and the Advisory Committee on Reactor Safeguards, letters to NRC, technical articles such other information as may come to the attention to the Review Group. The Review Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants and with commentators on the Study. At the conclusion of these presentations, the Review Group may caucus to determine whether the matters identified have been adequately covered. The Chairman of the Review Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 17, 1977 to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street, N.W., Washington, 20555
2. The NRC's five Regional Offices of Inspection and Enforcement:

Region I, 631 Park Avenue, King of Prussia, Pa. 19406.
Region II, Suite 1217, 230 Peachtreet Street, Atlanta, Ga. 30303.
Region III, 799 Roosevelt Road, Glen Ellyn, Ill. 60137.
Region IV, Suite 1000, 611 Ryan Plaza Drive, Arlington, Tx. 76012.
Region V, Suite 202, 1990 N. California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Branch, Att: Melea S. Fogle (telephone: 301-492-8377), 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a

request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangement can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 23, 1977 to the Office of Policy Evaluation (telephone 202/254-5184, Attn: Dr. John H. Austin) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will not be permitted during the meeting.

(g) A copy of the minutes of the meeting will be available for inspection on or after October 24, 1977, at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Copies may be obtained upon payment of appropriate charges.

Dated: August 8, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23120 Filed 8-8-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13821; File No. SR-NYSE-76-34]

[Release No. 34-13821; File No. SR-NYSE-76-34]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 29, 1977 the NYSE filed Amendment No. 1 to the proposed change to Rule 405 which was initially filed with the Securities and Exchange Commission on June 14, 1976 and published in Securities Exchange Act Release No. 34-12674 (July 30, 1976) and 41 FR 34136 (August 12, 1976). The following incorporates the revisions to the Supplementary Material and constitutes the text of the proposed rule change.

TEXT OF PROPOSED RULE CHANGES

Rule 405. (a)—(1) *Every member organization is required to make reasonable effort to ascertain the essential facts relative to every customer, every account and every person holding power of attorney over any account serviced by such member organization.*

(2) Every member, *allied member, registered representative,* or other sales person [organization] is required [through a general partner, a principal executive or a person or persons designated under the provisions of Rule 342(b)(1) (¶2342)] to [(1) Use due diligence] *make reasonable effort to ascertain* [learn] the essential facts relative to every customer, [every order,] every [cash or margin] account [accepted or carried by such organization] and every person holding power of attorney over any account [accepted or carried by such organization] *serviced by such member, allied member, registered representative, or other sales person.*

[SUPERVISION OF ACCOUNTS]

(b)—*Every member organization which services an account is required, through a person or persons designated under the provisions of Rule 342 (b)(1) to:*

[(2)] (1) Supervise *compliance with the provisions of Rule 405(a) by every member, allied member, registered representative or other sales person of such member organization* [diligently all accounts handled by registered representatives of the organization].

[(3)] (2) Specifically approve the opening of an account prior to or promptly after the completion of any transaction for the account of or with a customer, provided, however, that in the case of branch offices, the opening of an account for a customer may be approved by the manager of such branch office but the action of such branch office manager shall within a reasonable time be approved by [a general partner, a principal executive officer or] a person [or persons] designated under the provisions of Rule 342(b)(1)(¶2342). The [member, general partner, officer or] designated person approving the opening of the account shall, prior to giving [his] approval, be [personally] informed as to the essential facts relative to the customer and [to the nature of] the proposed account and shall indicate [his] approval in writing on a document which is part of the permanent records of [his office or] *the member* organization.

* * * *Supplementary Material:*

.10 Application of Rule 405 (a) and (b)

For purposes of this rule: (a) the member, allied member, registered representative or other sales person servicing an account shall be deemed to be the person having direct contact with the customer, i.e., the person accepting orders or rendering reports;

(b) in the case of accounts that are introduced to a member or member organization on a disclosed basis, the introducing organization shall be deemed to be servicing the account.

.20 Common Purchase and Sale Accounts

To facilitate the isolated and unsolicited purchase or sale of securities valued at $2,000 or less for a person who does not have an account, member organizations are not required to comply with Rule 405 (a) and (b) or Rule 409. Instead a common purchase or sale account may be established for this purpose provided:

(a) In the case of a purchase:

(1) Full payment is received prior to the execution of the order, except in the case of securities being distributed pursuant to a prospectus or offering circular;

(2) A confirmation is sent to the customer; and

(3) Prompt delivery of the security is made to the customer.

(b) In the case of sales:

(1) The securities are not part of any distribution and are received in good delivery form at or prior to the entry of the order in the exact amount to be sold;

(2) The customer is identified as the individual in whose name the securities are registered;

(3) A confirmation is sent to the customer; and

(4) Full payment to the customer is made on or immediately following settlement date.

The record for transactions executed in common purchase and sale accounts shall include: customer's name and address, name and amount of securities, date and amount of deposit, if any, date securities are received or delivered, date bought or sold, amount per share, total amount debited or credited to the account, total amount of check issued or received by customer, and date of disbursement.

For purposes of this rule the term "isolated" shall mean no more than five (5) common purchase and sale account transactions for a customer during any 12 month period, unless otherwise approved in writing by the Exchange.

[(4) Common Sales Accounts]

[To facilitate the isolated liquidation of securities valued at $1,000 or less registered in the name of an individual who does not have an account, and which are not part of any distribution, a member organization may sell the securities through a common sales account set up for the specific purpose of handling such sales without sending a periodic statement to the customer as required by Rule 409, provided:

(a) The customer is identified as the individual in whose name the securities are registered,

(b) The securities are received by the member, at or prior to the time of the entry of the order, in the exact amount to be sold in good delivery form.

(c) A confirmation is sent to each customer.

(d) All proceeds of such sales are paid out on or immediately following settlement date, and

(e) The record made in the common sales account includes as to each transaction: customer's name and address, name and amount of securities to be sold, date received, date sold, amount per share, total amount credited to the account, total amount of check issued to the customer and the date of disbursement.].

[* * * Supplementary Material:]

[.10 Application of Rule 405 (1) and (3) (¶2405).—In the case of a margin account carried by a member organization for a non-member corporation, definite knowledge should be had to the effect that the non-member corporation has the right under its Charter and By-laws to engage in margin transactions for its own account and that the persons from whom orders and instructions are accepted have been duly authorized by the corporation to act on its behalf. It is advisable in each such case for the carrying organization to have in its possession a copy of the corporate Charter, By-laws and authorizations. Where it is not possible to obtain such documents, a member or allied member in the member organization carrying the account should prepare and sign a memorandum for its files indicating the basis upon which he believes that the corporation may properly engage in margin transactions and that the persons acting for the corporation have been duly authorized to do so.]

[In the case of a cash account carried for a non-member corporation, the carrying member organization should assure itself through a general partner or an officer who is a holder of voting stock that persons entering orders and issuing instructions with respect to the account do so upon the proper authority.]

[When an agency account is carried by a member organization its files should contain the name of the principal for whom the agent is acting and written evidence of the agent's authority.]

[When Estate and Trustee accounts are involved a member organization should obtain counsel's advice as to the documents which should be obtained.]

[In the case of accounts which are introduced by one member or member organization to another and are carried on a disclosed basis, the introducer will not be held to any responsibility under Rule 405 (1) and (3) (¶ 2405) when the essential facts concerning a particular customer are obtained directly by the clearing organization and the opening of the account is approved by a member or allied member in the clearing organization "prior to or promptly after the completion of any brokerage transaction" and that is the understanding between the two.]

[As an alternative method of handling the investigation and approval of such accounts the clearing organization may treat the introducing organization, for the purposes of Rule 405 (1) and (3) (¶ 2405), as though it were its branch office. Under these circumstances, the introducer will learn the essential facts with respect to each customer, and a general partner, a principal executive officer or a person or persons designated under the provision of Rule 342(b)(1) (¶ 2342) of the introducing organization will give give an approval for the opening of the account. The information obtained must subsequently be passed upon by a member or allied member in the clearing organization and any further inquiry which the clearing organization might feel is desirable should be made. However, the mere fact that the account is being introduced by another member, or member organization is not sufficient information to permit a member or allied member in the carrying organization to approve the opening of the account.]

[Information as to the country of which a customer is a citizen is deemed to be an essential fact.]

NYSE STATEMENT OF PROPOSED RULE CHANGES

Rule 405 currently requires every member organization, through a general partner, principal executive officer or other designated person to use due diligence to learn the essential facts relative to every customer, order, and account accepted or carried by a member organization. The Rule further provides for the supervision of accounts handled by registered representatives and the approval of all new accounts. The supplementary material of the Rule contains provisions for common sales accounts, treatment of cash and margin accounts carried for non-member corporations, and delineation of responsibilities of introducing and carrying member organizations for compliance with the provisions of the Rule for accounts carried on a disclosed basis.

Because the essential facts and methods of supervision involve so many variables, the requirements have intentionally been left somewhat broad. The Exchange's approach has been to provide member organizations with a set of basic guidelines upon which they must expand appropriately in order to protect the firm's financial position, thereby insuring, in any situation, that the Exchange's facilities are being utilized properly.

Since the inception of Rule 405, substantially increased product lines, greatly expanded markets and a dramatic growth in the number of broker dealer participants in the industry have significantly changed the complexion of the business. Continuing technological advances, proliferation of legal liabilities, and the trend toward broker/dealer specialization in specific aspects of the business, point to the appropriateness of reviewing the applicability and effectiveness of the various provisions of the Rule. The proposed amendments contained herein are designed to conform the Rule with the numerous interpretations of the many facets of Rule 405.

1. *Place initial responsibility to learn the essential facts upon the individual handling the account.* Rule 405 currently places the responsibility for learning the essential facts relative to every customer, order, cash or margin account or person holding power of attorney upon a *general partner, a principal executive officer, or person designated supervisory responsibility under Rule 342.* These procedures would be more efficiently and expeditiously accomplished if initial responsibility to obtain the essential facts rested with the individual handling the account (usually a registered representative). A more thorough initial investigation would avert many problems that can arise if detailed investigation is put off until final approval of an account.

Member organization procedures for collecting and learning essential facts and recommending securities transactions are, for the most part, accomplished by the individual registered representative, member or allied member who actually services the account. As a practical matter, the Exchange has taken the position that, where a member organization requires a registered representative to obtain the essential facts and the registered representative fails to do so, the representative as well as the individual charged with the supervisory responsibility under the Rule, may be charged with a violation of the Rule. The proposed amendments will conform the Rule with its actual interpretation and enforcement.

The proposed amendments would replace the term, "due diligence", with "make reasonable inquiry" because of the implications attached to "due diligence" in connection with underwritings. Also, since initial responsibility for ascertaining the essential facts will now rest with that individual with direct customer contact, a new term "other sales persons" is being introduced to encompass all individuals who may handle customer accounts but who are not required to be registered with the Exchange, such as individuals engaged exclusively in the sale of commodities or insurance.

2. *Provide for common purchase accounts in addition to common sales accounts for the isolated purchase or sale of securities and increase the maximum valuation of securities eligible to be purchased or sold for an individual without opening an account from $1,000 to $2,000.*

The existing provisions permitting the isolated liquidation of securities valued at $1,000 or less would be moved from the amended rule to the Supplementary Material and would be increased from $1,000 to $2,000 to reflect the impact of inflation since the provisions were adopted in 1969. These provisions were originally intended to allow member organizations to sell securities for individuals who had acquired small amounts of stock other than through the member organization, e.g., through inheritance, stock of employer, etc. The Rule allows individuals to dispose of such securities through a member organization without requiring the member organization to incur the expense involved in opening and maintaining an account for the individual. The Exchange believes similar procedures should be established for individuals wishing to make small isolated purchases of securities on a cash basis. The text of these provisions has been rewritten to improve clarity, but the procedures remain unchanged.

3. *Eliminate Supplementary Material which is no longer applicable.* The amendments would eliminate the Supplementary material (Rule 405.10) dealing with the responsibilities of introducing and carrying member organizations for ascertaining the essential facts and approving new accounts. The amended Rule would assign these responsibilities to the servicing member organization—i.e., the member organization accepting the account from the customer. This change would be consistent with establishing a logical progression of responsibility, since the introducing firm generally undertakes the gathering of new

account information; collection of all documentation and agreements necessary to sustain the account, supervision of personnel handling accounts, responsibility for recommendations made by salesmen and, in most instances, executes the order, reporting the execution to the carrying member organization. The carrying member organization, however, would retain responsibility for compliance with Regulation T (margins) and would continue to bear the capital burden for the introduced accounts. Other functions and responsibilities inherent in the carrying relationship could still be contractually allocated.

In the past, the Exchange has always had a higher net capital minimum dollar amount requirement for its members than non-members have had under SEC regulations. However, the new SEC Uniform Net Capital Rule [17 CFR § 240.-15c3-1] imposes similar capital requirements on all requirements on all registered broker/dealers who do business with the public. This uniform capital requirement, coupled with the proposed amendments to Rule 405, underlie the proposal that member organizations not be required to be responsible for ascertaining detailed essential facts for accounts introduced by non-member organizations for which they perform carrying functions only.

Supplementary material containing suggested procedures for the handling of cash and margin accounts for non-member corporations, agency, estate and trust accounts, is being deleted from the Rule and will be more appropriately handled through an Information Memo.

NYSE STATEMENT OF BASIS UNDER THE ACT OF PROPOSED RULE CHANGES

The proposed amendments are consistent with the principles embodied within Section 6(b)(5) of the Act which provides that an exchange shall not be registered as a national securities exchange unless its rules are designed to "prevent fraudulent and manipulative acts and practices." The proposed amendments are consistent with this section in that they enhance the ability of Exchange organizations to protect their capital from undue risks resulting from fraudulent and manipulative acts of customers.

(i) Inapplicable.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) The proposed amendments would serve to protect Exchange member organizations' capital from undue risks resulting from fraudulent and manipulative acts. (See Discussion above.)
(vi) Inapplicable.
(vii) Inapplicable.
(viii) Inapplicable.

COMMENT RECEIVED FROM MEMBERS, PARTICIPANTS OF OTHERS ON PROPOSED RULE CHANGES

One comment on the proposed amendments was received from a member organization through the Securities Industry Association with respect to a listing of minimum essential facts, contained in a preliminary draft of the proposed amendments that has subsequently been removed.

NYSE STATEMENT OF BURDEN ON COMPETITION

Inapplicable.

On or before September 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C.

Copies of such filing will also be available for inspection at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before August 29, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 2, 1977.

[FR Doc.77-22832 Filed 8-8-77;8:45 am]

[Rel. No. 9874; 812-4144]

CONNECTICUT GENERAL LIFE INSURANCE CO. AND CG EQUITY SALES CO.

Application for an Order of Exemption

JULY 29, 1977.

NOTICE IS HEREBY GIVEN that Connecticut General Life Insurance Company ("CG Life"), a Connecticut stock life insurance company, CG Variable Annuity Account I ("VAA-I") and CG Variable Annuity Account II ("VAA-II"), separate accounts of CG Life registered under the Investment Company Act of 1940 ("Act") as unit investment trusts, and CG Equity Sales Company ("Equity Sales"), 900 Cottage Grove Road, Bloomfield, Connecticut 06115; the principal underwriter for VAA-I and VAA-II (hereinafter collectively referred to as "Applicants"), filed an application on June 8, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1), 27(d), and 27(a)(3) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas, to permit a reduction in sales load where contributions consist of proceeds payable under insurance contracts issued by CG Life and to permit a variance in sales load based upon a schedule of quantity discounts. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

VAA-I and VAA-II are separate accounts of CG Life established under the laws of Connecticut to facilitate the issuance of certain variable annuity contracts. VAA-I and VAA-II are registered under the Act as unit investment trusts. Assets of VAA-I and VAA-II are invested in shares of Companion Fund, Inc., and Companion Income Fund, Inc., diversified, open-end management investment companies registered under the Act. Contract owners of VAA-I and VAA-II are permitted to allocate purchases and accumulations between Companion Fund, Inc. and Companion Income Fund, Inc. Equity Sales, a broker/dealer registered under the Securities Exchange Act of 1934, as amended, is the principal underwriter of the Contracts. All of the outstanding shares of Equity Sales are owned by CG Investment Management Company, the advisor of Companion Fund, Inc. and Companion Income Fund, Inc. Both CG Life and CG Investment Management Company are wholly-owned subsidiaries of Connecticut General Insurance Corporation.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Sections 27(c)(1), 22(e) and 27(d). Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement plan. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he she is aware that these restrictions will be placed on his her Contract when it is issued. In addition, Equity Sales will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material reprsentations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Reduced Sales Load for Insurance Proceeds. Under the Contracts issued by both VAA-I and VAA-II, sales and administration charges are deducted from contributions as indicated by the chart b low:

Amount of total investment[1]	Percentage of deduction (percent)	Portion representing sales charge (percent)	Portion representing administration charge (percent)
Less than $10,000	7.40	6.30	1.20
$10,000 but less than $25,000	6.60	5.40	.60
$25,000 but less than $50,000	5.00	4.50	.40
$50,000 but less than $100,000	4.00	3.80	.10
$100,000 but less than $250,000	2.40	2.20	.30
$250,000 but less than $500,000	.60	1.80	.10
$500,000 but less than $1,000,000	1.50	1.35	.15
$1,000,000 or more	1.00	.90	.10

[1] The amount of total investment refers to the total of the contributions made plus the current value of the account, if there is any.

If a contribution consists of proceeds payable under insurance contracts issued by Connecticut General (the death benefit under life insurance policies, the maturity value of endowment contracts, the cash value of fixed-dollar life insurance and annuity contracts and lump sum cash options available to beneficiaries), a reduced sales and administration charge is deducted from all such contributions as indicated by the following table:

Amount of total investment[1]	Percentage of deduction (percent)	Portion representing sales charge (percent)	Portion representing admin-tration charge (per c
Less than $10,000	5.25	4.05	[illegible]
$10,000 but less than $25,000	4.20	3.60	[illegible]
$25,000 but less than $50,000	3.50	3.00	.50
$50,000 but less than $100,000	2.80	2.30	.50
$100,000 but less than $250,000	2.10	1.80	.30
$250,000 but less than $500,000	1.50	1.35	.15
$500,000 but less than $1,000,000	1.05	.90	.15
$1,000,000 or more	.70	.60	.10

[1] The amount of total investment refers to the total of the [illegible] made plus the current value of the account, if there is any.

Section 27(a)(3). Section 27(a)(3) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of the sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment or if the amount of sales load deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

With respect to Flexible Payment Deferred Contracts, which are non-tax-qualified individual variable annuity contracts participating in VAA-II, it is possible that the percentage of sales load deducted from subsequent payments, if any, could be higher than the percentage deducted from prior payments. This could occur in two instances. First, there would be a variance in sales loads if insurance proceeds constituted part of the payments made. Thus, if payments during the first contract year amounted to $2,000, the deduction for sales and administrative expenses would be at the

rate of 7.50 percent. If an additional $2,000 were contributed later, and that amount represented insurance proceeds, the percentage deduction would be at a rate of 5.25 percent. Finally, if a third $2,000 were contributed after the above two contributions, and if that amount did not consist of insurance proceeds, a 7.5 percent deduction would be applied to that payment. This would violate Section 27(a)(3). Second, there is a possibility that the percentage of sales load deducted against a later payment could increase due to a significant loss in the accumulation value of units of VAA–I or VAA–II. For example, if the contract owner contributed $10,000 as his first payment, a charge of 6 percent would be deducted. If, due to a decline in the value of the shares of Companion Fund, Inc. and/or Companion Income Fund, Inc., the value of units of either account were to decline to a level less than $9,000 and if an additional contribution of $1,000 were made, then the deduction from the second contribution would be at a rate of 7.50 percent since the amount of total investment, as defined, would be less than $10,000.

Section 27(a)(3) of the Act was designed to curb abuses associated with front-end load arrangements in mutual fund contractual plans. Applicants assert that the sales deduction schedule proposed to be used here should be exempted from Section 27(a)(3) of the Act since the schedule does not involve a front-end load arrangement, does not exceed 9 percent and therefore cannot lead to the abuses intended to be curbed by that Section. Moreover, Applicants assert that the sales load applied against insurance proceeds has been reduced in accordance with the provisions of Rule 22d–3 which is designed to permit certain variations in variable annuity contract charges which reflect differences in costs or services, are not unfairly discriminatory against any person and which are fully disclosed. Applicants assert that the purpose behind the adoption of Rule 22d–3 would be defeated if reductions in sales load were to be disallowed because of conflict with Section 27(a)(3). Accordingly, Applicants assert that sufficient grounds exist for the issuance or an order of exemption from Section 27(a)(3). An exemption is therefore requested from Section 27(a)(3) of the Act to permit the schedule of sales load deductions proposed by Applicants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 23, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 23, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22834 Filed 8-8-77;8:45 am]

[Rel. No. 13810; SR-DTC-77-4]

DEPOSITORY TRUST CO.

Order Approving Rule Change Submitted by the Depository Trust Company Relating to Correction of Erroneous Input

JULY 29, 1977.

On April 21, 1977, The Depository Trust Company ("DTC"), 55 Water Street, New York, New York 10041; submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), Amendment No. 1[1] to a proposed rule change which would establish, and set fees for, a service in which DTC employees will correct evident errors or omissions in input submitted by participants.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 24781, May 16, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–13509, May 5, 1977. No letters of comment were received.

In addition, by letter dated July 21, 1977, which has been incorporated in the proposed rule change and included in the public file, DTC amended the requirements for participant authorization of the correction service.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

[1] SR-DTC-77-4 was originally filed on March 28, 1977.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–DTC–77–4 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-22835 Filed 8-8-77;8:45 am]

[Rel. No. 20120 70-6033]

GENERAL PUBLIC UTILITIES CORP.

Proposed Issue and Sale of Common Stock Pursuant to Employee Stock Ownership Plan and Request for Exemption From Competitive Bidding

AUGUST 1, 1977.

NOTICE IS HEREBY GIVEN that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parsippany, New Jersey 07054; a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU proposes to issue and sell from time to time through December 31, 1980, up to 2,000,000 shares of its authorized but unissued common stock pursuant to a GPU system companies ("Employers") Employee Stock Ownership Plan ("Plan") and related trust agreement ("Trust"). The proceeds of the sale will be used by GPU for additional investment in its subsidiaries, to reimburse its treasury for prior investments in its subsidiaries, and/or to repay short-term indebtedness.

The Plan provides that for each Plan year for which the Employers elect to take the additional 1% investment tax credit under Section 46(a)(2)(B)(i) of the Internal Revenue Code ("Code"), they shall contribute to the Trust an amount equal to the amount of the additional 1% investment tax credit, but only to the extent that the credit may actually be utilized by the Employers. If such contributions during the Plan year equal the full amount of the additional 1% investment tax credit, the Plan provides that for Plan years beginning on or after January 1, 1977, the Employers will contribute an additional amount equal to the amount of the ½% investment tax credit under Section 46(a)(2)(B)(ii) of the Code, but only to the extent that such contributions are matched, on a dollar for dollar basis, by employee contributions under the Plan. All such contributions by the Employers must be made not later than 30 days following the due date (including any extensions of time) for the filing of GPU's consolidated federal income tax return.

All permanent employees of the Employers with one year of service will participate in the Plan. Employee contributions to the Plan will be completely voluntary, and will not be a condition of employment or of participation in the allocation of shares represented by the initial 1% additional tax credit.

An eligible employee will be permitted to contribute to the Plan any amount which he elects, up to 6% of his total compensation received during any Plan year. Such employee contributions may be made not later than the due date (including any extensions of time) for the filing of GPU's consolidated federal income tax return.

All cash contributions to the Plan will be used by the trustee to purchase shares of GPU common stock from GPU. The trustee will be required to make purchases with Employer contributions not later than 30 days following the due date (including any extensions of time) for the filing of GPU's federal income tax return, and to make purchases with employee contributions forthwith. The shares of GPU common stock held by the trustee will participate in GPU's dividend reinvestment plan.

Under the Plan, GPU common stock representing the basic 1% additional investment tax credit will be allocated to participants in proportion to their compensation, excluding any compensation exceeding $100,000. Amounts representing the further ½% investment tax credit contributed by the Employers will be allocated in an amount equal to the contributions made by each participant. If, however, total employee contributions for a Plan year exceed the amount of the additional ½% investment tax credit available to the Employers for that Plan year, then allocations will be made in proportion to the compensation of those employees who have made matching contributions. Thus, for example, if the amount of ½% investment tax credit available to the Employers during a Plan year is such as to match contributions by employees who contribute up to 3% of their compensation, but not above, there would be no allocation with respect to any employee contributions in excess of 3% compensation. A participant who contributed more than 3% of his compensation would be permitted either to withdraw the shares purchased with the excess amount and with dividends on such shares, or to leave them deposited in the Plan without any additional matching contributions by the Employers. The Plan further provides that all allocations of Employer contributions are subject to the overall contribution limitations imposed by Section 415 of the Code.

The right of a participant to his allocated share of GPU common stock purchased under the Plan will be nonforfeitable, but such shares may not be distributed prior to 84 months after their allocation, except in cases of termination of employment, death, or disability. Each participant may direct the trustee as to the manner in which the shares of GPU common stock allocated to his account are to be voted and as to the exercise or sale of any rights to subscribe to additional shares of GPU common stock. Proceeds from the sale of such subscription rights will be invested in additional shares of GPU common stock for the benefit of the participant.

For purposes of the Plan the fair market value of shares of GPU common stock purchased with cash contributed shall be determined by the average of the high and low sales prices of GPU common stock on the New York Stock Exchange-Composite Transactions listing on the date of purchase.

Administration of the Plan will be vested in a Plan Administrator designated by the Employers; his duties will include administration and interpretation of the Plan, establishing and maintaining individual employee accounts and the making of allocations thereto and distributions therefrom. Under the Trust, the trustee will be vested with responsibility for investing contributions made under the Plan in shares of GPU common stock and will have custody of the assets of the Trust.

Adoption of the Plan and Trust will be subject to qualifications of the Plan under the Tax Reduction Act of 1975 and Section 401(a) of the Code. The Plan and Trust will also be subject to all applicable provisions of the Employee Retirement Income Security Act of 1974.

GPU requests an exemption from the competitive bidding requirements of Rule 50 under Rule 50(a)(5) for the proposed issuance and sale of common stock to the Plan.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commision may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-22836 Filed 8-8-77;8:45 am]

[Rel. No. 9876 812-4140]

MERRILL LYNCH BASIC VALUE FUND, INC.; ET AL.

Filing of Application for an Exemption to Permit Offers of Exchange

JULY 29, 1977.

Notice is hereby given that Merrill Lynch Ready Assets Trust ("Trust"), Fund"), Merrill Lynch Capital Fund, Inc. ("Capital Fund"), and Merrill Lnch Ready Assets Trust ("Trust"), each of which is registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 (the "Act") (such investment companies together with any management investment company organized subsequent to the date of the application for which Merrill Lynch Funds Distributor, Inc., One Liberty Plaza 165 Broadway, New York, New York 1006; acts as principal underwriter are referred to as the "Funds"), and Merrill Lynch Funds Distributor, Inc. (the "Distributor") (collectively referred to with the Funds as "Applicants") filed an application on May 25, 1977, and an amendment thereto on July 25, 1977, for an order of the Commission (1) pursuant to Section 11(a) of the Act to permit offers to exchange shares of the Funds on a basis other than their relative net asset values, and (2) pursuant to Section 6(c) of the Act granting an exemption from Section 22(d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that the Distributor is a wholly-owned subsidiary of Merrill Lynch Asset Management, Inc., which is a wholly-owned subsidiary of Merrill Lynch & Co., Inc. which is the parent of Merrill Lynch, Pierce, Fenner & Smith Incorporated. The Distributor serves as principal underwriter for each of the existing Funds. Applicants state that it is anticipated that the Distributor will act as the principal underwriter for additional registered management investment companies, the shares of which may be sold at varying sales charges or on a no-load basis.

Shares of the Capital Fund have been publicly offered since October, 1973, and are sold with a sales charge of 6.5%, subject to reduction for purchases of $10,000 or more. Shares of the Trust have been publicly offered since February, 1975, and are currently sold without a sales charge although a sales charge of 0.8% was imposed from the commencement of the public offerings until January 29, 1976. Both the Bond Fund and the Value Fund have filed registration statements under the Securities Act of 1933 which had not become effective at the date of filing the application. It is contemplated that shares of the Bond Fund will be sold with a sales charge of 3.5%, subject ot reduction for purchases of $10,000 or more, and that shares of the Value Fund will be sold with a sales charge of 4.0%, subject to reduction for purchases of $20,000 or more.

Applicants state that on May 12, 1975, an order requested by Capital Fund and Trust (Investment Company Act Release No. 8788) was granted by the Commission pursuant to Sections 11 and 6(c). The application states that the order pursuant to Section 11 permitted Capital Fund to offer to exchange its shares for shares of Trust at net asset value, plus an amount equal to the difference between the sales charge described in the prospectus of Capital Fund and the sales charge that was paid on the Trust shares being exchanged. The order did not extend to shares of the Trust previously acquired by exchange of Capital Fund or shares of the Trust acquired by reinvestment of dividends and distributions on shares of the Trust acquired by an exchange of Capital Fund shares. Applicants further state that the order pursuant to Section 6(c) of the Act exempted sales of shares of Capital Fund pursuant to such offers of exchange from the provisions of Section 22(d) of the Act. Applicants submit that the order sought in this application is substantially consistent with the earlier order granted by the Commission.

To eliminate the necessity of obtaining further orders each time a new investment company is organized for which the Distributor acts as "principal underwriter", as such term is defined in Section 2(a)(29) of the Act, the Applicants propose that the orders sought herein be applicable to exchanges of shares of any of the existing Funds and to exchanges of shares of any new open-end diversified management investment company subsequently organized for which the Distributor acts as the principal underwriter. It is contemplated that new funds will be added to the Merrill Lynch family of funds and the Applicants contend that to require that a new order be sought each time such a fund is organized would be unnecessary and burdensome for both the Funds and the Commission.

Applicants propose that each of the Funds may elect to offer to exchange its shares ("new shares") for share ("outstanding shares") of any of the other Funds on the basis of relative net asset value at the time of the exchange, plus an amount equal to the difference, if any, between the sales charge previously paid on the outstanding shares and the sales charge payable on the new shares if such new shares were purchased at the time of the exchange at their then public offering price. The sales charge on outstanding shares which were acquired through previous exchanges shall include the aggregate of the sales charge paid on such shares at the time of the initial purchase and subsequent exchanges. The application states that for purposes of the exchange privilege, dividend reinvestment shares, which are sold on a no-load basis in each of the Funds, shall be treated as having been sold with a sales charge equal to the sales charge paid previously on the shares on which the dividend was paid. To be exchanged under the Applicants' proposal, outstanding shares must have a value of $1,000 or more and have been outstanding for at least 60 days. In the event that a shareholder of a Fund wishes to exchange less than all of his shares and the exchange involves a sales charge differential, the shares exchanged first will be those with the least sales charge differential.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. Applicants state that use of the exchange privilege would arguably violate Section 22(d) of the Act since an investor would be able to purchase shares of the Funds without paying the sales charge described in their respective prospectuses.

Applicants state that the purpose of the exchange privilege proposed in the application is to provide shareholders of the Funds with flexibility in their financial planning. When their investment objectives change, the shareholders of the Funds would be permitted to exchange their shares for shares of other Funds without paying the full sales charge otherwise applicable. Applicants further submit that the exchange privilege is fair and equitable to all shareholders of the participating Funds. Shareholders will be prevented from acquiring shares of a Fund with a higher sales charge simply by purchasing shares of a Fund with a lower or no sales charge and exchanging such shares for shares in the Fund with the higher sales charge on the basis of relative net asset value.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provision of the Act.

Notice is further given that any interested person may, not later than August 23, 1977, at 5:30 p.m., submit to Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22837 Filed 8-8-77;8:45 am]

[Rel. No. 13820; File No. SR-OCC-77-6]

OPTIONS CLEARING CORP.

Order Approving Rule Change Submitted by the Options Clearing Corporation to Delete From Its By-Laws Certain Obsolete Provisions

AUGUST 1, 1977.

On May 26, 1977, The Options Clearing Corp. ("OCC"), 5950 Sears Tower, Chicago, Ill. 60606, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to delete from OCC's By-Laws certain obsolete provisions relating to option contracts expiring in 1975.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 31855, June 23, 1977), and the public was invited to submit comments until July 14, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13632, June 15, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is Therefore Ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-OCC-77-6 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-22838 Filed 8-8-77;8:45 am]

[Rel. No. 9873, 812-4145]

PRUDENTIAL INSURANCE CO. OF AMERICA AND PRUDENTIAL'S ANNUITY PLAN ACCOUNT-2

Application for Order of Exemption

JULY 29, 1977

Notice is hereby given that Prudential's Annuity Plan Account-2 ("APA-2"), The Prudential Insurance Company of America, Central Atlantic Home Office, Welsh Road (Rte. 63) at the Pennsylvania Turnpike, Dresher, Pa. 19025, a separate account of the Prudential Insurance Co. of America ("Prudential"), Prudential Plaza, Newark, N.J. 07101, and Prudential's Annuity Plan Account-2, registered under the Investment Co. Act of 1940 ("Act") as a unit investment trust, and Prudential, a New Jersey mutual life insurance company that serves as depositor and underwriter for APA-2 (hereinafter collectively referred to as "Applicants"), filed an application on June 8, 1977, and an amendment thereto on July 26, 1977, pursuant to Section 6(c) of the Act for an order granting exemptions from Section 27(a)(3) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that among the variable annuity contracts offered by Prudential are Flexible Purchase Payment Contracts and Single Purchase Payment Contracts ("Contracts") that participate in APA-2 and are offered for use in connection with pension, profit-sharing and annuity purchase plans, including Individual Retirement Annuities, intended to qualify for special federal income tax treatment under the Internal Revenue Code of 1954, as amended. Values and payments under the Contracts will vary in accordance with the investment result of APA-2, the assets of which consist of voting shares of Prudential's Gibraltar Fund ("Fund"), which is registered as an open-end management investment company under the Act.

Under the Flexible Purchase Payment Contracts each purchase payment made by or on behalf of the contractholder during any single contract year is subject to a sales charge equal to the amount of such purchase payment, less any applicable taxes, multiplied by the applicable percentage shown below:

Total amount of purchase payment(s) received during the contract year:	Percentage of payment applicable as sales charge
First $5,000	8.00
Next $5,000	6.50
Next $10,000	4.50
Excess over $20,000	3.50

Contract years commence on the contract date printed on each contract and on anniversaries thereof. In addition, a charge equal to 0.25% of the purchase payment is deducted from each purchase payment for the supplemental death benefit provided for by the Contract. A transaction charge of $1 will also be deducted from each purchase payment, and an annual contract fee of $7 will be deducted from the first purchase payment received by Prudential during each contract year.

Applicants represent that no sales charge will be made upon that part of any purchase payment consisting of the proceeds of any other Prudential policy or contract that qualifies for special federal income tax treatment under the Internal Revenue Code of 1954, as amended other than proceeds consisting of any policy or contract loan, periodic payment, cash dividend or dividend designated to reduce premiums or purchase payments. Furthermore, applicants state that any such part of a purchase payment that is not subject to a sales charge will not be counted in determining the total amount of purchase payments received during the contract year for purposes of calculating the sales charge with respect to any part of any purchase payment that is subject to the sales charge.

Section 27(a)(3).—Section 27(a)(3) of the Act provides that no registered investment company issuing periodic payment plan certificates and no depositor of or underwriter for such company may sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment, or if the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

Rule 27a–2 under the Act exempts a registered separate account, and any depositor of or underwriter for such account, from Section 27(a)(3) if the proportionate amount of sales load deducted from any payment during the contract period does not exceed the proportionate amount deducted from any prior payment during the contract period.

Applicants assert that since, under the Flexible Purchase Payment Contracts, no sales charge is assessed with respect to that portion of any purchase payment consisting of certain proceeds from other Prudential contracts or policies that qualify for special federal income tax treatment, and since such proceeds may be used to make any one or more purchase payments under the Contracts, it is possible that the sales load paid upon a purchase payment made during the contract period will exceed the sales load on one or more purchase payments made earlier in the contract period because no such proceeds are used to make the later payment. Thus, the proportionate amount of sales load deducted from the later payment would exceed the proportionate amount of sales load deducted from the earlier payment.

Moreover, applicants state that since the volume discount in the sales load charged under the Contracts is applied separately to purchase payments made during each contract year, it is possible that purchase payments made late in any given contract year will be subject to a sales load that is lower than the sales load applicable to purchase payments made at the beginning of any subsequent contract year. Again, the proportionate amount of sales load deducted from the later payment would exceed the proportionate amount deducted from the earlier payment.

Applicants request an exemption from Section 27(a)(3) of the Act to permit the deductions for sales charges as described herein.

Applicants state that Section 27(a) of the Act was designed to limit the losses that may be incurred by the purchasers of front-end load contractual plans, who do not complete their purchases but instead terminate their plans prior to completion. Applicants further assert that the maximum deduction from sales load under the Contracts does not exceed the statutory maximum of 9% and that the Contracts do not provide for any front end loading arrangement to which Section 27(a) is directed. Thus, applicants say, the abuses sought to be curbed by this provision of the Act cannot arise in connection with the sales load deductions under the Contracts. Applicants represent that the lack of uniformity in sales load under the Contracts is attributable not to front-end loading, but rather to a reduction of the loading for purchase payments consisting of specified proceeds of other Prudential policies or contracts that qualify for special federal income tax treatment, or to a reduction of the loading by reason of the volume discount provided with respect to each year's purchase.

Section 6(c).—Section 6(c) of the Act authorizes the Commission by order upon application to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provisions of the Act or rules thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 24, 1977 at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 24, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22839 Filed 8-8-77;8:45 am]

[Rel. No. 9875; 812-4130]

PUTNAM OPTION INCOME TRUST

Filing of Application for Exemption

JULY 29, 1977.

Notice is hereby given that Putnam Option Income Trust ("Applicant"), 265 Franklin Street, Boston, Massachusetts 02110, a Massachusetts business trust which is registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management investment company, filed an application on April 29, 1977 and an amendment thereto on July 15, 1977, pursuant to Section 6(c) of the Act, for an order declaring that Mr. Avery Rockefeller, Jr. ("Rockefeller"), Mr. Donald J. Hurley ("Hurley"), and Mr. Hans H. Estin ("Estin"), proposed trustees of Applicant, each shall not be deemed to be an "interested person" of the Applicant, or its investment adviser, The Putnam Management Company, Inc. ("Adviser"), or its principal underwriter, Putnam Fund Distributors, Inc. ("Underwriter"), with respect to Rockefeller, by reason of his being a director of The Home Insurance Company ("Home Insurance") and, with respect to Hurley and Estin, by reason of their being directors of The Boston Company, Inc. and or Boston Safe Deposit and Trust Company ("Boston Safe"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is intended that Rockefeller, Hurley and Estin will become trustees as soon as practicable (without calling a shareholders meeting for that purpose alone) if each of them is deemed not to be an "interested person" of the Applicant, the Adviser and the Underwriter within the meaning of Section 2(a)(19) of the Act. Sections 2(a)(19) (A)(v) and (B)(v) define an "interested person" of an investment company and of an investment adviser of or principal underwriter for an investment company to include any affiliated person of any broker or dealer registered under the Securities Exchange Act of 1934 ("Exchange Act") Section 2(a)(3) of the Act includes in the definition of an "affiliated person" any person directly or indirectly controlling, controlled by or under common control with such other person.

Applicant states that Rockefeller is a director of Home Insurance and of its subsidiary, Seaboard Surety Corporation; and Home Capital Services, Inc. ("Home Capital"), another wholly-owned subsidiary of Home Insurance, is a registered broker-dealer under the Exchange Act. Applicant also states that by reason of Rockefeller's position as a director of Home Insurance, Rockefeller might be considered, for purposes of Section 2(a)(19) of the Act, to be an affiliated person of Home Capital and, thus, an interested person of the Applicant, the Adviser, and the Underwriter.

Applicant states that Hurley is a director of The Boston Company, Inc. and of its subsidiary, Boston Safe; Estin also is a director of Boston Safe; and The Boston Company Financial Strategies, Inc., another subsidiary of The Boston Company, Inc., in turn has a subsidiary, TBCFS, Inc., which is a registered broker-dealer under the Exchange Act. Applicant also states that because of Hurley's position as a director of The Boston Company, Inc., and of Boston Safe, and because of Estin's position as a director of Boston Safe, each might be considered, for purposes of Section 2(a)(19) of the Act, to be an affiliated person of TBCFS, Inc., and thus, an interested person of the Applicant, the Adviser, and the Underwriter.

Section 10(a) of the Act prohibits an investment company from having a board of trustees more than 60% of the members of which are its interested persons. Section 10(b)(2) of the Act in part prohibits an investment company from using as a principal underwriter any person unless a majority of its board of directors are not interested persons of such principal underwriter.

The Commission has previously granted orders (Investment Company Act Release No. 8755, April 11, 1975; and Investment Company Act Release No. 9610, January 17, 1977) upon application declaring that Rockefeller would not be deemed an "interested person" solely by reason of his relationship with Home Insurance and Home Capital. Applicant submits that the facts and representations set forth in these prior applications (File Nos.: 812–3759 and 812–4026) continue to be true and correct and the basis upon which the prior orders were granted would apply equally to Applicant. The representations contained in the prior applications as applied to Rockefeller include the following:

1. Rockefeller's principal business is as Senior Vice President, Finance and a Director of Grolier, Inc., a publishing firm, and he is not involved in the day-to-day operation of Home Capital and does not control nor is controlled by Home Capital. Home Capital trades in the accounts of members of The Home Group and also acts as an underwriter and dealer in bonds.

2. Rockefeller's independence in acting on behalf of such investment companies would in no way impaired because of his affiliation with Home Insurance. Rockefeller has no connection with Home Capital other than in his capacity as a Director of Home Insurance and Seaboard Surety Corporation.

3. Neither the Adviser nor any of the then existing registered investment companies being advised by the Adviser have ever done any business with Home Capital, and such applicants undertake not to transact any business with Home Capital should the requested exemption be granted. In view of the large number of other bond dealers available, such applicants represent that its portfolio transactions would not be adversely affected by such undertaking.

The Commission has also previously granted orders (Investment Company Act Release No. 9284, May 10, 1976; and Investment Company Act Release No. 9610, January 17, 1977) upon application declaring that Hurley and Estin would not be deemed to be "interested persons" solely by reason of their relationships with The Boston Company, Inc. and/or Boston Safe. Applicant submits that the facts and representations set forth in the prior applications (File Nos.: 812–3921 and 812–4026) continue to be true and correct, and the basis upon which the prior orders were granted would apply equally to Applicant. The representations contained in the prior applications as applied to Hurley and Estin include the following:

1. Hurley, a partner in the law firm of Goodwin, Procter & Hoar, serves as a director of The Stop & Shop Companies, Inc., The Continental Corporation, and Boston Old Colony Insurance Company, trustee and member of the Board of Investment of Charlestown Savings Bank, and President of the Committee of the Permanent Charity Fund, Inc., Boston. Estin, Vice Chairman of North American Management, Inc., is a director of Allied Foods, Inc., Massachusetts General Life Insurance Company, and Yellowknife Bear Mines, Ltd., and Trustee of Children's Hospital Medical Center.

2. The relationship of Hurley and Estin with The Boston Company, Inc., Boston Safe, The Boston Company Financial Strategies, Inc., and TBCFS, Inc., will not impair their independence in acting on behalf of such investment companies and their shareholders; Hurley and Estin will not be directors or officers of TBCFS, Inc., and will have no authority or responsibility for management of the operation of TBCFS, Inc.

3. The business of TBCFS, Inc., will relate primarily to the structuring and placement or sale of oil and gas programs and other investment programs and ventures. Due to the special nature of the type of investments with which TBCFS, Inc. will be involved, such applicants could not legally purchase or sell such investments from or through TBCFS, Inc. because of investment restrictions. Such applicants do not intend to make any such investments and, moreover, undertake not to transact any business with TBCFS, Inc.

Applicant requests that an order be issued, pursuant to Section 6(c) of the Act, declaring that (1) Rockefeller shall not be deemed an interested person of Applicant, the Adviser or the Underwriter within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of Home Insurance and Seaboard Surety Corporation, (2) Hurley shall not be deemed to be an interested person of Applicant, the Adviser or the Underwriter within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of The Boston Company, Inc., and Boston Safe, and (3) Estin shall not be deemed to be an interested person of Applicant, the Adviser or the Underwriter within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of Boston Safe.

Section 6(c) of the Act provides in part that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 22, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22840 Filed 8-8-77;8:45 am]

[Rel. No. 9976; 812-4082]

PUTNAM CONVERTIBLE FUND, INC., ET AL.

Filing of Application for an Order Granting an Exemption From Section

AUGUST 1, 1977.

Notice is hereby given that Putnam Convertible Fund, Inc., Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc. and Putnam Option Income Trust ("Putnam Funds"), and Putnam Fund Distributors, Inc. ("Distributors"), 265 Franklin Street, Boston, Massachusetts 02110; (collectively referred to as "Applicants"), filed an application on January 27, 1977, and amendments thereto on May 16, and July 29, 1977, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of Section 22 (d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of shares of the Putnam Funds at net asset value plus a flat sales charge of 4.5% of the offering price to members of qualified groups. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Putnam Funds are each registered under the Act as diversified, open-end investment companies, and are organized as Massachusetts corporations or established as Massachusetts business trusts. The Putnam Funds are currently engaged in continuous public offerings of their shares at public offering prices equal to net asset value plus a sales load which varies with the size of the purchase from 8.5% on an investment of less than $10,000 to 1.0% on an investment of $1,000,000 or more. Shares of the Putnam Funds which are being offered to the general public in continuous offerings may be purchased from investment dealers who are members of the National Association of Securities Dealers, Inc. ("NASD") and who have sales agreements with Distributors, as well as directly from Distributors.

Applicants propose to offer shares of the Putnam Funds to members of qualified groups, as defined below, at a sales charge rate which would differ from the sales charge rate currently in effect for sales to nongroup purchasers. Applicants state that, if the application is granted, the prospectuses of the Putnam Funds would be revised to provide initially that members of qualified groups may buy shares of such funds at a flat group sales charge rate of 4.5% of the offering price without regard to the size of the group investment. The application states that the Putnam Funds reserve the right to suspend or discontinue group sales at any time, and to vary the group sales charge rate by increasing it to as much as 5.5% of the offering price or decreasing it to as low as 3.5%. Applicants propose that to be eligible for the group sales charge rate, purchases by group members would have to be made through a single investment dealer designated by the group, and initial purchases would have to be transmitted by such investment dealer, although subsequent purchases could be sent directly to Distributors. In addition, the minimum investment requirements described in the Putnam Funds' prospectuses would be applicable to purchases by any single group member.

Under Applicants' proposal, a "qualified group" will include the employees of a corporation or a sole proprietorship, members and employees of a partnership or association, or other organized groups of persons (the members of which may include other qualified groups) provided that: (i) The group has at least 25 members of which at least 10 members participate in the initial purchase; (ii) the group has been in existence for at least least six months; (iii) the group has some purpose in addition to the purchase of investment company shares at a reduced sales charge; (iv) the group's sole organizational nexus or connection is not that the members are credit cardholders of a company, policy holders of an insurance company, customers of a bank or a broker-dealer, clients of an investment adviser or security holders of a company; (v) the group agrees to provide its designated investment dealer access to the group's membership by means of written communication or direct presentation to the membership at a meeting or not less frequently than an annual basis; (vi) the group or its investment dealer will provide annual certification in form satisfactory to the Putnam Funds' shareholder servicing agent to the effect that the group then has at least 25 members and that at least 10 members participated in group purchases during the immediately preceding twelve calendar months; and (vii) the group or its investment dealer will provide periodic certification in a form satisfactory to the Putnam Funds' shareholder servicing agent as to the eligibility of the purchasing members of the group.

The application provides that a "member" of a qualified group will be: (i) Any group which meets the requirements stated above and which is a constituent member of a qualified group; (ii) any individual purchasing for his or her own account who is carried on the records of the group or on the records of any constituent member of the group as being a good standing employee, partner, member or person of like status of the group or constituent member; or (iii) any fiduciary purchasing shares for the account of a member of a qualified group or a member's beneficiary. It is represented that Putnam Funds prospectuses would also provide that a member of a qualified group may, depending upon the value of Putnam Funds shares owned or proposed to be purchased by the member, be entitled to purchase shares of the Putnam Funds pursuant to the lower sales charge rate applicable to non-group purchases rather than at the group sales charge rate, provided the member qualifies as a person entitled to reduced non-group sales charges. Applicants submit that such members would be entitled to purchase at the lower rate provided that, at the time of purchase, the member or his or her investment dealer furnishes information sufficient to permit verification that the purchase qualifies for the lower rate.

Section 22(d) of the Act makes it unlawful for any mutual fund, principal underwriter or dealer to sell shares of such fund to the public "except at a current public offering price described in the prospectus." Rule 22d-1 under the Act provides for exemption from Section 22(d) to permit sales at reduced or no sales charges in specified circumstances. Subsection (b) of Rule 22d-1 permits sales to groups at reduced sales loads based upon quantity discounts but does not permit different sales charge rates for groups and non-groups or sales charges which do not vary with the quantity of shares purchased. Applicants assert that, absent an exemption from Section 22(d) of the Act and Rule 22d-1 thereunder, the offering of Putnam Funds shares to qualified groups at sales charge rates which do not vary with the quantity of shares purchased and which are different from the rates applicable to non-groups may not be permissible.

Applicants submit that the provision of Rule 22d-1(b) that sales be based upon a scale of reducing sales loads applicable to all purchasers was included to prevent unjust discrimination in the distribution of mutual fund shares. According to the application, there would be no unjust discrimination among investors under the group sales proposal because differences in sales charges would relate to differences in both costs and services. It is stated that the criteria for group sales were selected because of their relation to anticipated realization of economies of scale in sales effort and sales related expense.

Applicants represent that the flat rate of 4.5% was selected with a view toward providing sufficient incentive to investment dealers to market the group sales plan and to continue to service plans which have been started and to afford to group members a non-discriminatory incentive to invest under a group plan. Applicants assert that group sales under Rule 22d-1(b) have not occurred to any significant degree principally for three reasons: first, there is little incentive for investors who are members of relatively small groups to be the initial group investors because the benefits of reduced sales charges are not available under Rule 22d-1(b) until the aggregate quantity of securities owned or being purchased by the group reach certain levels; second, the greatest benefits of reduced sales loads will be realized by those investors who do not participate in group purchases until after substantial purchases have been made by other group members; and third, the incentive declines for investment dealers to solicit actively group purchases as aggregate quantities of shares purchased by a group increase and sales charges are reduced. Applicants contend that by fixing the sales load at a flat rate, the perceived disincentives of group marketing under Rule 22-1(b) would be removed (a) by providing increased incentive for initial participation in group purchases, (b) by eliminating "windfall' sales charge savings by subsequent participants in group purchases, and (c) by providing sufficient incentives for ongoing sales efforts by investment dealers.

Applicants submit that a sales load scale which declines below 4.5% as aggregate group purchases increase would not appear now to be appropriate because it is unlikely that subsequent group sales efforts will be significantly lower than initial group sales efforts. It is asserted that as group memberships change, dealers will have to expand a sales effort equivalent to their initial sales effort in order to attract new group members as purchasers. Applicants further state that, as sales loads decrease under such a proposal, dealer incentive to make subsequent group sales will also be reduced. Applicants' proposal provides that individual group members will continue to be able to receive the benefits of the present scale of reducing sales load applicable to non-group members if their individual purchases within the group would entitle them to a sales load below the flat group rate. It is submitted that this is appropriate because, in most cases, individuals who are purchasing large quantities of shares do so on their own initiative with very little sales effort required.

Applicants represent that they have reserved the right to revise the group sales charge rate within certain limits because the proposal is unique and Applicants cannot be certain as to the rate which would be most effective in terms of providing incentive to both dealers and group sales prospects and which would be competitive as other similar marketing plans are developed.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or class of persons from any or all provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 26, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-22841 Filed 8-8-77;8:45 am]

SOUTHERN ATLANTIC CORP.

[File No. 500-1]

Suspension of Trading

JULY 27, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Southern Atlantic Corporation being trade on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3 p.m. (E.D.T.) on July 27, 1977 through August 5, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-22842 Filed 8-8-77;8:45 am]

[Release No. 34-13811; File No. SR-Amex-77-17]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Proposed Section 1007 of the Amex Company Guide would provide a listed company with an opportunity for a hearing with respect to an Exchange determination to halt or suspend trading in its securities.

The text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide a procedure whereby a listed company may obtain a review of an Exchange determination to halt or suspend trading in its securities.

Section 1007 of the Amex Company Guide is proposed pursuant to SEC Rule 12d2-1, which empowers a national securities exchange to adopt rules concerning the suspension of trading of a security in its market.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

By September 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by August 29, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 1, 1977.

SHIRLEY E. HOLLIS,
Acting Assistant Secretary.

EXHIBIT A

AMERICAN STOCK EXCHANGE, INC.

Part 10 (Suspension and Delisting) of the Amex Company Guide is proposed to be amended by adding thereto a new Section 1007 as follows:

§ 1007. Suspension Procedures. (a) Whenever a security has been suspended from dealings on the Exchange, the issuer of the security shall be given notice of, and provided an opportunity to be heard upon, the specific grounds for such suspension. A written record shall be kept of any such proceeding. Any final determination to continue the suspension of the security shall be supported by a statement setting forth the specific grounds on which the determination is based.

(b) For the purpose of this Section, a security in which trading has been halted pursuant to Rule 22 of the American Stock Exchange shall be deemed, as of the commencement of business on the thirty-first

day following the day on which trading therein was halted, to be suspended from dealings on the Exchange.

(c) Nothing contained herein shall require the Exchange to resume trading in a security until such time as the Exchange determines that market conditions permit such resumption.

[FR Doc.77-22833 Filed 8-8-77;8:45 am]

DEPARTMENT OF STATE

[CM-7.96]

COMMITTEE ON OCEAN DUMPING

Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9 a.m. on Tuesday, September 13, 1977, in Room 2117 Waterside Mall, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The purpose of the meeting is to review position documents for the second consultative meeting of the Contracting Parties of the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter, scheduled to be held in London September 26–30, 1977.

Requests for further information should be directed to Mr. Alan Sielen, Oceans Division, Office of International Activities, Environmental Protection Agency, Washington, D.C. 20460. Mr. Sielen may be reached by telephone on (202) 755–0533.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director
Office of Maritime Affairs.

AUGUST 1, 1977.

[FR Doc.77-22918 Filed 8-8-77;8:45 am]

Agency for International Development

PRIVACY ACT OF 1974

Amendment to System of Records

AGENCY: Agency for International Development.

ACTION: Amendment to system of record.

SUMMARY: The system of record, AID–19, "Travel and Transportation Records," is being amended to include two categories of records which were omitted in our original publication, due to an administrative oversight. The two categories are: (a) Travel Advance, Employee Case File; and (b) Travel Advance Control History File.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

James L. Harper, Department of State, Agency for International Development, Office of Personnel and Manpower, Washington, D.C. 20523.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 552a(e)(4), the Agency for International Development published its systems of records at 40 FR 39463 on August 27, 1975, and amendments on October 2, 1975, November 3, 1975, and September 13, 1976.

In reviewing the systems for annual publication, it was discovered that an administrative oversight caused two categories of records to be omitted from our system AID–19, Travel and Transportation Records. The two categories are travel advance, employee case file and travel advance control history file. The travel advance, employee case file is a manual file containing copies of travel authorizations and related paid vouchers and coorespondence. The travel advance control history file is an automated file containing name, social security account number, appropriation code, date isssued, and advance outstanding. The amended system is published below for your ready reference.

The prior notification procedure has been waived by the Office of Management and Budget. However, due consideration will be given to any substantive comments and should be addressed to: Department of State, Agency for International Development, 320 21st Street NW., Washington, D.C. 20523.

Attention: Privacy Liaison Office.

ROBERT H. NOOTER,
Deputy Aministrator, Designate.

A.I.D.–19

System name:

Travel and Transportation Records.

System locations:

a. Central Records, Travel and Transportation Records: Office of Management Operations, 320–21st Street NW., Washington, D.C.

b. Decentralized Records: Various Washington offices and offices abroad having responsibilities for initiating requests for travel or transportation of things. See Appendix A for actual location of these offices.

c. Travel Advance Control Records for Automated Files: Office of Data Management, 1875 Connecticut Avenue NW., Washington, D.C.

d. For Employee Case File: Employee Services Division, Office of the Controller, 1875 Connecticut Avenue NW., Washington, D.C.

Categories of individuals covered by the system:

A.I.D. employees and their dependents, individuals whose travel is sponsored or paid for by A.I.D., and visitors to A.I.D. offices abroad.

Categories of records in the system:

a. Central Records, Travel and Transportation Records; travel authorizations; itineraries; government bills of lading; government transportation requests; card file pertaining to passports, travel and shipment of effects; and correspondence.

b. Decentralized Records: Copies of documents maintained in the central records; export/import permits; baggage declarations; customs declarations; passports and records of applications for visas; travel advance requests; arrival and departure notices; record of clearances prior to departure from post abroad; packing lists and information on meetings abroad including meeting schedules and biographical sketch of attendees.

c. Travel Advance, Employee Case File: A manual file containing copies of travel authorizations and related paid vouchers and correspondence.

d. Travel Advance Control History File: Automated file containing name, social security account number, appropriation code, date issued, advance issued and advance outstanding.

Authority for maintenance of the system:

Foreign Assistance Act of 1961 as amended, esp. Sec. 621, 636 (a) and (b); Foreign Service Act of 1946 as amended, Sec. 911; and Chapter 57, 5 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To commercial travel, transportation and shipping companies and agents for making travel, transportation and shipping arrangements.

To U.S. Treasury for payment of bills and vouchers.

To U.S. Dispatch Agents to arrange shipment and clearance of effects.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, Members of Congress, and individuals' medical advisers for the purposes scet forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper copy in file folder, magnetic disc and magnetic tape.

Retrievability:

Individual's name or other personal identifier.

Safeguards:

a. Travel and Transportation Records: Biographic information and passports kept in metal cabinets with three-way combination lock; records kept in areas with access limited to those whose official duties require access.

b. Travel Advance Control Records: For automated system, a "password" is assigned to employees who must have access in order to perform their official function. For manual files, stored in metal file cabinet in secure area with access limited to those whose official duties require access.

Retention and disposal:

a. Travel and Transportation Records: Retained for four years and then destroyed by shredding or burning.

b. Travel Advance Control Records: Retained or disposed of in accordance with A.I.D. Handbook 21, Part III, normally seven (7) years after audit.

System manager(s) and address:

For Travel and Transportation Records: a. Central Records: Director, Office of Management Operations, Agency for International Development, 320 21st Street NW., Washington, D.C. 20523.

b. Decentralized Records: Administrative and Executive officers and office supervisors in A.I.D. Washington offices and offices abroad. See Appendix A for actual location of offices.

For Travel Advance Control Records: c. Assistant Controller, Employees Services Division, 1875 Connecticut Avenue NW., Washington, D.C.

Notification procedure:

Requests by individuals concerning the existence of a record may be addressed to: Director, Office of Personnel and Manpower (SER/PM), Attn: Privacy Liaison Officer, Agency for International Development, 320 21st St. NW., Washington, D.C. 20523. or presented in person at State Annex No. 2, 515 22nd Street NW., Washington, D.C.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information required:

Individual's name, place an date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures:

Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to § 215.4(c) or (d) of the Agency's Regulations as published in this issue of the FEDERAL REGISTER.

Contesting record procedures:

Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to: Administrator, Agency for International Development, 320 21st Street NW., Washington, D.C. 20523. Attention: Executive Secretary—Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary—Privacy Review Request.

Record source categories:

The individual concerned and A.I.D. employees acting in their offical capacities.

[FR Doc.77-19463 Filed 8-8-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement To Department Circular Public Debt Series—No. 18–77]

TREASURY NOTES OF SERIES B–1984

Announcement of Interest Rate

AUGUST 4, 1977.

The Secretary of the Treasury announced on August 3, 1977, that the interest rate on the notes described in Department Circular, Public Debt Series, No. 18–77, dated July 28, 1977, will be 7¼ percent per annum. Accordingly, the notes are hereby redesignated 7¼ percent Treasury Notes of Series B–1984. Interest on the notes will be payable at the rate of 7¼ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-22912 Filed 8-8-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXPORT AUTHORIZATION LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM HONG KONG

AUGUST 5, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing export authorization levels for Categories 39 (cotton gloves), 120 (men's and boys' wool suits), 122 (women's, misses' and children's wool coats and suits), 124 (wool slacks and trousers), 228 (man-made fiber blouses, not knit), and 234 235 (man-made fiber shirts) from Hong Kong during the fifteenth-month period which began on October 1, 1976.

SUMMARY: In an exchange of notes, dated July 25, 1977, the Governments of the United States and Hong Kong extended through December 31, 1977 the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, as amended, which would have expired on September 30, 1977. Pursuant to the extension, the United States has agreed that Hong Kong may issue export authorizations for the indicated categories during the fifteen-month period which began on October 1, 1976 and extends through December 31, 1977 up to the following levels:

Category:	*Fifteen-month export authorization level*
39	3,900,000 doz pair.
120	102,534 numbers
122	125,000 pieces
124	250,000 pieces
228	742,689 doz.
234 235	812,500 doz.
238	375,000 doz

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.77-23063 Filed 8-8-77;8:45 am]

INCREASING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA

AUGUST 5, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint applicable to Categories 45 46 47 (shirts), 50 51 (trousers, slacks and outer shorts), and 221 (knit sweaters and cardigans) to account for unused carryforward granted during the agreement year which began on January 1, 1976.

SUMMARY: Paragraph 8(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China provides for the application of carryforward to certain specific category ceilings. Carryforward is an amount borrowed from the level of restraint applicable to the affected category in the succeeding agreement year and is deducted from that year's level. The purpose of this notice is to advise that the levels of restraint established for Categories 45 46 47, 50 51, and 221 during the agreement year which began on January 1, 1977 are being increased by increments of carryforward granted in those categories last year, but not used. The current-year levels for these categories reflected reductions for the full amount of the carryforward.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–5423.

SUPPLEMENTARY INFORMATION: On December 27, 1976, a letter dated December 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 F.R. 56213), which established the levels of restraint applicable to certain specific categories of cotton and man-made fiber textile prod-

ucts, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977. The notice which accompanied the letter, also dated December 20, 1976, stated that the levels of restraint established for Categories 45/46/47, 50/51 and 221, among others, had been reduced to account for the full amount of carryforward applied to those categories during the agreement year which began on January 1, 1976.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint established for Categories 45/46/47, 50/51, and 221 by the amounts of unused carryforward.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

AUGUST 5, 1977.

DEAR MR. COMMISSIONER: On December 20, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1977, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 6 and 8(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 9, 1977, the levels of restraint established in the directive of December 20, 1976 for cotton textile products in Categories 45/46/47, and 50/51 and man-made fiber textile products in Category 221 to the following amounts:

Category:	*Amended 12-month level of restraint*[2]
45/46/47	13,582,447 sq yd equivalent.
50/51	696,087 doz.
221	3,953,982 doz.

[2] The levels of restraint have not been adjusted to reflect any entries made after December 31, 1976.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems.

The actions with respect to the Government of the Republic of China and with respect to imports of cottton and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-23065 Filed 8-8-77;8:45 am]

REPUBLIC OF THE PHILIPPINES

Amending and Extending Bilateral Textile Agreement

AUGUST 5, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending and extending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines.

SUMMARY: Notes have been exchanged between the Governments of the United States and the Republic of the Philippines extending the Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, for three months, through December 31, 1978. The second agreement year will constitute the 15-month period which began on October 1, 1976 and extends through December 31, 1977. Accordingly, the specific levels of restraint previously established for cotton textile products in Categories 39 (gloves, 45/46/47 (men's and boys' shirts), 50/51 (trousers, slacks and shorts), and man-made fiber textile products in Categories 214 (gloves), 221 (sweaters and cardigans), parts of 224 (suits and suit-type coats), 225 (body supporting garments), 229 (coats), and 237 (suits) are being increased to reflect the extended agreement period.

Under the terms of the amendment specific levels of restraint are also being established for man-made fiber textile products in Categories 218 (knit T-shirts) and part of 224 (tops and vests) in combination with Category 219 (other shirts, including blouses). Coats in Category 63 are being combined with coats in Category 49, and dress shirts (not knit) in Category 234 are being combined with other shirts in Category 235. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).)

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On September 27, 1976, there was published in the FEDERAL REGISTER (42 FR 42234) a letter dated September 22, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements, which established the levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products, produced and manufactured in the Philippines and exported to United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. In the letter of August 5, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 39, 45/46/47, 49/63 (part), 50/51, and man-made fiber textile products in Categories 214, 218/219/224 (part), 221, parts of 224, 225, 229, 234/235 and 237, produced or manufactured in the Philippines, to the designated levels of restraint during the fifteen-month period which began on October 1, 1976 and extends through December 31, 1977.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

AUGUST 5, 1977.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 22, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines. It cancels the directive of May 16, 1977.

Paragraph 1 of the directive of September 22, 1976 is amended, effective on August 10, 1977 to read as follows: "Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on August 10, 1977, and for the fifteen-month period extending from October 1, 1976 through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 39, 45/46/47, 49/63 (part), 50/51, and man-made fiber textile products in Categories 214, 218/219/224 (part), 221, parts of 224, 225, 229, 234/235 and 237, in excess of the following levels of restraint:

Category:	*Fifteen-month level of restraint*[1]
39	587,604 doz pairs.
45/46/47	5,601,210 sq yd equivalent.
49/63 (part)[2]	85,136 doz.
50/51	290,232 doz (with sublimits of 169,528 doz each for Categories 50 and 51).
214	1,356,225 doz pairs.
218/219/224 (part)[3]	11,292,334 sq yd equivalent.
221	70,554 doz.
Pt. 224 (only T.S.U.S.A. No. 380.0420 and 380.8243).	145,117 lb.
Pt. 224 (only only T.S.U.S.A. No 380.0402 and 380.8103).	160,036 lb.
225	
229	3,390,563 doz.
234/235	320,069 doz.
237	98,495 doz.
	288,061 numbers.

[1] The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.

[2] In Category 63, only T.S.U.S.A. Nos. 380.0043, 380.0046, 382.0054 and 382.0056.

[3] In Category 224, only T.S.U.S.A. Nos. 382.0455 and 382.7879.

Cotton textile products in part of Category 63 (only T.S.U.S.A. Nos. 380.0043, 380.0046, 382.0054 and 382.0056) and man-made fiber textile products in Categories 218, 221, part of 224 (only T.S.U.S.A. Nos. 382.0455 and 382.7879) and 234, produced or manufactured in the Philippines, which have been exported to the United States before October 1, 1976, shall not be subject to this directive.

Cotton textile products in part of Category 63 (only T.S.U.S.A. Nos. 380.0043, 380.0046 382.0054 and 382.0056) and man-made fiber textile products in Categories 218, 221, part of 224 (only T.S.U.S.A. Nos. 382.0455 and 382.7879) and 234 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to possible future adjustment pursuant to the provisions of the bilateral agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) Within the group limits, specific levels of restraint may be exceeded by 7 percent in any agreement year; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the receiving year's applicable limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Appropriate adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories and rates of conversion into square yards equivalent was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-23127 Filed 8-8-77;10:03 am]

INTERSTATE COMMERCE COMMISSION

[No. 454]

ASSIGNMENT OF HEARINGS

AUGUST 4, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FD 27421 Southern Pacific Transportation Co.—Common Use of Terminal Facilities—Union Pacific Railroad Co. & Burlington Northern, Inc., now being assigned October 31, 1977 (2 weeks) for hearing in Portland, Oregon, in a hearing room to be later designated.

MC 139381, Spirit of '76 Overland Express Inc., now assigned September 14, 1977, at Los Angeles, California, and will be held in Room 324, Courthouse Building, 312 North Spring Street.

MC 142467, Hugh A. Mitchell, d.b.a. Mitchell Special Emergency Hauling Service now assigned September 20, 1977, at Greenville, Mississippi and will be held in the Grand Jury Room, Room 321, U.S. Courthouse & Post Office, 305 Main Street.

MC 63973 Sub 17, Kaler Freight Lines, Inc., now assigned September 19, 1977, at Des Moines, Iowa and will be held in Room 103, Federal Building, 210 Walnut Street.

MC 29120 Sub 196, All-American, Inc., now assigned September 19, 1977 at Des Moines, and will be held in Room 453, Federal Building, 210 Walnut Street.

MC 129537 Sub 15, Reeves Transportation Co., now assigned September 26, 1977, at Atlanta, Georgia and will be held in Room 305, 1252 West Peachtree Street N.W.

MC 730 Sub 373, Pacific Intermountain Express Co., now assigned September 26, 1977, at Des Moines, Iowa and will be held in Hearing Room B, Valley Bank Building, 4th and Walnut Street.

MC 702 Sub 19, Bird Trucking, Inc., now assigned September 13, 1977, at Madison, Wisconsin, and will be held in Room 426, Hill Farm State Office Building, 4802 Sheybogan Avenue.

MC 114211 Sub 284, Warren Transport, Inc., now assigned September 12, 1977, at Des Moines, Iowa, and will be held in Room 453, Federal Building, 210 Walnut Street.

AB 6 Sub 16, Burlington Northern, Inc. Abandonment Between Maryville and Barnard, in Nodaway County, Missouri now assigned September 13, 1977 at Maryville, Missouri, and will be held at the City Hall, 415 North Market Street.

MC 108207 Sub 456, Frozen Food Express, Inc., now assigned September 15, 1977, at Kansas City, Missouri, and will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC-F 13129, Kaw Transport Co.—Control—Royal Transport, Inc., now assigned September 19, 1977, at Kansas City, Missouri, and will be in Room 609, Federal Office Building, 911 Walnut Street.

AB 19 Sub 11, Fairmont, Morgantown and Pittsburgh Railroad Company, and the Baltimore and Ohio Railroad Company Abandonment Portion Smithfield and Masontown Branch Between Strum and Leckrone, in Fayette County, Pennsylvania, now assigned September 8, 1977, at Uniontown, Pennsylvania, and will be held at the Public Library, 24 Jefferson Street.

No. 36571, Idaho Intrastate Freight Rates and Charges—1977 now assigned September 7, 1977, at Boise, Idaho, and will be held at the Rodeway Inn, 29th and Chinden Boulevard.

MC 9304, Tom E. Tucker, an Individual—Investigation and Revocation of Certificates, now assigned September 13, 1977 at Boise, Idaho and will be held at the Bankruptcy Courtroom 214, U.S. Post Office and Federal Building, North 8th and Bannock Street.

MC 2860 (Sub-No. 159), National Freight, Inc., now being assigned for September 12, 1977 (2 days), at Chicago, Ill., in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

FF-488, Retail Merchants Consolidation and Distribution Center, Inc., now assigned for September 12, 1977, at Columbus, Ohio is canceled and transferred to Modified Procedure.

MC 142983, Nobel's Service, Inc. now being assigned September 12, 1977 (1 week) at Columbus, Ohio, and will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 4405 (Sub-No. 547), Dealers Transit, Inc., now assigned October 4, 1977, at Dallas, Tex. is being advanced to September 15, 1977 (2 days), in Room 5A15-17, Federal Building, 1100 Commerce Street, Dallas, Tex.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-22939 Filed 8-8-77;8:45 am]

[Notice No. 204]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76857, filed March 25, 1977. Transferee: DEAN OF ITHACA, INC., 311 E. State Street, Ithaca, New York 14850. Transferor: Wayne C. Stevens, Inc., 990 Sullivan Street, Elmira, New York 14901. Applicant's representative: John Moore, Attorney at Law, 200 William Street, Elmira, New York 14901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 43318 and MC 43318 (Sub-No. 1), both issued April 9, 1951, as follows: Household goods as defined by the Commission between Elmira, N.Y. and points within 25 miles thereof, on the one hand, and, on the other, points in Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, West Virginia, and the District of Columbia. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 45672 and subs thereafter. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76971, filed May 9, 1977. Transferee: Kenneth W. Jensby, Rural Route 2, Hardy, Nebraska 68943. Transferor: Dale Ross, Rural Route 3, Concordia, Kansas 66901. Applicant's representative: Clyde N. Christey, attorney at law, 514 Capitol Federal Building, Topeka, Kansas 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 77542, issued August 2, 1972, as follows: Livestock from specified counties in Kansas to specified points in Nebraska and Iowa; agricultural commodities from specified points in Missouri to Mahaska, Kans. and points within 30 miles of it: livestock between Mahaska, Kans. and 30 miles of it, on the one hand, and, on the other, Kansas City, Kans., Kansas City and St. Joseph, Mo. and points in Nebraska; and junk, agricultural machinery, grain bins and parts, and windmill pumps and tanks between Mahaska, Kans. on the one hand, and, on the other, Lincoln and Beatrice, Nebr. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77012, filed May 14, 1977. Transferee: EUREKA TERMINALS, INC., P.O. Box 124, 1000 Jericho Turnpike, New Hyde Park, New York 11040. Transferor: Bernard Miller, (Tillie Miller, heir-at-law) doing business as Barney Miller, 125 Ormonde Boulevard, Valley Stream, New York 11580. Applicant's representative: Arthur J. Piken, Esq., One Lefrak City Plaza, Flushing, New York 11368. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 76536, issued September 8, 1967, as follows: New furniture from New York, N.Y. to points in Monmouth, Middlesex, Somerset, Union, Morris, Essex, Passaic, Bergen, and Hudson Counties, N.J. and Rockland County, N.Y. Transferee is presently authorized to operate as a contract carrier under Permit No. MC 134896. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77094, filed July 22, 1977. Transferee: East-West Motor Freight, Inc., 7270 Hobgood Road, Fairburn, Georgia, 30213. Transferor: Columbine Carriers, Inc., 1720 East Garry Avenue, Santa Ana, California 92705. Transferor's representative: Charles J. Kimball, Kimball & Williams, P.C., 1600 Sherman Street, Denver, Colorado 80203. Transferee's representative: Bruce Mitchell, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Georgia, 30326. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit, No. MC 135185 (Sub-No. 7), issued October 31, 1972, as follows: Materials, supplies, and equipment utilized by hospitals, nursing homes, health care centers, and laboratories, from points in that part of California, in and south of the San Luis Obispo, Kern, and San Bernardino Counties, Calif., to Chamblee, Ga., and Miami, Fla., and from points in Georgia and Florida to points in that part of California in and south of San Luis Obispo, Kern, and San Bernardino Counties, Calif. The operations are restricted to the transportation of shipments originating at or destined to the plant site or distribution facilities of American Hospital Supply Corporation and are limited to a transportation service to be performed, under a continuing contract or contracts, with American Hospital Supply Corporation, of McGraw Park, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77097, filed April 27, 1977. Transferee: Joseph L. Escobedo and Holly C. Escobedo, d.b.a. CHOZEN TRUCKING CO., 1400 E. Anaheim Street, Wilmington, Calif. 90744. Transferor: Chozen Trucking Co., Inc., 1400 E. Anaheim Street, Wilmington, Calif. 90744. Authority sought for purchase by transferee of the operating rights of transferor, a set forth in Certificate No. MC 9057, issued April 25, 1955, as follows: Building materials, from Los Angeles Harbor and Long Beach, Calif., to points in the Los Angeles Commercial Zone. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77112, filed May 10, 1977. Transferee: E Z FREIGHT LINES, a corporation, 348 Ocean Avenue, Jersey City, New Jersey 07305. Transferor: Jaymar Trucking Co., Inc., 348 Ocean Avenue, Jersey City, New Jersey 07305. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, New Jersey 08904. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 139349 (Sub-No. 2) issued November 8, 1974, as follows: Lamps, lighting fixtures, and equipment, materials, and supplies used in their manufacture and sale between Jersey City, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Rockland, and Orange Counties N.Y., Fairfield County, Conn., and Philadelphia, Pa.; between Jersey City and Kearny, N.J., on the one hand, and, on the other, points in Louisiana, Minnesota, and Texas and those points in the United States east of the Mississippi River; between Clifton, North Bergen, and Secaucus, N.J., on the one hand, and, on the other, points in Louisiana, Minnesota, and Texas and those points in the United States east of the Mississippi River; and between Fall River, Mass. on the one hand, and, on the other, specified states and a portion of the United States east of the Mississippi River. Transferee presently holds no authority from this Commission; application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77113, filed May 6, 1977. Transferee: MOLLOY BROS. TRUCKING, INC., 151 South 14th Street, Lindenhurst, New York 11757. Transferor: Murphy Moving & Storage, Inc., 200 Middleneck Road, Great Neck, New York 11022. Applicant's representative: Ronald I. Shapss, attorney at law, 450 Seventh Avenue, New York, New York 10001: Richard Gates, attorney at law, 400 Jericho Turnpike, Jericho, New York 11753. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 22208, issued April 30, 1959, as follows: Household goods as defined by the Commission between New York, N.Y. and points on Long Island, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77147, filed May 25, 1977. Transferee: D & T TRANSPORT, INCORPORATED, R.R. No. 4, Box 54A, Mooresville, Indiana 46158. Transferor: John Thomas Loudermilk, d.b.a. D & T Transport, R.R. No. 4, Box 54A, Mooresville, Ind. 46158. Applicants' representative: Stephen M. Gentry, 1500 Main Street, Speedway, Indiana 46224. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 141640 (Sub-No. 2), issued November 15, 1976, as follows: Molten aluminum, in containers, from the plant site of the Anaconda Company, Aluminum Division, at or near Sebree, Ky., to points in Illinois, Indiana, and Tennessee, with no transportation for compensation on return except as otherwise authorized, under contract with Anaconda Company, Aluminum Division of Louisville, Ky. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77191, filed July 6, 1977. Transferee: Allen Beyer, Box 1, Stetsonville, Wisconsin 54480. Transferor: Norbert Geiger, 213 Washington, Dorchester, Wisconsin 54425. Applicant's representative: Norbert Geiger, 213 Washington, Dorchester, Wisconsin 54425. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 123641 (Sub-No. 3), issued March 20, 1967, as follows: Lumber products between Dorchester, Wisc., on the one hand, and, on the other, points in Minnesota, Iowa, Indiana, Illinois, and the Lower Peninsula of Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77196 filed June 30, 1977. Transferee: NEWELL TRUCK LINE, INC., Wakefield, Kansas, 67487. Transferor Dale Newell, d.b.a. Newell Truck Line, Wakefield, Kansas, 67487. Applicants' representative: Ryan and Ryan, P.A., Attention: Tim W. Ryan and Court Street, Clay Center, Kansas, 67432. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 1805 and MC 1805 (Sub-No. 2), issued February 19, 1965, and January 7, 1970, respectively, as follows: General commodities, with normal exceptions, between Wakefield, Kans., and Kansas City, Mo., serving the intermediate point of Kansas City, Kans., over specified regular routes; Livestock and agricultural commodities, over irregular routes, from Wakefield, Kans., and points within ten miles thereof, to Kansas City, Kans., and Kansas City, Mo.; Livestock, feed, building materials, fencing materials, petroleum products in containers, agricultural implements and parts, and farm machinery and parts, from Kansas City, Mo., and Kansas City, Kans., to Wakefield, Kans., and points within ten miles thereof; and twine and dry feed, dry feed ingredients, and dry fertilizer, from Kansas City, St. Joseph, and Joplin, Mo., to Wakefield, Kans., and points within 25 miles thereof. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77210, filed July 11, 1977. Transferee: VACA VALLEY BUS LINES, INC., 321 State Street, Fairfield, California 94533. Transferor: Horace Simmons, d.b.a. Vaca Valley Bus Lines, 321 State Street, Fairfield, California 94533. Applicants' representative: Daniel W. Baker, attorney at law, 100 Pine Street, Suite 2550, San Francisco, California 94111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 99581 (Sub-No. 1) and MC 99581 (Sub-No. 3) issued May 26, 1974 and March 9, 1976 respectively, as follows: Passengers and their baggage over a specified regular route between Suisun, Calif. and Travis Air Force Base, Calif. serving all intermediate points and between Vacaville, Calif. and Travis Air Force Base, Calif. serving all intermediate points; passengers and their baggage in special and charter operations beginning and ending at points in Marin, Napa, Solano, and Sonoma Counties, Calif. and extending to points in the United States (except Alaska and Hawaii). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77212, filed July 13, 1977. Transferee: Henry C. Potter, 2818 Hamilton Ave., Baltimore, Maryland 21214. Transferor: Potter Transfer, Inc., (c/o General Delivery) Box 127, White Plains, Maryland 20695. Applicant's representative: Harry J. Jordan, attorney at law, 1000 16th St., NW., Washington, D.C. 20036. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 127147 (Sub-No. 3), issued November 23, 1972, as follows: Wood chips, bark, and mulch, from points in Calvert, Anne Arundel, Charles and St. Mary Counties, Md., to points in Pennsylvania, New Jersey, New York, Delaware, Virginia, West Virginia, Ohio, North Carolina, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77213, filed July 11, 1977. Transferee: EASTERN CARTAGE SERVICES, INC., 18–20 Dale Street, Andover, Massachusetts 01810. Transferor: D & O Transportation Co., Inc., 3 Sanborn Court, Somerville, Massachusetts 02143. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Massachusetts 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 97888 (Sub-No. 1), issued December 13, 1963, authorizing the transportation of general commodities anywhere in the Commonwealth of Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 77-22941 Filed 8-8-77;8:45 am]

[Notice No 97]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

August 3, 1977

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30000 (Sub-No. 3TA), filed July 15, 1977. Applicant: KENTUCKY TRANSPORT CORP., Suite 381, 400 Sherburn Lane, Louisville, Ky. 40207. Applicant's representative: Wm. L. Willis, Suite 708, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and related products*, (except in bulk, moving in vehicles equipped with mechanical refrigeration, between the warehouse sites of Louisville Freezer Center, in Jefferson County, Ky., on the on hand, and, on the other, all points and places in Alabama, Arkansas, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and W. Va., restricted to transportation of freight having and origin or destination at the warehouse sites of Louisville Freezer Center, under a continuing contract, or contracts, with Louisville Freezer Center, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Clifton Juckett, Vice President, Sales and Distribution, 2000 South Ninth Street, Louisville, Ky. 40208. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 P.O. Building, Louisville, Ky. 40202.

No. MC 48958 (Sub-No. 135TA), filed July 15, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Lee E. Lucero, 510 E. 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from all points in Iowa, Dakota City, Fremont, Schuyler, Scottsbluff and West Point, Nebr.; Holton and Kansas City, Kan.; and Kansas City, Mo., to all points to Arizona, California, Connecticut, New Mexico and Utah, for 180 days. Supporting shipper(s): American Beef Packers, Inc., Highway 59 North, Oakland, Iowa. 51560. Farmland Foods, Inc., Dept. 44, 3315 N. Oak Trafficway, Kansas City, Mo. 64116. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 56679 (Sub-No. 98TA), filed July 20, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, S.W., Atlanta, Ga. 30315. Applicant's representative: John T. Coon, 352 University Avenue, S.W., Atlanta, Ga. 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Savannah, Ga., to New York, N.Y.; Pennsylvania, Maryland, New Jersey and Delaware for 180 days. Supporting shipper(s): Union Camp Corporation, 1600 Valley Rd., Wayne, N.J. 07470. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W. Room 546, Atlanta, Ga. 30309.

No. MC 61825 (Sub-No. 67TA), filed July 21, 1977. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: John D. Stone, P.O. Box 385, Collinsville, Va. 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from plant and warehouse facilities of Midland Company, Inc., at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc., at or near Williamsburg, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Company, Inc., Cliffwood, N.J. 07721. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 106074 (Sub-No. 35TA), filed July 20, 1977. Applicant: B&P MOTOR LINES, INC., 710 Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags, plastic bags and bags made of paper and plastic combined*, from Jacksonville, Ark., to points in Georgia, Illinois, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Plains Bag Corporation, P.O. Box 967, Jacksonville, Ark. 72076. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Bldg., Room CC-516, Charlotte, N.C. 28205.

No. MC 106074 (Sub-No. 36TA), filed July 21, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Cameron and Hidalgo Counties, Tex., to Cambridge, Md.; Jackson, Ohio.; and Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, N.C. 27102. Send protests to: Terrell Price District Supervisor, Interstate Commerce Commission, 800 Briar Creek Rd. Mart Office Bldg. CC-516, Charlotte, N.C. 28205.

No. MC 106074 (Sub-No. 37TA), filed July 21, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, except in bulk, from the plantsites and warehouse facilities of United Salt Corporation in Fort Bend and Harris Counties, Tex., to points in North Carolina and South Carolina, for 180 days. Supporting shipper(s): United Salt Corporation, 4110 Ashwoody Trail, N.E. Atlanta, Ga. 30319. Send protests to: Terrell Price District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Bldg, CC-516, Charlotte, N.C. 28205.

No. MC 106674 (Sub-No. 245TA), filed July 20, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and roofing felt*, from plantsite of Certainteed Corporation at or near Avery, Ohio, to the plantsite of Certainteed Corporation at Chicago Heights, Ill., for 180 days. Applican has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Certainteed Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107515 (Sub-No. 1094TA), filed July 20, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby & Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, bottled and preserved foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Vlasic Foods, Inc., at or near Greenville, Miss.; to points in Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Missouri, New Mexico, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vlasic Foods, Inc. 33200 West 14 Mile Road, West Bloomfield, Mich. 48033. Send protests to: Sara K. Davis Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W., Room 546, Atlanta, Ga. 30309.

No. MC 107678 (Sub-No. 63TA), filed July 7, 1977. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: David A. Sutherland, 1150 Connecticut Ave., N.W., Washington, D.C. 22036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, restricted to the transportation of such commodities to or from points in Alberta, Canada, having a prior or subsequent rail or water movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Atlantic Richfield Company, North American Producing Div., 408 Bullington St., Dallas, Tex. 75221. Mobil Oil Corporation, 612 South Flower St., Los Angeles, Calif. 90017; Exxon Company USA, P.O. Box 2180, Houston, Tex. 77001; Baroid Petroleum Services Div., N.L. Industries, P.O. Box 1675, Houston, Tex. 77001; Dresser Industries, Oilfield Products Group, 601 Jefferson, Houston, Tex. 77002. Send protests to: District Supervisor John Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 109708 (Sub-No. 72TA), filed July 19, 1977. Applicant: INDIAN RIVER TRANSPORT CO., d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, 2580 Executive Road, Dundee, Fla. 33838. Applicant's representative: Bruce Bullock, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Orange juice concentrate*, in bulk, in tank vehicles, from Plymouth, Ind., to Lansing, Mich., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper's): Peninsular Products, 2701 East Michigan Avenue, Lansing, Mich. 48912. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 119560 (Sub-No. 15TA), filed July 20, 1977. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, S.C. 29448. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags and in bulk, from Harleyville, S.C., to Daytona Beach, Gainesville, Jacksonville, Lake City, Live Oak, Ocala, Ormond Beach, Palatka and St. Augustine, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Giant Portland & Masonry Cement Co., P.O. Box 5907, Columbia, S.C. 29250. Send protests to: E. E. Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 119700 (Sub-No. 32TA), filed July 20, 1977. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, Mo. 64125. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings, prefabricated, knocked down and component parts and accessories and damaged and refused shipments* on return. From the plantsite and warehouse facilities of Pascoe Steel Corporation at or near Wathena, Kansas, to points in Arkansas, Illinois, Louisiana, Michigan, Missouri, Oklahoma, Texas and Wisconsin, for 180 days. Supporting shipper(s): Pascoe Steel Corporation, P.O. Box 619, Wathena, Kansas 66090. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129480 (Sub-No. 28TA), filed July 14, 1977. Applicant: TRI-LINE EXPRESSWAYS, LTD., P.O. Box 5245, Station A, Calgary, Alberta, Canada. Applicant's representative: Edward T. Lyons, Jr., 1660 Lincoln Street, 1600 Lincoln Center Bldg., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *phosphates*, (except in bulk), from Chicago, Joliet, Quincy, Springfield and Wood River, Ill., to the ports of entry on the International Boundary Line between the United States and Canada located in Minnesota, North Dakota, Montana and Wash.; (b) *polybutane*, (except in bulk), from Wood River, Ill., to the ports of entry on the International Boundary Line between the United States and Canada located in Minnesota, North Dakota, Montana, and Wash.; (c) *lumber*, from the ports of entry on the International Boundary Line between the United States and Canada located in Minnesota and North Dakota, to points in Indiana, Iowa, Wisconsin, Illinois, Missouri, Michigan and Ohio; (d) *wood products*, from the ports of entry on the International Boundary Line between the United States and Canada located in Minnesota and N. Dak., to points in Indiana, Minnesota, Wisconsin, Illinois, Missouri, Iowa, Michigan and Ohio, restricted to operations hereunder and are restricted to the transportation of shipments moving in foreign commerce and originating at or destined to points in the Provinces of Alberta, British Columbia, Saskatchewan and Manitoba, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): P. H. Barnett Lumber (Alberta), Ltd., P.O. Box 958, Edmonton, Alberta, Canada. Manitoba Forestry Resources, Ltd. Room 902, Nortre Dome Avenue, Winnipeg, Manitoba, Canada. Mackenzie and Fiemann, Ltd. 3225—54th Avenue, S. E. Calgary, Alberta, Canada. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 1st Avenue, North, Billings, Mont. 59101.

No. MC 133391 (Sub-No. 2TA), filed July 18, 1977. Applicant: SCHWERMAN TRUCKING CO. OF VA. INC., 611 South 28 St., P.O. Box 1601, Milwaukee, Wis. 53201. Applicant's representative: Richard H. Preventte (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Botecourt County, Va., to points in Delaware, District of Columbia, Maryland North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lone Star Cement, Inc., 15 Koger Executive Center, Norfolk, Va 23502. (R. J. Whelahan) send protests to Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 134286 (Sub-No. 28TA), filed July 13, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1584, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, Suite 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), from the plantsite and or storage facilities utilized by Royal Packing Company located at or near National Stockyards, Ill., to points in the states of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the operations authorized herein and restricted to the transportation of traffic originating at the named origin and destined to the above-described states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marc Sokolik Vice President of Marketing & Transportation, Royal Packing Company, National Stockyards, Ill. 62071. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136220 (Sub-No. 44TA), filed July 19, 1977. Applicant: Roy Sullivan, d.b.a. SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Ap-

plicant's representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferroalloys* (in bulk in dump trailers), from Woodstock Industrial Park near Memphis, Tenn. to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, and Texas, for 180 days. Supporting shipper(s): Chromium Mining & Smelting Corp., P.O. Box 28538, Memphis, Tenn. 38128. Send protests to: Transportation Assistant Kathy Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 136595 (Sub-No. 7TA), filed July 22, 1977. Applicant: Eastside Enterprises, Inc., d.b.a. EASTSIDE MOBILE HOME TRANSPORTING, INC., 1440 South "A" Street, Springfield, Oreg. 97477. Applicant's representative: Lawrence V. Smart, Jr., attorney at law, 419 N.W. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated modulars*, in sections, without fixed undercarriage, from the plantsite of Boise Cascade Corporation, located at or near Meridian, Idaho to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho 83707. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Oreg. 97204.

No. MC 138875 (Sub-No. 57TA), filed July 22, 1977. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank Sigloh, 11900 Franklin Road, Boise, Idaho 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, wood products and composition board*, from Boise, Idaho to Jackson, Wyo., for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 141088 (Sub-No. 4TA), filed July 13, 1977. Applicant: KEYSTONE DELIVERY SERVICE, INC., 60 N.W. 37th Street, Miami, Fla. 33127. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies*, sold, used or distributed by a manufacturer of cosmetics, between Dade County, Fla., on the one hand, and points and places in Broward and Palm Beach County, Fla., on the other hand, under a continuing contract, or contracts, with Avon Products, Inc., for 180 days. Applicant indicates it intends to tack existing authority under MC–141088 Sub 2. There is no environmental impact involved in this application. Supporting shipper(s): Avon Products, Inc., 2200 Cotillion Drive, Chamblee, Ga. 30302. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 141570 (Sub-No. 10TA), filed July 11, 1977. Applicant: ELECTRONICS TRANSPORT, INC., P.O. Box 31103, 3213 8th Avenue, North, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies* used in the manufacture, installation or sale of such commodities, between Washington, D.C., and its commercial zone, on the one hand, and, points in Delaware, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, West Virginia and the District of Columbia, on the other, under a continuing contract, or contracts, with Xerox Corporation for 180 days. Supporting shipper(s): Xerox Corporation, 1616 North Ft. Meyer Drive, Arlington, Va. 33309. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 161—2121 Building, Birmingham, Ala. 35203.

No. MC 142040 (Sub-No. 2TA), filed July 14, 1977. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin Street, Malden, Maine 02148. Applicant's representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, Pa. 19518. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* limited to individual articles not exceeding 200 pounds in weight, from one consignor to one consignee in a single day, moving in shipments not exceeding 500 pounds, further restricted to shipments moving solely to or from individual residences, Middlesex, Norfolk and Suffolk Counties, Mass., to and from Androscoggin, Cumberland, Franklin, Hancock, Knox, Lincoln, Oxford, Penobscot, Sagadahoc, Somerset and Waldo Counties, Maine, Belknap, Carroll, Cheshire, Coos, Grafton, Merrimack, Strafford and Sullivan Counties, N.H., for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Max Gorenstein District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143089 (Sub-No. 2TA), filed July 11, 1977. Applicant: Floyd A. Raley, d.b.a. RALEY TRUCKING, Route 2, Box 433, Mechanicsville, Md. 20659. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, agricultural chemicals and agricultural lime* (except in bulk, in tank vehicles), (1), from Wilmington, Del., and York, Pa., and their respective commercial zones, to points in Anne Arundel, Calvert, Charles, Prince George's and St. Mary's Counties, Md.; (2) from Seaford, Del., Lynchburg, Va.; and Wilmington, North Carolina and their respective commercial zones, to points in Charles County, Md., under a continuing contract, or contracts, with Royster Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Royster Company, Charlotte Hall, Md. 20622. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, Room 1413, 12th & Constitution Avenue, N.W. Washington, D.C. 20423.

No. MC 143185 (Sub-No. 1TA), filed July 12, 1977. Applicant: LORENZ TRANSPORT AND SHIP LINES, INC., Mobile Highway, Montgomery, Ala. 36108. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and materials and supplies*, used in the manufacture of meats, meat products, meat by-products (except hides and skins and commodities in bulk, in tank vehicles), between the plant site of Frosty Land Foods International, Inc. d.b.a. Lorenz International in Montgomery, Ala., on the one hand, and, on the other all points in the United States (except Hawaii), under a continuing contract, or contracts, with Frosty Land Foods International, Inc., d.b.a. Lorenz International, for 180 days. Supporting shipper(s): Frosty Land Foods International, Inc., d.b.a. Lorenz International, P.O. Box 4009, Montgomery, Ala. 36101. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143434 (Sub-No. 1TA), filed July 12, 1977. Applicant: Charles McAlpin, d.b.a. CHARLES McALPIN TRUCKING, 1420 Danville Road, S.W., Decatur, Ala. 35601. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* used in the production of eggs and poultry (except commodities in bulk, in tank vehicles), (1) from Morgan County, Ala., to points in the States of Virginia, West Virginia, Kentucky, Illinois, Missouri, Kansas, Nebraska, Montana, Wyoming, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and Colorado; and (2) *Materials and supplies* used in the manufacture of materials, supplies and equipment used in the production of eggs and poultry (except commodities in bulk, in tank vehicles), from points in the States of Virginia, West Virginia, Kentucky, Illinois, Missouri, Kansas, Nebraska, Montana, Wyoming, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and Colorado to Morgan County, Ala., for 180 days. Supporting shippers(s): Chore-Time Equipment, Inc., P.O. Box 1908, Decatur, Ala. 35602. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143458 (Sub-No. 1TA), filed July 19, 1977. Applicant: L. T. MADDOX, dba. PRONTO TRUCKIN, P.O. Box 815, Millbrook, Ala. 36054. Applicant's representative: L. T. Maddox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal hides*, between points in Georgia, Tennessee, Florida, Alabama, South Carolina and California for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vernon Leather Co. Div. Beggs & Cobb Corp. 2850 Sierra Pine Avenue, Los Angeles, Calif. 90023. G. Bernd Company, P.O. Box 4104, Macon, Ga. 31208. Send protests to: Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143480 (Sub-No. 1TA), filed July 20, 1977. Applicant: R. BROWN & SONS, INC., 11 Canyon Estates Drive, Colchester, Vt. 05446. Applicant's representative: Robert B. Brown (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water and sewer pipe and pipe fittings*, from Burlington and Manville, N.J.; Rensselaer and Balston Spa, N.Y.; and Gilbertville, Mass., to points in Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Red Hed Supply, Inc. Box 274, Troy Avenue, Winooski, Vt. 05404. Send protests to: David A. Demers District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-22937 Filed 8-8-77;8:45 am]

[Notice No. 98]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

August 4, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 2368 (Sub-No. 65TA), filed July 22, 1977. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, Va. 23204. Applicant's representative: William T. Marshburn, P.O. Box 495, Richmond, Va. 23204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Norfolk, Va. and its commercial zone to Dover, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Rm. 10–502, Federal Building, 400 North 8th Street, Richmond, Va.

No. MC 50866 (Sub-No. 6TA), filed June 29, 1977. Applicant: BURLINGAME TRUCK LINE, INC., RR2, Scranton, Kans. 66537. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and dry poultry feed and dry feed ingredients and dry feed supplements*, from Atchison, Kansas City, Topeka, Chanute, Girard, Emporia, Fredonia and Pittsburg, Kans.; to those points in Missouri on and west of U.S. Highway No. 63 and those points in Nebraska on and south of Nebraska Highway 91 and on and east of U.S. Highway 183. (2) *Dry animal and dry poultry feed and dry feed ingredients and dry feed ingredients and dry feed supplements and dry animal health and sanitation products*, from Kansas City and St. Joseph, Mo.; to Crawford, Cherokee, Franklin, Anderson, Linn, Miami, Nemaha, Brown, Atchison, Doniphan, Jackson, Labette, Montgomery, Wilson, Neosho, Woodson, Allen, Johnson, Wyandotte, Leavenworth, Jefferson, Douglas, Riley, Pottawatomie, Geary, Morris Chase, Lyon, Osage and Coffey Counties, Kansas, also from Neosho, Mo.; to Kansas City and Atchison, Kansas, dry animal and dry poultry feed, dry feed ingredients, dry feed supplements and dry feed premix, from Omaha, Fremont, West Point, Weeping Water, Duncan, North Platte, Fall City and Lincoln, Nebr., to points in Kansas on and east of Kansas Highway No. 14 also, to points in Missouri on and west of U.S. Highway No. 63; (4) dry fertilizer, from Topeka and Kansas City, Kans.; to that portion of Nebraska on and south of Nebraska Highway 91 and on and east of U.S. Highway No., 183, also, from Kansas City Kans.; to that portion of Missouri on and west of U.S. Highway 63, also, from Nebraska City and Omaha, Nebr., to that portion of Missouri on and west of U.S. Highway 63 and that portion of Kansas on and east of Kansas Highway No. 14, also from Trenton, Joplin, Kansas City and Hannibal, Mo.; to that portion of Nebraska on and south of Nebraska 91 and on and east of U.S. Highway No. 183 and that portion of Kansas on and east of Kansas Highway 14, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quisenberry Mills, Inc., 8525 Prospect, Kansas City, Mo., 64132. Dr. Sedivy's Agri-Nutrition Products Co. 3311 N. Broad, Fremont, NE., 68025 Farmers Group Purchasing, 5332 NW., 25th St., Topeka, Kans. 66618. The Blair Milling & Elevator Co., Inc. 100 Main, Atchison, Kans. 66002. Cargill, Inc. Nutrena Feeds Div., 44 Swing, Kansas City Kans. 66118. Ralston Purina Co., Inc. 2334 Rochester, Kansas City, Mo. 64120. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Bldg. and U.S. Courthouse, 444 SE., Quincy, Topeka, Kans. 66683.

No. MC 87092 (Sub-No. 4TA), filed July 26, 1977. Applicant: JIM MITTEN TRUCKING, INC., 619 E. 6th, Oakley, Kans. 67748. Applicant's representative: Clyde N. Christey, 514 Capitol Federal, 700 Kansas Ave., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds and liquid feed supplements*, in

bulk, in tank vehicles, from the facilities of Cargill, Inc., at Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma and Texas, for 180 days. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Bldg. and U.S. Courthouse, 444 S.E. Quincy, Topeka, Kans. 66683.

No. MC 95876 (Sub-No. 205TA), filed July 20, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camper tops*, from Brainerd, Minn. to Atmore, Ala.; Turlock, Calif.; Denver, Colo.; Rock Rapids, Iowa; Lewiston, Me.; Chillicothe, Mo.; Albuquerque, N. Mex.; Allen, Okla.; Mifflintown, Pa.; and Tacoma, Wash., for 180 days. Supporting shipper(s): Capri Plastics, Inc., 712 Washington, Brainerd, Minn. 56401. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureua of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 98952 (Sub-No. 49TA), filed July 19, 1977. Applicant: GENERAL TRANSFER COMPANY, 2880 North Woodford St., Decatur, Ill. 62525. Applicant's representative: Paul E. Steinhour, 918 East Capitol Ave., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese foods, imitation cheese, foods* NOI, *yeast* (compressed and dry), *yeast foods, baking powder, flour* (edible NOI), *compound flour or cereal food enriching, compound-bread making* NOI, and *dessert preparations*, from Beloit, Mayville, Milwaukee, Monroe and Waupaca, Wis.; to points in Illinois lying on or south of Interstate Highway 80, the Missouri Counties of: DeSoto, Ste. Genevieve, Perry, Scott, Cape Girardeau, Stoddard, Butler and St. Louis and the city of St. Louis, Mo.; the cities of Owensboro, Paducah, Henderson and Louisville, Ky.; and all points in Indiana. Restricted to the transportation of shipments moving in vehicles equipped with mechanical refrigeration. Further restricted to shipments originating at named origin and destined to named destination, for 180 days. Supporting shipper: Denny A. Glassmeyer, Traffic Manager, Anderson Clayton Foods, P.O. Box 6165, Dallas, Tex. 75222. William R. Meusy, Manager, Transp., Universal Foods Corporation, 433 East Michigan St., Milwaukee, Wis. 53201. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 103051 (Sub-No. 403TA), filed July 18, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Detergent*, in bulk, in tank vehicles, from Charlotte, N.C., to points and places in Georgia, Florida, Louisiana, Mississippi, South Carolina and Virginia, for 180 days. Supporting shipper: Bober Chemicals, Inc., 211 Cama Street, Charlotte, N.C. 28210. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107541 (Sub-No. 46TA), filed July 20, 1977. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 NE. Rockwell Drive, Vancouver, Wash. 98665. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel wire products and fencing materials, and the return of wire carriers and refused and damaged shipments*, from the plant sites of Davis Walker Corporation at or near City of Commerce and Hayward, Calif., to ports of entry on the International Boundary Line between the United States and Canada in Washington and Montana, for delivery to Vancouver, and Kelowna, British Columbia, and Calgary, Edmundton and Lethbridge, Alberta, and points within 30 road miles of each of said points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Davis Walker Corporation, 6315 Bandini Blvd., Los Angeles, Calif. 90040. Send protests to: R. V. Dubay, District Supervisor Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 111401 (Sub-No. 495TA), filed July 27, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toxaphene*, in bulk, in tank vehicles, from Los Fresnos, Tex., to Altus, Okla., for 180 days. Supporting shipper: Hercules, Inc., 900 Life of Georgia Tower Atlanta, Ga. 30308. Send protests to: Transportation Assistant Kathy Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 113024 (Sub-No. 151TA), filed July 13, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 DuPont Highway, Smyrna, Dela. 19977. Applicant's representative: Samuel W. Earnshaw, Esq., 833 Washington Bldg., Washington, D.C. 2005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Garden and industrial hose and materials, supplies and equipment* used in the production and distribution thereof, for the account of Electric Hose & Rubber Co., Wilmington, Dela., between Cornwells Heights, Pa., on the one hand, and, on the other, Olney, Tex.; Alliance and McCook, Nebr., under a continuing contract, or contracts, with Distribution Electric Hose & Rubber Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Fred H. Evick, Director of Distribution Electric Hose & Rubber Company, Box 910, Wilmington, Dela. 19899. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commisison, 814-B Federal Building, Baltimore, Md. 21201. 30 days plus 2 extensions at R-53, effective July 6, 1977.

No. MC 115233 (Sub-No. 1TA), filed July 20, 1977. Applicant: MARSHALL STORAGE COMPANY, Highway 19 East, P.O. Box 145, Marshall, Minn. 56258. Applicant's representative: Gene P. Johnson, 425 Gate City Building, P.O. 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass, glass products and glass cullet*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of glass and glass products (except commodities in bulk, in tank vehicles), between the plantsites of PPG Industries, Inc. located at Marshall, Minn. and at or near Wichita Falls, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115496 (Sub-No. 49TA) (Correction), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 6, 1977, and republished as corrected this issue. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and empty malt beverage containers, pallets, and spoiled malt beverages returned*, from the facilities of Pabst Brewing Company located at Houston County, Ga., to points in Florida, North Carolina, South Carolina, Louisiana, Kentucky, Illinois, Indiana, Ohio, Wisconsin, Texas, Tennessee and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Company, 917 West Juneau Avenue, Milwaukee, Wis. 53201. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309. The purpose of this republication is to add the states of Texas and Tennessee to the territorial description in this proceeding.

No. MC 116273 (Sub-No. 212TA), filed July 27, 1977. Applicant: D & L TRANSPORT, INC., 3800 S. Laramit Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid adhesive*, in bulk, in tank vehicles, from Crystal Lake, Ill. to Norwalk, Ohio and Burlington, Iowa, for 180 days. Supporting shipper: Spartan Adhesives and Coatings Co., John C. Kuetemeyer, President, 266 E. Prairie Street, Crystal Lake, Ill. 60014. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commisison, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 118959 (Sub-No. 151TA), filed July 18, 1977. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, Mo. 73701. Applicant's representative: Robert M. Pearce, P. O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, panelling, gypsum board, composition board and molding*, from the facilities of Pan American Gyro-Tex Company located at or near Jacksonville, Fla., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper(s): Pan American Gyro-Tex Co., P.O. Box 26325, Jacksonville, Fla. 32218. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 126276 (Sub-No. 180TA), filed July 14, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Millis, Mass. to St. Paul, Minn., under a continuing contract, or contracts, with National Can Corporation, for 180 days. Supporting shipper(s): National Can Corporation, Floyd C. Stone, District Traffic Manager, 8101 W. Higgins, Chicago, Ill. 60631. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128527 (Sub-No. 86TA), filed July 19, 1977. Applicant: MAY TRUCKING COMPANY, P. O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers, wholesalers, retailers, and suppliers of mobile homes, recreational vehicles, and campers; and (2) *equipment and supplies*, used in the conduct of such business, (a) between points in California on and south of Interstate Highway 80, on the one hand, and, on the other, Aurora and Portland, Oreg.; and Vancouver, Wash.; (b) between points in California on and south of Interstate Highway 80, on the one hand, and, on the other, Washington, Canyon, Payette, and Ada Counties, Idaho; and (c) between points in Washington, Canyon, Payette, and Ada Counties, Idaho, on the one hand, and on the other Aurora and Portland, Oreg.; and Vancouver, or Elixir Industries; and, further restricted against the movement of Mobile Homes, recreational vehicles, campers, and self-propelled vehicles, and commodities requiring bulk tank vehicles, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elixir Industries, 1795 South Broadway, Gardena, Calif. 90248. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 129625 (Sub-No. 8TA), filed July 18, 1977. Applicant: ROBERT COLE TRUCKING COMPANY, P.O. Box M, Falls Creek, Pa. 15840. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from the mines, plantsites and storage facilities of Morton Salt Company located at or near Buffalo, N.Y.; to Falls Creek, Pa., and points within its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morton Salt Company, 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 135082 (Sub-No. 50TA), filed July 21, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., Post Office Box 26748, 415 Rankin Rd. NE., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railroad cross ties*, from New Mexico to Arizona, California, and Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Sales Company, 5501 Broadway, SE., Albuquerque, N. Mex. 87105. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Ave. SW., Albuquerque, N. Mex. 87101.

No. MC 135283 (Sub-No. 25TA), filed July 20, 1977. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and storage facilities of Gibbon Packing Company at or near Gibbon, Nebr., to points in Iowa, Wisconsin, Michigan, Illinois, Indiana, and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Neal Holub, Plant Manager, Gibbon Packing, Inc., P.O. Box Q, Gibbon, Nebr. 68840. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Bldg., 100 Centennial Mall, North Lincoln, Nebr. 68508.

No. MC 136080 (Sub-No. 3TA), filed July 15, 1977. Applicant: Elizabeth S. Lafoe and Bernie L. Lafoe, d.b.a. E. S. Lafoe, RFD 1, Box 167, North Ferrisburg, Vt. 05473. Applicant's representative: Elizabeth S. Lafoe (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (Bread, rolls, cakes, pies, coffeecakes, cookies, and other bakery products, such as holiday specials), between Burlington, Vt., on the one hand, and on the other, Manchester, N.H., under a continuing contract, or contracts, with Fassetts Bakery, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fassetts Bakery, Oakcrest Drive, Burlington, Vt. 05401. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 136343 (Sub-No. 116TA), filed July 18, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail feed stores and equipment, materials and supplies used in the conduct of such business (except commodities in bulk), between the facilities of Weis Markets, Inc. located at Sunbury, Northumberland and Milton, Pa. (all in Northumberland County), on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Virginia, and West Virginia, restricted to traffic originating at named origins and destined to named destinations.

No. MC 140379 (Sub-No. 4TA), filed July 20, 1977. Applicant: TRANSPORT SERVICE, INC., 999 Pontiac Ave., Cranston, R.I. 02920. Applicant's representative: Jeffrey A. Vogelman, Suite 400, Overlook Building, 6162 Lincolnia Rd., Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hot rolled steel sheets and coils, hot rolled steel bands, cold rolled steel sheets and coils, black plate in coils, and wire and rod*, from Chicago, Ill., Warren, Youngstown, and Steubenville, Ohio, Wheeling, W. Va., Sharon, Pittsburgh, Johnstown, and Fairless, Pa., and Sparrows Point, Md., to the facilities of Newman-Crosby Steel, Inc. at Pawtucket, R.I. (2) *Cold rolled steel strip, band steel, flat wire, and straight and cut steel lengths*, from the facilities of Newman-Crosby Steel, Inc., at Pawtucket, R.I., to points in Georgia, Illinois, Indiana, Kentucky, Michigan, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract, or contracts, with Newman-Crosby Steel, Inc. of Pawtucket, R.I., for 180 days. Supporting shipper: Newman-Crosby Steel, Inc., 10 Dean St., Pawtucket, R.I. 02861. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset St., Rm. 102, Providence, R.I. 02903.

No. MC 140819 (Sub-No. 1TA), filed July 15, 1977. Applicant: DORSEY LaBEAN, JR., d.b.a. SABER TRANSPORT, 3461 South Main Road, Standish, Mich. 48658. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Products of Franklin Forge Manufacturing, Incorporated*, from its plantsites at or near West Branch, Mich., to Crowley, La., and Gainesville and Nacogdoches, Tex., restricted to transportation performed under a continuing contract, or contracts, with Franklin Forge Manufacturing, Incorporated, at West Branch, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Franklin Forge Manufacturing Incorporated, West Branch, Mich. 48661. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 142059 (Sub-No. 9TA), filed July 18, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Applicant's representative: Jack Riley, Cardinal Transport, Inc., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except in bulk and those which because of size or weight require specialized transportation equipment), from Alumax Mill Products, Inc., near Morris, Ill., to Eufaula, Alabama; Hialeah, Jacksonville, Miami, Ocala, St. Petersburg and Tampa, Fla.; Peachtree City and Waynesboro, Ga.; Baton Rouge, La.; Como and McComb, Miss.; Reidsville, Roxboro, Charlotte, and Greensboro, N.C.; Greenville, S.C.; Lebanon, Nashville, Paris, and Sparta, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alumax Mill Products, Inc. 5555 East Highway 6, Morris, Ill. 60450. Send protests to: Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Room 1386, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 143374TA (Correction), filed June 13, 1977, published in the FEDERAL REGISTER issue of July 6, 1977, and republished as corrected this issue. Applicant: DENNIS J. DURBIN, doing business as DURBIN TRANSPORT, 12400 Goodhill Rd., Wheaton, Md. 20906. Applicant's representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, Va. 22030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement*, in bags, from the plant sites of Meduca Cement Co., at York, Pa., and Martin Marietta Corp. at Martinsburg, W. Va., to Washington, D.C., and its commercial zone; and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; and Fauquier, Loudoun, Prince William, and Stafford Counties, Va. (2) *Cement*, in bags, from the plant site of Riverton Lime and Cement Co., at Riverton, Va., to Washington, D.C., and its commercial zone, and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md. (3) *Bricks*, from the plant site of Merrion Brick Co., at Manassas, Va., to Washington, D.C., and its commercial zone, and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md. (4) *Bricks*, from the plant site of Glen-Gery Corp. at York, Pa., to Washington, D.C., and its commercial zone; and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; and Fauquier, Loudoun, Prince William, and Stafford Counties, Va.

(5) *Bricks*, from Alexandria, Va., to points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery, and Prince Georges Counties, Md.; restricted to shipments having a prior movement by rail. (6) *Firebrick*, from the plant site Whitacre-Greer Fire-Proofing Co., at Waynesburg, Ohio; Flue Lining from the plant site of Kopp and Malvern Flue Lining Co., at Malvern, Ohio; and Concrete Lintels, from the plant site of York Lintel and Cast Sonte, Inc., at York, Pa., to Washington, D.C. and its commercial zone; and points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery and Prince Georges Counties, Md.; and Fauquier, Loudon, Prince William, and Stafford Counties, Va. (7) *Cement*, in bags, bricks, firebrick, flue linings, and concrete lintels, from the facilities of the Betco Block and Products, Inc., at Bethesda, and Gaithersburg, Md., to points in Fauquier, Loudon, Prince William and Stafford Counties, Va. Restricted to the performance of a transportation service under a continuing contract or contracts with Betco Block and Products, Inc., of Bethesda, Md., for 180 days. Supporting shipper: Betco Block & Products, Inc., 5400 Butler Rd., Bethesda, Md. 20016. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave. NW., Rm. 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423. The purpose of this republication is to indicate in part (1) the rest of the commodity description; (2) the correct spelling of Anne Arundel; (3) to indicate in part (4) that under a continuing contract or contracts should not follow Stafford Counties, Va.; and (4) to add parts (5), (6), and (7) to this publication which was previously omitted in error.

PASSENGER APPLICATION

No. MC 143439R (Sub-No. 1TA), filed July 14, 1977. Applicant: ATLANTIC SUBURBAN TRACTION COMPANY, 404 Devils Foot Rd., North Kingstown, R.I. 02852. Applicant's representative: Merle K. Peirce (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, and their baggage*, from the village of Wickford in the Town of North Kingstown, R.I., thence over Rhode Island Highway 102 to the junction of U.S. Highway 1 at or near Belleville, R.I., thence via U.S. Highway 1 to a junction with Main St., Wakefield, in the town of South Kingstown, thence via Main St. to a junction with Rhode Island Highway 108 to a junction with U.S. Highway 1, thence westerly via U.S. Highway 1 to a junction with Ward Ave. in the town of Westerly, thence via Ward, Narragansett, Dixon, and Railroad Avenues to Westerly Railroad Station, thence via Railroad, Canal, and High Streets to a junction with Connecticut Highway 2, thence in a northwesterly direction via Connecticut Highway 2 to the junction of Interstate Highway 95, thence via Interstate Highway 95 to the plant site of the Electric Boat Division Plant of General Dynamics of Corporation at Groton, Connecticut, and return over the same route, serving the communities of Wickford, Belleville, Wakefield, Charlestown, Quonochontaug, Dunns Corners, Westerly, R.I. and Pawcatuck, Connecticut, as origin and intermediate points of service in both directions, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Electric Boat Division, General Dynamics Corporation, Eastern Point Rd., Groton, Conn. 06340. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybossett St., Rm. 102, Providence, R.I. 02903.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22938 Filed 8-8-77;8:45 am]

[Notice No 99TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 5, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 63417 (Sub-No. 107TA), filed July 15, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plant and warehouse facilities of Midland Glass Company at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc., at or near Williamsburg, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Company, Inc., Cliffwood, N.J. 07721. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 106398 (Sub-No. 781TA), filed July 18, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull, 525 S. Main, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board*, from the plantsite of Johns-Manville Sales Corp., at or near Natchez, Mo., to points in Jasper, Newton, McDonald, Lawrence, Barry, Greene, Christian, Stone, Taney, Webster, Douglas, Ozark, Wright, Howell, Oregon, Carter, Ripley, Butler, Stoddard, Cape Girardeau Counties, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colo. 80217. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 114632 (Sub-No. 117TA), filed July 14, 1977. Applicant: APPLE LINES, INC., 212 SW. Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Kansas City, Mo., to the State of New York (representative points are Falconer, Buffalo, Rochester, Elmira, and Liverpool), Vincennes, Ind., Columbus, Ohio, and Greensburg and York, Pa., for 180 days. Supporting shipper: Centropolis Warehouse, Inc., 8201 E. 23rd St., Kansas City, Mo. 64129. Willard L. Friedly, Assistant General Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 115162 (Sub-No. 375TA), filed July 19, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils*, in packages, from the plantsite and warehouses of Mobil Oil Corporation located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico, and Oklahoma, (2) *empty containers*, from points in Arkansas, Louisian, New Mexico, and Oklahoma to Port Arthur, Tex., for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 North Central Expressway, Campbell Centre, 522, Dallas, Tex. 75206. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 119789 (Sub-No. 362TA), filed July 18, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P. O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines and chemicals* (except in bulk), from Dayton, Ohio, and Elkhart, Ind., to Arizona, California, Colorado, Florida, Georgia, Missouri, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, for 180 days. Supporting shipper(s): Miles Laboratories, Inc., 1127 Myrtle Street, Elkhart, Ind. 46514. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 126672 (Sub-No. 5TA), filed July 18, 1977. Applicant: JOHN N. BROCKLESBY TRANSPORT LIMITED, 11175 Parkway Blvd., Montreal, Quebec, Canada H1J 1S2. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, and in bags, from all Quebec-USA border points to points in Connecticut, Rhode Island, and Massachusetts, originating at the facilities of Independent Cement, Inc., and St. Lawrence Cement Co., in the Province of Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Independent Cement Corporation, 65 William Street, Wellesley Office Park, Wellesley, Mass. 02181. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P. O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 126276 (Sub-No. 6TA), filed July 18, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from the facilities of The Continental Group, Inc., at or near Ponca City, Okla., to Chicago, Ill., under a continuing contract or contracts with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 5601 W. 65th Street, Chicago, Ill. 60638. Send protests to: P. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 127283 (Sub-No. 13TA), filed July 19, 1977. Applicant: SILICA SAND TRANSPORT, INC., Box 212, Rts. 47 and 71, Yorksville, Ill. 60560. Applicant's representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, in tank vehicles, from (1) Calhoun, Ga., to Ringwood, Ill., and (2) from Greenville, Tenn., to Ringwood, Ill.; applicant will not tack authority or interline with another carrier, under a continuing contract, or contracts, with Motor Chemical Company, Division of Morton Norwich Products, Inc., for 180 days. Supporting shipper: Motor Chemical Company, Division of Morton Norwich Products, Inc., 110 North Wacker Drive, Chicago, Ill.

60606. Send protest to: P. Roscoe, Interstate Commerce Commission, 219 South Dearborn Street, Everett McKinley Dirksen Building, Room 1386, Chicago, Ill. 60604.

No. MC 128246 (Sub-No. 20TA), filed July 22, 1977. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, Calif. 95076. Applicant's representative: Michael P. Groom, 500 The Swenson Bldg., 777 No. 1st St., San Jose, Calif. 95112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, and meat by-products and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Clovis, N. Mex., to points in the State of Arizona, California, and Nevada, under a continuing contract with Swift Fresh Meats Company, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Fresh Meats Company, A Division of Swift & Company, 115 West Jackson Blvd., Chicago, Ill. 60604. Send protests to: District Supervisor Claud W. Reeves, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 129078 (Sub-No. 17TA), filed July 19, 1977. Applicant: Reinhart Mayer, d.b.a. MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58401. Applicant's representative: Gene J. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slate, stone and rock*, from the Kendall Slate Quarry near Hill City, S. Dak., and from the Hugo Mine facility at or near Keystone S. Dak., to Bismarck, N. Dak., Detroit Lakes, Minn., and the facilities of Kendall Stone Supply at or near Jamestown, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kendall Stone Supply, Route 3, Jamestown, N. Dak., 58401. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 135170 (Sub-No. 23TA), filed July 18, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and metal products*, from Federalsburg, Md., to points in Delaware, Florida, Georgia, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia and West Virginia, under a continuing contract or contracts with Maryland Plastics, Inc., for 180 days. Supporting shipper: Mr. Allen Penrod, President, Maryland Plastics, Inc., 251 E. Central Ave., Federalsburg, Md. 21632. Send protests to: Mr. William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 136035 (Sub-No. 10TA), filed July 19, 1977. Applicant: W. S. DUNNING & SON, INC., 131 D. South Balmar Street, West Chester, Pa. 19380. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Louisville, Ky., to points in New York, Massachusetts, New Jersey, Pennsylvania, Maryland, Michigan, Ohio, Indiana, Tennessee, Georgia, Alabama, Florida, Louisiana, Texas, North Carolina, Illinois, Arkansas, Mississippi and Missouri, under a continuing contract, or contracts, with Paramount Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Paramount Foods, Inc., 2800 Fern Valley Road, Louisville, Ky. 40213. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commisson, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 136899 (Sub-No. 24TA), filed July 22, 1977. Applicant: HIGGINS TRANSPORTATION LTD., 1165 E. Haseltine Street, P.O. Box 192, Richland Center, Wis. 53581. Applicant's representative: Wayne W. Wilson, 329 W. Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, (1) from Middleton, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Missouri; and (2) between Council Bluffs, Iowa and Middleton, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Future Foam, Inc., 400 North 10th Street, Council Bluffs, Iowa 51501. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 138627 (Sub-No. 22TA), filed July 18, 1977. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* from the facilities of Dixie Wood Preserving Co., at or near Pine Bluff, Ark., to points in Iowa, Kansas, Minnesota, Nebraska, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dixie Wood Preserving Company, P.O. Box 7807, Pine Bluff, Ark. 71611. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 139495 (Sub-No. 350TA), filed July 18, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from the plantsite of Fibreboard Corporation at Fruita, Colo., to points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, and Texas, for 180 days. Supporting shipper(s): Fibreboard Corporation, 55 Francisco Street, San Francisco, Calif. 94133. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kan. 67202.

No. MC 139543 (Sub-No. 2TA), filed July 22, 1977. Applicant: MOLASSES TRANSPORTERS, INC., 1865 No. Foster Drive, Baton Rouge, La. 70806. Applicant's representative: James R. Coxe, Jr., 1865 No. Foster Drive, Baton Rouge, La. 70806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and Emulsified asphalt*, in bulk, from Baton Rouge, La., to various points in Miss., under a continuing contract, or contracts, with Roadway International Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roadway International Corporation, 2116 North 4th Street, Baton Rouge, La. 70821. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 141138 (Sub-No. 7TA), filed July 19, 1977. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds and animal and poultry health products*, in auger type bulk-bag motor vehicles, from Beebe, Ark., to points in Missouri on and south of U.S. Highway 40, for 180 days. Supporting shipper: Ray J. Lunemann, General Production Manager, International Multifoods Corporation, 1200 Multifoods Bldg., Minneapolis, Minn. 55402. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142189 (Sub-No. 17TA), filed July 15, 1977. Applicant: C. M. Burns, d.b.a. WESTERN TRUCKING, 521 West Lincoln, Baker, Mont. 59313. Applicant's representative: C. M. Burns (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Riverton, Wyo., to points in Missouri and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana-Pacific Corporation, 1300 S. W. 5th Ave., Portland, Oreg. 97201. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Ave., North, Billings, Mont. 59101.

No. MC 142268 (Sub-No. 17TA), filed July 19, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R. R. No. 4, Harrow, Ontario, Canada NOR 1GO. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid corn syrup*, in bulk, in tank vehicles, from Chicago, Ill., to ports of entry on the International boundary line between the United States and Canada, located in Michigan and New York, destined to points in the Metropolitan Toronto, Ontario, Canada area for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clinton Corn Processing Company, Nelson E. Shineberger Assistant Traffic Manager, Clinton, Iowa, 52732. Send protests to: Erma W. Gray District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building, and U.S. Courthouse, 231 W. Lafayette, Bldg., Detroit, Mich. 48226.

No. MC 143059 (Sub-No. 2TA), filed July 18, 1977. Applicant: MERCER WATER & SEWER TRANSPORTATION CO., 1201 North Calhoun Street, P.O. Box 4474, Fort Worth, Tex. 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron pipe fittings*, from the plantsite of J. P. Ward Foundries, Inc. at or near Blossburg (Tioga County), Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. P. Ward Foundries, Inc., Blossburg, Pa. 16912. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 143328 (Sub-No. 1TA), filed July 15, 1977. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, Mont. 59801. Applicant's representative: David A. Sutherland, 1150 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Seattle, Wash., to points in Arizona, Colorado, New Mexico, Nevada and Wyoming, and; (2) *empty containers*, from points in Arizona, Colorado, New Mexico, Nevada and Wyoming to Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rainier Brewing Company, 3100 Airport Way So. Seattle, Wash. 98134. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Avenue North, Billings, Mont. 59101.

No. MC 143503 (Sub-No. 2TA), filed July 20, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings and accessories*, between the facilities of Englander-Triangle, Inc., at or near Detroit, Mich., on the one hand, and, on the other Williams, Fulton, Lucas, Ottowa, Sandusky, Wood, Henry, and Defiance Counties, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suporting shipper(s): Englander-Triangle, Inc. 1310 Academy, Ferndale, Mich. 48220.

No. MC 143504 (Sub-No. 1TA), filed July 20, 1977. Applicant: Vernon Campbell, d.b.a., CAMPBELL TRUCKING, P.O. Box 234, Preston, Iowa 52069. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural concrete products*, from Maquoketa, Iowa, to points in Wisconsin, restricted to transportation service provided under a continuing contract, or contracts, with F & W Sales, Inc., of Maquoketa, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): F & W Sales, Inc., P.O. Box 545, Salem, S. Dak. 57058. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143505 (Sub-No. 1TA), filed July 21, 1977. Applicant: KOMMER BULK FEED SERVICES, INC., 171 Stafford Road, Palmyra, N.Y. 14522. Applicant's representative: Charles A. Schiano, One East Main Street, 500 Wilder Bldg., Rochester, N.Y. 14614. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried brewers grain and by-products* of the Brewing Industry, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ames Burns Company, 701-3 Hotel Jamestown Bldg., Jamestown, N.Y. 14701. Co-op Feed Dealers, Inc., P.O. Box 670, Binghamton, N.Y. 13902. Genesee Brewing Co., Inc., 445 St. Paul Street, Rochester, N.Y. 14605. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 South Clinton Street, Syracuse, N.Y. 13202.

No. MC 14314TA, filed July 14, 1977. Applicant: Robert L. and Wanda S. Welborn, d.b.a. ORIENT EXPRESS, 4322 W. Greenway Road, Glendale, Ariz. 85306. Applicant's representative: Wanda S. Welborn 4322 W. Greenway Road, Glendale, Ariz. 85306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, frozen prepared foods, frozen juices and fresh meats*, when moving in the above shown commodities in mechanical temperature controlled vehicles, between Los Angeles County, Calif., and Phoenix, Ariz., under a continuing contract, or contracts, with Virg Davidson Chudacoff Kol Pak of Arizona, Div., of International Food Service, for 180 days. Supporting shipper(s): Virg Davidson Chudacoff Kol Pak of Arizona, Div., of International Food Service, 2436 W. Lincoln, Phoenix, Ariz. 85009. Send protests to: Andrew V. Baylor District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, Ariz 85025

Passenger Application

No. MC 1515 (Sub-No. 234TA), filed July 19, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in one-way and round-trip special operations; Route No. 1. Between Sun City, Ariz., and the junction of Dysart Road and U.S. Highway 80 serving all intermediate points: From Sun City over 111th Avenue to Olive Avenue, thence over Olive Avenue to Dysart Road, thence over Dysart Road to junction U.S. Highway 80 and return over the same route. Route No. 2. Between Glendale, Ariz., and the junction of Glendale Avenue and Dysart Road serving all intermediate points: From Glendale, Ariz., over 67th Avenue to Glendale Avenue, thence over Glendale Avenue to junction Dysart Road and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Lou Ann Morgan, Greyhound Ticket Agent, 7044 Carol Ann Way, Peoria, Ariz. 85345. (2) Joseph Byron Wilson, 10933 Sequoia Dr., Sun City, Ariz. 85351. (3) Herbert F. Koehn, 10937 Sequoia Dr., Sun City, Ariz. 85351. (4) Ken Morgan, Jr., Ken's Pharmacy, 4834 W Frier, Glendale, Ariz. 85351. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Bldg., 330 N. First Ave., Phoenix, Ariz. 85025.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 77-22940 Filed 8-8-77;8:45 am]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order. At a session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its offices in Washington, D.C., on the 29th day of July 1977.

It appearing, that a petition has been filed by R. O. Wetz Transportation, Inc. (MC-31438 and various subs), and Hub Freight Systems, Inc. (MC-136728 and Sub 1), under temporary common control, for waiver of paragraph (a)(3) and (c) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), concerning equipment leased between petitioners;

It further appearing, that petitioners maintain a jointly supervised program applying the same standards of inspection maintenance to equipment in accordance with the motor carrier safety regulations of the Department of Transportation;

It further appearing, that the Department offers no objections to granting the petition;

It further appearing, that no enforcement action is pending involving the fitness of petitioners;

It is ordered, That waiver of paragraphs (a)(3) and (c) of § 1057.4 be, and it is hereby granted: *Provided,* That the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the Department of Transportation and that the petitioners remain in satisfactory compliance with these regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Burns, Turkington, and Sibbald.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-22942 Filed 8-8-77;8:45 am]

[Docket Nos. 36325, etc.]

RADIOACTIVE MATERIALS, SPECIAL TRAINS SERVICE, NATIONWIDE

August 3, 1977.

In the matter of Docket No. 36325, Radioactive Materials, Special Trains Service, Nationwide; Docket No. 36307, Radioactive Materials, Missouri-Kansas-Texas Railroad Co., Docket No. 36312, U.S. Energy Research and Development Administration v. the Akron, Canton & Youngstown Railroad Co., et al.; Docket No. 36313, Allied-General Nuclear Services, et al. v. the Akron, Canton & Youngstown Railroad Co., et al.; Docket No. 36330, GPU Service Corp., et al. v. the Akron, Canton & Youngstown Railroad Co. et. al.; Docket No. 36335, Commonwealth Edison Co. et. al. v. the Akron, Canton & Youngstown Railroad Co., et. al.; Docket No. 36336, General Electric Co. v. the Akron, Canton & Youngstown Railroad Co. et. al.

The Interstate Commerce Commission hereby gives notice that its section of Energy and Environment has prepared a final environmental impact statement for the above-entitled proceedings. An advanced copy of this statement has today been made avialable to the administrative law judge to whom these cases have been assigned. Another advanced copy has also been placed in the public docket in Docket No. 36325 and is available for public inspection in Room 1221 of the Interstate Commerce Commission Building in Washington, D.C. When the final impact statement has been printed, copies will be served on all parties to the proceedings as well as agencies and organizations which commented on the draft statement.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-22943 Filed 8-8-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, August 11, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes—July 28, 1977.
III. Advisory opinions: AD 1977-29 (Memorandum No. 1412).
IV. Appropriations and budget—Budget Execution Report.
V. Pending legislation.
VI. Liaison with other Federal agencies.
VII. Report on pending litigation.
VIII. Promotion procedures/agency position descriptions (if not concluded at meeting of August 8, 1977).
IX. Routine administrative matters.

Portions closed to the public (Executive Session):

F.O.I.A. appeals (if not concluded at meeting of August 8).
Compliance matters.
Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1063-77 Filed 8-4-77;1:30 pm]

2

FEDERAL POWER COMMISSION.

TIME AND DATE: August 11, 1977, 1:30 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone: 202-275-4166.

This is a list of the matter to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

Power Agenda, 7653rd Meeting, August 11, 1977, Regular Meeting, Part I (1:30 p.m.)

P-1.—Docket No. E-7734, Mid-Continent Area Power Pool Agreement.
P-2.—Docket No. E-8176, Southern California Edison Company.
P-3.—Docket No. E-9571, Potomac Edison Company.
P-4.—Docket Nos. ER77-102 and ER77-277, Pennsylvania Power Company.
P-5.—Docket No. ER76-320, Connecticut Light and Power Company.
P-6.—Docket No. ER77-388, Superior District Power Company.
P-7.—Docket No. ER77-489, El Paso Electric Company.
P-8.—Docket No. ER76-533, Central Vermont Public Service Corporation.
P-9.—Project Nos. 233, 2106, 2155, California, Pacific Gas and Electric Company.
P-10.—Project No. 362, Minnesota Ford Motor Company.
P-11.—Hydroelectric development in their area.
M-1.—Docket No. R-417, Disposal of Interests in Project Lands, and Applications for Certain Uses of Project Property Requiring Commission Approval.
M-2.—Docket No. RM75-16, Electric Utility Questionnaire on Plans and Costs for Meeting Current Air Pollution Standards.
M-3.—Docket No. RM76-20, Reports of Industrial Generation of Electric Energy and Electric Generating Capacity—New FPC Form No. 160.
M-4.—Docket No. RM76-21, Annual Report of Power System Transmission and Distribution Technical Data—New FPC Form No. 157.
M-5.—Docket No. RM76-23, Report on Retail Electric Bills and Rate Changes—New FPC Form No. 159.
M-6.—Docket No. RM76-25, Financial Report for Municipal Electric Utilities and Federal Projects—New FPC Form No. 164.
M-7.—Docket No. RM76-30, Corporate and Financial Report for Class C and Class D Electric Utilities and Licensees—New Form No. 163.
M-8.—Docket No. RM76-31, Annual Report of Power System Energy Accounting, Peak Demands, and Intersystem Purchased and Sales—New FPC Form No. 158.
M-9.—Docket No. RM76-32, Report of Generating Plant, Technical Environmental and Operating Data—New Form No. 156.
M-10.—Docket No. RM76-34, Corporate and Financial Reports for Class A and B Electric Utilities and Licensees—New Form No. 162A and 162M.
M-11.—Docket No. RM77-2, Petition of Certain Electric Utilities for Amendment of Form 423.
M-12.—Docket No. RM77-9, Promulgation of Rules and Regulations for the Filing of Federal Rate Schedules.
M-13.—Docket No. RM77-18, Change in Procedure Concerning Applications Under Part I of the Federal Power Act.
M-14.—Docket No. RM77-19, Residential Electric Bill Data for United States Bureau of Labor Statistics FPG Form No. 3-P.
M-15.—Docket No. RM77-24, Filing of Rate Schedules.

Power Agenda, 7653rd Meeting, August 11, 1977, Regular Meeting, Part II

CP-1.—Docket Nos. ER77-427 and ER77-473, Minnesota Power and Light Company, Superior Water, Light and Power Company.
CP-2.—Docket No. E-9572, *Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc. v. Arizona Public Service Company.*
CP-3.—Docket No. ER77-480, Montaup Electric Company.
CP-4.—Docket No. ER77-464, Public Service Company of New Mexico.
CP-5.—Docket No. DA-506—Colorado U.S. Geological Survey Lands Withdrawn in Power Site Classification Nos. 219 and 357.
CP-6.—Docket No. ER77-238, Public Service Company of Oklahoma.
CP-7.—Bureau of Land Management, Boise Meridian, Idaho (I-13221).
CP-8.—Bureau of Land Management, Mount Diablo Meredian, California (CA-4256).
CP-9.—Docket No. ER77-223, Bangor Hydro-Electric Company.
CP-10.—Docket No. ER77-292, Kansas Power and Light Company.

Miscellaneous Agenda, 7653rd Meeting, August 11, 1977, Regular Meeting, Part II

CM-1.—Central Hudson Gas and Electric Corporation.
CM-2.—Northern States Power Company.
CM-3.—Mississippi Power & Light Company.
CM-4.—Commission Minutes.

[S-1064-77 Filed 7-4-77;1:30 pm]

3

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 3, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Draft of Tentative Decision Concerning the Officer of the Commission's Proposal to Institute Presort Requirements for Bulk Regular Rate Third-Class Mail, Docket No. MC763-3.

By recorded vote the Commission has determine that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Office, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone: 202–254–5614.

[S–1065–77 Filed 8–4–77:3:31 pm]

4

TENNESSEE VALEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, August 11, 1977.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

SATUS: Open.

MATTERS TO BE CONSIDERED:

A—Personnel Actions

1. Resolution relating to recommendations resulting from mediation proceedings of the Twenty-Sixth Annual Salary Negotiations—1977.

B—Consulting and Personal Service Contracts

1. Renewal of personal service contract with Nuclear Services Corporation, Campbell, California—Office of Engineering Design and Construction.

C—Purchase Awards

1. Req. No. 145410—Number 2 diesel fuel oil for Johnsonville and Colbert Steam Plants.
2. Req. No. 535531—Indefinite quantity term contract for crushed stone, filter material and riprap for Hartsville Nuclear Plant.
3. Req. No. 821594—Indefinite quantity term contract for fittings, pipe, flanges, tubing, and accessories for Watts Bar and Bellefonte Nuclear Plants.
4. Req. No. 820557 (Reissue)—480-volt motor control centers for Hartsville and proposed Phipps Bend Nuclear Plants.
5. Req. No. 820750—Butterfly valves for Hartsville and Phipps Bend Nuclear Plants.
6. Req. No. 551274—Tractor-Scraper for construction pool equipment, Muscle Shoals, Alabama.
7. Req. No. 820592—480-volt switchgear and transformers for Hartsville and Phipps Bend Nuclear Plants.
8. Req. No. 822339—Indefinite quantity term contract for steel roof decking and accessories for any TVA project or warehouse.
9. Req. No. 144601—Spindle blading for Shawnee Steam Plant.
10. Req. No. 822980—Repair of cooling towers for Browns Ferry Nuclear Plant.
11. Amendment to Contract No. 75X5–57633–1 with General Electric Supply Company, Chattanooga, Tennessee, for conduit fittings and accessories for any TVA project or warehouse.

D—Project Authorizations

1. No. 3257—Flume rehabilitation at Ocoee No. 2 hydro plant.
2. No. 3258—Replace four feedwater heaters at Cumberland Steam Plant.

E—Fertilizer Items

None.

F—Power Items

1. Application for renewal of Access Permit No. 2748 for restricted isotope separation data.
2. Interagency agreement between TVA and the Energy Research and Development Administration (ERDA) for fluidized combustion demonstration plant.
3. Lease-purchase and amendatory agreement with Olin Corporation covering arrangements for 161–kV delivery at TVA's Charleston, Tennessee, 161–kV substation.
4. New power contract with Tennessee River Pulp & Paper Company, Counce, Tennessee.

G—Real Property Transactions

1. Resolution relating to sale of permanent easement for a coal loading barge terminal, affecting approximately 1.25 acres of Melton Hill Reservoir land—Tract No. XMHR–401E.
2. Resolution relating to grant of permanent easement to the city of Sheffield, Alabama, affecting approximately 44 acres of Muscle Shoals Reservation land—Tract XT2NPT–8E.
3. Resolution relating to reconveyance to TVA of public park land on Douglas Reservoir from the town of Dandridge, Tenn.
4. Filing of condemnation suits.

H—Unclassified

1. Resolution relating to settlement agreement with Island Creek Coal Sales Company in connection with alleged breach of contract.

Following the formal meeting, the Board will hold the preliminary discussion in its quarterly power system financial review. The Board will complete its quarterly review on Thursday, August 25, at 10:30 a.m. in Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

Dated: August 4, 1977.

CONTACT PERSON FOR MORE INFORMATION:

John Van Hol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call: 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–343–4537.

[S–1066–77 Filed 8–4–77;4:37 am]

federal register

TUESDAY, AUGUST 9, 1977

PART II



DEPARTMENT OF LABOR

Employment and Training Administration

TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

Income Levels to be Used for Participant Eligibility Determination

DEPARTMENT OF LABOR

Employment and Training Administration

[Field Memorandum No. 296–77]

TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

Income Levels To Be Used for Participant Eligibility Determination

Notice is hereby given that the Department of Labor, Employment and Training Administration has provided prime sponsors under the Comprehensive Employment and Training Act (CETA) of 1973, as amended, with income levels to be used for determining the eligibility of persons applying for certain public service jobs under title VI.

The text of Field Memorandum No. 269–77 is published here to inform all interested parties of the criteria that prime sponsors will use to certify individuals applying for certain public service employment as eligible.

Directive: Field Memorandum No. 269–77.

To: All Regional Administrators.

From: Floyd E. Edwards, Administrator, Field Operations.

Subject: Lower Living Standard Income Level for CETA Title VI.

1. *Purpose.* To provide updated maximum income levels which are 70 percent of the "lower living standard income level" to be used by prime sponsors for determining the eligibility of persons applying for certain public service jobs under title VI of CETA.

2. *Reference.* Regulations sections 94.4(ss), 94.4(nn), 99.40(b), and 96.42(a) of 29 CFR Parts 94, 96, and 99, ET Handbook 311, Standard Metropolitan Statistical Areas 1975, revised.

3. *Background.* Section 608 of the Emergency Jobs Extension Act requires that the total annual family income of persons applying for certain public service jobs be equal to or less than 70 percent of the lower living standard budget published by the Bureau of Labor Statistics (BLS). It also requires that these income levels be " * * * adjusted for regional and metropolitan and urban and rural differences and family size.* * * " The BLS provided ETA with:

An average lower level budget for an urban family in the United States and each of the four census geographic regions (Northeast, North Central, South, and West) into which the United States is divided;

An average lower level budget for metropolitan and non-metropolitan urban areas in both the U.S. and each of the four census geographic regions; and

An average lower level budget for 40 specific metropolitan areas.

The size of the four regions into which the United States is divided is so large that it is impossible to accurately reflect cost of living differentials within each of the regions. Further, the availability of information for only 40 specific metropolitan areas within these four regions compounded the difficulties of treating all prime sponsors equitably. Accordingly, the available data were used to provide prime sponsors with eligibility income levels which best approximate the cost of living in their areas.

4. *Lower living standard income levels.* Attachment I contains a listing of all prime sponsors and the updated income level(s) to be used for determining the eligibility of persons from four-person families who are applying for certain public service jobs under title VI. The four-person family eligibility income level provided is equal to 70 percent of the appropriate lower living standard income level and in all cases is the highest eligibility level possible for the geographic area in question. These levels are greater than the levels previously provided in Field Memorandum No. 75–77. They have been updated to reflect changes in prices and personal taxes between autumns 1975 and 1976. Where the prime sponsor's jurisdiction contains, or is in its entirety, a metropolitan area, an eligibility income level for metropolitan areas is provided in Attachment I. Where the prime sponsor's jurisdiction contains, or is in its entirety, a non-metropolitan area, an eligibility income level for non-metropolitan area is supplied.

(a) *Metropolitan areas* of 50,000 or more population are urban places as defined in either the 1970 Census of Population or subsequent census updates. All jurisdictions within Standard Metropolitan Statistical Areas (SMSA), regardless of size, are considered metropolitan areas. For a listing of jurisdictions in SMSA's, consult the 1975 edition of Standard Metropolitan Statistical Areas. Title VI prime sponsors and program agents which are cities, villages, or towns are, because of their population size, also are considered to be metropolitan areas. Where specific eligibility income levels for one of the 40 metropolitan areas for which data are available are greater than the average eligibility levels for all metropolitan areas in the region, the specific metropolitan area levels which are contained in Attachment I are to be applied to all residents of the specific metropolitan area. Where eligibility income levels for any of the 40 specific metropolitan areas are less than the average of all eligibility income levels for metropolitan areas in the region, the higher regional levels which are contained in Attachment I are to be applied.

(b) *Non-metropolitan and rural areas* are places with less than 50,000 persons which are outside SMSA's. The income levels provided in Attachment I for these areas are the non-metropolitan area levels for the appropriate census region. Since data are not available for rural areas, the higher non-metropolitan income levels will be used in these areas.

(c) *Consortium prime sponsors.* Where a member of a consortium is partially located within a specific metropolitan area which has an eligibility income level greater than the eligibility income level for metropolitan areas in the region, all metropolitan areas within the consortium prime sponsor's jurisdiction may use the higher specific metropolitan area level supplied in Attachment I. The eligibility income levels supplied in Attachment I for non-metropolitan areas in the region will be applied to all non-metropolitan and rural areas in the consortium.

(d) *Balance of State prime sponsors.* Where parts of balance of State prime sponsors are located within a specific metropolitan area which has eligibility income levels greater than the eligibility income levels for metropolitan areas in the region, the higher level must be used for only those jurisdictions located within the specific areas identified in Attachment I. Other jurisdictions will use, as appropriate, the eligibility income levels for either metropolitan areas or non-metropolitan areas in the region.

(e) *Puerto Rico, Virgin Islands, American Samoa, Guam, and the Trust Territories of the Pacific.* No information is available for these areas. The metropolitan and non-metropolitan levels supplied in Attachment I for prime sponsors, other than Guam and the Virgin Islands, are those provided for the South region, the lowest of the four regional levels. The level supplied for Guam is the non-metropolitan level for Hawaii. The level supplied for Virgin Islands is the non-metropolitan level for the Northeast.

5. *Adjustments for varying family size.* Attachment II contains adjustments to be made to four-person family eligibility income levels for family sizes up to six persons. For families larger than six persons, an amount equal to the difference between the six- and five-person family eligibility income levels should be added to the six-person family eligibility income level for each additional person in a family.

6. *Relationship to poverty level.* Where the appropriate poverty level for a particular family size is greater than the level contained in Attachment II, prime sponsors shall use the poverty level for eligibility determinations.

7. *Annualization of family income.* In computing a person's income level for title VI, the prime sponsor is to annualize the applicant's family income based on the 3 months preceding application. However, in instances where it is distorted by seasonal factors such as seasonal unemployment (e.g., teachers), summer employment for youth, or employment in the last three-months which is unrepresentative of the previous 12-month period, the prime sponsor is to total all family income received during the twelve months prior to application.

8. *Inclusion and exclusion in annual family incomes.* When recording family income, the inclusions and exclusions are the same as those contained on pages VI–3, through VI–5 of the CETA Forms Preparation Handbook (ET Handbook 311).

9. *Action required.* RAs are to provide prime sponsors with the appropriate updated levels to be used for participant eligibility determinations in metropolitan and non-metropolitan areas within their jurisdictions. These updated levels are effective immediately.

10. *Inquiries.* Questions should be directed to either Hugh S. Davies or Jack Rapport on 8–376–7006.

11. *Attachments.* (RA's only.)

Signed at Washington, D.C., this 5th day of July 1977.

PIERCE A. QUINLAN,
Administrator, Office of Comprehensive Employment Development.

ATTACHMENT I

SEVENTY PERCENT OF LOWER LIVING STANDARD INCOME LEVEL FOUR PERSON FAMILY

PRIME SPONSOR	METROPOLITAN AREAS		NON-METROPOLITAN AREAS
REGION I			
BRIDGEPORT CONSORTIUM	$7400		
HARTFORD CONSORTIUM	7420		
NEW HAVEN CONSORTIUM	7400		
STAMFORD CONSORTIUM	7400		
WATERBURY CITY	7400		
BALANCE OF CONNECTICUT	Hartford SMSA 7420 Other Metro. Areas 7400		
PENOBSCOT/KENNEBEC CSRT			6910
CUMBERLAND COUNTY	7400		6910
BALANCE OF MAINE	7400		6910
KENNEBEC CO			6910
BOSTON CITY	7770		
EPMDA CONSORTIUM	7770		
NEW BEDFORD CONSORTIUM	7400		6910
HAMPDEN COUNTY CONSORTIUM	7400		6910
WORCESTER CONSORTIUM	7400		6910
LOWELL CONSORTIUM	7770		6910
BROCKTON CONSORTIUM	7770		6910
BALANCE OF MASSACHUSETTS	Boston SMSA 7770 Other Metro. Areas 7400		6910
ROCKINGHAM/STRAFFORD CSRT	7400		6910
HILLSBOROUGH COUNTY	7400		6910
BALANCE OF NEW HAMPSHIRE	7400		6910
PROVIDENCE CITY	7400		
BALANCE OF RHODE ISLAND	7400		6910
VERMONT STATEWIDE CSRT			6910

CHEMUNG COUNTY	7400	
CHENANGO COUNTY	7400	
ERIE CONSORTIUM	7400	
ROCHESTER CITY	7400	
MONROE COUNTY	7400	
NASSAU CONSORTIUM	7580	
NIAGARA COUNTY	7400	
ONEIDA COUNTY	7400	
BAL OF ONONDAGA COUNTY	7400	
ORANGE COUNTY		6910
OSWEGO COUNTY	7400	
RENSSELAER COUNTY	7400	
ROCKLAND COUNTY	7580	
ST. LAWRENCE COUNTY		6910
SARATOGA COUNTY	7400	
SCHENECTADY COUNTY	7400	
STEUBEN COUNTY		6910
SUFFOLK CONSORTIUM	7580	
SYRACUSE CITY	7400	
ULSTER COUNTY		6910
WESTCHESTER CONSORTIUM	7580	
YONKERS CITY	7580	
BALANCE OF NEW YORK	7400	6910
NEW YORK CITY	7580	
BAYAMON MUNICIPIO	6630	
CAGUAS MUNICIPIO	6630	
CAROLINA MUNICIPIO	6630	
MAYAGUEZ MUNICIPIO	6630	
PONCE MUNICIPIO	6630	
SAN JUAN CONSORTIUM	6630	
BALANCE OF PUERTO RICO	6630	6180
VIRGIN ISLANDS		6910
REGION III		
DELAWARE MANPOWER CSRT	6630	6180
WILMINGTON CITY	6630	
DISTRICT OF COLUMBIA	7460	
BALANCE OF MARYLAND	6630	6180
BALTIMORE CONSORTIUM	7200	
MONTGOMERY COUNTY	7460	
PRINCE GEORGES COUNTY	7460	
WESTERN MARYLAND CSRT		6180
LEHIGH VALLEY CONSORTIUM	7400	
LANCASTER CONSORTIUM	7400	6910
BUCKS COUNTY	7400	
CHESTER COUNTY	7400	
DELAWARE COUNTY	7400	
MONTGOMERY COUNTY	7400	
PHILADELPHIA CITY/COUNTY	7400	
BERKS COUNTY	7400	
BAL OF LACKAWANNA COUNTY	7400	

SCRANTON CITY	7400	
LUZERNE COUNTY	7400	
SCHUYLKILL CONSORTIUM	7400	6910
ERIE CITY	7400	
BAL OF ERIE COUNTY	7400	
BAL OF ALLEGHENY COUNTY	7400	
PITTSBURGH CITY	7400	
BEAVER COUNTY	7400	
WASHINGTON COUNTY	7400	
WESTMORELAND COUNTY	7400	
TRI-COUNTY CONSORTIUM		6910
FAYETTE COUNTY		6910
LAWRENCE COUNTY		6910
MERCER COUNTY CONSORTIUM		6910
SOUTHERN ALLEGANY CSRT	7400	6910
SUSQUEHANNA CONSORTIUM	7400	
YORK COUNTY	7400	
LYCOMING CONSORTIUM	7400	6910
FRANKLIN COUNTY		6910
BALANCE OF PENNSYLVANIA	7400	6910
CENTRE COUNTY		6910
NORTHUMBERLAND COUNTY		
PENINSULA CONSORTIUM	6630	
STARA CONSORTIUM	6630	6180
RALPS CONSORTIUM	6630	6180
HENRICO COUNTY CONSORTIUM	6630	
ROANOKE CONSORTIUM	6630	6180
ARLINGTON COUNTY	7460	
FAIRFAX COUNTY	7460	
PRINCE WILLIAM COUNTY	7460	
ALEXANDRIA CITY	7460	
BALANCE OF VIRGINIA	Wash,DC SMSA 7460 Other Metro Areas 6630	6180
WEST VIRGINIA STATEWIDE	6630	6180
REGION IV		
BALANCE OF ALABAMA	6630	6180
BIRMINGHAM CONSORTIUM	6630	
HUNTSVILLE CONSORTIUM	6630	
MOBILE CONSORTIUM	6630	6180
MONTGOMERY CONSORTIUM	6630	
TUSCALOOSA COUNTY	6630	
BALANCE OF FLORIDA	6630	6180
ALACHUA COUNTY	6630	
BREVARD COUNTY	6630	
BROWARD CONSORTIUM	6630	
MIAMI/DADE CONSORTIUM	6630	
ESCAMBIA COUNTY	6630	
HEARTLAND MANPOWER CRSRT	6630	6180
LEE COUNTY	6630	
LECR/GADSEP CONSORTIUM	6630	6180
NE FLORIDA MANPOWER CSRT	6630	

ORANGE COUNTY/ORLANDO CSR	6630	
MANATEE COUNTY		6180
PALM BEACH COUNTY	6630	
PASCO COUNTY	6630	
SEMINOLE COUNTY	6630	
ST. PETERSBURG CONSORTIUM	6630	
SARASOTA COUNTY	6630	
TAMPA CONSORTIUM	6630	
VOLUSIA COUNTY	6630	
BALANCE OF GEORGIA	6630	6180
CSRA CONSORTIUM	6630	6180
ATLANTA CITY	6630	
CLAYTON COUNTY	6630	
COBB COUNTY	6630	
COLUMBUS AREA CONSORTIUM	6630	
BAL OF DEKALB COUNTY	6630	
FULTON COUNTY	6630	
MID GEORGIA CONSORTIUM	6630	6180
SAVANNAH/CHATHAM CSRT	6630	
GWINNETT COUNTY	6630	
BLUE GRASS PLANNING CSRT	6630	6180
LOUISVILLE/JEFFERSON CSRT	6630	
KENTON COUNTY	6630	
BALANCE OF KENTUCKY	6630	6180
EASTRN KENTUCKY RURAL CEP		6180
BALANCE OF MISSISSIPPI	6630	6180
JACKSON CONSORTIUM	6630	
BALANCE OF NORTH C/ROLINA	6630	6180
ALAMANCE COUNTY	6630	
BUNCOMBE COUNTY	6630	
CUMBERLAND COUNTY	6630	
CHARLOTTE CITY	6630	
DURHAM CONSORTIUM	6720	
GASTON COUNTY	6630	
GREENSBORO CONSORTIUM	6630	
ONSLOW COUNTY		6180
RALEIGH CONSORTIUM	6720	6180
BAL OF WAKE COUNTY	6720	
WINSTON SALEM CONSORTIUM	6630	
DAVIDSON COUNTY	6630	
SOUTH CAROLINA STATEWIDE	6630	6180
BALANCE OF TENNESSEE	6630	6180
CHATTANOOGA CITY	6630	
MEMPHIS CONSORTIUM	6630	
BAL OF HAMILTON COUNTY	6630	
KNOXVILLE CONSERTIUM	6630	
NASHVILLE/DAVIDSONCNTY	6630	
SULLIVAN COUNTY	6630	
REGION V		
CHICAGO CITY	7270	
BAL OF COOK COUNTY	7270	
DUPAGE COUNTY	7270	

KANE CO CSRT	7270	6770
LAKE COUNTY	7270	
MACON COUNTY	7030	
MCHENRY COUNTY	7270	
ROCK ISLAND COUNTY	7030	
TAZEWELL COUNTY	7030	
LA SALLE COUNTY		6770
ROCKFORD CONSORTIUM	7030	
CHAMPAIGN CONSORTIUM	7320	6770
MILL COUNTY CONSORTIUM	7270	6770
SANGAMON COUNTY CSRT	7030	6770
MADISON COUNTY CONSORTIUM	7030	6770
ST. CLAIR CONSORTIUM	7030	6770
PEORIA CONSORTIUM	7030	
EAST ST. LOUIS CITY	7030	
SHAWNEE CONSORTIUM		6770
BALANCE OF ILLINOIS	7030	6770
DUPAGE COUNTY	7030	
GARY CITY	7270	
HAMMOND CITY	7270	
BAL OF LAKE COUNTY	7270	
ELKHART COUNTY		6770
SOUTH BEND CITY	7030	
BAL OF ST. JOSEPH COUNTY	7030	
TIPPECANOE COUNTY	7030	
MADISON COUNTY	7030	
VIGO COUNTY	7030	
INDIANAPOLIS CITY	7030	
LA PORTE COUNTY		6770
FT. WAYNE CONSORTIUM	7030	6770
DELAWARE CONSORTIUM	7030	6770
SOUTHWESTERN CONSORTIUM	7030	6770
BALANCE OF INDIANA	7030	6770
BALANCE OF MICHIGAN	7030	6770
FLINT/GENESSEE CONSORTIUM	7030	
LANSING CONSORTIUM	7030	
JACKSON CONSORTIUM	7030	6770
KENT CONSORTIUM	7030	6770
MUSKEGON CONSORTIUM	7030	
DEARBORN CITY	7030	
DETROIT CITY	7030	
LIVONIA CITY	7030	
WARREN CITY	7030	
BAY COUNTY	7030	
BERRIEN COUNTY		6770
CALHOUN COUNTY	7030	
KALAMAZOO COUNTY	7030	
BAL OF MACOMB COUNTY	7030	
MONROE COUNTY	7030	
OAKLAND COUNTY	7030	

OTTAWA COUNTY	7030	
SAGINAW COUNTY	7030	
ST. CLAIR COUNTY	7030	
BAL OF WAYNE COUNTY	7030	
ANN ARBOR CITY	7030	
BAL OF WASHTENAW COUNTY	7030	
DAKOTA COUNTY	7060	
BAL OF RAMSEY COUNTY	7060	
ST. PAUL CITY	7060	
QU/D COUNTIES CSRI	7060	
REGION III CONSORTIUM	7030	6770
DULUTH CITY	7030	
BALANCE OF MINNESOTA	7030	6770
MINNESOTA RURAL CEP		6770
BAL OF HENNEPIN COUNTY	7060	
MINNEAPOLIS CITY	7060	
CINCINNATI CITY	7030	
BUTLER COUNTY	7030	
CLARK COUNTY	7030	
BAL OF HAMILTON COUNTY	7030	
LORAIN COUNTY	7030	
AKRON CONSORTIUM	7030	
CANTON CONSORTIUM	7030	6770
CLEVELAND CONSORTIUM	7030	
COLUMBUS CONSORTIUM	7030	
MIAMI VALLEY CONSORTIUM	7030	
LICKING/DEL CONSORTIUM	7030	6770
TOLEDO CONSORTIUM	7030	
NORTH EAST OHIO MANPOWER	7030	6770
BALANCE OF OHIO	7030	6770
ALLEN COUNTY	7030	
GREENE COUNTY	7030	
CLERMONT COUNTY CSRT	7030	6770
LAKE/ASHTABULA CSRT	7030	6770
PORTAGE COUNTY	7030	
RICHLAND/MORROW CSRT	7030	6770
OUTAGAMIE COUNTY	7030	
ROCK COUNTY		6770
MILWAUKEE COUNTY	7210	
MADISON/DANE CONSORTIUM	7030	
WOW CONSORTIUM	7210	
WINNE/FOND CONSORTIUM	7030	6770
TRICO CETAC	7030	6770
BALANCE OF WISCONSIN	7030	6770
WISCONSIN NORTHWEST CEP		6770
MARATHON COUNTY		6770
REGION VI		
CENTRAL ARKANSAS CSRT	6330	6180
TEXARKANA	6630	
BALANCE OF ARKANSAS	6630	6180
RAPIDES PARISH	6630	

BATON ROUGE CITY	6630	
LAFAYETTE PARISH	6630	
CALCASIEU/SCIP CONSORTIUM	6630	6180
OUACHITA PARISH	6630	
NEW ORLEANS CITY	6630	
JEFFERSON PARISH	6630	
SHREVEPORT CITY	6630	
BALANCE OF LOUISIANA	6630	6180
ALBUQUERQUE CONSORTIUM	7230	
BALANCE OF NEW MEXICO	7230	7000
COMANCHE COUNTY	6630	
OKLAHOMA COUNTY	6630	
OKLAHOMA CITY CONSORTIUM	6630	6180
BAL OF CLEVELAND COUNTY	6630	
TULSA CONSORTIUM	6630	
BALANCE OF OKLAHOMA	6630	6180
TEXARKANA CONSORTIUM	6630	
TEX. PANHANDLE MANP. CSRT	6630	6180
CAP./AREA MANPOWERCSRT	6630	6180
S.E. TEXAS CONS. CSRT	6630	
PASADENA CITY	6630	
CALLEGH COUNTY	6630	
CO/STAL BEND MANP.CSRT	6630	6180
DALLAS CITY	6630	
BAL OF DALLAS COUNTY	6630	
LUBBOCK CITY	6630	
WEST CENTRAL TEXASCSRT.	6630	6180
EL PASO CONSORTIUM	6630	
FT. WORTH CONSORTIUM	6630	
BAL OF TARRANT COUNTY	6630	
GALVESTON COUNTY	6630	
HOUSTON CITY	6670	
BAL OF HARRIS COUNTY	6670	
CEN. TEXAS MANPOWER CSRI	6630	6180
HIDALGO COUNTY CONSORTIUM	6630	6180
ALAMO CONSORTIUM	6630	6180
REGION XI CONSORTIUM	6630	6180
NORTH TEXAS STATE CSRI	6630	6180
MFB COUNTY	6630	
BRAZORIA CONSORTIUM	6670	6180
BALANCE OF TEXAS	6630	6180
REGION VII		
BALANCE OF IOWA	7030	6770
BUCKHACK COUNTY	7030	
CEL. IOWA REGIONALCSRT	7030	6770
LINN COUNTY MANPOWER CSRI	7030	
SCOTT COUNTY	7030	
WOODBURY COUNTY	7030	
BALANCE OF KANSAS	7030	6770

		US DOL 6
KANSAS CITY CONSORTIUM	7030	
JOHNSON/LEA/VENTWORTH CSRT	7030	6770
WICHITA CITY	7030	
TOPEKA CONSORTIUM	7030	
BALANCE OF MISSOURI	7030	6770
SPRINGFIELD CITY	7030	
BAL OF JACKSON COUNTY	7030	
KANSAS CITY CONSORTIUM	7030	
JEFFERSON/FRANKLINCSRT	7030	
ST. LOUIS COUNTY	7030	
ST. LOUIS CITY	7030	
INDEPENDENCE CITY	7030	
ST. CHARLES COUNTY	7030	
BALANCE OF NEBRASKA	7030	6770
LINCOLN CITY	7030	
OMAHA CONSERTIUM	7030	
REGION VIII		
ADAMS COUNTY	7230	
ARAPAHOE COUNTY	7230	
BOULDER COUNTY	7230	
COLORADO SPRINGS CRST	7230	
DENVER CITY/COUNTY	7230	
JEFFERSON COUNTY	7230	
LARIMER COUNTY	7230	
PUEBLO COUNTY	7230	
WELD COUNTY	7230	
BALANCE OF COLORADO	7230	7000
BUTTE RURAL CEP		7000
BALANCE OF MONTANA	7230	7000
N. DAKOTA STATEWIDE CSRT	7030	6770
S. DAKOTA STATEWIDE CSRT	7030	6770
UTAH STATEWIDE CONSORTIUM	7230	7000
WYOMING STATEWIDE CSRT		7000
REGION IX		
BALANCE OF ARIZONA		7000
PHOENIX CITY	7230	
MARICOPA COUNTY	7230	
TUCSON/PIMA CONSORTIUM	7230	
BAL OF ALAMEDA COUNTY	7640	
BERKELEY CITY	7640	
BAL OF CONTRA COSTA CNTY	7640	
MARIN COUNTY	7640	
OAKLAND CITY	7640	
RICHMOLD CITY	7640	
SAN FRANCISCO CITY/COUNTY	7640	
SAN MATEO COUNTY	7640	
SOLOMA COUNTY	7230	
SANTA BARBARA COUNTY	7230	
GLENDALE CITY	7370	
LONG BEACH CITY	7370	

		US DOL 6
BAL OF LOS ANGELESCNTY	7370	
LOS ANGELES CITY	7370	
ORANGE CNTY MANPOWER CSRT	7230	
PASADENA CITY	7370	
TORRANCE CITY	7370	
VENTURA COUNTY	7230	
BALANCE OF CALIFORNIA	7230	7000
HUMBOLDT COUNTY		7000
SANTA CLARA VALLEY	7230	
SOLANO COUNTY	7230	
SUNNYVALE CITY	7230	
BUTTE COUNTY		7000
SACRAMENTO/YOLO CSRT	7230	
STOCKTON/S/N JOAQUIN CSRT	7230	
STANISLAUS COUNTY	7230	
MONTEREY COUNTY	7230	
SANTA CRUZ COUNTY	7230	
FRESNO CITY/COUNTY	7230	
IMPERIAL COUNTY		7000
KERN COUNTY	7230	
MERCED COUNTY		7000
INLAND MANPOWER ASSN	7230	
SAN LUIS OBISPO COUNTY		7000
TULARE/KINGS COUNTY		7000
SAN DIEGO REIC	7230	
HAWAII BAL OF STATE		8520
HONOLULU CITY/COUNTY	9000	
BALANCE OF NEVADA		7000
LAS VEGAS CONSERTIUM	7230	
WASHOE COUNTY	7230	
SAMOA		6180
GUAM		8520
PACIFIC ISLANDS		6180
REGION X		
MUNICIPALITY OF ANCHORAGE	11040	
BALANCE OF ALASKA		11040
IDAHO STATEWIDE CSRT	7230	7000
PORTLAND CITY	7230	
BAL OF CLACKAMAS COUNTY	7230	
LANE COUNTY	7230	
MULTNOMAH/WASHINGTON CSRT	7230	
MID WILLAMETTE VALLEY CSR	7230	7000
JACKSON COUNTY CONSORTIUM		7000
BALANCE OF OREGON		7000
SPOKANE CONSORTIUM	7230	
CLARK COUNTY	7230	
KING/SNOHOMISH CONSORTIUM	[redacted]7540	
KITSAP COUNTY		7000
TACOMA CITY	7230	
BAL OF PIERCE COUNTY	7230	
YAKIMA COUNTY	7230	
BALANCE OF WASHINGTON	7230	7000

ATTACHMENT II

Seventy Percent of Four Person Lower Living Standard Income Level	FAMILY SIZE 1	2	3	4	5	6
$11,540		$4,160	$6,810	$9,350	$11,540	$13,620	$15,930
$11,040		3,970	6,510	8,940	11,040	13,030	15,240
$ 8,900		3,200	5,250	7,210	8,900	10,500	12,280
$ 8,520		3,070	5,030	6,900	8,520	10,050	11,760
$ 7,770		2,800	4,590	6,300	7,770	9,170	10,730
$ 7,640		2,750	4,510	6,190	7,640	9,020	10,550
$ 7,580		2,730	4,470	6,140	7,580	8,950	10,470
$ 7,460		2,680	4,400	6,040	7,460	8,800	10,290
$ 7,420		2,670	4,380	6,010	7,420	8,760	10,240
$ 7,400		2,660	4,370	5,990	7,400	8,730	10,210
$ 7,390		2,660	4,360	5,990	7,390	8,730	10,200
$ 7,370		2,650	4,350	5,970	7,370	8,690	10,170
$ 7,270		2,620	4,290	5,890	7,270	8,570	10,030
$ 7,230		2,600	4,270	5,860	7,230	8,540	9,980
$ 7,210		2,600	4,260	5,840	7,210	8,510	9,960
$ 7,200		2,590	4,250	5,830	7,200	8,490	9,930
$ 7,060		2,540	4,170	5,720	7,060	8,338	9,740
$ 7,030		2,530	4,150	5,690	7,030	8,300	9,700
$ 7,000		2,520	4,130	5,670	7,000	3,270	9,670
$ 6,910		2,490	4,080	5,600	6,910	8,160	9,540
$ 6,770		2,440	3,990	5,480	6,770	7940	9,340
$ 6,720		2,420	3,960	5,440	6,720	7,930	9,270
$ 6,670		2,400	3,940	5,400	6,670	7,870	9,210
$ 6,630		2,390	3,910	5,370	6,630	7,820	9,150
$ 6,180		2,220	3,650	5,010	6,180	7,290	8,530
$ 7,540		2,720	4450	6,110	7,540	8,900	10,410

[FR Doc.77-22599 Filed 8-8-77;8:45 am]

federal register

TUESDAY, AUGUST 9, 1977

PART III

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 599]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of Cuba, and are published herewith.

Dated: July 29, 1977.

LARRY L. SNEAD,
Acting Director, Office of Fisheries Affairs.

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE _____ APPLICATION NO. _____
for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on _____,
date

the government (or competent authority) of CUBA

hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted May the 3th, 1977
Date

Signature of Authorized Official J. A. Varea.

FISHERY MINISTRY REPRESENTATIVE.
Title

CU-77-0001

Cuba
Escamero - 28
E-26 7803
Flota del Golfo
Calixto Garcia No. 111,
Regla, Ciudad Habana
Havana, Cuba
Longliner
26.51 25.77
16.00 4.57 1.83
150 6
1973
8 cubans
2 6
RADIO
E-28
2760
2638, 2182
Twice daily from 0600-0800 and 18:00-22:00 and eventually

9.2
Ice storage 1
None
West Fla. May- December Requiem Sharks (F. carcharinidae) 100.0 Longline

CU-77-0002

Cuba
Escamero - 28
E-32 2176
Flota del Golfo
Calixto Garcia No 111
Regla, Ciudad Habana
Havana - Cuba
Longliner
26.51 25.77
16.00 4.57 1.83
150 6
1973
8 cuban
2 6
RADIO
E-32
2760
2638, 2182
Twice daily from 0600-0800 and 18:00-22:00 and eventually

9.2
Ice storage 1
None
West Fla. May- December Requiem sharks (F.carcharinidae) 100.0 Longline

CU-77-0003

Cuba

Escamero - 55

E-55 2173

Flota del Golfo

Calixto García No. 111,

Regla, Ciudad Habana

Havana, Cuba

Longliner

26.51 25.77

16.00 4.57 1.83

150 6

8 cubans

2 6

RADIO

E-55

2760

2638, 2182

Twice daily from 0600-0800 and 18:00-22:00 and eventually.

9.2

Ice storage 1

None

West Fla.	MAY-December	Requiem Sharks (F. carcharinidae)	100.C	Longline

CU-77-0004

Cuba

Escamero - 83

E-83 2143

Flota del Golfo

Calixto García Nº 111,

Regla, Ciudad Habana

Havana, Cuba.

Longliner

26.51 25.77

16.00 4.57 1.83

150 6

1974

8 cuban

2 6

RADIO

E-83

2760

2638,2182

Twice daily from 0600 - 0800 and 18:00 - 22:00 and eventually.

9.2

Ice storage 1

None

West Fla.	May-December	Requiem sharks (F.carcharinidae)	100.0	Longline

CU-77-0005

CUBA

Escamero - 90

E-90 7789

Flota del Golfo

Calixto García No. 111,

Regla, Ciudad Habana

Havana, Cuba

Longliner

26.51 25.77

16.00 4.57 1.83

150 6

1974

8 cubans

2 6

RADIO

E-90

2760

2638, 2182

Twice daily from 0600-0800 and 18:00-22:00 and eventually.

9.2

Ice storage 1

None

West Fla.	May- December	Requiem Sharks (F. carcharinidae	100.0	Longline

CU-77-0006

Cuba

Escamero - 93

E-93 7797

Flota del Golfo

Calixto García Nº 111,

Regla, Ciudad Habana

Havana - Cuba

Longliner

26.51 25.77

16.00 4.57 1.83

150 6

1974

8 cuban

8 6

RADIO

E-93

2760

2638, 2182

Twice daily from 0600-0800 and 18:00 - 22:00 and eventually.

9.2

Ice storage 1

None

West Fla.	May-December	Requiem sharks (F. carcharinidae)	100.0	Longline

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0007 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda-XIII
2. Vessel No. Hull No.: L-13 Registration No.: 7114
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana. Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross): 107.15 (Net): 49.18
7. Length: 21.85 M. 8. Breadth: 6.25 M. 9. Draft: 2.40 M.
10. Horsepower: 350 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ). Other: Radio
12. Date Built: 1965
13. Number and Nationality of Personnel: 10 cuban. Officers: 2 Crew: 8 Other(Specify)
15. Communications: W/T-FM ( ), M/F388, Voice (X) Telegraphy ( ). Other: RADIO
International Radio Call Sign: CO-2182
Radio Frequencies Monitored: 2760, 2805
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18.00-22.00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other: CU-77-0007
17. Cargo Capacity (MT): Salted Fish: c Freezer: Fresh Fish: 29.5 TM Dry Hold: Frozen Fish: Tanks: Fish Meal: Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity MT): None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conversion Factor (Cwt. to MT)	Gear to be Used
West Fla.	May-December	Requiem sharks (F. carcharinidae)	174.9	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0008 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda XV
2. Vessel No. Hull No.: L-15 Registration No.: 7107
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana. Name and Address of Charterer:
4. Homeport and State of Registry: HAVANA, CUBA
5. Type of Vessel: Longliner
6. Tonnage (Gross): 109.87 (Net): 48.11
7. Length: 21.85 M. 8. Breadth: 6.25 M. 9. Draft: 2.40 M.
10. Horsepower: 225 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ). Other: Radio
12. Date Built: 1965
13. Number and Nationality of Personnel: 10 cuban. Officers: 2 Crew: 8 Other(Specify)
15. Communications: W/T-FM ( ), M/F388, Voice (X), Telegraphy ( ). Other:
International Radio Call Sign: CO-2171
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18.00-22:00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other: CU-77-0008
17. Cargo Capacity (MT): Salted Fish: c Freezer: Fresh Fish: 29.5 TM Dry Hold: Frozen Fish: Tanks: Fish Meal: Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity MT): None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conversion Factor (Cwt. to MT)	Gear to be Used
West Fla.	May-December	Requiem sharks (F. carcharinidae)	170.3	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0009 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda-XIII
2. Vessel No. Hull No.: L-24 Registration No.: 7864
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana. Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross): 107.15 (Net): 49.28
7. Length: 21.85 M. 8. Breadth: 6.25 M. 9. Draft: 2.40 M.
10. Horsepower: 250 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ). Other:
12. Date Built: 1964
13. Number and Nationality of Personnel: 10 cuban. Officers: 2 Crew: 8 Other (Specify)
15. Communications: W/T-FM ( ), M/F388, Voice (X), Telegraphy ( ). Other: RADIO
International Radio Call Sign: CO-2523
Radio Frequencies Monitored: 2760, 2805
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800, 18:00-22.00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other: CU-77-0009
17. Cargo Capacity (MT): Salted Fish: c Freezer: Fresh Fish: 29.5 TM Dry Hold: Frozen Fish: Tanks: Fish Meal: Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity MT): None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conversion Factor (Cwt. to MT)	Gear to be Used
West Fla.	May -December	Requiem sharks (F. carcharinidae)	174.9	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0010 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LIV
2. Vessel No. Hull No.: L-54 Registration No.: 7216
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana. Name and Address of Charterer:
4. Homeport and State of Registry: HAVANA, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross): 107.15 (Net): 49.26
7. Length: 21.85 M. 8. Breadth: 6.25 M. 9. Draft: 2.40 M.
10. Horsepower: 350 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ). Other:
13. Date Built: 1966
14. Number and Nationality of Personnel: 10 cuba. Officers: 2 Crew: 8 Other(Specify)
15. Communications: W/T-FM ( ), M/F388, Voice (X), Telegraphy ( ). Other: RADIO
International Radio Call Sign: CO-2420
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice, daily from 0600-0800 and 18:00-22:00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other: CU-77-0010
17. Cargo Capacity (MT): Salted Fish: c Freezer: Fresh Fish: 29.5 TM Dry Hold: Frozen Fish: Tanks: Fish Meal: Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity MT): None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conversion Factor (Cwt. to MT)	Gear to be Used
West Fla.	May- December	Requiem sharks (F. Carcharinidae)	174.9	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0011
For Use of Issuing Office

State: _____

1. Name of Vessel: Lambda LVIII
2. Vessel No. Hull No. L-58 Registration No. 7371
3. Name and Address of Owner: Flota del Golfo
Address: Calixto Garcia No. 111
Habana, Ciudad Habana
Cable Address: _____
Name and Address of Charterer
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 107.15 (Net) 49.28
7. Length 21.65 m 8. Breadth 6.25 m 9. Draft 2.40 m
10. Horsepower 350 and 11. Maximum Speed 9 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
Other: _____
13. Date Built 1967
14. Number and Nationality of Personnel: 10 cubas
Officers 2 Crew 8 Other(Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
Other RADIO
International Radio Call Sign CO-2520
Radio Frequencies Monitored 2760
Other Working Frequencies 2638, 2182
Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually.

CU-77-0011

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other: _____
17. Cargo Capacity (MT)
Salted Fish _____ c Freezer
Fresh Fish 29.5 TM Dry Hold
Frozen Fish _____ Tanks
Fish Meal _____ Other
Other: _____ Ice storage 8
18. Cargo Space: Number _____ Name _____
19. Processing Equipment (Indicate daily capacity, MT)
None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Correspondent Catch (MT)	Gear to be Used
West Fla	May- December	Requiem sharks (F. carcharinidae)	1700	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0012
For Use of Issuing Office

State: _____

1. Name of Vessel: _____
2. Vessel No. Hull No. _____ Registration No. 7190
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto Garcia No. 111
Habana, Ciudad Habana
Cable Address: _____
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) 49.28
7. Length _____ m 8. Breadth _____ m 9. Draft 2.40 m
10. Horsepower _____ and 11. Maximum Speed _____ kt.
12. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
Other: _____
13. Date Built _____
14. Number and Nationality of Personnel: 10 Cuban
Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
Other RADIO
International Radio Call Sign CO-2520
Radio Frequencies Monitored 2760
Other Working Frequencies 2638, 2182
Schedule Twice daily from 0600-0800 and 1800-2200 are eventually

CU-77-0012

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other: _____
17. Cargo Capacity (MT)
Salted Fish _____ c Freezer
Fresh Fish _____ Dry Hold
Frozen Fish _____ Tanks
Fish Meal _____ Other
Other: _____ 250 storage 8
18. Cargo Space: Number _____ Name _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Correspondent Catch (MT)	Gear to be Used
West Fla	May- Dec	Requiem sharks (F. Carcharinidae)	1700	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0013
For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXXVI
2. Vessel No. Hull No. L-75 Registration No. 7380
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto Garcia No. 111
Habana, Ciudad Habana
Cable Address: _____
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 107.15 (Net) 49.28
7. Length 21.65 m 8. Breadth 6.25 m 9. Draft 2.40 m
10. Horsepower 350 and 11. Maximum Speed 9 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
Other: _____
13. Date Built 1977
14. Number and Nationality of Personnel: 10 Cuban
Officers 2 Crew 8 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
Other RADIO
International Radio Call Sign CO-2201
Radio Frequencies Monitored 2760
Other Working Frequencies 2638,2182
Schedule Twice daily from 0300-0500 and 1000-1200 are eventually

CU-77-0013

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other: _____
17. Cargo Capacity (MT)
Salted Fish _____ c Freezer
Fresh Fish _____ Dry Hold
Frozen Fish _____ Tanks
Fish Meal _____ Other
Other: _____
18. Cargo Space: Number _____ Name _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Correspondent Catch (MT)	Gear to be Used
West Fla	May-	(F. Carcharinidae)	1700	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0014
For Use of Issuing Office

State: Cuba

1. Name of Vessel: _____
2. Vessel No. Hull No. L-75 Registration No. 7380
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: _____
Cable Address: _____
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) 49.28
7. Length _____ m 8. Breadth _____ m 9. Draft 2.40 m
10. Horsepower _____ and 11. Maximum Speed _____ kt.
12. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
Other: _____
13. Date Built _____
14. Number and Nationality of Personnel: 10 Cuban
Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
Other RADIO
International Radio Call Sign CO-2201
Radio Frequencies Monitored 2760
Other Working Frequencies 2638,2182
Schedule Twice daily from 0300-0500 and 1000-1200 are eventually

CU-77-0014

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other: _____
17. Cargo Capacity (MT)
Salted Fish _____ c Freezer
Fresh Fish _____ Dry Hold
Frozen Fish _____ Tanks
Fish Meal _____ Other
Other _____ Ice storage
18. Cargo Space: Number _____ Name _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Correspondent Catch (MT)	Gear to be Used
West Fla	May			Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FF/FISH)

Permit Period Applied For: _____ Application No. CU-77-0015 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Cayo Largo 22
2. Vessel No. Hull No. CL-22 Registration No. 7861
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 36.15 (Net) 27.45
7. Length: 29.55 m. B. Breadth: 6.25 m. D. Draft: 2.45 m.
8. Horsepower 240 hp. 11. Maximum Speed 9 kn.
9. Propulsion Diesel ( ), Gas ( ), Diesel/Electric ( ).
   Other: _____
10. Year Built: 1976
11. Number and Nationality of Personnel: 10 Cuban
    Officers 2 Crew 6 Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other: Radio
    International Radio Call Sign: CL-22
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638,2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other _____
17. Cargo Capacity (LT): Salted Fish _____ c Freezer; Fresh Fish 100 Dry Hold; Frozen Fish _____ Tanks; Fish Meal _____ Other; Other _____
18. Cargo Space: Number / Name
19. Processing Equipment (Indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Target Species (FPCS-LT)	Season	Center Coordinates (DDD, LLL)	Gear to be Used
West Fla.	Requiem Sharks (F. Carcharinidae)	May-December	17.1	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FF/FISH)

Permit Period Applied For: _____ Application No. CU-77-0016 For Use of Issuing Office

State: Cuba

1. Name of Vessel: M/V "Arroyos de Mantua"
2. Vessel No. Hull No. "Arroyos de Mantua" Registration No. 7991
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Used as boat carrier with 18 longliner boats
6. Tonnage (Gross) 676.10 (Net) 252.61
7. Length: 48.7 m. B. Breadth: 9.33 m. D. Draft: 4.2 m.
8. Horsepower 500 hp. 11. Maximum Speed 9.5 kn.
9. Propulsion Diesel (X), Gas ( ), Diesel/Electric ( ).
   Other: _____
10. Year Built: 1966
11. Number and Nationality of Personnel: 52 Cuban
    Officers 12 Crew 40 Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB Voice (X), Telegraphy ( ),
    Other: Spilsbury-Tindall LR-1800 AI, 43.
    International Radio Call Sign: COLU
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other _____
17. Cargo Capacity (LT): Salted Fish _____ c Freezer; Fresh Fish 100 Dry Hold; Frozen Fish _____ Tanks; Fish Meal _____ Other; Other _____
18. Cargo Space: Number / Name
19. Processing Equipment (Indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Target Species (FPCS-LT)	Season	Center Coordinates (DDD, LLL)	Gear to be Used
West Fla.	Requiem Sharks (F. Carcharinidae)	May-December	17.1	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CL-22

CU-77-0017

Cuba

1. Name of Vessel: Cayo Largo 22
2. Vessel No. Hull No.: CL-22 Registration No.: 7861
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 36.15 (Net) 27.45
7. Length: 14.85 m. B. Breadth: 4.90 m. D. Draft: 1.83 m.
8. Horsepower 150 hp. 11. Maximum Speed 6 kn.
9. Propulsion Diesel (X), Gas ( ), Diesel/Electric ( ).
   Other: _____
10. Year Built: 1976
11. Number and Nationality of Personnel: 8 cubans
    Officers 2 Crew 6 Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other: RADIO
    International Radio Call Sign: CL-22
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually

CU-77-0017

CL-22

Cuba

1. Name of Vessel: Cayo Largo 22
2. Vessel No. Hull No.: CL-22 Registration No.: 7861
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 36.15 (Net) 27.45
7. Length: 14.85 m. B. Breadth: 4.90 m. D. Draft: 1.83 m.
8. Horsepower 150 hp. 11. Maximum Speed 6 kn.
9. Propulsion Diesel (X), Gas ( ), Diesel/Electric ( ).
   Other: _____
10. Year Built: 1976
11. Number and Nationality of Personnel: 8 cubans
    Officers 2 Crew 6 Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other: RADIO
    International Radio Call Sign: CL-22
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other _____
17. Cargo Capacity (LT): Salted Fish _____ c Freezer; Fresh Fish 9.2 Dry Hold; Frozen Fish _____ Tanks; Fish Meal _____ Other; Other _____
18. Cargo Space: Number / Name: Ice storage 1
19. Processing Equipment (Indicate daily capacity, LT): None
20. Fisheries for which Permit is Requested:

Ocean Area	Target Species (FPCS-LT)	Season	Center Coordinates (DDD, LLL)	Gear to be Used
West Fla.	Requiem Sharks (F. Carcharinidae)	May-December	100.0	Longline

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0018

Cuba

Permit Period Applied For: _____ Application No. CU-77-0018 For Use of Issuing Office

1. Name of Vessel: M/V "Arroyos de Mantua"
2. Vessel No. Hull No. "Arroyos de Mantua" Registration No. 7991
3. Name and Address of Owner: Flota del Golfo, Calixto Garcia No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Used as boat carrier with 18 longliner boats
6. Tonnage (Gross) 676.10 (Net) 252.61
7. Length: 48.7 m. B. Breadth: 9.33 m. D. Draft: 4.2 m.
8. Horsepower 500 hp. 11. Maximum Speed 9.5 kn.
9. Propulsion Diesel (X), Gas ( ), Diesel/Electric ( ).
   Other: _____
10. Year Built: 1966
11. Number and Nationality of Personnel: 52 Cuban
    Officers 12 Crew 40 Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB Voice (X), Telegraphy ( ),
    Other: Spilsbury-Tindall LR-1800 AI, 43.
    International Radio Call Sign: COLU
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other _____
17. Cargo Capacity (LT): Salted Fish _____ c Freezer; Fresh Fish 135.0 Dry Hold; Frozen Fish _____ Tanks; Fish Meal _____ Other; Other _____
18. Cargo Space: Number / Name
19. Processing Equipment (Indicate daily capacity, LT): Not been used; 3 fish trundle machines; 1 washing machine
20. Fisheries for which Permit is Requested:

Ocean Area	Target Species (FPCS-LT)	Season	Center Coordinates (DDD, LLL)	Gear to be Used
West Fla.	Red grouper Inc. Catch	May-Nov.	403.7 Plus 26.2 430.9	Longline

INDIDENTAL CATCH
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and Others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (TENTH)

Permit Period Applied For: _____ Application No. CU-77-0019 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda II
2. Vessel No. (Off. No.): I-11 Registration No. 7143
3. Name and Address of Owner: Flota del Golfo, Calixto García No. 111, Regla, Ciudad Habana.
Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross) 127.15 (Net) 49.38
7. Length 24.85 8. Breadth 6.25 9. Depth 2.40
10. Horsepower 250 Make 11. Fish Hold Capacity 9
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
Other
13. Date Built 1965
14. Number and Nationality of Personnel 20 cuban
Officers 2 Crew 18 Other (Specify)
15. Communications: WT-HF ( ), AL/SSB, Voice (X), Telegraphy ( )
Other Spilsbury-Tindall LT-1800 AI, A3,
International Radio Call Sign CO-2413
Radio Frequencies Monitored 2760
Other Working Frequencies 2638, 2182
Schedule Twice daily from 0600-0800 and 18:00- 22:00 and eventually.

FISHING VESSEL IDENTIFICATION FOR (TENTH)

Permit Period Applied For: _____ Application No. CU-77-0020 For Use of Issuing Office

State: Cuba

1. Name of Vessel: La Isla LXXV
2. Vessel No. (Off. No.): _____ Registration No. 7226
3. Name and Address of Owner: Name and Address of Charterer:
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross): _____ (Net): _____
7. Length: _____ 8. Breadth: _____ 9. Depth: _____
10. Horsepower: _____ Make: _____ 11. Fish Hold Capacity: _____
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
Other: _____
13. Date Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
Officers: _____ Crew: _____ Other (Specify): _____
15. Communications: WT-HF ( ), AL/SSB, Voice ( ), Telegraphy ( ),
Other Spilsbury-Tindall LT-1800 AI, A3,
International Radio Call Sign: _____
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually.

FISHING VESSEL IDENTIFICATION FOR (TENTH)

Permit Period Applied For: _____ Application No. CU-77-0019 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda II
2. Vessel No. (Off. No.): I-11 Registration No. 7143
3. Name and Address of Owner: Flota del Golfo, Calixto García No. 111, Regla, Ciudad Habana.
Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross) 127.15 (Net) 49.38
7. Length 24.85 8. Breadth 6.25 9. Depth 2.40
10. Horsepower 250 Make 11. Fish Hold Capacity 9
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
Other
13. Date Built 1965
14. Number and Nationality of Personnel 20 cuban
Officers 2 Crew 18 Other (Specify)
15. Communications: WT-HF ( ), AL/SSB, Voice (X), Telegraphy ( )
Other Spilsbury-Tindall LT-1800 AI, A3,
International Radio Call Sign CO-2413
Radio Frequencies Monitored 2760
Other Working Frequencies 2638, 2182
Schedule Twice daily from 0600-0800 and 18:00- 22:00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
Other

17. Cargo Capacity (LT)

		18. Cargo Space Number	Name
Salted Fish			c Freezer
Fresh Fish	29.5 TM		Dry Hold
Frozen Fish			Tanks
Fish Meal			Other
Other	Icestorage	8	

19. Processing Equipment (Indicate daily capacity, LT)
None

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla	May-Nov.	Red grouper	139.2	Longline
		Inc. catch	7.3	
		Total *	146.5	

Incidental catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
Other

17. Cargo Capacity (LT)

		18. Cargo Space Number	Name
Salted Fish			c Freezer
Fresh Fish			Dry Hold
Frozen Fish			Tanks
Fish Meal			Other
Other			

19. Processing Equipment (Indicate daily capacity, LT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-Nov.	Red grouper	139.2	Longline
		Inc.Catch	7.3	
		Totl catch.	146.5	

Incidental Catch:
Species:Jewfish, Misty grouper, Black grouper, Mutton Snapper, Red Snapper and Others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (TENTH)

Permit Period Applied For: _____ Application No. CU-77-0021 For Use of Issuing Office

State: Cuba

1. Name of Vessel: _____
2. Vessel No. (Off. No.): _____ Registration No. _____
3. Name and Address of Owner: Name and Address of Charterer:
Mark _____
Address _____
Cable Address _____
4. Homeport and State of Registry: _____
5. Type of Vessel: 16 fishing boats on which that also fish
6. Tonnage (Gross) 127.15 (Net) 49.38
7. Length 22.00 8. Breadth 6.20 9. Depth 2.40
10. Horsepower 250 Make 11. Fish Hold Capacity 9
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
Other
13. Date Built 1965
14. Number and Nationality of Personnel: 20 Cuban
Officers 2 Crew 18 Other (Specify) _____
15. Communications: WT-HF ( ), AL/SSB, Voice (X), Telegraphy ( ),
Other Spilsbury-Tindall LT-1800 AI, A3,
International Radio Call Sign CO-2103
Radio Frequencies Monitored 2760
Other Working Frequencies 2036,2182
Schedule Twice daily from 0300-0800 and 1800-2201 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
Other

17. Cargo Capacity (LT)

		18. Cargo Space Number	Name
Salted Fish			c Freezer
Fresh Fish			Dry Hold
Frozen Fish			Tanks
Fish Meal			Other
Other			

19. Processing Equipment (Indicate daily capacity, LT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-November	Red grouper	139.2	Longline
		Inc. Catch	7.3	
		Total Catch.	146.5	

Incidental catch:
Species: Jewfish, Misty grouper, Black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (TENTH)

Permit Period Applied For: _____ Application No. CU-77-0022 For Use of Issuing Office

State: Cuba

1. Name of Vessel: La Isla LXXV
2. Vessel No. (Off. No.): _____ Registration No. 7226
3. Name and Address of Owner: Name and Address of Charterer:
Mark _____
Address _____
Cable Address _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross): _____ (Net): _____
7. Length: _____ 8. Breadth: _____ 9. Depth: _____
10. Horsepower: _____ Make: _____ 11. Fish Hold Capacity: _____
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
Other: _____
13. Date Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
Officers: _____ Crew: _____ Other (Specify): _____
15. Communications: WT-HF ( ), AL/SSB, Voice ( ), Telegraphy ( ),
Other Spilsbury-Tindall LT-1800 AI, A3,
International Radio Call Sign: _____
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638,2182
Schedule: Twice daily from 0300-0800 and 1800-2200 and eventually)

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other

17. Cargo Capacity (LT)

		18. Cargo Space Number	Name
Salted Fish			c Freezer
Fresh Fish			Dry Hold
Frozen Fish			Tanks
Fish Meal			Other
Other			

19. Processing Equipment (Indicate daily capacity, LT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-November	Red grouper	139.2	Longline
		Incidentelatch	7.3	
		Total catch	146.5	

Incidental catch
Species: Jewfish, Misty grouper, Black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL INFORMATION FOR [FL/G/S]

Permit Period:
Action For

Application No. CU-77-0023
For Use of Issuing Office

State

1. Name of Vessel
2. Vessel No. (U.S.) Registration No.
3. Name and Address of Owner: Name and Address of Charterer
4. Number and Nationality of Personnel
5. Communications: VHF-FM ( ), H/SSB, Voice ( ), Telegraphy ( ), Other: Spilsbury-Tindall LR-1800 AI, A3.
International Radio Call Sign
Radio Frequencies Monitored
Other Working Frequencies
Schedule

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other
17. Cargo Capacity (LT): Salted Fish; Fresh Fish; Frozen Fish; Fish Meal; Other
18. Cargo Space: Number / Name: Freezer; Dry Hold; Tanks; Other
19. Processing Equipment (indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Communicated Catch (LT)	Gear to be Used
West. Fla.	May-November	Red Grouper	139.2	Longline
		Inc. Catch	7.3	
		Total "	146.5	

Incidental Catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL INFORMATION FOR [FL/G/S]

Permit Period:
Action For

Application No. CU-77-0025
For Use of Issuing Office

State

1. Name of Vessel
2. Vessel No. (U.S.) Registration No.
3. Name and Address of Owner: Name and Address of Charterer
4. Number and Nationality of Personnel
5. Communications: VHF-FM ( ), H/SSB, Voice ( ), Telegraphy ( ), Other: Spilsbury-Tindall LR-1800 AI, A3.
International Radio Call Sign
Radio Frequencies Monitored
Other Working Frequencies
Schedule

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other
17. Cargo Capacity (LT): Salted Fish; Fresh Fish; Frozen Fish; Fish Meal; Other
18. Cargo Space: Number / Name: Freezer; Dry Hold; Tanks; Other
19. Processing Equipment (indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Communicated Catch (LT)	Gear to be Used
West Fla	May-November	Red grouper	139.2	Longline
		Inc Catch	7.3	
		Total "	146.5	

Incidental catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL INFORMATION FOR [FL/G/S]

Permit Period:
Action For

Application No. CU-77-0024
For Use of Issuing Office

State

1. Name of Vessel
2. Vessel No. (U.S.) Registration No.
3. Name and Address of Owner: Name and Address of Charterer
4. Number and Nationality of Personnel
5. Communications: VHF-FM ( ), H/SSB, Voice (X), Telegraphy ( ), Other: Spilsbury-Tindall LR-1800, AI, A3.
International Radio Call Sign
Radio Frequencies Monitored
Other Working Frequencies
Schedule Twice daily from 0700-0701 and 1300-1301 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other
17. Cargo Capacity (LT): Salted Fish; Fresh Fish; Frozen Fish; Fish Meal; Other
18. Cargo Space: Number / Name: Freezer; Dry Hold; Tanks; Other
19. Processing Equipment (indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Communicated Catch (LT)	Gear to be Used
West Fla.	May-November	Red grouper	139.2	Longline
		Inc. catch	7.3	
		Total "	146.5	

Incidental Catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL INFORMATION FOR [FL/G/S]

Permit Period:
Action For

Application No. CU-77-0026
For Use of Issuing Office

State

1. Name of Vessel
2. Vessel No. (U.S.) Registration No.
3. Name and Address of Owner: Name and Address of Charterer
4. Number and Nationality of Personnel
5. Communications: VHF-FM ( ), H/SSB, Voice ( ), Telegraphy ( ), Other: Spilsbury-Tindall LR-1800 AI, A3.
International Radio Call Sign
Radio Frequencies Monitored
Other Working Frequencies
Schedule Twice daily from 0701-0703 and 1301-1303 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other
17. Cargo Capacity (LT): Salted Fish; Fresh Fish; Frozen Fish; Fish Meal; Other
18. Cargo Space: Number / Name: Freezer; Dry Hold; Tanks; Other
19. Processing Equipment (indicate daily capacity, LT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Communicated Catch (LT)	Gear to be Used
West Fla	May-November	Red Grouper	139.2	Longline
		Inc. Catch	7.3	
		Total "	146.5	

Incidental Catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0027 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Langosta
2. Vessel No. Hull No. L-10 Registration No. 7290
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto Garcia No. 111
   Regla, Ciudad Habana
   Cable Address:
4. Homeport or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 1284.08 (Net) 588.3
7. Length 60.0 ft. 8. Breadth 11.80 ft. 9. Draft 5.15 ft.
10. Horsepower 1580 Kts. 12. Maximum Speed 13 Kts.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric (X)
    Other _____
12. Date Built 1966
13. Number and Nationality of Personnel: 120 Cubans
    Officers 14 Crew 106 Other (Specify) _____
14. Communications: VHF-FM ( ), M/F/SSB, Voice (X), Telegraphy ( ),
    Other Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign COMP
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually

CU-77-0027

West Fla	May-November	Red grouper	139.2	Longline
		Inc. Catch	7.3	
		Total "	146.5	

Incidental Catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0025 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Langosta
2. Vessel No. Hull No. L-10 Registration No. 7290
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto Garcia No. 111
   Regla, Ciudad Habana
   Cable Address:
4. Homeport or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner
6. Tonnage (Gross) 1284.08 (Net) 588.3
7. Length 60.0 ft. 8. Breadth 11.80 ft. 9. Draft 5.15 ft.
10. Horsepower 1580 Kts. 12. Maximum Speed 13 Kts.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other _____
12. Date Built 1966
13. Number and Nationality of Personnel: 120 Cubans
    Officers 14 Crew 106 Other (Specify) _____
14. Communications: VHF-FM ( ), M/F/SSB, Voice (X), Telegraphy ( ),
    Other Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign COMP
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually

CU-77-0025

West. Fla.	May-November	Red grouper	139.2	Longline
		Inc. Catch	7.3	
		Total "	146.5	

Incidental Catch:
Species: Jewfish, Misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0029 For Use of Issuing Office

State: Cuba

1. Name of Vessel: M/P Tiburón
2. Vessel No. Hull No. Tiburón Registration No. 7258
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto Garcia No. 111,
   Regla, Ciudad Habana
   Cable Address:
4. Homeport or Place of Registry: Havana, Cuba
5. Type of Vessel: Used as boat carrier with 40 longliner boats
6. Tonnage (Gross) 1284.08 (Net) 588.3
7. Length 60.0 ft. 8. Breadth 11.80 ft. 9. Draft 5.15 ft.
10. Horsepower 1580 Kts. 12. Maximum Speed 13 Kts.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other _____
12. Date Built 1966
13. Number and Nationality of Personnel: 120 cubans
    Officers 14 Crew 106 Other (Specify) _____
14. Communications: VHF-FM ( ), M/F/SSB, Voice (X), Telegraphy ( ),
    Other Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign COMP
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually

CU-77-0029

West Fla.	May— November	Red grouper	761.9	Longline
		(Incidental catch)	40.0	
			801.9	

Incidental catch:
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0030 For Use of Issuing Office

State: Cuba

1. Name of Vessel: M/P Marina
2. Vessel No. Hull No. Marina Registration No. 7465
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto Garcia No. 111,
   Regla, Ciudad Habana
   Cable Address:
4. Homeport or Place of Registry: Havana, Cuba
5. Type of Vessel: Used as boat carrier with 40 longliner boats
6. Tonnage (Gross) 646.1 (Net) 252.61
7. Length 48.1 ft. 8. Breadth 9.31 ft. 9. Draft 4.2 ft.
8. Horsepower 500 Kts. 12. Maximum Speed 9.5 Kts.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other _____
12. Date Built 1966
13. Number and Nationality of Personnel: 75 cuban
    Officers 22 Crew 53 Other (Specify) _____
14. Communications: VHF-FM ( ), M/F/SSB, Voice (X), Telegraphy ( ),
    Other Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign COMP
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually.

CU-77-0030

West Fla.	May—	November Red grouper	403.7	Longline
		Incidental catch	21.2	
		Total catch	424.9	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0031 For Use of Issuing Office

State: Cuba

1. Name of Vessel: N/P "JOcaro"
2. Vessel No. Hull No.: JOcaro Registration No.: 7397
3. Name and Address of Owner: Flota del Golfo, Calixto García No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Used as boat carrier with 18 longliner boats
6. Tonnage (Gross): 676.10 (Net): 252.6
7. Length: 48.7 m 8. Breadth: 9.33 m 9. Draft: 4.2
10. Horsepower: 580 and 11. Lexirue Speed: 9.5 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( )
    Other: _____
12. Date Built: 1966
13. Number and Nationality of Personnel: 65 Cubans
    Officers: 12 Crew: 53 Other(Specify): _____
14. Communications: WT-Fl ( ), R/TEL, Voice (x), Telegraphy ( )
    Other: Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign: COLS
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually

CU-77-0031

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (x), Other: _____
16. Cargo Capacity (MT): 135.0
    Salted Fish: _____ c Freezer: 2
    Fresh Fish: _____ Dry Hold: _____
    Frozen Fish: _____ Tanks: _____
    Fish Meal: _____ Other: _____
    Other: _____ Ice storage: _____
17. Processing Equipment (Indicate daily capacity, MT)
    Not been used.
    3 fish trundle machines
    1 was-ing machine
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch/Effort Data (MT)	Gear to be Used
West Fla.	May - Nov	Red grouper	416.5	Longline
		Incidental-catch	21.9	
			438.4	

Incidental catch
Species: Jenfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0032 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda VI
2. Vessel No. Hull No.: L-6 Registration No.: 6930
3. Name and Address of Owner: Flota del Golfo, Calixto García No. 111, Regla, Ciudad Habana
   Name and Address of Charterer:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner and boat carrier with 6 boat an board that also fish.
6. Tonnage (Gross): 92.19 (Net): 45.60
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 250 and 11. Lexirue Speed: 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( )
    Other: _____
12. Date Built: 1963
13. Number and Nationality of Personnel: 20 Cubans.
    Officers: 2 Crew: 18 Other(Specify): _____
14. Communications: WT-Fl ( ), R/TEL, Voice (x), Telegraphy ( )
    Other: Spilsbury-Tindall LR-1800, AI, A3.
    International Radio Call Sign: 00-2512
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.

CU-77-0032

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (x), Other: _____
16. Cargo Capacity (MT): 92.19
    Salted Fish: _____ c Freezer: _____
    Fresh Fish: 29.45 FM Dry Hold: _____
    Frozen Fish: _____ Tanks: _____
    Fish Meal: _____ Other: _____
    Other: _____ Ice storage: 0
17. Processing Equipment (Indicate daily capacity, MT)
    None.
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch/Effort Data (MT)	Gear to be Used
West Fla.	May-November	Red grouper	126.3	Longline
		Incidental catch	6.6	
		Total catch	132.9	

Incidental catch /also/
Species: Jewfish, Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0033 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda VIII
2. Vessel No. Hull No.: L-8 Registration No.: 6970
3. Name and Address of Owner: Flota del Golfo, Calixto García No. 111, Regla, Ciudad Habana.
   Name and Address of Charterer
4. Homeport and State of Registry: Habana, Cuba
5. Type of Vessel: Longliner with 6 boats an board that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.18
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 250 and 11. Lexirue Speed: 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( )
    Other: _____
12. Date Built: 1963
13. Number and Nationality of Personnel: 20 Cuban.
    Officers: 2 Crew: 18 Other(Specify): _____
14. Communications: WT-Fl ( ), R/TEL, Voice (x), Telegraphy ( )
    Other: Spilsbury-Tindall LR-1800, AI, A3.
    International Radio Call Sign: 00-2166
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.

CU-77-0033

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (x), Other: _____
16. Cargo Capacity (MT): 107.15
    Salted Fish: _____ c Freezer: _____
    Fresh Fish: 29.45 FM Dry Hold: _____
    Frozen Fish: _____ Tanks: _____
    Fish Meal: _____ Other: _____
    Other: _____ Ice storage: 0
17. Processing Equipment (Indicate daily capacity, MT)
    None
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch/Effort Data (MT)	Gear to be Used
West Fla.	May - November	Red grouper	100.4	Longline
		Incidental catch	5.3	
		Total catch	105.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper andothers.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0034 For Use of Issuing Office

State: Cuba

1. Name of Vessel: _____
2. Vessel No. Hull No.: _____ Registration No.: _____
3. Name and Address of Owner: _____ Name and Address of Charterer
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross): _____ (Net): _____
7. Length: _____ m 8. Breadth: _____ 9. Draft: _____
10. Horsepower: _____ and 11. Lexirue Speed: _____ kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( )
    Other: _____
12. Date Built: _____
13. Number and Nationality of Personnel: _____
    Officers: _____ Crew: _____ Other (Specify): _____
14. Communications: WT-Fl ( ), R/TEL, Voice ( ), Telegraphy ( )
    Other: Spilsbury-Tindall LR-1800 AI, A3.
    International Radio Call Sign: _____
    Radio Frequencies Monitored: _____
    Other Working Frequencies: _____
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually

CU-77-0034

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other: _____
16. Cargo Capacity (MT): _____
    Salted Fish: _____ c Freezer: _____
    Fresh Fish: _____ Dry Hold: _____
    Frozen Fish: _____ Tanks: _____
    Fish Meal: _____ Other: _____
    Other: _____ Ice storage: _____
17. Processing Equipment (Indicate daily capacity, MT)
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch/Effort Data (MT)	Gear to be Used

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0036 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda XXIII
2. Vessel No. Hull No.: L-18 Registration No.: 7198
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Habana.
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net) 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 250 hp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel [x], Steam [ ], Diesel/Electric [ ].
    Other
12. Date Built: 1965
13. Number and Nationality of Personnel: 20 cuban
    Officers: 2 Crew: 18 Other(Specify)
14. Communications: VHF-FM [ ], M/SSB, Voice [x], Telegraphy [ ].
    Other: SSB-125 A3J
    International Radio Call Sign: CO-2525
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.
15. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0035
    Decca [ ], Navsat [ ], Radar [ ], Fathometer [X],
    Other:
17. Cargo Capacity (MT)
    Salted Fish: Freezer
    Fresh Fish: 29.5 MT Dry Hold
    Frozen Fish: Tanks
    Fish Meal: Other
    Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May - November	Red grouper	139.2	Longline
		Incidental catch	7.3	
		Total catch	146.5	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0036 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda XIX
2. Vessel No. Hull No.: L-19 Registration No.: 7187
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Ciudad Habana.
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boat that also fish.
6. Tonnage (Gross): 107.15 (Net) 49.29
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 250 hp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel [x], Steam [ ], Diesel/Electric [ ].
    Other
12. Date Built: 1965
13. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other(Specify)
14. Communications: VHF-FM [ ], M/SSB, Voice [x], Telegraphy [ ].
    Other: Spilsbury-Tindall LT-1800 AI, A3.
    International Radio Call Sign: CO-2143
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18.00-22:00 and eventually.
15. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0036
    Decca [ ], Navsat [ ], Radar [ ], Fathometer [X].
    Other
17. Cargo Capacity (MT)
    Salted Fish: Freezer
    Fresh Fish: 29.5 MT Dry Hold
    Frozen Fish: Tanks
    Fish Meal: Other
    Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity, MT)
    None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May - November	Red grouper	130.9	Longline
		Incidental catch	6.8	
		Total catch	137.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0037 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda XXIII
2. Vessel No. Hull No.: L-23 Registration No.: 7123
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Ciudad Habana.
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net) 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 250 hp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel [x], Steam [ ], Diesel/Electric [ ].
    Other
12. Date Built: 1965
13. Number and Nationality of Personnel: 20 Cuban.
    Officers: 2 Crew: 18 Other(Specify)
14. Communications: VHF-FM [ ], M/SSB, Voice [x], Telegraphy [ ].
    Other: Spilsbury-Tindall LT-1800 AI, A3.
    International Radio Call Sign: CO-2592
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.
15. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0037
    Decca [ ], Navsat [ ], Radar [ ], Fathometer [x].
    Other
17. Cargo Capacity (MT)
    Salted Fish: Freezer
    Fresh Fish: 29.5 MT Dry Hold
    Frozen Fish: Tanks
    Fish Meal: Other
    Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May - November	Red grouper	100.4	Longline
		Incidental catch	5.3	
		Total catch	105.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0038 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda XXIX
2. Vessel No. Hull No.: L-29 Registration No.: 6962
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Ciudad Habana.
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net) 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m.
10. Horsepower: 315 hp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel [x], Steam [ ], Diesel/Electric [ ].
    Other: Spilsbury-Tindall LT-1800 AI, A3.
12. Date Built: 1963
13. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other(Specify)
14. Communications: VHF-FM [ ], M/SSB, Voice [x], Telegraphy [ ].
    Other
    International Radio Call Sign: CO-2624
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 18.00-22.00 and eventually.
15. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0038
    Decca [ ], Navsat [ ], Radar [ ], Fathometer [x].
    Other autopilot, direction finder
17. Cargo Capacity (MT)
    Salted Fish: Freezer
    Fresh Fish: 29.5 Dry Hold
    Frozen Fish: Tanks
    Fish Meal: Other
    Other: Ice storage 8
18. Cargo Space Number: Name:
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May - November	Red grouper	100.4	Longline
		Incidental catch	5.3	
		Total catch	105.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0039 For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda XXX
2. Vessel No. Hull No. L-30 Registration No. 6995
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto Garcia No. 111,
   Regla, Ciudad Habana,
   Cable Address: _____
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.28
7. Length 21.85 M. 8. Breadth 6.25 M. 9. Draft 2.40 M.
10. Horsepower 350 etc. 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other: _____
13. Date Built 1964
14. Number and Nationality of Personnel 20 Cuban
    Officers 2 Crew 18 Other(Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other Spilsbury-Tindall LT-1800 AI, A3.
    International Radio Call Sign CO-2161
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually.
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0039
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (X).
    Other: _____
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish _____ Freezer
    Fresh Fish 29.5 TM Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May--November.	Red grouper	100.4	Longline
		Incidental catch	5.3	
		Total catch	105.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0040 For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda XXXIV
2. Vessel No. Hull No. L-34 Registration No. 6960
3. Name and Address of Owner / Name and Address of Charterer
   Name: FLOTA DEL GOLFO
   Address: Calixto García No. 111,
   Regla, Ciudad Habana,
   Cable Address: _____
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.28
7. Length 21.85 M. 8. Breadth 6.25 M. 9. Draft 2.40 M.
10. Horsepower 350 etc. 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other: _____
13. Date Built 1964
14. Number and Nationality of Personnel 20 Cuban.
    Officers 2 Crew 18 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other Spilsbury-Tindall LT-1800 AI, A3.
    International Radio Call Sign CO-2521
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually.
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0040
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (X).
    Other: _____
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish _____ Freezer
    Fresh Fish 29.5 TM Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May--November.	Red grouper	139.2	Longline
		Incidental catch	7.3	
		Total catch	146.5	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0044 For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda XLI
2. Vessel No. Hull No. L-39 Registration No. 7096
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo.
   Address: Calixto García No. 111,
   Regla, Ciudad Habana
   Cable Address: _____
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.28
7. Length 21.85 M. 8. Breadth 6.25 M. 9. Draft 2.40 M.
10. Horsepower 350 etc. 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other: _____
13. Date Built 1964
14. Number and Nationality of Personnel 20 Cuban
    Officers 2 Crew 18 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other Spilsbury-Tindall LT-1800 AI, A3.
    International Radio Call Sign CO-2522
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 18:00-22:00 and eventually.
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0044
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (X).
    Other: _____
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish _____ Freezer
    Fresh Fish 29.5 TM Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May--November.	Red grouper	124.9	Longline
		Incidental catch	6.5	
		Total catch	131.4	

Incidental catch
Species. Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0042

Cuba
Lambda XLI
L-41 7067
Flota del Golfo
Calixto García No.111,
Regla, Ciudad Habana
29.5 TM
Ice storage 8
Havana Cuba
None.
Longliner with 6 boats that also fish.
107.15 49.28
21.85 6.25 2.40
350 9
X
1964
20 cuban
2 18
X
Spilsbury-Tindall LT-1800 AI, A3.
CO-2157
2760
2638, 2182
Twice daily from 0600-0800 and 18.00-22 and eventually.

West Fla.	May-November	Red grouper	139.2	Longline
		Incidental catch	7.3	
		Total catch	146.5	

Incidental catch
Species. Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

CU-77-0042

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FISHING VESSEL IDENTIFICATION FILE (FORM 13)

Permit Period: Application No. CU-77-0043
Applied for: For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lembia XLVII
2. Vessel No. Hull No. I-44 Registration No. 2335
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto García No. 111,
Regla, Ciudad Habana.
4. Principal Port or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m
10. Horsepower: 350 hp 11. Lenth on Deck: 9 m
12. Propulsion: Diesel: (X), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built: 1964
14. Number and Nationality of Personnel: 20 cuban
Officers: 2 Crew: 18 Other(Specify):
15. Communications: VHF-FM ( ), M/MSB, Voice (X), Telegraphy ( ),
Other: Spilsbury-Tindall LS-1800 AI, A3.
International Radio Call Sign: CO-2172
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0043
Decca ( ), Navsat ( ), Radar ( ), Fathometer (X).
Other: Autopilot
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name
Salted Fish: c Freezer:
Fresh Fish: 29.5 TM Dry Hold:
Frozen Fish: Tanks:
Fish Meal: Other:
Other: Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Code (CC)	Gear to be Used
West Fla.	May—November	Red grouper	130.9	Longline
		Incidental catch	6.8	
		Total catch	137.7	

Incidental catch
Species: Jewfish, Misty Groupar, Black grouper, Mutton Snappper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FILE (FORM 13)

Permit Period: Application No. CU-77-0044
Applied for: For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lembia XLVIII
2. Vessel No. Hull No. I-48 Registration No. 7096
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto García No. 111,
Regla, Ciudad Habana.
4. Principal Port or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m
10. Horsepower: 350 hp 11. Lenth on Deck: 9 m
12. Propulsion: Diesel: (X), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built: 1964
14. Number and Nationality of Personnel: 20 cuban
Officers: 2 Crew: 18 Other(Specify):
15. Communications: VHF-FM ( ), M/MSB, Voice (X), Telegraphy ( ),
Other: Spilsbury-Tindall LS-1800 AI, A3.
International Radio Call Sign: CO-2524
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0044
Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
Other
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name
Salted Fish: c Freezer:
Fresh Fish: 29.5 TM Dry Hold:
Frozen Fish: Tanks:
Fish Meal: Other:
Other: Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Code (CC)	Gear to be Used
West Fla.	May—November	Red grouper	124.9	Longline
		Incidental catch	6.5	
		Total catch	131.4	

Incidental catch
Species: Jewfish, Misty Groupar, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FILE (FORM 13)

Permit Period: Application No. CU-77-0045
Applied for: For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lembia LI
2. Vessel No. Hull No. I-51 Registration No. 7160
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto García No. 111,
Regla, Ciudad Habana.
4. Principal Port or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m
10. Horsepower: 350 hp 11. Lenth on Deck: 9 m
12. Propulsion: Diesel: (X), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
Officers: 2 Crew: 18 Other(Specify):
15. Communications: VHF-FM ( ), M/MSB, Voice (X), Telegraphy ( ),
Other: Spilsbury-Tindall LS-1800 AI, A3
International Radio Call Sign: CO-2184
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0045
Decca ( ), Navsat ( ), Radar ( ), Fathometer (X).
Other
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name
Salted Fish: c Freezer:
Fresh Fish: 29.5 TM Dry Hold:
Frozen Fish: Tanks:
Fish Meal: Other:
Other: Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Code (CC)	Gear to be Used
West Fla.	May—November	Red grouper	126.3	Longline
		Incidental catch	6.9	
		Total catch	132.9	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FILE (FORM 13)

Permit Period: Application No. CU-77-0046
Applied for: For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lembia LII
2. Vessel No. Hull No. I-61 Registration No. 7158
3. Name and Address of Owner / Name and Address of Charterer
Name: Flota del Golfo
Address: Calixto García No. 111,
Regla, Ciudad Habana.
4. Principal Port or Place of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.28
7. Length: 21.85 m 8. Breadth: 6.25 m 9. Draft: 2.40 m
10. Horsepower: 350 hp 11. Lenth on Deck: 9 m
12. Propulsion: Diesel: (X), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built: 1965
14. Number and Nationality of Personnel: 20 cuban
Officers: 2 Crew: 18 Other(Specify):
15. Communications: VHF-FM ( ), M/MSB, Voice (X), Telegraphy ( ),
Other: Spilsbury-Tindall LS-1800 AI, A3.
International Radio Call Sign: CO-2537
Radio Frequencies Monitored: 2760
Other Working Frequencies: 2638, 2182
Schedule: Twice daily from 0600-0800 and 18:00-22:00 and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0046
Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
Other
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name
Salted Fish: c Freezer:
Fresh Fish: 29.5 TM Dry Hold:
Frozen Fish: Tanks:
Fish Meal: Other:
Other: Ice storage 8
19. Processing Equipment (Indicate daily capacity, MT)
None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Code (CC)	Gear to be Used
West Fla.	May—November	Red grouper	139.4	Longline
		Incidental catch	7.3	
		Total catch	146.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period
Applied For: _____

Application No. CU-77-0047
For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXII
2. Vessel No. Hull No. L-62 Registration No. 7159
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Ciudad Habana.
   Other Address:
4. Homeport and State of Registry: Havana Cuba.
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 109.87 (Net) 48.32
7. Length: 21.85 m. 8. Breadth: 6.25 m. 9. Draft 2.40 m.
8. Horsepower 350 and 11. Maximum Speed 9 kt.
9. Propulsion: Diesel [x], Steam ( ), Diesel/Electric ( ).
   Other
10. Date Built 1965
11. Number and Nationality of Personnel 20 Cuban
    Officers 2 Crew 18 Other(Specify)
12. Communications: VHF-FM ( ), M/SSB, Voice [x], Telegraphy ( ),
    Other Spilsbury-Tindall LM-1800 AI, A3,
    International Radio Call Sign CO-2533
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 1800-22:00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0047
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (x),
    Other
17. Cargo Capacity (LT) 18. Cargo Space Number / Name
    Salted Fish ____ c Freezer
    Fresh Fish 89.5 TM Dry Hold
    Frozen Fish ____ Tanks
    Fish Meal ____ Other
    Other ____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, LT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-November	Red grouper	131.9	Longline
		Incidental catch	6.9	
		Total catch	138.8	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period
Applied For: _____

Application No. CU-77-0048
For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXIII
2. Vessel No. Hull No. L-63 Registration No. 7142
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García No. 111,
   Regla, Ciudad Habana.
   Other Address:
4. Homeport and State of Registry: Havana Cuba.
5. Type of Vessel: Longliner with 6 boats that also fish.
6. Tonnage (Gross): 107.15 (Net) 49.78
7. Length: 21.85 m. 8. Breadth: 6.25 m. 9. Draft 2.40 m.
8. Horsepower 350 and 11. Maximum Speed 9 kt.
9. Propulsion: Diesel [x], Steam ( ), Diesel/Electric ( ).
   Other
10. Date Built 1965
11. Number and Nationality of Personnel 20
    Officers 2 Crew 18 Other(Specify)
12. Communications: VHF-FM ( ), M/SSB, Voice [x], Telegraphy ( ),
    Other Spilsbury-Tindall LM-1800 AI, A3.
    International Radio Call Sign CO-2538
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Radio Calls from 0600-0800 and 18:00-22.00 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0048
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (x),
    Other
17. Cargo Capacity (LT) 18. Cargo Space Number / Name
    Salted Fish ____ c Freezer
    Fresh Fish 89.5 TM Dry Hold
    Frozen Fish ____ Tanks
    Fish Meal ____ Other
    Other ____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, LT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May -November	Red grouper	130.9	Longline
		Incidental catch	6.8	
		Total catch	137.7	

Incidental catch
Species: Jewfish, Misty,Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period
Applied For: _____

Application No. CU-77-0049
For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXV
2. Vessel No. Hull No. L-65 Registration No. 7156
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García # 111
   Regla, Ciudad Habana
   Other Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats on board that also fish
6. Tonnage (Gross): 109.87 (Net) 46.32
7. Length: 21.85 m. 8. Breadth: 6.25 m. 9. Draft 2.40 m.
8. Horsepower 250 and 11. Maximum Speed 9 kt.
9. Propulsion: Diesel [x], Steam ( ), Diesel/Electric ( ).
   Other
10. Date Built 1965
11. Number and Nationality of Personnel 20 Cuban
    Officers 2 Crew 18 Other (Specify)
12. Communications: VHF-FM ( ), M/SSB, Voice [x], Telegraphy ( ),
    Other Spilsbury-Tindall LM-1800 AI, A3,
    International Radio Call Sign CO-2536
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0600-0800 and 1800-2200 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0049
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (x).
    Other
17. Cargo Capacity (LT) 18. Cargo Space Number / Name
    Salted Fish ____ Freezer
    Fresh Fish ____ Dry Hold
    Frozen Fish ____ Tanks
    Fish Meal ____ Other
    Other ____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, LT)
    None.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-Nov	Red grouper	122.7	Longline
		Incidental catch	6.4	
		Total	129.1	

Incidental catch
Species: Jewfish, Misty grouper, Black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period
Applied For: _____

Application No. CU-77-0050
For Use of Issuing Office

State: CUBA

1. Name of Vessel: Lambda LXV
2. Vessel No. Hull No. L-65 Registration No. 7156
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota del Golfo
   Address: Calixto García # 111
   Regla, Ciudad Habana
   Other Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats on board that also fish
6. Tonnage (Gross): 109.87 (Net) 46.32
7. Length: 21.85 m. 8. Breadth: 6.25 m. 9. Draft 2.40 m.
8. Horsepower 250 and 11. Maximum Speed 9 kt.
9. Propulsion: Diesel [x], Steam ( ), Diesel/Electric ( ).
   Other
10. Date Built 1965
11. Number and Nationality of Personnel 20 Cuban
    Officers 2 Crew 18 Other (Specify)
12. Communications: VHF-FM ( ), M/SSB, Voice [x], Telegraphy ( ),
    Other Spilsbury-Tindall LM-1800 AI, A3,
    International Radio Call Sign CO-2185
    Radio Frequencies Monitored 2760
    Other Working Frequencies 2638,2182
    Schedule Twice daily from 0600-0800 and 1800-2200 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ). CU-77-0050
    Decca ( ), Navaid ( ), Radar [ ], Fathometer [x].
    Other
17. Cargo Capacity (LT) 18. Cargo Space Number / Name
    Salted Fish ____ Freezer
    Fresh Fish 29.5 Dry Hold
    Frozen Fish ____ Tanks
    Fish Meal ____ Other
    Other ____ Ice storage 8
19. Processing Equipment (Indicate daily capacity, LT)
    None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
West Fla.	May-Nov	Red Grouper	122.7	Longline
		Incidental catch	6.4	
		Total	128.1	

Incidental catch
Species: Jewfish, Misty grouper, Black grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0057 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXVI
2. Vessel No. Hull No.: L-66 Registration No.: 7160
3. Name and Address of Owner: Flota del Golfo, Calixto García # 111, Regla, Ciudad Habana
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: Longliner with boats on board, 8 at sea
6. Tonnage (Gross 107.15 (Net) 49.18
7. Length: 21x0.5 ft. 8. Breadth: 6.25 ft. 9. Draft: 2.40 ft.
10. Horsepower: 250 RPM 11. Maximum Speed: 9 kts.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other:
13. Year Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other (Specify):
15. Communications: WT-MF ( ), HF/SSB, Voice (X), Telegraphy ( ),
    Other: Spilsbury-Findall LT-1800, AI, A3.
    International Radio Call Sign: CO-2525
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X).
    Other:
17. Cargo Capacity (LT): Salted Fish: ___ Freezer; Fresh Fish: 29.5 Dry Hold; Frozen Fish: ___ Tanks; Fish Meal: ___ Other; Other: ___ Ice storage 8
18. Cargo Space Number: , Name:
19. Processing Equipment (Indicate daily capacity, LT): None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch (LT)	Gear to be Used
West Fla.	May Nov	Red Grouper	121.7	Longline
		Incidental catch	6.4
		Total	128.1	

Incidental catch: Species: Jew fish, Misty grouper, Black grouper, Cotton Snapper, Red snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0052

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0052 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXI
2. Vessel No. Hull No.: L-61 Registration No.: 7191
3. Name and Address of Owner: Flota del Golfo, Calixto García # 111, Regla, Ciudad Habana
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: Longliner with boats on board, 8 at sea
6. Tonnage (Gross 107.15 (Net) 49.18
7. Length: 21x0.5 ft. 8. Breadth: 6.25 ft. 9. Draft: 2.40 ft.
10. Horsepower: 250 RPM 11. Maximum Speed: 9 kts.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other:
13. Year Built: 1965
14. Number and Nationality of Personnel: 21 Cuban
    Officers: 2 Crew: 18 Other (Specify):
15. Communications: WT-MF ( ), HF/SSB, Voice (X), Telegraphy ( ),
    Other: Spilsbury-Findall LT-1800, AI, A3.
    International Radio Call Sign: CU-2191
    Radio Frequencies Monitored: 2275
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0430-0730 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X).
    Other:
17. Cargo Capacity (LT): Salted Fish: ___ Freezer; Fresh Fish: ___ Dry Hold; Frozen Fish: 20 Tanks; Fish Meal: ___ Other; Other: ___ Ice storage
18. Cargo Space Number: , Name:
19. Processing Equipment (Indicate daily capacity, LT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch (LT)	Gear to be Used
East Fla.	May-Nov.	Red Grouper	105.7	Longline
		Incidental catch	7.2
		total	107.9	

Incidental catch: Species: Jew fish, Misty grouper, Black grouper, Cotton Snapper, Red snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0053 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXV
2. Vessel No. Hull No.: L-65 Registration No.: 7159
3. Name and Address of Owner: Flota del Golfo, Calixto García # 111, Regla, Ciudad Habana
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: Longliner with boats on board, 8 at sea
6. Tonnage (Gross 107.15 (Net) 49.18
7. Length: 21x0.5 ft. 8. Breadth: 6.25 ft. 9. Draft: 2.40 ft.
10. Horsepower: 250 RPM 11. Maximum Speed: 9 kts.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other:
13. Year Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other (Specify):
15. Communications: WT-MF ( ), HF/SSB, Voice (X), Telegraphy ( ),
    Other: Spilsbury-Findall LT-1800 AI, A3.
    International Radio Call Sign: CO-2525
    Radio Frequencies Monitored: 2760
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0430-0730 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
    Other:
17. Cargo Capacity (LT): Salted Fish: ___ Freezer; Fresh Fish: ___ Dry Hold; Frozen Fish: ___ Tanks; Fish Meal: ___ Other; (Other: ___ Ice storage)
18. Cargo Space Number: , Name:
19. Processing Equipment (Indicate daily capacity, LT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch (LT)	Gear to be Used
West Fla.	May			Longline

Incidental catch: Species: Jew fish, Misty grouper, Black grouper, Cotton Snapper, Red snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0054

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0054 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Lambda LXII
2. Vessel No. Hull No.: L-162 Registration No.: 7161
3. Name and Address of Owner: Flota del Golfo, Calixto García # 111, Regla, Ciudad Habana
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel: Longliner with boats on board, 8 at sea
6. Tonnage (Gross 107.15 (Net) 49.18
7. Length: 21x0.5 ft. 8. Breadth: 6.25 ft. 9. Draft: 2.40 ft.
10. Horsepower: 250 RPM 11. Maximum Speed: 9 kts.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( )
    Other:
13. Year Built: 1965
14. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other (Specify):
15. Communications: WT-MF ( ), HF/SSB, Voice ( ), Telegraphy ( ),
    Other: Spilsbury-Findall LT-1800 AI, A3.
    International Radio Call Sign: CO-2526
    Radio Frequencies Monitored: 2760, 2805
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0430-0730 and 1800-2200 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X),
    Other:
17. Cargo Capacity (LT): Salted Fish: ___ Freezer; Fresh Fish: ___ Dry Hold; Frozen Fish: ___ Tanks; Fish Meal: ___ Other; (Other: ___ Ice storage)
18. Cargo Space Number: , Name:
19. Processing Equipment (Indicate daily capacity, LT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Catch (LT)	Gear to be Used
West Fla.	May-			Longline

Incidental catch: Species: Jew fish, Misty grouper, Black grouper, Cotton Snapper, Red snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0055

Application No. CU-77-0055
For Use of Issuing Office

Name and Address of Charterer

Longline

Spilsbury-Findall LT-1800, AI, A3.

CU-77-0056

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For:

Application No. CU-77-0056
For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda CVII
2. Vessel No. Hull No. L-103 Registration No. 7177
3. Name and Address of Owner / Name and Address of Charterer
   Name Flota del Golfo
   Address Calixto Garcia No. 111,
   Regla, Ciudad Habana.
   Cable Address
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel Longliner with 6 boats that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.18
7. Length 22.55 M. 8. Breadth 6.27 M. 9. Draft 2.40 M.
10. Horsepower 254 shp 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1966
14. Number and Nationality of Personnel 24 cuban
    Officers 2 Crew 18 Other(Specify)
15. Communications: VHF-FM ( ), MF/HF, Voice (x), Telegraphy ( ),
    Other Spilsbury-Findall LT-1800 AI, A3.
    International Radio Call Sign CU-2414
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0640-0800 and 1800-2200 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other Autopilot, Direction finder.
17. Cargo Capacity (MT)

		18. Cargo Spaces Number	Name
Salted Fish	c Freezer		
Fresh Fish 29.5	Dry Hold		
Frozen Fish	Tanks		
Fish Meal	Other:		
Other	Ice storage 8		

19. Processing Equipment (Indicate daily capacity, MT)
    None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	131.9	Longline
		Incidental	6.9	
		Total catch	138.8	

Incidental catch
Species: Jewfish, Misty Groupper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0057

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For:

Application No. CU-77-0057
For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda CVII
2. Vessel No. Hull No. L-106 Registration No. 7163
3. Name and Address of Owner / Name and Address of Charterer
   Name Flota del Golfo
   Address Calixto Garcia No. 111,
   Regla, Ciudad Habana.
   Cable Address
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel Longliner with 6 boats On board that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.18
7. Length 22.55 M. 8. Breadth 6.27 M. 9. Draft 2.40 M.
10. Horsepower 254 shp 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1966
14. Number and Nationality of Personnel 24 cuban
    Officers 2 Crew 18 Other(Specify)
15. Communications: VHF-FM ( ), MF/HF, Voice (x), Telegraphy ( ),
    Other Spilsbury-Findall LT-1800 AI, A3.
    International Radio Call Sign CU-2415
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0640-0800 and 1800-2200 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other Autopilot, Direction finder.
17. Cargo Capacity (MT)

		18. Cargo Spaces Number	Name
Salted Fish	c Freezer		
Fresh Fish 29.5	Dry Hold		
Frozen Fish	Tanks		
Fish Meal	Other:		
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	131.9	Longline
		Incidental	6.9	
		Total catch	138.8	

Incidental catch
Species: Jewfish, Misty Groupper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0058

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For:

Application No. CU-77-0058
For Use of Issuing Office

State: Cuba

1. Name of Vessel Lambda CVII
2. Vessel No. Hull No. L-107 Registration No. 7182
3. Name and Address of Owner / Name and Address of Charterer
   Name Flota del Golfo
   Address Calixto Garcia No. 111,
   Regla, Ciudad Habana.
   Cable Address
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel Longliner and boat carrier with 6 boat on board that also fish.
6. Tonnage (Gross) 107.15 (Net) 49.18
7. Length 22.55 M. 8. Breadth 6.27 M. 9. Draft 2.40 M.
10. Horsepower 254 shp 11. Maximum Speed 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1966
14. Number and Nationality of Personnel 24 cuban
    Officers 2 Crew 16 Other(Specify)
15. Communications: VHF-FM ( ), MF/HF, Voice (x), Telegraphy ( ),
    Other Spilsbury-Findall LT-1800 AI, A3.
    International Radio Call Sign CU-2540
    Radio Frequencies Monitored 2760, 2805
    Other Working Frequencies 2638, 2182
    Schedule Twice daily from 0640-0800 and 1800-2200 and eventually.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other Autopilot, Direction finder.
17. Cargo Capacity (MT)

		18. Cargo Spaces Number	Name
Salted Fish	c Freezer		
Fresh Fish 29.5	Dry Hold		
Frozen Fish	Tanks		
Fish Meal	Other:		
Other	Ice storage 8		

19. Processing Equipment (Indicate daily capacity, MT)
    None
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	121.7	Longline
		Incidental catch	6.4	
		Total catch	128.1	

Incidental catch
Species: Jewfish, Misty grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. For Use of Issuing Office: CU-77-0059

State: Cuba

1. Name of Vessel: Lambda CVIII
2. Vessel No. Hull No.: L-198 Registration No.: 7181
3. Name and Address of Owner: Name: Flota del Golfo; Address: Calixto Garcia No. 111, Regla, Ciudad Habana.
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats on board that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.18
7. Length: 22.55 M 8. Breadth: 6.27 M 9. Draft: 2.40 M.
10. Horsepower: 250 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other:
12. Date Built: 1966
13. Number and Nationality of Personnel: 20
    Officers: 2 Crew: 18 Other(Specify):
14. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other: Spilsbury-Tindall LX-1800 AI, A3.
    International Radio Call Sign: CO-2541
    Radio Frequencies Monitored: 2760, 2845
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other: Autopilot, Direction finder.
16. Cargo Capacity (MT) / Cargo Space Number / Name
    Salted Fish: _____ c Freezer
    Fresh Fish: 29.5 Dry Hold
    Frozen Fish: _____ Tanks
    Fish Meal: _____ Other
    Other: _____ Ice storage 8
17. Processing Equipment (Indicate daily capacity, MT): None
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	139.6	Longline
		Incidental catch	7.3	
		Total catch	146.9	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Snapper and others.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. For Use of Issuing Office: CU-77-0060

State: Cuba

1. Name of Vessel: Lambda CIX
2. Vessel No. Hull No.: L-199 Registration No.: 7194
3. Name and Address of Owner: Name: Flota del Golfo; Address: Calixto Garcia No. 111, Regla, Ciudad Habana.
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats on board that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.18
7. Length: 22.55 M 8. Breadth: 6.27 M 9. Draft: 2.40 M.
10. Horsepower: 250 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other:
12. Date Built: 1966
13. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other(Specify):
14. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other: Spilsbury-Tindall LX-1800 AI, A3.
    International Radio Call Sign: CU-2195
    Radio Frequencies Monitored: 2760, 2845
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other: Autopilot, Direction finder.
16. Cargo Capacity (MT) / Cargo Space Number / Name
    Salted Fish: _____ c Freezer
    Fresh Fish: 29.5 Dry Hold
    Frozen Fish: _____ Tanks
    Fish Meal: _____ Other
    Other: _____ Ice storage 8
17. Processing Equipment (Indicate daily capacity, MT): None
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	139.4	Longline
		Incidental catch	7.3	
		Total catch	146.7	

Incidental catch
Species: Jewfish, Misty Grouper, Black Grouper, Mutton Snapper, Red Sampper and others.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. For Use of Issuing Office: CU-77-0061

State: Cuba

1. Name of Vessel: Lambda CX
2. Vessel No. Hull No.: L-119 Registration No.: 7188
3. Name and Address of Owner: Name: Flota del Golfo; Address: Calixto Garcia No. 111, Regla, Ciudad Habana.
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: Havana, Cuba
5. Type of Vessel: Longliner with 6 boats on board that also fish.
6. Tonnage (Gross): 107.15 (Net): 49.18
7. Length: 22.55 M 8. Breadth: 6.27 M 9. Draft: 2.40 M.
10. Horsepower: 250 shp 11. Maximum Speed: 9 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other:
12. Date Built: 1966
13. Number and Nationality of Personnel: 20 Cuban
    Officers: 2 Crew: 18 Other(Specify):
14. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other: Spilsbury-Tindall LX-1800 AI, A3.
    International Radio Call Sign: CO-2542
    Radio Frequencies Monitored: 2760, 2845
    Other Working Frequencies: 2638, 2182
    Schedule: Twice daily from 0600-0800 and 1800-2200 and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x),
    Other: Autopilot, direction finder.
16. Cargo Capacity (MT) / Cargo Space Number / Name
    Salted Fish: _____ c Freezer
    Fresh Fish: 29.5 Dry Hold
    Frozen Fish: _____ Tanks
    Fish Meal: _____ Other
    Other: _____ Ice storage 8
17. Processing Equipment (Indicate daily capacity, MT): None
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
West Fla.	May-November	Red grouper	139.6	Longline
		Incidental catch	7.3	
		Total catch	146.9	

Incidental catch
Species: Jewfish, misty grouper, black grouper, Mutton Snapper, Red Snapper and others.

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. For Use of Issuing Office: CU-77-0062

State: Cuba

1. Name of Vessel: [illegible]
2. Vessel No. Hull No.: [illegible] Registration No.: [illegible]
3. Name and Address of Owner: Name: [illegible]; Address: [illegible]
   Name and Address of Charterer:
   Cable Address:
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] M 8. Breadth: [illegible] M 9. Draft: [illegible] M.
10. Horsepower: [illegible] shp 11. Maximum Speed: [illegible] kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other:
12. Date Built: [illegible]
13. Number and Nationality of Personnel: [illegible]
    Officers: [illegible] Crew: [illegible] Other(Specify):
14. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy ( ),
    Other:
    International Radio Call Sign: CO-2
    Radio Frequencies Monitored: 2760 Kc, 2726 Kc, and 2638 Kc.
    Other Working Frequencies: 16528 Kc.
    Schedule: Twice daily from 1615Z to 1815Z and from 1615Z to 2145Z and eventually.

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer (x).
    Other:
16. Cargo Capacity (MT) / Cargo Space Number / Name
    Salted Fish: _____ Freezer -
    Fresh Fish: _____ Dry Hold -
    Frozen Fish: _____ Tanks -
    Fish Meal: _____ Other -
    Other: _____
17. Processing Equipment (Indicate daily capacity, MT):
18. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
[illegible]	[illegible]	[illegible] (Red grouper and Scamp)	[illegible]	[illegible] Trawl

19. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0063 For Use of Issuing Office

CU-77-0063

State: Cuba

1. Name of Vessel Caridad VIII
2. Vessel No. Hull No. Caridad VIII Registration No. 7036
3. Name and Address of Owner Name and Address of Charterer
   Name Flota Cangrejera del Caribe
   Address Calle 1 y Mar s/n
   Cabo Cruz
   Cable Address
4. Homeport and State of Registry: Manzanillo
5. Type of Vessel Side Trawler
6. Tonnage (Gross) 174.6 Tons (Net) 73.11 Tons
7. Length 72'4" L 8. Breadth 24'6" B 9. Draft 9'6" D.
10. Horsepower 470 and 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
12. Date Built 1977
14. Number and Nationality of Personnel 7 Cuban
    Officers 2 Crew 5 Other(Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other
    International Radio Call Sign CA 13
    Radio Frequencies Monitored 2760 Kc, 8706 Kc, and 4396 Kc,
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 16:00 to 20:00 and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (X),
    Other Auto Pilot
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer –
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 10
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number | Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Apr-Oct.	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

CU-77-0064

Permit Period Applied For: _____

Application No. CU-77-0064 For Use of Issuing Office

State: Cuba

1. Name of Vessel Caridad IV
2. Vessel No. Hull No. Caridad IV Registration No. 7035
3. Name and Address of Owner Name and Address of Charterer
   Name Flota Cangrejera del Caribe
   Address Calle 1 y Mar s/n
   Cabo Cruz
   Cable Address
4. Homeport and State of Registry: Manzanillo
5. Type of Vessel Side Trawler
6. Tonnage (Gross) 174.6 Tons (Net) 73.11 Tons
7. Length 72'4" L 8. Breadth 24'6" B 9. Draft 9'6" D.
10. Horsepower 470 and 11. Maximum Speed 10 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other
12. Date Built 1977
14. Number and Nationality of Personnel 7 Cuban
    Officers 2 Crew 5 Other(Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other
    International Radio Call Sign CA 15
    Radio Frequencies Monitored 2760 Kc, 8706 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 16:00 to 20:00 and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer (X),
    Other Auto Pilot
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer –
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 10
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number | Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Apr-Oct.	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0065 For Use of Issuing Office

CU-77-0065

State: Cuba

1. Name of Vessel Caridad III
2. Vessel No. Hull No. Caridad III Registration No. 7037
3. Name and Address of Owner Name and Address of Charterer
   Name Flota Cangrejera del Caribe
   Address Calle 1 y Mar s/n
   Cabo Cruz
   Cable Address
4. Homeport and State of Registry: Manzanillo
5. Type of Vessel Side Trawler
6. Tonnage (Gross) 174.6 Tons (Net) 73.11 Tons
7. Length 72'4" L 8. Breadth 24'6" B 9. Draft 9'6" D.
10. Horsepower 470 and 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
12. Date Built 1977
14. Number and Nationality of Personnel 7 Cuban
    Officers 2 Crew 5 Other(Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other
    International Radio Call Sign CA 17
    Radio Frequencies Monitored 2760 Kc, 8706 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 16:00 to 20:00 and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer –
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 10
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number | Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Apr-Oct.	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

CU-77-0066

Permit Period Applied For: _____

Application No. CU-77-0066 For Use of Issuing Office

State: Cuba

1. Name of Vessel Caridad II
2. Vessel No. Hull No. Caridad II Registration No. 7038
3. Name and Address of Owner Name and Address of Charterer
   Name Flota Cangrejera del Caribe
   Address Calle 1 y Mar s/n
   Cabo Cruz
   Cable Address
4. Homeport and State of Registry: Manzanillo
5. Type of Vessel Side Trawler
6. Tonnage (Gross) 174.6 Tons (Net) 73.11 Tons
7. Length 72'4" L 8. Breadth 24'6" B 9. Draft 9'6" D.
10. Horsepower 470 and 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
12. Date Built 1977
14. Number and Nationality of Personnel 7 Cuban
    Officers 2 Crew 5 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other
    International Radio Call Sign CA 21
    Radio Frequencies Monitored 2760 Kc, 8706 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 16:00 to 20:00 and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other Auto Pilot
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer –
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 10
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number | Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Apr-Oct.	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0067 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: W/F-R/T ( ), M/W, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 23
    Radio Frequencies Monitored 2054 Kc, 6754 Kc, and 4287 Kc.
    Other Working Frequencies 12530 Kc.
    Schedule Twice daily from 1:00 to 1:30 and from 13:0 to 20:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
Off South Texas Northeast	[illegible]	Sardine (Pilch, White and Brown)	1000	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0068 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: W/F-R/T ( ), M/W, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 31
    Radio Frequencies Monitored 2054 Kc, 6754 Kc, and 4287 Kc.
    Other Working Frequencies 12530 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 18:00 to 20:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
Off South Texas Northeast	[illegible]	Sardine (Pilch, White and Brown)	1000	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0069 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: W/F-R/T ( ), M/W, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 33
    Radio Frequencies Monitored 2734 Kc, 6754 Kc, and 4287 Kc.
    Other Working Frequencies 12554 Kc.
    Schedule Twice daily from 10:00 to 13:00 and 18:00 to 20:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
Off South Texas Northeast	[illegible]	Sardine (Pilch, White and Brown)	1000	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0070 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: W/F-R/T ( ), M/W, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 35
    Radio Frequencies Monitored 2734 Kc, 6754 Kc, and 4287 Kc.
    Other Working Frequencies 12554 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 18:00 to 20:00 and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
Off South Texas Northeast	[illegible]	Sardine (Pilch, White and Brown)	1000	Bottom Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0071 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth: _____ ft. 9. Draft _____ ft.
10. Horsepower _____ shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built _____
14. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 36
    Radio Frequencies Monitored 2734 Kc., 8794 Kc., and 4397 Kc.
    Other Working Frequencies 16636 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 18:00 to 20:00 and eventually

CU-77-0071

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other _____
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested

Ocean Area	Species	Conservation Convention Area	Gear to be Used
Off Central Texas Coast	Atlantic Bluefin Tuna (Thunnus thynnus)	12,9	Rod and Reel

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0072 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: Santiago de Cuba
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth: _____ ft. 9. Draft _____ ft.
10. Horsepower _____ shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built _____
14. Number and Nationality of Personnel 7 Cuban
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 37
    Radio Frequencies Monitored 2734 Kc., 8794 Kc., and 4396 Kc.
    Other Working Frequencies 16636 Kc.
    Schedule Twice daily from 10:00 to 13:00 and From 18:00 to 20:00 and eventually

CU-77-0072

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other Auto Pilot
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested

Ocean Area	Species	Conservation Convention Area	Gear to be Used
Off Central Texas Coast	Atlantic Bluefin Tuna (Thunnus thynnus)	12,9	Rod and Reel

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0073 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: Havana Cuba
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length 23.0 ft. 8. Breadth: _____ ft. 9. Draft _____ ft.
10. Horsepower _____ shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built _____
14. Number and Nationality of Personnel 7 Cuban
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign CA 43
    Radio Frequencies Monitored 2054 Kc., 8794 Kc., and 4395 Kc.
    Other Working Frequencies 16636 Kc.
    Schedule Twice daily from 10:00 to 13:00 and from 18:00 to 20:00 and eventually

CU-77-0073

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other Auto Pilot
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Catch (MT)	Gear to be Used
Off Central Texas Coast	Annual			Rod and Reel

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0074 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth _____ ft. 9. Draft 4.0 ft.
10. Horsepower _____ shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built _____
14. Number and Nationality of Personnel 21 Cuban
    Officers _____ Crew _____ Other (Specify) Electrician
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

CU-77-0074

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other _____
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservation Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0075 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2097
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Pesquera [illegible] ariel
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: Cienfuegos, Cuba
5. Type of Vessel: Auxiliary Vessel
6. Tonnage (Gross) 427 [illegible] (Net) 294,50 Ton
7. Length 54,0 L. 8. Breadth 8,0 L. 9. Draft 4,0 L.
10. Horsepower 725 shp. 11. Maximum Speed 11 kt
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1970
14. Number and Nationality of Personnel 20 Cuban
    Officers 7 Crew 12 Other (Specify) Electician
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy (X),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored 2760 Kc, 8756 Kc, and 4396 Kc.
    Other Working Frequencies 1655K Kc.
    Schedule Twice Daily from 10:0C to 13:0C and from 16:0C to 20:0C and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0075
    Decca ( ), Navact ( ), Radar ( ), Fathometer [ ].
    Other [illegible]
17. Cargo Capacity (MT) 18. Cargo Space Number, Name

Salted Fish		Freezer	1
Fresh Fish		Dry Hold	-
Frozen Fish	[illegible]	Tanks	1
Fish Meal		Other	-
Other			

19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Corresponding Catch (MT)	Gear to be Used
[illegible]				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0076 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2041
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Pesquera [illegible] ariel
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) 49,77 Ton
7. Length [illegible] L. 8. Breadth [illegible] L. 9. Draft [illegible] L.
10. Horsepower [illegible] shp. 11. Maximum Speed 9 kt
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1970
14. Number and Nationality of Personnel 9 Cuban
    Officers [illegible] Crew 7 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign CO-2676
    Radio Frequencies Monitored 2760 Kc, 8756 Kc, and 4396 Kc.
    Other Working Frequencies 1655K Kc.
    Schedule Twice Daily from 10:0C to 13:0C and from 16:0C to 20:0C and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0076
    Decca ( ), Navact ( ), Radar ( ), Fathometer [ ].
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Corresponding Catch (MT)	Gear to be Used
Off Coast Texas	[illegible]	Shrimp (Pink, White, and Brown)	12,1	Otter Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0077 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Pesquera [illegible] ariel
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] L. 8. Breadth [illegible] L. 9. Draft [illegible] L.
10. Horsepower [illegible] shp. 11. Maximum Speed [illegible] kt
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built [illegible]
14. Number and Nationality of Personnel 5 Cuban
    Officers [illegible] Crew 2 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign CU-2479
    Radio Frequencies Monitored 2760 Kc, 8756 Kc, and 4396 Kc.
    Other Working Frequencies 1655K Kc.
    Schedule Twice Daily fro 10:0C to 13:0C an. from 16:0C to 20:0C and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0077
    Decca ( ), Navact ( ), Radar ( ), Fathometer [ ].
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space Number, Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Corresponding Catch (MT)	Gear to be Used
Off Coast Texas	[illegible]	[illegible] (Pink, White, and Brown)	[illegible]	[illegible]

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0078 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2026
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Pesquera [illegible] ariel
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: Isariel, Cuba
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) 49,77 Ton
7. Length [illegible] L. 8. Breadth [illegible] L. 9. Draft [illegible] L.
10. Horsepower [illegible] shp. 11. Maximum Speed [illegible] kt
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1976
14. Number and Nationality of Personnel 9 Cuban
    Officers [illegible] Crew 7 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign CO-2904
    Radio Frequencies Monitored 2760 Kc, 8756 Kc, and 4396 Kc.
    Other Working Frequencies 1655K Kc.
    Schedule Twice daily from 10:0C to 13:0C and from 16:0C to 20:0C and eventually
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0078
    Decca ( ), Navact ( ), Radar ( ), Fathometer [ ].
    Other A to Point
17. Cargo Capacity (MT) 18. Cargo Space Number, Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	5
Fish Meal		Other	-
Other			

19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Corresponding Catch (MT)	Gear to be Used
Off S.ore Texas	Aprl-Oct	Shrimp (Pink, White, and Brown)	12,9	Otter Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0079 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2032
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Camaronera del Caribe
   Address: [illegible]
   Cable Address: _____
4. Homeport and State of Registry: Isabel Cuba
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross) 1,302.77 Ton. (Net) 420.77 Ton.
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp. 11. Maximum Speed [illegible] kt
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel 9 Cuban
    Officers 2 Crew 7 Other (Specify) _____
14. Communications: VHF-FM ( ), AL/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored 2790 Kc, 8764 Kc, and 4399 Kc.
    Other Working Frequencies 1650 Kc.
    Schedule Twice Daily from 10:00 to 13:00 and from 16:00 to 20:00 and eventually

CU-77-0079

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (LT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (indicate daily capacity, LT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
Off Shore Tow [illegible]	[illegible]	Croaker (Fish, Whiting, and Croaker)	10,0	Bottom Trawl

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0080 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2032
3. Name and Address of Owner / Name and Address of Charterer
   Name: Flota Camaronera del Caribe
   Address: [illegible]
   Cable Address: _____
4. Homeport and State of Registry: Isabel Cuba
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross) 1,302.77 Ton. (Net) 420.77 Ton.
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] shp. 11. Maximum Speed 9 kt
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built 1976
13. Number and Nationality of Personnel 9 Cuban
    Officers 2 Crew 7 Other (Specify) _____
14. Communications: VHF-FM ( ), AL/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored 2790 Kc, 8764 Kc, and 4399 Kc.
    Other Working Frequencies 1650 Kc.
    Schedule Twice daily from 10:00 to 13:00 and 16:00 to 20:00 and eventually

CU-77-0080

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (LT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (indicate daily capacity, LT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
Off Shore Tow [illegible]	[illegible]	Croaker (Fish, Whiting, and Croaker)	10,0	Bottom Trawl

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0081 For Use of Issuing Office

State: [illegible]

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: VHF-FM ( ), AL/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies [illegible]
    Schedule [illegible]

CU-77-0081

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (LT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (indicate daily capacity, LT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0082 For Use of Issuing Office

State: [illegible]

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built [illegible]
13. Number and Nationality of Personnel [illegible]
    Officers [illegible] Crew [illegible] Other(Specify) [illegible]
14. Communications: VHF-FM ( ), AL/SSB, Voice (X), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies [illegible]
    Schedule [illegible]

CU-77-0082

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (LT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (indicate daily capacity, LT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (LT)	Gear to be Used
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0083 For Use of Issuing Office

State: _____

1. Name of Vessel: _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner: _____ Name and Address of Charterer
   Name _____
   Address _____
   Cable Address _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross): _____ (Net): _____
7. Length: _____ Breadth: _____ Draft: _____
8. Horsepower: _____ No. 10. Maximum Speed _____
9. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
   Other _____
10. Date Built: _____
11. Number and Nationality of Personnel: _____
    Officers _____ Crew _____ Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies: 1650 Kc.
    Schedule _____

13. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
14. Cargo Capacity (MT) 15. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
16. Processing Equipment (Indicate daily capacity, MT)
17. Fisheries for which Permit is Requested:

Ocean Area	Species	Contemplated Catch (MT)	Gear to be Used

18. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0083

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0084 For Use of Issuing Office

State: _____

1. Name of Vessel: _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner: _____ Name and Address of Charterer
   Name _____
   Address _____
   Cable Address _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross): _____ (Net): _____
7. Length: _____ Breadth: _____ Draft: _____
8. Horsepower: _____ No. 10. Maximum Speed _____
9. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
   Other _____
10. Date Built: _____
11. Number and Nationality of Personnel: _____
    Officers _____ Crew _____ Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies: 1650 Kc.
    Schedule _____

13. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
14. Cargo Capacity (MT) 15. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
16. Processing Equipment (Indicate daily capacity, MT)
17. Fisheries for which Permit is Requested:

Ocean Area	Species	Contemplated Catch (MT)	Gear to be Used

18. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0084

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0085 For Use of Issuing Office

State: Cuba

1. Name of Vessel: [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner: [illegible] Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] Breadth: [illegible] Draft: [illegible]
8. Horsepower: [illegible] No. 10. Maximum Speed [illegible]
9. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
   Other _____
10. Date Built: [illegible]
11. Number and Nationality of Personnel: [illegible]
    Officers [illegible] Crew [illegible] Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies: 1650 Kc.
    Schedule [illegible]

13. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
14. Cargo Capacity (MT) 15. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
16. Processing Equipment (Indicate daily capacity, MT)
17. Fisheries for which Permit is Requested:

Ocean Area	Species	Contemplated Catch (MT)	Gear to be Used

18. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0085

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0086 For Use of Issuing Office

State: Cuba

1. Name of Vessel: [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner: [illegible] Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] Breadth: [illegible] Draft: [illegible]
8. Horsepower: [illegible] No. 10. Maximum Speed [illegible]
9. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
   Other _____
10. Date Built: [illegible]
11. Number and Nationality of Personnel: [illegible]
    Officers [illegible] Crew [illegible] Other (Specify) _____
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies: 1650 Kc.
    Schedule [illegible]

13. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
14. Cargo Capacity (MT) 15. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
16. Processing Equipment (Indicate daily capacity, MT)
17. Fisheries for which Permit is Requested:

Ocean Area	Species	Contemplated Catch (MT)	Gear to be Used

18. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0086

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0087 For Use of Issuing Office

State: _____

1. Name of Vessel: _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address _____ / _____
   _____ / _____
4. Homeport and State of Registry: _____ / _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____' Breadth _____' Draft _____'
8. Horsepower _____ 11. Maximum Speed _____ k
12. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Data Refit _____
14. Number and Nationality of Personnel: _____
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT)
18. Cargo Space: Number _____, Name _____
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Pro-rated)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0087

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0088 For Use of Issuing Office

State: _____

1. Name of Vessel: _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address _____ / _____
   _____ / _____
4. Homeport and State of Registry: _____ / _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____' Breadth _____' Draft _____'
8. Horsepower _____ 11. Maximum Speed _____ k
12. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Data Refit _____
14. Number and Nationality of Personnel: _____
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT)
18. Cargo Space: Number _____, Name _____
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Pro-rated)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0088

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0089 For Use of Issuing Office

State: _____

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address _____ / _____
   _____ / _____
4. Homeport and State of Registry: _____ / _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____' 8. Breadth _____' 9. Draft _____'
10. Horsepower _____ 11. Maximum Speed _____ k
12. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Data Refit _____
14. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT)
18. Cargo Space: Number _____, Name _____
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Pro-rated)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0089

FISHING VESSEL IDENTIFICATION FOR: (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0090 For Use of Issuing Office

State: _____

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address _____ / _____
   _____ / _____
4. Homeport and State of Registry: _____ / _____
5. Type of Vessel _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____' 8. Breadth _____' 9. Draft _____'
10. Horsepower _____ 11. Maximum Speed _____ k
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Data Refit _____
14. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ).
    Other _____
17. Cargo Capacity (MT)
18. Cargo Space: Number _____, Name _____
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Pro-rated)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0090

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0091 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth _____ ft. 9. Draft _____ ft
10. Horsepower _____ shp. 11. Maximum Speed _____ kt
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built _____
13. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
14. Communications: VHF-FM ( ), MF/HF, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored 2738 Kc, 8764 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 12:00 and from 18:00 to 20:00 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0091
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (MT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (Indicate daily capacity, MT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Coast Texas	Annual	Squids (Part, Illex and Loligo)	17,5	Bottom Trawl

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0092 For Use of Issuing Office

State: _____

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth _____ ft. 9. Draft _____ ft
10. Horsepower _____ shp. 11. Maximum Speed _____ kt
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built _____
13. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
14. Communications: VHF-FM ( ), MF/HF, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored 2738 Kc, 8764 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 12:00 and from 18:00 to 20:00 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0092
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (MT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (Indicate daily capacity, MT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
		(Part, Illex and Loligo)		

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0093 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth _____ ft. 9. Draft _____ ft
10. Horsepower _____ shp. 11. Maximum Speed _____ kt
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built _____
13. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
14. Communications: VHF-FM ( ), MF/HF, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored 2738 Kc, 8764 Kc, and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice daily from 10:00 to 12:00 and from 18:00 to 20:00 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0093
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (MT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (Indicate daily capacity, MT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Coast Texas	Annual	Squids (Part, Illex and Loligo)	17,5	Bottom Trawl

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0094 For Use of Issuing Office

State: Cuba

1. Name of Vessel _____
2. Vessel No. Hull No. _____ Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: _____
5. Type of Vessel: _____
6. Tonnage (Gross) _____ (Net) _____
7. Length _____ ft. 8. Breadth _____ ft. 9. Draft _____ ft
10. Horsepower _____ shp. 11. Maximum Speed _____ kt
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built _____
13. Number and Nationality of Personnel _____
    Officers _____ Crew _____ Other (Specify) _____
14. Communications: VHF-FM ( ), MF/HF, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored 2738 Kc, 8764 Kc and 4396 Kc.
    Other Working Frequencies 16530 Kc.
    Schedule Twice Daily from 10:00 to 12:00 and from 18:00 to 20:00 and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), CU-77-0094
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other _____
16. Cargo Capacity (MT) / 17. Cargo Space Number, Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
18. Processing Equipment (Indicate daily capacity, MT)
19. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Coast Texas	Annual	Squids (Part, Illex and Loligo)	17,5	Bottom Trawl

20. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0095 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2801
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] and. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel [ ], Steam [ ], Diesel/electric [ ].
    Other _____
13. Date Built: [illegible]
14. Number and Nationality of Personnel: [illegible]
    Officers [illegible] Crew [illegible] Other (Specify) _____
15. Communications: VHF-FM [ ], HF/SSB, Voice [X], Telegraphy [ ],
    Other _____
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored 2738 Kc, 6734 Kc, and 4391 Kc.
    Other Working Frequencies [illegible]
    Schedule Twice daily from 16:00 to 18:00 and from 16:00 to 20:00 and eventually

16. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0095
    Decca [ ], Navaid [ ], Radar [ ], Fathometer [ ].
    Other _____
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer _____
    Fresh Fish _____ Dry Hold _____
    Frozen Fish _____ Tanks _____
    Fish Meal _____ Other _____
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Yes/No)	Species	Contemplated Catch (MT)	Year to be Used
[illegible]	[illegible]	Squid (Illex and Loligo)	12,0	Entire Year

21. Name and Address of Agent authorized to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0096 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. 2801
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] and. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel [ ], Steam [ ], Diesel/electric [ ].
    Other _____
13. Date Built: 1976
14. Number and Nationality of Personnel: 12 Cuban
    Officers 1 Crew 11 Other (Specify) _____
15. Communications: VHF-FM [ ], HF/SSB, Voice [X], Telegraphy [X],
    Other _____
    International Radio Call Sign CDVC
    Radio Frequencies Monitored 2738 Kc, 6734 Kc and 4391 Kc.
    Other Working Frequencies 1393 Kc.
    Schedule Twice Daily from 16:00 to 18:00 and from 16:00 to 20:00 and eventually

16. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0096
    Decca [ ], Navaid [ ], Radar [ ], Fathometer [X].
    Other [illegible]
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer 1
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 8
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Yes/No)	Species	Contemplated Catch (MT)	Year to be Used
[illegible]	[illegible]	Squid (Illex and Loligo)	12,0	Entire Year

21. Name and Address of Agent authorized to receive any legal process issued in the United States

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0097 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] and. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel [ ], Steam [ ], Diesel/electric [ ].
    Other _____
13. Date Built: 1977
14. Number and Nationality of Personnel: 12 Cuban
    Officers 1 Crew 11 Other (Specify) _____
15. Communications: VHF-FM [ ], HF/SSB, Voice [X], Telegraphy [X].
    Other _____
    International Radio Call Sign CDVC
    Radio Frequencies Monitored 2738 Kc, 6734 Kc and 4391 Kc.
    Other Working Frequencies 1393 Kc.
    Schedule Twice Daily from 16:00 to 18:00 and from 16:00 to 20:00 and eventually

16. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ]. CU-77-0097
    Decca [ ], Navaid [ ], Radar [X], Fathometer [X].
    Other [illegible]
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer 1
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 8
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Yes/No)	Species	Contemplated Catch (MT)	Year to be Used
[illegible]	[illegible]	Squid (Illex and Loligo)	12,0	Entire Year

21. Name and Address of Agent authorized to receive any legal process issued in the United States.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____

Application No. CU-77-0098 For Use of Issuing Office

State: Cuba

1. Name of Vessel [illegible]
2. Vessel No. Hull No. [illegible] Registration No. [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name [illegible]
   Address [illegible]
   Cable Address [illegible]
4. Homeport and State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross) [illegible] (Net) [illegible]
7. Length [illegible] ft. 8. Breadth [illegible] ft. 9. Draft [illegible] ft.
10. Horsepower [illegible] and. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel [ ], Steam [ ], Diesel/electric [ ].
    Other _____
13. Date Built: 1977
14. Number and Nationality of Personnel: 12 Cuban
    Officers 1 Crew 11 Other (Specify) _____
15. Communications: VHF-FM [ ], HF/SSB, Voice [X], Telegraphy [X],
    Other _____
    International Radio Call Sign CDVC
    Radio Frequencies Monitored 2738 Kc, 6734 Kc, and 4391 Kc.
    Other Working Frequencies 1393 Kc.
    Schedule Twice Daily from 16:00 to 18:00 and from 16:00 to 20:00 and eventually.

16. Navigation Equipment: Loran C [ ], Loran A [ ], Omega [ ].
    Decca [ ], Navaid [ ], Radar [ ], Fathometer [X].
    Other [illegible] CU-77-0098
17. Cargo Capacity (MT)
    Salted Fish _____ Freezer 1
    Fresh Fish _____ Dry Hold –
    Frozen Fish _____ Tanks 8
    Fish Meal _____ Other 1
    Other _____
18. Cargo Space Number / Name
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Permit (Yes/No)	Species	Contemplated Catch (MT)	Year to be Used
[illegible]	[illegible]	Squid (Illex and Loligo)	12,0	Entire Year

21. Name and Address of Agent authorized to receive any legal process issued in the United States.

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

CU-77-0099

Permit Period Applied For: _____ Application No. CU-77-0099 For use of Issuing Office

State: _____

1. Name of Vessel: F/V [illegible]
2. Vessel No. Hull No. F/V [illegible] Registration No. 0011
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport or State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] 8. Breadth: [illegible] 9. Draft: [illegible]
10. Horsepower: [illegible] 11. Maximum Speed: [illegible] kt.
11. Propulsion. Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other: _____
12. Fish Hold: [illegible]
13. Number and Nationality of Personnel: [illegible]
    Officers: [illegible] Crew: [illegible] Other(Specify): [illegible]
14. Communications: WF-MF ( ), M/SSB, Voice (X), Telegraphy (X),
    Other: _____
    International Radio Call Sign: [illegible]
    Radio Frequencies Monitored: [illegible]
    Other Working Frequencies: [illegible]
    Schedule: [illegible]

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar (X), Fathometer (X).
    Other: [illegible]
16. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish: _____	Freezer	1	
Fresh Fish: _____	Dry Hold	-	
Frozen Fish: [illegible]	Tanks	9	
Fish Meal: _____	Other	1	
Other: _____			

17. Processing Equipment (Indicate daily capacity, MT)
    Fish Size Trawl, Daily Capacity, [illegible] MT
20. Fisheries for which Permit is Requested:

Species Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Annual	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent authorized to receive any legal process issued in the United States.
    _____

CU-77-0100

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0100 For use of Issuing Office

State: Cuba

1. Name of Vessel: F/V [illegible]
2. Vessel No. Hull No. F/V [illegible] Registration No. 1970
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport or State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] 8. Breadth: [illegible]; 9. Draft: [illegible] ft.
10. Horsepower: [illegible] and 11. Maximum Speed: [illegible] kt.
11. Propulsion. Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other: _____
12. Fish Hold: [illegible]
13. Number and Nationality of Personnel: 16 Cuban
    Officers: [illegible] Crew: 11 Other(Specify): [illegible]
14. Communications: WF-MF ( ), M/SSB, Voice (X), Telegraphy (X),
    Other: _____
    International Radio Call Sign: CCCP
    Radio Frequencies Monitored: 2790 Kc, 6754 Kc, and 4395 Kc.
    Other Working Frequencies: 1655 Kc.
    Schedule: Twice daily from 1610Z to 1930Z and from 1610Z to 2510Z and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar (X), Fathometer (X).
    Other: [illegible]
16. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish: _____	Freezer	1	
Fresh Fish: _____	Dry Hold	-	
Frozen Fish: [illegible]	Tanks	9	
Fish Meal: _____	Other	1	
Other: _____			

17. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Species Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	Annual	Shrimp (Pink, White and Brown)	12,9	Bottom Trawl

21. Name and Address of Agent authorized to receive any legal process issued in the United States.
    _____

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

CU-77-0101

Permit Period Applied For: _____ Application No. CU-77-0101 For use of Issuing Office

State: Cuba

1. Name of Vessel: [illegible]
2. Vessel No. Hull No: [illegible] Registration No: [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport or State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] 8. Breadth: [illegible] 9. Draft: [illegible]
10. Horsepower: [illegible] and 11. Maximum Speed: [illegible] kt.
11. Propulsion. Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other: _____
12. Fish Hold: [illegible]
13. Number and Nationality of Personnel: [illegible]
    Officers: [illegible] Crew: [illegible] Other(Specify): [illegible]
14. Communications: WF-MF ( ), M/SSB, Voice (X), Telegraphy (X),
    Other: _____
    International Radio Call Sign: [illegible]
    Radio Frequencies Monitored: [illegible]
    Other Working Frequencies: [illegible]
    Schedule: [illegible]

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ).
    Other: _____
16. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish: _____	Freezer		
Fresh Fish: _____	Dry Hol.		
Frozen Fish: _____	Tanks		
Fish Meal: _____	Other		
Other: _____			

17. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Species Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent authorized to receive any legal process issued in the United States
    _____

CU-77-0102

FISHING VESSEL IDENTIFICATION FOR (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0102 For use of Issuing Office

State: Cuba

1. Name of Vessel: F/V [illegible]
2. Vessel No. Hull No: [illegible] Registration No: [illegible]
3. Name and Address of Owner / Name and Address of Charterer
   Name: [illegible]
   Address: [illegible]
   Cable Address: [illegible]
4. Homeport or State of Registry: [illegible]
5. Type of Vessel: [illegible]
6. Tonnage (Gross): [illegible] (Net): [illegible]
7. Length: [illegible] 8. Breadth: [illegible] 9. Draft: [illegible]
10. Horsepower: [illegible] and 11. Maximum Speed: [illegible] kt.
11. Propulsion. Diesel ( ), Steam ( ), Diesel/Electric ( ).
    Other: _____
12. Fish Hold: [illegible]
13. Number and Nationality of Personnel: 16 Cuban
    Officers: [illegible] Crew: [illegible] Other(Specify): [illegible]
14. Communications: WF-MF ( ), M/SSB, Voice (X), Telegraphy (X),
    Other: _____
    International Radio Call Sign: CCCP
    Radio Frequencies Monitored: 2790 Kc, 6754 Kc and 4395 Kc.
    Other Working Frequencies: 1655 Kc.
    Schedule: Twice daily from 1610Z to 1930Z and from 1810Z to 2510Z and eventually

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar (X), Fathometer (X).
    Other: [illegible]
16. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish: _____	Freezer		
Fresh Fish: _____	Dry Hol.		
Frozen Fish: _____	Tanks		
Fish Meal: _____	Other		
Other: _____			

17. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Species Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent authorized to receive any legal process issued in the United States
    _____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0103

Permit Period Applied For: _____ Application No. CU-77-0103 For Use of Issuing Office

State: Cuba

1. Name of Vessel F-2-27
2. Vessel Reg. Hull No. F-2-27 Registration No. 2019
3. Name and Address of Owner: Name and Address of Charterer
   Name: Flota Cubana de Pesca
   Address: Calle Oficios #32
   Cable Address:
4. Homeport and State of Registry: Isabel Rubi
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross) 2634.87 (Net) 790.46 Suez Regn
7. Length 100.49 M. 8. Breadth 14.5 M. 9. Draft 6.01 M.
10. Horsepower 4000 shp. 11. Maximum Speed 14 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1977
14. Number and Nationality of Personnel 102 Cubans
    Officers 11 Crew 91 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy (x).
    Other
    International Radio Call Sign COJD
    Radio Frequencies Monitored 2738 Kc, 6764 Kc, and 4381 Kc.
    Other Working Frequencies 1955 Kc.
    Schedule Twice daily from 1045Z to 1345Z and from 1815Z to 2015Z and eventually

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar (x), Fathometer (x).
    Other Auto pilot for Radionavigation
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	1	
Fresh Fish	Dry Hold	-	
Frozen Fish	Tanks	3	
Fish Meal	Other	1	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    For [illegible] daily Down to [illegible] MT.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Off Shore Texas	[illegible]	Silver (Fish, Hake and Brown)	10,0	Bottom Trawl

21. Name and Address of Agent designated to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0105

Permit Period Applied For: _____ Application No. CU-77-0105 For Use of Issuing Office

State: Cuba

1. Name of Vessel Río Cuyaguateje
2. Vessel Reg. Hull No. 216 Registration No. 7911
3. Name and Address of Owner: Name and Address of Charterer
   Name: FLOTA CUBANA DE PESCA
   Muelle Osvaldo Sánchez
   Address: Mercado y Desamparados
   Luyanó, Aptdo. 74 Habana 1
   Habana, Cuba
   Cable Address: TELEX 177
   Flocuba
4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel: Tacsa 95 Stern Trawler for fishing and processing
6. Tonnage (Gross) 2634.87 (Net) 1160.21
7. Length 100.49 M. 8. Breadth 14.5 M. 9. Draft 6.01 M.
10. Horsepower 4000 shp. 11. Maximum Speed 14 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1977
14. Number and Nationality of Personnel 102 Cubans
    Officers 11 Crew 91 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other Main and emergency radio transmitter sinthertizer transmitter
    International Radio Call Sign COQR
    Radio Frequencies Monitored 500, 2162, 4179, 6268.5, 8358 Channel 16
    Other Working Frequencies 454-468, 2315-2760, 4194-4215 Channel 25
    Schedule

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ).
    Decca ( ), Navsat ( ), Radar (X), Fathometer (X).
    Other Satelite Navigator, Sonar, Radiogoniometre
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	3	Freezer Storage
Fresh Fish	Dry Hold	1	Store room for fish meal
Frozen Fish 3085,3 m³	Tanks	2	Fishoil Tanks
Fish Meal 406,14 m³	Other		
Other Fishoil 32,0 m³			

19. Processing Equipment (Indicate daily capacity, MT)
    Fishmeal plant Scholler horse 8,0 tons.
    Fish oil separator westfalia It depends from processed material

BAADER 160	4	34,56 tons.
BAADER 670	1	105,6 "
BAADER 423	1	10,8 "
BAADER 50	1	It processing filleting machine output.
BAADER 188	2	5,52 "
BAADER 33	1	3,84 "
BAADER 525	1	

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 2	Silver Hake	965	Midwater and Bottom Trawler
" "	" "	Red Hake	82	" "
" "	" "	Mackerel	253	" "
" "	" "	Herring	22	" "
" "	" "	Others	158	" "
" "	Nov 15 Dec 31	Mackerel	660	Midwater Trawler
" "	" "	Others	90	" "

Cont. item 20

NE Pacific	Jul-Sept	Hake	1020	Midwater and Bottom Trawler
" "	" "	Jack Mackerel	480	" " " "
" "	" "	Others	120	" " " "
CE Pacific	Oct-Dec	Hake	700	" " " "
" "	" "	Jack Mackerel	1050	" " " "
" "	" "	Others	140	" " " "

21. Name and Address of Agent designated to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0104

Permit Period Applied For: _____ Application No. CU-77-0104 For Use of Issuing Office

State: Cuba

1. Name of Vessel Río Salado
2. Vessel Reg. Hull No. 212 Registration No. _____
3. Name and Address of Owner: Name and Address of Charterer
   Name: FLOTA CUBANA DE PESCA
   Muelle Osvaldo Sánchez
   Address: Mercado y Desamparados
   Luyanó, Xptdo. 74 Habana 1
   Habana, Cuba
   Cable Address: Telex 177
   Flocuba
4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel: Tacsa 95 Stern Trawler for fishing and processing
6. Tonnage (Gross) 2634.87 (Net) 1160.21
7. Length 100.49 M. 8. Breadth 14.5 M. 9. Draft 6.01 M.
10. Horsepower 4000 shp. 11. Maximum Speed 14 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1977
14. Number and Nationality of Personnel 102 cubans
    Officers 11 Crew 91 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other Main and emergency radio transmitter sinthertizer transmitter
    International Radio Call Sign COJL
    Radio Frequencies Monitored 500, 2187, 4170, 6268.5, 8358 Channel 16
    Other Working Frequencies 454-468, 2315, 2760, 4194-4215 Channel 25
    Schedule

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (X).
    Decca (X), Navsat (X), Radar (X), Fathometer (X).
    Other Satelite Navigator, Sonar, Radiogoniometre
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	3	Freezer storage
Fresh Fish	Dry Hold	1	Store room for fish meal
Frozen Fish 3085.3 m³	Tanks	2	Fishoil tanks
Fish Meal 406.14 m³	Other		
Other Fishoil 32.0 m³			

19. Processing Equipment (Indicate daily capacity, MT)
    Fishmeal plant schlotter horse 8.0 tons.
    Fish oil separator westfalia It depends from processed material

BAADER 160	4	34.56 tons.
BAADER 670	1	105.6 "
BAADER 423	1	10.8 "
BAADER 50	1	It processing filleting machine output
BAADER 188	2	5.52 "
BAADER 33	1	3.84 "
BAADER 525	1	

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 2	Silver Hake	965	Midwater and Bottom Trawler
" "	" "	Red Hake	82	" "
" "	" "	Mackerel	253	" "
" "	" "	Herring	22	" "
" "	" "	Others	158	" "
" "	Nov 15 Dec 31	Mackerel	660	Midwater Trawler
" "	" "	Others	90	" "

Cont. item 20

NE Pacific	Jul-Sept	Hake	1020	Midwater and Bottom Trawler
" "	" "	Jack Mackerel	480	" " " "
" "	" "	Others	120	" " " "
CE Pacific	Oct-Dec	Hake	700	" " " "
" "	" "	Jack Mackerel	1050	" " " "
" "	" "	Others	140	" " " "

21. Name and Address of Agent designated to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0106

Permit Period Applied For: _____ Application No. CU-77-0106 For Use of Issuing Office

State: CUBA

1. Name of Vessel RIO HANABANA
2. Vessel Reg. Hull No. 219 Registration No. _____
3. Name and Address of Owner: Name and Address of Charterer
   Name: FLOTA CUBANA DE PESCA
   Muelle"Osvaldo Sánchez"
   Address: Mercado y Desamparados
   Luyanó, Apartado 74, Habana 1
   La Habana Cuba.
   Cable Address: Telex 177
   FLOCUBA
4. Homeport and State of Registry: PUERTO DE LA HABANA, CUBA
5. Type of Vessel: TACSA 95 Stern Trawler for fishing and processing.
6. Tonnage (Gross) 2634.87 (Net) 1160.21
7. Length 100.49 M. 8. Breadth 14.5 M. 9. Draft 6.01 M.
10. Horsepower 4 000 HP shp. 11. Maximum Speed 14 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1977
14. Number and Nationality of Personnel 102 Cubana
    Officers 11 Crew 91 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other MAIN AND EMERGENCY RADIO TRANSMITTER sinthertizer transmitter.
    International Radio Call Sign COQV
    Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358 Channel 16
    Other Working Frequencies 454-468, 2315-2760, 4194-4215 Channel 25
    Schedule

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (X).
    Decca (X), Navsat (X), Radar (X), Fathometer (X).
    Other Satelite Navigator, Sonar, Radiogoniometre
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	3	Freezer Storage
Fresh Fish	Dry Hold	1	Store Room for fish meal
Frozen Fish 3085.3 m³	Tanks	2	Fishoil Tanks
Fish Meal 406.14 m³	Other		
Other FISHOIL 32.0 m³			

19. Processing Equipment (Indicate daily capacity, MT)
    Fishmeal Plant Scholler horse 8.0 Tons.
    Fish Oil separator westfalia It depends from processed material

BAADER 160	4	34.56 Tons.
BAADER 670	1	105.6 Tons.
BAADER 423	1	10.8 Tons.
BAADER 50	1	It processing filleting machine output.
BAADER 188	2	5.52 Tons.
BAADER 33	1	3.84 Tons.
BAADER 525	1	

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N/W/A/	May 10-July 2	Silver Hake	965	Midwater and Bottom Trawler
" "	" "	Red Hake	82	" "
" "	" "	Mackerel	253	" "
" "	" "	Herring	22	" "
" "	" "	Others	158	" "
" "	Nov 15 Dec 31	Mackerel	660	Midwater Trawler
" "	" "	Others	90	" "

Cont. item 20

NE Pacific	July-Sept	Hake	1020	Midwater and Bottom Trawler
" "	" "	Jack Mackerel	480	" " " "
" "	" "	Others	120	" " " "
CE Pacific	Oct-Dec	Hake	700	" " " "
" "	" "	Jack Mackerel	1050	" " " "
" "	" "	Others	140	" " " "

21. Name and Address of Agent designated to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0107

Permit Period Applied For: _____ Application No. For Use of Issuing Office CU-77-0107

State: CUBA

1. Name of Vessel OCEANO ANTARTICO
2. Vessel No.: Hull No. 101 Registration No. 470
3. Name and Address of Owner / Name and Address of Charterer

Name FLOTA CUBANA DE PESCA
Muelle "Osvaldo Sánchez",
Address Mercado y Desamparados,
Luyanó, Apartado 74, Habana 1

Cable Address TELEX 177
FLOCUBA

4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel CARGO SHIP (This vessel will be engaged in transshipment, victualling the fishing fleet, and in crew transportation)
6. Tonnage (Gross) 2867 (Net) 1296
7. Length 100.57 M. 8. Breadth 14.98 M. 9. Draft 6.3 M.
10. Horsepower 4200 shp. 11. Maximum Speed 14 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
Other _____
13. Date Built 1949
14. Number and Nationality of Personnel 52 Cubans
Officers 13 Crew 39 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
Other Emergency Radio Transmitter
International Radio Call Sign CONE
Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358
Other Working Frequencies Channel 16
454-468, 2315-2760, 4194-4215
25 channels
Schedule _____

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
Other Girocompass
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 4 (5168 m³)	Freezer Storage
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NWA NEP CEP	1977			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0108

Permit Period Applied For: _____ Application No. For Use of Issuing Office CU-77-0108

State: CUBA

1. Name of Vessel OCEANO INDICO
2. Vessel No.: Hull No. 102 Registration No. 468
3. Name and Address of Owner / Name and Address of Charterer

Name FLOTA CUBANA DE PESCA
Muelle "Osvaldo Sánchez",
Address Mercado y Desamparados,
Luyanó, Apartado 74, Habana 1

Cable Address TELEX 177
FLOCUBA

4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel CARGO SHIP (This vessel will be engaged in transshipment, victualling the fishing fleet, and in crew transportation)
6. Tonnage (Gross) 5600 (Net) 3651.36
7. Length 140.5 M. 8. Breadth 17.8 M. 9. Draft 7.6 M.
10. Horsepower 10500 shp. 11. Maximum Speed 21 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 60 Cubans
Officers 13 Crew 47 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
Other Emergency Radio Transmitter
International Radio Call Sign CONC
Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358
Other Working Frequencies Channel 16
454-468, 2315-2760, 4194-4215
25 channels
Schedule _____

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
Other Radiogoniometer
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 4 (8936 m³)	Freezer Storage
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NWA NEP CEP	1977			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0109

Permit Period Applied For: _____ Application No. For Use of Issuing Office CU-77-0109

State: CUBA

1. Name of Vessel OCEANO PACIFICO
2. Vessel No.: Hull No. 103 Registration No. 469
3. Name and Address of Owner / Name and Address of Charterer

Name Flota Cubana de Pesca
Mercado y Desamparados
Address "Muelle Osvaldo Sánchez"
Luyanó, Apartado 74, Habana 1

Cable Address TELEX 177
FLOCUBA

4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel CARGO SHIP (This vessel will be engaged in transshipment, victualling the fishing fleet, and in crew transportation)
6. Tonnage (Gross) 5600 (Net) 3651.36
7. Length 140.5 M. 8. Breadth 17.8 M. 9. Draft 7.6 M.
10. Horsepower 10500 shp. 11. Maximum Speed 21 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 60 Cubans
Officers 13 Crew 47 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X)
Other Emergency Radio Transmitter
International Radio Call Sign CONB
Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358
Other Working Frequencies Channel 16
454-468, 2315-2760, 4194-4215
25 channels
Schedule _____

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega (X),
Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
Other Radiogoniometer
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 4 (8892 m³)	Freezer Storage
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NWA NEP CEP	1977			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

CU-77-0110

Permit Period Applied For: _____ Application No. For Use of Issuing Office CU-77-0110

State: CUBA

1. Name of Vessel OCEANO ATLANTICO
2. Vessel No.: Hull No. 104 Registration No. 488
3. Name and Address of Owner / Name and Address of Charterer

Name FLOTA CUBANA DE PESCA
Muelle "Osvaldo Sánchez"
Address Mercado y Desamparados,
Luyanó, Apartado 74, Habana 1

Cable Address TELEX 177
FLOCUBA

4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel (This vessel will be engaged in transshipment, victualling the fishing fleet, and in crew transportation)
6. Tonnage (Gross) 10273 (Net) 5999.59
7. Length 163 M. 8. Breadth 22.6 M. 9. Draft 9.2 M.
10. Horsepower 15500 shp. 11. Maximum Speed 24 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
Other _____
13. Date Built 1974
14. Number and Nationality of Personnel 60 Cubans
Officers 13 Crew 47 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (
Other _____
International Radio Call Sign CO73
Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358
Other Working Frequencies Channel 16
454-468, 2315-2760, 4194-4215
25 channels
Schedule _____

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega (X),
Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
Other _____
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 4 (12846 m³)	Freezer Storage
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NWA NEP CEP	1977			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0111 For Use of Issuing Office

State: CUBA

1. Name of Vessel LAS GUASIMAS
2. Vessel No.: Hull No. 901 Registration No. 503
3. Name and Address of Owner / Name and Address of Charterer
   Name FLOTA CUBANA DE PESCA, Muelle "Osvaldo Sánchez"
   Address Mercado y Desamparados, Luyanó, Apartado 74, Habana 1
   Cable Address TELEX 177 FLOCUBA
4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel TANKER (Provides fuel to the fishing fleet)
6. Tonnage (Gross) 3600.39 (Net) 1726.6
7. Length 107.8 M. 8. Breadth 14.8 M. 9. Draft 6.8 M.
10. Horsepower 4000 shp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1976
14. Number and Nationality of Personnel 32 Cubans
    Officers 13 Crew 19 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other Emergency Radio Transmitter
    International Radio Call Sign COJI
    Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358 Channel 16
    Other Working Frequencies 454-468, 2315-2760, 4194-4215 88 Channels
    Schedule _____

CU-77-0111

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other Satellite Navigator
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish _____ Freezer
    Fresh Fish _____ Dry Hold
    Frozen Fish _____ Tanks
    Fish Meal _____ Other
    Other _____
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NWA NEP CEP	1977			

Name and Address of Agent appointed to receive any legal process issued in the United States: _____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 16

Permit Period Applied For: _____ Application No. CU-77-0112 For Use of Issuing Office

State: CUBA

1. Name of Vessel PLAYA COLORADA
2. Vessel No.: Hull No. 701 Registration No. 7752
3. Name and Address of Owner / Name and Address of Charterer
   Name FLOTA CUBANA DE PESCA, MUELLE OSVALDO SANCHEZ
   Address MERCADO Y DESAMPARADOS LUYANO, APTDO. 74 HABANA 1 HABANA, CUBA
   Cable Address TELEX 177 FLOCUBA
4. Homeport and State of Registry: PUERTO DE LA HABANA, CUBA
5. Type of Vessel ATLANTIK, STERN TRAWLER, ENGAGED IN FISHING AND PROCESSING
6. Tonnage (Gross) 2652.25 (Net) 1129.51
7. Length 82.2 M. 8. Breadth 13.6 M. 9. Draft 5.9 M.
10. Horsepower 2,320 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 81 CUBANS
    Officers 11 Crew 70 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (O), Telegraphy (X), Other _____
    International Radio Call Sign COHX
    Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358, CHANNEL 16
    Other Working Frequencies 454-468, 2315-2760, 4194-4215, CHANNEL 25
    Schedule _____

CU-77-0112

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (C), Decca (O), Navsat (O), Radar (X), Fathometer (X), Other RADIOGONIOMETER
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer 2	FREEZER STORAGE
Fresh Fish		Dry Hold 1	STORE ROOM FOR FISH MEAL
Frozen Fish	1040 m³	Tanks 1	FISH OIL TANK
Fish Meal	163 m³	Other	
Other	9 m³		

19. Processing Equipment (Indicate daily capacity,MT)

FREEZING ROTOR	2	36 tons.
FISH MEAL PLANT, VFM02	1	4 tons.

THEORICAL DAILY PRODUCTION WHEN WORKING AT 80% OF ITS CAPACITY DURING A 24 HOURS PERIOD.

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 2	Silver Hake	965	Midwater and Bottom Trawler
"	" "	Red Hake	82	" "
"	" "	Mackerel	253	" "
"	" "	Herring	22	" "
"	" "	Others	158	" "
"	Nov 15-Dec 31	Mackerel	660	Midwater trawler
"	" "	Others	90	" "

21. Name and Address of Agent appointed to receive any legal process issued in the United States: _____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0113 For Use of Issuing Office

State: CUBA

1. Name of Vessel PLAYA DUABA
2. Vessel No.: Hull No. 702 Registration No. 7763
3. Name and Address of Owner / Name and Address of Charterer
   Name FLOTA CUBANA DE PESCA, Muelle Osvaldo Sánchez
   Address Mercado y Desamparados, Luyanó Apartado 74, Habana 1, Habana, Cuba
   Cable Address Telex 177 FLOCUBA
4. Homeport and State of Registry: PUERTO DE LA HABANA, CUBA
5. Type of Vessel ATLANTIK Stern Trawler engaged in fishing and processing
6. Tonnage (Gross) 2652.25 (Net) 1129.51
7. Length 82.2 M. 8. Breadth 13.63 M. 9. Draft 5.9 M.
10. Horsepower 2,320 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1971
14. Number and Nationality of Personnel 81, Cubans
    Officers 11 Crew 70 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X) Other MAIN AND EMERGENCY RADIO TRANSMITTER
    International Radio Call Sign COMY
    Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358, Channel 16
    Other Working Frequencies 454-468, 2315-2760, 4194-4215, Channel 25
    Schedule _____

CU-77-0113

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other Radiogoniometer
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	2 Freezer Storage
Fresh Fish		Dry Hold	1 Store Room for fish meal
Frozen Fish	1055 M 3	Tanks	1 Fish Oil Tank
Fish Meal	163 M 3	Other	
Other	9 M 3		

19. Processing Equipment (Indicate daily capacity,MT)

Freezing rotor	2	36 Tons
Fish meal Plant VF/M/02	1	4 Tons

Theorical daily production when working at 80 % of its capacity during a 24 hours period.

20. Fisheries for which Permit is Requested

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 2	Silver Hake	965	Midwater and Bottom Trawler
"	" "	Red Hake	82	" "
"	" "	Mackerel	253	" "
"	" "	Herring	22	" "
"	" "	Others	158	" "
"	Nov 15-Dec 31	Mackerel	660	Midwater trawler
"	" "	Others	90	" "

21. Name and Address of Agent appointed to receive any legal process issued in the United States: _____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0114 For Use of Issuing Office

State: CUBA

1. Name of Vessel PLAYA GIRON
2. Vessel No.: Hull No. 703 Registration No. 7564
3. Name and Address of Owner / Name and Address of Charterer
   Name FLOTA CUBANA DE PESCA, MUELLE OSVALDO SANCHEZ
   Address MERCADO Y DESAMPARADOS LUYANO, APTDO. 74 HABANA 1 HABANA, CUBA
   Cable Address TELEX 177 FLOCUBA
4. Homeport and State of Registry: PUERTO DE LA HABANA, CUBA
5. Type of Vessel ATLANTIK, STERN TRAWLER, ENGAGED IN FISHING AND PROCESSING
6. Tonnage (Gross) 2652.25 (Net) 1129.51
7. Length 82.2 M. 8. Breadth 13.63 M. 9. Draft 5.9 M.
10. Horsepower 2320 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 81 CUBANS
    Officers 11 Crew 70 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other MAIN AND EMERGENCY RADIO TRANSMITTER
    International Radio Call Sign COHE
    Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358, CHANNEL 25
    Other Working Frequencies 454-468, 2315-2760, 4194-4215 CHANNEL 25.
    Schedule _____

CU-77-0114

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (O), Decca (O), Navsat (O), Radar (X), Fathometer (X), Other RADIOGONIOMETER
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	3 FREEZER STORAGE
Fresh Fish		Dry Hold	1 STORE ROOM FOR FISH MEAL
Frozen Fish	1040 m³	Tanks	1 FISH OIL TANK
Fish Meal	163 m³	Other	
Other FISHOIL	9 m³		

19. Processing Equipment (Indicate daily capacity,MT)

FREEZING ROTOR	2	36 tons.
FISH MEAL PLANT VF/M02	1	4 tons.

THECRICAL DAILY PRODUCTION WHEN WORKING AT 80% OF ITS CAPACITY DURING A 24 HOURS PERIOD.

20. Fisheries for which Permit is Requested.

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 2	Silver Hake	965	Midwater and Bottom Trawler
"	" "	Red Hake	82	" "
"	" "	Mackerel	253	" "
"	" "	Herring	22	" "
"	" "	Others	158	" "
"	Nov 15-Dec 31	Mackerel	660	Midwater trawler
"	" "	Others	90	" "

21. Name and Address of Agent appointed to receive any legal process issued in the United States: _____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0115 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Playa Varadero
2. Vessel No.: Hull No. 704 Registration No. 7750
3. Name and Address of Owner: FLOTA CUBANA DE PESCA, Muelle Osvaldo Sánchez, Mercado y Desamparados, Luyanó, Aptdo. 74 Habana 1, Habana, Cuba. Cable Address: TELEX 177, Flocuba. Name and Address of Charterer: _____
4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel: Atlantik, Stern Trawler, Engaged in Fishing and processing.
6. Tonnage (Gross) 2652.25 (Net) 1129.51
7. Length 82.2 M. 8. Breadth 13.63 M. 9. Draft 5.9 M.
10. Horsepower 2320 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1971
14. Number and Nationality of Personnel 81 cubans
Officers 11 Crew 70 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (O), Telegraphy (X). Other Main and emergency radio transmitters
International Radio Call Sign COMJ
Radio Frequencies Monitored 500, 2182, 4179, 6368.5, 8358, Channel 16.
Other Working Frequencies 454-468, 2315-2760, 4194-4215 Channel 25
Schedule _____

CU-77-0115

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (O), Decca (O), Navsat (O), Radar (X), Fathometer (X), Other Radiogoniometer
17. Cargo Capacity (MT)

Salted Fish		Freezer	2
Fresh Fish		Dry Hold	1
Frozen Fish	1055 m³	Tanks	1
Fish Meal	163 m³	Other	
Other	9 m³		

18. Cargo Space

Number	Name
2	Freezer Storage
1	Store room for fish meal
1	Fish oil tank

19. Processing Equipment (Indicate daily capacity,MT)
Freezing rotor 2 36 tons.
Fishmeal plant VF/MO2 1 4 tons.
Theorical daily production when working at 80% of its capacity during a 24 hours period.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 7	Silver Hake	965	Midwater and Bottom Trawler
" "	" "	Red Hake	82	" "
" "	" "	Mackerel	253	" "
N.W.A.	" "	Herring	22	" "
" "	" "	Others	158	" "
" "	Nov 15-Dec 31	Mackerel	660	Midwater Trawler
" "	" "	Others	90	" "

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

CU-77-0116

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. CU-77-0116 For Use of Issuing Office

State: Cuba

1. Name of Vessel: Playitas
2. Vessel No.: Hull No. 705 Registration No. 7736
3. Name and Address of Owner: FLOTA CUBANA DE PESCA, Muelle Osvaldo Sánchez, Luyanó, Aptdo. 74 Habana 1, Habana, Cuba. Cable Address: Telex 177, Flocuba. Name and Address of Charterer: _____
4. Homeport and State of Registry: Puerto de La Habana, Cuba
5. Type of Vessel: Atlantik stern trawler, engaged in fishing and processing.
6. Tonnage (Gross) 2652.25 (Net) 1129.51
7. Length 82.2 M. 8. Breadth 13.63 M. 9. Draft 5.9 M.
10. Horsepower 2320 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1971
14. Number and Nationality of Personnel 81 cubans
Officers 11 Crew 70 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (O), Telegraphy (X). Other Main and emergency radio transmitter
International Radio Call Sign COMJ
Radio Frequencies Monitored 500, 2182, 4179, 6268.5, 8358, Channel 16
Other Working Frequencies 454-468, 2315-2760, 4194-4215 Channel 25
Schedule _____

16. Navigation Equipment: Loran C (X), Loran A (X), Omega (O), Decca (O), Navsat (O), Radar (X), Fathometer (X), Other Radiogoniometer
17. Cargo Capacity (MT)

Salted Fish		Freezer	2
Fresh Fish		Dry Hold	1
Frozen Fish	1055 m³	Tanks	1
Fish Meal	163 m³	Other	
Other	9 m³		

18. Cargo Space

Number	Name
2	Freezer storage
1	Store room for fish meal
1	Fish oil tank

19. Processing Equipment (Indicate daily capacity,MT)
Freezing rotor 2 36 tons.
Fish meal plant VF/MO2 1 4 tons.
Theorical Daily production when working at 80% of its capacity during a 24 hours period.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
N.W.A.	May 10-Jul 7	Silver Hake	965	Midwater and Bottom Trawler
" "	" "	Red Hake	82	" "
" "	" "	Mackerel	253	" "
" "	" "	Herring	22	" "
" "	" "	Others	158	" "
" "	Nov 15-Dec 31	Mackerel	660	Midwater trawler
" "	" "	Others	90	" "

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[FR Doc.77-22631 Filed 8-8-77;8:45 am]

federal register

TUESDAY, AUGUST 9, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PANAMA CANAL COMPANY

PRIVACY ACT OF 1974

Systems of Records; Addition

CANAL ZONE GOVERNMENT—PANAMA CANAL COMPANY

PRIVACY ACT OF 1974

Proposed New System of Records

The Canal Zone Government and the Panama Canal Company propose to establish a new system of records called "Race and Ethnic Data, PCC-CZG/GVEO-1." A description of the proposed new system is published below.

These agencies filed a report on the proposed new system with the Office of Management and Budget, the Senate, the House of Representatives and the Privacy Protection Study Commission on July 19, 1977.

These agencies invite the submission of written data, views or arguments on any aspect of this proposed new system by any member of the public. To be considered, comments must be received on or before September 8, 1977.

Send comments to:
Joseph J. Wood,
Agency Records Officer,
(Chief, Administrative Services Division)
Panama Canal Company
Box M
Balboa Heights, Canal Zone
Mark all comments: "GVEO-1."

Thomas M. Constant,
Assistant to the Governor of the Canal Zone Secretary, Panama Canal Company.

PCC-CZG/GVEO-1

System name: Race and Ethnic Data, PCC-CZG/GVEO-1

System location: Office of Equal Opportunity, Balboa Heights, Canal Zone, and Data Processing Division, Administration Building, Balboa Heights, Canal Zone.

Categories of individuals covered by the system: Active employees of the Panama Canal Company/Canal Zone Government.

Categories of records in the system: A minority group designator, together with information in the payroll system of the Panama Canal Company/Canal Zone Government, including such information as name, employee identification number, date hired, roll and gang, position number, occupation, pay level, base rate, position security classification, work week, social security code and number, residence, citizenship, sex, marital status, birth date, Federal service date, Canal service date and employee status.

Authority for maintenance of the system: 5 U.S.C. Chapter 55; 42 U.S.C. 2000e-16; 2 C.Z.C. 31-33, 65, 66, 101, 121, 141 et. seq., 76A Stat. 7, 11, 14, 15 ff.; E.O. 11478 of August 8, 1969; 5 CFR 713.301 and 713.302; Bylaws of the Panama Canal Company, Section 6.8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See General Routine Use paragraphs published at 41 FR 41358 and in 35 CFR Part 10, Appendix A. The System Manager is prohibited, by the provisions of 5 CFR 713.302(b), from disclosing minority group data in the system except in the form of gross statistics (except insofar as an individual is entitled, under the Privacy Act, to access to information pertaining to him which is contained in the system.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes or discs, computer printouts and Panama Canal forms No. 2823, used for computer input.

Retrievability: By any or all of the categories of records in the system.

Safeguards: Printouts containing names or other personal identifiers together with the minority group designator code maintained in locked file cabinet and accessible only to the Director of the Office of Equal Opportunity or that official's designated representative. Magnetic tapes stored in locked rooms when not in use; access and use restricted to authorized personnel. Printouts will be produced only upon written request from the Director of the Office of Equal Opportunity.

Retention and disposal: Printouts retained up to five years and then destroyed. Records on magnetic tape retained until six weeks after the end of the calendar year in which the employee terminates. Tapes and discs erased and reused. Panama Canal forms No. 2823 destroyed after minority group information entered in computer and checked for accuracy.

System manager(s) and address: Director of Equal Opportunity, Office of Equal Opportunity, Box M, Balboa Heights, Canal Zone.

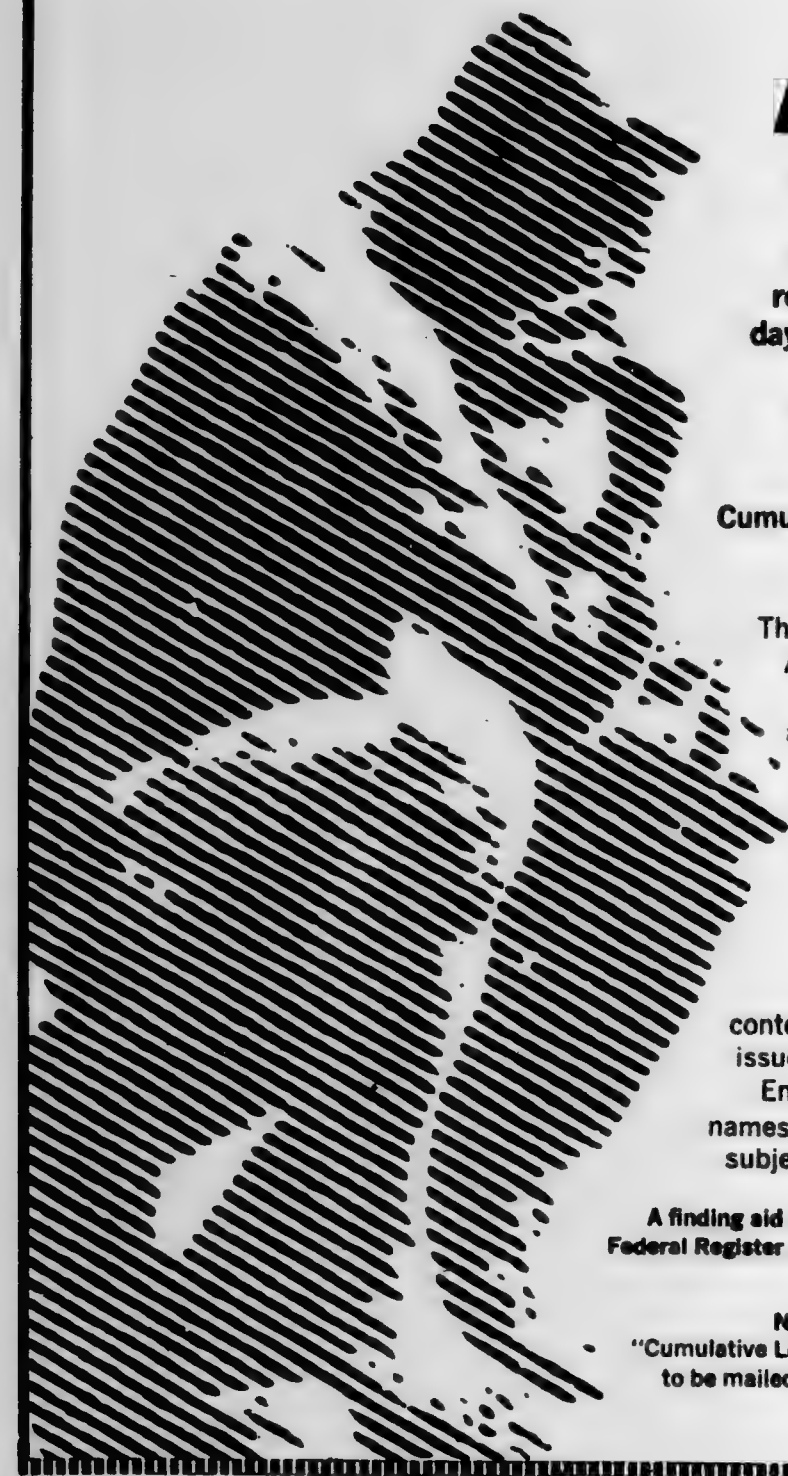
Notification procedure: Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, Canal Zone. Rules are published in 35 CFR Part 10.

Record access procedures: Requests should be addressed to either of the officials designated in Notification Procedure, preceding.

Contesting record procedures: Rules governing how an individual may request the amendment of any information about him in this system are published in 35 CFR 10.7.

Record source categories: Minority group designator code: A visual identification of the employee's race and ethnic category made by the employee's supervisor for those employed as of June 30, 1977 and, for those entering service after June 10, 1977, by staff of the Employee Processing Unit of the Personnel Bureau. All other data: Subject employee, personnel action forms (SF 50), employing unit, time reports, computer-generated and manual calculations from varied input data.

[FR Doc.77-22919 Filed 8-8-77;8:45 am]



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WEDNESDAY, AUGUST 10, 1977

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rules and regulations

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Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, U.S.D.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation (CCC), is publishing the 1977 crop supplement to the Cotton Loan Program regulations. The supplement contains the loan rates and premiums and discounts applicable to the 1977 crop cotton. Price support loans will be available to eligible producers on 1977 crop cotton under such rates.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS), 202-447-9224.

SUPPLEMENTARY INFORMATION: On December 27, 1976, a notice was published in the FEDERAL REGISTER (41 FR 56204) regarding certain determinations CCC was to make with respect to the loan programs for the 1977 crops of upland and extra long staple cotton. Five comments were received concerning the loan rates, discounts, and micronaire differentials for upland cotton. Two recommended that consideration be given to reducing the number of premiums and discounts in line with market needs. One response recommended that color, as an element of grade, be evaluated. One suggested that micronaire discounts are unfair and should be terminated. One recommended a widening of the differences in the lower micronaire groups. No comments were received concerning the other determinations included in the notice. After considering all responses, it is determined that the loan rates, premiums, discounts, and differentials proposed by CCC are fair and equitable and will be applicable to the 1977 crop of cotton. Accordingly, the 1977 program will remain basically unchanged from the 1976 loan program. The Cotton Loan Program Regulations issued by CCC, containing loan operation provisions are supplemented as shown below for the 1977 crop of cotton.

Sections 1427.101–1427.105 contain the schedules of base loan rates for upland cotton, premiums and discounts for grade and staple length of upland cotton, micronaire differentials for upland cotton and base loan rates and micronaire differentials for eligible qualities of extra long staple cotton which were announced by press release on May 12, 1977. Upland rates are based on the national loan rate applicable to Middling one-inch cotton (micronaire 3.5 through 4.9) net weight, at average location in the U.S. adjusted to Strict Low Middling $1^{1}/_{16}$ inch cotton as the base quality for computing loans. Extra long staple rates are based on the national average loan rate for extra long staple cotton. Both such rates were announced by press release as preliminary on October 15, 1976, and as final on February 16, 1977.

Accordingly, 7 CFR 1427.100 through 1427.105 and the title of the subpart are revised to read as follows, effective as to the 1977 crops of upland and extra long staple cotton. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

Sec.

1427.100 Purpose.
1427.101 Schedule of base loan rates for eligible 1977 crop upland cotton by warehouse location.
1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1977 crop upland cotton.
1427.103 Schedule of micronaire differentials for 1977 crop upland cotton.
1427.104 Schedule of loan rates for eligible qualities of 1977 crop extra long staple cotton by warehouse location.
1427.105 Schedule of micronaire differentials for 1977 crop extra long staple cotton.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714 (b and c); secs. 101, 103, 401, 63 Stat. 1051 (7 U.S.C. 1441, 1444, 1421).

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

§ 1427.100 Purpose.

This subpart is for the purpose of announcing that loans will be available on upland and extra long staple cotton of the 1977 crop under the terms and conditions stated in the Cotton Loan Program regulations issued by CCC and contained in this Part 1427. This subpart also contains schedules to be used in determining loan rates on 1977 crop cotton.

§ 1427.101 Schedule of base loan rates for eligible 1977-crop upland cotton by warehouse location.

[In cents per pound, net weight]

City	County	Basis strict low middling white $1^{1}/_{16}$, 4134 loan rate
ALABAMA		
Albertville	Marshall	47.30
Alberville	Pickens	45.30
Arab	Marshall	45.30
Atmore	Escambia	45.20
Attalla	Etowah	45.30
Bella Mina	Limestone	45.30
Birmingham	Jefferson	45.30
Decatur	Morgan	45.30
Demopolis	Marengo	45.20
Eclectic	Elmore	45.30
Elkmont	Limestone	45.30
Eutaw	Greene	45.20
Fayette	Fayette	45.30
Frisco City	Monroe	45.20
Gadsden	Etowah	45.30
Geraldine	De Kalb	45.30
Greenbrier	Limestone	45.30
Haleyville	Winston	45.30
Hamilton	Marion	45.30
Hartselle	Morgan	45.30
Havana Junction	Hale	45.20
Huntsville	Madison	45.30
Hurtsboro	Russell	45.50
McCullough	Escambia	45.20
Madison	Madison	45.30
Marion	Perry	45.30
Mobile	Mobile	45.20
Montgomery	Montgomery	45.30
Moundville	Hale	45.20
New Hope	Madison	45.30
Northport	Tuscaloosa	45.20
Opelika	Lee	45.50
Panola	Sumter	45.20
Red Bay	Franklin	45.20
Scottsboro	Jackson	45.30
Section	do	45.30
Selma	Dallas	45.30
Sulligent	Lamar	45.20
Sweet Water	Marengo	45.20
Tallassee	Elmore	45.30
Tuscumbia	Colbert	45.20
Union Springs	Bullock	45.30
Wetumpka	Elmore	45.30
ARIZONA		
Eloy	Pinal	43.60
Phoenix	Maricopa	43.60
Picacho	Pinal	43.60
Yuma	Yuma	43.60
ARKANSAS		
Blytheville	Mississippi	45.05
Bradley	Lafayette	43.80
Brinkley	Monroe	45.05
Clarendon	do	45.05
Cotton Plant	Woodruff	45.05
Dardanelle	Yell	44.95
Dell	Mississippi	45.05
Dumas	Desha	44.95
Earle	Crittenden	45.05
England	Lonoke	44.95
Endora	Chicot	44.95
Evadale	Mississippi	45.05
Forrest City	St Francis	45.05
Helena	Phillips	45.05
Hughes	St Francis	45.05

City	County	Basis strict low middling white 1⅛s 41¾ loan rate
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	15.05
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

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SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

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AGENCY: Commodity Credit Corporation, U.S.D.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation (CCC), is publishing the 1977 crop supplement to the Cotton Loan Program regulations. The supplement contains the loan rates and premiums and discounts applicable to the 1977 crop cotton. Price support loans will be available to eligible producers on 1977 crop cotton under such rates.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS), 202–447–9224.

SUPPLEMENTARY INFORMATION: On December 27, 1976, a notice was published in the FEDERAL REGISTER (41 FR 56204) regarding certain determinations CCC was to make with respect to the loan programs for the 1977 crops of upland and extra long staple cotton. Five comments were received concerning the loan rates, discounts, and micronaire differentials for upland cotton; Two recommended that consideration be given to reducing the number of premiums and discounts in line with market needs. One response recommended that color, as an element of grade, be evaluated. One suggested that micronaire discounts are unfair and should be terminated. One recommended a widening of the differences in the lower micronaire groups. No comments were received concerning the other determinations included in the notice. After considering all responses, it is determined that the loan rates, premiums, discounts, and differentials proposed by CCC are fair and equitable and will be applicable to the 1977 crop of cotton. Accordingly, the 1977 program will remain basically unchanged from the 1976 loan program. The Cotton Loan Program Regulations issued by CCC, containing loan operation provisions are supplemented as shown below for the 1977 crop of cotton.

Sections 1427.101–1427.105 contain the schedules of base loan rates for upland cotton, premiums and discounts for grade and staple length of upland cotton, micronaire differentials for upland cotton and base loan rates and micronaire differentials for eligible qualities of extra long staple cotton which were announced by press release on May 12, 1977. Upland rates are based on the national loan rate applicable to Middling one-inch cotton (micronaire 3.5 through 4.9) net weight, at average location in the U.S. adjusted to Strict Low Middling $1^{1}/_{16}$ inch cotton as the base quality for computing loans. Extra long staple rates are based on the national average loan rate for extra long staple cotton. Both such rates were announced by press release as preliminary on October 15, 1976, and as final on February 16, 1977.

Accordingly, 7 CFR 1427.100 through 1427.105 and the title of the subpart are revised to read as follows, effective as to the 1977 crops of upland and extra long staple cotton. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

Sec.

1427.100 Purpose.
1427.101 Schedule of base loan rates for eligible 1977 crop upland cotton by warehouse location.
1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1977 crop upland cotton.
1427.103 Schedule of micronaire differentials for 1977 crop upland cotton.
1427.104 Schedule of loan rates for eligible qualities of 1977 crop extra long staple cotton by warehouse location.
1427.105 Schedule of micronaire differentials for 1977 crop extra long staple cotton.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714 (b and c); secs. 101, 103, 401, 63 Stat. 1051 (7 U.S.C. 1441, 1444, 1421).

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

§ 1427.100 Purpose.

This subpart is for the purpose of announcing that loans will be available on upland and extra long staple cotton of the 1977 crop under the terms and conditions stated in the Cotton Loan Program regulations issued by CCC and contained in this Part 1427. This subpart also contains schedules to be used in determining loan rates on 1977 crop cotton.

§ 1427.101 Schedule of base loan rates for eligible 1977-crop upland cotton by warehouse location.

[In cents per pound, net weight]

City	County	Basis strict low middling white $1^{1}/_{16}$, 4134 loan rate
ALABAMA		
Albertville	Marshall	47.80
Alberville	Pickens	45.30
Arab	Marshall	45.30
Atmore	Escambia	45.20
Attalla	Etowah	45.50
Bella Mina	Limestone	45.30
Birmingham	Jefferson	45.30
Decatur	Morgan	45.30
Demopolis	Marengo	45.20
Eclectic	Elmore	45.80
Elkmont	Limestone	45.30
Eutaw	Greene	45.20
Fayette	Fayette	45.30
Frisco City	Monroe	45.30
Gadsden	Etowah	45.50
Geraldine	De Kalb	45.30
Greenbrier	Limestone	45.30
Haleyville	Winston	45.30
Hamilton	Marion	45.20
Hartselle	Morgan	45.30
Havana Junction	Hale	45.20
Huntsville	Madison	45.30
Hurtsboro	Russell	45.50
McCullough	Escambia	45.20
Madison	Madison	45.30
Marion	Perry	45.30
Mobile	Mobile	45.20
Montgomery	Montgomery	45.30
Moundville	Hale	45.20
New Hope	Madison	45.30
Northport	Tuscaloosa	45.20
Opelika	Lee	45.50
Panola	Sumter	45.20
Red Bay	Franklin	45.30
Scottsboro	Jackson	45.30
Section	do	45.30
Selma	Dallas	45.30
Sulligent	Lamar	45.20
Sweet Water	Marengo	45.20
Tallassee	Elmore	45.30
Tuscumbia	Colbert	45.20
Union Springs	Bullock	45.30
Wetumpka	Elmore	45.30
ARIZONA		
Eloy	Pinal	43.60
Phoenix	Maricopa	43.60
Picacho	Pinal	43.60
Yuma	Yuma	43.60
ARKANSAS		
Blytheville	Mississippi	45.05
Bradley	Lafayette	44.80
Brinkley	Monroe	45.05
Clarendon	do	45.05
Cotton Plant	Woodruff	45.05
Dardanelle	Yell	44.95
Dell	Mississippi	45.05
Dumas	Desha	44.95
Earle	Crittenden	45.05
England	Lonoke	44.95
Eudora	Chicot	44.95
Evadale	Mississippi	45.05
Forrest City	St Francis	45.05
Helena	Phillips	45.05
Hughes	St Francis	45.05

City	County	Basis strict low middling white 1 1/16, 4134 loan rate
Arkansas—Continued		
Jonesboro	Craighead	45.05
Leachville	Mississippi	45.05
Lonoke	Lonoke	44.95
McCrory	Woodruff	45.05
McGehee	Desha	44.95
Marianna	Lee	45.05
Marked Tree	Poinsett	45.05
Marvell	Phillips	45.05
Newport	Jackson	44.95
North Little Rock	Pulaski	44.95
Osceola	Mississippi	45.05
Pine Bluff	Jefferson	44.95
Portland	Ashley	44.95
Trumann	Poinsett	45.05
Walnut Ridge	Lawrence	44.95
West Memphis	Crittenden	45.05
Wynne	Cross	45.05
CALIFORNIA		
Bakersfield	Kern	43.60
Calico	do	43.60
El Centro	Imperial	43.60
Fresno	Fresno	43.60
Imperial	Imperial	43.60
Kerman	Fresno	43.60
Pinedale	do	43.60
Tulare	Tulare	43.60
FLORIDA		
Jay	Santa Rosa	45.30
GEORGIA		
Allentown	Wilkinson	45.75
Arabi	Crisp	45.50
Arlington	Calhoun	45.30
Atlanta	Fulton	45.75
Augusta	Richmond	45.95
Bartow	Jefferson	45.75
Blakely	Early	45.30
Butler	Taylor	45.75
Byromville	Dooly	45.50
Cadwell	Laurens	45.75
Camilla	Mitchell	45.30
Chauncey	Dodge	45.75
Cochran	Bleckley	45.75
Columbus	Muscogee	45.75
Comer	Madison	45.75
Cordele	Crisp	45.50
Cuthbert	Randolph	45.30
Dawson	Terrell	45.50
DeSoto	Sumter	45.50
Dexter	Laurens	45.75
Doerun	Colquitt	45.30
Douglas	Coffee	45.50
Dublin	Laurens	45.75
Dudley	do	45.75
Eastman	Dodge	45.75
Edison	Calhoun	45.30
Elko	Houston	45.75
Fitzgerald	Ben Hill	45.50
Funston	Colquitt	45.30
Greenville	Meriwether	45.75
Hawkinsville	Pulaski	45.75
Jeffersonville	Twiggs	45.75
Leslie	Sumter	45.50
Lumpkin	Stewart	45.50
McDonough	Henry	45.75
Madison	Morgan	45.75
Marshallville	Macon	45.75
Meigs	Thomas	45.30
Metter	Candler	45.75
Metcalfe	Burke	45.75
Monroe	Walton	45.75
Montezuma	Macon	45.75
Moultrie	Colquitt	45.30
Norman Park	do	45.30
Omega	Tift	45.50
Parrott	Terrell	45.50
Pinehurst	Dooly	45.50
Pitts	Wilcox	45.50
Plains	Sumter	45.50
Rebecca	Turner	45.50
Reynolds	Taylor	45.75
Rochelle	Wilcox	45.50
Rome	Floyd	45.75
Rutledge	Morgan	45.75
Sandersville	Washington	45.75
Sasser	Terrell	45.50
Senoia	Coweta	45.75
Shellman	Randolph	45.30
Social Circle	Walton	45.75
Statesboro	Bulloch	45.75
Swainsboro	Emanuel	45.75
Sycamore	Turner	45.50
Sylvester	Worth	45.50
Tennille	Washington	45.75
Trion	Chattooga	45.75
Unadilla	Dooly	45.50
Vienna	do	45.50
Wadley	Jefferson	45.75
Watkinsville	Oconee	45.95
Waynesboro	Burke	45.75
Winder	Barrow	45.95
Wrightsville	Johnson	45.75
Yatesville	Upson	45.75
LOUISIANA		
Alexandria	Rapides	44.80
Bernice	Union	44.80
Cheneyville	Rapides	44.80
Delhi	Richland	44.95
Ferriday	Concordia	44.95
Lake Providence	East Carroll	44.95
Mansfield	De Soto	44.80
Mer Rouge	Morehouse	44.95
Monroe	Ouachita	44.95
Natchitoches	Natchitoches	44.80
Newellton	Tensas	44.95
Oak Grove	West Carroll	44.95
Plain Dealing	Bossier	44.80
Rayville	Richland	44.95
Shreveport	Caddo	44.80
Tallulah	Madison	44.95
Winnsboro	Franklin	44.95
MISSISSIPPI		
Aberdeen	Monroe	45.10
Batesville	Panola	45.10
Belzoni	Humphreys	45.05
Booneville	Prentiss	45.10
Canton	Madison	45.10
Carthage	Leake	45.10
Clarksdale	Coahoma	45.05
Cleveland	Bolivar	45.05
Como	Panola	45.10
Corinth	Alcorn	45.10
Drew	Sunflower	45.05
Flora	Madison	45.10
Greenville	Washington	45.05
Greenwood	Leflore	45.05
Grenada	Grenada	45.10
Gulfport	Harrison	45.05
Hollandale	Washington	45.05
Holly Springs	Marshall	45.10
Houston	Chickasaw	45.10
Indianola	Sunflower	45.05
Inverness	do	45.05
Itta Bena	Leflore	45.05
Kosciusko	Attala	45.10
Leland	Washington	45.05
Marks	Quitman	45.05
New Albany	Union	45.10
Pagnes	Tallahatchie	45.05
Pontotoc	Pontotoc	45.10
Quitman	Clarke	45.05
Ripley	Tippah	45.10
Rolling Fork	Sharkey	45.05
Rosedale	Bolivar	45.05
Ruleville	Sunflower	45.05
Shaw	Bolivar	45.05
Shelby	do	45.05
Shuqualak	Noxubee	45.10
Sledge	Quitman	45.05
Tunica	Tunica	45.05
Tutwiler	Tallahatchie	45.05
Vicksburg	Warren	45.05
Yazoo City	Yazoo	45.05
MISSOURI		
Arbyrd	Dunklin	45.05
Carutthersville	Pemiscot	45.05
Gideon	New Madrid	45.05
Hayti	Pemiscot	45.05
Kennett	Dunklin	45.05
Lilbourn	New Madrid	45.05
Haldeen	Dunklin	45.05
Portageville	New Madrid	45.05
Sikeston	Scott	45.05
NEW MEXICO		
Artesia	Eddy	44.45
Deming	Luna	44.35
Las Cruces	Dona Ana	44.45
Roswell	Chaves	44.45
NORTH CAROLINA		
Battleboro	Nash	45.95
Charlotte	Mecklenburg	46.05
Cherryville	Gaston	46.05
Conway	Northampton	45.95
Dunn	Harnett	45.95
Edenton	Chowan	45.95
Enfield	Halifax	45.95
Falls	Wake	45.95
Fayetteville	Cumberland	45.95
Gibson	Scotland	45.95
Jackson	Northampton	45.95
Lincolnton	Lincoln	46.05
Lumberton	Robeson	45.95
Marven	Anson	46.05
Nashville	Nash	45.95
Parkton	Robeson	45.95
Pembroke	do	45.95
Roeford	Hoke	45.95
Red Springs	Robeson	45.95
Rich Square	Northampton	45.95
Roanoke Rapids	Halifax	45.95
Rowland	Robeson	45.95
Salisbury	Rowan	46.05
Scotland Neck	Halifax	45.95
Shelby	Cleveland	46.05
Smithfield	Johnston	45.95
Tarboro	Edgecombe	45.95
Wagrani	Scotland	45.95
Weldon	Halifax	45.95
Wilson	Wilson	45.95
Woodland	Northampton	45.95
OKLAHOMA		
Altus	Jackson	44.65
Chickasha	Grady	44.65
Frederick	Tillman	44.65
SOUTH CAROLINA		
Abbeville	Abbeville	46.05
Allendale	Allendale	45.95
Anderson	Anderson	46.05
Bamberg	Bamberg	45.95
Bennettsville	Marlboro	45.95
Bishopville	Lee	45.95
Bowman	Orangeburg	45.95
Brunson	Hampton	45.95
Calhoun Falls	Abbeville	46.05
Cameron	Calhoun	45.95
Chester	Chester	46.05
Chesterfield	Chesterfield	46.05
Clio	Marlboro	45.95
Columbia	Richland	46.05
Dalzell	Sumter	45.95
Darlington	Darlington	45.95
Denmark	Bamberg	45.95
Dillon	Dillon	45.95
Edgefield	Edgefield	46.05
Elloree	Orangeburg	45.95
Estill	Hampton	45.95
Gaffney	Cherokee	46.05
Greenville	Greenville	46.05
Hartsville	Darlington	45.95
Heath Springs	Lancaster	46.05
Lake City	Florence	45.95
Lamar	Darlington	45.95
Manning	Clarendon	45.95
Marion	Marion	45.95
Newberry	Newberry	46.05
North	Orangeburg	45.95
Norway	do	45.95
Orangeburg	do	45.95
Pendleton	Anderson	46.05
Pinewood	Sumter	45.95
Rock Hill	York	46.05
Spartanburg	Spartanburg	46.05
St. Matthews	Calhoun	45.95
Summerton	Clarendon	45.95
Sumter	Sumter	45.95
Timmonsville	Florence	45.95
Williston	Barnwell	45.95
TENNESSEE		
Brownsville	Haywood	45.10
Covington	Tipton	45.10
Dyersburg	Dyer	45.10
Five Points	Lawrence	45.20
Henderson	Chester	45.10
Jackson	Madison	45.10
Memphis	Shelby	45.10
Milan	Gibson	45.10
Ripley	Lauderdale	45.10
Tiptonville	Lake	45.10

City	County	Basis strict low middling white 1 1/16, 4134 loan rate
TEXAS		
Abernathy	Hale	44.60
Ballinger	Runnels	44.80
Big Spring	Howard	44.60
Bovina	Parmer	44.60
Brownfield	Terry	44.60
Brownsville	Cameron	44.60
Bryan	Brazos	44.65
Cameron	Milam	44.65
Childress	Childress	44.65
Cleburne	Johnson	44.65
Colorado City	Mitchell	44.65
Corpus Christi	Nueces	44.65
Corsicana	Navarro	44.65
Crosbyton	Crosby	44.60
Dimmitt	Castro	44.60
Ennis	Ellis	44.65
Fabens	El Paso	44.45
Floydada	Floyd	44.60
Gainesville	Cooke	44.80
Galveston	Galveston	44.80
Garland	Dallas	44.80
Greenville	Hunt	44.80
Hamlin	Jones	44.65
Harlingen	Cameron	44.60
Haskell	Haskell	44.65
Hearne	Robertson	44.65
Hillsboro	Hill	44.65
Houston	Harris	44.80
Hubbard	Hill	44.65
Kenedy	Karnes	44.65
Lamesa	Dawson	44.60
Levelland	Hockley	44.60
Littlefield	Lamb	44.60
Lockhart	Caldwell	44.65
Lockney	Floyd	44.60
Lubbock	Lubbock	44.60
McKinney	Collin	44.80
Memphis	Hall	44.65
Morton	Cochran	44.60
Muleshoe	Bailey	44.60
Navasota	Grimes	44.65
Needville	Fort Bend	44.80
O Donnell	Lynn	44.60
Paducah	Cottle	44.65
Paris	Lamar	44.80
Pecos	Reeves	44.60
Plainview	Hale	44.60
Quanah	Hardeman	44.65
Quitaque	Briscoe	44.60
Ralls	Crosby	44.60
Raymondville	Willacy	44.60
Roaring Springs	Motley	44.65
Rochester	Haskell	44.65
Rule	do	44.65
San Angelo	Tom Green	44.65
Seagraves	Gaines	44.60
Seymour	Baylor	44.65
Slaton	Lubbock	44.60
Snyder	Scurry	44.65
Stamford	Jones	44.65
Stanton	Martin	44.60
Sudan	Lamb	44.60
Sweetwater	Nolan	44.65
Tamoka	Lynn	44.60
Taylor	Williamson	44.65
Temple	Bell	44.65
Terrell	Kaufman	44.80
Texarkana	Bowie	44.80
Tulia	Swisher	44.60
Turkey	Hall	44.60
Vernon	Wilbarger	44.65
Waco	McLennan	44.65
Waxahachie	Ellis	44.65
Winters	Runnels	44.65

§ 1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1977 crop upland cotton.

[Points per pound]

Grade	Code	Staple length (inches) 1 1/16 through 29/32 (26-29)	15/16 (30)	31/32 (31)	1 (32)	1 1/32 (33)	1 1/16 (34)	1 1/8 (35)	1 3/16 (36)	1 1/4 and longer (37 and longer)
White:										
SM and better	(11,21)	−510	−420	−310	−170	60	215	240	280	370
MID plus	(30)	−525	−435	−330	−190	35	190	220	260	350
MID	(31)	−535	−450	−345	−205	20	170	200	240	330
SLM plus	(40)	−605	−505	−420	−300	−80	75	100	125	205
SLM	(41)	−695	−545	−400	−355	−150	0	30	65	145
LM plus	(50)	−725	−640	−555	−455	−305	−175	−155	−120	−90
LM	(51)	−770	−685	−600	−510	−375	−240	−235	−215	−185
SGO plus	(60)	−980	−905	−830	−755	−650	−590	−580	−570	−570
SGO	(61)	−1,025	−965	−885	−815	−725	−675	−670	−660	−660
GO plus	(70)	−1,180	−1,120	−1,060	−1,000	−920	−880	−875	−870	−870
GO	(71)	−1,225	−1,160	−1,105	−1,045	−975	−945	−910	−930	−930
Light spotted:										
SM and better	(12,22)	−560	−475	−380	−265	−50	85	115	140	215
MID	(32)	−620	−545	−450	−340	−150	−10	15	50	130
SLM	(42)	−720	−635	−570	−480	−360	−255	−240	−205	−150
LM	(52)	−920	−845	−775	−715	−655	−615	−610	−600	−600
Spotted:										
SM and better	(13,23)	−785	−715	−640	−565	−440	−380	−370	−350	−340
MID	(33)	−860	−795	−725	−645	−530	−465	−400	−380	−475
SLM	(43)	−995	−930	−870	−820	−750	−710	−710	−700	−700
LM	(53)	−1,130	−1,070	−1,020	−975	−920	−900	−895	−890	−890
Tinged:[1]										
SM	(21)	−1,085	−1,010	−1,010	−980	−940	−930	−925	−865	−865
MID	(34)	−1,140	−1,080	−1,040	−1,030	−995	−980	−980	−920	−920
SLM	(44)	−1,220	−1,165	−1,135	−1,110	−1,070	−1,060	−1,060	−1,010	−1,010
LM	(54)	−1,335	−1,285	−1,255	−1,225	−1,190	−1,170	−1,170	−1,135	−1,135
Light gray:										
SM and better	(16,26)	−675	−595	−485	−370	−170	−30	0	40	115
MID	(36)	−800	−725	−625	−490	−290	−205	−200	−200	−175
SLM	(46)	−1,050	−970	−895	−825	−720	−650	−635	−620	−620
Gray:										
SM and better	(17,27)	−810	−735	−655	−575	−405	−370	−355	−325	−280
MID	(37)	−1,065	−980	−905	−835	−740	−685	−670	−640	−640
SLM	(47)	−1,265	−1,185	−1,115	−1,075	−1,010	−965	−960	−945	−945

Note.—Grade symbols: SM—strict middling; MID—middling; SLM—strict low middling; LM—low middling; SGO—strict good ordinary; GO—Good ordinary.

[1] Cotton classed as yellow stained (middling and better grades) will be eligible for loan, if otherwise eligible, at a discount 200 points greater than the discount applicable to the comparable quality in the color group tinged.

§ 1427.103 Schedule of micronaire differentials for 1977 crop upland cotton.

Micronaire reading:	Points per pound
5.3 and above	—110
5.0 through 5.2	—45
3.5 through 4.9	0
3.3 through 3.4	—65
3.0 through 3.2	—200
2.7 through 2.9	—390
2.6 and below	—600

§ 1427.104 Schedule of loan rates for eligible qualities of 1977 crop extra long staple cotton by warehouse location.

[In cents per pound, net weight (reference to table above)]

Grade	Staple length (inches)			
	1 5/8 (44)		1 3/4 and longer (46 and 48)	
	Cotton stored in approved warehouses in—		Cotton stored in approved warehouses in—	
	Arizona and California	New Mexico, Texas, and other States	Arizona and California	New Mexico, Texas, and other States
1	82.00	82.50	82.55	82.85
2	81.20	81.70	81.55	82.05
3	80.05	80.55	80.35	80.85
4	78.50	79.00	78.85	79.15
5	77.45	76.15	75.80	76.30
6	57.90	58.40	58.10	58.60
7	17.80	18.30	17.90	18.10
8	16.00	16.50	16.10	16.00
9	14.95	15.15	15.10	15.00

[1] A micronaire premium of 60 points (0.60) per pound is included in the loan rate for each eligible quality; thus, the national average loan rate reflected in the above schedule is 77.30 ¢/lb. Cotton with micronaire readings below the micronaire range 3.5 and above will be subject to the discounts in the schedule of micronaire differences for ELS cotton which follows.

§ 1427.105 Schedule of micronaire differentials for 1977 crop extra long staple cotton.

Micronaire reading:	Points per pound
3.5 and above	0
3.3 through 3.4	—100
3.0 through 3.2	—200
2.7 through 2.9	—400

Signed at Washington, D.C., on July 29, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 77-22618 Filed 8-9-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; Docket No. R-0109]

PART 202—EQUAL CREDIT OPPORTUNITY

Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: In response to requests for guidance concerning the meaning of the term "expressly authorized by Federal or State law" in Regulation B, the Board interprets it to mean expressly authorized either by statute or lawfully promulgated regulation. Therefore, a government agency implementing a loan program authorized either by law or regulation may determine whether it benefits an economically disadvantaged class of persons and qualifies as a special purpose credit program under Regulation B. Participating creditors will not violate Regulation B by complying with regulations promulgated by a government agency to implement a special purpose credit program.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

§ 202.801 SPECIAL PURPOSE CREDIT PROGRAM MAY BE AUTHORIZED BY LAW OR LAWFULLY PROMULGATED REGULATION. PARTICIPATING CREDITORS WILL NOT VIOLATE REGULATION B BY COMPLYING WITH REGULATIONS IMPLEMENTING SPECIAL PURPOSE CREDIT PROGRAMS

(a) In order to provide guidance concerning the intended coverage of § 202.8(a) [1] of Regulation B, the Board interprets a term used in that section as follows: A credit program is considered to be "expressly authorized by Federal or State law" if it is authorized by the terms of a Federal or State statute or by a regulation lawfully promulgated by the administering agency (i.e., the agency responsible for implementing the program).

(b) It is the responsibility of the administering agency to ensure that implementing regulations are consistent with applicable Federal and State law. A creditor participating in a loan program expressly authorized by Federal or State law will not violate Regulation B by complying in good faith with the law authorizing a program or with a regulation promulgated by an administering agency to implement a program that the agency has determined is a special purpose credit program under § 202.8(a)(1) of Regulation B.

(c) In addition, the Board announces that it will not make determinations as to whether particular programs benefit an "economically disadvantaged class of persons." The Board believes that such a determination is more properly made by the agency charged with the administration of the loan program.

By order of the Board of Governors, effective August 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc 77-22977 Filed 8-9-77;8:45 am]

[1] Standards for programs. Subject to the provisions of subsection (b), the Act and this Part are not violated if a creditor refuses to extend credit to an applicant solely because the applicant does not qualify under the special requirements that define eligibility for the following types of special purpose credit programs: (1) Any credit assistance program expressly authorized by Federal or State law for the benefit of an economically disadvantaged class of persons.

[Reg. Z; FC-0100 through FC-0101]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretations.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

12 CFR Part 226, FC-0100 § 226.8(c)

Where credit customer applies cash rebate from dealer to purchase of auto, rebate should be treated only as reducing cash price disclosed to customer.

JULY 19, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of Regulation Z with respect to the proper treatment under § 226.8(c) or certain rebates offered by your client, an automobile dealer. Your letter indicates that your client has instituted a dealer rebate program to encourage new car sales. In a telephone conversation with a member of our staff, you stated that the rebate, in the amount of $300, is given to all purchasers of new automobiles regardless of whether the purchase is for cash or is financed by your client. Your question concerns the proper method of disclosure under § 226.8(c) when a credit customer desires to apply the rebate toward the purchase of the automobile.

In Public Information Letter 878, staff expressed the view that giving the rebate effectively reduces the cash price required to be disclosed under § 226.8(c)(1). For example, if the normal cash price of an automobile is $5,000 and the rebate offered by your client is $300, then the cash price for Truth in Lending purposes would have to be disclosed as $4,700. This result is mandated by § 226.2(n) which defines "cash price" as "the price at which the creditor offers, in the ordinary course of business, to sell for cash the property or services which are the subject of a consumer credit transaction." Since the effect of the $300 rebate in the above example would be to enable a cash customer to purchase the $5,000 automobile for $4,700, the cash price disclosed to the credit customer must be $4,700.

Public Information Letter 878 further indicates that the amount of the rebate should be separately disclosed under § 226.8(c)(4) as an item which is included in the amount financed but which is not part of the finance charge. However, in the situation contemplated in Letter 878 the customer received the rebate and did not apply it to the purchase of the automobile. Thus, the customer received not only the automobile but also the amount of the rebate. In that situation it is necessary to include the amount of the rebate in the amount financed in order to reflect the value which is actually received by the credit customer who does not apply the rebate to the price of the automobile. (In the example discussed above, if the credit customer leaves the dealership with both the automible, which would cost a cash customer $4,700, and the $300 rebate, the amount financed would be $5,000.)

Where the credit customer elects to apply the amount of the rebate to the purchase of the automobile, staff believes that the only account which should be taken of the rebate is to reduce the cash price. Thus, in our example, the cash price of the car which normally sells for $5,000 should be disclosed as $4,700. The rebate need not otherwise be reflected in the Truth in Lending disclosures, inasmuch as the only value received by the customer as a result of the credit transaction is an automobile which would cost a cash customer $4,700.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues presented herein. I trust that this is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

12 CFR Part 226, FC-0101 § 226.2(p)

Prejudgment workout arrangement which does not involve new evidence of indebtedness executed by customer is informal arrangement requiring no new disclosures.

JULY 19, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of Regulation Z with regard to the type of prejudgment workout arrangement which your bank affords its delinquent customers. Your plan allows delinquent customers to repay their debts on terms that differ from the original closed end instalment credit transaction. In essence, the bank allows repayment of the indebtedness with the monthly principal payments reduced and finance charges eliminated.

Your letter outlines your bank's prejudgment workout plan as follows:

1. A deficiency balance is established on the customer's account. This balance is defined as the account balance on the date of chargeoff or repossession, as applicable, less unearned rebateable interest charges and insurance premiums, plus any repossession or resale expense incurred.

2. Customer contact is attempted by phone. If contact is made, the deficiency balance is explained; and either the customer is given a prejudgment opportunity to pay the balance in full, or a payment schedule is suggested.

3. If at any time before a court judgment is awarded, the customer expresses a desire to repay the balance in installments, a monthly payment commensurate with the customer's ability to repay is arrived at along with a monthly due date. Repayment schedules are set at a twelve month maximum with any remaining balance either due in full on the final payment or subject to reschedule for an additional twelve months. No interest is charged on any prejudgment balance.

4. Once a schedule is orally agreed upon, the customer is mailed a form letter and a coupon book reflecting the agreed upon terms.

5. Should the customer default upon this agreement, the bank proceeds to obtain a judgment against the customer.

You ask whether this plan is a formal or informal prejudgment workout arrangement and what, if any, disclosures are required under Regulation Z.

In an official staff interpretation of Regulation Z, FC-0020, staff expressed the following opinion regarding the treatment, for Truth in Lending purposes, of prejudgment workout arrangements:

Staff is of the opinion that the issue of whether a prejudgment workout arrangement is subject to the other than open end credit disclosures of § 226.8 is dependent upon whether such a workout arrangement is informal (e.g., by telephone) or written. A prejudgment workout arrangement, which is in writing and involves either a finance charge or more than four instalments, constitutes an extension of consumer credit subject to the disclosure requirements of § 226.8 (b) and (d) regardless of whether the original transaction was classified as "open end credit" or "credit other than open end."

Staff believes that your bank's plan, as outlined above, is an informal workout arrangement requiring no new Truth in Lending disclosures. In staff's view, a formal written workout arrangement would involve some new evidence of indebtedness executed by the customer, such as a new note, contract or other form of written agreement. We do not believe that a unilateral written communication by either the creditor or the customer (such as a letter confirming matters previously discussed either orally or in writing) renders a workout arrangement formal and subject to the disclosure requirements of Regulation Z even though the plan might, like yours, involve repayment in more than four instalments on terms differing from the original instalment credit transaction.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues discussed herein. I trust that this interpretation is responsive to your inquiry.

Sincerely

JANET HART,
Director.

Board of Governors of the Federal Reserve System, August 4, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc 77-22979 Filed 8-9-77;8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 329—INTEREST ON DEPOSITS

Temporary Suspension of Penalties for Premature Withdrawal of Time Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Temporary suspension of penalties for premature withdrawal of time deposits.

SUMMARY: The Board of Directors of FDIC has authorized insured nonmember banks to suspend temporarily the penalties for premature withdrawal of time deposits required by § 329.4(d) of FDIC's regulations. The regulations require the forfeiture of three months' interest for the premature withdrawal of time deposits and reduction in the rate of interest paid to the maximum allowed for passbook savings accounts.

The suspension would cover any depositor who has suffered a demonstrable economic loss to property directly related to the flooding occurring on July 19-20, 1977 throughout seven counties in Pennsylvania. These counties were declared major disaster areas by the President on July 21, 1977. This temporary suspension is intended to enable depositors who have suffered disaster-related losses to draw upon funds in time deposits prior to maturity without being penalized.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429; (202-389-4324).

SUPPLEMENTARY INFORMATION: The recent flooding throughout parts of Pennsylvania has resulted in substantial property damage and economic loss estimated to be in the range of two hundred to two hundred and fifty million dollars. The affected regions were declared major disaster areas by the President on July 21, 1977, pursuant to the Disaster Relief Act of 1974 (42 U.S.C. § 5141). Under the Presidential Proclamation, the affected counties are: Bedford, Cambria, Clearfield, Indiana, Jefferson, Somerset and Westmoreland.

Section 329.4(d) of the FDIC's regulations (12 CFR 329.4(d)) provides that when an insured nonmember bank pays a time deposit prior to maturity, the depositor must forfeit three months' interest on the amount withdrawn and the rate of interest on the amount withdrawn is reduced to the maximum rate which may be paid on savings accounts.

In light of the declared state of emergency and the immediate need for funds for reconstruction and similar purposes, FDIC's Board of Directors is allowing insured nonmember banks to temporarily suspend § 329.4(d) so as to allow depositors who have suffered disaster-related losses to have access to funds in time deposits prior to maturity without being penalized.

This order extends only to time deposits held by insured nonmember banks. However, since the order is intended to inure to the benefit of all the victims of the disaster, without regard to whether particular depositors are residents of the disaster area, banks outside of the disaster area will be authorized to waive the penalty pursuant to this order provided that the depositor has suffered a disaster-related loss occasioned by the recent flooding.

The suspension will also automatically apply to counties or areas that may, as a result of the flooding, be subsequently declared disaster areas by Presidential Proclamation subsequent to promulgation of this suspension.

The program will operate on a voluntary basis only. It is up to each insured nonmember bank to decide whether to allow the withdrawals authorized by this order. In addition, banks which take advantage of thhis temporary suspension have the responsibility to ascertain that individual depositors seeking to withdraw time deposits prior to maturity did in fact suffer a disaster-related loss. In this regard, it is suggested that appropriate documentation may consist of photographs of the demand property, cancelled checks for repairs, insurance claims documents, or the like. In appropriate cases, actual knowledge by a bank officer of the fact of a loss will suffice. Also, any depositor seeking withdrawal pursuant to this exception will be required to execute a statement to the effect that he is seeking withdrawal pursuant to a disaster-related loss occasioned by the July flood.

The suspension will be retroactive to July 21, 1977, the date of the Presidential disaster declaration, and will expire on January 31, 1978. This period will permit a full assessment of the casualty losses and allow sufficient time for eligible depositors to withdraw funds without penalty and begin the rebuilding process.

Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) authorizes the FDIC to prescribe rules and conditions for the payment by insured State nonmember banks of time deposits prior to maturity.

Pursuant to its authority under section 18(g), FDIC's Board of Directors hereby authorizes the temporary suspension of § 329.4(d) with respect to depositors suffering a loss in the flood disaster, the suspension to be effective July 21, 1977, and to expire at midnight on January 31, 1978.

The requirements of section 553(b) and 553(d) of Title 5 of the United States Code and §§ 302.1, 302.2 and 302.5 of Title 12 of the Code of Federal Regulations with respect to notice, public participation, and deferred effective date were not followed in connection with the promulgation of this order because the order enlarges existing rights, grants an exemption, is limited both in duration and with respect to the class of persons affected thereby, because of the immediacy of the need for this temporary suspension, and because the Board of Directors found that the public interest would best be served by making the order effective immediately.

By order of the Board of Directors, August 3, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-23020 Filed 8-9-77;8:45 am]

Title 16—Commercial Practice

CHAPTER I—FEDERAL TRADE COMMISSION

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Extension of Exemption

AGENCY: Federal Trade Commission.

ACTION: Extension of exemption from trade regulation rule.

SUMMARY: On April 14, 1977, the Commission issued a limited exemption from the Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses. The exemption was for two-party open end credit contracts that were executed before August 1, 1977, and do not involve the use of negotiable instruments or waivers of claims and defenses.

The Commission has extended the exemption. Thus, the Rule will apply to all consumer credit contracts taken or received by sellers after September 14, 1977.

DATE: Extension to September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Rachel Shao, Attorney, Division of Compliance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580; 202–254–8302.

SUPPLEMENTARY INFORMATION: The Commission has extended the exemption issued for two-party open end consumer credit from the requirements of § 433.2(a) of the Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses. The exemption, as issued on April 14, 1977 (42 FR 19487) applied to two-party open end credit agreements which were executed before August 1, 1977, and do not involve the use of negotiable instruments or waivers of claims and defenses. Section 433.2(a) requires incorporation of a Notice preserving certain consumer rights in all credit contracts used by sellers.

The Commission extended the exemption for a 45-day period. Thus, as of September 15, 1977, the Rule will apply to all consumer credit contracts taken or received by sellers.

Accordingly, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. section 41 et seq., the provisions of Part I, Subparts B and C of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, et seq., and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedures), the Commission hereby amends the following exemption from 16 CFR 433.2(a) in an amendment to § 433.3(a).

§ 433.3 Exemption of sellers taking or receiving open end consumer credit contracts before September 15, 1977, from requirements of § 433.2(a).

(a) Any seller who has taken or received an open end consumer credit contract before September 15, 1977, shall be exempt from the requirements of 16 CFR Part 433 with respect to such contract provided the contract does not cut off consumers' claims and defenses.

* * * * *

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-27969 Filed 8-9-77;8:45 am]

Title 19—Customs Duties

CHAPTER II—UNITED STATES INTERNATIONAL TRADE COMMISSION

PART 205—INVESTIGATIONS TO DETERMINE THE PROBABLE ECONOMIC EFFECTS ON THE ECONOMY OF THE UNITED STATES OF PROPOSED MODIFICATIONS OF DUTIES OR OF ANY BARRIER TO (OR OTHER DISTORTION OF) INTERNATIONAL TRADE OR OF TAKING RETALIATORY ACTIONS TO OBTAIN THE ELIMINATION OR UNJUSTIFIABLE OR UNREASONABLE FOREIGN ACTS OR POLICIES WHICH RESTRICT U.S. COMMERCE

AGENCY: United States International Trade Commission.

ACTION: Final rule.

SUMMARY: This document establishes procedural rules for the conduct of investigations to determine the probable economic effects of proposed changes in the regulation of imports. The regulations are necessary to implement appropriate provisions of the Trade Act of 1974.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward R. Easton, Office of the General Counsel, United States International Trade Commission, Washington, D.C. 20436, 202–523–0379.

SUPPLEMENTARY INFORMATION: This rule establishes procedural rules for the conduct of investigations under sections 131, 503, and 301(e)(3) of the Trdae Act of 1974.

Subpart A concerns Presidential requests for the advice of the International Trade Commission relating to the probable economic effects of changes in the tariff treatment of imported articles, changes in other import restrictions and the consideration of imported articles as eligible for duty-free treatment under the Generalized System of Preferences.

Subpart B relates to a procedural framework for reporting to the President under the new authority of section 301 of the Trade Act of 1974 providing for the President to obtain the views of the International Trade Commission with regard to the impact on the economy of the United States of the President's taking retaliatory action for unjustified or unreasonable restrictions on U.S. exports.

On December 17, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 55203) proposing amendments to title 19, chapter II, Subpart B, Part 205 of the Code of Federal Regulations to provide procedures for carrying out the Commission's functions and duties under sections 131, 301(e)(3), and 503(a) of the Trade Act of 1974. Notice was given that comments concerning the proposed amendments were to be submitted to the United States International Trade Commission on or before January 10, 1977. Submissions from three interested persons were received by February 28, 1977.

A comment with respect to Subpart A of Part 205 suggested that the regulations adopted should reflect the changes in procedures for Presidential requests for the advice of the Commission and transmittal of certain reports of the Commission to the Office of the Special Representative for Trade Negotiations as provided in Executive Order 11846, as amended. The Commission has adopted this suggestion.

A comment with respect to § 205.3(a) suggested that the language of the provision be modified by adding "and fish processing and marketing" after the word "fishing." The comment suggested that the word "fishing" is unduly restrictive. The Commission has decided not to adopt this suggestion. The language in § 205.3(a) is that found in section 131(b) of the Trade Act of 1974. Any questions relating to the scope of that language intended by the Congress will be considered by the Commission as they arise in the factual context of investigations conducted under Subpart A of Part 205. It is the opinion of the Commission that the term "fishing" is sufficiently broad to encompass all facets of the industry over which the Commission has investigative authority.

Two comments suggested that the agency allow at least 30 days from the date of the publication of a notice of investigation for an interested person to request a hearing under the provisions of § 205.6(c). The proposed section had provided for only 15 days. It is the position of the Commission that, in most cases, a notice of hearing will issue with the notice of the institution of an investigation. Nevertheless, in such cases as may arise in which no such notice of hearing issues, a 30 day period from the date of publication in the FEDERAL REGISTER of the notice of institution will be provided for requesting a hearing.

In consideration of the above, 19 CFR Part 205 is amended to read as follows:

AUTHORITY: Sec. 335, Tariff Act of 1930 (72 Stat. 680; 19 U.S.C. 1335); sec. 608, Trade Act of 1974 (88 Stat. 2073); (19 U.S.C. 2482).

§ 205.1 Applicability of part.

This Part 205 applies to functions and duties of the Commission under sections 131, 301(e)(3), and 503(a) of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

Subpart A—Investigations To Determine the Probable Economic Effect of Modifications of United States Duties or of Any Barrier to (or Other Distortion of) International Trade on Domestic Industries and on Consumers

§ 205.2 Applicability of subpart.

This Subpart A of Part 205 applies to investigations for the purposes of section 131(a)–(b), 131(c), and 503 of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

§ 205.3 Investigations under sections 131 and 503 of the Trade Act of 1974.

(a) *Purpose of investigations—(1) Sections 131(a)–(b) and 503(a).* Upon the receipt of a list of articles from the President or from the Special Representative for Trade Negotiations as provided in section 131(a) or 503(a), and in Executive Order No. 11846, as amended, which may be considered for modification of United States duties, or as eligible articles for duty-free treatment under the generalized system of preferences, respectively, the Commission shall initiate an investigation to obtain information pertinent to the formulation of its advice to the President under section 131(b) with respect to such articles to assist him in making an informed judgment as to the impact which might be caused by such duty modifications or duty-free treatment on U.S. manufacturing, agriculture, mining, fishing, labor, and consumers, including whether any reductions in rates of duty should take place over a period longer than the minimum periods provided by section 109(a) of the Trade Act of 1974 (88 Stat. 1985; 19 U.S.C. 2119).

(2) *Section 131(c).* Upon the receipt of a request from the President or from the Special Representative for Trade Negotiations as provided in section 131(c) and in Executive Order No. 11846, as amended, to assist him in his determination of whether to enter into any trade agreement under section 102, the Commission shall institute an investigation to obtain information pertinent to the formulation of its views with respect to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

(b) *Institution and notice of investigation.* An investigation to which this Subpart A relates will be instituted promptly after the receipt from the President or the Special Representative for Trade Negotiations of (1) a list of articles which may be considered for duty modifications or duty-free treatment, or (2) a request for an investigation and report concerning the probable economic effects of modifications of any barrier to (or other distortion of) international trade.

(c) *Hearings.* Public hearing will be held in connection with every investigation to which this Subpart A relates. For other applicable rules, see § 201.11 of this chapter.

(d) *Report to the President.* After the completion of its investigation, the Commission will incorporate its advice or views in a report which together with hearing transcripts, briefs and other information will be transmitted to the President through the Special Representative for Trade Negotiations.

§ 205.4 [Reserved]

Subpart B—Investigations Concerning the Probable Impact on the Economy of the United States of the President's Taking Retaliatory Action To Obtain the Elimination of Unjustifiable or Unreasonable Foreign Acts or Policies Which Restrict U.S. Commerce

§ 205.5 Applicability of subpart.

This Subpart B of Part 205 applies to investigations for the purpose of section 301(e)(3) of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

§ 205.6 Investigations under section 301(e)(3) of the Trade Act of 1974.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission is to provide the President with its views pursuant to section 301(e)(3) as to the probable impact on the economy of the United States of imposing retaliatory restrictions on imports into the United States from countries or foreign instrumentalities which maintain restrictions against U.S. exports.

(b) *Institution and notice of investigation.* An investigation to which this Subpart B relates will be instituted promptly after the receipt from the President of a request for the views of the Commission with regard to the matters indicated in paragraph (a) of this section.

(c) *Public hearings.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford interested parties opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested party who believes that a public hearing should be held may, within thirty (30) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* Any interested party may submit to the Commission a written statement of information pertinent to the subject matter of such investigation not later than thirty (30) days after a notice of investigation under paragraph (b) of this section is published in the FEDERAL REGISTER. If a public hear-

Sec.

205.1 Applicability of part.

Subpart A—Investigations To Determine the Probable Economic Effects of Modifications or United States Duties or of Any Barrier To (or Other Distortion of) International Trade on Domestic Industries and on Consumers

205.2 Applicability of subpart.
205.3 Investigations under section 131(a)–(b), 503(a), and 131(c) of the Trade Act of 1974.
205.4 [Reserved]

Subpart B—Investigations Concerning the Probable Impact on the Economy of the United States of the President's Taking Retaliatory Action To Obtain the Elimination of Unjustifiable or Unreasonable Foreign Acts or Policies Which Restrict U.S. Commerce

205.5 Applicability of subpart.
205.6 Investigations under section 301(e)(3) of the Trade Act of 1974.

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ing is held in the investigation, a statement may be received in lieu of or in addition to appearance at the hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Report to the President.* After the completion of its investigation, the Commission will incorporate its views in a report which will be transmitted promptly to the President.

Issued: August 4, 1977.

By the order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 77-22997 Filed 8-9-77;8:45 am]

PART 210—INVESTIGATIONS OF ALLEGED UNFAIR PRACTICES IN IMPORT TRADE

Discovery Sanctions

AGENCY: United States International Trade Commission.

ACTION: Final rule.

SUMMARY: This rule amends the discovery sanctions rule in unfair import practice cases to provide that only the Commission can terminate an investigation through application of discovery sanctions. The former rule could be interpreted as permitting an administrative law judge to terminate an investigation by imposing such sanctions. The new rule is in conformity with other Commission rules which provide that only the Commission may terminate such an investigation.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William W. Gearhart, Jr., Office of the General Counsel, U.S. International Trade Commission, Washington, D.C. 20436 (202-523-0487).

SUPPLEMENTARY INFORMATION: The new rule revises present § 210.36 (b)(5) of the Commission's Rules of Practice and Procedure (19 CFR 210.36 (b)(5)), applying to investigations conducted under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

Notice of proposed rulemaking was published in the FEDERAL REGISTER of June 23, 1977 (42 FR 31811), and persons interested in submitting comments were given until July 25, 1977, to do so. No comments were received.

The Commission, in view of the reasons noted in the above "summary" and noting the absence of public comment, has decided to adopt the proposed rule, with the new rule to become effective September 9, 1977.

Accordingly, pursuant to the rulemaking authority set forth in section 335 of the Tariff Act of 1930, as amended (72 Stat. 680; 19 U.S.C. 1335), the Commission proposes to amend Title 19, Part 210, of the Code of Federal Regulations by amending § 210.36(b)(5) as follows:

§ 210.36 Failure to make discovery; sanctions.

* * * * * *

(b) * * *

(5) Rule that a motion or other submission by the party concerning the order or subpoena issued be stricken, or rule (recommend where the presiding officer is not the Commission) that a determination in the investigation be rendered against the party, or both.

* * * * * *

Issued: August 5, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-23110 Filed 8-9-77;8:45 am]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 202—OVERSEAS SHIPMENTS OF SUPPLIES BY VOLUNTARY NON-PROFIT RELIEF AGENCIES

Reimbursement for Ocean Freight Costs

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This rule prescribes a new method for determining the amount of reimbursement which will be made by AID for ocean freight costs incurred by voluntary non-profit relief agencies on overseas shipments of voluntary contributions in support of relief and rehabilitation programs. The purpose of the changes is to better insure uniform reimbursement for eligible agency shipments by basing reimbursement on applicable tariffs or booking contracts for delivery to discharge ports.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Ulinski, Jr., Director, Office of Private and Voluntary Cooperation, Bureau of Population and Humanitarian Assistance, Agency for International Development, Department of State, Washington, D.C. 20523 (202-632-9206.

SUPPLEMENTARY INFORMATION: This notice announces certain amendments to AID Regulation 2, Overseas Shipments of Supplies by Voluntary Non-Profit Relief Agencies, Title 22, Code of Federal Regulations, Chapter II, Part 202, which was last published in its entirety in the FEDERAL REGISTER of May 14, 1963 (28 F.R. 4789), and subsequently revised on July 4, 1963 (28 F.R. 6874) and July 20, 1965 (30 F.R. 9059).

AID Regulation 2, 22 CFR, Part 202, Overseas Shipments of Supplies by Voluntary Non-Profit Relief Agencies, establishes the procedures by which voluntary, non-profit agencies can qualify for and receive, in accordance with Section 216 of the Foreign Assistance Act of 1961, as amended, reimbursement from AID for ocean freight costs they incur on overseas shipments of voluntary contributions in support of relief and rehabilitation programs. This regulation has been recently amended as follows. Sections 202.3(a), 202.6(b)(1), and 202.6 (b)(2), as indicated below, contain the most significant revisions. These sections have been revised to provide for determination of the amount of reimbursable ocean freight costs based upon the carrier's applicable tariff for delivery to the discharge port or the applicable charter or booking contract rather than upon the costs "from end of ship's tackle at the United States port of loading to end of ship's tackle at port of discharge" as previously provided in Regulation 2. This change was made to alleviate administrative difficulties encountered in applying the "ship's tackle" rule. The remaining changes in these sections are necessary conforming amendments.

Other sections have been amended by updating form numbers (202.2(b), 202.3 (a) and (b), 202.4 (a) and (b), and 202.6(d)), changing an address (202.5(a)(3)), and adding the title of a form (202.6(a)). Because numerous revisions have been made to Regulation 2 since it was last fully published in 1963, it is set out below, as amended in its entirety.

Accordingly, 22 CFR Part 202 is amended as follows:

The following regulations shall supersede, as of their effective date, all existing regulations contained in Part 202, Chapter II, Title 22 of the Code of Federal Regulations.

Sec.

202.1 Definition of terms.
202.2 Shipments eligible for reimbursement of freight charges.
202.3 Freight reimbursement limitations.
202.4 Certificates.
202.5 Applications for reimbursement of freight charges.
202.6 Documentation required for reimbursement.
202.7 Refund by suppliers and/or agencies.
202.8 Saving clause.

AUTHORITY: §§ 202.1 to 202.8 issued under sec. 621, 75 Stat. 424, as amended; 22 U.S.C. 2151. Interpret or apply secs. 216, 75 Stat. 429, as amended, 22 U.S.C. 2176; E.O. 10973, 26 F.R. 10469, 3 CFR 1961 Supp.

§ 202.1 Definition of terms.

(a) "The Administrator" means the Administrator of the Agency for International Development.

(b) "The Committee" means the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(c) "Supplies" means relief and rehabilitation supplies shipped in support of programs registered with the Committee as well as administrative supplies and equipment shipped in support of such programs. In no case shall such supplies include items for the personal use of representatives of the registered agency.

(d) "Agency" or "agencies" means the American Red Cross and any United States voluntary non-profit relief agency registered with and approved by, the Committee.

(e) "Duty free" means exempt from all customs duties, and other duties, tolls, and taxes of any kind.

(f) "Recipient country" means any country or area in which voluntary non-profit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid have programs approved by said Advisory Committee.

(g) "Reimbursement" means (1) payment directly to an agency by AID, or (2) payment to an agency by a banking institution in the United States acting under letter of commitment issued by AID guaranteeing subsequent reimbursement to the banking institution of such payment.

§ 202.2 Shipments eligible for reimbursement of freight charges.

(a) In order to further the efficient use of United States voluntary contributions for relief in nations or areas designated by the Administrator of AID from time to time, agencies may be reimbursed by AID within specified limitations for freight charges incurred and paid in transporting supplies donated to or purchased by such agencies from United States ports or, in the case of excess or surplus property supplied by the United States, from foreign ports to initial foreign ports of entry, or in the case of landlocked countries to points of entry designated by the Committee.

(b) Shipments shall be eligible for reimbursement of freight charges only where authorized by the issuance by AID of a Procurement Authorization (Form AID 1160-4).

§ 202.3 Freight reimbursement limitations.

Economic utilization of AID funds available for reimbursement to agencies for freight charges incurred and paid by such agencies for the shipment of donated or purchased supplies to a recipient country requires the following limitations on amounts reimbursable.

(a) *Ocean Freight.* The amount of ocean freight charges reimbursable to an agency is limited to the actual cost of transportation of the supplies as assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract at a rate not exceeding the prevailing rate, if any, for similar freight services, or the rate paid to the supplier of ocean transportation for similar services by other customers similarly situated, as attested to by the supplier in Block 13 of Form AID 1550-1, entitled "Voluntary Agency and Carrier Certificate." (See § 202.4(a).)

(b) *Inland freight.* The amount of inland freight charges reimbursable to an agency is limited to the actual cost of transportation of supplies from pickup point in initial port of entry to designated point of entry in the landlocked recipient country at a rate negotiated by the agency representative as attested to by such agency representative in Block 14 of Form AID 1550-1, entitled "Voluntary Agency and Carrier Certificate." (See § 202.4(b).)

(c) *Related shipping costs.* Where shipment is made to a landlocked recipient country, expenses incurred in transferring supplies from ocean carrier to inland carrier may be reimbursed by the agency when such expenses are not for account of the ship nor included in the inland transportation charges.

§ 202.4 Certificates.

Certificates will be required as follows:

(a) *Ocean transportation.* The supplier of ocean transportation will execute Form AID 1550-1, entitled "Voluntary Agency and Carrier Certificate," in an original and two copies.

(b) *Inland transportation and related shipping costs.* Where inland transportation, including related shipping costs, is reimbursable under provisions of § 202.3, the representative of the agency will execute Form AID 1550-1, entitled "Voluntary Agency and Carrier Certificate," in an original and two copies when, in the absence of published tariffs or a prevailing rate, it is necessary to negotiate for the shipment of the supplies.

§ 202.5 Application for reimbursement of freight charges.

(a) Any agency may make application for reimbursement of freight charges incurred and paid on shipments eligible under § 202.2 provided:

(1) (i) An agreement for duty-free entry and defrayment of inland transportation costs of the donated or purchased supplies from port or point of entry within the recipient country has been concluded within the scope of the regulations in this part between the United States and the recipient country, or

(ii) The agency concerned has submitted evidence satisfactory to the Committee that the recipient country in fact accords duty-free entry and that the inland transportation costs of the supplies from port or point of entry within the recipient country are defrayed by such country or other non-U.S. Government source acceptable to the Committee.

(2) The general program and projects, by countries of operation of the agency, and the supplies in support thereof, have been approved by the Committee and the recipient country.

(3) The application for reimbursement of freight charges together with documentation required under §202.6, is submitted to the Agency for International Development, Attention: Banking and Finance Division, Office of Financial Management, Washington, D.C. 20523, or to a U.S. bank holding an AID letter of commitment.

(b) In the case of ocean transportation, the application must be submitted within 60 days of the date of the related ocean bill of lading. In the case of inland transportation the application must be submitted within 180 days of the date of the related ocean bill of lading.

§ 202.6 Documentation required for reimbursement.

Claims for reimbursement of freight charges must be supported by the following documents:

(a) *Voucher SF 1034.* "Public Voucher for Purchases and Services Other than Personal"—Voucher SF 1034 in original and three copies to be prepared by the agency requesting reimbursement of freight charges.

(b) *Bills of lading*—(1) *Other than landlocked nations or areas.* Where the shipment is made to other than a landlocked nation or area, ocean or charter party bill of lading (or photostat) evidencing shipment from an eligible port of export as prescribed in §202.2(a) to the port of discharge. The bill of lading shall indicate the carrier's complete statement of charges including all relevant weights, cubic measurements, rates, and any applicable tariff surcharges.

(2) *Landlocked nation or area.* (i) Where the shipment is made to a landlocked nation or area and through bills of lading to designated point of entry in landlocked nation or area are not issued, an ocean or charter party bill of lading (or photostat) evidencing shipment from an eligible port of export as prescribed in § 202.2(a) to the port of discharge. The bill of lading shall indicate the carrier's complete statement of charges including all relevant weights, cubic measurements, rates, and any applicable tariff surcharges and a receipted copy of the rail, truck, or barge bills of lading (or other acceptable commercial document) covering the transportation of the supplies from the ocean carrier's point of delivery at port of entry to delivery point in recipient country, correctly assessed at time of loading by the land carrier for freight on a weight, measurement, or unit basis to point of entry in recipient country and from point of entry to point of delivery in the recipient country.

(ii) Where shipment is made to a landlocked nation or area and through bills of lading are issued, a receipted copy of the through bill of lading evidencing shipment from an eligible port of export as prescribed in § 202.2(a) to point of entry in the recipient country. The bill of lading shall include the carrier's complete statement of charges including all relevant weights, cubic measurements, rates, and any applicable tariff surcharges.

(c) *Receipted invoices.* One copy (or photostat) of the detailed invoice of the supplier of the transportation evidencing payment by the agency to the carrier. If the bills of lading required by paragraph (b) of this section meet the requirements of this subparagraph, no invoice is required.

(d) *Voluntary Agency and Carrier Certificate, Form AID 1550-1.* (i) As provided in § 202.4(a), the original and two copies of the Voluntary Agency and Carrier Certificate executed by the supplier of ocean transportation, and

(ii) As provided in § 202.4(b), the original and two copies of the Voluntary Agency and Carrier Certificate executed by the Agency.

§ 202.7 Refund by suppliers and/or agencies.

(a) *By suppliers.* Any supplier of freight to whom freight charges have been financed by AID will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of such freight charges determined by AID to be in excess of the prevailing rate at time of shipment, if any, or the rate paid the supplier for similar services by other customers similarly situated.

(b) *By agencies.* Any agency to which freight charges have been paid or reimbursed under this Regulation will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of inland transportation and/or related shipping costs, (1) whenever AID determines that the reimbursements were improper as being in violation of the provisions of the Foreign Assistance Act of 1961, any relevant appropriation acts, or any rules, regulations, or procedures of AID promulgated under any of these acts, or (2) whenever it is determined by the agency or AID that any of the supplies for which reimbursement was made have not been accorded duty-free status by the recipient country.

§ 202.8 Saving clause.

The Administrator may waive, withdraw, or amend any time or from time to time any or all of the provisions of this part.

Dated: July 28, 1977.

JOHN J. GILLIGAN,
Administrator, Agency for International Development.

[FR Doc.77-23109 Filed 8-9-77;8:45 am]

Title 24—Department of Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-393]

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Dwelling Units in Cooperative Housing Developments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: These regulations establish the requirements for the insurance of mortgages to assist individuals and families in the purchase of corporate certificates covering dwelling units in cooperative housing developments.

EFFECTIVE DATE: November 8, 1977.

FOR FURTHER INFORMATION CONTACT:

William A. Rolfe, Director, Single Family Mortgage Insurance Division, Office of Insured and Direct Loan Origination, Department of Housing and Urban Development, Washington, D.C. 20410, 202-426-8914.

SUPPLEMENTARY INFORMATION: On May 27, 1976, the Secretary published proposed regulations (41 FR 21648) pursuant to Section 203(n) of the National Housing Act. Section 203(n) of the Act authorizes the Secretary to insure mortgages involving individual dwelling units in a cooperative housing development which is covered by a blanket mortgage insured under the National Housing Act under certain conditions. Interested persons were invited to participate in the proposed rulemaking by submitting written data, views and arguments with respect to this proposal.

The Department received nine comments in response to the proposed rule, all of which have been reviewed and carefully considered. The following is a discussion of the comments and the changes made.

PAYMENTS BY THE SECRETARY

Several comments suggested that § 203.43c(c)(8) of the proposed rule, § 203.43c(c)(5) in the final rule, which permits the Secretary to cease making monthly payments attributable to any dwelling unit six months after the Secretary's acquisition of the Corporate Certificate, was unfair and financially burdensome to participating cooperatives. The Department believes that this provision of the final rule is necessary to provide an incentive to the cooperative to market corporate certificates on dwelling units owned by the Secretary. However, the final rule provides that payments by the Secretary may cease six months after notification by the Secretary to sell the corporate certificate for a dwelling unit is given to the corporation rather than six months after the Secretary acquires the certificate. Moreover, the final rule does not require that the payment be terminated once the six month time period has elapsed. The Department will use discretion in determining whether payments should be stopped.

RIGHTS OF FIRST REFUSAL

Several comments were received stating that the cooperative corporation should not have to waive its right of first refusal to purchase any Corporate Certificate and its right to approve or reject the buyer of a Corporate Certificate covered by a mortgage insured under Section 203(n) of the National Housing Act. The commenters felt that waiving such authority could easily lead to a complete change in the character of the community and the cooperative board would not be able to remedy the situation. Changes have been made in the rule to give cooperative corporations some latitude in dealing with such situations. Section 203.42c(d)(2) now permits the cooperative to exercise its rights to purchase the Corporate Certificate so long as the corporation pays the full amount due under the 203(n) insured mortgage encumbering the Corporate Certificate or pays the full amount of the Secretary's investment, if the Secretary is the owner of the Corporate Certificate. Also, § 203.43c(d)(3) now permits the corporation to reject the buyer of the Corporate Certificate for a dwelling unit covered by a mortgage insured under Section 203(n), if the Secretary's approval is obtained.

PROTECTION OF MORTGAGEE'S INTERESTS

One area of substantial concern was with respect to the protection of the 203(n) mortgagee's interest with respect to the Corporate Certificate and the lack of any contractual obligation by the cooperative corporation and the blanket mortgagee to respect that interest. Section 203.43c(d)(6) now requires that, in addition to furnishhing a certified statement that the Secretary or the mortgagee is the owner of a Corporate Certificate, the corporation must furnish the Secretary or the mortgagee with an Occupancy Certificate. Section 203.43c(b)(4) defines the Occupancy Certificate as granting an exclusive right to permanent possession of a specific dwelling unit in the cooperative housing development. The term "housing project" in § 203.43c(e) of the proposed rule, § 203.43c(f) of the final rule, has been changed to read "houssing development" for purposes of consistency.

LOAN-TO-VALUE RATIO

Several comments contended that § 203.43c(f) of the proposed rule, did not make the financing of a Corporate Certificate, upon resale, comparable to the financing of a condominium unit, as intended by Congress. The loan-to-value ratio in the proposed rule was somewhat restrictive. However, because of HUD's lack of experience with mortgages of this nature and the need to have an actuarially sound program, it was felt that the proposed loan-to-value ratio was justified. The rule now utilizes the criteria set forth in the enabling legislation. The Department has some reservations about this change and intends to monitor the actuarial soundness of the 203(n) program closely and make adjustments if experience indicates this should be done.

INSURANCE PREMIUM ESCROW REQUIREMENT

Several comments indicated that the provisions of §§ 203.43c(g)(5) and 203.43c(j) of the proposed rule relating to fire and other hazard insurance premiums were not necessary. These provisions, requiring that fire and other hazard insurance premiums be escrowed if the mortgagee required additional insurance coverage over and above the insurance provided under the cooperative's blanket insurance policy, were included because it was anticipated that some mortgagees would consider the insurance coverage provided under the blanket mortgage inadequate to protect their interests. However, based upon the comments that this requirement is not necessary, the Department has deleted the requirement from the final rule.

It is appropriate to point out that 24 CFR 203.22 is applicable to this program. Thus, if the mortgagee requires a mortgagor to pay the mortgage insurance premium charged by HUD, the mortgage will have to provide for monthly payments by the mortgagor of an amount equal to one-twelfth of the annual mortgage insurance premium payable by the mortgagee for HUD's insurance on the 203(n) insured mortgage.

BASIS FOR DEFAULT

Section 203c(h)(7) has been added to require that a mortgage on a Corporate Certificate contain a provision stating that the failure of the mortgagor to pay the mortgagor's share of the common expenses or assessments and charges imposed by the corporation, as provided in the instruments establishing the cooperative, shall be considered a default if the mortgage is to be eligible for insurance under Section 203(n) of the Act. The purpose of this addition is to enable the 203(n) mortgagee to work with the cooperative corporation should the cooperative have reason to evict the mortgagor. Under this provision, if the cooperative corporation should decide to evict for nonpayment, the 203(n) mortgagee can foreclose even if the payments on the 203(n) insured mortgage are current.

BASIS FOR POSSIBLE ASSIGNMENT

Section 203.436(f) has been added to provide the mortgagee holding a 203(n) mortgage with a degree of protection should the cooperative development's blanket mortgage go into serious default and the holder of the blanket mortgage announce an intention to foreclose. Comments received by the Secretary indicated concern that the 203(n) mortgagee's interest would not be protected should a foreclosure of the blanket mortgage take place. This amendment alleviates that concern by providing for assignment of the 203(n) insured mortgage to the Secretary prior to foreclosure, should the Department determine this course of action to be necessary and in the interest of the Department.

MISCELLANEOUS PROVISIONS

Paragraph (c) of § 203.43c provides that certain requirements, formerly dealt with in the tri-party agreement now covered by Paragraph (d), be included in the organizational documents of the cooperative corporation as is appropriate.

A new paragraph (c)(1) has been added to § 203.43c to protect the interests of the Secretary or mortgagee when either is the owner of a Corporate Certificate. Paragraph (c)(6) protects the Secretary and mortgagee from being saddled with the obligation to make back payments owed by the 203(n) mortgagor to the Cooperative Corporation. The Cooperative can proceed to collect from the mortgagor who benefitted from the services for which charges are due.

Paragraph (d)(9) of § 203.43c contains a new provision which establishes a requirement for the eviction of persons from dwelling units attributable to Corporate Certificates whose ownership has shifted to the Secretary or a 203(n) mortgagee.

The maximum term of a mortgage has been increased from 20 to 30 years in keeping with the intent of Congress to make the financing of the Corporate Certificate comparable to the financing of a condominium unit.

Similarly Paragraph (h) of § 203.43c setting special down payment requirements has been omitted from the final draft in favor of utilization of the down-payment requirements of the 203(b) Program applicable by virtue of 203.43c.

Section 203.43c(c)(10) of the proposed rule, 203c(d)(6) of the final rule, has been amended to delete the language "the exclusive right of permanent possesion" since the requirement of this language is embodied in the definition of "Occupancy Certificate" contained in § 203.43c(b)(4).

Paragraph (a) of § 203.436 has been amended to exclude the application of § 203.366. Its requirements are supplanted by paragraphs (c) and (d) of § 203.436.

Paragraph (c) of § 203.436 has been amended to omit a requirement that the mortgagee unconditionally warrant the Secretary's title to the Corporate Certificate. The mortgagee will be held to the standard which obtains under the Section 203(b) insurance program and no additional written warranty or certification will be required. See § 203.436 (d) and (e).

In addition to the above, several minor modifications have been made in the final rule to reflect changes that were necessary because of the anticipated processing procedures which will be followed for the 203(n) program. The regulations have been renumbered extensively to accommodate the changes which have been made.

The regulations require a Tri-Party Agreement between the corporate owner of the cooperative housing development, the Section 203(n) mortgagee, and the Secretary. Such agreements will be a part of each origination of a mortgage involving an individual dwelling unit under Section 203(n). The agreement obligates the signers to provide notices, acknowledge interests in, and perform functions relating to the dwelling unit and ownership documentation. Such an agreement is necessary to effectuate the intention of the regulations with respect to the cooperative corporation.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

NOTE—It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, the Secretary of Housing and Urban Development amends Part 203 of Chapter II of 24 CFR as follows:

1. The table of contents for Part 203 is amended as follows:

(a) By adding a new § 203.43c after § 203.43b under "Eligible Properties" as follows:

* * * * *

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(b) By adding a new centered caption and section after § 203.435 as follows:

* * * * *

COOPERATIVE UNIT MORTGAGES

§ 203.436 Mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

2. A new section 203.43c is added after 203.43b to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

A mortgage involving a dwelling unit in a cooperative housing development which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under Section 203(n) of the National Housing Act.

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43b and 203.44 through 203.102 of this part shall not apply to mortgages insured under Section 203(n) of the National Housing Act.

(b) As used in connection with the insurance of mortgages under this section and § 203.436 of this part: (1) "Mortgage" shall mean a first lien given to secure a loan made to finance the purchase of a Corporate Certificate together with the applicable Occupancy Certificate of a cooperative ownership housing corporation in which the permanent occupancy of the dwelling units is restricted to members of such corporation.

(2) "Corporation" shall mean an organization which holds title to a cooperative housing development which is covered by a blanket mortgage or mortgages insured by FHA under the National Housing Act.

(3) "Corporate Certificate" shall mean such stock certificates, membership certificates, or other instruments which the laws of the jurisdictions in which the cooperative housing development is located require to evidence ownership of a specified interest in the corporation.

(4) "Occupancy Certificate" shall mean a written instrument provided by the corporation to each holder of a Corporate Certificate which grants an exclusive right of possession of a specific dwelling unit in the cooperative housing development.

(5) References in this subpart to a dwelling, residence or property which is sold, conveyed, covered by a mortgage or subject to a lien shall be construed to mean the Corporate Certificate together with the Occupancy Certificate, except that where such references when interpreted in light of Section 203(n) of the National Housing Act clearly indicate the intent to be the dwelling unit, such reference shall mean the dwelling unit identified in the Occupancy Certificate.

(c) The organizational documents of the cooperative corporation must provide that: (1) Either the Secretary or a mortgagee under a mortgage insured under this section shall be a member of the cooperative corporation for so long as either owns a Corporate Certificate;

(2) A mortgage insured under this section shall be a first lien upon the property covered by the mortgage;

(3) The Secretary may exercise the voting rights which are attributable to each Corporate Certificate owned by the Secretary;

(4) The Secretary may designate as her proxy an agent for the purpose of exercising the voting rights of the Secretary which are attributable to the Corporate Certificate or Certificates owned by the Secretary;

(5) The Secretary may cease making monthly payments attributable to any dwelling unit for which the Secretary owns a Corporate Certificate six months after the Secretary notifies the corporation to sell the Corporate Certificate or upon default by the corporation on the blanket mortgage covering the dwelling unit;

(6) The Secretary or a mortgagee shall not be obligated to make payments to the corporation for any amounts unpaid by a mortgagor under a mortgage insured under this section prior to the date the Secretary or the mortgagee becomes the owner of the Corporate Certificate.

(d) The corporation shall have entered into an agreement with the Secretary and the mortgagee which: (1) Requires that the corporation shall furnish the Secretary with the most recent annual financial report certified to have been based on generally accepted accounting principles and the most recent monthly or quarterly financial report;

(2) Waives any option or right of first refusal the corporation may have to purchase any Corporate Certificate covered by a mortgage insured under Section 203(n) of the National Housing Act, unless the corporation pays the full amount due under such mortgage or pays the full amount of the Secretary's investment if the Secretary is the owner of the Corporate Certificate, whichever is greater.

(3) Except with the approval of the Secretary, waives all authority the corporation may have to approve or reject the buyer of a Corporate Certificate owned by the Secretary or the buyer of a Corporate Certificate covered by a mortgage insured under Section 203(n) of the National Housing Act.

(4) Requires the corporation on notice by the Secretary to act as her agent for a fee to be determined by the Secretary for the limited purposes of:

(i) Selling all Corporate Certificates of the corporation owned by the Secretary;

(ii) Renting and collecting rents on any dwelling unit for which the Secretary owns the Corporate Certificate.

(5) Provides that the Secretary shall not be obligated to make payments to the corporation for outstanding debts of the mortgagor;

(6) Requires the corporation to furnish to a mortgagee or to the Secretary, on request:

(i) A statement, certified by the officer charged with maintenance of the Corporate Certificate Transfer Book, that such book currently shows that the mortgagee or the Secretary is the owner of any Corporate Certificate transferred to the mortgagee or the Secretary; and,

(ii) The Occupancy Certificate in the name of the mortgagee or the Secretary.

(7) Requires the corporation to notify the mortgagee, whose name and address has been provided, of any default in corporation fee payments by the mortgagor within 15 days of such default;

(8) Requires the mortgagee to notify the corporation of any default in mortgage payments by the mortgagor within 15 days of such default;

(9) Requires the corporation upon notice by the Secretary or the mortgagee, when the Secretary or the mortgagee is the owner of the Corporate Certificate, and for a fee to be determined by the Secretary to evict any person or persons from a dwelling unit identified in the Occupancy Certificate.

(10) Contains such other provisions as the Secretary may require.

(e) The mortgagee shall obtain such security and other undertakings as may be required to establish a first lien on the Corporate Certificate and the Occupancy Certificate under the laws of the State where the Cooperative Housing Development is located.

(f) The mortgage involves a one-family dwelling unit in a cooperative housing development which is covered by a blanket mortgage or mortgages insured under the National Housing Act.

(g) The mortgage shall not exceed the balance remaining after subtracting from the amount determined under § 203.18(a) of this chapter an amount equal to the portion of the unpaid balance of the blanket mortgage covering the cooperative development which is attributable to the dwelling unit the mortgagor is entitled to occupy as of the date the mortgage is accepted for insurance.

(h) The mortgage shall be executed upon a form conforming to the applicable provisions of this part and shall:

(1) Involve a principal obligation in multiples of $50.

(2) Come due on the first of the month.

(3) Have an amortization period of either 5, 10, 15, 20, 25 or 30 years by providing for either 60, 120, 180, 240, 300 or 360 monthly payments.

(4) Be for a term not to exceed 30 years or the remaining term of the blanket mortgage covering the cooperative development or three-quarters of the remaining economic life of the building improvements, whichever is less.

(5) Provide for payments to principal and interest to begin not later than the first day of the month following 60 days from the date the mortgagee's certificate on the commitment was executed.

(6) Contain a provision stating that the failure of the mortgagor to pay the mortgagor's share of the common expenses or assessments and charges imposed by the corporation as provided in the instruments establishing the cooperative shall be considered a default.

(i) The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(j) The mortgage must be executed by a mortgagor who intends to be an occupant of the unit.

(k) The mortgagee may collect from the mortgagor upon the execution of the mortgage a sum that will be sufficient to pay the mortgage insurance premium for the period beginning on the date of the closing of the loan and ending on the date of the first monthly payment under the mortgage.

(l) The mortgagee shall upon application for a mortgage insurance commitment provide true copies of the following organizational documents of the cooperative corporation for examination and approval by the appropriate HUD Field Office:

1. Certificate of Incorporation;
2. Regulatory Agreement;
3. By-Laws as amended;
4. The financial statements required in paragraph (d)(1) of this subsection;
5. Proposed Occupancy Certificate;
6. Proposed Corporate Certificate;

Provided that one or more of the requirements of this paragraph may be waived by the Secretary if the documents have been approved by the Secretary and the mortgagee submits with the application a statement certified by an officer of the cooperative corporation that no changes have been made in the documents since such approval.

3. Add a new section 203.436 after § 203.435 as follows:

COOPERATIVE UNIT MORTGAGES

§ 203.436 Mortgages involving a dwelling unit in a cooperative housing development.

(a) The provisions of 203.251(d), 203.366 and 203.440 through 203.495 shall not apply to mortgages insured pursuant to Section 203(n) of the National Housing Act.

(b) References in this subpart to the term "deed" and "deed in lieu of foreclosure", or the word "property" when found in the phrases "conveyance of property," "reconveyance of property," "transfer of property," "acquisition of property", or other phrases indicating transfer of property, shall be construed to mean the assignment of the Corporate Certificate and Occupancy Certificate. However, when the use of such terms, as interpreted in light of Section 203(n) of the National Housing Act, clearly indicates that reference to the dwelling unit is intended, such terms shall mean the dwelling unit identified in the Occupancy Certificate.

(c) In addition to the requirements of § 203.365, the mortgagee shall forward to the Secretary within 45 days after the transfer of the Corporate Certificate:

(1) A statement certified by the officer of the corporation charged with maintenance of the Corporate Certificate Transfer Book that such book currently shows that the Secretary is the owner of the Corporate Certificate; and,

(2) The Occupancy Certificate in the name of the Secretary.

(d) The mortgagee shall tender to the Secretary good and marketable title to the Corporate Certificate and the exclusive right of permanent possession of the dwelling unit.

(e) In lieu of the types of title evidence provided in § 203.385, the Secretary will accept a legal opinion signed by an attorney at law experienced in the examination of titles that the Secretary has good and marketable title to the Corporate Certificate and the exclusive right of possession of the dwelling unit.

(f) The Secretary may accept assignment of mortgages insured under this part if it is determined by the Secretary that it is in the Department's interest to do so provided that the blanket mortgage is in default and the holder of such mortgage has announced an intention to foreclose.

Issued at Washington, D.C., August 3, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-23154 Filed 8-9-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 740-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart 0—Office of Management and Finance

TECHNICAL AMENDMENTS

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: One of the specific functions assigned to the Assistant Attorney General for Administration, who heads the Office of Management and Finance, is to submit requests to the Comptroller General for decisions on questions involving payments by the Department, pursuant to 31 U.S.C. 74. This order adds to the functions of the Assistant Attorney General for Administration responsibility to request decisions from the Comptroller General on questions of law involving payment on vouchers submitted to certifying officers (31 U.S.C. 82d) and authorizes the Assistant Attorney General to decide upon questions involving payment of $25 or less, pursuant to a Comptroller General decision letter of July 14, 1976.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

William D. Van Stavoren, Acting Director, Financial Management Staff, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-739-5116).

Pursuant to the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, paragraph (h) of § 0.76 of Subpart 0 of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 0.76 Specific functions.

* * * * *

(h) Submitting requests to the Comptroller General for decisions (31 U.S.C. 74, 82d) and deciding questions involving the payment of $25 or less (Comp. Gen. B-161457, July 14, 1976).

Dated: August 1, 1977.

GRIFFIN B. BELL,
Attorney General

[FR Doc.77-23105 Filed 8-9-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF SECRETARY OF DEFENSE

PART 290—AVAILABILITY OF DEFENSE CONTRACT AUDIT AGENCY RECORDS

AGENCY: Defense Contract Audit Agency, DOD.

ACTION: Final rule.

SUMMARY: As required by the Freedom of Information Act (5 U.S.C. 552), this rule will provide the public with: the addresses of persons from whom information may be obtained; the procedures for making such requests; the general procedures by which the Defense Contract Audit Agency (DCAA) authorities are channeled; and a description of DCAA's organization and functions as of March 31, 1977.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Sybil L. Taylor, Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, Va. 22314, telephone: 202-274-7285.

SUPPLEMENTARY INFORMATION: On April 13, 1977, DCAA published in the FEDERAL REGISTER (42 FR 19356) a notice of proposed rulemaking setting forth rules and regulations of DCAA which implement the Freedom of Information Act (FOIA) (5 U.S.C. 552).

Interested parties were invited to submit comments. Two comments were received concerning the release of information to which a claim of confidentiality is made by the provider of the information and the agency's discretion to release exempted information. These commenters recommended that the last two sentences of § 290.22 be eliminated so as to omit the provision for the discretionary release of exempt information. These commenters also requested that the proposed rule be amended to allow a Government contractor to prevent the release of certain information. Implementation of these comments would restrict DCAA officials in the exercise of delegated discretionary functions.

The exemptions listed in the FOIA are permissive, not mandatory. A record in the possession of an agency must be released except when it is exempt from release and there is no significant and legitimate Governmental purpose that would be served by withholding the record. The Department of Defense FOIA regulations assign responsibility for evaluating these criteria to the component officials (32 CFR 286.3(b)). DCAA does not have the authority to abdicate this duty in favor of an outside party. Further, by automatically following the guidance of an outside party, the DCAA official may act in an arbitrary and capricious manner, thereby subjecting himself to disciplinary action (5 U.S.C. 552(a)(4)(F)).

Additionally, recent statements of Department of Justice officials indicate that the Department of Justice will not accept cases of questionable merit. DCAA has no power to bind the Department of Justice to a decision to defend a case of doubtful validity. The party that provided the information to DCAA retains the option of seeking a judicial decision.

While DCAA regards all data collected in the audit process as privileged information to be held in confidence, the agency cannot accept the recommendations. However, § 290.22 has been amended to provide that, except when the request is for an audit report, any party which has furnished information which may be confidential will be notified upon receipt of a request and of DCAA's intent to release information. Additionally, § 290.26(b)(2) has been amended to provide that, when a request for an audit report is referred to a contracting officer for disposition, any party who has provided information which may be confidential and is included in the report will be notified of the referral. These practices will provide sufficient protection against improper release of confidential information, and provide the party which provided the information with the option of seeking a judicial decision. Accordingly, the proposed rule, with §§ 290.22 and 290.26(b)(2) revised, is hereby adopted.

For the stated reasons, the Defense Contract Audit Agency amends Title 32 CFR Part 290 as set forth below.

Dated: July 21, 1977.

FREDERICK NEUMAN,
Director.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 2, 1977.

PART 290—AVAILABILITY OF DEFENSE CONTRACT AUDIT AGENCY RECORDS

Subpart A—Organization Statement

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290.28 Administrative appeals of denials.
290.29 Judicial action.

AUTHORITY: 5 U.S.C. 301 and 552, as amended by Pub. L. 93-502, Nov. 21, 1974.

Subpart A—Organization

§ 290.1 Purpose.

This subpart implements 5 U.S.C. 552 by describing the central and field organizations of DCAA and the general course and method by which DCAA's functions are channeled and determined.

§ 290.2 Origin and authority.

DCAA was established by the Secretary of Defense under Department of Defense (DoD) Directive 5105.36 and began operating on July 1, 1965. Its Director is responsible directly to the Secretary of Defense. Staff supervision is provided by the Assistant Secretary of Defense (Comptroller).

§ 290.3 Objective.

DCAA's objective is to assist DoD in purchasing defense materials and services at the lowest price or cost which is both reasonable and fair to the Government and the supplier. While emphasis is on reasonableness and fairness, it also includes the premise that prices paid by the Government should not reflect the cost of contractor operations or practices which are in any manner wasteful or unnecessary.

§ 290.4 Mission.

(a) DCAA performs all necessary contract audit for DoD, and provides accounting and financial advisory service regarding contracts to all DoD components responsible for procurement and contract administration. These services are provided in connection with negotiation, administration, and settlement of contracts and subcontracts. It also furnishes advisory contract audit service to a number of other Government agencies under agreements between DoD and such agencies.

(b) DCAA audits contractors' and subcontractors' accounts, records, documents, and other evidence; systems of internal control, accounting, costing, estimating, and general business practices and procedures to give advice and recommendations to procurement and contract administration personnel on: acceptability of costs incurred under cost, redetermination, incentive, and similar type contracts; acceptability of estimates of costs to be incurred as represented by contractors incident to the award, negotiation, modification, and change of contracts; adequacy of contractors' accounting and financial management systems and estimating procedures. DCAA also performs post-award audits of contracts in order to assure compliance with the provisions of Public Law 87-653 (Truth in Negotiations), and reviews contractor compliance with the rules, regulations, and promulgated standards of the Cost Accounting Standards Board established by Public Law 91-379.

(c) DCAA assists responsible procurement or contract administration activities in their surveys of the purchasing-procurement systems of major contractors; it cooperates with other DoD components on reviews, audits, analyses, or inquiries involving contractors' financial positions or financial and accounting policies, procedures, or practices. DCAA also maintains liaison auditors at major procuring and contract administration offices and provides assistance in the development of procurement policies and regulations.

§ 290.5 Composition.

(a) DCAA consists of seven components: a headquarters located at Cameron Station, Alexandria, Virginia, and six Regional Offices. The Regional Offices manage over 300 field audit offices (FAOs) located throughout the United States and overseas. FAOs are called branch, resident, and procurement liaison offices. Suboffices are established by Regional Managers as an extension of an FAO when required by that office to furnish special onsite contract audit service on a permanent basis. A suboffice is satellited on its parent FAO for supervision, release of audit reports, and administrative support.

(b) The headquarters consists of seven principal staff elements:

(1) The Director exercises worldwide direction of DCAA.

(2) The Deputy Director serves as principal assistant to the Director and acts for the Director in his absence.

(3) The Assistant Director, Operations & Professional Development, authorized to act for the Director and Deputy Director in their absence, is responsible for audit management, technical audit programs, and the Defense Contract Audit Institute in Memphis, Tennessee.

(4) The Assistant Director, Policy & Plans, is responsible for policy formulation, cost accounting standards, and audit guidance and procedures; and acts for the Director in the absence of the Director, Deputy Director, and Assistant Director, Operations & Professional Development.

(5) The Assistant Director, Resources, is responsible for the programs and procedures related to the management and administration of all resources required to support the audit mission; and acts for the Director in the absence of the Director, Deputy Director, Assistant Director, Operations & Professional Development, and Assistant Director, Policy & Plans.

(6) The Assistant Director, Review & Analysis, plans, directs, and conducts agencywide reviews and analyses, including independent examination and appraisal of all aspects of audit operations of Regional Offices and FAOs; and acts for the Director in the absence of the Director; Deputy Director; Assistant Director, Operations & Professional Development; Assistant Director, Policy & Plans; and Assistant Director, Resources.

(7) The Counsel provides legal and legislative advice to the Director and all members of the agency staff.

(8) The Executive Officer develops plans and policies affecting multiple DCAA functions and activities; initiates or reviews papers formulated within the Office of the Director; and has responsibility for the DCAA Equal Employment Opportunity Program.

(c) Regional Offices are located in Atlanta, Boston, Chicago, Los Angeles, Philadelphia, and San Francisco. Regional Managers direct and administer the DCAA audit mission, and manage personnel and other resources assigned to the regions; act as principal advisors to the Director; manage the contract audit program; and direct the operation of FAOs within their region. Principal staff elements of Regional Offices are Office of the Regional Manager, Assistant Regional Manager for Audit Management, Assistant Regional Manager for Resources, and Assistant for Special Projects.

(d) A resident office is established at a contractor's location when the amount of audit workload justifies the assignment of a permanent staff of auditors and support staff. A resident office may perform procurement liaison audit functions.

(e) A branch office is established at a strategically situated location within the region, responsible for performance of all contract audit service within the assigned geographical area on a mobile basis, exclusive of contract audit service performed by a resident or liaison office within the area. A branch office may perform procurement liaison audit functions.

(f) A liaison office is established at a DoD procurement or contract administration office within the region when required on a permanent basis to provide effective communication and coordination between procurement and contract audit elements in the interest of achieving the objectives of prudent contracting. A liaison office maintains a program to asure full utilization of contract audit services by procurement and contract administration offices within the region, provides audit advisors, and measures customer satisfaction; participates in prenegotiation and negotiation conferences at the request of procurement and contracting officers and furnishes related advisory services.

Subpart B—Availability of DCAA Records

§ 290.20 Purpose.

This subpart implements 5 U.S.C. 552 (Freedom of Information Act), as amended, and supplements DoD Directive 5400.7 (32 CFR Part 286) by describing established facilities at which, the officials from whom, and the procedures whereby members of the public may inspect and copy or obtain copies of unclassified DCAA records.

§ 290.21 Applicability and scope.

(a) *Applicability.* This subpart shall apply to all offices of DCAA and shall govern responses by DCAA officials to written requests from members of the public for permission to examine, or to be provided with copies of DCAA records.

(b) *Scope.* Requests for records under the Privacy Act of 1974 (5 U.S.C. 552a) are governed by the provisions of 32 CFR Part 290a. See § 286.2 of this Subchapter for other categories of requests for information or records that are excluded from the scope of this subpart.

§ 290.22 Policy.

It is the policy of DCAA to make available to the public the maximum amount of information concerning its operations and activities. This basic policy is subject to the exemptions recognized in 5 U.S.C. 552(b) and § 286.4 of this Subchapter. Notwithstanding such permissible exemptions, it is DCAA's policy that an exempt record will be made available when its disclosure would not be inconsistent with statutory requirements and when the DCAA official designated in § 290.25(e) determines that no significant and legitimate Governmental purpose would be served by withholding the record. The latter determination is within the sole discretion of DCAA. However, any party that has furnished information to DCAA will be notified upon receipt of a request and of the intent to release information which may be confidential, except as to information discussed at § 290.26(b)(2).

§ 290.23 "Records" defined.

In determining whether documentary material qualifies as a "record," consideration will be given to 44 U.S.C. 3301, which defines the word "record" as follows:

(It) includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein.

(a) Records are not limited to permanent or historical documents but include current documents.

(b) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(c) Formulae, designs, drawings, research data, computer programs, technical data packages, etc., are not considered "records" within the intent of 5 U.S.C. 552, even though maintained in documentation form, because of development costs, utilization, or value. These items are considered property, not preserved for informational value nor as evidence of agency functions, but as exploitable resources to be tutilized in the best interest of all the public. Requests for copies of such material shall be evaluated according to policies expressly directed to the appropriate dissemination or use of such property. Requests to inspect such material to determine its content for informational purposes shall normally be granted unless inspection is inconsistent with the obligation to protect the property value of the material, such as may be true for certain formulae.

(d) The term "records" does not include unaltered stocks of publications and processed documents such as regulations, manuals, instructions, and related materials that are available to the public through an established distribution system for sale or without charge. Examples of such materials are publications available to the public by purchase from DCAA or the Defense Contract Audit Manual and other documents available by purchase from the Superintendent of Documents, U.S. Government Printing Office. Individuals requesting such material under the FOIA will be referred to the appropriate public sales outlet.

§ 290.24 Public inspection and copying.

(a) 5 U.S.C. 552(a)(2) requires agencies to make available for public inspection and copying (1) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; (2) statements of policy and interpretations which have been adopted by the agency and are not published in the FEDERAL REGISTER; and (3) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale.

(b) DCAA documents described in § 290.24(a) are published under the DCAA Publications System as regulations, manuals, instructions, and pamphlets, and are available to the public through purchase from DCAA or the Superintendent of Documents.

(c) The DCAA headquarters and each of the six Regional Offices shall publish semiannually an index of the documents published under the DCAA Publications System. Such indexes shall be made available to the public upon request without cost.

§ 290.25 Requests for records.

(a) *General.* According to the spirit and intent of 5 U.S.C. 552 and 32 CFR 286, upon receipt of written or verbal requests to DCAA offices, all reasonable efforts should be made to advise members of the public on the correct means for securing permission to examine desired records, or for obtaining copies of such records.

(b) *Identification of records.* While it is expected that DCAA offices will use their knowledge of the contents of their files and expend reasonable efforts to assist the public in identifying records which contain the particular information sought, the requester must "reasonably describe" the record sought. A record must exist at the time of the request. It is not required that a record be "created" or compiled for the purpose of furnishing information not already available in existing records. A record that is maintained by computer is normally deemed to exist for this purpose, but only if retrievable in approximately the form desired without substantial reprogramming.

(c) *Fees.* Fees shall be determined according to § 286.8 of this Subchapter. Fees shall be charged only for direct cost of search and duplication and shall not include indirect costs or costs attributable to reviewing the records.

(1) Fees will not be charged if, for a single request, the direct search cost is less than $25.00. Fees will not be charged if, for a single request, the direct duplication cost is less than $5.00. Fees will not be reduced by these amounts when the thresholds are exceeded.

(2) No request will be processed until the requester has been advised in writing of the estimated amount of the fees if they are expected to exceed the automatic waiver thresholds.

(3) Time limits specified in § 286.11 of this Subchapter will not begin until payment of fees is resolved or the requester's entitlement to a waiver of fees is established.

(4) Ordinarily, fees will not be assessed for nonproductive search or when all records located are denied. However, fees may be assessed if the requester insists upon a search and agrees to such fees prior to the search after being advised that the search is likely to be unproductive.

(5) Fees normally must be paid in advance of rendering the service. An exception exists when the requester promises in writing to pay upon receipt of a statement, and represents that he will be able to pay. When the anticipated combined total of direct search and duplication fees to be assessed exceeds $60.00, prepayment of all or a portion of the estimated fees may be required before processing the request.

(6) Subsequent requests will not be processed when, at the time of the request, the requester is known to be in default of payment of fees incurred in connection with a previous request.

(7) Payment of fees may be by personal check, bank draft drawn on a U.S. bank, or by U.S. Postal money order. All such payments shall be made payable to the Treasurer of the United States. DCAA does not have the facilities for handling cash payments. A receipt for fees paid will be given only upon request.

(d) *Waiver of fees.* The determination to waive fees is at the discretion of the officials listed in § 290.25(e). The follow-

ing requirements pertain to requests for waiver of fees in excess of the automatic waiver threshold:

(1) If a requester wishes to request a waiver of fees, the request must provide sufficient information to enable a proper determination. A statement that release is in the public interest, the identity or tax status of the requester, or the intention that the record will be made public is not persuasive grounds for granting a waiver. The requester should provide information concerning the planned use of the information, how this will serve the general public interest, the segment of the public to benefit from the information, the size of the public to be benefited, the significance of the benefit, the private interest of the requester which the release may further, the usefulness of the material to be released, the likelihood that tangible good will be realized, and any other information which may be pertinent to the appropriateness of public payment. This information does not influence the determination to release or withhold a record; it influences the determination as to whether the public will assume the direct search and duplication costs. The requester need not provide this information if he does not wish the public to bear the cost.

(2) Fee waivers shall be decided on case-by-case evaluation. Blanket waivers for specific individuals or organizations will not be granted.

(3) If the requester declares his unwillingness to pay fees and does not warrant a waiver of fees, the request will not be processed if it is estimated that the direct search and duplication costs will exceed the automatic waiver threshold.

(e) *Release/denial authorities.* The following officials are authorized to deny as well as grant requests for documents or records:

(1) Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, Va. 22314.

(2) Regional Manager, Defense Contract Audit Agency, P.O. Box 1498, Marietta, Ga. 30060.

(3) Regional Manager, Defense Contract Audit Agency, Waltham Federal Center, 424 Trapelo Road, Waltham, Mass. 02154.

(4) Regional Manager, Defense Contract Audit Agency, 527 South LaSalle Street, Suite 652, Chicago, Ill. 60605.

(5) Regional Manager, Defense Contract Audit Agency, 1340 West Sixth Street, Second Floor, Los Angeles, Calif. 90017.

(6) Regional Manager, Defense Contract Audit Agency, Federal Building, 1421 Cherry Street, Philadelphia, Pa. 19102.

(7) Regional Manager, Defense Contract Audit Agency, 450 Golden Gate Avenue, Box 36116, San Francisco, Calif. 94102.

§ 290.26 Procedures for submitting requests.

(a) To qualify as a request within the technical requirements of this subpart, a request for copies of, or for permission to examine, DCAA records must:

(1) Be in writing and indicate expressly, or by clear implication, that it is a request under the Freedom of Information Act, 5 U.S.C. 552, or this regulation;

(2) Contain a reasonable description of the particular record sought, sufficiently accurate and specific to enable personnel to locate and identify the record with a reasonable amount of effort; if the record cannot be specifically identified, an explanation of the purposes for which they are desired might be of assistance; and

(3) Contain a check or money order for the anticipated search and duplication fees (at least an adequate deposit); or a clear statement that the requester will be willing and able to pay all fees or to pay such fees up to a specified limit; or satisfactory evidence establishing that the requester is entitle to a waiver of fees.

(b) *Addressing requests.* A list of addresses from which DCAA records may be requested is given in § 290.25(e). A request will not be deemed to have been received for purposes of time limits specified in Part 286.11 of this Subchapter until it is received by the appropriate addressee.

(1) *Misdirected requests.* A request received by an official who is not the appropriate official indicated in 290.25(e) shall be promptly readdressed and forwarded directly to the appropriate official. The requester shall be notified of this referral. Direct contact between the original recipient and the correct addressee is encouraged to ensure expeditious handling of the request.

(2) Requests for copies of audit reports will be referred to the appropriate contracting officer when received by a DCAA office. Requesters will be notified of such referrals. In addition, any party that has furnished information which may be confidential and which is included in the requested report will be notified of the referral.

(3) All other requests should be directed to the appropirate Regional Manager, if known. If the location of the record is not known, the request should be directed to the Records Administrator.

§ 290.27 Material withheld from disclosure.

Only those records falling within the specific exemptions listed in 5 U.S.C. 552 (b) and § 286.4 of this Subchapter may be withheld. Any person who is denied a request for a record, in whole or in part, or denied a waiver of fees will be given a written explanation of the basis for the determination and advised of his right to appeal the denial.

§ 290.28 Administrative appeals of denials.

Appeals of denials should be addressed to the Assistant Director, Resources, Defense Contract Audit Agency, Cameron Station, Alexandria, Va. 22314. A copy of the initial request and the initial denial should be forwarded with the appeal letter. Final refusal to provide a record or to waive fees will be made in writing by the Assistant Director, Resources, after consultation with the Counsel, Assistant Director, Operations & Professional Development, or other appropriate staff elements. The requester will be advised of his right to judicial review.

§ 290.29 Judicial action.

A requester will be deemed to have exhausted his administrative remedy after he has been denied the requested record by the Assistant Director, Resources, or when the agency fails to respond to his request within the time limits prescribed by Part 286 of this Subchapter. The requester then may seek an order from a U.S. District Court in: (a) The district in which he resides or has his principal place of business; (b) the district in which the record is situated; or (c) in the U.S. District Court for the District of Columbia, enjoining the agency from withholding the record and ordering its production.

[FR Doc.77-22982 Filed 8-9-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 67—HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO THE TAX REFORM ACT OF 1976

Certification of State or Local Statutes

AGENCY: National Park Service, Interior.

ACTION: Additional interim procedures.

SUMMARY: This rule supplements the previous interim regulations by adding a new section in the certification process. The Tax Reform Act of 1976 requires the certification of State and local statutes by the Secretary of the Interior, so that an owner of a structure in a historic district created by legislation certified under these regulations may be able to take advantage of the provisions of the Act.

DATE: Effective: August 10, 1977. Comments by September 9, 1977.

ADDRESS: Send comments to: Mr. Jerry L. Rogers, Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, 202–523–5275.

SUPPLEMENTARY INFORMATION: The Tax Reform Act of 1976, Pub. L. 94–455, 90 Stat. 1519, included among its many provisions section 2124, "Tax Incentives to Encourage the Preservation of Historic Structures," under which the Secretary of the Interior is required to make certain certifications with respect to the historic character of buildings and structures, the rehabilitation of historic buildings and structures, and the preservation criteria of State and local statutes.

Regulations for certifying the historic significance of structures and certification of rehabilitations were published as interim regulations and for comment

in the FEDERAL REGISTER on March 15, 1977 (42 FR 14121). These interim regulations are still in effect. These regulations for certifying State and local statutes under section 2124(a) will be an addition to 36 CFR Part 67 as published on March 15, 1977. They are published separately in the interim but will be fully integrated when the regulations are published in final.

Since certification of a State or local statute under this process provides significant tax benefits for historic structures in districts designated thereunder, certification is likely to be a significant and beneficial impetus to rehabilitation and upgrading of properties in historic districts. The Department of the Interior urges State and local governments to evaluate the social implications of improvements in such districts to assure that the residents in these districts are provided for, as appropriate.

When the certification of State statutes will have an impact on districts in specific localities, the Department of the Interior urges State governments to notify and consult with appropriate local officials prior to submitting a request for certification of the statute.

For structures in State or locally designated historic districts where the statute has been certified, requests for certification of the historic significance or rehabilitation of individual structures within such districts should be made in accord with the interim regulations of March 15, 1977, 36 CFR Part 67. The certification of significance of such structures will be made or denied upon an evaluation of whether the strucure contributes to the significance of the State or locally designated district, based upon the documentation submitted on the structure and the district in which it is located. Certifications of rehabilitation will be based on whether or not the rehabilitation is consistent with the historic character of the structure or the district in which the structure is located.

It is the policy of the Department of the Interior, whenever practicable, to offer the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, on or before September 8, 1977. However, inasmuch as taxpayers are already requesting that certifications be made under the Tax Reform Act, the process set forth below will be utilized as interim regulations until such time as the proposed regulations, as they may be amended, are published in final.

This rulemaking is developed under the authority of section 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a) (1970 ed.), as amended, and section 2124 of the Tax Reform Act of 1976, 90 Stat. 1519. In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331, et seq.) the National Park Service has prepared an environmental assessment of these proposed regulations. Based on this assessment, it is determined that implementation of the proposed regulations is not a major Federal action that would have a significant effect on the quality of the human environment and that an environmental impact statement is not required. The assessment, which is on file in the office of the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, is available for public inspection, and will be available for public comment for a period running concurrently with the comment period for these proposed regulations.

The originator of these regulations is Carol Shull, Historian, National Register of Historic Places (202–523–5483).

Accordingly, section 67 is amended by adding a new § 67.9 entitled Certification of State or Local Statutes. These regulations are in interim effect as of this date of publication to read as follows:

§ 67.9 Certification of State or Local Statutes.

(a) State or local statutes which will be certified by the Secretary of the Interior. For the purpose of this regulation, a State or local statute is a law of the State or local government designating a historic district or districts, including any by-laws or ordinances pertaining to the district or districts designated thereunder. Such statutes must contain criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district. To be certified by the Secretary of the Interior, the statute generally must provide for a duly designated review body, such as a review board or commission, with power to review proposed alterations to structures within the boundaries of the district or districts designated under the statute. State enabling legislation for the creation of historic districts not containing the minimum criteria above will not be certified. When the certification of State statutes will have an impact on districts in specific localities, the Department of the Interior urges States governments to notify and consult with appropriate local officials prior to submitting a request for certification of the statute.

(b) Who may apply. Requests for certification of State or local statutes may be made only by the duly authorized representative of the government which enacted the statute. The applicant shall certify that he or she is authorized by the governing body to apply for certification.

(c) Certification process. Requests for certification of statutes as required under section 2124(a) of the Tax Reform Act of 1976 shall be made as follows:

(1) Requests for certifications of statutes shall be submitted to the appropriate State Historic Preservation Officer and accompanied by the following:

(i) A written request from the authorized representative of the government that enacted the statute(s) including the certification required by paragraph (b) of this section.

(ii) A copy of the statute or statutes for which certification is requested, including by-laws or ordinances, if any, which pertain to district(s) already designated under the statute(s).

(iii) Local governments shall submit a copy of the State enabling legislation, if any, authorizing the designation of historic districts.

(2) Documentation on each district designated under the statute shall be submitted in duplicate, including a:

(i) Description;

(ii) Statement of significance;

(iii) Map defining boundaries of district;

(iv) Representative photographs of the district including streetscape photographs.

One copy of the documentation will be forwarded to the Keeper of the National Register. Where practical the documentation on each district should accompany the request for certification. If not, the documentation must be submitted to the State Historic Preservation Officer and the Keeper of the National Register before the Secretary of the Interior will process requests for certification of an individual structure within the district or districts for which the request for certification of statute(s) has been made. This also applies to documentation on additional districts designated under State or local statutes certified prior to the designation of such districts.

(3) The State Historic Preservation Officer shall review the statute(s) and the documentation on the district(s) protected thereunder and make an assessment of whether the statute(s) contain criteria which will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district(s) based upon the standards set out above in paragraph (a) of this section. If the statute(s) contain such a provision and if, in the opinion of the State Historic Preservation Officer, this and other provisions in the statute will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, the State Historic Preservation Officer should recommend that the statute be certified.

(4) The State Historic Preservation Officer shall forward the request with the accompanying documentation as specified in paragraph (c) of this section with his written recommendation as to whether the statute should be certified to the Keeper of the National Register, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240. The State Historic Preservation Officer shall forward the request with his recommendation within 45 days of receipt of the request by the duly authorized representative: *Provided*, The request is submitted in accord with paragraph (c) of this section. If this period has expired without such actions being taken the duly authorized representative of the State or local government may submit the request for certification of the statute(s) directly to the Keeper of the National Register in accord with paragraph (c) of this section.

(5) The Keeper of the National Register shall review the request and the recommendation of the State Historic Preservation Officer and make a decision as to certification. If, in the opinion of the Keeper of the National Register, the statute(s) contain criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, the Secretary will certify the statute(s).

(6) The Keeper of the National Register shall provide written notification to the applicant and the appropriate State Historic Preservation Officer when certification of the statute is given or denied within 45 days of receipt of the request for certification. If certification is denied, the notification will provide a justification for such denial.

(d) Certification of such statutes under this regulation in no way constitutes certification of significance of individual structures within the district or of the rehabilitation by the Secretary for purposes of section 2124. Regulations for obtaining certifications of significance and rehabilitation pursuant to section 2124 are contained in 36 CFR 67.4 through 67.7. The Secretary of the Interior will certify the significance of individual structures within such districts after an evaluation of whether the structure contributes to the significance of the State or locally designated district based upon the documentation submitted on the structure and the district in which it is located. Certifications of rehabilitation will be based on whether or not the rehabilitation is consistent with the historic character of the structure or the district in which it is located.

(e) For appeals, refer to 36 CFR 67.8, Appeals, Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976.

(f) State or local governments, as appropriate, must notify the Secretary of the Interior and the Secretary of the Treasury, in the event that certified statutes are amended in any respect or repealed.

Approved: July 27, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc.77-23010 Filed 8-9-77;8:45 am]

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Subpart A—Organization

ORGANIZATION CORRECTIONS

AGENCY: Forest Service, USDA.

ACTION: Final rule (organization statement).

SUMMARY: The organizational listing of the Forest Service is corrected to clarify the authority of the Administrator of the Lake Tahoe Basin Management Unit, Forest Supervisors for the Eldorado, Toiyabe, and Tahoe National Forests, and Regional Foresters for Regions 4 and 5. This is a result of a recent redelegation of authority to Regional Foresters to issue criminal regulations (42 FR 2968 and 42 FR 2960; 7 CFR 2.60 and 36 CFR 261.70). This is required to be published in the FEDERAL REGISTER by The Administrative Procedures Act.

DATES: This amendment is effective August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Jones, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202-447-4077).

Part 200, Title 36 of the Code of Federal Regulations is amended by changing § 200.2(d) as follows:

§ 200.2 Field Organization.

* * * * *

(d) *Field Addresses.* The addresses of Regional Foresters, Station Directors, and Area Directors are given below. Under each Regional Office address is a list of National Forests and similar units by States and headquarters locations. Headquarters locations for Ranger Districts, National Grasslands, and National Recreation Areas are not listed but may be obtained from Forest Supervisors.

National forests by regions

State in which forest is located	National forest	Headquarters of supervisor
*	*	*
Region 4 ***		
Nevada	Toiyabe, except the Lake Tahoe basin management unit.	Reno.
*	*	*
Region 5 ***		
California	Eldorado, except the Lake Tahoe basin management unit.	Placerville.
*	*	*
	Tahoe, except the Lake Tahoe basin management unit. Lake Tahoe basin management unit (portions of Toiyabe, Eldorado, and Tahoe National Forests).	Nevada City. South Lake Tahoe (headed by an administrator).
*	*	*

(81 Stat. 54 (5 U.S.C. 552).)

JOHN R. MCGUIRE,
Chief, Forest Service.

AUGUST 5, 1977.

[FR Doc.77-23106 Filed 8-9-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-754-4]

PART 610—FUEL ECONOMY RETROFIT DEVICES—TEST PROCEDURES AND EVALUATION CRITERIA

Interim Rule

AGENCY: Environmental Protection Agency.

ACTION: Interim final rulemaking.

SUMMARY: These regulations establish evaluation criteria and test procedures for evaluating the fuel economy improvement claims for devices that may be retrofitted on new or in-use vehicles. These regulations are required by the Motor Vehicle Information and Cost Savings Act. The regulations will provide a uniform test procedure for devices intended to improve fuel economy performance.

DATES: Effective date: August 10, 1977. Deadline for submission of written comments: November 8, 1977.

ADDRESS: Deputy Assistant Administrator for Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Gary Timm, Technical Advisor, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) is hereby promulgating rules on an interim final basis under Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011 et seq., as amended by section 301 of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 915. Section 511 requires the Administrator of EPA to: (1) Establish testing and other procedures for measuring the effects of retrofit devices on automobile fuel economy and pollutant emissions; (2) establish criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices; and (3) publish test results, conclusions on fuel economy and emissions effects, and other relevant information. A retrofit device is any component, equipment, or device which replaces, modifies, or adds to any original component, equipment, or device found on an automobile. (A more detailed definition is found in § 610.17 of these rules.)

The device evaluation programs called for in the Act can be initiated upon the request of the Federal Trade Commission, by the EPA acting on its own volition, or upon the application of a device manufacturer, in which case the manufacturer shall be liable for the costs of testing. Although the final rules are expected to contain provisions for initiation of device evaluations in all three ways listed above, these interim regulations provide only for manufacturer-initiated evaluations. This is to ensure that no manufacturer will be subject to government-initiated testing under these regulations until notice and public procedure have been provided. EPA expects that, when these regulations are made final after consideration of public comments, language will be added having the following effect:

(1) A retrofit device evaluation program will be initiated at the request of the Federal Trade Commission (FTC) when it has reason to believe that fuel economy representations made for a retrofit device being marketed may be inaccurate (§ 610.11(a)).

(2) A retrofit device evaluation program may be initiated at the EPA Administrator's initiative (§ 610.11(b)).

(3) All costs incurred in an evaluation program initiated at the request of the FTC or at the Administrator's initiative, including the cost of purchasing any necessary quantity of the device under evaluation, will be borne by the United States (§ 610.13(a)).

(4) In a device evaluation program initiated at the request of the FTC, the composition and size of the test fleet will be determined by the Administrator in consultation with the FTC (§ 610.32(a)).

EPA will include lubricant and oil and fuel additives as well as most hardware approached in the test program. The Agency will exclude driving aids such as fuel flow meters which cannot readily be evaluated by standard test procedures. Most of the testing of the program will be carried out by private laboratories under the direction of EPA engineers. EPA cannot absorb the additional test loads at its own test facilities to carry out the program in house. All of the contract work will be paid by the party requesting the test. When a manufacturer requests a test, payment will be made directly to the laboratory conducting the testing.

The rules published herein include criteria for evaluating claims and conducting tests, descriptions, and categories of the devices that can be evaluated, and test procedures. Chassis dynamometer tests known as the 1975 Federal Test Procedure for light-duty vehicles (40 CFR Part 86) and the EPA Highway Fuel Economy Test (40 CFR Part 600) will be the primary methods used to determine the effects of devices on fuel economy and pollutant emissions. Other, specialized test procedures may be used when devices and effects cannot be adequately evaluated by these tests. For instance, the effect of an aerodynamic drag reduction device may be determined by tests on a test rack, and the durability effects of various products may be evaluated by using engine test procedures.

EPA finds that notice and public procedure before promulgating these interim regulations would be unnecessary and contrary to public interest because further delay in publishing these regulations will deprive the Nation of information regarding the potential benefits of fuel economy retrofit devices; more information can be gained regarding the best way to structure the program in the final regulations by the experience gained under the evaluation programs conducted under these interim regulations than could be gained by comment alone; and these rules impose no burden on nor jeopardize any person. For essentially the same reasons, the Agency finds good cause to make this action effective on the date of publication in the FEDERAL REGISTER.

Interested parties are invited to comment on these rules by submitting such written data, views, or arguments as they may desire. Such comments will be considered prior to issuance of final rules. Communications should be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying service.

(Sec. 511, Motor Vehicle Information and Cost Savings Act, as amended (Sec. 301, Pub. L. 94-163, 89 Stat. 915 (15 U.S.C. 2011)).)

NOTE.—The Environmental Protection Agency has determined that the document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 4, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Chapter I is amended by adding a new Part 610 to read as follows:

PART 610—FUEL ECONOMY RETROFIT DEVICES—TEST PROCEDURES AND EVALUATION CRITERIA

Subpart A—General Provisions

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610.10 Program purpose.
610.11 Program initiation.
610.12 Program structure.
610.13 Payment of program costs.
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610.32 Test fleet selection.
610.33 Durability tests.
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Subpart D—General Vehicle Test Procedures

610.40 General.
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Subpart E—Durability Test Procedures

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Subpart F—Special Test Procedures

610.60 Non-standard ambient conditions.
610.61 Engine dynamometer tests.
610.62 Driveability tests.
610.63 Performance tests.
610.64 Track test procedures.

Subpart A—General Provisions

§ 610.10 Program purpose.

(a) The purpose of an evaluation program initiated under these rules is to determine the performance of various retrofit devices, applicable to automobiles, for which fuel economy improvement claims are made, according to standardized procedures and criteria and to compile and disseminate the results of the evaluation.

(b) Data generated in an evaluation program by the Administrator of the Environmental Protection Agency (EPA) will be published in the FEDERAL REGISTER and elsewhere for use by the Federal Trade Commission and the public. It should be stressed that the role of this program will be the generation, analysis, and dissemination of technical data, and not the approval or certification of retrofit devices.

(c) Through engineering and or statistical analysis of data from vehicle tests, the evaluation program will determine the effects on fuel economy, exhaust emissions, durability, and driveability of the applicable vehicles due to the installation or use of the devices. The evaluation program will also include additional procedures, whenever determined by the Administrator as necessary, to evaluate the durability or useful life of the devices themselves or their effects on vehicle durability or useful life.

§ 610.11 Program initiation.

A retrofit device evaluation program will be initiated as follows:

(a) [Reserved]

(b) [Reserved]

(c) Upon the application of any manufacturer of a retrofit device (or prototype thereof) for which a fuel economy improvement claim is made.

§ 610.12 Program structure.

Each device evaluation program will consist of up to three phases to be performed by the EPA Administrator:

(a) A preliminary analysis of available information and test data on the device;

(b) Design and conduct of a sequence of tests to determine device effectiveness if considered necessary by virtue of the Administrator's analysis; and

(c) Publication in the FEDERAL REGISTER, and submission to the Secretary of Transportation and to the Federal Trade Commission, of a summary of the results of any tests conducted under Subparts C through F, or if none were conducted, then a summary of the results of the preliminary analysis conducted under Subpart B; together with the Administrator's conclusions as to the effect of the tested retrofit device on fuel economy and on emissions of air pollution, and as to any other information that the Administrator determines is relevant in evaluating such device. Each of the above phases may, as appropriate, include statistically valid sample sizes and statistical evaluation of measured results.

§ 610.13 Payment of program costs.

(a) [Reserved]

(b) If the evaluation program has been initiated by the application of a manufacturer under § 610.11(c), the manufacturer shall supply, at his own expense, samples of the device in the number required by the Administrator to an independent laboratory recognized by the Administrator and shall be liable for the costs of the evaluation program which are incurred by the independent laboratory.

§ 610.14 Eligibility for participation.

Participation in an evaluation program initiated under § 610.11(c) will be available to any person or company who agrees to follow the procedures set forth in these protocols. Failure to conform to any aspect of these protocols, without the approval of the Administrator, may be interpreted as withdrawal from participation in the program.

§ 610.15 Applicant's responsibilities.

Each applicant for evaluation under § 610.11(c) will be responsible for the following:

(a) Submission of an application, in format specified by the Administrator, prior to initiation of the evaluation. A separate application shall be made for each different device. The application shall be made to the Administrator (or his delegate) by the manufacturer and shall be updated and corrected by amendment if deemed necessary by EPA.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the device covered by the application. This shall include drawings, schematics, and information on the theory of operation.

(2) Vehicles or engines to which the device is applicable.

(3) Installation or usage instructions, including degree of knowledge required by persons making the installation and the tools and equipment required.

(4) A statement of recommended maintenance, degree of knowledge required for that maintenance, and the tools and equipment required to perform the maintenance.

(5) All exhaust emissions and fuel economy test data on the device or product available to the applicant.

(6) All information available to the applicant concerning whether the device in its operation, function, or malfunction may cause an automobile using that device to emit into the ambient air any substance other than pollutants regulated by EPA under section 202 of the Clean Air Act (i.e., hydrocarbons, carbon monoxide, and oxides of nitrogen), or normal atmospheric constituents (such as carbon dioxide or water vapor) in a quantity differing from that emitted in the operation of the automobile without the device.

(7) All information available to the applicant concerning whether the device in its operation, function, or malfunction may result in any unsafe condition endangering the automobile or its occupants or persons or property in close proximity to the automobile.

(c) Shipment to the EPA's Motor Vehicle Emission Laboratory, or other test site designated by the Administrator, of the devices being evaluated in the quantity specified by the Administrator.

(d) Payment of the costs of testing to an independent laboratory, which may include the direct labor and material cost to the laboratory of acquiring the test fleet, of repairing and tuning the test fleet, of installing and removing devices, of conducting the required tests, and such other costs as may be specified.

(e) Complete copies of the application and of any amendments thereto shall be submitted in such multiple copies as the Administrator may require.

§ 610.16 Application format.

(a) Device manufacturers who apply for evaluation of a fuel economy retrofit device shall use a standard application format, in order to allow the Administrator to compile relevant data on specific devices and to allow timely response to applications. Application formats are available from and submission shall be made to:

Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Mich. 48105. ATTN: Fuel Economy Retrofit Device Evaluation.

(b) Four weeks should be allowed for analysis of the application and preparation of a response. As indicated in other sections of this part, this response will include the evaluation of the device according to the criteria discussed in Subpart B of this part. The Administrator's evaluation will be made public.

§ 610.17 Definitions.

Except as specifically defined below, all terms used in these protocols which are defined in the Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, and 1857g(a)) or 40 CFR Part 86 shall have the meanings provided therein.

(a) "Retrofit device" means any component, equipment, or other device:

(1) Which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device; and

(2) Which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped. The term also includes fuel and oil additives for use in an automobile. The term does not include fuel flow measuring instruments or other driving aids which will not be evaluated in this program.

(b) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at 6,000 lbs. gross vehicle weight or less.

(c) "Fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the Administrator in accordance with procedures established under Subparts D or F.

(d) "Manufacturer" means a person or company who is engaged in the business of manufacturing, distributing, or selling retrofit devices for which a fuel economy improvement claim is made.

(e) "Retrofit" means the addition of a new item, modification or removal of an existing item of equipment beyond that of regular maintenance, or use of a fuel or oil additive, on an automobile after its initial manufacture.

(f) "Federal test procedures" means the test procedures specified in 40 CFR Part 86, except as those procedures are modified in these protocols.

(g) "Highway Fuel Economy Test" means the test procedure described in § 600.611(b) or § 600.111(b) as applicable.

(h) "Operator" means any person who installs, services, or maintains a retrofit device in an automobile or who operates an automobile with a retrofit device installed.

(i) "Device integrity" means the soundness of a device as determined by evaluation of design information and test data.

(j) "Test data" means any information which purports a quantitative measure of any aspect of the behavior of a retrofit device.

(k) "Testing agent" means any person who develops test data on a retrofit device.

(l) "Preconditioning" means the operation of an automobile through one (1) EPA Urban Dynamometer Driving Schedule, described in 40 CFR Part 86.

(m) "Configuration" means the mechanical arrangement, calibration, and condition of a test automobile, with particular respect to carburetion, ignition timing, and emission control systems.

(n) "Baseline configuration" means the unretrofitted test configuration, tuned in accordance with the automobile manufacturer's specifications.

(o) "Adjusted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications, but excluding retrofit hardware installation.

(p) "Retrofitted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications and after all retrofit hardware has been installed.

(q) "Data fleet" means a fleet of automobiles tested at 'zero device-miles' in 'baseline configuration,' the 'retrofitted configuration,' and in some cases the 'adjusted configuration,' in order to determine the changes in fuel economy and exhaust emissions due to the 'retrofitted configuration,' and where applicable the changes due to the 'adjusted configuration,' as compared to the fuel economy and exhaust emissions of the 'baseline configuration.'

(r) "Durability fleet" means a fleet of automobiles operated for mileage accumulation used to assess deterioration effects associated with the retrofit device.

(s) "Zero device-miles" means the period of time between retrofit installation and the accumulation of 100 miles of automobile operation after installation.

(t) "Independent laboratory" means a test facility operated independently of any motor vehicle, motor vehicle engine, or retrofit device manufacturer capable of performing retrofit device evaluation tests. Additionally, the laboratory shall have no financial interests in the outcome of these tests other than a fee charged for each test performed.

(u) "Evaluation Program" or "Program" means the sequence of analyses and tests prescribed by the Administrator as described in § 610.12 in order to evaluate the performance of a retrofit device.

(v) "Preliminary analysis" means the engineering analysis performance by EPA prior to testing prescribed by the Administrator based on data and information submitted by a manufacturer or available from other sources.

Subpart B—Evaluation Criteria for the Preliminary Analysis

§ 610.20 General.

The Administrator will employ the following criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices:

(a) Device functional category; (b) device integrity; (c) operator interaction effects; (d) validity of test data; (e) as these concepts are explained in evaluation of test data: as these concepts are explained in §§ 610.21 through 610.25 respectively.

§ 610.21 Device functional category and vehicle system effects.

(a) The devices evaluated in this program are organized into categories for purposes of definition and establishment of evaluation criteria and test procedures, and to indicate which vehicle functional characteristics (other than fuel economy) may be adversely affected by installation or use of the device.

(b) A device will be categorized based on:

(1) Engineering principles governing operation of the device; (2) interaction between the device and specific vehicle/engine operating characteristics; and (3) constraints with respect to vehicle applicability of the device.

(c) The device categories and the affected vehicle functional characteristics which may be adversely affected are noted for each device category in Table I. The notations for each characteristic are as follows:

Exhaust Emissions—1.
Driveability—2.
Durability—3.
Performance—4.

TABLE I

Device categories:	Characteristics adversely affected
Fuel-air system:	
Carburetors and fuel injection systems	All
Air-fuel ratio modifiers (e.g., air bleeds)	All
Atomization devices (acoustic and mechanical)	All
Vapor injectors	All
Choke controls	1, 2, 4
Air filters	1, 3, 4
Fuel modifiers (additives)	1, 3
Fuel-air distribution systems (intake manifolds)	1, 2, 4
Fuel pressure regulators	All
Ignition systems:	
Spark plugs	All
Spark timing control systems	All
Spark duration control systems	1, 4
Spark energy sources	1, 4
Emission control systems:	
Exhaust gas recirculation (EGR) systems	All
After-treatment devices	1, 2, 4
Drivetrain:	
Tires	(1)
Overdrive units	All
Torque converter lockups	1, 2, 4
Exhaust system:	
Headers	1
Tuned exhaust systems	1
Accessories:	
Cooling fan or cooling for couplings	(1)
Cold start aids (e.g., engine heaters)	1
Lubrication:	
Oil filters	3
Oil modifiers (additives)	1, 3
Vehicle body:	
Aerodynamic drag reduction devices	(1)
Miscellaneous:	
Modifications to valve timing	All
Retrofit prechambers	All
"Placebos" (devices that are claimed to operate on questionable or doubtful scientific principles)	None

[1] Small effect, may be difficult to measure.

(d) In the absence of information from the device manufacturer on this topic or if the Administrator's preliminary evaluation indicates that testing is necessary, the Administrator will conduct tests to determine the extent of these adverse effects.

§ 610.22 Device integrity.

The integrity of a device will be evaluated with respect to:

(a) The extent to which device manufacture is standardized by means of drawings, specifications, and other fabrication and quality assurance controls;

(b) The degree of sensitivity of device effectiveness to deterioration under exposure to normal operating stresses and environments;

(c) The susceptibility of the device to deterioration of effectiveness under abnormal operating conditions;

(d) The effects upon its surroundings of device malfunction under causes of failure which may be reasonably anticipated to occur in actual use; and

(e) The extent to which test data support paragraphs (b), (c), and (d) of this section.

§ 610.23 Operator interaction effects.

Operator interaction effects will be evaluated with respect to:

(a) The degree of sensitivity of device effectiveness to variances in installation, operation, and maintenance;

(b) The adequacy of manufacturer-furnished instructions for minimizing variances in installation, operation, and maintenance;

(c) The extent to which device installation or use, or the effects of such installation or use, impinge upon Federal emission control regulations;

(d) Effects on the performance or occupant comfort of the retrofitted vehicle, and on that of other vehicles; and

(e) The relationship between total cost of ownership of the device and the cost savings realizable from its fuel economy effects.

§ 610.24 Validity of test data.

The Administrator will make a determination as to the validity of manufacturer-furnished test data on the basis of:

(a) Correlatability between the test procedures used by the manufacturer or testing agent and the procedures prescribed in Subpart D;

(b) The choice of test vehicle(s) as representative of the manufacturer's claim of operation and or principles of operation;

(c) The degree of control exercised over ambient and operating conditions in the tests, including vehicle calibrations;

(d) Accuracy and precision of the measurement techniques and instrumentation used in the tests;

(e) Disclosure of all test data acquired on the device, whether representing positive, negative, or inconclusive results;

(f) Qualifications and independence of the testing agent; and

(g) The extent to which test data include evaluation of the durability of the device, or its effect on vehicle durability.

§ 610.25 Evaluation of test data.

Valid manufacturer-furnished test data will be evaluated with respect to:

(a) Vehicle applicability;

(b) Dependence of device effects vehicle type;

(c) Device effects on fuel economy, and on emissions, with statistical or other caveats as established by the data base;

(d) Definition of claims which can be made based on the available data; and

(e) Substantiation of specified claims actually made by the manufacturer.

Subpart C—Test Requirement Criteria

§ 610.30 General.

(a) If the Administrator determines, by the criteria given in Subpart B, that

the claims made for a device are not supported by existing test data or other information, the Administrator will request the manufacturer to furnish additional information, and may design a test program to investigate those areas where claims appear to be erroneous or unsupported or where adverse effects due to use of the device are suspected.

(b) In cases where the Administrator determines on the basis of the preliminary analysis that a device either can have no significant beneficial effect on fuel economy, or will have an adverse effect on emissions, he may elect not to design a test program or test the device and only publish his preliminary analysis and conclusions.

(c) If the evaluation was initiated upon application of a manufacturer (as described in § 610.11(c)) and the manufacturer elects not to carry through on his application, the Administrator's analysis and conclusions will be published.

§610.31 Vehicle tests for fuel economy and exhaust emissions.

(a) The tests described in Subparts D, E, or F may be conducted if existing data or other information are insufficient to support claims for a device in any of these areas:

(1) Degree of improvement in fuel economy.

(2) Effect on exhaust emissions.

(3) Vehicle applicability.

(b) The Administrator may determine that, in certain cases, tests using engine dynamometers are adequate for determining the effect of a device. Examples of such cases are given below.

(1) *Long-term effects.* In the case of fuel or oil additives, it may be necessary for the engine to operate for several thousand miles before the effectiveness can be adequately measured. In such cases an engine dynamometer will permit a less expensive and better controlled durability and economy test than one in which a vehicle must be driven on a durability route and then tested on a chassis dynamometer or test track.

(2) *Durability requirements.* Aspects of engine durability can be efficiently determined using specialized engine testing rather than through durability mileage accumulation in a vehicle. A number of standard engine tests are presently used which can be incorporated into this requirement.

§ 610.32 Test fleet selection.

(a) The composition and size of the test fleet will be determined by the Administrator.

(b) The goal of the test fleet selection will be the provision of a data base adequate to give the Administrator reasonable confidence in the conclusions to be reached.

(c) Once the number of vehicles to be tested has been determined, the Administrator will specify the test fleet makeup by make, model, model year, engine displacement and carburetor and transmission type.

§ 610.33 Durability tests.

The Administrator may determine that a device under evaluation will require durability testing in addition to the basic evaluation testing for device effectiveness. This requirement may be necessary for several reasons:

(a) A retrofit device manufacturer may claim that some mileage accumulation may be needed before the full effectiveness of the device can be obtained. If such claims are made, durability testing as described in Subpart E may be performed. To determine whether the effectiveness change during the mileage accumulation is a function of the device or of the mileage accumulation alone, in some durability tests it may be necessary to run the mileage accumulation on vehicles with and without the device. Due to the high cost of durability testing and in particular of such duplicate testing, it will be used only where it is judged by the Administrator to be necessary.

(b) A device may have a limited life expectancy or be such that it requires replacement or adjustment at a prescribed mileage interval. Confirmatory durability tests may be run to assess whether such mileage intervals are proper and effective.

(c) A device may be suspected of having an adverse effect on the durability of the engine to which it is applied. After identification of a potential failure mode, durability tests may be conducted to investigate any changes in engine characteristics associated with that failure mode. Examples are valve problems, deterioration in spark plug life, increase in carburetor or combustion chamber deposits, or increased engine wear. If it is not possible to directly measure the change in the suspect characteristic, then a durability run may be made as described in Subpart G, in which fuel economy and exhaust emissions are periodically checked during the accumulation of up to 15,000 miles.

(d) A critical item which can influence fuel economy is vehicle maintenance. Any durability test program used in evaluation of the effectiveness of a fuel economy device will be designed to differentiate maintenance effects from the effect of the device. Any maintenance associated with the device operation will be rigidly controlled. If the maintenance appears to be a significant factor in the effectiveness of a device, then it may be necessary to run a control test on vehicles without the device installed where the same maintenance is performed to quantify any incremental effect of that maintenance.

§ 610.34 Special test conditions.

If the Administrator determines that a device may have potentially detrimental effects on the operation of a vehicle when operated in ambient conditions outside the range specified in 40 CFR Part 86, or if the device manufacturer claims a fuel economy improvement in such conditions, additional tests may be performed. These tests will determine whether the device will significantly limit the operational usefulness of the vehicle and will assess the claimed fuel economy benefit.

(a) *Extreme temperatures.* As required by the Administrator, tests will be conducted at extreme ambient temperature conditions to determine the effect due to devices (e.g., engine heaters) for which fuel economy improvements at extreme temperatures are made. For other devices it may be necessary to determine whether the cold starting and driving capability of device-equipped vehicles is affected sufficiently to make them dangerous, or whether fuel economy characteristics at extreme temperatures are significantly worse than before the device was installed.

(b) *High altitude.* Devices for which specific claims of improved fuel economy at high altitude are made may be tested using the procedures in Subpart D, at altitudes above 4,000 feet. For other devices, testing at high altitude may be necessary for determining whether a device will make the vehicle less useful or efficient when operated at various altitudes. The Administrator will determine when such testing is required.

§ 610.35 Driveability and performance tests.

If the Administrator determines that driveability and performance of a vehicle may be adversely affected by the use of a device, a number of automobiles to be determined by the Administrator will be subjected to the driveability and performance tests discussed in §§ 610.62 and 610.63, respectively.

Subpart D—General Vehicle Test Procedures

§ 610.40 General.

Two chassis dynamometer test procedures, the Federal emissions test procedures (City Fuel Economy Test) and the Highway Fuel Eonomy Test will generally be used to evaluate the effectiveness of the devices supplemented by steady state dynamometer tests where warranted. Under unusual circumstances other test procedures, durability test procedures, or special test procedures such as track versions of the City and Highway fuel economy tests may be necessary. These procedures are described in Subparts E and F respectively.

§ 610.41 Test configurations.

(a) In order to measure the effectiveness of a retrofit device at least two, and in some cases, three vehicle configurations defined in § 610.17 will be tested. Each vehicle will be tested at least twice in each configuration, as determined by the Administrator.

(b) The first test configuration is a baseline configuration. In this configuration the baseline or unretrofitted vehicle emissions will be measured.

(c) The second test configuration, the parametrically adjusted configuration, may be required at the discretion of the Administrator if a device requires both hardware and engine parameter modifications to achieve the fuel economy improvement. If, in the Administrator's judgment, based on a review of the available information, the combined effects of retrofit hardware installation and parametric adjustment could be substantially duplicated by parametric adjustment alone, then the Administrator may specify a second test, to evaluate such adjustment exclusive of the retrofit hardware.

(d) The third series of tests, in the retrofitted configuration, will evaluate the full retrofit system installed on the vehicle.

§ 610.42 Fuel economy measurement.

(a) Fuel economy will be measured by: (1) the carbon balance method, or (2) gravimetric or volumetric methods. In the gravimetric and volumetric methods, fuel consumption is determined by weighing the fuel source before and after a test, or by measuring the volume of fuel consumed during a test. Since the distance traveled during the tests is known, the fuel economy, in miles per gallon, can be calculated. Gravimetric and volumetric methods require the use of special test equipment in addition to the emissions measuring equipment.

(b) The carbon balance procedure for measuring fuel economy relates the carbon products in the exhaust to the amount of fuel burned during the test. This method will be the one used to measure fuel economy unless track tests are employed.

(c) Three values of fuel economy will be reported: for city driving ('75 FTP), for highway driving (HFET), and the combined city/highway value calculated according to this equation:

$$MPG_{combined} = 1/\left[\frac{0.55}{MPG_{city}} + \frac{0.45}{MPG_{hwy}}\right]$$

§ 610.43 Chassis dynamometer procedures.

(a) (1) *1975 Federal Test Procedure.* Vehicle exhaust emissions will be measured according to the Federal emission test procedure described in 40 CFR Part 86 Subpart B, which is known as the 1975 Federal Test Procedure ('75 FTP). However, the following modifications will be employed:

(i) No evaporative emission loss, as specified by 40 CFR § 86.177-9, need be measured (with the exception of devices modifying or disconnecting existing evaporative control devices in such a manner as would be expected to adversely affect their evaporative emission control performance).

(ii) Vehicle preconditioning shall consist of operation of the vehicle through one (1) EPA Urban Dynamometer driving Schedule. This preconditioning must be done at least 12 hours, but no earlier than 36 hours before the emission test.

(iii) While the test fuel must meet the specifications outlined in 40 CFR § 86.-177-6, fuel conditioning as specified for evaporative emission test procedures is not required.

(2) During the '75 FTP, the vehicle is driven on a chassis dynamometer using the Urban Dynamometer Driving Schedule which yields an average speed of 21.6 mph and a distance of 11.1 miles. A chassis dynamometer reproduces vehicle inertia and road load. For each inertia weight class, a road load is specified which takes into account rolling resistance aerodynamic drag for an average vehicle in each class. The vehicle exhaust is collected, diluted, and thoroughly mixed with filtered background air, to a known constant volume flow. This procedure is known as Constant Volume Sampling (CVS). The '75 FTP measures the emissions generated during a "cold" start and includes a "hot" start after a ten minute shutdown following the first 7.5 miles of driving.

(b) *Highway Fuel Economy Test.* Since the '75 FTP does not represent the type of driving done in rural areas, especially on highways, as part of the standard procedure an additional test known as the EPA Highway Fuel Economy Test (HFET) will be conducted to determine highway fuel economy. The average speed of the driving schedule on this test is 48.2 mph and the distance covered is 10.2 miles. The test vehicle is fully warmed up at the start of the Highway Fuel Economy test which is ordinarily run immediately following the Federal Emission test procedure. The test procedure to be followed for generation of highway fuel economy data are those specified in § 600.611 or § 600.111 as applicable.

(c) *Steady state tests.* Constant speed, road load tests may be conducted to help give insight into operational differences and exhaust emission and fuel economy changes due to a retrofit device. Speeds between 0 (engine idling) and 60 mph will be investigated, with a time period at each speed long enough to ensure that engine operation has stabilized.

Subpart E—Durability Test Procedures

§ 610.50 Test configurations.

(a) In addition to the tuneup to manufacturer's specifications per § 610.41, all vehicles in the durability fleet will have installed the following new parts: Air, oil, and fuel filters; spark plugs; points; condenser; rotor; distributor cap; PCV valve, and emission control devices such as vacuum control valves and EGR valves.

(b) Vehicles included in the durability fleet will be subjected at zero-device miles to the same test sequence for fuel economy and exhaust emissions as specified in Subpart D. Subsequently, they will be tested at 3,000 device-mile intervals, up to and including the final mileage point of 15,000 device-miles. Testing at these mileage points will be performed with the vehicle equipped with the full retrofit system.

(c) After the 15,000-mile test the vehicle will be tuned as necessary and the device adjusted to the manufacturer's specifications as required. The fully restored retrofitted configuration will then be tested. The device will then be removed from the vehicle and the vehicle set to vehicle manufacturer's specifications. A tuned baseline test will then be conducted.

§ 610.51 Mileage accumulation procedure.

(a) The mileage accumulation procedure follows that outlined in 40 CFR Part 86 Subpart A except as amended by these protocols. This mileage accumulation schedule, or a suitable alternate procedure approved by the Administrator, will be used.

(b) Fuel used in the mileage accumulation will be commercial fuel available in the retail market and shall conform to the requirements of 40 CFR 86.133.

§ 610.52 Maintenance.

(a) Maintenance during the durability evaluation can best be considered in three separate categories:

(1) Normal scheduled vehicle maintenance; (2) unscheduled vehicle maintenance; and (3) retrofit maintenance.

(b) Normal scheduled vehicle maintenance can be defined as those periodic services specified in the original owner's manual supplied to the owner at the time of new vehicle purchase.

(1) Normal periodic engine oil changes, vehicle lubrication, and oil filter changes, as specified in the original owner's manual, will be performed during durability mileage accumulation.

(2) For purposes of these protocols the following items of normally scheduled vehicle maintenance will not be performed during the durability mileage accumulation:

(i) Normal tune-up items: (A) Spark plugs; (B) condenser; (C) rotor; (D) distributor cap.

(ii) Air Cleaner element.

(iii) PCV Inspection.

(iv) Dwell and timing check.

(v) Charging circuit check.

(3) Periodic maintenance items specified in the original owner's manual, other than those listed above, may be performed if found to be necessary by the Administrator.

(c) *Unscheduled maintenance.* Because the vehicles used for durability evaluation in this program will probably have considerable mileage accumulation and unknown maintenance prior to inclusion in the program, it can be anticipated that certain vehicle and engine failures may occur, which may be unrelated to the retrofit device. Unscheduled maintenance will be performed only in those cases where a significant driveability problem has been indicated by the driver of the vehicle.

(1) Correction of the following problems will be made as soon as the problems occur:

(i) Tire replacement (same size and type).

(ii) Vehicle body repairs (remote from engine and retrofit).

(iii) Windshield wipers.

(iv) Fluid levels unrelated to retrofit.

(v) Brakes.

(vi) Hoses unrelated to retrofit.

(vii) Belts unrelated to retrofit.

(viii) Suspension failures.
(ix) Wheel alignment.
(x) Steering.
(xi) Wheel bearings.
(xii) Non-engine electrical system.
(xiii) Drivetrain components (U-joints, axles, transmission adjustments, etc.).

(2) Other unscheduled maintenance of the engine or drivetrain may be made as directed by the Administrator. Upon notification of a need for unscheduled maintenance, the Administrator may decide that before and after maintenance fuel economy tests are required.

(d) Maintenance of the retrofit device will normally not be performed during the accumulation of durability mileage of 15,000 miles. However, certain retrofit devices may require periodic maintenance that is directly related to device function. An example is the periodic addition of fluid to the reservoir of a vapor injector. The Administrator will determine whether periodic maintenance will be allowed, based on his review of available information including the device manufacturer's maintenance instructions to the consumer.

(e) A log of all maintenance shall be kept for every vehicle. These logs will be summarized in the final report by the Administrator.

Subpart F—Special Test Procedures

§ 610.60 Non-standard ambient conditions.

(a) *Extreme temperatures.* For vehicles required to be tested at extreme temperatures, the test sequence described in § 610.41 will be performed using either test track or dynamometer, in ambient temperatures outside the 60° to 90° range specified in § 610.64 as determined by the Administrator. In no case will tests be performed at temperatures lower than 0°F or higher than 120°F. The driveability tests described in § 610.62 may also be performed at non-standard temperatures, as determined to be necessary by the Administrator.

(b) *High altitudes.* Vehicles required to be tested at high altitudes will undergo the tests described in § 610.43 if necessary, on either test track or dynamometer as determined by the Administrator. One test location, at an elevation of at least 4,000 feet, will be selected.

§ 610.61 Engine dynamometer tests.

The Administrator will choose a test procedure or procedures from various engine dynamometer durability test procedures used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories.

§ 610.62 Driveability tests.

Driveability assessment (at normal ambient temperatures) of the baseline configuration, of the adjusted configuration (if required by the Administrator), and of the fully retrofitted configuration may be conducted at zero device-miles for all vehicles included in the durability fleet, and at approximately zero device-miles at low ambient temperatures (0°F-20°F). Driveability evaluation procedures will be published by the Administrator at a later date.

§ 610.63 Performance tests.

The effect of a device on a vehicle's performance will be determined by performing wide-open-throttle 0 to 60 mph acceleration tests (at normal ambient temperatures) on the baseline vehicle configuration, on the adjusted configuration (if required), and on the fully retrofitted configuration. Tests will be conducted on a dry, level, smooth-surfaced test track, with appropriate speed-time measuring equipment, on as many vehicles as determined to be necessary.

§ 610.64 Track test procedures.

(a) Cases may arise where it will be necessary to evaluate the fuel economy effects of a retrofit device on a test track, because the effect of the device cannot be adequately tested using the chassis dynamometer procedures. (An obvious example is a device that changes the aerodynamic drag of the test vehicle.) In such cases, testing will be performed on a dry, level, smooth-surfaced test track of such dimensions that the speeds required by the '75 FTP and the HFET may be safely achieved.

(1) Because aerodynamic drag is not a linear function of velocity, it will be necessary to limit testing to times when the magnitude of the wind velocity is less than 5 mph, with gusts less than 10 mpg.

(2) Testing will also be limited to ambient temperatures between 60° and 90°F, and to times when the ambient temperature remains reasonably constant during individual tests. Temperature differences between tests of baseline and retrofit configurations will also be minimized.

(3) Exhaust emissions will not be measured during track testing.

(4) Fuel economy of a vehicle running on a track will be measured using either a volumetric or gravimetric procedure.

(5) Vehicle speed and distance will be measured with a "fifth wheel" type of device. Suitable apparatus will be used to generate a permanent record (strip chart recorder, etc.) of the vehicle speed versus time.

(b) *1975 Federal Test Procedure.* Although essentially the same procedures will be used for track testing as for dynamometer testing, some modifications will be necessary to insure safe operation of the test vehicle and to adjust to the requirements of track testing.

(1) An assistant to the driver will be necessary to steer the vehicle, so that the driver will not be distracted from following the speed-time schedules used with the '75 FTP and the HFET.

(2) The test vehicle will be preconditioned within the same time constraints given in § 610.43(a)(1)(ii). Preconditioning may take place either on the track or in a dynamometer. The 12-hour soak after preconditioning will take place in an area where the ambient temperature will remain within the 60° to 90°F range, indoors, if necessary.

(3) The vehicle will be transported to the test track without being started. If the distance from soak area to track is no greater than one-quarter mile, then the vehicle may be pushed or towed to the track. Otherwise the vehicle must be transported by truck or trailer.

(4) Fuel economy will be determined by either a gravimetric or volumetric method.

(c) *Highway fuel economy test.* The highway test will follow the '75 FTP in the same manner as in dynamometer tests (§ 610.43(b)). Fuel economy will be measured by gravimetric or volumetric methods.

(d) *Steady state tests.* Steady state tests on the track will be run in the same manner as on the dynamometer except that fuel economy will be measured by gravimetric or volumetric methods.

[FR Doc.77-22974 Filed 8-9-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 252 (Sub-No. 1)]

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS

Use of Funds on Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Upon consideration of the petitions for reconsideration and replies filed in response to the Commission's order of January 21, 1977, at 353 ICC 336, the regulations governing the use of funds on boxcars were amended to provide carriers the alternative of a single 1964–68 test period average for all types of boxcar transactions, a matching requirement, or the previous separate test period averages, and to allow carriers to draw down incentive per diem funds for purchasing, leasing and nonequity leasing of rebuilt as well as new boxcars.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION:

Deputy Director Rosenak or Assistant Deputy Director Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: The spending prerequisites were further modified in this report to balance important objectives. On the one hand, as the Commission stated in its prior report, "without some restrictions on the drawing down of incentive funds, carriers simply use these funds to purchase their normal car replacements and thus merely maintain the status quo within the Nation's car fleet." 353 ICC at 343. On the other hand, the Commission was mindful that "(t)he purpose of incentive per diem is to acquire boxcars and the accumulation of incentive funds in no way accomplishes this purpose." 349 ICC at 318. To this end, the Commission has endeavored to introduce flexibility in the prerequisites for drawing down incentive funds. For these reasons 49 CFR 1036.4 is amended as set forth below.

By the Commission. (Commissioner Murphy dissented in part and Commissioners Hardin and Gresham did not participate.)

H. G. HOMME, Jr.,
Acting Secretary.

§ 1036.4 Use of funds on boxcars.

(a) The net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, or purchase, in whole or in part, new or rebuilt unequipped boxcars for general service described in § 1036.1: *Provided,* The carrier has in the same calendar year built, leased, or purchased its 1964–68 average acquisitions of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. Earmarked funds may also be used in whole or in part to lease any number of new or rebuilt unequipped boxcars for general use described in § 1036.1 in which the carrier is not acquiring an equity interest: *Provided,* The carrier has in the same calendar year leased its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such an average each year the order is in effect. Earmarked funds may be used in whole or in part to rebuild any number or portion of general service, unequipped boxcars described in § 1036.1: *Provided,* The carrier has in the same calendar year rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year the order is in effect.

(b) As an alternative, the net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, purchase, or lease in which a carrier is not acquiring an equity interest, in whole or in part, new or rebuilt unequipped boxcars for general service described in § 1036.1, or rebuild any number or portion of unequipped boxcars for general service described in § 1036.1: *Provided,* The carrier has in the same calendar year built, leased, purchased, nonequity leased, or rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. A carrier may, as another alternative, draw down earmarked funds in whole or in part, to build, lease, purchase, or nonequity lease new or rebuilt unequipped boxcars for general service or rebuild unequipped boxcars for general service provided, as a minimum, it matches the earmarked funds it will use to obtain these boxcars with an equal amount of its own funds. To facilitate the change to the aggregate test period from the previous three separate test periods, the effective date of the aggregate test period is August 8, 1977 and on that date all previous test period arrearages will be eliminated for the aggregate test period.

(c) Nonequity leases for unequipped boxcars for general service and XF boxcars must be at least 10 years in duration and, in connection with such leases, earmarked funds must not be used for the cost of maintenance nor on leases entered into prior to January 1, 1975.

(d) Net balances on Canadian-owned cars may be drawn down without regard to prior acquisitions, but where the designee is a class I United States carrier such drawdowns shall not affect that carrier's accumulation of arrearages.

(e) A carrier using earmarked funds, in whole or in part, to build, rebuild, lease, purchase or nonequity lease general service, unequipped boxcars of the XF designation, shall be required, as a minimum, to match the earmarked funds it will use to obtain these XF boxcars with an equal amount of its own funds.

(f) All earmarked funds that have accrued since the inception of the incentive per diem program must be put to use within 18 months after the end of the calendar year in which the funds are collected and result in a net credit balance for the building, rebuilding, leasing, purchasing, or nonequity leasing of general service, unequipped boxcars described in § 1036.1 for addition to such carrier's or designee's fleet in accordance with this part. Upon a showing of good cause an application, including a showing that the parties to the proceeding herein have been notified by the carrier of such application, may be made to the Commission for waiver of the said 18-month period, which may, in the Commission's discretion, be granted after consideration of all views regarding the application. If the earmarked funds are not used within the 18-month period, they may be voluntarily surrendered to Rail Box whose establishment and operation was approved in *American Rail Box Car Co.—Pooling,* 347 ICC 862. If the carrier fails within the stated period to put to use collected earmarked funds which result in a net credit balance, has not obtained relief from that requirement, and has not surrendered such funds to Rail Box, the Commission will investigate the matter to determine what, if any, corrective action is warranted. Appropriate corrective action would include section 16(12) remedies among others.

(g) Carriers may make temporary investment of unexpended funds in Government bonds or other liquid securities. Such securities must be readily convertible to cash so that funds remain available for boxcar purchases. Interest earned must become part of the earmarked fund.

(h) As used in this section, "build," "rebuild," "lease," or "purchase" refer to a commitment to build, rebuild, lease, or purchase which results in the acquisition of a car on line ready for use within 10 months from the date of commitment, except that in extraordinary cases beyond the control of the carrier or the car supplier, a car that is delivered after 10 months from the date of commitment may qualify if approved by the Bureau of Accounts of this Commission.

[FR Doc.77-22998 Filed 8-9-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of White River National Wildlife Refuge, Arkansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of White River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: Gun hunt—October 1–20; archery (turkey)—October 11–30, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond R. McMaster, Refuge Manager, P.O. Box 308, DeWitt, Arkansas 72042. Telephone 501-946-1468.

SUPPLEMENTAL INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting is permitted on the White River National Wildlife Refuge, Arkansas, only on the areas designated by signs as being open to hunting. These areas comprising 100,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. Species permitted to be taken: Squirrel, rabbit and beaver by gun; and one turkey of either sex by archery.

2. Weapons (a) Gun—Shotguns and .22 caliber rimfire rifles are permitted, and (b) long bows only.

3. Permit required.

4. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

5. All hunters must exhibit their hunting licenses, game, and vehicle contents to Federal and State Officers upon request.

6. Loaded guns are not permitted in vehicles, boats, or in camp.

7. Big Island will be closed to archery hunting October 27, 28, 29 due to conflict with muzzle loaders hunt.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 3, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc 77-230 .. Filed 8-9-77 8:45 am]

PART 32—HUNTING

Opening of Catahoula National Wildlife Refuge, Louisiana, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Catahoula National Wildlife Refuge is compatible with the objectives for which the area was established will utilize a renewable natural resource, and will provide recreational opportunity to the public.

EFFECTIVE DATES: October 1, 1977 through October 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen K. Joyner, Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena Louisiana 71342, telephone: 318-992-5261.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Squirrel hunting is permitted on the Catahoula National Wildlife Refuge, Louisiana, only on the areas designated by signs as being open to hunting. These areas comprising 5,318 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Squirrel hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. A permit is required for hunting on the refuge. The permits are free and may be obtained at Refuge headquarters.

2. The season extends from October 1-16, 1977.

3. Hunters may enter the area 30 minutes prior to legal shooting time (30 minutes before sunrise) and must be out of the refuge 30 minutes after legal shooting hours (30 minutes after sunset).

4. Unmarked feral hogs may be taken.

5. No vehicles with tires larger than 9.00 x 16" can be used on the refuge. All vehicles must remain on established roads and trails.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

7. Dogs are not permitted.

8. Firearms limited to shotguns and .22 caliber rimfire rifles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 3, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77 23098 Filed 8-9-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Sage Grouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to public hunting of Sage Grouse on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATE: August 27, 1977, through September 5, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyoming 83101, area code 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of Sage Grouse is permitted on Seedskadee National Wildlife Refuge, Wyoming, All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontennelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Sage Grouse.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 1, 1977.

[FR Doc.77-23108 Filed 8-9-77;8:45 am]

PART 32—HUNTING

Opening of Wheeler National Wildlife Refuge, Alabama, to the Hunting of Gray Squirrels, Rabbits, Raccoons and Opossums

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Wheeler National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity for the public.

EFFECTIVE DATE: October 15, 1977 through February 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas Z. Atkeson, P.O. Box 1643, Decatur, Alabama 35602, 205-353-7243.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Wheeler National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. These areas comprising approximately 19,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Permits, issued without charge at refuge office, will be required.

2. Gray squirrels and rabbit—hunting allowed only on October 15, 17, 18 and 19, 1977. Allowable arms: shotguns, .22 rimfire rifles, pellet guns, bows and arrows. Only pellet guns, bows and arrows may be used in that area west of Interstate Highway 65 and north of State Highway 67 and west of Flint Creek, south of State Highway 67. No dog use allowed.

3. Raccoons and Opossums—hunting allowed only during the period February 13 through February 18, 1978. Allowable arms: Shotguns. Hunting hours 5:00 p.m. to 7:00 a.m. only. Dog use allowed.

4. Rabbits—hunting allowed only through the period February 21-February 25, 1978. Allowable arms: Shotguns, pellet guns, bows and arrows. Only pellet guns, bows and arrows will be allowed in that part of the open area west of Interstate Highway 65 and north of State Highway 67 and west of Flint Creek, south of State Highway 67. Hunting allowed only during the hours 8:00 a.m. to 5:00 p.m. Dog use allowed.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulations supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 3, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-23102 Filed 8-9-77;8:45 am]

PART 32—HUNTING

Opening of St. Marks National Wildlife Refuge, Florida to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of St. Marks National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATE: As set for the Aucilla Wildlife Management Area by the State of Florida.

FOR FURTHER INFORMATION CONTACT:

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355, telephone 904-925-6280.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; hunting for individual wildlife refuge areas.

Hunting is permitted on the St. Marks National Wildlife Refuge, Florida, only on the areas designated by signs as being open to hunting. These areas comprising approximately 600 acres are delineated on maps of the Aucilla Wildlife Management Area available from the Florida Game and Fresh Water Fish Commission, Tallahassee, Florida 32304. Hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 3, 1977.

KENNETH E. BLACK,
Regional Director.

[FR Doc.77-23103 Filed 8-9-77;8:45 am]

PART 32—HUNTING

Opening of Wheeler National Wildlife Refuge, Alabama to the Mounted Hunting of Red and Gray Foxes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to mounted hunting of red and gray foxes of Wheeler National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: October 1, 1977, through February 15, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Thomas Z. Atkeson, P.O. Box 1643, Decatur, Alabama 35602, 205-353-7243.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Wheeler National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. These areas comprising approximately 7,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Permits, Obtainable without charge from the refuge office, are required.

2. Hunting will take place only on those parts of the refuge lying between Limestone and Andian creeks, north of the Tennessee River.

3. No firearms of any type will be allowed on these hunts.

4. Dog and horse use will be allowed.

5. No fox hunting will take place during the period October 15-19, inclusive, while public squirrel hunting is in progress.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proopsal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

KENNETH E. BLACK,
Regional Director.

Dated: August 3, 1977.

[FR Doc.77-23104 Filed 8-9-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

EXTENSION OF CRUDE OIL BUY/SELL PROGRAM CURRENT ALLOCATION QUARTER THROUGH SEPTEMBER 1977

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) proposes to adopt a special rule that would extend the crude oil buy/sell program's June through August 1977 allocation quarter for the month of September 1977 as a transition between the current program and the proposed revised program. Under the proposed special rule, refiner-buyers that purchased their allocations in the current quarter would be permitted to purchase a pro-rata amount thereof in the month of September from the same refiner-sellers from which they purchased crude oil in the current quarter.

DATES: Comments by August 23, 1977, 4:30 p.m.; requests to speak by August 16, 1977, 4:30 p.m.; statements by August 22, 1977, 4:30 p.m.; hearing to be held on August 23, 1977, at 9:30 a.m. at the location set forth below, and will be continued if necessary at 9:30 a.m. on August 24, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, FEA, Box OK, Washington, D.C. 20461. Statements to Regulations Management, Room 2214 FEA, 2000 M Street, NW., Washington, D.C. 20461.

Hearing held at:

2000 M Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461. 202–254–5201.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461. 202–566–9833.

Robert G. Bidwell, Jr. or William H. Gottfried (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461. 202–254–9707.

Samuel M. Bradley or Jeffrey C. Conrad (Office of General Counsel) 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461. 202–566–9565 (Bradley); 202–566–2087 (Conrad).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND.

On July 18, 1977, FEA issued a notice of proposed rulemaking and public hearing (42 FR 37406, July 21, 1977) to amend the Mandatory Petroleum Allocation Regulations to limit the scope of the crude oil buy/sell program set forth in which have a demonstrated necessity for 10 CFR 211.65 to those refiner-buyers allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil, to modify the pricing provision for sales of allocated crude oil to reflect more accurately the actual market value of crude oil sold under the buy/sell program, and to simplify the administration of the program.

The proposed revision of the buy/sell program also would extend the allocation period from a quarterly to a six-month period to simplify the administration of the program and to permit a greater degree of certainty for both refiner-buyers and refiner-sellers. The first six-month allocation period is proposed to commence October 1, 1977, and applications for participation in the revised program would be required to be submitted to FEA by August 31, 1977. In addition, the proposal provides that the buy/sell notice that specifies the quantities of allocated crude oil each refiner-buyer is eligible to purchase and each refiner-seller is required to sell would be published thirty (30) days prior to the start of each allocation period, rather than fifteen (15) days prior to the beginning of an allocation quarter as provided under the current regulations.

In the July 21, 1977 notice, FEA stated that it would propose an extension of the June through August 1977 allocation quarter for the month of September as a transition between the current program and the proposed revised program. FEA determined that it would be necessary to extend the current allocation quarter through September because there was not adequate time to implement a new program between the date of the hearing on the proposed revised program, August 9, 1977, and September 1, 1977, the start of a new allocation quarter under the present regulations. In addition, FEA did not consider it desirable to initiate a new allocation quarter under the present regulations, since it anticipated that a revised program could be ready for implementation on October 1, 1977. Accordingly, FEA proposes for public comment a Special Rule No. 9 in the Appendix to Subpart C of Part 211 which would suspend until further notioe the allocation quarter that would otherwice commence September 1, 1977 and would continue the allocations provided in the May 25, 1977 buy/sell notice on a pro-rata basis through the month of September 1977.

In the event FEA implements the revised program effective October 1, 1977 as proposed, processing of the applications for participation in the program could delay publication of the first buy/sell notice under the new program by several weeks. Accordingly, FEA requests comments on whether it would be desirable to extend the current allocation quarter for the months of September and October to permit the proposed thirty-day period between the publication of the first buy/sell notice and the first month of the new program. In addition, since refiners may enter into contracts in September for delivery of crude oil in October in contemplation of the extension of the current allocation quarter to the month of October, FEA requests comments on whether termination of the special rule on September 30 would unduly complicate transactions between refiner-buyers and refiner-sellers.

FEA recognizes the difficulties inherent in extending a refiner's buy/sell position for the current allocation quarter on a pro-rata basis for the month of September 1977. However, FEA believes that the difficulties associated with initiating the new allocation quarter under the present regulations and then terminating it at the end of September are even greater.

B. PROPOSED SPECIAL RULE NO. 9

Special Rule No. 9 would provide that refiner-sellers and refiner-buyers during the June through August allocation quarter would continue in such capacities for September 1977. Refiner-buyers that entered into contracts prior to August 1, 1977 pursuant to the May 25, 1977 buy/sell notice (42 FR 26694) would have the option of continuing those seller/buyer relationships on a pro-rata basis during September 1977. A refiner-seller would be required to offer for sale in September to such a refiner-buyer a volume of crude oil equal to 30/92 of the total volume of crude oil purchased by that refiner-buyer from that refiner-seller.

Special Rule No. 9 provides dates by which contracts for the sale of crude oil pursuant to Special Rule No. 9 would have to be executed.

Since the proposed special rule provides that refiner-buyers' purchase opportunities in the month of September would be limited to a pro-rata amount of their actual purchases rather than their allocation in the current allocation quarter, refiner-buyers that did not purchase any allocated crude oil in the current allocation quarter would not be eligible to purchase any crude oil in September. At the same time, refiner-sellers that did not make any sales in the current allocation quarter would be relieved of sales obligations in September. FEA specifically requests comments on whether refiner-buyers that made no purchases or purchased less than their total allocation in the current quarter should be eligible to purchase a pro-rata amount of their unpurchased allocation in the month of September and whether refiner-sellers that made no sales or sold less than their total obligations in the current allocation quarter should be required to sell a pro-rata amount of such unsold obligations in September.

C. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on August 23, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C., to receive comments from interested persons

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make oral presentation. Requests to testify at the public hearing should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., August 16, 1977. Such requests may be handdelivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. Persons submitting such requests should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through August 22, 1977. Persons selected to be heard at the public hearing will be notified by FEA before 5:30 p.m., e.s.t., August 18, 1977, and must submit 50 copies of his or her statement to Regulatory Programs, FEA, Room 2214, 2000 M Street NW., Washington, D.C., before 5:30 p.m., e.s.t., August 22, 1977.

FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. .

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., August 22, 1977.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be anounced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for public inspection at the FEA, Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to this proposal to Executive Communications, Federal Energy Administration, Box OK, Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Special Rule No. 9." Fifteen copies should be submitted. All comments received by 4:30 p.m., e.s.t., August 23, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this proposal has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

NOTE—In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332 and Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 8, 1977.

ERIC J. FYGI,
Acting General Counsel.

Subpart C of 10 CFR Part 211 is amended by adding a Special Rule No. 9 to the Appendix thereof to read as follows:

SPECIAL RULE NO. 9

1. *Scope.* This special rule applies to all refiners which were refiner-buyers and refiner-sellers during the crude oil allocation quarter under the buy sell program commencing June 1, 1977.

2. *Purpose.* Notwithstanding the provisions of § 211.65, this special rule suspends the crude oil allocation quarter which would otherwise commence September 1, 1977, and establishes a new rule for the allocation of crude oil during the month of September 1977.

3. *Special allocation rule for September 1977.* For the month of September 1977 the allocation of crude oil among refiners shall be made as follows:

(a) Each refiner-seller and refiner-buyer as determined for the crude oil sales period commencing June 1, 1977, shall continue in such capacity in September 1977.

(b) Each refiner-seller shall sell in the month of September 1977 to each refiner-buyer to which sales of crude oil were made by the refiner-seller pursuant to the allocation quarter commencing June 1, 1977, including sales directed by FEA pursuant to 10 CFR 211.65(h), a volume of crude oil equal to 30 92 of the total volume of crude oil sold to that refiner-buyer by that refiner-seller. Refiner-buyers shall have the option of exercising their respective purchase opportunities authorized under this paragraph.

(c) Prior to September 1, 1977, each refiner-seller shall notify each refiner-buyer of the volume of crude oil to be sold to such refiner-buyer by the refiner-seller pursuant to paragraph (b) of this rule

(d) Prior to September 7, 1977, refiner-sellers and refiner-buyers shall enter into sales contracts for the delivery and purchase of crude oil pursuant to paragraph (b) of this rule.

(e) For purposes of adjusting refiner-sellers' sales obligations for allocation periods subsequent to September 30, 1977, FEA will calculate a total primary sales obligation for the month of September 1977 based on 30 92 of the total primary sales obligation in the allocation quarter commencing June 1, 1977. Each refiner-seller's imputed sales obligations for the month of September 1977 will be calculated according to the procedures provided in § 211.65(d), and refiner-sellers' unsold primary obligations from the allocation quarter commencing June 1, 1977 and the September 1977 allocation period will be carried forward to the allocation period commencing October 1, 1977.

(f) The provisions of § 211.65 (f) and (g) and § 212.94 are applicable to all sales made pursuant to this rule.

(g) The provisions of Subpart C of Part 211 (including but not limited to the procedures and reporting requirements of § 211.66) shall remain in full force and effect except as expressly modified by the provisions of this rule.

(h) FEA will not entertain applications for allocations of crude oil for future refining capacity submitted pursuant to § 211.65(b) for the month of September 1977.

[FR Doc.77-23157 Filed 8-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 378]

[EDR-328A; SPDR-58A; PSDR-48A; Docket No. 30667; Dated August 5, 1977]

PRICE ADVERTISING OF AIR TRANSPORTATION

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This supplemental advance notice extends the time for filing comments and reply comments on the Board's advance notice of proposed rulemaking concerning the price advertising of air transportation, especially charters. The action is taken on the Board's initiative.

DATES: Comments by August 25, 1977. Reply comments by September 15, 1977.

ADDRESSES: Comments should be sent to Docket 30667, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: By EDR-328/SPDR-58/PSDR-48, June 9, 1977, 42 FR 30376, June 14, 1977, the Board—in response to various petitions and inquiries—initiated review of its regulations and policies concerning price advertising of air transportation. In view of the broad scope of the rulemaking, the Board desired the widest possible participation. It invited comments by the industry, consumer organizations, and the general public. It also specifically sought the advice of the Office of Consumer Affairs of the Department of Health, Education and Welfare and the Federal Trade Commission, agencies particularly concerned with consumer protection and advertising, and of the Internal Revenue Service, whose governing statute contains specific provisions about inclusion of taxes in the advertised price of air transportation.

As of today, we have received no comment from any of the specified agencies, and it appears that they were for various reasons unaware of, or unable to comply with, the July 25 filing date. However, we have ascertained that they all desire to participate and expect to be able to file comments by August 25, 1977. It may be that other persons or organizations interested in filing comments are in the same position. An additional time period will thus permit the wider participation and advice which the Board desires, without prejudicing any party.

Upon consideration of the foregoing, the undersigned finds that there is good cause to grant a reasonable extension of time. Requests for additional extensions of time will not be granted, however, barring extraordinary and unforeseeable developments.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385..20(d)), the time for filing comments is extended to August 25, 1977, and the time for reply comments is extended to September 15, 1977.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc.77-23075 Filed 8-9-77;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Parts 2 and 4]

TRADEMARK APPLICATIONS UNDER SECTION 44 OF THE TRADEMARK ACT OF 1946

Proposed Rulemaking

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comment on a Patent and Trademark Office proposal to amend the rules of practice and forms for trademark cases filed under section 44 of the Trademark Act of 1946. The proposed changes are being made because of the decision by the Court of Appeals for the District of Columbia Circuit in *SMC Corporation* v. *Langis Foods Ltd.*, 539 F. 2d 196, USPQ 288 (1976). The effect of the proposed amendments is to eliminate the requirement for an allegation of use of the mark and the submission of specimens showing use of the mark in the case of applications for trademark registration which are based on a foreign application or registration. The proposed changes would require the applicant to submit a certified copy of his foreign application if he is claiming a right of priority based on that foreign application. Furthermore, the identification of goods and services may only include goods or services on which the applicant is using the mark, or has a bona fide intention to use the mark.

DATES: Comments must be received on or before November 1, 1977. Requests to speak at the hearing by October 17, 1977. Hearing date October 26, 1977. 9:30 a.m., e.d.t.

ADDRESSES: Comments may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10, Crystal Plaza, Building 3, 2021 Jefferson Davis Highway, Arlington, Va.

HEARING LOCATION

Room 11C24, Crystal Plaza, Building 3, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT:

C. Morten Wendt, Patent and Trademark Office (703-557-3268).

SUPPLEMENTARY INFORMATION: On April 30, 1974, at 921 O.G. TM 250, notice was published that trademark applications filed under section 44 of the Act of 1946 without specimens and without a statement of use would receive a filing date conditional upon the ultimate decision in the civil action which was brought to review the decision of the Trademark Trial and Appeal Board in *John Lecroy & Son, Inc.* v. *Langis Foods Limited*, 177 USPQ 717 (1973).

The civil action was finally determined by the Court of Appeals for the District of Columbia Circuit sub nom. *SCM Corporation* v. *Langis Foods Ltd.*, 539 F. 2d 196, 190 USPQ 288 (1976). The court stated that the issue of whether an applicant filing an application under the provisions of section 44(d) of the Trademark Act need allege use of the mark was not presented to the District Court or to the Court of Appeals in the case it decided. Therefore, the issue of whether an applicant filing in application under the provisions of section 44 of the Trademark Act need allege use of the mark somewhere and submit specimens to show such use remains for determination.

The last ruling by the Patent and Trademark Office was *John Lecroy & Son, Inc.* v. *Langis Foods Ltd.*, 117 USPQ 717 (TTAB 1973) in which the Board stated "There is nothing in the Act authorizing the Patent Office to require of a foreign applicant under section 44(d) use of his mark prior to the filing of his application in his home country * * *," page 719. The Board expressly overruled *In re Certain Incomplete Trademark Applications* 137 USPQ 69 (Comr. Pats. 1963), which held that an allegation of use of the mark somewhere and specimens were required. This reversed the ruling of *Ex parte Society Fromagerics Bel*, 105 USPQ 392 (Comr. Pats. 1955), which had reversed the ruling of *Ex parte British Insulated Callender's Cables Ltd.*, 83 USPQ 319 (Comr. Pats. 1949).

The Court of Appeals in *SCM Corporation* v. *Langis Foods Ltd., supra*, held that under section 44(d) of the Trademark Act a foreign applicant obtained a constructive use date in the United States as of the filing date of the first application in a convention country.

In light of that decision, it is proposed that the Commissioner rescind the policy set forth in *In re Certain Incomplete Trademark Applications, supra*, to reflect the concept that a filing in a foreign country creates a constructive use of the trademark in the United States sufficient for filing an application under section 44(d) of the Trademark Act. Likewise, a foreign registration would be construed to be constructive use for the purpose of filing an application under section 44(e) of the Act. Accordingly, an application filed under section 44 need not allege use of the mark or be accompanied by specimens. However, the applicant filing under section 44(d) would be required to submit a certified copy of the application which is the basis of a priority claim and the applicant filing under section 44(e) must still submit a certification or certified copy of the registration in the country of origin of applicant.

The Lisbon revision of Article 4A of the Paris Convention, ratified by the United States on January 4, 1962, provides that a regular national filing in any Convention country shall give rise to a right of priority, whatever may be the subsequent fate of that application. Thus a foreign applicant may file in the United States, claiming priority under section 44(d) but relying on use in commerce rather than a registration under section 44(e).

Notice is hereby given that pursuant to the authority contained in section 41 of the Act of July 5, 1946 (60 Stat. 440, 15 U.S.C. 1123) and section 6 of the Act of July 19, 1952, as amended (85 Stat. 364, 88 Stat. 1949, 35 U.S.C. 6 as amended), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 221.21, 2.39, 2.56, 4.1 and 4.7.

It is proposed to revise and amend the sections as follows (additions are indicated by arrows; deletions are bracketed):

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. By amending § 2.21(a) to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

* * * * *

(5) At least one specimen or facsimile of the mark as actually used ►, except that a specimen or facsimile is not required when § 2.39 is applicable◄;

* * * * *

2. By revising paragraphs (a) and (b) and by the addition of new paragraphs (c) and (d) to § 2.39 to read as follows:

§ 2.39 Omission of ►allegations◄ [allegation] of use [in commerce] by foreign applicants.

(a) The ►allegations◄ [allegation] that the mark is in use in commerce ►and that the specimens or facsimiles show the mark as actually used in connection with the goods◄, required by § 2.33(b), and the statements of the dates of applicant's first use ►and that the applicant has adopted and is using the mark shown in the accompanying drawing◄, required by § 2.33(a) (1) ►(iv), ◄ (vii), and (viii), may be omitted in the case of an application filed pursuant to section 44(e) of the act for registration of a mark duly registered in the country of origin of a foreign applicant, provided the application when filed is accompanied by a ►certification or certified copy issued by◄ [certificate of] the trademark office of the [foreign] country ►of origin of applicant◄ showing that the mark has been registered in [the] ►that◄ country [of origin of the applicant] and also showing the mark, the goods for which registered and that said registration is then in full force and effect. If the ►certification or certified copy◄ [certificate] is not in the English language, a translation is required.

(b) Such allegations and statements may also be omitted in the case of an application claiming the benefit of a prior foreign application in accordance with section 44(d) of the act. The application in such case shall state the date and country of the first foreign application [and,] ►. A certification or certified copy issued by the trademark office of the country where the first foreign application was filed shall accompany the application or be submitted within such time as is specified by the office. The certification or certified copy shall show the mark, the goods for which the first foreign application was filed, and the date of filing thereof. If the certification or certified copy is not in the English language, a translation is required. Before◄ [before] the application can be considered as allowable ►in the absence of an allegation of use in commerce◄, there must be filed a ►certification or certified copy issued by◄ [certificate of] the trademark office of the [foreign] country ►of origin of applicant◄ showing that the mark has been registered in [the] ►that◄ country [of origin of the applicant] and also showing the mark, the goods for which registered and the date of ►issue of the registration. If the certification or certified copy is not in the English language, a translation is required.◄ [filing of the application. In such cases the specification of goods shall not exceed the scope of that covered by the foreign registration or application.] In the event the application is based upon a subsequent regularly filed application in the same foreign country the application must so state and must show that any prior filed application has been withdrawn, abandoned or otherwise disposed of, without having been laid open to public inspection and without having any rights outstanding, and has not served as a basis for claiming a right of priority.

►(c) The foreign application or the foreign registration, which is the basis of a claim to registration under section 44(d) or 44(e) of the act, shall be deemed to be constructive use of the mark for the purpose of filing an application under the act.◄

►(d) The specification of goods identified in an application filed under section 44(d) or 44(e) of the act shall not exceed the scope of that covered by the foreign application or registration, and, furthermore, such identification of goods in the application under the act shall include only those goods on or in association with which the applicant is actually using the mark or has a bona fide intention to use the mark on the filing date of the application under the act.◄

3. By revising § 2.56 to read as follows:

§ 2.56 Specimens.

The application must include five specimens of the trademark as actually used on or in connection with the goods in commerce. The specimens shall be duplicates of the actually used labels, tags, or containers, or the displays associated therewith or portions thereof, when made of suitable flat material and of a size not to exceed 8½ inches (21.6 cm.) wide and 13 inches (33.0 cm.) long. ►Specimens are not required when § 2.39 is applicable, but if commercial specimens are available, the applicant is encouraged to submit such specimens.◄

PART 4—FORMS FOR TRADEMARK CASES

f. By amending the "Notes" following § 4.1 by renumbering paragraph (2) as (2)(b), paragraph (3) as (3)(b), and paragraph (5) as (5)(b) and adding subparagraphs (2)(a), 3(a), and 5(a) to read as follows:

NOTES.—[Amended]

* * * * *

►(2)(a) A foreign applicant relying upon section 44(d) or 44(e) of the act shall specify only those goods which are comprehended within the identification of goods of the foreign application or registration upon which he relies and on which, on the filing date of the application, he is actually using the mark or has a bona fide intention to use the mark.◄

* * * * *

►(3)(a) A foreign applicant relying upon section 44(d) or 44(e) of the act may omit the allegations of the date of first use of the mark, the date of first use of the mark in commerce and that the mark is now in use in such commerce.◄

* * * * *

►(5)(a) A foreign applicant relying upon section 44(d) or 44(e) of the act who does not allege use of the mark may omit specimens and an allegation that specimens showing the mark as actually used are presented with the application, but if commercial specimens are available, the applicant is encouraged to submit such specimens.◄

* * * * *

5. By amending the "Notes" following § 4.7 by renumbering paragraph (12) as (12)(a) and adding subparagraph (b) to read as follows:

NOTES.—[Amended]

* * * * *

►(12)(b) A foreign applicant relying upon section 44(d) or 44(e) of the act who does not allege use of the mark may omit specimens and an allegation that specimens showing the mark as actually used are presented with the application, but if commercial spec-

imens are available, the applicant is encouraged to submit such specimens.◀

Dated: July 22, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: August 3, 1977.

HOWARD I. FORMAN,
Acting Assistant Secretary for Science and Technology.

[FR Doc.77-23095 Filed 8-9-77;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 8]

SERVICE DISABLED VETERANS INSURANCE

Application on Behalf of Incompetent Veteran

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed amendment will revoke the present portion of the regulation which allows a third party, other than a guardian, to apply on behalf of a mentally incomptent veteran for Service Disabled Veterans Insurance. It has been determined that the present regulation exceeds the scope of the enabling statute and the intended effect of this action is to bring the regulation within the prescribed limits.

DATE: Comments must be received on or before September 9, 1977. It is proposed to make this amendment effective the date of final approval.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until September 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Murray J. Zuckerman, Veterans Administration Center (290B), P.O. Box 8079, Philadelphia, Pa. 19101, 215-951-5733.

SUPPLEMENTARY INFORMATION: It has been determined that the amendment to section 722(a) and the enactment of section 722(b), Title 38, United States Code, prior to the amendment to the portion of § 8.0(b)(2) which is now being revoked had adequately corrected inequities in this area.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until September 19, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: August 2, 1977.

MAX CLELAND,
Administrator.

In § 8.0, paragraph (b)(2) is revised to read as follows:

§ 8.0 Eligibility.

* * * * * * *

(b) * * *

(2) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application. If the applicant is mentally incompetent, the application may be made by a guardian, and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * * * *

[FR Doc.77-23021 Filed 8-9-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 61]

[FRL 775-2]

VINYL CHLORIDE

National Emission Standards for Hazardous Air Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The deadline for submittal of comments on the amendments to the vinyl chloride standard which were proposed on June 2, 1977 (42 FR 28154), is being delayed from August 1, 1977, to August 19, 1977. The Society of Plastics Industry, Inc., because of the time required to make the proceedings from the public hearing available, has asked that the deadline for comments be delayed so that they will have ample opportunity to review the proceedings.

DATE: Comments must be received on or before August 19, 1977.

ADDRESS: Comments should be submitted (preferably in triplicate) to the Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, attention: Mr. Don R. Goodwin.

All public comments received may be inspected and copies at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: On June 2, 1977 (42 FR 28154), the Environmental Protection Agency proposed amendments to the vinyl chloride standard which was promulgated under the authority of section 112 of the Clean Air Act on October 21, 1976 (42 FR 46561). The notice of proposal requested public comments on the amendments by August 1, 1977.

On July 19, 1977, a public hearing on the proposal was held in Washington, D.C. The proceedings were made available to the Agency on July 28, 1977. Additional time was required to make copies of the proceedings and distribute them to interested parties. The Agency believes that an extension of the comment period through August 19, 1977, is justifiable.

Dated: August 2, 1977.

EDWARD F. TURK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-22991 Filed 8-9-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77-40]

RULES OF PRACTICE AND PROCEDURE; SUBPENAS AND DISCOVERY REQUESTS DIRECTED TO COMMISSION STAFF PERSONNEL; REPLIES TO APPEALS

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule changes.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice and procedure to require that service of subpenas and discovery requests or motions directed against Commission staff personnel be served on the Secretary of the Commission; to authorize the General Counsel to appoint an attorney to represent Commission staff personnel who are involved; to permit rulings of the presiding officer to be appealed and to be reviewed by the Commission absent appeal in such matters; and to permit parties to file replies to appeals generally. The amendments are necessary because the present rules governing subpena and discovery procedures are inconsistent and unclear and do not give the Commission an opportunity to rule upon matters affecting disclosure of is own records. Furthermore, the present rule governing appeals to the Commission does not provide for replies to such appeals. The effect of the proposed rule changes will be to conform subpena and discovery procedures as regards service and legal representation, to involve the Commission in any decision concerning disclosure of agency records or the giving of testimony by Commission staff personnel, and to facilitate decisions in the matter of appeals to the Commission.

DATES: Comments on or before: September 9, 1977.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Room 11101, 1100 L Street NW., Washington, D.C. 20573 (202-523-5725).

SUPPLEMENTARY INFORMATION: The present rule governing service of subpenas directed to Commission employees does not conform to the analogous situation involving the use of discovery procedures directed to Commission staff personnel. Thus, Rule 135, 46 CFR Part 502.135, concerning subpenas, provides that such subpenas shall be served on the General Counsel and refers to Commission "employees." However, Rule 209, 46 CFR 502.209, concerning the use of discovery procedures, refers to Commission "staff personnel" and is unclear upon whom the various discovery requests or motions are to be served, except for notices to take depositions and for written interrogatories, both of which are to be served on the Secretary of the Commission. Neither of these rules, furthermore, provides for Commission staff personnel to have legal representation if they become involved in such matters. Nor do the rules insure that the Commission will have an opportunity to review rulings of the presiding officer affecting Commission records either by granting any party a right to appeal to the Commission or permitting the Commission to review such rulings on its own initiative.

The present rule governing the filing of motions for leave to appeal rulings of the presiding officer, Rule 153, 46 CFR 502.153, requires that motions for leave to appeal be accompanied by the appeal itself so that the presiding officer will have before him the full grounds for the motion and appeal before ruling. However, no provision is made for a party to file a reply to the appeal as distinct from his right to file a reply to the motion.

The proposed amendments would remedy these defects in the present rules. Thus, in both subpena and discovery situations, a uniform procedure would be established with respect to the service of subpenas and discovery requests and pleadings by providing that all such documents be served upon the Commission's Secretary. Moreover, the General Counsel will be authorized to designate an attorney to represent Commission staff personnel involved in these matters. In order to insure the integrity of the administrative process, however, the attorney so designated will thereafter take no part in the Commission's decisionmaking process.

Another problem which these amendments are intended to correct concerns the responsibilities of the Commission and the rights of the parties in matters concerning interrogation of Commission staff personnel and inspection of records in the custody of the Commission. The present rules permit the use of subpenas and discovery directed against Commission staff personnel as they do against any private litigant. This is quite proper and consistent with the legislative grant of authority to the Commission set forth in section 27 of the Shipping Act, 1916, as amended, 46 U.S.C. 826. See Senate Report No. 472, 90th Congress, 1st Sess., August 2, 1967, p. 2; Hearings before the House Subcommittee on Merchant Marine and Fisheries, August 15, 16, 1967, 90th Congress, 1st Sess., p. 61; Senate Hearings, May 8, 9, 1967, p. 8. Unlike private litigants, however, the Commission is a government agency involved in law enforcement activities and has responsibilities which do not devolve upon private persons. Certain privileges have been granted to such agencies by law which have no analogue as regards private parties, for example, the privilege generally to withhold from disclosure internal personnel rules and practices, inter-agency or intra-agency memoranda or letters, investigatory records compiled for law enforcement purposes, etc. See the Freedom of Information Act, as amended, 5 U.S.C. 552(b). Improvident disclosure of such information may have adverse effects on the Commission's ability to discharge its regulatory responsibilities. Requests for such information consequently involve delicate and sensitive considerations as to which the Commission has intimate knowledge not necessarily possessed by presiding administrative law judges however qualified they may be with respect to the laws of evidence and discovery. For that reason the Commission is proposing to insure that it will have an opportunity to give full consideration to such matters whether by way of appeal or by review on its own initiative. The proposed rule, furthermore, would apply whether the presiding judge grants or denies the particular request.

As mentioned, the present rule governing the filing of motions for leave to appeal rulings of the presiding officer, Rule 153, 46 CFR 502.153, does not provide that replies may be filed to the appeal itself as distinct from the motion. Therefore, although the presiding officer is able to consider all of the arguments presented by the moving party in favor of granting leave to appeal contained in both the motion and the appeal itself, he does not have the benefit of complete replies and parties who oppose the motion and appeal are placed at a disadvantage. Experience has shown, furthermore, that parties often assume that they have a right to file replies to all pleadings and documents served on them if they wish even if rules do not make specific provision and consequently file replies anyway. The Commission believes that the specific grant of permission to file such replies would be fairer to all parties, would provide the presiding officer with a complete discussion of the issues involved, and would furthermore save time by enabling him to certify the entire set of arguments to the Commission for its decision should he decide to grant leave to appeal with no need for further pleadings. Rule 153 is proposed to be amended accordingly.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 27 and 43 of the Shipping Act, 1916 (46 U.S.C. 826, 841a), Part 502 of Title 46, Code of Federal Regulations, is proposed to be amended as set forth below:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. Section 502.135 is proposed to be revised to read as follows:

§ 502.135 Subpena of Commission staff personnel, documents or things.

(a) A subpena for the attendance of Commission staff personnel or for the production of documentary materials in the possession of the Commission shall be served upon the Secretary. If the subpena is returnable at hearing, a motion to quash may be filed within five (5) days of service and attendance shall not be required until the presiding officer rules on said motion. If the subpena is served in connection with prehearing depositions, the procedure to be followed with respect to motions to quash and replies thereto will correspond to the procedures established with respect to motions and replies in § 502.132(c).

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel subpenaed under this section. The attorney so designated shall not thereafter participate in the Commission's decision-making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.135(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. The filing of such appeals shall stay the presiding officer's rulings until the Commission acts upon the matter.

2. Section 502.209 is proposed to be revised to read as follows:

§ 502.209 Use of discovery procedures directed to Commission staff personnel.

(a) Discovery procedures described in §§ 502.204, 502.205, 502.206, 502.207, and 502.208, directed to Commission staff personnel shall be permitted and shall be governed by the procedures set forth

in those sections except as modified by paragraphs (b) and (c) of this section. All notices to take depositions, written interrogatories, requests for production of documents and other things, requests for admissions, and any motions in connection with the foregoing, shall be served on the Secretary of the Commission.

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel to whom any discovery requests or motions are directed. The attorney so designated shall not thereafter participate in the Commission's decisionmaking process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.209(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. The filing of such appeals shall stay the presiding officer's rulings until the Commission acts upon the matter.

3. Section 502.153 proposed to be amended by inserting the following sentence after the third sentence:

§ 502.153 Appeal from ruling of presiding officer thereof; orders of dismissal in whole or in part.

Replies to the motion and the appeal may be filed within fifteen (15) days after date of service thereof unless the presiding officer for good cause shown enlarges or shortens the time.

NOTE: Since the proposals set forth in this rulemaking proceeding concern procedural matters limited to the conduct of formal proceedings before the Commission, their adoption could in no way be considered to result in major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Consequently no environmental impact statement will be issued in this proceeding.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23097 Filed 8-9-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 43]

[Docket No. 21265]

UNIFORM SETTLEMENT RATES ON PARALLEL INTERNATIONAL COMMUNICATIONS ROUTES

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In response to the request by ITT World Communications Inc. the dates for comments and replies set forth in the Commission's Notice of Proposed Rulemaking, FCC 77-369, released June 13, 1977, are extended to August 22, 1977, and September 21, 1977, respectively.

DATES: Comments may be field on or before August 22, 19777 and Reply Comments on or before September 21, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, Federal Communications Commisssion, Washington, D.C. 20554, 202-632-5550.

SUPPLEMENTAL INFORMATION:

In the matter of uniform settlement rates on parallel international communications routes (42 FR 31175; June 20, 1977)

ORDER

Adopted: August 3, 1977.

Released: August 4, 1977.

By the Chief, Common Carrier Bureau.

1. Before the Commission for consideration is the request for extension of time, filed July 22, 1977, by ITT World Communications Inc. (WorldComm) seeking a ten day extension of the filing deadlines in this proceeding. In support of its request WorldComm claims that the press of other Commission proceedings and scheduled vacations limit the time for adequately preparing comments for this proceeding. WorldComm further states that the other international record carriers it anticipates will file comments in this proceeding do not oppose the requested extension.

2. This proceeding involves matters of important international communications policy. The brief extension sought would not unduly delay the proceeding. Good cause appears to exist for the extension requested. Thus, the request will be granted.

3. *Accordingly*, Pursuant to authority delegated under § 0.303 of the Commission's Rules and Regulations, 47 CFR 0.303, the motion for extension of time, filed July 22, 1977, by ITT World Communications Inc. is granted; and

4. *It is ordered*, That the dates for filing comments and reply comments are extended and that interested persons may file comments on or before August 22, 1977, and reply comments on or before September 21, 1977.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-23022 Filed 8-9-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21239; RM-2803]

FM BROADCAST STATION IN BONITA SPRINGS, FLA.

Proposed Changes in Table of Assignments; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments to a Notice of Proposed Rule making for the substitution of commercial FM Channel 241 for 240A at Bonita Springs and required changes in three other communities. Petitioner, Gold Coast Broadcasting Corp., has requested additional time to respond to issues raised by several parties in comments.

DATE: Reply comments are due on or before August 19, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations. (Bonita Springs, Florida) (42 FR 33779; July 1, 1977).

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

Adopted: August 3, 1977.

Released: August 4, 1977.

By the Chief, Broadcast Bureau:

1. The Commission has before it a request for a two week extension of time to file reply comments in the above-captioned proceeding from August 5, 1977, to August 19, 1977. The request is from Gold Coast Broadcasting Corp. ("Gold Coast"), licensee of WLEQ(FM) Bonita Springs, Fla. Gold Coast, the petitioner in this proceeding, seeks the substitution of Channel 241 for 240A at Bonita Springs, and a shift of channel assignments in three other communities.

2. A prior extension of time for comments and reply comments was requested by three interested parties after Gold Coast had filed its supporting comments. The extension was granted and comments were timely filed by Palmer Broadcasting Co., Lee County FM, Inc., Lighthouse Broadcasting, Inc., Radio South Dade, Inc., Radio Broward, Inc., and Bartell Broadcasting of Florida, Inc. Gold Coast claims that these comments are somewhat lengthy and raise a number of legal, financial, and engineering matters to which Gold Coast would like to reply. Furthermore, Gold Coast says, its president and general manager resides in Florida, its engineering consultant in Connecticut, and its legal counsel in Washington. Gold Coast desires a total of four weeks in which to prepare its reply comments and therefore seeks to extend the original two week period by this two week extension. Counsel for Gold Coast informs us that the parties who filed comments to date in this proceeding have stated by phone that they have no objection to this extension.

3. We are of the view that Gold Coast has made a sufficient showing of grounds for an extension of time in this proceeding. *Accordingly, it is ordered*, That the date for filing reply comments in this proceeding is extended from August 5, 1977, to and including August 19, 1977.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-23023 Filed 8-9-77;7:45 am]

[47 CFR Part 81]

[Docket No. 20617; RM-2359; FCC 77-525]

CHANNELING ARRANGEMENTS OF CANADA/UNITED STATES FOR WEST COAST, GREAT LAKES, AND EAST COAST FOR APPENDIX 18 MARITIME MOBILE CORRESPONDENCE FREQUENCIES

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Implementation of an arrangement between United States and Canada covering assignment of VHF maritime mobile public correspondence channels to coast stations on the West Coast, East Coast, and on the Great Lakes and the St. Lawrence Seaway. This action is necessary because the arrangement with Canada has been recently finalized.

DATES: Comments must be received on or before September 6, 1977, and reply comments must be received on or before September 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert DeYoung, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1977.

Released: August 3, 1977.

In the matter of Proposed Canada/United States channeling arrangements for the West Coast, Great Lakes, and the East Coast for Appendix 18 maritime mobile correspondence frequencies, Docket No. 20617, RM 2359 (40 FR 51494).

1. On October 28, 1975, we released a Notice of Inquiry in the above captioned matter. All comments received favored adoption of the proposed arrangements. We subsequently finalized the arrangements with Canada by a letter to Canada signed by the Chairman of the Commission on December 15, 1976. This Notice is a consolidation of that proceeding and of a petition for rulemaking in RM 2359.

2. The purpose of this rulemaking is to incorporate these arrangements into the Commission's rules. Simultaneously, the Canadian Government will implement its own and compatible plan. Part of these arrangements is a plan submitted by the North Pacific Marine Radio Council, Inc., hereinafter called (NPMRC), and is entitled "North Pacific Marine Radio Council, Inc., and Western Canada Telecommunications Council Public Correspondence Committee report on a new maritime VHF Public correspondence frequency assignment plan," hereinafter called (Joint Plan). The Joint Plan resulted from a joint effort between NPMRC and Western Canada Telecommunications Council, hereinafter called (WCTC), and was submitted as a Working Paper at the Canada/USA meeting held in Ottawa, Canada in 1975. This plan was submitted as a petition for rulemaking by NPMRC (RM-2359).

3. The provisions of the Joint Plan when implemented by the U.S. and Canada will apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/USA Frequency Coordination Agreement above 30 MHz. Other arrangements between the U.S. and Canada apply to the Great Lakes and East Coast.

4. Public coast stations authorized by the Commission in U.S. waters within the boundaries of the West Coast joint plan will be governed by these arrangements and § 81.303 or duplication of service will not be applicable to these stations. In the Great Lakes and on the East Coast, the arrangements will facilitate frequency assignments and licensing coordination procedures.

5. The primary purpose of the Joint Plan is to provide an improved public correspondence service in the Puget Sound area and facilitate frequency assignments and coordination between the U.S.A. and Canada. The Joint Plan, if implemented, will also result in spectrum-saving use of frequencies on both sides of the international boundary and will ease the inter-governmental administrative burdens of coordinating channel assignment on a case-by-case basis.

6. The Joint Plan provides for district goegraphical areas which will be allotted primary, supplementary, and local channels. The primary channel is intened to cover the entire geographical area, the supplementary channel is intended to improve coverage of a portion of the area or to relieve traffic congestion on the primary channel, and the local channel will be a low-power (10 watts) channel designed to provide local coverage to certain bays, inlets, or ports within the geographical area covered by the primary channel. The plan is reflected on a map below.

7. Implementation of the Joint Plan in the rules, will require modification of existing authorizations to conform with the technical requirements of the plan. In addition, the Commission will not accept for filing any application for public coast stations within the boundaries of the proposed plan pending final resolution of this proceeding. All pending applications for public coast stations in the Puget Sound area will be retained on file pending the outcome of the proceeding, and such applicants will be given an opportunity to amend their pending applications to conform with the then existing rules.

8. The proposed amendments of the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i), 303 (b), (c), (d), (f), and (r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 6, 1977, and reply comments on or before September 16, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.304 a limitation symbol "6" is added in the Limitations column for the frequencies 161.800 MHz through 162.000 MHz and a new subparagraph (b)(6) (which is now shown as "Reserved") is added to read as follows

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (Kilohertz)	Conditions of use	
	Section	Limitations
*	*	*
156.800	81.304	[illegible]
161.800	81.304	6, [illegible]
161.825	81.304	6, 22, 24, 63
161.850	81.304	6, 22, 24
161.875	81.304	6, 22, 24, 63
161.900	81.304	6, 22
161.925	81.304	6, 22, 63
161.950	81.304	6, 22
161.975	81.304	6, 22, 63
162.000	81.304	6, 22
162.025	81.304	[illegible]

(b) * * *

* * * * *

(6) This frequency is available for use by public coast stations serving the coastal areas of the State of Washington, including Puget Sound and the Province

of British Columbia in accordance with the provisions of Subpart S of Part 81.

* * * * *

2. A New Subpart S is added to read as follows:

Subpart S—Canada U.S.A. Channeling Arrangement for VHF Maritime Public Correspondence

Sec.

81.901 Canada/U.S.A. arrrangements.
81.902 Definitions.
81.903 Technical characteristics.
81.904 Canada, U.S.A. channeling arrangement for West Coast VHF maritime mobile public correspondence.
81.905 Canada/U.S.A. VHF channeling arrangement on the Great Lakes and the St. Lawrence Seaway.
81.906 Canada/U.S.A. channeling arrangement for East Coast VHF maritime mobile public correspondence.

AUTHORITY: Secs. 4(i), 303 (b), (c), (d), (f) and (r) of the Communications Act of 1934, as amended.

Subprt S—Canada/U.S.A. Channeling Arrangement for VHF Maritime Public Correspondence

§ 81.901 Canada/U.S.A. arrangement.

Pursuant to arrangement between the United States and Canada, assignment of VHF frequencies to public coast stations in certain areas of Washington State, the Great Lakes and the East Coast of the United States shall be made in accordance with the provisions of this subpart.

§ 81.902 Definitions.

On the West Coast, the following terms are defined as follows:

(a) *Public Correspondence Sector.* A distinct geographical area to which is alloted primary, supplementary and local channels.

(b) *Primary Channel.* A channel intended to cover the greater portion of a public correspondence sector. It may provide some coverage of an adjacent sector but must not cause harmful interference beyond the adjacent sector.

(c) *Supplementary Channel.* A channel intended to improve coverage of a portion of a sector poorly covered by a primary channel or to relieve traffic congestion on a primary channel. It must not cause harmful interference beyond the adjacent sector.

(d) *Local Channel.* A low-power channel designed to provide local coverage of certain bays, inlets and ports where coverage of primary or supplementary channels is poor or where heavy traffic loading warrants it. It must not cause harmful interference to primary or supplementary channels or to local channels in other sectors.

§ 81.903 Technical characteristics.

On the West Coast, technical characteristics of coast stations shall be as follows:

(a) For primary and supplementary channels the maximum transmitter power shall be 50 watts and the maximum ERP shall be 125 watts. Antennas shall be sited no higher than necessary to provide the desired coverage within the sector.

(b) For local channels the ERP shall not exceed 10 watts. Low siting, directive antennas and natural topography shall be employed to confine coverage to the local area and, in any event, to prevent harmful interference to channels in other sectors.

(c) For station design purposes the tolerable interference level shall be considered as a received signal of −107 dBm (−137 dBW) from a vertical dipole located 30 feet above the water.

§ 81.904 Canada/U.S.A. channeling arrangement for West Coast VHF maritime mobile public correspondence.

For purposes of this subpart, and on the West Coasts of Canada and the United States, channels shall be assigned, as follows:

(a) The provisions of the Canada/U.S.A. channeling arrangement apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz.

(b) The channeling arrangement applies to the following public correspondence channels: Channels 24, 84, 25, 26, 86, 27, 87, and 28.

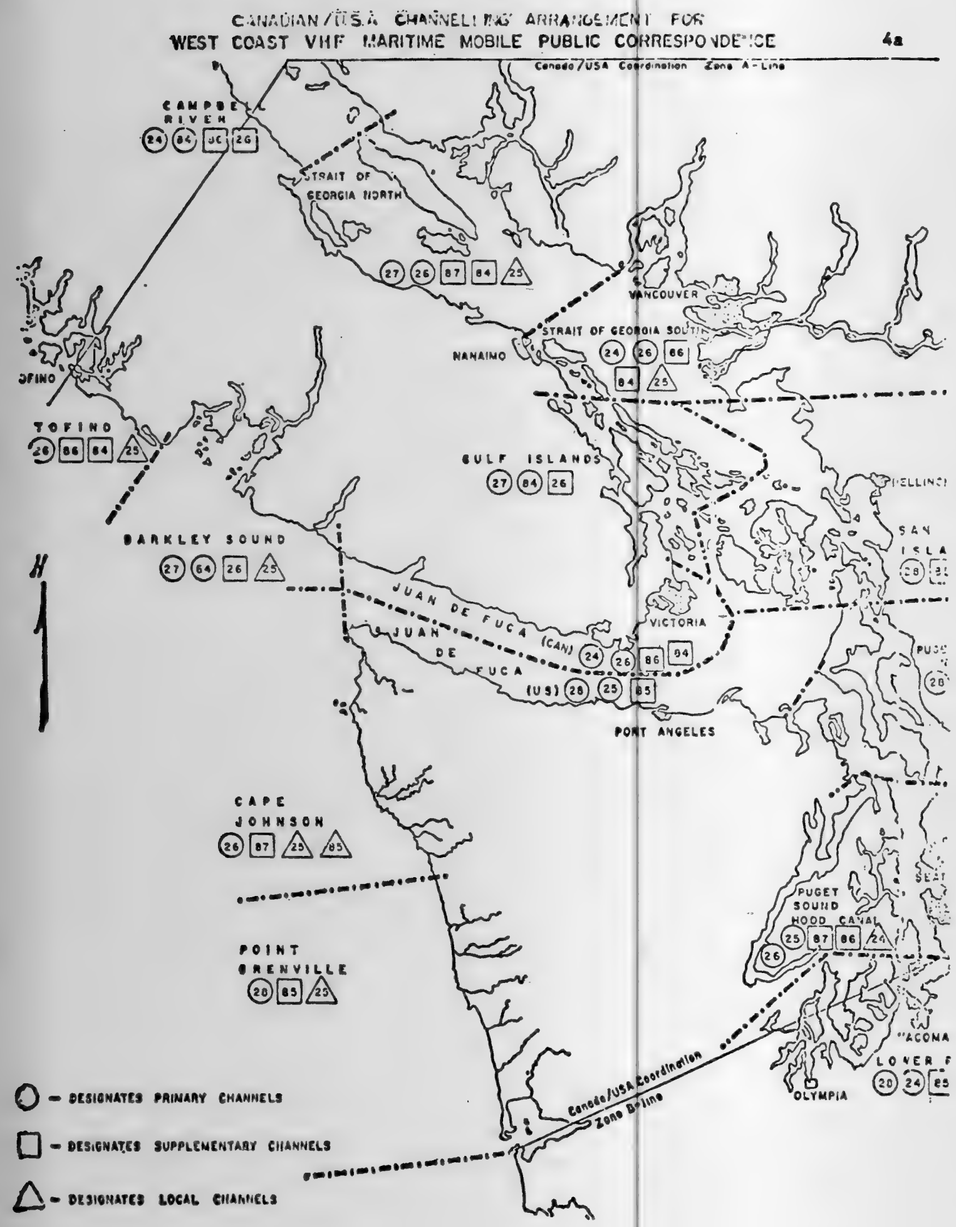
(c) Coast stations may be established by either country in accordance with the provisions of the arrangement without prior coordination with the other country. There shall, however, prior to implementation, be an exchange of information in respect of the establishment of new stations or a change in technical parameters of existing stations.

(d) Coast stations proposed for establishment which are not in acordance with the provisions of the arrangement shall be subject to prior coordination in accordance with the provisions of "Arrangement A of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. Such stations shall not be protected from interference or cause interference to existing or future stations which are established in accordance with the provisions of the arrangement.

(e) Existing stations shall comply with the provisions of the arrangement within 12 months after it becomes effective.

(f) The agreed channeling arrangement for the West Coast is as follows:

PUBLIC CORRESPONDENCE SECTOR	PRIMARY CHANNEL		SUPPLEMENTARY CHANNEL		LOCAL CHANNEL	REMARKS
BRITISH COLUMBIA						
Tofino	24	26	86	84	25	
Barkley Sound	27	84	26		25	
Juan de Fuca (Canada)	24	26	86	84		
Gulf Islands	27	84	26			
St. of Georgia South	24	26	86	84	25	
St. of Georgia North	27	26	87	84	25	
Campbell River	24	84	86	26		
WASHINGTON						
Cape Johnson	26		87		85 25	
Pt. Grenville	28		85		25	
Juan de Fuca (U.S.A.)	28	25	85			Ch. 28-Western portion. Ch. 25 -Eastern portion
San Juan Islands	28		85	87		
Puget Sound North	28	24	85			Ch.28 - West Whidbey Isl. Ch. 24 - East Whidbey Isl.
Puget Sound Hood Canal	26	25	87	86	24	
Lower Puget Sound	28	24	85		25	



§ 81.905 Canada/U.S.A. VHF channeling arrangement on the Great Lakes and the St. Lawrence Seaway.

For purposes of this subpart, channels on the Great Lakes and the St. Lawrence Seaway shall be assigned, as follows:

(a) The provisions of the arrangement apply to the waters of the Great Lakes and the St. Lawrence Seaway within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz.

(b) The arrangement applies to the following public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87, 28, and 88.

(c) Canada and the U.S.A. will use one shared channel, the following channeling arrangement is agreed:

Canadian channels: 24, 85, 27, 88 (Note 1).
U.S. channels: 84, 25, 86, 87, 28 (Note 2).
Shared channel: 26 (Note 3).

NOTE 1.—Also assignable to U.S. stations within the frequency coordination zone, following successful coordination with Canada.

NOTE 2.—Also assignable to Canadian stations within the frequency coordination zone, following successful coordination with the United States.

NOTE. 3—Changes to existing assignments and new assignments within the frequency coordination zone of either country are subject to prior coordination with the other Administration.

§ 81.906 Canada/U.S.A. channeling arrangement for East Coast VHF maritime mobile public correspondence.

For purposes of this subpart, channels on the East Coast shall be assigned, as follows:

(a) The provisions of the arrangement apply to the Canadian and U.S.A. east coast waters including the St. Lawrence River east of the St. Lawrence Seaway within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz.

(b) The arrangement applies to the following public correspondence channels: channels 24, 84, 25, 85, 26, 86, 27, 87, 28, and 88.

(c) Canada and the U.S.A. will use one shared channel; the following channeling arragenment is agreed:

Canadian channels: 24, 85, 27, 88 (Note 1).
U.S.A. channels: 84, 25, 86, 87, 28 (Note 2).
Shared channel: 26 (Note 3).

NOTE 1.—Also assignable to U.S. stations within the frequency coordination zone, following successful coordination with Canada.

NOTE 2.—Also assignable to Canadian stations within the frequency coordination zone, following successful coordination with the United States.

NOTE 3.—Changes to existing assignments and new assignments within the frequency coordination zone of either country are subject to prior coordination with the other Administration.

[FR Doc.77-22944 Filed 8-9-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1047, 1082]

[Nos. MC-C-3437, MC-C-4000]

MOTOR TRANSPORTATION OF PROPERTY INCIDENTAL AND PASSENGERS INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

Extension of Time for Filing Comments

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing comments in the above-entitled rulemaking proceedings.

SUMMARY: The purpose of this document is to announce an extension of the time for filing comments in the above-entitled rulemaking proceedings.

DATES: Comments must be received on or before September 19, 1977.

ADDRESSES: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave. NW., Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operation Rights, Office of Proceedings, 202-275-7292.

SUPPLEMENTARY INFORMATION: The time for filing comments in the above-entitled proceedings, originally set as August 8, 1977, and previously extended to September 7, 1977, is now extended to September 19, 1977. No further extensions will be granted.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23083 Filed 8-9-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA, IMPLEMENTATION OF CONVENTION

Special Working Session Concerning the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of Special Working Session.

SUMMARY: The parties to the Convention resolved at their first meeting, in November 1976, to hold a Special Working Session. This session is being held to discuss several technical matters regarding the implementation of the Convention: guidelines for shipments of living specimens, identification of specimens, exchange of musuem specimens, placing of confiscated animals and plants, and analysis of Appendices I and II (50 CFR 23.23). The findings of this session will not be binding upon the parties, but they will be considered for later adoption by the parties.

DATES: Information must be received on or before August 31, 1977, in order to be most useful to the Service. Special Working Session to be held in Geneva, Switzerland October 17, 1977 through October 28, 1977.

ADDRESSES: Information should be sent to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The letter of invitation to the United States of America, requesting participation in the Special Working Session, is reprinted below with its attached documents.

MARCH 16, 1977.

The Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora presents its compliments to the Embassy of the United States of America and has the honour to draw attention to the following:

1. At its first meeting held in Berne, Switzerland, from 2 to 6 November 1976, the Conference of the Parties to the Convention resolved that a Special Working Session be convened within six months to one year of the first meeting in order to discuss several items regarding the implementation of the Convention.

2. At the same time, the Conference of the Parties to the Convention decided that a Steering Committee be established to coordinate with the Secretariat on the organization of the Special Working Session.

3. The Steering Committee met in Morges, Switzerland, on 21 and 22 February 1977. The following decisions were taken:

(a) The Special Working Session will be held at the World Health Organization Headquarters in Geneva, Switzerland, from 17 to 28 October 1977.

(b) States Party or Signatory to the Convention are invited to participate actively in the Special Working Session as well as other interested States. All States are invited to inform the Steering Committee, at the Secretariat address above,

of their interest and expected participation before 31 May 1977.

(c) National and international organizations with specific interests may also attend the Special Working Session as observers.

(d) To attach to this Note a document defining the objectives of the Special Working Session, requesting working materials from participating States and giving relevant information. The Steering Committee and the Secretariat would appreciate this document being transmitted to the competent authorities.

The Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

ATTACHMENT TO THE LETTER OF INVITATION

INTRODUCTION

At the first meeting of the Conference of the Parties, held in Berne, Switzerland, on November 2–6, 1977, the Parties resolved that a Special Working Session be convened within 6 months to 1 year in order to discuss several items regarding the implementation of the Convention. The terms of reference of the Special Working Session are as follows:

(a) The development of identification aids to facilitate the enforcement of trade restrictions under the Convention;

(b) The development of guidelines on the care and shipment of live specimens of species listed under the Convention;

(c) The consideration of points raised by the control of "readily recognisable parts and derivatives" of species listed under the Convention and subsequent points raised during the meeting of the Conference of the Parties;

(d) The consideration of the feasibility of applying a similar procedure to that regarding the exchange of herbarium specimens, so as to include preserved animal specimens of registered scientific institutions; and

(e) An analysis of Appendices I and II for scientific validity with a view to making recommendations to the next meeting of the Conference of the Parties, in accordance with the resolution adopted by the Conference of the Parties.

Furthermore, the goal of this session is to produce such items of practical use as will be most helpful in the implementation of the Convention.

The resolution established a small Steering Committee to coordinate with the Secretariat the organization of the session. The following members of the Steering Committee participated in the meeting held at IUCN Headquarters, in Morges on 21–22 February 1977, where the present document was prepared: Canada, Ecuador, Switzerland and the United States of America.

TIME AND VENUE OF THE SPECIAL WORKING SESSION

The Special Working Session will be held at the World Health Organization (WHO) Headquarters in Geneva (Switzerland), from 17 to 28 October 1977.

OBJECTIVES OF THE SPECIAL WORKING SESSION

The Special Working Session will not be entitled to make decisions or adopt resolutions which are binding on the Parties. The general goal of the session will be to prepare documents and resolutions for practical implementation of the Convention.

Recommendations for changes to the appendices can be adopted at the second regular meeting of the Conference of the Parties or by postal vote.

In more detail, the objectives of the Special Working Session will be the following:

(a) *Guidelines for shipments of living specimens:* participants should be prepared to discuss the following matters—the desirability of establishing internationally agreed guidelines presently available; the substantive merits or demerits of the existing guidelines; and any particular requirements for a species or group of species which should be included in internationally agreed guidelines. Assuming that participants agree that it is desirable to have international guidelines for the shipment of living specimens, and sufficient substantive information is available, participants should be prepared to draft a resolution recommending the appropriate guidelines to the Parties.

(b) *Identification of specimens:* participants should be prepared to discuss the following items in relation to identification aids—whether or not it is desirable to have internationally agreed identification manuals; if so, what format should be followed and what types of data should be included; and what action should be taken, and by whom, for the production of such manuals. Participants should also be prepared to discuss the problem of identification of parts and derivatives with reference to the attached Conference document Doc. 1.19. The Parties shoud examine the possibility of using standard Customs nomenclature for preparation of the list.

(c) *Exchange of museum specimens:* participants should be prepared to discuss the desirability of extending the approach adopted by the Conference of the Parties at the first meeting for the exchange of herbarium specimens to the exchange of preserved museum specimens. If it is determined that a similar procedure is desirable, participants should be prepared to suggest appropriate procedures for the exchange of museum specimens including the identification of eligible institutions and scientists. (See document Doc. 1.18 attached).

(d) *Placing of confiscated animals:* participants should be prepared to discuss the desirability of creating an information system to enable the placing of confiscated live animals in rescue centers. Participants should also be prepared to give information on the manner in which their own countries have solved the problems.

(e) *Analysis of Appendices I and II:* participants should be prepared to discuss the list of species as they appear in Appendices I and II. Amendments made at the first meeting of the Conference of the Parties should not be considered. Participants should make recommendations for appropriate amendments based upon the criteria adopted by the first meeting (see documents Conf. 1.1 and 1.2 attached). If time permits participants should be prepared to make recommendations on any new proposals for amendments to Appendix I or II.

MATERIALS TO BE SENT TO THE SECRETARIAT PRIOR TO THE SPECIAL WORKING SESSION

In order to facilitate the accomplishment of the tasks of the Special Working Session, papers shall be provided by the Steering Committee. To aid in the preparation of these papers, States are requested to provide the following materials:

Information on the availability within their countries of programmes, materials or aids used in training Customs or other inspection officers;

Manuals, samples, lists of experts or other materials used by Customs or other inspection officers in the identification of various types of wildlife and plants;

Guidelines or regulations presently used to judge whether shipments of live specimens are properly prepared or shipped as to minimize the risk of injury, damage to health or cruel treatment.

These materials, to be of maximum use, should be sent to Mr. J. Berney, Executive Secretary, IUCN, CH–1110 Morges, Switzerland, by 31 May 1977.

Also, in order to facilitate the discussion of Appendices I and II participants should be prepared to indicate to the Secretariat by 31 May 1977, those species which should be considered for deletion or for movement to a different appendix, on the basis of their preliminary evaluation.

PARTICIPANTS TO THE SPECIAL WORKING SESSION

The Berne resolution on the Special Working Session provides that, particular areas concerning the implementation of the Convention, could best be examined by technical experts in the fields of law enforcement, Customs control, zoology, botany, and the veterinary sciences. This resolution and the description of the objectives of the session, should guide participating States in the choice of representatives. The Special Working Session is an expert meeting and not of a decision-making nature.

In order to facilitate the organisation of the Special Working Session, it is necessary for the Secretariat to know by 31 May 1977 which States intend to participate. The Steering Committee and the Secretariat hope that a large number of States will show their interest in participating in the Special Working

Session and, consequently, begin appropriate preparations.

PROVISIONAL AGENDA OF THE SPECIAL WORKING SESSION

The following agenda shall be considered as provisional until such time as it is finalised by the Steering Committee. While it may be unusual that an agenda be fixed without discussion by the participants, the Steering Committee took this action for the following reasons:

The October 1977 session will be of considerable length;

It will be a meeting of specialists;

It will not be necessary for all specialists to be in attendance at all times; and

By establishing a firm agenda, specialists can pick and choose the sessions that are of interest to them, and can therefore plan their attendance appropriately.

All sessions will be plenary.

PROVISIONAL AGENDA

17–18.10.1977: Guidelines on preparation and shipment of live specimens of species listed in the appendices of the Convention.

19.10.1977: Morning: Exchange of museum specimens. Afternoon: Placing of confiscated live animals in rescue centres.

20, 21 and 24.10.1976: Training and identification of specimens.

25 to 27.10.1977: Analysis of Appendices I and II of the Convention: Fauna. If time permits, consideration of amendments to Appendix I or II.

28.10.1977: Analysis of Appendices I and II of the Convention: Flora. If time permits, consideration of amendments to Appendix I or II.

CRITERIA FOR THE ADDITION OF SPECIES AND OTHER TAXA TO APPENDICES I AND II AND FOR THE TRANSFER OF SPECIES AND OTHER TAXA FROM APPENDIX II TO APPENDIX I

THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION

Decided that in determining the appropriate appendix into which a species or other taxon should be placed the biological and trade status of the taxon should be evaluated together.

APPENDIX I

1. *Biological status.* To qualify for Appendix I, a species must be currently threatened with extinction. Information of any of the following types should be required, in order of preference: (a) scientific reports on the population size or geographic range of the species over a number of years, (b) scientific reports on the population size or geographic range of the species based on single surveys, (c) reports by reliable observers other than scientists on the population size or geographic range of the species over a number of years, or (d) reports from various sources on habitat destruction, heavy trade or other potential causes of extinction. Genera should be listed if most of their species are threatened with extinction and if identification of individual species within the genus is difficult. The same should apply to the listing of any smaller taxa within larger ones. If most of the smaller taxa are not threatened, but identification of individual species is difficult, the entire larger taxa should be placed on Appendix II. Taxa listed in Appendix I, because of difficulty in separating them from endangered forms within the same taxa, should be annotated as such in the appendix.

2. *Trade status.* Species meeting the biological criteria should be listed in Appendix I if they are or may be affected by international trade. This should include any species that might be expected to be traded for any purpose, scientific or otherwise. Particular attention should be given to any species for which such trade might, over a period of time, involve numbers of specimens constituting a significant portion of the total population size necessary for the continued survival of the species. The biological status and trade status of a species are obviously related. When biological data show a species to be declining seriously, there need be only a probability of trade. When trade is known to occur, information on the biological status need not be as complete. This principle especially applies to groups of related species, where trade can readily shift from one species that is well-known to another for which there is little biological information.

APPENDIX II

1. *Biological status.* To qualify for Appendix II, species need not currently be threatened with extinction, but there should be some indication that they might become so. Such an indication might be a decreasing or very limited population size or geographic range of distribution. Information on biological status should be one of the types required for Appendix I species. Genera should be listed if some of their species are threatened and identification of individual species within the genus is difficult. The same should apply to listing any smaller taxa within larger ones.

2. *Trade status.* Species meeting the biological criteria should be listed if they presently are subject to trade or are likely to become subject to trade. The latter situation can arise where heavy trade in one species is extended to include similar species if the demand grows or if supplies of the one species are depleted. The amount of trade that a species can sustain without threat of extinction generally will be greater for species in Appendix II than for those in Appendix I, so there should be evidence of actual or expected trade in such a volume as to constitute a potential threat to survival of the species. Appendix II serves in part as a monitoring tool (Article IV.3) to gather such trade data.

CRITERIA FOR THE DELETION OF SPECIES AND OTHER TAXA FROM APPENDICES I AND II

Considering that criteria for the addition of taxa to Appendix I or II and for the transfer of taxa from Appendix II to Appendix I have been adopted;

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Resolves that the deletion of a plant or animal taxon from Appendix I or II or the reduction of protection given to this taxon by transfer from Appendix I to Appendix II is a serious matter that should be approached with caution. This caution is required for the following reasons:

The addition to and deletion from the appendices to be different problems requiring different approaches by the Conference. If an error is made by the Conference by unnecessarily placing a plant or animal on an appendix, the result is the imposition of a documentation requirement. If however, it errs in prematurely removing a plant or animal from protection, or lowering the level of protection afforded, the result can be the permanent loss of the resources. If it errs it should be therefore toward protection of the resources.

Criteria for deletion or transfer from Appendix I to Appendix II, should require positive scientific evidence that the plant or animal can withstand the exploitation resulting from the removal of protection. This evidence must transcend informal or lay evidence of changing biological status and any evidence of commercial trade which may have been sufficient to require the animal or plant to be placed on an Appendix initially. Such evidence should include at least a well documented population survey, an indication of the population trend of the species, showing recovery sufficient to justify deletion, and an analysis of the potential for commercial trade in the species or population.

In addition to the need for sufficient evidence prior to any action by the Conference to reduce protection for plants or animals presently listed, it is advisable to contact the country or countries or origin prior to this action. Many of the species or taxa on the present lists were placed there at the request of countries which may not be represented at the Conference. The information from countries of origin and from the Secretariat should be made available to the Parties for examination in a written form prior to action by the Conference.

Considering further that some species or taxa of plants and animals may be incorrectly placed on the present appendices, and that there are, fundamental practical problems of implementation of the present lists,

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Resolves that the appendices should be examined in their entirety, species by species, by a technical conference that could be held in the near future or by some other means.

RECOMMENDATIONS FOR IMPROVING THE EFFECTIVENESS OF THE CONVENTION

EXCHANGE OF HERBARIUM SPECIMENS

1. This working document, presented by the United Kingdom of Great Britain and Northern Ireland, aims to agree to

an international procedure in exempting herbarium specimens from the requirements of the Convention.

2. Paragraph 6 of Article VII of the Convention provides that the provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.

3. The United Kingdom expected the amount of exchange in most types of specimens to be very small and we proposed to issue licenses where appropriate. But the amount of exchange in herbarium specimens normally sent by post, is large and although already exempted from licensing in the UK, an internationally agreed exemption system would facilitate such exchanges.

4. We suggest that the best way would be to use existing Customs declaration forms (UK specimen attached as annex to the present document). The exporter would write on it in manuscript "CITES" (the acronym for the Convention), a description such as "herbarium specimens" and the code letter for his institution. Suitable code letters for all recognised botanical institutions in the world are already available in pages 303–354 of the 6th edition of the "Index Herbariorum" published by Costhoek, Scheltema and Holkema, Emmalaan 27, Utrecht, Netherlands in 1974 for the International Bureau for Plant Taxonomy and Nomenclature.

5. UK Customs and Post Office see no obvious objections to this idea, and Customs would be prepared to recognise such a label in place of an import or export license. But the exemption could not of course be operated unless there were general agreement among Parties. If Parties agree, the procedure outlined could be adopted.

Recommendations for Improving the Effectiveness of the Convention

The control of "readily recognisable parts and derivatives"

1. This working document, presented by the United Kingdom of Great Britain and Northern Ireland, aims to exchange information and ideas about readily recognisable parts and derivatives, with a view to greater consistency among Parties.

2. The Convention provides for the regulation of trade in whole living and dead animals and plants listed in Appendices I and II and their readily recognisable parts and derivatives. It was realized at the outset that determining which parts and derivatives were to be controlled would be a major problem in implementing the Convention; such has been the case in practice both in the United Kingdom and, so we understand, in other Party States.

3. The United Kingdom's approach to this problem, to date, can be broken down into a number of distinct steps, comprising:

(i) *Determination of which parts and derivatives of Convention species are readily recognisable.* A list was initially produced with the aid of scientific advice, of the parts and derivatives of Convention species which could be recognised by Customs Officers in the course of their normal control of imported goods, and which were either in trade or might enter into trade in the United Kingdom.

(ii) *Extension of controls to recognisable groups.* In certain cases the parts and derivatives of particular species could not be readily distinguished from those of othe species which are not in the Convention, but it was felt necessary to control the parts and derivatives of the endangered species. This was achieved by extending the controls to parts and derivatives of a group of species or to a group of products, including those in the group which are not in the Convention. Consequently all reptile skins, all spotted cat skins and spotted skins of certain other animals, all ivory (including tusks of the African elephant and of other animals and the teeth of all animals) and all tortoise shell is subject to a licensing requirement in the United Kingdom. The groups controlled have so far been based on the United Kingdom Customs Tariff headings, under the internationally agreed Brussels nomenclature, which are already familiar to Customs Officers and to traders. Applications for licenses for Appendices I and II species are considered according to the rules of the Convention, but licenses for all non-Convention species are granted readily. All applications for licenses are carefully checked and there is, of course, a back-up sampling and identification service available both to Customs and Excise and the Management Authorities.

(iii) *Concentration on major products.* The United Kingdom has adopted a policy of controlling only the major products of the species concerned, for which the animal would be killed, and not its by-products. This is because trade restrictions on major products would almost certainly make any trade in a by-product alone uneconomic. (If trade in ivory from the Indian elephant, for example, were banned, the species is unlikely to be hunted solely to produce umbrella stands from elephants' feet).

(iv) *Identification at species level.* The last step in finalising the United Kingdom controls was to ensure that where identification at species level is essential—for example to enforce the different Convention rules for Appendices I and II reptile skins—controls were only introduced in cases where an expert could make the necessary identification. Consequently the United Kingdom controls on reptile skins apply to all skins (whether fresh, salted, dried, pickled or limed), whether or not split, and all reptile leather, but they do not at present cover manufactured reptile products, which give rise to serious identification problems. To date, therefore, the United Kingdom has only restricted trade in a few manufactured goods, notably those from spotted-cat skins. We are, however, seriously considering extending these controls (and indeed those on primary products) wherever possible.

(v) *Goods marketed as derivatives of endangered species.* In certain cases where recognition at the point of importation present difficulties, the fact that goods intended for the retail market in the importing country are likely to be labelled and marketed as derivatives of endangered species may assist in their control. This arises in the case of some luxury items where the trade stands to gain substantially by disclosing the contents of the goods or where advertising the derivation of the products is necessary to make such trade economic. Control in such cases is facilitated by a Trade Descriptions Act in the United Kingdom which makes it an offence for traders to make false representations about goods on sale. These factors together may make it possible to exercise controls in cases where the criteria in the preceeding paragraphs do not necessarily apply. The prime example of this can be seen in the case of cloth containing at least some vicuna yarn. Although the percentage content of vicuna in a particular bale of cloth may be so low as to make its detection even by laboratory analysis extremely difficult, enforcement is assisted if the vendor calls the cloth "Vicuna." However, this aspect of control has its limitations. As with most new regulations, it may be difficult to establish whether the goods were imported before or after the restrictions came into force unless a check is first made on existing stocks and, of course, goods imported illegally could always be sold clandestinely to known customers.

U.S. Response

The United States accepted the invitation to attend the Special Working Session, and sent the following material to the Secretariat. This material does not represent the final positions that the United States will take at the session. Rather, it is information for the Secretariat to transmit to other parties in order that they might prepare for the session.

Programs, Materials, and Aids Used in Training Inspection Officers to Identify Wildlife

The first of a number of acts and treaties now enforced by the U.S. Fish and Wildlife Service addressing importations of wildlife was the Lacey Act which was enacted in 1900. The Lacey Act sought to control movement in interstate commerce of wildlife taken, transported, or sold in violation of State or Federal law. Later amendments further restricted the importation of wildlife from foreign countries when foreign law was violated. The first wildlife treaty between the United States and a foreign country was a bilateral treaty between the United States and Great Britain signing for Canada, to provide protection for migratory birds. This treaty was ratified in 1916 and implementing legislation was passed in 1918.

In the ensuing years, additional treaties have been negotiated, new laws enacted, regulations propagated, and present acts amended to further increase our international involvement.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora is one of several international treaties involving the United States that are designed to protect wildlife. With the ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the passage of implementing legislation in the form of the Endangered Species Act of 1973, it was only natural that the Law Enforcement Division of the U.S. Fish and Wildlife Service be given primary enforcement responsibility for this legislation. The U.S. Fish and Wildlife Service, however, shares jurisdiction in the enforcement of this and other wildlife laws with several nonwildlife oriented law enforcement agencies within the United States. The principal agencies include: the U.S. Customs Service under the Department of the Treasury, the U.S. Department of Agriculture, and the U.S. Coast Guard.

A large percentage of the Agents and Inspectors of the U.S. Fish and Wildlife Service possess degrees in wildlife science, zoology, biology, or botany, while officers in those agencies such as the U.S. Coast Guard or Customs generally lack applied science credentials or background in these areas. Therefore, the U.S. Fish and Wildlife Service has developed a broad training program designed to provide a basic understanding of wildlife and wildlife identification to officers who have a biological background as well as to those officers who have no previous wildlife training.

The following is a summary of the various types of training provided to United States law enforcement officers in the field of wildlife law enforcement, particularly in the area of endangered species identification. It should be recognized at this point that endangered species training has not reached the level of sophistication which other training areas have, such as migratory bird identification, because of the relatively short period of time in which this country has been dealing in the area of endangered species.

Training provided to wildlife officers

The U.S. Fish and Wildlife Service currently employs several categories of either full-time or part-time law enforcement officers. These generally include Special Agents who are full-time criminal investigators employed by the Division of Law Enforcement, U.S. Fish and Wildlife Service, and are the most highly trained Federal wildlife law enforcement officers in the United States. Each Special Agent receives a 7-week training course in criminal investigation at the Federal Law Enforcement Training Center operated by the Department of the Treasury. In addition, each Special Agent must complete a 5-week Special Agent Basic Course provided by the U.S. Fish and Wildlife Service. During this basic course, the Special Agent is trained in all laws and regulations for which he is granted enforcement authority. Included in this training are detailed studies in the mechanisms of the Endangered Species Act of 1973, and a course in the identification of those endangered species most commonly encountered by law enforcement officers. This course includes training in the identification of the various cat skins, crocodilian skins, ivory and ivory products, the more common primates, and sea turtles and their respective products. The fundamental training aids used in this course consist of the actual endangered species products which have been seized and forfeited to the United States Government. Then, following Special Agent Basic School, each new Special Agent is assigned to a training station for 12 to 18 months of intensive on-the-job training. During this on-the-job training program, further emphasis is placed upon the identification of the more commonly encountered endangered species and endangered species products. This training is conducted by senior officers using the actual endangered species and endangered species products encountered in day-to-day law enforcement operations. This way, each Special Agent becomes more familiar with the methods of identifying those endangered species products which he is most likely to encounter during normal operations. For Special Agents who have completed on-the-job training and who are considered fully qualified law enforcement officers, periodic in-service training is conducted. A part of this training includes refresher courses in the identification of the more commonly encountered endangered species and their products. In addition, as new methods and techniques of identification are developed, these techniques are disseminated to all Special Agents through a Law Enforcement memorandum.

The next category of law enforcement officers within the U.S. Fish and Wildlife Service is that of the Wildlife Inspector. These officers are assigned to Customs ports of entry and have the primary task of inspecting and clearing wildlife shipments which are presented for importation or exportation. These officers are not generally granted authority to make arrests and therefore, do not receive the intensive law enforcement training which is received by Special Agents. However, they do attend a Wildlife Inspector training course and are familiarized with all U.S. laws restricting the importation or exportation of wildlife. As part of their training, they receive the same course in endangered species identification as that received by Special Agents. They also have intensive on-the-job training in the identification of endangered species and endangered species products. As with Special Agents, Wildlife Inspectors soon become able to identify between 75 and 90 percent of the endangered species and endangered species products which they encounter in their day-to-day operation.

The third category of law enforcement officers employed by the U.S. Fish and Wildlife Service includes all other employees of the Service to whom law enforcement authority is granted. These officers go by several titles, but are distinguished from Special Agents and Wildlife Inspectors by the fact that law enforcement is not their primary function. Law enforcement is considered a secondary activity in which they may engage in strictly on an opportunistic basis. These officers attend 3 weeks of intensive law enforcement training, which provides a basic background adequate for the performance of their law enforcement duties. Part of this training includes a basic course in endangered species identification. However, because these officers do not normally encounter endangered species or their products in their daily operation, they are instructed to contact the nearest Special Agent if any suspected endangered species violation is observed.

Officers employed by other Federal agencies

Several Federal agencies, other than the U.S. Fish and Wildlife Service, also have authority to enforce the Endangered Species Act. These include the U.S. Customs Service, U.S. Department of Agriculture, the U.S. Coast Guard, and the National Marine Fisheries Service. In addition to these agencies, officers of the U.S. Public Health Service and the U.S. Postal Service may also encounter situations involving violations of the Endangered Species Act. Rarely do some of these officers have any wildlife or biological background and only occasionally have these officers received any formal training in wildlife identification. Therefore, in cooperation with these agencies, the U.S. Fish and Wildlife Service has developed several types of training programs to assist these officers in recognizing and identifying endangered species and their products. When the opportunity arises, the U.S. Fish and Wildlife Service provides formal training in the prohibitions of the Endangered Species Act as well as endangered species identification to officers of these agencies. Such training is roughly equivalent to that given to the part-time law enforcement officers employed by the Service. This includes a general orientation to the laws and a basic course in identification. These officers do not have the time to devote to achieving and maintaining proficiency in wildlife identification; therefore, the goal of the Service is to acquaint them with general categories of wildlife which might be seen so that they may alert Special Agents or Wildlife Inspectors of the U.S. Fish and Wildlife Service if suspicious importations or exportations are encountered. For those officers who do not receive formal training in identification of wildlife, Service law enforcement officers provide informal on-the-job identification training at every opportunity. Generally, these sessions occur whenever a wildlife shipment containing an endangered species is encountered. Much of this training is based on a one-to-one

relationship developed between the Service officers and the officer of the nonwildlife agency. The effectiveness of such training is largely dependent upon the interest which can be instilled in the officer toward protecting the wildlife resource. Such interest is often directly related to the ability of the Service to respond to requests for assistance by other law enforcement agencies.

OTHER IDENTIFICATION/TRAINING METHODS AND PROGRAMS

In addition to the training programs described above, the U.S. Fish and Wildlife Service maintains a list of wildlife experts who may be called upon to provide identification services and, if necessary, testimony in those cases which are beyond the normal capability of the law enforcement officer. In many cases, this service is provided without charge by these experts in the interest of the wildlife resource. This list of experts includes curators of United States zoos, scientists employed by the Service and other Government agencies, and experts employed by private institutions. In addition, the Service is currently studying the possibility of establishing a forensic laboratory for the identification and analysis of wildlife and wildlife products. In the past, many of these experts have provided training in their field of expertise to law enforcement officers of the U.S. Fish and Wildlife Service. The Service has also on occasion provided training in endangered species identification to officers of several State wildlife law enforcement agencies. Generally, this training is based upon that training which is given to Service officers and is modified only to the extent needed to fulfill the requirements of the State agency.

SUMMARY

In summary, the U.S. Fish and Wildlife Service has developed several training programs for the identification of endangered species and endangered species products. These programs are tailored to meet the individual requirements of the law enforcement officers to whom they are given. However, much additional work needs to be done by the Service before its endangered species identification training reaches the level of competence which is achieved by the training it provides in other forms of wildlife identification. The biggest problem in achieving this level of competence involves the diversity of species covered by the Endangered Species Convention. However, if training is focused on those species having the greatest potential for commercial use, such problems could largely be overcome.

The U.S. Fish and Wildlife Service is presently compiling an inventory of forfeited wildlife products that may soon be made available to party countries for use as training or identification aids. The inventory includes such items as raw and finished products of ivory-bearing species, crocodiles, polar bears, a wide assortment of endangered Felidae, and sea turtles.

If a party country desires wildlife products in the aforementioned categories for use as training aids, please contact Chief, Division of Law Enforcement, P.O. Box 19183, U.S. Fish and Wildlife Service, Washington, D.C. 20036.

MANUALS, SAMPLES, AND OTHER MATERIALS USED BY INSPECTION OFFICERS TO IDENTIFY WILDLIFE

The Fish and Wildlife Service uses samples of material from wildlife as an identification aid (see the accompanying report on training of inspection officers). It also maintains a list of experts who may be called on to assist in identifying wildlife products. The list includes curators of United States zoos, scientists employed by the Service and other Government agencies, and experts employed by private institutions.

Law enforcement officers of the Service have various reference books at each port of entry to help them identify wildlife. However, the Service has no standard identification manual that can be used in enforcing the Convention.

GUIDELINES FOR THE PREPARATION AND SHIPMENT OF LIVE SPECIMENS

The United States presently has no detailed, comprehensive standards or regulations for the preparation and shipment of live wildlife or plants, which are intended to minimize the risk of injury, damage to health or cruel treatment. In this country, the legal basis for Federal regulation of animal care is the Act of August 23, 1966 (Pub. L. 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Animal Welfare Act of 1970 (Pub. L. 91-579). (Copies of this legislation and its implementing regulations were attached. They are omitted in this reprinting of the material.)

The preparation of animals for shipment by zoos and wildlife dealers in this country is often guided by the standards of the International Air Transport Association. These standards do not have Federal endorsement and are strictly nongovernmental. However, they are the most detailed and specific guidelines available in the U.S.

The Fish and Wildlife Service recently held a public hearing on the subject of humane transport, and is reviewing the comments that were received. Several Federal agencies are concerned with the shipment of wildlife, but have not yet developed regulations to provide adequate guidelines.

The shipment of live plants is regulated by the U.S. Department of Agriculture. The primary goal of this regulation is to control the spread of plant pests and diseases. Consequently, any preparation that will minimize the risk of injury, damage to health or cruel treatment (if indeed the latter applies to plants) must be given secondary consideration. There are no Federal regulations that establish guidelines for humane transport of plants.

The Fish and Wildlife Service plans to assemble and present some detailed recommendations at the Special Working Session.

SPECIES IN APPENDICES I AND II THAT THE UNITED STATES WISHES TO CONSIDER FOR MOVEMENT TO A DIFFERENT APPENDIX

ANIMALS	
Mammals:	*Change recommended*
Mandrill (*Papio sphinx*)	From II to I.
Diana monkey (*Cercopithecus diana*)	Do.
Yellow-tailed wooley monkey (*Lagothrix flavicauda*)	Do.
Red-eared nose-spotted monkey (*Cercopithecus erythrotis*)	Do.
Fishes:	
Colorado squawfish (*Ptychocheilus lucius*)	Do.
Lake sturgeon (*Acipenser fulvescens*)	Do.
PLANTS	
Cactaceae	From II to I.
Ariocarpus agavoides	Do.
Ariocarpus scaphorostrus	Do.
Obregonia denegrii	Do.
Pelecyphora aselligormis	Do.
Aztekium ritteri	Do.
Echinocereus lindsayi	Do.
Lophophora williamsii	Do.
Encephalocarpus strobiliformis	Do.

REQUEST FOR INFORMATION

The Service is seeking information on each of the objectives of the session, in order to contribute effectively to the implementation of the Convention. Practical suggestions concerning the procedural issues and data on the biological and commercial status of species in the appendices are especially welcomed, and should be submitted in writing to the Federal Wildlife Permit Office by August 31, 1977.

An informal public meeting to exchange information and ideas concerning the session will be held at 9 a.m. on August 12, 1977, in Room 150, 1717 H Street NW., Washington, D.C.

Please note that the session is intended to be a meeting of experts in the fields of law enforcement, customs control, zoology, botany, and veterinary sciences. It is open to countries that are not parties to the Convention and to nongovernmental organizations. Organizations wishing to send observers should send requests to: The Secretariat, Convention on International Trade in Endangered Species of Wild Fauna and Flora, IUCN, 1110 Morges, Switzerland. A copy of each request should be sent to the Federal Wildlife Permit Office (see address above).

This notice was prepared by Dr. Richard L. Jachowski of the Federal Wildlife Permit Office.

Dated: August 4, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-23028 Filed 8-9-77;8:45 am]

[50 CFR Part 32]

HUNTING

Arapaho National Wildlife Refuge, Colo.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that it is proposed to add Arapaho National Wildlife Refuge, Colo., to the lists of refuge areas open for the hunting of migratory game birds, upland game, and big game. The Director has determined that a harvestable surplus of game exists, that there is public demand for additional recreational opportunity, and that this action is compatible with the major purposes for which this refuge was established. The proposed hunting program will provide for the harvest of a renewable resource and for additional public recreational opportunity.

DATES: Comments must be received on or before September 15, 1977.

ADDRESS: Comments may be addressed to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ralph H. Town is also the primary author of this proposed rule. Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared on the proposal, which is available for public inspection and copying at Room 2340, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address given above. On the basis of this assessment, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

NOTE.—The U.S. Fish and Wildlife Service has also determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, it is proposed to amend 50 CFR 32 by the addition of Arapaho National Wildlife to the following Sections:

§ 32.11 List of open areas: migratory game birds.

COLORADO

Arapaho National Wildlife Refuge.

§ 32.21 List of open areas: upland game.

COLORADO

Arapaho National Wildlife Refuge.

§ 32.31 List of open areas: big game.

COLORADO

Arapaho National Wildlife Refuge.

Dated: August 5, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-23027 Filed 8-9-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Correction in the Room Number for the Nitrites and Nirtosamines Meeting

Correction

In FR Doc. 77-22831 appearing on page 40007 in the issue for Monday, August 8, 1977, in the address in the second paragraph, 18th and Independence Avenue SW" should read "12th and Independence Avenue SW".

Forest Service

COUGAR LAKE WILDERNESS STUDY REPORT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Cougar Lakes Wilderness Study Report, USDA-FS-DES (Adm) 77-04.

The environmental statement concerns a proposal for the future management of the Cougar Lakes Wilderness Study Area comprised of approximately 176,800 acres within the Gifford Pinchot and Snoqualmie National Forests in the counties of Lewis and Yakima in the State of Washington.

This draft environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.

Wenatchee National Forest, P.O. Box 811, Wenatchee, Wash. 98801.

Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Mount Baker-Snoqualmie National Forest, 1601 Second Avenue Building, Seattle, Wash. 98101.

A limited number of single copies are available upon request to John L. Rogers, Forest Supervisor, Wenatchee National Forest, P.O. Box 811, Wenatchee, Wash. 98801.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to John L. Rogers, Forest Supervisor, Wenatchee National Forest, P.O. Box 811, Wenatchee, Wash. 98801. Comments must be received by December 2, 1977, in order to be considered in the preparation of the final environamental statement.

EINAR L. ROGET,
Acting Deputy Chief.

AUGUST 4, 1977.

[FR Doc.77-23100 Filed 8-9-77;8:45 am]

PROPOSED RECONSTRUCTION OF THE BIG CREEK DAM IN THE SELWAY-BITTERROOT WILDERNESS WITH PROVISIONS FOR THE USE OF MOTORIZED EQUIPMENT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Proposed Reconstruction of the Big Creek Dam in the Selway-Bitterroot Wilderness with Provisions for the Use of Motorized Equipment, Forest Service Report Number USDA-FS-R1(03)-FES-Adm-77-02.

The environmental statement concerns the proposed reconstruction of the existing Big Creek Dam located at the outlet of Big Creek Lakes in the Selway-Bitterroot Wilderness, Mont.

This final environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, DC. 20013.

USDA Forest Service, Northern Region, Federal Building, Missoula, Mont. 59807.

USDA Forrest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, Mont. 59840.

A limited number of single copies are available upon request to:

USDA Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, Mont. 59840.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

AUGUST 4, 1977.

ELMER L. ROGET,
Acting Deputy Chief.

[FR Doc.77-23101 Filed 8-9-77;8:45 am]

SILVIES-MALHEUR PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Draft Environmental Statement for the Silvies-Malheur Planning Unit Land Management Plant, USDA-FS-R6-DES(Adm)-77-6.

The environmental statement concerns a proposal to allocate some 956,850 acres of National Forest land in the Upper Malheur and Silvies River Basin to a pattern of land uses as follows:

It is proposed to establish two unroaded management units—Malheur River and the North Fork of the Malheur River (1 percent of the Planning Unit). Ten areas are proposed for resource production with fish and wildlife habitat emphasis (11 percent of the Planning Unit). All existing and two potential developed recreation sites, plus four potential impoundment sites will be maintained in their present state. The Stink Creek (Proposed) Research Natural Area will be maintained and protected until final designation. Visual quality will be managed over the entire Unit. Sensitivity Level One areas, however, are singled out because they have the greatest impact on outputs of the other resources (7 percent of the Planning Unit is in resource management with emphasis on visual quality). The majority of the Unit will be managed for optimum resource management with emphasis on timber and range under multiple use-sustained yield principles (81 percent of Planning Unit).

The final decision of the Monument Rock Unit will be delayed until the planning is completed on the Burnt-Powder Planning Unit of the Wallowa-Whitman National Forest.

The Draft Environmental Statement was transmitted to CEQ on August 3, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue, S.W., Washington, D.C. 20250.

USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oregon 97204.

USDA, Forest Service, Malheur National Forest, 139 N.E. Dayton Street, John Day, Oregon 97845.

USDA, Forest Service, Ochoco National Forest Federal Building, Prineville, Oregon 97754.

USDA, Forest Service, Wallowa-Whitman National Forest, Federal Building, Baker, Oregon 97814.

A limited number of single copies is available upon request to Forest Supervisor Dan E. Williams, Malheur National Forest, 139 N.E. Dayton Street, John Day, Oregon 97845.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from the State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Dan E. Williams, Malheur National Forest, 139 N.E. Dayton Street, John Day, Oregon 97845. Comments must be received by October 3, 1977, in order to be considered in the preparation of the Final Environmental Statement.

CURTIS L. SWANSON,
Regional Environmental Coordinator Planning, Programing and Budgeting.

AUGUST 3, 1977.

[FR Doc.77-22986 Filed 8-9-77;8:45 am]

Office of the Secretary

COOPERATIVE FORESTRY RESEARCH ADVISORY COMMITTEE COOPERATIVE FORESTRY RESEARCH-ADVISORY BOARD

Intent To Re-establish and Provisional Notice of Meeting

Notice is hereby given that the Secretary of Agriculture proposes to re-establish the Cooperative Forestry Research Advisory Committee (Committee) for the purpose of advising the Secretary and other officials on all aspects of the administration of the Cooperative Forestry Research Program (also known as the McIntire-Stennis Program) established by Pub. L. 87-788. The Secretary has determined that re-establishment of this Committee is in the public interest in connection with the duties imposed on the Department by Law.

The Chairman of this Committee will be the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture.

This Committee will report directly to the Secretary. The Committee will meet annually at the call of the Chairman and will terminate two years from the date of its establishment.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92-463). Views and comments of interested persons shall be made in writing and must be received by the Assistant Secretary for Conservation, Research and Education, USDA, Room 212-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before August 22, 1977, to be certain of consideration.

All written submissions made pursuant to this notice will be available for public inspection at the Office of the Assistant Secretary for Conservation, Research and Education during regular business hours (7 CFR 1.27(b)).

If the Committee is established and a charter timely filed, the Cooperative Forestry Research Advisory Board (Board) and the Committee will meet August 24-26, 1977, in Orono, Maine, beginning at 8:30 a.m., Nutting Hall, University of Maine.

The meetings are open to the public and will be held in Nutting Hall on August 24 and 26. A field trip is scheduled for August 25. The Board, meeting separately in Room 203, will consider recommenations for the allocation of research funds.

The Committee, meeting in Room 204, will evaluate forestry research requirements and make suggestions for cooperative research activities.

In joint session, in Room 204, the Board and Committee will review McIntire-Stennis research accomplishments and evaluate progress in planning systems to achieve coordinated, comprehensive forestry research programs.

The names of Board and Committee members and agenda are available upon request to the recording secretary of the Board, R. J. Aldrich, USDA, CSRS, Washington, D.C., 20250, or the recording secretary of the Committee, J. D. Sullivan, CSRS, Washington, D.C., 20250. Written statements may be filed with the Committee before or after the meeting.

Dated: August 5, 1977.

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

[FR Doc.77-23117 Filed 8-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 30499, 30494 and 30696]

AMERICAN AIRLINES, INC.; ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., August 4, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-23077 Filed 8-9-77;8:45 am]

[Docket Nos. 30277; 31012; 29911; 30407; 30443; Order No. 77-8-10]

ALLEGHENY AIRLINES, INC., ET AL.

Chicago-Midway Low-Fare Route Proceeding; Order on Reconsideration

AUGUST 2, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2nd day of August, 1977

The Chicago-Midway Low-Fare Route Proceeding was instituted by Order 76-12-149, December 28, 1976, and its scope was framed, after comments were received from interested persons, by Order 77-5-81, May 17, 1977. Our principal rulings in the latter order were: (1) That only the six largest Midway markets would be in issue;[1] (2) that additional authority at O'Hare Airport would not be considered; (3) that the proceeding would not exclude applicants who did not propose low-fare service; (4) that the impact of granting any low-fare applications upon the standards and structure of the Domestic Passenger Fare Investigation (DPFI) should be explored, even though the *DPFI* would not itself be relitigated; and (5) that no procedural deadlines would be imposed though the case should be conducted as expeditiously as possible.

Petitions for reconsideration of several of these rulings have been filed by Midway Airlines, Midway (Southwest) Airway Co., Wright Air Lines, United Air Lines, the United States Department of Transportation (DOT), the City of Chicago and the Chicago Association of Commerce and Industry, the Louisville and Jefferson County Air Board, and the Iowa Department of Transportation. Answers to one or more of these pleadings were submitted by American Airlines, Trans World Airlines, Midway (Southwest) and the Cincinnati Parties. Finally, Allegheny Airlines has filed an application and motion to consolidate, which has been answered by Midway (Southwest) and North Central Airlines.

[1] The 15 markets proposed for inclusion were, in order of decreasing size, Minneapolis-St. Paul, Detroit, St. Louis, Cleveland, Kansas City, Pittsburgh, Cincinnati, Columbus, Indianapolis, Memphis, Des Moines, Louisville, Omaha, Dayton and Buffalo.

The Louisville and Iowa petitions were accompanied by motions for leave to file late. Good cause having been shown, these motions are granted.

[2] Allegheny requests nonstop authority in the five largest Midway markets in which authority is not now held. The carrier had previously applied in this case under the name of a subsidiary, Chicago Airlines. This new application is discussed below.

SUMMARY OF PETITIONS AND ANSWERS

1. DPFI ISSUES

Midway Airlines, Midway (Southwest) and DOT again contend that DPFI issues should be excluded from this proceeding. They argue that the case has become much more complicated than it need be and that expeditious processing will be impossible if the parties must explore all the DPFI ramifications. Midway (Southwest) and DOT recommend that DPFI issues simply be eliminated as not relevant Midway suggests that the fare proposals can be implemented through exemptions from DPFI requirements. In their answers, American and TWA maintain that rate issues play a crucial role in the case and must be aired thoroughly.

2. NUMBER OF MARKETS

Our determination to limit the case to the six largest Chicago markets is challenged by Midway (Southwest), Wright, Louisville and Iowa. Midway (Southwest) contends that the potential number of single plane markets was vastly overestimated in our prior order and that, as a practical matter, a maximum of 65 markets will need to be analyzed. The proponents of market expansion argue that the smaller Midway markets are the most in need of additional service and are underdeveloped; therefore, they reason, that the smaller markets will grow much more dramatically under the stimulus of new, low-fare service. This contention is supported by Cincinnati in its answer but opposed by American and TWA, who see the limitation to six markets as reasonable.

3. PROCEDURES

Midway, Midway (Southwest) and DOT want the Board to set firm dates for the issuance of the initial decision and the Board's final decision. They see no reason why the case cannot be completed within one year; they urge the Board to signify its concurrence by publishing projected dates. Chicago also advocates expedition but would omit the initial decision and have the administrative law judge certify the record to the Board pursuant to Rule 22(d) of the Rules of Practice. Because of the uncertain future of Midway Airport, Chicago states that it is necessary to know the Board's decision in this case by mid-1978. Chicago's petition is opposed by TWA.

4. CONSOLIDATION

Midway (Southwest) and DOT oppose consolidation of applications that are not predicated upon low-fare service. The consolidation of competing applications lacking this feature they view as unnecessary and as contributing importantly to delay and complexity.[4]

DISPOSITION OF THE PETITIONS

The Board has carefully evaluated the petitions for reconsideration and the premises of Order 77-5-81. It has become clear that, despite our intentions, this case would be far too protracted, and the evidentiary record would be far more extensive than necessary, unless it is restructured substantially; this can and must be done without compromising the Board's ability to reach a final decision on the record. We have also determined that the public interest requires a prompt disposition of this proceeding; we therefore commit ourselves to reaching a decision within 12 months.

This proceeding is unique for several reasons. First, the Board is under a statutory mandate to develop "as promptly as possible" the use of Midway Airport in order to relieve air traffic congestion at O'Hare Airport.[5] Second, the City of Chicago is facing a deadline on its decision whether to renew its lease for Midway Airport. Third, this case involves applications for new and innovative low-price services which call for prompt attention. Fourth, the case involves, in part applications for initial licenses by new airlines. Finally, it raises the possibility of substantial shifts of intercity traffic from surface to air.

In order to achieve the required degree of expedition, we have made three major decisions. First, we have decided to exclude consideration of the DPFI from the case. While we reject the arguments of some parties that the DPFI is irrelevant, we do believe that an alternative approach is available to deal with rates issues. Second, we will not expand the number of markets to be considered. Third, we have determined that the record will be certified directly to the Board at the end of the hearing, bypassing an initial decision.

1. CONSIDERATION OF THE DPFI

Contrary to the contentions of Midway, Midway (Southwest) and the DOT, the relationship between the various low-fare proposals in this investigation and the DPFI cannot be ignored. The institution of the proposed services will undoubtedly have ratemaking implications not only in these markets but in other markets as well, and may ultimately require some modification of our DPFI ratemaking standards and policies. Since our objective in order 77-5-81 was to strike a reasonable balance between the need to expedite this case and the need to obtain a fully developed record, we decided to limit the rate issues to an examination of the implications for the DPFI of the rate issues raised here, as opposed to a relitigation of our DPFI findings.

However, we are sympathetic to the argument that even consideration of these DPFI-related issues would complicate this route proceeding and delay its completion. As we announced in our order approving TWA's new low-fare service, "Super Coach,"[6] we intend to institute a rulemaking proceeding in which we will explore the relationship between the DPFI and low-fare services. The same DPFI-related questions in issue in this case will be examined in the rulemaking proceeding, so it will no longer be necessary to consider these issues here. Therefore, we are severing the DPFI-related issues from this case, including all issues under sections 404 and 1002 of the Act. We expect the rulemaking to move forward rapidly, and to be completed in advance of any decision in this case.[7]

2. NUMBER OF MARKETS

There is a clear trade-off between the number of markets included in the case and the amount of resources necessary to process it in 12 months. We have determined that the public benefits of adding additional markets are not as great as the public benefits of reaching an early decision. The Board could not process the proposals for 15 direct markets within a one-year time period without committing practically all of its most experienced staff to the Midway proceeding, which would substantially delay other route cases. On the other hand, if we were to commit to this case only the resources we could spare without seriously interfering with our other responsibilities, the case could not be completed within anything close to 12 months if all the markets were included.

In making the very difficult decision to limit the number of markets, we considered the fact that once the very fundamental issues involved are litigated in this case, subsequent low-fare cases, if any, both in Chicago markets and throughout the rest of the country, should be much less complicated to process. Our speedy resolution of these issues should have benefits extending far beyond the Midwest region. Thus we find that it is in the national interest to process this case promptly; accordingly, the scope must continue to be limited to six markets.

3. PROCEDURES

After careful consideration, we have determined that the most effective way to reach an early decision in this case is to have the record directly certified by the administrative law judge to the Board following the hearing, under section 302.29 of the Board's Procedural Regulations. In this way, we will be able to issue a tentative decision within 12 months. A notice setting a date for prehearing conference will be issued promptly and the staff's proposed statement of issues and requests for evidence will be revised and recirculated.

4. CONSOLIDATION

In Order 77-5-81, at 8, we said that "as a matter of discretion the Board has determined to grant consolidation of all competing applications and not limit the scope of the proceeding by imposing a pretrial low-fare restriction." DOT and Midway (Southwest) have asked us to reverse that ruling, claiming that consolidation is not legally required and will contribute to delay and complexity. We disagree and will deny these requests.

Although this will be a leading case in determining whether new entry should be granted on the basis of offers of lower fares, it is also concerned with the revitalization of Midway Airport. The Board wishes to hear the applications of all carriers willing to provide service at Midway, even at existing fare levels. This proceeding is an appropriate forum in which to do so. We wish to do so, also, in order to avoid the possibility of judicial challenge on the ground that certificating one or more new low-fare carriers would economically preclude the grant of future applications proposing normal fare service. Consolidation may make the proceeding more complex; but it need not cause untoward delay, if all the applicants and intervenors adhere to the principles set forth at pages 8 and 9 of Order 77-5-81.

Turning to Allegheny's motion to consolidate its application in Docket 31012, we are concerned that Allegheny did not offer to withdraw the application of Chicago Airlines in Docket 30407 contingent upon consolidation of its application in Docket 31012. If we accept Allegheny's explanation that it believed the case would be limited to low-fare applications, granting the motion would place the carrier in a position of competing against its wholly-owned subsidiary, Chicago Airlines, for new authority. It would also, we believe, afford Allegheny an advantage over all other applicants. Finally, allowing this kind of multiple pleading would contravene proper administrative practice. We have, therefore, decided to grant consolidation of the application in Docket 31012 and to dismiss the one in Docket 30407. Should Allegheny object to this disposition, it may file a petition for reconsideration under Rule 37. The petition must contain a complete justification, with administrative and judicial citation, if Allegheny wishes to prosecute both applications.

SUMMARY OF THE SCOPE

In order to avoid confusion at subsequent stages of this proceeding, we summarize in this section the operative rulings in this order and in Order 77-5-81.

The primary issue is whether the public convenience and necessity require the certification of an additional carrier or carriers to provide nonstop service between the terminal point Chicago (Midway Airport), on the one hand, and the coterminal points Cleveland, Detroit, Kansas City, Minneapolis St. Paul, Pittsburgh, and or St. Louis, on the other hand. If so, which applicant or applicants should be selected, what should be the duration of the authority, and what terms, conditions, and limitations, if any, should be attached to the authority. The issues include whether a term or condition should be placed in any certificate awarded to a carrier selected on the basis of its offer of lower fares assuring that lower fares will in fact be provided. We wish to consider also whether whatever authority we confer ought to be permissive and whether authority ought to be awarded to more than one applicant in any market.

Any authority granted shall be ineligible for federal subsidy.

New authority at Chicago's O'Hare International Airport shall not be in issue.

Mandatory joint fares (DPFI–Phase 4) between the points in issue and any other certificated point shall not be considered. There is no pretrial restriction precluding an applicant from offering through fares over Midway Airport which are less than the sum of the local fares. (E.g., if Pittsburgh-Midway-St. Louis service is proposed, either single plane or on-line connecting, a through fare lower than the sum of the Pittsburgh-Midway and Midway-St. Louis fares may be proposed.)

Section 404 and section 1002 issues will not be considered in this investigation.

The effect that the proposed low fares will have on traffic in the markets in issue and in other markets will be considered matters bearing on the public convenience and necessity.

Control and interlocking relationships that may arise if certificate authority is awarded to Midway (Southwest) should be examined.[8]

There is no pretrial restriction excluding proposals for route authority at DPFI fare levels. We consider the offer of lower fares, however, an important decisional factor in assessing the public convenience and necessity and the public interest.

Accordingly, it is ordered that:

1. Ordering paragraph (1) of Order 77-5-81 be amended to read as follows:

"1. This proceeding is instituted pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204, 401, 408, 409 and 416(b). The primary issues in this proceeding are: whether the public convenience and necessity require the certification of an additional carrier or carriers to engage in air transportation of persons, property and mail between the terminal point Chicago, Ill. (to be served through Midway Airport), and the coterminal points Cleveland, Ohio, Detroit, Mich., Kansas City and St. Louis, Mo., Minneapolis St. Paul, Minn., and/or Pittsburgh, Pa., if so, what should be the duration of any authority awarded; and, if so, what terms, conditions and limitations should be placed on such authority."[9]

2. The application of Allegheny Airlines, Inc., Docket 31012, be consolidated into Docket 30277;

3. The applications of Chicago Airlines, Inc., Docket 30407, and Allegheny Airlines, Inc. and Chicago Airlines, Inc., Docket 30443, which were consolidated into Docket 30277 by ordering paragraphs (3) and (4) of Order 77-5-81, be dismissed;

4. To the extent that they are not granted in this order, all petitions for reconsideration, motions and requests in response to Order 77-5-81 be denied; and

5. The motions of the Louisville and Jefferson County Air Board and the Iowa Department of Transportation for leave to file petitions for reconsideration be granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23071 Filed 8-9-77;8:45 am]

[Docket 30277]

CHICAGO-MIDWAY LOW-FARE ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 30, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Greer M. Murphy.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before August 12, 1977, and the other parties on or before August 24, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

All Members concurred.

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[4] Certain other matters which have been raised by petitioners are not discussed specifically here. These matters have been fully considered but the Board has concluded that they do not present new or different facts warranting comment or changes in Order 77-5-81. The petition of United has not been discussed at all since it addresses itself only to the statement of issues appended to Order 77-5-81. This document was attached to the order for convenience but was not endorsed by the Board. United's objections should be addressed to the administrative law judge at the prehearing conference.

[5] 90 Stat. 1186, August 14, 1976.

[6] TWA Super Coach service will be offered in the Chicago-Los Angeles market at prices 37 percent below the normal coach fare level. It is based upon high seating density and the attainment of high load factors. See Order 77-7-29, July 11, 1977.

[7] We must emphasize that we are severing DPFI-related issues only. The question of the economic feasibility and public benefits of the proposed low-fare services, as well as the effect that these services may have on traffic stimulation and diversion, will still be considered as matters bearing on the public convenience and necessity.

[8] As noted above, the application of Chicago Airlines is being dismissed. If Allegheny decides to prosecute that application rather than the one filed in it's own name in Docket 31012, the control and interlocking relationships will be explored in accordance with Order 77-5-81, at 7.

[9] To the extent that the application of Midway (Southwest) Airway Co., Docket 30189, was not consolidated into Docket 30277, the remainder is dismissed.

Dated at Washington, D.C., August 4, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-23076 Filed 8-9-77;8:45 am]

[Docket Nos. 31127 and 31162; Order 77-8-13]

DOMESTIC PASSENGER-FARE INCREASE PROPOSED BY VARIOUS CARRIERS

Order Dismissing Complaints

AUGUST 3, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of August, 1977.

All trunkline and local service carriers propose, effective August 7–18, 1977, a general fare increase of 1.5 percent above the level of fares in effect before mid-July 1977 for transportation within the 48 contiguous States and the District of Columbia.[1] In addition, American Airlines, Inc. (American), Eastern Air Lines, Inc. (Eastern), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and Western Air Lines, Inc. (Western), propose a two-percent increase (an additional 0.5 percent) effective August 8–22, 1977.

In justification, the carriers allege that their proposals are consistent with the Board's ratemaking methodology, based on data for the year ended March 1977, as adjusted to the respective tariff-effective dates. A number of carriers have urged that the Board address the issue of anticipatory costs, and American and Western have submitted ROI projections to the mid-point of the quarter following the increase, in this case September 30, 1977.

The National Passenger Traffic Association (NPTA) has filed complaints stating that, in light of the recent 0.7-percent increase, no reasonable basis exists for a further increase as soon as August. NPTA further alleges that application of a cost-inflation factor beyond the tariff-effective date will result in overcharges to the public in periods of a decelerating trend in the rate of inflation.

Upon consideration of the proposals, the complaints and answers, and all relevant matters, the Board finds that the complaints do not set forth sufficient facts to warrant investigation and consequently the requests for suspension will be denied and the complaints dismissed.

Based upon data for the year ended March 1977, the industry's ratemaking ROI, adjusted for utilization, standard seating, the 55-percent load-factor standard, removal of discount fares, and annualization of past fare and cost increases to August 15 (the earliest tariff-effective date) is 10.2 percent.[2] Adjusting this ROI to reflect the proposed 1.5-percent increase produces a ratemaking ROI of 11.60 percent, well below the 12-percent standard. Adjustments to the same tariff-effective date to reflect the proposed 2.0-percent increase (in lieu of the 1.5-percent proposal, not compounded) raises the ROI to 12.07 percent. While this is above the standard, the deviation of 0.07 percent is too trivial to warrant suspension. In any event, it seems unlikely that the 2.0 percent increase will go into effect before September, since the proponents' major competitors have so far not filed to match, by which time inflation of costs will have reduced the ratemaking ROI to 11.85 percent.[3]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002.

It is ordered, That: 1. The complaints in Dockets 31127 and 31162 are hereby dismissed; and

2. Copies of this order be served upon all certificated scheduled carriers operating between points within the 48 contiguous States and the District of Columbia, and the National Passenger Traffic Association, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [4] [5]

PHYLLIS T. TAYLOR,
Secretary.

[FR Doc.77-23079 Filed 8-9-77;8:45 am]

[Docket No. 29439; Order 77-7-162]

EASTERN AIR LINES, INC.

Order Setting Matter for Oral Argument

JULY 29, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July, 1977.

In Docket 29439, Eastern Air Lines has requested that the Board authorize discussions between itself and other air carriers concerning what it has characterized as "possible agreements intended to bring about more efficient methods relating to * * * (the) * * * research, design and procurement of needed future commercial aircraft types." When it initially sought this discussion authority, Eastern indicated that the proposed discussions would include, inter alia, consideration of the establishment of an Air Transport Association procurement office, which would obtain carrier agreement "on the specifications and needs of the carriers for new aircraft."

In its initial pleading, Eastern submitted that the present generation of aircraft being flown by U.S. air carriers is rapidly becoming obsolete; that there is an urgent need for the development of a new aircraft type which is energy efficient and environmentally sound; that the cost to a single manufacturer to develop a new aircraft type may run as high as $1 billion; and that the manufacturers are unlikely to assume these costs unless there is a reasonable prospect of their finding a substantial market for the resulting aircraft.

Initially, Eastern's application was supported by Allegheny Airlines and Texas International Airlines.

By Order 76-8-134, August 25, 1976, the Board deferred action on Eastern's application and requested further comments. In taking this action, we noted that "decisions relating to the procurement of new or additional equipment by the carriers have traditionally been one of those sensitive competitive areas left to the discretion of individual airline management," and that we were concerned with the potential anticompetitive implications of both the proposed discussions and any agreements which might arise out of them. On the other hand, we noted that there was widespread concern about the need for aircraft which use fuel more efficiently and economically and which produce less noise and pollution emissions, and the enormous financial outlays which would be required to develop and manufacture such aircraft types.

Pursuant to Order 76-8-134, Eastern was instructed to more fully set out the specific items it believed warranted discussion; the nature of the circumstances which prompted it to request discussion authority; the reasons why the desired objectives of the proposed discussions could not be achieved through alternative, less anticompetitive means; and any other matters which would aid the Board in passing on its request. In addition, the Board indicated that it would entertain comments from other interested parties after Eastern had submitted its further filing.

Additional comments have been filed by Eastern and seven other air carriers [1] in support of the request for discussion authority. Another carrier, United Air Lines, has filed comments supporting the request for discussion authority insofar as the discussions would concern the research and design of new commercial aircraft.[2] On the other hand, two

[1] For most carriers this results in a net increase over present fares of 0.8 percent, since they put into effect a 0.7-percent increase on either July 18 or July 22, 1977.

[2] In the attached ROI analysis, the impact of the 0.7-percent increase authorized effective in mid-July is not shown as a past fare increase annualization (column 5) but is reflected in the annualization of the proposed 2.0-percent increase in the final column.

[3] In view of the differing proposed effective dates, and the fact that several carries propose either a 1.5- or 2.0-percent fare increase, we urge the carriers to make known their intentions as to both timing and the increase they propose to post as soon as possible in order to minimize public confusion.

[4] All Members concurred.

[5] Appendices filed as part of the original document.

[1] American Airlines, Trans World Airlines, Delta Air Lines, Northwest Airlines, Allegheny Airlines, Piedmont Aviation and Texas International Airlines. The comments which were filed by Delta Air Lines were accompanied by a motion for leave to file out of time, which shall be granted.

[2] United, however, is opposed to the single source or joint procurement of new commercial aircraft.

government agencies—the United States Department of Justice (DOJ) and the Council on Wage and Price Stability (the Council)—filed comments indicating opposition to a grant of discussion authority at the present time. No comments were filed by any of the major airframe or aircraft component manufacturers.

In its comments, and in further support of its request for discussion authority, Eastern contends that the U.S. air transportation industry is presently facing two major equipment problems, namely, (1) the need for the development of new aircraft for the 1980's with modest technological improvements; and (2) the need for the development of new aircraft for the 1990's with substantial evolutionary, and possibly revolutionary, advances in technology. With respect to the proposed 1980 generation of aircraft, Eastern submits that, altough the industry's requirement for these classes of aircraft is "widely recognized", and although there is no reason to doubt that the development of these aircraft is technically feasible, no such aircraft have been offered for sale or committed to production. Moreover, it says that there is some question as to whether the major U.S. aircraft manufacturers are capable of launching new 1980 aircraft given current circumstances. The circumstances which it alludes to, in its view, include: (1) The unimpressive financial condition and earning prospects of U.S. air carriers; (2) uncertainties over the future of continued economic regulation of airlines; (3) concern on the part of manufacturers over the threat of "market fragmentation" (i.e., the wasteful duplication of a single aircraft types); and (4) disenchantment on the part of the financial community with all of the above. Because of these circumstances, Eastern submits that the airlines are "in no position unilaterally, or in combinations of a limited number of carriers, to make the financial commitment needed for a manufacturer to launch a new aircraft program." In this regard, it notes that the cost of replacing current U.S. fleets with new 1980 aircraft through the 1980's has been estimated at some $45 billion, and that the aggregate net worth of the certificated U.S. scheduled air carriers is presently less than $4.5 billion.

Eastern does not believe the discussions it is proposing would be anticompetitive, but rather submits that the discussions will "stimulate competition in the design and development of several classes of new 1980 aircraft." It also submits that it is unaware of any alternative means for achieving the desired objectives of the proposed discussions; and that, in any event, it should not be required at the present time "to demonstrate the nonexistence of alternative, less anti-competitive approaches" in order to obtain authority to begin discussions.

In terms of a proposed agenda for the discussions, Eastern has listed three typical areas which it believes should be discussed; namely: (1) Organization Concept Development; (2) Aircraft Specification Development; and (3) Factory Contract Administration. More specifically, in addition to operating mechanics, in the area of organization concept development, Eastern believes the initial meeting should consider which airlines should be included in the discussions, what should be the respective roles of the Air Transport Association and the International Air Transport Association, and possible selections of consultants to assist in determining which technological advances will be attainable in a relevant time span. The purpose of the second topical area, aircraft specification development, Eastern submits, would be to look toward the "development of broad design goals with respect to the general classes of new generation aircraft that are deemed desirable in the reasonably near future." Eastern is of the view that this portion of the discussions should consider what contributions to fuel efficiency, environmental compatibility, and operating economy may be expected from new technology. Assuming consensus "on the need" for the development of new aircraft, it submits that the discussions should then turn to consideration of possible agreements relating to the standardization of specifications. Eastern states that the third topical area, factory contract administration, would be primarily concerned with the establishment of factory inspection procedures.

The comments which were filed by the seven air carriers in support of Eastern's request for discussion authority are essentially supportive in nature and provide little amplification of the problems associated with aircraft design, development, and procurement. Northwest, for instance, notes that inter-carrier exploration and consideration of technological factors could result in technological developments needed by the industry occurring in "a quicker and more responsive manner", and that the discussions would give an indication of "the size of demand" for various types of new technology.

In its comments, TWA submits that the proposed discussions, at least in their preliminary stages, would be primarily technical in nature, and, therefore, probably do not necessitate a grant of discussion authority.

In its comments, United supports Eastern's request for discussion authority insofar as the proposed discussions would concern matters relating to the research and design of new commercial aircraft, but it indicates that it is opposed to the single source or joint procurement of new commercial aircraft. United believes that the fundamental purpose of the discussions should be to establish a program "for objectively determining the optimum aircraft performance capabilities which will be technologically attainable in the next generation of transport aircraft, and the improvements in productivity and efficiency that can be achieved through technological advancement of the state of the aeronautical art." In United's view, these objectives can be best attained through the use of an independent expert technical consultant hired by the carriers on a shared-cost basis.

It is the position of DOJ that "the anticompetitive potential of the Eastern proposal is so broad" and "the alleged benefits so vague and insubstantial" that discussion authority should not be granted without a hearing. In essence, DOJ submits that the proposed discussions would adversely affect competition not only in air transportation but in other industries as well; that the discussions are as likely to slow innovation as to accelerate it; that Eastern's proposal has the potential for leading to a market structure in which a single buyer will confront a single seller; and that the primary benefit obtain from the discussions is "the quieter life" which would presumably follow from the elimination of competition in the purchase of new aircraft types. DOJ notes that it is not opposed to joint research, design, and procurement by competing firms where such activities do not substantially lessen competition or are justified by scale economies or other important public benefits. However, based on the present record, DOJ does not believe that the Board should authorize discussions which could lead to what it considers might be the monopsonistic development and procurement of new aircraft.

The Council is strongly opposed to a grant of discussion authority and submits that the Board should either deny Eastern's application or, alternatively, set the matter for a hearing, since it believes more substantial evidence is required should the Board consider authorizing the proposed discussions. It contends that both the proposed discussions and any possible agreements resulting therefrom concerning joint aircraft procurement would lessen competition, result in inefficiencies and increase infla-

Eastern responded to United's comments and specifically to its suggestion that the carriers consider hiring an independent consultant on a shared-cost basis. Essentially, Eastern believes that various research groups associated with the National Aeronautics and Space Administration, and the Air Transport Association, are capable of providing the necessary expertise, and that, therefore, there is no need to hire an outside consultant. Moreover, Eastern notes that the retention of an independent consultant could be duplicative of efforts already underway by the airlines themselves.

Eastern did not respond to United's statement indicating opposition to single source or joint procurement of new commercial aircraft. In its earlier comments, however, Eastern did state that, even though some carriers might be opposed to single source procurement, the discussions could still be valuable since they could result in uniform agreements on aircraft specifications and factory contract administration.

The reply which Eastern filed was accompanied by a motion to file an otherwise unauthorized document, which shall be granted

tion.[4] Moreover, it believes that competitive market forces can be depended upon to secure the development of an aircraft which would be suitable to the needs of the public and the industry. Also, it is concerned that, aside from the issue of joint aircraft procurement, the proposed discussions would offer an anticompetitive forum for the exchange of information concerning planned aircraft replacement, schedule changes, and marketing strategies.

Upon consideration of the present record in this proceeding, and all relevant facts, we have decided to set Eastern's application for oral argument. We continue to be concerned with the potential anticompetitive implications of both the talks Eastern has proposed and any possible agreements that may flow out of them. Moreover, the comments of Eastern and others have not provided sufficient clarification and detail in such areas as what types of information the participants to the proposed discussions would exchange, the nature of the circumstances which prompted Eastern to seek discussion authority, and why the objectives of the proposed discussions cannot be achieved through alternative, less anticompetitive means. We believe that an oral argument is a means to further explore these areas as well as the broader questions raised by Eastern's application concerning the problems the U.S. airline industry is likely to have in the coming years with respect to the design, development, and procurement of new commercial aircraft. We urge the entire airline industry, the major airframe and aircraft part manufacturers, and all other interested persons to take advantage of this opportunity to publicly develop their views on these matters.

With specific reference to Eastern's proposal, we would like the participants to the oral argument to address the following general issues:

1. Would a grant of discussion authority be in the public interest, and is such a grant mandated by a serious transportation need?;

2. What would be the severity of the potential anticompetitive implications of a grant of such authority?; and

3. Do any alternative, less anticompetitive means exist for achieving the desired objectives of the proposed discussions?

In addition, in preparing for the oral argument, we would like the participants to focus on the following questions as well.

1. Evaluate critically the implication of the request for discussions that the normal forces of competition among aircraft manufacturers and wholly independent purchase decisions by the individual carriers cannot be relied upon to produce aircraft suited to the industry's future needs;

2. Explain as precisely as possible how changes in the structure or the circumstances affecting the air transportation and airframe/engine manufacturing industries—domestic and foreign—justify (or do not justify) joint development and—if this is envisaged—procurement, when concerted action was not needed in previous generations. This should include an analysis of the role, past and prospective, of military research, development, and manufacturing facilities, and the changes, if any, in technological requirements, and how these bear on the case for joint action;

3. What advantages would joint research and development and, separately, joint procurement provide over individual efforts on both sides of the market? Would the joint effort (consider R&D and procurement separately) be open to all air carriers? Evaluate the danger that such an effort would undesirably cut down on the diversity of research and development efforts and of the kinds of aircraft developed. Would all aircraft manufacturers (existing and new, if any) participate in research, development, and procurement? Explain how such participation would work;

4. Evaluate the impact of the proposed joint efforts on competition—among aircraft manufacturers; among air carriers. Are there limited areas in which joint discussion can be authorized while avoiding a significant impairment of competition—e.g., research and design only; procurement only; factory contract administration only?; and

5. What would be the impact on the need for joint research, development, and/or procurement of a change in Federal airline regulatory policy in the direction of primary reliance on competition? If changed regulatory policy spurs the creation of new air carriers, would this enhance or reduce the anticompetitive effects of joint research, development, and procurement? Explain.

The participants to the oral argument are also welcome to address themselves to any other aspects or questions raised by the Eastern proposal.

A copy of this order will be served on all certificated route and supplemental air carriers, the Aerospace Industries Association, the three major U.S. airframe manufacturers—Boeing, Lockheed, and McDonnell Douglas—and parties of record. We request that those electing to participate in the oral argument file with the Board briefs, and/or statements of position, fourteen (14) days in advance of the date set for the oral argument.

Accordingly, it is ordered, That: 1. The application of Eastern Air Lines, Inc. in Docket 29439 for discussion authority be assigned for oral argument at a date to be set hereafter;

2. The participants to the oral argument shall file with the Board briefs, and/or statements of position, fourteen (14) days in advance of the oral argument; and

3. The motions of Delta Air Lines, Inc. to file late, and Eastern Air Lines, Inc. to file an otherwise unauthorized document be granted.

This order shall be served on all certificated route and supplemental air carriers, the Aerospace Industries Association, the Boeing Company, Lockheed Aircraft Corporation, McDonnell Douglas Corporation, and all parties of record.

In addition, this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23072 Filed 8-9-77;8:45 am]

[Docket Nos. 26116; 26504; Agreements CAB 5044-A164; 24379; CAB 16874-A40; 12075-A5; Order 77-8-4]

MEMBERS OF THE AIR TRAFFIC CONFERENCE OF AMERICA

Order Dismissing Motions

AUGUST 1, 1977.

Issued under delegated authority.

Bon Voyage Travel (Bon Voyage), has filed motions to reopen the proceedings in the above-captioned dockets, as described more fully below.

By Order 75-6-41, June 9, 1975, the Board approved Agreements CAB 5044-A164 and CAB 24379 of the Air Traffic Conference of America (ATC) establishing a Travel Agent Testing Program. Under the terms of these agreements, all agencies seeking accreditation as ATC-approved agents are required to submit evidence that an owner, partner, officer, or manager of the agency is certified as having passed ATC's travel agency managerial examination, and that another employee with one year's ticketing and reservations experience has been certified as having passed ATC's travel agency technical examination. The approved testing program contained in these agreements applies to all agents regardless of prior business practices or history of operations, and as such, is applicable to presently accredited travel agencies, as well as prospective applicants. By its motion, Bon Voyage requests that the Board rescind its approval of Agreements CAB 5044-A164 and CAB 24379; reopen the proceeding for the purpose of reassessing the Board's position with respect to the grant of grandfather rights to currently accredited agents;[1] and thereafter condition approval of the agreements upon the grant of such grandfather rights to existing agents.

In its motion in Docket 26504 Bon Voyage requests that the Board modify the mechanized travel agency reporting procedures set forth in Agreements CAB 16874-A40 and CAB 12075-A5. These agreements, which were approved by Order 74-8-81, August 21, 1974, established an automated sales reporting system under which ATC-accredited travel agents are required to submit reports of ticket sales to ATC Area Settlement Banks on a weekly basis. According to Bon Voyage, such a requirement is burdensome to large agencies with a number of branch locations.[2] Thus the petitioner requests that these agreements be modified to reflect a ten-day reporting requirement for any agency with more than five branch offices, and a cut-off period for the gathering of sales data of five days prior to the due date of such reports.

Subsequent to the submission of these motions, Bon Voyage underwent bankruptcy proceedings in the United States Court, Northern District, Chicago (Docket No. 76B8014), and was placed into trusteeship. Since the time Bon Voyage was adjudicated bankrupt, the Board has not received any notice as to whether Bon Voyage's trustee intends to pursue the previously filed motions. Therefore, pursuant to authority duly delegated by the Board's regulations, 14 CFR 385.3, we intend to dismiss the motions in Docket 26116 and 26504, unless within 14 days Bon Voyage's trustee notifies the Board of its intention to pursue these matters.

Accordingly, *it is ordered*, That:

1. The motions of Bon Voyage Travel in Dockets 26116 and 26504 be dismissed, unless within 14 days after issuance of this order the trustee in bankruptcy of Bon Voyage Travel files a communication in the Board's Docket Section stating its intention to pursue the motions filed in Dockets 26116 and 26504; and

2. Except as indicated in the previous ordering paragraph, all other requests and motions in Dockets 26116 and 26504 be dismissed.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-23074 Filed 8-9-77; 8:45 am]

PAN AMERICAN WORLD AIRWAYS, INC.; ENFORCEMENT PROCEEDING

[Docket 30851]

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Janet D. Saxon. Future communications should be addressed to Judge Saxon.

Dated at Washington, D.C., August 3, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-23078 Filed 8-9-77;8:45 am]

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[4] The Council states that its statutory mandate is to monitor inflationary activities in both the private and public sectors of the economy. Among other things, it notes it has been directed to study the effects of economic concentration and anticompetitive practices.

[5] All Members concurred.

[1] By the grant of "grandfather rights", travel agencies presently accredited by ATC would not be subject to these examination requirements.

[2] Bon Voyage is an ATC-accredited retail travel agency with headquarters in Des Plaines, Illinois, and operates 19 branch offices in the Midwest.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Proposal To Revise General Determination No. 1 (Revised)

Correction

In FR Doc. 77-22572, appearing at page 39693 in the issue of Friday, August 5, 1977, the following changes should be made:

1. The fifth line of the second full paragraph of column three on page 39693 should read, "publication in the FEDERAL REGISTER. The proposed provisions".

2. Between the fourth and fifth lines of "General Determination No. 1" on page 39693, third column, a line should be inserted reading, "country. Consequently, subject to the conditions of this".

DEPARTMENT OF DEFENSE

Defense Mapping Agency

DEFENSE MAPPING AGENCY HYDROGRAPHIC CENTER AND DEFENSE MAPPING AGENCY TOPOGRAPHIC CENTER CONSOLIDATION

Availability of Management Study and Negative Declaration

On 27 March 1977, VADM Shannon D. Cramer, Jr., USN, the Director, Defense Mapping Agency, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, ordered the establishment of a Study Group under the Chairmanship of the DMA Comptroller, charged with the responsibility of developing an organization and management study of the feasibility and desirability of consolidating the operations of the Defense Mapping Agency Hydrographic Center (DMAHC) and the Defense Mapping Agency Topographic Center (DMATC). The Study Group completed its work and submitted its Consolidation Study to the Director, DMA, on 8 July 1977. On 5 August 1977, the Director, DMA, issued his determination, based upon the Consolidation Study, that, in view of the potential improvements in utilization of resources that will result from consolidation, the DMAHC (currently located in the Suitland Federal Center, Suitland, Prince Georges County, Md.) and the DMATC will be consolidated and collocated at Brookmont, Montgomery County, Maryland.

Notice is hereby given, pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and Department of Defense Regulation "Environmental Considerations in Department of Defense Action" (32 CFR Part 214), that an environmental impact statement is not being prepared for the proposed consolidation and collocation of the DMAHC and DMATC. The environmental assessment of this action indicates that this consolidation and collocation will not create any significant adverse impacts on the physical environment and that no significant controversy related to the natural environment is associated with this action. As a result of these findings, Vice Admiral Shannon D. Cramer, Jr., USN, the Director, Defense Mapping Agency, has determined that the preparation and review of an environmental impact statement is not required in this case.

This action concerns consolidation and collocation of the operations of the DMAHC and the DMATC at Brookmont, Montgomery County, Md.; the transfer to the consolidated Center of 29 civilian employees from the Defense Mapping Agency Aerospace Center, St. Louis, Mo.; and the removal from the consolidated Center of the U.S. Army Engineers Studies Group, to an, as yet, undetermined site.

The organization and management study, as well as the basic data developed during the environmental assessment are on file and may be reviewed by interested parties in the Facilities Engineering Office, HQ DMA, Building 56, U.S. Naval Observatory, Washington, D.C. 20305. A limited number of copies of the negative declaration are available from the same office to fill single copy requests.

The DMA invites public comment concerning the proposed consolidation action and this negative declaration. Interested persons are invited to submit written data, views and arguments to HQ DMA, ATTN: Facilities Engineering Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, on or before September 9, 1977. Administrative action on implementation of the proposal will be deferred for thirty (30) days, until October 11, 1977, at which time implementation will begin unless comments are received which result in a contrary determination.

B. C. WIMBERLY,
Counsel.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 8, 1977.

[FR Doc.77-23133 Filed 8-9-77;8 45 am]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "ORGANIZATION OF TEST AND EVALUATION IN THE OFFICE OF THE SECRETARY OF DEFENSE"

Meeting

The Defense Science Board Task Force on "Organization of Test and Evaluation in the Office of the Secretary of Defense" will meet in closed session on 25-26 August 1977 at the Pentagon.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineer[illegible] on overall research and engineering, and to provide long range guidance in these areas to the Department of Defense.

The Task Force will continue to examine, as part of the reorganization of the

Office of the Secretary of Defense, the organization and the functional responsibilities associated with the mission of Test and Evaluation, now the responsibility of the Deputy Director for Test and Evaluation, Office of the Director of Defense Research and Engineering. The discussion will involve classified information of national security concern throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United State Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: August 2, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.77-22958 Filed 8-10-77;8:45 am]

WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 4, 1977 Tuesday, October 11, 1977; Tuesday, October 18, 1977; and Tuesday, October 25, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 USC 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 USC 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 USC 552 b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 USC 552b. (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

Dated: August 2, 1977.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

[FR Doc.77-22984 Filed 8-9-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 775-1]

NEW YORK DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 918, January 20,1976), Dr. Robert P. Whalen, Commissioner of the New York State Department of Health, has submitted an application to assume primary enforcement responsibility under the SDWA to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator, EPA, Region II has approved this application for primary enforcement authority, to become effective July 22, 1977. This action is based on a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

(1) State primary drinking water regulations; (2) an inventory of public water systems; (3) a systematic program of sanitary surveys; (4) a State program for certification of laboratories; (5) State laboratory facilities certified by EPA; (6) a plan review program; (7) adequate statutory or regulatory enforcement authority; (8) record-keeping and reporting procedures; (9) a program for issuing variances and exemptions; (10) a plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the program which will be carried out by the State Health Department fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination on or before September 9, 1977. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

Gerald M. Hansler, P.E., Regional Administrator, Region II, U.S. Environmental Protection Agency, Room 1009, 26 Federal Plaza, New York, New York 10007.

and shall include the following information:

(1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the State Health Departments application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in New York:

Joseph Salvato, Acting Assistant Commissioner, New York State Department of Health, Empire State Plaza, Tower Bldg., 4th Floor, Albany, New York 12237.

Dated: June 29, 1977.

GERALD M. HANSLER,
Regional Administrator, Region II.

[FR Doc.77-22967 Filed 8-9-77;8:45 am]

[FRL 775-3]

VIRGINIA

Determination of Primary Enforcement Responsibility

Public notice is hereby given in accordance with the provisions of Section 1413 of the Safe Drinking Water Act (Pub. L. 93-523, December 16, 1974) and 40 CFR 142 the National Interim Primary Drinking Water Regulations (41 FR 2918, January 20, 1976), that Mr. Oscar H. Adams, Director of the Division of Engineering of the Virginia Department of Health, has submitted an application requesting primary enforcement responsibility under the Safe Drinking Water Act to the Environmental Protection Agency (EPA) Region III office for concurrence and approval.

Alvin R. Morris, Ph. D., Acting Regional Administrator for EPA Region III, has approved the application from the Commonwealth of Virginia for primary enforcement responsibility, which shall become effective on September 9, 1977. This determination was concluded after a thorough evaluation of Virginia's water supply supervision program in relation to the requirements of 40 CFR 142.10 including the adoption and implementation of:

1. Drinking water standards and regulations.
2. An inventory of public water systems.
3. A systematic program for conducting sanitary surveys.
4. The establishment and maintenance of a program for the certification of laboratories.
5. Laboratory facilities certified by EPA.
6. A plan review program to assure the proper design and construction of new or modified public water systems.
7. Adequate statutory and regulatory authority.
8. Authority to sue in courts and to enjoin continuing violations.
9. Authority permitting right of entry and inspection of public water systems.
10. Authority to require suppliers of water to keep appropriate records and make appropriate reports to the State.
11. Authority to require public notification of violations.
12. Authority to assess civil or criminal penalties for violation of State regulations.
13. Record keeping and reporting procedures.
14. A system for issuing variances and exemptions.
15. Adoption of a plan for the provisions of safe drinking water under emergency circumstances.

Virginia's water supply supervision program, as presented and evaluated on the above noted points, has indicated that it is fully capable of carrying out all the areas required to attain primary enforcement responsibility.

Any interested parties are invited to submit written comments on this determination and may request a public hearing on or before September 9, 1977. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing, that the Regional Administrator issues an order affirming or rescinding the determination.

Requests for a public hearing shall be addressed to:

Alvin R. Morris, Ph.D., Acting Regional Administrator, Region III—3RA00, 6th and Walnut Streets, Philadelphia, Pa. 19106.

A request for public hearing shall include the following information:

1. The name, address, and telephone number of the individual(s), organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing.
3. The signature of the individual(s) making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made within thirty (30) days after this notice a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the Commonwealth of Virginia of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the Commonwealth. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on September 9, 1977.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

A complete copy of Virginia's application for primary enforcement responsibility is available for public inspection during normal business hours at the office of the Regional Administrator and at the following location in Virginia:

Commonwealth of Virginia, Department of Health, Bureau of Water Supply Engineering, 109 Governor Street, Richmond, Va 23219.

Dated: June 23, 1977.

GREENE A. JONES,
Acting Regional Administrator, Region III, Environmental Protection Agency.

[FR Doc.77-22968 Filed 8-9-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-462 CSC-140 (CO0002)]

CABLE TV OF DURANGO, INC.

Memorandum Opinion and Order Regarding Show Cause Order

Adopted: June 30, 1977.

Released: July 28, 1977.

1. On March 16, 1976, XYZ Television, Inc. (XYZ), licensee of Station KREZ-TV (CBS/ABC/NBC, Channel 6), Durango, Colorado, filed the above-captioned "Request for Issuance of Cease and Desist Order" seeking Commission sanctions against Cable TV of Durango, Inc. (Cable TV), operator of a cable television system at Durango, Colorado, for failure to provide KREZ-TV with network program non-duplication protection. On April 19, 1976, Cable TV filed a "Motion to Dismiss" the instant request, which XYZ subsequently opposed. Thereafter, Cable TV filed an "Opposition" to the subject request and XYZ replied.

PROCEDURAL ISSUES

2. Before examining the parties' substantive contentions in this proceeding, we must address certain procedural arguments raised by Cable TV in its "Motion to Dismiss". Cable TV asserts three grounds upon which it bases its request for dismissal: (a) In seeking a cease and desist order rather than an order to show cause, XYZ's petition requests relief which is impermissible, since Section 312(c) of the Communications Act of 1934, as amended, explicitly precludes issuing a cease and desist order unless preceded by an order to show cause and an appropriate proceeding pursuant thereto.[1] (b) XYZ's petition fails to give adequate notice as to what provisions XYZ alleges to have been violated, since it discusses claimed violations by Cable TV of the Commission's network program nonduplication rules yet nowhere refers to those rules. Rather, the request refers to §§ 73.91 and 73.93 of the Rules which are clearly inapposite since they relate solely to Radio Broadcast Services. Moreover, even assuming the request intended to refer to §§ 76.91 and 76.93, the reference remains inaccurate since these provisions were revoked, effective May 23, 1975, in the First Report and Order in Docket 19995, FCC 75-413, 52 FCC 2d 519 (1975). (c) Certain exhibits appended to XYZ's petition were illegible, thus depriving Cable TV of its ability to analyze and respond to the allegations raised therein.

3. XYZ contends that none of the grounds for dismissal offered by Cable TV are viable. First, XYZ asserts that its request for a cease and desist order properly reflects the ultimate relief sought and that its failure to initially seek an order to show cause in no way renders the request deficient. Second, although XYZ concedes that it improperly numbered the rule sections to which it intended reference in its request, it claims this error has not prejudiced Cable TV nor deprived it of adequate notice as to the violations alleged. In this connection XYZ points out that the context of its request unequivocally indicated that the network program nonduplication rules were at issue. Finally, with regard to Cable TV's assertions concerning the illegibility of certain exhibits, XYZ admits that the original copies supplied were difficult to read, but contends they were, nonetheless, legible. Furthermore, XYZ notes that while Cable TV initially sought a twenty day extension of time in which to respond to the request for a cease and desist order, it did not seek any further extensions based on the alleged illegibility. In any event, XYZ appended new copies of certain exhibits as well as two retyped exhibit pages to its opposition "[in] the interest of affording counsel for Cable TV every opportunity to properly respond to the request * * *."

[1] Section 312(c) of the Communications Act of 1934 provides, in part:

Before * * * issuing a cease and desist order pursuant to subsection (b), the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why * * * a cease and desist order should not be issued.

4. Cable TV's "Motion to Dismiss" will be denied. The requirement contained in Section 312(c) of the Act is a procedural constraint placed on the Commission to ensure that every party faced with a potential order to cease and desist will be afforded the opportunity to present evidence countering the Commission's initial, yet tentative, conclusion that such an order should issue. Clearly this requirement will be followed and the prospective respondent's rights will be protected regardless of the parties' pleadings. Moreover, it does not appear that XYZ's denomination of the relief it seeks has in fact misled Cable TV or otherwise prejudiced it. Dismissal of petitioner's request on this basis, therefore, is unwarranted.

5. Similarly, both the erroneous reference to the rules by XYZ and the asserted illegibility of certain exhibits to XYZ's request constitute harmless deficiencies not justifying dismissal. The allusion to Part 73 instead of Part 76 of the Rules was surely not misleading to Cable TV since the context of XYZ's pleading made it clear that cable television rules and not radio broadcast service regulations are at issue. Moreover, in paragraph 10 of its request, XYZ explicitly refers to Part 76 regulations (§§ 76.91 and 76.93) thus confirming what was apparent from the text. And, while it is true that §§ 76.91 and 76.93 were revoked by the Commission, effective May 23, 1975, and replaced by §§ 76.92 and 76.94, the differences in these rules are insubstantial in the context of this proceeding. In any event, Cable TV has been on specific notice since April 29, 1976, when XYZ filed its "Opposition to Motion to Dismiss," that the rules relied upon by petitioner were §§ 76.92 and 76.94.[2] Finally, even if Cable TV's contention that certain exhibits to XYZ's original request were illegible is credited, fully readable copies have been made available to Cable TV. Any possible prejudice to Cable TV from lack of notice, then, has long since been dissipated.

Substantive Issues

A. Arguments

6. XYZ contends that although KREZ–TV is licensed to Durango, Colorado, the same community in which Cable TV operates its cable television system, and has requested network program nonduplication protection from that system on numerous occasions during the period 1967 to present, such protection has never been afforded. In support of its contention, XYZ has submitted several letters exhanged between KREZ–TV and Cable TV officers wherein KREZ–TV made repeated inquiries concerning the date nonduplication protection would commence and transmitted appropriate program schedules to the cable television system. For their part, officers of Cable TV indicated in two letters that nonduplication protection would soon be forthcoming and, on one occasion, recognized that KREZ–TV had properly requested protection. XYZ also states that subsequent to the exchange of the submitted letters, oral conferences were held between KREZ–TV and and Cable TV, most recently in January 1976, in which further unfulfilled promises of protection were made by the cable system. XYZ then turns to the economic impact on KREZ–TV which has allegedly been occasioned by Cable TV's failure to afford nonduplication protection, asserting: (a) As compared to its sister satellite, Station KREY–TV (CBS/ABC/NBC, Channel 10), Montrose, Colorado, which carries identical pogramming but receives same-day nonduplication protection in its market, KREZ–TV obtains, at minimum, a 27 percent smaller share of its home county's viewers. (b) During each of the past 3 years KREZ–TV has suffered losses in excess of $40,000. (c) As a result of its financial losses, KREZ–TV has had to eliminate all local news and public service programming.

7. In opposition, Cable TV states it should not be required to protect KREZ–TV's network programming because: (a) KREZ–TV does not state in its petition which distant stations carried by Cable TV it would like to be protected against; (b) KREZ–TV's signal quality is inferior, while the distant network stations carried by Cable TV provide excellent quality signals; (c) KREZ–TV's notices of programs to be blacked out have been mailed only one day in advance of air-time, thereby violating Commission rules.[3] In support of its signal quality argument, Cable TV alleges that KREZ–TV's network microwave system is old, poorly maintained and runs tortuously through mountainous and stormy country. Additionally, Cable TV suggests that KREZ–TV's transmitter may be inferior and asks the Commission to make a full field investigation of both the microwave system and KREZ–TV's transmitter. It cites several cases, saying they stand for the proposition that carriage and nonduplication need not be provided if signal quality is inferior.[4] Concerning KREZ–TV's notice, Cable TV points out that three of the letters mailed by KREZ–TV to Cable TV and submitted as notice exhibits by KREZ–TV in this proceeding were mailed the day before the week's programming was to begin. This, argues Cable TV, completely excuses it from any nonduplication obligations.[5] Additionally, Cable TV claims the issue of KREZ–TV's financial viability is irrelevant in this proceeding, alleging an analysis of that question should be made in XYZ's petition for same-day nonduplication protection which is pending before the Commission (CSR–906).[6]

8. KREZ–TV has replied to Cable TV's objections as follows: (a) Cable TV has never before claimed that it did not know which television stations KREZ–TV desired to be protected against. Indeed, it has been made very clear over the years, in both oral and written correspondence, that KREZ–TV wanted to be protected against the three Albuquerque, New Mexico network affiliates carried by Cable TV. (b) KREZ–TV's signal quality is not inferior. Its microwave system has been brought up to date by solid-state equipment. And, the FCC has recently inspected all of KREZ–TV's facilities, apparently finding no problems. Furthermore, the cases cited by Cable TV make it clear that the Commission must determine that the priority station's signal is inferior before the cable system may be excused from providing protection. KREZ–TV believes it important to note, moreover, that Cable TV has never before complained about signal quality. It refers to a letter already in the record in which Cable TV principals stated that the delay in providing protection was due to Cable TV's unique problems and that KREZ–TV "had not been neglectful in any respect * * * concerning the nonduplication procedures." (c) KREZ–TV has followed the Commission's notice procedures at least since March 1976 and Cable TV has never alleged to the contrary until now. Nor has Cable TV ever notified KREZ–TV that its notice has been untimely, contrary to the ruling in Carthage Cabletelevision, Inc. (Carthage, Missouri), FCC 77–247, ____ FCC 2d ____ (1977), where the Commission expressed a strong desires that program schedule notification be a cooperative venture between cable systems and television stations.

B. Discussion

9. KREZ–TV has established a prima facie right to the nonduplication protection it seeks. It is undisputed that Cable TV lies within the 35 mile zone of KREZ–TV but beyond the 35 mile zone of any other television broadcast station. And, while it is evident that KREZ–TV has not always complied strictly

[2] It is worth noting also that the events allegedly comprising the violations of the nonduplication rules extend to a period prior to May 23, 1975, when §§ 76.91 and 76.93 were in effect.

[3] Former Section 76.93(a) of the Rules required that a station requesting protection give notice to the cable system at least forty-eight hours in advance of the period covered by the submitted program schedules. Section 76.94(a)(1) of the present rules, which supersedes § 76.93(a), requires notice at least six days in advance.

[4] Black Hills Video Corp. (Fredericktown, Missouri), 2 FCC 2d 465 (1966); Mohawk Valley TV (Athol, Massachusetts), FCC 66–997, 5 FCC 2d 900 (1966); Community Service Inc. (Frankfort, Kentucky), FCC 70–244, 21 FCC 2d 719 (1970); and TelePrompTer Cable Co. (Walla Walla, Washington), FCC 74–451, 46 FCC 2d 845 (1974).

[5] See note 3, supra.

[6] The Commission has before it the case referred to (CSR–906) as well as a related request by KREZ–TV's sister station, KREY–TV, for same-day protection in Montrose and Delta, Colorado (CSR–905). In a separate but concurrent action, the Commission is granting the subject stations same-day network program nonduplication protection in Montrose for a period of 24 months.

with the Commission's notice requirements, it is equally clear that the station has complied on some occasions.[7] Moreover, KREZ–TV has consistently asserted its right to nonduplication protection, while its occasional failure to timely notify Cable TV was unintentional. In any event, Cable TV apparently did not alert KREZ–TV of its objections to that station's notices. In these circumstances, we do not find that the cable systems acted in the spirit of good faith necessary for the effective functioning of the nonduplication rules. See Carthage Cabletelevision, supra.

10. Nor can Cable TV prevail in its affirmative defense of poor signal quality. That allegation is totally unsupported.[8] Furthermore, the TelePrompTer case referred to by Cable TV itself requires the Commission's concurrence before poor signal quality can excuse nonprotection. We there stated: "[The] proper avenue for raising [the priority station's] allegedly poor signal was by way of petition for waiver, not unilateral action. Although *Community Service, Inc.*, 21 FCC 2d 719 (1970) and *Black Hills Video Corp.*, 2 FCC 2d 465 (1966) held that exclusivity was not required when a television station's signal was technically deficient, they do not give * * * [the cable company] a unilateral right to determine that [the priority station's] signal was deficient."[9] We agree, however, with Cable TV's contention that issues of economic viability are irrelevant in the present proceeding. We have fully considered questions relating to KREZ–TV's financial well-being and the potential economic impact on the station if nonduplication protection is not provided in the companion case decided today.[10] Because some of the notices previously provided to Cable TV by KREZ–TV did not comply with our rules, we will not issue an order to show cause at this time. Instead, we will order Cable TV to inform us within thirty days of the steps it is taking to institute nonduplication protection consistent with our decision in CSR–906. Furthermore, Cable TV is ordered to begin providing protection within 90 days of the release date of this Memorandum Opinion and Order. Additionally, we will require KREZ–TV to submit to the Commission copies of the nonduplication notices mailed to Cable TV during this interim period. Assuming the notices submitted are in proper form, we will issue a show cause order on our own motion at the end of the 90 day period unless Cable TV has commenced providing the required nonduplication protection.

In view of the foregoing, we find that denial of the subject "Request for Issuance of Cease and Desist Order" would be in the public interest.

Accordingly, it is ordered, That the "Request for Issuance of Cease and Desist Order" (CSC–140) filed by XYZ Television, Inc., is denied.

It is further ordered, That Cable TV of Durango shall notify the Chief, Cable Television Bureau within thirty (30) days of the release date of this Memorandum Opinion and Order of its intention to provide KREZ–TV with network program nonduplication protection and of the steps it has taken to afford that protection.

It is further ordered, That Cable TV of Durango shall provide KREZ–TV with network program nonduplication protection, consistent with the Commission's decision in *XYZ Television, Inc.* (Montrose, Colorado) FCC 77–463, ____ FCC 2d ____ (1977), within ninety (90) days of the release date of this Memorandum Opinion and Order.

It is further ordered, That if appropriate protection is not afforded KREZ–TV within the ninety (90) day period specified above, or if Cable TV of Durango fails to notify the Chief, Cable Television Bureau, as required herein, within thirty (30) days of the release date of this Memorandum Opinion and Oruer, the Chief, Cable Television Bureau is authorized to issue an order requiring Cable TV of Durango to show cause why it should not be directed to cease and desist from further violations of the Commission's rules.

It is further ordered, That during this ninety (90) day period immediately following the release date of this Memorandum Opinion and Order, KREZ–TV shall submit to the Chief, Cable Television Bureau copies of the nonduplication protection notices sent to Cable TV of Durango in conformance with § 76.94 of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,[11]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23019 Filed 8-9-77;8:45 am]

[7] For example, KREZ–TV submitted in its petition a letter dated September 22, 1972, seeking protection for the week of September 30, 1972 and it submitted a letter dated October 6, 1972, seeking protection for the week of October 14, 1972, as representative notice samples. Both were in proper form.

[8] We have stated on numerous occasions that evidence beyond mere conclusory allegations must be submitted before relief will be granted on the basis of poor signal quality. See, e.g., Valley Telecasting Co. (Yuma, Arizona), FCC 76–1050, 61 FCC 2d 1200 (1976), and Young's Community Television Corp. (Springfield, Vermont), FCC 75–309, 53 FCC 2d 1256 (1975).

[9] TelerPompTer Cable Co., note 4, supra, at 847.

[10] Note 6, supra.

[11] Commissioner Hooks absent.

[FCC 77–475, CAC–08016, CA0719]

ORANGE COUNTY CABLE TV

Memorandum Opinion and Order Regarding Show Cause Order

Adopted: July 1, 1977.

Released: July 28, 1977.

1. On March 3, 1977, Orange County Cable TV filed an application for authorization[1] of existing cable television operations at Trabuco Canyon, Calif. Since Trabuco Canyon is located in the Los Angeles-San Bernardino-Corona-Fontana, Calif., major television market (No. 2), signal carriage on the cable system is governed by section 76.61 of the Commission's rules. Orange County carries the following television broadcast signals, all of which are consistent with Section 76.61:

KNXT (CBS, Channel 2), Los Angeles, Calif.
KABC-TV (ABC, Channel 7), Los Angeles, Calif.
KNBC (NBC, Channel 4), Los Angeles, Calif.
KTLA (Ind., Channel 5), Los Angeles, Calif.
KTTV (Ind., Channel 11), Los Angeles, Calif.
KCOP (Ind., Channel 13), Los Angeles, Calif.
KHJ–TV (Ind., Channel 9), Los Angeles, Calif.
KCET (Educ., Channel 28), Los Angeles, Calif.

Trabuco Canyon is also located in the specified zone of Huntington Beach, Calif., city of license of Non-Commercial Educational Station KOCE–TV (Channel 50). The Board of Trustees, Coast Community College, licensee of KOCE–TV, has filed an opposition to the application; Orange County Cable TV has not replied.

2. KOCE–TV claims that it is entitled to carriage on the applicant's cable system, pursuant to § 76.61(a)(2) of the Rules, which requires carriage upon request by the licensee of a non-commercial educational television station placing a predicted Grade B contour over the community served by the cable system; that it has requested carriage; and that carriage has been refused. A contour map, certified by Robert C. Moffet, KOCE–TV Director of Engineering, is offered to show that Trabuco Canyon is within the station's predicted Grade A contour. It is stated that KOCE–TV wrote letters requesting carriage to all local cable operators, including the applicant, September 27, 1972, two months before KOCE–TV went on the air. An example of these letters is submitted. It is further stated that the request was repeated March 14, 1977, during a telephone conversation between James L. Cooper of KOCE–TV and Raymond B. Torian of Orange County Cable TV; that Mr. Torian indicated that he did not intend to comply with the request because of the expense involved; that a third carriage request was then made by a letter dated March 21, 1977, a copy of which is included; and that, as of March 21, 1977, the applicant was not carrying KOCE–TV.[2] Facts alleged are supported by the

[1] The application was submitted as an application for certificate of compliance. However, the system's current franchise is, according to the applicant's own statement, inconsistent with the standards set out in Section 76.31 of the Rules; therefore, the application will be considered to be for interim authorization to operate pending the outcome of proceedings in the *Notice of Proposed Rule Making in Docket No. 21002*, FCC 76–1070, 63 FCC 2d ____ (1976).

[2] KOCE–TV also alleges that it was not served with notice of the application as prescribed by § 76.13 of the Rules. Orange County Cable TV states in its application that it served the required notice upon KOCE–TV.

affidavit of James L. Cooper, Director of Community Affairs, KOCE–TV. KOCE–TV asks the Commission to deny the application and to order the applicant to cease operations in Trabuco Canyon.

3. Section 76.61(a)(1) of the Rules provides that "[a] community unit operating in whole or in part within one of the first fifty major television markets * * * on request of the revelant station licensee or permittee, shall carry the signals of * * * television broadcast stations within whose specified zone the community of the community unit is located * * *." Since Trabuco Canyon is located well within the specified zone of KOCE–TV, KOCE–TV is clearly entitled to carriage in the community upon request. It is undisputed that there have been several such requests, the most recent having been made concurrently with the filing of the instant opposition. However, we do not believe that the public interest would be served by the immediate issuance of a show cause order. Instead, we will direct Orange County Cable TV to comply with section 76.61(a)(1) of the Rules by commencing carriage of KOCE–TV in Trabuco Canyon within thirty (30) days of the release date of this order. In order to expedite addition of the signal, we will waive § 76.11(a) of the Rules.[1] Orange County Cable TV will also be directed to promptly inform the Chief, Cable Television Bureau, of its compliance with this order. Should the cable system fail to comply within the specified time, the Chief, Cable Television Bureau, will be delegated the authority to issue against Orange County Cable TV an order to show cause why it should not be ordered to cease and desist from violation of § 76.61(a)(1). *See, e.g., Carthage Cablevision, Inc.* (Carthage, Mo.), FCC 77–247, ____ FCC 2d ____ (1977).

In view of the foregoing, we find that grant of the application for authorization to operate and existing cable system is in the public interest. We further find that denial of the opposition to certification of the Trabuco Canyon community unit and deferral of further action on the request for enforcement of the carriage rights of KOCE–TV are in the public interest.

Accordingly, *it is ordered*, That the application of Orange County Cable TV for authorization of existing operations at Trabuco Canyon, Calif. (CAC–8016), is granted.

It is further ordered, That Orange County Cable TV is directed to commence carriage of KOCE–TV, Huntington Beach, Calif., in Trabuco Canyon, Calif., within thirty (30) days of the release date of this order, and to inform the Chief, Cable Television Bureau, of compliance with this order.

It is further ordered, That the Chief, Cable Television Bureau, is authorized to issue an order to show cause to be directed against the cable operations of Orange County TV at Trabuco Canyon, Calif., subject to conditions specified in paragraph 3, above.

It is further ordered, That the opposition filed by the Board of Trustees, Coast Community College, is granted to the extent indicated and is in all other respects denied.

FEDERAL COMMUNICATIONS COMMISSION,[2]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22987 Filed 8-9-77;8:45 am]

[1] Section 76.11(a) allows the addition of signals which may be carried pursuant to § 76.61(a)(1) without application for certificate of compliance, thirty days after service of notice upon the Commission and upon parties named in § 76.13(b)(1) of the Rules, if no objections are filed within those thiry days. We find that the purpose of § 76.11(a)(1) to provide interested parties with notice and opportunity to be heard has been satisfied by service of the application and the opposition upon all parties entitled to notice. See *Century Cable of Northern California, Inc.* (Albany, Calif.) FCC 76–652, 60 FCC 2d 842 (1976), recons. granted FCC 76–1201, ____ FCC 2d ____ (1977).

[2] Commissioner Hooks absent; Commissioner Fogarty concurring in the result.

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on August 4, 1977, it issued a notice of effectiveness making effective the prohibition order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975) to the below listed powerplants. The notice of effectiveness was issued under the authorities granted to FEA by section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU–020 OFU–021	Kansas Power and Light Co.	9 10	Tecumseh	Tecumseh, Kans.

The prohibition order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a notice of effectiveness.

Subsequent to issuance of the prohibition order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of this notice of effectiveness including an assessment of the EPA certification dated November 19, 1976, pursuant to section 119(d)(1)(B) of the Clean Air Act, that December 31, 1977, was the earliest date that powerplants Nos. 9 and 10, respectively, could burn coal and comply with the applicable regional limitation. That analysis resulted in a determination that it is clear that issuance of this notice of effectiveness making this prohibition order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published June 9, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued this Notice of Effectiveness of the June 30, 1975, prohibition order to the above listed powerplants and served the notice on the powerplants by registered mail on the same day. The notice makes effective the prohibition order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective prohibition order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, subpart H. The appeal shall be filed within 30 days after service of the notice of effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the prohibition order in accordance with the provisions of 10 CFR Part 303, subpart J. An application for modification or rescission of a prohibition order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the notice of effectiveness, shall be filed within 30 days of service of such notice. An application for modification or rescission of a prohibition order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the notice of effectiveness.

All terms and conditions of the prohibition order and the notice of effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by this Notice of effectiveness is effective against any persons that, as of the date of service of such notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served this notice of effectiveness by registered mail. In addition, copies of this document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B–120, 2000 M Street NW., Washington, D.C., from 1–5 p.m., Monday–Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–7941).

Issued in Washington, D.C., August 4, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-23016 Filed 8-9-77;8:45 am]

THIRD ANTHRACITE COAL CONFERENCE

Conference

Notice is hereby given that the third Anthracite Coal Conference will be held on August 18, 1977, at 10:30 a.m. at the Reading Motor Inn, 1040 Park Road, Wyomissing, Pennsylvania. This meeting is a follow-up to the second Anthracite Coal Conference held on July 26, 1977, at FEA—Region III in Philadelphia, Pennsylvania. Notice is also given that the five subgroups to the Conference, appointed at the first meeting on June 28, 1977, will hold meetings before the third conference.

The urgency of convening both the subgroup meetings and third conference results from FEA's responsibility to study ways of improving the production of anthracite coal. Analysis and recommendations to this end must be completed by October 15, 1977. It is therefore essential to call these meetings immediately, thereby reducing the customary advance period of notice normally given.

The agenda and schedule of subgroup meetings is as follows:

PRODUCTION SUBGROUP

August 11, 1977, 10, Gus Genetti Motor Lodge, Route 309, Hazelton, Pennsylvania.

AGENDA

The Subgroup will identify the near and long term issues associated with increased anthracite production. In conjunction, necessary background analysis of these issues will be planned, and preliminary policy recommendations delineated.

UTILIZATION SUBGROUP

August 4, 1977, 10 a.m., Pennsylvania Power & Light Co. Building, Two North Ninth Street, Allentown, Pennsylvania.

AGENDA

Preliminary identifications of issues influencing the fufillment of utilization potentials.

MARKETING SUBGROUP

August 10, 1977, 10:00 a.m., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.

AGENDA

The Subgroup will discuss analysis, performed by some members of the structure and economics of rail transportation in the anthracite region. The Subgroup will further identify the near and long term issues associated with increased anthracite production. In conjunction, necessary background analysis of these issues will be refined, and preliminary policy recommendations delineated.

TECHNOLOGY SUBGROUP

August 8, 1977, 1:00 p.m., FEA Headquarters, Room 3000–B, 12th & Pennsylvania Avenue, NW., Washington, D.C.

AGENDA

Statement on the progress in studying the development of technological initiatives and identifying improvements with the greatest potential impact on anthracite mining.

ENVIRONMENTAL SUBGROUP

August 3, 1977, 9:30 a.m., United Mine Workers of America Office Building, 247 West Broad Street, Hazelton, Pennsylvania.

AGENDA

Progress report of study on environmental issues concerning land use conflicts, water quality, refuse disposal, restoration, rehabilitation.

The agenda for the August 18 conference is as follows:

1. In succession, each subgroup will present a preliminary final issues report on their respective areas of study.

2. The full conference will discuss these individual issues reports, allowing for group comment and recommendations. From this discussion, the full conference will refine the issues and form a structured outline of major policy recommendations which will be the focus of the final report to Mr. Schlesinger in October.

These meetings will be open to the public. The Chairman is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting.

Further information concerning this meeting may be obtained from Stephen T. Minihan, Room 3502, FEA Headquarters, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–6230).

Transcripts of the conference will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on August 5, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23017 Filed 8-9-77;8:45 am]

WYOMING AND VIRGIN ISLANDS ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Wyoming and Virgin Islands, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for either of these plans.

Single copies of the environmental assessment of the State Plans for Wyoming and Virgin Islands, are available from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views and arguments with respect to the environmental assessments to Executive Communications, Box 00, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communicaitons with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All com-

ments should be received by FEA by August 18, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to the determination.

Issued in Washington, D.C., August 4, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22965 Filed 8-9-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-520]

ARIZONA PUBLIC SERVICE CO.

Filing of Power Agreement

AUGUST 3, 1977.

Take notice that on July 18, 1977, Arizona Public Service Company (APS) tendered for filing a Lease Power Agreement between APS and Electrical District Number One of the County of Pinal, Arizona along with a Supplemental Agreement dated March 29, 1977. APS indicates that this Lease Power Agreement is to supersede and replace a Power Agreement between the parties dated July 2, 1975. APS further indicates that this Lease Power Agreement is similar to the Power Agreement (FPC Rate Schedule No. 64) which is to be superseded and replaced.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23013 Filed 8-9-77;8:45 am]

CLEVELAND ELECTRIC ILLUMINATING CO., ET AL.

[Docket No. ER 77-519]

Amendment to Interconnection Agreement

AUGUST 3, 1977.

Take notice that on July 20, 1977, the CAPCO Group filed Amendment No. 3 dated June 1, 1977, to the CAPCO Basic Operating Agreement dated as of January 1, 1975, as amended, which is filed with the Commission under the following Rate Schedule designations:

	Rate schedule, FPC No.
The Cleveland Electric Illuminating Co.	13
Duquesne Light Co.	14
Ohio Edison Co.	120
Pensylvania Power Co.	29
The Toledo Edison Co.	36

The CAPCO Group indicates that Amendment No. 3 provides charges for a new Schedule, designated as "Schedule H—System Capacity and Energy", applicable to any CAPCO member who has been allocated a specified amount of System Capacity from another member for a specified period of time under the Group's allocation procedures. The CAPCO Group further indicates that Amendment No. 3 also increases the demand rate under the Short Term Power Schedule from $.50 to $.60 per kilowatt per week, and clarifies the determination of demand charges when Short Term Power is purchased from systems outside the Group.

The CAPCO Group states that no new facilities will be installed nor will existing facilities be modified in connection with the proposed Amendment. It is requested that Amendment No. 3 become effective on August 1, 1977, and waiver of the Commission's notice requirements is therefore requested.

According to the CAPCO Group, notice of the filing has been provided to the Public Utilities Commissions of Ohio and Pennsylvania.

Any person desiring to be heard or to make any protest with reference to the subject matter of this notice should, on or before August 17, 1977, file with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc77-23014 Filed 8-9-77;8:45 am]

[Docket No. RM77-14]

GAS RESEARCH INSTITUTE

Pipeline Rates; Order Granting Interventions and Convening Informal Conference

JULY 29, 1977.

On March 22, 1977, Gas Research Institute (GRI) filed with the Commission an application requesting approval of a proposed industry-wide research and development (R&D) program to be carried out by GRI. The program would be funded by means of payments to GRI by jurisdictional interstate pipeline companies which are members of GRI. The amount to be contributed by each member will be determined by multiplying 1.2 mills per Mcf times the member's sales for resale to distribution customers, transportation deliveries to distribution customers, and sales and transportation deliveries to any pipeline companies which are not members of GRI.

Included as a part of GRI's application is a proposed initial five-year R&D program. The estimated annual cost of the program is approximately $30 million in 1977, increasing to approximately $93 million in 1981.

Public notice of the filing of GRI's application was issued on May 24, 1977, with protests or petitions to intervene due on or before June 6, 1977. The petitions to intervene which have been filed are listed in Appendix A. The Commission finds that good cause exists to grant such petitions.

Certain Municipal Distributors Groups filed a protest on June 6, 1977, in which they request that GRI's proposal be set for hearing. The Municipal Distributors Groups allege that GRI has shown no need for the institution of a separate funding formula, that GRI's proposal does not conform to Order No. 566,[1] and that there are anticompetitive aspects to GRI.

On July 13, 1977, the Public Service Commission of the State of New York (New York) filed comments in which it concurs with the basic concept underlying the GRI proposal. New York raises questions, however, regarding several aspects of the GRI proposal. New York notes that GRI's Application does not make clear the exact nature or frequency of future Commission review of GRI plans for utilizing the funds recovered from its members. Additionally, New York mentions several apparent problems regarding GRI's funding plan.

GRI filed an answer to the Municipal Distributors Groups' protest on July 7, 1977, and on July 25, 1977 GRI filed a response to New York's comments. Additionally, on July 25, 1977, GRI tendered a request that an informal conference of all interested parties be convened to attempt to resolve issues regarding GRI's proposal. The Commission finds that good cause exists to grant GRI's request and to defer establishment of further procedures pending the outcome of the conference.

The Commission finds: (1) Good cause exists to grant the petitions to intervene listed in Appendix A.

(2) Good cause exists to grant GRI's request for an informal conference and to defer establishment of further procedures pending the outcome of the conference.

The Commission orders: (A) The petitions to intervene listed in Appendix A are granted subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in each petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Commission staff shall convene an informal conference to attempt to resolve the issues in this proceeding at 10:00 A.M. on August 17, 1977 at the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. The establishment of further procedures shall be deferred pending the outcome of the conference.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHVELL,
Acting Secretary.

[1] Research; Development and Demonstration; Accounting; Advance Approval of Rate Treatment. Docket No. RM76-17, Order No. 566, issued June 3, 1977.

APPENDIX A—PARTIES FILING PETITIONS TO INTERVENE

COMPANY

Panhandle Eastern Pipeline Company [2]
Trunkline Gas Company [2]
American Gas Association [2]
Bay State Gas Company [2]
Commonwealth Gas Company [2]
New Bedford Gas and Edison Light Company [2]
Manchester Gas Company [2]
Lowell Gas Company [2]
East Ohio Gas Company
Peoples Natural Gas Company
Algonquin Gas Transmission Company
Midwestern Gas Transmission Company
Washington Water Power Company
Berkshire Gas Company [2]
Northwest Pipeline Corporation [2]
Wisconsin Southern Gas Company, Inc. [2]
Wisconsin Fuel and Light Company [2]
Iowa-Illinois Gas and Electric Company [2]
South Jersey Gas Company [2]
Public Service Commission of the State of New York [2]
Consolidated Edison Company of New York
The Peoples Gas Light and Coke Company
North Shore Gas Company
Mississippi River Transmission Corporation
Interstate Natural Gas Association of America
Florida Gas Transmission Company
Long Island Lighting Company
Michigan Wisconsin Pipe Line Company
Philadelphia Gas Works
Texas Gas Transmission Corporation
Natural Gas Pipeline Company of America [2]
San Diego Gas and Electric Company [2]
United Gas Pipe Line Company
East Tennessee Natural Gas Company
Michigan Public Service Commission [2]
Columbia Gas Distribution Companies
Michigan Consolidated Gas Company
Washington Natural Gas Company
UGI Corporation
Connecticut Natural Gas Corporation
Municipal Distributors Groups
Tennessee Gas Pipeline Company
Consolidated Gas Supply Corporation
Pacific Gas Transmission Company
Rochester Gas and Electric Corporation
Texas Eastern Transmission Corporation
Transwestern Pipeline Company
El Paso Natural Gas Company
Philadelphia Electric Company
Transcontinental Gas Pipe Line Corporation
Public Service Commission of the District of Columbia [2]
Connecticut Natural Gas Corporation
Atlanta Gas Light Company
Alabama Gas Corporation
Wisconsin Gas Company
Laclede Gas Company
Baltimore Gas and Electric Company
Columbia Gas Transmission Corporation
Columbia Gas System Service Corporation
Southwest Gas Corporation
Cities Service Gas Company
Boston Gas Company
Northwest Natural Gas Company
Michigan Gas Storage Company
Northern Indiana Public Service Company
Intermountain Gas Company
Missouri Power & Light Company
Missouri Edison Company
Great Lakes Gas Transmission Company
Southern Union Company
Washington Gas Light Company
Northern States Power Company (Minnesota)
Northern States Power Company (Wisconsin)
Iowa Public Service Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Kansas-Nebraska Natural Gas Company
North Central Public Service Company
Northern Illinois Gas Company
Central Hudson Gas & Electric Corporation
Consumers Power Company
Northern Natural Gas Company
People of the State of California and the Public Utilities Commission of the State of California [3]
Pacific Gas and Electric Company

[2] Untimely petitions.

[FR Doc.77-23018 Filed 8-9-77;8:45 am]

[Docket No. ER76-658]

IOWA POWER & LIGHT CO.

Certification of Proposed Settlement Agreement

AUGUST 3, 1977.

Take notice that the Presiding Administrative Law Judge Michel Levant on July 27, 1977 certified to the Commission a document entitled "Stipulation and Agreement" tendered (via joint motion filed on July 15, 1977) by the City of Carlisle, Iowa (Carlisle), the City of Neola, Iowa (Neola), and the Iowa Power and Light Company.

According to the Judge, the "Stipulation and Agreement" provides inter alia for rates established on a revenue requirement from Carlisle of $328,000 and a revenue requirement from Neola of $112,000 which represents a reduction for the Carlisle and Neola of $91,551 from the initially filed rates.

The Judge indicates that the Staff counsel has no objection to the joint motion and indicates that it will reserve its comments upon the proposed settlement until after certification.

Any person wishing to be heard concerning said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 19, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement agreement are on file with the Commission and are available for public inspection.

[3] Notice of Intervention

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23012 Filed 8-9-77;8:45 am]

[Docket No. ER77-522]

KANSAS CITY POWER & LIGHT CO.

Proposed Increases in Rates and Charges

AUGUST 3, 1977.

Take notice that on July 22, 1977, Kansas City Power & Light Company (KCPL) filed with the Commission new increased Schedules of Rates and Charges for Wholesale Firm Power Service to supersede and replace Schedules of Rates and Charges for Wholesale Firm Power Service in contracts and agreements with the following wholesale customers:

1. Missouri Power & Light Company (MPLC), FPC No. 73.
2. City of Marshall, Missouri (Marshall), FPC Docket ER77-475.
3. Missouri Public Service Company (MPSC), FPC No. 74.
4. City of Armstrong, Missouri (Armstrong), FPC No. 80.
5. City of Gardner, Kansas (Gardner), FPC No. 79
6. City of Higginsville, Missouri (Higginsville), FPC No. 72.
7. City of Pomona, Kansas (Pomona), FPC Docket No. ER77-318.
8. City of Prescott, Kansas (Prescott), FPC No. 76.
9. City of Salisbury, Missouri (Salisbury), FPC No. 61.
10. City of Slater, Missouri (Slater), FPC No. 81.
11. Coffey County Rural Electric Cooperative Association, Inc. (Coffey County), FPC No. 69.
12. United Electric Cooperative, Inc. (formerly Sugar Valley Electric Cooperative Association, Inc.) United Electric, FPC No. 68.

KCPL states that the proposed effective date for each new increased Schedule of Rates and Charges is August 31, 1977, and that the new Schedules of Rates and Charges reflect an increase of $2,916,400 in annual revenue to KCPL based on its cost of service and budgeted sales to wholesale firm power customers during the 12-month test period ending June 30, 1978. Additionally, KCPL states that the changes embodied in the new Schedules of Rates and Charges include only increased rates for Demand and Energy Charges.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23011 Filed 8-9-77;8:45 am]

[Docket No. ER76-785]

MONONGAHELA POWER CO.

Filing

AUGUST 3, 1977.

Take notice that on July 22, 1977 Monongahela Power Co. (Monongahela) tendered for filing revisions to Sheet Nos. 14 and 15 to FPC Electric Tariff, Original Volume No. 1. Monongahela states that the filing were made in conformance with the Commission's Order Approving Settlement issued in this docket on July 1, 1977.

Monongahela also states that copies of this filing were served upon the City of Philippi, the City of New Martinsville, Harrison Rural Electrification Association, Inc., and their counsel.

Any person desiring to be heard or to protest said filing should file protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23015 Filed 8-9-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 29]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING JULY 16, 1977

ACTIONS OF THE BOARD

Statement by Vice Chairman Stephen S. Gardner before the subcommittee on Financial Institutions Supervision, Regulation and Insurance of the House Banking, Finance and Urban Affairs Committee in support of the International Banking Act of 1977.

Statement by Governor Philip C. Jackson, Jr., before the Consumer Affairs Subcommittee of the Senate Banking, Finance and Urban Affairs Committee in support of the simplification of the Truth in Lending Act.

Collection of data from member banks on Individual Retirement and Keogh accounts.

Board responses to proposal by Merrill Lynch, Pierce, Fenner & Smith to operate a cash management account.

Milco Bancorporation, Inc., Iberia, Missouri, requests for an extension of time to August 1, 1977, within which to file its registration statement.[1]

Bank of Neosho, Neosho, Missouri, to make an investment in bank premises.[1]

Arkansas Bank & Trust, Hot Springs National Park, Arkansas, to make an investment in bank premises.[1]

Foxworth Bank, Foxworth, Mississippi, to make an investment in bank premises.[1]

Bank of Virginia, Richmond, Virginia, request for an extension of time within which to establish a branch in the Canterbury Shopping Center at the intersection of Patterson Avenue and Pump Road, Henrico County, Virginia.[1]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

RETURNED

First National Boston Corporation, Boston, Massachusetts, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to Blackstone Valley National Bank, Whitinsville, Massachusetts.

APPROVED

First Texas Bancorp, Inc., Georgetown, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First National Bank, Copperas Cove, Texas, a proposed new bank.[2]

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Tanglewood Commerce Bank, Houston, Texas, a proposed new bank.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

RETURNED

Southwest Florida Banks, Inc., Fort Myers, Florida, notification of intent to engage in de novo activities (providing, as agent, in connection with extensions of credit by applicant's subsidiary banks, insurance assuring repayment of such extensions of credit in the event of death or disability of the borrower), at 691 Fifth Avenue, South, Naples, Florida, through a subsidiary, Southwest Financial Services, Inc.

WITHDRAWN

Manufacturers Hanover Corporation, New York, New York, for approval to acquire all the assets of Modern Loan Company, Incorporated, Louisville, Kentucky.[2]

First National Lincoln Corp., Lincoln, Nebraska, notification of intent to engage in de novo activities (operation of a detached auxiliary office of an industrial bank organized as an industrial loan and investment company pursuant to Article 4 of Chapter 8, reissue revised statutes of Nebraska, 1943 as amended; this auxiliary office of the industrial bank will receive savings deposits, both installment (passbook) and time certificates, paying interest thereon at rates not to exceed those approved from time to time by the director of banking and finance of the State of Nebraska; the auxiliary office of the industrial bank will also make loans, principally consumer installment loans secured by First or Second Mortgages pursuant to Sections 8-435 to 8-450, reissue revised statutes of Nebraska, 1943) on the northwest corner of 14th and "L" Streets, Lincoln, Nebraska, through its subsidiary, First Savings Company of Lincoln (7/15/77).[3]

Nevada National Bancorporation, Reno, Nevada, and Seilon, Inc., Toledo, Ohio, notification of intent to relocate de novo activities (financing of personal property and equipment and the leasing of such property or the acting as an agent, broker or advisor in the leasing and/or financing of such property where at the inception of the initial lease, the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property, plus the estimated total cost of financing the property over the term of the lease; making or acquiring for its own account or for the account of others, loans and other extensions of credit in the normal course of its leasing business, including the making of business installment loans, the purchase of business installment sales finance contracts and making loans to businesses of various sizes) from 4th and Bridger Streets to 3160 West Sahara Avenue, Las Vegas, Nevada, through its subsidiary, Nevada National Leasing Company, Inc (7/10/77).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit) at 33110 Pacific Highway South, Federal Way, Washington, through its subsidiary, Rainier Mortgage Company (7/10/77).[3]

APPLICATIONS RECEIVED

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Downs Bancshares, Inc., Downs, Kansas, for approval to acquire 100 percent (less directors' qualifying shares) of The Downs National Bank, Downs, Kansas.[2]

Holt County Investment Company, Oregon, Missouri, for approval to acquire 94 percent of the voting shares of Zook and Roecker State Bank, Oregon, Missouri.

Fort Worth Bancshares, Inc., Fort Worth, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Fort Worth Bank and Trust, Fort Worth, Texas.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Landmark Bancshares Corporation, St. Louis, Missouri, for approval to acquire 99 percent of the voting shares of Fidelity Bank & Trust Company, Creve Coeur, Missouri.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities, such insurance will be provided only in connection with extensions of credit by Local Loan Co., and its wholly-owned subsidiaries.

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 111 North Palafox Street, Pensacola, Florida, through a subsidiary, Landmark Finance Corporation of Florida (a wholly-owned subsidiary of Landmark Financial Services, Inc.) (7/15/77).[3]

Great American Corporation, Baton Rouge, Louisiana, notification of intent to engage in de novo activities (making and acquiring, for its own account loans, discounts, acceptances and other extensions of credit and such other business as is customarily engaged in by consumer credit or finance company; and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiary to include credit life insurance, accident and health insurance and property insurance for collateral supporting loans made by said finance subsidiary) at 3204 Ryan Street, Lake Charles, Louisiana, through a subsidiary, Ambank Acceptance Corporation d/b/a American Acceptance Associates (7/11/77).[3]

First Amtenn Corporation, Nashville, Tennessee, notification of intent to relocate in de novo activities (making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a finance company including secured and unsecured loans to individuals; discounting of installment sales contracts and secured commercial financing such as dealer floor-plan financing and lease financing; acting as agent or broker in selling the following types of insurance to borrowing customers: credit life insurance, accident and health insurance, and property damage insurance on collateral supporting loans made by Atlantic Consumer Services of Tennessee, Inc.) from 326 Union Street, Nashville, Tennessee, to 2512 Nolensville Road, Nashville, Tennessee, through a subsidiary, Atlantic Consumer Services of Tennessee, Inc. (7/13/77).[3]

United States National Bancshares, Inc., Galveston, Texas, to engage in permissible microfiche services at 600 Jefferson Building, Suite 715, Houston, Texas and 538 Highway 288 North, Clute, Texas through a wholly-owned subsidiary, Bankers Data Services, Inc., Houston, Texas (7/13/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account second mortgage loans and other extensions of credit such as would be made or acquired by a finance company and servicing second mortgage loans and other extensions of credit; such activities will include but not be limited to purchasing instalment sales finance contracts, extending credit to small businesses, and making loans secured by second mortgages and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at Park Plaza West, 10700 S.W. Beaverton-Hillsdale Highway, Beaverton, Oregon, through its indirect subsidiary, FinanceAmerica Corporation (an Oregon corporation) (7/6/77).[3]

Seilon, Inc., Toledo, Ohio, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker or advisor in leasing such property, where at the inception of the initial lease the effect of the transaction, and, with respect to governmental entities only, reasonably anticipated future transactions will yield a return that will compensate the lessor for not less than the lessors full investment in the property plus the estimated total cost of financing the property over the term of the lease) at 901-903 Sneath Lane, San Bruno, California, through its subsidiary, Bancorporation Leasing (7/11/77).[3]

REPORTS RECEIVED

None.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22978 Filed 8-9-77;8:45 am]

CRETE STATE CORP.

Formation of Bank Holding Company

Crete State Corporation, Crete, Nebraska, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. Section 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Crete State Bank, Crete, Nebraska. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. Section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 2, 1977.

Board of Governors of the Federal Reserve System, August 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23000 Filed 8-9-77;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Granting Determination Under the Bank Holding Company Act

First City Bancorporation of Texas, Inc. ("FCB"), Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act of 1956, as amended, has requested a determination under section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), that FCB is not in fact capable of controlling Peter Brooks or other members of a purchasing group to which FCB, James A. Elkins, Jr., and Ralph A. Harper will transfer voting shares of South Main Bank ("Bank"), Houston, Texas, notwithstanding the fact that members of that group are indebted to FCB's subsidiary bank, First City National Bank of Houston, Houston, Texas. Under section 2(g)(3) of the Act shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Notice of an opportunity for hearing regarding FCB's request was published June 2, 1975 (40 FR 23795). The time provided for requesting a hearing has expired, and one has been requested. FCB and other interested parties have submitted to the Board evidence to support FCB's contention that it is not in fact capable of controlling the transferees, directly or indirectly.

The record reflects that the members of the purchasing group are not officers, directors, or employees of FCB or its affiliates; that together they have sufficient financial resources to enable them to resist any attempts by FCB to influence them; that all management and director interlocks between Bank and FCB, including FCB's subsidiaries, and all business relationships between them other than those customary in normal correspondent banking relationships have been terminated; that Bank has discretion to terminate those customary business relationships; that the terms governing the debt relationship between the purchasing group and FCB's subsidiary bank are limited to those reasonably necessary, in accordance with sound and accepted banking practices, to protect the lender's security; and that there are no agreements or understandings, apart from the loan agreement, that permit FCB, its subsidiaries, or the directors, officers, shareholders, or employees of either ("related persons") to influence or control Bank or the purchasing group. Furthermore, FCB, on behalf of itself, its subsidiaries, and related persons, has undertaken not to exercise or attempt to exercise influence or control over Bank or the purchasing group and not to use rights conferred by the loan agreement with the purchasing group to exercise influence or control over Bank. Furthermore, even if an event of default were to occur under the loan agreement, FCB and its subsidiary bank have agreed to report that occurrence promptly to the Federal Reserve Bank of Dallas; and if foreclosure is necessary, to place shares of Bank acquired in foreclosure in a trust administered by a trustee acceptable to the Board; and to apply promptly to retain such shares or agree promptly to dispose of them within one year. Peter Brooks, the Chairman of Bank, on behalf of himself and members of the purchasing group, has affirmed that they are not subject to influence or control by FCB, its subsidi-

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

aries, or related persons; that he is not a representative of FCB, its subsidiaries, or related persons; and that he will not act as such or subject to their instructions, influence, or control in his management of the Bank. There exist no agreements or understandings among any of the parties to the contrary.

On the basis of the record in this matter, including the facts and undertakings summarized above, it is determined that FCB is not in fact capable of controlling Peter Brooks or other members of the purchasing group. Any material change in the facts or circumstances relied on in making this determination or any material breach of any of the commitments upon which the decision is based could result in reconsideration of this determination.

By order of the Board of Governors, acting through its Acting General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), August 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22980 Filed 8-9-77;8:45 am]

FLORIDA COAST BANKS, INC.

Acquisition of Bank

Florida Coast Banks, Inc., Pompano Beach, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99 percent of the voting shares of Florida Coast Bank of South Palm Beach County, N.A., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 2, 1977.

Board of Governors of the Federal Reserve System, August 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23001 Filed 8-9-77;8:45 am]

HAWKEYE BANCORPORATION

Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire, indirectly, 98.3 percent of the voting shares of Morningside State Bank, Sioux City, Iowa, through the acquisition of 60 percent (or more) of the voting shares of Morningside Development Company, Sioux City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 1, 1977.

Board of Governors of the Federal Reserve System, August 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23002 Filed 8-9-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on July 21, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA–U522–P–O, Low Income Weatherization Assistance Application. The Energy Conservation and Production Act of 1976, Title IV, Part A, Section 413(a) authorizes the Administrator of the Federal Energy Administration to develop and conduct a weatherization program by making grants to the States for the purpose of providing weatherization assistance to low-income persons, particularly the elderly and handicapped low-income. The FEA–U522–P–O provides the means by which the States may apply for Federal assistance to retrofit the homes of eligible persons. The FEA published proposed regulations on April 1, 1977, and they were finalized on June 1.

Approximately 50 States are expected to participate in the program annually. FEA estimates respondent burden to average 80 hours per annual response.

GAO granted clearance of the form FEA–U522–P–O on August 2, 1977, under number B–181254 (RO460) because the application form conformed to GSA Standard Form 424 and the Federal Management Circular 74–7.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-22975 Filed 8-9-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations Temporary Regulation F–433]

ADMINISTRATOR OF ENERGY RESEARCH AND DEVELOPMENT

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator of Energy Research and Development to represent the interests of the executive agencies of the Federal Government in a natural gas curtailment plan proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 250(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Administrator of Energy Research and Development to represent the consumer interests of the executive agencies of the Federal Government before the Railroad Commission of Texas involving the examination of the natural gas curtailment plan for the Pioneer Natural Gas Company.

b. The Administrator of Energy Research and Development may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JOEL W. SOLOMON,
Administrator, of General Services.

AUGUST 1, 1977.

[FR Doc.77-23009 Filed 8-9-77;8:45 am]

[Federal Property Management Regulations Temporary Regulation F–431]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the interests of the executive agencies of the Federal Government in a rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Maryland Public Service Commission involving the application of the Baltimore Gas and Electric Company for increases in its intrastate electric and gas rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JOEL W. SOLOMON,
Administrator of General Services.

JULY 28, 1977.

[FR Doc.77-22983 Filed 8-9-77;8:45 am]

[Federal Property Management Regulations Temporary Regulation F–432]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a gas rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission (Docket No. 77–0–376), involving the application of the North Shore Gas Company for an increase in gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JOEL W. SOLOMON,
Administrator of General Services.

AUGUST 1, 1977.

[FR Doc.77-23008 Filed 8-9-77;8:45 am]

[Intervention Notice No. 35; Transmittal No. 12745]

FEDERAL COMMUNICATIONS COMMISSION AND AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Proposed Intervention in Communications Rate Application

The General Services Administration seeks to intervene in a proceeding before the Federal Communications Commission concerning an application by the Federal Communications Commission concerning an application by the American Telephone and Telegraph Company (AT&T) for revision of FCC Tariff No. 259, which involves the rates and regulations for AT&T's interstate Wide Area Telecommunications Service (WATS). GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone (202) 566–0750, on or before September 9, 1977 and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

[Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).]

Dated July 19, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-23096 Filed 8-9-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

RECOMBINANT DNA RESEARCH

Health Guidelines; Department-Wide Applicability

Notice is hereby given that on April 11, 1977, the Secretary, Department of Health, Education, and Welfare adopted as official policy for the Department of Health, Education, and Welfare, the National Institutes of Health Guidelines for Recombinant DNA Research which were published July 7, 1976 (41 FR 27901–27943).

When originally issued, the Guidelines were established to govern the conduct of research on recombinant DNA molecules that was supported by NIH. While NIH appears to be the sole agency in the Department supporting or conducting such research, it was decided that the Guidelines should have Department-wide applicability.

Dated: August 4, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

[FR Doc.77-23060 Filed 8-9-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of forthcoming executive committee meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Executive committee meeting: August 26, 1977, 8 p.m. to 10 p.m., and August 27, 1977, 8 a.m. to 3 p.m.

ADDRESS: Sheraton Denver Hotel, 3535 Quebec Street, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, Office of the National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202–376–8882).

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act, Title IV of Pub. L. 92–318 (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92–318 and amended by Pub. L. 93–380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92–138), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874), as added by Title IV, Part A, of Pub. L. 92–318; and

(7) Submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

The meeting on August 26–27, 1977, will be open to the public. This meeting will be held at the Sheraton Denver Hotel, Denver, Colo.

The proposed agenda includes:

(1) Develop fiscal year 1978 NACIE budget.
(2) Discuss and set agenda items for September 17-19, 1977, ful council meeting.
(3) Prioritize NACIE activities for fiscal year 1978.
(4) Set meeting dates for fiscal year 1978.
(5) Regular committee business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Washington, D.C. 20004.

Signed at Washington, D.C., on August 5, 1977.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.77-23062 Filed 8-9-77;8:45 am]

Office of the Secretary

REIMBURSEMENT FOR ABORTIONS

Section 209 of Public Law 94-439, the Labor-HEW Appropriation Act of 1977—popularly known as the Hyde Amendment—provides that:

> None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Last October, a Federal District Court issued an order enjoining the Department from enforcing the Hyde Amendment. That injunction has now been dissolved. Accordingly, the Department will provide Federal financial participation in the cost of abortions only where the attending physician, on the basis of his or her professional judgment, has certified that the abortion is necessary because the life of the mother would be endangered if the fetus were carried to term.

The legislative history of the Hyde Amendment, however, makes clear that the Amendment does not bar funding for certain medical procedures. Specifically, the Conference Committee Report interpreting the Hyde Amendment states as follows:

> Nor is it the intent of the Conferees to prohibit medical procedures necessary for the termination of an ectopic pregnancy or for the treatment of rape or incest victims; nor is it intended to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum. (HR Rep. No. 95-1555, at p. 3.)

Thus Federal funds will continue to be available for such medical procedures. "Treatment for rape or incest victims" is, however, limited for these purposes to prompt treatment before the fact of pregnancy is established. As in all cases, Federal funds for abortions for rape or incest victims will be available where the physician has certified that the life of the mother would be endangered if the fetus were carried to term.

Dated: August 6, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc.77-23250 Filed 8-9-77;8:56 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-512]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of additional designation of emergency drought impact areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as emergency drought impact areas:

FLORIDA

Bradford	St. Johns
Flagler	Union
Putnam	

GEORGIA

Brantley	Muscogee
Bulloch	Tift
Camden	Wilcox
Charlton	

LOUISIANA

St. Tammany

WASHINGTON

Clallam	Snohomish
King	

The designation of an emergency drought impact area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the memorandum of agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

JAMES L. LEWIS,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23066 Filed 8-9-77;8:45 am]

[FDAA-3035-EM; Docket No. NFD-521]

MICHIGAN

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Michigan (FDAA-3035-EM), dated March 2, 1977.

DATED: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Michigan dated March 2, 1977, and amended on April 1, 1977, and June 14, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977:

The counties of:

Alcona	Lake
Alpena	Leelanau
Antrim	Manistee
Arenac	Mason
Benzie	Missaukee
Charlevoix	Montmorency
Cheboygan	Ogemaw
Clare	Osceola
Crawford	Oscoda
Emmet	Otsego
Gladwin	Presque Isle
Iosco	Roscommon
Isabella	Wexford
Kalkaska	

The purpose of this designation is to continue to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23067 Filed 8-9-77;8:45 am]

[FDAA-537-DR Docket No. NFD-519]

PENNSYLVANIA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Pennsylvania (FDAA-537-DR), dated July 21, 1977, and related determinations.

DATED: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 21, 1977, the President declared a major disaster as follows:

> I have determined that the situation in certain areas of the State of Pennsylvania resulting from severe storms and flooding beginning about July 19, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Pennsylvania.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Richard E. Sanderson, FDAA, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster.

The counties of:

Bedford	Jefferson
Cambria	Somerset
Clearfield	Westmoreland
Indiana	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23068 Filed 8-9-77;8:45 am]

[FDAA-537-DR; Docket No. NFD-522]

PENNSYLVANIA

Designation of Federal Coordinating Officer

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the designation of the Federal Coordinating Officer for the Presidential major disaster declaration designated as Pennsylvania FDAA-537-DR, dated July 21, 1977.

DATED: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143), I have appointed Mr. Richard E. Sanderson to serve as the Federal Coordinating Officer for the Presidential major disaster declaration designated as Pennsylvania FDAA-537-DR, dated July 21, 1977.

As Federal Coordinating Officer, he is authorized to:

(1) Establish an Office of the Federal Coordinating Officer;

(2) Form emergency support teams of Federal personnel to be deployed in the area affected by this major disaster; and

(3) Issue mission assignments to other Federal agencies for logistical support of the Office of the Federal Coordinating Officer, Disaster Assistance Centers, and emergency support teams.

He is further authorized to obligate funds from the President's Disaster Relief Fund for the accomplishment of the above-listed functions.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23069 Filed 8-9-77;8:45 am]

[FDAA-3046-EM; Docket No. NFD-520]

VIRGINIA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Virginia (FDAA-3046-EM), dated July 23, 1977, and related determinations.

DATED: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 23, 1977, the President declared an emergency as follows:

> I have determined that the impact of a drought on the State of Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Dovle, FDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Augusta	Madison
Clarke	Page
Culpeper	Prince William
Fauquier	Rappahannock
Fluvanna	Rockingham
Frederick	Shenandoah
Greene	Stafford
Louisa	Warren

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23070 Filed 8-9-77;8:45 am]

Office of the Secretary

[Docket No. N-77-506]

PRIVACY ACT OF 1974

Addition of Routine Use

AGENCY: Department of Housing and Urban Development.

ACTION: Adoption of amendment.

SUMMARY: The Department is amending its Statement of Routine Uses required by the Privacy Act for one of its systems of records by adding a new routine use.

EFFECTIVE DATE: September 8, 1977.

ADDRESSES: Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Develop-

ment, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental, Privacy Act Officer, on 202–755–5192.

SUPPLEMENTARY INFORMATION: The Department amends the Statement of Routine Uses for the system of records designated as HUD/DEPT–28 (Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default) by adding a routine use for the disclosure of individually identifiable information concerning delinquent government-owed debts to debtors' employers and Federal agencies to the extent necessary for the Department to carry out its functions in exercising diligence in collecting government-owed debts as required by the Federal Claims Collection Act of 1966 (31 U.S.C. 95). The system of records was published at 41 FR 50610 on November 16, 1976.

In order to properly reflect the type of records, the system name is being changed to "Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default." The designation, HUD/DEPT–28, is being retained.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth above.

This amendment was published on May 3, 1977, (42 FR 22408) for public comment. No comments were received.

The Department of Housing and Urban Development amends the routine uses to read:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: To GAO for audit purposes; to private employers and other Federal agencies for the purpose of collecting government-owed debts; and to the Department of Justice and U.S. Attorney's offices for collection purposes.

For the convenience of the public, the Department is republishing the system of records in its entirety, as follows:

HUD/DEPT–28

System name:

Property and Mobile Home Improvement and Rehabilitation Loans-Delinquent/Default.

System location:

Headquarters and most area and insuring offices maintain files of this type. For a complete listing, with addresses, see Appendix A.

Categories of individuals covered by the system:

Mobile home, home improvement, and rehabilitation loan debtors; builders and contractors under mobile home, home improvement and rehabilitation programs.

Categories of records in the system:

Names, credit applications, and case histories of borrowers; records of payments, financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor request for collection and field reports; records of claims and chargeoffs; creditor request for collection assistance; justifications for closing collection actions; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: To GAO for audit purposes; to private employers and other Federal agencies for the purpose of collecting government-owed debts; and to the Department of Justice and U.S. Attorney's offices for collection purposes.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file folder.

Retrievability:

By name and case file number of individual covered.

Safeguards:

Files are stored in lockable file cabinets.

Retention and disposal:

Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Subject individual; current and previous employers; credit bureaus; financial institutions; firms; federal and nonfederal agencies; law enforcement agencies.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this notice have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C., July 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77–22957 Filed 8–9–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Seasonal Closure of Public Lands

Notice is hereby given that the Bureau of Land Management, Bakersfield District, California, is closing public lands within 500 yards of Robbers Roost (T. 27 S., R. 37 E., SW¼SE¼, Section 12 and NE¼NW¼, Section 13) to all public use and entry, except for authorized personnel, from February 1, to July 1, of each year. The purpose of the closure is to protect and provide solitude for nesting birds of prey. Authority for closure is under Title 43, CFR, 6010.4 (c,d).

TERRAL F. KING,
Acting District Manager.

[FR Doc.77–23040 Filed 8–9–77;8:45 am]

[Colorado 8879]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 3, 1977.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 8879, for withdrawal and reservation of lands for public purposes was published as FR Doc. 69–6905, on pages 9291–9292 of the issue of June 12, 1969. The applicant agency has cancelled its application as to the following described lands:

SIXTH PRINCIPAL MERIDIAN

A strip of land which lies 200 feet on each side of the centerline of Forest Highway 16 (the Marvine-Phippsburg Road) through government lands within the following legal subdivisions:

ROUTT NATIONAL FOREST

T. 3 N., R. 86 W.,
Sec. 22, lot 15; Sec. 28, lot 5; Sec. 29, lots 7, 8, 11 and 12 and government owned portions of lots 9 and 10; Sec. 30, lots 13, 17, 18, 19 and 20; Sec. 31, lots 6, 7 and 8.
T. 2 N., R. 87 W., unsurveyed (Protraction Diagram No. 3)
Sec. 1.

T. 3 N., R. 87 W.,
Sections 19, 20, 26, 27, 28, 29, 35 and 36.
T. 2 N., R. 88 W.,
Surveyed
Sec. 11; Sec. 12, W½NW¼, W½W½E½NW¼, E½W½E½NW¼.
Unsurveyed (Protraction Diagram No. 3)
Sections 15, 20 and 21; Sec. 22 excluding area withdrawn under P.L.O. 1492 for Vaughn Lake Campground.
Sec. 29 North and East of the Routt-White River National Forest Boundary at Ripple Creek Divide.
The above area aggregagtes 836 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2310 such lands will be relieved of the segregative effect of the above-mentioned application 30 days from the date of this Notice.

THOMAS HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77–23042 Filed 8–9–77;8:45 am]

[NM 31156, 31162, and 31170]

NEW MEXICO

Applications

JULY 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch, one 6⅝-inch, and one 8⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 27, SW¼NE¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 28, SE¼SE¼.
T. 31 N., R. 10 W.,
Sec. 3, lots 6 and 8.
T. 32 N., R. 10 W.,
Sec. 34, lots 5, 6, 10, and 11;
Sec. 35, lots 5 and 12.
T. 31 N. R. 11 W.,
Sec. 3, lot 3.
T. 32 N., R. 11 W.,
Sec. 34, E½SW¼.

These pipelines will convey natural gas across 2.510 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–23041 Filed 8–9–77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Charles van Riper III, Department Zoology, University of Hawaii, Honolulu, Hawaii 96822.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

APPLICATION FOR (Applicable only one) — IMPORT OR EXPORT LICENSE — [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Collect drepanids and use them for study of avian diseases in Hawaii. Then further study at institution on mainland.

Each of the birds will be color-coded upon capture for identificati in the experiment.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested):
Charles van Riper III
Dept. Zoology
University of Hawaii
Honolulu, HAwaii 96822

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS. | HEIGHT 6' | WEIGHT 170
DATE OF BIRTH: 24 Sept 1943 | COLOR HAIR: Bind. | COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 808-948-8617 | SOCIAL SECURITY NUMBER: 052-36-1459
OCCUPATION: Research Biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Dept. Interior
National Park Service
Hawaii National Park, Hi
96718

5. IF APPLICANT IS A FIRM, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF BUSINESS, AGENCY OR INSTITUTION:
NAME, TITLE AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.:
IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Island of Hawaii - collected nonendangered native birds for diseasestudy and then transport to mainland institution(possibly Clif)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [XX] YES [ ] NO
(If yes, list names of permit numbers):
PRT-8-154-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THE APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document):
State of Hawaii Collecting permit was OKed earlier this year.

9. CERTIFIED CHECK OR MONEY ORDER (IF APPLICABLE) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:

10. LICENSE EFFECTIVE DATE: 1 April 1977 | 11. DURATION NEEDED: 4 years

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF PERMIT REQUESTED IS ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS TO SUBCHAPTER B OF CHAPTER I, TITLE 50 OF THE CODE OF FEDERAL REGULATIONS GOVERNING THE ACTIVITY FOR WHICH THIS APPLICATION IS MADE, AND THAT ALL INFORMATION AND STATEMENTS CONTAINED IN THIS APPLICATION ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE OF APPLICANT: Charles van Riper III | DATE: 11 March 1977

DRAWN BY: [illegible] | CHECKED BY: [illegible]

SECTION 17.23

1. The Laysan Finch (*Psittirostra cantans*); to collect and transport 50 individuals from Laysan to Hawaii and then to mainland University when finished on Hawaii. The birds will all be used for scientific study—individuals will be exposed to malaria and then analyzed for the disease. Birds taken to the mainland will be examined at St. John's University, Newfoundland for other blood parasites and asundry viral infections. Birds will be randomly taken and no sex discriminated against.

2. I will be working under a cooperative Park Service grant to the University of Hawaii from Hawaii National Park.

3. All birds will be housed at the aviaries in Hawaii National Park during the three years of the study. No birds will be allowed to escape. At the end of the project on Hawaii all remaining birds will be taken to St. John's Newfoundland for analysis and then to a continental university where I plan to teach at. The birds will then be used for behavioral experiments. All individuals that succumb to disease will be postmortemed and analysis made of internal parasites and other maladies; the bodies will be disposed of through incineration.

4. Hawaii National Park has 4 outdoor avaries and I plan to construct a number more. These are 15x9x4 foot cages and can be walked into. I plan to screen the outsides against possible mosquito entry. address: Hawaii National Park, Hawaii 96718.

5. See my attached *Curriculum vitae* for my background with collection care and maintenance of rare and endangered species. I worked on the Palila (*Psittirostra bailleui*) a rare and endangered bird in Hawaii, for my PhD dissertation.

6. I will agree to keep a stud book if any birds should breed.

7. Containers used in transportation will be those the USDA and other agencies use for transportation of avifauna. The cages used to transport the Palila in my permit PRT 8–154–C will also be used in this project.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-900-C07; please refer to this number when submitting comments. All relevant comments received on or before September 9, 1977, will be considered.

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23029 Filed 8-9-77;8:45 am]

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Permit needed to purchase Swinhoe and Elliott pheasants for the purpose of breeding. Will purchase birds from breeders in New York, Pennsylvania, or Texas.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
HAPPY ACRES FARM
C. R. Covington, owner
Route 3, Box 491
King, N.C. 27021 919-994-2316

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'10"	WEIGHT 155
DATE OF BIRTH 2-3-26	COLOR HAIR gray	COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER 244-46-2330	

OCCUPATION
retired

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
9 miles east of King, N.C.
on Covington Road

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list licenses or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE 9/1/77

11. DURATION NEEDED 2/1/79

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) HAPPY ACRES FARM by: C.R. Covington owner — DATE 5-25-77

3-200
16/748

GPO 895-042

MAY 25, 1977.

I have been raising pheasants and peafowl for 25 years, being the exclusive breeder of pheasants and peafowl for the longest period of time of anyone in the South. I have had quite a bit of experience in raising them, especially rare type pheasants. In the past I have had 25 different breeds of pheasants and 6 varieties of peafowl breeds.

I am requesting a permit to purchase Swinhoe hens and Elliott hens, as I have only been successful in raising cocks in these 2 breeds for the past few years. I need the hens to enable me to introduce some new blood in my stock.

My pens are in various sizes, ranging from 6' x 14' to 12' x 24'. One row of pens, used for caging the tropical birds, is installed with heat. I am now in the process of remodeling my pens. As more experience is gained in the raising of pheasants and peafowl, one can always see where improvements are needed in the caging of the birds.

I will cooperate in any way with the U.S. Wildlife Service. I have spent the past 25 years attempting to raise pheasants that are rare and of good quality. I have shipped birds to several states and some overseas. I have never had a complaint on the birds I ship.

If there are further questions, I will try to answer for you. Ms. Lucinda Delaney, U.S. Fish and Wildlife Service Special Agent, has been to my farm and observed my facility.

C. R. COVINGTON,
Owner, Happy Acres Farm.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's Office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-941-07; please refer to this number when submitting comments. All relevant comments received on or before September 9, 1977 will be considered.

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23030 Filed 8-9-77;8:45 am]

THREATENED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4 (d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Ralph J. Fortman, 2507 Heritage Ct., Rockford, Ill. 61108.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
I plan to raise exotic pheasants for hobbey and sell access birds to pay for hobbey. These birds would come under endangered species permit.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Ralph J. Fortman
2507 Meritage Ct.
Rockford, Il. 61108

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 6'0"	WEIGHT 225 lbs.
DATE OF BIRTH Oct.5,1928	COLOR HAIR Brown	COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 815-398-6117	SOCIAL SECURITY NUMBER 341-22-6520	

OCCUPATION
Insurance and part time farming

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
no

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Not Applicable

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC
N/A

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Box 273, Arnett Road
Woodruff, Wis. 54568
2507 Heritage Ct.
Rockford, Ill. 61108

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list licenses or permit numbers)
PRT 2-1994-TW

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
State Licenses
Wisconsin #6592
Illinois #0806

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$0.00

10. DESIRED EFFECTIVE DATE 4-8-77

11. DURATION NEEDED 12-31-79

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. 17-33 17-42

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Ralph J. Fortman — DATE March 26,1977

3-200
16/748

GPO 895-042

alph J. Fortman
507 Heritage Ct.
ockford, Ill. 61108

50 CFR 17-33 Reply FWS/WPO PRT 2-635

I plan to buy at least one pair of the following pheasants

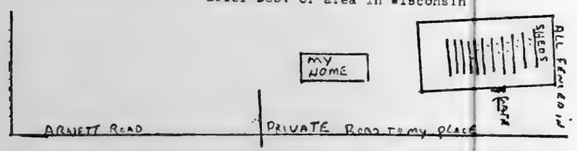
white eared pheasant, Edwards pheasant, Elliotts pheasant, Mikado pheasant Swinhoe pheasant, Imperial pheasant, Bar Tailed pheasant and may add different names.

I plan to buy some from Harold Heller of Lena, Ill. I also have wanted to buy out of state but need a permit before sellers will sell.

I have a forty acre farm in Woodruff, Wis. that was formerly a mink farm. There are 11, 10'X 200' sheds all fenced in on about 2½ acres I further fenced in some of the sheds with compartments so birds are seperated as to species. As I live in Rockford part time due to my insurance sales. I have 2 8'X20' holding pens if I would buy any Birds in Ill. and hold till I can get them transported to Wis.

I am 4⁰ years old and have been born a farmer and rasied on a farm till age 21. I then joined the Wheaton Police Dpet. and spent 20 years on the police dept, retiring as a Det. Sgt. Even through the years on the police dept. I raised pheasants, quail and partridge. I then bought this 40 acre farm in which I love to have wild game around. I like it as a hobby and I plan to have a few birds of different species around. As the population would grow I would sell off access birds to pay for feeds needed and not to have too many birds. I have a model 50 Hurtidaire incubator cost 3590000 as well as brooding equipment and such equipment needed to care of birds. I have attended local game birds seminars and read many books how to care for such birds. I applied this to birds I now have such as Chinese pheasants, quail, and partridge and feel very quallified.

Brief Des. of area in Wisconsin



I have read chapter 50 CRF and feel I have complied with your request for information. I will also am willing to assist in any way to help sustain birds and keep records for birds. I also state to the best of Knowledge all information given to you is True.

Signed Ralph J. Fortman

JUNE 27, 1977.

To: U.S. Department of the Interior.
Supplement To Application:

I would want to buy and sell only excess birds of the following species Brown eared pheasant—*Crossoptilon mantchuricum;* Edwards pheasant—*Lophuta edwardsi;* imperial pheasant—*Lophura imperialis;* Mikado pheasant—*Symaticus mikado;* Swinhoe pheasant—*Lophura swinhoii;* and bartailed pheasant—*Symaticus humiae.*

I am willing to cooperate with any program that I can be assistance to the U.S. Dept. of Interior. This refers to breeding, keeping any records and any other data to preserve wildlife.

Sincerely,

RALPH FORTMAN,
2507 Heritage Ct.,
Rockford, Ill. 61108.

1. I intend to have Swinhoe, Blue Eared, Humes, Cheer Pheasants at my farm.

2. The containers are sheds enclosed with chicken wire and the size of pens vary. The width of all pens are 10 feet wide. The length is 200 feet long. I will have these birds in the 50 feet long pens with 10 feet wide. The roof of sheds is aluminum sheets. The height is 10 feet high.

3. I have had approx. 12 birds killed by fox, coon and such. I have now put heavy chicken wire around sheds and buried it 1 foot to avoid animals from getting in. I have had no loss due to disease.

4. I would then advertise in the wild game magazines for disposal if I ever did get out of the business. I probably would sell to same people that I intend to buy from. I will not sell however to no one that does not have the proper permits however.

To the best of knowledge all typed statements are true.

Sincerely,

RALPH FORTMAN.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-635-25; please refer to this number when submitting comments. All relevant comments received on or before September 9, 1977 will be considered.

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23031 Filed 8-9-77;8:45 am]

THREATENED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Skyland Pheasantry, Star Rt. East Box 112, Newport, Oregon 97365, John R. Neilsen, Owner.

OREGON UNDERSEA GARDENS, INC.
Newport, Oreg.
June 22, 1977.

To: Federal Wildlife Permit Office, Fish and Wildlife Service, Washington, D.C.
From: John R. Neilsen, Skyland Pheasantry, Star Rt. East Box 112, Newport, Oregon.
Subject: Addendum to File No. PRT 2-707-07.

My application dated February 1977 is for a Captive Self-Sustaining Population (CSSP) permit. I wish the following birds to be covered by that permit:

Pheasant, browneared—*Crossoptilon mantchuricum;* Pheasant, Edward's—*Lophura edwardsi;* Pheasant, Elliott's—*Symaticus ellioti;* Pheasant, Mikado—*Symaticus mikado.* Pheasant, Palawan peacock—*Polyplectron emphanum;* Pheasant, Swinhoe's—*Lophura swinhoii.*

OMB NO. 42-

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*fo verify one*): IMPORT OR EXPORT LICENSE [ ] Y PERM [ ]

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Propagation of endangered species of pheasants and interstate purchase and sale of same.

3. APPLICANT (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
John R. Neilsen
Skyland Pheasantry
Star Rt. East Box 112
Newport, Oregon 97365

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS. | HEIGHT: 6'2" | WEIGHT: 205 lbs.
DATE OF BIRTH: 9-27-38 | COLOR HAIR: brown | COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: (503) 265-7541 | SOCIAL SECURITY NUMBER: 543-38-4416
OCCUPATION: Business Manager
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT: Skyland Pheasantry

5. IF APPLICANT IS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS AGENCY OR INSTITUTION: Business to propagate pheasants, quail and partridge and offer for sale surplus stocks.
NAME, TITLE AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: John R. Neilsen, Owner (503) 265-7069
IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Star Rt. East
Box 112
Newport, Oregon 97365

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(*If yes, list license or permit numbers*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(*If yes, list jurisdictions and type of documents*)
Oregon Pheasant Breeders License

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $50.00

10. DESIRED EFFECTIVE DATE: May 1, 1977

11. DURATION NEEDED: maximum duration

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*see 50 CFR 13.12(b)*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
Sec. 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*): John R. Neilsen | DATE: Feb. 12, 1977

9-200.2
(6-75)
GPO 895-042

Supplemental information to permit application as required under Chapter 1—United States Fish, Wildlife Service. Part 17—Endangered and Threatened Wildlife and Plants. Subpart C—Endangered Wildlife. Section 17.22—Permits for scientific purposes, or for the enhancement or propagation or survival.

Section 17.22, (a) Application enclosed.

(1) Interstate sale and purchase of captive reared available species of pheasants for propagation.

(2) Species covered to be hatched and reared in captivity from captive breeding stock.

(3) Species covered to be purchased from pheasant breeders.
(4) Within the boundaries of the United States.
(5) Acreage located on Yaquina Bay, Oregon. Star Route East, Box 112, Newport, Oregon 97365.
(6) Live wildlife to be covered by permit.
(i) Photos enclosed.
(ii) Twelve years experience in breeding captive pheasant, quail and partridge, other than those on endangered species list. Bachelor of Science Degree from Oregon State University in Fish and Wildlife Management.
(iii) Breeding data requested will be provided. Participation in a cooperative breeding program would depend on specific details.
(iv) Commercial containers designed for pheasants will be used in transporting specimens.
(v) No mortalities of species covered by the requested permit have occurred.
(7) No contracts or agreements are in effect.
(8) Justification of the permit includes:
(i) Interstate purchase and sale of endangered species of pheasants for controlled breeding of the species.
(ii) In efficiently designed enclosures for the species involved and personally attended by the applicant.
(iii) To propagate the species for continued survival.
(iv) If termination of the activity occurs, the permit would allow the interstate sale and shipment of the covered species to other breeders involved in promoting their survival.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-707-25; please refer to this number when submitting comments. All relevant comments received on or before September 9, 1977 will be considered.

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23032 Filed 8-9-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110, Richard D. Schultz, Director.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Interstate Transport of two (2) male and two (2) female Lesser Mouse Lemurs, Microcebus murinus, endangered species, captive born at Duke University Primate Facility, for display, propagation and zoological purposes.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
City and county owned public zoo, USDA licensed, engaged in conservation and propagation of wildlife, education, exhibits, research and recreation.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Richard D. Schultz, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
ES-14, ES-311, ES-156, ES-331, 6-SP-77, PRT-7-172-P-2(K.C.), 6-SC-78

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE

11. DURATION NEEDED
Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Charles H. Hoessle, Acting Deputy Director | DATE July 6 '77

3-200 (6-74)

JULY 5, 1977.

MR. DONALD DONNAHOO, *Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C.*

DEAR MR. DONNAHOO: The St. Louis Zoological Park hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. We submit the following information pursuant to Sections 13.12 of Volume 39, No. 3 and 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

1. The request is for permit for interstate transport of two (2) male and two (2) female Lesser Mouse Lemurs, *Microcebus murinus*, captive born in 1974 and 1975.

2. Captive born (821M, b. 18/7/74; 822M, b. 18/7/74; 823F, b. 30/9/74; 825F, b. 24/6/75).

3. Not applicable.

4. Born at Duke University Primate Facility, 3705 Erwin Road, Durham, North Carolina 27705 U.S.A.

5. The Lesser Mouse Lemurs will be maintained at the St. Louis Zoological Park, St. Louis, Missouri 63110. A current Zoo album, an annual report and other appropriate materials are on file with U.S. Fish and Wildlife Service, Law Enforcement Division. (Please consult Endangered Species application and materials submitted 18 June 1975).

6. (i). Photographs and diagrams enclosed.
(ii). The curatorial staff and keepers of the Primate Unit have been recognized by their peers as experts in lemur biology, propagation and management. See enclosed material.
(iii). The St. Louis Zoo is currently involved in cooperative breeding programs and studbook maintenance, as well as I.S.I.S., in an effort to enhance captive propagation of zoo species, especially those of rare and endangered status. See enclosures.
6. (iv.) The Lesser Mouse Lemurs will be shipped in crates exceeding the minimum standards of the I.A.T.A. Live Animal Regulations. See enclosure.
(v.) See enclosure.
As is obvious in the summary enclosed, loss of newborn tops the list. More seclusion for pregnant females during birth times has corrected this problem.
7. See enclosure (copies of letters).
8. (i.)The Lesser Mouse Lemurs will be maintained for propagation and educational and behavioral study purposes. See enclosure.
(ii.) By applying the same standard of excellence in animal management achieved with our Black Lemur, Ring-tailed Lemurs and Mayotte Island Lemurs.
(iii.) Studies of reproductive behavior will be conducted. Progeny resulting from propagational efforts will be made available to cooperating institutions to insure future captive populations, thus relieving pressures on wild populations.
(iv.) Autopsies will be performed on deceased specimens and, if desirable, their remains will be made available to appropriate public educational facilities. See enclosure.
A completed form 3-200 as well as other documents regarding this request are enclosed. We sincerely hope that we can receive your consideration on our request at your earliest convenience.

Sincerely yours,

CHARLES H. HOESSLE,
General Curator,
Deputy Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1118-07; please refer to this number when submitting comments. All relevant comments received on or before September 9, 1977 will be considered.

Dated: August 5, 1977.

DONALD G. DONNAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-23033 Filed 8-9-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 2, P.O. Box 1306, Albuquerque, New Mexico 87103.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Capture, hold, transport, transplant, and take all age classes and both sexes of the leopard darter (Percina pantherina)

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
U.S. Fish and Wildlife Service
Regional Director, Region 2 (SE)
Post Office Box 1306
Albuquerque, New Mexico 87103

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF APPLICANT IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Conservation of U.S. fish and wildlife & collection of scientific data.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 8-474-3974
W.O. Nelson, Regional Director
IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Oklahoma

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
Various appropriate F&WS permits

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Oklahoma Department of Wildlife Conservation - letter.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NA

10. DESIRED EFFECTIVE DATE
Sept. 1, 1977

11. DURATION NEEDED
December 31, 1980

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED
50 CFR 17.32 Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) [illegible] | DATE 8-2-77

3-200 (6-74)

1. Leopard Darter (*Percina pantherina*). All ages, both sexes, various numbers.
It is requested that personnel named and authorized by the Regional Director, Region 2, be allowed to: capture, hold, transport, transplant, and take all age classes and both sexes of the above species.
2. Sought species is in the wild.
3. For all species collecting equipment shall be limited to seines, passive traps, and electrofishing gear. All efforts shall be made to keep the fish alive for return to the waters.
4. NA.
5. Dexter NFH. Appropriate information in RD-R2 PRT 2-340.
6. NA.
7. Valid for use by Permittee named above and any person who is under the direct control of, or who is employed by or under contract to the permittee.
8. (i-iv) The purpose of the requested permit is to manage threatened species of fish in order to prevent their extinction. Determination of instream flows required to maintain the threatened and other species will enable the F&WS and Oklahoma Department of Wildlife Conservation to manage the stream fishery resources throughout the State of Oklahoma.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1254-09; please refer to this number when

submitting comments. All relevant comments received on or before September 9, 1977 will be considered.

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

AUGUST 4, 1977.

MRS. HOLLY A. J. NICHOLS, *10611 Mt. Boracho, San Antonio, Texas 78213.*

DEAR MRS. NICHOLS: This letter will serve to waive the 30-day public comment period in regard to an application submitted through several telephone calls from you and Dr. Nichols for an emergency exemption from the provisions of the Endangered Species Act of 1973. This waiver, and the issuance of the permit, authorize the activities outlined below without the normal 30-day public comment period on the permit application.

It has been determined by the Service that the St. Vincent's parrot (Amazona guildingii) you have identified as having a brain tumor, must be moved to San Antonio for treatment, or it will die, and that no reasonable alternative is available for the health and well-being of the species.

You are authorized, in accordance with permit PRT 2-1236, to transport the St. Vincent's parrot from the West Indies to San Antonio. This authority is granted to allow the rehabilitation of the bird.

This exemption is granted, conditional to the provisions of Endangered species permit PRT 2-1236, issued August 4, 1977. A copy of this permit has been sent to the Regional Director, Albuquerque and the Miami office, Division of Law Enforcement.

Sincerely yours,

JACK BERRYMAN,
Acting Associate Director.

[FR Doc.77-23034 Filed 8-9-77;8:45 am]

ST. VINCENT'S PARROT

Emergency Exemption; Issuance

On August 4, 1977, a letter waiving the 30 day public comment period was issued to Holly A.J. Nichols, San Antonio, Texas, authorizing emergency actions to enhance the survival of one St. Vincent's parrot (*Amazona guildingii*). This waiver was granted to allow the import of one St. Vincent's parrot for treatment of a brain tumor.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist and that the health and well-being of the bird is threatened and that no reasonable alternative to the proposed action is available to the applicant.

The parrot will be imported from the West Indies through the Miami port of entry to San Antonio, Texas.

A copy of the letter of waiver is herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Public Law 94-359 (90 Stat. 911).

Dated: August 5, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-23035 Filed 8-9-77;8:45 am]

Office of the Secretary

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on August 25, 1977, at the Ramada Inn, 718 Horizon Drive, in Grand Junction, Colorado. The meeting will begin at 9 a.m. on Thursday, August 25, in the Bookcliff Room and conclude at 4:30 p.m. that afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is to complete the Panel's review and to develop summary advice on the Revised Detailed Development Plan for oil shale lease Tract C-a, to receive reports from Interior officials, and to consider any other matters which have come before the Panel.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. Henry O. Ash, Acting Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. 303-234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the panel office.

Dated: August 8, 1977.

GARY J. WICKS,
Deputy Assistant Secretary for Land and Water Resources.

[FR Doc.77-23275 Filed 8-9-77;11:28 am]

National Park Service

ADVISORY BOARD ON NATIONAL PARKS HISTORIC SITES, BUILDINGS AND MONUMENTS; HISTORY AREAS COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the History Areas Committee of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held on Monday, August 29, 1977, commencing at 9 a.m. in Room 8068, at the Department of the Interior, 18th and C Streets NW., Washington, D.C.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935. The History Areas Committee considers, and advises on, matters relating to the eligibility of sites being proposed for designation as national historic landmarks, and on proposals for the establishment of historic units of the National Park System.

The purpose of this meeting is to consider potential national historic landmarks studied under the National Survey of Historic Sites and Buildings subthemes on "Architecture," and on "Commerce and Industry," and special studies on Pine Woods School, Piney Woods, Mississippi, and Lubbock Lake Site, Lubbock, Texas.

The formal recommendations of the Committee will be made to the Advisory Board on National Parks, Historic Sites, Buildings and Monuments at its meeting on September 30 and October 1, 1977, at LBJ State Park, Texas. No formal action of the Secretary of the Interior will be sought until after the Advisory Board has considered the recommendations of its History Areas Committee and acted thereon.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Committee written statements concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Robert M. Landau, Assistant for Advisory Boards and Commissions, National Park Service, Washington, D.C. 202-343-2012.

Minutes of the meeting will be available for public inspection 8 to 10 weeks after the meeting in Room 3013, Interior Building, Washington, D.C.

Dated: August 4, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions, National Park Service.

[FR Doc.77-23157 Filed 8-9-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-206]

CHIPPEWA COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Chippewa Coal Company, P.O. Box 136, Feds Creek, Kentucky 41524, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its Chippewa Mine No. 3, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows: 1. Operations are proceeding in seams of coal of heights which, when mined, do not permit clearances between the top of operated equipment and the roof, adequate to allow installation of canopies for protection of operators, without the creation of other and additional hazards. In this mine, seam heights vary significantly within all entries and from section to section, and within each section. Therefore, hazards from roof contact exist in all sections covered by this petition at areas where low seams, or rolls, dips and other seam variations, drop to the vicinity of equipment height. Petitioner has installed canopies on all equipment where repeated contact with the roof does not occur, and has re-equipped sections where possible.

2. Petitioner has consulted with MESA Technical Support Center, and continues to experiment with canopy installations. In this regard, Petitioner's greatest problem in extending use of canopies has been operator acceptance. It has been able to gain no significant experience with prototype canopies at the mine covered by this petition because of refusal of miners to operate the equipment. This subjective reaction is predictable in situations where seams are 42 inches in height and under, but is extremely difficult to deal with because of the provisions of Article III, Section (I) of the National Bituminous Coal Wage Agreement of 1974, which allows individual miners to withdraw from conditions which they believe to be abnormal and dangerous.

3. Petitioner operates a mine in which the application of the mandatory standard creates these hazards, as follows:

A. The mine operates one working section in seam heights of 40 to 54 inches, using conventional equipment with associated roof bolters.

B. Petitioner is constantly encountering undulations in the height of its coal seam.

C. As a result of the undulations in seam height the likelihood of jamming the canpoy against the roof is increased. Moreover, safe clearance from the roof is not assured in that roof bolts have been and will continue to be sheared or dislodged thereby creating a greater risk of roof fall and injury to the operator, by dislodged material and uncontrolled equipment.

D. Technology in the industry is not available to design, and install canopies on existing (some equipment has been in operation for over 20 years) equipment which will protect the operators in the conditions described above, insure vision and safe operation, and prevent the hazards described herein. Instead, results of attempts to do so have included the following: (1) Crammed and awkward operator positions cause operators to leave cabs more frequently, and in situations which expose them to hazards of mining equipment.

(2) Poor vision causes an operator to put his head outside of the equipment. This exposes him to hazards of moving equipment and collision with other equipment.

(3) Changes in conditions after installation of canopies, caused by variations in seam height and undulations cause equipment clearance to be inadequate and cause collisions with the top, shearing roof bolts, damaging cross beams, destroying equipment and roof support.

E. In an effort to solve problems of equipment modification, Petitioner knows of consultations with MESA Technical Support Center, which it believes to be considering the type of problems described herein. Petitioner does not know of results from such consultations. In addition, Petitioner, as is common in the industry, is in repeated and frequent consultations with vendors on equipment problems, and knows that vendors with whom it has consulted are unable to solve the problems described herein.

F. Existance of the cab itself becomes a hazard in seams, or in portions of seams, in which the Petitioner operates as described above, because present equipment known to the Petitioner limits the paths of escape open to an operator faced with a roof or rib fall in a confined space.

G. The mine covered by this petition is in an area which has been in operation for thirty (30) years and much of the equipment was not manufactured or designed for the installation of canopies. Petitioner has been unable to construct or purchase suitable canopies without encountering all of the foregoing problems.

H. In petitioning for modification of the mandatory standard herein, Petitioner is forced to request relief from all time limits set forth in 30 CFR 75.1710-1, as applied to date because of the variations described above within each section. The standard prescribes time limits for use of canopies based upon maximum height within a mine. If the standard becomes immediately applicable throughout the mine, Petitioner is being forced to install canopies in the lower reaches of coal before other coal mine operators in like situations. If the different time limits are to apply to the separate mining sections or to other areas in the mines, then Petitioner is faced with a vague situation as mining uncovers new conditions and it is forced with little time to comply, or where compliance is impossible as described herein, the mine may be rendered worthless.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Director, Office of Hearings and Appeals.

[FR Doc 77-22988 Filed 8-9-77;8:45 am]

[Docket No. M 77-234]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Consolidation Coal Company, c/o Alan B. Mollohan, 919 18th St., N.W., Washington, D.C. 20006, has filed a petition to modify the application of 30 CFR 75.305, weekly examination for hazardous conditions, to its Mine No. 20, located in Marion County, West Virginia.

The substance of petitioner's statement is as follows: 1. The Four States Mine (Mine No. 20) was originally opened in 1909 and mining progressed extensively until 1929 when the mine was shut down. Work was performed in the mine during one out of every four months for the purpose of mining boiler coal, cleaning falls on haulage and pumping water. The mine was reopened in 1942 for the purpose of full production. In 1950, 2,000 feet of the Main Airways entries, from the Four States Bottom area to 20+0 block, which had been driven sometime prior to 1929, were reactivated; three headings were cleaned to be used as return and intake entries; and the Main Line Track was established in one heading. In the early part of 1950, five entries were driven from 1 Right in the direction of the Four States Bottom connecting with the Main Airway entry at 20+0 block to be used for Main Line haulage. Work then proceeded on the five entries from 1 Right to 4 Left where the Stringtown Fan is located. These entries were completed in March 1953.

2. Since much of this development had been done before the advent of roof bolts for support, timbers had been used for most of the support in the mining cycle. These timbers have long since deteriorated due to adverse conditions such as moisture, roof pressure, etc., leaving much of the roof unsupported. The previous owner did very little work on these entries to maintain them except to keep the main line entry open for haulage purposes.

3. Parallel entries were driven on the left and right as panels were broken off and were used for return escapeways. After 1962, when mining ceased, the escapeways became too hazardous to be traveled due to roof falls and the presence of excessive amounts of water. Since that time, additional high, tight roof falls have occurred making most of the return air courses impassible or a hindrance to travel. Water, a problem at this mine, has flooded many of the accessible parts of the return air courses, forming an additional obstruction and aiding in the further deterioration of the roof rib and mine timbers.

4. As a result of these adverse conditions (roof falls, flaking roof and ribs, and water) in the return air courses between the Four States No. 1 Fan and the

Stringtown No. 3 Fan, weekly examinations for hazardous conditions as required by the Act are considered, in themselves, too hazardous to be performed. Only the main line haulage road is located in this area and the only active split returning to either fan is from the left side of 5 Left to the Stringtown Fan. All other air returning to these fans bleeds from the areas along the haulage on both sides.

5. To attempt to rehabilitate the 12,000 feet of return air courses on both sides of the haulage, so that weekly examinations could be performed, would be an immense and, for all practical purposes, an impossible task. Years of work requiring tremendous expeditures of both labor and money, would be required. No mechanical equipment could be used in the return air courses to aid in the rehabilitation and, therefore, all work would have to be performed by hand, exposing people to unnecessary hazards.

6. Since the granting of petitioner's Petition for Modification of 30 CFR 75.305 at the No. 20 Mine on November 28, 1975, a major rock fall pushing timbers has occurred on the walkway leading to Station No. 6 of the Stringtown return shaft. Such fall was of major proportions, and passage has been made impossible. Flooding of the remainder of the walkway and additional falls have occurred. These occurrences make it impossible to conduct air measurements and other tests at Station No. 6. Any attempt to rehabilitate this area would entail all of the difficulty and extreme hazard to employees as that detailed in paragraph 5 above.

7. Since the required rehabilitation is neither practical nor feasible, an alternate method is proposed that would guarantee the miners at the Four States Mine no less than the same measure of protection afforded by the mandatory standard, while at the same time eliminating the hazards presented miners involved in the long and difficult task of rehabilitating the area involved.

8. In the alternative to specific compliance with 30 CFR 75.305, petitioner proposes to establish seven air checking stations underground. Despite the conditions existing in the return air courses, air and methane readings can be made at certain points to ensure that methane accumulations have not occurred and to ensure that the air flow is in its proper course.

9. Petitioner proposes to establish these seven air checking stations as indicated on the map, appended as Attachment "A",[1] and as described as follows:

A. *Station 1, the West Approach to No. 1 Fan.* A measurement at this location will assure ventilation of the return airways and gob areas on the south side of the haulage entry from No. 2 right outby.

B. *Station 2, the East Approach to No. 1 Fan.* A measurement at this location will assure ventilation of the return airways and gob areas on the souht side of the haulage entry.

[1] Attachment A is available for inspection at the address listed in the last paragraph of this petition.

C. *Station 3, Near the 1 Right Pump Station.* A check at this station will assure ventilation is flowing at normal courses from 2 right to the west approach, No. 1 fan.

D. *Station 4, South Side of Main Haulage Entry Opposite 2 Right.* A check at this station will assure ventilation is following its normal course from this point to the east approach, No. 1 fan.

E. *Station 5, at the Balancing Overcasts at 3 left.* A check at this station will assure vetilation of the return airway and gob areas on the north of the haulage entry from 2 Right inby to No. 3 fan.

F. *Station 6, at the Overcast at 4 Right.* A check at this location will assure the existence of normal ventilating pressure.

G. *Station 7, at the Entrance to 3½ Right.* A check at the second entry away from the haulage in 3½ right will assure that air is entering this area. This assures ventilation from 3½ back to 3 left overcast.

10. Guidelines for the establishment of checking stations would be as follows:

A. The established check stations shall be examined by a certified person within 3 hours prior to the first scheduled production shift following an idle day, weekend or holiday, and at least every 24 hours while the mine is in operation. The examinations should be made during the same shifts each time. The examination shall include checks to assure the air is traveling in its proper course at the normal volume and tests for methane.

B. The certified person making the examination shall place his initials, time, and date in a book or a board provided for that purpose at each station. The results of the examination shall also be recorded in a book provided for that purpose, on the surface.

C. Methane gas or other harmful, noxious, or poisionous gases shall not be permitted to accumulate in the airways. An increase of 0.5 volume percent methane or a reduction of 10 percent in quantity when compared to the last readings at any check station shall be cause for an immediate investigation of the affected area.

D. Persons assigned to make the examination shall be familiar with the normal direction of airflow at each station. Any change in airflow, or as stated in provision 3, shall be reported to the mine foreman immediately.

E. All persons assigned to work in the area between the Four States bottom and the Stringtown No. 3 fan, shall be instructed in the emergency evacuation routes from the area.

F. The access to and from check points shall be maintained in a safe travelable condition.

11. the proposed checking stations will satisfy all criteria of 30 CFR 75.305. Use of the checking stations will also eliminate the hazards involved in the rehabilitation of the return air courses. The net effect of the proposed checking stations will be the same as if the returns were capable of being travelled and will provide an accurate and knowledgable picture of the conditions in the return air courses from the Stringtown Fan to the No. 1 Fan at Four States (Mine No. 20). By eliminating the intake at Stringtown and by establishing Stations 6 and 7, the danger presently existing due to the condition of the Stringtown Shaft approach would be eliminated and additionally, ventiliation would be improved and greater assurance could be had that proper ventitlation exists on the haulage.

12. The proposed alternate method will provide at all times an equal measure of protection to all miners at the Four States Mine (Mine No. 20) as would be provided by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish commments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Offie of Hearings and Appeals.

[FR Doc.77-22992 Filed 8-9-77;8:45 am]

[Docket No. 77-220]

ENERGY FUELS CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Energy Fuels Corp., Box G, Steamboat Springs, Colo. 80477, has filed a petition to modify the application of 30 CFR 77.410, Mobile equipment, automatic warning devices, to its Energy No. 1 and 2 Mines, located in Routt County, Colo.

The substance of Petitioner's statement is as follows:

1. On May 19, 1977, Petitioner was issued a notice of violation for failure to install a backup alarm on a ¾ ton GMC explosives truck. Petitioner further received an order prohibiting the use of the truck until such time as the backup alarm was installed.

2. Subsequently, the backup alarm was installed on the pickup truck, but Petitioner operates an additional four trucks that do not have the backup alarm. It is Petitioner's position that Part 77.410 does not apply to ¾ ton pickup trucks and is in the Code for larger units that have total obstructed view.

3. Petitioner feels that the regulations are unclear and subject to the discretionary authority of the MESA inspector. Petitioner requests variances of Part 77.410 on all ¾ ton pick-ups used by it.

4. This request for variance is supported by the fact that prior to May 19, 1977, Petitioner had received no violations or orders for these particular vehicles despite the fact that unit No. U-19 has been used in the existing capacity for over 3 years. Because of the discretionary authority vested to the MESA inspectors, Petitioner further requests that no additional violations be written for the ¾ ton powder trucks until such time as this request is denied or granted by an Administraitve Law Judge.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-22989 Filed 8-9-77;8:45 am]

[Docket No. M 77-228]

MARTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Martiki Coal Corp., P.O. Box 8, Lovely, Ky. 41231, has filed a petition to modify the application of 30 CFR 71.600, drinking water; general, to its Martiki Mine, located in Martin County, Ky.

The substance of Petitioner's statement is as follows:

1. The Martiki mine employs approximately 350 miners and support employees. These miners commute from as far away as Stanton, Ky. (100 miles), Louisa, Ky. (30 miles), Williamson, W. Va. (40 miles), and the various local communities, all with their own water supply.

2. In the mine, the petitioner has (2) drilled wells supplying drinking water to its operation. The water from these wells has been tested for purity and is safe to drink. The laboratory report is attached.[1]

3. The petitioner has made potable water from its wells available to its miners, but because of its different taste they have refused to drink it. The miners employed at the Martiki mine have elected to supply their own drinking water from their own water source.

4. Petitioner submits that the application of the foregoing provisions of the regulations, if applied to its mine, is unnecessary and pointless due to the expressed desire of its miners to provide their own drinking water.

5. Since the standard involved herein has been complied with by supplying potable water and since the miners have made no complaint and prefer to supply their own water, the petitioner requests that the Standard be modified so that petitioner need not furnish water needlessly to its miners.

[1] The attached report is available for inspection at the address listed in the last paragraph of this petition.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-22990 Filed 8-9-77;8:45 am]

[Docket No. M 77-235]

McCOY ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), McCoy Elkhorn Coal Corp., c/o Francis D. Burke, Call Bros. Building, Second Street, Pikeville, Ky. 41501, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its Mine No. 1, located in Pike County, Ky.

The substance of Petitioner's statement is as follows:

1. The equipment for which this modification is sought is a Lee Norse Miner Model 245, 2 Galis 300 roof bolters, 1 S & S scoop Model 74 and 2 Joy shuttle cars No. 21.

2. Previous operations in this seam of coal by Petitioner have demonstrated the impracticability of the installation of canopies on equipment of this type. Experience has shown that a hazard to the operators, and other men, is created by the installation of canopies. This coal seam has consistent ascending and descending grades creating dips in the coalbed. Installation of canopies have resulted in the loss of roof support when roof bolts are ripped out by the canopies. Moreover, the canopies allow only a 30-inch vertical operating compartment thereby eliminating the equipment operator's vision.

3. It is Petitioner's firm belief that installation of these canopies could be a major contributing factor in accidents and for this reason Petitioner asks that the provisions of the Safety Standards be waived in this instance.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-22993 Filed 8-9-77;8:45 am]

[Docket No. M 77-236]

McCOY ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), McCoy Elkhorn Coal Corp. c/o Francis D. Burke, Call Bros. Building, Second Street, Pikeville, Ky. 41501, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its Mine No. 3, located in Pike County, Ky.

The substance of Petitioner's statement is as follows:

1. The equipment for which this modification is sought is 1 Galis Model 300 roof bolter.

2. Previous operations in this seam of coal by Petitioner have demonstrated the impracticability of the installation of canopies on equipment of this type. Experience has shown that a hazard to the operators, and other men, is created by the installation of canopies. This coal seam has consistent ascending and descending grades creating dips in the coalbed. Installation of canopies have resulted in the loss of roof support when roof bolts are ripped out by the canopies. Moreover, the canopies allow only a 30-inch vertical operating compartment thereby eliminating the equipment operator's vision.

3. It is Petitioner's firm belief that installation of these canopies could be a major contributing factor in accidents and for this reason Petitioner asks that the provisions of the Safety Standards be waived in this instance.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-22994 Filed 8-9-77;8:45 am]

[Docket No. M 77-238]

SLUCK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301

(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sluck Coal Co., Box 395, Gilberton, Pa., has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its Little Buck Slope Mine, located in Schuykill County, Pa.

The substance of Petitioner's statement is as follows:

1. It is requested that section 75.301 be modified for this Anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition requesting modification to 30 CFR 75.301 is submitted for the following reasons:

A. Air sample analysis history reveal that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion and mine fire history are nonexistent for the mine.

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, the Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-22995 Filed 8-9-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-223]

BIG H COMBS COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Big H Combs Coal Company, Inc., 236 East Main Street, Whitesburg, Kentucky 41858, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 10 Mine, located in Letcher County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the operator.

2. Petitioner's equipment consists of the following:

1 Pauls repair roof bolter—height 30 inches.
1 35 L Jeffrey cutting machine—height 33 inches.
1 S and H scoop—height 37 inches.

3. The No. 10 Mine is in the Hazard No. 4 seam which ranges from 46 to 50 inches in height. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contribute to the difficulty of using canopies. By installing canopies on the equipment, Petitioner is limiting the vision of the operators of the equipment, creating a hazard to the other employees in the mine. The Kentucky Department of Minerals had asked Petitioner not to install canopies, since the position of the operator is such that a hazard to the operator is created.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

JULY 28, 1977.

[FR Doc. 77-23043 Filed 8-9-77;8:45 am]

[Docket No. M 77-230]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Consolidation Coal Company, c/o Rand L. Allen, Jones, Day, Reavis, and Pogue, 1100 Connecticut Avenue, NW., Washington, D.C. 20036, has filed a petition to modify the application of 30 CFR 77.1109(c)(1), Quantity and location of firefighting equipment, to its Rowland Surface Operations, located in Raleigh County, West Virginia.

The substance of Petitioner's statement is as follows: 1. Petitioner conducts its Rowland Surface Operations in Raleigh County, approximately twenty miles from Beckley, West Virginia. The mine employs some 157 people and operates in three daily shifts.

2. The Rowland mining cycle commences with the drilling of blastholes in the overburden by a vertical drill. Explosives (amonia nitrate) are then inserted into the blasthole and ignited to loosen and fragment the overburden for removal.

3. The fragmented overburden is collected by bulldozers and placed into rock trucks by end loaders for transport to the adjacent fill area. The rock trucks transport their loads to the fill area for deposit and return to the operations area for a new load in approximately seven-minute intervals.

4. Removal of overburden continues until the coal seam is exposed. At that time the exposed coal is scooped up by end loaders and placed in coal trucks. The coal trucks move the coal via a haulage road some 2.3 miles for loading on a conveyor belt that is part of a nearby underground mine (Rowland No. 3).

5. Current operations involve mining four separate seams of coal located at four different elevations. Thus, the operations area has four distinct "terraces".

6. Mining operations are supported by a maintenance area centrally located within the overall mining operations area. At no time is this maintenance area located more than approximately three thousand feet from a particular mining operation. Further support is provided by radio-equipped mechanic trucks. Three such trucks are operational during the day shift; two trucks are operational on each of the remaining shifts.

7. Petitioner currently complies with § 77.1109(c)(1) by equipping all mobile equipment utilized in the operations area with portable fire extinguishers.

8. Petitioner proposes an alternate fire protection system which it believes will at all times guarantee no less than the same measure of protection afforded the miners at its mine by the provisions of § 77.1109(c)(1):

A. At present the following mobile equipment at Rowland Surface Operations is equipped with portable fire extinguishers: coal trucks, mechanics trucks, fuel trucks, water trucks, illumination towers, vertical drills, end loaders, bulldozers and rock trucks. Petitioner proposes to remove the portable fire extinguishers from only the vertical drills, end loaders, bulldozers and rock trucks.

B. In order to guarantee no less than the same measure of fire protection, Petitioner will provide fire houses for additional fire extinguishers in the maintenance area and adjacent to operations on each of the four terraces of the operations area. These fire houses each will be equipped with six ABC-type fire extinguishers and will be advanced along with the extraction equipment. The houses will be constructed of sheet metal. They will measure three feet long, two feet deep, and three and one-half feet high, with runners and a pull bar. They will be able to be pulled by various equipment, e.g., ¾ ton truck, bulldozer or end loader. They will be equipped with doors that latch, painted red and identified by a sign on the roof reading "fire extinguisher". (Exhibit A.)

C. In addition, Petitioner will commission the use of a ¾ ton pick-up truck equipped with two 150-pound nitrogen fire extinguishers on wheels as shown in Exhibit B.[1] This truck will be located in the maintenance area where it can utilize the radio capability of the mechanic truck that is always located in that area.

D. Petitioner believes that its alternate system will be safer in several respects. Experience has shown that portable fire extinguishers on heavy equipment are subjected to substantial joggling and bouncing. This results in the continual packing and settling of the chemicals in these extinguishers which renders them useless. Moreover, upon ignition of a fire on mobile equipment, very few reasonable operators can be expected to remain on or near the vehicle to secure the fire extinguisher.

E. Petitioner's alternate system would remove the extinguishers from selected mobile equipment. Replacement extinguishers would be situated in central locations, thereby increasing Petitioner's control of the extinguishers, insuring their more efficient maintenance and reducing the possibility of theft. The centrally located fire extinguishers, however, would be highly mobile and capable of being applied to a fire within any part of operations area in a matter of moments.

REQUESTS FOR HEARING AND COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 1, 1977.

[FR Doc.77-23044 Filed 8-9-77;8:45 am]

[Docket No. M 77-226]

HAWLEY COAL MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Hawley Coal Mining Corporation, 820 Second Avenue, New York, New York 10017, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Bottom Creek No. 1 and No. 2 Mines, located in McDowell County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner presently conducts a coal mining operation from its Bottom Creek No. 1 Mine and Bottom Creek No. 2 Mine (hereinafter collectively called the "Bottom Creek Mines"). Mining operations in the Bottom Creek No. 1 Mine are conducted in one working section; mining operations in the Bottom Creek No. 2 Mine are conducted in two working sections, designated the Left Section and the Right Section. The mining height in the Bottom Creek No. 1 Mine and both sections of the Bottom Creek No. 2 Mine is approximately 24 inches.

2. The Petitioner conducts its coal mining operations in the Bottom Creek No. 1 Mine through the use of continuous mining machines, shuttle cars and roof bolting machines. In the Bottom Creek No. 2 Mine, the Petitioner conducts its coal mining operations through the use of cutting machines, loading machines, roof bolting machines and battery tractors. The Petitioner has attempted to utilize cabs or canopies on its electric face equipment, operating in the mining height of the Bottom Creek Mines, above mentioned, and by virtue of said use, the Petitioner determined that the installation of these devices on the equipment greatly decreases the safety of the miners employed by it in said mines.

3. This decrease in safety results, in part, from a limitation of the proper vision necessary for the safe operation of the mining equipment during periods when the equipment operator is under the cab or canopy.

4. The use of cabs or canopies on the continuous mining machines, cutting machines, loading machines, shuttle cars and battery tractors employed by the Petitioner in the Bottom Creek Mines creates a safety hazard to the operators of said equipment in that the cabs or canopies unduly confine these equipment operators and restrain their ability to abandon said equipment in the event of an emergency.

5. In addition, the coal seams in which the Petitioner is presently conducting its mining operations in the Bottom Creek Mines are subject to rolls and undulations which cause the equipment, upon which have been installed cabs or canopies, to become jammed between the roof and the floor of the active workings.

6. The coal miners employed by the Petitioner at the Bottom Creek Mines have expressed their dissatisfaction with the use of such devices in the mines, and have threatened not to operate the electric face equipment should said cabs or canopies be installed thereon.

7. The Petitioner has contacted its equipment suppliers to determine if any forms of cabs or canopies are available for installation on the electric face equipment operated in the Bottom Creek Mines, which will not create the safety hazards above mentioned. Petitioner has been advised that such devices do not exist at the present time for use on the said equipment in the mining heights referred to above. In addition, the Petitioner has been unable to develop an adequate design for a cab or canopy for said equipment which will not create these safety hazards.

8. Based on the foregoing, it is Petitioner's belief that the application of the Mandatory Safety Standards set forth in §§ 75.1710 and 75.1710-1(a)(5)(ii) to the electric face equipment presently employed in the Bottom Creek Mines, in the mining height above mentioned, will in fact result in a diminution of safety to the coal miners employed by Petitioner in said Bottom Creek Mines.

9. Petitioner submits, as an alternative method to provide for the safety of its miners employed in the Bottom Creek Mines, the following program for use in connection with its electric face equipment presently in operation therein until such time as a cab or canopy can be employed by the Petitioner on said equipment which will not create the safety hazards, above mentioned:

(a) Petitioner will affirmatively undertake steps to ascertain and develop, through its internal staff and its outside equipment suppliers, a suitable form of cab or canopy for use in connection with its electric face equipment in the Bottom Creek Mines, the application of which will not result in the safety hazards enumerated above. During the course of said development program, the Petitioner will consult the appropriate representatives of the Mining Enforcement and Safety Administration and the United Mine Workers of America, so as to draw upon their expertise in this area. In connection with this, the Petitioner will affirmatively solicit ideas for cab and canopy designs from the mining personnel employed by it in the mines. As the necessary technology is developed, the Petitioner will employ it in its mining operations therein.

(b) The Petitioner shall cause its mining personnel to strictly adhere to the roof and rib control plans in effect for the Bottom Creek Mines. To facilitate this, the Petitioner will regularly conduct classes for all of its supervisory, coal mining and safety personnel employed at the mines, concerning the various aspects of the roof and rib control plan employed by the Petitioner at the said mines, as well as the latest techniques in roof and rib control. Furthermore, the Petitioner will regularly instruct the personnel, above mentioned, in the safe use and operation of the electric face equipment employed by the Petitioner in the Bottom Creek Mines.

(c) The Petitioner will, upon request, provide to the appropriate local repre-

[1] The enclosed exhibits are available for inspection at the address listed in the last paragraph of this notice.

sentatives of the Mining Enforcement and Safety Administration reports pertaining to the progress which it is making in this area.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 28, 1977.

[FR Doc.77-23045 Filed 8-9-77;8:45 am]

[Docket No. M 77-224]

HAWLEY COAL MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Hawley Coal Mining Corporation, 820 Second Avenue, New York, New York 10017, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Blue Boy No. 6 Mine, located in McDowell County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner presently conducts a coal mining operation from its Blue Boy No. 6 Mine. Mining operations in this mine are conducted in two working sections, designated the 3 east section and the 10 right section. The mining height in the 3 east section is 26 inches. The mining height in the 10 right section is 32 inches.

2. The Petitioner conducts its coal mining operations in the Blue Boy No. 6 Mine through the use of continuous mining machines, shuttle cars, roof drills and rubber-tired utility vehicles. The Petitioner has attempted to utilize cabs and canopies on its electric face equipment, operating in the mining heights above mentioned, and by virtue of said use, the Petitioner determined that the installation of these devices on the equipment greatly decreases the safety of the miners employed by it in said mine.

3. This decrease in safety results, in part, from a limitation of the proper vision necessary for the safe operation of the mining equipment during periods when the equipment operator is under the cab or canopy.

4. In addition, the coal seams in which the Petitioner is presently conducting its mining operations at the Blue Boy No. 6 Mine are subject to rolls and undulations which cause the equipment, upon which have been installed cabs or canopies, to become jammed between the roof and the floor of the active workings of the coal mine.

5. The use of cabs or canopies on the continuous mining machines, shuttle cars and rubber-tired utility vehicles employed by the Petitioner in these mining heights creates a safety hazard to the operators of these machines in that the cabs or canopies unduly confine these equipment operators and restrain their ability to abandon said equipment in the event of an emergency.

6. The coal miners employed by the Petitioner at the Blue Boy No. 6 Mine have expressed their dissatisfaction with the use of such devices in the mines, and have threatened not to operate the electric face equipment should said cabs or canopies be installed thereon.

7. The Petitioner has contacted its equipment suppliers to determine if any forms of cabs or canopies are available for installation on the electric face equipment operated in the Blue Boy No. 6 Mine, which will not create the safety hazards above mentioned. Petitioner has been advised that such devices do not exist at the present time for use on the equipment in the mining heights referred to above. In addition, the Petitioner has been unable to develop an adequate design for a cab or canopy for said equipment which will not create these safety hazards.

8. Based on the foregoing, it is Petitioner's position that the application of the Mandatory Safety Standards set forth in §§ 75.1710 and 75.1710-1(a)(5)(i) and (ii) to the electric face equipment presently employed in the Blue Boy No. 6 Mine, in the mining heights above mentioned, will in fact result in a diminution of safety to its mine.

9. Petitioner submits, as an alternative method to provide for the safety of its miners employed in the Blue Boy No. 6 Mine, the following program for use in connection with its electric face equipment presently in operation at the mine until such time as a cab or canopy can be employed by the Petitioner on said equipment which will not create the safety hazards above mentioned:

(a) Petitioner will affirmatively undertake steps to ascertain and develop, through its internal staff and its outside equipment suppliers, a suitable form of cab or canopy for use in connection with its electric face equipment in the Blue Boy No. 6 Mine, the application of which will not result in the safety hazards enumerated above. During the course of said development program, the Petitioner will consult the appropriate representatives of the Mining Enforcement and Safety Administration and the United Mine Workers of America, to draw upon their expertise in this area. In connection with this, the Petitioner will affirmatively solicit ideas for cab and canopy designs from the mining personnel employed by it in the Blue Boy No. 6 Mine. As the necessary technology is developed, the Petitioner will employ it in its mining operations at the Blue Boy No. 6 Mine.

(b) The Petitioner shall cause its mining personnel to strictly adhere to the roof and rib control plan in effect for the Blue Boy No. 6 Mine. To facilitate this, the Petitioner will regularly conduct classes for all of its supervisory, coal mining and safety personnel employed at the Blue Boy No. 6 Mine, concerning the various aspects of the roof and rib control plan employed by the Petitioner at the mine, as well as the latest techniques in roof and rib control. Furthermore, the Petitioner will regularly instruct its personnel in the safe use and operation of the electric face equipment employed by the Petitioner in the Blue Boy No. 6 Mine.

(c) The Petitioner will, upon request, provide to the appropriate local representatives of the Mining Enforcement and Safety Administration reports pertaining to the progress which it is making in the development of a cab or canopy for use in the Blue Boy No. 6 Mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 28, 1977.

[FR Doc.77-23046 Filed 8-9-77;8:45 am]

[Docket No. M 77-182]

RANGER FUEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Ranger Fuel Corporation, Lebanon, Virginia 24266, has filed a petition to modify the application of 30 CFR 75.326, aircourses and belt haulage entries, to its Beckley No. 2 Mine, located in Wyoming County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Beckley No. 2 Mine is planned to be operated in the Beckley coalbed and has been designed ultimately for six working sections, continuous and conventional.

2. Experience in the Beckley No. 1 Mine has indicated that multiple entry development should be restricted to no more than six entries due to vertical and horizontal pressures; therefore, the Beckley No. 2 Mine will be developed in the same manner.

3. Experience in the Beckley No. 1 Mine as well as data from adjacent mines indicate that large quantities of methane in the coalbed and adjacent strata can be expected. Records of the Glen Rogers Mine of the Raleigh-Wyoming Coal Company, Glen Rogers, West Virginia, indicate a range of 1,200 cubic feet of methane per ton of coal mined to 2,700 cubic feet from 2,800,000 cubic feet per 24 hours to 6,500,000 cubic feet per 24 hours. Thus, large volumes of air will be required to dilute and carry away the expected methane.

4. Due to the expected methane liberation, Petitioner plans to utilize a split system of face ventilation and in so doing it is imperative that the air in the belt entries be used. Therefore, Petitioner hereby submits a Petition for Modification of the application of 30 CFR 75.326 for its Beckley No. 2 Mine in order to use the air in the belt entries to assist in ventilating the faces with a split system of ventilation.

5. Petitioner believes the approval of this alternate system is a satisfactory replacement for the mandatory standard. If this alternative system is not accepted, it may result in a diminution of safety for the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearing and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 28, 1977.

[FR Doc.77-23047 Filed 8-9-77;8:45 am]

[Docket No. M 77-239]

WEBB COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Webb Coal Company, Inc., Lick Creek, Kentucky, has filed a petition to modify the application of 30 CFR 75.-1710-1, cabs or canopies, to its No. 15 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on its quipment is creating a hazard to the operators.

2. Petitioner's equipment consists of the following:

	inches
Paul's roof bolter	36
Elkhorn scoop	36
Epling battery tractor	32

3. The No. 15 Mine is in the Lower Elkhorn Seam which averages 46 inches in height. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contributes to the difficulty of using canopies.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Vriginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 1, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-22996 Filed 8-9-77;8:45 am]

[Docket No. M 77-222]

WINDSOR POWER HOUSE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Windsor Power House Coal Company, Windsor Heights, West Virginia 26075, has filed a petition to modify the application of 30 CFR 75.1105, housing of underground transformer stations, to its Beach Bottom Mine, located in Brooke County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner requests a waiver on its "first hole" pump house as to it being coursed directly to the return for the following reasons:

a. This pump was installed in this pump house more than thirty (30) years ago. The pump is housed in a fireproof structure; but is not coursed to the return because there is no return air course near this pump house.

b. This pump house is located along a supply track which was gunited more than twenty-five (25) years ago; and it would not only be difficult, but dangerous to disturb the mine roof.

c. The pump is housed in a fireproof structure.

d. An automatic fire suppression device is installed in the pump house and is activated by heat sensors.

e. No oil or combustible material is stored in the pump house.

f. Electrical circuits comply with the requirements of the FEDERAL REGISTER.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearngs and Appeals.

JULY 28, 1977.

[FR Doc.77-23048 Filed 8-9-77;8:45 am]

Office of the Secretary

WAYNE C. ASTLEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated: June 9, 1977.

WAYNE C. ASTLEY

[FR Doc.77-23049 Filed 8-9-77;8:45 am]

EARL D. DRYER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Part of Pacific Telephone & Telegraph Company bonds owned called by issuer.
(3) No change.
(4) No. Change.

This statement is made as of June 16, 1977.

Dated: June 10, 1977.

EARL D. DRYER.

[FR Doc.77-23050 Filed 8-9-77;8:45 am]

FRED B. DYER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated May 26, 1977.

FRED B. DYER.

[FR Doc.77-23051 Filed 8-9-77;8:45 am]

DAVID HAYWARD

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 9, 1977.

Dated May 25, 1977.

DAVID HAYWARD.

[FR Doc.77-23052 Filed 8-9-77;8:45 am]

GLENN L. KOESTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated May 24, 1977.

GLENN L. KOESTER.

[FR Doc.77-23053 Filed 8-9-77;8:45 am]

JOHN M. MADARA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated: May 23, 1977.

JOHN M. MADARA.

[FR Doc.77-23054 Filed 8-9-77;8:45 am]

FRANK J. MEYER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated: May 23, 1977.

FRANK J. MEYER.

[FR Doc.77-23055 Filed 8-9-77;8:45 am]

ROSS MULLINS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated: May 23, 1977.

ROSS MULLINS.

[FR Doc.77-23056 Filed 8-9-77;8:45 am]

FREDERICK L. PETERSEN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 16, 1977.

Dated May 27, 1977.

FREDERICK L. PETERSEN.

[FR Doc.77-23057 Filed 8-9-77;8:45 am]

PAUL G. WALLOF, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1977.

Dated: May 24, 1977.

PAUL G. WALLOF, Jr.

[FR Doc.77-23059 Filed 8-9-77;8:45 am]

JOHN R. VOGEL JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 16, 1977.

Dated: May 24, 1977.

JOHN R. VOGEL.

[FR Doc.77-23058 Filed 8-9-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20117; 70-6031]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock Pursuant to Employees' Share Ownership Plan and Request for Exemption From Competitive Bidding

Correction

In FR Doc.77-21975, appearing at page 38951 in the issue of Monday, August 1, 1977, the eighth line of the first full paragraph, which now duplicates the seventh, should read, "designating sections 6(a) and 7".

DEPARTMENT OF THE TREASURY

Customs Service

DIURON FROM ISRAEL

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated in order to determine whether or not bounties or grants within the meaning of the United States Countervailing Duty Law

are being paid on diuron from Israel. A preliminary determination must be reached no later than December 13, 1977, and a final determination must be reached no later than June 13, 1978.

EFFECTIVE DATE: On June 13, 1977, this investigation was initiated.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in proper form on June 13, 1977, from E. I. du Pont de Nemours and Co., alleging that payments or bestowals conferred by the government of Israel, upon the manufacture, production, or exportation of diuron constitute the payment or bestowal of a bounty or a grant within the meaning of the countervailing duty law, section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). Diuron, a herbicide, is provided for in the Tariff Schedules of the United States under item 405.15. The chemical name of this product is 3-(3, 4-dichlorophenyl)-1, 1-dimethylurea. Presently, diuron from Israel is eligible for duty free entry under the Generalized System of Preferences.

The following programs of the government of Israel are alleged to constitute bounties or grants within the meaning of the countervailing duty law:

1. Rebate of property and inventory taxes on production for export.
2. Rebate of indirect business taxes upon export, incorporating a subsidy for export promotion expenses.
3. Rebate of purchase taxes on exported goods.
4. Partial rebate of export insurance premiums.
5. Preferential loans to exporters and to suppliers of exporters.
6. Subsidization of certain transportation costs.
7. Subsidization of certain export promotion expenses for small businesses.

Information is contained in the petition which indicates the possibility that an industry in the United States is being, or is likely to be, injured by reason of the imports of diuron from Israel. Should a final affirmative determination be issued in this case, pursuant to section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), the International Trade Commission must determine that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of diuron from Israel, before countervailing duties may actually be assessed.

Pursuant to section 303(a)(4), of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the countervailing duty law within six months of the date of receipt, in satisfactory form, of the petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than December 13, 1977, as to whether the alleged payments or bestowals conferred by the government of Israel upon the manufacture, production, or exportation of the above-described merchandise constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than June 13, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: August 4, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-22976 Filed 8-9-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 455]

ASSIGNMENT OF HEARINGS

AUGUST 5, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 140553 Sub No. 2 Rogers Truck Line, Inc., now assigned September 13, 1977 at Chicago, IL, will be held in Room 350, 230 S. Dearborn Street.
MC 107515 Sub No. 1040 Refrigerated Transport Co., Inc., now assigned September 14, 1977 at Chicago, IL, will be held in Room 350, 230 S. Dearborn Street
MC 110563 Sub No. 193 Coldway Food Express, Inc.
MC 135684 Sub No. 27 Bass Transportation Co., Inc.
MC 119765 Sub No. 42 Eight Way Xpress, Inc., and MC 135684 Sub No. 28 Bass Transportation Co., Inc., now assigned September 16, 1977 at Chicago, IL, will be held in Room 350, 230 S. Dearborn Street.
MC 56409 Sub No. 12 Major Transport, Inc., now assigned September 15, 1977, at Chicago, IL., will be held in Room 350, 230 S. Dearborn Street.
MC 134096 Sub No. 7 Tropicana Transportation Corp., now assigned September 19, 1977, at Chicago, IL, will be held in Room 3855A, 230 S. Dearborn Street.
MC 51146 Sub No. 489 Schneider Transport, Inc., MC 133655 Sub No. 96, Trans-National Truck, Inc., MC 133655 Sub No. 97 Trans-National Truck, Inc., MC 133655 Sub No. 98 Trans-National Truck, Inc., and MC 143062 Allen Lee, d.b.a. A & L Transport now being assigned September 21, 1977 (3 days) for hearing in Chicago, IL, will be held in Room 3855A, 230 S. Dearborn Street.
MC 66746 Sub No. 19, John L. Kerr and G. O. Kerr, Jr., d.b.a. Shippers Express now being assigned October 31, 1977 (2 weeks) at Jackson, Mississippi in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23086 Filed 8-9-77;8:45 am]

[AB 19 (Sub-No. 32)]

BALTIMORE & OHIO RAILROAD CO.

Abandonment Near Green Spring and Petersburg in Hampshire, Hardy and Grant Counties, West Virginia

AUGUST 2, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23092 Filed 8-9-77;8:45 am]

[Service Order No. 1252, I C C. Order No. 35]

CONSOLIDATED RAIL CORP. AND JOHNSTOWN AND STONY CREEK RAIL ROAD CO.

Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Consolidated Rail Corporation and the Johnstown and Stony Creek Rail Road Company are unable to interchange traffic at Johnstown, Pennsylvania, because of destruction of the interchange tracks by floods.

It is ordered, That:

(a) The Consolidated Rail Corporation and the Johnstown and Stony Creek Rail Road Company being unable to interchange traffic at Johnstown, Pennsylvania, because of destruction of the interchange tracks by floods, these carriers are hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other

railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:00 a.m., July 27, 1977.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 15, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 27, 1977.

INTERSTATE COMMERCE COMMISSION,
[SEAL] JOEL E. BURNS,
Agent.

[FR Doc.77-23084 Filed 8-9-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 5, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43409—*Phosphatic Fertilizer Solution from Points in Utah.* Filed by Colorado - Utah - Wyoming Committee, Agent, (No. 11), for interested rail carriers. Rates on phosphatic fertilizer solution, in tank-car loads, as described in the application, from points in Utah, to specified points in Colorado and Wyoming.

Grounds for relief—Market competition; modified short-line distance formula and grouping.

Tariff—Supplement 13 to Colorado-Utah-Wyoming Committee, Agent, tariff 4-K, I.C.C. No. 64. Rates are published to become effective on September 3, 1977.

FSA No. 43410—*Asphalt and Residual Fuel Oil to Specified Burlington Northern Stations in Minnesota.* Filed by Western Trunk Line Committee, Agent, (No. A-2741), for interested rail carriers. Rates on asphalt (asphaltum), natural, by-product or petroleum (other than paint, stain or varnish), in tank-car loads, as described in the application, from specified Burlington Northern stations in Colorado and Wyoming, to specified Burlington Northern stations in Minnesota.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 154 to Western Trunk Line Committee, Agent, tariff 473, I.C.C. No. A-4572. Rates are published to become effective on September 3, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23085 Filed 8-9-77;8:45 am]

[AB 43 (Sub-No. 34)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Gifford and Potomac in Champaign and Vermilion Counties, Illinois

JULY 29, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served June 7, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23090 Filed 8-9-77;8:45 am]

[AB 43 (Sub-No. 24)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Bloomington and Mason City, in McLean, Tazewell, Logan, and Mason Counties, Illinois

JULY 29, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served June 7, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23091 Filed 8-9-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

AUGUST 5, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 22, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2607 (Sub-No. E3), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authorityes ought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of Camden, N.J. and points in Clark County, Ill.

No. MC 2607 (Sub-No. E8), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between New Castle County, Del., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E32), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Wisconsin on and west of a line beginning at the Illinois-Wisconsin State line at Beloit, Wis., thence along U.S. Highway 51 to the Michigan-Wisconsin State line at Hurley, Wis. The purpose of this filing is to eliminate the gateways of Camden, N.J. and Macon County, Ill.

No. MC 2607 (Sub-No. E42), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in New York on and south and east of a line beginning at Port Jervis, N.Y., thence along U.S. Highway 209 to junction Interstate Highway 87 at Kingston, N.Y., thence along Interstate Highway 87 to Albany, N.Y., thence along Interstate Highway 787 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New York Highway 22, thence along New York Highway 22 to junction U.S. Highway 9, thence along U.S. Highway 9 to the Canadian Border, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No MC 2607 (Sub-No. E43), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in New York on and south of a line beginning at Rye, N.Y., thence along Interstate Highway 87 to Suffern, N.Y., on the one hand, and, on the other, points in New Jersey on, south and west of a line beginning at Camden, N.J., thence along U.S. Highway 30 to Atlantic City, N.J. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E73), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in New Jersey on, south and west of a line beginning at the Delaware River, thence along New Jersey Highway 541 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E83), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New York (except those points on and south of a line beginning at the Pennsylvania-New York State line, thence on New York Highway 16 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 70, thence on New York Highway 70 to junction U.S. Highway 15, thence on U.S. Highway 15 to the Pennsylvania-New York State line), to points in Anne Arundel, Prince Georges, Charles, St. Marys and Calvert Counties, Md. The purpose of this filing is to eliminate the gateways of points in Caroline, Dorchester and Talbot Counties, Md.

No. MC 40215 (Sub-No. E3), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth St., Salina, Kans. 67401. Applicant's representative: James Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, (1a) From points in Arkansas to points in Arizona on and north of a line beginning at the Arizona-California State line and extending along U.S. Highway 80 and Interstate Highway 8, to junction Arizona Highway 84, and Interstate Highway 8 to junction Interstate Highway 10, and Arizona Highway 93, thence south along Interstate Highway 10, and Arizona Highway 93 to junction Interstate Highway 10 and U.S. Highway 80, to the Arizona-New Mexico State line. (1b) From points in Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line and extending along U.S. Highway 270, thence east on U.S. Highway 270 to junction U.S. Highway 79 thence northeast along U.S. Highway 79 to junction U.S. Highway 49, thence east on U.S. Highway 49 to the Arkansas-Tennessee State line. (2) From points in Arkansas, except those in Little River, Hempstead, Nevada, Columbia, Layfette and Miller Counties, Ark., to points in California. (3) From points in Arkansas to points in Colorado, Idaho, Nevada, Utah, and Wyoming. (4) From points in Arkansas on and north of a line beginning at the Texas-Arkansas State line and extending along U.S. Highway 67, thence north along U.S. Highway 67 to junction U.S. Highway 70, thence east along U.S. Highway 70 to the Tennessee-Arkansas State line, to points in Iowa on and west of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 59 thence south along U.S. Highway 59 to the Iowa-Missouri State line. (5) From points in Arkansas to points in Kansas, Nebraska and South Dakota. (6) From points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending along Arkansas Highway 139, thence south along Arkansas Highway 139 to junction Arkansas Highway 135, thence south along Arkansas Highway 135 to junction U.S. Highway 63, thence south along U.S. Highway 63 to the Arkansas-Tennessee State line, to points in Minnesota on and west of a line beginning at the International Boundary line between United States and Canada and extending along U.S. Highway 53, thence south along U.S. Highway 53 to junction U.S. Highway 61, thence south along U.S. Highway 61 to junction U.S. Highway 52, thence south along U.S. Highway 52 to the Minnesota-Iowa State line.

(7) From points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending along U.S. Highway 65 to junction U.S. Highway 67, thence south along U.S. Highway 67 to the Arkansas-Texas line to points in Missouri on and north of a line beginning at the Kansas-Missouri State line, and extending along Interstate Highway 70, thence east along Interstate Highway 70 to the Missouri-Illinois State line. (8a) From points in Arkansas on and north of a line beginning at the Oklahoma-Arkansas State line and extending along Interstate Highway 40, thence extending east along Interstate Highway 40 to junction U.S. Highway 64, thence east along U.S. Highway 64 to the Arkansas-Tennessee State line to points in New Mexico on and north of a line beginning at the Oklahoma-New Mexico State line, and extending along U.S. Highway 380, thence southwest along

U.S. Highway 380 to junction U.S. Highway 70, thence west along U.S. Highway 70 (and 380) to junction U.S. Highway 54, thence south along U.S. Highway 54 to the New Mexico-Texas State line. (8b) From all points in Arkansas to points in New Mexico on and north of a line beginning at Arizona-New Mexico State line, and extending along U.S. Highway 550, thence east along U.S. Highway 550 to its intersection of New Mexico Highway 44 near Bloomfield, thence south along New Mexico Highway 44 to junction New Mexico Highway 96, thence north and east along New Mexico Highway 96 to junction U.S. Highway 64, thence east along U.S. Highway 64 to junction New Mexico Highway 58, thence east along New Mexico Highway 58 to junction U.S. Highway 85, thence south along U.S. Highway 85 to junction U.S. Highway 56, thence east along U.S. Highway 56 to the New Mexico-Oklahoma State line. (9) From points in Arkansas to points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line and extending south along U.S. Highway 283 to junction Oklahoma Highway 6, thence west along Oklahoma Highway 6 to the Oklahoma-Texas State line. (10) From points in Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line and extending east along U.S. Highway 270 to junction U.S. Highway 70, thence east along U.S. Highway 70 to the Arkansas-Tennessee State line, to El Paso, Tex. (11) From points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending along U.S. Highway 62 to junction U.S. Highway 65, thence south along U.S. Highway 65 to the Louisiana-Arkansas State line, to points in Wisconsin on and west of a line beginning at the Wisconsin-Minnesota State line, and extending along U.S. Highway 53, thence extending south along U.S. Highway 53 to the Wisconsin-Minnesota State line. (12) From points in Arkansas to points in Boone and Kenton Counties, Ky. The purpose of this filing is to eliminate the gateways of: 1–2–3, Garden City, Kans.; 4–5–7–9, points in Kansas; 6-points in Kansas, and Kansas City, Mo.; 10—Arkansas City, Ark., and Kansas City, Mo.; 11—Manhattan, Kans., and Kansas City, Mo.; 12—Galena, Kans.

No. MC 61825 (Sub-No. E1022), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in West Virginia on and bounded by a line beginning at the Virginia-West Virginia State line and extending west along West Virginia Highway 39 to junction U.S. Highway 219, to junction U.S. Highway 250, to junction West Virginia Highway 76, to junction U.S. Highway 50, to junction U.S. Highway 19, to junction U.S. Highway 250, to junction West Virginia Highway 69 to the West Virginia-Pennsylvania State line to the West Virginia-Ohio State line, thence south along the Ohio River to junction West Virginia Highway 16, to junction U.S. Highway 119, to junction Interstate Highway 77 to the West Virginia-Virginia State line, and thence to the point of beginning, to points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending southwest along Alabama Highway 22 to junction Alabama Highway 259, to junction Alabama Highway 9, to junction U.S. Highway 231, to junction U.S. Highway 80, to junction Alabama Highway 21, to junction Alabama Highway 28, to junction Alabama Highway 10, to junction Alabama Highway 5, to junction U.S. Highway 43, to junction Alabama Highway 56, and thence to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateways of Pulaski, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1023), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Ohio on and east of a line beginning at the Ohio-West Virginia State line and extending north along Ohio Highway 60 to junction Ohio Highway 821, to junction Interstate Highway 77, to junction Ohio Highway 59, to junction Ohio Highway 88, to junction Ohio Highway 45, to junction U.S. Highway 322, to junction Ohio Highway 46 to Ashtabula, Ohio, and thence to Lake Erie, and points in Pennsylvania on and west of a line beginning at the Maryland-Pennsylvania State line and extending north along U.S. Highway 522 to junction U.S. Highway 322, to junction Pennsylvania Highway 144, to junction Pennsylvania Highway 45, to junction Pennsylvania Highway 445, to junction Pennsylvania Highway 64, to junction U.S. Highway 220, to junction Pennsylvania Highway 287, to junction U.S. Highway 15, to junction Pennsylvania Highway 328, thence along Pennsylvania Highway 328 to the Pennsylvania-New York State line, points in New York on and west of a line beginning at the Pennsylvania-New York State line, and extending along New York Highway 328, to junction New York Highway 14, to junction New York Highway 17, to junction New York Highway 13, to junction New York Highway 80, to junction New York Highway 26, to junction U.S. Highway 20, to junction New York Highway 12, to junction New York Highway 26, to junction New York Highway 30, to the United States-Canadian International Boundary line, to points in Alabama on and southeast of a line beginning at the Georgia-Alabama State line, and extending along southwest along Alabama Highway 22 to junction Alabama Highway 259, to junction Alabama Highway 9, to junction U.S. Highway 231 to Montgomery, Alabama, thence southwest along Interstate Highway 65 to junction Interstate Highway 10, and thence to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateways of Pulaski, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1024), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *comon carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, From New York, N.Y., and points in New Jersey on and south of a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202, thence along U.S. Highway 202, to the New Jersey-Pennsylvania State line, points in Pennsylvania on and south and west of a line beginning at the Pennsylvania-New Jersey State line, and extending southwest along U.S. Highway 202 to junction U.S. Highway 422, to junction U.S. Highway 15 to junction U.S. Highway 15 to the Pennsylvania-Maryland State line, and points in Maryland on and north of a line beginning at the Pennsylvania-Maryland State line, and extending east along U.S. Highway 40 to junction U.S. Highway 40 Alternate to junction U.S. Highway 40 near Frederick, Md., to junction Maryland Highway 144, thence along Maryland Highway 144 to Baltimore, Maryland, thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and the Maryland-Delaware State line, to points in Mississippi. The purpose of this filing is to eliminate the gateways of Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1026), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 285, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Delaware, and those points in New Jersey on and north of U.S. Highway 202, and points in New York and southeast of a line beginning at the Pennsylvania-New York State line and extending north along U.S. Highway 11 to junction New York Highway 12, to junction New York Highway 80, to junction New York Highway 5–S, to junction New York Highway 10, to junction New York Highway 8, to junction U.S. Highway 9, to junction New York Highway 9–B, and thence to the United States-Canadian International Boundary line, and points in Pennsylvania on and south and west of a line beginning at the New Jersey-Pennsylvania State line and extending southwest along U.S. Highway 202 to junction U.S. Highway 422, to junction U.S. Highway 15 to junction U.S. Highway 15 to the Pennsylvania-Maryland State line, thence west to junction U.S. Highway 522, to junction Pennsylvania Highway 35, to junction U.S. Highway 15, to junction U.S. Highway 11 to the Pennsylvania-New York State line, thence to the Pennsylvania-New Jersey State line, and thence to the point of beginning, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Pulaski, Va., Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub-No. E1027), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New York, Pennsylvania and those points in West Virginia on and west of a line beginning at the Virginia-West Virginia State line and extending west along U.S. Highway 60 to junction U.S. Highway 219, to junction West Virginia Highway 72, to junction West Virginia Highway 26, to the West-Virginia-Pennsylvania State line, thence east to junction U.S. Highway 522, to junction Pennsylvania Highway 35, to junction U.S. Highway 15, to junction U.S. Highway 11, to junction New York Highway 12, to junction New York Highway 80, to junction New York Highway 5–S, to junction New York Highway 10, to junction New York Highway 8, to junction U.S. Highway 9, to junction New York Highway 9–B, to the United States-Canadian International Boundary line, thence west along the New York State line to Point Breeze, N.Y., thence south along New York Highway 98 to junction New York Highway 39, to junction New York Highway 16, to junction New York Highway 242, to junction New York Highway 17, to junction New York Highway 60, to junction U.S. Highway 62, to junction Pennsylvania Highway 257, to junction U.S. Highway 322, to junction Pennsylvania Highway 38, to junction Pennsylvania Highway 68, to junction Pennsylvania Highway 8, to junction U.S. Highway 19, to junction West Virginia Highway 39, to junction West Virginia Highway 20, to junction West Virginia Highway 3, to junction West Virginia Highway 12 to the West Virginia-Virginia State line, and thence to the point of beginning, to points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 80 to junction Mississippi Highway 18 to Port Gibson, Miss., thence along unnumbered highway to junction Mississippi Highway 552, and thence to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of Pulaski, Va., Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub-No. E1028), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, commodities requiring special equipment, from points in Louisiana on and south of a line beginning on the Texas-Louisiana State line and extending along Louisiana Highway 8 to junction Louisiana Highway 28, to junction U.S. Highway 84 to the Louisiana-Mississippi State line, to points in Pennsylvania and New York on and east of a line beginning on the West Virginia-Pennsylvania State line, and extending along U.S. Highway 119 to junction Pennsylvania Highway 982, to junction U.S. Highway 119, to junction U.S. Highway 219 to Wilcox, Pa., and extending along unnumbered highway to Clermont, Pa., and extending along Pennsylvania Highway 146 to junction Pennsylvania Highway 46, to junction Pennsylvania Highway 446 to the Pennsylvania-New York State line, and extending along New York Highway 305 to junction New York Highway 408, to junction New York Highway 70, to junction New York Highway 70–A, to junction New York Highway 36 to junction New York Highway 63, to junction U.S. Highway 15, to junction New York Highway 15–A, to junction U.S. Highway 20, to junction New York Highway 64, to junction New York Highway 251, to junction New York Highway 96, to junction New York Highway 250 to Lake Ontario, and points located west of a line begining on the Maryland-Pennsylvania State line and extending along U.S. Highway 219 to junction Pennsylvania Highway 53, to junction Pennsylvania Highway 144, to junction U.S. Highway 6, to junction Pennsylvania Highway 349, to junction Pennsylvania Highway 49, to junction U.S. Highway 15 to the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction New York Highway 17, to junction New York Highway 414, to junction U.S. Highway 20, to junction New York Highway 38, to junction New York Highway 104 to the Oswego River, and extending along the Oswego River to Lake Ontario. The purpose of this filing is to eliminate the gateways of points in Smyth County, Va., Lynchburg, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1029), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, commodities requiring special equipment, from points in Louisiana to points in Pennsylvania and New York on and east of a line beginning on the Maryland-Pennsylvania State line, and extending along U.S. Highway 219 to junction Pennsylvania Highway 53, to junction Pennsylvania Highway 144, to junction U.S. Highway 6, to junction Pennsylvania Highway 349, to junction Pennsylvania Highway 49, to junction U.S. Highway 15 to the Pennsylvania-New York State line, and extending along U.S. Highway 15 to junction New York Highway 17, to junction New York Highway 414, to junction U.S. Highway 20, to junction New York Highway 38, to junction New York Highway 104 to the Oswego River, and extending along the Oswego River to Lake Ontario, and to points in Delaware and New Jersey. The purpose of this filing is to eliminate the gateways of points in Smyth County, Va., Lynchburg, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1030), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, from points in Minnesota on and north and west of a line beginning at Lake Superior and extending along the St. Louis River to Minnesota Highway 210, to junction U.S. Highway 71, to junction Minnesota Highway 27, to junction Minnesota Highway 29, to junction Minnesota Highway 28, to junction U.S. Highway 59, to junction U.S. Highway 12 to the Minnesota-South Dakota State line, to those points in Florida beginning at the Gulf of Mexico and extending east along Florida Highway 684 to junction U.S. Highway 41, to junction U.S. Highway 301, to junction Florida-Highway 62, to junction U.S. Highway 17 to the Florida-Georgia State line, and to those points in Georgia on and east of a line beginning at the Georgia-Florida State line, and extending along U.S. Highway 17 to junction Georgia Highway 303, to junction U.S. Highway 25, to junction Georgia Highway 23, to junction Georgia Highway 38, to junction Georgia Highway 119, to junction Georgia Highway 67, to junction U.S. Highway 301 to the Georgia–South Carolina State line. The purpose of this filing is to eliminate the gateways of points in Smyth County, Va., Lynchburg, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1031), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities of unusual value, commodi-

ties in bulk, household goods as defined by the Commission, commodities requiring special equipment, from points in Oklahoma, on and east and south of a line beginning at the Texas-Oklahoma State line at the Red River, and extending along Oklahoma Highway 34/44 to junction Oklahoma Highway 44, to junction U.S. Highway 62 to junction Oklahoma Highway 7, to junction U.S. Highway 81, to junction Oklahoma Highway 29, to junction U.S. Highway 177, to junction Oklahoma Highway 19, to junction Oklahoma Highway 1, to junction Oklahoma Highway 31, to junction U.S. Highway 271 to the Oklahoma-Arkansas State line to points in Delaware and New Jersey; and to those points on Pennsylvania State line, and extending along U.S. Highway 11 to junction U.S. Highway 11/15, to junction U.S. Highway 11, to junction Pennsylvania Highway 42, to junction U.S. Highway 220 to the Pennsylvania-New York State line, to those points in New York on and east of a line beginning at the Pennsylvania-New York State line, and extending along U.S. Highway 17, to junction Interstate Highway 81, to junction New York Highway 7, to junction New York Highway 30, to junction New York Highway 8, to junction U.S. Highway 9 to the United States-Canadian International Boundary line. The purpose of this filing is to eliminate the gateways of points in Smyth County, Va., Lynchburg, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1032), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, from points in Kansas on and south and west of a line beginning on the Nebraska-Kansas State line, and extending along Kansas Highway 27 to junction U.S. Highway 24, to junction Interstate Highway 70, to junction Kansas Highway 23, to junction Kansas Highway 96, to junction U.S. Highway 281 to the Arkansas River and extending along the Arkansas River to U.S. Highway 166, to junction U.S. Highway 77 to the Kansas-Oklahoma State line, to points in Delaware; and to those points in New Jersey on and south of a line beginning on the Pennsylvania-New Jersey State line and extending along U.S. Highway 322 to junction U.S. Highway 130, to junction Interstate Highway 295, to junction New Jersey Highway 70, to junction New Jersey Highway 37 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1033), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, from points in Texas to points in Pennsylvania on, east and south of a line beginning on the Maryland-Pennsylvania State line, and extending along U.S. Highway 11 to junction Pennsylvania Highway 34, to junction Pennsylvania Highway 274, to junction U.S. Highway 11, to junction U.S. Highway 22, to junction Pennsylvania Highway 147, to junction Pennsylvania Highway 225, to junction Pennsylvania Highway 61, to junction Pennsylvania Highway 487, to junction Pennsylvania Highway 118, to junction Pennsylvania Highway 29, to junction Pennsylvania Highway 167 to the Pennsylvania-New York State line, and those points in New York beginning at the New York-Pennsylvania State line, and extending along unnumbered highway to junction New York Highway 7, to junction New York Highway 30, to junction New York Highway 29, to junction U.S. Highway 9, to junction New York Highway 9-L, to junction New York Highway 149, to junction U.S. Highway 4 to the New York-Vermont State line and to points in New Jersey and Delaware. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1034), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Allegheny, Beaver, Lawrence, and Washington Counties, Pa., and those points in Butler, and Westmoreland Counties, Pa., within 50 miles of Steubenville, Ohio, to points in Tennessee. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1035), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Fayette County, Pa., within 50 miles of Steubenville, Ohio, to points in Tennessee on and south and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 25–E to junction U.S. Highway 11–E, to junction Tennessee Highway 107 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1036), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products*, as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Greene County, Pa., to points in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 25–E to junction U.S. Highway 25 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1037), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078; Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commdities, requiring special equipment, and those injurious or contaminating to other lading, from points in West Virginia within 50 miles of Steubenville, Ohio, to points in Georgia. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1038), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Tennessee on and south and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 25–E to junction U.S. Highway 11–E, to junction Tennessee Highway 107 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Parkersburg, Wood County, W. Va.

usual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Brooke, Hancock, Marshall, and Ohio Counties, W. Va., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1039), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products*, as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from those points in Wetzel County, W. Va., within 50 miles of Steubenville, Ohio, to points in South Carolina on and south of a line beginning at the South Carolina-North Carolina State line, and extending along U.S. Highway 601 to junction South Carolina Highway 9, to junction U.S. Highway 176 to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1040), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such *mineral wool and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Brooke, Hancock, and Ohio Counties, W. Va., to points in Tennessee. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub-No. E1041), filed May 31, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mineral wool and mineral wool products* as are used as construction materials, except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Marshall County, W. Va., and those points in Wetzel County, W. Va., within 50 miles of Steubenville, Ohio, to points in Tennessee on and south and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 31–W, to junction Interstate Highway 40 to junction U.S. Highway 70 to junction Tennessee Highway 111, to junction U.S. Highway 127 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. and Parkersburg, Wood County, W. Va.

No. MC 61825 (Sub–No. E1042), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. 385, Collinsville, Va., 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such glass* as is used as construction material, except commodities in bulk, those of unusual value, commodities requiring special equipment, from points in Carroll, Columbiana, Harrison, Jefferson Counties, Ohio, and those points in Mahoning, Stark, and Tuscarawas Counties, Ohio, within 50 miles of Steubenville, Ohio, to points in Georgia. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1043), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such glass* as is used as construction material, except commodities in bulk, those of unusual value, commodities requiring special equipment, from points in Belmont County, Ohio, and those points in Guernsey and Monre Counties, Ohio, within 50 miles of Steubenville, Ohio, to points in Georgia on and south and west of a line beginning at the Atlantic Ocean and extending along U.S. Highway 80 to junction U.S. Highway 25, to junction Georgia Highway 17, to junction Georgia Highway 24, to junction Georgia Highway 15, to junction Georgia Highway 16, to junction Georgia Highway 11, to junction Georgia Highway 213, to junction Interstate Highway 20, to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1044), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such glass* as is used as construction material, except commodities in bulk, those of unusual value, commodities requiring special equipment, from points in Carroll and Columbiana Counties, Ohio, and those points in Mahoning County, Ohio, within 50 miles of Steubenville, Ohio, to Gallatin, Tenn., and points in Tennessee on and east of a line beginning at the Tennessee-Kentucky State line, and extending along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1045), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P. O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such glass* as is used as construction material, except commodities in bulk, those of unusual value, commodities requiring special equipment, from points in Jefferson County, Ohio, to points in Tennessee on and south and east of a line beginning at the Tennessee-Virginia State line, and extending along Tennessee Highway 70 to junction Tennessee Highway 31, to junction U.S. Highway 11–W, to junction Interstate Highway 40, to junction U.S. Highway 70, to junction Tennessee Highway 96, to junction U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 78228 (Sub-No. E193) (correction), filed August 26, 1975, published in the FEDERAL REGISTER issue of July 7, 1977, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, P. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and metals*, in dump vehicles, from points in New York bounded by a line beginning at Buffalo, N.Y., thence along New York Highway 3 to Silver Creek, N.Y., thence along New York Highway 428 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 16, thence along New York Highway 16 to the place of beginning, to points in Delaware. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

NOTE.—The purpose of this correction is to state the correct highway.

No. MC 78228 (Sub-No. E197), filed August 26, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15219. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and metals*, in dump vehicles, from points in New York on or west of a line beginning at Lake Ontario, thence along New York Highway 98 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line, to points in Maine. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 111785 (Sub-No. E1) (partial correction), filed May 29, 1974, published in the FEDERAL REGISTER issue of July 27, 1977, and republished as corrected, this issue. Applicant: BURNS MOTOR FREIGHT, INC., Rural Free Delivery, No. 1, U.S. Highway 219, P.O. Box 149, Marlinton, W. Va. 24954. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden posts, and wooden rails*, (a) from points in the Lower Peninsula of Michigan to points in Ohio in and east of Trumbull, Mahoning, Columbiana, Carroll, Harrison, Belmon, and Monroe Counties; (b) from points in the Lower Peninsula of Michigan in and north of Manistee, Wexford, Missaukee, Roscommon, Ogemau, and Iosco Counties, to points in Ohio in and east of Trumbull, Portage, Stark, Tuscarawas, Guernsey, Noble, and Monroe Counties (Newell, W. Va.*). The purpose of this filing is to eliminate the gateways indicated by asterick above.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23088 Filed 8-9-77;8:45 am]

[Revised Service Order No. 1252; I.C.C. Order No. 32, Amdt. No. 1]

STRAITS CAR FERRY SERVICE CORP.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 32 (the Straits Car Ferry Service Corp.) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 32 be, and it is hereby, amended by substituting the following paragraph (c) for paragraph (c) thereof:

"(c) *Traffic which may be rerouted.* (1) This order shall apply to traffic routed via the ferry from Mackinaw City to St. Ignace (northward or westward traffic) for movement on ferry trips, after July 14, 1977, to and including August 11, 1977.

(2) This order shall apply to traffic routed via the ferry from St. Ignace, Mich., to Mackinaw City Mich. (southward or eastward traffic), for movement on ferry trips after July 21, 1977, to and including August 11, 1977: and

It is further ordered, That:

I.C.C. Order No. 32 be, and it is hereby, amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) Expiration date: This order shall expire at 11:59 p.m., August 11, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., August 4, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 1, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-23087 Filed 8-9-77;8:45 am]

[AB 10 (Sub-No. 10)]

WABASH RAILROAD CO. AND NORFOLK & WESTERN RAILWAY CO.

Abandonment Portion of Moberly Division and Abandonment of Trackage Rights and Joint Trackage Over Connecting Lines in the Counties of Brown, Adams, and Hancock, Ill., and the City of Keokuk, Iowa

JULY 29, 1977.

The Interstate Commerce Commission hereby gives notice that:

1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.

2. A notice setting forth this conclusion was served June 17, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice.

3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23089 Filed 8-9-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-42]

AUGUST 3, 1977.

TIME AND DATE: 10:00 a.m., August 11, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Docket 30994, TACA International Airlines, S. A.; Amendment of a Foreign Air Carrier Permit (Memo. No. 7325, BIA, BOR, OGC).

2. Docket 29044, Amendment of Part 252—"Provision of Designated 'No-Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers" (Memo. No. No. 7323, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S—1070-77 Filed 8-5-77;4:36 pm]

2

CIVIL AERONAUTICS BOARD.

[MA-21 AMENDING M-40]

AUGUST 3, 1977.

Notice of deletion of items from August 9, 1977 meeting agenda.

TIME AND DATE: 10:00 a.m., August 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

15. Docket 31201, complaint of Century Air Freight, an air freight forwarder, against addition by Airlift of container loading service provisions offering service by the carrier on its premises, applicable to traffic moving to/from San Juan, Puerto Rico. (sched for eff 8/15) (BE).

16. Docket 30985, Application of Pan American for extension of Embargo on all cargo destined for Caracas not holding confirmed reservations due to lack of storage facilities. (BE).

17. Docket 30332, Disposition of various IATA Agreements dealing with currency matters, and cargo matters, Agreements CAB 26701, 26703, 26704 and 26707. (BE).

19. Docket 27813, Petition by Qantas for reconsideration of Order 77-5-133 dealing with combination fares over Pago Pago, Agreement CAB 25711. (BE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Items 15, 16, 17, and 19 on the announced agenda will not be ready for discussion at the August 9, 1977 Board meeting. They will be rescheduled for discussion in the near future. Accordingly, the following Members have voted that agency business requires that Item 15, Docket 31201 complaint of Century Air Freight, Item 16, Docket 309855, Application of Pan American, Item 17, Docket 30332, Disposition of various IATA Agreements and Item 19, Docket 27813, Petition by Qantas be deleted from the agenda of the August 9, 1977 Board meeting and that no earlier announcement of the change was possible:

Chairman Alfred E. Kahn, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member Lee R. West.

[S-1071-77 Filed 8-5-77;4:36 pm]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (Eastern time), Wednesday, August 10, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

(1) *Freedom of Information Act Appeal 77-2-FOIA-40.* Request, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

(2) *Freedom of Information Act Appeal 77-2-FOIA-134.* Request by an attorney representing an employer charged with discrimination, against whom a lawsuit has been filed by the Commission, for the internal memorandum upon which the Commission based its vote to commence litigation.

(3) *Designation of 706 Agency.* Recommendation that the Sioux Falls (S.D.) Human Relations Commission be designated as one to which the Commission may defer charges.

(4) *Washington State Human Rights Commission.* Recommendation that the Commission allocate additional fiscal year 1977 funds to this State agency for the processing of more charges.

(5) *Revision of EEOC's Procedural Regulations.*

PORTIONS CLOSED TO THE PUBLIC

(1) *Litigation Authorization; General Coursel Recommendations.* Matters closed to the public under Sec. 1612.13 (a) of the Commission's regulations. (42 F.R. 13830, March 14, 1977.)

(2) *Proposed Procurement; Processing of EEO-4 Survey.* This matter is continued from the meeting of August 2. Commission approval is requested to contract with an organization to process the State and Local Government Information Report, identified as the EEO-4 Survey.

(3) *Proposed Budget Request for Fiscal Year 1979*

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued August 3, 1977.

[S-1073-77 Filed 8-8-77;10:10 am]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39738; S-1052-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., August 10, 1977.

CHANGE IN THE MEETING: The following item, originally announced for the closed session, has been deleted from the agenda:

(3) *Proposed Budget Request for Fiscal Year 1979.* A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair 8/5/77; Ethel Bent Walsh, Vice Chair 8/5/77; Daniel E. Leach, Commissioner 8/5/77.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

This Notice Issued August 5, 1977.

[S–1074–77 Filed 8–8–77;10:10 am]

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 12:00 noon, Monday, August 15, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act".

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202–452–3204.

Dated: August 8, 1977.

[S–1075–77 Filed 8–8–77;11:05 am]

SUNSHINE ACT MEETINGS

6

INTERNATIONAL TRADE COMMISSION.

[USITC SE–77–48]

TIME AND DATE: 9:30 a.m., August 18, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Petitions and complaints (if necessary).
6. Investigation 332–87 (Western Steel Market)—see action jacket ID–77–52.
7. Consideration of space for New York Office—see memorandum from the Deputy Director of Operations.
8. Investigation 337–TA–29 (Certain Welded Stainless Steel Pipe and Tube)—see memorandum from the General Counsel on the Presiding Officer's recommendations to dismiss certain foreign respondents.
9. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC:

1. Reorganization (portions regarding the selections of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–0161.

[S–1072–77 Filed 8–5–77;4:36 pm]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39522, August 4, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 11, 1977, 9:30 a.m. [NM–77–24].

CHANGE IN THE MEETING: The following agenda item has been added:

Discussion of presentation to be made by Vice Chairman Bailey at National Conference on Railroad-Highway Crossing Safety, Salt Lake City, Utah, August 23, 1977.

[S–1067–77 Filed 8–5–77;3:52 pm]

8

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 10, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Draft of Tentative Decision Concerning the Officer of the Commission's Proposal to Institute Presort Requirements for Bulk Regular Rate Third-Class Mail, Docket No. MC76–3.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–1068–77 Filed 8–5–77;3:52 pm]

9

RENEGOTIATION BOARD.

DATE AND TIME: Friday, August 12, 1977, 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Closed to Public Observation.

MATTER TO BE CONSIDERED: Board Meeting concerning: Budget.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202–254–8277.

Dated: August 5, 1977.

GOODWIN CHASE,
Chairman.

[S–1069–77 Filed 8–5–77;3:52 pm]

federal register

WEDNESDAY, AUGUST 10, 1977

PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF DEFENSE

Office of the Secretary

FREEDOM OF INFORMATION ACT PROGRAM

Procedures and Requirements

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 286]

DEPARTMENT OF DEFENSE FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Procedures and Requirements

AGENCY: Office of the Secretary of Defense

ACTION: Proposed rule.

SUMMARY: This proposed directive revises Department of Defense (DOD) policies and directs issuance of a DOD Regulation which will establish procedures for and provide guidance to (1) DOD Components handling public requests under the Freedom of Information Act, as amended; and (2) the public in obtaining records under the Act.

DATES: Comments must be received on or before September 9, 1977.

ADDRESSES: Submit comments to Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Department of Defense, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Arthur E. Fajans (202–697–1171).

SUPPLEMENTARY INFORMATION: On February 26, 1975, there was published in the FEDERAL REGISTER (40 FR 8190) a final rule adoption (32 CFR 286) effective February 19, 1975, which established procedures both for the public and DOD Components regarding the handling of requests for information and records under the Freedom of Information Act. This proposed rule restates and modifies authorities and responsibilities, and directs the publication of a DOD Regulation. This Regulation details and covers all data-based experience and procedures, including philosophies, definitions, policy, exemptions, classification, fee schedule, the release of records to officials, processing instructions, appeals, judicial actions, reports, and guidance for requesters on how to obtain information.

Accordingly, Part 286 is revised as follows:

PART 286—AVAILABILITY TO THE PUBLIC OF DEPARTMENT OF DEFENSE INFORMATION

Sec.

286.1 Reissuance and purpose.
286.2 Applicability and scope.
286.3 Policy.
286.4 Responsibilities.
286.5 DOD freedom of information components.
286.6 DOD Regulation governing the DOD freedom of information program.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93–502.

§ 286.1 Reissuance and purpose.

This part reissues Part 286 to implement the provisions of the Freedom of Information Act (5 U.S.C. 552) by establishing policies, authorities and responsibilities.

§ 286.2 Applicability and scope.

This part applies to:

(a) All organizations and activities of the Department of Defense. National Security Agency records are subject to the provisions of this part and § 286.6 to the extent that it is consistent with Pub. L. 86–36. The DOD FOI Program will be carried out through the Components listed in § 286.5 and other Components which may be designated by the Assistant Secretary of Defense (Public Affairs).

(b) The release of records to the general public.

(c) All DOD records. However, requests by individuals for access to records about themselves may also be processed under Privacy Act procedures as implemented by 32 CFR 286a.

§ 286.3 Policy.

The Department of Defense shall:

(a) Make available to the public the maximum amount of information concerning its operations and activities consistent with its responsibilities of national security and public trust.

(b) Not require a requester who complies with reasonable rules set forth by a Component to invoke the FOIA in order to obtain records from DoD.

(c) Not withhold records requested when the requester complies with reasonable rules set forth by the Component, whether or not the FOIA is invoked.

(d) Except for the records made available under paragraph (c)(4)(5) of § 286.4 or under Privacy Act procedures, requests for records of a Component made by any person who either explicitly or implicitly cites the FOIA shall be made available under the procedures established by this Part. All other requests for information, records, objects, and articles may be answered promptly under other established procedures.

(e) Records which otherwise would have to be published or made available according to paragraph (d) or paragraphs (c)(4)(5) of § 286.4 may be withheld from public disclosure only if they fall into the categories of records exempt from mandatory disclosure by the FOIA; and only if a significant and legitimate governmental purpose is served by the withholding.

§ 286.4 Responsibilities.

(a) The Assistant Secretary of Defense (Public Affairs) shall:

(1) Direct and administer the DoD Freedom of Information Program. He is authorized to delegate this responsibility to a Director, Freedom of Information, who shall exercise such authority residing in the ASD(PA) as may be required for the effective administration of the program.

(2) Develop, coordinate, issue, and maintain a DOD Freedom of Information Regulation, § 286.6.

(3) Prepare supplementing instructions for the Office of the Secretary of Defense, including the Organization of the Joint Chiefs of Staff.

(b) The General Counsel of the Department of Defense shall provide for uniformity in the legal interpretation of this part and § 286.6 by all DOD Components.

(c) Heads of Components shall:

(1) Publish in the FEDERAL REGISTER any necessary supplementary instructions or directives to provide for the internal administration of § 286.6 and limit separate publication to those matters applicable only to the Component.

(2) Conduct training on the provisions of this Part and § 286.6 for officials and employees who implement the FOIA.

(3) Submit reports prescribed in § 286.6.

(4) Publish in the FEDERAL REGISTER, for the guidance of the public, the information specified in paragraph 552(a)(1) of the FOIA. Publication will be according to 32 CFR 296, Publication and Adopted Regulations Affecting the Public.

(5) Make available for public inspection and copying in an appropriate facility or facilities in accordance with rules published in the FEDERAL REGISTER the records specified in paragraph 552(a)(2) of the FOIA unless such records are published and copies are offered for sale.

§ 286.5 DOD freedom of information components.

Department of the Army.
Department of the Navy.
Department of the Air Force.
Defense Civil Peparedness Agency.
Defense Communications Agency.
Defense Contract Audit Agency.
Defense Intelligence Agency.
Defense Investigative Service.
Defense Logistics Agency.
Defense Mapping Agency.
Defense Nuclear Agency.
National Security Agency.
Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff.

§ 286.6 Regulation governing the Department of Defense freedom of information program.

(a) *General provisions.*—(1) *Purpose and applicability.* (i) To provide for maximum responsiveness to the letter and spirit of the Freedom of Information Act (FOIA) and to promote uniformity in implementing the Department of Defense (DOD) Freedom of Information Program. The DOD public information philosophy is the foundation upon which this section rests.

(ii) This section applies to members of the public seeking DOD records under provisions of the FOIA and to the DOD Components responding to FOIA requests.

(2) *DOD public information philosophy.*—(i) *Public right to know.* The public has a right to information concerning the activities of its Government. DOD policy is to conduct its activities in an open manner and provide the public with maximum, accurate and timely information concerning its activities, consistent always with legitimate public and private interests of the American people.

Information requested by a member of the public who follows reasonable rules established by proper authority in DOD will be withheld only when it is exempt from mandatory public disclosure under the FOIA and denial would serve a significant, legitimate governmental purpose. In order that the public may have timely information concerning DOD activities, information requested by news media representatives which would not be withheld if requested under the FOIA should be released upon initial request. Response to requests for information from news media representatives directed to Public Affairs personnel should eliminate a requester's need to resort to FOIA.

(ii) *Best approach.* A request for information which invokes the FOIA enters a formal control system designed to ensure compliance with the FOIA. Records are to be withheld only for reasons stated in the FOIA, and a release determination must be made and the requester informed within the time limits specified in this section. This control system reduces the manager's flexibility to establish work priorities and increases the administrative cost of responding to the request. The interests of the nation would be best served if the DOD were so responsive to reasonable requests for information that the public would not feel it necessary to demand our records under the FOIA, but would first submit a routine request and allow a reasonable time for response. If a satisfactory response were not received within a reasonable time, the individual could then submit a FOIA request citing the date of the routine request and how it was addressed. Such an approach would enable us to handle most requests in a responsive manner consistent with other priorities and would help DOD officials identify individuals who unnecessarily impede the flow of information to the public. But, under the FOIA, a person need not first submit a routine request. Therefore, all DOD personnel must work to create the conditions of public trust that will result in the approach suggested above in most cases. Any request for DOD records which either explicitly or implicitly cites the FOIA will be processed under the provisions of this section or the Privacy Act, as appropriate. A FOIA request which cites circumstances indicating Department personnel have not been responsive to a previous routine request made in accordance with rules established by Competent authorities within DOD will be considered a public information failure.

(3) *Definitions.*—(i) *FOIA request.* A request for DOD records made by a member of the public who either explicitly or implicitly invokes the Freedom of Information Act, this Part, this section, or Component supplementing regulations. For example, a request for records which contains no reference to the FOIA within the text of the request, but which states that a reply is expected in ten days would be an implicit invocation of the Act.

(ii) *Record.* (A) Documentary material regardless of age, physical form or characteristics created or received by a Component of DOD and preserved as evidence of organization, function, policies, decisions, procedures, operations or other activities or because of the informational value of data contained therein.

(B) The following materials are not included within the definition of the word "records" as used in this section. Accordingly, requests for these materials will not be processed under the provisions of this section, whether or not the FOIA is invoked. Instead, requests for these materials shall be evaluated in accordance with policies expressly directed to their dissemination and use.

(*1*) Library and museum material made or acquired and preserved solely for reference or exhibition.

(*2*) Objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles and equipment, whatever their historical value or value as evidence.

(*3*) Exploitable resources, including but not necessarily limited to, formulae, designs, drawings, map compilation manuscripts and map research materials, research data, computer programs, technical data packages. Materials such as these are considered to be exploitable resources because of their development costs, utilization, or instrinsic value. Requests to inspect these materials to determine content for informational purposes shall normally be granted unless the inspection would be inconsistent with the obligation to protect the property value of the material or some other significant and legitimate Government interest.

(*4*) Unaltered stocks of publications and processed documents such as regulations, manuals, maps, charts, and related geophysical materials that are available to the public through an established distribution system either for sale or without charge. Examples of these materials are publications available to the requester through the Government Printing Office or the National Technical Information Service; or maps, charts, and related geophysical products available to the requester through Defense Mapping Agency, U.S. Geological Survey, or National Ocean Survey distribution points. Individuals requesting such material under the FOIA may be referred to appropriate sales outlets.

(iii) *Component.* An element of DOD authorized to receive and act independently on FIO requests. A Component has its own initial denial authority or authorities and its own appellate authority.

(iv) *Initial denial authority (IDA).* A responsible official who has been granted authority by the head of a Component to withhold records requested under the Freedom of Information Act.

(v) *Determination.* The decision to release or deny all or portions of a requested record.

(vi) *Exemption.* One of the nine categories of records identified in the FOIA which a Component may withhold from a requester if a significant and legitimate governmental purpose would be served by withholding.

(vii) *Extension.* A number of additional working days which may be added to the statutory time permitted for a determination. Extensions may be invoked, either on the initial determination or on appeal, as long as the combined total of additional working days does not exceed ten. Extensions may be invoked only for one or more of the following unsual circumstances.

(A) The requested record must be retrieved in whole or in part from field activities or storage areas separate from the office processing the request.

(B) The request requires the collection and examination of a substantial number of records.

(C) Consultation is required among two or more elements within a Component or with other Components or agencies which have a substantial interest in the subject matter of the requested records.

(viii) *Appeal.* An administrative request by an individual, made under the FOIA, asking the appellate authority of a Component to reverse a decision made by an Initial Denial Authority (IDA) of the Component to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

(ix) *Reading room.* A facility provided by a Component where members of the public may, upon request, inspect so-called "(a)(2) materials," indexes of such materials and Component records provided pursuant to subsection 552(a)(3) of the FOIA. See parragraph (b).

(x) *Record of case processing costs.* DD Form 2086 used to record the cost incurred in processing a Freedom of Information request.

(4) *Policy.*—(i) Compliance with Freedom of Information Act. DOD personnel will comply with the FOIA in both letter and spirit.

(ii) *DOD information open to public.* DOD will conduct its activities in an open manner consistent with the need for security and adherence to other requirements of public trust. Information not specifically exempt from disclosure under the Act will be made readily accessible to the public upon compliance with reasonable rules promulgated by competent authority whether or not the Act is invoked.

(iii) *Prompt action required.* When a member of the public complies with reasonable rules established by a Component for obtaining its records, the request shall receive prompt action. Requests for records made under authority of the FOIA shall be processed in accordance with FOIA procedures unless Privacy Act procedures are more appropriate. Personal records subject to the Privacy Act and requested by the subject if the records will be handled routinely under provisions of the Privacy Act as implemented by 32 CFR 285a even if the FOIA is cited, except records that are known to exist that are not part of a "system of records" subject to the Pri-

vacy Act, will be provided or denied under the FOIA. Even though a request citing the FOIA is administratively processed under the Privacy Act procedures, no record will be withheld that would be released under FOIA procedures. Other requests for records and information will be handled under other established procedures.

(iv) *Procedural obstacles forbidden.* Components will ensure that procedural matters do not unnecessarily impede a requester's efforts to obtain DOD information. Components should help requesters understand and comply with procedures established by this section.

(v) *Exemptions are permissive.* A record which may be withheld under the exemptions will nevertheless be made available to the public when no significant, legitimate governmental purpose would be served by withholding it.

(vi) *FOIA release and public release.* Records released under the authority of this section shall be considered to be in the public domain unless release was conditional on special circumstances relating to the identity of the requester (see e.g. *Getman* v. *NLRB*, 450 F. 2d 670 (D.C. Cir. 1971)). Records exempt from release under this section may be provided under other directives and regulations to certain categories of requesters acting in their official capacity (see paragraph (i) of this section). However, these same individuals, when invoking the FOIA, shall be considered as members of the general public and the provisions of this section will apply.

(vii) *No obligation to create record.* A record must exist at the time of the request to be considered subject to this section. There is no obligation to create or compile a record to satisfy a FOIA request. Information maintained by computer exists as a record only if it can be retrieved in the form requested without substantial reprogramming. A Component may not create or compile a new record to avoid making a determination concerning records that existed at the time of the request. However, a Component may compile or create a new record when so doing would result in a more useful response to the requester, and the requester does not object. Costs of creating or compiling such a record may not be charged to the requester under the provisions of this section.

(viii) *Requester Must Reasonably Describe Record Sought.* (A) The Attorney General's memorandum on the Public Information Section of the Administrative Procedures Act (June 1967) declared that, "The burden of identification is with the member of the public who requests a record, and it seems clear that Congress did not intend to authorize 'fishing expeditions'." Senate Report 93–854, commenting on the Freedom of Information Act (May 16, 1974), stated that changing the language from "a request for identifiable records" (1967 Act) to a "request for records which reasonably describes such records" (1974 Amendment) was meant again to reflect the intent of the original FOIA. The 1974 Senate Report confirmed the provisions of the 1966 Senate Report requiring the requester to provide, "A Reasonable description enabling the Government employee to locate the requested records." It added that the Committee did not intend by the change to authorize broad categorical requests where it is impossible for the agency reasonably to determine what is sought. The Senate Report admonished agencies, however, that, "Their superior knowledge of the contents of their file should be used to further the philosophy of the Act by facilitating rather than hindering the handling of requests for records." The Report concluded that the altered language of the 1974 Amendment "* * * makes explicit the liberal standard for identification that Congress intended and that the courts have adopted * * *." The House Report (H.R. 93–876) states that the new language is designed to insure that a specific title or file number cannot be the only requirement of an agency for the identification of documents. The House Report added that a description of a requested document would be sufficient if it enabled a professional employee of the agency who was familiar with the subject area of the request to locate the record with a reasonable amount of effort. The Attorney General's memorandum on the 1974 Amendments to the Freedom of Information Act (February 1975) emphasized that, "It is not enough that the request provide enough data to locate the record; it must enable it to be located in a manner which does not involve an unreasonable amount of effort." The Attorney General advised that when an agency receives a request that does not "reasonably describe" the record sought, it should notify the requester of the defect. He also recommended that, when practicable, the agency offer assistance in reformulating the request to comply with the Act.

(B) The following guidance is provided to deal with "fishing expeditions" requests and is based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories: Category I is file-related and includes information such as type of record (e.g., memorandum), title, index citation, subject area, date the record was created and originator; Category II is event-related and includes the circumstances which resulted in the record being created, or the date and circumstances surrounding the event the record covers. Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized (i.e., non-random) search based on the Component filing arrangements and existing retrieval systems, or unless it contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

(C) The following guidance deals with requests for personal records. Ordinarily, when only personal identifier are provided in connection with a request for records concerning the requester, only records retrievable by personal identifiers need be searched. Search for such records will be conducted under Privacy Act procedures. However, no record will be denied that would be released under the FOIA.

(D) The above guidance notwithstanding, the Component's decision concerning reasonableness of description must be based on knowledge of its files. If the description will enable Component personnel to locate the record with reasonable effort, the description is adequate.

(ix) *Referrals.* (A) A request received by an activity having no records responsive to the request will routinely be referred to another activity or Component thought to have the records sought. Any Component receiving a request which has been misaddressed will refer the request to the proper address and advise the requester.

(B) Whenever a record, or a portion of a record, is referred to another Component or to a Federal agency outside the Department for a release determination and direct response, the requester will be given a description (type, date, number of pages, etc.) of the records referred. Such a listing of records will be designed to prevent any appearance that we are hiding records and will allow the requester to address them specifically in subsequent inquiries. Referred records shall be identified to the extent consistent with security requirements.

(C) A Component may refer a FOIA request for a classified record which it holds to another Component or an agency outside DoD, if the record originated in the other Component or outside agency or if the classification is derivative.

(D) A Component may also refer a request for a record which it originated to another Component or agency when the record was created for the use of the other Component or agency. The Component or agency for which the record was created may have significant and legitimate interest in withholding the record that the Component which created the record would not have. An example of such situations is a request by Defense contractors for audit reports on their companies prepared by the Defense Contract Audit Agency. These advisory reports are prepared for the use of DOD contracting officers and their release to the audited contractor should be at the discretion of the contracting officer. Such FOIA requests shall be referred to the appropriate contracting officer and the requester shall be notified of the referral.

(E) Within DOD a Component will ordinarily refer a FOIA request for a record which it holds, but which was originated by another DOD Component or which contains information obtained from another Component, to that Component for direct response with notice to the requester. Components should not, in any case, release or deny such records without prior consultation with the other Component.

(F) to agencies outside DOD, but subject to the FOIA.

(*l*) A Component will refer investigative, intelligence and other records lent to the Department of Defense for a specific purpose under caveats restricting further release and so marked.

(2) A Component may refer a request for records containing information relating to programs subject to the control of the Civil Service Commission or another agency. Such records shall be released or denied by the Component only after giving full consideration to the release guidance of that agency.

(3) A Component may refer a FOIA request for any record which originated in any agency outside DOD, or which is based on information obtained from an outside agency, to that agency for direct response to the requester with the consent of the outside agency and if the requester does not object upon receipt of notification of the referral.

(G) Receiving Components shall answer request referred to them according to the time limits established by the FOIA. Those time limits shall begin upon receipt of the referral by the official designated to respond.

(H) Referrals according to the above procedures shall constitute full compliance with this section on the part of the referring Component and are not regard as denials of original requests.

(x) *Fee Assessment.* (A) DOD supports the principle that all citizens should have reasonable access to the Department's records. The legislative history of the FOIA makes it clear that fees are not to be used to discourage requests and to this end Congress limited FOI fees to reasonable standard charges for document search and duplication. Congress also stipulated that, "Documents shall be furnished without charge or at a reduced charge when the agency determines that waiver or reduction of the fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public." Based on this guidance, the DOD goals are wide public access; a liberal fees policy when releasing requested records is in the interest of the general public; and a conservative fees policy to minimize expense to the taxpayer when release of the records primarily benefits private individuals rather than the general public.

(B) In keeping with the goals stated above, the first $30.00 of direct search and duplication costs for a single FOIA request will be waived. However, Components may set aside the automatic waiver provision and require the requester to justify waiving any amount when one automatic waiver has been granted, and the circumstances appear, on the basis of good evidence, to indicate intention to abuse the automatic waiver policy.

(C) If a requester wishes to have the public assume direct search and reproduction costs that exceed the automatic waiver threshold, he should provide sufficient information in his request to enable the Component properly to exercise its discretion. A simple statement that release of the records would be in the public interest is not sufficient. Since the question of "benefiting the general public" hinges on the use of the information in the records, the identity or tax status of the requester or the statement that the record will be made public is not necessarily persuasive grounds for waiver. Rather, the requester should provide information concerning the planned use of the information, how this use will serve the general public interest, the segment of the public to be so benefited, and other matters pertinent to the appropriateness of public payment. It should be noted that this information in no way influences the decision to release or not release the record. It only influences the decision as to whether or not the public will assume the direct search and reproduction portion of the cost associated with the request. The requester is not required to provide this information if he does not want the public to bear the cost for him.

(D) Decision to waive or reduce fees which exceed the automatic waiver threshold should be made on a case-by-case basis. As a general guide, fees will ordinarily be waived when any of the following circumstances are met:

(*l*) No record is located. Fees may be charged if the requester insists upon a search and agrees to such fees after being informed that the search is likely to be nonproductive.

(2) All records requested are denied.

(3) When a record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records including additional information not requested. If the requester consents, he may be charged for this service under provisions of 32 CFR 288.

(4) News media requests.

(5) Nonprofit interest group requests when the subject of the requested records is known to be of wide public interest and when it is reasonable to expect that the organization will subsequently make the information available to a significant segment of the general public.

(6) When the requester is indigent.

(7) When assessable costs are found to be significantly greater than estimated to the requester or that the upper limit agreed to by the requester. In this circumstance, the Component may wish to reduce the assessed fee to the estimate provided or to the upper limit specified by the requester. See paragraph (a)(11) of this section.

(8) When a previous denial is reversed in whole or in part.

(9) When time extensions beyond statutory provisions were voluntarily agreed to by the requester. If significant cost was involved, a reduction of fees may be a more appropriate alternative in this circumstance.

(xi) *Fee Obligations.* (A) Attempts to be responsive to requesters can be at odds with the responsibility to minimize costs of administering the Freedom of Information Program. If it appears that the direct search and reproduction cost associated with a request will exceed the automatic waiver threshold, and a request for public payment or fees, procto pay, or has not substantiated a request for public payment of fees, processing the request could result in charges that the requester is unwilling to pay. Even if requesters state a willingness to pay any direct search and copy cost associated with requests, they must be protected from unwittingly incurring obligations which far exceed expectations.

(B) In order to be as responsive as possible to FOIA requests while minimizing unwarranted public costs, Components will adhere to the following procedures:

(*l*) If the requester declares his willingness to pay fees and does not substantiate a request for waiver, and if it appears that the direct search and reproduction costs associated with the request will exceed the automatic waiver threshold, the request need not be processed and the requester may be so informed.

(2) If the requester declares his willingness to pay fees up to a specified amount and does not substantiate a request for waiver, do not exceed the specified amount or the automatic waiver threshold, whichever is greater without the requester's consent.

(3) Subsequent requests from persons who fail to discharge fee obligations should not be processed until previous obligations have been discharged or waived.

(xii) *Authentication.* Records provided under this section shall be authenticated with an appropriate seal if desired by the requester. However, this service is in addition to that required under FOIA, and is not included in the FOIA fees schedule. See paragraph (i) of this section.

(xiii) *Unified and Specified Commands.* (A) Requests for records of a Unified or Specified Command shall be processed within the administrative channels established by DoD Directive 5100.3.[1]

(B) The Commander of a Unified or a Specified Command, with the concurrence of the Military Department designated by DoD Directive 5100.3[1] may designate Initial Denial Authorities within headquarters and in subordinate Unified Commands. However, appellate authority shall reside with the Military Department.

(xiv) *FOIA Records Management.* FOIA records will be maintained and disposed of in accordance with Component disposition schedules.

(*b*) *FOIA Reading Rooms.*—(1) *FOIA Reading Room Required.* Each Component shall provide an appropriate facility or facilities where the public may inspect and copy or have copied the materials described below, if such materials exist and are not withheld from public disclosure under provisions of the FOIA. Components may share Reading Room facilities if the public is not unduly inconvenienced. The cost of copying shall

[1] Filed as part of original. Single copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center (formerly the Naval Supply Depot), 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention: Code 301.

be charged to the person requesting the material according to paragraph (a)(4)(x) and paragraph (e) of this section.

(2) *"(a)(2)" Materials To Be Available.* The FOIA requires that so-called "(a)(2)" materials shall be made available in the FOIA Reading Room for inspection and copying unless such materials are published and copies are offered for sale. Identifying details which, if revealed, would create a clearly unwarranted invasion of personal privacy may be deleted from "(a)(2)" materials made available for inspection and copying. In every case, justification for the deletion must be fully explained in writing. However, a Component may publish in the FEDERAL REGISTER a description of the basis upon which it will delete identifying details of particular types of documents to avoid clearly unwarranted invasions of privacy. In appropriate cases the Component may refer to this description rather than write a separate justification for each deletion. So-called "(a)(2)" materials are:

(i) All final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 551, Section 2, of the Administrative Procedures Act, that may be cited, used, or relied upon as precedents in future adjudications.

(ii) Statements of policy and interpretations of less than general applicability affecting the public but not published in the FEDERAL REGISTER.

(iii) Administrative staff manuals and instructions, or portions thereof, which establish DOD policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the Component. Examples of manuals and instructions not normally made available are:

(A) Those issued for audit, investigation, and inspection purposes or those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution or settlement of cases.

(B) Operations and maintenance manuals and technical information concerning munitions, equipment, systems, and foreign intelligence operations.

(3) Indexes of "(a)(2)" Materials To Be Present. (i) Each Component shall maintain in each facility prescribed in paragraph (b)(1) of this section an index of materials described in paragraph (b)(2) of this section which are issued, adopted, or promulgated, after July 4, 1967. No "(a)(2)" materials issued, promulgated, or adopted after July 4, 1967, which are not indexed and either made available or published, may be relied upon, used or cited as precedent against any member of the public unless he has actual and timely notice of its terms. Such materials issued, promulgated, or adopted before July 4, 1967, need not be indexed, but must be made available upon request if not exempted under this section.

(ii) Each Component shall promptly publish at least quarterly and distribute, by sale or otherwise, copies of each index of "(a)(2)" materials or supplement thereto unless it publishes in the FEDERAL REGISTER an order containing a determination that publication is unnecessary and impracticable. A copy of each index or supplement not published shall be provided to a requester at a cost not to exceed the direct cost of duplication shown in paragraph (e) of this section.

(iii) Each index of "(a)(2)" materials or supplement thereto should be arranged topically or by descriptive words rather than by case name or numbering system so that members of the public can easily locate material. However, case name and numbering arrangements may also be included for Component convenience.

(4) *Indexes of Records Released.* (i) Each Component shall maintain in each facility prescribed in paragraph (b)(1) of this section an index of records released by the Component after February 19, 1975, in response to FOIA requests, and which the Component judges to be of significant public interest because of the current or former newsworthiness of the information contained in the record, or because the information in the record pertains to a significant segment of the general public.

(ii) Each Component shall promptly publish quarterly, and distribute by sale or otherwise, copies of each index or supplement thereto.

(iii) Each index or supplement thereto published under this paragraph should be arranged topically by subject or descriptive words so that members of the public can easily locate material of interest to them.

(5) *Other Materials.* (i) Any available index of Component material published in the FEDERAL REGISTER, such as material required to be published by Section 552(a)(1) of the FOIA, should be made available in Component FOIA Reading Rooms.

(ii) Although not required to be made available in response to FOI requests or in FOIA Reading Rooms, "(a)(2)" materials should, when feasible, be made available in FOIA Reading Rooms for inspection and copying.

(c) *Exemptions.*—(1) *General.* (i) Records which otherwise would have to be published in the FEDERAL REGISTER (32 CFR 296) or made available in a library or reading room (paragraph (b) of this section) or in response to a request for a record under this section, may be withheld from public disclosure if they fall within a specific exemption.

(ii) An exempted record, or reasonably segregable portion of a record, should be made available upon the request of any member of the public when in the judgment of the releasing Component or higher authority, no significant and legitimate governmental purpose would be served by withholding it under an applicable exemption.

(2) *Exemptions.* The following types of records may be withheld in whole or in part from public disclosure unless otherwise prescribed by law.

(i) *Number 1.* Those properly and currently classified in accordance with established regulations such as 32 CFR 155 to protect the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations.

(ii) *Number 2.* Those containing rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or practices of a Component if their publication or inspection would not directly affect the general public, or their release to the public would substantially hinder the effective performance of a significant function of the Department of Defense. Examples include:

(A) Those operating rules, guidelines and manuals for Department of Defense investigators, inspectors, auditors, or examiners that must remain "privileged" in order for the Component to fulfill a legal requirement.

(B) Personnel and other administrative matters such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement, or promotion.

(iii) *Number 3.* Those concerning matters which a statute specifically exempts from disclosure by its very terms which permit no discretion on the issue or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

(A) 42 U.S.C. 2162, Restricted Data and Formerly Restricted Data.

(B) P.L. 86-36, Section 6 (National Security Agency Information Exemption).

(C) *35 U.S.C. 181-188 (Patent Secrecy).* Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued.

(iv) *Number 4.* Those containing trade secrets or commercial or financial information which a Component receives from a source outside the Component with the understanding that it will be retained on a privileged or confidential basis in accordance with customary handling of such records. Such records are, however, only those the disclosure of which would cause substantial harm to the competitive position of the source providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate governmental interest. Examples include records which contain:

(A) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(B) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(C) Personal statements given in the course of inspections, investigations, or

audits, where such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(D) Financial data provided in confidence by private employers in connection with locality wage surveys which are used to fix and adjust pay schedules applicable to prevailing rate employees within the Department of Defense.

(v) *Number 5.* Except as provided in paragraph (c)(2)(v) (B) through (E) of this section, internal advice, recommendations and evaluations as contrasted with factual matters, which are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies (as defined in 5 U.S.C. 551 or within or among Components of an agency.) Examples include:

(A) The nonfactual portions of staff papers containing staff advice, opinions, or suggestions.

(B) Advice, suggestions or evaluations prepared on behalf of the Department of Defense by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(C) Those nonfactual portions of evaluations by Component personnel of contractors and their products which contain recommendations or advice by Government employees about the contractor or product.

(D) Advance information of a speculative, tentative or evaluative nature on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate governmental functions.

(E) Records which are exchanged between agency personnel and within and among Components or agencies as part of the preparation for anticipated administrative proceedings by an agency, or litigation before any Federal, State, or military court.

(F) Those portions of official reports of inspection, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of one or more Components of the Department of Defense when these records have traditionally been treated by the courts as "privileged" against disclosure in litigation.

If any such intra- or intergency record, or reasonably segregable portion of such record would routinely be made available through the "discovery process" in the course of litigation with the agency (i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing), then it should not be withheld from the general public. If, however, the information would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of the agency in maintaining its confidentiality, then the record or document need not be made available to a member of the general public. Intra- or inter-agency memorandums or letters which are factual, or those reasonably segregable portions which are factual, are routinely made available through "discovery," "unless privileged" and should, therefore, be made available to a requester unless the factual material is "privileged" or otherwise exempt from release under paragraph (c)(1) of this section. A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters that would compromise the decision-making process. An internal communication concerning a decision which subsequently has been a matter of public record must be made available to a requester when the decision's rationale is incorporated by reference, explicitly or implicitly, in the record containing that decision.

(vi) *Number 6.* Information in personnel and medical files, as well as information in similar files, that, if disclosed to a member of the public would result in a clearly unwarranted invasion of personal privacy. Examples of files similar to personnel and medical files include:

(A) Those compiled to evaluate or adjudicate the suitability of candidates for employment (including membership in the Armed Forces) and the eligibility of individuals (civilian, military or industrial) for security clearances or for access to particularly sensitive classified information.

(B) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

In determining whether the realease of information would result in a "clearly unwarranted invasion of personal privacy," consideration should be given to the stated or ascertained purpose of the request. When determining whether a release is "clearly unwarranted," the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened. This exemption shall not be exercised in an attempt to protect the privacy of a deceased person, but may be used to protect the privacy of the deceased person's family. An individual's personnel, medical, or similar file may be withheld from him or from his designated legal representative only to the extent consistent with 5 U.S.C. 552a, the Privacy Act of 1975. A clearly unwarranted invasion of the privacy of others identified in that record may constitute a basis for deleting reasonably segregable portions of a record even when providing it to the subject of the record.

(vii) *Number 7.* Those investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of executive orders, or regulations issued pursuant to law.

NOTE.—This exemption applies, however, only to the extent that the release of a record or portion of a record would:

(1) Interfere with enforcement proceedings.

(2) Deprive a person of the right to a fair trial or an impartial adjudication.

(3) Constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record.

(4) Disclose the identity of a confidential source.

(5) Disclose confidential information furnished only from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(6) Disclose investigative techniques and procedures not already in the public domain and requiring protection against public disclosure to insure their effectiveness.

(7) Endanger the life, physical safety, or well-being of law enforcement personnel or their families.

Examples include: (A) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(B) The identity of firms or individuals being investigated for alleged irregularities involving contracting with the Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

(C) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within a Component, or a lawful national security intelligence investigation conducted by an authorized agency or office within a Component for the purpose of obtaining affirmative or counter-intelligence information.

The right of individual litigants to investigate records currently available by law is not diminished. When the subject of an investigative record is the requester of that record, it may be withheld only in accordance with regulations implementing 5 U.S.C. 552a.

(viii) *Number 8.* Those contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(ix) *Number 9.* Those containing geological and geophysical information and data (including maps) concerning wells.

(d) *"For Official Use Only" Materials.*—(1) *General.* (i) Information which is not classified pursuant to 32CFR155 but which requires withholding from the public for one or more of the reasons cited in FOIA exemptions 2 through 9 (see paragraph (c) of this section) shall be considered as being for official use only.

(ii) The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested

under the FOIA. When such a record is requested, the information in it will be evaluated to determine whether, under current circumstances, FOIA exemptions apply and a significant and legitimate governmental purpose would be served by withholding the record or portions of it.

(iii) Records or portions of records containing information that should be withheld from the public under FOIA exemptions 2 through 9 are subject to the marking instructions in paragraph (d)(2) of § 286.6. No other material may be considered or marked "For Official Use Only" (FOUO). Records such as notes, working papers, and drafts retained as historical evidence of Component actions enjoy no special nondisclosure status apart from the exemptions of the FOIA.

(iv) Conversely, because administrative realities often preclude the systematic application of markings to all materials containing FOUO information, records requested under the FOIA that do not bear such markings will not be assumed to be releasable without examination for the presence of FOUO information that requires continued protection.

(v) Marking of records at the time of creation provides notice of FOUO content, and paragraph marking, as described below, facilitates review when a record is requested under the FOIA. Therefore, such marking is encouraged. However, heads of Components may, at their discretion, waive:

(A) Paragraph marking in records created by persons who lack the skill to ascertain the relevance of particular FOIA exemptions, or when records are generated in such volume as to make paragraph marking an inordinate administrative burden.

(B) The marking of individual folders, records and files containing special kinds of subject matter, such as personnel and medical files, investigative files, or contract bids and proposals, which are covered by specific rules of public release that are known to the custodians of such materials. However, markings may be applied when deemed necessary to preclude inadvertent public disclosure of such FOUO material.

(vi) Information in a technical record that has been determined to require a distribution statement pursuant to DOD Directive 5200.20[1] shall bear that statement and shall not be marked FOUO.

(2) *Markings.* (i) Paragraphs containing information meeting the criteria set forth in paragraph (d)(1)(i) of § 286.6 will be marked parenthetically with the abbreviation "FOUO" plus the numerals of the applicable nonsecurity FOIA exemptions. For example: an unclassified paragraph numbered, "12a" and containing information which statutes authorize or require be withheld from public disclosure would be marked "12a. (FOUO–3)"; unclassified paragraph numbered "3." and containing staff advice and recommendations (exemption 5) concerning the internal practices of a Component (exemption 2) would be marked "3. (FOUO–25)."

(ii) A paragraph containing both classified information and FOUO information will bear the classification marking first, followed in separate parentheses by the FOUO marking. For example, a paragraph containing proprietary trade information in a context properly classified Top Secret would be marked "(TS) (FOUO–4)."

(iii) In addition to the paragraph marking specified above, an unclassified record containing FOUO information will be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on the first page, on the back page, and on the outside of the back cover (if any).

(iv) Within a classified document, an individual page (i.e., side of a leaf of paper) that contains:

(A) Both FOUO and classified information shall be marked at top and bottom with the highest security classification of information appearing on that page.

(B) FOUO information but no classified material shall be marked "For Official Use Only" at the bottom of the page.

(v) Other information media, such as photographs, films, tapes, slides, etc., shall be marked "For Official Use Only" or "FOUO" in a manner that assures that a recipient or viewer will be aware of the status of the information therein.

(vi) FOUO material transmitted outside the DoD requires application of an expanded marking to explain the significance of the "For Official Use Only" marking applied for internal DoD identification. This may be accomplished by typing or stamping the following statement on the record prior to transfer: This document contains information exempt from mandatory disclosure under FOIA. Exemptions ------ apply.

(3) *Dissemination and transmission.* (i) Until FOUO status is terminated in accordance with paragraph (d)(5) of § 286.6 the release and transmission instructions in this section apply.

(ii) FOUO information may be disseminated within DoD Components and between officials of Components and DoD contractors and grantees as necessary to conduct official business for the DoD. Recipients shall be made aware of the status of such information, and transmission shall be by means that will preclude unauthorized public disclosure. Transmittal documents should call attention to the presence of FOUO attachments.

(iii) DoD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the Executive and Judicial Branches when the information is required to carry out a Governmental function as long as the information is not protected under the Privacy Act or qualifies for routine disclosure under the provisions of that Act. Records thus transmitted shall be marked "For Official Use Only" as described in paragraph (d)(2) of this section, and the recipient shall be advised that the information is exempted from mandatory public disclosure pursuant to the FOIA (see paragraph (d)(2)(vi) of this section) and of any other special handling instructions.

(iv) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.9.[1] Release to the General Accounting Office (GAO) is governed by DoD Directive 7650.1.[1] Records released to the Congress or GAO should be reviewed to determine whether information therein warrants FOUO status under the criteria set forth in paragraph (d)(1)(i) of this section. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked as described in paragraph (d)(2) of this section, and the recipient shall be provided an explanation of the rationale for such exemption and marking of the records.

(v) Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail and ordinary parcel post. Bulky shipments, such as distributions of FOUO directives or testing materials, that otherwise qualify under postal regulations, may be sent via fourth-class mail.

(vi) Electrically transmitted messages containing FOUO information shall be paragraph-marked in accordance with paragraph (d)(2) of this section, if feasible. In any event, unclassified messages containing FOUO information shall contain the abbreviation "FOUO" just prior to the beginning of the text. Such messages shall be transmitted in accordance with the communications security procedures set forth in ACP–121 (US Supp 1) for FOUO information.

(4) *Safeguarding.* (i) Records determined to be FOUO shall not be left unattended in work areas accessible to unofficial personnel, but will be placed in an out-of-sight location.

(ii) At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files, desks, etc., will be adequate where normal U.S. Government or Government-contractor internal building security is provided during nonduty hours. Where such internal security control is not exercised, locked buildings or room normally provide adequate after-hour protection. If such protection is not considered adequate, FOUO material will be stored in locked capacities such as file cabinets, desks, or bookcases.

(5) *Termination.* The originator or other competent authority will terminate "for official use only" marking or status as soon as circumstances indicate that information no longer requires protection from public disclosure under the criteria set forth in paragraph (d)(1) of this section. The originator shall, at the time of origination and to the maximum extent practical, provide a predetermined date or event for automatic termination of the protective marking "FOUO". Such date or event shall be annotated on the front cover, title page, or first page of the record in the following manner: cancel protective marking on (date or event). When FOUO status is terminated, except as may have been automatically provided for, all known holders shall be notified, insofar as is practical. Upon notification, holders should efface or remove "For official use only" markings and markings applied in accordance with paragraph (d)(2)(vi) of this section, but records in file or storage need not be retrieved solely for this purpose.

(6) *Disposal.* (i) Nonrecord copies of FOUO materials may ordinarily be destroyed by tearing each copy into pieces so as to reasonably preclude reconstruction, and placing them in regular trash containers. Where local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to additional expense balanced against the degree of sensitivity of the type of FOUO documents will be disposed of in accordance with the disposal standards established by Chapter 33 of Title 44, United States Code, Disposal of Records, as implemented by Component regulations.

(7) *Unauthorized Disclosure.* The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of classified DoD information. However, appropriate administrative action shall be taken to fix responsibility for unauthorized disclosure, and appropriate disciplinary action will be taken. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in criminal sanctions against responsible persons. The DoD activity which originated the FOUO information shall be informed of its unauthorized disclosure.

(e) *Fee schedule.*—(1) *General.* The fees described in this paragraph apply to FOIA requests. They reflect direct search and duplication costs, recovery of which is permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business nor are they meant as a substitute for any other schedule of fees, as described in the DoD Instruction (32CFR288) established for another purpose.

(2) *Application.* The fee schedule contained in this paragraph is used to compute direct search and duplication costs associated with processing a given Freedom of Information request. Decisions to charge fees will be based on the fee policies set forth in paragraph (c)(10) of this section. Search fees will be computed based on time actually spent. Neither time-based nor dollar-based minimum charges for search and duplication are authorized.

(3) *Search fees.*—(i) Manual Search.

Type	Grade	Hourly rate
Clerical	E9/GS8 and below	$6
Executive	O7/GS16 and above	18
Professional	All other	12

(ii) Computer search will be based on direct cost only of the Central Processing Unit, input/output devices, and memory capacity of the actual computer configuration used.

(iii) Actual cost of transporting records or personnel to the search site may be included.

(4) Duplication fees.

Type:	Cost per page, cents
Office copy	10
Microfiche	25
Printed material	1

(5) *Audiovisual Documentary Material.* Search costs are computed as for any other record. Duplicating cost is the actual direct cost of reproducing the material including the wage of the person(s) doing the work. Audiovisual materials provided to a requester need not be in reproducible format or of reproducible quality.

(6) *Other records.* Direct search and duplication cost for any record not described above will be computed in the manner described for audivisual documentary material.

(f) *Release of records to Officials.*—(1) *Requests from "Persons".* The Access provisions of the FOIA are reserved for "persons" with private interests as opposed to governments seeking information related to exercising the functions of government. Release of records to individuals under the FOIA is considered public release unless release was conditioned on special circumstances of the requester.

(2) *Requests from Officials.* Requests from officials of Federal, state or local governments for Component records should be honored on an expeditious basis whenever possible. However, for purposes of determining whether the records will be provided, such officials acting in an individual capacity or invoking the FOIA in any capacity will be considered the same as any other person.

(3) *Privileged release to officials.* (i) Subject to the provisions of 32 CFR 155, applicable to classified information, and 32 CFR 286a, applicable to personal privacy, records exempt from release under paragraph (c) of this section to a person requesting them may be authenticated and released, in accordance with Component regulations, to officials requesting them on behalf of local, state or Federal governmental bodies, whether legislative, executive, administrative or judicial, as follows:

(A) To the Congress in accordance with DoD Directive 5400.4.[1]

(B) To the Federal courts, whenever ordered by officers of the court as necessary for the proper administration of justice.

(C) To other Federal agencies, both executive and administrative, as determined by the head of a Component or his designee.

(D) To state and local officials as determined by the head of a Component or his designee.

(ii) Components will inform officials receiving records under the provisions of paragraph (b)(3)(i) of § 286.6 that these records are exempt from release under the FOIA and are privileged. Components will also advise officials of any special handling instructions.

(g) *Processing instructions.*—(1) *Initial requests.*—(i) *General.* Subject to the exemptions set forth in paragraph (c) of this section, a record of a Component shall be made available in response from a person who complies with reasonable procedural requirements. Requests made under the authority of the Freedom of Information Act shall be processed in accordance with this and implementing regulations. Other requests for information, including requests for records, should be answered promptly in accordance with other established procedures.

(ii) *FOIA roles.* Several categories of persons play important roles in the Freedom of Information process. Records managers become involved in locating requested records. The holder of the record or subject matter expert must contribute to the decision to release or deny the record with advice from legal experts concerning the applicability of the nine exemptions. The public affairs expert can make a major contribution to the "significant and legitimate governmental purpose" test on denials. Moreover, he must be aware of records released that contain potentially newsworthy material or when the withholding of a record is likely to be publicly challenged. Since the FOIA is a public disclosure statute, the public affairs expert has a pivotal role in the Freedom of Information process. For this reason, it is prudent to administer the FOIA Program through public affairs channels. Accordingly, the Secretary of Defense has designated the Assistant Secretary of Defense (Public Affairs) to direct and administer the DoD FOIA Program. If heads of Components elect not to designate public affairs officials as the officials responsible for their FOIA programs, they must ensure that public affairs officers are included in the coordination process and that public affairs considerations are given proper regard in FOIA determinations.

(iii) *Release authority.* The initial determination to release a record may be made at any suitable level and by any suitable official designated by the Component.

(iv) *Initial denial authority (IDA).* Authority to deny records should be limited. In designating its denial authorities a Component should balance the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding within the time limitations of the Act.

(v) *Time of receipt.* A FOIA request has been received by a Component when it reaches the official designated to respond for the record requested. A misdirected FOI request shall be immediately forwarded with its envelope and a statement of when the request was received to the proper official.

(vi) Reasons for Not Providing Records Requested Under the FOIA. There are only six legitimate reasons for not

satisfying requests under the Act. They are:

(A) The material requested is not a record within the meaning of the FOIA and this section. (See paragraphs (a)(3)(ii) and (a)(4)(vii) of this section.)

(B) A record has not been described with sufficient particularity to enable the Component to locate it by conducting a reasonable search for the record. (See paragraph (a)(4)(viii) of this section.)

(C) The requester has unreasonably failed to comply with procedural requirements, including payment of fees, imposed by this section or Component implementing regulations.

(D) The Component determines, through knowledge of its files and reasonable search, that it does not hold a record requested. Such a finding is not a denial.

(E) The Component determines that the request should be handled under Privacy Act procedures (See paragraph (a)(4)(iii) of this section.)

(F) A record is denied in accordance with procedures set forth in the FOIA and this section. (See paragraph (g)(1)(ix) of this section.

(vii) *Denial tests.* To deny a record, a Component must determine that it meets both of the following tests:

(A) The record is included in one or more of the nine categories of records exempt from mandatory disclosure under the Act (See paragraph (c) of this section.)

(B) A significant and legitimate governmental purpose is served by withholding the record.

(viii) *Reasonably segregable portions.* Although portions of some records may be denied, the remaining reasonably segregable portions must be released to the requester when the meaning of these portions is not distorted by deletion of the denied portions and when it can be reasonably assumed that a skillful and knowledgeable person could not reconstruct the excised information. When a record is denied in whole, the response advising the requester of that determination will be specifically state that it is not possible to reasonably segregate meaningful portions of the record that could be released.

(ix) *Response to requester.* (A) Initial determinations to release or deny a record shall normally be made and the decision reported to the requester within ten working days after receipt of the request by the official designated to respond.

(B) When a decision is made to release a record, a copy should be promptly made available to the requester once he has complied with the preliminary procedural requirements.

(C) When a request for a record is denied in whole or in part, the official designated to respond shall inform the requester in writing of the name and title or position of the official who made the determination, and shall explain to the requester the basis for the determination in sufficient detail to permit the requester to make a decision concerning appeal. The requester shall be specifically informed of the exemptions on which the denial is based and the significant and legitimate governmental purpose served by withholding the record. To the extent compatibility with the purpose of the exemptions permits, the material being withheld shall be described. When the initial denial is based in whole or in part on a security classification, the explanation shall not only include a summary of the criteria for classification set forth in authoritative classification guidance, if such explanation is consistent with other security or statutory requirements, but shall also contain an explanation of how those criteria apply to the particular record in question. The requester shall also be advised of the opportunity of and procedures for appealing an unfavorable determination to a higher final authority within the component.

(D) The response to the requester should contain information concerning the fee status of the request. Generally, the information will reflect one or more of the following conditions:

(1) All fees due have been received.

(2) Fees have been waived because they fall below the fee collection threshold.

(3) A request for waiver has been denied.

(4) Fees have been waived or reduced from a specified amount to another specified amount because the rationale provided in support of a request for waiver has been accepted. (See paragraph (a)(4)(x) of this section.) In evaluating the rationale submitted by the requester, the Component may draw upon both special expertise and general knowledge concerning such matters as the usefulness of the requested records to the purpose stated by the requester, the liklihood that tangible public good will result, and the private interest of the requester.

(5) Fees due in a specified amount have not been received.

(x) *Delays in Response.* (A) If due to unusual circumstances a determination cannot be made within ten working days, the Component shall acknowledge the request in writing within ten working days, briefly cite the unusual circumstances that require the delay, and indicate the anticipated date for response which may not be later than ten additional working days. The only unusual circumstances for delay permitted by statute are:

(1) The requested records must be retrieved in whole or in part from field activities or from storage areas separate from the office processing the request.

(2) The request requires the collection and examination of a substantial number of records.

(3) Consultation is required among two or more elements of a Component or with other Components or agencies having substantial interest in the subject matter of the requested records.

(B) When a request is received for a record that was obtained from a non-Government source or for a record that contains information obtained by the Component, from a non-Government source and there is reason to believe that the source may object to release and may have an enforceable right to prevent release, prompt notification of intended release shall be given to the source. Comments received shall be considered in determining the releasability of the document. If the source seeks a restraining order or other court order to prevent release, release shall be delayed until either the court order is obtained or until the expiration of the statutory time limits, whichever is sooner.

(C) In all cases where the time for response may become an issue, the official responsible for responding should acknowledge to the requester the date of the request, the circumstances surrounding the delay, and the anticipated date for substantive response. The requester will be notified that he may treat any delay not authorized by the FOIA as an initial denial with a right to appeal or that he may agree to await a substantive response by the anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made. The Component will continue to process the case expeditiously whether or not the requester appeals.

(xi) *Special mail services.* Components are authorized to use Registered Mail, Certified Mail, Certificates of Mailing and Return Receipts, but use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOI correspondence.

(xii) *Receipt accounts.* The Treasurer of the United States has established two accounts for FOIA receipts. These accounts, which are described below, shall be used for depositing all FOIA receipts except receipts for industrially funded activities. Industrially funded activity FOIA receipts should be deposited to the applicable industrial fund.

(A) Receipt Account 2252—Sale of Publications and Reproductions, Freedom of Information Act. This account shall be used when depositing funds received for providing existing publications, forms, etc., that meet the Receipt Account Series 2250 description found in Federal Account Symbols and Titles.

(B) Receipt Account 2419.3—Fees and Other Charges for Services, Freedom of Information Act. This account will be used to deposit search fees and fees for duplicating records to satisfy requests that could not be filled with existing publications, forms, etc.

(2) *Appeals.*—(i) *General.* If an IDA denies a record or if a request for waiver or reduction of fees is disapproved, the requester may appeal in writing to the head of the Component having jurisdiction or to a designated representative.

(ii) *Time of receipt.* A Freedom of Information appeal has been received by a Component when it reaches the office of the appellate authority having jurisdiction. Misdirected appeals should be expeditiously referred to the proper appellate authority.

(iii) *Time limits.* (A) The requester must file an appeal so that it reaches the appellate authority no later than forty-five working days after the requester receives notification of an initial denial. In cases where the requester is provided several incremental determinations for a single request, the time for appeal shall not begin to run until the requester receives the last such notification. At the conclusion of this period, the case may be considered closed.

(B) Final determinations on appeals shall normally be made within twenty working days after receipt.

(iv) *Delays in responding to appeals.* (A) If additional time is needed due to the unusual circumstances described in paragraph (g)(1)(x) of this section, the final decision may be delayed for the number of working days, not to exceed ten, that were not utilized as additional time for responding to the initial request.

(B) If for any reason a determination cannot be made and the requester notified within twenty working days, the appellate authority shall acknowledge to the requester in writing the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters shall be advised that if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in paragraph (g)(1)(x) of this section, they may consider their administrative remedies exhausted. They may, however, without prejudicing their right of judicial remedy, await a substantive response. The Component shall continue to process the case expeditiously whether or not the requester seeks a court order for release of the records.

(v) *Response to Appellant.* (A) When an appellate authority makes a determination to release all or a portion of records withheld by an IDA, a copy of the records so released should be forwarded promptly to the requester once he has complied with any preliminary procedural requirements such as payment of fees.

(B) Final refusal to provide a requested record or to approve a request for waiver or reduction of fees must be made in writing by the head of the Component or by his designated representative.

(1) The response shall specifically identify the exemptions under which the record is being withheld. To the extent the exemptions permit, material being withheld shall be described. The response shall also include an explanation of why the statutory exemptions apply and what significant and legitimate governmental purpose is served by withholding the record.

(2) The final denial shall include the name and title or position of the official responsible for the denial.

(3) The response shall advise the requester of his right to judicial review.

(4) The response shall specifically advise the requester that the material being denied does not contain meaningful reasonably segregable portions.

(5) If the final refusal is based in whole or in part on a security classification, the response shall, consistent with other security and statutory requirements, include an explanation of the authoritative classification guidance and a determination based on a declassification review that the classification claimed is currently valid. The requester shall be advised of his optional right to seek review by the Interagency Classification Review Committee if the record requested is at least ten years old. This review is in accordance with Executive Order 11652, and is in lieu of immediate judicial review.

(6) See paragraph (g)(1)(xi) of this section concerning use of Special Mail Services.

(C) See paragraph (g)(1)(xii) of this section concerning depositing fees.

(vi) *Consultation.* Final refusal involving issues not previously resolved or which the Component knows to be inconsistent with rulings of other Components ordinarily should not be made before consultation with the Office of the General Counsel of the Department of Defense.

(vii) *Final denial advisory.* A copy of each final denial letter, with a summary in the format illustrated at paragraph (g)(4)(i) of this section shall be forwarded to the Director for Freedom of Information and Security Review, OASD (PA), Washington, D.C. 20301, not later than ten working days after dispatch of the determination to the appellant. This information shall be reviewed by the General Counsel of the Department of Defense and the Director for Freedom of Information and Security Review to identify those significant FOIA decisions that are of interest to other Components and that should, therefore, be provided for information to all Components.

(3) *Judicial actions.*—(i) *General.* A requester may seek an order from a United States District Court to compel release of a record after he has exhausted his administrative remedies. A requester has exhausted his administrative remedies when he has been refused a record by the head of a Component or his appellate designee or when the Component has failed to respond within the time limits for an appeal prescribed by the Freedom of Information Act and set forth in this section.

(ii) *Jurisdiction.* The requester may bring suit in the United States District Court.

(A) In the district in which he resides or has his principal place of business.

(B) In the district in which the record he seeks is located.

(C) In the District of Columbia.

(iii) *Answering complaints.* The United States must answer or otherwise plead to the complaint within thirty days. The FOIA directs that consideration of FOIA cases by both trial courts and courts of appeal shall be expedited in every way. Only cases that the court considers to be of greater importance shall take precedence.

(iv) *Burden of proof.* The burden is on the Component to justify its refusal to produce a record. The court shall evaluate the case de novo (anew) and may elect to examine any requested record in camera (in private) to determine whether the denial was justified.

(v) *Action by the court.* (A) When a Component has failed to make a determination within the statutory time limits but can demonstrate due diligence in exceptional circumstances, the court may retain jurisdiction and allow the Component additional time to complete its review of the records.

(B) If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

(C) When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise questions whether Component personnel acted arbitrarily and capriciously. In these cases, the Civil Service Commission will conduct an investigation to determine whether or not disciplinary action is warranted. The Component is obligated to take the action recommended by the Civil Service Commission.

(D) The court may punish for contempt the responsible official when a Component fails to comply with the court's order to produce records that it determines have been improperly withheld.

(vi) *Information from a non-U.S. Government source.* A requester may bring suit in a U.S. District Court to compel the release of records obtained from a non-Government source or records based on information obtained from a non-Government source. If there is reason to believe that the source of the information may object to release, such source shall be promptly notified of the court action. When the source advises that it is seeking court action to prevent release, the Component shall defer answering or otherwise pleading to the complaint as long as permitted by the court or until a decision is rendered in the source's court action, whichever is sooner.

(vii) *Litigation status sheet.* Freedom of Information managers should be aware of litigation under the FOIA. Such information will provide managers insights into the use of the nine exemptions by Component personnel. The Litigation Status Sheet in paragraph (g)(4)(ii) of this section provides a standard format for recording information concerning FOIA litigation and passing that information to the Office of the Secretary of Defense. Whenever a complaint under the FOIA is filed in a U.S. District Court, the Component named in the complaint shall forward a Litigation Status Sheet, with items 1 through 6 completed, and a copy of the complaint to the Director for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs). A revised Litigation Status Sheet shall be provided at each stage of the litigation.

(4) *Appendixes.* (i) Final denial under the FOIA. (Sample),

(A) *Decision.* To release copyrighted course materials used by the Armed Forces Race Relations Institute with permission for "internal use" from the copyright owner—but with precautionary comment to the requester emphasizing the legal interests of the copyright owner.

(B) *Facts.* (1) A college professor requested the Race Relations Institute at Patrick Air Force Base to release to him for research purposes all of the course material used in five subject areas. The request was referred to OSD for response.

(2) Among the course materials used by staff and students are excerpts from books, magazines and other copyrighted publications.

(3) Use of copyrighted material in the courses is limited to that for which permission for "internal use" has been received from the copyright owner.

(C) Issues. (1) Does the Copyright Statute preclude release of copyrighted course materials, and thereby constitute a basis under 5 U.S.C. 552(b)(3) for withholding this material from a requester under the FOIA.

(2) Is the request for permission from the copyright owner clearly enough worded to apprise him of an intention to release his material to a requester under the FOIA.

(D) Discussion. (1) The Copyright Statute (17 U.S.C. 27) does not preclude the transfer of a copyrighted work lawfully obtained. The copies of the copyrighted course material made with the permission of the owner of the copyright may be disposed of in any manner, including release under a Public Law of which the owner is presumptively aware (see *United States* v. *Wells*, 123 USPQ 65 (S.D. Texas 1959)).

(2) In addition, it is likely that under the nondecision in *Williams & Wilkins* v. *U.S.*, 419 US 962 (1975) release under the FOIA would be considered a "fair use." The copyright law does not protect release of copyrighted material. It protects the copyright owner's commercial interest in the material.

(3) The copyright owner should be advised in the request for permission to use his material that all course material is subject to release under the FOIA to fulfill a valid Governmental purpose.

(ii) Litigation status sheet.

(A) Case number.

(B) Requester.

(C) Document title.

(D) Litigation.

(1) Date complaint filed.

(2) Court.

(3) Case file number.

(E) Defendants (agency and individual).

(F) Remarks (brief explanation of what the case is about).

(G) Court action.

(1) Court's finding.

(2) Trial brief.

(3) Disciplinary action (as appropriate).

(H) Appeal (as appropriate).

(1) Date complaint filed.

(2) Court.

(3) Case file number.

(4) Court's finding.

(5) Trial brief.

(6) Disciplinary action (as appropriate).

(h) *Information for requesters.*—(1) *Initial requests.*—(i) *General.* The purpose of these instructions is to assist you in obtaining Department of Defense (DOD) records under the Freedom of Information Act (FOIA) as quickly as possible and at the least expense to you, to the Government, and, consequently, to the American taxpayer. Perhaps the best place for you to begin is by deciding exactly what you want and what type of request can best obtain it in the time required. It might be well to remind you here that the FOIA enables you to request records as opposed to information. DOD is not required to create a record to respond to a FOIA request. Therefore, if you are seeking information about a particular subject you should send a routine information request to the official you think would have the information you desire. Even if you want a record, you may decide to submit a routine request rather than a FOIA request. However, you are not required to submit a routine request first. A third point to consider is whether the record you want is a personal record about you. If it is, Privacy Act procedures should be followed. Paragraph (h)(4)(i) of this section discusses requests for personal records. In the final analysis, however, you must decide which type of request to make. DOD will respond to every request it receives by either satisfying the request or explaining why we cannot. If you decide to make a FOIA request, keep in mind that we have literally millions of records in the Department of Defense. These records are located in offices and storage areas throughout the world. Finding the particular record you want among all our records can be difficult, particularly if you do not clearly identify the record you are seeking. The FOIA provides that you may be liable to pay the direct cost of locating and reproducing the record you request, but you can reduce the cost to you and help us comply with the spirit as well as the letter of the Act by following a few simple rules.

(ii) *Description of record.* (A) Provide as many clues to locating the record as you can. These clues might include the subject of the record or title, if known, the approximate date of the record, who originated it, the circumstances surrounding the creation of the record, where it may be filed, etc.

(B) Descriptive information about a record may be divided into two broad categories. Category I is file-related and includes information such as type of record (e.g., letter), title, index citation, subject area, date the record was created, and originator. Category II is event-event-related and includes the circumstances which resulted in the record being created, or the date and circumstances surrounding the event the record covers. Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the Component to conduct an organized (i.e., non-random) search based on the Component's filing arrangements and existing retrieval systems, or unless it contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

(C) Know exactly what you want and ask only for that. We are anxious to provide you with records that we are not required to withhold in the public interest. We are also determined to carry out our national security and other missions. If a person asks for records on combat vehicles when he is only interested in tanks, or if he asks for records about foreign military sales when he is only interested in sales to a particular country, he makes it much more difficult, time-consuming and costly to respond to his request.

(D) Ordinarily, when only personal identifiers are provided in connection with a request for records concerning the requester, only records retrievable by personal identifiers can reasonably be searched. Search for such records will be conducted under Privacy Act procedures. However, no record will be denied that would be released under the FOIA.

(iii) *Form and content of request.* Submit your request in writing and plainly mark the envelope Freedom of Information Request. Written requests communicate better the identity of the record you seek, reduce the possibility of our misunderstanding your request, and provide you a record of your request. Components may accept oral requests in urgent situations, but written confirmation is advisable to protect your interest. A recommended sample request format is provided in paragraph (h)(4)(ii) of this section. Use of this format will help us better understand your request and preclude unnecessary costs for records you do not want.

(iv) *Fee declaration.* You may be charged fees associated with finding and reproducing the records you request. These fees may be charged even though the record is not located and even if you request a waiver of fees. Your request may be delayed or not acted upon if you do not declare your willingness to pay fees. Under some circumstances, you may incur a fee obligation even if you do not state your willingness to pay fees in your request. See paragraph (h)(4)(iii) of this section for Schedule of Fees and Fee Policies.

(v) *Request for waiver of fees.* The FOIA provides that you may be charged only for direct search and copy costs associated with your request. Additionally, the FOIA provides that records shall be furnished without charge or at a reduced charge when an agency determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public. The logic of the Congressional intent is rooted in the fact that the American public must bear direct search and copy expenses when the requester himself does not. If providing a record to a particular

requester primarily benefits the general public, then the general public should bear this expense. If you believe that the general public should bear this expense, you may ask for a waiver of fees. Besides this consideration, there is also some point on the low end of the fee scale below which it is not in the public interest to collect the search and copy cost fee because the associated correspondence, receiving, handling and accounting for these fees cost more than the fee collected. DOD has established a liberal direct search and copy fee waiver threshold to assure all citizens reasonable access to the Department's records. Your request should include your reasons for believing that providing you the records would benefit the general public. Simply stating that providing the records is in the public interest is not persuasive, nor is the statement that you plan to make the record public a compelling argument that public benefit will result. Since the question of "benefiting the general public" hinges on the use of the information in the records, the fact that you work for a tax exempt or non-profit organization, or the statement that the record will be made public, is not necessarily sufficient reason to waive fees. You should tell us how you plan to use the information and how that use will serve the general public interest, the segment of the general public to be benefited, and any other information that supports you request for waiver of fees. This information does not influence the decision to release or not release the record. It only influences the decision as to whether the public will pay all or a portion of the direct search and copy fees you may be charged. You are not required to provide this kind of information if you do not want the public to pay those fees.

(vi) *Addresses.* The DOD includes the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff, the Military Departments and the Military Services within those Departments, the Defense Agencies (e.g., Defense Logistics Agency), the Unified and Specified Commands, and such other agencies as the Secretary of Defense establishes to meet specific requirements. There is no central records management office where copies of all DOD records are stored or listed. The Department can be most responsive when a request for a record is directed to the element of the Department to which the record belongs. DOD FOIA Components parallel DOD organizational alignment. Each Component is authorized to publish its own rules to supplement this section. Each has designated a limited number of Component officials who may withhold records when one or more of the nine exemptions of the FOIA applies, if a significant and legitimate governmental purpose would be served. Each Component has also designated its own appellate authority. Your request should be addressed to the Component within DOD which you believe may hold the record you seek. See paragraph (h)(4)(iv) of this section for advice concerning how to address your request.

(vii) *Time limits.* You may be asked to provide additional information to assist us to respond to your request. We may need more specific description of the record you seek, assurance of your willingness to pay fees, etc., or we may ask you to pay all or a portion of the direct search and copy fees before we send you the record if these fees are substantial. You must send us such additional information or fees within thirty working days from the date you receive the letter requesting the information or fees. If you ask to inspect records and you are notified that those records are available for your inspection, you must come to the place designated within thirty working days from the date you are so notified. If you do not respond or inspect the records within thirty working days, your request will be considered closed and any records being held for you may be returned to file. If you later renew your request, you may be required to pay the original direct fee plus any additional direct search fee associated with relocating the records, as well as direct reproduction costs.

(viii) *Response.* (A) Normally, you will be notified that your request has been granted or denied within ten working days after your request has been received.

(B) If your request is granted, the record will be provided promptly if it is not enclosed with the notification.

(C) If your request is denied, you will be given the FOIA basis for the denial, and the individual who made the determination will be identified. If you do not agree with the reasons given for the denial, you may appeal to the appellate authority identified in the notification. Follow instructions in paragraph (h)(2) of this section for your appeal.

(D) In unusual circumstances, we may require additional time, not to exceed ten working days, to make a determination. Unusual circumstances listed in the FOIA which allow the Component to take this additional time to make a determination are:

(1) The records you requested must be retrieved from some place remote from the office making the determination.

(2) Your request requires the collection and review of a large amount of material.

(3) The Component processing your request must consult with other Components or agencies which have a substantial interest in the information contained in the records you requested.

(ix) *Payment.* Make payment by check drawn on a U.S. bank, a U.S. bank draft, or some other negotiable U.S. instrument such as a U.S. postal money order or international money order, made payable to the FOIA Component assessing the fees.

(2) *Appeals.*—(i) *General.* If you believe that the decisions made by DoD officials concerning your FOIA request were not consistent with the facts and circumstances in the case, you may administratively appeal the decisions you believe to be incorrect to the head of the Component who made the determination, or to his designated representative.

(ii) *Types of appeals.* There are four circumstances in which you may appeal. These are:

(A) You do not receive a response to your request. You should allow at least ten working days plus reasonable mailing and distribution time before submitting an appeal.

(B) You are advised by a Component official that a determination cannot be made within the ten working days prescribed by the FOIA. If the delay is the result of the unusual circumstances recognized by the Act (see paragraph (h)(1)(viii) of this section) and the Component invokes the extension permitted by the Act, you may not appeal until the extension has expired. If the delay is for other reasons, you may appeal immediately, but you may wish to wait for a determination by the Component. If you decide to wait, you still have the right to appeal the Component's decision after it is made.

(C) You are advised that all or portions of a record you requested are being denied. You will be informed as to who made the decision to withhold the material denied and the reason for the decision.

(D) You requested that fees be waived or reduced and your request was disapproved.

(iii) *Form and content of appeal.* Your appeal must be in writing, and the envelope should be plainly marked Freedom of Information Appeal. Your appeal should contain a copy of the letter from the Component explaining the decision that you are appealing. Your appeal should explain why you feel that the particular decision you are appealing is incorrect. For example, if you are appealing a decision to deny a request for fee waiver, you may wish to provide additional information to support your claim that release of the record to you primarily benefits the general public (see paragraph (h)(1)(v) of this section). If you are appealing a decision to withhold all or portions of a record, your appeal should explain why you believe the reasons given for the withholding are invalid.

(iv) *Addressee.* The letter informing you that your request has been denied will identify the proper appellate authority. Be sure to address your appeal to the official identified. If you misdirect your appeal, it must be referred to the proper appellate authority, and action on your appeal will be delayed.

(v) *Time limits.* Your appeal must reach the proper appellate authority within forty-five working days after the date that you receive written notification that your request for records or waiver of fees has ben denied, or that you have received all the records to be released in response to your request in the case of partial denials. For example, if your request requires reviewing a large number of pages, you initially may be advised

of the Initial Denial Authority's determination for only a part of the material. In such cases, you will be advised when you may expect a reply concerning the remaining material. You may wish to delay your appeal until you have received all initial determinations on your request. The forty-five working day time limit does not begin until you have received the last such determination.

(vi) *Response.*—(A) Normally, a decision will be mailed to you within twenty working days after your appeal is received by the proper appellate authority.

(B) In unusual circumstances (see paragraph (h)(1)(viii) of this section), the final determination may be delayed for the number of working days, not to exceed ten, which were not used in extending the response to the initial request. There are no statutory reasons for delay. If the Component does not make a determination within the time limits provided by the Act, you may consider your administrative remedies exhausted, and bring suit against the agency in an appropriate District Court. If a determination cannot be made within the prescribed time, you will be notified in writing of the reason for the delay and the anticipated date of response. You may elect to wait for the determination. If you do decide to wait, you may still seek judicial relief if you are not satisfied with the determination.

(C) There is no FOIA administrative appeal beyond the Component appellate authority. If your appeal is denied, the apellate authority will explain his decision to you and advise you of your right to seek judicial relief. See paragraph (h)(3) of this section for information concerning judicial actions. If the denial is based on a security classification, you will be advised of your optional right to seek review by the Interagency Classification Review Committee in accordance with Executive Order 11652, dated March 8, 1972, if the record you seek is more than ten years old.

(3) *Judicial actions.*—(i) *General.* The FOIA provides that an order from a United States District Court to compel release of a record may be sought after exhausting your administrative remedies. You have exhausted your administrative remedies when the Component has failed to respond to a OFIA request within the time limits prescribed by the Act; when you have been denied, without proper explanation or authority, records requested under provisions of the FOIA; or when records requested by you under the FOIA have been denied you on appeal.

(ii) *Jurisdiction.* You may bring suit in the United States District Court in the district in which you reside or have your principal place of business, in the district in which the record you seek is located, or in the District of Columbia.

(iii) *Action by the court.*—(A) When a Component has failed to make a determination within the statutory time limits can demonstrate due diligence in exceptional circumstances, the court may retain jurisdiction and allow the Component additional time to complete its review of the records.

(B) If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

(C) When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise questions whether Component personnel acted arbitrarily and capriciously. In these cases, the Civil Service Commission will conduct an investigation to determine if disciplinary action is warranted. The Component is obligated to take the corrective action recommended by the Civil Service Commission.

(D) The court may punish for contempt the responsible official when a Component fails to comply with the court's order to produce records that it determines have been withheld improperly.

(4) *Appendixes.*—(i) *FOIA and Privacy Act Interface.*

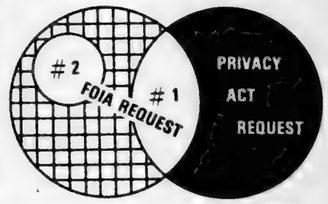
(A) *General.* The FOIA (5 U.S.C. 552) provides that except for records made public in other ways provided in the Act, an agency will, upon request for records reasonably describe such records and is made in accordance with published rules, make the records promptly available to any person. The Privacy Act of 1974 (5 U.S.C. 552a) states that its purpose "is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to * * * permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records. * *"

(B) *Types of Records.* The Privacy Act applies only to records maintained in a group of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. No such limitation applies to the FOIA. The relationship of Privacy Act records to FOIA records is illustrated by the following diagram.



The larger circle represents FOIA records or all DoD records. The shaded area represents systems of record where information is filed by personal identifiers such as name and social security number.

(C) *Types of Requests.* Since the shaded area above represents both FOIA records and Privacy Act records, which procedures should be used to request them? The answer to that question is illustrated by the following diagram.



If you want your own personal record that is part of a system of records where information is filed by personal identifiers, your request falls in the shaded area and should be submitted as a Privacy Act request. If you want a subject record (for example, the Army After Action Report on Joint Exercise Ace Card VI), your request falls in the checkered area and is an FOIA request. Clear area No. 1 represents records that are part of groups of records from which information is retrieved by use of a personal identifier. However, the requester wants a record about another person. The Privacy Act does not apply, and the FOIA may be used. Clear area No. 2 represents a situation where a person wants a record about himself but it is not filed in a Privacy Act system of records. For example, the person may believe that a record about him may be filed in a subject file of an organization of which he is a member. See paragraph (h)(2) of this section for advice on how such records should be requested under the FOIA.

(D) Release of Civil Service Commission Records. Components will be guided by the Civil Service Commission FOIA Regulations (40 FR 38140) in the release of Civil Service Commission records.

(ii) Sample FOIA Request. (Address from paragraph (h)(4)(iv).)

Dear Sir: This is a Freedom of information request. The records requested are (list records requested). I understand that the Freedom of Information Act provides that I may be charged for the direct search and reproduction costs associated with my request, and I do not request a waiver of fees—request a waiver of fees because providing me with the records requested will primarily benefit the general public for the following reasons:

I plan to use the record as follows: (Describe intended use.) The use described will primarily benefit the general public in the following way. (Describe benefit.) The segment of the general public that will be benefited is as follows: (Describe the persons who will benefit and estimate how many.)

Other reasons for consideration are as follows. (Provide additional reasons to support request for waiver.)

I understand that you may decide not to grant my request for waiver and make the

following fee declaration: (Select proper statement.)

I will pay all assessed direct search and duplication costs permitted by law and this section.

I will pay all direct search and duplication costs permitted by law and this section or $_____, whichever is the lesser amount. I understand that the Department of Defense is not obligated to continue search for or duplication of records indicated above when the direct search and duplication costs associated with my request reach the amount I have indicated. I will not pay the direct search and duplication costs permitted by law and this section in connection with this request. I understand that if the automatic waiver threshold does not apply to my request, the Department of Defense is not obligated to search for or duplicate the records I have indicated above, and I will be so informed.

Signature

Print or type your name

Print or type your address

NOTE.—Describe each record as completely as possible. See paragraph (h)(1)(ii) of this section. If you are seeking a record concerning you as an individual and provide only your name or other personal identifiers such as social security number or former service number, we logically can search only systems of records where information is filed by personal identifiers. Search for such records is properly conducted under Privacy Act procedures. If you believe that the Department of Defense holds records on you that are filed in subject files not retrievable by your personal identifiers you must identify those files to obtain the benefits of a search under FOIA procedures. Often this can be done by providing the location and date of the event or circumstances which you believe would have resulted in the creation of a record concerning you.

See paragraphs (h)(1)(iv) and (h)(1)(v) of this section for information concerning fee obligations and waivers.

(iii) *FOIA Fees.*—(A) *Fee Schedule.* (*1*) Search Fees. (*i*) Manual Search.

Type	Grade	Hourly rate
Clerical	E9/GS8 and below	$6
Executive	O7/GS8 and above	18
Professional	All other	12

(*ii*) Computer search will be based on direct cost only of the Central Processing Unit, input/output devices, and memory capacity of the actual computer configuration used.

(*iii*) Actual cost of transporting records or personnel to the search site may be included.

(*2*) *Duplication Fees.*

Type	Cost per page
Office copy	.10
Microfiche	.25
Printed material	.01

(*3*) *Audiovisual Documentary Material.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material including the proportionate wage of the person(s) doing the work. Audiovisual materials provided to a requester need not be in reproducible format or of reproducible quality.

(*4*) *Other Records.* Direct search and duplication cost for any record not described above will be computed in the manner described for audiovisual documentary material.

(B) Fee Policies.

(*1*) *Fee Waiver Threshold.* The first $30.00 of direct search and duplication costs for a single FOIA request will be waived. However, the automatic waiver provision may be set aside when one automatic waiver has been granted, and concurrent, overlapping, or consecutive requests from one or more requesters reasonably show abuse of the fee waiver policy.

(*2*) *Fee Obligation.* In order to be as responsive as possible to FOIA requests while minimizing unwarranted public costs, Components will adhere to the following procedures:

(*i*) If the requester declares his unwillingness to pay fees and does not substantiate a request for waiver and if it appears that the direct search and reproduction costs associated with the request will exceed the automatic waiver threshold, the request need not be processed and the requester may be so informed.

(*ii*) If the requester declares his willingness to pay fees up to a specified amount and does not substantiate a request for waiver, process the request making every reasonable effort to limit direct search and reproduction costs to the specified amount. The requester will not be charged in excess of the amount specified.

(*iii*) If the requester makes no declaration concerning fees, assume that the requester is aware that he is liable for direct search and reproduction costs under the Act and that even if he requests a waiver, the Component may exercise its discretion to charge according to DoD's fee schedule.

(*iv*) To protect members of the public from unwittingly incurring obligations which far exceed expectations, if no fee declaration is made and it appears that the direct search and reproduction fees to be assessed will exceed the automatic waiver threshold, the request will not be processed until the requester is advised of the anticipated charges and expresses a willingness to pay them.

(*v*) The Component may require prepayment of all or a portion of the estimated fees before processing the request.

(*vi*) Subsequent requests from persons who fail to discharge fee obligations should not be processed until previous obligations have been discharged or waived.

(C) *Authentication.* Records provided under this section shall be authenticated with an appropriate seal whenever requested. However, this service is in addition to that required under the FOIA. Components may charge for the service at a rate of $3.00 for each such authentication.

(iv) *Addresses for FOI Requests.*—(A) *General.* The Department of Defense (DoD) includes the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff, the Military Departments and the Military Services within those Departments, the Unified and Specified Commands, and such other agencies as the Secretary of Defense establishes to meet specific requirements. There is no central repository for DoD records. Freedom of Information requests should be addressed to the Component of DoD that has custody of the record you wish to obtain. The address for each of the Components is listed below. A more detailed listing is provided in some Component regulations. If you do not know who maintains the record you seek, you may address your request to the Component you think is most likely to have the record. To expedite response, we recommend that Freedom of Information requests be so labeled on the outside envelope.

(B) Listing of DoD Component Addresses for Freedom of Information Requests.

(*1*) *Office of the Secretary of Defense/ Organization of the Joint Chiefs of Staff.* This Component includes the Office of the Secretary, the Organization of the Joint Chiefs of Staff, the Director, Defense Research and Engineering, Assistant Secretaries, the General Counsel, assistant to the Secretary (Atomic Energy), Assistant to the Secretary (Legislative Affairs), Defense Advanced Research Projects Agency, Defense Security Assistance Agency, Defense Systems Management College, and the Uniformed Services University of the Health Sciences. It also includes responsibility for such activities as the Electronic Compatibility Analysis Center, Armed Services Board of Contract Appeals, the National Defense University (including the National War College and the Industrial College of the Armed Forces), the Armed Forces Staff College, and the DoD Office of Dependents Schools (including overseas schools). All Freedom of Information requests concerning records of these activities should be sent to:

Director, Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C-757, The Pentagon, Washington, D.C. 20301.

(*2*) *Department of the Army.* Army records may be requested from any Army installation or activity by addressing a letter to the commander and clearly indicating that it is a Freedom of Information request. Send requests to HQDA (DAAG-AMR), Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20314, for records of the Headquarters, U.S. Army, or if you are uncertain which Army activity may have the records you seek.

(*3*) *Department of the Navy.* Navy and Marine Corps records may be requested from any Navy or Marine Corps activity by addressing a letter to its commanding officer and clearly indicating that it is a Freedom of Information request. Send requests to Chief of Naval Records Management (OP-09B1), Room 5E-613, Pentagon, Washington, D.C.

20350, for records of the Navy headquarters, or if you are uncertain which Navy or Marine Corps activity may have the records you seek.

(4) *Department of the Air Force.* Air Force records may be requested from the Commander (Attention: DADF) of any Air Force installation, major command, or separate operating agency, or from the Headquarters, United States Air Force. Send Freedom of Information requests to HQ USAF/DADF, Washington, D.C. 20330, for Air Force records of Headquarters United States Air Force, or if you are uncertain which Air Force activity may have the records you seek.

(5) *Defense Civil Preparedness Agency.* Send all Freedom of Information requests for its records to the Defense Civil Preparedness Agency (ADM), Room 1D-487A, Pentagon, Washington, D.C. 20301.

(6) *Defense Communications Agency.* DCA records may be requested from any DCA field activity or from its headquarters. Freedom of Information requests may be addressed to Headquarters, Defense Communications Agency (Code 105), Washington, D.C. 20305.

(7) *Defense Contract Audit Agency.* DCAA records may be requested from any of its regional offices or from its headquarters. Send Freedom of Information requests to the Defense Contract Audit Agency, Cameron Station, Alexandria, Va. 22314, for records of its headquarters, or if you are uncertain which DCAA region may have the record you seek.

(8) *Defense Intelligence Agency.* Freedom of Information requests for DIA records may be addressed to Defense Intelligence Agency (DS4A), Washington, D.C. 20301.

(9) *Defense Investigative Service.* All Freedom of Information requests for DIS records should be addressed to the Assistant for Information, Defense Investigative Service (D0020), Washington, D.C. 20314.

(10) *Defense Logistics Agency.* DSA records may be requested from its headquarters or from any of its field activities. Send Freedom of Information requests to Defense Logistics Agency (DLAH-XA), Cameron Station, Alexandria, Va. 22314, for records of its headquarters, or if you are uncertain which DLA field activity may have the record you seek.

(11) *Defense Mapping Agency.* Freedom of Information requests for DMA records may be addressed to the Defense Mapping Agency, Naval Observatory, Building No. 56, 34 Massachusetts Avenue NW., Washington, D.C. 20305.

(12) *Defense Nuclear Agency.* Freedom of Information requests for DNA records may be addressed to Defense Nuclear Agency, Public Affairs Office, Washington, D.C. 20305.

(13) *National Security Agency.* Freedom of Information requests for NSA records may be addressed to the National Security Agency, ATTN: D4-FOIA Office, Fort George G. Meade, Md. 20755.

(C) *Other Addressees.* (1) Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS). Freedom of Information requests for CHAMPUS records may be addressed to the Director, OCHAMPUS, Denver, Colorado 80240.

(2) National Guard Bureau. Freedom of Information requests for National Guard Federal records may be addressed to any State Guard unit or to the National Guard Bureau (NGB-DA), Room 2C-362, Pentagon, Washington, D.C. 20310.

(3) Miscellaneous. If you are uncertain as to which Department of Defense Component may have the DoD record you seek, you may address a Freedom of Information request for it to the Director, Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C-757, Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 5, 1977.

[FR Doc.77-23004 Filed 8-9-77;8:45 am]

federal register

WEDNESDAY, AUGUST 10, 1977

PART III



INTERSTATE COMMERCE COMMISSION

■

ABANDONMENT OF RAILROAD SERVICES

System Diagram Maps of Various Railroad Companies

INTERSTATE COMMERCE COMMISSION

[AB 197 (SDM)]

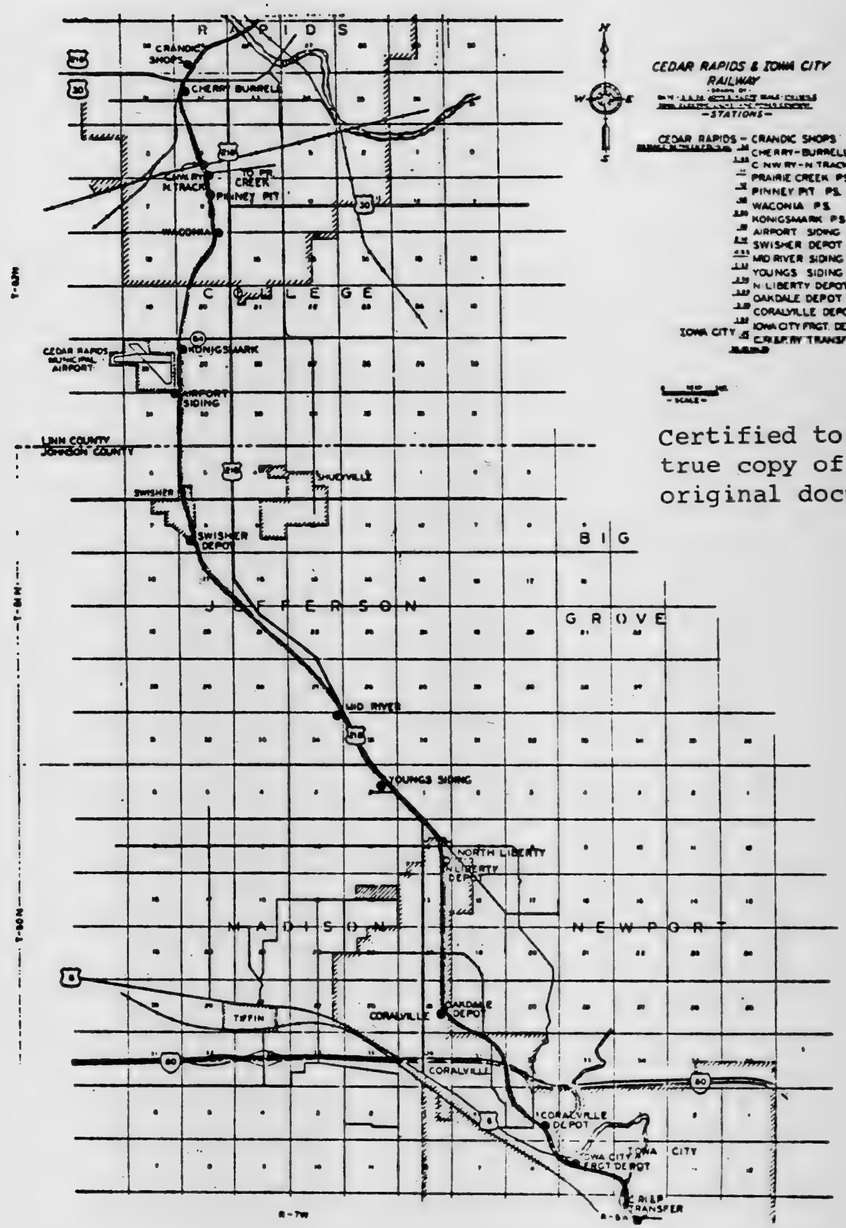
CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Cedar Rapids and Iowa City Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB 197 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 197 (SDM).

H. G. Homme, Jr.,
Acting Secretary.



certified to be a true copy of the original document.

[FR Doc. 77-22757 Filed 8-5-77;8:45 am]

[AB 177 (SDM)]

MINNESOTA, DAKOTA & WESTERN RAILWAY CO.

System Diagram Map; Correction

AGENCY: Interstate Commerce Commission.

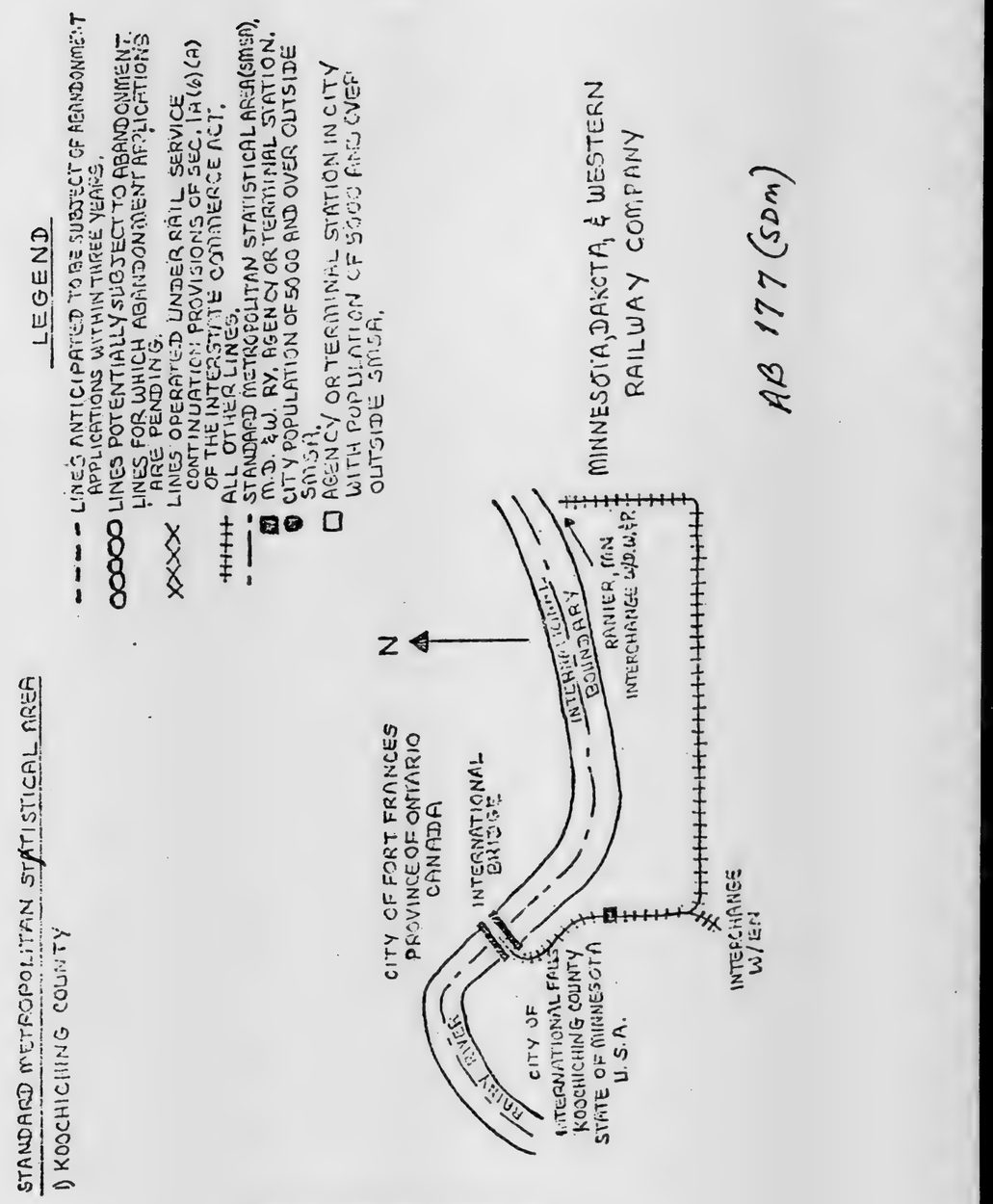
ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 FR, June 20, 1977, page 31335, the system diagram map for the Minnesota, Dakota & Western Railway Co. was inadvertently attached to the notice of the Valley & Siletz Railroad Co. This correction is to show the proper notice and system diagram map.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Minnesota, Dakota & Western Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB 177 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 177 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.



[FR Doc.77-22755 Filed 8-5-77;8:45 am]

[AB 176 (SDM)]

VALLEY & SILETZ RAILROAD CO.

System Diagram Map; Correction

AGENCY: Interstate Commerce Commission.

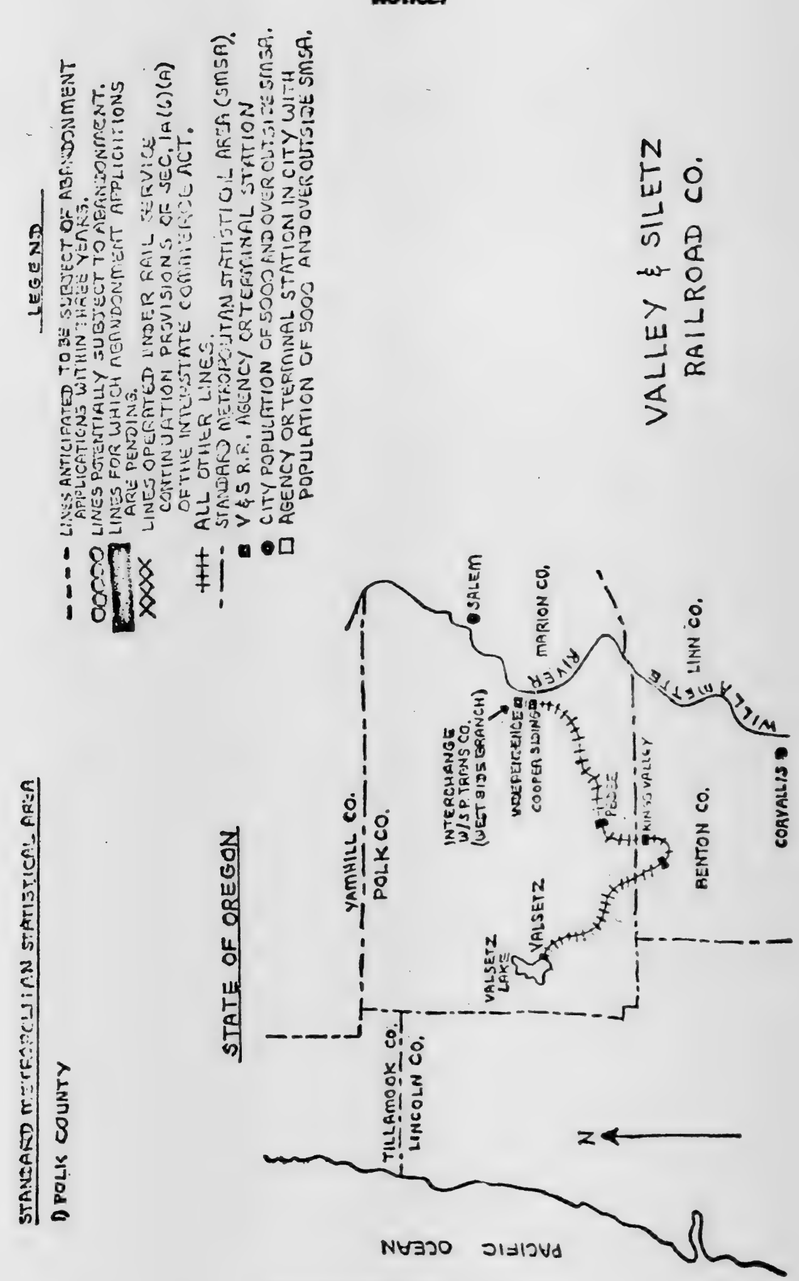
ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 FR, June 20, 1977, page 31335, the system diagram map for the Valley & Siletz Railroad Co. was inadvertently attached to the notice of the Minnesota, Dakota & Western Railway Co. This correction is to show the proper notice and sytem diagram map.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Valley & Siletz Railroad Co., has filed with the Commission its color-coded system diagram map in docket No. AB 176 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 176 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.



[FR Doc.77-22756 Filed 8-5-77;8:45 am]

federal register

WEDNESDAY, AUGUST 10, 1977
PART IV



DEPARTMENT OF DEFENSE

Department of the Army

■

SPECIAL DISCHARGE REVIEW PROGRAM

Implementation

DEPARTMENT OF DEFENSE

Department of the Army

SPECIAL DISCHARGE REVIEW PROGRAM

Implementation

AGENCY: Department of Defense.

ACTION: Notice of Army Implementation of the Special Discharge Review Program.

SUMMARY: The Special Discharge Review Program was established by the Secretary of Defense to review certain administrative discharges received by former service members during the Vietnam Era (August 4, 1964 through March 28, 1973). Also eligible are certain service members presently in a deserter status whose absence commenced during the Vietnam Era. This program was designed at the President's request to meet his desire to bind up the Nation's wounds resulting from our involvement in Vietnam.

DATES: This plan was effective April 5, 1977. It expires July 15, 1978.

ADDRESSES: Headquarters, Department of the Army, ATTN: DAPE–HRL, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT:

COLONEL Frederick R. Daly, 202–697–2221.

SUPPLEMENTARY INFORMATION: Because the plan establishes agency procedures to be followed, notice of proposed rulemaking and procedures thereto, are not necessary. In addition, notice of proposed rulemaking and the procedures thereto are impracticable, unnecessary, and contrary to the public interest, in view of the need to implement the program at the earliest possible date.

The Department of the Army is the Executive Agent for the conduct of this program. The Army plan for implementing the DoD Special Discharge Review Program is published below, and is considered to be a primary document in assisting the thousands of interested personnel and organizations that have an interest in the Special Discharge Review Program.

FREDERICK R. DALY.
Colonel, GS Chief, Special Discharge Review Program.

DAPE-HRL (M) (July 12, 1977).
Expires July 15, 1978.
Subject: DOD Special Discharge Review Program (SDRP) (Army Implementation).

SEE DISTRIBUTION

1 REFERENCES

AUGUST 25, 1977.
JULY 18, 1977.

a. DOD News Release Number 127–77, dated March 28, 1977: "Secretary of Defense Announces Program for Review of Vietnam-Era Discharges."

b. DOD News Release Number 149–77, dated April 5, 1977: Detailed Application Procedures for Review of Vietnam-Era Discharges.

c. ASA(M&RA) Memorandum for Director of the Army Staff, Subject: Department of Defense Discharge Review Program, Special, 30 March 1977.

d. ASA(M&RA) Memorandum, Subject: Discharge Review Program (Special), 12 April 1977.

e. HQDA LOI-Implementation of DOD Special Discharge Review Program, 1 June 1977.

2. PURPOSE

a. To provide instructions and prescribe procedures to be followed by Army commands, agencies and activities in implementation of the DOD Special Discharge Review Program.

b. To provide guidance and fix responsibilities for support of activities involved in the SDRP.

3. GENERAL

On March 28, 1977, the Secretary of Defense announced a Special Discharge Review Program for certain Vietnam Era (4 Aug 64–28 Mar 73) former servicemembers who received discharges Under Other Than Honorable Conditions (Undesirable Discharges) or General Discharges during that period. Also eligible are certain servicemembers presently in a deserted status, whose absence commenced during the Vietnam-Era, upon their return to military control and subsequent discharge for "prolonged absence". The Secretary of Defense designated the Army as Executive Agent for implementation of the program.

4. CONCEPT

a. Eligible individuals may apply to participate in the SDRP during the period April 5 to October 4, 1977; applies to eligible veterans and deserters-at-large from the Vietnam-Era.

b. Simplined procedures are established for application; the discharge reviews will be conducted by the Army Discharge Review Board (ADRB); Special Considerations and Mitigating Factors are prescribed as guidance to the ADRB in reviewing cases for possible upgrade; reviews will be on a case-by-case basis.

c. ADRB and support activities at the Reserve Components Personnel Administration Center will be augmented as necessary to assure that administrative processing, initial on-the-record review and notification to the individual of initial results occur within 180 days after application.

d. The Program provides that when initial review does not result in the full relief requested, the applicant may request a hearing, de novo, to include personal appearance by the applicant and/or counsel. In cases where individuals with an undesirable discharge are denied upgrade, the Army, upon request, will provide government counsel at no expense to the individual applicant.

e. Fort Benjamin Harrison, Indiana, will be used as the central installation for processing deserters who return under this program; Commander, ADMINCEN and Fort Benjamin Harrison has operational responsibility for the deserter returnee portion of the SDRP.

5. ELIGIBILITY

The SDRP is designed to follow the President's desires that the program encompass the Vietnam-Era, August 4, 1964–28 March 1973, inclusive. The program is limited in scope to former servicemembers who received administrative discharges and to deserters-at-large. Eligibility includes and is restricted to the categories of personnel listed in a–e, below.

a. Former servicemembers who were discharged administratively with a discharge Under Other than Honorable Conditions (Undesirable Discharge) or a General Discharge Under Honorable Conditions, during the period August 4, 1964–March 28, 1973, inclusive.

b. Deserters-at-large whose current period of unauthorized absence commenced during the period August 4, 1964–March 28, 1973, inclusive; except those who deserted in or from the combat zone. The Combat Zone is an area in which the Department of the Army authorized the Vietnam Service Medal for service therein during the period August 4, 1964–March 28, 1973. Included in the category of eligible deserters are deserters from the Vietnam-Era who were under military control on the date of the announcement (March 28, 1977), but had not yet been discharged administratively or sentenced to a punitive discharge by court-martial for the absence offense. To be eligible for special discharge review, deserters must first return to military control and be discharged (Annex B). Deserters, who have military charges pending for offenses other than absence or desertion are eligible only after a decision is made to dismiss such charges. Pending civil charges or civil convictions do not make a deserter ineligible for the program.

c. Former servicemembers who, as deserters-at-large, returned to military control and were discharged with Less Than an Honorable Discharge under President Ford's Clemency Program (Presidential Proclamation 4313, September 16, 1974) and then earned a Clemency Discharge Certificate.

d. Former servicemembers who had been discharged Under Other Than Honorable Conditions (Undesirable Discharge) during the Vietnam-Era and later earned a Clemency Discharge Certificate under President Ford's Clemency Program.

e. Former servicemembers whose punitive discharges, received during the period August 4, 1964–March 28, 1973, were *upgraded* by competent authority to a discharge Under Other Than Honorable Conditions (Undesirable) or to a General Discharge. For purposes of this program, the Clemency Discharge Certificate is *not* an upgrade.

6. APPLICABILITY

a. This Letter is applicable to all HQDA Staff Agencies, Commands and activities within the Department of the Army, except as noted below.

b. This Letter is not applicable to the internal operation and procedures of the Army Board for Correction of Military Records and the Army Discharge Review Board. These activities are supervised by the Army Secretariat. The only applicability is the procedures for personnel augmentation of the ADRB for this special program and the interface between the ADRB and other agencies/activities responsible for implementing the SDRP. For the SDRP, the criteria and procedures prescribed in reference 1(d), (e) apply to the ADRB.

7. RESPONSIBILITIES

a. ASA(M&RA) is responsible for the overall supervision of the SDRP including supervision of the ADRB.

b. DCSPER, HQDA: (1) Exercises Army General Staff supervision in Army implementation of the SDRP.

(2) Staff responsibility for coordination of all personnel augmentation; includes TDY military and detailed civilians.

(3) Statistical data and reports.

(4) Preparation of After Action Report.

(5) Conduct research project on deserters and former servicemembers who participate in the SDRP.

c. Comptroller, HQDA: (1) Financial Management aspects of the SDRP.

(2) Maintain data on incremental costs; provide to ASD (Comptroller) consolidated report of incremental costs associated with the SDRP at the end of each fiscal quarter; first report due for 3rd qtr FY 77, NLT 25 August 77.

d. Director, Management Information Systems, HQDA: Staff supervision of the automated information system used to support the SDRP.

e. The Adjutant General, HQDA: (1) Army Staff supervision over records preparation, processing and finalization in support of the ADRB.

(2) Army Staff POC for coordination with the General Services Administration (GSA) concerning requests for records stored in the National Personnel Records Center (NPRC).

(3) Freedom of Information and Privacy Act aspects of the SDRP.

f. The Judge Advocate General, HQDA: Coordinate legal counsel for Army *de novo* cases; coordinate JAG assistance and support to the Commander ADMINCEN/Ft. Benjamin Harrison and to the ADRB.

g. The Surgeon General, HQDA: (1) Prescribe medical procedures for processing deserters who return to military control under the SDRP.

(2) Coordinate medical support needed by Commander ADMINCEN/Ft. Benjamin Harrison and the ADRB.

h. Chief, Public Affairs, HQDA: (1) Coordinate Public Affairs aspects of SDRP.

(2) Within guidelines established by ASA (M&RA), develop and implement media program to inform potential applicants about the SDRP throughout the application phase.

(3) Implement command information.

(4) Inform the public and governmental agencies of program status.

i. Chief, Legislative Liaison, HQDA:

(1) POC for Congressional inquiries.

(2) Maintain contact with Commander, ADMINCEN and Commander, RCPAC.

(3) Inform the Congress of program status, as appropriate.

j. ACSI, HQDA: HQDA POC for liaison with DIA and State Department concerning deserters residing in foreign countries who are eligible to participate; includes providing information to Embassies and Consulates.

k. Commanders of CONUS MACOM'S: (1) Support with personnel as tasked by DCSPER, HQDA.

(2) Disseminate information to installations on how to handle deserters who return to military control under this program.

l. Commander, MILPERCEN: (1) Operate the US Army Deserter Information Point (USADIP) at Ft. Harrison, Indiana to respond to inquiries on a 24 hour basis.

(2) Determine eligibility of deserters-at-large and under military control who request to participate in SDRP.

(3) Identify sources of personnel assets in response to DCSPER taskings for augmentation personnel.

(4) Enlistment Eligibility Determination for personnel discharged under SDRP. (Annex D).

m. Commander, ADMINCEN: Operational responsibility for the deserter returnees under the SDRP:

(1) General Courts-Martial authority over eligible Army deserters who return under the SDRP, to include decisions on disposition of additional military charges pending other than desertion or AWOL. (Annex B para 8b (3)).

(2) Establish procedures and operate a facility to process Army deserters who apply to participate in the SDRP.

(3) Process for discharge, eligible enlisted deserters IAW Chapter 15, AR 635–200 and eligible officer deserters IAW Chapter 5, AR 635–120.

(4) Provide to those discharged under the SDRP information on application for Special Discharge Review.

(5) Provide input to the Management Information System as required by Annex E.

(6) Submit to HQDA monthly statistical data NLT 8th of each month. (Annex K).

(7) Report fiscal data to HQDA (DAPE PBB) IAW normal procedures.

(8) Support DCSPER research project in connection with the SDRP by conducting interviews and surveys of deserters who participate in the SDRP. (Annex I).

(9) Submit to HQDA (DAPE-HR) After Action Report within 60 days after termination of application period of the SDRP.

n. Commander, US Army Finance and Accounting Facility. Process claims for pay and allowances.

o. US Army Management Systems Support Agency (USAMSSA). See Annex E. Management Information System.

8 PRIVACY.

In implementation of the SDRP, all agencies and individuals will exercise caution to assure that data and information collected in connection with this program is used only for the official purposes intended and does not violate the privacy rights of the individual applicants and participants protected by the Privacy Act of 1974.

a. HQDA submitted a Systems Notice for the SDRP Automated Case Summary Records for all former military members regardless of service, and manual paper file records pertaining to former Army members (Annex J).

b. The Joint Liaison Office provides an oral Privacy Act Advisory to the individual making a phone inquiry, prior to collecting any information.

c. Commander, USAEREC will insure that an oral Privacy Act Advisory is read to each individual making an inquiry at the USADIP, prior to collecting any personal information.

d. Commanders, ADMINCEN, and RCPAC and President, ADRB will include a Privacy Act Advisory in instruction sheets or other correspondence to applicants which will result in their providing personal data or information.

9. COORDINATING INSTRUCTIONS

a. ODCSPER, HQDA will approve the augmentation level for all activities augmented in connection with this program.

b. ODCSPER, HQDA will approve the release of personnel TDY or SD in support of the SDRP prior to return to their parent organization. Normally, such personnel if release is approved, will remain in a 7 day standby status should they be needed again.

c. Requests by augmented agency/activity to have an individual returned to home station due to misconduct or unsuitability for the job will be submitted in writing to HQDA, ATTN: DAPE–HRL. Request will include necessary background and justification upon which to make a decision; additionally, include recommendations for any administrative or disciplinary action, if appropriate. The command to which the individual is assigned will provide an acceptable replacement when an individual is returned for misconduct or other reasons. If replacement is required, so indicate; provide information copy to the MACOM.

d. Direct coordination between commands/agencies/activities of the Army and with appropriate elements of the other Services is authorized and encouraged.

By order of the Secretary of the Army.

PAUL T. SMITH,
Major General, United States Army, The Adjutant General.

ANNEXES

A DOD News Release No. 149–77.
B Deserters
C Discharge Review.
D Enlistment Eligibility Criteria and Processing
E Management Information System.
F Information Policy.
G Law Enforcement.
H Financial Management
I Research
J Systems Notice.

DISTRIBUTION

Office, Secretary of the Army (2).
Office, Assistant Secretary of the Army (Manpower and Reserve Affairs) (2).
HQDA (DACA–ZA).
HQDA (DACH–ZA).
HQDA (DACS–ZA).
HQDA (DAEN–ZA).
HQDA (DAIG–ZA).
HQDA (DAAR–ZA).
HQDA (DAJA–ZA).
HQDA (DALO–ZA).
HQDA (DAMA–ZA).
HQDA (DAMH–ZA).
HQDA (DAMI–ZA).
HQDA (DAMO–ZA)
HQDA (DAPC–ZA).
HQDA (DAPE–ZA).
HQDA (DASG–ZA)
NGB–ZA.

COMMANDERS IN CHIEF

US Army Europe and Seventh Army.
US Readiness Command.

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Department of the Air Force (5).
Department of the Navy (5).
United States Marine Corps (5).
HQDA (DAPE–HRL) (100).
Veterans Administration (2).
National Personnel Records Center, St. Louis.

COMMANDER, PERSONNEL CONTROL FACILITIES

Ft. Bragg, NC.
Ft. Carson, CO.
Ft. Dix, NJ.
Ft. Knox, KY.
Ft. Ord, CA.
Ft. Sill, OK.
HQDA (DAAG–TCZ–B).

COMMANDERS

US Army Japan.
Eighth US Army.
US Army Materiel Development and Readiness Command.
US Army Training and Doctrine Command.
US Army Communications Command.
US Army Intelligence Agency.
Military Traffic Management Command
US Army Military District of Washington
US Army Criminal Investigation Command.
US Army Forces Command.
US Army Training and Doctrine Command
US Army Health Services Command.
US Army and Air Force Exchange Service
US Army Finance and Accounting Center (2).
US Army Recruiting Command.
US Army CINCPAC Superintendent
US Army Military Academy.
US Army Reserve Components Personnel and Admin Center (5).
US Army Administration Center (10).
US Army Management Systems Support Agency (2).

ANNEX A (DOD NEWS RELEASE—DETAILED APPLICATION PROCEDURES)

IMMEDIATE RELEASE

No 140-77. OX 7-3189 (Copies), OX 5-9102 (Info)

DETAILED APPLICATION PROCEDURES FOR PROGRAM FOR REVIEW OF VIETNAM-ERA DISCHARGES

APRIL 5, 1977

Secretary of Defense Harold Brown today announced detailed application procedures for the Special Discharge Review Program for certain former Vietnam Era (August 4, 1964 to March 28, 1973) servicemembers. Servicemembers presently in a deserter status which commenced during this era may also be eligible upon return to military control and subsequent discharge.

A Joint Liaison Office (JLO) has been established in St. Louis, MO, for the purpose of responding to inquiries and processing telephonic and or written applications. Former servicemembers, other than those in deserter status, may apply for discharge review simply by contacting the JLO at 800-325-4040 (exception: in Missouri, Puerto Rico, Alaska, Hawaii call 314-428 3500). Applications received by mail will be treated in a manner identical to telephone applications. Mail applications should be sent to: Joint Liaison Office, ATTN: Army Navy USMC Air Force Liaison Team, USARCPAC, St. Louis Missouri 63132.

The toll-free telephone number at the JLO will be capable of receiving 50 calls simultaneously and will be operational between 7:00 AM CST and 8:00 PM CST (seven days per week for the first 30 days of the program and Monday through Friday thereafter).

After their initial call, applicants will be advised by letter that they may submit additional data within 30 days for consideration by the board.

Provided there are no compelling reasons to the contrary, individuals who received Undesirable Discharges for service during the Vietnam Era will have their discharges upgraded if they meet any one of these criteria:

Was wounded as a result of military action.

Received a U.S. military decoration, other than a service medal.

Successfully completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

Completed alternative service or was excused from completion of alternative service under the clemency program instituted September 16, 1974.

Received an Honorable Discharge from a previous tour of military service.

Had a record of satisfactory active military service for 24 months prior to discharge.

Former service members with General Discharges also may apply for upgrading and will be considered by the Board in the spirit of compassion and forgiveness in which the President has sought to bind up the divisions of the Vetnam war.

Former service members eligible to participate in the program will have six months from April 5, 1977 to make application. Individuals who have current applications pending need not reapply. Their applications will automatically be considered under this program. Further details on eligibility and application procedures are listed on the attachment.

Applicants for the revew process who are currently in a deserter status which commenced during the period August 4, 1964 thru March 28, 1973, must first return to military control and be processed for discharge. Members whose only alleged misconduct is prolonged absence will be discharged expeditiously by the parent service. It is anticipated that, if the member does not request a trial or board proceedings, this discharge will take place very soon after the servicemember arrives at the discharge point.

Any deserter may inquire about his status by telephoning collect the appropriate military department numbers below:

US Army—317-542-3354.
US Navy—202-694-2386.
US Air Force—800-531-7500.
US Marine Corps—202-694-2180.
US Coast Guard—202-426-1317.

Applicants not qualified for the special review because of other reasons will be advised that he or she may apply for review under existing procedures and that necessary forms and information will be mailed on request.

Applicants denied upgrading based on a review of the records will be offered an opportunity for a formal board hearing and personal appearance. Applicants whose Undesirable Discharges are not upgraded will additionally, upon request, be provided free legal counsel by the Department of Defense and a new hearing.

Fact Sheet Attached

ELIGIBILITY, APPLICATION PROCEDURES FOR PARTICIPANTS IN SPECIAL DISCHARGE REVIEW PROGRAM

1. Eligible for the Special Discharge Review Program are:

a. All discharges except Honorable Discharges and punitive discharges as a result of sentence by Court Martial (Bad Conduct and Dishonorable Discharges). Included are Clemency Discharges, Undesirable Discharges and General Discharges.

b. Current service members in a deserter status (except from a combat zone) which commenced during the Vietnam Era (August 4, 1964 thru March 28, 1973).

2. Applicants for the review process of category 1b (currently in a deserter status) must return to military control, be processed, and be discharged. A deserter:

a. Who is in the Continental United States, Hawaii, Alaska, Commonwealths, Trusts or Territories of the United States should report to the nearest military installation of the service from which he she is absent.

b. Who is in a country within which the United States has deployed forces should report to the nearest military installation of the service from which he she is absent.

c. Who is in a Territory, Trust Territory, possession of the United States or country within which the United States has no deployed forces should contact the nearest American Embassy, Consulate, or Mission. The State Department will be disseminating information to each of its Embassies, Consulates and Missions regarding the specific instructions for referring deserter inquiries to the appropriate service.

3. Former service members may apply for discharge review or obtain information as to status or eligibility by calling the appropriate toll-free number or writing to the addresses listed below:

a. *Telephones.* (1) If in the Continental United States, except in state of Missouri, dial toll free 800-325-4040.

(2) If in Missouri, dial toll free 314-428-3500.

(3) If in Alaska, dial toll free 314-428-3500.

(5) If in Puerto Rico, dial toll free 314-428-3500.

(6) If in a foreign country telephone the United States Embassy, Consulate, or Mission.

(7) If in a Trust Territory, Territory, or possession of the United States, telephone local United States Government officials.

b. *Addresses and telephone numbers to inquire about deserter status.* (1) U.S. Army personnel write to: Commander, USAEREC, Attn: USADIP, Ft. Benjamin Harrison, IN 46249, or call collect 317-542-3354/3356/3357.

(2) U.S. Navy personnel write to: Bureau of Naval Personnel, Navy Department (PERS 83), Washington, D.C. 20370; or call collect 202-694-2386/2387/3574, after duty hours 202-694-2768/1769.

(3) U.S. Marine Corps personnel write to: Commandant of the Marine Corps, Headquarters Marine Corps, Department of the Navy, Attn: MPH 60, Washington, D.C. 20380; or call collect 202-694-2180/5569.

(4) U.S. Air Force personnel write to: U.S. Air Force Personnel Center, Attn: DPMAKE, Randolph AFB, Texas 78148, or call toll free 800-531-7500.

(5) U.S. Coast Guard personnel write to: Commandant, U.S. Coast Guard (GPE-1), Washington, D.C. 20590; or call collect 202-426-1317.

c. *Address to apply for discharge review in writing.* Joint Liaison Office, Attn: Army Navy USMC Air Force Liaison Team, USARCPAC, St. Louis, Missouri 63132.

4. Processing of application.

a. When the applicant's telephone call is received by the JLO, an operator will answer and ask three questions in order to establish whether or not the caller is eligible for the program. Those questions will be:

Are you applying for the review of your discharge under the Special Discharge Review Program?

When were you discharged?

What kind of discharge did you receive?

(1) If the applicant's answers establish his her eligibility for the program, the operator will initiate the application.

(2) If the applicant's answers establish that he she is not immediately eligible for the program, an appropriate response will be made, as follows:

(a) If the caller is a person charged with desertion, they will be referred to the appropriate telephone number and address contained in paragraph 3b and advised that they may call or write and determine their status before returning to military control.

(b) If the caller did not receive either an Undesirable Discharge or a General Discharge during the Vietnam Era, he she will be told that he she does not qualify for the Special Program. The caller will be informed further that he she may still apply for review of his her discharge under already existing procedures, that necessary forms will be forwarded by the JLO, and that additional information may be obtained from a local office of his her State Veterans Affairs Office, Veterans Administration or by writing to Veterans groups.

(3) Eligible applicants, before further processing, will first be asked to provide personal information in order to process their applications.

(4) Eligible applicants will be asked if they have submited current applications for review of their discharges under existing procedures. Those applicants who have already submitted applications will be assured their cases will automatically be screened, identified, and processed under this special review program and will receive the same compassionate consideration as will those appeals submitted directly in response to the special program.

(5) Eligible applicants will be sent letters of acknowledgment within 14 days which will provide information to the applicant on what additional documentation he she may wish to submit in support of his her application.

5. Supporting documents that may be suitable for applicants who do not meet one of the primary criteria for upgrading include:

a. Character references.

b. Statements from relatives, teachers, past and current employers, law enforcement officials, religious leaders, doctors, or others who know the applicant and can attest to his/her good citizenship and efforts in self-improvement.

c. Employment records.

d. School transcripts.

APRIL 5, 1977.

ANNEX B. DESERTERS

1. *Purpose.* To provide guidance for processing Army Deserters who apply for participation in the Special Discharge Review Program.

2. *General.* The Special Discharge Review Program announced by the Secretary of Defense on March 28, 1977, provides for participation by Vietnam-era deserters who qualify, elect to return to military control and then are discharged under this program.

3. *Concept.* a. Fort Benjamin Harrison, Indiana is the designated installation for central processing and discharge of eligible Deserters who apply to participate in the SDRP.

b. DCSPER, HQDA exercises staff supervision over the deserted returnee portion of the SDRP; Commander, ADMINCEN and Fort Benjamin Harrison has operational responsibility for all aspects of the SDRP as it pertains to deserters to include dismissal of other military charges and processing and exercising GCM authority to discharge deserters returned under this program.

c. After discharge under this program, returnees are eligible to have their discharges reviewed under criteria established for the SDRP. They remain so eligible thoughout the application period.

4. *Eligibility.* a. Deserters-at-Large whose current period of unauthorized absence commenced during the period August 4 1964-March 28, 1973, inclusive, except for desertion in or from the combat zone.

b. Deserters who were under military control but not yet discharged on the date of announcement of the SDRP (March 28, 1977): *Provided*, The current absence began during the period August 4, 1964-March 28, 1973. As an exception, deserters who had returned to military control had been court-martialted before March 28, 1977 for the absentee offense, and whose sentence included a punitive discharge, are not eligible.

c. To be eligible for Special Discharge Review, deserters must first return to Army control and be discharged.

d. Those deserters who have military charges pending against them, other than for the absence offense, are eligible only after a decision is made to dismiss such charges.

5. *Identification of deserters and their status.* a. Commander, MILPERCEN, in conjunction with TAGCEN and other field operating agencies, will conduct a records screening to identify individuals who: (1) Are presently carried as deserters; (2) Were Reserve Component personnel at the time of desertion.

A list and machine record cards containing the names and personal identifiers (including SSAN, date and place of birth) of each Army deserter who will be considered for participation in the program will be provided to Commander, USACIDC.

b. USACIDC, upon receipt of the machine record cards, will accomplish records checks through the DoD investigative files, which include all criminal files. USACIDC will prepare a machine records listing reflecting further action, and a separate listing of those individuals who were subjects of Army criminal investigations at the time of their desertion. USACIDC will provide these listings and copies of CID case reports, if applicable to the Commander, USAEREC, Ft. Benjamin Harrison, IN.

c. Commander, USAEREC will provide USACIDC a listing of those individuals who return to military control. This information will be used to delete entries from the National Crime Information Center Computer and to document dispositions of offender information on those investigations which have not been adjudicated or finalized.

6. *Options.* a. A Deserter-at-Large who inquires, either by mail or by reporting to military other US Government authorities, as to his status concerning eligibility for program participation will be given the following options.

(1) If eligible, return to Ft. Benjamin Harrison and be discharged under provisions of Chapter 15, AR 635-200 for enlisted and Chapter 5, AR 635-120 for officers.

(2) If ineligible, he will be urged to return to military control and be processed IAW current procedures.

b. A deserter who had returned to military control but not discharged on the date of public announcement and is eligible for the program may:

(1) Continue processing at the Personnel Control Facility (PCF) under current procedures.

(2) Elect to be processed at Fort Benjamin Harrison under the SDRP for discharge under Chapter 15, AR 635-200 for enlisted personnel or Chapter 5, AR 635-120 for officer personnel.

7. *Procedures for bringing deserters under military control.* a. Deserters-at-Large initiate the application process or inquiry about their status by writing or calling collect to USADIP (317-542-3354), by calling one of the toll free numbers at the Joint Liaison Office, by contacting any military installation; or any US Embassy or Consulate in foreign countries where there is no US military presence (see Annex A).

(1) Procedures for Commanders of Installations, see Appendix 1.

(2) Instruction to Provost Marshals, see Appendix 2.

(3) Embassies and Consulates, see Appendix 3.

b. Commander, US Army Enlisted Records and Evaluation Center (USAEREC) will determine eligibility and issue instructions to Deserters-at-Large. He will maintain the US Army Deserter Information Point (USADIP) open on a 24 hour day basis to respond to inquiries. Upon determination of eligibility status (including obtaining a decision from the Commander, ADMINCEN on disposition of any other military charges pending), he will reply to the applicant using appropriate letter, Appendix 4.

c. Commanders of Personnel Control Facilities who have eligible deserters under their control, will report the information to the USADIP and process the personnel in accordance with instructions received from the USADIP.

d. Eligible deserters who return to military control will not be placed under guard or in confinement for the pending desertion or absentee offense.

e. Deserters who return to military control and are eligible for the SDRP will be handled and processed in accordance with routine procedures for handling deserter returnees.

f. Information gathered from the deserter in the process of determining eligibility, or while the individual is being processed, will not be used against the returnee to apprehend the deserter for the desertion offense.

8. *Processing procedures.* a. Military activities having initial contact with returnees:

(1) Immediately contact or assist the individual in contacting the Deserter Information Point to determine eligibility for participation in the program.

(2) Execute a new DA Form 41 or DD Form 93 (Record of Emergency Data) for each person who is to participate in the program as soon as he returns to military control. The form must be completed prior to movement to Fort Benjamin Harrison.

(3) Advise individual of eligibility if requested by Commander USAEREC.

(4) If individual is ineligible to participate in the program, and he has presented himself to military authorities, he will be so informed and processed in accordance with normal procedures for a deserter returnee.

(5) If individual is eligible, using the letter sent by USAEREC to the individual as authority, issue government travel request from the point that military control was regained to Fort Benjamin Harrison, Indiana, for processing under the DoD Special Discharge Review Program. The words "RETURNED TO MILITARY CONTROL" and an effective date must be included in the Travel Request (TR). Movement designator code ZAEN will be used on all PCS orders and government TR's. In addition, PCS orders or TR will contain the following statement: "Shipment of dependents and personal property is not authorized by these orders". Commander, ADMINCEN will be notified by message of all orders issue, to include complete identification of individuals, TR's (by number) issued, cost of transportation provided and ETA of individual at Fort Benjamin Harrison. Commander, USAFAC, Fort Benjamin Harrison, Indiana, will be an info addressee on all messages. Copies of TR's orders, etc., will be provided to Commander ADMINCEN expeditiously.

b. Commander, ADMINCEN

(1) Complete a new DA Form 41 or DD Form 93 "Record of Emergency Data" if not already done, and accomplish final physical evaluation. See Appendix 5, Medical.

(2) Provide counsel to advise returnees as to rights and entitlements.

(3) Resolve outstanding charges other than desertion or absence. Minor offenses (as defined in para 128b, MCM 1969, Revision) will be dismissed. The Commander ADMINCEN, will make a decision whether to dismiss or retain for possible prosecution charges other than for desertion or absence offenses committed prior to the absence or desertion, or prior to return to military control, and will inform the deserter of the decision. In the event that it is determined that charges other than for desertion are not to be dismissed, the Commander, ADMINCEN will notify HQDA, ATTEN: DAPE-HRL of the facts and circumstances of the case. In any case, no charges for desertion or absence will be dismissed immediately prior to the member's separation from the service.

(4) Provide the name, date and place of birth, and SSN of all deserters who are returned to military control to the Fort Benjamin Harrison resident office, 902d MI Group for the purpose of determining if a counter-intelligence debriefing is required IAW para 2-5, AR 381-20.

(5) Process separation action under the provisions of Chapter 15, AR 635-200 for enlisted personnel and Chapter 5, AR 635-120, Resignation for the Good of the Service for officer personnel. (See Appendix 6, Separations).

(6) Provide briefing and written instructions to dischargee on Special Discharge Review procedures. Appendix 7, (Instructions for Application for Discharge Review).

9. *Uniform and appearance.* Eligible deserters being processed for discharge will not be required to wear the military uniform or conform to military standards of dress and appearance during the processing period. Therefore, as an exception to AR 700-84, these individuals will not be issued military clothing unless it is determined that the individual does not possess adequate personal

clothing to ensure maintenance of basic health and welfare. In those cases so determined, a temporary issue of clothing will be made UP AR 700–14. Such clothing issues will be restricted to minimum essential requirements using issue priorities set forth in paragraph 1–7K (1), AR 700–14. Clothing so issued will be recovered at the time the discharge procedure is completed. Those personnel who remain under military control beyond the processing period, (e.g., for resolution of charges or for appearance before a board of officers) will be issued clothing UP AR 700–84 and will comply with existing uniform and appearance regulations.

10. *Travel and transportation entitlements.* a. Member travel, travel of dependents and shipment of household goods will be determined as outlined in Appendix 8.

b. Under the current provisions of the Joint Travel Regulations (JTR), which are based on law:

(1) Deserters themselves have no personal property shipping entitlements.

(2) Dependents who were with a member at an overseas duty station from which he deserted, may be provided transportation of personal property under certain restricted circumstances.

(3) The benefits cited in (2) above cannot be extended to the dependents of a member who deserted from a CONUS duty station.

(4) The point at which a deserter returns to military control, e.g., CONUS or overseas, has no bearing on shipping entitlements.

c. A consolidated extract of appropriate entitlement regulation policy statements is provided at Appendix 8 as ready reference.

11. *Privacy rights.* a. Deserter personnel inquiring either by phone or in writing must be informed of the provisions of the Privacy Act as it pertains to this program.

b. Appropriate annotation will be made in the individual's case folder to substantiate that notification was made.

c. Individuals will be advised that in accordance with the provisions of the Privacy Act of 1974 (5 U.S.C. 552A), certain personal information is solicited. Providing this information (e.g., name, SSAN, former service number, beginning date of absence, current address and telephone number, etc.) is voluntary; however, the individual's failure to do so may delay or preclude further processing of the request. The information requested facilitates the expeditious processing of the request and assists in verifying the identity of the individual. It is sought in accordance with Sections 1153 and 3012, Title 10, United States Code and may be disclosed to other governmental agencies when a legitimate governmental purpose is served or when supportive of accomplishing purposes of the request (e.g., Veterans Administration action).

d. There is no requirement to provide a copy of the Privacy Act statement in (c) above to the individual unless the individual specifically requests a copy. If requested, a copy will be provided and the individual's case folder annotated to reflect the exact date that the copy was provided.

e. Deserters at the processing installation who are awaiting the disposition of other charges will have the same right to military defense counsel as other similarly situated military personnel.

12. *Deferred reporting.* a. There may be situations where a deserter, who otherwise is eligible, cannot voluntarily return to military control for participation in the program due to circumstances beyond his/her control; e.g., confined in civil institutions or hospitalized.

b. Individuals falling into this category must contact the Commander, USAEREC either in writing or by phone NLT October 4, 1977 to verify status and determine eligibility.

c. Commander, USAEREC in coordination with Commander, ADMINCEN will establish reporting arrangements for this category of deserter to return to military control. Deserter will be allowed no more than 15 days upon release from constraining circumstances to contact Commander, USAEREC for reporting instructions. If individual fails to make contact within this specified period, he/she will be considered ineligible.

13. *Strength accounting procedures* (Appendix 9).

14. *Procedures for processing deserters under military control* (Appendix 10).

APPENDIXES

1. Instructions to Installation Commanders, Special Discharge Review Program.
2. Instructions to Provost Marshals, Special Discharge Review Program.
3. Information to Embassies and Consulates, Special Discharge Review Program.
4. Letters of Instruction/Notification.
5. Medical.
6. Separation Policy.
7. Instructions For Application For Discharge Review.
8. Entitlements.
9. Strength Accounting.
10. Processing Deserters Under Military Control.

UNCLASSIFIED

APPENDIX 1 (INSTRUCTIONS TO INSTALLATION COMMANDERS, SPECIAL DISCHARGE REVIEW PROGRAM), ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY, PENTAGON TELECOMMUNICATIONS CENTER

CDSN=SCD343; MCN=77098/01111; TOR=770980128.
PTTUZYUW RUEADWD0740 0980122-UUUU—RUEAPP RUEADWD.
ZNR UUUUU.
P 072352Z Apr 77 ZCC ZEO T All WS Army Reps and Activities. Fm: HQDA Wash DC // DAPE-HRL//.
To: ALARACT.
BT.

Unclas: Alaract 004/77.
Subject: Special Discharge Review Program.

A. DOD News Release 127–77, 28 Mar 77.
B. DOD News Release 149–77, 5 Apr 77.

1. On 28 Mar 77, SECDEF announced a special program for discharge review of Vietnam era veterans (Aug 4, 1964 to Mar 28, 1973) with discharges less than honorable discharges, included in this program are provisions which allow participation by Vietnam era deserters after they have been returned to military control and have been discharged for prolonged unauthorized absences under provisions of chapter 15, AR 635–200 for enlisted members. Officer personnel who are deserters and qualify for the program will be processed as directed by the DCSPER DA. This applies to deserters at large or those who were under military control on the date of the announcement (28 MAR 77) or who come under MIL control during the period 5 APR 77–4 OCT 77.

2. Discharge review procedures.

A. A Joint Liason Office (JLO) established at the US Army Reserve Components Personnel and Administration Center (RCPAC), St. Louis, Mo, will operate from 0700 hrs CST to 2000 hrs for the first 30 days and thereafter from 0700 hrs to 2000 hrs Monday through Friday to respond to inquiries and process telephone and/or written applications. Period of operation of JLO is 5 APR 77 through 4 OCT 77. All services, Army, Navy, Marines and Air Force will be represented at the JLO. Prospective applicants should contact or be assisted in contacting the JLO for information on how to apply for discharge review by calling toll free 800–325–4040. (Exception: personnel in Missouri, Puerto Rico, Alaska, Hawaii, call collect 314–428–3500). The JLO is capable of handling 50 calls simultaneously. Mail applications should be sent to: Joint Liaison Office, Attn: Army/Navy, USMC/Air Force Liaison team, USARPAC, St. Louis, Missouri 63132. Coast Guard Personnel will be handled by the Navy representative.

B. Application must be made by the individual. In the case of discharged personnel who are deceased or mentally incompetent, a request on their behalf may be initiated by their surviving spouse, next-of-kin, or legal representative.

C. Persons discharged as a result of sentence by a general court martial or discharged with a bad conduct discharge by sentence of a special court-marital are not eligible for review of their discharges under this program. Such applications may be submitted, if desired, law procedures under existing regulations of their respective former service under 10 U.S.C. 1552 (AR 15–185) or 1553 (AR 15–180) as applicable.

3. Deserter returnees.

A. Personnel in this category desiring to inquire about their status should contact the US Army Deserter Information Point (USADIP) by calling collect 317–542–3354/55/56/57 or write to Commander, USAEREC, Attn: USADIP, Ft. Benjamin Harrison, Indiana 46249.

B. In the event a deserter appears on an Army installation and requests assistance, installation personnel or the deserter may contact by phone the USADIP to determine eligibility. USADIP will inform verbally or in writing Army deserters of their eligibility status and will issue instructions on when and where to report. In those cases where personnel are under military control and in the hands of a Personnel Control Facility (PCF) and undergoing process for discharge under current procedures, the PCF will contact the USADIP for further instructions. At no time will the deserter who voluntarily returns to military control, whether eligible or ineligible for the program, be placed under guard or in confinement unless they commit an act which will so warrant while on the installation. Deserters will not be required to conform to military dress and grooming standards.

C. Local commanders will use the letter of instruction or verbal guidance issued by USADIP to a deserter as authority for issuance of TR for direct travel to Ft. Benjamin Harrison using movement designator code ZAEM (converts to 21 M 2010 01–S99999).

D. If a deserter from another service appears or contacts an Army installation, he should be advised to contact the JLO for specific guidance per aining to his branch or service.

E. Those individuals who deserted in or from a combat theater are not eligible. If charges other than desertion or absence were pending at the time of desertion or absence, an appropriate authority, designated by HQDA, will determine whether these charges will be dismissed or retained for possible prosecution.

F. Deserters not eligible for the program will continue to be processed under applicable procedures and regulations.

G. Individuals in this status will be advised that in accordance with the provisions of the Privacy Act of 1974 (5 USC 552A), certain personal information is solicited. Providing this information (e.g., name, SSAN, former service number, beginning date of absence, current address and telephone number, etc.) is voluntary; however, the individual's failure to do so may delay or preclude further processing of the request. The information requested facilitates the expedi-

tious processing of the request and assists in verifying the identity of the individual. It is sought in accordance with sections 1553 and 3012, Title 10, United States Code and may be disclosed to other governmental agencies when a legitimate governmental purpose is served or when supportive of accomplishing purposes of the request (e.g., Veterans Administration action).

4. Separate accounting will be maintained for costs associated with this program (example: Issuance of travel request). The comptroller, HQDA is issuing instructions on how MACOM and installations will be funded.

5. By separate correspondence, the State Department is issuing instructions to embassies and consulates on procedures to be used in event a deserter contacts them to inquire about the special discharge review program.

6. Office, chief public affairs has issued detailed public affairs guidance through public affairs channels. Inquiries from the media or the public should be referred to the appropriate local public affairs offices.

7. This is a special program and does not affect the current procedures in AR 635–200 by which our soldiers service is now characterized as honorable, general under honorable conditions or under other than honorable conditions.

8. This message effective though 5 Oct 77 BT.—Action addresses.
003 DAPE.—Information addressees.
321 ALARACT (DA Memo 105–1 applies).
00324 TNR.

RTTUZYUW RUEADWD0029 1122152-UUUU—RUEAPPP RUEADWD.
ZNR UUUUU.
P 222010Z Apr 77 ZOC ZEO T all US Army Reps and Activities
Fm: FQDA Wash DC // DAPE HRI
To: ALARACT.
BT.

Unclas: ALARACT 005/77.
Subj: Special Discharge Review Program.

A. FQDA MSG. 072352Z Apr 77, subj. as above.

1. Paragraph 3B Ref A, sentence starting "At no * * *" to end of paragraph is rescinded.

2. Following provides clarification on handling eligible/ineligible deserter personnel:

A. As a matter of policy, except as provided in B below, apprehension, detention, or confinement is not authorized for deserters who voluntarily return to military control in order to participate in this program. Such persons will be allowed to depart the installation, and will not be required to conform to military dress and grooming standards.

B. Exceptions. Apprehension, detention, or confinement may be imposed where warranted (1) by pending military charges other than for absence or desertion offenses; or (2) by offenses under the UCMJ committed after return to military control.

C. Deserters who have civilian charges pending are not rendered ineligible for the program by virtue of the civilian charges. Once the CDR, USAEREC, has determined that civilian charges are pending against a returned deserter, he will notify the appropriate civilian authorities and provide disposition instructions to the military authorities at the place the deserter returned to military control. When appropriate, delivery of the deserter to civilian authorities may be effected in accordance with the provisions of article 14, UCMJ, and AR 600–40.

D. Deserters who have other pending military charges which are not to be dismissed under the provisions of this program are ineligible to participate in the program and will be processed in accordance with normal procedures. The determination whether charges in existence prior to the period of absence or desertion will be dismissed or retained for prosecution will be made by the CDR, USA Admincen.

E. Deserters who return to military control whose absences commenced prior to 4 Aug. 1964 or after 28 Mar. 1973 are ineligible for the program and should be processed in accordance with normal procedures.

F. Unusual or controversial cases will be referred to the servicing SJA for legal advice.

3. This message effective through 5 Oct 77
BT.—Action addresses.
003 Dape.—Information accressees.
F. Unusual (DA Memo 105–1 applies)
00324 Total number of copies required.
0029.

APPENDIX 2 (INSTRUCTIONS TO PROVOST MARSHALS, SPECIAL DISCHARGE REVIEW PROGRAM), ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY,
PENTAGON TELECOMMUNICATIONS CENTER

CDSN = SCD706; MCN = 77112/17239; TOR = 771122349
R TTUZYUW RUEADWDO111 1122345 UUUU—RUEAPPP RUEADWD
ZNR UUUUU.
R 222345Z Apr 77
Fm: CA Wash DC DAPE HRE
To: AIG 7406
BT
Unclas; Pass to Provost Marshals.
Subj: Special Discharge review program

A. FQDA MSG 072342Z Apr 77, SAB.

1. Above reference enumerates general procedures for processing applicants for special discharge review program.

2. The discharge review program (DRP) may generate situations in which military police come in contact with DRP candidates. These candidates could include approximately 1,700 vietnam era deserters. Provost Marshals will ensure that these individuals who enter military facilities or otherwise come in contact with military police will be handled within the spirit of the discharge review program. Individual consideration should be afforded DRP candidates. As a matter of policy, except as provided in 2A, apprehension, detention, or confinement is not authorized for eligible candidates who voluntarily return to military control in order to participate in this program. Such persons will be allowed to depart the installation and will not be required to conform to military dress and grooming standards.

A. Exceptions. Apprehension, detention, or confinement may be imposed where warranted by pending military charges other than for absence or desertion offenses; or by offenses under the UCMJ committed after return to military control.

B. Deserters who have civilian charges pending are not rendered ineligible for the program by virtue of the civilian charges. Once the Cdr, USAEREC, has determined that civilian charges are pending against a returned deserter, he will notify the appropriate civilian authorities and provide disposition instuctions to the military authorities at the place the deserter returned to military control. When appropriate, delivery of the deserter to civilian authorities may be effected in accordance with the provisions of article 14, UCMJ, and AR 600–40.

C. Deserters who have other pending military charges which are not to be dismissed under the provisions of this program are ineligible to participate in the program and will be processed in accordance with normal procedures. The determination whether charges in existence prior to the period of absence or desertion will be dismissed or retained for prosecution will be made by the CDR, USA Admincen.

D. Deserters who return to military control whose absences commenced prior to 4 Aug. 1964 or after 28 Mar. 1973 are ineligible for the program and should be processed in accordance with normal procedures.

E. Unusual or controversial cases will be referred to the servicing SJA for legal advice.

3. Applicants will be assisted in contacting UDADIP (Autovon 699–3354, 55, 56, 57) to determine eligibility. All instructions for the handling and processing of eligible individuals will be issued by the commander USAEREC. Any questions or concerns regarding appropriate procedures for disposition of deserter personnel should be referred to USADIP.

4. Request this information be disseminated to all military police personnel including those within the armed forces police detachments.

5. This message effective through 5 Oct 77
BT —Action addresses.
002 NGB.—Information addressees
003 DAPE
00005 Total number of copies required
#0111.

APPENDIX 3 (INSTRUCTIONS TO EMBASSIES AND CONSULATES, SPECIAL DISCHARGE REVIEW PROGRAM), ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY, PENTAGON TELECOMMUNICATIONS CENTER

CDSN = SCD067; MCN = 77097 15069, TOR 770972327.
PTTUZYUW RUEKJCS4519 0972145-UUUU—RUEADWD
ZNR UUUUU.
P 0721267 Apr 77.
Fm: DIA Wash DC
To: AIG 7008
Info: RUEADWD DA Wash DC
BT
Unclas
From: AH 1
DA for DAPE HRL (Maj Watson) and DAMI DOS (Mr Burkley)
Subj: Special Discharge Review Program

1. On 28 Mar, the SECDEF announced approval for a special program for the review of discharge of former service members of the Vietnam era (4AUG64–28MAR73). The program also provides for the return to military control, discharge, and discharge review of certain Vietnam era deserters still at large whose unauthorized absence began during the period 4 Aug 64 through 28 Mar 73.

2. The following procedures are to be followed in addressing inquiries concerning the program from deserters.

A. Deserter inquiries originating in the commonwealth, Territory or trust of the United States or in foreign countries having American military installations will be referred to the closest military installation to the deserter's former service.

B. Deserter inquiries originating in a commonwealth, Territory or trust of the United States or in foreign countries having no American military installation of the deserter's former service should be referred to the appropriate service deserter information center for verification and follow-on instructions.

C. In all cases, deserters should be minded that under the provisions of the freedom of information act, their furnishing the following general information must be voluntary and their failure to do so may make further processing of their request impossible: name, SSN, former service, former rank, beginning date of absence, local address and telephone number.

D. This general information should be transmitted by electronic message; autovon telephone, or by mail to the appropriate service as follows:

Army—Electronic Msg: CDR, USAEREC/PCRE-D, Ft Benjamin Harrison, in Autovon telephone: 699-3355, Mailing address: Commander, USAER&EC, attn: USADIP, Ft Benjamin Harrison, IN 46249.

Navy—Electronic Msg: Chief, Naval Personnel PERS 83//, Wash. DC, Autovon telephone: 224-3574/2386 2387/2768, Mailing address: Bureau of Naval Personnel, Navy Department//PERS 83//, Washington, D.C. 20370.

Marine Corps—Electronic Msg: CMC Code MPH60, Wash, DC, Autovon telephone:224-2L80 5569, Mailing address: Commandant of the Marine Corps, Department of the Navy, attn: MPH60, Washington, D.C. 20370.

Air Force—Electronic Msg: Air Force Military Personnel CTR//DPMAKE//Randolph AFB, TX, Autovon telephone: 487-4545, Mailing address: USAF Military Personnel Center attn: DPMAKE, Randolph AFB, Texas 78148.

Coast Guard—Electronic Msg:Coast Guard 892927//Wash, DC, Autovon telephone: 851-1495, telephone FTS: 202-426-1317/8, Mailing address: Commandant of the Coast Guard, attn: GPE-1, Washington, D.C. 20590.

E. Detailed instructions including transportation arrangements will be provided to the individual and/or DADS by the parent service.

3. Individuals seeking information concerning procedures to be followed applying for upgrade of discharges should be requested to contact:

Joint Liaison Office, atten: (Parent Service) Liaison Team, USARCPAC, St. Louis, Mo. 63132.

BT.—Action addressees.
003 DAPE.
Information addressees:
010 DACS
0C6 DAMI.
014 DAMO.
0C2 SASA.
0000035 Total number of copies required. No. 4519.

APPENDIX 4 (LETTERS OF INSTRUCTION NOTIFICATION) TO ANNEX B (DESERTERS)

LETTERS OF INSTRUCTION/NOTIFICATION

1. Letter to individuals not eligible for participation in Program (Tab A).
2. Letter to enlisted personnel eligible for participation in Program (Tab B).
3. Letter to officer personnel eligible for participation in Program (Tab C).

TAB A (LETTER TO INDIVIDUAL NOT ELIGIBLE FOR PARTICIPATION TO APPENDIX 4 (LETTER OF INSTRUCTION/NOTIFICATION) TO ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY

Subject: Participation in the DOD Special Discharge Review Program.

1. Reference: Your letter/telephone call of ----------.

2. By above reference you requested to participate in the program established by the Secretary of Defense. A thorough review of your service records reveals that you are not eligible to participate in the program.

3. Reason for your ineligibility is as follows:

---

4. Notwithstanding the above, you are urged to report to the nearest military installation for processing under current procedures. Should you choose to return to military control, it is requested that you bring with you your military identification card, any identification cards issued to your dependents, if applicable, and any other records in your possession pertaining to service while on active duty.

By order of the Secretary of the Army.

TAB B (LETTER TO INDIVIDUAL ENLISTED PERSONNEL ELIGIBLE FOR PARTICIPATION) TO APPENDIX 4 (LETTER OF INSTRUCTION/NOTIFICATION) TO ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY

Subject: Participation in the DOD Special Discharge Review Program.

1. Reference: Your letter/telephone call of ----------.

2. By above reference you have requested to participate in the program established by the Secretary of Defense. A review of your service records indicates that you are eligible. Accordingly, you are advised to arrive at Fort Benjamin Harrison on ---------- Fort Benjamin Harrison is located on the northeast outskirts of Indianapolis, Indiana, and upon arrival report immediately to Building 210.

3. Upon reporting, you will be processed for discharge in accordance with the appropriate Army regulation. You will also be afforded an opportunity to consult with a military lawyer-counselor who will advise you of your rights. Upon completion of the foregoing procedures, to include a medical examination, you will be discharged. The current Department of Defense program includes provisions for the review of discharges for Vietnam-Era desertions. The procedures and details of the Discharge Review Program will be explained to you when you are discharged.

4. In the event you do not have sufficient funds to defray the cost of transportation to Fort Benjamin Harrison, you may report to the nearest Army installation or to a US Embassy if in a country with no US military presence and present a copy of this letter, at which time you will be furnished transportation. Cost of this transportation will be deducted from any pay and allowance which may be due you at time of discharge. For return transportation, the government will defray cost to your home of record (shown in your personnel records) or to the place from which you last entered military service; whichever you choose. No dependent facilities are available at Fort Benjamin Harrison, therefore your dependents should not accompany you. In addition, it is requested that you bring with you your military identification card, any other identification cards issued to your dependents, if applicable, and any other records in your possession pertaining to service while on active duty.

5. You should keep this letter in your possession at all times until it is presented to the Processing Center at Fort Benjamin Harrison.

By order of the Secretary of the Army.

TAB C (LETTER TO OFFICER PERSONNEL ELIGIBLE FOR PARTICIPATION) TO APPENDIX 4 (LETTER OF INSTRUCTION/NOTIFICATION) TO ANNEX B (DESERTERS)

DEPARTMENT OF THE ARMY

Subject: Participation in the DOD Special Discharge Review Program.

1. Reference: Your ---------- of ----------.

2. By above reference you have requested to participate in the program established by the Secretary of Defense. A review of your service records indicates that you are eligible. Accordingly, you are advised to arrive at Fort Benjamin Harrison as early as possible on the morning of ----------, but not earlier than 0730 hours. If you require ground transportation to Fort Benjamin Harrison after your arrival in Indianapolis, you should call 542-4426. Fort Benjamin Harrison is located on the northeast outskirts of Indianapolis, Indiana, and upon arrival report immediately to Building 210. (Locator Map inclosed). If required, troop style billets and messing facilities are available to you in the processing area.

3. Upon reporting, you will be processed in accordance with appropriate Army regulations and you will be expected to tender your resignation for the good of the service under provisions of Chapter 5, AR 635-120. You will be afforded the opportunity to consult with qualified legal counsel (either civilian counsel retained by you or military counsel made available to you) who will advise you of your rights and the adverse nature and effect of receiving a discharge under other than honorable conditions. Upon completion of the foregoing, including a medical examination, you will be discharged under other than honorable conditions. The current Department of Defense program includes provisions for the review of discharges for Vietnam-Era deserters. The procedures and details for the Discharge Review Program will be explained to you when you are discharged.

4. In the event you do not have sufficient funds to defray the cost of transportation to Fort Benjamin Harrison, you may report to the nearest Army installation or to a US Embassy if in a country with no US military presence and present a copy of this letter at which time you will be furnished transportation, which will be deducted from any pay and allowances which may be due you at time of discharge. You are advised not to report for transportation until you are ready to travel to Fort Benjamin Harrison in compliance with the date specified in paragraph 2 above. For return transportation, the government will defray cost to your home of record (shown in your personnel records) or to the place from which you last entered military service; whichever you choose. No dependent facilities are available at Fort Benjamin Harrison, therefore, your dependents should not accompany you. In addition, it is requested that you bring with you your military identification card, any other identification cards issued to your dependents, if applicable, and any other records in your possession pertaining to service while on active duty.

5. You should keep this letter in your possession at all times until it is presented to the Processing Center at Fort Benjamin Harrison.

By order of the Secretary of the Army.

APPENDIX 5, MEDICAL, ANNEX B (DESERTERS)

1. A Type "A" medical examination will be given to each returnee as prescribed by Chapter 10, Appendix IV, AR 40-501. The original copy of the medical examination will be made a permanent part of the member's medical record. An exact copy will be furnished for the personnel record. The examining facility will retain a duplicate copy of reports for a period of one year. All returnees will be interviewed by qualified medical personnel to obtain data relative to the circumstances associated with/precipitating the returnee going AWOL and into desertion. Such data will be treated as confidential medical information and evaluated statistically for common factors. Due care will be taken to protect individual identity. Information obtained will be included only as a part of the After Action Report of this program.

2. It is essential that during the conduct of the medical examination and prior to separation, a determination be made as to whether or not a disabling condition was incurred or service aggravated while the member was entitled to basic pay. These determinations must be made and completely processed at the time of separation to preclude the costly and time-consuming future application to Army Board for Correction of Military Records (ABCMR) for medical disabilities.

3. Individuals identified as drug dependent will not be enrolled in the Army Alcohol and Drug Abuse Program (ADAPCP), IAW AR 600-85 unless specifically requested by the individual.

4. Returnees will remain under control of Commander, ADMINCEN unless admitted to a medical treatment facility for disposition through medical channels.

5. Dental care will be provided to returnees as prescribed by Chapter 10, AR 40-3. The following considerations relative to the employing of dental resource will apply: Degree of acuteness of conditions for which treatment is sought or provided; the probable degree of impact on the Army's mission effectiveness; and age-related disease susceptibility.

6. No eligible member separated under the program may be referred for physical disability processing unless Commander, ADMINCEN determines that the disability was the cause or substantial contributing cause of the member's desertion, or that the disability was a direct result of an injury, disease or wound sustained in combat against the enemy.

APPENDIX 6 (SEPARATION POLICY) TO ANNEX B (DESSERTERS)

SEPARATION POLICY

1. *Enlisted Personnel* will be processed for discharge under other than honorable conditions IAW provisions of Chapter 10, AR 635-200. The regulatory authority reflecting the reason for discharge "misconduct-desertion" and the corresponding SDP shown in AR 635-5-1 and RE Code 4 shall be included on all copies of the DD Form 214 retained by the Army.

2. Eligible officer personnel will be discharged under the provisions of Chapter 5, AR 635-120, "Resignation for the Good of the Service." The sample letter at Figure A-6, page A-9, Ch. 11, AR 635-120, 14 Jan 75, will be utilized by the officer in submitting resignation.

3. The Cdr, ADMINCEN is hereby authorized to accept resignations and accomplish discharges of all officers eligible under this program. Any eligible officer who satisfies the procedural requirements of this program will be discharged under other than honorable conditions. However, if the facts of a particular case so warrant, Cdr, ADMINCEN may, in his discretion, recommend to HQDA, ATTN: DAPE-HR, issuance of a discharge under honorable conditions.

4. If an officer elects not to tender a resignation UP Chapter 5, AR 635-120, Cdr, ADMINCEN, will suspend processing and submit all particulars of the case to HQDA, ATTN: DAPE-HR for resolution and decision.

5. Medical processing will be IAW Appendix 5, this annex.

TAB A (STATEMENT REQUIRED FOR PROGRAM PARTICIPANTS) TO APPENDIX 6, ANNEX B (DESERTERS)

STATEMENTS REQUIRED FOR PROGRAM PARTICIPANTS

Individuals participating in the Army Deserter Returnee Program will be requested to complete the following statements:

a. Enlisted Statements (Incl 1).

b. Officer Statements, Figure A-6, page A-9, Change 11, AR 635-120, 14 Jan 75 (Incl 2).

TAB A (ENLISTED STATEMENT) TO APPENDIX 6, ANNEX B (DESERTERS)

Subject: Discharge by reason of (desertion) (absent without leave)

To:

1. I,[1] ----------, SSN ----------, have been advised by appointed counsel for consultation that I have been recommended for discharge by reason of misconduct for (desertion) (AWOL) under the provisions of chapter 15, AR 635-200. I also have been advised by my consulting counsel of the effect of such a discharge proceeding, of the rights available to me, and the effect of any action taken by me in waiving such rights. I understand that I may be discharged under other than honorable conditions. I understand the possible effects of this discharge and that, as a result of the issuance of such a discharge, I will be deprived of many or all benefits administered by the Veterans Administration and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of a discharge under other than honorable conditions. Having been advised of the foregoing, I make the following choices: I (request) (waive) consideration of my case by an Administrative Discharge Board. I (request) (waive) appearance before an Administrative Discharge Board. Statements in my own behalf (are) (are not) submitted herewith. I (request) (waive) representation by (my appointed counsel for representation) (---------- as military counsel) (civilian counsel at my own expense).

2. I understand that I may, up until the date the discharge authority orders, directs, or approves my discharge, withdraw this waiver and request an Administrative Discharge Board hear my case.

3. I have retained a copy of this statement.

(Signature of respondent and date)

(Typed name, SSN, and grade)

Having been advised by me of the basis for this contemplated separation and its effect and of the rights available to him and the effect of a waiver of his rights, (*name of respondent*) personally made the choices indicated in the foregoing statement.

(Signature of counsel)

(Typed name, SSN, grade)

NOTE.—An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing does or does not apply to his Reserve status.

TAB A. (OFFICER STATEMENTS), APPENDIX 6, ANNEX B (DESERTERS)

JANUARY 14, 1975.

Subject: Resignation for the Good of the Service.

Thru: (Channels) (See paragraph 2-3, this regulation).

[1] If the respondent declines to consult with counsel prior to waiving his rights, insert as first sentence of paragraph 1, the following statement: "Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel for consultation; or military counsel of my own choice, if he is reasonably available; or civilian counsel at my own expense. I decline the opportunity."

To: HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332.

1. I, John Doe, Major, Infantry, 000000 (SSN 000-00-0000), hereby voluntarily tender my resignation from the Army for the good of the service under the provisions of Chapter 5, AR 635-120. I do not desire to appear before a court-martial or board of officers. I have not been subject to coercion with respect to this resignation and have been advised of and fully understand the implications of this action.

2. I have been advised that prior to submitting this resignation I may, at my option, consult with and be represented by legally qualified counsel who may be a member of the Judge Advocate General's Corps or civilian counsel retained by me. (Include one of the following statements):

I have elected not to exercise this right (*or*) I have been fully advised and counseled in this matter by_____ (a member of the Judge Advocate General's Corps) (or civilian counsel) on _____ at _____

(*Date*)

(*Place*)

3. I have been afforded an opportunity to present matters in explanation, mitigation, or defense of my case and (Include one of the following statements): such matters are attached hereto (*or*) such matters are contained in the report of investigation conducted under Article 32, UCMJ (*or*) I elect to remain silent.

4. I understand that this resignation, if accepted, may be considered as being under other than honorable conditions and that discharge certificate (Under Other Than Honorable Conditions (DD Form 794A)) may be furnished. I also understand that a resignation for the good of the servie may be withdrawn only with the approval of Headquarters, Department of the Army.

5. I further understand that if my resignation is accepted under other than honorable conditions, I will not be entitled to compensation for unused accrued leave, nor severance or readjustment pay (as appropriate), and that I may be barred from all rights, based upon the period of service from which I will be separated, under any laws administered by the Veterans Administration, except War Risk, United States Government (converted), National Service Life Insurance, or Servicemen's Group Life Insurance policies I may hold.

6. Present duty station_____, assignment_____ and or attachment, if any_____.

7. I (do) (do not) desire separation overseas. (If currently serving in an oversea area.)

8. My mailing address after separation will be_____.

APPENDIX 7 (INSTRUCTIONS FOR APPLICATION FOR DISCHARGE (REVIEW) TO ANNEX B (DESERTERS)

INSTRUCTIONS FOR APPLICATION FOR DISCHARGE REVIEW

1. Upon discharge the former deserter will be advised of the details (Tab B (1)) of the Special DOD Discharge Review Program, of his her eligibility to participate in this special review program and requested to sign a statement acknowledging this fact (Tab B (2)).

2. If the former deserter does not desire to participate in the special review program, the records will be returned to the U.S. Army Enlisted Records and Evaluation Center (USAEREC), Ft. Benjamin Harrison, Indiana, who will forward records to RCPAC for return to GSA. The individual will be requested to sign a statement ((Tab B (3)) declining application for discharge review. In the event of refusal to sign a statement, MFR will be prepared; one copy filed in record and one retained by USAEREC.

3. If the former deserter does desire to participate in the special review program the following procedures will be followed: a Briefed on contents of Tab B, (1), this appendix, and given a copy with suspense date filled-in.

b. The individual will be advised that he/she has 30 days to provide any additional information not contained in military records or other supporting documentation which might aid the board in reviewing the case. The applicant will be advised that if additional documentation is not received within 30 days his her case will be reviewed based on the information in his her records only.

c. The individual will be provided a preaddressed envelope for submitting such information to the Army Discharge Review Board, Room 1E479 Pentagon, Washington, D.C. 20310.

d. The Cdr, ADMINCEN will complete page one of the case data sheet (Tab A, this appendix) when the applicant calls in for eligibility verification; when completed it will be forwarded to USAMSSA, Room BD 1040 Pentagon, Washington, D.C. 20310 (Autovon 225-5584, Mr. Spurling is POC).

e. Page two and three of the case data sheet (3 copies) will be attached to the record and forwarded to the Army Discharge Review Board, Room 1E479 Pentagon, Washington, D.C. 20310 for review in accordance with the procedures of the Special Discharge Review Program. Items 12 and 13 of the case data sheet will be verified in the records prior to shipment.

Tab A, Appendix 7, Annex B (Deserters)

DOD DISCHARGE REVIEW PROGRAM (SPECIAL) CASE DATA SHEET

Type Record Code (A = Add, D = Delete, U = Update) (cc 1-2) AI

CURRENT TIME AND DATE: DAY (01-31) MONTH (01-12) YEAR (77) (cc 9-14)

Phone Operator No. (cc 3-5)

(Phone Station Number) (cc 6-8)

Time (0001 thru 2400) (cc 15-18)

PART I - Eligibility/General Program
Gathered at Joint Service Facility
NOTE: 1-YES; 2-NO; (EXCEPT WHERE OTHERWISE NOTED)

1. a. DISCHARGE DATE BETWEEN 4 AUG 64 - 28 MAR 73: (1=YES; 2=NO) (cc 19)

b. Month and Year Discharged (Incl after 28 Mar 73) (01-12) (2 Char) (cc 20-23)

c. RELEASED FROM ACTIVE DUTY BETWEEN 4 AUG 64 - 28 MAR 73: (1=Yes; 2=No) (cc 24)

d. Month & Year Released Fr A/D (01-12) (2 Char) (cc 25-28)

2. TYPE DISCHARGE (1-GEN; 2-UD/UOTH; 3-BCD/SPCM; 4-BCD/GCM; 5-DD) (cc 29)

3. a. DESERTER (1=Yes; 2=No) (cc 30)

b. MONTH AND YEAR OF DESERTION: (Blank If 3a is "NO") MONTH (01-12) YEAR (2 Char) cc 31-34)

c. DESERTER AT LARGE: (1=Yes; 2=No) (cc 35)

d. CLEMENCY PROGRAM: (1=Yes; 2=No) (cc 36)

4. BRANCH OF SERVICE (1-USA; 2-USN; 3-USMC; 4-USAF; 5-USCG): (cc 37)

5. a. SSN (cc 38-46)

b. MILITARY SERVICE NO: (cc 47-54)

6. NAME: (Last) (cc 55-69) (First) (cc 70-81) (Middle) (cc 82-85)

7. ADDRESS: (Number) (cc 86-115) (Street)

(City) (cc 116-127) (State) (cc 128-129) (Zip) (cc 130-138)

8. TELE NO: (Area Code) (cc 135-144)

9. a. HEARING METHOD: A ____ B ____ C ____ (cc 145)

b. HOW DID YOU HEAR ABOUT THE PROGRAM?
TELEVISION: (cc 146) RADIO: (cc 147)
NEWSPAPER: (cc 148) GOVT AGENCY: (VA, State, etc.) (cc 149)
PARENT, EMPLOYER, COMMUNITY LEADER: (cc 150)
ORGNS INTERESTED IN VETS AFFAIRS (i.e., VFW, Conscientious Objector Orgns): (cc 151)
OTHER: (cc 152)

10. DATE TO GSA: DAY (01-31) MONTH (01-12) YEAR (77) (cc 153-158)

11. CONFIRMATION LETTER:
a. DATE SENT: DAY (01-31) MONTH (01-12) YEAR (77) (cc 159-164)
b. SUSPENSE RETURNS: DAY (01-31) MONTH (01-12) YEAR (77) (cc 165-170)

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DD Form 2070 (Revised) Effective 2 May 77, Previous editions will be destroyed.

CURRENT TIME AND DATE

DAY (01-31) | MONTH (01-12) | YEAR (2 Char)

Time (0001 thru 2400)

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART II - Applicant/Discharge Information
Gathered at Army-RCPAC: Navy-NDRB: Marine-NDRB: Air Force-DRB
(NOTE: 1-YES: 2-NO: EXCEPT WHERE OTHERWISE NOTED)

12. SSN: _____ SERVICE NUMBER: _____

13. NAME: _____ (Last) _____ (First) _____ (Middle)

14. DATE OMPF RECEIVED FROM GSA: _____
DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

15. DOB: _____
DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

16. HOR: _____ (City) _____ (State) (ZIP)

17. INDUCTED/ENLISTED (1-IND: 2-ENL): _____ 18. SEX (1-MALE: 2-FEMALE): _____

19. RACE (1-CAU: 2-NEG: 3-BROWN: 4-ORIENTAL: 5-AMERICAN INDIAN: 6-OTHER): _____

20. DATE ENTERED SERVICE _____ 21. DATE DISCHARGED _____
DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

22. REASON FOR DISCHARGE (SPN/SPD): _____ 23. AUTHORITY _____

24. a. CONF LTR SUSP PASSED _____ b. DOCUMENTS SUBMITTED _____

25. ARMY ONLY-DATE OMPF SENT FROM RCPAC TO ADRB _____
DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

PART III - Special Considerations for Upgrade
Gathered at DRB's
(NOTE: 1-YES: 2-NO: EXCEPT WHERE OTHERWISE NOTED)

26. ARMY DRB ONLY-DATE OMPF RECEIVED _____
DAY - MONTH - YEAR

27. SATISFACTORILY COMPLETED A TOUR IN SE ASIA OR WESTERN PACIFIC? _____

28. WOUNDED IN COMBAT? _____ 29. DECORATED FOR VALOR/MERIT? _____

30. HONORABLY DISCHARGED FROM PREVIOUS TOUR? _____

31. SATISFACTORILY SERVED 24 MONTHS PRIOR TO DISCHARGE? _____

32. COMPLETED ALTERNATE SERVICE OR WAS EXCUSED IAW PP 4313? _____

B-32

DD Form 2070 (CONTINUED) 2

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART IV - Mitigating Factors for Upgrade
Data Captured at DRB's
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

33. DO ANY OF THE FOLLOWING CONSIDERATIONS APPLY: _____
a. AGE, GENERAL APTITUDE, LENGTH OF SERVICE AT TIME OF DISCHARGE: _____
b. EDUCATION LEVEL: _____
c. DEPRIVED BACKGROUND: _____
d. PERSONAL DISTRESS CONTRIBUTING FACTOR: _____
e. WAIVER GRANTED FOR ENTRANCE INTO SERVICE: _____
f. OFFENSES MOTIVATED BY CONSCIENCE: _____
g. DISCHARGED FOR USE OR ABUSE OF DRUGS OR ALCOHOL: _____
h. GOOD CITIZENSHIP: _____

PART V - Disqualifying Criteria
Data Captured at DRB's
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

34. DISCHARGED FOR ACT(S) OF VIOLENCE: _____ 35. DISCHARGED FOR ACT(S) OF DISHONOR: _____

36. DISCHARGED FOR DESERTION IN OR FROM COMBAT THEATER: _____ 37. DISCHARGED FOR OFFENSE(S) SUBJECT TO CIVILIAN CRIMINAL PROSECUTION: _____

PART VI - DRB Action
Data Captured at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

38. INDEX REF: _____ 39. CASE NO: _____

40. DRB REVIEW DATE: _____ 41. AUTHORITY: DOD DISCHARGE PROG SPECIAL
DAY - MONTH - YEAR

42. CONCLUSION:
a. UPGRADE TO (1-HON; 2-GEN): _____
b. APPEAL DENIED: (3) _____

43. REASONS:
a. MET SPECIAL CONSIDERATION: _____
b. MET MITIGATING FACTORS: _____
c. COMPELLING REASONS TO CONTRARY: _____
d. DESERVING POST SERVICE CONDUCT: _____

44. VOTE OF DRB:
(1-5/0; 2-4/1; 3-3/2): _____

PART VII - Final Action/Rehearing Action
Data Captured at DRB's or RCPAC
(NOTE: 1-YES: 2-NO; EXCEPT WHERE NOTED)

45. DATE APPLICANT NOTIFIED OF UPGRADE AND CORRECTED DISCHARGE DOCUMENTS SENT: _____
DAY - MONTH - YEAR

46. DATE APPLICANT NOTIFIED APPEAL DENIED AND FURNISHED APPLICATION FOR REHEARING AB INITIO:

a. _____
DAY - MONTH - YEAR

b. SUSPENSE: _____
DAY - MONTH - YEAR

47. a. REQUEST DE NOVO _____

b. REQUEST DOD COUNSEL _____

48. FULL RELIEF REQUESTED:

a. _____
DAY - MONTH - YEAR

b. SUSPENSE: _____
DAY - MONTH - YEAR

c. DD FORM 293 RECEIVED _____

B-33

DD Form 2070 1 Apr 77 3

See attached: Tab B(1) Instruction Sheet; (2) Statement of Acknowledgment; and (3) Statement Declining Application.

JOINT SERVICE LIASON FACILITY,
DEPARTMENT OF DEFENSE,
DISCHARGE REVIEW PROGRAM (SPECIAL)

TAB B (1) TO APPENDIX 7, ANNEX B (DESERTERS)

A _____
(Date)

B _____
(Suspense date (see paragraph 6))

Subject: Instruction Sheet—DOD Discharge Review Program (Special).

TO:

1. These instructions respond to your application for review of your discharge of _____ (date of application).

2. Your case will be considered within 180 days from receipt of your application.

3. You may qualify for upgrade in the absence of compelling reasons to the contrary, if you meet any one of the following considerations: a. You received a U.S. Military decoration other than a service medal.

b. You were wounded in action.

c. You satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

d. You completed alternate service or you were excused therefrom in accordance with Presidential Proclamation of 16 September 1974.

e. You received an Honorable Discharge from a previous tour of active military service.

f. You have a record of satisfactory service of 24 months prior to your discharge.

4. If you do not qualify for an upgrade based on the above, consideration of other factors may lead to an upgrading, as follows: a. Age, general aptitude, and length of service at time of discharge

b. Educational level at time of discharge

c. Whether entered service from a deprived background.

d. Possible personal problems which may have contributed to the acts which led to discharge.

e. Whether entered military service upon waiver of normally applicable entrance standards

f. Whether the actions which led to discharge were alleged at the time to have been motivated by conscience.

g. Whether was discharged for abuse of drugs or alcohol and, if so, any contributing or extenuating circumstances.

h. Record of good citizenship since discharge. (Boards have been encouraged to give weight to this factor when a good record is shown.)

i. Other factors which you contend warrant an upgrade in your discharge.

5. To insure that all the qualifying criteria that apply to your case are considered, you should submit any information you can obtain in support of the factors listed in paragraphs 3 and 4 above.

6. An addressed, stamped envelope is inclosed for your convenience. If you fail to provide supporting evidence by the suspense date in the upper right hand corner of page 1, your case will be reviewed based on the material in your military record only.

7. Certain personal information has already been solicited from you, and additional information may be requested in the future. In accordance with provisions of the Privacy Act of 1974 (5 USC 552a), providing this information is voluntary; however, should you choose to do otherwise it may delay or preclude further processing of your request. The information requested facilitates the expeditious processing of your request and assists in verifying your identity. The information is sought in accordance with sections 1553 and 3012, title 10, United States Code and may be disclosed to other governmental agencies for purposes associated with your request (e.g., Veterans Administration Action).

8. If this initial review does not result in complete relief, we will advise of subsequent procedures you may follow.

ROBERT S. YOUNG,
Brigadier General,
USA Commanding.

CRITERIA FOR DISCHARGE REVIEW

1. *Types of Discharges Eligible.* All discharges (including Clemency discharges) except Honorable Discharges and punitive discharges as a result of sentence by court-martial.

2. *Period of Service covered by the Discharge.* a. Discharged during the period August 4, 1964 through March 28, 1973.

b. Deserter-at-large from that period who surrenders and who is separated under this program.

3. *Special Considerations.* Applicants with discharges Under Other than Honorable Conditions who meet one of the following considerations will have their discharges upgraded to a general discharge under honorable conditions (or may be upgraded to an Honorable Discharge if the DRB so determines) unless there are compelling reasons to the contrary: a. Received a U.S. Military decoration other than a service medal.

b. Was wounded in action.

c. Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

d. Completed alternate service or was excused therefrom in accordance with Presidential Proclamation 4313 of September 16, 1974.

e. Received an Honorable Discharge from a previous tour of military service.

f. Had a record of satisfactory active military service for 24 months prior to discharge.

4. *Mitigating Factors.* Applicants with discharges under other than honorable conditions may also qualify for upgrading to a general discharge under honorable conditions (or an Honorable Discharge) when a Service Discharge Review Board finds such action is appropriate based on all of the circumstances of a particular case and on the quality of the individual's civilian record since discharge. Factors to consider in this regard include: a. Age, general, aptitude, and length of service at time of discharge.

b. Education level at the time of discharge.

c. Individual entered the service from a deprived background.

d. Actions which led to the discharge were alleged at the time of discharge to have been motivated by conscience.

e. Individual entered the service upon a waiver of normally applicable entrance standards.

f. Possible personal problems which may have contributed to the acts which led to discharge.

g. Record of good citizenship since discharge. Boards are encouraged to give weight to this factor when a good record is documented.

h. Was discharged for drug or alcohol abuse and, if so, any contributing or extenuating circumstances.

i. Other factors which the applicant contends warrant an upgrade in discharge.

5. Applicants with General Discharges (Under Honorable Conditions) may apply under this program for review to the DRB of their former Military Department. The DRB shall consider in their deliberations the President's desire that discharges be re-examined in a spirit of compassion.

TAB B (2) TO APPENDIX 7,
ANNEX B (DESERTERS)

1. I _____ having been advised by my counsel _____ of the details of the Special DOD Discharge Review Program and of my eligibility to participate therein, hereby request application for that program.

2. I have been briefed on the Instruction Sheet, Special DOD Discharge Review Program, attached herewith.

3. I understand that I have thirty (30) days to provide any additional information not contained in military records or other supporting documentation which might aid the board in reviewing my case. I further understand that if additional documentation is not received within thirty (30) days, my case will be reviewed based on the information in my records only.

4. I have received a preaddressed envelope for submitting such information to the Army Discharge Review Board, Room E479, Pentagon, Washington, D.C. 20310.

5. I have received a copy of this form

_____

TAB B (3) TO APPENDIX 7,
ANNEX B (DESERTERS)

I _____ having been advised by my counsel _____ of the details of the Special DOD Discharge Review Program and of my eligibility to participate therein, hereby decline application for discharge review.

_____

APPENDIX 8 (ENTITLEMENTS) TO ANNEX B
(DESERTERS)

The Army policy on compensation entitlement will be unchanged since the existing provisions of law and Department of Defense Pay and Allowances Entitlement Manual contain an adequate degree of flexibility to administer a program of Excutive Reconciliation.

Basic Pay, Special Pays, Incentive Pays, Allowances, Miscellaneous Payments, Allotment of Pay, Deduction and Collections:

A. Provisions for entitlements, deductions and collections on the pay and allowances of military members are provided by the Department of Defense Pay and Allowances Entitlement Manual (DODPM).

B. Determination of entitlement will be made on a case by case basis consistent with the DODPM.

C. Payment and final settlement of the pay accounts which are dependent on the types of discharges issued will be administered in accordance with the procedural pay directives of the Army. (AR 37-104-3.)

NOTE.—(1) Local commander will use the Letter of Instruction issued by USADIP to a deserter as authority for issuance of TR (2) Deserters are not considered to have returned to military control until they have advised of intent to participate in the program and (1) have physically arrived at a military installation or activity (CONUS or OCONUS) and issued a TR for travel to Ft. Benjamin Harrison. (2) or if issued a TR from a US Embassy, US Consulate, or Defense Attache office, the deserter will not have returned to military control until arrival at Ft. Benjamin Harrison for processing. (3) In those cases where eligibility cannot be readily determined (by Cdr USAEREC) and the individual is instructed to return home and await further instructions, the Cdr USAEREC will determine date this category of individual is returned to military control.

TAB A TO APPENDIX 8, ANNEX B (DESERTERS)

TRANSPORTATION

1. *Travel and transportation entitlements.* a. Member travel will be determined as outlined in Incl.

b. Travel of dependents and shipment of household goods will be determined as outlined in Incl.

c. Under the current provisions of the Joint Travel Regulations (JTR), which are based on law:

(1) Deserters themselves have no personal property shipping entitlements.

(2) Dependents who were with the member at the overseas duty station from which he deserted may be provided transportation of personal property under certain restricted circumstances (see Incl).

(3) The benefits cited in (2) above cannot be extended to the dependents of a member who deserted from a CONUS duty station.

(4) The point at which a deserter returns to military control, e.g., CONUS or overseas, has no bearing on shipping entitlements.

d. Following return to military control and subsequent discharge, the personal property shipping entitlements of a former deserter will be based on whether or not he was discharged under honorable conditions. If honorable, shipping privileges will be the same as for any other separated member of the same rank. However, if separation is under other than honorable conditions, no shipping entitlement exists.

e. A consolidated extract of appropriate entitlement regulation policy statements is provided at Incl as a ready reference.

Enclosure (entitlements) to tab A to appendix 8, annex B

Entitlements	Policy	Reference
1. Travel of member	A. From overseas to Conus: Travel of a member to a designated processing site in Conus from an overseas location (embassy military installation) will be accomplished in accordance with the provisions of par. M5400, JTR.	Par. M5400, JTR vol. 1
	B. Intra-Conus: Travel of a member to the designated processing site from the installation to which he reports will be accomplished in accordance with the provisions of par. M5400, JTR.	Do
	NOTE.—Travel accomplished in A and B above will be charged to the account of the member except in those cases where the individual surrenders himself to his former duty station, from which he commenced his unauthorized absence. In this case, travel to the designated processing site will be at Government expense.	
2. Dependent travel	A. Dependents of personnel who were permanently stationed overseas at the time he commenced his unauthorized absence may be returned to Conus under the provisions of par. M7103-2, item s.	Par. M7103-2, JTR vol. 1
	B. Dependents who were acquired or who joined the member subsequent to the initiation of his unauthorized absence should be returned to Conus under criteria and guidance promulgated by the Department of State. No entitlements exist under the provisions of JTR.	
	C. Dependents of personnel who were not permanently stationed overseas, e.g., Canada, should be returned under criteria and guidance promulgated by the Department of State. No entitlements exist under the provisions of the JTR.	
	D. Dependents of those members who have remained in Conus in an unauthorized leave status are not authorized travel at Government expense to the separation point.	
3. Separation travel	Member:	
	A. A member separated from the service under honorable conditions is entitled to mileage to his home of record or place of entry on active duty, at the election of the member.	Par. M4157, JTR, vol. 1
	B. A member discharged under other than honorable conditions who has not been confined, is entitled to travel and transportation allowances from the place of separation to his home of record or the place from which he was ordered to active duty, as the member may elect.	Pt. G, ch. 5, JTR, vol. 1
	Dependents:	
	A. Dependents of a member in grades E-4 with over 2 yr service and above separated under honorable conditions entitled to transportation from last duty station to place of election by the member as above.	Par. M7000-1, JTR, vol. 1
	B. Except for return of dependents from overseas to the United States under par. M7103-2, a member separated from the service under other than honorable conditions will not be entitled to transportation of dependents in connection with such separation.	Par. M7000-1, JTR, vol. 1
4. Transportation of personal property for deserters.	A. Household goods: Transportation of HHG at Government expense is not authorized for deserters, except when dependent travel is authorized under par. M7103-2, item s, JTR.	Par. M8015-5, item 5, M8303-1, JTR, vol. 1
	B. Unaccompanied baggage: Same as HHG since UB is, by JTR definition a part of HHG.	Par. M8015, item 5, M8303-1, M7103-2, item s, JTR, vol. 1
	C. Privately owned vehicle (POV): Transportation of POV at Government expense is not authorized for deserters except that shipment (ocean transportation only) may be approved in connection with approval of transportation of dependents from overseas under the provisions of par. M7103, vol. 1, JTR. (JTR, vol. 1, par. M10002-5.)	JTR, vol. 1, par. M10002-3
5. Transportation of personal property for separations.	Following return to military control and subsequent discharge, the personal property shipping entitlements of a former deserter will be based on whether or not he was discharged under honorable conditions. If honorable, shipping privileges will be the same as for any other separated member of the same rank. However, if separation is under other than honorable conditions, no shipping entitlement will exist.	JTR, vol. 1, par. M8015-2
6. Dislocation allowance.	None authorized.	JTR, vol. 1, par. M8900-1 (2)

APPENDIX 9 (STRENGTH ACCOUNTING) TO
ANNEX B (DESERTERS)

PROCEDURES FOR COMPLETING FEEDER MORNING REPORT

1. DA Form 1.

2. Reporting Unit: Deserter Returnee Point, Ft. Benjamin Harrison.

3. When prepared—Daily, whether or not there is a change in strength. If no change cite "No change". Weekend or holiday actions, if any, will be prepared on the next duty day. Weekends will not be consolidated.

4. Establish a control log—local format authorized.

5. Initial and Final Feeder Reports will be so identified as "Initial" or "Final" in Changes Section.

6. Number of copies —, 4

7. Distribution: a. Original—MILPERCEN under cover letter Attn: DAPC-PSS-M).

b. Copies 2 and 3—Reporting Unit File

c. Copy No. 4—Local FAO (See Note 1)

8. Recording of Entries: a. Strength Section—Self explanatory

b Changes Section:

(1) Gains: (a) Action Entry—Use "ARR

(b) Status Entry—Use "PDY".

(c) Operational Data Entry—Use "Return to Military Control".

(2) Losses: (a) Action Entry—Use "DPRT".

(b) Status Entry—Use "SEP".

(c) Operational Data Entry—cite appropriate order.

(3) Duty Status Changes: (a) Action Entry—Use "DYST".

(b) Status Entry—Use "PYD HOS" or "HOS PDY" (See Note 2).

(c) Operational Data Entry—Cite time and place of hospital.

9. Authentication Section—Completed or Authorized Representative

10. Inclosures—Attach copies of orders and DD Form 214

11. NOTES.—1. Do not use UTL as prescribed in Chap 8, DA Pam 600-8. 2. SM will remain assigned to Reporting unit at all times.

TAB A TO APPENDIX 9 (STRENGTH ACCOUNTING)
TO ANNEX B

CONCEPTS FOR PERSONNEL STRENGTH ACCOUNTING

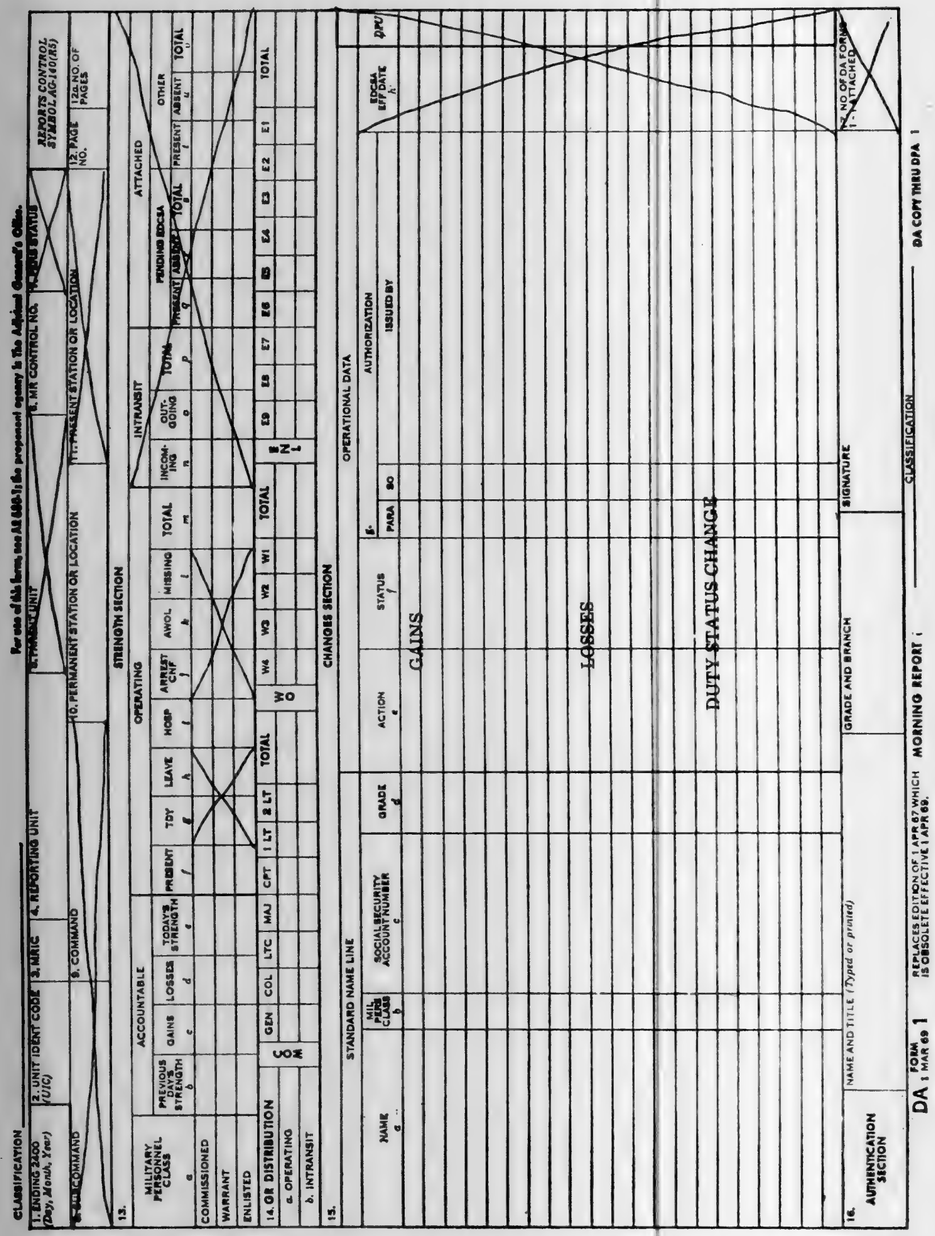
Do not use automated system (SIDPERS).

Assign derivative UIC for a feeder strength report from the USAG at selected installation(s).

Establish manual reporting system based upon a feeder report to DAPC-PS. Report format and processing instructions next under.

DAPC-PS will top feed EMF OMF at HQDA as appropriate.

Personnel will be accessed into the Active Army file only if the soldier is restored to active duty by court order.



APPENDIX 10 (PROCESSING DESERTERS UNDER MILITARY CONTROL), ANNEX B (DESERTERS)

1. *Purpose.* This appendix provides guidance and prescribes procedures to be used in processing eligible deserters who were under military control on 28 March 1977 but not yet discharged.

2. *General.* a. Deserters who had been returned to military control on 28 March 1977 (Public Announcement of the Program) and not yet discharged or sentenced to a punitive discharge by a court-martial, are eligible to participate in the SDRP provided:

(1) The last period of absence began during the period 4 August 1964–28 March 1973 and;

(2) There are no other military charges pending or a decision is made by competent authority to dismiss the other charges.

b. Deserters who have been sentenced by a court-martial to be separated with a punitive discharge are not eligible for the SDRP.

c. Those who deserted in or from the combat zone are not eligible.

3. *Eligible personnel being processed for discharge.* a. Commanders of Personnel Control Facilities (PCF's) will report eligible personnel to the Commander, USAEREC, Ft. Benjamin Harrison for verification of eligibility; will not finalize discharge pending reply from Commander, USAEREC.

b. If individual is determined to be eligible, brief the individual on the provisions of the SDRP; suspend further processing and allow the individual a maximum of 72 hours to decide if he will elect to participate in the SDRP or continue processing under current procedures. This time period is waiverable but must be justified in writing. The individual will be provided counsel; or may consult with counsel of his own choosing at no expense to the government.

(c) If the individual elects to participate in the SDRP, further processing will cease and the Commander, USAEREC will be contacted to coordinate reporting instructions and date for travel to Ft. Benjamin Harrison. In the interim, PCF commander may authorize excess leave for the individual.

d. If the individual declines to participate in the SDRP, he will continue to be processed for discharge under normal procedures. The individual will be requested to sign a statement that he has been briefed on the Special Discharge Review Program and elects not to participate. Statement will be filed in the OMPF; if he refuses to sign the statement, a MFR will be prepared and placed in his OMPF.

4. *Retroactive application.* a. A deserter who was under military control on March 28, 1977, otherwise eligible for the SDRP but subsequently discharged prior to receipt of these instructions, is eligible to have his/her discharge reviewed under the SDRP.

b. Commanders of PCF's will check their records and notify the Commander, USAEREC of any such cases as described in para 4(a), above.

c. Commander, USAEREC will attempt to contact individuals notifying them of eligibility and procedures.

5. Any cases of questionable eligibility not covered in this letter will be referred to HQDA, ATTN: DAPE-HR, for determination of eligibility status.

ANNEX C DISCHARGE REVIEW PROCEDURES

1. *Purpose.* This Annex prescribes procedures to be used in processing applications of former servicemembers who apply for Discharge Review under the SDRP.

2. *Applicability.* a. The Procedures outlined in this Annex are applicable to all Army activities involved in support of the Discharge Review process portion of the Special Discharge Review Program.

b. This Annex applies to the Deserter returnee portion of the SDRP at Fort Benjamin Harrison only after the deserter has been discharged and applies for Discharge Review (See Appendix 7, Annex B).

c. This Annex does not supersede, modify or rescind any procedures used by the Army Discharge Review Board in the actual discharge review. The ADRB will continue to operate under the supervision of the ASA(M&RA) IAW statutory and regulatory requirements; for the SDRP the procedures and criteria prescribed in references (para 1 of Basic letter) apply to the ADRB.

3. *Eligibility.* See para 5, basic letter.

4. *Concept.* a. Applications for discharge review may be received in writing, telephonically at the Joint Liaison Office (See Annex A) or initiated directly to the ADRB from the deserter processing point at Ft. Benjamin Harrison, Indiana.

b. Based on information received from the former servicemember, the JLO will make initial determination of eligibility, request records of those eligible from the National Personnel Records Center of GSA and inform the applicant of his/her eligibility status.

c. The NPRC forwards records of former servicemembers to the RCPAC Records Processing Unit; RCPAC accomplishes the necessary processing and mails the records (OMPF) and necessary documentation to the ADRB for review. For purposes of this program, RCPAC will segregate and process cases as one of two categories:

(1) Category "A" Cases: Those cases in which a check of the OMPF reveals that the applicant qualifies for at least one of the six Special Considerations for Discharge Review under this Program.

(2) Category "C" Cases: Applicant does not qualify for one of the Special Considerations.

d. The ADRB conducts the on-the-record review; if full or partial relief results, ADRB sends the record back to RCPAC for finalization action; if no relief is granted, ADRB sends letter of appeal opportunity to the applicant; conducts hearings if applicant requests and then forwards the record back to RCPAC.

e. Upon receipt of record from ADRB, RCPAC accomplishes necessary finalization action and returns the record to NPRC.

f. Deserters who are discharged under this program will be briefed on process for discharge review IAW procedures contained in Appendix 7, Annex B. If he/she opts for immediate discharge review, CDR, ADMINCEN will forward the record to the CDR, USAEREC for forwarding to ADRB; if the dischargee elects not to apply for immediate review, he/she remains eligible to apply (under provisions of the SDRP) throughout the application period. In cases where the dischargee elects not to apply immediately, CDR, ADMINCEN will forward the record to the CDR, USAEREC who in turn forwards the record to NPRC.

g. All records shipped by CDR, ADMINCEN under this program will be sent via certified mail.

5. *Procedures for processing cases of former servicemembers.* a. JLO (operated by CDR, RCPAC)

(1) Upon receipt of a telephonic inquiry/application at the JLO, the operator will *read* to the caller the privacy act advisory prior to asking for any personal data.

(2) the JLO completes Part I of the case data sheet (CDS) in four copies. (Appendix 1)

(3) Based on information provided, the JLO makes a determination of eligibility.

(4) Two copies of the CDS are forwarded to each service, including the RCPAC records processing unit; one copy of the CDS is forwarded to NPRC as a record requisition (OMPF); one copy is used for data reduction, after which it is filed in the JLO.

(5) If applicant is eligible, one copy of CDS is forwarded to GSA NPRC which constitutes a request for the applicant's official Military Personnel File (OMPF).

(6) Based on eligibility status, the JLO sends to the applicant either a letter of acknowledgment (Instruction Sheet) to eligibles (Appendix 2) or Letter of Ineligibility to ineligibles (Appendix 3). This must be accomplished within 14 days of application.

b. RCPAC Records preparation of records and cases.

(1) Commander, RCPAC is responsible for receipt of OMPF from NPRC, St. Louis, and the processing and shipping records to ADRB.

(2) Upon receipt of CDS, record processing unit will reproduce two more copies; upon receipt of OMPF, put OMPF and CDS together and verify the accuracy of name and SSN; complete items 12, 13, 14, and 25 (and on "C" cases 24) of Part II; assures that three copies of CDS remain with OMPF for forwarding to ADRB.

(3) Records processing checks completeness of OMPF and takes necessary action to obtain missing documents, if appropriate; segregates OMPF's into "A" cases and "C" cases.

(a) "A" cases will be manifested and shipped to the ADRB.

(b) "C" cases will be batched by date and held for 30 days pending receipt of additional information and documentation from applicant; at the end of 30 day period, additional information or documentation will be inserted in the OMPF and the case shipped to the ADRB.

(4) Computer update will be accomplished in accordance with internal SOP.

(5) RCPAC will try to locate any missing OMPF NPRC can't locate. If after extensive search, no record can be located, case data sheet and Letter of explanation will be forwarded to the ADRB.

(6) Upon return of case files from ADRB, RCPAC will finalize the case and notify the individual of results.

(a) Prepare DD Form 214 (Appendix 4), when appropriate.

(b) Prepare new discharge certificate, when appropriate.

(c) Prepare Letter of Transmittal to individual informing him/her of Board results, packet attached to Letter of Transmittal will contain individual copy of DD 214; and discharge certificate, if appropriate. Instructions on how to file a claim for any pay and allowance due as a result of discharge upgrade.

(d) Close the case, update the computer, provide information to VA and return the OMPF to the NPRC.

c. ADRB—(1) Initial on-the-record review by the ADRB. Upon receipt of OMPF and CDS from RCPAC, the ADRB will check the case to verify eligibility; if applicant is ineligible, ADRB will return the case file to RCPAC, indicating reason for ineligibility.

If applicant is eligible, ADRB conducts on-the-record review in accordance with established procedures and the approved OSD SDRP Plan.

(2) In the event of denial of any relief (*de novo* cases), ADRB will notify the applicant of the results of the initial review, his right to a hearing, and procedures to be followed in requesting a hearing; include as inclosures to the letter: DD Form 293, Case Report and Directive, ADRB Statement of Findings, Conclusions, and Recommendations; self-addressed envelop (Appendix 5). The record will be retained at the ADRB for 35 days pending a response from the applicant. If no response within 35 days, the case will be closed and the record forwarded to RCPAC for finalization and official notification.

(3) If ADRB decision results in full or partial relief, the case record will be forwarded to RCPAC for finalization of the case and

notification to the individual of Board action.

(4) ADRB will complete parts III through VI of CDS for cases in which relief was granted and parts III through VII for cases in which no relief was granted.

(5) ADRB will forward one copy of case data sheet to the US Army Management Systems Support Agency (USAMMSA).

(6) ADRB will prepare a statement of Findings, Conclusions, and Reasons for each case. See Appendix 5.

(7) ADRB will schedule de novo case hearings under normal ADRB procedures and not on unaccelerated basis because of the SDRP. After completion, ADRB forwards case to RCPAC for finalization.

d. Handling DD 293 cases. There may be cases in which the former servicemember who is eligible for the SDRP, elects to apply for discharge review using regular procedures, rather than through telephonic application to the JLO. These cases will be handled as follows: (1) ADRB will schedule such cases in normal priority sequence with other regular 293 applications and schedule mode of review (hearing, on the record review) as requested by the applicant.

(2) When heard, the ADRB will consider these cases under the SDRP criteria contained in the approved OSD Plan.

(3) These cases will not be entered into the SDRP Management Information System.

6. *Procedures for providing Government counsel for de novo cases.* When the initial on the record review by the ADRB results in no relief for holders of Undesirable Discharges, the Army will provide counsel for hearing, at no expense to the applicant, upon request by the applicant. The procedures outlined below will be followed if such request is made:

a. The ADRB will provide to OTJAG the name, SSN, telephone number and address of the applicant and when determined, the date and location of the scheduled hearing; OTJAG responsible office: DAJA-PT (695-1353).

b. The OTJAG POC will arrange for the legal counsel. Applicants will not be permitted to request government-provided counsel by name; nor will government-provided counsel be authorized to an individual who has retained civilian legal counsel. To reduce travel and related expenses, OTJAG will normally coordinate the use of a legal counselor from a Staff Judge Advocate Office or reserve unit located nearest the hearing site.

c. Pre-hearing travel will not be authorized for government-provided counsel. Maximum use of the mail and telephone will be made during pre-hearing consultation between the applicant and his government provided counsel. The individual applicant may, at his own expense, travel to confer with the appointed counsel.

d. The ADRB will provide the same information and assistance to government provided counsel as it does for counsel retained by the individual at his/her own expense.

7. *Procedures for returned mail at JLO/RCPAC.* a. In the event of the JLO letter of confirmation of application is returned as undeliverable and a reasonable effort fails to determine a correct mailing address (including efforts to contact the applicant by phone), the JLO will forward the letter to the appropriate service. In the Army, such return mail will be delivered to the records processing unit co-located with the JLO.

b. If an OMPF is received from the NPRC, the letter will be included in the record folder and the case will be processed as a category "C" case. The ADRB will conduct the ensuing review under the established procedures for this type of case.

c. If no OMPF is available at the NRPC, the records processing unit will attempt to ascertain whether the individual was in fact a former Army member. If the individual is in fact a former servicemember normal procedures to reconstruct the record will be accomplished and the case forwarded to the ADRB.

d. If efforts to verify the status of the applicant are unsuccessful, the records processing unit will make appropriate entry in the data bank to carry the individual's name along with (UNK) as an identifier. At the end of the application period of the application phase of the SDRP, a complete listing of all such cases will be included in the after action report.

Appendix 1, Annex C

AI

DOD DISCHARGE REVIEW PROGRAM (SPECIAL)
CASE DATA SHEET

Type Record Code (A = Add, D = Delete, U = Update) (cc 1-2)

CURRENT TIME AND DATE: DAY (01-31) MONTH (01-12) YEAR (77) (cc 9-14)

Phone Operator No. (cc 3-5)

(Phone Station Number) (cc 6-8)

Time (0001 thru 2400) (cc 15-18)

PART I - Eligibility/General Program
Gathered at Joint Service Facility
NOTE: 1-YES; 2-NO; (EXCEPT WHERE OTHERWISE NOTED)

1. a. DISCHARGE DATE BETWEEN 4 AUG 64 - 28 MAR 73: _____ (1=YES; 2=NO) (cc 19)

b. Month and Year Discharged (incl after 28 Mar 73) (01-12) (2 Char) (cc 20-23)

c. RELEASED FROM ACTIVE DUTY BETWEEN 4 AUG 64 - 28 MAR 73: _____ (1=Yes; 2=No) (cc 24)

d. Month & Year Released Fr A/D (01-12) (2 Char) (cc 25-28)

2. TYPE DISCHARGE (1-GEN; 2-UD/UOTH; 3-BCD/SPCM; 4-BCD/GCM; 5-DD) _____ (cc 29)

3. a. DESERTER _____ (1=Yes; 2=No) (cc 30

b. MONTH AND YEAR OF DESERTION: (Blank if 3a is "NO") MONTH (01-12) YEAR (2 Char) (cc 31-34)

c. DESERTER AT LARGE: _____ (1=Yes; 2=No) (cc 35)

d. CLEMENCY PROGRAM: _____ (1=Yes; 2=No) (cc 36)

4. BRANCH OF SERVICE (1-USA; 2-USN; 3-USMC; 4-USAF; 5-USCG): _____ (cc 37)

5. a. SSN (cc 38-46)

b. MILITARY SERVICE NO: (cc 47-54)

6. NAME: _____ (Last) (cc 55-69) _____ (First) (cc 70-81) _____ (Middle) (cc 82-85)

7. ADDRESS: _____ (Number) (cc 86-115) _____ (Street)

_____ (City) (cc 116-127) _____ (State) (cc 128-129) _____ (Zip) (cc 130-134)

8. TELE NO: (Area Code) (cc 135-144)

9. a. HEARING METHOD: A ____ B ____ C ____ (cc 145)

b. HOW DID YOU HEAR ABOUT THE PROGRAM?
TELEVISION: _____ (cc 146) RADIO: _____ (cc 147)
NEWSPAPER: _____ (cc 148) GOVT AGENCY: _____ (VA, State, etc.) (cc 149)
PARENT. EMPLOYER. COMMUNITY LEADER: _____ (cc 150)
ORGNS INTERESTED IN VETS AFFAIRS (i.e., VFW, Conscientious Objector Orgns): _____ (cc 151)
OTHER: _____ (cc 152)

10. DATE TO GSA: DAY (01-31) MONTH (01-12) YEAR (77) (cc 153-158)

11. CONFIRMATION LETTER:
a. DATE SENT: DAY (01-31) MONTH (01-12) YEAR (77) (cc 159-164)
b. SUSPENSE RETURNS: DAY (01-31) MONTH (01-12) YEAR (77) (cc 165-170)

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DD Form 2070 (Revised) . Effective 2 May 77, Previous editions will be destroyed.

CURRENT TIME AND DATE

DAY (01-31) | MONTH (01-12) | YEAR (2 Char)

Time (0001 thru 2400)

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART II - Applicant/Discharge Information
Gathered at Army-RCPAC; Navy-NDRB; Marine-NDRB; Air Force-DRB
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

12. SSN: _____ SERVICE NUMBER: _____

13. NAME: _____ (Last) _____ (First) _____ (Middle)

14. DATE OMPF RECEIVED FROM GSA: _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

15. DOB: _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char) 16. HOR: _____ (City) _____ (State) (ZIP)

17. INDUCTED/ENLISTED (1-IND; 2-ENL): _____ 18. SEX (1-MALE; 2-FEMALE): _____

19. RACE (1-CAU; 2-NEG; 3-BROWN; 4-ORIENTAL; 5-AMERICAN INDIAN; 6-OTHER): _____

20. DATE ENTERED SERVICE _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char) 21. DATE DISCHARGED _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

22. REASON FOR DISCHARGE (SPN/SPD): _____ 23. AUTHORITY _____

24. a. CONF LTR SUSP PASSED _____ b. DOCUMENTS SUBMITTED _____

25. ARMY ONLY-DATE OMPF SENT FROM RCPAC TO ADRB _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

PART III - Special Considerations for Upgrade
Gathered at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

26. ARMY DRB ONLY-DATE OMPF RECEIVED _____ DAY - MONTH - YEAR

27. SATISFACTORILY COMPLETED A TOUR IN SE ASIA OR WESTERN PACIFIC? _____

28. WOUNDED IN COMBAT? _____ 29. DECORATED FOR VALOR/MERIT? _____

30. HONORABLY DISCHARGED FROM PREVIOUS TOUR? _____

31. SATISFACTORILY SERVED 24 MONTHS PRIOR TO DISCHARGE? _____

32. COMPLETED ALTERNATE SERVICE OR WAS EXCUSED IAW PP 4313? _____

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DD Form 1 Apr 77 2070 (CONTINUED) 2

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART IV - Mitigating Factors for Upgrade
Gathered at DRB's
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

33. DO ANY OF THE FOLLOWING CONSIDERATIONS APPLY: _____
a. AGE, GENERAL APTITUDE, LENGTH OF SERVICE AT TIME OF DISCHARGE: _____
b. EDUCATION LEVEL: _____
c. DEPRIVED BACKGROUND: _____
d. PERSONAL DISTRESS CONTRIBUTING FACTOR: _____
e. WAIVER GRANTED FOR ENTRANCE INTO SERVICE: _____
f. OFFENSES MOTIVATED BY CONSCIENCE: _____
g. DISCHARGED FOR USE OR ABUSE OF DRUGS OR ALCOHOL: _____
h. GOOD CITIZENSHIP: _____

PART V - Disqualifying Criteria
Gathered at DRB's
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

34. DISCHARGED FOR ACT(S) OF VIOLENCE: _____ 35. DISCHARGED FOR ACT(S) OF DISHONOR: _____

36. DISCHARGED FOR DESERTION IN OR FROM COMBAT THEATER: _____ 37. DISCHARGED FOR OFFENSE(S) SUBJECT TO CIVILIAN CRIMINAL PROSECUTION: _____

PART VI - DRB Action
Gathered at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

38. INDEX REF: _____ 39. CASE NO: _____

40. DRB REVIEW DATE: _____ DAY - MONTH - YEAR 41. AUTHORITY: DOD DISCHARGE PROG SPECIAL

42. CONCLUSION:
a. UPGRADE TO (1-HON; 2-GEN): _____
b. APPEAL DENIED: (3) _____

43. REASONS:
a. MET SPECIAL CONSIDERATION: _____
b. MET MITIGATING FACTORS: _____
c. COMPELLING REASONS TO CONTRARY: _____
d. DESERVING POST SERVICE CONDUCT: _____

44. VOTE OF DRB:
(1-5/0; 2-4/1; 3-3/2): _____

PART VII - Final Action/Rehearing Action
Gathered at DRB's or RCPAC
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

45. DATE APPLICANT NOTIFIED OF UPGRADE AND CORRECTED DISCHARGE DOCUMENTS SENT: _____ DAY - MONTH - YEAR

46. DATE APPLICANT NOTIFIED APPEAL DENIED AND FURNISHED APPLICATION FOR REHEARING AB INITIO:
a. _____ DAY - MONTH - YEAR
b. SUSPENSE: _____ DAY - MONTH - YEAR

47. a. REQUEST DE NOVO _____
b. REQUEST DOD COUNSEL _____

48. FULL RELIEF REQUESTED:
a. _____ DAY - MONTH - YEAR
b. SUSPENSE: _____ DAY - MONTH - YEAR
c. DD FORM 293 RECEIVED _____

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DD Form 1 Apr 77 2070 3

JOINT SERVICE LIAISON FACILITY, DEPARTMENT OF DEFENSE, DISCHARGE REVIEW PROGRAM (SPECIAL)

APPENDIX 2 TO ANNEX C

A _____
(Date)

B _____
(Suspense Date (see paragraph (6))

Subject: Instruction Sheet—DOD Discharge Review Program (Special)

To:

1. These instructions respond to your application for review of your discharge of _____ (date of application).

2. Your case will be considered within 180 days from receipt of your application.

3. You may qualify for upgrade in the absence of compelling reasons to the contrary, if you meet any one of the following considerations: a. You received a U.S. military decoration other than a service medal.

b. You were wounded in action.

c. You satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

d. You completed alternate service or you were excused therefrom in accordance with Presidential Proclamation of 16 September 1974.

e. You received an Honorable Discharge from a previous tour of active military service.

f. You have a record of satisfactory military service of 24 months prior to your discharge.

4. If you do not qualify for an upgrade based on the above, consideration of other factors may lead to an upgrading, as follows: a. Age, general aptitude, and length of service at time of discharge.

b. Educational level at time of discharge.

c. Whether entered service from a deprived background.

d. Possible personal problems which may have contributed to the acts which led to discharge.

e. Whether entered military service upon waiver of normally applicable entrance standards.

f. Whether the actions which led to discharge were alleged at the time to have been motivated by conscience.

g. Whether was discharged for abuse of drugs or alcohol, and if so, any contributing or extenuating circumstances.

h. Record of good citizenship since discharge. (Boards have been encouraged to give weight to this factor when a good record is shown).

i. Other factors which you contend warrant an upgrade in your discharge.

5. To insure that all the qualifying criteria that apply to your case are considered, you should submit any information you can obtain in support of the factors listed in paragraphs 3 and 4 above.

6. An addressed, stamped envelope is inclosed for your convenience. If you fail to provide supporting evidence by the suspense date in the upper right hand corner of page 1, your case will be reviewed based on the material in your military record only.

7. Certain personal information has already been solicited from you, and additional information may be requested in the future. In accordance with provisions of the Privacy Act of 1974 (5 USC 552a), providing this information is voluntary; however, should you choose to do otherwise it may delay or preclude further processing of your request. The information requested facilitates the expeditious processing of your request and assists in verifying your identity. The information is sought in accordance with sections 1553 and 3012, title 10, United States Code and may be disclosed to other governmental agencies for purposes associated with your request (e.g., Veterans Administration Action).

8. If this initial review does not result in complete relief, we will advise of subsequent procedures you may follow:

ROBERT S. YOUNG,
Brigadier General,
USA Commanding.

JOINT SERVICE LIAISON FACILITY
DEPARTMENT OF DEFENSE
DISCHARGE REVIEW PROGRAM (SPECIAL)

APPENDIX 3 TO ANNEX C

Subject: DOD Special Discharge Review Program.

To:

1. Your application for consideration under the Special Discharge Review Program has been examined. We regret to inform you that you are not eligible under this special program. To be eligible: a. You must have been discharged during the period August 4, 1964 through March 28, 1973; and

b. Your discharge must not have been imposed by court-martial (that is, you are not eligible if you have a Bad Conduct or Dishonorable Discharge).

2. Even though your case does not come under the special program, you may apply for upgrading of your discharge under regular procedures. These procedures will provide you a full and fair consideration of your case.

3. If you wish to apply, please complete the inclosed application form (DD 293) and mail it to your former service. If you do not understand or believe that either you or we have made a mistake, please call us again. The numbers are: 1-800-325-4040, or if you are calling from Alaska, Hawaii, Puerto Rico, or Missouri, call (314) 423-9120 Collect.

4. We must emphasize that our supplying forms does not imply that your application for upgrading will automatically be approved. The decision on your request is a matter for determination by the Discharge Review Board.

ROBERT S. YOUNG,
Brigadier General,
USA Commanding.

APPENDIX 4 TO ANNEX C, PREPARATION OF DD 214 FOR THE SPECIAL DISCHARGE REVIEW PROGRAM (ARMY)

1. Preparation of DD Form 214 will be accomplished in accordance with existing regulations and procedures, including computation of lost time (item 21), except as follows: a. In item 9a of all copies of DD Form 214 enter "Discharge" and in item 9e enter "Honorable" or "Under Honorable Conditions" as appropriate.

b. The regulatory and, or statutory authority for separation shown on the DD Form 214 prior to upgrading, "DoD Special Discharge Review Program" and "SPD KCR" will be entered in item 9c of all copies which are retained in the members personnel records and by the military department. All other copies will have dashed lines (— — —) reflected in this item.

c. Item 9d will be annotated to reflect the effective date the individual was last discharged from military service. This entry will be made on all copies of DD Form 214.

d. Item 10 of all copies to be retained in the member's personnel record and by the military department will be annotated to reflect the appropriate RE code corresponding to the individual's reason for separation prior to upgrading in accordance with appropriate service regulations. All other copies will have dashed lines (— — —) reflected in this item.

e. The first entries in item 27 (Remarks section) of copy number 3 provided to Veterans Administration and copies to be retained by the military department will reflect: (1) The narrative reason for separation: "upgraded under the DoD Special Discharge Review Program."

(2) "Date applied for Discharge Upgrade: _____."

(3) "Date discharge was upgraded: _____."

(4) "Character of service prior to upgrade: _____."

2. If specifically requested by the individual concerned the optional form prepared on unit letterhead stationery will state: The reason for your separation from active duty is: "(show the narrative description of the reason reflected on DD Form 214 prior to upgrading and the authority without reference to specific paragraphs)" followed by "DoD Special Discharge Review Program." Additionally, a narrative explanation of the individuals' reenlistment code will be provided. Reference: HDQA (DAPE-MPE-PS) Message 262218Z Mar 74, Subject: Change to DD Form 214, 1 Nov 72 (Report of Separation from Active Duty) and HQA (DAPC PAS-S) message 291300Z Jul 74, subject: Change to DD Form 214 (Report of Separation from Active Duty).

3. The letter transmitting the upgraded DD Form 214 to the veteran will contain identification of the special program under which the upgrade was granted by incorporating information contained in paragraph 1e (1) through (3) above. Further, the veteran should be advised that it is necessary to include a copy of the transmittal letter with a copy of the DD Form 214 when applying for VA benefits.

4. All DD Forms 214 provided to Veterans Administration (No. 3 copy only) which are prepared as a result of the Special Discharge Review Program should be collected daily and forwarded by the preparing service to: Veterans Administration, Data Processing Center (214) (SDRP), Austin Texas 78772.

5. To establish uniform procedures, the current edition of DD Form 214 dated 1 November 1972 will be utilized by the military departments for all individuals whose discharges are upgraded under the Special Discharge Review Program. No entry or overprint will be placed on the individual's copy of the form which identify that form was issued as a result of a discharge review or upgrade action.

DEPARTMENT OF THE ARMY, MILITARY REVIEW BOARDS AGENCY

DEPARTMENT OF THE ARMY, MILITARY REVIEW BOARDS AGENCY, ARMY DISCHARGE REVIEW BOARD

APPENDIX 5 TO ANNEX C

A _____
(Date)

B _____
(Suspense Date)

DEAR _____: An initial review of your military records and the material you provided, if any, for the Board's consideration upon initial review, has resulted in the determination shown on the attached Discharge Review Board Statement of Findings, Conclusions and Reasons.

If you did not receive the full relief requested, you may request that your case be reviewed again by a panel of the Discharge Review Board. At the time of such review you have the right to appear personally before the Board. Whether you appear or not, you may be represented by counsel.

If you have a discharge under other than honorable conditions which has not been upgraded, you may request that the government furnish counsel to represent you without charge. If you desire counsel provided free by Department of Defense, please so indicate in Item 11 of the attached DD Form 293 by checking the top block and writing in "DoD".

Please complete the attached form and return it in the addressed, stamped envelope which is encolsed for your convenience. If no response is received by the suspense date stated in B above, your case becomes final under this program.

Sincerely,

WILLIAM E. WEBER,
Colonel, IN President

APPLICATION FOR REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

OMB APPROVED 22-R-0014

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 10 U.S.C. 1553, Executive Order 9397, 22 Nov 43 (SSN)
PRINCIPAL PURPOSES: To apply for upgrading of type of discharge issued.
ROUTINE USES: Placed in applicant's file. Used in applicant's case in determining the relief sought. To compare facts presented with evidence in the record.
DISCLOSURE: Voluntary. If information is not furnished, applicant may not secure benefits from the Board.

SEE INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS FORM. TYPE OR PRINT.

BRANCH OF SERVICE: ☐ ARMY ☐ NAVY ☐ MARINE CORPS ☐ COAST GUARD ☐ AIR FORCE

1. LAST NAME - FIRST NAME - MIDDLE INITIAL	2. SERVICE NO./SSN	3. SEPARATION RATE OR GRADE

4. SEPARATION UNIT AND LOCATION	5. NATURE OF DISMISSAL OR TYPE OF DISCHARGE RECEIVED	6. SEPARATION DATE

7. I REQUEST THE FOLLOWING CORRECTIVE ACTION BE TAKEN *(See instructions)*

☐ UPGRADE DISCHARGE TO: ☐ HONORABLE ☐ GENERAL ☐ CHANGE REENLISTMENT CODE *(Air Force Only)*
☐ CHANGE DISCHARGE REASON *(Explain)* _____ ☐ OTHER *(Explain)* _____

8. REASON FOR REVIEW OF DISCHARGE *(State in your own words the reasons you feel your discharge should be changed - use additional sheets if necessary) (See instructions)*

9. SUPPORTING DOCUMENTS *(See instructions)*

10. PERSONAL APPEARANCE: ☐ I DESIRE TO APPEAR BEFORE THE BOARD *(No expense to the GOVERNMENT) (See instructions)*

☐ AT WASHINGTON, D.C. ☐ HEARING EXAMINER *(Army Only)* CLOSEST TO: _____ *(City and State)*
☐ BEFORE THE TRAVELING/REGIONAL BOARD CLOSEST TO _____ *(City and State)*
☐ I DO NOT DESIRE TO APPEAR BEFORE THE BOARD AND HAVE LEFT THE ABOVE BLANK. I DESIRE TO HAVE MY DISCHARGE REVIEWED BASED ON MY MILITARY RECORDS AND WHATEVER DOCUMENTATION I HAVE SUBMITTED.

11. REPRESENTATIVE:

☐ I DESIRE TO BE REPRESENTED BY, AND AUTHORIZE RELEASE OF MY RECORDS TO: *(No expense to the GOVERNMENT) (See instructions)*

NAME:	ADDRESS: *(Include ZIP Code)*

☐ I DO NOT DESIRE TO BE REPRESENTED AND HAVE LEFT THE ABOVE BLANK.

I make the foregoing statements as a part of my application with full knowledge of the penalties involved for willfully making a false statement. *(U.S. Code, Title 18, Section 1001, formerly Section 80, provides a penalty as follows: A maximum fine of $10,000 or maximum imprisonment of 5 years, or both.)*

STREET OR RFD	CITY, STATE AND ZIP CODE

(IF YOU MAKE A CHANGE IN RESIDENCE, NOTIFY THE APPROPRIATE BOARD IMMEDIATELY)

DATE	SIGNATURE OF APPLICANT

NOTE: IF VETERAN IS DECEASED OR INCOMPETENT, the application may be signed by a person other than the one whose name appears in block 1 above, indicate status in box below. Legal proof of death or incompetency and satisfactory evidence of the relationship between the discharged person and the petitioner must accompany application.)

☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ SURVIVING SPOUSE

UPON COMPLETION, MAIL THIS APPLICATION AS FOLLOWS:

ARMY	NAVY & MARINE CORPS	COAST GUARD	AIR FORCE
CO, USARCPAC 9700 Page Blvd St Louis, MO 63132	Navy Discharge Review Board 801 No. Randolph St. Arlington, VA 22203	Commandant (CED) U.S. Coast Guard Headquarters Washington DC 20591	National Personnel Records Center, GSA (Military Personnel Records) 9700 Page Blvd St Louis, MO 63132

DD FORM 1 MAR 77 293 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE AND WILL NOT BE ACCEPTED.

Inclosure 1 to Appendix 5, Annex C C-15

INSTRUCTIONS

Copy of Military Record. Should you desire to have copies of your records, you must submit a General Services Administration Standard Form 180 (GS SF 180) before you submit this form. Once this DD Form 293 is submitted, you records will be obtained by the Board. Official records and copies of records obtained by the Board will be available to applicants only at the hearing locations.

Item 1 thru 6. - *Self* Explanatory.

Item 7. Indicate the corrective action you are requesting. You must check at least one block and can check more blocks if desired. Due to certain limitations in the Board's authority, the Board cannot: (a) review discharges issued as a result of General Court-Martial *(Use DD Form 149)*; (b) review discharges issued more than fifteen years prior to the application *(DD Form 293)* submission date; (c) review a Release from Active Duty until a final discharge is issued; (d) change a reenlistment code *(except Air Force)*; (e) change the reason for a discharge from or to physical disability; or (f) determine eligibility for veteran's benefits.

Item 8. State here your reasons why you feel your discharge should be changed. Briefly summarize each of your contention *(reasons)* and/or issues of fact, law, or discretion that you want the Board to address and resolve. Additions or modifications may be made at any time up to the date of review of your case by the Board.

Item 9. Evidence not in your official records should be submitted to the Board before hearing date. Review Boards do not locate witnesses nor do they secure evidence for applicants. Legal briefs or counsel submissions should also be submitted in advance of hearing date. Documents that may be helpful are statements, affidavits, and depositions such as: character references; police clearances; educational achievement; exemplary post-service conduct; medical reports; employment record; verification of alcoholism or drug abuse; award of Department of Labor Exemplary Rehabilitation Certificate; explanation of disciplinary problem or discharge problem; brief of counsel arguing error or injustice. Witnesses may appear in person at no cost to the Government.

Item 10. If you state on your application that you will appear before the Board in person and fail to do so without previous satisfactory arrangements with the Board, such failure will be considered as a waiver of appearance and your case will be reviewed on the evidence contained in your military record.

AIR FORCE, NAVY, AND MARINE CORPS: The Discharge Review Boards meet daily in Washington, D.C., for personal appearance hearings and documentary reviews. If you request a review based on records only or a hearing in Washington, DC, your case will be scheduled there at the earliest date possible. Personal appearance hearings are also scheduled before the Traveling Boards in various cities throughout the 48 contiguous states as the population of requests on hand requires. If you ask for a hearing before the Traveling Board, it will be scheduled after your case is prepared and when the Traveling Board is next in your area. You will ordinarily not have to travel more than 300 miles for your hearing.

ARMY: Panels of the Review Board meet daily in Washington, DC and other locations and on an irregularly scheduled basis at major cities and other smaller metropolitan areas of the U.S. at least once each year. You may appear before the Board in Washington, DC, or in front of a Traveling Panel elsewhere in the U.S. or you may also appear in front of a Hearing Examiner who will video tape testimony for presentation to the Board in Washington, DC. For Hearing Examiners you must be accompanied by counsel or representative. Normally ex-Army members will not have to travel in excess of 200 miles if you are heard by a Traveling Panel or Hearing Examiner. Generally speaking, scheduled cases are heard as follows: (1) Personal Appearance, Washington, DC, within six months; (2) Personal Appearance by Traveling Panel or Hearing Examiner, within twelve months; (3) Representation by counsel or other person/organization only at Washington, DC, within three months; and (4) Without personal appearance or representation, review based on military records and documents submitted by applicant, within 30 days.

Block 11. The services do not provide counsel, representation, or evidence for applicant, nor do they defray cost of such under any circumstances. However, certain agencies recognized by the VA, some state, county, and city organizations, private organizations, and some schools of law do provide assistance in presenting your appeal. If you wish to be assisted, you are responsible for obtaining representation and may:

a. Obtain a lawyer at your own expense.

b. Contact an appropriate state, county, city, private or law school organization.

c. Obtain representation from any other agency or individual who is willing to assist you.

d. Select one of the following organizations which regularly furnish representation at no charge to you. Representatives may or may not be lawyers.

(1) American Red Cross
(2) American Legion
(3) Disabled American Veterans
(4) Jewish War Veterans of the U.S.A.
(5) Veterans of Foreign Wars

An appearance by your representative will not be scheduled in your absence unless your representative requests it. In this event, if a. or c. apply, power of attorney is mandatory.

Inclosure 1 to Appendix 5, Annex C, continued

CASE REPORT AND DIRECTIVE DISCHARGE REVIEW BOARD STATEMENT OF FINDINGS, CONCLUSIONS & REASONS		Index Ref	Case No.
NAME	SSN/SN	ADDRESS	
Discharge Type	Authority	SPD/Reason	Discharge Date
Review Date	Applicant considered under DoD Discharge Review Program (Special) Applicant requests (Honorable) (General) Discharge ☐ Applicant did (did not) appear. ☐ Was (was not) represented by counsel.		

Applicant's Contentions:
☐ Applicant claims to meet criteria for the DoD Discharge Review Program (Special)
☐ Other Contentions of Fact, Law or Discretion (Specify):

The Board finds:

Applicant (does) (does not) meet the criteria of the program because:

CONCLUSIONS:
☐ Applicant's discharge changed to ☐ Honorable Discharge ☐ General Under Honorable Conditions
SPD, MCR, authority Title 10 U.S.C., Section 1553.
☐ Relief denied.

REASONS: After a careful review of the record and additional documents submitted by the applicant, if any, the Board determined that: (Use additional page if necessary)

☐ The applicant (meets) (does not meet) primary criteria: (give details)

☐ There (are) (are not) compelling reasons to the contrary: (give details)

☐ The applicant (meets) (does not meet) the secondary criteria for the following reasons: (explain)

☐ The total circumstances (do) (do not) warrant relief for the following reasons:

☐ The applicant's discharge is changed to (Honorable) (General) because:

☐ Other:

AUTHENTICATION:	DRB MEMBERS NAMES	Vote		
		HON	GEN	NO CHANGE
Secretary/Recorder				

DD Form 1 Apr 77 2067

Inclosure 2 to Appendix 5, Annex C C-16

ANNEX D (ENLISTMENT ELIGIBILITY CRITERIA AND PROCESSING)

1. *Purpose*. This annex provides the policy and procedures for processing the Enlistment Application of those individuals whose discharge is upgraded under the Special Discharge Review Program.

2. *Applicability*. The eligibility criteria prescribed below is applicable to individuals seeking enlistment in the Regular Army, Army National Guard (ANG), and US Army Reserve (USAR). The procedures specified are for enlistment in the Regular Army only. ANG and USAR are establishing their own separate enlistment procedures.

3. *Procedures*. Individuals whose discharges are upgraded under the Special Discharge Review Program may apply through USAEREC for waiver to enlist as individuals with prior military service, if otherwise eligible under the provisions of AR 601–210. These individuals must: a. Meet basic enlistment eligibility criteria IAW Chapter 2, AR 601–210.

b. Meet moral and other administrative criteria IAW Chapter 3, and Appendixes A, B, and C, AR 601–210.

4. Individuals whose discharges have been upgraded under this program will be identified in their personnel records with: a. Separation Program Designator (SPD) KCR, and

b. Reenlistment Eligibility (RE) Code 3 (Ineligible to enlist unless a waiver is granted), or 4 (Ineligible to enlist), as appropriate.

5. All enlistment policies and processing procedures contained in AR 601–210 apply.

a. Special processing provisions for verifying prior service, contained in Section VII, Chapter 4, AR 601–210, will be followed.

b. Requests for waivers of enlistment eligibility criteria will be processed IAW Chapter 3, AR 601–210.

6. The Commander, US Army Military Personnel Center (MILPERCEN) is the final authority for approving enlistment for these individuals. However, the responsibility for determining whether a waiver request warrants favorable consideration rests at all echelons of command. Recruiting commanders below the approving authority will disapprove all requests for waivers not deemed meritorious.

a. All requests for waiver and other actions requiring approval by the CDR, MILPERCEN, as set forth in Chapter 3, AR 601–210, and these instructions, will be forwarded to the Commander, US Army Enlistment Eligibility Activity (USAEEA), through established USAEREC command channels. Prior to forwarding these requests, recruiting commanders will take action to approve or disapprove waiver of disqualifications for which they have approval authority IAW Tables 3–1 and 3–4, AR 601–210. Commander, USAEEA will coordinate with Commander, USAREC to insure an orderly, regulated flow of requests for waivers under this Program.

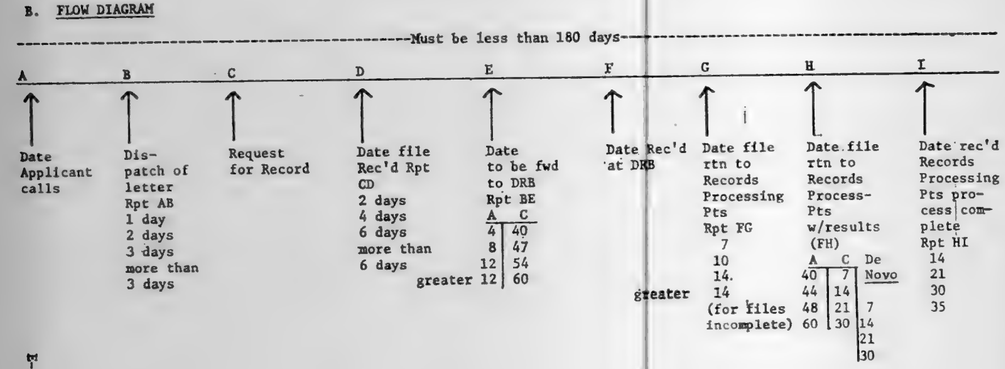
b. Waiting periods following civil restraint and other disqualifications, as outlined in Chapter 3, AR 601–210 will be adhered to.

c. The minimum documentation required to accompany each request for waiver will be IAW Table 3–1, AR 601–210, as specified for each specific disqualification. However, all documentation specified by Line H of that Table will be forwarded with each request for waiver, regardless of the disqualification involved.

6. Enlistment for individuals whose request for waiver is approved by the CDR, MILPERCEN, will be accomplished under enlistment processing procedures for prior service personnel.

Responsibility	Data needed	From	To	Reported delays (days)
RCPAC/ADMINCEN (from deserter inquiry).	P. 1 of case data sheet, and item 12 and 13, p. 2 from check of records.			
RCPAC	Date of event	Receipt of call	Request for records	Aggregate: 1, 2, 3, and more than 3.
	do	do	Dispatch of letter (confirmation or ineligible).	Do.
	do	Request for records.	Date file is received	Aggregate: 2, 4, 6, and more than 6.
RCPAC	do	Dispatch of letter.	Date file forward to DRB (by type cases, A and C).	Aggregate: A—4, 8, 12, and greater than 12; C—40, 47, 54, and 60.
ADRB	do	Date received at DRB.	Files return to RPP (for those incomplete).	Aggregate: 7, 10, 14, and More than 14.
ADRB	do	do	Date returned to RPP's w/results.	Aggregate: type A—40, 44, 48, and 60, type C—7, 14, 21 and 30; de novo—7, 14, 21, and 30.
RCPAC	do	Date received at records processing pts.	Date processing, i.e., 214 prepared, notification, etc.	Aggregate: 14, 21, 30, and 35.

B. FLOW DIAGRAM



ANNEX E.—MANAGEMENT INFORMATION SYSTEMS

1. Concept: The Management Information System is designed to monitor the flow of applications throughout the processing chain. The objectives are to provide timely information to managers concerning how the process is operating, and to provide complete quantative and qualitative data for analysis after the program is finished. The System develops controls at the receipt of an inquiry (either telephonic or written) and uses a time-delay method to indicate the status of individual applications at each point of administrative action. The primary input to the management information system is the case data sheet which gathers data from the individual, (during the telephonic application), the record, and actions consummated at the Army Discharge Review Board. This data is automated and stored at USAMSSA where it can be retrieved for control purposes or as a basis for subsequent reporting requirements.

2. The Management Information System will be operationalized and controlled by USAMSSA. Responsibilities for inputs and outputs are as follows:

A. Inputs:

C. Outputs—all requests for reports will be forwarded to HQDA, Attn: DAPE–HRL (X72221). Reports currently required are as follows:

Responsibility	When needed	Scope of report
RCPAC/ADMINCEN	Daily	See LOI, SDRP.
USAMSSA	Weekly	Do.
USAMSSA	Monthly	Do.

4. Coordinating instructions: a. Staff agencies and commands and Army Discharge Review Board.

(1) All requests for reports will be forwarded to the Department of the Army, SDRP Project Office, DAPE–HRL, 2D742, AV 227–2221. Point of Contact for computer programming information is Mr. Spurling, USAMSSA, (AV 225–5584).

(2) Army Discharge Review Board will prepare case data sheets on those records on hand that fall in the scope of this program so that those files may be assimilated into the computer control system. Completed case data sheets will be forwarded to USAMSSA (BD1040, Pentagon).

(3) ADMINCEN Deserter Control Point will prepare the first page of the case data sheet when the telephonic inquiry is received and forward it to USAMSSA (BD1040, Pentagon) for data capture and to assist in subsequent processing at the appropriate Discharge Review Boards. Pages two and three of the case data sheet will be forwarded with the record to the DRB's.

(4) All Army records processing points will complete Items 12 and 13 of the case data sheet from a check of the applicant's record (not from his verbal application), prior to forwarding to the Army Discharge Review Board. This data will be forwarded to USAMSSA for data capture prior to shipment of records.

(5) ADMINCEN Deserter Control Point will notify USAMSSA (BD1040, Pentagon) by the use of the case data sheet, (Appendix 1) arrival of the deserter, the forwarding of the record to the DRB (if he elects to participate in the review of discharge) or return of the record to the GSA. This data will be furnished to USAMSSA on a daily basis.

(6) ADMINCEN and RCPAC will provide points of contact to USAMSSA (AV 225–5584, Mr. Spurling) for purposes of editing incorrect data.

b. RCPAC will: (1) Prepare Part I of case data sheet on all applicants.

(2) Provide input to USAMSSA on a five day a week basis, to include data gathered at the JLO and the RCPAC processing location. Data should include information specified in paragraph 2 above.

(3) Provide daily reports as required.

(4) Provide an after action report within fifteen days of completion of program.

c. USAMSSA will: (1) Provide technical and operational control over the computer systems designed to provide overall data base, reporting information, and the ability to identify "choke points" in the system.

(2) In addition to information above, provide the following information weekly: a. Total time in processing from date of application to date of completion. This report will have the time delays, 0–30, 31–60, 61–90, 91–120, 120–150, 151–180, greater than 180.

b. Also provide qualitative measures of: Categories applying, A cases and C cases DRB results—

UD to honorable, by A&C cases.

UD to general, by A&C cases.

Those denied and why, by A&C cases.

GD to honorable, by A&C cases.

GD denied and why, by A&C cases.

(3) Provide on call such parameters as socio-economic and demographic data to assist in report preparation. Weekly data should also include responses to questions posed at Joint Liaison Office for Public Affairs of "How did you hear about this program?".

(4) Provide other reports as directed by DAPE–HRL.

Appendix 1, Annex E,
AI

Type Record Code
(A = Add, D = Delete, U = Update)
(cc 1-2)

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

CURRENT TIME AND DATE
DAY (01-31) MONTH (01-12) YEAR (77)
(cc 9-14)

Phone Operator No. (cc 3-5)

(Phone Station Number) (cc 6-8)

Time (0001 thru 2400) (cc 15-18)

PART I - Eligibility/General Program
Gathered at Joint Service Facility
NOTE: 1-YES; 2-NO; (EXCEPT WHERE OTHERWISE NOTED)

1. a. DISCHARGE DATE BETWEEN 4 AUG 64 - 28 MAR 73: _____ (1=YES; 2=NO) (cc 19)

b. Month and Year Discharged (Incl after 28 Mar 73) (01-12) (2 Char) (cc 20-23)

c. RELEASED FROM ACTIVE DUTY BETWEEN 4 AUG 64 - 28 MAR 73: _____ (1=Yes; 2=No) (cc 24)

d. Month & Year Released Fr A/D (01-12) (2 Char) (cc 25-28)

2. TYPE DISCHARGE (1-GEN; 2-UD/UOTH; 3-BCD/SPCM; 4-BCD/GCM; 5-DD) _____ (cc 29)

3. a. DESERTER _____ (1=Yes; 2=No) (cc 30)

b. MONTH AND YEAR OF DESERTION: (Blank if 3a is "NO") MONTH (01-12) YEAR (2 Char) (cc 31-34)

c. DESERTER AT LARGE: _____ (1=Yes; 2=No) (cc 35)

d. CLEMENCY PROGRAM: _____ (1=Yes; 2=No) (cc 36)

4. BRANCH OF SERVICE (1-USA; 2-USN; 3-USMC; 4-USAF; 5-USCG): _____ (cc 37)

5. a. SSN (cc 38-46)

b. MILITARY SERVICE NO: (cc 47-54)

6. NAME: _____ (Last) (cc 55-69) _____ (First) (cc 70-81) _____ (Middle) (cc 82-85)

7. ADDRESS: _____ (Number) (cc 86-115) _____ (Street)

_____ (City) (cc 116-127) _____ (State) (cc 128-129) _____ (Zip) (cc 130-134)

8. TELE NO: (Area Code) (cc 135-144)

9. a. HEARING METHOD: A ____ B ____ C ____ (cc 145)

b. HOW DID YOU HEAR ABOUT THE PROGRAM?
TELEVISION: _____ (cc 146) RADIO: _____ (cc 147)
NEWSPAPER: _____ (cc 148) GOVT AGENCY: _____ (VA,State,etc.) (cc 149)
PARENT. EMPLOYER. COMMUNITY LEADER: _____ (cc 150)
ORGNS INTERESTED IN VETS AFFAIRS (i.e., VFW, Conscientious Objector Orgns): _____ (cc 151)
OTHER: _____ (cc 152)

10. DATE TO GSA: DAY (01-31) MONTH (01-12) YEAR (77) (cc 153-158)

11. CONFIRMATION LETTER:
a. DATE SENT: DAY (01-31) MONTH (01-12) YEAR (77) (cc 159-164)
b. SUSPENSE RETURNS: DAY (01-31) MONTH (01-12) YEAR (77) (cc 165-170)

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DD Form 2070 (Revised) Effective 2 May 77, Previous editions will be destroyed.

CURRENT TIME AND DATE
DAY (01-31) MONTH (01-12) YEAR (2 Char)
Time (0001 thru 2400)

DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART II - Applicant/Discharge Information
Gathered at Army-RCPAC; Navy-NDRB; Marine-NDRB; Air Force-DRB
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

12. SSN: _____ SERVICE NUMBER: _____

13. NAME: _____ (Last), _____ (First), _____ (Middle)

14. DATE OMPF RECEIVED FROM GSA: _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

15. DOB: _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

16. HOR: _____ (City) _____ (State) (ZIP)

17. INDUCTED/ENLISTED (1-IND; 2-ENL): _____ 18. SEX (1-MALE; 2-FEMALE): _____

19. RACE (1-CAU; 2-NEG; 3-BROWN; 4-ORIENTAL; 5-AMERICAN INDIAN; 6-OTHER): _____

20. DATE ENTERED SERVICE _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char) 21. DATE DISCHARGED _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

22. REASON FOR DISCHARGE (SPN/SPD): _____ 23. AUTHORITY _____

24. a. CONF LTR SUSP PASSED _____ b. DOCUMENTS SUBMITTED _____

25. ARMY ONLY-DATE OMPF SENT FROM RCPAC TO ADRB _____ DAY (01-31) - MONTH (01-12) - YEAR (2 Char)

PART III - Special Considerations for Upgrade
Gathered at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

26. ARMY DRB ONLY-DATE OMPF RECEIVED _____ DAY - MONTH - YEAR

27. SATISFACTORILY COMPLETED A TOUR IN SE ASIA OR WESTERN PACIFIC? _____

28. WOUNDED IN COMBAT? _____ 29. DECORATED FOR VALOR/MERIT? _____

30. HONORABLY DISCHARGED FROM PREVIOUS TOUR? _____

31. SATISFACTORILY SERVED 24 MONTHS PRIOR TO DISCHARGE? _____

32. COMPLETED ALTERNATE SERVICE OR WAS EXCUSED IAW PP 4313? _____

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DOD DISCHARGE REVIEW PROGRAM
(SPECIAL)
CASE DATA SHEET

PART IV - Mitigating Factors for Upgrade
Gathered at DRB's
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

33. DO ANY OF THE FOLLOWING CONSIDERATIONS APPLY: _____
a. AGE, GENERAL APTITUDE, LENGTH OF SERVICE AT TIME OF DISCHARGE: _____
b. EDUCATION LEVEL: _____
c. DEPRIVED BACKGROUND: _____
d. PERSONAL DISTRESS CONTRIBUTING FACTOR: _____
e. WAIVER GRANTED FOR ENTRANCE INTO SERVICE: _____
f. OFFENSES MOTIVATED BY CONSCIENCE: _____
g. DISCHARGED FOR USE OR ABUSE OF DRUGS OR ALCOHOL: _____
h. GOOD CITIZENSHIP: _____

PART V - Disqualifying Criteria
Gathered at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

34. DISCHARGED FOR ACT(S) OF VIOLENCE: _____
35. DISCHARGED FOR ACT(S) OF DISHONOR: _____
36. DISCHARGED FOR DESERTION IN OR FROM COMBAT THEATER: _____
37. DISCHARGED FOR OFFENSE(S) SUBJECT TO CIVILIAN CRIMINAL PROSECUTION: _____

PART VI - DRB Action
Gathered at DRB's
(NOTE: 1-YES: 2-NO; EXCEPT WHERE OTHERWISE NOTED)

38. INDEX REF: _____
39. CASE NO: _____
40. DRB REVIEW DATE: _____ DAY - MONTH - YEAR
41. AUTHORITY: DOD DISCHARGE PROG SPECIAL
42. CONCLUSION:
a. UPGRADE TO (1-HON; 2-GEN): _____
b. APPEAL DENIED: (3) _____
43. REASONS:
a. MET SPECIAL CONSIDERATION: _____
b. MET MITIGATING FACTORS: _____
c. COMPELLING REASONS TO CONTRARY: _____
d. DESERVING POST SERVICE CONDUCT: _____
44. VOTE OF DRB:
(1-5/0; 2-4/1; 3-3/2): _____

PART VII - Final Action/Rehearing Action
Gathered at DRB's or RCPAC
(NOTE: 1-YES; 2-NO; EXCEPT WHERE OTHERWISE NOTED)

45. DATE APPLICANT NOTIFIED OF UPGRADE AND CORRECTED DISCHARGE DOCUMENTS SENT: _____ DAY - MONTH - YEAR
46. DATE APPLICANT NOTIFIED APPEAL DENIED AND FURNISHED APPLICATION FOR REHEARING AB INITIO:
a. _____ DAY - MONTH - YEAR
b. SUSPENSE: _____ DAY - MONTH - YEAR
47. a. REQUEST DE NOVO _____
b. REQUEST DOD COUNSEL _____
48. FULL RELIEF REQUESTED:
a. _____ DAY - MONTH - YEAR
b. SUSPENSE: _____ DAY - MONTH - YEAR
c. DD FORM 293 RECEIVED _____

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ANNEX F (INFORMATION POLICY)

1. *Purpose.* This annex outlines DA policies for Public Affairs support of the DOD Special Discharge Review Program (Deserter Processing at Ft. Benjamin Harrison).

2. *Objective.* To provide a Press Center adjacent to the Processing Area, where media will be briefed and escorted. At the same time, to ensure that the privacy of the individual deserter is protected.

3. *General policies.* a. The Press Center will be manned by the local Public Affairs Office, ensuring that media representatives are escorted at all times while in the Processing Area.

b. A waiver which indicates no objection will be obtained from any deserter who is interviewed by the media.

c. A community relations and command information program will be maintained during the program to keep the public and the local military community informed.

d. Release of Personal data: (1) No public release of information pertaining to individuals will be made based solely on call-in to Joint Liaison Office (JLO) or service contact phone or personal visit to local camp/base/station to determine eligibility.

(2) Once an individual returns to military control and processing begins:

a. Public Affairs representatives should not characterize returnees as deserters but only reflect the fact they returned to military control.

b. A roster of returnees will not be relased by service initiative, or upon media request. The response to such query should be to the effect "The services consider this to be a matter of personal privacy. If returnees want to identify themselves to the media, they may do so."

c. If a request is received as to the status of returnees by name, the following information is releasable: Name; Rank; Last unit of assignment; Date of departure/return; Hometown; and Date of birth.

ANNEX G (LAW ENFORCEMENT)

1. *General.* a. Army deserters-at-large whose absence began during the Vietnam Era (August 4, 1964–March 28, 1973) who voluntarily return to military control for discharge under provisions of the Special Discharge Review Program (SDRP) will not be placed under guard or in confinement for the pending absence or desertion charge. Information obtained from eligible military absentees who decline to participate in the SDRP will be closely held and will not be used against either the absentee who inquired or other eligible absentees, to effect apprehension for unauthorized absence or desertion. Eligible persons wanted only for an absence or a desertion violation, will not be detained if they elect to abort their participation in the SDRP and depart the US military installation.

b. In the event an individual who returns to military control is wanted for a military offense, in addition to any absence or desertion violation, and a decision has been made that the charges will not be dismissed and the individual has been so advised, the case will be processed IAW normal procedures. In the event that an eligible deserter is wanted as the subject of a fugitive felony warrant for a State or Federal offense, disposition will be accomplished as instructed by Cdr, USAEREC. Other non-eligible individuals who appear on military installations should be handled as a routine walk-on returnees.

c. If, after having inquired concerning eligibility, an individual commits an offense or violation, the matter will be handled routinely IAW UCMJ to maintain good order and discipline.

2. *Verification of desertion status.* a. The USADIP will verify the status of any individual before action is initiated to process the subject as a returning military member eligible for consideration for discharge under the SDRP.

b. The USADIP is also responsible for verifying status of personnel not reflected on USADIP records as deserters but who claim to be deserters from the Vietnam Era. The USADIP will expedite administrative review of master personnel records jacket (MPRJ), JUMPS, OMF, EMF and RCPAC records in establishing the member's military status.

3. *Other criminal offenses.* a. Commander, US Army Criminal Investigation Command, will assist the USODIP in determining other military criminal involvement of inquiring individuals by providing copies of an CID reports, if necessary, to the Commander, USAEREC, for review.

b. The USADIP will request a decision from Commander, ADMINCEN to determine whether charges for other offenses will be dismissed or retained for possible prosecution, (see Annex B, para 8b(3)). When charges are not dismissed, action IAW para 1b above will be initiated. In addition, when the charge is a civilian fugitive felony warrant the USADIP NCIC Branch Chief will cause a Locate (LW) message to be placed on appropriate NCIC Wanted Person File record as required by the NCIC Operation Manual.

4. *Personnel in hands of civil authorities.* a. Personnel returning to military control for discharge under the SDRP who are apprehended by civil authorities for desertion will be permitted to proceed IAW instructions issued previously by USADIP.

b. Individuals apprehended by civil authorities for desertion who have not previously requested participation in the SDRP, will be advised when custody is assumed by military authorities that they may request participation on arrival at a US military installation. Eligibility must be verified IAW paragraph 2 above.

ANNEX H, FINANCIAL MANAGEMENT

1. *General.*—a. The purpose of this annex is to provide guidance for the funding, accounting, and reporting for Army costs incurred in support of the Special Discharge Review Program.

b. Additional funding provided by HQDA for support of this program will be used to finance the incremental costs only. Incremental costs are those which are incurred as a direct result of providing support in the program and which otherwise would not have been incurred.

c. MACOMs will initially provide the additional resources required to support this program.

2. *Funding—OMA:* a. FY 77/78 OMA funds will be used to finance the incremental costs of this program.

b. HQDA (DACA–OMP) provided funding guidance by separate message to all Army Commands. (DACA–OMA, 020106Z April 1977, subject, Discharge Review Board.)

c. TDY travel orders for personnel levied to augment the staff for the Joint Liaison Office (St. Louis), the Discharge Review Board (Washington, D.C.), and the Deserter Returnee Control Center (Ft. Benjamin Harrison, IN), will cite the OMA funds available to the individual's home station or activity, without regard to availability of travel target.

d. HQDA will fund all incremental OMA costs of the Deserter Returnee Control Center through USATRADOC to the Cdr, AD MINCEN. Control of the use of such OMA funds is the responsibility of USATRADOC. Within five working days following formal announcement of the program, Cdr, AD MINCEN, will provide USATRADOC a budget estimate of all OMA costs projected for the support of the program center.

3. *Funding—MPA:* a. Normally, costs incurred for return of deserters is a cost-charge situation reimbursable by the individual to the government to the maximum extent possible.

b. Transportation costs from point of return to military control to Fort Benjamin Harrison, except in those cases where the individual surrenders himself to his former duty station from which he commenced unauthorized absence, will be recouped up to, but not to exceed, the amount of pay and allowances due to the individual, and will be reimbursed to the special reimbursement account established in paragraph 3g below. Final pay voucher for deserter personnel will be prepared by the Centralized Pay Operations, USAFAC. In cases where transportation costs exceed reimbursements, the excess costs will be borne by the government. Individual member transportation costs from separation point to home of record or place of entry on active duty will be determined as outlined in Appendix B, Annex B (Deserters).

c. Installation Finance Offices are not authorized to make partial payments of accrued pay and allowances to returnees. The ADMINCEN FAO is authorized to pay up to a $25.00 discharge gratuity as provided by paragraph 40461, DODPM and any transportation and travel authorized upon separation by the JTR.

d. The ADMINCEN Finance and Accounting Office and US Army Finance and Accounting Center as appropriate will maintain summary costs data on all MPA expenditures and reimbursement transactions related to pay and allowances and PCS costs processed by that activity for personnel returning under the program.

e. All MPA costs for pay, allowances, PCS, and discharge gratuity of participating Army individuals will be charged to the "Merged" account as follows:

Officer Pay and Allowances, 21 M 2010 01–S99999.
Enlisted Pay and Allowances and Discharge Gratuity, 21 M 2010 01–S99999.
PCS Travel, MDC: ZAEM (Converts to 21 M 2010 01–S99999).

f. MPA costs for subsistence and clothing for participating individuals will be charged and reimbursed to current year MPA funds.

g. Recoupment of transportation costs from the point of return to military control to the separation point, except in those cases where the individual surrenders himself to his former duty station from which he commenced the unauthorized absence, will be reimbursed to the "Merged" MPA Accounts. Reimbursement will be processed to the maximum extent possible, but will not exceed the amount of pay and allowances due the returnee. Reimbursement will be applied to reimburse for current year costs (subsistence and clothing) to the extent that such costs were incurred for the returnee as a first priority. Any excess of reimbursements over current year costs will be reimbursed to the "Merged" account. Cost of unsettled TR's for deserter personnel may be recouped by USA FAC if discharges are later upgraded.

h. Only transportation charges authorized by Appendix 8 (Entitlements) to Annex B (Deserters) will be charged to the open allotment cited above.

4. *Accounting and Reporting:* a. *MPA.*—(1) Accounting classifications to be charged for pay, allowances, travel and transportation, and subsequent recoupment, if any, are provided in para 3e above.

(2) Reporting for MPA shall follow normal procedures. b. *OMA.*—(1) The following program elements have been designated for use with the Deserter Returnee Program and the Discharge Review Program. Commands

will use the program element listed below that corresponds to their carrier or major program to record all incremental costs for these programs.

Program:	Program element
2	202700.00000
3C	393112.00000
3I	381100.00000
3O	315115.00000
7S	721114.00000
8T	814700.00000
8M	847712.00000
8O	875700.00000
9	951111.00000

(2) Reporting of the above PE's will be IAW AR 37–108 and AR 37–151.

5. *Special reporting requirements:* A special reporting requirement for this program was imposed by HQDA letter (DACA–FAL–S), May 18, 1977, subject; DOD Special Discharge Review Program Costs Report, RCS DD–COMPT(Q) 1468. The DA letter provided special reporting instructions and report format. The first report will be as of June 30, 1977 and due to HQDA DACA–FAL–S) not later than July 25, 1977. The report is due from MACOMS to HQDA monthly thereafter until discontinued by the Office, Comptroller of the Army.

6. *Incremental costs:* a. Incremental costs will include overtime paid to civilian personnel, TDY travel and transportation, supplies, material, equipment, and contractual services directly identifiable to the program.

b. Incremental costs do not include the regular salaries of active duty Military or Civilian personnel, unless temporary hires have been specifically authorized by HQDA for the program.

c. Calculations used to compute costs, with supporting documentation, will be retained for audit purposes.

7. *Total costs:* Total costs will include all direct labor (Military and Civilian), material, supplies, equipment, contractual services and a normal distribution of indirect costs where applicable.

ANNEX I (RESEARCH)

1. The purpose of this annex is to provide guidance for the preparation of research reports for the deserter-at-large portion of the DoD Special Discharge Review Program.

2. Responsibilities for preparation of research reports are as follows:

a. Commander, U.S. Army Research Institute for the Behavioral and Social Sciences (ARI) will conduct research on the returned absentee population. Submit a final report to DAPE-HRL within 6 months after this phase of the Program ends. This report will be included in the overall after action report to DoD.

b. Commander, MILPERCEN will: (1) Provide statistical information as requested by Commander, ARI. The format and content of information to be captured is listed in appendix 1 to this annex.

(2) Arrange for transmission to ADMINCEN of data captured for merger with other data being gathered on the returnees.

c. Commander, ADMINCEN will: (1) Arrange for personal interview by qualified medical personnel of each returnee under the program. The format for such interviews will follow under separate cover.

(2) Arrange for key punching, and merging of the interview and record data into a single file which will be transmitted within 2 weeks following the end of this phase of the discharge review program, to Commander ARI.

(3) Before shipping the merged data file to ARI, Cdr, ADMINCEN will remove all personal identifying information to protect privacy of individuals involved.

APPENDIX 1 TO ANNEX I (RESEARCH).—*Format for returnees cards*

Item	Location	Name	Description
		A. CARD TWO	
1	1–9	SSN	SSN.
2	10–27	NAME	Name.
3	28–28	SEX	1=male, 2=female.
4	29–29	RACE	1=Caucasian, 2=Negro, 3=other.
5	30–35	DOB	DOB (YYMMDD).
6	36–36	MS AWOL	1=married, 2=other: single, etc.
7	37–38	HOR	State/country of origin.
8	39–39	CITIZEN	1=U.S.A., 2=non-U.S.A.
9	40–40	ED	Education at entry—1=0 to 11, 2=12, 3=13 to 20. NOTE.—GED=1.
10	41–41	SERVICE	0=unknown, 1=Army, 2=Navy, 3=Marines, 4=Air Force, 5=Coast Guard, 6=other.
11	42–42	GRADE	Grade at a.w.o.l. E–1 to E–9=1 to 9, O=officer.
12	43–43	ENTRY	1=RA, 2=US, 3=ER/NG.
13	44–49	BASD	BASD (YYMMDD).
14	50–54	PMOS	PMOS at a.w.o.l.
15	55–59	SMOS	SMOS at a.w.o.l.
16	60–62	GT	GT score.
17	63–65	AFQT	AFQT percentile score.
18	66–66	P. HEART	Purple Heart: 0 to 8, 9=9 or more.
19	67–67	VALOR	Number of valor awards: 0 to 9.
20	68–68	V–TYPE	Highest type valor award: 0=none, 1=DSC, 2=SS, 3=DFC, 4=BS–V, 5=AM–V, 6=DRCOM–V, 7=SM.
21	69–69	GCM	Good Conduct Medal: 1=yes, 2=no.
22	70–70	RVN	Assigned to draft in RVN: 1=yes, 2=no.
23	71–71	NCIC/LOC	DFR foreign country=1, DFR location unknown=2, not known to be DFR=3.
24	72–77	D–AWOL	Date of qualifying a.w.o.l. (YYMMDD).
25	78–78	P–AWOL	Location of unit from which he is a.w.o.l. 1=Conus, 2=USAREUR, 3=RVN, 4=other.
26	79–79	NOTE	Notification to Fort Ben: 1=man called, 2=family called, 3=letter of inquiry, 4=walk-in, 5=apprehended, 6=other.
27	80–80	CARD NO.	Card No. ("2").
		B. CARD THREE	
28	1–9	SSN	SSN.
29	10–14	NAME	5 places of last name.
30	15–16	CUR–ADD	State/country of current address.
31	17–17	DIS–TYPE	Type of discharge (see AR 635–200): 1=honorable, 2=general, 3=under other than honorable, 4=bad conduct, 5=dishonorable.
32	18–18	CH. OF DIS	Character of service at discharge (see form DD214): 1=honorable, 2=under other than honorable, 3=dishonorable.
33	19–24	D–DIS	Date of discharge (YYMMDD).
34	25–25	R–B	Requested Board: 1=yes, 2=no.
35	26–26	DR–B	Request review by Dis. Review Board: 1=yes, 2=no.
36	80–80	CARD NO.	Card No. ("3").

ANNEX J (SYSTEMS NOTICE)

PRIVACY ACT OF 1974

New System of Records

The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75–21075 (40 FR 35151) August 18, 1975.
FR Doc. 75–22781 (40 FR 41970) September 9, 1975.
FR Doc. 75–26296 (41 FR 2952) January 20, 1976.
FR Doc. 76–20187 (41 FR 28806) July 13, 1976.
FR Doc. 76–21185 (41 FR 30824) July 26, 1976.
FR Doc. 76–27015 (41 FR 39798) September 16, 1976.
FR Doc. 76–32920 (41 FR 49960) November 11, 1976.
FR Doc. 77–5005 (42 FR 9700) February 17, 1977.
FR Doc. 77–9080 (42 FR 16465) March 28, 1977.
FR Doc. 77–11071 (42 FR 20172) April 18, 1977.
FR Doc. 77–11277 (42 FR 20326) April 19, 1977.
FR Doc. 77–11857 (42 FR 21310) April 25, 1977.

Notice is hereby given that the Department of the Army submitted a proposed new system of records on May 10, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports required by the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a (o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Army invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to Headquarters, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20314 on or before June 20, 1977. The system will become effective, within 30 days (June 20, 1977), as proposed without further notice unless comments are received which result in a contrary determination.

A0727.05bDAPE

System name:

DOD Discharge Review Program (Special)

System location:

a. Primary manual/paper file record located at the Joint Liaison Office, US Army Reserve Components Personnel Administration Center (RCPAC), St. Louis, MO; at the National Personnel Records Center (NPRC) of General Services Administration (GSA), St. Louis, MO; US Army Administration Center, Ft. Harrison, IN; Army Discharge Review Board, The Pentagon, Washington, DC 20310; Army Council of Review Boards, Office, Secretary of the Army, The Pentagon, Washington, DC 20310. Demographic data on people applying will exist in the Office, Secretary of Defense.

b. Automated case summary information for all former military members, regardless

of Service, maintained by Headquarters, Department of the Army (HQDA), US Army Management Systems Support Agency. The Pentagon, Washington, DC 20310.

Categories of individuals covered by the system:

Former members of the Army who seek discharge upgrade action in accordance with Department of Defense special discharge review program and case summary sheet data on former military members of the Navy, Marine Corps, and Air Force, and the Coast Guard.

Categories of records in the system:

Contains information initially provided by individual when seeking discharge upgrade consideration: includes but is not limited to: Name, social security number (SSN), mailing address, telephone number, former service number(s), and dates of military service. File subsequently contains information provided by requester in written form; information includes discharge date (between August 4, 1964 and March 28, 1973 except where otherwise noted), type discharge, desertion data (if applicable), branch of service, SSN, service number(s), address, hearing method, and dates of confirmation letter.

Case data sheet consolidates preceding information as well as information provided from official military records pertaining to the requester and includes, but is not limited to, the following: index reference and case number associated with individual request date official military personnel file received from NPRC, date of birth, home of record, officer or inductee/enlistee, sex, race, date entered/discharged from service, reason and authority for discharge, documents submitted by individuals meriting special consideration, dates of accomplishment of steps related to processing of request; discharge review date; conclusions (upgrade to honorable, general, or appeal denied); vote of discharge review board and reasons (special considerations, mitigating factors, compelling reasons, deserving post service conduct); date of applicant notification of discharge review determination, and application for rehearing if applicable.

Information which may be obtained from military service records pertaining to the requester includes whether individual completed tour in Southeast Asia or Western Pacific, was wounded in combat, decorated for valor or merit, honorably discharged from previous tour, satisfactorily served 24 months prior to discharge or completed alternative service, or was excused in accordance with Presidential Proclamation 4313. Mitigating data pertaining to request include general aptitude, length of service at time of discharge, education level, socio-economic background, factors related to personal distress, waiver(s) granted for service entry, offense(s) motivated by conscience, drug/alcohol related discharge, and good citizenship. Disqualifying data include whether discharged for act(s) of violence/dishonor, offense(s) subject to civilian criminal prosecution, and desertion in or from combat theater.

Automated record contains summary data from case data summary sheet described above, accumulated by Army for all military services, and includes type record, SSN or service number(s), discharge date (between August 4, 1964 and March 28, 1973), name, address, telephone number, hearing method, date of inquiry, date of confirmation letter.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C., Sections 3012, 1553, and 1554.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

To support Army Discharge Review Board actions and notify appropriate government agencies (e.g., Veterans Administration) of matters pursuant to such action.

To render recurring reports on number of cases processed by each military service, and matters associated therewith.

To respond to inquiries from individuals to whom records pertain, their counsel, members of Congress, and other government agencies concerning the status and disposition of cases.

To obtain views and recommendations, as required, from other governmental activities within their area of responsibility including The Attorney General and other law enforcement agencies in those cases alleging acts of force or violence and criminal conduct deemed to be so serious as to warrant continued investigation or possible prosecution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in files, card indexes, computer magnetic tapes/disks, computer punch cards, and computer printouts.

Retrievability:

By name, SSN or service number, case number or other individually unique identifier assigned the record. Case Summary may be grouped by military service Discharge Review Board and thereunder filed alphabetically by name, case number, SSN or service number, or by other appropriate identifier.

Safeguards:

Manual records are stored in buildings which employ security guards; records are accessible only to authorized personnel.

Automated records are under the control of a cardkey access system which requires positive identification and authorization, and are located in a designated controlled area to which access is limited to selected personnel only.

Retention and disposal:

Final determination and associated supporting documentation incorporated into the Official Military Personnel Folder of the Army Council of Review Boards for a period upon completion of action by the Discharge Review Review Board. Copy of case data summary sheet for each former military service member (Army, Navy, Marine Corps, Air Force) and copy of a comprehensive final report by each military service upon completion of the program will be retained by the Army Council of Review Board for a period not yet determined.

Automated record information retained for 5 years or until such time as necessary to complete all special Discharge Review Board program actions and attendant administrative matters associated with accounting, reporting, and historical file maintenance in support of DOD requirements. Subsequently destroyed.

System manager(s) and address:

HQDA, ATTN: DAPE–HRL, The Pentagon, Washington, DC 20310.

Army Discharge Review Board, OSA, Room 1E–474, The Pentagon, Washington, DC 20310.

Commander, US Army Management and Systems Support Agency (for ADP portions of the DOD system).

Notification procedure:

Information may be obtained by contacting the respective military department discharge review boards. Addresses are as follow:

Office of the Secretary of the Army, ATTN: Discharge Review Board (Special Discharge Review Program), Room 1E–474, The Pentagon, Washington, DC 20310, Telephone: Area Code 202/697–3071.

Office of the Secretary of the Navy, ATTN: Discharge Review Board (Special Discharge Review Program), Room 910, Ballston Centre Tower No. 2, 801 North Randolph Street, Arlington, VA 22203, Telephone: Area Code 202/692–4991.

Office of the Secretary of the Air Force, ATTN: Discharge Review Board (Special Discharge Review Program), Room 920, Commonwealth Building, 1300 Wilson Boulevard, Arlington, VA 22209, Telephone: Area Code 202/694–5669.

Record access procedures:

Requests from individuals formerly with the Army should be addressed as indicated above. Written requests should contain the full name, SSN, former service number(s), address, telephone number and case number (if known) of the requester, and the fact that the request is related to the DOD Discharge Review Program (Special). Requests for information from other former service personnel should be addressed as indicated under "Notification procedure". (Requests of former members of the Coast Guard should be addressed to the Navy Discharge Review Board.)

For personal visits, the individual should be able to provide some acceptable identification such as driver's license and verbal information which can be used to verify that information contained in the record sought (e.g., SSN, former service number(s), address, and case number).

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA, ATTN: DAPE–HRL, The Pentagon, Washington, DC 20310.

Record source categories:

Official Army personnel files and related records.

Reports from the Navy, Marine Corps, and the Air Force.

Correspondence, documents, and other material generated as a result of action required by the DOD Discharge Review Program (Special).

Systems exempted from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 17, 1977.

ANNEX K (DESERTER REPORTING REQUIREMENTS)

REPORTING REQUIREMENTS

Note.—If computer program initiated, all reports will be computer derived.

1. Part I—Deserters-at-Large: a. Number who contacted military installations for information.

b. Number who return to military control and were separated:

(1) Type Separation (Manual for Standard Data Elements).

(2) Character of Discharge.

(3) Race/Ethnic Group (Manual for Standard Data Elements) AR 680–29 for codes and definitions.

(4) Date of Absence by Year.

[FR Doc.77–22734 Filed 8–9–77;8:45 am]

federal register

WEDNESDAY, AUGUST 10, 1977

PART V



COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

■

TEXTILE CATEGORY SYSTEM TO BE EFFECTIVE JANUARY 1, 1978

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

Effective January 1, 1978

AUGUST 5, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing Textile Category System to be effective January 1, 1978.

SUMMARY: A notice, published in the FEDERAL REGISTER on May 25, 1977, announced a plan to revise the textile category system used in the bilateral textile agreements negotiated with other countries under the Arrangement Regarding International Trade in Textiles. A proposed new system was included in the FEDERAL REGISTER notice and comments were solicited from interested parties. Comments received in response to the notice were evaluated and appropriate alterations and corrections are reflected in the system which is published below.

The new system is based on the existing system but will streamline and consolidate that system. Such revisions are designed to improve the implementation of bilateral agreements by strengthening category uniformity among fibers and reducing the incidence of category classification problems. The number of categories under the revised system will be reduced from 137 to 106. This system is based on the Tariff Schedules of the United States Annotated (TSUSA) numbers effective for 1977 and full descriptions of the composition of the categories are available in the TSUSA.

This system will be revised to reflect 1978 TSUSA numbers and published in the FEDERAL REGISTER at a later date.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-337-4212).

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

UNITED STATES 1978 TEXTILE CATEGORY SYSTEM

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	YARN			
	Cotton			
300	Carded	1	4.6	Lb.
		2		
		Pt 64:		
		300.6020		
		22		
		24		
301	Combed	3	4.6	Lb.
		4		
		Pt 64:		
		300.6026		
		28		
	Wool			
400	Tops & Yarn	101	2.0	Lb.
		102		
		103		
	Man-Made Fiber			
600	Textured	200	3.5	Lb.
601	Cont. Cell.	201	5.2	Lb.
602	Cont. non-cell.	202	11.6	Lb.
603	Non-cont. cell.	203	3.4	Lb.
604	Non-cont. non-cell.	204	4.1	Lb.
605	Other yarns	205	3.5	Lb.
	FABRIC			
	Cotton			
310	Gingham	5/6	1.0	Syd.
311	Velveteen	7	1.0	Syd.
312	Corduroy	8	1.0	Syd.
313	Sheeting	9/10	1.0	Syd.
314	Poplin & broadcloth	15/16	1.0	Syd.
315	Printcloth	18/19	1.0	Syd.
		Pt. 26:		
		320.--34		
		321.--34		
		322.--34		
		326.--34		
		327.--34		
		328.--34		

UNITED STATES 1978 TEXTILE CATEGORY SYSTEM

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	FABRIC cont.			
	Cotton cont.			
316	Shirting	20/21	1.0	Syd.
317	Twill & sateen	22/23	1.0	Syd.
318	Yarn-dyed, n.e.s.	24/25	1.0	Syd.
319	Duck	Pt 26:	1.0	Syd.
		320.01 thru .08		
		321.01 thru .08		
		322.01 thru .08		
		326.01 thru .08		
		327.01 thru .08		
		328.01 thru .08		
320	Woven fabrics, n.e.s.	11/12	1.0	Syd.
		13/14		
		17		
		Pt 26:		
		Remaining TSUSA Nos.		
		27		
	Wool			
410	Woolen & Worsted	104	1.0	Syd.
411	Tapestry & Upholstery	108	1.0	Syd.
425	Knit	110	2.0	Lb.
429	Other fabrics, n.e.s.	105	1.0	Syd.
		109		
	Man-Made Fiber			
610	Cont. cell., woven	206	1.0	Syd.
611	Spun cell., woven	207	1.0	Syd.
612	Cont. non-cell., woven	208	1.0	Syd.
613	Spun non-cell., woven	209	1.0	Syd.
614	Woven fabrics, n.e.s.	210	1.0	Syd.
625	Knit	211	7.8	Lb.
626	Pile & tufted	212	1.0	Syd.
627	Specialty	213	7.8	Lb.
	APPAREL			
	Cotton			
330	Handkerchiefs	32	1.7	Dz.
331	Gloves	39	3.5	Dpr.
332	Hosiery	40	4.6	Dpr.
		Pt 62:		
		374.1520		

UNITED STATES 1978 TEXTILE CATEGORY SYSTEM

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Cotton cont.			
333	Suit-type coats, M&B	Pt 49:	36.2	Dz.
		380.0940		
		0960		
		1240		
		1260		
		5104 ← 791.7414		
		Pt 63:		
		380.0043		
334	Other coats, M&B	Pt 48:	41.3	Dz.
		380.0910		
		0920		
		1210		
		1220		
		Pt 49:		
		376.5410		
		380.0980		
		380.0990		
		1280		
		1290		
		5108		
		Pt 62:		
		380.0003		
		0610		
		0006		
		0901		
		0615		
		Pt 63:		
		380.0040		
		0046		
335	Coats, W.G.I.	Pt 48:	41.3	Dz.
		382.0002		
		0004		
		0006		
		0008		
		0010		
		0012		
		1202		
		1204		
		1206		
		1208		
		1210		
		1212		
		Pt 49:		
		382.0914		
		0916		
		0918		
		0920		

UNITED STATES 1978 TEXTILE CATEGORY SYSTEM

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Cotton cont.			
335 cont.	Coats, W.G.I.	Pt 49:	41.3	Dz.
		382.0922		
		0924		
		1214		
		1216		
		1218		
		1220		
		1222		
		1224		
		3313		
		4208		
		Pt 62:		
		382.0004		
		.0006		
		0008		
		0010		
		0615		
		0620		
		0625		
		0630		
		Pt 63:		
		382.0052		
		0054		
		0056		
336	Dresses	53	45.3	Dz.
		Pt 62:		
		382.0012		
		0014		
		0635		
		0640		
		3908		
		6908		
337	Playsuits	54	25.0	Dz.
		Pt 62:		
		380.0015		
		0630		
		382.0020		
		0655		
338	Knit shirts, M&B	Pt 42:	7.2	Dz.
		380.0018		
		0021		
		0640		
		Pt 43:		
		380.0650		

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Cotton cont.			
338 cont.	Knit shirts, M&B	Pt 62: 380.0024 0027 0645	7.2	Dz.
339	Knit shirts & blouses, W.G.I.	Pt 42: 382.0022 0660 Pt 43: 382.0670 Pt 62: 382.0002 0024 0024 0605 0610 0665 3904 6904	7.2	Dz.
340	Shirts, not knit, M&B	45 46 47 Pt 63: 380.5112	24.0	Dz.
341	Blouses, not knit, W.G.I.	52	14.5	Dz.
342	Skirts	Pt 62: 382.0028 0675 3912 Pt 63: 382.0080 0082 3334 3336 3338 3340 3342 3344 4216	17.8	Dz.
343	Suits, M&B	Composition to be established for 1979	4.5	No.
344	Suits, W.G.I.	Composition to be established for 1979	4.5	No.

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Cotton cont.			
345	Sweaters	44 Pt 62: 380.0030 382.0030	36.8	Dz.
347	Trousers, M&B	50 Pt 62: 380.0033 0660 Pt 63: 380.0070	17.8	Dz.
348	Trousers, W.G.I.	51 Pt 62: 382.0032 0685 0690 3922 6916	17.8	Dz.
349	Brassieres, etc.	61	4.8	Dz.
350	Dressing gowns	55 Pt 62: 380.0009 0620 382.0016 0645 Pt 63: 382.7212	51.0	Dz.
351	Nightwear	60 Pt 63: 380.0052 0055 382.0072	52.0	Dz.
352	Underwear	41 56 57 58 59 Pt 62: 378.1012 1512	11.0	Dz.
359	Other apparel	Pt 62: Remaining TSUSA Nos. Pt 63: Remaining TSUSA Nos.	4.6	Lb.

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Wool			
431	Gloves	112	2.1	Dpr.
432	Hosiery	111 Pt 117: 374.3000	2.8	Dpr.
433	Suit-type coats, M&B	Pt 121: 380.0240 5134 6310 6610	3.0	No.
434	Other coats, M&B	Pt 121: 380.0245 5138 6320 6620 Pt 116: 380.5710 Pt 117: 380.6110	4.5	No.
435	Coats, W.G.I.	Pt 122: 382.0555 4238 6015 6020 6315 6320 Pt 117: 382.5820	4.5	No.
436	Dresses	Pt 116: 382.5420 Pt 117: 382.0210 3938 5830 6928 Pt 125: 382.4242 6025 6325 7028	4.1	No.

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Wool cont.			
438	Knit shirts & blouses	Pt 116: 380.5720 382.5410 Pt 117: 380.0205 6120 382.0205 3934 5810 6924	15.0	Dz.
440	Shirts & blouses, not knit	Pt 125: 380.0255 5142 6340 6640 382.0250 4234 6010 6310 7024	24.0	Dz.
442	Skirts	123 Pt 116: 382.5425 Pt 117: 382.0215 5840	1.5	No.
443	Suits, M&B	120	4.5	No.
444	Suits, W.G.I.	Pt 122: 382.4252 6040 6340 Pt 117: 382.0225 5845	4.5	No.
445	Sweaters, M&B	Pt 116: 380.5730 5740 5750 Pt 117: 380.0210 0215 0220 5000 6130 6140 6150	26.8	Dz.

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Wool cont.			
446	Sweaters, W.G.I.	Pt 116:	36.8	Dz.
		382.0430		
		5435		
		5440		
		Pt 117:		
		382.0220		
		0225		
		0230		
		3946		
		5600		
		5850		
		5860		
		5870		
		6932		
447	Trousers, M&B	Pt 124:	1.5	No.
		380.0265		
		5194		
		6360		
		6660		
448	Trousers, W.G.I.	Pt 124:	1.5	No.
		382.3952		
		4956		
		6045		
		6345		
		6936		
		7238		
459	Other wool apparel	113	2.0	Lb.
		114		
		115		
		118		
		119		
		Pt 116:		
		Remaining TSUSA Nos.		
		Pt 117:		
		Remaining TSUSA Nos.		
		Pt 125:		
		Remaining TSUSA Nos.		

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Man-Made Fiber			
630	Handkerchiefs	226	1.7	Dz.
631	Gloves	214	3.5	Dpr.
632	Hosiery	215	4.6	Dpr.
633	Suit-type coats, M&B	Pt 229:	36.2	Dz.
		380.0443		
		5164		
		8415 ← 791.7472		
		Pt 224:		
		380.0402		
		8103 ← 791.7462		
634	Other coats, M&B	Pt 229:	41.3	Dz.
		376.5610		
		380.0440		
		0446		
		5168		
		8410		
		8420		
		Pt 224:		
		380.0401		
		0404		
		8101		
		8107		
635	Coats, W.G.I.	Pt 229:	41.3	Dz.
		382.0462		
		0464		
		4268		
		8106		
		8108		
		8110		
		Pt 224:		
		382.0405		
		0407		
		7807		
		7809		
636	Dresses	216	45.3	Dz.
		230		
637	Playsuits	233	21.3	Dz.
		Pt 224:		
		380.0414		
		8127		
		382.0437		
		382.7841		

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Man-Made Fiber cont.			
638	Knit shirts, M&B	Pt 219:	18.0	Dz.
		380.0416		
		0417		
		8133		
		8135		
		Pt 219:		
		380.0419		
		8137		
639	Knit shirts & blouses, W.G.I.	Pt 219:	15.0	Dz.
		382.0430		
		7852		
		Pt 219:		
		382.0401		
		0403		
		3004		
		6004		
		7801		
		7850		
		Pt 224:		
		382.0455		
		7879		
		0403		
		7805		
640	Shirts, not knit, M&B	234	24.0	Dz.
		235		
641	Blouses, not knit, W.G.I.	238	14.5	Dz.
642	Skirts	240	17.8	Dz.
		246		
		Pt 224:		
		382.0411		
		7815		
643	Suits, M&B	Pt 224:	4.5	No.
		380.0490		
		8143		
		Pt 237:		
		380.0404		
		5196		
		8456		
644	Suits, W.G.I.	Pt 224:	4.5	No.
		382.0451		
		0869		
		Pt 237:		
		382.0478		
		1989		
		8126		

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	APPAREL cont.			
	Man-Made Fiber cont.			
645	Sweaters, M&B	Pt 221:	36.8	Dz.
		380.0423		
		8147		
646	Sweaters, W.G.I.	Pt 221:	36.8	Dz.
		382.0427		
		0430		
		3976		
		6952		
		7890		
		7893 ← 794.7456		
647	Trousers, M&B	Pt 223:	17.8	Dz.
		380.0428		
		8165 ← 791.7458		
		Pt 238:		
		380.0467		
		5184		
		8455 ← 791.7482		
648	Trousers, W.G.I.	Pt 223:	17.8	Dz.
		382.0414		
		3920		
		6966		
		7888		
		Pt 238:		
		382.0480		
		4986		
		7818		
		8128		
649	Brassieres, etc.	225	4.8	Dz.
650	Dressing gowns	221	51.6	Dz.
		Pt 224:		
		380.0408		
		8117		
		382.0417		
		7821		
651	Nightwear	217	72.0	Dz.
		222		
652	Underwear	223	16.0	Dz.
		229		
659	Other apparel	Pt 224:	4.8	Lb.
		Remaining TSUSA Nos.		
		227		
		240		

UNITED STATES 1978 TEXTILE CATEGORY SYSTEM

Category Number	Description: Fiber And Article	Composition: 1977 Category and/or TSUSA No.	Conversion Factor	Unit of Measure
	MADE-UPS & MISC.			
	Cotton			
360	Pilloweases	28/29 Pt 64: 363.0120	1.1	No.
361	Sheets	34/35 Pt 64: 363.0140	6.2	No.
362	Bedspreads & Quilts	36 Pt 64: 363.6025	6.9	No.
363	Terry & other pile towels	Pt 31: 366.1860 1880 2160 2180 2460 2480 2720	0.5	No.
369	Other cotton manufactures	30 Pt 31: Remaining TSUSA Nos. 33 37 38 64	4.6	Lb.
	Wool			
464	Blankets	106 107	1.3	Lb.
465	Floor coverings	131 132	0.1	Sft.
469	Other wool manufactures	126 128	2.0	Lb.
	Man-Made Fiber			
665	Floor coverings	241	0.1	Sft.
666	Other furnishings	242	7.8	Lb.
669	Other man-made manufactures	243	7.8	Lb.

[FR Doc.77-23081 Filed 8-9-77;8:45 am]

federal register

WEDNESDAY, AUGUST 10, 1977
PART VI

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylenebisdithiocarbamates

ENVIRONMENTAL PROTECTION AGENCY

[FRL 772-7; OPP-30000/18]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylenebisdithiocarbamates

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing ethylenebisdithiocarbamates (EBDC's).[1]

I. Regulatory Provisions

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 971, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in § 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in § 162.11(a)(3). It is emphasized that notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may also submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to Section 6(a)(1) of FIFRA.

B. *Rebuttal criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(3)(i) and (ii));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist, or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(3)(ii); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

C. *Benefits information.* In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant,[2] applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, § 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh the risks," the Administrator may issue a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA rather than a notice of intent to cancel or deny registration pursuant to Section 3(c)(6) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 3(c)(6) or Section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to Section 6(c) of the Act.

Stated below are the § 162.11(a)(3) risk criteria which the Agency has found to have been met or exceeded by registrations and applications for registration of pesticide products containing EBDC's. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Ethylenebisdithiocarbamates: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection in the Office of Special Pesticide Reviews. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provide. Specific inquiries concerning the Position Document, as well as requests for access to these files, should be directed to Project Manager Dr. Nancy Beach, Office of Special Pesticide Reviews (WH-566), EPA, Rm. 447, East Tower, 401 M St. SW., Washington, D.C. 20460, 202-755-8050.

II. Presumptions

A. *Acute toxicity: Hazard to wildlife, aquatic species.* 40 CFR 162.11(a)(3)(i)(B)(3) provides that a rebuttable presumption shall arise if a pesticide "(r)esults in a maximum calculated concentration following direct application to a 6-inch layer of water more than ½ the acute LC_{50} for aquatic organisms representative of the organisms likely to be exposed as measured on test animals specified in the Registration Guidelines."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing maneb and zineb for use on cranberries, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

B. *Oncogenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "(i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure * * *." As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402) states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing EBDC's, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

C. *Other chronic or delayed toxic effects.* 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that the risk index for teratogenicity has been exceeded by all registrations and applications for registration of pesticide products containing EBDC's, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

III. Grounds for Pesticide Review in Addition to Rebuttable Presumption Criteria

A. *General.* In addition to the risk criteria set forth in 40 CFR 162.11(a)(3) which require the issurance of a notice of rebuttable presumption against registration or continued registration and a determination by the Administrator to register or cancel a pesticide, 40 CFR 162.11(a)(6) provides that the Administrator may determine that a pesticide should be cancelled or that a hearing should be held if the pesticide poses a substantial question of safety to man or the environment "based on toxicological data, epidemiological studies, use history, accident data, monitoring data, or such other evidence as is available to the Administrator."

A determination to cancel or deny registration of a pesticide or to hold a hearing based upon such data and a finding that a pesticide poses a substantial question of safety need not be preceded by public notice and opportunity for rebuttal prior to the administrative adjudicatory hearing procedure of Section 6(b) of the Act. However, where the Agency is using a notice of rebuttable presumption against registration or continued registration based on the risk criteria of 40 CFR 162.11(a)(3), it is in the public interest to include all evidence which may indicate additional grounds for determining that a pesticide causes unreasonable adverse effects on the environment. Accordingly, evidence derived from studies on EBDC and the degradation product ethylenethiourea (ETU) suggests that EBDC's and ETU cause thyroid disfunction in rodents; skin sensitization in humans and rodents; and mutagenic effects in humans, rodents, and bacteria. The studies in which these effects have been observed are described in the Position Document. Because these effects are of concern to the Agency, it is soliciting relevant information or comment on them.

IV. Registrations and Products Subject to the Notice Claim of Business Confidentiality

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existnig against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until October 24, 1977, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of any extension, if granted, will appear in the Federal Register.

A registrant or applicant for registration may, if it desires, assert a business confidentiality claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906, September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some, but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

V. Duty to Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to Section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of EBDC products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

IV. Public Comments

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of EBDC's, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to that in humans, is solicited. Similarly, any studies or comments on the benefits from the use of EBDC's are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to § 162.11(a)(5).

All comments and information should be sent to:

Federal Register Section, Technical Services Division (WH-569), room 401 East Tower, 401 M St. SW., Washington, D.C. 20460.

Three copies of the comments or information should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/18." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii).

Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal work-

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency Working Group on EBDC's and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

ing hours since: (1) all of the information received may serve as a basis for final determination pursuant to § 162.11 (a) (5), and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Omissions will be corrected by notice in the FEDERAL REGISTER.

Dated: August 2, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, for Pesticide Programs.

ETHYLENEBISDITHIOCARBAMATES: POSITION DOCUMENT 1

ETHYLENEBISDITHIOCARBAMATES WORKING GROUP NANCY BEACH, PH.D., PROJECT MANAGER OFFICE OF SPECIAL PESTICIDE REVIEWS U.S. ENVIRONMENTAL PROTECTION AGENCY

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INTRODUCTION

The ethylenebisdithiocarbamates (EBDC's) are a subgroup of a large group of organosulfur compounds, the dithiocarbamates. Complexes of metals with EBDC's constitute the most important agricultural fungicides in current use. Six EBDC's have registered fungicidal uses in the United States: Amobam®, nabam, and four metal complexes—metiram, mancozeb, maneb, and zineb.

I. BACKGROUND

A. *Nomenclature.* Table I gives those names (common and chemical) accepted for use in the ingredient statement on pesticide products as required by FIFRA regulations (*1*). The trade names and the Chemical Abstracts Service (CAS) names and registry numbers are also tabulated. Because no common name has been approved for Amobam®, this trade name will be used in this document.

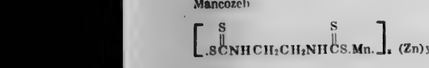
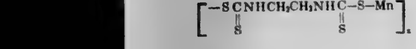
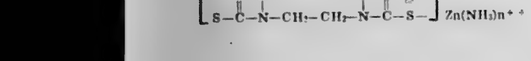
B. *Chemical and physical properties.* Table 2 presents the chemical structure, molecular formula, molecular weight, solubility, and other physical and chemical properties associated with each EBDC.

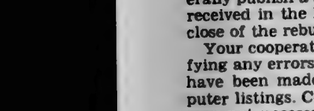
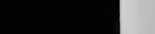
TABLE 1.—*EBDC nomenclature*

Common name	Label chemical name	Trade name(s)	CAS name	CAS No.
1. None	Diammonium EBDC	Amobam®	Carbamodithioic acid, 1, 2-ethanediylbis-, diammonium salt.	3566-10-7
2. Mancozeb [1]	(2)	Dithane® M-45, Manzate® 200	[[1,2-ethanediylbis [carbamodithioato]] (2-)] manganese mixture with [[1,2-ethanediylbis [carbamodithioato]] (2-)] zinc.	8018-01-7
3. Maneb	Manganese EBDC	Manzate®, Dithane® M-22, Parzate®	[[1,2-ethanediylbis [carbamodithioato]] (2-)] manganese.	12427-38-2
4 Nabam	Disodium EBDC	Dithane® D-14,	Disodium 1,2-ethanediylbis [carbamodithioate].	142-59-6
5. Metiram [1]	(3)	Polyram®	Metiram	9006-42-2
6. Zineb	Zinc EBDC	Dithane® Z-78	[[1,2-ethanediylbis [carbamodithioato]] (2-)] zinc.	12122-67-7

[1] Recognized in Europe but not yet established in the United States. These names will be used in this document for convenience.
[2] Zinc ion and manganese ethylene bisdithiocarbamate 80 percent, a coordination product of manganese 16 percent, zinc 2 percent, ethylene bisdithiocarbamate 62 percent.
[3] Mixture of 5.2 parts by weight (89.9 percent) of ammoniates of [ethylenebis(dithiocarbamato)] zinc with 1 part by weight (16.1 percent) ethylenebis[dithiocarbamic acid], bimolecular and trimolecular cyclic anhydrosulfides and disulfides.

TABLE 2.—*Chemical and physical properties of EBDC's*

Chemical structure	Molecular formula	Molecular weight	Physical properties	Solubility
Amobam® 	$C_4H_{16}N_4S_4$	246.21	Unstable as dry material; aqueous solutions pale yellow to green; melting point 72.5° to 72.8°C (2).	Soluble in water; slightly soluble in alcohol and acetone; insoluble in ben- and heptane (2).
Mancozeb 	(1)	(2)	Greyish-yellow powder which decomposes before melting; flash point 138°C (3).	Practically insoluble in water and in most organic solvents (3).
Maneb: (a) Monomer 	$C_4H_6N_2S_4Mn$	265.3	Yellow crystalline solid which decomposes before melting and on exposure to moisture or to acids (3).	Slightly soluble in water and insoluble in most organic solvents (3).
(b) polymer(s) 	$(C_4H_4MnN_2S_4)_x$	(2)	Light-colored solid which decomposes before melting and on exposure to moisture or acids (3).	Similar to monomer.
Metiram 	(1)	(2)	Light-yellow solid which melts above 120°C with decomposition; unstable under strongly acid or alkaline conditions or a combination of heat and moisture (4).	Practically insoluble in water and in most organic solvents; soluble with decomposition in pyridine (Martin, 1974).

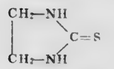
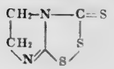
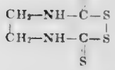
Chemical structure	Molecular formula	Molecular weight	Physical properties	Solubility
where n=1 or 2  where the sum of x+y=2 or 3				
Nabam 	$C_4H_6N_2Na_2S_4$	256	Colorless crystals of limited stability; generally marketed in solution (3).	Soluble in water (20 percent) to form yellow solution (3).
Zineb (a) Monomer 	$C_4H_6N_2S_4Zn$	275.8	Off-white solid which decomposes before melting; negligible vapor pressure at 25°C; somewhat unstable to light, heat, and moisture (3, 6).	Practically insoluble in water (10 p.p.m. at 25°C) but soluble in pyridine, chloroform, and carbon disulfide (3, 5).
(b) Polymer(s) 	$(C_4H_4N_2S_4Zn)_x$	(2)	Light-colored powder produced when precipitated from concentrated aqueous solutions of Amobam® or nabam with zinc sulfate (3, 7).	Similar to monomer.

[1] Variable (see table 1).
[2] Indefinite.

The chemistry of the EBDC's is complicated by their instability and their propensity to form polymers, especially in the presence of certain ubiquitous metallic ions. They are subject to a manifold degradation which begins with production and continues with storage and application (*8*). Important factors influencing chemical degradation are presence of oxygen, humidity, temperature, and pH (*8*). A number of common degradation products have been identified; the names, chemical structures, and other information are presented in Table 3 for the major ones. While all of these and other degradation products can result from EBDC degradation, the relative proportions of them do appear to be different for the individual EBDC's. Ethylenethiourea (ETU) appears to be the dominant degradation product of zineb, whereas nabam and maneb yield a larger proportion of ethylenebisdiisothiocyanato sulfide (EBIS) (*8*).

ETU has been detected in 28 different commercial formulations containing maneb, zineb, or mancozeb (*9*). The amount of ETU in commercial formulations has been shown to increase with storage under controlled laboratory conditions of elevated temperature and humidity. Formation of ETU appeared to be greatest in maneb formulations; amounts ranged up to 14.5 percent after 39 days of storage. Formulations of zineb and mancozeb developed as much as 10 percent ETU over the 39-day storage period (*10*).

TABLE 3.—*EBDC degradation products*

Name and chemical structure	Molecular formula	Molecular weight	CAS name	CAS number	Physical chemical properties
Ethylene thiourea (ETU). 	$C_3H_6N_2S$	102.2	2-imidazolidinethione.	96-45-7	White crystals melting at 203° to 204°C; soluble in water; insoluble in acetone, ether, chloroform, and benzene (11).
Ethylenebis-diisothiocyanato sulfide (EBIS) 	$C_6H_4N_2S_5$	176.3	3H-imidazo [2,1-c]-1,2 4-dithiazole-3-thione, 5,6-dihydro.	33813-20-6	White powder that melts at 121° to 124°C.
Ethylenethiuram disulfide (ETD) 	$C_4H_8N_2S_4$	210.3	1,2,4,7-Dithiadiazocine-3,8-dithione, tetrahydro.	3082-38-0	

Ethylenethiuram monosulfide (ETM). $C_4H_8N_2S_3$ 178.3 ... ... [1] 3313-20-6



[1] Chemical abstracts service assigns the same registry number to ETM and EBIS because the chemical structure for what had been referred to as ETM was shown in 1971 to be actually that of EBIS (12).

In 1973, Canadian scientists reported that boiling converts zineb on food to ETU. Amounts of ETU in the cooked foods were from five to fifteen times greater than those in the uncooked samples (*13*). In other studies, the application of heat (100°C) for 10 minutes degraded mancozeb, maneb, and zineb suspensions in a mixture of dioxane and water primarily to ETU (*14*). American scientists corroborated these findings and showed that the percentage of ETU formed (on a weight/weight basis of ETU/EBDC) upon cooking spinach, carrots, and potatoes fortified with EBDC's ranged from 11.2 percent for maneb in potatoes to 26.5 percent for metiram in spinach. (*15*).

Result of a 1974 collaborative analytical study designed by USDA and EPA and including several government and industry laboratories clearly showed that snap beans treated with maneb under commercial conditions contained ETU after commercial canning (*16*).

A monitoring program initiated in 1972 by the Canadian government and published in 1975 found that 33 percent of food samples contained detectable ETU residues (*17*). In particular, samples of canned spinach and orange peels had averages of 0.047 ppm and 0.083 ppm ETU, respectively.

In Canadian field tests on tomatoes, 24 to 37 percent of the initial EBDC residue remained on the tomatoes 14 days after application (*18*). When these tomatoes were heated, 38 to 48 percent of the EBDC residue was converted to ETU. Residues of ETU measured after cooking ranged from 0.006 to 1.42 ppm.

A recent study (*19*) on the effects of commercial food processing on residues of EBDC's and ETU appears to support the finding that during commercial processing, as well as home cooking, EBDC residues in food are converted to ETU causing a subsequent increase in ETU residues. This study is currently being reviewed by EPA chemists.

C. *Analytical methodology.* From the establishment of the first EBDC tolerances for zineb in 1955, the official analytical methodology used by the Food and Drug Administration (FDA) for the analysis of EBDC residues on food has been a nonspecific method based on the colorimetric determination of a yellow complex formed by reaction of evolved carbon disulfide (CS_2) with a reagent after acid hydrolysis of the sample (*20*). Because the method is incapable of distinguishing between residues of individual EBDC's, all EBDC tolerances are established for residues calculated as zineb.

A further limitation of the method is its inability to distinguish EBDC residues from those of another major subgroup of dithiocarbamate fungicides, the dimethyldithiocarbamates (ferbam and ziram). Refinements of this basic methodology have been reported, but no official methodology exists today that will separate and measure residues of individual EBDC's on crops.

Analytical methodology for ETU has been more actively developed because of concern about its presence in food. The FDA methodology for EBDC residues does not detect ETU since ETU cannot evolve CS_2. Several reports have appeared describing ETU analytical methods, all of which are refinements of a basic gas-liquid chromatographic (GLC) technique first reported by EPA chemists in 1971 (*21*). There was no official ETU method as used by FDA until June 14, 1977, when the GLC method, refined by EPA chemists (*22*), was approved for "interim first action" status by the Association of Official Analytical Chemists (AOAC). (This action is expected to be followed by AOAC adoption to "official first action" status in October, 1977.)

Nine laboratories have tested the EPA method, which can detect as little as 0.004 ppm ETU, and have reported recovery of 85 to 97 percent ETU from fortified foods (*23*). It is now the official method for use by FDA in surveillance and compliance programs.

D. *Manufacturing process, technical products, and formulations.* The method "thought to be used" for the commercial production of zineb is reaction of ethylenediamine (EDA) with CS_2 in the presence of alkali followed by precipitation of zineb with addition of zinc sulfate (*24*). Zineb can also be made, as is often done in the field, by mixing nabam or Amobam ® with zinc sulfate (*24*). The preparation of maneb is analogous to that of zineb except that manganese sulfate is used in place of zinc sulfate for its precipitation (*25*). Mancozeb can be prepared from an aqueous slurry of maneb and a water-soluble zinc salt (*26*). Amobam ® and nabam are also made by reaction of EDA and CS_2 in the presence of either NH_3 to yield the diammonium EBDC or NaOH to yield the disodium EBDC (*7*). Metiram is made by reaction of EDA and CS_2 in the presence of zinc oxide and hydrogen peroxide (H_2O_2) or by oxidation of an aqueous solution of nabam with H_2O_2 followed by precipitation with zinc sulfate (*7*).

Formulations with the indivilual EBDC's as the sole active ingredient include dusts, wettable powders, concentrates (solid, solution, and suspension), and other types (Tables 5).

In addition to the formulated products which contain EDCC's alone as active ingredients, there are numerous products in which they are mixed with other active ingredients such as ferbam, thiram, ziram, endosulfan, carbaryl, rotenone, parathion, lindane, methoxychlor, captan, toxaphene, malathion, pentachloronitrobenzene, sulfur, streptompcin sulfate, pyrethrins, copper, methompyl, and others.

Table 5 gives number of Federal and State registrations for each EBDC.

TABLE 4.—*Formulations with EBDC's as sole active ingredient. All numbers are expressed as percentages*

EBDC	Dust		Wettable powders	Concentrates			Other
	Ready to use	Sprayed		Solid	Solution	Suspension	
Amobam®					42–48		
Mancozeb	0.06–80	5.6–80	80	80	80		3.75 (fertilizer containing pesticides)
Maneb	1.4–50	80	40–90	40–80	37–42.5	25–80	35 (granular pellets)
							1.9–10 (fertilizer containing pesticides)
							1.4 (dust, pressurized)
							3.2 (coating for inanimate surfaces)
Metiram	3.5–53.5		80	80			7 (nonaqueous solutions, used undiluted)
Nabam				22–93		22	22 (aqueous solution, used undiluted
Zineb	5–19.5		(1)	75	75	25	6.5 (granular pellets)

[1] Generally 75.

TABLE 5.—*EBDC registrations*

EBDC	Registrations	
	Federal	State
Amobam®	2	0
Mancozeb	77	34
Maneb	217	89
Metiram	31	2
Nabam	48	1
Zineb	268	87

E. *Production.* Production data are confidential information under Section 7(c) and 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and are therefore prepared for EPA use only (*27*). The last published production data for zineb and nabam were 1,125,000 kg (2,500,000 pounds) and 872,000 kg (1,900,000 pounds), respectively, and 1969 in the U.S. (*28*). Production dota for Amobam ® were not published for that year. Production of maneb in 1972 was estimated at 5.5 million kilograms (12,100,000 pounds) with exports of 2 million kilograms (4,400,000 pounds) (*29*).

F. *Registered uses.* Table 6 shows the registered uses for each EBDC.

G. *Human and environmental exposure.*—1. *Food.* From 1964 to 1970, the dithiocarbamates were included in the Food and Drug Administration's (FDA) "Total Diet Program" which analyzes pesticide residues in composite food samples collected from retail stores and prepared for consumption. During these years very few samples were found with dithiocarbamate residues. Beginning in October 1970, dithiocarbamate analyses were discontinued, the suggested rationale for this decision being that "dithiocarbamates are not considered as being regular components of the dietary intake of pesticide residues because of the continued low incidence and levels" (*30*).

TABLE 6.—*Registered uses of EBDC fungicides by site*

EBDC	Food	Other
Amobam®	Over 20 fruit, nut, vegetable, and field crops	Some ornamental plants.
Mancozeb	Over 25 agricultural fruit, vegetable, and field crops and many seeds.	Agricultural ornamentals.
Maneb	Over 40 fruit, vegetable, and field crops and many seeds.	Do.
Metiram	Over 10 fruit, vegetable, and field crops, and several seeds.	Do.
Nabam	Over 35 fruit, vegetable, and field crops	Industrial recirculating water cooling towers, air washers, evaporative condensers, pulp and paper-mills, and cane sugar mills; and leather, tobacco, agricultural ornamentals, and cotton.
Zineb	Over 50 fruit, vegetable, and field crops and many seeds.	Paints, fabrics, leather, linen and other surfaces (painted, paper, plastic, wood), and tobacco and many agricultural ornamentals.

Because the FDA analytical procedure for dithiocarbamates has serious limitations, results of the "Total Diet Program" analyses cannot be considered a realistic measure of human exposure to EBDC's or ETU. These limitations are: 1. The analytical method did not distinguish EBDC's from other dithiocarbamates. 2. No correction was made for recoveries, yet recovery experiments indicated that for dithiocarbamate residues recovery could be as low as 36 percent (*31*). 3. Until June 1968, commodities in those food categories that had dithiocarbamate residues were cooked before analysis, and cooking destroys part or all of the EBDC residues. 4. The method did not detect ETU.

A second FDA program, which examines samples of raw agricultural commodities for wholesale distribution, probably obtains results more reflective of the actual EBDC residues because no residues are lost in cooking. The few data obtained in this program indicate that dithiocarbamate residues are greater than those measured in the total diet program. Notably high residues were found in leaf and stem vegetables, the highest (23 ppm) having been measured in a spinach sample collected in Texas in 1972. Although residues showed up primarily in leaf and stem vegetables, 3.6 ppm was measured for one large fruit sample collected during 1967–1968 (*32*).

2. *Episodes.* A review of incidents involving EBDC's that have been reported to EPA's Pesticide Episode Response System (PERS) since 1972 revealed only two episodes which were directly related to an EBDC product and in which the EBDC was the sole active ingredient. Both episodes involved crashes of aerial applicators spraying mancozeb. No adverse effects on human, plants, or animals were reported in these two incidents. Several cases of skin or eye irritation were reported in workers in greenhouses or plant nurseries, but in none of these cases were the inert ingredients (solvents, etc.) identified nor was the involvement of the EBDC alone verified. It cannot therefore be concluded that this irritation was caused by the EBDC's.

Contact dermatitis has been reported in 86 farm workers who worked in fields sprayed with 0.5 Percent suspension of zineb. In 19 of 22 workers who had repeated contacts with zineb, the developing dermatitis was extensive and severe (*33*).

II. REGULATORY HISTORY

The United States established the first tolerances for pesticides under Section 408 of the Food, Drug and Cosmetic Act in 1955 after public hearings conducted by the Food and Drug Administration. Zineb was the only EBDC fungicide for which tolerances were set. Tolerances of 7 ppm of zineb on "fruits and vegetables" were established on "very little data showing residues from actual commercial use" and with the knowledge that oral administration of zineb to male and female weanling rats at 5 and 2,000 ppm for 10 days produced thyroid hyperplasia at the high dosage but not at the low one. Studies published in 1948 had reported definite goitrogenic effects associated with oral administration of 1,000 ppm of another EBDC, nabam, to weanling rats for 9 or 10 days (*34*). The two companies holding patents on zineb at the time, Rohm and Haas and E. I duPont de Nemours, had requested tolerances of 20 ppm on various fresh fruits and vegetables.

Maneb tolerances were first established in October 1955 at the request of duPont (PP No. 21). A 7 ppm tolerance was allowed for maneb on more than 20 crops.

In 1957, tolerances for zineb on spinach, lettuce, and six other related crops were increased from 7 ppm to 25 ppm; new tolerances of 25 ppm on Chinese cabbage and romaine were granted with the condition that the interval between application and harvest be increased since, as noted by the chemistry reviewer, "contradictory to our previous information indicating chemical instability and rapid dissipation of dithiocarbamate residues, the Rohm and Haas residue data show that residues of the dithiocarbamates are quite persistent" (*35*). Data supporting these two petitions (PP No. 76 and No. 101) were obtained in a 2-year feeding study in rats and a 1-year feeding study in dogs (*36*). In the rat study, mild thyroid hyperplasia was seen in about 40 percent of animals at 500 ppm, the lowest of five test doses. Goitrogenic effects were induced by the other four doses. In the dog study, only the highest of three doses (20, 2,000, and 10,000 ppm) caused thyroid hyperplasia. Although the toxicologist reviewing the data concluded that the increased tolerances be granted, he cautioned that "because of the seriousness of the goitrogenic effect to some people, we do not believe that a tolerance of 25 ppm should be extended to all crops which now have a tolerance of 7 ppm of the dithiocarbamates. More evidence on the actual human intake of these substances and/or more evidence on safety would be required" (*37*).

The first mancozeb tolerance was established in December 1962 for 15 ppm on bananas (PP=374). The first metiram tolerances were established in July 1967 for five crops (apples, celery, cantaloupe, cucumbers, and tomatoes) (PP No. 488). The highest metiram tolerance was 7 ppm on apples. Toxicity data submitted in support of these tolerances included 2-year feeding studies of dogs and rats and a three-generation rat reproduction study.

Final action on a tolerance petition for 1 ppm of zineb on potatoes, submitted in 1970, was never taken because of notification by FDA (*38*) that results of an FDA study of rats fed ETU were confirming findings of carcinogenic activity reported previously (*39*). These results, plus the fact that EPA chemists had found ETU in commercial EBDC formulations and at enhanced

concentrations with elevated temperature and humidity (*40*), led those in charge of setting tolerances to recommend in October 1971 revocation of EBDC tolerances for all uses except those for which no residues were detected (*41, 42, 43*). No action was taken on revocation primarily because evidence that there were significant residues of ETU on crops was insufficient. Representatives of three principal EBDC procedures (du Pont, Rohm and Haas, and FMC) met with EPA in early 1972 and agreed to work with the Agency to reduce the tolerances for the major crops on which EBDC's are used (*44*).

Subsequently, tolerances for EBDC residues on major crops were lowered. Current tolerances for mancozeb, maneb, metiram, and zineb appear in the Code of Federal Regulations (40 CFR) at 180.176, 180.110, 180.217, and 180.115, respectively. Interim tolerances for mancozeb, metiram, and zineb appear at 40 CFR 180.319.

FDA allows 3 ppm nabam to control microorganisms in cane sugar and/or beet sugar mills (40 CFR 121.1155) and to control slime formation in the manufacture of paper and paper board that contact food (40 CFR 121.2505).

In 1973, FDA revoked the use of a food additive, 2-mercaptoimidazoline, on the grounds that it could rearrange to form ETU, a carcinogen (*45*). In 1974, FDA proposed to regard any drug or cosmetic product or medical device as adulterated if 2-mercaptoimidazoline was used in the manufacture of components which might come into contact with a user, a patient, or a drug product (*46*). No final regulation has yet been published.

In evaluations of the EBDC's from 1965 through 1970, the FAO WHO Joint Meeting of Pesticide Experts recommended an acceptable daily intake (ADI) for man (0 to 0.025 mg per kilogram body weight). In the 1974 FAO WHO evaluation, a new and lower temporary ADI (0.005 mg/kg was recommended on the basis of reports that the EBDC's are teratogenic and that ETU is teratogenic, mutagenic, and oncogenic. The new ADI is in effect until the November 1977 Joint Meeting where re-evaluation of the EBDC's is planned (*47*).

In August 1976, after a series of meetings with Agriculture Canada and with the major EBDC manufacturers, the Canadian government revoked all EBDC tolerances and replaced them with interim tolerances to cover only essential uses for which there are no suitable alternative fungicides available (*48*). The Canadian action was taken because ETU had been shown to have oncogenic, teratogenic, and weak mutagenic activity.

III. SUMMARY OF SCIENTIFIC EVIDENCE TO SUPPORT REBUTTABLE PRESUMPTION

The following adverse effects of EBDC's meet or exceed the criteria for issuance of a rebuttable presumption against registration (RPAR).

A. *Hazard to wildlife: Aquatic organisms.* Section 162.11(a)(3)(i)(B)(3) specifies that a rebuttable presumption shall arise against a pesticide's use for direct application to water of such use would result in concentrations in a 6-inch layer of water more than one-half the acute LC_{50} for aquatic organisms likely to be exposed. Data indicate that pesticide products containing maneb labeled for use agains cranberry fruit rot at an application rate of up to 6 pounds active ingredient per acre results in a concentration of 4.4 ppm in a 6-inch layer of water. McCann (*49*) reported a 96-hour LC_{50} of 0.99 to 1.00 ppm for bluegills. Data further indicate that zineb products labeled for use against cranberry fruit rot at an application rate of up to 4.8 pounds active ingredient per acre results in a concentrain of 3.52 ppm in a 6-inch layer of water. A 26-hour LC_{50} of 0.2 ppm has been reported for Daphnia magna (*50*). Therefore, the criterion of § 162.11(a)(3)(i)(B)(3) is exceeded for maneb and zineb.

B. *Oncogenic effects in test animals.* 40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) induce(s) "oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure." 40 CFR 162.3 (bb) defines the term "oncogenic" as "the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formation in living animals."

1. *Maneb.* Mice were given a single weekly dose of maneb (500 mg/kg body weight) by stomach tube for 6 weeks. Lung adenomas developed in 4 of 42 test animals, but none appear in 44 control animals of one strain. In a second stain lung adenomas developed in 23 of 42 test animals compared to 12 of 45 controls $p=0.007$ (*51*).

In a 1976 evaluation of the carcinogenic risk of maneb, a working group of the United Nations International Agency for Research on Cancer (IARC) concluded from this study that maneb produced an increased incidence of lung tumors in mice of the second strain (*25*). The EPA Carcinogen Assessment Group (CAG) subsequently reviewed this study and concluded that "oral administration of maneb significantly increased the incidence of benign tumors of the lung in one strain of mouse" (*52*).

2. *Zineb.* Mice of two strains (A and C57BL) were given weekly doses of zineb (3,500 mg/kg body weights; purity unspecified) by stomach tube in 1 percent starch solution for 6 weeks and then sacrificed 3 months after the last dosing. Lung adenomas were found in the treated animals of both strains and in the controls of strain A but not in the controls of the C57BL strain (*53*). When mice of the C57BL strain were given lower weekly doses of zineb (1,750 mg/kg body weight) by the same administration route but over a longer period of time (11 weeks), lung adenomas were found in the treated animals but not in controls. The number of mice that developed lung adenomas are given in Table 7.

TABLE 7.—*Numbers of zineb—treated mice that developed lung adenomas*

Dose	Strain A		Strain C57BL	
	Treated	Controls	Treated	Controls
3,500 mg/kg	35/101	30/97	6/79	0/87
1,750 mg/kg	(1)	(1)	2/29	0/59

[1] Not treated

In a 1976 evaluation of the carcinogenic risk of zineb, IARC concluded from this study that zineb produced an increased incidence of lung tumors in mice of one strain (*25*). CAG subsequently reviewed this study and concluded that "strain C57BL mice ingesting zineb had an increased incidence of lung adenomas" (*52*).

3. *Ethylenethiourea.* ETU, the degradation product and metabolite common to all the EBCD's, is oncogenic in mice and rats.

a. *Mice.* Two strains of mice given a single oral dose of ETU (646 ppm) daily for over 80 weeks developed liver tumors, lung tumors, and lymphomas (*39,54*). (Thyroid glands were not examined for histopathologic changes.) Liver tumors developed in 100 percent of the females of strain X compared with 0 percent in controls ($p<0.001$) and in 100 percent of the males of strain Y compared with 6 percent in controls ($p<0.001$). In strain X males, liver tumors developed in 88 percent of the animals compared with 21 percent in controls ($p<0.001$). In strain Y females, 58 percent of the animals had liver tumors compared with none in the controls ($p<0.001$) (*52*). The incidence of liver tumors is given in Table 8.

TABLE 8.—*Numbers of male and female mice with malignant tumors of the liver*

Strain	Dose (parts per million)	Tumor of the liver	
		Male	Female
X	0	[1] 3/14	0/18
X	646	[1] 14/16	18/18
Y	0	1/18	0/18
Y	646	18/18	9/16

[1] Information on missing mice is not available.

In a 1974 evaluation of this study, IARC commented that "the reported increased incidence of liver cell tumors in two strains of mice following oral administration awaits confirmation" (*11*). However, at that time, IARC did not have all the details of the Innes study; in particular, they lacked the NTIS report, which presents more complete information. CAG concluded that ETU "induced highly significant incidences of tumors of the liver in males and females of both strains. There also were significant increases in tumors at all sites, but this was essentially due to the increase in liver tumors" (*52*).

b. *Rats.* ETU has been administered orally to rats in two different studies. In the first, two doses (350 and 175 ppm) were given daily for 18 months and the animals were observed for 6 months. Thyroid carcinomas were produced in test animals at both doses, but they did not occur in the controls (*55*). The incidence of thyroid carcinomas and adenomas is given in Table 9.

TABLE 9.—*Number of rats that developed lesions of the Thyroid gland after ingesting ETU*

Dose	Male		Female	
	Adenoma	Carcinoma	Adenoma	Carcinoma
0 p/m	0/32	0/32	0/32	0/32
175 p/m	0/26	3/26	2/26	3/26
350 p/m	0/26	[1] 17/26	1/26	8/26

[1] There were metastases to the lungs of 2 rats.

Among rats fed 350 ppm ETU, 61 percent of the males ($p<0.001$) and 31 percent of the females (<0.001) had follicular and papillary carcinomas of the thyroid.

Malignant tumors developed in organs other than the thyroid gland in animals fed ETU. These tumors included a carcinoma of the colon in one male rat fed 175 ppm and squamous cell carcinomas in two male rats fed 350 ppm (*52*).

In the second study, rats were fed ETU (500, 250, 125, 25, or 5 ppm) for almost 2 years. Thyroid carcinomas were produced by dosages of 500 and 250 ppm; thyroid adenomas by 500, 250, and 125 ppm; and thyroid hyperplasia mainly by 125, 25, and 5 ppm (*56*). The development of thyroid carcinomas progressed from 11 percent in the controls to 64 percent in animals fed 25 ppm ETU and to 97 percent in animals dosed with 500 ppm ETU (*52*). The incidence of thyroid lesions is given in Table 10.

TABLE 10.—*Number of rats that developed thyroid lesions after ingesting ETU for 12 to 24 mo*

Dose	Hyperplasia	Adenomas	Carcinomas	Total
0 p/m	4/72	2/72	2/72	8/72
5 p/m	20/75	0/75	2/75	22/75
25 p/m	41/73	5/73	1/73	47/73
125 p/m	44/73	1/73	[1] 2/73	47/73
250 p/m	27/69	21/69	16/69	64/69
500 p/m	3/70	3/70	62/70	68/70

[1] Number of rats with metastases of the lung is not given. The authors state: "When rats developing thyroid tumors during year 1 were added to these figures, there was an increase in thyroid tumors in rats fed 125 p/m ETU compared with controls. The tumors also arose earlier."

Thyroid lesions were dose related in treated rats. Lesions at the lower doses were mainly hyperplasia and a few adenomas. Incidences of thyroid lesions among rats ingesting 250 ppm consisted of 23 percent carcinomas, 30 percent adenomas and 39 percent hyperlasia. Lesions in rats fed 500 ppm were 80 percent carcinomas (*52*).

There was no indication of reversibility of thyroid gland tumors in treated rats for 66 weeks who were returned to the control diet for the remainder of the study (*52*).

Malignant tumors other than thyroid carcinomas were increased in rats fed 5 and 250 ppm ETU. These tumors consisted primarily of carcinomas of the mammary gland, hepatomas and squamous cell carcinomas but sarcomas, lymphosarcomas, and fibrosarcomas were also observed.

Because the second study was not available at the time of their deliberations, IARC concluded on the basis of the first study alone that ETU produced thyroid carcinomas (*11*).

CAG concluded that ETU "increased significantly the frequency of thyroid cancers in two different studies on rats" (*52*).

On the basis of this five studies, the Working Group concluded that the evidence that long-term oral administration of EBDC's or ETU is oncogenic in mice and rats supports the issuance of an RPAR.

C. *Teratogenic effects in test animals.* 40 CFR 162.11(a)(3)(ii)(B) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety."

In 1973, Khera reported that ETU administered to rats in multiple oral doses is teratogenic (*57*). Female Wistar rats were given single daily oral doses of ETU (5, 10, 20, 40, or 80 mg/kg). The rats were divided into three groups: each of which received the above dosages. (1) Those treated 21 to 42 days before onset of pregnancy until day 15 of gestation; (2) those treated on days 6 to 15 of gestation; and (3) those treated on days 7 to 20 of gestation. Pregnancy was successful in 10 to 18 rats at each dosage in each group, with the exception of group 2 rats fed 80 mg/kg ETU; treatment was lethal to 9 of 11 rats in this group. Fetal survival was not affected by any dose, but growth was retarded in fetuses from rats fed 40 or 80 mg/kg ETU. Abnormalities occurred in fetuses of rats fed 10 mg/kg or more ETU. Anomalies observed occurred in all three groups and appeared to be dose dependent. In group 1, the percentages of malformed fetuses at 20 and 40 mg/kg were 11 and 83 percent, respectively; those in group 2 at 10, 20, 40, and 80 mg/kg were 1, 17, 80, and 100 percent; those in group 3 at 10, 20, and 40 mg/kg were 3, 12, and 91 percent. The only other dosage used, 5 mg/kg, was considered the no-effect level (NEL). The anomalies observed included meningoencephalocele, meningorrhagia, meningorrhea, hydrocephalus, obliterated neural canal, abnormal pelvic limb posture with equinovarus, and short or kinky tail.

In a subsequent study, single oral doses of ETU (240 mg/kg) were administered to rats during the gestation period (days 10 to 21) to establish the relation between the type of anomalies seen and the day of treatment (*58*). Malformations induced by administration at the onset of organogenesis (day 10) were restricted to the pelvic region and included spina bifida, ectopic genitalia, and nephrosis. Administration on days 12 to 15 did not produce spina bifida or ectopic genitalia but did produce cleft palate, tail defects, and sternoschisis. After day 16, hydropic anomalies resulted. The authors state that this study showed ETU to be a unique teratogen in that it produces simultaneously anomalies that have been considered mutually exclusive (hydrocephelus and exencephaly). Unlike other teratogens, it also induces cranial defects after closure of the anterior neuropore.

In a recent study of the metabolic fate of ^{14}C-ETU in pregnant rats, a single oral dose (100 mg/kg) given on day 12 of gestation was absorbed easily from the gastrointestinal tract and translocated into many body tissues, including the fetus, within 2 hours of administration (*59*). After 24 hours, the level of ^{14}C-count (radioactivity) had decreased in all tissues except the thyroid in which it accumulated.

In determining whether an ample margin of safety exists to protect humans from teratogenic effects of ETU, the Working Group took into account the following factors:

(1) Tolerances exist for EBDC's on many different crops.

(2) EBDC's are converted to ETU with cooking.

(3) There are few data concerning actual intake of EBDC's or ETU in food.

The Working Group, therefore, determined that a reasonable approach is to assume that there is stoichiometric conversion of EBDC's to ETU and that the best estimate of daily intake is given by calculation of theoretical daily intake from existing EBDC tolerances. If the EBDC residues are assumed to be at tolerance levels and food factors established by FDA (*60*) are used, the theoretical daily human intake of ETU is calculated as 0.02 mg/kg (*61*). If the teratogenic NEL established by Khera (5 mg/kg body weight) is used, the resulting margin of safety is 250 (*61*).

The Working Group is concerned that this estimate of exposure does not include possible exposure from home use other than what may be on foods. The population at high risk from the teratogenic activity of ETU is composed of women of child-bearing age. The Working Group concludes that the margin of safety is not great enough to protect this population from the teratogenic effects of ETU, and that an RPAR be issued.

The Working Group is further concerned that the theoretical daily intake of EBDC's (0.06 mg/kg) exceeds the acceptable daily EBDC intake recommended by FAO WHO (0.005 mg/kg) by a factor of 12.

IV. *Other adverse effects.* This section addresses adverse effects which EBDC's may produce but for which insufficient evidence exists to issue a rebuttable presumption. The Working Group recommends that the Agency solicit comment on the evidence presented below and encourage the submission of additional studies or relevant information on these effects.

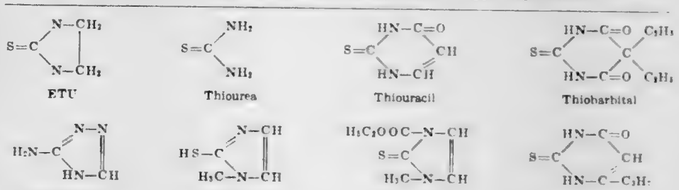
A. *Thyroid effects.* Deficiencies of thyroid function (hypothyroidism) can be manifest at any age. The condition, when fully developed, is characterized by hypertrophy of the thyroid or goiter; puffiness of the face; increased water retention and sometimes true edema; cold, dry skin; scaly scalp; loss of hair; changes in voice; faulty hearing; decreased appetite; decreased gastrointestinal activity; impaired mentality; common constipation and abdominal distention; weakness of voluntary and perhaps involuntary muscles; drowsiness; and sensitivity to the cold (*62*).

The presence of hypothydoidism in infants can result in "cretinism," mental retardation, and decreased growth rate as well. Unfortunately, cretinism and retardation are not detectable at birth and are only recognized at 3 to 5 months of age. To be effective, treatment must start long before these obvious changes have come about.

Because the antithyroid drugs currently used to treat hyperthyroidism readily pass the placental barrier and can induce hypothyroidism in the developing fetus, labels for their use caution against use alone during pregnancy. Nursing is never allowed during drug therapy (*63*).

The antithyroid drugs currently used to treat hyperthyroidism act primarily by inhibiting the formation of thyroid largely by interfering with the binding of iodide into an organic form. Among these are the thioamides which include thiouracil, thiobarbital, carbimazole, methimazole, and propylthiouracil (Table II). The latter two are the most commonly used today.

TABLE 11.—*Structure of ETU, amitrole, and some antithyroid compounds of the thioamide type formerly and currently used in hyperthyroidism*



Although the exact mechanisms of hormone inhibition are not known for each drug, the net result is that the symptoms characteristic of classic hypothyroidism can be produced by excesses of any of these agents (62). ETU is thought to produce antithyroid effects by a similar interference in the conversion of inorganic to organic iodide within the thyroid (52).

Freudenthal and co-workers (64) fed rats ETU in the diet in amouts of 1, 5, 25, 125, or 625 ppm for 30, 60, or 90 days. Controls were fed 125 ppm propylthiouracil (PTU) or 50 ppm amitrole, amounts known to cause significant antithyroid effects (positive controls), or diet alone. The authors report that only positive controls or rats that received 125 or 625 ppm ETU had measurable alterations in thyroid structure or function.

Rats that received 625 ppm ETU had excessive salivation, loss of hair, scaly skin, 30 to 40 percent reduction of food consumption and reduced weight gain. Controls and other groups fed ETU showed no adverse clinical effects. Biochemical changes included a decrease in iodide uptake in rats fed 625 ppm ETU; decreased concentration of serum triiodothyronine (T_3) and thyroxine (T_4) in rats fed 625 ppm ETU or 125 ppm PTU, as well as increased serum concentrations of thyroid-stimulating hormone in positive controls and rats fed 125 or 625 ppm ETU.

Gross necropsy revealed enlarged, red thyroids in positive controls and rats fed 125 or 625 ppm ETU, and the ratios of thyroid weight to body or brain weight were significantly increased in the latter group.

Microscopic examination revealed thyroid hyperplasia of various degrees in all groups fed 25 ppm ETU or more, but it was less marked than that seen in PTU controls. In rats fed 625 ppm thyroid adenomas were found.

No effects were seen in rats fed 5 ppm; effects of 25 ppm were apparent after 60 days treatment but not after 30 or 90 days.

Although the mechanism by which ETU affects the thyroid is unknown, the fact that the molecular structure of ETU is remarkably similar to that of the thioamides (Table 12) and the fact that in rats ETU has been found to produce symptoms characteristic of reduced thyroid activity similar to those caused by anti-thyroid drugs causes concern that any or all of the symptoms of hypothyroidism might occur to some degree in persons exposed to EDBC's or its metabolite ETU and that the effects of ETU on the thyroid and those caused by anti-thyroid drugs or natural goitrogen are at least additive. Population at particular risk are:

(1) People being treated with anti-thyroid drugs.

(2) People with known sensitivity to anti-thyroid drugs or other goitrogenic agents.

(3) Women of child-bearing age.

(4) People with "border line" hypothyroidism.

(5) people whose diets are rich in foods that contain natural goiterogens (kale, cabbage, brussel sprouts, turnips, broccoli, rape, and kolhrabi).

B. *Mutagenic effects.*—1. *Maneb.* The frequency of chromosomal aberrations (primarily chromatid breaks) in cultured human lymphocytes treated with maneb (0.5, 15, or 30 μg/ml) was 10 to 20 percent greater than that in controls; but it was not dependent on dosage (65). However, when the exposure time was increased to 48 hours, the frequency of chromosomal aberrations in cells treated with 15 μg/ml was 53 percent greater than that in controls.

In rabbits administered a single dose of frequency of chromosomal aberrations in maneb (800 mg/kg) by stomach tube; the treated animals was 7 percent greater than that in controls (65). The incidence of aberrations in rabbits given a single, lower dose of maneb (14 mg/kg) did not increase; but the incidence did increase (5 percent more than controls) in rabbits given multiple doses of this amount for 4½ months (65).

In mice given a single oral dose of Maneb (100 mg/kg) the frequency of chromosome damage increased 1.3 percent over that in controls (p=.027) (65). Mutants in the conidia of *Alternaria mali* were induced by exposure to Maneb (65).

2. *Zineb.* In a study of the cultured human lymphocytes from 15 workers employed at different stages of Zineb manufacture, the mean frequency of aberrant metaphases was 6 percent greater than that in controls ($p<.0001$) (67). In mice given a single oral dose of Zineb (100 mg/kg) the frequency of chromosome damage in bone marrow cells was almost 1 percent greater than that in controls (65). Mutants in the conidia of *Alternaria mali* were induced by exposure to Zineb (66).

3. *Ethylenethiourea.* ETU was reported to have weak mutagenic activity in a microbial system (Ames test) used to detect base substitutions (68). However, Teramoto and co-workers were unable to confirm this finding with the same microbial strain (69). However, they did report a dose-related increase in the mutation rate induced by ETU in another strain which is more sensitive to base substitution mutations.

ETU has much more potent mutagenic activity when nitrosated. In both microbial (without metabolic activation) and mammalian systems, the mutagenic activity of ETU combined with sodium nitrite was dramatically increased (70). Presumably N-nitroso ETU is formed.

C. *Skin sensitization.* Documents submitted in support of tolerance requests reported that skin of male guinea pigs to which a 20 percent water suspension of Maneb was applied became sensitized (PP No. 156). EBDC's have long been recognized as irritants of skin and eyes, and statements that contact with eyes and skin is to be avoided are required on pesticide labels. However, skin sensitization, unlike contact dermatitis resulting from skin or eye irritation, can lead to severe toxicologic effects in susceptible individuals (71).

Skin sensitization and cross sensitization by EBDC's and ETU were also observed in studies with female guinea pigs. The degree of sensitization caused by ETU was slighter. Cross sensitization to different EBDC's was conspicuous. (72).

LIST OF APPENDICES

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**** PRODUCT SEARCH LISTING **** PAGE

07/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 000168	WASATCH CHEMICAL DIVISION ENTRADA IND INC P O BOX 6219 SALT LAKE CITY UT 84106

**** PRODUCT NAME ****

**05784* BROWN'S FORMULA "F"

REGISTRANT	*NAME AND ADDRESS*
* 000239	CHEVRON CHEMICAL COMPANY ORTHO DIVISION 940 HENSLEY WAY RICHMOND CA 94804

**** PRODUCT NAME ****

**04157* ORTHO ZINEB WETTABLE

**04225* ORTHO MANEB 80 FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000279	FMC CORP. AGRICULTURAL CHEM DIV. 100 NIAGARA ST. MIDDLE PORT NY 14105

**** PRODUCT NAME ****

**03892* ZINEB 75 WETTABLE POWDER

**03893* POLYRAM 80 WP

**03896* ZINEB 75 WETTABLE POWDER

**03902* ZINEB 6 DUST

**** PRODUCT SEARCH LISTING **** PAGE 2

07/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000279

**06036* MANEB & THIODAN 4 DUST

**04971* PCNB 10 ZINEB 10 SOIL TREATER

REGISTRANT	*NAME AND ADDRESS*
* 000352	RHODIA INC. AGRICULTURAL DIVISION P.O. BOX 125 MONMOUTH JUNCTION, NJ 08852

**** PRODUCT NAME ****

**05102* SUPER-FLO MANEB FLOWABLE

REGISTRANT	*NAME AND ADDRESS*
* 000552	SWIFT AGRICULTURAL CHEMICAL CORP. 111 WEST JACKSON BOULEVARD CHICAGO, IL 60604

**** PRODUCT NAME ****

**07200* SWIFT'S SUPER GUARD 6% DITHANE M-45 DUST

**09593* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.992%)

**09594* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.402%)

**09595* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.678%)

**09596* PAR EX FERTILIZER PLUS ZINC-ION MANEB (3.571%)

**09597* PAR EX FERTILIZER PLUS ZINC-ION MANEB (3.218%)

**09598* PAR EX FERTILIZER PLUS ZINC-ION MANEB (4.591%)

**09599* PAR EX FERTILIZER PLUS ZINC-ION MANEB (5.357%)

**** PRODUCT SEARCH LISTING **** PAGE 3

07/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000552

**09600* PAR EX FERTILIZER PLUS ZINC-ION MANEB (4.017%)

**09601* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.295%)

**09602* PAR EX FERTILIZER PLUS ZINC-ION MANEB (6.429%)

**09603* PAR EX FERTILIZER PLUS ZINC-ION MANEB (8.035%)

**09604* PAR EX FERTILIZER PLUS ZINC-ION MANEB (10.714%)

**09605* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.008%)

**09606* PAR EX FERTILIZER PLUS ZINC-ION MANEB (1.891%)

**09607* PAR EX FERTILIZER PLUS ZINC-ION MANEB (2.143%)

REGISTRANT	*NAME AND ADDRESS*
* 000635	E-Z FLO CHEMICAL CO. DIV. OF GICOMES SERVICE CORP. P.O. BOX 808 LANSING, MI 48901

**** PRODUCT NAME ****

**01180* E-Z-FLO DITHANE M-45-STREPTOMYCIN

REGISTRANT	*NAME AND ADDRESS*
* 000707	ROHM & HAAS COMPANY INDEPENDENCE MALL PHILADELPHIA PA 19105

**** PRODUCT NAME ****

**06621* DITHANE Z-78

**07612* ROHM

**** PRODUCT SEARCH LISTING **** PAGE 4

07/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000707

**07613* DITHANE M-22

**07617* DITHANE M-85

**07618* DITHANE M-85

**07621* DITHANE M-45

REGISTRANT	*NAME AND ADDRESS*
* 000829	SOUTHERN AGRI INSECT INC PO BOX 218 PALMETTO FL 33561

**** PRODUCT NAME ****

**06765* SA-50 HOME AND GARDEN VEGETABLE SPRAY CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000909	COOKE LABORATORY PRODUCTS 4759 S DUPEE AVE PICO RIVERA CA 90660

**** PRODUCT NAME ****

**08602* COOKE FUNGICIDE

**08604* ROSEDALE'S FUNGI-TAC

REGISTRANT	*NAME AND ADDRESS*
* 000960	BALCOM CHEMICALS INC BOX 667 GREELEY CO 80630

**** PRODUCT NAME ****

**03744* BALCOM DITHANE 6.5 DUST FUNGICIDE

**03828* BALCOM PARATHION 2 DIPEL 320-MANEB 5 DUST

REGISTRANT	*NAME AND ADDRESS*
* 001202	PUREGRO COMPANY 1052 W 6TH ST LOS ANGELES CA 90017

**** PRODUCT NAME ****

**04999* PUREGRO BTP ZINEB 2-5 DUST

**05002* PUREGRO MANEB PARATHION 5.6-2 DUST

**05007* PUREGRO PARATHION ZINEB 2-5 DUST

**05046* PUREGRO PHOSDRIN M-JK DUST 1-3.2

**05059* PUREGRO MANEB SULFUR 5.6-50 DUST

**05100* PUREGRO DITHANE A-40

REGISTRANT	*NAME AND ADDRESS*
* 001526	A G CHEM-CHEM DIST ARIZONA AGROCHEMICAL CO. P.O. BOX 21537 PHOENIX AZ 85036

**** PRODUCT NAME ****

**03802* AGRO-CHEM BRAND MANEB 5

REGISTRANT	*NAME AND ADDRESS*
* 001812	GRIFFIN CORP. P.O. BOX 1847 VALDOSTA, GA 31601

**** PRODUCT NAME ****

**03881* METHOZIN TABACCO DUST

**05933* METHOZON TOBACCO DUST

REGISTRANT	*NAME AND ADDRESS*
* 001871	FARMCRAFT, INC 8900 S W COMMERCIAL TIGARD OR 97223

**** PRODUCT NAME ****

**08926* FARMCRAFT ZINEB 6 DUST

**08934* FARMCRAFT MANEB 6-THIODAN 3 DUST

**08944* FARMCRAFT MANEB 6-SEVIN 5 DUST

**08969* FARMCRAFT MANEB 6 DUST

REGISTRANT	*NAME AND ADDRESS*
* 001969	PARSONS CHEMICAL BOX 196 GRAND LEDGE MI 48837

**** PRODUCT NAME ****

**03302* PARSONS SEED SAVER-DB

REGISTRANT	*NAME AND ADDRESS*
* 002935	WILBUR ELLIS CO. P. O. BOX 1286 FRESNO, CA 93715

**** PRODUCT NAME ****

**06678* RED-TOP ZINEB 15 DUST

**06679* RED-TOP PHOSDRIN 2 ZINEB 10 DUST

**06684* RED-TOP MANEB 8 DUST

**06686* RED-TOP THIODAN 3 TOXAPHENE 15 ZINEB 9 DUST

REGISTRANT	*NAME AND ADDRESS*
* 003122	SUPERIOR FERTILIZER & CHEM COMPANY ATTEN R BASS BOX 1021 TAMPA FL 33601

**** PRODUCT NAME ****

**07206* SOUTHERN TABACCO DUST DITHANE Z-78 DUST 15%

**07207* SOUTHERN TOBACCO DUST DITHANE Z-78 DUST 7.5%

**CONTINUE REGISTRANT 003122

**07208* SOUTHERN TOBACCO DUST 2.50% LANNATE-6.50% DITHANE Z-78

**07277* SOUTHERN TOBACCO DUST 2.25% METHOMYL-6.50% DITHANE Z-78

**07[illegible]* TOBACCO DUST 1% PARATHION - 3% THIODAN - 6.50% DITHANE Z-78

**07[illegible]* SO. TOBACCO DUST 1% PARATHION-3% THIODAN-7.50% DITHANE Z-78

**07[illegible]* SOTHERN TOBACCO DUST 1% PARATHION-3% THIODAN-15% DITHANE Z-78

**07[illegible]* SOUTHERN TOBACCO DUST 2% PARATHION-3% THIODAN-13.50% DITHANE Z-78

**07545* TOBACCO DUST 2% PARATHION-3% THIODAN-6.50% DITHANE Z-78

**07546* TOBACCO DUST 2% PARATHION - 4% THIODAN - 13.5% DITHANE Z-78

**07547* SOUTHERN TOBACCO DUST 2% PARATHION-3% THIODAN-15% DITHANE Z-78

**07550* 2% PARATHION-4% THIODAN-10% ZINEB DUST

**07551* 2% PARATHION-10% TOXAPHENE-6.50% ZINEB DUST

**07553* SUPERIOR'S 2% PARATHION - 6.50% ZINEB DUST

**07556* 10% SEVIN - 10% DITHANE Z-78 DUST

**07559* ZINEB 6.50% DUST

REGISTRANT	*NAME AND ADDRESS*
* 003238	AGRICO CHEMICAL CO. CROP PROTECTION CHEMICAL DIV. BOX 3051 TULSA, OK 74101

**** PRODUCT NAME ****

**06883* STANDARD FOOD (P) FOOD AND GARDEN FUNGICIDE

**06886* STANDARD TOMATO & VEGETABLE DUST

**06887* STANDARD ZINEB 75 W GARDEN FUNGICIDE

**06891* STANDARD BRAND ZINEB 15% DUST

**CONTINUE REGISTRANT 003238

**091945* MICRO-FLO 8 M-Z AGRICULTURAL FUNGICIDE

**091949* MICRO-FLO 8-Z

**101165* STANDARD BRAND LAWN & TURF FUNGICIDE

**101166* STANDARD FORMAD LAWN & TURF FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 003286	FRED STAFFEL CO. P.O. BOX 7380 SAN ANTONIO TX 78298

**** PRODUCT NAME ****

**080845* STAFFEL'S FORE LAWN AND ORNAMENTAL FUNGICIDE

**080862* STAFFEL'S SPECIAL VEGETABLE DUST

**080869* STAFFEL'S DITHANE Z-78- ZINEB* FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 003468	SCHALL CHEMICAL INC PCX 862 MONTEVISTA CO 81144

**** PRODUCT NAME ****

**084563* DEMETHOATE-MANEB-SULFUR

**084697* POLYRAM POTATO SEED TREATER WITH BARK

**084698* POTATO SEED TREATER WITH BARK

REGISTRANT	*NAME AND ADDRESS*
* 005431	PARKHURST FARM & GARDEN SUPPLY 315 N WHITE HORSE PIKE HAMMONTON NJ 08037

**** PRODUCT NAME ****

**007221* LEDDEN NEW BUG BLITZ OUT DUST

**007225* PARKHURST'S NEW BUG BLITZ OUT DUST

REGISTRANT	*NAME AND ADDRESS*
* 005775	GRO CHEMICAL COMPANY 3690 NW 31ST ST MIAMI FL 33142

**** PRODUCT NAME ****

**032698* TOMATO VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 005905	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2004 MEMPHIS TN 38137

**** PRODUCT NAME ****

**007682* 75% ZINEB

**007683* HELENA BRAND MANEB FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 006067	MOYER CHEMICAL COMPANY BOX 982 SAN JOSE CA 95108

**** PRODUCT NAME ****

**051136* MANEB (HOE NO. 5-4

**051147* MANEB-CHLORO (HOE NO. 5,6-50

**051148* MANEB M-4

REGISTRANT	*NAME AND ADDRESS*
* 006224	STOKELY COMPANY P.O. BOX 2210 EL CERRITO CA 94240

**** PRODUCT NAME ****

**002-05* STOKELY MALATHION-Z DUST NO.5-10

**047-0* STOKELY Z DUST NO.

**070-0* STOKELY DITHANE-Z DUST NO.10-5

**076-02* DITHANE M-22 DUST NO.4

**076-04* DITHANE M-45 DUST NO.4

**076-54* STOKELY Z-6-SYLITE DUST NO.5-10

**076-57* STOKELY MALAT. M-Z DUST NO.2-5

REGISTRANT	*NAME AND ADDRESS*
* 006727	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1796 TAMPA FL 33601

**** PRODUCT NAME ****

**033056* SMCP ZINEB 75-W

REGISTRANT	*NAME AND ADDRESS*
* 006924	TOOL CABI IALS INC 1133 E MISSOURI AVE PHOENIX AZ 85012

**** PRODUCT NAME ****

**032806* CABI TOOL ZINEB GARDEN FUNGICIDE

**061406* CABI TOOL TOPS BLACK SPOT SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 006971	AGRICHEM INC PO BOX 3812 SALINAS CA 93901

**** PRODUCT NAME ****

**[illegible] MANEB 4 DUST

**[illegible] MALATHION-MANEB 2-4 DUST

**[illegible] MALATHION-MANEB 4-4 DUST

**[illegible] MALATHION ZINEB 2-8 DUST

**** PRODUCT SEARCH LISTING **** PAGE 13

7/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000934

**003593* MANEB 6% FUNGICIDE

**004098* SOILSERV ZEBD-SULFUR 5-15

**004099* SOILSERV ZEBD-PHOSPHATE #2 DUST

**004010* SOILSERV ZEBD-SULFUR 5-40

REGISTRANT *NAME AND ADDRESS*

* 002001 OCCIDENTAL CHEMICAL CO
P O BOX 198
LATHROP, CA 95330

********** PRODUCT NAME **********

**027705* MALATHION MANEB SULFUR 4-6-10 DUST

**027706* METHYL PARATHION CHLORAN-MANEB 2-2-6 DUST

**027752* ZINC-CO-SUL

**027766* MANEB 6 DUST

**027772* MANEB SULFUR 6-25 DUST

REGISTRANT *NAME AND ADDRESS*

* 002808 NULIFE FERTILIZERS DIV OF HYGRADE FOOD PRODUCTS
CORP PO BOX 983
TACOMA WA 98401

********** PRODUCT NAME **********

**006535* NULIFE 10-2-4 WITH FORE

**** PRODUCT SEARCH LISTING **** PAGE 14

7/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 007478 CHEM TAK COMPANY
10402 S. W. 186TH TERRACE
SOUTH MIAMI FL 33157

********** PRODUCT NAME **********

**027683* TOMATO DUST

**028063* ROSE FUNGICIDE SPRAY

**028022* FLORIDA CITRUS SPRAY WET.

**028009* MANEB

**028033* LEAFY VEGETABLE DUST

**028039* ORCHID FUNGICIDE WETTABLE

**028026* ROSE

**028023* ZINEB FUNGICIDE

**028035* FLORIDA VEGETABLE DUST

**028036* FLORIDA TOMATO AND VEGETABLE SPRAY

**028818* GARDENS OF THE SOUTH ROSE DUST

**028821* ROSE & POINSETTIA SPRAY

**028823* GARDENS OF THE SOUTH ROSE SPRAY

**028824* ROSE DUST

**** PRODUCT SEARCH LISTING **** PAGE 15

7/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 007729 TAYLOR JOHN FERTILIZER COMPANY
PO BOX 15584
SACRAMENTO CA 95852

********** PRODUCT NAME **********

**006642* JOHN TAYLOR CHEMICALS ZINEB 8% DUST

**006668* JOHN TAYLOR CHEMICALS MANEB-SEVIN-SULFUR 6-7.5-50 DUST

**006669* JOHN TAYLOR CHEMICALS MANEB 6-DUST

**006672* JOHN TAYLOR CHEMICALS MANEB-SULFUR 6-50 DUST

REGISTRANT *NAME AND ADDRESS*

* 008278 METRO BIOLOGICAL LAB
8261 GAY ST
CYPRESS CA 90630

********** PRODUCT NAME **********

**030167* METRO DITHANE M-45

REGISTRANT *NAME AND ADDRESS*

* 008486 PENICK & FORD INC
BOX 1734
PEAVITY CA 92227

********** PRODUCT NAME **********

**028717* PCT-CO BRAND 8-10-2-2 DUST

**** PRODUCT SEARCH LISTING **** PAGE 16

7/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 009569 SEMINOLE STORES INC
P O BOX 940
OCALA FL

********** PRODUCT NAME **********

**005285* MARICO BRAND 6% ZINEB DUST

**005292* MARICO BRAND SEVIN & MANEB #5-8

**005295* MARICO BRAND 8% MANEB DUST

**027526* MARICO BRAND SEVIN & ZINEB DUST #5-4

**005456* LINDANE & MANEB DUST #2-5

REGISTRANT *NAME AND ADDRESS*

* 009858 CHASE & COMPANY
BOX 1697
SANFORD FL 32771

********** PRODUCT NAME **********

**030767* SUNNILAND FUNGICIDE CONTAINS DITHANE M-45, FILE SYMB: 9408-UT

**030770* SUNNILAND ZINEB 75, FILE SYMBOL: 9408

REGISTRANT *NAME AND ADDRESS*

* 010282 WOODBURY CHEMICAL COMPANY
PO BOX 8336
PRINCETON FL 33032

********** PRODUCT NAME **********

**CONTINUE REGISTRANT 009781

**003633* MANEB 8-W FUNGICIDE

**003634* MANEB-SULFUR 3.2-70 DUST

**003635* MANEB 3.2 DUST

**003638* MANEB-PARATHION-SULFUR 3.2-2-80DUST

**003654* POTATO SEED-PIECE FUNGICIDE DUST

**004193* MANEB-SULSUP 5.6-80 DUST

REGISTRANT	*NAME AND ADDRESS*
* 011226	ROCKWOOD CHEM COMPANY BOX 34 BRAWLEY CA 92227

********** PRODUCT NAME **********

**003748* ROCKWOOD BRAND MANEB ZINEB CRYOLITE 3-3-50

REGISTRANT	*NAME AND ADDRESS*
* 010771	CAPE CHEMICAL COMPANY 33 N FREDERICK CAPE GIRARDEAU MO 63701

********** PRODUCT NAME **********

**007805* BEAN VEGETABLE DUST

**007868* ALL PURPOSE SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 010672	CASTLE & [illegible] INC PO BOX 802 MORGAN HILL CA 95037

********** PRODUCT NAME **********

**006377* CASTLE BRAND DUST MANEB 5-5.6-50

**006378* CASTLE BRAND CUCUMBER DUST

**006544* CASTLE BRAND DUST DIAZINON MANEB 3-4

**007028* CASTLE BRAND DUST MANEB 5.6

**007029* CASTLE BRAND DUST SEVIN-BACOP-MAPB-S 5-5-4-50

**007488* CASTLE BRAND DUST DIAZINON MANEB 5-2-4-20

**007489* CASTLE BRAND DUST BACOP-MNZE-S 5-4-50

**008689* CASTLE BRAND DUST BHC-2 G-THION MANEB 2-5.6

REGISTRANT	*NAME AND ADDRESS*
* 011093	MASTER NURSERYMEN'S ASSN C/O LEO DUBUICH 3620 1/2 PT DIABLO BLVD LAFAYETTE CA 94549

********** PRODUCT NAME **********

**007370* 49'ER BRAND DUST

**007371* 49'ER BRAND FUNGICID

REGISTRANT	*NAME AND ADDRESS*
* 011140	RIVERSIDE FERTILIZER WORKS PO BOX 232 RIVERSIDE CA 92502

********** PRODUCT NAME **********

**009665* POTATO SEED TREATER 6.4% DUST WITH GYPSUM

REGISTRANT	*NAME AND ADDRESS*
* 011369	SAN JOAQUIN SULPHUR COMPANY PO BOX 127 IODI CA 95240

********** PRODUCT NAME **********

**004599* VALOR BRAND PRODUCTS MANEB DUST

**004600* VALOR BRAND PRODUCTS MANEB-SULPHUR DUST

**004601* VALOR BRAND PRODUCTS DITHANE M-45-S DUST

REGISTRANT	*NAME AND ADDRESS*
* 011315	FLORIDA EAST COAST FERTILIZER COMPANY 305 SOUTH FLAGLER AVE-IPAWER 8 HOMESTEAD FL 33030

********** PRODUCT NAME **********

**004018* ANTI-DAMP

REGISTRANT	*NAME AND ADDRESS*
* 011369	BAKERSFIELD AG CHEM INC PO BOX 5062 OILDALE CA 93308

********** PRODUCT NAME **********

**008782* BAC 800 POTATO SEED TREATER

**008813* BAC 8-.01 POTATO SEED TREATER

REGISTRANT	*NAME AND ADDRESS*
* 011476	VALLEY CHEMICAL CORP OF CALIFORNIA PO BOX 1509 EL CENTRO CA 92243

********** PRODUCT NAME **********

**003479* VALLEY BRAND Z-M DUST

REGISTRANT	*NAME AND ADDRESS*
* 011656	WESTERN FARM SERVICE INC SHELL CHEM COMPANY 1725 CONNECTICUT AVE-STE 200 WASH DC 20036

********** PRODUCT NAME **********

**005721* *DITHANE M-45 - 8% DUST

**005724* M-PARA MANEB 2-5

005727* PTB - *METHOMYLMANEB-*4M*-2-5

**005731* METHOMYL MANEB 2-5

REGISTRANT	*NAME AND ADDRESS*
* 014776	ASGROW FLORIDA COMPANY PO DRAWER D PLANT CITY FL 33566

**** PRODUCT NAME ****

**087277* PARATHION-ZINEB DUST NO.3 (2% PARATHION-6% ZINEB) PM-3

**087311* ENDOSULFAN-ZINEB DUST NO.1 (3% THIODAN-6% ZINEB) (THP-1)

**087333* DITHANE M-45 DUST NO. 1 (M45-1)

**087334* DITHANE FORMSC SEED TREATER (M45-2)

**087338* PARATHION-MANEB-SULPHUR DUST NO. 3 (EMAS-3)

**087444* ZINEB DUST NO. 2 (6% ZINEB) (M-2)

**105003* COPPER-DITHANE M-45 DUST NO1 (CM45-1)

**105031* MANEB-KILCOP DUST NO.4 (MAC-4)

REGISTRANT	*NAME AND ADDRESS*
* 014782	CARUSO FARM SUPPLY 127 N WHITE HORSE PIKE HAMMONTON NJ 08037

**** PRODUCT NAME ****

**032009* 6% M-45 DUST

**032012* 7% M-45 DUST

**032013* 6% M-45 DUST

**105334* [illegible] DUST

REGISTRANT	*NAME AND ADDRESS*
* 021275	SPALDING INC 1921 59TH AVE S ST PETERSBURG FL 33733

**** PRODUCT NAME ****

**035839* X-CEL FORE

**035841* X-CEL GARD-N-DUST

**035849* X-CEL ZINEB

REGISTRANT	*NAME AND ADDRESS*
* 031103	SMITH COMPANY OF UVALDE P O BOX 1000 UVALDE TX 78801

**** PRODUCT NAME ****

**034668* CROP-LIFE DITHANE M-45 5.6 DUST

REGISTRANT	*NAME AND ADDRESS*
* 033914	DIXIE AGRICULTURAL CHEM. CO P O BOX 1227 FUNGIS, FL 32726

**** PRODUCT NAME ****

**007412* FLOWABLE MANEB

**007413* DIXIE FLOWABLE ZINEB

REGISTRANT	*NAME AND ADDRESS*
* 030564	AMERICAN REFINING & MFG. CO P O BOX 352 MIAMI, FL 33147

**** PRODUCT NAME ****

**092604* KROMEX

REGISTRANT	*NAME AND ADDRESS*
* 034306	HI ACRES FERTILIZER DIVISION P O BOX 678 GROVELAND, FL 32736

**** PRODUCT NAME ****

**034771* HI-ACRES ZINEB WETTABLE POWDER

REGISTRANT	*NAME AND ADDRESS*
* 035052	GARDEN EXCHANGE LTD 62 KILAUEA AVENUE HILO, HI 96720

**** PRODUCT NAME ****

**059470* GX MANEB D

REGISTRANT	*NAME AND ADDRESS*
* 035222	SOUTHERN CHEMICALS, INC. 204 N. ELK AVE, BOX 1480 SANFORD, FL 32771

**** PRODUCT NAME ****

**037171* SOUTHERN'S MANEB PARATHION SULFUR DUST 4-2-70

**037175* TURF FUNGICIDE

**037179* CAMARAN WETTABLE POWDER

REGISTRANT	*NAME AND ADDRESS*
* 037351	COLORADO CHEMICAL & FERT. CO, INC. ROUTE 1, BOX 2548 LONGMONT, CO 80501

**** PRODUCT NAME ****

**098857* COLORADO'S GWN SOIL BUILDER WITH FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 037601	MARICO, INC PO BOX 948 OCALA, FL 32670

**** PRODUCT NAME ****

**105373* PARATHION, SEVIN & ZINEB (2-5-6)

**** PRODUCT SEARCH LISTING **** PAGE 25

07/29/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 007832	RATHBUN CHEMICALS, INC. BOX 99 YUMA, AZ 85364

********** PRODUCT NAME **********

**08359* ZINEB 5 DUST

REGISTRANT	*NAME AND ADDRESS*
* 007893	UNIVERSITY OF HAWAII-CO-OP EXTENSION SERV-ENTOMOLOGY BRANCH HONOLULU, HI 96822

********** PRODUCT NAME **********

**08531* MANEB(WETTABLE POWDER)

**08567* ZINEB

REGISTRANT	*NAME AND ADDRESS*
* 038699	N.Y.S. COLLEGE OF AGRICULTURE & LIFE SCIENCES CORNELL UNIV. ITHACA, NY 14853

********** PRODUCT NAME **********

**10468* NYE-DIMBY-ZINEB

**** PRODUCT SEARCH LISTING **** PAGE 1

07/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 000352	DUPONT CHEMICAL CO. INC. 2 WORLD TRADE, YORKTOWN NY 10598

********** PRODUCT NAME **********

**00352* DONIDE LAWN FUNGICIDE

**00352* DONIDE TOMATO VEGETABLE DUST

**00352* DONIDE TOMATO-POTATO DUST

REGISTRANT	*NAME AND ADDRESS*
* 00[illegible]	[illegible] [illegible] [illegible]

********** PRODUCT NAME **********

**[illegible]* NEW [illegible] TOMATO DUST

**[illegible]* [illegible] TOMATO & VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* [illegible]	[illegible] [illegible] [illegible]

********** PRODUCT NAME **********

**[illegible]* [illegible]

**[illegible]* [illegible]

**** PRODUCT SEARCH LISTING **** PAGE 2

07/29/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 000352	MILLER CHEMICAL & FERTILIZER CORP BOX 333 HANOVER PA 17331

********** PRODUCT NAME **********

**00352* MILLER DEW ZINEB DUST

**00352* MILLER ROTARY WET-LEAF FUNGICIDE DUST

**00352* ZINEB DEW WETTABLE POWDER

REGISTRANT	*NAME AND ADDRESS*
* [illegible]	RALEIGH & C COMPANY [illegible] [illegible]

********** PRODUCT NAME **********

** [illegible] RALEIGH INSECT DUST NO. 1

REGISTRANT	*NAME AND ADDRESS*
* [illegible]	[illegible]-HAYMAKE CHEMICAL COMPANY [illegible] [illegible]

********** [illegible] **********

**[illegible]* [illegible]

**[illegible]* [illegible]

**[illegible]* [illegible]

REGISTRANT REGISTRANT CODE

AA01812 DE ESTRELLE MANUFACTURING CO

AA01743 C-H FLORIDA SHADE DUST 10 ZINEB

AA01744 C-H FLORIDA SHADE DUST 1-3-10

AA01745 C-H POLYFAM 5 ZEVIN 5 DUST FUNGICIDE INSECTICIDE

AA01746 C-H POLYFAM 5 DUST FUNGICIDE

AA01765 C-H DITHANE M-45 ROLPAC-SEED PIECE FUNGICIDE DUST

AA01766 C-H MANEB FUNGICIDE DUST (CONTAINS 7.4% MANEB)

AA01769 C-H POLYFAM 5 ZINEB DUST (WITH BORAX)

AA01780 C-H FLORIDA SHADE DUST 2-3-10 CONT 2% PAR 3% THIODAN-6.5% ZINEB

AA01781 C-H FLORIDA SHADE DUST 2-3-20 CONT 2% PAR 4% THIODAN-13% ZINEB

AA01782 C-H FLORIDA SHADE DUST 1-3-10 CONT 1% PAR 3% THIODAN 13% ZINEB

AA01783 C-H FLORIDA SHADE DUST 2-4-10

AA01784 C-H POLYFAM 5 ZEVIN 10 DUST FUNGICIDE-INSECTICIDE

**REGISTRANT* *NAME AND ADDRESS*

* AA00484 WASATCH CHEMICAL DIVISION ENTHONY IND INC
P O BOX 4239
SALT LAKE CITY UT 84110

PRODUCT NAME

AA01784 MORGRO DUST & FLOWER DUST

AA01785 WASCO POTATO BEET-PIECE FUNGICIDE DUST (CONTAINS DITHANE M-45)

AA01786 MORGRO 20% DUST INSECTICIDE MITICIDE FUNGICIDE

AA01787 MORGRO 50-11 ANT BURR DUST INSECTICIDE FUNGICIDE MITICIDE

AA01788 WASCO 4% DITHANE M-45 DUST

REGISTRANT REGISTRANT CODE

AA01787 MORGRO PDR

**REGISTRANT* *NAME AND ADDRESS*

* AA00341 DEXOL INDUSTRIES
1400 W 228TH ST
TORRANCE CA 90501

PRODUCT NAME

* AA01370 DEXOL BASE AND SIZING DUST

AA01371 DEXOL TOMATO AND VEGETABLE DUST

**REGISTRANT* *NAME AND ADDRESS*

* AA00001 TOBACCO STATES CHEMICAL COMPANY
BOX 479
LEXINGTON KY 40501

PRODUCT NAME

AA01372 TOBACCO STATES BRAND 75% D NEW MD

AA01373 4-1 DUKE DUST

AA01374 TOBACCO STATES BRAND IMPROVED D & T DUST

AA01375 TOBACCO STATES BRAND MANEB 80 WITH ZINC AND 10% WG - 1% POWDER

AA01376 TOBACCO STATES BRAND ROSE DUST

AA01377 TOBACCO STATES BRAND TOMATO DUSTA-PURPOSE DUST

**REGISTRANT* *NAME AND ADDRESS*

* AA00237 MUSHROOM SELF COMPANY
TOUGHKENAMON PA 19374

PRODUCT NAME

AA01379 MSCO NO. 15 X MUSHROOM ZINEB DUST

**REGISTRANT* *NAME AND ADDRESS*

* AA00239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94804

PRODUCT NAME

AA01380 ORTHO NABAM LIQUID SPRAY PROD NO 1501

AA01381 ORTHO ZINEB WETTABLE

AA01384 ORTHO (R) ZINEB 5 DUST

AA01385 ORTHO CHECK FIBRE NO. 51

AA01386 ORTHO MANEB 80 FUNGICIDE

AA01387 ORTHO DITHANE AND ROTATE DUST

AA01388 ORTHOCIDE-MANEB 20-10 SEED PROTECTANT

**REGISTRANT* *NAME AND ADDRESS*

* AA00240 DALY REPPING COMPANY
PO BOX 427
KINSTON NC 28501

PRODUCT NAME

AA01117 D-H POLYFAM 2.5 DUST FUNGICIDE

AA01201 20% DOXAFENE-2% PARATHION 2.9% ZINEB DUST

**REGISTRANT* *NAME AND ADDRESS*

* AA00270 PBI GORDON
AGRICULTURAL CHEM DIV.
101 NIAGARA ST.
MIDDLE PORT NY 14105

PRODUCT NAME

AA01388 ZINEB 75 DUST

AA01389 NIAGARA ZINEB 16.2% DUST CODE 479

AA01390 NIAGARA NABAM FUNGICIDE CODE 741

AA01391 NIAGARA ZINEB 15 MUSHROOM DUST CODE 1405

AA01392 NIAGARA ZINEB 75 W. P., CODE 816

AA01393 NIAGARA (R) SPECIAL 16-2% DUST

AA01394 NIAGARA MANEB 4% PARATHION 2 DUST

AA01395 NIAGARA MANEB 75 DUST

AA01396 NIAGARA COPPER MANEB 4.5 DUST FUNGICIDE

AA01397 NIAGARA NIACIDE MG PARATHION 2% ZINEB 6 DUST

AA01398 THIODAN 4 ZINEB 2 DUST

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000279

**01626* NIAGARA MANEB 5.6 THIODAN 3 DUST
**01837* ZINEB 16.25 MALATHION 4 SEVIN 5 TOBACCO DUST
**01863* NIAGARA ZINEB 85% DUST BASE CODE 1518
**01926* NIAGARA ZINEB 16.25 PARATHION 1 SEVIN 5 TOBACCO DUST (CODE 2232)
**01973* NIAGARA ZINEB 8.5 SEVIN 4 DUST CODE 2283
**01997* NIAGARA MANEB 8 SEVIN 10 DUST
**02004* NIAGARA ZINEB 19.5 TOBACCO DUST FUNGICIDE CODE: 1534
**02032* POLYRAM 80 WP FUNGICIDE CODE 2309
**02118* NIAGARA ZINEB 19.50 PARATHION 1 TOBACCO DUST
**02135* NIAGARA ZINEB 6.5 SEVIN 5 DUST FUNGICIDE-INSECTICIDE
**02176* NIAGARA MANEB 8 THIODAN 3 DUST
**02222* NIAGARA PCNB10 ZINEB 10 SOIL TREATER
**02369* NIAGARA MANEB 80 WP CODE 2654
**02379* POLYRAM PCTATC SEED TREATER FUNGICIDE
**02381* NIAGARA MANEB 8 THIODAN 4 DUST
**02395* NIAGARA FD-10-1 THIODAN 3 TOBACCO DUST
**02514* NIAGARA POLYRAM 80 DUST BASE
**02579* FD THIODAN 3 PARATHION 2 ZINEB 13 TOBACCO DUST
**02664* ZINEB 5 DIAZINON 3 DUST CODE 30051
**02676* POLYRAM 3.5 SULFUR 60 SEVIN 5 PEANUT DUST
**02681* NIAGARA FD ZINEB 6.5 PARATHION 2 THIODAN 4 TOBACCO DUST CODE: 20429
**02726* FD THIODAN 3 PARATHION 2 ZINEB 6.5 TOBACCO DUST CODE 20383
**02745* POLYRAM 53.5% SEED TREATER
**02793* NIAGARA POLYRAM 7 DUST FUNGICIDE

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000279

**02798* ZINEB 16.25 PARATHION 1 DUST
**02804* MANEB 4 SULFUR 63 THIODAN 3 DUST
**02808* ZINEB 13 METHYL PARATHION 2 THIODAN 4 TOBACCO DUST
**02849* SULFUR 50 ZINEB 4 THIODAN 3 DUST
**02878* ZINEB 6.5 PHOS KIL 1.0 DUST
**02879* ZINEB 6 PHOS KIL 2 DUST CODE 20132
**02899* MANEB 3.5 SULFUR 50 TOXAPHENE 5 DUST CODE 20028
**02902* ZINEB 13 MALATHION 4 SEVIN 5 TOBACCO DUST
**02919* ZINEB 3.9 THIODAN 3 DUST
**02921* ZINEB 6 DUST
**02927* SULFUR 50 ZINEB 4 THIODAN 3 DUST CODE 20027
**02967* TERRACLOR 5 ZINEB 2/5 TPINET 5 COATED GRANULES

REGISTRANT *NAME AND ADDRESS*

* 000337 LESTER LAIS INC
2370 LAWRENCE ST EAST POINT BRANCH
ATLANTA GA 30344

********** PRODUCT NAME **********

**00058* LESTER-30

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 000343 CASTLE CHEMICAL COMPANY
301 MASTER AVE
SAVAGE MN 55378

********** PRODUCT NAME **********

**00015* COVER-UP GRAIN SEED PROTECTANT
**00020* CASTLE COVER-UP-PLUS

REGISTRANT *NAME AND ADDRESS*

* 000352 E.I. DUPONT DE NEMOURST COMPANY
LEGAL DEPT. D7045
WILMINGTON, DE 19898

********** PRODUCT NAME **********

**00173* DU PONT MANZATE
**00291* DU PONT MANZATE D MANEB FUNGICIDE
**00306* DU PONT MANZATE 7 MANEB FUNGICIDE
**00341* DU PONT MANZATE 200 FUNCICIDE
**00343* DU PONT TERSAN LSR TURF FUNGICIDE
**00348* DU PONT MANEB 80W

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 000400 UNIROYAL CHEMICAL
DIV UNIROYAL INC
AMITY ROAD
BETHANY CT 06525

********** PRODUCT NAME **********

**00119* THIOSTAT-BM 1515
**00121* THIOSTAT BM5545
**00122* THIOSTAT-M
**00123* THIOSTAT-MB5743

REGISTRANT *NAME AND ADDRESS*

* 000404 MCCONNON & COMPANY
25 MCCONNON ROAD
WINONA MN 55987

********** PRODUCT NAME **********

**00326* MCCONNON POTATO & TOMATO DUST

REGISTRANT *NAME AND ADDRESS*

* 000407 IMPERIAL INC
BOX 423
SHENANDOAH IA 51601

********** PRODUCT NAME **********

**00294* IMPERIAL TOMATO DUST FOR DISEASE & INSECT CONTROL
**00295* IMPERIAL GLADIOLUS DUST FOR INSECT & DISEASE CONTROL

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000407

**00298* IMPERIAL ZINEB 75W FUNGICIDE FOR FLOWERS,GARDEN & ORCHARD
**00312* IMPERIAL GARDEN DUST
**00319* IMPERIAL MANEB FUNGICIDE
**00380* IMPERIAL MULTI-PURPOSE SPRAY WETTABLE POWDER
**00388* IMPERIAL TOMATO, EGGPLANT AND PEPPER DUST
**00389* IMPERIAL TOMATO GARD WETTABLE POWDER
**00390* IMPERIAL 8% ZINEB DUST
**00391* IMPERIAL SEED POTATO TREATMENT

REGISTRANT *NAME AND ADDRESS*

* 000419 CENOL COMPANY
DIV OF BUEGESS VIBROCRAFTERS INC
P.O BOX 177 ROUTE 45 & PETERSON RD
LIBERTYVILLE, IL 60048

********** PRODUCT NAME **********

**00165* ROSE DUST BY CENOL

REGISTRANT *NAME AND ADDRESS*

* 000449 TECHNE CORPORATION
C/O REGULATORY AFFAIRS DEPT, FARMLAND IND., INC.
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00251* ZINEB GARDEN FUNGICIDE
**00431* ZINEB 75-W

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 000449

**00469* SURE DEATH BRAND MANEB
**00493* 85% ZINEB DUST BASE
**00494* 75% ZINEB DUST BASE
**00495* 80% ZINEB DUST BASE
**00623* G.O.F. GARDNE SPRAY WETTABLE POWDER

REGISTRANT *NAME AND ADDRESS*

* 000456 CHEMICAL FORMULATORS INC
BOX 26
NITRO, WV 25143

********** PRODUCT NAME **********

**00087* CHEMFORM BRAND MANEB FUNGICIDE
**00090* CHEMFORM BRAND ROSE AND FLORAL DUST

REGISTRANT *NAME AND ADDRESS*

* 000468 GURNEY SEED & NURSERY COMPANY
YANKTON SD 57078

********** PRODUCT NAME **********

**00004* GURNEY'S APPLE CEDAR RUST SPRAY
**00016* GURNEY'S FAMOUS COMBINATION BUG DUST WITH 3 WAY ACTION

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 000471 FIELD HENRY SEED & NURSERY
402 SYCAMORE ST
SHENANDOAH IA 51601

********** PRODUCT NAME **********

**00009* HENRY FIELD S GLADIOLUS AND BULB DUST FUNGICIDE INSECTICIDE
**00011* HENRY FIELD'S TOMATO DUST
**00024* HENRY FIELD'S NEW IMPROVED BUG DUST

REGISTRANT *NAME AND ADDRESS*

* 000476 STAUFFER CHEMICAL COMPANY LABELING & REGISTRATION
DEPT 1200 SOUTH 47TH ST
RICHMOND, CA 94804

********** PRODUCT NAME **********

**01079* MANEB 5.6 DUST
**01166* ZINEB 5 DUST
**01433* MANEB 8 DUST
**01431* ZINEB 75-W
**02079* CAPTAN-MANEB 40-30 SEED PROTECTANT
**02081* CAPTAN-MANEB 37.5-37.5 SEED PROTECTANT
**02082* CAPTAN-HCB-MANEB 20-20-20 SEED PROTECTANT
**02088* CAPTAN-MANEB 37.5-37.5 PEANUT SEED PROTECTANT
**02090* CAPTAN-MANEB 10-35 SEED PROTECTANT
**02091* MANEB 35% SEED PROTECTANT

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT *NAME AND ADDRESS*

* 000477 GRO ALL INC
DIV OF CENTRAL CHEM CORP
P. O. BOX 918
HAGERSTOWN, MD 21740

********** PRODUCT NAME **********

**00202* FARMRITE 15% ZINEB DUST
**00259* FARMRITE 5.6% MANEB DUST
**00262* FARMRITE POTATO SEED TREATER (CONTAINS POLYRAM)
**00268* FARMRITE POTATO SEED DUST (CONTAINS DITHANE M-45)
**00280* FARMRITE POTATO SEED FUNGICIDE (CONTAINS MANZATE 200)

REGISTRANT *NAME AND ADDRESS*

* 000539 SEARS ROEBUCK & COMPANY
SEARS TOWER DEPT. 766/68TH FLOOR
CHICAGO IL 60684

********** PRODUCT NAME **********

**00108* SEARS TOMATO AND POTATO DUST
**00235* GENERAL PURPOSE FUNGICIDE CONTAINS ZEBE
**00283* SEARS GARDEN DUST

REGISTRANT	*NAME AND ADDRESS*
* 000550	AGSCO INC BOX 458 GRAND FORKS ND 58201

********** PRODUCT NAME **********
**00072* AGSCO DUSTRET A POTATO SEED PIECE TREATMENT
**00086* BLITEX DUST DM-6
**00105* BLITEX 40 MN FUNGICIDE
**00106* BLITEX 80 MN FUNGICIDE
**00108* DUSTRET-A
**00109* AGSCO DB-GREEN-A
**00111* BLITEX DUST M-6
**00113* AGSCO DB-YELLOW
**00115* DUSTRET-II
**00127* AGSCO DB-GREEN A SEED DISINFECTANT AND INSECTICIDE
**00128* AGSCO DB-YELLOW A SEED DISINFECTANT

REGISTRANT	*NAME AND ADDRESS*
* 000557	SWIFT AGRICULTURAL CHEMICAL CORP. 111 WEST JACKSON BOULEVARD CHICAGO, IL 60604

********** PRODUCT NAME **********
**01586* SWIFT'S TOMATO DUST
**01826* VIGORO GARDEN DUST

REGISTRANT	*NAME AND ADDRESS*
* 000572	ROCKLAND CHEMICAL CO. INC. P.O. BOX 809 CALDWELL, NJ 07006

********** PRODUCT NAME **********
**00127* ROCKLAND "HOMEOWNER" GARDEN DUST
**00248* ROCKLAND ZINEB GARDEN FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000595	HAVILAND AGRICULTURAL CHEMICAL CO 1845 STERLING NW GRAND RAPIDS, MI 49502

********** PRODUCT NAME **********
**00180* HAVILAND 7 M DUST
**00225* HAVILAND ZINEB DUST NO. 6
**00234* MALATHION MANEB COPPER DUST NO. 5-3.5-3.5
**00239* METHOXYCHLOR MANEB NO. 57
**00240* MALATHION MANEB DUST NO. 57
**00245* PARATHION MANEB DUST NO. 17
**00256* PARATHION MANEB DUST NO. 27
**00257* PARATHION COPPER MANEB 1-3.5-3.5
**00274* THIODAN ZINEB DUST
**00275* THIODAN MANEB DUST
**00277* DIAZINON COPPER MANEB DUST

**CONTINUE REGISTRANT 000595
**00283* MALATHION COPPER MANEB DUST NO. 5-7-3.5
**00285* DIAZINON MANEB DUST NO. 27
**00286* COPPER MANEB FUNGICIDE DUST NO. 3535
**00291* PARATHION COPPER MANEB DUST 2-3.5-3.5
**00297* HAVILAND POTATO SEED-PIECE FUNGICIDE DUST
**00318* 15% ZINEB DUST

REGISTRANT	*NAME AND ADDRESS*
* 000602	RALSTON PURINA COMPANY CHECKERBOARD SQUARE ST LOUIS MO 63188

********** PRODUCT NAME **********
**00150* PURINA TOMATO AND GARDEN DUST
**00155* PURINA ROSE & FLOWER GARDEN SPRAY A W P FOR CNTR OF INS & PLANT DI
**00211* PURINA CAP-ZIN FUNGICIDE
**00234* PURINA ROSE AND FLOWER DUST

REGISTRANT	*NAME AND ADDRESS*
* 000635	E-Z FLO CHEMICAL CO. DIV. OF GROWER SERVICE CORP. P.O. BOX 608 LANSING, MI 48901

********** PRODUCT NAME **********
**00044* E-Z FLO DITHANE 6 DUST

**CONTINUE REGISTRANT 000635
**00112* E-Z-FLO VEGA GUARD
**00129* MANEB 7 DUST
**00167* E-Z-FLO SPECIAL MUSHROOM DUST (FOR MUSHROOM HOUSES)
**00241* E-Z FLO 75-W ZINEB
**00324* SPECIAL GREENHOUSE TOMATO DUST
**00360* E-Z-FLO MANEB-SEVIN 6-3 DUST
**00388* PARATHION, MANEB, COPPER 1.5-3.8-4.5 DUST
**00390* TOBACCO FORMULA 1-3-10
**00396* TOBACCO FORMULA 1-3-20
**00421* TOBACCO FORMULA 1% PARATHION-10(T) DITHANE DUST
**00472* E-Z-FLO 1% PARATHION - 10% DITHANE DUST
**00496* TOBACCO FORMULA 1% PARATHION 20 DITHANE DUST
**00543* E-Z-FLO MANEB PARATHION 7-2 DUST
**00598* E Z FLO TOBACCO FORMULA 1% PARATHION 6.5% ZINEB DUST
**00600* E Z FLO DITHANE M-45 POTATO SEED PIECE FUNGICIDE DUST
**00633* E-Z-FLO TOBACCO FORMULA 1% PARATHION 3% THIODAN AND 6.5% ZINEB DUST
**00641* E Z FLO TOBACCO FORMULA 2% PARATHION 4% THIODAN 6.5% ZINEB
**00647* E-Z FLO POLYRAM S BORON DUST (WITH BORAX)

REGISTRANT	*NAME AND ADDRESS*
* 000707	ROHM & HAAS COMPANY INDEPENDENCE MALL PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**CONTINUE REGISTRANT 000707

**000002* DITHANE Z-78

**000003* DITHANE D-14 PLANT FUNGICIDE

**000048* DITHANE M-22

**000070* DITHANE A-40

**000072* DITHANE Z-78 CONCENTRATE

**000078* DITHANE M-45 AGRICULTURAL FUNGICIDE

**000083* DITHANE M-22 SPECIAL

**000087* FORE A FUNGICIDE FOR TURF AND ORNAMENTALS

**000093* DIKAP-FUNGICIDE-MITICIDE

**000097* DITHANE M-45 SEED PROTECTANT CONCENTRATE AGRICULTURAL FUNGICIDE

**000101* DITHANE (R) M-22 SPECIAL W/ZINC CONC. FOR DUST BLEND. & FORM. ONLY

**000102* DITHANE(R) M-45 CONC. FOR DUST BLENDING AND FORMULATING ONLY

**000103* DITHANE M-22 CONCENTRATE (FOR DUST BLENDING AND FORMULATING ONLY)

**000124* DITHANE S-31 AGRICULTURAL FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000728	PEARSON & COMPANY PO BOX 7151 MOBILE AL 36601

********** PRODUCT NAME **********

**000016* PEARSON'S ZEBRA DUST

**000086* PEARSONS ROSE DUST

**000094* PEARSONS TOMATO DUST

REGISTRANT	*NAME AND ADDRESS*
* 000746	MFA OIL CO P.O. BOX 519 COLUMBIA MO 65201

********** PRODUCT NAME **********

**000048* M.F.A. TOMATO DUST

**000078* NEW M.F.A. MULTI SPRAY BULK PACK WETTABLE POWDER FORMULA B

**000110* M.F.A. ROSE AND FLORAL DUST

REGISTRANT	*NAME AND ADDRESS*
* 000769	WOOLFOLK CHEMICAL WORKS INC PO BOX 938 FT VALLEY GA 31030

********** PRODUCT NAME **********

**000106* SECURITY BRAND ZINEB DUST

**000265* SECURITY VEGE-C-GARD

**000299* ROSE . FLOWER ORNAMENTAL DUST

**000342* SECURITY 6% MANEB DUST

**000366* SECURITY 5% POLYRAM PEANUT DUST

**000367* SECURITY POLYRAM-SEVIN 5-5 PEANUT DUST

**000385* SECURITY DITHANE M-45 SEVIN 6-5 PEANUT DUST

**000388* SECURITY 6% DITHANE M-45 DUST

**000430* SEC. TOM. & VEG. CONT. SEVIN & MANEB/INST. & DISEASE CONTROL

REGISTRANT	*NAME AND ADDRESS*
* 000779	FARBY & BESTHOFF INC 143 RIVER RD EDGEWATER NJ 07020

********** PRODUCT NAME **********

**000048* F & B LAWN AND TURF FUNGICIDE

**000078* F & B MANEB 8% DUST WITH ZINC

REGISTRANT	*NAME AND ADDRESS*
* 000829	LILLY CHAS H COMPANY MILLER PD DIV 7737 N.E. KILLINGSWORTH PORTLAND, OR 97218

********** PRODUCT NAME **********

**000 066* MILLER'S DITHANE M22 6D

**000083* ZINEB 6D

**000428* MILLER'S 10% DITHANE M-45 DUST

**000447* MILLER'S 7.5% DITHANE M-45 DUST

**000474* MILLER'S DITHANE S-31

**000494* MILLER'S VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 000829	SOUTHERN AGRI INSECT INC PO BOX 218 PALMETTO FL 33561

********** PRODUCT NAME **********

**000067* SA BRAND 5% MANEB DUST

**000073* SA-50 BRAND MARZATE DUST WITH 1% PARATHION

**000115* SA-50 BRAND ZINEB C FUNGICIDE

**000180* SA-50 BRAND MANEB SPRAY CONCENTRATE

**000187* SA-50 BRAND 5% MANEB 5% SEVIN TOMATO & POTATO DUST

**000193* SA-50 BRAND 8% MANEB DUST

**000194* SA-50 BRAND SEVIN 5% DUST MANEB 5.6% SULFUR 70%

**000195* SA-50 BRAND POLYRAM SPECIAL

**000224* SA-50 BRAND DITHANE M-45

**000227* SA 50 HOME AND GARDEN VEGETABLE DUST

**000231* SA50 CUCUMBER SQUASH & MELON DUST

REGISTRANT	*NAME AND ADDRESS*
* 000842	ROBINS G S COMPANY 12E CHOUTEAU AVE ST LOUIS MO 63102

********** PRODUCT NAME **********

**000109* ROBINS COMBINATION FRUIT SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 23

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 000869	GREEN LIGHT COMPANY P.O. BOX 17985 SAN ANTONIO, TX 78217

**********PRODUCT NAME**********

**000884* GREEN LIGHT GENERAL PURPOSE FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000904	PRATT B G DIV GABRIEL CHEM LTD 204 21ST AVE PATERSON NJ 07505

**********PRODUCT NAME**********

**001151* PRATT'S LAWN & GARDEN FUNGICIDE

**001190* LIQUID MANEB PLANT FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000809	COOKE LABORATORY PRODUCTS 4759 S DURFEE AVE PICO RIVERA CA 90660

**********PRODUCT NAME**********

**000264* COOKE ROSE DUST

**** PRODUCT SEARCH LISTING **** PAGE 24

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 000961	LEBANON CHEMICAL CORPORATION PO BOX 180 LEBANON PA 17042

**********PRODUCT NAME**********

**001143* LEBANON GARDEN DUST INSECTICIDE FUNGICIDE

**001253* LEBANON TOMATO & POTATO DUST

**001257* LEBANON ROSE & FLORAL SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 001159	SEACOAST LABORATORIES INC 257 HIGHWAY 18 E BRUNSWICK NJ 08816

**********PRODUCT NAME**********

**001151* TWIN LIGHT ZINEB 75% WETTABLE

**001177* TWIN LIGHT TOMATO AND VEGETABLE DUST OR SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 001202	PUREGRO COMPANY 1052 W 6TH ST LOS ANGELES CA 90017

**********PRODUCT NAME**********

**001177* PUREGRO POLYRAM POTATO SEED TREATMENT

**001191* PUREGRO M-45 DUST

**** PRODUCT SEARCH LISTING **** PAGE 25

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 001202

**002000* MANEB 5-6 DUST

**002256* PUREGRO DITHANE M 45 POTATO SEED-PIECE TREATER

**002257* PUREGRO MANZATE 200 POTATO SEED-PIECE TREATER

**002280* PEUFGRO DIAZINON MANEB DUST 3-4

REGISTRANT	*NAME AND ADDRESS*
* 001258	OLIN CHEMICALS OLIN CORPORATION 120 LONG RIDGE ROAD STAMFORD, CT 06904

**********PRODUCT NAME**********

**000802* OLIN SPESIOX-Z INSTANTLY DISPERSIBLE FUNGICIDE

**000803* SPESLOX-SZ INSTANTLY DISPERSIBLE POWDER FOLIAR FUNG.

**000912* OLIN SPESIOX-Z INSTANTLY DISPER POWDER LAWN & GARDEN FOLIAR FUNG

REGISTRANT	*NAME AND ADDRESS*
* 001308	PURDY MCNESS COMPANY 126 E CLARK ST FREEPORT IL 61032

**********PRODUCT NAME**********

**000241* MCNESS MANEB DUST

**** PRODUCT SEARCH LISTING **** PAGE 26

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

REGISTRANT	*NAME AND ADDRESS*
* 001339	COTTON STATES CHEM CO INC P O DRAWER 157 W MONROE LA 71291

**********PRODUCT NAME**********

**001151* COTTON STATES SPRIN SUPER TOMATO DUST

REGISTRANT	*NAME AND ADDRESS*
* 001345	STAPLES C W INC BOX 328 PRESQUE ISLE ME 04769

**********PRODUCT NAME**********

**000010* STAPLES DITHANE SEED TREATING DUST (CONTAINS DITHANE M-45)

REGISTRANT	*NAME AND ADDRESS*
* 001384	UNIVERSAL COOPERATIVES INC PO BOX 836 ALLIANCE OH 44601

**********PRODUCT NAME**********

**000274* UNICO ROSE AND FLORAL SPRAY POWDER

**000275* UNICO GARDEN SPRAY POWDER

**000276* UNICO GARDEN DUST

**000423* UNICO ROSE AND FLORAL DUST

**000427* UNICO 5.6% MANEB DUST

**CONTINUE REGISTRANT 001386

**000486* UNICO GARDEN DUST A

**000609* UNICO Z DUST CONTAINS 5.2% ZINEB FUNGICIDE

**000611* UNICO SEVIN ZINEB 3-5.2 DUST

**000612* UNICO MZ 5-5.2 DUST

**000617* UNICO GARDEN FUNGICIDE (ZINEB FUNGICIDE)

**000661* UNICO ROSE AND FLORAL SPRAY POWDER NO. 2

**000662* UNICO ROSE AND FLORAL DUST NO 2

REGISTRANT *NAME AND ADDRESS*

* 001086 BLUE SPRUCE COMPANY
1300 VALLEY ROAD
STIRLING, NJ 07980

********** PRODUCT NAME **********

**001168* CHEM O BAM 48 SOLUTION

**001184* CHEM NEB AGRICULTURAL FUNGICIDE

**002282* CHEM-SPEC FRANT CHEM NEB AGRICULTURAL FUNGICIDE

**002287* CHEM ZINEB

REGISTRANT *NAME AND ADDRESS*

* 001071 BLANCO PRODUCTS DIVISION ELI LILLY
FALER HEIT PO BOX 1750
INDIANAPOLIS IN 46206

********** PRODUCT NAME **********

**CONTINUE REGISTRANT 001971

**000088* GREENFIELD PINTON ROSE AND ORNAMENTAL DISEASE CONTROL

REGISTRANT *NAME AND ADDRESS*

* 001526 A G CHEM-CHEM DIST
ARIZONA AGROCHEMICAL CO.
P.O. BOX 21627
PHOENIX AZ 85036

********** PRODUCT NAME **********

**001373* PHOENIX BRAND ZINEB 5

**000410* PHOENIX BRAND PARATHION 2 MANEB 5

**000440* PHOENIX BRAND PARATHION 2 MANEB 5 WITH 50% SULPHUR

**001602* ZM 8% FUNGICIDE DUST

REGISTRANT *NAME AND ADDRESS*

* 001508 FCX INC
P.O. BOX 2819
RALEIGH, NC 27602

********** PRODUCT NAME **********

**000148* FCX 6 1/2% ZINEB 1% PARATHION DUST

**000161* 6.5% ZINEB DUST

**000162* FCX POLYRAM 5-5 MF

**001173* FCX FARM CHEM. POLYRAM 5 DUST/(BORAX) FUNGICIDE NUMBE.

**001194* FCX SEVIN ZINEB 3-5.2 DUST

**001211* FCX ROSE AND FLORAL DUST

REGISTRANT *NAME AND ADDRESS*

* 001677 ECONOMICS LABORATORY INC
SUPPLY SERVICES
OSBORN BLDG
ST PAUL, MN 55102

********** PRODUCT NAME **********

*1000*2* MAGNACIDE 16

REGISTRANT *NAME AND ADDRESS*

* 000685 STAUFFER CHEMICAL MFG CO THE
3100 HAMILTON AVE
94114

********** PRODUCT NAME **********

**000685* FORMULA 289 FUNGICIDE KOBE

REGISTRANT *NAME AND ADDRESS*

* 000706 NALCO CHEMICAL COMPANY
REGULATORY AFFAIRS CONSULTANT
2901 BUTTERFIELD ROAD
OAK BROOK, IL 60521

********** PRODUCT NAME **********

**000706* NALCO 647 SLIMICIDE UTILIZING MICROORGANISM CONTROL CHEMICAL

REGISTRANT *NAME AND ADDRESS*

* 001757 DREW CHEMICAL CORPORATION
P O BOX 248 751 JEFFERSON ROAD
PARSIPPANY, NJ 07054

********** PRODUCT NAME **********

**000225* BIOCIDE 207

**000226* BIOCIDE 275

**000242* DREWSPERSE 780 (FOR INDUSTRIAL USE ONLY)

**000248* AMERSPERSE 280

**000251* BIOSPERSE (P) 280

**000259* AMERSTAT 272

**000261* AMERSTAT 274

REGISTRANT *NAME AND ADDRESS*

* 001760 NATIONAL CHEMSEARCH DIV
NCA/GEM INC
2727 CHEMSEARCH BLVD
IRVING TX 75060

********** PRODUCT NAME **********

**000190* NATIONAL CHEMSEARCH WINTHINE FUNGICIDE-INSECTICIDE FOR TURF & ORNAMENT

REGISTRANT	*NAME AND ADDRESS*
* 001772	HOLDEN CORP THE 1421 FIFTH AVE HUNTINGTON WV 25702

**** PRODUCT NAME ****

**000056* CABELL'S 11 DUST CONTAINS SEVIN & ZINEB

**000074* CHEMFORM BRAND ZINEB SPRAY POWDER FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 001812	GRIFFIN CORP. P.O. BOX 1847 VALDOSTA, GA 31601

**** PRODUCT NAME ****

**000016* DITHANE Z-78 10

**000038* MANEB 8

**000080* POLYRAM 35 RED DUST

**000082* PEE GEE PHOSDRIN EMULSIFIABLE CONCENTRATE

**000111* 5-5 POLYRAM-SEVIN A COMBINATION FUNGICIDE & INSECTICIDE

**000125* PEE GEE POLYRAM 3.5 WITH SULPHUR FUNGICIDE

**000126* PEE GEE POLYRAM 5 DUST FUNGICIDE

**000127* PEE GEE ZINEB-SEVIN 10/40 DUST

**000152* PEE GEE ZINEB 75 W

**000170* SHADE TOBACCO DUST PARATHION 2 - THIODAN 4 - ZINEB 6.5

**000172* SHADE TOBACCO DUST PARATHION 1 THIODAN 3 - ZINEB 6.5

**CONTINUE REGISTRANT 001812

**000173* SHADE TOBACCO DUST PARATHION 2 THIODAN 3 - ZINEB 13

**000174* ZINEB 6.5 SHADE TOBACCO DUST

**000175* ZINEB 13 SHADE TOBACCO DUST

**000176* SHADE TOBACCO DUST PARATHION 1 - THIODAN 4 ZINEB 6.5

**000177* SHADE TOBACCO DUST PARATHION 1 - THIODAN 4 - ZINEB 13

**000178* SHADE TOBACCO DUST PARATHION 2-THIODAN 4-ZINEB 13

**000182* PEAS & TOBACCO DUST PARATHION 2 ZINEB 6.5

**000188* MAN-CAP

REGISTRANT	*NAME AND ADDRESS*
* 001842	TRIANGLE CHEMICAL COMPANY BOX 4628 MACON GA 31208

**** PRODUCT NAME ****

**000166* 1-6 PARATHION-ZINEB MELON DUST

**000238* TRIANGLE POLYRAM 5 DUST FUNGICIDE

**000240* TRIANGLE POLYRAM 5 SEVIN 5 DUST FUNGICIDE INSECTICIDE

**000249* TRIANGLE POLYRAM 5 DUST FUNGICIDE-NUTRITIONAL WITH BORAX

**000254* TRIANGLE POLYRAM 5 SEVIN 7 1/2 DUST

REGISTRANT	*NAME AND ADDRESS*
* 001965	VANDERBILT R T COMPANY INC 33 WINFIELD ST EAST NORWALK CT 06855

**** PRODUCT NAME ****

**000066* VANCIDE MANEB FLOWABLE 37% MANEB DISPERSION

REGISTRANT	*NAME AND ADDRESS*
* 002124	GRACE W R & COMPANY AGR CHEM C H TIDWELL PO BOX 277 100 N MAIN ST MEMPHIS TN 38101

**** PRODUCT NAME ****

**000010* NACO ZINEB DUST

**000304* NACO MANEB 4.8 DUST

**000306* NACO SEVIN*MANEB 5-6 DUST

**000518* NACO ZINEB 75% WETTABLE POWDER

**000599* NACO LINDANE-MANEB-SULPHUR DUST SQUASH SPECIAL

**000601* NACO POTATO SEED PIECE FUNGICIDE DUST

**000604* NACO LINDANE MANEB DUST (CUCUMBER SPECIAL)

**000628* SEVIN-MANEB 5-4.8 DUST

**000686* NACO PARATHION-MANEB 2-4.8 DUST

**000781* NACO MANEB 80 FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 002125	SCIENCE PRODUCTS COMPANY INC 5801 N TRIPP AVE CHICAGO, IL 60646

**** PRODUCT NAME ****

**000043* SCIENCE FORE (LAWN & ORNAMENTAL FUNGICIDE)

**000050* SCIENCE MANEB GARDEN FUNGICIDE

**000060* SCIENCE ZINEB GARDEN FUNGICIDE

**000065* SCIENCE TOMATOE & VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 002136	HOFFMAN COMPANY INC 1413-1415 COURT ST LAB ALLENTOWN PA 18102

**** PRODUCT NAME ****

**000021* HOFFMAN'S INSECTICIDE-FUNGICIDE DUST

REGISTRANT	*NAME AND ADDRESS*
* 002169	PATTERSON CHEMICAL COMPANY INC 1400 UNION AVE KANSAS CITY, MO 64101

**** PRODUCT NAME ****

**000045* PATTERSON'S FUNGICIDE MULTI-PURPOSE

**000090* PATTERSON'S GARDEN DUST

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 002169

**000114* PATTERSON'S ROSE DUST
**000160* PATTERSON'S ZINEB FUNGICIDE
**000161* PATTERSON'S MANEB FUNGICIDE
**000205* PATTERSON'S TOMATO DUST INSECTICIDE FUNGICIDE
**000208* PATTERSON S SCD WEEWORM GRANULES WITH TURF FUNGICIDE

REGISTRANT *NAME AND ADDRESS*

* 002204 PROCESS CHEMICAL DIV
P O BOX 2386R
MORRISTOWN, NJ 07960

********** PRODUCT NAME **********

**000004* NCFCOCIDE 110

REGISTRANT *NAME AND ADDRESS*

* 002217 PBI-GORDON CORPORATION
300 SC 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

**000401* TOMATO & GARDEN DUST
**000426* FORE LAWN & ORNAMENTAL SPRAY
**000514* FORE PLUS ROSE AND ORNAMENTAL FUNGICIDE
**000534* RES-Q
**000546* TOMATO AND VEGETABLE FUNGICIDE

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 002217

**000562* DUAL-PURPOSE RES-Q
**000564* RES-Q-100 SEED DISINFECTANT AND PROTECTANT DUST OR SLURRY
**000565* RES-Q-200 SEED DISINFECTANT AND PROTECTANT DUST OR SLURRY

REGISTRANT *NAME AND ADDRESS*

* 002269 GOLD KIST INC
PO BOX 2210
ATLANTA GA 30301

********** PRODUCT NAME **********

**000149* TOMATO DUST
**000150* ZINEB DUST NO 10
**000153* ONE SHOT Z-P DUST

REGISTRANT *NAME AND ADDRESS*

* 002342 KERR-MCGEE CHEMICAL CORP
MGR REG & LABELING
KERR-MCGEE CENTER
OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

**000367* FASCO ZINEB DUST -6 1/2 PROD. NO. 602
**000448* FASCO PARA-BARBITE DUST 2-6 PROD NO 926
**000659* FASCO P-D-Q SHADE PARA THIODAN ZINEB DUST 1-3-13
**000662* FASCO P-D-Q-SHADE PARA THIODAN ZINEB DUST 1-3-6 1/2
**000716* FASCO ZINEB 75 WP

7/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 002342

**000729* FASCO POLYRAM & BORON DUST 5-2.4
**000730* FASCO POLYRAM-SEVIN DUST 5-5
**000731* FASCO POLYRAM DUST-5
**000745* FASCO THIODAN ZINEB DUST 3-6
**000747* FASCO VEGETABLE DUST 5-6
**000762* GRO-TONE ROSE FUNGICIDE
**000768* GRO-TONE GARDEN DUST
**000772* GRO-TONE ZINEB FUNGICIDE
**000813* TOBACCO FORMULA 19.6% ZINEB
**000853* MANEB THIODAN DUST
**000854* 5.6% MANEB-3% METHOXYCHLOR DUST
**000863* TOBACCO FORMULA 16.25% ZINEB 5% SEVIN - 4% MALATHION
**000877* 5.6% MANEB DUST
**000883* POLYRAM SEED TREATER FOR POTATOES
**000886* POTATO SEED-DISCE FUNGICIDE DUST (CONTAINS DITHANE M-45)

REGISTRANT *NAME AND ADDRESS*

* 002391 HOPKINS AGRI, CHEMICAL CO.
P.O. BOX 7532
MADISON, WI 53707

********** PRODUCT NAME **********

**000206* HOPKINS POLYRAM POTATO SEED TREATER
**000207* HOPKINS POTATO SEED-DISCE FUNGICIDE DUST (CONTAINS DITHANE M-45)
**000215* HOPKINS MANEB THIRAM SEED PROTECTANT

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 002391

**000226* HOPKINS 6% DITHANE 278 DUST
**000238* HOPKINS 15% ZINEB DUST
**000244* HOPKINS POTATO-TOMATO DUST
**000318* MANEB WETTABLE POWDER FUNGICIDE
**000425* ZINEB WETTABLE POWDER FUNGICIDE

REGISTRANT *NAME AND ADDRESS*

* 002459 STEVENS IND INC
N MAIN ST PO BOX 272
DAWSON GA 31742

********** PRODUCT NAME **********

**000163* MASTER BRAND M-22 DUST
**000191* MASTER BRAND ZINEB TOMATO DUST
**000208* MASTER BRAND 6% DITHANE M-45 DUST A FUNGICIDE DUST
**000216* MASTER BRAND DITHANE M-45 SEVIN 6-5 DUST
**000224* MASTER BRAND VEGETABLE GUARD DUST MALATHION & DITHANE M-45
**000243* MASTER BRAND 22.5 CAPTAN - 37.5 MANEB PEANUT SEED FUNGICIDE
**000247* MASTER BRAND TOMATO DUST 7
**000265* MASTER BRAND VEGETABLE DUST MALATHION & DITHANE M-45

REGISTRANT	*NAME AND ADDRESS*
* 002749	ACETO CHEMICAL COMPANY INC 126-02 NORTHERN BLVD FLUSHING NY 11356

********** PRODUCT NAME **********	
**000006*	ZINEB 75
**000013*	ZINEB 90
**000017*	MANEB 80
**000018*	MANEB 90
**000020*	ZINEB 85%
**000022*	MANEB 80-W
**000034*	MANEB 80 PLUS 2% ZINC
**000036*	AMAZIN ZINC ENRICHED MANEB 80W FUNGICIDE WITH 2% ZINC
**000064*	BIRDIE A FUNGICIDE FOR TURF & ORNAMENTALS
**000068*	ZINEB 90
**000076*	ZINEB 75-W
**000088*	ACETO AMAZIN PHASE 2
**000112*	PURAM 80W
**002201*	MANEB 80W WITH ADDED ZINC TURF FUNGICIDE
**002210*	AMAZIN
**002222*	MANEB 8 DUST POTATO SEED TREATER FUNGICIDE
**002227*	MANEB 80W WITH 2% ZINC
**002265*	DUO M-L INSECTICIDE & FUNGICIDE SEED TREATMENT

REGISTRANT	*NAME AND ADDRESS*
* 002935	WILBUR ELLIS CO. P. O. BOX 1286 FRESNO, CA 93715

********** PRODUCT NAME **********	
**000336*	RED-TOP MANEB 6 DUST
**000354*	RED TOP POTATO SEED PIECE FUNGICIDE DUST (CONTAINS DITHANE M-45)
**000378*	RED-TOP POTATO FUNGICIDE "MANZATE" D-S

REGISTRANT	*NAME AND ADDRESS*
* 003122	SUPERIOR FERTILIZER & CHEM COMPANY ATTEN R BASS BOX 1021 TAMPA FL 33600

********** PRODUCT NAME **********	
**000019*	ZINEB 6-1/2% DUST

REGISTRANT	*NAME AND ADDRESS*
* 003238	AGRICO CHEMICAL CO. CROP PROTECTION CHEMICAL DIV. BOX 3451 TULSA, OK 74101

********** PRODUCT NAME **********	
**000073*	MICRO-FLO SULPHUR-ZINEB FUNGI-SPERSE
**000075*	ZINEB 75 WETTABLE

NOTICES

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REGISTRANT	*NAME AND ADDRESS*
* 003342	CAPE FEAR CHEMICALS INC PO BOX 695 ELIZABETHTOWN NC 28337

********** PRODUCT NAME **********	
**000012*	TIGER BRAND 10% DITHANE DUST (ZINEB)
**000030*	DITHANE-PARATHION DUST

REGISTRANT	*NAME AND ADDRESS*
* 003468	SCHALL CHEMICAL INC BOX 862 MONTEVISTA CO 81144

********** PRODUCT NAME **********	
**000015*	POLYRAM POTATO SEED TREATER
**000023*	MANEB SULFUR
**000027*	SEVIN MANEB SULFUR
**000030*	POTATO SEED TREATER
**000031*	CYTHION-MANEB-SULFUR
**000032*	DRILL BOX SEED TREATMENT
**000034*	PARATHION MANEB SULFUR
**000038*	THIODAN MANEB SULFUR
**000050*	ZINEB-SULFUR

REGISTRANT	*NAME AND ADDRESS*
* 003635	OXFORD CHEMICALS PO BOX 80202 ATLANTA GA 30341

********** PRODUCT NAME **********	
**000110*	OXFORD CONTROL COOLING TOWER SLIMICIDE

REGISTRANT	*NAME AND ADDRESS*
* 003735	ARLENGE LABORATORIES 175 PEARL ST BROOKLYN NY 11201

********** PRODUCT NAME **********	
**000113*	ARLENGE ROSE COMBINATION SPRAY
**000121*	ARLENGE ROSE COMBINATION SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 003783	SOUTHERN AGRICULTURAL CHEMICALS INC PO BOX 527 KINGSTREE SC 29556

********** PRODUCT NAME **********	
**000138*	ROYAL BRAND DITHANE PARATHION DUST
**000183*	POLYRAM BED DUST
**000184*	101 BRAND MANEB POTATO & TOBACCO SEED BED
**000186*	ROYAL BRAND POLYRAM 3.5 DUST FUNGICIDE

NOTICES

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07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 003743

**000189* 101 BRAND POLE BEAN MIXTURE FOR POLE BEANS
**000191* ROYAL BRAND POLYRAM 3.5 DUST WITH PARATHION
**000218* ROYAL BRAND ZINEB 75 W
**000254* POLE BEAN SPECIAL
**000257* SEVIN MANEB TOMATO & POTATO DUST
**000265* 10% DITHANE DUST FOR THE CONTROL OF TOBACCO BLUE MOLD
**000271* APPLE DUST NO. 5
**000279* SPECIAL GARDEN DUST
**000287* MANEB NO. 6 DUST
**000295* 2-6-20 CABBAGE DUST
**000296* MANEB DUST
**000336* ROYAL BRAND M-P 2-4 CABBAGE DUST
**000338* ROYAL BRAND TOMATOE & BEAN DUST
**000339* CUMP SPECIAL

REGISTRANT	*NAME AND ADDRESS*
* 003770	ECONOMY SPCC COMPANY BOX 237 HOSPERS, IA 51238

********** PRODUCT NAME **********

**000136* ECONOMY'S APPLE CEDAR DUST SPRAY
**000172* POSE A FUNGICIDE FOR TURF AND ORNAMENTALS
**000197* MULTI-PURPOSE AGRICULTURAL FUNGICIDE
**000261* ECONOMY ZINC ENRICHED MANEB 80W FUNGICIDE WITH 2% ZINC

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 003770

**000218* ECONOMY POTATO DUST
**000225* GLADIOLUS AND BULB DUST
**000242* MULTI-PURPOSE BUG DUST
**000247* ROSE DUST
**000261* MULTI-PURPOSE BUG DUST
**000262* TOMATO DUST
**000270* CAPTAN-MANEB 10-35 SEED PROTECTANT
**000309* TOMATO DUST
**000313* ROSE AND FLORAL DUST

REGISTRANT	*NAME AND ADDRESS*
* 003772	MAY SEED & NURSERY CO SHENANDOAH IA 51603

********** PRODUCT NAME **********

**000009* EARL MAY MULTI-PURPOSE BUG DUST
**000033* EARL MAY ZINEB 75W FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 003876	BETZ LABORATORIES, INC. 4636 SOMERTON ROAD TREVOSE, PA 19047

********** PRODUCT NAME **********

NOTICES

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 003876

**000053* BETZ SLIME-TROL FORMULA RX-34
**000060* BETZ SLIME-TROL DF-32B
**000062* BETZ SLIMICIDE C-34

REGISTRANT	*NAME AND ADDRESS*
* 004085	SMITH-DOUGLASS DIV. BORDEN CHEMICAL, BORDEN INC. 5100 VIRGINIA BEACH BLVD. NORFOLK, VA 23501

********** PRODUCT NAME **********

**000332* SMITH DOUGLAS POLYRAM 5% DUST
**000335* SMITH-DOUGLASS POLYRAM-SEVIN 5-5 DUST
**000336* SMITH-DOUGLASS POLYRAM 7% DUST
**000347* SMITH DOUGLASS POLYRAM SEVIN SULFUR DUST FOR PEANUTS
**000384* SMITH-DOUGLASS DITHANE M-45 SEVIN 5-5 DUST
**000386* SMITH-DOUGLASS DITHANE M-45 5% DUST
**000400* SMITH DOUGLASS MANZATE 3% DUST
**000415* SMITH-DOUGLASS MANZATE 8% DUST
**000453* ZINEB-SEVIN 3.9-5 DUST
000497* SMITH-DOUGLASS DITHANE M-45*-SEVIN 5-10 DUST
**000505* MANEB-PARATHION DUST
**000506* MANEB 4% TOBACCO PLANT BED DUST
**000508* ZINEB PARATHION 3.9-1 DUST
**000511* ZINEB 6 1/2% DUST
**000512* DITHANE M-45 6% DUST

07/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING EBCD

**CONTINUE REGISTRANT 004185

**000537* MANEB 1.4% TOBACCO PLANT BED DUST

REGISTRANT	*NAME AND ADDRESS*
* 004255	PIKE CHEM INC BOX 546 NITRO WV 25143

********** PRODUCT NAME **********

**000013* AMOBAM SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 004581	PENNWALT CORP AGCHEM DIV. PENNWALT TECHNOLOGICAL CENTER P.O. BOX C KING OF PRUSSIA, PA 19406

********** PRODUCT NAME **********

**000188* ZINEB M-75
**000217* TRICAPENMIX
**000255* MANEB 80
**000262* TRIMANZONE
**000267* ZINEB TECHNICAL
**000270* TRIZINEB

NOTICES

REGISTRANT	*NAME AND ADDRESS*
* 004683	DEARBORN CHEMICAL DIV-WR GRACE & COMPANY 320 GENESSEE ST LAKE JURICH IL 60047

**** PRODUCT NAME ****

**000028* DEARCIDE 744

REGISTRANT	*NAME AND ADDRESS*
* 004715	COLORADO INTERNATIONAL CORP 7800 MARBLE N.E. ALBUQUERQUE, N.M. 87110

**** PRODUCT NAME ****

**000282* BEST 4 SERVIS BRAND POLYRAM POTATO SEED TREATER NO. 7

REGISTRANT	*NAME AND ADDRESS*
* 004876	AG SUPPLY INC INDUSTRIAL DRIVE HOPKINSVILLE KY 42240

**** PRODUCT NAME ****

**000012* MANEB FUNGICIDE FOR PLANT DISEASE CONTROL

**000086* TOBACCO PLANT BED DUST

**000242* AGTRIPLE ACTION VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 004931	GOOD-LIFE CHEMICALS INC BOX 687 EFFINGHAM IL 62401

**** PRODUCT NAME ****

**000125* VEGETABLE AND TOMATO DUST OR SPRAY

**000128* GOODLIFE GARDEN SPRAY OR DUST

**000129* GOOD LIFE INSIGNIA ROSE & FRUIT SPRAY

**000333* GOOD LIFE TOMATO AND VEGETABLE DUST OR SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 005009	TRETOLITE DIV PETROLITE CORP ADM MANAGER-RESEARCH 369 MARSHALL AVENUE ST LOUIS, MO 63119

**** PRODUCT NAME ****

**000022* XCIDE-505

**000023* XCIDE-15

REGISTRANT	*NAME AND ADDRESS*
* 005238	MOCK SEED COMPANY 13TH & SPRAGUE ST PITTSBURG PA 15239

**** PRODUCT NAME ****

**000015* MOCK'S CUPA-LAWN

REGISTRANT	*NAME AND ADDRESS*
* 005308	PATCO PRODUCTS INC DIV OF VAUGHAN'S SEED CO CHIMNEY ROCK ROAD BOUND BROOK, NJ 08805

**** PRODUCT NAME ****

**000008* PATCO'S LAWN MEDIC A LAWN AND GRASS FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 005481	AMVAC CHEMICAL CORP 4100 EAST WASHINGTON BLVD LOS ANGELES, CA 90023

**** PRODUCT NAME ****

**000141* DURHAM DUTCHION ZEEMATE TOXAPHENE DUST 2-6-15

REGISTRANT	*NAME AND ADDRESS*
* 005530	ADIKES INC J & L 182-12 93RD AVE JAMAICA NY 11423

**** PRODUCT NAME ****

**000083* GRO-WELL ZINEB

**000085* GRO-WELL TOMATO AND VEGETABLE DUST SQUEEZE DUSTER

**000086* GRO-WELL TOMATO & VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 005549	COASTAL CHEMICAL CORPORATION PO BOX 856 GREENVILLE NC 27834

**** PRODUCT NAME ****

**000006* DITHANE M-22 SPECIAL

**000052* DITHANE M-22 1% PARATHION DUST

REGISTRANT	*NAME AND ADDRESS*
* 005605	FARMINGDALE GARDEN LABS 136 VERDI ST FARMINGDALE NY 11735

**** PRODUCT NAME ****

**000094* FARMINGDALE LAWN AND GARDEN FUNGICIDE CONTAINING MANEB WITH ZINC

**000107* FARMINGDALE ROSE-FLORAL-TOMATO & VEGETABLE SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 005783	CAROLINA CHEMICAL CORP PO BOX 70 WILSON NC 27893

**** PRODUCT NAME ****

**000072* CHAMPION DITHANE Z-78 DUST

REGISTRANT	*NAME AND ADDRESS*
* 005887	BLACK LEAF PROD COMPANY 667 N STATE ST ELGIN IL 60120

**** PRODUCT NAME ****

**000013* SHEEN FOLIAGE SPRAY

**000038* BLACK LEAF MANEB FUNGICIDE

**000040* BLACK LEAF TOMATO AND VEGETABLE DUST

**000052* BLACK LEAF PORE LAWN FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*
* 005905	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2904 MEMPHIS TN 38137

**** PRODUCT NAME ****

**000375* ATLAS BRAND POLYRAM 10 DUST

**000376* ATLAS BRAND POLYRAM 80 WETTABLE POWDER

**000381* HELENA BRAND 1% EPBATHION 61/2% ZINEB DUST

**000321* HELENA BRAND TOBAC 6.5% ZINEB DUST

REGISTRANT	*NAME AND ADDRESS*
* 006020	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1796 TAMPA FL 33601

**** PRODUCT NAME ****

**000108* X-CEL ZINEB

REGISTRANT	*NAME AND ADDRESS*
* 006735	TIDE PRODUCTS INC ATTN MW MARSH BOX 1020 EDINBURG TX 78539

**** PRODUCT NAME ****

**000184* TIDE SEVIN ZINEB 10-6.5

**000185* TIDE DITHANE M-45 DUST

**000186* TIDE ZINEB 75W

**000192* TIDE ZINEB 6.5 DUST

**000202* TIDE FUNGICIDE DUST

REGISTRANT	*NAME AND ADDRESS*
* 006874	DAWSON CHEMICAL COMPANY INC 1525 N POST OAK RD HOUSTON TX 77055

**** PRODUCT NAME ****

**000002* SPERLOX MANEB

**CONTINUE REGISTRANT 006874

**000065* SPERLOX SZ

REGISTRANT	*NAME AND ADDRESS*
* 006993	GERMAINS INC 4820 E 50TH ST LOS ANGELES CA 90058

**** PRODUCT NAME ****

**000047* GERMAIN'S IMPROVED MULTI-PURPOSE TOMATO & VEGETABLE DUST

**000038* GERMAIN'S ROSE & FLOWER DUST

REGISTRANT	*NAME AND ADDRESS*
* 007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330

**** PRODUCT NAME ****

**000098* MANDII

**000126* POLYRAM Z DUST

**000150* MULTI-PURPOSE DISEASE CONTROL CONTAINS DITHANE M-45

**000198* TOMATO & VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 007173	CHEMPAR CHEMICAL COMPANY INC 260 MADISON AVE NEW YORK NY 10016

**** PRODUCT NAME ****

**000082* CHEMPAR ZINEB TECHNICAL FOR MANUFACTURING PURPOSES ONLY

REGISTRANT	*NAME AND ADDRESS*
* 007192	CIMPLOT MILLERS RED RIVER VALLEY DISTRICT RED RIVER VALLEY DISTRICT BOX 590 EAST GRAND FORKS, MN 56721

**** PRODUCT NAME ****

**000126* VALLEY GRO BORATE SEED TREATER

**000198* NORTHLAND TITLE CUT

REGISTRANT	*NAME AND ADDRESS*
* 007201	VOLUNTARY PURCHASING GROUP INC PO BOX 482 BONHAM TX 75418

**** PRODUCT NAME ****

**000107* FERTI-LOME TOMATO AND VEGETABLE GARDEN DUST AND SPRAY

**000150* FERTI LOME TOMATO & VEGETABLE DUST

**000198* FERTI-LOME HOME GARDEN TOMATO & VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*
* 007279	HOUGHTON E F & CO MADISON & VAN BUREN AVENUES NORRISTOWN PA 19401

********** PRODUCT NAME **********

**000009* SLIMEX NO. 16

**000018* SLIMEX 4416

**000019* SLIMEX 5101

REGISTRANT	*NAME AND ADDRESS*
* 007969	BASF WYANDOTTE CORPORATION PO BOX 181 100 CHERRY HILL RD PARSIPPANY NJ 07054

********** PRODUCT NAME **********

**000003* BASOFIX BM 117

**000004* BASF MANEB 80 - W. P.

**000005* BASF MANEB PLUS AGRICULTURAL FUNGICIDE

**000011* BASF MANEB TECHNICAL GRADE

**000012* BASF ZINEB TECHNICAL GRADE

**000018* BASF ZINEB 80 WP

REGISTRANT	*NAME AND ADDRESS*
* 008103	CAVEDON CHEMICAL COMPANY INC 26 AVE C WOONSOCKET RI 02895

********** PRODUCT NAME **********

**000002* CAVCO SB-7C SLIMICIDE FOR PAPER MILLS

REGISTRANT	*NAME AND ADDRESS*
* 008203	ICI UNITED STATES INC. REGULATORY LAW DEPT. P.O. BOX 751 WILMINGTON, DE 19899

********** PRODUCT NAME **********

**000008* GRANOL N-M

**000009* GRANOX N-M SEED DISINFECTANT

**000011* AGROSOL S SEED TREATMENT

**000012* GRANOL(3) P-C PEANUT SEED FUNGICIDE AND INSECTICIDE

**000013* GRANOX P-F-M PEANUT AND SOYBEAN SEED FUNGICIDE

**000022* GRANOX FLOWABLE FUNGICIDE SEED TREATMENT

REGISTRANT	*NAME AND ADDRESS*
* 008222	LING FUANG INDUSTRIES, INC. LING FUANG, IND. P.O. BOX 1207 GARDNERVILLE, NV. 89410

********** PRODUCT NAME **********

**CONTINUE REGISTRANT 008222

**000037* T & C GARDEN FUNGICIDE

**000054* TOWN & COUNTRY TOMATO & VEGETABLE SQUEEZE DUSTER

REGISTRANT	*NAME AND ADDRESS*
* 008236	PROCHIMIE INTERNATIONAL INC. 488 MADISON AVE. NEW YORK, N.Y. 10022

********** PRODUCT NAME **********

**000003* ZINEB 93%

REGISTRANT	*NAME AND ADDRESS*
* 008343	GABRIEL CHEMICALS LTD 204 21ST AVE PATERSON, NJ 07509

********** PRODUCT NAME **********

**000076* ZINEB 15 MUSHROOM DUST

**000086* POTATO SEED TREATER A READY TO USE DUST CONTAINING DITHANE M-45

REGISTRANT	*NAME AND ADDRESS*
* 008521	GABRIEL CHEMICAL LTD BOX B ROBBINSVILLE NJ 08691

********** PRODUCT NAME **********

**CONTINUE REGISTRANT 008521

**000117* GABRIEL MANEB 80% WETTABLE POWDER

REGISTRANT	*NAME AND ADDRESS*
* 008540	GARRATT CALLAHAN COMPANY 111 ROLLINS RD MILLBRAE CA 94031

********** PRODUCT NAME **********

**000017* FORMULA 37 WATER TREATMENT MICROBIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 008590	AGWAY INC CHEMICAL DIV BOX 1333 SYRACUSE NY 13201

********** PRODUCT NAME **********

**000033* AGWAY MANEB-SEVIN 4.5-5 D

**000042* MANEB 4.5 D

**000168* MANEB-THIODAN 4.5-3 D

**000170* MANEB THIODAN 5.6-3 D

**000182* AGWAY DITHANE M-45 10 D

**000197* AGWAY MANEB-MALATHION 5.6-5D

**000202* POLYRAM 7 D

**000289* AGWAY POTATO SEED TREATMENT 8D

**000301* AGWAY DITHANE M-45 6D

**CONTINUE REGISTRANT 008590

**000389* ZINEB 15D

**000609* ZINEB-METHOXYCHLOR-MALATHION 15-5-4 D

REGISTRANT *NAME AND ADDRESS*

* 008591 MOGUL CORPORATION THE
P. O. BOX 200
CHAGRIN FALLS, OH 44022

**** PRODUCT NAME ****

**000028* MOGUL AG-441

REGISTRANT *NAME AND ADDRESS*

* 009276 BERRIEN PRODUCTS COMPANY INC
BOX 365
NASHVILLE GA 31639

**** PRODUCT NAME ****

**000009* BERRIEN ZINEB DUST 6.5

REGISTRANT *NAME AND ADDRESS*

* 009307 ENCAP PRODUCTS COMPANY
P O BOX 278
MOUNT PROSPECT, IL 60056

**** PRODUCT NAME ****

**000004* POP-IN TOMATO & VEGETABLE SPRAY PACKETS

**CONTINUE REGISTRANT 009307

**000011* POP-IN TOMATO AND VEGETABLE SPRAY

REGISTRANT *NAME AND ADDRESS*

* 009386 VININGS CHEM COMPANY
2555 CUMBERLAND PARKWAY STE 200
ATLANTA, GA 30339

**** PRODUCT NAME ****

**000007* AMA-31

**000011* AMA-30

REGISTRANT *NAME AND ADDRESS*

* 009404 CHASE & COMPANY
BOX 1697
SANFORD FL 32771

**** PRODUCT NAME ****

**000013* SUNNILAND FORE

**000019* SUNNILAND TOMATO AND VEGETABLE DUST

REGISTRANT *NAME AND ADDRESS*

* 009592 MACNAIR L E
15 FRANKLIN ST
HOULTON ME 04730

**** PRODUCT NAME ****

**CONTINUE REGISTRANT 009592

**000003* 8% MANEB POTATO SEED TREATER

REGISTRANT *NAME AND ADDRESS*

* 009779 RIVERSIDE CHEM COMPANY
P.O. BOX 171199 855 RIDGE LAKE BLVD
MEMPHIS TN 38117

**** PRODUCT NAME ****

**000037* RIVERSIDE SEVIN ZINEB TOMATO DUST

**000085* RIVERSIDE MANEB 5 DUST FUNGICIDE

**000102* RIVERSIDE DITHANE M-45 DUST

**000114* RIVERSIDE DITHANE M-45 SEVIN 5 DUST

**000115* RIVERSIDE DITHANE M-45 SEVIN 10 DUST

**000194* RIVERSIDE MANEB 80

**000229* 10% DITHANE DUST

**000235* 7.8% ZINEB 10% SEVIN

REGISTRANT *NAME AND ADDRESS*

* 009782 WOODBURY CHEMICAL COMPANY
PO BOX 4239
PRINCETON FL 33030

**** PRODUCT NAME ****

**000034* POTATO SEED-PIECE FUNGICIDE DUST

REGISTRANT *NAME AND ADDRESS*

* 009932 MAATSCHAPPIJ W V CHEPARO
POSTBOX 6014
ROTTERDAM-W HOLLAND 00000

**** PRODUCT NAME ****

**000002* CHEPARO MV4 WETTABLE POWDER

**000003* MV-4 WETTABLE POWDER MANEB WITH ZINC OXIDE ADDED

REGISTRANT *NAME AND ADDRESS*

* 010226 ROCKWOOD CHEM COMPANY
BOX 34
BRAWLEY CA 92227

**** PRODUCT NAME ****

**000038* ROCKWOOD BRAND ZINEB DUST NO.6

**000044* ROCKWOOD CHEMICAL CO. ZINEB-CRYOLITE DUST NO. 6-50

REGISTRANT *NAME AND ADDRESS*

* 010329 BYCO INC
CONSHOHOCKEN PA 19428

**** PRODUCT NAME ****

**000001* PYCHEM 812-SLIMICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000378	MCDAG CHEMICAL CORP 7247 N CENTRAL PARK AVE SKOKIE IL 60076

**** PRODUCT NAME ****

**00001* SANITROL MICROBIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 010485	UNITED CHEMICAL CORPORATION OF NEW MEXICO PO BOX 1499 HOBBS NM 88240

**** PRODUCT NAME ****

**00016* ALPHA 550

REGISTRANT	*NAME AND ADDRESS*
* 010659	OCCIDENTAL CHEMICAL COMPANY BOX 1185 HOUSTON TX 77001

**** PRODUCT NAME ****

**00026* OXY TREET 6%

REGISTRANT	*NAME AND ADDRESS*
* 010912	HAYNES CHEMICAL COMPANY P.O. BOX 30 EAST GRAND FORKS, MN 56721

**** PRODUCT NAME ****

**00002* TRINOX

**00003* THIMEX

**00004* TRINOX POTATO SEED TREATER

REGISTRANT	*NAME AND ADDRESS*
* 011504	MORGAN CHEMICALS INC PO BOX 3002 GREAT FALLS MT 59401

**** PRODUCT NAME ****

**00001* HAYNES & MORGAN SEED TREAT DRILL BOX NO. 10

**00006* HAYNES & MORGAN SEED TREAT WIREWORM & SHOT #20

**00007* HAYNES & MORGAN SEED TREAT DRILL BOX & SLURRY #0

**00013* MANBLIGHT

REGISTRANT	*NAME AND ADDRESS*
* 011576	IND WATER CHEMICAL DIV OF CONSOL FOODS 314 SPEARS AVE CHATTANOOGA TN 37405

**** PRODUCT NAME ****

**CONTINUE REGISTRANT 011576

**00013* DDC-30

REGISTRANT	*NAME AND ADDRESS*
* 011656	WESTERN FARM SERVICE INC SHELL CHEM COMPANY 1025 CONNECTICUT AVE-STE 200 WASH DC 20036

**** PRODUCT NAME ****

**00005* RUSSET 7% POLYRAM DUST (POLYRAM POTATO SEED TREATER) FUNGICIDE

**00006* RUSSET 7% FUNGICIDE DUST POTATO SEED-PIECE TREATER

REGISTRANT	*NAME AND ADDRESS*
* 011682	SIMPLOT JR COMPANY MINERALS & CHEM DIV BOX 830 MOUNTAIN HOME ID 83647

**** PRODUCT NAME ****

**00001* POLYRAM 7 POTATO SEED TREATER

**00015* P.S.T. 7 POTATO SEED TREATER

REGISTRANT	*NAME AND ADDRESS*
* 011882	CARUSO FARM SUPPLY 120 N WHITE HORSE PIKE HAMMONTON NJ 08037

**** PRODUCT NAME ****

**CONTINUE REGISTRANT 011782

**00003* 6% M-45 DUST

REGISTRANT	*NAME AND ADDRESS*
* 018773	TURNER SALES & SUPPLY INC PO BOX 847 TIFTON GA 31794

**** PRODUCT NAME ****

**00001* PEANUT 7 TSP 5 SEED PROTECTANT

**00002* T-S-P 4 WAY FOR SEED DISEASE CONTROL

REGISTRANT	*NAME AND ADDRESS*
* 019382	ALPHA RESEARCH CHEMICAL COMPANY PO BOX 1502 GRAND FORKS ND 58201

**** PRODUCT NAME ****

**00001* SPUD DUST 7-8

**00002* SPUD DUST 7-8-

**00006* ALPHA-G

REGISTRANT *NAME AND ADDRESS*

* 031910 ALCO CHEMICAL CORP AN ALCO STANDARD COMPANY
TRENTON AVE & WILLIAM STS
PHILADELPHIA PA

********** PRODUCT NAME **********

**000001* AQUATREAT DNM-30

**000002* AQUATREAT DNM-30

REGISTRANT *NAME AND ADDRESS*

* 033561 HERCULES INC
ENVIRONMENTAL SERVICES DIV
910 MARKET ST
WILMINGTON, DE 19899

********** PRODUCT NAME **********

**000001* MB 123

REGISTRANT *NAME AND ADDRESS*

* 033576 OLIN WATER SERVICES
OLIN CORPORATION
120 LONG RIDGE RD
STAMFORD, CT 06904

********** PRODUCT NAME **********

**000031* OLIN 7060

**000034* OLIN 7061

**000036* OLIN 3302

**000037* OLIN 3312

REGISTRANT *NAME AND ADDRESS*

* 033772 PIONEER CHEMICAL WKS INC
PENNA RR & RTE 73
MAPLE SHADE, NJ 08052

********** PRODUCT NAME **********

**000001* PIOCIDE C-30

REGISTRANT *NAME AND ADDRESS*

* 033861 AGRI FUTURE COMPANY
15708 LOCH ROAD
BURNSVILLE, MN 55337

********** PRODUCT NAME **********

**000002* SOWMATIC I

REGISTRANT *NAME AND ADDRESS*

* 033955 ACME DIVISION
FBI GORDON CORP
300 SOUTH THIRD ST
KANSAS CITY, KS 66118

********** PRODUCT NAME **********

**000393* ACME ALL ROUND DUST

**000456* ACME TOMATO AND VEGETABLE DUST

**000469* ACME ZINEB 75W FUNGICIDE

**000511* ACME RED RIVER VEGETABLE SPRAY

REGISTRANT *NAME AND ADDRESS*

* 034571 BETZ ENTEC INCORPORATED
2500 OFFICE CENTER
WILLOW GROVE, PA 19090

********** PRODUCT NAME **********

**000003* BETZ ENTEC 344

REGISTRANT *NAME AND ADDRESS*

* 034704 PLATTE CHEMICAL COMPANY
150 SOUTH MAIN
GREENWOOD, NE 68802

********** PRODUCT NAME **********

**000017* BALCOM POLYRAM POTATO SEED TREATER

**000029* CLEAN CROP M-45 8% POTATO SEED TREATER

**000037* CLEAN CROP M50-H10 SEED PROTECTANT FOR SMALL GRAINS

**000038* CLEAN CROP MANEB-LINDANE SEED PROTECTANT

REGISTRANT *NAME AND ADDRESS*

* 035699 ASSOCIATED WATER CONDITIONERS, INC.
RT. 202, MT. KEMBLE AVE.
MORRISTOWN, NJ 07960

********** PRODUCT NAME **********

**000001* MICROBIOCIDE 467

[FR Doc.77-22624 Filed 8-9-77;8:45 am]

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THURSDAY, AUGUST 11, 1977

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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H.R. 7932 ..... Pub. L. 95–94
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

Conforming Technical Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment is made to conform the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR 27.1–27.102) to reflect enactment of the U.S. Cotton Futures Act (90 Stat. 1841–46) which supersedes cotton futures provisions of the Internal Revenue Code of 1954. The revisions are procedural and nonsubstantive in nature and for the most part are made to reflect the new section numbers assigned to the legislation when it was codified.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald A. Harbaugh, Deputy Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–2145).

SUPPLEMENTARY INFORMATION: As a result of the enactment of the U.S. Cotton Futures Act (90 Stat. 1841–1846) on October 4, 1976 certain revisions are necessary in the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR 27.1–27.102). The U.S. Cotton Futures Act supersedes similar cotton futures provisions of the Internal Revenue Code of 1954. One of the types of futures contracts authorized in the act is a basis grade contract. This type contract has been called a 4863 contract in regulations—in reference to the section of the act where the contract is authorized. When the new legislation was codified the section numbers changed, thus requiring this revision in the regulations. In addition, an obsolete provision at § 27.7 is being deleted from the regulations.

The notice, public rulemaking procedure and effective date requirements contained in 5 U.S.C. 553 are omitted as unnecessary since the revisions contained herein are procedural and nonsubstantive in nature. Accordingly, pursuant to authority contained in subsection 15b(j), 90 Stat. 1841–1846, said regulations are hereby amended as follows:

1. In § 27.2 paragraphs (a), (i) and (k) are revised to read as follows:

§ 27.2 Terms defined.

* * * * * *

(a) *The act.* The United States Cotton Futures Act (90 Stat. 1841–1846; 7 U.S.C. 15b).

* * * * * *

(i) *Exchange.* Exchange, board of trade, or similar institution or place of business, at, on, or in which a basis grade contract may be made.

* * * * * *

(k) *Basis grade contract.* Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with subsection 15b(f) of the act.

* * * * * *

2. Section 27.3 is revised to read as follows:

§ 27.3 Requirements of subsection 15b (f) of the act.

The inspection, sampling, classification, and Micronaire determination of cotton pursuant to subsection 15b(f) of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under basis grade contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with subsection 15 b(f) of the act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said subsection 15b(f), nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said subsection 15b(f).

§§ 27.4 and 27.5 [Amended]

3. In §§ 27.4 and 27.5 substitute the words "basis grade" for "section 4863."

§ 27.7 [Deleted]

4. Delete § 27.7 in its entirety.

§ 27.14 [Amended]

5. In § 27.14 substitute the words "basis grade" for "section 4863."

§§ 27.31 and 27.42 [Amended]

6. In §§ 27.31 and 27.42 substitute the words "subsection 15b(f)" for "section 4863."

§§ 27.43 and 27.44 [Amended]

7. In §§ 27.43 and 27.44 substitute the words "basis grade" for "section 4863."

§ 27.45 [Amended]

8. In § 27.45 in the first sentence, substitute the words "subsection 15b(f)" for "section 4863" and in the third sentence stitute the words "subsection 15b(f)" for "section 4863."

§ 27.47 [Amended]

9. In § 27.47 substitute the words "basis grade" for "section 4863" in two places.

§§ 27.52 and 27.53 [Amended]

10. In §§ 27.52 and 27.53 substitute the words "subsection 15b(f)" for "section 48.63."

§§ 27.62–27.65 and 27.73 [Amended]

11. In §§ 27.62, 27.63, 27.64, 27.65 and 27.73 substitute the words "basis grade" for "section 4863" wherever they appear.

§ 27.94 [Amended]

12. In § 27.94 the first sentence is revised to read as follows:

§ 27.94 Spot markets for contract settlement purposes.

The following are designated as spot markets for the purpose of determining as provided in paragraph 15b(f)(3) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a basis grade contract:

* * * * * *

13. Section 27.95 is revised to read as follows:

§ 27.95 Spot markets to conform to act and regulations.

Every bona fide spot market shall, as a condition of its designation and of the retention thereof for the purposes of the act, conform to subsection 15b(d) and paragraph 15b(f)(3) of the act and the requirements of §§ 27.96–27.102.

14. Section 27.99 is revised to read as follows:

§ 27.99 Value of grade where no sale; determination.

Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 15b(f)(3) of the act, in the settle-

ment of a basis grade contract, shall be determined in accordance with § 27.100.

(90 Stat. 1841–1846; (7 U.S.C. 15b).)

Effective Date: August 11, 1977.

Dated: August 8, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-23233 Filed 8-10-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 568]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 12–18, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: Findings. (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is somewhat easier this week. Average f.o.b. price was $4.34 per carton on 642 cars for the week ended August 4, as compared with $4.32 per carton on 562 cars the previous week. Track and rolling supplies at 370 cars were down 49 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 9, 1977.

§ 908.868 Valencia Orange Regulation 568.

(a) *Order.* (1) The quantities of Valencia orange grown in Arizona and designated part of California which may be handled during the period August 12, 1977, through August 18, 1977, are hereby fixed as follows:

(i) District 1: 254,000 cartons;

(ii) District 2: 396,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 10, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23436 Filed 8-10-77;11:22 am]

[Tokay Grape Reg. 13]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Regulation of Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade requirements for Tokay grapes and marking requirements for the containers in which the grapes are shipped. This action is necessary to assure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: August 20, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the provisions of the marketing agreement and Order No. 926 (7 CFR Part 926), hereinafter referred to collectively as the "order." The order regulates the handling of Tokay grapes grown in San Joaquin County, California, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Industry Committee, established under the order. It is hereby found that the regulation of Tokay grapes, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This regulation is based upon an appraisal of the current and prospective crop and marketing conditions for Tokay grapes. The committee estimates that 1977 production of Tokay grapes will be about 152,181 tons. This is about 4,000 tons more than the 1976 crop. Fresh shipments are estimated at 20,125 tons as compared to about 25,000 tons last season. The grade and container requirements hereinafter provided are necessary to prevent the handling of fresh Tokay grapes of lesser quality so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maintaining orderly marketing conditions in the interest of producers and consumers. The requirements are that such grapes meet the grade and size specifications of U.S. No 1 Table grapes and that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color Each container of such grapes must bear a Federal-State Inspection Service lot number in plain letters and figures on one outside end. The requirement for more even distribution of color (30 percent of the grapes in the lower quarter of each bunch showing characteristic color) is also included to assure the availability to consumers of Tokay grapes of satisfactory quality. Compliance with the container marking requirement will verify inspection thus assuring compliance with the quality requirements specified herein.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 20, 1977. A reasonable determination as to supply of, and the demand for, Tokay grapes must await the development of the crop thereof, and adequate information thereon was not available to the Industry Committee until July 27, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for and the extent of regulation of shipments of such grapes. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such grapes are expected to begin on or about August 25, 1977; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such grapes; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 926.314 is added which reads as follows:

§ 926.314 Tokay Grape Regulation 13.

(a) During the period August 20, 1977, through September 30, 1977, no handler shall ship:

(1) Any Tokay grapes, grown in the production area, which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes, grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler", "ship", and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 51.880–51.912).

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 8, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23235 Filed 8-10-77;8:45 am]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Increase in Expenses for 1976–77 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document increases from $64,908.03 to $70,908.03 expenses reasonable and likely to be incurred during the 1976–77 fiscal period by the Cranberry Marketing Committee. The committee is established under a Federal marketing order regulating the handling of cranberries. Expenses of the committee will be higher than initially estimated primarily to cover the cost of additional meetings.

DATES: Effective for fiscal period September 1, 1976, through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: On July 14, 1977, notice of rulemaking was published in the FEDERAL REGISTER (42 FR 36267) regarding a proposed increase in expenses for the fiscal period beginning September 1, 1976, through August 31, 1977, pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The notice invited interested persons to submit written data, views, or arguments through August 1, 1977. No such material was submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposal set forth in the notice which was submitted by the Cranberry Marketing Committee (established pursuant to said marketing agreement and order) it is hereby found that the amendment, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment was published in the FEDERAL REGISTER on July 14, 1977, and no objection to this amendment was received; (2) in order for the committee to meet obligations incurred in accordance with the provisions of the amended marketing agreement and order during the 1976–77 fiscal period an immediate increase in the previously approved expenses is necessary, and (3) no increase in the rate of assessment fixed for the 1976–77 fiscal period is necessary since income already available to the committee is sufficient to cover the increase in expenses.

Therefore, the provisions of paragraph (a) of § 929.217 (41 FR 47457) are hereby amended to read as follows:

§ 929.217 Expenses and rate of assessment.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1976, through August 31, 1977, will amount to $70,908.03.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 8, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23232 Filed 8-10-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

LIMITATIONS ON USE OF LOAN FUNDS

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration revised its regulations which prohibits the use of loan funds to refinance debts except for interim financing. Under this revision loan funds may be used under certain circumstances, to

obtain a release of an existing lien on land needed for the site of a proposed project. This action is necessary to enable FmHA to obtain a first lien on a project being financed with loan funds.

EFFECTIVE DATE: August 11, 1977. Comments must be received on or before September 12, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTAL INFORMATION: Section 1822.86(b)(8) of Subpart D, Part 1822, Title 7, Code of Federal Regulations (40 FR 4278) is amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment is not published for proposed rulemaking since the change is needed to allow FmHA to finance needed housing projects now pending and any delay would be contrary to the public interest.

As amended, § 1822.86, paragraph (b) (8) reads as follows:

§ 1822.86 Limitations.

* * * * *

(b) *Limitations on use of loan funds.* Loans will not be made for:

* * * * *

(8) Refinancing debts of the applicant except:

(i) As authorized in § 1822.94 (a) or

(ii) When a nonprofit organization or a State or local public agency, applicant already owns land on which a lien has existed for more than 5 years before the date of the application, a subordination or release cannot be obtained, and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land needed for the site of the proposed project. The amount of funds used for such purposes shall be limited to the amount necessary to obtain the release and, in any case, shall not exceed the "as is" value of the land as determined in accordance with FmHA Instruction 422.3 which is available in any FmHA office.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 26, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-23237 Filed 8-10-77;8:45 am]

SUBCHAPTER R—BUSINESS SERVICES

PART 2024—PROPERTY AND SUPPLY

Subpart A—Procurement, Sales, and Leasing Authority

REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is revising its regulation pertaining to delegations of authority for procurement contracting, purchasing, sales and leasing, space acquisition and assignment. This revision is intended to simplify the existing procurement procedure and to increase procurement authority for certain positions because of the rise in the cost of operations.

EFFECTIVE DATE: Effective on August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert J. Geiger, 202-447-5777.

SUPPLEMENTAL INFORMATION: Subpart A of Part 2024, Chapter XVIII of Title 7, Code of Federal Regulations (41 FR 13933) is amended. The purpose of this amendment is to update and simplify the regulation. Specifically: In Exhibit A under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount under the Agriculture Procurement Regulations authority to purchase with power to delegate again; the positions of Administrative Officer, District Director, and County Supervisor are added under paragraph 6. In Exhibit B under the National Office, the position of Deputy Director, Business Services Division, is added, including dollar amount, some position titles are changed, and in the Finance Office, increases in dollar amounts are made under services and supplies in two instances. In Exhibit C, under the National Office, the position of Deputy Director, Business Services Division, is added, and one position title is changed in the State Office. In Exhibit D under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount, and one position title is changed. Editorial changes are included. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking inasmuch as the Subpart involves only internal departmental regulations, therefore, notice and public procedure thereon are unnecessary. Accordingly, exhibits A through D of Subpart A of Part 2024 as revised, are set forth below.

EXHIBIT A—DELEGATION OF PURCHASING AUTHORITY (SMALL PURCHASES)

Using Agriculture Procurement Regulations 4-3.602-50, authority to purchase with power to delegate again is given to these positions:

National Office	*Amount not to exceed*
Deputy Administrator, Financial and Administrative Operations	$10,000
Director, Business Services Division	10,000
Deputy Director, Business Services Division	10,000
Authority to purchase without power to redelegate is given to:	
1. National Office:	
Chief, Property and Procurement Management Branch	10,000
Property and Space Management Specialist	10,000
Contracting Specialist	10,000
Procurement and Supply Specialist	10,000
Director, Property Management Staff	10,000
Purchasing Agent	5,000
2. Finance Office:	
Chief, Business Services Branch	10,000
Assistant Chief, Business Services Branch	10,000
Head, Space Management Section	10,000
Head, Property Management Section	10,000
3. State Office—Puerto Rico:	
State Director	2,500
Administrative Officer	2,500
4. National Training Center:	
Resident Manager. For emergency supplies and services for ongoing training	75
For Transportation Service	250
5. State Director. Allowances for supplies and equipment for information programs	[1]
6. State Director, Administrative Officer, District Director, County Supervisor. For emergency supplies and services not available through St. Louis, Missouri, office	25
7. State Director; District Director; County Supervisor:	
Services for maintenance, management or repair of "real" or "acquired" property	2,000
Repair and replacement of parts and cleaning of electric typewriters and office machines	[2] 60
8. State Director Property Management Specialist Chief, Property Management. Services for maintenance, management and sale of acquired real property	[3] 5,000
9. Property Management Specialist Chief, Property Management. Services for maintenance management, repair, and sale of acquired real property	[4] 10,000

[1] Yearly $100 plus $2.50 for each fulltime county office.

[2] Maximum depending on age. (See guidelines available in any FmHA office for limitations on age of equipment.)

[3] Only for employees who have completed the Property Management Training Course.

[4] Only for employees who have completed the prescribed construction contracting courses and procedures.

This delegation replaces all others and is valid until changed or canceled.

People in these positions, or those acting for them, can use this authority.

Use Federal Procurement Regulations, Subpart 1-3.6; Agriculture Procurement Regulations, Subpart 4-3.6; and Agency regulations that apply in using this authority

Authority to purchase will not be used for contracting of construction except for Items 7 and 9 above

EXHIBIT B.—*Delegation of procurement contracting authority*

Using AGPR 4-1.404, the Office of Operations has delegated procurement contracting authority, without powers to redelegate to people in these positions:

Amount not to Exceed—Construction	Amount not to Exceed—Services and supplies	National office
$100,000	$500,000	Director, Business Services Division.
100,000	500,000	Deputy Director, Business Services Division.
100,000	500,000	Chief, Property and Procurement Management Branch.
100,000	500,000	Contract Specialist.
100,000	100,000	Director, Property Management Staff.
.....	25,000	Property and Space Management Specialist.
.....	25,000	Procurement and Supply Specialist.
		Finance office
25,000	50,000	Chief, Business Services Branch.
25,000	50,000	Assistant Chief, Business Services Branch
.....	20,000	Head, Space Management Section.
.....	20,000	Head, Property Management Section.

NOTE.—Use Federal Procurement Regulations, Agriculture Procurement Regulations, Federal Property Management Regulations, Agriculture Property Management Regulations, and Agency regulations that apply in using this authority.

EXHIBIT C—DELEGATION OF SALES AUTHORITY

A. Using GSA and Departmental authorities, sale of surplus personal property is delegated without authority to redelegate to:

National Office: Director, Business Services Division; Deputy Director, Business Services Division; Chief, Property & Procurement Mgmt. Branch.

Finance Office: Chief, Business Services Branch; Asst. Chief, Business Services Branch; Head, Property Management Section.

B. Using guidelines available in any FmHA office, contracts and agreements to sell real property is delegated without authority to redelegate to:

National Office: Director, Property Management Staff; Director, Business Services Division; Deputy Director, Business Services Division.

State Office:	
State Director	[1] $10,000
Property Management Specification	[1] 10,000
County Office:	
County Supervisor	[1] 2,000

[1] This limit applies to the fee paid for a single property sold. Blanket listing agreements can be made by any of the above.

EXHIBIT D—AUTHORITY TO LEASE SPACE (REAL PROPERTY

	Amounts not to exceed
National Office, Washington, D.C.:	
Director, Business Services Division	$500,000
Deputy Director, Business Services Division	500,000
Chief, Property & Procurement Mgmt. Branch	500,000
Property & Space Management Specialist	25,000
Finance Office:	
Chief, Business Services Branch	25,000
Assistant Chief, Business Services Branch	25,000
Head, Space Management Section	10,000
Head, Property Management Section	10,000

All delegations are limited to a one year firm term lease with option to renew for four additional years in areas not controlled by GSA or subject to FPMR Part 101-17.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 27, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-23236 Filed 8-10-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2895]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Olin Ski Company, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Middletown, Conn. manufacturer and distributor of ski boots and other ski industry items to cease establishing, maintaining, and enforcing price maintenance agreements; requiring such agreements as a precondition to dealing; soliciting reports of recalcitrant distributors and terminating those dealerships; using serial numbers as a means of tracing products sold to unauthorized outlets; and failing to honor warranties for products sold by such establishments. Further, the order requires the respondents to maintain prescribed files for a five-year period; and prohibits them from disseminating, for two years, all materials suggesting resale prices.

DATES: Complaint and order issued, July 19, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm. 1301, Boston, Mass. 02114 (617-223-6621).

SUPPLEMENTARY INFORMATION: On Monday, May 16, 1977, there was published in the FEDERAL REGISTER (42 FR 24753) a proposed consent agreement with analysis In the Matter of Olin Ski Company, Inc., et al., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and or corrective actions as codified under 16 CFR, are as follows:

Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.497 To terminate, or threaten to terminate contracts, dealings, franchises, etc. Subpart—Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective Actions and or Requirements: § 13.533 Corrective actions and or requirements; § 13.533-45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; 13.1145-5 Against price cutters; § 13.1150 Penalties; § 13.1155 Price schedules and announcements: § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165-50 Identifying marks; 13.1165-80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23129 Filed 8-10-77;8:45 am]

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION AND IMPORTATION OF WILDLIFE AND PLANTS

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination That Seven California Channel Island Animals and Plants Are Either Endangered Species or Threatened Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) hereby issues a rulemaking pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act) which determines the San Clemente loggerhead shrike (*Lanius ludovicianus mearnsi*), San Clemente broom (*Lotus scoparius* (Nutt.) Ottley ssp. *traskiae* (Abrams) Raven), San Clemente bushmallow (*Malacothamnus clementinus* (M.&J.) Kearn.), San Clemente Island larkspur (*Delphinium kinkiense* Munz), and the San Clemente Island indian paintbrush (*Castilleja grisea* Dunkle) to be Endangered species, and which determines the island night lizard (*Klauberina riversiana*), and the San Clemente sage sparrow (*Amphispiza belli clementae*) to be Threatened species. The above are the first plants to be added to the U.S. List of Endangered and Threatened Wildlife and Plants.

DATES: This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884). The amendments will become effective on September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 1976, the Service published a proposed rulemaking in the FEDERAL REGISTER (41 FR 22073–22075) advising that sufficient evidence was on file to support a determination that seven animals endemic to San Clemente Island, California, were Endangered species as provided for by the Act, and on June 16, 1976, the Service published another proposed rulemaking in the FEDERAL REGISTER (41 FR 24523–24572) advising that sufficient evidence was on file to support a determination that more than 1700 United States plants were Endangered species as provided for by the Act. The four plants determined herein were among those proposed. These proposals summarized the factors thought to be contributing to the likelihood that these species could become extinct or become Endangered in the foreseeable future; specified the prohibitions which would be applicable if such determinations were made; and solicited comments, suggestions, objections and factual information from any interested person.

Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. Accordingly, letters were sent to Governor Brown of California on July 1, 1976 (re: 41 FR 24524–24572) and on July 2, 1976 (re: 41 FR 22073–22075) notifying him of the two subject proposed rulemakings. On July 1 and 2, 1976, memoranda were sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties including scientists, interested organizations and environmental groups.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a "* * * summary of all comments and recommendations received * * * be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife.

In the June 1 and June 16, 1976, FEDERAL REGISTER proposed rulemakings (41 FR 22073–22075, 41 FR 24523–24572) and the associated news releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

The specified 60-day public comment periods were to terminate on August 16, 1976 (for the 1700 plants) and on August 2, 1976 (for the seven San Clemente animals). All comments received prior to February 28, 1977, were considered.

Comments on Proposed Rulemaking for Seven Animals

(41 FR 22073–22075): Letters from 14 persons were received as follows:

California State Department of Fish and Game (responding for Governor Brown), California State Department of Food and Agriculture, U.S. Navy, U.S. National Park Service, Sierra Club, Audubon Naturalist Society, Environmental Defense Fund, Pt. Reyes Bird Observatory, Dr. Dennis M. Power (Santa Barbara Natural History Museum), Dr. Philip J. Regal (University of Minnesota), Dr. H. Lee Jones (University of California, Los Angeles), Dr. Ned K. Johnson (University of California, Berkeley), Dr. Robert L. Bezy (Natural History Museum of Los Angeles County), and Mr. Robert R. Talmadge (Eureka, California).

None of the letters argued against the proposal in its entirety, and most were in favor of the proposal. Several letters were factual, but non-committal, and two presented evidence favoring the determination of some species and against the determination of others.

The State of California, as represented by the Department of Fish and Game, recommended that the San Clemente loggerhead shrike be listed as Endangered, and that none of the other six animals be listed as either Endangered or Threatened. This view supports recommendations of the U.S. Navy (see below) and presupposes that their goat removal program will be ultimately successful. The abundance of the San Clemente sage sparrow, the island night lizard, and three land snails, in concert with U.S. Navy and National Park Service resource management plans, was cited as the principal argument against their listing. The lack of any information indicative of present status was given as the chief factor for rejecting the San Clemente coenonycha beetle as a plausible candidate for listing.

The California Department of Food and Agriculture summarized knowledge of the San Clemente coenonycha beetle. They stated that at present there is inadequate knowledge of this beetle, and that field study will be required.

The U.S. Navy, as represented by the Naval Undersea Center, recommended that the San Clemente loggerhead shrike be listed a Endangered, but that the San Clemente sage sparrow, island night lizard and three land snails were not in present danger of extinction. Due to a lack of data, no opinion was expressed on the San Clemente coenoycha beetle. A detailed map of the distribution on the former six species was also provided. The Navy's recommendations were based on five considerations: (1) The current definition of Endangered species in the Act, (2) recent results of the Navy's Biological Assessment Program, (3) current ecological damage due to exotic goats, pigs, and black-tailed deer, (4) the projected removal of these animals by April 1977; and (5) no consideration was given to potential threats, such as deliberate or chance introductions of exotic species. The status of the island night lizard on other islands was not taken into consideration. The letter ended by examining the potential threats to island endemics of accidental introductions.

The National Park Service recommended that designation of Critical Habitat for the island night lizard be deferred until the National Park Service is in a position to analyze interrelationships between the lizard and several candidate mollusks and plants which also occur on Santa Barbara Island, a component of the Channel Islands National Monument. Mr. Cook made no recommendation with regard to the proposed determination of island night lizard. Critical Habitat for the island night lizard has not been proposed.

Dr. Philip J. Regal, University of Minnesota, in his letter dated September 28, 1976, pointed to recent extinctions of some life forms which were unique to San Clemente Island, and emphasized that island-adapted species are particularly prone to depredations from accidentally or intentionally introduced exotic competitors. Dr. Regal went on to emphasize the uniqueness of the island night lizard, and called attention to its vulnerability to potential introductions.

Dr. Robert L. Bezy, Natural History Museum of Los Angeles County, in a lengthy letter dated July 21, 1976, gave detailed information and comments on the proposed determination of the island night lizard. Although Dr. Bezy does not directly state whether or not he feels the species is Endangered or not, he presents a wealth of field information concerning this species. On San Clemente Island he found the lizard widespread and abundant, but stated that feral goats could seriously impact its habitat through their devegetating actions, since the island night lizard is known to be at least partially herbivorous. The introduced feral pigs and cats on the island undoubtedly feed on the lizards to some degree. On San Nicolas Island, Dr. Bezy found the island night lizard restricted, but locally common. Unfortunately, the alligator lizard (*Gerrhonotus multicarinatus*) has been found on San Nicolas Island in recent years, and Dr. Bezy feels it may be a competitive threat to the island night lizard population there. On tiny Santa Barabara Island, Dr. Bezy found the lizard's habitat limited, and the species moderately abundant at only one locality. In addition, Dr. Bezy presented data on litter size and reproductive rate which indicates a long life and slow replacement. His studies have also shown moderate morphological differentiation between the three populations.

Dr. H. Lee Jones, University of California at Los Angeles, in a letter dated September 27, 1976, commented on the current status of the San Clemente loggerhead shrike and the San Clemente sage sparrow. Dr. Jones, who had conducted intensive field studies of San Clement Island's avifauna, stated that the San Clemente sage sparrow currently numbers between 200 to 400 pairs, while the San Clemente loggerhead shrike numbers no more than 25 pairs—down from 50–75 pairs in 1973. He feels the most serious threat to the shrike is destruction of brush by goats, and that it is in danger of extinction.

Dr. Dennis M. Power, Santa Barbara Natural History Museum, who has studied Channel Island birds, feels both the shrike and sparrow to be worthy of protection.

Dr. Ned K. Johnson, University of California, Berkeley, in a letter dated August 3, 1976, who has conducted research on the California Channel Islands, stated that the San Clemente loggerhead shrike and San Clemente sage sparrow should be both listed as Endangered, and that "every effort should be made to restore their mammal-destroyed habitats."

Dr. Robert M. Stewart, Pt. Reyes Bird Observatory, provided maps showing what he felt were Critical Habitats for the San Clemente sage sparrow and San Clemente loggerhead shrike.

All three conservation organizations and one individual fully supported the proposal, but made no substantive comments.

Comments on Proposed Rulemaking for 1700 Plants

(41 FR 24523–24572): The general comments to this proposed rulemaking will be summarized in the FEDERAL REGISTER with the next listing of plants.

At this time only comments from the State of California and one botanist, who commented specifically on the present status of San Clemente Island plant candidates, are considered.

The California Department of Fish and Game, in a letter dated October 15, 1976, responded to the June 16, 1976, plant proposal on behalf of Governor Brown. They stated that the State did not have the opportunity to adequately assess those taxa proposed, since the Smithsonian Institution did not disclose the information which led to their inclusion in the January 9, 1975, Smithsonian report on Endangered and Threatened U.S. plants. The State went on to express strong opposition to Federal "listing of Endangered species without making available to the States the substantiating data supporting such action." A list of California plants was appended to the letter which contained taxa determined by the California Native Plant Society to be Threatened rather than Endangered, as well as two plant taxa which satisfy neither category. No San Clemente Island plants were mentioned in the letter or the appended list.

Mr. R. Mitchel Beauchamp of National City, California, in a letter dated October 9, 1975 (prior to the proposal), commented upon the status of 23 plants native to San Clemente Island, including the four finally determined herein. *Lotus scoparius* ssp. *traskiae* is located near the cantonment area (Wilson Cove) so there may be some threat. *Malacothamnus clementinus* is now known from two widely separated localities (Lemon Tank dump and lower China Canyon). *Delphinium kinkiense* is uncommon in grasslands in spring. *Castilleja grisea* is infrequent on cliffs.

Conclusion

San Clemente loggerhead shrike. All persons who commented on this bird's status felt it should be determined as Endangered as was proposed.

San Clemente sage sparrow. This species was proposed as Endangered. Of those who made substantive comments on its status, the State of California and the U.S. Navy's stand that the species should not be listed at all due to the existence of a management plan and an active goat removal program is rejected, since there still exists a threat which will remain until all goats are removed from the island and the sparrow's habitat begins to recover. The view that the species be determined as Endangered (as proposed) must also be rejected, since the current population of 200–400 pairs is not likely to become extinct in the foreseeable future.

Island night lizard. The view of the State of California and the U.S. Navy that this species be determined as neither Endangered nor Threatened due to the animal's abundance on San Clemente Island and the existence of Management Plans for San Clemente Island and Santa Barbara Islands is rejected, since the species has small populations on two of the three islands where it occurs, and the species faces a newly introduced competitor on one of those islands. In addition, the evidence that three populations are genetically divergent indicates that the species long-term survival would be enhanced by the short-term continuance of all its populations. The view that the species be determined to be Endangered (as proposed) is also rejected, since the large population on San Clemente Island is not likely to become extinct in theh foreseeable future.

Land snails. The view of the State of California and the U.S. Navy that the wreathed island snail, horseshoe snail, and Gabb's snail be determined as neither Endangered nor Threatened is accepted, since population levels of all three are very high and no threat to their continued survival can be demonstrated. The view that the snails be determined as Endangered (as proposed) is rejected, and these animals should no longer be considered as candidates for determination—unless a new threat to their survival is demonstrated.

San Clemente Coenonycha beetle. The view of the U.S. Navy and the State of California that this insect be determined as neither Endangered nor Threatened due to a lack of status information is accepted. The comments that the species be determined to be Endangered, none of which contained supporting data, is rejected. Although not finally determined at this time, the San Clemente Coenonycha beetle remains proposed until such time that an appropriate status survey has been conducted. At that time a decision will be made with regard to final determination.

San Clemente Island plants. The State of California's view that no California plants be determined under Federal law since the substantiating data was not made available to them is not accepted for the four San Clemente Island plants included herein, since the data upon which these plants were proposed is available in files of the California Native Plant Society, and the scientific literature.

After a thorough review and consideration of all the information available, the Director has determined that the San Clemente loggerhead shrike, San Clemente broom, San Clemente bushmallow, San Clemente Island larkspur and San Clemente Island indian paintbrush are in danger of extinction throughout all or a significant portion of their ranges and that the island night lizard and San Clemente sage sparrow are not Endangered, but Threatened as defined in Section 3 of the Act. Section 4(a) of the Act states that a species may be determined to be endangered or threatened because of any five factors. This review amplifies and substantiates the description of those factors included in the proposed rulemakings.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat or range of all species herein determined, as they occur on San Clemente Island, is presently being modified by the browsing effect of feral goats, and the rooting of feral pigs. The recommendations of the

State of California and the U.S. Navy, as regarded the proposals of these species, were in large part dependent upon the eventual removal of all feral goats from San Clemente Island. At present the Navy's goat removal program is inactive. On Santa Barbara and San Nicolas Islands, the habitats of the island night lizard are already reduced and any future reduction would seriously imperil the lizard's populations which occur there.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to any species determined herein.

3. *Disease or predation.* In the proposal of the San Clemente loggerhead shrike, San Clemente sage sparrow, and island night lizard depredation by feral housecats on San Clemente Island was cited as probable factor affecting the populations of these animals. No direct evidence was received that the two birds have suffered from their coexistence with a large feral cat population, but the threat remains. Evidence was received that the feral cats feed on island night lizards, but whether this action is a serious factor remains unknown. It is now known that alligator lizard (*Gerrhonotus multicarinatus*) has been accidentally introduced to San Nicolas Island. This predaceous lizard may constitute a serious threat to the continued existence of the island night lizard on San Nicolas Island.

The grazing of feral goats and rooting of feral pigs must be viewed as a serious threat to the continued existence of the four Endangered San Clemente Island plants.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable to any species determined herein.

5. *Other natural or manmade factors affecting their continued existence.* In the proposal of the animals, it was stated that island-adapted taxa are often detrimentally affected by accidental or intentional introduction of non-native species. On all California Channel Islands, such past introductions have had disastrous effects and that the potential of future introductions is serious is reflected by the comments of one biologist and the U.S. Navy. Competition by plants not native to San Clemente Island with the four Endangered plants herein determined must be viewed as a serious threat to their continued existence.

Effects of the Rulemaking

The effects of this determination and this rulemaking include, but are not necessarily limited to those discussed below. Permit regulations for plants were in the June 24, 1977, Federal Register (42 FR 32373-32381). No special regulations, as provided for by Section 4(d) of the Act in the case of Threatened species, are deemed necessary or advisable for the protection of the island night lizard or the San Clemente sage sparrow. The general prohibitions and exceptions concerning the Threatened species are published in Title 50 § 17.31, of the Code of Federal Regulations which is reprinted in part as follows:

Subpart D—Threatened Wildlife

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The above regulations refer to § 17.21 of Title 50 which is reprinted below.

Subpart C—Endangered Wildlife

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner, the taking is done only if it is not reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen, (ii) the removal of the specimen from the State where the taking occurred, (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Effect on Federal Agencies

The determination set forth in this rulemaking makes these species eligible for the provisions of Section 7 of the Act which reads as follows:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat yet has been determined for these species, the other provisions of Section 7 are applicable. The Service now is collecting data relative to preparing a proposed determination of Critical Habitat for some of these species, and all persons with pertinent information are invited to send the same to the Director.

National Environmental Policy Act

Two environmental assessments have been prepared and are on file in the Service's Washington Office of Endangered Species. They address this action as it involves the seven Channel Island species. These assessments are the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This final rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884), and was prepared by Dr. Paul A. Opler, Office of Endangered Species (202/343-7814).

Note.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 27, 1977.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

Accordingly, Part 17, Subpart B, § 17.11 and § 17.12, Title 50 of the Code of Federal Regulations, are amended as set forth below:

In § 17.11 add the following:

§ 17.11 Endangered and threatened wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
•	•	•	•	•	•		•
Shrike, San Clemente loggerhead	*Lanius ludovicianus mearnsi*	NA	U.S.A. (California)	Entire	E	26	NA
Sparrow, San Clemente sage	*Amphispiza belli clementae*	NA	do	do	T	26	NA
Lizard, island night	*Klauberina riversiana*	NA	do	do	T	26	NA
•	•	•	•	•	•		•

§ 17.12 Endangered and threatened plants.

In § 17.12 initiate a new list with the following:

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion of range where threatened or endangered			
Fabaceae, Pea family: *Lotus scoparius* ssp. *traskiae.*	San Clemente Broom	U.S.A. (California)	Entire	E	26	NA
Malvaceae, Mallow family: *Malacothamnus clementinus.*	San Clemente Island Bushmallow	do	do	E	26	NA
Ranunculaceae, Buttercup family: *Delphinium kinkiense.*	San Clemente Island Larkspur	do	do	E	26	NA
Scrophulariaceae, Snapdragon family: *Castilleja grisea.*	San Clemente Island Indian Paintbrush	do	do	E	26	NA

[FR Doc.77-23094 Filed 8-10-77;8:45 am]

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for Six Endangered Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a rulemaking which determines Critical Habitat for the Florida Everglade kite (*Rostrhamus sociabilis plumbeus*), American peregrine falcon (*Falco peregrinus anatum*), palila (*Psittirostra bailleui*), dusky seaside sparrow (*Ammospiza maritima nigrescens*), Cape Sable sparrow (*Ammospiza maritima mirabilis*), and Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*). This rulemaking is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act). In accordance with Section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect these Critical Habitats.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of July 14, 1976 (41 FR 28978-28979), the Service proposed the determination of Critical Habitat for the Endangered Cape Sable sparrow, a small bird of southern Florida. In the Federal Register of August 30, 1976 (41 FR 35616-35618), the Service proposed the determination of Critical Habitat for the Endangered American peregrine falcon, in a portion of its range in northern California, and for the Endangered Morro Bay kangaroo rat, a small rodent found along part of the California coast. In the Federal Register of December 3, 1976 (41 FR 53074-53075), the Service proposed the determination of Critical Habitat for two Endangered Florida birds, the Florida Everglade kite and dusky seaside sparrow. In the Federal Register of December 22, 1976 (41 FR 55729-55732), the Service proposed the determination of Critical Habitat for the Endangered palila, a small bird of the Hawaiian Honeycreeper Family.

SUMMARY OF COMMENTS

The Critical Habitat proposal for the peregrine falcon was supported in its entirety by the California Department of Fish and Game, Napa County Board of Supervisors, Sierra Club, Southwest Regional Representative of the Wilderness Society, Ecology Center of Southern California, and two private citizens. The Federal Power Commission said that its responsibilities would not be significantly affected by the proposal.

The Area Geothermal Supervisor of the U.S. Geological Survey at Menlo Park, California suggested that closely supervised geothermal operations would cause minimal disturbance to the peregrine in the areas involved. AMAX, Inc. of Denver indicated that it would not be necessary to have such large zones restricted to human utilization. These comments may reflect an incomplete understanding of the proposal. No particular activity is automatically prohibited in the Critical Habitat areas. Each individual action that may be of concern would be evaluated on its own merits with respect to the welfare of the peregrine.

The U.S. Energy Research and Development Administration, California State Lands Commission, Aminoil USA, Magma Power Company, Pacific Gas and Electric Company, and Dr. Kenneth E. Stager of the Los Angeles County Museum of Natural History wrote in opposition to designation of one of the proposed Critical Habitat areas, the Cobb Mountain Zone. Extensive research by Dr. Stager and other workers indicates that there is only one report of nesting in this zone. This report was made in 1936 and now is considered questionable. Therefore, determination of the Cobb Mountain Zone as Critical Habitat is not being made at this time, but the Service would be prepared to make such a determination at any time it is warranted by appropriate data.

On the basis of field studies, the California State Director of the U.S. Bureau of Land Management recommended that the proposed Palisades-Table Rock Critical Habitat zone be enlarged by adding the following areas: T9N R6W S½ Sec. 3, S½ Sec. 4, Sec. 10, S½ Sec. 11, N½ Sec. 14, N½ Sec. 15. The Service now has this recommendation under consideration.

The Critical Habitat proposal for the Cape Sable sparrow was supported in writing by three private citizens. The Environmental Defense Fund, New York Zoological Society, and Smithsonian Institution also supported the proposal, but suggested that it might be too restrictive or that other measures also would be needed for the conservation of the species. The Florida Audubon Society called for the addition of the following areas as Critical Habitat: T57S R37E Sec. 9, 10, 15–18. As acknowledged by the Audubon Society, however, these areas are not now known to be used by the sparrow, and the Service is not including them in the present rulemaking. The U.S. Army Corps of Engineers noted that the proposal could affect portions of the Central and Southern Florida Flood Control Project, but did not indicate opposition.

The National Park Service recommended that the following areas be added to the proposed designation: T57S R36½E, T58½S R35E, and T58½S R36½E in Everglades National Park; and T56S R37E Sec. 25, 26, T58S R38E Sec. 27, and T59S R38E Sec. 4 outside of the Park. The Park Service also recommended deletion of the following areas from the proposal: T55S R37E Sec. 25, T55S R38E Sec. 19, 20, 29, 30. The Service has evaluated these recommendations and is making the additions and deletions in this rulemaking.

The Critical Habitat proposal for the Morro Bay kangaroo rat was supported by the California Department of Fish and Game and the Ecology Center of Southern California. No comments expressing opposition were received.

The Florida Game and Fresh Water Fish Commission, the National Audubon Society, the Tropical Audubon Society, the Audubon Society of the Everglades, the Florida Audubon Society, and two private citizens wrote in support of the proposed Critical Habitat for both the Florida Everglade kite and dusky seaside sparrow. The National Park Service recommended no designation of Critical Habitat in Everglades National Park, because the area was not now regularly utilized by the kite. Fish and Wildlife Service biologists, however, consider that even the limited use of this area is of importance to such a scarce bird, and that the Park is of potential great value to an expanding kite population. The Central and Southern Florida Flood Control District suggested that the Critical Habitat designation be expanded to include those portions of Water Conservation Area 3 bounded by Florida State Highway 84 on the south, U.S. Highway 27 on the east, Levees L–5 and L–4 on the north, and L–28 on the west; and Conservation Area 3B bounded by L–30 on the east, L–29 on the south, L–67C on the northwest, and the Miami Canal on the northeast. The Service now has these recommendations under consideration. Two other parties, the Royal Palm Audubon Society and the Palm Beach County Executive Committee of the Sierra Club, wrote to support Critical Habitat designation for the Florida Everglade kite. And two additional parties, the Indian River Audubon Society and the Conservation Alliance of St. Lucie County, wrote to support Critical Habitat designation for the dusky seaside sparrow.

Letters in support of the proposed designation of Critical Habitat for the palila were received from the Governor of Hawaii, the State Forester of Hawaii, the U.S. Forest Service, the Golden Gate Audubon Society, and three other parties. The New York Zoological Society also supported the designation, but suggested that the area in question be more precisely described. The International Council for Bird Preservation recommended that the Critical Habitat area be enlarged to include former portions of the range of the palila, where the species might be restored under proper management. The Service would be prepared to propose designation of such areas when warranted by appropriate data. Professor Sheila Conant of the University of Hawaii recommended specification of an upper elevation limit for the Critical Habitat zone. Although the background section of the Service's proposal did indicate that the Critical Habitat zone extended to 10,000 feet, and it was the Service's intention to delineate only the area below that elevation, the legal designation contained no reference to such a limit. This problem has been dealt with in the final rulemaking.

BASIS FOR DETERMINATION

All of the areas delineated below are considered Critical Habitat because they contain constituent elements essential to the survival or recovery of one of the species in question. Specifically for the American peregrine falcon, the delineated areas have been utilized extensively by the species within the last few years, and all contain many excellent nesting sites. These areas also have or are adjacent to high concentrations of passerine birds, taken as prey by the falcons. The named zones referred to below were so designated for convenience by field personnel. It is emphasized that these areas represent only small segments of what may be the overall Critical Habitat of the American peregrine falcon in the United States, and that additional areas may be proposed for designation in the near future.

With regard to the Cape Sable sparrow, the areas delineated below contain the largest known concentration of the species in the United States, and are the only known areas that currently can be said to support a major viable population. The prairie vegetation of these areas appears necessary for the survival of the species. Additional information regarding the present or future distribution of the sparrow could lead to proposed modification of the Critical Habitat delineation.

With respect to the Morro Bay kangaroo rat, the area delineated below contains a significant population of the species within an overall biotic community that still exists in a relatively natural state. Studies by the California Department of Fish and Game have found that this area contains all the elements required for the survival of the Morro Bay kangaroo rat, and that those elements stand a good chance of being maintained if the area can be properly protected. Additions or modifications to the designated area may be proposed in the future.

With respect to the Florida Everglade kite, the areas delineated below contain the best and largest remaining stretches of suitable habitat for the species. Those areas support substantial numbers of apple snails (*Pomacea paludosa*) upon which the kites depend for food. The snails, in turn, are dependent on maintenance of water levels in the marshes. The delinated areas have suitable water levels or have good potential for being managed for maximum snail production.

With respect to the dusky seaside sparrow, the areas delineated below contain the world's entire population of the species. These areas are covered predominantly by open expanses of moist cordgrass (*Spartina bakerii*) savannas, about 10 to 15 feet above mean sea level. The sparrow seems to be fully adapted to this restricted habitat with its high salinity aspects.

The palila depends on the area delineated below for food, shelter, and nesting sites; it cannot survive without the mamane and naio trees found therein. Moreover, the delineated area apparently contains the world's entire known population of palila, and supports most of the large and intermediate-sized mamane and naio trees on Mauna Kea. This area is large enough to allow space for the population to expand, and includes a full range of altitudinal and geographical sites needed by the palila for normal life cycle movement. Such movement is the response of the species to shifting seasonal and annual patterns of flowering, seed set, and ensuing pod development of the mamane vegetation.

EFFECTS OF THE RULEMAKING

The effects of Critical Habitat determination involve primarily Federal agencies. In accordance with Section 7 of the Act, such agencies, and only such agencies, are required to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The designation of Critical Habitat for the Florida Everglade kite, American peregrine falcon, palila, dusky seaside sparrow, Cape Sable sparrow, and Morro Bay kangaroo rat, as delineated below, points out areas where this responsibility will apply. This designation does not automatically prohibit any particular action, and it is likely that many kinds of Federal actions involving the areas in question would not be expected to be detrimental to these species.

REORGANIZATION OF REGULATIONS

It was also proposed in the FEDERAL REGISTER of December 22, 1976 (41 FR 55730) to reorganize the location of the list of Critical Habitat designations. Until now, each Critical Habitat determination has been assigned a separate section number in Subpart F of Part 17. Starting with the Critical Habitat designation for the snail darter at § 17.61, sequential numbers have been assigned for the Critical Habitats of the American crocodile (§ 17.62), the California condor (§ 17.64), the Indiana bat (§ 17.65) and the Florida manatee (§ 17.66). In addition, the Critical Habitat designation of the yellow-shouldered blackbird was assigned § 17.87. This procedural method has been inefficient because of the rapid consumption of available section numbers in Subpart F. Therefore, this rulemaking deletes the present Subpart F, "Critical Habitat," and adds a new Subpart I, "Interagency Cooperation." Within the new Subpart I, all Critical Habitat designations for fish and wildlife will be listed under § 17.95. The proposed use of §§ 17.91 through 17.94 was set forth in the FEDERAL REGISTER of January 26, 1977 (42 FR 4868–4872). The following sequence will be utilized in § 17.95: § 17.95(a)—mammals; § 17.95(b)—birds; § 17.95(c)—reptiles; § 17.95(d)—amphibians (reserved); § 17.95(e)—fishes; § 17.95(f)—clams (reserved); § 17.95(g)—snails (reserved); § 17.95(h)—crustaceans (reserved); § 17.95(i)—insects (reserved); § 17.95(j)—other (reserved). Critical Habitat designations for plants will be located at § 17.96.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species in Washington, D.C. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

FINAL RULEMAKING

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Florida Everglade kite, American peregrine falcon, palila, dusky seaside sparrow, Cape Sable sparrow, and Morro Bay kangaroo rat. The Director also has considered other information received by the Service, both prior to and subsequent to the publication of the proposed Critical Habitat determinations in the FEDERAL REGISTERS of July 14, 1976; August 30, 1976; December 3, 1976; and December 22, 1976. Based on this review, the areas delineated below are determined to be Critical Habitat for the species indicated.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. Ronald M. Nowak, Office of Endangered Species.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 3, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, 50 CFR Part 17 is hereby amended:

1. By deleting the old title of subpart F of Part 17, "critical habitat", and all parts of subpart F not covered by the final rulemaking of June 24, 1977 (42 FR 32373); by adding a new Table of Sections for Subpart I; and by adding a new Subpart I of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.
17.60–17.66 [Deleted]

Subpart I—Interagency Cooperation

17.90–17.94 [Reserved]
17.95 Critical habitat—fish and wildlife.
17.96 Critical habitat—plants. [Reserved]

AUTHORITY: Sec. 7, Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Subpart F—Critical Habitat

§§ 17.60–17.66 [Deleted]

Subpart I—Interagency Cooperation

§§ 17.90—17.94 [Reserved]

§ 17.95 Critical habitat—fish and wildlife.

The following areas (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species) are Critical Habitat for the species indicated. Pursuant to Section 7 of the Act, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of these areas:

(a) *Mammals.*

INDIANA BAT (*Myotis sodalis*)

Illinois. The Blackball Mine, La Salle County.

Indiana. Big Wyandotte Cave, Crawford County; Ray's Cave, Greene County.

Kentucky. Bat Cave, Carter County; Coach Cave, Edmonson County.

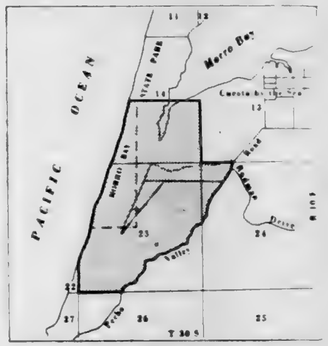
Missouri. Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County (numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6).

Tennessee. White Oak Blowhole Cave, Blount County.

West Virginia. Hellhole Cave, Pendleton County.

MORRO BAY KANGAROO RAT (*Dipodomys heermanni morroensis*)

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S½ Sec. 14, those portions of Sec. 23–24 west of Pecho Valley Road.



CRITICAL HABITAT FOR THE MORRO BAY KANGAROO RAT

FLORIDA MANATEE (*Trichechus manatus*)

Florida. Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De

Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee county line, Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge, Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immediately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the intracoastal waterway from the town of Sewalls Point, Martin County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Sewalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between Indian and Banana rivers, Brevard County; the St. Johns River including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluence with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

(b) *Birds.*

CALIFORNIA CONDOR (*Gymnogyps californianus*)

California. Sespe-Piru Condor Area: an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5–10, N½ Sec. 11; T4N R21W Sec. 1–3, 10–12, N¼ Sec. 13, N¼ Sec. 14, N¼ Sec. 15; T5N R18W Sec. 4–9, 18, 19, 30, 31, N½ Sec. 3, N½ Sec. 17; T5N R21W Sec. 1–4, 9–16, 21–28, 33–36; T6N R18W Sec. 7–11, 14–23, 26–35; T6N R19W Sec. 7–36; T6N R20W Sec. 8–36; T6N R21W Sec. 13–36; T6N R22W Sec. 3–26, 35, 36; T6N R23W Sec. 1–3, 10–14, 24, N½ Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34–36.

Matilija Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T6N R24W W½ Sec. 3, Sec. 4–11, 14, 15, N½ Sec. 16, N¼ Sec. 17; T5N R25W E½ Sec. 1, NE¼ Sec. 12; T5½N R24W Sec. 31–34; T6N R24W S½ Sec. 32, S½ Sec. 33, S¼ Sec. 34.

Sisquoc-San Rafael Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5–8, 17–20, 29–32; T7N R27W Sec. 1–14, 23–26, 35, 36; T7N R28W Sec. 1, 2, 11, 12; T8N R26W Sec. 19–22, 27–34; T8N R27W Sec. 19–36.

Hi Mountain-Beartrap Condor Areas: Areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23–26, SE¼ Sec. 11, S½ Sec. 12; T30S R17E Sec. 17–20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E½ Sec. 3, E½ Sec. 10, N½ Sec. 14, N½ Sec. 13; T31S R15E W½ Sec. 6, W½ Sec. 7, NW¼ Sec. 18.

Mt. Pinos Condor Area: An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W W½ Sec. 5, Sec. 6 N½ Sec. 7, NW¼ Sec. 8; T8N R22W Sec. 1, 2, E½ Sec. 3, NE¼ Sec. 10, N½ Sec. 11, N½ Sec. 12; T9N R21W Sec. 31, 32, W½ Sec. 33; T9N R22W E½ Sec. 35, Sec. 36.

Blue Ridge Condor Area: An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5–9, 15–22, 27–30.

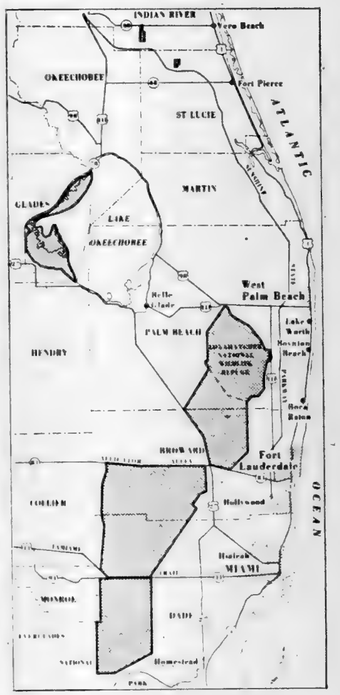
Tejon Ranch: An area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W T10N, R17W T10N, R17W T11N, R18W T9N, R18W T10N, R19W T10N.

Kern County rangelands: An area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

Tulare County rangelands: An area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1–18; R29E T20S (all sections); R29E T21S Sec. 1–18.

FLORIDA EVERGLADE KITE (*Rostrhamus sociabilis plumbeus*)

Florida. Areas of land (predominantly marsh), water, and airspace, with the following components (Tallahassee Meridian): (1) St. Johns Reservoir, Indian River County: T33S R37E SW¼ Sec. 6, W½ Sec. 7, Sec. 18, Sec. 19; (2) Cloud Lake Reservoir, St. Lucie County: T34S R38E S½ Sec. 16, N½ Sec. 21; (3) Strazzulla Reservoir, St. Lucie County: T34S R38E SW¼ Sec. 21; (4) western parts of Lake Okeechobee, Glades and Hendry Counties, extending along the western shore to the east of the levee system and the undiked high ground at Fisheating Creek, and from the Hurricane Gate at Clewiston northward to the mouth of the Kissimmee River, including all the *Eleocharis* flats of Moonshine Bay, Monkey Box, and Observation Shoal, but excluding the open water north and west of the northern tip of Observation Shoal, north of Monkey Box, and east of Fisheating Bay; (5) Loxahatchee National Wildlife Refuge (Central and Southern Florida Flood Control District Water Conservation Area 1), Palm Beach County, including Refuge Management Compartments A, B, C, and D, and all of the main portion of the Refuge as bounded by Levees L–7, L–39, and L–40; (6) Central and Southern Florida Flood Control District Water Conservation Area 2A, Palm Beach and Broward Counties, as bounded by Levees L–6, L–35B, L–36, L–38, and L–39; (7) Central and Southern Florida Flood Control District Water Conservation Area 2B, Broward County, as bounded by Levees L–35, L–35B, L–36, and L–38; (8) Central and Southern Florida Flood Control District Water Conservation Area 3A, Broward and Dade Counties, as bounded by Florida Highway 84, Levees L–68A, L–67A (north of Miami Canal), L–67C (south of Miami Canal), L–29, and L–28, and a line along the undiked northwestern portion of the Area; (9) that portion of Everglades National Park, Dade County, within the following boundary: beginning at the point where the Park boundary meets Florida Highway 94 in T54S R35E Sec. 20, thence eastward and southwest along the Park boundary to the southwest corner of Sec. 31 in T7S R37E, thence southwestward along a straight line to the southwest corner of Sec. 2 in T58S R35E, thence westward along the south sides of Sec. 3, 4, 5, and 6 in T58S R35E to the Dade-Monroe county line, thence northward along the Dade-Monroe county line to the Park boundary, thence eastward and northward along the Park boundary to the point of beginning.



CRITICAL HABITAT FOR THE FLORIDA EVERGLADE KITE

AMERICAN PEREGRINE FALCON (*Falso peregrinus anatum*)

California. Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base Meridian): (1) T10N R11W W½ of SW¼ Sec. 6, W½ of NW¼ Sec. 6, NW¼ of NW¼ Sec. 7; T10N R12W Sec. 1, E½ of NE¼ Sec. 2, SW¼ of NE¼ Sec. 2, SE¼ Sec. 2, E½ of SW¼ Sec. 2, SE¼ of NW¼ Sec. 2, N½ of NE¼ Sec. 11, NE¼ of NW¼ Sec. 11, N½ of NE¼ Sec. 12, N½ of NW¼ Sec. 12; T11N R11W SW¼ of SE¼ Sec. 31, S½ of SW¼ Sec. 31; T11N R12W SE¼ of SE¼ Sec. 36, SE¼ of SW¼ Sec. 36; (2) T10N R11W NW¼ of SW¼ Sec. 1, W½ of NW¼ Sec. 1, N½ Sec. 2, N½ of SE¼ Sec. 2, N½ of SW¼ Sec. 2, N½ Sec. 3, N½ of SE¼ Sec. 3, N½ of SW¼ Sec. 3, NE¼ Sec. 4, N½ of SE¼ Sec. 4, NE¼ of SW¼ Sec. 4, E½ of NW¼ Sec. 4; T11N R11W E½ of SE¼ Sec. 33, S½ Sec. 34, S½ Sec. 35, W½ of SE¼ Sec. 36, SW¼ Sec. 36; (3) T11N R12W S½ Sec. 19, Sec. 30; T11N R13W SE¼ Sec. 24, E½ of SW¼ Sec. 24, E½ Sec. 25, E½ of SW¼ Sec. 25, E½ of NW¼ Sec. 26.

Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S½ Sec. 5, S½ Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E½ Sec. 12, E½ Sec. 13, NE¼ Sec. 24, E½ of SE¼ Sec. 24.

Mount St. Helena Zone: An area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W½ of NE¼ Sec. 3, W½ of SE¼ Sec. 3, W½ Sec. 3, Sec. 4, E½ Sec. 5, E½ of SW¼ Sec. 5, E½ of NW¼ Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W½ of NE¼ Sec. 22, W½ of SE¼ Sec. 22, W½ Sec. 23, W½ of NE¼ Sec. 27, W½ of SE¼ Sec. 27, W½ Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE¼ Sec. 32 east and south of Ida Clayton Road, SE¼ Sec. 32, E½ of SW¼ Sec. 32, that portion of the SE¼ of NW¼ Sec. 32 south of the Ida Clayton Road, Sec. 33, W½ of NE¼ Sec. 34, W½ of SE¼ Sec. 34, W½ Sec. 34.

CRITICAL HABITAT FOR THE AMERICAN PEREGRINE FALCON

PALILA (*Psittirostra bailleui*)

HAWAII. An area of land, water, and airspace on the Island of Hawaii, Hawaii County, with the following components: (1) The State of Hawaii Mauna Kea Forest Reserve, except (a) that portion above the 10,000 foot contour line, (b) that portion south of the Saddle Road (State Highway 20), (c) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4–4–16, Third Division), (d) that portion (Parcel 10, Kaohe IV, State of Hawaii Tax Map Key 4–4–16, Third Division) lying north of the Saddle Road (State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohe Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4–4–15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4–4–15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map Key 3–8–1, Third Division) which are included in the State conservation district.



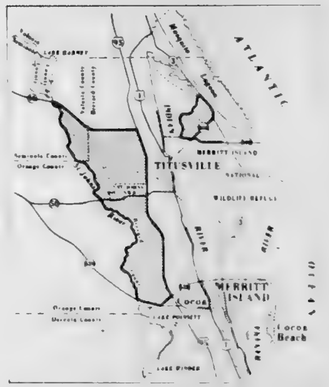
CRITICAL HABITAT FOR THE PALILA

YELLOW-SHOULDERED BLACKBIRD (*Agelaius xanthomus*)

Puerto Rico. Areas of land, water, and airspace with the following components: (1) All of Mona Island; (2) that portion of the main island of Puerto Rico within the following boundary: Beginning at a point where the Quebrada Boqueron joins the Bahia de Boqueron, the ice proceeding southwesterly along the coast to Cabo Rojo, thence eastward along the coast, including offshore cays, to the point where Highway 332 meets the Bahia de Guanica, thence northward on Highway 332 to its junction with Highway 116, thence westward on Highway 116 to its junction with Highway 305, thence westward on Highway 305 to its junction with Highway 303, thence northward on Highway 303 to its junction with Highway 101, thence westward on Highway 101 to the point where it crosses Quebrada Boqueron, thence along the Quebrada Boqueron to the point where it joints the Bahia de Boqueron; (3) a circular portion of the main island of Puerto Rico with a one mile radius, the center being the junction of Highways 330 and 102 in the town of San German; (4) Roosevelt Roads Naval Station, southeast of Celba.

DUSKY SEASIDE SPARROW (*Ammospiza maritima nigrescens*)

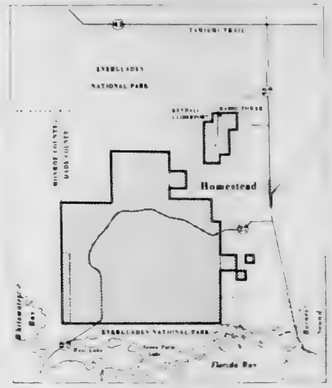
Florida. Cordgrass (*Spartina bakerii*) savannas and associated land, water, and airspace within the following boundary, Brevard County: Beginning at the point where Florida Highway 528 intersects Interstate Highway 95; thence westward along Florida Highways 528 and 520 to the main channel of the St. Johns River; thence northward along said channel to Florida Highway 46; thence eastward along Florida Highway 46 to Interstate Highway 95; thence southward along Interstate Highway 95 to the point of beginning. Marshes and associated airspace within the mosquito control impoundments designated by the Brevard County Mosquito Control District as T-10-J and T-10-K, northwest of Florida Highway 406 on the Merritt Island National Wildlife Refuge, Brevard County.



CRITICAL HABITAT FOR THE DUSKY SEASIDE SPARROW

CAPE SABLE SPARROW (*Ammospiza maritima mirabilis*)

Florida. Areas of land, water, and airspace in the Taylor Slough vicinity of Collier, Dade, and Monroe counties, with the following components (Tallahassee Meridian) Those portions of Everglades National Park within T57S R36E, T57S, R36½E, T57S R37E, T58S R35E, T58S R36E, T58S R37E, T58½S R35E, T58½S R36½E, T59S R35E, T59S, R36E, T59S R37E. Areas outside of Everglades National Park within T55S R37E Sec 36; T55S R38E Sec 31, 32, T56S R37E Sec. 1, 2, 11–14, 23–26; T56S R38E Sec. 5–7, 18, 19, T57S R37E Sec. 5–8, T58S R38E Sec. 27, 29–32; T59S R38E Sec. 4.



CRITICAL HABITAT FOR THE CAPE SABLE SPARROW

(c) *Reptiles.*

AMERICAN CROCODILE (*Crocodylus acutus*)

Florida. All land and water within the following boundary: Beginning at the easternmost tip of Turkey Point, Dade

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County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Anglefish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence northwestward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

ST. CROIX GROUND LIZARD (*Ameiva polops*)

U.S. Virgin Islands. Protestant Cay, roughly defined by the coordinates 64° 42'15" N. and 17°45'7.5" W.; and Green Cay, roughly defined by the coordinates 67°37'30" N. and 17°46'15" W.

(d) [Reserved]

(e) *Fishes.*

SNAIL DARTER (*Percina tanasi*)

Tennessee. From river mile 0.5 to river mile 17 of the Little Tennessee River, Loudon County, as shown on a map entitled "Tellico Project," prepared by Tennessee Valley Authority, Bureau of Water Control Planning, August 1965 (map 65-MS-453 K 501).

(f)—(j) [Reserved]

§ 17.96 Critical habitat—plants [Reserved]

[FR Doc.77-23036 Filed 8-10-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Mourning Dove

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Mourning Dove on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyoming 83101 Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of Mourning Dove is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Mourning Dove.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 2, 1977.

[FR Doc.77-23244 Filed 8-10-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-SW-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area, Killeen, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Killeen, Tex., transition area to provide controlled airspace for aircraft utilizing the STARN RBN in the execution of an ILS or NDB instrument approach procedure to Gray AAF.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Killeen, Tex., transition area.

On May 23, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 26217) stating that the Federal Aviation Administration proposed to alter the Killeen, Tex., transition area due to installation of the STARN RBN on the localizer course of the ILS to Runway 15 at the Army Air Field where it serves a dual purpose of providing the compass locater at the ILS outer marker and an NDB approach capability to the runway. Alteration of the transition area would be required to provide controlled airspace for aircraft executing an ILS or NDB instrument approach to Runway 15.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., October 6, 1977, as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the Killeen, Tex., transition area is amended to read, in part, by deleting:

Within 3.5 miles each side of the 341° bearing from Gray RBN (Latitude 31°07'18" N., Longitude 97°51'02" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN; and substituting therefor: within 3.5 miles of each side of the 337° bearing from STARN RBN (Latitude 31°-10'03" N., Longitude 97°52'41" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Issued in Fort Worth, Tex., on July 28, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-22873 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-SW-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area, De Ridder, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the De Ridder, La., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to Runway 36 at the Beauregard Parish Airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the De Ridder, La., transition area.

On June 17, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 20640) stating that the Federal Aviation Administration proposed to alter the De Ridder, La., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to Runway 36 at the Beauregard Parish Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., October 6, 1977, as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the De Ridder, La., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beauregard Parish Airport (Latitude 30°50'00" N., Longitude 93°20'00" W.) within 3.5 miles each side of the 347 bearing from the De Ridder NDB (Latitude 30°50'00" N., Longitude 93°20'00" W.) extending from the 5-mile radius area to 11.5 miles north of the NDB, and within 3 miles each side of the 191 bearing from the De Ridder NDB extending from the 5-mile radius area to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 1, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-22874 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-AL-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Realignment of Federal Airway and Addition of Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns B-27 between the Oscarville, Alaska, NDB near Bethel, Alaska, and the Fort Davis, Alaska, NDB near Nome, Alaska, via the St. Marys, Alaska, NDB which is slightly west of the present direct airway. Use of the St. Marys NDB will permit a lower minimum en route altitude (MEA) to be used with very little increase in airway distance between Bethel and Nome. A reporting point is designated at St. Marys to assist in the control of air traffic.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 13, 1977, the FAA published for comment a proposal to realign B-27 between Oscarville and Fort Davis via St. Marys and to designate St. Marys as an Alaskan low altitude reporting point (42 FR 30211). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns B-27 slightly westward between Bethel and Nome via St. Marys. Use of the recently acquired FAA NDB at St. Marys will permit a lower MEA and a shorter distance between air navigation aids on this airway. Designating a reporting point at St. Marys will assist in the control of air traffic in the immediate area and along B-27.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts B and I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 305, 638) are amended, effective 0901 G.m.t., October 6, 1977, as follows:

In § 71.109, B-27 "Oscarville, Alaska, RBN; 46 miles, 173 miles, 30 MSL, Fort Davis, Alaska, RBN;" is deleted and "Oscarville, Alaska, NDB; St. Marys, Alaska; Fort Davis, Alaska, NDB;" is substituted therefor.

In §71.211 "St. Marys, Alaska, NDB" is added.

(Secs. 307(a) 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22877 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-RM-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Numbering of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds the number "V-95" to the segment of V-421 between Farmington, N. Mex., and Gunnison, Colo., which is designated via Durango, Colo. The description of V-95 will no longer omit this segment of airway. Therefore, flight planning and communication time will be reduced.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to include a segment of V-421 in the description of V-95 (dual designate). V-95, as presently designated, stops at Farmington, N. Mex., and starts again at Gunnison, Colo. This break requires additional flight planning and communication to describe the route that bridges the gap. Because the numbering of airways is an administrative function, this action is considered minor in nature and one on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, cf

fective 0901 G.m.t. October 6, 1977, as follows:

In V-95 "Farmington, N. Mex. From Gunnison, Colo.," is deleted and "Farmington, N. Mex.; Durango, Colo.; Gunnison, Colo.," is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22878 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-SO-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes VOR Federal Airway No. 142 which was originally designated for service between Atlanta, Ga., and August, Ga. Now the airway is rarely used, and its revocation will remove unnecessary information from aeronautical charts.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 23, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking VOR Federal Airway No. 142 (42 FR 31806). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Only one comment was received and it offered no objection to the proposal. Except for editorial changes, this amendment is that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307), and VOR Federal Airway No. 142 appeared on page 323.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) revokes VOR Federal Airway No. 142. This airway presently extends from Augusta, Ga., to HUSKY Intersection, and was originally established to provide for service between Augusta and Atlanta, Ga. During the past several months this airway has been rarely used, and action is taken herein to revoke the airway and remove it from aeronautical charts so that pertinent information will be more easily discernible.

DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 G.m.t., October 6, 1977, as follows:

In § 71.123, V-142 is revoked in its entirety.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-22879 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-NE-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Establishment of 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a 700-foot transition area at Belfast, Maine. This transition area will provide controlled airspace for aircraft executing a new (NDB Rwy-15) standard instrument approach procedure to the Belfast Municipal Airport, Belfast, Maine.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On July 14, 1977, the Federal Aviation Administration published a Notice proposing to establish a 700-foot transition area at Belfast, Maine, to provide controlled airspace for aircraft executing a new (NDB Rwy-15) standard instrument approach procedure to the Belfast Municipal Airport, Belfast, Maine. Interested persons were invited to participate in this rule making process by submitting written comments on the proposal to the FAA. No objections were received.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR PART 71) is amended, effective 0901 G.m.t., December 1, 1977, as follows:

SECTION 71.181

BELFAST, MAINE, 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 44°24'34"N., 60°00'45"W., of Belfast Municipal Airport; within 3.5 miles each side of the 126° bearing and the 306° bearing from the Belfast, Maine, NDB, 44°24'40"N., 69°00'41"W., extending from the 6-mile radius area to 18 miles northwest of the NDB; excluding that portion which coincides with the Pittsfield, Maine, 700-foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on July 29, 1977.

WILLIAM E. CROSBY,
Acting Director, New England Region.

[FR Doc.77-22880 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-WE-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, Cameron, Arizona

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment designates a 1,200 foot and an 11,700 foot transition area at Cameron, Arizona to provide protection for aircraft operating within the Sunny Military Operations Area (MOA) and for radar service for aircraft transiting the area.

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Cameron, Arizona.

On June 27, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 32553) stating that the Federal Aviation Administration proposed to designate a transition area at Cameron, Arizona, to provide controlled airspace for aircraft operating within the Sunny MOA and for aircraft desiring radar service transiting the area.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. October 6, 1977.

§ 71.181 [Amended]

By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

CAMERON, ARIZONA

That airspace extending upward from 1,200 feet above the surface within a three mile radius of Humphreys Park (latitude 35°21'-00" N., longitude 111°40'25" W.), and that airspace extending upward from 11,700 feet mean sea level (MSL) bounded by a line beginning at latitude 34°52'20" N., longitude 112°00'00" W., to latitude 35°26'00" N., longitude 112°00'00" W., to latitude 35°58'-00" N., longitude 111°43'30" W., to latitude 36°06'30" N., longitude 111°00'00" W., to latitude 35°56'00" N., longitude 110°21'00" W., thence south via longitude 110°21'00" W., to the northwest edge of V-95, thence southwest via the northwest edges of V-95 and V-12 to point of beginning excluding that portion within the 1,200 foot area of Humphreys Peak.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 1, 1977.

FRANK HAPPY,
Acting Deputy Director, Western Region.

[FR Doc.77-22881 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-WE-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, Alturas, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Alturas, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Alturas Municipal Airport and for transition routes to the Nondirectional Radio Beacon (NDB).

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Alturas, California.

On June 23, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 31805) stating that the Federal Aviation Administration proposed to designate a transition area at Alturas, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Alturas Municipal Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Larson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 6, 1977.

§ 71.181 [Amended]

By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new transition area as follows:

ALTURAS, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a five mile radius of Alturas Municipal Airport (latitude 41°29'02" N., longitude 120°33'49" W.) and within three miles each side of the Alturas NDB (latitude 41°28'16" N., longitude 120°33'25" W.) 167° bearing, extending from the five mile radius area to nine miles south of the NDB; that airspace extending upward from 1200 feet above the surface, within six miles east and nine miles west of the 167° and 347° bearings extending from the NDB to 21 miles south and nine miles north of the NDB and within five miles each side of the 079° and 239° bearings extending from the NDB to west edge of V-165 and the east edge of V-452.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 1, 1977.

FRANK HAPPY,
Acting Deputy Director, Western Region.

[FR Doc.77-22882 Filed 8-10-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-46]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Mackerel Cove, Bailey Island, Maine

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a special anchorage area in Mackerel Cove, Bailey Island, Maine. The need for this amendment has developed over the years as a result of increased boat traffic and an increase in the number of vessels mooring in the area. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room

8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: On March 3, 1977 the Coast Guard published a proposed rule (42 FR 12207) concerning this amendment. Interested persons were given until April 17, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding a new paragraph (a–2) to § 110.5 to read as follows:

§ 110.5 Casco Bay, Maine.

* * * * *

(a–2) Mackerel Cove, Bailey Island, Harpswell. The water area of Mackerel Cove lying northeasterly of a line from a point on Abner Point at latitude 43°43'–28'' N., longitude 70°00'19'' W.. to a point on Bailey Island at latitude 43°43'18.2'' N., longitude 70°00'12.2'' W.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B); 49 CFR 1.46(c)(2)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Imoact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: August 4, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77–23239 Filed 8–10–77;8:45 am]

[CGD–76–47]

PART 110—ANCHORAGE REGULATIONS

Establishment of Special Anchorage Area, St. Simons Island, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a special anchorage area at St. Simons, Georgia. This amendment is needed to meet the heavy demand for anchorage space for transient vessels. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the Coast Guard published a proposed rule (42 FR 12889) concerning this amendment. Interested persons were given until April 20, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal Persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.72b to read as follows:

§ 110.72b St. Simons Island, Georgia.

The area beginning at a point southwest of Frederica River Bridge, St. Simons Island Causeway at latitude 31°09'58'' N., longitude 81°24'55'' W.; thence southwesterly to latitude 31°09'–42'' N., longitude 81°25'10'' W.; thence westerly to the shoreline at latitude 31°09'45'' N., longitude 81°25'20'' W.; thence northeasterly along the shoreline to latitude 31°10'02'' N., longitude 81°–25'00'' W.; thence southeasterly to the point of origin.

(Sec. 1 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1656(g)(1)(B)); 49 CFR 1.46(c)(2))

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: August 4, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77–23240 Filed 8–10–77;8:45 am]

[CGD 76–185]

PART 110—ANCHORAGE REGULATIONS

Disestablishment of Special Anchorage Area A–3, San Diego Harbor, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment disestablishes a special anchorage area in San Diego Harbor, California. Construction of a marina in this area renders a portion of this anchorage unsuitable for mooring vessels. Anchoring of unlighted vessels in the remaining area is no longer considered to be in the interest of safe navigation.

EFFECTIVE DATE: This amendment is effective September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: On November 18, 1976 the Coast Guard published a proposed rule (41 FR 50842) concerning this amendment. Interested persons were given until January 3, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, § 110.90 of Part 110 of Title 33 of Code of Federal Regulations is amended by revoking paragraph (c).

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: August 4, 1977.

O. W. SILER,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc.77–23238 Filed 8–10–77;8:45 am]

Title 34—Government Management

CHAPTER II—GENERAL SERVICES ADMINISTRATION

SUBCHAPTER C—PROPERTY MANAGEMENT

PART 231—UTILIZATION, DISPOSITION, AND ACQUISITION OF FEDERAL REAL PROPERTY

Real Property Management

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation removes from Title 34 GSA's regulations concerning Government-wide real property management. Appropriate portions of these regulations have been moved to Title 41, which contains related GSA regulations. The changes are necessary because of a recent reorganization in GSA. The intent of this change is to remove the regulations that are no longer necessary.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office or Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202–566–1339.

SUPPLEMENTARY INFORMATION: Executive Order 11893, dated December 31, 1975, transferred real property management functions from the General Services Administration (GSA) to the Office of Management and Budget (OMB) and resulted in the abolishment of the Office of Federal Management Policy in GSA. One function that was not transferred to OMB is the responsibility for Federal Management Circular (FMC) 73–5, which was codified in 34 CFR Part 231. Appropriate provisions of FMC 73–5 and its predecessor, OMB Circular A–2, have been incorporated in the Federal Property Management Regulations, 41 CFR Part 101–47. Since this regulation has Government-wide applicability, no useful purpose would be served by recodification of FMC 73–5 as a separate regulation.

Accordingly, Part 231 of Title 34 is hereby vacated and reserved.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); EO 11893)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: July 28, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77–23159 Filed 8–10–77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 772–2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revocation of Approval of California's Air Pollution Emergency Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) hereby takes final action to revoke its previous approval of the California Air Pollution Emergency Plan pursuant to an order of the U.S. District Court for the Central District of California. The effect of this action is to leave the State Implementation Plan for California without an approved emergency episode contingency plan.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111. Attn: Charlotte Hopper, (415–556–2002).

SUPPLEMENTARY INFORMATION: Under Section 110(a)(2)(F)(v) of the Clean Air Act and 40 CFR 51.16, State Implementation Plans (SIPs) are required to contain air pollution emergency episode contingency plans. On May 31, 1972 (37 FR 10851) the Administrator disapproved the emergency plan portion of the original California SIP (40 CFR 52.231) for failure to contain an adequate emergency episode plan.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California State Air Resources Board (ARB) requesting the U.S. District Court for the Central District of California to order the EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California. California Lung Association et al v. Train, Civil No. 75–1044–WPG.

Pursuant to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB. On April 12, 1976 (41 FR 15327) EPA approved as a revision to the SIP California's October 21, 1975 Air Pollution Emergency Plan only for the three pollutants set out therein (photochemical oxidants, sulfur dioxide and carbon monoxide).

On June 27, 1977, pursuant to plaintiff California Lung Association's motion for a preliminary injunction, Judge William P. Gray ordered the Administrator to certify to the Court that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects, or to withdraw such approval. The Administrator responded to this order by an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976, approval of the plan applied only to the three pollutants specifically set forth therein, he concluded that the plan was not fully complete. This FEDERAL REGISTER notice therefore rescinds the prior EPA approval and reinstates the disapproval of the emergency episode plan of the California SIP.

On June 1, 1977, the ARB submitted as SIP revisions, the March 24, 1977 revisions to the California Air Pollution Emergency Episode Plan along with South Coast Air Quality Management District Regulation VII (revised May 6, 1977) concerning emergency episodes in the South Coast Air Basin. EPA will publish a separate notice of proposed rulemaking addressing these revisions in the future.

The Administrator finds good cause for making this revocation effective August 11, 1977 since the action is taken pursuant to a Court order.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c–5, 1857g).)

Dated: August 5, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77–23116 Filed 8–10–77;8 45 am]

[FRL 775–7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Montana; Redesignation of Northern Cheyenne Indian Reservation for Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to approve the March 7, 1977, request of the Northern Cheyenne Tribal Council to redesignate the Northern Cheyenne Indian Reservation to Class I under EPA's regulations for prevention of significant air quality deterioration (PSD). Class I applies to areas in which practically any change in air quality would be considered significant. On April 29, 1977, EPA published a notice announcing EPA's tentative decision to approve the proposed redesignation and soliciting written public comments. Neither the comments nor EPA's detailed review surfaced any deficiencies in the proposal. Thus, EPA is approving the redesignation of the reservation to Class I as a revision to the Montana implementation plan.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: Copies of the Northern Cheyenne analysis and EPA support document are available at: U.S. Environmental Protection Agency, Region VIII, Office of Public Affairs, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295.

U.S. Environmental Protection Agency, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning & Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. 303–837–3711.

SUPPLEMENTARY INFORMATION: On December 5, 1974 (39 FR 42510), EPA promulgated regulations for the prevention of significant air quality deterioration (PSD). The intent of these regulations is to prevent deterioration of existing air quality, particularly in areas currently considered to be pristine. The regulations provide for three basic classifications applicable to all lands of the United States. Associated with each classification are increments which represent the increase in air pollutant concentration that would be considered significant. Class I applies to areas in which practically any change in air quality would be considered significant; Class II applies to areas in which deterioration normally accompanying moderate well-controlled growth would be considered insignificant; and Class III applies to those areas in which deterioration up to the national standard would be considered insignificant. Under the regulations, all areas of the country were initially designated Class II. The regulations allow States, Federal Land Managers, and Indian Governing Bodies to reclassify areas under their jurisdiction to accommodate the social, economic, and environmental needs and the desires of the local population.

The PSD regulation is implemented through a preconstruction review program affecting nineteen categories of major sources. Such sources cannot receive permission to construct if their emissions, together with other emission

changes since January 1, 1975, would violate the applicable increment.

On March 7, 1977, EPA received an official proposal from the Northern Cheyenne Tribal Council to redesignate the Northern Cheyenne Indian Reservation to Class I. The request was accompanied by an analysis of the reasons for the proposed redesignation and the associated social, economic, and environmental impacts as well as the regional and national impacts of the proposed redesignation.

The Northern Cheyenne's primary reasons for proposing redesignation were stated as follows:

A desire to preserve the lifestyle of the reservation and the existing culture without disruption caused by further air quality deterioration.

Adverse effects on human health caused by further degradation of air quality. The Northern Cheyenne cite the existing high rate of respiratory illness among residents of the reservation.

Impacts of further air quality degradation on the growth of vegetation, especially the ponderosa pine forest.

Potential impacts on visibility of further air quality degradation.

On April 29, 1977 (42 FR 21819), EPA published a notice in the FEDERAL REGISTER announcing receipt of the proposal and soliciting public comment on the request with respect to the review criteria set forth in 40 CFR 52.21. On June 10, 1977 (42 FR 29937), in response to requests by interested parties, EPA extended that public comment period until June 30, 1977.

The April 29, 1977, notice presented a brief discussion of the requirements for redesignation and the efforts of the Northern Cheyenne to comply with those requirements. That discussion raised one potential cause for disapproval of the request—the requirement that an Indian Governing Body propose the redesignation with the approval of the Secretary of Interior. As indicated in the notice, EPA had received a communication from an official of the Bureau of Indian Affairs. EPA was uncertain of the authority of the BIA official and requested a clarification from the Office of the Secretary of Interior. The Secretary's office responded that the BIA official had been delegated authority to give Secretarial approval in such matters. Thus, EPA has determined that this requirement was met by the Northern Cheyenne Tribal Council.

COMMENTS

There were 62 comments submitted to EPA. While it is not practical to discuss every comment here, the major points are discussed below. The comments are discussed in more detail in the document entitled "EPA Support Document for Northern Cheyenne Redesignation Request," referenced at the end of this preamble.

MORE PUBLIC INPUT

Some argued that EPA should hold extensive public hearings and solicit additional public comment before taking final approval action on the redesignation. The PSD regulation, which has been upheld in "Sierra Club v. EPA," 540 F. 2d 1114 (D.C. Cir. 1976),[1] contains procedures providing full opportunity for public hearings and comment. Such procedures have been complied with in this case.

The Northern Cheyenne held a public hearing on January 17, 1977, in Lame Deer, Montana, which is accessible to people living in the area affected by the redesignation. They also held the record open following the hearing to permit further public comments. There was a great amount of interest and comments (both pro and con) were submitted and integrated into the Northern Cheyenne's final analysis.

EPA also provided its own period for public comment on the Northern Cheyenne proposal and even extended the period an additional 30 days. Because the regulation limits EPA's scope of review on this proposal to determining whether procedural requirements were complied with and whether the Tribe arbitrarily or capriciously disregarded certain factors, nothing would be gained by further prolonging the comment period. In fact, doing so would be unfair to the Northern Cheyenne, who have completed the lengthy task of complying with all of the redesignation procedures and are now entitled to a resolution of their request.

MONTANA LAWS ADEQUATE

There were several comments that the Montana Siting Act and/or the Montana environmental rules are adequate to protect the environment. Montana's rules and regulations contain no provisions for prevention of significant deterioration. Therefore, in December 1974, EPA, pursuant to a court decision, disapproved the State's implementation plan and promulgated the PSD regulations. As noted above, these regulations have been upheld by the D.C. Circuit Court of Appeals.

EXISTING LIFE STYLE ALTERED

Many expressed concern that farming activities on or near the reservation would be adversely affected or that the redesignation could hinder the ways of life of people holding land. Another individual stated that he could not understand why Class I designation was needed in an area not currently experiencing air pollution problems. The intent of the PSD regulations is to maintain as nearly as practicable the existing air quality in designated areas where local priorities so require. As such, they are effective in clean air areas—not in areas that are violating ambient standards. They are implemented through a new source review program to restrict the emissions from certain major industrial sources if they would cause significant air quality degradation. The regulation would have no effect upon the operation of existing facilities or upon minor sources. Since farming is not a major source of industrial pollution, farming activities would also not be affected. Thus, the PSD regulation and the redesignation would not inhibit farming activities or alter anyone's existing way of life. On the contrary, Class I designation would more effectively maintain the existing way of life than any other designation.

EIS REQUIRED BY NEPA

Some argued that EPA must comply with the requirements of the National Environmental Policy Act (NEPA) prior to any decision on the Northern Cheyenne redesignation request. Congress, however, has made its intentions abundantly clear in this regard: "No action taken under the Clean Air Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969." 15 U.S.C.A. 793(c)(1). In any event, the Northern Cheyenne analysis of the social, environmental and economic effects of the redesignation, the extensive public comments both to the tribe and EPA, and the agency's own evaluation of all this information, adequately accomplish the goals and purposes of NEPA.

COLSTRIP 3 & 4 AFFECTED

Several comments expressed concern that a Class I designation would prevent the construction of electric power plant units known as Colstrip 3 & 4, which are planned for a site near the Northern Cheyenne reservation. The commentors argued that the result would be a shortage of power in Montana and the Pacific Northwest. While dispersion modeling presented in the analysis and performed by EPA indicates that the units, as proposed, would violate the Class I increments for SO_2 on the reservation, the redesignation would not necessarily prevent their construction. EPA's analysis indicates that approximately 90 percent capture of the SO_2 emissions from the new units would reduce emissions sufficiently to avoid violation of the increment. Therefore, redesignation of the reservation should require additional control efforts which are achievable by currently available control technology for the proposed new units.

REVERSIBILITY

One individual expressed doubts that the Class I designation could be reversed. The Northern Cheyenne could, if their priorities were to change in the future, seek redesignation back to Class II or Class III through the same procedures implemented in their effort to reclassify to Class I. However, as was pointed out in the Northern Cheyenne's analysis, Class II and Class III designations are not nearly so reversible. Once the air quality on the reservation is deteriorated, it would be extremely difficult to renew it to its original quality.

[1] The Supreme Court agreed to review this decision on April 4, 1977. EPA strongly supports the validity of the PSD regulations and will fully implement and enforce them unless EPA's position is overturned in the Supreme Court. Several other U.S. Courts of Appeal have agreed with the D.C. Circuit; none have disagreed. Moreover, Congress has on several occasions rejected attempts to delete PSD authority from the Clean Air Act.

NATIONAL IMPACTS

Many argued that the redesignation would have significant impacts on national interests, specifically by restricting energy production. As discussed in EPA's proposal of April 29, there are two major concerns related to energy production; (a) strip mining of coal, and (b) conversion of coal to electric power or gas. Since strip mines are not subject to the preconstruction review program of the PSD regulation, they would not be directly affected by a redesignation. On the other hand, coal conversion facilities would be affected. The Northern Cheyenne analyzed the impacts of various development scenarios and reported that large facilities located within ten to thirty miles of the reservation border might violate the Class I increment. Therefore, the planning of such facilities would have to be done more carefully with regard to location and, pollution control. However, the redesignation would not prevent the construction of new facilities in the general area. Given the relatively small area of the reservation (700 square miles), the redesignation should not significantly affect national energy interests.

REGIONAL IMPACTS

There were comments that the potential restrictions upon energy development may affect regional interests. The potential regional impacts primarily involve energy development on the Crow Reservation, which is adjacent to the western border of the Northern Cheyenne Reservation. EPA received comments from eleven members of the Crow Tribe and from the law offices of Lynaugh and Fitzgerald, which serves as designated legal counsel for the Crow Tribe.

In discussing comments related to the potential impacts of the redesignation upon the Crow Tribe it should be noted that the Crow Tribal Constitution and By-laws provide that only the Crow Tribal Council, which consists of all voting members of the Crow Tribe, can determine a Tribal position or empower a representative to speak for the Tribe on a matter such as redesignation. There has been no indication to date that the Tribal Council has developed a position on the Northern Cheyenne redesignation proposal or empowered anyone to represent the Council in this matter. While some tribal members and their legal counsel have expressed opposition to the redesignation because of its potential impact upon development of coal reserves, several members of the Crow Tribe have also expressed support for the redesignation.

As discussed previously, coal mining in the eastern portion of the Crow Reservation would be under no additional restriction as a result of this reclassification. However, coal conversion facilities could be restricted depending upon size, spacing, and control technology. The exact nature of the restriction is difficult to determine since final development plans have not been made and the only proposed development to date is for coal mines producing coal for export.

APPROVAL

Section 52.21(c)(3)(vi) states that the Administrator will approve a request for redesignation by an Indian Governing Body unless (1) the procedural requirements previously discussed have not been followed; or (2) the Indian Governing Body has arbitrarily and capriciously disregarded the considerations of growth, environmental, and economic effects, or national or regional interests. Both the Northern Cheyenne analysis and the EPA support document show that the Northern Cheyenne have fully complied with all of the procedural requirements, and that the Northern Cheyenne have considered all of the relevant factors and have not arbitrarily and capriciously disregarded them.

EPA therefore approves the Northern Cheyenne proposal and herein promulgates a revision to the Montana State Implementation Plan which redesignates the Northern Cheyenne Indian Reservation as Class I. Additional support for this approval can be found in the document entitled "EPA Support Document for Northern Cheyenne Redesignation Request," which is part of this rulemaking action. This document is available for inspection and copying at the addresses listed in the introduction to this notice.

This action is effective immediately. There is good cause for making the action immediately effective since EPA has been holding in abeyance a preconstruction permit request pending final action on the redesignation. Furthermore, no useful purpose would be served by deferring the effectiveness of this action for thirty days because new applications for construction would have to be evaluated in light of this action in any event.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g).)

Dated: August 5, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

In § 52.1382, paragraph (c) is added as follows:

§ 52.1382 Significant deterioration of air quality.

* * * * *

(c)(1) Except as set forth in this paragraph, all areas of Montana are designated Class II.

(2) The Northern Cheyenne Indian Reservation is designated Class I.

[FR Doc.77-23111 Filed 8-5-77;5:16 pm]

[FRL-774-7]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Clean Air Act Amendments to Light-Duty Vehicle Exhaust Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the 1978 model year light-duty vehicle exhaust emission standards to make those standards consistent with the recently enacted Clean Air Act Amendments of 1977, (as signed August 7, 1977). The revised 1978 model year light-duty vehicle standards are the same as the 1977 model year standards.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

David A Finley, Regulatory Management Staff, Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: This action brings the regulations setting exhaust emission standards for light-duty vehicles into accord with the Clean Air Act Amendments of 1977 (as signed August 7, 1977). This amendment to the regulations is purely ministerial. Consequently, the provision of notice and the opportunity for public comment on this action are unnecessary and are being foregone as provided by 5 U.S.C. 553 (related to administrative procedure). For the same reasons, this action is being made effective immediately.

NOTE.—The Environmental Protection Agency has determined that this regulation does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: August 8, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 86 is amended as follows:

1. By amending § 86.078-8(a)(1) to read as follows:

§ 86.078-8 Emission standards for 1978 light-duty vehicles.

(a)(1) Exhaust emissions from 1978 model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 1.5 grams per vehicle mile.

(ii) *Carbon monoxide.* 15 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

* * * * * *

(Section 202 of the Clear Air Act, as amended (42 U.S.C. 1857f-1).)

[FR Doc.77-23258 Filed 8-10-77;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 776-1]

PART 416—PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

Correction Notice

AGENCY: Environmental Protection Agency.

ACTION: Corrections.

SUMMARY: This document corrects errors in the June 10, 1977 correction notice (42 FR 29871). The error consisted of correcting § 416.26 instead of § 416.126. The errant Correction Notice has no effect on § 416.26 since the new and the original language exactly match. This error is of a typographical nature and does not involve any substantive or policy issues.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

Dated: August 2, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

Part 416 of Chapter I, Title 40 of the Code of Federal Regulations is corrected to read as follows:

§ 416.126 [Amended]

The pretreatment standards for new sources are revoked.

[FR Doc.77-23115 Filed 8-10-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amendment H-102]

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Miscellaneous Revisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the regulations concerning utilization and disposal of real property to delete references to Federal Management Circular 73-5, Utilization, disposition, and acquisition of Federal real property, which has been canceled. Two references are also corrected. This rule is intended to update GSA's regulations without changing policy or procedures in the regulations.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office of Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1339.

Subpart 101-47.2—Utilization of Excess Real Property

1. Section 101-47.201-1(a) is revised to read as follows:

§ 101-47.201-1 Policy.

* * * * *

(a) To stimulate the identification and reporting by executive agencies of excess real property.

* * * * *

2. Section 101-47.201-3(a) is revised to read as follows:

§ 101-47.201-3 Lands withdrawn or reserved from the public domain.

(a) Agencies holding lands withdrawn or reserved from the public domain, which they no longer need, shall send to the GSA regional office for the region in which the lands are located an information copy of each notice of intention to relinquish filed with the Department of the Interior (43 CFR 2372, et seq.).

* * * * *

3. Section 101-47.203-1 is revised to read as follows:

§ 101-47.203-1 Reassignment of real property by the agencies.

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, make reassignments of real property and related personal property under its control and jurisdiction among activities within the agency instead of acquiring such property from other sources.

4. Section 101-47.203-2 is revised to read as follows:

§ 101-47.203-2 Transfer and utilization.

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, transfer excess real property under its control to other Federal agencies and to the organizations specified in § 101-47.203-7, and shall fulfill its requirements for real property by obtaining excess real property from other Federal agencies. Transfers of property shall be made in accordance with the provisions of this subpart.

5. Section 101-47.203-7(d) is revisel to read as follows:

§ 101-47.203-7 Transfers.

* * * * *

(d) Transfers of property to executive agencies shall be made when the proposed land use is consistent with the policy of the Administrator of General Services as prescribed in § 101-47.201-1 and the policy guidelines prescribed in § 101-47.201-2. In determining whether a proposed transfer should be approved under the policy guidelines, GSA and OMB may consult informally to obtain all available data concerning actual program needs for the property.

* * * * *

Subpart 101-47.8—Identification of Unneeded Federal Real Property

Section 101-47.802(a) is revised to read as follows:

§ 101-47.802 Procedures.

(a) *Executive agency annual review.* Each executive agency shall make an annual review of its property holdings.

* * * * *

Subpart 101-47.49—Illustrations

1. Section 101-47.4904 is revised as follows:

§ 101-47.4904 GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

2. Section 101-47.4904-1 is amended as follows:

§ 101-47.4904-1 Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

NOTE.—The illustrations §§ 101-47.4904 and 101-47.4904-1 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: July 28, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-23160 Filed 8-10-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 24)]

PART 1100—RULES OF PRACTICE

Approval Forms

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (Rates), (202-275-7693), Philip Israel (Finance), (202-275-7245), Michael Erenberg (Operating Rights), (202-275-7292).

SUMMARY: By notice published in the FEDERAL REGISTER, 42 FR page 23806, May 11, 1977, the Interstate Commerce Commission promulgated revisions to its rules of practice, 49 CFR Part 1100. After certain typographical errors in "Appendix B—Approved Forms", 42 FR beginning at page 23835, were brought to the attention of the Commission, a notice of correction was published, 42 FR page 29311, June 8, 1977. The notice of correction, however, failed to rectify completely previous errors and, since

the typographical errors, especially those relative to numerical designations of footnotes, are pervasive, and because further correction by itemized reference would lead to additional confusion, Appendix B, as corrected, will be set forth below in its entirety. Accordingly, that portion of the revised rules designated "Appendix B—Approved Forms", should be excised from the revised rules as published and previously corrected, so that, as corrected by this notice. Appendix B—Approved Forms reads as follows:

APPENDIX B—APPROVED FORMS

TABLE OF CONTENTS

1. Complaint; verification.
2. Answer.
3. Certificate of service.
4. Petition for leave to intervene.
5. Form of reparation statement under Rule 95.
6. Verification for statements of fact filed under modified procedure.
7. Approved Form No. 7 under Rule 245.

(These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should carefully be studied.)

NO. 1. COMPLAINT [1]

Before the Interstate Commerce Commission

Complaint

---

v.

(Insert without abbreviation the names of the complainant and defendant (including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm or partnership, specifying the individual name of the parties composing the partnership; and the post office address of any motor carrier defendant.)

The Complaint of the above-named complainant respectfully shows:

I. That (complainant should here state nature and place of business, also whether a corporation, firm, or partnership and if a firm or partnership, the individual names of the parties composing same).

II. That the defendant above-named is (here state whether: (a) carrier by railroad, express, motor vehicle (common or contract), water (common or contract), a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier (specifying particulars) between points in the State of ---------- and points in the State of ---------- (a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed) and as such defendant is subject to the provisions of the Interstate Commerce Act).

III. That (state in this and subsequent paragraphs to be numbered IV, V, etc. the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable tariff or schedule reference should be given).

(Where unlawful discrimination, preference, or prejudice is alleged the particular elements specified in the act as constituting such violation (see sections 2, 3, 4, 13, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, wherever that can be done by reference or otherwise without undue repetition.)

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates (fares or charges, etc.) for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section ------, of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section ------, and (3) unduly preferential or prejudicial in violation of section ------, and (4) in violation of the long-and-short haul (or aggregate of intermediate rates) provision of section 4 thereof. (Use one or more of the allegations numbered (1), (2), (3), (4), or other appropriate allegation according to the nature of the complaint.) That (if recovery of damages is sought) complainant has been injured thereby to his damage in the sum of $------.

Wherefore complainant prays that defendant be required to answer to charges herein; that after due hearing and investigation an order be made commanding said defendant (and each of them) to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of ---------- between the origin and destination points named in paragraph ------ hereof, in lieu of the rates (fares or charges, etc.), named in said paragraph, such other rates (fares or charges, etc.), as the Commission may deem reasonable and just (and also, if recovery of damages is sought, pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of $------, or such other sum, as in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to an award of damages under the provisions of said act for violation thereof), and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at ----------, 19------.

(Complainant's signature) [2]

(Office and post-office address)

(Signature of practitioner)

(Post-office address)

VERIFICATION [3]

State of ----------
County of ----------

---------- being duly sworn, deposes and says: that he is the complainant (or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the ---------- company, complainant) in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

Subscribed in my presence, and sworn to before me, by the affiant above-named, this ------ day of ----------, 19------.

(Use an L.S. impression seal.)

(Title of officer)

Commission expires ----------

NO. 2 ANSWERS [4]

Before the Interstate Commerce Commission.

Answer.

Docket No. ----------

---

v.

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. (Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph).

Wherefore defendant prays that ---------

Dated ---------- 19------

(Name of defendant)

By [5]

(Title of Officer)

(Office and post-office address)

(Signature of Practitioner)

(Post-office address)

NO. 3 CERTIFICATE OF SERVICE [6]

I certify that I have this day served the foregoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with the provisions of Rule 20).

Dated at---------- this---------- day of----------, 19---

(Signature)

NO. 4. PETITION FOR LEAVE TO INTERVENE [7] BEFORE THE INTERSTATE COMMERCE COMMISSION

Petition

[v.]

(Or state other title)

Docket No.---------

Comes now your petitioner, ---------- ----, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to

[1] See Rules 24 to 31, inclusive.

[2] See footnote to verification.

[3] Signature and verification by complainant unnecessary if complaint is signed by a practitioner—See Rule 15.

[4] See Rules 33 to 35, inclusive.

[5] See Rule 15.

[6] See Rule 20.

[7] See Rule 71.

intervene in and become a party to said proceeding, and for grounds of the proposed intervention says

I. That [petitioner should here state nature and place of business, and whether as corporation, firm, or partnership, etc., as in form No. 1.]

II. [Petitioner should here set out specifically his position and interest in the proceeding.]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form No. 1.]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral arguments, if oral argument is granted. [If affirmative relief is sought insert appropriate prayer here.]

Dated at _____, 19__.

[See forms No. 1 and 3 as to subscription, verification and certificate of service.]

No 5. FORM OF REPARATION STATEMENT UNDER RULE 95

Claim of _____ under decision of the Interstate Commerce Commission in Docket No. _____

_____ Date of shipment.
_____ Date of delivery or tender of delivery.
_____ Date charges were paid.
_____ Car[8] initials.
_____ Car[9] number.
_____ Origin.
_____ Destination.
_____ Route.
_____ Commodity.
_____ Weight.
_____ Rate.
_____ Amount.
_____ Rate.
_____ Amount.
_____ Reparation on basis of Commission's decision.
_____ Charges paid by.[10]

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above-described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

_____
(Claimant)

By _____
(Practitioner)

_____
(Address)

_____
(Date)

Total amount of reparation $_____
The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred[11] in: _____
Company _____ Company, Defendant Collecting Carrier, Defendant.[12]

By _____, Auditor. By _____, Auditor.

No. 6 VERIFICATION FOR STATEMENT OF FACT FILED UNDER MODIFIED PROCEDURE[13]

State of _____
County of _____
ss:

_____ being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted therein, and that the same are true as stated.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____

Notary Public of _____. My Commission expires _____

No. 7. NOTICE OF FILING OF APPLICATION FOR PUBLICATION IN FEDERAL REGISTER UNDER SECTION 206(a)(6) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

(See instructions)

PART I

(To be completed by applicant)

Notice is hereby given that the below named applicant has filed with

_____
(Name and State Commission)

an application for a certificate to conduct motor common carrier operations in intrastate commerce; that, in connection with such operations, applicant also is seeking authority to engage in transportation in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations which may be authorized to be conducted; and that the intrastate and interstate operations proposed to be conducted are as set forth below.

1. _____
(Name and business address of applicant)

_____
(Street) (City) (State)

2. _____
(Name and address of applicant's representative, if any)

_____
(Street) (City) (State)

3. Describe below in full the operations proposed to be conducted in intrastate commerce, together with the extent to which applicant is seeking authority in connection with such intrastate operations to engage in transportation in interstate and foreign commerce. (If additional space is necessary, use reverse side.)

_____
(Signature)

_____
(Title)

Date _____ 19__

PART II

(To be completed by State Commission)

Date of filing application _____ Docket number assigned _____

Date and time and place application has been assigned for hearing, if known _____

_____

_____

_____
(Signature)

_____
(Title)

_____
(Name of State Commission)

Date this notice forwarded to Interstate Commerce Commission, Washington, D.C. 20423, _____, 19__.

INSTRUCTIONS

This form is for use in giving notice to interested persons regarding the filing of intrastate motor carrier applications in connection with which the applicant also desires authority to engage in interstate and foreign commerce pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, by Pub. L. 87-805. It should be filed in duplicate (along with the intrastate application) with the State Commission, which will forward it to the Interstate Commerce Commission, Washington, D.C. 20423.

The description in Part I, item 3 should include the commodities (or passengers) sought to be transported, the points to be served, and the routes over which, or territories within which, such transportation is to be performed. Care should be taken to insure that the description, which will be published in the FEDERAL REGISTER, fully informs interested persons of the type and scope of the proposed intrastate operations, and the extent to which applicant desires authority to engage in transportation in interstate and foreign commerce in connection with such intrastate operations.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22973 Filed 8-10-77;8:45 am]

[8] Substitute "Vessel" if water carrier involved.

[9] Substitute "Voyage No." if water carrier involved.

[10] Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

[11] For concurring certificate in case collecting carrier is not a defendant.

[12] If not a defendant, strike out the word "defendant".

[13] See Rule 48.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearings Regarding Energy Efficiency Improvement Targets for Humidifiers, Dehumidifiers, and Central Air Conditioners

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes energy efficiency improvement targets for humidifiers, dehumidifiers, and central air-conditioners, under the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act. This legislation requires that energy efficiency improvement targets be prescribed for certain types of appliances. The intended effect of this proposal is to solicit public comments before these targets are prescribed.

DATES: Comments by September 12, 1977; requests to speak by September 7, 1977; statements by September 12, 1977; hearings to be held on September 14, 1977, and September 15, 1977.

ADDRESSES: Comments and requests to speak at hearing to: Executive Communications, Federal Energy Administration, Box OG, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Statements to: Regulations Management, Federal Energy Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

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I. INTRODUCTION

Part B (42 U.S.C. 6291-6309) of Title III of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), as amended by Section 161 of the Energy Conservation and Production Act (Pub. L. 94-385), requires the implementation of an energy conservation program for consumer products other than automobiles. Section 325(a) of the Act requires that the Federal Energy Administration (FEA) direct the National Bureau of Standards (NBS) to develop, and that FEA by rule prescribe, energy efficiency improvement targets for covered products, which are types of appliances specified in section 322(a) in the Act. The targets are required to be designed so as to identify the maximum improvement in the energy efficiency of appliances determined by FEA to be technologically and economically feasible by 1980. Covered products are the following types of products (including their functional equivalents):

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air-conditioners.
(13) Furnaces.

Targets for the product types listed in (1) through (10) above have already been proposed (42 FR 36648, July 15, 1977). This notice proposes targets for the three product types listed in (11) and (12) above. An energy efficiency improvement target for furnaces will be proposed at a later date.

Section 323 of the Act requires FEA to prescribe test procedures for covered products. The test procedures to be prescribed in Subpart B of Part 430 will be used in monitoring the progress of manufacturers toward meeting the energy efficiency improvement targets, which will be prescribed in Subpart C. The test procedures will also be used by the Federal Trade Commission (FTC) under section 324 of the Act, which requires FTC to prescribe product labeling rules designed to provide consumers with energy information which will assist them in making purchasing decisions concerning appliances.

Under section 325(a)(4) of the Act, FEA will require manufacturers of covered products to submit such reports as FEA determines may be necessary to ascertain whether the energy efficiency improvement target for a type of covered product will be met. If FEA then determines that a particular target is not likely to be met, FEA is required to commence a proceeding to prescribe an energy efficiency standard for the particular type of product or a class thereof.

These proposed targets were established by first identifying design options having a potential for improving the energy efficiency of a product type, and then analyzing those options to determine whether they were technologically feasible. The energy savings of individual technologically feasible design options were combined to provide a single target for each product, and the economic feasibility of the energy efficiency improvement targets thus derived was then evaluated.

II. TECHNOLOGICAL ANALYSIS

A. METHODOLOGY FOR DETERMINING TECHNOLOGICAL FEASIBILITY

The determination of a technologically feasible energy efficiency improvement target for a product type required a thorough analysis to identify the design characteristics of currently available products which affect their energy efficiency. The Act requires that the 1980 targets for humidifiers, dehumidifiers, and central air-conditioners be designed to achieve the maximum improvement in energy efficiency which is technologically and economically feasible. This necessitated an iterative process whereby various design improvement options and combinations of these options were studied to determine their technological feasibility, their effects on improving the efficiency of the product type, and their economic feasibility.

The design options referred to in this notice are being used to demonstrate the technological and economic feasibility

of the 1980 targets but are not intended to dictate future product design. There may be other design options or combinations of design options which could be used by a given manufacturer to achieve the 1980 energy efficiency improvement targets being proposed today, but no greater efficiency improvement is technologically and economically feasible for any product type industry as a whole.

FEA and NBS relied on the cooperation of the humidifier, dehumidifier, and central air-conditioner industries with respect to baseline energy efficiency data for these three product types. The year 1975 was used as the base year because 1975 data were found to be most readily available and easiest for the industries to assemble and submit. The data that were requested of the industries included data which described the capacities, energy efficiency performances, and production volumes for these three product types. The energy efficiency performance data were reported by the industries using test procedures similar to test procedures for humidifiers, dehumidifiers, and central air-conditioners being developed in the Energy Conservation Program for Appliances. NBS was able to adjust the industry data to reflect the efficiency performances as they would be measured by these FEA test procedures as currently proposed. If FEA's test procedures change significantly between their proposed and final forms, FEA intends to adjust the affected baseline data utilized in these targets.

Morever, compliance with recently-enacted section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (15 U.S.C. 761 et seq.) will be noted in each of the final test procedures issued by FEA. Section 32, added to the FEA Act by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), imposes a number of requirements on the Administrator when regulations issued by FEA make use of industry standards.

The technological feasibility analysis began with the identification of design options that would improve the energy efficiency of a product. Once these design options were identified, they were evaluated by NBS to determine their contribution improving the energy efficiency of the product, their impact on increased retail cost, and their impact on material usage. In order for a design option to be considered technologically feasible, it had to be an available technology that could be incorporated into production by 1980 without significant hardship. Increased materials required by the implementation of each design change had to be readily available, so that incorporation of the design change would not be limited by the lack of materials.

The contribution of each design improvement to the product's efficiency was evaluated by NBS. The increased costs were estimated using industrial engineering techniques or catalogues for those design features which already existed in the marketplace. A simple payback analysis which compared increased retail costs to operating costs savings was used by NBS as the criterion for selecting a design option for further evaluation. Where the increased cost exceeded the savings, an option was rejected. Of course, a target incorporating these options still had to meet the further economic feasibility test discussed below.

After individual technologically feasible design options were identified, combinations of design options were evaluated using the proposed FEA test procedures (and in appropriate cases, the 1975 baseline data), to determine the maximum technologically feasible energy efficiency improvement for a product type. The energy savings of each design option was then production-weighted according to the number of units which incorporated the particular design option in the base year of 1975. The energy efficiency improvement target was finally determined by dividing the percent of 1975 production-weighted energy which would be saved if the specified design options were implemented, by one minus the percent of 1975 production-weighted energy saved. Energy factors for these products were determined using the proposed FEA test procedures.

The combination of design improvement options chosen to demonstrate the technological feasibility of the 1980 targets was then subjected to an economic analysis to determine their economic feasiblity. As described in detail below, this economic feasibility analysis relied on NBS estimates of the design improvements' effects on efficiency improvement, increased retail costs, and increased material usage. The efficiency improvement targets for room humidifiers and central system humidifiers were combined by a simple weighted average aproach using their estimated 1975 energy consumption. In the same manner, the targets for split system central air-conditioners and for single package central air-conditioners were combined to derive a target for the product type as a whole.

The detailed 1980 targets are presented later in this notice. A list of design options chosen to demonstrate technological feasibility is also included. Energy factors representing average 1975 product efficiency and the 1980 target efficiency are presented. The energy factor for a product can be determined through application of the FEA test procedures.

Table 1.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for central system humidifiers*

Recommended design options	Production-weighted energy savings, percent	Lead time for implementation, years
1. Shipping humidifier with a humidistat	24	.5
1980 energy efficiency improvement target = $\frac{24}{100-24}\times 100 = 32$ pct.		
1975 energy factor	63	
1980 energy factor [1]	83	

[1] 1980 energy factor = 1975 energy factor $\times \frac{(100+\text{pct. EEI})}{100}$.

B. TECHNOLOGICAL ANALYSIS OF EACH PRODUCT TYPE

Each of the following proposed product-specific energy efficiency improvement targets is based on the best available information and represents FEA's judgment of the maximum efficiency that is technologically feasible, as determined by the methodology described above.

Included in each analysis is a description of the design options selected to demonstrate the technological feasibility of the proposed targets. Each discussion refers to a table that states the production-weighted energy savings of each design option selected for a particular product, as well as the estimated lead-time required before the option can be incorporated into the product. The design options identified may not encompass all the design options available to a given manufacturer for improving the energy efficiency of a particular product, but they do demonstrate the technological feasibility of the proposed energy efficiency improvement target for a particular product type.

A detailed discussion of the target determination procedure for each product is contained in a separate technical paper prepared by NBS. As provided later in this notice, each paper is available for inspection by interested persons.

HUMIDIFIERS

The proposed energy efficiency improvement target for humidifiers is 18 percent. To arrive at this target, the determination was made that central system humidifiers could be improved by 32 percent and that room humidifiers had no design improvements that would be economically feasible.

The central system humidifier design option that was selected to demonstrate the technological feasibility of the proposed target is an increase in the incorporation of humidistats into central system humidifiers. The production-weighted energy savings of this design option, and the estimated lead time required for its implementation, are presented in Table 1. The data in Table 2 were used in the methodology discussed above to determine the proposed energy efficiency improvement target of 18 percent for humidifiers.

Table 2.—*Humidifier product type energy efficiency improvement target*

	1975 energy consumption $\times 10^{12}$ Btu	Percent of energy savings	Energy efficiency improvement target, percent	Energy factor for— 1975	1980
Humidifiers	6.61	15	18		
Room humidifiers	2.45	0	0	46.4 lb/kWh.	46.4 lb/JWh.
Central system humidifiers	4.16	24	32	63 pct.	83 pct.

DEHUMIDIFIERS

The proposed energy efficiency improvement target for dehumidifiers is 28 percent. The dehumidifier design options that were selected to demonstrate the technological feasibility of the proposed target are: improving the compressor motor efficiency through the use of permanent split capacitor (PSC) motors, improving the condenser heat transfer, improving the fan motor efficiency, and installing insulation around the interchanger. The production-weighted energy savings of each design option described above for dehumidifiers and the estimated lead time required for implementation are presented in Table 3.

Table 3.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for dehumidifiers*

Recommended design options	Production-weighted energy savings, percent	Lead time for implementation, years
1. Improve compressor motor efficiency	10	2
2. Improve condenser heat transfer	6	2
3. Improve fan motor efficiency	5	1
4. Insulate interchanger	2	1
Aggregate	[a] 22	
1980 energy efficiency improvement target = $\frac{22}{100-22}\times 100 = 28$ pct.		
1975 energy factor: 2.27 pt/kWh [b]		
1980 energy factor: 2.91 pt/kWh [c]		

[a] These values are not additive. Refer to the dehumidifier technical background paper.
[b] Estimated 1975 energy factor may be revised upon receipt of more definitive data.
[c] 1980 energy factor = 1975 energy factor $\times \frac{100+\text{pct. EEI}}{100}$.

CENTRAL AIR CONDITIONERS

The proposed energy efficiency improvement target for central air conditioners is 25 percent. To arrive at this target, the determination was made that split system central air conditioners could be improved by 27 percent, and single package central air conditioners by 20 percent.

The split system central air conditioner design options that were selected to demonstrate the technological feasibility of the proposed target are: Improving the condenser fan motor efficiency, improving the compressor efficiency, and improving the heat exchange efficiency. The single package central air conditioner design options that were selected to demonstrate the technological feasibility of that target are the same as for a split system central air conditioner. The different percentage increases in efficiency are due mainly to the size constraints of a single package unit.

The production-weighted energy savings of each design option described above for split system and single package central air conditioners, and the estimated lead-time required for implementation, are presented in Tables 4 and 5. The data in Table 6 were used in the methodology discussed above to determine the proposed energy efficiency improvement target of 25 percent for central air conditioners.

Table 4.—*Summary of 1980 energy efficiency (EEI) improvement calculations for split system central air conditioners*

Recommended design options	Production-weighted energy savings, percent	Lead time for implementation, years
1. Improve condenser fan motor efficiency	4	[1] 6
2. Improve compressor efficiency	7	2
3. Improve heat exchange efficiency	10	2
Aggregate	21	
1980 energy efficiency improvement target = $\frac{21}{100-21}\times 100 = 27$ pct.		
1975 seasonal energy efficiency ratio (SEER): 6.6 Btu/Wh		
1980 season energy efficiency ratio (SEER): 8.4 Btu/Wh [2]		

[1] Months.
[2] 1980 SEER = 1975 SEER $\times \frac{100+\text{pct. EEI}}{100}$.

TABLE 5.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for single package central air conditioners*

Recommended design option	Production-weighted energy savings, percent	Lead time for implementation, years
1. Improve condenser fan motor efficiency	4	(1)
2. Improve compressor efficiency	7	2
3. Improve heat exchange efficiency	6	2
Aggregate	17	
1980 energy efficiency improvement target = $\frac{17}{100-17} \times 100 = 20$ pct.		
1975 seasonal energy efficiency ratio (SEER)–6.2 Btu/Wh		
1980 seasonal energy efficiency ratio (SEER)–7.5 Btu/Wh [2]		

[1] Months.

[2] 1980 SEER = 1975 SEER $\times \frac{100+\text{pct EEI}}{100}$.

TABLE 6.—*Central air conditioners product type energy efficiency improvement target*

	1975 energy consumption $\times 10^{15}$ Btu	Percent of energy savings	Energy efficiency improvement target, percent	1975 seasonal energy efficiency ratio (Btu/Wh)	1980 seasonal energy efficiency ratio (Btu/Wh)
Central air conditioners	18.82	20	25		
Single package central air conditioners	3.01	17	20	6.2	7.5
Split system central air conditioners	15.8	21	27	6.6	8.4

III. ECONOMIC ANALYSIS

A. METHODOLOGY FOR DETERMINING ECONOMIC FEASIBILITY

The economic feasibility analysis of today's proposal is complex because the analysis touches upon a vast array of demand-supply relationships which affect consumers not only in their purchasing decisions but also in their daily use of appliances. In performing the analysis, a comprehensive methodology for examining all significant and relevant economic effects was used in order to insure that the proposed targets maximize benefits, especially in the area of energy conservation, while minimizing any adverse consequences.

The analytical procedures used both to project trends and to quantify economic factors consisted of the application of econometrics, statistics and other mathematical methods. In assessing the role of consumer products within the economy, a micro-economic analysis was relied upon, as much as possible, to project trends and simulate changes which the proposed targets might induce. However, where either the lack of data or limited model structure prevented strict adherence to econometrics, the expertise of FEA played a large role.

Most economic factors are quantified in terms of 1980 prices and quantities because 1980 is the year in which impacts of the targets will generally first occur. The projection of prices and quantities in 1980 relies upon a combination of analytical procedures. One essential feature of these procedures is that the outcome, both for energy savings and for cost-benefit impacts, is not significantly altered by variance around these projections. The forecast of shipments, price and other economic factors relating to 1980 provides a base case for quantifying possible impacts. If these projections were to shift, the quantified impacts for various costs and benefits would shift in a proportional manner. For example, variations in projected 1980 sales yield similar net benefits for consumers with negligible impact on long-term energy trends.

Various data sources were used in quantifying economic factors and in the analysis of economic possibilities. Primary data sources were Federal Government publications, including the Census of Manufacturers (U.S. Bureau of the Census, Industry Series, 1975) and Current Industrial Reports (U.S. Bureau of the Census, 1973), together with private sector publications, such as Appliance Manufacturer (Dana Chase Publications, Inc., 1975–77) and Merchandising Week (Billboard Publication, Inc., 1972–77). Another source of data was testimony submitted at May and June 1976 hearings on Subpart C as previously proposed (41 FR 19977, May 14, 1976), as well as the written comments received in response to that proposal.

The methodology consists of establishing a test of economic feasibility, and conducting a four-stage analysis which quantifies all relevant economic factors. Use of this methodology by FEA should not preclude interested parties from suggesting the use of different methodologies, but such suggestions should include a clearly defined methodology along with verified quantifications. Presentations from respondents are encouraged, since a thorough understanding of all relevant economic factors is necessary in prescribing economically feasible targets for consumer products.

A proposed energy efficient improvement target for a particular consumer product is economically feasible when:

1. Appropriate economic resources are available for production and shipment of the more energy-efficient consumer product, and

2. Either benefits exceed costs of implementing the proposed targets, or negative impacts are not of substantial consequence.

Economic resources are considered available when manufacturers can obtain necessary scarce or imported materials to implement energy efficiency improvements, and can secure sufficient capital to finance the required investment in plant and equipment, and to finance other costs, including materials. In addition, when costs of implementing and utilizing more energy-efficient consumer products are outweighed by the dollar value of benefits, the target is considered to be economically feasible. Where, however, costs exceed benefits, and both energy savings are substantial and economic impact on overall economic trends is not of substantial consequence, then the proposed target remains economically feasible. An economic impact is not of substantial consequence when it does not alter a reasonable projected path of stable growth by an appreciable margin in a manner which causes undue stress or burden to some sector of the economy.

FEA applied this test to each type of product. The first criterion of the test, which involves an examination of scarce material supply and investment requirements, is analyzed in stage two of the analysis. The second criterion, which involves the quantification of costs and benefits associated with proposed targets, is analyzed in stages three and four of the analysis, where effects on employment, production, prices, demand, energy, investment and market structure are also quantified. The first stage of the analysis relates energy saving design options to basic economic factors upon which the other stages depend.

Stage 1—Integration of Design Options with Economic Impacts

Certain technological engineering factors are accepted as given for the purpose of the economic analysis. These technological factors include the set of design options discussed in Part II above, with corresponding material requirements and resulting energy efficient improvements for each consumer product. The economic analysis derives a cost estimate for implementing each design option by pricing required materials along with costs for labor and overhead when these are considered important elements in the redesign. The energy savings attributable to the individual design options, and their costs, are combined so as to account for any overlapping energy savings, in order to arrive at an overall energy improvement and total cost increase. The increase in total cost is then translated into an increase in purchase price. Evidence of current price differentials for products already incorporating energy efficient design options was used where appropriate. In this manner, the price increase per unit is directly linked to technological design options and energy efficiency improvements.

The per unit price increase is further adjusted in two ways. First, the per unit price increase is production-weighted, as are energy efficiency improvements, according to 1975 and 1980 shipment characteristics. For each consumer product, the percentage of 1975 shipments incorporting a particular design option is subtracted from the projected percentage of 1980 shipments incorporating the same design option, resulting in the percentage increase in products marketed with a specific design option in 1980 over 1975. This net increase in production of improved products between base period and target date is multiplied by the appropriate design option price increase, yielding a production weighted price increase by design option. The production-weighted price increase for each design option is summed for all design options to arrive at a production-weighted price increase for the consumer product.

The second adjustment is the calculation of the production-weighted price increase expressed in 1980 prices. Because recent available retail prices were most often 1975 prices, a price increase rate of about 3 percent per year, compounding to 15.9 percent, was used to convert 1975 prices to 1980 prices. An annual price rise of 3 percent is in line with past consumer product price trends.

Projected unimproved consumer product prices multiplied by base-case projected 1980 shipments yields an initial unimproved purchase cost that is compared to the increased purchase cost of improved products for evaluating the impact on demand and supply relationships.

Stage II—Availability of Economic Resources

This stage of the analysis evaluates the sufficiency of economic resources, including materials and capital, to permit the manufacture and shipment of the more energy-efficient consumer products. The particular investment requirements described in this evaluation are not meant to prescribe for manufacturers a necessary investment or financial procedure. Although particular manufacturing and financial factors are presented along with their impacts, the purpose of this analysis is only to demonstrate one economically feasible approach in the achievement of the proposed energy targets.

This evaluation relies essentially upon the given technological factors to define material requirements. Each design option is related to the number of pounds of material per unit. Per unit material requirements are aggregated by using production-weighted percentages such as were used for price increases. The total change in each material resulting from the incorporation of a particular design option is the product of the number of projected 1980 shipments and the production-weighted material change for each unit. Total material changes are expressed as a percent of the total U.S. production of each material in order to assess the potential impact. If the impact is judged to be nonsignificant then the material is considered to be an available economic resource.

Investment requirements are also analyzed in stage two. First, investment requirements are estimated for a typical size manufacturing firm. A typical size firm is considered to be one which has a market share equal to or greater than the average market share of all firms manufacturing the product. The necessary investment resources are considered to be available if the financial status of a typical firm manufacturing the particular product is adequate to undertake the investment. Second, the availability of sufficient funds for the entire industry is evaluated by aggregating the investment requirements of all firms in the industry. The aggregation of investment at the industry level is calculated by multiplying the investment required by a typical firm times the number of firms estimated to account for a major portion of the market wherever possible. The additional investment for the industry is compared to recent investment trends by the industry itself to assess the possible burden. Also, the availability of funds in the financial market is evaluated by contrasting the additional industry needs with manufacturers' performance in terms of growth and profitability. If the financial position of manufacturers of a consumer product is adequate to obtain necessary funds, then the investment requirements are considered to be available.

Stage III—Cost Benefit Tradeoffs and Energy Consumption

This stage of the analysis examines the cost-benefit tradeoff confronting consumers of household appliances, along with corresponding energy savings. The tradeoff is essentially a measurement of net life cycle benefits from the perspectives of both an individual purchase and all household sector purchases. These purchase decisions determine net energy savings, which are quantified by comparing the reduced energy consumption in the normal operation of the product and the possibly greater amount of energy consumed in the manufacture of a more efficient product.

First, costs and benefits to the household sector are evaluated. Net life cycle benefits are derived both for individual purchases of a more energy-efficient product and for total consumer purchases by product. The premise underlying both perspectives is that a more energy-efficient consumer product typically sells for a higher price but operates at a lower cost, since less energy is required to perform the same task. Future dollar savings from lower operating costs are accumulated over the life of the product and expressed in present dollars by discounting future dollar flows. The discounting formula is based on a 10 percent interest rate and an engineering estimate of product life. In this manner, the current value of future operating savings can be compared, dollar for dollar, with the increase in purchase price of the more energy-efficient product.

The present value of the benefit derived from life cycle operating savings is reduced by the increase in initial purchase price to determine net life cycle benefits. The present value of net life cycle benefits for individual purchasers is aggregated by using a projection of 1980 shipments by product. The 1980 shipment projection is assumed to equal all household purchases and provides the basis for quantifying reduced energy consumption, household savings and increased expenditures resulting from the household sector purchase and use of more efficient products which sell at a higher price but operate at a lower energy cost.

However, total energy savings is even greater than the amount of reduced consumption by the household sector. Reduced energy consumption is measured first at household end use in kilowatt-hours and second at utility plants in Btu's. The measurement of energy consumed by the utility is the actual energy content of fuel consumed in order ultimately to operate the consumer product in the home. The energy content of fuel delivered to the utility plant is about three times the delivered energy to the household due to losses of energy in generation and transmission. A conversion factor of 10,600 Btu's/kWh (FEA conversion factor) is used to convert household energy in kWh's into energy expended by the utility plant in Btu's. For each kWh, which is equivalent to 3412 Btu's, saved by the household, approximately 10,600 Btu's are saved by the utility.

The measurement of energy consumed by the utility is further converted into barrels of crude petroleum by using a conversion factor of 5.6 million Btu's per barrel. However, simply because reduced energy consumption is equivalently measured in quantity of crude petroleum, this does not imply that either imports or domestic production of petroleum will decline by a similar amount, since only about 20.0 percent of energy supplied to utilities is in the form of petroleum fuel. But overall reduction in household energy consumption will proportionately make available for more productive uses supplies of petroleum, coal, and natural gas, especially in industry.

Stage IV—Assessment of Negative Impact

The last stage of the analysis qualifies impacts within and between household and manufacturing sectors. This stage is primarily an evaluation of possible substantial negative impacts but, where appropriate, costs are offset by benefits. The analysis examines the potential impact of shifts in household demand on

production and employment. Other areas of potential negative impacts include industry structure and income groups.

The purpose of this stage is to examine, for each of the consumer products, changes in demand-supply relationships in terms of economic feasibility. The study of the interaction of demand-supply relationships within and between the household and manufacturing sectors yields costs, benefits, and impacts of energy efficiency targets. The extent to which costs, benefits and impacts vary depends essentially upon two factors:

1. The extent to which manufacturing costs, including substituted materials, new investment in plant and equipment and additional financing costs, increase purchase price.

2. The degree to which household demand for consumer products varies with respect to higher prices on the one hand but lower operating costs on the other.

The higher the manufacturing cost requirements to implement proposed targets, the greater the negative impact from higher prices on household demand, employment, production, inflation, and market structure. Negative impacts are, however, viewed in relative terms since, although they may be significant, such impacts may also be outweighed by favorable benefits consisting of either reduced energy consumption on the demand side or innovative manufacturing techniques on the supply side. In contrast, the lower the manufacturing cost requirements, the greater the opportunity for energy savings, enhanced household purchasing power, and negligible negative impacts.

This fourth stage of the analysis initially evaluates the possible changes in aggregate demand along with the resulting impact on production, employment, and market structure. The analysis examines possible deviations from the 1980 base case shipment projection in order to assess possible substantial negative impacts resulting from the achievement of the proposed energy efficiency targets. The 1980 base case projection of shipments and purchases was used as the most reasonable basis and best approximation for quantifying material and energy impacts along with life cycle benefits discussed in stages two and three. Thus, even though possible negative impacts might cause a deviation around the base case projection, the previously quantified impacts would not be substantially altered. The reasonableness of using 1980 base case projections in stages two and three stems, in part, from an assumption that between 1975 and 1980 manufacturers will have introduced higher-priced, more efficient products in a progressive manner so that households are not suddenly faced with a one time jump in prices of more energy-efficient products in 1980. If this assumption holds true, the negative impacts would not be of material consequence because they would be spread over a number of years and in essence diluted by other economic factors.

However, in order to measure the possibility of more substantial negative impacts, this methodology in stage four further analyzes an alternative case in which households react to a sudden jump in 1980 prices of more energy-efficient products. The extent to which demand shifts in response to a sudden jump in prices is subject to continuing fluctuation as the relative prices of purchasing and operating the product change, along with changes in awareness and perception of future price trends. For these reasons, a plausible maximum-minimum range of household response to higher prices is presented. For example, where rational consumers compare life cycle operating savings to increased purchase price and the positive impact from operating savings outweighs the negative impact from higher purchase price then demand could, in fact, exceed the 1980 base case projections. Where life cycle operating savings are ignored, however, demand could fall below the base case projection. It is these two plausible consumer perceptions which are described in the maximum-minimum range.

FEA has determined that the minimum negative impact is the most plausible case for several reasons. First, the quantification of shifts in both demand and employment does not fully consider the positive effect that a successful consumer education and labeling program might have on increasing consumer preference for low energy usage products with the ultimate effect of outweighing the negative effects of purchase price elasticity. Also, recent structural changes in consumer preferences between purchase price and operating cost have not been given appropriate weighing since time series used in this analysis of relative price elasticities primarily reflect attitudes before the 1973 energy crisis. On this basis, it is concluded that any fall in demand with attendant employee layoffs may approach the minimum negative impact but would be temporary (probably less than one year).

In order to examine the responsiveness of households to higher-priced, more energy-efficient products, a demand function was developed for each of the consumer products. Historical time series were relied upon to quantify changes in household purchases with respect to changes in product prices, energy prices, real income, housing starts, household stock and other relevant economic factors. These equations, correlated in logarithmic form, measure the responsiveness between quantity purchased as it relates to product purchase price on the one hand and quantity purchased as it relates to energy usage price on the other. Correlation analysis of the logarithm of quantity purchased (the dependent variable) together with the logarithm of purchase price, energy price, and other related parameters yields coefficients which are the pertinent elasticities. The two key elasticities are purchase price and energy price.

A product price elasticity of one indicates that for every 1 percent increase in product purchase price, quantity purchased declines by 1 percent. If product purchase price elasticity is less than one, then a 1 percent increase in product purchase price generates something less than a 1 percent decrease in quantity purchased. If price elasticity is greater than one, however, then a 1 percent increase in product purchase price generates something greater than a 1 percent decrease in quantity purchased.

The relationship between the number of units purchased and operating cost elasticity of a particular product is the reverse of the demand elasticity. It is assumed that energy price elasticity derived from regression analysis is similar to operating cost elasticity. Large savings in operating costs are directly correlated with lower energy prices. For an energy price (or operating cost) elasticity greater than one, a reduction in the operating cost of a particular product will result in a greater increase in the quantity purchased than would result if the energy price elasticity were one or less. The lower the energy usage price elasticity (less than one), the less will be the positive effect of increased efficiency on the quantity purchased. The positive effect on quantity purchased due to operating savings, and the negative effect on quantity purchased due to higher prices, are netted to derive a corresponding increase or decrease in quantity purchased by households.

The impact of shifting household demand on employment is the direct consequence of a net increase or decrease in quantity purchased. The net change in quantity purchased is expressed as a percent of 1980 projections of sales. The percent increase or decrease in quantity purchased is assumed to equal the corresponding percent increase or decrease in direct employment. This is an assumption based on available information. Direct employment is the number of production workers in the appropriate industry. If the industry SIC category of production workers according to Bureau of Census Standard Industrial Codes does not match the consumer product being evaluated, then the ratio of dollar value of shipments of a consumer product to shipments of the SIC industry as a whole is used to apportion industry production workers to correspond to consumer production classification.

Two other concerns which are examined in terms of potential negative impact are industry structure and income groups. With respect to industry structure, typical size firms are compared to smaller firms in order to evaluate possible bias against smaller firms. Smaller firms are examined in light of their cost structure and market share. If the investment requirements or other factors do not appear to cause substantial shifts in industry structure, then the negative impact on small firms is not considered to be of substantial consequence.

With respect to income groups, the burden on lower income purchasers is examined for possible unfavorable bias. If the percentage increase in purchase price for lower income groups does not appear to exceed that for higher income groups by a significant amount, then the negative impact is not considered to be of substantial consequence.

B. ECONOMIC ANALYSIS OF EACH PRODUCT TYPE

The proposed energy efficiency improvement target for each product type is the maximum improvement which FEA has determined to be technologically and economically feasible. The determination of economic feasibility of each proposed target is the result of an economic analysis which is consistent with the methodology presented above. Summaries of the economic analyses performed with respect to humidifiers, dehumidifiers, and central air conditioners are presented in this notice. The entire analyses are available for inspection by interested persons, as provided for later in this notice. The format of the analyses as well as of the summaries of the analyses is as follows:

Stage I—The cost of implementing each design option, with the attendant energy improvement, is cumulated to a total price increase. The total per-unit price increase yields a production-weighted price increase in current prices and in 1980 prices.

Stage II—Both scarce materials and investment funds are analysed to determine whether they are available in quantities sufficient to permit the implementation of the proposed target.

The scarce materials primarily affected by a proposed target are stated, and the change in demand is quantified and given as a percent of the U.S. total. It is then determined whether the respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

A determination is made whether profitability and growth of the major manufacturers are adequate to finance total industry investment, and amounts per firm are stated for research and development along with capital costs. Investment requirement per firm is the cumulative cost of each design option based in part on the May and June 1976 testimony and comments.

Stage III—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient products, resulting in each case in measureable energy savings.

The purchase of projected 1980 shipments complying with the proposed target initially is more expensive for consumers, but lower life cycle operating costs for each product yield a net benefit to the consumer, calculated on a present value basis.

Achievement of the proposed operating efficiency for projected 1980 shipments results in an annual energy savings expressed in kWh's, which is then expressed in equivalent Btu's of utility energy supply. Total energy savings of these 1980 shipments is then aggregated in kWh's or Btu's over the life of an average product.

Stage IV—Negative impacts resulting from implementation of the proposed targets are then evaluated on the basis of available information to determine whether they are of substantial consequence.

Negative impact on demand, production and employment is examined with respect to the 1980 base case projection. The minimum negative impact is judged to be the most plausible case since it most probably reflects recent and future consumer perceptions.

Possible shifts in industry market structure which might threaten the existence of small firms is examined.

The effect upon the lowest income quartile is examined to consider whether that quartile would pay a proportionately larger price increase for more efficient products.

Humidifiers. FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 18 percent for humidifiers is the maximum improvement which is technologically and economically feasible. A summary of economic findings for humidifiers follows:

Stage I—The total price increase resulting from implementation of the selected design option is $25.00 per unit, which yields a production-weighted price increase of $3.50 in current prices and $4.06 in 1980 prices.

Stage II—Both scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for humidifiers.

A negligible amount of scarce materials is affected by the proposed target. The respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance the total industry investment of $81 thousand, which amounts to almost $12 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cost of the one suggested design option, which would ordinarily be purchased from a subcontractor and which would require only storage space by humidifier manufacturers. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design option is $5.2 million.

Stage III—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient humidifiers, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 1.85 million humidifiers complying with the proposed target initially costs households an additional $7 million but lowers life cycle operating costs by $103 million, yielding a net benefit of $96 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in energy savings of almost 341 million kWh's annually, which is equivalent to about 3.60 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is more than 3.4 billion kWh's or 3.60 trillion Btu's over the 10-year life of an average humidifier.

Stage IV—Negative impacts resulting from implementation of the proposed humidifier target are not of substantial consequence.

Demand in 1980 might reasonably increase by 7.9 percent, or 139,000 humidifiers, because of a higher rate of replacement of older humidifiers with more efficient products.

Employment might temporarily increase by approximately 600 production workers, or about 7.9 percent of humidifier employment, in response to higher demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for humidifier manufacturers, because at least half the total market share is held by eleven sizeable firms, which by their adoption of the one design option would more than exceed the 86% market saturation (up from 72% in 1975) necessary to achieve the 1980 target. Due to the small amount of investment involved, small firms could also choose to implement the suggested design option, if this course would be to their competitive advantage.

The lowest income quartile may be negatively affected by paying a proportionately large price increase for more efficient humidifiers, but available information (Selected Data from 1973 and 1974 Surveys of Purchases and Ownership, U.S. Bureau of the Census, 1976) suggests that this impact is not of substantial consequence.

Dehumidifiers. FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 28 percent for dehumidifiers is the maximum improvement which is technologically and economically feasible. A summary of economic findings for dehumidifiers follows:

Stage I—The total price increase resulting from implementation of the selected design options is $34.00 per unit, which yields a production-weighted price increase of $34.00 in 1975 prices and $39.40 in 1980 prices.

Stage II—The scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for dehumidifiers.

The scarce materials primarily affected by the proposed target are aluminum, for which demand increases by 750 tons, and fiberglass, for which demand increases by 50 tons. Both of these material changes are a negligible percent of the total U.S. production, so that the respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance

total industry investment of $212 thousand, which amounts to slightly more than $42 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cumulative cost of each design option. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $1.3 million.

Stage III—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient dehumidifiers, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 500,000 dehumidifiers complying with the proposed target initially costs households an additional $20 million but lowers life cycle operating costs by $27 million, yielding a net benefit of $7 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in energy savings of almost 83 million kWh's annually, which is equivalent to almost .9 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is almost 908 million kWh's or almost 10 trillion Btu's over the 11-year life of an average dehumidifier.

Stage IV—Negative impacts resulting from implementation of the proposed dehumidifier target are not of substantial consequence.

Demand in 1980 might reasonably increase by 30.8 percent, or 154,000 dehumidifiers, because of a higher rate of replacement of older dehumidifiers with more efficient products.

Employment might temporarily increase by approximately 188 production workers, or about 30.8 percent of dehumidifier employment, in response to higher demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for dehumidifier manufacturers, because at least half of total market share is held by five sizeable firms, with the bulk of the remaining portion of market share made up of subsidiaries of multi-product corporations of considerable size.

The lowest income quartile may be negatively affected by paying a proportionately larger price increase for more efficient dehumidifiers, but the information cited above suggests that this impact is not of substantial consequence.

Central Air Conditioners. FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 25 percent for central air conditioners is the maximum improvement which is technologically and economically feasible. A summary of economic findings for central air conditioners follows:

Stage I—The total price increase resulting from implementation of the selected design options is $73.60 per unit, which yields a production-weighted price increase also of $73.60 in current prices and $85.30 in 1980 prices.

Stage II—Both scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for central air conditioners.

The scarce material primarily affected by the proposed target is aluminum, for which demand increases by about 7700 tons, or 0.2 percent of the total U.S. production. The aluminum industry can meet the demand shift without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance the total industry investment of $1.2 million, which amounts to about $120 thousand per firm in additional research and development along with capital costs. Investment requirement per firm is the cumulative cost for each design option based in part on May–June 1976 testimony and comments by the room air conditioner and refrigerator industries, which utilize design options similar to those proposed for central air conditioners. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $52.8 million.

Stage III—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient central air conditioners, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 1.7 million central air conditioners complying with the proposed target initially costs households an additional $145 million but lowers life cycle operating costs by $600 million, yielding a net benefit of $455 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments resulted in an annual energy savings of 1.8 billion kWh's, which is equivalent to 19 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 22 billion kWh's, or 229 trillion Btu's, over the 12-year life of an average central air conditioner.

Stage IV—Negative impacts resulting from implementation of the proposed central air conditioner target are not of substantial consequence.

Demand in 1980 might reasonably decline by 6.9 percent, or 117 thousand central air conditioners, because of the higher purchase price of more efficient products.

Employment might temporarily decline by approximately 900 production workers, or about 7.0 percent of central air conditioner employment, in response to lower demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for central air conditioner manufacturers, since 83 percent of total market share is held by 10 sizeable firms, with the remaining seventeen percent essentially held by either imports or subsidiaries of multiproduct corporations of considerable size.

The lowest income quartile as a whole will not be significantly affected by paying a proportionately higher price for more efficient central air conditioners, because the information cited above suggests that lower income groups buy only a small percentage of the total central air conditioners manufactured.

IV. Request for Particular Comments

While FEA is soliciting comments on all aspects of these proposed energy efficiency improvement targets, FEA is particularly interested in receiving comments on the following matters:

1. Information relating to the number of central system humidifiers shipped with humidistats, and the number shipped without humidistats.
2. Information relating to the number of consumers who install humidistats on central system humidifiers shipped without humidistats.
3. Information relating to the savings resulting from the installation of humidistats on central system humidifiers shipped without humidistats.

In addition, FEA is interested in receiving comments on all definitions previously promulgated or proposed in section 430.2 as these provisions might affect the efficiency improvement targets. Comments with respect to efficiency improvement targets regarding provisions in previously promulgated or proposed section 430.2 are timely until the close of the written record. It is expected that definitions for each of the product types will be finalized before the prescription of targets.

For the convenience of the reviewer, the proposed definitions directly related to the efficiency improvement targets are as follows:

"Central system humidifier" means a consumer product designed for the purpose of adding moisture into the air stream of a heating system (42 FR 27944, June 1, 1977).

"Humidifier" means a central system humidifier or a room humidifier (42 FR 27944, June 1, 1977).

"Room humidifier" means a consumer product designed for the purpose of adding moisture directly to the air proximate to such humidifier without requiring connection to a separate system for heating, distributing, or otherwise treating circulated air (42 FR 27944, June 1, 1977).

"Dehumidifier" means a self-contained, electrically-powered, mechanically-refrigerated consumer product designed to decrease the moisture content of air in an enclosed space to a specified level; it has a refrigerated surface (evaporator) onto which some moisture from the air condenses, a refrigerating system that includes an electric motor, a fan for circulating air, and a drainage arrangement for collecting and/or disposing of the condensation (42 FR 27954, June 1, 1977).

"Central air conditioner" means a consumer appliance which is powered by single phase electric current, which consists of a compressor and an air cooled condenser assembly and an evaporator

or cooling coil, which is designed to provide air cooling, dehumidifying, circulating, and air cleaning, and which is rated below 65,000 Btu/hour (42 FR 30404, June 14, 1977).

"Single package unit" means any central air conditioner in which all the major assemblies are enclosed in one system. (42 FR 30405, June 14, 1977).

"Split system" means any central air conditioner in which one or more of the major assemblies are separated from the others. (42 FR 30405, June 14, 1977).

V. Comment Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed energy efficiency improvement targets set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box OG, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Proposed Efficiency Improvement Targets" and should also designate the appliance type to which the comments apply. Fifteen copies should be submitted. All comments received by September 12, 1977, before 4:30 p.m., e.d.t., and all other relevant information will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public Hearings

1. *Request Procedures.* Public hearings in this proceeding will be held beginning at 9:30 a.m. on September 14, 1977, in Room 2105, 2000 M Street NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein. The schedule for such hearings is as follows:

Humidifiers: September 14, 1977, 9:30 a.m.
Dehumidifiers: September 14, 1977, 1:30 p.m.
Central Air Conditioners: September 15, 1977, 9:30 a.m.

Any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, may request in writing an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble, and must be received before 4:30 p.m., e.d.t., on September 7, 1977. Such a request may be hand-delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Proposed Efficiency Improvement Targets" and should state for which hearing or hearings the request is made.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted through September 14, 1977. Each person selected to be heard will be so notified by FEA before 4:30 p.m., September 9, 1977, and must submit 50 copies of his or her statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at (202) 254-3345.

2. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Except as provided below, questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, Box OG, FEA, before 4:30 p.m., e.d.t., September 12, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. Any decision made by FEA with respect to the subject matter of the hearings will be based on all information available to FEA.

Further questioning will be permitted by FEA pursuant to section 336(a)(1)(B) of the Act. Any interested person will have the opportunity to question (1) other interested persons who have made oral presentations, and (2) employees of the United States who have made written or oral presentations, with respect to disputed issues of material fact. Such an opportunity will be afforded to the extent FEA determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of the issues of material fact. Such opportunity with regard to oral presentations of interested persons and employees of the United States, will be provided at the public hearing. If this opportunity alone is insufficient or inconvenient for any interested person and/or employee, FEA will consider affording an additional opportunity for questioning at a convenient time. An opportunity to question employees of the United States who have made written presentations may be availed of by submission of written questions which must be received by Executive Communications, Box OG, FEA, by September 26, 1977. Questions must pertain to disputed issues of material fact regarding the target which is the subject of the hearing.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. Technical and economic papers related to today's proposal will also be available for inspection by interested persons at the FEA Freedom of Information Office.

In addition to the information available at the Freedom of Information Office, FEA will make available background materials concerning the assumptions and data which were used in the analysis of economic feasibility. These background materials are classified by product and by fuel type, and are available to any person who submits a written request to James A. Smith, Room 307, Old Post Office Building, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

VI. Environmental and Inflationary Review

As required in section 7(c)(2) of the FEA Act, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires that FEA review Agency proposals to determine whether they constitute "major Federal actions significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of that Act. Since the targets proposed today are voluntary, compliance with these targets is a voluntary private action. This type of compliance is not a "Federal action" within the meaning of the statutory language. Since any compliance with the targets is entirely at the initiative of affected manufacturers and not FEA, it is virtually impossible for FEA to undertake meaningful analysis of the nature or scope of any environmental effects which might indirectly flow from the targets. Moreover, the goal of these targets is to induce reductions in energy consumption, as well as the environmental residuals of energy consumption

and, thus, to improve environmental quality. On this basis, FEA has determined that, with respect to prescribing efficiency improvement targets under the conservation program for appliances, no environmental impact statement is required.

These proposed targets have been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A107, and the targets for humidifiers and dehumidifiers have been determined not to be major proposals requiring evaluation of their economic impact as provided for therein. The target for central air conditioners has been determined to be a major proposal, but only on the assumption that manufacturers will in fact implement the measures which the economic feasibility analysis has found to be reasonable and achievable and that, therefore, they will fully comply with the target. The target, however, is voluntary in nature and since FEA cannot predict the actual degree of compliance it cannot, accordingly, predict the target's actual economic impact. An economic impact evaluation, based upon the assumptions contained in the economic feasibility analysis rather than on actual economic impact, has been completed and is available for public review, as provided above.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 F.R. 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below:

Issued in Washington, D.C. August 4, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.32 is amended by adding paragraphs (k), (l), and (m), to read as follows:

§ 430.32 Energy efficiency improvement targets.

* * * * *

(k) The energy efficiency improvement target for humidifiers shall be an 18 percent increase in energy efficiency for the total number of humidifiers manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of humidifiers manufactured by all manufacturers in calendar year 1975.

(l) The energy efficiency improvement target for dehumidifiers shall be a 28 percent increase in energy efficiency for the total number of dehumidifiers manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of dehumidifiers manufactured by all manufacturers in calendar year 1975.

(m) The energy efficiency improvement target for central air conditioners shall be a 25 percent increase in energy efficiency for the total number of central air conditioners manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of central air conditioners manufactured by all manufacturers in calendar year 1975.

[FR Doc.77-22966 Filed 8-10-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-GL-24]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace, a transition area, near Caledonia, Minnesota, to accommodate a new instrument approach procedure to the Houston County Airport.

DATES: Comments must be received on or before September 11, 1977.

ADDRESSES: Send comments on the proposal to FAA Regional Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 77-GL-24, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the Belvedere Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 77-GL-24, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before September 11, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Caledonia, Minnesota, Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedure Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (42 FR 440), the following transition area is added:

CALEDONIA, MINNESOTA

That airspace extending upward from 700 feet above the surface within a 5 (statute) mile radius of the Houston County Airport (latitude 43°35'48" N, longitude 91°30'15" W) and within 2 miles each side of the 185° (true) radial of the Nodine VORTAC extending from the 5-mile radius to 6 miles north of the airport and within 3 miles either side of 133° (true) bearing of the Caledonia NDB extending from the 5-mile radius to 8.5 miles southeast of the airport, excluding that portion which has been previously designated for the LaCrosse, Wisconsin, airport.

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 1, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-23007 Filed 8-10-77;8:45 am]

[14 CFR Parts 71, 75]

[Airspace Docket No. 77-GL-23]

FEDERAL AIRWAYS AND JET ROUTES

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proopses to extend three Federal airways and one jet route identified as V-148, V-345, V-224 and J-89 and to modify a segment of Federal Airway V-177. A review of the airway structure in the vicinity of Duluth, Minn., indicated a need for several changes in the airways and jet route structures. These proposed actions provide for the safe and efficient use of the navigable airspace.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 77-GL-23, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend three federal airways and one jet route identified as V-148, V-345, V-224 and J-89 and to modify a segment of Federal Airway V-177 between Wausau, Wis., and Duluth, Minn. These proposed actions would: (1) Extend V-148 from over Minneapolis, Minn., VOR direct to Hayward, Wis., TVOR direct to the Ironwood, Mich., VOR. This action would provide a nonradar route between Minneapolis, Minn., and Ironwood, Mich.; (2) extend V-345 from over Eau Claire, Wis., VOR via the 357°(M) radial and the Hayward, Wis., TVOR 178°(M) radial to the Hayward TVOR, direct to the Ashland, Wis., TVOR. This action would provide a nonradar route between Eau Claire and Ashland, Wis.; (3) extend V-224 from over Rhinelander, Wis., VOR direct to Marquette, Mich., VOR. This action would provide a nonradar route for itinerant traffic in Upper Michigan; (4) extend J-89 from over Duluth, Minn., VOR direct to the Winnipeg, Manitoba, Canada, VOR. This action would provide a direct route between Duluth and Winnipeg; (5) delete the existing segment of V-177 from the intersection of the Duluth, Minn., VOR 131°(M) radial and the Wausau, Wis., VOR 316°(M) radial to the Wausau VOR and redesignate the existing west alternate (V-177W) between Duluth and Wausau via Hayward, Wis., as V-177. This action would improve and expedite the movement of IFR traffic. Subpart C of Part 71 and Subpart B of Part 75 were republished in the FEDERAL REGISTER on January 3, 1977, (42 FR 307 and 707).

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) as follows:

PART 71

By amending § 71.123 (42 FR 307) to extend V-148, V-224 and V-345 and alter V-177 as follows:

In V-148 "Min." would be deleted and "Min.; Hayward, Wis.; to Ironwood, Mich." would be substituted therefor.

In V-177 "Duluth, Minn., including a west alternate via Hayward, Wis.;" would be deleted and "Hayward, Wis.; Duluth, Minn.;" would be substituted therefor.

In V-224 "From Marquette," would be deleted and "From Rhinelander, Wis., via Marquette," would be substituted therefor.

In V-345 "to Eau Claire" would be deleted and "Eau Claire; INT of Eau Claire 001°(357°M) and Hayward, Wis., 181° (178°M) radials; Hayward; to Ashland, Wis." would be substituted therefor.

PART 75

By amending § 75.100 (42 FR 707) to extend J-89 as follows:

In J-89 ", to Duluth, Minn." would be deleted and "; Duluth, Minn.; to Winnipeg, Manitoba, Canada. The portion within Canada is excluded." would be substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on August 3, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23006 Filed 8-10-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 904]

FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS

Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This proposed regulation would establish criteria and procedures

for reimbursing public participants for costs incurred in administrative proceedings conducted by NOAA. NOAA believes that the regulations will result in increased participation by those who represent viewpoints and interests that will contribute in a positive way to the decisionmaking process.

DATES: Comments must be received on or before November 9, 1977.

ADDRESS: Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5807, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Joel G. MacDonald, Office of the General Counsel, National Oceanic and Atomspheric Administration, Room 5222, Main Commerce Building, Washington, D.C. 20230, Telephone: (202) 377-3311.

SUPPLEMENTARY INFORMATION: During the past few months, NOAA has actively considered promulgating a regulation which would enhance public participation in its administrative proceedings by facilitating the presentation of relevant information and points of view. In developing these regulations, NOAA has taken cognizance of the legislative initiative contained in S.270 of the 95th Congress, 1st Session and the following decisions of the Comptroller General: B-139703, dated July 24, 1972, February 28, 1974, September 22, 1976, and December 3, 1976; B-92288, dated February 19, 1976; and B-180224, dated May 10, 1976. The reasoning of the Comptroller General's decisions affirms the authority of Federal agencies to reimburse participants for costs incurred in administrative proceedings, and to provide guidelines for the exercise of that authority. Specifically, administrative authority to promulgate such a regulation rests upon the Comptroller General's decision that an appropriation made for a particular object, purpose, or program "is available to finance expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose, or program for which the appropriation was made * * *." (Comptroller General's Opinion B-92288, Feb. 19, 1976). Based upon the broad functions and responsibilities vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), and subsequently delegated to the Administrator of NOAA (39 FR 27486, Department Organization Order 25-5A, July 9, 1974, as amended), and the authorization of appropriations "[F]or expenses necessary for the National Oceanic and Atmospheric Administration, * * *", Pub. L. No. 94-362, 90 Stat. 949 (1976), NOAA has determined that there is a legal basis for providing financial assistance, under appropriate circumstances, to participants for costs incurred in administrative proceedings.

Recently, the United States Court of Appeals for the Second Circuit held that the Federal Power Commission (FPC) was not empowered, in the absence of specific statutory authority, to award attorneys' fees to participants in an FPC proceeding who opposed the construction of a power line (*Greene County Planning Board, et al. v. Federal Power Commission*, Nos. 76-4151, 76-4153 (2nd Cir., June 30, 1977)). While the decision of this court must be weighed in determining the extent to which NOAA will provide financial assistance, NOAA has included in the proposed regulation attorneys' fees incurred for participating in an administrative proceeding as a cost subject to compensation in order to obtain specific public comment as requested in the questions included in this preamble.

The proposed regulation provides for reimbursement of expenses incurred by certain participants in rulemaking and adjudicatory proceedings conducted by NOAA, where such participation is necessary or desirable for a fair determination of the issues, and where the participants are otherwise unable to meet such expenses. The regulation provides criteria for reimbursement and establishes procedures to be followed by applicants.

The proposed regulation further provides for reimbursement to eligible participants for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participating in NOAA proceedings. Upon application, a person or group would qualify for fees and costs when they can substantially contribute to a fair determination of the issues, taking into account the number and complexity of the issues presented, the importance of widespread public participation, the need for representation of a fair balance of interests, and whether or not the person represents an interest that is not otherwise adequately represented. The person or group would also have to demonstrate that they lack the resources to participate effectively without compensation. The Administrator of NOAA would decide who should receive compensation, when there should be a consolidation of applications to avoid duplication of effort, and how funds should be allocated among eligible participants when they are insufficient fully to compensate them all.

Payment of fees and costs would be made 30 days after receipt of an itemized voucher listing each item of expense. Such payment would be made only for costs that have been authorized and actually incurred for participating in a proceeding. The eligible participants would be reimbursed only for those fees and costs which are reasonable based upon the prevailing market rates for the goods and services furnished.

NOAA invites comments on all aspects of the regulation. Comments are requested specifically on the following questions:

1. Should attorneys' fees and other assistance be provided in all administrative proceedings conducted by NOAA?

2. Should the standard for providing attorneys' fees and other assistance be the standard in the regulation, or should the standard be expanded to include applicants who represent an interest which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceedings, and the economic interest in the outcome of the applicant seeking the assistance is small in comparison to the costs of effective participation?

3. What financial eligibility criteria should be adopted?

4. Should attorneys' fees and other assistance be available to those with an economic interest in the outcome or limited to those whose participation benefits the general public or has a strong public interest justification?

5. What procedures and criteria should NOAA adopt for (a) Evaluating the quality of a participant's potential contribution to the resolution of a hearing; (b) determining the importance of the issue(s) on which a participant wants to be heard; (c) assessing the strength of a participant's interest or the uniqueness of a participant's point of view; and (d) distinguishing among equally capable participants all of whom want to receive financial support for participation in the same proceeding?

6. Should the number of participants who may be subsidized in any one proceeding be limited? If so, what should the number be?

7. Who should determine eligibility for compensation?

8. What criteria should NOAA adopt for determining whether the costs of participation incurred by a participant are reasonable or necessary for participation?

9. Should reimbursable costs be limited to certain costs, but not all costs, e.g., the cost of travel, but not the costs or salaries of persons regularly employed by the participant?

10. What consideration should NOAA give to alternative ways of providing advocacy assistance to participants, e.g., establishment of a public counsel within the agency to represent consumer interests in hearings; and what support should NOAA give for establishment of an independent agency to advocate consumer interests?

NOTE.—The National Oceanic and Atmospheric Administration has determined that this proposal does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 8, 1977.

RICHARD A. FRANK,
Administrator.

Chapter IX of 15 CFR is amended by adding the following Part 904:

PART 904—FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS

Sec.
904.1 Purpose.
904.2 Definitions.
904.3 Criteria for financial compensation.
904.4 Submission of applications by participants.
904.5 Amount of financial compensation and procedures for payment.

§ 904.1 Purpose.

The Administrator may provide compensation for reasonable attorneys' fees, fees and costs of experts, and other costs of participation incurred by eligible participants in any adjudication, enforcement, or rulemaking proceeding involving a hearing in which there may be public participation pursuant to statute, regulation, or agency practice, whenever the Administrator determines that public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

§ 904.2 Definitions.

As used herein: (a) "Administration" means the National Oceanic and Atmospheric Administration;

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(c) "Applicant" means any person who has filed a timely application for compensation;

(d) "Person" means any person as defined in section 551(2) of 5 U.S.C. and includes a group of individuals with similar interests.

§ 904.3 Criteria for Financial Compensation.

(a) Any person is eligible to receive compensation under this section for participation (whether or not as a party) in Administration proceedings referred to in § 904.1 if:

(1) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceedings, taking into account:

(i) Whether the person represents an interest which is not adequately represented by a participant other than the agency itself;

(ii) The number and complexity of the issues presented;

(iii) The importance of public participation;

(iv) The need to encourage participation by segments of the public who, as individuals, may have little economic incentive to participate; and

(v) The need for representation of a fair balance of interests; and

(2) The person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources available to participate effectively in the proceedings in the absence of compensation under § 904.1.

(3) In order to facilitate public participation, the Administrator shall make written determinations, giving reasons therefor, of the eligibility of an applicant for compensation under § 904.1, and the amount and computation of such compensation. The determinations required by this paragraph shall be made as soon as practicable after receipt of an application for compensation, unless the Administrator makes an express written finding that all or any part of the determination relating to the amount or computation of such compensation cannot practicably be made at the time the initial determination of eligibility is made. The Administrator shall make such determination after consideration of the maximum amounts payable for compensation under § 904.5 for the proceedings and requests or possible requests for compensation under § 904.1 by other eligible participants in the proceeding;

(4) The Administrator may require consolidation of duplicative presentations, select one or more effective representatives to participate, offer compensation only for certain categories of expenses, or jointly compensate persons represently identical or closely related viewpoints.

§ 904.4 Submission of applications by participants.

(a) A participant must submit a written application to the Administrator in order to be authorized to receive compensation. This application shall be submitted as soon as practicable after publication of notice of the proceeding in the FEDERAL REGISTER. Applications shall be addressed to : Office of the General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Each application shall contain, in a sworn statement, the following information in the form specified:

(1) The applicant's name and address, and in the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purposes, structure, and tax status;

(2) An identification of the proceeding for which funds are requested;

(3) A description of the applicant's economic, social and other interests in the outcome of the proceeding for which fund re requested;

(4) A discussion of the reasons why the applicant is an appropriate representative of those interests, including the expertise and experience of the applicant in the matters involved in the proceeding for which funds are requested and in related matters;

(5) An explanation of how the applicant's participation would enhance the quality of the decisionmaking process and serve the public interest by contributing views and data which would not be presented by another participant;

(6) A statement of the total amount of funds requested;

(7) With respect to the proceeding for which funds are requested, an itemized statement of the expenses to be covered by the requested funds and of the expenses to be covered by the applicant's funds;

(8) A description of the evidence, activities, studies or other submissions that will be generated by each of those expenditures;

(9) An explanation of how the requested funds would result in enhancing the quality of the applicant's participation in the proceeding for which funds are requested;

(10) An explanation of why the applicant cannot use funds that it already possesses or expects to receive for the purpose for which funds are requested, including:

(i) A listing of the applicant's anticipated income and expenditures (rounded to the nearest $100) during the current fiscal year; and

(ii) A listing of the total assets and liabilities of the applicant as of the date of the application.

(11) An explanation of why the applicant cannot in other ways obtain the funds that are requested, including a description of the applicant's past efforts to obtain those funds in other ways and the feasibility of future attempts to raise funds in other ways; and

(12) A list of all proceedings of the Federal government in which the applicant has participated during the past year (including the interest represented and the contribution made) and any amount of financial assistance received from the Federal government in connection with these proceedings.

§ 904.5 Amount of financial compensation and procedures for payment.

(a) The Administrator may establish a limit on the total amount of financial compensation to be made to all participants in a particular proceeding and/or may establish a limit on the total amount of compensation to be made to any one participant in a particular proceeding.

(b) The Administrator shall compensate participants only for costs that have been authorized and only for such costs actually incurred for participation in a proceeding;

(c) The Administrator shall compensate participants only for costs that he or she determines are reasonable. The amount of reasonable attorneys' fees, fees and costs of experts, and other costs of participation awarded under section 1 shall be based upon prevailing market rates for the kind and quality of the goods and services, as appropriate, furnished, except that no attorney, expert or consultant shall be compensated at a rate in excess of the highest rate of compensation for attorneys, experts, consultants, and other personnel with comparable experience and expertise paid by the Administration;

(d) The Administrator may compensate participants for any or all of the following costs:

(1) Salaries for participants or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys that are incurred by participants;

(3) Transportation costs;

(4) Travel related costs such as lodging, meals, tipping, telephone calls, etc.; and

(5) All other reasonable costs incurred such as document reproduction, postage, etc.

(e) The Administrator shall compensate participants within 30 days fol-

lowing the date on which the participant submits an itemized voucher of actual costs pursuant to paragraph (a) of this section;

(f) The participant shall be paid upon submission of an itemized voucher listing each item of expense. Each item of expense exceeding $15.00 must be substantiated by a copy of a receipt, invoice, or appropriate document evidencing the fact that the cost was incurred;

(g) The Administrator and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers and records of a participant receiving compensation under this section. The Administrator may establish additional guidelines for accounting, recordkeeping and other administrative procedures with which participants must comply as a condition of receiving compensation.

[FR Doc.77-23242 Filed 8-10-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 752 3121]

FRANKART DISTRIBUTORS, INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires a New Rochelle, N.Y. furniture dealer and its affiliates to cease using the terms "carved" or "detailed carving" or any other similar terms to describe furniture which has not been cut or carved into shape. Further, the order requires the firms to make clear and conspicuous disclosures regarding the composition or construction of their furniture, both in their advertising and on the furniture displayed in their showrooms.

DATES: Comments must be received on or before October 3, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary. Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Director, New York Regional Office, Federal Trade Commission, 2243–EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007. (212–264–1207.)

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

[File No. 7523121]

FRANKART DISTRIBUTORS, INC., ET AL

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Frankart Distributors, Inc., a corporation, Frankart Flushing, Inc., a corporation, Frankart-Fordham, Inc., a corporation, Frankart Westchester, Inc., a corporation, Frankart-New Rochelle, Inc., a corporation, Frankart Paramus, Inc., a corporation, Frankart Jamaica, Inc., a corporation, Frankart Kings, Inc., a corporation, Mallary, Inc., a corporation, doing business under that name and as Frankart-Grand Concourse, and Bernard Frankel, individually and as an officer of said corporations.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the parties named in the caption hereof and more particularly described below, and hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It Is Hereby Agreed by and between Frankart Distributors, Inc., Frankart Flushing, Inc., Frankart-Fordham, Inc., Frankart Westchester, Inc., Frankart-New Rochelle, Inc., Frankart Paramus, Inc., Frankart Jamaica, Inc., Frankart Kings, Inc., Mallary, Inc., doing business under that name and as Frankart-Grand Concourse, by their duly authorized officer, and Bernard Frankel, individually and as an officer of said corporations, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Frankart Distributors, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 543 Main Street, New Rochelle, New York.

Proposed respondent Frankart Flushing, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 37–11 Main Street, Flushing, New York.

Proposed respondent Frankart-Fordham, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 18 West Fordham Road, Bronx, New York.

Proposed respondent Frankart Westchester, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1088 Central Avenue, Scarsdale, New York.

Proposed respondent Frankart-New Rochelle, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 543 Main Street, New Rochelle, New York.

Proposed respondent Frankart Paramus, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Route 4, Spring Valley Road, Paramus, New Jersey.

Proposed respondent Frankart Jamaica, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 160–08 Jamaica Avenue, Jamaica, New York.

Proposed respondent Frankart Kings, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 1209 Kings Highway, Brooklyn, New York.

Proposed respondent Mallary, Inc., doing business under that name and as Frankart-Grand Concourse, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 2431 Grand Concourse, Bronx, New York.

Proposed respondent Bernard Frankel is an individual and an officer of the corporate respondents. He formulates, directs and controls the policies, acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. His business address is 543 Main Street, New Rochelle, New York.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents Frankart Distributors, Inc., Frankart Flushing, Inc., Frankart-Fordham, Inc., Frankart Westchester, Inc., Frankart-New Rochelle, Inc., Frankart Paramus, Inc., Frankart Jamaica, Inc., Frankart Kings, Inc., corporations, Mallary, Inc.,a corporation, doing business under that name and as Frankart-Grand Concourse, or under any other name or names, their successors and assigns, and their officers, and Bernard Frankel, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising displaying offering for sale, sale and distribution of furniture, or any other products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Using the terms "carved" or "detailed carving" or any other terms of similar import and meaning, to describe any furniture or part thereof that has not been cut or carved into shape.

For purposes of this order, "Exposed Surfaces" are defined as those parts and surfaces exposed to view when furniture is placed in the generally accepted position for use.

2. Failing to clearly and conspicuously disclose that furniture having the appearance of solid wood, but containing exposed surfaces of veneered construction, contains such veneered construction.

3. Failing to clearly and conspicuously disclose that furniture containing exposed surfaces composed in whole or in part of plastic or other materials which have the appearance of wood, contains such plastic or other materials, or that the exposed surfaces are not wood.

4. Failing to disclose either the true composition or construction furniture or its parts, or that material is not what it appears to be, whenever any statement, representation or depiction is used in advertising, which may otherwise be misleading as to the true composition or construction of such furniture or its parts without such disclosure. Such disclosures shall be made clearly and conspicuously and in close conjunction with any statements, representations or depictions used.

5. Failing to clearly and conspicuously disclose, on the furniture itself, or on tags or labels attached to such furniture in a manner so as not to be easily removed, either the true composition or construction of furniture or its parts, or that material is not what it appears to be, whenever the appearance of such furniture or its parts may be misleading as to its true composition or construction without such disclosure.

It is further ordered, That respondents deliver a copy of this order to all operating divisions and to all present and future personnel of respondents responsible for any aspect of preparation, creation, or placing of advertising, and to all present and future personnel of respondents responsible for the sale or offering for sale of all products covered by this order, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by, the Federal Trade Commission.

It is further ordered, That respondents shall maintain for at least a one (1) year period following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other promotional material utilized in the advertising, promotion or sale of all products covered by this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of his present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondent's current business address and a description of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

FRANKART DISTRIBUTORS, INC. ET AL

[File No. 7523121]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Frankart Distributors, Inc. and eight affiliated firms and Bernard Frankel, President of the firms.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that the corporations and Bernard Frankel failed to disclose the composition or construction of furniture of veneered construction which appeared to be solid wood, or furniture composed of plastic or other materials which had the appearance of wood. It further alleges that they described certain of their furniture as carved when the furniture was actually formed from plastic by the use of a mold. The complaint is generally premised upon the principles of affirmative disclosure of material facts as set forth in the Commission's "Guides for the Household Furniture Industry."

The order prohibits the use of the terms "carved" or "detailed carving" or any other similar terms to describe furniture which has not been cut or carved into shape. The order requires the firms to make clear and conspicuous disclosures regarding the composition or construction of their furniture, both in their advertising and on the furniture displayed in their showrooms, and essentially tracks the concepts set forth in the furniture "Guides."

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23158 Filed 8-10-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-8; PP 6E1792/P51]

[40 CFR Part 180]

PESTICIDE PROGRAMS

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Aldicarb

Correction

In FR Doc. 77-21031, appearing at page 37578 in the issue of Friday, July 22, 1977, the following changes should be made:

1. On page 37578, third column, the word in parentheses in the fourth from bottom line of the last full paragraph should read, "(methylsulfonyl)".

2. The seventh line of the first column on page 37579 should read, "studies and by reference only a two-".

3. In the third column on page 37579, the entries in columns one and two of the table in § 180.269, omitted at publication, should read "Bananas" and "0.3" respectively.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 21351; FCC 77-524]

WAITING PERIOD FOR FILING APPLICATIONS IN SAFETY AND SPECIAL RADIO SERVICES AFTER A DISMISSAL WITH PREJUDICE OR AFTER A REVOCATION

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: (i) Amendment of § 1.916 of the Commission's rules to extend to 36 months from 12 months the time within which the Commission will not consider an application for a new or

modified station license in the Safety and Special Radio Services following a dismissal with prejudice or a revocation of a license for that station.

(ii) The 12 month period has proven inadequate. It has resulted in excessive administrative processing, including hearings on applications, filed after related revocation and prejudicial dismissal situations.

(iii) The intended effect of the proposed rule change is to eliminate the need for processing the subject type applications until three years after the underlying dismissal or revocation, by which time routine grants will for the most part be in order without any need for a hearing.

DATES: Comments must be received on or before September 14, 1977 and Reply comments must be received on or before September 26, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Newton B. Jaslow, Federal Communications Commission, phone 202–632–7511.

SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1977.

Released: August 5, 1977.

In the matter of amendment of section 1.916 of the Commission's rules with respect to the waiting period for filing applications in the Safety and Special Radio Services after a dismissal with prejudice or after a revocation.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given. Section 1.916 of the Commission's Rules provides that where the Commission has for any reason denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

2. The purpose of the proposed rule is to bolster the relevant Commission sanction of denial, prejudicial dismissal, or revocation by allowing the Commission to dismiss as defective, without a hearing, subsequent applications filed within the one year waiting period. Historically, the one year period has proved to be effective through the Safety and Special Radio Services. In the past, applicants who have filed following the waiting period have generally been found by the Commission, without a hearing, to have revived eligibility and have been granted their authorizations. In a small number of cases the applications have been set for hearing by the Commission on the ground of the Commission's inability to make a determination of eligibility.

3. The recent proliferation of Safety and Special authorizations and the tremendous surge in serious violations in the services, accompanied by resultant sanctions imposed by the Commission, have necessitated a change in the waiting period in those services. We have found that the number of applicants filing soon after the one year is increasing. Applications filed soon after the one year prohibition cannot be routinely granted because of the seriousness of the matter which resulted in the license revocation or denial of the license. Similarly, the issues that were pending at the time an application is dismissed with prejudice must still be resolved when a second application is filed one year later. To routinely grant applications only one year after revocation, denial or dismissal would render the Commission's processes and sanctions almost meaningless. A revocation would amount to no more than a one year suspension. The denial of an application after hearing would only constitute a one year delay.

4. It appears that the one year provision is inadequate. It serves no useful administrative or enforcement purpose to hold hearings on applications filed one year after revocation, denial or dismissal with prejudice. Moreover it is expensive and time consuming. On the other hand, most applications can be routinely granted when there has been a span of three years between the revocation, denial or dismissal and there has been no intervening violative conduct.

5. Accordingly, the Commission proposes to extend the waiting period in the Safety and Special Radio Services to three years, as set forth in the attached Appendix. The waiting period remains one year in the other services.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 14, 1977, and reply comments on or before September 26, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Comments are particularly invited as to the appropriateness of the proposed three year waiting period.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Office in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 1 of the Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§1.916 is amended to read as follows:

§ 1.916 Repetitious applications.

Where the Commission has, for any reason, denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 36 months from the effective date of any such Commission order issued after January 1, 1978, except that the lapse shall be 12 months from the effective date of any such order issued prior to January 1, 1978. The Commission may, for good cause shown, waive the requirements of this section.

[FR Doc.77-23245 Filed 8-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

20 Species on Appendix I of Convention on International Trade in Endangered Species of Wild Fauna and Flora; Review of Status

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Review of the status of certain species on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

SUMMARY: At the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, held in Berne, Switzerland, from November 2–6, 1976, the addition of 46 animal taxa to Appendix I of the Convention was approved. Appendix I is defined as including "all species threatened with extinction which are or may be affected by trade." Of the 46 animal taxa added to this Appendix at the Berne Conference, 20 are not currently recognized as Endangered species under the Endangered Species Act of 1973. This notice states the intention of the U.S. Fish and Wildlife to review the status of these 20 taxa to determine if any or all of them should be determined as Endangered or Threatened pursuant to the Act.

DATES: Given the large number of species under review, a longer comment period will be permitted than is usually the case and any information received before January 1, 1978, will be given full consideration. Such information should be submitted to the Director, U.S. Fish and Wildlife Service, and can pertain to any or all of the species in question.

ADDRESSES: Comments on the species under review should be sent to the Director, (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Phone 202–343–4646.

SUPPLEMENTARY INFORMATION: The Appendix I species that are under review for possible determination as Endangered or Threatened, pursuant to the Endangered Species Act of 1973, are the following:

Common Name	Scientific Name	Where found
Bear, Asiatic black	*Selenarctos thibetanus gedrosianus*	Pakistan.
Bear, spectacled	*Tremarctos ornatus*	Andes of South America.
Chinchillas	*Chinchilla* spp.	Do.
Dog, bush	*Speothos venaticus*	N.E. South America.
Marmoset, buff-headed	*Callithrix flaviceps*	Eastern Brazil.
Marmoset, pygmy	*Cebuella pygmaea*	Andes of South America.
Marmoset, white-eared	*Callithrix aurita*	Eastern Brazil.
Otter, European	*Lutra lutra*	Europe and Asia.
Rhinoceros, black	*Diceros bicornis*	Central and southern Africa.
Rhinoceros, southern white	*Ceratotherium simum simum*	Southern Africa.
Eagle, imperial	*Aquila heliaca*	Southern Europe to central Asia.
Eagle, white-tailed	*Haliaetus albicilla*	Greenland, Iceland, northern and eastern Europe; northern, central and eastern Asia.
Falcon, peregrine	*Falco peregrinus*	Most of Eurais, Africa, Australia.
Kestral, Aldabra	*Falco newtoni aldabranus*	Aldabra Island.
Boas, mad	*Acantophis* spp.	Australia, New Guinea.
Boas, Round Island	*Bolyeria* spp.	Round Island off Mauritius.
Do.	*Casarea* spp.	Do.
Boa, tree	*Sanzinia madagascariensis*	Madagascar.
Crocodile, dwarf	*Osteolaemus tetraspis*	West Africa.
Crocodile, mugger	*Crocodylus palustris*	India, Sri Lanka.

The Service is consulting with the foreign Countries in which the above named species are resident as required by the Act. All other interested parties are invited to submit any factual information, including publications and written reports, on any or all of these species.

This notice of review was prepared by John L. Paradiso, Office of Endangered Species.

Dated: August 3, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-23037 Filed 8-10-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

ALPINE PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environment statement for the Alpine Planning Unit, Toiyabe National Forest, Nevada and California. The Forest Service report number is USDA-FS-FES (Adm) R4-76-17.

The environmental statement identifies and evaluates the probable effects of management for the planning unit, evaluate possible alternative courses of action, and provides a summary record of public participation in development of the plan. The purpose of the land management plan is to allocate National Forest lands and resources to specific uses and resource activities; establish management objectives; provide a record of management direction and decisions for specific areas and units of land; coordinate measures between resources uses and activities; and establish protective measures to keep adverse environmental effects to a minimum.

This final environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324—25th Street, Ogden, Utah 84401.
Forest Supervisor, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.
District Forest Ranger, Carson Ranger District, 1536 South Carson Street, Carson City, Nevada 89701.

A limited number of single copies are available upon request to Forest Supervisor John F. Lavin, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: August 2, 1977.

EINAR L. ROGET,
Deputy Chief.

[FR Doc.77-23155 Filed 8-10-77;8:45 am]

GREAT BEAR WILDERNESS (PROPOSED)

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Great Bear Wilderness (Proposed), USDA-FS-DES(Leg)77-05.

The environmental statement recommends that 298,971 acres of National Forest land within the Flathead and Lewis and Clark National Forests, State of Montana, together with 28.69 acres of private land, be classified as wilderness by Congress and added to the National Wilderness Preservation System.

A 6,240 acre utility corridor across the Study Area via Dirtyface and Logan Creeks is not recommended for wilderness designation at this time. The decision for allocation of this area will be held in abeyance until (1) an indepth study, including environmental impact statements which discusses all corridors between Canada and northern Utah, indicates a need or lack of need for this utility corridor, or (2) until the year 2020 at which time, if a study has not determined a need or lack of need, the corridor will automatically become wilderness. Until such a determination is made, the corridor will be managed to preserve its wilderness characteristics.

The draft proposal further recommends that 81,320 acres in the Great Bear Wilderness Study Area not be classified as wilderness.

This draft environmental statement was transmitted to CEQ on August 8, 1977.

Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20013.
USDA, Forest Service, Northern Region, Federal Building, Missoula, Mont. 59801.
USDA, Forest Service, Flathead National Forest, 209 North Main Street, P.O. Box 147, Kalispell, Mont. 59901.
USDA, Forest Service, Lewis and Clark National Forest, 1st Ave. North and 3rd Street, P.O. Box 871, Great Falls, Mont. 59403.

A limited number of single copies are available upon request to:

USDA, Forest Service, Great Bear Wilderness Study, P.O. Box 147, Kalispell, Mont. 59901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to: Great Bear Wilderness Study, P.O. Box 147, Kalispell, Mont. 59901.

Comments must be received by October 8, 1977 in order to be considered in the preparation of the final environmental statement.

EINAR L. ROGET,
Acting Deputy Chief.

AUGUST 8, 1977.

[FR Doc.77-23229 Filed 8-10-77;8:45 am]

NACHES-TIETON-WHITE RIVER PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Naches-Tieton-White River Planning Unit Land Management Plan, USDA-FS-R6-DES (Adm)-77-10.

The environmental statement concerns a proposed plan for the Naches-Tieton-White River Planning Unit within the Snoqualmie and Gifford Pinchot National Forests, State of Washington, Counties of King, Pierce, Lewis, Yakima and Kittitas. The preferred alternative recommends the allocation of 12,746 acres as Additional Wilderness Study Area, in addition to the 175,110 acres allocated in 1973 as Wilderness Study Areas; 58,610 acres as Management Units primarily for dispersed recreation; and 420,024 acres for the production of a full range of commodity and amenity values. In addition, this land management plan proposes the construction of 3.6 miles of single-lane truck road over the Cascade Mountains in the vicinity of Government Meadows and Naches Pass.

The draft environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW Pine Street, Portland, Oreg. 97204.
Supervisor's Office, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Buildin, Seattle, Wash. 98101.
Supervisor's Office, Wenatchee National Forest, 301 Yakima Street, Wenatchee, Wash. 98801.
Supervisor's Office, Gifford Pinchot National Forest, 500 W. 12th Street, Vancouver, Wash. 98660.
USDA, Forest Service, Naches Ranger Station, Naches, Wash. 98937.
USDA, Forest Service, Tieton Ranger Station, Naches, Wash. 98937.
USDA, Forest Service, Packwood Ranger Station, Packwood, Wash. 98361.
USDA, Forest Service, White River Ranger Station, Enumclaw, Wash. 98022.

A limited number of single copies are available upon request to Forest Supervisor Don R. Campbell, Mr. Baker-Snoqualmie National Forest, 1601 Second Ave. Bldg., Seattle, Wash. 98101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been required specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Don R. Campbell, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Bldg., Seattle, Washington 98101. Comments must be received by December 2, 1977 in order to be considered in the preparation of the final environmental statement.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

AUGUST 4, 1977.

[FR Doc.77-23208 Filed 8-10-77;8:45 am]

ST. FRANCIS UNIT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the St. Francis Unit Plan, St. Francis National Forest in Arkansas, USDA-FS-R8-FES (Adm.)-75-06.

This proposed 10-year Management Plan for the St. Francis Unit, St. Francis National Forest, covers 29,946 acres of National Forest land located in Lee and Phillips Counties, Arkansas. It is proposed that this Unit be managed in accordance with soil capabilities for a wide range of multiple-use benefits, including water, wildlife, recreation, range, minerals and timber.

This final environmental statement was transmitted to CEQ April 6, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave., SW., Washington, D.C. 30350.

USDA, Forest Service, 1720 Peachtree Street, NW., Atlanta, Georgia 30309.

U.S. Forest Service, Ozark-St. Francis NFs, P.O. Box 1008, Russellville, Arkansas 72801.

A limited number of single copies are available upon request to Forest Supervisor Larry Henson, Ozark-St. Francis National Forest, P.O. Box 1008, Russellville, Arkansas 72801.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the CEQ guidelines.

Dated: August 4, 1977.

GEORGE H. COOK,
Acting Regional Environmental Coordinator.

[FR Doc.77-23124 Filed 8-10-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-8-21; Docket 30635]

ARIZONA SERVICE INVESTIGATION

Order on Petitions for Reconsideration and on Motion for Consolidation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of August 1977.

By Order 77-3-108, March 18, 1977, the Board instituted the *Arizona Service Investigation*, Docket 30635. There the Board directed that applications, motions for consolidation, and comments be filed within 20 days.

By Order 77-6-24, June 7, 1977, the Board established the issues to be resolved in this proceeding, and concluded that the *Arizona Service Investigation* should not be expanded to include the Cedar City or Salt Lake City service.

Scenic Airlines, Inc., and the State of Arizona both filed petitions for reconsideration, to which the Bureau filed a motion for leave to file a late-filed document, an answer in opposition to the petition. Scenic Airlines, Inc., requested the Board to delete the issue of whether Cochise Airlines, Inc., if certificated, should also be authorized to operate air taxi service pursuant to Part 298 to points to which it is not certificated. The State of Arizona requested the Board to reconsider the issue of suspension/deletion independently of replacement, and to require that suspension/deletion be considered only in conjunction with the issue of replacement service. In order that the Board shall have the flexibility necessary to fashion its order to deal best with the service needs of each point at issue, the petitions for reconsideration filed by Scenic Airlines, Inc., and the State of Arizona shall be denied.

Three months after the running of the time for filing of applications, motions for consolidation, and comments, SkyWest Aviation, Inc., d/b/a SkyWest Airlines, filed an application (Docket 31088) for certification to serve between Salt Lake City, on the one hand, and Phoenix, Arizona and Las Vegas, Nevada, on the other hand, via one-stop service at Cedar City/St. George (Utah)/Page (Arizona)—service quite distinct from that at issue in the *Arizona Service Investigation*; the latter go to the needs of the small communities named in Order 77-6-24 for air service. At the time of filing its application, SkyWest Aviation, Inc., also moved for leave to file an otherwise unauthorized document, a motion to consolidate its application in Docket 31088 with the *Arizona Service Investigation*, Docket 30635. The Bureau of Operating Rights, the Town of Page, Arizona, Hughes Airwest, Inc., the Arizona Department of Transportation, and Cochise Airlines, Inc., within the time permitted for filing answers to motions filed motions for leave to file otherwise unauthorized documents, answers to the motion of SkyWest Aviation, Inc., to file its late-filed motion. The Bureau of Operating Rights, the Town of Page, Arizona and Hughes Airwest, Inc., supported, and the Arizona Department of Transportation and Cochise Airlines, Inc., opposed the granting of SkyWest's application for consolidation.

The motions of SkyWest Aviation, Inc., the Bureau of Operating Rights, the Town of Page, Arizona, Hughes Airwest, Inc., the Arizona Department of Transportation, and Cochise Airlines, Inc., for leave to file otherwise unauthorized documents (answers) shall be granted.

The motion of SkyWest Aviation, Inc., for consolidation of its application in Docket 31088 with the *Arizona Service Investigation*, Docket 30635, will be granted only to the extent that the application conforms with the scope of the service (points) at issue as defined by the Board in Order 77-6-24. The grant of the application in its entirety would unnecessarily expand the issues in the Arizona Service Investigation, and would unduly delay the resolution of the issues involved to the detriment of the parties and the public interest. Although the application and the motion of SkyWest Aviation, Inc., were late-filed and do not meet the criteria of Rule 12 of the Board's Rules of Procedure relating to the consolidation of applications, to deny consideration of SkyWest's application for the Page-Phoenix and Page-Las Vegas markets, segments in issue in the *Arizona Service Investigation*, would not

be in the public interest.[1] This is especially so since SkyWest Aviation, Inc., may have relied upon Board Order 77-1-133, January 24, 1977, which was revised by Order 77-6-61 subsequent to the Board's initiation of the *Arizona Service Investigation*. The latter order (Order 77-6-61) may have necessitated a reevaluation by SkyWest Aviation, Inc. of the economic impact of the Cochise proposal for service at Page upon Skywest's proposed replacement service (for a suspended Airwest at Page and Cedar City) in the Page-Salt Lake City and Page-Las Vegas markets.[2]

To the extent the application of SkyWest Aviation, Inc., is not consolidated with the *Arizona Service Investigation* it shall be dismissed without prejudice to the refiling by SkyWest Aviation, Inc., of its application for certification in its Utah markets and beyond St. George to Page and via Page to Las Vegas, and such conditions as said carrier may deem necessary to its providing of such service.

Accordingly, it is ordered that:

1. The petitions of Scenic Airlines, Inc., and the State of Arizona for Reconsideration of Order 77-6-24 be denied;

2. The motions of SkyWest Aviation, Inc., the Bureau of Operating Rights, the Arizona Department of Transportation, the Town of Page, Hughes Airwest, and Cochise for the filing of Otherwise Unauthorized (late-filed) Documents be granted;

3. The motion of SkyWest Aviation, Inc., for the consolidation of its application in Docket 31088 with the *Arizona Service Investigation, Docket* 30635, be granted only to the extent that it conforms with the scope of service at issue in the *Arizona Service Investigation*, i.e., SkyWest's application for authority to serve Page-Phoenix and Page-Las Vegas; and that, to the extent it does not conform, its application be dismissed without prejudice; and

4. Ordering subparagraphs 1 (a), (b), (c), and (d) to Order 77-6-24 be modified to read as follows:

a. Do the public convenience and necessity require, taking into account subsidy need, if any, the certification of (i) Cochise Airlines, Inc., to engage in air transportation of persons, property and mail between and among Page, Kingman, Prescott, Grand Canyon, Yuma, Flagstaff, Lake Havasu City, Winslow, Douglas, Ft. Huachuca/Sierra Vista, Phoenix, Tucson, Arizona, Las Vegas, Nevada, and Blythe, El Centro and Los Angeles, California, and (ii) SkyWest Aviation, Inc. to engage in air transportation of persons, property and mail between Page, Arizona and Phoenix, Arizona, or Las Vegas, Nevada?

b. Are Cochise Airlines, Inc., and SkyWest Aviation, Inc., fit, willing and able to perform properly the air transportation set out in (a) above, and to conform with the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board thereunder?

c. If the applications are granted, pursuant to (a) above, in whole or in part, and a certificate is issued to Cochise Airlines, Inc., or SkyWest Aviation, Inc., what terms, conditions and limitations, if any, should be attached to the certificates?

d. If the applications are granted and a certificate is issued, is it in the public interest to authorize Cochise Airlines, Inc., or SkyWest Aviation, Inc., to operate as an air taxi pursuant to 14 C.F.R. Part 298 in markets which they are not certificated to serve?

5. Except to the extent granted here, the applications in this proceeding and all other requests here be denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T KAYLOR,
Secretary.

[FR Doc.77-23201 Filed 8-10-77;8:45 am]

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[1] On August 2, 1977, Skywest requested reconsideration of the Board's determination at the meeting on the day on this issue, stating that the carrier could indeed meet the procedural dates on the expanded issues. The petition is not a proper document and is rejected. Petitions lie only from Board orders and not to tentative determinations reached at calendar meetings. Moreover, the filing is in essence a successive petition for reconsideration prohibited by Rule 37(c). In any event, we are not persuaded that the current procedural dates established at the prehearing conference could be met by SkyWest, additional civic parties, and perhaps additional carriers if the issues were expanded.

[2] Airwest is presently operating in the Page/Cedar City-Salt Lake City markets. OAG, July 15, 1977.

[Docket No. 27573; Agreement C.A.B. 26765 R-1 through R-3; Order 77-7-139]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority July 28, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolution of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names two specific commodity rates under existing commodity descriptions and adds one new rate with a new specific commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between June 15 and June 21, 1977.

Agreement CAB	Specific commodity item No.	Description and rate [1]
26765:		
R-1	1102	Fur plates made from sewn scraps: 140 c/kg, minimum weight 200 kg; 121 c/kg, minimum weight 500 kg; 115 c/kg, minimum weight 1,000 kg; Athens to New York Montreal.
R-2	9948	Military stores and impedimenta, property of British Government: [2] 131 c/kg, minimum weight 100 kg; 120 c/kg, minimum weight 200 kg; 113 c/kg, minimum weight 500 kg; 106 c/kg, minimum weight 1,000 kg; New York to London/Manchester/Glasgow.
R-3	5851	Semi-precious stones: 318 c/kg,[3] minimum weight 100 kg; Johannesburg to New York

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] New description.
[3] Expires Sept. 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions ordered.

According, it is ordered, That: Agreement C.A.B. 26765 is approved: *Provided*, That (a) approval shall not constitute approval of the specific commodity descriptions contained there for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23073 Filed 8-10-77;8:45 am]

[Docket 30531]

PAN AMERICAN WORLD AIRWAYS, INC. ENFORCEMENT PROCEEDINGS; COMPLAINT OF NANCY BARNES CLARK

Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., August 5, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-23199 Filed 8-10-77;8:45 am]

[Dockets 30497 and 30748]

TRANS WORLD AIRLINES, INC.

Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., August 5, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-23200 Filed 8-10-77;8:45 am]

[Order 77-8-20; Docket 31241]

UNIVERSAL AIR FREIGHT, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of August, 1977.

By tariff revisions[1] issued July 7 and marked to become effective August 8, 1977, Universal Air Freight, Inc., (Universal), an air freight forwarder, proposes to increase its excess valuation charge from 15 cents to 25 cents per $100 or fraction thereof, by which the value declared on the airbill exceeds 50 cents per pound or $50 per shipment, whichever is higher; and to increase its domestic C.O.D. collection service minimum charge from $2.00 to $4.50 per shipment.

Upon consideration of all relevant factors, the Board finds that the proposed charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed charges should be suspended pending investigation.

Air freight forwarders are common carriers and under common law cannot exculpate themselves from liability. It is true that a maximum liability could at common law be imposed pursuant to contract. Even so, the carrier would have to provide an opportunity to these shippers to obtain added protection at a reasonable charge. Although the Board has not actively exercised its regulatory powers over the basic transportation charges of forwarders on the ground that they are adequately controlled by competition, it has been our experience over the years that charges for ancillary services such as excess-value charges are not so carefully scrutinized by shippers. As a result, the Board has concluded that these charges are not effectively regulated by competitive pressures and has, therefore, suspended increases in such charges above prevailing industry levels unless the charges were adequately justified. With one exception, no forwarder has been willing to defend its proposals in an investigation, and in that case, Imperial Air Freight Service, Inc., Increased Excess Value Charges (Imperial case), Docket 23538 (Order 72-4-141, April 26, 1972), the Board found the proposed increases inadequately justified.

Both the excess valuation and C.O.D. charges currently proposed are above current levels for other forwarders as well as for the direct carriers, but Universal has not submitted any justification whatsoever in support of its proposals.[2]

The proposed increase in excess value charges from 15 to 25 cents per $100 of declared value would place Universal's charge significantly above that of other air freight forwarders and direct carriers. Most major forwarders currently have in effect an excess-valuation charge of 15 cents per $100 on their domestic traffic. With a few exceptions, direct carriers publish an excess-valuation charge of 10 cents per $100; none has a charge more than 15 cents per $100 valuation. The Board has suspended, pending investigation, a number of previous proposals to increase excess-valuation charges above this level where no showing was made that existing excess-value revenues did not cover the amount of claim expense stemming from the declarations of excess value.[3] Furthermore, the Board, after hearing in the Imperial case, supra, found the proposed increase in the excess-valuation charge from 15 to 25 cents per $100 unlawful on the same ground, and ordered it cancelled.

The proposed increase in the C.O.D. minimum charge per shipment from $2 to $4.50 would result in minimum charges above those in effect for all major and most other forwarders.[4] Practically all direct carriers have a domestic minimum charge for C.O.D. service of $1 per shipment.

The Board has consistently suspended increases in C.O.D. charges proposed by both forwarders and direct carriers in the absence of adequate justification.[5] We shall suspend Universal's proposed C.O.D. minimum charges for the same reason.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the charges and provisions in Rule No. 80(b) on 1st Revised Page 5 and Rule No. 100 (c) on 1st Revised Page 6 of C.A.B. No. 1, issued by Universal Air Freight Inc., and rules, regulations, or practices affecting such provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the unlawful provisions and rules, regulations or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 80(b) on 1st Revised Page 5 and Rule No. 100(c) on 1st Revised Page 6 of C.A.B. No. 1, issued by Universal Air Freight, Inc., be suspended and their use deferred to and including November 5, 1977, unless otherwise ordered by the board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. This proceeding be designated Docket 31241 and be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Universal Air Freight, Inc., which is hereby made a party to Docket 31241.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23202 Filed 8-10-77;8:45 am]

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[1] Revisions to Universal Air Freight, Inc., Tariff C.A.B. No. 1.

[2] Since Universal received gross revenues under $5 million for the first year of operation (its operating revenue in calendar year 1976 was $189,000), its proposals are not rejectable because of lack of justification (see Part 221.165 and .180 of the Board's Economic Regulations).

[3] E. g., Orders 77-7-109, 77-7-15, 76-3-88, 75-3-125, 74-5-121, and prior orders cited therein.

[4] Emery Air Freight Corp., Burlington Northern Air Freight, Inc., Novo Airfreight Corporation, and Bor-Air Freight Co., Inc., have minimum charges on C.O.D. shipments of $2.00; Shulman Air Freight, Inc., has a $2.50 minimum charge; and other forwarders in our sample (Airborne Freight Corporation, WTC Air Freight, Jet Air Freight, CF Air Freight, Inc., and 132 small forwarders participating in the Miller Traffic Service, Inc., tariffs) have $4.00 minimums.

[5] For example, see Orders 77-5-110, 77-4-104, 76-7-120 and prior related orders.

[6] All members concurred except Member West who did not participate. Chairman Kahn filed the attached concurrence. Concurring statement filed as part of the original document.

[Docket No. 31183; Order 77-8-16]

WESTERN AIR LINES, INC.

Order of Suspension and Investigation Regarding United States–Mexico Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of July 1977.

By Order 77-4-132, April 26, 1977, the Board disapproved the portion of an agreement among the member carriers of the International Air Transport Association (IATA) that would have increased fares in West Coast-Mexico markets. The Board's action was based primarily on

the fact that the proposed increases would have placed Western Air Lines, the only U.S. carrier serving this market, in a substantial excess-earnings position.

Western subsequently filed tariff revisions to be ecective August 1, 1977, which would increase first-class fares by 6.2 percent and economy and discount fares by 2.4 percent.[1] Western expects an overall increase of 2.9 percent in Mexico passenger revenues if these fares go into effect, in contrast to a 6.5 percent revenue increase anticipated from the previously proposed IATA increases.

Western experts returns of 8.7 and 12.7 percent under present and proposed fares, respectively, for the forecast year ending March 31, 1978, according to its latest justification.[2] In support of its filing, Western states that it has not received a fare increase in this market since January 1974, despite the fact that other carriers have been permitted increases totaling 18 percent; that the anticipated cost increases throughout 1977 and 1978 will significantly affect its U.S.-Mexico transborder operations; and that the proposed fares will at best enable it to maintain only a reasonable level of profitability.

Upon full consideration of the tariff filing and all other relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the proposed fares should be suspended pending investigation.

The proposed fares, according to Western's analysis, will result in a return on investment in excess of the Board's 12-percent benchmark. The carrier has offered no persuasive argument why passengers should be required to pay excessive fares. Moreover, Western has apparently overstated the amount of investment allocated to its Mexico services, thereby understating its return on investment. Using the methodology developed by the Board in Phases 7 and 9 of the Domestic Passenger-Fare Investigation, Docket 21866, (DPFI) for allocating system investment to specific ratemaking entities, Western's investment pertaining to its Mexico operations is $9.3 million for the year ending March 31, 1977, as opposed to the $12.3 million used by Western in its justification.[3] On this basis, Western's return on investment for the year ending March 31, 1977, is 12.7 percent, which indicates that current fares have provided more than an adequate return.

Western's forecast returns of 8.7 and 12.7 percent under present and proposed fares, respectively, for the year ending March 31, 1978, were based on a forecast investment base constructed by assuming that the percentage change in investment is equivalent to the percentage change in capacity offered. Without pausing to point out the deficiencies in this method of estimating future investment, we note that application of this method to the historical investment for the year ending March 31, 1977, constructed by the DPFI method, gives a forecast investment base of $9.8 million in contrast to Western's figure of $12.9 million. With forecast investment of $9.8 million the carrier would earn returns of 11.4 and 16.7 percent under present and proposed fares, respectively.

The above calculations clearly demonstrate that Western has not made a case for its proposed fare increase.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Appendix A, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions of the tariff pages specified in Appendix A are suspended and their use deferred from August 1, 1977, to and including July 31, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on August 1, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place to be designated; and

5. A copy of this order be filed in the aforesaid tariffs and be served upon Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A

TARIFF C.A.B. NO. 118, ISSUED BY WESTERN AIR LINES, INC.

On 1st Revised Pages 10–A and 10–B, Rule No. 7;

On 20th Revised Page 12, 2nd 18th Revised Page 13 all added and increased fares;

On 11th Revised Page 14, the increased 40-Passenger Group Inclusive Tour Basing fares, and the added 40-Passenger Advance Purchase Group Fares.

[4] This order was submitted to the President on July 25, 1977.

APPENDIX B.—*Western Air Lines' United States–Mexico scheduled passenger service[1] (000)*

	Historical Y.E. Mar. 31, 1977		Forecast Y.E. Mar. 31, 1978	
	Carrier	Adjusted	Present fares	Proposed fares
Revenue passenger, miles	578,859	578,859	611,010	611,010
Available seat miles	938,716	938,716	991,260	991,260
Load factor, percent	61.7	61.7	61.6	61.6
Total operating revenues	$36,740	$36,740	$38,804	$39,899
Total operating expenses	34,995	34,995	37,143	37,248
Operating profit (loss)	1,745	1,745	1,661	2,651
Non-operating income (expense) net	571	571	546	546
Net income before tax	1,174	1,174	1,115	2,015
Income tax (Cr.) at 48 pct	564	564	535	1,010
Income after tax	610	610	580	1,095
Add: interest expense	571	571	546	546
Return element	1,181	1,181	1,126	1,641
Investment	12,252	[2] 9,319	12,938	12,938
R.O.I., percent	9.64	12.67	8.70	12.68

[1] Revenue, offset method.
[2] See Appendix C.

APPENDIX C.—*Computation of Western's investment for its United States–Mexico scheduled service (000) historical Y.E. Mar. 31, 1977*

	System Recognized Investment Base		Allocation to Latin America Scheduled Passenger Service	
	Carrier	DPFI	Carrier	DPFI
Working capital	$9,915	$9,915	$608	$348
Flight equipment, net	259,777	259,777	11,919	9,129
Ground equipment, net	35,190	36,190	1,513	1,272
Construction work in progress	8,034	8,034	336	282
Special funds, other-net		339		11
Investment and special funds-net	616		38	
Deferred charges	3,606	3,606	222	127
Subtotal	318,138	317,861	14,636	11,169
Other credits	(4,888)		(300)	
Deferred income tax	(45,589)		(2,084)	
Carrier total investment	267,661		12,252	
Total investment, DPFI		[1] 265,193		[1] 9,319

[1] Subtotal times .83431 which represents the ratio of recognized sources to total sources.

[FR Doc.77-23080 Filed 8-10-77;8:45 am]

[1] Western Air Lines, Inc., International Passenger Tariff No. 3, C.A.B. No. 118.
[2] See Appendix B.
[3] See Appendix C.

INTERSTATE COMMERCE COMMISSION

[Volume No. 29]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

AUGUST 5, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g., M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 111729 (Sub-Nos. 535, 538, 542, 547, 557 and 565), M1 (Notice of Filing of Petition to Modify a Restriction), filed June 17, 1977. Petitioner: PUROLATOR COURIER CORP., 333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Petitioner's representative: Peter A. Greene, 900 17th Street NW., Washington, D.C. 20006. Petitioner holds motor *common carrier* Certificates in No. MC 111729 (Sub-Nos. 535, 538, 542, 547, 557 and 565), issued December 1, 1976 (as corrected); September 17, 1976 (Sub-Nos. 538 and 542); November 26, 1976; March 10, 1977, and May 18, 1977, respectively, authorizing transportation as follows:

(A) In the 535 Certificate—over irregular routes of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Alabama, Georgia, Mississippi, and Tennessee; and (2) between points in Alabama, Georgia, and Mississippi, on the one hand, and, on the other, points in Florida subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered as a separate and distinct shipment" By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered as a separate and distinct shipment."

(B) In the Sub 538 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Colorado and New Mexico subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

(C) In the Sub 542 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, commercial papers, documents and written instruments as are used in the business of banks and banking institutions, and stocks, bonds, securities, and negotiable instruments), between points in Connecticut, New Jersey and New York, on the one hand, and, on the other, points in Delaware, and Maryland, and the District of Columbia subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered as a separate and distinct shipment."

(D) In the Sub 547 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, commercial papers, documents, and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments), (1) between points in Georgia, North Carolina, South Carolina, and Virginia; and (2) between points in North Carolina and South Carolina, on the one hand, and, on the other, points in West Virginia subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered to be a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered to be a separate and distinct shipment."

(E) In the Sub 557 Certificate—over irregular routes, of *general commodities* (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment, and commercial papers, documents and written instruments as are used in the business of banks and banking institutions), (1) between points in Kentucky, Ohio, and West Virginia; and (2) between points in Kentucky, Missouri, and Tennessee; and (3) between points in Ohio, on the one hand, and, on the other, points in New York and Pennsylvania subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

(F) In the Sub 565 Certificate—over irregular routes, of *general commodities* (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment; and commercial papers, documents and written instruments as are used in the business of banks and banking institutions, shipments with a prior or subsequent movement by air, and motion picture film used primarily for commercial theater exhibitions), (1) between points in Arkansas, on the one hand, and, on the other, points in Louisiana and those in that part of Mississippi south of U.S. Highway 80, serving no point nor the commercial zone, as defined by the Commission, of any point on such highway; (2) between points in Mississippi, on the one hand, and, on the other, points in Louisiana (except New Orleans and its commercial zone, as defined by the Commission); and (3) between points in Shelby County, Tennessee, on the one hand, and, on the other, points in Louisiana subject to several restrictions including the following: "Restricted against the transportation of packages weighting more than 50 pounds and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

Petitioner states that the proposed modifications to the above-described certificates will not affect the present weight limitations but will only eliminate unnecessary multiple documentation and assessment of multiple per shipment minimum charges.

No. MC 116101 (Sub-No. 2), M1 (Notice of filing petition to modify restriction in certificate), filed June __, 1977.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Petitioner: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio 43219.

Petitioner's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate, No. MC 116101 (Sub-No. 2) issued February 27, 1968, authorizing transportation over irregular routes of *general commodities*, moving in express service, except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Adams, Allen, Ashland, Athens, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Greene, Guernsey, Hardin, Highland, Hocking, Jackson, Knox, Licking, Logan, Madison, Marion, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Richland, Ross, Union, Vinton, Wayne, and Wyandot Counties, Ohio on the one hand, and, on the other, points in Illinois, Indiana, Michigan (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: The operations authorized herein are restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day. By the instant petition, petitioner seeks to have the restriction modified by excluding therefrom traffic having a prior or subsequent movement by aircraft.

No. MC 116763 (Sub-No. 283G), M1, (Notice of filing of petition to modify territorial description), filed July 19, 1977. Petitioner: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, Ohio 45380. Petitioner's representative: H. M. Richters (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 116763 (Sub-No. 283G), issued April 16, 1975, authorizing transportation over irregular routes, as pertinent, of *woodpulp, dishes, plates*, and *trays*, from the plant site and warehouse of the Keyes Fibre Company at Waterville and Portland, Maine, to points in Florida, Georgia, and those in that part of Oklahoma on and east of Interstate Highway 35. By the instant petition, petitioner seeks to modify the territorial description above by the deletion of Portland, Maine, and the substitution of Lewiston, Maine in lieu thereof.

No. M C119192 (Sub-No. 10), M1, (Notice of filing of petition to add an additional contracting shipper), filed June 17, 1977. Petitioner: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, Conn. 06607. Petitioner's representative: Morton R. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 119192 (Sub-No. 10), issued July 19, 1973, authorizing transportation, over irregular routes, of (1) *Such commodities* as are dealt in by department stores, and *materials, supplies, and equipment* (except in bulk), used in the conduct of such business, from New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., to New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau, and Suffolk Counties, N.Y.; and (2) *return shipments* of the commodities specified in (1) above, from New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau and Suffolk Counties, N.Y., to New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., restricted in parts (1) and (2) against the transportation of traffic originating at and destined to points in Connecticut, under a continuing contract or contracts with B. Altman & Company, New York, N.Y. By the instant petition, petitioner seeks to add "John Wanamaker, Philadelphia" as an additional contract shipper to the above authority.

No. MC 119789 (Sub-No. 252), (Notice of filing of petition to add an origin point), filed June 13, 1977. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Petitioner's representative: James K. Newbold, Jr. (Same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 119789 (Sub-No. 252), issued August 23, 1976, authorizing transportation, over irregular routes, of *Electrical equipment and parts* (except household appliances) from West Union, S.C., to Kansas City, Kans., and points in Arizona, Arkansas, California, Colorado, Idaho, Indiana, Minnesota, Mississippi, Missouri, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin and Wyoming. By the instant petition, petitioner seeks to modify the Certificate by adding the origin point of Pickens, S.C.

No. MC 123476 (Sub-No. 18), M1, (Notice of filing of petition to broaden commodity description), filed July 14, 1977. Petitioner: CURTIS TRANSPORT, INC., P.O. Box 388, 3616 Jeffco Blvd., Arnold, Mo. 63010. Petitioner's representative: David G. Dimit (Same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 123476 (Sub-No. 18), issued April 18, 1974, authorizing the transportation over irregular routes, of *plastic foam egg cartons*, from the plant site and warehouse facilities of Dolco Packaging Corporation at or near Lawrenceville, Ga., to points in that part of the United States on and east of U.S. Highway 85. By the instant petition, petitioner seeks to broaden the commodity description above to read "styrofoam shapes and forms, and expanded plastic products" in lieu of plastic foam egg cartons.

No. MC 124004 (Sub-Nos. 27 and 28), M1, (Notice of filing of petition to broaden commodity description), filed July 19, 1977. Petitioner: RICHARD DAHN, INC., 620 W. Mountain Rd., Sparta, N.J. 07871. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor *common carrier* Certificates No. MC 124004 (Sub-Nos. 27 and 28), issued July 10, 1975 and September 24, 1976, respectively, authorizing transportation (1) in MC 124004 (Sub-No. 27), as pertinent, over irregular routes, of (a) *Animal, poultry, and pet feed ingredients and cracklings*, between points in Pennsylvania, New Jersey, and New York, on the one hand, and, on the other, points in Virginia and North Carolina; from points in Pennsylvania, Maryland, Delaware, North Carolina, New York, and New Jersey to points in Ohio, Indiana, Minnesota, Illinois, Wisconsin, and Michigan; and between points in New York, New Jersey, and Pennsylvania; (b) *Animal and poultry feed ingredients*, from points in Virginia and Massachusetts, to Philadelphia, Pa.; and from points in Pennsylvania, to points in Indiana, Minnesota, Illinois, Wisconsin, Iowa, and Michigan; and (c) *Animal, poultry, and pet feed ingredients*, from points in Rhode Island, to points in New York, restricted against the transportation of salt and commodities in tank vehicles; (2) in 124004 (Sub-No. 28) as pertinent, over irregular routes, of (a) *Dry animal and poultry feed*, from the facilities of John W. Eshelman & Sons, located at or near Circleville, Ohio, to points in Connecticut, Delaware, Maryland, North Carolina, New York, Pennsylvania, Virginia, Vermont, and West Virginia; and (b) *dry animal and poultry feed ingredients*, in bulk, from points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin, to points in Connecticut, Delaware, Maine, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, Vermont, and West Virginia. By the instant petition, petitioner seeks to broaden the commodity description in (1)(a), (b), and (c) above to include *feed*; and in (2)(a) above to include *feed ingredients*; and (2)(b) above to include *feed*.

No. MC 125335 (Sub-No. 2), (M1), (Notice of Filing of Petition to delete restriction), filed June 27, 1977. Petitioner: GOOD-WAY. INC., P.O. Box 2283, York, Pa. 17405. Petitioner's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Petitioner holds a motor *common carrier* Certificate in NO. MC 125335 (Sub-No. 2), issued May 14, 1971, authorizing transportation, as pertinent, over irregular routes, of Frozen foods, (except dressed poultry), (1) from Staunton and Winchester, Va., and points in Rockingham County, Va., to points in Alabama, Connecticut, Florida (except that no shipment shall be transported to a point in Florida that is not a portion of truckload which has been partially unloaded at some point north of Florida), Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Nebraska, Rhode Island, and Wisconsin; and (2) from Staunton and Winchester, Va., and points in Rockingham County, Va., (except Broadway, Va., and points within 2 miles thereof), to points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, North Carolina, West Virginia, South Carolina, Kentucky, Tennessee, and the District of Columbia, restricted in (2) above, against the transportation of apples and peaches from points in Rockingham County, Va., other than Timberville, Va., and points within 10 miles thereof, to Washington, D.C., and Baltimore, Md., and from points in Rockingham County, Va., to Philadelphia, Pa., and New York, N.Y.

By the instant petition, petitioner seeks to delete the restriction in (1) above which reads: "except that no shipment shall be transported to a point in Florida that is not a portion of truckload which has been partially unloaded at some point north of Florida".

No. MC 138235 (Sub-No. 6), M1, (Notice of filing of petition for modification of permit), filed July 19, 1977. Petitioner: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, N.J. 07444. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *contract carrier* Permit in No. MC 138235 (Sub-No. 6), issued July 7, 1977, authorizing transportation, as pertinent, over irregular routes, of *Appliances and garden machinery, parts and accessories* therefor, and *materials, supplies, and equipment* used in the installation of such commodities (except commodities in bulk and those which require the use of special equipment), between the facilities of J. C. Penney Company, Inc., located at or near Anderson, Ind., on the one hand, and, on the other, the stores and distribution centers of J. C. Penney Company, Inc., located at or near various named points, under a continuing contract or contracts with J. C. Penney Co., Inc., of New York, N.Y. By the instant petition, petitioner seeks to modify its authority by reading, as pertinent, Between the facilities of J. C. Penney Company, Inc., located at or near Anderson, Ind., on the one hand, and, on the other, the stores, *vendors* and distribution centers of J. C. Penney Company, Inc., located at or near various named points, under a continuing contract or contracts with J. C. Penney Co., Inc., of New York, N.Y.

No. MC 139261M1, (Notice of filing of petition to add an additional contract shipper), filed July 20, 1977. Petitioner: BUCKEYE EXPRESS, INC., H and 1st Street, Willis Day Industrial Park, P.O. Box 368, Perrysburg, Ohio 43551. Petitioner's representative: Michael M. Briley, 300 Madison Avenue, P.O. Box 2088, Toledo, Ohio 43604. Petitioner holds a motor *contract carrier* Permit in No. MC 139261, issued December 23, 1974, authorizing transportation, over irregular routes, of (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery, and food business houses, institutions, catalogue show room stores, and home center stores, (except commodities in bulk), and (2) *equipment materials, and supplies* used in the preparation and distribution of the commodities described in (1) above, (except commodities in bulk), between Perrysburg, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with International Automated Machines, Inc., located at Perrysburg, Ohio.

By the instant petition, petitioner seeks to add Seaway as an additional contract shipper to the above authority.

Republications of Grants of Operating Rights Authority Prior to Certification

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadended grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's "General Rules of Practice" (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose of republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No MC 65697 (Sub-No. 51) (partial republication), filed July 6, 1976, published in the FEDERAL REGISTER issue of September 2, 1976, and republished this issue. Applicant: THEATRES SERVICE COMPANY, a Corporation, P.O. Box 1695, Atlanta, Ga. 30301. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. An Order of the Commission, Review Board Number 4, dated July 14, 1977, and served July 22, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of the transportation in (2) of *televisions, wood and metal stands, speakers, and parts and accessories therefor*, between points in Alabama, Georgia, and Tennessee; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this partial republication is to broaden the territorial description by reflecting service between points in Alabama, Georgia, and Tennessee.

No. MC 78687 (Sub-No. 45), (republication), filed February 15, 1977, published in the FEDERAL REGISTER issue of February 24, 1977, and republished this issue Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, N.Y. 14527 Applicant's representative: E. Stephen Heisley, Suit 805, 666 Eleventh Street NW., Washington, D.C. 20001 The Initial Decision of the Administrative Law Judge, dated May 12, 1977, and served May 24, 1977, became the order of the Commission by notice dated June 23, 1977, and served July 22, 1977; said Initial Decision finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *foods, food products, food ingredients, animal foods, animal food ingredients, meat by-products, and products* requiring mechanical refrigeration (except in bulk), between the warehouse facilities of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia and the District of Columbia; restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of the commodities "animal foods, animal food ingredients, and meat by-products" to applicant's grant of authority.

No. MC 94350 (Sub-No. 369) (republication), filed October 8, 1976, published in the FEDERAL REGISTER issue of November 11, 1976, and republished this issue. Applicant: TRANSIT HOMES, INC., Haywood Rd. at Transit Drive, P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). A Decision and Order of the Commission, Review Board Number 3, dated June 2, 1977, and served June 23, 1977 authorizes service, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Buildings*, in sections, mounted on wheeled undercarriages, from points in California to points in Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of shipments from points other than origins of manufacture. The purpose of this republication is to indicate the deletion of the restriction "except modular units and prefabricated buildings".

No. MC 110325 (Sub-No. 74) (republication), filed May 21, 1976, published in the FEDERAL REGISTER issue of August 26,

1976, and republished this issue. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, Calif. 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. A report of the Commission, Review Board Number 5, decided April 25, 1977, and served June 8, 1977, requires applicant to convert the following Certificates of Registration which authorize operations in intrastate commerce, over regular and irregular routes, as a *common carrier*, of (1) regular routes: *General commodities* (except used household goods, commodities in bulk and Class A and B explosives), between Chattanooga, Tenn., and Knoxville, Tenn.: (a) over U.S. Highway 11; and (b) over Interstate Highway 75 using such access routes as may be convenient between those portions of Interstate Highway 75 which are completed and U.S. Highway 11; serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's otherwise existing authority; and (2) irregular routes: *General commodities* (except used household goods and commodities in bulk), between points in Cumberland, White and Van Buren and Putnam Counties, Tenn., restricted against service to those points located on or within one airline mile of Tennessee Highway 24 between its junction with Tennessee Highway 56 and the Commercial Zone limits of Cookeville, the said authority granted herein to be used in conjunction with all of applicant's existing authority only. The purpose of this republication is to convert a Certificate of Registration in No. MC 28893 (Sub-No. 19 and 20) to a Certificate of Public Convenience and Necessity. This is a matter directly related to MC-F-12843.

No. MC 111812 (Sub-No. 527) (republication), filed January 6, 1977, published in the FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, P.O. Box 1233, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks (same address as applicant). An order of the Commission, Review Board Number 3, dated June 8, 1977, served June 24, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *electric ranges and microwave ovens* from the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., to points in Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of shipments originating at the above named origin, and (2) *commodities* used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto from points in Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., restricted to the transportation of shipments destined to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's inbound service of commodities used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto from the points named above to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., in lieu of the transportation of electric ranges and microwave ovens and such commodities as are used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto, from the plantsite and storage facilities utilized thereto, from the plantsite and storage facilities utilized by Litton Microwave Cooking Products located at Sioux Falls, S. Dak., to points in Arizona, California, Montana, New Mexico, Oregon, Utah and Washington, restricted to traffic originating at the above named origins as previously published.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's "General Rules of Practice" (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order wkhich will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 381 (Sub-No. 10) filed June 23, 1977. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, N.J. 08094. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07036. Authority sought to operate as a *common carrier* in interstate commerce, transporting: *Non Ferrous Metals* for remelting purposes only, from the facilities of Colonial Metals Co., located at or near Columbia, Pa. to points in Arkansas, restricted to shipments having origin and destination at the above named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 730 Sub 407, filed June 21, 1977. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO. (A Corporation), P.O. Box 958, Oakland, Calif. 94602. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Crude oil, in bulk, in tank vehicles from Nye County, Nevada to points in California.

NOTE.—Common control may be involved. If hearing is deemed necessary, the applicant requests it be held in Denver, Colo., or San Francisco, Calif.

No. MC 730 (Sub-No. 408), filed June 22, 1977. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic* (polyester resin), in bulk, in tank vehicles, from Oxnard, Calif., to Swansboro, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either San Francisco or Los Angeles, Calif.

No. MC-2368 (Sub-No. 64), filed June 27, 1977. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Rd., P.O. Box 495, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: animal oils, meat byproducts and packinghouse byproducts in bulk, in tank vehicles from Bristol and Salem, Va., to points in Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC-2900 (Sub-No. 306), filed June 21, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General Commodities*, (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment): Serving the plantsite and warehouse facilities of Madison Furniture Co., Division of RCA Corporation, located at or near Canton, Miss., as an off route point in connection with applicant's presently authorized regular routes.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.; Atlanta, Ga.; or Washington, D.C.

No. MC-2960 (Sub-No. 11), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Texas 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *telephone communication equipment, cable, telephone switchboards*, from the plantsite and warehouse facilities of Source, Inc. at Dallas and San Angelo, Texas to Houston, Texas. Restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necesary, the applicant requests that it be held at Dallas or Houston, Tex.

No. MC-2960 (Sub-No. 12), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing material, composition shingles, rolled roofing, roofing compounds and accessories*, from the plantsite of Elk Roofing Company located at Stephens, Ark., and Elk Roofing Company's storage facilities located in East Camden, Ark., to points in Alabama, Louisiana, Mississippi, Texas, Oklahoma, Tennessee, and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant request that it be held at Dallas, Tex., or Shreveport, La.

No. MC-2960 (Sub-No. 13), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting new *carpet padding*, from the plantsite and warehouse facilities of General Felt Industries, Inc., at Dallas, Tex. to Houston, Tex. Restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas or Houston, Tex.

No. MC-9251 (Sub-No. 4), filed May 27, 1977. Applicant: S & M TRUCK LINE, INC., 510 North Water Street, Silverton, Oreg. 97381. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between Silverton, Oreg., and Stayton, Oreg., serving all intermediate points, and off route points of Aumsville, Victor Point School and points within five miles of specified Hwys. (1) from Silverton over Marion County roads (passing by Evergreen School and Rock Point) to Stayton and return over the same route, (2) from Silverton over Oregon State Hwy. 214 to Junction with Marion County roads at Rock Point; thence over Marion County roads to Stayton, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salem, Oreg.

No. MC-19157 (Sub-No. 43), filed June 21, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Paul Montarello (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing articles and materials and supplies* used in the manufacture, distribution, sale, cleaning and repairing of clothing (except in bulk) between Hamilton, Ala., on the one hand, and, on the other, points in the United States (except Alabama and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC-25798 (Sub-No. 296), filed June 23, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic Beverages and Grape Concentrate* (except in bulk, in tank vehicles) from points in California to points in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC-26396 (Sub-No. 149), filed June 22, 1977. Applicant: POPELKA TRUCKING COMPANY, dba. THE WAGGONERS (A Corporation) P.O. Box 990, Livingston, Montana 59047. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Asbestos wallboard, insulation board, and roofing and insulation materials, from the facilities of Johns-Manville Sales Corporation at or near Waukegan, Ill., and the facilities of Johns-Manville Perlite Corporation at or near Joliet, Ill., to points in Kansas, Minnesota, Nebraska, North Dakota, South Dakota, Montana, Colorado, and Wyoming; (2) asbestos cement pipe, from the facilities of Johns-Manville Sales Corp. at or near Waukegan, Ill., to points in Kansas, Minnesota, Nebraska, North Dakota, and South Dakota; (3) plastic pipe and fittings, (a) from the facilities of Johns-Manville Sales Corp. at or near Jackson, Tenn., to points in Iowa Missouri, Kansas, Nebraska, Minnesota, South Dakota, and North Dakota; and (b) from the facilities of Johns-Manville Sales Corp. at or near Wilton, Iowa, to points in Colorado, Utah, Wyoming, and Montana. Restrictions: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to traffic originating at the named origin points and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 41915 (Sub-No. 40), filed June 27, 1977. Applicant: MILLER'S MOTOR FREIGHT, INC., 1060 Zinn's Quarry Road, York, Pennsylvania 17405. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, D.S. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Petroleum, petroleum products, vehicle body sealer*, and *sound deadening compounds*, except in bulk, from New Kensington, Pennsylvania to points in Delaware, Maryland, New Jersey, New York, North Carolina, South Carolina and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 47171 (Sub-No. 93), filed June 13, 1977. Applicant: Cooper Motor Lines, Inc., P.O. Box 4259, Greenville, South Carolina 29608 Applicant's representative: Harris G. Andrews (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Asheville, Canton, Waynesville, North Carolina to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and Washington, D.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 47583 (Sub-No. 52), filed June 23, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Applicant's representative D. S. Hults. P.O. Box 225, Lawrence, Kansas 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose insulation*, in bags, *blowing machines and replacement parts and supplies* for blowing machines, from the plant site and storage facilities of General Fiber Corporation, at or near Dallas, Tex. to points in Arizona, Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma and Tennessee, and (2) *Materials, Equipment and Supplies* used in the manufacture and distribution of cellulose insulation, except commodities in bulk, from points in Arizona, Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma and Tennessee, to the plantsite and storage facilities of General Fiber Corporation, at or near Dallas Texas.

NOTES—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 48958 (Sub-No. 134), filed June 28, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colorado, 80216. Applicant's representative: LEE E. LUCERO (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged meats and meat products*, in mechanically refrigerated equipment, from the plant site and storage facilities of Land O' Frost, Inc., at or near Searcy, Arkansas, to points in Arizona, California, Colorado, New Mexico and Texas.

NOTE:—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebraska, or Kansas City, Missouri.

No. MC 51146 (Sub-No. 501), filed June 9, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wisc. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wisc. 54304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by department stores (except food stuffs and commodities in bulk), and (2) *Foodstuffs* (except commodities in bulk) moving in mixed loads with the commodities described in (1) above, from points in Ariz., Ark., Calif., Colo., Idaho, Ill., Iowa, Kans., La., Minn., Mo., Mont., Nebr., Nev., N.M., N. Dak., Okla., Oreg., S. Dak., Tex., Utah, Wash., Wis., and Wyo to the sites of stores and other facilities of Shopko Stores, Inc. located at points in Minnesota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and to the sites of stores and other facilities of H.C. Prange Co. located at Rockford, Ill.; Traverse City, Mich.; and points in Wisconsin and the Upper Peninsula of Michigan; and (3) *Furniture* (except furniture moving in mixed loads with such merchandise as is dealt in by department stores), from points in Ala., Conn., Del., Fla., Ga., Ind., Ky., Maine, Md., Mass., Mich., Miss., N.H., N.J., N.Y., N.C., Ohio Pa., R.I., S.C., Tenn., Vt., Va., W. Va., and the District of Columbia to the sites of stores and other facilities of Shopko Stores Inc. located at points in Minnesota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and to the sites of stores and other facilities of H. C. Prange Co. located at Rockford, Ill.; Traverse City, Mich.; and points in Wisconsin and the Upper Peninsula of Michigan. Restriction: The authority granted herein is restricted to traffic destined to the stores or other facilities of Shopko Stores, Inc. or H.C. Prange Co. located at the referred-to destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 505), filed June 23, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts*, and *articles* distributed by meat packing firms, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *Foodstuffs* when moving with commodities described in (1) above, from the plantsite and storage facilities of Oscar Mayer & Company at or near Madison, WI to points in Conn., Del., Maine, Md., Mass., N.H., N.J., N.Y., Pa., R.I., Vt., Va., W. Va., and the District of Columbia. Restricted to the transportation of traffic originating at the described plantsite and storage facilities and destined to points in the above-named states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 506), filed June 27, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, and container ends* and *accessories*, from Perrysburg, OH to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 52869 (Sub-No. 97), filed June 17, 1977. Applicant: NORTHERN TANK LINE, a Corporation. P.O. Box 970, Miles City, Montana 59301. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in McHenry County, North Dakota, to points in Montana, Wyoming, South Dakota and Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota, or Billings, Montana.

No. MC 59117 (Sub-No. 56), filed June 27, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, Oklahoma 74301. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Minerals, mineral mixtures*, and *feed*, and *fertilizer materials and ingredients*, from points in Washington County, Oklahoma to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, and (2) *Urea formaldehyde resin products, and ingredients*, from points in Mayes County, Oklahoma to points in Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Oklahoma, or Dallas, Texas.

No. MC 59746 (Sub-No. 3), filed June 27, 1977. Applicant: WAMPUM HARDWARE COMPANY (A Corporation); R.D. No 1, New Galilee, Pa. 16141. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Class A, B, and C explosives, blasting materials, agents, and supplies*, from Lawrence County, Pa. to Ohio and points in West Virginia on and north of U.S. Highway No. 50, under a continuing contract or contracts with Atlas Powder Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Pittsburgh, Pa.

No. MC 66886 (Sub-56), filed June 23, 1977. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves and hydrants, and accessories thereto*, from Bessemer and Birmingham, Ala., to points in Texas, Oklahoma, Missouri, Kansas, Nebraska, Iowa and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala.

No. MC 74321 (Sub-No. 131), filed June 21, 1977. Applicant: B. F. WALKER, INC., P.O. Box 17-B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from the plant site and facilities of the Fuller Company located at Houston, Tex., to those points in the United States in and east of Kansas, Nebraska, Oklahoma, Texas, North Dakota, and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Denver, Colo., or Houston, Tex.

No. MC 77424 (correction) (Sub-No. 40), filed June 13, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, republished as corrected this issue. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, Ohio 44104. Applicant's representative: Daniel C. Sullivan, Esq., Singer & Sullivan, P.C., Suite 1600, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Bicycles and tricycles; parts and accessories for bicycles and tricycles; and, materials and supplies used in the manufacture of bicycles and tricycles* (except commodities in bulk), between Celina, Ohio, and Richmond, Ind., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois. The purpose of this republication is to include two (2) additional destination states which was previously omitted.

No. MC 78400 (Sub-No. 53), filed May 26, 1977. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151—a corporation, Gerald, Mo. 63037. Applicant's representative: John E. Burruss, Jr., Central Trust Bldg., P.O. Box 1069, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods, as defined by the Commission, and commodities requiring special equipment), between Linn, Missouri, and Kansas City, Kansas, serving the intermediate points of Jefferson City, Centertown, St. Martins, McGirk, California, Tipton, Syracuse, Sedalia, and Kansas City, Missouri, and the off-route points of Lohman, Russellville, High Point, Latham, Clarksburg, Otterville, Smithton, Prairie Home, Jamestown, Schubert, Bend, Bay, Cooper Hill, Hope, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, and Luyston; from Linn, Missouri, over U.S. Highway 50 to Kansas City, Kansas, and return over the same route; also, between Sedalia, Missouri, and East St. Louis, Illinois, serving the intermediate points of Syracuse, Tipton, California, McGirk, Centertown, St. Martins, Jefferson City, St. Louis, Missouri, and the off-route points of Prairie Home, Jamestown, Lohman, Russellville, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, High Point, Latham, Clarksburg, Otterville, Smithton, Bend, Bay, Cooper Hill, Hope and Luystown. Restriction: The authority requested and the authority now held by applicant shall not be tacked or combined for the purpose of performing through service between St. Louis, Missouri-Illinois, and Kansas City, Missouri-Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jefferson City, Mo.

No. MC 82841 (Sub-No. 210), filed June 22, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebraska 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 W. Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings*, knocked down and materials and supplies used in the construction thereof, from the plant site of Real Log Homes located at or near Missoula, Montana, to points in Arizona, California, Colorado, Indiana, Idaho, Illinois, Iowa, Kansas, Kentucky, Minnesota, Nebraska, North Dakota, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Spokane, Wash., or Billings, Mont.

No. MC 83835 (Sub-No. 144), filed June 20, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's attorney: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Scrap Metals, between points in Texas on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, N. Carolina, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, S. Carolina, Tennessee, Texas, Virginia, Wisconsin, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at Dallas, Texas.

No. MC 85970 (Sub-No. 9) (Correction), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 28, 1977 and republished as corrected this issue. Applicant: SARTAIN TRUCK LINE, INC., 1354 North Second Street, Memphis, Tenn. 38107. Applicant's representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, Tenn 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) Between Memphis, Tenn., and Union City, Tenn., serving all intermediate points between Dyersburg, Tenn., and Union City, including Dyersburg: From Memphis over U.S. Highway 51 to Union City, and return over the same route; (2) Between Union City, Tenn., and Dresden, Tenn., serving all intermediate points: From Union City over Tennessee Highway 22 to Dresden, and return over the same route; (3) Between Martin, Tenn., and Greenfield, Tenn., serving all intermediate points: From Martin over U.S. Highway 45-E to Greenfield and return over the same route; (4) Between Dresden, Tenn., and Gleason, Tenn., serving all intermediate points: From Dresden over Tennessee Highway 22 to Gleason and return over the same route; (5) Between Gleason, Tenn., and Greenfield, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Gleason over unnumbered county road to junction Tennessee Highway 124, thence over Tennessee Highway 124 to Greenfield, and return over the same route; (6) Between Union City, Tenn., and Rutherford, Tenn., serving all intermediate points: From Union City over U.S. Highway 45-W to Rutherford, and return over the same route; (7) Between Greenfield, Tenn., and Bradford, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Greenfield over U.S. Highway 45-E to Bradford, and return over the same route; (8) Between Brownsville, Tenn., and Covington, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Brownsville over Tennessee High-

way 54 to Covington, and return over the same route; (9) Between Memphis, Tenn., and Bradford, Tenn., serving all intermediate points between Bells, Tenn., and Bradford, including Bells: From Memphis over U.S. Highway 79 (also portion U.S. Highway 70) to Bells, thence over Tennessee Highway 88 to Alamo, thence over Tennessee Highway 54 to Bradford, and return over the same route; (10) Between Trenton, Tenn., and Bradford, serving all intermediate points: From Trenton over U.S. Highway 45–W to Rutherford, thence over Tennessee Highway 105 to Bradford, and return over the same route; Service at Memphis, Tenn., and its commercial zone is restricted to points wholly within the state of Tennessee. (B) Irregular routes: *Printed matter* and *materials, equipment and supplies* used in the manufacture of the commodities named in (B) above, between points in Alcorn County, Miss., Weakley County, Tenn., and points in Cook County, Ill. Note: The purpose of this republication is to indicate the correct territorial and commodity description in part (B) above; and also to add the restriction in part (A) above, which reads: "Service at Memphis, Tenn., and its commercial zone is restricted to points wholly within the state of Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 88368 (Sub-No. 31), filed May 27, 1977. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, Missouri 64030. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods containers*, set up and knocked down: Between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it he held at Washington, D.C.

No. MC 88380 (Sub-No. 27), filed June 23. 1977. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, 2400 Cold Springs Road, Forth Worth, Texas 76106. Applicant's representative: John L. Payne, P.O. Box 4309, 2400 Cold Springs Road, Forth Worth, Texas 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the facilities of Chaparral Steel Company, at or near Midlothian, Texas, to points in the United States, (except Alabama, Alaska, Arkansas, Colorado, Hawaii, Illinois, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas or Fort Worth, Texas.

No. MC 95008 (Sub-No. 8), filed July 1, 1977. Applicant: FISHER SERVICE TRUCKING, INC., R.D. 2, Box 456, Monticello, New York 12701. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Shirts and Pajamas, from Somerset, Pa., to New Hyde Park, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, New York.

No. MC–95540 (Sub No. 986), filed June 21, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and smoked meats*, from (1) the plantsite of Cudahy Foods Co., at or near Harrodsburg and Cynthiana, Ky., to Omaha, Nebr.; and (2) from the plantsite of Sugar Creek Packing, located at or near Dayton and Washington Court House, Ohio, to Omaha, Nebr.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.; Washington, D.C.; or Tampa, Fla.

Docket No. MC 95876 (Sub-No. 204), filed: June 21, 1977. Name of carrier: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *lumber, lumber products, wood and wood products*, from points in Idaho, Montana, Oregon and Washington, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, Pennsylvania, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash. Common control may be involved.

No. MC 100666 (Sub-No. 350), filed June 27, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, Louisiana 71107, applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, fencing* and *fencing materials* from Edenton, North Carolina to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma and Texas and, (2) *Lumber*, from Cove City, North Carolina to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 101219 (Sub-No. 59), filed June 22, 1977. Applicant: MERIT DRESS DELIVERY, INC., 524 West 36th Street, New York, N.Y. 10018. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, in boxes and in cartons *and accessories* used and sold in connection therewith *and materials, supplies and equipment* used in the manufacture of wearing apparel, when moving in the same vehicle and at the same time with shipments of wearing apparel on hangers, between Atlanta, Ga., on the one hand, and, on the other, points in the New York, N.Y., Commercial Zone and points in Massachusetts, Maine, New Hampshire, Connecticut and Rhode Island.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 102616 (Sub-No. 930), filed June 16, 1977. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum fuel oil*, in bulk, in tank vehicles, from Akron and Columbus, Ohio to Ravenswood, West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Chicago, Illinois.

No. MC 102616 (Sub-No. 931), filed June 22, 1977. Applicant: COASTAL TANK LINES, INC., a Corporation, 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Commodities*, in bulk (except lard, fats, tallow, oil and greases (except petroleum oils and greases)), between the facilities of the Southwind Maritime Centre at or near Mount Vernon (Posey County), Indiana, on the one hand, and, on the other, points in Boone, Kenton and Campbell Counties, Kentucky, and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests tht it be held at Columbus, Ohio or Chicago, Illinois.

No. MC 103066 (Sub-No. 58), (Amendment), filed April 14, 1977, published in the FEDERAL REGISTER issue of May 12, 1977, and republished as amended this issue. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam, rubber foam, and cellulose foam*, from Bremen, Fort Wayne, Indianapolis, LaPorte, and Marion, Ind; Corry and Hazelton, Pa.; Moonachie, N.J.; and Cornelius, N.C., to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, Pennsylvania, and Tennessee, restricted against the transportation of commodities in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—The purpose of this republication is to indicate that applicant seeks authority from the named points in Indiana. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC–104896 (Sub-No. 49), filed June 21, 1977. Applicant: WOMELDORF, INC., P.O. Box G, Knox, Pa. 16232. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from the facilities of Gioia Specialty Foods, Inc., at Buffalo, N.Y., to points in Delaware, Maryland, New Jersey, Ohio, Pennsylvania, and West Virginia; and (2) *equipment, materials, and supplies*, used in the production and distribution of foodstuffs (except in bulk), from points in the above-named destination territory, to the facilities of Gioia Specialty Foods, Inc., at Buffalo, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC–105566 (Sub-No. 149), filed June 20, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden or metal curtain rods with or without fixtures; curtain pole or rod fixtures, metal; steel rods, copper, brass or bronze coated; hooks, iron or steel; dry goods; cotton rope; shelving, wood; bathroom or lavatory fixtures*, other than china, earthenware, porcelainware or plated steel, from Sturgis, Mich., to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC–106398 (Sub-No. 777), filed June 21, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof. Building materials, construction materials, supplies, and equipment*, from the plantsites and warehouse facilities of Penn-Dixie Steel Corp. located at or near Kokomo, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans., to all points in the United States (except Alaska and Hawaii); (2) *materials, supplies, and equipment used in the manufacture and distribution of commodities named in (1) above*, from points in the United States (except Alaska and Hawaii, to the plantsites and warehouse facilities of Penn-Dixie Steel Corp. located at or near Kokomo, Ind.; Fort Wayne, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC–106398 (Sub-No. 778), filed June 21, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and warehouse facilities of Wheeling Pittsburgh Steel Corp. located at Steubenville, Yorkville, and Martins Ferry, Ohio; Wheeling, Benwood, and Beech Bottom, W. Va.; and Allenport, Pa., to points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Missouri, North Carolina, Oklahoma, Texas, and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa.

Docket No. MC–107012 (Sub-No. 242), filed June 20, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toy balloons and play balls*, from the plantsite and storage facilities of National Latex Products Company, located at or near Ashland, Ohio, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Cleveland or Cincinnati, Ohio, or Chicago, Ill.

No. MC–107295 (Sub-No. 855), filed June 27, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Paper and paper products*, from International Falls, Minn., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin; and (2) *returned or rejected shipments of paper and paper products*, from points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin, to International Falls, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Portland, Oreg., or Washington, D.C.

No. MC–107496 (Sub-No. 1091), filed June 27, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) Liquid wood preservatives, in bulk, in tank vehicles, from Valparaiso, Ind., to points in Pennsylvania, West Virginia, Ohio, Kentucky, Michigan, Illinois, Wisconsin, Iowa, Missouri, Arkansas, Maryland, Massachusetts, New York, and Tennessee; and (2) Arsenic acid, in bulk, in tank vehicles, from Bryan and Bonham, Tex., to Valparaiso, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill. Common Control may be involved.

No. MC–109397 (Sub-No. 364), filed June 23, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled utility graders*, and *parts, attachments*, and *accessories* thereof, from Gwinnett County, Ga., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC–109397 (Sub-No. 365), filed June 23, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses*, and *parts* and *accessories* moving in connection therewith, between Los Angeles County, Calif., on the one hand, and, on the other,

points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles or San Francisco, Calif.

No. MC 109818 (Sub-No. 20), filed June 23, 1977. Applicant: WENGER TRUCK LINE, INC., P.O. Box 36, Beaver, Iowa 50031. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) a. steel bar joist; b. metal roof deck; c. metal siding; and d. accessories for the commodities named in (a), (b), and (c) from the facilities of Nucor Corporation, Vulcraft Division, located at Norfolk, Nebraska, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming; and (2) materials, equipment and supplies used in the manufacture of the commodities (except in bulk) in (1) above, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming, to the facilities of Nucor Corporation, Vulcraft Division, located at Norfolk, Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska.

No. MC 110393 (Sub-No. 35), filed June 22, 1977. Applicant: GEM TRANSPORT, INC., 1559 E. 10th Street, Jeffersonville, Indiana 47130. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, Kentucky 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs including dairy products in vehicles equipped with mechanical refrigeration; from Plymouth, Wisconsin, to points in Virginia, Maryland, New Jersey, Delaware, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and the District of Columbia, under a continuing contract or contracts with Borden Foods Division of Borden, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Louisville, Ky., or Cincinnati, Ohio.

No. MC 110525 (Sub-No. 1196), filed June 20, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets, resins, and granules*, in bulk, in tank vehicles, from the plantsite of Borg-Warner Chemicals located at points in Washington and West Virginia, to points in Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 110525 (Sub-No. 1197), filed June 23, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint Primer*, in bulk, in tank vehicles, from Garland, Texas, to Catawba, South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas or Houston, Tex.

No. MC 110525 (Sub-No. 1198), filed June 27, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting Hydrochloric Acid (muriatic acid), in bulk, in tank vehicles from Freeport, Texas to points in Louisiana and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Texas.

No. MC 111045 (Sub-No. 144), filed June 17, 1977. Applicant: REDWING CARRIERS, INC., Post Office Box 426, Tampa, Florida 33601. Applicant's representative: L. W. Fincher (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in tank vehicles, from Muscle Shoals, Alabama; to points in Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Birmingham, Alabama. Common control may be involved.

No. MC 111302 (Sub-No. 108), filed June 27, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Applicant's representative: John R. Sims, Jr., Suite 915, 425—13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles from the plantsite of Tennessee Eastman Company in Kingsport, Tennessee, to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held in Washington, D.C.

MC 111720 (Sub-No. 13), filed June 17, 1977. Applicant: RAY AND ARLENE WILLIAMS, a Partnership, doing business as WILLIAMS TRUCK SERVICE, P.O. Box 40, Sioux Falls, South Dakota 57101. Applicant's representative: Lyle A. Clemetson, P.O. Box 40, Sioux Falls, South Dakota 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat-by-products, articles distributed by meat packing plants and foodstuffs*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site and warehouse facilities of Geo. A. Hormel & Co., at or near Fremont, Nebraska, and Ottumwa, Iowa, to points in Virginia, West Virginia, and North Carolina, under a continuing contract, or contracts, with Geo. A. Hormel & Co.; restricted against the transportation of hides and commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska or Minneapolis, Minnesota.

No. MC 111940 (Sub-No. 69), filed June 17, 1977. Applicant: SMITH'S TRUCK KLINES, P.O. Box 88, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except in bulk), *vehicle body sealer and sound deadener compound*, from New Kensington, Pa., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 113024 (Sub-No. 150), filed June 17, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer* (except in bulk), from Louisiana, Mo. to Burlington, N.J. under a continuing contract, or contracts with Hercules Incorporated.

NOTE.—Applicant holds motor common carrier in No. MC-135046, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. however, modified procedure is requested.

No. MC 113678 (Sub-No. 675), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt and carbonated beverages and related advertising materials, equipment and supplies* (except commodities in bulk in tank vehicles) from Minneapolis-St. Paul, Minnesota to points in Colorado and Wyoming restricted to traffic originating at the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn. or Denver, Colo.

No. MC 113678 (Sub-No. 679), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen eggs and egg products*, and commodities the transportation of which is exempt from regulation as defined by Section 203(b)(6) of the Interstate Commerce Act when such commodities are moving in the same vehicle and at the same time with commodities the transportation of which is subject to full regulation by the Interstate Commerce Commission (except commodities in bulk in tank vehicles), from the facilities of Heying Foods, Inc., located at or near West Union, Iowa to points in Iowa, Colorado, Kansas, Missouri, Nebraska, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Neb. or Denver, Colo.

No. MC 113678 (Sub-No. 682), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen potatoes and frozen potato products* (except commodities in bulk in tank vehicles), from the plantsite of Northern Star Company located at Minneapolis, Minnesota to points in Florida.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis-St. Paul, Minn. or Washington, D.C.

No. MC 113678 (Sub-No. 683), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof), from Buffalo Lake, Minnesota and Omaha, Nebraska to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming restricted to traffic originating at the named origins.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. or Washington, D.C.

No. MC 113678 (Sub-No. 684) filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and frozen foodstuffs or feedstuffs not fit for human consumption* (except commodities in bulk in tank vehicles), between the plantsites and warehouse facilities of WISCOLD, Inc. located at Beaver Dam and Milwaukee, Wisconsin, on the one hand, and on the other, points in Alabama, Arkansas, Arizona, California, Colorado, Delaware, Georgia, Florida, Idaho, Louisiana, Maryland, Mississippi, North Carolina Nevada, New Mexico, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, restricted to traffic originating at, and destined to, the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis., or Denver, Colo.

No. MC 114097 (Sub-No. 9), filed May 27, 1977. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 So. Front Street, LaCrosse, Wisconsin 54601. Applicant's representative: Edward H. Instenes, P.O. Box 676, Winona, Minnesota 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans and can ends*, from St. Paul, Minnesota and points in the commercial zone thereof to LaCrosse, Wisconsin, restricted to Hi-Cube and Roller bed trailers, under a continuing contract or contracts with National Can Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Madison, Wis., or Chicago, Ill.

No. MC 114123 (Sub-No. 46), filed June 22, 1977. Applicant: HERMAN R. EWELL, INC., East Earl, Pennsylvania 17519. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pennsylvania 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup and mixtures of liquid and invert sugar and corn syrup, and molasses*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia.

NOTE.—Applicant holds motor contract carrier authority in No. MC 118661 Subs 4 and 5; therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 114416 (Sub-No. 8), filed June 24, 1977. Applicant: WESTERN TRANSPORT CRANE AND RIGGING, INC., Route 9, Grant Creek Road, Missoula, Montana 59801. Applicant's representative: Henry C. Winters, 235 Evergreen Bldg., 15 South Grady Way, Renton, Washington 98055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Contractors' Sawmill and Mining Machinery, Equipment and Supplies, and U.S. Forest Service Equipment and Supplies*, between points in Idaho, Montana, Oregon, and Washington.

NOTE.—Applicant states that applicant in No. MC-114416 and applicant's affiliate, Douglas N. Miller, doing business as Western Transport, in No. MC-125907, hold operating authority which duplicates in part that sought herein, and that upon a grant herein any duplicating operating authority held by applicant and by Douglas N. Miller, doing business as Western Transport, will be surrendered for cancellation. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Missoula, Montana, or Spokane, Washington.

No. MC 114457 (Sub-No. 314), filed July 1, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minnesota 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from Milwaukee, Wisconsin, to Perry, Georgia.

NOTE.—If hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wisconsin or Chicago, Illinois.

No. MC 114569 (Sub-No. 181), filed June 23, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydraulic cylinders, parts, accessories, materials and supplies used in the manufacture and distribution thereof*, between the plantsite and storage facilities of United Hydraulics Corporation, located at or near Hampton, Iowa, on one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, Iowa or Washington, D.C.

No. MC-115311 (Sub-No. 226), filed June 20, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular* routes transporting: *Composition board, plywood, and accessories and materials* (except commodities in bulk), used in the sale and installation thereof, from the facilities of Abitibi Corp., located in Lucas County, Ohio to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Missouri, Arkansas, Louisiana, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at: Columbus, Ohio, or Detroit, Mich.

No. MC-115841 (Sub-No. 542), filed June 23, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tennessee 37922. Applicant's representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh Street, NW., Washington, D.C. 22201. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen foods* from the plantsites and storage facilities of RJR Foods, Inc., at or near Jackson, Ohio, to points in Texas and California.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Charlotte, N.C., or Washington, D.C. Common control may be involved.

No. MC-115841 (Sub-No. 543), filed June 21, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smoked and cured meats*, from the plantsite and storage facilities of Hygrade Food Products, located at or near Philadelphia, Pa., to points in West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC-116073 (Sub-No. 357), filed June 13, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Applicant's representative: Donald E. Cross, 918 16th Street NW., Suite 700, Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting trailers designed to be drawn by passenger automobiles (travel trailers, Fifth wheel travel trailers) from the plantsites of Fleetwood Enterprises, Inc., at or near Yakima, Wash.; Omaha, Nebr.; Frankfort, Ind; and Crawfordsville, Ind., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Los Angeles, Calif. Common control may be involved.

No. MC-116133 (Sub-No. 14), filed June 17, 1977. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, D.C. 20001. Applicant's representative: Peter A. Greene, 900 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, household goods as defined by the Commission, and commodities which because of their size and weight require special equipment), between Harve de Grace, Md., on the one hand, and, on the other, Philadelphia International Airport, Philadelphia, Pa., Newark International Airport, Newark, N.J., LaGuardia Airport, Flushing, N.Y., and John F. Kennedy International Airport, Jamaica, N.Y., restricted to traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Baltimore, Md.

No. MC-116273 (Sub-No. 211), filed June 29, 1977. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Crystal Lake, Ill., to points in the United States (except Alaska and Hawaii), and (2) *materials*, and *supplies* used in the manufacture of chemicals, in bulk, in tank vehicles, from points in the United States (except Alaska and Hawaii), to Crystal Lake, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 116459 (Sub-No. 65), filed June 21, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, in tank or hopper type vehicles, from Tyner, Tenn., to points in Alabama, Georgia and Kentucky.

NOTE.—If a hearing is deemed necessary the applicant requests it to be held at Washington, D.C. or Chattanooga, Tenn.

No. MC 116763 (Sub-No. 371), (Correction), filed March 4, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, republished as corrected this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: R. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of Kraft, Inc., located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia, and points in Pennsylvania, Maryland and New York east of Interstate Highway 81, restricted to the transportation of traffic originating at the named origin and destined to points in the named destinations States.

NOTE.—The purpose of this republication is to correct the territorial description. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117068 (Sub-No. 82), filed June 23, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *hydraulic cylinders, parts and accessories*, and *materials and supplies* used in the manufacture of such cylinders, except commodities in bulk in tank vehicles, between the plant site and storage facilities of United Hydraulics Corp., at or near Hampton, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 117119 (Sub-No. 639), filed June 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals*, in containers, (except in bulk), from Easton, Pa., to Arizona, California, Colorado, Kansas, Missouri, New Mexico, Oregon, Texas, and Washington.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Columbus, Ohio, Philadelphia, Pa., or Washington, D.C. Common control may be involved.

No. MC 117119 (Sub-No. 640), filed June 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Photographic materials, supplies, and equipment*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Teterboro, New Jersey to Salt Lake City, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Newark, N.J.; New York, N.Y. or Washington, D.C. Common control may be involved.

No. MC 117119 (Sub-No. 641), filed June 23, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals, Drugs, Medicines, and Toilet Preparations* (except in bulk), in vehicles equipped with mechanical refrigeration from points in New Jersey, Connecticut, New York, and Massachusetts to points in Oregon, Washington, and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 117940 (Sub-No. 224), filed June 24, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities as are dealt in by farm supply cooperatives* (except foodstuffs, commodities in bulk and household goods as defined by the Commission), from points in Iowa, Kansas, Louisiana, Missouri, Nebraska and Oklahoma to points in Minnesota, Montana, North Dakota, South Dakota and Wisconsin. Restricted to traffic originating at named origins and destined to the facilities of Farmers Union Central Exchange, Inc. (Cenex) and its members in the named destination States.

NOTE.—Applicant holds motor contract carrier authority in No. MC 114789, Sub 16, and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis or St. Paul, Minn.

No. MC 118959 (Sub-No. 150), filed June 27, 1977. Applicant: JERRY LIPPS, INC., 130 South Fredrick St., Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay, clay products, paper trays, and corrugated post* (except commodities in bulk), from the plant site of Absorbent Clay Products, Inc. at or near Mounds, IL to points in the United States, except Alaska and Hawaii; (2) Materials, equipment and supplies (except commodities in bulk) used in connection with the commodities described in (1) above from points in the United States, except Alaska and Hawaii, to the plant site of Absorbent Clay Products, Inc., at or near Mounds, Ill.

NOTE.—Applicant holds contract carrier authority in No. MC 125664, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Nashville, Tenn.

No. MC 119089 (Sub-No. 5), filed June 20, 1977. Applicant: WISCONSIN REFRIGERATED SERVICES INC., 11400 West Burleigh Street, Wauwatosa, Wis. 53222. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought: To operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats* and *meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wisconsin to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, under a continuing contract or contracts with Wiscold, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis. or Chicago, Ill.

No. MC 119493 (Sub-No. 150), filed: June 23, 1977. Applicant: MONKEM COMPANY, INC., Post Office Box 1106, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Twine, cordage and cordage products* from Kansas City, Missouri to points in Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Missouri, Wisconsin and Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

No. MC 119619 (Sub-No. 110), filed July 1, 1977. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pneumatic tires and tire tubes*, from the facilities of Seiberling Tire & Rubber Co., located in Akron and or Barberton, Ohio, to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); (2) *anti-freeze* (except in bulk), in tank vehicles, from Pittsburgh, Pa., Wyandotte, Mich., Omaha, Nebr., Kansas City, Mo., Bayonne, N.J., Atlanta, Ga., St. Louis, Mo., Ludlow, Ky., West Memphis, Ark., Houston, Tex., Geismar, La., McKees Rocks, Pa., Minneapolis, Minn., Chicago, Ill., Los Angeles, Calif., San Francisco, Calif., and Vancouver Wash., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); and (3) *batteries*, from Fairfield, Conn., Atlanta, Ga., Memphis, Tenn., Minneapolis, Minn., Omaha, Nebr., Dallas, Tex., Denver, Colo., Logansport, Ind., and Richmond, Calif., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119726 (Sub-No. 97), filed June 24, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Indiana 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite One Thousand, Indianapolis, Indiana 46204. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *paper bags*, from Des Moines, Iowa to Tipton, Rushville, Mt. Vernon, Flora, and Worthington, Indiana, and Laurinberg, North Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Indiana, or Des Moines, Iowa.

No. MC 119726 (Sub-No. 98), filed June 27, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care products and materials, equipment and supplies*, from the plantsite of Baxter Travenol Laboratories, Inc., located at or near Cleveland, Mississippi, to the warehouse facilities of Baxter Travenol Laboratories, Inc., located at or near Memphis, Tennessee.

NOTE.—If a he ring is deemed necessary, applicant requests that it be held at Indianapolis, Indiana, or Chicago, Illinois.

No. MC 119741 (Sub-No. 77), filed June 20, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs, from the plant site and storage facilities utilized by Presto Food Products, Inc., at or near Kansas City, Missouri, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin. Restriction: Restricted to the transportation of traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 78, filed June 20, 1977. Applicant: GREEN FIELD TRANSPORT COMANY, INC., 3225 fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Commercial Distribution Center, Inc., at or near Independence, Missouri, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Restriction: Restricted to the transportation of shipments originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 79), filed June 27, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, From the storage facilities of Continental Processors, Inc. and Ventura Coastal Corp., at or near Bonner Springs, Kansas, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, and Wisconsin. Restriction: Restricted to the transportation of traffic originating at the named origins and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Missouri.

No. MC 119765 (Sub-No. 44), filed June 27, 1977. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, Nebraska 68107. Appliant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, (except hides and commodities in bulk), from the plantsites and facilities utilized by Meilman Food Industries at or near Sioux Falls, South Dakota, to points in Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and Virginia, restricted to traffic originating at the named origin and destined to the named states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebraska.

No. MC 119777 (Sub No. 337), filed June 20, 1977. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, Kentucky 42431. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plywood* and *composition board*, from points in Randolph County, Georgia, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 119789 (Sub No. 358), filed June 16, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Insulators and Parts, from Sandersville, Georgia to points in Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Macon or Atlanta, Georgia.

No. MC 119789 (Sub-No. 359), filed June 22, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned and bottled foodstuffs, from St. Martinsville, Louisiand, to Alabama, Arkansas, Florida, Georgia, Illinois, Michigan, Mississippi, Missouri, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Lafayette or New Orleans, Louisiana.

No. MC 119789 (Sub-No. 360), filed June 22, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cheese, from Plymouth, Wis. to points in Arizona, California, Louisiana, Oregon, Texas, and Washington.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Columbus or Cincinnati, Ohio.

No. MC 120279 (Sub-No. 7), filed June 27, 1977. Applicant: F. G. McFARLAND AND S. R. HULLINGER, doing business as McFarland and Hullinger, a limited partnership, 915 North Main Street, Tooele, Utah 84074. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: uranium and vanadium ores and concentrates, from the Waltman Mine located 1½ miles East of U.S. Highway 395 at a point 35 miles north of Reno, Nevada in Lassen County, California to the Cotter Corporation Mill located approximately 4 miles south of Canon City, Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 120761 (Sub-No. 22), filed June 24, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trusses, bar joists and accessories* from Hope, Ark., to points in Alabama, Arizona, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi Missouri, New Mexico, Oklahoma, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex. Common control may be involved.

No. MC 121060 (Sub-No. 43), filed June 16, 1977. Arrow Truck Lines, Inc., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the facilities of Champion International Corporation at Orangeburg, S.C., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123405 (Sub-No. 52), filed June 27, 1977. Applicant: Food Transport, Inc., R.D. No. 1, Thomasville, Pennsylvania 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pennsylvania 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and woodpulp*, from the plantsite and shipping facilities of Bowater Southern Paper Corporation, at Calhoun, Tenn., to points in Delaware, New Jersey, New York, Maryland, Pennsylvania, Ohio, Virginia and the District of Columbia. Restricted to traffic originating at and destined to the above-named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Washington, D.C. Common control may be involved.

No. MC 123407 (Sub-No. 387), filed June 22, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Boise Cascade Corporation located at or near International Falls, Minn., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas: (2) *paper and paper products*, from the ports of entry on the International Boundary line between the United States and Canada at or near Noyes, Minn., and Pembina, N.D., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (3) *Return and refused shipments* from the destination points in (1) above, to the facilities of Boise Cascade Corporation at or near International Falls, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Portland, Ore.

No. MC 123407 (Sub-No. 338), filed June 21, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing presses* between points in the United States (except Alaska and Hawaii).

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 124211 (Sub-No. 294), filed June 21, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *junk and scrap, rubber, plastic, and rubber or plastic materials and products*, Between points in the United States, including Alaska, but excluding Hawaii, restricted to traffic originating and destined between the named points.

NOTE.—Common control may be involved. Applicant states that it may currently provide a substantial portion of the proposed operations in single and joint line service pursuant to authority held in MC 124211 Sub-Nos. 112, 119, 223, 228, 238, 260, E-39, and E-86, and that the primary purpose of this application is to enable applicant to provide a complete service for the above named shipper. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 124211 (Sub-No. 296), filed June 27, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *carpets, rugs, mats, matting, plastic articles, rubber articles, parts and accessories;* and, (2) *materials, equipment, supplies and accessories* used in the manufacture, distribution, sale, and installation of commodities described in (1) above (except commodities in bulk), between points in the United States, except Alaska and Hawaii, restricted to the transportation of shipments originating at or destined to the facilities utilized by General Felt Industries, Inc., its subsidiaries and contractors.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Washington, D.C., on a consolidated record with similar applications.

No. MC 124211 (Sub-No. 297), June 27, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Replacement automotive parts, and such commodities as are dealt in and used by manufacturers and distributors of replacement automotive parts, motor vehicle accessories, supplies and equipment* (except such commodities in bulk), between points in Los Angeles and Orange Counties, Calif., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Los Angeles, California.

No. MC 124328 (Sub-No. 113), filed June 24, 1977. Applicant: BRINK'S INCORPORATED, Suite 710, One Crossroads of Commerce, Alongquin Road and Rte. 53, Rolling Meadows, Ill. 60008. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities, negotiable and nonnegotiable instruments, commercial papers and business records*, between Toledo, Ohio, on the one hand, and, on the other, points in Michigan. Restricted to operations conducted under a continuing contract or contracts with banks, banking and other financial institutions.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Toledo, Ohio, or Detroit, Mich. Common control may be involved.

No. MC 124887 (Sub-No. 35), filed June 21, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products*, from the facilities of The Flintkote Company, at Savannah, Ga., to points in Alabama, Tennessee, North Carolina, South Carolina, Florida, Virginia, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Savannah, Ga., or Washington, D.C.

No. MC 124947 (Sub-No. 61), filed June 27, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Oklahoma 74979. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, irregular routes, transporting (1) *light construction equipment*, including, but not limited to mortar and concrete mixers, soil compactors, portable conveyors, heaters, screens and power trowels, from Honeoye, New York and Brunswick, Georgia to points in the United States (except Alaska and Hawaii), and (2) *Equipment, material and supplies* used or useful in the manufacture of commodities in (1) above from points in the United States (except Alaska and Hawaii) to Honeoye, New York and Brunswick, Georgia. Restricted to traffic originating at or destined to the plantsites or warehouse facilities of Stone Construction Equipment, Inc., located at or near Honeoye, New York and Brunswick, Georgia and further restricted against shipments which because of size or weight require special handling or special equipment.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Buffalo, N.Y.

No. MC 125103 (Sub-No. 4), filed June 20, 1977. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, Minnesota 56101. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, North Dakota 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Landy of Wisconsin, Inc., located at or near Eau Claire, Wisconsin, to points in Iowa, Illinois, Indiana, Michigan, and Ohio, under a continuing contract with Landy of Wisconsin, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Minneapolis or St. Paul, Minnesota.

No. MC 125433 (Sub-No. 106), filed June 27, 1977. Applicant: F-B TRUCK LINE COMPANY—A Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting such commodities as are dealt in, or used by, *agricultural equipment, industrial equipment, and lawn and leisure product dealers* (except commodities in bulk), from Multnomah County, Oregon and Longview, Washington and Salt Lake City, Utah to points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, Wyoming, and Arizona, restricted to shipments having an immediately prior or subsequent movement by rail or water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Portland, Oreg.

No. MC 125433 (Sub-No. 107), filed June 27, 1977. Applicant: F-B TRUCK LINE COMPANY (A Corporation), 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bar joists; trusses; painted, galvanized, or uncoated decking and siding; and accessories; and iron and steel articles* as described in Appendix V to the Descriptions in Motor Carrier Certificates case, 61 M.C.C. 209, from Norfolk, Nebraska, and its commercial zone to points in Colorado, Wyoming, Montana, Washington, Utah, Idaho, California, Oregon, Arizona, and Nevada, restricted to movements originating at the plantsite of Vulcraft, a Division of Nucor Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Denver, Colorado.

No. MC 125777 (Sub-No. 193), filed June 27, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Indiana 46403. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, (1) From Erie, Pennsylvania to points in New

York: and (2) From Toledo, Ohio to points in Indiana, Illinois, and Michigan. Restricted to traffic originating at the plant sites of Domtar, Inc. at Erie, Pennsylvania and Toledo, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 126118 (Sub-No. 46), filed June 17, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Malt beverages in containers*, from Ft. Worth, Tex., and Milwaukee, Wisc., to points in South Carolina.

NOTE.—Applicant holds contract carrier authority in No. MC 128375 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Greenville, S.C. or Lincoln, Nebr.

No. MC 126458 (Sub-No. 9), filed June 20, 1977. Applicant: NICHOLAS J. ASCENZO, INC., P.O. Box 62, Bronx, N.Y. 10465. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, and 276, between Wallingford, Conn.; Claymont, Del.; Sayreville, N.J.; Phoenixville, Pa., and Chesapeake, Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia under a continuing contract or contracts with Yale Steel Corp. at New York, N.Y.

NOTE.—Applicant holds common carrier authority in No. MC 95965, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 126458 (Sub-No. 10), filed June 20, 1977. Application: NICHOLAS J. ASCENZO, INC., P.O. Box 62, Bronx, N.Y. 10465. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment, materials and supplies* (except commodities in bulk) between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia under a continuing contract or contracts with Slattery Associates, Inc., located at Maspeth, N.Y.

NOTE.—Applicant holds common carrier authority in No. MC-95965, therefore dual operations may be involved. If hearing is deemed necessary, applicant requests it to be held at New York, N.Y.

No. MC 126473 (Sub-No. 30), filed June 27, 1977. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, Iowa 52580. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, articles, distributed by meat packing houses, and foodstuffs*, between the plant site and/or facilities utilized by Geo. A. Hormel & Co., located at or near Ottumwa, Iowa, on the one hand, on the other, points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota or Chicago, Illinois.

No. MC 126899 (Sub-No. 113), filed June 23, 1977. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3156, Paducah, Kentucky 42001. Applicant's representative: George M. Catlett, Suite 708 McClure Building, Frankfort, Kentucky 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged coal*, from points in Hancock and Daviess Counties, Kentucky, to points in Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Louisville or Lexington, Kentucky.

No. MC 128087 (Sub-No. 5), filed June 20, 1977. Applicant: JOHN N. JOHN III, doing business as JOHN N. JOHN TRUCK LINE, Box 291, Crowley, La. 70526. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Amorphous Polypropylene*, in bulk, in tank trucks, from Bayport, Texas, to Crowley, Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Houston, Texas

No. MC 128295 (Sub-No. 29), filed June 20, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a Corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: ARNOLD L. BURKE, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Indianapolis, Indiana to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 129410 (Sub-No. 7), filed June 21, 1977. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Ill. 60014. Applicant's representative: Eric S. Sparks, Suite 1007, 221 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *prefabricated grain bins* and *tanks, fans, heaters, and accessories* thereof, and *grain dryers and parts* thereof, from the plantsites of Chicago Eastern Corporation at Marengo, Ill., to points in the United States (except Alaska and Hawaii), with return of (2) (a) *steel* from the plantsites of Armco Steel at Ashland, Ky., the plantsite of Wheeling-Pittsburg Steel at Martins Ferry, Ohio, and the plantsite of Bethlehem Steel at Lackawanna, N.Y. to the plantsites of Chicago Eastern Corporation at Marengo, Ill. and (2) (b) *nuts and bolts* from the plantsite of Armco Steel at Kansas City, Mo., to the plantsites of Chicago Eastern Corporation at Marengo, Ill., under a continuing contract or contracts with Chicago Eastern Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Milwaukee, Wis.

No. MC 129155 (Sub-No. 20), filed May 31, 1977. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Applicant's representative: Joseph Carretta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood products* from the ports of entry on the International Boundary Line between the United States and the Republic of Mexico located at Calexico, Calif., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture of redwood products, from points in California to the ports of entry on the International Boundary Line between the United States and the Republic of Mexico located at Calexico, Calif., under a continuing contract or contracts with Quaker City Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 129615 (Sub-No. 26), filed February 4, 1977. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, a Corporation, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Applicant's representative: E. Drayson Helmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between the plantsite and the manufacturing facilities of Travco Corporation, located at or near Mt. Clemens, Mich., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Mt. Clemens or Detroit, Mich.

No. MC 129862 (Sub-No. 15), filed June 24, 1977, Applicant: RAJOR, INC., 100 Beta Drive, P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic instruments and components, tables and stands for electronic instruments and components, and toys and games* (except coin operated), from Greeneville and Jefferson City, Tenn., to points in Florida, under a continuing contract or contracts with The Magnavox Company, located at Greeneville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn.

No. MC 133095 (Sub-No. 162), filed June 27, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical* and *Gas Appliances* and *Range Hoods* and *parts and accessories* therefor and *material, equipment* and *supplies* used in the manufacture and distribution thereof between Oxford, Mississippi, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii)

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved.

No. MC 133494 (Sub-No. 14), filed: June 22, 1977. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, Tex. 76201. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I.) *Fish oil residuum* (Fish Solubles), in tank vehicles, from Cameron, Jefferson Davis, Calcasieu and Plaquemines Parishes, La.; Harrison, Jackson and Hancock Counties, Miss., to the facilities of the H. J. Baker & Bro., Inc. in Sebastian and Crawford Counties, Ark. (II.) *Meat and bone meal*, in bulk from Livingston Parrish, Louisiana, to points in Mississippi, Arkansas and Texas. (III.) *Blood meal*, in bulk from points in Iowa, Nebraska and Illinois to the facilities of the H. J. Baker & Bro., Inc. in Sebastian and Crawford Counties, Ark.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Dallas, Tex., or Little Rock, Ark.

MC 133689 (Sub-No. 133), filed June 16, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale and retail department stores* (except commodities in bulk) from New York, New York and North Bergen, New Jersey, to points in Tennessee, Kentucky, Ohio and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133689 Sub-No. 135, filed June 24, 1977. Applicant: Overland Express, Inc., 719 First St., SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned goods (except commodities in bulk) from Kokomo, Ind.; Leipsic, Ohio; and Morton, Ill. to points in Minnesota, South Dakota, North Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

MC 133689 Sub-No. 136, filed June 27, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Sugar (except in bulk) from Renville, Moorhead, East Grand Forks, Chaska, Crookston, Minneapolis-St. Paul, Minn. to points in Illinois, Indiana, Ohio and Michigan (except from Minneapolis-St. Paul, Minn. to points in Ohio).

NOTE.—If a hearing is deemed necessary applicant request it be held at Minneapolis, Minn.

No. MC 134022 (Sub-No. 25), filed June 20, 1977. Applicant: RICHARD A. ZIMA d.b.a. ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Nancy J. Johnson, 4506 Regent Street; Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Butter and butter oils*, (except in bulk) and *commodities* exempt from economic regulation under Section 203(b)(6) of the Act when moving in mixed loads with butter and butter oils (except in bulk), from West Bend, Wis., to points in Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois (except the Chicago Commercial Zone), Indiana (except the Chicago Commercial Zone), Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Mexico, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison, or Milwaukee, Wis.; or Chicago, Ill

No. MC 134022 (Sub-No. 26), filed June 24, 1977. Applicant: RICHARD A. ZIMA, d.b.a. ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Nancy J. Johnson, 4506 Regent Street; Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Cheese, cheese foods and cheese by-products* (except in bulk) from Merrill, Wis., to points in the United States (except Alaska, Hawaii and points in the Chicago, Ill. Commercial Zone as defined by the Commission); and (2) *imported cheese and cheese foods; returned and rejected shipments; and materials and supplies* used in the manufacture of cheese and cheese foods (except in bulk) from points in the territory described in Part (1) above to Merrill, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis., or Chicago, Ill.

No. MC 134035 (Sub-No. 19), filed June 27, 1977. Applicant: DOUGLAS TRUCKING COMPANY, a Corporation, P.O. Box 698, Highway 75 South, Corsicana, Tex. 75110. Applicant's representative: Clint Oldham, 1108 Continenal Life Building, Fort Worth, Tex. 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *truck beds, truck bodies, attachments for truck beds or truck bodies and winches* from the plantsites or storage facilities of Koenig Iron Works, Inc., at or near Houston, Tex., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Houston, Tex., or Dallas, Tex

No. MC 134145 Sub-66, filed June 22, 1977. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Machines, computing and parts thereof (except commodities in bulk), from Campton, Ky., to Detroit Metropolitan Air Terminal located at or near Detroit, Mich., under a continuing contract or contracts with Computor Peripherals, Inc., Edina, Minn.

NOTE.—Applicant holds common carrier authority in MC 135231 (Sub-No. 5) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

MC 134387 (Sub-No. 51), filed June 20, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's Representative: Lucy Kennard Bell, 1800 United California Bank Bldg., 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, in the transportation of: Plastic containers, less than 5½ gallons in capacity, from points in Los Angeles County, California, to points in Maricopa County, Ariz.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif

MC 13447 (Sub-No. 177), filed June 20, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from Duluth, Minn. and Superior, Wis., to points in Colorado. Restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Jeno's, Inc. located at or near Duluth, Minn. and Superior, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 178), filed June 20, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as *common carrier* by motor vehicle, over irregular routes, transporting *such merchandise as dealt in by retail and wholesale footwear stores*, from the plantsite and warehouse facilities of Kinney Shoe Corporation located at or near Camp Hill and Mechanicsburg (Cumberland County), Pa., to Dallas, Tex.: Denver, Colo.; Des Moines, Iowa; Kansas City, Mo.; Minneapolis, Minn.; and Omaha, Nebr. Restricted to the transportation of traffic originating at the above named origins and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn.

No. MC 134592 (Sub-No. 12), filed June 20, 1977. Applicant: HERB MOORE, HAZEL MOORE, a Partnership, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Used malt beverage containers*, from points in Oregon and Washington to Winters, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 134755 (Sub-No. 107), filed June 22, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Packaged meats and meat products in packages, from Searcy, Ark. to points in Ohio, Pa., Mich., Ill, W. Va., Va. Md., Del., D.C., N.Y., N.J., Conn., R.I., Mass., Vt., N.H., Maine, Mo., Okla., Tex., Wisc., Minn., Nebr., Kan., N. Mex., Ia., Ariz., Calif., Colo., Utah, Idaho, Wyo., Mont., Wash., Ore., and Nevada.

NOTE.—Applicant holds motor contract carrier authority in MC-138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicants requests it be held at either Kansas City, Missouri or St. Louis, Missouri.

No. MC 134755 (Sub-No. 108), filed June 20, 1977. CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Ceramic tile and tile,

(1) From the plantsite and storage facilities utilized by Monarch Tile Manufacturing Company at or near Florence, Alabama, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, California, Wyoming, South Dakota, Arizona, Missouri, Minnesota, Nebraska, and Iowa;

(2) From the plantsite and storage facilities utilized by Monarch Tile Manufacturing Company at or near Marshall and San Angelo, Texas, to points in California and Arizona;

(3) From the facilities of Structural Stoneware, Inc. at Ironton, Ohio, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, South Dakota, Wyoming, Missouri, Minnesota, Nebraska, and Iowa.

(4) From the facilities of Mid-State Tile Company at or near Lexington, North Carolina, to points in Alabama, Connecticut, Florida, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Tennessee, and Wisconsin.

(5) From the facilities of Mid-State Tile Company at or near Lexington and Mt. Gilead, North Carolina, to points in Oklahoma, Nebraska, Missouri, Kansas, Utah, Idaho, Colorado, New Mexico, Nevada, Oregon, Texas, Arizona, California, and Washington.

(6) From Cleveland, Mississippi, to points in California, Utah, New Mexico, and Oregon. Restriction: (1) through (6) restricted to traffic originating at the named origins and destined to points in the named destination states.

NOTE.—The purpose of this application is to convert permits MC-138398 (Sub-Nos. 12, 15 and 17) and permits applicant is authorized to acquire in MC-F-12570 to certificates of convenience and necessity.

NOTE.—Applicant holds motor contract carrier authority in MC-138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Missouri or St. Louis, Missouri.

No. MC 134890 (Sub-No. 8), filed June 22, 1977. Applicant: MARION TRANSFER, INC., 4524 South 13th Street, Milwaukee, WI 53221. Applicant's representative: Richard C. Alexander, Suite 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, transporting: *Spices, and materials and supplies* used in the manufacture thereof (except in bulk), between the facility of Foran Spice Company, Oak Creek, Wis., on the one hand, and, on the other, points in Delaware, Illinois, Iowa, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio and Pennsylvania, under a continuing contract, or contracts with Foran Spice Company.

NOTE.—If a Hearing is deemed necessary, applicant requests it b held at Milwaukee, Wis.

No. MC 135052 (Sub-No. 12), filed June 20, 1977. Applicant: ASHCRAFT TRUCKING, INC., 875 Weber Street, Shelbyville, IN 46176. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous Glass Products and Materials, Mineral Wool. Mineral Wool Products and Materials, Insulated Air Ducts, Insulating Products and Materials; Glass Fibre Rovings, Yarn and Strand and Glass Fibre Mats and Matting*, between the warehouses and storage facilities of CertainTeed Corporation at or near New Haven, Indiana, on the one hand, and, on the other points in Illinois, Ohio, Michigan and Wisconsin.

NOTE.—If a Hearing is deemed necessary, the applicant requests it be held at Indianapolis, Indiana, or Washington, D.C.

No. MC 135236 Sub-No. 19 filed June 24, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, In. 46947. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, In. 46204. Authority sought as a *common carrier*, by motor vehicle, over irregular routes transporting malt beverages from Norfolk, Virginia to points in Illinois, Indiana, Michigan, Wisconsin, Ohio and Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 135283 (Sub-No. 24), filed June 22, 1977. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, Nebraska 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank

vehicles), from the plantside and storage facilities of Dugdale Packing, Inc., at or near Darr, Nebraska, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, and West Virginia.

No. MC 135797 (Sub-No. 78), filed June 22, 1977. Applicnt: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, Arkansas 72745. Applicant's representative: Paul A. Maestri (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) Non-Alcoholic Beverages (Except in bulk), (a) From Auburndale, Florida to Plymouth and Trafalgar, Indiana, and points in Texas.

(b) From Plymouth, Indiana, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

(c) From Trafalgar, Indiana to points in Missouri.

(d) From Dallas, Texas to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas.

(e) From Weslaco, Texas to points in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Washington and Wisconsin.

(2) Machinery, materials (except in bulk), equipment and supplies (except in bulk), used in or in connection with the manufacture, distribution or use of the commodities named in (1) above, From points in the United States (except Alaska and Hawaii)

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

No. MC 136086 (Sub No. 10), filed filed June 21, 1977. Applicant: Pacil Guiley, d.b.a. GUILEY TRUCKING, 8615 Pecan Avenue, Fontana, California 92335. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal alloys, scrap automobile bodies, scrap batteries, scrap metal and cullet*, from points in Colorado, New Mexico and Wyoming, to Etiwanda, California and Midlothian, Texas, under a continuing contract or contracts with Century Entreprises.

NOTE.—If ahearing is deemed necessary, applicant requests that it be held at Denver, Colo. or Los Angeles, Calif.

No. MC 136315 (Sub No. 18), filed June 27, 1977. Applicant: Olen Burrage Trucking, Inc., Route 9, Box 22–A, Philadelphia, Mississippi 39350. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, Mississippi 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *roofing materials, composition shingles, rolled roofing, roofing compounds and accessories thereto*, from the plant site and storage facilities of Elk Corporation at or near Stephens and Camden, Arkansas to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas.

NOTE.—Applicant holds motor contract authority in No. MC 123905 Sub-No. 1, and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Mississippi or Memphis, Tennessee.

No. MC 136315 (Sub No. 19), filed June 27, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Mississippi 39350. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, Mississippi 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *particleboard*, from the facilities of Weyerhaeuser Company at Adel, Georgia to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

NOTE.—Applicant holds motor contract authority in No. MC 123905 Sub. 1, and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Mississippi or Memphis, Tennessee.

No. MC 136343 (Sub No. 111), filed June 23, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Highway marking strip glass, ballotini, materials, equipment and supplies, used in the manufacture and sale of the foregoing commodities (except liquid commodities in tank vehicles) (1) Between the facilities of Potters Industries, Inc., Cleveland, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Texas, Virginia, West Virginia and Wisconsin, (2) Between the facilities of Potters Industries, Inc., Carlstadt, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 136545 (Sub-No. 11), filing date June 27, 1977. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad Street, Prentice, Wisconsin 54556. Applicant's representative: Richard A. Wesley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *In-plant handling and processing equipment*, from the plantsite of Marquip, Inc., located at or near Phillips, Wisconsin, to points in the United States (except Alaska, Hawaii, and Wisconsin).

NOTE.—Applicant holds contract carrier authority in No. MC 124121 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn. or Madison, Wis., or Chicago, Ill

No. MC 138104 (Sub-No. 42), filed June 27, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, Texas, 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Texas 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *ferro alloys, pig iron and nonferrous metals*, from Houston, Texas, to points in Colorado, Louisiana, Arkansas, Texas, Oklahoma, New Mexico and Kansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Houston, Texas, or Dallas, Texas

No. MC 138225 (Sub No. 5), filed June 20, 1977. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2, Douglas Road, Far Hills, N.J. 07931. Applicants representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and marine engines*, from the facilities of Chrysler Corp. Marine Division, at or near Marysville, Mich., and the facilities of Perkins Engines, Inc., at or near Farmington, Mich., to the facilities of Mack Boring & Parts Company at or near Union, N.J., under a continuing contract, or contracts, with Mack Boring & Parts Company.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 138627 (Sub No. 21), filed June 28, 1977. Applicant: SMITHWAY MOTOR XPress, INC., P.O. Box 404, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebraska, 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel articles, from the plantsites and storage facilities of L. B. Foster Co. at Bedford Park, Illinois, to points in Iowa, Missouri and Nebraska; restricted to traffic originating at the named origin and destined to points in the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC 66955, therefore dual operations may be involved. If a hearing is deemed necessary applicant requests that it be held at Omaha, Neb.

No. MC 138824 (Sub-No. 6), filed June 20, 1977. Applicant: REDWAY CARRIERS INC., 5910 49th Street, Kenosha, Wisconsin 53140. Applicant's representative: Paul J. Maton, 10 South La Salle

Street, Suite 1620, Chicago, Illinois 60603. Authority sought as a *contract carrier* by motor vehicle over irregular routes, transporting: Glassware, bottles, or jars, with or without caps, covers, stoppers or tops, between the plantsites and warehouses of Glass Container Corporation, located in or near Knox, (Clarion County), Pennsylvania, and the plantsites and warehouses of Ocean Spray Cranberries, Inc., located at points in Kenosha County, Wisconsin, under a continuing contract or contracts with Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 139112 (Sub-No. 13), filed June 20, 1977. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General merchandise, electronic scrap and salvage materials*, (1) from Government Depots and outlets located at or near San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno and San Jose, Calif., to Wilkes-Barre, Pa.; and (2) from Wilkes-Barre, Pa., to San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno and San Jose, Calif.

NOTE.—Applicant holds contract carrier authority in MC 140557, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 139116 (Sub-No. 4), filed June 24, 1977. Applicant: R. W. Steele dba R. W. Steele Trucking Co., 320 Heaslet St., Clovis, New Mexico 88101. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Texas 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled irrigation systems and parts for self-propelled irrigation systems* (except commodities which require the use of special equipment, plastic pipe and plastic tubing), between points in Adams County, Nebraska, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Texas.

MC 139196 (Sub-No. 16), filed June 27, 1977. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: Ray Wagner, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Animal and poultry feed, From Abbotsford and New Holstein, Wis., to points in North Dakota, South Dakota, and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 139495 (Sub-No. 247), filed June 21, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden moldings* from Cottonwood, Calif. and Reno, Nev. to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 248), filed June 23, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Such merchandise as is dealt in by gift, novelty, and pottery stores; and (2) agricultural commodities, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203(b)(6) of the Interstate Commerce Act in mixed loads with (1) above, from points in California, to Marshall and Palestine, Tex.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 139564 (Sub-No. 1), filed May 31, 1977. Applicant: WEATHERS BROTHERS TRANSFER CO., INC., 921 East Forsyth Street, Jacksonville, Fla. 32202. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Florida and Georgia and Alabama on and south of U.S. Highway 80.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Jacksonville, Fla. Common control may be involved.

No. MC 139587 (Sub-No. 6), filed June 20, 1977. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, Kansas 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered day beds, bed frames, springs and spring assemblies, metal sleeper fixtures, and materials used in the manufacture thereof*, from Carthage and Springfield, Missouri and Hominy, Oklahoma, to points in Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in MC 134142 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests that it be held at Kansas City, Missouri.

No. MC 140363 (Sub-No. 11), filed June 20, 1977. Applicant: CHAMP'S TRUCK SERVICE, INC., P.O. Box 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump trucks, from Purvis, Miss., to Alcoa, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans or Baton Rouge, La.

MC 140389 (Sub-No. 17), filed June 21, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, Alabama 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier* over irregular routes transporting: *Rugs, carpets, carpeting and textile products* between points in California and Nevada and from points in California and Nevada to points in Washington, Oregon, Idaho, Utah and Colorado. Tacking: The sought authority could be tacked with Osborn Lead Certificate at points in Nevada to serve points in California from points in Georgia and Knoxville, Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Las Vegas, Nevada or Los Angeles, California. Common control may be involved.

No. MC 140469 (Sub-No. 8), filed June 22, 1977. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Avenue, Jamaica, N.Y. 11435. Applicant's attorney: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routs, transporting: *Books and educational materials, equipment and supplies*, between points in Hudson, Essex and Union Counties N.J., on the one hand, and, on the other, points in Putnam County, N.Y., and Fairfield County, Conn., under continuing contract with Encyclopedia Britannica, Chicago, Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 140549 (Sub-No. 5), filed June 27, 1977. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, Minnesota 56222. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Dry fertilizer and dry fertilizer ingredients, in bulk and in bags, and liquid fertilizer, in bulk and in tank vehicles, from Clara City and Gluek, Minnesota, to points in North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn. Applicant holds contract carrier authority in MC 118739 (Sub-No. 2) and other subs, therefore dual operations may be involved.

No. MC 140682 (Sub-No. 2), filed June 23, 1977. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, Riceboro, Ga. 31323. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, from Brooklet and Riceboro, Ga., to points in Florida, Alabama, North Carolina and South Carolina, under a continuing contract, or contracts, with Amax Forest Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla. or Atlanta, Ga. Applicant holds common carrier authority in No. MC 138982 (Sub-No. 2), therefore dual operations may be involved.

No. MC 140768 (Sub-No. 4), filed May 26, 1977. Applicant: AMERICAN TRANSFREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10040. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Used, damaged, and defective automobile batters and parts thereof*, (1) From points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey and Maryland to Richmond, Va., (2) from Richmond, Va. to points in Georgia and North Carolina. Restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc. and/or any person who is served by it pursuant to any permit issued by this Commission.

NOTE.—Applicant holds motor contract carrier authority in MC 134404 and Subs thereunder and, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Richmond, Va., or Washington, D.C.

No. MC 140829 (Sub-No. 50), filed June 21, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, " Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Animal Feed Supplements*, from the plantsite of Dawe's Laboratories at or near Chicago Heights, Ill., to points in Arkansas, Florida, Georgia, New York, Texas, California and Arizona, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in various subs under MC-136408, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 51) filed June 20, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick veneer, glazed quarry tile, grout and adhesives, concrete modular panels, fireplaces, manmade cultured marble and cabinets and vanities*, from Cleveland, Hamilton, Ironton, Minerva, and New Philadelphia, Ohio; Owensboro, Kentucky; Brazil, Indiana; Palatine, Illinois; Wisconsin Rapids, Wisconsin; Adrian, Michigan; and Stanley, Kansas to Des Moines, Iowa and Omaha, Nebraska, restricted to the transportation of traffic originating at the named origins and destined to the named destination points.

NOTE.—Applicant holds contract carrier authority in various subs under MC 136408, therefore dual operations may been involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141046 (Sub-No. 5), filed June 27, 1977. Applicant: MASON O. MITCHELL d.b.a. M. MITCHELL TRUCKING, 1911 "I" Street, LaPorte, Indiana 46350. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Starch and dextrine*, in bags, boxes and drums, from the plant site or warehouse facilities of A. E. Staley Manufacturing Co. at or near Houlton, Maine to points in Arkansas, California, Florida, Georgia, Illinois, Indiana, Michigan, Missouri, North Carolina, Ohio, Texas, Virginia, West Virginia and Wisconsin. RESTRICTED to a contract or continuing contracts with A. E. Staley Manufacturing Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 141363 (Sub-No. 5) (amendment), filed June 6, 1977, published in the FEDERAL REGISTER issue of July 21, 1977 and republished as amended this issue. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik St., Piermont, N.Y. 10968. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, N.Y. 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of paper products (except in bulk), between Piermont, N.Y., and Central Islip, N.Y., and points in New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Rhode Island, and points in Pennsylvania on and east of U.S. Highway 15, under a continuing contract or contracts with Clevepak Corp of White Plains, N.Y.

NOTE.—The purpose of this republication is to indicate the additional service point of Central Islip, N.Y. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 141426 (Sub-No. 7), filed June 24, 1977. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, New Jersey 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001 Authority sought by applicant to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products used in radiological research, organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment* and *supplies* used in the coating production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Des Plaines, Illinois, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority sought herein is limited to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, New Jersey.

NOTE.—Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Des Plaines, Illinois. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 141511 (Sub-No. 6), filed June 23, 1977. Applicant: ROBERT W. RETTIG, doing business as PROTEIN EXPRESS, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *electrical equipment and appliances and materials, equipment and supplies used in the manufacture, installation and sale thereof*, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif., Salt Lake City, Utah; Pasco, Wash.;

Kansas City, Mo., and Denver, Colo., restricted to the transportation of shipments originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wisc or Chicago, Ill.

No. MC 141570 (Sub-No. 7), filed June 30, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue, North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies, used in the manufacture, installation or sale of such commodities*, between Washington, D.C., and its Commercial Zone, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia, under contract with Xerox Corporation.

NOTE.—Applicant holds common carrier authority in MC 136269 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington D.C.

No. MC 141652 (Sub-No. 18), filed June 24, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting, *Ceramic road markers* and *fire clay shapes* from Tyler, Texas to Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex. Applicant holds contract carrier authority in No. MC 138807 and sub numbers thereunder; therefore dual operations my be involved.

No. MC 141697 (Sub-No. 1), filed June 16, 1977. Applicant: HYGIN VEILLEUX, 2E Rue Parc Mado, St. Georges Est, Beauce, Quebec, Canada G5Y 5C2. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from ports of entry on the International Boundary line between the United States and Canada located at or near Jackman, Maine to Jay, Maine. Restriction: Restricted (1) to traffic originating at points in the Province of Quebec, Canada; and (2) to a transportation service to be performed under a continuing contract or contracts with Guimont & Freres Ltee located at St. Juste, Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Augusta or Portland, Maine.

No. MC 141764 (Sub-No. 4), filed June 8, 1977. Applicant: BLACKHAWK ENTERPRISES, a Corporation, 853 Hancock Street, Hayward, Calif. 94545. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except commodities in bulk, those of unusual value, Classes A & B explosives, household goods as defined by the Commission, and those requiring special equipment, and empty bottles or jars, from Millville, N.J.) from points in New Jersey, to Hayward, Calif., under a continuing contract, or contracts, with Shaklee Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

MC 141774 (Sub-No. 8), filed June 24, 1977. Applicant: R. & L. TRUCKING CO., INC., 105 Rocket Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *plastic articles and plastic containers*, from the facilities utilized by Arnoldware-Rogers, Inc., in Bay County, Fla., to points in Alabama, Tennessee, Kentucky, Missouri, Mississippi, Arkansas, Georgia and Louisiana; and (2) *materials and supplies*, used in the manufacture of plastic articles and plastic containers (except commodities in bulk, in tank vehicles) from points in Alabama, Tennessee, Kentucky, Missouri, Mississippi, Arkansas, Georgia and Louisiana to the facilities utilized by Arnoldware-Rogers, Inc., in Bay County, Fla.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Panama City, Fla., or Atlanta, Ga. Applicant holds contract carrier authority in MC 163378 and subs thereunder, therefore dual operations may be involved.

No. MC 141804 (Sub-No. 65) filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn mowers, yard equipment* and *parts*, from Fort Worth, Tex., to points in Pacoima, Calif., restricted to traffic originating at the plantsite and storage facilities utilized by McDonough Power Equipment Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 66), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts* from points in North Carolina, South Carolina, and Virginia to points in Washington, Montana, Idaho, Oregon, California, Nevada, Utah and Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 67), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, motorcycles, golf carts, go carts, snowmobiles, sporting equipment*, and related *parts* and *accessories*, between points in Los Angeles and Orange Counties, Calif., on the one hand, and on the other, Seattle, Wash.; New Orleans, La.; Chicago, Ill.; Cudahy, Wisc.; Minneapolis, Minn.; Columbus, Ohio; Boston, Mass.; Pennsauken, N.J.; Jacksonville, Fla.; Atlanta, Ga.; and Kansas City, Mo. restricted to traffic originating at or destined to the facilities utilized by Yamaha Motor Corporation, USA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 68), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Michael J. Norton, Suite 404, Boston Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sound equipment, components*, and *parts* and *accessories* for sound equipment, from Los Angeles, Calif., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi; and (2) *equipment, materials* and *supplies*, used in the manufacture and production of sound equipment, components and parts and accessories, from points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi to Los Angeles, Calif. Restricted in parts I and II above to traffic originating at or destined to the plantsite or storage facilities utilized by Jennings Research Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Memphis, Tenn. Common control may be involved.

No. MC 140065 (Sub-No. 7), filed June 20, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., Post Office Drawer F, Mulberry,

Arkansas 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Arkansas 72756. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Central Heating Units, Central Air Conditioning Units, Furnaces, Air Coolers, Water Evaporators, Condensing Units, Compressors, Electric Motors, Parts, Equipment and Supplies*, from Milledgeville, Georgia and Fort Smith, Arkansas, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Massachusetts, Maine, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia; and (2) *Parts, Equipment and Supplies used in the manufacture and installation of the commodities named in (1), above*, from Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Massachusetts, Maine, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, to Milledgeville, Georgia and Forth Smith, Arkansas, under a continuing contract or contracts with Rheem Manufacturing Company, Heating and Air Conditioning Division, at or near Fort Smith, Arkansas.

NOTE.—Applicant has pending motor common carrier authority in No. MC 142672 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Little Rock, Ark. or Tulsa, Okla.

No. MC 142347 (Sub-No. 3), filed June 21, 1977. Applicant: C & C TRUCKING COMPANY, INC., P.O. Box 293, Route 2, Hephzibah, Georgia 30815. Applicant's representative: William Addams, Suite 212–5299 Roswell Road, N.E., Atlanta, Georgia 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, and in bags, from Spartansburg, Hartsville and Charleston, South Carolina to points in Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia.

No. MC 142508 (Sub-No. 6), filed May 31, 1977. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Applicant's representative: Joseph Winter, 33 N. LaSalle St., Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts tools, and related advertising materials*, from the plantsite and facilities of D.J.T. Realty Co., located at or near Reno, Nevada, to points in Arizona, California, Idaho, Oregon, Washington and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Missouri or Chicago, Illinois. Applicant holds contract carrier authority in MC 134734 and subs thereunder, threefore dual operations may be involved.

No. MC 142766 (Sub-No. 7), filed June 21, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Toys, games, and commodities sold in toy stores, between Moonachie, Piscataway, Passaic, Elizabeth, Bayonne, and Paterson, N.J., Bayshore, Mount Vernon, Mellville, Ellenville, and New York, N.Y., East Meadow and Salem, Mass., West Haven, Bridgeport, Enfield, Conn., on the one hand, and, on the other, the warehouse facilities of Toys R Us located at or near Bensenville, Ill., Melvindale, Mich., Houston, Tex., San Jose and Compton, Calif. (1) restricted to the transportation of shipments originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds motor contract carrier authority in No. MC-142766 (Sub-No. 1 and others), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in either New York, N.Y., or Washington, D.C.

No. MC 142779 (Sub-No. 1), filed May 31, 1977. Applicant: WEIER AIR FREIGHT, INC., 5785 Rochelle Drive, Greendale, Wisconsin 53129. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Materials, equipment, supplies, and parts, used or useful in the manufacture, sale, distribution, or production of agricultural, industrial, and construction machinery and equipment, and printed matter between Racine and Sturtevant, Wis., on the one hand, and, on the other, General Mitchell Field, Milwaukee, Wis., and O'Hare International Airport, Cook County, Ill. Restricted to traffic originating at or destined to the plantsites, warehouses and facilities of J. I. Case Company located at Racine and Sturtevant, Wis., and further restricted to shipments having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 142832 (Sub-No. 1), filed June 22, 1977. Applicant: SPIDER WRECKER SERVICE, INC., P.O. Box 505, Conley, Georgia 30027. Applicant's representatives: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *disabled trucks, tractors, and trailers, and replacements* therefor, between points in Georgia, on the one hand, and, on the other, points in Alabama, Delaware, Florida, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Texas, Arkansas, and Oklahoma

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Atlanta Ga

No. MC 142948 (Sub-No. 2), filed June 6, 1977. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, Tenn. 37211. Applicant's representative: Edward C. Blank II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, Tenn. 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gum solvents, aluminum plate and sheet, plastic powder, photo-offset printing plates, sponges, cellulose, and plastic dry* from the plantsite of Citiplate-Sumner Williams in Jackson, Tenn., to points in Oklahoma, Texas, New Mexico, Arizona, California, Nevada, Utah, Colorado, Illinois, Ohio, and New York. Restriction: Restricted to traffic originating at the above locations and destined to the above named designation points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either in Jackson, Tenn.; or Nashville, Tenn.

No. MC 143040 (Sub-No. 1), filed June 24, 1977. Applicant: SPRINGER VAN LINES, INC., 1212 West Fairmont, Tempe, Arizona 85282. Applicant's representative: William A. Booth, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, California 90017. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of: *Used household goods*, between points in Arizona, restricted to the transportation of traffic having a prior or subsequent movement in interstate or foreign commerce, and further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization, or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Phoenix, Ariz.

No. MC 143048 (Sub-No. 2), filed June 13, 1977. Applicants: FRANCIS E. CONDON AND JOHN H. CONDON, doing business as D. AND F. KITCHEN CABINET DELIVERY, a partnership, 153 LaGrange Street, West Roxbury, Mass. 02132. Applicants' representative: Paul E. Murphy, 8th Floor, One State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *bathroom sinks, bathroom sink faucets, commercial cabinets, computer tops, counter tops, cultured marble vanity tops, desks, engine storage cabinets, kitchen cabinets, kitchen sinks, kitchen sink faucets, night stands, vanity cabinets, video game cabinets*, and *wardrobes* from West Bridgewater, Mass., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Co-

lumbia; and return of rejected goods, under a continuing contract or contracts with N. J. MacDonald & Sons, Inc., located at West Bridgewater, Mass.

NOTE.—If a hearing is deemed necessary, applicants request that it be held at Boston, Mass., or Providence, R.I.

MC 143059 (Sub-No. 1), filed June 27, 1977. Applicant: MERCER WATER & SEWER TRANSPORTATION CO., a corporation, P.O. Box 4474, Fort Worth, Tex., 76102. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections* and *materials, supplies and accessories*, used in the manufacture and installation thereof (except in bulk, in tank vehicles), between the facilities by Robintech Incorporated at or near Evansville, Ind.; Monroe County (Prairie), Miss.; Danville, Ill.; Sylvania, Ohio; Slidell, La.; New Orleans, La.; and Pace, Fla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 143159 (Sub-No. 1), filed June 23, 1977. Applicant: BRICK HAULERS, INC., Route 1, Box 407, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick*, from Kings Mountain, Monroe, Pleasant Garden, Roseboro and Salisbury, N.C., to points in Alabama, Florida, Georgia, South Carolina, Tennessee, and Virgina; (2) *Returned, rejected, and damaged commodities* in (1), from the destination points to the origin points in (1); (3) *Brick*, from Columbia, Greenville, Pine Island and Van Wyck, S.C., and the plantsites of Boren Clay Products Company located at or near Blacksburg and Gaffney, S.C., to points in Alabama, Florida, Georgia, North Carolina, Tennessee, and Virginia; and (4) *Returned, rejected, and damaged commodities* in (3), from the destination points to the origin points in (3), under a continuing contract, or contracts, with Boren Clay Products Company.

NOTE.—If a hearing is deemed necessary, the applactn requests that it be held at Charlotte, N.C.

No. MC 143245 (Sub-No. 1), filed June 24, 1977. Applicant: E. C. TRANSFER, CORP., P.O. Box 461006, Miami, Fla. 33148. Applicant's representative: Richard B. Austin, Suite 214, Palm Coast II Bldg., 5255 NW., 87th Avenue, Miami, Fla. 33178. Applicant seeks authority to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of general commodities (except household goods as defined by the Commission, Classes A & B Explosives, cement, motor vehicles, commodities in bulk and commodities which, by reason of size or weight require specialized equipment) between points in Dade County, Fla. Restricted to traffic having an immediate prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 143285 (Correction), filed May 12, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, republished as corrected this issue. Applicant: MONROE'S GARAGE & WRECKER SERVICE, Route No. 1, Surgoinsville, Tenn., Applicant's representative: Wayne S. Monroe (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles* and *trailers and operative motor vehicles* to replace wrecked or disabled motor vehicles, between Kingsport, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Virginia and West Virginia.

NOTE.—The purpose of this republication is to correct the territorial description which was inadvertently published in error. If a hearing is deemed necessary, the applicant requests it be held at Kingsport, Tenn.

No. MC 143334 filed May 31, 1977. Applicant: WALTEC DISTRIBUTION LIMITED, P.O. Box 936, 471 Dundas Street, Cambridge, Ontario, Canada N1R 5X9. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, New York 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) plumbing supplies and equipment, forgings and castings; and (2) materials, equipment and supplies used in the manufacture or production of the commodities named in (1) above, between ports of entry on the International Boundary line between the United States and Canada located in New York and Michigan, on the one hand, and, on the other, points in Arkansas, Connecticut, Georgia, Iowa, Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Texas, Virginia and Wisconsin; restricted to the transportation of traffic originating at or destined to the plant sites or storage facilities at Waltec Forgings Ltd, Waltec Engineering Ltd., Waltec Industries Ltd., and Kindred Industries Ltd., located at or near Cambridge, Midland, Toronto and Wallaceburg, Ontario under continuing contracts with these companies.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y.

No. MC 143372 (Sub-No. 1), filed June 30, 1977. Applicant: PEOPLES TRANSFER, INC., 1712 S. Bunn Street, Bloomington, Ill. 61701. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, carpet padding, vinyl flooring, and flooring products*, between the facilities of Carpetland U.S.A., located at or near Munster, Ind., on the one hand, and, on the other, points in the Commercial Zones of Bloomington, Champaign, Decatur, Elk Grove Village, Joliet, Peoria, and Springfield, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143403 (Sub-No. 1), filed June 21, 1977. Applicant: MADISON COAL & SUPPLY COMPANY, a Corporation, Fort Amherst, Charleston, W. Va. 25306. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Lee, Owsley, Rockcastle, Jackson, Breathitt, Leslie, Perry, Morgan, Magoffin, Clay, Wolfe, Johnson, and Pike Counties, Kentucky to points in Hamilton County, Ohio, under contract with Hatfield Coals Division of Amherst Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charleston, W. Va.

No. MC 143413 (Sub-No. 1), filed June 21, 1977. Applicant: A & B WILSON & SONS, INC., 261 Squawbrook Road, North Haledon, N.J. 07508. Applicant's representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, over irregular routes, of *Piece goods*, in individual rolls, and *materials and supplies*, used in the dyeing or finishing of piece goods, between the plant sites of Braendly-Fishkill, Inc., at Beacon, N.Y., on the one hand, and, on the other, points in the New York N.Y. Commercial Zone as defined by the Commission, limited to a service performed under a continuing contract with Braendly-Fishkill, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. 143417 filed June 23, 1977. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th Street, Cicero, Illinois 60650. Applicant's representative: Barry Roberts, 888 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Michigan and Ohio to Chicago, Ill., restricted to traffic having a subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

MC 143418 filed June 24, 1977. Applicant: JIM ALLGOOD, doing business as Jim Allgood Trucking, 1301 West Clinton, Tulare, Calif. 93274. Applicant's representative: Lucy Kennard Bell, Suite 1800 United California Bank Bldg., 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Applicant seeks authority as a *contract* carrier by motor vehicle, over irregular routes, in the transportation of: Coal, in bulk, from the Coastal States Energy Co. coal unloading station located at or near Nipton, Calif. to the Mojave Power Station located at or near Davis Dam, Nev., under a continuing contract or contracts with Coastal States Energy Co., of Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 143419, filed June 23, 1977. Applicant: SUMMIT FOODS TRANSPORTATION COMPANY, a Corporation, 3333 North Quebec Street, Denver, Colo. 80207. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, between Lincoln, Nebr., and Reed City, Mich., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming; and (2) *materials, supplies, and equipment utilized in the manufacture, processing or sale of dairy products*, from points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, to Lincoln, Nebr., and Reed City, Mich., restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles; and further restricted to transportation under a continuing contract or contracts with Summit Foods Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo., or Lincoln, Nebr.

No. MC 143428, filed June 23, 1977. Applicant: FARWEST INDUSTRIES OF LONGVIEW, INC., 225 Industrial Way, Longview, Washington 98632. Applicant's representative: Robert D. Portner, 225 Industrial Way, Longview, Washington, 98632. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Treated Poles and Piling, between Oregon, Washington, and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 143429, filed June 22, 1977. Applicant: BILL BARTON, doing business as MAC B. COMPANY, 2916 Princeton Street, Plano, Tex. 75075. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Rock wool, glass mineral wool, mineral wool paper, bulk mineral wool*, unsuitable only for machine processing, in bales and bags, and *high pressure cement*, from Texarkana, Ark., to points in Texas, Oklahoma, Louisiana, New Mexico, Missouri, Mississippi, and Kansas, under a continuing contract or contracts with Mineral Fibers Co., and INSCO (A Corporation), located at Texarkana, Ark.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Dallas or Forth Worth, Tex.

No. MC 143430, filed June 24, 1977. Applicant: PRIME TRUCKING, INC., P.O. Box 31, 100 South Kimball Street, Bradford, Mass. 01830. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by manufacturers of pulpboard and fibreboard and materials, supplies, and equipment used in connection therewith (except commodities in bulk, in tank or hopper type vehicles), between Bradford, Mass., on the one hand, and, on the other, points in the United States in and east of Wisconsin, Illinois, Missouri, Arkansas, and Texas, under a continuing contract, or contracts, with Haverhill Paperboard Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

PASSENGERS

No. MC 52635 (Sub-No. 5), filed May 25, 1977. Applicant: UNITED MOTOR WAYS, INC., 108 E. 4th St., Grand Island, Nebr. 68801. Applicant's representative: Leonard Forsman, 1618 West Louise, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, from Hall, Adams, Buffalo, Phelps, Dawson, Hamilton, Merrick, Howard, Custer, Clay, and Nance Counties, Nebr., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Grand Island or Hastings or Holdrege, Nebr.

No. MC 115521 (Sub-No. 5), filed June 24, 1977. Applicant: MCDERMOTT BUS CORP., 2164 Caton Avenue, Brooklyn, N.Y. 11226. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage*, between the Boroughs of Brooklyn and Queens, in the city of New York, and points in Nassau County, N.Y., on the one hand, and, on the other, Atlantic City, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 143366 (Sub-No. 1), filed June 21, 1977. Applicant: ROBERT W. PICKERT, JR. AND JUDY PICKERT, a Partnership, doing business as SEE AMERICA FIRST TRAVEL CAMP, Hackley School, Tarrytown, N.Y. 10591. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in an all expense, round trip camping trip in camper type vehicles not exceeding 16 passengers, including the driver, beginning and ending at Tarrytown, N.Y., and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New [illegible] N.Y.

No. MC 143432, filed June 27, 1977. Applicant: GUILFORD LIVERY SERVICE INC., 115 Church Street, Guilford, Connecticut, 06437. Applicant's representative: George P. Hudson, 19 Farrell Street, Hamden, Connecticut 06518. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers*, from Clinton, Durham, Madison, and Guilford, Connecticut to New York City and return Limited-to-six (6) passengers, not including driver.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Haven or Hartford, Conn.

BROKER APPLICATIONS

No. MC 130450 filed June 20, 1977. Applicant: GENERAL MILLS FUN GROUP, INC., 9200 Wayzata Boulevard, Minneapolis, Minnesota 55426. Applicant's representative: Gilbert B. Lessanco, 2021 L Street N.W., Washington, D.C. 20036. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Minneapolis, Minnesota, to sell or offer to sell the transportation of *passengers and their baggage*, in special and charter operations, by motor common carrier, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minnesota.

No. MC 130451, filed June 20, 1977. Applicant: RUTT'S TOURS, P.O. Box 106, Intercourse, Pa. 17534. Applicant's representative: Richard M. Rutt (Same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Intercourse and Lancaster, Pa., to sell or offer to sell the transportation of passengers and their baggage, in round trip charter all expense tours by motor carriers, beginning and ending at points in Lancaster County, Pa. and extending to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Lancaster, Pa.

No. MC 130452, filed June 20, 1977. Applicant: GILBERT B. WOODWORTH, doing business as WOODWORTH FUN

TOURS, 113 Kentucky Street, Petaluma, Calif. 94952. Applicant's representative: Max Mickelsen, 245 Kentucky Street, Petaluma, Calif. 94952. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Petaluma, Calif., to sell or offer to sell the transportation of *passengers and their baggage*, in round trip special and charter operations, by motor carriers, beginning and ending at points in Sonoma County, Calif., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Petaluma, Santa Rosa, or San Francisco, Calif.

FREIGHT FORWARDER APPLICATION

No. FF 485 (Sub-No. 1), filed June 29, 1977. Applicant: AIR VAN LINES INTERNATIONAL, INC., 209 Post Road, Anchorage, Alaska 99501. Applicant's representative: Michael J. Roberts, 1660 L Street, N.W., Suite 1000, Washington, D.C. 20036. Authority sought to engage in operation, in interstate and foreign commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of (a) *used household goods, unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (excluding Alaska and Hawaii), and between points in Alaska, restricted in (b) to the transportation of export-import traffic, and operations in Alaska restricted to the transportation of export-import traffic.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Washington, or Anchorage, Alaska.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pusuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-11022 (Supplemental) (PACIFIC INTERMOUNTAIN EXPRESS CO., INC., ET AL—POOLING—GRAVES TRUCK LINE INC.), published in the November 25, 1970 issue of the FEDERAL REGISTER and by supplement published February 21, 1974. The instant proceedings is one which seeks to further amend the original pooling agreement by including the Co-applicant, ROCK ISLAND MOTOR TRANSIT COMPANY. By application filed July 28, 1977, the ROCK ISLAND MOTOR TRANSIT COMPANY and GRAVES TRUCK LINE, INC. hereby apply for authority under Section 5(1) of the Interstate Commerce Act to enter into an Agreement for the pooling of traffic moving in interstate commerce between points in Stone, Tyrone, Hooker, Optima, Guymon, Junior, Goodwell, and Texhoma, Oklahoma and Texhoma, Stratford, Conlen, and Dalhart, Texas. The applicants are common carrier carrier by motor vehicle operating in interstate commerce to, from and between points in the States of inter alia, Oklahoma and Texas, pursuant to authority granted to each by the Interstate Commerce Commission.

No. MC-F-13291. Authority sought for control by WM. H. PENDLETON, 1625 Hornbrook, Dyersburg, Tenn. 38024, of (B) SARTAIN TRUCK LINE, INC., 1354 North Second Street, Memphis, Tenn. 38101, and to continue to control (BB) DYERSBURG EXPRESS, INC., Nashville, Tenn., through the acquisition of capital stock. Applicants' attorney: Warren A. Goff, 2008 Clark Tower, Memphis, Tenn. 38137. Operating rights sought to be controlled: (B) Under No. MC-85970 and subs thereunder, general commodities, with exceptions as a common carrier over regular routes between Memphis, Tenn., and Union City, Tenn., serving the intermediate points of Newbern, Trimble, Obion, Troy, and Templeton, Tenn., with restrictions; Under a certificate of Registration in No. MC 85970 (Sub-No. 5), covering the transportation of property and General commodities, as a common carrier solely within the State of Tennessee; Under a certificate of Registration in No. 85970 (Sub-No. 6), covering the transportation of General commodities solely within the State of Tennessee; Under a certificate of Registration in No. MC 85970 (Sub-No. 7), covering the transportation of property and General commodities as a common carrier over regular routes solely within the State of Tennessee. (BB) General commodities, with exceptions as a common carrier over regular routes between Dyersburg, Tenn., and Phillippy, Tenn., serving all intermediate points, and the off route points of Finley, Lenox, Miston, and Samburg, Tenn.; between Memphis, Tenn., and Dyersburg, Tenn., serving all intermediate points, and the off route points of Lucy, Munford, and Rialto, Tenn.; between Tiptonville, Tenn., and Union City, Tenn., serving all intermediate points, except Troy, Tenn. WM. H. PENDLETON, holds no authority from this Commission. However, WM. H. PENDELTON has common control of DYERSBURG EXPRESS, INC.

NOTE.—By application filed September 24, 1976, in Docket No. MC 85970 (Sub-No. 8), SARTAIN TRUCK LINES, INC., states that the purpose in part, of this application is to convert a Certificate of Registration in Nos. MC 85970 (Subs. 5, 6, and 7) to Certificate of Public Convenience and Necessity.

No. MC-F-13293. Authority sought for purchase by QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, OH., 43219, of the operating rights of VANDALIA AIR FREIGHT, INC., Dayton Municipal Airport, Dayton, OH., 45377, and for acquisition by UNITED TRANSPORTATION, INC., 525 Kennedy Drive, Columbus, OH., of control of such rights through the purchase. Applicants' attorney: Russell S. Bernhard, 1625 K St., N.W., Washington, D.C. 20006. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular and irregular routes between Vandalia, Ohio Airport, Ohio, and Dayton, Ohio, serving all intermediate points, between Vandalia, Ohio Airport, Ohio, and Springfield, Ohio, serving all intermediate points, between Vandalia, Ohio Airport, Ohio, and Sidney, Ohio, serving all intermediate points, with restrictions: General commodities, with exceptions as a common carrier over irregular routes between points in Butler Township (Montgomery County), Ohio, on the one hand, and, on the other, points in Ohio, with restrictions. Vendee is authorized to operate as a common carrier in Ohio, Illinois, Indiana, Kentucky, Michigan, New York, West Virginia, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-116101 (Sub-No. 11) is a directly related matter.

No. MC-F-13294. Authority sought for purchase by D & N TRANSPORTATION COMPANY, INC., 28 Privilege Street, Woonsocket, Rhode Island, 02895 of the operating rights of G & L TRANSPORTATION COMPANY, INC., 743 North Main Street, Woonsocket, Rhode Island, 02895, and for acquisition by JEAN P. CODERRE, 256 Nursery Avenue, Woonsocket, Rhode Island, 02895, of control of such rights through the purchase. Applicants' attorney: Frank J. Weiner, 15 Court Square, Boston, Massachusetts 02108. Operating rights sought to be transferred: Under a certificate of Registration in Docket No. MC-98169 (Sub-No. 1), covering the transportation of General commodities, as a common carrier solely within the State of Rhode Island. Vendee is authorized to operate as a common carrier in Massachusetts, Rhode Island and Connecticut. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-34952 (Sub-No. 3) is a directly related matter.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's "General Rules of Practice" (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 34952 (Sub-No. 3), filed July 26, 1977. Applicant: D & N TRANSPORTATION COMPANY, INC., 28 Privilege Street, Woonsocket, Rhode Island 02895. Applicant's representative: Frank J. Weiner, Esq., 15 Court Square, Boston, Massachusetts 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined in "Practices of Motor Common Carriers of Household Goods," 17 M.C.C. 467, commodities in bulk and those commodities requiring special equipment), between points in Rhode Island.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in Docket No. MC-F-13294 published in a prior section of this FEDERAL REGISTER issue. If a hearing is deemed necessary, applicant requests that it be held at Providence, R.I.

No. MC 116101 (Sub-No. 11), filed June 15, 1977. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, Ohio 43219. Applicant's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. 20006. (1) Applicant presently holds authority as follows: *General commodities* (except Classes A and B explosives), (a) between the Port Columbus Airport, Port Columbus, Ohio, on the one hand, and, on the other, points in all or parts of thirty-two Ohio Counties surrounding Columbus, Ohio; (b) between the Port Columbus Airport, Columbus, Ohio, the Cleveland-Hopkins Airport, Cleveland, Ohio, the J. M. Cox Municipal Airport, Dayton (Vandalia), Ohio, and the Greater Cincinnati Airport in Kentucky (near Cincinnati, Ohio); RESTRICTION: the authority in (a) and (b) above is restricted to shipments having a prior or subsequent movement by aircraft; (c) *General Commodities*, moving in express service, (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in thirty-eight Ohio Counties surrounding Columbus, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Michigan (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: the authority in (c) above is restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day; and (2) Vendor (Vandalia Air Freight, Inc., the wholly-owned subsidiary of applicant) presently holds authority as follows:

General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), including those general commodities having a prior or subsequent movement by air, between points in Butler Township (Montgomery County), Ohio, on the one hand, and, on the other, points in Ohio; Restriction: The authority granted in (2) above is restricted against the transportation of general commodities from or to Vandalia, Ohio (except shipments originating in or destined to a point in said Butler Township), office furniture and fixtures, furnishing dump truck service, and livestock (except when handled in connection with air transportation). By the instant application, applicant seeks to tack the authority described in (2) above to the auhority described in (1) above at the J. M. Cox Municipal Airport (Dayton-Vandalia), Ohio, which is the present interchange point between applicant and vendor. No Gateway Elimination is sought at the present time in this matter.

NOTE.—This is a matter directly related to a Section 5(2) finance proceeding in MC-F-13293. If a hearing is deemed necessary, the applicant requests it be held either at Columbus, Ohio, or Washington, D.C. Notice of the application filing in MC-F-13293 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 121654 (Sub-No. 7), filed July 29, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., Post Office Box 7438, Savannah, Georgia 31408. Applicant's representative: Guy H. Postell, Postell & Hall, 3384 Peachtree Road NE., Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, and iron and steel products*, between Savannah, Port Wentworth, and Garden City, Georgia, on the one hand, and, on the other, points in Georgia. NOTE: This is a matter directly related to MC-F-13209, Refrigerated Transport Co., Inc.—Purchase—Coastal Transport & Trading Co. NOTE: Common control and dual operations may be involved. The purpose of the application is to convert applicant's authority from a certificate of registration. If hearing is deemed necessary, applicant requests that it be held at (1) Savannah, Ga.; (2) Atlanta, Ga.; or (3) Washington, D.C. Notice of the application filing in MC-F-13209 appeared in the FEDERAL REGISTER issue of May 12, 1977.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 48)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN SANBORN AND WANDA IN REDWOOD COUNTY, MINNESOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on May 23, 1977, a finding, which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad from milepost 8.8 near Wanda, Minnesota, to milepost .6 near Sanborn, Minnesota, a distance of approximately 8.2 miles in Redwood County, Minnesota. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the con-

tinued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1796, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-55 (Sub-No. 1)]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN TRILBY AND CHEMICAL, FLORIDA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C.1a(6)(a)) that by an order entered on February 18, 1977, a finding which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of that portion of its line of railroad from milepost ARE-823.65 near Trilby in a southwesterly direction to milepost ARE-866.00 near Chemical, Florida, a distance of 42.35 miles. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 160), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, Tenn., over Alternate U.S. Highway 41 to Shelbyville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 31 to junction Tennessee Highway 50, thence over Tennessee Highway 50 to Lewisburg, Tenn., thence over Tennessee Highway 11 to Farmington, Tenn., thence over Tennessee Highway 64 to Shelbyville, Tenn., and return over the same route.

No. MC 11220 (Deviation No. 34), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, Tenn. 38101, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Adamsville, Tenn., over Tennessee Highway 22 to junction Interstate Highway 40, thence over Interstate Highway 40 to Nashville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Adamsville, Tenn., over U.S. Highway 64 to Pulaski, Tenn., thence over U.S. Highway 31 to Decatur, Ala., thence over Interstate Highway 65 to Nashville, Tenn., and return over the same route.

No. MC 30504 (Deviation No. 23), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 21, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 65 to Des Moines, Iowa and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, and return over the same route.

No. MC 30504 (Deviation No. 24), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 21, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 65 to junction Missouri Highway 32, thence over Missouri Highway 32 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction Iowa Highway 149, thence over Iowa Highway 149 to Cedar Rapids, Iowa, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, thence over U.S. Highway 65 to junction Iowa Highway 330, thence over Iowa Highway 330 to Marshalltown, Iowa, thence over U.S. Highway 30 to Cedar Rapids, Iowa, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in

intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T 9492, filed July 12, 1977. Applicant: KENNY THE MOVER, INC., 606A Third Street, Brooklyn, N.Y. 11215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Household goods*, from New York, N.Y., to points in New York. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, Building 5, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

New York Docket No. T 9493, filed July 22, 1977. Applicant: RAPID AIR FREIGHT, INC., 20 Loudonville Road, Albany, N.Y. 12204. Applicant's representative: Vorton B. Boghosian, Commerce Building, 678 Troy-Schenectady Road, Latham, N.Y. 12110. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Baggage and personal property of airline passengers* having a prior or subsequent movement by air plus air freight 0-50 pounds, single aggregate of 100 pounds, delivered the same day, from the Albany County Airport, to the following Counties: Albany, Columbia, Essex, Delaware, Dutchess, Fulton, Greene, Hamilton, Herkimer, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schoharie, Warren, Schenectady, Sullivan, Ulster and Washington. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, Building 5, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23082 Filed 8-10-77;8:45 am]

[Notice No. 456]

ASSIGNMENT OF HEARINGS

AUGUST 6, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearing will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 42487 (Sub-No. 860), Consolidated Freightways Corp. of Delaware, now being assigned October 3, 1977 (1 day), at Atlanta, Ga., in a hearing room to be later designated.

MC 59957 (Sub-No. 50), Motor Freight Express, now being assigned October 17, 1977 (1 week), at Pittsburgh, Pa., in a hearing room to be later designated.

MC-C-9615, *Ridgeway Tours, Inc.* v. *Keys to Better Living, Inc., et al.*, now being assigned October 5, 1977 (2 days), at Harrisburg, Pa., in a hearing room to be later designated.

MC 130442, Shelmont, Inc., now being assigned October 5, 1977 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 143130, Ritchie Bus Lines, Inc., now being assigned October 17, 1977 (1 week), at Boston, Mass., in a hearing room to be later designated.

MC 55898 (Sub-No. 53), Decato Bros., Inc., now being assigned October 12, 1977 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC 2900 (Sub-No. 298), Ryder Truck Lines, Inc., now being assigned October 12, 1977 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 8964 (Sub-No. 32), Witte Transportation Co., now being assigned November 1, 1977 (9 days), at St. Paul, Minn., in a hearing room to be later designated.

MC-F-1291 and MC 98327 (Sub-No. 22), System, 99—Purchase (Portion)—Compton Transfer & Storage Co., now being assigned continued hearing at San Francisco, Calif. (8 days), in a hearing room to be later designated.

MC 2202 (Sub-No. 528, Roadway Express, Inc., now being assigned November 1, 1977 (2 days), at Atlanta, Ga., in a hearing room to be later designated.

MC-C-9684, *Carl R. Rieber, Inc.*, v. *Trans Bridge Lines, Inc.*, now being assigned October 17, 1977, at Philadelphia, Pa., (1 day), in a hearing room to be later designated.

MC 142881 (Sub-No. 2), Rexford C. Greer, d.b.a. American Truck Stop, now being assigned October 18, 1977 (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

MC 142881 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop, now being assigned October 19, 1977 (3 days), at Harrisburg, Pa., in a hearing room to be later designated.

MC 115495 (Sub-Nos. 3, 4, 7, 14, 16, 20, 22, 24G, 25G), United Parcel Service, Inc., MC 116200 (Sub-Nos. 2, 3, 5), United Parcel Service Inc., now assigned continued hearing on October 18, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C., and continued to November 29, 1977 (4 weeks), at Chicago, Ill., and on January 10, 1978 (4 weeks), at Denver, Colo., in hearing rooms to be later designated.

MC 97068 (Sub-No. 16), H.S. Anderson Trucking Co., now being assigned October 17, 1977 (1 week), at New Orleans, La., in a hearing room to be later designated.

AB 12 (Sub-No. 52), Southern Pacific Transportation Co., abandonment between Kaplan and Eunice, in Acadia, St. Landry, and Vermilion Parishes, La.

MC 129537 (Sub-No. 19), Reeves Transportation Co., now being assigned October 17, 1977 (1 week), at Atlanta, Ga., in a hearing room to be later designated.

MC F-13164, Overnite Transportation Co.—Purchase—Bonfield Bros. Truck Lines, Inc. and MC 109633 (Sub-No 85, Overnite Transportation Co., Inc., now being assigned November 29, 1977 (9 days), at Evansville, Ind. in a hearing room to be later designated.

MC 135316 (Sub-No. 5), Air Truck Service, Inc., d.b.a. Kanawha Valley Air Freight, now being assigned October 18, 1977 (3 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 114273 (Sub-No. 266), CRST, Inc., now being assigned November 1, 1977 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 119441 (Sub-No. 42), Baker Hi-Way Express, Inc., now being assigned December 5, 1977 (1 week), at Columbush, Ohio, in a hearing room to be later designated.

AB 18 (Sub-No. 15), Chesapeake & Ohio Railway Co. abandonment portion Armitage Branch between Oldtown and Nelsonville, in Hocking and Athens Counties, Ohio, now being assigned November 30, 1977 (1 week), at Columbus, Ohio, in a hearing room to be later designated.

MC 136343 (Sub-No. 105), Milton Transportation, Inc., now being assigned November 1, 1977 (1 day), at Buffalo, N.Y. in a hearing room to be later designated.

MC 143139, Larry's Collision, Inc., now being assigned November 2, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

AB 19 (Sub-No. 34), the Pittsburg & Western Railroad Co. and the Baltimore & Ohio Railroad Co. abandonment near Parkers Landing and Mt. Jewitt in Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., now being assigned November 7, 1977 (1 week), at Kane, Pa., in a hearing room to be later designated.

MC 53965 (Sub-No. 129), Graves Truck Line, Inc.; MC 114632 (Sub-No. 106), Apple Lines, Inc.; MC 134755 (Sub-No. 94), Charter Express, Inc.; and MC 139973 (Sub-No. 21), J. H. Ware Trucking, Inc., now being assigned November 10, 1977 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 127187 (Sub-No. 22), Floyd Duenow, Inc., now assigned September 13, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 133689 (Sub-No. 90), Overland Express, Inc., now assigned September 14, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 140829 (Sub-No. 32), Cargo Contract Carrier Corp., now assigned September 15, 1977, at St. Paul, Minn., will be held in Room 525, Federal Office Building, 316 N. Robert Street.

MC 30844 (Sub-No. 577), Kroblin Refrigerated Xpress, Inc., MC 117815 (Sub-No. 261), Pulley Freight Lines, Inc., MC 118202 (Sub-No. 68), Schultz Transit, Inc., and MC 124813 (Sub-No. 162), Umthun Trucking Co., now assigned September 16, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 140054 (Sub-No. 1), Z & S Construction Co., Inc., now assigned September 12, 1977, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 124511 (Sub-No. 30), John F. Oliver, now being assigned November 10, 1977 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 119619 (Sub-No. 98), Distributors Service Co., now being assigned November 9, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.
MC 113325 (Sub-No. 146), Slay Transportation Co., Inc., now being assigned November, 8, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.
MC 112304 (Sub-No. 117), Ace Doran Hauling & Rigging Co., now being assigned November 7, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.
AB 10 (Sub-No. 10), Wabash Railroad Co. and Norfolk & Western Railway Co. abandonment portion of Moberly Division and—abandonment of trackage rights and joint trackage—over connecting lines in the Counties of Brown, Adams, and Hancock, Ill. and the city of Keokuk, Iowa, now being assigned November 2, 1977 (3 days), at Carthage, Il. in a hearing room to be later designated.
MC 142152 (Sub-No. 1), N.A.T. Transportation, Inc., now assigned September 13, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 128375 (Sub-No. 151), Crete Carrier Corp., now assigned Sepetmber 15, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 142719 (Sub-No. 1), Robert J. Kirkpatrick, d.b.a. Kirk's Towing Service, now assigned September 19, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 142773, Prather Auto Sales, Inc., now assigned September 21, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 1422747, David L. Tate, Hamer L. Tate, Alicia L. Tate, William H. Tate, Beryl E. Tate and Gerald Ross, a partnership, d.b.a. Tate Cheese Co., now assigned September 14, 1977, at Chicago, Ill. will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 113651 (Sub-No. 210), Indiana Refrigerated Lines, Inc., now being assigned November 1, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.
MC 135539 (Sub-No. 6), Farm Service & Supplies, Inc., now being assigned November 2, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.
MC 141693 (Sub-No. 1), Gregory Lee Jencen, d.b.a. Agrarian Way of Wisconsin and MC 141864 (Sub-No. 1), James D. Dickson, now being assigned November 3, 1977 (2 days), in Chicago, Ill., in a hearing room to be later designated.
MC 136849 (Sub-No. 1), E & H Distributing Co., contract carrier application, now assinged October 12, 1977 (2 days), at Las Vegas, Nev., in a hearing room to be later designated.
MC 108119 (Sub-No. 56), E. L. Murphy Trucking Co., now being assigned November 7, 1977 (1 day) at Chicago, Ill., in a hearing room to be later designated.
MC 720 (Sub-No. 27), Bird Trucking Co., Inc., and MC 30844 (Sub-No. 576), Kroblin Refrigerated Xpress, Inc., now being assigned November 8, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.
MC 139193 (Sub-Nos. 47, 48, and 49), Roberts & Oake, Inc., now being asigned November 9, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.
MC-F-13154, Shaffer Trucking, Inc.—Purchase—Temco Transportation Inc., now assigned September 13, 1977, at Louisville, Ky., will be held in Room 1052A, Federal Building, Federal Plaza, 6th and Chestnut Street.
MC 134906, Cape Air Freight, Inc., now assigned September 19, 1977, at Louisville, Ky., will be held in Room 631, U.S. Post Office Building, 6th and Broadway.
MC 134906 (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7), Cape Air Freight, Inc., now assigned September 19, 1977, at Louisville, Ky., will be held in Room 631, U.S. Post Office Building, 6th and Broadway.
MC 143187, R. F. DeGaetano Transportation, Inc., now being assigned November 17, 1977 (2 days), at Boston, Mass., in a hearing room to be later designated.
MC 119619 (Sub-No. 102), Distributors Service Co., now being assigned November 15, 1977 (2 days), at Boston, Mass., in a hearing room to be later designated.
MC 135425 (Sub-No. 24), Cycles Ltd., now being assigned November 14, 1977 (1 day), at Boston, Mass., in a hearing room to be later designated.
AB 83 (Sub-No. 3), Maine Central Railroad Co., abandonment between North Anson and Bingham, in Somerset County, Maine, now being assigned November 9, 1977 (3 days) at Bingham, Maine, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23223 Filed 8-10-77;8:45 am]

[Notice No. 457]

ASSIGNMENT OF HEARINGS; CORRECTION

AUGUST 8, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC 133689 Sub-No. 117, Overland Express, Inc. now being assigned November 8, 1977 (1 day) at Boston, Mass., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23224 Filed 8-10-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 8, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 26, 1977.

FSA No. 43411—*Cotton to Freeport, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-692), for interested rail carriers. Rates on cotton, in carloads, as described in the application, from points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas; also Natchez, Mississippi and Memphis, Tennessee, to Freeport, Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 53 to Southwestern Freight Bureau, Agent, tariff 208-M, I.C.C. No. 5167. Rates are published to become effective on September 8, 1977.

By the Commission.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc.77-23221 Filed 8-10-77;8:45 am]

[Notice No. 205]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 12, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77062, filed July 28, 1977. Transferee: PIEDMONT COACH LINES, INC., 3636 Glenn Avenue, Winston Salem, N.C. 27105. Transferor: Wilkes Transportation Company, Inc., 706 Cherry St., North Wilkesboro, N.C. 28659. Applicant's representative: Kyle Hayes, Attorney-at-Law, Ninth St., North Wilkesboro, N.C. 28659. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 111960 and MC 111960 (Sub-No. 4), issued July 16, 1951 and December 11, 1969, respectively, as follows: Passengers and their baggage, in round-trip charter operations, beginning and ending at points in Wilkes County, N.C., and extending to points in South Carolina, Tennessee, Virginia, and the District of Columbia; and passengers and their baggage and express and newspapers in the same vehicle with passengers, between Winston-Salem, N.C., and Morganton, N.C., over specified routes, serving intermediate points, and between junction North Carolina Highway 67 and Forsyth County Highway 1525, and Elkin, N.C., over specified routes, serving all intermediate points. Transferee presently holds authority from this Commission under Certificate No. MC 118552 (Sub-No. 1). Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77158, filed July 22, 1977. Transferee: T & P TRANSPORTATION OF NEW JERSEY, INC., 67 Esther St., Newark, N.J. 07105. Transferor: T & P Transportation, Inc., 67 Esther St., Newark, N.J. 07105. Applicant's representative: John R. Sims, Jr., Attorney-at-Law, 425 13th St. NW., Washington, D.C. 20004. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 123226, issued June 22, 1964, to transferor as follows: Vegetable oils, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., and points in New Jersey within 40 miles of City Hall, New York, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77198, filed July 5, 1977. TRANSFEREE: WOLVERTON DRAY LINE, INC., Foxhome, Minn., 56543. TRANSFEROR: Curtis E. Emerson, doing business as Wolverton Dray Line, Foxhome, Minn., 56543. Applicant's representative: Curtis E. Emerson. Address: Same as above. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 92950 issued May 19, 1953, as follows: General Commodities, with normal exceptions, over specified regular routes, between Fargo, N. Dak., on the one hand, and, on the other, Wolverton, Minn.; and general commodities, with normal exceptions, over irregular routes, between points within six miles of Wolverton, Minn., including Wolverton. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77200, filed July 28, 1977. Transferee: ROBERT W. BELVILLE, (Robert W. Belville, Jr. Administrator) and Freda H. Belville, (Jose' M. Monte and Dorothy Lavin, Executors), a partnership, doing business as New York and Vermont Motor Express, Smith Street, Barre, Vt. 05641. Transferor: Barre Granite Transfer, Inc., S. Vine St., Barre, Vt., 05641. Applicant's representative: John P. Monte, Attorney-at-Law, 61 Summer St., P.O. Box 568, Barre, Vt. 05641. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Certificate No. MC 2032, issued April 12, 1974, as follows: Granite from Barre, Vt., and points in Vermont within 22 miles of Barre, to points in New York. Transferee presently holds authority from this Commission under Certificate No. MC 1030. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77214, filed July 11, 1977. Transferee: R. J. Renn Sons, Inc., 755 South Fifth St., Shamokin, Pa. 17872. Transferor: Ralph J. Renn, 755 South Fifth St., Shamokin Pa. 17872. Applicant's representative: Vincent B. Makowski, Attorney at Law, Pennsylvania National Bank Bldg., Shamokin, Pa. 17872. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-65195, issued October 2, 1943, as follows: Household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, over Irregular routes, Between points and places in Northumberland County, Pa., on the one hand, and, on the other, points and places in New York, New Jersey, Ohio, and the District of Columbia, traversing Maryland for operating convenience only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77216 filed July 17, 1977. Transferee: H&L BLOOM, INC., 427 Cohannet St., Taunton, Mass. 02108. Transferor: Thompson Oil Co., 8 Grove St., Upton, Mass. 01568. Applicant's representatives: Frank Daniels, Esquire, 15 Court Sq., Boston, Mass. 02108; Arthur M. White, Esquire, Bikofsky, Walker, and Tuttle, 281 Pleasant St., Farmingham, Mass. 01701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 30521, issued October 7, 1974, as follows: Passengers and their baggage, over specified regular routes, between Woonsocket, R.I., and Blackstone, Mass., serving no intermediate points; passengers and their baggage, and express, and newspapers, in the same vehicle with passengers, over specified regular routes, between Woonsocket, R.I., and Blackstone, Mass., serving no intermediate points; between Woonsocket, R.I., and the Millenville District, Blackston, Mass., serving no intermediate points; between junction Massachusetts Highway 122 and Blackstone Street in Blackstone, Mass., and Lake Nipmuc Park in Mondon, Mass., serving all intermediate points except those on that portion of the route between the intersection of Main Street and Massachusetts Highway 16 and Lake Nipmuc Park; between junction Massachusetts Highway 122 and Mendon Street in Blackstone, Mass., and Millvillo, Mass., serving all intermediate points; passengers and their baggage, in the same vehicle with passengers, over specified regular routes, between Millville, Mass., and Woonsocket, R.I., serving all intermediate points. The above authority to transport passengers was issued pursuant to applications filed on or before January 1, 1967, and therefore, incidental charter operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 208 (c) of the Interstate Commerce Act, as amended November 10, 1966; passengers and their baggage, restricted to traffic originating in the territory indicated in the regular route stated next above, in charter operations, from points in Massachusetts and Rhode Island within 25 miles of Millville, Mass., except those on the next above-specified regular route, to points in New Hampshire, Massachusetts, Connecticut, and Rhode Island, and those in that part of Maine on and south of U.S. Highway 302, and return over the same route. Transferee presently holds no authority from his Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77220, filed July 12, 1977. Transferee: CHARLES ROBERT PHELPS, 1180 Dicus Mill Rd. Millersville, Md. 21108. Transferor: Lloyd J. Arnett, 34 Edmondson Ridge Rd., Catonsville, (Baltimore), Md. 21228. Applicant's representative: Allan C. Westcott, Attorney at Law, One Thompson St., P.O. Box 132, Annapolis, Md. 21404. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit, No. MC 101696, issued April 26, 1950, as follows: *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies used in the conduct of such business*, over irregular routes, between specified points in Pennsylvania, West Virginia, Maryland, Delaware, Virginia, and the District of Columbia. Also between points and places within the territory bounded by a line beginning at New Castle, Del., and extending south along the west shore of Delaware Bay and the Atlantic Ocean to Cape Charles, Va., thence north along the east shore of Chesapeake Bay to Stevensville, Md., thence across Chesapeake Bay to Annapolis, Md., thence in a northwesterly direction to Damascus, Md., thence in a southwesterly direction to the Potomac River at a point one mile south of Seneca, Md., thence along the east bank of the river to Hancock, Md., thence north to Warfordsburg, Pa.,

[1] This notice corrects the docket number.

thence in a northeasterly direction through Mercersburg, Chambersburg, and Carlisle to Roseglen, Pa., thence east to Fredericksburg, Pa., thence south through Labanon and Manheim, Pa., to the Susquehanna River at a point five miles north of Airville, Pa., thence in a southeasterly direction along the east bank of the river to the Pennsylvania-Maryland State line, thence east and south along the Pennsylvania-Maryland-Delaware State line to a point one mile northeast of Elkton, Md., and thence east to New Castle, including the points named. Also between points and places in the next above-specified territory, on the one hand, and, on the other, Philadelphia, Pa., Wilmington, Del., Richmond, Va., and the District of Columbia. *Fruits, vegetables, farm products, poultry,* and *sea food,* in the respective seasons of their production, over irregular routes, from points and places in Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia to points and places in the next above-specified territory, with no transportation for compensation on return except as otherwise authorized. Restriction: The Transportation service specified above must be performed under individual contracts agreements, with persons (as defined in Section 203(a) of the Interstate Commerce Act) who operate retail stores, the business of which is the selling of food. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77221, filed July 15, 1977. Transferee: GEORGE HUSACK, INC., 167 Locust Dr., Schnecksville, Pa. 18078. Transferor: George Husack, 167 Locust Dr., Schnecksville, Pa. 18078. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, Pa. 17011. Authority sought to transfer all of the operating rights of transferor to transferee shown under Docket No. MC 136831 Sub-No. 1, issued November 15, 1974, and MC 136831 Sub-No. 4, issued January 19, 1977, as follows: *Lamps and lampshades,* from the plantsite of Keystone Lamp Manufacturing Corp., at or near Slatington, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Ohio, North Carolina, South Carolina, Michigan, Indiana, Illinois, Wisconsin, Texas, Florida, Alabama, Tennessee, Georgia, and the District of Columbia; and *Materials used in the production of lamps and lampshades* (except commodities in bulk, in tank vehicles) from the above-named destinations points to the plantsite of Keystone Lamp Manufacturing Corp. at or near Slatington, Pa., *coal,* in bulk, in dump vehicles, from Tamaqua, Pa., to Lakeville, Conn., with no transportation for compensation on return except as otherwise authorized. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 42604 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77227, filed July 22, 1977. Transferee: GEORGE MICHAEL O'BRYAN, doing business as MIKE O'BRYAN, Route 1, Box 49D, Altha, Fla. 32421. Transferor: George Waldorff, doing business as Waldorff & Son, Route 1, Box 24, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, Attorney-at-Law, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 140616 (Sub-No. 2), issued August 17, 1976, as follows: *Fertilizer,* from points in Henry County, Ala., Bainbridge, Ga., Yazoo and Pascagoula, Miss., to Altha, Fla.; and *slag,* in bulk, from Birmingham, Ala., to Altha, Fla., restricted to a transportation service to be performed under a continuing contract, or contracts, with Altha Farmers Coop of Altha, Fla. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77228, filed July 22, 1977. Transferee: JOHN AND ARVONNE DEGENFELDER, doing business as BISHER FREIGHT SERVICE, 369 Main St., Ramona, Calif. 92065. Transferor: Bisher Truck Line, Inc., 499 Main St., Ramona, Calif. 92065. Applicant's representative: John Degenfelder, 369 Main St., Ramona, Calif. 92065. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 4363 and Certificate of Registration No. MC 4363 (Sub-No. 3), both issued by the Commission January 31, 1968, as follows: General commodities, with specified exceptions, between points in California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77229, filed July 21, 1977. Transferee: GERALD R. PRIEST AND HELEN M. PRIEST, doing business as G&H TRANSFER, 29 North Webster, Red Cloud, Nebr. 68970. Transferor: Leslie H. Harms, doing business as Harms Transfer, Rural Route 1, Hildreth, Nebr. 68947. Applicant's representative: Vernon F. Duncan, Attorney-at-Law, Franklin, Nebr. 68939. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate of Registration No. MC 120174 (Sub-No. 1), issued November 25, 1963, as follows: *Commodities* generally, except those requiring special equipment, between points in Nebraska. Transferee presently holds authority from this Commission under Certificate of Registration No. MC 120882 (Sub-No. 1). Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77231, filed July 25, 1977. Transferee: ALLENS MOVING SERVICE OF FAYETTEVILLE, INC., 135 "C" St., P.O. Box 192, Fayetteville, N.C. 28302. Transferor: Allen C. Draughon, doing business as Allen's Moving Service, 135 "C" St., P.O. Box 192, Fayetteville, N.C. 28302. Applicant's representative: Allen C. Draughon, P.O. Box 192, Fayetteville, N.C. 28302. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 129354, issued December 5, 1969, as follows: *Used household goods,* over irregular routes, between points in Moore, Lee, Harnett, Hoke, and Cumberland Counties, N.C. Transferee presently holds no authority from this Commission. Application has not yet been filed for temporary authority under section 210a(b).

No. MC-FC-77235, filed July 28, 1977. Transferee: SUN ENTERPRISES, INC., 717 Market St., Lemoyne, Pa. 17043. Transferor: George C. Shoff, P.O. Box 2, Beccaria, Pa. 16616. Applicant's representative: John M. Musselman, Attorney at Law, 410 North Third St., Harrisburg, Pa. 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 89885, issued June 27, 1966, as follows: *Passengers and their baggage,* in the same vehicle, in round-trip charter operations beginning and ending at Blandburg, Patton, Coalport, and Irvona, Pa., and extending to points in New York, New Jersey, Maryland, Ohio, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-23222 Filed 8-10-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NORTHWESTERN UNIVERSITY, ET AL.

Application for Duty-Free Entry of Scientific Articles; Correction

In the Notices of Application for Duty-Free Entry of Scientific Articles appearing at pages 27274 and 27275, respectively, in the Federal Register of Friday, May 27, 1977, the following corrections should be made:

Under Northwestern University et al, Docket Number: 77-00233 and under That Man May See, Inc., et al, Docket Number: 77-00236 the description of article should read: Article: Photochron I Image Converter Streak Camera Tube with S-1 Spectral Response Photocathode.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Special Import Programs Division.

[FR Doc.77-23128 Filed 8-10-77;8:45 am]

National Oceanic and Atmospheric Administration

COASTAL MANAGEMENT PROGRAM OF THE VIRGIN ISLANDS

Public Hearing on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold two public hearings for the purpose of receiving comments on the draft environmental impact statement for the Coastal Management Program of the Virgin Islands.

The first of the two scheduled public hearings will be held at the St. Thomas Sheraton, 10:00 a.m., Tuesday, August 30, 1977. The second hearing will be held at the Florence Williams Library, Christiansted, St. Croix, 10:00 a.m., Wednesday, August 31, 1977.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-served basis, but may be limited to a maximum of ten minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, phone: 202-634-4242.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before September 5, 1977 to assure adequate consideration for inclusion in the final environmental impact statement.

Copies of the draft environmental impact statement may be obtained by contacting the Office of Coastal Zone Management or:

Darlan Brin, Virgin Islands Planning Office, P.O. Box 2606 Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801, phone: 809-774-1730.

Comments may address the adequacy of the impact statement and/or the nature of the Virgin Islands Coastal Management Program.

Following consideration of the comments received at these hearings as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: August 5, 1977.

T. P. Gleiter,
Assistant Administrator for Administration.

[FR Doc.77-23110 Filed 8-10-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLAN FOR PACIFIC BILLFISH AND SHARKS

Availability of Draft Environmental Impact Statement/Preliminary Fishery Management Plan and Notice of Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190) and Section 201(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), notice is hereby given of the availability of a combined Draft Environmental Impact Statement and Preliminary Fishery Management Plan (DEIS PMP) for Pacific billfish and sharks. Foreign nations may be expected to apply for permits to take billfish and sharks within the Fishery Conservation Zone, but a Regional Fishery Management Council fishery management plan will not be implemented in the time frame necessary to govern such foreign fishing.

Copies of the DEIS PMP have been distributed to a large number of agencies, organizations, and individuals, including fishery management agencies in California, Oregon, Washington, Hawaii, Guam, and American Samoa. Copies are also available from the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731; and from the Administrator, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service, Post Office Box 3830, Honolulu, Hawaii 96812.

Notice is hereby given also of public hearings to be held by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, to receive public views and comments on the DEIS/PMP. These hearings will be held at the following locations and times:

August 30, 1977—Agana, Guam

Territorial Congress Building,
9:00 a.m.

August 30, 1977—Terminal Island, California

Conference Room,
U.S. Customs Building,
300 South Ferry Street,
7:00 p.m.

September 7, 1977—Honolulu, Hawaii

Rooms 310-12,
Hawaii State Capitol Building,
9:00 a.m.

September 10, 1977—Kailua-Kona, Hawaii

Kamakahonu Ballroom,
King Kamehameha Hotel,
8:30 p.m.

Written comments on the DEIS PMP from interested members of the public may be submitted not later than September 26, 1977, to the Regional Director or to the Administrator of the Western Pacific Program Office at the address given above.

Dated: August 5, 1977

Winfred H. Meibohm,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-23122 Filed 8-10-77;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE (NACOA)

Re-establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I Supp. V, 1975) and Office of Management and Budget Circular A-63 Revised, notice is hereby given of the re-establishment of NACOA pursuant to the National Advisory Committee on Oceans and Atmosphere Act of 1977 (Pub. L. 95-23). NACOA was initially established on August 16, 1971 by Pub. L. 92-125 to advise the President and the Congress on marine and atmospheric affairs.

NACOA will undertake a continuing review of national ocean policy, coastal zone management and the status of the marine and atmospheric science and service programs of the U.S., advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration, and submit an annual report to the President and the Congress setting forth an assessment of the status of the Nation's marine and atmospheric activities, and such other reports as may be requested by the President or the Congress.

The Committee will consist of 18 Presidentially appointed members, eminently qualified in one or more of the disciplines and fields included in atmospheric or marine science, marine-related or atmospheric-related state and local governmental functions, coastal zone management as well as other fields directly appropriate for consideration of matters of atmospheric or ocean policy.

The Committee will function solely as an advisory committee, and in compliance with the provisions of the Federal Advisory Committee Act, its charter has been filed with the concerned Congressional committees and the Director, Office of Management and Budget in accordance with the law.

Dated: August 4, 1977.

Elsa A. Porter,
Assistant Secretary for Administration.

[FR Doc.77-23216 Filed 8-10-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CP 77-131]

MATCHBOOKS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: In this document the Commission denies a petition to revoke its consumer product safety standard for matchbooks because the Commission believes that the standard effectively addresses an unreasonable risk of injury associated with matchbooks and that it is justified by the available economic information.

FOR FURTHER INFORMATION CONTACT:

George Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.S. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

The Commission began the development of a safety standard for matchbooks, under section 7 of the Consumer Product Safety Act, by a notice of proceeding published in the FEDERAL REGISTER on September 4, 1974 (39 FR 32050). The Commission published a proposed standard for public comment on April 1, 1976 (41 FR 14112).

On April 25, 1977 the Commission received a petition from D. D. Bean and Sons, Co., a matchbook manufacturer. The petition requested the Commission to withdraw the matchbook notice of proceeding before issuing a final standard. At that time, the Commission had received extensive briefing materials from the staff and had a draft final standard before it for consideration. It was too late for the Commission to consider the petition before it approved the final standard on April 26 (all discussions and some preliminary votes concerning the final standard had occurred earlier). The Commission therefore considered the petition as a petition to revoke the matchbook standard which was published in the FEDERAL REGISTER on May 4, 1977 (42 FR 22656), with an effective date of May 4, 1978.

The petition questioned the existence of an unreasonable risk of injury associated with matchbooks and it questioned the effectiveness of the provisions of the Commission's standard in addressing the stated risks of injury. In addition, the petition claimed that the regulation would have a considerable economic impact on the industry.

The Commission's final matchbook standard includes findings on the risk of injury associated with matchbooks (§ 1202.2(a), 42 FR 22667) and on the anticipated economic impact of the standard (§§ 1202.2 (c) and (d), 42 FR 22668). The preamble to the standard also discusses these points in some detail (42 FR 22657-59 and 22666).

The Commission has found, in issuing the standard, that unreasonable risks of injury associated with matchbooks include eye injuries caused by bookmatches that fragment and burn injuries caused by bookmatches that have delayed ignition, that ignite unexpectedly, that ignite the remaining matches in a matchbook, that exhibit afterglow, and that are improperly used (§ 1202.2(a)). The Commission believes that the matchbook standard addresses these risks.

In addition, the Commission has estimated that manufacturing cost increases as a direct or indirect effect of the standard will be modest for the matchbook industry as a whole (§ 1202.2(c)(3)). After considering alternative means of achieving the objective of the standard and many other factors, the Commission has found that the matchbook standard is reasonably necessary to eliminate or reduce the unreasonable risks of injury associated with matchbooks (§§ 1202.2 (d) and (e)).

Nothing in the Bean petition has persuaded the Commission that its findings were inaccurate. In fact, many of the arguments made by Bean were similar to those made in the public comments and considered by the Commission before it issued the final matchbook standard. Accordingly, the Commission has decided not to revoke its matchbook standard and the petition is denied.

Copies of the petition and the staff's briefing materials to the Commission on the petition may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Third floor, Washington, D.C. 20207.

Dated: August 8, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-23248 Filed 8-10-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

NEPA, EIS REFORM

Notice of Request for Views

BACKGROUND

The President has stated his strong support for the effective implementation of the National Environmental Policy Act of 1969 (NEPA) and for efforts by each agency to make environmental impact statements more useful to decisionmakers and to the public. The Council is currently preparing to issue regulations to all Federal agencies to accomplish these goals.

The Council held three days of public hearings in June to consider suggestions from the various national interests who are concerned about the effectiveness of the Act, including private citizens, state and local governments, business, industry, labor, environmentalists, and the scholarly community. Fifty witnesses appeared before the Council. Hundreds more submitted written testimony. Representatives from 50 Federal agencies attended the hearings.

REQUESTS FOR VIEWS

The Council has prepared a detailed questionnaire, based on the hearing record, indicating the problem areas and potential solutions which the public identified at the hearings. This set of questions has been distributed to all the participants in the hearings and to all Federal agencies. The Council will draft its regulations on the basis of the responses to the questionnaire. Anyone interested in making views known to the Council may request a "NEPA Hearing Questionnaire" from the Council. The request may be made by telephone 202-633-7032 or in writing: Nick Yost, Acting General Counsel, CEQ, 722 Jackson Place NW., Washington, D.C. 20006.

DEADLINE

Responses to the questionnaire are due before August 31, 1977.

Thank you for your help.

NICHOLAS C. YOST;
Acting General Counsel.

[FR Doc.77-23361 Filed 8-10-77;8:45 am]

TSCA/INTERAGENCY TESTING COMMITTEE

Availability of Document

The purpose of this Notice is to announce the availability of the document, "Preliminary List of Chemical Substances for Further Evaluation", dated July 1977, and the Background Document. Anyone wishing to receive a copy should write or telephone:

Mrs. Phyllis D. Tucker, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, telephone 202-633-7074.

Comments on the report which had originally been requested by August 8, 1977, have been extended to August 22, 1977. The comments should be in triplicate and mailed to the above address. Copies of all comments received will be available for public inspection from 8 a.m. to 4:30 p.m. at the Environmental Protection Agency library, Room 2902, 401 M Street SW. The Master File and the list of other chemicals or categories considered by the Committee will also be available for inspection at the EPA library.

Dated: July 9, 1977.

WARREN R. MUIR,
Chairman, TSCA/ITC.

Certified to be a true copy of the original document.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 775-6]

AIR QUALITY STANDARDS

Petition for Review of Photochemical Oxidant Criteria, Standard and Control Program

On December 9, 1976, the American Petroleum Institute and 29 member companies petitioned the Administrator of the Environmental Protection Agency to review and revise the Agency's air quality criteria, standard and control program for photochemical oxidants. This notice publishes the decision of the Administrator on the petition.

Dated: August 5, 1977.

ERIC O. STORK,
Acting Assistant Administrator for Air and Waste Management.

ADMINISTRATOR'S RESPONSE TO PETITION OF THE AMERICAN PETROLEUM INSTITUTE

I. THE RELIEF REQUESTED BY THE API PETITION

On December 9, 1976, the American Petroleum Institute and member companies ("API") submitted a petition to the Environmental Protection Agency ("EPA") seeking various forms of action with regard to the control of photochemical oxidants. On the same day, Mr. Frank N. Ikard, President of API, submitted a cover letter stating API's requests (although with some differences from the requests in the petition).

API made six specific requests in its petition:

(1) Revise the air quality criteria for photochemical oxidants pursuant to Section 108 (c) of the Clean Air Act within six months of the filing of this Petition in light of the new information regarding the causes, effects and extent of ozone and oxidants detailed in this Petition;

(2) Establish a national primary ambient air quality standard as required by Section 109(b)(1) of the Clean Air Act based on new studies described in this Petition demonstrating no significant adverse human health effects at or below ozone levels of 0.25 parts per million (ppm) for two-hour exposures;

(3) Establish a national secondary ambient air quality standard as required by Section 109(b)(2) of the Clean Air Act based on adverse effects on public welfare indicated by studies using ozone-specific measurement methods, taking account of the full range of economic and social considerations which define the "public welfare" under Section 302 (h) of the Clean Air Act;

(4) State the new primary and secondary standards so as to permit reliable assessments of compliance by existing monitoring networks;

(5) Specify the exclusive use of an appropriate measurement method such as ethylene chemiluminescence calibrated by either gas phase titration or ultraviolent photometry for the montoring of ozone in the ambient air; and

(6) Revise the "Requirements for Preparation, Adoption, and Submittal of Implementation Plans," and: (i) Delete the assumption of "no background concentration of photochemical oxidants"; (ii) specify more reliable, alternative oxidant prediction relationships to replace the Appendix J and similar rollback techniques for determining the degree of necessary precursor emission reductions; and (iii) include such other modifications as are indicated by the new criteria and primary and secondary standards.

Petition at 1. The requests are stated differently on page 109 of the Petition, and differently again in the December 9, 1976, letter from Mr. Ikard. It is not clear whether any practical differences were intended.

II. RESPONSE TO API PETITION.

A. *Summary of relief granted, denied or deferred.* On January 19, 1977, then-Assistant Administrator Roger Strelow replied to Mr. Ikard. This reply was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9202). Additional letters have been received from API by various persons within EPA on February 25, March 9, March 16, March 25, April 11, June 1, June 8 and June 13, 1977. In February 1977, in response to a request from attorneys for API, attorneys from EPA indicated that an additional response would be issued by EPA. This document constitutes that additional response.

The first five of API's requests relate to the national ambient air quality standards. However, the sixth request relates to the approval, disapproval, or promulgation of state implementation plans (SIPs) for the purpose of achieving such ambient standards. These should be treated as two different categories of requests. In each of these two categories, I find that there has been insufficient time to determine what actions may or may not ultimately be proper. Accordingly, on all requests I defer decision for the present.[1]

In addition to the specific relief requested, API has sought to have EPA follow certain procedures in considering the data submitted by API. I am in agreement with some of API's suggestions, but find other suggestions not to be appropriate.

B. *API's suggestions for procedures.* The API Petition asks that EPA "grant the Petition forthwith" and "initiate proceedings" for revision of the present criteria, standard and control program for photochemical oxidants. Petition at 108. Furthermore, it states that "upon granting API's Petition," EPA should publish an advance notice of proposed rulemaking announcing EPA's intention to revise the criteria and to propose new ambient standards, and should do so by June 1977. Id. at 109. Finally, it asks for a public comment period. Id.

1. *Request to "Grant" Petition before Final Action.* As a preliminary matter, API's use of the term "grant the Petition" may lead to some confusion. API has cited Oljato Chapter of the *Navajo Tribe* v *Train*, 515 F. 2d 654 (D.C. Cir. 1975), as the guidance under which this petition was filed. In that opinion, the Court stated that the Agency's denial of a petition to review a regulation on the basis of new information would be reviewable in that Court, under section 307(b) of the Clean Air Act, 42 U.S.C. 1857h-5(b). "Oljato" did not deal with the specifics of "granting" petitions, however (and did not even use that word).

It seems clear that an agency would rarely fully "grant" a petition immediately, since most rulemaking requires proposal and public participation, both of which take time and imply an openminded attitude on the part of the Agency toward changes in the proposal. Thus, when asked to respond promptly to a petitioner so that he may know whether he should proceed to court, an agency must often defer decision pending study, proposal, public comment, advisory board review, or whatever other procedural steps may be required. Full granting of a petition such as API's, which calls for revisions, may only be accomplished by final rulemaking.

2. *Request for "Advance Notice of Proposed Rulemaking."* The petition asks that EPA "publish an advance notice of proposed rulemaking in the FEDERAL REGISTER announcing EPA's intention to revise the photochemical oxidant criteria and to propose primary and secondary ambient air quality standards in accordance with the requirements of the Act." Petition at 109. This procedure would be inappropriate for two reasons. First, any revision of the criteria document under section 108 of the Act does not constitute rulemaking and therefore an advance notice of proposed rulemaking (ANPR) cannot be issued. Second, it would be incorrect for EPA to announce that it intended to revise the national ambient air quality standards (NAAQS) for photochemical oxidants based on revised criteria since that is not EPA's intent at the present time. Although the decision has been made to revise and update the air quality criteria document, I cannot state that the NAAQS will be proposed to be revised. This can be done only if it becomes clear that the revised criteria, on which the standards must be based, make it appropriate to consider amendment of the standards.

It is EPA's intention to encourage maximum possible public participation in its review of the air quality criteria documents. Such participation began with the February 15 FEDERAL REGISTER Notice. On April 20, 1977 (42 FR 20493), EPA published a call for information and data on the health and welfare criteria for photochemical oxidants and hydrocarbons and invited public involvement. That notice stated that a draft of the revised criteria document would be made available for public review in July 1977. It appears now that such a draft will be available in late August 1977. The Science Advisory Board will review the document and develop its evaluation at a meeting to be held as soon as practicable after August. We contemplate publishing the revised document in February, 1978, along with any proposed revisions to the standard which may be indicated.

3. *Six month deadline.* API initially sought to impose a deadline of six months from the date of its petition for publication of revised criteria and proposal of revised NAAQS. Petition at 109. However, subsequent to the submission of the petition, API began to submit additional materials and arguments relevant to one or another of its requests, including letters dated March 9, April 11, June 1, and June 8. Indeed, the June 1 letter pointed out that certain of API's health effects studies were still being reviewed by API and its member companies and would be submitted to EPA in early July "for consideration by EPA in its revision of the air quality criteria and standards for photochemical oxidants and hydrocarbons." Letter from A. G. Everett to Gordon Hueter, June 1, 1977, at 2. It appears, therefore, that API itself has decided that publication of revised criteria within six months of its December 9 petition is not feasible. In any case, EPA has concluded that publication of revised criteria cannot occur before February 1978, because of the volume of material that must be considered and the fact that the same staff is working on the new criteria for environmental lead, which EPA is preparing pursuant to court order.

4. *Written comments.* Finally, API has requested that any final revisions to the NAAQS be preceded by "a reasonable time for interested persons to submit written comments" regarding proposed revisions. Petition at 110. If EPA decides, on the basis of

[1] In one instance, the relief sought is susceptible of two interpretations. As to that matter I also defer decision, but deny relief in the alternative. See note 2, infra.

revised criteria, to propose revisions to the NAAQS, it will certainly provide such an opportunity for comment.

C. *Request to revise air quality standards.* The first five of API's requests (*see* Petition at 1) relate in one manner or another to the national ambient air quality standard for photochemical oxidants. On each of these I defer decision. In order to put the requests and my response in context, a brief summary of the Clean Air Act and the current standards is in order.

1. *The structure of the Act.* The Administrator of EPA is required by section 109 of the Clean Air Act, 42 U.S.C. 1857c-4, to publish national ambient air quality standards for pollutants which adversely affect the public health and welfare. The list of these pollutants originally included five substances for which air quality criteria had previously been developed by the National Air Pollution Control Administration, Public Health Service, and may be expanded by the Administrator of EPA. Section 108(a)(1), 42 U.S.C. 1857c-3(a)(1).

For each listed pollutant, air quality criteria are to be developed which "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities." Section 108(a)(2), 42 U.S.C. 1857c-3(a)(2).

It is these criteria upon which the Administrator is required to base the national ambient air quality standards ("NAAQS"). The primary NAAQS is required to be set at a level the attainment and maintenance of which, in the Administrator's judgment, based upon the air quality criteria and allowing for an adequate margin of safety, are requisite to protect the public health. Section 109(b)(1), 42 U.S.C. 1857c-4(b)(1). The secondary NAAQS are to specify a level the attainment and maintenance of which, in the Administrator's judgment, based upon the air quality criteria, are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Section 109(b)(2), 42 U.S.C. 1857c-4(b)(2).

The air quality criteria are to be periodically reviewed by the Administrator, and updated, modified or reissued, as appropriate. Section 108(c), 42 U.S.C. 1857c-3(c). Similarly, both the primary and secondary NAAQS may be revised in the same manner as promulgated. Section 109(b)(1), (2), 42 U.S.C. 1857c-4(b)(1), (2).

2. *Current standards.* In the case of photochemical oxidants, standards were proposed on January 30, 1971 and promulgated on April 30, 1971 (40 CFR 50.9). The joint primary and secondary standards are 0.08 parts per million or 160 micrograms per cubic meter, maximum one-hour concentration not to be exceeded more than once per year. The criteria document upon which they were based, as provided in the Act, section 109(a)(1), 42 U.S.C. 1857c-4(a)(1), was published in 1970 by the National Air Pollution Control Administration, U.S. Public Health Service, "Air Quality Criteria for Photochemical Oxidants" (1970).

3. *EPA response to API's requests.* On the first of API's five request (relating to revision of the criteria document) I must defer decision because, as stated previously, EPA's review of the health information relevant to the criteria is underway and revised criteria are not expected until February 1978. On the second[2] and third requests (relating to revision of the air quality standards) I defer decision, because, as stated previously, any decision on whether to propose changes in the standards themselves due to different views on health matters must await the revised criteria. On the fourth and fifth of the requests (relating to "assessments of compliance" by the use of a statistical rather than numerical standard and to the specification of particular measurement methods such as chemiluminescence) I also defer decision. These fourth and fifth requests could be viewed either as separate requests for revision of the present NAAQS or as pendant requests relevant to the revised NAAQS which API would like EPA to propose on health grounds. The context of their discussion in the petition suggests the latter, but in either case it would not be possible for me to grant or deny the requests without thorough investigation of the suggestions, which EPA has begun.

D. *Request to revise "control program" for photochemical oxidants.* In addition to asking for various actions with regard to the air quality standards, the API petition asks for certain revisions in 40 CFR Part 51, which sets out guidance to states for their control programs for photochemical oxidants. This is, and must be, an entirely separate matter from any consideration of the proper level of the air quality standards. Indeed, for maximum clarity I have decided that API's sixth request should be treated as a separate petition.

NAAQS be established based on studies regarding "significant adverse human health effects." Petition at 1. Furthermore, discussion of health effects occupies much of the space in the petition (see Petition at 45-61). However, there is also a great deal of discussion of the "attainability" of the NAAQS for photochemical oxidants (Petition at 26-30) and the phenomenon of naturally occurring ozone (Petition at 31-45). It is not clear whether API has presented its views on attainability and natural formation of ozone simply to convince the Agency of the desirability of separate primary and secondary oxidant standards or whether API desires EPA to consider such factors in setting the level of the primary standard. The first interpretation finds support on page 21 of the petition, where even the discussion of "unattainability" seems to concede that the primary standard must be based entirely on adverse health effects and a margin of safety. If, however, the second interpretation is correct and API is asking me to consider issues such as attainability in setting the standard, I must deny the request. Nothing could be clearer than the desire of Congress to separate the question of the level at which public health would be protected from the question of attaining that level. Of course, the air quality standards which could be set under the Air Quality Act of 1967 had to be consistent not only with the air quality criteria but also with the recommended control techniques. Section 108(c)(2), Pub. L. No. 90-148, 81 Stat. 485 (1967). However, by 1970 thinking had evolved to the point that ambient standards should be set solely on the basis of health effects and that any problems of attainment should be addressed, if at all, only in establishing the timetables for action to reach the ambient standards. *See* H.R. Rep. No. 91-1146, 91st Cong., 2d Sess. 23 (1970); Hearings on S. 3229, S. 3466, and S. 3546 Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, 91st Cong., 2d Sess. 2 (1970); 116 Cong. Rec. 32901-02 (1970); 115 Cong. Rec. 33099 (1970); Conference Report, H.R. Rep. No. 91-1783, 91st Cong., 2d Sess. 5, 44 (1970).

The API petition asks for three specific "revisions" in EPA's control program for photochemical oxidants. First, it asks for deletion of the assumption in 40 CFR 51.14(c)(4) of "no background concentration of photochemical oxidants." Second, it asks for EPA to "specify" oxidant prediction relationships to "replace" Appendix J of 40 CFR Part 51. Third, it asks generally that EPA "include such other modifications as are indicated by the new criteria and primary and secondary standards." Again, a review of the Act and EPA's regulatory structure will provide useful background.

1. *The Structure of the Act.* One a standard is set under section 109, its attainment and maintenance are to be accomplished by the state implementation plans under section 110 of the Act, 42 U.S.C. 1857c-5. Pursuant to section 110, strategies and control regulations are developed by EPA and the states which will be aimed at reducing the emissions of these criteria pollutants at their source.

2. *Current EPA Program.* EPA has published general guidance to state in 40 CFR Part 51. In addition, a great deal of guidance has been provided less formally. See, e.g., 42 FR 35314 (July 8, 1977). When a state regulation is approved and becomes a part of Federal law, enforceable against an emission source, that action is taken by incorporating it in 40 CFR Part 52. If EPA finds it necessary to promulgate a regulation applicable to a source, that also is done in Part 52.

3. *EPA response to API's requests.* It is obvious that the third of API's requests (that EPA make "indicated" modifications in Part 51 after revising the air quality standards) is wholly non-specific and is supported by no further discussion in the petition. Furthermore, it obviously would have to wait for a revision, if any, in the ambient standards. I therefore cannot treat it as a formal request. However, the first and second requests can be discussed at this point.

On the first request (that § 51.14 be amended), I will defer decision, because this is a topic that is under study at EPA and our work is not yet complete. It should be noted, however, that compliance with API's request would result in more, not less, control of man-made hydrocarbons being required to attain the ambient standards for photochemical oxidants. For example, if overall (background plus man-made) levels of oxidants in an urban area are 0.16 ppm, then in order to get overall levels down to the national standard of 0.08 ppm it will be necessary to reduce total emissions by approximately 50 percent (using linear rollback for the purpose of this example). If all of the emissions are assumed to be man-made, the required reduction in man-made emissions is obviously 50 percent. But if background levels are found to be 0.04 ppm, then man-made emissions must account for 0.12 ppm. Since natural levels cannot be reduced, the man-made emissions would have to be reduced by 67 percent (representing a reduction from 0.12 ppm to 0.04 ppm) in order for the total of background plus man-made to equal the ambient standard of 0.08 ppm.

On the second request (that Appendix J to Part 51 be replaced), I also defer *decision* because work has been underway within EPA for some time to identify appropriate alternatives to Appendix J. The information submitted by API will be thoroughly evaluated.

Although I appreciate API's contribution and suggestions on these two matters, I do not interpret the law to allow these two requests to be considered a proper petition under "Oljato." Questions about the amount of reductions needed (on which § 51.14 has some bearing) must be raised in the context of a particular Part 52 state implementation

[2] The API petition is confusing in one significant respect. The second type of relief for which it asks is that a revised primary

plan approval, disapproval, or promulgation. This was done by some of API's member companies in "Texas v. EPA," 499 F.2d 289 (5th Cir. 1974) (where the court upheld EPA's methodology). Similarly, challenges to the amount of pollution reduction needed (on which Appendix J has some bearing) have been raised in Part 52 SIP proceedings, including the "Texas" case. I do not believe there would be any jurisdiction or standing to challenge Appendix J or other rollback techniques outside the context of a specific Part 52 requirement to which a member company would be subject. Therefore, I suggest that API's requests be amended to specify the Part 52 regulations they wish to challenge.

Of course, in many areas of the country all current hydrocarbon regulations would be needed even with drastic amendments to § 51.14 and Appendix J because EPA has not yet promulgated regulations sufficient to attain the oxidant standards. See *e.g.*, Part 52 generally and 41 FR 45565 (October 15, 1976).

III. RECORD

For those matters on which I have defered decision, it is not yet appropriate to define the record. The record of my final action will include the information developed by EPA through its own studies and the public rulemaking process. To the extent that this response denies the relief which API has sought, the record of my decision on API's petition is the petition itself, along with the eleven volumes of supporting information, the FEDERAL REGISTER notices of February 15, 1977 (42 F.R. 2202), and April 20, 1977 (42 F.R. 20493) and all the correspondence between API or its counsel and EPA officials between December 9, 1976 and June 13, 1977.

IV. CONCLUSION

It is important to stress that reevaluation of existing data provides no ground for delaying implementation of, and compliance with, regulations to control hydrocarbons. There is as much likelihood that the reevaluation could lead to more stringent or the same ambient standards as that it could lead to more lenient ones. Nothing in the legislative history of the Clean Air Act or in a common sense analysis of the goals of pollution control suggests that emitters of pollutants should achieve delays simply because the government exercises its continuing responsibility of updating the data upon which standards are based.

I am confident that the level of effort and the time EPA is devoting to the review of the criteria and, if appropriate, the standards for photochemical oxidants will prove to be in the interest of all members of the public.

Dated: July 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-23113 Filed 8-10-77;8:45 am]

[FRL 775-8]

JOINT CALIFORNIA-NEVADA MARINE SANITATION DEVICE STANDARD

Receipt of Petition

Notice is hereby given that a petition has been received jointly from the States of California and Nevada requesting a determination by the Administrator, Environmental Protection Agency, pursuant to Section 312(f)(3) of Pub. L. 92-500, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Lake Tahoe, which forms a part of each State.

The State of California certifies that four pumpout facilities are available to service vessels in the California waters of Lake Tahoe. These are the Tahoe Boatworks, in Tahoe City, which serves approximately 50 boats per summer, and takes four to five minutes to pump out sewage from the average boat; Sunnyside Resort, in Tahoe City, which serves approximately 60 boats per summer, and takes five minutes to pump out the average boat; Obexer's Resort, in Homewood, which serves 8 to 10 boats per summer and takes two to three minutes to pump out the average boat; and the Tahoe Keys Marina, in South Lake Tahoe, which serves 30 to 40 boats per summer, and takes five minutes to pump out the average boat. The first three pumpout facilities discharge their wastes to the municipal sewerage system of the Tahoe City Public Utility District; the last facility discharges its wastes to the municipal sewerage system of the South Lake Tahoe Public Utility District.

The State of California certifies that sewage from both the Tahoe City and South Lake Tahoe Public Utility Districts receive the equivalent of at least secondary treatment. The petition states that both Tahoe Boatworks and Sunnyside Resort are open from 8 a.m. to 5 p.m. during the summer, and various hours during the winter; Obexer's Resort and Tahoe Keys Marina are open from 8 a.m. to 6 p.m. during the summer, and closed during the winter. All of the listed marines can pump sewage from the largest recreational vessel that can be launched on Lake Tahoe at a public facility.

The State of Nevada certifies that one sewage pumpout facility is available to service vessels on the Nevada side of Lake Tahoe. This is a State owned and operated facility at Sand Harbor that is available for use 24 hours a day, 365 days a year. The petition states that there has been no overcrowding at the Sand Harbor facility and that pumpout time varies between one and ten minutes. The pumpout facility is located immediately adjacent to the boat launching and recovery ramp and, during maximum lake elevation, the deepest draft vessels operating on Lake Tahoe can use the pumpout facility.

The State of Nevada further certifies that sewage collected at Sand Harbor is discharged into a 1500-gallon holding tank; the wastes from the holding tank are transported by truck to an approved sanitary landfill in Carson City.

Comments and views regarding this request for action may be filed on or before September 26, 1977. Such communications, or requests for a copy of the applicants' petition, should be addressed to the Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, OWHM, Room 2824, Waterside Mall, Washington, D.C. 20460.

Dated: August 1, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc 77-23114 Filed 8-10-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-376]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

AUGUST 8, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Correction Report No. I-372 dated August 1, 1977 should have been assigned No. I-374.

Report No. I-370 dated July 25, 1977 557-DSE-P-77. The State Board of Regents of Florida, a public corporation of the State of Florida acting for and in behalf of the University of South Florida, Tampa, Florida the coordinates should have read Lat. 28°03'42" N. Long. 82°24'43" W.

Report No. I-370 dated 7-25-77 RCA AMERICAN COMMUNICATIONS, INC Johnson, Texas. A clarification of the proposed frequency band is in order and 5925 6029 MHz emission 36000F9, 15000F9 and 5000F9. 6121-2137 MHz. 16000F9Y, 300F9Y and 200F9Y. 6168-6375 Mhz. 200F9Y, 100F9Y, 100F9Y, 60F9Y, 60F9Y, 1000F9Y & 300F9Y.

278-CSGR-77 Communications Satellite Corporation (KA25), Paumalu, HI Renewal of license for this fixed earth station to: 8-30-80.

279-CSG R-77 Communications Satellite Corporation (WA22), Andover, ME Renewal of license for this fixed earth station to: 8-30-80.

591-DSE-ML-77 Teleprompter Corporation, (KB72), El Paso, TX. Modification of license to delete Paragraph 6.D of the license to permit the licensee to provide programming on a cost-sharing basis with the Franklin Cablevision Corporation.

SATELLITE COMMUNICATION SERVICES

588-DSE-P L-77 Columbus TV Cable Corporation, Columbus, MS. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°33'02" Long. 88°20'00". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

589-DSE-P/L-77 Telecable Associates, Inc., New Iberia, LA. For authority to construct,

own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°01'50" Long. 91°48'48". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

590–DSE–P–77 Cablevision, Inc., Ludington, MI. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°58'54" Long. 86°27'18". Rec. freq: 3700–4200 MHz. Emission None listed. With a 5 meter antenna.

[FR Doc.77-23192 Filed 8-10-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 6 Through June 10, 1977

Notice is hereby given that during the week of June 6 through June 10, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

American Can Co.; Washington, D.C.; FEX–0162; Reporting Requirements

The American Can Company (ACC) filed an Appeal from an FEA Notice published in the FEDERAL REGISTER on December 16, 1976 (FR 54977) which identified ACC, a corporation that consumed at least 1 trillion BTUs of energy in manufacturing chemical and allied products (SIC Code 28) during 1975, as being among the 50 most energy-consumptive firms in that industry. As a result of that Notice, ACC is required to participate in a reporting program under the provisions of Section 375 of the Energy Policy and Conservation Act (EPCA). In considering the Appeal, the FEA found that ACC had included in the figure for total energy consumption in SIC Code 28 during 1975 which it reported to the FEA, the total amount of energy consumed by the Chemplex Company (Chemplex), a joint venture which it operates in conjunction with Getty Oil Company. Since the FEA Office of Conservation had not made a specific determination as to whether ACC should properly include Chemplex's energy consumption in its 1975 energy consumption figure, the matter was remanded to that Office for a formal determination of that issue. ACC's Appeal proceeding was held open pending the determination by the Office of Conservation.

B&D Oil Co., Inc., Iron Range Propane Co., Inc.; Hibbing, Minn.; FRA–1091; Propane

B&D Oil Company, Inc. (B&D) and Iron Range Propane Company, Inc. (Iron Range) appealed from a Remedial Order which the Regional Administrator of FEA Region V issued to them on December 1, 1976. The Remedial Order found that the sole owner of B&D and the sole owner of Iron Range were married on December 27, 1974 and that as a result B&D and Iron Range have constituted a single firm since that date. The Remedial Order was therefore issued to the two companies on a joint basis. The FEA also found that during the period November 1, 1973 through December 26, 1974 B&D sold propane to Honeywell, Inc. (Honeywell) and Iron Range at prices which exceeded maximum lawful levels. Accordingly, B&D was directed to refund the excess revenues which it had received and further directed that Iron Range pass through its portion of the refunds to its customers. In considering the B&D and Iron Range Appeal, the FEA determined that the Remedial Order did not hold Iron Range liable for any part of the overcharges levied by B&D but merely required Iron Range to pass through any refunds received from B&D. The FEA found that the definition of the term "firm" set forth at 10 CFR 212.31 permits the FEA to elect to treat B&D and Iron Range as a single firm since the date of the marriage of their respective owners. Accordingly, the claim that the Order was erroneously issued to both firms was rejected. The FEA also rejected B&D's contention that its sales of propane to Honeywell and Iron Range represented the "first sale" of a product into U.S. commerce and were exempt from price controls under the provisions of 10 CFR 212.53(b). The FEA determined that the "first sale into U.S. commerce" occurred when B&D purchased propane in Canada for importation into the U.S. and that B&D's subsequent resales of the propane in the U.S. were therefore subject to the Price Regulations. In considering B&D's claim that the Remedial Order failed to recognize that its sales to Honeywell were unusual and made on an emergency basis which entailed extraordinarily high costs for B&D, the FEA noted that the price regulations applicable to resellers and retailers did not contain any provision for "emergency" sales or for extraordinary expenses which a seller might incur in connection with a particular sale. This claim was therefore rejected. Finally, the FEA determined that during the course of the compliance proceeding which led to the issuance of the Remedial Order B&D had been furnished with sufficient information regarding the FEA's computation of the overcharges to enable the firm to formulate a meaningful response on Appeal to the charges on which the Remedial Order was based. On the basis of the foregoing considerations, the FEA denied the B&D and Iron Range Appeal.

Beacon Oil Co.; Hanford, Calif.; FXA 1073, Crude Oil

Beacon Oil Company (Beacon) filed an Appeal from a Decision and Order issued to the firm on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision, the FEA determined on the basis of the financial and operating data which Beacon submitted that the firm had received an excess measure of exception relief from its obligations under the Entitlements Program in 1975. Accordingly, Beacon was required to purchase entitlements valued at $2,071,628 during the period November 1976 through October 1977 in order to offset the excess benefits which the firm had received. The Appeal, if granted, would have resulted in the rescission of the November 5 Decision. In considering the Beacon Appeal, the FEA rejected the firm's contention that the November 5 Order should be stayed until the effect of FEA Price audits on the firm's profitability during 1975 could be ascertained. The FEA also determined that it would be inappropriate to reduce Beacon's entitlement obligation to reflect the reduction in its 1975 profitability which the firm claimed it would experience as a result of a requirement that it purchase additional entitlements to account for previous reporting errors. In its Appeal, Beacon also contended that certain adjustments should be made to its financial statements which are used to calculate the firm's historical profit margain for purposes of determining whether to grant the firm exception relief from its obligations under the Entitlements Program. In considering this claim, the FEA pointed out that almost any firm could claim that certain items on its financial statements were unusual and unrepresentative of its normal operations. Since Beacon had failed to show that it satisfied the criteria specified in previous Decisions for making adjustments to financial statements, this portion of Beacon's Appeal was denied. The FEA also rejected Beacon's claim that the Office of Exceptions and Appeals had failed to protect its rights to due process of law during the course of the Appeal proceeding. Finally, Beacon claimed that in order to provide the firm with the full six month exemption from entitlements purchases afforded by Special Rule No. 6, the firm's operating results for the months of October through December 1975 should be excluded from the FEA's review of the exception relief granted to Beacon during 1975. In rejecting this argument with respect to the months of October and November, the FEA pointed out that Beacon and other small refiners were exempt from purchase requirements which would have otherwise been specified in Entitlement Notices for the six month period from December 1975 through May 1976. The FEA therefore concluded that Beacon and the other small refiners did in fact receive the benefits intended under Special Rule No. 6 during that period of time. The FEA found, however, that Beacon's argument had considerable merit with regard to the month of December 1975, and therefore excluded the firm's operating results for that month from its review of the exception relief granted to the firm in 1975. The exclusion of the December 1975 operating results resulted in a reduction in the entitlements purchase obligation specified in the November 5 Decision by $380,062. The Beacon Appeal was denied in all other respects.

EDG, Inc. appealed from a Decision and Order which the FEA issued to it on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision, the FEA determined on the basis of the financial and operating data which EDG submitted that the firm had received an excess measure of exception relief from its obligations under the Entitlements Program in 1975. The November 5 Order accordingly requires EDG to purchase entitlements valued at $1,029,340 during the period November 1976 through October 1977 in order to offset the excess benefits which the firm had received. EDG's present Appeal, if granted, would have resulted in the rescission of the November 5 Decision. In considering the EDG Appeal, the FEA rejected the firm's contention that the exceptions criteria which the FEA enunciated in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975), and later applied in the November 5 Decision issued to EDG, were adopted in a manner that violates the provisions of the Administrative Procedure Act. The FEA also rejected the firm's argument that the FEA improperly included the operating results attained by EDG during the month of January 1975 and that portion of February 1975 in which EDG was exempt from purchasing entitlements under the provisions of Special Rule No. 3. The FEA did not find any merit in EDG's contention that the inclusion of its operating results for that period of 1975 when the firm was exempt from purchasing entitlements under Special Rule No. 3 constitutes an attempt to recapture benefits which EDG is entitled to retain. The FEA also rejected EDG's contention that the agency improperly included the operating results which the firm realized during the period October through Decemebr 1975 in its review of the exception relief received by EDG during 1975. It was noted that EDG and other small refiners were exempt under the provisions of Special Rule No. 6 from purchasing entitlements which would have been specified in Entitlement Notices issued during the months of December 1975 through May 1976. The FEA therefore concluded that EDG did in fact receive the benefits to which it was entitled under the provisions of Special Rule No. 6. EDG also contended that its operating results for the month of December 1975 should have been excluded from the FEA's review of the exception relief granted to the firm during 1975. It was determined by the FEA that exclusion of those operating results would increase the amount of excess exception relief realized by EDG during 1975. Consequently, the FEA concluded that it was appropriate to include EDG's operating results for December 1975 in reviewing the level of exception relief granted to the firm during 1975. Finally, the FEA rejected EDG's contention that even assuming that the firm had received $1,029,340 in excessive exception relief benefits during 1975, EDG should not be required to refund those benefits since it has sold its refining and marketing assets and is no longer a small refiner. The FEA pointed out that the purpose of the entitlements purchase obligations specified in the November 5 determination was not to impose a new entitlement obligation on EDG and other similarly situated firms, but rather, to require such firms to refund excessive benefits which they received in 1975 at the expense of other refiners through the exception process. The FEA concluded that EDG's sale of its refining and marketing operations does not relieve the firm of its entitlement purchase obligation as set forth in the November 5 Decision. Since EDG had failed to establish that the November 5 Decision was erroneous in fact or law or was arbitrary or capricious, its Appeal was accordingly denied.

MacKellar, Inc.; Oklahoma City, Okla.; FRA–1147; Crude Oil

MacKellar, Inc. appealed from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on December 30, 1976. In the Remedial Order, the FEA found that during December 1973, January 1974 and calendar year 1975, MacKellar sold the crude oil which it produced from its Traxler, Loveall and Stubbeman leases at prices which exceeded the ceiling price levels specified in 10 CFR 212.73. As a result, the FEA determined that MacKellar had overcharged the firms to which it sold crude oil by $38,603.43 and ordered restitution of that amount plus interest. In considering the MacKellar Appeal, the FEA initially determined that it had authority to issue remedial orders that require the recipient to reduce prices and refund revenues which it previously received in violation of the Mandatory Petroleum Price Regulations. The FEA also determined that under applicable statutory provisions it may properly distinguish between wells which produce crude oil and wells which produce only natural gas and natural gas condensates for purposes of applying the stripper well property exemption. Finally, the FEA determined that there may be some merit to MacKellar's claim that the wells on the Loveall and Stubbeman leases produce crude oil consisting of a mixture of hydrocarbons which existed in liquid phase in the reservoir. If this were true, and the properties otherwise qualified as stripper well properties, no overcharges as to these leases would have occurred during 1975. Since the Deputy Regional Administration did not appear to have considered this factual question, the FEA granted in part MacKellar's Appeal and remanded the December 30 Remedial Order for an additional factual finding regarding this issue. In all other respects, the MacKellar Appeal was denied. The provisions of the December 30 Remedial Order were stayed pending issuance of a revised Remedial Order.

Potlatch Corp.; San Francisco, Calif.; FFA–1317; Freedom of Information

The Potlatch Corporation appealed from a determination issued by the FEA Information Access Officer which denied in part a Request for Information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In his decision, the Information Access Officer withheld from disclosure one document entitled "Summary Evaluation of the Feasibility of Total Conversion to Coal Firing for the Clearwater Complex of the Potlatch Corporation" prepared by PEDCo Environmental, Inc. for the FEA (the PEDCo Report). The PEDCo Report was withheld on the grounds that it was exempt from mandatory public disclosure pursuant to Section 552(b)(7)(A) and Section 552(b)(5) of the Act. In considering Potlatch's Appeal, the FEA first determined that exemption 7(A) did not provide a basis for withholding the document from the firm. The FEA found that the PEDCo Report was not the type of investigatory record or file which would be protected by exemption 7(A) but was rather an informational report developed only to aid the FEA in determining the feasibility of requiring Potlatch to convert portions of its Clearwater Complex from the use of petroleum fuels to coal. The FEA also determined that the fifth exemption of the Act was properly applied to portions of the PEDCo Report which were not wholly factual and separable from the advisory portions of the Report. However, those portions of the Report which did not contain analyses or summaries utilized by the FEA to reach a final determination on this matter, and were instead wholly factual and thus not exempt from disclosure pursuant to Section 552(b)(5), were ordered to be released to Potlatch. In addition, the FEA found that it would be in the public interest to release the remainder of the Report presently withheld pursuant to the fifth exemption when the FEA has made a final determination as to the propriety of issuing a Notice of Intent to Potlatch concerning the conversion of the Clearwater Complex from natural gas to coal.

Propane Reserves, Inc.; Tulsa, Okla.; FRA–1186; Propane

Propane Reserves, Inc. (PRI) appealed from a Remedial Order in which the Deputy Regional Administrator of Region VI found that during the period October 1, 1973 through April 15, 1974 PRI had sold propane to certain customers at unlawful price levels. In considering PRI's Appeal, the FEA concluded that the Remedial Order correctly found that PRI had acquired a Kansas firm of the same name. The FEA determined in this respect that PRI had acquired an ongoing business and that PRI was therefore subject to the provisions of 6 CFR 150.361(c)(1) and 10 CFR 212.111(c)(1) which govern the computation of base prices where a legal entity or component of a legal entity is acquired by another firm. The FEA further determined however that the Remedial Order had failed to make explicit findings of fact as to the date when the acquisition occurred and that such a finding was critical to a proper determination of the magnitude of any violation of the price regulations. The FEA noted that although the Remedial Order apparently assumed that the acquisition was effective in September 1973, certain evidence in the record indicated that it may not have been effective until the month of December 1973. Furthermore, the FEA determined that the Remedial Order was erroneous in concluding that a May 14, 1973 oral agreement between the Kansas firm and the Flame Propane Gas Company (Flame) for the sale of propane was not a base period "transaction" as that term is used in 10 CFR 212.93(a). The FEA noted that Ruling 1977-5, which discussed the application of the term "transaction" for purposes of computing weighted average May 15, 1973 prices, established a presumption that where there is no written contract a transaction occurs on the date the product is delivered but that this presumption may be rebutted by a showing that a binding contract existed under applicable state law prior to the time of delivery. The FEA concluded that PRI had demonstrated that an oral agreement between the Kansas firm and Flame did in fact exist on May 14, 1973 and that under applicable state law the agreement did constitute a binding contract. Consequently, the FEA determined that contrary to the conclusion reached in the Remedial Order, the agreement represented a base period "transaction." On the basis of the foregoing considerations, the FEA determined that the Remedial Order was defective in failing to make findings of fact as to when PRI acquired the Kansas firm and in failing to determine that the May 14, 1973 oral agreement was a base period transaction. The Remedial Order was therefore rescinded.

Joe E. Sharber; Wewoka, Okla. FXA 1229, Crude oil

Joe E. Sharber appealed from a Decision and Order which the FEA issued to him on January 13, 1977. Joe E. Sharber, 5 FEA Par. 83,043 (January 13, 1977). In that determination the FEA approved exception relief which permitted Sharber on a prospective basis to sell 46.5 percent of the crude oil which he produces and sells from the Rodden No. 1 Well at upper tier ceiling prices. In his Appeal, Sharber contended that the FEA erred in refusing to approve his request for retroactive exception relief. In considering the Appeal, the FEA rejected Sharber's contention that it was unreasonable to require him to comply with the provisions of Ruling 1976-12. That Ruling sets forth the criteria that must be met for a well to be regarded as a multiple completion well for purposes of determining whether a property qualifies as a stripper well property. The FEA noted that contrary to Sharber's assertion he was not required to comply with the Ruling, nor did the Ruling impose any burden on Sharber. The FEA also reaffirmed the finding made in the prior determination that even if Sharber had sold the crude oil which he produced from the Lease during the period January 1974 through June 1976 in accordance with the applicable FEA price regulations, Sharber would still have realized a net operating profit. Therefore, the FEA concluded that Sharber had failed to demonstrate that he will incur an irreparable injury unless retroactive exception relief is granted. Finally, the FEA found that no additional prospective exception relief would be appropriate at the present time to account for an increase in Sharber's operating expenses since he had failed to demonstrate that the increase was substantial. Nevertheless, the FEA found that since the upper tier ceiling price had been reduced by 45 cents per barrel on March 1, 1977, that action ef-

fectively negated a portion of the exception relief which had been approved in the January 13 determination. Therefore, the FEA adjusted the exception relief which had been approved in order to account for this in the ceiling price. In all other respects, Sharber's Appeal was denied.

Texaco, Inc.; New York, N.Y.; FFA-1316; Freedom of Information

Texaco, Inc. appealed from an Order issued to it by the FEA Information Access Officer denying in part a Request for Information which Texaco had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In its Appeal, Texaco contended that it was erroneous for the Information Access Officer to have withheld certain documents which the FEA had in its possession concerning the National Oil Recovery Corporation (NORCO I). In support of its position, Texaco alleged that since NORCO I sold all of its assets to Joc Oil Company, NORCO I could not experience any competitive injury if the documents which were withheld pursuant to Section 552(b)(4) are released. In considering the Appeal, the FEA noted that Joc Oil had transferred all of the NORCO I assets to a new Delaware corporation which had the same name, National Oil Recovery Corporation (NORCO II), which was organized for the purpose of engaging in the same business operation as NORCO I. Consequently, NORCO II could experience significant injury in a competitive sense if confidential material pertaining to NORCO I were released. The FEA therefore concluded that any confidential material which NORCO I submitted to the FEA does not lose that designation merely because the owners of NORCO II are different from those of NORCO I. With respect to the specific documents which were withheld by the Information Access Officer, the FEA found that five of the documents which were withheld pursuant to exemption 4 of the Act should have been released to Texaco since they contained no confidential commercial information which could injure the competitive position of NORCO II. The FEA also determined that the remainder of the documents which the Information Access Officer withheld under Section 552(b)(4) contain confidential information regarding the NORCO II refining facilities and were therefore properly withheld from public disclosure. The FEA further determined that a predecisional report prepared by an FEA staff analyst concerning the NORCO refining facilities was properly withheld pursuant to both exemptions 4 and 5. Finally, the FEA found that a portion of the Compliance Case Checklist was properly withheld since it does not contain final agency opinions which explain an agency action, but contains opinions which are merely recommendatory in nature, and therefore fall within the scope of exemption 5. Texaco's Appeal was therefore granted in part.

PETITION FOR SPECIAL REDRESS

Leonard E. Belcher, Inc.; Alexandria, Va.; FSG-0044; FES-0095; No. 2 fuel oil

Leonard E. Belcher, Inc. (Belcher) filed a Petition for Special Redress requesting that the FEA Office of Private Grievances and Redress direct the FEA Regional Office in Boston, Massachusetts (Region I) to grant Belcher the authority to issue subpoenas in connection with the preparation of its defense to a pending FEA enforcement proceeding. Belcher also submitted an Application for Stay in which it requested that further enforcement proceedings against it by FEA Region I be stayed pending a final determination on its Petition. In considering the firm's submissions, the FEA determined that the FEA Regulations do not permit the agency to authorize the issuance of subpoenas directly by a party to an agency proceeding. The FEA also found that the FEA Regulations do not require that the agency issue a formal order in response to a request that it issue subpoenas in a particular proceeding. The FEA determined that Belcher's right to due process of law in the present case was adequately protected since the firm has available to it at later stages of the enforcement proceeding ample safe guards against arbitrary or capricious action by the FEA Regional Office. The FEA therefore denied both the Belcher Petition for Special Redress and the Application for Stay.

REQUESTS FOR EXCEPTION

Bright & Schiff; Dallas, Tex.; FEE-4091; Crude oil

Bright & Schiff (B&S) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would have permitted the firm to sell the crude oil produced from its O.S. Petty No. 1 Well at prices exceeding the lower tier ceiling prices specified in 10 CFR 212.73. According to the B&S submission, in the absence of exception relief the firm would not have sufficient economic incentive to undertake capital investment projects which were incentive to undertake capital investment projects which were necessary to recommence its crude oil production operations at the Well. In considering the B&S Application, the FEA determined that a substantial amount of crude oil could be recovered from the O.S. Petty No. 1 Well if the investments necessary to resume crude oil extraction operations were made. The FEA also determined that under currently applicable FEA regulations the firm would realize a negative rate of return on the necessary capital investments so that no apparent economic incentive to resume production activities existed. On the basis of previous precedents, the FEA concluded that exception relief should be granted to provide B&S with a sufficient economic incentive to make the necessary investments while at the same time avoiding the possibility that windfall profits would be obtained as a result of the approval of exception relief. Exception relief was therefore approved to Bright & Schiff for the three year period July 1, 1977 through June 30, 1980 which permitted the firm to sell at upper tier ceiling prices a certain amount of crude oil produced from the O.S. Petty No. 1 Well.

City of Long Beach, Calif.; Long Beach, Calif.; FXE-4075; Crude oil

The City of Long Beach, California (Long Beach) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would have resulted in the extension of the exception relief previously granted and would have permitted Long Beach to continue to sell portions of the crude oil produced from Fault Block Unit 2 (Unit 2) in the Wilmington Field at upper tier ceiling prices. In considering the exception application, the FEA determined that Unit 2 was continuing the lower tier ceiling price. Consequently, the FEA found that the working interest owners lacked an economic incentive to maintain crude oil production from the Unit at the current lower tier ceiling price. In view of this determination and on the basis of the operating data which Long Beach had submitted for the most recently completed fiscal period, the FEA concluded that exception relief should be extended to Long Beach which would permit it to sell 24.6154 percent of the crude oil produced from Unit 2 for the benefit of the working interest owners at upper tier ceiling prices.

Limpp Oil Co.; Marshall, Mo.; FEE-3897; Motor gasoline

Limpp Oil Company (Limpp) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would have resulted in the issuance of orders by the FEA assigning Limpp a new lower-priced supplier of motor gasoline to replace two of its base period suppliers. In considering the exception request, the FEA determined that the weighted average price which Limpp pays for motor gasoline from its base period suppliers is well within the range of prices charged by other suppliers in the Limpp marketing area. In view of this consideration, the FEA concluded that any financial difficulties which Limpp is experiencing do not result from the high price of motor gasoline charged by the firm's base period suppliers. Limpp's exception request was therefore denied.

Phillips Petroleum Co.; Bartlesville, Okla.; FEE-3668; Crude oil

Phillips Petroluem Company (Phillips) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Hopkins "A" Lease (the Hopkins Lease) at upper tier ceiling prices. In considering the exception request, the FEA determined that the costs of producing crude oil from the Hopkins Lease have increased significantly since 1973, and, as a result of these increased costs, Phillips' production costs now exceed the prices which the firm is permitted to charge for the crude oil which it sells. Consequently, the FEA concluded that Phillips does not have an economic incentive to continue to operate the Hopkins Lease. The FEA also found that there would be little possibility that the recoverable crude oil from the Lease's reservoir would be produced by a firm in the absence of exception relief. On the basis of precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Phillips. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period, Phillips was granted exception relief which permits the firm to sell at upper tier ceiling prices 26.63 percent of the crude oil produced and sold for the benefit of the working interest owners from the Hopkins Lease.

Pryor Interprises, Inc.; Griffin, Ga.; FEE-4074; Motor gasoline

Pryor Interprises, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result on the issuance of an order assigning the firm a new, lower-priced supplier of motor gasoline to replace the firm's present base period suppliers of that product. In considering Pryor's request, the FEA found that the firm was unable to buy motor gasoline at a price comparable to prices paid by its competitors either from its base period suppliers or on the surplus market. The FEA also found that Pryor had been unable to earn any appreciable profits during the last few years, but that in view of the firm's relatively consistent financial results over that period, it had not demonstrated that its current financial difficulties were primarily caused by its present cost disadvantage. However, it was determined that although Pryor was unable to demonstrate that the FEA regulatory requirements were the original cause of its financial problems, the firm did establish that the continued application to it of the regulations

constituted a present impediment to its efforts to preserve its financial and competitive viability. Furthermore, this data indicated that unless Pryor is assigned a lower-priced supplier, it will be unable to earn any substantial profits on contracts which it has been awarded under the Small Business Administration's Section 8(a) program, which were intended to assist the firm in becoming a viable independent marketer. Based on these factors the FEA concluded that exception relief was warranted and it was issued an order directing that Pryor be assigned a competitively-priced supplier of motor gasoline for the duration of the Section 8(a) contracts which it has been awarded.

Sunland Refining Corp.; Los Angeles, Calif.; FEE-3328; Crude oil

Sunland Refining Corporation (Sunland) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). Sunland's request, if granted, would result in certain adjustments being made to the firm's historical profitability which is used by the FEA in determining the appropriate level of exception relief to grant from its purchase obligations under the Entitlements Program. In addition, the FEA would use this revised historical profitability in its review of the amount of entitlement exception relief granted to Sunland during its fiscal year ended December 31, 1976. Sunland contended that as a result of a number of significant changes in its operations which were implemented subsequent to 1974, the firm's present operations bear little resemblance to those which the firm conducted during the 1968 through 1974 historical period used by the FEA to evaluate applications for exception from the Entitlements Program. Sunland further contended that it is presently experiencing a serious financial hardship and must rely on financial institutions to provide necessary working capital funds. In considering Sunland's request, the FEA noted that subsequent to the filing of Sunland's present Application for Exception the firm entered into a new contract for the purchase of crude oil which altered the firm's projected status under the Entitlements Program for its entire 1977 fiscal year from that of a net purchaser of entitlements to that of a net seller. As a result, the FEA determined that Sunland would be a net beneficiary of the Entitlements Program during its 1977 fiscal year and therefore would not be eligible to receive an exception from its obligations under the Entitlements Program in the foreseeable future. The FEA further determined that although Sunland had made a convincing showing that its current operations are substantially different from those which the firm conducted during the 1968 through 1974 historical period, the firm had failed to satisfy the standards set forth in Southland Oil Co., 5 FEA Par. 80,505 (December 21, 1976), under which retroactive entitlement exception relief is approved. Sunland's Application for Exception was accordingly denied.

Texaco, Inc., New York, N.Y.; FEE-4262; FES-4262; Coal conversion

Texaco, Inc. (Texaco) filed an Application for Exception which, if granted, would extent the period of time within which the firm could submit comments with respect to a Notice of Intent (NOI) which had been issued to the firm by the FEA pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). Texaco also requested that the closing of the agency record with respect to the submission of written comments concerning the NOI be stayed pending a determination of its Application for Exception. In its exception application, Texaco contended that unless it was allowed additional time to analyze the information related to the NOI and to have the results of its analysis considered as part of the record, it would be denied its right of effective participation in the NOI proceeding. Texaco therefore requested that the period of time within which it could submit comments regarding the NOI be extended from June 14, 1977 to June 24, 1977. In considering Texaco's exception application, the FEA noted that it had considered and ultimately rejected a similar contention in a recent Decision and Order, New England Power Co.; Montaub Electric Co., 5 FEA Par. 83,167 (May 26, 1977), and that the determination reached in that case was equally applicable to Texaco's request for exception relief. The FEA further noted that none of the arguments advanced by Texaco distinguished its Application for Exception from those which had been submitted by the New England Power Company and the Montaub Electric Company. Accordingly, Texaco's Application for Exception was denied and its Application for Stay was dismissed.

REQUEST FOR MODIFICATION OR RESCISSION

Consumer Federation of America; Washington, D.C.; FMR-0106; Middle distillates

The Consumer Federation of America (CFA) filed a request for modification of a Decision and Order which the FEA issued to it on May 6, 1977. Consumer Federation of America, 5 FEA Par. 87,040 (May 6, 1977). In the previous Order, the FEA granted in part a Petition for Special Redress which the CFA had submitted and directed that financial assistance be provided to the CFA to ensure that it would be able to participate in a rulemaking proceeding which the FEA had proposed to consider whether allocation and price controls should be reimposed on middle distillates. However, the May 6 Order limited the total reimbursement which the FEA provided to cover the CFA's direct out of pocket expenses to $6,000, and provided that the CFA could submit a further Petition for reimbursement for legal services which it incurred following the conclusion of the proposed rulemaking proceeding. In its submission, the CFA requested that the FEA substantially increase the total amount of financial reimbursement provided to the organization. In considering the CFA's submission, the FEA determined that the additional financial material which the CFA provided confirmed that the CEA is unable to make a significant contribution of funds toward its proposed participation in the upcoming rulemaking proceeding. The FEA therefore directed that the CFA should be reimbursed for all expenses which it incurs in retaining economic and financial experts, as well as for all directs out of pocket expenses which it incurs. The FEA limited the total amount of financial reimbursement to $11,100, which was the amount which the CFA requested for these expenses in its initial Petition. However, the FEA rejected the CFA's request that its attorneys be reimbursed immediately rather than at the conclusion of the rulemaking proceeding. It found that the CFA had failed to justify a departure from the FEA's prior decisions regarding attorney's fees.

REQUESTS FOR STAY

Lake Region Gas Co.; Benton, Ky.; FES 1335; Propane

Lake Region Gas Company (Lake Region) filed an Application for Stay of a Remedial Order which the Regional Administrator of FEA Region IV issued to the firm on April 21, 1977. In the Remedial Order, Region IV determined that Lake Region sold propane at prices which exceeded the maximum levels permitted under the provisions of 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order therefore directed Lake Region to immediately refund the amount of the overcharges, plus interest. Lake Region requested that the provisions of the Remedial Order which required it to make immediate refund of the overcharges be stayed pending a determination on a Appeal which the firm has filed with the National Office and an Application for Exception which the firm has filed with FEA Region IV. In considering the request for stay, the FEA determined that Lake Region had raised substantial issues in its various submissions to the agency. In addition, the FEA determined that Lake Region had made a strong showing that if it is required to make the refunds, the firm could experience substantial difficulty in recovering the funds in the event that it prevails on the merits of its Appeal or exception application. The FEA therefore held that Lake Region had satisfied the criteria set forth in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976) for the approval of a stay from the refund requirements specified in a Remedial Order. Furthermore, the FEA determined that, in view of the undue administrative delay on the part of the FEA Region IV in reaching a determination on Lake Region's exception application, it would be inappropriate to require the firm to place the disputed funds into an escrow account.

Mullins and Prichard, New Orleans, La.; FRS-1542; Crude oil

Mullins and Prichard (Mullins) requested that the provisions of a Remedial Order which the FEA issued to the firm on May 9, 1977 be stayed pending a final determination of its Appeal. In the Remedial Order the FEA found that Mullins had received excessive payments for crude oil which it produced and sold during the period May 1974 through June 1975. On the basis of this finding, the Remedial Order directed Mullins to refund the full amount of the overcharges plus interest within one year. In considering the request for stay, the FEA concluded that Mullins had demonstrated that it would experience an irreparable injury in the event that it is required to make refunds to the purchasers of the crude oil, since those firms would pass on the refunds to their own customers and Mullins could experience substantial difficulty in recovering the funds in the event that it prevails on Appeal. Furthermore, the FEA found that Mullins had raised substantial issues which must be considered in making a determination on the merits of the firm's Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Mullins place the total amount of the refunds specified in the Remedial Order into an escrow account.

SUPPLEMENTAL ORDER

Gary Western Co., Englewood, Colo.; FEX-0163; Petroleum products

On April 25, 1977 the FEA issued a Decision and Order to Gary Western Company (Gary) which stayed Gary's obligation to comply with the provisions of 10 CFR 212.83 (c)(2)(iii)(E) pending a determination on an Application for Exception which Gary filed on April 15, 1977. Gary Western Co., 5 FEA Par. 85,056 (April 25, 1977). The Stay permitted Gary to compute its increased non-

product costs in the manner specified by the FEA Price Regulations as they existed prior to March 1, 1977. On June 8, 1977 Gary informed the FEA that the impact of the regulatory provisions involved would be less severe than Gary had anticipated when it filed its Applications for Exception and Stay and therefore withdrew its Application for Exception. Accordingly, the FEA concluded that the Stay was no longer necessary and should be vacated.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Gary Western Co.; Englewood, Colo.; FEE-4023

Mountain Fuel Supply Co.; Salt Lake City, Utah; FEE-3908

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Justiss-Mears Oil Co.; Jena, La.; FEE-4097

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Kentucky Oil and Refining Co., Inc.; Betsy Lane, Ky.; FEE-4082

The following submissions were dismissed following a determination by FEA that the relief requested was no longer necessary:

Little America Refining Co.; Washington, D.C.; FEE-3999

Powerine Oil Co.; Los Angeles, Calif.; FST-0043

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

AUGUST 3, 1977.

[FR Doc.77-22847 Filed 8-10-77;8:45 am]

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gal.
Austral Oil Co..	FEE-4026	South Thornwell..	0.0549
	FEE-4027	TSMA..	.0180
Cities Service Co	FEE-4031	Adair..	.0133
	FEE-4032	Calumet..	.0076
	FEE-4033	Cheney	.0072
	FEE-4034	Monerief..	.0290
	FEE-4035	Selling..	.0099
Delta Drilling Co	FEE-4000	Edcxas	.0188
Eakay Corp	FEE-4008	East Texas	.0187
Southern Natural Resources, Inc	FEE-4073	Sea Robin	.0180
Standard Oil Co. (Indiana)..	FEE-4079	Kalkaska	.00893
Texaco, Inc	FEE-4051	Headlee Gas	.0115
	FEE-4052	Headlee Cycling	.0324
	FEE-4053	Houma	.0104
	FEE-4054	Krotz Springs	.0213
	FEE-4055	Toca	.0095
	FEE-4063	Delhi	.0135

McALESTER FUEL CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between McAlester Fuel Co. (McAlester) and the FEA on July 20, 1977. In accordance with that section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

McAlester, located in McAlester, Okla., is a firm engaged in the production and sale of crude oil and, therefore, subject to FEA regulations.

As a result of an audit conducted by FEA of McAlester's pricing practices for the period September 1, 1973 through December 31, 1976, FEA advised McAlester that McAlester had apparently charged several of its purchasers of crude oil prices in excess of those permitted under Cost of Living Council price rule in 6 C.F.R. § 150.354 and the FEA price rule in 10 C.F.R. § 212.73. FEA contended that those overcharges were the result of (1) McAlester's errors in computing the base production control level for several properties which were either unitized or deunitized during 1972, (2) McAlester's inclusion of abandoned wells as full producing wells when computing its average daily production for purposes of the stripper well lease exemption, and (3) McAlester's mathematical errors when computing the base production control level for several properties.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and McAlester entered into a Consent Order, the significant terms of which are:

(1) McAlester shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful prices together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $8,265,940.57. Refunds shall be made in the form of price reductions on sales of crude oil.

(2) All refunds and interest payments will be made in accordance with the refund schedule annexed to the Consent Order. Refunds will be paid on a well by well basis and will extend over a one month to 36 months period of time.

(3) McAlester shall certify in writing to FEA the status of all refunds every three months until completion.

(4) McAlester agrees to determine, within thirty days after the effective date of the Consent Order, whether any further overcharges occurred at the leases in question due to the errors alleged by FEA to have occurred in this proceeding. McAlester will certify the result of the investigation to FEA and present to FEA for its approval a plan refunding any such further overcharges.

(5) McAlester shall calculate maximum lawful selling prices consistent with FEA's rules and regulations.

(6) The provisions of 10 CFR § 205.197, including the publication of this Notice, are applicable to the Consent Order.

(6) The provisions of 10 CFR § 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne E. Gifford, Deputy Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on McAlester Consent Order." All comments received by 4:30 p.m. CDT on the 30th calendar day following publication of this Notice in the FEDERAL REGISTER will be considered by the FEA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 C.F.R. § 205.9(f).

Issued in Washington, D.C. on this 8th day of August, 1977.

ERIC J. FYGI,
Acting General Counsel.

FEDERAL ENERGY ADMINISTRATION

REGION VI
Dallas, Tex.

FEDERAL ENERGY ADMINISTRATION, TITLE 10, CHAPTER II, PART 205

CONSENT ORDER

McAlester Fuel Company

This Consent Order, entered into pursuant to 10 CFR section 205.197, settles certain claims and disputes between the Federal Energy Administration (FEA) and McAlester Fuel Co. (McAlester), to the extent provided herein, with respect to errors committed by McAlester in applying FEA and Cost of Living Council (CLC) regulations to the first sale of domestic crude oil produced from certain leases and in selling such crude oil at prices higher than permitted under those regulations during the audit period of September 1, 1973 through December 31, 1976.

The terms and conditions of this Consent Order and the stipulated facts upon which it is based are contained in the following numbered paragraphs.

1. McAlester is a producer of crude oil as defined by 10 CFR section 212.31 and 6 CFR section 150.352. During its audit of McAlester, FEA preliminary determined that the firm incorrectly applied FEA and CLC price regulations to the first sale of domestic crude oil produced from certain properties due to incorrect calculations of the base production control level (BPCL) from each of these properties. A preliminary determination was also made that those incorrect calculations had resulted in overcharges totaling $8,265,940.57 due to sale of old crude oil at prices exceeding the ceiling prices provided by 10 CFR section 212.73 and 6 CFR section 150.353. FEA has preliminarily determined that the errors in computing BPCL were attributable to the following reasons:

A. McAlester computed the BPCL for the Jim Coulee Unit, a property unitized effective July 1, 1972, based upon production during the July-December 1972 post-unitization period and disregarded production from the component properties of that unit for the January-June 1972 preunitization period. In addition, McAlester computed the BPCLs for the deunitized properties of the Village Travis Peak "C" San Unit, viz., the E. D. Harris "C" property, the Threadgill property and the D. E. Rogers "A" property, based upon production from each property during the August-September 1972 post-unitization period and disregarded production from the unit for the January-July 1972 period of unitization. FEA's preliminary determination is that those errors in computing BPCLs resulted in overcharges totaling $8,206,614.13 due to sales of old crude oil at new and released crude oil prices. A schedule of those leases, purchasers of lease production, dates and amounts of overcharges is annexed to this Consent Order as Exhibit 1.

B. McAlester sold crude oil produced from various leases as though produced from stripper well leases despite the average daily production from such leases being in excess of the limits set in 10 CFR section 210.32. FEA's investigation disclosed that McAlester had miscalculated the average daily production by counting abandoned wells as full producing wells although CLC and FEA regulations, as discussed in FEA Ruling 1975-12, prohibit such conduct. FEA's preliminary determination is that such miscalculation resulted in overcharges totaling $49,425.08 due to the sale of old crude oil at stripper well crude prices without regard to the ceiling price and in violation of 10 CFR section 212.73 and 6 CFR section 150.353. A schedule of those leases, purchasers of the lease production, dates and amounts of overcharge is annexed to this Consent Order as Exhibit 2.

C. McAlester apparently miscalculated the BPCL for various properties due to mathematical errors and as a result sold old crude oil at new and released crude oil prices. In the case of the Kennedy Estate "A" property, McAlester apparently disregarded the cumulative deficiency for that property when determining new oil production and as a result sold old crude oil at new and released crude oil prices. FEA's preliminary determination is that the above errors resulted in overcharges totaling $9,901.36. A schedule of those leases, purchasers of the lease production, dates and amounts of overcharges is annexed to this Consent Order as Exhibit 3.

2. McAlester agrees to make price reductions totaling $8,265,940.57 plus interest to those purchasers of crude oil from the leases and in the amounts shown in Exhibit 4 annexed to this Consent Order. The refund period for each lease overcharge shall be as detailed in Exhibit 4. Within 30 days of the effective date of this Consent Order, McAlester must reduce the price of crude oil sold from any property in violation to a price below the maximum allowable price for that oil. The price reductions must be great enough to have completed restitution, with interest, within the time period indicated on Exhibit 4. The "maximum allowable price" referred to above is to be construed as the appropriate ceiling price computed under FEA regulations or, if applicable, the prevailing stripper exempt price for crude oil in the field in which the property is located. Simple interest on the overcharges shall be calculated at the rate of six (6) percent per annum on all amounts outstanding prior to July 1, 1975, at the rate of nine (9) percent per annum on all amounts outstanding from July 1, 1975 through January 31, 1976, and at the rate of seven (7) percent per annum on all amounts outstanding after February 1, 1976.

3. McAlester shall supply each recipient of a price reduction with a written statement that identifies the refund as an act undertaken in compliance with this Consent Order. That statement shall advise the recipient that the refund represents a decrease in the purchaser's current month crude oil costs for purposes of FEA price regulations.

4. McAlester shall maintain separate records for all price reductions given pursuant to this Consent Order and shall make those records available to FEA for inspection upon FEA request.

5. McAlester shall certify in writing the status of all refunds and reductions to FEA every three months until completion, beginning three months after the effective date of this Consent Order. All such certifications shall be mailed to: Nick L. Kelly, Area Manager, Tulsa II Area Office, Federal Energy Administration, P.O. Box 45875, Tulsa, Okla. 74145.

6. McAlester agrees to determine within thirty (30) days after the effective date of this Consent Order whether any further overcharges occurred at the leases in question subsequent to the period covered in FEA's audit due to the misapplication of those FEA regulations identified in this Consent Order. McAlester will certify the result of that investigation to FEA at the address set forth in paragraph 5 of this Order and present to FEA for its approval a plan for refunding any such further overcharges. If and when such plan is approved in writing by the FEA, it will become a supplement to this Consent Order, subject to all terms and conditions stated herein, and may be put into effect, without further action on the part of McAlester or the FEA, as if initially a part of this Consent Order.

7. This Consent Order does not constitute an admission by McAlester or a finding by FEA that non-compliance with or violations of FEA rules and regulations have occurred.

8. McAlester hereby offers and FEA hereby accepts on behalf of the United States, the sum of $75,000 in compromise and settlement of all civil penalty claims of the United States which may arise against McAlester by reason of the alleged violations of FEA regulations settled in the terms of this Consent Order. Payment shall be made by certified check made payable to the Federal Energy Administration and shall be accepted subject to this Consent Order becoming final.

9. McAlester has been advised by the FEA of the correct method of determining prices for the sale of domestic crude oil under FEA regulations through its review with FEA personnel of FEA's worksheets relating to FEA's audit of McAlester and agrees to comply with those regulations in the manner described by such FEA representation.

10. In consideration of McAlester's agreement to the aforementioned terms and conditions of this Consent Order, and upon the satisfactory performance of the refunds specified herein, the FEA will consider McAlester to be in compliance with FEA regulations up to and including December 31, 1976 or such later date as may be established in any refund plan approved pursuant to paragraph 6 above.

11. FEA reserves the right to take further remedial action in this case if FEA determines that information upon which this Consent Order is based was erroneous or that the action of McAlester hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this Consent Order, or with applicable FEA rules and regulations.

12. This Consent Order shall be a final Order of the FEA having the same force and effect as a Remedial Order issued pursuant to 10 CFR section 205.192. In consideration of the FEA's agreement to the terms of this Consent Order, and in accordance with 10 CFR Section 205.197(b), McAlester hereby expressly waives its rights to appeal or obtain judicial review of this Order.

This Consent Order shall become effective upon notice to that effect published in the FEDERAL REGISTER. Prior to its effective date, FEA will publish a notice in the FEDERAL REGISTER pursuant to section 205.197(c) that it has entered into this Consent Order and will provide not less than 30 days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effective date of this Consent Order, the FEA reserves the right to withdraw its Consent to this Order for any reason.

The provisions of 10 CFR section 205.197 are applicable to this Consent Order and are incorporated by reference herein.

I, the undersigned, a duly authorized representative of the McAlester Fuel Co., hereby agree to and accept on behalf of said company the foregoing Consent Order.

Dated: July 19, 1977.

M. C. JONES,
Vice President, Oil & Gas Division.

I, the undersigned, a duly authorized representative of the Federal Energy Administration, hereby agree to and accept on behalf of said Administration the foregoing Consent Order.

Dated: July 20, 1977.

WAYNE E. GIFFORD,
Deputy Regional Administrator.

EXHIBIT 1.—*Consent Order McAlester Fuel Co.*

Lease	Purchaser	Date	Overcharge
Jim Coulee Unit, Musselshell County, Mont.	Conoco	February 1974 to December 1976	$8,149,222.62
E. D. Harris "C," Columbia County, Ark.	Lion Oil Co.	September 1973 to November 1974	17,346.81
Threadhill, Columbia County, Ark	do	September 1973 to December 1975	39,784.82
D. E. Rogers "A", Columbia County, Ark.	do	September 1973 to November 1973	259.88
Total			8,206,614.13

EXHIBIT 2

Lease	Purchaser	Date	Overcharge
Sabine River Bed 6, Gregg County, Tex.	Scurlock Oil Co.	January 1974 to December 1975	$20,906.11
Federal "A"	Mobil Oil Co.	April 1976 to December 1976	19,518.97
Total			40,425.08

EXHIBIT 3

Lease	Purchaser	Date	Overcharge
McClure "A", Lea County, N.M.	Amoco Production	September 1973 to July 1976	$7,380.84
Kennedy Estate "A", Lafayette County, Ark.	Lion Oil Co.	February 1974 to June 1974	1,114.80
State "A", Lea County, N. Mex.	Amoco Production	November 1973 to September 1976	1,096.12
Federal "A", Lea County, N. Mex.	Mobile Oil Co.	October 1973	309.60
Total			9,901.36

EXHIBIT 4

[Refund due Amoco Production Co.]

Lease	Period of violation	Overcharge	Maximum time to complete refund [2]
State "A", Lea County, N. Mex.	November 1973 to September 1976	$1,096.12	1 mo.
McClure "A", Lea County, N. Mex	September 1973 to July 1976	7,380.84	2 mo.

[Refund due Lion Oil Co.]

E. D. Harris "C", Columbia County, Ark.	September 1973 to November 1974	17,346.81	6 mo.
Threadhill, Columbia County, Ark	September 1973 to December 1975	39,784.82	12 mo.
D. E. Rogers "A", Columbia County, Ark.	September 1973 to November 1973	259.88	1 mo.
Kennedy Estate "A", Lafayette County,	February 1974 to June 1974	1,114.80	1 mo.

[Refund due Scurlock Oil Co.]

Sabine River Bed 6, Gregg County, Tex.	January 1974 to December 1975	20,906.11	12 mo.

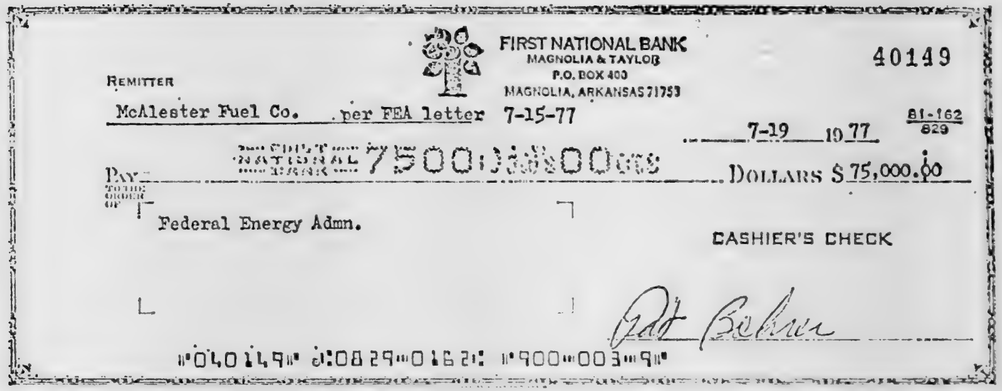
[Refund due Conoco]

Jim Coulee, Musselshell County, Mont.	February 1974 to December 1976	8,149,222.62	36 mo.

[Refund due Mobil Oil Co.]

Federal "A", Lea County, N. Mex.	October 1973 to December 1976	19,828.57	6 mo.

[1] McAlester is also required to refund interest on the amounts given. The figures in this schedule do not include interest.
[2] Time period commences on the effective date of this Consent Order.



[FR Doc.77-23249 Filed 8-10-77;8:45 am]

SMACKOVER PRODUCING CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between Smackover Producing Co (Smackover) and the FEA on July 20, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Smackover, located in El Dorado, Ark., is a firm engaged in the production and sale of crude oil and therefore subject to FEA regulations.

As a result of an audit conducted by FEA of Smackover's pricing practices for the period September 1, 1973, through December 31, 1976, FEA advised Smackover that Smackover had apparently charged two purchasers of crude oil prices in excess of those permitted under Cost of Living Council price rule in 6 CFR 150.354 and the FEA price rule in 10 CFR 212.73. FEA contended that those overcharges were the result of Smackover's error in including abandoned wells as full producing wells when computing its average daily production for purposes of the stripper well lease exemption.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and Smackover entered into a Consent Order, the significant terms of which are:

(1) Smackover shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful prices together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $1,118,705.81. Refunds shall be made in the form of price reductions on sales of crude oil.

(2) All refunds and interest payments will be made within 36 months of the effective date of the Consent Order.

(3) Smackover shall certify in writing to FEA the status of all refunds every three months until completion.

(4) Smackover agrees to determine, within thirty days after the effective date of the Consent Order, whether any further overcharges occurred at the leases in question due to the errors alleged by FEA to have occurred in this proceeding. Smackover will certify the result of the investigation to FEA and present to FEA for its approval a plan refunding any such further overcharges.

(5) Smackover shall calculate maximum lawful selling prices consistent with FEA's rules and regulations.

(6) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne E. Gifford, Deputy Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request at this same address or by calling 214–749–7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Smackover Consent Order." All comments received by 4:30 p.m. CDT on September 12, 1977, will be considered by the FEA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. on this 8th day of August, 1977.

ERIC J. FYGI,
Acting General Counsel.

FEDERAL ENERGY ADMINISTRATION

TITLE 10, CHAPTER II, PART 205

CONSENT ORDER

ROBERT E. ADAIR AND LEO D. BECKNAGEL, D.B.A. SMACKOVER PRODUCING CO.

This Consent Order, entered into pursuant to 10 CFR 205.197, settles certain claims and disputes between the Federal Energy Administration (FEA) and Smackover Producing Co. (Smackover), to the extent provided herein, with respect to errors committed by Smackover in determining average daily production from certain leases for stripper well lease exemption and in the selling of crude oil produced from those leases at prices higher than those permitted under FEA and Cost of Living Council regulations during the audit period of September 1, 1973 through December 31, 1976.

The terms and conditions of this Consent Order and the stipulated facts upon which it is based are contained in the following numbered paragraphs.

1. Smackover is a producer of domestic crude oil as defined in 10 CFR 212.31 and 6 CFR 150.352. During its audit of Smackover, FEA preliminarily determined that Smackover miscalculated the average daily production from certain leases through counting abandoned wells as full producing wells although CLC and FEA regulations, as discussed in Ruling 1975–12, prohibit such conduct. As a result of this improper calculation, Smackover erroneously sold "old" crude oil as stripper well crude oil without regard to the ceiling price and in violation of 10 CFR 212.72 and 6 CFR 150.353.

2. FEA's preliminary determination is that such miscalculations resulted in overcharges totaling $1,118,705.81 due to the sale of old crude oil at stripper well crude oil exempt prices. A schedule of the leases at which the miscalculations occurred, the purchasers of the lease production, dates and amounts of overcharge is annexed to this Consent Order.

3. Smackover agrees to make price reductions totaling $1,118,705.81 plus interest to those purchasers of crude oil from the leases and in the amounts shown on the schedule annexed hereto. The entire $1,118,705.81

plus interest must be fully refunded within 36 months of the effective date of this Consent Order. Within 30 days of the effective date of this Consent Order, Smackover must advise Lion Oil Co. and Macmillan Ring Free Oil Co., Inc. to begin witholding ninety percent (90 percent) of the per barrel maximum allowable price which would otherwise be paid by said purchasers, (a) for crude oil produced from the properties operated by Smackover listed on the schedule annexed hereto, and also (b) for crude oil produced from other properties operated by Smackover in the East Field, Union County, Ark., the mineral interest of which reflects the identical ownership as that of the properties for which overcharges are alleged. After MacMillan Ring Free Oil Co., Inc. has been refunded the total amount of the alleged overcharges to which it is due, Smackover will instruct that firm to thereafter pay to Lion Oil Co. ninety percent (90 percent) of the per barrel price due for crude oil that MacMillan purchases from the East Field properties operated by Smackover, which payments will be credited against the alleged overcharges due Lion Oil Co. Such payments will continue until Smackover advises MacMillan Ring Free Oil Co., Inc., that Lion Oil Co., has been paid in full. As used herein, "maximum allowable price" is to be construed as the appropriate ceiling price computed under FEA regulations, or if applicable, the prevailing stripper exempt price for crude oil in the field in which the property is located.

4. Smackover may reduce the balance owed at any time by direct cash payment to the purchaser.

5. Smackover will include payments of interest as part of the refunds at the rate of 6 percent per annum on amounts outstanding from the date of overcharge through June 30, 1975, at the rate of 9 percent per annum on amounts outstanding from July 1, 1975 through January 31, 1976, and at the rate of 7 percent per annum on amounts outstanding thereafter until the overcharge is fully refunded. Simple interest is to be used for these computations.

6. Smackover shall supply each recipient of a price reduction with a written statement that identifies the refund as an act undertaken in compliance with this Consent Order. That statement shall advise the recipient that the refund represents a decrease in the purchaser's current month crude oil costs for purposes of FEA price regulations.

7. Smackover shall maintain separate records for all price reductions and refunds given pursuant to this Consent Order and shall make those records available to FEA for inspection upon FEA request.

8. Smackover shall certify in writing the status of all refunds and reductions to FEA every three months until completion, beginning three months after the effective date of this Consent Order. All such certifications shall be mailed to: Nick L. Kelly, Area Manager, Tulsa II Area Office, Federal Energy Administration, P.O. Box 45875, Tulsa, Okla. 74145.

9. Smackover agrees to determine within thirty days after the effective date of this Consent Order whether any further overcharges occurred at the leases in question subsequent to the period covered in FEA's audit due to the misapplication of those FEA regulations identified in this Consent Order. Smackover will certify the result of that investigation to FEA at the address set forth in paragraph 8 of this Order and present to FEA for its approval a plan for refunding any such further overcharges. If and when such plan is approved in writing by the FEA, it will become a supplement to this Consent Order, subject to all terms and conditions stated herein, and may be put into effect, without further action on the part of Smackover or the FEA, as if initially a part of this Consent Order.

10. This Consent Order does not constitute an admission by Smackover or a finding by FEA that non-compliance with or violations of FEA rules and regulations have occurred.

11. Smackover hereby offers and FEA accepts on behalf of the United States, the sum of $10,000 in compromise and settlement of all civil penalty claims of the United States which may arise against Smackover by reason of the alleged violations of FEA regulations settled in the terms of this Consent Order. Payment shall be made by certified check made payable to the Federal Energy Administration and shall be accepted subject to this Consent Order becoming final.

12. Smackover has been advised by the FEA of the correct method of determining prices for the sale of domestic crude oil under FEA regulations through its review with FEA personnel of FEA's work sheets relating to FEA's audit of Smackover and agrees to comply with those regulations in the manner described by such FEA representatives.

13. In consideration of Smackover's agreement to the aforementioned terms and conditions of this Consent Order, and upon the satisfactory performance of the refunds specified herein, the FEA will consider Smackover to be in compliance with FEA regulations up to and including December 31, 1976 or such later date as may be established in any refund plan approved pursuant to paragraph 9 above.

14. FEA reserves the right to take further remedial action in this case if FEA determines that information upon which this Consent Order is based was erroneous or that the actions of Smackover hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this Consent Order, or with applicable FEA rules and regulations.

15. This Consent Order shall be a final Order of the FEA having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.192. In consideration of the FEA's agreement to the terms of this Consent Order, and in accordance with 10 CFR 205.197(b), Smackover hereby expressly waives the rights to appeal or obtain judicial review of this Order.

This Consent Order shall become effective upon notice to that effect published in the FEDERAL REGISTER. Prior to its effective date, FEA will publish a notice in the FEDERAL REGISTER pursuant to § 205.197(c) that it has entered into this Consent Order and will provide not less than 30 days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effective date of this Consent Order, the FEA reserves the right to withdraw its Consent to this Order for any reason.

The provisions of 10 CFR 205.197 are applicable to this Consent Order and are incorporated by reference herein.

I, the undersigned, Robert E. Adair, hereby agree to and accept the foregoing Consent Order.

Dated: July 19, 1977.

ROBERT E. ADAIR,
Partner.

I, the undersigned, Leo D. Recknagel, hereby agree to and accept the foregoing Consent Order.

Dated: July 18, 1977.

LEO D. RECKNAGEL,
Partner.

I, the undersigned, a duly authorized representative of the Federal Energy Administration, hereby agree to and accept on behalf of said Administration, the foregoing Consent Order.

Dated: July 20, 1977.

WAYNE E. GIFFORD,
Deputy Regional Administrator.

EXHIBIT 1.—*Consent Order Smackover Producing Company*

Lease	Purchaser	Date	Overcharge
Winn Estate, Union County, Ark	Lion Oil Co.	December 1973 to December 1976	$110,256.63
Ezzell "F", Union County, Ark	do	December 1973 to December 1976	109,634.40
Ezzell Remainder, Union County, Ark	Lion Oil Co.	do	735,452.57
	MacMillan Ring Free Oil Co., Inc.	September 1973 to December 1976	84,125.33
Paraffin Ezzell, Union County, Ark	do	December 1973 to December 1974	40,236.58
Total			1,118,705.81
Overcharge to Lion Oil Co.			994,343.90
Overcharge to MacMillan Ring Free Oil Co., Inc.			124,361.91



FIRST NATIONAL BANK
OF EL DORADO, ARKANSAS

81-91
823

JULY 19,1977 No. 239792

PAY TO THE ORDER OF FEDERAL ENERGY ADMINISTRATION $ 10,000.00

1ST. NAT'L BANK OF EL DORADO TEN THOUSAND AND 00 CTS

CASHIER'S CHECK
SMACKOVER PRODUCING CO.

AUTHORIZED SIGNATURE

⑆082900916⑆

[FR Doc.77-23247 Filed 8-10-77;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD. ET AL.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 31, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

In the matter of American President Lines, Ltd., Barber Blue Sea Line, East Asiatic Co., Ltd., Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service, Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the Trans Pacific Freight Conference; American President Lines, Ltd., Barber Blue Sea Line, Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service, Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the New York Freight Bureau.

Notice of agreements filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 10107–4, among American President Lines, Ltd., Barber Blue Sea Line, East Asiatic Co., Ltd., Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service, Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the Trans Pacific Freight Conference, and Agreement No. 10108–3, among American President Lines, Ltd., Barber Blue Sea Line, Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the New York Freight Bureau would amend Articles 2 and 8(a) of each rate agreement to provide that at least thirty days advance notice must be given by a party to all other parties before it may alter for itself any rate, charge, classification, practice, or related taric matter agreed upon or theretofore in force.

By order of the Federal Maritime Commission.

Dated: August 8, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23215 Filed 8-10-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-521]

ARIZONA PUBLIC SERVICE CO.

Rate Change

AUGUST 2, 1977

Take notice that Arizona Public Service Company (Arizona), on July 21, 1977, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

12—Electrical District No. 3
13—Electrical District No. 7
14—Maricopa County Municipal Water Conservation District No. 1
15—Roosevelt Irrigation District
16—Buckeye Water Conservation and Drainage District
35—Electrical District No. 6
64—Electrical District No. 1

Arizona indicates that the proposed rate changes would increase revenue from jurisdictional sales and service by $937,638.00 based on the 12-month period ending December 31, 1976.

Arizona states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

According to Arizona, copies of the filing were served upon the Company's resale customers affected by the filing and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants patles to the proceed-

ing. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23174 Filed 8-10-77;8:45 am]

[Docket No. ID-1723]

FRANK N. BIEN

Application

AUGUST 2, 1977.

Take notice that on July 11, 1977, Frank N. Bien, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Cardinal Operating Co., Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23166 Filed 8-10-77;8:45 am]

[Docket No. CP77-518]

COLUMBIA GAS TRANSMISSION CORP.

Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-518 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for UGI Corporation (UGI) for five years all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas for UGI from a point of interconnection between Applicant and National Fuel Gas Supply Corporation (National Supply) located near Emporium, Cameron County, Pennsylvania. It is stated that the gas so received would be redelivered to existing points of delivery from Applicant to UGI in eastern Pennsylvania.

Applicant indicates that National Supply and National Gas Storge Corporation in Docket No. CP76-492 have requested authorization to render long-term storage service for UGI, et al., and that in order to take advantage of this storage service, UGI has requested Applicant to deliver from 2,000 to 25,000 Mcf of gas per day to National Supply for storage injection and receive from National Supply from 5,000 to 35,000 Mcf per day of gas withdrawn from storage and redeliver like volumes to UGI.

Applicant states that it would deliver a portion of UGI's CDS rate schedule entitlement to National Supply during summer injection periods at the proposed point of interconnection or at such other existing points of interconnection between National Supply and Applicant as may be mutually agreed upon.

Applicant states that it would receive gas during the winter (October 1 through April 30) withdrawal period from National Supply at the proposed point of interconnection or at such other existing points of interconnection between the facilities of National Supply and Applicant as may be mutually agreed upon. Aplicant indicates that it would transport the gas so received on a best efforts basis and redeliver it to UGI at existing points of delivery in eastern Pennsylvania.

It is indicated that on the total volumes of gas delivered during the winter withdrawal period by National Supply to Applicant for UGI's account, Applicant would make a transportation charge of 22.21 cents per Mcf and would retain for company-use and unaccounted for gas a percentage of the gas so delivered, which percentage is currentyl 3.1 percent.

No construction of facilities is necessary to effect the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commision's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commiison on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commision on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23171 Filed 8-10-77;8:45 am]

[Docket No. E-8947]

DELMARVA POWER & LIGHT CO.

Tariff Change

AUGUST 4, 1977.

Take notice that Delmarva Power & Light Company, Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia (Delmarva) on July 25, 1977 tendered for filing proposed changes in FPC Electric Tariff Nos. 4 and 5 of Delmarva Power & Light Company, FPC Electric Tariff Nos. 4 and 5 of Delmarva Power & Light Company of Maryland FPC Electric Tariff No. 2 of Delmarva Power & Light Company of Virginia, and FPC Rate Schedule No. 35 of Delmarva Power & Light Company, all in compliance with the Commission's Order Approving Settlement issued in this docket on July 1, 1977. The proposed changes conform such Rate Schedules to the rates approved by the Commission in its July Order.

Delmarva states that copies of this filing were served upon all of Delmarva's various jurisdictional customers. Delmarva requests waiver of notice in order that these compliance filings may be accepted for filing at the earliest possible date.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23170 Filed 8-10-77;8:45 am]

[Docket No. ID-1517]

RALPH D. DUNLEVY

Application

AUGUST 2, 1977.

Take notice that on June 28, 1977, Ralph D. Dunlevy, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions.

Senior Vice President, Ohio Valley Electric Corp., Electric Utility.
Senior Vice President, Indiana-Kentucky Electric Corp., Electric Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23165 Filed 8-10-77;8:45 am]

[Docket No. ER77-367]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 4, 1977.

Take notice that Duke Power Company (Duke Power) tendered for filing on July 14, 1977, a supplement to the Company's Electric Power Contract with South Carolina Electric and Gas Company. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule No. 262.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in capacity at Delivery Point No. 1 and Delivery Point Temp No. 1. Duke Power indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

Duke Power states that a copy of this filing was mailed to the South Carolina Electric and Gas Company and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become to party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23177 Filed 8-10-77;8:45 am]

[Docket No. RP76-87]

INTER-CITY MINNESOTA PIPELINES LTD.

Order Approving Pipeline Rate Settlement

AUGUST 1, 1977.

On May 5, 1977, the Presiding Administrative Law Judge certified to the Commission for consideration and disposition a proposed Stipulation and Agreement which, if approved, would resolve all issues in this proceeding. As stated below the Commission finds that the proposed settlement is reasonable and should be approved.

On April 15, 1976, Inter-City Minnesota Pipelines Ltd. (Inter-City) tendered for filing proposed tariff changes which would increase annual jurisdictional revenues by $385,300 based on the twelve months ended December 31, 1975, as adjusted. By order issued May 28, 1976, the Commission accepted the filing and permitted the rate increase to become effective, subject to refund, on June 2, 1977, after a one day suspension. Notice of the certification was issued on May 17, 1977, providing for comments to be filed on or before June 8, 1977. None have been received. The Commission staff stated its support for the proposed settlement at the hearing held on May 5, 1977 to introduce the proposed Stipulation and Agreement into the accord.

The settlement is based on an overall cost of service of $17,346,447 and provides for a jurisdictional cost of service of $9,094,204, which results in a reduction of approximately $6,400 from the jurisdictional cost of service proposed originally. The settlement reflects an overall rate of return of 12.50 percent including a rate of return on common equity at 14.0 percent.[1] The settlement depreciation rate is 4.1 percent.

Based on a review of the record in this proceeding including the settlement agreement itself, the Commission finds that the proposed Stipulation and Agreement represents a reasonable resolution of the issues in this proceeding in the public interest, and that the Stipulation and Agreement should be approved and adopted as hereinafter ordered.

The Commission orders: (A) The Stipulation and Agreement certified on May 5, 1977, is incorporated herein by reference and is approved and adopted.

(B) Within thirty days, Inter-City shall file revised tariff sheets in accordance with the settlement agreement and this order.

(C) As soon as practical, but not later than 60 days after the date of this order, Inter-City shall refund all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Inter-City shall within 10 days thereafter submit a report of the refunds and interest to the Commission.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Inter-City or any other person or party.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*Inter-City Minnesota Pipelines Ltd., Inc. Docket No. RP76-87—Overall cost of service under pipelines' request for rate increase and settlement*

	Settlement	Requested
Cost of gas	$16,563,638	$16,439,770
Operation and maintenance expenses	81,489	81,489
Depreciation	107,420	12,410
Taxes other than income taxes	136,613	136,613
Income taxes	137,733	199,275
Return	299,554	321,743
Overall cost of service	$17,346,447	$17,300,297
Jurisdictional cost of service	9,094,204	9,100,613

[1] The settlement cost of service and capitalization are set out in Appendices A and B to this order.

APPENDIX B.—*Inter-City Minnesota Pipelines Ltd. Docket No. RP76-87—Capitalization and Rate of Return*

Line No.	Description	Percent	Cost or allowance, percent	Return, percent	Line No.
	(a)	(b)	(c)	(d)	
1	Debt	63.02	11.62	7.32	1
2	Equity	36.98	14.0	5.18	2
3	Total	100.00		12.50	3

[FR Doc.77-23162 Filed 8-10-77;8:45 am]

[Docket No. ID-1804]

LARRY G. MCMANUS

Application

AUGUST 2, 1977.

Take notice that on January 18, 1977, Larry G. McManus, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Controller, The Cincinnati Gas & Electric Company, Public Utility.
Assistant Controller, The Union Light, Heat and Power Company, Public Utility.
Assistant Controller, Miami Power Corporation, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23164 Filed 8-10-77;8:45 am]

[Project No. 2188]

THE MONTANA POWER CO.

Notice Extending Time for Filing Comments, Protests, and Petitions to Intervene

AUGUST 2, 1977.

On July 21, 1977, U.S. Representative Max Baucus, on behalf of a number of his constituents, filed a request to extend the time within which the public may file comments with reference to the issue of public access to the Upper Holter Reservoir, Project No. 2188. By Commission Notice issued June 6, 1977, the date established for the filing of such comments was August 15, 1977.

The instant request stresses the importance of the question of access to the reservoir since such access directly influences the area's land use patterns, wildlife, environment, and scenic and historic qualities. It states that additional time is needed in order to insure public awareness and involvement in this proceeding.

Upon consideration, notice is hereby given that the date for filing comments with reference to the issue of public access to the Upper Holter Reservoir is extended to and including October 3, 1977. Comments should be filed with the Secretary, Federal Power Commission, Washington, D.C. 20426. Any person wishing to file a protest or petition to intervene in this proceeding must make such filing in accordance with the Commission's Rules of Practice and Procedure, on or before October 3, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-23178 Filed 8-10-77;8:45 am]

[Docket No. ER77-401]

OTTER TAIL POWER CO.

Power Pool Agreement

AUGUST 4, 1977.

Take notice that the Otter Tail Power Company (Otter Tail) on July 11, 1977, tendered for filing revisions in Service Schedule B, of it's Upper Mississippi Valley Power Pool Agreement which are proposed to become effective May 1, 1977.

Otter Tail indicates that the filing provides for revisions in the Demand Rate of Service Schedule B, Seasonal Participation Power Interchange Service.

According to Otter Tail the filing has been served upon the appropriate state regulatory agencies in states that the Upper Mississippi Valley Power Pool is providing service.

Otter Tail requests waiver of the Commission's notice requirements to allow for an effective date of May 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23163 Filed 8-10-77;8:45 am]

[Project No. 943]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

Further Extension of Time

AUGUST 4, 1977.

On July 19, 1977, Public Utility District No. 1 of Chelan County, Washington (Applicant), Licensee for the Rock Island Hydroelectric Project; FPC No. 943, filed a motion to further extend the time for filing its revised application for approval of an Exhibit R.

The motion states that the Court of Appeals of the State of Washington has ordered Applicant to arbitrate the scope and content of the Exhibit R under its power contract with Puget Sound Power and Light Company. Therefore, Applicant states that it will be unable to prepare the revised Exhibit R in time to meet the August 1, 1977, deadline set by Commission Notice issued April 12, 1977.

In answer to Applicant's motion, filed July 27, 1977, Staff Counsel states that good cause has been shown to grant the requested extension, without reference to the possible penalties mentioned in the April 12 Notice.

Notice is hereby given that a further extension of time is granted to and including October 3, 1977, within which Applicant shall file a revised application for approval of an Exhibit R for Project No. 943.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23172 Filed 8-10-77;8:45 am]

[Docket No. ID-1805]

BEN T. RAY

Application

AUGUST 2, 1977.

Take notice that on January 31, 1977, Ben T. Ray, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President & Director, Columbus and Southern, Ohio Electric Company, Public Utility.
Director, Ohio Valley Electric Corporation. Public Utility.
Director, Indiana-Kentucky Electric Corporation; Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23167 Filed 8-10-77;8:45 am]

[Project No. 516]

SOUTH CAROLINA ELECTRIC & GAS CO.

Issuance of Annual License(s)

AUGUST 3, 1977.

On January 30, 1975, South Carolina Electric & Gas Company, Licensee for the Saluda Project No. 516, located in Lexington, Newberry, Richland, and Saluda Counties, South Carolina, near the City of Columbia on the Saluda River and its tributaries, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 516 was issued effective August 5, 1927, for a period ending August 4, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to South Carolina Electric & Gas Company.

Take notice that an annual license is issued to South Carolina Electric & Gas Company for the period August 5, 1977 to August 4, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Saluda Project No. 516 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 4, 1978, a new annual license will be issued each year thereafter, effective August 5 of each year, until such time as Federal Takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23169 Filed 8-10-77;8:45 am]

[Docket No. CI77-640]

SUN OIL CO. (DELAWARE)

Limited-Term Certificate Application

AUGUST 4, 1977.

Take notice that on July 12, 1977, Sun Oil Company (Applicant) P.O. Box 20, Dallas, Texas 75221, filed in Docket No. C177-640 an application pursuant to Section 7(c) of the National Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, for the sale of gas from certain wells in the Bassfield Field, Jefferson Davis County, Mississippi, to Texas Eastern will transport such gas in (Texas Eastern) under a contract dated June 29, 1977. Applicant states that Texas Eastern will transport such gas in interstate commerce and resell it.

Applicant states that Texas Eastern has an existing gas supply emergency on its system. The nature and extent of Texas Eastern's need for emergency gas has been or will be separately demonstrated by Texas Eastern.

The natural gas to be sold to Texas Eastern will be sold pursuant to a short-term contract which is filed concurrently herewith as a rate schedule. As reflected by the contract, the sale will be on a limited-term basis for a period of one year beginning on the date satisfactory authorization from the Commission is received or such later date as is permitted by present contractual commitments. The certificate application seeks authority to sell to Texas Eastern volumes estimated at a daily rate of 10,000 Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for lease to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23173 Filed 8-10-77;8:45 am]

[Docket No. CP77-516]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

AUGUST 4, 1977.

Take notice that on July 22, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511 Houston, Texas 77001, filed in Docket No. CP77-516 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas for Martin Marietta Aluminum, Inc. (Martin Marietta), an existing industrial customer of one of Texas Gas Transmission Corporation's (Texas Gas) distributor-customers, Western Kentucky Gas Company (Western Kentucky), for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Martin Marietta has entered into a contract with Equitable Petroleum Corporation (Equitable) for the purchase of gas produced from the Bayou Biloxi Field, St. Bernard Parish, Louisiana, in order to moderate the effects of curtailment imposed upon Martin Marietta, and that Martin Marietta would pay Equitable for such gas a total initial price of $2.18 per Mcf, which price would escalate to $2.33 per Mcf one year after initial deliveries. It is further stated that in order to make the subject gas available to it Martin Marietta has made arrangements with Applicant and Texas Gas for the transportation and delivery of such gas into Western Kentucky's distribution system for delivery by Western Kentucky to Martin Marietta at its Lewisport, Kentucky plant.

Applicant proposes (1) to receive from Equitable at an interconnection of Applicant and Equitable's facilities in St. Bernard Parish, Louisiana, up to a Maximum Daily Quantity (MDQ) of 2,427 Mcf, together with supplemental volumes for Applicant's system fuel and use requirements associated with the transportation service, and (2) through the utilization of existing facilities, to transport and deliver to Texas Gas at the tailgate of Champlin's Gasoline Plant at Carthage, Panola County, Texas, for the account of Martin Marietta, equivalent daily volumes of natural gas exclusive of such fuel and use volumes, up to said MDQ. It is asserted that such transportation service would enable Martin Marietta to receive gas for plant protection and process needs at its Lewisport, Kentucky plant, where Martin Marietta produces aluminum coils and sheets for the fabrication of various consumer products.

It is indicated that the proposed service would be rendered pursuant to a transportation agreement dated July 15, 1977, between Applicant and Martin Marietta.

It is indicated that Martin Marietta would pay Applicant each month for the proposed transportation service (1) a demand charge to be determined by multiplying $1.08 by the MDQ, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 13.81 cents multiplied by (a) the total of the daily volumes delivered by Applicant during such month or (b) the number of days in said month multiplied by $66\frac{2}{3}$ percent of the MDQ, whichever is greater, less any applicable annual minimum bill credit as provided therein. Applicant states that it would retain each day a volume of gas equal to 3 percent of the volume received for transportation on such day.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regu-

lations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commissions Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23176 Filed 8-10-77;8:45 am]

[Docket No. CP77-517]

TEXAS GAS TRANSMISSION CORP.

Application

AUGUST 4, 1977.

Take notice that on July 22, 1977, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP77-517 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 400 M ft³ of natural gas per day, on an interruptible basis, for Fruehauf Corporation (Fruehauf), an existing industrial customer of Memphis Light, Gas and Water Division (Memphis), one of Applicant's resale customers, all as more fully set forth in the application which is on file with the mission and open to public inspection.

It is indicated that the natural gas proposed to be transported by Applicant for ultimate delivery to Fruehauf's plant located in Memphis, Tennessee, would be produced from certain wells wholly owned by Fruekel, Inc. (Fruekel), the energy-source subsidiary of Fruehauf, which wells are located in Tuscarawas and Guernsey Counties, Ohio. It is stated that the subject gas would be received by Applicant for the account of Fruehauf by displacement from Columbia Gas Transmission Corporation (Columbia) at an existing interconnection located near Lebanon, Ohio, where Applicant and Columbia both have facilities.

Applicant states that it would simultaneously redeliver the volumes received for the account of Fruehauf up to 400 M ft³ per day at 14.73 lb/in² a to Memphis, at an existing point or points of delivery. In no event would Applicant be obligated to deliver on any one day an aggregate amount of more than the Contract Demand of 379,615 M ft³ of natural gas at 14.73 lb/in² a through all points of delivery by Applicant to Memphis, it is said. It is indicated that no new facilities are necessary to effectuate the proposed transportation service.

Applicant indicates that it would collect an initial charge of 3.15 c/M ft³ (at 14.73 lb/in² a) for all quantities of gas transported and delivered to Memphis for the account of Fruehauf.

It is stated that Fruehauf is engaged primarily in the manufacture and sale of transportation equipment and the sale of parts and components for such equipment, such as truck trailers, truck bodies, containers, and chassis for transportation of cargo by truck, rail, or ship. It is indicated that Fruehauf would use the subject gas for Priority 2 uses: For the clean burning fuel requirements for its Memphis Plant, and in the direct gas fired ovens, make-up air and related operations wherein a clean burning fuel is required and necessary. Technology, at this time, does not permit the burning of alternate fuels, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23175 Filed 8-10-77;8:45 am]

[Docket No. CP77-528]

TEXAS GAS TRANSMISSION CORP.

Application

AUGUST 3, 1977.

Take notice that on July 26, 1977, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-528 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, on an interruptible basis, for South Jersey Gas Company (South Jersey) for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas, on an interruptible basis, for South Jersey pursuant to a transportation service agreement dated June 7, 1977, between Applicant and South Jersey. Applicant indicates that South Jersey has entered into a gas purchase contract with its producing affiliate, South Jersey Exploration Company (South Jersey Exploration), for the purchase of volumes of natural gas to be produced from certain leasehold interests presently owned or controlled by South Jersey Exploration in North Jefferson Island Field, Iberia Parish, Louisiana. It is further indicated that South Jersey Exploration would charge Applicant for all gas delivered hereunder, the base price of $1.42 for M ft³, escalating by $0.01 per M ft³ per quarter commencing on October 1, 1976, to which would be added, for deliveries in Louisiana, $0.0686 per M ft³ as reimbursement for tax payable by South Jersey Exploration to the state of Louisiana and, for deliveries made in Texas, $0.1155 per M ft³ as reimbursement for tax payable by South Jersey Exploration to the state of Texas *and*, unless otherwise stated in Exhibit B to the gas purchase contract, a gathering charge of $0.004 and $0.005 per M ft³ for deliveries made in Texas and Louisiana, respectively.

Applicant states that the subject gas would be delivered to it through existing facilities owned by Applicant on its Jefferson Island 4-inch pipeline located near Delcambre, Iberia Parish, La., and that Applicant would simultaneously redeliver volumes of natural gas received for South Jersey's account up to 500 M ft³/d at 14.73 lb/in²a to Transcontinental Gas Pipe Line Corporation (Transco) at an existing exchange point with Transco located near Mamou, Evangeline Parish, La., or at such other mutually agreeable existing points of exchange between Applicant and Transco. No new facilities

are necessary in order to effectuate the proposed transportation service, it is said.

Applicant indicates that it would retain a volume equal to 0.38 percent above the delivered volume as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, i.e., Zone SL. Applicant states that it would collect an initial charge of 4.67 c/M ft³ (at 14.73 lb/in²a) for all quantities of natural gas transported and delivered to Transco for the account of South Jersey.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23168 Filed 8-10-77;8:45 am]

FEDERAL RESERVE SYSTEM

[Reg. Q; Docket No. R-0108]

INTEREST ON DEPOSITS

Order Granting Temporary Suspension of Early Withdrawal Penalty

The Board of Governors has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks (12 CFR § 217.4(d)) for depositors affected by the severe storms and flooding beginning about July 19, 1977, in the Commonwealth of Pennsylvania. On July 21, 1977, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 11795 of July 11, 1974, the President designated the following counties of the Commonwealth of Pennsylvania a major disaster area: Bedford, Cambria, Clearfield, Indiana, Jefferson, Somerset, and Westmoreland. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank wherever located to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has, in fact, suffered property or other financial loss in the disaster area as a result of the severe storms and flooding. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed application describing fully the disaster-related loss. This application should be approved and certified by an officer of the bank. This action will be retroactive to July 21, 1977, and will remain in effect until 12 midnight January 31, 1978.

Section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4 (d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the Commonwealth of Pennsylvania officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the flooding in the designated counties of Pennsylvania, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, effective August 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23186 Filed 8-10-77;8:45 am]

[1] Section 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate.

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[GSA Bulletin FPR 25, Supplement 7]

FEDERAL PROCUREMENT

Cost Accounting Standards Administration—Interim Guidance

Correction

In FR Doc. 77-20188, appearing at page 36301 in the issue of Thursday, July 14, 1977 the following changes should be made:

1. On page 36302, first column, fifth line from the bottom, insert a comma after "e.g.".

2. On page 36303, third column, sixteenth line down, the word "before" should read "after".

3. On page 36304, middle column, the title of Attachment A should read, "The Effects of CAS 410 upon the allocation and allowability of G&A expenses".

4. On page 36304, third column, second full paragraph, sixth line down, the word, "prefactory" should read, "prefatory".

5. On page 36305, the second illustration title reading "PRE CAS 410" should read, "POST-CAS 410".

6. On page 36306, first column under the heading, "Background" second full paragraph, omit the first word in line seven.

7. On page 36306, third column, under the heading, "Background" the second and fourth paragraphs should be in quotation marks.

8. On page 36307, middle column, under the heading, "Discussion" second paragraph, first line, "CAB 402" should read, "CAS 402".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Nonmajority Minority Task Force. It also describes the func-

tions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix I, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: August 26, 1977; Los Angeles, Calif.

ADDRESS: Room 310, Hyatt Regency Los Angeles Hotel, 711 South Hope Street, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C. 20005; Phone 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. Presentations will be made by various ESAA grant recipients concerning the need for such a program. Inquiry will be made with regard to how well the various racial and ethnic groups involved in ESAA projects are having their specific needs addressed. Discussions concerning ESAA eligibility requirements as pertaining to nonmajority/minority districts will be a major focus.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO. Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Forces will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on August 9, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc 77-23349 Filed 8-10-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Federal Policy and Practices Committee of the National Advisory Council on Women's Educational Programs. It also describes the functions of the Council. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: August 30, 1977, 9 a.m. to 5 p.m.

ADDRESS: 1832 M Street NW., Suite 821, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Kathleen Maurer, National Advisory Council on Women's Educational Programs, 1832 M Street NW., Suite 821, Washington, D.C. 20036; telephone 202-653-5848.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) made such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408 of Pub. L. 92-380.

The meeting of the Federal Policy and Practices Committee will be open to the public. It will be held on August 30 from 9 a.m. to 5 p.m. at 1832 M Street NW., Suite 821, Washington, D.C. The proposed agenda includes review of the status of current projects and recommendations and the establishment of priorities for the Federal Policy and Practices Committee.

Records will be kept of all Council proceedings and will be available for public inspection at the Council offices at Suite 821, 1832 M Street NW., Washington, D.C.

Signed at Washington, D.C., on August 8, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc.77-23231 Filed 8-10-77;8:45 am]

Office of Human Development

OFFICE OF NATIVE AMERICAN PROGRAMS

Provison of Technical Assistance to Native American Organizations Not Currently Funded by the ONAP

Notice is hereby given that interested Native American organizations not currently funded by or through the Office of Native American Programs (ONAP) may be eligible to receive technical assistance from ONAP-funded contractors. A small portion of mandays of each recently awarded contract has been reserved in order to make services available to Native American organizations which are not presently grantees of the ONAP. Specific criteria to be considered in determining eligibility are included in this Notice. A maximum of 10 mandays of services can be provided to each eligible organization.

1. *Program purpose.* In promoting economic and social self-sufficiency for Native Americans, section 804 of ONAP's enabling legislation, Pub. L. 93-644, Title VIII, the Native American Programs Act, authorizes the provision of technical assistance "in developing, conducting and administering projects under this title." Technical assistance may be provided to organizations not presently funded by ONAP if it is directed toward the development of either a particular project or organizational capabilities preparatory to potential funding under Title VIII, section 803.

2. *Eligibility criteria.* The specific criteria by which organizations shall be determined to be eligible for ONAP's technical assistance are:

1. The organization must be a public or private non-profit Native American organization, not already supported by or through a current ONAP grant, whose purpose is to promote the economic and social self-sufficiency of the Native American community it represents.

2. It must be an organized group with a distinct membership that represents a documentable population of at least 350 Native Americans. (This population limit may be waived in the case of an organization serving as lead agency in the formation of an intertribal organization or consortium which will ultimately serve more than 350 Native Americans.)

3. It must have a governing body that represents and is formally approved by the documented population.

4. Validation of this population is available through one of the following sources of documentation:

(a) U.S. Census Bureau statistics.

(b) Population figures accepted by a Federal or State Agency.

(c) Population figures derived from a survey conducted by approved methodological principles.

5. There must be adequate assurance that the provision of the requested technical assistance would result in one of the following:

(a) Significant development of organizational capabilities preparatory to potential funding under Title VIII and/or

(b) Significant development of a particular project fundable under Title VIII.

3. *Documentation materials.* Any interested party who wishes to respond to this Notice should submit at least the following materials in relation to the above-mentioned eligibility criteria:

(1) The name, address, and phone number of your organization and the name and title of a contact person.

(2) A brief description of the type of organization or purpose of the group requesting assistance.

(3) A brief description of the service population, including the number of persons and source of this enumeration and specifying whether any part of the service population is currently being served by or through ONAP funds.

(4) A listing of the member tribes/subgroups (if applicable).

(5) Copies of the Articles of Incorporation/Constitution and Bylaws.

(6) Names and titles of tribal officials/organization officers.

(7) A brief description of current funding sources/purpose/levels.

(8) A brief description of the major need areas of the organization, including how the organization is attempting to address these needs and how the technical assistance requested relates to these needs.

(9) A complete description of the amount and type of technical assistance needed and how it would be used to develop a project fundable under Title VIII or enhance organizational capabilities, in preparation for seeking funding under Title VIII.

(10) A description of the types of technical assistance currently provided to your organization and from what sources the technical assistance is being provided.

4. *Submission of documents.* All documentation submitted pursuant to this Notice should be addressed to Gerry Farrell or Nancy Story, Office of Native American Programs, Room 357-G, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201. Submissions will be considered through December 30, 1978, or until the mandays reserved for this purpose are exhausted.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs.)

Dated: July 28, 1977.

DOMINIC J. MASTRAPASQUA,
Acting Director, Office of Native American Programs.

Approved: August 8, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77-23219 Filed 8-10-77;8:45 am]

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM

Arbitration Panel Decision

Notice is hereby given that on June 13, 1977, a decision of the arbitration panel in the matter of the U.S. Postal Service and the North Carolina State Department of Human Resources, Division of Services for the Blind was rendered.

As required by section 6(c) of the Randolph-Sheppard Act Amendments of 1974, Title II of Pub. L. 93-516 (20 U.S.C. 107d-2(c)), this decision, as set forth below, is published in its entirety.

Dated: August 5, 1977.

JAMES F. GARRETT,
Acting Commissioner, Rehabilitation Services Administration.

Approved: August 8, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

ARBITRATION AWARD—RANDOLPH-SHEPPARD ACT

In the matter of U.S. Postal Service and North Carolina State Department of Human Resources, Division of Services for the Blind.

For the Postal Service: William Neel, Esq.
For the State of North Carolina: Isaac T. Avery III, Esq.
Panel of Arbitration: W. Allen Sanders, Panel Member; C. Coleman Cates, Panel Member; Carl A. Warns, Jr., Chairman.

Upon receipt of a complaint filed under section 5 of the Randolph-Sheppard Act, the Secretary of the Department of Health, Education, and Welfare, hereinafter called "HEW," convened an Arbitration Panel. A hearing was held in Charlotte, N.C., on November 9, 1976. Equal opportunity was given all parties for the preparation and presentation of evidence, examination and cross examination of witnesses and oral argument. A transcript was made of the evidence, post hearing and reply briefs were filed. Following the receipt of the transcript and briefs, an Executive Session was held in Charlotte, N.C., on May 4, 1977.

OPINION OF THE ARBITRATION PANEL

The U.S. Postal Service opened a General Mail Facility in Charlotte, N.C., at Mulberry Church Road and South Interstate 85 in the latter part of 1974. After an exchange of proposals, the Postal Service awarded the contract for food services for the General Mail Facility and for certain substations in the area to Canteen Corp.

On May 3, 1976, the Honorable Rufus L. Edmisten, Attorney General of North Carolina, filed a complaint with the Honorable David T. Mathews, Secretary, Department of Health, Education, and Welfare, pursuant to the interim arbitration procedures of the Randolph-Sheppard Act contending that the priority for visually handicapped in providing food services under the Act had been denied. It is significant to the findings of this Panel to note that at the time this dispute arose, all parties were operating under proposed regulations issued by the Department of Health, Education and Welfare as a guide to interpretation of the Randolph-Sheppard Act Amendments of 1974. It is noted that Section 1b of the Act mandates that regulations be promulgated to provide for the appropriate implementation of the Act with special reference to the priority to be afforded the blind vendors under this program in the operation of vending facilities on Federal property. Section 7(e) of the Statute reads:

"The Secretary through the Commissioner shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise.

Lacking definitive regarding "the operation of cafeterias" the parties were not in agreement at the time of the hearing of this case as to what constituted a "cafeteria" and indeed, there was some dispute as to what was a "reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise." As those areas not constituting a "cafeteria" the Statute reads:

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) The priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) Wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

"Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interest of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the FEDERAL REGISTER."

One of the principal contentions made by the Postal Service in this case was that lacking the binding and definitive regulations required by Congress, the present dispute was not "arbitrable." The Postal Service asserted in its brief that the Randolph-Sheppard Act has no effect until regulations have been promulgated by HEW "to establish a priority." It contended that no decision in arbitration validly can be made until the Secretary publishes regulations establishing the priority. (From the Postal Service's brief, p. 6.) The State of North Carolina contends that the dispute is arbitrable and that the challenge here is to actions taken by the Postal Service under a statute, which clearly expresses an intent and expectation by Congress that priority be given visually handicapped represented by an appropriate State agency, not in dispute in this case.

There were other points of contention in this case. For example, North Carolina indicated a desire to subcontract the canteen services in the satellite locations which the Postal Service concluded was not authorized by the Statute. Additionally, at the time that the proposal of North Carolina was rejected, the Postal Service stated in writing that contracting with North Carolina under the cir-

cumstances would deprive the Postal employees of certain funds and benefits which they had traditionally received through vending facilities. At the arbitration hearing, the Postal services conceded that this was not a valid basis for rejection of a contract on behalf of the visually handicapped under the Randolph-Sheppard Act. And still further, there was a dispute in the evidence regarding the "competitive" nature of the bid of the State of North Carolina.

Following the hearing of this case, and exchange of briefs, and prior to the Executive Session of the Panel, HEW on March 23, 1977 issued its Rules and Regulations. Included in these Rules is a definition of cafeteria which reads:

"Par 1369.1 Terms.

* * * "(d) 'Cafeteria' means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided."

Serious consideration has been given by this Arbitration Panel to the Postal Service's initial contention that lacking the binding regulations required by Congress, this Panel has no jurisdiction to hear this dispute. In plain terms, the Postal Service is contending that where binding and implementing regulations are required by Congress to give a statute of this kind vitality and specific direction, the "law" is incomplete. On the other hand, this Panel recognizes and respects the accommodation of complex, conflicting interests which HEW faced in promulgating these regulations. Delay was understandable. We are not in an area of commercial transactions with judicial precedents firmly established by courts of law. We have before us a philosophy reflecting essential human values. That philosophy is clearly expressed in the Act itself even though as a practical matter everyone involved needed the guidance of HEW regulations for effective and meaningful implementation. It is the opinion of this Panel that the final regulations issued after the hearing of this case cannot govern this decision. The Regulations are, however, persuasive authority and the best evidence of a reasonable interpretation by those given the task by Congress based upon their expertise and experience to give meaningful direction.

The following therefore are our findings and conclusions:

1. This grievance is within the jurisdiction of the Arbitration Panel.

2. Even though the Act does not require all employees servicing a facility to be blind, once a contract is negotiated and accepted under this Act, the State Agency cannot subcontract the services at an individual facility if no blind employees are involved.

3. The principal eating facility at the General Mail Facility at Mulberry Church Road and South Interstate 85 in Charlotte is a "cafeteria." Therefore, the provisions of section 7(e) of the Act become applicable. That is, the standard to be applied is whether "such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise."

4. The fact that "no commission * * * be paid to the Employees Social and Welfare Fund * * *" (from the Contracting Officer's letter to the North Carolina Department of Human Resources rejecting that proposal, letter dated April 14, 1976) is not a basis for denying employment opportunities governed by the Randolph-Sheppard Act.

5. It is not necessary that the prices offered in a proposal be the lowest offered. It is the opinion of this Panel that as indicated in the Statute, the proposals must be in a competitive range comparable to the costs in the area in question and compared with similar facilities.

6. We find no evidence of bad faith on behalf of either the State of North Carolina or the Postal Service. However, notwithstanding that the after-the-fact evidence and justification offered by the Postal Service at this hearing could conceivably provide a satisfactory basis for its actions consistent with the expectations of Congress and HEW in fulfilling the obligation to give priorities to the visually handicapped, the criteria used by the Postal Service at the time as reflected in its letter of April 14, 1976, rejecting the State's proposal was in part in error. In this context, it is our conclusion that those who are protected by the Act should have their priority respected and implemented by decision making which reflects, at the time action is taken, a reasonable accurate application of the spirit as well as the letter of the congressional mandate. Therefore, in order to make certain that only relevant criteria are followed in this matter, we rule that the present contract between the Postal Service and Canteen must be terminated, without cost, on 60 days notice after June 14, 1977. During these 60 days, the Postal Service must renegotiate a new contract for both the cafeteria and other facilities and in such negotiation of authorization for the operation of a cafeteria and vending facility on Federal property, priority will be given to blind persons licensed by a State Agency as defined by the Randolph-Sheppard Act, as amended, and the Regulations promulgated by the Department of Health, Education, and Welfare on March 23, 1977.

W. ALLEN SANDERS,
C. COLEMAN CATES,
Panel of Arbitration Members
CARL A. WARNS, Jr.,
Chairman, Panel of Arbitration.

[FR Doc.77-23214 Filed 8-10-77;8:45 am]

[Program Announcement No. 13627-774]

REHABILITATION RESEARCH AND TRAINING CENTERS

Announcement of a Grant for FY '77

The Rehabilitation Services Administration, Office of Human Development, announces that applications for a replacement Rehabilitation Research and Training Center in Region IX will be accepted until August 30, 1977, from institutions of higher education or from States and public or nonprofit agencies and organizations, including rehabilitation facilities, which will collaborate with an institution of higher education. Applicants will compete for a Fiscal Year 1977 grant under the Rehabilitation Research and Training center program authorized by Section 202(b)(1) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations applicable to this program were published in the Federal Register in Subparts, A and D of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR, Part 1362) on November 25, 1975.

Scope of this Program Announcement.—This program announcement identifies the general program objectives and funding priorities of the Rehabilitation Research and Training Center Program for Fiscal Year 1977.

A. *Program Purpose.* The purpose of the Rehabilitation Research and Training Center program is to provide coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to graduate training.

B. *Eligible Applicants.* Any institution of higher education having a well-recognized rehabilitation research and training program or any State or public or nonprofit agency or organization, including a rehabilitation facility, which will collaborate with such an institution of higher education may apply for a grant under this announcement. Applicants must be located in HEW Region IX (California, Arizona, Nevada, Hawaii, Guam, Trust Territory of Pacific Island, American Samoa).

C. *Available Funds.* The Rehabilitation Services Administration expects to establish one Rehabilitation Research and Training Center with the approximately $300,000 available.

D. *Program Objectives and Priorities for Funding.* The major objectives of the Rehabilitation Research and Training Center program are: (1) The conduct of programs of rehabilitation research aimed toward the discovery of new knowledge which will improve rehabilitation methods, management and service delivery systems, alleviate or stabilize handicapping conditions, and promote maximum physical, social and economic independence, and (2) The conduct of a program of teaching and training to assist in preparing and increasing the number of research and other rehabilitation related professional and non-professional personnel where manpower shortages exist: to widely disseminate and promote the application of new knowledge from research findings; to incorporate rehabilitation education into all rehabilitation related university undergraduate and graduate curricula; and to improve the skills of existing rehabilitation personnel and the effectiveness of rehabilitation services through the media of seminars, workshops, study groups, short and long term in-service and continuing education programs.

In addition to these major objectives, the Centers' research should be programmatic focusing on one of a limited number of high priority core area problems requiring in-depth study which will be sequentially pursued and whose findings will have near-term relevance and application to the rehabilitation of severely handicapped persons. Two major areas will be given priority in the current competition. They are: (1) *Medical Rehabilitation* providing a continuing framework for clinical research and training in rehabilitation and encompassing the necessary medical and other services essential in carrying out a comprehensive program of patient/client care and rehabilitation, or (2) *Sensory Rehabilitation* focusing on the needs of the deaf with special emphasis on a core relating to psychological and psychiatric problems associated with deafness to help the deaf attain their highest functioning level and use their potential ability to gain personal independence, vocational stability and social acceptance.

E. *The Application Process. Appliance Submission.*—In order to be considered for a grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner in accordance with guidlines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Research and Training Center Program.

One signed original and three copies of the grant application, including all attachments, are required. The original and two copies, which are for review purposes, are to be submitted to the Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 "C" Street, SW., Washington, D.C. 20201, Attention: 13627-774. The other copy is to be submitted concurrently to the cognizant State Vocational Rehabilitation Agency. This agency reviews the application and forwards its comments to the Commissioner.

Application Consideration.—The Commissioner of Rehabilitation Services determines the final action to be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside the Federal Government. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State Agencies of Vocational Rehabilitation, the HEW Regional Office and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside the Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant Awards.—The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, the program announcements within the limits of Federal funds available. The official grant award document is The Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated.

F. *Criteria for Review and Evaluation of Applications.* All competing applications received in response to this announcement will receive a technical review by qualified Federal and non-Federal experts. Applications are evaluated against the following criteria:

1. Objectives of the Research and Training Center are in consonance with and capable of achieving RSA program objectives, as defined in this announcement.

2. The Center design, including the research and training plan, is capable of attaining Center objectives.

3. Adequate facilities are available to the applicant to carry out the project.

4. Project personnel, actual or proposed, are well trained and qualified and University faculty appointments of core staff are appropriate.

5. Staffing patterns are appropriate.

6. The Center demonstrates a satisfactory affiliation arrangement with a University and is a distinct organizational unit and sufficiently independent in its administration within the affiliation arrangement.

7. The University with which the Center is affiliated has multi-rehabilitation disciplinary resources available.

8. The University has adequate relationships with other departments within the universities, State Vocational Rehabilitation Agencies, public and voluntary organizations, etc.

9. The Universities affiliated service components are satisfactory and adequate.

10. The applicant or university is appropiately committed to the Center in terms of financial resources.

11. The project demonstrates the potential for project results to be effectively utilized.

12. The application demonstrates that the applicant has a knowledge of vocational rehabilitation issues.

13. The application demonstrates that the Center research will directly improve affiliated clinical services.

14. The estimated cost to the Government is reasonable in relation to anticipated project results.

G. *Closing Date for Receipt of Applications.* The closing date for receipt of applications under this program announcement is August 30, 1977. Applications may be mailed or hand delivered to: Receiving Office; Division of Grants and Contract Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street, S.W.; Washington, D.C. 20201 (Attention: 13627-774). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:

1. The application was sent by mail, preferably registered or certified mail, no later than August 30 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than 5:00 p.m. August 30, in any case.

H. *Late Applications.* Late applications are not accepted and applicants are notified accordingly.

I. *Availability of Application Forms.* Application kits which contain the prescribed application forms and information for the applicant may be obtained by writing to the Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Attention: (13627-774).

(Catalog of Federal Domestic Assistance Program Number: 13.627 Rehabilitation Research and Demonstrations.)

Dated: July 29, 1977.

JAMES F. GARRETT,
Acting Commissioner of Rehabilitation Services.

Approved: August 8, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for
Human Development

[FR Doc.77-23220 Filed 8-10-77;8:45 am]

Office of the Secretary

CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

Meeting

The Child and Family Development Research Review Committee will meet on Wednesday, September 7, 1977, through Saturday, September 10. The meeting will be held daily from 9 a.m. to 5 p.m. in room 5559, Office of Child Development, 400 Sixth Street SW., Washington, D.C., and will be closed to the public except for the opening remarks. The purpose of the Committee meeting is to review applications for research and demonstration projects in the areas of child and family development and welfare and to make recommendations to the Director, Office of Child Development, as to which projects should be funded. The agenda of this meeting will consist of opening remarks by the Director, Office of Child Development, followed by the review of demonstration proposals concerned with child and family development and welfare which have been submitted to the Office of Child Development for the award of grants. The closed portion of the meeting involves solely discussion by committee members of individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of per-

sonal privacy. These are matters listed in 5 U.S.C. 552(b) (4) and (6). This portion of the meeting is closed under provision of 5 U.S.C. 552b(c) (4) and (6), and Section 10(d) of the Federal Advisory Committee Act.

A list of Committee members and a summary of the meeting may be obtained from:

Barbara Rosengard, Research and Evaluation Division, Office of Child Development, P.O. Box 1182, Washington, D.C. 20013, (202) 755-7758.

Dated: June 28, 1977.

BARBARA ROSENGARD,
Executive Secretary.

[FR Doc.77-23218 Filed 8-10-77;8:45 am]

[Civil Action No. 3095-70]

KENNETH ADAMS, ET AL. V. JOSEPH A. CALIFANO, JR.

Amended Criteria Specifying Ingredients of Acceptable Plans To Desegregate State Systems of Public Higher Education

United States District Court for the District of Columbia.

Kenneth Adams, et al., Plaintiffs, v. Joseph A. Califano, Jr., Secretary of the Department of Health, Education and Welfare, et al., Defendants.

In late 1969 and early 1970, the Department of Health, Education and Welfare (HEW) notified ten states that they had not dismantled their statewide dual systems of public higher education. The letters sent by HEW at that time advised each state of its failure to adopt measures necessary to overcome the effects of past segregation and notified the states of their obligation to file a statewide plan for the desegregation of their public systems of higher education.

For the past seven years this Court has reviewed HEW's efforts to desegregate these systems of higher education. Three months ago, this Court found that the Department's effort had not been adequate and directly ordered the Department to require six of the original ten states to submit new desegregation plans and to set specific standards for those plans.

The Court found that "specific commitments (were) necessary for a workable higher edueation desegregation plan * * * concerning admission, recruitment and retention of students, concerning the placement and duplication of program offerings among institutions, the role and the enhancement of black institutions, and concerning changes in the racial composition of the faculties involved.

Specifically, this Court entered a Second Supplemental Order directing the Department to transmit to the six states of Arkansas, Florida, Georgia, North Carolina, Oklahoma, and Virginia as well as the Court and the plaintiffs criteria specifying the ingredients of acceptable desegregation plans for their institutions of public higher education.

This Court further directed that HEW require each state to submit, within 60 days of receipt of the criteria, a revised desegregation plan and to accept or reject such desegregation plan within 20 days thereafter.

Where HEW has found a violation of Title VI of the Civil Rights Act of 1964, it is required first to attempt to secure compliance by voluntary means. When those efforts fail, HEW is required to seek enforcement either administratively or through the courts. 42 U.S.C. 2000d-1; 45 CFR 80.7(d)(1), 80.8. These criteria are issued to assist the states in the preparation of desegregation plans as part of the process of securing voluntary compliance.

HEW has developed the attached criteria mindful of the instructions of this Court that the criteria comply with constitutional standards and Title VI, conform with sound educational practices, and take into account the unique importance of black colleges.

PREAMBLE

I. HISTORY OF LEGAL PROCEEDINGS

The criteria set forth below have been developed by the Department of Health, Education, and Welfare (HEW) pursuant to the specific direction of the United States District Court for the District of Columbia in "Adams v. Califano," Civil Action No. 3095-70, Second Supplemental Order (D.D.C. April 1, 1977). The Court's Order arises out of a lawsuit initiated in 1970 to require HEW to take action to enforce the provisions of Title VI of the Civil Rights Act of 1964.[1]

In 1969, the Office for Civil Rights, OCR, determined that ten states[2] were continuing to operate segregated higher education systems in violation of Title VI of the 1964 Civil Rights Act. Although the states were notified of this finding and were requested to submit corrective plans, no administrative enforcement actions were taken when the states failed to submit plans or submitted plans unacceptable to HEW. In February 1973, the "Adams" litigation resulted in a ruling requiring that HEW take appropriate enforcement action. "Adams v. Richardson", 356 F. Supp. 92 (D.D.C. 1973).

That ruling was unanimously affirmed by the full United States Court of Appeals for the District of Columbia Circuit, although the Court of Appeals modified the District Court's order and directed HEW to attempt to secure acceptable desegregation plans from the ten states before commencing enforcement proceedings. "Adams v. Richardson," 480 F. 2d 1159 (D.C. Cir. 1973).

[1] Title VI of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. 2000d.

[2] Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Virginia.

In 1974, HEW accepted desegregation plans from eight of the ten states.[3] Reports covering the first year of implementation were submitted to HEW in 1975. Subsequently, the plaintiffs in the "Adams" case sought further relief and on April 1, 1977, the Court ruled that the 1974 plans did not comply with the criteria previously announced by HEW and that as implemented the plans had failed to achieve significant progress toward higher education desegregation. Based on these findings the Court ordered HEW to develop and issue within 90 days specific criteria to guide the six states[4] in the preparation of revised desegregation plans.

II. LEGAL AND EDUCATIONAL PRINCIPLES

A. *De jure segregation.* These criteria apply to six states that operated racially segregated systems of public higher education under state law. The Office for Civil Rights found that the continuing racial patterns among institutions reflect the state's failure to remove the vestiges of the state imposed racial segregation in violation of Title VI.

B. *Affirmative duty to take effective steps to eliminate de jure segregation.* Where there has been past de jure segregation, states are required to take affirmative remedial steps and to achieve results in overcoming the effects of prior discrimination. HEW's regulation implementing Title VI provides that

> In administering a program regarding which the recipient has previously discriminated against persons on the ground of race * * *, the recipient must take affimative action to overcome the effects of prior discrimination. 45 CFR 80.3(b)(6)(i).

The 14th Amendment also calls for more than mere abandonment of discrimination through the state's adoption of passive or neutral policies. The United States Supreme Court has held that public school officials have "the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." "Green v. County School Board of New Kent County", 391 U.S. 430, 437-38 (1968).

The affirmative duty to desegregate applies with equal force to higher education. "Norris v. State Council of Higher Education," 327 F. Supp. 1368 (E.D. Va. 1971), *aff'd per curiam*, 404 U.S. 907 (1971); "Lee v. Macon County Board of Education," 267 F. Supp. 458 (M.D. Ala. 1967), *aff'd*, 369 U.S. 215 (1967); "Geier v. Dunn," 337 F. Supp. 573 (M.D. Tenn. 1972). Additionally, the Supreme Court has made it clear that desegregation plans are not adequate unless they are effective. "See Green v. County School Board of New Kent County, supra; Swann v. Charlotte-Mecklenburg Board of Education," 402 U.S. 1 (1971).

Consistent with the requirements of Title VI these criteria set forth the elements of a desegregation plan which would eliminate the effects of past discrimination.

C. *Statewide approach.* The Court of Appeals in its *en banc* opinion in "Adams" directed HEW to undertake a statewide approach and noted the serious problem created by the lack of viable statewide coordinated planning in higher education:

> The problem of integrating higher education must be dealt with on a statewide rather than a school-by-school basis.[5]

The Department has followed this approach since 1969 because we believe statewide planning is consistent with sound educational policy. Thus, these criteria require not only that each institution pursue nondiscriminatory student admission and faculty and staff employment practices, but also that the state system as a whole develop a comprehensive and coordinated statewide desegregation plan embodying those specific affirmative, remedial steps which will prove effective in achieving significant progress toward the disestablishment of the structure of the dual system and which address the problem of "systemwide racial imbalance."

D. *Specificity—goals and timetables.* The District Court in "Adams" concluded that the plans previously adopted by the states had failed to achieve adequate desegregation progress and lacked specific commitments for change as concerns the desegregation of student bodies and faculties, enhancement of traditionally black institutions, and desegregation of the governing boards in higher education systems.

The District Court directed HEW to prepare criteria which would identify for the states the specific elements to be included in their revised desegregation plans. As the District Court stated in response to plaintiffs' oral argument on January 17, 1977:

> What I do want them to do though is be under the compulsion of a court order to submit to the states certain *specific* requirements which the states must respond to and they should be given a timetable for communicating with the states, and the states should be given some kind of timetable within which to make response. (Transcript, January 17th ruling; emphasis supplied.)

In "Geier v. Blanton", 427 F. Supp. 644 (M.D. Tenn. 1977), the Court quoted its Order of December 23, 1969, expressing its dissatisfaction with a state submitted desegregation plan in that the plan as submitted "lacks specificity, in that there is no showing of funds to be expended, no statement of the number of students to be involved, and most importantly, no time schedules for either the implementation of the projects or the achievement of any goals," 427 F. Supp. at 646.

The Supreme Court has maintained that in a system with a history of segregation there is a need for remedial criteria of sufficient specificity to assure compliance with the law. "See Swann", supra at 25-26.

With respect to the six states here involved, the need to require specific goals and timetables is founded in the comparatively small numbers of black students attending the traditionally white four year institutions and completing graduate training. Further, the numbers of black faculty employed at these white institutions have remained small. Moreover, traditionally black institutions have not been given the facilities, programs, or status comparable to traditionally white institutions.

In keeping with the Court's view that the Department should submit specific requirements to the states, numerical goals and timetables are set forth in the criteria. The goals are established as indices by which to measure progress toward the objective of eliminating the effects of unconstitutional de jure racial segregation and of providing equal educational opportunity for all citizens of these states. They are benchmarks and provide the states the clear and specific guidance called for by the Court.

These goals are not quotas. The Department is opposed to arbitrary quotas. Failure to achieve a goal is not sufficient evidence, standing alone, to establish a violation of Title VI. In addition, the Office for Civil Rights upon a showing of exceptional hardship or special circumstances by a state, may modify the goals and timetables. Nevertheless, the states are under a statutory obligation to devise and implement plans that are effective in achieving the desegregation of the system.

Most importantly, under these criteria and the goals they set, all applicants must be able to compete successfully. States' efforts under these criteria need not and should not lead to lowering academic standards. States may need to innovate in seeking out talented students who will profit from higher education. They may need to broaden definitions of potential; to discount the effects of early disadvantage on the development of academic competence; and to broaden the talents measured in admission tests. But new and different yardsticks for measuring potential are not lower standards. They can be more valid measures of true potential and talent. Taken as a whole, these criteria seek to preserve and protect academic standards of excellence.

E. *Special considerations in developing criteria for desegregation in higher education.* A state system of higher education, as with an elementary and secondary school district, it held to an affirmative duty to take remedial action to correct past practices of segregation and discrimination However, the nature of the remedial action required of a higher education system will differ from that required of a local education district. The Court of Appeals in "Adams" noted:

> However, we are also mindful that desegregation problems in colleges and universities differ widely from those in elementary and secondary schools, and that HEW admittedly lacks experience in dealing with them * * * As regrettable as these revelations are, the stark truth is that HEW must carefully assess the significance of a variety of new factors as it moves into an unaccustomed area. 480 F 2d at 1164.

In "Norris v. State Council of Higher Education," 327 F. Supp. 1368, 1373 (E.D. Va. 1971), aff'd per curiam, 404 U.S. 907 (1971), the court held:

> The means of eliminating discrimination in public schools necessarily differ from its elimination in colleges, but the state's duty is as exacting.

And in "Sanders v. Ellington," 288 F. Supp. 937, 943 (M.D. Tenn. 1968), the court stated:

> Now in considering the time element for presentation of a plan, I have thought of the complexities of the problem. I recognize that the simple remedies which might be available to a county school board where there is involved a compulsory system of education, a free system of education, and assignment of students, are not available here. Colleges are not compulsory and everyone can testify that they're not free.

Higher education differs from elementary and secondary education in many other ways. Besides being voluntary rather than compulsory, higher education operates on a statewide or regional basis, not local; there are no "attendance zones" in higher education; higher education programs vary from institution to institution and are not uniform; students are free to leave the state or to attend private colleges in pursuit of a higher education.

Furthermore, from state to state significant differences are to be found and must be taken into consideration. In some states strong centralized "system" exists including four year and two year institutions; in others, the four year and two year institutions report to separate boards; in yet others, each institution operates under its own independent board. While none of these differences relieves a state of its obligations under Title VI or its constitutional duties, they must be taken into account in fashioning an appropriate set of criteria to be applicable to six states.

Accordingly, while desegregation cases involving individual elementary and secondary school districts are a guide to a

[3] Louisiana refused to submit a plan and was referred to the Department of Justice, which filed a lawsuit, ("United States v. Louisiana"), Civil Action No. 74-68 (M.D. La.) in January 1974. The plan submitted by Mississippi was deemed unacceptable by HEW and the matter was referred to the Department of Justice, which filed a lawsuit, "Ayers and United States v. Finch," Civil Action No. D.C. 75-9-K (N.D. Miss.), in March 1975.

[4] The April 1, 1977, Order excludes Pennsylvania (by agreement of the parties to the "Adams" lawsuit) and Maryland, which commenced a separate injunctive suit against HEW's enforcement proceedings now pending in the United States Court of Appeals for the Fourth Circuit ("Mandel v. HEW," No. 76-1494), as well as Louisiana and Mississippi.

[5] It is important to note that we are not here discussing discriminatory admission policies of individual institutions. To the extent that such practices are discovered, immediate corrective action is required, but we do not understand HEW to dispute that point. This controversy concerns the more complex problem of systemwide racial imbalance. "Adams v. Richardson," supra, 480 F. 2d at 1164-1165 (footnote in original).

state's duty to take corrective action, they are not dispositive of the particular methods to be designed for the dismantling of a dual system of higher education, for the desegregation of a statewide system, for the removal of the vestiges of racial segregation, and for the correction of "systemwide racial imbalance." As the courts in "Adams" have noted, these are indeed "complex" issues. These criteria are designed specifically for the higher education systems of these six states based on a careful consideration of relevant statutes and court opinions and with due consideration to the unique characteristics of higher education.[5]

F. *The unique role of the traditionally black colleges.* In keeping with the instructions of the Court, the criteria recognize the unique importance of traditionally black colleges in meeting the educational needs of black students. More than 80 percent of all black college graduates have been trained at[6] black colleges. In the mid-seventies, black colleges continue to graduate almost forty percent of all blacks who receive[7] college degrees.

Thus it is with good reason that the Court of Appeals in "Adams" recognized the need to take into account "the special problems of black colleges."

> Perhaps the most serious problem in this area is the lack of state-wide planning to provide more and better trained minority group doctors, lawyers, engineers and other professionals. A predicate for minority access to quality post-graduate programs is viable, co-ordinated state-wide higher education policy that takes into account the special problems of minority students and of Black colleges * * *. [T]hese Black institutions currently fulfill a crucial need and will continue to play an important role in Black higher education. 480 F. 2d 1164–1165.

Again in 1977, the District Court in its Second Supplemental Order, p. 4, quoted the above language of the Court of Appeals and went on to state:

> The process of desegration must not place a greater burden on Black institutions or Black students' opportunity to receive a quality public higher education. The desegregation process should take into account the unequal status of the Black colleges and the real danger that desegregation will diminish higher education opportunities for Blacks. Without suggesting the answer to this complex problem, it is the responsibility of HEW to devise criteria for higher education desegregation plans which will take into account the unique importance of Black colleges and at the same time comply with the Congressional mandate.

The Department does not take this language to mean that the traditionally black institutions are exempt from the Constitution or the requirements of Title VI. To the contrary, traditionally black and traditionally white institutions are subject to the same constitutional and congressional mandate to provide an education to all citizens without discrimination or segregation. White and black institutions are to function as part of a unitary system free of the vestiges of state imposed racial segregation. However, as the Court has instructed, the transition to a unitary system must not be accomplished by placing a disproportionate burden upon black students, faculty, or institutions or by reducing the educational opportunities currently available to blacks.

To achieve the objectives of Title VI, precise methods will need to be fashioned for different institutions within a state, each appropriate to the task of overcoming the effects of prior discrimination in the particular instance. Each method will be enforced with equal force and determination. Each method is designed to achieve the same constitutional standard.

III. CONSULTATION PROCESS

In the preparation of these criteria, the Department undertook an extensive consultation process within the Department and with interested outside parties. In an effort to assure that these criteria are both legally and educationally sound, a departmental task force was established to guide their development. The task force combined the multiple disciplines and varied expertise needed to resolve the complex issues and educational policies involved in this desegregation process. Serving on the task force were the General Counsel, the Director of the Office for Civil Rights, the Assistant Secretary for Education, the Commissioner of Education, and the Assistant Secretary for Planning and Evaluation.

The Department also embarked on a program of open dialogue and consultation with parties of interest. The task force members conferred with representatives of the six states collectively and individually. The representatives included college presidents, education officials, and aides to Governors. A special meeting was held with students who attend the public colleges in the six states and representatives of several national student organizations. Four meetings were held with officials of the amicus curiae, National Association for Equal Opportunity in Higher Education, an association of the presidents of 110 predominantly black colleges and universities, both state supported and private. Two panels of nationally recognized educators met for half day sessions to advise the Department.

Finally, the plaintiffs' representatives have devoted many hours to reviewing and commenting on drafts of the criteria. They also convened a meeting for the Department with 28 citizens from these six states who are most familiar with the higher education desegregation efforts in their respective states. It is the Department's intention to continue these informal discussions as the most effective means of assuring communications with all parties.

The Department assumes full and sole responsibility for the content of these criteria. The consultations enumerated above were exceedingly helpful to the Department in the preparation of these criteria, but these discussions do not imply concurrence in these criteria in whole or in part by other parties.

Higher educational systems in these and other states are undergoing difficult adjustments caused by fiscal and demographic trends beyond the control of individual states. Accordingly these criteria focus on desegregation efforts to be undertaken within the next five years.

As each state attains the goals set forth in its plan, OCR will assess, in cooperation with that state, the progress thereby made in order to determine what additional steps, if any, are necessary to complete the desegregation process. Furthermore, during the course of the five year period, OCR will periodically review these criteria to assure their adequacy in meeting constitutional requirements, their consistency with rulings of the courts in higher education desegregation, and the mandate of Title VI.

ELEMENTS OF A PLAN

I. DISESTABLISHMENT OF THE STRUCTURE OF THE DUAL SYSTEM

An acceptable plan shall commit the state to the goal of organizing and operating the system and institutions of higher education in a manner that promises realistically to overcome the effects of past discrimination and to disestablishe the dual system and which assures that students will be attracted to each institution on the basis of educational programs and opportunities unihibited by past practices of segregation.

To achieve the disestablishment of the structure of the dual system, each plan shall:

A. *Define the mission of each institution within the state system on a basis other than race.* Each mission statement shall include at a minimum:

1. The level, range and scope of programs and degrees offered;
2. Geographic area served by the institution; and
3. The projected size of the student body and staff.

B. *Specify steps to be taken to strengthen the role of traditionally black institutions in the state system.* The plan shall include:

1. Commitments that traditionally black institutions will have the facilities, quality and range of programs, degree offerings, faculties, student assistance, and other resources which are at least comparable to those at traditionally white institutions having similar missions;
2. Commitments that necessary improvements will be made to permit these institutions to fulfill their defined missions;
3. Commitments by the state system for the improvement and expansion of resources, (e.g., physical plant, program offerings, research equipment, financial support, student, faculty and professional staff services) at the traditionally black institutions in accordance with their missions;
4. An assessment of the physical plant at traditionally black institutions; and
5. A detailed description of the resources, expressed in dollars and in numbers of personnel to be assigned, which the state system will provide (and the source for such funds) in order to implement these measures in I.B., reported by year for the life of the measure or activity.

C. *Commit the state to take specific steps to eliminate educationally unnecessary program duplication among traditionally black and traditionally white institutions in the same service area.* The plan shall identify existing degree programs, major fields of study, and course duplication (other than core curricula) among institutions having identical or overlapping service areas and indicate specifically with respect to each area what steps the state will take to eliminate such duplication. The elimination of such program duplication shall be carried out consistent with the objective of strengthening the traditionally black colleges.

D. *Commit the state to give priority consideration to placing any new undergraduate, graduate, or professional degree programs, courses of study, etc., which may be proposed, at traditionally black institutions, consistent with their missions.*

E. *Comit the state to withhold approval of any changes in the operation of the state system or of any institutions that may have the effect of thwarting the achievement of its desegregation goals.*

F. *Commit the state to advise OCR of proposed major changes in the mission or the character of any institution within the state system which may directly or indirectly affect the achievement of its desegregation goals prior to their formal adoption.* Such proposed changes include but are not limited to: The establishment or major expansion of new programs of study, of departments, or institutions; the alteration of two year to four year institutions; the conversion of a private to a public institution; or the closing or merger of institutions or campuses.

G. *Specify timetables for sequential implementation of the actions necessary to achieve these goals as soon as possible but no later than within five years (by the close of the academic year 1981–82), unless compelling justification for a longer period for compliance is provided to and accepted by the Department.* The plan shall include interim benchmarks and goals from which progress toward these objectives may be measured. These timetables and benchmarks shall be appropriate to the nature of the action to be taken. For example, studies of physical plant and resources comparablity should be completed promptly; corrective actions (including capital construction) will require longer time periods.

H. *Commit the state and all its involved agencies and subdivisions to specific measures for achievement of the above objectives.* Such measures may include but are not limited to establishing cooperative programs consistent with institutional missions; reassigning specified programs, course offerings, resources and/or services among institutions; realigning the land grant academic programs so that research, experiment and other educational services are redistributed on a nonracial basis; and merging institutions or branches thereof, particularly where institutions or campuses have the same or overlapping service areas. The measures taken pursuant to this section should be consistent with the objective of strengthening the traditionally black colleges. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the goals listed above will be rejected by OCR. Revised measures will be required before the plan can be accepted.

II. DESEGREGATION OF STUDENT ENROLLMENT

An acceptable plan shall commit the state to the goal of assuring that the system as a whole and each institution within the system provide an equal educational opportunity, are open and accessible to all students, and operate without regard to race and on a desegregated basis.

To achieve the desegregation of student enrollment, each plan shall:

A. *Adopt the goal that for two year and four year undergraduate public higher education institutions in the state system, taken as a whole, the proportion of black high school graduates throughout the State who enter such institutions shall be at least equal to the proportion of white high school graduates throughout the State who enter such institutions.*

B. (1) *Adopt the goal that there shall be an annual increase, to be specified by each state system, in the proportion of black students in the traditionally white four-year undergraduate public higher education institutions in the state system taken as a whole and in each such institution; and*

(2) *Adopt the objective of reducing the disparity between the proportion of black high school graduates and the proportion of white high school graduates entering[8] traditionally white four year and upper division undergraduate public higher education institutions in the state system; and adopt the goal of reducing the current disparity by at least fifty percent by the academic year 1982–83. However, this shall not require any state to increase by that date black student admissions by more than 150% above the admissions for the academic year of 1976–77.*[9]

C. *Adopt the goal that the proportion of black state residents who graduate from undergraduate institutions in the state system and enter graduate study or professional schools in the state system shall be at least equal to the proportion of white state residents who graduate from undergraduate institutions in the state system and enter such schools.* This goal (and interim benchmarks or goals) shall be separately stated for each major field of graduate and professional study. To assure that this goal can be met in the immediate future special recruitment efforts should be considered at traditionally black institutions. Particular attention should be given to increasing black student enrollment and graduation from those traditionally white four-year undergraduate institutions which serve as the feeder institutions for the graduate and professional schools. Achievement of this goal is of particular importance in light of the specific concern expressed by the Court of Appeals in "Adams." In assessing progress toward this goal, OCR will give consideration to the number of blacks from each state who enroll in graduate and professional schools outside the state system.

D. *Adopt the goal of increasing the total proportion of white students attending traditionally black institutions.* Increased participation by white students at traditionally black institutions must be a part of the process of desegregation of the statewide system of higher education. However, pursuant to the admonition of the courts in "Adams," "The desegregation process should take into account the unequal status of the Black colleges and the real danger that desegregation will diminish higher education opportunities for Blacks." Civil Action No. 3095–70, Second Supplemental Order at p. 4. The following steps are designed to guard against the diminution of higher educational opportunities for black students, to take into account the unique importance of traditionally black colleges and to comply with the mandate of Title VI. Establishment of numerical goals for the enrollment of white students at traditionally black institutions must be preceded by an increasing enrollment of black students in the higher education system and at the traditionally white institutions, as is required by section II of these criteria. It must also be preceded by the accomplishment of specific steps to strengthen the role of traditionally black institutions, eliminate program duplication, locate new programs at black institutions, and by

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[5] For a useful discussion of these issues see Note, "The Affirmative Duty To Integrate Higher Education," 70 "Yale Law Journal" 666 (1970).

[6] See Elias Blake, Public Policy and the Higher Education of Black Americans," Staff Report, Subcommittee on Constitutional Rights of the Committee on the Judiciary, 94th Cong. 2d Sess. 1976.

[7] National Center for Education Statistics, Earned Degrees Survey, 1975–76.

[8] For the purposes of this subsection, the term entering includes first-time transfers from two year and other institutions.

[9] Thus, where the present entry by black *students in four year traditionally white institutions* is at a rate of 1000 students per year and a fully proportional rate would be 3000 students per year, the state's goal would be an entry rate of 2000 students per year by 1982–83. A state where the present entry is at a rate of only 500 students per year and full proportionality would be 3000 students per year would not by that date have to close half the gap (by a rate of 1750 per year) but only achieve an entry rate of 1250 students which is 150% over its present rate of 500.

such other measures as are set forth in section I.

OCR shall annually review the progress made by each state in increasing participation by black students in higher education and in the disestablishment of the dual school system. Commencing on September 1, 1979, and consistent with such progress, each state system shall specify annual numerical goals for increasing the participation of white students attending the traditionally black institutions.

E. *Commit the state to take all reasonable steps to reduce any disparity between the proportion of black and white students completing and graduating from the two year, four year and graduate public institutions of higher education, and establish interim goals, to be specified by the State system, for achieving annual progress.*

F. *Commit the State to expand mobility between two year and four year institutions as a means of meeting the goals set forth in these criteria.*

G. *Specify timetables for sequential implementation of actions necessary to achieve these goals as soon as possible but not later than within five years (by the close of the academic year 1981–82) unless another date is specified in this section.*

H. *Commit the State and all its involved agencies and subdivisions to specific measures to achieve these goals.* Such measures may include, but are not limited to reviewing, monitoring, and revising, as necessary, procedures for student recruitment, admissions, compensatory instruction, counseling, financial aid, and staff and faculty development programs. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the numerical goals will be rejected by OCR. Revised measures will be required before the plan can be accepted.

III. DESEGREGATION OF FACULTY, ADMINISTRATIVE STAFFS, NON-ACADEMIC PERSONNEL, AND GOVERNING BOARDS

An acceptable plan shall commit the state system to the goal of increasing the number and proportion of black employees, academic and non-academic, throughout the system and of increasing representation of black citizens among appointive positions on the governing boards of the state system and of individual institutions.

To achieve the desegregation of faculty, administrators, other personnel, and governing boards, each plan shall:

A. *Adopt the goal that the proportion of black faculty and of administrators at each institution and on the staffs of each governing board, or any other state higher education entity, in positions not requiring the doctoral degree, shall at least equal the proportion of black students graduating with masters degrees from institutions within the state system, or the proportion of black individuals with the required credentials for such positions in the relevant labor market area, whichever is greater.*

B. *Adopt the goal that the proportion of black faculty and of administrators at each institution and on the staffs of each governing board or any other state higher education entity, in positions requiring the doctoral degree, shall at least equal the proportion of black individuals with the credentials required for such positions in the relevant labor market area.*

C. *Adopt the goal that the proportion of black non-academic personnel (by job category) at each institution and on the staffs of each governing board or any other state higher education entity, shall at least equal the proportion of black persons in the relevant labor market area.*

D. *Assure hereafter and until the foregoing goals are met that for the traditionally white institutions as a whole, the proportion of blacks hired to fill faculty and administrative vacancies shall not be less than the proportion of black individuals with the credentials required for such positions in the relevant labor market area.*

E. *Specify timetables for sequential implementation of the action necessary to achieve this objective including interim benchmarks and goals from which progress toward the objective may be measured.*

These timetables, interim goals and benchmarks shall be established in light of, and shall specify, the current and projected rates of vacancies in the various job categories, present and projected labor market availability, and other relevant factors.

F. *Commit the state system to taking specific measures to achieve these objectives.* Such measures may include, but are not limited to employment programs providing centralized recruitment, vacancy, and applicant listings; transfer options; faculty development programs permitting release time for black faculty to attain the terminal degree; and the interchange of faculty on a temporary or permanent basis among traditionally white and traditionally black institutions within the state system. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the goals listed above will be rejected by OCR. Revised measures will be required before the plan can be accepted.

G. *Adopt the goal of increasing the numbers of black persons appointed to systemwide and institutional governing boards and agencies so that these boards may be more representative of the racial population of the state or of the area served.*

IV. SUBMISSION OF PLANS AND MONITORING

A. The states of Arkansas, Florida, Georgia, North Carolina, Oklahoma, and Virginia shall within 60 days of receipt of these criteria submit to OCR a desegregation plan for each of their systems of public higher education to implement the foregoing criteria.

1. Each plan shall commit the state to substantial progress toward each of the goals in the first two years of the plan.

2. Each plan shall be signed by the governor and by each official or designated person representing the agencies, associations, commissions, offices, and/or institutions responsible for adopting the systemwide and institutional goals described therein. Such persons or entities must be authorized under state law to perform all actions necessary to achieve these goals.

3. Each plan shall certify that achievement of the goals and interim benchmarks specified therein has been adopted as official policy of each official or agency.

B. OCR shall notify each state of acceptance or rejection of the plan within 120 days of its receipt.

C. It is recommended that each state establish a biracial citizens advisory/monitoring committee to assist the state in monitoring the implementation of the plan.

D. Beginning in August 1978, each state shall submit to OCR by August 15 of each year a comprehensive narrative assessment of its desegregation efforts in the most recent academic year. This narrative assessment shall include:

1. A description of the specific measures which have been taken to achieve the objectives enumerated in the plan and in the criteria;

2. A description of the results achieved, including quantitative indices where appropriate or required;

3. An analysis of the reasons why any steps taken proved inadequate or insufficient; and

4. A description of the steps the state will take to achieve progress and to maintain the timetables set forth in the plan.

E. OCR shall review such narrative reports. If good cause for the failure to meet interim goals is not demonstrated, OCR may impose more stringent requirements, including advance approval by OCR of desegregation methods, in order to assure achievement of the goals of the plan. In the alternative, the Department may initiate enforcement proceedings under Title VI of the Civil Rights Act of 1964, if compliance with Title VI cannot be achieved by voluntary means.

F. Each plan shall provide that the State will furnish to OCR statistical reports, assessments, and such other information as OCR may deem necessary from time to time in order to determine the effectiveness of the State's efforts to achieve the goals described in these criteria. Such information shall include annual statistical reports in substantially the same format used previously by the affected States pursuant to earlier desegregation plans. Specific dates for the submission of the reports will be established by OCR. In the event that subsequent developments call for the submission of additional data, such requirements will be announced after consultation with the States, and the States and institutions shall have sufficient time to develop the system needed for the gathering of additional data.

V. DEFINITIONS

As used in these criteria:

A. "Department" refers to the U.S. Department of Health, Education, and Welfare. In instances where the "Department" is to take certain actions, they may be performed by the Office for Civil Rights or the Director, Office for Civil Rights, on behalf of the Department.

B. "Institution" means any school, college, junior or community college, university, professional or graduate school, administered by or as an agency of the state government. Four year institution means any school, college, or university that offers a baccalaureate or graduate degree. For the purpose of these criteria, "institution" does not refer to private schools or colleges.

C. "State system" means the aggregate of all state public institutions of higher education within the state, whether or not under the governance of the same state agency or board.

D. "Student" means any person enrolled in an instructional program, whether full-time or part-time, subject to exceptions to be specified by the Office For Civil Rights.

E. "Faculty" means all persons employed by an institution as full-time instructional personnel.

F. "Labor market area" means the geographical area in which an institution or campus traditionally recruits or draws applicants possessing the requisite credentials for vacancies in faculty, administrative, or non-academic personnel positions.

G. "Governing board, means that appointed or elected body, whether or not responsible to the governor of a state or to the state legislature, which is charged under state law with the ultimate responsibility for the administration and operation of institutions within the state system of public higher education. A "governing board" may be responsible for the entire system, for a single campus or institution thereof, or for a specified group of campuses or institutions.

Dated: August 4, 1977.

DAVID S. TATEL,
Director,
Office for Civil Rights.

[FR Doc.77-23230 Filed 8-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE, WORK PROGRAM SUBCOMMITTEE

Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 92-579 that the Work Program Subcommittee of the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior will meet in Riverside, Calif., September 1, 1977. The purpose of the meeting is to review alternative revisions to the California Desert Conservation Area Work Program resulting from reduction in anticipated 1978 budget.

The meeting will be held at 2 p.m. in the Conference Room, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507. The meeting will be open to the public.

Dated: August 3, 1977.

JAMES B. RUCH,
Acting State Director.

[FR Doc 77-23207 Filed 8-10-77;8:45 am]

[N-17001]

NEVADA

Notice of Application

AUGUST 1, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southwest Gas Corporation has applied for a natural gas pipeline right-of-way across the following lands:

MOUNT DIABLO MERIDIAN

T. 14 N., R. 20 E.
Secs. 5, 6, 7;
T. 16 N., R. 20 E.
Secs. 36;
T. 16 N., R. 21 E.
Secs. 14, 21, 22, 28, 29, 30, 31.

This pipeline will reinforce and supplement the existing Carson Lateral and Stewart to Genoa, Nevada pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other anlyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the District Manager, Bureau of Land Management, 1050 E. Williams St., Suite 335, Carson City, Nevada 89701.

WM. J. MALENCIK,
Chief, Division
of Technical Services.

[FR Doc.77-23204 Filed 8-10-77;8:45 am]

[NM 31160, 31175, 31236]

NEW MEXICO

Notice of Application

AUGUST 5, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two $4\frac{1}{2}$-inch, one $12\frac{3}{4}$-inch and one $10\frac{3}{4}$-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 9 W.,
Sec. 6, $SE\frac{1}{4}NW\frac{1}{4}$ and $SW\frac{1}{4}NE\frac{1}{4}$.
T. 31 N., R. 9 W.,
Sec. 29, lots 7, 8, 10, and 11;
Sec. 30, lots 8, 9, 10, 12, and 13;
Sec. 33, lot 4.
T. 31 N., R. 10 W.,
Sec. 25, lots 2, 3, 4, and 5;
Sec. 26, lots 1 and 3;
Sec. 27, lots 4, 5, 6, 7, and 8;
Sec. 28, lots 1, 2, 3, 5, and 6;
Sec. 29, lot 8.
T. 32 N., R. 10 W.,
Sec. 31, lots 6 and 11.

These pipelines will convey natural gas across 5.348 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-23206 Field 8-10-77;8:45 am]

(NM 29537)

NEW MEXICO

Proposed Withdrawal and Reservation of Lands for Military Purposes; Amendment

AUGUST 3, 1977.

The Notice of Proposed Withdrawal and Reservation of Lands for Military Purposes, under serial number NM 29537, appearing as FR Doc. 77-1023 in the January 11, 1977 issue of the FEDERAL REGISTER at pages 2360-2363, is hereby amended to add the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 7 E.,
Sec. 1, those parts lying east of the Southern Pacific Railway right-of-way.
T. 22 S., R. 9 E.,
Sec. 7, those parts lying east of the Southern Pacific Railway right-of-way.
T. 23 S., R. 11 E.,
Sec. 31, $E\frac{1}{2}NE\frac{1}{4}$ and $NE\frac{1}{4}SE\frac{1}{4}$.

Amendment to include the above listed land descriptions does not change the total acreage of the proposed withdrawal.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc 77-23205 Filed 8-10-77;8:45 am]

Bureau of Land Management

[Wyoming 60312]

WYOMING

Application

AUGUST 5, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act

of 1920, as amended (30 U.S.C. 185), the Western Oil Transportation Co., Inc., of Casper, Wyoming filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING
T. 58 N., R. 76 W.,
sec. 30, lots 16, 22, 23

This pipeline will transport crude oil within T. 58 N., R. 76 W., in Sheridan County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 7 Union Blvd., P.O. Box 2834, Casper, Wyoming 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23125 Filed 8-10-77;8:45 am]

National Park Service

[Order No. 7, Amdt. No. 6]

LAND ACQUISITION OFFICER, WESTERN REGION

Delegation of Authority

Western Region Order No. 7, approved March 3, 1972, and published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6326), and Amendment No. 1, approved March 5, 1974, and published in the FEDERAL REGISTER of April 18, 1974 (39 FR 13903), and Amendment No. 2, approved March 27, 1975, and published in the FEDERAL REGISTER of May 5, 1974 (40 FR 19508), and Amendment No. 3, approved January 12, 1976, and published in the FEDERAL REGISTER of May 14, 1976 (41 FR 19993), and Amendment No. 4, approved September 8, 1976, and published in the FEDERAL REGISTER of November 15, 1976 (41 FR 50357), and Amendment No. 5, approved November 29, 1976, and published in the FEDERAL REGISTER of January 19, 1977 (38 FR 7478), are hereby amended. Section 2, paragraphs (h) and (h)(1) are hereby amended, and (h)(2) and (h)(3) are hereby added to read as follows:

(h) *Field Land Acquisition Officers.* All Field Land Acquisition Officers and Inholding Realty Specialists are authorized to exercise authority with respect to the following:

(1) Approve and accept offers to sell to or exchange with the United States lands or interests in lands when the amount involved does not exceed $250,000.

(2) Accept deeds conveying to the United States lands or interests in lands.

(3) Approve claims for reimbursement under Pub. L. 91-646 when the amount involved does not exceed $5,000.

Dated: July 6, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Regional Office.

[FR Doc.77-23152 Filed 8-10-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Bernard E. Kopaskie has filed a plan of operations in support of proposed mining activities on lands embracing his Midnight Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: June 30, 1977.

RICHARD S. RAYNER,
Acting Superintendent, Death Valley National Monument.

Dated: July 11, 1977.

JOHN H. DAIVS,
Acting Regional Director, Western Region.

[FR Doc.77-23153 Filed 8-10-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-36]

CERTAIN PLASTIC FASTENER ASSEMBLIES

Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 30, 1977, and an amendment was filed on July 22, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Dennison Manufacturing Co., Framingham, Mass. 01701, alleging that unfair methods of competition and unfair acts exist in the importation of plastic fastener assemblies into the United States, or in their sale, by reason of the alleged coverage of such articles by claims 1-5, 7 and 9-11 of U.S. Letters Patent 3,733,657, owned by Dennison Manufacturing Co. It alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a permanent exclusion from entry into the United States of the allegedly infringing imports.

Having considered the complaint, the U.S. International Trade Commission, on August 4, 1977, *Ordered:*

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint, there is a violation of subsection (a) of 19 U.S.C. 1337 in the unauthorized importation of plastic fastener assemblies into the United States, or in their unauthorized sale, by reason of such assemblies allegedly being covered by claims 1-5, 7, and 9-11 of U.S. Letters Patent 3,733,657, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint and this notice are to be served:

FOREIGN MANUFACTURERS

Lozio et Figli, S.A.S., Uffici Magazzino, Via Petrella, 4, 20124 Milano, Italy.
Tokoyo Style, Ltd. (for Banok), No. 5, 3-2 Chome, Higasjikanda, Chiyoda-Ku, Tokoyo, Japan.
Teknotex S.R.L. Import-Export, Uffici Pezzotti 61, 20141 Milano, Italy.
Yoo Joh & Co., Gwang Hwa Moon, P.O. Box 22, Seoul, Korea.
Okabe Marking System, Kabushiki Kaisha, No. 68 1-Chome, Shinjuku-Ku, Tokoyo, Japan.
DaeWon Kang Up Co., Ltd., 134, Ohryu-dong, Yungdeungo-ku Seoul, Korea.
Dong Shin Pharmaceutical Co., Ltd., 62-7, 2-ka, Choongmoo-ro, Chung-ku, Seoul, Korea.
Yoo & Co., Seoul, Korea.
Tong Shin Co., Ltd., 435, Chimson-dong, Buk-ku, Taegu, Korea.

IMPORTERS

Ben Clements & Sons, Inc., 209 West 38th Street, New York, N.Y. 10013.
Marketing Resources Co., 1010 Jorie Boulevard, Suite 308, Oak Brook, Ill., 60521.
Han Sung Trading Co., 1905 Wilshire Boulevard, Los Angeles, Calif. 90057.

(3) That, for the purpose of the investigation so instituted, Commissioner Italo H. Ablondi, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer; and

(4) That, for the purpose of the investigation so instituted, Steven K. Morrison, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named as Commission investigative attorney.

Responses must be submitted by the parties in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, April 27, 1976). Pursuant to sections 210.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission Building, Washington, D.C., and in the New York City Office of the Commission, 6 World Trade Center.

By order of the Commission.

Issued: August 8, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-23217 Filed 8-10-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTERS OF CONTROLLED SUBSTANCES

Registration

By Notice dated May 26, 1977, and published in the FEDERAL REGISTER on June 2, 1977 (42 FR 28190), Applied Science Labs., Inc., 129 North Gill Street, Box 440, State College, Pa. 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug:	Schedule
3,4-Methylenedioxy amphetamine	II
Bufotenine	I
Diethyltryptamine	I
Dimethyltryptamine	I
Piminodine	II

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substances listed. The substances, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a)(2)(B) and 21 CFR Section 1311.42, and pursuant to Section 1003(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 2, 1977.

DANIEL P. CASEY,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-23179 Filed 8-10-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notices dated May 26, 1977, and published in the FEDERAL REGISTER on June 2, 1977, the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic classes of controlled substances listed below:

Winthrop Laboratory, Division of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, NY 12144 (Apr. 13, 1977):

Drug:	Schedule
Pethidine	II

Applied Science Laboratories, Inc., 139 North Gill Street (Box 440), State College, Pennsylvania 16801 (undated):

Drug:	Schedule
Mescaline	I
Lysergic acid diethylamide	I

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the applications submitted by each of the above firms for registration as bulk manufacturers of the basic classes of controlled substances listed therein are granted.

Dated: August 2, 1977.

DANIEL P. CASEY,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-23180 Filed 8-10-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. S50-586]

BALTIMORE GAS AND ELECTRIC CO.

Docketing of Application for Early Site Review

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application from the Baltimore Gas and Electric Company pursuant to 10 CFR § 2.101(a-1) for an early review and hearing and an early partial decision on issues of site suitability within the purview of the applicable provisions of 10 CFR Parts 50, 51, and 100 for their Perryman site. The four volume Site Suitability Environmental Report and four volume Site Suitability Site Safety Report dated July 1, 1977, were docketed on July 11, 1977. Docket No. S50-586 has been assigned to the Perryman review and should be referenced in any correspondence relating thereto.

The proposed site is located in Harford County in northeastern Maryland near the town of Perryman, approximately 16.5 miles east-northeast of Baltimore.

A copy of the application, Site Suitability Environmental Report and Site Suitability Site Safety Report are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Harford Community College, 401 Thomas Road, Bel Air, Maryland. Copies of the information are also being made available at the Regional Planning Council, Mt. Vernon Medical Building, 701 St. Paul Street, Baltimore, Maryland.

A Notice of Hearing is being published separately, setting forth the radiological safety and environmental issues to be considered during the review. A date for submitting Petitions for Leave to Intervene will be set forth in the Notice of Hearing.

Interested persons may submit comments on the applicant's Site Suitability Environmental Report for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's Site Suitability Environmental Report (local agencies may obtain this document upon request). In accordance with 10 CFR § 2.605, the Commission, upon its own initiative or upon the timely motion of any party to the proceeding, may decline to initiate an early hearing or render an early partial decision on any issue or issues of site suitability for which early consideration is sought that would prejudice the later review and decision on alternative sites or that would not be in the public interest. Comments on whether an early site review should be conducted under 10 CFR § 2.605 are due by September 26, 1977. Comments on the merits of the proposed Perryman site are due by December 9, 1977. Comments by Federal, State and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Harford Community College, 401 Thomas Road, Bel Air, Maryland.

After the site information has been analyzed by the Office of Nuclear Reactor Regulation staff, and absent a determination by the Commission to decline to initiate an early site review, a Draft Site Environmental Statement and Site Safety Evaluation Report will be prepared. Upon preparation of the Draft Site Environmental Statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the Draft Site Environmental Statement, the staff will prepare a Final Site Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Upon preparation of the Site Safety Evaluation Report, the Commission will notice its availability in the FEDERAL REGISTER.

Any person who wishes to have his views on antitrust matters of the application presented to the Attorney General for consideration should submit such views in accordance with a subsequent notice that will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 3rd day of August 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-23193 Filed 8-10-77;8:45 am]

[Dockets Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 45, 45, and 42 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2 and 3, (the facilities) located in Oconee County, S.C. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications (1) to establish operating limits for Unit 2 Cycle 3 operation and (2) to establish requirements for testing reactor core internal vent valves.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 50.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated May 6, 1977, as supplemented June 21 and July 11, 1977, (2) application for amendments dated March 1, 1977, as supplemented May 5, 1977, (3) Amendments Nos. 45, 45, and 42 to Licenses Nos. DPR-38, DPR-47 and DPR-55, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of July 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER, *Chief of Operating Reactors Branch No. 1 Division of Operating Reactors.*

[FR Doc.77-23195 Filed 8-10-77;8:45 am]

[Docket No. 50-334]

DUQUESNE LIGHT CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulator Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-66, issued to Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station Unit No. 1 (the facility) located in Beaver County, Pa. The amendment is effective as of its date of issuance.

This amendment relates to a revised enthalpy rise hot channel factor ($F^N_{\Delta H}$) Technical Specification for Beaver Valley Power Station Unit No. 1 to account for new fuel rod bow information.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 25, 1977, (2) Amendment No. 10 to License No. DPR-66, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 27th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-23194 Filed 8-10-77;8:45 am]

FLORIDA POWER AND LIGHT CO.

[Docket No. 50-251]

Order for Modification of License

I.

The Florida Power and Light Co. (the Licensee), is the holder of Facility Operating License No. DPR-41 which authorizes the operation of the nuclear power reactor known as Turkey Point Unit No. 4 (the facility) at steady state reactor power levels not in excess of 2200 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Dade County, Fla.

II.

On February 8, 1977, the Nuclear Regulatory Commission ordered Turkey Point Unit No. 4 to perform an inspection of steam generators at the end of the then current fiscal cycle or within 120 equivalent days of power operation from February 8, 1977, whichever occurred first. On May 3, 1977, the Nuclear Regulatory Commission issued a supplementary Order granting approval for resumption of reactor operation until the end of the third fuel cycle and continuing the other requirements of the Order ofg February 8, 1977 in force. On May 9, 1977, Turkey Point Unit No. 4 was shut down for refueling for Cycle 4 and for inspection of the three steam generators in accordance with the above Orders. The Orders required Nuclear Regulatory Commission approval before resuming reactor power operation after the shutdown.

On June 9, 1977, the Licensee submitted a report describing the results of their inspections and tests of the steam generators, as well as their analysis and evaluation of the data. The report was supplemented by letters dated June 10, 1977, June 28, 1977, July 6, 1977, July 27, 1977 and July 29, 1977. The licensee also submitted a revised ECCS performance analysis taking into account additional tube plugging. The NRC staff has evaluated this information and has assessed continued operation of the facility. This evaluation is set forth in the accompanying Safety Evaluation Report. Based on its review, the staff has concluded that operation of the facility, under the conditions previously imposed, may be continued for an additional period of six months and that the limitations contained in this Order will provide reasonable assurance that the public health and safety will not be endangered by continued operation of Unit No. 4. This Order continues in effect the leakage and radioiodine concentration limits previously imposed and makes slight revision to the peaking factor limits presently contained in the facility Technical Specifications to reflect the revised ECCS analysis.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Environmental and Urban Affairs Library, Florida International University, Miami, Fla.: (1) the licensee's report of the steam generator inspections dated June 9, 1977 as amended on June 10, 1977 and June 28, 1977, (2) the Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant Unit No. 4), Docket No. 50-251 dated February 8, 1977, (3) our Safety Evaluation Report dated February 11, 1977, applicable to our Order dated February 8, 1977, (4) the Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant, Unit No. 4), Docket No. 50-251, dated May 3, 1977, (5) the licensee's letter of July 6, 1977, requesting approval to resume power operation of Turkey Point Unit No. 4, (6) the licensee's letters of July 27, 1977 and July 29, 1977, which evaluate operation with one or more steam generator tube plugs in the primary coolant system, and (7) this Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant, Unit No. 4), Docket No. 50-251.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50, It Is Ordered That paragraph 3.D of Facility Operating License No. DPR-41 is hereby amended by the following new provisions:

D. STEAM GENERATOR OPERATION

1. Turkey Point Unit 4 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators after six equivalent months of Cycle 4 operation. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection. For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350 F.

2. Primary to secondary leakage through the steam generator tubes shall be limited to 0.3 gpm per steam generator. With any steam generator tube leakage greater than this limit, the reactor shall be brought to the cold shutdown condition within 24 hours. The leaking tube(s) shall be evaluated and plugged prior to resuming power operation.

3. The concentration of radioiodine in the primary coolant shall be limited to 1 microcurie/gram during normal operation and to 30 microcuries/gram during power transients.

4. Reactor operation shall be terminated and Nuclear Regulatory Commission approval shall be obtained prior to resuming operation if the reactor is required to shutdown due to primary to secondary leakage, as specified in paragraph 2, above, more than twice during a 20-day period.

5. The operation of the Metal Impact Monitoring System (MIMS) with the capability of detecting loose objects will be continued until the next reactor vessel inspection. In the event that the MIMS is out of service, it will be reported to the NRC. Any abnormal indications from the MIMS will also be reported to the NRC by telephone by the next working day and by a written evaluation within two weeks.

6. Following each startup from below 350°F. core barrel movement will be evaluated using neutron noise techniques.

7. On page 3.2-3 of the Technical Specifications for Turkey Point Unit No. 4, the peaking factor, F_Q, is hereby reduced from 2.22 to 2.20 at rated power. This change will be incorporated in the Technical Specifications in a future amendment responding to your submittal of June 8, 1977.

Dated in Bethesda, Md., this 3rd day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-23197 Filed 8-10-77;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for Operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes which will modify the Technical Specifications defining the surveillance schedule of Shock Suppressors (snubbers). The change will allow GPC to enter the visual inspection schedule for inaccessible snubbers on a 6-month inspection interval, if they all have been inspected, functionally tested and repaired to return them to within specifications, during a unit outage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 19, 1977, (2) Amendment No. 43 to License No. DPR-57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc 77-23196 Filed 8-10-77;8:45 am]

[Docket No. 50-423]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Northeast Nuclear Energy Company, et al., pursuant to Section 103 of the

[1] The following are the holders of Construction Permit No. CPPR 113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric Department, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric [illegible]

by 10 CFR Part 50, Appendix L. This information adds Central Maine Power Company as an owner of the Millstone Nuclear Power Station, Unit No. 3, and increases the ownership shares in the units for Massachusetts Municipal Wholesale Electric Company and Montaup Electric Company.

The information was filed by Northeast Nuclear Energy Company in connection with their application for a construction permit and operating license Atomic Energy Act of 1954, as amended, filed on April 18, 1977 and May 9, 1977, information requested by the Attorney General for Antitrust Review as required for a pressurized nuclear reactor. Northeast Nuclear Energy Company, et. al. was issued a construction permit on August 9, 1974 for the Millstone Nuclear Power Station, Unit No. 3. Construction is underway on a site located on the north shore of Long Island Sound, in the Town of Waterford, New London County, Connecticut.

The original antitrust portion of the application was submitted on October 31, 1972 and the Notice of Receipt of Application for a Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595). The Notice of Hearing was also published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Maine Power Company and the Massachusetts Municipal Wholesale Electric Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before September 26, 1977.

Dated at Bethesda, Maryland, this 21st day of July, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-21776 Filed 7-27-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.130, "Design Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Component Supports," delineates acceptable design limits and appropriate combinations of loadings associated with normal operation, postulated accidents, and specified seismic events for the design of ASME Code Class 1 plate-and-shell-type component supports.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.130 will, however, be particularly useful in evaluating the need for an early revision if received by October 7, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 2nd day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-23198 Filed 8-10-77;8:45 am]

RISK ASSESSMENT REVIEW GROUP

Meeting

NOTE.—This document originally appeared at page 40289 in the FEDERAL REGISTER for Tuesday, August 9, 1977. It is reprinted in this issue to meet the assigned-day-of-the-week publication schedule.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of an open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 9:00 a.m. on August 24 and 25, 1977 in Room 1062 of the Matomic Building, 1717 H Street NW., Washington, D.C.

On July 7, 1977 (42 FR 34955), NRC announced the establishment of the Review Group for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH 1400 (NUREG-75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and future courses of action which should be taken to improve this methodology and its application. The Review Group will submit a report to the Commission on or before December 31, 1977.

In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. It is anticipated that all sessions of the Review Group will be open to the public.

The purpose of the instant meeting is to review peer comments on the final report of the Reactor Safety Study. Peer group comments on the final report of the Study include testimony presented to Congressional Committees and the Advisory Committee on Reactor Safeguards, letters to NRC, technical articles, such other information as may come to the attention to the Review Group. The Review Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants and with commentators on the Study. At the conclusion of these presentations, the Review Group may caucus to determine whether the matters identified have been adequately covered. The Chairman of the Review Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 17, 1977 to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street, N.W., Washington, 20555.
2. The NRC's five Regional Offices of Inspection and Enforcement:
Region I, 631 Park Avenue, King of Prussia, Pa. 19406.
Region II, Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.
Region III, 799 Roosevelt Road, Glen Ellyn, Ill. 60137.
Region IV, Suite 1000, 611 Ryan Plaza Drive, Arlington, Tx. 76012.
Region V, Suite 202, 1990 N. California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Branch, Att: Melea S. Fogle (telephone: 301-492-8377), 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangement can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 23, 1977 to the Office of Policy Evaluation (telephone 202-254-5184, Attn: Dr. John H. Austin) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will not be permitted during the meeting.

(g) A copy of the minutes of the meeting will be available for inspection on or after October 24, 1977, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies may be obtained upon payment of appropriate charges.

Dated: August 8, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23120 Filed 8-6-77;8:45 am]

[Docket No. PRM-30-55]

STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION

Filing of Petition for Rulemaking

Notice is hereby given that the State of New Jersey through its Department of Environmental Protection, by letter dated May 31, 1977, has filed with the Nuclear Regulatory Commission a petition for rulemaking.

The petitioner requests the Commission to:

(a) Establish criteria to quantify the "as low as readily achievable" emission reduction policy for major facilities using byproduct materials from man-made fission reactions and require existing plants to meet these criteria;

(b) Establish siting criteria for all such facilities as a basis for the evaluation of the acceptability of new plant locations in terms of radiation doses to the general public; and

(c) Require all existing and new byproduct material facilities to develop and implement off-site environmental surveillance programs so that the NRC and all other interested persons have current information as to the levels of radioactivity in the environment around such facilities.

The petitioner states that the Commission has radiation standards and criteria for facilities using byproduct material from man-made fission reactions as raw materials which differ drastically from the standards for nuclear power plants. The petitioner makes a comparison between a nuclear power plant and a radiopharmaceutical plant and states that a nuclear power plant, with its sophiscated control equipment, is designed to handle a number of different types of potential accidents and still keep the radiation exposure to the public within acceptable limits. The petitioner states further that a radiopharmaceutical plant does not have the same capabilities and an accident, should it occur, could release greater quantities of radioactive material into the environment than would occur during normal operating conditions.

In further support of the petition the petitioner states that because byproduct material plants have unrestricted siting, there are many more people in the vicinity of the byproduct material plants than near nuclear power plants. The petitioner asserts that the use of better controlled equipment than that presently installed would not only reduce the normal radiation exposure to the public, but would also be insurance against the adverse health consequences of an accidental release.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of the petition for rulemaking may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 11, 1977.

Dated at Washington, D.C. this 3rd day of August, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-22805; Filed 8-10-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-32]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Marine Safety Recommendations M-77-8 through 14.—The National Transportation Safety Board has issued seven safety recommendations as a result of its participation in the ongoing U.S. Coast Guard Marine Board of Investigation into the collision of the SS MARINE FLORIDIAN with the Benjamin Harrison Bridge. The Class II, Priority Followup recommendations were issued August 4 to the Coast Guard.

The accident occurred last February 24 as the bulk sulfur carrier, in ballast, was downbound from Hopewell, Virginia, in the James River en route to Newport News for fueling. About 2 miles downriver, the MARINE FLORIDIAN veered to the left (north) of the channel and the lifted center span of the bridge and collided with the northern truss of the bridge.

A section of the northern approach causeway and two highway motor vehicles fell into the river on the portside of the vessel. The northern end of the northern truss span, which was displaced from its supporting pier by the ship, collapsed downward and came to rest on the main deck of the ship until March 6 when that span and the northern main tower of the bridge further collapsed onto the ship and into the river. The bridge was damaged extensively and will require substantial rebuilding. The MARINE FLORIDIAN suffered considerable damage to the deckhouse and other damage to deck-level structures and equipment.

The persons who were in the motor vehicle escaped back from the span, and no one was injured on the ship. Likewise, there were no injuries when the bridge further collapsed onto the ship.

Although investigation has not been completed, evidence indicates that the MARINE FLORIDIAN experienced a loss of rudder control; the precise reason for that loss has not yet been determined. However, the steering casualty alarm in the engineroom did not activate when power apparently was lost to the port steering motor, and a manual transfer switch in the port electric power circuit had a mechanical fault of possible critical, but not yet determined, consequence.

The Safety Board finds that this casualty and others, and the potentially catastrophic consequences of steering failures, indicates a need to further upgrade rudder control and alarm systems.

Steering gear tests, operating procedures, and inspections should be improved to assure more reliable vessel control. Accordingly, the Safety Board recommends that the Coast Guard—

Amend 46 CFR 111.80-70(f) (1) and (2) to require the installation of a pilot light and an audible alarm to indicate power interruption to steering gear motors in the wheelhouse independent of, and in addition to, those currently required to so indicate at the propulsion control station. (M-77-8)

Amend 46 CFR 111.01 and 111.90 to make the provisions of 46 CFR 111.80-70(c)(2) and 111.80-70(e) applicable to vessels equipped with electric-powered steering gear and contracted for prior to November 19, 1952, which would require the removal of motor-running protective devices; the installation of protective devices responsive to motor current, temperature, or both; and the installation of interlocks to prevent both steering systems from being connected to the same feeder circuit simultaneously. (M-77-9)

Amend 46 CFR 35.20-10, 78.17-15, and 97.-15-3, and 33 CFR 164.25 to require additional specific steering gear tests, including the switching from one steering gear control system to the other, from hydraulic control to electrical control and back; from one source of electric power for the steering motors to the other and back; and the activation of alarm systems by stimulation of power interruption to each of the steering motors. (M-77-10)

Amend regulations to require the upgrading to meet current standards of all systems vital not only to onboard safety but also to vessel control whenever an oceangoing vessel is modernized, lengthened, rebuilt, or converted to another service. (M-77-11)

Undertake further rulemaking to amend 33 CFR 164.15 to require, when steering gear rooms are required to be manned, that the persons assigned are competent and trained to switch the steering gear to all alternate modes and control systems, and to require that the person manning the steering engineroom is in communication with the wheelhouse. (M-77-12)

Make a special one-time inspection of manual transfer switch installations, such as that found in the MARINE FLORIDIAN, on a representative number of vessels; and based on the findings, change steering gear inspection procedures to assure that mechanical faults in the electrical system are identified and corrected during future periodic inspections. (M-77-13)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-71-18.—In response to the Safety Board's inquiry of June 28 (42 FR 36331, June 14, 1977) as to the status of notice of proposed rulemaking 74-21A, the Federal Aviation Administration on July 27 reported that the review of public comments on the proposal has been completed and that final action is being prepared. FAA expects to complete action next month. The proposal relates to safety recommendation A-71-18.

Aviation: A-77-20 through 22.—Federal Aviation Administration's letter of July 28 comments on the recommendations issued following investigation of the crash of a Cessna 310J at Rockford, Illinois, last January 3. (See 42 FR 24131, May 12, 1977.)

Recommendation A-77-20 asked FAA to issue an airworthiness directive requiring that all Cessna Model 310 airplanes with an auxiliary fuel system installed be placarded, in the cockpit, to caution pilots that only 30 minutes flight time may be available when using auxiliary tanks. After examining Safety Board summaries of 34 Cessna 310 accident reports in which fuel starvation is listed as a contributing factor, FAA states that it did not find any evidence that any of the accidents would have been prevented by an auxiliary fuel tank "flight time" capacity placard. FAA further states, "Fuel consumption and by-pass rates are functions of many variables: power settings, mixture, altitude, temperature, engine condition, etc. We believe that a placard reference to flight time capacity of an auxiliary fuel tank is not realistic and could, in some cases, create a safety problem."

Recommendation A-77-21 asked FAA to require, for all new airplanes in which some auxiliary fuel is returned to tanks other than the auxiliary tanks, that the flight manual or approved manual material specifies the amount of fuel returned to another tank and the flight time available when using the auxiliary tanks. FAA reports that final action is being taken to adopt notice of proposed rulemaking 75-25 which proposes that airplanes delivered after a certain date be provided with approved flight manuals. Also, instructions to FAA field offices for pilot operating handbook approval are in preparation. Present Owner's Manuals are not FAA approved. The Cessna 310 manuals contain information on the fuel system including the by-pass from the auxiliary tanks back to the main tanks. FAA believes that specifying the amount of fuel retrieved to another tank and flight time available in auxiliary tanks is not feasible.

Re A-77-22, which asked FAA to require that district accident prevention specialists disseminate this information as widely as possible among Cessna 310 pilots, FAA reports that for the past year its general aviation accident prevention specialists have been using a slide-tape presentation on fuel management, entitled "Time in Your Tanks." The presentation stresses the need for pilot knowledge of fuel systems, capacity, consumption rates, and maintenance of fuel reserves. FAA says that other slide-tape presentations and lectures used in program activities also stress the importance of knowledge of aircraft fuel systems, checklists, preflight checks of fuel quantity and flight planning including fuel requirements. FAA believes that these types of presentations are more effective industrywide than those related to specific makes and models.

Aviation: A-77-36 and 37.—Federal Aviation Administration's letter of August 1 is in response to recommendations made after the Safety Board investigated several aircraft accidents which occurred at DuPage County Airport, Illinois, shortly after 2200:00, the nightly closing time for the air traffic control tower. (See 42 FR 29579, June 9, 1977.)

Recommendation A-77-36 asked FAA to delegate control of all DuPage Airport's light systems and components to the Chicago Flight Service Station when the DuPage control tower is not operational. FAA reports that action has been initiated to provide remote control capability of DuPage Airport's runway edge lights to the Chicago Flight Service Station located on the DuPage Airport. Further, until such time as the dual lighting controls are installed, DuPage County Tower operating hours have been extended from 6 a.m. to midnight, 2 hours longer than its previous duty period. FAA states, "It is also required that the DuPage ATIS operate continuously during the non-duty period. In addition to the tower's non-operational status, the ATIS announces what lighting is available and that it cannot be controlled or altered during the midnight hours."

In answer to A-77-37, which asked FAA to survey all airports with published instrument approach procedures and with control towers which do not operate continuously to assure that the airport lights can be controlled by another FAA facility or by a pilot when the control tower is not operational, FAA reports completion of the recommended survey. FAA has determined that of the 215 control tower locations falling within this category, 65 are collocated with a Flight Service Station, 56 of which have the capability to control airport light systems during the tower's non-duty status. That capability will be extended to additional locations this year, FAA said. At present, 10 airport lighting systems are pilot controlled.

FAA further notes that responsibilty for operating airport lights at the remaining 140 sites basically rests with the airport manager/operator when the tower is closed. Tower personnel set the light controls as directed by the Facility Management Handbook, 7210.3C, or as set forth in a letter of Agreement with airport authorities prior to closing the facility for the day. In addition, provisions of Order 7210.3C have been expanded to require part-time towers to annnounce the termination/resumption of air traffic control service at closing/opening times. This information is disseminated to pilots via radio and other interested air traffic facilities via telephone interphone, FAA states.

Railroad: R-76-56 and 57.—The Association of American Railroads (AAR), by letter of July 26, provides the Safety Board with additional comments on recommendations issued as a result of investigation of the May 5, 1976, autotrain derailment at Jarratt, Virginia. AAR's initial response to these recommendations was forwarded to the Board last December 27 (42 FR 3907, January 21, 1977). These recommendations asked AAR to establish a system to insure that wheels exposed to critical temperatures are removed from service before inservice failure occurs (R-76-56) and a system to insure that wheels exposed or suspected of being exposed to critical temperatures are reported by railroad employees (R-76-57).

In its July 26 letter, AAR notes regarding overheated wheels that a great deal of effort has been devoted to (1) determining the failure mechanism, (2) means of reducing potential catastrophic failures, and (3) feasible methods for detecting a wheel which is approaching the limit beyond which a failure can occur. AAR states that no fundamental solutions can be found until the failure mode is better described and improvements in technology enable identification of a wheel which is approaching failure.

AAR reports that a great number of programs sponsored by the Department of Transportation, AAR and others, either jointly or separately, are looking into wheel failure as related to design, fracture mechanics, stress analysis, etc. AAR and others have developed computer analysis models to determine wheel stresses resulting from environmental conditions which include uniform heating from brake application. The AAR model, culmination of a five-year program, compares the capability of various wheel designs to withstand normal environmental stresses. It does not deal with inelastic behavior. AAR states, and therefore it cannot at this time establish the residual stress pattern in the wheel. AAR says that no known analytical method can deal with this problem. AAR has under contract a study that may lead to a solution, but results cannot be anticipated with certainty. The AAR-developed wheel design analysis model will be made available at no cost to wheel manufacturers for use in wheel design and will be used by AAR to insure that current designs conform to minimum acceptable standards.

For a number of years, AAR has taken steps to improve resistance to thermal cracking in wheels. AAR states, "The maximum carbon content of new wheels has been systematically reduced within the last twenty years from 1.5% to 1.0% to 0.8% to increase resistance to thermal cracking (at the expense of wear resistance)." AAR reports that railroads are currently removing from service existing wheels, manufactured by one company, which have a carbon content in excess of 0.8% and which are more susceptible to thermal cracking than other wheels. These wheels are marked on the plate, not on the rim. AAR says that further consideration will be given to change in metallurgy of new wheels to reduce possibility of thermal cracks. AAR has, for some time, been reviewing the pros and cons of marking wheel information on rims.

AAR states that a great deal of effort is needed in the area of defining what an overheated wheel really is, by what mechanism an overheated wheel fails, and how harmful overheating may be detected. Within the limits of available knowledge, AAR says it has prescribed a visual means of identifying an overheated wheel, i.e., discoloration halfway into the plate area. This discoloration arises from oxidation of the heated metal.

The development of a method for detection of potential wheel failures from excessive heat, according to AAR, depends in great measure upon solving the above problems. To implement recommendation R-76-56, AAR states, would require "a system that provides for a response from an indicator which establishes that a potential for failure exists and that the wheel must be removed from service." "Failing that," AAR states, "a rugged failsafe, portable, cost-feasible device is required to detect incipient failure. Such a method would be useful in detecting all potential failures in wheels, whether or not overheating has occurred because, ultimately, wheel failures involve fracture initiation and propagation." AAR has programs in all of these areas and will cooperate with the Federal Railroad Administration and others to expedite solutions to wheel failure problems.

SAFETY BOARD COMMENTS ON COAST GUARD'S PROPOSED RULEMAKING

On August 4 the Safety Board forwarded to the U.S. Coast Guard comments on notice of proposed rulemaking CGD 74-125, published June 27 at 42 FR 32700. The Board agrees with and supports Coast Guard's proposal in general to revise subchapter J of Title 46, Code of Federal Regulations, but has some reservations, as indicated below.

The Board is concerned that the proposed regulations would perpetuate the current standards for electrical equipment on existing vessels even though the standards are inadequate. The need to update certain installations to current standards is particularly apparent in the steering systems on existing vessels and is recognized by recent Coast Guard proposed rulemaking (CGD 77-063) to amend 33 CFR Part 157 which would establish additional requirements for steering systems on existing oil tankers of 20,000 dwt. or more. The Board believes that most of the requirements of both of these proposals for steering gear installations should be applicable not only to oil tankers of 20,000 dwt. but to all ocean going vessels of 1,600 gross tons and more, and to existing as well as to new vessels.

A copy of the seven recommendations issued August 4 to the Coast Guard in connection with the MARINE FLORIDIAN accident (see above) accompanied the Safety Board's letter commenting on CGD 74-125. Those recommendations express the Board's concern for steering gear and other ship control system installations in existing vessels.

The Board notes that CGD 74-125 would abolish the current electrical engineering regulations and replace them with new regulations. Electrical equipment and systems installed before the effective date of these new regulations would be required to meet the specifications in effect at the time of the installation. Therefore, there would be no regulations in effect for existing vessels except by reference in the new regulations. It would be impossible to amend or to upgrade the requirements for existing vessels since there would be no regulations in effect to be amended. Also, industry and Coast Guard inspectors would be required to maintain and to use the old regulations for all maintenance and inspection activities on existing vessels for many years to come; this could cause considerable confusion. The Board suggests that the current regulations be retained for existing vessels.

The Board believes that these proposed regulations encourage the use of National Electric Code practices for circuit installations and equipment design aboard ships. These proposed regulations are placing greater reliance on obtaining satisfactory electrical shipboard installations by shifting some of the approving responsibilities from the technical field offices to the on-site inspectors. The Board believes that if these changes are to proceed without reduction in the safety of shipboard electrical installations, then a well planned program should be implemented for upgrading the electrical inspection training given to Coast Guard inspectors.

The Board provides the following comments with reference to specific sections of the proposed regulations:

111.10-7(a). This will comply with the intent of Board recommendation M-73-7 of the STEEL VENDOR casualty report for new vessels. However, some existing vessels will still be exposed to the hazard of having no designed means of starting from a dead ship plant at sea. This requirement should be extended to existing vessels which undergo alterations to lengthen their useful life.

111.30-1(d). This section should provide the protection intended by the Board's recommendation made as a result of the SS TRANSHURON stranding at Kiltan Island on September 26, 1974.

111.75-17(b). The proposal to extend the requirement for navigation light indicator panels to all self-propelled vessels is endorsed by the Board. The Board believes, however, that this should be further extended to provide for an automatic panel to monitor the navigation lights on push-towed vessels which often are navigating restricted and congested waterways. Also, the increasing size and number of such towboat-barge combinations, and the variety of dangerous cargoes they can carry justify a requirement for automatic monitoring of their navigation lights. The Board previously proposed this requirement in recommendation M-73-4 which stemmed from the collision between the M V JAMES L. HAMILTON, M V LASALLE, and tow and motorboat OH-5421-MC, August 14, 1971.

111.93-7(c)(2). Section 111.80-70(d)(3) now provides that selection of the steering system in the pilothouse will automatically start the steering gear power motor and that "any ancillary device necessary to activate * * * shall be automatically operated upon starting the steering gear power motor." The Board finds that this is significantly different than the proposed "automatically energizes the steering control system and steering power system * * *." The regulations should make it clear that the intent is to switch automatically the entire steering power and control system in one action of the control switch in the wheelhouse.

111.93-11(a). This section should require the pilot light to indicate at the main machinery control station in addition to in the pilothouse. The Board recently proposed both locations in a recommendation as a result of the MARINE FLORIDIAN accident.

111.93–11(b). The Board strongly supports this section as recently recommended in the MARINE FLORIDIAN case.

111.93–11(c). The failure of any phase of a three-phase supply should be indicated at the main machinery control station by an audible and visual alarm in addition to those indications in the wheelhouse as proposed by this action.

112.50–1. The Board believes that a requirement should be added to this section for an overspeed limiting device for diesel emergency generators identical to that requirement contained in section 111.121(b) for diesel engine prime movers.

113.40–10. Safety Board recommendation M–74–17 proposed that rudder angle indicators should be visible from all conning positions. This section continues to provide for one indicator only, to be in the direct line of vision of the helmsman. The Board believes that repeaters should be provided so that they are visible at other locations, especially from the bridge wings, for use by those directing steering orders to the helmsman.

NOTE.—The above notice is comprised of summaries of a safety recommendation letter made available, and responses to recommendations received, during the week preceding publication of the notice in the FEDERAL REGISTER. The recommendation letter in its entirety is available to the general public; single copies are obtainable, without charge. Copies of the full text of responses to recommendations and other Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 8, 1977.

[FR Doc.77–23246 Filed 8–10–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20128; 70–6036]

ALABAMA POWER CO.

Proposed Issuance and Sale of Preferred Stock and First Mortgage Bonds at Competitive Bidding

AUGUST 4, 1977.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, a public-utility subsidary company of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to issue up to 500,000 shares of its Preferred Stock, with a par value of $100 per share (the "new Preferred Stock"), and to sell such securities at competitive bidding for the best price obtainable but for a price to Alabama of not less than $100 per share nor more than $101.75 per share, which shall also be the public offering price of such shares. In addition, Alabama proposes to pay to the purchasers of the new Preferred Stock compensation for the purchase or underwriting of the shares.

The terms of the new Preferred Stock will be established by resolution of the board of directors of Alabama. Although no such determination has yet been made, Alabama may, if it deems it desirable to do so, make provision for a cumulative sinking fund for the benefit of the new Preferred Stock which would retire not more than 5 percent annually of the number of shares initially issued, commencing five years after the sale, with the noncumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares.

Alabama proposes to issue up to $200,000,000 principal amount of its First Mortgage Bonds of one or more series having a term or terms of not less than five years nor more than 30 years (the "new Bonds") and to sell such bonds at competitive bidding for the best price or prices obtainable but for a price or prices to Alabama of not less than 98 percent nor more than 101¾ percent of the principal amount thereof, plus accrued interest. Alabama may request by amendment hereto that such sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Alabama's management, make such exception in the best interest of Alabama and its investors and consumers.

The new Bonds will be issued under the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto and as to be further supplemented by one or more Supplemental Indentures to be dated as of October 1, 1977.

Alabama states that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Alabama to sell new Bonds having a 30-year or some shorter term. Alabama states that it is in the public interest that Alabama be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate and term for its new Bonds. Alabama proposes, therefore, that Alabama decide whether to issue the new bonds in one or more series and to specify the term of the new Bonds in the registration statement or statements to be filed in respect thereto or in an amendment to such registration statement or statements.

Alabama states that if in the case of a single series the term of the new Bonds has not been determined prior to the date of public invitation for proposals, Alabama will notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding.

Alabama proposes to use the proceeds from the sale of the new Preferred Stock and the new Bonds, along with (1) funds received in July, 1977 from the sale of $100,000,000 principal amount of First Mortgage Bonds, 8¾ percent Series due July 1, 2007, (2) $39,417,000 of funds from tax-exempt bond issues of public authorities for financing certain of Alabama's pollution control facilities, (3) $95,000,000 of additional equity funds from The Southern Company and (4) $23,470,000 from the net change in notes payable, from other financings of types and in amounts to be determined and from usual internal sources, to finance its 1977 construction costs, estimated to be $497,147,000, to pay a portion of notes payable for such purpose and to retire $10,740,000 principal amount of first mortgage bonds.

The fees and expenses to be incurred in connection with this transaction are to be filed by amendment. It is stated that the issuance and sale of the new Bonds have been expressly authorized by the Alabama Public Service Commission which has jurisdiction over the issuance of securities by public utility companies operating in Alabama. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77–23147 Filed 8–10–77;8:45 am]

[Release No. 34–13828; File No. SR–Amex–77–19]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Public Law No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 27, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Amex proposes to rescind Rule 482, which prevents Amex members from entering their quotations in listed securities in over-the-counter quotation sheets and NASDAQ.

The Text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule change is as follows:

The purpose of the proposed rule change is to permit Amex members to act as market makers in issues which have been suspended from trading by the Exchange and are exempt from the restrictions on off-board principal transactions set forth in Amex Rule 5, and otherwise to make use of available facilities for dissemination of quotation information.

Rule 482 is proposed to be rescinded to remove a burden on the activities of Amex members which the Exchange has determined serves no compelling regulatory purpose.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Person desiring to make written submissions should file six copies thereof with the Secretary of Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-Amex-77–19.

The Commission has found that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission has found good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This rule change will permit Amex members to make use of available facilities for dissemination of quotation information and thereby remove a burden on competition in accordance with certain provisions of the Act, including Sections 6(b)(5), 6(b)(8), and 11A(a)(1)(C).

The Commission has ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 4, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT A

AMERICAN STOCK EXCHANGE, INC.

Rule 482 of the American Stock Exchange is proposed to be rescinded in its entirety as follows:

[Advertising in Quotation Sheets

Rule 482. No member, member firm or member corporation may for his own account or for an account in which he has an interest list his name in quotation sheets having a strictly professional clientele with respect to Common Stocks, Warrants, or American Depository Receipts (ADR's) representing equity securities other than preferred stock issues, dealt in on the Exchange.]

[FR Doc.77–23144 Filed 8–10–77;8:45 am]

[Release No. 20124; 70–6015]

APPALACHIAN POWER CO. AND OHIO POWER CO.

Proposed Guaranties by Subsidiaries of New Coal Mining Equipment Lease Obligations To Be Incurred by Second-Tier Subsidiaries

AUGUST 3, 1977.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, and Ohio Power Company ("Ohio"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, electric utility subsidiary companies of American Electric Power Company, Inc., a registered holding company, have filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian and Ohio propose to enter into Guaranty Agreements (each of which is hereafter referred to as a "Guaranty" and collectively as the "Guaranties") in favor of Manufacturers Hanover Leasing Corporation ("MHLC") under which they each would unconditionally guarantee the obligations of certain of their coal mining subsidiaries under leases for new mining and related equipment to be entered into between each of such coal mining subsidiaries and MHLC. The coal mining subsidiaries of Appalachian whose lease obligations are to be guaranteed by Appalachian are: Cedar Coal Company ("Cedar") and Central Appalachian Coal Company ("Central Appalachian"). The coal mining subsidiaries of Ohio whose lease obligations are to be guaranteed by Ohio are: Southern Ohio Coal Company ("Southern Ohio") and Windsor Power House Coal Company ("Windsor"). These coal mining subsidiaries of Appalachian and Ohio (each of which is hereafter referred to as a "Mining Subsidiary" and collectively as the "Mining Subsidiaries") each propose to enter into an identical Master Lease Agreement (hereafter referred to as a "Lease" and collectively as the "Leases") with MHLC, under which MHLC will commit to lease new mining and other equipment to the Mining Subsidiaries having an aggregate cost to MHLC not exceeding $6,500,000 in 1977 and $6,500,000 in 1978. At the option of the Mining Subsidiaries, prior to December 1, 1977 MHLC will commit to lease equipment costing an additional $7,000,000 in 1978 on the same terms, provided that MHLC is able to utilize the Federal investment tax credit with respect to the additional amount.

The proposed form of Lease between MHLC and each of the Mining Subsidiaries provides that the equipment shall be leased for an initial term of 5, 6, 7, 8, 10 or 12 years, depending on the type of equipment, but with certain restrictions as to the cost to MHLC of, and the initial lease terms for, certain types of equipment. Rent will be payable quarterly in arrears.

Tabulated below, for each initial term are the stated quarterly payments per $1,000 of cost, and resulting effective annual interest cost:

Initial term	Quarterly payment (per $1,000 of cost)	Effective annual interest cost percent
Years:		
5	$[illegible]	[illegible]
6	47.00	4.37
7	40.80	3.77
8	36.73	4.01
10	31.05	4.80
12	28.15	5.21

It is stated that such effective annual interest cost represents the rate of return to the lessor of an investment of $1,000 repaid in quarterly amounts, over the periods indicated above.

It is further stated that: (1) the lessee will have the option to renew the Lease as to any or all equipment, (a) under least terms of 5 to 10 years, for two 1-year terms or one 2-year term, and (b) under a lease term of 12 years for four 1-year terms, two 2-year terms or one 4-year term, at a rent equal to the then fair market rental value; (2) the lessee will have the option to purchase any or all of the equipment at the end of the initial term or any renewal term for a price equal to its then fair market value; (3) the lessee will have the right to assign the lease or sublease the equipment to any affiliate without prior approval of MHLC, and the option to assign the lease or sublease the equipment to non-affiliates with the prior approval of MHLC, but in case of any assignment the lessee will not be released under the lease; (4) the lessee will have the option to terminate the lease as to any or all of the equipment because of economic ob-

solescence of the equipment for the lessee's needs, by selling such equipment to a buyer other than itself or its affiliates and paying MHLC the higher of the sale price or the then stipulated loss value at any time after (a) the 3rd year of a 5-year term, (b) the 4th year of a 6-year term, (c) the 5th year of a 7- or 8-year term, and (d) the 7th year of a 10-year or 12-year term; and (5) the Lease will be a net lease under which the lessee is responsible for all expenses; the Federal investment tax credit will be for the account of MHLC.

It is stated that MHLC has received a commitment fee equal to ½ of 1% of the 1978 lease line of $6,500,000 ($32,500) and, in addition, will be entitled to a fee of ½ of 1 percent of the unused portion of the 1977 and 1978 lease lines (including the additional $7,000,000 if made available by MHLC and accepted by the Mining Subsidiaries), payable on January 4, 1978 and January 4, 1979, respectively.

It is further stated that the currently anticipated lessor's cost of equipment to be leased by each mining subsidiary under the lease lines for which MHLC has given a firm commitment is as follows:

	($000's)	
	1977	1978
Cedar	$3,000	$3,750
Central Appalachian	500	
Southern Ohio	2,850	750
Windsor	150	
Total	6,500	6,500

Declarants will report quarterly, pursuant to Rule 24, the equipment that has been leased. It is not contemplated that any of the leased equipment will be used by affiliates or non-affiliates of the Mining Subsidiaries. Any such uses which may develop will be subject to further order of this Commission.

Each Guaranty provides that the guarantor, Appalachian or Ohio as the case may be, unconditionally and irrevocably guarantees the payment of all amounts of any kind payable by its Mining Subsidiary, and the due and punctual performance by its Mining Subsidiary of the terms, conditions, covenants, agreements and indemnities of its Mining Subsidiary, under the terms of the respective Mining Subsidiary's Lease. The Guaranties do not contain any cross-default provisions and neither Appalachian nor Ohio will be liable under the Guaranties with respect to the Lease obligations of the other's Mining Subsidiaries.

Appalachian and Ohio state that it is in their best interest to guarantee the obligations of their respective Mining Subsidiaries under the Leases, because the Mining Subsidiaries supply coal primarily to their respective parents for use at their coal-fired generating stations and the new mining equipment to be obtained under the Leases will, therefore, directly contribute to the maintenance and improvement of Appalachian's and Ohio's fuel supply operations. It is believed that the proposed Leases between the Mining Subsidiaries and MHLC represent the least expensive of the various available methods of financing the acquisition of the new equipment, and that MHLC would not enter into lease arrangements with the Mining subsidiaries without the guaranties of their respective parents.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $40,000, including commitment fees to be paid MHLC for the 1978 lease line of $32,500. Not included in this estimate are additional fees equal to ½ of 1 percent of the unused portion, if any, of the 1977 and 1978 lease lines. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of West Virginia have jurisdiction over the proposed transaction as to Appalachian, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23137 Filed 8-10-77;8:45 am]

[File No. 1-4660]

BELL INDUSTRIES

Application To Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweighs the benefits to be derived therefrom.

The American Stock Exchange, Inc. has not objected to this application, and this security also remains listed and registered on the Pacific Stock Exchange Incorporated.

Any interested person may, on or before August 25, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23138 Filed 8-10-77;8:45 am]

[File No. 1-6915]

CHOMERICS, INC.

Application To Withdraw From Listing and Registration

AUGUST 3, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of low trading volume on the Exchange in recent years (1975 and 1976), the Company has concluded that the expenses of maintaining the listing on the Exchange outweigh the benefits to be derived therefrom.

The Boston Stock Exchange, Inc. has not objected to this application, and the Company will be subject to Section 12(g) reporting requirements.

Any interested person may, on or before August 24, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the

application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23139 Filed 8-10-77;8:45 am]

[Rel. No. 20127; 70-6034]

GEORGIA POWER CO.

Proposed Acquisition of Utility Assets by Operating Subsidiary

AUGUST 4, 1977.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, NW., Atlanta, Georgia 30303, a wholly-owned subsidiary of The Southern Company ("Southern"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a)(1) and 10 of the Act as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to purchase from Savannah Electric and Power Company ("Savannah"), a corporation organized and existing under the laws of the State of Georgia, a certain 115KV transmission line located in Bryan County, Georgia. The transmission line is approximately 14 miles long and interconnects the systems of Georgia and Savannah. The purchase price is stated to be $334,598.77 in cash and said price is stated to represent the trended original cost less depreciation of the depreciable portion of such property and the current replacement cost of the land and other non-depreciable portion of such property.

Georgia states that the proposed purchase will change the point of division of ownership of the line between Georgia and Savannah. Georgia further states that it believes that the line can be best maintained and operated by changing such point and that it expects to maintain and operate the transmission line in essentially the same manner and for essentially the same purposes as theretofore maintained and operated by Savannah.

It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed acquisition. The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transaction are estimated to be $6,500.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23148 Filed 8-10-77;8:45 am]

[Release No. 20126; 70-6035]

GULF POWER CO.

Proposed Acquisition of Utility Assets by Operating Subsidiary

AUGUST 4, 1977.

Notice is hereby given that Gulf Power Company ("Gulf"), 75 North Pace Boulevard, P.O. Box 1151, Pensacola, Florida 32520, a wholly-owned subsidiary of The Southern Company ("Southern"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a)(1) and 10 of the Act as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes to purchase from Florida Power Corporation ("Florida"), a corporation organized and existing under the laws of the State of Florida, a portion of a certain 115KV transmission line located in Bay County, Florida. The affected portion of the transmission line, a facility for local distribution of electric power, is located beyond the point of interconnection of the Gulf and Florida systems and is approximately 2.1 miles long. It is stated that Gulf is to pay a cash purchase price of $146,090 for such portion of the transmission line. The depreciated value of said property is stated to be $229,614.

It is further stated that said purchase will provide Gulf with access to a substation built and owned by Gulf, which is presently connected by tap line to the transmission line. Gulf expects to maintain and operate said transmission line in essentially the same manner and for essentially the same purposes as theretofore maintained and operated by Florida.

It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed acquisition. The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transaction are estimated to be $3,000.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23149 Filed 8-10-77;8:45 am]

[File No. 1-6007]

MILTON ROY CO.

Application To Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of

1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the company has concluded that the costs of maintaining listings on both exchanges outweigh any benefits to be derived from dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before August 25, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23140 Filed 8-10-77;8:45 am]

[Release No. 34-13822; File No. SR-MSRB-77-8]

MUNICIPAL SECURITIES RULEMAKING BOARD

Proposed Rule Changes; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 29, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing proposed rules A-14 and A-15 (hereinafter sometimes referred to as the "proposed rule changes") as set forth below.

Proposed rule A-14 levies an annual fee of $100 on municipal securities brokers and municipal securities dealers, with credit being allowed against such annual fee for any underwriting assessments paid pursuant to Board rule A-13. The annual fee would apply for each calendar year beginning with 1977 and would be payable to the Board by February 15 of the succeeding year. Proposed rule A-15 provides a procedure for firms and banks to notify the Board if they cease to be municipal securities brokers or municipal securities dealers.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of proposed rule A-14 is to establish an equitable basis for all municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. The underwriting assessment provided in rule A-13 applies to roughly one-third of the organizations registered with the Board. However, the Board incurs ongoing direct expenses relating to each organization registered with it, particularly in the form of written communications concerning the Board's activities. The annual fee will offset these costs.

The proposed rule provides a credit against the annual fee for underwriting assessments paid to the Board. Firms seeking credit would be required to certify to the Board that underwriting assessments have been paid on their behalf in the relevant calendar year totaling at least $100 or a lesser specified amount.

Proposed rule A-15 is intended to provide a procedure for firms and banks to notify the Board if they cease to be municipal securities brokers or municipal securities dealers. The proposed rule change will result in administrative savings to the Board as well as providing a clear record of the status of the firms and banks that are no longer municipal securities brokers or municipal securities dealers. However, before a firm or bank again acts as a municipal securities broker or municipal securities dealer, it would be required to notify the Board and pay the initial fee prescribed in Board rule A-12.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(J) of the Act authorizes and directs the Board to adopt rules providing for the assessment of municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

Comments were not solicited or received on the proposed rule changes.

BURDEN ON COMPETITION

In the opinion of the Board, the proposed rule changes do not constitute a burden on competition, but rather provide for a more equitable basis for defraying the expenses of the Board's operation.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 3, 1977.

TEXT OF PROPOSED RULE CHANGES

Rule A-14. *Annual fee.*—(a) *Annual fee.* In addition to the fee prescribed by rule A-12 of the Board, each municipal securities broker and municipal securities dealer shall pay an annual fee to the Board of $100, with respect to each calendar year commencing with the calendar year 1977. Such fee must be received at the office of the Board in Washington, D.C. no later than February 15 in the year following the year with respect to which payment is made, and must be accompanied by a written statement setting forth the name, address and Commission registration number of the municipal securities broker or municipal securities dealer on whose behalf the fee is paid.

(b) *Credit for Underwriting Assessments.* A municipal securities broker or municipal securities dealer may credit against the fee otherwise payable for a calendar year pursuant to paragraph (a) of this rule, the aggregate amount of assessments paid during such calendar year on behalf of such municipal securities broker or municipal securities dealer pursuant to Board rule A-13: *Provided*, That a written statement is furnished to the Board by such municipal securities broker or municipal securities dealer certifying that assessments required by rule A-13 totalling at least $100 or a lesser specified amount were paid to the Board on behalf of such municipal securities broker or municipal securities dealer during such calendar year.

Rule A-15. *Notification to Board of change of status.*—(a) *Procedure for notifying board.* A person that ceases to be a municipal securities broker or municipal securities dealer may notify the Board of such person's change of status by filing with the Board at its office in Washington, D.C. a written statement setting forth such person's name, address and Commission registration number and the fact that such person is not a municipal securities broker or municipal securities dealer.

(b) *Obligation to pay fees.* A person that files notification with the Board pursuant to paragraph (a) of this rule shall be obligated to pay the fees assessed pursuant to Board rule A-12 or Board rules A-13 and A-14 for the calendar year during which such notification is filed: *Provided*, That any person that files such notice with the Board during the calendar year 1977 and does not act as a municipal securities broker or municipal securities dealer during such year shall not be subject to the fees prescribed in paragraph (a) of Board rule A-14 for such year.

(c) *Notification of further change of status.* Prior to acting as a municipal securities broker or municipal securities dealer, a person that has filed notification with the Board pursuant to paragraph (a) of this rule shall notify the Board that such person is a municipal securities broker or municipal securities dealer by following the procedure set fortn in Board rule A-12.

[FR Doc.77-23146 Filed 8-10-77;8:45 am]

PACIFIC STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

General Exploration Company; Common Stock, $1.00 par value; File No. 7-4968.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23189 Filed 8-10-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Smith International, Inc.; Common Stock, no par value; File No. 7-4967.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23190 Filed – –77;8:45 am]

[release no. 34-13827; file no. SR-PHLX 77-8]

PHILADELPHIA STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Public Law No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 8, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PHLX's STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("the Act") hereby proposes to amend Rule 1025 relating to the supervision of option accounts. The text of the proposed amendment is as follows: (italics indicate new language and deleted language is indicated by brackets).

SUPERVISION OF ACCOUNTS

Rule 1025. In addition to the requirements of Rule 747, every member organization shall provide for the diligent supervision [by a general partner or officer of the member organization who is a Registered Options Principal] of all of its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, *by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member organization who is a Registered Options Principal and who has been specifically identified to the Exchange as the member organization's Senior Registered Options Principal.*

* * * Commentary

.01 The Senior Registered Options Principal in meeting his responsibility for supervision of customer accounts and orders, may delegate to qualified employees *including other Registered Options Principals*, responsibility and authority for supervision and control of each branch office handling transactions in option contracts, provided that [the] *such Senior* Registered Options Principal shall have overall authority and responsibility for establishing appropriate procedures of supervision and control over such employes.

.02 In meeting their supervisory responsibilities every member organization shall establish, maintain, and enforce written procedures governing the conduct of options accounts.

PHLX's STATEMENT OF BASIS AND PURPOSE

Rule 1025 expands the requirements for diligent supervision of all customer accounts under PHLX Rule 747 by requiring supervision of a member organization's option activity by a Registered Options Principal ("ROP") who is a general partner or officer of the member organization.

Although Rule 1025 does not explicitly mandate that member organizations designate one such ROP to be in charge of overall supervision of customer option accounts, the PHLX has interpreted this rule to include such a requirement (Circular No. 129, June 12, 1975). As interest in options trading has grown, many member firms which conduct a public business have had more than one individual qualify as an ROP. While such multiple registration has had the positive effect of qualifying a large number of people who are capable of functioning in a supervisory capacity, the PHLX believes that the designation of one Senior ROP is necessary to eliminate

the blurring of supervisory authority within a member firm. Such a requirement would be not only consistent with the PHLX's policy since the inception of its options program but would permit the recording of this policy in Exchange rules.

In addition, pursuant to Rule 1025, the Exchange has recommended that member organizations establish written supervisory procedures concerning its options business with the public. (Circular No. 129, June 12, 1975)

Accordingly, the PHLX proposes to amend Rule 1025 to designate a Senior ROP and to establish written supervisory procedures detailing the methods used to supervise customer options accounts.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934 ("the 1934 Act") as amended, which provides, in pertinent part, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and to protect investors and the public interest.

Comments were neither solicited nor received.

The PHLX has determined that the proposed amendment will not impose any burden on competition.

On or before September 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 12, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 4, 1977.

[FR Doc.77-23145 Filed 8-10-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Book-of-the Month Club, Inc.; Capital Stock, $1.25 par value; File No. 7-4966.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23141 Filed 8-10-77;8:45 am]

[Rel. No. 9880; 812-3893]

VARIABLE ANNUITY LIFE INSURANCE CO. SEPARATE ACCOUNT ONE OF THE VARIABLE ANNUITY LIFE INSURANCE CO.

Application for an Order of Exemption From Provisions

AUGUST 3, 1977.

Notice is hereby given that The Variable Annuity Life Insurance Company ("VALIC"), a Texas stock life insurance company, and Separate Account One of VALIC ("Separate Account One"), 2777 Allen Parkway, Houston, Texas 77019, a separate account of VALIC registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company (hereinafter collectively referred to as "Applicants"), filed an application on December 29, 1975, and an amendment thereto on July 1, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Separate Account One was established by the Board of Directors of VALIC on September 25, 1968 in accordance with the Texas Insurance Code. Among the variable annuity contracts offered by Separate Account One and VALIC is a Group Unit Purchase Variable Annuity Contract ("Contract[s]") which is designed to fund benefits provided by annuity purchase plans adopted by public school systems and certain tax-exempt organizations for their employees and qualifying for tax-deferred treatment under Section 403(b) of the Internal Revenue Code of 1954, as amended. VALIC serves as investment adviser to and principal underwriter for Separate Account One.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new § 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted § 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such

contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of § 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with § 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participate, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restrictions on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 29, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of factor law proposed to be controverted, or he may request that he be notified if the Commission should munication should be addressed: Secretary, Securities, and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 29, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc 77-23142 Filed 8-10-77;8:45 am]

[File No. 500-1]

WYLY CORP.

Suspension of Trading

AUGUST 3, 1977

It appearing to the Securities and Exchnage Commission that the summary suspension of trading in the securities of Wyly Corporation being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. (e.d.t.) on August 3, 1977 through August 12, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 77-23143 Filed 8-10-77; 8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02-02-0333]

BBS EQUITIES LTD

Amendment to Notice of Application for a License to Operate as a Small Business Investment Company

On August 2, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 39172) stating that BBS Equities Ltd., Gateway One, Suite 2400, Newark, N.J. 07102, had filed an application with the Small Business Administration (SBA), pursuant to section 107.102 of the Rules and Regulations governing small business investment companies (13 CFR 107.102 (1977)) to operate as a small business investment company (SBIC).

Bevill, Bresler and Schulman Investment Co., Gateway One, Suite 2400, Newark, N.J. 07102, a holding company, will own 95.06 percent of the initial 526 shares of common stock to be issued. The Notice stated that this holding company would be owned by six investors and we listed their ownership. The Applicant has advised SBA of the following change in the ownership of the holding company.

Bevill, Bresler and Schulman Investment Co. will be owned by the following individuals:

Robert L. Bevill, 22 Kings Hill Ct., Summit, N.J. 07901—50%.

Andrew D. Ledbetter, 201 Vanderpool, Houston, Tex. 77063—50%.

Matters involved in SBA's consideration of the application include the general reputation and character of the management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than August 26, 1977, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-23227 Filed 8-10-77;8:45 am]

[Declaration of Disaster Loan Area No. 1354]

CALIFORNIA

Declaration of Disaster Loan Area

The City of Santa Barbara and the County of Santa Barbara and adjacent counties within the State of California, constitute a disaster area because of damage resulting from a forest fire which occurred on July 26, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 2, 1978, at:

Small Business Administration, District Office, 211 Main Street—4th Floor, San Francisco, California 94105.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: August 3, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23135 Filed 8-10-77;8:45 am]

[License No. 04/04-0117]

COASTAL CAPITAL CO.

Issuance of Small Business Investment Company License

On March 16, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 14796) stating that an application had been filed by Coastal Capital Company, 100 St. Joseph Street—Suite 204, Mobile, Alabama 36601, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a License as a small business investment company (SBIC).

Interested parties were given until the close of business March 28, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issue License No. 04/04-0117 to Coastal Capital Company to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 3, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-23134 Filed 8-10-77;8:45 am]

[Declaration of Disaster Loan Area No. 1353]

FLORIDA

Declaration of Disaster Loan Area

The listing below of the 35 counties and adjacent counties within the State of Florida constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 4, 1978, at:

Small Business Administration, District Office, 400 West Bay Street, Jacksonville, Fla. 32202.

or other locally announced locations.

Alachua	Lafayette
Baker	Leon
Bay	Levy
Bradford	Liberty
Calhoun	Madison
Citrus	Marion
Columbia	Okaloosa
Dixie	Putnam
Escambia	St. Johns
Flagler	Santa Rosa
Franklin	Sumter
Gadsden	Suwannee
Gilchrist	Taylor
Gulf	Union
Hamilton	Wakulla
Holmes	Walton
Jackson	Washington
Jefferson	

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 4, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23225 Filed 8-10-77;8:45 am]

[License No. 03/03-0124]

LIFE CARE CAPITAL CORP.

Notice of Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to section 107.102 of the Regulations (13 CFR 107.102 (1977)) under the name of Life Care Capital Corp., Ferry and Iron Hill Roads, Doylestown, Pa. 18901, for a license to operate in the Commonwealth of Pennsylvania as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The Proposed officers and directors and major stockholders are as follows:

Frank E. Elliott, 115 East State St., Doylestown, Pa. 18901; President, Director—0.

Hayes L. Ramsey, 22 Orchard Avenue, Allentown, Pa. 18104; Secretary, Treasurer, Director—0.

Joseph Marmaluk, 3922 Bradford Road, Huntington Valley, Pa. 19006; Director—0.

E. Douglas Chafin, 3703 Westminister Lane, Ocean City, N.J. 08226; Director—0.

Arsen Kashkaskian, 55 Brainwood Drive, Holland, Pa. 18966; Director—0.

Life Care Society of America, Inc.—100 percent.

Mr. Frank E. Elliott, President of the Applicant, Mrs. Elliott and their four children own 100 percent of the issued and outstanding stock of Life Care Society of America, Inc. (LCSA). LCSA, Inc., endeavors to develop communities which have all the necessary facilities available for a balanced mode of living for retired individuals.

The applicant will begin operations with a capitalization of $300,000, which will be a source of equity capital and long-term loans for qualified small business concerns in a wide range of industries. In addition to financial assistance, the applicant will provide consulting services to its clients.

The applicant will conduct its operations principally in the Commonwealth of Pennsylvania and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the applicant include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may on or before August 22, 1977, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, the Small Business Investment Companies.)

Dated: August 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-23228 Filed 8-10-77;8:45 am]

[Declaration of Disaster Loan Area No. 1352]

OHIO

Declaration of Disaster Loan Area

Cuyahoga County and adjacent counties within the State of Ohio constitute a disaster area because of physical damage resulting from storms, sudden heavy rains and flooding which occurred on July 12, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 2, 1978, at:

Small Business Administration, District Office, AJC Federal Building—Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: August 2, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23136 Filed 8-10-77;8:45 am]

[Declaration of Disaster Loan Area No. 1349, Amdt. No. 1]

PENNSYLVANIA

The above numbered Declaration (See 42 F.R. 39173), is amended in accordance with the President's declaration of July 21, 1977, to include Blair County, Pennsylvania. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above named county and adjacent counties within the State, and is extending the filing date for physical damage until the close of business on September 27, 1977, and for economic injury until the close of business on May 1, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 5, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23226 Filed 8-10-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/98]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea will conduct open meetings at 8 a.m. on Wednesday, September 7, 1977, and at 9:30 a.m. on Thursday, September 8, 1977, in Rooms 8236-38 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of these meetings will be to discuss the results of the 17th Session of the IMCO Subcommittee on Ship Design and Equipment, July 25-29, 1977; to prepare for the Intersessional meetings on general requirements and machinery and electrical installments for mobile offshore drilling units to be held during the week of November 28-December 2, 1977; and to prepare for the 18th Session of the Subcommittee tentatively scheduled for February 27-March 3, 1978. The work on mobile offshore drilling units will be conducted at Wednesday's meeting, while the remaining topics, including offshore supply vessels, nuclear ships, training and research ships, draft requirements for segregated ballast tankers below 150 meters in length, and tankers and/or other perimeters will be addressed at Thursday's meeting.

Requests for further information on the meeting should be directed to Captain J. W. Kime, U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. He may be reached by telephone on area code 202-426-2167.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director, Office of Maritime Affairs

AUGUST 4, 1977.

[FR Doc.77-23210 Filed 8-10-77;8:45 am]

[Public Notice CM-7/97]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 9, 1977, from 9:30 a.m. to 2:30 p.m., in the Aspen Room, Office of Telecommunications, Department of Commerce, 1325 G Street NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeeting will be a final review of U.S. preparations for the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: August 4, 1977.

JOHN J. O'NEILL, JR.,
Director, Office of International Communications Policy.

Agency for International Development

[Redelegation of Authority No. 99.1.89]

STANLEY R. NEVIN

Delegation of Contracting Officer Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Stanley R. Nevin the authority to sign the following instruments, up to an amount of $500,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

The authority delegated herein is to be exercised in accordance with A.I.D. regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective on the date of signature.

Dated: July 28, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management

[FR Doc.77-23126 Filed 8-10-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-148]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from May 10, 1977 to

June 22, 1977 (List No. 11–77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The specifications perscribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

The Texas Water Crafters, Post Office Drawer 539, Wichita Falls, Tex. 76307, Approval No. 160.049–69–1 expired and was terminated effective May 8, 1977.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, Approval No. 160.050–83–0 expired and was terminated effective May 10, 1977.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD FOR MERCHANT VESSELS

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, Approval No. 160.055–78–0 expired and was terminated effective June 5, 1977.

MARINE BUOYANT DEVICE

The Texas Water Crafters, 912 N. Beverly Drive, Wichita Falls, Tex. 76300, Approval Nos. 160.064–33–1, 160.064–44–0, 160.064–64–1, 160.064–65–1 and 160.064–66–1 expired and were terminated effective June 22, 1977.

The Rand Manufacturing Corp., 14615 NE., 91st Street, Redmond, Wash. 98052, no longer manufacturers certain marine buoyant devices and Approval Nos. 160.–064967–0, 160.064–968–0, 160.064–969–0, 160.064–970–0, 160.064–971–0, 160.064–972–0 and 160.064–1090–0 were therefore terminated effective June 20, 1977.

SAFETY VALVES (POWER BOILERS)

The Teledyne Farris Engineering, Palisades Park, N.J. 07650, no longer manufacturers certain safety values and Approval No. 162.001–72–1 was therefore terminated effective June 10, 1977.

Dated: August 3, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-23241 Filed 8-10-77;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition No. RST–77–3]

ILLINOIS CENTRAL GULF RAILROAD

Petition for Waiver of Track Safety Standards

As required by 45 U.S.C. 431(c) notice is hereby given that the Illinois Central Gulf Railroad (ICG) has petitioned the Federal Railroad Administration (FRA) for a permanent waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The provisions for which the waiver is sought involve the requirements for the track structure contained in § 211.113 of the standards.

The ICG seeks this waiver for approximately 296 miles of track. The trackage involved consists of segments of the petitioner's main line between Chicago, Illinois and New Orleans, Louisiana, as well as segments of the trackage between Edgewood, Illinois and Fulton, Kentucky, which is known as the Bluford District.

The ICG states that it installed continuous welded rail on these lines in recent years. The welded rail installed on these lines has been experiencing defective weld failures caused by incomplete fusion of the metal at the time that the rail was welded in the petitioner's facility at Centralia, Illinois. The ICG has repaired the non-fused welds by removing excess metal through grinding and by applying joint bars in accordance with § 213.121 of the standards.

The ICG now seeks a waiver of compliance with the speed limitations imposed by § 213.113 of the standards. That section requires that the railroad limit its operating speed to 50 miles per hour when moving trains over a rail containing a defective weld, which has weakened 20 percent or more of the rail head, once the joint bars have been applied to that rail in the prescribed manner. The ICG indicates that, if the waiver is granted, it will operate trains over these repaired welds at various speeds in excess of 50 miles per hour and in accordance with its present timetable speeds.

In support of the request for a waiver the ICG states that it has encountered no trouble in maintaining the repaired welds and that the repairs have held up under traffic. Furthermore, the repaired welds have not broken through the rail and nothing has been found in the condition of the rail, after the joint bars were applied, which would be detrimental to the safe operation of a train. The ICG urges the waiver be granted so as to avoid unreasonable impairment of ICG's train operations over these lines which include both freight trains and Amtrak passenger trains.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided however, if requested by any interested party prior to August 22, 1977. All communications regarding this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST–77–3) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-23181 Filed 8-10-77;8:45 am]

MISSOURI PACIFIC RAILROAD ET AL.

Petitions for Waiver of Railroad Radio Standards

As required by 45 U.S.C. 431(c), notice is hereby given that three railroads have submitted waiver petitions to the Federal Railroad Administration (FRA). Each petition requests that the railroad be granted a permanent waiver of compliance with certain safety standards contained in the Radio Standards and Procedures (49 CFR Part 220).

FRA issued initial provisions governing the use of radio communication in connection with railroad operations of January 27, 1977. These regulations require railroads to have certain carrier operating rules governing the use of radios to assure that radio communications are used in a manner which enhances the safety of railroad operations. The regulations became effective on August 1, 1977.

Each of the railroads, which are identified below, are seeking a waiver of compliance with specific provisions of these standards in order to continue conducting their operations in accord with their current practices. A brief description of the particular facts involved in each request, as well as the particular regulatory provision is identified below.

Interested persons are invited to participate in these proceedings by submitting written comments or views. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, FRA will provide an opportunity for oral comment if requested to do so by an interested person. Such requests must be in writing and must be submitted to FRA before August 22, 1977.

All communications concerning these proceedings should identify the appropriate Docket Number (eg FRA Waiver Petition Docket Number RSOR–77–8) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW, Washington, D.C. 20590. Communicaitons received before September 16, 1977 will be considered by FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FRA WAIVER PETITION DOCKET NO. RSOR–77–7

The Missouri Pacific Railroad (Mopac) seeks a limited waiver of compliance with the provisions of § 220.61 (b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The Mopac seeks the waiver of compliance with these procedures for several types of radio communications that are used during train operations. The types of radio communication identified by the Mopac include verbal permission to proceed through an interlocking; verbal advice that there are no opposing trains in the block; verbal advice to trains operating under the authority for train movement conveyed by a signal system. These types of radio communication are utilized in connection with railroad's own operating rule provisions contained in rules 350, 400, and 450 of the Mopac Book of Operating Rules.

The Mopac indicates that it has conducted train operations safely over a period of years by utilizing these types of verbal communications. To modify the method of providing these types of communications to conform to the FRA procedures would, in Mopac's judgment, cause delays in train operations and increase the costs of those operations. The Monac, therefore, seeks this waiver in order to continue to use its present method of operations.

FRA WAIVER PETITION DOCKET NO. RSOR–77–8

The Burlington Northern Railroad (BN) seeks a limited waiver of compliance with provisions of § 220.61(b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The BN seeks the waiver of compliance with these procedures for a particular type of radio communication that is used during train operations. The type of radio communication identified by the BN involves verbal advice to trains that are being operated under the authority for train movement conveyed by a signal system. This type of verbal advice is utilized in connection with the railroad's own operating rules provision contained in rule 251 of the BN book of Operating Rules.

The BN states that this verbal advice provision is used to permit a dispatcher to instruct a slow moving train to allow a faster train to pass when that faster train overtakes the slow moving train. The dispatcher is authorized to issue such instructions only when both trains are moving with the current of traffic in territory where the authority for train movement is conveyed by a signal system.

The BN states that it has conducted train operations safely over a period of years by utilizing this procedure. To modify this method of operation to conform to the FRA procedures would, in BN's judgment, cause delays in train operations and increase the costs of those operations. The BN, therefore, seeks this waiver in order to continue to use its present method of operations.

FRA WAIVER PETITION DOCKET NO. RSOR–77–15

The Chicago, Rock Island and Pacific Railroad (Rock Island) seeks a waiver of compliance with the provisions of § 220.61(b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The Rock Island seeks the waiver of compliance for those subdivisions on which the Rock Island conducts its train operations under a unique set of provisions known as the "Rules and Instructions for the Movement of Trains and Engines by Voice Control." The Rock Island instituted this method of operation in February 1976 and currently utilizes it on two subdivisions between St. Louis and Kansas City in the State of Missouri.

In utilizing this method of operation the Rock Island transmits movement instructions to the engineer of a given train by radio. Upon receipt of these instructions the engineer repeats them to the operator or dispatcher and then proceeds to act upon them as is appropriate with the information communicated. The Rock Island does not have provisions in its rules and instructions that require the engineer to copy these movement instructions. Furthermore, the Rock Island does not require that the conductor of the train must have a copy of the movement instruction prior to the engineer acting to comply with the instructions. The FRA procedures require both that these instructions be copied and that the conductor be furnished a copy prior to compliance activity.

The Rock Island seeks the waiver in order to continue its present method of operations. The Rock Island states that this method has proven to be both safe and effective since it was inaugurated. The Rock Island urges that this operation is similar in many respects to the procedures used for air traffic controller instructions and railroad operations conducted under sophisticated types of signal systems.

The Rock Island notes that nearly all on track equipment and all engines and cabooses currently operating on the affected subdivisions are equipped with good radio equipment. Additionally the Rock Island indicates that it has extremely good quality radio communications on the two subdivisions that are operated under the present rules and instructions.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n)).

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
Chairman Railroad Safety Board.

[FR Doc 77-23185 Filed 8-10-77;8:45 am]

[FRA Waiver Petition No. HS–77–11]

MOUNT HOOD RAILWAY CO.

Petition for Exemption From the Hours of Service Act

The Mount Hood Railway Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–11, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW, Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc 77-23182 Filed 8-10-77;8:45 am]

[FRA Waiver Petition No. HS–77–12]

VIRGINIA & MARYLAND RAILROAD CO.

Petition for Exemption From the Hours of Service Act

The Virginia & Maryland Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Ad-

ministration, Attention: FRA Waiver Petition No. HS–77–12, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77–23183 Filed 8–10–77;8:45 am]

[FRA Waiver Petition No. HS–77–10]

YAKIMA VALLEY TRANSPORTATION CO.

Petition for Exemption From the Hours of Service Act

The Yakima Valley Transportation Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–10, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77–23184 Filed 8–10–77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Notice of Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 8, 1977, at 9 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Falls Business College, 620 Gallatin Road, South, Madison, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: August 2, 1977.

R. S. BIELAK,
Director, VA Regional Office,
110 9the Avenue, South Nashville, Tenn.

[FR Doc.77–23211 Filed 8–10–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 17, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 74 and 332–C, *Sioux.*
Docket 326–K, *Western Shoshone* (three items).

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006; Tel. 202–653–6184.

[S–1076–77 Filed 8–8–77;3:47 pm]

2

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

TIME: 9 a.m. to 5 and 9–3 p.m., respectively.

DATE: September 26 and 27, 1977.

PLACE: Hyatt Regency Chicago, Ill.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of activities since March 20 and 21, 1977, meeting; review of program activity; organization of advisory committee; relationship with the States.

CONTACT PERSON FOR MORE INFORMATION:

Alphonse F. Trezza, Executive Director.

ALPHONSE F. TREZZA.

AUGUST 3, 1977.

[S–1077–77 Filed 8–8–77;3:47 am]

3

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, August 30, 1977, 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to the public. Status is not applicable to matters 4 and 5.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held August 9, 1977, and other Board meetings, if any.

2. Recommended clearances: Medico Industries, Inc., fiscal years ended October 31, 1971, 1972, and 1973

3. Recommended clearances without assignment (list 1881):

A. Mission Research Corp., fiscal year ended June 30, 1976.

B. Microwave Products, Inc., fiscal year ended June 30, 1976.

C. P.B.H., Inc., fiscal year ended June 30, 1976.

D. Evans Products Co., fiscal year ended December 31, 1975.

D–1. Minneapolis Electric Steel Castings Co., fiscal year ending December 31, 1975.

E. Conco, Inc., fiscal year ending December 31, 1975.

4. Approval of agenda for meeting to be held September 13, 1977.

5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202–254–8277).

Dated: August 8, 1977.

GOODWIN CHASE,
Chairman.

[S–1078–77 Filed 8–8–77;3:47 pm]

4

AUGUST 8, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, August 15, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED: Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202–275–7535.

[S–1079–77 Filed 8–8–77;9:02 am]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

At its meeting held at 10:30 a.m. on Monday, August 8, 1977, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman George A. LeMaistre, seconded by Mr. Robert Bloom, acting in the place and stead of the Comptroller of the Currency, that Corporation business required its addition of a recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as liquidator of Franklin National Bank, New York, N.Y. (Case No. 43,150–L), to the agenda for consideration at that meeting and that no earlier notice of a change in the subject matter of the meeting was possible.

The Board's deliberations with respect to the matter were closed to public observation pursuant to the provisions of subsections (c)(9)(B) and (d)(1) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (d)(1)) on the basis of the Board's determination that the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: August 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S–1080–77 Filed 8–9–77;9:02 am]

6

FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register August 8, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12 noon, Monday, August 15, 1977.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting: 1. Consideration of proposed modification of certain personnel practices.

Previously announced closed items:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act."

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202–452–3204).

Dated: August 8, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S–1081–77 Filed 8–9–77;9:27 am]

7

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39737, August 5, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 10, 1977, 10 a.m.

The following items will be considered by the Commission on August 10, 1977, following the open meeting scheduled for 10 a.m.

Consideration of amicus curiae matter.

Institution of injunctive actions.

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meeting in closed session and determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

AUGUST 9, 1977.

[S–1082–77 Filed 8–9–77;10:42 am]

8

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39737, August 5, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 10, 1977, 10 a.m.

CHANGES IN THE MEETING: Deletion of item on agenda.

Item one on the open meeting agenda scheduled for August 10, 1977, at 10 a.m., relating to the consideration of proposals submitted by CBOE, Amex, PHLX, MSE, and PSE to amend their respective rules setting forth option exercise price intervals, is deleted.

Chairman Williams and Commissioners Evans and Pollack voted to approve the above change and that no earlier notice thereof was possible.

AUGUST 9, 1977.

[S–1083–77 Filed 8–9–77;10:42 am]

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 15, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, August 18, 1977, at 10 a.m. A closed meeting will be held on Thursday, August 18, 1977, following the open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)A, and (10) and 17 CFR 200.402(a)(4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, August 18, 1977, will be:

1. Consideration of the issuance of an order of hearings and cover release setting forth issues to be explored and procedures to be followed at public hearings on the reexamination of rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally.

2. Consideration of a Freedom of Information Act request from Herbert A. Hoffman, Esq., for access to certain files containing general geological information relating to UV Industries, Inc.'s Continental Mine.

3. Consideration of a Freedom of Information Act request from Mr. Ira Zimmerman regarding access to staff documents concerning the trading of puts.

The subject matter of the closed meeting scheduled for Thursday, August 18, 1977, will be:

Formal orders of investigation.
Referral of investigative files to Federal, State, or self-regulatory authorities.
Dismissal of injunctive action.
Settlement of administrative proceedings.
Institution of injunctive actions.
Settlement of injunctive actions.
Regulatory matters arising from or bearing enforcement implications.
Review of request for extension of time.
Application to stay Commission order.
Freedom of Information Act requests.

FOR FURTHER INFORMATION CONTACT:

Angela Desmond at 202–755–1173 or Edward A. Scallet at 202–755–1234.

AUGUST 9, 1977.

[S–1084–77 Filed 8–9–77;10:42 am]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 1:30 p.m., Thursday, August 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Briefing on Draft Administration Bill for Nuclear Plant Licensing Reform (Exemption 9). (Replaces "Review of FY 1979 Budget" meeting which is postponed to the week of August 15).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated: August 8, 1977.

WALTER MAGEE,
Office of the Secretary.

[S–1092–77 Filed 8–10–77;9:48 am]

11

NUCLEAR REGULATORY COMMISSION.

DATE: Tuesday, August 16; Wednesday, August 17 and Thursday, August 18, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Tuesday, August 16: 9 a.m. Review of FY 1979 Budget (Open). 1:30 p.m. Review of FY 1979 Budget (continued) (Open).

Wednesday, August 17: 9 a.m. Review of FY 1979 Budget (continued) (Open). (Open or Closed, to be determined), or Recall of Selected Officers (Budget Review) (Open or Closed, to be determined).

Thursday, August 18: 9 a.m. Recall of Selected Officers (Budget Review). (Open or Closed to be determined).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated: August 9, 1977.

WALTER MAGEE, *Chief,*
Operations Branch,
Office of the Secretary.

[S–1093–77 Filed 8–10–77;9:48]

federal register

THURSDAY, AUGUST 11, 1977

PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

American Ginseng; Review of Status

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

American Ginseng; Review of Status

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Review of the status of American ginseng.

SUMMARY: Notice is hereby given that the Department of the Interior has evidence on hand to warrant a review of American ginseng (*Panax quinquefolius*) to determine whether the plant should be proposed for listing as an Endangered or Threatened species.

DATES: Information regarding the status of this species should be submitted on or before October 11, 1977.

ADDRESSES: Comments on this notice of review should be submitted to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, Phone 202-343-4646.

SUPPLEMENTARY INFORMATION: American ginseng is listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (February 22, 1977, FEDERAL REGISTER, 42 FR 10461-10488). The Convention was established to protect wild animals and plants from overexploitation by international trade. The export of plants listed on Appendix II requires documentation issued by the U.S. Fish and Wildlife Service. Export of cultivated American ginseng can be conducted under a Certificate of Exception that can be obtained from the Federal Wildlife Permit Office (cf. 42 FR 10461). Permits for the export of wild American ginseng are also obtained from the Federal Wildlife Permit Office; however, the issuance of such permits is subject to the approval of the Endangered Species Scientific Authority.

American ginseng is included in numerous State lists of endangered, threatened and rare plants. In addition, the species has been included in the forthcoming revision by the Smithsonian Institution, "Endangered and Threatened Plants of the United States."

Many States have laws designed to conserve wild plants and to protect plant resources on private land. In a few cases statutes have been passed (such as the Michigan Endangered Species Act of 1974) that pertain specifically to the conservation of American ginseng. Although export of American ginseng can be controlled pursuant to the Convention, that international treaty does not contain specific provisions for the conservation of plants in the wild. Most States do not have such provisions either; nor do State statutes provide uniform controls for the harvest of wild ginseng. Consequently, the Service believes that American ginseng may benefit from the provisions of the Endangered Species Act of 1973. The provisions of the Act for conservation of listed species in the wild and the regulation of interstate trade for such species may be necessary to insure the continued survival of the American ginseng, particularly in States where it has been severely depleted because of overcollecting and habitat modification. If American ginseng is listed as an Endangered or Threatened species, the plant will be subject to the regulations published in the June 24, 1977, FEDERAL REGISTER (42 FR 32373-32381).

The Service has information that American ginseng has been observed in the wild in at least the following States: Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. In addition, American ginseng has been observed in the wild in Ontario, Quebec, and Manitoba, Canada.

The Service is seeking the views of the Governors of all the above States and the Government of Canada concerning the biological and commercial status of American ginseng. Other interested parties are hereby invited to submit any factual information, including publications and written reports, which are germane to this status review.

Data received will be used by the Department of the Interior to help ascertain whether American ginseng should be listed as an Endangered or Threatened species, and by the Endangered Species Scientific Authority (which must approve all exports of American ginseng that have been obtained from the wild).

This notice of review was prepared by Mr. Roger E. McManus and Dr. Bruce MacBryde, Office of Endangered Species.

Dated: August 3, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-23039 Filed 8-10-77;8:45 am]

federal register

THURSDAY, AUGUST 11, 1977

PART III



FEDERAL ENERGY ADMINISTRATION

■

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Test Procedures for Furnaces

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Test Procedures for Furnaces; Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for furnaces under the Energy Policy and Conservation Act. The Act requires that standard methods for testing furnaces be prescribed as part of the energy conservation program for appliances. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before the test procedures are prescribed.

DATES: Comments by September 27, 1977, 4:30 p.m.; requests to speak by September 22, 1977, 4:30 p.m.; statements by September 27, 1977, 4:30 p.m.; hearing to be held on October 4, 1977, at 9:30 a.m.

ADDRESSES: Requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box NX, Washington, D.C. 20461.

Comments to: Executive Communications, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

HEARING HELD AT: Federal Energy Administration, Federal Building, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Old Post Office Building, Room 307, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–4635.

Robert C. Gilette (Hearing Procedures), 2000 M Street NW., Room 222A, Washington, D.C. 20461, 202–566–5201.

Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Robert D. R. de Sugny (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 7146, Washington, D.C. 20461, 202–566–9750.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for furnaces pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). The adoption of test procedures does not mean that actual testing must be conducted. The procedures merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC) may require that all or part of the test procedure be conducted in exercising its appliance energy efficiency labelling authority regarding a particular appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general program provisions, and a Subpart C, containing proposed energy efficiency improvement targets. By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Subparts A and B were established by notice issued on May 24, 1977 (42 FR 27896, June 1, 1977). A notice was issued July 8, 1977 (42 FR 36648, July 15, 1977) withdrawing the original proposal of Subpart C and reproposing a new Subpart C containing proposed energy efficiency improvement targets for the products listed in 1–10 of section 322(a) of the Act. Proposed energy efficiency improvement targets for the products listed in 11–13 of section 322(a) of the Act will be issued at a later date.

The notice issued on May 24, 1977, included final test procedures for room air conditioners. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed test procedures for dishwashers. This notice also included certain program definitions which have not yet been finalized. Proposed test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers and clothes dryers were issued on April 21, 1977 (42 FR 21376 et seq., April 27, 1977). Proposed test procedures for unvented home heating equipment were issued on May 4, 1977 (42 FR 23860, May 11, 1977), and proposed test procedures for automatic and semi-automatic clothes washers were issued on May 11, 1977 (42 FR 25329, May 17, 1977), including a determination that test procedures cannot be developed for any other class of clothes washers. Proposed test procedures for humidifiers and dehumidifiers were issued on May 25, 1977 (42 FR 27941, et seq. June 1, 1977). Proposed test procedures for central air conditioners were issued on June 7, 1977 (42 FR 30401, June 14, 1977), and were followed by proposed test procedures for conventional ranges, cooking tops and ovens, including microwave ovens, which were issued on June 9, 1977 (42 FR 30627, June 16, 1977). The latter notice included a determination to delay the publication of test procedures for any other class of the type "kitchen ranges and ovens." By this notice, FEA is proposing test procedures for furnaces.

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of furnaces.

Current testing and rating requirements for furnaces are described in a number of standards, including: ANSI Z21.47–1973 for gas fueled gravity and forced air central furnaces; ANSI Z91.1–1972 for oil fueled air central furnaces; ARI 280–74 for electric furnaces and boilers; ANSI Z21.13–1974 for gas fueled boilers; and the Hydronic Institute's "Testing and Rating Standard for Cast Iron and Steel Heating Boilers" for oil fueled boilers. These standards measure the steady state efficiency of furnaces but do not account for any part load or seasonal performance effects. In order to estimate the seasonal efficiency and annual operating cost of fossil fuel heating systems, it is necessary to account for the various heating system losses under cyclic or part load operating conditions and for the effect of combustion and draft control air on infiltration. The test procedures and calculation methods formulated by NBS and proposed herein today, utilize portions of the industry standards described above while also accounting for these factors.

Under the requirements of section 32 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et. seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), the Administrator must name the organization which promulgated any commercial standards which were contained in, or authorized ards are incorporated in the proposed rule in the notice of rulemaking. The Administrator is also required to state whether, in his judgement, the named organization complied with the requirements of subsection (b) of section 32. As noted above, various industry standards are incorporated in the propiosedl regulations. It is the judgement of the Administrator that the above named standards did not comply with the requirements of section 32(b), in that the standards were not developed in a manner which provided for public participation, comment, and review. In this rulemaking, FEA is providing interested persons an opportunity to comment on the appropriateness of these standards as used in the furnace test procedure. Comments are specifically requested on any specific changes the person commenting believes are necessary to make the standards appropriate for the purposes of testing furnaces.

Today's proposal adds to § 430.2 a definition of "furnace" and amends the definition in § 430.2 of "Basic model" by adding a subparagraph (14) applying specifically to furnaces. In addition, § 430.2 contains definitions proposed previously (42 FR 15423, March 12, 1977) some of which are applicable to the test procedures for furnaces. Comments on these definitions are timely as provided below.

B. MEASURES OF ENERGY CONSUMPTION

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. The estimated annual operating cost for furnaces in proposed § 430.22(n) is the product of the average annual energy consumption of the furnace and the representative average unit cost of energy.

NBS has developed a method of calculating a typical annual cost of operation for furnaces which takes into account the annual fuel utilization efficiency, the heating load hours, the residence design heat loss, the auxiliary electrical energy used by forced air furnace blower motors, or boiler water pumps, powered burner motors, and the pilot input rate if applicable.

Also proposed in § 430.22(n) are test procedures regarding the estimated annual operating cost by geographic region of the United States, since energy consumption and annual operating cost of furnaces are directly related to geographic location. Annual cost of operation by geographic location may be useful for consumers in making purchasing decisions with respect to furnaces in addition to the single national average value applicable to any specific unit under proposed § 430.22(n). Also proposed in § 430.22(n) are test procedures for calculating annual operating costs for several standardized design heating requirements for each region in order to facilitate the comparison of operating costs of different size furnaces and comparison with heat pumps.

The proposed test procedures for regional costs incorporate a map of the continental United States with regional "heating load hours" for adjusting the representative average use cycle (typical annual usage) of furnaces by geographic location. These regional values of "heating load hours" are based on the average number of degree days and the outdoor design temperature for each region.

An additional proposed measure of energy consumption in § 430.22(n) that is likely to assist consumers in making purchasing decisions is the fuel utilization efficiency. This efficiency is the ratio of the furnace's annual output of useful energy to the annual fuel energy input of the furnace multiplied by 100. The test procedures are designed to measure the fuel utilization efficiency at a part-load operating condition in order to account for both on-cycle energy losses and off-cycle energy losses. Both types of losses can be influenced by furnace design characteristics and features.

On-cycle losses include:

(1) Energy contained in the combustion gases which are discharged outdoors through the flue;

(2) The loss of heated room air used for combustion at the burner and for dilution of hot combustion gases through the draft hood, integral draft diverter, or barometric draft regulator.

Off-cycle losses include:

(3) The loss of heat stored in the metal of the furnace heat exchanger when the burner and circulating warm air blower shuts off.

(4) The loss of heated room air which escapes through the open furnace stack to the outdoors;

(5) Fuel input to a continuously burning gas pilot.

FEA recognizes that there may be additional useful measures of energy consumption for furnaces other than the measures described above. According, today's proposal, in proposed § 430.22(n), provides for the addition of other useful measures which the Administration determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test methods proposed today as Appendix N to Subpart B. Furnace manufacturers would, if required, only have to perform different computations with the data generated by the existing test methods contained in Appendix N.

C. LABORATORY METHODOLOGY

The proposed test procedures are based upon the heat loss method in which the sensible and latent heat losses through the stack are determined. Since these losses will depend upon such factors as load, cycling rate, chimney height, over sizing, the type of draft control device, the infiltration characteristics of a residence and weather profile, it is desirable to measure in the laboratory, quantities which characterize the performance of a furnace under standardized laboratory test conditions and then to calculate its performance under typical field conditions. This has the advantage of simplifying the amount of experimental laboratory data required and thereby reducing the costs of testing.

The test procedures require measurement of the steady-state performance of a furnace in order to calculate a steady-state efficiency. For furnaces without integral draft diverters, this is accomplished by measurng the steady-state flue gas temperature and the concentration by volume of carbon dioxide in the flue gas. For furnaces utilizing integral draft diverters, the steady-state performance is determined by measuring the steady-state stack gas temperature and the concentration by volume of carbon dioxide in the dry stack gas. This latter method is employed because of the difficulty in accurately measuring flue gas temperatures and concentrations of carbon dioxide in units with integral draft diverters.

The test procedures account for cyclic effects by measuring flue gas temperatures during warm-up from a cold start and cool-down from steady-state operation. As noted above, actual flue gas temperature measurements on furnaces with integral draft diverters are difficult to make, however, for purposes of accounting for transient effects, it was determined that flue gas temperatures could be measured by blocking the draft diverter relief opening, replacing the 5-foot stack with a 2-foot length of flue pipe, and measuring the temperature and CO_2 concentration of the flue gas. The flue gas temperature profiles are determined by making two discrete flue gas temperature measurements during warm-up and three discrete measurements during cool-down. The use of discrete warm-up and cool-down temperature measurements reduces the amount of data required and greatly simplifies the process of data reduction. The times at which these discrete flue gas temperature measurements are made were chosen to minimize the errors involved in calculating the on-cycle losses. As a result, different sets of times are recommended for furnaces and low pressure steam and hot water boilers.

In addition to the above mentioned tests, certain factors, which describe the flow rates through the flue and stack during the on and off-periods, are assigned according to the type of equipment under test. The factor S_F, which is the ratio of stack gas mass flow rate to flue gas mass flow rate under steady-state operation and at an average outdoor temperature of 42F (5.56C), is used to estimate the infiltration losses during both the on and off-cycles. By assigning values which are based upon field data, the need to simulate field conditions in the laboratory (eg. a high chimney, a low outdoor temperature, a typical barometric damper setting, etc.) is avoided. A factor D_F represents the ratio of the gas mass flow rate through the flue during the off-cycle to the gas mass flow rate through the flue during the on-cycle at identical temperatures. A similar quantity, D_S, is the ratio of the stack gas mass flow rates during the on-period to the stack gas mass flow rate during the off-period at identical temperatures. The values of D_F and D_S depend upon whether the system being tested employs a stack damper and/or a power burner. If a unit is equipped with a stack damper, its effectiveness is determined by measuring the amount of stack area which the damper blocks during the off-cycle. Furnaces or low pressure steam and hot water boilers using power burners may employ an assigned power burner factor of $D_F = 0.30$ or measure D_F directly by employing a tracer gas to determine the mass flow rate in the flue while the power burner is off.

Wherever possible the test methods recommended herein have been based upon existing consensus standards and procedures presently employed by manufacturers to evaluate the performance of central heating equipment. This was done to reduce the amount of duplicate testing required and to obtain a set of performance tests which would be within the capabilities of the entire furnace industry.

A step-by-step calculation procedure for determing fuel utilization efficiency based upon an average U.S. weather pat-

tern is given in §§ 4.1 and 4.2 for gas and oil-fueled central heating equipment. A worksheet is illustrated which may be used to keep track of the experimental data and the various step-by-step calculations. This efficiency factor is used to estimate the annual cost of operation in different climatic regions and an average operating cost for the country. The technical background, assumptions and equations which form the basis for the fuel utilization efficiency calculation and annual operating cost calculation are contained in Appendix A of the NBS test procedure review document.

Assigned values of the factors S, F, D_r and/or D_s are given in Tables 1 and 2. The factor ϕ is the fraction of combustion and draft control air which contributes to additional residential infiltration and is assumed to equal $.70 for furnaces and low pressure steam and hot water boilers using indoor air. The quantity (1 + α) is the ratio of the furnace steady-state output to the design heating requirement of a typical residence and is set equal to 1.70 for the purpose of calculating a fuel utilization efficiency and an average national operating cost.

The steady-state latent and sensible heat losses and the steady-state efficiency η_{ss}, are also calculated in section 4.2. The flue-gas and stack-gas temperature profiles, corresponding to warm-up from a cold start and cool-down from steady-state operation, are then approximated by simple experimental functions having the form

$$(a\,e^{-t/\tau}+b).$$

The parameters in these functions

$$\tau_{ON},\ \tau_{OFF},\ \theta_{F,0,X},\ \Psi_{F,0,X},\ \Psi_{F,\infty,X},\ \Psi_{S,0,X},\ \text{and}\ \Psi_{S,\infty,X}$$

are determined from the warm-up, cool-down and steady-state flue temperature measurements and are corrected for the effect of cycling to obtain the flue-gas and stack-gas temperature-vs-time profiles which would exist if the unit were operating in the field at a heating load factor equal to 22.5 percent. For outdoor units or units designed to use outdoor air for combustion and draft control, a further adjustment to these profiles is made using a correction factor C, to account for the fact that the air used for combustion has an average temperature of 42F (5.56C).

The flue-gas and stack-gas temperature-vs-time profiles are employed, along with the factors describing the on and and off-cycle air flow rates, to calculate the dynamic system losses $L_{A,on}$, $L_{A,off}$, $L_{I,on}$, and $L_{I,off}$, at the average heating load factor and the average outdoor temperature of 22.5 percent and 42F (5.56C), respectively. These losses, together with the latent heat loss, jacket loss on outdoor units, and the pilot light loss during the non-heating season, are then used to calculate an annual fuel utilization efficiency, $EFFY_A$.

D. Representative Average Use Cycle

Section 323(b)(2) (42 U.S.C. 6293 (b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for furnaces is 2,080 heating load hours per year. This determination is based upon an NBS recommendation to FEA. The NBS recommendation is included in the NBS test procedure review document which is available for inspection as provided for later in this notice.

The average use cycle of 2,080 heating load hours for furnaces was derived in an analysis performed by NBS which considered outdoor temperature data extending over a 25-year period at locations in each of the 48 states in the continental United States and the District of Columbia. In addition, the number of housing units in each state using gas or oil as the primary fuel for heating, as reported in the 1970 U.S. Census, was also used in the analysis.

Using the number of housing units by state as weighting factors, and the average outdoor design temperature at each location, a national average outdoor design temperature was calculated to be 5 F. A similar computation was performed using average annual heating degree day values for each state resulting in a national average of 5,200 heating degree days. The average annual heating load hours was then calculated by multiplying the average number of degree days by 24 and dividing that result by the temperature difference between 65 F and the average outdoor design temperature; the result being 2,080 heating load hours per year.

FEA has developed representative average unit costs of energy needed to calculate the annual operating cost for the representative average use cycle. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. Number of Units To Be Tested

Proposed § 430.23(n) would provide for sampling of each basic model to be tested when testing of furnaces is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23(n), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(n), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(1) The level of confidence required (set at 95 percent in the proposed regulations);

(2) The maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(3) The relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, at least 1 unit of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. Request for Particular Comments

While FEA is soliciting comments on all aspects of the proposed test procedures for furnaces, FEA is particularly interested in receiving comments on the following subjects:

1. Other useful measures of energy consumption or data on typical consumer usage of furnaces in addition to those proposed today.

2. The appropriateness of incorporating the following proposed sections of ANSI Standards relating to jacket losses of forced air furnaces intended to be installed out-of-doors:

(a) For gas fueled and electric furnaces—ANSI Z 21.47—1973, §§ 2.9.1 and 2.9.2.

(b) For oil fueled furnaces—ANSI Z 91.1—1972, Appendix B.

3. Definitions already promulgated or proposed in § 430.2 which may affect the testing of furnaces. Comments with respect to such definitions are timely until the close of the written record as specified below.

G. Comment Procedure

1. *Written Comment.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for furnaces set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box NX, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "FURNACES—Proposed Test Procedures." Fifteen copies should be submitted. All comments received by September 27, 1977, before 4:30 p.m., e.s.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed test procedures.

Any information or data considered confidential by the person furnishing it must be so identified in writing, and only one copy of the information need be submitted. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public Hearings.* (a) *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on October 5, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.s.t., on September 22, 1977. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "FURNACES—Proposed Test Procedures," Box NX.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through October 4, 1977.

FEA will notify each person selected to appear at the hearing before 4:30 p.m., September 26, 1977. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202–254–3345.

(b) *Conduct of hearing.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, Box NX, FEA, before 4:30 p.m., e.s.t., September 27, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS' recommendations concerning test procedures for FURNACES will be made available for inspection at the FEA Freedom of Information Office.

H. Environmental and Inflationary Review

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for this comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A–107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 28, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (14) as part of the definition of "Basic model" and by adding the definitions of "furnace," "forced air central furnace," "gravity central furnace," "electric central furnace," "low pressure steam or hot water boiler," "electric boiler," and "direct vent system," to read as follows:

§ 430.2 Definitions.

. . . . . .

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

. . . . . .

(14) With respect to furnaces, having the same primary energy source and essentially identical functional physical and electric characteristics.

. . . . . .

"Furnace" means a device designed to be the principal heating source for the living space of a residence having a heat input rate less than 400,000 Btu's per hour, and includes forced air central furnace, gravity central furnace, electric central furnace, electric boiler, and low pressure steam or hot water boiler.

"Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

"Gravity central furnace" means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

"Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, and in which heat is generated by one or more electric resistance heat-

ing elements and the heated air is circulated by means of a fan or blower.

"Direct vent system" means a system supplied by a manufacturer which provides outdoor air directly to a furnace for combustion and draft relief, if the unit is so equipped.

"Electric boiler' means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Low pressure steam or hot water boiler" means a gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

2. Section 430.22 is amended by adding paragraph (n), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(n) *Furnaces.* (1) The estimated annual operating costs for furnaces shall be the sum of: (A) the product of the average annual fuel energy consumption in Btu's per year for gas or oil furnaces and in kilowatt-hours per year for electric furnaces, determined according to 4.8 and 4.10 of Appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided by the Administrator plus (B) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year determined according to 4.21 or 4.22 of Appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(4) The estimated regional annual operating cost for furnaces shall be the sum of: (A) the product of the regional annual fuel energy consumption in Btu's per year for gas or oil furnaces and in kilowatt-hours per year for electric furnaces, determined according to 4.12 and 4.14 of Appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided by the Administrator plus (B) the product of the regional auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 4.13 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(5) Other useful measures of energy consumption for furnaces shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix N of this subpart.

3. Section 430.23 is amended by adding a paragraph (n) to read as follows:

§ 130.23 Units to be tested.

* * * * *

(n) *Furnaces.* (1) When testing of furnaces is required for a measure or measures of energy consumption described in 430.22(n) of this subpart, a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within 5 percent of the true mean of such measures of the basic model, except that a minimum of 1 unit of each basic model shall be tested.

(2) The sample selected for paragraph (n)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (n)(1) of this section is satisfied at each rating.

* * * * *

APPENDIX N- UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF FURNACES

1.0 DEFINITIONS

1.1 "Steady-state conditions for forced air or gravity central furnaces" means equilibrium conditions in the flue gas as indicated by temperature changes of not more than plus or minus 5° F (2.8° C) in three successive temperature readings taken 15 minutes apart.

1.2 "Steady-state conditions for low pressure steam and hot water boilers" means equilibrimm conditions during operation as indicated by temperature changes of not more than 5° F (2.8° C) in the flue gas temperature, and either 4° F (2.2° C) in the outlet water temperature for hot water boilers, or 7° F (3.9° C) in the outlet steam temperature for low pressure steam boilers, in three successive temperature readings taken 15 minutes apart.

1.3 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.4 "Excess air" means air which passes through the combustion chamber and the furnace flues in excess of that which is theoretically required for complete combustion.

1.5 "Flue" means a conduit between the flue outlet of the furnace and the draft hood or barometric draft regulator through which the flue gases pass prior to the point of draft relief.

1.6 "Flue outlet" means the opening provided in a furnace for the exhaust of the flue gases from the combustion chamber.

1.7 "Flue losses" means the sum of sensible and latent heat losses above room temperature (70° F) of the flue gases leaving the furnace.

1.8 "Stack" means the portion of the exhaust system downstream of the draft hood or barometric draft regulator.

1.9 "Stack gases" means the flue gases combined with dilution air that enters at the draft hood, integral draft diverter, or barometric draft regulator.

1.10 "Barometric draft regulator" means a device designed to maintain a constant draft in a furnace or boiler.

1.11 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber.

1.12 "Power burner" means a furnace burner which supplies either gas or air or both at pressures exceeding, for gas, the line pressure, and for air, atmospheric pressure, or a burner which depends on the draft induced by a fan for proper operation.

1.13 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.14 "Exhaust/air intake terminal" means a device which is located on the outside of a building and is connected to a furnace by a system of vents. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and an exhaust terminal from which flue gases are discharged.

1.15 "Heating element" means the electrical conducting medium which is intended to be heated by an electric current and which dissipates this heat into the air stream.

1.16 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.17 "Plenum" means an air compartment, that is attached to, or is an integral part of, a forced air furnance and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or collect the air which enters the return inlet in the case of a return plenum.

1.18 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a furnace, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.19 "Draft hood" means a device made a part of the stack from a furnace, which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft hood, (2) prevent a back draft from entering the furnace, and (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

1.20 "Higher heating value" (*HHV*) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.21 "Integral draft diverter" means a device which is an integral part of a furnace, which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the furnace, (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

2.0 TESTING CONDITIONS

2.1 *Installation of Test Plenum, Duct Work, and Piping*

2.1.1 Gravity Central Furnaces (Including Direct Vent Systems)

Gravity central furnaces shall be installed and equipped with a vertical supply test plenum or extended casing and horizontal test ducts as described in Section 2.0.1 of ANSI Standard Z21.47-1973.

2.1.2 Forced Air Central Furnaces (Including Direct Vent Systems)

Gas-fueled forced air central furnaces shall be equipped with a plenum and test duct as described in Sections 2.1.9 and 2.1.10 of ANSI Standard Z21.47-1973. Oil fueled forced air central furnaces shall be equipped with a plenum and test duct as described in Section 6.2 of ANSI Standard Z91.1-1972.

2.1.3 Low Pressure Steam and Hot Water Boilers (Including Direct Vent Systems)

Install gas-fueled low pressure steam and hot water boilers as prescribed in Section 2.9 of ANSI Standard Z21.13, 1974. Install oil-fueled low pressure steam and hot water boilers as prescribed in Sections 7.0 and 8.1.1 through 8.1.3 of the Hydronic Institute Testing and Rating Standard for Cast Iron and Steel Heating Boilers, January 1977.

2.1.4 Electric Central Furnaces

Install equipment for testing in accordance with ARI Standard 280-74, Section 4 and Figure 1.

2.1.5 Electric Boilers

Install equipment in accordance with manufacturer's instructions.

2.2 *Flue and Stack Requirements*

2.2.1 Gravity and Forced Air Central Furnaces

2.2.1.1 Gravity and gas fueled forced air central furnaces employing integral draft diverters.

For the steady state performance test described below, gravity and gas fueled forced air central furnaces employing integral draft diverters with vertically discharging furnace outlets shall have attached to and vertically above the outlet, a stack having a diameter the same size as the outlet and shall be covered with insulation having an R value of not less than 7 (°F−HR−Ft² Btu) and an outer layer of aluminium foil. The stack shall extend not less than 5 feet nor more than five feet six inches above the highest point of the outlet. Furnaces having a horizontally discharging furnace outlet shall have attached an insulated 90 degree elbow, the same size as the outlet, and sufficient vertical insulated black iron pipe so that the outlet is not less than five feet nor more than five feet six inches above the highest point of the furnace outlet. The stack and elbow shall be covered with insulation having an R value of not less than 7 (°F−HR−Ft² Btu) and an outer layer of aluminum foil.

A two foot long insulated flue pipe shall beattsed for gas units having vertically discharging flue outlets in the tests for measuring flue temperatures during warm-up and cool-down. The flue pipe shall be covered with insulation having an R value of not less than 7 (°F−HR−Ft² Btu) and an outer layer of aluminum foil.

2.2.1.2. Gravity and gas fueled forced air central furnaces which do not employ integral draft diverters.

Gravity and gas fueled forced air central furnaces which do not employ integral draft diverters shall have a two foot long insulated flue pipe attached to the vertically discharging flue outlet for the steady state test and tests to measure flue temperatures during warm-up and cool-down. For units having a horizontally discharging flue outlet, an elbow and a two foot long vertical insulated flue pipe shall be attached to the outlet. All insulation shall have an R value not less than 7 (°F−HR−Ft² Btu) and an outer layer of aluminum foil.

2.2.1.3. Oil fueled forced air central furnaces.

Flue connections for oil fueled forced air central furnaces are to be as described in Figures 1 and 2 of ANSI Standard Z91.1-1972. There shall be no opening on the oil furnace between the furnace and the point where the flue gas sample is to be taken of the flue gas temperature is to be measured. If a barometric draft regulator is incorporated in the furnace, it shall be sealed during all tests.

2.2.2 Low Pressure Steam and Hot Water Boilers (not including direct vent systems)

Gas fueled low pressure steam and hot water boilers employing draft hoods shall have such hoods in place during all performance tests.

Flue connections for low pressure steam and hot water boilers are described in the Hydronic Institute Standard "Testing and Rating Standard for Cast Iron and Steel Heating Boilers," Section 7.2.

2.2.3 Direct Vent Systems

The exhaust air intake system supplied by the manufacturer shall be in place during all tests. A furnace employing a direct vent system shall not be connected to a chimney or induced draft source, but shall depend for venting of exhaust gases solely on the provision for venting incorporated in the furnace and the exhaust/air intake system supplied with it. On units which are not designed to preheat the incoming air, the first 18 inches of vent pipe downstream of the furnace outlet shall be insulated with a layer of insulation having an R value of 7 (°F−HR−Ft²/Btu) and the insulation material covered by a layer of aluminum foil.

2.3 *Fuel Supply*

2.3.1 Natural Gas

For a furnace utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.6 and a higher heating value within ±5 percent of 1,025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane Gas

For a furnace utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use propane HD-5 having a specific gravity of approximately 1.55 and a higher heating value within ±5 percent of 2,500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other Test Gas

The characteristics of other test gases shall be maintained as described in Section 2.2, Table VII, of ANSI Standard Z21.47. Their measured higher heating value shall be within ±5 percent of the values specified in the above ANSI standard.

2.3.4 Oil Supply

For a furnace utilizing fuel oil, the fuel oil used shall be No. 2 fuel oil and shall conform to the specifications outlined in Tables 2 and 3 of ANSI Standard Z91.1-1972. The higher heating value of the test fuel oil shall be measured with an error no greater than one percent.

2.3.5 Electrical Supply

For an electric furnace or boiler, or for an auxiliary electric component of a gas or oil fueled furnace, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire portion of the test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the center of the nameplate voltage range.

2.4 *Burner Adjustments*

2.4.1 Gas Burner Adjustments

Burners of gas fueled furnaces shall be adjusted to their maximum Btu ratings at normal test pressure. All such adjustments shall be within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the furnace at room temperature. The primary air shutters shall be set at the maximum opening, correct burner input flow rate to standard conditions of 60° F and 30 inches mercury barometric pressure.

If a vent limiting means is provided on a gas pressure regulator, it shall be in place during all tests.

2.4.2 Oil Burner Adjustments

The burners of oil fueled furnaces shall be adjusted to give the best CO_2 reading and an hourly Btu input during the steady-state performance test described below which is within plus or minus 2 percent of the furnace manufacturer's specified normal hourly Btu input rating. Smoke in the flue shall not exceed a No. 2 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.18.2-1968 (R1971) (ASTM D 2156-65 (1970)). The average draft over the fire and in the flue during the steady-state performance test shall be that recommended by the manufacturer and draft fluctuations shall not exceed 0.005 inches of water gauge. No additional adjustments to the burner shall be made during the required series of performance tests. The instruments and measuring apparatus for this test are described in Section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating Air, Steam, or Water Flow Adjustments*

2.5.1 Gas Fueled Forced Air Central Furnaces (including direct vent systems)

The external static pressure and air flow rate shall be adjusted as specified in Sections 2.1.11, 2.1.12, and 2.1.13 of ANSI Standard Z21.47-1973. Outlet air temperature shall be measured in accordance with Section 2.9.1 of the same standard.

2.5.2 Gravity Central Furnaces

The air flow rate through the furnace shall be such that the average normal air temperature rise at steady-state is not greater than 130°F above the inlet air temperature when the furnace is equipped with the vertical test plenum or extended casing and horizontal test ducts as described in Section 2.9.1 of ANSI Standard Z21.47-1973. Measure the outlet air temperature as specified in Section 2.9.1 of the above standard. The inlet air temperature shall be measured at the center of the plane of each inlet air opening by means of single No. 24 AWG lead type thermocouple, suitably shielded from direct radiation

2.5.3 Oil Fueled Forced Air Central Furnaces

The external static pressure and air throughput rate shall be adjusted as specified in Table 5 and Section 6.2 of ANSI Standard Z91.1-1972.

2.5.4 Gas Fueled Low Pressure Steam and Hot Water Boilers

Circulating water or steam flow shall be adjusted to obtain the operating conditions of steam or water described in ANSI Standard Z21.13-1974, Section 2.9.

2.5.5 Oil Fueled Low Pressure Steam and Hot Water Boilers

The water flow rate for hot water boilers shall be adjusted to produce a water temperature rise, during steady-state operation, between 120° F (48.9° C) and 165° F (73.8° C) and an outlet water temperature of 200° F (93.3° C) plus or minus 5° F (2.8° C).

2.5.6 Electric Central Furnaces

Use the air quantity and pressures specified by ARI Standard 280-74, sections 7.2.1 and 6.2.3.

2.5.7 Electric Boilers

The flow of water or steam shall be as specified in Section 2.5.1

2.6 *Thermocouple Installation*

2.6.1 Gravity and Gas Fueled Forced Air Central Furnaces and Low Pressure Steam and Hot Water Boilers

For units employing an integral draft diverter, install nine thermocouples in a horizontal plane in the five foot stack at 4 ft 6 in above the highest point of the furnace outlet.

Install one thermocouple in the center of the stack. Install eight thermocouples along imaginery lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the pipe and the pipe wall. Install one thermocouple in the center of the 2 ft length of insulated flue pipe at the midpoint (i e , one ft. from the end).

For units which do not employ an integral draft diverter, install nine thermocouples in a horizontal plane 12 inches from the outlet of the 2 foot length of insulated flue pipe. Install one thermocouple in the center of the flue pipe and eight thermocouples along imaginery lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the flue pipe and the flue pipe wall.

Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG).

The locations of thermocouples used for measuring conditioned warm air are described in ANSI Z21.47-1973, Section 2.9. The temperature of the inlet air shall be established by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center for the plane of each inlet air opening.

2.6.2 Oil Fueled Forced Air Central Furnaces

Thermocouples shall be installed as described in Section 6.3 of ANSI Standard Z91.1-1972 and as shown in Figures 2 and 3 of the same standard using thermocouple wire not larger than 24 AWG.

2.6.3 Gas Fueled Low Pressure Steam and Hot Water Boilers with Direct Vent Systems

Install thermocouples using the following procedures on direct vent units which preheat the incoming combustion air. Two lines intersecting at right angles shall be established inside the vent pipe in a plane parallel to and one inch (25.4 mm) from the outlet of the vent pipe. On direct vent units which do not preheat the incoming combustion air, two lines intersecting at right angles shall be established inside the vent pipe in a plane located within 12 inches of the boiler outlet. These two lines shall be oriented so that they will divide the internal area into quadrants. One thermocouple shall be placed at the intersection of the two lines. Eight thermocouples shall be placed in sets of four along each line at points one third and two thirds of the distance from the intersection to the periphery. Use bead-type thermocouples, not larger than 24 AWG.

2.6.4 Oil Fueled Low Pressure Steam and Hot Water Boilers

Flue pipe and gas temperature instrumentation shall be in accordance with the Hydronic Institute "Testing and Rating Standard for Cast Iron and Steel Heating Boilers," January 1977.

2.6.5 Forced Air Central Furnaces with Direct Vent Systems

For units that are designed to preheat combustion air, install nine thermocouples along two imaginary lines intersecting at right angles inside the vent pipe in a plane parallel to and one inch (25.4 mm) from the outlet of the vent pipe. The lines shall be oriented so that they will divide the internal area into quadrants. One thermocouple shall be located at the intersection of the two lines. Eight thermocouples shall be located in sets of two along each line at points one third and two thirds of the distance from the intersection to the periphery. Use bead-type thermocouples not larger than 24 AWG, at the specified locations. Thermocouples and their locations used for measuring conditioned warm air are described in ANSI Z21.47-1973, Section 2.9.

For units not designed to preheat combustion air, locate the nine thermocouples in a plane one foot from the outlet of the furnace and in the configuration described above.

2.7 *Combustion Measurement Instrumentation*

The samples of stack and flue gases for furnaces shall be analyzed to determine the concentration by volume of carbon dioxide present in the dry stack and flue gas with instrumentation which will result in a reading having an accuracy of ±3 percent

2.8 *Energy Flow Instrumentation*

Install one or more energy flow instruments, which measure the quantity of electrical energy, gas flow, or fuel oil supplied to the furnace, as appropriate, with an error no greater than one percent.

2.9 *Room Ambient Temperature*

Maintain the test room at an ambient air temperature between 65° F and 78° F. Use the procedure outlined in Section 2.1.14 of ANSI Standard Z21.47–1973 to measure room temperature.

2.10 *Equipment Used to Measure Mass Flow Rate in Flue and Stack*

The tracer gas chosen for this task should have a density which is approximately equal to the density of air. It shall be of different chemical species or different concentration from the flue gas to be measured and shall be unreactive with the environment to be encountered. Instrumentation used to measure the concentration of tracer gas may be either the batch or continuous type with an accuracy of ±2 percent of the value of the concentration measured.

3.0 Testing and Measurements

3.1 *Steady-State Testing*

3.1.1 Gravity and Gas Fueled Forced Air Central Furnaces

3.1.1.1 Stack Gas Temperature and CO_2 Measurements.

The following procedure is only to be used for gravity and gas fueled forced air central furnaces with integral draft diverters.

The furnace shall be set up as specified in 2.1.1. or 2.1.2, 2.2.1 and 2.3.1 2.3.3. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified by 2.4.1 and 2.5.1 until a steady-state temperature is attained in the stack as measured by the center thermocouple located in the 5 foot stack as specified in 2.6.1.

Record the steady-state stack gas temperature ($T_{F,ss,s}$). Measure a sample of dry stack gasses for CO_2 ($Xco_{2,s}$) in accordance with the method of test prescribed in ANSI Z21.47–1973, sections 2.9.1 and 2.9.2 and record. Measure heat input rate (Q_{in}) including the pilot input and the electrical power input at steady-state conditions and record.

The steady-state heat input rate (Q_{in}) including pilot gas shall be determined by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches mercury.

Measure the steady-state electric power to the circulating air blower (BE) and to the power burner (PE) on units so equipped and record the data.

3.1.1.2 Flue Gas Temperature and CO_2 Measurements.

After the above test measurements have been completed on units employing interval draft diverters, the 5 to 5½ foot long black iron pipe used in the steady-state test shall be removed, the draft diverter relief opening shall be blocked and a 2 foot length of flue pipe installed as described in section 2.6.1. A single bead-type thermocouple not larger than No. 24 AWG shall be located in the center of the flue pipe and 12 inches from its top. After equilibrium conditions are again achieved, as indicated by changes in the flue gas temperature of not more than 5° F (2.8° C) between readings 15 minutes apart, the steady-state flue gas temperature ($T_{F,ss}$) shall be measured using this single thermocouple and a sample of the flue gases shall be taken in the same plane of measurement. The sample of the flue gases shall be analyzed to determine the concentration by volume of CO_2($Xco_{2,F}$) present in the dry flue gas.

On units not employing integral draft diverters, the steady-state flue gas temperature shall be measured in the 2 foot length of flue pipe as described in section 2.6 and a sample of the flue gas shall be taken in the plane of measurement. The sample of flue gases shall be analyzed to determine the concentration of CO_2($Xco_{2,F}$) present in the dry flue gas.

3.1.2 Gas Fueled Forced Air Central Furnaces with Direct Vent Systems

The furnace shall be set up and adjusted as specified in sections 2.1.2, 2.2.1, 2.3.1–3.3.3, and 2.5.1. Flue temperature ($T_{F,ss}$) and CO_2($Xco_{2,F}$) measurements shall be performed at steady-state conditions as prescribed in

3.1.1, with the following exception:

Temperature measurements shall be made at a location which is determined by the design provisions of the furnace for preheating the incoming air as prescribed in section 2.6.1 for thermocouple location.

3.1.3 Oil fueled Forced Air Central Furnaces (not including direct vent systems)

The furnace shall be set up and adjusted as specified in sections 2.1.2, 2.2.1 and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified by 2.4.2 and 2.5.3. When steady-state temperature ($T_{F,ss}$) is attained in the flue gas, measure the average flue gas temperature and measure CO_2($Xco_{2,F}$) in a sample of the flue gas at the location described in ANSI Standard Z91.1, section 6.5 and record the data. There shall be no opening between the furnace and the point where the flue gas sample is to be measured. If a barometric draft regulator is incorporated in the furnace, it shall be sealed during all tests.

Measure and record the steady-state heat input rate (Q_{in}). Measure steady-state electrical power to the air blower (BE) and to the power burner (PE) and record these data.

3.1.4 Oil Fueled Forced Air Central Furnaces with Direct Vent Systems

Perform the measurements as prescribed in 3.1.3. Provisions of 3.1.3 apply with the following exceptions:

The equipment used for testing shall be specified in 2.2.3 and the installation of duct work shall be as specified by the manufacturer. In addition, furnaces using outdoor air for combustion and draft control and which preheat the incoming combustion air shall have the steady-state concentration of carbon dioxide in the flue gases (X_{CO_2F}), the steady-state flue gas temperature ($T_{F,ss}$) measured at a location which is different from that shown in Figure 2 of ANSI Standard Z91.1–1972. These measurements shall be made close to the outlet of the vent pipe on furnaces with direct vent systems which preheat the incoming air and just upstream of the barometric draft control on units which use out door air for combustion and draft control and which preheat the incoming air. The proceedures and instruments for making these measurements shall, however, be the same as those described in section 2.1.3 of ANSI Z91.1–1972, except insulation is required on surfaces of the exhaust, air intake system exposed to ambient air where surface temperatures exceed the room temperature by more than 30° F (16.7° C).

3.1.5 Gas Fueled Low Pressure Steam and Hot Water Boilers

The boiler shall be set up and adjusted as specified in sections 2.1.3, 2.2.2, or 2.2.3, 2.3.1, 2.3.3, 2.6.3, 2.4.1 and 2.5.4. Begin the steady-state test by operating the burner as specified in section 2.4.1 and the steam or hot water adjusted as specified in section 2.5.4. When steady-state conditions are attained, the flue gas temperature ($T_{F,ss}$) and a sample of the dry flue gases shall be measured for the CO_2 concentration ($Xco_{2,F}$) at a location in accordance with ANSI Z21.13–1974, section 2.19, and the values recorded. Measure the steady-state electrical power input (BE and PE) and heat input rate (Q_{in}), including pilot gas. Measure gas temperature and pressure at the meter and barometric pressure and correct the metered gas flow rate to standard conditions of 60° F and 30 inches mercury. Determine the fuel input in Btu per hour using the higher heating value of the fuel.

3.1.6 Oil Fueled Low Pressure Steam and Hot Water Boilers

The boiler shall be set and adjusted as specified in sections 2.1.3, 2.2.2, or 2.2.3, 2.3.4, 2.4.2, and 2.6.4. Begin the steady-state test by operating the burner as specified in section 2.4.2 and adjust the steam or hot water as specified in section 2.5.5. When steady-state conditions are achieved sample the dry flue gases and analyze for CO_2 (X_{CO_2F}). Measure the steady-state flue temperature ($T_{F,ss}$). Measure the steady-state fuel input rate and the steady-state electrical input power (BE and PE). Determine the measured heat input rate in Btu's per hour (Q_{in}) using the higher heating value (HHV) of the fuel oil and the measured steady-state fuel input rate. Record all values measured.

3.1.7 Electric Forced Air Central Furnaces

The steady-state test for electric furnaces is a measurement of the rated power input (E_{in}), in accordance with the test procedure specified in ARI Standard 240–78, section 5.1. All measurements taken shall be at the standard rating condition described in 6.2.1 of Standard 240–78.

3.1.8 Electric boilers

Flue conditions shall be as specified in section 2.5.2. Electrical power input shall be as specified in section 2.3.5.

3.2 *Flue Temperature Measurements—Cool Down Test*

3.2.1 Gravity and Gas Fueled Forced Air Central Furnaces

After steady-state testing is completed, all units with and without integral draft diverters shall have the main burner turned off and the flue gas temperature measured by means of the thermocouple described above, at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_9)}$) minutes after the burner shuts off. Units employing both integral draft diverters and stack dampers shall have the damper control bypassed so that the damper remains open during the cool down test. During this off-period the indoor air circulating blower shall be made to operate during the first three minutes of the off period and shall then be turned off unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower in which case both shall be turned off together. The main burner(s) shall remain off until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3° F (2.8° C) between readings 15 minutes apart. For unit employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light (Q_p, if the unit is so equipped, shall also be measured to within an accuracy of ±3 percent. Record all measured values.

3.2.2 Gravity and Gas Fueled Forced Air Central Furnaces (including direct vent systems)

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_9)}$) minutes after the burner is shut off using a single bead-type thermocouple, not larger than #4 AWG, located in the center of the flue pipe and the locations prescribed in section 2.6.5. During this on-period, the indoor air circulating blower shall be made to operate during the first 3 minutes of the on-period and shall then be shut on unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be turned on. The main burner(s) shall remain on until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3° F (2.8° C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light (Q_p, if the unit is so equipped, shall also be measured to within an accuracy of ±3 percent. Record all measured values.

3.2.3 Oil Fueled Forced Air Central Furnaces (including direct vent systems)

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_9)}$) minutes after the burner shuts off using a single bead-type thermocouple, not larger than #4 AWG, located in the center of the flue pipe and the locations prescribed in section 2.6.5. During this on-period, the indoor air circulating blower shall be made to operate during the first 3 minutes of the off-period and then turned on unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be turned on. The burner shall remain on until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3° F (2.8° C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light (Q_p, if the unit is so equipped, shall also be measured to within an accuracy of ±3 percent. Record all measured values.

3.2.4 Gas and Oil Fueled Low Pressure Steam and Hot Water Boilers

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 3.75 ($T_{F,OFF\,(t_3)}$) and 22.5 ($T_{F,OFF\,(t_4)}$) minutes after the burner shuts off using a single bead-type thermocouple, not larger than 24 AWG, located in the center of the flue pipe and one inch (25.4 mm) from its outlet. During this off-period, no water shall be allowed to circulate through the hot water boiler. A third flue gas temperature measurement shall then be made 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). During this cool-down test, the energy input rate to the pilot light (Q_p), if the unit is so equipped, shall be measured to within an accuracy of ±3 percent. Record all measured values. For oil fueled units not equipped with stack dampers, a means shall be provided to maintain the draft in the flue within ±0.01 inches of water gauge of the average value measured in the steady-state performance test. On units equipped with stack dampers, the damper shall be closed during this cool down test.

3.3.2 Low Pressure Steam and Hot Water Boilers

After equilibrium conditions are achieved following the cool-down test and the required measurements performed, the steam or hot water boiler shall be turned on and the flue gas temperature measured at the same locations specified in section 3.2 at 1.0 ($T_{F,\ OFF\ (t_1)}$) and 5.5 ($T_{F,\ OFF\ (t_5)}$) minutes after the main burner(s) comes on.

The pump circulating the water through the hot water boiler shall be started simultaneously with the main burner(s). During the heat-up test for oil fired boilers, square shall be provided to maintain the draft in the flue within ±0.01 inches of water column of the average draft measured in the steady-state test. Record the measured temperatures.

3.4 Jacket Loss Measurement

A jacket loss test is specified only for units intended to be installed outdoors. Measure the jacket loss (L_J) in accordance with the following ANSI standards and record the total loss and ambient room temperature during the test:

(i) Gravity central furnaces—Z21.47–1973, section 2.9.1 and Appendix F.

(ii) Gas fueled forced air central furnaces—Z21.47–1973, section 2.9.2 and Appendix F.

(iii) Gas fueled low pressure steam and hot water boiler—ANSI Z21.47–1973, section 2.9.2 and Appendix F.

(iv) Oil fueled forced air central furnaces—Z91.1–1972 Appendix B.

(v) Oil fueled low pressure steam and hot water boilers—ANSI Z21.47–1973, section 2.9.2 and Appendix F.

3.5 Measurement for Determining Effectiveness of Stack Dampers

The effectiveness of a stack damper (D_S), in furnaces so equipped, shall be determined by measuring the cross sectional area of the stack (A_S), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle which is the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack. The equation in section 4.3 is then employed to calculate D_S.

3.6 Measurements for Determining Dp for Systems Equipped with Power Burners

On power burner systems not employing stack dampers or on power burner systems with a stack damper and an integral draft diverter, the flue gas temperature during the off-period ($T_{F,\ OFF}$) may be measured during the cool-down test described in section 3.2. The procedures to be used for measuring $T_{F,\ OFF}$ are described below.

On systems equipped with both power burners and stack dampers, and not employing an integral draft diverter, $T_{F,\ OFF}$ shall be measured during a separate cool-down test. This separate cool-down test shall be conducted after warm-up test described in Section 3.3 for determining the on-period flue gas temperature. It shall be conducted by letting the unit run after the warm-up test is completed until steady-state conditions are reached, as indicated by temperature changes in the flue gas of not more than plus or minus 5° F (2.8° C) between readings 15 minutes apart, and then shutting the unit off with the stack damper controls by-passed or adjusted so that the stack damper remains open during the resulting cool-down period. If a draft was maintained in the flue during the steady state performance test described in Section 3.1 the same draft (within ±0.01 inches of water gauge of the average value measured during the steady-state tests) shall be maintained during this cool-down period.

The flue gas mass flow rate during the off-period ($\dot{m}_{F,OFF}$) may be measured at a specific off-period flue gas temperature and then corrected to obtain its value at a flue gas temperature at steady-state ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining D_F, begin feeding a tracer gas into the combustion chamber at a constant flow rate, $\dot{V}_T$, and at a point which will allow for the best possible mixing with the air flowing through the chamber. On units equipped with an oil fired power burner, the best location for injecting this tracer gas is through a hole drilled in the blast tube. The value of $\dot{V}_T$ shall be periodically measured with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured and shall be less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool-down test, the percent volumetric concentration of tracer gas, C_T, in the flue gas and the flue gas temperature, $T_{F,\ OFF}$, shall be measured in the center of the flue pipe on the furnace (boiler) side of the draft regulator and not more than 12 inches from the furnace flue-gas outlet. In addition, the barometric pressure shall also be determined. A single bead-type thermocouple, not larger than No. 24 AWG, shall be used to make the temperature measurement. The concentration of tracer gas shall be obtained using an instrument which will result in an accuracy of ±2 percent in the value of C_T measured and may be either a batch or continuous reading type instrument. If the sampling arrangement for the instrument results in a delay time between drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide.

The rate of the flue gas mass flow through the furnace and the factors D_F, D_S, and D_B are calculated by the equations in section 4.4 of this Appendix.

4.0 Calculation of Derived Results From Test Measurements

4.1 Annual Fuel Utilization Efficiency for Electric Furnaces and Boilers

The annual fuel utilization efficiency for electric furnaces and boilers, $EFFY_{A-E}$, is given by

$EFFY_{A-E} = 100$—for indoor units

$EFFY_{A-E} = 100 - 3.3\ L_J$—for electric forced air central furnaces intended for outdoor installation

$EFFY_{A-E} = 100 - 4.7\ L_J$—for electric boilers intended for outdoor installation

where L_J = the jacket loss as determined in section 3.4 of this Appendix.

4.2 Annual Fuel Utilization Efficiency for Gas or Oil Furnaces

The following calculations are to be performed to determine the annual fuel utilization of a gas or oil furnace. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.2.1 System number

Determine the system number for the type of furnace being tested in accordance with Table 1 or 2.

4.2.2 Ratio of combustion air to stoichiometric air

Determine the ratio of combustion air to stoichiometric air, $R_{T,\ F}$, from Figure 1 for the test fuel, by using the value of dry flue gas CO_2 concentration $Xco_{2,\ F}$, determined in accordance with sections 3.1 and 3.2 of this Appendix.

4.2.3 Ratio of combustion and relief air to stoichiometric air

For systems 1, 2, 5, or 6 employing an integral draft diverter, determine the ratio of the sum of combustion and relief air to stoichiometric air, $R_{T,\ S}$, from Figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, $Xco_{2,\ S}$, determined in accordance with section 3.1 of this Appendix.

4.2.4 Average sensible heat loss at full-load steady state operation

For systems 1, 2, 5, or 6 employing an integral draft diverter, determine the average sensible heat loss at full load steady-state operation, $L_{S,\ SS,\ A}$, expressed as a percent, from Figure 2 using the value of $R_{T,\ S}$ determined in 4.2.3, the type of test fuel, and $\Delta T_{S,\ SS}$,

where

$$\Delta T_{S,\ SS} = T_{S,\ SS,\ A} - 70.$$

where

$T_{S,\ SS,\ A}$ = measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Farenheit

70 = assumed indoor average conditioned air temperature, in degrees Farenheit

For systems 3, 4, or 7 through 12, or systems 1, 2, 5, or 6 employing a draft hood, determine the average sensible heat loss a full-load steady-state operation, $L_{S,\ SS,\ A}$, expressed as a percent, from Figure 2 using the value of $R_{T,\ F}$ determined in 4.2.2, the type of test fuel, and $\Delta T_{F,\ SS}$,

where

$$\Delta T_{F,\ SS} = T_{F,\ SS} - 70$$

where

$T_{F,\ SS}$ = flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit

70 = as defined above

4.2.5 Steady state efficiency

Calculate the steady-state efficiency (excluding jacket loss), η_{SS}, expressed in percent and defined as

$$\eta_{SS} = 100 - L_{L,\ A} - L_{S,\ SS,\ A}$$

where

$L_{L,\ A}$ = average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S,\ SS,\ A}$ = as defined in 4.2.4

4.2.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation

Determine the average ratio of stack gas mass flow rate to flue gas mass flow at full-load steady-state operation, $S/_F$, from Table 1 or 2 for the system number to be tested.

4.2.7 Equivalent field stack gas temperature at full-load steady-state operation

Calculate the equivalent field stack gas temperature at full-load steady-state operation, $T_{S,\ SS}$, expressed in degrees Fahrenheit and defined as

$$T_{S,\ SS} = \frac{1}{S/_F}\ [T_{F,\ SS} - 70] + 70,$$

where

$T_{F,\ SS}$ as defined in 4.2.4

70 as defined in 4.2.4

$S/_F$ as defined in 4.2.6

4.2.8 On-cycle time constant.

Calculate the on-cycle time constant, τ_{ON}, expressed in minutes and defined as

$$\tau_{ON} = \frac{t_2 - t_1}{\ln\left[\frac{T_{F,\ SS} - T_{F,\ OFF}(t_1)}{T_{F,\ SS} - T_{F,\ OFF}(t_2)}\right]}$$

where

for furnaces: $t_1 = 1.5$ minutes

$t_2 = 2.5$ minutes

for boilers: $t_1 = 1$ minutes

$t_2 = 5.5$ minutes

$T_{F,\ OFF}(t_1)$ = flue gas temperature measured at time (t_1) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit.

$T_{F,\ OFF}(t_2)$ = flue gas temperature measured at the time (t_2) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit as defined in 4.2.1.

τ_{ON} = as defined in 4.2.8

4.2.9 Effective flue gas temperature difference at start-up

Calculate the effective flue gas temperature difference at start-up of the system burner, $\theta_{F,\ O,\ X}$, expressed in degrees Fahrenheit and defined as,

$$\theta_{F,\ O,\ X} = |T_{F,\ SS} - T_{F,\ O}(t_1)|e^{\frac{t_1}{\tau_{ON}}}$$

where

$T_{F,\ SS}$ = as defined in 4.2.4

$T_{F,\ O}(t_1)$ = as defined in 4.2.8

t_1 = as defined in 4.2.8

τ_{ON} = as defined in 4.2.8

4.2.10 Off-cycle time constant

Calculate the off-cycle time constant, τ_{OFF}, expressed in minutes and defined as

$$\tau_{OFF} = \frac{t_1 - t_2}{\ln\left[\frac{T_{F,\ OFF}(t_1) - T_{F,\ OFF(\infty)}}{T_{F,\ OFF}(t_2) - T_{F,\ OFF(\infty)}}\right]}$$

where

for furnaces: $t_1 = 1.5$ minutes

$t_2 = 9$ minutes

for boilers: $t_1 = 3.75$ minutes

$t_2 = 22.5$ minutes

$T_{F,\ OFF}(t_1)$ = flue gas temperature measured at time (t_1) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,\ OFF}(t_2)$ = flue gas temperature measured at time (t_2) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,\ OFF(\infty)}$ = minimum flue gas temperature determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit

4.2.11 Effective flue gas temperature difference at shut-down

Calculate the effective flue gas temperature difference at shut-down of the system burner, $\psi_{F,\ O,\ X}$, expressed in degrees Fahrenheit and defined as

$$\psi_{F,\ O\ X} = |T_{F,\ OFF} - T_{F,\ OFF(\infty)}|e^{\frac{t_1}{\tau_{OFF}}}$$

where

$T_{F,\ OFF}(t_1)$ as defined in 4.2.10

$T_{F,\ OFF}(\infty)$ as defined in 4.2.10

t_1 as defined in 4.2.10

τ_{OFF} as defined in 4.2.10

4.2.12 Minimum flue gas temperature difference above room temperature

Calculate the minimum flue gas temperature difference above room temperature, $\Psi_{F,\ \infty,\ X}$, expressed in degrees Fahrenheit and defined as

$$\psi_{F\ \infty,\ X} = T_{F,\ OFF}(\infty) - 70,$$

where

$T_{F,\ OFF}(\infty)$ as defined in 4.2.10

70 as defined in 4.2.4

4.2.13 Minimum stack gas temperature difference above room temperature

Calculate the minimum stack gas temperature difference above room temperature, $\Psi_{S,\ \infty,\ X}$ expressed in degrees Fahrenheit and defined as

For systems numbered 1–4

$$\psi_{S,\ \infty\ X} = \frac{(D_F)(\psi_{F,\ \infty\ X})}{(S/_F)(D_S)}$$

where

D_F = Off-cycle flue gas draft factor selected from Table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.3 of this Appendix, in degrees Fahrenheit.

D_S = Off-cycle stack gas draft factor selected from Table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.3 of this Appendix, in degrees Fahrenheit.

S'_F = as defined in 4.2.6

$\psi_{F,\,o,\,X}$ = as defined in 4.2.12

for systems numbered 5-8:

$$\psi_{S,\,o,\,X} = \psi_{F,\,o,\,X}$$

where

$\psi_{F,\,o,\,X}$ as defined in 4.2.12

4.2.14 Effective stack gas temperature difference at shut-down.

Calculate the effective stack gas temperature difference at shut-down, $\psi_{S,\,o,\,X}$, expressed in degrees Fahrenheit and defined as:

for systems numbered 1-4:

$$\psi_{S,\,o,\,X} = \frac{(D_F)\,(\psi_{F,\,o,\,X})}{(S/_F)\,(D_S)}$$

where

D_F	as defined in 4.2.13
$\psi_{F,\,o,\,X}$	as defined in 4.2.11
S'_F	as defined in 4.2.6
D_S	as defined in 4.2.13

for systems numbered 5-8:

$$\psi_{F,\,o,\,X} = \psi_{F,\,o,\,X}$$

where

$\psi_{F,\,o,\,X}$ as defined in 4.2.11

4.2.15 Correction factors for direct vent systems

Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, C_S, defined as

$$C_S = 1 + \frac{(70-42)\,\eta_{SS}}{(T_{F,SS}-70)}100$$

where

42	= average outdoor temperature corresponding to 5200 degree day location, in degrees Farenheit
η_{SS}	as defined in 4.2.5
$T_{F,\,SS}$	as defined in 4.2.7
70	as defined in 4.2.4

The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_S, is defined as:

$$C'_S = 1.22$$

4.2.16 Multiplication factor for sensible heat loss during burner on-cycle

Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,\,on}$, defined

$$K_{S,\,on} = \frac{100 C_P [1 + (R_{T,\,F})\,(A/_F)]}{HHV_A}$$

where

C_P	= 0.24 BTU per pound—degree Fahrenheit, specific heat of air
$R_{T,\,F}$	as defined in 4.2.2
$A/_F$	= stoichiometric air/fuel ratio determined in accordance with Table 3
HHV_A	average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.2.17 Multiplication factor for sensible heat loss during burner off-cycle

Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,\,OFF}$ defined as:

for system numbered 1-4:

$$K_{S\ OFF} = \frac{(T_{F,SS}+460)^{1.19}\,(D_F)\,(K_{S,\,on})}{(T_{F,SS}-70)^{0.36}}$$

Where

460	= conversion factor to convert degrees Fahrenheit to degrees Rankine
$T_{F,\,SS}$	as defined in 4.2.4
70	as defined in 4.2.4
D_F	as defined in 4.2.13
$K_{S,\,on}$	as defined in 4.2.16

for systems numbered 5-8:

$$K_{S\ OFF} = \frac{(T_{S,SS}+460)^{1.19}\,(D_S)\,(S/_F)\,(K_{S,\,on})}{(T_{S,SS}-42)^{0.36}}$$

where

$T_{S,\,SS}$	as defined in 4.2.7
D_S	as defined in 4.2.13
S'_F	as defined in 4.2.6
$K_{S,\,on}$	as defined in 4.2.16
460	as defined in 4.2.17
42	as defined in 4.1.15

or systems numbered 9-12:

$$K_{S,\,OFF} = \frac{(T_{S,SS}+460)^{1.19}\,(D_F)\,(K_{S,\,on})}{T_{S,SS}-42)^{0.36}}$$

where

$T_{S,\,SS}$	as defined in 4.2.7
D_F	as defined in 4.2.13
$K_{S,\,on}$	as defined in 4.2.16
460	as defined in 4.2.17
42	as defined in 4.2.15

4.2.18 Multiplication factor for infiltration loss during burner on-cycle

Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,\,on}$, defined as: for systems numbered 1-8:

$$K_{I,\,on} = (\phi)\,(S/_F)\,(K_{S,\,on})$$

where

ϕ = 0.7, infiltration parameter

S_F as defined in 4.2.6

$K_{S,\,ON}$ as defined in 4.2.16

4.2.19 Multiplication factor for infiltration loss during burner off-cycle

Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,\,OFF}$, defined as: for systems numbered 1-8:

$$K_{I,\,OFF} = \frac{(T_{S,\,SS}+460)^{1.19}\,(K_{I,\,on})\,(D_S)}{(T_{S,SS}-42)^{0.56}}$$

where

$T_{S,\,SS}$	as defined in 4.2.7
460	as defined in 4.2.17
42	as defined in 4.2.15
$K_{I,\,ON}$	as defined in 4.2.18
D_S	as defined in 4.2.13

4.2.20 Ratio of average burner on-time per cycle to on-cycle time constant.

Calculate the ratio of average burner on-time per cycle to on-cycle time constant, t_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where

for furnaces:

t_{on} = 3.87 minutes, the average burner on-time per cycle, based on 5 cycles per hour at half load.

for boilers:

t_{on} = 9.68 minutes, the average burner on-time per cycle, based on 2 cycles per hour at half load.

τ_{on} as defined in 4.2.8

4.2.21 Ratio of average burner off-time per cycle to off-cycle time constant

Calculate the ratio of average burner off-time per cycle to off-cycle time constant, t_{off}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where

for furnaces:

t_{off} = 13.3 minutes, the average burner off-time per cycle, based on 5 cycles per hour at half load.

for boilers:

t_{off} = 33.26 minutes, the average burner off-time per cycle, based on 2 cycles per hour at half load.

τ_{off} = as defined in 4.2.10

4.2.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect

Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\theta_{F,\,O}$ expressed in degrees Fahrenheit and defined as: when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\theta_{F,\,O} = \theta_{F,\,O,\,X}$$

for systems numbered 9-12:

$$\theta_{F,\,O} = (C_S)\,(\theta_{F,\,O,\,X})$$

when

$$(t_{on}\tau_{on}) > (t_{off}/\tau_{off});$$

for systems numbered 1-8:

$$\theta_{F,\,O} = \theta_{F,\,O,\,X}\left(1 - e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

for systems numbered 9-12:

$$\theta_{F,\,O} = (C_S)\,(\theta_{F,\,O,\,X})\left(1 - e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

where

t_{on}/τ_{on}	as defined in 4.2.20
t_{off}/τ_{off}	as defined in 4.2.21
$\theta_{F,\,O,\,X}$	as defined in 4.2.9
C_S	as defined in 4.2.15

4.2.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect

Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,\,O}$, when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off}):$$

for systems numbered 1-8:

$$\psi_{F,\,O} = (\psi_{F,\,O,\,X})\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

for systems numbered 9-12:

$$\psi_{F,\,O} = (C_S')\,(\psi_{F,\,O,\,X})\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$(t_{on}/\tau_{on})\,(t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{F,\,O} = \psi_{F,\,O,\,X}$$

for systems numbered 9-12:

$$\psi_{F,\,O} = \psi\,(C_S')\,(_{F,\,O,\,X})$$

where

t_{on}/τ_{on}	as defined in 4.2.20
t_{off}/τ_{off}	as defined in 4.2.21
$\psi_{F,\,O,\,X}$	as defined in 4.2.11
C_S'	as defined in 4.2.15

4.2.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect

Calculate the effective minimum flue gas temperature difference above room temperature, $\psi_{F,\,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

for systems numbered 1-8:

$$\psi_{F,\,\infty} = \psi_{F,\,\infty\,O,\,X_1}$$

for systems numbered 9-12:

where

$$\psi_{F,\,\infty} = (C_S)\,(\psi_{F,\,\infty,\,X})$$

C_S'	as defined in 4.2.15
$\psi_{F,\,\infty,\,X}$	as defined in 4.2.12

4.2.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect

Calculate the effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,\,O}$, expressed in degrees Fahrenheit and defined as:

when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{S,\,O} = \psi_{S,\,O,\,X}\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$t_{on}/\tau_{on} > (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{S,\,O} = \psi_{S,\,O,\,X}$$

Where

t_{on}/τ_{on} as defined in 4.2.20

t_{off}/τ_{off} as defined in 4.2.21

$\psi_{S,\,O,\,X}$ as defined in 4.2.14

4.2.26 Off-cycle sensible heat loss integration factors

For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, F3 and F4, from Figures 3 and 4, respectively, using values of $\psi_{F,\,O}$ defined in section 4.2.23, and t_{off}/τ_{off} defined in section 4.2.21.

For systtms numbered 5-12, determine off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{F,\,O}$ defined in section 4.2.23, and t_{off}/τ_{off} delinee in section 4.2.21.

4.2.27 Off-cycle infiltration heat loss integration factors

For systems numbered 1-8, determine off-cycle infiltration heat loss integration factors, F7 and F8, from Figures 7 and 8, respectively, using values of $\psi_{S,\,O}$ defined in section 4.2.25, and t_{off}/τ_{off} defined in section 4.2.21.

4.2.28 On-cycle sensible heat loss

Calculate the on-cycle sensible heat loss of the system, $L_{S,\,ON}$, expressed in percent and defined:

for systems numbered 1-8:

$$L_{S,\,on} = L_{S,\,SS} - (K_{S,\,on})\,(\theta_{F\ O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{\left(-\frac{t_{on}}{\tau_{on}}\right)}\right),$$

for systems numbered 9-12:

$$L_{S,\,on} = (C_S)\,(L_{S,\,SS,\,A}) - (K_{S,\,on})\,(\theta_{F,\,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{\left(-\frac{t_{on}}{\tau_{on}}\right)}\right)$$

where

C_S	as defined in 4.2.15
$L_{S,\,SS,\,A}$	as defined in 4.2.4
$K_{S,\,ON}$	as defined in 4.2.16
$\theta_{F,\,O}$	as defined in 4.2.22
t_{on}/τ_{on}	as defined in 4.2.20

4.2.29 Off-cycle sensible heat loss

Calculate the off-cycle sensible heat loss of the system, $L_{S,\,OFF}$ expressed in percent and defined as:

for systems numbered 1-4:

$$L_{S,\,OFF} = (K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)(F3) + (\psi_{F,\,\infty})(F4),$$

for systems numbered 5-12:

$$L_{S,\,OFF} = (K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)(F5) + (\psi_{F,\,\infty})(F6),$$

where

$K_{S,\,OFF}$	as defined in 4.2.17
t_{off}	as defined in 4.2.21
t_{on}	as defined in 4.2.20
F3, F4, F5, and F6	as defined in 4.2.26
$\psi_{F,\,\infty}$	as defined in 4.2.24

4.2.30 On-cycle infiltration heat loss

Calculate the on-cycle infiltration heat loss of the system, $L_{I,\,ON}$, expressed in percent and defined as: for systems numbered 1-8:

$$L_{I,\,ON} = K_{I,\,ON}(70-42),$$

where

$K_{I,\,ON}$	as defined in 4.2.18
70	as defined in 4.2.4
42	as defined in 4.2.15

for systems numbered 9-12:

$$L_{I,\,ON} = 0$$

4.2.31 Off-cycle infiltration heat loss

Calculate the off-cycle infiltration heat loss of the system $L_{I,\,OFF}$, expressed in percent and defined as: for systems number 1-8:

$$L_{I,\,OFF} = K_{I\ OFF}(70-42)\left(\frac{t_{off}}{t_{on}}\right)(F7) - (\psi_{S\ \ ,\ \ F})(F8),$$

where

$K_{I,\,OFF}$	as defined in 4.2.19
70	as defined in 4.2.4
42	as defined in 4.2.15
t_{off}	as defined in 4.2.21
t_{on}	as defined in 4.2.20
F7, F8	as defined in 4.2.27
$\psi_{S,\,\infty,\,X}$	as defined in 4.2.13

for systems numbered 9-12:

$$L_{I,\,OFF} = 0$$

4.2.32 Part-load fuel utilization efficiency

Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units:

$$\eta_u = 100 - L_{L,A} - \left[\frac{t_{on}}{t_{on} + \frac{Q_P}{Q_{in}}(t_{off})}\right][L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}]$$

for outdoor units:

$$\eta_u = 100 - L_{L,A} - C_T(L) - \left[\frac{t_{on}}{t_{on} + \frac{(Q_P)}{Q_{in}}(t_{off})}\right][L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}]$$

where

C_T	= 3.3 for furnaces intended to be installed outdoors 4.7 for boilers intended to be installed outdoors
Q_P	pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour
Q_{IN}	full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.4 of this Appendix, in Btu's per hour
L	jacket loss determined in accordance with section 3.4 of this Appendix, in percent
$L_{L,A}$	as defined in 4.2.5
t_{ON}	as defined in 4.2.20
t_{OFF}	as defined in 4.2.21
$L_{S,ON}$	as defined in 4.2.28
$L_{S,OFF}$	as defined in 4.2.29
$L_{I,ON}$	as defined in 4.2.30
$L_{I,OFF}$	as defined in 4.2.31

4.2.33 Annual fuel utilization efficiency

Calculate the annual fuel utilization efficiency, *EFFYA* defined as:

$$EFFY_A = \frac{(\eta_{SS})\,(\eta_u)\,(5200)}{(\eta_{SS})\,(5200) + (2.5)(\eta_u)\left(\frac{Q_P}{Q_{in}}\right)(1.7)(4600)}$$

where

5200	= the average number of annual heating degree days for the United States
4600	= the average number of non heating season hours per year that the energy to the pilot light is assumed wasted
1.7	= average furnace sizing factor
η_{SS}	as defined in 4.2.5
η_u	as defined in 4.2.32
Q_P	as defined in 4.2.32
Q_{IN}	as defined in 4.2.32

4.3 *Additional Requirements for Furnaces Utilizing a Stack (or flue) Damper.*

Calculate the automatic stack (or flue) damper effectiveness, D_{is}, defined as:

when

$$A_D \cos\Phi > 0.59\ A_S:$$

$$D_{is} = \frac{2.24\left[1 - \frac{A_D \cos\Phi}{A_S}\right]}{\sqrt{1 - \left[1 - \frac{A_D \cos\Phi}{A_S}\right]^2}}$$

when

$$A_D \cos\Phi \leq 0.59\ A_S:$$

$$D_{is} = 1,$$

where

A_S	= cross sectional area of the stack determined in accordance with section 3.5 of this appendix, in square inches
A_D	= net area of the damper plate determined in accordance with section 3.5 of this appendix, in square inches
Φ	= the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack

4.4 *Additional Requirements for Furnaces Utilizing Indoor Air for Combustion and Draft Control.*

For units obtaining combustion air and draft control air from inside the residence, the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow (S/F), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_F), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures (D_S) shall be determined from Table 1.

4.4.1 Optional procedure for determination of D_F for furnaces or boilers employing a power burner

Calculate the ratio (D_F) of the rate of flue gas mass flow through the furnace or boiler during the off period, $m_{F,\,OFF}\,(T_{F,\,SS})$, to the rate of flue gas mass flow during the on-period, $m_{F,\,SS}\,(T_{F,\,SS})$, and defined as:

$$D_F = \frac{\dot{m}_{F,\,OFF}(T_{F,SS})}{\dot{m}_{F,\,SS}(T_{F,SS})}$$

where

$$\dot{m}_{F,\,OFF}(T_{F,SS}) = \dot{m}_{F,\,OFF}(T_{F,\,OFF}) \cdot \left[\frac{T_{F,SS}-42}{T_{F,OFF}-42}\right]^{.56}\left[\frac{T_{F,\,OFF}+460}{T_{F,SS}+460}\right]^{1.19}$$

where

$T_{F,\,SS}$	= as defined in 4.2.4
$T_{F,\,OFF}$	= flue gas temperature during the off-period measured in accordance with section 3.6 of this Appendix, in degrees Fahrenheit

$$\dot{m}_{F,\,OFF}\ T_{F\,OFF}) = \frac{100 V_T}{C_T}\rho_F,$$

where

V_T	= flow rate of tracer gas through the furnace measured in accordance with section 3.6 of this Appendix, in cubic feet per minute
C_T	= concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this Appendix, in percent

$$\rho_F = \frac{1{,}325 P_B}{460 + T_{F,\,OFF}},$$

where

$T_{F,OFF}$	as defined above
P_B	= barometric pressure measured in accordance with section 3.6 of this Appendix, in inches of mercury

$$\dot{m}_{F,SS}(T_{F,SS}) = \left[(R_{T,F})\left(\frac{A}{F}\right) + \right]\frac{Q_{in}}{HHV_A}.$$

where

$R_{T,F}$	as defined in 4.2.2
A/F	as defined in 4.2.16
Q_{IN}	as defined in 4.2.32
HHV_A	as defined in 4.2.16

4.4.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for furnaces or boilers employing a power burner

Calculate the off-cycle draft factor for flue gas flow, D_F, defined as

for systems numbered 2, 4 or 10: $D_F = D_S$,

for system number 12. $D_F = (D_S)\,(D_S)$,

where

D_S	as defined in 4.4.1
D_S	as defined in 4.3

4.4.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for furnaces or boilers employing a power burner

Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:

for system number 2: $D_S = D_F + 0.55$

for system number 4: $D_S = D_F + .40$,

for system number 8: $D_S = (D_F)\,(D_S)$,

where

D_F	as defined in 4.4.1
D_S	as defined in 4.3

4.5 *Additional Requirements for Furnaces Utilizing a Direct Vent System*

For furnaces utilizing a direct vent system or intended for outdoor installation, the appropriate S/F factor and D_F factor shall be determined from Table 2. If a unit is equipped with a power burner, D_F may be calculated using the value of D_F determined in section 4.4.1 of this section.

4.6 *Additional Requirements for Furnaces Which Modulate or Vary Fuel Input Without Controlling Excess Combustion Air*

A furnace which is equipped with a mechanism for reducing the rate of fuel input but does not provide a means for controlling excess combustion air, shall be tested at its maximum firing rate in accordance with test procedures in section 3. These test results shall be used to calculate a seasonal efficiency and an annual operating cost which is based upon a single fixed fuel input rate.

4.7 *National Average Number of Burner Operating Hours*

Calculate the average number of burner operating hours, BOH, defined as:

$BOH = (0.2800\ (\text{design heating requirement}) - B$

where

2800	= typical average annual heating season hours of operation = $\frac{(Q_{in})\,(0.5)}{1000}$

where

0.5	= approximate value for the ratio of steady state efficiency to 100 times the average furnace sizing factor
1000	= conversion factor to convert Btu's per hour to kilo-Btu's per hour
Q_{IN}	as defined in 4.2.32
A	$= \frac{100{,}000}{(11{,}400\ \ PL) + (3{,}413\ \ BE) - Q_{in} - Q_T\ \ \eta_u}$
B	= (0.0416) (Q_P) (η_u) (A)
PL	= power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.
BE	= Circulating-air blower (or circulating-water pump) electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts
η_u	= 1.39 for furnaces 1.00 for boilers or furnaces employing a single motor to drive a power burner and air circulating fan or blower, the ratio of average blower or pump on time to average burner on time
Q_{IN}	as defined in 4.2.32
Q_P	as defined in 4.2.32
η_u	as defined in 4.2.32

4.8 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers*

Calculate the average annual fuel energy consumption for gas or oil fueled furnaces or boilers, E_F, expressed in Btu's per year, and defined as

$$E_F = Q_{IN} - Q_P\,(BOH) + 8760\ (Q_P),$$

where

Q_{IN}	as defined in 4.2.32
Q_P	as defined in 4.2.32
BOH	as defined in 4.7
8760	= total number of hours in a year

4.9 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers*

Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$$E_{AE} = (PE + y\,BE)\,BOH,$$

where

PE	as defined in 4.7
BE	as defined in 4.7
y	as defined in 4.7
BOH	as defined in 4.7

4.10 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers*

Calculate the average annual electric energy consumption for electric furnaces or boilers, E_{E_R}, expressed in kilowatt-hours per year, and defined as:

$$E_{E_R} = \frac{(100)(2080)(\text{design heating requirement})}{EFFY_{A-E}} E_i$$

where
100 = conversion factor to convert percent to decimal fraction

$$(\text{design heating requirement}) = \frac{(E_{ai})(0.5)}{E\ 1000}$$

where
E_{ai} = electric power input measured in accordance with section 3.1.7 of this Appendix
0.5 as defined in 4.7
1000 as defined in 4.7
2080 as defined in 4.7
$EFFY_{A-E}$ as defined in 4.1

4.11 *Average Number of Burner Operating Hours in Different Geographic Regions of the United States*

Calculate the average number of burner operating hours by geographic region of the United States, BOH_R, defined as:

$BOH_R = (HLH)$ (design heating requirement) $- B$,

where
HLH = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9

$$B = \frac{(2)(HLH)(A)(Q_P)(\eta_E)}{100{,}000}$$

where
HLH as defined above
A as defined in 4.7
Q_P as defined in 4.2.32
η_E as defined in 4.2.32

Design heating requirement as defined in 4.7

$$E_{E,R} = \frac{(100)\ (HLH)}{(EFFY_{A-E})} (\text{design heating requirement})\ E$$

where
100 as defined in 4.10
HLH as defined in 4.11
(design heating requirement)$_E$ as defined in 4.10
$EFFY_{A-E}$ as defined in 4.1

4.15 *Minimum Standardized Design Heating Requirement*

Calculate the minimum standardized design heating requirement, DHR_{MIN}, expressed in Btu's per-hour for which a regional annual operating cost could be computed, defined as:

$$DHR_{MIN} = \frac{(\eta_{ss})\ (Q_{in})}{200}$$

4.16 *Maximum Standardized Design Heating Requirement*

Calculate the maximum standardized design heating requirement, DHR_{MAX}, expressed in Btu's per-hour, for which a regional annual operating cost could be computed, defined as:

$$DHR_{MAX} = \frac{(\eta_{ss})\ (Q_{in})}{110}$$

4.17 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average number of burner operating hours by geographic region of the United State for the minimum standardized design heating requirement, BOH_{R-MIN}, defined as:

$$BOH_{R-MIN} = A(HLH)\ (DHR_{MIN}) - B,$$

where
A as defined in 4.7
HLH as defined in 4.11
DHR_{MIN} as defined in 4.15
B as defined in 4.7

4.12 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual fuel energy consumption by geographic region of the United States, $E_{F,R}$, expressed in Btu's per year, and defined as:

$$E_{F,R} = (Q_{IN} - Q_P)\ (BOH_R) + (8760)\ (Q_P),$$

where
Q_{in} as defined in 4.2.32
Q_P as defined in 4.2.32
BOH_R as defined in 4.11
8760 as defined in 4.8

4.13 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual auxiliary electrical energy consumption by geographic regions of the United States, $E_{AE,R}$ expressed in kilowatt-hours per year and defined as:

$$E_{AE,R} = (PE + y\,BE)\ (BOH_R),$$

where
PE as defined in 4.7
BE as defined in 4.7
Y as defined in 4.7
BOH_R as defined in 4.11

4.14 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(100)\ (HLH)}{(EFFY_{A-E})} (\text{design heating requirement})\ E$$

4.18 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average number of burner operating hours by geographic region of the United States for the maximum standardized design heating requirement, BOH_{R-MAX}, defined as:

$$BOH_{R-MAX} = A(HLH)\ (DHR_{MAX}) - B,$$

where
A as defined in 4.7
HLH as defined in 4.11
DHR_{MAX} as defined in 4.16
B as defined in 4.7

4.19 *Average Annual Fuel Energy Consumption for Gas or Oil Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual fuel energy consumption by geographic region of the United States for the minimum design heating requirement, $E_{E,R-MIN}$, expressed in Btu's per year and defined as:

$$E_{F,R-MIN} = (Q_{in} - Q_P)\ (BOH_{R-MIN}) + (8760)\ (Q_P),$$

where
Q_{in} as defined in 4.2.32
Q_P as defined in 4.2.32
BOH_{R-MIN} as defined in 4.17
8760 as defined in 4.8

4.20 *Average Annual Fuel Energy Consumption for Gas or Oil Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual fuel energy consumption by geographic region of the United States for the maximum design heating requirement, $E_{F,R-MAX}$, expressed in Btu's per year and defined as:

$$E_{F,R-MAX} = (Q_{IN} - Q_P)\ (BOH_{R-MAX}) + (8760)\ (Q_P),$$

where
Q_{IN} as defined in 4.2.32
Q_P as defined in 4.2.32
BOH_{R-MAX} as defined in 4.17
8760 as defined in 4.8

4.21 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the minimum design heating requirement $E_{AE,R-MIN}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE,R-MIN} = (PE + y\,BE)\ (BOH_{R-MIN}),$$

where
PE as defined in 4.7
y as defined in 4.7
BE as defined in 4.7
BOH_{R-MIN} as defined in 4.11

4.22 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the maximum design heating requirement,

$$E_{AE,R-MAX} = (PE + y\,BE)\ (BOH_{R-MAX}),$$

where
PE as defined in 4.6
Y as defined in 4.7
BE as defined in 4.7
BOH_{R-MAX} as defined in 4.11

4.23 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual electric energy consumption by geographic region of the United States for the minimum design heating requirement, $E_{E,R\ MIN}$ expressed in kilowatt-hours per year and defined as:

$$E_{E,R-MIN} = \frac{(100)\ (HLH)\ (DHR_{MIN})}{(EFFY_{A-E})}$$

where
100 as defined in 4.10
HLH as defined in 4.11
DHR_{MIN} as defined in 4.15
$EFFY_{A-E}$ as defined in 4.1

4.24 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual electric energy consumption by geographic region of the United States for the maximum design heating requirement, $E_{E,R-MAX}$ expressed in kilowatt-hours per year and defined as:

$$E_{E,R-MAX} = \frac{(100)(HLH)(DHR_{MAX})}{(EFFY_{A-E})},$$

where
100 as defined in 4.10
HLH as defined in 4.11
DHR_{MAX} as defined in 4.16
$EFFY_{A-E}$ as defined in 4.1

Table 1

Factors Describing Air Flow Rate for Gas and Oil Fired Furnaces or Boilers Utilizing Indoor Air for Combustion and Draft Control

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Units With a Stack Damper and Draft Hood or Draft Diverter					Units With a Stack Damper and Barometric Draft Control				
	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S		System #	S/F	D_F	D_S	
Atmospheric	1	2.4	1.0	1.0	3	1.4	1.0	1.0		5	2.4	---	D_{o}	
Power	2	2.4	0.3	0.85	4	1.4	.10	0.70		6	2.4		D_o	

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fired Furnaces/Boilers Intended for Installation Out-Of-Doors or Intended for Indoor Installation But equipped With a direct vent system.

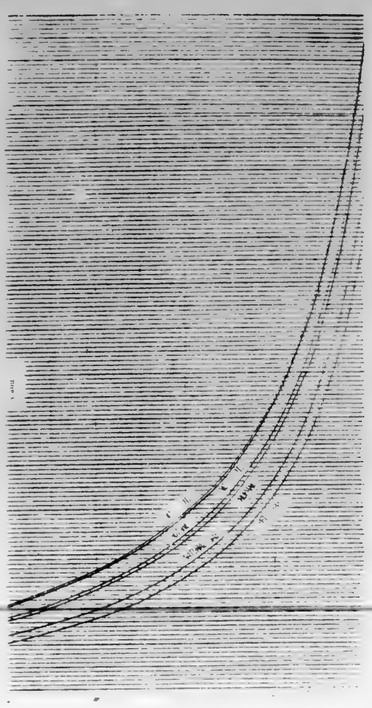
Type of Burner	Units Without A Stack Or Flue Damper		Outdoor Units With a Flue Damper Or Indoor Units With a Stack Damper		Type of Draft	S/F
	System#	D_F	System#	D_F	None	1
Atmosphere	9	1.00	11	D_o	barometric damper	1.4
Power	10	0.30	12	0.30 x D_o	draft diverter	2.4

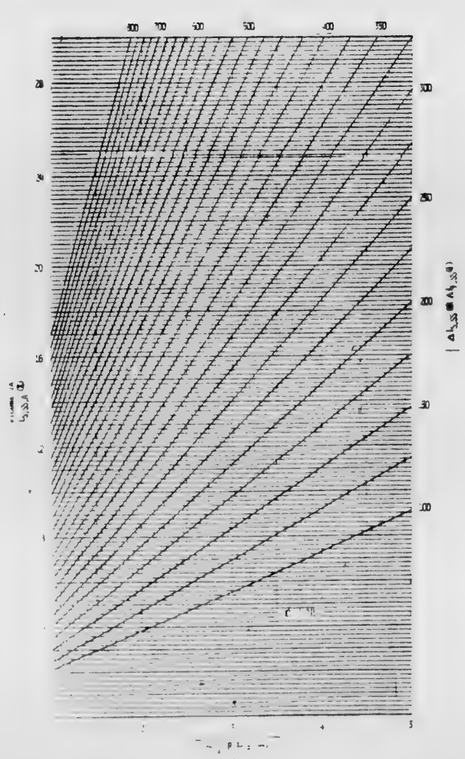
The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

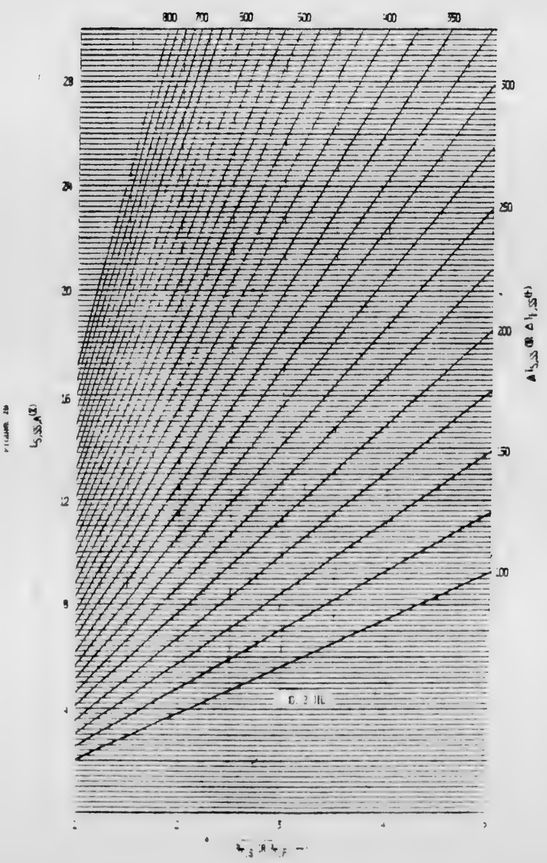
Table 3

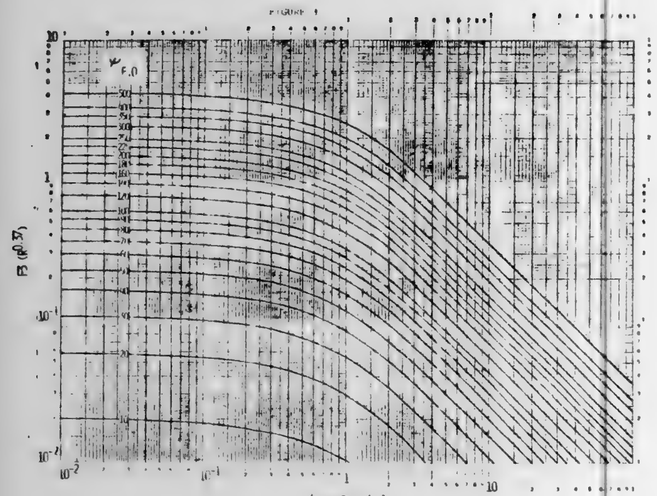
Values of Higher Heating Value (HHV_A), Stoichiometric Air-Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

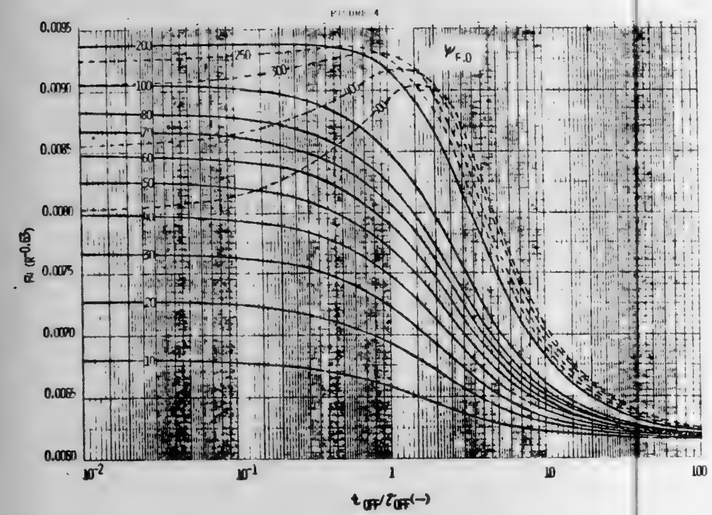
Fuels	HHV_A (Btu/lb)	A/F(—)	$L_{L,A}$(%)
No.1 Oil	19,800	14.58	6.55
No.2 Oil	19,500	14.51	6.50
Natural Gas	21,800	16.04	9.91
Manufactured Gas	18,500	11.83	10.16
Propane	21,300	15 60	8 00
Butane	20,890	15 38	7 80

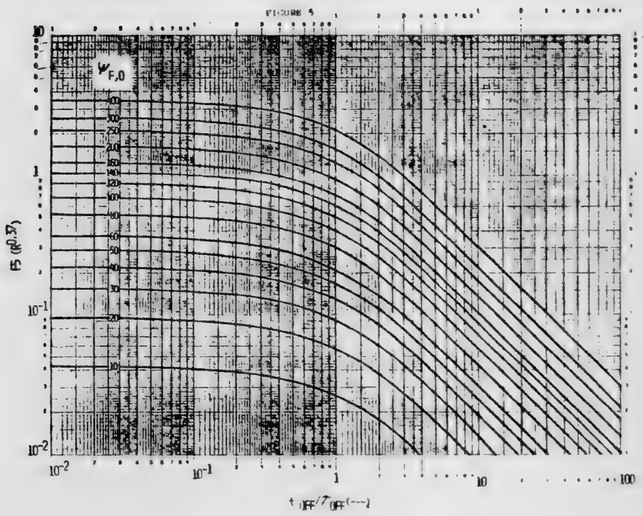







$\Psi_{F,0}$
$F_S\,(R^{0.37})$
$t_{OFF}/\tau_{OFF}(-)$


$\Psi_{F,0}$
$F_S\,(R^{0.63})$
$t_{OFF}/\tau_{OFF}(-)$


$\Psi_{F,0}$
$F_S\,(R^{0.37})$
$t_{OFF}/\tau_{OFF}(-)$

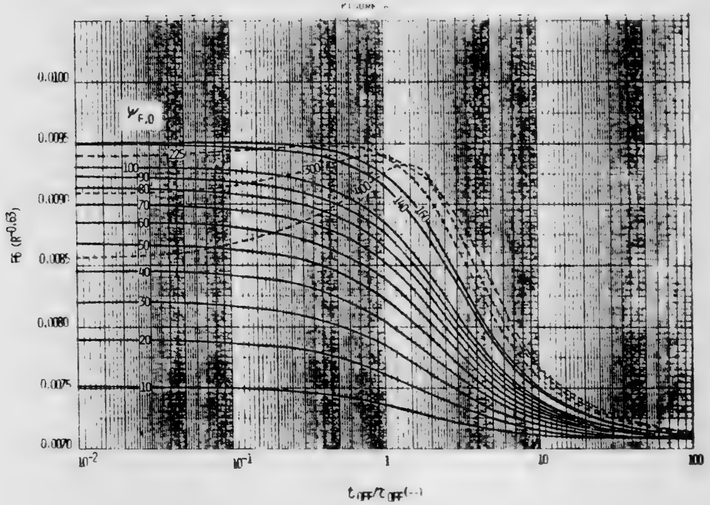

$\Psi_{F,0}$
$F_S\,(R^{0.63})$
$t_{OFF}/\tau_{OFF}(-)$

FIGURE 7

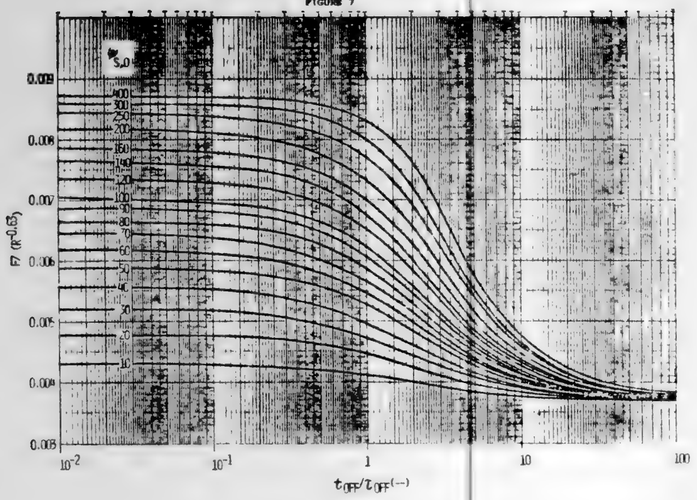


FIGURE 8

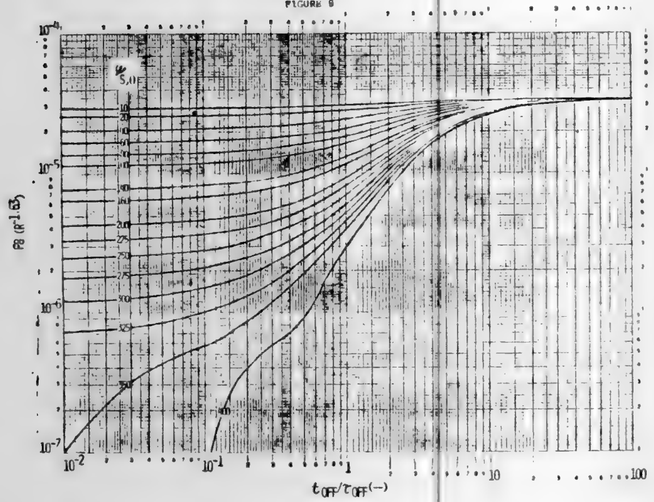


FIGURE 10

WORK SHEET FOR FEEDWATER/BOILER SYSTEMS

Measured Quantities and System Characteristic Constants

1	2	3	4	5	6	7	8
BTG# (-)	TYPEL (-)	kW# Btu/lb.	Q_{DN} Btu/hr.	Q_{DN} Btu/Hr.	PE kW	BE kW	$x_{CO_2,S}$ -

9	10	11	12	13	14	15	16
$\tau_{S,SS,S}$ F	$x_{CO_2,F}$ -	$T_{F,SS}$ F	$\tau_{F,OM}(\tau_1)$ F	$T_{F,OM}(\tau_2)$ F	$T_{F,OFF}(\tau_1)$ F	$T_{F,OFF}(\tau_2)$ F	$T_{F,OFF}$ (*) F

17	18	19	20	21	22
τ_1 (-)	S/F (-)	b_F (-)	b_B (-)	ϕ (-)	α (-)

Derived System Parameters

23	24	25	26	27	28	29	30
P_B (-)	WBFA Btu/Lb.	A/F (-)	$L_{F,A}$ ft	$L_{F,A}$ ft	$R_{F,F}$ (-)	$L_{F,BB}$ ft	τ_{BB} s

31	32	33	34	35	36	37	38
$\tau_{S,BB}$ F	τ_{OM} minutes	$b_{F,O,A}$ F	τ_{OFF} minutes	$b_{F,O,A}$ F	$\tau_{F,*,A}$ F	$b_{S,O,A}$ F	$\tau_{S,O,A}$ F

39	40	41	42	43
τ_{S} (-)	$\tau_{S,OM}$ (S)/F	$\tau_{S,OFF,0.37}$ (S)/F	$\tau_{F,OM}$ (S)/F	$\tau_{F,OFF,0.37}$ (S)/F

Calculation of System Losses and Annual Fuel Utilization Efficiency

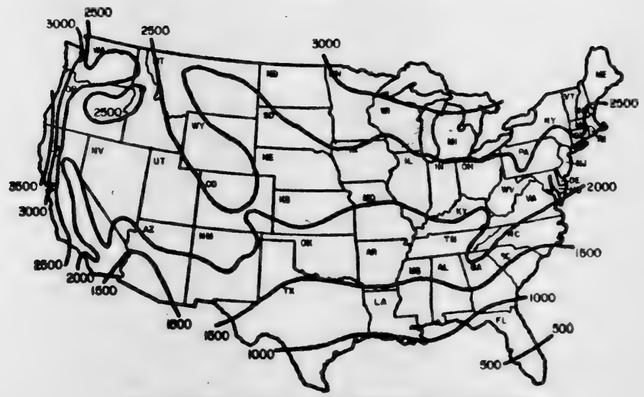
44	45	46	47	48	49	50	51
τ_{OM} F	τ_{OM} minutes	τ_{OFF} minutes	τ_{OM}/τ_{OM} (-)	τ_{OFF}/τ_{OFF} (-)	$b_{F,O}$ F	$b_{F,O}$ F	$b_{F,*}$ F

52	53	54	55	56	57	58	59
$b_{S,O}$ F	$b_{S,*}$ F	P_S $\beta=0.37$	P_S $\beta=0.63$	P_B $\beta=0.37$	P_B $\beta=0.63$	P_F $\beta=0.63$	P_F $\beta=1.63$

60	61	62	63	64	65	66	67
$T_{F,OM}$ F	$T_{F,OFF}$ F	$T_{F,OM}$ F	$T_{F,OFF}$ F	η_S %	DD 24-hours	HR hours	EFF_A %

[FR Doc.77-23068 Filed 8-10-77;11:27 am]

FIGURE 9



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Western



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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. H–103]

ILLUSTRATIONS OF EXHIBITS AND FORMS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates the text, and separates the exhibits and forms illustrated in Subchapter H. The regulation is necessary to bring Subchapter H into conformance with established FPMR format with reference to the numbering of exhibits and forms. This amendment takes the necessary actions to amend the FPMR accordingly.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, D.C. 20406 (703–557–1914).

PART 101–42—PROPERTY REHABILITATION SERVICES AND FACILITIES

The table of contents for Part 101–42 is amended as follows:

Subparts 101–42.4—101–42.47—[Reserved]

Subpart 101–42.48—Exhibits

Sec.

101–42.4800 Scope of subpart.

101–42.4801 Intra-agency survey format for evaluating the recovery potential of activities not now recovering precious metals.

101–42.4802 Format for annual consolidated report to GSA on activities generating precious metals.

Subpart 101–42.49—[Reserved]

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 101–42.3—Recovery of Precious Metals and Critical Materials

Sections 101–42.301–1 and 101–42.301–2 are revised as follows:

§ 101–42.301–1 Guidelines for conducting intra-agency surveys.

Each agency having activities that generate used hypo solution, scrap film, or other precious metal-bearing scrap, and which has no precious metal recovery program shall periodically survey each such activity to evaluate recovery potential and implement recovery procedures when economically feasible. A copy of the original or updated survey shall be made available upon request to the General Services Administration (FWR), Washington, D.C. 20406. Section 101–42.4801 illustrates a suggested format for recording agency surveys. Each agency shall designate an individual to be responsible for coordinating the intra-agency surveys, implementing recovery procedures, monitoring the recovery programs, and submitting the consolidated annual report prescribed in § 101–42.301–2.

§ 101–42.301–2 Reporting to GSA.

Each agency generating silver or other precious metals (including used photographic hypo solution, scrap film, and other precious metal-bearing scrap) shall submit a consolidated annual report on its precious metal generating activities to the General Services Administration (FWR), Washington, D.C. 20406. Reports shall cover the entire fiscal year and be submitted within 45 calendar days after the close of each fiscal year. Section 101–42.4802 illustrates a suggested format for the report (Interagency Report Control Number 1529–GSA–AN) to show the number of activities recovering silver from used hypo solution, scrap film, and other silver-bearing scrap; the number of activities recovering other precious metal-bearing scrap; the amounts recovered in terms of troy ounces; the method of recovery or disposal; and the agency estimate of savings for the report period.

Subparts 101–42.4 through 101–42.47 are reserved as follows:

Subparts 101–42.4—101–42.47—[Reserved]

Subpart 101–42.48 is added to read as follows:

Subpart 101–42.48—Exhibits

§ 101–42.4800 Scope of subpart.

This subpart exhibits information referenced in the text of this Part 101–42 that is not suitable for inclusion elsewhere in that part.

Sections 101–42.4901 and 101–42.4902 are redesignated as §§ 101–42.4801 and 101–42.4802, respectively, as follows:

§ 101–42.4801 Intra-agency survey format for evaluating the recovery potential of activities not now recovering previous metals. [Redesignated from § 101–42.4901]

* * * * *

§ 101–42.4802 Format for annual consolidated report to GSA on activities generating precious metals. [Redesignated from § 101–42.4802]

Subpart 101–42.49 is reserved as follows:

Subpart 101–42.49—[Reserved]

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101–43 is amended to delete §§ 101–43.4902–1 through 101–43.4910 and to add or revise the following entries:

Subparts 101–43.6—101–43.47—[Reserved]

Subpart 101–43.48—Exhibits

Sec.

101–43.4800 Scope of subpart.

101–43.4801 Excess personal property reporting requirements.

101–43.4802 Regional offices addresses and assigned areas.

101–43.4803 List of Government corporations (31 U.S.C. 846, 856).

Subpart 101–43.49—Illustrations of Forms

101–43.4901 Standard forms.

101–43.4901–120 Standard Form 120, Report of Excess Personal Property.

101–43.4901–120A Standard Form 120A, Continuation Sheet (Report of Excess Personal Property).

101–43.4901–120–1 Instructions for preparing Standard Form 120.

101–43.4901–121 Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property.

101–43.4901–121–1 Instructions for preparing Standard Form 121.

101–43.4901–122 Standard Form 122, Transfer Order Excess Personal Property.

101–43.4901–365 Standard Form 365, Annual Report—Disposal of Foreign Excess Property.

101–43.4902 GSA forms.

101–43.4902–1539 GSA Form 1539, Request for Excess Personal Property.

101–43.4902–1539–1 Instructions for preparing GSA Form 1539.

101–43.4902–2946 GSA Form 2946, Authorization Certificate to Select Freeze Excess Personal Property.

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 101–43.1—General Provisions

Section 101–43.102 is revised as follows:

§ 101–43.102 Reassignment of property within executive agencies.

Each executive agency shall, to the maximum extent feasible, reassign property within activities of the agency, including its cost-reimbursement type contractors, as described in § 1–3.405 of this title, when such property is determined to be no longer required for the purpose of the appropriation from which it was

purchased or the use to which it has been applied, and shall immediately discontinue procurement of items for which such property can be substituted or adapted. An annual report of such internal property reassignments shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year on Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. This report conforms with the provisions of FPMR 101–11.11 and has been assigned Interagency Report Control Number 0015–GSA–AN. Section 101–43.4901–121 illustrates Standard Form 121 and § 101–43.4901–121–1 provides instructions for its preparation.

Subpart 101–43.3—Utilization of Excess

1. Section 101–43.302(a)(2) is revised as follows:

§ 101–43.302 Agency responsibility.

(a) * * *

(2) GSA will assist agencies in meeting their requirements for property of the types excepted from reporting as excess by this Part 101–43. Federal agencies requiring such property should contact the appropriate GSA regional office as indicated in § 101–43.4802. GSA area utilization officers, stationed at key military excess generating points throughout the United States, screen and offer nonreported personal property as it becomes available for transfer.

* * *

2. Sections 101–43.311–1 and 101–43.311–2 are revised as follows:

§ 101–43.311–1 Reporting.

Except as set forth in § 101–43.312, excess personal property shall be reported promptly as provided in this § 101–43.311–1 and in accordance with the Federal supply classification groups and classes in § 101–43.4801 with full descriptions when they are available. In the absence of such descriptions, adequate commercial descriptions shall be substituted. Whenever possible, national stock numbers shall be provided as part of the description. It is especially important that the excess property report reflect the true condition of the property as of the date it is reported excess through assignment of the appropriate code designation as defined in § 101–43.4901–120–1. Further, whenever an item of equipment is reported as excess on Standard Form 120, Report of Excess Personal Property, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall be reported on the Standard Form 120. If the property reported is a prefabricated movable structure that has been installed in a permanent manner, and if the reporting agency requires that the site be restored at the expense of the transferee, donee, or purchaser, the nature and estimated cost of restoration shall be included on the Standard Form 120.

§ 101–43.311–2 Form and distribution of reports.

Reports of excess property shall be made on Standard Form 120, Report of Excess Personal Property, and Standard Form 120A, Continuation Sheet (Report of Excess Personal Property), illustrated at §§ 101–43.4901–120 and 101–43.4901–120A respectively, in accordance with the instructions in § 101–43.4901–120–1, or, when acceptable to GSA, by data processing output. Standard Forms 120 and 120A shall be submitted in an original and three copies. Reporting by data processing output shall be submitted in the number of copies agreed upon by GSA. Reports shall be submitted to the GSA regional office for the region in which the property is located (see § 101–43.4802), except that reports of fixed wing and rotary wing aircraft shall be submitted to the General Services Administration (9FW), San Francisco, CA 94105, and excess Standard forms, with samples of such forms, shall be submitted to the General Services Administration (3F), Region 3, Washington, D.C. 20407, for potential redistribution under the Standard forms program. Reports of excess ADPE shall be submitted as set forth in Subpart 101–32.47. Since Standard Form 120, Report of Excess Personal Property, is an operating supply document and submitted by agencies as excess property is generated, it is excluded from the interagency reporting requirement as set forth in Subpart 101–11.11 of this chapter.

3. Section 101–43.312 is amended as follows:

§ 101–43.312 Exceptions to reporting.

* * * * *

(c) Scrap and/or salvage: *provided*, The property strictly conforms to the definitions for scrap and/or salvage (§ 101–43.4901–120–1).

* * * * *

(e) Other items excepted from reporting as listed in § 101–43.4801.

* * * * *

4. Section 101–43.313–10(e) is revised as follows:

§ 101–43.313–10 Medical shelf-life items held for national emergency purposes.

* * * * *

(e) Medical shelf-life items held for national emergency purposes which have a remaining useful life of 3 or more months and which are not reportable in accordance with § 101–43.4801 shall be made available for use by other Federal agencies as provided in § 101–43.306. When such items are determined excess, a surplus release date shall be established by the holding agency providing a minimum of 21 calendar days for selection of the items for Federal use. For controlled substances (as defined in § 101–43.001–4), each executive agency shall comply with §§ 101–43.309 and 101–43.313–1.

* * * * *

5. Section 101–43.315–2(d) is revised as follows:

§ 101–43.315–2 Information of availability.

* * * * *

(d) Submission of current and future requirements for excess personal property to the appropriate GSA regional office using revised GSA Form 1539, Request for Excess Personal Property. Section 101–43.4902–1539 illustrates GSA Form 1539, and § 101–43.4902–1539–1 provides instructions for its acquisition and use. Property utilization specialists in GSA regional offices continually review completed forms in an effort to match agency needs with property becoming available for transfer. In addition, a mechanized method of cross matching agency requirements against reported excess property is used, keyed to the 13-digit national stock number (NSN) furnished by reporting agencies on Standard Form 120, Report of Excess Personal Property, and by requesting agencies on GSA Form 1539. A bank of requirements is maintained, recorded by agency, and identified by the applicable national item identification number (NIIN) (the last nine digits of the NSN). As excess property is reported, availability is matched against requirements on a direct NIIN to NIIN basis. It is important that wherever possible the NSN be shown for each item requested. GSA will assist agencies in obtaining NSN's so that the requirements may be incorporated into the mechanized matching system. If substitute items are acceptable, these should be furnished at the same time and identified by the NSN. Agencies having electrical accounting machine punchcard capability may elect to use this method of submitting requirements; in these instances, instructions for submission of requirements may be obtained from the Federal Supply Service, Personal Property Division, at each GSA regional office. Agencies may also submit a list of property requirements which will be incorporated into the mechanized requirements bank and retained for approximately 180 days. Reported excesses during this time, if matched with recorded requirements, will be offered for immediate transfer. Normally, items for which needs are registered will not be offered in GSA excess property catalogs and GSA excess property bulletins; thus, it is advantageous for agencies to update their list of items at the end of each 180-day period to derive maximum benefits from the excess property program and preclude removal of the items from the requirements bank.

6. Section 101–43.315–3(a)(2) is revised as follows:

§ 101–43.315–3 Fair value reimbursement.

(a) * * *

(2) Either the transferor or the transferee agency (or the organizational unit affected) is a wholly owned or a mixed-ownership Government corporation as defined in the Government Corporation Control Act (31 U.S.C. 841), is the municipal government of the District of Columbia, or is a non-Federal agency and the function of the Federal agency authorized to procure for it is transferred to the General Services Administration. (See § 101–43.4803 for list of Government corporations.)

* * * * *

7. Section 101–43.315–5 is amended as follows:

§ 101–43.315–5 Procedure for effecting transfers.

(a) All transfers of excess personal property between Federal agencies shall be accomplished by use of Standard Form 122, Transfer Order Excess Personal Property (see § 101–43.4901–122), or any other transfer order form approved by GSA. Automated requisitions may be used for excess personal property transfers. However, Federal agencies using automated requisitions shall ensure that identifying codes are controlled and records maintained indicating the official authorized to approve property transfers. Each transferee agency shall forward the original and three copies of the transfer order to the appropriate GSA regional office (see § 101–43.4802) for approval. Prior approval is not required when the property involved in the given transaction is:

* * * * *

(b) Transfer orders accomplished by the use of Standard Form 122 shall be completed as shown in § 101–43.4901–122. Transfer orders shall be executed by a Federal official, and will not be approved by GSA unless so executed. For wholly owned or mixed-ownership Government corporations, the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, and the municipal government of the District of Columbia, transfer orders shall be executed by a responsible official of those organizations. For non-Federal agencies for which GSA procures, transfer orders shall be executed by a responsible official of the sponsoring Federal agency. For contractors and grantees, transfer orders shall be executed by the Federal contracting officer or other responsible Federal official. For nonappropriated fund activities of Federal agencies such as post exchanges, commissaries, and veterans canteens, transfer orders shall be executed by the accountable official of the Federal agency. The transfer order shall state that the property will be entered on the property accountability records of the Federal agency and shall also state that the property will be used only for administration or operational use but not for resale.

* * * * *

8. Section 101–43.319 is revised as follows:

§ 101–43.319 Performance reports.

(a) An annual report of the utilization of excess personal property shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year on Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Section 101–43.4901–121 illustrates Standard Form 121 and § 101–43.4901–121–1 provides instructions for its preparation.

(b) An annual report of the utilization of foreign excess property shall be submitted in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives within 90 days after the close of each fiscal year using Standard Form 365, Annual Report—Disposal of Foreign Excess Property. Section 101–43.4901–365 illustrates Standard Form 365 and provides instructions for its preparation.

9. Section 101–43.320 is amended as follows:

§ 101–43.320 Use of excess property on contracts and grants.

* * * * *

(h) * * *

(1) Federal grantor agencies shall recommend and submit to GSA the names of non-Federal grantee screeners. The sponsoring Federal agency recommending the designation of a non-Federal grantee screener shall prepare a request covering each such designation and forward it for evaluation and approval to the appropriate GSA regional office serving the region in which the intended screener is located. (See § 101–43.4802 for GSA regional offices, addresses, and assigned areas.) The request shall state the applicant's qualifications to screen excess personal property for use on grants; indicate the name, number, and termination date of the specific grant to which the screener is to be assigned; and list the Federal installations which the grantor agency wishes the applicant to visit. Since GSA certification of screeners will be made on a regional basis, the list of installations shall be limited to those located within the boundaries of the GSA regional office in which the screener is located. Requests by Federal grantor agencies for screeners to visit holding activities located in a GSA region other than the region in which the screener is located shall be a matter of separate handling by GSA, and any such requests will require special approval by the involved GSA regional offices. Requests for approval of such interregional visits shall include the name of the installation(s) and the specific reason for the visit. Information shall also be included on whether similar requests for interregional visits have been sent to other GSA regional offices. Requests for interregional visits shall be forwarded to the GSA regional office representative serving the region in which the screener is located who will coordinate the request with the regional office in which the installation is located and advise the requestor of the action taken on the request.

(2) Federal grantor agencies shall include with each non-Federal grantee screener request a GSA Form 2946, Authorization Certificate to Select/Freeze Excess Personal Property. (See § 101–43.4902–2946 for illustration.) The GSA Form 2946 must contain the typed name of the sponsoring Federal grantor agency, the signature of the grantor agency representative, and the typed name and signature of the proposed non-Federal grantee screener.

* * * * *

Subpart 101–43.4—Utilization of Abandoned and Forfeited Personal Property

Section 101–43.402–6(a) is revised as follows:

§ 101–43.402–6 Transfer to other Federal agencies.

(a) Normally the transfer of forfeited or voluntarily abandoned personal property shall be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see § 101–43.4901–122), or any other transfer order from approved by GSA, to the Regional Administrator, General Services Administration (3A), Region 3, Washington, D.C. 20407.

* * * * *

Subparts 101–43.6 – 101–43.47 are reserved as follows:

Subparts 101–43.6—101–43.47—[Reserved]

New Subpart 101–43.48 is added as follows:

Subpart 101–43.48—Exhibits

§ 101–43.4800 Scope of subpart.

This Subpart 101–43.48 exhibits information referenced in the text of Part 101–43 that is not suitable for inclusion elsewhere in that part.

1. Section 101–43.4901 is redesignated as § 101–43.4801, and the text of the section is amended as follows:

§ 101–43.4801 Excess personal property reporting requirements. [Redesignated from § 101–43.4901]

* * * * *

(b) * * *

(2) Items in classes 1510 and 1520 held by the Department of Defense or other agencies shall be reported to the General Services Administration (9FW), San Francisco, CA 94105.

* * *

(d) * * *

Group No.	Group identification	Federal supply classification: Classes	Not reportable to GSA	Reportable to GSA	Minimum reportable condition codes
15	Aircraft; and airframe structural components.	All except	X		
		1510 aircraft, fixed wing, as specified by § 101–43.4801(b).		X	N4, E4, O4, R4.
		1520 aircraft, rotary wing, as specified by § 101–43.4801(b).		X	
		1560 airframe structural components, as specified by § 101–43.4801(b).		X	
16	Aircraft components and accessories.	All, as specified by § 101–43.4801 (b), except.		X	N2, E2.
		1670 parachutes and aerial pickup, delivery, and cargo tie down equipment.		X	N4, E4, O4, R4.
23	Ground effect vehicles, motor vehicles trailers, and cycles.	All except		X	N4, E4, O4, R4.
		Armored vehicles in 2320 trucks and truck tractors.	X		
		2350 tanks and self-propelled weapons.	X		
28	Engines, turbines, and components.	All except	X		
		2805 gasoline reciprocating engines, except aircraft; and components.			N3, E3, O3.
		2810 gasoline, reciprocating engines, and components; as specified by § 101–43.4801(b).		X	
		2815 diesel engines and components.		X	
		2840 gas turbines and jet engines, aircraft and components as specified by § 101–43.4801(b).		X	
58	Communication, detection, and coherent radiation equipment.	All		X	N4, E4, O4, R4.
74	Office machines, visible record equipment, and data processing equipment (see § 101–43.4801 (c)).	All		X	N4, E4, O4, R4.

2. Section 101–43.4802 is added to read as follows:

§ 101–43.4802 Regional offices addresses and assigned areas.

Region	Office address	Regional areas
1	General Services Administration, John W. McCormack, Post Office and Courthouse, Boston, Mass. 02109.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
2	General Services Administration, 26 Federal Plaza, New York, N.Y. 10007.	New Jersey, New York, Commonwealth of Puerto Rico, Virgin Islands.
3	General Services Administration, Region 3, Washington, D.C. 20407.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
4	General Services Administration, 1776 Peachtree St., NW., Atlanta, Ga. 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
5	General Services Administration, 219 South Dearborn St., Chicago, Ill. 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
6	General Services Administration, 1500 East Bannister Rd., Kansas City, Mo. 64131.	Iowa, Kansas, Missouri, Nebraska.
7	General Services Administration, 819 Taylor St., Fort Worth, Tex. 76102.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
8	General Services Administration, Building 41, Denver Federal Center, Denver, Colo. 80225.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
9	General Services Administration, 525 Market St., San Francisco, Calif. 94105.	Arizona, California, Hawaii, Nevada, Pacific Ocean areas.
10	General Services Administration, GSA Center, Auburn, Wash. 98002.	Alaska, Idaho, Oregon, Washington.

3. Section 101–43.4905 is redesignated as § 101–43.4803 and is revised as follows:

§ 101–43.4803 List of Government corporations (31 U.S.C. 846, 856).

Wholly owned and mixed ownership Government corporations are not necessarily limited to those listed below.

WHOLLY OWNED GOVERNMENT CORPORATIONS

Commodity Credit Corp.
Export-Import Bank of the United States.
Federal Crop Insurance Corp.
Federal Housing Adm.
Federal Prison Industries Inc.
Federal Savings and Loan Insurance Corp.
Government National Mortgage Assn.
Overseas Private Investment Corp.
Panama Canal Co.
Saint Lawrence Seaway Development Corp.
Tennessee Valley Authority.
Virgin Islands Corp.

MIXED-OWNERSHIP GOVERNMENT CORPORATIONS

Central Bank for Cooperatives and the Regional Banks for Cooperatives.
Federal Deposit Insurance Corp.
Federal Home Loan Banks.
Federal Intermediate Credit Banks.
Federal Land Banks.
The National Railroad Passenger Corp.
The Rural Telephone Bank.

Subpart 101–43.49 is revised as follows:

Subpart 101–43.49—Illustrations of Forms

§ 101–43.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101–43.

§ 101–43.4901 Standard forms.

(a) The Standard forms illustrated in this section show their text, format, and arrangement, and provide a ready source of reference. The subsection numbers in this section correspond with the Standard form number.

(b) The Standard forms illustrated in this § 101–43.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101–43.4901–120 Standard Form 120, Report of Excess Personal Property.

§ 101–43.4901–120A Standard Form 120A, Continuation Sheet (Report of Excess Personal Property).

§ 101–43.4901–120–1 Instructions for preparing Standard Form 120.

§ 101–43.4901–121 Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property.

§ 101–43.4901–121–1 Instructions for preparing Standard Form 121.

§ 101–43.4901–122 Standard Form 122, Transfer Order Excess Personal Property.

§ 101–43.4901–365 Standard Form 365, Annual Report—Disposal of Foreign Excess Property.

§ 101–43.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Va. 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405.

§ 101–43.4902–1539 GSA Form 1539, Request for Excess Personal Property.

§ 101–43.4902–1539–1 Instructions for preparing GSA Form 1539.

§ 101–43.4902–2946 GSA Form 2946, Authorization Certificate to Select/Freeze Excess Personal Property.

PART 101–44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101–44 is amended to delete §§ 101–44.4903 and 101–44.4904 and to revise the following entries:

Subpart 101–44.49—Illustrations of Forms

Sec.

101–44.4901 Standard forms.
101–44.4901–123 Standard Form 123, Application for Donation of Surplus Personal Property.
101–44.4901–123A Standard Form 123A, Application for Donation of Surplus Personal Property — Continuation Sheet.
101–44.4901–123–1 Instructions for preparing and processing Standard Form 123.
101–44.4902 GSA forms.
101–44.4902–18 GSA Form 18, Application of Eleemosynary Institution.
101–44.4903 [Deleted]
101–44.4904 [Deleted]

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

1. Sections 101–44.306 and 101–44.307 are revised as follows:

§ 101–44.306 Application for donation.

All donations of surplus personal property for educational, public health, civil defense, service educational activities, and public airports shall be accomplished by use of Standard Form 123, Application for Donation of Surplus Personal Property (illustrated at § 101–44.4901–123), and Standard Form 123A, Application for Donation of Surplus Personal Property—Continuation Sheet (illustrated at § 101–44.4901–123A). The original and three copies of Standard Form 123 shall be forwarded to the appropriate GSA regional office for approval, with an informational copy to the holding agency.

§ 101–44.307 Preparation and processing of applications.

Applications for donation shall be prepared and processed in accordance with the instructions illustrated at § 101–44.4901–123–1.

2. Section 101–44.321 (b), (c), and (d) are revised as follows:

§ 101–44.321 Drugs, biologicals, and reagents other than controlled substances.

* * * * *

(b) Whenever drugs, biologicals, and reagents are considered for donation, a letter of clearance shall be obtained from the Food and Drug Administration (FDA) indicating which items may be safely donated. The Department of Health, Education, and Welfare, Office of Federal Property Assistance (OFPA), shall obtain the letter of clearance and ensure that the letter accompanies Standard Form 123, Application for Donation of Surplus Personal Property (see § 101–44.4901–123). Items which do not fall within the purview of FDA, or which FDA indicates are unsuitable, will not be considered by GSA for donation.

(c) For purposes of obtaining the letter of clearance from FDA, DHEW–OFPA shall be responsible for obtaining and providing samples of any item when required. Any payment of costs for laboratory examinations for quality assurance of such samples shall be arranged by DHEW–OFPA. Before laboratory examinations are undertaken by FDA, an estimate of the expected cost of the quality assurance shall be furnished by FDA to DHEW–OFPA.

(d) In addition, the application shall also contain a statement from DHEW–OFPA that (1) for any quantity of those items approved for donation which are to be stored in a State agency warehouse prior to distribution, DHEW–OFPA shall obtain from the appropriate State agency a certification that adequate facilities are available to effect full accountability and proper storage of the items in accordance with Federal, State, and local statutes governing the acquisition, storage, and accountability of the items requested; (2) the facilities shall be used for the protection of the items including protection against theft and pilferage; (3) the items shall be distributed only to institutions licensed and authorized to administer and dispense such items or to civil defense organizations authorized to store such items; and (4) in addition to the normal certifications required to be executed by responsible officials of donee institutions or organizations when property is acquired by donation, the State agency shall obtain a certification from the donee indicating that (i) the items transferred to the donee institution or organization will be safeguarded, dispensed, and administered under competent supervision; (ii) adequate facilities are available to effect full accountability and proper storage of the property in accordance with Federal, State, and local statutes governing the acquisition, storage, and accountability; and (iii) the administration or use of the property requested will comply with the provisions of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301–392).

Subpart 101–44.6—Donation of Abandoned and Forfeited Personal Property

Section 101–44.601–2 is revised as follows:

§ 101–44.601–2 Establishment of eligibility.

Eleemosynary institutions desiring to obtain available distilled spirits, wine, and malt beverages shall submit GSA Form 18, Application of Eleemosynary Institution (see § 101–44.4902–18), to the General Services Administration (3FW), Region 3, Washington, D.C. 20407.

Subpart 101–44.7—Donation of Foreign Excess Personal Property

Section 101–44.703(b) is revised as follows:

§ 101–44.703 Donation approval.

* * * * *

(b) Standard Form 123, Application for Donation of Surplus Personal Property (see § 101–44.4901–123), prepared in accordance with the instructions prescribed in § 101–44.4901–123–1 and signed by a duly authorized official, shall be forwarded to the appropriate GSA office for approval for property covered by this subpart. An information copy shall be forwarded to the holding agency.

* * * * *

Subpart 101–44.8—Reports

Section 101–44.801 is revised as follows:

§ 101–44.801 Performance report of donations.

(a) An annual report of the donation of surplus personal property shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Sections 101–43.4901–121 and 101–43.4901–121–1 illustrate Standard Form 121 and provide instructions for its preparation.

(b) An annual report of the donation of foreign excess property shall be submitted in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives within 90 days after the close of each fiscal year using Standard Form 365, Annual Report—Disposal of Foreign Excess Property. Section 101–43.4901–365 illustrates Standard Form 365 and provides instructions for its preparation.

Subpart 101–44.49 is revised as follows:

Subpart 101–44.49—Illustrations of Forms

§ 101–44.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of this Part 101–44.

§ 101–44.4901 Standard forms.

(a) The Standard forms illustrated in this section show their text, format, and arrangement, and provide a ready source of reference. The subsection numbers in this section correspond with the Standard form number.

(b) The Standard forms illustrated in this § 101–44.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101–44.4901–123 Standard Form 123, Application for Donation of Surplus Personal Property.

§ 101–44.4901–123A Standard Form 123A, Application for Donation of Surplus Personal Property—Continuation Sheet.

§ 101–44.4901–123–1 Instructions for preparing and processing Standard Form 123.

§ 101–44.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Va. 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405. (GSA Form 18 may be obtained upon request from the General Services Administration (3FW), Region 3, Washington, D.C. 20407.)

§ 101–44.4902–18 GSA Form 18, Application of Eleemosynary Institution.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

The table of contents for Part 101–45 is amended to delete §§ 101–45.4904 through 101–45.4927 and to add or revise the following entries:

Subparts 101–45.9—101–45.47—[Reserved]

Subpart 101–45.48—Exhibits

Sec.	
101–45.4800	Scope of subpart.
101–45.4801	Instructions for the preparation of advance notice to the Department of Commerce.
101–45.4802	Sample format—irrevocable letter of credit.
101–45.4803	General instructions for preparation of irrevocable letter of credit.
110–45.4804	Sample format—draft drawn against irrevocable letter of credit.
101–45.4805	Sample format—transmittal letter to accompany letter of credit.
101–45.4806	Outline for preparation of explanatory statement relative to negotiated sales.
101–45.4807	Equal Opportunity clause.
101–45.4808	State health agencies.
101–45.4809	State radiation control agencies.

Subpart 101–45.49—Illustrations of Forms

101–45.4901	Standard forms.
101–45.4901–28	Standard Form 28, Affidavit of Individual Surety.
101–45.4901–97	Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle.
101–45.4901–97–1	Instructions for use of Standard Form 97.
101–45.4901–114	Standard Form 114, Sale of Government Property—Bid and Award.
101–45.4901–114A	Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.
101–45.4901–114B	Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.
101–45.4901–114C	Standard Form 114C, Sale of Government Property — General Sale Terms and Conditions.
101–45.4901–114C–1	Standard Form 114C–1, Sale of Government Property — Special Sealed Bid Conditions.
101–45.4901–114C–2	Standard Form 114C–2, Sale of Government Property — Special Sealed Bid — Term Conditions.
101–45.4901–114C–3	Standard Form 114C–3, Sale of Government Property—Special Spot Bid Conditions.
101–45.4901–114C–4	Standard Form 114C–4, Sale of Government Property — Special Auction Conditions.
101–45.4901–114D	Standard Form 114D, Sale of Government Property — Amendment of Invitation for Bids/Modification of Contract.
101–45.4901–114E	Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.
101–45.4901–114F	Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.
101–45.4901–126	Standard Form 126, Report of Personal Property for Sale.
101–45.4901–126A	Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet).
101–45.4901–150	Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.
101–45.4901–151	Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property.
101–45.4902	GSA forms.
101–45.4902–27	GSA Form 27, Notice of Award (Sale of Government-Owned Personal Property).
101–45.4902–27A	GSA Form 27A, Notice of Award—Continuation.
101–45.4903	Optional forms.
101–45.4903–15	Optional Form 15, poster, Sale of Government Property.
101–45.4903–16	Optional Form 16, Sales Slip, Sale of Government Personal Property.
101–45.4903–20	Optional Form 20, Notice to Surety—Deposit Bond—Annual, Sale of Government Personal Property

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 101–45.1—General

Section 101–45.105–3(b) is revised as follows:

§ 101–45.105–3 Exemptions.

* * * * *

(b) GSA regional offices, after consultation with a holding activity, may on a case-by-case or blanket basis, authorize sale by the holding activity of perishable items or small lots of limited value property at isolated locations. Optional Form 15, poster, Sale of Government Property (see §101–45.4903–15) and Optional Form 16, Sales Slip, Sale of Government Personal Property (see § 101–45.4903–16) are prescribed for use by holding activities for the sale of such property. These forms may be obtained as stated in § 101–45.4903. Procedures for conducting such sales are set forth in § 101–45.304–3.

Subpart 101–45.3—Sale of Personal

1. Section 101–45.303(b) is revised as follows:

§ 101–45.303 Reporting property for sale.

* * * * *

(b) *Nonreportable property.* Property not required to be reported for utilization screening and for which any required donation screening has been completed shall be reported to the appropriate GSA regional office on Standard Form 126, Report of Personal Property for Sale (illustrated at § 101–45.4901–126). Standard Form 126A, Report of Personal Property for Sale—Continuation Sheet, shall be used if additional pages are required. Standard Forms 126 and 126A are stocked as five-part carbon interleaved forms and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

2. Section 101–45.303–3 is revised as follows:

§ 101–45.303–3 Delivery.

(a) After full payment has been received from a buyer, the GSA regional office will notify the holding activity by copy of the GSA Form 27, Notice of Award (also GSA Form 27A, Notice of Award—Continuation), that property may be released to the purchaser. (See §§ 101–45.4902–27 and 101–45.4902–27A.) Upon completion of a sale, holding activities will be provided additional copies of GSA Form 27 for use as an internal accounting document. If a purchaser fails to remove property within the period specified, the GSA regional office shall be advised of this fact immediately in order that appropriate action may be taken.

(b) Delivery of motor vehicles to purchasers shall be evidenced by submission to the purchaser of a completed copy of Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle. The form shall be signed in accordance with requirements established by the head of the agency selling the vehicle. Proper precautions shall be exercised by agency heads to prevent blank copies of Standard Form 97 from being obtained by unauthorized persons. Instructions for the use of this form are in § 101–45.4901–97–1. Standard Form 97 is illustrated at § 101–45.4901–97.

3. Section 101–45.304–2 is amended as follows:

§ 101–45.304–2 Negotiated sales and negotiated sales at fixed prices.

* * * * *

(c) * * *

(3) An outline for the preparation of the explanatory statement is shown in § 101–45.4806.

4. Section 101–45.304–3 is amended as follows:

§ 101–45.304–3 Small lots sales.

* * * * *

(a) *Optional Form 15, poster, Sale of Government Property.* This dual purpose form (see § 101–45.4903–15) may be used as a direct sales announcement or as a poster to be displayed in prominent locations in public buildings. It requires only fill-in data to indicate the selling agency, sales location, time of sale, and type of property. When the form is used as a sales announcement, it may be either mailed in an envelope or the mailing data printed on the reverse side. The posting of the form or mailing of the announcement should be made in advance of the proposed sale. The period of time between posting or mailing the announcement will vary according to the type and quantity of property being offered; usually, a 7-day period is adequate.

(b) *Optional Form 16, Sales Slip—Sale of Government Personal Property.* This four-part form (see § 101–45.4903–16) is provided for simple documentation of sales and is similar to cash sales slips utilized in over-the-counter sales in private retail stores. The form functinos as an invoice, cash receipt, permanent accounting record, or a property release document as required by individual agency procedures. It may be used to record over-the-phone quotations in the case of negotiated sales.

5. Section 101–45.304–7(b) is revised as follows:

§ 101–45.304–7 Advertising.

* * * * *

(b) *Advance sale notices to Department of Commerce.* In order that the Department of Commerce may publish regularly a synopsis of principal proposed sales of Government personal property, the sales office shall, when the acquisition cost of the property to be sold at one time at one place is $250,000 or more, forward a notice of each proposed sale to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, IL 60607. Where the acquisition cost is less than this amount, the notice may be transmitted when considered desirable. The notice shall be sent as early as possible in advance of the sale but at least 20 days prior to the date when the bids will be opened, or, in the case of spot bid or auction sale, when the sale will be conducted. The notice shall be transmitted by fastest mail available and shall be in synopsis form suitable for printing directly from the text as transmitted without editing or condensing. Instructions for the preparation of advance sale notices, including form and content thereof, are set forth in § 101–45.4801. The failure to comply with the advance notice of sale requirements of this § 101–45.304–7(b) shall not, in and of itself, affect the validity of a sales award which is otherwise valid.

* * * * *

6. Section 101–45.304–8 is amended as follows:

§ 101–45.304–8 Forms prescribed.

Standard Forms 114, 114A, 114B, 114C, 114C–1, 114C–2, 114C–3, 114C–4, 114D, 114E, and 114F (illustrated at §§ 101–45.4901–114 through 101–45.4901–114F) shall be used, where appropriate, in sales of personal property except that Standard Form 114C is not applicable to those sales conducted by GSA involving any strategic metals, minerals, and ores which have been determined surplus pursuant to the Act. These forms will be stocked by GSA as cut sheets only. Authority for the use of such forms in styles other than cut sheets may be granted when requests for such deviation are submitted in accordance with § 101–26.302.

* * * * *

(c) *Description of Standard forms—(1) Standard Form 114, Sale of Government Property—Bid and Award.* (i) Standard Form 114 has spaces to be completed by the issuing sales activity and the bidder. Some of the information furnished by the issuing sales activity is as follows: Invitation for bids number; name and address of issuing sales activity; person to contact for sales information; address to which bids should be mailed; place, date, and time of bid opening; whether or not bid deposit is required; and the number of days for payment to be made and property to be removed. In addition, the form provides that the Standard Form 114C, General Sale Terms and Conditions, and the Standard form of special conditions applicable to the method of sale being employed are made a part of the invitation for bids by reference. The block indicating the Standard form of special conditions for the appropriate method of sale must be checked by the issuing sales agency. If special terms and conditions in addition to those contained in the prescribed Standard forms are to be made a part of the invitation by reference, such additional terms and conditions should be identified by a form number and so indicated in the appropriate place on Standard Form 114. Special terms and conditions that are not identified by a form number must be included in the invitation and not made a part thereof by reference. Standard Form 114C and the applicable Standard form of special conditions may be attached to the invitation for bids at the option of the executive agency. Information to be furnished by the bidder is as follows: Number of days (not less than 10) for Government's acceptance of the bid, if desired; total amount of bids; amount and form of bid deposit, when required; whether or not property was inspected; small business representation; and contingent fee representation. Standard Form 114 shall be made a part of sealed bid sales and may be used in auction and spot bid sales.

* * * * *

(2) *Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.* Standard Form 114A requires entries to be made by the bidder prior to submission of bid. It provides for the bidder to enter the item number of the property on which he is bidding, his offered unit price bid per item, and his total price bid per item. Except as provided in subparagraph (3) of this paragraph, Standard Form 114A shall be made a part of sealed bid sales.

(3) *Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.* Standard Form 114B may be used in lieu of Standard Form 114A only when:

(i) The number of items of property being sold can be described sufficiently on one page;

(ii) Property is offered on an "as generated" basis (term-type sale);

(iii) Bidding on an increment basis is permitted by the terms and conditions of the sale; or

(iv) The use of Standard Form 114A might not be appropriate, in which case a short, accurate, and to the extent feasible, commercially clear description shall be prepared for each item offered for sale.

(4) *Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions.* Standard Form 114C is applicable to all sales of personal property (including sales by negotiation) and shall be made a part of all sales invitations, either by reference or by attachment thereto, or both.

(5) *Standard Form 114C–1, Sale of Government Property—Special Sealed Bid Conditions.* Standard Form 114C–1 is in addition to the Standard Form 114C and is applicable only to sealed bid sales (other than term-type sales) and shall be made a part of all such sales invitations, either by reference or by attachment thereto, or both.

(6) *Standard Form 114C–2, Sale of Government Property—Special Sealed Bid-Term Conditions.* Standard Form 114C–2 is applicable only to sealed bid term-type sales and is in addition to the Standard Form 114C. The form shall be made a part of all such sales invitations, either by reference or by attachment thereto, or both.

(7) *Standard Form 114C–3, Sale of Government Property—Special Spot Bid Conditions.* Standard Form 114C–3 is applicable only to spot bid sales and is in addition to the Standard Form 114C. The form shall be made a part of all sales announcements, bidders registers, and bid cards, either by reference or by attachment thereto, or both.

(8) *Standard Form 114C–4, Sale of Government Property—Special Auction Conditions.* Standard Form 114C–4 is applicable only to auction sales and is in addition to the Standard Form 114C. The form shall be made a part of all sales announcements and bidders reg-

isters, either by reference or by attachment thereto, or both.

(e) *Standard Form 114D, Sale of Government Property—Amendment of Invitation for Bids/Modification of Contract.* Standard Form 114D is applicable to all sales of personal property and shall be used as required.

(f) *Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.* Standard Form 114E is applicable only to negotiated sales and is used to confirm quotations received from offerors contacted by the selling activity and constitutes the sales contract upon execution by the purchaser and by the Government. Standard Form 114E shall have attached thereto, or made a part thereof by reference, Standard Form 114C, General Sale Terms and Conditions, and those additional special terms and conditions applicable only to the specific negotiation concerned.

(g) *Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.* Standard Form 114F is used only when mailed-in bids are authorized in connection with a spot bid or auction sale.

7. Section 101–45.304–10 is amended as follows:

§ 101–45.304–10 Deposits and final payments.

(b) Whenever a bid deposit is required by the terms and conditions of the invitation for bids, the deposit shall be in U.S. currency or any form of credit instrument other than a promissory note, made payable on demand in U.S. currency, except as provided for in condition number 4 of Standard Form 114C, General Sale Terms and Conditions. Postdated credit instruments are not acceptable. Deposit bonds submitted on Standard Forms 150 and 151 (illustrated at §§ 101–45.4901–150 and 101–45.4901–151) may also be accepted when provided for in the invitation for bids.

(c) Irrevocable commercial letters of credit issued by a bank established in the United States, payable to the Treasurer of the United States or to the Government agency conducting the sale, may be used in lieu of the foregoing forms of deposit. Such letters shall be substantially in the format shown in § 101–45.4802. General instructions relating to the preparation of letters of credit are also contained in § 101–45.4803.

(d) Any draft drawn against a letter of credit shall be substantially in the format shown at § 101–45.4804. The draft shall be accompanied by a transmittal letter and certification substantially in the format shown at § 101–45.4805.

8. Section 101–45.304–11 is amended as follows:

§ 101–45.304–11 Deposit bonds.

(a) * * *

(1) Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property. (See § 101–45.4901–150.)

(2) Standard Form 151, Deposit Bond—Annual, Saleof Government Personal Property. (See § 101–45.4901–151.)

(3) Standard Form 28, Affidavit of Individual Surety. (See § 101–45.4901–28.)

(b) * * *

(2) Standard Form 151, Deposit Bond—Annual, contains the following provision:

Upon the making of an award to the principal, or within a reasonable period of time thereafter, the Government shall transmit, in writing, the following information to the surety at the above address:

(i) Name and address of the principal(s); (ii) number of the invitation for bids; (iii) name and address of the department or agency making the award; (iv) date of the award; and (v) total purchase price covered by the award. The phrase, "or within a reasonable period of time thereafter," shall, for practicable purposes, be construed to mean within 15 days following the making of the award. Optional Form 20, Notice to Surety—Deposit Bond—Annual (illustrated at § 101–45.4903–20) is a form of written notice available for this purpose.

9. Section 101–45.308 is revised as follows:

§ 101–45.308 Performance reports.

(a) An annual report of the sale or other disposition of surplus personal property shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property (illustrated at § 101–43.4901–121).

(b) An annual report of the sale or other disposition of foreign excess property shall be submitted in duplicate to the President of the U.S. Senate and the Speaker of the U.S. House of Representatives within 90 days after the close of each fiscal year using Standard Form 365, Annual Report—Disposal of Foreign Excess Property (illustrated at § 101–43.4901–365).

10. Section 101–45.309–8(f)(4) is revised as follows:

§ 101–45.309–8 Bedding and upholstered furniture.

(f) * * *

(4) A list of State health agencies to receive information on sales of surplus bedding and upholstered furniture is provided in § 101–45.4808.

11. Section 101–45.309–11(d) is revised as follows:

§ 101–45.309–11 Certified and noncertified electronic products.

(d) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101–45.4809) with a written notice of the award that includes the name and address of the purchaser and the description of the item sold.

12. Section 101–45.313–3 is revised as follows:

§ 101–45.313–3 Representation and covenant.

(a) *Representation.* Except as provided in § 101–45.313–7, each selling agency shall inquire of and secure a written representation from prospective purchasers as to whether they have employed or retained any company or person (other than a full-time employee working solely for the prospective purchaser) to solicit or secure the contract, and shall secure a written agreement to furnish information relating thereto as required by the sales contracting officer. The form of such representation shall be that contained in Standard Form 114, Sale of Government Property—Bid and ward (illustrated at § 101–45.4901–114).

(b) *Covenant.* Selling agencies shall include in every negotiated or advertised contract for the sale of Government-owned personal property the "covenant against contingent fees" as contained in the Standard Form 114C, General Sale Terms and Conditions (illustrated at § 101–45.4901–114C).

13. Section 101–45.315 is revised as follows:

§ 101–45.315 Equal opportunity clause in contracts.

The Equal Opportunity clause prescribed by Executive Order No. 11246 of September 24, 1965 (30 FR 12319, 12935) (as amended by Executive Order No. 11375 of October 13, 1967 (32 FR 14303)), as set forth in § 101–45.4807, shall be included in all contracts for the sale of personal property when the contract exceeds $10,000, and an appreciable amount of work by the purchaser required by or for the Government is involved. When a sale is planned and the probability exists that the foregoing conditions will be present, the Equal Opportunity clause shall be included in the contract provisions of the invitation as a special condition of sale.

Subpart 101–45.7—Submission of Bids

1. Section 101–45.701(b) is revised as follows:

§ 101–45.701 Responsiveness of bids.

(b) Telegraphic or telephonic bids shall not be considered unless otherwise provided in the invitation for bids. (See § 101–45.4901–114C, item number 3 entitled "Consideration of Bids.")

2. Section 101–45.703–1 is revised as follows:

§ 101–45.703–1 General.

Bids received by the contracting officer after the exact time set for bid opening

are late bids. (See §§ 101–45.4901–114C–1, 101–45.4901–114C–2, and 101–45.4901–114C–3 for item entitled "Consideration of late Bids, Modifications, or Withdrawals.") Late bids shall not be considered for award except as authorized in this § 101–45.703.

Subparts 101–45.9 through 101–45.47 are reserved as follows:

Subparts 101–45.9—101–45.47—[Reserved]

Subpart 101–45.48 is added to read as follows:

Subpart 101–45.48—Exhibits

§ 101–45.4800 Scope of subpart.

This Subpart 101–45.48 exhibits information referenced in the text of Part 101–45 that is not suitable for inclusion elsewhere in that part.

1. Section 101–45.4910 is redesignated as § 101–45.4801 as follows:

§ 101–45.4801 Instructions for the preparation of advance notice to the Department of Commerce [redesignated from § 101–45.4910].

2. Section 101–45.4912 is redesignated as § 101–45.4802 as follows:

§ 101–45.4802 Sample format—irrevocable letter of credit [redesignated from § 101–45.4912].

3. Section 101–45.4913 is redesignated as § 101–45.4803 as follows:

§ 101–45.4803 General instructions for preparation of irrevocable letter of credit [redesignated from § 101–45.4913].

4. Section 101–45.4914 is redesignated as § 101–45.4804 as follows:

§ 101–45.4804 Sample format—draft drawn against irrevocable letter of credit [redesignated from § 101–45.4914].

5. Section 101–45.4915 is redesignated as § 101–45.4805 as follows:

§ 101–45.4805 Sample format—transmittal letter to accompanying letter of credit [redesignated from § 101–45.4915].

6. Section 101–45.4919 is redesignated as § 101–45.4806 as follows:

§ 101–45.4806 Outline for preparation of explanatory statement relative to negotiated sales [redesignated from § 101–45.4919].

7. Section 101–45.4925 is redesignated as § 101–45.4807 as follows:

§ 101–45.4807 Equal opportunity clause [redesignated from § 101–45.4925].

8. Section 101–45.4927 is redesignated as § 101–45.4808 and is revised as follows:

§ 101–45.4808 State health agencies.

STATE HEALTH AGENCIES (FOR BEDDING AND UPHOLSTERED FURNITURE INFORMATION)

ALABAMA

Director, Division of Environmental Health, Alabama State Department of Health, State Office Building, Montgomery, AL 36104.

ALASKA

Chief, Branch of Environmental Health, Division of Public Health, Alaska Department of Health and Welfare, Pouch H, Juneau, AK 99801.

ARIZONA

Director, Division of Sanitation Environmental Health Services, Arizona State Department of Health, 4019 North 33d Avenue, Phoenix, AZ 85017.

ARKANSAS

Director, Bureau of Environmental Engineering, Arkansas State Department of Health, Little Rock, AR 72201.

CALIFORNIA

Chief, Bureau of Furniture and Bedding Inspection, Department of Professional and Vocational Standard, 1021 O Street, Room A–198, Sacramento, CA 95814.

COLORADO

Senior Sanitarian, Colorado State Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Factory Inspection Deputy Commissioner, State Department of Labor, 200 Folly Brook Boulevard, Wethersfield, CT 06109.

DELAWARE

Director, Bureau of Environmental Health, Delaware State Board of Health, Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Bureau of Community Hygiene, District of Columbia Department of Public Health, 801 North Capitol Street NE., Washington, DC 20001.

FLORIDA

Director, Office of Registration and Drug Administration, Florida State Board of Health, Post Office Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Industrial Hygiene Service, Georgia Department of Public Health, 47 Trinity Avenue SW., Atlanta, GA 30334.

HAWAII

Executive Officer, Environmental Health Division, Hawaii State Department of Health, Post Office Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Sanitation Section, Idaho Department of Health, Statehouse, Boise, ID 83707.

ILLINOIS

Chief, Sanitary Engineer, Division of Sanitary Engineering, Illinois State Department of Public Health, Springfield, IL 62706.

INDIANA

Chief, Sanitary Bedding Section, Division of Weights and Measures, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Secretary, Iowa State Department of Agriculture, State Capitol Building, Des Moines, IA 50319.

KANSAS

Director, Food and Drug Division, Kansas State Department of Health, State Office Building, Topeka, KS 66612.

KENTUCKY

Director, Environmental Services Program, Division of Environmental Health, Kentucky Department of Health, 275 East Main Street, Frankfort, KY 40601.

LOUISIANA

Director, Bedding and Upholstered Furniture Inspection Division, Louisiana State Department of Health, Post Office Box 60630, New Orleans, LA 70160.

MAINE

Director, Division of Bedding, Upholstering, Furniture, and Stuffed Toys, Maine State Department of Labor and Industry, Augusta, ME 04330.

MARYLAND

Chief, Bedding and Upholstery Section, Consumer Protection Division, Maryland State Department of Health, 2305 North Charles Street, Baltimore, MD 21218.

MASSACHUSETTS

Director, Division of Food and Drugs, Massachusetts Department of Public Health, Statehouse, Boston, MA 02133.

MICHIGAN

Chief, Section of Environmental Health, Division of Engineering, Michigan State Department of Public Health, 3500 North Logan, Lansing, MI 48914.

MINNESOTA

Chief, Section of Hotels, Resorts, and Restaurants, Minnesota State Department of Health, 435 State Office Building, St. Paul, MN 55101.

MISSISSIPPI

Director, Division of Sanitary Engineering, Mississippi State Board of Health, Jackson, MS 39205.

MISSOURI

Director, Division of Industrial Inspection, Division of Health of Missouri, Broadway State Office Building, Jefferson City, MO 65101.

MONTANA

Director, Division of Environmental Sanitation, Montana State Department of Health, Helena, MT 59601.

NEBRASKA

Chief, Environmental Health Services, Nebraska State Department of Health, Statehouse Station, Box 94757, Lincoln, NE 68509.

NEVADA

Chief, Bureau of Environmental Health, Nevada State Department of Health and Welfare, 790 Sutro Street, Reno, NV 89502.

NEW HAMPSHIRE

No need to notify.

NEW JERSEY

Director, Division of Environmental Health, New Jersey State Department of Health, John Fitch Plaza, Post Office Box 1540, Trenton, NJ 08625.

NEW MEXICO

Director, Environmental Services Division, New Mexico State Department of Health and Social Services, Post Office Box 2348, Sante Fe, NM 87501.

NEW YORK

Director, Division of Licensing Services, New York Department of State, 270 Broadway, New York, NY 10007.

NORTH CAROLINA

Chief, Insect and Rodent Control Section, Sanitary Engineering Division, North Carolina State Board of Health, Post Office Box 2091, Raleigh, NC 27602.

NORTH DAKOTA

Chief, Environmental Health and Engineering Services, North Dakota State Department of Health, Bismarck, ND 58501.

OHIO

Chief, Ohio Department of Industrial Relations, Division of Bedding and Upholstered Furniture, 200 Parsons Avenue, Room 200, Columbus, OH 43215.

OKLAHOMA

Head, General Sanitation Section, Oklahoma State Department of Health, 3400 North Eastern, Oklahoma City, OK 73105.

OREGON

Program Supervisor, Furniture and Bedding Program, Oregon State Board of Health, Post Office Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Inspection, Division of Bedding and Upholstery, Department of Labor and Industry, Seventh and Forster Streets, Harrisburg, PA 17120.

PUERTO RICO

Director, Program of Environmental Health, Puerto Rico Department of Health, Ponce de Leon Avenue 1306, Box 9342, Santurce, PR 00908.

RHODE ISLAND

Chief, Division of Upholstery, State of Rhode Island Department of Business Regulation, 49 Westminster Street, Room 420, Providence, RI 02903.

SOUTH CAROLINA

State Environmental Sanitation Consultant, Division of Environmental Sanitation, South Carolina State Board of Health, J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Director, Division of Sanitary Engineering, South Dakota State Department of Health, Pierre, SD 57501

TENNESSEE

Director, Workshops and Factories, Tennessee Department of Labor, C1-128 Cordell Hull Building, Nashville, TN 37219.

TEXAS

Director, Bedding—Law Division, Texas State Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Supervisor, Bedding and Upholstering Division, Utah State Department of Agriculture, Room 412, State Capitol Building, Salt Lake City, UT 84114

VERMONT

Director, Bureau of Environmental Sanitation, Vermont State Department of Health, 115 Colchester Avenue, Burlington, VT 05401.

VIRGINIA

Supervisor, Bedding and Upholstered Furniture, Virginia State Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Post Office Box 1442, Charlotte Amalie, VI 00801.

WASHINGTON

Chief, Chemical and Physical Hazards Section, Furniture and Bedding Inspection, Washington State Department of Health, 311 Public Health Building, Olympia, WA 98501.

WEST VIRGINIA

Director, Consumer Protection, West Virginia Department of Labor, 1800 Washington Street East, Charleston, WV 25305.

WISCONSIN

Director, Department of Industry, Labor and Human Relations, 651 Hill Farms State Office Building, Madison, WI 53702.

WYOMING

Director, Division of Markets and Industry, Wyoming State Department of Agriculture, 308 Capitol, Cheyenne, WY 82001.

9. Section 101-45.4926 is redesignated as § 101-45.4809 and is revised as follows:

§ 101-45.4809 State radiation control agencies.

ALABAMA

Director, Division of Radiological Health, Alabama State Department of Public Health, State Office Building, Montgomery, AL 36130.

ALASKA

Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99801.

ARIZONA

Executive Director, Arizona, Atomic Energy Commission, 1601 West Jefferson Street, Phoenix, AZ 85007.

ARKANSAS

Director, Division of Radiological Health, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201.

CALIFORNIA

Chief, Radiological Health Section, California Department of Health, Building No. 8, 714 P Street, Sacramento, CA 95814.

COLORADO

Director, Division of Occupational and Radiological Health, Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Assistant Director of Compliance (Ionizing Radiation), Connecticut Department of Environmental Protection, State Office Building, Hartford, CT 06115.

DELAWARE

Program Director, Office of Radiation Safety Division of Public Health, Delaware Department of Health and Social Services, Jesse S. Cooper Memorial Building, Capitol Square, Dover, DE 19901

DISTRICT OF COLUMBIA

Chief, Bureau of Institutional Hygiene and Radiological Health, Bureau of Public Health Engineering, Department of Environmental Services, DC General Hospital, Box 97, Washington, DC 20003.

FLORIDA

Administrator, Radiological and Occupational Health Section, Division of Health, Florida Department of Health and Rehabilitative Services, P.O. Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Radiological Health Unit, Georgia Department of Human Resources, State Office Building, Atlanta, GA 30334.

HAWAII

Chief, Noise and Radiation Branch, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Radiation Control Section, Idaho Department of Health and Welfare, Statehouse, Boise, ID 83720.

ILLINOIS

Chief, Division of Radiological Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761.

INDIANA

Director, Division of Radiological Health, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Chief, Hazardous Substance Section, Iowa State Department of Environmental Quality, 3920 Delaware Street, P.O. Box 3326, Des Moines, IA 50316.

KANSAS

Director, Radiation Control Program, Kansas Department of Health and Environment, Forbes AFB, Building 740, Topeka, KS 66620.

KENTUCKY

Director, Radiological Health Program, Kentucky State Department for Human Resources, Capitol Annex, Frankfort, KY 40601.

LOUISIANA

Director, Division of Radiation Control, Louisiana Board of Nuclear Energy, P.O. Box 44033, Capitol Stations, Baton Rouge, LA 70804.

MAINE

Commissioner, Maine Department of Health and Welfare, State House, Augusta, ME 04330

MARYLAND

Chief, Division of Radiation Control, Maryland Department of Health and Mental Hygiene, State Office Building, 301 West Preston Street, Baltimore, MD 21201.

MASSACHUSETTS

Assistant to the Commissioner (Radiological Health), Massachusetts Department of Public Health, 80 Boylston Street, Room 940, Boston, MA 02116

MICHIGAN

Chief, Radiation Division, Michigan Department of Public Health, 3500 North Logan Street, Lansing, MI 48914.

MINNESOTA

Chief, Section of Radiation Control, Minnesota Department of Health, 717 Delaware Street, SE, Minneapolis, MN 55440.

MISSISSIPPI

Supervisor, Radiological Health Unit, Mississippi State Board of Health, P.O. Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Radiological and Occupational Health, Missouri Division of Health, State Office Building, Jefferson City, MO 65101.

MONTANA

Chief, Radiological and Occupational Health Program, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59601.

NEBRASKA

Director, Division of Radiological Health, Nebraska Department of Health, Lincoln Building, 1003 O Street, Lincoln, NE 68508.

NEVADA

Supervisor, Radiological Health, Nevada Department of Health and Welfare, 201 South Fall Street, Carson City, NV 89701.

NEW HAMPSHIRE

Director, State Radiation Control Agency, New Hampshire Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, NH 03301.

NEW JERSEY

Chief, Bureau of Radiation Protection, New Jersey Department of Environmental Protection, P.O. Box 1390, John Fitch Plaza, Trenton, NJ 08625.

NEW MEXICO

Chief, Radiological and Occupational Health and Air Quality Control Section, New Mexico Environmental Improvement Agency, P.O. Box 2348, Santa Fe, NM 87501.

NEW YORK

Director, Bureau of Radiological Health, New York State Department of Health, 845 Central Avenue, Albany, NY 12206.

NORTH CAROLINA

Head, Radiation Protection Branch, North Carolina Department of Human Resources, P.O. Box 12200, Raleigh, NC 27605.

NORTH DAKOTA

Director, Division of Environmental Engineering, Radiological Health Program, North Dakota State Department of Health, Capitol Building, Bismark, ND 58501.

OHIO

Engineer-in-Charge, Radiological Health Unit, Ohio Department of Health, P.O. Box 118, Columbus, OH 43216.

OKLAHOMA

Chief, Occupational and Radiological Health Service, Oklahoma Department of Health, N.E. 10th and Stonewall Streets, Oklahoma City, OK 73105.

OREGON

Director, Radiological Control Service, Oregon State Health Division, P.O. Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Radiological Health, Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120.

PUERTO RICO

Director, Radiological Health Program, Puerto Rico Department of Health, 1306 Ponce de Leon Avenue, Stop 16, Santurce, PR 00908.

RHODE ISLAND

Director of Health, Rhode Island Department of Health, Health Department Building, Davis Street, Providence, RI 02908.

SOUTH CAROLINA

Director, Division of Radiological Health, South Carolina Department of Health and Environmental Control, 137 J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Secretary of Health, South Dakota Department of Health, State Capitol, Pierre, SD 57501.

TENNESSEE

Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, 727 Cordell Hull Building, Sixth Avenue, North, Nashville, TN 37219.

TEXAS

Director, Division of Occupational Health and Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Chief, Radiation and Occupational Health Section, Utah Division of Health, 44 Medical Drive, Salt Lake City, UT 84113.

VERMONT

Director, Division of Occupational Health, Radiological Health Program, Vermont Department of Health, P.O. Box 607, Barre, VT 05641.

VIRGINIA

Director, Bureau of Industrial Hygiene and Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

WASHINGTON

Chief, Radiation Chemical and Physical Hazards Section, Washington Department of Social and Health Services, P.O. Box 1788, Olympia, WA 98504.

WEST VIRGINIA

Director, Bureau of Industrial Hygiene, Radiological Health Program, West Virginia Department of Health, 1800 East Washington Street, Charleston, WV 25305.

WISCONSIN

Chief, Radiation Protection Section, Wisconsin Department of Health and Social Services, P.O. Box 309, Madison, WI 53701.

WYOMING

Radiological Health Specialist, Wyoming Department of Health and Social Services, New State Office Building, Cheyenne, WY 82001.

Subpart 101-45.49 is revised to read as follows:

Subpart 101-45.49—Illustrations of Forms

§ 101-45.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in Part 101-45.

§ 101-45.4901 Standard forms.

(a) Standard forms illustrated in this section show their text, format, and arrangement, and provide a ready source of reference.

(b) Standard forms illustrated in this § 101-45.4901 may be obtained by submitting a requisition in FEDSTRIP MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-45.4901-28 Standard Form 28, Affidavit of Individual Surety.

§ 101-45.4901-97 Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle.

§ 101-45.4901-97-1 Instructions for use of Standard Form 97.

§ 101-45.4901-97A Standard Form 97A, Agency Record Copy of the United States Government Certificate of Release of a Motor Vehicle.

§ 101-45.4901-114 Standard Form 114, Sale of Government Property—Bid and Award.

§ 101-45.4901-114A Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.

§ 101-45.4901-114B Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.

§ 101-45.4901-114C Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions.

§ 101-45.4901-114C-1 Standard Form 114C-1, Sale of Government Property—Special Sealed Bid Conditions.

§ 101-45.4901-114C-2 Standard Form 114C-2, Sale of Government Property—Special Sealed Bid—Term Conditions.

§ 101-45.4901-114C-3 Standard Form 114C-3, Sale of Government Property—Special Spot Bid Conditions.

§ 101-45.4901-114C-4 Standard Form 114C-4, Sale of Government Property—Special Auction Conditions.

§ 101-45.4901-114D Standard Form 114D, Sale of Government Property—Amendment of Invitation for Bids/Modification of Contract.

§ 101-45.4901-114E Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.

§ 101-45.4901-114F Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.

§ 101-45.4901-126 Standard Form 126, Report of Personal Property for Sale.

§ 101-45.4901-126A Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet).

§ 101-45.4901-150 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.

§ 101-45.4901-151 Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property.

§ 101–45.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405.

§ 101–45.4902–27 GSA Form 27, Notice of Award (Sale of Government-Owned Personal Property).

§ 101–45.4902–27A GSA Form 27A, Notice of Award—Continuation.

§ 101–45.4903 Optional forms.

Optional forms illustrated in this § 101–45.4903 show their text, format, and arrangement and provide a ready source of reference. The numbers in this subsection correspond with the Optional form numbers. Optional forms illustrated in this § 101–45.4903 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101–45.4903–15 Optional Form 15, poster, Sale of Government Property.

§ 101–45.4903–16 Optional Form 16, Sales Slip, Sale of Government Personal Property.

§ 101–45.4903–20 Optional Form 20, Notice to Surety—Deposit Bond—Annual Sale of Government Personal Property.

PART 101–46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

The table of contents for Part 101–46 is amended to include the following new or revised entries:

Subparts 101–46.5—101–46.47—[Reserved]

Subpart 101–46.48—Exhibits

Sec.
101–46.4800 Scope of subpart.
101–46.4801 Property ineligible for exchange/sale.
101–46.4802 Exchange/sale category list.

Subpart 101–46.49—[Reserved]

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Subparts 101–46.5 through 101–46.47 are reserved as follows:

Subparts 101–46.5—101–46.47—[Reserved]

Subpart 101–46.48 is added as follows:

Subpart 101–46.48—Exhibits

§ 101–46.4800 Scope of subpart.

This Subpart 101–46.48 exhibits information referenced in the text of Part 101–46 that is not suitable for inclusion elsewhere in that part.

1. Section 101–46.4901 is redesignated as § 101–46.4801 and is revised as follows:

§ 101–46.4801 Property ineligible for exchange/sale.

Items which are found in any of the Federal supply classification groups listed below are not eligible for handling under the provisions of this Part 101–46.

FEDERAL SUPPLY CLASSIFICATION GROUP NUMBER AND IDENTIFICATION

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft; and airframe structural components.
16 Aircraft components and accessories.
17 Aircraft launching, landing, and ground handling equipment.
20 Ship and marine equipment
22 Railway equipment.
31 Bearings.
32 Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band.
34 Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band.
40 Rope, cable, chain, and fittings.
41 Refrigeration, air-conditioning, and air circulating equipment.
42 Fire fighting, rescue, and safety equipment.
44 Furnace, steam plant, and frying equipment; and nuclear reactors.
45 Plumbing, heating, and sanitation equipment.
46 Water purification and sewage treatment equipment.
47 Pipe, tubing, hose, and fittings.
48 Valves.
51 Hand tools.
53 Hardware and abrasives.
54 Prefabricated structures and scaffolding.
55 Lumber, millwork, plywood, and veneer.
56 Construction and building materials.
68 Chemicals and chemical products, except medicinal chemicals.
71 Furniture.
75 Office supplies and devices, except cards, tabulating.
83 Textiles, leather, furs, apparel and shoe findings, tents and flags.
84 Clothing, individual equipment, and insignia.
14. Machines, addressing and mailing.
15. Machines, dictating and transcribing.
16. Machines, duplicating.
17. Machines, punched card, bookkeeping, tabulating and accounting.
18. Milling machines.
19. Mixers, concrete, portable or truck mounted.
20. Pile drivers.
21. Plows, snow, motorized.
22. Road rollers, wheeled and sheepsfoot.
23. Saws, circular or band.
24. Scrapers, earth moving, self-powered.
25. Scrapers, earth moving, towed.
26. Sedans, station wagons, coupes, limousines.
27. Shovels, power.
28. Spreaders, aggregate and lime.
29. Tractors, warehouse.
30. Tractors, wheeled or crawler, with or without special attachments, up to 65 h.p.
31. Tractors, wheeled or crawler, with or without special attachments, 65 h.p. and up.
32. Trailers, general purpose, multiple axle.
33. Trailers, general purpose, single axle.
34. Trailers, tank mounted.
35. Trucks, forklift.
36. Trucks, general purpose, cargo and construction, 12,500 GVW through 28,000 GVW (including truck tractors, dump, multiple drive, etc.).
37. Trucks, general purpose and utility, up to 12,500 GVW (including suburbans, carryalls, and sedan deliveries).
38. Trucks, straddle.
39. Trucks, tank (special purpose trailer of which the tank is an integral part of the construction).
40. Trucks, warehouse, platform, electric and gasoline powered.
41. Typewriters, manual and electric.

Subpart 101–46.49 is deleted and reserved as follows:

Subpart 101–46.49 [Reserved]

NOTE.—The forms that are referenced in Parts 101–43, 44, and 45 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 1, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77–23161 Filed 8–11–77;8:45 am]

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

PART 105–63—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

Special Access Regulations

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule provides procedures for preserving and protecting the Presidential historical materials of the Nixon Administration and for providing access to these materials. The Administrator of General Services is required by law to issue these regulations.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald P. Young, Assistant General Counsel, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, 202–566–1460.

SUPPLEMENTARY INFORMATION: On January 14, 1975, the General Services Administration issued regulations (40 FR 2670) in compliance with the requirement of Section 103 of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93–526): "The Administrator [of General Services] shall issue at the earliest possible date such regulations as may be necessary to assure the protection of the tape recordings and other materials referred to in Section 101 [i.e., the Nixon Presidential historical materials] from loss or destruction, and to prevent access to such recordings and materials by unauthorized persons * * *." Section 102 of the Act requires further that the recordings and materials be available for certain specified purposes: For use in any judicial proceeding or otherwise subject to court subpena or other legal process; to any agency or department in the executive branch of the Federal Government for lawful Government use; to former President Richard M. Nixon or his designated agent; and to the Office of the Watergate Special Prosecution Force (WSPF). The closing of the Office of the WSPF, the lifting of applicable court orders, and the relocation of certain of the materials required revision of Part 105–63. Regulations pertaining to public access, which are required under the Act to be submitted for congressional approval, will be published at a later date.

Accordingly, the General Services Administration hereby revises Part 105–63 to read as follows:

Sec.
105–63.000 Scope of part.

Subpart 105–63.1—General Provisions

105–63.101 Purpose.
105–63.102 Application.
105–63.103 Legal custody.
105–63.104 Definitions. [Reserved]
105–63.105 Requests or demands for access.

Subpart 105–63.2—Preservation and Protection

105–63.201 Responsibility.
105–63.202 Security.
105–63.203 Archival processing.
105–63.204 Access procedures.
105–63.205 Extraordinary authority during emergencies.

Subpart 105–63.3—Access to materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Processing

105–63.301 Access by former President Nixon.
105–63.302 Access by Federal agencies.
105–63.303 Access for use in judicial proceedings.

Subpart 105–63.4—Access by the Public [Reserved]

AUTHORITY: The provisions of this Part 105–63 are issued under Sec. 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390; 40 U.S.C. 486(c); and Sec. 103 and 104 of the Presidential Recordings and Materials Preservation Act, 88 Stat. 1695; 44 U.S.C. 2107 note.

§ 105–63.000 Scope of part.

This part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

Subpart 105–63.1—General Provisions

§ 105–63.101 Purpose.

This Part 105–63 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93–526; 88 Stat. 1695). It prescribes policies and procedures by which the General Services Administration will preserve, protect, and provide access to the Presidential historical materials of the Nixon Administration.

§ 105–63.102 Application.

This Part 105–63 applies to all of the Presidential historical materials of the Nixon Administration in the custody of the Administrator of General Services pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93–526; 88 Stat. 1695).

§ 105–63.103 Legal custody.

The Administrator of General Services has or will obtain exclusive legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93–526; 88 Stat. 1695).

§ 105–63.104 Definitions. [Reserved]

§ 105–63.105 Requests or demands for access.

Each agency which receives a request or legal demand for access to Presidential historical materials of the Nixon Administration shall immediately forward the request or demand to the Administrator of General Services, General Services Administration (N), Washington, D.C. 20408.

Subpart 105–63.2—Preservation and Protection

§ 105–63.201 Responsibility.

The Administrator of General Services or his designated agent (hereinafter the Administrator) is responsible for the preservation and protection of the Presidential historical materials. He may arrange with other Federal agencies, acting pursuant to appropriate Federal authority, for assistance in their preservation and protection.

§ 105–63.202 Security.

The Administrator is responsible for providing adequate security for the Presidential historical materials.

§ 105–63.203 Archival processing.

When authorized by the Administrator and until the commencement of archival processing in accordance with Subpart 105–63.4, archivists may process the Presidential historical materials to the extent necessary for protecting and preserving the materials, and for providing authorized access to the materials pursuant to Subpart 105–63.3.

§ 105–63.204 Access procedures.

(a) The Administrator will receive and or prepare appropriate documentation of each access authorized under this Part 105–63.

(b) Entry to the records storage areas will be provided by the Administrator only to archival, maintenance, security, or other necessary personnel or to Mr. Nixon. Two persons, at least one of whom represents the Administrator, will be present at all times that records storage areas are occupied.

(c) The Administrator will determine that each individual having access to the Presidential historical materials has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials examined.

(d) The Administrator will provide former President Nixon or his designated attorney or agent (hereinafter Mr. Nixon) prior notice of, and allow him to be present during, each search necessary to comply with an authorized access under §§ 105–63.302 or 105–63.303.

(e) Only GSA archivists shall conduct searches necessary to comply with authorized accesses under §§ 105–63.302 and 105–63.303.

(f) Prior to releasing Presidential historical materials in accordance with an access authorized under §§ 105–63.302 or 105–63.303, the Administrator will give Mr. Nixon notice of the nature and identity of, and at his request allow him access to, those Presidential historical materials which the archivists have determined are covered by the subpena, or other lawful process, or request. The notice will also inform Mr. Nixon that he may file a claim with the Administrator objecting to the release of all or portions of the described materials within 5 workdays of his receiving the notice described herein. The claim should detail the alleged rights and privileges of Mr. Nixon which would be violated by the release of the materials. The Administrator will refrain from releasing any of the materials to the requester during this period, and while any claim of right or privilege is pending before him, will refrain from releasing the materials subject to the claim.

(g) The Administrator will notify Mr. Nixon in writing of the administrative determination on any claims filed in accordance with (f), above. In the event the determination is wholly or partially adverse to the claim, the Administrator will refrain from releasing the materials to the requester for an additional 5 workdays from Mr. Nixon's receipt of the determination.

(h) Whenever possible, a copy, which shall be certified upon request, instead of the original documentary Presidential historical materials shall be provided to comply with a subpena or other lawful process or request. Whenever the original documentary material is removed, a certified copy of the material shall be inserted in the proper file until the return of the original.

§ 105–63.205 Extraordinary authority during emergencies.

In the event of an emergency that threatens the physical preservation of the Presidential historical materials or their environs, the Administrator will take such steps as may be necessary, including removal of the materials to temporary locations outside the metropolitan area of the District of Columbia, to preserve and protect the materials.

Subpart 105–63.3—Access to Materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Proceeding

§ 105–63.301 Access by former President Nixon.

In accordance with the provisions of Subpart 105–63.2, former President Richard M. Nixon or his designated agent shall at all times have access to Presidential historical materials in the custody and control of the Administrator.

§ 105–63.302 Access by Federal agencies.

In accordance with the provisions of Subpart 105–63.2, any Federal agency or department in the executive branch shall have access for lawful Government use to the Presidential historical materials in the custody and control of the Administrator to the extent necessary for ongoing Government business.

§ 105–63.303 Access for use in judicial proceedings.

In accordance with the provisions of Subpart 105–63.2, and subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, the Presidential historical materials in the custody and control of the Administrator will be made available for use in any judicial proceeding and are subject to subpena or other lawful process.

Subpart 105–63.4—Access by the Public [Reserved]

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107

Dated: August 9, 1977.

JOEL W. SOLOMON,
Admnistrator of General Services.

[FR Doc 77–23441 Filed 8–11–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 36314]

PART 1051—INFORMATION REQUIRED ON RECEIPTS AND BILLS

Petition to Institute Proceeding To Amend Rule CFR 1051.1(b)

NOTICE OF RULE CHANGE

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Modifies the existing rules governing information to be shown on freight bills by requiring the issuer to show either a remittance address or the address of its own principal place of business. This was sought by a shipper in aid of claim filing; it has the approval of the parties and is said to represent the current practice of 90 percent of the carriers. The new requirement will aid in filing claims and in the timely remittance of transportation charges.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or, Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202–275–7693).

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission, in the above-entitled proceeding, has amended 49 CFR § 1051.1(b) to require that the issuer of a freight or expense bill furnish either a remittance address, generally that of a local or regional terminal, or the address of its own principal place of business, at the issuer's choice.

This action was taken as a result of a petition filed by Emmett Allred, seeking this addition to the requirements of 49 CFR § 1051.1(b). Notice of the proposed rulemaking proceeding was published in the FEDERAL REGISTER on May 11, 1976, and representations were filed by interested persons. The Commission adopted the requirement described in this notice in order to facilitate the filing of claims by shippers or consignees; the requirement is said to reflect current business practices of 90 percent of the carriers.

This regulation is issued under authority of 49 U.S.C. 301, 302, 304, 316, 317, 318, and 319, 5 U.S.C. 552, 553, and 559.

§ 1051.1 [Amended]

49 CFR 1051.1(b) was modified as follows:

By adding as the words between the words "shipment moved," and "and a record", the following: "either the address where remittance must be made or the address of the principal place of business of the issuer of the freight or expense bill, or both, at the issuer's option;".

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77–23385 Filed 8–11–77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC 82 Sub. No. 1]

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

Subpart B—Intercity Bus Industry

Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: This action corrects errors and omissions in the final rules in Ex Parte No. MC–82 Sub. No. 1 as published in the FEDERAL REGISTER on Monday, June 27, 1977 at 42 FR 32541–52. That rulemaking established rules of procedure governing the type of evidence to be submitted in intercity bus motor carrier revenue proceedings. Corrections made herein refer only to the rules as published in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7693.

SUPPLEMENTARY INFORMATION: Page two of Appendix I of the order in Ex Parte No. MC–82 Sub. No. 1 was omitted from publication in the FEDERAL REGISTER June 27, 1977 at 42 FR 32541. As a result, § 1104.20(b), as published therein, is incorrect; § 1104.21 was omitted in its entirety; and § 1104.22 was omitted in part. In addition, certain minor errors were contained in the FEDERAL REGISTER's publication of schedules contained in Appendix I. Accordingly, §§ 1104.20(b) through 1104.22 are published immediately below to correct the omission and corrections to the schedules follow immediately thereafter.

§ 1104.20 Application.

* * * * *

(b) When filing tariff schedules other than those described hereinabove, the carriers or their tariff publishing agencies shall be required to comply with such procedures as the Commission may direct in the event an investigation is instituted. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act.

§ 1104.21 Study carriers.

(a) For the purposes of this proceeding the "study carriers" shall consist of those Class I motor common carriers of passengers which are members of NBTA and which, during the latest calendar year available preceding the filing date of the proposed increase in fares and/or charges, derived $500,000 or more in annual operating revenues from the issue traffic, or 1 percent or more of the total annual operating revenues received by all Class I carriers from the issue traffic. Issue traffic is defined as that traffic (services) directly affected by the proposed increases in fares and/or charges.

(b) To corroborate the selection of the above study carriers, and to provide a data base for a continuing evaluation of the validity and usefulness of those carriers as a study group, respondents shall submit, as a part of their verified statement (justification), a list of all Class I motor common carriers of passengers participating in the issue traffic (services). For the above specified calendar year, the dollar amounts of total system operating revenues for each such carrier shall be arraved in descending order; and, there shall be shown the amount of annual operating revenues received by each carrier from the total traffic at issue. Also, to be shown is the percent that each such carrier's total issue traffic revenue is to its total system revenues, and the percent that each carrier's total issue traffic revenue is to the total issue traffic revenues for all Class I carriers indicated in the above list. This list of carriers and the carrier's applicable revenues shall be referred to as Schedule A, Class I Participating Carriers' Revenue Data.

§ 1104.22 Revenue data for study carriers.

(a) The study carriers, as identified above, shall submit the revenue data called for in Schedule B herein, the purpose of which is to determine the amount of increased revenues which might be expected under the proposed increase in fares and or charges on the issue traffic, and to evaluate the revenue aspects of the non-issue traffic, including that traffic subject to Interstate Commerce Commission rate regulation but not here at issue, and that traffic which is intrastate in character and under the jurisdiction of state public commissions.

* * * * *

OTHER CORRECTIONS

42 FR 32545—Schedule C, Part II

Under the "Source" column (b), Line No. 2, "Pt. L. * * *" is changed to read "Pt. I * * *"

42 FR 32547—Schedule D

Under the "Item (a)" column, Line No. 6, the word "association" is changed to read "associated" and at Line No. 9, "Pretax income (loss from continuing operations." is changed to read "Pretax income (loss) * * *"

42 FR 32548—Schedule E

Line 1 of Schedule E includes the "Source" reference "Sch. 2998, L. 47, col. (b)" which should be moved down to the next line, and the spelling of "cap8tal" should be corrected as follows

Line No.	Item (a)	Source (b)
	Sources of Working Capital	
	Working capital provided by operations:	
1	Net income (loss) before extraordinary items	Sch. 2998, L. 47, col. (b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77–23387 Filed 8–11–77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of the Missisquoi National Wildlife Refuge, Vermont, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 8, 1977, through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

George O'Shea, Missisquoi National Wildlife Refuge, R.D. No. 2, Swanton, Vt. 05488, telephone No. 802–868–4781.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The public hunting of deer on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations covering the hunting of deer, subject to the following special condition: During the regular season, only shotguns may be used on that part of the refuge lying east of the Missisquoi River.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

HOWARD D. WOON,
Acting Regional Director, U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77–23273 Filed 8–11–77;8:45 am]

PART 32—HUNTING

Opening of the Montezuma National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene Hocutt, Montezuma National Wildlife Refuge, R.D. I, Box 1411, Seneca Falls, N.Y. 13148; telephone No. 315–568–5987.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory waterfowl on the Montezuma National Wildlife Refuge, New York, is permitted on the areas designated by signs as open to waterfowl hunting. The waterfowl hunting area known as the Tschache Pool comprises 1,340 acres and is delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.

2. Steel shot shells will be used for all waterfowl hunting. Hunters will be limited to 15 steel shots each, with shot size

no larger than No. 1 fine shot. No person shall have lead shot in his possession during the hunt.

3. Applications for hunting reservations must be received no later than two weeks before the opening date of the waterfowl season. Reservations for permits will be selected by random drawing. Hunting will allowed on the designated days from the opening of the State season to the end of the first part of a split season or until the third Saturday in November—whichever comes first. Successful applicants must appear in person at the refuge waterfowl check station prior to one hour before legal shooting time on the date reserved. Unreserved and forfeited permits will be awarded by a drawing on the morning of the hunt to hunters without reservations.

4. The first two Saturdays of the season will be reserved for the Young Waterfowler's Training Program hunt. A brochure describing this program is also available.

5. No more than two persons per permit will be allowed.

6. All hunting ends each hunting day at 12 noon local time, and all hunters must check out at the waterfowl check station no later than 1 p.m. local time.

7. Hunters who have completed the New York State Waterfowl Hunter Training Course will be given preference for reservations on Tuesdays.

8. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77-23271 Filed 8-11-77;8:45 am]

PART 32—HUNTING

Opening of the Montezuma National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gene Hocutt, Montezuma National Wildlife Refuge, R.D. 1, Box 1411, Seneca Falls, N.Y. 13148; telephone No. 315-568-5987.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of gray squirrels, cottontail rabbits, raccoons, foxes, and unprotected mammals is permitted during regular State seasons on the Montezuma National Wildlife Refuge, New York, except on areas designated by signs as closed. Maps are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State regulations governing the hunting of the above mammals.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77-23272 Filed 8-11-77;8:45 am]

PART 32—HUNTING

Opening of the Moosehorn National Wildlife Refuge, Maine, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Moosehorn National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 7, 1977, through November 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Stanley McConvey, Moosehorn National Wildlife Refuge, P.O. Box X, Calais, Maine 04619; telephone No. 207-454-3521.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Moosehorn National Wildlife Refuge, Maine, is permitted except on areas designated by signs as closed during the State firearms season. This open area, comprising approximately 21,000 acres, is shown on maps available at Refuge Headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77-23269 Filed 8-11-77;8:45 am]

PART 32—HUNTING

Opening of the Parker River National Wildlife Refuge, Massachusetts, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Parker River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

George Gavutis, Parker River National Wildlife Refuge, Northern Blvd., Plum Island, Newburyport, Mass. 01950, telephone 617-465-5753.

SUPPLEMENTARY INFORMATION

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Massachusetts, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,900 acres, and known as the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C), and the Youth Hunting Area (Area D), are delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds, subject to the following special conditions:

1. Hunters will be required to have taken and passed the refuge open book Waterfowl Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it upon request.

2. The number of hunters on the Pine Island Area will be limited to 75 each day, Parker River Area to 25 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis. Hunters using Area B must each bring and set out at least two (2) waterfowl decoys and hunt within 50 yards of these set decoys.

3. Hunters on all three areas are limited to 15 shotshells per day. Steel shot is required for all 12-gauge shotguns. Persons using 12-gauge shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12-gauge.

4. The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days except Sundays under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

5. Boat access is prohibited on Area C and required on Area A. Boats may be landed only during the open season on waterfowl and only by persons authorized to participate in refuge hunting programs. Access to Area C must be from the refuge parking lot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD D. WOON,
Acting Regional Director,
Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77-23268 Filed 8-11-77;8:45 am]

PART 32—HUNTING

Opening of the Presquile National Wildlife Refuge, Virginia, to hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Presquile National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1977, through November 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold Olsen, Presquile National Wildlife Refuge, Box 620, Hopewell, Va. 23860, telephone 804-458-7541.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

1. A Federal permit will be required at no charge to the applicant. Permits issued to bow hunters will be for a two consecutive day period; permits issued to gun hunters will be for one day only. Bow hunters who provide proof by September 24 of having successfully completed the National Field Archery Association Bow-hunter Education Course and the weapons qualification test described below will be automatically issued a permit. Gun hunters who provide proof of having passed a state hunters safety course by September 24 will also be automatically issued a permit. The permits remaining will be issued to hunters selected from a public drawing to be held on September 26 in the refuge office, Hopewell, Virginia. Applications must be printed or typed and contain the following information: name, address, specify gun hunt or archery hunt, up to three other names and addresses of members in party, preference dates, and whether hunter prefers a swamp or field stand. Permits are nontransferable and will be mailed to selected applicants after the drawing. Alternates will also be selected from standby hunters at the ferry landing to fill any vacant slots if permittees do not show up. Bow hunters must pass a qualification test which will consist of placing 3 out of 5 arrows in a 9 by 14 inch chest area of a standard deer size target at 25 yards. In order to be in the drawing for an archery permit, archers must submit a certification statement to the refuge office by September 24. The statement must bear the name and address of the archery range and signature of range official who actually witnessed the qualification.

2. Only white-tailed deer may be taken from one half-hour before sunrise to one half-hour after sunset with bow and arrow only on October 14, 15, 21, 22; and with shotgun on October 29 and November 5, 1977.

3. Bag limits: One deer per day, either sex.

4. All hunters must enter the refuge on the ferry at 6 a.m. e.d.t. (5 a.m. e.s.t.) except that boats will be permitted only for those hunters desiring to hunt in the swamp. All boat occupants must wear a life jacket. Only small boats will be permitted with outboard engines no larger than 10 h.p. There will be an official State checking station at the refuge headquarters. Hunters must be checked out by refuge officials before leaving the island and leave the refuge by 7 p.m. e.d.t. (6 p.m. e.s.t.)

5. All travel on the refuge will be on foot or by refuge vehicles. Boats will be permitted in the swamp creeks. Horses and dogs are prohibited.

6. Possession of firearms on the refuge during the bow and arrow only hunts is prohibited.

7. All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

8. Only buckshot is permitted during the shotgun hunts.

9. One-hundred twenty stands corresponding to the allowable number of hunters on each day of the bow hunts and 70 stands corresponding to the allowable number of hunters on each day of the gun hunts are located throughout the refuge. Each hunter will be assigned the stand corresponding to his permit number. Shotgun hunters will remain on their assigned stand throughout the day's hunt. Bow hunters will remain on their assigned stand from one half-hour before sunrise to 10 a.m. From 10 a.m. to one half-hour after sunset, they may hunt anywhere within the open area. Gun hunters must wear fluorescent orange (144 sq. inches min.) at all times; bow hunters must wear fluorescent orange when going to and from their stand, and when hunting away from their stand. Boats must be moored throughout the day. Boats leaving the creek during the day cannot return that day.

10. All hunters under 18 years of age must be accompanied by an adult.

11. Scouting will be permitted on October 7 and 8, 1977. The refuge ferry will take passengers to the island at 8 a.m. e.d.t. and return to the mainland at 10 a.m. and 12 noon.

12. Special regulations and maps are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD D. WOON,
Acting Regional Director,
Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77-23270 Filed 8-11-77;8:45 am]

PART 32—HUNTING

Opening of the Montezuma National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable nautral resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene Hocutt, Montezuma National Wildlife Refuge, R.D. 1, Box 1411, Seneca Falls, N.Y. 13148. Telephone No. (315–568–5987).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Montezuma National Wildlife Refuge, New York, is permitted except on the areas designated by signs as closed. The open area, comprising 3,874 acres, is delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass.

Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following special conditions:

1. Archery deer hunting is permitted Monday through Friday during the firearm season selected by the State.
2. Only longbows may be used. No gun hunting will be allowed.
3. Successful hunters must register their kill at refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77–23371 Filed 8–11–77;8:45 am]

PART 32—HUNTING

Opening of the Eastern Neck National Wildlife Refuge, Maryland, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Eastern Neck National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 22, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Marion Ireland, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Md., 21661. Telephone No. (301–639–7415).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 2,169 acres, is delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons.—Shotgun only: October 22, 26, 29 and November 2, 1977. Archery only: November 5 and 9, 1977. Muzzle-loading longarm only: November 12 and 16, 1977.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) Hunters may not enter the refuge before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distances respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in a twelve (12) inch diameter circle in the chest area of a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Marvland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to seventy-five (75) per day for gun hunts, and one hundred (100) per day for archery hunts.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1977. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77–23372 Filed 8–11–77;8:45 am]

PART 32—HUNTING

Opening of the Missisquoi National Wildlife Refuge, Vermont, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

George O'Shea, Missisquoi National Wildlife Refuge, RD No. 2, Swanton, Vermont 05488, telephone 802–868–4781.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of upland game on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all State regulations covering the hunting of upland game, subject to the following special condition: Rifles may not be used on that portion of the refuge lying east of the Missisquoi River.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

HOWARD D. WOON,
Acting Regional Director,
United States Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77–23373 Filed 8–11–77;8:45 am]

PART 32—HUNTING

Opening of the Missisquoi National Wildlife Refuge, Vermont, to Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

George O'Shea, Missisquoi National Wildlife Refuge, Swanton, Vermont 05488, telephone 802–868–4781.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The public hunting of migratory game birds on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all Federal and State regulations covering the hunting of migratory game birds. On those areas open to the public hunting of migratory game birds for which a permit is not required, stake blinds may be constructed in accordance with State regulations. Blinds must be removed by May 25, 1978.

That portion of the refuge, known as the Webb Marsh, which includes Long Marsh Bay and channel, Brush Creek, and Metcalfe Island, will be reserved for young waterfowl hunters only. Hunting by youths who have completed a Federal waterfowl hunter training program is permitted on Saturdays, Sundays, and legal State holidays from the beginning of the State waterfowl hunting season through November 6, 1977. Shooting is permitted from designated blinds from legal shooting time until 11:00 a.m. local time. Youth waterfowl hunters will be limited to the use and possession of 25 shot shells each.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

HOWARD D. WOON,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 3, 1977.

[FR Doc.77–23374 Filed 8–11–77;8:45 am]

PART 32—HUNTING

Opening of the Great Swamp National Wildlife Refuge, New Jersey, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 6, 1977, through December 14, 1977.

FOR FURTHER INFORMATION CONTACT:

John L. Fillio, Great Swamp National Wildlife Refuge, R.D. 1, Box 148, Basking Ridge, New Jersey, 07920, telephone 201–647–1222.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer of either sex with shotguns on the Great Swamp National Refuge, New Jersey, is permitted, except on areas designated by signs as closed, during the period of December 6, 1977, to December 10, 1977, inclusive, and December 14, 1977. Hunting of deer with firearms shall be in accordance with all State and Federal regulations subject to the following special conditions:

Deer may be taken throughout the hunt between the hours of 7 a.m. E.S.T. and 5 p.m. E.S.T. Participation will be limited to the 400 hunter permittees randomly selected for the special Great Swamp hunt. Only 150 hunters will be allowed to hunt on any given day during the hunt period. Armbands and parking area permits will be issued and must be displayed as designated. Armbands and permits must be surrendered prior to departure from the refuge. Hunters must furnish and wear a minimum of 200 square inches of blaze or hunter orange. All deer taken must be checked out at the refuge check station. Vehicles are restricted to public roads and areas designated by parking permits.

A shotgun not smaller than 12 gauge will be permitted for hunting deer, and buckshot not smaller than Number 4 nor larger than Number 000 will be permitted in possession during the hunt. Hunter permittees will be required to have shotguns and loads certified prior to the hunt. Target practice or test firing is not permitted, and guns must be unloaded when in areas posted as "closed." Baiting or hunting with the aid of bait is prohibited.

Regulations, summaries, maps delineating open hunting areas, and shotgun and load certification forms and requirements are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 1700, Newton Corner, Massachusetts 02158.

The refuge will be closed to the general public during the above hunting dates. Other than on the days of the hunt, permittee entry will be allowed only on approved Public Use Areas as designated by signs.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in 50 CFR, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

AUGUST 3, 1977.

HOWARD D. WOON,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.77-23375 Filed 8-11-77;8:45 am]

SUBCHAPTER C—INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION

PART 371—FRASER RIVER SOCKEYE AND PINK SALMON FISHERY

Fraser River Sockeye and Pink Salmon Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Amendment to emergency regulations.

SUMMARY: This document amends the current emergency regulations which implement the Sockeye and Pink Salmon Fishing Act of 1947. The amendment requires fish receivers and purchasers to permit inspe tion by enforcement officers of records and reports required by State regulation regarding catch statistics, because timely reporting is essential to fishery management.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Wash. 98109, 206-442-7575.

SUPPLEMENTARY INFORMATION: On June 17, 1977 National Oceanic and Atmospheric Administration published emergency regulations to carry out its obligation under the Sockeye and Pink Salmon Fishing Act of 1947, 16 U.S.C. §§ 776-776*f* to enforce the Convention between Canada and the United States for the protection of Fraser River Sockeye and Pink Salmon, the regulations of the International Pacific Salmon Fisheries Commission, and the Sockeye Act.

Timely and accurate catch reporting statistics are essential for effective fishery management and are required under State regulation. Compliance with these State regulations is required by NOAA's emergency regulations, 50 CFR 371.5. This emergency regulation supplements enforcement of those provisions. Because the fishing season is currently in progress and this regulation is necessary to meet the obligations of the United States under the Convention, the National Marine Fisheries Service finds for good cause that the advance notice, public procedures and delayed effectiveness provisions of 5 U.S.C. 553 are impracticable and contrary to the public interest. This regulation is effective 0001 hours, local time on August 10, 1977.

Therefore, Part 371.5 of 50 CFR is amended by the addition of subparagraph (c) which reads as follows:

§ 371.5 Reporting requirements.

* * * * *

(c) No person receiving or purchasing sockeye or pink salmon caught in U.S. Convention waters during the time the Commission exercises control over U.S. waters shall fail to permit enforcement officers to inspect records or reports required by WAC 220-69 or to inspect fish landing, holding or storage areas under the control of this person.

Issued on August 4, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23274 Filed 8-11-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3359(w) is added as set out below:

§ 213.3359 ACTION.

* * * * *

(w) One Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23389 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C one position of Confidential Assistant to the Secretary because the position is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3313(a)(5) is amended as set out below:

§ 213.3313 Department of Agriculture.

(a) Office of the Secretary. * * *

(5) Five Confidential Assistants to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Exective Assistant
to the Commissioners.

[FR Doc.77-23390 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: one Staff Assistant to the Assistant Administrator for Conservation, and one position of Special Assistant for Policy Analysis.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CR 213.3388 (g)(3) and (j)(4) are added as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(g) *Office of the Assistant Administrator for Conservation.* * * *

(3) One Staff Assistant to the Assistant Administrator.

* * * * *

(j) *Office of the Assistant Administrator for Energy Resource Development.* * * *

(4) One Special Assistant for Policy Analysis.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23391 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes: a headnote from Office of the Deputy Administrator (Policy Planning) to Office of the Deputy Administrator (Policy) due to an organizational redesignation; and, changes the title of an existing Schedule C position from Special Assistant, Office of the Deputy Administrator (Policy Planning) to Executive Assistant, Office of the Deputy Administrator (Policy) because the new title describes the duties of the position more appropriately

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3388(l) is amended to read as follows:

§ 213.3388 Federal Energy Administration.

* * * * *

(l) *Office of the Deputy Administrator (Policy).*

(1) Executive Assistant.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23392 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule A, health care positions of the National Health Service Corps, Public Health Service, because examination is not practicable for these positions.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3116(b)(10) is added to read as follows:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(b) *Public Health Service.* * * *

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23354 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

National Commission for Manpower Policy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Director, National Commission for Manpower Policy is excepted under Schedule C because the position is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3366 is added as set out below:

§ 213.3366 National Commission for Manpower Policy.

(a) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23393 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administratioin

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3332(cc) is added as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(cc) One Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23394 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Director, Office of Program Development is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3373(i)(1) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(i) *Office of Program Development.*

(1) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23485 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule

SUMMARY: The position of Executive Assistant to the Assistant Director, Office of Community Action is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3373(h)(1) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(h) *Office of Community Action.*

(1) One Executive Assistant to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant,
to the Commissioners.

[FR Doc.77-23486 Filed 8-11-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Director is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3373(a)(8) is added as set out below:

§ 213.3373 Community Services Administration.

(a) *Office of the Director.* * * *

(8) One Special Assistant to the Deputy Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant,
to the Commissioners.

[FR Doc.77-23487 Filed 8-11-77;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES)[1]

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Revised U.S. Standards for Rice

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is revising the U.S. Standards for Rice by (1) Providing rice inspection applicants with an optional grade designation for rice certification, (2) deleting total broken kernels as a grade-determining factor in brown rice for processing, (3) changing the limits of "other types" of rice in U.S. No. 5 and U.S. No. 6 milled rice so that it applies only to whole kernels, and (4) making editorial revisions which are intended to improve the clarity and consistency of the standards. The revisions are intended to further facilitate the marketing of rice.

EFFECTIVE DATE: August 28, 1977.

FOR FURTHER INFORMATION CONTACT:

N. Gail Jackson, Acting Director, Standardization Division, Federal Grain Inspection Service, Room 0624-S, 1400 Independence Avenue SW., Washington, D.C. 20250. Telephone 202-447-9329.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as amended, provides for the issuance by the Secretary of Agriculture of standards with respect to the quality, condition, quantity, grade, and packaging of agricultural commodities. It further provides for their voluntary use by producers, merchandisers, processors, and consumers in the marketing of these commodities and payment of a fee to cover the cost of the service.

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090 (7 U.S.C. 1622 and 1624) a notice was published, according to the administrative procedure provisions of section 553, of Title 5, United States Code, in the FEDERAL REGISTER (42 FR 33753) on July 1, 1977, concerning a revision of the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice.

[1] Including matters within the responsibility of the Federal Grain Inspection Service.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed rulemaking. More than 900 reprints of the proposed rulemaking showing changes in the standards were distributed to interested trade and Government organizations. Two letters, one representing a California rice producer cooperative and another representing four rice producer cooperatives and 27 individual rice milling companies, were received by the Hearing Clerk. Both responses supported the proposed changes. No objections have been received.

OPTIONAL CERTIFICATION PROCEDURE

Rice sales contracts generally specify the minimum quality of rice to be delivered. At times, sellers find when preparing to load rice for shipment that the supply of a particular grade of rice may be insufficient to meet the quality and quantity requirements specified in the sales contract. When this happens, the shipper may find it necessary to ship rice of a better quality.

Certain segments of the rice industry have stated that current inspection procedures do not give them the necessary flexibility to substitute rice of better quality for that specified under the sales contract. They have also stated that delivery of rice of a better quality than that specified in the sales contract is not objectionable to most buyers, and most rice sales contracts already contain the words "or better" following the agreed-upon rice grade.

The Department, in response to these concerns, is providing for an optional grade designation in the United States Standards for Rice.

The new optional certification procedure is applicable to all grade designations of rice. The applicant for inspection can obtain the optional certification procedure by requesting it on the application for inspection. The request for the optional certification must be filed prior to the beginning of inspection so the inspector knows how the lot will be certified and can immediately notify the applicant of any certification problem. If no request for either is submitted prior to the beginning of inspection, the current method of certification (option 1) shall be applicable.

Option 1 (Current method). Under the current method, rice offered for inspection is certificated as a specific quality (U.S. grade); e.g., "U.S. No. 2 Long-Grain Milled Rice," "U.S. No. 3 Long-Grain Brown Rice for Processing," etc.

For example: If the sales contract grade specification is for "U.S. No. 3 Long-Grain Milled Rice" and during the inspection of that rice lot the rice inspector finds a portion (sublot, carlot, etc.) of the lot that grades "U.S. No. 2 Long-Grain Milled Rice, the rice would be certificated as follows:

a. The U.S. No. 2 portion would be considered "distinctly different" and would be certificated separately from the remainder of the lot, i.e., "U.S. No. 2 Long-Grain Milled Rice."

b. The remainder of the lot would be certificated "U.S. No. 3 Long-Grain Milled Rice."

Option 2 (New method). Under the new method, the rice offered for inspection would be certificated as being a particular quality (U.S. grade) "or better"; e.g., "U.S. No. 3 or better Long-Grain Milled Rice". By requesting this option, the rice shipper would be allowed an unlimited opportunity for delivering a better quality rice. The applicant for inspection, rather than risk separate certification under Option 1, can request inspection and Option 2 certification. For example, if the applicant for inspection requested Option 2 on the lot with a contract grade of U.S. No. 3 Long-Grain Milled Rice and 50 percent of the lot graded U.S. No. 2 and 50 percent graded U.S. No. 3, the lot would be certificated as follows:

a. "U.S. No. 3 or better Long-Grain Milled Rice" would be shown as the grade designation on the inspection certificate.

b. No qualifying statement about the lot's uniformity would be necessary, provided that the lot meets the minimum uniform loading requirements for a "U.S. No. 3" load order grade.

BROWN RICE REVISION

Most brown rice for processing contracts specify a certain milling yield[2] which must be met. The milling yield is important to the miller, beacuse it can be used to predict how the brown rice for processing will perform in the milling process. The milling yield contains the percentages of whole kernels and the percentage of total milled rice. From the difference of the two figures, the miller can calculate the percentage of broken kernels. Therefore, to perform a test and report the percentage of total broken kernels on a brown rice for processing basis is redundant and unnecessary when the milling yield is reported and contains the percentage of broken kernels which can be expected after milling. However, in the event that the percentage of total broken kernels is needed on the basis of the brown rice for processing, the Department will show the percentage on the inspection certificate when requested by the applicant for inspection. The current limits for broken kernels removed by a 6 plate (southern production) or a 6½ sieve (western production) would remain in effect. The amount of such material in brown rice for processing provides the miller with needed information about the amount of small broken kernels in the sample.

[2] Milling yield is defined as an estimate of the quantity of whole kernels and total milled rice (whole or broken kernels combined) that are produced in the milling of brown rice for processing to a well-milled degree.

Source: Rice Inspection Handbook, HB 918-11, effective October 1976, U.S. Department of Agriculture, Federal Grain Inspection Service, Inspection Division, Rice and Commodity Branch, Washington, D.C. 20250.

"OTHER TYPES" CHANGE

In performing an inspection of rice, the inspector examines milled rice samples for the presence of "other types" of rice. "Other types" may be in the form of whole kernels and/or broken kernels. When whole kernels of a type differing from the balance of a sample are found, they function against the "other types" limit. In the case of broken kernels of "other types," a special provision is in effect which specifies that only long-grain broken kernels shall function as "other types" when found in medium- or short-grain milled rice. It further states that only medium- or short-grain broken kernels shall function as "other types" when found in long-grain milled rice. This provision has functioned in a satisfactory manner for some time, because broken kernels of different types (medium- and short-grain broken rice) but of similar size and appearance perform alike in end use. The Department now believes that broken kernels of long-grain should, because of their similar size, appearance, and end-use performance to medium- or short-grain broken kernels, be included in the special provision for milled rice grades of U.S. No. 5 or 6.

The current limits of 35 percent and 50 percent for the factor "Broken kernels (total)" will remain in effect for milled rice grades of U.S. No. 5 or 6, respectively. However, most contracts for grades U.S. No. 5 or 6 contain a maximum limit of 20 percent "Broken kernels (total)." Under the new standards, the "Broken kernels (total)" could be of any type up to the limit allowed by the grades of U.S. No. 5 or 6, or the contract requirements.

The Department believes that the change is desirable because: (1) A mixture of broken kernels of "other types," but of similar size and appearance, would not adversely affect the quality of U.S. No. 5 and 6 milled rice; (2) the combining of broken kernels of "other types" will permit more efficient utilization of storage space by millers, and (3) the change, in many instances, should reduce inspection costs by reducing the time required to perform the inspection.

Based on the information stated above, the Department is revising the milled rice standards so that the determination of "other types" in grades U.S. No. 5 and 6 milled rice be limited to whole rice kernels.

CHANGES APPLICABLE TO THE ROUGH RICE, BROWN RICE FOR PROCESSING, AND MILLED RICE STANDARDS

1. In § 68.202(h), Part (1); § 68.252(i), Part (1); and § 68.301(j), Part (1); change the wording to remove redundancy and provide clarity while retaining the same intended meaning.

2. In § 68.211(a), § 68.211(b), § 68.262(a), § 68.262(b), § 68.313(a), and § 68.313(b), renumber and add a new number (3) to allow the applicant for inspection to request use, in advance of inspection, of the Option 2 grade designation when he wants to fulfill a rice sales contract with "better" quality rice than that specified in the contract.

3. In § 68.212(a), § 68.263(a), and § 68.314(c), add words to help clarify and prevent confusion in the inspection application of the special grade "Parboiled rice."

4. Provide editorial and format changes to add clarity and consistency to help prevent misinterpretations of the standards.

CHANGES APPLICABLE TO THE ROUGH RICE STANDARDS

In § 68.202(h), Part 2 under "Note" and § 68.211(b)(6) add wording; and in § 68.211(b) insert a new (8).

When inspecting and certificating mixed rough rice, only whole and large broken kernels are analyzed. It is difficult and unnecessary to distinguish rice types in small and medium-sized broken kernels.

CHANGES APPLICABLE TO THE BROWN RICE FOR PROCESSING STANDARDS

In § 68.261, remove the grading factor "total broken kernels" from the grading chart. Since total broken kernels are included in the expression of "milling yield," the Department feels it is not necessary to make an additional total broken kernel determination, unless such a determination is specifically requested by the applicant for inspection.

CHANGES APPLICABLE TO THE MILLED RICE STANDARDS

1. Under "Terms Defined" rearrange § 68.301 "Definition" into two sections—§ 68.301 "Definition of Milled Rice" and § 68.302 "Definition of Other Terms." Renumber the sections, add a new § 68.304 concerning temporary modifications in equipment and procedures, and reword § 68.307 "Percentages." The above changes are editorial in nature and are intended to make the format of the milled rice standards consistent with those of rough rice and brown rice for processing.

2. In § 68.309 (Milled rice grading chart), § 68.310 (Second head milled rice grading chart), § 68.311 (Screenings milled rice grading chart), and § 68.312 (Brewers milled rice grading chart), change the column designated "Color and Milling Requirements" into two separate columns—one for "Color" and the other for "Milling Requirements." This change is editorial in nature and is intended to emphasize that color and milling requirements are two separate factors.

3. In § 68.301(j) *"Other Types,"* Part 2, change the wording; in § 68.309 (Milled rice grading chart) delete the present "other types" column and replace it with a two-column approach; and in § 68.301 (1), (2), (3), and (4) change the wording to limit the determination of "other types" in U.S. No. 5 and U.S. No. 6 milled rice to whole rice kernels only.

The U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice are hereby adopted as shown below:

U.S. STANDARDS FOR ROUGH RICE

TERMS DEFINED

Sec
68.201 Definition of rough rice.
68.202 Definition of other terms.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

68.203 Basis of determination.
68.204 Temporary modifications in equipment and procedures.
68.205 Interpretive line samples.
68.206 Milling requirements.
68.207 Milling yield determination.
68.208 Moisture.
68.209 Percentages.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

68.210 Grades and grade requirements for the classes of rough rice. (See also § 68.212.)
68.211 Grade designation.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

68.212. Special grades and requirements.
68.213 Special grade designation.

U.S. STANDARDS FOR BROWN RICE FOR PROCESSING

68.251 Definition of brown rice for processing.
68.252 Definition of other terms.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

68.253. Basis of determination.
68.254. Temporary modifications in equipment and procedures.
68.255 Broken kernels determination.
68.256 Interpretive line samples.
68.257 Milling requirements.
68.258 Milling yield determination.
68.259 Moisture.
68.260. Percentages.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

68.261 Grade and grade requirements for the classes of brown rice for processing. (See also § 68.263.)
68.262 Grade designation.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

68.263. Special grades and special grade requirements.
68.264. Special grade designation.

U.S. STANDARDS FOR MILLED RICE

TERMS DEFINED

68.301 Definition of milled rice.
68.302 Definition of other terms.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

68.303 Basis of determination.
68.304 Temporary modifications in equipment and procedures.
68.305 Broken kernels determination.
68.306 Interpretive line samples.
68.307 Milling requirements.
68.308 Moisture.
68.309 Percentages.
68.310 Grades and grade requirements for the classes Long-Grain Milled Rice, Medium Grain Milled Rice, Short-Grain Milled Rice, and Mixed Milled Rice. (See also § 68.315.)
68.311 Grades and grade requirements for the Class Second Head Milled Rice. (See also § 68.315.)
68.312 Grades and grade requirements for the class Screenings Milled Rice. (See also § 68.315.)

Sec.
68.313 Grades and grade requirements for the Class Brewers Milled Rice. (See also § 68.315.)
68.314 Grade designations.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

68.315 Special grades and special grade requirements.
68.316 Special grade designation.

AUTHORITY: Secs. 203, 205, Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090 (7 U.S.C. 1622 and 1624).

U.S. STANDARDS FOR ROUGH RICE[1]

TERMS DEFINED

§ 68.201 Definition of rough rice.

Rice (*Oryza sativa L.*) which consists of 50 percent or more of paddy kernels (see § 68.202(i) of rice.

§ 68.202 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Chalky kernels.* Whole or large broken kernels of ric which are one-half or more chalky.

(c) *Classes.* The following four classes:

Long-Grain Rough Rice
Medium-Grain Rough Rice
Short-Grain Rough Rice
Mixed Rough Rice

Classes shall be based on the percentage of whole kernels, large broken kernels, and types of rice.

(1) "Long-grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of medium- or short-grain rice.

(2) "Medium-grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long-grain rice or whole kernels of short-grain rice.

(3) "Short-grain rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10 percent of whole or large broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) "Mixed rough rice" shall consist of rough rice which contains more than 25 percent of whole kernels and which, after milling to a well-milled degree, contains more than 10 percent of "other types" as defined in paragraph (h) of this section.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(d) *Damaged kernels.* Whole or large broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and whole or large broken kernels of parboiled rice in nonparboiled rice. "Heat-damaged kernels" (see paragraph (e) of this section) shall not function as damaged kernels.

(e) *Heat-damaged kernels.* Whole or large broken kernels of rice which are materially discolored and damaged as a result of heating, and whole or large broken kernels of parboiled rice in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(f) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that are produced in the milling of rough rice to a well-milled degree.

(g) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(h) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice, (ii) medium-grain rice in long- or short-grain rice, (iii) short-grain rice in long- or medium-grain rice, and (2) Large broken kernels of long-grain rice in medium- or short-grain rice and large broken kernels of medium- or short-grain rice in long-grain rice.

NOTE.—Large broken kernels of medium-grain rice in short-grain rice and large broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(i) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(j) *Red rice.* Whole or large broken kernels of rice on which there is an appreciable amount of red bran.

(k) *Seeds.* Whole or broken seeds of any plant other than rice.

(l) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(m) *Types of rice.* The following three types:

Long grain
Medium grain
Short grain

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in Inspection Handbook HB 918–11.[2]

(n) *Ungelatinized kernels.* Whole or large broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Whole and large broken kernels.* Rice (including seeds) that (1) passes over a 6 plate (for southern production), or (2) remains on top of a 6 sieve (for western production).

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.203 Basis of determination.

The determination of seeds, objectionable seeds, heat-damaged kernels, red rice and damaged kernels, chalky kernels, other types, color, and the special grade Parboiled rough rice shall be on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. When determining class, the percentage of (a) whole kernels of rough rice shall be determined on the basis of the original sample, and (b) types of rice shall be determined on the basis of the whole and large broken kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. Smutty kernels shall be determined on the basis of the rough rice after it has been cleaned and shelled as set forth in Inspection Handbook HB 918–11,[2] or by any method that is approved by the Administrator as giving equivalent results.[3] All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in Inspection Handbook HB 918–11,[2] or by any method that is approved by the Administrator as giving equivalent results.[3]

§ 68.204 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the rough rice standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Inspection Division Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

[2] The following publications are referenced in these standards. Copies will be made available upon request to the Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

(a) Equipment Handbook, effective September 25, 1968, as amended, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Inspection Handbook HB 918–11, effective October 1976, U.S. Department of Agriculture, Federal Grain Inspection Service.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

§ 68.205 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual examinations shall be maintained by the Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.206 Milling requirements.

In determining milling yield (see § 68.202(f)) in rough rice, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well-milled" rice.

§ 68.207 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in Inspection Handbook HB 918–11, and the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.[3]

NOTE.—Milling yield shall not be determined when the moisture content of the rough rice exceeds 18.0 percent

§ 68.208 Moisture.

Water content in rough rice as determined by an approved device in accordance with procedures prescribed in the Inspection Handbook HB 918–11,[2] for the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

§ 68.209 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§68.210 Grades and grade requirements for the classes of rough rice. (See also §68.212.)

Grade	Maximum limits of ___						
	Seeds and heat-damaged kernels		Red rice and damaged kernels (singly or combined)	Chalky kernels 1/		Other types 2/	Color requirements 1/
	Total (singly or combined)	Heat-damaged kernels and objectionable seeds (singly or combined)		In long grain rice	In medium or short grain rice		
	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	
U.S. No. 1	4	3	0.5	1.0	2.0	1.0	Shall be white or creamy.
U.S. No. 2	7	5	1.5	2.0	4.0	2.0	May be slightly gray.
U.S. No. 3	10	8	2.5	4.0	6.0	3.0	May be light gray.
U.S. No. 4	27	22	4.0	6.0	8.0	5.0	May be gray or slightly rosy.
U.S. No. 5	37	32	6.0	10.0	10.0	10.0	May be dark gray or rosy.
U.S. No. 6	75	75	15.0 3/	15.0	15.0	10.0	May be dark gray or rosy.
U.S. Sample grade	U.S. Sample grade shall be rough rice which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6 inclusive, (b) contains more than 14.0 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, or (e) is otherwise of distinctly low quality.						

1/ For the special grade Parboiled rough rice see § 68.212(a)
2/ These limits do not apply to the class Mixed Rough Rice
3/ Rice in grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels

§ 68.211 Grade designation.

(a) The grade designation for all classes of rough rice, except Mixed Rough Rice, shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better" when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.213); and (6) a statement of the milling yield.

(b) The grade designation for the class Mixed Rough Rice shall include, in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection, (4) the class; (5) each applicable special grade (see § 68.213); (6) the percentage of whole kernels of each type in the order of predominance; (7) the percentage of large broken kernels of each type in the order of predominance; (8) the percent of material removed by the No. 6 sieve or the No. 6 sizing plate; (9) when applicable, the percentage of seeds; and (10) a statement of the milling yield.

NOTE.—Large broken kernels other than long-grain, in Mixed Rough Rice, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.212 Special grades and requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.210. Such special grades for rough rice are established and determined as follows:

(a) *Parboiled rough rice.* Parboiled rough rice shall be rough rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark." The color levels for "Parboiled Light," "Parboiled," and "Parboiled Dark" rice shall be in accordance with the interpretive line samples for parboiled rice.

NOTE.—The maximum limits for "Chalky kernels," "Heat-damaged kernels," "Kernels damaged by heat," and the "Color requirements" shown in § 68.210 are not applicable to the special grade "Parboiled rough rice."

(b) *Smutty rough rice.* Smutty rough rice shall be rough rice which contains more than 3.0 percent of smutty kernels.

(c) *Weevily rough rice.* Weevily rough rice shall be rough rice which is infested with life weevils or other insects injurious to stored rice.

§ 68.213 Special grade designation.

The grade designation for parboiled, smutty, or weevily rough rice shall include, following the class, the word(s) "Parboiled Light," "Parbolied," "Parwarranted, and all other information boiled Dark," "Smutty," or "Weevily," as warranted, and all other information prescribed in § 68.211.

U.S. STANDARDS FOR BROWN RICE FOR PROCESSING[1]

TERMS DEFINED

§ 68.251 Definition of brown rice for processing.

Rice (*Oryza sativa L.*) which consists of more than 50.0 percent of kernels of brown rice, and which is intended for processing to milled rice.

§ 68.252 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are four classes of brown rice for processing.

Long-Grain Brown Rice for Processing
Medium-Grain Brown Rice for Processing
Short-Grain Brown Rice for Processing
Mixed Brown Rice for Processing

Classes shall be based on the percentage of whole kernels, broken kernels, and types of rice.

(1) "Long-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice.

(2) "Medium-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice.

(3) "Short-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain orice or whole kernels of medium-grain rice.

(4) "Mixed brown rice for processing" shall be brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and more than 10.0 percent of "other types" as defined in paragraph (i) of this section.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means (including parboiled kernels in nonparboiled rice and smutty kernels). "Heat-damaged kernels" (see paragraph (f) of this section) shall not function as damaged kernels.

(f) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(g) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that is produced in the milling of brown rice for processing to a well-milled degree.

(h) *Objectionable seeds.* Whole or broken seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice, (ii) medium-grain rice in long- or short-grain rice, (iii) short-grain rice in long- or medium-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice.

NOTE.—Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(j) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(k) *Red rice.* Whole or broken kernels of rice on which the bran is distinctly red in color.

(l) *Related material.* All by-products of a paddy kernel, such as the outer glumes, lemma, palea, awn, embryo, and bran layers.

(m) *Seeds.* Whole or broken seeds of any plant other than rice.

(n) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(o) *Types of rice.* There are three types of brown rice for processing.

Long grain
Medium grain
Short grain

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in Inspection Handbook HB 918–11.[2]

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The following publications are referenced in these standards. Copies will be made available upon request to the Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

(a) Equipment Handbook, effective September 25, 1968, as amended. U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Inspection Handbook HB 918–11, effective October 1976, as amended, U.S. Department of Agriculture, Federal Grain Inspection Service.

(p) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(q) *Unrelated material.* All matter other than rice, related material, and seeds.

(r) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the embryos and the bran layers have been removed.

(s) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(t) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 ($^{6}/_{64}$) inch in diameter, and a bottom lamina 0.091-inch thick, without perforations.

(u) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 ($6^{1}/_{2}/64$) inch in diameter.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.253 Basis of determination.

The determination of kernels damaged by heat, heat-damaged kernels, parboiled kernels in nonparboiled rice, and the special grade Parboiled brown rice for processing shall be on the basis of the brown rice for processing after it has been milled to a well-milled degree. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in Inspection Handbook HB 918–11[2] or by any method which gives equivalent results.

§ 68.254 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the brown rice for processing standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Inspection Division Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

§ 68.255 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures set forth in Inspection Handbook HB 918–11[2] or by any method which gives equivalent results.

§ 68.256 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.257 Milling requirements.

In determining milling yield (see § 68.252(g)) in brown rice for processing, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well-milled" rice.

§ 68.258 Milling yield determination.

Milling yield shall be determined by the use of an approved device in accordance with procedures prescribed in Inspection Handbook HB 918–11[2] and the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the McGill Miller No. 3 and any other equipment that is approved by the Administrator as giving equivalent results.[3]

NOTE.—Milling yield shall not be determined when the moisture content of the brown rice for processing exceeds 18.0 percent.

§ 68.259 Moisture.

Water content in brown rice for processing as determined by an approved device in accordance with procedures prescribed in the Inspection Handbook HB 918–11.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

§ 68.260 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.261 Grade and grade requirements for the classes of brown rice for processing. (See also § 68.263.)

Grade	Maximum limits of —									
	Paddy Kernels		Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined)	Chalky Kernels 1/	Broken Kernels Removed by a 6 plate or a 6½ sieve 2/	Other Types 3/	Well-Milled Kernels
			Total (singly or combined)	Heat-damaged kernels	Objectionable seeds					
	Percent	Number in 500 grams	Number in 500 grams	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	Percent
U.S. No. 1	---	20	10	1	2	1.0	2.0	1.0	1.0	1.0
U.S. No. 2	2.0	—	40	2	10	2.0	4.0	2.0	2.0	3.0
U.S. No. 3	2.0	—	70	4	20	4.0	6.0	3.0	5.0	10.0
U.S. No. 4	2.0	--	100	8	35	8.0	8.0	4.0	10.0	10.0
U.S. No. 5	2.0	--	150	15	50	15.0	15.0	6.0	10.0	10.0
U.S. Sample grade	U.S. Sample grade shall be brown rice for processing which (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 14.5 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.2 percent of related material or more than 0.1 percent of unrelated material; (f) contains live weevils or other live insects; or (g) is otherwise of distinctly low quality.									

1/ For the special grade Parboiled brown rice for processing, see § 68.263(a).
2/ Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
3/ These limits do not apply to the class Mixed Brown Rice for Processing.

§ 68.262 Grade designation.

(a) The grade designation for all classes of brown rice for processing, except Mixed Brown Rice for Processing, shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; and (5) each applicable special grade (see § 68.264).

(b) The grade designation for the class Mixed Brown Rice for Processing shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.264); (6) the percentage of whole kernels of each type in the order of predominance and when applicable; (7) the percentage of broken kernels of each type in the order of predominance; and (8) the percentage of seeds, related material, and unrelated material.

Note.—Broken kernels other than long grain, in Mixed Brown Rice for Processing, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.263 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.262. Such special grades for brown rice for processing are established and determined as follows:

(a) *Parboiled brown rice for processing.* Parboiled brown rice for processing shall be rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. Nos. 1 to 5, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grade U.S. No. 5 not more than 0.5 percent of nonparboiled rice.

Note.—The maximum limits for "chalky kernels," "Heat-damaged kernels," and "Kernels damaged by heat" shown in § 68.261 are not applicable to the special grade "Parboiled brown rice for processing."

(b) *Smutty brown rice for processing.* Smutty brown rice for processing shall be rice which contains more than 3.0 percent of smutty kernels.

§ 68.264 Special grade designation.

The grade designation for parboiled or smutty brown rice for processing shall include, following the class, the word(s) "Parboiled" or "Smutty," as warranted, and all other information prescribed in § 68.262.

U.S. STANDARDS FOR MILLED RICE [1]

TERMS DEFINED

§ 68.301 Definition of milled rice.

Whole or broken kernels of rice (*Oryza sativa L.*) from which the hulls and at least the outer bran layers and a part of the germs have been removed and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

§ 68.302 Definition of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(d) *Classes.* There are seven classes of milled rice. The following four classes shall be based on the percentage of whole kernels, broken kernels, and types of rice:

Long-Grain Milled Rice
Medium-Grain Milled Rice
Short-Grain Milled Rice
Mixed Milled Rice

The following three classes shall be based on the percentage of whole kernels and of broken kernels of different size:

Second-Head Milled Rice
Screenings Milled Rice
Brewers Milled Rice

(1) "Long-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice. U.S. No. 5 and U.S. No. 6 long-grain milled rice shall contain not more than 10.0 percent of whole kernels of medium- or short-grain milled rice (broken kernels do not apply).

(2) "Medium-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice. U.S. No. 5 and U.S. No. 6 medium-grain milled rice shall contain not more than 10.0 percent of whole kernels of long- or short-grain milled rice (broken kernels do not apply).

(3) "Short-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and in U.S. Nos. 1 through 4 not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice. U.S. No. 5 and U.S. No. 6 short-grain milled rice shall contain not more than 10.0 percent of whole kernels of long- or medium-grain milled rice (broken kernels do not apply).

(4) "Mixed milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and more than 10.0 percent of "other types" as defined in paragraph (i) of this section. U.S. No. 5 and U.S. No. 6 mixed milled rice shall contain more than 10.0 percent of whole kernels of "other types" (broken kernels do not apply).

(5) "Second-head milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 7.0 percent of broken kernels removed by a 6 plate, (*c*) 0.4 percent of broken kernels removed by a 5 plate, and (*d*) 0.05 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 50.0 percent of broken kernels passing through a $6\frac{1}{2}$ sieve, and (*c*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(6) "Screenings milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 10.0 percent of broken kernels removed by a 5 plate, and (*c*) 0.2 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 15.0 percent of broken kernels passing through a $5\frac{1}{2}$ sieve; and more than (*c*) 50.0 percent of broken kernels passing through a $6\frac{1}{2}$ sieve; and (*d*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(7) "Brewers milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.303 and 68.304, contains not more than 25.0 percent of whole kernels and which does not meet the kernel-size requirements for the class Second Head Milled Rice or Screenings Milled Rice.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and parboiled kernels in nonparboiled rice. "Heat-damaged kernels" [see paragraph (g) of this section] shall not function as damaged kernels.

(f) *Foreign material.* All matter other than rice and seeds. Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material.

(g) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(h) *Objectionable seeds* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(i) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice, (ii) Medium-grain rice in long- or short-grain rice, (iii) Short-grain rice in long- or medium-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice, except in U.S. No. 5 and U.S. No. 6 milled rice. In U.S. No 5 and U.S. No. 6 milled rice, only whole kernels will apply.

Note.—Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(j) *Paddy kernels.* Whole or broken unhulled kernels of rice and whole or broken kernels of brown rice.

(k) *Red rice.* Whole or broken kernels of rice on which there is an appreciable amount of red bran.

(l) *Seeds.* Whole or broken seeds of any plant other than rice.

(m) *Types of rice.* There are three types of milled rice as follows:

Long grain
Medium grain
Short grain

Types shall be based on the length-width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels that are broken, as set forth in the Inspection Handbook HB 918–11.[2]

(n) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(o) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

Note.—This factor is determined on an individual kernel basis and applies to the special grade Undermilled milled rice only.

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(q) *5 plate.* A laminated metal plate 0.142-inch thick, with a top lamina, 0.051-inch thick, perforated with rows of round holes 0.0781 ($\frac{5}{64}$) inch in diameter, $\frac{35}{64}$ inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(r) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 ($\frac{3}{32}$) inch in diameter, $\frac{5}{32}$ inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

[2] The following publications are referenced in these standards. Copies will be made available upon request to the Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(a) Equipment Handbook, effective September 25, 1968, as amended, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Inspection Handbook HB 918–11, effective October 1976, U.S. Department of Agriculture, Federal Grain Inspection Service.

(s) *2½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0391 (2½/64) inch in diameter, 0.075-inch from center to center, with each row staggered in relation to the adjacent rows.

(t) *4 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0625 (4/64) inch in diameter, ⅛ inch from center to center, with each row staggered in relation to the adjacent rows.

(u) *5 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, 5/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(v) *5½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0859 (5½/64) inch in diameter, 11/64 inch from center to center, with each row staggered in relation to the adjacent rows.

(w) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, 3/32 inch from center to center, with each row staggered in relation to the adjacent rows.

(x) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter, 13/64 inch from center to center, with each row staggered in relation to the adjacent rows.

(y) *30 sieve.* A woven wire cloth sieve having 0.0234-inch openings, with a wire diameter of 0.0153 inch, and meeting the specifications of American Society for Testing and Materials Designation E–11–61, as set forth in the Equipment Handbook.[2]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.303 Basis of determination.

All determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by hand-picking, as set forth in the Inspection Handbook HB 918–11,[2] or by any method which gives equivalent results.

§ 68.304 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the milled rice standards are applicable to rice produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rice may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the rice industry will be notified promptly in writing of the modification. These modifications shall not include changes in interpretations of identity, class, quality, or condition.

§ 68.305 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures set forth in the Inspection Handbook HB 918–11,[2] or by any method which gives equivalent results.

§ 68.306 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.307 Milling requirements.

The degree of milling for milled rice; i.e., "well milled," "reasonably well milled," and "lightly milled" shall be equal to, or better than, that of the interpretive line samples for such rice.

§ 68.308 Moisture.

Water content in milled rice as determined by an approved device in accordance with procedures prescribed in the Inspection Handbook HB 918–11.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

§ 68.309 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is followed by the figure 5, round to the nearest even figure; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

All percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. Milling yield shall be stated to the nearest whole percent.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.311 Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, and Mixed Milled Rice. (See also § 68.315.)

Grade	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined)	Chalky kernels 1/		Maximum limits of -- Broken kernels			Other types 3/		Color Requirements 4/	Milling Requirements (Minimum) 5/
	Total	Heat-damaged and objectionable seeds		In long-grain rice	In medium- or short-grain rice	Total	Removed by a 5 plate 2/	Removed by a 6 plate 2/	Through a 6 sieve 2/	Whole kernels	Whole and broken kernels	
	Number in 500 grams	Number in 500 grams	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	
U.S. No. 1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	--	1.0	Shall be white or creamy	Well milled
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	--	2.0	May be slightly gray	Well milled
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	--	3.0	May be light gray	Reasonably well milled
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	0.4	2.0	0.7	--	5.0	May be gray or slightly rosy	Reasonably well milled
U.S. No. 5	30	25	4/ 6.0	10.0	10.0	35.0	0.7	3.0	1.0	10.0	--	May be dark gray or rosy	Lightly milled
U.S. No. 6	75	75	5/15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	--	May be dark gray or rosy	Lightly milled
U.S. Sample grade	U.S. Sample grade shall be milled rice which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.											

1/ For the special grade Parboiled milled rice, see § 68.315(c).
2/ Plates should be used for southern production rice; but any device or method which gives equivalent results may be used.
3/ These limits do not apply to the class Mixed Milled Rice.
4/ For the special grade Undermilled milled rice, see § 68.315(d).
5/ Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§68.311 Grades and Grade Requirements for the Class Second Head Milled Rice (See also §68.315)

Grade	Maximum limits of —					
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined)	Chalky kernels 1/	Color Requirements 1/	Minimum Milling Requirements 2/
	Total	Heat-damaged kernels and objectionable seeds				
	Number in 500 grams	Number in 500 grams	Percent	Percent		
U.S. No. 1	15	5	1.0	4.0	Shall be white or creamy	Well milled
U.S. No. 2	20	10	2.0	6.0	May be slightly gray	Well milled
U.S. No. 3	35	15	3.0	10.0	May be light gray	Reasonably well milled
U.S. No. 4	50	25	5.0	15.0	May be gray or slightly rosy	Reasonably well milled
U.S. No. 5	75	40	10.0	20.0	May be dark gray or rosy	Lightly milled
U.S. Sample Grade	U.S. Sample Grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.					

1/ For the special grade Parboiled milled rice, see §68.315(c).

2/ For the special grade Undermilled milled rice, see §68.315(d).

§68.312 Grades and Grade Requirements for the class Screenings Milled Rice (See also #68.315)

Grade	Maximum limits of —				
	Paddy kernels and seeds		Chalky kernels 1/	Color Requirements 1/	Minimum Milling Requirements 2/
	Total (singly or combined)	Objectionable seeds			
	Number in 500 grams	Number in 500 grams	Percent		
U.S. No. 1 3/ 4/	30	20	5.0	Shall be white or creamy	Well milled
U.S. No. 2 3/ 4/	75	50	8.0	May be slightly gray	Well milled
U.S. No. 3 3/ 4/	125	90	12.0	May be light gray or slightly rose	Reasonably well milled
U.S. No. 4 3/ 4/	175	140	20.0	May be gray or rosy	Reasonably well milled
U.S. No. 5	250	200	30.0	May be dark gray or very rosy	Lightly milled
U.S. Sample Grade	U.S. Sample Grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.				

1/ For the special grade Parboiled milled rice see §68.315(c).

2/ For the special grade Undermilled milled rice see §68.315(d).

3/ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.

4/ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

RULES AND REGULATIONS

FEDERAL REGISTER, VOL. 42, NO. 156—FRIDAY, AUGUST 12, 1977

§ 68.313 Grades and Grade Requirements for the Class Brewers Milled Rice. (See also §68.315)

Grade	Maximum limits of				Minimum Milling Requirements 2/
	Paddy kernels and seeds		Objectionable seeds	Color Requirements 1/	
	Total (singly or combined)				
	Percent		Percent		
U.S. No. 1 3/ 4/ ...	0.5		0.05	Shall be white or creamy	Well milled
U.S. No. 2 3/ 4/ ...	1.0		0.1	May be slightly gray	Well milled
U.S. No. 3 3/ 4/ ...	1.5		0.2	May be light gray or slightly rosy	Reasonably well milled
U.S. No. 4 3/ 4/ ...	3.0		0.4	May be gray or rosy	Reasonably well milled
U.S. No. 5	5.0		1.5	May be dark gray or very rosy	Lightly milled
U.S. Sample Grade ..	U.S. Sample Grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains more than 15.0 percent of broken kernels that will pass through a 2 1/2 sieve; (h) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (i) is otherwise of distinctly low quality.				

1/ For the special grade Parboiled milled rice see §68.315(c).
2/ For the special grade Undermilled milled rice see §68.315(d).
3/ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
4/ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice.

§ 68.314 Grade designations.

(a) The grade designation for all classes of milled rice, except Mixed Milled Rice, shall include in the following order: (1) The etters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; and (5) each applicable special grade (see § 68.316).

(b) The grade designation for the class Mixed Milled Rice shall include, in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade," as warranted; (3) the words "or better," when applicable and requested by the applicant prior to inspection; (4) the class; (5) each applicable special grade (see § 68.316); (6) the percentage of whole kernels of each type in the order of predominance and when applicable; (7) the percentage of broken kernels of each type in the order of predominance; and (8) the percentage of seeds and foreign material.

NOTE.—Broken kernels other than long grain, in Mixed Milled Rice, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.315 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 68.314. Such special grades for milled rice are established and determined as follows:

(a) *Coated milled rice.* Coated milled rice shall be milled rice which is coated, in whole or in part, with glucose and talc.

(b) *Granulated brewers milled rice.* Granulated brewers milled rice shall be milled rice which has been crushed or granulated so that 95.0 percent or more will pass through a 5 sieve, 70.0 percent or more will pass through a 4 sieve, and not more than 15.0 percent will pass through a 2½ sieve.

(c) *Parboiled milled rice.* Parboiled milled rice shall be milled rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6, inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark." The color levels for "Parboiled Light," "Parboiled," and "Parboiled Dark" shall be in accordance with the interpretive line samples for parboiled rice.

NOTE.—The maximum limits for "Chalky kernels," "Heat-damaged kernels," "Kernels damaged by heat," and the "Color requirements" in §§ 68.310, 68.311, 68.312, and 68.313 are not applicable to the special grade "Parboiled milled rice."

(d) *Undermilled milled rice.* Undermilled milled rice shall be milled rice which is not equal to the milling requirements for "well milled," "reasonably well milled," and "lightly milled" rice (see § 68.307). Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 2.0 percent, grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, grade U.S. No. 5 not more than 10.0 percent, and grade U.S. No. 6 not more than 15.0 percent of well-milled kernels. Grade U.S. No. 5 shall contain not more than 10.0 percent of red rice and damaged kernels (singly or combined) and in no case more than 6.0 percent of damaged kernels.

NOTE.—The "Color and milling requirements" in §§ 68.310, 68.311, 68.312, and 68.313 are not applicable to the special grade "Undermilled milled rice."

§ 68.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, or undermilled milled rice shall include following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," or "Undermilled," as warranted, and all other information prescribed in § 68.314.

EFFECTIVE DATE: Administrative procedure provisions of section 553 of Title 5, United States Code require that no standards shall become effective less than 30 days after promulgation thereof, unless, it is found that the public health, interest, or safety require that they become effective sooner.

The new standards should become effective on August 28, 1977, to coincide with the new crop season already in progress. Members of the rice industry have reviewed the proposed revisions and have offered no objections. The commentors who responded to the proposal fully endorsed the revisions and requested that they be made effective as soon as practicable. The amendments benefit rice marketing by providing more flexibility regarding grading and certification procedures and should be made available to the rice industry as soon as practicable. Furthermore, it does not appear that a waiting period beyond this date would make additional relevant information available to the Department on this matter.

The amended regulations will not create any undue hardships or impose requirements or obligations on persons affected which cannot be complied with within the time that these amendments are to become effective.

For a period of 6 months after adoption of these amendments, official inspection personnel shall, upon request, show on inspection certificates the grade under both the "old" and "new" standards.

Accordingly, it is deemed to be in the public interest to waive the 30-day waiting period and make the amendments of the rice standards effective in less than 30 days. Therefore, amendments shall become effective August 28, 1977.

Done at Washington, D.C. on August 8, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-23234 Filed 8-11-77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENT

[Amendment 6]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973–74 and Subsequent Marketing Years

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule changes the eligibility requirements for lease and transfer of flue-cured tobacco quota if the transfer is filed after June 14th and incorporates the 1977 penalty rate on excess flue-cured tobacco. This rule also clarifies the authority of the county committee as to the assessment of penalty for tobacco falsely identified.

The change in leasing requirement results from Pub. L. 95–54 approved by the President on June 25, 1977. The penalty rate is 75 percent of the previous year market average, as required by section 314 of the Agricultural Adjustment Act of 1938, as amended.

Effective date: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

David W. Anderson, Program Operations Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202–447–7935).

SUPPLEMENTARY INFORMATION: As marketing and leasing of flue-cured tobacco quota is currently underway, it is essential that producers be aware of the change brought about by Pub. L. 95–54, and the penalty rates for the current crop of tobacco. Accordingly, it is hereby found and determined that compliance with the procedure for notice of proposed rulemaking and public participation is impracticable and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 725 is amended as follows, effective beginning with the 1977 crop of flue-cured tobacco:

§ 725.72 [Amended]

1. In § 725.72 paragraph (c) (3) (ii) is amended by changing the 50 percent to 80 percent.

2. Section 725.92 (b) is amended to read as follows:

§ 725.92 Rate of Penalty.

* * * * *

(b) (1) *Average market price.* The average market prices as determined by the Crop Reporting Board for the marketing year specified was:

Average Market Price

Marketing year:	Cents per pound
1972 to 1973	85.3
1973 to 1974	88.1
1974 to 1975	105.0
1975 to 1976	99.8
1976 to 1977	110.4

(2) *Rate of Penalty Per Pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quota during the marketing year specified shall be:

Rate of Penalty

Marketing year:	Cents per pound
1973 to 1974	64
1974 to 1975	66
1975 to 1976	79
1976 to 1977	75
1977 to 1978	83

§ 725.98 [Amended]

3. Section 725.98(d) is amended by deleting the last sentence.

AUTHORITY: Sections 301, 313, 314, 316, 317, 363, 373–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995; (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372–75, 1377, 1378); Section 401, 63 Stat. 1054, as amended (7 U.S.C. 1421).

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on August 4, 1977.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-23341 Filed 8-11-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Reg. 77, Amdt. 10]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment increases the minimum diameter requirements applicable to domestic shipments of Florida pink seeded and pink seedless grapefruit to $3^{12}/_{16}$ inches and $3^{10}/_{16}$ inches, respectively. The amended regulation recognizes the size composition of the estimated crop of Florida pink seeded and pink seedless grapefruit and is necessary to maintain orderly markeing conditions in the interest of producers and consumers.

DATES: Effective August 16, 1977, through September 25, 1977.

FOR FUTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Notice was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33316) that consideration was being given to a proposal to amend Grapefruit Regulation 77 (§ 905.565; 41 FR 42177, 49474, 51029, 54917; 42 FR 9663, 10833, 14865, 18271, 21469, 24715), effective pursuant to the applicable provisions of the marketing agreements, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed amendment was recommended by the Shippers Advisory Committee and Growers Administrative Committee, established under said amended marketing agreement and order. The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by July 25, 1977. None were received.

The amendment reflects the Department's appraisal of the need for regulation of shipments of Florida grapefruit during the period August 16 through September 25, 1977, based on the available supply and current and prospective demand by fresh market outlets. The action is necessary to maintain orderly marketing conditions by preventing the adverse effect on the market caused by shipment of smaller-size grapefruit when more than ample supplies of the more desirable sizes are available to serve consumers' needs. The amendment is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice and other available information, it is hereby found that the regulation of shipments of Florida grapefruit, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this amendment effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33316), and no objection to such amendment was received; (2) the regulatory provisions are the same as those contained in said notice except for the later effective date of August 16, 1977; and (3) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.565 (Grapefruit Regulation 77; 41 FR 42177, 49474, 51029, 54917; 42 FR 9663, 10833, 14865, 18271, 21469, 24715) the provisions of paragraph (a) and subparagraphs (2) and (4) thereof are amended to read as follows:

§ 905.565 Grapefruit Regulation 77.

(a) During the period August 16, 1977, through September 25, 1977, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico: * * *

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than $3^{12}/_{16}$ inches in diameter, except that a tolerance for seeded grapefruit, smaller than such minimum diameter shall be permitted as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit;

* * * * *

(4) Any seedless grapefruit, grown in the production area, which are of a size smaller than $3^{10}/_{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 10, 1977, to become effective August 16, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23480 Filed 8-11-77;8:45 am]

[Lemon Reg. 105]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 14–20, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is good on size 140's and smaller, but poorer on larger sizes. Average f.o.b. price was $6.89 per carton the week ended August 6, 1977, compared to $7.21 per carton the previous week. Track and rolling supplies at 225 cars were the same as last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on August 9, 1977.

§ 910.405 Lemon Regulation 105.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 14, 1977, through August 20, 1977, is established at 275,000 cartons.

(2) As used in this section, "handled" and "cartons(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 10, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23511 Filed 8-11-77;11:34 am]

[Docket No. AO–162–A5]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amended order.

SUMMARY: This amends the Federal marketing agreement and order for fresh peaches grown in Georgia. Georgia peach growers voting in the June 20–30 referendum favored the amendment. The amendment provides for a public member on the administrative committee, dissolves the advisory committee, changes the conditions under which a continuance referendum would be held, ends compensation for committee members attending meetings, and provides for establishment of a reserve fund. The amendment also makes a number of minor changes with resepct to the terminology and language used in the marketing order.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250. (202–447–3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued November 19, 1976; published November 24, 1976 (41 FR 51818).

Notice of Recommended Decision.—Issued March 7, 1977; published March 11, 1977 (42 FR 13557); Corrections published April 8, 1977 (42 FR 18621) and May 6, 1977 (42 FR 23160).

Secretary's Decision.—Issued May 20, 1977, and published May 26, 1977 (42 FR 27012).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), (hereinafter referred to collectively as the "order") regulating the handling of fresh peaches grown in Georgia. The hearings was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Fort Valley, Georgia, on December 9, 1976, pursuant to notice thereof issued on November 19, 1976.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on March 7, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The Secretary's Decision and referendum order was issued May 20, 1977.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia.

Upon the basis of the record it is found that: (1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of fresh peaches grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the mar-

keting agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of fresh peaches grown in the production area; and

(5) All handling of fresh peaches grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective not later than 30 days after publication in the FEDERAL REGISTER. Any delay beyond that date would tend to disrupt the orderly marketing of fresh peaches grown in Georgia.

(c) *Determinations.* It is hereby determined that: (1) The "Marketing Agreement, as Amended, Regulating the Handling of Fresh Peaches Grown in Georgia" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping fresh peaches covered by the order, as amended, and as hereby further amended), who, during the period January 1, 1976, through December 31, 1976, handled not less than 50 percent of the volume of such fresh peaches covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period January 1, 1976, through December 31, 1976 (which has been deemed to be a representative period), have been engaged within the State of Georgia, in the production of fresh peaches for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of fresh peaches grown in Georgia, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Section 918.1 is revised to read as follows:

§ 918.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. Section 918.10 is revised to read as follows:

§ 918.10 District.

"District" means the applicable one of the following described geographical subdivisions or the area:

(a) "South Georgia District" shall include the counties of Quitman, Coffee, Miller, Jeff Davis, Baker, Toombs, Terrell, Ware, Mitchell, Pierce, Worth, Evans, Brooks, Liberty, Turner, Glynn, Irwin, Echols, Atkinson, Early, Wheeler, Decatur, Montgomery, Randolph, Bacon, Dougherty, Wayne, Crisp, Charlton, Thomas, Bryan, Tift, McIntosh, Ben Hill, Berrien, Lanier, Clay, Telfair, Seminole, Clinch, Calhoun, Appling, Lee, Tattnall, Grady, Brantley, Colquitt, Long, Cook, Chatham, Wilcox, Camden, Lowndes, Stewart, Pulaski, Webster, Dodge, Sumter and Dooly;

(b) "Central Georgia District" shall include the counties of Muscogee, Bleckley, Marion, Laurens, Schley, Johnson, Macon, Candler, Houston, Glascock, Bullock, Twiggs, Wilkinson, Taylor, Washington, Crawford, Emanual, Peach, Jefferson, Burke, Effingham, Chattahoochee, Treutlen, Bibb, Jenkins, and Screven; and

(c) "North Georgia District" shall include the counties of Harris, Talbot, Upson, Monroe, Jones, Baldwin, Hancock, Warren, McDuffie, Polk, Troup, Gwinnett, Lamar, Jackson, Fayette, Forsyth, Jasper, Franklin, Douglas, Gordon, Henry, Dade, Greene, Whitfield, Lincoln, Haralson, Paulding, Cobb, De Kalb, Rockdale, Walton, Oconee, Oglethorpe, Floyd, Richmond, Cherokee, Pike, Clarke, Coweta, Elbert, Butts, Banks, Carroll, Chattooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White, Towns, Haversham, Stephens, Rabun, Columbia, Bartow, Meriwether, Barrow, Heard, Madison, Spalding, Hall, Putnam, Hart, Fulton, Pickens, Newton, Walker, Taliaferro, and Murray.

3. Section 918.15 is revised to read as follows:

§ 918.15 Establishment of Industry Committee.

An Industry Committee, consisting of nine members, and alternates is hereby established to administer the terms and provisions of this part. Eight members and alternates shall be growers of peaches and one member and alternate shall be individuals who are neither growers nor handlers of peaches. The 8 members who shall be growers shall be known as "grower members" and the remaining member shall be known as a "public member". The members of said Industry Committee and their respective alternates, shall be selected in accordance with the provisions of this part.

4. Section 918.18 is revised to read as follows:

§ 918.18 Nomination of members of Industry Committee.

(a) The Industry Committee shall hold or cause to be held prior to January 31 of each year a meeting or meetings of growers in each of the districts designated in § 918.10, or as redesignated pursuant to § 918.29(k), for the purpose of designating nominees for grower member and alternate member positions on the Industry Committee. The Committee shall give adequate notice of any such meeting or meetings to all growers in the respective district. (b) Members of the committee, selected pursuant to § 918.21, may nominate individuals for the public member and alternate member positions on the Industry Committee, and promptly send the names of these nominees, along with their qualifications, to the Secretary.

5. Section 918.25 is revised to read as follows:

§ 918.25 Eligibility for membership on Industry Committee.

Any person nominated or selected to serve as a member or as an alternate member of the Industry Committee, except for the public member and alternate, shall be an individual grower of peaches in the respective district for which selected, or an officer, employee, or agent of a corporate grower or corporate growers in such district. The public member and alternate shall reside in Georgia, but neither person shall be grower or handler of peaches.

6. Section 918.16 is revised to read as follows:

§ 918.16 Representation by grower members by districts on Industry Committee.

(a) Two members of the Industry Committee shall be selected from among growers in the South Georgia District.

(b) Four members of the Industry Committee shall be selected from among growers in the Central Georgia District.

(c) Two members of the Industry Committee shall be selected from among growers in the North Georgia District.

§ 918.17 [Deleted]

7. Section 918.17 is deleted.

8. Section 918.26 is revised to read as follows:

§ 918.26 Term of office.

The members of the Industry Committee and their respective alternates shall serve for the fiscal period for which they have been selected and if their successors have not been selected and qualified prior to the end of the respective fiscal period, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified.

9. Section 918.27 is revised to read as follows:

§ 918.27 Reimbursement for expense.

Each member of the Industry Committee and each alternate member when acting for a member or when designated by the committee to attend, may be reimbursed for expenses incurred while attending committee meetings; while attending to committee business authorized by the committee; and while attending each consultation or conference with any committee, or representatives thereof, established under any marketing agreement and order program pursuant to the act, with respect to the handling of peaches grown in Georgia or in any other State.

§ 918.29 [Amended]

10. In § 918.29 paragraph (q) is deleted; paragraph (h) is amended by deleting the words "and to authorize members and alternate members of the Distributors' Advisory Committee to attend such conferences and consultations;"; paragraph (r) is redesignated as paragraph (q).

§ 918.32 [Revoked]

§ 918.33 [Revoked]

§ 919.34 [Revoked]

§ 918.35 [Revoked]

§ 918.36 [Revoked]

§ 918.37 [Revoked]

§ 918.38 [Revoked]

11. Sections 918.32 through 918.38 are deleted.

12. Sections 918.40 and 918.41 are revised to read as follows:

§ 918.40 Expenses.

The Industry Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 918.41.

§ 918.41 Assessments.

Each handler who first ships peaches shall pay upon demand, to the Industry Committee, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period: *Provided*, That no assessment shall be levied against peaches that are exempt from regulation pursuant to § 918.71 or against peaches that are exempt from inspection pursuant to § 918.64. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

13. Section 918.44 is revised to read as follows:

§ 918.44 Accounting.

If at the end of a fiscal period the assessments collected are in excess of expenses incurred, the Industry Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve up to an amount of $20,000. Such reserve funds may be used to cover any expenses authorized by this part and to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

14. Section 918.81 is revised to read as follows:

§ 918.81 Termination.

(a) The Secretary shall terminate or suspend the operation of this part or any provision thereof whenever he finds that the part or any provision thereof does not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by the majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the peaches which were produced for market within the area. Such termination shall become effective on the last day of February following the announcement thereof by the Secretary.

(c) The Secretary shall conduct a referendum among growers to ascertain whether continuance of this part is favored by growers, when requested to do so by the committee, or upon the request of 6 or more growers who produced 10 percent or more of the inspected peaches shipped during the then current fiscal period: *Provided*, That such request is received prior to December 1.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

15. Section 918.19 is revised to read as follows:

§ 918.19 Conduct of nomination meetings.

At each meeting held to elect nominees for grower member and alternate grower member positions on the Industry Committee, the growers eligible to participate therein shall select a chairman and secretary therefor. The chairman of each meeting shall announce at such meeting the name of each person for whom a vote has been cast, whether as member or alternate member, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary or the designated representative of the Secretary. At each such meeting at least two nominees shall be designated for each position as member and at least two nominees shall be designated for each position as alternate member on the committee as representative or representatives of the respective district.

16. Section 918.21 is revised to read as follows:

§ 918.21 Selection of members of Industry Committee.

The Secretary may select the members of the Industry Committee and their respective alternates from nominations made by growers as provided in §§ 918.15 through 918.26 or the Secretary may select such members and alternates from among other persons.

17. Section 918.22 is revised to read as follows:

§ 918.22 Vacancies.

In the event nominations are not made for membership on the Industry Committee, pursuant to the provisions of §§ 918.15 through 918.26 by February 15 of the respective fiscal period, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person, selected as a member of the Industry Committee or as an alternate member thereof, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Effective date: September 12, 1977.

Signed at Washington, D.C., on August 8, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc 77-23342 Filed 8-11-77;8:45 am]

[Grapefruit Reg. 17, Am. 8]

PART 944—FRUITS; IMPORT REGULATIONS

Amendment of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment increases the minimum diameter requirements applicable to imported pink seeded and pink seedless grapefruit to $3^{12}/_{16}$ inches and $3^{8}/_{16}$ inches, respectively, to coincide with such requirements being

made effective on Florida grapefruit. This amendment is required by Federal law.

EFFECTIVE DATES: August 16, 1977, through September 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Notice was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33316), that consideration was being given to a proposal to amend Grapefruit Import Regulation 17 (§ 944.113; 41 FR 42181, 49109; 42 FR 9664, 10835, 14867, 18271, 21469, 24717), pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by July 25, 1977.

One letter was filed objecting to the application of specified size requirements to imported pink seeded and pink seedless grapefruit on the basis that this could reduce supplies of such grapefruit available to consumers. Normally, ample supplies of the more desirable sizes of pink grapefruit are available to serve domestic consumers' needs, and it is anticipated that this will be the case during the period of this regulation.

This amendment is mandatory under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. This amendment fixes the same minimum size requirements on imported grapefruit as are effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and the views and comments submitted during the notice period, it is hereby found that the size requirements in effect pursuant to the said amended marketing agreement and order shall apply to grapefruit to be imported.

It is hereby further found that good cause exists for not postponing the effective time of the regulatory provisions of this amendment, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to §8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) the size requirements of this import regulation are the same as those being made applicable to domestic shipments of grapefruit grown in Florida under Grapefruit Regulation 77 (§ 9§.5565); (c) notice that such action was being considered was published in the June 30, 1977, issue of the FEDERAL REGISTER (42 FR 33316); (d) the provisions of this import regulation are the same as those contained in said notice except for the later effective date of August 16, 1977; and (e) notice hereof in excess of three days, the minimum prescribed by said Section 8e, is given with respect to this import regulation by prescribing an effective date of August 16, 1977.

The provisions of paragraph (a) of § 944.113 (Grapefruit Regulation 17; 41 FR 42181, 49109; 42 FR 9664, 10835, 14867, 18271, 21469, 24717) are revised to read as follows:

§ 944.113 Grapefruit Regulation 17.

(a) During the period August 16, 1977, through September 25, 1977, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3^{12}/_{16}$ inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in § 51.761 of the U.S. Standards for Grapes of Florida Grapefruit and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than $3^{9}/_{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

* * * * *

Dated: August 10, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23481 Filed 8-11-77;8:45 am]

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment to the handling regulation requires fresh market shipments of potatoes grown in certain counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum grade, size, cleanliness, maturity and pack requirements during the period August 16, 1977, through July 31, 1978. The amendment should promote orderly marketing of such potatoes by keeping less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR 945), regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the July 25, 1977, FEDERAL REGISTER (42 FR 37819) inviting written comments by August 9, 1977. None was received.

This regulation is based upon recommendations made by the committee at its public meeting in Twin Falls, Idaho, on June 15, 1977.

The amendment extends the current regulation, which is similar to those issued during past seasons.

The grade, size, cleanliness, maturity, pack and inspection requirements recommended herein are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. The specific requirements will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and will thus tend to effectuate the declared policy of the act.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable.

A specified quantity of potatoes is exempt from maturity requirements in order to (1) permit growers to make test diggings without loss of the potatoes so harvested or (2) allow a lot to be shipped which after regrading, meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments may be made to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are also exempt. Certified seed and seed pieces cut from stock eligible for certification are also exempted, because requirements for this outlet differ greatly from those for fresh market.

Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which are undesirable for the tablestock market, and smaller sizes are acceptable. Therefore, different requirements are set forth for export and prepeeling shipments.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the notice, it is hereby found that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area have already begun, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to the temporary regulation currently in effect and to regulations issued during previous seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date of this amendment.

The amended handling regulation is as follows:

§ 945.336 Handling regulation.

During the period August 16, 1977, through July 31, 1978, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e), (f), or (g) of this section.

(a) *Minimum quality requirements*—(1) *Grade—All varieties*—U.S. No. 2 or better grade.

(2) *Size*—(i) *Round red varieties*—$1^{7}/_{8}$ inches minimum diameter.

(ii) *All other varieties*—2 inches minimum diameter, or 4 ounces minimum weight.

(iii) *All varieties*—Size B if U.S. No. 1 or better grade.

(3) *Cleanliness—All varieties*—"Fairly clean."

(b) *Minimum maturity requirements*—(1) *White Rose and red skin varieties:* Beginning the effective date hereof through December 31, 1977, "moderately skinned"; thereafter no maturity requirements.

(2) *Norgold variety:* "Slightly skinned."

(3) *All other varieties:* "Slightly skinned."

(4) *Exceptions.* (i) Subject to compliance with subdivision (iii) of this paragraph, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with subdivision (iii) of this subparagraph.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.* (1) When 50-pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.

Larger than 50 count	Range of—		
	Count—10 pct. over or under—	Average count [1]—5 pct. over or under—	Weight—15 oz. or larger—
Larger than:			
50 count	45 to 55	48 to 53	12 to 19
60 count	54 to 66	57 to 63	10 to 16
70 count	63 to 77	67 to 74	9 to 15
80 count	72 to 88	76 to 84	8 to 13
90 count	81 to 99	86 to 95	7 to 12
100 count	90 to 110	95 to 105	6 to 10
110 count	99 to 121	105 to 116	5 to 9
120 count	108 to 132	114 to 126	4 to 8
130 count	117 to 143	124 to 137	4 to 8
140 count	126 to 154	133 to 147	4 to 8
Smaller than 140 count	10 pct. over or under	5 pct. over or under	4 to 8

[1] Applicable to lots.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(i) Not to exceed 5 percent for undersize; and

(ii) Not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons shall be U.S. No. 1 or better grade.

(d) *Inspection.* (1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate except when relieved of such requirement pursuant to paragraphs (e), (f), or (g) of this section.

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(e) *Special purpose shipments.* (1) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Seed pieces cut from stock eligible for certification as certified seed;

(iv) Experimentation; and

(v) Canning, freezing and "other processing" as hereinafter defined: Except shipments of potatoes for the purpose specified in this subdivision (v) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export:* Except potatoes of a size not smaller than $1^{1}/_{2}$ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling:* Except potatoes of a size not smaller than $1^{1}/_{2}$ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards.* (1) Each handler making shipments of potatoes for charity, seed pieces cut from stock eligible for certification, experimentation, export, or for prepeeling pursuant to paragraph (e) of this section shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(g) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions.* The terms "U. S. No. 1," "U. S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 51.1540–51.1566) including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of the United States Standards for Peeled Potatoes (7 CFR 52.2421–52.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility" grade and "Oregon Utility" grade shall have the same meaning as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated August 10, 1977, to become effective August 16, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23439 Filed 8-11-77;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 11; Docket No. AO-251-A20]

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on a cooperative association's proposals considered at a public hearing on March 24, 1977. The amendments provide for a "base-excess" plan for paying producers. Under the plan, each producer's average daily delivery of milk in September through December would be his "base". In the following March through June, each producer would be paid the order's higher uniform base price for milk deliveries up to his base and a lower price for any excess milk. The plan is aimed at providing an incentive to producers to even out their milk production through the year.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing, issued February 28, 1977; published March 3, 1977 (42 FR 12184).

Recommended Decision, issued June 20, 1977; published June 23, 1977 (42 FR 31797).

Final Decision, issued July 27, 1977.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tennessee Valley marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1977. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Administrator was issued June 20, 1977, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 27, 1977. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing,

it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1977, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Tennessee Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid, order, as amended, and as hereby further amended, as follows:

1. A heading and five new sections (§§ 1011.90, 1011.91, 1011.92, 1011.93 and 1011.94) are added as follows:

BASE-EXCESS PLAN

§ 1011.90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1011.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1011.92 Computation of base for each producer.

(a) Subject to § 1011.93, the base for each producer shall be an amount obtained by dividing the total pounds of his producer milk during the immediately preceding months of September through December by the number of days' production represented by such producer milk or by 100, whichever is more.

(b) The base for a producer whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1011.93 Base rules.

(a) Except as provided in § 1011.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during March through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of his base to be applicable during March through June of the same year, but may transfer his entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased to 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (d) (1), (2) or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on his farm was substantially reduced because of conditions beyond his control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on his farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in his milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents him from supplying milk from his farm to a plant.

§ 1011.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from him of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

2. Section 1011.32 is revised as follows:

§ 1011.32 Other reports.

(a) Each handler described in § 1011.9 (a), (b) and (c) shall report to the market administrator on or before the 6th day after the end of each month of March through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through June the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1011.30 and 1011.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

3. Section 1011.61 is revised as follows

§ 1011.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1011.60 for all handlers who filed the reports prescribed in § 1011.30 for the month and who made the payments pursuant to § 1011.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the location adjustments computed pursuant to § 1011.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1011.60 (f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through February.

(b) For each month of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed

the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

4. Section 1011.62 is revised as follows:

§ 1011.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1011.61 for such month.

§ 1011.71 [Amended]

5. In § 1011.71, paragraph (a)(2)(i) is amended by replacing the word "price" with the word "prices" and paragraph (a)(2)(ii) is amended by replacing the words "uniform price" with the words "weighted average price."

6. In § 1011.73, paragraph (a)(1), the introductory text of paragraph (a)(2), paragraph (c) (1) and (2), and paragraph (d) are revised as follows:

§ 1011.73 Payments to producers and to cooperative associations.

(a) * * *

(1) On or before the last day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 25th day of the month, at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1011.74 and 1011.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

* * * * * * *

(c) * * *

(1) On or before two days prior to the last day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 13th day of the following month for milk received during the month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1011.74 and 1011.75, less any payments made pursuant to paragraph (c)(1) of this section.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of March through June the total pounds of base milk received from the producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1011.74 [Amended]

7. Section 1011.74 is amended by replacing the words "uniform price" with the words "uniform price(s)."

8. Section 1011.75 is revised as follows:

§ 1011.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments required pursuant to § 1011.73, the uniform price and the uniform price for base milk pursuant to § 1011.61 for the month shall be adjusted by the amounts set forth in § 1011.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1011.71, the weighted average price shall be adjusted by the amount set forth in § 1011.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1011.76 [Amended]

9. In § 1011.76, paragraph (a)(4) is amended by replacing the words "uniform price" with the words "weighted average price" in the two places they appear in paragraph (a)(4).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Effective date: September 1, 1977.

Signed at Washington, D.C., on August 8, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77-23343 Filed 8-11-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Kern County in California because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Kern County, Calif., August 7, 1977. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the infested area.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Emergency Programs, Room 748, Federal Building, Hyattsville, Md. 20782 (301–436–8073).

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Kern County in California because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of California and a new paragraph (a)(3) relating to the State of California is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(3) *California.* The premises of Exotic Birds and Supplies located at 2413 and 2415 Alta Vista Drive, Bakersfield, Kern County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-23386 Filed 8-11-77;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 343—INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Adoption of regulations.

SUMMARY: The Federal Deposit Insurance Corporation has adopted regulations and accompanying forms and instructions which establish the method to be used by State banks insured by the Federal Deposit Insurance Corporation and not a member of the Federal Reserve System ("insured State nonmember banks") which are municipal securities dealers and their associated perons in complying with the professional qualifications rules of the Municipal Securities Rulemaking Board. The detailed system of records to be created through operation of the regulations will enable the Federal Deposit Insurance Corporation to effectively monitor this compliance.

DATES: The effective date of these regulations is September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith E. Minsker, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202–389–4261.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Federal Deposit Insurance Corporation ("FDIC") published for comment in the FEDERAL REGISTER (42 FR 16823) proposed 12 CFR Part 343, requiring insured State nonmember banks which are municipal securities dealers to file with the FDIC certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. Proposed Part 343 included two forms, with instructions, designed for the collection of the required information. Form MSD–4 was proposed to report a person's existing or prospective association with the dealer in a given capacity, and Form MSD–5 to report the termination of that association.

Proposed Part 343 was identical in all significant respects to proposals published the same day by the Board of Governors of the Federal Reserve System ("FED") and the Comptroller of the Currency ("Comptroller") for bank municipal securities dealers and associated persons under their respective jurisdictions. The FED, the Comptroller and the FDIC cooperated in drafting the forms and establishing a uniform record processing system in order to assure equal regulation among all classes of bank municipal securities dealers. As discussed more fully in the preamble to proposed Part 343, the three agencies expect to use the computer data base and processing facilities of the National Association of Securities Dealers ("NASD") to analyze, store, and retrieve the information filed by bank municipal securities dealers.

DISCUSSION OF COMMENTS

A. All comments received by the Comptroller, the FED and the FDIC on their respective proposals were exchanged and collectively considered in order to maintain the uniformity of the forms, instructions, and procedures which had been proposed. As here adopted, Part 343 incorporates several changes from the March 30, 1977 proposal in response to the comments received, as discussed below.

1. For purposes of Forms MSD–4 and MSD–5 and the respective instructions, the term "bank dealers" has been replaced by "bank municipal securities dealers." It includes all municipal securities dealers for which the Comptroller, the FED and the FDIC are the appropriate regulatory agencies under Section 3(a)(34) of the Securities Exchange Act of 1934 ("the Act") [15 U.S.C. 78c(a)(34)].

This change should minimize questions about filing requirements for those municipal securities dealers which are sometimes erroneously referred to as "bank dealers," but for which the Securities and Exchange Commission ("SEC"), not one of the Federal banks regulatory agencies, is the appropriate regulatory agency.

2. The record retention provisions of Part 343 have been clarified to require municipal securities dealers filing documents with the FDIC under Part 343 to retain a copy of each filing for at least three years following termination of the individual to whom the filing relates. This change tracks the record retention requirements of Municipal Securities Rulemaking Board ("MSRB") Rule G–7(e).

3. The instructions to Forms MSD–4 and MSD–5 have been changed to require that only the original, not the copies, need be manually signed.

4. A slight change in the wording of Item 6 (formerly Item 8) of Form MSD–4 allows a person to apply for qualification as both a municipal securities principal and representative by means of a single form.

5. Item 7 (formerly Item 9) of Form MSD–4, which describes the functions to be performed by the applicant, has been expanded to include three more activity categories. This reflects recent changes in the MSRB professional qualification rules.

6 In Item 7 (formerly Item 8) of Form MSD–5, the termination categories "permitted to resign" and "voluntary" have been combined under the single term "resigned." Another change in this item specifies that bank municipal securities dealers must furnish details about the reason for termination only if it is related to an actual or probable violation of banking or securities law.

7. The effective date of Part 343 has been changed from September 10, 1977 to September 15, 1977, to correspond with the dates set by the FED and the Comptroller. It should be noted that the effective date of MSRB Rule G–7 is September 1, 1977. Rule G–7 in part requires municipal securities dealers to obtain background and qualification information from their associated persons, but does not require that this information be filed with the appropriate regulatory agencies. Since it is anticipated that printed Forms MSD–4 and MSD–5 will be available by mid-August, bank municipal securities dealers will be able to use Form MSD–4 to comply with MSRB Rule G–7 by September 1 and still have an additional two weeks, until September 15, within which to properly assemble the forms and data for formal filing with the Comptroller, FED or FDIC, as appropriate.

8. Several minor editorial changes have also been made in Part 343 to correct errors and clarify some of its provisions.

B. The following comments were carefully considered but not adopted for the reasons given.

1. Concern about the effect of Item 10 (now Item 8) of Form MSD–4 on the privacy of individuals appeared in many of the comments. This item requires the employing bank municipal securities dealers to verify the employment information provided by the applicant by contacting the applicant's former employers.

One commentator suggested that applicants be required to execute several authorizations and certifications as part of Form MSD–4, similar to the format found in the securities industry's Form U–4. The employer inquiry language in Form MSD–4 is based on the explicit requirements of MSRB Rule G–7. Municipal securities dealers may well be able to resolve their privacy concerns through their own personnel practices, including perhaps the execution of appropriate authorization documents by an applicant, as long as these practices do not conflict with MSRB Rule G–7.

Another commentator was concerned that responses to inquiries of former employers may be less than candid, if received at all, because of the potentially sensitive nature of employee information. The extent of a municipal securities dealer's obligation under MSRB Rule G–7 and Form MSD–4 is to make a good-faith attempt to obtain appropriate information. On the other hand, MSRB Rule G–7 does impose an obligation on municipal securities dealers who receive these inquiries to respond to the extent required by that rule. Existing personnel practices which limit the information given out in such cases may conflict with Rule G–7.

2. One commentator proposed that a definition of the term "municipal securities dealer" be included in the regulations and that the definition contain considerably more detail than Section 3(a)(30) of the Act. The Act requires municipal securities dealers to register with the SEC, and that agency, not the bank regulatory agencies, has the authority to further define the term. The SEC did this in Securities Exchange Act Release 34–11742 (October 15, 1975), and subsequently its staff has issued interpretive letters.

3. Comments on Form MSD–4 that some of the activities listed in Item 9 (now Item 7) could include "operational personnel," and that educational and residential histories are not meaningful, did not result in any changes because both items reflect the requirements of the MSRB professional qualification rules.

4. A suggestion that Form MSD–4 include a check-off box labeled "grandfathered" was not followed because the form already contains informational items which will indicate whether an applicant is in fact "grandfathered" under MSRB rules.

5. A comment that more space be provided on Forms MSD–4 and MSD–5 for answers to some items was not followed because of a desire to keep the forms as short as possible. Attachment sheets may be used when necessary, as explained in the instructions to the forms.

6. A suggestion that documents filed under Part 343 be considered "filed" when mailed rather than when received was not followed in order to be consistent with long-established filing procedures of the SEC, because Forms MSD–4, and MSD–5 are also required to be filed with the SEC. By special arrangement, the SEC intends to accept filing with the appropriate bank regulatory agency as meeting this filing requirement. Upon receipt of Form MSD–4 or MSD–5, a copy will be forwarded to the SEC by the appropriate bank regulatory agency.

7. All Part 343 filings made by a given bank municipal securities dealer will contain the identity, address and registration number of the dealer. One commentator was concerned that a change in any of these items might require the filing of an amendment to every previously filed document, and suggested that a single "letter amendment" be permitted to accomplish this.

The instructions in Part 343 governing the preparation and filing of amendments are intended to track the requirements of MSRB Rule G–7, which requires updating of the information furnished to municipal securities dealers by their associated persons. This would not apply to the situation posed. Changes in dealer identity, address or registration must be reported to the SEC as amendments to the dealer registration form, and as such would be reflected in the computerized dealer registration list maintained by the SEC and available to the bank regulatory agencies. Such changes will be entered into the Part 343 files by the FDIC as a matter of course.

8. Several comments concerning specific language in Part 343 require interpretations of MSRB rules. The FDIC intends to submit questions of this nature to the MSRB for resolution.

Finally, one commentator asked about Part 343 filing procedures. The FDIC considers the filing requirements to be adequately explained in Section 343.3, in the instructions to Forms MSD–4 and MSD–5, and in the lengthy preamble to Part 343, in the FEDERAL REGISTER (42 FR 16823) on March 30, 1977.

C. In addition to changes made in response to comments received, the following changes were made by the staffs of the FED, Comptroller and FDIC:

1. In Instruction 1 of the General Instructions to Form MSD–4 and MSD–5, the definition of bank municipal securities dealer was amended to delete unnecessary verbage.

2. In Instruction 3 of the General Instructions to MSD–4 and MSD–5, reference to bank holding companies was deleted at the request of the FED.

The FDIC urges municipal securities dealers to thoroughly familiarize themselves with MSRB Rule G–7 in order to understand the interaction between that rule and Part 343.

AVAILABILITY OF FORMS

The FDIC expects to distribute printed copies of Forms MSD–4 and MSD–5 to municipal securities dealers under its jurisdiction prior to the effective date of MSRB Rule G–7, September 1, 1977. Additional copies will be available from the FDIC as needed after this initial distribution.

PRIVACY ACT

The filing requirements of Part 343 will create a system of records which may be subject to the Privacy Act of 1934, 5 U.S.C. 552a. A detailed notice of this proposed system of records was published on April 12, 1977 at 42 FR 19209.

The FDIC has adopted the system of records with only minor changes. A formal notice of adoption which lists the routine uses to be made of the information in the system is to be published in the FEDERAL REGISTER. Affected persons are urged to read the full text of that notice.[1]

RULEMAKING PROCEDURE

The FDIC finds that the changes made in the Part 343 proposal of March 30, 1977, respond to public comments and otherwise consist of corrections and clarifications which do not impose additional burdens on affected persons. Accordingly, further publication in this rulemaking process is not required by the relevant provisions of 5 U.S.C. § 553.

EFFECTIVE DATE

The effective date of this Part 343 is September 15, 1977.

REGULATIONS

Under the authority of Sections 15B(c)(5), 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78o–4(c)(5), 78q, and 78w) and the general authority of the Federal Deposit Insurance Act, 12 U.S.C. 1811 et seq., the FDIC hereby amends Chapter III of Title 12 of the Code of Federal Regulations by adopting new 12 CFR Part 343 as follows:

343.1 Scope of part.
343.2 Definitions.
343.3 Filing of Form MSD–4, Amending Statements, and Form MSD–5.
343.4–343.9 [Reserved]

FORMS

343.10 Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–4).
343.11 Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–5).

§ 343.1 Scope of Part.

(a) This part is issued by the Federal Deposit Insurance Corporation (the "Corporation") pursuant to those provisions of the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.) which provide for the regulation of bank municipal securities dealers and their activities.

(b) This Part shall apply to all State banks insured by the Federal Deposit Insurance Corporation and not a member of the Federal Reserve System, or separately identifiable departments or divisions of such banks, which act as municipal securities dealers.

§ 343.2 Definitions.

For purposes of this paragraph, the terms herein have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78c(a)) and the rules of the Municipal Securities Rulemaking Board. The term Act shall mean the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.).

§ 343.3 Filing of Form MSD–4, Amending Statements, and Form MSD–5.

(a) On and after September 15, 1977, an insured State nonmember bank, or a subsidiary or a department or a division thereof, which is a municipal securities dealer shall not permit a person to be associated with it as a municipal securities principal or municipal securities representative unless it has filed with the Corporation an original and two copies of Form MSD–4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer", completed in accordance with the instructions contained therein, for that person. Form MSD–4 is prescribed by the Corporation for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons".

(b) Whenever a bank municipal securities dealer receives a statement pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons", ("amending statement") from a person for whom it has filed a Form MSD–4 with the Corporation pursuant to subparagraph (a) of this Part 343.3, such dealer shall, within ten days thereafter, file three copies of the amending statement with the Corporation accompanied by an original and two copies of a transmittal letter which includes the name of the dealer and a reference to the material transmitted, identifying the person involved, and is signed by a municipal securities principal associated with the dealer.

(c) Within thirty days after the termination of the association of a municipal securities principal or municipal securities representative with a bank municipal securities dealer which has filed a Form MSD–4 with the Corporation for that person pursuant to subparagraph (a) of this Part 343.3, such dealer shall file an original and two copies of a notification of termination with the Corporation on Form MSD–5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associate with a Bank Municipal Securities Dealer", completed in accordance with the instructions contained therein.

(d) A bank municipal securities dealer which files a Form MSD–4, Form MSD–5, or an amending statement with the Corporation under this Part shall retain for its own records a copy of each such Form MSD–4, Form MSD–5, or amending statement for at least three years after termination of the associated person with respect to whom the filing was made.

(e) Forms MSD–4, Forms MSD–5 and amending statements are to be filed with Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, D.C. 20429. The date that the Corporation receives a Form MSD–4, Form MSD–5, or amending statement shall be the date of filing. A Form MSD–4, Form MSD–5, or amending statement which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–4, Form MSD–5 or amending statement has been completed in accordance with the applicable requirements or that any information contained therein is true, current, complete or not misleading. Every Form MSD–4, Form MSD–5, or amending statement filed with the Corporation under this Part shall constitute a filing with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act (15 U.S.C. § 78q(c)(1)) and a "report", "application", or "document" within the meaning of section 32(a) of the Act (15 U.S.C. 78ff(a)).

§ 343.4–343.9 [Reserved]

FORMS

§ 343.10 Uniform application for municipal securities principal or municipal securities representative associated with a bank municipal securities dealer (Form MSD–4).

INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD–4

General instructions. 1. As used in these instructions and Form MSD–4:

[1] Pursuant to the annual publication requirement of 5 U.S.C. 552a(e)(4), FDIC has submitted that notice to the Office of the Federal Register who will publish it in the daily FEDERAL REGISTER at a later date.

A. The term "bank municipal securities dealer" means a municipal securities dealer which is a bank or a subsidiary or a department or division of a bank.

B. The term "applicant" means a person who is or seeks to be associated with a bank municipal securities dealer as a municipal securities principal or municipal securities representative.

2. Form MSD–4 is to be used by bank municipal securities dealers and persons who are or seek to be associated with such dealers as municipal securities principals or municipal securities representatives to comply with Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons," and rules and regulations of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation which require the filing of Form MSD–4.

3. Bank municipal securities dealers are required to file Form MSD–4 with the appropriate regulatory agency as set forth below:

A. A bank municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or a department or division of any such bank is required to file with the Board of Governors of the Federal Reserve System.

B. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

C. A bank municipal securities dealer which is a national bank or bank operating under the Code of Law for the District of Columbia or a subsidiary or a department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD–4 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD–4 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3. A bank municipal securities dealer filing Form MSD–4 shall retain an exact copy in its records for at least three years after the applicant's employment or other association with such dealer has terminated.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the applicant and the bank municipal securities dealer should appear on every attachment sheet.

7. Form MSD–4 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD–4 on white 8½ by 11 inch paper.

8. Form MSD–4 shall be manually signed on page one by a municipal securities principal of the employing bank municipal securities dealer and on page three by the applicant.

9. All items on Form MSD–4 are to be completed, except that disclosure of one's social security number is not mandatory. The date on which the Form MSD–4 is received by the appropriate regulatory agency shall be the date of filing. A Form MSD–4 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–4 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

Instructions to Specific Items on Form MSD–4

11. Items 2 through 8 are to be completed by the bank municipal securities dealer employing or proposing to employ the applicant named in Item 1. All other items are to be completed by the applicant.

12. Item 3: Give the address of the office of the bank municipal securities dealer in which the applicant is or will be employed.

13. Item 5: Indicate the appropriate regulatory agency as set forth in Instruction 3.

14. Item 6: Municipal Securities Rulemaking Board Rule G–3, "Classification of Principals and Representatives; Numerical Requirements; Testing," provides a description of the functions performed by a municipal securities principal or municipal securities representative.

15. Item 8: This item need not be completed if the applicant was employed by the bank municipal securities dealer named in Item 2 on December 3, 1976, and continuously thereafter in the capacity or capacities for which qualification is requested in Item 6.

16. Item 17: All time periods must be accounted for.

17. Item 26: (a) Although this item relates only to convictions during the past ten years, it should be noted that section 19 of the Federal Deposit Insurance Act (12 U.S.C. § 1829) prohibits any insured bank, except with the written consent of the Federal Deposit Insurance Corporation, from employing any person who has ever been convicted of a criminal offense involving dishonesty or breach of trust.

(b) Paragraph (iv) of this item relates only to convictions within the past ten years under sections 152, 1341, 1342, 1343 or Chapters 25 or 47 of Title 18, United States Code.

Form MSD–4 Page 1 of 3

UNIFORM APPLICATION FOR MUNICIPAL SECURITIES PRINCIPAL OR MUNICIPAL SECURITIES REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL SECURITIES DEALER

1. APPLICANT NAME _____ (LAST FIRST MIDDLE (If none, so specify))

2. BANK MUNICIPAL SECURITIES DEALER:

A. NAME _____

B. REGISTRATION NUMBER _____

C. MAIN ADDRESS _____

3. OFFICE OF EMPLOYMENT OF APPLICANT _____

4. DATE OF EMPLOYMENT OF APPLICANT _____

5. TO BE FILED WITH THE FOLLOWING (Indicate One):

Board of Governors of the Federal Reserve System ☐
Comptroller of the Currency ☐
Federal Deposit Insurance Corporation ☐

6. TYPE(S) OF QUALIFICATION REQUESTED: Municipal Securities Representative ☐ Municipal Securities Principal ☐

7. It is anticipated that the applicant will perform the following functions in the capacity indicated:

	Capacity: Supervisory	Capacity: Non-Supervisory
A. Underwriting, trading or sales of municipal securities:	☐	☐
B. Financial advisory or consultant services for issuers in connection with the issuance of municipal securities:	☐	☐
C. Research or investment advice with respect to municipal securities in connection with the activities described in (A) and (B) above:	☐	☐
D. Activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in municipal securities in connection with the activities described in (A) and (B) above:	☐	☐
E. Processing and clearance activities with respect to municipal securities:	☐	N/A
F. Maintenance of records involving activities described in (A) through (E) above:	☐	N/A
G. Training of municipal securities principals or municipal securities representatives:	☐	N/A

8. For the purpose of verifying the information furnished on this form by the applicant named in Item 1 above, this institution has made inquiry of all employers of the applicant during the immediately preceding three years, as set forth below, concerning the accuracy and completeness of the information provided, as well as the record and reputation of the applicant as related to the ability to perform the duties for which employed or to be employed:

EMPLOYER	NAME AND POSITION OF PERSON CONTACTED

Date _____ Print Name of Municipal Securities Principal _____ Signature of Municipal Securities Principal _____

DO NOT WRITE BELOW

Experience _____ Clearance _____
Further Training Required _____ Exam Taken: Date _____
Exam Required _____ Grade _____
Issue _____ Date Approved: Cond. _____
Exam Grade OK _____ Final _____

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001, 1005, and 1007 and 15 U.S.C. 78ff.)

PERSONAL HISTORY OF APPLICANT

9. _____
Last Name First Middle

10. _____
Social Security Number
(Completion is not mandatory)

11. _____
Resident Street Address

12. _____
City State Zip

13. ____/____/____
Date of Birth

14. _____
Place of Birth

15. Any other name ever used or by which known: _____

16. EDUCATION

The following is a statement of all educational institutions attended starting with high school:

Name and Address of Institution (Street, City, State, Zip Code)	From Mo.	From Yr.	To Mo.	To Yr.	Did you Graduate?	Degree

17. EMPLOYMENT HISTORY

The following is a complete, consecutive statement of all my business connections for the past ten years starting with my current position:

NAME OF EMPLOYER, COMPLETE ADDRESS AND TYPE OF BUSINESS	From Mo.	From Yr.	To Mo.	To Yr.	Position Held	Reason for Leaving	Full or Part Time

18. RESIDENTIAL HISTORY

The following is a complete, consecutive statement of all my residential addresses for the past ten years starting with my current residential address:

ADDRESS (Street, City, State, Zip Code)	From Mo.	From Yr.	To Mo.	To Yr.

19. A. Have you ever taken a qualification examination for municipal securities principals, municipal securities representatives or financial and operations principals prescribed by the Municipal Securities Rulemaking Board? If so, state below the type of examination and the approximate date taken:

Yes_____ No_____

_____ _____
Type of Examination Approximate Date

_____ _____
Type of Examination Approximate Date

B. Have you ever been exempt from or received a waiver of the requirement to take and pass an examination of the nature specified in question 19A? If so, state below the type of examination, the basis for such exemption or waiver, and, in the case of a waiver, the approximate date:

Yes_____ No_____

_____ _____ _____
Type of Examination Basis for Exemption or Waiver Approximate Date

_____ _____ _____
Type of Examination Basis for Exemption or Waiver Approximate Date

20. Are you currently bonded? Yes_____ No_____

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH COMPLETE DETAILS:

21. Have you ever been refused coverage under a fidelity bond or has any surety company paid out any funds on your coverage or cancelled such coverage?

Yes_____ No_____

22. Have you ever been denied membership, registration, license, permit, or certification by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?

Yes_____ No_____

23. Has any disciplinary action ever been taken against you, or any sanction imposed upon you, including any finding that you were a cause of any disciplinary action or violated any law, rule or regulation or were an aider, abettor or co-conspirator in any such violation, by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?

Yes_____ No_____

24. While you were associated in any capacity with any broker, dealer or municipal securities dealer:

A. Was its registration denied, suspended or revoked?

Yes_____ No_____

A. Was its membership in any national securities exchange, registered securities association, or registered clearing agency denied, suspended, or revoked, or was it expelled from any such organization?

Yes_____ No_____

25. Has any permanent or temporary injunction (including a cease and desist order) ever been entered against you or against any broker, dealer, or municipal securities dealer with which you were associated in any capacity when such injunction was entered enjoining conduct as an investment adviser, underwriter, broker, dealer or municipal securities dealer or as an affiliated person of any investment company, bank or insurance company, or any conduct related to such activities or any transactions in any security?

Yes_____ No_____

26. Have you been convicted within the past ten years of any felony or misdemeanor: (i) involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense; (ii) arising out of the conduct of the business of a broker, dealer, municipal securities dealer, investment adviser, bank, insurance company, or fiduciary; (iii) involving larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; (iv) involving crimes of concealment of assets, false oaths or claims or bribery in a bankruptcy proceeding, mail fraud, fraud by wire including telephone, telegraph, radio or television, fraud or false statements?

Yes_____ No_____

Date_____ Signature of Applicant_____

FORM MSD-4 ACKNOWLEDGMENT

27. Applicant Name_____

28. Bank Municipal Securities Dealer Name_____

29. Bank Municipal Securities Dealer Address_____

30. Attention:_____

Receipt Stamp

WHEN THE FORM MSD-4 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 30. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

§ 343.11 Uniform termination notice for municipal securities principal or municipal securities representative associated with a bank municipal securities dealer (Form MSD–5).

INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD–5

1. As used in these instructions and Form MSD–5, the term "bank municipal securities dealer" means a municipal securities dealer which is a bank or a subsidiary or a department or division of a bank.

2. Form MSD–5 is intended for use by bank municipal securities dealers in reporting the termination of a municipal securities principal's or municipal securities representative's association with such a dealer.

3. Bank municipal securities dealers are required to file Form MSD–5 with the appropriate regulatory agency as set forth below:

A. A bank municipal securities dealer which is a State member bank of the Federal Reserve System, or a subsidiary or a department or division of any such bank, is required to file with the Board of Governors of the Federal Reserve System.

B. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

C. A bank municipal securities dealer which is a national bank or bank operating under the Code of Law for the District of Columbia or a subsidiary or a department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD–5 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD–5 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3 within 30 days after termination. A bank municipal securities dealer filing Form MSD–5 shall retain an exact copy in its records for at least three years after termination of the individual named in Item 1.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the person terminated and the bank municipal securities dealer should appear on every attachment sheet.

7. Form MSD–5 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD–5 on white 8½ by 11 inch paper.

8. Form MSD–5 shall be manually signed by a municipal securities principal of the employing bank municipal securities dealer.

9. All items on Form MSD–5 are to be completed, except that disclosure of the individual's social security number is not required if that information is unavailable. The date on which the Form MSD–5 is received by the appropriate regulatory agency shall be the date of filing A Form MSD–5 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–5 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

UNIFORM TERMINATION NOTICE FOR
MUNICIPAL SECURITIES PRINCIPAL OR MUNICIPAL SECURITIES
REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL SECURITIES DEALER

1. INDIVIDUAL'S NAME _____ ☐
LAST FIRST MIDDLE(If none, so specify)

2. CAPACITY: _____PRINCIPAL _____REPRESENTATIVE ☐

3. SOCIAL SECURITY NUMBER _____ ☐

4. BANK MUNICIPAL SECURITIES DEALER:

A. NAME _____ ☐

B. REGISTRATION NUMBER _____ ☐

C. MAIN ADDRESS _____
_____
_____ ☐

5. OFFICE OF EMPLOYMENT ADDRESS _____
_____
_____ ☐

6. DATE TERMINATED _____ ☐

7. REASON FOR TERMINATION - CHECK ONE:

RESIGNED _____* ☐ DECEASED _____ ☐

DISCHARGED _____* ☐ OTHER _____* ☐

*FURNISH FULL DETAILS ON ATTACHED SHEET IF RELATED TO A VIOLATION OR PROBABLE VIOLATION OF BANKING OR SECURITIES LAW.

8. While associated, was the individual the subject of any investigation, proceeding, disqualification or disciplinary action by any governmental agency or self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934) described in Rules G-4 and G-5 of the Municipal Securities Rulemaking Board?

_____ _____ ☐
**Yes No

**FURNISH FULL DETAILS ON ATTACHED SHEET.

_____ _____ _____
Date Print Name of Municipal Securities Principal Signature of Municipal Securities Principal

PERSON TO CONTACT FOR FURTHER INFORMATION _____

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 1005, and 15 U.S.C. 78ff.)

FORM MSD-5 ACKNOWLEDGMENT

Receipt Stamp

9. NAME OF PERSON TERMINATED _____

10. BANK MUNICIPAL SECURITIES DEALER NAME _____

11. BANK MUNICIPAL SECURITIES DEALER ADDRESS _____
_____
_____

12. ATTENTION _____

WHEN THE FORM MSD-5 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 12. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

By order of the Board of Directors.
Dated: August 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary

[FR Doc.77-23399 Filed 8-11-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev 6, Amdt. 14]

PART 120—BUSINESS LOAN POLICY

Loan Assistance to Cooperatives

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule clarifies that all cooperatives, including farm cooperatives, must qualify as a group corporation to be eligible for financial assistance.

This question arose when Pub. L. 94–305 made agriculture eligible for SBA assistance. The intent of this rule is to establish the same eligibility rules for farm cooperatives as for other cooperatives.

DATE: Effective date: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, 202–653–6470.

SUPPLEMENTARY INFORMATION: The question of financial assistance for farm cooperatives arose when Pub. L. 94–305 made farmers small business concerns. A proposed rule was published on May 10, 1977, (42 FR 23614) to establish the same eligibility rules for farm cooperatives as for nonfarm cooperatives. Thus farm marketing and farm consumer cooperatives are just as ineligible as nonfarm marketing cooperatives or group corporations or nonfarm consumer cooperatives. No written objections to the proposed amendment were submitted.

Under the authority of Section 5(b)(6) of the Small Business Act (15 U.S.C. 634) Part 120, Chapter 1, Title 13 of the Code of Federal Regulations, § 120.2(d)(3) is amended to read as follows:

§ 120.2 Business Loans and Guarantees.

* * * * *

(d) Financial assistance will not be granted by SBA:

(1) * * *

(2) *

(3) If the applicant is an eleemosynary institution or other nonprofit enterprise: *Provided, however,* That this provision shall not be construed to bar financial assistance to a cooperative, including a farm cooperative, which meets the qualifications and requirements under § 122.9, of this Chapter. Consumer cooperatives are not eligible. An otherwise eligible small business concern will not become ineligible because it is owned in whole or in part by a nonprofit organization.

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans.)

* * * * *

Dated: August 5, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc 77-23278 Filed 8-11-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

Adoption of Beneficial Ownership Disclosure Requirements

CFR Correction

In Title 17 of the Code of Federal Regulations, revised as of April 1, 1977, Parts 239, 240, and 249 are corrected to reflect the delaying in the effective date to August 31, 1977, for certain provisions announced in Securities Act Release No. 33–5808—Beneficial Ownership Disclosure Requirements, appearing at 42 FR 12342, March 3, 1977

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. Following § 239.11, appearing on CFR page 430, insert the following:

EFFECTIVE DATE NOTE.—At 42 FR 12349, in § 239.11, Form S–1 was amended, effective August 31, 1977

2. Following § 239.18, appearing on CFR page 431, insert the following:

EFFECTIVE DATE NOTE.—At 42 FR 12349, in § 239.18, Form S–11 was amended, effective August 31, 1977.

PART 240—GENERAL RULES AND REGULATIONS SECURITIES EXCHANGE ACT OF 1934

3. Following § 240.13d–1, appearing on CFR page 496, insert the following effective date note:

EFFECTIVE DATE NOTE.—Section 240.13d–1 was revised at 42 FR 12350, effective August 31, 1977. For the convenience of the user, the superseded text is set out as follows:

REGULATION 13D

§ 240.13–1 Filing of Schedule 13D (§240.13d–101).

Any person who, after acquiring directly or indirectly the beneficial ownership of any security of a class which is registered pursuant to section 12 of the Act, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of the Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 percentum of such class shall within 10 days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d–101) Eight copies of the statement shall be filed with the Commission Where an acquisition, not heretofore subject to this rule, was made subsequent to December 22, 1970, but prior to January 18, 1971, the specified statement shall be sent to the issuer and any exchange and, filed with the Commission not later than January 28, 1971 At the time of filing the statement, the person making the filing shall pay to the Commission a fee of $100, no part of which shall be refunded.

(15 U.S.C. 77f, 77g, 77j, 77s, 78m, 78n, (36 FR 976, Jan. 21, 1971, as amended at 37 FR 1472, Jan. 29, 1972).)

4. Following § 240.13d–2, appearing on CFR pages 496 and 497, insert the following effective date note, including superseded text:

EFFECTIVE DATE NOTE.—Section 240.13d–2 was revised at 42 FR 12350, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.13–2 Filing of amendments.

If any material change occurs in the facts set forth in the statement required by § 240.13d–1, the person who filed such statement shall promptly file with the Commission and send to the issuer and the exchange an amendment disclosing such change. Eight copies of each such amendment shall be filed with the Commission.

(33 FR 11016, Aug. 2, 1968, as amended at 34 FR 6101, Apr. 4, 1969.)

5. Following § 240.13d–3, appearing on CFR page 497, insert the following effective date note:

EFFECTIVE DATE NOTE.—Section 240.13d–3 was revised at 42 FR 12350, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.13d–3 Determination of ownership of specified percentages of a class of equity securities.

In determining, for the purposes of section 13(d) or section 14(d) [of the Act], whether a person is directly or indirectly the beneficial owner of securities of any class, such owner of securities of such class which such person shall be deemed to be the beneficial person has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities, or otherwise. The securities subject to such options, warrants, rights or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person.

(33 FR 14110, Sept. 18, 1968.)

6. Following § 240.13d–4, appearing on CFR page 497, insert the following effective date note:

EFFECTIVE DATE NOTE.—Section 240.13d–4 was revised at 42 FR 12351, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.13d–4 Exemption of acquisitions, pursuant to preemptive rights.

Acquisitions of securities of an issuer by a security holder who prior to such acquisition was the beneficial owner of more than 5 percent of the outstanding securities of the same class as those acquired shall be exempt from section 13(d) of the Act if the following conditions are met:

(a) The acquisition is made pursuant to pre-emptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(b) The purchaser does not, through the exercise of such preemptive subscription rights, acquire more than his or its pro rata share of the securities offered; and

(c) The acquisition is duly reported pursuant to section 16(a) of the Act and the rule and regulations thereunder.

(Sec. 13, 32 Stat. 454; 15 U.S.C. 78m (34 FR 2354, Feb. 19, 1969, as amended at 36 FR 977, Jan. 21, 1971).)

7. Following § 240.13d–5, appearing on CFR pages 497 and 498, insert the following:

EFFECTIVE DATE NOTE.—Section 240.13d–5 was added at 42 FR 12351, March 3, 1977, effective August 31, 1977.

8. Following § 240.13d–6, appearing on CFR pages 498 and 499, insert the following:

EFFECTIVE DATE NOTE.—Section 240.13d–6 was added at 42 FR 12351, March 3, 1977, effective August 31, 1977.

9. Following § 240.13d–7, appearing on CFR page 499, insert the following:

EFFECTIVE DATE NOTE.—Section 240.13d–7 was added at 42 FR 12351, March 3, 1977, effective August 31, 1977.

10. Following § 240.13d–101, appearing on CFR pages 499 through 501 insert the following effective date note:

EFFECTIVE DATE NOTE.—Section 240.13d–101 was revised at 42 FR 12352, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d–1 or § 240.14d–1.

NOTES.—A. The item numbers and captions of the items shall be included but the text of the items are to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. If the statement is filed by a partnership, limited partnership, syndicate, or other group, the information called for by Items 2 to 6, inclusive, shall be given with respect to (1) each partner or any partnership or limited partnership, (2) each member of such syndicate or group and (3) each person controlling such partner or member. If a person referred to in (1), (2), or (3) is a corporation or the statement is filed by a corporation, the information called for by the abovementioned items shall be given with respect to each officer and director of such cooperation and each person controlling such corporation.

Item 1. Security and Issuer.

State the title of the class of equity securities to which this statement relates and the name and address of the insurer of such securities.

Item 2. Identity and Background.

State the following with respect to the person filing this statement:

(a) Name and business address;

(b) Residence address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(d) Material occupations, positions, offices or employments during the last 10 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation/position, office, or employment was carried on; and

(e) Whether or not, during the last 10 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed, or other disposition of the case. A negative answer to this subitem need not be furnished to security holders.

Item 3. Source and Amount of Funds or Other Consideration.

State the source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading the securities, a description of the transaction and the names of the parties thereto.

Item 4. Purpose of transaction.

State the purpose or purposes of the purchase or proposed purchase of securities of the issuer. If the purpose or one of the purposes of the purchase or proposed purchase is to acquire control of the business of the issuer, describe any plans or proposals which the purchasers may have to liquidate the issuer, to sell its assets or to merge it with any other persons, or to make any other major change in its business or corporate structure, including, if the issuer is a registered close-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940 (15 U.S.C. 80a–13).

Item 5. Interest in securities of the issuer.

State the number of shares of the security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such persons, and (ii) each associate of such person, giving the name and address of each such associate. Furnish information as to all transactions in the class of securities to which this statement relates which were effected during the past 60 days by the person filing this statement and by its subsidiaries and their officers, directors and affiliated persons.

Item 6. Contracts, Arrangements, or Understanding With Respect to Securities of the Issuer.

Furnish information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

Item 7. Persons Retained, Employed, or To Be Compensated.

Where the Schedule 13D relates to a tender offer, or request or invitation for tenders, identify all persons and classes of persons employed, retained, or to be compensated by the person filing this Schedule 13D, or by any person on his behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer, or arrangement for compensation.

Item 8. Material To Be Filed as Exhibits.

Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.

Signature.

I certify that to the best of my knowledge and belief the information set forth in this statement is true, complete, and correct.

---------- ----------
(Date) (Signature)

If the statement is signed on behalf of a person by an authorized representative, evidence of the representative's authority to sign on behalf of such person shall be filed with the statement.

(33 FR 11016, Aug. 2, 1968, as amended at 33 FR 14110, Sept. 18, 1968.)

11. Following § 240.14d–102, appearing on CFR pages 501 and 502, insert the following:

EFFECTIVE DATE NOTE.—At 42 FR 12352, § 240.13d–102 was added, effective August 31, 1977.

12. Following §240.14a–101, appearing on CFR pages 515 through 527, insert the following effective date note:

EFFECTIVE DATE NOTE.—In § 240.14a–101, Items 5 and 6 of Schedule 14A were amended at 42 FR 12354, and Item 5 was corrected at 42 FR 15309, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 5. Voting securities and principal holders thereof.

(a) * * *

(b) * * *

(c) * * *

(d) If to the knowledge of the persons on whose behalf the solicitation is made, any person owns of record or beneficially more than 10 percent of the outstanding voting securities of the issuer, name such person, state the approximate amount of such securities owned of record but not owned beneficially and the approximate amount owned beneficially by such person and the percentage of outstanding voting securities represented by the amount of securities so owned in each such manner.

(e) If, to the knowledge to the persons on whose behalf the solicitation is made, a change in control of the issuer has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the issuers now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Commission.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

(f) Describe any contractual arrangements, including any pledge of securities of the issuer, or any of its parents, known to the persons on whose behalf the solicitation is made, the operation of the terms of which may at a subsequent date result in a change in control of the issuer.

Instruction. Paragraph (f) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the issuer.

Item 6. Nominees and Directors.

(a) • • •

(5) If more than 10 percent of any class of securities of the issuer or any of its parents or subsidiaries are beneficially owned by him and his associates, state the approximate amount of each class of such securities beneficially owned by such associates, naming each associate whose holdings are substantial.

13. In § 240.14a-102, appearing on CFR pages 527 and 528, insert the following effective date note:

EFFECTIVE DATE NOTE.—In § 240.14a-102, Item 3 was amended at 42 FR 12354, effective August 31, 1977. For the convenience of the user, the superseded text is set forth as follows:

§ 240.14a-102 *Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than an issuer pursuant to § 240.14a-11(c) (Rule 14a-11(c))).*

Item 3. Interests in securities of the issuer.

(g) State the amount of each class of securities of any parent or subsidiary of the issuer which you own beneficially, directly or indirectly.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

14. Following § 249.210, appearing on CFR page 678, insert the following:

EFFECTIVE DATE NOTE.—In § 249.210, Form 10, Item 5, was amended at 42 FR 12353, effective August 31, 1977.

15. Following § 249.310, appearing on CFR page 680, insert the following:

EFFECTIVE DATE NOTE.—In § 249.310, Form 10-K, Item 14, was amended at 42 FR 12353 effective August 31, 1977.

[Release No. 34-13831]

LOST AND STOLEN SECURITIES

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: This action provides notification to entities subject to the Lost and Stolen Securities Program of modified requirements for making reports and inquiries with respect to missing, lost, stolen or counterfeit securities. These amendments are intended to ensure that information in the stop transfer files of transfer agents is current and complete and to eliminate unnecessary inquiry requirements for transfer agents. Notification of recordkeeping requirements for all reporting institutions is also provided. These actions are necessary to avoid duplication and to ensure compliance by reporting institutions.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7826.

SUPPLEMENTARY INFORMATION: In order to avoid duplication and to implement the Lost and Stolen Securities Program in a more efficient manner, the Securities and Exchange Commission has amended § 240.17f-1 to require that copies of reports of missing, lost, stolen or counterfeit securities be filed with a registered transfer agent for the particular issue. This will ensure that information in the stop files of transfer agents is identical to that contained in the data base maintained by the Commission's designee and will allow transfer agents an exemption from inquiry during the pilot program. This release provides notification of this action and also of the recordkeeping and record retention requirements applicable to all reporting institutions under the Lost and Stolen Securities Program. The Commision has also delegated to the Director of the Division of Market Regulation the authority to grant non-reporting institutions access to the designee's data base.

BACKGROUND

On December 6, 1976, the Commission adopted § 240.17f-1, establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1] Certain technical amendments to the section were made on February 18, 1977,[2] and further amendments regarding the role of transfer agents in the Lost and Stolen Securities Program were proposed.[3] A comprehensive release, providing notification of reporting and inquiry procedures and republishing § 240.17f-1 and reporting Form X-17F-1A in their final, amended versions appears in this issue of the FEDERAL REGISTER.

In order to implement § 240.17f-1 in the most efficient manner, the Commission determined that it would be appropriate to institute a pilot program to monitor the effectiveness of the section and the system designed to carry out its provisions. Accordingly, the Lost and Stolen Securities Program will be implemented on a pilot basis until December 31, 1978. In accordance with the inquiry and reporting requirements of paragraphs (b) and (c) of § 240.17f-1, any Federal Reserve Bank or Branch is an appropriate instrumentality with respect to United States Government and Agency Securities. The Securities Information Center, Inc. ("SIC") has been designated to receive reports and respond to inquiries with respect to all other securities during the pilot program.[4]

AMENDMENTS TO REPORTING PROVISIONS

Traditionally, transfer agents have had a pivotal role, through their "stop transfer" lists, in maintaining information regarding securities deemed to be missing, lost or stolen. Generally, a transfer agent will not effect registration of a transfer unless it is satisfied from its own records and a review of it stops that the particular transfer is in all respects proper.

Despite the adoption of § 240.17f-1, the traditional practice by which persons suffering loss or theft of securities notify the transfer agent of such loss or theft will continue in order to protect such persons' interests in the particular security. However, in order to avoid duplicative reporting and inquiry, the Commission, on February 18, 1977, proposed certain amendments to § 240.17f-1 so that the information contained in the stop transfer lists of registered transfer agents would be identical to the information in the possession of the appropriate instrumentalities.[5]

With respect to reporting, it was proposed that § 240.17f-1, paragraphs (b)(1)(i), (b)(2) and (b)(4) be amended to require that, when a reporting institution other than a registered transfer agent files a report of loss or theft with the appropriate instrumentality, a copy of such report be filed with a registered transfer agent for the issue. The public comment letters favored the adoption of these reporting amendments and, accordingly, the Commission has adopted them.[6] The Commission is of the view that the requirements do not impose any additional burden on reporting institutions since such institutions have traditionally informed transfer agents in cases of loss or theft.

INQUIRY PROVISIONS

The Commission proposed to amend paragraph (c) of § 240.17f-1 to exempt from inquiry by registered transfer agents those securities presented to a transfer agent by a person other than a reporting institution where an acceptable signature guarantee is provided by a reporting institution.

With respect to the proposed inquiry requirements although commentators expressed support, they stated that the proposal did not go far enough in relieving transfer agents from inquiry with the appropriate instrumentality. Even with the proposed exemption, inquiry would be required in a number of circumstances which involve no change in ownership of a fully registered security. In addition, in the context of tenders, exchanges or redemptions, where transfer agents are called upon to process large numbers of certificates within short periods of time, commentators stated that inquiry would still be required and would be duplicative and unduly burdensome.

Accordingly, the Commission has determined to exempt transfer agents from inquiry during the one year pilot period. The amendment requiring reports of lost or stolen securities to be made with the transfer agent concerned, in conjunction with a registered transfer agent's obligation to check its stop files, will provide substantially similar safeguards against the improper use of lost or stolen securities as a requirement that the transfer agent inquire with the appropriate instrumentality. During the pilot program, the Commission intends to monitor the effectiveness of transfer agent stop files in halting the negotiation of lost or stolen securities and in order to determine whether the exemption should be retained permanently. In connection therewith, the Commission may consider whether additional Federal regulation concerning maintenance of stop transfer lists would be appropriate. In light of this exemption during the pilot program, the Commission has withdrawn the proposed amendment published in Securities Exchange Act Release No. 13281 regarding inquiry by transfer agents.

Recordkeeping Requirements and Amendments to §§ 240.17a-3 and 240.17a-4

The Commission has amended §§ 240.17f-1, 240.17a-3 and 240.17a-4 in order to codify the recordkeeping and record retention procedures established by the Lost and Stolen Securities Program. Copies of all Forms X-17F-1A filed pursuant to this section and all confirmations or other information received from the appropriate instrumentality or its designee must be retained for a period of three years in an easily accessible place.

These recordkeeping provisions are necessary to the smooth functioning of the Lost and Stolen Securities Program and they essentially do no more than spell out the period of time for retention of records generated pursuant to paragraphs (b) and (c) of § 240.17f-1. They will become effective on October 3, 1977 when the balance of the program becomes effective unless public comments received prior to September 3, 1977 suggest modifications which the Commission deems to be appropriate. Written comments should be submitted in triplicate, addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7-611. Comments received will be available for public inspection at the Commission's Public Reference Room.

FORM X-17F-1A

Reporting Form X-17F-1A (17 CFR 249.1200) was adopted by the Commission on February 18, 1977, and this action was announced in Securities Exchange Act Release No. 13280. In discussions with representatives of the securities and banking industries and the Commission's designee, several technical modifications, primarily in terms of format, were suggested. These changes have been approved in order to facilitate the use of the form by reporting institutions and to allow Form X-17F-1A to be used as a stop transfer form by transfer agents. The form, as amended, is printed in this issue of the FEDERAL REGISTER. Since the modifications to Form X-17F-1A are technical in nature, notice and public procedure are not required by the Administrative Procedure Act (15 U.S.C. 553(b)(3)(B)) as a prerequisite to their approval by the Commission. Amended Form X-17F-1A will become effective on October 3, 1977.

DELEGATION OF AUTHORITY

The Commission has amended § 200.30-3 of its Rules of Organization by the addition of paragraph (a)(26) to delegate to the Director of the Division of Market Regulation the authority to grant non-reporting institutions access to the system for the purposes of making reports and inquiries upon specified terms, conditions, and time periods.[7]

This amendment to § 200.30-3 is adopted pursuant to sections 2, 17(f) and 23(a) of the Securities Exchange Act of 1934, and sections 78d-1 and 78d-2 of Title 15 of the United States Code. Inasmuch as the amendment involves rules of agency organization, procedure or practice within the meaning of the Administrative Procedure Act (5 U.S.C. Section 553(b)(3)(A) (1970)), notice and public procedure are not required prior to adoption. The amendment will become effective on October 3, 1977.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The amendments to §§ 200.30-3, 240.17f-1, 240.17a-3 and 240.17a-4 and the Lost and Stolen Securities Program are adopted pursuant to sections 2, 17(a), 17(f) and 23(a) of the Securities Exchange Act of 1934, as amended, and section 78d-1 and 78d-2 of Title 15 of the United States Code. The Commission finds that any burden upon competition imposed by the amendments is necessary and appropriate in the public interest and for the protection of investors.

Text of Amendments:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

I. Section 200.30-3 is amended by the addition of new paragraph (a)(26) as follows:

§ 200.30-3 **Delegation of authority to Director of Division of Market Regulation.**

• • • • • •

(a) • • •

(26) Pursuant to Rule 17f-1 (§ 240.17f-1 of this chapter), to designate persons not subject to § 240.17f-1 as reporting institutions upon specified terms, conditions, and time periods.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

II. Section 240.17a-3 is amended by the addition of new paragraph (a)(14), which incorporates the recordkeeping requirements of § 240.17f-1 of this chapter, as follows:

§ 240.17a-3 **Records to be made by certain exchange members, brokers and dealers.**

(a) • • •

(14) Copies of all Forms X-17F-1A filed pursuant to § 240.17f-1 and all confirmations or other information received from the appropriate instrumentality or its designee as a result of inquiry.

III. Section 240.17a-4 is amended by the addition of new paragraph (e)(4), which incorporates the record retention requirements of § 240.17f-1 of this chapter, as follows:

§ 240.17a-4 **Records to be preserved by certain members, brokers and dealers.**

• • • • • •

(e) • • •

(4) All records required pursuant to paragraph (a)(14) of § 240.17a-3 for three years.

IV. Section 240.17f-1 is amended by the addition of certain words in paragraphs (b)(1)(i), (b)(2), and (b)(4) and by the addition of new paragraph (f), as follows:

§ 240.17f-1 **Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.**

• • • • • •

(b) *Reporting requirements*—(1) *Stolen Securities.* (i) Every reporting institution shall report to the appropriate instrumentality and to a registered transfer agent for the issue the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved. Such reports shall be made within one business

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[1] Securities Exchange Act Release No. 13053, 41 FR 54923 (December 16, 1976).

[2] Securities Exchange Act Release No. 13280, 42 FR 11829 (March 1, 1977).

[3] Securities Exchange Act Release No. 13281, 42 FR 11844 (March 1, 1977).

[4] In Securities Exchange Act Release No. 13538, 42 FR 26495 (May 24, 1977), AutEx, Inc. was named as the designee. Subsequently, as a consequence of the acquisition of AutEx by ITEL Corporation, SIC was created as a wholly-owned subsidiary of ITEL AutEx, Inc.

[5] Securities Exchange Act Release No. 13281, 42 FR 11844 (March 1, 1977).

[6] As proposed, the amendment would have required a report to "the registered transfer agent for the security." In order to avoid confusion, the provision as adopted reads "to a registered transfer agent for the issue." Therefore, where more than one registered transfer agent performs transfer agent functions for a particular issue, a report to any one of them will satisfy the requirements of this section. It is expected that where there are cotransfer agents, internal procedures will be established to ensure prompt notification of losses to all cotransfer agents.

[7] For a discussion of the circumstances under which non-reporting financial institutions, such as foreign banks and insurance companies, may be granted access to the data base on Lost and Stolen Securities, see Securities Exchange Act Release No. 13832, Published in this issue of the FEDERAL REGISTER.

day of the discovery, and if the certificate numbers of the securities cannot be ascertained at that time, they shall be reported as soon thereafter as possible.

* * * * *

(2) *Missing or lost securities.* Every reporting institution shall report to the appropriate instrumentality and to a registered transfer agent for the issue the discovery of the loss of any security where criminal actions are not suspected when the security has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

* * * * *

(4) *Recovery.* Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this section to the appropriate instrumentality and to a registered transfer agent for the issue within one business day of such recovery or finding. If a report of stolen securities is made to the appropriate law enforcement agency, a report of such recovery shall also be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen.

* * * * *

(f) *Recordkeeping.* Every reporting institution shall maintain and preserve in an easily accessible place for three years copies of all Forms X-17F-1A filed pursuant to this section and all confirmations or other information received from the appropriate instrumentality or its designee as a result of inquiry.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.1200 [Amended]

V. Certain technical modifications in terms of format to Form X-17F-1A (§ 249.1200) have been made. The amended form is published in this issue of the FEDERAL REGISTER.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 5, 1977.

[FR Doc.77-23187 Filed 8-11-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

Sterling Drug, Inc.; Change of Sponsor

Correction

In FR Doc. 77-20577, appearing at page 36994 in the issue of Tuesday, July 19, 1977, the next to last line in the first paragraph on page 36995 should read, "ation of the NADA's and does not constitute a reaffirmation of the underlying safety and effec-".

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 252—BUSINESS PRACTICES ON THE NAVAJO, HOPI, AND ZUNI RESERVATIONS

Interim Rule Revising Coverage of Requirement To Obtain Peddler's Permit

AUGUST 8, 1977.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule on which comment is solicited.

SUMMARY: This document revises 25 CFR 252.12 (which requires peddlers on the Navajo, Hopi, or Zuni reservations to obtain permits) by exempting enrolled members of federally recognized tribes who are selling items they have produced or gathered themselves. This provision is being revised because experience has shown that it is impossible to require permits and enforce the regulations fully as they apply to small-scale Indian peddlers. Because of the number of such peddlers, the cost of enforcement would far exceed the benefit to be received from such regulation. This revision is being issued as an interim rule so that it may be effective before the opening of the Navajo Tribal Fair. Unless the rule is changed large numbers of Indian concessionaires would have to obtain a peddler's permit and bond just for the duration of the fair. Public comment is invited, however, before adoption of a final rule.

DATE: This revision will be effective, on an interim basis, on August 12, 1977. Comments about the revision must be received on or before October 11, 1977.

ADDRESS: Comments should be sent to: Division of Law Enforcement Services, Navajo Area Office, Bureau of Indian Affairs, Window Rock, Ariz. 86515.

FOR FURTHER INFORMATION CONTACT:

William Winn, Business Licensing, Investigation and Audit Section, Division of Law Enforcement Services, Navajo Area Office, Bureau of Indian Affairs, Window Rock, Ariz. 86515

SUPPLEMENTARY INFORMATION: The authority for the Commissioner to issue this interim rule is contained in 5 U.S.C. § 301, 25 U.S.C. §§ 2 and 9, 25 U.S.C. §§ 261 et seq., and 230 DM 1 and 2.

The principal author of this document is William D. Back, Window Rock Field Office, Office of the Solicitor, Department of the Interior.

Section 252.12 of Title 25 of the Code of Federal Regulations is revised, on an interim basis, to read as follows:

§ 252.12 **Peddler's permits.**

(a) Except as provided in paragraph (b) of this section, no peddler may offer goods for sale within the exterior boundaries of the Hopi, Navajo, or Zuni reservations without a peddler's permit. The permit shall state on its face the class of goods that may be offered for sale. No peddler may offer for sale any class of goods other than those listed on the face of the permit.

(b) No peddler who is an enrolled member of a federally recognized Indian tribe is required to obtain a peddler's permit for offering to sell the following items:

(1) Coal and wood for non-commercial use,

(2) Homegrown fresh products,

(3) Meat products raised locally by the peddler, or

(4) Arts and crafts made by the peddler or the peddler's family.

(c) The applicant shall apply for a permit in writing on a form provided by the Commissioner.

(d) Peddlers shall pay such fee and post such surety bond on a form provided by the Commissioner as the Commissioner requires. The surety bond required may not be less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000).

(e) Any surety on the bond of a peddler may be relieved of liability by complying with the provisions of § 252.57.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-23376 Filed 8-11-77;8:45 am]

PART 258—KLAMATH RIVER FISHING

Fishing Regulations

AUGUST 5, 1977.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking is to add a new part 258 to Subchapter W, Chapter I of Title 25 of the Code of Federal Regulations. The purpose of Part 258 is to assist in the protection of Indian fishing rights on the Klamath River, to promote the proper management of the fishery resource until the Indians of the Reservation assume control, and to assure that the State of California's enforcement of its laws and regulations for management and conservation of the fishery's resource is compatible with the rights of the Indians of the Hoopa Valley Reservation.

DATES: With the exception of §§ 258.3 and 258.6(e) these regulations shall become effective August 12, 1977. Sections 258.3 and 258.6(e) shall become effective on September 12, 1977. Additional comments will be accepted and considered if received on or before September 12, 1977. If necessary, the regulations will be amended in response to the additional comments.

FOR FURTHER INFORMATION CONTACT:

Mr. Scott McElroy, Attorney, Division of Indian Affairs, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C., 202-343-6967.

SUPPLEMENTARY INFORMATION: Beginning on page 28552 of the June 3, 1977, FEDERAL REGISTER (42 FR 28552-3) there was published a notice of proposed rulemaking. All interested persons were given until July 5, 1977, to submit written comments, suggestions, or objections regarding the proposed regulations.

After consideration of all comments presented by interested persons, the regulations as proposed are hereby adopted with the following changes:

1. The word Indians is substituted for the word Tribe in § 258.1(2) and the word assumes is changed to assume.

2. The title and contents of § 258.5 are changed to read as set forth below.

This section should not be interpreted as a reflection of our views on the question of whether, absent these regulations, the Indians of the Reservation possess rights to fish commercially in the Klamath River.

3. An additional phrase is added to the last sentence of § 258.6(a) so that the sentence reads as set forth below.

This change was made to indicate with greater clarity that the stated standard is intended simply to meet the requirements of the Bureau in promulgating and enforcing these temporary regulations.

4. Paragraph 258.6(b) was changed to read as set forth below.

This change was made in response to comments on the proposed regulations.

5. A new paragraph (f) is added to § 258.6, reading as set forth below.

This change was made to insure that these temporary regulations do not have the effect of eliminating the widespread and beneficial practice of individuals fishing for the benefit of others who are infirm, incapacitated, or otherwise unable to fish for themselves. It should be emphasized that this agency designation is not intended to expand anyone's rights but only to allow the designee to fish in the place of the original permittee.

RAYMOND V. BUTLER,
Acting Deputy Commissioner.

Subchapter W of Chapter I of Title 25 of the Code of Federal Regulations is amended by adding the following new Part 258.

258.1 Purposes.
258.2 Length of Nets.
258.3 Identification of Nets.
258.4 Checking Nets.
258.5 Commercial Fishing.
258.6 Issuance of Identification Cards.
258.7 Enforcement.

AUTHORITY: The Act of March 3, 1953, 10 Stat. 238, 25 U.S.C. Sec. 2; 25 U.S.C. Sec. 9.

§ 258.1 **Purposes.**

(a) The purposes of these regulations are: (1) To assist in protecting Indian fishing rights on the Klamath River.

(2) To promote the proper management, conservation, and protection of the fishery resources of the Klamath River on the Hoopa Valley Reservation until such time as the Indians of that reservation assumes control over those resources.

(3) To insure that the State of California's enforcement of its laws and regulations for the management and conservation of fisheries resources is compatible with the rights of the Indians of the Hoopa Valley Reservation.

(b) The conservation regulations of this Part are found to be necessary to assure that the fishing rights secured to the Indians of the Hoopa Valley Reservation are protected and preserved for the benefit of the present and future Indians of the Reservation in a manner consistent with such rights. The enactment of such regulations is consistent with and required by the trust responsibilities of the Federal Government.

(c) Present information indicates that the current level of unregulated fishing, if continued, may have a detrimental effect on the fishery resources of the Reservation. Ideally, the Tribes of the Reservation should determine how these reservation resources should be utilized by the Indians of the reservation including the extent to which commercial fishing is feasible. In the absence of tribal regulation, the regulations of this part are enacted as an emergency measure. They shall be in effect until sufficient information is available to satisfy the Secretary of the Interior that such fishing does not have the potential for harming the Klamath River fishery or until the Tribes of the Reservation assume effective control over the utilization of the fishery resources but absent reenactment no later than July 1, 1978.

(d) Jurisdiction. These regulations apply to all Indians entitled to fish on the Klamath River, within the Hoopa Valley Reservation.

§ 258.2 **Length of nets.**

No gill nets shall extend over $^2/_3$ the width of the Klamath River. No net shall be placed in front of the mouth of a tributary stream, nor shall any net placed in a tributary stream extend over $^1/_3$ the width of that stream.

§ 285.3 **Identification of nets.**

All gill nets utilized on the Klamath River or its tributaries shall be tagged with a tag provided by the Bureau of Indian Affairs identifying the owner as entitled to Indian fishing rights. Such identification shall be located so that the ownership of the fishing gear can be ascertained without having to remove the fishing gear from the water.

§ 258.4 **Checking nets.**

All nets must be checked for fish once every 24 hours.

§ 258.5 **Prohibited fishing.**

The catching for the purpose of sale of more than five (5) anadromous fish is prohibited. No limit is established on the catching of fish for purposes other than sale.

§ 258.6 **Issuance of identification cards.**

(a) The Commissioner of Indian Affairs or his designate shall arrange for the issuance of an appropriate identification card and net tag or tags to any Indian entitled to fish on the Klamath River. That identification card, the accompanying tag, and the evidence submitted in obtaining the card and tags shall be used solely for the purposes of identifying its holder as being entitled to fish on the Klamath River on an interim emergency basis and is not intended as a grant or recognition of permanent rights or privileges.

(b) An identification card shall be issued to any Indian who submits evidence satisfactory to the issuing officers that he or she is of $^1/_4$ degree or more Indian blood and in addition either (1) is an allottee of the reservation, (2) is a descendant of an allottee of the reservation, or (3) can demonstrate that in the past, he or she fished on the Klamath River as an Indian.

(c) Each card shall state the name and address of the holder.

(d) No person shall allow any use of his or her identification card by any other person except as contained in subsection (f) below.

(e) The failure of any person who claims to be entitled to the benefits of an Indian fishing rights on the Klamath River to have such a card in his immediate personal possession while fishing or engaging in other activities in the claimed exercise of such rights and to display it upon request to any federal, state, or tribal enforcement officer shall be prima facie evidence that the person is not entitled to exercise an Indian fishing right.

(f) The right of an individual Indian to fish and the card evidencing that right may be utilized by a designated agent who shall fish in the place and stead of the permittee. That agency shall not enlarge or expand the rights exercised.

§ 258.7 **Enforcement.**

Violators of these provisions shall be subject to a civil penalty not to exceed $500, or have his or her fishing gear and fish confiscated or have his or her tribal fishing privileges suspended; or any combination of these penalties.

[FR Doc.77-23378 Filed 8-11-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 742-77]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This regulation exempts certain systems of records maintained by various organizational units of the Department from provisions of the Pri-

vacy Act of 1974 so as to maintain the confidentiality of information compiled for the purpose of criminal investigations.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530. (202–739–5361).

SUPPLEMENTARY INFORMATION: On March 18, 1977, the Department of Justice published in the FEDERAL REGISTER proposed regulations exempting systems of records from certain provisions of the Privacy Act, 42 FR 15072, 15075. No comments were received on the proposed regulations.

By virtue of the authority vested in me by 5 U.S.C. 552a, the proposed revision of § 16.93 and the proposed addition of § 16.102, of Subpart E of Part 16 of Title 28, Code of Federal Regulations, as published in the FEDERAL REGISTER on March 18, 1977, 42 FR 15072, 15075 are adopted without change as set forth below:

Dated: August 1, 1977.

GRIFFIN B. BELL,
Attorney General.

§ 16.93 Exemption of Tax Division Systems—limited access.

(a) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of 5 U.S.C. 552a:

(1) Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases (JUSTICE/TAX–001)—Limited Access.

(2) Tax Division Special Projects Files (JUSTICE TAX–005)—Limited Access.

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) The systems of records listed under paragraphs (a)(1) and (a)(2) of this section are exempted for the reasons set forth below, from the following provisions of 5 U.S.C. 552a:

(1) (c)(3). The release of the disclosure accounting, for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for those systems of records, would enable the subject of an investigation of an actual or potential criminal tax case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to law enforcement. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2) (c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) (d)(1); (d)(2); (d)(3); (d)(4). Access to the records contained in these systems would inform the subject of an actual or potential criminal tax investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection, apprehension and prosecution. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4) (e)(1). The notices for these systems of records published in the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of these systems. However, in the course of criminal tax and related law enforcement investigations, cases, and matters, the Tax Division will occasionally obtain information concerning actual or potential violations of law that may not be technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain some or all of such information in these systems of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(5) (e)(2). In a criminal tax investigation or prosecution, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, influence witnesses improperly, destroy evidence, or fabricate testimony.

(6) (e)(3). The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) (e)(4)(G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable to the extent that these systems of records are exempted from subsection (f) and (d).

(8) (e)(4)(I). The categories of sources of the records in the systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal tax and related law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) (e)(5). In the collection of information for criminal tax enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. Furthermore, the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal tax information and related data necessary for effective law enforcement.

(10) (e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11) (f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal tax, civil tax, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(12) (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(c) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of 5 U.S.C. 552a:

(1) Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Civil Tax Cases (JUSTICE/TAX–002)—Limited Access.

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(d) The system of records listed under paragraph (c)(1) is exempted for the reasons set forth below, from the following provisions of 5 U.S.C. 552a:

(1) (c)(3). The release of the disclosure accounting, for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for this system of records, would enable the subject of an investigation of an actual or potential civil tax case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to law enforcement. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2) (d)(1); (d)(2); (d)(3); (d)(4). Access to the records contained in this system would inform the subject of an actual or potential civil tax investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(3) (e)(1). The notices for this system of records published in the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of this system. However, in the course of civil tax and related law enforcement investigations, cases and matters, the Tax Division will occasionally obtain information concerning actual or potential violations of law that are not strictly or technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific case. In the interests of effective law enforcement, it is necessary to retain some or all of such information in this system of records since it can aid in establishing patterns of tax compliance and can provide valuable leads for federal and other law enforcement agencies.

(4) (e)(4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable to the extent that this system of records is exempted from subsection (f) and (d).

(5) (e)(4)(I). The categories of sources of the records in this system have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of civil tax and related law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(6) (f). Procdures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential criminal tax, civil tax, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable to this system of records to the extent that this system of records is exempted from subsection (d).

(e) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of 5 U.S.C. 552a; in addition, the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of 5 U.S.C. 552a:

(1) Tax Division Freedom of Information—Privacy Act Request Files (JUSTICE/TAX–004).

(2) These exemptions apply only to the extent that the records contained in this system have been obtained from other systems of records maintained by the Tax Division for which exemptions from one or more of the foregoing provisions of the Privacy Act of 1974 have been promulgated. The exemption claimed for this system of records applies only to records obtained from such other Tax Division systems and only to the same extent as the records contained in such other systems have been exempted.

(f) The system of records listed under paragraph (e)(1) of this section is exempted for the following reasons:

(1) In the course of processing requests for records pursuant to the Freedom of Information Act (5 U.S.C. 552) or for access or correction of records pursuant to the Privacy Act (5 U.S.C. 552a), it is frequently necesary to search for records in systems of records for which exemptions have been claimed pursuant to 5 U.S.C. 552a (j) or (k). When records are located in said systems, it is frequently necessary to prepare copies for the purpose of consulting with agency personnel or with other agencies, either with regard to determining whether or to what extent the records should be disclosed, or access provided, or correction made or denied, or with regard to review in the event of administrative appeal or judicial review.

(2) If records otherwise exempt pursuant to published rules should lose their exempt character when taken from such exempt systems for the purpose of compliance with the Freedom of Information Act and the Privacy Act in reviewing such records and making determination with regard to disclosure, access, and correction, the purpose of the Privacy Act in providing such exemptions, and of the Department of Justice in claiming such exemptions would be defeated and nullified. The proper, efficient, and timely processing of citizens' requests pursuant to said Acts would be hindered and impeded.

* * * * *

§ 16.102 Exemption of Drug Enforcement Administration and Immigration and Naturalization Service Joint System of Records.

(a) The following system of records is exempted pursuant to provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f), (g), and (h) of 5 U.S.C. 552a; in addition the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552(k)(1) and (k)(2) from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a.

(1) Automated Intelligence Record System (Pathfinder), JUSTICE/DEA–INS–111. These exemptions apply to the extent that information in those sys-

tems is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2).

(b) The system of records listed under paragraph (a) of this section is exempted, for the reasons set forth from the following provisions of 5 U.S.C. 552a:

(1) (c)(3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2) (c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) (d). Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, or the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4) (e)(1). The notices of these systems of records published in the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of this system. However, in the course of criminal or other law enforcement investigations, cases, and matters, the Immigration and Naturalization Service or the Drug Enforcement Administration will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in these systems of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(5) (e)(2). In a criminal investigation or prosecution, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) (e)(3). The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) (e)(4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(8) (e)(4)(I). The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) (e)(5). In the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

(10) (e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11) (f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(12) (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(13) (h). Since an exemption is being claimed for subsection (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(14) In addition, exemption is claimed for these systems of records from compliance with the following provisions of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to the provisions of 5 U.S.C. 552a(k)(1): subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) to the extent that the records contained in these systems are specifically authorized to be kept secret in the interests of national defense and foreign policy.

[FR Doc.77-23259 Filed 8-11-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Puget Sound, Point Jefferson Restricted Area

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: We are revoking the regulation which establishes a restricted area at Point Jefferson, Puget Sound, Wash., as we have been advised by the Chief of Naval Operations that the area is no longer required.

DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard (202-693-5070) or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: We are revoking only paragraph (f) of 33 CFR Part 207.750 which establishes a naval restricted area at Point Jefferson, Puget Sound, Wash. Since this revocation will have no affect on the public except to remove a restriction from a waterway notice of proposed rulemaking and public procedures thereto are considered unnecessary. Accordingly, 33 CFR 207.750(f) is revoked as set forth below.

§ 207.750 Puget Sound Area, Washington.

* * * * *

(f) [Revoked]

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NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 1.)

Dated: July 28, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

[FR Doc.77-23369 Filed 8-11-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 776-4; OPP-300010C]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for certain inert ingredients in pesticide formulations. The amendment was requested by various firms. This rule will allow the use of additional inert ingredients in pesticides applied to raw agricultural commodities and add another pesticide to the list of those generally recognized as safe for use.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. S.W., Washington D.C. 202-426-2680.

SUPPPLEMENTARY INFORMATION: On May 12, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 24071) to amend 40 CFR 180.1001 by exempting certain pesticide chemicals which are additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements under provisions of Section 408(e) of the Federal Food, Drug, and Cosmetic Act. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulations should be adopted as proposed.

Any person adversely affected by this regulation may, on or before September 12, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on August 12, 1977, Part 180, Subpart D, § 180.1001 is amended as set forth below.

Dated: August 4, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Section 408(e) of the Federal Food, Drug and Comestic Act (21 U.S.C. 346a(e)).)

With the exception of editorial changes to correct typographical errors, it is concluded that the original proposal be issued as an order as follows:

1. Part 180, Subpart A, § 180.2(a) is amended by adding the pesticide chemical sodium hypochlorite to read as follows.

2. Part 180, Subpart D, § 180.1001 is amended by: (1) deleting the entry "alpha-alkyl (C6-C10)-omega-hydroxypoly (oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles; polyoxyethylene content averages 7 moles; average molecular weight approximately 625" from paragraph (c); (2) deleting the entry "Sodium mono-, di-, and tributyl naphthalene sulfonates" from paragraph (d); (3) deleting the entries "Aluminum stearate", "Wintergreen oil", "Ethanol", and "Benzoic acid" from paragraph (d); (4) alphabetically inserting new items in paragraphs (c), (d), and (e); and (5) by deleting sodium hypochlorite from paragraph (c) to read as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium polysulfide, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, and sulfur, and, when used postharvest as fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the purposes of section 408(a) of the act generally recognized as safe for use.

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§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * *		
Alpha-alkyl (C6-C14)-omega-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 650.		Surfactants, related adjuvants of surfactants.
* * * * *		
Potassium sulfate		Solid diluent.
* * * * *		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Surfactants, related adjuvants of surfactants.
* * * * *		

(d) * * *

* * * * *		
Valeric acid, normal	Not more than 2 pct in pesticide formulations.	Stenching agent or odorant.
* * * * *		

(e) * * *

* * * * *		
Acetic anhydride		Solvent, cosolvent, stabilizer.
* * * * *		
Alpha-alkyl (C6-C14)-omega-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 625.		Surfactants, related adjuvants of surfactants.
* * * * *		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Solvent, cosolvent stabilizer.
* * * * *		

[FR Doc.77-23257 Filed 8-11-77;8:45 am]

[FRL 776-2; PP6F1778/R124]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Norflurazon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide norflurazon. The amendment was requested by Sandoz, Inc. This rule establishes maximum permissible levels for residues of norflurazon on apricots, cherries, filberts, peaches, plums (fresh prunes), nectarines, and walnuts.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry Jacoby, Product Manager (PM) 24, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202–755–2196.

SUPPLEMENTARY INFORMATION: On June 3, 1976, notice was given (41 FR 22409) that Sandox, Inc., PO Box 1489, Homestead, Fla. 33030, had filed a petition (PP6F1778) for a tolerance with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.356 be amended by establishing tolerances for residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-α,α,α-trifluoro-m-tolyl)-3 (2H) pyridazinone) in or on the raw agricultural commodities apricots, cherries, filberts, peaches, plums, prunes, nectarines, and walnuts at 0.1 part per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and the herbicide is considered to be useful for the purpose for which the tolerance is sought. The data indicate that there is no reasonable expectation of residues in eggs, milk, and the meat, fat, and meat byproducts of livestock and poultry as delineated in 40 CFR 180.6(a)(3). The scientific data considered in establishing the proposed tolerances were a rat reproduction study with a no-effect level (NEL) of 350 ppm, rat and mouse reproduction studies with NEL's greater than 1,250 ppm and at 370 ppm, respectively, a rat teratology study with an NEL of 400 milligrams/kilogram/day, two-year mouse and rat feeding studies with NEL's of 340 ppm and 375 ppm, respectively, and a six-month dog feeding study with an NEL of 150 ppm. Although mutagenicity data obtained by specific mutagenic test protocols were not submitted by the petitioner, some evidence for lack of mutagenic potential was found in data obtained in other test formats. The petitioner, however, will be required to submit mutagenic potential data developed under designated protocols as soon as these become available through publication of the registration guidelines.

An adequate analytical method (gas chromatography using electron capture detection) is available to enforce the proposed tolerances. Permanent tolerances have previously been established (40 CFR 180.356) for residues of norflurazon on cottonseed and cranberries at 0.1 ppm.

The established tolerances are expressed in terms of the parent compound and its desmethyl metabolite. Consequently, it has been concluded that the additional tolerances should be expressed in terms of norflurazon and its desmethyl metabolite, rather than in terms of the parent compound only. Since the additional uses are such that there would be essentially no residues of norflurazon or its desmethyl metabolite in any of the treated raw agricultural commodities, the tolerance of 0.1 ppm is considered adequate and appropriate. Sandoz did submit residue data for dried prunes in connection with its proposal for a tolerance on plums and prunes. Detectable residues were not present in the dried prunes derived from fresh prunes harvested from treated orchards. Thus, there is no need to establish a food additive tolerance under 21 CFR 193 for dried prunes. However, it is more correct to express the tolerance for prunes in this amendment as "plums (fresh prunes)" and this change is reflected.

Since it has been concluded that the tolerances established by amending 40 CFR 180.356 as proposed will protect the public health, it has been determined that the tolerances should be established as set forth below. Any person adversely affected by this regulation may by September 12, 1977, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW., East Tower, Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Dated: August 4, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), transferred to the Administrator EPA in Reorganization Plan No. 3 (35 FR 15623).)

40 CFR 180.356 is revised in its entirety to correct the spelling of the chemical name for norflurazon and to include tolerances for residues of the pesticide in or on the raw agricultural commodities apricots, cherries, filberts, peaches, plum (fresh prunes), nectarines, and walnuts.

* * * * *

§ 180.66 Norflurazon; tolerances for residues.

Tolerances are established for combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-$\alpha,\alpha,\alpha,$-trifluoro - m - tolyl) - 3(2H) - pyridazinone) and its desmethyl metabolite 4-chloro -5 - (amino)-α,α,α-trifluoro - m-tolyl)-3(2H)-pyridazinone in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Apricots	0.1
Cherries	0.1
Cottonseed	0.1
Cranberries	0.1
Filberts	0.1
Peaches	0.1
Plums (fresh prunes)	0.1
Nectarines	0.1
Walnuts	0.1

* * * * *

[FR Doc.77-23352 Filed 8-11-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 220]

Formulated Grain-Fruit Products

AGENCY: Food and Nutrition Service, USDA

ACTION: Proposed rule.

SUMMARY: This notice proposes to withdraw authorization for the use of a class of products referred to as "formulated grain-fruit products" in the School Breakfast Program. This action results from the questioned need for such products in the School Breakfast Program today. The Department is of the opinion that the withdrawal of "formulated grain-fruit products" will promote the development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods.

DATE: Comments must be received on or before: September 26, 1977.

ADDRESS: Comments may be addressed to the Director, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Grace L. Ostenso, Nutrition and Technical Services Staff, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–9081.

SUPPLEMENTARY INFORMATION: On March 27, 1974 (39 FR 11249) the Food and Nutrition Service published regulations authorizing the use of formulated grain-fruit products which was believed to provide a nutritious, convenient alternative breakfast pattern when served with milk. The conventional breakfast pattern, as specified in the regulations, is a three component meal pattern—bread or cereal; juice, fruit or vegetable; and milk.

The Department believes the preferred source of adequate nutrition is a well-balanced diet of conventional foods. Any "alternate food" authorized for use in the child nutrition programs must make a nutritional contribution equal to or greater than the food it replaces and must be advantageous to the programs, meeting one or more of the following criteria: greater acceptability, lower cost, or improved convenience. The alternative pattern of the formulated grain-fruit product and milk was designed to provide at least 25 percent of the Recommended Dietary Allowances (RDA) for 10 to 12 year old children for specified nutrients except magnesium and kilocalories which are provided at approximately 13 percent of the RDA.

The nutrient levels provided by the alternate pattern are higher than those provided by the conventional breakfast pattern specified in the regulations. The product was considered convenient since it did not require food preparation and service facilities and thus fulfilled a need in no-facility schools and institutions.

The alternate meal pattern has been controversial. There has been some support of the concept and there has also been strong criticism. Some nutritionists and parents have expressed concern about the high sugar and high fat content of the products. Nutrition educators claim that this concept is counterproductive to nutrition education because it is difficult to distinguish it from the unfortified counterpart that is more readily available on the commercial market. It has also been alleged that the concept does not contribute to the formation of good eating habits. Another common criticism has been that the concept does not actually provide much convenience; i.e., a two component pattern is not greatly superior to a three component breakfast pattern. Support of the concept has been based on its labor-saving (convenience) aspect, and that the product ads variety to the menu.

When first introduced, the formulated grain-fruit product appeared to fill a need in no-facility schools and institutions by providing a breakfast where a conventional breakfast could not be served. There is evidence, however, that the majority of schools and institutions using the products today do have adequate food preparation and service facilities to provide a three-component breakfast. The products appear to be used as labor-saving items or to add variety to menus. The Department, therefore, questions the justification to continue authorization of formulated grain-fruit products in the School Breakfast Program. The effective date of this withdrawal is proposed to be June 30, 1978.

Accordingly, Part 220 of Chapter II, Title 7 CFR is proposed to be amended, as follows: The Formulated Grain-Fruit Products section of Appendix A would be deleted.

NOTE.—The Food and Nutrition Service has determined that this document does not contain major proposals requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 9, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-23340 Filed 8-11-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 51]

ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Proposed Cattle and Swine Brucellosis Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend regulations for the payment of indemnity for animals destroyed because of brucellosis. This is needed to include swine destroyed under brucellosis indemnity program. This action will permit the payment of brucellosis indemnity for swine destroyed, will amend certain procedures, and clarify the regulations.

DATE: Comments on or before September 12, 1977.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Room 805, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, USDA, APHIS, VS, Room 805, Federal Building, Hyattsville, Md. 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION: The eradication of brucellosis from the swine herds of the United States is an essential part of the National Brucellosis Eradication Program. In order to accomplish this objective, it is necessary to provide a means of indemnifying owners of affected and exposed breeding swine for losses incurred by the destruction of such swine. The officials of the Animal and Plant Health Inspection Service believe that indemnification of swine may be accomplished in a manner which is similar to that employed in the indemnification of cattle destroyed because of brucellosis.

Existing regulations require that certain cattle which are destroyed because of brucellosis be individually appraised and that reports of States is an essential part of the National Brucellosis Eradication Program. In order to accomplish this objective, it is necessary to provide

a means of indemnifying owners of affected and exposed breeding swine for losses incurred by the destruction of such swine. The officials of the Animal and Plant Health Inspection Service believe that indemnification of swine may be accomplished in a manner which is similar to that employed in the indemnification of cattle destroyed because of brucellosis.

Existing regulations require that certain cattle which are destroyed because of brucellosis be individually appraised and that reports of salvage be obtained as a prerequisite to the payment of indemnities. These amendments would delete such requirements and authorize the payment of indemnity for both cattle and swine at a prescribed rate. This procedure would materially decrease the manpower needed to process indemnity claims, and should shorten the time between destruction and payment of indemnities to the owner. Consequently, it is expected that the Federal Government should realize an overall savings in funds if the regulations are amended as proposed. The claimant should also benefit by receiving indemnity in a shorter waiting period than has been experienced under the present appraisal and salvage procedures for indemnification of cattle.

The dispersal of diseased cattle recently caused by the Teton Dam disaster in Idaho demonstrated a need for a revision of the regulations to provide for an extension of the time in which reactor or exposed animals must be destroyed when a delay in such destruction has been caused by events beyond the control of the owner. The proposed regulations would provide for such extension. Similarly, an extension of the time in which premises, contaminated because of occupation or use by brucellosis reactor or exposed cattle, should be cleaned and disinfected has also been provided when delay in such cleaning and disinfecting has been caused by events beyond the control of the owner.

Current § 51.4, which explains the meaning of cattle affected with or exposed to brucellosis has been deleted. It appears more logical to move the subject matter of that section to the definition section. Consequently, the proposed docket has added the definitions of "Brucellosis-reactor animals" which are animals affected with brucellosis and "Brucellosis-exposed animals" which are animals exposed to brucellosis, to § 51.1. Additionally, it is proposed that the definitions of "State representative," "Registered Swine," "Inbred or hybrid swine," "Herds known to be affected," "Animals," "Claimant," and "Condemn" be added to § 51.1. Further, the definitions of "Mortgage," "Owner," "Destroyed," "Herd," "Herd depopulation," "Registered cattle," and "Permit" in § 51.1 would be amended for the purposes of clarification.

Another change which is proposed is the replacement of the word "cattle" with the word "animals" in the sections applicable to both cattle and swine.

Section 51.3 of the present regulations, with respect to cattle, states that postmortem reports are acceptable as proof of slaughter and therefore, satisfy the proof of destruction requirement for the payment of indemnities. This provision would be deleted from the regulations because it appears that although postmortem reports are acceptable as proof of slaughter, they are only one of many methods of proving destruction, and need not be emphasized in the regulations. Also, in § 51.3 the phrase "except in Alaska, Hawaii, Puerto Rico, and the Virgin Islands where no payment for any cattle destroyed shall exceed $100" would be added to the section dealing with "exposed cattle." Due to the fact that it is difficult to replace cattle in such areas and the high cost of importing cattle into such areas, it appears that the higher rates of indemnity would be applicable to all cattle in such areas. It is not proposed to make such an exception in the sections authorizing swine indemnity since similar importation and replacement problems with respect to swine are not known to exist.

The identification requirements for cattle which are stated in present § 51.6 would be amended for the purposes of clarifying the requirements and so that the identification requiremenst would not be in conflict with the identification requirements established in Part 78 regulating the interstate movement of cattle to prevent the spread of brucellosis. The proposal would require that all brucellosis reactor cattle for which an indemnity is sought under Part 51 be identified in the manner prescribed in § 78.7(b), whether or not such cattle are to be moved interstate. All other cattle for which indemnity is being sought under Part 51 would be required to be identified with an "S" brand and other specified identification. The proposal also would establish a method of identification for swine for which an indemnity is being sought under Part 51.

The proposal also would amend present § 51.11, dealing with claims for indemnity. The proposal would delete the requirement that payment of indemnity will be made only if each Veterinary Services indemnity claim has been approved by a proper State official and if payment of the claim has been recommended by the appropriate Veterinarian in Charge or an official designated by him. The proposal would substitute therefor a requirement that a properly completed indemnity claim form be submitted to and approved by a Veterinarian in Charge or an official designated by him as a prerequisite to the payment of indemnity. Since the regulations concern the issuance of a Federal indemnity, there does not appear to be any reason that a State official should approve or not approve the indemnity claim. Further, the discretion which the Veterinary Services representative had in recommending or not recommending the payment of a particular claim has been clarified.

The proposal would amend present § 51.13(d) to include "spayed heifers" which was inadvertently omitted when Part 51 was promulgated.

The proposal also makes other minor changes in the present regulations for the purposes of clarifying the regulations.

Accordingly, Part 51, Title 9, Code of Federal Regulations, would be amended in the following respects:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The table of contents would be amended to read as follows:

Sec.

51.1 Definitions.
51.2 Cooperation with States.
51.3 Payment to owners for animals destroyed.
51.4 Record of tests.
51.5 Identification of animals to be destroyed because of brucellosis.
51.6 Destruction of animals; time limit for destruction of animals.
51.7 Claims for indemnity.
51.8 Disinfection of premises, conveyances, and materials.
51.9 Claims not allowed.
51.10 Part 53 of this chapter not applicable.

2. § 51.1 would be amended to read:

§ 51.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

(a) "Department": The United States Department of Agriculture.

(b) "Veterinary Services": Veterinary Services, Animal and Plant Health Inspection Service, USDA.

(c) "Deputy Administrator": The Administrator, Veterinary Services, Animal and Plant Health Inspection Service, USDA, or any other Veterinary Services official to whom authority has heretofore lawfully been delegated or may hereafter be delegated to act in his stead.

(d) "Veterinarian in Charge": The Veterinary official of Veterinary Services, Animal and Plant Health Inspection Service, USDA, who is assigned by the Deputy Administrator to supervise and perform official animal health work of the Animal and Plant Health Inspection Service, in the State concerned.

(e) "Veterinary Services Representative": A Veterinarian or other person employed by Veterinary Services, Animal and Plant Health Inspection Service, USDA, in animal health activities who is authorized to perform the function involved.

(f) "State": Any State, Territory, the District of Columbia, or Puerto Rico.

(g) "Accredited Veterinarian": An accredited veterinarian as defined in Part 160 of this chapter.

(h) "Mortgage": Any mortgage, lien, or other security or interest that is recorded under State law or identified in the indemnity claim form filed under § 51.7 and held by any person other than the one claiming indemnity.

(i) "Person": Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

(j) "Owner": Any person who has a legal or rightful title to animals whether or not they are subject to a mortgage.

(k) "Destroyed": Condemned under State authority and slaughtered or otherwise dies.

(l) "Official vaccinate": A female bovine animal of a dairy breed vaccinated subcutaneously against brucellosis while from 2 to 6 months (60 to 179 days) of age or a female bovine animal of a beef breed vaccinated subcutaneously against brucellosis while from 2 to 10 months (60 to 299 days) of age, under the supervision of a Federal or State Veterinary official, with a vaccine approved by Veterinary Services, permanently identified as an official vaccinate; and reported at the time of vaccination to the appropriate State or Federal agency cooperating in the eradication of brucellosis: *Provided, however,* That a bovine animal vaccinated prior to June 26, 1975, in accordance with the existing definition of an official vaccinate as set forth in this part at the time of vaccination, shall be deemed to be an official vaccinate.

(m) "Herd": Any group of animals of the same species maintained on common ground for any purpose, or two or more groups of animals (of the same species) under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

(n) "Herd depopulation": (Removal by slaughter or other means of destruction of all cattle in a herd or of all swine in a herd or from a specific premises or under common ownership prior to restocking such premises with new animals, except that steers and spayed heifers or barrows and gilts maintained for feeding purposes may be retained on the premises if the Veterinarian in Charge finds such retention to be compatible with eradication efforts.

(o) "Registered cattle": Cattle for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association.

(p) "Registered swine": Any breeding swine for which a certificate of pure breeding has been issued by a purebred swine association.

(q) "Inbred or hybrid swine": Any breeding swine which are the progeny of two or more breeds of registered swine and which are maintained to produce inbred or hybrid swine, and for which records of ancestry exist through which such swine can be individually identified as progeny of said registered swine.

(r) "Permit": An official document for movement of animals under this Part issued by a Veterinary Services representative, State representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification.

(s) "Brucellosis reactor animal": Any animal which has reacted to an official test for brucellosis as defined in the Uniform Methods and Rules, chapter I, part I–A and part II–G, or chapter II, part I–A and part II–G.[1] [2]

(t) "Brucellosis exposed animal": Any animal, except a brucellosis reactor animal, that is part of a herd known to be affected or that has been in contact with a brucellosis reactor animal in marketing or other channels for a period of 24 hours or for a period of less than 24 hours if such brucellosis reactor animal has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

(u) "Herd known to be affected": Any herd in which any animal has been classified as a brucellosis reactor as defined in the Uniform Methods and Rules, chapter I, part I–A, or chapter II, part I–A, and which has not been released from quarantine in accordance with such Uniform Methods and Rules, chapter I, part II–D, or chapter II, part II–D.[1] [2]

(v) "Animals": Cattle and breeding swine.

(w) "Claimant": A person who files a claim for indemnity under section 51.7 of this part for animals destroyed under this part.

(x) "Condemn": The determination made by Veterinary Services representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this Part shall be destroyed.

(y) "State representative": A veterinarian or other person regularly employed in livestock sanitary work of a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

3. Section 51.2 would be amended to read:

§ 51.2 Cooperation with States.

The Deputy Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellos-exposed animals.

4. Section 51.3 would be amended to read:

§ 51.3 Payment to owners for animals destroyed.

(a) *Cattle.*—(1) *Brucellosis reactor cattle.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to owners whose cattle are destroyed as brucellosis reactors. The indemnity shall not exceed $50 for any nonregistered cattle or $100 for any registered cattle, except in Alaska, Hawaii, Puerto Rico, and the Virgin Islands where no payment for any nonregistered or registered cattle destroyed shall exceed $100. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(2) *Herd depopulation.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to an owner whose herd of cattle are destroyed because of brucellosis. The indemnity shall not exceed $50 for any nonregistered cattle or $100 for any registered cattle, except in Alaska, Hawaii, Puerto Rico, and the Virgin Islands where no payment for any nonregistered or registered cattle destroyed shall exceed $100. Indemnity payment shall only be made for brucellosis exposed cattle or for cattle from a herd known to be affected, and only when the Deputy Administrator determines that the destruction of all cattle in the herd will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(3) *Exposed cattle.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to an owner whose cattle are destroyed because of brucellosis. The indemnity shall not exceed $50 for any nonregistered cattle or $100 for any registered cattle, except in Alaska, Hawaii, Puerto Rico, and the Virgin Islands where no payment for any nonregistered or registered cattle destroyed shall exceed $100. Indemnity payment shall be made only for brucellosis exposed cattle and only when the Deputy Administrator determines that the destruction of such cattle will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(b) *Swine.*—(1) *Brucellosis reactor swine.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to an owner whose breeding swine are destroyed as brucellosis reactors. The indemnity shall not exceed $25 per head for registered inbred, or hybrid swine, or $10 per head for all other breeding swine. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(2) *Herd depopulation.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to an owner whose herd of breeding swine are destroyed because of brucellosis. The indemnity shall not exceed $25 per head for registered, inbred, or hybrid swine, or $10 per head for all other breeding swine. Indemnity payment shall be made only for brucellosis exposed swine or for swine from a herd known to be affected and only when the Deputy Administrator determines that the destruction of all swine in the herd will contribute to the Brucellosis Eradi-

[1] Copies of the January 1975 Recommended Brucellosis Eradication Uniform Methods and Rules (APHIS 91–1) are available upon request from Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, Md. 20782, and were filed as part of this original document.

[2] NOTE.—Incorporation by reference provisions approved by the Director, Office of the Federal Register on March 3, 1977.

cation Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(3) *Exposed swine.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to an owner whose breeding swine are destroyed because of brucellosis. The indemnity shall not exceed $25 per head for registered, inbred, or hybrid swine, or $10 per head for all other breeding swine. Indemnity payment shall be made only for such brucellosis exposed swine and only when the Deputy Administrator determines that the destruction of such swine will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

5. Section 51.4 would be deleted.

6. Section 51.5 would be redesignated as § 51.4 and would be amended to read:

§ 51.4 Records of tests.

The claimant shall be responsible for providing information to Veterinary Services representative, State representative, or accredited veterinarian so that a complete test record may be made by such person on a Veterinary Services approved form for each herd known to be affected, including the reactor tag number of each brucellosis reactor animal and the registration name and number of each brucellosis reactor registered animal. A copy of the applicable test record shall be given to the owner of any such herd, and one copy of each such record shall be furnished to the appropriate State veterinarian's office by such person who completes the test record.

7. Section 51.6 would be redesignated as § 51.5 and the section and section heading would be amended to read as follows:

§ 51.5 Identification of animals to be destroyed because of brucellosis.

(a) The claimant shall be responsible for insuring that any animal for which indemnity is claimed shall be identified in accordance with the provisions of this section within 15 days after having been classified as a reactor or for any other animal subject to this part within 15 days after having been condemned. The Veterinarian in Charge may extend the time limit to 30 days when a request for such extension is received by him prior to the expiration date of the original 15 day period allowed, and when he determines that the extension will not adversely affect the Brucellosis Eradication Program.

(b) Regardless of whether the cattle are to move interstate, all brucellosis reactor cattle shall be identified in the manner prescribed in § 78.7(a) of the regulations for brucellosis reactor cattle. All other cattle for which indemnity is claimed under this Part, shall be identified by a Veterinary Services approved metal eartag and by branding with heat the letter "S" on the left jaw, in letters not less than 2 nor more than 3 inches high.

(c) Swine shall be individually identified by tagging with a metal tag bearing a serial number and inscription "U.S. Reactor" or a similar State reactor tag or other identification approved by the Deputy Administrator, Veterinary Services, upon request in specific cases, attached to the left ear of each animal.

8. Section 51.7 would be redesignated as § 51.6 and would be amended to read:

§ 51.6 Destruction of animals; time limit for destruction of animals.

(a) *Cattle.* The claimant shall be responsible for insuring that cattle subject to this part shall be sold under permit to a State or Federal slaughtering establishment approved by the Deputy Administrator for this purpose,[2] or to a stockyard approved by the Deputy Administrator for sale to such slaughtering establishment.[3]

(b) *Swine.* The claimant shall be responsible for insuring that swine subject to this part shall be sold under permit to a slaughtering establishment where State or Federal meat inspection is available, or to a market approved by the State Animal Health Official, or to a market approved by the Deputy Administrator, for sale to such slaughtering establishment.[4]

(c) *Time limit for destruction of animals.* Payment of indemnity shall be made under this Part only if the animals are destroyed within 15 days after the date of identification, pursuant to § 51.5 of the regulations in this part, except that the appropriate Veterinarian in Charge may extend the time limit to 30 days when request for such extension is received from the owner prior to the expiration date of the original 15-day period allowed, or when the animals were sold for slaughter prior to the expiration date of the original 15-day period, and when the Veterinarian in Charge determines that such extension will not adversely affect the Brucellosis Eradication Program; and except further, that the Deputy Administrator may, upon request in specific cases, extend the time limit beyond the 30-day period when unusual and unforeseen circumstances occur, such as but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner, preventing or hindering the destruction of the animals.

9. Sections 51.8, 51.9, and 51.10 would be deleted in their entirety.

10. Section 51.11 would be redesignated as § 51.7 and would be amended to read:

§ 51.7 Claims for indemnity.

Claims for indemnity for animals destroyed because of brucellosis shall be presented on indemnity claim forms furnished by Veterinary Services on which the owner of the animals covered thereby shall certify that the animals are or are not subject to any mortgage as defined in this part. If the owner states there is a mortgage, the Veterinary Services indemnity claim form shall be signed by the owner and by each person holding a mortgage on the animals, consenting to the payment of any indemnity allowed to the person specified thereon. Payment will be made only if the claimant has submitted a complete indemnity claim form to, and such claim has been approved by the Veterinarian in Charge or by a Veterinary Services representative designated by him. On claims for indemnity made under the provisions of § 51.3, the Veterinarian in Charge or a Veterinary Services representative designated by him shall record on the Veterinary Services indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals shall be furnished a copy of the completed Veterinary Services indemnity claim form. The Veterinarian in Charge or a Veterinary Services representative designated by him shall then forward the completed Veterinary Services indemnity claim form to the Deputy Administrator for further action on the claim. No charges for holding the animals on the farm pending slaughter or for trucking by the owner shall be so deducted or otherwise paid by the Department.

11. Section 51.12 would be redesignated as § 51.8 and would be amended to read:

§ 51.8 Disinfection of premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, and materials, contaminated because of occupation or use by brucellosis reactor or exposed animals shall be properly cleaned and disinfected with a disinfectant permitted by Veterinary Services in accordance with recommendations of the Veterinary Services or State representative within 15 days from the date reactors were removed from the premises, except that the appropriate Veterinarian in Charge may extend the time limit for disinfection to 30 days when request for such extension is received by him prior to the expiration date of the original 15-day period allowed, and when he determines that such extension will not adversely affect the Brucellosis Eradication Program; and except further, that the Deputy Administrator may, upon request in specific cases, extend the time limit beyond the 30-day period when unusual and unforeseen circumstances occur, such as but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner, preventing or hindering the disinfection of premises, conveyances, and materials. Certain premises may be exempted from such cleaning and disinfacting requirements by approval of the appropriate Veterinarian in Charge or written recommendations by the Veterinary Services or State representative or when a written report by the Veterinary Services or State representative determines that there are no buildings, holding facilities, conveyances, or other materials on the premises that would require such cleaning and disinfection.

12. Section 51.13 would be redesignated § 51.9 and would be amended to read:

§ 51.9 Claims not allowed.

Claims for compensation for animals destroyed because of brucellosis shall not be allowed if any of the following circumstances exist:

(a) If the claimant has failed to comply with any of the requirements of this Part.

(b) If the existence of any such disease in the animal was determined as the result of an agglutination test applied in accordance with the Uniform Methods and Rules[1 2] by an accredited veterinarian and specific instructions for the administration of such test had not previously been issued to such veterinarian by the proper Veterinary Services and State authorities.

(c) If all cattle susceptible to brucellosis in the claimant's herd have not been tested for brucellosis under Veterinary Services or State supervision, or if all swine susceptible to brucellosis in the claimant's herd have not been tested for brucellosis under Veterinary Services or State supervision.

(d) If the animals or barrows or gilts maintained for feeding purposes, or are spayed heifers or steers unless the steers are work oxen.

(e) If the animals are classified as reactors and are unofficial vaccinates unless there is either a record of a negative blood agglutination test made not less than 30 days following the date of vaccination in accordance with the Uniform Methods and Rules,[1 2] or unless other Veterinary Services approved tests show the vaccinates are affected with virulent Brucellae.

(f) If there is substantial evidence that the owner or his agent has in any way been responsible for any unlawful or improper attempt to obtain indemnity funds for such animal.

(g) If, at the time of test or condemnation, the animals belonged to or were upon the premises of any person to whom they had been sold for slaughter; shipped for slaughter, or delivered for slaughter.

13. Section 51.14 would be redesignated as § 51.10 and would be amended to read:

§ 51.10 Part 53 of this chapter not applicable.

No claim for indemnity for animals destroyed because of brucellosis shall hereafter be paid under the regulations contained in Part 53 of this chapter, but all such claims shall be presented and paid pursuant to and in compliance with regulations contained in this Part.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 805, Hyattsville, Md. 20782, during regular hours of business (8 a.m. to 4:30 p.m., except holidays) in a manner convenient to the public business (7 CFR 1.27 (b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparations of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-23326 Filed 8-11-77;8:45 am]

[2] Slaughtering establishments and stockyards are approved by the Deputy Administrator in accordance with § 78.25 of the regulations.

[3] Markets are approved by the Deputy Administrator in accordance with the provisions in § 76.18 of the regulations

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 210, 211, and 212]

EXEMPTION OF MOTOR GASOLINE FROM MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATION

Environmental Assessment of Proposed Rulemaking

AGENCY: Federal Energy Administration.

ACTION: Notice of availability.

SUMMARY: The Federal Energy Administration (FEA) has proposed to exempt motor gasoline from the mandatory petroleum allocation and price regulations and has made a negative determination as to the necessity of preparing an environmental impact statement with respect to this action.

DATE: Comments by September 6, 1977.

ADDRESS: Written comments to Executive Communications, Box ON, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Denna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461. (202-566-9161).

Gerald P. Emmer or William E. Caldwell, (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461. (202-254-8034).

J. Thomas Wolfe, (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7146, Washington, D.C. 20461. (202-566-9750).

SUPPLEMENTARY INFORMATION: The proposed rulemaking would exempt motor gasoline from the provisions of 10 CFR Parts 210, 211, and 212, and is possible under section 12 of the Emergency Petroleum Allocation Act (EPAA), which was added to the EPAA on December 22, 1975, by the Energy Policy and Conservation Act, Pub. L. 94-163.

Pursuant to 10 CFR 208.4, the FEA hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the proposed rulemaking. Based upon assessment of environmental impacts that are expected to result from the implementation of the proposed rulemaking, the FEA has determined that exemption of motor gasoline from mandatory allocation and price regulation will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), FEA has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessment may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the environmental assessment will also be available for public review in the FEA Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to submit written comments with respect to the environmental assessment to the above address. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Environmental Assessment—Motor Gasoline Regulation Exemption." Five (5) copies should be received by FEA by September 6, 1977, in order to ensure consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 5, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-23396 Filed 9-10-77;9:16 am]

[10 CFR Parts 210, 211 and 212]

Exemption of Motor Gasoline From the Mandatory Petroleum Allocation and Price Regulations

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Federal Energy Administration (FEA) proposes to amend 10 CFR Parts 210, 211 and 212 to exempt motor gasoline (as defined in 10 CFR §§ 211.51 and 212.31) on November 1, 1977 from its Mandatory Petroleum Al-

location and Price Regulations and to establish a transitional assignment program for motor gasoline to alleviate possible supply dislocations following deregulation. In connection with its proposed exemption of motor gasoline, FEA is issuing concurrently with this notice its "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" (the "Preliminary Findings").

DATES: Comments by September 6, 1977, 4:30 p.m.; requests to speak by August 26, 1977, 4:30 p.m.; statements by September 6, 1977, 4:30 p.m. for the National hearing and on the day the statement is to be presented for the Regional hearings; hearings to be held on the dates and at the locations set forth below.

HEARINGS DATES

National Hearing: September 7, 1977, 9:30 a.m. and continued if necessary at 9:30 a.m. at the same location on September 8, 1977.
Atlanta Hearing: September 7, 1977, 9:30 a.m. and continued if necessary at 9:30 a.m. at the same location on September 8, 1977.
New York Hearing: September 7, 1977, 9:30 a.m. and continued if necessary at 9:30 a.m. at the same location on September 8, 1977.
Chicago Hearing: September 7, 1977, 9:30 a.m. and continued if necessary at 9:30 a.m. at the same location on September 8, 1977.
Dallas Hearing: September 7, 1977, 9:30 a.m. and continued if necessary at 9:30 a.m. at the same location on September 8, 1977.
Denver Hearing: September 8, 1977, 9:30 a.m.
San Francisco Hearing: September 6, 1977, 9:30 a.m.

ADDRESSES: Written comments to: Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Box ON, Washington, D.C. 20461. Statements for the National hearing to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Box ON, Washington, D.C. 20461 and for the Regional Hearings to the location of the hearing.

REQUESTS TO SPEAK TO

National Hearing: Federal Energy Administration, Attn: Executive Communications, 12th and Pennsylvania Avenue NW., Room 3317, Box ON, Washington, D.C. 20461.
Atlanta, Georgia Hearing: FEA, 1655 Peachtree St., Atlanta, Georgia 30309, Attn: S. Orr.
Chicago, Illinois Hearing: FEA, 175 W. Jackson Blvd., Room A-333, Chicago, Illinois 60604, Attn: C. Swank.
Dallas, Texas Hearing: FEA, 2626 West Mockingbird Lane, Dallas, Texas 75235, Attn: S. Dickey.
Denver, Colorado Hearing: FEA, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, Attn: R. Drawe.
San Francisco, California Hearing: FEA, Third Floor, 111 Pine Street, San Francisco, California 94111, Attn: J. McGourty.
New York, New York Hearing: FEA, 26 Federal Plaza, New York, New York 10007, Attn: E. W. Hennessey.

HEARING LOCATIONS

National Hearing: Room 3000A, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C.
Atlanta, Georgia Hearing: Atlanta Civic Center, Room 201, 395 Piedmont Avenue, N.E., Atlanta, Georgia 30308.
Chicago, Illinois Hearing: Everett McKinley Dirksen Building, Room 1220, 219 South Dearborn Street, Chicago, Illinois 60604.
Dallas, Texas Hearing: FEA, Training Room 250, 2626 West Mockingbird Lane, Dallas, Texas 75235.
Denver, Colorado Hearing: Main Post Office Building, Room 269, 18th and Stout Street, Denver, Colorado 80266.
San Francisco, California Hearing: U.S. Environmental Protection Agency, Conference Room, Second Floor, 100 California Street, San Francisco, California 94111.
New York, New York Hearing: FEA, Room 305C, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C., 202-566-9161.
Gerald P. Emmer or William E. Caldwell (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-8034.
Michael Paige or Joel Yudson (Office of General Counsel), 12th & Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

Following a preliminary analysis of the impact of regulation of motor gasoline pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended P.L. 93-159, FEA has tentatively concluded that this product should be exempted from the Mandatory Petroleum Allocation and Price Regulations. Therefore, by this notice of proposed rulemaking, FEA is proposing two amendments to be submitted as energy actions to the Congress in accordance with the provisions of section 12 of the EPAA, section 551 of the Energy Policy and Conservation Act, P.L. 93-163 (EPCA), and section 102 of the Energy Conservation and Production Act, P.L. 94-385 (ECPA), to exempt motor gasoline, effective November 1, 1977, from the application of the Mandatory Petroleum Allocation and Price Regulations (10 CFR Parts 210, 211, and 212), thereby converting the EPAA to standby authority with respect to the pricing and allocation of motor gasoline. These proposed amendments are issued concurrently with FEA's Preliminary Findings.[1]

In addition to requesting comments on the proposed exemption of motor gasoline, FEA also requests public comment with respect to the Preliminary Findings and the proposed motor gasoline transitional assignment program. If, after all comments received during the public comment period are fully considered, FEA concludes that its preliminary findings and views are correct, two energy actions to exempt motor gasoline from regulation will be submitted to the Congress. The transitional assignment program will become effective upon the effectiveness of the proposal to exempt motor gasoline from allocation controls.

II. BACKGROUND

On January 19, 1977, following a notice of proposed rulemaking (41 FR 51832, November 24, 1976) and public hearings, FEA issued two amendments exempting motor gasoline from 10 CFR Parts 210, 211 and 212, the General Allocation and Price Rules and the Mandatory Petroleum Allocation and Price Regulations (42 FR 4416 and 42 FR 4419, January 25, 1977). These amendments were transmitted to the Congress as Energy Actions Nos. 8 and 9 on January 19, 1977, in accordance with the procedures set forth in section 551 of the EPCA.

At the time the amendments were issued, FEA provided therein that the amendments would take effect March 1, 1977, unless disapproved by either House of Congress or, because of the pending change of Administration, withdrawn by the President prior to Congressional approval or disapproval during the 15-day period provided for Congressional review by the EPCA. Notice was thereby given that the FEA rulemaking proceeding to exempt motor gasoline from its regulations was continued for the purpose of permitting a subsequent withdrawal of the energy actions and recision of the amendments in the event that the new Administration determined that further consideration would be necessary.

Prior to the end of the 15-day Congressional review period, the President determined that the motor gasoline exemption amendments required further consideration and, on January 24, 1977, FEA issued a notice rescinding the January 19 amendments (42 FR 3036, January 27, 1977) and thereby withdrew Energy Actions Nos. 8 and 9 from Congressional review.

In the President's April 29, 1977 National Energy Plan, the Administration expressed its intention to examine the motor gasoline supply and demand situation with the view toward decontrolling motor gasoline at the end of the peak driving season this fall:

> Gasoline allocation and price controls are another major area of unsettled oil policy. Gasoline prices have never reached their allowable controlled ceilings, and marketers have contended for some time that deregulation of gasoline would increase competition by allowing them to shop among suppliers. There is little question that gasoline allocation and price controls have distorted what at times has been a competitive market.
>
> * * * [T]he Administration currently hopes to eliminate gasoline price controls and allocation regulations at the end of the peak driving season this coming fall. Gasoline prices and market competition will be closely monitored between now and then to assure this policy is appropriate. If gasoline were to be decontrolled, controls could be reimposed if prices rose above a predetermined level. This standby authority would permit the elimination of controls while protecting consumers. (*The National Energy Plan*, p. 59.)

In accordance with the National Energy Plan, FEA has continued its examination of the impact of regulation of motor gasoline and, as discussed in more detail below, has tentatively concluded that, following the peak driving season this summer, continuation of the motor gasoline regulations will not be necessary to achieve the objectives of the EPAA.

III. EXEMPTION PROCEDURE

Section 455 of the EPCA has provided more flexibility to exempt a product category or categories from FEA price and allocation regulations than was the case under the EPAA prior to enactment of the EPCA. For example, pursuant to EPCA section 455 a product category or product categories may be exempted from FEA regulations in the same proceeding, and an exemption is no longer limited to 90 days in length as was previously required. FEA may propose to exempt an oil or refined product category from the regulations prescribed under section 4(a) of the EPAA if it determines that the exemption is consistent with the attainment of the public policy objectives specified in section 4(b)(1) of the EPAA. Those objectives are as follows:

(A) Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

(B) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) Preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

(E) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(i) Fuels, and

(ii) Minerals essential to the requirements of the United States, and for required transportation related thereto;

(H) Economic efficiency; and

(I) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

Pursuant to EPAA section 12, an amendment exempting crude oil, residual fuel oil, or a refined petroleum product with respect to a class of persons or transactions with respect to any market level, must be submitted to the Congress as an energy action before it takes effect. The exemption will become effective if the amendment is not disapproved by either House of Congress within 15 days following its submission for Congressional review under section 551 of the EPCA.

Section 12 of the EPAA further provides that any amendment submitted to Congress which proposes to exempt crude oil (if permissible under and consistent with the requirements and limitations of section of the EPAA), residual fuel oil, or any refined petroleum product from FEA allocation regulations must be accompanied by a finding that the oil product is no longer in short supply and that the exemption would not have an adverse impact on the supply of any other oil or product. A proposed exemption from FEA price regulations must be accompanied by findings that competition and market forces would provide adequate protection for the summer, and that such amendment would not result in inequitable prices for any class of user. An exemption amendment submitted to the Congress must also be accompanied by an FEA analysis of the potential economic impact of such amendment.

Any oil or refined petroleum product which is exempted from the FEA regulation under section 4(a) of the EPAA is subject to the reimposition of price and allocation controls if FEA determines that reimposition is necessary for and consistent with the objectives specified in EPAA section 4(b)(1). Pursuant to section 12(f) of the EPAA, subsequent reexemption of that oil or refined petroleum product would not be subject to Congressional review.

In addition, section 102 of the ECPA, enacted on August 14, 1976, prohibits FEA from submitting to the Congress as one energy action an amendment proposing exemption of any oil, refined petroleum product or refined product category from both the allocation and pricing regulations. However, FEA may concurrently submit to the Congress an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.

IV. PROPOSED EXEMPTION

As section 12(c)(2) of the EPAA requires that an exemption amendment apply to only one refined petroleum product or one refined product category, and specifies that motor gasoline constitutes a single product category, FEA proposes the exemption from FEA price and allocation regulations of motor gasoline as a single product category in this notice of proposed rulemaking. FEA is proposing the exemption of motor gasoline from both the Mandatory Petroleum Allocation Regulations and the Mandatory Petroleum Price Regulations because recent surplus supplies and market conditions appear to justify an end to both types of controls. Upon conclusion of this rulemaking, FEA will determine whether an exemption of motor gasoline from either of or both the allocation and price regulations should be adopted. If FEA determines that motor gasoline should be exempt from such regulations, FEA will submit the appropriate exemption amendments to the Congress for review of FEA's findings and views supporting such exemption. If, as stated above, FEA ultimately concludes that motor gasoline should be exempted from the mandatory Petroleum Price Regulations, further conforming amendments to FEA price regulations, beyond the simple exemption proposed herein, may be necessary to adequately effectuate the exemption of motor gasoline pursuant to this proceeding.

For purposes of this proposed exemption, motor gasoline, as defined in FEA allocation regulations (10 CFR 211.51), "means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occuring petroleum hydrocarbons are converted to those that have superior fuel properties." Motor gasoline does not, however, include aviation gasoline. Gasoline as defined in the pricing regulations (10 CFR §212.31) to mean "all of the various grades, other than aviation gasoline, of refined petroleum naptha which, by its composition, is suitable for use as a carburant in internal combustion engines" would also be included in the exemption

[1] The Preliminary Findings were prepared prior to the passage by Congress on August 4, 1977 of the Clean Air Act Amendments of 1977; if enacted, projected effects of these amendments will be accounted for where necessary in the final findings before an energy action proposing an exemption is submitted to Congress

FEA has tentatively concluded in its preliminary findings on the basis of currently available data that this exemption would be consistent with and in furtherance of the attainment of the objectives set forth in section 4(b)(1) of the EPAA, as amended by section 451 of the EPCA.

As noted in the preliminary findings, FEA's demands forecasts were derived from FEA's short-term model which uses macroeconomic forecasts by Data Resources, Inc. (DRI). The current petroleum product demand estimates are consistent with Counsel of Economic Advisors—FEA economic targets and are based on a DRI Trendlong 0377 macroeconomic simulation of these targets. Furthermore, FEA conducted a refiner survey to determine industry estimates of supply and demand and sets forth the results in the preliminary findings.

FEA's preliminary conclusions are that, as long as supplies are adequate, the continuation of allocation and price controls for motor gasoline is not necessary to protect the public health, safety, and welfare (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations section 4(b)(1)(C)); or the maintenance of exploration for and production or extraction of fuels and minerals (section 4(b)(1)(G)). Adequate supply and the positive effects of increased competition would also insure that the proposed exemption is consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil and refined petroleum products (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). The proposed exemption should have no adverse effect on the allocation of suitable crude oil to domestic refineries (section 4(b)(1)(E)). FEA emphasizes that these conclusions are preliminary and invites specific data, views and arguments with respect to the relationship between the objectives of the EPAA and the exemption contemplated by this proposal. Any further information received with respect to the compatibility of the exemption proposed herein with these objectives will be considered by FEA in formulating its final conclusions.

Tentative conclusions as set forth in the preliminary findings include:

(1) Motor gasoline is not now in short supply, and anticipated supplies of motor gasoline will be sufficient to meet the demand through 1979.

(2) Exemption of motor gasoline from the Mandatory Petroleum Allocation and Price Regulations would not have an adverse impact on the supply of any other oil or refined product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers if motor gasoline is exempted from regulation.

(4) Such an exemption from regulation will not result in inequitable prices for any class of user of motor gasoline fuel or other products.

In connection with tentative conclusion (3) set forth above, it should be noted that FEA projects that during the period of adequate supplies, non-cost-justified price increases will not occur solely as a result of motor gasoline decontrol.

The preliminary findings also indicate FEA's tentative views concerning the potential economic impacts of exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. As long as supplies remain adequate, it is not anticipated that there will be any adverse State or regional impacts resulting from the proposed exemption. As noted in the preliminary findings, the price regulations afford refiners regional pricing flexibility of up to three cents a gallon and removal of controls should not result in disparate price increases for any region.

In addition, in a period of adequate supplies, FEA anticipates no adverse economic impacts on the availbility of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA believes that the proposed exemption may have a positive effect on competition. The proposed exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis preliminarily concludes that, since supplies should remain adequate, there will be no effect of the proposed exemption on the rate of unemployment in the United States, on the Consumer Price Index or on the implicit price deflator for the Gross National Product.

As stated in the National Energy Plan, if in a decontrolled setting prices were to rise above a predetermined level, controls could be reimposed. FEA intends to closely monitor motor gasoline prices at both the retail and refiner level and is particularly concerned as to the effects on prices if a shortage were to develop. FEA is requesting comments as to whether a price monitoring system such as that adopted with respect to middle distillates might be appropriate to disclose unwarranted price increases following decontrol of motor gasoline, and also the most effective manner in which such a system may be implemented. FEA will separately request written comments and hold public hearings with respect to the specific features of a price monitoring system.

V. Proposed Transitional Assignment Program

FEA is hereby proposing Special Rule No. 4 to Subpart A of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211), which would establish an assignment program for motor gasoline to protect marketers as to their ability to obtain supplies during the transitional year following removal of controls. Special Rule No. 4, as proposed herein, is derived substantially from the Special Rule No. 4 contained in the motor gasoline exemption amendments issued January 19, 1977.

While FEA does not expect supply dislocations to occur as a result of motor gasoline decontrol, Special Rule No. 4, which is proposed to be effective following the exemption of motor gasoline, is designed as a safeguard against the same type of potential supply dislocations which prompted the adoption of Special Rule No. 3 to Subpart A of 10 CFR Part 211, following the exemption of middle distillates. FEA seeks to insure that no marketer of gasoline will lose its supply source without adequate time to arrange for a new supplier during the transitional period following the removal of controls. The proposal permits marketers who have made diligent unsuccessful efforts to obtain supplies of motor gasoline to be assigned as much as their previously authorized base period use.

Under proposed Special Rule No. 4, to terminate motor gasoline supplier/wholesale purchaser relationships prior to the end of the transitional year, all suppliers would be required to provide at least ninety days notice to any wholesale purchaser (commencing no earlier than the effective date of the final amendment) before terminating the supply relationship with that purchaser. Any such termination could be effective only at the beginning of a month. If the purchaser would be unable, after a diligent effort, to obtain a supply of motor gasoline equal to its base period use, it could apply at least thirty days prior to the date on which the termination is to become effective to the FEA Regional Office for the region where it is located, to continue its supplier/purchaser relationship with its base period supplier for three additional months. The wholesale purchaser could reapply to the FEA Regional Office for two additional continuation orders for three month periods if it were to remain unable after diligent efforts to find alternative sources of supply. A purchaser which chose not to receive product from its base period supplier during any three month period, however, would be assumed to have an alternative source of supply and not be eligible to apply for a further transition assignment as to the volume of product not lifted, unless such failure to lift was due to factors beyond the control of the purchaser and FEA determines that the purchaser's inability to obtain that volume would impose an undue hardship on that purchaser. The notification and transitional assignment periods would provide a maximum of four three month periods of assured supply. In any event, no assignment under the proposed Special Rule No. 4 would extend beyond one year from the effective date of the exemption.

Special Rule No. 4 would also provide that if FEA fails to act on an application for continuation of a supplier/purchaser relationship that was filed in a timely fashion, that is, at least thirty days prior to the date on which a termination following ninety days' notice was to take effect or a prior continuation order was to expire, the supplier/purchaser relationship would not end but would automatically continue for an additional month pending FEA action on the application. Moreover, if a late-filed application is not acted on by FEA by the termination date, Special Rule No. 4 would authorize FEA to issue a temporary continuation order for one month pending final action on the application if the applicant would show good cause for the late filing.

Inasmuch as prices will no longer be subject to controls during this period, if the exemption with regard to price is not disapproved, proposed Special Rule No. 4 would also prevent circumvention of the transitional assignment procedures set forth above by requiring that prices charged to wholesale purchasers, including marketers, receiving product under Special Rule No. 4 shall be nondiscriminatory. Suppliers would have to make gasoline available to purchasers which are assigned to them pursuant to Special Rule No. 4 on the same terms and conditions under which they would make gasoline available to other purchasers in the same class. In other words, suppliers could not discriminate against purchasers solely because they are assigned purchasers. The same definition of "discrimination" would apply for purposes of the Special Rule as currently is used in 10 CFR § 210.62(b).

In the event Special Rule No. 4 is adopted, FEA intends to issue guidelines to provide both FEA and the public greater guidance on the operation of the provisions of the Rule. These guidelines would explain in greater detail such matters as what efforts FEA would deem to constitute a "diligent unsuccessful effort to locate an alternate source of supply" and how the non-discrimination requirements would apply in particular situations.

In the context of assuring supplies for marketers during the transitional period, FEA requests comments whether a special motor gasoline state set-aside, operated by state energy offices, would be necessary in addition to the proposed transitional assignment program.

VI. Effective Date

FEA is proposing to have motor gasoline decontrol become effective on November 1, 1977 or on the first day following the expiration of the Congressional review period, whichever is later. If a longer lead time is believed to be necessary to allow gasoline marketers and purchasers to plan to operate in an unregulated market, comments should be submitted regarding the appropriate time period to delay the effective date of decontrol.

VII. Comments and Procedures

FEA's specific preliminary findings and views on the exemption proposed hereby and the data and information in support of the proposed exemption are fully set forth in its Preliminary Findings. Interested persons may obtain copies of the Preliminary Findings by writing FEA, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will also be available at the FEA Press Room, Room 3138, 1200 Pennsylvania Avenue NW., Washington, D.C., and at each of the FEA Regional Offices.

FEA has determined that in addition to holding a public hearing on this proposal in Washington, D.C., it will hold regional hearings in Atlanta, Chicago, Dallas, Denver, New York, and San Francisco.

In Washington, D.C., the hearing (hereinafter referred to as the National hearing) will be held beginning at 9:30 a.m., e.d.t., on September 7, 1977 in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C., and will be continued if necessary at 9:30 a.m., September 8, 1977, e.d.t., at the same location. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, Room 3317, Box ON, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., on August 26, 1977. A request may be hand delivered between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

The regional hearings in Atlanta, Chicago, Dallas, and New York, will be held beginning at 9:30 a.m., local time, September 7, 1977 at the locations specified below, and these regional hearings will be continued if necessary on September 8, 1977 at 9:30 a.m., local time, at the same locations. The San Francisco regional hearing will be held at 9:30 a.m., local time, on September 6, 7977 and the Denver regional hearing will be held at 9:30 a.m., local time, on September 8, 1977. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA at the address given below for the appropriate Region, and in accordance with the request procedures set forth below. Requests must be received before 4:30 p.m., local time, August 26, 1977.

FEA region	Submit requests to (with a duplicate to)	Hearing location
[illegible]	FEA, 1655 Peachtree [illegible] Atlanta, Ga. 30367 Attention: S. Orr	Atlanta Civic Center, Room 210, 395 Piedmont Ave., N.E., Atlanta, Ga. 30308.
[illegible]	FEA, 175 West Jackson Blvd., [illegible] Chicago, Ill. 60604 Attention: C. [illegible]	Everett McKinley Bldg., room 1020, 219 South Dearborn St., Chicago, Ill. 60604.
Dallas, Tex.	Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Tex. 75235 Attention: S. Dicker.	FEA, Training Room 250, 2626 West Mockingbird Lane, Dallas, Tex. 75235.
[illegible]	FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226 Attention: R. Drawe.	Main Post Office Bldg., Room 263, 18th and Stout Sts., Denver, Colo. 80202.
[illegible], N.Y.	FEA, Regional Administrator, 26 Federal Plaza, New York, N.Y. 10007 Attention: E.A. Horowitz.	FEA, Room 3657, 26 Federal Plaza, New York, N.Y. 10007.
[illegible], Calif.	FEA, Regional Administrator, 50 Fulton, 111 Lombard St., San Francisco, Calif. 94111 Attention: J. McGourty.	U.S. Environmental Protection Agency, Conference Room, 2d floor, 100 California St., San Francisco, Calif. 94111.

The following request procedures are applicable to both the National and regional hearings. Persons requesting an opportunity to make an oral presentation should submit their written requests to the appropriate address for the hearing in which they wish to appear. Requests should be labeled both on the document and on the envelope "Exemption of Motor Gasoline."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through August 30, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., local time, August 30, 1977. One hundred copies of his or her statement must be submitted to the Executive Communications, FEA Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, before 9:00 a.m., e.d.t. on September 6, 1977 for the National hearing, and to the location of the hearing on the day the statement is scheduled to be presented for the regional hearings.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the National hearing, to Executive Communications, FEA, Room 3309, Federal Building, 12th and

Pennsylvania Avenue NW., Washington, D.C. before 4:30 p.m., e.d.t., September 2, 1977. Any interested person may submit questions to be asked of any person making a statement at the regional hearings to the same address as that for submitting requests to testify, before 4:30 p.m., local time, September 2, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of hearings, including the transcripts, will be retained by the FEA and made available for inspection at the Freedom of Information Office of the FEA, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcripts from the reporters.

Interested persons are also invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations set forth in this notice to Executive Communications, Federal Energy Administration, Room 3317, 12th and Pennsylvania Avenue NW., Box ON, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to the FEA, Executive Communications, with the designation "Exemption of Motor Gasoline." Fifteen copies should be submitted. All comments received by September 6, 1977, and all relevant information will be considered by the FEA before final action is taken on the proposed regulations.

The inflationary impact of this proposal has been considered by the FEA, consistent with Executive Order 11821, issued November 27, 1974, and OMB Circular A–107. FEA has determined that this document contains a major proposal requiring preparation of an Inflationary Impact Statement, the requirement for which is satisfied by the issuance of the Preliminary Findings.

A copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his Comments concerning the impact of this proposal on the quality of the environment. The Administrator had the following comments:

EPA has reviewed the FEA report entitled "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations." We concur with the central finding of the report that neither current nor currently-anticipated supply and demand conditions for gasoline warrant the continuation of price and allocation controls. We agree with FEA that no shortage of gasoline is likely to occur in 1979.

We are concerned, however, that the proposal deals only with the pricing of gasoline in general. We wish to emphasize that EPA is continually concerned over the spread between the prices of the regular and unleaded grades of gasoline. This spread encourages the use of regular gasoline in cars equipped with catalytic converters, thereby resulting in increased emissions and endangering the nation's multi-billion dollar investment in automobile pollution controls. We would like to see an analysis of potential impact of decontrol on the *relative* prices of unleaded and leaded grades. Moreover, EPA strongly urges that provision be made for the reimposition of price controls should the price spread between these two grades increase significantly.

Finally, we question page 137 [page 135 of the final version on the Preliminary Findings] of the FEA report which states that the gasoline supply problem in 1979 depends on refiners' abilities to meet octane needs "without the use of TEL. Even without EPA waivers, refiners may use 0.8 grams of TEL per gallon until October 1, 1979, and 0.5 grams per gallon thereafter. Therefore, if FEA's analysis assumed no use of TEL, the results are not relevant.

Any information or data submitted pursuant to the above procedures and considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended by Pub L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Parts 210, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 8, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 210.35 is amended by adding subparagraphs (h)(1) and (h)(2) to read as follows:

§ 210.35 Exempted products.

* * * * *

(h)(1) Motor gasoline as defined in § 211.51 of this chapter is exempt from the provisions of Part 211 of this chapter (except as set forth in Special Rule No. 4 to Subpart A of Part 211).

(2) Gasoline as defined in § 212.31 of this chapter is exempt from the provisions of Part 212 of this chapter.

2. Section 211.1 is amended in paragraph (b) by adding new subparagraph (10) to read as follows:

§ 211.1 Scope.

* * * * *

(b) Exclusions. * * *

* * * * *

(10) Notwithstanding the other provisions of this part, including Subpart F, motor gasoline is excluded from this part (except as set forth in Special Rule No. 4 to Subpart A of Part 211).

3. The Appendix to Subpart A of Part 211 is amended by the addition of a Special Rule No. 4 to read as follows:

SPECIAL RULE NO. 4

1. *Scope.* Notwithstanding the exemption of motor gasoline from the Mandatory Petroleum Allocation Regulations, this Special Rule provides for the establishment of a transitional assignment program for motor gasoline for the months _____ 1977 through _____ 1978.

2. Transitional assignment program. Notwithstanding any contrary provisions of parts 205 and 211 of this chapter, assignments of base period supplies and base period use for wholesale purchasers of motor gasoline shall be made in accordance with the provisions of his Special Rule.

(a) No supplier/wholesale purchaser relationship in effect under § 211.9 of this part as of _____, 1977, may be terminated before _____, 1978 by a supplier except upon written notice to the wholesale purchaser given at least ninety (90) days prior to the date on which the supplier intends to terminate the supply relationship. A termination under this paragraph (a) may only be effective at the end of the period corresponding to a base period coinciding with or following the expiration of the ninety (90) day notice period. Any such ninety (90) day period may not begin prior to _____, 1977.

(b) Any wholesale purchaser which has received a notice from its supplier under paragraph (a) above shall make a diligent effort to locate an alternate source of supply. If its effort is unsuccessful it may apply to the appropriate FEA Regional Office for a continuation of its current supplier/purchaser relationship, but any such application shall be made at least thirty (30) days prior to the date on which the termination under paragraph (a) is to become effective. The applicant shall certify to the FEA that it has made a diligent unsuccessful effort to locate an alternate source of supply and shall set forth in its application (i) the name and address of its base period supplier; (ii) its base period use with that supplier for each period corresponding to a base period; and (iii) the names and addresses of other suppliers contacted with respect to the applicant's efforts to locate an alternate source of supply, the volumes requested from each such other supplier, and the dates of those contacts. The applicant shall send a copy of its application to its base period supplier.

(c) If FEA determines that an applicant has made a diligent unsuccessful effort to locate an alternate source of supply, FEA shall order a continuation of the applicant's existing supplier/purchaser relationship for a period of three consecutive periods corresponding to a base period. While a continuation order is in effect, the wholesale purchaser shall again make a diligent effort to locate an alternate source of supply. If the wholesale purchaser is again unsuccessful, it may again apply for a continuation in accordance with paragraph (b) above.

(d) If FEA fails to take action on a timely filed application under paragraph (b) or (c) prior to the date upon which the termination of the supplier/purchaser relationship which is the subject of the application is to become effective, the supplier/purchaser relationship shall be automatically extended for a period of one (1) month pending FEA action on the application. If FEA fails to take action on a late filed application under paragraph (b) or (c) prior to the date upon which the termination of the supplier/purchaser relationship which is the subject of the application is to become effective, FEA may issue a temporary continuation order for a period of one (1) month pending FEA action on the application upon a showing by the applicant of good cause for the late filing.

(e) FEA may issue with respect to any supplier/purchaser relationship no more than three (3) continuation orders. In no event may the provisions of a continuation order be effective beyond _____, 1978.

(f) The failure of any wholesale purchaser to purchase its full allocation entitlement from its base period supplier without the written consent of that supplier in any three (3) month period shall disqualify any such puchaser from being eligible for issuance of a further continuation order covering volumes in excess of the percentage of the allocation entitlement lifted in the previous three (3) month period, unless such failure to purchase is due to factors beyond the control of that wholesale purchaser and FEA determines that such disqualification would impose an undue hardship on that wholesale purchaser.

3. *Non-discrimination requirement.* To prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating, or impairing the objectives, purposes and intent of this Special Rule, the requirements of paragraph (b) of § 210.62 of this chapter shall continue to apply to suppliers which are subject to a continuation order under the traditional assignment program of this Special Rule, and to all suppliers which are still supplying purchasers because they have failed to give notice of intent to terminate supplies or such termination has not yet become effective.

4. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 Definitions.

* * * * *

"Covered products" means aviation fuel (kerosene-type) aviation gasoline, butane, crude oil, natural gas liquids, natural gasoline, and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * *

Subpart C of Part 212 is amended by adding a new section 212.58 as follows:

§ 212.58 Gasoline.

The prices charged for gasoline are exempt from the provisions of this part.

[FR Doc.77–23400 Filed 8–9–77;9:15 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 105]

[Docket No. 75N–0318]

SPECIAL DIETARY FOODS LABEL STATEMENTS

Proposed Statement of Reasons, Findings of Fact and Conclusions and Tentative Order; Extension of Time for Filing Exceptions

AGENCY: Food and Drug Administration.

ACTION: Extension of time for filing exceptions.

SUMMARY: The period for filing exceptions to the tentative order is extended in response to requests for such extension.

DATE: The period for submitting exceptions closes October 18, 1977.

ADDRESS: Written exceptions to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Richard T. Hunt, Compliance Regulations Policy Staff (HFC–10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3480).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposed statement of reasons, proposed findings of fact, proposed conclusions and tentative order in the FEDERAL REGISTER of July 19, 1977 (42 FR 37165), relating to regulations under Part 105 relating to special dietary foods for use in reducing or maintaining body weight or caloric intake and in the diet of diabetics. Exceptions were to be filed on or before August 18, 1977.

The Commissioner has received requests from Markel, Hill & Byerley, and the Grocery Manufacturers of America, Inc., among others, to extend the exception period for an additional 60 days. The requests stated an intention to file meaningful exceptions, not merely pro forma protests, and maintained that it would be impossible to prepare such a response within the 30-day period. The requests emphasized the size of the record and the length of time since the closing of the hearing. The Commissioner is persuaded that granting an extension of time is appropriate. The requests for extension are on file in the office of the Hearing Clerk, Food and Drug Administration.

The Commissioner hereby extends the period for submitting exceptions on the tentative order to close of business October 18, 1977.

Interested persons may on or before October 18, 1977, file with the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written exceptions regarding the tentative order in relationship to the administrative record for this proceeding. Exceptions shall point out with particularity the alleged errors in the proposed findings of fact and tentative order and contain specific references to the pages of the transcript of testimony and to the exhibits on which the exceptions are based. Exceptions and acompanying briefs should be filed in quadruplicate (except that individuals may submit single copies), and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received exceptions and acompanying briefs may be seen in the above-named office, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041 as amended 1047–1048 as amended 1055, 70 Stat. 919 as amended (21 U.S.C. 321(n), 343 (a) and (j), 371 (a) and (e)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: August 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–23423 Filed 8–10–77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 181]

EXPLOSIVE MATERIALS REGULATIONS

Correction

In FR Doc. 77–22016 appearing at page 39316 as the Part II of the issue of Wednesday, August 3, 1977, the following changes should be made:

1. On page 39322, in the second column, in the last line of the Note, the date now reading "August 3, 1977" should read "August 3, 1979".

2. On page 39326, in the table in § 181.218, under the entry "Inhabited buildings

* * * Unbarricaded", the second entry now reading "160" shsould read "180".

POSTAL SERVICE

[39 CFR Part 111]

SECOND- AND BULK THIRD-CLASS MAIL

Use of Pressure Sensitive Package Labels

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Postal regulations were revised in 1976 to provide for the mandatory use of pressure sensitive package labels, instead of the former paper labels, on second- and bulk third-class mail. Some mailers misinterpreted the revised regulations, believing that additional package-labeling requirements had been established, and claiming these supposed additional requirements had substantially escalated their mail preparation costs. This proposed regulation change is intended to clarify the intent of the 1976 change in the regulations.

DATE: Comments must be received on or before September 10, 1977.

ADDRESS: Written comments should be directed to Manager, Office of Mail Classification, Rates and Classification Department, United States Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. Harvey Altergott, 202–245–4353.

SUPPLEMENTAL INFORMATION: Under the provisions of 39 CFR 111.3 the Postal Service is proposing to revise sections 125 .321 and .321 a(1) and b(1) and 134 .431 and .431 a(1) and b(1) of the Postal Service Manual, chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 C.F.R. 111.1. The purpose of these revisions is to make clear the intent of the change in 1976. That change substituted pressure sensitive labels for paper labels, and it has been incorrectly construed to require the use of pressure sensitive package labels on all second-class and third-class packages. Mailers would not be subject to the expense of purchasing pressure sensitive labels, since the Postal Service would provide the labels without cost.

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of parts of 125.321 and 134.431 of the Postal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

1. In 125.32 revise .321, and .321 a(1) and b(1) to read as follows:

125.32 Preparation by the mailer of copies in packages and sacks.

.321 Package labels.

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the make-up and destination of all packages that require a package label. Except as noted below, all pieces in a package must be faced in one way and the top piece must be plainly addressed, including the ZIP Code.

(a) *Use of package labels.*

(1) *Five-Digit package.* Place 6 or more pieces for the same ZIP Code area in a bundle. Use of a package label is optional. When such packages are labeled, affix Red Label D.

* * * * *

(b) *Package labels—general.*

(1) Nonstandard package labels must be used to identify mixed states, split states and foreign packages. This label when affixed should cover the entire address portion of the top mail piece.

PART 134—THIRD CLASS

2. In 134.43 revise .431 and 431 a(1) and (b) (1) to read as follows:

134.43 Preparation by the mailer of pieces in packages and sacks.

.431 Package labels.

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the make-up and destination of all packages that require a package label. Except as noted below, all pieces in a package must be faced in one way and the top piece must be plainly addressed, including the ZIP Code.

(a) *Use of package labels.*

(1) *Five digit package.* Place 10 or more pieces for the same ZIP Code area in a bundle. Use of a package label is optional. When such packages are labeled, affix Red Label D.

* * * * *

(b) *Package labels—general.*

(1) Nonstandard package labels must be used to identify mixed states, split states and foreign packages. This label when affixed should cover the entire address portion of the top mail piece.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
Assistant General Counsel
Legislative Division.

[FR Doc.77-23344 Filed 8-11-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 776-8; PP 6E1761/P45]

PESTICIDE CHEMICAL CHLOROTHALONIL

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of chlorothalonil. The proposal was submitted by the Interregional Research Project No. 4. This amendment will establish a maximum permissible level for residues of chlorothalonil on papayas.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted a pesticide petition (PP 6E1761) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.275 be amended by the establishment of a tolerance for combined residues of the fungicide chlorothalonil (tetrachloroisophthalnitrile) and its metabolite, 4-hydroxy-2,5,6 - trichloroisophthalontrile in or on the raw agricultural commodity papayas at 15 parts per million (ppm).

The data submitted in the petition and all other relevant material having been evaluated, it has been concluded that the tolerance of 15 ppm established by amending 40 CFR 180.275 will protect the public health. The toxicological data considered in support of the proposed tolerance were two-year rat and dog-feeding studies, a four-month special rat-feeding study, and two multigeneration rat reproduction studies. The Chemistry Branch concludes that very little, if any, chlorothalonil will be available for consumption in the pulp and pulp products from ripe and green, unwashed, peeled papayas. Finite but low level residues of chlorothalonil could occur in washed, green, unpeeled papayas. The toxicology Branch finds that papayas are a very minor part of the total fruit available for consumption. The Toxicology Branch also finds that additional toxicity data are not needed. The proposed 15 ppm tolerance for residues serves the purpose of controlling use. Only a fraction, of the 15 ppm will occur in the final edible product.

The metabolism of chlorothalonil in papayas is adequately understood and an adequate analytical method (gas chromatography with electron capture detection) is available for enforcement purposes. Permanent tolerances have been established (40 CFR 180.275) for residues of chlorothalonil in or on a variety of raw agricultural commodities from 15 ppm to 0.1 ppm (negligible residue). The negligible residue designator ("N") is being removed from the existing tolerance because long-term feeding studies are now available. There is no reasonable expectation of residues in eggs, milk,

meat, or poultry, as delineated in 40 CFR 180.6(a)(3). It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication in the FEDERAL REGISTER, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, East Tower, Room 401, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before September 12, 1977, and should bear a notation indicating both the subject and the petition/document control number, "PP6E1761/P41". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Feedral Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: August 4, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, Section 180.275 be revised by adding a tolerance for combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on papayas at 15 ppm and by editorially reformatting the section into a tabular alphabetized listing, to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

Tolerances are established for combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Beans, snap	5
Broccoli	5
Brussels sprouts	5
Cabbage	5
Carrots	1
Cauliflower	5
Celery	15
Corn, sweet (K+CWHR)	1
Cucumbers	5
Melons	5
Onions, dry bulb	0.5
Onions, green	5
Papayas	15
Passion fruit	3
Peanuts	0.3
Potatoes	0.1
Pumpkins	5
Squash, summer	5
Squash, winter	5
Tomatoes	5

[FR Doc.77-23256 Filed 8-11-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[41 CFR Part 9-4]

COST PARTICIPATION POLICY

Demonstration Projects Involving Energy Producing Technologies

AGENCY: Energy Research and Development Administration (ERDA).

ACTION: Notice of proposed rulemaking.

SUMMARY: These reproposed regulations would establish the conditions under which ERDA would require cost sharing by non-Federal participants in demonstration projects involving energy producing technologies. The intent of the proposed regulation is to induce greater participation in activities of this type by interests outside the Federal Government.

DATE: Comments on this proposed regulation are requested by September 19, 1977.

ADDRESSEE: Director of Procurement, Attn.: Herbert Pelton, Price Analysis Staff, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Herbert Pelton (202) 376-4193.

SUPPLEMENTAL INFORMATION: On November 18, 1976, ERDA published a notice of rulemaking in the FEDERAL REGISTER, Vol. 41, No. 224, setting forth a proposed procurement regulation covering cost participation. The purpose of the proposed regulation was to revise the existing ERDA Procurement Regulation on cost sharing, a carry-over from the AEC Procurement Regulation, to make the policy express and fit the ERDA mission and ERDA legislation. The emphasis in the existing policy is on cost sharing in basic and applied research efforts. The proposed policy emphasized cost participation by the performer in the cost of contract performance when it was apparent that he would receive present or future economic benefits as a result of the effort. Contracts for products or services strictly for Government use were excluded from this requirement. Other major differences were that the proposed policy called for mandatory cost participation on demonstration projects and provided for participation "in kind."

We received 71 responses from industrial concerns, universities and industry and university associations. All of these constructive and thoughtful comments have been carefully considered.

The discussions which follow in A and B summarize the major issues raised by respondents as well as the significant changes which have been made from the November 18, 1976 version of the proposed regulation.

A. GENERAL COMMENTS

(1) *Impact of proposed policy.* A large number of commentators read the proposed procurement regulation to mean that there had been a major change in ERDA policy and that most future ERDA contracting would be on a cost participation basis. This was not the intent of the proposed regulation nor is it ERDA policy. It is our intent that full funding will be provided for Federal projects and for early phases of development programs when the technology has not been fully evaluated or proven. Where, however, technical feasibility, economic viability and social and political acceptability of commercial application can reasonably be anticipated to culminate in the significant enhancement of the performer's prospects for realizing financial benefit, cost participation would be expected.

(2) *Lack of specificity.* The proposed procurement regulation was purposely written in a general fashion to cover the total range of ERDA programs. The comments in this area were both pro and con with heavy support for case-by-case determinations. Other commentators wanted specific steps set forth eliminating any judgments or interpretations by contracting officers. In the proposed revision we have tightened the coverage somewhat, but of necessity have left required flexibility.

(3) *Fee provisions.* A number of commentators mistakenly interpreted the coverage on profit and fee in the proposed cost participation policy to mean a change in overall ERDA profit and fee policy. ERDA will continue to pay profit or fee in its normal fashion on contracts where there is full Federal support. Additionally, the policy has been modified as noted in B(7).

(4) *Patent policy.* Several commentators took this opportunity to voice displeasure with the ERDA patent policy, which when combined with the proposed cost participation policy would in their view make doing business with ERDA unattractive. The ERDA patents regulation is based upon the Atomic Energy Act of 1954, as amended, and the Federal Nonnuclear Energy Research and Development Act of 1974, and carries out the requirements of these Acts.

(5) *Total funding by ERDA.* A number of commentators suggested that there be no cost participation by performers and that ERDA should fully fund all projects. Then, if a project were carried forward to commercial success, the performer would repay the Government through royalty payments or some other arrangement. Sec. 8(b)(6) titled "Demonstration," of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) sets forth cost participation as one criteria to be considered when reviewing potential projects for support. It seems logical to assume that a performer who contributes to the cost of an undertaking has there-

by expressed its judgment of the cost/risk/benefit potential of the project.

(6) *Refund performer's share if project unsuccessful.* Several commentators suggested the regulation be expanded to provide reimbursement to the performer for its participation if the project did not become commercially viable. Again, it is ERDA's intent that the performer share part of the risk of the undertaking. The performer's participation is an indication of its commitment and belief in the viability of the project. Further, while ERDA must accept responsibility for the R&D it chooses to support, it cannot guarantee success for the resultant technologies.

(7) *Commission on Government Procurement recommendation on cost sharing.* Several commentators indicated that the proposed ERDA regulation was not in line with the Commission on Government Procurement (COGP) recommendation covering cost sharing. These conclusions were evidently based on the mistaken interpretations of the proposed policy such as discussed in A(1). We believe that with the clarifications provided in this preamble and the changes made to the proposed procurement regulation, the proposed policy will be judged to be quite compatible with the COGP recommendation.

(8) *Assistance versus procurement.* Many commentators evidently did not differentiate between procurement for Government end use and ERDA participation in development and demonstration of energy technology for use in the private sector. This lack of differentiation could stem from ERDA's use of traditional procurement instruments to perform assistance. ERDA has developed an assistance manual and is beginning to use cooperative agreements and grants to a greater extent when support is the objective.

(9) *Prior performer expenditures.* Several commentators proposed that, where cost contribution (participation) is required, a performer's prior expenditures on the proposed or related projects be recognized as its contribution to the project. However, prior expenditures in studies and preliminary research should be considered as investments which make it possible to compete successfully, by anticipating customer's evolving and changing needs. The advantage gained from early effort often can be the reason ERDA will support one project over another.

(10) *Mitigation of cost risk.* Throughout the responses received, concern for the "level of risk" was prevalent. ERDA is not insensitive to the risks inherent in R. & D., as is evidenced by the board latitude reflected in the proposed policy. Further, innovative suggestions for mutual mitigation of cost risks are welcomed. Award phasing has been identified as being one prospective means, under certain circumstances. For example, multiple approaches to a desired objective may be offered; however, to facilitate selection of one (or more) to pursue to a conclusion, multiple awards for "Phase I" may be warranted. Based upon an evaluation of the results, one (or more) of the original recipients may be selected for an award covering the succeeding Phase(s). This technique serves to reduce risk and preserves available alternatives.

B. CONTENTS OF PROPOSED REGULATION

(1) ***Reasonable expectations of economic benefit (paragraph 9–4.5601).***

A number of commentators suggested that the phrase, "reasonable expectations that the performer will receive present or future benefits," be defined. They were concerned that this is a highly judgmental area and further, by definition, all ERDA supported projects should have reasonable expectations of becoming commercially viable and providing economic benefits. This being the case, there was concern that cost participation would be extended to highly speculative projects. The intent of the statement was that where the performer (1) will receive economic benefits beyond the contract itself; (2) will be in a stronger position vis-a-vis potential competitors because of performing the project; (3) where the technical feasibility, economic viability, and social or political acceptability of commercial application can be reasonably established; and (4) where potential economic benefits are not so far in the future as to make any estimate of value unrealistic, the performer should share in the cost. The determination to be made is that the risk of achieving commercial success is reasonable and acceptable. An explanatory paragraph has been added as 9–4.5601(c), setting forth these concepts.

(2) *Financial capability of performer (paragraph 9–4.5601).* A number of commentators questioned the propriety of considering a prospective performer's financial capabilities when deciding whether the project should be on a cost participation basis. It should be recognized that there are three elements for determination; (i) applicability of cost participation to the project; (ii) determination whether to obtain, and; (iii) determination concerning target amount. The financial capability of a prospective performer is not a point of consideration in the decision pertaining to (i). Appropriate coverage is provided in the proposed regulation.

(3) *Cost participation on demonstration projects—(paragraph 9–4.5601).* The requirement for cost participation on demonstration projects is based on the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). Sec. 8(b)(6) of the Act provides that in reviewing potential projects, the Administrator shall consider, among other criteria, "* * * the proposed financial contributions of the Federal Government and of the non-Federal participants." Several commentators indicated that a definition for demonstration project is needed since inconsistent approaches could result by different interpretations. Sec. 8(a) of the Act includes as demonstration projects, "* * * pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources * * *" This definition has been added to paragraph 9–4.5601(e).

(4) *Cost participation when nearing commercial viability (paragraph 9–4.5602(c)).* Many commentators disagreed with our conclusion that greater cost participation is appropriate as a project nears commercial viability. They contended that the closer a project gets to commercialization, the higher the risk and financial exposure becomes. They stated that this is when Federal assistance is needed the most. While we agree that normally the demonstration phase is the most expensive and consequently more Federal funds are expended in this phase than in earlier phases, we do not agree that this dictates a higher share of Federal funding. As the commercialization stage of a project approaches, the performer's participation should increase as this will, as one commentator stated, "assure dedication." However, cost participation will be negotiated based on overall project risk, and program progress is but one factor in risk assessment. Factors such as those set forth in 9–45603(b) will also be considered.

(5) *Cost participation by educational institutions (paragraph 9–4.5602(d)).* Several industrial firms objected to the apparent preferential treatment of educational and other not for profit performers in that they were exempt from cost participation unless clearly against the basic policy. This objection appears to stem from the impression that all ERDA projects will be on a cost participation basis, an erroneous conclusion commented on in A(1) above. Because projects performed by this category of performers normally occur in the early stages of research and development programs, the added language in paragraph 9–4.5601 provides the necessary coverage and the November 1976 proposed 9–4.5602(d), has been deleted.

(6) *Valuation of noncash contributions (paragraph 9–4.5603(a)).* Many commentators objected to the provision that the value of noncash contributions shall be established by ERDA. This provision is contained in section 8(c)(2) of the Federal Nonnuclear Energy Research and Development Act of 1974. In making this determination, ERDA will consult with the proposer and evaluate supporting data provided. However, the final determination rests with ERDA.

(7) *Contract cost principles (paragraph 9–4.5603(a)).* Several commentators objected to the use of ERDA cost principles in establishing each party's share of costs. It was their view that because there is a provision that fee would not be considered when establishing the cost of the project, the performer would absorb unallowable costs, and in effect, contribute more than the stated share of the contract costs. Fee will not be considered in establishing the total estimated cost of the project; however, paragraph 9–4.5603(h) provides that forgone fee or profit will be considered in establishing the degree of cost participation.

(8) *Allocation of participant's share to other Federal contracts, agreements or grants (paragraph 9–4.5603(a)).* Several commentators suggested that the performer should be able to allocate to other Federal contracts, agreements or grants, allowable costs absorbed as its share of cost participation. They suggested this could be allocated as independent research and development (I.R. & D.) charges. We do not agree with this suggestion. It would, in essence, abrogate the agreed-to cost participation share. Also, it is doubtful that the performer's share of a jointly sponsored project could be counted as an I.R. & D. project. Further, Federal Procurement Regulation 1–15.205.19 provides that an excess of costs over income under any other contract, including the contractor's contributed portion under cost sharing contracts, is not an allowable charge against contracts subject to the cost principles.

(9) *Handling of offsetting returns from sales (paragraph 9–4.5603(d)).* Several commentators interpreted this coverage to mean that revenue sharing was required. This coverage, to set forth in the contract the handling of any return from sales of products from a jointly funded project, was intended only so that the parties reach agreement at the inception of the project on how this is to be accomplished. This would be done to avoid later misunderstandings. ERDA policy covering revenue offsets will be developed at a later date.

(10) *Coverage of cost participation in solicitation documents (paragraph 9–4.5603(e)).* Some commentators expressed concern about a lack of specificity in solicitation documents regarding target levels of expected cost participation as reflected in 9–4.5603 (a) and (b). Many variants are considered in developing an amount to be set forth as representing a reasonable level of cost participation. These variants do not lend themselves to precise measurement and thus reflections of intellectual judgments will vary. If accord is to be reached, flexibility is needed. Other comments implied that ERDA would select the proposer offering the lowest cost to the Government, and not the proposer offering the best technical project. ERDA source selection criteria emphasizes technical merit with cost normally in a lesser role. It is expected, however, that in cost participation actions where proposals are deemed to be of equivalent interest and merit, that which requires the least commitment of ERDA funds would be selected.

(11) *Fee/profit to members of proposing team (paragraph 9–4.5603(i)).* Several commentators indicated that they felt it to be an unwarranted intrusion into the affairs of private companies to provide that fee or profit would not be paid to any member of the proposing team, having a substantial and direct interest in the project, if such member would receive present or future economic benefits as a result of performing the effort. Further, because ERDA cost principles would be applied, they believed the performer would be in a cost participation mode; there would be no fee to offset unallowable costs. While these arguments have merit, Sec. 8(c)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 provides, "A financial award under this section may be made only to the extent of the Federal share of the estimated total design and construction, plus operation and maintenance costs." This has been interpreted to mean that the Federal share covers design and construction, plus operations and maintenance costs only, and profit or fee will not be included for performers having substantial or direct interest in the project. Interested parties may submit comments on this proposed regulation to: Director of Procurement, U.S. Energy Research and Development Administration, Washington, D.C. 20545, Attn: Herbert J. Pelton. For further information contact Mr. Pelton, Area Code No. 202–376–4193. All written submissions made pursuant to this notice will be available for public inspection at HQ ERDA during regular business hours.

To be given consideration by ERDA in its determinations relative to final promulgation of the procurement regulation, written submission must be made to arrive no later than September 19, 1977.

(Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93–438))

Dated at Washington, D.C. this 4th day of August, 1977.

M. J. TASHJIAN,
Director of Procurement.

It is proposed to delete existing Subpart 9–4.56 of the ERDA–PR and add the following new subpart 9–4.56 to the ERDA–PR.

Subpart 9–4.56—Cost Participation

Sec.

9–4.5600 Scope of subpart.
9–4.5601 Policy.
9–4.5602 Application.
9–4.5603 Amount of cost participation.
9–4.5604 Disposition of property and equipment furnished or acquired.
9–4.5605 Records.

AUTHORITY: Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93–438).

Subpart 9–4.56—Cost Participation

§ 9–1.5600 Scope of subpart.

(a) This subpart sets forth the ERDA policy on cost participation by organizations performing research, development, and demonstration projects under ERDA prime contracts. This subpart does not cover efforts and projects performed for ERDA by other Federal agencies.

(b) Cost participation is a generic term denoting any situation where the Government does not fully reimburse the performer for all allowable costs necessary to accomplish the project or effort under the contract. The term encompasses cost sharing, cost matching, cost limitation (direct or indirect), participation in kind, and concepts.

§ 9–4.5601 Policy.

(a) Cost participation by the performer will not be obtained under contracts where the principal purpose is the acquisition of goods and services for Government use.

(b) When ERDA supports performer research, development and demonstration efforts, where the principal purpose is ultimate commercialization and utilization of the technologies by the private sector, and when there are reasonable expectations that the performer will receive present or future economic benefits beyond the instant contract, as a result of performance of the effort, it is ERDA policy to obtain cost participation. Full funding will be provided for early phases of development programs when the technology has not been adequately evaluated or proven and when actual or potential technological problems are still great.

(c) In making the determination to obtain cost participation, and evaluating present and future economic benefits to the performer, ERDA will consider the technical feasibility, projected economic viability, societal and political acceptability of commercial application, as well as possible effects of other ERDA supported projects in competing technologies.

(d) The propriety, manner, and amount of cost participation must be decided case-by-case.

(e) Cost participation is required for demonstration projects unless exempted by the Administrator. Demonstration projects, pursuant to this subpart, include pilot plants demonstrating technological advances and field demonstrations of new methods and procedures and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion and utilization of energy resources.

§ 9–4.5602 Application.

(a) The ERDA cost participation policy set forth in 9–4.5601 applies to all prime contracts except those exempted therein.

(b) Cost participation is not contemplated in contracts for the operation of Government-owned or leased, contractor-operated facilities of an unspecified life, or continuing cost-reimbursement type contracts for mission-oriented large-scale research programs performed, using equipment or facilities which are either partially or wholly Government-owned.

(c) Potential benefits to the performer are less likely where basic research is involved and cost participation, if any, is expected to be less than in circumstances where a product is being developed. As projects or proposed efforts reach stages approaching commercial viability, cost participation should be based on the overall project risk.

(d) Where in accordance with 9–4.5601, cost participation would be appropriate,

but it is determined by the cognizant program assistant administrator that payment of the full allowable cost of the contractual effort is necessary in order to obtain the services of a particular organization, cost participation need not apply.

(e) The performer's cost participation may be provided by other companies or associations with which it has contractual arrangements to perform the project. The fact that a project is jointly funded, e.g., where ERDA and an industry association fund a third party performer, does not preclude cost participation by the performer. In fact, if the performer will gain competitive and economic advantages, cost participation would be appropriate.

§ 9–4.5603 Amount of cost participation.

(a) Cost participation may be in various form or combination, which may include but is not limited to cash outlays, real property, or interest therein needed for the project, personal property or sevices, cost matching, forgone fee, or other in kind participation. Cost participation may include the value of contributions of other non-Federal sources, provided the contributions were not previously obtained free of charge from Federal sources. The value of any non-cash contribution shall be established by ERDA after consultation with the performer. Cost participation may be accomplished by a contribution to either direct or indirect costs provided such costs are otherwise allowable in accordance with the cost principles of the contract. Allowable costs which are absorbed by the performer as its share of cost participation may not be charged directly or indirectly to the Federal Government under other contracts, agreements, or grants.

(b) Organizations should contribute a reasonable amount of the total project cost covered under the contract. The ratio of cost participation should correlate to the apparent advantages available to performers and the proximity of implementing commercialization. In setting the levels of cost participation by the performer, the contracting officer, in consultation with the program office, should consider such factors as:

(1) The availability of the technology to the performer's competitors.

(2) The risks involved in achieving commercial success.

(3) The length of time before the project is likely to be commercially successful.

(4) Improvements in the performer's future commercial competitive position.

(5) Disposition of property at project's end.

(6) Whether the potential benefits will be lessened if the performer lacks production or other capabilities with which to capitalize the results of the project. However, if the results of the project are transferable to commercial organizations with production capabilities, and the performing organization would obtain patent or other property rights which could be sold or licensed, this should be considered.

(7) Whether the performing organization lacks adequate non-Federal sources of funds from which to make cost participation.

(c) The manner of cost participation and how it is to be accomplished shall be set forth in the contract.

(d) The handling of any return from sale of products from the project shall be set forth in the contract.

(e) The solicitation document shall state whether any cost participation is required and may set forth a target level of cost participation. Though technical considerations are normally most important, the degree of cost participation will be considered when cost to the Government is to be a major factor in a selection decision.

(f) Unsolicited proposals will be considered on a case-by-case basis by the program office in consultation with Procurement, as to the appropriateness of cost participation. If cost participation is considered to be appropriate, guidance for determining an appropriate level may be included in the procuement authorization package, but it should be recognized that the extent and type of cost participation is subject to negotiation.

(g) The extent to which a performing organization contributes to the cost of a project will be taken into consideration in the allocation of patent rights under ERDA's waiver policy.

(See § 9–9.109–6(h) (1) for patent policies.)

(h) Fee or profit will not be paid the performer under a cost participation contract. Forgone fee or profit will be considered in establishing the degree of cost participation.

(i) Where cost participation is appropriate, fee or profit will not be paid to any member of the proposing team having a substantial and direct interest in the project. Competitive subcontracts placed with the prior written consent of the contracting officer and subcontracts for routine supplies and services are not covered by the prohibition.

§ 9–4.5604 Disposition of property and equipment furnished or acquired.

Disposition instructions for any property and equipment furnished or acquired using Federal funds during performance shall be set forth in the contract.

§ 9–4.5605 Records.

Recipients of contracts which provide for cost participation shall be required to maintain records adequate to reflect the nature and extent of their cost contribution as well as those costs charged to ERDA. Such records shall be subject to audit by ERDA.

[FR Doc.77-23358 Filed 8-11-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 170]

FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF HIGHER EDUCATION FACILITIES

AGENCY: U.S. Office of Education, H.E.W.

ACTION: Notice of proposed rulemaking.

SUMMARY This proposed rule amends the regulations principally to establish grant and loan procedures for reconstruction and renovation projects primarily designed to economize on the use of energy, bring facilities into conformance with the Architectural Barriers Act of 1968, and bring facilities into conformance with health and safety or environmental protection requirements mandated by Federal, State or local law.

DATES: All comments, suggestions, or objections to be considered must be received on or before September 26, 1977.

ADDRESSES: Comments should be sent to the Bureau of Higher and Continuing Education, Division of Training and Facilities, U.S. Office of Education, Room 3716, 7th and D Streets, SW., Regional Office Building No. 3, Washington, D.C. 20202. Comments will be available for public inspection at the above office, between 8:30 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Thomas F. McAnallen. (Telephone: 202–245–3253).

SUPPLEMENTARY INFORMATION:

NEED FOR CHANGES

Title VII of the Higher Education Act of 1965, as amended, authorizes programs of grant and loan assistance to public and private institutions of higher education for the construction of higher education academic facilities. Sections 161 and 162 of the Education Amendments of 1976, Pub. L. 94–482, 90 Stat. 2156–59, extended and revised Title VII. The primary revision is the addition of a new Part E which expands the program to include reconstruction and renovation projects which are designed primarily to:

(1) Economize on the use of energy;

(2) Bring facilities into conformance with the Architectural Barriers Act of 1968 (making facilities accessible to the handicapped); or

(3) Bring facilities into conformance with health and safety, or environmental protection requirements mandated by Federal, State, or local law.

Part E of Title VII authorizes grants from funds appropriated under Parts A and B of Title VII and loans from funds appropriated or available under Part C of Title VII, except for those appropriated under Section 745 of Part C. The Commissioner is proposing a number of changes in existing regulations to provide guidance for institutions which wish to apply for grants or loans for reconstruction or renovation projects.

Section 162 of the Education Amendments of 1976 also:

(1) Amends Section 721(a) of the Act to authorize the Commissioner to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs; and

(2) Amends Section 743(b)(5) of the Act to grant a temporary moratorium on the repayment of principal or interest or both because of financial hardships, and to allow an institution to repay 75 percent of the balance of an existing loan as full payment of the total obligation.

The Commissioner is proposing amendments to existing regulations to reflect these statutory changes.

SUMMARY OF COMMENTS AND RESPONSES

Notice of intent to issue regulations was published in the FEDERAL REGISTER on November 29, 1976 (40 FR 52410) inviting comments on several issues arising from the 1976 Education Amendments which require revisions to Title 45 Part was published in the FEDERAL REGISTER 170 of the Code of Federal Regulations. Part 170 governs the administration of the Higher Education Facilities Program (under Title VII of the Higher Education Act of 1965, as amended; 20 U.S.C. 1132a–1132e). The following is a summary of the comments received and the responses by the Office of Education.

Comment. A number of comments were received concerning whether the Commissioner should establish minimum or maximum loans or grants per project. Some were in favor of a minimum with no maximum, and others were in favor of the reverse. Still others recommended a sliding scale based on available funds. The majority of comments indicated that some kind of minimum and maximum should be established.

Response. The Commissioner agrees with the views expressed in the majority of the comments. The proposed rules provide for a minimum project cost of $10,000 and a maximum loan of $5 million per campus per fiscal year. These proposed levels were set after discussions with representatives of institutions of higher education and State Higher Education Facilities Commissions. It was believed that the proposed minimum would be sufficiently low to permit institutions to undertake worthy small projects and at the same time prevent the high administrative costs associated with processing a large volume of applications for lesser amounts. The $5 million maximum loan was considered to be a reasonable ceiling to assure equitable distribution of funds without seriously penalizing the larger projects. A dollar maximum for grants was not established. The State Higher Education Facilities Commissions have the authority to establish dollar maximums in their State plans. It is believed that these maximums, if any, should be set at the State level to assure equitable distribution of grant funds within each State.

Comment. The majority of comments received did not favor the establishment of priorities among the three categories of projects authorized under Part E of Title VII. The comments, in general, reflected the belief that all three categories should be treated on an equal basis; however, a minority of commenters favored establishment of priorities by State Higher Education Facilities Commissions.

Response. The Commissioner concurs with the predominant feeling that priorities among the three categories authorized in Part E should not be established. Therefore, none are contained in the proposed regulations. However, in the State plan, each State Higher Education Facilities Commission may establish priorities for grants as it deems appropriate.

Comment. In determining eligibility for Part E projects, the Commissioner is required to consult with other Federal, State, or local agencies which have expertise or authority in those areas. The majority of commenters did not favor setting minimum technical standards after consultation with appropriate agencies. This was particularly evident with regard to energy projects because of the difficulty in accurately projecting the results of a proposed project. A number of commenters expressed concern that even though a proposed project plan might meet minimum standards, its actual performance might fall short of expectations thereby raising a question of the initial eligibility of the project. Most commenters recommended that an applicant demonstrate that the institution has taken certain minimum energy conservation measures prior to filing an application for an energy project.

Response. In view of the comments received, the Commissioner is not proposing minimum technical standards. The proposed regulations do require that, for an energy conservation project, an applicant must demonstrate in its application that certain energy conservation measures have been taken.

SUMMARY OF PROPOSED CHANGES

The following explanations of the proposed changes in regulations generally follow the same order as the sections in the existing regulations. The complete proposed text of revised regulations governing the construction, reconstruction, and renovation of academic facilities (45 CFR Part 170) is printed following this preamble.

SUBPART A—GENERAL PROVISIONS

170.1 DEFINITIONS.

1. The Education Amendments of 1976 expanded the definition of academic facilities to include, for energy conservation projects, certain health teaching facilities previously excluded from the definition. Therefore the definition of "academic facilities" in § 170.1 of the regulations was revised by adding a new paragraph (5) which incorporates the expanded definition included in the Statute.

2. The new Part E of Title VII expands program coverage to include reconstruction and renovation projects primarily designed for energy conservation, removal of architectural barriers, and conformance with health and safety or environmental protection requirements. Therefore, it is necessary to include a definition of the term "reconstruction or renovation project under Part E, Title VII." in § 170.1(m) of the regulations.

3. The Education Amendments of 1976 provided a definition of "reconstruction and renovation" which excludes the acquisition cost of land and buildings. Therefore, paragraphs (b) (1), (2), and (4) of § 170.6 of the regulations are revised to exclude these costs where reconstruction or renovation is involved.

170.6 DETERMINATION OF COSTS ELIGIBLE FOR FEDERAL PARTICIPATION.

4. Section 170.6, paragraph (c) is deleted. This provision was originally intended to apply to certain projects under section 745 of the Act which were begun on or before July 1, 1966. Since it is unlikely that any project would now qualify for an annual interest grant under these provisions, it is proposed that paragraph (c) be deleted.

170.8 GRANTS AND LOANS FOR RECONSTRUCTION AND RENOVATION PROJECTS AUTHORIZED UNDER TITLE VII, PART E OF THE ACT.

5. To establish basic grant and loan provisions for reconstruction and renovation projects under Title VII Part E of the Act, a new § 170.8 is proposed. The provisions of this new section are considered necessary for effective administration of the program and to assure compliance with the intent of the authorizing legislation. There are four basic provisions as follows: (1) A minimum eligible project cost of $10,000 was established. This was considered advisable to avoid the high administrative cost of processing large numbers of applications for minor renovation projects.

(2) Because Part E of Title VII specifies that projects must be primarily for energy conservation or to bring facilities into conformity with the Architectural Barriers Act, environmental protection, or health and safety programs, it was considered necessary to define what constitutes "primarily". Accordingly, the proposed rule will require that at least 90 percent of the eligible project cost be directly related to one or a combination of the purposes specified in Part E of Title VII. Thus, in any given application, as much as 10 percent of the eligible project may be for unrelated costs.

(3) Certain requirements in the application for assistance are proposed to assure conformance with Part E of Title VII and to set certain minimum requirements for eligibility. For example, with respect to projects to remove architectur-

al barriers, or to meet environmental protection, or health and safety requirements, an applicant will have to demonstrate that the proposed project is required to bring the facilities into conformity with Federal, State or local law. For energy conservation projects, an applicant must show that, before filing for Federal assistance, action was taken to accomplish certain energy conservation measures not requiring capital outlay. It is believed that an applicant should not be eligible for Federal financial assistance unless effort has first been made to reduce energy consumption through institutional policies, practices, and projects not requiring significant expenditure of funds.

(4) The final provision in the new section is designed to set a time limit within which an applicant must begin work on the project. This has been set at 18 months following the approval of a grant or loan. Experience has shown that many times applicants, after receiving a grant or loan award, find that because of various reasons they are unable to begin the project within a reasonable period of time. This can tie up scarce Federal resources for excessive periods of time. The 18 month limitation should encourage applicants not to apply for assistance unless they are fully prepared to begin work on the project within a reasonable period of time.

SUBPART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

Subpart B of the Regulations set forth provisions applicable to grants for construction of undergraduate academic facilities authorized under Title VII–A of the Act.

170.13 CONDITIONS FOR GRANT APPROVAL.

6. This section prescribes the conditions for approval of projects involving new construction and remodeling in which expansion of enrollment and capacity are prerequisites for approval. Since reconstruction and renovation projects authorized under Title VII Part E of the Act do not require expansion of enrollment or capacity, a change in the regulations has been made to exempt Part E projects from the provisions of paragraph (a) of § 170.13 and make them subject to the provisions established under a new paragraph (d). The conditions for approval in paragraph (d) require that an application meet the provisions of § 170.8 and that an application is recommended by the State Higher Education Facilities Commission in accordance with the priority system established in the State plan.

170.14 SUBMISSION AND PROCESSING OF TITLE VII–A APPLICATIONS.

7. Paragraph (a) of this section requires each State Commission to set at least two closing dates each fiscal year for filing applications. The dates must fall between July 31 and February 15. Section 170.14(f) requires forwarding of applications to the Commissioner no later than March 31. These provisions were established to assure the Commissioner adequate time to process applications by the end of the Federal fiscal year (June 30). Because the Federal fiscal year end has been changed from June 30 to September 30, the dates in paragraph (a) and (f) must be advanced by 3 months. Whenever they appeared in paragraph (a) July 31 was changed to "October 31" and February 15 was changed to "May 15." In paragraph (f), the date March 31 has been changed to "June 30."

170.15 CRITERIA FOR STANDARDS AND METHODS TO DETERMINE RELATIVE PRIORITIES OF ELIGIBLE PROJECTS.

8. To afford the States greater flexibility in establishing criteria to meet the specific needs within the State, it is proposed that the minimum standards presently in the regulations be revised so that each State will be better able to target funds allotted under Title VII–A of the Act to meet the most pressing needs of the institutions of higher education in the State. The proposed changes are not intended to require any State to change its present priorities, but merely afford geater flexibility to do so. Therefore, this section was changed as follows:

(1) The requirement for separate standards for new, as opposed to existing, institutions of higher education was eliminated.

(2) The required 20 percent weight for increased undergraduate enrollment was reduced to 5 percent; and the required 10 percent weight for utilization of existing facilities was reduced to 5 percent.

(3) Paragraph (c) requiring separate priority standards for new institutions was deleted and accordingly, paragraphs (d), (e), (f), (g), and (h) were redesignated (c), (d), (e), (f), and (g) respectively.

CHANGES TO SUBPART C—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

Subpart C sets forth provisions for grants under Title VII–B of the Act. Funds made available under Title VII–B for graduate facilities are generally targeted to projects for improving graduate schools of excellence. The Education Amendments of 1976 made two changes which call for revision of the regulations. First, the authorization section of Title VII–B of the Act was expanded to include grants or contracts for "model intercultural centers." Secondly, reconstruction and renovation projects authorized under the new Part E of Title VII are eligible for grants from funds appropriated under Title VII–B. To accommodate these two changes, the following revisions of the regulations have been made.

170.41 ELIGIBILITY FOR GRANTS.

9. The eligibility for grants section was expanded to include grants and contracts for model intercultural centers.

170.42 SUBMISSION OF APPLICATIONS.

10. This section is revised to provide that applications for reconstruction and renovation projects authorized under Part E of Title VII shall be submitted through the State Higher Education Facilities Commissions in order to be consistent with procedures followed for other Part E project applications. The State Commissions will not have official authority to recommend approval or disapproval of any application but merely will serve to evaluate and comment on the project and the reasonableness of the data contained in the application. If a State Commission makes adverse comments concerning a particular project, the applicant will be afforded the opportunity to submit a rebuttal statement to be included with the application when the State Commission forwards it to the Office of Education. It is proposed that this same procedure be followed in connection with loans under Title VII–C of the Act. By so doing, all applications for grants and loans for Part E projects will flow through the State Commissions thereby establishing a uniform application filing procedure for all Title VII programs. The procedure will also assure that each State Commission is aware of the various projects being proposed within the State.

170.44 CRITERIA FOR EVALUATING APPLICATIONS.

11. The priority standards in this section of the regulations pertaining to grant applications for construction of graduate facilities generally focus on the excellence of the graduate programs offered by the applicant. These standards would be inappropriate for evaluating projects under Part E of Title VII. Consequently the regulations have been modified to exempt Part E projects from the provisions of this section and establish a new § 170.45 which will apply to Part E projects. This new section 170.45 provides that the Commissioner may, as a basis for project selection, consider the degree to which the applicant is effectively utilizing existing facilities.

Because the Education Amendments of 1976 did not establish priorities among the three categories of projects authorized under Part E of Title VII, it is necessary that the criteria for project selection be based on factors which do not favor any single category of projects. It is believed that the efficient use of existing facilities is an appropriate criteria for selecting reconstruction or renovation projects for approval. This selection criteria is also proposed for loans under Title VII–C of the Act, and is prescribed in § 170.59 of these regulations.

SUBPART D—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

Subpart D of the regulations pertains to the direct Federal loan program under Title VII–C of the Act. The Amendments of 1976 authorize loans under Title VII–C for reconstruction and renovation projects authorized under Title VII–E of the Act. Part E, however, limits the length of loans to twenty years, whereas regular loans under Title VII–C may have a term as long as fifty years. In order to

reflect the new authority for loans for Part E type projects and to reflect several other changes resulting from the 1976 Amendments, a number of revisions are proposed to Subpart D of the regulations.

170.51 ELIGIBILITY FOR LOANS.

12. In order to assure a wider distribution of loan funds, it is considered desirable to set a maximum loan of $5 million per campus per Federal fiscal year. Accordingly, it is proposed that this section be revised to reflect this maximum loan amount.

170.52 SUBMISSION OF APPLICATIONS.

13. To provide consistency in application filing procedures, applications for loans should be submitted through the State Higher Education Facilities Commissions for review and evaluation prior to submission to the Office of Education. Accordingly, it is proposed that the existing single paragraph in this section be designated as paragraph "(a)" and a new paragraph "(b)" be added to provide for application filing through the State Commissions. The rationale for this change was set forth in the explanation of changes in § 170.42 of the regulations.

170.53 SPECIAL TERMS AND CONDITIONS.

14. Paragraph (d) of the existing regulations requires that a project be related to campus or program development or planned increases in enrollment. Since some desirable reconstruction and renovation projects authorized under Part E of Title VII may not necessarily meet those conditions, it is proposed that paragraph (d) of the regulations be modified by adding a provision exempting Part E projects.

15. Section 170.53(e) of the existing regulations requires the Commissioner's consent to mortgage a facility constructed with loan assistance under Title VII–C. Since many facilities for which reconstruction and renovation assistance is needed under Title VII–E of the Act are already subject to mortgages or may subsequently be needed as collateral for general remodeling loans, it is proposed that the provisions of paragraph (e) be modified to exempt Part E type projects from the requirement to obtain the Commissioner's consent to mortgage, except when a mortgage is offered as security for a loan under Part E of Title VII. This means that if the Commissioner's loan is secured by a mortgage, consent will be required for the institution to offer another mortgage superior or subordinate to that of the Commissioner's.

170.56 SECURITY FOR LOANS.

16. It may be difficult for an institution to pledge adequate security for reconstruction and renovation loans authorized under Title VII, Part E of the Act. In addition, since it is desirable to encourage short term loans where there is quick turnover of loan capital which may be used for new loans, it is proposed that this section of the regulations be modified to add a new paragraph (g) which provides for unsecured loans which have terms of seven years or less.

170.57 LENGTH AND MATURITY OF LOANS.

17. Because the Amendments of 1976 provide for a maximum loan term of twenty years for reconstruction and renovation projects authorized under Part E of Title VII, paragraph (a) of § 170.57 is revised to reflect this change since loans for new construction are authorized for longer periods.

18. Paragraph (b) of § 170.57 provides that loan principal may be amortized from the third year through the final year of the loan. This provision was intended to free the first three years of a loan from principal payments. During that time, the borrower would be required to build a debt service reserve in three equal installments in lieu of principal payments. With shorter term loans the debt service reserve account may not be required, and it would be unreasonable to delay the beginning of the principal amortization period. Therefore, paragraph (b) has been revised to eliminate this provision.

19. Because of the change in loan term to 20 years for Part E projects, it was necessary to modify the reference to 30 year loans contained in paragraph (c) of § 170.57.

170.58 BOND COUNSEL OPINION.

20. Because of anticipated loans for less value and shorter terms for reconstruction and renovation projects authorized under Title VII–E of the Act, it is desirable to reduce the present regulatory requirements with regard to legal services and opinions. Therefore, the requirement for bond counsel opinion is modified to permit the Commissioner to accept, under certain circumstances, the opinions of attorneys other than bond counsel as described in the present regulations. Therefore, section 170.58 has been revised to relax the restrictions concerning the qualifications of counsel.

170.59 DETERMINATION OF PRIORITIES FOR LOAN APPROVALS.

21. To be consistent with other programs under Title VII of the Act, to provide competition for available loan funds, and to reflect conditions for approval of loans for reconstruction and renovation projects authorized under Part E of Title VII, it is proposed that the single existing paragraph in this section be designated as paragraph "(a)" and that paragraphs "(b)" and "(c)" be added.

170.66 MORATORIA ON THE PAYMENT OF PRINCIPAL AND INTEREST ON LOANS.

22. It is proposed that this new section of the regulations reiterate the authority specifically granted the Commissioner by the Education Amendments of 1976. The Amendments require the Commissioner to approve a specific repayment schedule for payments in arrears as a condition for granting a moratorium. Recognizing that in certain cases a realistic repayment schedule may be impossible, the new section provides that the Commissioner may under certain circumstances, grant a moratorium on the condition that a specific plan be submitted for approval at a future date designated by the Commissioner.

170.67 REPAYMENT OF LOANS AT SEVENTY FIVE PERCENT OF FACE VALUE.

23. The Amendments of 1976 authorized any borrower under Title VII–C who had a loan approval before January 1, 1976 to pay off the loan at any time before October 1, 1979, at 75 percent of the face value of the outstanding obligation. Accordingly, it is proposed that a new section be incorporated in the regulations to provide for early redemption of loans under the 75 percent redemption provision.

GENERAL REVISION TO BE MADE THROUGHOUT EXISTING REGULATIONS

24. The Amendments of 1976 added to the term "construction," wherever it appears throughout Title VII of the Act, the terms "reconstruction or renovation." Therefore, the existing regulations are revised throughout to insert, "reconstruction, or renovation" immediately after the word "construction," except in those instances in § 170.63 and § 170.64 where specific reference is made to a construction fund.

In consideration of the foregoing it is proposed to amend Part 170 of 45 CFR Chapter I as set forth below.

NOTE—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Number 13.457, Higher Education Facilities Construction—Interest Subsidization; Number 13.458, Higher Education Facilities Construction—Public and Private Colleges and Universities; Number 13.459, Higher Education Academic Facilities Construction Public Community Colleges and Technical Institutes).

Dated: June 14, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 6, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 170 of Title 45 of the Code of Federal Regulations is revised to read:

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER EDUCATION FACILITIES

Subpart A—General Provisions

Sec.
170.1 Definitions.
170.2 Office of Education general provisions.
170.3 Modification of general requirement for competitive bidding on contracts and for acquisition and installation of built-in equipment.
170.4 Fiscal control and fund accounting procedures by State commissions.
170.5 Retention of records by State commissions.

Sec.

170.6 Determination of costs eligible for Federal participation.
170.7 Urgency of need for projects of public institutions.
170.8 Grants and loans for reconstruction and renovation projects authorized under Title VII E of the Act.

Subpart B—Grants for Construction, Reconstruction, or Renovation of Academic Facilities

170.11 Institutional eligibility for grants under section 702 of the Act.
170.12 Institutional eligibility for grants under section 703 of the Act.
170.13 Conditions for grant approval.
170.14 Submission and processing of Title VII A applications.
170.15 Criteria for standards and methods to determine relative priorities of eligible projects.
170.16 Criteria for standards and methods to determine Federal shares of eligible projects.
170.17 State plans.
170.18 Adjustments in amount of Federal share.

Subpart C—Grants for Construction, Reconstruction, or Renovation of Graduate Academic Facilities

170.41 Eligibility for grants.
170.42 Submission of applications.
170.43 Facilities panel.
170.44 Criteria for evaluating applications.
170.45 Priorities for approval of grants for reconstruction and renovation authorized under Title VII E of the Act.

Subpart D—Loans for Construction, Reconstruction, or Renovation of Academic Facilities

170.51 Eligibility for loans.
170.52 Submission of applications.
170.53 Special terms and conditions.
170.54 Determination of nonavailability of equally as favorable terms and conditions.
170.55 Form of evidence of indebtedness.
170.56 Security for loans.
170.57 Length and maturity of loans.
170.58 Bond counsel opinion.
170.59 Determination of priorities for loan approvals.
170.60 Loan agreement.
170.61 Loan closing.
170.62 Interim financing.
170.63 Construction fund.
170.64 Investment of idle construction funds.
170.65 Disposal of balance remaining in the construction fund.
170.66 Moratoria on the payment of principal and interest on loans.
170.67 Repayment of loans at seventy five percent of face value.

Subpart E—Annual Interest Grants for Construction, Reconstruction, or Renovation of Academic Facilities

170.71 Eligibility for annual interest grants.
170.72 Amount of annual interest grants.
170.73 Submission of applications.
170.74 Conditions for approval of annual interest grants.
170.75 Limits governing extent of Federal assistance.
170.76 Approval of financing plans.
170.77 Evidence of lowest possible cost of loan.
170.78 Annual interest grant agreement.
170.79 Payment of annual interest grants.
170.80 Reduction of grant where refinancing produces lower cost.
170.81 Priority considerations; closing dates.
170.82 Preceding provisions not exhaustive of authority of Government.

AUTHORITY: Secs. 701–782 of Pub. L. 89–329, Title VII, as amended, 86 Stat. 288–303 (20 U.S.C. 1132a–1132e), unless otherwise noted.

Subpart A—General Provisions

§ 170.1 Definitions.

(a) "Act" means Public Law 89–329, the Higher Education Act of 1965, as amended. Unless otherwise indicated, title references are to titles of the Act. All references to sections are to sections of this part, unless otherwise indicated.

(b) "Academic facilities," as defined in the Act, are further defined and subdivided into the following categories:

(1) "Instructional and library facilities" means all rooms or areas used regularly for instruction of students, for faculty offices, or for library purposes, and service areas which adjoin and are used in connection with such rooms or areas.

(2) "Instruction-related facilities" means all rooms or areas other than instructional and library facilities which are used for purposes related to the instruction of students, research, or for the general administration of the educational or research programs of an institution of higher education and service areas which adjoin and are used in conjunction with such rooms or areas.

(3) "Health-care facilities," as authorized under Titles VII A and VII C, means infirmaries and all other rooms or areas designed to be used for medical examination or treatment of students and institutional personnel, and service areas which directly serve such rooms or areas.

(4) "Related supporting facilities" means all other areas and facilities which are necessary for the utilization, operation, and maintenance of "instructional and library facilities," "instruction-related facilities," or "health care facilities," as defined above. This term includes building service and circulation areas and central maintenance and utility facilities which serve more than one building, to the degree that such central facilities are designed and used to serve eligible academic facilities under Title VII of the Act.

(5) "Public health type facilities" means facilities as defined in section 782 (1) (B) (v) of the Act, to the degree that the facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project and if—

(i) Funds available for the project are used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources, and

(ii) The project is not limited to facilities described in section 782(1) (B) (v) of the Act.

(20 U.S.C. 1132e–1.)

(c) "Assignable area" means square feet of area in facilities which are designed and available for assignment to specific functional purposes (such as instruction, research, and administration, and including noneligible purposes such as student sleeping rooms, apartments, or chapel rooms). Areas used for general circulation within the building, for public washrooms, for building maintenance and custodial services, or in central maintenance and utility facilities which exist only to support the operation and utilization of other structures on the campus and which are not available for assignment to other specific functional purposes, as illustrated above, are classified as nonassignable area.

(20 U.S.C. 1132e–1 (1) and (2).)

(d) "Branch campus" means a separately organized unit of an institution of higher education which is located apart from the parent institution and which meets in its own right the definition of an institution of higher education as defined in the Act.

(20 U.S.C. 1141.)

(e) "Capacity/enrollment ratio" means the ratio of (1) the square feet of assignable area of instructional and library facilities as defined in paragraph (b)(1) of this section to (2) the total student clock-hour enrollment, at a particular campus of an institution. For purposes of this definition, "student clock-hour enrollment" means the aggregate clock hours (sometimes called contact hours) per week in classes or supervised laboratory or shop work for which all resident students (i.e., students enrolled for credit courses on the campus) are enrolled as of a particular date. Where formally established independent study programs exist, systematically determined equivalents of class or laboratory hours may be included under "student clock-hour enrollment."

(20 U.S.C. 1132a–4.)

(f) "Developing institution" means an eligible institution of higher education which has the desire and potential to make a substantial contribution to the higher education resources of our Nation but which for financial and other reasons is struggling for survival and is isolated from the main currents of academic life.

(20 U.S.C. 1052(a).)

(g) "Equipment" means manufactured items which have an extended useful life and are not consumed in use and which have an identity and function which are not lost through incorporation into a different or more complex unit or substance. Equipment is further subdivided into two categories: Built-in equipment and initial equipment.

(1) "Built-in equipment" means equipment which is a permanent part of the structure.

(2) "Initial equipment" means all items of equipment other than built-in equipment, which are necessary and appropriate for the initial functioning of a particular academic facility for its specific purpose. No equipment may be considered as initial equipment unless it has been acquired or contracted for prior to the date on which the facility is first used for education of students.

(20 U.S.C. 1132e–1(2).)

(h) "Full-time equivalent number of students" means:

(1) For purposes of determining State allotments, the number of full-time students enrolled in programs which consist wholly or principally of work normally creditable toward a bachelor's or higher degree plus one-third of the number of part-time students enrolled in such programs, plus 40 percent of the number of students enrolled in programs which are not chiefly transferable towards a bachelor's or higher degree plus 28 percent of the remaining number of such students. Student enrollment figures for each fiscal year for the purposes of this computation will be those contained in the most recent Office of Education survey containing data on opening fall enrollments in higher education.

(20 U.S.C. 1132a–1, 1132a–2.)

(2) For purposes of reporting undergraduate enrollment trends and projections in connection with applications for financial assistance for individual institutions under Title VII A of the Act, the "full-time equivalent number of students" may be defined for each State by the State commission by specific State plan provision. In the absence of such a definition in the applicable State plan, "full-time equivalent number of students" for application purposes is the total number of full-time students plus one-third of the number of part-time students. For the purpose of this definition, full-time students are those carrying at least 75 percent of a normal student-hour load.

(20 U.S.C. 1132a–4).

(i) "Institution of higher education or institution," means only so much of an educational institution in any State as meets the requirements set forth in section 1201(a) of the Act. The term "educational institution" limits the scope of this definition to establishments at which teaching is conducted.

(20 U.S.C. 1141(a).)

(j) "Project" means the facilities (all or a portion of one or more structures) which are eligible for grant or loan assistance under a particular title of the Act and for which grant or loan assistance is requested in a specific grant or loan application. Only facilities to be part of a unified construction, reconstruction, or renovation, activity and to be constructed, reconstruction, or renovated on the same campus may be included in the same project application.

(20 U.S.C. 1132e–1(2).)

(k) "State commission" means the State agency designated or established in each State which is broadly representative of the public and of institutions of higher education in that State.

(20 U.S.C. 1132a–2; 1142a.)

(l) "State plan" means the document submitted by a State commission and approved by the Commissioner, which sets forth the standards, methods, and administrative procedures whereby the State Commission will review projects proposed by applicants in the State for Federal assistance under Title VII A of the Act, and will determine and recommend the relative priority of each project and the Federal share of the costs eligible for Federal financial participation for each project.

(20 U.S.C. 1132a–3(a).)

(m) "Reconstruction or renovation project under Part E, Title VII," means a reconstruction or renovation project which is primarily designed to enable an institution—

(1) To economize on the use of energy resources, or

(2) To bring its academic facilities into conformity with the requirement of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, or

(3) To bring its academic facilities into conformity with environmental protection or health and safety programs mandated by Federal, State or local law, if such requirements were not in effect at the time such facilities were constructed.

(20 U.S.C. 1132d–11.)

§ 170.2 Office of Education general provisions.

Assistance provided under Title VII of the Act, except Part C thereof is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters). Assistance under Part C of Title VII of the Act is, however, subject to Subpart K of 45 CFR Part 100a (relating to construction, reconstruction, or renovation requirements).

(20 U.S.C. 1132a.)

§ 170.3 Modification of general requirement for competitive bidding on contracts for construction, reconstruction, or renovation and for requisition and installation of built-in equipment.

(a) Owner-furnished material or equipment may be procured in accordance with the procedures set out in 45 CFR Part 100a, Subpart I (Procurement standards).

(b) In order to assure the eligibility of costs under § 170.6, recipients must obtain the approval of costs to be incurred both before advertising for or soliciting bids and before awarding any construction, reconstruction, or renovation contract covered under the Act. Approval will be given only after Federal assistance has been approved for the facility by an appropriate Federal agency.

(20 U.S.C. 1132a–6(a)(2)(F).)

§ 170.4 Fiscal control and fund accounting procedures by State commissions.

Each State plan must contain specific information regarding fiscal control and fund accounting procedures as required by the Commissioner to insure proper disbursement of and accounting for Federal funds which may be paid to the State commission for expenses for the proper and efficient administration of the State plan.

(20 U.S.C. 1132a–3.)

§ 170.5 Retention of records by State commissions.

State commissions must establish a complete case file on each Title VII–A application received; inform applicants of official actions and determination by letter or similar type of correspondence, and must retain records regarding each case for at least 2 years after final action with respect to any such application. In addition, each State commission must maintain a full record of all hearings on appeals pursuant to section 704(a)(5) of the Act, and all proceedings by which it establishes relative priorities and recommended Federal shares for eligible projects considered as of each specified closing date and must retain such records for at least 3 years.

(20 U.S.C. 1132a–3(a)(b).)

§ 170.6 Determination of costs eligible for Federal participation.

(a) Determination of costs eligible for Federal participation will be based for each individual project, whether application is made under Title VII–A, VII–B, or VII–C of the Act, upon: (1) The date on which a given cost item was incurred or contracted for: (2) whether the cost is an allowable "development cost," as defined in section 782(3) of the Act, and has been incurred in accordance with the requirements set forth in these regulations; (3) the portion of the proposed facility which is eligible under the type of assistance for which the application is submitted; and (4) the amount of any financial assistance under any other Federal program which the applicant has obtained or is assured of obtaining for the project.

(b) For a project for which an application is filed for the first time under any program of the Act on or after July 1, 1972, the following will be excluded from the eligible development cost:

(1) Any cost for the acquisition of land which was incurred more than 2 years before an application is filed, and any cost for the acquisition of land in connection with an application for reconstruction or renovation;

(2) Any cost for the acquisition of an existing structure incurred more than 1 year before an application is filed, and any cost for the acquisition of an existing structure in connection with an application for reconstruction or renovation;

(3) Any cost for initial equipment incurred before the date an application is filed; or

(4) Any cost for construction, reconstruction or renovation, or for built-in equipment where the contract has been entered into before the date an application is filed and before the concurrence of the Commissioner in the award of the contract.

(20 U.S.C. 1132e–1 (3) and (4).)

§ 170.7 Urgency of need for projects of public institutions.

(a) Notwithstanding other project eligibility requirements, the Commis-

sioner under Parts B, C, and D of Title VII of the Act and the State commission under Part A of Title VII of the Act, shall not approve an application for assistance of a public institution of higher education unless the Commissioner or State commission, as appropriate, determines that the need for the project is urgent in light of the capacity of other public institutions of higher education which enroll students from basically the same geographic area as the applicant institution.

(b) If the applicant institution has a history of not serving persons of a particular race, color, or national origin and if there are within the geographic area which the institution serves one or more public institutions of higher education which have a history of not serving persons of another race, color, or national origin, the Commissioner or the State commission, as appropriate, will not determine that such urgency of need exists unless the applicant provides evidence satisfactory to the Commissioner that of a public institution of higher educa- the construction, reconstruction, or renovation and proposed use of the facilities will not establish, increase, or impede the elimination of the racial identifiability of any of these institutions.

(20 U.S.C. 1132a–4, 1132b, 1132c–4, 1132d–1 and Shannon vs. HUD, 436 F.2d 809.)

§ 170.8 Grants and loans for reconstruction and renovation projects authorized under Title VII E of the Act.

Applications submitted for grant or loan assistance for reconstruction or renovation projects under Title VII E will be subject to the following provisions:

(a) No project having a total eligible cost, as specified in paragraph (b) below, of less than $10,000, will be considered for approval by the Commissioner.

(b) Determination of costs eligible for Federal participation will be based on review of each application by the Commissioner. Only those costs directly related to one or a combination of reconstruction or renovation purposes specified in § 170.1(m) will be considered eligible by the Commissioner. The Commissioner may approve nonrelated costs provided they do not exceed 10 percent of those costs directly related to the purposes of § 170.1(m), and are found by the Commissioner to be part of the project for which Federal assistance is requested.

(c) The Commissioner will not approve an application unless the applicant presents sufficient information in the application to demonstrate that the project meets pertinent requirements as follows—

(1) For assistance for energy conservation, the applicant:

(i) Must have accomplished minimum energy conservation measures required by the Commissioner and

(ii) Must have demonstrated that the proposed project will result in significant savings in energy consumption or related costs;

(2) For assistance for the removal of architectural barriers for the handicapped, the project must be required by local, State or Federal law;

(3) For assistance for conformance with environmental or health and safety requirements, the project must be required by local, State or Federal law; and

(4) Any application involving a combination of the purposes specified in subparagraphs (1), (2), or (3) above must satisfy each of the requirements specified. Any portion of an application not meeting the applicable requirements will be ineligible for assistance, except to the extent permitted under paragraph (b) above.

(d) Any approved grant or loan project will be terminated if the reconstruction or renovation contract has not been awarded or on-site work begun within 18 months from the date of loan approval or grant approval whichever approval date comes first.

(20 U.S.C. 1132d–11.)

Subpart B—Grants for Construction, Reconstruction, or Renovation of Academic Facilities

§ 170.11 Institutional eligibility for grants under section 702 of the Act.

To qualify for a grant from funds allotted pursuant to section 702 of the Act, an institution or a branch campus of an institution, Reconstruction, or Renovation meet the requirements specified in section 1201(a) and 782(6) of the Act.

(a) An institution which is not accredited by a nationally recognized accrediting agency or association listed pursuant to section 1201(a) of the Act may qualify, alternatively, by obtaining a certification from the Commissioner (dated no earlier than 2 years prior to the date of filing of the application for a grant) stating that the institution has met the requirements, set forth in subsection 1201 (a)(5) of the Act.

(b) An institution or a branch campus of an institution will be determined to be organized and administered principally to provide a 2-year program as specified in section 782(6) of the Act, if:

(1) More than 50 percent of the full-time equivalent student enrollment at the institution or branch campus is in 2-year programs of the types specified in section 782(6) of the Act; and

(2) The application for a grant pursuant to section 702 of the Act contains a statement that the institution or branch campus is organized and administered principally to provide two year programs, and the statement is supported by information available to or obtained by the State Commission.

(20 U.S.C. 1132–1, 1141.)

§ 170.12 Institutional eligibility for grants under section 703 of the Act.

To qualify for a grant from funds allotted pursuant to section 703 of the Act, an institution must meet requirements specified in section 1201(a) of the Act. An institution which is not accredited by a nationally recognized accrediting agency or association listed pursuant to section 1201(a) of the Act may qualify, alternatively, by obtaining a certification from the Commissioner (dated no earlier than 2 years prior to the date of filing of the application for a grant) stating that the institution has met the requirements set forth in subsection 1201(a)(5) of the Act.

(20 U.S.C. 1132a–2.)

§ 170.13 Conditions for grant approval.

(a) An application for a grant under Title VII A of the Act, other than applications for reconstruction and renovation assistance authorized under Title VII E of the Act, will be approved only if the Commissioner is satisfied on the basis of information submitted with the application that:

(1) The facilities included in the Title VII A project are intended for use predominantly in undergraduate instruction, extension, and continuing education programs, and/or health care to students or personnel of the institution:

(2) The requirements of section 705 of the Act will be met; and

(3) The application meets all requirements of section 707(a) of the Act.

(b) In determining whether an institution of higher education is eligible for a grant in accordance with section 705 of the Act, the State commission must base its determination on the following criteria:

(1) To establish whether a substantial expansion of student enrollment capacity, health care capacity, or continuing education capacity is being provided, the State commission must determine that the increase to be provided in any one of the three types of capacities will exceed 10 percent of current capacity, or, in the case of enrollment capacity an increase of 10,000 S.F. of instructional and library space. For purposes of this paragraph student enrollment capacity means "instructional and library facilities," health care capacity means "infirmaries and all other rooms or areas designed to be used for medical examination or treatment of students and institutional personnel," and extension and continuing education capacity means "academic facilities" used principally for extension and continuing education programs of the institution.

(2) To establish whether such substantial expansion or creation of capacity is urgently needed, the State commission must consider:

(i) The planned enrollment growth of the institution (10 percent over 4 years to be considered minimal growth at existing institutions);

(ii) The capacity enrollment ratio at the campus to be expanded (other utilization measures may be substituted); and

(iii) Serious deficiencies in the quality of programs due to inadequacies in existing space.

(3) As used in section 705 of the Act, "other construction, reconstruction, or renovation to be undertaken within a reasonable time" means construction, reconstruction, or renovation approved to start within 1 year of the date of application.

(c) In determining whether an institution of higher education would experience a decrease in enrollment capacity if an urgently needed facility is not constructed reconstructed, or renovated, the Commissioner will give consideration to:

(1) The age and condition of existing instructional and library facilities which will be withdrawn from use, and

(2) Any other factors which will cause facilities to be functionally inadequate for instructional or library purposes.

(d) An application for a grant for reconstruction and renovation purposes authorized under Title VII E of the Act will be approved only if, based on information submitted with the application, the Commissioner is satisfied that—

(20 U.S.C. 1132a–6(a)(2))

(1) The application meets the basic provisions of paragraph (a) and (c) of § 170.8; and

§ 170.14 Submission and processing of Title VII A applications.

(a) *Closing dates for filing of applications.* Closing dates for which applications may be filed and accepted by the State commission will be established in the State plan. For each category of application (i.e., applications for public community colleges and public technical institutes and applications for institutions of higher education other than public community colleges and public technical institutes) the State plan will provide at least two closing dates for any Federal fiscal year, and all such closing dates shall be between October 31 and May 15. Where the Commissioner determines unusual circumstances so warrant, the State plan may provide for a closing date after May 15.

(b) *Submission of project applications.* Applications must be submitted directly to the appropriate State commission, together with any supplemental information which may be required by the State commission. The State commission officially records the date of receipt of each application. Applications must be initially submitted in advance of inviting bids for construction, reconstruction, or renovation. The application may be considered at only those closing dates which occur no later than 12 months after construction, reconstruction, or renovation has started.

(c) *Verification of application data and institutional and project eligibility.* Before determining the relative priority or Federal share for any application for grant assistance under Title VII A of the Act, the State commission must satisfy itself that the data contained in the application appear to be valid, and that the institution and the project meet basic eligibility requirements of the Act and the regulations governing the administration of the Act. In any case where in the opinion of the State commission a question may be raised as to the eligibility of an institution, the State commission will promptly forward a copy of the application to the Office of Education for a clarification of such eligibility. In any such case, the State commission continues to process and rank such application as if it were eligible, but delays final action on all applications under the same category considered as of the same closing date until notified by the Office of Education of the disposition of the eligibility question.

(d) *Determination of relative priorities and Federal shares.* All eligible applications received by each specified closing date must be considered by the State commission together with others of the same category (i.e., applications for public community colleges and public technical institutes for funds allotted under section 702 of the Act, and applications for all other institutions of higher education for funds allotted under section 703 of the Act) and assigned relative priorities and recommended/ Federal shares in accordance with the provisions of the State plan.

(e) *Procedures where funds are insufficient to provide full Federal shares for all eligible projects.* (1) In any case where the funds available in a State allotment for projects considered as of a particular closing date are insufficient to cover all eligible applications, the State commission will nevertheless determine the full Federal share, calculated according to the State plan, for all projects in their order of relative priority, until the remaining available funds are insufficient to provide the full Federal share as calculated for the next project in order of priority.

(2) If the State plan provides for apportionment of the State allotment among closing dates, the State plan may provide also that sufficient funds will be made available immediately, from such funds as were apportioned to later closing dates in the same fiscal year, so that the full Federal share as initially calculated will be available for the first project for which only a part of the Federal share would otherwise have been available. In any case where the State allotment is apportioned among closing dates and no such provision is included in the State plan, all projects for which the full Federal share, as calculated, cannot be provided for by the available funds must be carried over to any subsequent closing dates in the same fiscal year.

(3) If the State allotment is not apportioned among closing dates, or in the case of the last closing date in the fiscal year, the amount of the remaining funds will be offered as a partial Federal share for the first project in order of relative priority for which less than the full Federal share as calculated is available. The offer and acceptance of such a lesser Federal share will in no way be deemed to diminish the scope of the project. An applicant which agrees to accept such a partial Federal share will in all cases have the option to submit a supplemental application as provided in paragraph (e)(1) of this section. If the applicant offered such a partial Federal share declines to accept it, the remaining funds and the application for which the partial Federal share was declined must be carried over to the next closing date, if any, in the same fiscal year.

(f) *Recommendation by State commissions.* Promptly upon completing its consideration of applications as of each closing date, and no later than June 30 of each Federal fiscal year, each State commission will forward to the Commissioner: (1) A current project report, on forms supplied by the Commissioner, for the pertinent category of applications, listing each application received or carried over from the previous closing date, each application returned to the applicant and the reason for return of such application, each application considered as of the closing date, and the priority and Federal share determined according to the State plan for each project considered and (2) the application form and exhibits in the number of copies requested by the Commissioner for each project assigned a priority high enough to qualify for a Federal grant within the amount of funds available in the allotment for the State.

(g) *Notification to applicants.* The State commission must promptly notify each applicant of the results of all determinations regarding its application as of each closing date, and any applicant will, upon request in accordance with procedures as are established by the State commission, be furnished access to the records of official State commission proceedings on the basis of which relative priorities and Federal shares of all applications were determined.

(h) *Disposition of applications which are not recommended for grants.* Applications which are not recommended for a grant within the fiscal year in which they are filed may be retained by the State commission, but the unsuccessful applicants should be notified when there are no longer any funds available in the State allotments for the fiscal year. Applications may be reconsidered the following fiscal year for any project which does not receive a recommendation for a grant and which the applicant states in writing a desire to have reconsidered in a subsequent year. In addition, whenever any application is carried over from one closing date to the next those portions of the application requiring data on enrollments and available instructional, library, and or health care facilities must be amended to reflect most recent opening fall term data.

(i) *Grant award.* For a Title VII A project application which meets all eligibility requirements the Commissioner will approve the application and reserve Federal funds from the appropriate State allotment and will prepare and send to the applicant a grant award, which sets forth the pertinent terms and conditions of the grant.

(j) *Amendment of project applications.* Any time prior to a closing date for which an application is to be considered, the applicant may make changes

in the application by written notification to the State commission. After the closing date, no changes in applications are permitted, except corrections or submission of additional data as requested by the State commission.

(k) *Project changes.* After a project has been forwarded to the Commissioner by the State commission, no substantial changes in the nature or scope of the project will be approved by the Commissioner without first verifying that such changes would not have affected the State commission's original recommendation of the project for a grant.

(l) *Supplemental applications.* Any time after approval of a Title VII A grant, an applicant may, for reasons of not having received the maximum Federal share allowable under the Act or the applicable State plan, file a supplemental application. A supplemental application is a written request to the State commission and must contain all amended application data necessary to assign a priority to the application and to calculate a revised eligible development cost of the project where applicable. In no event, however, will a supplemental application be considered by a State commission (1) for a closing date which is more than 12 months after construction, reconstruction, or renovation has been started or (2) for a closing date which is after the date the project has been substantially completed, whichever is earlier.

(20 U.S.C. 1132a-6(c))

§ 170.15 Criteria for standards and methods to determine relative priorities of eligible projects.

(a) A State plan must set forth separately the standards and methods for determining the relative priorities of eligible projects for the construction, reconstruction, or renovation of acadamic facilities (1) for public community colleges and public technical institutes and (2) for institutions of higher education other than public community colleges and public technical institutes.

(b) The standards for determining relative priorities for established institutions or branch campuses must include the following, each of which will be assigned at least the percentage of the total weight assigned to all standards for established institutions or branch campuses:

(1) One or more standards dealing with the planned for and reasonably expected numerical and/or percentage increase in full-time equivalent undergraduate student enrollment at the campus at which the facilities are to be constructed, reconstructed, or renovated occurring between the opening of the fall term which opened preceding the closing date for which the application is being considered and the opening of either the third, fourth, or fifth term thereafter (at least 5 percent of total weight with priority advantage given to higher numerical and/or percentage increases).

(2) One or more standards (at least 10 percent of total weight) dealing with the amount and/or percentage by which the construction, reconstruction, or renovation of the project will increase or replace the assignable area in instructional and library facilities and health care facilities on the campus at which the facilities are to be constructed, reconstructed, or renovated.

(3) One or more standards designed to favor projects for institutions or branch campuses which are most effectively utilizing their existing academic facilities (at least 5 percent of total weight).

(4) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses that are committed to the enrollment of a substantial number of students from low-income families.

(5) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses which are committted to the enrollment of a substantial number of veterans returning to civilian life.

(c) The State plan may include additional standards for determining relative priorities which are not inconsistent with the standards set forth in paragraph (b) of this section and which will carry out the purposes of the Act.

(d) The methods for application of the standards for determining relative priorities must provide for the assignment of point scores for each standard applied, such that the potential total score for each project will be the same whether the project is for a new institution or branch campus or for an established institution or branch campus. The assignment of points for each standard may be by any one of the following methods or by similar objective methods, a different one of which may be used in connection with each standard.

(1) Applications may be ranked according to relative performance for the standard and assigned a point score for relative rank (e.g., 10 points placement in the highest 10 percent, 9 points for placement in the second highest 10 percent, 8 points for placement in the third highest 10 percent, etc.).

(2) Applications may be compared to a scoring table for the standard, and assigned points accordingly (e.g., for numercial increase in full-time equivalent undergraduate enrollment, a scoring table might provide for 10 points for an increase of 1,000 or more, 8 points for an increase of 800–999, 6 points for an increase of 600–799, etc.)

(3) Applications may be compared to a fixed requirement for the standard, and assigned points if they meet the requirement or denied points if they do not. This type of scoring should be used where comparison against the standard involves a "yes—no" decision (e.g., Is the proposed project located in a geographic area of the State in which an unfilled need for creation or expansion of undergraduate enrollment capacity has been documented in a statewide study? If "yes," award 5 points if "no," award 0 points).

(e) The methods for application of the standards must provide for determination of relative priorities on the basis of the total of the points earned by each application for each applicable standard and must specify factors to be applied in determining which application will receive the higher priority in the case of identical scores.

(f) The standards and methods for determining relative priorities must be developed on the basis of information which is to be submitted on the application form prescribed by the Commissioner, or required by the State commission to be submitted on supplemental State forms to accompany the application, or contained in published reports or publications readily available to the State commission and to all institutions within the State. Whenever supplemental forms or definitions or data in public reports or publications are to be used in connection with optional State plan standards, the State plan must include a section setting forth the definitions and supplementary data sources and an appendix illustrating the supplemental State forms.

(g) In no event may an institution's readiness to admit out-of-State students be considered as a priority factor adverse to the institution and in no event may the nature of the control or sponsorship of the institution, or the fact that construction of the project had commenced, or that part of the cost of a project has been incurred before or under a contract entered into prior to the date of the application, be considered as a priority factor either in favor of, or adverse, to, an institution.

(20 U.S.C. 1132a-5(a))

§ 170.16 Criteria for standards and methods to determine Federal shares of eligible projects.

(a) Unless the Federal share is specified in the State plan as a uniform percentage of the costs eligible for Federal financial participation, the State plan must prescribe the standards and methods in accordance with which the State commission determines the Federal share of such costs, but in no event may the Federal share of a project exceed the percentage of the eligible project development cost specified by the Act.

(b) Standards and methods for determining the Federal share pursuant to paragraph (a) of this section must: (1) be objective and simple to apply; (2) involve the use of data which are to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted on supplemental State forms to accompany the application, or contained in reports or publications readily available to the State commission and the institutions of higher education in the State; (3) be such as will enable an applicant to calculate in advance (on the assumption that sufficient funds will be available to cover all applications) the minimum Federal share of the estimated eligible project development cost which the State commission would certify to the Commissioner if it rcommends the project for a Federal grant; and (4) be consistent with criteria published by the Commissioner with respect to the determination of relative priorities among projects and be promotive of the purposes of the Act.

(20 U.S.C. 1132a-5(b))

§ 170.17 State plans.

(a) A State must submit a State plan to the Commissioner no later than 60 days prior to the first closing date of each fiscal year that the State desires to participate in the Title VII A grant program. The Commissioner approves a State plan and annual revision upon the basis that he has received satisfactory assurance and explanation regarding the basis on which the State commission submitting the plan meets the requirements of section 704(a) of the Act. A new or revised State plan submitted in accordance with section 704 of the Act will be submitted on forms or in a format supplied by the Commissioner and must contain all provisions required by the Commissioner pursuant to section 704 of the Act and other sections of the regulations in this part, together with such additional organizational and administrative information as the Commissioner may request.

(b) All proposed amendments to a State plan must be submitted to the Commissioner for his approval in the form and according to the instructions established for that purpose. Amendments will apply uniformly to all applications to be considered together as of any closing date, and, unless otherwise provided in the State plan, become effective immediately upon approval by the Commissioner, except that in no event may any amendment which affects the standards and methods for determining priorities or Federal share or any amendment providing for an additional closing date or for the change in an existing closing date become effective sooner than 60 days after the date the proposal to amend is received by the Commissioner and 30 days after the date of the Commissioner's approval of the amendments as a part of the State plan. Amendments which are required by amendments of the Act or of these regulations or are designed to implement promptly amendments of the Act or of these regulations may be effective immediately upon their approval by the Commissioner.

(c) State plan amendments conforming to the provisions in these regulations regarding determination of priorities must be submitted and approved prior to State commission actions on any Title VII A applications for closing dates later than April 1, 1973.

(20 U.S.C. 1132a-3)

§ 170.18 Adjustments in Amount of Federal share.

In any case where the costs eligible for Federal participation are determined to be less than those provided for in the grant award, the Commissioner will redetermine the amount of the Federal share which would have been recommended for the project, based on the lesser eligible cost, under State plan provisions in effect at the time the project was recommended for a grant, as if sufficient funds had been available in the State allotment at that time to provide the maximum Federal share provided for by the plan. If the redetermined Federal share entitlement is less than the maximum amount authorized by the grant award the grant will be reduced accordingly, and any overpayment of Federal funds will immediately be due to the Government of the United States. If the redetermined Federal share is equal to or greater than the maximum amount of the Federal share authorized by the grant award, the final settlement will be based on the Federal share amount authorized by the grant award.

(20 U.S.C. 1132a-6(c))

Subpart C—Grants for Construction, Reconstruction, or Renovation of Graduate Academic Facilities

§ 170.41 Eligibility for grants.

From funds available under Title VII B of the Act, the Commissioner is authorized:

(a) To make grants to institutions of higher education and cooperative graduate center boards for construction, reconstruction, or renovation of academic facilities dedicated to the provision of graduate education, including facilities essential to their operation; and

(20 U.S.C. 1132b(a)(1))

(b) To make grants to or to enter into contracts with institutions of higher education for construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency.

(20 U.S.C. 1132b(a)(2))

§ 170.42 Submission of applications.

(a) Applications covered by this subpart may be submitted by institutions of higher education or by cooperative graduate center boards as defined in section 782(8) of the Act. Applications will be submitted at the time and in manner as may be prescribed by the Commissioner and, except as provided in paragraph (b) of this section, will be processed by the staff of the Office of Education in the order of their receipt. Upon the completion of such processing as is submitted to the panel of specialists for their review and evaluation. Applications must be submitted in advance of inviting bids for construction, reconstruction, or renovation.

(20 U.S.C. 1132b-1 (a) and (b), 1132d-11)

(b) With respect to an application filed for reconstruction or renovation under Title VII E of the Act, the applicant first submits the application to the State Higher Education Facilities Commission. The Commission will review and evaluate the application and provide comments regarding—

(1) Space utilization,

(2) Enrollment data, and

(3) Over-all need for the project

(c) Following its review, the State Commission will furnish its evaluation to the aapplicant. If the applicant does not agree with the evaluation, the Commission must afford the applicant the opportunity to submit a rebuttal statement to accompany the application. The Commission will submit the applications through the appropriate Regional Office of the Department of Health, Education, and Welfare together with all required State agency comments

(d) If the Higher Education Facilities Commission is not the agency serving as the State Postsecondary Education Commission authorized under Section 1202(a) of the Act, the latter must also be afforded the opportunity to review and evaluate any application filed under Title VII C of the Act.

(20 U.S.C. 1132b, 1132d-11)

§ 170.43 Facilities panel.

The Commissioner may not approve any application for a grant under this title, except for Title VII E purposes, until he obtains the advice and recommendations of a panel of specialists who are not employees of the Federal Government and who are competent to evaluate such applications. The panel of specialists reviews all applications in the light of the criteria set forth in § 170.44 and makes recommendations to the Commissioner for the approval or disapproval, in whole or in part, of each application.

(20 U.S.C. 1132b-1(b))

§ 170.44 Criteria for evaluating applications.

Except as provided for in § 170.45, the determination of relative priorities for recommending grants from available funds must take into consideration at least the following factors:

(a) The extent to which the programs to be assisted by the proposed construction, reconstruction, or renovation will contribute toward the establishment or development of a graduate school or cooperative graduate center of excellence, or the extent to which the program or programs will contribute toward the improvement of an existing graduate school or cooperative graduate center.

(b) The extent to which the proposed construction, reconstruction, or renovation will increase the capacity of the institution to supply highly qualified personnel critically needed by the community, industry, government, research, and teaching.

(c) The extent to which the proposed construction, reconstruction, or renovation will assist in attaining a wider distribution throughout the United States of graduate schools and cooperative graduate centers.

(d) The capability of the applicant to give full financial support to its program generally, and specifically to the programs of graduate education to be as-

sisted by the proposed construction, reconstruction, or renovation.

(e) The extent to which the program or programs to be assisted by the proposed construction, reconstruction, or renovation are likely to draw to the institution both graduate students and faculty of a high level of competence.

(f) The adequacy of applicant's existing academic facilities with respect to the present demands made on them and the demands that can reasonably be expected to be made on them in the foreseeable future, with particular reference to the adequacy of those facilities, if any, available for the conduct of the program or programs to be assisted by the proposed construction, reconstruction, or renovation.

(g) The extent to which the proposed construction, reconstruction, or renovation would contribute significantly to the increase in both or either the quantity or quality of graduate education in a relatively wide geographical area.

(20 U.S.C. 1132b(a))

§ 170.45 Priorities for approval of grants for reconstruction and renovation authorized under Part E of the Act.

With respect to applications filed for reconstruction or renovation projects under Title VII E of the Act, priority consideration may be given to the degree of efficiency with which the institution is utilizing its present facilities.

(20 U.S.C. 1132d-11)

Subpart D—Loans for Construction, Reconstruction, or Renovation of Academic Facilities

§ 170.51 Eligibility for loans.

Loans, not to exceed $5 million per campus per Federal fiscal year, may be made for construction, reconstruction, or renovation of academic facilities for institutions of higher education or for cooperative graduate centers.

(20 U.S.C. 1132c(a)(2))

§ 170.52 Submission of applications.

(a) Each institution, cooperative graduate center board or higher education building agency desiring a loan for the construction, reconstruction, or renovation of academic facilities submits an application for the assistance, in the manner and containing the information specified by the Commissioner. Applications must be submitted in advance of inviting bids for construction, reconstruction, or renovation.

(20 U.S.C. 1132c)

(b) The applicant must send a copy of each application to the State Higher Education Facilities Commission. The Commission will review and evaluate the application and provide comments regarding—

(1) Space utilization,

(2) Enrollment data, and

(3) Over-all need for the facility or reconstruction or renovation of a facility for which assistance is requested.

(c) Following its review, the State Commission will furnish its evaluation to the applicant. If the applicant does not agree with the evaluation, the Commission must afford the applicant the opportunity to submit a rebuttal statement to accompany the application. The Commission will submit the applications through the appropriate Regional Office of the Department of Health, Education, and Welfare together with all required State agency comments.

(d) If the Higher Education Facilities Commission is not the agency serving as the State Postsecondary Education Commission authorized under Section 1202(a) of the Act, the latter must also be afforded the opportunity to review and evaluate any application filed under Title VII C of the Act.

(20 U.S.C. 1132c-3(b)(1), 1142a)

§ 170.53 Special terms and conditions.

Before approving a loan the Commissioner requires:

(a) Satisfactory evidence that the applicant has or will have a fee simple or such other estate or interest in the facilities and site, access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction, reconstruction, or renovation and operation of the facilities for not less than 50 years from the date of application.

(b) Satisfactory evidence of the ability of the applicant to comply with the appropriate terms and conditions for repayment of the loan.

(c) Satisfactory evidence that the applicant has the necessary legal authority to finance, construct, reconstruct, or renovate, and maintain the proposed facilities, to apply for and receive the proposed loan, and to pledge or mortgage any assets or revenues to be given as security for the proposed loan.

(d) Satisfactory assurances that the project is related to a plan for development of the institution, branch campus, or cooperative graduate center for which it will be constructed, reconstructed, or renovated, and is associated with either a planned increase in student enrollment or a planned improvement in the instructional programs offered by the institution, branch campus, or cooperative graduate center. The assurances specified in this paragraph will not be required with respect to reconstruction and renovation projects authorized under Title VII E of the Act.

(e) Satisfactory assurance that the applicant will not, without the consent of the Commissioner, mortgage to others the facility constructed, reconstructed, or renovated with the assistance of the loan during the life of the loan. Consent is not required to mortgage facilities reconstructed or renovated under Title VII E unless a mortgage on the facilities was taken by the Commissioner as security for a loan made under Title VII.

(20 U.S.C. 1132c-2(b)(1))

(f) Satisfactory assurance that not less than 20 percent of the development cost of the facility will be financed from non-Federal sources except that in the instance of an institution qualifying as a developing institution pursuant to Title III of the Act, the applicant is not required to provide this assurance.

(20 U.S.C. 1055(b)(1); 1132c-1(a))

§ 170.54 Determination of nonavailability of equally as favorable terms and conditions.

No loan will be made unless the Commissioner finds that the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part. For the purpose of making this determination, the applicant must be required to comply with any procedures the Commissioner may establish, including, where deemed necessary, public advertising for bids from other sources.

(20 U.S.C. 1132c-1(a)(2))

§ 170.55 Forms of evidence of indebtedness.

The evidence of indebtedness will be in such form as may be prescribed by the Commissioner.

(20 U.S.C. 1132c-1(b))

§ 170.56 Security for loans.

All loans must be secured in a manner which the Commissioner finds sufficient to reasonably assure repayment. The security may be one or a combination of the following:

(a) A first mortgage on the facilities and site thereof.

(b) Negotiable stocks or bonds of a quality and value acceptable to the Commissioner.

(c) A pledge of unrestricted and unencumbered income from an endowment or other trust funds acceptable to the Commissioner.

(d) A pledge of a specified portion of annual general or special revenues of the institution, accepatable to the Commissioner.

(e) General obligations of a State or local public body.

(f) Other types of security as the Commissioner may find acceptable in specific instances.

(g) Notwithstanding the provisions of paragraphs (a) through (f) the Commissioner may make unsecured loans on any reconstruction or renovation project authorized under Title VII E if the term of such loan is seven years or less.

(20 U.S.C. 1132c-1(b).)

§ 170.57 Length and maturity of loans.

(a) The maximum repayment period for loans—

(1) Under Title VII C of the Act will be 30 years, except where the Commissioner finds that a longer repayment period is required; and

(20 U.S.C. 1132c-1(b).)

(2) Under Title VII E will be 20 years.

(20 U.S.C. 1132d-11.)

(b) Repayment of the loan will be made by substantially level total annual installments of principal and interest unless otherwise authorized by the Commissioner.

(c) Loans which do not mature serially may be considered by the Commissioner if that type of loan is necessary to be compatible with an applicant's total financial planning.

(d) In no case may a loan repayment period exceed the estimated useful life of the facilities to be constructed, reconstructed, or renovated with the assistance of the loan.

(20 U.S.C. 1132c-1(b).)

§ 170.58 Bond Counsel opinion.

(a) At appropriat stages in the loan application and development procedure, a legal memorandum or opinion of bond counsel will be required with respect to the legality of the proposed bond or note issue, the legal authority to offer the issue and secure it by the proposed collateral, and the legality of the issue upon delivery. "Bond Counsel" means either a law firm or individual lawyer, thoroughly experienced in the financing of construction, reconstruction, or renovation projects by the issuance of bonds, and whose approving opinions have previously been accepted by purchasers of bonds offered at public sales. In addition, where the borrower is a public institution or agency, the proposed bond counsel must be a recognized bond counsel in the municipal field. The legal memorandum or opinion to be provided by such an acceptable bond counsel in each case generally shall be as follows:

(1) A memorandum by bond counsel, submitted with the loan application, stating that there is or will be authority to finance, construct, maintain the project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority.

(2) A preliminary approving opinion of bond counsel, submitted at the time the applicant proposes to advertise for construction, reconstruction, or renovation bids for the project, to the effect that when the bonds or notes described in the loan agreement are sold and delivered they will comply with the applicable provisions of the loan agreement and will be valid and binding obligations of the issuer and will be payable in accordance with their terms.

(3) A final approving opinion of bond counsel, delivered at the same time as the delivery of the bonds or notes, stating that the bonds or notes (i) are those described in the loan agreement and the authorizing proceedings, (ii) have been duly authorized, sold, and delivered to the Commissioner, and (iii) constitute the valid and binding obligations of the issuer payable in accordance with their terms.

(b) The Commissioner may accept the opinion of legal counsel, other than a bond counsel as defined above, after considering such factors as the amount, term, and security for the loan, and the legal or financial complexity of the transaction. For purposes of this section "legal conusel" means a law firm or individual lawyer having experience in the financing of construction, reconstruction, reconstruction, or renovation projects and whose opinions with regard to such financings have been previously accepted by responsible lenders or lending institutions.

(20 U.S.C. 1132c-2(b)(6).)

§ 170.59 Determination of priorities for loan approvals.

(a) Loan applications will be processed in such order and according to the standards and methods as the Commissioner may determine. The standards and methods will be developed as may be necessary and appropriate to encourage distribution of the available loan funds in accordance with actual needs and may include establishment of closing dates for consideration of applications and for determination of priorities.

(b) Some priority consideration may be given to—

(1) Applications from developing institutions (as defined in § 170.1, and

(2) The degree of efficiency with which the institution is utilizing its present facilities.

(c) No loan application for reconstruction or renovation projects authorized under Title VII E of the Act will be approved unless it meets the conditions specified in paragraphs (a) and (c) of § 170.8.

(20 U.S.C. 1132c-2(b).)

§ 170.60 Loan agreement.

For project applications which meet all requirements of the Act and of the regulations governing the administration of the Act, and upon approval by the Commissioner together with a reservation of Federal funds, a loan offer will be prepared by the Commissioner and sent to the applicant. The loan offer sets forth the pertinent terms and conditions for the loan, and is conditioned upon the fulfillment of these terms and conditions. The accepted loan offer will constitute the loan agreement between the Commissioner and the applicant for the partial financing of the construction, reconstruction, or renovation of the approved project.

(20 U.S.C. 1132c-2(b).)

§ 170.61 Loan closing.

Loan closing occurs at the time determined by the Commissioner.

(20 U.S.C. 1132c-2(b).)

§ 170.62 Interim financing.

If necessary, the applicant must arrange for interim financing, subject to the approval of the Commissioner, to cover the cost of construction, reconstruction, or renovation pending the loan closing. Where the Commissioner finds that an applicant is unable to secure necessary interim financing on reasonable terms, he may provide for advances against the approved loan.

(20 U.S.C. 1132c-2(b).)

§ 170.63 Construction fund.

The proceeds of the sale of the bonds or notes, any interim advances against the approved loans, and all other moneys to be used in paying for the construction, reconstruction, or renovation, of which the project is a part, must be deposited into a separate bank account to be maintained in a bank of the applicant's choice and to be known as the Construction Fund. All expenditures for the construction, reconstruction, or renovation must be made from this fund. Accounting for this fund shall be in accordance with generally accepted accounting principles. When necessary and appropriate, the Commissioner may approve other arrangements for the deposit of construction funds and the construction fund accounting, provided such arrangements provide adequate accountability for the total construction, reconstruction, or renovation receipts and expenditures.

(20 U.S.C. 1132c-2(b).)

§ 170.64 Investment of idle construction funds.

Where the moneys on deposit in the construction fund exceed the estimated disbursements for the project for the next 90 days, the borrower should if permitted by State or local law, direct the depository bank to invest such excess funds in direct obligations of the U.S. Government or obligations the principal of or interest on which is guaranteed by the U.S. Government, which will mature not later than eighteen (18) months from the date of such investment.

(20 U.S.C. 1132c-2(b).)

§ 170.65 Disposal of balance remaining in the construction fund.

The balance of moneys remaining in the construction fund at the completion of construction, reconstruction, or renovation must be disposed of in accordance with the provisions of the loan agreement.

(20 U.S.C. 1132c-2(b).)

§ 170.66 Moratoria on principal or interest loan payments.

A moratorium on the repayment of principal and interest installments due on the loan may be approved by the Commissioner if the borrower—

(a) Can demonstrate a temporary inability to make such payment without undue financial hardship, and

(b) Furnishes a specific plan for repayment of the amounts in arrears in a schedule acceptable to the Commissioner. Where it can be clearly demonstrated that a specific repayment schedule cannot be reasonably projected due to circumstances beyond the borrower's control, the Commissioner may grant a moratorium on the condition that a schedule will be developed for consider-

ation at a future date designated by the Commissioner.

(20 U.S.C. 1132c-2(b)(5)(A).)

§ 170.67 Repayment of loans at seventy five percent of face value.

In lieu of the full payment of any loan approved before January 1, 1976, the Commissioner may accept from the borrower an amount equal to 75 percent of the outstanding principal balance plus interest due to the date of payment. Payment is acceptable only if made in the form of a single remittance and received before October 1, 1979.

(20 U.S.C. 1132c-2(b)(5)(B).)

Subpart E—Annual Interest Grants for Construction, Reconstruction, or Renovation of Academic Facilities

§ 170.71 Eligibility for annual interest grants.

(a) Annual interest grants may be made to institutions of higher education, higher education building agencies, and cooperative graduate center boards, to reduce the cost to them of borrowing funds, other than those available under this part, for the construction, reconstruction, or renovation of academic facilities.

(20 U.S.C. 1132c-4.)

(b) No annual interest grant will be made unless the Commissioner finds that the applicant is unable to secure a loan in the amount with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to direct Federal loans under Subpart D of this part. For the purpose of making such determination, the applicant must comply with the procedures as the Commissioner may establish, including public advertising for bids from other sources.

(20 U.S.C. 1132c-4(e)(2).)

(c) Annual interest grants may not be made with respect to loans consummated prior to the filing of an application under this subpart or Subpart D of this part.

(20 U.S.C. 1132c-4(3)(2).)

(d) Annual interest grants may not be made with respect to loans (or portions thereof) which cover a construction, reconstruction, or renovation activity that was begun more than 12 months before the closing date for which consideration is being requested.

(20 U.S.C. 1132c-4(b).)

§ 170.72 Amount of annual interest grants.

Except where limitation of general applicability is promulgated, each grant will be in an amount approximately equal to but not more than the difference between (a) the average annual debt service which is required to be paid, during the life of the loan, on the amount borrowed from private sources for the construction of an academic facility covered by the application, and (b) the average annual debt services which the institution would have been required to pay, during the life of the loan, with respect to such amount if the applicable interest rate were 3 percent per annum. The amount of the annual interest grant stipulated in the agreement may be amended by the Commissioner to reflect changes in the amount or terms of the loan. An increase in the annual grant amount resulting from a request to increase the amount of loan to be subsidized must be made not later than 12 months after construction, reconstruction, or renovation has started, through the submission of an amended application and is subject to priority considerations applicable at the time the supplemental request is filed. A request for an increase in the annual grant amount resulting from a change in the rate of interest of the term at the time of actual consummation of the loan will be considered apart from the priority ranking system.

(20 U.S.C. 1132c-4(b).)

§ 170.73 Submission of applications.

An applicant desiring to receive annual interest grants must submit an application for such grant assistance, in the manner and containing the information specified by the Commissioner. A copy of each application will be furnished to the State Commission prior to filing with the Regional Office. The Commission will review and evaluate the application and provide comments regarding (a) space utilization, (b) enrollment projections, and (c) over-all need for the facility for which assistance is requested. Following its review, the State Commission will furnish its evaluation to the applicant. If the applicant does not agree with the evaluation, the applicant may include, with the application, a statement supporting its counter position. Applications then will be submitted to the appropriate Regional Office of the Department of Health, Education, and Welfare together with all required State agency comments. Applications must be submitted in advance of inviting bids for construction, reconstruction, or renovation.

(20 U.S.C. 1132c-4.)

§ 170.74 Condition for approval of annual interest grants.

An application for annual interest grants will be approved only if the Commissioner is satisfied that:

(a) The facilities to be constructed, reconstructed, or renovated are urgently needed to accommodate more students or to replace inadequate facilities in order to prevent a decrease in student enrollment capacity;

(b) Funds will be available as required to pay the total development cost of the facilities;

(c) The applicant has or will have a fee simple or such other estate or interest in the facilities and site, including access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction, reconstruction, or renovation and operation of the facilities for not less than 50 years from the date of application;

(d) The applicant has the necessary legal authority to finance, construct, reconstruct, or renovate, and maintain the proposed facilities, to apply for and receive the proposed loan and annual interest grants, and to pledge or mortgage any assets or revenues to be given as security for the proposed loan; and

(e) The applicant's financing plan meets the conditions of § 170.76 and is otherwise practicable and feasible.

(20 U.S.C. 1132c-4.)

§ 170.75 Limits governing extent of Federal assistance.

The principal amount of loan (or portion thereof) on which an annual interest grant is approved, together with the amount of any other Federal financial assistance the applicant has obtained or is assured of obtaining under any other Federal program, may not exceed 90 percent of the eligible development cost. Further, the aggregate principal amount of loans (or portions thereof) with respect to which annual interest grants are approved during any Federal fiscal year may not exceed $5 million per campus.

(20 U.S.C. 1132c-4.)

§ 170.76 Approval of financing plans.

(a) Except as provided in paragraph (b) of this section, in order to be acceptable a financing plan submitted pursuant to § 170.73 must:

(1) Provide that the term of the loan with respect to which an annual interest grant is to be paid does not exceed 30 years or the useful life of the facilities with respect to which the annual interest grant is to be made, whichever is the lesser;

(2) Provide that such loan is to be repaid in substantially level annual installments of interest and principal over the term of the loan, except that interest only may be paid for an initial period not exceeding 5 years; and

(3) Contain such other terms and conditions as will assure the Commissioner that the support provided by the Government over the term of the loan is no more than is necessary to effectuate the purposes of this subpart.

(b) Financing plans may also be acceptable where the term of the loan is longer than 30 years or the annual installments of interest and principal are not substantially level, if the Commissioner finds that unusual circumstances warrant such exception. In no event may the term of the loan exceed 40 years.

(20 U.S.C. 1132c-4.)

§ 170.77 Evidence of lowest possible cost of loan.

An applicant must demonstrate to the satisfaction of the Commissioner that the loan it proposes to obtain is at the lowest possible net interest cost. In the case of an applicant proposing to issue tax-exempt bonds to finance the construction, reconstruction, or renovation of academic facilities, a sale pursuant to public advertising or bids for the securities in an advertising medium acceptable to the Commissioner will be deemed to meet this requirement. Prior to advertising bonds for sale, the applicant must submit to the Commissioner for approval a draft of the proposed notice of sale and a statement of essential facts concerning the sale. An applicant not issuing tax-exempt securities will be expected to submit offers from at least three (3) lending institutions normally engaged in making long term construction, reconstruction, or renovation loans. The applicant must have furnished each such institution with the information necessary to enable it to specify in its offer the amount, interest rate, maturity period, security and prepayment provisions of the loan. A loan offer must be approved by the Commissioner before the applicant enters into a firm and binding agreement with a lender.

(20 U.S.C. 1132c-4)

§ 170.78 Annual interest grant agreement.

Upon approval of an application for annual interest grants, the Commissioner prepares and sends to the applicant a proposed agreement, which contains the terms and conditions relating to the receipt of an annual interest grant including a description of the project and the facilities, the maximum principal amount of the loan (or portion thereof) on account of which annual interest grants payments will be made, the maximum annual grant amount and the anticipated terms of the annual interest grant payments. The proposed agreement must also provide that where a loan is not consummated prior to execution of such agreement by the Commissioner, no grant will be made thereunder unless the Commissioner concurs in the rate of interest and other terms and conditions of the loan. The agreement once executed by the applicant and the Commissioner creates a contractual obligation on the part of the Commissioner to make annual interest grants in future years in accordance with the terms and conditions of the agreement for so long as the applicant carries out its obligations under the agreement. The agreement for annual interest grants is not entered into for the benefit of, nor to induce the making of loans by or the sale of bonds to, third parties and the Commissioner will not entertain grievances or claims of such third parties.

(20 U.S.C. 1132c-4)

§ 170.79 Payment of annual interest grants.

Payments under an annual interest grant agreement will be made by the Government once a year. The date of such payment will coincide as closely as possible with the anniversary date of the loan or, a date during the year when debt service requirement related to the loan is greatest. Once established, the payment date will remain fixed for the duration of the loan. The first payment accrues from a date not earlier than the date of initial use of the project to the date established for the annual payment. The last payment accrues from the effective date of the next-to-last payment to the date the loan is completely repaid. Payment of annual interest grants will be made directly to the grantee or to a trustee, paying agent, or lender pursuant to an assignment of such payments by the grantee.

(20 U.S.C. 1132c-4)

§ 170.80 Reduction of grant where refinancing produces lower costs.

Where the Commissioner finds that the applicant could have accelerated repayment of the loan outstanding and obtained a new loan where to do so would have resulted in a net savings in the cost of the loan, the amount of annual interest grants must be computed as if such refinancing had been undertaken.

(20 U.S.C. 1132c-4)

§ 170.81 Priority considerations: closing dates.

The Commissioner gives priority first to applications from public community colleges and public technical institutes, developing institutions (as defined in § 170.1) and to institutions enrolling 20 percent or more students from low-income families. All applications from other institutions of higher education are considered next. Within the two priority categories, applications are processed in a manner appropriate to encourage distribution of the available funds to those institutions or branch campuses that are (a) in urgent need of additional academic facilities to meet increasing enrollments or to prevent a decrease in enrollment due to inadequate facilities or (b) committed to the enrollment of substantial numbers of veterans. Closing dates by which applications must be filed in order to be considered for funds allocated for such closing date shall be on September 1 and February 1 in each fiscal year in which funds are available unless otherwise announced by the Commissioner. Applications filed by September 1 will be considered as filed for the February 1 closing date. Available funds will be divided equally among closing dates.

(20 U.S.C. 1132c-4)

§ 170.82 Preceding provisions not exhaustive of authority of Government.

The provisions of this subpart are not exhaustive of the authority of the Government to impose, at any time it may deem appropriate, further limitations respecting the amount of the annual interest grant or the amount on which such grant is based.

(20 U.S.C. 1132c-4)

[FR Doc.77-23370 Filed 8-11-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 13]

[Docket No. 20817; FCC 77-528]

RADIO OPERATOR LICENSING PROGRAM

Delineation of Operator Responsibility

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking

SUMMARY: This is a proposed rulemaking to restructure the radio operator examination and licensing program and to delineate operator responsibility. This action is being taken because a need exists to specifically define the responsibilities of radio operators.

DATES: Comments must be received on or before October 3, 1977, and Reply comments on or before October 31, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Vernon P. Wilson, Field Operations Bureau, 202-632-7240.

SUPPLEMENTARY INFORMATION

Adopted: July 12, 1977.

Released: August 4, 1977.

In the matter of an inquiry relating to the Commission's radio Operator Licensing Program (See 41 FR page 38210).

By the Commission: Commissioner Washburn dissenting and issuing a statement.

1. The Commission has before it for consideration the Notice of Inquiry entitled "An Inquiry relating to the Commission's radio operator licensing program", released on June 7, 1976. (41 FR 22981) More than 500 parties filed both formal and informal comments and one reply comment was submitted.

2. The Notice of Inquiry solicited comments on the following questions:

(a) Should the service or maintenance operator requirements in the various radio services be retained?

(b) If the service operator requirements are retained, to what degree should the operator be held responsible for the technical performance of the transmitting equipment which he installs, services, and maintains?

(c) Should operators holding a Restricted Radiotelephone Operator Permit (or non-licensed persons if Section 318 of the Communications Act is revised at a later date) be permitted to perform routine operating duties at the various classes of Broadcast stations?

(d) Are the Commission's current radio operator examinations producing technically qualified operators?

(e) Should an operator be required to obtain practical experience under a "be-

ginner" class of license prior to the issuance of a "regular" license?

(f) Should the Commissioner consider issuing a basic operator/technician license with optional specialized endorsements?

(g) Should operator licenses be issued for the lifetime of the holder or if periodic renewal is continued to be required, should the applicant be required to demonstrate a minimum period of service or be required to take a renewal examination?

3. The great majority of comments received concerning the retention or elimination of the requirement that an FCC licensed operator be employed for installing, servicing, and maintaining transmitting equipment favored the retention of the requirement. The comments were addressed to two categories of maintenance—broadcast stations and non-broadcast stations. In the broadcast category, technically oriented persons strongly favored retention of the license requirement and station management was evenly divided.

4. The National Association of Broadcasters (NAB) in its comments, which were endorsed by the licensees of 51 radio and television stations represented by their attorneys, McKenna, Wilkinson, and Kittner (McKenna), favored the retention of the Radiotelephone First Class operator for maintenance and inspection purposes.

5. Typical of other comments in favor of retaining the First Class operator requirement was that of Morris H. Blum, President of Annapolis Broadcasting Corporation (WANN), an owner/licensee of 31 years, who said, "While it can be argued that a licensee can, without undue trouble, find technically proficient unlicensed persons to maintain the station's technical equipment and consequently, the Commission's operational requirements under its rules, we would prefer to employ a full time licensed service operator who has, at the very least, demonstrated some degree of technical knowledge and ability by passing a required examination."

6. Numerous comments in favor of deleting the First Class Operator requirement were received from broadcast station owners and managers. They contend that a person who holds a First Class Operator license has not necessarily proved that he possesses any practical technical expertise; whereas many technically competent persons do not hold FCC operator licenses. They feel that since the Commission holds the station licensee responsible for the proper operation of the station, he should be free to employ any person he believes to be technically competent to meet the needs of his particular station.

7. Comments concerning the retention or elimination of the requirement that an FCC licensed operator be required for the installation, maintenance, and servicing of other than broadcast transmitters were overwhelmingly in favor of retaining the requirement. Comments submitted by the Office of Electronic Communications of the State of Minnesota Department of Highways reflect the views of many others. It stated "Whereas the state-of-the-art in the electronic industry is becoming more sophisticated in general, specific radio systems are tending to become more complex. Digital control devices, computer-assisted dispatch, microwave control links and complex repeater systems all mandate a high level of technical expertise necessary for the service technician. Examination and licensing has historically been, and should continue to be, the initial requirement for employment in the field."

8. Those who opposed the retention of the operator license requirement in the non-broadcast services (as in the case of those who opposed the retention of the license requirement for broadcast station maintenance) believe generally that license holding does not necessarily prove technical competence on the part of the operator or technician and therefore serves no useful purpose.

9. The Commission is of the opinion that installation, maintenance, and servicing of present-day complex radio transmitting systems requires a high degree of technical competence and believes this can best be assured by retaining the operator licensing requirements in both the broadcast and non-broadcast areas. However, the Commission is proposing to restructure operator examinations and to issue several new classes of licenses to reflect a degree of specialization, which will be discussed later in this notice.

10. The Notice of Inquiry requested comments concerning the degree to which a licensed technician should be held responsible for the technical performance of transmitting equipment which he installs, maintains, or services. A large majority of comments stated that the station licensee should be solely responsible for the technical performance of the station; a few would place the responsibility on the technician; and a substantial number advocated shared responsibility.

11. The Commission has always contended that the station licensee was ultimately responsible for the proper operation of the station and is not persuaded by the received comments to alter this position. However, as many station licensees do not possess the necessary expertise to assure the proper technical operation of the station, they must depend upon a licensed technician to perform this function. Although the operator licensing program cannot, nor is it intended to, assure the complete competence of station technical employees, licensing does connote a degree of responsibility for actions taken under the authority of the license held. Because of this special relationship between the station licensees and the technicians they must depend upon for compliance with the Commission's technical rules, it is believed that the technician should be held accountable for his actions, or lack of them, and it is proposed to amend Sections 13.63 and 13.75, as shown in the Appendix, to implement this concept.

12. Under the proposed amendments, the technician who installs, maintains, or services a transmitter would be required to certify that the equipment is operating in accordance with the Commission's Rules and terms of the station authorization at the conclusion of the work. If the station is in non-compliance, he must state the reason and must also immediately notify the licensee in writing of the non-compliance. Some of the comments received recommended that in cases of non-compliance the technician be required to notify the Commission as well as the licensee while others thought this procedure would result in "professional suicide," destroy the employer-employee relationship, and result in a rash of false alarms. It is, therefore, believed that to require licensed technicians to notify the Commission of uncorrected violations would not be practical, nor would it accomplish its intended objective. It is believed that proposed amendments, without FCC notification, would accomplish the desired result—prompt correction of technical problems. Further proposed amendments to Section 13.63 would prohibit on the air testing of an unlicensed station, or one not in compliance with the terms of its authorization, and prohibit the modification of equipment which would void its Commission type-acceptance or type-approval or enable its use in a service where such equipment is prohibited.

13. If licensed technicians are to be held accountable for their actions, the Commission must have a means of dealing with irresponsible ones. As was pointed out in the Notice of Inquiry, the Commission does have the authority to suspend licenses and can assess forfeitures in certain limited cases. However, it is believed that in many cases the ability to assess a forfeiture for a broad range of operator violations would be more meaningful than the more drastic sanction of license suspension. Legislation to expand the forfeiture authority as it relates to radio operators and others is pending and the Commission will continue to actively pursue this additional administrative sanction.

14. Numerous responses to the question of whether the Commission should permit the *routine* operation of the various classes of Broadcast stations by non-licensed persons (or the holders of Restricted Radiotelephone Operator Permits) pending possible revision of Section 318 of the Communications Act[1] were received. Station licensees and managers strongly favored elimination of the licensed operator requirement, contending that it served no useful purpose and in many cases created a hardship for stations located at some distance from Commission examining points. They pointed out that modern transmitting systems are highly stable and require little attention during normal operation. They further pointed out that, as the Commission has always held the broadcast station licensee primarily responsible for the operation of the station, they should be permitted to employ and train non-licensed persons and be responsible for their performance.

15. Holders of First, Second, and Third Class Radiotelephone Operator Licenses favored the licensed operator requirement. They believe the examination does serve a useful purpose in that it reflects the individual's understanding of the Commission's Rules and the basic operational requirements of a Broadcast station. They further believe that having to earn a license by examination creates a "sense of responsibility" in the holder.

16. After careful review of all the comments, the Commission is of the opinion that no useful purpose would be served by continuing to require that the routine operator of a broadcast station hold at least a Radiotelephone Third Class Operator Permit endorsed for Broadcast operation. For more than ten years, holders of the Provisional Radio Operator Certificate for the Radiotelephone Third Class Operator Permit endorsed for broadcast station operation, which may be obtained without examination[2], have been permitted to perform routine operating duties. There is no evidence before the Commission at this time to indicate that the performance of those individuals has been less satisfactory than that of operators who qualified for the Radiotelephone Third Class Operator Permit with broadcast Endorsement by examination. It is therefore proposed to authorize the routine operation of AM and FM broadcast stations, where permitted by the Rules, by persons holding a Restricted Radiotelephone Operator Permit[3] in lieu of the presently required Radiotelephone Third Class Operator Permit endorsed for Broadcast operation. In proposing this amendment, the comment made by many station licensees that the proper training of their operating staffs, and the ultimate responsibility for compliance with the Commission's regulations, rests with the station licensees, is recognized and reinforced.

17. It is evident from comments received that the radio operator license examinations need improvement. While it is believed that the technical portions of the examinations do test the applicant's basic knowledge of electronics, there is no doubt, that they are in need of updating and, in some cases, expansion. Some of the examinations have been in use for several years and evidence indicates that many have been compromised. Obviously the only way to restore the integrity and assure the timeliness of the examinations is to develop a completely new series of updated examinations and to change them at frequent intervals to prevent compromise. It is proposed to increase efforts in this direction.

18. If the licensing of operators and technicians were to be continued, the Notice of Inquiry requested comments on what changes or improvements should be made in the examination and licensing programs. A majority of comments supported an apprenticeship program under which a newly licensed operator or technician would be required to complete a period of on-the-job experience before being granted a regular or "journeyman" license. Others warned that such a program might place an unmanageable administrative burden on the Commission and place it in the position of aiding union and closed shop interests in an industry which it regulates. They feared that established interests could control entry into the competition within the field. They further suggested that any program of apprenticeship or certification of operators or technicians should be handled by employers or operator/technician organizations and not by the government.

19. A well-qualified operator could be defined as one who has demonstrated his theoretical knowledge by passing the required examination and his practical skill by obtaining experience while employed under that license. The Commission has traditionally performed the first function by administering the examinations but has left the determination of practical skills up to the individual employer. This method seems to have served its intended purpose fairly well. In recent months at least one major group of interested radio operators (Society of Broadcast Engineers) has initiated a "certification program" which, if successful, may become widespread in the industry and serve to provide additional information on the experience of operators to potential employers. The Commission is therefore, reluctant to initiate a broad new government program of licensing based on a demonstration of practical skill or experience at this time.

20. Responses to the question "should operator and technician licenses be issued for the lifetime of the holder?" strongly rejected such a proposal and many favored requiring an applicant for renewal to demonstrate some amount of satisfactory service obtained during the license term or in lieu of service to pass a renewal examination. The Commission recognizes the merit of requiring a showing of service or a renewal examination but believes that the adoption of such a proposal "across the board" would present serious, if not impossible, administrative problems and resource requirements. Staff members who were involved with license renewals prior to the waiving of the previous renewal service requirement in 1951 told of the difficulties encountered in equitably evaluating "satisfactory" service. For example, applicants were sometimes given unsatisfactory ratings by employers for reasons other than their technical abilities and in the case of the independent service technician, "self-certification" became suspect.

21. Another problem which might arise concerns the evaluation of service obtained under the license. For example, a Radiotelephone First Class Operator License authorizes among other things, the holder to maintain a television transmitter. If he were to submit a renewal application with a record of service showing that he had spent the last five years installing and maintaining marine radiotelephone equipment, which his license also authorized him to do, what assurance would there be that the applicant was still qualified to maintain a television transmitter? Conversely, what indication would there be that a licensee who spent five years maintaining a television transmitter had any expertise in the marine service?

This problem could possibly be overcome by requiring a separate license for each specialty such as mobile radio, AM Broadcasting, FM Broadcasting, Television Broadcasting, etc. instead of the present system of each license encompassing the authority of all lower grade licenses in the series. The advantage of this alternative licensing structure would be that an applicant would be required to pass an examination only in his field of interest and at renewal time it would be a relatively simple matter to evaluate his service under that license. The disadvantages would be that persons interested in several fields would be required to hold multiple licenses and the Commission's administrative work-load would be increased. Although it is not proposed to initiate such a licensing structure at this time, comments on its feasibility and desirability would be welcomed.

[1] Section 318, in pertinent part, states "The actual operation of all transmitting apparatus for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: Provided, however, That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except * * * stations engaged in broadcasting * * *"

[2] To obtain the certificate, the applicant must submit a certification by the holder of a Radiotelephone First Class Operator License who is responsible for the technical maintenance of a radio broadcast station, that he has instructed the applicant in the operation of a broadcast station and believes him to be capable of performing the duties expected of a person holding a Radiotelephone Third Class Operator Permit with broadcast station operation endorsement. The certificate is valid for one year; is non-renewable; and may be issued to a person only once. During the term of the Provisional Certificate the holder is expected to qualify by examination for the Third Class Radiotelephone Operator Permit with Broadcast endorsement.

[3] No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his responsibility to keep currently familiar with all such provisions.

22. A required renewal examination for all applicants would be an equitable approach to the matter but would place an undue burden on our examination and licensing facilities and cause considerable inconvenience to applicants. It would, of course, assure that all licensees had, within five years, demonstrated their academic knowledge. However, this might not necessarily serve a useful purpose. Several comments received pointed out that an operator or technician who did not keep abreast of current operating practices and technology would soon find himself jobless and would probably not renew his license, anyway. It is, therefore, not proposed to require either a showing of satisfactory service or a routine renewal examination as a requirement for renewal of licenses.

23. It is proposed to continue to issue licenses for a five year term. At the very least, five year renewals purge the records of licensees who no longer need or want their licenses. More importantly, however, it enables the Commission to review the applicant's record to determine if he possesses the necessary qualifications to continue to be a licensee. There are, however, occasional instances where a licensee has demonstrated ignorance of the Commission's Rules or questionable technical ability. In such individual cases, it is believed that the licensing system would be strengthened by requiring those applicants to undergo a renewal examination and it is proposed to amend Section 13.28 of the Rules, as shown in the Appendix, to effect this.

24. The majority of comments received concerning the structure of the licensing system [4] favored a basic operator license which could be upgraded by the addition of specialized endorsements. A number of comments suggested that the licenses should be re-titled to distinguish between those authorizing only routine operation of transmitters and those authorizing technical duties. The suggestion to re-title the two classes of licenses has merit and it is proposed to adopt it. However, the Commission is not convinced that the issuance of a basic license with optional endorsements for additional authority would necessarily serve a useful purpose. Such a system would appear to be unduly complex and could result in a greater degree of specialization than is believed to be desirable or necessary. Instead, it is proposed to establish a dual series of licenses—one for technical duties and the other for routine operation.

[4] As was noted in the Notice of Inquiry, this proceeding is limited primarily to the Radiotelephone Class of license. Certain revisions to the licensing requirements for Radiotelegraph operators are necessitated by recent changes adopted by the International Telecommunications Union; however, these matters will be addressed in a separate action. At that time we will also address the question of the need to continue issuing the Aircraft Radiotelegraph Endorsements.

25. The technical series would consist of:

Radiotelephone Technician License
Radio Broadcast Technician License
Television Broadcast Technician License

The Radiotelephone Technician License could be considered the basic license; but rather than adding specialized endorsements, it is proposed to offer two additional classes of licenses—the Broadcast Technician License and the Television Broadcast Technician License. Applicants for the Broadcast Technician License would be required to first pass the examination for the Radiotelephone Technician License and applicants for the Television Broadcast Technician License would be required to first pass the Radiotelephone Technician and Broadcast Technician examinations. Credit would be given for any licenses held at the time of application. The Radiotelephone Technician License would replace the present Radiotelephone Second Class Operator License and would authorize the holder to operate, service, and maintain nonbroadcast radio transmitting equipment. It would be used mainly in the land-mobile and maritime services. The Radiotelephone Technician License would encompass all authority included in the Restricted Radiotelephone Operator Permit and the Limited Radiotelephone Operator Permit.[5] The Radio Broadcast Technician License would replace the present Radiotelephone First Class Operator License. It would authorize the operation of AM and FM broadcast stations and would encompass all the authority of the Radiotelephone Technician License. A new class of license to be known as

"Television Broadcast Technician License" is proposed. This license would authorize the holder to operate and maintain television broadcast transmitters and would encompass all authority contained in the Radio Broadcast Operator License.

26. The routine operator series of permits would consist of the following:

Limited Radiotelephone Operator Permit
Restricted Radiotelephone Operator Permit

No change is proposed in the present Restricted Radiotelephone Operator Permit (RP) and no change is proposed in the present Radiotelephone Third Class Operator Permit other than to re-title it "Limited Radiotelephone Operator Permit" and to combine the present examination elements 1 and 2 into a new element 1. No change is proposed in the Ship Radar Endorsement which may be placed on any of the three technician classes of licenses (as well as on the Radiotelegraph First and Second Class Operator Licenses).

27. The following chart shows the proposed license structure and compares it with the existing structure:

[5] See Paragraph 26.

Proposed	*Existing*
Television broadcast technician license.	Radiotelephone first class operator license.
Radio broadcast Technician license.	Do.
Radiotelephone technician license.	Radiotelephone second class operator license.
Limited radiotelephone operator permit.	Radiotelephone third class operator permit.
Deleted	Radiotelephone third class operator permit endorsed for broadcast station operation.
Do	Provision radio operator certificate for a radiotelephone third class operator permit endorsed for broadcast station operation.
Restricted radiotelephone operator permit.	Restricted radiotelephone operator permit.

28. In order to implement the new license structure certain changes in examination elements and examination requirements would be required and are shown in the Appendix under Sections 13.21 and 13.22. It is proposed, as previously stated, to combine the present examination elements 1 and 2 into a new element 1. Present element 3 would become new element 2; and present element 4 would become new element 3. A new element 4 for th Television Technician License would be developed.

29. If the proposed rules are adopted, the current license structure would be completely replaced by the new one five years from the effective date. Holders of current licenses could renew them as shown below:

Current	*Renewed*
Radiotelephone first class	Television broadcast technician.
Radiotelephone second class	Radiotelephone technician.
Radiotelephone third class endorsed for broadcast station operation	Limited radiotelephone operator permit.
Radiotelephone third class	Do.

30. Adoption of the proposed rules would result in conforming changes in other affected rules.

31. Accordingly, interested persons desiring to submit comments, proposals, and recommendatons pertaining to the above matters may do so on or before October 3, 1977. Replies to such comment, proposals, or recommendations may be submitted on or before October 31, 1977. All relevant and timely filed comments as well as other pertinent information made available to the Commission will be considered. Pursuant to Section 1.419 of the Commission's Rules, an original and 5 copies of all statements, briefs, or comments filed in response to this notice shall be furnished to the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted. These informal comments should specifically reference this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C. 20554.

32. Authority for this action is contained in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i).

FEDERAL COMMUNICATIONS COMMISSION,[6]
VINCENT J. MULLINS,
Secretary.

Part 13 of this Chapter is amended to read as follows:

1. Section 13.2 is amended to read as follows:

§ 13.2 Classification of Commercial Operator Licenses and Endorsements.

(a) Radiotelegraph Licenses:
(1) Radiotelegraph First Class Operator License;
(2) Radiotelegraph Second Class Operator License;
(3) Radiotelegraph Third Class Operator Permit.
(b) Non-Radiotelegraph Licenses:
(1) Technician Series:
(i) Television Broadcast Technician License;
(ii) Radio Broadcast Technician License;
(iii) Radiotelephone Technician License.
(2) Routine Operator Series:
(i) Limited Radiotelephone Operator Permit;
(ii) Restricted Radiotelephone Operator Permit.
(c) Endorsements:
(1) Six months service endorsement—applicable only to Radiotelegraph First and Second Class Operator Licenses.
(2) Ship radar endorsement—applicable only to Radiotelegraph First and Second Class Licenses, Television Technician Licenses, Broadcast Technician Licenses, and Radiotelephone Technician Licenses.
(3) Aircraft radiotelegraph endorsement—applicable only to Radiotelegraph First and Second Class Licenses.
(4) Restrictive endorsement as specified in this part of the Rules.

2. Section 13.21, headnote and text, are amended to read as follows:

§ 13.21 Examinations.

(a) Written Examination Elements:
(1) Communications operation—Practical knowledge of radiotelephone operation and procedures, and general knowledge of the international regulations applying to radiotelephone communications and specifically of that part of the international regulations relating to the safety of life.
(2) Radiotelephone technician—Technical, legal, and other matters applicable to the installation, adjustment, operation, and maintenance of two-way communications stations.
(3) Radio Broadcast technician—Technical, legal, and other matters applicable to the installation, adjustment, operation, and maintenance of AM and FM broadcast stations.
(4) Television Broadcast technician—Technical, legal, and other matters applicable to the installation, adjustment, operation, and maintenance of TV broadcast stations.
(5) Radiotelegraph operating practice—Radio operating procedures and practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence.
(6) Advanced radiotelegraph—Technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc.
(7) Aircraft radiotelegraph—Basic theory and practice in the operation of radio communication and radio navigational systems in general uses on aircraft.
(8) Ship radar techniques—Specialized theory and practice applicable to the proper installation, servicing and maintenance of ship radar equipment in general use for marine navigational purposes.
(b) Code Examinations:
(1) Sixteen (16) code groups-per-minute;
(2) Twenty (20 plain language words-per-minute;
(3) Twenty (20) code groups-per-minute;
(4) Twenty-five (25) plain language words-per-minute.

3. Section 13.22 is amended to read as follows:

§ 13.22 Examination Requirements.

Applicants for original licenses must have the ability to transmit and receive spoken messages in English and will be required to pass examinations as follows:
(a) Radiotelegraph First Class Operator License:
(1) Transmitting and receiving code test of 20 words-per-minute plain language and 20 code groups-per-minute.
(2) Written examination elements 1, 5, and 6.
(b) Radiotelegraph Second Class Operator License:
(1) Transmitting and receiving code test of 20 words-per-minute plan language and 16 code groups-per-minute.
(2) Written examination elements 1, 5, and 6.
(c) Radiotelegraph Third Class Operator Permit:
(1) Transmitting and receiving code test of 20 words-per-minute plain language and 16 code groups-per-minute.
(2) Written elements 1 and 5.
(d) Television Broadcast Technician License: Written elements 1, 2, 3, and 4.
(e) Radio Broadcast Technican License: Written elements 1, 2, and 3.
(f) Radiotelephone Technician Licens: Written elements 1 and 2.
(g) Limited Radiotelephone Operator Permit: Written element 1.
(j) No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his rsponsibility to keep current familiar with all such provisions.
(k) Six months service endorsement: No written examination is necessary.
(l) Ship radar endorsement: Written element 8.
(m) Aircraft radiotelegraph endorsement:
(1) Transmitting and receiving code test of 25 words-per-minute plain language and 20 code groups-per-minute.
(2) Written element 7.
(n) Restrictive endorsements: No written examination required.

4. Section 13.28, headnote and text, are amended to read as follows:

§ 13.28 Renewal Requirements and Exceptions.

A Restricted Radiotelephone Operator Permit normally is issued for the lifetime of the holder and need not be renewed, EXCEPT that alien Restricted Radiotelephone Operator Permits are normally issued for a five year term and are normally renewable. A license of any other class will generally be renewed without examination. However, the Commission may, if it finds cause, require the applicant to be re-examined in any or all examination elements required for the class of license for which renewal is sought.

5. Section 13.63 is amended to read as follows:

§ 13.63 Operator's Responsibility.

(a) A licensed operator or technician shall not cause any transmitter which he installs, operates, services, or maintains to radiate energy unless that station is authorized by and is consistent with the terms of a valid station license issued by the Commission.
(b) A licensed operator or technician shall make no modification to transmitting equipment which would void its Commission type-acceptance or type-approval, nor shall he repair equipment the type-acceptance or type-approval of which has been voided.

[6] See attached Dissenting Statement of Commissioner Washburn.

(c) A licensed operator or technician shall make no modifications to transmitting equipment which would enable its use in a service where the equipment is prohibited, nor shall he repair equipment which is being used in a service where prohibited.

(d) A licensed technician responsible for the installation, maintenance, or servicing of a transmitter shall also be responsible for making the entries in the station log or maintenance records and the notification to the licensee required in Section 13.75 of this chapter.

(e) A licensed technician responsible for the maintenance of a transmitter may permit other persons to adjust a transmitter in his presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he shall not be relieved thereby from responsibility for the proper operation of the equipment.

6. Section 13.75, headnote and text, are amended to read as follows:

§ 13.75 Record of Operating and Maintenance Duties Performed.

(a) In every case where a station operating log is required, the responsible operator on duty in charge of the station operation shall make the required entries in the log for that station during the perod of his duty.

(b) In every case where a station service and maintenance log or record is required, the responsible technician performing or supervising the installation, servicing, or maintenance duties which may affect the proper operation of the station shall sign and date an entry in the station log or records giving:

(1) Pertinent details of all service and maintenance work performed by him or under his supervision;

(2) A statement that the station is operating in accordance with the Commission's Rules and the terms of the station authorization. If the station is in non-compliance, he shall so state, giving the particulars and shall immediately notify the station licensee in writing, recording in the appropriate log or station maintenance records the date and time of the notification.

(3) The class, serial number, and expiration date of his license.

(c) In cases where a station service and maintenance log or record is not required, the responsible technician performing or supervising the installation, servicing, or maintenance duties which may affect the proper operation of the station shall furnish the licensee a signed and dated entry giving:

(1) Pertinent details of all service and maintenance work performed by him or under his supervision;

(2 A statement that the station is operating in accordance with the Commission's Rules and the terms of the station authorization. If the station is in non-compliance, he shall so state, giving the particulars and shall immediately notify the station licensee in writing, recording in the appropriate log or station maintenance records the date and time of the notification.

(3) The class, serial number, and expiration date of his license.

(d) The responsible technician performing service and maintenance work shall not be subject to the requirements of Paragraphs (b) (3) and (c) (3) of this section if he is employed as an operator or technician on a full-time basis at a station or stations of one licensee at a single location, and his license is properly posted.

DISSENTING STATEMENT OF COMMISSIONER ABBOTT WASHBURN

RE: An Inquiry Relating to the Commission's Radio Operator Licensing Program (Docket 20817)

I am not convinced that it would be in the public interest to permit routine operation of broadcast transmitters with non-licensed persons (or R. P. holders), except where stations are equipped with automatic transmission systems.

In a recent compilation of rules frequently violated by broadcast stations, four of the nine listed violations were: operator failure to maintain power within authorized tolerances, operation with full daytime power during nighttime reduced power or presunrise times, operation with excessive modulation levels, and failure to make the required daily observation of tower light operation.

Because of the crowded nature of the broadcast band and the very precise technical requirements necessary to assure interference-free reception and quality of service, it is vital that the integrity of the Commission assignment plan be assured. This assurance is presently satisfied, at least in part, through inspection by Commission engineers, by the employment of operators with some technical competence, and by the use of automated transmission systems (ATS).

In recent years the frequency of inspections of broadcast stations has been declining to the point where the individual station is now inspected about once every ten years, so the need for some technical knowledge by station operators and increased use of automated transmission systems is becoming even more important.

Perhaps the industry's change in equipment will permit increasing reliance on ATS to the point where the Commission could eliminate the requirement of third class operators without attendant concern about its adverse impact on the technical integrity of the system. However, there is not sufficient evidence before us at this time, in my judgment, to make that proposal now.

I hope that those with similar worries on this score will give us their comments, as requested by the Notice.

[FR Doc.77-23351 Filed 8-11-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

MONTHLY SALES LIST (PERIOD JUNE 1, 1977 THROUGH MAY 31, 1978)

CCC-Owned Commodities Notice to Buyers

This Monthly Sales List for the period June 1, 1977 through May 31, 1978, hereinafter referred to as "the period", is issued pursuant to the policy of the Commodity Credit Corporation issued on October 12, 1954, and published in the FEDERAL REGISTER of October 16, 1954 (19 FR 6669, 7 CFR Part 1402), and amended on January 31, 1970 (35 FR 1276), and on June 3, 1970 (35 FR 8537). This Monthly Sales List is effective with respect to Commodity Credit Corporation (CCC) commodity holdings which are available for sale, beginning at 2:30 p.m., e.d.t. on May 31, 1977. Sales price transitions between successive months will be made at 2:30 p.m. (Washington, D.C.), on the last CCC business day of each month unless otherwise specified.

This Monthly Sales List reflects sales policy for the beginning month of the period covered by the list. This Monthly Sales List also projects the beginning sales policy as far as possible into the balance of the period by setting forth prices that will prevail in subsequent months if the beginning sales policy remains unchanged. The inclusion of projected prices for subsequent months is intended to minimize the repetitive publication of price information and shall not be construed as an annual sales policy commitment by CCC. This Monthly Sales List will be amended in the FEDERAL REGISTER from time to time during the period to reflect intra-month and end-of-month changes.

This Monthly Sales List sets forth the commodities available for sale, information concerning financing, and the pricing basis on which sales will be made, and sources from which further information concerning matters described in this paragraph may be obtained. This list is issued for the purpose of public information and does not constitute an offer to sell by CCC or an invitation for offers to purchase from CCC.

1. GENERAL

(a) CCC will entertain offers from responsible buyers for the purchase of any commodity in this Monthly Sales List. Offers accepted by CCC will be subject to the terms and conditions prescribed by CCC. With certain exceptions, such terms and conditions appear in published regulations and in pamphlets which are designated as announcements. The identity of such announcements are, with certain exceptions, stated in this Monthly Sales List. The announcements may be obtained from the sources described herein.

(b) CCC reserves the right to refuse to consider an offer if CCC does not have adequate information of financial responsibility of the offeror to meet contract obligations of the type contemplated under the prospective contract. If a prospective offeror is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named to receive offers in the appropriate announcement or invitation prior to making an offer or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only on submission by the offeror of a certificated or cashiers' check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offeror will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of a performance bond or other security acceptable to CCC. Interest at 8 percent will be charged for delinquent payments on dairy product sales and on consignment and track grain sales.

(c) The pricing provisions in the CCC Monthly Sales List in effect at time of sale shall be applicable to sales of all commodities. Grain sales are made on-track with immediate delivery; in-store for delivery as soon as possible; or FOB origin for delivery as soon as possible subject to availability of transportation. In the case of sales FOB buyer's conveyance, carrying charges for account of the buyer will accrue at the rate specified in the contract commencing 10 days after date of sale. Sales for delivery other than immediate or as soon as possible will be made only pursuant to terms specified in special provisions.

(d) Financial coverage for commodities purchased shall be furnished before delivery, in cash or by irrevocable letter of credit.

(e) CCC reserves the right to determine the class, grade, quality, and available quantity of commodities listed for sale.

(f) Nonstorable commodities will be sold at not less than market price.

2. EXPORT COMMODITIES

On sales for export, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal or resident agent upon which service of judicial process may be had.

Prospective buyers for export should note that, generally sales to U.S. Government agencies, with minor exceptions, will constitute sales for domestic unrestricted use of the commodity.

CCC reserves the right, before making any sales, to define or limit export areas.

Exports to certain countries are regulated by the U.S. Department of Commerce. These restrictions also apply to any commodities purchased from CCC whether sold for restricted or unrestricted use. Countries and commodities are specifically listed in the U.S. Department of Commerce export control regulations. Additional information is available from the Bureau of International Commerce or from the field offices of the Department of Commerce.

In the case of export sales, the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchase from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Although a commodity may not be specifically listed for export sale, CCC reserves the right to make emergency sales of its stocks for export if unexpected trade opportunities develop or when the flow of commodities to ports is disrupted or impeded and the maintenance of U.S. exports is temporarily jeopardized. Specific offering terms, including the applicable export announcement to be used, will be provided interested parties through special sales announcements and by amendments to the CCC Monthly Sales List.

3. ODD LOT QUANTITIES

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and, therefore, generally they do not appear in the monthly sales list.

4. DEFINITIONS

The following terms as used in this monthly sales list shall have the following meanings unless otherwise specifically stated:

(a) "Market price" means market price as determined by CCC.

(b) "Transit value" means transit value as determined by CCC.

(c) "Sales for unrestricted use" and "unrestricted use sales" means sales which permit either domestic or export use.

(d) "Sales for export" and "export sales" mean sales which require export of a commodity.

(e) "Designated terminals" means the terminals which are listed in grain price support regulations.

(f) "Export market price" means a price as determined by CCC and generally reflects the price at which commodities are being sold for export.

5–12 (RESERVED)

13. CORN — UNRESTRICTED USE SALES (BULK-STORABLE—BASIS GRADE 2 YELLOW CORN 15.1–15.5 PERCENT MOISTURE—IN-STORE)

The minimum price will be the market price but not less than the formula price. The formula price is the 1976 county loan rate where stored plus the monthly markup shown in this section plus transit value, if any.

Monthly markups—cents per bushel—1977:

June	51
July	53½
August	56
September	58½

Loan differentials will be applied in determining the formula price of other grades or qualities:

14–16 (RESERVED)

17. GRAIN SORGHUM—UNRESTRICTED USE SALES (BULK-STORABLE—BASIS GRADE 2 OR BETTER IN-STORE)

The minimum price is the market price but not less than the formula price.

At designated terminals, the formula price is the 1976 county loan rate where stored plus the monthly markup shown in this section plus 14 cents per hundredweight or the transit value, whichever is higher.

Outside of designated terminals, the formula price is the county loan rate where stored plus the monthly markup shown in this section plus the transit value, if any.

Loan differentials will be applied in determining the formula price of other grades and qualities.

Monthly markups—dollars per hundredweight—1977:

June	.86
July	.90½
August	.95
September	.99½

18–24 (RESERVED)

25. RICE, ROUGH—UNRESTRICTED USE SALES (F.O.B. WAREHOUSE)

The minimum price is the market price but not less than the formula price. Basis of sale is f.o.b. warehouse as is, or at buyers option, basis outturn weights and grades. The formula price is 115% of the 1976 target price plus the applicable monthly markup shown in this section.

Monthly markups—dollars per hundredweight—1977:

June	.88
July	.88

26. (RESERVED)

27. NONFAT DRY MILK—UNRESTRICTED USE SALES (IN-STORE-CARLOT QUANTITIES)

Market price, but not less than 74.6 cents per pound for U.S. Extra Grade spray process in 50 pound bags. Sales are made under Announcement PV-DS-2. In addition, from time to time CCC will issue an invitation for competitive offers under Announcement PV-DS-1 to buy from CCC nonfat dry milk which is 20 months old or older and/or has a moisture content of 4.2 percent but not more than 5.0 percent.

28. BUTTER—UNRESTRICTED USE SALES (INSTORE-CARLOT QUANTITIES)

Market price, but not less than 10 cents per pound over CCC's purchase price at each location for U.S. Grade A or higher in 60 to 68-pound blocks. Sales are made under Announcement PV-DS-2.

29. CHEDDAR CHEESE—UNRESTRICTED USE SALES (INSTORE-CARLOT QUANTITIES)

Market price, but not less than $1.07¾ per pound for U.S. Grade A or higher in 40 pound blocks. Sales are made under Announcement PV-DS-2.

30–31 (RESERVED)

32. PEANUTS, FARMERS STOCK—RESTRICTED USE SALES—DOMESTIC CRUSHING AND DOMESTIC USE OIL (SEGREGATION 1 AND 2 LOTS)

Competitive offer basis under Announcement PVP-DCO-1. Adjustments in the sales price, for oil and ammonia content, will be made after delivery. Proof of domestic utilization of peanut oil will be required per Announcement PVP-DCO-1.

When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of bids each week to the Prairie Village ASCS Commodity Office.

33. PEANUT OIL, PRIME CRUDE—RESTRICTED USE SALES—DOMESTIC USE (BULK—FOB ORIGIN—CARLOT QUANTITIES)

Competitive offer basis under Announcement PVP-CPO-1 with issuance of invitations by and submission of bids to the Prairie Village ASCS Commodity Office. Proof of domestic utilization is required per Announcement PVP-CPO-1.

34–35 (RESERVED)

36. SOYBEANS—UNRESTRICTED USE SALES (BULK-STORABLE—BASIS GRADE 1 IN-STORE)

The minimum price will be the market price but not less than the formula price. The formula price is the 1976 base loan rate where stored plus the monthly markup shown in this section plus transit value if any. Market discounts will be applied in determining the minimum price of lower grades.

Monthly markups—dollars per bushel—1977:

June	1.39
July	1.42
August	1.45

37. COTTON, UPLAND—UNRESTRICTED USE SALES

The minimum price is the market price but not less than the formula price. The formula price is 49.70 cents per pound basis Strict Low Middling one and one sixteenth inch cotton (micronaire 3.5 through 4.9) at average location plus the monthly markup shown in this section.

In determining the formula price for other qualities and locations, current market differentials will be applied for other qualities and loan program location differentials will be applied for other locations.

Monthly markups—points per pound—1977:

June	270
July	270

Notwithstanding the foregoing, when the production of upland cotton is less than the estimated requirements for domestic use and for export for the marketing years, as determined by the Secretary of Agriculture, sales of a quantity of cotton equal to such difference ("shortfall") shall be made at current market prices as determined by CCC.

38. COTTON, EXTRA LONG STAPLE—UNRESTRICTED USE SALES

The minimum price is the market price but not less than the formula price. The formula price is 115 percent of the 1976 loan rate for each quality of such cotton plus the monthly markup shown in this section.

Monthly markups—points per pound—1977:

June	270
July	270

Notwithstanding the foregoing, when the amount by which the production of extra long staple cotton is less than the estimated requirements for domestic use and for export for the marketing years as determined by the Secretary of Agriculture, the formula price for sales against the shortfall is 115 percent of the 1976 loan rate for each quality of such cotton.

USDA Agricultural Stabilization and Conservation Services Offices: Feedgrains, wheat, rye and oilseeds are sold by the Commodity Office and Branch offices as listed below. Cotton, rice, dry edible beans, dairy products, honey, tung oil and peanuts are sold only by the Commodity Office.

SALES OFFICES: ADDRESSES, TELEPHONE AND SALES AREAS

Prairie Village ASCS Commodity Office—2400 West 75th Street (P.O. Box 8377), Shawnee Mission, Kans. 66208; Telephone: Area Code 816-926-6421 (Grain), 6140 (Dairy), 6338 (Rice).

Domestic and Export Sales—Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia, and Wyoming.

Branch Office—Houston ASCS Branch Office, 2550 North Loop West, Suite 525, Houston, Tex. 77018, P.O. Box 94175, Telephone: Area Code 713, 226–5871.

Domestic and Export Sales—Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma, and Texas.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Bldg., Minneapolis, Minn. 55415, Telephone: Area Code 612, 725–2051.

Domestic and Export Sales—Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Branch Office—Portland ASCS Branch Office, Room 832, Federal Building, 1220 SW. 3d Avenue, Portland, Oreg. 97204, Telephone: Area Code 503, 221–2715.

Domestic and Export Sales—California, Idaho, Nevada, Oregon, Utah, and Washington.

Peanut Association Addresses: GFA Peanut Association, Telephone: Area Code 912–336–5241, Camilla, Ga. 31730.

Peanut Growers Cooperative, Marketing Association, Telephone: Area Code 804–562–4103, Franklin, Va. 23851.

Southwestern Peanut Growers Association, Telephone: Area Code 817–734–2222, Gorman, Tex. 76454.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); Sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427)).)

Signed at Washington, D.C. on August 3, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-23303 Filed 8-11-77;8:45 am]

Soil Conservation Service

SOQUE WATERSHED PROJECT, GEORGIA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Soque Watershed project, Habersham County, Ga.

The environmental assessment of this Federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by three single purpose floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 206 Federal Building, 355 East Hancock Avenue, Athens, Ga. 30603. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action or implementation of the proposal will be taken until August 29, 1977.

(Catalog of Federal Domestic Assistance Program, No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001–1008.)

Dated: August 4, 1977.

SHELDON G. BOONE,
Director, River Basins Division,
Soil Conservation Service,
U.S. Department of Agriculture.

[FR Doc.77-23359 Filed 8-11-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

PRESIDENT'S COMMISSION ON MILITARY COMPENSATION

Notification of Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that the next meeting of the President's Commission on Military Compensation will be held September 1, 1977, at 666 11th St. NW., Room 735, Washington, D.C. The meeting will last from 10:00 a.m. to 4:30 p.m. The agenda will include internal staff organization, discussion of the Commission's plan of study, scheduling subsequent meetings, hearings and trips, and briefings on current military compensation topics.

The following rules and regulations will govern participation by the public at this meeting:

(1) The meeting will be open to the public.

(2) Questions and statements from the public will not be accepted during this meeting.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 9, 1977.

[FR Doc.77-23302 Filed 8-11-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27573; Agreement C.A.B. 26814; R-1 through R-6; Order 77-8-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Issued under delegated authority August 4, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names six specific commodity rates under existing commodity descriptions as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between June 23 and June 25, 1977.

Agreement CAB	Specific commodity item No.	Description and rate
26814		
R-1	2411	Shirts and Blouses 130 ¢/kg, minimum weight 300 kg, Nicosia to New York.
R-2	8382	Sunglasses and or Goggles and Spectacle Cases When Shipped With the Main Article: 109 ¢/kg,[1] minimum weight 500 kg, New York to Zurich.
R-3	4131	Resistors and or Rheostats: 220 ¢/kg, minimum weight 500 kg, Bombay to New York.
R-4	4356	Sporting Boat Parts and Accessories: 224 ¢/kg, minimum weight 300 kg, Honolulu to Auckland.
R-5	7119	Books: 238 ¢/kg,[2] minimum weight 3,000 kg, Los Angeles to Sydney Melbourne.
R-6	9223	Swimming Pool Equipment including Ladders, Scoops, Filters, Pumps: 206 ¢/kg, minimum weight 500 kg, Perth to Los Angeles.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Expires June 30, 1978.
[3] Expires Dec. 31, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered*, that: Agreement C.A.B. 26814, R-1 through R-6, be approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23382 Filed 8-11-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PROPOSED SCHEDULE OF LIMITS UNDER THE HEALTH INSURANCE PROGRAM FOR COST-REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1977

In accordance with the Secretary's commitment contained in a notice published in the FEDERAL REGISTER (42 FR 35496) on July 8, 1977, notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that a revised Schedule of Limits on Hospital Inpatient General Routine Service Costs in the Medicare program is set forth in tentative form as proposed by the Administrator, Health Care Financing Administration, with the approval of the Secretary of Health, Education, and Welfare. Section 1861(v)(1) of the Social Security Act permits the Secretary to set prospective limits on costs to be recognized as reasonable based on estimates of the cost necessary in the efficient delivery of needed health services. The revised Schedule of Limits will replace the Schedule currently in effect which was published in the FEDERAL REGISTER (41 FR 26992) on June 30, 1976. The proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs set out below, when published in final form, will be applicable for cost reporting periods beginning on or after October 1, 1977, and before the effective date of a revised schedule. The proposed schedule of limits will apply to the entire cost reporting period of a hospital whose cost reporting period begins during the effective period of the schedule. (For the schedule of limits applicable to hospitals with cost reporting periods beginning on or after July 1, 1977, and before October 1, 1977, see FEDERAL REGISTER (42 FR 35496) of July 8, 1977.) The proposed schedule applies to the total of the cost of hospital inpatient general routine service costs. These limits do not apply to the cost of special care units or ancillary services.

The Secretary of Health, Education, and Welfare is strongly committed to a national policy of containing the rapidly escalating health care costs. Therefore, the Secretary hereby serves notice of his intention to review these limits from time to time and make such changes in the limits as circumstances may warrant to assure that costs which are reimbursed are reasonable. Any such changes will be prospective in nature but will apply to all hospital inpatient general routine service costs incurred after the effective date of the changes. In addition, the limits contained in this proposed Schedule will be revised to conform with any Federal cost containment legislation enacted subsequent to the effective date of this schedule.

The initial classification system, which is described in the FEDERAL REGISTER (39 FR 20168) published June 6, 1974, was developed to provide for comparison of hospitals of similar size and in similar economic environments. Several refinements of the initial classification system were made effective July 1, 1975, and are described in the FEDERAL REGISTER (40 FR 23622) published May 30, 1975.

An additional refinement was made in the revised schedule of limits effective July 1, 1976. The refinement was the result of changes in the size of units of economic environment, and is described in the FEDERAL REGISTER (41 FR 26992) published June 30, 1976.

A refinement was made in the revised schedule of limits published in the FEDERAL REGISTER (42 FR 35496) on July 8, 1977. This limited refinement arose from the definition of metropolitan environments in the New England area. Under the Office of Management and Budget (OMB) definition, which has been used to distinguish between metropolitan and nonmetropolitan areas, Standard Metropolitan Statistical Areas (SMSA's) and Standard Consolidated Statistical Area (SCSA's) in New England are based on cities and towns rather than on counties, as is the case in the rest of the United States. Because towns and cities are used to delineate SMSA's and SCSA's in New England, a county may be part of more than one SMSA or only a part of a county may be in an SMSA. However, income data supplied by the Department of Commerce, Bureau of Economic Analysis (BEA), which are used to group various areas according to economic environment, are available only on a county basis. In order to use the available data, BEA has slightly changed SMSA definitions in New England so that the SMSA's follow county lines.

Therefore, a hospital located in the part of the county not included by OMB in the SMSA/SCSA would be subject to a nonmetropolitan limit even though the per capita income of the hospital's location had been used for SMSA/SCSA classification grouping purposes. This situation is limited to New England and is inconsistent with the classification grouping for the rest of the United States where the OMB and BEA definitions of SMSA's consistently follow county lines.

In order to rectify this inconsistency, there is a change in the description of metropolitan environment used in the classification system. The change would alter the requirements for metropolitan status and would deem an entire county to be within an SMSA, SCSA if any part of such county was included by OMB in the SMSA, SCSA. Where a county contains the major city of an SMSA and is considered by OMB to be part of two or more SMSA's, the entire county would be deemed to be part of the SMSA whose major city it encompasses. Where a county is considered by OMB to be part of two or more SMSA's and does not contain the major city of any SMSA, the county would be included in the SMSA having the highest per capita income. An SMSA's major city is defined as the city from which the SMSA takes its name. Where the application of this provision results in a provider being placed in a group with a limit lower than the limit to which it would have been subject without the change, the higher limit may be applied in the cost reporting period to which this schedule applies.

An additional refinement made in the revised schedule of limits effective July 1, 1977, for nonmetropolitan areas is incorporated in the proposed revised schedule.

In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from one year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. In order to provide more equitable treatment to nonmetropolitan areas, a change has been made that would base the classification of State nonmetropolitan areas on a 5-year per capita average income instead of a one year base period. In these areas the longer base would be more reflective of the economic environment than a single year's income.

The same change was considered for the metropolitan (SMSA/SCSA) areas. However, these areas do not exhibit the same volatility of per capita income from one year to the next as do the non-SMSA areas. This may be attributed to diversity in economic activity in the SMSA areas plus the additional benefits, such as supplemental unemployment compensation, which are available to the mostly unionized workers in these areas. Therefore no change was made in the classification system for SMSA/SCSA areas.

The revised Schedule of Limits retains the provision to protect metropolitan area providers for the period in which this schedule is in effect from the effects of lower limits that might result from circumstances that result in a lower per capita income for the provider's area. Thus if a metropolitan area's per capita income in a year or a change in SMSA/SCSA designation during the year, places the area in a group lower than in the previous year, the limit to be applied for that year will be the higher of the current period group or the immediately preceding year group. This provision will lessen the effect of unusual short-term fluctuations in area per capita income on reimbursement to individual providers.

For the period in which this schedule is in effect the same provision will be applied to nonmetropolitan providers which have been placed in a lower group as a result of the new classification methodology. SMSA and non-SMSA areas that are affected by this provision are indicated in the list of groups by an asterisk preceding the area name.

Example. Hospital A, Bed Size: 150. Per capita income in the provider's SMSA during the period on which the classification is based was reduced because of the effects of a natural disaster. Provider A had been classified in Group II effective October 1, 1976, and is now classified in Group III beginning October 1, 1977. The limit to be applied to Provider A beginning October 1, 1977, is the higher of the Group II limit or the Group III limit.

All SMSA's and SCSA's have been divided into the following five groups based on per capita income. Counties, rather than SMSA/SCSA areas, are listed for New England States.

SMSA/SCSA GROUP I

ALASKA

Anchorage

CALIFORNIA

Los Angeles-Long Beach-Anaheim (SCSA)
Los Angeles-Long Beach, Anaheim-Santa Ana-Garden Grove, Oxnard-Simi Valley-Ventura, Riverside-San Bernardino-Ontario, Salinas-Seaside-Monterey.
San Francisco-Oakland-San Jose (SCSA)
San Francisco-Oakland, San Jose, Vallejo-Fairfield-Napa.

COLORADO

Denver-Boulder.

CONNECTICUT

Fairfield County, Hartford County, Litchfield County, Middlesex County, Tolland County.

DISTRICT OF COLUMBIA

Washington, DC, DC–MD–VA

FLORIDA

Miami-Fort Lauderdale (SCSA)
Fort Lauderdale-Hollywood, Miami, Sarasota, West Palm Beach-Boca Raton.

ILLINOIS

Chicago-Gary, IL–IN (SCSA)
Chicago, IL, Gary-Hammond-East Chicago, IN, Peoria Springfield.

IOWA

Davenport-Rock Island-Moline, IA–IL

MICHIGAN

Detroit-Ann Arbor (SCSA)
Detroit, Ann Arbor.

MINNESOTA

Minneapolis-St. Paul, MN–WI

NEVADA

Reno.

NEW JERSEY

See New York SCSA.

NEW YORK

New York-Newark-Jersey City, NY–NJ CT (SCSA)
New York, NY–NJ, Newark, NJ, Jersey City, NJ, Paterson-Clifton-Passaic, NJ, Nassau-Suffolk, NY, Long Branch-Asbury Park, NJ, New Brunswick-Perth Amboy-Saverville, NJ, Rochester.

OHIO

Cleveland-Akron-Lorain, (SCSA)
Cleveland, Akron, Lorain–Elyria

VIRGINIA

Richmond

WASHINGTON

Richland-Kennewick.

WISCONSIN

Milwaukee-Racine (SCSA)
Milwaukee, Racine, Kenosha

SMSA/SCSA GROUP II

ARIZONA

Phoenix

CALIFORNIA

Bakersfield, Santa Barbara-Santa Maria-Lompoc, San Diego, Stockton.

CONNECTICUT

New Haven County, New London County.

DELAWARE

See Philadelphia SCSA.

GEORGIA

Atlanta

HAWAII

Honolulu

IDAHO

Boise City

ILLINOIS

Bloomington Normal, Decatur, Kankakee, Rockford

INDIANA

Fort Wayne, Indianapolis

IOWA

Cedar Rapids, Des Moines, Waterloo-Cedar Falls.

KANSAS

Topeka, Wichita

KENTUCKY

Louisville, KY IN.

MARYLAND

Baltimore

MASSACHUSETTS

Berkshire County, Essex County, Middlesex County,[1] Norfolk County,[1] Plymouth County,[1] Suffolk County,[1] Worcester County.

MICHIGAN

Flint, Grand Rapids, Jackson, Kalamazoo-Portage, Saginaw

MISSOURI

Kansas City, MO-KS, St. Louis, MO-IL

NEBRASKA

Lincoln

NEW HAMPSHIRE

Rockingham County.

NEW JERSEY

See Philadelphia SCSA

NEVADA

Las Vegas

NEW YORK

Albany-Schenectady-Troy, Buffalo, Poughkeepsie.

NORTH CAROLINA

Greensboro-Winston-Salem-High Point

NORTH DAKOTA

Fargo-Moorehead, ND–MN

OHIO

Dayton, Lima, Toledo, OH–MI, Youngstown-Warren

OREGON

Portland, OR, WA.

PENNSYLVANIA

Philadelphia-Wilmington-Trenton PA–DE–MD–NJ (SCSA)
Philadelphia, PA–NJ, Trenton, NJ, Wilmington, DE–NJ–MD, Allentown, Bethlehem-Easton, PA–NJ, Harrisburg, Lancaster, Pittsburgh, Reading

RHODE ISLAND

Washington County.

TEXAS

Houston-Galveston (SCSA)
Houston, Galveston-Texas City, Dallas-Fort Worth, Midland

WASHINGTON

Seattle-Tacoma, (SCSA)
Seattle-Everett, Tacoma

WISCONSIN

Madison.

SMSA/SCSA GROUP III

ALABAMA

Birmingham

ARIZONA

Tucson

ARKANSAS

Little Rock-North Little Rock

CALIFORNIA

Fresno, Modesto, Sacramento, Santa Cruz, Santa Rosa.

COLORADO

Greeley

FLORIDA

Jacksonville, Orlando, Tampa-St. Petersburg

ILLINOIS

Champaign-Urbana-Rantoul

INDIANA

Anderson,[1] Evansville, IN–KY, South Bend

IOWA

Dubuque, Sioux City, IA–NE

KENTUCKY

Lexington-Fayette.

LOUISIANA

New Orleans

MAINE

Cumberland County, York County

MASSACHUSETTS

Hampden County, Hampshire County.

MICHIGAN

Battle Creek, Bay City, Lansing-East Lansing

MINNESOTA

Rochester

MISSISSIPPI

Jackson.

MONTANA

Billings

NEBRASKA

Omaha NE–IA.

NEW HAMPSHIRE

Hillsborough County, Merrimack County

NEW JERSEY

Atlantic City, Vineland-Millville-Bridgeton

NEW YORK

Binghamton, NY–PA, Elmira, Syracuse

NORTH CAROLINA

Charlotte-Gastonia, Raleigh-Durham

OHIO

Cincinnati-Hamilton, OH–KY–IN (SCSA)
Cincinnati, OH–KY–IN, Hamilton-Middleton, OH, Canton, Columbus, Mansfield, Springfield.
Steubenville-Weirton, OH–WV

OKLAHOMA

Tulsa

OREGON

Salem

PENNSYLVANIA

Erie, York

RHODE ISLAND

Bristol County, Kent County, Newport County, Providence County.

SOUTH DAKOTA

Sioux Falls.

TENNESSEE

Memphis, TN–AR–MS, Nashville-Davidson.

TEXAS

Amarillo, Beaumont-Port Arthur-Orange, Wichita Falls.

VIRGINIA

Newport News-Hampton, Norfolk-Virginia Beach-Portsmouth, VA–NC, Petersburg-Colonial Heights-Hopewell, Roanoke.

WASHINGTON

Spokane, Yakima.

WEST VIRGINIA

Charleston.

WISCONSIN

Appleton-Oshkosh.

SMSA/SCSA Group IV

ALABAMA

Montgomery.

COLORADO

Colorado Springs, Fort Collins, Pueblo.

FLORIDA

Daytona Beach, Fort Meyers, Gainesville, Lakeland-Winter Haven, Melbourne-Titusville-Cocoa, Tallahassee.

GEORGIA

Augusta, GA–SC, Columbus, GA–ALA, Macon, Savannah.

INDIANA

Lafayette-West Lafayette,[1] Muncie.

KENTUCKY

Owensboro.

LOUISIANA

Baton Rouge, Shreveport.

MASSACHUSETTS

Bristol County.

MICHIGAN

Muskegon-Norton Shores-Muskegon Heights.

MINNESOTA

Duluth-Superior, MN–WI.

MISSOURI

St. Joseph.[1]

MONTANA

Great Falls.[1]

NEW MEXICO

Albuquerque.

NEW YORK

Utica-Rome.

NORTH CAROLINA

Asheville, Burlington.

OKLAHOMA

Oklahoma City.

OREGON

Eugene-Springfield.

PENNSYLVANIA

Johnstown, Wilkes Barre-Scranton-Hazleton (Northeast PA), Williamsport.

SOUTH CAROLINA

Columbia, Greenville-Spartanburg.

TENNESSEE

Chattanooga, TN-GA, Clarksville-Hopkinsville, TN-KY, Knoxville.

TEXAS

Abilene, Austin, Killeen-Temple, Longview, Lubbock, Odessa, San Angelo, San Antonio, Sherman-Dension, Tyler, Waco.

UTAH

Salt Lake City-Ogden.

VIRGINIA

Lynchburg.

WEST VIRGINIA

Parkersburg-Marietta, WV-OH, Wheeling, WV-OH.

WISCONSIN

Green Bay, La Crosse.

SMSA/SCSA Group V

ALABAMA

Anniston, Florence, Gadsden, Huntsville, Mobile, Tuscaloosa.

ARKANSAS

Fayetteville-Springdale, Fort Smith, AR–OK, Pine Bluff.

FLORIDA

Pensacola.

GEORGIA

Albany.

INDIANA

Bloomington, Terre Haute.[1]

LOUISIANA

Alexandria, Lafayette, Lake Charles, Monroe.

MAINE

Androscoggin County.

MINNESOTA

St. Cloud.

MISSOURI

Columbia, Springfield.[1]

MISSISSIPPI

Biloxi-Gulfport, Pascagoula-Moss Point.

NORTH CAROLINA

Fayetteville, Wilmington.

OKLAHOMA

Lawton.

PENNSYLVANIA

Altoona.

PUERTO RICO

Caguas, Mayaguez, Ponce, San Juan.

SOUTH CAROLINA

Charleston-North Charleston.

TENNESSEE

Johnson City-Kingsport-Bristol, TN–VA.

TEXAS

Brownsville-Harlingen-San Benito, Bryan-College Station, Corpus Christi, El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, TX–AR.

UTAH

Provo-Orem.

WEST VIRGINIA

Huntington-Ashland, WV–KY–OH.

WISCONSIN

Eau Claire

Non-SMSA

GROUP I

Alaska	Nevada
Iowa	New Jersey
Kansas	Washington
Massachusetts	Wyoming
Nebraska	

GROUP II

California	Illinois[2]
Connecticut	Indiana
Delaware	Maryland
Hawaii	North Dakota[2]

GROUP III

Colorado	New York
Florida	Ohio
Idaho	Oregon
Michigan	Pennsylvania
Minnesota[2]	South Dakota[2]
Montana	Vermont
New Hampshire	Wisconsin

GROUP IV

Arizona	North Carolina
Maine	Oklahoma[2]
Missouri[2]	Texas

GROUP V

Alabama	Puerto Rico
Arkansas[2]	South Carolina
Georgia	Tennessee
Kentucky	Utah
Louisiana	Virginia[2]
Mississippi	Virgin Islands
New Mexico	West Virginia

[2] Hospitals in States identified by a figtwo will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

With respect to the Standard Consolidated Statistical Area/Standard Metropolitan Statistical Area groupings, the groupings were developed by combining those SCSA/SMSA's which reflect a similar economic environment as expressed by per capita income data. The SCSA/SMSA's were arrayed in order of the size of their per capita income and groupings were established. The same procedure was followed for grouping the non-SCSA/SMSA areas to arrive at State groups.

The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS

GROUPS I AND II

Less than 100.
100–404.
405–684.
685 and above.

[1] Hospitals in areas (SCSA or SMSA) identified by an asterisk will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

Non-SMSA areas will be classified according to the per capita income of all non-SMSA counties within a State. The following are the five income groupings, (with States classified according to a 5-year per capita income average) to be used for hospitals located in non-Standard Metropolitan Statistical Areas in those States.

GROUPS III, IV, AND V

Less than 100.
100–404.
405 and above.

NON-STANDARD METROPOLITAN STATISTICAL AREAS

Less than 100.
100–169.
170 and above

The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect the 14 percent annual rate of estimated cost increases in per diem routine service costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period beginning July 1, 1977.

Under the authority of section 1861(v) of the Social Security Act, the following cost limitations apply to the total of the hospital inpatient general routine service costs (excluding costs incurred for special care units and ancillary services), adjusted upward as provided for below. The limits are applicable to cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of a revised schedule.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1977. Where a hospital has a cost reporting period beginning after July 1, 1977, the published limit will be adjusted upward by a factor of 1.17 percent for each elapsed month between July 1, 1977, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example.—Hospital A's cost reporting period starting in 1977 begins October 1, 1977, and ends September 30, 1978. The cost factor for Hospital A's group from the table below is $100.

COMPUTATION OF ADJUSTED COST LIMIT

Cost factor	$100.00
Plus: Adjustment for 3-month period (July 1, 1977, to Sept. 30, 1977), 3 months × 1.17 pct. = 3.51 pct.; 3.51 pct. × cost factor	3.51
Adjusted cost limit applicable to hospital A for the Oct. 1, 1977, to Sept. 30, 1978, reporting period	$103.51

SCHEDULE OF LIMITS ON HOSPITAL INPATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIODS BEGINNING ON OR AFTER JULY 1 1977 [1]

Hospitals located within SMSA's (metropolitan) bed size

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I	$120	$144	$160	$211
II	121	125	150	171
III	100	110	130	150
IV	100	110	130	150
V	90	85	100	130

Hospitals located outside SMSA's (nonmetropolitan) bed size

Group	Less than 100	100 to 169	170 and above
I	$105	$114	$142
II	110	115	107
III	100	90	100
IV	90	85	91
V	84	85	84

[1] Limits apply to all SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (25 pct. Anchorage, Alaska; 17.5 pct. Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage	$174	$180	$208	$264
Honolulu	144	174	188	248

Limits apply to all Group I States except Alaska where cost of living adjustment (25 pct.) was made. Limits for Alaska are:

Less than 100	$150
100 to 169	160
170 and above	181

Applies to all Group II States except Hawaii where cost of living adjustment (17.5 pct.) was made. Limits for Hawaii are:

Less than 100	$169
100 to 169	129
170 and above	121

[1] The schedule of limits and adjustment factor are only for a 12-month cost reporting period. For providers with other than 12-month cost reporting periods, intermediaries must contact the Health Care Financing Administration for adjustment factor.

Consideration will be given to written comments or suggestions received on or before September 12, 1977.

Address comments to:

Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

When commenting please refer to MAB 39. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5225 of the Department's offices at 330 C Street SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m.; telephone 202–245–0950.

FOR FURTHER INFORMATION, CONTACT:

Mrs. Virginia K. Gray, Health Care Financing Administration, Medicare Bureau, 6401 Security Boulevard, Baltimore, Md. 21235, Director, Division of Provider Reimbursement and Accounting Policy (301–594–9690).

(Secs. 1102, 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647, as amended; 79 Stat. 313, as amended; 79 Stat. 327, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x(v), 1395cc(a), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Dated: July 26, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 6, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-23243 Filed 8-11-77,8:45 am]

National Institutes of Health

NATIONAL CANCER ADVISORY BOARD PRESIDENT'S CANCER PANEL BOARD SUBCOMMITTEES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board and the President's Cancer Panel, National Cancer Institute, September 19–20, 1977, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 31C, Conference Room 6.

The meeting will be open to the public on September 19 from 1:00 p.m. to 5:00 p.m. to hear reports on activities of the President's Cancer Panel, the Director, NIH, and the Director, NCI. On September 20, the meeting will be open to the public from 9:00 a.m. to 12:00 noon to hear reports on computer tomography in radiation therapy, the NCI construction plan, and the special training programs. Attendance by the public will be limited to space available.

In addition, Subcommittees of the Board will meet as follows:

Subcommittee on Construction, September 18, Building 31C, Conference Room 10, from 7:30 p.m. to adjournment.

Subcommittee on National Organ Site Programs, September 19, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland, from 7:00 a.m. to 7:45 a.m.

Subcommittee on Centers, September 19, Building 31A, Conference Room 11A10, from 8:30 a.m. to 12:00 noon. Open to the public from 8:30 a.m. to 9:30 a.m. for reports on the cancer centers profile and the intrainstitute committee.

Subcommittee on Special Actions for Grants, September 19, Building 31C, Conference Room 6, from 10:30 a.m. to 12:00 noon.

Subcommittee on Planning and Budget, September 19, Building 31C, Conference Room 6, from 8:00 p.m. to adjournment, to review the status of the 1978 budget and the 1979 preliminary budget submitted to the Office of Management and Budget. This meeting will be entirely open to the public.

Attendance by the public at the open portions of these meetings will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Board and Panel will be closed to the public on September 20, from 1:00 p.m. to adjournment, for the review, discussion and evaluation of individual grant applications.

In addition, the Subcommittee on Construction will be closed on September 18, from 7:30 p.m. to adjournment; the Subcommittee on National Organ Site Programs, from 7:00 a.m. to 7:45 a.m., September 19; the Subcommittee on Centers, from 9:30 a.m. to 12:00 noon, September 19; and the Subcommittee on Special Actions for Grants, from 10:30 a.m. to 12:00 noon, September 19, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Richard A. Tjalma, Assistant Director, NCI, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5854) will provide summaries of the meetings, substantive program information and rosters of members.

(Catalog of Federal Domestic Assistance Program Nos. 13.392 through 13.399, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-23331 Filed 8-11-77;8:45 am]

NIH CONSENSUS COMMITTEE FOR BREAST CANCER SCREENING (TEMPORARY)

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the NIH Consensus Committee for Breast Cancer Screening, National Cancer Institute, September 14-16, 1977, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, in Building 1, Wilson Hall.

The entire meeting will be open to the public from 8:30 a.m. to 6:00 p.m. each day, to solicit information from the scientific community and other interested groups, concerning the current state of knowledge of the commonly used modalities for breast cancer screening (including clinical history, physical examination, mammography, thermography, and breast self-examination) in terms of risks and benefits, to establish a consensus and to provide recommendations on breast cancer screening. Attendance by the public will be limited to space available.

Dr. Seymour Perry, Special Assistant to the Director, NIH, Building 1, Room 111, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-2500, will provide summaries of the meeting and rosters of committee members.

Mr. Storm Whaley, Associate Director for Communications, NIH, Building 1, Room 309, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-4461, will provide additional meeting information.

Dated: August 5, 1977.

THOMAS E. MALONE,
Deputy Director.

[FR Doc.77-23330 Filed 8-11-77;8:45 am]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, September 26, 1977, Lobby Room, Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015.

This meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on September 26, 1977, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 26, 1977, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of an individual research grant application. Application and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: August 8, 1977.

THOMAS E. MALONE,
Deputy Director,
National Institutes of Health.

[FR Doc.77-23333 Filed 8-11-77;8:45 am]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, September 25-27, 1977. The meeting on September 25 will be held in Building 31, Room 2A03; the September 26-27 sessions will be held in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on September 25 from 3:00 p.m. to 6:00 p.m. for planning and evaluation discussion; on September 26 from 9:00 a.m. to 5:00 p.m. and on September 27 from 2:00 p.m. to 3:00 p.m. for current status reports, review of the Developmental Biology and Nutrition Program, scientific presentations, and remarks by guest speakers. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 27 from 9:00 a.m. to 2:00 p.m. and from 3:00 p.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Council Secretary, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864 and 13.865, National Institutes of Health.)

Dated: August 8, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77-23332 Filed 8-11-77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS, NIDR

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research, September 29, 1977, National Institutes of Health, Building 30, Conference Room 117, at 9:00 a.m.

This meeting will be open to the public from 9:00 a.m. to approximately 10:00 a.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Section 552b(c) (6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:00 a.m. to adjournment for the review discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NIDR, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Director of Intramural Research, National Institute of Dental Research, National Institutes of Health, Building 30, Room 132, Bethesda MD 20014, (telephone 301 496-1483) will provide summaries of meeting, rosters of committee members, and substantive program information.

Dated: August 8, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc. 77-23334 Filed 8-11-77;8:45 am]

MAMMALIAN CELL LINES COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Mammalian Cell Lines Committee, National Institute of General Medical Sciences, National Institutes of Health, on September 30, 1977, at 9 a.m., Conference Room 8, Building 31C, Bethesda, Maryland.

This meeting will be open to the public on September 30 at 9 a.m. to 1 p.m. to discuss matters and issues relevant to the Genetics Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552(b)(6), the meeting will be closed to the public at 1 p.m. to adjournment for the review, discussion, and evaluation of a Genetics Center research grant application. The review of this application could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. Paul Deming, Research Reports Officer, National Institute of General Medical Sciences, Westwood Building, Room 9A05 Bethesda, Maryland 20014, telephone 301-496-7301, will provide summary minutes of the meeting and a roster of the committee members.

Dr. Michael I. Goldberg, Executive Secretary, Mammalian Cell Lines Committee, Westwood Building, Room 910, telephone 301-496-7175 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-862, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77-23336 Filed 8-11-77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS, NINCDS

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, October 20 and 21, 1977, in Conference Room 1B-07, Bldg. 36, Bethesda, MD 20014. This meeting will be open to the public from 10:30 a.m. to 5:00 p.m. on October 20th to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public from 9:00 a.m. until the conclusion of the meeting on October 21st for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Acting Chief, Office of Scientific and Health Reports, Mr. Robert N. Hinkel, Bldg. 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

The Executive Secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director of Intramural Research Program, NINCDS, Bldg. 36, Room 5A05, NIH, Bethesda, MD 20014, telephone 301-496-4297.

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)

Dated: August 4, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77-23337 Filed 8-11-77;8:45 am]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, September 29, 30, and October 1, 1977, at 9:00 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20014. The meeting will be open to the public from 9:00 a.m. until 1:00 p.m. on September 29, 1977, and from 9:00 a.m. until the conclusion of the meeting on October 1, 1977, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:00 p.m. on September 29, 1977, until the conclusion of the meeting that day, and from 9:00 a.m. until 5:00 p.m. on September 30, 1977, for review, discussion and evaluation of individual initial pending and renewal research grant applications and applications for Teacher-Investigator Awards and Research Career Development Awards. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

The Acting Chief, Office of Scientific and Health Reports, Mr. Robert N. Hinkel, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Maryland, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. O. Malcolm Ray, Executive Secretary, Federal Building, Room 1020C, Bethesda, Maryland 20014, telephone 301-496-9234, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: August 2, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77-23335 Filed 8-11-77;8:45 am]

Social Security Administration

ENGLISH LANGUAGE AND EMPLOYMENT SERVICES FOR ADULT INDOCHINESE REFUGEES

Change in Guidelines for Existing Projects

On July 26, 1976, the Social and Rehabilitation Service, Department of Health, Education, and Welfare published a notice and guidelines for proposals to conduct English Language and Employment Services for Adult Indochinese Refugees (41 FR 30701). (This activity is now under the jurisdiction of the Social Security Administration.)

Subsequently, grants were awarded for the period October 1, 1976, through September 30, 1977, in accordance with the requirement contained in the notice of July 26, 1976, that "The period of performance of any grant awarded under this notice shall not extend past September 30, 1977."

Due to longer start-up periods than anticipated, many grantees will not have

expended all of their funds by September 30, 1977.

Therefore, authority is hereby granted to the Regional Commissioners, Social Security Administration, to extend the period of any grant beyond September 30, 1977, when the Regional Commissioner, or his/her designee, determines that such extension is in the best interest of the Government and the refugees being served. An extension of up to three months—i.e., through December 31, 1977—may be made by the Regional Commissioner, or his/her designee, without further concurrence. Proposed extensions of more than three months will be submitted for the concurrence of the Director, Indochinese Refugee Assistance Program, or his designee.

Dated: August 4, 1977.

B. CARDWELL,
Commissioner of Social Security.

[FR Doc.77-23346 Filed 8-11-77;8:45 am]

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL RESEARCH REVIEW COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the months of August and September 1977:

ALCOHOL RESEARCH REVIEW COMMITTEE

Date and time: August 31–September 1, 9 a.m.

Place: New Jersey Room, Holiday Inn, Bethesda, Maryland 20014.

Type of meeting: open—August 31, 9–10 a.m. Closed—Otherwise.

Contact: Dr. Albert A. Pawlowski, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4223.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9 to 10 a.m., August 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Director, Office of Public Affairs, NIAAA, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3306.

Dated: August 4, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 77-23003. Filed 8-11-77; 8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Ophthalmic Panel	Sept. 16 and 17, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Sept. 16, 9 a.m. to 10 a.m.; open committee discussion, Sept. 16, 10 a.m. to 4:30 p.m.; Sept. 17, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make such a presentation should notify the contact person before September 13, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
2. Immunology Device Classification Panel.	Sept. 26 and 27, 8 a.m., Room 425, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing, Sept. 26, 8 a.m. to 9 a.m.; open committee discussion, Sept. 26, 9 a.m. to 5 p.m., Sept. 27, 8 a.m. to 5 p.m.; Srikrishna Vadlamudi, D.V.M., Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7538.

General function of the committee. Reviews and evaluations available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of in vitro diagnostic products (immunology) to the executive secretary. Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 21, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review and comment on the reclassification petition under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act, by International Diagnostic Technology, Santa Clara, California on the following products: FIAX TM Test for C3; Anti DNA Antibody Test.

The panel will review the classification results for consistency with the Medical Device Amendments of 1976 and also review the recommendations for all the supplementary data sheets completed in previous meetings.

Committee name	Date, time, and place	Type of meeting and contact person
3. Topical Analgesic Panel	Sept. 26, 27, and 28, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Sept. 26, 9 a.m. to 10 a.m.; open committee discussion, Sept. 26, 10 a.m. to 4:30 p.m., Sept. 27 and 28, 9 a.m. to 4:30 p.m.; Lee Geisnar (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Those desiring to make such a presentation should notify the contact person before September 21, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
4. Hematology Device Classification Panel.	Sept. 27, 9 a.m., Rm. 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m., Kaiser Azar, Ph.D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7564.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of hematology devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make a formal presentation should notify the executive secretary by September 19, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. The Hematology Device Classification Panel will classify the following in vitro diagnostic products: automated blood cell diluting apparatus; automated blood cell separation; automated slide spinners; automated slide stainers; guiac reagent; radioactive chromium; computer systems integrated with hematological analyzers; Schilling test; blood volume measurement; red cell survival; iron turnover; and ATP (adenosine triphosphate) release (luminescence).

Committee name	Date, time, and place	Type of meeting and contact person
5. Anesthesiology Device Classification Panel.	Sept. 27 and 28, 8:30 a.m., Room 3651 HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing, Sept. 27, 8:30 a.m. to 9:30 a.m.; open committee discussion, Sept. 27, 9:30 a.m. to 4 p.m.; Sept. 28, 8:30 a.m. to 4 p.m.; Dennis J. Cotter (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7559.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to anesthesiology devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make a formal presentation should notify the executive secretary by September 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. Review the entire anesthesiology device list and prepare final panel recommendations for a report.

Committee name	Date, time, and place	Type of meeting and contact person
6. Ear, Nose, and Throat Device Classification Panel.	Sept. 28 and 29, 9 a.m. Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Sept. 28, 9 a.m. to 10:30 a.m.; open committee discussion, Sept. 28, 10:30 a.m. to 4:30 p.m., Sept. 29, 9 a.m. to 4:30 p.m.; Harry R. Sauberman (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7538.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to tentative classification findings. Those desiring to make a formal presentation should notify the executive secretary by September 14, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review its tentative classification recommendations and will structure the format and content of its report to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
7. Clinical Chemistry Device Classification Panel.	Sept. 29 and 30, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Sept. 29, 9 a.m. to 10 a.m.; open committee discussion, Sept. 29, 10 a.m. to 5 p.m., Sept. 30, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of clinical chemistry devices to the executive secretary. Those desiring to make a formal presentation should notify the executive secretary by September 15, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, reference to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review and complete classification of the following in vitro diagnostic products: Acid phosphatase (prostatic); acid phosphatase (total); adrenocorticotropin/ACH; alanine amino transferase ALT/SGPT; albumin; aldolase; aldosterone; alkaline phosphatase; alkaline phosphatase isoenzyme; aminolevulinic acid; ammonia; amylase; androstenedione; androsterone; angiotensin I & II and renin; ascorbic acid; aspartate amino transferase/AST/SGOT; Bence Jones protein; bicarbonate/carbon dioxide; bilirubin (total and direct); bilirubin and its conjugates (urinary, non-quant.); blood gases/PCO2, PO2; blood pH; blood volume; bromide; calcitonin; calcium; calibrators; carbon monoxide; catecholamines (total); ceruloplasmin; chloride; cholesterol (total); chymotrypsin; compound S; copper; corticoid; corticosterone; cortisol (hydrocortisone, hydroxycorticosterone); creatine; creatine phosphokinase isoenzymes; creatine phosphokinase creatine kinase; creatinine; cyclic AMP; cyclic GMP; cystine; dehydroepiandrosterone (free and sulfate); desoxycorticosterone; enzyme calculator; estradiol; estriol; estrogens (total, in pregnancy); estrogens (total, non-pregnant); estrone; etiocholanolone; fatty acids (total esterified); ferritin; folic acid; follicle stimulating hormone; formiminoglutamic acid (FIGLU); galactose; galactose-1-phosphate uridyl transferase; gamma-glutamyl transpeptidase and isoenzymes; gastric acidity; gastrin; globulin; glucagon; glucose (urinary, non-quant.); glucose; glucose-6-phosphate dehydroglnase; glucose-6-phosphate dehydrogenase isoenzymes; glutathione (GHS); glutathione reducatase deficiency histidine; human C peptides; human chorionic gonadotropin (HCG); human growth hormone; human placental lactogen (HPL); hydroxybutyric dehydrogenase; hydroxyproline; immunoglobulins (D, E); immunoglobulins (G, A, M); instruments (general), for clinical use; iron (non-heme); iron binding capacity; isocitric dehydrogenase; ketones (urinary, non-quant.); lactate dehydrogenase; lactate dehydrogenase isoenzyme; lactic acid; lecithin-sphingomyelin ratio in amniotic fluid; leucine aminopeptidase; lipase; lipid (total); lipoprotein; lithium; long-acting thyroid stimulator (LATS); luteinizing hormone; lysozyme (muramidase); magnesium; malic dehydrogenase; mucopolysaccharides; nitrite (urine); nitrogen (amino-nitrogen); occult blood in urine; ornithine carbamyl transferase; osmolality of serum and urine; parathyroid hormone; pH (urinary, non-quant.); phenylalanine; phenylketones (urinary, non-quant.); phosphohexose isomerase; phospholipid; phosphorus (inorganic); plasma oncometry; plasma viscometry; porphobilinogen; porhyrins; potassium; pregnanediel; pregnanetriol; pregnenolone; progesterone; prolactin (lactogen); protein (fractionation), protein (total); protein bound iodine; protein or albumin (urinary, non-quant.); pseudocholinesterase (CHS); pyruvate kinase; pyruvic acid; quality control material (assayed and unassayed); sodium; sorbitol dehydrogenase; specimen collection products; testosterone and dihydrotestosterone; thyroglobulin autoantibody; thyroid binding globulin; thyroid stimulating hormone; thyroxine; transferrin; triglyceride; triiodothyronine; triose phosphate isomerase; trypsin; tyrosine (free); urea nitrogen; uric acid; urinary calculi/stone; urobilinogen (urinary, non-quant.); uroporphyrin; vanilmandelic acid; vitamin A; vitamin B_{12}; vitamin E; xylose; 17-hydroxycorticosteroids; 17-hydroxyprogesterone; 17-ketogenic steroid; 17-ketosteroids; 2,3-diphosphoglyceric acid; 5-hydroxyindole acetic acid/serotonin; 5-nucleotidase; 6-phosphogluconate dehydrogenase; insulin (immunoreactive); single analyte control; multianalyte control; vitamin B_{12} binding capacity; lactose; computer systems and/or accessories for clinical chemistry devices; fluorometers for clinical use; automated urinalysis system; cephalin-cholesterol flocculation; thymol turbidity.

Committee name	Date, time, and place	Type of meeting and contact person
8. Dermatology Advisory Committee.	Sept. 30, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dermatology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the safety and effectiveness of NDA (new drug application) 50-513 (Mycophenolic Acid); review of Kwell labeling; and revision of topical corticosteroid guidelines.

Committee name	Date, time, and place	Type of meeting and contact person
Allergenic Extracts Panel.	Sept. 30 and Oct. 1, 9 a.m., Room 130, 6110 Executive Blvd., Rockville, Md.	Open public hearing, Sept. 30, 9 a.m. to 10 a.m.; open committee discussion, Sept. 30, 10 a.m. to 5:30 p.m., Oct. 1, 8:30 a.m. to 5:30 p.m.; Gray Sisk (HFB-5), 5600 Rockville Pike, Bethesda, Md. 20014, 301-443-3460.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Agenda—Open committee discussion. Discussion of manufacturing guidelines for allergenic extracts; combination allergenic extracts; and edit draft standards on endotoxins, opthalmic testing, epidermal extracts, food extracts, clinical testing recommendations, and adjuvants.

Committee name	Date, time, and place	Type of meeting and contact person
10. Miscellaneous External Drug Products Panel.	Sept. 30 and Oct. 1, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Sept. 30, 9 a.m. to 10 a.m.; open committee discussion, Sept. 30, 10 a.m. to 4:30 p.m., Oct. 1, 9 a.m. to 4:30 p.m.; Thomas D. DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make such a presentation should notify the contact person before September 27, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: August 5, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance

[FR Doc 77-23122 Filed 8-11-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Hormone Subcommittee of the Science Advisory Board.	Sept. 15, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda.—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the role of subcellular mechanisms in transplacental carcinogenesis; molecular parameters of the estrogen response; the status of carcinogenic-estrogenic bioassays; and metabolic studies of synthetic estrogen.

Committee name	Date, time, and place	Type of meeting and contact person
2. Mutagenesis Subcommittee of the Science Advisory Board.	Sept. 29, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda.—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the status report on dosimetry/pharmacokinetics program; discussion of strain selection for heritable translocation assay; and progress report on development of in vivo microlesion assay project.

Committee name	Date, time, and place	Type of meeting and contact person
3. Matrix Approach Subcommittee of the Science Advisory Board.	Sept. 30, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda.—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Review and evaluation of program studying urine from animals with bladder cancer for mutagenicity; selection of mouse strains for mutagenicity testing; and HAM studies for detection of mammary tumors.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilities the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: August 5, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23123 Filed 8-11-77;8:45 am]

[Docket No. 76F-0317]

NALCO CHEMICAL CO.

Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (FAP 5A3026) proposing the safe use of poly(*N*-methylethylene ammonium) chloride as a processing aid in the manufacture of silica and silicates intended for food additive use.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 17.7, formerly § 121.52, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), Nalco Chemical Co., 180 North Michigan Ave., Chicago, Ill. 60601, has withdrawn its petition (FAP 5A3026), notice of which was published in the FEDERAL REGISTER of September 10, 1976 (41 FR 38540), proposing that the food additive regulations be amended to provide for the safe use of poly (*N*-methylethylene ammonium) chloride as a processing aid in the manufacture of silica and silicates intended for food additive use.

Dated: August 2, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-22981 Filed 8-11-77;8:45 am]

[Docket No. 77N-0150]

PHENFORMIN HYDROCHLORIDE

Hearing and Prehearing Conference

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a formal evidentiary public hearing, and a prehearing conference, on factual issues relating to the proposed withdrawal of approval of the new drug applications (NDA's) described below for drug products for human use containing phenformin hydrochloride, marketed by Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardslay, N.Y. (Ciba-Geigy) and USV Laboratories, Division of USV Pharmaceutical Corp., Tuckahoe, N.Y. (USV).

DATES: Prehearing conference August 30, 1977, beginning at 9 a.m.; written notices of participation must be received by August 26, 1977.

ADDRESSES: The prehearing conference and hearing will be held in the FDA Hearing Room, Room 4A-35, 5600 Fishers Lane, Rockville, Md. 20857; written notices of participation identified by the above-designated docket number should be submitted to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857 (to facilitate identification, the envelope containing the notice should be clearly labeled "Phenformin Hearing").

FOR FURTHER INFORMATION CONTACT:

Tenny Neprud, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3480).

RELATED ACTION: In the FEDERAL REGISTER of April 29, 1977 (42 FR 21845), the Commissioner of Food and Drugs announced a public hearing, to be held on May 13, 1977, to receive information and views on the issue of whether the drug phenformin, as currently labeled, constitutes such a hazard that the Secretary of Health, Education, and Welfare should be advised to invoke the "imminent hazard" clause of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) to remove the drug from the market immediately (Docket No. 77N-0147). After the hearing, and after receiving and reviewing the Commissioner's recommendations, the Secretary, on July 25, 1977, suspended approval of the NDA's for phenformin until completion of administrative proceedings on the withdrawal of these applications (Docket No. 77N-0150) or until termination of these proceedings upon other appropriate action that precludes general marketing of the drug.

SUPPLEMENTARY INFORMATION: A notice of opportunity for a hearing was published in the FEDERAL REGISTER of May 6, 1977 (42 FR 23170), on the proposal of the Director of the Bureau of Drugs to withdraw approval of the following NDA's and all amendments and supplements thereto:

NDA 11-624; DBI (phenformin) Tablets; Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardslay, N.Y. 10502.

NDA 12-752; DBI-TD (phenformin) Capsules; Geigy Pharmaceuticals.

NDA 17-126; Meltrol-25 (phenformin) Tablets; USV Laboratories, Division of USV Pharmaceutical Corp., Tuckahoe, N.Y. 10707.

NDA 17-127; Meltrol-50 (phenformin) Capsules; USV Laboratories.

This action was taken on the grounds that evidence of clinical experience which was not contained in the NDA's or not available until after the NDA's were approved, shows that such drugs are not shown to be safe for use under the conditions of use on the basis of which the NDA's were approved. In the Director's view, there was a clear association demonstrated between the use of phenformin and the occurrence of lactic acidosis, as reflected in numerous reports submitted to FDA and in the medical literature. Lactic acidosis is a potentially fatal metabolic disorder in which abnormal amounts of lactic acid accumulate in the blood. The notice of opportunity for hearing invited the submission of written requests for a hearing by June 6, 1977, and data, information, and analyses justifying a hearing, as well as comments on the proposed withdrawal of approval, by July 5, 1977.

Requests for hearing and extensive material in support of the hearing requests were received from Ciba-Geigy and USV, and a hearing on the proposed withdrawal of the NDA's is hereby granted. The parties to the hearing will be the Bureau of Drugs of the Food and Drug Administration, Ciba-Geigy, and USV. The hearing will be open to the public.

The Secretary's order of July 25 declaring phenformin an imminent hazard described a limited patient population for whom the Secretary and the Food and Drug Administration believe the benefits of phenformin therapy may outweigh the risks. The Secretary directed the Commissioner to begin discussions with the manufacturers of the drug and with the appropriate professional associations to devise a voluntary controlled distribution system that would assure the continued availability of the drug to that limited population alone, while removing the drug from general marketing.

Discussions with representatives of organizations interested in resolving the question of the feasibility of a limited distribution program began on July 25. The organizations invited to participate in these discussions are as follows: Ciba-Geigy; USV; Lilly Pharmaceuticals; Squibb Pharmaceutical Corp.; American Medical Association; American Diabetes Association; American Pharmaceutical Association; Committee for the Care of the Diabetic; and the Health Research Group. Lilly Pharmaceuticals and Squibb Pharmaceutical Corp. were included because they are the major manufacturers of insulin, one alternative mode of therapy available to certain patients who are removed from phenformin. The Health Research Group was included because it is the organization that petitioned the Secretary to declare phenformin an imminent hazard; that petition was granted on July 25 when the Secretary issued his order. These discussions are continuing by means of a series of weekly meetings, and there appears to be a possibility that agreement may be reached on a limited distribution program in the near future.

Because of these discussions, the outcome of which may affect the number and scope of factual issues to be resolved at the evidentiary hearing, the specific issues for that hearing cannot be identified at this time, as required by 21 CFR 12.35(a) (4) and (5). Accordingly, those provisions are waived pursuant to 21 CFR 10.19. One of the purposes of the prehearing conference, therefore, will be to identify and agree upon the issues of fact which as of that date remain unresolved. The issues for the hearing will be initially determined by the presiding Administrative Law Judge, Daniel J. Davidson, after consultation with the participants, and thereafter subject to the approval of the Commissioner. The Commissioner notes that participation in the discussions referred to above is independent of this withdrawal proceeding and therefore does not dispense with the requirement for filing a notice of participation in accordance with 21 CFR 12.45(a), as modified by this notice. The participants are encouraged to file, on or before August 26, 1977, memorandum setting forth the factual issues that they believe are appropriate for resolution at the hearing, together with the reasons that justify inclusion of such issues for consideration at the hearing.

Further, the Commissioner is aware that there has been discussion among the Bureau of Drugs, Ciba-Geigy, and USV that any issues remaining to be resolved at a formal evidentiary public hearing might, in lieu thereof, be considered and determined by a Public Board of Inquiry in accordance with 21 CFR Part 13. In order that the opportunity for such an alternative form of public hearing not be foreclosed, the Commissioner, pursuant to 21 CFR 10.19, is also waiving the requirement in 21 CFR 12.32(b)(3) that a request for an alternative form of public hearing be submitted prior to publication of this notice of hearing. The publication of this notice, therefore, shall not preclude submission by Ciba-Geigy and USV of a request for hearing before a Public Board of Inquiry. Such a request shall be received not later than August 26, 1977, and pursuant to 21 CFA 12.32(b)(4)(ii), shall be in the form of a waiver of the right to an opportunity for a formal evidentiary hearing conditioned upon the Commissioner's granting a hearing before a Public Board of Inquiry. The

filing of a request for such an alternative form of public hearing shall not eliminate the necessity for the filing of a notice of participation in the formal evidentiary public hearing on or before August 26, 1977. In the event the Commissioner, in response to a request by both Ciba-Geigy and USV, concludes, in his discretion, that a hearing before a Public Board of Inquiry is acceptable, he will withdraw this notice and publish in the FEDERAL REGISTER a notice, in accordance with 21 CFR 12.32(e), announcing a public hearing before a Public Board of Inquiry.

Pursuant to 21 CFR 10.19, the following additional modifications in the procedures, which may be further amended at the prehearing conference, are hereby adopted to expedite the hearing:

1. Section 10.20(e) (21 CFR 10.20(e)) is modified to require all filings and submissions to be received on or before the due date, without reference to the postmark.

2. Section 12.35(a)(8) (21 CFR 12.35 (a)(8)) is modified to provide that the prehearing conference may commence as specified herein.

3. Section 12.35(a)(9) (21 CFR 12.35 (a)(9)) is modified to provide that this notice need not list the contents of the administrative record of this proceeding.

4. Section 12.45(a) (21 CFR 12.45(a)) is modified to provide that written notices of participation must be received by the Hearing Clerk, Food and Drug Administration, not later than August 26, 1977.

5. Section 12.85 (a) and (b) (21 CFR 12.85 (a) and (b)) is modified to provide that the date for submission of data and narrative statements by all participants (including the Bureau of Drugs) be determined at the prehearing conference.

6. Section 12.92(a)(2) (21 CFR 12.92 (a)(2)) is modified to read as follows:

Each participant shall bring to the prehearing conference, and file with the Hearing Clerk, a list of potential witnesses whose testimony may be offered at the hearing, together with a full curriculum vitae for each such witness. A date for the exchange and filing of the final list of witnesses shall be determined at the prehearing conference.

The participants should be prepared, at the prehearing conference, to discuss any changes in the procedural rules that they believe would further expedite the hearing. The hearing will take place in the FDA Hearing Room on a date to be determined at the prehearing conference.

Any participant may appear in person, or with counsel or other qualified representative, and may be heard with respect to matters relevant to the issues under consideration. The participation of nonparties shall be governed by 21 CFR 12.89.

Dated: August 9, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-23438 Filed 8-11-77;8:45 am]

[Docket No. 77N-0048]

LAETRILE

Commissioner's Decision

Correction

In FR Doc. 77-22310 appearing on page 39768 in the issue for Friday, August 5, 1977, the telephone number in the "For Further Information Contact" paragraph, first column, page 39768, was incorrectly given as "310-44-3480". The correct telephone number is "301-443-3480".

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner for Student Financial Assistance, Bureau of Student Financial Assistance, Office of Education.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23355 Filed 8-11-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary—Fish and Wildlife and Parks, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23357 Filed 8-11-77;8:45 am]

DEPARTMENT OF THE NAVY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Assistant Secretary of the Navy (Installations and Logistics), Office of the ASN (M, RA&L).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23356 Filed 8-11-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration Bureau of East-West Trade

COMPUTER PERIPHERALS, COMPONENTS, AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. V, 1975), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, September 21, 1977, at 9:00 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by Rauer H. Meyer, Director, Office of Export Administration.
(2) Election of Chairman.
(3) Presentation of papers or comments by the public.
(4) Comments on the review of the Export Administration Regulations.
(5) Discussion of work program, including classification methods for foreign availability and technical classification.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977, (42 FR7978).

Dated: August 9, 1977.

RAUER H. MEYER,
Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-23368 Filed 8-11-77;8:45 am]

Economic Development Administration

DORN SHIRT CO.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Dorn Shirt Co., 314 North 13th Street, Philadelphia, Pa. 19107, a producer of ladies' shirts, was accepted for filing on August 8, 1977, pursuant to section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 22, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-23350 Filed 8-11-77;8:45 am]

National Oceanic and Atmospheric Administration

ALASKA DEPARTMENT OF FISH AND GAME

Issuance of Permit To Take Marine Mammals

On May 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 22392) that an application had been submitted to the National Marine Fisheries Service by the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801, to take by killing three hundred sixty (360) animals, consisting of ninety (90) each of the following species: ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*), ribbon seals (*Phoca fasciata*), spotted seals (*Phoca vitulina largha*); and by marking the following number and species of animals: 200 ringed seals (*Phoca hispida*); 100 ribbon seals (*Phoca fasciata*); and 300 spotted seals (*Phoca vitulina largha*), over a period of three years, for the purpose of scientific research.

Notice is hereby given that, on July 26, 1977, and as authorized under the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); the National Marine Fisheries Service issued a Scientific Research Permit for the above mentioned mammals to the Alaska Department of Fish and Game, subject to certain conditions specified therein. The Permit is available for review by interested persons in the following offices: Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Services, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

JULY 26, 1977.

[FR Doc.77-23261 Filed 8-11-77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of meetings of the Mid-Atlantic Fishery Management Council established by Section 302, and the Council's Scientific and Statistical Committee established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Mid-Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting of the Scientific and Statistical Committee will be held on September 12 and 13, 1977, from 9:30 a.m. to 4:00 p.m. and 9:00 a.m. to 3:00 p.m., respectively, at the Sheraton-Fountainebleau Inn, 10100 Ocean Highway, Ocean City, Maryland 21842. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Mackeral Management Plan;
2. Butterfish; and
3. Other Business.

This meeting is open to the public and there will be seating for approximately 20 public members available on a first-come, first-served basis.

The meeting of the Council will be held on September 14 and 15, 1977, 9:00 a.m. to 3:00 p.m. at the Sheraton-Fountainebleau Inn, 10100 Ocean Highway, Ocean City, Maryland 21842. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Squid Management Plan;
2. Scallop Management Plan;
3. Report of foreign fishing activity;
4. Status of fishery management plans; and
5. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about September 2, 1977:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, North and New Streets, Dover, Del. 19901.

At the discretion of the Council and its Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who wish to submit written comments should do so by addressing Mr. John C. Bryson at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten settlements should be received within 10 days after the close of the meeting.

Dated August 9, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23327 Filed 8-11-77;8:45 am]

MINNESOTA ZOOLOGICAL GARDEN

Issuance of Permit To Take and Import Marine Mammals

On July 1, 1977, notice was published in the FEDERAL REGISTER (42 FR 33786), that an application had been filed with the National Marine Fisheries Service by Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota 55124, for a permit to take and import four (4) beluga whales (*Delphinapterus leucas*) for public display.

Notice is hereby given that on August 3, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking and importing to Minnesota Zoological Garden, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices: Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 3, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23262 Filed 8-11-77;8:45 am]

NAVAL OCEAN SYSTEMS CENTER

Issuance of Permit To Take and Import Marine Mammals

On January 31, 1977, notice was published in the FEDERAL REGISTER (42 FR 5742), that an application had been filed with the National Marine Fisheries Service by Naval Ocean Systems Center, Department of the Navy, San Diego, Calif. 92152, for a Permit to conduct scientific research with a specified number of marine mammals.

Notice is hereby given that on July 26, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking and importing to Naval Ocean Systems Center, Department of the Navy, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Wash. 98109.
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702.
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Dated: July 26, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23263 Filed 8-11-77;8:45 am]

WESTERN NOVELTY CO., INC.

Pre-Act Endangered Species Products, Issuance of Certificate of Exemption

On June 29, 1977, notice was published in the FEDERAL REGISTER (42 FR 33051) that an application had been filed with the National Marine Fisheries Service by Western Novelty Co., Inc. of Portland, Oreg. for a Certificate of Exemption to engage in certain commercial activities with respect to its declared inventory of pre-Act endangered species products.

Notice is hereby given that on August 8, 1977, as authorized by the provisions of the Endangered Species Act of 1973, as amended, (Pub. L. 94-359), and the regulations issued thereunder (50 CFR Part 222, Subpart B), the National Marine Fisheries Service issued a Certificate of Exemption to Western Novelty Co., Inc., 124 Burnside, Portland, Oreg. 97209.

The Certificate of Exemption is available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20007.

Dated: August 8, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23260 Filed 8-11-77;8:45 am]

[Department Organization Order 10-1; Amdt. No. 2]

Office of the Secretary

ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

Delegation of Authority

EFFECTIVE DATE: July 29, 1977.

This order effective July 29, 1977, further amends the material appearing at 41 FR 18536 of May 5, 1976, and 41 FR 26593 of June 28, 1976.

Department Organization Order 10-1 of April 9, 1976 is hereby further amended as shown below. The purpose of this amendment is to delegate to the Assistant Secretary for Science and Technology the authority to administer a voluntary consumer product information labeling program at the Department.

1. SEC. 3. *Delegation of authority.* A new subparagraph .01h is added, and paragraph .03 is revised to read as follows:

"h. Exercise the functions of the Secretary of Commerce in administering a voluntary consumer product information labeling program as described in the procedures pertaining to such a program which are set out in Part 16 of Title 15 of the Code of Federal Regulations (42 FR 26647-26651, dated May 25, 1977), except for the function of issuing the annual report called for by section 16.14 of those procedures."

".03 The Assistant Secretary may delegate authorities except for the authority to issue or approve regulations and except that redelegation of other authorities in subparagraphs c., d., g., and h. of paragraph .01 above shall be limited to the Deputy Assistant Secretaries provided herein."

ELSA A. PORTER,
Assistant Secretary
for Administration.

[FR Doc.77-23364 Filed 8-11-77;8:45 am]

[Department Organization Order 25-5B; Amdt. No. 5]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Delegation of Authority

Effective date: July 20, 1977.

This order effective July 20, 1977, further amends the material appearing at 41 FR 795 of January 5, 1976, 41 FR 36061 of August 26, 1976, 41 FR 43753 of October 4, 1976, 41 FR 50318 of November 15, 1976, and 42 FR 11862 of March 1, 1977.

Department Organization Order 25-5B, dated December 4, 1975, is hereby further amended as shown below. The purpose of this amendment is to transfer the directives management function from the Administrative Operations Division to the Office of Management and Computer Systems, (paragraphs 8.01 and 8.02).

SEC. 8. *Assistant Administrator for Administration.* Paragraphs .01 and .02 are revised to read as follows:

.01 The Administrative Operations Division shall perform the following functions: procurement and grants management; property and supply management; paper work management; records and files management; space and facilities management; travel and traffic management; mail, messenger, and related office services; graphic services; safety; security; and processing of tort claims.

.02 The Office of Management and Computer Systems shall conduct studies and provide analytical assistance to develop or improve the organization and staffing structure and other management systems within NOAA; provide management staff services in the application of advanced management principles and techniques; carry out the NOAA committee, directives and reports management functions; develop and maintain a central system for collecting, analyzing, presenting and disseminating information on program status and performance; develop systems for measuring productivity and performance; exercise overall management, planning and coordination of NOAA's automatic data processing and telecommunications needs and facilities, including serving as the focal point within NOAA for intra- and inter-agency matters, and the review and evaluation of proposals for automatic data processing and telecommunications requirements and systems; coordinate the Federal planning program for environmental telecommunications systems; and engage in research into advanced system concepts and apply or provide guidance in the application of these concepts. It shall provide systems analysis and programming support to NOAA's executive and administrative management functions and to other NOAA functions as requested, and shall operate and provide system and special software support for automatic data processing facilities for all NOAA components except where separate facilities are approved.

W. N. HESS,
Acting Administrator, National
Oceanic and Atmospheric
Administration.

Approved:

ELSA A. PORTER,
Assistant Secretary
for Administration.

[FR Doc.77-23366 Filed 8-11-77;8:45 am]

[Department Organization Order 20-2]

OFFICE OF AUDITS

Functions and Organization

JULY 21, 1977.

Effective date: July 21, 1977.

This order effective July 21, 1977, supersedes the material appearing at 37 FR 24051 of November 11, 1972, and 38 FR 30757 of November 7, 1973.

SEC. 1. *Purpose.* .01 This order prescribes the functions and organization of the Office of Audits.

.02 This revision reflects the transfer of the Interagency Auditor Training Center to the Office of Audits (subparagraph 5.06), and generally updates the language of the Order.

SEC. 2. *Status and line of authority.* The Office of Audits, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall conduct audits of all organizational units of the Department except as the Assistant Secretary for Administration may otherwise determine with respect to particular auditing tasks for designated organizational units. The audits may (a) encompass the operating, administrative, Automatic Data Processing (ADP), and financial activities of units, including the administration for compliance with applicable law, economy and efficiency, and achievement of desired results, or (b) concern selected claims, costs, cost proposals, and cost and pricing data arising from contracts, grants, subsidies, loans or other similar agreements entered into, or proposed by, organizational units. The Office may also, by agreement, conduct audits for other Government organizations on a reimbursable basis, with the approval of the Assistant Secretary for Administration.

.02 The Director of Audits shall be the adviser to, and serve as the representative of, the Assistant Secretary for Administration on all internal and external audit matters of the Department, and shall serve as adviser to other Departmental officials with respect to these matters. The Director shall represent the Department in conferences and negotiations with officials of other Federal agencies or other groups with respect to audit matters.

.03 The Director of Audits shall be responsible for the Interagency Auditor Training Center (IATC). Subject to such policies and directives as the Director of Audits may prescribe, the Director, Interagency Auditor Training Center shall be responsible for the day-to-day management and operation of the Center.

SEC. 4. *Specified authority.* In addition to the authority implicit in and essential to carrying out the functions assigned the Office, the Director of Audits is expressly delegated the authority to arrange with other Federal, State and local agencies, and other organizations, to make external audits.

SEC. 5 *Organization.* Under the direction and supervision of the Director, Office of Audits, the functions of the Office shall be organized and carried out as provided below:

.01 The Deputy Director of Audits shall be the chief operating aide to the Director of Audits on substantive audit matters and shall be responsible for managing the audit staff. In consultation and cooperation with the Office of Personnel, the Deputy Director shall be responsible to the Director of Audits for obtaining a high quality professional staff, for developing and prescribing programs designed to further the career development of individual staff members, and for obtaining appropriate recognition of the professional character of the work done by members of the audit staff. The Deputy Director shall perform such other duties and assignments as the Director of Audits may prescribe. The Deputy Director shall also perform the functions of the Director in the latter's absence.

.02 The Program, Planning and Review Staff shall develop (a) policies, procedures, and standards for planning, programming, executing, and reporting on all internal audits, and (b) policies and procedures for all management and administrative matters for the Office of Audits. It shall coordinate, review and revise, as appropriate, individual audit programs and audit plans applicable to internal audits prepared by the operating divisions in the Office; maintain surveillance, through audit site visits, reports and conferences, over internal audits in process to determine compliance with approved policies, plans, and programs; post-review selected internal audits in detail as a quality control; review, reference, edit, and process internal audit reports, maintain follow-up on all audit findings and recommendations; coordinate responses to and comments on General Accounting Office reports; and carry out such other duties and assignments as the Director of Audits may prescribe.

.03 The External Audit Policy Staff shall develop Departmentwide policies, procedures, and standards for the execution of and reporting on all external audits. It shall maintain surveillance, through audit site visits, reports and conferences, over external audits in process to determine compliance with established policies; post-review selected external audits in detail as a quality control; maintain follow-up on external audit recommendations; in consultation with Regional Offices, prepare standard audit guides and standard audit programs for accounting systems surveys and financial audits for all Departmental contracts and grant and loan programs; maintain liaison with other Federal agencies and other groups on all matters pertaining to external audits; and carry out such other duties and assignments as the Director may prescribe.

.04 The Internal Audit Divisions shall carry out, on a cyclical basis, comprehensive audits of the operating, administrative, ADP, and financial activities of organizational units, or special audits relating thereto. Each Audit Division is assigned, as specified below, a group of

organizations of the Department which normally it will audit:

Division and Organizations to Audit

Internal Audit Division 1—National Bureau of Standards, National Oceanic and Atmospheric Administration, National Technical Information Service, Office of Telecommunications, Patent and Trademark Office.

Internal Audit Division 2—Domestic and International Business Administration Maritime Administration; Bureau of the Census; Bureau of Economic Analysis; United States Travel Service; National Fire Prevention and Control Administration.

Internal Audit Division 3—Economic Development Administration; Office of Minority Business Enterprise; Office of the Secretary; Regional Commissions.

.05 The Regional Offices (located in Atlanta, Chicago, Dallas, New York, San Francisco, and Washington, D.C.) shall carry out, or arrange for, site audits of documentation in support of claims, costs, cost proposals, and cost and pricing data arising from selected contracts, grants, subsidies, loans, and other similar agreements, entered into or proposed by organizational units. The Regional Offices shall carry out or arrange for site audits of contracts, grants or similar agreements, or proposals thereto, as requested by the Department officials and agreed to by the Director of Audits. The Regional Offices shall make any necessary arrangements with other Federal, State, and local agencies, or with any other organizations, for the performance of audits of such contracts, grants, or other agreements, on a reimbursable or other basis, and shall prescribe the scope of such audits and maintain liaison with the auditing agency or organization. The Regional Offices will carry out such other duties and assist in performing internal audits as the Director may prescribe.

.06 The Interagency Auditor Training Center shall conduct interagency training oriented to the specific needs of the Government auditor by making available a comprehensive training program specifically designed to satisfy the training needs of Government audit offices. The Center is operated as an independent reimbursable cost center under a working capital fund arrangement with all costs of the Center recovered through tuition charges. The Director of Audits shall act as Chairman of the IATC Board of Directors, which is composed of representatives of IATC sponsoring offices, and convene the Board, as appropriate, to discuss and provide advice on broad policies and problems related to the operation of the Center.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-23365 Filed 8-11-77;8:45 am]

United States Travel Service

INTERNATIONAL TRAVEL PROMOTIONAL PROJECTS

Availability of Matching Funds

Notice is hereby given to state and local government and non-profit organizations that the United States Travel Service (USTS) will have available matching funds for international travel promotional projects during the 1978 Fiscal Year budgetary period, October 1, 1977 through September 30, 1978.

Applicants must use the USTS application form, SF-424. The substantive regulations governing the program appear in the Code of Federal Regulations, Volume 15, Part 1200 (15 C.F.R. Part 1200). The guidelines governing administrative requirements are contained in Federal Management Circular 74-7; the guidelines covering allowable and non-allowable costs are found in Federal Management Circular 74-4. Applications for these funds must be postmarked by September 26, 1977. Interested parties may obtain the above documents upon written request to:

Grants Office, United States Travel Service, U.S. Department of Commerce, Washington, D.C. 20230.

Due to the funding level authorized for matching grants in Fiscal Year 1978 and the numbers of applications anticipated, the added limitations listed below will apply.

I. LIMITATIONS

A. Only one award will be granted per applicant, with two exceptions:

1. Individual applicants may also participate in one additional regional application; and

2. States are eligible for two grants provided that at least one of the proposed projects is a cooperative effort between the State and one or more major cities in the State.

B. Applications must be limited to one of the following seven international tourism projects:

1. Advertising;
2. Tour Development;
3. Visitor Facilitation;
4. Research;
5. Media Product Information;
6. Travel Trade Development;
7. International Convention Sales.

C. Projects may be conducted in one market country only.

D. The maximum amount available for matching consideration will be $10,000. The minimum amount for which one may apply is $2,500, excepting International Convention Sales.

E. All applications will be evaluated and rated on a scale of 1 to 100 points based on general criteria (50 points) and specific project criteria (50 points).

II. GENERAL CRITERIA

The general criteria, based on the completeness of information required on the grant application form, will carry a value of up to 50 points. Particular emphasis should be placed on Part III, the Program Narrative Statement, and Part IV, Assurances. Incomplete documentation will result in point deduction.

Grant applications for advertising, tour development, travel trade development and media product information *must* include information indicating that the marketing strategies for these projects were based on travel marketing research.

III. SPECIFIC CRITERIA

Specific criteria applicable to the particular project proposal will carry a value of up to 50 points.

A. *Advertising.* Advertising applications should provide planned campaign details including sample layouts, copy and specific media plans. If these materials are not available, a general outline of media plans and objectives will be accepted, provided that specific campaign details are forwarded to the Grants Office prior to their actual placement in the media.

Applications for advertising grants will be evaluated according to the following:

1. Adequacy of the applicant's basic marketing approach (25 points), including: a. Existence of economic, marketing and statistical data necessary to develop marketing and advertising strategy, and b. Creative interpretation of this strategy; and
2. Expected reach of the project in relation to its cost and short-term impact on the market (25 points).

B. *Tour Development.* Applications for tour development grants will be evaluated according to the following:

1. Planning of the travel mission (25 points), including:
   a. Focus upon gaining the interest of qualified foreign wholesalers, and
   b. Effort made to educate foreign retail outlets on the benefits and features of tour destinations to be sold; and
2. Implementation of the program (25 points), including:
   a. Time frame as it relates to the projected results, and
   b. Tourists and revenues produced in relation to project cost (a minimum of 25-1 return on investment is suggested).

C. *Visitor Facilitation.* Visitor facilitation programs include the establishment of such local services as language interpretation facilities; hospitality services for foreign visitors (training of hotel, restaurant, local transportation employees, etc.); use of international signs and symbols; and the establishment of currency exchange facilities within the local banking community.

Applications for visitor facilitation grants will be evaluated according to the following:

1. A determination of need for the services proposed based on number of visitors who will use them (20 points);
2. The plan designed to implement the project (10 points);
3. The availability of resources necessary to complete the proposed project (10 points); and

4. The long-term viability of the project or service without the need for additional Federal funding (10 points).

D. *Research.* Applications for research grants will be evaluated according to the following:

1. Demonstration of need for this type of research; expected results; compatibility of project with total economic development plan of the community; coordination of project with other organizations; and project follow-up (5 points);
2. Compatibility with national and international tourism issues (5 points);
3. Need for assistance in applicant's area and potential for tourism development in the area (20 points);
4. Quality and reliability of data-gathering techniques to be utilized (15 points); and
5. Value of project in terms of its contribution and usefulness to those who may wish to use it as a model in their efforts to undertake similar projects (5 points).

E. *Media Product Information.* Media product information projects include the development of familiarization tours for journalists, dissemination of product information on the destination, and identification of the best media approaches.

Applications for media product information grants will be evaluated according to the following:

1. Program content and potential acceptance by the target media (20 points);
2. Correlation of media program with applicant's overall tourism marketing strategy (20 points); and
3. Project cost versus media space time return (a minimum 10-1 return on investment is suggested) (10 points).

F. *Travel Trade Development.* Travel Trade Development projects are those which support ongoing marketing programs directed toward the members of the travel trade industry in foreign market countries.

Applications for travel trade development grants will be evaluated according to the following:

1. Techniques designed to create an awareness and encourage selling of the destination to the consumer (15 points);
2. Implementation time and project life after grant expiration (15 points); and
3. Goals of program and method proposed to measure program results (20 points).

G. *International Convention Sales.* The following conditions apply to all international convention grants:

1. Applications will be considered only for equipment and services to provide simultaneous language translations at international meetings;
2. The international meeting must have an expected registration of at least 50 foreign participants;
3. Funding may not exceed $10,000 or half the cost of the services and equipment, whichever is less. Allowable funding is as follows: a. $10.00 per foreign participant from 50 to 500, b. $5.00 per foreign participant from 501 to 1,000, and c. $2.50 per foreign participant over 1,001;
4. The final technical report must include a listing, by country, of the numbers of foreign participants.

Applications for international convention sales grants will be evaluated according to the following:

1. Verification that the group is an international convention (5 points);
2. Verification that the international convention has a valid U.S. affiliate (5 points);
3. Coordination with USTS in site decision (25 points);
4. Number of foreign attendees (5 points);
5. Estimated revenue (5 points); and
6. Capability of destination area to accommodate convention participants (5 points).

SONYA J. GILLIAM,
Management Information Assistant, Office of State City Affairs, U.S. Travel Service.

[FR Doc.77-23415 Filed 8-11-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to procurement list 1977 commodities to be produced by workshops for the blind or other severly handicapped.

EFFECTIVE DATE: August 12, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C.W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: On June 24, 1977, and April 22, 1977, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 32288 and 20844) of proposed additions to procurement list 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1977:

CLASS 7510

Board, Wall Calendar, 7510-00-789-2455

CLASS 7520

Book Ends (Steel, Beige) 7520-00-139-6158

C. W. FLETCHER,
Executive Director.

[FR Doc.77-23347 Filed 8-11-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The committee has received a propsal to add to procurement list 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 15, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to procurement list 1977, November 18, 1976 (41 FR 50975):

CLASS 8465

Necklace, Personal Identification 8465-00-[illegible]

C. W. FLETCHER,
Executive Director.

[FR Doc.77-23348 Filed 8-11-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

August 1 Through August 5, 1977

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 1 through August 5, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (September 26, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Ernest Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture Room 307A, Washington, D.C. 20250 202-447-6827.

FOREST SERVICE

Draft:

Cougar Lakes Wilderness Study, Yakima, Lewis Counties, Wash., August 5: Proposed is the development of a long-term management direction for the Cougar Lakes Wilderness Study consisting of 176,791 acres. The preferred alternative proposes the classification of approximately 138,854 acres of National Forest land as wilderness under the

Wilderness Act of 1964. The area is within the Naches and Tieton Ranger Districts of the Mt. Baker-Snoqualmie National Forest and the Packwood Ranger District of the Gifford Pinchot National Forest. (ELR Order No. 70956.)

Final

Mohawk Unit Plan, Plumas and Tahoe National Forest, Plumas, Sierra Counties, Calif., August 2: This statement concerns six different land use plans located within portions of the Beckwourth, LaPorte and Quincy Ranger Districts (Plumas National Forest) and the Downieville Ranger District (Tahoe National Forest) in California. These land use plans apply to 120,620 acres of National Forest land. Approximately 1,365 acres of private land are planned for acquisition in Plumas County and approximately 1,135 in Sierra County. Comments made by: USDA, EPA, DOI, DOT, COE, AHP State and local agencies and concerned groups and individuals. (ELR Order No. 70944.)

Alpine Unit Plan, Toiyabe National Forest, California, Nevada, August 5: Proposed is a land use plan for the 221,529 acre Alpine Planning Unit, Toiyabe National Forest. The unit is located in Alpine County, California with smaller portions in Eldorado County, California and Douglas County, Nevada. The plan establishes objectives and policies for the land, water, air, recreation and wilderness, timber, range, wildlife, and human and community development resource systems. Temporary adverse effects will result on existing vegetation soil movement, air and water quality, and wildlife habitat. Comments made by: EPA, AHP, USDA, DOT, HEW, DOI, State and local agencies, and concerned individuals and groups. (ELR Order No. 70957.)

Big Creek Dam, Selway Bitteroot Area, Ravalli County, Mont., August 5: Proposed is the reconstruction of the existing Big Creek Dam in the 1,239,840-acre Selway-Bitteroot Wilderness, Montana. The statement discusses the importance of stored water provided by the dam in maintaining agricultural production on 5,250 acres of land owned by the 44 shareholders who operate the dam under special use permit. Alternative methods of reconstruction are analyzed, and the use of motorized equipment is proposed both for transporting materials to the site and in construction. Adverse impacts include disturbance of vegetation and soil, and subjection of the lake system and its fishery to unnatural water level fluctuations. Comments made by: USDA, DLAB, EPA, AHP, DOI, State and local agencies, and concerned groups and individuals. (ELR Order No. 70955.)

Green Mountain National Forest, Timber Management Plan, several counties, Vt., August 3: Proposed is a 10-year Management Plan for the Green Mountain National Forest to cover the period of January 1, 1977 to September 30, 1986. The program harvest for the period will average 69 percent of the potential yield, which is 206.6 M cunits of sawlogs and 256.0 M cunits of products annually. The plan also discusses silvicultural prescriptions, reforestation, timber stand improvement, transportation development, and protection. Adverse effects include the temporary degradation of the visual resource, and temporary increases in stream turbidity. Comments made by: EPA, DOI, State and local agencies, and concerned groups and individuals. (ELR Order No. 70947.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Boardman Coal Plant, Morrow County, Oreg., August 4: Proposed is the use of REA financing by Pacific Northwest Generating Company for a 10% share of the Boardman Coal Plant and associated transmission and support facilities. The project includes a 1400-acre cooling reservoir, a 500-acre ash disposal area, a 500 kv transmission line (approximately 17 miles) and a 230 kv transmission line (approximately 17.5 miles). Operation of the unit will result in the emission of nitrogen and sulfur oxides. Transmission right-of-way will require approximately 1,650 acres of land for the 39 miles of lines. Air and noise pollution levels will be increased. (ELR Order No. 70949.)

SOIL CONSERVATION SERVICE

Draft

Pine Creek Watershed, Scott County, Tenn., August 3: Proposed is a watershed project to reduce floodwater damages to farmland and to floodplain within the city of Oneida, Tennessee. The plan calls for an increased amount of conservation land treatment; a multiple-purpose structure for flood prevention and municipal water supply; a multiple-purpose structure for flood prevention and recreation; and, channel work to increase design capacity and to incorporate improved SCS channel stability requirements. Adverse effects include the disturbance of 171 acres of flood plain. (ELR Order No. 70946.)

Tri-Creek Watershed, Monroe County, Wis., August 4: Proposed is a project for watershed protection, flood prevention, and recreational development in Monroe County, Wisconsin. To date, one floodwater retarding structure (No. 1) has been installed at a cost of about $1,039,000 and land treatment measures have been installed at a cost of about $104,700. The remaining planned works of improvement include conservation land treatment, four floodwater retarding structures, and one multiple-purpose structure for flood prevention and recreation. Adverse effects include increased air and noise pollution and the elimination of 32 acres of cropland, 66 acres of forestland, and 6 acres of grassland. (ELR Order No. 70951.)

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Col. Luis F. Dominguez, Departpartment of the Air Force, Room 5D 431, Pentagon, Washington, D.C. 20330, 202-697-7799.

Draft

MX: Buried Trench Construction and Test, Yuma County, Ariz., August 5: Proposed is the construction of two sections of underground tunnel in the San Cristobal Valley on the Luke Air Force Range in Yuma County, Arizona. The proposed construction project will provide essential cost and construction data to analyze conceptual protective structures for the mobile, land-based Intercontinental Ballistic Missile (ICBM) System known as MX. The trench will also serve as a test bed for mechanisms designed to punch through the tunnel roof and erect a dummy missile to simulate launch position. Long-term aesthetic degradation will result. (ELR Order No. 70954.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795

Draft

Lake Rebecca Park Development, Minnesota, August 2: Proposed is a plan for the enhancement of fish and wildlife values and the development of public use (recreation) facilities at Lake Rebecca, a backwater lake located in Hastings, Minnesota, adjacent to Lock and Dam No. 2 on the Mississippi River. This statement presents information concerning existing conditions on and related to the site, and a plan based upon the needs of the community, the capability of the resource, and the willingness of the local sponsor to participate. (St. Paul District.) (ELR Order No. 70942.)

Apra Harbor, Guam—Rivers and Harbors, Trust Territory of the Pacific, August 2: This statement examines the feasibility of expanding the existing port facilities and evaluates commercial navigation and related land resource problems in the Apra Harbor area, Guam. The proposed plan would provide additional berths by extending the existing bulkhead 400 feet eastward in a straight alignment and deepen the existing access channel to a project depth of −35 feet. The Channel would be dredged in a configuration 400 feet long and varying between 200 and 400 feet wide. (Pacific Ocean District.) (ELR Order No. 70937.)

Final

Black River Flood Control Project, Harnett County, N.C., August 1: Proposed is the construction of a 5.1 mile long, 35 foot bottom width channel to reduce flooding along the Black River near Dunn. Adverse effects include the loss of about 90 acres of bottomland through clearing and a possible reduction in the natural productivity of additional hardwood bottomlands, loss of natural resources in 5.8 miles of black water stream habitat, and degradation of Rhodes Pond. (Wilmington District.) Comments made by: USDA, HEW, EPA, USCG, concerned groups, and individuals. (ELR Order No. 70930.)

Supplement

Lake Brownwood, Pecan Bayou (S-2), Brown County, Tex., August 2: This statement supplements a final EIS filed with CEQ in September, 1975. Proposed is the construction of a composite earth filled embankment and protective measures for the spillway at Lake Brownwood on Pecan Bayou, Colorado River. The proposed project will preserve the present values of the lake for flood control, water supply, recreation, and other related purposes. The project will result in a major loss of agricultural production on 383 acres of cropland to be utilized as material for the embankment. (ELR Order No. 70938.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Final

Grand Strand Region Wastewater System, Horry County, Ga., August 4: Proposed is the construction of regional wastewater facilities to service the Grand Strand 201 area in South Carolina. The project consists of 3 wastewater treatment facilities with accompanying outfall lines and interceptor systems. Plant A will be a 6.0 MGD facility discharging into the Intracoastal Waterway. Plants G and C will have capacities of 6.0 MGD and 2.4 MGD respectively discharging into the Waccama River. Adverse impacts include soil erosion and a decrease in biological productivity of the flood-plain. (Region IV.) Comments made by: COE, DOD, DOC, HEW DOI, HUD, State and local agencies, and interest groups. (ELR Order No. 70950.)

Des Moines 208 Waste Treatment, Dallas, Polk, and Warren Counties, Iowa, August 2: Proposed is the implementation of the Des Moines Metropolitan Areawide Waste Treatment Management Plan. The proposed plan includes structural and nonstructural programs for the control of point, intermittent point and nonpoint pollution sources. Temporary adverse effects resulting from construction activities will be the disruption

and relocation of wildlife, augmented construction noise levels, disturbance of existing vegetation, and disruption of existing land uses. (Region VII.) Comments made by: DOT, DOI, HEW, COE, USDA, State and local agencies, and concerned individuals. (ELR Order No. 70939.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-9760.

Supplement

Naptha Allocation for SNG Production (S-1), Pike County, Ind., August 4: This statement is the "Conservation Supplement" to a Draft EIS filed with CEQ in December 1976 pertaining to the construction and operation of the proposed Indiana Gas Company's synthetic natural gas plant to be located in Pike Township, Indiana. The Federal Energy Administration determined that the DEIS should be supplemented by the inclusion of a conservation section, as a result of comments received on the draft. (ELR Order No. 70952.)

Weeks Island/Cote Blanche Mines (S-1) Iberia and St. Mary Counties, La., August 5: This statement supplements a final EIS filed with CEQ in January 1977, and relates to the development of an 80 million barrel crude oil storage facility at the Weeks Island Mine and a 27 million barrel crude oil storage facility at the Cote Blanche Island Mine. The oil transportation systems proposed in the Final EIS have been revised to provide direct connection by pipeline to the existing oil distribution system at St. James, Louisiana. This supplement is concerned with the construction and operation of this revised oil distribution system. (ELR Order No. 70958.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Final

Belinda City Subdivision, Wilson Co., Wilson County, Tenn., August 2: Proposed is the granting of an application by Belinda City, Inc., a private development company, for HUD Subdivision Feasibility Analysis. The purpose of such application is to attempt to qualify proposed housing construction for FHA Home Mortgage Insurance and VA Home Loan Guarantees. The site of the proposed development is within two miles of the Nashville-Davidson County line, and its development will affect both Wilson and Davidson Counties in Middle Tennessee. Marginally productive agricultural and woodlands will be converted into a primarily residential community. Comments made by: FPC, HEW, DOT, USDA, TVA, COE, GSA, DOI, EPA, ERDA, State and local agencies, concerned groups, and individuals. (ELR Order No. 70934.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Dr. Myron S. Malkin, Director, Space Shuttle Program, National Aeronautics and Space Administration, Washington, D.C. 20546, 202-755-3247.

Draft

Space Shuttle Program (2), August 5: The proposed program entails the development of a reusable space shuttle system for carrying payloads to near-earth orbit and back to earth, production of the necessary vehicles, and operations beginning in 1979 and extending for at least a decade. This revision of a 1972 broad program statement considers systems design changes and other recently derived information in assessing environmental effects. Potential adverse effects include air pollution and noise from rocket exhausts at test and launch sites, sonic boom at launch and landing sites and a small decrease in stratospheric ozone concentration. (ELR Order No. 70961.)

NATIONAL CAPITAL PLANNING COMMISSION

Contact: Patricia Spillenkothen, Chief, Office of Environmental Affairs, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C., 202-724-0215

Draft

Washington, D.C., Civic Center, District of Columbia, August 4: Proposed are a site location and program for the Washington, D.C. Civic Center and adoption of related modifications to the Comprehensive Plan and the Urban Renewal Plan. The action involves the transfer of jurisdiction over U.S. Reservation 174 from the National Park Service to the District of Columbia. The site consists of three privately held blocks and a small triangle of park land bounded by Ninth Street H Street, Eleventh Street, and New York Avenue, N.W., and has an area of 9.7 acres. The center will cover approximately 90% of the site and will consist of a ground level exhibit hall, two levels of meeting and restaurant space, and underground parking—approximately 896,500 gross square feet of enclosed floor area. (ELR Order No. 70941.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357

FEDERAL HIGHWAY ADMINISTRATION

Draft

University Blvd., U.S. 90—Persons Dr., Mobile County, Ala., August 1: Proposed is the construction of sections of University (Highpoint) Boulevard, a north-south arterial route through the western area of the city of Mobile, Alabama. The project begins at U.S. Highway 90 and ends at Persons Drive North of U.S. Highway 98. The total length of the project, including sections already open to traffic is 7.8 miles; the length of sections remaining to be constructed is approximately 4.7 miles. The new facility will be a 5-lane urban highway with curb and gutter. Adverse effects include the relocation of as many as 9 families. (Region 4.) (ELR Order No. 70931.)

I-494, 24th Avenue—Miss R. Bridge, Minnesota, August 1: The proposed action provides for the construction of the only uncompleted section of the I-494 694 beltway route that encircles the Twin Cities metropolitan area. This section would be approximately 11 miles long and would pass through the cities of Bloomington, Eagan, Mendota Heights, Inver Grove Heights, Sunfish Lake, and South St. Paul. The proposed section of I-494 will be a 6-lane divided freeway. It will begin near 24th Avenue in Bloomington and extend eastward to the Mississippi River Bridge in South St. Paul. A 4(f) statement is included concerning portions of Fort Snelling State Park. (Region 5.) (ELR Order No. 70932.)

Corridors C and D, Rail Relocation, Lincoln, Lancaster County, Nebr., August 2: Proposed is a demonstration project to alleviate highway/rail conflicts, financed under Section 163 of the 1973 General-Aid Highway Act. The project covers Corridors C and D which are two of six proposed rail-corridor improvement programs for Lincoln, Nebraska designated as Corridors A-F. The Corridor C CR&P, UP and BN railroads, separate, parallel movements into a single common corridor. The relocation and consolidation will result in eliminating a total of 36 existing highway rail crossings. (ELR Order No. 70936.)

I-235 (Central Expressway), to I-35 and I-40, Oklahoma County, Okla., August 2: Proposed is the construction of a multi-lane, directionally-divided, controlled-access highway for the purpose of connecting the existing North Broadway Extension and Interstate 35/40 in Oklahoma City, Oklahoma. Also included in this proposal is the upgradings of the existing I-35 I-40 Interchange. Five I-235 alternatives and their respective impacts are discussed. Subject to the alternate selected, up to 180 acres of land would be acquired and up to 680 housing units, 54 businesses, and 8 institutions would be displaced. (Region 6.) (ELR Order No. 70940.)

Final

Columbus-Phenix City North Bypass, Alabama and Georgia, August 2: Proposed is the construction of a four-lane, limited access facility between an interchange just inside the Georgia line north of Columbus to State Route 85 (U.S. 27A). Approximately 10 households, and no businesses will be displaced. The Georgia project will ultimately link with Alabama project M-2022 and provide a limited access connector on the north side of the City of Columbus, Georgia and Phenix City, Alabama extending from S.R. 85 (Columbus-Manchester Expressway) in Georgia to U.S. 431 in Alabama. Comments made by: DOC, USDA, HUD, DOI, EPA, COE, and State and local agencies. (ELR Order No. 70935.)

Final

S.R. 43, Winona County, Minn., August 1: Proposed is a 6.6 mile relocation of Minnesota Highway 43 from Interstate 90 to Wilson to U.S. 61-14 in Winona. This two-lane highway is being proposed for reconstruction as a four-lane expressway with controlled access and having access points at selected sites along the route. Adverse effects include the acquisition of 75 acres of agricultural cropland, 55 acres of woodland, nine residences and three businesses. Also considered to be detrimental is 7,150 feet of channel change relocation. (Region 5.) Comments made by: DOI, HEW, COE, USDA, AHP, USCG, DOT, EPA, State and local agencies. (ELR Order No. 70933.)

Tellico Plains-Robbinsville Highway, North Carolina-Tennessee, August 4: Proposed is the completion of the Tellico Plains-Robbinsville Highway, Tennessee Federal-aid Secondary Route 165 and North Carolina Federal-aid Secondary Route 3023. The unconstructed portion approximately 19.2 miles in length extends from Santeetlah Gap in North Carolina to a point in Tennessee, 2.5 miles west of Beech Gap. About 16.7 miles of the proposal is located in Graham County, N.C., and 2.5 miles in Monroe County, Tenn. Construction will require the clearing of 307 acres of forest and the crossing of 13 live streams. (Region 4.) Comments made by: USDA, COE, DOC, EPA, FPC, GSA, HEW, DOI, ICC, OEO, TVA, State and local agencies. (ELR Order No. 70953.)

Everett Bypass, Bedford County, Pa., August 2: The proposed action is the construction of the Everett Bypass in Bedford County, Pa. The project consists of 2.5 miles of relocated U.S. 30 in conjunction with a 2.5 mile relocation of Pennsylvania Traffic Route 26 north of the Everett Borough business

district. The U.S. 30 relocation will be a 4-lane divided highway with limited access and the T.R. 26 relocation will be a 2-lane highway with free access. Adverse impacts include the displacement of 58 residential dwelling and 14 businesses and the elimination of 210 acres of forested and tillable agricultural land, and subsequently, an associated amount of wildlife habitat. (Region 3.) Comments made by: EPA, COE, USDA, DOI, HUD, State and local agencies, interest groups. (ELR Order No. 70943.)

Route 15 and Route 6 Relocations, Mansfield, Tioga County, Pa., August 3: The proposed highway improvements are intended to provide 4-lane limited access relocation of the portion of Traffic Route 15 from Sebring to Mansfield and Traffic Route 6 from east of Mansfield to west of Mansfield. The project will displace an unspecified number of families and businesses and will contribute to development along the route. (Region 3.) Comments made by: USDA, COE, HUD, GSA, EPA, FPC, DOT, DOI, State and local agencies. (ELR Order No. 70945.)

Supplement

I 95, Petersburg to I-64 Interchange (S-1), Henrico County, Va., August 1: This statement supplements a draft EIS filed with CEQ in July 1976. The proposed project is a coordinated action which involves the completion of Interstate Route 95 on new location from south of Petersburg to the vicinity of the proposed interchange of Interstate Route 95 and Interstate Route 64 in Henrico County east of Richmond which retains an Interstate connection between I-85 and I-95 south of Petersburg. The statement defines the need for the overall project and presents supplemental information on alternates in the northern part of the study area. (Region 3.) (ELR Order No. 70929.)

VETERANS ADMINISTRATION

Contact: For housing programs—Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420 (202-389-2691); Medicine and surgery—Mr. Jon E. Baer, Chief, Environmental Planning Division, Veterans Administration, Washington, D.C. (202-389-3316).

Draft

VA Cemetary at Riverside, Calif., Riverside County, Calif., August 3: Proposed is the development of a new cemetary for the interment of Veterans at Riverside, Calif. The 750 acre site will include approximately 500 burial acres with a capacity of 437,000 burials, plus additional space for columbariums: Initial construction will supply burial sites for 40,000 interments, and Administration Building, Maintenance Center, and a water impoundment area which will serve a dual function not only as a vocal point of landscape, but as storage for irrigation water. Adverse impacts include additional traffic generated by funeral processions and visitors to the site. (ELR Order No. 70948.)

NICHOLAD C. YOST,
Acting General Counsel.

[FR Doc.77-23360 Filed 8-11-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 776-5; PP 6G1750/T124]

HEXADECYL CYCLOPROPANECARBOXYLATE

Extension of Temporary Tolerances

On July 8, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 28002) that in response to a pesticide petition (PP 6G1750) submitted to the Agency by Zoecon Corp., 975 California Ave., Palo Alto CA 94304, temporary tolerances were established for residues of the insecticide hexadecyl cyclopropanecarboxylate in or on the raw agricultural commodities apples and pears at 3 parts per million (ppm) and citrus fruits at 1 ppm (all of which are intended for the fresh-fruit market only). These temporary tolerances expired June 30, 1977.

Zoecon Corp. requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that was extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973 89 Stat. 751; 7 U.S.C. 136 (a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire June 30, 1978. Residues not in excess of 3 ppm remaining in or on apples and pears and 1 ppm in or on citrus fruits (all intended for the fresh-fruit market only) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St. SW., Washington DC 20460 (202/755-4851).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(a)(j))))

Dated: August 4, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-23251 Filed 8-11-77;8:45 am]

[FRL 776-3]

IOWA

Approval of State Application for Drinking Water Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et eq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Mr. Larry E. Crane, Executive Director, Iowa Department of Environmental Quality, has submitted to the Environmental Protection Agency (EPA) an application to assume primary enforcement responsibility over public water supply systems in the State of Iowa.

Notice is hereby given that the Regional Administrator, EPA, Region VII, has approved this application for primary enforcement authority, to become effective on (30 days after the date of publication of this notice). This action is based on a thorough evaluation of the state's public water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

1. State primary drinking water regulations;
2. An inventory of public water supply systems;
3. A systematic program of sanitary surveys;
4. A state program for certification of laboratories;
5. State laboratory facilities certified by EPA;
6. A public water supply system plan review program;
7. Adequate statutory or regulatory enforcement authority;
8. Record-keeping and reporting procedures;
9. A program for issuing variances and exemptions;
10. A plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the Iowa program fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination within 30 days of the publication of this notice. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

Kathleen Q. Camin, Ph.D., Regional Administrator, U.S. Environmental Protection Agency, 1735 Baltimore, Kansas City, Mo. 64108.

and shall include the following information:

1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.
3. The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Iowa application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Iowa:

The Iowa Department of Environmental Quality, 3920 Delaware Avenue, Des Moines, Iowa 50316.

Dated: August 4, 1977.

KATHLENE Q. CAMIN, Ph. D.,
Regional Administrator,
Region VII.

FR Doc77-23254 Filed 8-11-77;8:45 am]

[FRL 776-6; PP 7G1902/T125]

OXADIAZON

Establishment of Temporary Tolerances

Rhodia, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, submitted a pesticide petition (PP 7G1902) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for combined residues of the herbicide oxadiazon (2-*tert*-butyl -4- (2, 4-dichloro-5-isopropoxyphenyl-Δ^2 -1,3,4-oxadiazolin-5-one) and its metabolite 2-*tert*-butyl-4-(2, 4-dichloro - 5 - hydroxyphenyl) - Δ^2 - 1,3,4 - oxadiazolin-5-one in or the raw agricultural commodities peanut hulls (shells) at 1 part per million (ppm) and peanuts (nutmeat) and peanut forage and hay (dry vines) at 0.5 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimentail use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat., 973, 89 Stat. 751; 7 U.S.C. 136 (a) et seq).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. Rhodia, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on requests make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 13, 1978. Residues not in excess of 1 ppm remaining in or on peanut hulls and 0.5 ppm in or on peanuts and peanut forage and hay after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registration Section, Registration Division (HH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St., SW. Washington, D.C. 20460 (202-755-4851).

(Section 408(j) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: August 4, 1977.

DOUGLAS D. CAMPT,
Director,
Registration Division.

[FR Doc 77-23252 Filed 8-11-77;8:45 am]

[FRL 776-7; PP 5G1579/T126]

5-CHLORO-3-METHYL-4-NITRO-1H-PRYAZOLE

Extension of a Temporary Tolerance

On June 22, 1977, the Environmental Protection Agency (EPA) gave notice (42 FR 31642) that in response to a pesticide petition (PP 5G1579) submitted to the Agency by Abbott Laboratories, Agricultural and Veterinary Products Div., North Chicago, IL 60064, a temporary tolerance was established for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1*H*-pyrazole in or on the raw agricultural commodity oranges at 0.1 part per million (ppm). This temporary tolerance is scheduled to expire April 30, 1978.

Abbott Laboratories requested a two-month extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit that was extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. Abbott Laboratories must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires June 30, 1978. Residues not in excess of 0.1 ppm remaining in or on oranges after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St., SW., Washington, D.C. 20460 (202-755-4851).

Dated: August 4, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc 77-23253 Filed 8-11-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 27, 1977.

Released: August 4, 1977.

By the Chief, Broadcast Bureau

Notice is hereby given, pursuant to Section 1.572(c) of the Commission's Rules, that on September 13, 1977, the TV broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 12, 1977 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on September 13, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary

BPCT-5025 (new), Seattle, Wash., Trinity Broadcasting of Seattle, Channel 22. ERP, Vis.: 1000 kW; HAAT: 1,316 ft.

BPCT-5026 (new), Rochester, N.Y., Malrite TV of New York, Inc., Channel 31. ERP, Vis.: 1,000 kW; HAAT: 606 ft.

BPCT-5035 (new), Oklahoma City, Okla., Christian Broadcasting Co. of Oklahoma, Inc., Channel 43. ERP, Vis.: 1,090 kW; HAAT: 1,480 ft.

BPCT-5036 (new), West Palm Beach, Fla., Malrite of Florida, Inc., Channel 25. ERP, Vis.: 4,208 kW; HAAT: 971 ft.

BPCT-5037 (new), Springfield, Ill., Windmill Broadcasting Co., Channel 55. ERP. Vis.: 12.13 kW; HAAT: 453 ft.

BPCT-5039 WCTI-TV New Bern, N.C., Malrite of North Carolina, Inc., Channel 12. Change ERP. Vis.: 158.5 kW; HAAT: 1,932 ft.

BPCT-5040 KMOS-TV Sedalia, Mo., Central Missouri State University, Channel 6. Change ERP. Vis.: 94 kW; HAAT: 441 ft.

BPCT-5041 KUAM-TV Agana, Guam, Pacific Telestations, Inc., Channel 8. Change ERP. Vis.: 22.03 kW; HAAT: 996 ft.

BPCT-5044 (new), McAllen, Tex., Tesora Broadcasting Co., Channel 48. ERP. Vis.: 1,213 kW; HAAT: 1,464.1 ft.

BPCT-5049 (new), Green Bay, Wis., TV 26 Incorporated, Channel 26. ERP. Vis.: 224 kW; HAAT: 565 ft.

BPCT-5053 (new); Santa Fe, N.M., SON Broadcasting, Inc., Channel 11. ERP. Vis.: 90 kW; HAAT: 4,090 ft.

BPCT-5055 (new), Norfolk, Va., Television Corporation of Va., Channel 33. ERP. Vis.: 1,135 kW; HAAT: 910 ft.

BPCT-5056 (new), Tampa, Fla., Christian Television Corporation, Inc., Channel 28. ERP. Vis.: 745 kW; HAAT: 1,429 ft.

BPCT-5057 (new), Denver, Colo., Trinity Broadcasting of Denver, Inc., Channel 31. ERP. Vis.: 2,703 kW; HAAT: 975 ft.

BPCT-5058 (new), Myrtle Beach, S.C., King Communications, Inc., Channel 43. ERP. Vis.: 1,740 kW; HAAT: 274 ft.

BPCT-5068 KOTV Tulsa, Okla., KOTV, Inc., Channel 6, Change ERP. Aur. 15 kW; HAAT: 274 ft.

BPCT-5071 (new), Jacksonville, Fla., Malrite of Jacksonville, Inc., Channel 30. ERP. Vis.: 4,176 kW; HAAT: 976 ft.

[FR Doc.77-23383 Filed 8-11-77;8:45 am]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Correction

AUGUST 5, 1977.

The first paragraph of the Public Notice (87291) released August 4, 1977, TV broadcast applications ready and available for processing pursuant to section 1.527(c) of the Commission's Rules, should be corrected to read as follows:

Notice is hereby given, pursuant to Section 1.572(c) of the Commission's Rules, that on September 13, 1977, the TV broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 12, 1977 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on September 12, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23384 Filed 8-11-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of a meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) to be held on August 23 and 24, 1977, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, beginning at 9:00 a.m. on August 23. The agenda is as follows:

1. Prepare the documents for a response to questions referred to the IWP by the Standing Group on the Oil Market (SOM) on the petroleum price and cost reporting system and on the financial reporting system.

2. Finalize procedures for reporting the IWP response to the SOM.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., August 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-23276 Filed 8-11-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP76-4]

NATIONAL FUEL GAS SUPPLY CORP.

Order Approving Pipeline Rate Settlement With Reserved Issue

AUGUST 5, 1977.

On September 27, 1976, the Presiding Administrative Law Judge certified to the Commission a proposed settlement agreement in the captioned proceeding. On April 18, 1977, National Fuel filed a revision to the settlement agreement. If approved, the certified settlement agreement together with the April 18, 1977, revision would resolve all issues in the proceeding except that of rate design, which issue is reserved for hearing. For the reasons set forth below, the Commission finds that the proposed settlement agreement is reasonable and should be approved.

This proceeding was initiated on August 15, 1975, when National Fuel Gas Supply Corp. (National Fuel) tendered for filing tariff sheets designed to produce an annual increase in jurisdictional revenues of $12,484,000 based upon the base period ending April 30, 1975, as adjusted. The August 15, 1975, filing included some adjustments to cost of service occurring outside of the test period. National Fuel was advised of this deficiency by letter dated September 12, 1975, and on September 22, 1975, National Fuel submitted revised material which excluded the out-of-period costs and reduced the proposed increase to $11,905,000. By order issued October 21, 1975, the Commission accepted the proposed increase, as corrected, for filing, suspended the effectiveness of the increased rates until March 1, 1976, and set the matter for hearing.

Following the conclusion of settlement discussions among the parties, the proposed settlement agreement was submitted to the Presiding Administrative Law Judge with a request that it be certified to the Commission. Public notice of the certification was issued on October 6, 1976, with comments due on or before October 22, 1976. The Commission staff filed timely comments in support of the agreement. No other comments were received.

On February 23, 1977, a conference was held to discuss the proper rate treatment of the cost of National Fuel's gas production. Under the settlement agreement certified on September 27, 1977, this issue was reserved for decision by the Commission. As a result of the conference, National Fuel filed with the Commission on April 18, 1977, revisions to the settlement agreement which purported to resolve the corporation-owned production issue and which reduced the settlement cost of service by $23,666. Notice of the filing was issued on May 9, 1977, with comments due on or before May 23, 1977. Timely comments in support of the revision to the settlement were filed by the staff, the New York Public Service Commission and the Pennsylvania Public Utilities Commission. No adverse comments were received.

The settlement rates as shown in Appendix A are predicated upon a total jurisdictional cost of service of $225,674,133, as set forth in Appendix B. The settlement cost of service includes a rate of return on National Fuel's net investment rate base of 9.70 percent. The return on common equity is set at 12 percent. (See Appendix C.) The settlement rates reflect estimated annual sales of 201,037,000 Mcf, an increase from the 199,463,975 Mcf originally estimated in National Fuel's filing. Purchased gas costs included in the settlement cost of service totaling $162,935,680, reflect supplier rates in effect as of March 1, 1976, and do not include the cost of emergency purchases.

Article I of the settlement provides that within ten days of Commission approval, the company will file revised tariff sheets reflecting settlement rates to be effective March 1, 1976.

Article V sets forth the method by which refunds will be made. The rates originally filed (exclusive of the 1.41 cents per Mcf PGA surcharge) are 113.87 cents per Mcf for Rate Schedule G-1 and 118.45 cents per Mcf for Rate Schedule G-1A. Settlement rates as shown in Appendix A are 109.76 cents and 114.63 cents per Mcf respectively. Therefore, the refund shall be calculated at the rate of 4.11 cents per Mcf for Rate Schedule G-1 sales and 3.82 cents per Mcf for sales made under Rate Schedule G-1A.

Article VI identifies rate design as the only reserved issue. The parties stipulate that any changes to rate design made by Commission order in this proceeding shall have prospective effect only. The hearing on the rate design matter was held on September 21, 1976, and the initial decision was issued by the Presiding Administrative Law Judge on December 10, 1976. The issue is now before the Commission for final decision.

Based upon a review of the record in this proceeding, including the settlement agreement itself and the pleadings, evidence, and comments submitted in support thereof, the Commission finds the proposed settlement represents a reasonable resolution of the issues in this proceeding in the public interest and that the settlement agreement should accordingly be approved and adopted, as hereinafter ordered.

The Commission orders:

(A) The settlement agreement in this proceeding, certified to the Commission on September 27, 1976, as revised on April 18, 1977, is incorporated by reference and is approved and adopted.

(B) Within 10 days after the date of this order National Fuel shall file revised tariff in accordance with the terms of the settlement agreement and of this order.

(C) National Fuel shall refund to its customers all amounts collected since March 1, 1976, in excess of settlement rates plus interest at nine percent per annum. Refunds to each customer shall be made, pursuant to the settlement agreement by a credit to the first billing subsequent to the effective date of the settlement rates. Within 15 days after all such refunds are made, National Fuel shall submit a report of such refunds and interest to the Commission.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the staff or any other party or person affected by this order in any proceeding now pending or hereafter instituted by or against National Fuel or any other person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

NATIONAL FUEL GAS SUPPLY CORP.—*Docket No. RP76-4—Settlement cost of service*

Item	Dollar amounts
Cost of gas purchased	162,935,680
Other operating and maintenance expenses	31,098,227
Depreciation, depletion and amortization	4,021,888
Taxes other than income taxes	3,284,008
Federal income taxes	7,808,088
State income tax	1,065,776
Return, after interest credit	14,594,046
Other operating revenues—credit	(230,180)
Total cost of service	225,674,133

[Docket No. RP75-80]

ALABAMA-TENNESSEE NATURAL GAS CO.

Revisions and Additions to FPC Gas Tariff

AUGUST 5, 1977

Take notice that on July 15, 1977, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Ala. 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, tariff sheets designed to accomplish a settlement of the remaining issues in this proceeding not heretofore resolved. The newly filed tariff sheets are proposed to become effective on August 12, 1977.

Pursuant to an agreement of the parties, a new Paragraph (e) to Section 4 of Rate Schedule G-1 is contained in Substitute First Revised Sheet No. 6 which provides for a Determination of Billing Demand for buyers using supplemental gas supplies in addition to their purchase of natural gas from Alabama-Tennessee.

Also in accordance with the agreement of the parties, a new Rate Schedule T-1 providing a new transportation service is contained in Original Sheet Nos. 13-A through 13-E. The rate for this new service consists of a commodity charge of 20¢ for all gas transported under the new Rate Schedule T-1. A new section 24 to Section 22 of the General Terms and Conditions has been added as contemplated by the Initial Decision, and will be effectuated by First Revised Sheet No. 36-D through E, Third Revised Sheet No. 36-F, Second Revised Sheet No. 36-G and First Revised Sheet No. 36-H to permit arrangements be-

NATIONAL FUEL GAS SUPPLY CORP.—*Docket No. RP76-4—Capitalization and rate of return*

[May 1, 1976]

	Amount	Percent	Cost of capital, percent	Weighted return
Long-term debt	$166,065,000	43.05	7.00	3.05
Preferred stock	30,000,000	7.64	9.50	.73
Deferred taxes	188,564,000	49.31	12.00	5.92
Common equity				
Total	382,572,000	100.00		9.70

[FR Doc.77-23279 Filed 8-12-77;8:45 am]

tween Buyers to protect their service by transferring gas volumes amongst themselves with delivery by Alabama-Tennessee to the receiving Buyer.

There are also included in the filing revisions to Paragraphs 1 and 3 to Article I of the Form of Service Agreement to enable its customers to obtain supplemental supplies of gas, which would be transported by Alabama-Tennessee under specified ocnditions, to the extent that Alabama-Tennessee is unable to meet the full requirements of a Buyer. These changes would be effected by First Revised Sheet No. 37 and Substitute First Revised Sheet Nos. 38 and 39. A new Form of Service Agreement for use under the Transportation Service Rate Schedule is provided for in Original Sheet Nos. 42–A through 42–E.

Alabama-Tennessee requests a waiver of the thirty-day notice provision of Section 4(d) of the Natural Gas Act and § 154.51 of the Commission's Regulations to permit the filed tariff sheets to become effective on August 12, 1977.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protests said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C 20426, in accordance with Sections 1.8 and 1.10. All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23300 Filed 8-11-77;8:45 am]

[Docket No. RP77-110]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 3, 1977.

Take notice that on July 19, 1977 Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Ala. 35630, tendered for filing as part of its FPC gas Tariff, Third Revised Volume No. 1 the following tariff sheets:

First Revised Sheet No. 33
First Revised Sheet No. 34
Original Sheet No. 34–A
Original Sheet No. 34–B

The above-designated tariff sheets are to become effective on August 18, 1977.

Alabama-Tennessee states that it is negotiating for new supplies to supplement its present supply from its sole supplier, Tennessee Gas Pipeline Company, which has been subjected to severe curtailments in recent years. Alabama-Tennessee further states that in order to contract for any new supply or supplies it is necesary that it be able to recoup from its customers the cost of such new supplies. The purpose of this filing, it is stated, is solely to accomplish that purpose.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10. All such petitions or protests should be filed on or before Augsut 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23284 Filed 8-11-77;8:45 am]

[RP72-110 (PGA77-10)]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

AUGUST 5, 1977.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas"), on July 15, 1977, tendered for filing Thirty-Second Revised Sheet No. 10 and Alternate Thirty-Second Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas, by its June 15, 1977 filing, has asked permission to track certain purchased gas costs related to gas supplied by Texas Eastern Transmission Corporation ("Texas Eastern") pursuant to the Emergency Natural Gas Act of 1977. Since the Commission has not yet accepted the above-mentioned filing, Algonquin Gas is filing these tariff sheets pursuant to its Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. Thirty-Second Revised Sheet No. 10 includes the cost of purchased gas related to gas supplied by Texas Eastern pursuant to the Emergency Natural Gas Act of 1977. Alternate Thirty-Second Revised Sheet No. 10 excludes the above-mentioned purchased gas costs. The rate adjustment, amounting to a net increase of $0.0093 per MMBtu under Thirty-Second Revised Sheet No. 10 and $0.0047 per MMBtu under Alternate Thirty-Second Revised Sheet No. 10 in Algonquin Gas' sales rates under applicable rate schedules, is being filed to amortize the balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account.

The proposed effective date of the revised tariff sheets is September 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23288 Filed 8-11-76;8:45 am]

[Docket No. RP72-142 (PGA77-7)]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 5, 1977.

Take notice that Cities Service Gas Company (Cities Service) on July 7, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based solely on increased purchase gas costs which will result from filings by one of its pipeline suppliers, Oklahoma Natural Gas Gathering Corporation (ONGG). The proposed effective date is August 23, 1977.

ONGG's increased rate reflected on its Twelfth Revised Sheet PGA–1 was accepted by Commission order issued June 22, 1977, in Docket No. RP72–115 (PGA 77–2) and permitted to become effective July 1, 1977.

Cities Service states that it has filed its Twenty-first Revised Sheet PGA–1 to reflect the rate on ONGG's Twelfth Revised Sheet PGA–1.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72–142 and RP76–135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23286 Filed 8-11-77;8:45 am]

[Docket No. CP77-521]

COLUMBIA GULF TRANSMISSION CO.

Pipeline Application

AUGUST 5, 1977.

Take notice that on July 25, 1977, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP77–521 an application for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Texas Eastern up to 90,000 Mcf/d of gas from Blocks 620 and 606, West Cameron Area, Offshore Louisiana. The gas will be transported through Columbia Gulf's facilities from a point of delivery in West Cameron Block 606 to a point in West Cameron Block 601, where it will be delivered to Tennessee Gas Pipeline Company (Tennessee) for the account of Texas Eastern. Tennessee will receive the gas in Block 601 as part of an exchange arrangement between Tennessee and Texas Eastern.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 29, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23292 Filed 8-11-77;8:45 am]

[Docket No. ER77-529]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Filing of Rate Schedule

AUGUST 5, 1977

Take notice that Columbus and Southern Ohio Electric Company (CSO), on July 29, 1977, tendered for filing proposed changes in its F.P.C. Electric Service Tariff contained in F.P.C. Docket No. E–9407. CSO indicates that the proposed changes would increase revenues from jurisdictional sales and service by $2,501,000 based on the twelve-month period ending June 30, 1978. CSO further indicates that the fuel adjustment clause contained in the proposed rate schedule has not been changed or altered from that which was in effect prior to the filing and conforms with present Commission regulations concerning the form of such clauses.

CSO states that it presently serves the Cities of Westerville, Jackson, and the Village of Glouster, all in Ohio, at wholesale rates which became effective as of June 2, 1975 (F.P.C. Docket No. E–9407).

CSO states that it also presently serves the City of Columbus, Ohio at wholesale contract rates which became effective as of January 1, 1976 (F.P.C. Docket No. ER76–459). CSO further states that it intends to notify the City of Columbus, pursuant to the terms of its contract with the City of Columbus, of its intention to terminate that contract as of December 31, 1977.

CSO requests waiver of the sixty-day provision contained in Section 35.13(b)(4)(i) and 35.13(b)(5)(i) of the Commission's regulations and asks that the rate schedule be made effective July 1, 1977. CSO states that the additional revenue is needed to help to offset increases in the cost of providing electric service as well as increases in the cost of facilities and capital required to provide such services.

According to CSO a copy of the filing has been served upon the Cities of Westerville, Jackson and Columbus, and the Village of Glouster.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc.77-23301 Filed 8-11-77;8:45 am]

[Docket No. ER77-445]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 4, 1977

Take notice that Duke Power Company (Duke Power) tendered for filing by letter dated July 11, 1977, a supplement to the Company's Electric Power Contract with Crescent Electric Membership Corporation, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 248.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in capacity and a reallocation of SEPA capacity and energy to preference customers. Duke Power indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests waiver of the Commission's notice requirements to allow for an affective date of June 20, 1977.

According to Duke Power a copy of this filing was mailed to Crescent Electric Membership Corporation, Inc. and to the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commisison, 825 North Capitol Street, N.E., Washington, D.C 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc 77-23281 Filed 8-11-77;8:45 am]

[Docket No. ER77-516]

FLORIDA POWER CORP.

Filing

AUGUST 3, 1977

Take notice that on July 14, 1977, Florida Power Corporation ("Florida

Power") tendered for filing a Contract For Interchange Service Between Florida Power Corporation and Florida Power & Light Company. Florida Power indicates the Contract replaces Florida Power's Rate Schedule FPC No. 75 and Supplement No. 1 and provides for the following services: emergency interchange energy, scheduled interchange energy, and economy interchange energy. Florida Power & Light Company's certificate of concurrence was included with the filing. Florida Power asks that the Contract be permitted to become effective on August 14, 1977.

According to Florida Power, copies of the filing were served upon Florida Power & Light Company and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23282 Filed 8-11-77;8:45 am]

[Docket No. ER77-524]

GEORGIA POWER CO.

Filing of Revised Tariff Sheet

AUGUST 3, 1977.

Take notice that Georgia Power Company (Georgia Power) on July 22, 1977, tendered for filing Second Revised Sheet No. 3 to its FPC Electric Tariff, Original Volume No. 3.

Georgia Power states that the revision amends the Index of Purchasers under its transmission service tariff to reflect that the City of Dalton, Georgia (Dalton) began taking service thereunder on June 1, 1977. Georgia Power's filing also contained an executed Intergrated Transmission Service Agreement with Dalton for transmission service, effective June 1, 1977.

Georgia Power requests waiver of the Commission's notice requirements to allow for an effective date of June 1, 1977.

Georgia Power states that it served copies of the filing on the Board of Water, Light & Sinking Fund Commissioners, City of Dalton, Georgia.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23283 Filed 8-11-77;8:45 am]

[Docket No. CP66-110 et al., CP70-19, et al., CP71-222, et al.]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend

AUGUST 3, 1977.

Take notice that on July 26, 1977, Great Lakes Transmission Company (Petitioner), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP66-100, et al., CP70-19, et al and CP71-222, et al. a petition to amend the Commission's orders of June 6, 1976 (37 FPC 1070), April 30, 1970 (43 FPC 635) and June 1, 1971 (45 FPC 1034) issued in the instant dockets (respectively) pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas from Canada under Petitioner's Contract Nos. 1, 2, and 3 at an increase import rate of $2.16 (United States) per billion Btu's effective September 21, 1977, all as more fully set forth in the Petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the orders as set forth above authorized Petitioner to import certain quantities of gas from Canada at a point on the United States-Canadian Border, near Emerson, Manitoba, Canada, purchased from TransCanda Pipeline Limited (TransCanada) pursuant to three different contracts (Contracts Nos. 1, 2, and 3).

Petitioner states that pursuant to the Commission's order of December 17, 1976 in Docket Nos. CP66-110, et al., it is presently authorized to import gas from Canada at the rate of $1.94 (Canadian) per billion Btu's effective January 1, 1977. It is indicated that the Canadian Government has instructed the National Energy Board (NEB) to amend all existing export licenses applicable to the sale of gas by TransCanada to Petitioner to establish a new border export price of $2.16 (United States) per billion Btu's effective September 21, 1977. It is stated that the NEB would soon amend all pertinent TransCanada export licenses to reflect the new price.

Petitioner indicates that it is imperative that this petition for amended import authorization be filed at this time to afford the Commission the maximum possible time before September 21, 1977, to act thereon.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 26, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23280 Filed 8-11-77;8:45 am]

[Docket No. ES77-48]

GULF STATES UTILITIES CO.

Application

AUGUST 5, 1977.

Take notice that on July 27, 1977, Gulf States Utilities Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the Applicant to enter into (1) a Guaranty Agreement with the Trustee of up to $23,000,000 principal amount of Refunding Bonds to be issued by the Industrial Development Board, Inc., of the Parish of Calcasieu, State of Louisiana, to refund the $3,000,000, 6¾ percent, due 12-1-84, $3,000,000, 7¼ percent, due 12-1-89, and $14,000,000, 7⅞ percent, due 12-1-04, bonds previously sold to finance the construction of air and water pollution control facilities relating to the Roy S. Nelson generating station located in the Parish of Calcasieu, La., and (2) a similar Guaranty Agreement of additional Bonds of up to $5,000,000 principal amount to be issued by such Board to finance construction of additional pollution control facilities at such station.

The proceeds of the refunding issue would be used to purchase U.S. Government obligations sufficient in amount to make interest payments on the outstanding Bonds as they come due and redeem the outstanding bonds in full in 1984. Under the terms of such Bonds, the deposit of such government obligations would operate to discharge the Bonds.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

Applicant will lease the additional pollution control facilities to the Board pursuant to a Lease Agreement. The Board will sublease such additional pollution control facilities to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

To enable the Company to meet the scheduled timetable desired in this Application, the Company respectfully requests that the Commission issue its order authorizing these issued as far prior to August 18, 1977, as possible.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23298 Filed 8-11-77;8:45 am]

[Docket No. ER77-531]

ILLINOIS POWER CO.

Proposed Tariff Change

AUGUST 5, 1977.

Take notice that Illinois Power Co. (Illinois Power) on July 29, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, IP-FPC 26, IP-FPC 28, and IP-FPC 30, applicable to Village of Ladd, City of Oglesby and Cedar Point Light & Water Co., respectively. Illinois Power states that the proposed changes would increase revenues from jurisdictional sales and service by $163,096 based on the twelve month consumption period ended December 31, 1976.

Illinois Power further states that the rate schedules affected were permitted to become effective on January 1, 1976, subject to further order of the Federal Power Commission in Docket No. E-9520. Illinois Power indicates that it has subsequently experienced increased construction and capital costs and operating expenses which have necessitated filing for increased rates. Illinois Power requests an effective date of September 26, 1977.

According to Illinois Power copies of the filing were served upon the Company's three wholesale jurisdictional customers, and also to the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23296 Filed 8-11-77;8:45 am]

[Docket No. ES77-49]

KANSAS POWER & LIGHT CO.

Application

AUGUST 5, 1977.

Take notice that on July 27, 1977, the Kansas Power & Light Co. (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $50,000,000 in the aggregate principal amount of short-term, unsecured promissory notes in the form of commercial paper, and authorizing Applicant to issue said notes from and after August 1, 1977, until and on August 31, 1978, with a final maturity date for any of said notes of not later than August 31, 1979.

Applicant is incorporated under the laws of the State of Kansas with its principal business office at Topeka, Kans.

The interest rate applicable to the commercial paper promissory notes will be, in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers, and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. Applicant contemplates the issuance of promissory notes and "roll-over" of commercial paper promissory notes, without further application to this Commission, at any time and from time to time until August 31, 1978, each of such notes to have a maturity date of not later than August 31, 1979.

The proceeds will be used to finance in part Applicant's construction program to August 31, 1979. The authorization to issue up to $50,000,000 and the authorization of Applicant to issue said notes not later than August 31, 1978, with final maturities of said notes not later than August 31, 1979, will allow Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before August 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23295 Filed 8-11-77;8:45 am]

[Docket No. ES77-47]

KENTUCKY UTILITIES CO.

Application

AUGUST 5, 1977

Take notice that on July 26, 1977, the Kentucky Utilities Co. (Applicant) filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, for authorization to issue its short-term notes to commercial banks and to commercial paper dealers; the aggregate principal amount of all such notes and/or commercial paper at any time outstanding not to exceed the following amounts during each of the following years: 1977—$80 million, 1978—$100 million, 1979—$120 million, 1980—$140 million, 1981—$160 million.

Applicant is incorporated under the laws of the State of Kentucky with its principal business office at Lexington, Ky., and is engaged in the generation, transmission, distribution and sale of electrical energy in 78 counties in central, southeastern, and western Kentucky.

The proceeds from the issuance of the notes and/or commercial paper will be added to the general funds of the Applicant and used principally to finance, temporarily, a part of the Company's construction expenditures for the year 1977 through 1981, inclusive.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1977, filed with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23297 Filed 8-11-77;8:45 am]

[Docket No. RP72-149 (PGA77-7)]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

AUGUST 5, 1977.

Take notice that Mississippi River Transmission Corp. ("Mississippi") on July 20, 1977, submitted for filing Sub-

stitute Fifty-Sixth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, effective July 2, 1977. This tariff sheet is being filed pursuant to the Federal Power Commission's order issued June 20, 1977, to reflect the reduced rate change of United Gas Pipe Line Co. ("United"), effective July 2, 1977.

Mississippi also submitted for filing six (6) copies of Substitute Fifty-Seventh Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1977. Mississippi states that Substitute Fifty-Seventh Revised Sheet No. 3A was submitted for the sole purpose of reflecting the appropriate August 1, 1977, cumulative PGA adjustment resulting from the United revision, effective July 2, 1977.

Mississippi submitted schedules containing computations supporting the rate changes to be effective July 2, 1977, and August 1, 1977. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois, and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23287 Filed 8-11-77;8:45 am]

[Docket No. RP76-106 and RP71-125 (PGA 77-3) (AP77-2)]

NATURAL GAS PIPELINE CO. OF AMERICA

Purchased Gas Cost Adjustment to Rates and Charges and Tracking Adjustments Under the Terms of the Settlement Agreement in Docket No. RP76-106

AUGUST 5, 1977.

Take notice that on July 18, 1977, Natural Gas Pipeline Co. of America (Natural) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets, to be effective September 1, 1977:

Second Substitute Thirty-first Revised Sheet No. 5
Substitute Seventh Revised Sheet No. 5A

These tariff sheets reflect Base Rates in effect subject to refund in Docket No. RP76-106.

Natural states the purpose of the filing is to track producer and pipeline supplier price changes including the purchase of methane gas from Calorific Anerobic Process, Inc., authorized by the Commission in Docket No. CP75-147, and to recover accumulated deferred purchased gas costs as of May 31, 1977, through unit rate adjustments computed pursuant to provisions of its Purchased Gas Cost Adjustment Clause. The combined effect of these unit adjustments results in a reduction in Natural's cumulative PGA Adjustment of (8.82)¢.

Natural also filed the below listed alternate tariff sheets to its FPC Gas Tariff:

Third Revised Volume No. 1: Second Substitute Thirty-first Revised Sheet No. 5; Substitute Seventh Revised Sheet No. 5A.
Second Revised Volume No. 2: Second Substitute Fourth Revised Sheet No. 270.

Natural states the purpose of this filing is to reflect tracking adjustments under the terms of the settlement agreement in Docket No. RP76-106 to track changes for Stingray transportation costs and reductions in the level of advance payments included in rate base. An alternate computation of the advance payment adjustment was included to reflect the elimination of certain advances which go beyond a five year repayment period should the Commission deny Natural's pending request for authorization to retain these advances in rate base.

Natural requested waiver of the Commission regulations to the extent, if any is required, to put the proposed tariff sheets into effect September 1, 1977.

Copies of the filing have been mailed to all parties in Docket No. RP76-106 and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23299 Filed 8-11-77;8:45 am]

[Docket No. RP77-115]

PACIFIC GAS TRANSMISSION CO.

Rate Change

AUGUST 5, 1977.

Take notice that on July 25, 1977, Pacific Gas Transmission Co. tendered for filing a "Notice of Rate Change to Reflect Increase in the Price of Canadian Gas in Cost of Service Charges and Request for Expedited Consideration."

PGT states that its filing is made in compliance with this Commission's orders in Docket No. RP73-111 which require PGT to make filings pursuant to Section 4 of the Natural Gas Act before there is reflected in PGT's cost of service charges any increase in the cost of gas imposed or required by Canadian authorities.

PGT indicates that its filing will effect increases in rates charged under its PL-1 Rate Schedule which is applicable to sales of gas made by PGT to its one customer for sale, Pacific Gas and Electric Company.

The filed changes in rates will reflect in PGT's cost of service charges certain increases manadated by Canadian authorities in the price of gas imported from Canada, commencing September 21, 1977. PGT presently obtains its entire supply of gas from Canada at a present border price of $1.94 (Canadian) per Mcf of 1,000 Btu gas. PGT recites that by Order dated July 7, 1977, the Canadian National Energy Board (NEB) amended existing export licenses, effective September 21, 1977, to establish a border price of the Canadian dollar equivalent of $2.16 (U.S.) per Mcf of 1,000 Btu gas payable in Canadian dollars in accordance with a monetary exchange formula specified by the NEB. On the basis of present volumes and Btu content, PGT estimates that the effect of the September 21, 1977, increase would be approximately $128,600,000 (U.S.) on an annualized basis.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions. PGT requests that expedited consideration be given to the instant filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18 and 1.10). All such petitions or protests should be filed on or before August 17, 1977.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23289 Filed 8-11-77;8:45 am]

[Docket Nos. RP73-64 (PGA77-2) (DCA77-2) and RP77-31]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 5, 1977.

Take notice that Southern Natural Gas Co. (Southern), on July 18, 1977, tendered for filing proposed changes to its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective on July 1, 1977, July 2, 1977, and August 1, 1977. Such filing is pursuant to the Commission's order issued June 30, 1977, in Docket No. RP73-64 (PGA77-2) (DCA77-2). Southern states that tariff sheets tendered for filing reflect adjustments to the PGA Surcharge Adjustment portion of its rates to reflect elimination of certain costs described as follows:

1. Substitute Twenty-Fifth Revised Sheet No. 4A to be effective July 1, 1977, reflects a 0.345 cent reduction from 6.768 cents to 6.423 cents in the PGA Surcharge Adjustment consisting of (1) 0.279 cent resulting from the elimination of $638,030 of purchased gas cost related to purchases made at rates in excess of the rates established in Opinion No. 770-A and (2) 0.066 cent resulting from the elimination of $150,955 in claimed costs of emergency gas which were not paid to other parties or which did not result in obtaining emergency gas supplies.
2. Second Substitute Twenty-Fifth Revised Sheet No. 4A, to be effective July 2, 1977, and Substitute Twenty-Sixth Revised Sheet No. 4A, to be effective August 1, 1977, reflect a 0.066 cent reduction from 6.768 cents to 6.702 cents in the PGA Surcharge Adjustment resulting from the elimination of $150,955 in claimed costs of emergency gas which was not paid to other parties or which did not result in obtaining emergency gas supplies.

Southern states that Substitute Twenty-Sixth Revised Sheet No. 4A is being filed to replace Twenty-Sixth Revised Sheet No. 4A filed on June 27, 1977, in its general rate increase filing in Docket No. RP77-31. Southern also moves to place into effect Substitute Twenty-Sixth Revised Sheet No. 4A in lieu of Twenty-Sixth Revised Sheet No. 4A subject to the same conditions as contained in its Agreement and Undertaking filed on June 27, 1977.

Copies of the filing were served upon the company's jurisdictional customers, interested state commissions, and the parties of record in Docket No. RP77-31.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23285 Filed 8-11-77;8:45 am]

[Docket No. CP75-127]

TEXAS EASTERN TRANSMISSION CORP. AND TENNESSEE GAS PIPELINE CO.

Joint Petition To Amend Pipeline Certificate

AUGUST 5, 1977.

Take notice that on July 20, 1977, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and Tennessee Gas Pipeline Co. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, (Petitioners) filed in Docket No. CP75-127 a petition to amend Commission order issued July 18, 1975, to authorize the inclusion of two additional exchange points and to allow an increase in the exchange volumes previously authorized for and between the Petitioners.

Petitioners state that pursuant to a Transportation and Exchange Agreement dated October 17, 1974 (Agreement), an exchange arrangement involving volumes produced in East Cameron Block 281 and Eugene Island Block 349, Offshore Louisiana had been initiated. Due to increases in production in said blocks and Texas Eastern obtaining the right to purchase West Cameron Blocks 606 and 620 production, Petitioners seek authorization to add the point of interconnection of Columbia Gulf Transmission Co.'s (Columbia Gulf)[1] facilities and Columbia Gulf and Tennessee's Project 601 facilities (Block 601 West Cameron Area) and the point of interconnection of Tennessee's facilities in East Cameron Block 281 and Petitioners' jointly owned Project 281 facilities (East Cameron Block 281) to the authorized Agreement; and to increase the authorized exchange volume of 140,000 Mcf/d to 230,000 Mcf/d.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 29, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-23291 Filed 8-11-77;8:45 am]

[Docket Nos. RP71-130, et al.]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

AUGUST 5, 1977.

Take notice that Texas Eastern Transmission Corp. (Texas Eastern) on July 29, 1977, tendered for filing Second Revised Sheet No. 93 and Second Revised Sheet No. 94 as part of its FPC Gas Tariff, Fourth Revised Volume No. 1. Texas Eastern proposes that the tariff filing become effective on September 1, 1977.

The purpose of the instant filing is to implement, with one modification, the "storage sprinkling" provision contained in the Stipulation and Agreement submitted herein to the Commission. The procedures in the aforesaid settlement agreement are modified by eliminating any phasing-in period for the "storage sprinkling" provision; and instead upon implementation of the proposed tariff revisions, Texas Eastern would calculate curtailments on the basis of end-use data attached to the Stipulation and Agreement. In Opinion No. 787-A, the Commission noted that Texas Eastern had agreed to make a tariff filing incorporating a provision for "storage sprinkling", but that the Commission was "procedurally unable to modify Texas Eastern's present filing which includes priority 2 treatment of storage."

Texas Eastern states that if the proposed tariff revisions are suspended by the Commission, it will not move to put them into effect.

Copies of the filing have been served upon Texas Eastern's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before August 17, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person who has heretofore filed a notice or petition to intervene in this proceeding need not file again. The tariff filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23293 Filed 8-11-77;8:45 am]

[1] Columbia Gulf will in the near future file their related transportation application as concerns WC 606 and 620 production.

[Docket No. RP77-114]

WESTERN TRANSMISSION CORP.

Proposed Changes in F.P.C. Gas Tariff

AUGUST 5, 1977.

Take Notice that Western Transmission Corp. on July 25, 1977, tendered for filing proposed changes in its F.P.C. Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales by $128,934 annually, based on sales volumes and costs for the twelve months ended April 30, 1977, as adjusted for the Test Period. Western states the principal reasons for the proposed rate increase are: (1) increased costs of operations and (2) the need to earn a return on its utility investment. The proposed effective date is September 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary,

[FR Doc.77-23290 Filed 8-11-77;8:45 m]

FEDERAL RESERVE SYSTEM

FAIRLAWN BANKSHARES, INC.

Formation of Bank Holding Company

Fairlawn Bankshares, Inc., Topeka, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Fairlawn Plaza State Bank, Topeka, Kans. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 5, 1977.

Board of Governors of the Federal Reserve System, August 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23339 Filed 8-11-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on July 28, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL MARITIME COMMISSION

The Federal Maritime Commission requested special handling for clearance of proposed General Order 37—Financial Responsibility for Oil Pollution Cleanup (Alaska Pipeline) (46 CFR 543) and related Form FMC-224P—Application for Certificate of Financial Responsibility (Alaska Pipeline). Subsection 204(c) of the Trans-Alaska Pipeline Authorization Act provides that owners and operators of vessels carrying Trans-Alaska Pipeline oil to a United States port shall be jointly and severally liable for all damages including cleanup costs sustained by any person or entity, public or private, resulting from discharges of oil from such vessels. Financial responsibility for $14,000,000 of such liability must be demonstrated before any vessel can load or carry Alaska Pipeline oil. The responsibility for implementing this requirement has been delegated to the Federal Maritime Commissions.

The Commission's General Order 37, served on July 26, 1977, and effective upon publication in the FEDERAL REGISTER, requires the operator of any vessels carrying Alaska oil subject to subsection 204(c) of the Act to obtain and carry on board the vessels Certificates of Financial Responsibility (Alaska Pipeline) (Form FMC-224P) in order to load oil at the pipeline terminal for carriage to any U.S. port, or to participate in the carriage of such oil before it has been off-loaded ashore at a U.S. port.

Approximateely 50 respondents will be subject to the reporting requirements of General Order 37 at an estimated one hour per annual response. FMC estimates 100 respondents for Form FMC-224P and one-half hour per response.

GAO granted clearance of Form FMC-224P and General Order 37 on July 29, 1977, under numbers B-180233 (R0461) and B-180233 (R0462) respectively because of the similarity to Form FMC-224 and General Order 27 which we had previously reviewed and cleared.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-23277 Filed 8-11-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

JOINT USE ADMINISTRATIVE OFFICE

Records System Closure

AUGUST 8, 1977.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The purpose of this notice is to notify the public that the Project Officer has discontinued activities relating to enumeration collections and has closed the Navajo-Hopi Joint Use Project Records System. On February 10, 1977, the District Court accepted the recommended partition line of the mediator, ordered the land partitioned and declared the lands to be part of the respective tribes' reservations. The Joint Use Area was thus formally eliminated. There is no longer any requirement to maintain an enumeration records system.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-23377 Filed 8-11-77;8:45 am]

Bureau of Land Management

[NM 31227]

NEW MEXICO

Application

AUGUST 4, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc., has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 22 S., R. 25 E.,
Sec. 9, NE¼NE¼;
Sec. 10, W½NW¼.

This pipeline will convey natural gas across 0.48 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23264 Filed 8-11-77;8:45 am]

[Wyoming 60228]

WYOMING

Application

AUGUST 3, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Co. of Casper, Wyo., filed an application for a right-of-way to construct a 3 inch and 4 inch pipeline for the purpose of transportation of crude oil and other synthetic liquid fuels across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 47 N., R. 91 W.,
Sec. 6,
Sec. 7,
Sec. 18,
Sec. 19.
T. 46 N., R. 92 W.,
Sec. 1,
Sec. 2,
Sec. 3,
Sec. 12.
T. 47 N., R. 92 W.,
Sec. 13,
Sec. 24,
Sec. 34.

This pipeline right-of-way will transport oil and other synthetic liquid fuels within T. 47 N., R. 91 W., T. 46 N., R. 92 W., and T. 47 N., R. 92 W., in Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23765 Filed 8-11-77;8:45 am]

[Wyoming 59148]

WYOMING

Application; Correction

AUGUST 3, 1977.

In FR Doc.77-13431 appearing at page 23886 in the FEDERAL REGISTER of May 11, 1977, the first paragraph is corrected in the twelfth line by deleting "N½SW¼"; and further corrected in the thirteenth line by deleting "SE¼SW¼, S½SE¼" and adding in their place, "N½S½".

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23267 Filed 8-11-77;8:45 am]

[Wyoming 59863—Revision]

WYOMING

Application: Revision

AUGUST 4, 1977.

In FR Doc. 77-20241 appearing at page 36319 in the FEDERAL REGISTER of July 14, 1977, the description of the location of the proposed pipeline has been revised and is hereby deleted entirely. The new description of the location of the proposed pipeline is as follows:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 38N., R. 90 W.
Secs. 4 and 5.
T. 39N., R. 90 W.
Secs. 18, 29 and 32.
T. 39 N., R. 91 W.
Secs. 1, 2 and 12.
T. 40 N., R. 91 W.
Secs. 27, 34 and 35.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23266 Filed 8-11-77;8:45 am]

Fish and Wildlife Service

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Commercial Export of Bobcat, Lynx, River Otter, and American Ginseng

The purpose of this notice is to clarify what information will be required for the commercial international export of the bobcat (*Lynx rufus*, excluding the Mexican bobcat, *L. r. escuiapae*), lynx (*Lynx canadensis*), river otter (*Lutra canadensis*), American ginseng (*Panax quinquefolius*) and other specimens included on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention), TIAS 8249 (1973). The Convention was established to protect species of wild fauna and flora against overexploitation through international trade. A complete list of all species included in the Convention Appendices may be found in Section 23.23 of Title 50, Code of Federal Regulations.

Appendix II includes those species not necessarily now threatened with extinction but which may become so unless trade in them is subject to strict regulation. In addition, Appendix II includes any other species whose similarity to threatened or potentially threatened species requires that they be regulated because of the risk of confusion. Appendix II serves as a means of monitoring as well as restricting trade.

The international export of any Appendix II specimens requires an export permit issued by the U.S. Management Authority under the Convention (MA), the Federal Wildlife Permit Office of the Fish and Wildlife Service. Under the Convention, Appendix II specimens include any readily recognizable parts or derivatives of animals and any parts or derivatives of plants that are specified in the Appendix. Therefore, fur garments made of several Appendix II pelts may only be exported under a permit that authorizes export of each constituent pelt. Export permits may only be issued if the MA is satisfied that the specimens were not taken in violation of State or Federal law and, in addition, only if the Endangered Species Scientific Authority (ESSA) has advised the MA that the export will not be detrimental to the survival of the species involved. Regulations concerning these permits are found in Part 23 of Title 50, Code of Federal Regulations.

If acquired by an exporter before the Convention became effective for the species, specimens may be exported with only an accompanying certificate issued by the MA. Such certificates, as opposed to export permits, do not require the above two findings of the MA and the ESSA. These certificates may be obtained by filing a Form 3-230 with the MA and attaching the supplementary information specified in 50 CFR 23.15 (c), in addition to complying with any other Federal or State laws applicable to certain Appendix II species. Dates when the Convention became effective for different species are indicated in Section 23.23. The Convention became effective on July 1, 1975 for American ginseng, and became effective on February 4, 1977 for the bobcat, lynx, and river otter.

Species in the Appendices that were captive bred or artificially propogated may also be exported with only an accompanying certificate. Such a certificate may be obtained by filing a Form 3-200 with the MA and attaching the supplementary information specified in 50 CFR 23.15(c). Certain species may also be subject to other Federal or State laws, which must be complied with.

The MA and the ESSA recognize that exporters may have obtained Appendix II specimens taken during the 1976-77 trapping or collecting season, or earlier, without awareness of impending export regulations under the Convention, which became generally effective on May 23, 1977. For this reason, and because the impact on wild populations of the 1976-77 season is now past, the MA and the ESSA intend to allow export of this inventory without the same degree of scrutiny that will be required in the future.

The MA and the ESSA hereby adopt the following approach concerning the international commercial export of the bobcat, lynx, river otter, and American ginseng obtained before or during the 1976-77 season. The MA will presume and be satisfied that these specimens were not taken in violation of State or Federal law unless evidence is presented to the contrary, and the ESSA will advise the MA that export of these specimens is not detrimental to the survival of the species. However, export of these specimens will be allowed under this policy only if exporters obtain an export permit or certificate from the MA. The applicant must enter in an attachment to the permit, as specifically as possible, the destination of the shipments and a table with the following column headings: Species, Number or Quantity, State of Taking, and Trapping/Collecting Season. This table must be completed to the best of the applicant's ability, and should be similar to the purely hypothetical following examples:

Species	Number	State where removed from the wild	Season
Bobcat (*Lynx rufus*)	500 pelts	Montana	September 1976 to March 1977.
Bobcat (*Lynx rufus*)	500 pelts	Wyoming	Do.
Otter (*Lutra canadensis*)	200 pelts	Louisiana	September 1976 to December 1977.
Ginseng (*Panax quinquefolius*)	100 lb	Tennessee	Do.

If information is available only for some specimens

Bobcat (*Lynx rufus*)	500 pelts	Montana	September 1976 to March 1977.
Bobcat (*Lynx rufus*)	500 pelts	Unknown	Unknown
Otter (*Lutra canadensis*)	200 pelts	do	Do.
Ginseng (*Panax quinquefolius*)	100 lb	do	Do.

Such permits may be granted for a single transaction or a series of transactions over a specified period of time. A copy of the permit must accompany shipments being exported and must be validated by an authorized Federal official at the port of export. Exporters should be aware that the ESSA will establish a future date after which commercial export will be prohibited for pelts and roots allegedly obtained during or before the 1976–77 season, excepting those pelts and roots qualifying for a pre-Convention certificate of exemption as discused above. This time limit is necessary because of the extreme difficulty in verifying previous season inventories.

In late August or early September, the MA and the ESSA expect to publish separate documents in the FEDERAL REGISTER to clarify the type of information to be required for the international export of Appendix II specimens taken from the wild after the date of publication. Exporters will be required to specify for each pelt or pound of ginseng exported the State of taking and trapping/collecting season. All Convention export permits issued by the MA for these species will be expressely subject to these and any subsequent requirements or policies established by the MA or the ESSA. The ESSA will indicate those States of origin for particular species from which further international exports must be prohibited by the MA. Exporters are now given notice that for one or more of these four species, the ESSA may be unable to find that any international export from the 1977–78 season will not be detrimental to the survival of the species, and in this event the MA will be required to prohibit international export of these specimens. For other States, from which international export was not initially prohibited, the ESSA will specify international export limits on a State-by-State basis for the 1977–78 season. Although these preliminary ESSA findings on acceptable levels of international export for the 1977–78 season will be published in late August or early September, the ESSA recognizes that some information may not come to the attention of the ESSA until after the notice is published. Therefore, the ESSA will solicit comment upon the preliminary findings in that notice, will consider comments carefully, and will republish ESSA findings in the Fall of 1977, including any appropriate modifications.

Persons involved either directly or indirectly with the international trade in furs are encouraged to develop tagging programs through the assistance of State agencies, trappers, hunters, collectors and middlemen including domestic processors. No other system appears to provide a comparable degree of certainty as to the origin of pelts. Provided that a State holds recipient of tags accountable for their own use within the State and prohibits export from the State of untagged pelts, the MA and the ESSA prima facie will be satisfied the tagged pelts were obtained consistent with State law and will accept the exporters' information on place and time of taking, as derived from the tagging records. Evidence other than tags will be subject to close scrutiny. The MA and the ESSA are seeking cooperation of the States to implement tagging programs as rapidly as possible.

Persons involved in the international trade of wild American ginseng should be prepared to require documentation from their suppliers stating the quantity, locality (at least to State), and the season for all ginseng they intend to export. In addition, documentation will be required to affirm that any State and local laws concerning the collecting of wild ginseng are complied with.

All correspondence regarding the biological and trade status of the bobcat, lynx, river otter, and American ginseng should be made to:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240.

All correspondence concerning export permits or certificates should be made to:

Director, U.S. Fish and Wildlife Service (FWS/WPO), Washington, D.C. 20240

Telephone inquiries should be made to:

Federal Wildlife Permit Office, 202–634–1496

Dated: August 9, 1977.

KEITH M. SCHREINER,
Acting Director, U.S. Fish and Wildlife Service.
WILLIAM Y. BROWN,
Executive Secretary, Endangered Species Scientific Authority.

[FR Doc.77-23395 Filed 8-11-77;8:45 am]

[Order No. 1]

National Park Service

ADMINISTRATIVE SERVICES ASSISTANT, FORT SUMTER NATIONAL MONUMENT

Delegation of Authority

SEC. 1. *Administrative Services Assistant.* The Administrative Services Assistant may execute and approve contracts not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriate funds.

(National Park Service Order No. 77 (38 FR 7478), as amended; Southeast Region Order No. 5 (37 FR 7721) as amended.)

Dated: June 7, 1977.

W. P. CRAWFORD,
Superintendent, Fort Sumter National Monument.

[FR Doc.77-23329 Filed 8-11-77;8:45 am]

Office of the Secretary

[INT DES 77-24]

COLORADO

Availability of Draft Environmental Statement; Proposed Foothills Project in Colorado

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement on the proposed Foothills Project in Colorado, and invites written comments by September 26, 1977.

The draft statement analyzes environmental impacts that would result from implementation of the proposal of the Board of Water Commissioners for the City and County of Denver to construct, operate, and maintain water diversion facilities on federally managed lands on the South Platte River 25 miles southwest of Denver, Colorado, as a part of the proposed Foothills Project.

Copies of the draft statement are available at the following locations:

BUREAU OF LAND MANAGEMENT

Washington Office of Public Affairs, Room 5625, 18th & C Streets, N.W., Washington, D.C. 20240, Telephone: 202–343–4151.
Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212. Telephone: 303–275–7494.
Colorado State Public Affairs Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Telephone: 303–837–4481.
Northeast Resource Area Office, 1010—10th Street, Golden, Colorado 80401. Telephone: 303–234–4988.

PUBLIC LIBRARIES

Denver Public Library, 1357 Broadway, Denver, Colorado 80202.
Arapahoe County Library System, 6840 South University Boulevard, Littleton, Colorado 80122.
Douglas County Library System, 303 Gilbert Castle Rock, Colorado 80104.
Bailey Library, Bailey, Colorado 80421
Boulder Library, 1000 Canyon Boulevard, Boulder, Colorado 80302.
Englewood Library, 3400 South Elati, Englewood, Colorado 80110.
Thornton Library, 2211 Eppinger Boulevard, Thornton, Colorado 80229.
Adams County Library System, 10530 Huron, Northglenn, Colorado 80234.
Colorado State Library, 1362 Lincoln, Denver, Colorado 80202.
Jefferson County Library System, 10200 West 20th Avenue, Lakewood, Colorado 80215.
Aurora Library, 1297 Peoria, Aurora, Colorado 80011.
Broomfield Library, Garden Office Center, Broomfield, Colorado 80020.
Littleton Library, 6014 South Datura, Littleton, Colorado 80120.
Westminster Library, Westminster, Colorado 80030.

COUNTY OFFICE BUILDINGS

Adams County, 450 South 4th Avenue, Brighton, Colorado 80601.
Boulder County, P.O. Box 471, Boulder, Colorado 80302.
Denver County, Room 451, City and County Building, Denver, Colorado 80202.
Eagle County, 55 Broadway, Eagle, Colorado 81631.
Arapahoe County, 2069 West Littleton Boulevard, Littleton, Colorado 80120.
Clear Creek County, P.O. Box 547, Georgetown, Colorado 80444.
Douglas County, 300 Wilcox, Castle Rock, Colorado 80104.
Gilpin County, P.O. Box 366, Central City, Colorado 80427.
Jefferson County, 1700 Arapahoe, Golden, Colorado 80149.
Summit County, P.O. Box 1538, Breckenridge, Colorado 80424.
Park County, P.O. Box 128, Fairplay, Colorado 80440.
Teller County, P.O. Box 248, Cripple Creek, Colorado 80813.

Single copies of the draft statement can be obtained from the District Manager, Canon City District Office, Bureau of Land Management, 3080 East Main Street, P.O. Box 311, Canon City, Colorado 81212; the Area Manager, Northeast Resource Area Headquarters, Bureau of Land Management, 1010–10th Street, Golden, Colorado 80401; or the State Director, Colorado State Office, Bureau of Land Management, Room 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Written comments on the draft environmental statement should be submitted by September 26, 1977, to the District Manager, Canon City District Office, Bureau of Land Management, 3080 East Main Street, P.O. Box 311, Canon City, Colorado 81212.

Oral and written comments will also be received at a public hearing on September 14, 1977, at the Weyer Auditorium, Denver Public Library, 1357 Broadway, Denver, Colorado 80202. Hearing times are scheduled at 9:00 a.m., 1:00 p.m. and 7:00 p.m.

Oral testimony of ten minutes maximum duration will be accepted from each witness at the hearing in lieu of written comments, or in addition to any written comments submitted by such witness. The ten-minute time limitation will be strictly enforced. Complete text of prepared speeches may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted ten minutes.

Speakers will be heard, if present, in their established order on the witness list. After the last listed witness has been heard, the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Canon City District Office at the above address prior to close of business on September 9, 1977. Requests should identify the organization represented, should be signed by the prospective witness, and should state the approximate time (morning, afternoon, or evening) for giving oral testimony. The cutoff date is necessary so that a witness list can be made available on the day before the public hearing.

Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

Dated: August 10, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-23430 Filed 8-11-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1977 Revised Aggregate Production Quota Thebaine

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On June 21, 1977, a notice of the proposed revised aggregate production quota for 1977 for Thebaine was published in the FEDERAL REGISTER (42 FR 31504). All interested parties were invited to comment on or object to the proposed aggregate production quota on or before July 18, 1977. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the revised aggregate production quota for the controlled substance listed below, expressed in grams of anhydrous base, be established as follows:

Basic class:	*Issued 1977*
Thebaine	3,824,500

This order is effective August 12, 1977.

Dated: August 8, 1977.

PETER B. BENSINGER,
Administrator Drug Enforcement Administration.

[FR Doc 77-23388 Filed 8-11-77 8:45 am]

Immigration and Naturalization Service

PROCESSING OF SILVA CASES

Applications for Adjustment of Status to That of a Lawful Permanent Resident Filed by Natives of the Western Hemisphere Pursuant to the Court Order in Zambrano v. Levi

On July 25, 1977, the Deputy Commissioner of the Immigration and Naturalization Service directed a memorandum to the Regional Commissioners of the Eastern, Northern, Southern and Western Regions respectively, concerning the possible eligibility for permanent residence under section 245 of the Immigration and Nationality Act of certain natives of Western Hemisphere countries resulting from the order entered June 21, 1977 by the U.S. District Court for the Northern District of Illinois (Eastern Division) in *Zambrano v. Levi*, 76 C 1456. The memorandum also set forth instructions for the acceptance and processing of such applications submitted by these individuals. This memorandum is reproduced below as a Notice in the FEDERAL REGISTER to advise and inform the individuals who may be eligible to file applications for permanent residence as a result of the *Zambrano* case and for the information of the general public. The order in the *Zambrano* case is reproduced as an appendix to this notice. For further information contact James G. Hoofnagle, Jr., (202) 376–8373. The text of the Deputy Commissioner's memorandum reads as follows:

MEMORANDUM

JULY 25, 1977

To: Regional Commissioner, Eastern, Northern, Southern, Western.
From: Deputy Commissioner
Subject: Processing of Silva cases

The Act of November 2, 1966 provided for the adjustment of status within the United States of Cuban refugees. When the Western Hemisphere numerical limitations went into effect on July 1, 1968, it was administratively decided, in the absence of any clear statutory directive on the matter, that Western Hemisphere visa numbers should be utilized for such adjustments. This practice continued from July 1, 1968 until September 30, 1976 and involved a total of 144,946 numbers that would otherwise have been available for Western Hemisphere visa applications.

Several separate court actions were instituted challenging the government's use of visa numbers for Cuban adjustment, one of which was filed on an individual named plaintiff basis (the Zambrano case), while another was filed as a class action suit (Silva case). The Zambrano case has now been concluded. By stipulation it was held that the use of visa numbers for Cuban adjustment was contrary to law. Accordingly, on June 21, 1977 the court issued an order directing that visa numbers be made available to the named plaintiffs from those numbers previously misallocated to the Cuban adjustment program. Thus the basic legal issues, as well as the overall obligation to recapture the 144,946 numbers in question have been resolved. While the class action Silva case has not been concluded, the only matter still under consideration is the nature and scope of the court order to be issued in behalf of the "class" plaintiffs. Based on the initial proposed order as drafter by the plaintiffs, there are a number of areas yet to be re-

solved which may delay the issuance of a final order in this case.

As noted above, the Zambrano case resolved the legalities and provided judicial authority for proceeding as expeditiously as possible to effectuate the recovery of the 144,946 visa numbers in question. Consequently, in view of the administrative burden involve and the fact that such burden will only be aggravated by further delay, it has been decided to proceed under the authority of the Zambrano case to resolve the "Cuban number" situation without waiting for a final order in the Silva case.

In general, the numbers will be reserved for Western Hemisphere applicants with a priority before January 1, 1977. Moreover, inasmuch as there is a continuing statutory obligation to issue the 120,000 Western Hemisphere visa numbers provided for in the Immigration and Nationality Act, the restoration of the Cuban numbers will only be remedial if issued in addition to these 120,000. This signifies that the restored numbers will of necessity be allocated to Western Hemisphere countries with a backlog of registrants.

Applications for adjustment of status to that of a permanent resident are to be accepted from otherwise eligible aliens who meet the criteria as laid down by the Zambrano decision. Basically these are immigrants chargeable to the Western Hemisphere limitation who have an established priority date prior to January 1, 1977 and who have been in the United States since prior to March 11, 1977.

The applicants must meet the requirements for eligibility under Section 245 in all respects. A visa is presumed to be immediately available to them as a result of the court order.

For those aliens who qualify as described under the Zambrano decision, permission to accept employment is granted nunc pro tunc as of December 31, 1976. Such alleviative action is based on the concept that had not the provisions of the Act of November 2, 1966 been misinterpreted insofar as Cuban refugee visa chargeability was concerned, those persons within the Silva case would have had visa numbers available to them prior to the 1st of January 1977.

Additionally if the applicant claims to have been inspected and admitted or paroled but cannot prove such action, the application shall be accepted provisionally and the applicant is to be advised such acceptance is conditioned upon his subsequent establishment of the alleged inspection and admission or parole to the satisfaction of the District Director prior to adjudication.

Application for adjustment of status in behalf of aliens covered by the Zambrano decision shall be made by filing Form I-485 in accordance with pertinent instructions appearing thereon. Processing is to be performed in the usual manner except that Form I-181 should not be forwarded to the State Department for visa number assignment prior to adjudication. Upon final approval an information copy of the completed Form I-181 will be furnished to the visa control office for number deduction. This form is to be noted in the "provisions of law" block with the symbol "SA" to denote it is a Silva type case.

Due to the unusual circumstances of the Zambrano-Silva cases and in order to make every effort consistent with our limited resources to be in compliance with the court order, a priority has been assigned calling for the processing of one such Zambrano-Silva case for every three regular adjustment cases handled. To maintain control and assure responsiveness to the court, those cases coming within the terms of the Zambrano decision are to be kept separate and apart from all other adjustment cases. They are to be filed in chronological order of receipt and assigned for processing in the one-to-three ratio as herein described with the oldest being assigned first.

Within the terms of an expected court order progress reports will be required periodically indicating the numbers and dispositions of the Zambrano-Silva cases already processed. Accordingly, such information is to be captured and maintained on a ready basis pending further specific instructions.

Except as provided by this office, or by the court, applications may be accepted through December 31, 1979.

MARIO T. NOTO.

* * * * *

APPENDIX

The Zambrano Case

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Patricia Zambrano, et al., Plaintiffs, vs Edward Levi, et al., Defendants.
No. 76 C 1456.

ORDER

Pursuant to the stipulation of the parties to this litigation it is found that: (1) Between July 1, 1968 and October 1, 1976, the Immigration and Naturalization Service and the Department of State charged against the Western Hemisphere quota a number of Cuban refugees who received adjustment of status in the United States under the Act of November 2, 1966 (80 Stat. 1161); (2) The charging of these adjusted Cuban refugees against the Western Hemisphere quota was contrary to law, and improperly contributed to the backlog of immigrant visa applicants from the Western Hemisphere; and (3) Immigrant visa numbers would have in the past been available or would today be immediately available to plaintiffs Juan and Margarita Zambrano, if adjusted Cuban refugees had not been improperly charged against the Western Hemisphere quota.

It is therefore ordered, That the defendants make an immigrant visa number immediately available to each of the named alien plaintiffs without charging these visa numbers against the current Western Hemisphere quota or the single foreign state limitation.

Dated: June 21, 1977.

JUDGE JOHN F. GRADY

* * * * *

Dated: August 8, 1977

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc 77-23345 Filed 8-11-77;8:45 am]

[Order No. 741-77]

PRIVACY ACT OF 1974

Adoption of Routine Uses for Systems of Records

On March 18, 21, and 30, 1977, and May 9, 1977, there were published in the FEDERAL REGISTER in accordance with section 3(e) (4) and (11) of the Privacy Act, 5 U.S.C. 552a(e) (4) and (11), notices of proposed routine uses (42 FR 15146, 15149, 15349, 16875, and 23558) with the notices of systems of records reprinted in their entirety. The routine uses related to the following systems of records: Justice/Tax-005, Tax Division Special Project Files; Justice/DEA-INS-111, Automated Intelligence Records System (Pathfinder); Justice/INS-001, the Immigration and Naturalization Service Index System; Justice/FBI-010, Employee Travel Vouchers and Individual Earnings Records; Justice/FBI-011, Employee Health Records; Justice/FBI-012, Time Utilization Record-Keeping (TURK) System; Justice/CIV-001, Civil Division Case File System; Justice/CIV-002, Civil Division Case File System; Customs Section and Justice/CIV-003, Office of Alien Property File System.

In addition on May 4, 1977, the following system-wide routine use was proposed (42 FR 22612):

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

No comments were received with respect to these proposed routine uses. Pursuant to the authority vested in me by 5 U.S.C. 552a, these routine uses are hereby adopted.

Dated: August 1, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/TAX-005

System name:

Tax Division Special Projects Files.

System location:

U.S. Department of Justice; Tax Division; 10th and Constitution Avenue NW., Washington, D.C. 20530.

Categories of individuals covered by the system:

Persons referred to in potential or actual cases under the jurisdiction of the Criminal Section of the Tax Division.

Categories of records in the system:

The system consists of investigatory files, records and associated documents and information indexed by individual name and entity and relating to matters assigned, referred or of interest to the Criminal Section of the Tax Division.

Authority for maintenance of the system:

This system is established and maintained pursuant to 28 CFR 0.70 and 0.71.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. Materials maintained in this system may be used by Division attorneys and attorneys in other appropriate offices, boards and divisions for purposes of pursuing investigative leads and for purposes of initiating, developing, preparing and prosecuting criminal and civil tax cases.

B. Additionally, a record maintained in this system of records may be disseminated as a routine use as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the material in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) In the course of investigating the potential or actual violation of any law whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, material may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) Material may be disseminated to the appropriate federal, state, local, or foreign court or grand jury in accordance with established constitutional, substantive, or procedural law or practice; (4) Material may be disseminated to federal, state or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) Material may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) Material that has been referred to the Tax Division may be disseminated to the referring agency to notify such agency of the status of a potential or actual case or of any decision or determination that has been made; (7) Material may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Material contained in this system is stored manually.

Retrievability:

Material is retrieved by the name of an individual or entity both manually and through the use of an automated data retrieval system.

Safeguards:

Information contained in the system is safeguarded and protected in accordance with Department rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal:

Currently there are no provisions for the disposal of material in this system.

System manager(s) and address:

Assistant Attorney General; Tax Division; U.S. Department of Justice; 10th Street and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure:

An inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures:

To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption to a specific record shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

Internal Revenue Service, Department offices and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act:

The Attorney General has proposed exemption of this system from subsections (c) (3), (c) (4), (d) (1), (d) (2), (d) (3), (d) (4), (e) (1), (e) (2), (e) (3), (e) (4) (G), (e) (4) (H), (e) (4) (I), (e) (5), (e) (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 552 (b), (c), and (e) and have been published in the FEDERAL REGISTER.

Justice/DEA-INS-111

System name:

JUSTICE/DEA-INS-111, Automated Intelligence Records System (Pathfinder).

System location:

Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537 and El Paso Intelligence Center (EPIC), El Paso, Tex. 79902.

Categories of individuals covered by the system:

(1) Those individuals who are known, suspected, or alleged to be involved in (a) narcotic trafficking, (b) narcotic-arms trafficking, (c) alien smuggling or transporting, (d) illegally procuring, using, selling, counterfeiting, reproducing, or altering identification documents relating to status under the immigration and nationality laws, (e) terrorist activities (narcotic, arms or alien trafficking/smuggling related), (f) crewman desertions and stowaways, and (g) arranging or contracting a marriage to defraud the immigration laws; (2) In addition to the categories of individuals listed above, those individuals who (a) have had citizenship or alien identification documents put to fraudulent use or have reported them as lost or stolen, (b) arrive in the United States from a foreign territory by private aircraft, and (c) are informants or witnesses (including non-implicated persons) who have pertinent knowledge of some circumstances or aspect of a case or suspect; may be the subject of a file within this system; and (3) In the course of criminal investigation and intelligence gathering, DEA and INS may detect violations of non-drug or non-alien related laws. In the interests of effective law enforcement, this information is retained in order to establish patterns of criminal activity and to assist other law enforcement agencies that are charged with enforcing other segments of criminal law. Therefore, under certain limited circumstances, individuals known, suspected, or alleged to be involved in non-narcotic or non-alien criminal activity may be subject to a file maintained in this system.

Categories of records in the system:

In general, this system contains computerized and manual intelligence information gathered from DEA and INS investigative records and reports. Specifically, intelligence information is gathered and collated from the following DEA and INS records and reports: (1) DEA Reports of Investigation (DEA-6), (2) DEA and INS Intelligence Reports, (3) INS Air Detail Office Index (I-92A), (4) INS Anti-Smuggling Indices (G-170), (5) INS Marine Intelligence Index, (6) INS Fraudulent Document Center Index, (7) INS Terrorist Index, and (8) INS Reports of Investigation and Apprehension (I-44, I-213, G-166).

Authority for maintenance of the system:

This system has been established in order for DEA and INS to carry out their law enforcement, regulatory, and intelligence functions mandated by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236), Reorganization Plan No. 2 of 1973, the Single Convention on Narcotic Drugs, (18 UST 1407), and Sections 103, 265, and 290 and Title III of the Immigration and Nationality Act, as amended, (8 U.S.C. 1103, 1305, 1360, 1401 et seq.). Additional authority is derived from Treaties, Statutes, Executive Orders and Presidential Proclamations which DEA and INS have been charged with administering.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system will be used to produce association and link analysis reports and such special reports as required by intelligence analysis of DEA and INS. The system will also be used to provide "real-time" responses to queries from federal, state, and local agencies charged with border law enforcement responsibilities.

Information from this system will be provided to the following categories of users for law enforcement and intelligence purposes provided a legitimate and lawful "need to know" is demonstrated: (a) Other federal law enforcement agencies, (b) state and local law enforcement agencies, (c) foreign law enforcement agencies with whom DEA and INS maintain liaison, (d) U.S. intelligence and military intelligence agencies involved in border criminal law enforcement, (e) clerks and judges of courts exercising appropriate jurisdiction over subject matter maintained within this system, and (f) in the event there is an indication of a violation or potential violation of law whether civil, criminal, regulatory, or administrative in nature, the relevant information may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulations, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual subsets of the Pathfinder Information System are maintained on standard index cards and manual folders. Standard security formats are employed.

The automated Pathfinder Information System is stored on digital computers in the Drug Enforcement Administration Office of Intelligence Secured Computer facilities located at DEA Headquarters and El Paso, Tex.

Retrievability:

Access to individual records can be accomplished by reference to either the manual indices or the automated information system. Access is achieved by reference to personal identifiers, other data elements or any combination thereof.

Safeguards:

The Pathfinder System of Records is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to intelligence information is limited to those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

Physical security when intelligence files are attended is provided by responsible DEA and INS employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification, as appropriate, of the files, and the extent of security guard and/or surveillance afforded by electronic means.

Protection of the automated information system is provided by physical, procedural, and electronic means. The master file resides in the DEA Office of Intelligence Secured Computer System and is physically attended or safe-guarded on a full time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surreptitious access to an unattended terminal is precluded by a complex authentication procedure. The procedure is provided only to authorized DEA and INS employees. Transmission from DEA Headquarters to El Paso, Tex., is accomplished via a dedicated secured line.

An automated log of queries is maintained for each terminal. Improper procedure results in no access and under certain conditions completely locks out the terminal pending restoration by the master controller at DEA Headquarters after appropriate verification. Unattended terminals are otherwise located in locked facilities after normal working hours.

The dissemination of intelligence information to an individual outside the Department of Justice is made in accordance with the routine uses as described herein and otherwise in accordance with conditions of disclosure prescribed in the Privacy Act. The need to know is determined in both cases by DEA and INS as a prerequisite to the release of information.

Retention and disposal:

Records maintained within this system are retained for fifty-five (55) years.

System manager(s) and address:

Assistant Administrator for Intelligence, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537, and Associate Commissioner, Management, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536.

Notification procedure:

Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

Record access procedures:

Same as notification procedure.

Contesting record procedures:

Same as notification procedure.

Record source categories:

DEA intelligence and investigative records/reports; INS investigative, intelligence and statutory mandated records/reports; records and reports of other federal, state and local agencies; and reports and records of foreign agencies with whom DEA maintains liaison.

Systems exempted from certain provisions of the act:

The Attorney General has proposed exemption of this system from subsection (c) (3) and (4), (d), (e) (1), (2), and (3), (e) (4) (G), (H), and (I), (e) (5) and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k).

JUSTICE/INS–001

System name:

The Immigration and Naturalization Service Index system which consists of the following subsystems.

A. Agency information control record index.

B. Alien address report index.

C. Alien enemy index.

D. Automobile decal parking identification system for employees.

E. Centralized index and records relating to, but not limited to aliens lawfully admitted for permanent residence and United States citizens (Master index).

F. Congressional Mail Unit correspondence control index.

G. Document vendors and alterers index (Service documents).

H. Enforcement branch indices: (1) Air detail office index system; (2) Anti-smuggling index (general); (3) Anti-smuggling information centers systems for Canadian and Mexican borders; (4) Border Patrol Academy index; (5) Border Patrol sectors general index system; (6) Contact index; (7) Criminal, immoral, narcotic, racketeer, and subversive indices; (8) Enforcement correspondence control index; (9) Fraudulent document center index system; (10) Informant index; (11) Suspect third party index.

I. Examinations correspondence control index: (1) Branch indices; (2) Service lookout system;

J. Extension training program enrollees.

K. Finance section indices: (1) Accounts with creditors; (2) Accounts with debtors.

L. Freedom of Information correspondence control index.

M. Intelligence index.

N. Microfilmed manifest records.

O. Naturalization and citizenship indexes: (1) Naturalization and citizenship docket cards; (2) Examiner's docket lists of petitioners for naturalization; (3) Master docket list of petitions for naturalization pending one year or more.

P. Personnel investigations index.

Q. Procurement—property issued employees.

R. Security system access clearance information index system.

S. White House and Attorney General correspondence control index.

T. Health Record System.

U. Personal Data Card System.

V. Compassionate Cases System.

W. Emergency Reassignment Index.

X. Alien Documentation Identification and Telecommunication (ADIT) System.

System location:

A. Central Office: 425 'I' Street; N.W. Washington; D.C. 20536.

B. Regional Offices: (1) Burlington, Vermont; (2) Fort Snelling, Twin Cities, Minnesota; (3) Dallas, Texas; (4) San Pedro, California.

C. District Offices in the United States: (1) Anchorage, Alaska; (2) Atlanta, Georgia; (3) Baltimore, Maryland; (4) Boston, Massachusetts; (5) Buffalo, New York; (6) Chicago, Illinois; (7) Cleveland, Ohio; (8) Denver, Colorado; (9) Detroit, Michigan; (10) El Paso, Texas; (11) Hartford, Connecticut; (12) Helena, Montana; (13) Honolulu, Hawaii; (14) Houston, Texas; (15) Kansas City, Missouri; (16) Los Angeles, California; (17) Miami, Florida; (18) Newark, New Jersey; (19) New Orleans, Louisiana; (20) New York, New York; (21) Omaha, Nebraska; (22) Philadelphia, Pennsylvania; (23) Phoenix, Arizona; (24) Portland, Maine; (25) Portland, Oregon; (26) St. Albans, Vermont; (27) St. Paul Minnesota; (28) San Antonio, Texas; (29) San Diego, California; (30) San Francisco, California; (31) San Juan, Puerto Rico; (32) Seattle, Washington; (33) Washington, D.C.

D. District offices in foreign countries: (1) Hong Kong, B.C.C.; (2) Mexico City, Mexico; (3) Rome, Italy.

E. Sub Offices: (1) Agana, Guam; (2) Albany, New York; (3) Cincinnati, Ohio; (4) Dallas, Texas; (5) Hammond, Indiana; (6) Harlingen, Texas; (7) Las Vegas, Nevada; (8) Memphis, Tennessee; (9) Milwaukee, Wisconsin; (10) Norfolk, Virginia; (11) Pittsburgh, Pennsylvania; (12) Providence, Rhode Island; (13) Reno, Nevada; (14) St. Louis, Missouri; (15) Salt Lake City, Utah; (16) Spokane, Washington.

F. Border Patrol Sector Headquarters: (1) Blaine, Washington; (2) Buffalo, New York; (3) Chula Vista, California; (4) Del Rio, Texas; (5) Detroit, Michigan; (6) El Centro, California; (7) El Paso, Texas; (8) Grank Forks, North Dakota; (9) Havre, Montana; (10) Houlton, Maine; (11) Laredo, Texas; (12) Livermore, California; (13) Marfa, Texas; (14) McAllen, Texas, (15) Miami, Florida; (16) New Orleans, Louisana; (17) Ogdensburg, New York; (18) Spokane, Washington; (19) Swanton, Vermont; (20) Tucson, Arizona; (21) Yuma, Arizona.

G. Border Patrol Academy—Los Fresnos, Texas.

H. Charlotte Amalie, St. Thomas, Virgin Islands.

I. Sub offices in foreign countries: (1) Athens, Greece; (2) Frankfurt, Germany; (3) Naples, Italy; (4) Palermo, Italy; (5) Rome, Italy; (6) Tokyo, Japan; (7) Vienna, Austria.

J. El Paso Intelligence Center (EPIC)—El Paso, Texas. Addresses of each office are listed in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

Categories of individuals covered by the system:

A. Agency information control record index (Location A, supra).

1. United States citizens, resident and non-resident aliens named in documents classified for National Security reasons.

2. Individuals referenced in documents classified for National Security reasons.

B. Alien address reports (Form I–53), 1975 and subsequent years (Location A, supra); 1974 and previous years (Locations: C, D, and H supra).

C. Alien enemy index (Location: A supra):

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees. (Location B–4 supra).

Current Service employees of this office who have the privilege of parking their cars on government premises, have a decal for their cars for parking identification.

E. Centralized index (Master index). (Locations: A, C, D, E and I supra):

1. Aliens lawfully admitted for permanent residence, and United States citizens; and individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders and Presidential proclamation administered by the Immigration and Naturalization Service, hereinafter referred to as the Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit (Location A, supra):

1. Aliens lawfully admitted for permanent residence and United States citizens named in correspondence received including, but not necessarily limited to: (a) employees and past employees; (b) federal, state and local officials, and (c) members of the general public.

2. Aliens lawfully admitted for permanent residence and United States citizens named in reports or correspondence received, as individuals investigated in the past or under active investigations for, or suspected of volatipns of, the criminal or civil provisions of statutes enforced by the Service, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Service documents) (Location B–4; duplicates are housed in several Service offices in the southwest region). This index relates to, but is not limited to, aliens lawfully admitted for permanent residence and United States citizens.

H. Enforcement Branch Indices:

1. Group one—(Locations: A, B, C and E, supra)—contact index; informant index; anti-smuggling index (General); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index—all relate to same general categories of individuals as follows:

(a) Aliens lawfully admitted for permanent residence, and citizens who are in a position to know or learn of, and assist in locating aliens illegally in the United States.

(b) Aliens lawfully admitted for permanent residence, and citizens who are former or present members of an organization subversive in nature, whether foreign or domestic, and are willing to appear as government witnesses, to testify as to their knowledge of an individual's membership therein, or as to the nature, aims and purpose of the organization, or as to the identification, publication, distribution and authenticity of the literature of such organzation, or are in possession of information relative to such organization or on specific individuals and are willing to cooperate with the Immigration and Naturalization Service, or who although they have not been members of subversive organizations, are in possession of information relating to such organizations or members thereof, and are willing to cooperate with the Service on a continuing basis;

(c) Aliens lawfully admitted for permanent residence, and citizens who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens, who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States and witnesses having knowledge of such matters;

(d) Aliens lawfully admitted for permanent residence and citizens who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or leaders;

(e) Aliens lawfully admitted for permanent residence, and citizens who are known, or believed, to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for Service benefits, or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable parents who are immigrant visa applicants to evade the labor certification requirements or to enable such children to pose as citizens.

2. Group two—relate to specific categories of individuals as follows:

(a) Air detail office index system (Location: J, supra). (1) The majority of the system contains information relating to United States citizens and aliens lawfully admitted for permanent residence who are pilots and/or owners of private aircraft and who have engaged in flying between the United States and foreign countries. (2) The system also contains information of an investigative nature relative to pilots, owners, and

associates, including United States citizens and aliens lawfully admitted for permanent residence, who engage in, or are suspected of being engaged in, illegal activity, such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers for the Canadian border and Mexican border. (Location: Northern Border: F-19, supra—Southern Border: J, supra). Categories of individuals include United States citizens and aliens lawfully admitted for permanent residence who are smugglers or transporters of illegal aliens, or who are suspects in the violation of statutes relating to smuggling and transporting illegal aliens.

(c) Border Patrol Academy index system—(Location: G, supra). United States citizens who are: students in attendance at the Border Patrol Academy; former students who have attended the Academy; and officers attending advanced training classes at the Academy.

(d) Border Patrol Sectors general index—(Locations: F, supra). (1) United States citizens who are past or present employees of the Service; and (2) United States citizens and aliens lawfully admitted for permanent residence classified as law violators, witnesses, contacts, informants, members of the general public, federal, state, county and local officials.

(e) Fraudulent Document Center index system—(Location: J, supra). The system contains information relating to United States citizens and/or aliens lawfully admitted for permanent residence categorized as members of the general public, Notaries Public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives and witnesses. Also included in the system are names and information of fictitious non-existent individuals such as may be used by counterfeiter or alterer of citizenship documents.

3. Group three—(a) Enforcement correspondence control index—(Location: A, supra—Associate Commissioner, Enforcement). (1) Aliens lawfully admitted for permanent residence and citizens of the United States named in correspondence received, including but not necessarily limited to: a. employees and past employees; b. federal, state, and local officials; and c. members of the general public. (2) Aliens lawfully admitted for permanent residence and citizens of the United States named in documents, reports or correspondence received as individuals under investigation, or investigated in the past, or suspected of violation of the criminal or civil provisions of the statutes enforced by the Service, including Presidential Executive Orders and Proclamations relating thereto, and witnesses and informants having knowledge of violations.

I. Examinations branch indexes (Location: A, supra (duplicates are in some local offices)). Aliens lawfully admitted for permanent residence and United States citizens and individuals who are violators or suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extension training program enrollees (Location: A, supra) contains the names of Service employees, and other federal agency employees enrolled in extension training program courses.

K. Finance Section indexes—(Locations: A and B, supra):

(1) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments;

(2) Employees who have received travel advances or overpayments from the United States Government, who are in arrear in their accounts, or who are liable for damage to Government property;

3. Vendors who have furnished supplies, material, equipment, and services to the Government;

4. Employees, witnesses and special deportation attendants who have performed official travel; and

5. Employees and individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations: A; B; C; D; E; F; G; H and I, supra). Individuals who request under the Freedom of Information Act, access to, or copies of, records maintained by the Service.

M. Intelligence Index—(Locations: A and B, supra) Aliens who have been lawfully admitted to the United States for permanent residence and United States citizens, who have, or who are suspected of having violated the criminal or civil provisions of the statutes enforced by the Service.

N. Microfilmed manifest records—(Locations: A, C-26, C-10, C-20, and C-29, supra) Aliens lawfully admitted for permanent residence to the United States and United States citizens.

O. Naturalization and citizenship indexes:

(1) Naturalization and citizenship docket cards (Locations: C and E supra, except E-6, 7, 8 and 13). Aliens lawfully admitted for permanent residence and citizens of the United States, and other individuals seeking benefits under Title III of the Immigration and Nationality Act of 1952, as amended.

2. Examiner's docket lists of petitioners for naturalization. (Locations: C and E supra, Except E-6, 7-8, and 13.) Petitioners for naturalization and beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. (Locations: A, B, C and E supra, Except E-6, 7, 8 and 13.) Petitioners for naturalization and beneficiaries.

P. Pending Investigations—(Location: A, supra) Employees, former employees, other Government agency employees, designated to perform immigration functions, witnesses, informants, and certain persons having contacts with Service operations.

Q. Properly issued to employees—(Locations: A, B, C, E and F, supra). Employees of the Service who have been issued property and have in addition signed for receipt of the property on Form G-570.

R. Security system—Location: A supra). United States citizens and aliens lawfully admitted for permanent residence to the United States currently employed with the Service who have been cleared for access to documents and materials classified in the interest of National Security.

S. White House and Attorney General correspondence control index—(Location: A, supra). Citizens and aliens lawfully admitted for permanent residence to the United States named in correspondence received, including, but not necessarily limited to: (a) employees and past employees of the Service; (b) federal, state and local officials; and (c) members of the general public.

T. Health Record System (Location: A, supra). Persons at Location A, supra, who need health services or who require emergency treatment.

U. Personal Data Card System (Locations: A and B, supra). Employees and former employees of the Service.

V. Compassionate Cases System. (Locations: A and B-1 and 4, supra). Employees of the Service.

W. Emergency Reassignment Index (Locations: B, C, E and F). Employees of the Service.

X. Alien Documentation, Identification, and Telecommunication (ADIT) system—(Location A, supra). Aliens lawfully admitted for permanent residence, commuters and others authorized frequent border crossings, nonimmigrant persons other than transients.

Categories of records in the system:

A. Agency information control record index system contains:

1. Top secret and secret material originated, received or transmitted by Service officers that has been classified as National Security information including all copies prepared from a controlled document.

2. Confidential material originated by another agency which is received by this Service including all copies prepared from a controlled document.

3. All investigative reports, responses to security checks, and material of an intelligence nature concerning individuals, organizations, movements, conditions in foreign countries, received from sources within the Department of Justice and other federal intelligence sources.

B. Alien address report index. This system contains information such as name, address, occupation, date of admission into the United States and Alien Registration number.

C. Alien enemy index. This system contains a microfilm index of each file opened on these individuals.

D. Automobile decal parking identification system for employees vehicles. This system contains a list by number of each DJ decal car sticker issued by the Security Division to regional employees who require car parking permission.

E. Centralized index and records relating to permanent resident aliens, and citizens of the United States (Master index). The system consists of records relating to the categories of individuals described in E-1, supra. The records contain various Service forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, sworn statements, and reports, correspondence and memoranda.

Records which may be accessed electronically are limited to index and file locater data including name, identifying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files.

F. Congressional mail unit. This system contains a permanent index record for each report or piece of correspondence received. Information maintained in the index of this subsystem is that which is entered on a 3" x 5" index card. The index record is solely a locator reflecting the name of the individual and the number of the file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index (Service documents). This system consists of "mug book" containing photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including: name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement branch.

1. Group one—contact index; informant index; anti-smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index: These systems of records are maintained on the following.

(a) Form G-598, "Contact Record".

(b) Form G-169, "Informant Record."

(c) Form G-170, "Smuggler Information Index Card".

(d) Alphabetical index cards reflecting the name of the individual and the file in which specific information concerning the individual is housed. Some index cards reflect the individuals biographic data, address, etc., and may contain a brief description of the individual's activities.

2. Group two. (a) Air detail office index. The primary record in the system is Form I-92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also indices, forms, investigative reports, records, and correspondence relative to aircraft arrivals, failure to report for inspection, and known or suspected alien smuggling operations wherein aircraft are utilized. In addition, microfiche containing names of owners of aircraft of United States registry are maintained at this location.

(b) Anti-smuggling information centers for the Canadian and Mexican borders. This system contains G-170, Smuggler Information Index Card, other index cards, and correspondence relating to anti-smuggling activities. Two indices of active smugglers are compiled, one for the Canadian border and the other border for the Mexican border area. These indices are in loose leaf booklet form and are distributed to Border Patrol offices in the respective border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding the student's academic progress in training. The information is maintained on the following forms. (1) SW 91—Probationary Achievement Report. (2) SW 91A—Scholastic Grade Worksheets. (3) SW 91B-10 BTC Achievement Report Immigration Inspector. (4) SW 91C-10 BTC Achievement Report Investigator. (5) SW 96—Class Rating Form. (6) SW 128—Training Data. (7) SW 282—Registration Information Form. (8) 446—Conduct and Efficiency Report of Probationary Employee 5½ and 10 months exam grades.

(d) Border Patrol sectors general index. (1) This system contain indices, forms, reports and records relating to activities of the Border Patrol. Included in the various segments of the system are the following numbered and titled forms: a. Form I-44—Record of Apprehension or Seizure; b. Form I-215W—Affidavit—witness; c. Form I-263A and I-263B—Record of Sworn Statement; d. Form I-195—Criminal Prosecution Control Card; e. Form I-263W—Records of Sworn Statement—witness; f. Form I-326—Prosecution Reports; g. Form G-170—Smuggler Information Index Card; h. Form G-296—Report of Violation of Section 239, Immigration and Nationality Act; i. Form G-330—Notice of Action Information; j. Form G-445—Conduct and Efficiency Evaluation of Probationary Appointees; and k. Form G-598—Contact Record. (2) This system also contains copies of correspondence and memoranda between offices of the Service and with outside agencies and individuals, as well as photographs of some violators of the immigration laws or of individuals suspected of being involved in immigration law violations. (3) The Service lookout book and booklets of indexes of active smugglers are at each location; however, these are duplicated records which are reported separately in other systems of records.

(e) Fraudulent document center index. This system contains birth certificates, baptismal certificates, and other identification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine, however, there are also counterfeit and altered documents in the system. Also within the system are cross indexes investigative reports, and records of individuals involved in fraud schemes and of individuals whose documents have been put to fraudulent usage. Correspondence and memoranda, between the Fraudulent Document Center and other Service Offices, outside agencies and individuals are retained.

3. Group three—(a) Enforcement correspondence control index. This system contains a semi-permanent index record for each document, report or piece of correspondence received. Information maintained in the system is that which is entered on Form G-617, "Correspondence Control Card", and CO Form 147, "Call-Up Index—Domestic Control." The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

I. Examinations branch:

(1) Examinations correspondence control index: contains a semi-permanent index record for each document, report of price of correspondence received. Information maintained in the system is that which is entered on Form G-617 "Correspondence Control Card". The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

(2) Service lookout System contains names of violators, alleged violators and suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extention training program enrollees. The system contains a folder for each enrollee. Each folder contains a complete record of the enrollee's test scores, correspondence and dates of every action taken with regard to the mailing of lesson materials, receipt of tests, scoring and mailing out test results and dates certificates were completed and mailed.

K. (1) Accounts with creditors. The records consist of vendors' invoices, purchase orders, travel vouchers and claims filed by appropriation for the fiscal year from which payment is chargeable.

(2) Accounts with debtors. The records consist of bills for inspection services performed under the Act of March 2, 1931 (8 U.S.C. 1353a); fees, fines, penalties and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for the erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. The system contains an index record for each piece of correspondence received requesting information under the Freedom of Information Act.

M. Intelligence index. This system contains a semi-permanent index record for each document, report, bulletin or correspondence received. The index is categorized by name, violation, and activity. The index is primarily a locator reflecting the category, source of material and specific housing of information.

N. Microfilmed manifest records. Microfilmed indices, and arrival and departure manifests reflecting brief biographical data and facts of arrival or departure. The arrival records for certain ports date from 1891 and departure

records date from 1900. The records are not complete; certain records were destroyed and were not microfilmed.

O. (1) Naturalization and citizenship docket cards. Docket cards consist of 3" x 5" or 5" x 8" index cards arranged alphabetically according to name of applicant, beneficiarcy or petitioner, indicating type of application submitted, date of receipt, file and /or petition number, and court number wherein petition for naturalization was filed. The docket cards are locators for the files in which specific information concerning the individuals is maintained.

(2) Examiner's docket lists of petitioners for naturalization. Lists of petitioners for naturalization (Form N–476) are arranged chronologically for each court exercising naturalization jurisdiction, showing petition number, petition filing date, file number, court number, name of petitioner for naturalization, name of beneficiary in whose behalf a petition is filed, proposed recommendation by the naturalization examiner and reasons for the continuance. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

(3) Master docket lists of petitions for naturalization pending one year or more. Master docket lists of petitions for naturalization (Form N–476) pending for a year or more are arranged chronologically for each court exercising naturalization jurisdiction showing the petition number, petition filing date, petitioner's name, recommendation and issues and reason why petition is still pending. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

P. Personnel investigators index. Contains two separate card index files, one for cases under active investigation, and the other for formerly active cases now closed. These cards are locator cards listing names of investigation subjects, their locations, and the allegations under investigation. Two relating sets of temporary work folders exist housing open/closed allegations of misconduct and investigative reports.

Q. Property issued to employees. The records consist of a Form G–570, 'Record-Receipt-Property Issued to Employee,' which lists property issued to an employee. The Form G–570 lists the employee's name, description of the property, serial number, date received and employee's initials, and finally date returned and supervisor's initials.

R. Security system index. The system is comprised of 3' x 5' index cards filed alphabetically which reflect levels of access clearances granted to employees of the Service and the dates when the clearances were granted.

S. White House and Attorney General correspondence control index. Contains an index record for each piece of correspondence addressed to the President and the Attorney General, with certain exceptions, which has been referred to this Service for appropriate attention. Information maintained in the system is that which is entered on Form G–617, "Correspondence Control Card." The index record is primarily a locator reflecting the name of the correspondent and/or the subject individual of the correspondence and the file in which specific information concerning the individual is housed.

T. Health Record System. The record consists of a 5" x 7" index card that lists the name, date and treatment given any person in the Health Unit.

U. Personal Data Card System. The record consists of a 3" x 5" card for each employee or former employee (G–74). The entries on the card (G–74) include name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate Cases System. The record consists of 3" x 5" index card containing employee's name, position, grade, present location, date request received in Central Office, date circulated to compassionate committee, disposition, new location of employee whose request is granted; and a folder containing copy of employee's Form G–410, employee's request (memo), local and regional recommendations, doctor's statement (where applicable), record of committee action, and response to employee.

W. Emergency Reassignment Index. The record consists of a 3" x 5" card (G–560) which reflects the name, age, grade, title, official station, residence, telephone number and emergency assignment activity.

X. Alien Documentation, Identification and Telecommunication (ADIT) system. The records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city town/village of birth.

Authority for maintenance of the system:

A. General, applicable to all Service index systems, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended, (8 U.S.C. 1103; 8 U.S.C. 1305; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indices, including but not limited to: (1) Executive Order 11652, and 28 C.F.R. 17.79—agency control information record index, and access clearance information system. (2) 31 U.S.C. 66a—Finance branch indices. (3) Title III of the Act, as amended, (8 U.S.C. sections 1401 through 1503), and the regulations promulgated thereunder—naturalization and citizenship indices. (4) Sections 235 and 287 of the Act, as amended, (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto in personnel investigations. (5) Section 231 of the Act, as amended, (8 U.S.C. 1221)—manifest records. (6) 40 U.S.C. 483—property management system. (7) 5 U.S.C. 4113—extension training program. (8) 5 U.S.C. 552. The Freedom of Information Act, requires certain record keeping, this system was established and is maintained in order to enable the Service to comply with this requirement. (9) 5 U.S.C. 301—Health Record System, Personal Data Card System, and Compassionate Cases System. (10) Executive Order 11490—Emergency Reassignment Index.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system of records is used to serve the public by providing data for responses, when authorized, to written inquires, complaints, and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the administration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, Interpol, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or rentention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of record may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

J. A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. Information contained in this system of records may be disclosed to an applicant, petitioner or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j)) in connection with any proceeding before the Service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

General.

Storage:

Generally, information is stored manually; in some instances, in automated index systems. The actual records relating to individuals are stored in file folders at the addresses located in locations A, B, C, E, F, and H, supra.

Retrievability:

In general, records are indexed alphabetically by name and/or 'A' file number or petition and court number, some include date and port of entry. Access: most systems are accessed manually. In some cases, index records may be accessed electronically from remote terminals.

Safeguards:

Each system of records is safeguarded and protected in accordance with Department of Justice and Service rules and procedures.

Retention and disposal:

a. The period of retention for alien registration records is 100 years from the closing date or date of last action.

b. Materials retained in correspondence portion of subject files are normally retained no longer than two years and are then either microfilmed or destroyed by burning.

c. Materials retained in policy portions of subject files are retained indefinitely.

d. Indexes and records not enumerated above are generally retained only so long as they serve a useful purpose.

e. Microfilmed manifest records are retained permanently.

f. Freedom of Information Act index cards and materials kept in the correspondence portion of files are retained for one year; the disposal is by burning, shredding or pulverizing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Exceptions to the general practices above:

Storage:

a. Air detail office index systems Forms I–92 are filed in rotary index machines by calendar year. Suspect files are in letter size cabinets, both are operated manually.

b. Alien address reports, I–53, are microfilmed from 1975 and subsequent. In 1973 and 1974 they are filed in cabinets in Service offices and in Federal Record Centers.

c. Alien enemy index information is maintained in the system and is on microfilm. The actual files are stored in Federal Record Centers.

d. Intelligence indices are stored, not by name, but by organization, activity or violation.

e. Some systems are stored numerically, or by subject, or by court and petition number or time sequence, as well as alphabetically.

f. Alien Documentation, Identification and Telecommunication (ADT) system information is stored on magnetic tape and disk. Original forms completed by the individuals to whom the records pertain are filed with other records in subsystem E, "Centralized index and records."

g. Centralized index records which can be accessed electronically are stored on magnetic disk and tape.

Access:

a. Centralized index records stored on magnetic disk are accessed from remote terminals located in INS offices on the Department of Justice Telecommunications System (JUST).

Retrievability:

Aircraft data is filed in numerical sequence (air detail office index system).

Retention and disposal:

a. Access clearance index is maintained on a current basis. Cards forms completed by the index are destroyed upon the resignation, death or retirement of the employee.

b. Air detail office index, Form I–92A forms information is retained for 5 years.

c. Border Patrol examination papers are destroyed 6 months after the trainee officer completes his probationary year.

d. Finance indices: Accounts with creditors and debtors are retained by the Service for 2 years from the close of the fiscal year to which they relate and are then transferred to the Federal Record Centers pending their ultimate disposition. The records are disposed of in accordance with General Service Administration regulations.

e. Intelligence indices: Intelligence bulletins are retained indefinitely.

f. Index Form G–617 is maintained for three years, then destroyed. However, in the White House and Attorney General

Correspondence Indexes, form G–617 information is retained through the administration of each President and one year beyond.

g. Index Form CO–147 is maintained until the subject matter is finally acted upon and is then destroyed.

h. Personnel investigations are generally destroyed in June of the year following the one year anniversary of the close of the investigation. Operation Clean Sweep cases are being retained as a package until the program is terminated. Criminal matters of unusual sensitivity are retained as long as there is a useful need.

i. Health Unit records :The records are retained for a period of 6 years after the date of the last entry therein. The records are disposed of by burning, shredding, macerating or pulverizing.

j. Indexes relating to law violators and witnesses are retained for 3 years and then destroyed. General correspondence is retained for no longer than 2 years. Investigative matters of a routine nature may be disposed of when the investigation is closed. Information on present and past employees is retained only as long as such information serves a useful purpose.

k. Naturalization examiners docket lists and master docket lists of petitioners for naturalization are retained for two years, disposal is by tearing, shredding, pulverizing, or burning. Naturalization and citizenship docket cards are purged after applications are rejected, closed, petitions non-filed, applications granted, or denied, the disposal is by tearing the cards.

l. Personal Data Card System: The record is retained for a period of 3 years after an employee is separated and then destroyed (Location: A, supra). The record is retained until an employee is separated and then destroyed (Location: B, supra). The records are disposed of by burning, shredding, macerating or pulverizing (Locations: A and B, supra).

m. Compassionate Cases System: The records are retained for 3 years and then destroyed. The records are disposed of by burning, shredding, macerating or pulverizing.

n. Emergency Reassignment Index: The records are retained on a current basis and are destroyed upon the transfer, separation, retirement or death of the employee. The records are destroyed by burning.

o. Alien Documentation Identification and Telecommunication (ADIT) system records are maintained until naturalization, death or other material change in status of the individual, or until the registration card is relinquished.

p. Centralized index records stored on magnetic disk and tape are undated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed.

System manager(s) and address:

A. The system manager, service-wide is the Associate Commissioner, Management (Location: A supra)

B. The Associate Commissioner, Management is the sole manager of the following systems: (1) Agency information control record index; (2) Alien address report (I–53); (3) Alien enemy index; (4) Centralized index (Master index); (5) Congressional mail unit index; (6) Document veendors and alters; (7) Enforcement correspondence control index; (8) Examinations correspondence control index; (9) Finance unit indexes; (10) Freedom of Information Act correspondence control index; (11) Intelligence indexes; (12) Microfilmed manifest records; (13) Property issued to employees; (14) Access clearance information system; (15) White House and Attorney General correspondence control index; (16) Health Record System; and (17) Alien Documentation, Identification and Telecommunication (ADIT) system.

C. The following official for Service personnel investigations: Director, Internal Investigations (Location: A supra).

D. The following officials (for inquiry for special need) by category:

(1) Alien address reports for portion of system maintained: (a) Associate Commissioner, Management; (b) District Directors (Locations: C supra); and/or (c) Officers in Charge—(Locations:—E supra).

(2) Investigation units indices for: Contact index; enforcement index; anti-smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index, the managers are the ranking Service officer, of the Service offices in which such indices are maintained—(Location: A, B, C and E supra).

(3) Border Patrol unit indices. (a) Air detail office index: Deputy Director (Location: J, supra). (b) Anti-smuggling information center: (1) Canadian Border: Chief Patrol Agent (Location: F–19 supra); and (2) Mexican Border: Deputy Director (Location: J, supra). (c) Fraudulent Document Center: Deputy Director (Location: J, supra). (d) Border Patrol Academy: Chief Patrol Agent (Location: G supra). (e) Border Patrol sector general indices: Chief Patrol Agent (Location: F–1 thru 21 supra).

(4) Assistant Regional Commissioner, Security (Location: B–4 supra) For automobile decal identification system.

(5) Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel (Location: A supra) for extension training program enrollee file.

(6) Naturalization and Citizenship indexes. (a) Naturalization and citizenship docket cards: District Directors and Officers in Charge (Locations: C and E supra, except E–6, 7, 8 and 13). (b) Docket lists of Petitioners for Naturalization Form N–476: District Directors and Officers in Charge (Locations: C and E supra, except E–6 and 8). (c) Docket lists of petitions pending at least one year (Form N–476): The Associate Commissioner Mgt. (Location: A supra), Regional Commissioners (Location: B supra), District Directors and OIC's (Locations: C and E supra, except E–6, 7, 8 and 13).

(7) Personal Data Card System: Associate Commissioner, Management (Location: A supra); Regional Commissioners (Location: B supra).

8. Compassionate Cases System: Associate Commissioner, Management (Location: A, supra); Regional Commissioners (Locations: B–1 and 4, supra).

(9) Emergency Reassignment Index: Regional Commissioners (Location: B, supra); District Directors (Location: C, supra); Officers in charge (Location: E, supra); and Chief patrol agents (Location: F, supra).

Notification procedure:

A. Address inquiries to the respective systems managers listed in System Manager supra, except Finance unit inquiries shall be addressed to the office of the Service at which the individual did business (for locations see Location supra) and Freedom of Information Act inquiries shall be addressed to the office of the Service nearest the requestor's place of residence or if known, the office of the Service where the requestor knows his record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

(1) Agency information control index system; (2) Anti-smuggling index (general); (3) Anti-smuggling information centers system for Canadian and Mexican Borders; (4) Contact index; (5) Criminal, immoral, narcotic, racketeer and subversive indexes; (6) Document vendors and alterers index; (7) Informant index; (8) Intelligence indexes; (9) Service look out system; (10) Suspect third party index; (11) Emergency Reassignment Index.

Record access procedures:

In all cases, requests for access to a record from any record subsystem shall be in writing or in person; if request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request". The requester must include a description of the general subject matter and, if known, the relating numerical identifier. The request must also include sufficient data to identify a relating record, such as the individual's full name, date and place of birth, and if appropriate, the date and place of entry into the United States, or departure from the United States. The requester shall also provide a return address for transmitting the information. Most of the systems contain records which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k) and records which are classified pursuant to Executive order. The requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedures:

Any individual desiring to contest or amend information maintained in the system should direct his request to the office of this Service nearest his residence, or in which he believes a record concerning him may exist, (see Notification, supra), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories:

The basic information contained in these records is supplied by the individual on Department of State and Service applications and reports; inquiries and/or complaints from members of the general public, members of the Congress; referrals of inquiries and/or complaints directed to the White House or to the Attorney General by members of the general public; Service reports of investigation, sworn statements, correspondence and memoranda; official reports, memoranda and writing referrals from other government agencies, including Federal, state and local; from the various courts and regulatory agencies; and information from foreign government agencies and international organizations.

The source of the data in the Freedom of Information Act correspondence control index is those individuals who seek information under the Act.

The information contained in the Emergency Reassignment Index is supplied by the individual and the Associate Commissioner, Management.

Nearly all the systems contain information received from sources which are exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

Justice/FBI–010

System name:

Employees Travel Vouchers and Individual Earnings Records.

System location:

Federal Bureau of Investigation, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535. Records pending audit are located at Federal Records Centers.

Categories of individuals covered by the system:

Former and current employees of the FBI.

Categories of records in the system:

Payroll, travel and retirement records of current and former employees of the FBI.

Authority for maintenance of the system:

The head of each executive agency, or his delegate, is responsible for establishing and maintaining an adequate payroll system, covering pay, leave and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a and 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used by Departmental personnel to prepare and document payment to employees of the FBI and to carry out financial matters related to the payroll or accounting functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system—Storage:

Manual (paper files).

Retrievability:

The records can be retrieved by name and either social security account number or employe identification number.

Safeguards:

Accessed by Bureau employee at FBI Headquarters and by Field Office employees at Records Centers. Transmittal document contains Bureau statement concerning security, i.e., who may access or view records. Records are maintained in rooms under the control of employees during working hours and maintained in locked file cabinets in locked rooms at other times. Security guards further restrict access to the building to authorized personnel only.

Retention and disposal:

Employee travel vouchers—retained indefinitely. Individual earnings records—retained 56 years after date of last entry.

System manager(s) and address:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Notification procedure:

Written inquiries, including name, date of birth, and social security number, to determine whether this system contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Record accessing and contesting procedures:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Record source categories:

Travel vouchers turned in by individual employees for official business. Pay records—time and attendance records, pay determined by the agency

Systems exempted from certain provisions of the Act:

None

JUSTICE/FBI–011

System name:

Employee Health Records

System locations:

Federal Bureau of Investigation, Finance and Personnel Division, Health Service, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535, and the following field offices: New York, Newark, Philadelphia, Chicago, Los Angeles, San Francisco, and FBI Academy, Quantico, Virginia. Addresses for these offices can be found in Justice FBI–999, the appendix of Field Offices for the Federal Bureau of Investigation published at 41 FR 40002–3 (September 16, 1976).

Categories of individuals covered by the system:

Current and former employees of the FBI.

Categories of records in the system:

Records of visits to health facilities relating to sickness, injuries or accidents.

Authority for maintenance of the system:

The head of each agency is responsible, under 5 U.S.C. 7902, for keeping a record of injuries and accidents to its employees and for reducing accidents and health risks. These records are maintained under the general authority of 5 U.S.C. 301 so that the FBI can be kept aware of the health related matters of its employees and more expeditiously identify them.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are maintained by the FBI to identify matters relating to the health of its present and former employees. Information is available to employees of the FBI whose job function relates to identifying and resolving health matters of former and current personnel of the FBI.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system—Storage:

Filing of 3×5 index record cards

Retrievability:

These index cards are retrievable by the name of an individual.

Safeguards:

These records are maintained by FBI personnel during working hours and in locked file cabinets during non-working hours. Security guards further restrict access to the building to authorized personnel.

Retention and disposal:

These 3×5 index cards are maintained for the duration of an employee's service

with the FBI unless the resolution of a health related problem warrants retention beyond this period.

System manager(s) and address:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Notification procedure:

Written inquiries, including name, date of birth and social security number, to determine whether this system of records contains records about an individual may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Record access and contesting procedures:

Written inquiries, including name, address and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535 and the above-mentioned field offices at addresses referred to in Justice/FBI–999.

Record source categories:

Employees of the Federal Bureau of Investigation originate their own records.

Systems exempted from certain provisions of the Act:

None.

JUSTICE/FBI–012

System name:

Time Utilization Record-Keeping (TURK) System.

System location:

Administrative Services Division, Federal Bureau of Investigation, J. Edgar Hoover Building, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Categories of individuals covered by the system:

Special Agents, Accounting Technicians, Investigative Assistants, and Laboratory Technicians.

Categories of records in the system:

System contains bi-weekly time utilization data of Special Agents, Accounting Technicians, Investigative Assistants and Laboratory Technicians.

Authority for maintenance of the system:

This system of records is maintained under the authority of 31 U.S.C. 66a which requires the head of the Department, or his delegate, to establish a system of accounting and internal control designed to provide full disclosure of the financial results of the FBI's activities; adequate financial information needed for the FBI's management purposes and effective control over the accountability for all funds, property and other assets for which the FBI is responsible.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For the purpose of producing cost accounting reports reflective of personnel utilization, records may be made available to the General Accounting Office, the Office of Management and Budget and the Treasury Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system—Storage:

Information maintained in the system is stored electronically on magnetic tapes and discs for use in a computer environment.

Retrievability:

Information is retrieved by name and or social security number.

Safeguards:

Information is safeguarded and protected in accordance with the FBI's Computer Center regulations that permit access and use by authorized personnel only.

Retention and disposal:

Bi-weekly magnetic tapes are retained for a period of 3 years. Hard copy records are retained in accordance with instructions contained in General Records Schedule 8, and GSA Bulletin FPMR–47 Archives and Records. Hard copy records will be destroyed, magnetic tapes will be erased and reused.

System manager(s) and address:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

Notification procedures:

Same as above.

Record accessing and contesting procedures:

Written requests for access to information may be made by an employee through his supervisor or by former employees by writing to: Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535 (Attn: Administrative Services Division). Contesting of any information should be set out in written detail and forwarded to the above address. A check of all supportive records will be made to determine the factual data in existence.

Record source categories:

Source of information is derived from daily time utilization recording made by the employees.

Systems exempted from provisions of this Act:

None.

JUSTICE/CIV–001

System name:

Civil Division Case File System.

System location:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system:

Any and all parties involved in the cases handled by the Civil Division will have identifying data contained in this system.

Categories of records in the system:

1. The main record of the system is the case file which is retained on each case under the jurisdiction of the Civil Division except for those cases for which files are maintained in the Civil Division Case File System: Customs Section and the Office of Alien Property File System, and constitutes the official record of the Department of Justice. All record material relating to a case is retained in the file. Each case is assigned a number comprised of the category designation for the subject matter; the code number for the judicial district where the action originated, and the number of cases of that category which have arisen in that district.

2. Alphabetical and numerical indices are utilized as a means of access to the proper file by the cross-referencing of the names of all parties to a suit with the file number. Forms CV–54 and carbon-interleaf index cards are used in these indices.

3. A Docket Card Index is maintained on each case in order to follow the progress of all Division cases and to obtain statistical data for monthly and fiscal reports. However, all information contained on the cards has been taken from the record material contained in the official file.

Authority for maintenance of the system:

General authority to maintain the system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101. The particular system was established in accordance with 28 CFR 0.77(f) and was delegated to the Civil Division pursuant to the memorandum from the Deputy Attorney General, dated July 17, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses.

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the F.B.I. and the United States Attorneys' Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraingnment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connnection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 CFR 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

1) The case files utilize standard file jackets and are retained in electronic rotary power files; 2) The alphabetical and numerical index cards, as well as the docket cards, are retained in standard file cabinets.

Retrievability:

The files and docket cards must be retrieved by file number. The file number can be ascertained from the alphabetical index if the name of any party to the suit is known.

Safeguards:

Information contained in the system is unclassified. However, only attorneys who have their names recorded in the File Unit can be issued a case file. Minimal information about a case is provided from the various indices to telephone callers, since there is a problem with identifying the identity of a caller. If a party desires detailed information, he is referred directly to the attorney of record.

Retention and disposal:

When a case file is closed by the legal section, it is sent to the Federal Records Center for retention in accordance with the authorized Record Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period has passed, the file is destroyed. However, the index and docket cards are not purged.

System manager(s) and address:

Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure:

Address inquiries to: Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures:

A request for information concerning the cases of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include the file number and/or the names of any litigants known to the requestor. The requestor should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above. Requests may also be made by telephone. In such cases the caller will be referred to the attorney of record. The attorney, in turn, may require an official written request.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put onto docket and index cards.

Systems exempted from certain provisions of the act:

None.

JUSTICE/CIV–002

System name:

Civil Division Case File System: Customs Section.

System location:

26 Federal Plaza, New York, New York 10007, and U.S. Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system:

Any and all parties and counsel involved in the cases handled by the Customs Section of the Civil Division will have identifying data contained in this system.

Categories of records in the system:

1. The main record of the system is the case file which is retained on each case under the jurisdiction of the Customs Section of the Civil Division and constitutes the official record of the Department of Justice thereon. All record material relating to a case is retained in the file. Each file is assigned the Customs Court number given to the summons filed in that court or, in cases filed prior to October 1, 1970, to reappraisement appeals or to protests filed with the Customs Court.

The number assigned to the file will change to the number assigned by the Court of Customs and Patent Appeals, if that case becomes the subject of an appeal before that court. In addition, the Customs Section retains a log of communications received and communications sent. The correspondence is identified thereon by court (case) number, identification of the kind of communication, and the person receiving it.

2. The case file and communication logs are physically retained at the offices of the Customs Section, 26 Federal Plaza, New York, New York 10007. From these records, the Customs Section inputs certain information for conversion into a data processing system which is maintained at the Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. Included in the information contained in the data processing system is the identity of the parties and their counsel, as well as the merchandise involved, the port of entry and the competing statutory provisions.

3. Alphabetical and numerical indices are maintained as a means of access to the proper file number by the cross-referencing of the names of non-government parties to suits with the appropriate file (court) numbers. These indices are made of index cards and maintained in the Chief Clerk's office in the Customs Section.

Authority for maintenance of the system:

The Customs Section case files are maintained under the authority of 28 U.S.C. 2601(b) and 2632(e) and established in accordance with 28 CFR 0.45(c) which gives the Civil Division responsibility for "all litigation incident to the reappraisement and classification of imported goods, including the defense of all suits in the Court of Customs and Patent Appeals", and with 28 CFR 0.48 which designates the Chief, Customs Section, "to accept service of notices of appeals to the Court of Customs and Patent Appeals and all pleadings and other papers filed in the Customs Court, when the United States is an adverse party in any customs litigation".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses.

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the Federal Bureau of Investigation and the United States Attorney offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice.

Certain information contained in the record may also be disseminated to the U.S. Customs Service, the Department of the Treasury, the International Trade Commission, the Department of State, or any other agency of the Government whose decision is being challenged in a case assigned to the Customs Section for disposition. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or a hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed

by the President, in accordance with the provisions of 28 CFR 17.60; (14) copies of the summons (protest and reappraisement appeals, where appropriate) and the communication logs are made available to employees of the private contractor who services the data processing system in New York for the purpose of enabling such employees to extract all pertinent information from said documents so that such information may be encoded and converted to punch card form.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

(1) The case files utilize standard file jackets or envelopes and are maintained in standard file cabinets; (2) The alphabetical index cards are maintained in standard file cabinets; (3) The communication logs are maintained in looseleaf binders and, when not being currently referred to, are also maintained in standard file cabinets; (4) The information in the data processing system is maintained on tapes stored in the Data Services Center.

Retrievability:

(1) The case files must be retrieved by number. The file number may be ascertained from the alphabetical index when the name of any non-government litigant is known. (2) The information contained in the data processing system may be retrieved through the retrieval tool activiated by an attorney making a request for a report to the computer technician who codes the request on a form in the format of the retrieval language. The action words of the retrieval reports are: List=lists the case numbers of the cases which satisfy certain criteria such as plaintiff's name, counsel's name, court number, merchandise, competing statutory provisions, Government counsel. Write=output and the full history for any case specified by case number. Write*=a limited case history for any case specified by case number. Count=tallying the number of cases in the data base contained in the request.

Safeguards:

(1) Information contained in the system is unclassified. However, only attorneys in the Customs Section who have responsibility for the case may properly obtain a case file. Correspondence and telephone calls about particular cases are referred to the attorney having responsibility for the case. In the attorney's absence, another attorney covering for the absent attorney or the Chief of the Section may respond to the telephone call or correspondence. The index files and the communication logs are utilized only by the personnel of the Customs Section in locating or verifying information contained in the system. (2) Information from the data processing system may be obtained only by attorneys on the basis of requests made in writing on a proper form supplied by the Customs Section. The request is made of the computer technician. Normally these requests are mailed to the technician in charge at the Data Services Center, but occasionally the request may be related telephonically by the computer technician.

Retention and disposal:

(1) Closed case files are sent to the Federal Records Center for retention in accordance with the authorized Records Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period is passed, the file is destroyed. The communication logs are sent to the Federal Records Center for retention in accordance with the authorized records disposal schedule after five years. After the designated period those records are also destroyed. The index cards, however, are not purged. (2) Periodically, the inactive cases will be purged from the main tape in the data processing system and transferred to the historical tape where the information will be retained indefinitely. There is a provision in the data processing system to delete and remove an entire case history from the main or historical tape. This may be done on request from the Chief of the Customs Section and such removed cases will not be saved or written on any other tape.

System manager(s) and address:

Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures:

A request for information concerning the cases of the Customs Section of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include the file number and/or the names of any non-government litigant known to the requestor. The requestor should also provide a return address for transmitting the information. Such access request should be submitted to the Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Assistant Attorney General, Civil Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. The request should clearly state what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put on communication logs and/or index cards.

Systems exempted from certain provisions of the act:

None.

JUSTICE/CIV–003

System name:

Office of Alien Property File System.

System location:

550 11th Street, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system:

Any and all parties involved in the cases, claims and matters handled by the Office of Alien Property may have identifying data contained in this system.

Categories of records in the system:

1. This system consists of indices and files relative to enemy-owned property, reporting sources, ownership, vesting, and claims for the return thereof. Each vesting order is assigned a general file number, and each claim has a separte file number. Separate account files are maintained on vested property for each alien account.

2. Alphabetical and numerical indices are utilized as a means of access to the proper general file by the cross-referencing of the names of all individual former property owners and claimants with the general files.

3. Records of litigation involving the Office of Alien Property are contained in this system. There are also alphabetical and numerical indices to facilitate access to these cases.

Authority for maintenance of the system:

The Office of Alien Property files are maintained under the authoriyt of 44 U.S.C. 3101 and 50 U.S.C. App. 40, Title II of the International Claims Settlement Act, and was established in accordance with 28 CFR 0.47 which states in part "The Office of Alien Property shall be a part of the Civil Division * * *" and thereafter describes the authority,

rights, privileges, powers, duties and functions of that office.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses.

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the Federal Bureau of Investigation and the United States Attorney Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice.

Certain information contained in the record may also be disseminated to the U.S. Customs Service, the Department of the Treasury, the International Trade Commission, the Department of State, or any other agency of the Government whose decision is being challenged in a case assigned to the Customs Section for disposition. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matter as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by any agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 CFR 17.60; (14) records are also available to the public for inspection and distribution as set forth at 8 CFR 503.1, including (a) Annual Reports of the Office of Alien Property, and (b) final determinations, opinions, and orders in cases heard or reviewed within the Office of Alien Property; (15) records and documents are available for inspection by persons properly and directly concerned in connection with claims filed with the Office, records in cases heard or reviewed in the Office, and authorizations for sale and records of bids in public sales and orders for their acceptance or rejection and notifications thereof; (16) any record or portion thereof may also be disseminated to the Department of the Treasury and to the Foreign Claims Settlement Commission as a matter of routine use when such record relates to matters within the jurisdiction of the Office of Foreign Assets Control, Department of the Treasury, or claims being processed before the Foreign Claims Settlement Commission; (17) any record or portion thereof relating to an estate or trust matter under the jurisdiction of the probate courts of the several states may be disseminated to the parties and their representatives or to the courts, in proceedings involving the property owned or claimed to have been owned by a designated national of an enemy country under the provisions of the Trading with the Enemy Act; (18) any record may be disseminated to the Department of State for any negotiation or other action relating to the Office of Alien Property or to any subject matter which is, or was at one time, under the jurisdiction of the Office of Alien Property.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information in the system is stored in standard file jackets, and on index cards, within standard filing cabinets.

Retrievability:

The files and index cards must be retrieved by file numbers, which can be ascertained from alphabetical indices if the name of the non-government party is known, or from numerical indices relating to the various vesting orders, accounts, claims, or cases.

Safeguards:

Information in the system is regarded as confidential, pursuant to 8 CFR 503.17. Departmental rules and procedures are in force that insure that only Departmental attorneys and their authorized agents have access to this information.

Retention and disposal:

A file is closed when one of the following occurs:

1. The vesting order has been complied with and the property disposed of pursuant to the Trading with the Enemy Act, and all claims have been processed.
2. A case involving the Office of Alien Property has ended by the final termination of the litigation through a compromise settlement, court decision or any other method of termination for court cases.

The file is then retained in the Federal Records Center for a number of years and thereafter may be destroyed. Index cards are retained for as long as may be practicable.

System manager(s) and address:

Assistant Attorney General, Civil Division; U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure:

Address inquiries to Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures:

A request for access to a record within the Office of Alien Property system involving matters of privacy and which is not otherwise available to the party requesting the same should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include file or account numbers and/or the names of any known non-government parties. The requester should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories

All claimants to property, as well as former depositories, are sources of information, also other offices and agencies operating under provisions of the Trading with the Enemy Act.

Systems exempted from certain provisions of the act:

None.

[FR Doc.77-23119 Filed 8-11-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is caculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C., this eighth day of August 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training

Applications Received During the Week Ending August 5, 1977

Name of applicant	Location of enterprise	Principal product or activity
Wilson Engineering Co	Fairmont, W. Va	Steel fabricating
MERR Enterprises, Inc	Douglas, Ga	Holiday Inn motel and restaurant complex.
John Robert Jones	Red Springs, N.C	Grain drying and storing facility.
AGE Box Co	Cibolo, Tex	Manufacture of corrugated [illegible] pute
Frazier & Frazier Industries	Coolidge, Tex	Manufacture of quality grey iron
[illegible]	Green Valley, Ariz	Investment rental casitas

[FR Doc 77-23255 Filed 8 [illegible] 77 8 45 [illegible]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Nomination of Members

Notice of Establishment and Request for

Notice is hereby given of the intention to form a Standards Advisory Committee on Cutaneous Hazards as authorized by Section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656). The function of this committee will be to review the hazards of skin exposure to corrosives, sensitizers, irritants and carcinogens in order to prepare recommendations for an effective standard to control these hazards.

The Assistant Secretary for Occupational Safety and Health requests nominations for membership on this committee in the following categories: employee, employer, state and public. No member of the committee (other than representatives of employers and em-

ployees shall have an economic interest in any proposed rule.

Nominations must include: (1) a letter of recommendation from an organization of the same category as the nominee, or in the case of the public category from an appropriate organization or individual; (2) a resume of the nominee's related qualifications including address, business and home telephone numbers; and (3) a statement that the nominee is aware of the nomination and is willing to serve as a committee member. The term of membership will be for the duration of committee activities not to exceed 180 days from the date of the organizational meeting.

Nominations should be submitted no later than September 9 to:

Stephen Kaffee, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. 202-523-8024.

Signed at Washington, D.C. this 5th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-23363 Filed 8-11-77;8:45 am]

Office of the Secretary

PROPOSED REVISION OF CONSUMER Representation Plan (CRP)

AGENCY: Office of Consumer Affairs, USDOL.

ACTION: Proposed Change in Notice of DOL Consumer Representation Plan.

SUMMARY: On September 28, 1976, the Department of Labor (DOL) published in the FEDERAL REGISTER (41 FR 42815) a Consumer Representation Plan including the intention to hold an annual open meeting in each regional city to evaluate the Department's program operations, regulations and policy. Since that time a new Administration has taken office and proposed an entirely new consumer program, including the establishment of an Agency for Consumer Advocacy—currently before Congress. There are conflicting views with respect to the Administration's consumer proposals and the subject is under intense national consideration on various public and private levels. DOL is concerned that the proposed open meetings might inappropriately serve as a forum for debating the consumer proposals now before Congress and negate the purposes listed above for which the open meetings were planned. DOL therefore proposes to postpone the open meetings until such time as an effective resolution of the Administration's consumer program recommendations has been achieved.

DATES: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments to Special Assistant to the Secretary for Consumer Affairs, U.S. Department of Labor, Room S-1032, 200 Constitution Avenue NW., Washington, D.C. 20210.

It is proposed to suspend until further notice that paragraph in the Department of Labor Consumer Representation Plan appearing on 41 FR 42816 which reads as follows:

Hold an annual open meeting in each of our regional cities for consumers to evaluate program operations, regulations and policy.

Signed at Washington, D.C. on the eighth day of August, 1977.

JOHN W. LESLIE,
Special Assistant to the Secretary for Consumer Affairs.

[FR Doc.77-23367 Filed 8-11-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-50]

SPACE SHUTTLE PROGRAM

Draft Environmental Impact Statement; Public Availability

Notice is hereby given of the public availability of the draft environmental impact statement for the National Aeronautics and Space Administration (NASA) Space Shuttle Program.

A previous environmental impact statement for the Space Shuttle Program was prepared in draft, circulated for comments, and published as a final statement in 1972. Since that time, new information has become available, and a number of design changes have altered somewhat the estimates of other environmental effects. The present draft has therefore been prepared to supersede the 1972 statement, and is being issued at this time.

Comments on the draft environmental impact statement and on matters set forth therein are solicited from and may be submitted by state and local agencies and members of the public. Such comments should be submitted to the Associate Deputy Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be recevied by October 12, 1977, in order to be considered in the preparation of the final environmental impact statement.

Copies of the draft may be obtained from NASA, Code FP, Washington, D.C. 20546, or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue SW., Washington, D.C. 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Hugh L. Dryden Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, Calif. 93523

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, Tex. 77058

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, Ohio 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.

(j) National Space Technology Laboratories, NASA (Building 1100, Room A-713), Bay St. Louis, Miss. 39520.

(k) Jet Propulsion Laboratory (Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, Calif. 91103.

(l) Wallops Flight Center, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 5th day of August 1977.

By the direction of the Administrator.

DUWARD L. CROW,
Associate Deputy Administrator, National Aeronautics and Space Administration.

[FR Doc.77-23353 Filed 8-11-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON LOCATION AND PROGRAM FOR THE PROPOSED WASHINGTON CIVIC CENTER

Notice of Availability and Notice of Public Hearing

A draft Environmental Impact Statement on the location and program for the proposed Washington (D.C.) Civic Center has been prepared jointly by the District of Columbia Government and the National Capital Planning Commission and is now being circulated for public comment.

Copies of the draft EIS are available for review at all public libraries in the District of Columbia and at the Commission's offices located at 1325 G Street NW., Washington, D.C. The Commission's office hours are 8:30 A.M. to 5:00 P.M., Monday through Friday.

Interested persons are invited to submit their views on the draft EIS addressed to Ms. Patricia Spillenkothen, National Capital Planning Commission, Washington, D.C. 20576. All comments should be received by September 26, 1977 in order to receive full consideration.

A public hearing on the draft EIS will be held in the 10th Floor Conference Room of the Commission on September 8, 1977, at 7:00 P.M. Interested citizens may present oral and or written comments on the draft EIS at this hearing

DANIEL H. SHEAR,
Secretary.

[FR Doc.77-23213 Filed 8-11-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel to the National Council on the Arts will be held on August 30-31, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-23397 Filed 8-11-77;8:45 am]

MUSIC ADVISORY PANEL

Change in Meeting

Notice is hereby given that in the Notice of Meeting of the Music Advisory Panel (Jazz Section) of the National Council on the Arts for August 24-27, 1977, which was published in the FEDERAL REGISTER, Volume 42, page 39510, August 4, 1977, the following changes have been made:

Room 1422 has been changed to Room 1340.

A portion of this meeting will be open to the public on August 24, 1977, from 9:30 a.m. to 6:00 p.m. on a space available basis. The agenda for this session will include policy discussions.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Signed in Washington, D.C., on August 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-23398 Filed 8-11-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE "FEDERAL REGISTER"

Region V Workshops in Saint Paul, Minnesota

WHO: Any person who must use the FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

WHAT: The free public workshops are being presented in cooperation with the Minnesota State Metropolitan Council of the Twin Cities Area. Each workshop will last approximately three hours, will be identical in content, and will cover the following areas:

1. A brief history of the FEDERAL REGISTER system.

2. The difference between legislation and regulations.

3. The relationship of the FEDERAL REGISTER and the Code of Federal Regulations.

4. Important elements of a typical FEDERAL REGISTER document.

5. An introduction to the finding aids of the Office of the FEDERAL REGISTER.

WHY: These workshops are part of the General Services Administration's Consumer Representation Plan and are one way of providing the public with better access to information about Federal agency actions which directly affect them. They are designed to help the public better use and understand the FEDERAL REGISTER and to seek suggestions on ways to improve FEDERAL REGISTER publications.

WHEN: 9 a.m. on September 13, 14, and 15, 1977. (Reservations required.)

WHERE: Metro Council Chambers, Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota.

RESERVATIONS: Chuck McDew, 612-291-6421.

The Office of the FEDERAL REGISTER will not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantive questions. Rather, the workshops are designed for the person who discovers he or she has to use FEDERAL REGISTER publications to keep track and gain an understanding of Federal regulations.

AUGUST 10, 1977.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.77-23493 Filed 8-11-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

IMPORTATION FROM FINLAND OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Issuance by the Government of Finland of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin are now available for importation from Finland of ferrochromium and specialty steel products under Section 530.503 of the Rhodesian Sanctions Regulations. These certificates are issued pursuant to a formal certification agreement between the Government of Finland and the Government of the United States. They will serve to establish that Finnish materials exported to the United States do not contain any chromium of Rhodesian origin.

The Government of Finland has full responsibility for administration of the detailed control measures provided for in the certification agreement. The Board of Customs of the Government of Finland will authorize producers of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Government of Finland and the Government of the United States

The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Finland. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: August 3, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

[FR Doc.77-23324 Filed 8-9-77;11:08 am]

INTERSTATE COMMERCE COMMISSION

[No. 35495]

ASSIGNMENT OF HEARINGS

AUGUST 9, 1977

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 2890 (Sub-No. 511), American Buslines, Inc., MC 41638 (Sub-No. 61), Delux Trailways, Inc., MC 66810 (Sub-No. 20), Peoria-Rockford Bus Co., and MC 109780 (Sub-No. 72), Continental Trailways, Inc., now assigned September 13 through 15, 1977, at Chicago, Ill., will be held in Room 269, 536 S. Clark Street, September 16, 1977 at Chicago, Ill., held in Room 905, 536 S. Clark Street, continued to September 19, 1977, at Rockford, Ill., in the Council Chambers, City Hall, 425 E. State Street and further continuance to September 22 1977, at St. Louis, Mo., in Courtroom 3 U.S. Court & Customs, 6th Floor, 1114 Market St.

MC 117040 (Sub-No. 194), Nationwide Carriers, Inc., now being assigned September 20, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142602 (Sub-No. 1), Containerized Moving Service, Inc., now being assigned September 26, 1977, at the Offices of the Interstate Commerce Commision, Washington, D.C.

MC 52940 (Sub-No. 69), Vance Trucking Co., Inc., now being assigned October 13, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 141949, K.M.O., Inc., Contract Carrier Application now being assigned October 18, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119917 Sub 41, Dudley Trucking Co., Inc now being assigned November 9, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C. MC 139254 Sub 7, Brooks Transportation, Inc now being assigned November 8, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 117574 Sub 284, Daily Express, Inc. now being assigned November 2, 1977, at the Interstate Commerce Commision in Wsahington, D.C.

MC 123407 Sub 367, Sawyer Transport, Inc. now being assigned October 18, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C. for prehearing conference

MC 123165 Sub 3, Roberts Trading Corp. now being assigned November 1, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 30844 Sub 581, Kroblin Refrigerated Xpres, Inc. now being assigned November 3, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C

MC 142880 Victor Ismael Marquez now being asigned October 3, 1977 (1 day) for hearing in Miami, Fla. in a hearing room to be later designated.

MC 135082 Sub 45, Burch Truck, Inc., d.b.a. Roadrunner Trucking, Inc. now being assigned November 8, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C. for prehearing conference.

MC 134676 Sub. 5, H. H. Moore, Jr., now being assigned November 10, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 1117 Sub 13, M.G.M. Transport Corp. now being assigned November 10, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 113651 Sub 212, Indiana Refrigerator Lines, Inc. now being assigned November 28, 1977 (2 days) at Memphis, Tenn. in a hearing room to be later designated.

MC 124117 Sub 21, Earl Freeman, d.b.a. Mid-Tenn Express, now being asigned November 30, 1977 (3 days) at Memphis, Tenn., in a hearing room to be later designated.

MC-C 9649 J. L. Stone, Inc., T. E. Mercer Trucking Co., and Mercer Water & Sewer Transportation Co.—Investigtaion of Operations now assigned September 27, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street.

MC 60157 Sub No. 24 C. A. White Trucking Co., now asigned September 29, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street

MC 119774 Sub No. 92 Eagle Trucking Co., now assigned September 29, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street.

MC 120257 Sub No. 32 K. L. Breeden & Sons, Inc., now assigned September 29, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street

MC 141033 Sub No. 19 Continental Contract Carrier Corp., now assigned October 3, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street

MC 114045 Sub No. 462 Trans-Cold Express Inc., now being assigned October 4, 1977 (1 day) for hearing in Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street. MC-F 13002 Great Western Trucking Co., Inc.—Purchase (Portion) —Bray Lines, Inc., now assigned October 5, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street

MC 5470 Sub No. 121 Tajon, Inc. now assigned October 11, 1977, at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street.

MC 119726 Sub No. 80 N.A.B. Trucking Co., Inc., now assigned October 12, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street

MC 119792 Sub 57, Chicago Southern Transportation Co., now assigned October 17, 1977 at Chicago, Ill., is cancelled and reassigned for October 17, 1977 (1 week) at Milwaukee, Wis., in a hearing room to be later designated.

MC 142789, Wetco, Inc., DBA Key Limousine, now being assigned for October 3, 1977, at Salt Lake City, Utah (1 week); in a hearing room to be later designated

H. G. HOMME, Jr.,
Acting Secretary

[FR Doc. 77-23380 Filed 8-11-77 8:45 am]

[Notice No. 100TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 9, 1977

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 541TA), filed July 26, 1977. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Ditto of California, located at or near Colfax, La., as an off-route point in connection with applicant's present regular routes, for 180 days. Supporting shipper(s): Ditto of California, Inc. P.O. Box 226, Colfax, La. 71417. Send protests to: James Johnson District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio. 44199.

No. MC 5227 (Sub-No. 27TA), filed July 26, 1977. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of Globe Industries, Inc., at or near Whiting and Hammond, Ind., to points in Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. Ostroski Traffic Manager, Globe Industries, Inc. 2638 East 126th Street, Chicago, Ill. 60333. Send protests to: Max H. Johnston District Supervisor, 285 Federal Building Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 35831 (Sub-No. 12TA), filed July 25, 1977. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone*, in bags, from the plantsites of Texas Lime Co., Arkansas, Kansas and Colo., for 180 days. Supporting shipper(s): Texas Lime Co., P.O. Box 851, Cleburne, Tex. 76031. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 82063 (Sub-No. 83TA), filed July 20, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, Mo. 63127. Applicant's representative: W. E. Klipsch, 10795 Watson Road, Sunset Hills, Mo. 63127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Isopropanol (isopropyl alcohol), methyl ethyl ketone, methyl isobutyl ketone, and acetone*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Mississippi and N.C., for 180 days. Supporting Shipper(s): Exxon Chemical Company U.S.A. P.O. Box 3272, Houston, Tex. 77001. Send protests to: J. P. Werthmann District Supervisor, Interstate Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 107496 (Sub-No. 1094TA), filed July 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds, and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Tex., for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1095TA), filed July 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible tallow*, in bulk, in tank vehicles, from Estherville, Iowa, to Union Center, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hurley Williams Brokerage, Suite 2020, 134 North LaSalle, Chicago, Ill. 60602. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1096TA), filed July 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from Lawrence, Kans., to North Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): FMC Corporation, 2000 Market Street, Philadelphia, Pa. 19103. CPC International, International Plaza 9W, Englewood Cliffs, N.J. 07632. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1097TA), filed July 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda*, in bulk, from LaCrosse, Wis., to points in Wisconsin, Minnesota, Iowa, and Illinois, for 180 days. Supporting shipper(s): Hydrite Chemical Company, P.O. Box 3337, Madison, Wis. 53704. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1098TA), filed July 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Canton, Mo., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ayers Oil Co., Box 229, Canton, Mo. 63435. Warelubco, Inc., 931 South East Street, Jacksonville, Ill. 62651. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 113434 (Sub-No. 80TA), filed July 26, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, and accessories therefor*, from Charlotte, Mich., to Columbus, Fremont, Perrysburg, and Sunbury, Ohio; Frankfort, Fort Wayne, Lawrenceburg, New Albany, and Terre Haute, Ind.; Chicago, Ill.; North East, Pa.; Louisville, Ky., and Milwaukee, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., Toledo, Ohio 43666. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 114457 (Sub-No. 321TA), filed July 25, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Willis, 2102 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Warner Robbins, Ga., to Williamsburg, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Company, Inc. P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 115495 (Sub-No. 35TA), filed July 8, 1977. Applicant: PARCEL SERVICE, INC., 300 North 2nd Street, St Charles, Ill. 60174. Applicant's representatives: Irving R. Segal, 1719 Packard Bldg., Philadelphia, Pa. 19102; S. Harrison Kahn, 1511 K Street NW., Washington, D.C. 20005; and Everett Hutchinson Suite 400, 1150 Connecticut Avenue NW Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring equipment, (A) Between the premises of the Catalog Distribution facility of J. C Penney Company, Inc., in Lenexa, Kans on the one hand, and on the other all points and places in Alabama, Arizona Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa Kansas, Kentucky, Louisiana, Michigan Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico North Carolina, North Dakota, Ohio Oklahoma, Oregon, South Carolina South Dakota, Tennessee, Texas, Utah Washington, Wisconsin, and Wyoming and (B) Between the premises of the Catalog Distribution facility of J. C Penney Company, Inc., in Lenexa, Kans on the one hand, and on the other points in Pennsylvania, West Virginia, and Virginia, within ten miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee, and the Virginia-North Carolina State lines Restrictions: (a) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment, and (b) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. C. Penney Company, Inc., S. William A. Deehan, Traffic Division—Distribution Department, 827 7th Avenue, New York, N.Y. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street Room 1386, Chicago, Ill. 60604

No. MC 116131 (Sub-No. 2TA), filed July 20, 1977. Applicant: BAUERMEISTER HEGEMAN, INC., 3651 N. Fruitridge, Bldg. 104, P.O. Box 4037, Terre

Haute, Ind. 47804. Applicant's representative: W. H. Grosbach, 711 E. Jackson Street, Brazil, Ind. 47834. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, trailer chassis* (other than designed to be drawn by passenger automobiles), and parts and accessories therefor, in initial movements, from plantsite and storage facilities at Brazil, Ind., to points in the States of Indiana, Kentucky, Illinois, Ohio, Michigan, Missouri, Wisconsin, Alabama, Tennessee, Arkansas and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Dane Trailers Indiana, Inc., Highway 40 East, P.O. Box 350, Brazil, Ind. 47834. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 117883 (Sub-No. 217TA), filed July 26, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Thomas R. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from the plantsite and storage facilities of Beaver Meadow Creamery and/or Beaver Meadow By-Products Corporation located at DuBois, Pa., to points in Ohio, Indiana, and Illinois, restricted to traffic originating at and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. J. Kirk, President, Beaver Meadow Creamery, Inc., and Beaver Meadow By-Products Corp., 409 Maple Avenue, P.O. Box 484, DuBois, Pa. 15801. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 117993 (Sub-No. 7 TA), filed July 25, 1977. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catherines, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ingredients* used in the manufacture or production of prepared foods in vehicles equipped with mechanical temperature control devices, from Deerfield, Ill., to port of entry on the International Boundary line between the United States and Canada at Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 119619 (Sub-No. 113 TA), filed July 27, 1977. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Ore-Ida Foods, Inc., at or near Greenville, Mich., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, New Jersey, Pennsylvania, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ore-Ida Foods, Inc. Donald C. Fowle, Senior Manager Traffic, P.O. Box 10, Boise, Idaho 83707. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 124821 (Sub-No. 25 TA), filed July 26, 1977. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Gorge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plant site and warehouse facilities of International Paper Company at or near Jay and Livermore Falls, Maine, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, points in New York on and west of Interstate 81, Ohio and points in Pennsylvania on and west of U.S. Highway 11, and points in Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Company, Room 300, 200 E. 42nd Street, New York, N.Y. 10017. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 125470 (Sub-No. 24 TA), filed July 25, 1977. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman and Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products, materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt and salt products*, from the facilities of American Salt Co., at or near Solar, Utah, to points in Colorado, Iowa, Illinois, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suporting shipper(s): John K. Branham Traffic Manager, American Salt Company, 3142 Broadway Street, Kansas City, Mo. 64111. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 126930 (Sub-No. 15), filed July 18, 1977. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, Tex. 79408. Applicant's representative: Richard Hubbert, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products* (1) from Medicine Lodge, Kans., to Lorain, Ohio and Clarence Center, New York and (2) from Akron, N.Y., to Medicine Lodge, Kans., restricted to movements, between the plantsites of National Gypsum Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Co., 325 Delaware Avenue, Buffalo, N.Y. 14202. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 127101 (Sub-No. 3 TA), filed July 22, 1977. Applicant: JOHN C. RICHEY, P.O. Box 535, Iowa, La. 70647. Applicant's representative: Drew Ranier, Suite 604, Lakeside National Bank Bldg., Lake Charles, La. 70601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in bulk, in dump vehicles, from points in Allen, Beauregard, Calcasieu, Cameron, Jeff Davis Parishes in La., to Hardin, Jasper, Jefferson, Newton, Orange, Sabine and Tyler Counties, in Tex., under a continuing contract, or contracts, with Trinity Concrete Products Company, (Subsidiary of General Portland Inc.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trinity Concrete Products Company (Subsidiary of General Portland Inc.), 2220 12th Street, Lake Charles, La. 70601. Send protests to: Ray C. Armstrong Jr., District Supervisor, 701 Loyola, 9038 Federal Building, New Orleans, La. 70113.

No. MC 136315 (Sub-No. 20 TA), filed July 22, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Pa. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, piling, pallets, timbers, cross ties, and particleboard*, between points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Tenn., for 180 days. Supporting shipper(s): The application is supported by twenty (20) shippers. Appendices of support are available for review and inspection at the Jackson, Miss., Field Office of the Commission. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, 145 East Amite Street, Jackson, Miss. 39201.

No. MC 138255 (Sub-No. 4 TA), filed July 18, 1977. Applicant: HERSCHEL A. WIMMER AND CHARLES T. HACKER, d.b.a. DAYTON AIR FREIGHT, 9000 Peters Road, Vandalia, Ohio 45377. Applican't representative: Charles T. Hacker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those which because of size or weight require the use of special equipment), between Dayton International Airport, Vandalia, Ohio; Greater Cincinnati Airport, Erlanger, Ky.; Weir Cook International Airport, Indianapolis, Ind.; O'Hare International Airport, Chicago, Ill.; JFK International Airport, Jamaica, N.Y., restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by air, for 180 days. Supporting Shipper(s): M. S. Richards Regional Manager, Burlington Northern Air Freight Corporation, Dayton International Airport, Vandalia, Ohio. 45377. Larry A. Freshwater Partner, International Export Services, Inc. Dayton International Airport, Vandalia, Ohio. 45377. Stanley W. Moore President, Moore & Moore, Inc., agents, WITS Air Freight, Dayton International Airport, Vandalia, Ohio. 45377. Send protests to: Paul J. Lowry District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio. 45202.

NOTE.—If granted, applicant proposes to tack with authority now held between Cox Municipal Airport, Vandalia, Ohio, and Detroit Metropolitan Airport, Romulus, Mich.

No. MC 139420 (Sub-No. 17 TA), filed July 18, 1977. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waterbed frames and matching case goods, waterbed components and accessories therefor*, from the respective commercial zones of Los Angeles, Gardena, Compton, Irvine and the City of Commerce, Calif., to Grand Forks, Minot, and Fargo, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Walrus, Inc., 220 North 4th Street, Grand Forks, N. Dak. 58201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 140612 (Sub-No. 22 TA), filed July 19, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Television sets, radios, phonographs, stereo systems, recorders, players, recording material, television stand, speaker systems and audio equipment, accessories, components, materials, supplies and equipment* used in the manufacture, production and distribution of the above commodities, from Bloomington, Ind., to Davenport and Des Moines, Iowa; Springfield, Mo.; Ft. Smith and Little Rock, Ark.; and Oklahoma City, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): RCA Corporation, Cherry Hill, N.J. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140678 (Sub-No. 3 TA), filed July 22, 1977. Applicant: ROBERT PATRICK McCARTHY, d.a.b. TRICO, P.O. Box 1319, Tulare, Calif. 93274. Applicant's representative: Randall M. Faccinto, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from El Centro, Bena, Edison, Stockton, Helm and Hercules, Calif., to points in Washington, Oregon and Idaho, under a continuing contract, or contracts, with Valley Nitrogen Producers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Nitrogen Producers, Inc., P.O. Box 128, Helm, Calif. 93627. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 140709 (Sub-No. 5TA), filed July 26, 1977. Applicant: FANKHAUSER BROTHERS, INC., 139 Hillside, El Dorado, Kans. 67042. Applicant's representative: Clyde N. Christey, 514 Capitol Federal, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds and liquid feed supplements* in bulk, in tank vehicles, from the facilities of Cargill, Inc., at Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma and Tex., for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300 Minneapolis, Minn. 55440. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 141150 (Sub-No. 4TA), filed July 22, 1977. Applicant: ATLAS WAREHOUSING COMPANY, 510 East Kearsley Street, P.O. Box 3551, Flint, Mich. 48506. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, from Saginaw and Flint, Mich., to Bay City and Essexville, Mich., and their respective commercial zones with the right of return of rejected or damaged merchandise, said transportation to be performed, under a continuing contract, or contracts, with K-Mart Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): K-Mart Corporation, C. F. Rowe Director of Transportation, 3100 West Big Beaver Road, Tory, Mich. 48084. Send protests to: Erma W. Gray, Secretary Interstate Commerce Commission, Bureau of Operations, 604 Federal Bldg. & U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 142028 (Sub-No. 6 TA), filed July 27, 1977. Applicant: ELI G. TRAVIS d.b.a. TRAVIS TRUCKING COMPANY, R. D. No. 1, Benton, Pa. 17814. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canoes, kayaks and accessories therefor*, from Old Town, Maine, to points in the United States, except points in New Hampshire Vermont, Connecticut, Rhode Island, and Mass., under a continuing contract, or contracts, with Old Town Canoe Company, for 180 days. Supporting shipper(s): Old Town Canoe Company, 58 Middle Street, Old Town, Maine 04468. Send protests to: Paul J. Kenworthy District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 143377 (Sub-No. 1 TA), filed July 14, 1977. Applicant: BARRY J. WEST, d.b.a. B. J.'S SERVICE, P.O. Box 595, Littiz, Pa. 17543. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bound and unbound paper, material*, from printing firms such as printed and partially printed material and various correspondence or instructions, between points in York, Lebanon and Lancaster Counties, on the one hand, and, on the other, points in the New York, N.Y. Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 7 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Charles F. Myers District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, 228 Walnut Street, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 143511 TA, filed July 18, 1977. Applicant: HARDINGER TRANSFER CO., INC., P.O. Box 521, Erie, Pa. 16512. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, Classes A and B explosives, commodities in bulk and those requiring special equipment), in piggyback (TOFC) trailers or containers, and empty piggyback trailers or containers, between Erie County, Pa., on the one hand, and on the other, rail piggyback facilities in Cleveland, Ohio, restricted to traffic having an immediately prior or subsequent movement by rail, for 180 days. Supporting shipper(s): There are approximately 8 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John J. England District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 143513 TA, filed July 18, 1977. Applicant: CARLOS P. GARRETT, d.b.a. GARRETT DELIVERY SERVICE, Route 7, Greer, S.C. 29651. Applicant's representative: Smith & Barbare, 635 North Academy Street, Greenville, S.C. 29601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceuticals and drug supplies*, between Greenville and Spartanburg, S.C., and points and places in North Carolina, South Carolina and Ga., restricted to transportation service, under a continuing contract, or contracts, with the Geer Drug Company, Inc., for 180 days. Supporting shipper(s): The Geer Drug Company, Inc., P.O. Box 5527, Spartanburg, S.C. 29304. Send protests to: E. E. Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 143515 TA, filed July 22, 1977. Applicant: P & W CHARTER SERVICE, INC., 2710 E. 34th Avenue, Yakima, Wash. 98902. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Illegal aliens, passengers and their baggage* consisting of illegal aliens in custody of the United States Immigration and Naturalization Service, when being removed from the United States, from points in Washington to Calexico, Calif., in one way charter operation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United States Immigration and Naturalization Service, 815 Airport Way South, Seattle, Wash. 98134. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23381 Filed 8-11-77;8:45 am]

[Notice No. 206]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 12, 1977.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 1, 1977. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-77052. By order entered August 5, 1977, the Motor Carrier Board approved the transfer to Wy Trucking, Inc., Branch Hill Road, Preston, Conn. 06360 of portions of the operating rights set forth in Permits No. MC 134765 (Sub-No. 1), issued March 18, 1977, and MC 134765 (Sub-No. 5), issued March 28, 1977, to Specialty Transport, Inc., 20 Wilbraham St., Palmer, Mass. 01069, authorizing the transportation of paper board, paper, waste paper, and paper products from, to, or between Versailles, Conn., to East Jaffrey, N.H., and points in New York and New Jersey within 20 miles of New York, N.Y., with certain specified places excepted; Versailles, Conn., on the one hand, and, on the other, specified places in New York and New Jersey, points in Massachusetts and Connecticut, and points in Rhode Island within 15 miles of Providence including Providence; Versailles, Conn., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23379 Filed 8-11-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

[S-1086-77]

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 17, 1977, 9:30 a.m., and 2:00 p.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

9:30 a.m.

1. *Evaluation of and Plan for Future Implementation of the Poison Prevention Packaging Act.* Staff from the Office of Strategic Planning and the Directorate for Engineering and Sciences will brief the Commission on proposed guidelines for managing and evaluating Commission action under the PPPA.

2. *Regulations Under CPSA Section 27(e) Regarding TRIS and other Flame-Retardant Chemicals.* The staff will brief the Commission on possible labeling requirements and requirements for test data with regard to chemically-treated flame retardant fabrics. Among the issues is the scope of the Commission's authority under section 27(e) of the CPSA.

3. *Lead to Paint Regulation.* By September 2, the Commission must publish in the FEDERAL REGISTER a rule which would ban toys, and other articles intended for use by children, bearing paint which contains more than 0.05 per cent lead, and furniture bearing such paint. At this briefing, the staff and Commission will discuss a document on which a vote will be taken at the August 18 Commission meeting.

4. *CPSC Legislative Initiatives.* The staff will brief the Commission on possible legislative plans, which the Office of Management and Budget has requested that CPSC submit with its FY 79 Budget Request.

2:00 p.m.

5. *Information and Education Minority Project Effort.* Staff from the Office of Communications will brief the Commission on proposals in the FY 78 Operating Plan to provide product safety information and education directed toward members of minority groups.

6. *Public Playground Equipment.* The Commission and staff will consider a possible schedule for action on CPSC's efforts concerning public playground equipment, and will consider responses to comments on the matter from two consumers.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300,1111 18th St., NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1086-77 Filed 8-9-77;4:02 pm]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 18, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111-18th St. NW., Washington, D.C.

STATUS: Part is Open; Part is Closed

MATTERS TO BE CONSIDERED:

A Portion Open to the Public:

1. *Issues Raised Regarding Implementation of an Office of Public Participation, and Financial Compensation for Participants in CPSC Regulatory Actions.* At this meeting, the Commission will consider staff comments on a paper proposing to create this office. In addition, the Commission will discuss a recent decision by the U.S. Court of Appeals for the Second Circuit, which could have an effect on the Commission's proposed program of financial compensation.

2. *Hasbro Petition to Amend the Electrical Toy Regulations,* HP 75-7. In this petition, Hasbro Industries, Inc., has asked the Commission to amend labeling requirements for electrically-operated toys. The Commission will consider a draft FEDERAL REGISTER document and letter to the petitioner.

3. *Poison Prevention Packaging Act Exemption Policy.* The Commission will consider a draft FEDERAL REGISTER document which would establish interim rules for petitioning for exemption from special packaging requirements of the PPPA, and would seek comments on the interim rule.

4. *Generic Toy Regulations for Sharp Edges.* This FEDERAL REGISTER document, if approved by the Commission, would propose "technical requirements" for sharp metal and glass edges on toys. The Commission recently proposed a similar regulation for sharp points on toys.

5. *Regulations on Substantial Product Hazards, CPSA Sections 16 and 16(b).* With one draft FEDERAL REGISTER document, the Commission would propose a consolidated version of existing regulations (16 CFR Parts 1115 and 1116) governing CPSC's action with regard to substantial product hazard notifications it receives under requirements of section 15. With another document, the Commission would propose record-keeping regulations under section 16 (b).

6. *Voluntary Standards Policy.* The Commission will consider a draft policy on the relationship CPSC will establish with regard to voluntary product safety standards and voluntary standards-setting organizations.

7. *Possible Substantial Product Hazard: Dick Proctor Imports, stereo and tape deck,* ID 77-32. The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible shock hazard which might be created by improper wiring of certain stereo units.

8. *Possible Substantial Product Hazard: Tahki Imports, Inc., and Creative Handweavers, Inc., ID 76-99 and 76-100: yarn.* These cases involve imported yarn which may have been contaminated by anthrax bacilli. The two firms instituted a recall, and, in cooperation with state and local health departments destroyed or sterilized approximately 80 percent of the suspect yarn. The staff has recommended that the Commission close the cases.

9. *Lead in Paint Regulations.* By September 2, the Commission must publish in the FEDERAL REGISTER a rule which would ban toys, and other articles intended for use by children, bearing paint which contains more than 0.05 per cent lead, and furniture bearing such paint.

B. Partially Closed to the Public:

10. *Possible Substantial Product Hazard Cases: toy rattles, bicycles, pacifiers.* These cases, involving eight different firms, involve products which could be regulated under the Federal Hazardous Substances Act, rather than under the Consumer Product Safety Act, and the staff has made recommendations for Commission action to dispose of the cases. The Commission has voted to close discussion of one of the cases, since it involves possible enforcement action. Discussion of the other cases is open to the public.

C. Closed to the Public:

11. *Possible Violation of Mattress Standard* (OS Packege #380). The Commission will consider possible alternatives for action in this alleged violation of the mattress standard, for which the staff attempted to negotiate a consent agreement.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[FR Doc.S-1087-77 Filed 8-9-77;3:11 pm]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 17, 1977—10:00 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 5600-35: Modification of the Philippines North America Conference Agreement to establish inland rate authority, open rate authority, unanimous voting provisions and increased admission fee.

2. 76-40, Revision of Domestic Commerce Tariff Filing Regulations (46 CFR Part 531), Consideration of Comments on Proposed Rules.

Portion closed to the public:

1. 377(I), *Pan American Health Organization* v. *Atlantic Lines, Ltd.* (Overcharge claim); Review of Settlement Officer's decision.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-1091-77 Filed 8-10-77;9:42 am]

4

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (42 FR 40073).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 10, 1977—10:00 a.m.

CHANGE IN THE MEETING: The Regular Commission meeting scheduled for Wednesday, August 10, 1977, has been cancelled. The following items will be considered at the meeting scheduled for Thursday, August 11, 1977, at 1:30 p.m.:

Item P-1, Agenda of 8/11/77, Docket No. E-7734, Mid-Continent Area Power Pool Agreement.

Item G-8, Agenda of 8/10/77, Docket No. CI76-14, San Salvador Development Company, Inc.

Item G-9, Agenda of 8/10/77, Docket No. CI74-319, James M. Forgotson, Operator Gulf Coast Venture.

Item CG-1, Agenda of 8/10/77, Docket No. RP72-157 (PGA No. 77-9), Consolidated Gas Supply Corporation.

Item CG-2, Agenda of 8/10/77, Docket No. RP72-157 (PGA No. 77-8b), Consolidated Gas Supply Corporation.

Item CG-3, Agenda of 8/10/77, Docket No. RP73-8 (PGA Nos. 77-9c and 77-10b), North Penn Gas Company.

Item CG-4, Agenda of 8/10/77, Docket No. RP72-133 (PGA No. 77-2a), United Gas Pipeline Company.
Docket No. ER77-502, Okalhoma Gas and Electric Company.

KENNETH F. PLUMB,
Secretary.

[S-1085-77 Filed 8-9-77;3:11 pm]

5

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10:00 a.m., Wednesday, August 17, 1977. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

1. Proposed policy alternatives relating to reimbursements of Truth-in-Lending overcharges.

2. Proposed interpretation of Regulation Z (Truth in Lending) exempting credit-card systems that bill their customers on a transaction-by-transaction basis rather than on a cumulative account basis from certain of the regulation's provisions. (Proposed earlier for public comment; Docket No. R-0094).

3. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of The State Bank of Milan, Milan, Indiana, with First Bank & Trust Company of Batesville, Batesville, Indiana.

4. Any agenda items carried forward from a previously announced meeting.

Closed portion:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the Congress.[1]

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: August 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.S-1090-77 Filed 8-9-77;9:09 am]

6

AUGUST 9, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 16, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: Open Regular Conference.

MATTER TO BE CONSIDERED: Review of Commission's Canons of Conduct (Proposed Revisions circulated August 1).

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1089-77 Filed 8-9-77;9:09 am]

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 10:00 a.m., August 18, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

SATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) Possible relocation of the Board's headquarters.
(2) Union participation on promotion panels.
(3) Problems involving Social Security coordination.
(4) Issuance of training memorandum to the Board's field service on the subject of IMPACT (Initial Monthly Partial Annuity Certification, Tiers System)—Partial Award of Employee Age and Service Annuities.

[1] Thirty days has expired since the initial meeting at which this item was announced, and a new vote has been taken.

(5) Participation by the Board's chief actuary at the annual meeting of the Society of Actuaries in Boston this October and the celebration of the 20th anniversary of the founding of the Chair of Actuarial Science, University of Nebraska.

(6) Recommendation to install direct access terminals in the Bureau of Retirement Claims.

(7) Alternative proposal to effect partial withholding of annuity overpayments.

(8) Stenographic help for the Office of the Management Member.

Portions closed to the public:

(9) Appeal to the Board of denial of annuity application, Raymond B. Harris, Jr.

(10) Appeal to the Board of denial of annuity application, Wilbert McCullough.

(11) Appeal to the Board of denial of annuity application, Joe B. Garee.

(12) Appeal to the Board of denial of annuity application, Oscar Sherman.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary, of the Board, telephone 312-387-4920.

[S-1088-77 Filed 8-9-77;9:09 am]

federal register

FRIDAY, AUGUST 12, 1977
PART II



SECURITIES AND EXCHANGE COMMISSION

■

LOST AND STOLEN SECURITIES PROGRAM

Implementation

VOL. 42 NO. 156

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13832]

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Lost and Stolen Securities

AGENCY: Securities and Exchange Commission.

ACTION: Implementation of program for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

SUMMARY: This action provides notification of the implementation of the Lost and Stolen Securities Program, sets forth the procedures for making reports and inquiries with respect to missing, lost, stolen or counterfeit securities, and disseminates a Registration Form which must be completed by all reporting institutions before access to the data base maintained by the Commission's designee is authorized. This release is intended to aid reporting institutions in complying with the Commission's regulations promulgated in an effort to reduce securities thefts and traffic in spurious securities. This action also republishes § 240.17f–1 and reporting Form X–17F–1A in their final, amended versions and is necessary to provide reporting institutions with all substantive requirements of the Lost and Stolen Securities Program in a single document.

EFFECTIVE DATES: Reporting and record keeping requirements: October 3, 1977. Inquiry requirements and remaining provisions: January 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington D.C. 20549, 202–755–7826.

SUPPLEMENTARY INFORMATION: In order to avoid duplication and to implement the Lost and Stolen Securities Program in a more efficient manner, the Securities and Exchange Commission has amended § 240.17f–1 to require that copies of reports of missing, lost, stolen or counterfeit securities be filed with a registered transfer agent for the issue. This release provides notification of this action and also sets forth the procedures for implementation of the Lost and Stolen Securities Program, including information regarding access to the data bases maintained by the Commission's designee and the Federal Reserve Banks, billing arrangements, and submission of registration forms. The release republishes § 240–17f–1 and Reporting Form X–17F–1A in their final, amended versions.

Background

The problems relating to missing, lost, counterfeit or stolen securities have been described by the Commission [1] and were the subject of a series of Congressional hearings.[2] The recommendation for a system for the receipt of reports and inquiries concerning missing, lost, stolen or counterfeit securities has been supported widely. Section 17(f) of the Act established the legislative framework for such a system by providing that every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency and participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation shall report and inquire with respect to missing, lost, counterfeit or stolen securities in accordance with rules promulgated by the Commission.

On December 6, 1976, the Commission adopted § 240.17f–1, establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[3] Certain technical amendments to the section were made on February 18, 1977,[4] and further amendments regarding the role of transfer agents in the Lost and Stolen Securities Program were proposed.[5]

Implementation of the Program and Appropriate Instrumentalities

In order to implement § 240.17f–1 in the most efficient manner, the Commission determined that it would be appropriate to institute a pilot program to monitor the effectiveness of the section and the system designed to carry out its provisions. Accordingly, the Lost and Stolen Securities Program will be implemented on a pilot basis until December 31, 1978. In accordance with the inquiry and reporting requirements of paragraphs (b) and (c) of § 240.17f–1, any Federal Reserve Bank or Branch is an appropriate instrumentality with respect to United States Government or Agency securities. A description of the general operating procedures of the Federal Reserve Banks is attached as Appendix III.

Section 17(f)(1)(A) of the Act states that reports and inquiries shall be made to the Commission or "other person designated by the Commission." The Commission determined that a manual, computer-assisted system would best achieve the purposes of the pilot program and that the goals of the Act would best be fulfilled by the designation of a private entity to perform certain functions under the Commission's direction. Accordingly, the Commission published "Criteria for a Lost and Stolen Securities Reporting and Inquiry System" and solicited submissions of proposed systems from entities interested in serving as the Commission's designee during the pilot program. The plans which were received were analyzed, and the Securities Information Center, Inc. ("SIC" or the "Commission's designee"), a subsidiary of ITEL AutEx, Inc. was designated to receive reports and respond to inquiries on behalf of the Commission.[6] All reports and inquiries required to be made with the Commission, therefore, shall be made with SIC. A description of SIC's general operating procedures is attached as Appendix IV.

On February 13, 1977,[7] the Commission adopted Form X–17F–1A, "Lost, Missing, Stolen, Counterfeit Securities Report," (17 CFR 249.1200) which, pursuant to paragraph (b)(6) of § 240.17f–1, shall be used for all reports. Where reports are made by telephone, telex or other means, a hardcopy confirmation of the report must still be filed with the appropriate instrumentality within the time periods specified in paragraph (b) of this section. Certain technical modifications to Form X–17F–1A and the accompanying instructions have been made, and the Form is attached as Appendix II.

Section 240.17f–1 [8]

(a) *Definitions.* Paragraph (a) defines the terms "reporting institution" and "appropriate instrumentality."

(b) *Reporting requirements.* Paragraph (b) requires financial institutions and others to report missing, lost, counterfeit or stolen securities within specified time periods. Reports with respect to U.S. Government or Agency securities or securities of certain international organizations are to be made to the nearest Federal Reserve Bank or Branch; reports with respect to all other securities are to be made to the Commission's designee. Copies of all reports must be sent to a registered transfer agent for the issue involved.[9] Where there is a substantial belief that criminal activity is involved, an additional report must be made to the appropriate law enforcement agency.[10]

Unissued certificates which are lost or stolen are also required to be reported, and appropriate instructions are provided for such reports in the Instructions to Form X–17F–1A. Coupons, however, are not required to be reported. A report is also required if a security previously reported missing, lost or stolen is recovered.

The information required to be reported is set forth in paragraph (b)(5) of this section [11] and shall be provided on Form X–17F–1A. A copy of Form X–17F–1A is annexed to this release as Appendix II, and additional copies of the Form are available from the Publication Office of the Commission or the Commission's Regional Offices. The form may be reproduced in any manner by entities subject to the section so long as the graphics and format of the Form are not altered and 8½" x 11" paper is used. In order to avoid duplication, the Commission encourages transfer agents to utilize Form X–17F–1A as their stop transfer forms.

This section requires reporting institutions to report: (1) Those securities missing, lost, or stolen from their possession or control and (2) those securities which are missing, lost or stolen from the possession or control of a person which is not a reporting institution and which securities have not been reported by another reporting institution. For example, if securities are missing from the control of a broker, the broker would be required to report. The transfer agent who receives a copy of Form X–17F–1A concerning such securities would not be required to report. In contrast, where a loss of securities is reported to the transfer agent by a non-reporting entity such as an individual, the transfer agent would be required to make a report when it receives the information.

Unless the Commission announces to the contrary, transfer agents will not be required to report stops received prior to October 3, 1977. However, the Commission may obtain and include in the data base such information obtained from insurance companies and law enforcement sources. For the purpose of paragraph (b)(2) only, but not paragraphs (b)(2)(i)–(iii), the time periods for reporting begin to run when, on the basis of all relevant circumstances, the reporting institution believes a certificate to be lost or missing as opposed to a belief that the certificate is merely misplaced or misfiled by the institution. Reporting institutions should diligently follow up on indications of non-receipt submitted by receiving institutions in order to determine their responsibilities under this section.

Counterfeit securities, including altered or forged securities, are required to be reported to the appropriate law enforcement agency as well as to the appropriate instrumentalities. Reports of recoveries of lost, missing, or stolen securities are required to be made to the appropriate instrumentality and to a registered transfer agent for the issue. Where stolen securities were reported to a law enforcement agency, a report of recovery is required to be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen. However, report of recovery may be made by a successor institution, trustee or the recovering institution where the reporting institution no longer exists. For certain exemptions applicable until December 31, 1978, see the section below entitled "Pilot Program."

(c) *Inquiry requirements.* Paragraph (c) of Section 240.17f–1 requires financial institutions to determine whether securities coming into their possession or keeping under certain circumstances have been reported as missing, lost, counterfeit or stolen. Inquiry with the appropriate instrumentality is required whenever securities are received, whether by pledge, transfer or in some other manner, unless they are received (1) from the issuer on original issue, (2) from another reporting institution, or (3) from a customer and are registered in the name of such customer or its nominee. Coupons are not required to be the subject of inquiry.

Under the section, inquiry would be required of a reporting institution whenever a non-reporting institution such as an individual submits securities in bearer form, street name or registered to a third person. All securities delivered to a reporting institution by the issuer or another reporting institution are exempt from inquiry regardless of the form of registration.[12]

The inquiry requirements as set forth in the section must be followed even though a reporting institution may determine through other means that the security is not lost or stolen. For example, if a bank takes a bearer security from a customer as collateral for a loan and the bank sends the security to the transfer agent for transfer to the bank's name or the customer's name, the bank must still make inquiry with the appropriate instrumentality.

As a practical matter, however, a reporting institution may assume the inquiry responsibility of another reporting institution. This may be a common practice where Broker A clears on a fully disclosed basis for Broker B, and Broker B's customers deliver their securities to Broker A. If Broker A, as part of its clearing arrangement, undertakes to make the required inquiry, Broker B would not have to make the inquiry.

These exceptions are intended to make inquiry unnecessary in the majority of instances and to require inquiry in those circumstances most likely to involve missing, lost, counterfeit or stolen securities. The system has been designed to avoid undue disruption to the course of normal commercial transactions.

When an inquiry reveals that the security in question has been reported as missing, lost or stolen, the inquiring institution will be provided with the name of the institution which reported the loss. In such instances, the section does not set forth any further requirements. Consequently, the inquiring institution would be expected to follow current business practices in dealing with securities which it knows to be lost or stolen.

As a part of the design of the Commission's system, inquiries will be recirculated against reports of loss which may have come in subsequent to the inquiry. Through this procedure, the system will be able to identify those securities which were negotiated before a lost or stolen securities report was received.

For certain exemptions which will be applicable until December 31, 1978, see the section below entitled "Pilot Program."

(d) *Permissive inquiry.* Paragraph (d) describes the availability of the reporting and inquiry system to any reporting entity whether or not § 240.17f–1 would require a report or inquiry. With respect to the granting of authority to make permissive inquiries, it should be pointed out that this authority is provided to allow sufficient flexibility when an inquiry is not mandated but suspicious circumstances are involved. The Commission, in allowing permissive in-

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[1] Study of Unsafe and Unsound Practices of Brokers and Dealers, Report and Recommendations of the Securities and Exchange Commission (pursuant to Section 11(h) of the Securities Investor Protection Act of 1970), December 1970.

[2] Organized Crime—Stolen Securities, Hearings Before the Permanent Subcommittee on Investigations, Senate Committee on Government Operations, 92nd Cong., 1st Sess. (1971); 93rd Cong., 1st Sess. (1973); 93rd Cong., 2d Sess. (1974).

[3] Securities Exchange Act Release No. 13053, 41 FR 54923 (December 16, 1976).

[4] Securities Exchange Act Release No. 13280, 42 FR 11829 (March 1, 1977).

[5] Securities Exchange Act Release No. 13281, 42 FR 11844 (March 1, 1977).

[6] In Securities Exchange Act Release No. 13538, 42 FR 26495 (May 24, 1977), AutEx, Inc. was named as the designee. Subsequently, as a consequence of the acquisition of AutEx by ITEL Corporation, SIC was created as a wholly-owned subsidiary of ITEL AutEx, Inc.

[7] Securities Exchange Act Release No. 13280, 42 FR 11829 (March 1, 1977).

[8] Section 240.17f–1 is attached as Appendix I.

[9] Where more than one registered transfer agent performs transfer agent functions for the issue, notification to any of them will satisfy the requirements of this section. It is expected that where there are co-transfer agents, internal procedures will be established to ensure prompt notification of losses to all co-transfer agents.

[10] The following general guidelines may be useful in deciding which law enforcement agencies to notify in certain instances:

(1) *Local Police Department*—All cases involving thefts or mysterious disappearances of securities or discoveries of securities reported stolen.

(2) *Federal Bureau of Investigation*—All cases involving securities thefts of $5,000 or over, all thefts from banks, all thefts of Government securities, all counterfeits of non-Government securities, all counterfeits presented as collateral for a bank loan, all stolen or counterfeit securities involved in interstate commerce, and all counterfeit securities used in a violation of a Federal law.

(3) *U.S. Secret Service*—All cases involving counterfeits of securities which are direct obligations of the United States Government or are issued with Government backing. The Secret Service reportedly has a general interest in all counterfeit activity.

These are general guidelines. Good faith determination and notification to any of the above agencies shall be deemed compliance with paragraph (b)(1) of § 240.17f–1.

[11] One item of information required is the reporting institution's FINS number. FINS (Financial Industry Number Standard") numbers are compiled in the 1976 FINS Directory (First Edition), published by the Depository Trust Company. If an institution is uncertain as to whether it has a FINS number, it should consult this Directory, its self-regulatory organization or its trade association. If an institution has not been assigned a FINS number, a number may be obtained at no cost by writing the Depository Trust Company, Attention: FINS Publication, 55 Water Street, New York, New York 10041.

[12] It bears emphasis that not all financial institutions are reporting institutions as defined by § 240.17f–1. If in doubt as to whether an entity is a reporting institution, it is suggested that reporting institutions check the available reference works to determine whether the entity is an FDIC insured bank or other reporting institution enumerated in this section.

quiries, does not intend to incorporate an inquiry requirement into the bona fide purchaser doctrine each time a reporting institution receives a security certificate. The Commission recognizes that to require or suggest inquiry in all cases would seriously jeopardize the ability of financial institutions to function in an efficient manner.

Section 240.17f–1 also provides that the Commission may grant other persons access to the system upon such terms or conditions as it deems necessary and appropriate in the public interest and for the protection of investors. The Commission recognizes that a number of foreign banks and other financial institutions, such as insurance companies, are not included in the definition of "reporting institutions." Consequently, securities received from such institutions which are not registered in the names of those institutions or their nominees are required to be the subject of inquiry under § 240.17f–1.

The Commission is aware that this may cause hardship to certain reporting institutions. In order to alleviate this hardship and to allow those reporting institutions dealing with these non-reporting financial institutions the exemption allowed under paragraph (c) (1) (ii) of this section, the Commission encourages financial institutions not within the jurisdiction of this section to apply under paragraph (d) to become so included. The Commission, as a condition to granting such a status, will require those institutions to undertake to comply with § 240.17f–1 on the same basis as a reporting institution. Letters requesting participation in the Lost and Stolen Securities Program should be denominated "Application for Designation as a Reporting Institution Pursuant to § 240.17f–1" and should be addressed to the Division of Market Regulation.[13]

The Commission shall have the right to withdraw this designation upon written notice. The Commission will withdraw such designation if the financial institutions violates its undertaking to comply with § 240.17f–1, applicable instructions issued by the Commission, its designee, or the Federal Reserve Banks, or if it does not remit the appropriate fees which are assessed for the use of the system. Such financial institutions shall not be charged a fee greater than that charged a reporting institution of comparable size.

(e) *Exemptions.* Section 240.17f–1 provides in paragraph (e) that registered securities for which a Federal Reserve Bank or Branch is the appropriate instrumentality or counterfeits of such securities are not the subject of required reporting and inquiry. Reports with respect to such securities should continue to be made to the U.S. Treasury Department or the Federal Reserve Bank of New York, in accordance with outstanding Treasury instructions and current practices in the financial community. Where a stolen security is involved, reports are required to be made to the appropriate law enforcement agency.

With respect to coupons, the Commission stated in Release No. 34–13280 that, as a matter of interpretation, § 240.17f–1 does not require reporting and inquiry with respect to coupons.

(f) *Recordkeeping.* Paragraph (f) of section 240.17f–1 codifies the recordkeeping and record retention procedures established by the Lost and Stolen Securities Program.[14] Essentially, copies of all Forms X–17F–1A filed pursuant to this section and all confirmations of inquiry or other information received from the appropriate instrumentality must be retained for a period of three years in an easily accessible place. Sections 240.17a–3 and 240.17a–4 have also been amended to incorporate these requirements into the general recordkeeping and retention provisions applicable to certain exchange members, brokers, and dealers.

Pilot Program

In order to implement § 240.17f–1 in the most efficient manner, the Commission determined that it would be appropriate to institute a pilot program to monitor the effectiveness of the section and the system designed to carry out its provisions. Accordingly, § 240.17f–1 will be implemented on a pilot basis until December 31, 1978.

During the pilot program, the Commission will not require certain reports and inquiries to be made which otherwise would be required under the section.

1. Corporate and municipal securities not assigned CUSIP numbers will be exempt from required reporting and inquiry. Consequently, short term securities such as commercial paper are not subject to the requirements of § 240.17f–1 during the pilot program.[15]

2. Transactions involving securities of less than $10,000 face value in the case of bonds and $10,000 market value in the case of stocks will be exempt from inquiry only. All losses, including those of less than $10,000, must be reported.

3. Registered transfer agents are exempt from inquiry during the pilot program.

On the basis of the impact studies conducted and the comment letters received, the Commission believes that allowing these additional exemptions from reporting and inquiry during the pilot program will allow the efficient implementation of a system to carry out the mandate of the Act. In addition, these exemptions will allow financial institutions subject to this section an opportunity to adapt to the operation of the section without undue disruption to the course of normal commercial transactions. During the pilot program, the Commission intends to monitor the appropriateness of these special exemptions in order to determine whether they should be retained permanently. These exemptions will expire on December 31, 1978 unless they are extended by the Commission.

Appropriate Instrumentalities and Operation of Systems

Attached as Appendices III and IV to this release are descriptions of the general operations of the appropriate instrumentalities, including procedures for making reports and inquiries. With respect to securities for which a Federal Reserve Bank or Branch is the appropriate instrumentality, telephone numbers and mailing addresses pertinent for compliance with § 240.17f–1 are included in Appendix III. A map of the twelve Federal Reserve Districts is also included to assist reporting institutions in locating the closest Federal Reserve Bank or Branch.

Appendix IV contains the operating procedures and a description of the system of the Securities Information Center, Inc., the Commission's designee for receipt of reports and inquiries for which the Commission is the appropriate instrumentality. Included in these materials as Appendix V is a Registration Form which must be completed and returned to the Commission's designee no later than September 23, 1977. Each reporting institution must determine whether it will be a Direct or Indirect Inquirer of the System and so indicate on the Registration Form.

The Commission has determined that the method of allocating fees and the fees to be charged are reasonable in making available to reporting institutions information regarding missing, lost, counterfeit or stolen securities pursuant to Section 17(f) (1) (A) of the Act. Authorized signatures and an indication as to whether the entity will be a Direct or Indirect Inquirer must be provided to the Commission's designee by September 23, 1977 in order for the reporting institution to be able to fulfill the requirements of § 240.17f–1. The Commission wishes to emphasize that failure to submit the Registration Form, and if a Direct Inquirer to remit applicable fees when billed, will prevent access by a given reporting institution to the system and hence cause the reporting institution to be in violation of § 240.17f–1.

The Commission will study the operation of § 240.17f–1 and the system for reporting and inquiry during the pilot program and will make modifications where appropriate.

Effective Dates and Responsibilities of Appropriate Instrumentalities

The reporting and recordkeeping requirements of § 240.17f–1 will become effective on October 3, 1977; the inquiry requirements and the remaining provisions of the section will become effective on January 2, 1977.

The appropriate instrumentalities undertake no responsibility with regard to any party in maintaining the lists of missing, lost, counterfeit or stolen securities or responding to inquiries pertaining thereto and will not be liable for any act or failure to act with respect to any procedures set forth in § 240.17f–1.

Immobilization and Elimination of Certificates

It should be noted that this program is not intended to be a substitute for other steps which are being undertaken to improve securities processing, prevent losses and reduce the risk of theft. The Commission continues to endorse the concepts of improved securities processing and certificate immobilization and elimination through greater use of depositories and book entry systems. It is expected that this program will be developed in a manner appropriate to meet existing needs and will be flexible enough to adjust to changing circumstances.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 5, 1977.

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

(a) *Definitions*—(1) *Reporting institution.* For purposes of this section, the term "reporting institution" shall include every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation.

(2) *Appropriate instrumentality.* For purposes of this section the term "appropriate instrumentality" shall mean:

(i) Any Federal Reserve Bank or Branch thereof with respect to securities issued by:

(A) The United States Government,

(B) Any agency or instrumentality of the United States Government,

(C) The International Bank for Reconstruction and Development,

(D) The Inter-American Bank, or

(E) The Asian Development Bank; and

(ii) The Securities and Exchange Commission with respect to all other securities.

(b) *Reporting requirements*—(1) *Stolen securities.* (i) Every reporting institution shall report to the appropriate instrumentality and to a registered transfer agent for the issue the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved. Such report shall be made within one business day of the discovery and, if the certificate numbers of the securities cannot be ascertained at that time, they shall be reported as soon thereafter as possible.

(ii) Every reporting institution shall promptly report to the appropriate law enforcement agency upon the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved.

(2) *Missing or lost securities.* Every reporting institution shall report to the appropriate instrumentality and to a registered transfer agent for the issue the discovery of the loss of any security where criminal actions are not suspected when the security has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

(i) Securities lost in transit to customers, transfer agents, banks, brokers or dealers shall be reported by the delivering institution no later than two business days after notice of non-receipt or as soon after such notice as the certificate numbers of the securities can be ascertained.

(ii) Securities considered lost or missing as a result of securities counts or verifications required by rule, regulation or otherwise (e.g. dividend record date verification made as a result of firm policy or internal audit function report) shall be reported no later than ten business days after completion of such securities count or vertification or as soon after such count or verification as the certificate numbers of the securities can be ascertained.

(iii) Securities not received during the completion of a delivery, deposit or withdrawal shall be reported in the following manner:

(A) Where delivery of securities is through clearing agency, the delivering institution shall supply the receiving institution the certificate number of the security within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(B) Where the delivery of securities is over the window and where the delivering institution has a receipt, the delivering institution shall supply the receiving institution the certificate numbers of the securities within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(C) Where the delivery of securities is over the window and where the delivering institution has no receipt, the delivering institution shall report within two business days of notification of non-receipt by the receiving institution; or

(D) Where delivery of securities is made by mail or via draft, if payment is not received within ten business days, the delivering institution shall confirm with the receiving institution the failure to receive such delivery; if confirmation shows non-receipt, the delivering institution shall report within two business days of such confirmation

(3) *Counterfeit securities.* Every reporting institution shall report the discovery of any counterfeit security to the appropriate instrumentality and the appropriate law enforcement agency within one business day of such discovery.

(4) *Recovery.* Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this section to the appropriate instrumentality and to a registered transfer agent for the issue within one business day of such recovery or finding. If a report of stolen securities was made to the appropriate law enforcement agency, a report of such recovery shall also be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen.

(5) *Information to be reported.* All reports made pursuant to this section shall include, if applicable or available, the following information with respect to each security:

(i) Issuer;
(ii) Type of security and series;
(iii) Date of issue;
(iv) Maturity date;
(v) Denomination;
(vi) Interest rate;
(vii) Certificate number, including alphabetical prefix or suffix;
(viii) Name in which registered;
(ix) Distinguishing characteristics, if counterfeit;
(x) Date of discovery of loss or recovery;
(xi) CUSIP number; and
(xii) FINS number.

(6) *Forms.* All reports made pursuant to this section shall be made on Form X–17F–1A.

(c) *Required inquiries.* (1) Every reporting institution shall inquire of the appropriate instrumentality with respect to every security which comes into its possession or keeping, whether by pledge, transfer, or otherwise, to ascertain whether such security has been reported as missing, lost, counterfeit or stolen, unless

(i) The security is received directly from the issuer or issuing agent at issuance;

(ii) The security is received from another reporting institution or Federal Reserve Bank in its capacity as fiscal agent;

(iii) The security is received from a customer of the reporting institution and is registered in the name of such customer or its nominee.

(2) *Form of inquiry.* Inquiries shall be made in such manner as prescribed by the appropriate instrumentality.

(d) *Permissive reports and inquiries.* Every reporting institution may report to or inquire of the appropriate instru-

[13] The letter should identify:

1. The primary business of the financial institution.

2. Whether the financial institution is registered with or regulated by any Federal, State or foreign government or agency thereof.

3. Whether the institution engages in a retail securities business with non-institutional customers and the portion of such in relation to the institution's total business.

4. The names of the officers or principal shareholders of the financial institution. In the letter the financial institution shall agree to comply with all applicable provisions of section 240.17f–1 and applicable instructions issued by the Commission, its designee or the Federal Reserve Banks and shall agree to pay an appropriate fee for participation in the system.

[14] *See* Securities Exchange Act Release No. 13831 (August 5, 1977).

[15] A certificate is not exempt under this provision because the certificate itself does not have a CUSIP number on it. In order to be exempt, the issue of which the particular certificate is a part must not have been assigned a CUSIP number.

mentality with respect to any security not otherwise required by this section to be the subject of a report or inquiry. The Commission on written request or upon its own motion may permit reports to and inquiries of the system by any other person or entity upon such terms and conditions as it deems appropriate and necessary in the public interest and for the protection of investors.

(e) *Exemptions.* Registered securities of the United States Government, any agency or instrumentality of the United States Government, the International Bank for Reconstruction and Development, the Inter-American Development Bank, or the Asian Development Bank, and counterfeit securities of such entities are not subject to the provisions of this section relating to reporting and inquiry with the appropriate instrumentality.

(f) *Recordkeeping.* Every reporting institution shall maintain and preserve in an easily accessible place for three years copies of all Forms X-17F-1A filed pursuant to this section and all confirmations or other information received from the appropriate instrumentality or its designee as a result of inquiry.

APPENDIX II

Please Type or Print Clearly

FORM X-17F-1A
MISSING/LOST/STOLEN/COUNTERFEIT SECURITIES REPORT

Designee's Use Only
Date/File Number

1. REPORTING INSTITUTION: NAME _____
ADDRESS _____
_____ ZIP CODE _____
ATTENTION: _____
FINS/SIC IDENTIFIER NUMBER ☐☐☐☐☐☐/( )( )( )

2. TYPE OF REPORT ☐ LOSS ☐ RECOVERY ☐ UPDATE ☐ CONFIRMATION

3. DATE OF LOSS/RECOVERY _____

4. TYPE OF SECURITY ☐ COMMON STOCK ☐ PREFERRED STOCK ☐ CORPORATE BOND
☐ MUNICIPAL BOND ☐ CONVERTIBLE DEBENTURE ☐ DEBENTURE ☐ NOTE ☐ WARRANT
☐ RIGHT ☐ OPTION ☐ OTHER _____

5. NAME OF ISSUER _____

6. INTEREST RATE _____ 7. MATURITY DATE _____

8. CUSIP NUMBER ☐☐☐☐☐☐☐☐☐

9. NAME OF REGISTERED HOLDER _____

10. CERTIFICATE/SERIAL NUMBERS	11. DENOMINATION/SHARES	12. ISSUE DATE

13. TOTAL CURRENT MARKET OR FACE VALUE $ _____ 13a. ADDITIONAL PAGES ATTACHED _____

14. ☐ CRIMINALITY INDICATED

15. ☐ COUNTERFEIT _____
If Counterfeit - Distinguishing Characteristics

REPORTS FILED WITH: 16. ☐ DATA BANK 17. ☐ TRANSFER AGENT 18. ☐ LAW ENFORCEMENT

19. _____ AUTHORIZED SIGNATURE 20. _____ DATE

SEC 1660 (9-77)

INSTRUCTIONS

NOTE.—Section 240.17f-1 does not require reporting of coupons. Municipal or corporate securities not assigned CUSIP Numbers are not the subject of reporting and inquiry during the pilot program.

Forms for which the Commission is the appropriate instrumentality should be mailed to the Commission's designee:

Securities Information Center, Inc., Post Office Box 421, Wellesley Hills, Mass. 02181

1. *Reporting Institution*—Enter reporting institution name, address and FINS number, with Securities Information Center-assigned suffix, if any.

2. *Type of Report*—Check whether report is a new report ("Loss"), report of recovery of previously reported loss ("Recovery"), or update or correction of report other than recovery ("Update"). Additionally, if the report is a confirmation of a loss, recovery, or update made by telex or telephone, also check the box marked "Confirmation."

3. *Date*—Enter date when loss was noticed, theft occurred, when counterfeit was discovered or suspected or when security was found or recovered. When submitting updates, corrections or confirmations, enter date of loss or recovery.

4. *Type of Securities*—Check the box which most nearly describes the type of security. If none of the classifications adequately describes the security, check "Other" and describe the security in the space provided.

5. Issuer—Print or type the name of issuing company, agency or organization as set out on the security even though the security may have been lost, stolen, or missing prior to being "issued" by the appropriate authority.

6. Interest Rate—If interest rate was indicated enter this information.

7. *Maturity Date*—Enter maturity date where applicable.

8. *CUSIP Number*—Enter entire CUSIP Number.

9. *Name of Registered Holder*—Clearly print or type the full name of person (individual, company, bank, brokerage house, etc.) to whom the security is registered exactly as it appears on the security. Enter the word "Bearer" when document is a bearer security.

10. *Certificate Serial Numbers*—Enter certificate or serial number(s) including all suffixes and prefixes. If certificates have not been issued, enter the control number. Series may be indicated by the first and last numbers separated by a dash and followed by the word "Series". Certificate or serial numbers of certificates of the same CUSIP number which are not in sequential order should be listed separately on each line. If additional space is required, attach a sheet containing information in the same format as Item 10 and check Item 13a.

11. *Denomination Shares*—Enter in numerical form the amount of money represented by bonds, debentures, notes and other securities (except stock warrants and rights) as indicated on the certificates. If amount was not indicated on the certificate, enter the word "Blank".

For stocks, enter the number of shares represented by the certificates, not the par value of the stock. If number of shares is not represented, enter the word "Blank."

For warrants and rights, enter in numerical form the number of shares which the document entitles the owner to purchase.

12. *Issue Date*—Enter issue date of security. If certificates have not yet been issued, indicate this fact.

13. *Total Current Market or Face Value*—For stocks, rights and warrants, enter the approximate total current market value. For bonds, enter the face value of the certificate.

13a. *Additional Pages Attached*—For a nonsequential series of certificates having the same CUSIP number, additional pages listing securities to be reported may be attached. (See Instruction 10). If additional pages are attached, check this Item.

14. *Criminality Indicated*—If reporting a loss, check when a substantial belief of criminality is indicated.

15. *Counterfeit*—Describe distinguishing characteristics of suspected counterfeit securities.

16. *Filed with Data Bank*—Check if filed with the Commission's Designee or a Federal Reserve Bank or Branch as appropriate.

17. *Filed with Transfer Agent*—Check to indicate that you have sent a copy of this report to a Transfer Agent for the issue.

18. *Filed with Law Enforcement*—Check of you sent a copy of this report to the appropriate law enforcement agency when required.

19. *Authorized Signature*—Form X-17F-1A must have an authorized signature to be accepted by the System. With respect to those reports filed with the Commission's designee, such signatures must be on file with the designee. Copies of reports sent to a transfer agent and the appropriate law enforcement agency should contain an orginal signature.

20. *Date*—Enter date when form is signed.

APPENDIX III

REPORTS AND INQUIRIES REGARDING LOST OR STOLEN UNITED STATES GOVERNMENT AND AGENCY SECURITIES FOR WHICH THE FEDERAL RESERVE BANKS ARE THE APPROPRIATE INSTRUMENTALITY

On December 16, 1976, the Securities and Exchange Commission adopted 17 CFR 240.17f-1, which requires all financial institutions covered by the section to report to the appropriate instrumentality any instance of loss or theft of cetrain securities and, with certain exceptions, to make inquiry prior to the completion of any transaction involving these securities. The section will be implemented in two phases. The first part to be implemented will be the reporting requirement, which will go into effect on October 3, 1977. The second part, the inquiry requirement, will go into effect on January 2, 1978.

The Federal Reserve Banks have been designated as the "appropriate instrumentality" for receiving reports of and inquiries as to lost, missing, counterfeit or stolen United States Government and Agency securities. As used in this circular the term "Government and Agency securities" includes securities issued by the:

United States Treasury
Banks for Cooperatives
District of Columbia Armory Board
Export-Import Bank of the United States
Farm Credit Administration
Farmers Home Administration
Federal Financing Bank
Federal Home Loan Banks
Federal Home Loan Mortgage Corporation
Federal Housing Administration
Federal Intermediate Credit Banks
Federal Land Banks
Federal National Mortgage Association
Government National Mortgage Association (does not include Pass-Through Securities)
Small Business Administration
Student Loan Marketing Association
Tennessee Valley Authority
United States Postal Service
Washington Metropolitan Area Transit Authority
Asian Development Bank
Inter-American Development Bank
International Bank for Reconstruction and Development

Since late 1970, the Federal Reserve Banks have been operating a checklist procedure designed to assist in the identification of lost and stolen Government and Agency securities. The development of the checklist procedure had been spurred in late 1969 by a marked increase in the incidence and magnitude of thefts of United States Government and Agency securities from banks and other financial institutions.

The reporting and inquiry phases of § 240.17f-1 will be operated on a one-year pilot basis beginning January 2, 1978, when the inquiry requirement becomes effective. The section covers every national securities exchange, member thereof, registered securities association, broker, dealer, mnuicipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System, and bank whose deposits are insured by the Federal Deposit Insurance Corporation. While the section requires reports and inquiries on Government and Agency securities from those financial institutions, the Federal Reserve Banks will also accept reports from and respond to inquiries from any other financial institution.

It should be noted that the Federal Reserve Banks undertake no responsibility with regard to any party in maintaining the list of lost or stolen securities or responding to inquiries pertaining thereto and will not be liable for any act or failure to act with respect to any procedures set forth in § 240.17f-1. Furthermore, the list maintained by the Federal Reserve Banks pursuant to such section is not a "caveat" or "stop payment" list.

REPORTS (BEGINNING OCTOBER 3, 1977)

Reports of lost, missing, counterfeit or stolen securities should be made in writing, using SEC Form X-17F-1A. A copy of the form is included in SEC Release No. 34-tc which this material is appended. Copies of the form will be available at all SEC Regional Offices after September 1, 1977. All recoveries must also be promptly reported in writing, using the same form, by the institution that reported the loss. A list of mailing addresses to which reports may be sent follows this description of reporting and inquiry procedures. A map of the twelve Federal Reserve Districts is also included to assist reporting institutions in locating the nearest Federal Reserve Bank.

INQUIRIES (BEGINNING JANUARY 2, 1978)

All financial institutions covered by § 240.17f-1 will also be required to make inquiry with respect to every bearer Government or Agency security (including registered securities assigned in blank), which comes into its possession or keeping, whether by pledge, transfer or otherwise, to ascertain whether that security has been reported as lost, missing, counterfeit or stolen unless:

(1) The security is received directly from the issuer or issuing agent at issuance, or

(2) The security is received from another reporting institution or from a Federal Reserve Bank in its capacity as fiscal agent. (All securities received from a Federal Reserve Bank are exempt from the § 240.17f-1 inquiry requirement except securities received on a withdrawal from a safekeeping or other custodial acount where the securities were not held in book-entry form.)

Inquiries, as well as requests for general information regarding the use of the Federal Reserve Bank checklist procedure, may be made by telephone as indicated in the list which follows. Response by the Federal Reserve Office will be in the form of a return call, which will be promptly confirmed in writing.

Reports of and inquiries as to registered Government and Agency securities (unless assigned in blank) are not covered by § 240.17f-1 but may be made to the appropriate transfer agent (either the U.S. Treasury Department for Treasury and Federal Land Bank issues, or the Federal Reserve Bank of New York for other Agency issues, including securities issued by international organizations). Any reports of or inquiries as to counterfeit securities should be directed to the appropriate law enforcement agencies.

The checklist procedure is designed to help recover lost or stolen securities and to prevent their use in normal commerce. Of even greater importance are measures designed to minimize the risk of loss or theft of securities. In this respect, the book-entry procedure for Government and Federal Agency securities affords the optimal solution to the problem of securities thefts. Currently more than 87 percent of the eligible marketable Government and Federal Agency issues are held in book-entry form. However, about $63 billion still remains outstanding in definitive form—much of it in the custody of banks. Both the Federal Reserve System and the Treasury have been working to extend the use of the book-entry-procedure, and banks are urged to utilize the procedure to the maximum extent possible.

REPORTS AND INQUIRIES REGARDING LOST OR STOLEN UNITED STATES GOVERNMENT AND AGENCY SECURITIES

FEDERAL RESERVE BANK AND BRANCH ADDRESSES AND TELEPHONE NUMBERS

First Federal Reserve District

Securities Department, Federal Reserve Bank of Boston, 30 Pearl Street, Boston, Mass. 02106, 617-426-7100 Ext. 351.

Second Federal Reserve District

Government Bond Division, Federal Reserve Bank of New York, New York, N.Y. 10045, 212-791-5359.

Buffalo Branch (inquiries only), Collection Loans, and Fiscal Agency Division, 716-849-5043 or 716-849-5130.

Third Federal Reserve District

James B. Duffy, Manager, Government Bond Division, Federal Reserve Bank of Philadelphia, P.O. Box 90, Philadelphia, Pa. 19105, 215-574-6190, Robert Carey 215-574-6191

Fourth Federal Reserve District

Securities Department, Federal Reserve Bank of Cleveland, P.O. Box 6387, Cleveland, Ohio 44101, 216-241-2800.

Securities Department, Cincinnati Branch, P.O. Box 999, Cincinnati, Ohio 45201, 513-721-4787.

Securities Department, Pittsburgh Branch, Federal Reserve Bank, P.O. Box 867, Pittsburgh, Pa. 15230, 412-261-7912.

Fifth Federal Reserve District

Federal Reserve Bank of Richmond, P.O. Box 27622, Richmond, Va. 23261, 804-649-3611 Ext. 290.

Baltimore Branch, Federal Reserve Bank, P.O. Box 1378, Baltimore, Md. 21203, 301-539-6552 Ext. 275.

Charlotte Branch, Federal Reserve Bank, P.O. Box 300, Charlotte, N.C. 28230, 704-373-0260 Ext. 266.

Sixth Federal Reserve District

Federal Reserve Bank of Atlanta, 104 Marietta Street NW., Atlanta, Ga. 30303, 404-586-8647.

Birmingham Branch, Federal Reserve Bank, P.O. Box 10447, Birmingham, Ala. 35202, 205-252-3141 Ext. 215.

Jacksonville Branch, Federal Reserve Bank, 515 Julia Street, Jacksonville, Fla. 32231, 904-632-4243.

Miami Branch, Federal Reserve Bank, P.O. Box 520847, Miami, Fla. 33152, 305-445-6281 Ext. 192.

Nashville Branch, Federal Reserve Bank, 301 Eighth Avenue North, Nashville, Tenn. 37203, 615-259-4006 Ext. 281.

New Orleans Branch, Federal Reserve Bank, P.O. Box 61630, New Orleans, La. 70161, 504-586-1505 Ext. 240.

Seventh Federal Reserve District

Government Securities Division, Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Ill. 60690, 312-322-5941 or 312-322-5947.

Government Securities Division, Detroit Branch, Federal Reserve Bank, 160 West Fort Street, Detroit, Mich. 48226, 313-961-6880 Ext. 292 or 293.

Eighth Federal Reserve District

Federal Reserve Bank of St. Louis, P.O. Box 442, St. Louis, Mo. 63116, Att: Treasury Issues Division, 314-421-1700 Ext. 203.

Little Rock Branch, Federal Reserve Bank, P.O. Box 1261, Little Rock, Ark. 72203, Att: Securities Department, 501-372-5451.

Louisville Branch, Federal Reserve Bank, P.O. Box 899, Louisville, Ky. 40201, Att: Securities Department, 502-7351.

Memphis Branch, Federal Reserve Bank, P.O. Box 407, Memphis, Tenn. 38101, Att: Securities Department 901-523-7171.

Ninth District

Gerald J. Mallen, Manager, Securities Custody Division, Securities Department, Federal Reserve Bank of Minn., Minneapolis, Minn. 55480.

Tenth Federal Reserve District

Fiscal Agency Department, Federal Reserve Bank of Kansas City, Federal Reserve Station, Kansas City, Mo. 64198, Delores Forman 816-881-2783.

Denver Branch, Federal Reserve Bank, 1020 16th Street, P.O. Box 5228, T.A., Denver, Colo. 80217, Bob Lundgren 303-292-4020 Ext. 253.

Oklahoma City Branch, Federal Reserve Bank, P.O. Box 25129, Oklahoma City, Okla. 73125, Sherman Huff 405-235-1721 Ext. 181.

Omaha Branch, Federal Reserve Bank, 102 South 17th, Omaha, Nebr. 68102, Ivar Andreasen 402-341-3610 Ext. 241.

Eleventh Federal Reserve District

Federal Reserve Bank of Dallas, Securities Department, Marketable Issues Division, Station K, Dallas, Tex. 75222, Mary M. Rosas 214-651-6384, Donald E. Curtis 214-651-6360.

Houston Branch, Federal Reserve Bank, Fiscal Agency Department, P.O. Box 2578, Houston, Tex. 77001, K. S. Savage 713-659-4433 Ext. 74, J. W. Lockhart 713-659-4433 Ext. 75.

San Antonio Branch, Federal Reserve Bank, Cash-Fiscal Agency Department, P.O. Box 1471, San Antonio, Tex. 78295, A. G. Valencia, Jr. 512-224-2141 Ext. 60, M. E. Stehling 512-224-2141 Ext. 62.

El Paso Branch, Federal Reserve Bank, Cash-Fiscal Agency Department, P.O. Box 100, El Paso, Tex. 7999.

Twelfth Federal Reserve District

Federal Reserve Bank of San Francisco, Fiscal Department, P.O. Box 7702, San Francisco, Calif. 94120, 415-544-2330 or 2331.

Los Angeles Branch, Federal Reserve Bank, Fiscal Department, P.O. Box 2077, Los Angeles, Calif. 90051, 213-683-8377.

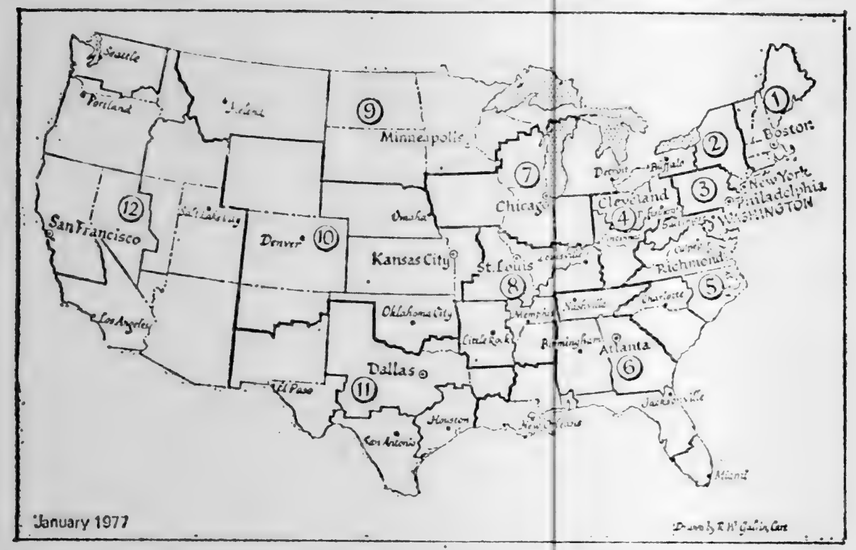
Portland Branch, Federal Reserve Bank, Fiscal Department, P.O. Box 3436, Portland, Ore. 97208, 503-228-7584.

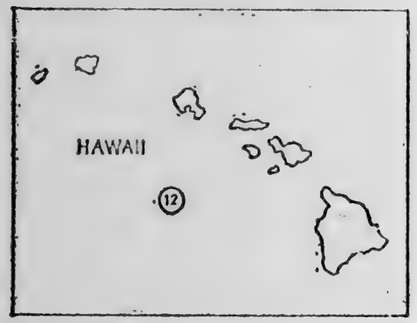
Salt Lake City Branch, Federal Reserve Bank, Fiscal Department, P.O. Box 780, Salt Lake City, Utah 84110, 801-355-3131.

Seattle Branch, Federal Reserve Bank, Fiscal Department, P.O. Box 3567, Seattle, Wash., 206-442-7269.

The Federal Reserve System

Boundaries of Federal Reserve Districts and Their Branch Territories







LEGEND

- Boundaries of Federal Reserve Districts
- Boundaries of Federal Reserve Branch Territories
- Board of Governors of the Federal Reserve System
- Federal Reserve Bank Cities
- Federal Reserve Branch Cities
- Federal Reserve Bank Facility

APPENDIX IV

THE LOST, MISSING, STOLEN AND COUNTERFEIT SECURITIES INFORMATION SYSTEM

Description of the System

The Securities and Exchange Commission designated the Securities Information Center, Inc. (the "Designee"), a subsidiary of ITEL AutEx, Inc., to operate the Lost, Stolen, Missing and Counterfeit Securities Information System (the "system") to receive and process reports and inquiries for which the Commission is the appropriate instrumentality under 17 CFR 240.17f–1. The system is to operate as a pilot program with Reports to the system beginning on October 3, 1977, and inquiries to the system commencing on January 2, 1978. The pilot program will end on December 31, 1978.

It is the intention of the Commission and the designee to operate a system which will, with sufficient flexibility and at the lowest possible cost, meet the needs of the industry and fulfill the intent of Congress. It is estimated that during the pilot year the system will on the average process 10,000 reports and inquiries a day. In the early months of the pilot, users should anticipate minor problems which usually accompany the start-up of a new system. As experience is gained with the operation of the system, user requirements will be better defined and procedures will be modified to improve the operation of the system and insure the ultimate success of the program.

This material briefly describes how the system will operate, defines terms and service options, and provides a schedule of fees which will be charged in connection with the service.

REPORTING REQUIREMENTS

Securities and Exchange Commission Release Nos. 34–13653, 34–13280, and 13831 define the organizations (reporting institutions) which are required to report to and make inquiries of the system. The releases also specify when reports and inquiries are required. The rule provisions and important explanatory information has been republished in SEC Release No. 34–13832, to which this Description of the system is an appendix.

REPORTS

A report is a notice to the system and to a transfer agent for the issue of (1) securities lost, stolen, missing, or discovered to be counterfeit; (2) recovery of securities previously reported lost, stolen, or missing; or (3) a correction or update of a previous report other than recovery.

All reporting institutions are required to make reports enumerated in paragraph (b) of rule 17f–1 directly to the appropriate instrumentality. All reports must be made on Form X–17F–1A and signed by an authorized individual whose signature is on file with the designee. Reports for which the Commission is the appropriate instrumentality should be mailed to P.O. Box 421, Wellesley Hills, Mass. 02181.

Reports can be made voluntarily for situations in which reporting institutions are exempt from reporting requirements. However, all reports must relate to securities which have a CUSIP number and must show that number to be accepted by the system.

Preliminary reports may also be made by telephone or telex. Preliminary reports should include the reporting institution's FINS number,[1] the CUSIP number and certificate numbers (including all prefixes and suffixes) of the securities, and indication of whether or not criminality is suspected. Preliminary reports must be followed by a written report on Form X–17F–1A signed by an authorized individual and mailed to P.O. Box 421, Wellesley Hills, Mass. 02181.

The designee will send a written report confirmation to the reporting institution on a weekly basis.

On October 3, 1977, the system will be in operation to receive reports and institutions required to report must begin doing so on that date.

INQUIRIES

Inquiries are made of the system to determine if securities coming into the possession or control of a reporting institution have been previously reported as lost, stolen, missing, or counterfeit.

Reporting institutions must either be direct inquirers or indirect inquirers of the system. Direct inquirers make inquiries of the system by using telephone, telex, mail, or magnetic tape sent to the designee. Alternatively, a reporting institution can participate as an indirect inquirer by arranging with a direct inquirer to act on its behalf in making inquiries of the system.

Upon registering with the system as a direct inquirer, the reporting institution will be assigned appropriate access codes. Each time the reporting institution makes an inquiry of the system, whether on its own behalf or on behalf of another institution, the code will be used to insure that only authorized direct inquirers have access to the system.

In addition to the reporting institution's access code, the inquiry must include the institution's FINS number and the securities' CUSIP and certificate numbers (including all suffixes and prefixes). Multiple inquires can be made in a single mailing, telephone call, or telex transmission.

Institutions that anticipate a large volume of inquiries or reports on a regular basis may elect to input to the system via magnetic tape. Such reporting institutions should contact the designee for specifications and procedures.

A direct inquirer can access the system from various stations within its organization. A station is a department or branch location that will have its own access code and telephone contact.

Direct inquiries making inquiries from more than one station can register the additional stations as either primary or secondary access stations. A secondary station makes inquiries of the system directly but has its written confirmations directed by the designee to a primary access station of the institution. A primary access station receives confirmations for its own use of the system and for use by its secondary access stations, if any. At least one location of each direct inquirer must be registered as a primary access station. No other stations are required. Every secondary station must be associated with one and only one primary station.

[illegible]

After authorized access for purposes of making an inquiry has been established, the system will assign the inquiry a validation number which confirms for the direct inquirer that the inquiry was made.

The system will then search the data base to determine if the CUSIP and certificate numbers in the inquiry match those in a report previously submitted. If so, the inquiring institution will be notified immediately of the match. This positive confirmation will include instructions on how to contact the reporting institution which submitted the matching report and notice, if any, of suspected criminality.

Written confirmations of inquiries that did not result in a match (negative confirmation) will be mailed to the direct inquirer monthly along with report confirmations. Confirmations will be mailed to the primary access station.

An optional prompt written confirmation service will be available to direct inquirers at additional cost. With this service, the primary access station will receive prompt confirmation by mail of all inquiries (and whether positive or negative) and of all reports received by the system from that station or its secondary access stations. There will be one such mailing for each day on which reports and or inquiries were received from the station or its secondary access stations.

On January 2, 1978, the system will be in operation to receive inquiries, and institutions required to make inquiries must begin doing so on that date.

SCHEDULE OF CHARGES

Under a pricing structure and schedule of fees approved by the Commission, organizations that are direct inquirers will be charged (1) an annual registration fee, (2) a one-time assessment to cover system development, and (3) usage fees. An indirect inquirer must make separate arrangements with the institution that makes inquiries on its behalf to compensate that direct inquirer for its costs and services.

Fees do not cover participant's use of the mails, telephone, or telex for making reports or inquiries, nor any training or education of employees of direct or indirect inquirers in connection with the use of the system.

Registration.—This annual fee for direct inquirers covers the cost of maintaining registration data, assignment of access codes and billing of all charges.

	For the pilot year
For each primary access station	$18 00
For each secondary access station	9 00

System development.—There will be a one-time assessment to cover the costs of development of software and hardware to operate the system. The costs of development will be divided evenly among all direct inquirers and the per user charge will depend on the number of direct inquirers.

Estimated one-time assessment (based on anticipated 5,000 direct users)	$40 00

Usage.—These fees will cover the costs of verification of authorized system access, matching of reports and inquiries, notification of matches, and confirmation of inquiries.

Usage charges will be billed quarterly in advance to a single primary access station. The charges outlined below are based on estimates of the number of direct inquirers in each size classification (5,000 total) and of the aggregate number of inquiries (10,000 per day). The first quarterly billing will be adjusted to reflect the actual number of direct inquirers in each size classification. Subsequent quarterly billings will be adjusted to reflect actual aggregate volume of inquiries.

[1] Information on where your FINS number can be located is contained in SEC Release No. 34–13832, to which this material is appended.

Type	Size	Estimated Usage Charges	
Banks	Amount of Deposits	Annual	Quarterly
	Over $1 Billion	$2,400.00	$600.00
	$500 Million to $1 Billion	1,200.00	300.00
	Less than $500 Million	50.00	12.50
Securities Organizations	Annual Revenue (Most recent fiscal year)	Annual	Quarterly
	Over $25 Million	$2,400.00	$600.00
	$5 Million to $25 Million	1,650.00	412.50
	$500,000 to $5 Million	360.00	90.00
	Less than $500,000	100.00	25.00
Non-Bank Transfer Agents	Number of Shares Issued Last Year	Annual	Quarterly
	100,000 shares or more	$90.00	$22.50
	Less than 100,000 shares	50.00	12.50

PROMPT WRITTEN CONFIRMATION SERVICE (OPTIONAL)

For mailing of prompt written confirmations of all inquiries and reports received from a direct inquirer each day via mail, telephone or telex:

Each primary access station using the service (per quarter)---------- $16.00

Additional information, including procedural instructions and telephone and telex numbers, will be mailed to direct inquirers after registration forms have been received and processed.

APPENDIX V

LOST, STOLEN, MISSING, AND COUNTERFEIT SECURITIES INFORMATION SYSTEM

Registration Form

Organizations required by Securities and Exchange Commission Rule 17f-1 (under section 17(f) of the Securities and Exchange Act of 1934, as amended by Pub. L. 94-29 (June 4, 1975)), to make reports to and inquiries of the lost, stolen, missing, and counterfeit securities information system are shown by categories below. All such organizations must complete and return this form to the Securities Information Center, Inc. ("designee") by September 23, 1977, in order to be able to fulfill their responsibilities under the law.

Fill out and return this form to: Securities Information Center, Inc., Post Office Box 421, Wellesley Hills, Mass. 02181.

Entities ("reporting institutions") required to make reports of and inquiries to the system (check each classification appropriate to you):

( ) 1. Federal Reserve System member.

( ) 2. Bank whose deposits are insured by the Federal Deposit Insurance Corporation.

( ) 3. National Securities Exchange.

( ) 4. National Securities Exchange member.

( ) 5. National Securities Exchange member firm.

( ) 6. Registered Securities Association.

( ) 7. Registered Securities Association member.

( ) 8. Securities broker.

( ) 9. Securities dealer.

( ) 10. Municipal securities dealer.

( ) 11. Registered transfer agent.

( ) 12. Registered clearing agency.

( ) 13. Participant in a registered clearing agency.

Name of reporting institution:----------

---------- ---

Address: ----------

Attention: ----------

FINS Indentification No.[1] □□□□□□

Telephone No. ( ) ----------

SIZE OF INSTITUTION

Check one of the following that describes the size of your organization.

Bank (all those who have checked either classification 1 or 2 above). □ More than $1 billion in deposits; □ with $500 million to $1 billion in deposits; □ less than $500 million in deposits.

Securities organization: □ With over $25 million in annual revenue; □ with more than $5 million but less than $25 million in annual revenue; □ with $500,000 to $5 million in annual revenue; □ with less than $500,000 in annual revenue.

Non-bank transfer agents (those who check only classification 11 above): □ That issue 100,000 shares or more per year; □ that issue less than 100,000 shares per year.

Method of inquiry.—Initial one of the two statements below to indicate whether you will make inquiries of the system as a "direct inquirer" or "indirect inquirer." Direct inquirers should also indicate whether they will use multiple access stations and/or the prompt confirmation service. These usage options and the charges related to each are outlined in the "description of the system."

Direct inquirer: Beginning January 2, 1978, we will make inquiries of the system directly. We agree to pay to the designee the annual registration fees of $18 for each primary access station and $9 for each secondary access station. We also agree to pay the advance quarterly usage charges and the one-time assessment for system development costs approved by the Commission and outlined in the "Description of the System," which is appended to SEC Release No. 34-----.

Direct inquirers should use the boxes below to indicate the number of stations they will use to make inquiries to the system. If these boxes are not filled, it will be presumed that there will be 1 primary and no secondary access stations, the mandatory minimum.

□ Number of primary access stations.

□ Number of secondary access stations.

Direct inquirers that wish to have the prompt written confirmation service should check the block below:

□ We wish to have the prompt written confirmation service as outlined in the "Description of the System." We agree to pay $16 per quarter for this service.

We agree to pay amounts equal to all sales, use and excise taxes, or other taxes which may be levied upon or in connection with the furnishing of the facilities or service of the system.

Terms: All fees are due and payable within ten days of date of invoicing.

Indirect inquirer: We have made arrangements with ----------

(Name of direct inquirer)

who will make inquiries of the system on our behalf. We are aware that we will receive no direct confirmations from the designee and that the institution that makes inquiries for us may pass through to us the costs of using the system on our behalf as well as additional service charges.

We understand that the Lost, Stolen, Missing, and Counterfeit Securities Information System will operate as a one-year pilot program. In addition to making reports and inquiries to the designee, we will take all other steps necessary for reporting to the appropriate instrumentality and law enforcement agencies information relating to lost, stolen, missing, and counterfeit securities.

The designee will perform its work in a businesslike manner and in accordance with reasonable standards of care. The designee does not, however, guarantee the accuracy of any information contained in the records of the system or of the responses to inquiries concerning lost, stolen, missing, or counterfeit securities furnished by it. The designee shall not be liable for any unintentional delays, inaccuracies, errors, or omissions in said responses or for any damages arising therefrom or occasioned thereby. The designee shall not be liable for non-performance or interruption of services due to fire, storms,

[1] Information on where your FINS number can be located is contained in SEC Release No 34- , to which this material is appended

strikes, labor disputes, or any cause beyond its control or due to the act or omission of any other person, firm, or corporation.

Authorized signature(s):

(Signed) ----------

(Typed) ----------,

----------.

(Title)

Dated: ----------.

(Signed) ----------

(Typed) ----------,

----------.

(Title)

Dated: ----------.

Please sign and return this registration form to the Securities Information Center, Inc., the Commission's designee, at P.O. Box 421, Wellesley Hills, Mass. 02181, by September 23, 1977. The Securities Information Center will send to all direct inquirers by October 3, 1977, further information on how to access the system.

[FR Doc.77-23188 Filed 8-11-77;8:45 am]

federal register

FRIDAY, AUGUST 12, 1977

PART III



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 561]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of Japan and the Republic of Ireland and are published herewith.

Dated: August 4, 1977.

LARRY L. SNEAD,
Acting Director,
Office of Fisheries Affairs.

AL

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE _____ APPLICATION NO. EC(EI)-77-0001 for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on 9 June 1977 (date), the government (or competent authority) of EIRE hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted 22 July 77 (Date)

Signature of Authorized Official

Title

EC(EI)-77-0001

16. Navigation Equipment: Loran C (√), Loran A (√), Omega (o), Decca (√), Navsat (o), Radar (√), Fathometer (√), Also Sonar
Other Direction Finder; Echo Sounder; Depth Recorder

17. Cargo Capacity (MT)

Salted Fish	Nil	Freezer only No.1 hold No.2	120 Tons
Fresh Fish	Nil	Refrigerated	
Frozen Fish	1200 MT	Tweendeck	
Fish Meal	Nil	Hatches	
Other	Nil		

18. Cargo Space Number / Capacity

19. Processing Equipment (Indicate daily capacity,MT)

Headers: 2 - Capacity 45 Tonnes per Day

Flash Freezers: 15 Contact Plate Freezers - Capacity 45 m.t./day

Filleters: Nil; Fishmeal Plants: Nil;

Fish Oil Plants: Nil;

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
2 + 5	1 - 29 July	Short Fin squid	435	Bottom trawl - possibly slightly modified
2 + 5	8 - 31 August	"	560	
2	1 - 15 Sept.	"	225	
1,2 and 3	16-30 Nov.	Common American Squid	150	
		Butterfish	105	
1,2 and 3	1-31 Dec.	Common American Squid	310	
		Butterfish	217	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Mr J Higgins
c/o Kirlin, Campbell & Keating
120 Broadway, New York, N.Y. 10005

No by-catch anticipated in any period

AL

EC(EI)-77-0001

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: _____ Application No. EC(EI)-77-0001 For Use of Issuing Office

1. Name of Vessel Erin Fisher
2. Vessel No.: Hull No. C54 Registration No. 401393
3. Name and Address of Owner: Name: Atlantic Fisheries Development Company Ltd. Address: 6 Princes Street, Cork Ireland. Cable Address: AFCo Cork
   Name and Address of Charterer: None
4. Homeport and State of Registry: Cork Ireland
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross) 1921.46 (Net) 1139.81
7. Length 79.30 M. 8. Breadth 13.51 M. 9. Draft 8.904 M.
10. Horsepower 2750 shp. 11. Maximum Speed 13.30 kt.
11. Propulsion: Diesel (√), Steam ( ), Diesel/Electric ( ), Vertical Internal Combustion
    Other _____
13. Date Built 30 April 1965
14. Number and Nationality of Personnel: Irish 23; British 4; Japanese?
    Officers 11 Crew 43 Other (Specify) None
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ) (See Details Attached)
    Other _____
    International Radio Call Sign EI GB
    Radio Frequencies Monitored 2182 U.S. Coastguard called Daily
    Other Working Frequencies None

EC(EI)-77-0001

Communications Equipment ('Erin Fisher')

VHF-FM (30-40 Channels)

AM/SSB Voice Radiotelephone to Vessels and Shore Stations

Frequencies and Channels:-

All Coastal Stations - 410 kHz; 435 kHz; 454 kHz; 480 kHz; 500 kHz; 512 kHz.

All Ship stations only: 2023; 2182; 2203; 2534; 2381.

International: 2049, 2065

All (22276.5; 22346.5; 22376.5)

Ships Only: 1660; 2070; 2091; 4186; 4201; 4206; 4211; 4213.5; 4279; 6321.5; 6359; 6316.5; 6324; 8372; 8402; 8412; 8422; 8427; 12559; 12603; 12618; 12633; 12648; 16744; 16804; 16824; 16844; 16864; 22277.5; 22306; 22381; 22390; 22393.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 377

Permit Period Applied For: OCTOBER 10 1977 TO DECEMBER 31, 1977 — Application No. For Use of Issuing Office: JA-77-0377

State: JAPAN

1. Name of Vessel: DAIGYU MARU NO. 18
2. Vessel Net Full No. [illegible] 728 [illegible] Registration No. TKI-679 (TON - 728)
3. Name and Address of Owner — Name and Address of Charterer
   Name: KYOWA CO., LTD.
   Address: CHIYODA-KU, 2-1-2
   [illegible]-KU, TOKYO JAPAN
   Cable Address:
   CHIYODAKYOWA TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: STERN TRAWLER
6. Tonnage (Gross) 999.70 M/T (Net) 451.22 M.T.
7. Length 66.65 M. 8. Breadth 11.40 M. 9. Depth 4.60 M.
10. Horsepower 2200 shp. 11. Maximum Speed 14.05 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other
12. Date Built AUGUST 17,1966
14. Number and Nationality of Personnel 41 JAPAN
    Officers 10 Crew 30 Other (Specify) 1 SUIE DOCT
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraph (*),
    Other
    International Radio Call Sign JGED
    Radio Frequencies Monitored A1, A2 500 KC A3J 2182 KHZ
    Other Radio Frequencies A1, A2 410, 425, 455, 454, 460, 468, 470 A3J 2182, 2734
    Schedule WATCH TIMES: BERING SEA AND ALEUTIAN ISLANDS 22:00-10:00 (G.M.T.) GULF OF ALASKA 22:00-10:00 (G.M.T.)

JA-77-0377

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other
17. Cargo Capacity (MT)
    Salted Fish
    Fresh Fish
    Frozen Fish 400 M.T.
    Fish Meal
    Other
18. Cargo Space Number — Name (SEE THE ATTACHED PAPER 1)
    Freezer I II — FROZEN FISH HOLD
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    FLASH FREEZERS 8 SETS 25 M.T./DAY (MAX)
20. Fisheries for which Permit is Requested.

Ocean Area (Species)	Target Species	Contemplated Cod L (MT)	Gear to be Used
GULF OF ALASKA	OCTOPUS TO	SEE THE ATTACHED PAPER II	BOTTOM TRAWL
BERING SEA AND ALEUTIAN ISLANDS	OCTOPUS TO DECEMBER		BOTTOM TRAWL

21. Name and Address of Agent appointed to receive any legal process
    MR.I.NAKAMURA
    C/O HOLIDAY INN,GEORGE TOWN,ROOM NO.506 B.2505
    WISCONSIN AVE.,N.W.-WASHINGTON,D.C.20007,U.S.A.

JA-77-0377



JA-77-0377

THE ATTACHED PAPER II

This vessel applies for fishing a portion of the allocations for the species in the ocean areas as described below:

Bering Sea and Aleutian Islands

Pacific Ocean Perch	9,300 MT
Pacific Cod	38,100
Yellowfin Sole	52,150
Other Flounders	61,500
Black Cod	5,600
Herring	5,800
Squid	10,000
Pollock	792,500
Other Groundfishes	63,500

Gulf of Alaska

Pacific Ocean Perch	19,500 MT
Other Rock Fishes	2,700
Pacific Cod	1,600
Flounders	10,700
Black Cod	13,500
Pollock	44,100
Other Groundfishes	4,200

[FR Doc.77-23156 Filed 8-11-77;8:45 am]

federal register

FRIDAY, AUGUST 12, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSION AND DEFERRALS

Reports

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

Status as of August 1977

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of August 1, 1977, of the 20 rescissions and 63 deferrals contained in the first seventeen special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, January 7 and 17, March 9 and 24, April 4 and 28, May 18, and July 7, 19, and 26, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Six rescissions totaling $665.3 million in fiscal year 1977 budget authority are presently before the Congress. Table A summarizes the status of rescissions proposed as of August 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of August 1, 1977, $4,437.5 million in 1977 budget authority was being deferred from obligation and another $4.6 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI)
Monday, September 27, 1976 (Vol. 41, No. 188, Part III)
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV)
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII)
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II)
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X)
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII)
Wednesday, March 16, 1977 (Vol. 42, No. 51, Part IV)
Wednesday, March 30, 1977 (Vol. 42, No. 61, Part VI)
Friday, April 8, 1977 (Vol. 42, No. 68, Part VI)
Wednesday, May 4, 1977 (Vol. 42, No. 86, Part VI)
Monday, May 23, 1977 (Vol. 42, No. 99, Part IX)
Wednesday, July 13, 1977 (Vol. 42, No. 134, Part VIII)
Friday, July 22, 1977 (Vol. 42, No. 141, Part V)
Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII)

BERT LANCE,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,926.9
Withdrawn (R77-4A, Special Message No. 4, R77-13A, Special Message No. 8)	-95.0
Accepted by the Congress (R77-3, R77-5, R77-8, R77-9, R77-10, R77-11)	-711.6
Rejected by the Congress	-186.6
Adjustments	-268.4 1/
Pending before the Congress	665.3

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,470.7
Routine Executive releases (-2,523.1M) and adjustments (-479.9M) 2/ through August 1, 1977	-3,003.0
Overturned by the Congress	-25.6
Currently before the Congress	4,442.1 3/

1/ This amount is the difference between $721.0 million in Navy shipbuilding and conversion funds originally proposed for rescission and $452.6 million rescinded. When the rescission was proposed, these funds were already obligated for supply contracts. In testimony before the House Appropriations Committee, the Secretary of Defense concurred in the opinion that these contracts should not be terminated.

2/ An amount equal to $1,839.0 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "Adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.

3/ Includes $4.6 million of outlays in one Treasury deferral, D77-27A.

STATUS OF RESCISSIONS

ATTACHMENT A

A-1

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of August 1, 1977

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales.....	R77-5	[41,500] 1/	01-17-77	41,500 2/	03-25-77		
Foreign military credit sales.....	R77-16	21,090 1/	07-19-77				
Department of Commerce							
U.S. Travel Service:							
Salaries and expenses.	R77-6	[525]	01-17-77			525	03-15-77
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities.....	R77-7	[1,500]	01-17-77			1,500	03-15-77
Department of Defense-Military							
Retired pay, Defense....	R77-8	[143,600]	01-17-77	143,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-9	[721,000] 3/	01-17-77	452,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-14	[126,212]	05-18-77			126,212	07-22-77
Aircraft procurement, Air Force.....	R77-18	462,000	07-19-77				
Missile procurement, Air Force.....	R77-19	1,400	07-19-77				
Missile procurement, Air Force.....	R77-20	105,000	07-26-77				
Other procurement, Air Force.....	R77-10	[14,350]	01-17-77	14,350 2/	03-25-77		

A-2

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund.....	R77-2	[6,600]	09-22-76			6,600	03-02-77
Department of the Interior							
Bureau of Mines:							
Helium fund.....	R77-3	[47,500]	09-22-76	47,500 4/	03-10-77		
Department of State							
Contributions for international peacekeeping activities.....	R77-11	[12,000]	01-17-77	12,000 2/	03-25-77		
Department of Transportation							
Federal Highway Administration:							
Highway crossing Federal projects.....	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay.....	R77-12	[6,803]	01-17-77			6,803	03-15-77
General Services Administration:							
Federal Buildings Fund.....	R77-17	75,000	07-19-77				
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation.	R77-1	[45,000] 6/	07-29-76			45,000 6/	10-01-76
National Transportation Safety Board:							
Salaries and expenses.	R77-15	850	07-07-77				

A-1

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Small Business Administration:							
Business loan and investment fund.....	R77-13	[60,000]	01-17-77				
	R77-13A	0	03-09-77			60,000 7/	10-01-76 7/
TOTAL:		665,340		711,550		281,540	

1/ This amount was included in a deferral (D77-38) that was transmitted to the Congress on 12-03-76.
2/ P.L. 95-15.
3/ Of the $721,000,000 proposed for rescission, $452,600,000 was rescinded because the difference, totaling $268,400,000, was previously obligated. The $452,600,000 was assumed to be included in a deferral (D77-34) transmitted to the Congress on 11-05-76.
4/ P.L. 95-10.
5/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976.
6/ These funds were not withheld during the 45-day Congressional consideration period.
7/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on March 9, 1977. These funds were not withheld during the 45-day Congressional consideration period.

STATUS OF DEFERRALS

ATTACHMENT B

B-1

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Releases Resulting From Subsequent Actions Taken by: Adjustments	Amount Deferred as of 08-01-77
Emergency Refugee and Migration Assistance Fund.....	D77-1		8,640	10-01-76					
				10-28-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				
				05-25-77				[illegible]	5,000
International Security Assistance									
Military assistance, 1977.....	D77-37	[71,000]		12-03-76					
				07-07-77				-73,000 1/	
			79,000	07-07-77					79,000
Foreign military credit sales.....	D77-38		740,000	12-03-76				-41,500 2/	
				01-10-77	-23,627				
				01-25-77	-585,533				
				05-06-77	-27,500				
				05-20-77				+12,258	
				07-07-77	-3,500			-21,090 3/	
				07-29-77	-7,500				42,008
TOTAL:		73,000	827,640		-654,960			-119,672	126,008

1/ Subsequently incorporated in a supplementary report.
2/ This amount was proposed for rescission (R77-5). The proposal was accepted by the Congress in P.L. 95-15.
3/ This amount was proposed for rescission (R77-16).

B-2

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 08-01-77
Foreign Agricultural Service									
Salaries and expenses: (Special foreign currency program).....	D77-2	[1,610]		10-01-76 01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses.....	D77-3		2,919	10-01-76 12-30-76 03-25-77 05-19-77 07-14-77	-2,620 -89 -140 -68				0
Forest Service									
Expenses, brush disposal.	D77-4		22,321	10-01-76					22,321
Licensee programs.....	D77-5	[146]		10-01-76 01-17-77				-146 1/	
	D77-5A		239	01-17-77					239
TOTAL:		1,756	27,222		-2,917			-1,756	24,303

1/ Subsequently incorporated in a supplementary report.

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 08-01-77
General Administration									
Special foreign currency program.....	D77-45		654	01-17-77					654
Economic Development Administration									
Local public works program.....	D77-63		11,000	07-26-77					11,000
National Oceanic and Atmospheric Administration									
Operations, research, and facilities.....	D77-46	[7,500]		01-17-77 03-28-77 04-28-77	-1,200			-6,300 1/	
	D77-46A		6,300	04-28-77					6,300
Promote and develop fishery products and research pertaining to American fisheries.....	D77-6	[1,771]		10-01-76 01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77 01-08-77	-600				1,172
Fisheries loan fund.....	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund.....	D77-8		59	10-01-76 05-06-77	-58				1
Fisherman's guaranty fund.....	D77-9	[356]		10-01-76 01-07-77				-356 1/	
	D77-9A		544	01-07-77					544

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 08-01-77
Maritime Administration Ship construction.....	D77-47	[200,900]		01-17-77 04-04-77				-200,900 1/	
	D77-47A		200,900	04-04-77 05-16-77	-102,900				98,000
TOTAL:		210,527	227,028		-104,758			-209,327	123,470

1/ Subsequently incorporated in a supplementary report.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 08-01-77
Military personnel and operation and maintenance.....	D77-62		12,465	07-19-77					12,465
Shipbuilding and conversion, Navy.....	D77-34		929,250	11-05-76 01-17-77				-452,600 1/	476,650
Military construction, all services.....	D77-10	[76,483]		10-01-76 12-03-76				-76,483 2/	
	D77-10A	[335,883]		12-03-76 01-17-77				-335,883 2/	
	D77-10B	[387,652]		01-17-77 03-09-77				-387,652 2/	
	D77-10C		424,240	03-09-77 03-25-77 03-28-77 03-30-77 04-12-77 04-14-77 05-23-77 06-08-77 07-22-77	-12,960 -18,527 -34,011 -8,210 -5,425 -24,253 -29,931 -22,981				267,942
TOTAL:		800,018	1,365,955		-156,298			-1,252,618	757,057

1/ This amount was included in a rescission proposal (R77-9). The proposal was accepted by the Congress in P.L. 95-15.
2/ Subsequently incorporated in a supplementary report.

B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Corps of Engineers-Civil									
Construction, general...	D77-53	[7,760]		03-24-77 03-14-77	-5,095				
				05-18-77				-2,665 1/	
	D77-53A		2,665	05-18-77					2,665
Panama Canal									
Canal Zone Government: Capital outlay.....	D77-11		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations.....	D77-12	[363]		10-01-76 03-09-77				-363 1/	
	D77-12A		515	03-09-77					515
TOTAL:		8,123	3,326		-5,095			-3,028	3,326

1/ Subsequently incorporated in a supplementary report.

B-7

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign currency program).....	D77-13	[1,113]		10-01-76 01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education.....	D77-14	[31,702]		10-01-76 11-05-76				-31,702 1/	
	D77-14A		303,862	11-05-76 02-28-77	-23,082				280,780
Social Security Administration									
Limitation on construction.....	D77-15	[17,272]		10-01-76 11-05-76				-17,272 1/	
	D77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University.....	D77-35		500	11-05-76					500
TOTAL:		50,087	325,148		-23,082			-50,087	302,066

1/ Subsequently incorporated in a supplementary report.

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Bureau of Land Management									
Oregon and California grant lands.....	D77-16	[5,426]		10-01-76					
	D77-16A		7,615	05-18-77 05-18-77				-5,426 1/	7,615
Bureau of Reclamation									
Colorado River Basin Project.....	D77-54		4,790	03-24-77 03-15-77	-4,790				0
Bureau of Outdoor Recreation									
Land and water conservation fund.....	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction.....	D77-18		3,245	10-01-76 10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water.....	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines.....	D77-20		3,525	10-01-76					3,525
TOTAL:		5,426	49,205		-8,035			-5,426	41,170

1/ Subsequently incorporated in a supplementary report.

B-9

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Federal Prison System									
Buildings and facilities.	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL:			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D77-39		2,919,000	12-03-76					
				12-28-76	-1,119,000				1,800,000
TOTAL:			2,919,000		-1,119,000				1,800,000

B-11

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
Acquisition, operation, and maintenance of buildings abroad (Special Foreign currency program)	D77-59		18,000	07-07-77					18,000
TOTAL:			32,225						32,225

B-12

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Coast Guard									
Acquisition, construction and improvements	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Construction, Metropolitan Washington Airports	D77-61		2,100	07-07-77					2,100
Civil supersonic aircraft development termination	D77-24	[464]		10-01-76					
				01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund)	D77-25	[276,101]		10-01-76					
				01-17-77				-276,101 1/	
	D77-25A	[287,095]		01-17-77					
				03-09-77				-287,095 1/	
	D77-25B		278,095	03-09-77					278,095
Federal Highway Administration									
Trust fund share of other highway programs	D77-48		31,250	01-17-77					31,250
TOTAL:		563,660	342,106					-561,660	342,106

1/ Subsequently incorporated in a supplementary report.

B-13

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Office of the Secretary									
Antirecession financial assistance fund	D77-57		6,030	04-28-77					
				05-01-77	-938				
				05-31-77				+359	
				06-30-77				+280	5,731
Antirecession financial assistance fund	D77-60		150,000	07-07-77					
				07-05-77	5,451 1/				144,549
State and local government fiscal assistance trust fund	D77-26		113,732 2/	10-01-76					
				11-01-76	-28,433 2/				
				01-31-77	-28,433 2/				
				05-01-77	-28,433 2/				
				07-08-77	-28,433 2/				0
State and local government fiscal assistance trust fund	D77-27	[10,000] 2/		10-01-76					
				12-03-76				-10,000 2/3/	
	D77-27A		21,075 2/	12-03-76					
				12-31-76	-16,893 2/				
				01-31-77	-1,590 2/				
				05-01-77				+12,860 2/	
				06-01-77	-5,835 2/				
				08-01-77	-5,045 2/				4,572 2/
State and local government fiscal assistance trust fund	D77-28	[81,500]		10-01-76					
				11-01-76	-276				
				12-01-76	-184				
				12-31-76	-7,888				
				01-01-77	-117				
				04-01-77	-4				
				05-01-77				+8,268	
				07-01-77	104				
				07-11-77				80,761 3/	

R-14

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
	D77-28A		97,680	07-11-77					
				08-01-77	-210				97,450
Loans to the District of Columbia for capital outlay.....	D77-16		51,002	11-05-76					51,002
TOTAL:		81,500	304,712BA		-15,624BA			-71,856BA	298,732BA
		10,000	134,807O		-143,095O			+2,8600	4,5720

1/ This amount was released before the special message containing the deferral was transmitted to Congress.
2/ Outlays only.
3/ Subsequently incorporated in a supplementary report.

R-15

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Operating expenses (Energy extension service).....	D77-49		7,500	01-17-77					
				02-22-77				-7,500 1/	0
Operating expenses (Magneric fusion energy).....	D77-50		12,000	01-17-77		-12,000 2/			0
Operating expenses (Program support-community operations).....	D77-51		5,400	01-17-77		-5,400 3/			0
Operating expenses (Biomedical and environmental research).....	D77-52		8,200	01-17-77		-8,200 4/			0
Operating expenses.....	D77-55		80,500	04-04-77					
				06-29-77	-24,710				55,790
Operating expenses (Clinch River Breeder Reactor Plant project).....	D77-58	(31,800)		05-18-77					
				07-26-77				-31,800 5/	
	D77-58A		37,400	07-26-77					37,400
Plant and capital equipment.....	D77-56		46,660	04-04-77					46,660
TOTAL:		31,800	197,660		-24,710	-25,600		-39,300	139,850

1/ This adjustment reflects the impact of P.L. 95-1 which makes the source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.
2/ Impoundment resolution H. Res. 305 passed the House on March 3, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 306 passed the House on March 3, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 307 passed the House on March 3, 1977, rejecting this deferral.
5/ Subsequently incorporated in a supplementary report.

R-16

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Rare Silver Dollar Program.....	D77-29	(1,709)		10-01-76					
				01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL:		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

R-17

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 08-01-77
Action									
Operating expenses, international and domestic programs.....	D77-40		550	12-03-76					
				12-31-76	-15				
				06-03-77	-360				
				07-11-77	-175				
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims.	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration									
Commemorative activities fund.....	D77-31	(1,346)		10-01-76					
				01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission									
Payment for directed rail service.....	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year									
Salaries and expenses....	D77-33		680	10-01-76					680
U.S. Information Agency									
Salaries and expenses (special foreign currency program).....	D77-41		2,437	01-07-77					2,437
Special international exhibitions.....	D77-42		1,716	01-07-77					1,716

B-18

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 08-01-77
Special international exhibitions (special foreign currency program)	D77-43		112	01-07-77					112
U.S. Railway Association: Payments for the purchase of Conrail securities	D77-44		680,700	01-07-77					
				01-27-77	-162,000				
				06-27-77	-103,000				415,700
TOTAL:		1,346	710,926		-265,550			-1,346	445,376
TOTAL, ALL DEFERRALS:		1,828,952BA 10,0000	7,335,850BA 134,8070		-2,380,031BA -143,0950	-25,600BA		-2,321,685BA +2,8600	4,437,486BA 4,5720

1/ Subsequently incorporated in a supplementary report.

[FR Doc.77-23443 Filed 8-10-77;12:20 pm]

federal register

FRIDAY, AUGUST 12, 1977

PART V



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Ohio	OH77–2128

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Kansas:	
MO77–4075	Apr. 8, 1977.
MO77–4160	July 8, 1977.
Louisiana:	
LA77–4169	July 29, 1977.
Missouri:	
MO77–4033	Feb. 18, 1977.
MO77–4075	Apr. 8, 1977.
MO77–4134; MO77–4148	July 1, 1977.
MO77–4160	July 8, 1977.
Nevada:	
NV77–5072	Do.
Oklahoma:	
OK77–4164	July 15, 1977.
OK77–4168	July 29, 1977.
South Dakota:	
SD77–5084	June 17, 1977.
Texas:	
TX77–4070	Apr. 1, 1977.
TX77–4098; TX77–4157	July 8, 1977.
Wisconsin:	
WI77–2102	July 15, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL77–1021 (FL77–1099)	Feb. 18, 1977.
Illinois:	
IL76–2130 (IL77–2114); IL76–2132 (IL77–2115).	Oct. 29, 1976.
IL77–2018 (IL77–2116)	Feb. 18, 1977.
Massachusetts:	
MA76–2096 (MA77–3063)	Aug. 13, 1976.
Minnesota:	
MN77–2047 (MN77–2119)	May 6, 1977.
Tennessee:	
TN76–1054 (TN77–1100)	May 21, 1976.
TN77–1047 (TN77–1074)	May 6, 1977.

Signed at Washington, D.C., this 5th day of August 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NO.: OH77-2128 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

*ALLEN, AUGLAIZE, HARDIN, MERCER, PAULDING, PUTNAM, & VAN WERT

	Basic Hourly Rates	Fringe Benefits Payments			
		H&W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$6.41				
BRICKLAYERS	6.00				
CARPENTERS	5.06				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	5.28				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.37				
INSULATORS	5.00				
LABORERS:					
Unskilled	3.46				
Asphalt rakers	3.50				
Mason tenders	3.75				
PAINTERS	4.53				
PLUMBERS	6.36				
ROOFERS	5.12				
SHEET METAL WORKERS	4.80				
SOFT FLOOR LAYERS	5.89				
TILE SETTERS	5.97				
TRUCK DRIVERS	4.08				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.00				
Bulldozer	6.00				
Front end loader	6.00				
Paver	4.78				
Roller	4.60				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4075 - Mod. #6 (42 FR 18615 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson, & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
Change:					
Boilermakers	$11.30	.85	1.00		.02
Cement masons (Building Construction):					
Zone 1					
Cement masons	10.025	.40	.50	.50	
Composition	10.275	.40	.50	.50	
Laborers (Building Construction):					
Zone 3					
Group 1	6.725	.50	.50		.10
Group II	6.825	.50	.50		.10
Group III	7.05	.50	.50		.10
Plasterers	11.90				
DECISION #MO77-4160 - Mod. #2 (42 FR 35547 - July 8, 1977) Cass, Clay, Jackson, Platte, & Ray Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
Change:					
Boilermakers	$11.30	.85	1.00		.02
Cement Masons:					
Cement masons	10.025	.40	.50	.50	
Composition	10.275	.40	.50	.50	
Plasterers	11.90				

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA77-4169 - Mod. #1 (42 FR 38850 - July 29, 1977) Statewide Louisiana					
Change:					
Bricklayers & stonemasons:					
Zone 8	$ 8.60		.30		
Zone 10	9.90				
Cement masons (Building Construction):					
Zone 9	6.85		.30		
Electricians:					
Electricians - Zone 5	10.95	.35	3%+.30		.03
Cable splicers - Zone 5	10.95	.35	3%+.30		.03
Lathers:					
Zone 3	10.585	.30			.01
Marble setters:					
Zone 3	9.90				
Sheet metal workers:					
Zone 1	10.67	.40	.27		.10
Zone 3	10.55	.40	.50		.12
Terrazzo workers:					
Zone 3	8.25				
Omit:					
Roofers:					
Zone 4:					
Roofers, steep	7.35				
Roofers, flat	7.10				
Roofers, kettlemen	6.85				
Add:					
Roofers:					
Zone 4:					
Roofers	7.50				
Kettlemen	7.00				

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4033 - Mod. #5 (42 FR 10240 - February 18, 1977) Jasper, McDonald and Newton Counties, Missouri					
Change:					
Boilermakers	$11.30	.85	1.00		.02
Carpenters:					
Carpenters	8.77	.33	.30		
Millwrights & piledrivermen	9.02	.33	.30		
Laborers:					
Group 1	6.70	.40	.40		.10
Group 2	6.95	.40	.40		.10
Group 3	7.00	.40	.40		.10
Group 4	7.05	.40	.40		.10
Ironworkers	10.10	.45	.65		.12
Sprinkler fitters	11.48	.65	.95		.08
Asbestos workers	10.65	.35	.72		.02
Sheet metal workers	9.26	.50	.55		.04

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4134 - Mod. #1 (42 FR 34195 - July 1, 1977) Franklin, Jefferson, Lincoln, St. Charles, Warren & City & County of St. Louis Counties, Missouri					
Change:					
Boilermakers	$11.45	.85	1.00		.02
Omit:					
Plumbers (Lincoln County)	11.01	2.775	.90		
Pipefitters:					
Zone 1 - Light commercial work & on jobs within the boundaries of the City of St. Louis & St. Louis County	10.45	2.775	.90		
Zone 2 - Other construction & jobs within twenty miles beyond the boundary line of St. Louis County	10.83	2.775	.90		
Zone 3 - Other construction & jobs more than twenty miles beyond the boundary line of St. Louis County	11.01	2.775	.90		
Add:					
Pipefitters	11.35	2.165	1.51		
Plumbers & pipefitters (Lincoln County)	11.35	2.165	1.51		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MO77-4148 - Mod. #1 (42 FR 34198 - July 1, 1977) Franklin, Jefferson, Lincon, St. Charles and Warren and St. Louis City and County, Missouri					
Omit:					
Plumbers (Lincoln County)	$11.01	2.775	.90		
Pipefitters:					
Zone 1 - Light commercial work & on jobs within the boundaries of the City of St. Louis & St. Louis County	10.45	2.775	.90		
Zone 2 - Other construction & jobs within twenty miles beyond the boundary line of St. Louis County	10.83	2.775	.90		
Zone 3 - Other construction & jobs more than twenty miles beyond the boundary line of St. Louis County	11.01	2.775	.90		
Add:					
Pipefitters	11.35	2.165	1.51		
Plumbers & pipefitters (Lincoln County)	11.35	2.165	1.51		
DECISION #NV77-5072 - Mod. #2 (42 FR 35562 - July 8, 1977) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Sheet Metal Workers	$11.92	.93	$1.61	$1.00	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK77-4168 - Mod. #2 (42 FR 38884 - July 29, 1977) Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers Counties, Oklahoma					
CHANGE:					
(PAINTERS (Tulsa, Creek, Rogers and Mayes Counties)					
Brush	$ 9.70		.40		.07
Highwork and stage	10.10		.40		.07
Spray and sandblasting	10.35		.40		.07
Hot or bituminous	11.00		.40		.07
Sheetrock hand tools	9.70		.40		.07
Sheetrock power tools	10.05		.40		.07
Hazardous work	11.90		.40		.07
ELECTRICIANS:					
Cable splicers	10.90	.46	3%+.40	.30	.07
DECISION NO. OK77-4164 - Mod. #2 (42 FR 36766 - July 15, 1977) Muskogee, Adair and Cherokee Counties, Oklahoma					
CHANGE:					
ELECTRICIANS:(ZONE I)					
Electricians	$ 10.33	.60	3%		1/2%
Cable splicers	10.73	.60	3%		1/2%
ELECTRICIANS (ZONE II)					
Electricians	10.63	.60	3%		1/2%
Cable splicers	11.03	.60	3%		1/2%

CHANGE LABORERS CLASSIFICATION DEFINITIONS GROUP II TO READ AS FOLLOW:

All machine tool operators that come under the jurisdiction of the laborers. All sewer and drain tile layers and handling at the ditch, excluding distribution. Operators of water pumps up to four inches and slip form jacks. All men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers. Mortar mixers, hod carriers and dry mixers. High work over 30 feet from ground or floors. Cement finisher helper. Work on swinging scaffold. All kettle and pot men, tank cleaning, all pipe doping, treating and wrapping, including all men working with dope. Mortar and plaster-mixing machine, pump-crete machine, and gunite mixing machines, including placing placing of concrete. Handling creosoted or treated materials, liquid acids, or like materials when injurious to health eyes and skin or clothes. All newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers. All scale men on batch plants. All laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle. All signal men and cutting torch operators in connection with laborers' work. Concrete grader.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. SD77-5064 - Mod. #1 (42 FR 3113 - June 17, 1977) Minnehaha County, South Dakota					
Change:	$10.10				
Cement Masons					
Electricians:					
0 miles through 30 miles from Sioux Falls Post Office					
Electricians	10.12	.40	3%	6%	1/2%
Cable Splicers	11.13	.40	3%	6%	1/2%
Over 30 miles from Sioux Falls Post Office					
Electricians	11.12	.40	3%	6%	1/2%
Cable Splicers	12.13	.40	3%	6%	1/2%
DECISION #TX77-4070 - Mod. #5 (42 FR 17705 - April 1, 1977) Bowie County, Texas					
Change:					
Electricians	$ 9.80	.60	3%		1/4%
DECISION #TX77-4098 - Mod. #4 (42 FR 23633 - May 6, 1977) Jefferson & Orange Cos., Texas					
Change:					
Lathers	10.585	.30			.01
Pipefitters	10.49	.65	.72		.08
DECISION #TX77-4157 - Mod. #1 (42 FR 35617 - July 8, 1977) Taylor County, Texas					
Change:					
Plumbers & pipefitters	8.28	.30	.65		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI77 -2102 - MOD.#1 (42FR -36781- July 15, 1977) Statewide, Wisconsin					
Add:					
ELECTRICIANS:					
Zone 18 - Racine County	$12.27	.55	3%		.75%

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Duval
DECISION NUMBER: FL77-1099 DATE: Date of Publication
Supersedes Decision No.: FL77-1021 dated February 18, 1977 in 42 FR-10226
DESCRIPTION OF WORK: Building Construction, (exclude single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.51	.45	.55		.04
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	8.92	.45	.50		.05 + .01
Blocklayers	8.92	.45	.50		.05 + .01
Stonemasons	8.92	.45	.50		.05 + .01
Carpenters:					
Carpenters	8.92	.52	.50		.05
Piledrivers	8.92	.52	.50		.05
Acoustical & drywall	8.92	.52	.50		.05
Soft floor layers	8.92	.52	.50		.05
Cement masons	7.61	.45	.40		.01
Electricians	9.25	.40	3%+.81	.81	.07
Elevator constructors	9.315	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	8.00		.20		.01
Ironworkers	8.95	.55	.85		.02
Linemen:					
Linemen	9.00	.40	5%+1%		½ of 1%
Cable splicers	9.20	.40	5%+1%		½ of 1%
Heavy equipment operators	8.75	.40	5%+1%		½ of 1%
Winch truck operators	6.98	.40	5%+1%		½ of 1%
Groundmen 1st class	4.85	.40	5%+1%		½ of 1%
Groundmen 2 nd class	4.46	.40	5%+1%		½ of 1%
Laborers:					
Laborers	5.32	.20	.20		
Mechanic tool power buggy, pipelayers & gunnite workers	5.39	.20	.20		
Lathers	7.85	.25	.10		.025
Millwrights	9.23	.52	.50		.05
Painters:					
Brush	7.90	.40	.45		
Spray & sandblast	8.42	.40	.45		
Roller	8.31	.40	.45		
Plasterers	7.66	.40	.30		.02
Plumbers:					
Plumbers	10.10	.50	.50		.08
Steamfitters	10.10	.50	.50		.08
Roofers:					
Roofers	8.71	.50	.25		.025
Kettlemen	6.53	.50	.25		.025
Roofers' helpers	4.79	.50	.25		.025

FL77-1099 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet metal workers	9.58	.80+.3%	.44		.085+.02
Soft floor layers	8.47	.52	.50		.05
Sprinkler fitters	10.16	.60	.90		.10
Tile setters	7.29	.40	.50		.02
Terrazzo workers	7.29	.40	.50		.02
Welders - rate for craft to which welding is incidental.					

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday & Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holidays, and the regular scheduled work days immediately preceding and following the holidays.

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FL77-1099 (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.48	.50	.35		.05
GROUP II	8.30	.50	.35		.05
GROUP III	7.32	.50	.35		.05
GROUP IV	6.21	.50	.35		.05

GROUP I: Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LeTourneau Model L-60-2 or 3 twenty cu. yd. scraper), front end loaders, (over 4 cu, cap.,), side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (seven floor & higher), Locomotive engineer (jobs not covered by railroad unions).

GROUP II: Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging), including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type), over 6' cut & over 24" width, concrete paver & scrapers.

GROUP III: Concrete pumps, front end loader (2 cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer, (mobile plant), pavement breakers, street sweep machines.

GROUP IV: Tractor operated sweeper, trenching machine, (ladder & wheel type maximum cut 6' maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl., 5 pumps wit 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine.

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Henderson, Henry, Knox Mercer, Rock Island, Stark & Warr

DECISION NO. IL77-2114 DATE: Date of Publication

Supersedes Decision No. IL76-2130, dated October 29, 1976, in 41 FR 47724

DESCRIPTION FO WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Stark County	$ 11.51	.81	.72		.12
Remainder of Counties	9.75	.30	.50		.10
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS:					
Rock Island and Mercer Counties					
Bricklayers and Stonemasons	10.70	.55	.70		.03
Marble, Tile, Terrazzo Workers	10.30	.40	.70		
Plasterers	10.90				
Henry County					
Bricklayers, Stonemasons and Plasterers	10.60		.45		
Stark County					
Bricklayers and Stonemasons	10.60		.45		
Plasterers	10.60	.70	.80		.01
Marble, Tile, terrazzo Workers	10.16	.50	.60		.01
Marble and Tile Helpers	9.44	.50			
Terrazzo Helpers and Floor Machine Operator	9.57	.50			
Knox and Warren Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Cleaners, Caulkers	11.06	.60	.85		.01
Henderson County					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Cleaners, Caulkers	11.06	.60	.85		.01
Marble, Tile, Terrazzo Workers	10.16	.50	.60		.01
Marble and tile Helpers	9.44	.50			
Terrazzo Helpers and Floor Machine Operator	9.57	.50			
CARPENTERS:					
Stark County					
Carpenters and Soft Floor Layers	11.11	.40	.50		.05
Millwrights and Piledrivermen	11.61	.40	.50		.05
Knox, Henderson and Warren cos.					
Carpenters and Soft Floor Layers	11.11	.40	.50		.05
Millwrights and Piledrivermen	11.61	.40	.50		.05

DECISION NO. IL77-2114

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Rock Island, Henry & Mercer Cos.					
Carpenters & Soft Floor Layers	9.71	.45	.60		.04
Piledrivermen	9.96	.45	.60		.04
Millwrights	12.00	6%	7%		.20
CEMENT MASONS:					
Rock Island, Mercer, & Eastern Half of Henry Co.	10.37	.50	.60		
Stark Co. and Remainder of Henry County	10.15		.45		
Knox and Warren Counties					
Cement Masons & Plasterers	11.00	.50	.25		
Henderson County					
Cement Masons:					
Northern half of Co.	8.77	.40	.60		
Central & Southern helf of County	10.25				
Plasterers:					
Northern haof of County	10.00				
Central & Southern half of County	9.88				
ELECTRICIANS:					
Knox, Henderson, Warren Cos. Townships of Ohio Grove, North Henderson & Suez in Mercer County	10.45	.40	1%+.30		.25%
Stark Co.; Townships of Essex, Valley & West Jersey	10.77	.40	1%+.30		1%
Henry Co: (Townships of Annawan, Burns, Cambridge, Galva, Kewanee, Weller & Westerfield & the remainder of Stark Co.	11.55	.50	3%+.30		.25%
Rock Island and Remainder of Henry County & Mercer cos.	10.95	.45	5.5%		.03
ELEVATOR CONSTRUCTORS:					
Rock Island, Mercer, Henry and Knox Counties					
Constuctors	10.87	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Stark County	10.73	.55	.45		
Remainder of counties	9.80	.60	1.00		

DECISION NO. IL77-2114

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Mercer, Henderson, Warren & all areas west & southwest of Galesburg	10.35	.40	.30		
Stark Co. and all area south and east of Galesburg in Knox County	11.075	.65	.925		.025
Rock Island and Henry Counties; & within Galesburg & all area north of City in Knox County	11.22	.50	.375		.07
LABORERS:					
Stark County - Western ½					
Unskilled	8.37	.40	.42		.035
Semi-Skilled	8.57	.40	.42		.035
Skilled	8.77	.40	.42		.035
Eastern half of Stark County					
Unskilled	8.60	.40	.42		.035
Semi-Skilled	8.80	.40	.42		.035
Skilled	9.00	.40	.42		.035
LATHERS:					
Knox County	11.25				.01
Stark County	11.12	.40	.40		.01
Rock Island, Mercer & Henry Counties	10.70		.20		
LEADBURNERS	9.25	.35	c		.01
PAINTERS:					
Rock Island, Henry, Mercer, Henderson, Stark and Warren Counties; West of Line extending from N. E. corner to S.W. corner of Knox County					
Brush and Roller	9.82	.45	.65		.12
Spray and Structural Steel	10.07	.45	.65		.12
Remainder of Knox County					
Brush and Paperhangers	8.90	.55	.15		
Structural Steel	9.15	.55	.15		
PLASTERERS:					
Stark County	10.60	.70	.80		.01
Rock Island and Mercer counties	10.90				
PLUMBERS & STEAMFITTERS:					
Stark County	11.84	.505	1.02		.15
Remainder of Counties	11.00	.54	1.25		.17

DECISION NO. IL77-2114

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
STARK County	10.10	.70	.40		.025
Rock Island, Henry & Mercer Counties	11.20		.40		
Remainder of Counties	7.85				
SHEET METAL WORKERS:					
Stark County	7.95	.38	.35		
Henderson County	9.85	.45	.40		.10
Remainder of Counties	10.10	.45	.40		.10
SPRINKLER FITTERS	11.65	.65	.95		/08

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six Paid Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

c. Nine Paid Holidays: A through F plus Washington's Birthday and Good Friday and Christmas Eve, providing employee has worked 4% full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday

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ILL-81-LAB-1-2-3

LABORERS: ROCK ISLAND &MERCER COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILELED	9.17	.40	.60		.035
SEMI-SKILLED	9.42	.40	.60		.035
SKILLED	9.67	.40	.60		.035

UNSKILLED - Common Laborer, Carpenter tender, Rod & chain Man, Flagman, GRavel Boxmen, Dumpmen & spotters, Form handlers, Material handlers, Fencing laborers Cleaning lumber, Material checkers, Dispatchers, Lanscapers, Unloading Explosives, Laying of sod, Planting of Trees, Removal of trees, Asphalt Plant Laborers, Wrecking laborers, Writers of scale tickets, Scaleman (Permanent-Potable or Temporary Plant), deck hand.

SEMI-SKILLED - Laying & Jointing of telephone conduit, darco & jackahmmer operator, Mechanical tamper and air space, wagon & hand drill, Vibrator operator, Operator on Power tools used under the jurisdiction of laborers, Cement Jumper; Puddler, form Setter Helpers, Power & Hand saw (when clearing timber), center strip, Reinforcing in Concrete, Wire mesh, Concrete SAw, Mortar mixer, Prime mover or any mechanical devise taking the place of concrete buggy or wheelbarrow, Sand point setter, asphalt kettelman, Mastic asphalt mixerman or other preparationm used on joints, sheeting hammer divers (2-Men) Back up man or joint man with pipelayers, laborer in ditch or tunnel on sewer and water main & telephone conduit Gas Distribution Men, Pipe Setters on Laterals, drain Tiles, Culvert Pipe, & storm Sewer connections to Catch basins, Manholes or Maine line, Handling of Materials treated with oil, coreosote, asphalt and/or any foreign material harmful to skin or clothing, Chloride handlers, the unloading & laborers w/steel workers and Re-bard, Tunnel helpers in free air, Batch Dumpers, Tank cleaners, cofferdam workers, bankmen on floating plant

SKILLED - String (1-man), Head form setter, Dynamite man, Asphalt raker, Tunnel Miner, Pipelayer on sewer & water, Gunnite Nozzle man, Welders, Cutters, Burners & torchman, Screedman on Asphalt Pavers, Lutemen, Curb Asphalt machine operator, Laser beam operator, concrete burning machine operator, coring machine operators, Head Brade man

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LABORERS: HENRY COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	8.37	.40	.42		.035
SEMI-SKILLED	8.57	.40	.42		.035
SKILLED	8.77	.40	.42		.035
KNOX, HENDERSON & WARREN COS.					
UNSKILLED	8.60	.40	.42		.035
SEMI-SKILLED	8.80	.40	.42		.035
SKILLED	9.00	.40	.42		.035

UNSKILLED - Common laborer, carpenter tenders, tool cribmen, firemen or salamander tenders, flagmen, gravel box men, dumpmen & spotters, form handlers, fencing laborers, cleaning lumber, pitmen, material checkers, dispatchers, landscapers, unloading explosives, laying of sod, planting of trees, asphalt plant laborers, wrecking laborers, writer of scale tickets, fire shop laborers, fireproofing laborers, janitors, wrecking-dismantling building, wallmen & housemovers, driving of stakes, stringlines for all machinery

SEMI-SKILLED - Handling of materialst reated withoil, creosote, asphalt or any foreign material, track laborers, cement handlers, chloride handlers, the unloading and laborers w/steel workers & rebars, concrete workers (wet), tunnel helpers in free air, batch dumpers, mason & plasterer tenders & material wheelers, kettlemen & tarmen; tank cleaners, plastic installer, scaffold workers, material, buggies or motorized unit used for wet concrete or handling of building materials, laborers w/dewatering systems, all sewer workers plus depth, rod of chainmen with land surveyors, vibrator operators, mortar mixer operator, cement silica, clay, fly ash, lime & plasters, handlers (bulk or bag), cofferdam workers plus depth, (on concrete paving) placing cutting & trying or reinforcing, deck hand & shore laborers, bankmen on floating plant, asphalt workers w/machine, asphalt raker, grader checker

SKILLED - Dynamite men or blasters, caisson workers plus depth, gunnite nozzle men, leadmen on sewer work, welders, cutters, burners, trochmen, chain saw operator, aackhammer & drill operators, layout man, steel form setters (Street & hgihway); air tamping hammerman, signal man on crane, concrete saw operator, screenman on asphalt paver, laborers tendingm achins w/hot materials are used, multiple concrete duct-leadmen, lutemen, crib asphalt machine operator, ready-mix scalemen, portable or temporary plant, laborers handling materplate or similar materials, laser veam operaTOR, coring machine operator

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ILL-6-PEO-1

POWER EQUIPMENT OPERATORS KNOX, HENDERSON, WARREN, STARK COUNTIES; & EASTERN 5 of HENRY CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.57	.45	.55		.05
GROUP 2	11.37	.45	.55		.05
GROUP 3	10.995	.45	.55		.05
GROUP 4	10.72	.45	.55		.05
GROUP 5	10.11	.45	.55		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt crete-squeeze-screw-type pumps and gypsum hulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for cachs coop over one scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm types w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, form-lens finishing machine, jeeps w.ditching machine or other attachments, tunneluger, rock crushers, automatic cement and gravel batching plant , mobile drills (soil testing and similar types), requiring oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type, 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and P.W.D and similar types

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling roller, center stripper, cement finishing machines, barber greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air wirhout attachments, curb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), weldingmachine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL77-2114

ILL-15-PEO-1-2-3

POWER EQUIPMENT OPERATORS: ROCK ISLAND, MERCER & WESTER S OF HENRY COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.45	.40	.50		.08
CLASS 2	9.45	.40	.50		.08
CLASS 3	8.05	.40	.50		.08
CLASS 4	8.05	.40	.50		.08
CLASS 5	7.00	.40	.50		.08

CLASS 1 - Crane, shovel, clamshell, dragline, backhoe, derrick, towe crane, cableway, concrete spreader (servicing two pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator, dipper dredge craneman, dual purpose truck (boom o winch), leverman or engineman (Hydraulic dredge), mechanic, paving mixer with tower attached (two operators required), pile driver, boom tractor, stationary, portable or floating mixing plant, trenching machine, cleaning and priming machine, endloader (one half cubic yard or over, on basement excavation work), backfiller, (throw bucket), locomotive engineer, Qualified welder, tow or push boat concrete paver, seaman Trav-L-Plant or similar machine, CMI autograder or similar machine, slip form paver, caisson augering machine, mucking, asphalt heater-planer unit hydraulic cranes, mine hoists

CLASS 2 - Athey, Barber-Green, euclid or hassia loader, asphalt pus mill, fireman and driver, concrete pump, concrete spreader (servicing one paver), bulldozer, endloader (other than mentioned above), forklift, elevating grader, group equipment greaser, letournapull and similar machine, DW-10, straddle carrier, hyster winch and similar machines, motor patrol, power blade push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachment, roller on asphalt or blacktop, single drum hoists, Jaeger mix and place machine, pipe bending machine, welding machines (3 or 4), fuller kenyon cement pump or similar machines, automatic cement and gravel batch plants (one stop set-up), Seaman pulvi-mixer or similar machines, propelled sheep foot roller or compactor (used in conjunction with a grading spread), asphalt spreader screed operator apsco spreader or similar machine, slusher, forklift (over 6,000 lb. cap. or working at heights above 28 ft.) conveyors

DECISION NO. IL77-2114

POWER EQUIPMENT OPERATORS: (CONT'D)

CLASS 3 - Asphalt booster, fireman and pump operator at asphalt plant, compressor (500 cu. ft. and over), concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachment, Dope not (agitating motor), dope chop machine, distributor (back end), flexplane or similar machines, portable machine fireman, Hydrohammer, power winch on paving work, self-propelled roller or compactor (other than provided for above), pump operator crusher operator, trench machine (40 H.P. and under), power sub grader (on forms), or similar machines, Forklift (6000 or less cap.) Gypsum pump, conveyor over 20 H.P.

CLASS 4 - Air compressor (275 c.f.m. or over) driver on truck crane or similar machines, light plant, mixers (1 or 2 bags), power batching machine (cement auger or conveyor), boiler (engineer or fireman, water pumps, welding machine, mechanical broom, automatic cement and gravel batch plants (two or three stop set-up), small backhoes or endloaders-self-propelled curing machine

DECISION NO. IL77-2114

ILL-82-TD-1-2-2

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments[a]			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site, Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons, A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transpotation purposes, fork lifts over 6,000 lb. capacity, winch trucks, 4-axle combination units, ticket writers

GROUP III - 2,3 or 4 axle trucks hauling 16 tons or more, driers on oil distributores, water pulls, mehcanics & working foreman, 5-axle or more combination units, dispatchers

FOOTNOTES

a. Per week per employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: *See bleow
DECISION NUMBER: IL77-2115 DATE: Date of Publication
Supersedes Decision No.: IL76-2132 dated October 29, 1976 in 41 FR-47729
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

*Counties: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Alexander, Jackson, Jefferson, Marion, Perry & Unions Cos.,	12.18	.45	.62		
REMAINDER OF Counties	11.50	.45	.40		.03
BOILERMAKERS	10.90	.65	1.20		.03
BRICKLAYERS & STONEMASONS:					
Marion County:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Cleaners & Caulkers	10.70	.35	.50		
Remainder of Counties:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Caulkers & Cleaners	9.45	.55	.40		
CARPENTERS:					
Marion County:					
Carpenters, Piledrivermen & Soft Floor Layers	9.36	.50	.50		.03
Millwrights	9.71	.50	.50		.03
Hamilton, Jefferson & White Counties:					
Carpenters, Piledrivermen & Soft Floor Layers	9.41	.45	.50		.02
Millwrights	9.76	.45	.50		.02
Remainder of Counties:					
Carpenters, Piledrivermen, Millwrights & Soft Floor Layers	9.50	.45	.45		.02
CEMENT MASONS & PLASTERERS:					
Marion County:					
Centrailia & Vicinity					
Cement Masons	10.25				.01
Plasterers	10.35				.01
Salem & Vicinity					
Cement Masons	8.40				
Northern 2/3 of Marion County, Incl. Salem & Vicinity					
Plasterers	6.75				.01
Franklin, Hamilton, Jefferson & Williamson Counties	9.95				
Saline, Gallatin, Hardin, Pope, Johnson, Massac & White Cos.	8.15	.15			.02

DECISION NO. IL77-2115

CEMENT MASONS & PLASTERERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alexander, Jackson, Perry, Pulaski & Union Counties	9.65	.30			
ELECTRICIANS	11.45	.40	11%		1%
IRONWORKERS:					
Marion & Perry Cos: Jefferson (Mt. Vernon & All Area West therof) County	11.00	.55	.75		
White & Hamilton Cos; Saline (Vic. of El Dorado & Area Northeast) Co., Jefferson (all Areas East of Mt. Vernon) Co.	8.15	.25	.25		
Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Union & Williamson Counties	9.90	.45	.65		.02
LABORERS:					
Marion County	7.75		.30		.035
Hamilton, Jefferson & White Counites	8.20	.30	.30		.035
Remainder of Counties	7.85		.30		.035
LEADBURNERS	9.25	.35		a	.01
PAINTERS:					
Marion County:					
Centrailia & Vicinity					
Brush & Structural Steel	8.10				
Roller	8.35				
Spray	9.10				
Salem, Flora, Clay & Vicinity					
Brush	8.00				
Roller, Spray	9.25				
Structural steel	10.00				
Union County:					
Commercial	7.25				
Industrial	7.75				
White County:					
Brush & Roller	10.10	.65	.30		
Spray	11.10	.65	.30		
Jefferson & Hamilton Counties:					
Brush & Roller	6.65				
Structural Steel & Spray	8.00				
Massac County					
Brush & Roller	6.70	.25			
Spray	7.60	.25			

DECISION NUMBER IL77-2115

PAINTERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackson & Perry Counties:					
Commercial	8.40				
Industrial	9.00				
Franklin & Williamson Counties:					
Commercial	7.95				
Industrial	8.20				
Gallatin, Hardin, Pope, Saline Counties:					
Brush	6.90				
Struc, Steel & Drywall	7.15				
Spray	7.25				
Alexander, Johnson, Pulaski Counties:					
Commercial	7.00				
Industrial	8.70				
PLUMBERS & STEAMFITTERS:					
Marion County	12.00	1.20	1.05		.15
White County:					
- Crossville, Phillipstown, Emma & Mauine	11.705	.50	.80		.06
Remainder of County	11.58	.50	.80		.06
Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties	11.90	.30	.40		.08
Franklin, Hamilton, Jefferson, Saline, Williamson, & Gallatin Counties	11.80	.50	.55		.04
ROOFERS:					
Gallatin, Hardin & White Con.	9.23	.50	.40		
Remainder of Counties	8.25				
SHEET METAL WORKERS	10.68	.25	.25	6%	.02
SPRINKLER FITTERS	11.65	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: WHERE APPLICABLE)

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTE: A-Nine Paid Holidays: A through F plus Washington's Birthday Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

JEFFERSON, PERRY, & MARION COUNTIES

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.08	.42	.90		.05
GROUP II	10.25	.42	.90		.05
GROUP III	9.60	.42	.90		.05
GROUP IV	9.50	.42	.90		.05
GROUP V	9.25	.42	.90		.05
GROUP VI					
a.	13.23	.42	.90		.05
b.	13.53	.42	.90		.05
c.	11.35	.42	.90		.05
d.	11.85	.42	.90		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanics, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oiler or firemen is not required) Hydrualic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas), concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders winch cats, boom tractors, and pipe wrapping or painting machines, Drills, (other than derrick type) 1-drum hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boat oprs., (under 25', conveyors (1), distribution pors., on trucks, siphons or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air compressor (1), water pumps regardless or size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL77-2115

POWER EQUIPMENT OPERATORS REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	9.00	.40	.60		.035
Class 2	8.25	.40	.60		.035
Class 3	8.00	.40	.60		.035
Class 4	7.70	.40	.60		.035
Class 5	7.30	.40	.60		.035
Class 6	8.25	.40	.60		.035
Class 7	8.00	.40	.60		.035
Class 8	7.50	.40	.60		.035
Class 9	7.45	.40	.60		.035
Class 10	7.20	.40	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
Class 11	8.90	.40	.60		.035
Class 12	7.70	.40	.60		.035

POWER EQUIPMENT OPERATORS:

Class 1: Apsco or equal spreading machine; Backhoe; Backfiller; Boom or winch cat; Bituminous mixplace machine; Backsmith; Bituminous surfacing machine; Bulldozer; Crane; Shovel; Dragline; Truck crane; Piledriver; Concrete finishing machine or spreader machine; Concrete breaker; Concrete or pumpcrete pump; Dinky or standard locomotive; Drill well; Elevating grader; Forklifts; Rubbertired; Flex-plane; Gradall; Hi-lift; handblade, power; Hoists; Tugger type; Hoist, (2 drum) or over one; Guy-derrick; Hyster mechanic; Motor patrol; Mixer 21 cu. ft. or over; Push cat; Pulls and scrapers; Pumps; 2 well points; Pan pulverizer or pulverizer equal to pugmill; Rubber-tired farm type tractor with bulldozer or hi-lift (Over 1/2 yd.), Rubber-tired tractor w/auger; Skimmer scoops; Seaman tiller; Spreader, Jersey; Tract-air used w/drill or Hi-lift; Trenching machine; or ditching machine; Wood chipper with tractor; Self-propelled roller w/10 ft. blade; Concrete pumps; Equipment greader.

Class 2: Roller, self-propelled; Power subgrader; Elevator operator

Class 3: Rubber-tired farm type tractor w/bull dozer or hi-lift (½ yd. or less)

Class 4: Pump, one well point; All tract type tractors, pulling any type roller or disc.

Class 5: Oiler; All wheel type tractors, Oiler on 30 Hp ditches and over; Oiler; Hydra-crane with 15 ton lifting capacity or more and cranes similar to Hydra-crane w/15 ton capacity and more.

POWER EQUIPMENT OPERATORS (CONT'D)

Class 6: Air compressor w/valve driving piling air compressors, two (220 cu. ft. capacity or over); Air track drills, air track drill w/compressor; Automatic bins scales w/compressor or generator; pipeline boring machine; Bulk cement plant w/separate ompressor bulk float power operator; Concrete saws, (two); Hydra-lift (single motor); Straw mulcher blower w/spout

Class 7: Backend man on bituminous surfacing machine; Boom or winch truck; Cat wagon w/or without dump; Conveyors, two; Chip spreader, self-propelled concrete saw, on self-propelled; Form grader, Heater, (motor driven); Hoist; 1 drum; Truck crane oiler; Vibrator, Self-propelled.

Class 8: Air track drill (one); Belt drag machine, Power boom; Mechanical; Plasterers applicator; Tract-air

Class 9: Air compressor (220 cu. ft. capacity or over), one; Air compressor under (220 cu. ft.); tow; Automatic bins; Bulk cement plant w/built in compressor, running of same motor or electric motor; Firemen or switchmen; Form tamper, self-propelled; Light plants (two); Welding machine (two); Pumps (two); or combination or 2 pumps; Light plants, welding amchines air compressor (under 200 cu. ft.]; Mud jacks or wood chipper; Mixers, less than 21 cu. ft., Motor mixer w/skip or pump; Pipeline track jack

Class 10: Air compressor, under 220 cu. ft. capacity (one); Conveyor (one); Conveyor operator on self-propelled chip spreader; Heater (one); Motor drive; Light plant (one) pump (one); Welding machine (one) Ulmac or equal spreader.

RIVER WORK and LEVEE WORK on MISSISSIPPI and OHIO RIVERS

Class 11: Crane, shovel, dragline 4 yards or more, scraper, 18 yards, struck or over, dredge, derrick and piledriver, push boat operator, mechanic or 4 yards machine or over, Engine man on dredge, Levee man on dredge.

Class 12: Oiler on crane, dragline, shovel, 4 yard machine or over; Oiler on dredge.

DECISION NO. IL77-2115

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanic & working foreman; 5-axle or more combination units; dispatchers.

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois — COUNTIES: *See below
DECISION NUMBER: IL77-2116 — DATE: Date of Publication
Supersedes Decision No.: IL77-2018, dated February 18, 1977 in 42 FR-10228
DESCRIPTION OF WORK: Heavy and Highway Construction.

*Counties: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair, & Washington.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Bond, Calhoun, Greene, Jersey, & Madison Counties	10.935	.50	.50		
Clinton, Monroe, St. Clair & Washington Counties	10.935	.60	1.00		
Macoupin & montgomery Counties	10.935	.50	.50		
CEMENT MASONS:					
Calhoun, Jersey, St. Clair Washington & Monroe Counties, Western ½ of Clinton County, East to but not including Carlyle, Southern part of Bond County, North to & including Smithboro; Remainder of Madison County	12.75				
Greene, Macoupin & Montgomery Counties; Eastern ½ of Clinton County including Carlyle; the Northern part of Bond County & the Northeastern section in Madison County	11.35	.78	.62		
ELECTRICIANS:					
Portion East of Butler Grove, Grisham, Hillsboro & Raymond Twp. in Montgomery County	11.70	.50	3%+.40		.35%
Athensville, Scotville, Girard & Athens north thereof in Macoupin Co. N. W. part of Montgomery Co. including Bois D' Arc, Harvel & Pittman Twps.	11.77	.40	1%+.40		.2%
Calhoun, Greene & Jersey Cos; Alton & Vicinity in Madison Co.	11.60	.40	1%+.30	6%	.3 of 1%
Eastern ½ of Bond County, Huey Hoffmen & Vicinity in Clinton County & Remainder of Washington County	11.77	.40	3%+.40		1/0 of 1%
Monroe & St. Clair Cos; Western ½ of Bond Co., Vendy Twp. in Washington Co., & Remainder of Clinton, Madison & Montgomery Counties	11.23	.4%	1%+.65	6%	.25%

DECISION NO. IL77-2116

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Bond, Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair & Washington Cos; Summerville & South thereof in Macoupin Co., & Litchfield, Hillsboro & south thereof in Montgomery County	11.35	.55	.90		
Greene, Macoupin Co., north of Summerville & north of Litchfield & Hillsboro in Montgomery County	10.35	.55	.75		.05
LINEMEN:					
Eastern ½ of Bond Co. & Remainder of Washington County:					
Linemen & Digging Operator	10.58	.45	1%		.25%
Groundman Equipment Operator:					
Class I	9.02	.45	1%		.25%
Class II	7.38	.45	1%		.25%
Groundman:					
Class "A"	6.72	.45	1%		.25%
1st. 6 months	6.42	.45	1%		.25%
Northern 1/3 of Macoupin County & Remainder of Montgomery Co:					
Linemen	11.33	.45	3%		.5%
Groundmen Equip. Opr.-Class I	10.57	.45	3%		.5%
Groundman Truck Driver-W/Winch	7.90	.45	3%		.5%
Groundman Truck Driver WO/Winch	7.52	.45	3%		.5%
Groundman Class "A"	7.17	.45	3%		.5%
Calhoun, Greene & Jersey Cos; S.W. corner of Macoupin Co: Alton. E. Alton, Wood River & Hartford in Madison County:					
Linemen	11.60	.40	1%+.30	6%	.3 of 1%
Groundman Truck Driver - W/ Winch	10.70	.40	1%+.30	6%	.3 of 1%
Groundman & Groundman Truck Driver	10.40	.40	1%+.30	6%	.3 of 1%
Monroe & St. Clair Cos. Okawville & Vendy Twps in Washington Co. Portion East of Roundtree, Irving & East Fork Twps. in Montgomery Cos. & Remainder of Macoupin and Madison Counties Western ½ of Bond County					

DECISION NO. IL77-2116

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN (Cont'd)					
Linemen	11.44	4%	1%		.25%
Groundmen Equipment Operator	9.94	4%	1%		.25%
Groundmen Truck Drivers:					
W/Winch & WO/Winch	8.08	4%	1%		.25%
Pick-Up-Jeeps	7.54	4%	1%		.25%
Groundmen	7.48	4%	1%		.25%
PAINTERS:					
Brush	10.55	.55	.35		
Industrial & Tapers	10.80	.55	.35		
Bridges	11.05	.55	.35		
LABORERS: HEAVY CONSTRUCTION					
St. Clair Co. Freeburg-New Athens					
Laborers	10.00	.35	.60		.035
Brick & Plaster Mason Tenders	10.50	.35	.60		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer, etc.	10.25	.35	.60		.035
Dynamite Men	10.60	.35	.60		.035
Bond Co. - Pochontas					
Macoupin Co. - Gillespie					
Washington Co. Ashely					
Laborers	10.55		.40		.035
Brick & Plaster Mason Tenders	11.05		.40		.035
Workmen cutting & Burning w/a torch & working on the bottom of sewer, etc.	10.80		.40		.035
Dynamite Men	12.15		.40		.035
Madison Co. - Livington - Road Co.-Greenville-Macoupin Co.-Pt. Olive					
Laborers	10.65		.30		.035
Brick & Plaster Mason Tender	11.15		.30		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer, etc.	10.90		.30		.035
Dynamite	12.25		.30		.035
Madison Co. - Glen Carbon					
Laborer	10.45		.60		.035
Brick & Plaster Mason Tenders	10.95		.60		.035
Workmen cutting & burning w/a torch and working on the bottom of sewer, etc.	10.70		.60		.035
Dynamite Men	12.05		.60		.035

DECISION NO. IL77-2116

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS - HEAVY CONST. (Cont'd)					
Macoupin Co. Carlinville					
Calhoun Co. - Hardin					
Madison Co. - Marine					
Laborers	10.75		.20		.035
Brick & Plaster Mason Tenders	11.25		.20		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer,etc.	11.00		.20		.035
Dynamite Men	12.35		.20		.035
Monroe Co. - Columbia					
Common Laborers	10.00	.30	.25		.035
Air tool opr; Cooking Mastic; Laying or Caulking Sewer Pipe	10.25	.30	.25		.035
Mason & Plasterer Tenders	10.50	.30	.25		.035
Macoupin Co. Staunton					
Madison Co. - Troy, St. Jacob & Highlands					
Greene Co. - Roodhouse					
Washington Co. - Okawville					
Montgomery Co. - Litchfield & Hillsboro					
Clinton Co. - Carlyle-Trenton					
Randolph Co. - Chester -Sparata					
Laborers	10.35		.60		.035
Brick & Plaster Mason Tenders	10.85		.60		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer, tec.	10.60		.60		.035
Dynamite Men	11.95		.60		.035
Jersey co. Jerseyville					
Bond Co. Sorento					
Laborers	10.70		.25		.035
Brick & Plaster Mason Tender	11.20		.25		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer, etc.	10.95		.25		.035
Dynamite Men	12.30		.25		.035
Washington Co. - Nashville					
Laborers	10.45		.50		.035
Brick & Plaster Mason Tenders	10.95		.50		.035
Workmen cutting & burning w/a torch & working on the bottom of sewer, etc.	10.70		.50		.035
Dynamite Men	12.05		.50		.035

DECISION NO. IL77-2116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HIGHWAY CONSTRUCTION					
ZONE I					
Area-1 Madison Co. - Alton					
Laborers	9.65	.80	.60		.035
Asphalt Raker, etc.	9.75	.80	.60		.035
Brick Mason Tenders	10.15	.80	.60		.035
Men working on the bottom etc.	9.90	.80	.60		.035
Dynamite Men	11.175	.80	.60		.035
Area 2-St. Clair Co. New Athens - Freeburg					
Laborers	10.10	.35	.60		.035
Asphalt Rate, etc.	10.20	.35	.60		.035
Brick Mason Tender	10.60	.35	.60		.035
Men working on the bottom, etc	10.35	.35	.60		.035
Dynamite Men	11.625	.35	.60		.035
Area 3-St. Clair Co. East St. Louis - Madison Co. - Granite City					
Laborers	9.70	.55	.80		.035
Asphalt Raker, etc.	9.80	.55	.80		.035
Brick Mason Tenders	10.20	.55	.80		.035
Men working on the bottom, etc	9.95	.55	.80		.035
Dynamite Men	11.225	.55	.80		.035
Area 4-Bond Co. - Sorento Jersey Co. - Jerseyville Madison Co. Edwardsville					
Laborers	10.80		.25		.035
Asphalt Rake, etc.	10.90		.25		.035
Brick Mason Tenders	11.30		.25		.035
Men working on the bottom, etc	11.05		.25		.035
Dynamite Men	12.325		.25		.035
Area 5- St. Clair Co. Collinsville Washington Co. - Nashville					
Laborers	10.55		.50		.035
Asphalt Raker, Etc.	10.65		.50		.035
Brick Mason Tenders	11.05		.50		.035
Men working on the bottom, etc.	10.80		.50		.035
Dynamite Men	12.075		.50		.035

DECISION NO. IL77-2116

LABORERS - HIGHWAY CONST. (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE II					
Area - Macoupin Co. Carlinville Madison Co. - Marine Calhoun Co. - Hardin					
Laborers	10.85		.20		.035
Asphalt Raker, etc.	10.95		.20		.035
Brick Mason Tenders	11.35		.20		.035
Men working on the bottom, etc.	11.10		.20		.035
Dynamite Men	12.375		.20		.035
Area 2-Bond Co. - Greenville Macoupin Co. Mt. Olive Madison Co. - Livingston					
Laborers	10.75		.30		.035
Asphalt Raker, Etc.	10.85		.30		.035
Brick Mason Tenders	11.25		.30		.035
Men working onthe bottom, etc	11.00		.30		.035
Dynamite Men	13.30		.30		.035
Area 3-St. Clair Co. - Belleville					
Laborers	10.00	.45	.60		.035
Asphalt aker, etc	10.10	.45	.60		.035
Brick Mason Tenders	10.50	.45	.60		.035
Menworking on the bottom, etc.	10.25	.45	.60		.035
Dynamite Men	11.525	.45	.60		.035
Area 4 - Macoupin CO. Staunton Greene Co. - Roodhouse Washington Co. - Okawville Montgomery CO. - Hillsboro & Litchfield Madison CO. - Glen Carbon Highland - St. Jacob - Wood River - Troy Randolph Co. - Sparta-St. St. Clair Co. - Mascoutah & O' Fallon Clinton Co. -Trenton-Carlyle					
Laborers	10.45		.60		.035
Asphalt Raker, etc.	10.55		.60		.035
Brick Mason Tenders	10.95		.60		.035
Men working on the bottom, etc	10.70		.60		.035
Dynamite Men	11.975		.60		.035

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LABORERS HIGHWAY CONST. (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 5 - Washington Co. - Ashley Bond Co. - Pocahontas Macoupin Co. - Gillespi & Shipman					
Laborers	10.65		.40		.035
Asphalt Raker, Etc.	10.75		.40		.035
Brick Mason Tenders	11.15		.40		.035
Men working on the bottom, etc.	10.90		.40		.035
Dynamite Men	12.175		.40		.035
Area 6-Monroe Co. - Columbia					
Laborers	10.25	.45	.35		.035
Asphalt Rakers, etc.	10.35	.45	.35		.035
Brick Mason Tenders	10.75	.45	.35		.035
Men working on the bottom,etc	10.60	.45	.35		.035
Dynamite Men	11.775	.45	.35		.035

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.08	.42	.90		.05
GROUP II	10.25	.42	.90		.05
GROUP III	9.60	.42	.50		.05
GROUP IV	9.50	.42	.90		.05
GROUP V	9.25	.42	.90		.05
GROUP VI					
a.	13.23	.42	.90		.05
b.	13.53	.42	.90		.05
c.	11.35	.42	.90		.05
d.	11.85	.42	.90		.05

POWER EQUIPMENT OPERATORS:

Group I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers., plant opers., ditching machines or backfillers (required oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoist-2 drum or more (where oiler or fireman is not requiring oilers), Hydrualic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas), concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derricktype drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders, or forklifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, drills, (other than derrick type) 1-drum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2) Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25' conveyors (1), distribution pors., on trucks, siphons or jets (1) winch heads or apparatuses (1) light plant (1) mixers (under 2 bags)

Group II Air compressor (1), water pumps regardless of size (1) welding machines (1)

Group III Firemen and asphalt spreader oilers

Group IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes etc.

Group V Oilers

Group VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL77-2116

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor andwelding machine including those pulled by separate units, truck driver helpers, warehousemen, mechanic helpers, greasers & tired, pick-up trucks when hauling materials, tools, or men to and from and on the site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle truck hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Forklifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Berkshire
DECISION NO.: MA77-3063 DATE: Date of Publication
Supersedeas Decision No.: MA76-2096, dated August 13, 1976 in 41 FR 34505
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.95	.94	1.25		.01
BOILERMAKERS	10.00	.60	.10%		.01
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS & TILE SETTERS:					
Twps. of Adams, N. Adams, Cheshire, Florida, Savoy, Clarksburg & Williamstown	8.60				
Twps of Becket, Otis and Sandisfield	9.55	.55	.80		.06
Remainder of County	10.68	.65	.30		
CARPENTERS & SOFT FLOOR LAYERS	8.79	.55	1.00		.04
ELECTRICIANS	9.84	.55	3%+.69		.02
ELEVATOR CONSTRUCTORS	9.71	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, ornamental and reinforcing:					
Otis and N. & E. Otis	9.43	.70	1.50		.05
Remainder of County	9.49	.60	.85		.04
LABORERS (BUILDING)					
Laborers, carpenter tenders & wrecking laborers	7.50	.60	.70		.10
Jackhammer op., pavement breakers, wagon drills, asphalt rakers, carbide core drilling machine, chain saw ops., pipelayers, barco type jumping tampers, laser beam ops., concrete pump ops., mason tenders, mortar mixers, ride-on motorized buggy and plasterers tenders	7.75	.60	.70		.10
Air track; block pavers; rammers curb setters	8.00	.60	.70		.10
Blasterers, powdermen	8.25	.60	.70		.10

Page 2

DECISION NO. MA77-3063	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	10.16	.40	1%	d	3/8 of 1%
Equipment Operator	9.48	.40	1%	d	3/8 of 1%
Driver Groundmen	7.32	.40	1%	d	3/8 of 1%
MARBLE SETTERS' & TILE SETTERS' HELPERS	8.95				
MILLWRIGHTS	10.00	.60	1.00		.07
PAINTERS:					
Brush and Roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' and steel	9.107	.65	.40		.03
Swing stage over 40' and steel	9.42	.65	.40		.03
PILEDRIVERMEN	10.15	.60	1.00		
PLUMBERS AND STEAMFITTERS:					
Adams, Clarkburg, Florida, N. Adams, Savor, Williamstown, & northern half of Cheshire, New Ashford	9.97	.65	.50		.02
Becket, Otis, Sandisfield (Plumbers only)	9.35	.96	1.00	e	.10
Becket, Otis, Sandisfield & New Boston (Steamfitters)	10.68	.57	.95	.08	.02
Remainder of County	10.12	5%	.50		.05
ROOFERS:					
Composition, damp & waterproof	9.165	.82	1.06		
Slate, tile and precast concrete	9.82	.82	1.06		
SHEET METAL WORKERS	9.41	.85	1.60		.03
SPRINKLER FITTERS	11.38	.60	.90		.08
Welders receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MA77-3063

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, Washington's Birthday and Patriots Day providing employee has worked for a period of five (5) working days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. There is also one floating holiday per year.

e. July 4th and Labor Day provided worker is employed 7 days prior to holiday.

DECISION NO. MA77-3063

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3063
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hom or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

DECISION NO. MA77-3063

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA77-3063

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are for Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

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CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) (1) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

DECISION NO. MA77-3063

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Minnesota
COUNTIES: *See below
DECISION NUMBER: MN77-2119
DATE: Date of Publication
Supersedeas Decision No.: MN77-2047 dated May 6, 1977 in 42 FR-23412
DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

*Counties: Carlton, Cook, Itasca, Koochiching Lake and St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.95	.30			
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons:					
Koochiching County	10.40	.40	.15		
Cook, Lake & Carlton Counties & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of Cotton	10.92	.30	.25		
Itasca County & the northern half of St. Louis County	10.875	.30			
CARPENTERS:					
Building Construction:					
Koochiching County & Cites of Ashe Lake, Crane Lake, Kebetogama & Kinmount in St. Louis County	9.55	.30			
Cook County; Cities of Alborn, Arnold, Barlett, Birch, Brookston, Canyon, Clinton, Culver, Duluth, Floodwood, Cowan, Island, Kelsey, Lakewood, Meadowdlands, Munger, Palmers, Payne, Praist, Shaw Taff in St. Louis County & Southern portion of Lake County					
Carpenters, Piledrivermen & Soft Floor Layers	9.80	.30	.40	.30	
Millwrights	10.02	.30	.40	.30	
Carlton County:					
Carpenters & Piledrivermen	9.40	.30	.40	.50	
Millwrights	9.54	.30	.40	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry, Bovey, Bowstring, Calument, Cohasset, Colerain, Deer River, Dora, Lake, Dumbar, Effie, Grand Rapids, Inger Marble, Marcell, Max, Pomroy, Spring Lake, Square Lake, Suomi, Talmoon, Warba & Wirt in Itasca County	9.34	.30	.40	.30	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Centrml, Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Florenton, Forbes, Gilbert, Hoyt Lakes, Indington, Iron Junction, Makinen, McComber, Masaba, Mountain, Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudon, Tower, Virginia, Wahlsten, Winton & Zim in St. Louis & Northern portion of Lake COunty					
Carpenters, Soft floor Layers, and Tile Setters	9.74	.30		.30	
Cities of Goodland, Keewatin, Nashwauk, Pengillu, Sawan River, Togo & Wawina in Itasca County & Cities of Bengal, Beer Lake Buhl Chrisholm, Gheon, Greaney, H Hibbing, Kelly, Lake, Nett Lake, Orr Riley, Side Lake, Silica & Tovola in St. Louis County:					
Carpenters & Soft Floor Layers	9.74	.30		.30	
Site Preparation, Excavation & Incidential Paving:					
Lake, Cook, Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiching County	7.32	.30			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Building Construction:					
Koochiching County:					
Cement Masons & Plasterers	10.05	.40	.15		
Itasca Co. and other Northern portion of St. Louis COunty, North or White Face River					
Cement Masons	10.05	.30			
Plasterers	10.65	.30			
Cook, Lake, Carlton Counties & the city of Duluth in St. Louis County:					
Cement Masons	10.445	.30			
Plasterers	10.20	.30		.45	
Koochiching County	10.05	.40	.15		
Cook, Lake, Carlton Counties & South of T-55-N in St. Louis County	10.73	.30			
Itasca County & North of T-54-N in St. Louis County	10.05	.30			
ELECTRICIANS:					
Cook, Lake, Carlton Counties, the southerly 12 Townships of Itasca County including Harris, Feely, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of COunty bounded on the north by the lines of Kelsey Township extended east & west in St. Louis County	10.78	4%	8%	11%	1.5%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Township), Northern part of St. Louis County bounded by the South Line of Ellsburg Township extended east and west	10.00	4%	4%	11%	11%

DECISION NO. MN77-2119

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
St. Louis & Lake COunties:					
Constructors	9.325	.495	.32	4%+a	.02
Helpers	70%JR	.495	.32	4%+a	.02
Helpers (prob.)	50%JR				
GLAZIERS:					
Cook, Lake, St. Louis, Carlton, Koochiching Counties	8.65	.30	.30	b	
IRONWORKERS	11.35	.30	.55		.02
LABORERS: BUILDING CONSTRUCTION					
Carlton County					
Laborers	8.30	.30	.35	.40	
Mason Tenders: Mortar Mixers and Jackhammer Operators	8.40	.30	.35	.40	
Cook, Lake, St. Louis Co. South of T-55-N, including the City of Duluth:					
Common Laborers & Flagman	8.35	.30	.35	.40	
Mortar Mixers, Carpenters & Mason Tender Jackhammer & Vibrator Operator	8.45	.30	.35	.40	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis County					
Common Laborer	8.80	.20	.15		
Carpenter & Mason tender, Mortar mixer, Brickalyer Tender and Jackhammer	8.90	.20	.15		
Pipelayer (non-metallic)	9.15	.20	.15		
LATHERS:					
St. Louis & Lake Counties	10.55	.30			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth)					
Marble & Tile Setter	10.43	.30			
Remainder of Counties & Remainder of St. Louis County					
Marble Setters	10.355	.555	.33		
Tile Setters	10.25	.37	.50		
Marble & tile setters' Helpers	9.35	.37	.50		

DECISION NO. MN77-2119

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, Tapers & rollers	9.43	.30	.40		.08
Spray, Structural Steel & Paperhangers	9.93	.30	.40		.08
PLUMBERS & STEAMFITTERS:					
Koochiching County	12.30				
Cook & Carlton Counties & Southern half of St. Louis & Lake Counties	10.41	.30	.75	1.00	.05
Itasca County & Northern portions of St. Louis & Lake COunties	9.90	.56	.59	1.00	.05
ROOFERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County					
Roofers	9.23	.30	.25	1.00	
2nd Roofers	8.98	.30	.25	1.00	
Kettlemen	8.78	.30	.25	1.00	
Helpers	7.35	.30	.25	1.00	
Itasca & Koochiching Counties, the Northern half of St. Louis County					
1st Roofer	9.08	.42	.60		
2nd Roofer	8.78	.42	.60		
SHEET METAL WORKERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County	10.35	.40	.44		
Itasca & Koochiching Counties, the Northern half of St. Louis COunty	10.14	.42	.60	.85	
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	8.80				
Itasca County	8.80				

FOOTNOTES:

a. Employer contributes 4% Basic Hourly Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (60 Paid Holidays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

DECISION NO. MN77-2119

LABORERS: Counties of Itaska and St.Louis Counties North of T-55. Site Preparation, Excavation & Incidental Paving:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.63	.20	.15	.25	
CLASS II	8.73	.20	.15	.25	
CLASS III	8.88	.20	.15	.25	
CLASS IV	8.93	.20	.15	.25	
CLASS V	8.98	.20	.15	.25	
CLASS VI	9.03	.20	.15	.25	
CLASS VII	9.13	.20	.15	.25	
CLASS VIII	9.23	.20	.15	.25	

CLASS I - Unskilled-Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman pipihandler (water, gas cast iron); Salamander heater & blower tender; Carpenter tender; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer , water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operator); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving)) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettlemen (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bitminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater, Utility Men, Pipelayers (sewer, water, gass); Leadsman (Gunnite)

CLASS VII - Powderman

CLASS VIII -Tunnel Miner

DECISION NO. MN77-2119

LABORERS Site preparation, Excavation & Incidential Paving Koochiching County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.35	.20	.15		
CLASS 2	7.45	.20	.15		
CLASS 3	7.60	.20	.15		
CLASS 4	7.70	.20	.15		
CLASS 5	7.75	.20	.15		
CLASS 6	7.80	.20	.15		
CLASS 7	7.85	.20	.15		
CLASS 8	7.50	.20	.15		

CLASS 1 - Skilled Laborers, Bricklayers & Carpenters Tenders; Drill Runner Helper; Laborers Wreching & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater, & Blower Tender, Sod Layer & Nurseryman; Stonemasons tender

CLASS 2 - Bituminous Shoveler, Bottom man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); Cement handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettlemen (Bituminous or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)

CLASS 3 - Form setters (Municipal type curb & Sidewalk) formsetter(pavement)

Class 4 - Bituminous Tamper, caisson work & cofferdam

CLASS 5 - Bituminous raker, floater, & Utility man; Leadman

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer, (Sewer, Water & Gas)

CLASS 8 - Powderman, Tunnel Miner

DECISION NO. MN77-2119

MINN-14-LAB

LABORERS - SITE PREPARATION EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.18	.30	.35	.40	
CLASS II	8.28	.30	.35	.40	
CLASS III	8.43	.30	.35	.40	
CLASS IV	8.48	.30	.35	.40	
CLASS V	8.53	.30	.35	.40	
CLASS VI	8.58	.30	.35	.40	
CLASS VII	8.68	.30	.35	.40	
CLASS VIII	8.78	.30	.35	.40	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)

CLASS VI - Nozzleman (Gunnite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

DECISION NO. MN77-2119

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator up to 4 cu. yd.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Tem-porary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION NO. MN77-2119

MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Cook, Lake, & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

DECISION NO. MN77-2119

POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunail, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o powe. take-off, truck crane oiler

DECISION NO. MN77-2119

MINN-6-PEO

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING (JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

POWER EQUIPMENT OPERATORS (Cont'D) SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Itasca & Koochiching	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.45	.45	.40		
GROUP 2	9.27	.45	.40		
GROUP 3	9.02	.45	.40		
GROUP 4	8.88	.45	.40		
GROUP 5	8.80	.45	.40		
GROUP 6	8.27	.45	.40		
GROUP 7	7.87	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 14E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

(POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING Cook, Lake, Carlton & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propel Packer; Slurry Operator; Single Axle Trucks.

MINN-5-TD

DECISION NO. MN77-2119

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING ITASCA & KOOCHICHING COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1
Driver (hauling machinery for employer's own use including operation of hand & power operated winches); Truck train mechanic; Welder; Tractor-Trailer; Off road truck.

GROUP 2
Tri-Axle (including 4 Axles); Dump dry batch hauler; Tank truck (gas, oil, road oil & water); Boom & "A" Frame; Ready mix concrete; Slurry driver.

GROUP 3
Bituminous distributor driver; Bituminous distributor (1 man operation); Tandem axle.

GROUP 4
Bituminous distributor spray (rear-end oiler); Dumpman; Greaser & truck service man; Tank truck helper (gas, oil, road oil & water); Teamster and stableman; Tractor operator (wheel type used for any purpose); Pilot car; Self-propelled packer; Slurry operator; Single axle.

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Shelby
DECISION NUMBER: TN77-1074 DATE: Date of Publication
Supersedes Decision No.: TN77-1047 dated May 6, 1977, in 42-55285
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and Heavy Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.20	.45	.50		.02
Boilermakers	9.50	.75	1.00		.02
Bricklayers; stonemasons	9.95	.43	.30		.10
Carpenters; piledrivermen; soft floor layers	9.25	.30	.30		.065
Cement masons:					
Cement masons	8.875	.45	.55		.10
Cement masons machine operator	9.125	.45	.55		.10
Electricians:					
Electricians	10.48	.75	3%+.40		.5%
Cable splicers	10.58	.75	3%+.40		.5%
Elevator constructors	9.43	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	9.00	.65	.40		
Ironworkers	9.60	.65	.70		.125
Lathers	9.30	.25			.01
Leadburners	10.50	.40	.25	c	.01
Line Construction:					
Linemen	9.88	.75	1%+.40		3/8%
Special equipment operator	7.41	.75	1%+.40		3/8%
Groundmen:					
1st year	3.95	.75	1%+.40		3/8%
2nd year	4.94	.75	1%+.40		3/8%
Marble setters; Terrazzo workers; tile setters	8.20	.45	.20		.05
Marble Tile, Terrazzo Finishers and shopmen	4.05				
Millwrights	9.55	.86	.30		.06
Painters:					
Commercial	8.85	.40	.45		.06
Industrial	9.10	.40	.45		.06
Plasterers	9.65				
Plumbers	10.97	.55	.30		
Roofers	9.40				
Sheet metal workers	9.71	3%+.55	.25	.25	.02
Sprinkler fitters	10.35	.65	.95		.08

TN77-1074 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steamfitters; air conditioning mechanic; pipefitters	10.97	.55	.30		
Truck drivers:					
Up to 5 tons	6.10		d		
5 tons & over incl., special equipment	6.50		d		
Welders, riggers, & riveters: rate prescribed for craft to which operation is incidental.					

TN77-1074 - (Cont'd)

BUILDING CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.125	.25	.30		.05
GROUP B	6.225	.25	.30		.05
GROUP C	6.275	.25	.30		.05
GROUP D	6.475	.25	.30		.05
GROUP E	6.675	.25	.30		.05
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GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumber helpers, carpenters tenders, asphalt rakers tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pneumatic tools.

GROUP D: Deep hole man

GROUP E: Powderman, toolroom attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

TN77-1074 - (Cont'd)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.925	.40	.50		
CLASS B	8.495	.40	.50		
CLASS C	7.795	.40	.50		
CLASS D	7.395	.40	.50		

CLASS A: Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, strattle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western (and similar type cranes), drilling of piling, tugger, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, tra-xcavators, fork lift, front end loader.

CLASS B: Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized-Buffalo-Springfield type)

CLASS C: Locomotive fireman (on boilers 100 h.p. and over), operator, air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers or gantrys, greasers

CLASS D: Air compressor operator, mechanic helper, locomotive fireman, welding machine operators, deck hand, elevator operators.

TN77-1074 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	6.85				
Carpenters	5.70				
Cement masons	5.70				
Electricians	6.60				
Ironworkers, reinforcing	5.45				
Ironworkers, structural	6.10				
Laborers:					
Laborers, (unskilled); flagman chain saw operator; concrete rubber; pipelayer; air tool operator	3.75				
Fireman	3.80				
Concrete edger operator	3.90				
Concrete saw operator; fence erector; guard rail erector	4.00				
Asphalt raker	4.10				
Sign erector	4.25				
Form setter	4.55				
Powderman	4.85				
Nozzleman or gunman (gunnite)	5.70				
Painter; sand blaster	5.70				
Truck driver:					
2 & 3 axles	3.90				
4 & 5 axles or more or heavy duty off-the-road trucks	4.60				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Pump; welder helper	3.65				
Ditch paver; mechanic helper	3.80				
Curb machine	3.90				
Motor crane driver; mulcher or seeder; sclae	4.00				
Tractor	4.05				
Concrete mixer (less than 1 yd) earth drill	4.10				
Track drill	4.30				
Dozer or loader - stock pile only	4.40				
Oiler; roller (other than finish)	4.45				

TN77-1074 - (Cont'd)

HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributors (bituminous)	4.65				
Crawler; utility	4.70				
Spreader (self-propelled)	4.80				
Asphalt paver; central mixing (asphalt or concrete); Concrete finishing machine; mechanic (Class II); motor patrol (rough),roller (finish); Soil cement machine	5.00				
Boom hoist; trenching machine	5.15				
Bulldozer or push dozer; scraper;	5.70				
Backhoe; concrete paver; crane; end loader (other than stock pile); (Class I); motor patrol (finish); pile-driver; shovel	5.70				

SUPERSEDEAS DECISION

STATE: Tennessee
DECISION NO.: TN77-1100
Supersedeas Decision No.: TN76-1054 dated May 21, 1976 in 41 FR-21140
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments of 4 stories or less).

COUNTIES: *See below
DATE: Date of Publication

*Counties: Carroll, Dyer, Gibson, Henry, Lake, Obion, & Weakley

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	8.80				
Bricklayers & Stonemasons	7.50				
Carpenters	5.77				
Cement masons	5.48				
Electricians:					
Henry & Obion Counties:					
Electrical contract under $100,000	7.50		3%		
Electrical contract over $100,000	9.00		3%		
All other counties	6.18				
Glaziers	6.88				
Ironworkers:					
Structural	4.00			.16	
Reinforcing	5.50				
Laborers:					
Air tool operators	3.64				
Asphalt rakers	4.65				
Mason tenders	3.50				
Mortar mixers	3.45				
Pipelayers	4.60				
Unskilled	3.19				
Painters	4.90				
Plasterers	8.16				
Plumbers	5.82				
Roofers	9.10		.25		.03
Sheet metal workers	6.69				
Soft floor layers	7.26				
Tile setters	6.19				
Truck drivers	3.53				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.35				
Bulldozer	5.23				
Crane	5.21				
Grader	4.86				
Roller	4.33				
Scraper	8.30	.30	.35		
Tractor	4.14				

[FR Doc.77-23061 Filed 8-11-77;8:45 am]



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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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HEW/FDA—Chromium oxide greens and chromium hydroxide green for use in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye. 36451; 7–15–77

NRC—Petitions for review of Director's denial of enforcement requests. 36239; 7–14–77

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 567, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 5–11, 1977. The amendment recognizes that demand for Valencia oranges that may be shipped to regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period August 5–11, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement, and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 50,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order as amended.* The provisions in paragraph (b)(1), (i) and (ii) of § 908.867 Valencia Orange Regulation 567 (42 FR 39359) are hereby amended to read as follows:

§ 908.867 Valencia Orange Regulation 567.

* * * * *

(a) * * *

(1) * * *

(i) District 1: 280,000 cartons;

(ii) District 2: 420,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 10, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23482 Filed 8-12-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1977 Price and Allocation Interpretations

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel of the Federal Energy Administration (FEA) during the period July 12 through August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Building, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202–566–2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977.

FEA interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, interpretations are subject to appeal. The interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA notice cited above.

Issued in Washington, D.C., August 10, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

APPENDIX

No.	To	Date	Category
1977-22	Sea Horse Marine, Inc.	July 20	Allocation.
1977-23	Beacon Oil Co.	July 27	Price.
1977-24	do.	July 27	Do.
1977-25	Clark Oil & Refining Corp.	July 28	Do.
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1977-27	J. M. Owsley	July 28	Allocation.

INTERPRETATION 1977-22

To: Sea Horse Marine, Inc.

Date: July 20, 1977.

Rules Interpreted: §§ 211.51, 211.62, 211.67.

Code: GCW—AI—Crude Oil, def.; Entitlements Program; Waste Crude Oil, Reclamation of.

This is in response to your letter dated August 6, 1976, as supplemented by your letters of November 18, 1976, and May 6, 1977, in which you requested a determination of whether certain material sold by Sea Horse Marine, Inc. ("Sea Horse"), to domestic refiners may be regarded as non-domestic crude oil for purposes of the domestic crude oil allocation program (the "entitlements program") set forth at 10 CFR 211.67.

FACTS

Sea Horse recovers from the tanks of ships which transport crude oil from foreign countries to the United States residual material which adheres to the inside of the tanks when the crude oil is removed from the ships. The tanks are cleaned with water and

some detergent, which is used to dislodge the petroleum, leaving a residue of the cleaning process called petroleum slops. In addition to crude oil, the slops contain water, detergent, and small quantities of other substances such as rust particles. Petroleum slops are classified as waste for purposes of the United States customs service regulations.

Petroleum slops acquired by Sea Horse were formerly sold directly to refiners, which then had to process the material before it could be used as a refinery feedstock. Sea Horse has recently established a facility for removing salt water and heavy non-soluble impurities from the petroleum slops.

After processing, the recovered material is sold to refiners and can then be used as a refinery input in the same manner as crude oil.

ISSUE

The issue presented for interpretation is whether the material recovered from petroleum slops by Sea Horse is properly treated as non-domestic crude oil for purposes of calculating the volume of refiners' crude oil runs to stills and crude oil receipts under 10 CFR 211.51, 211.62, and 211.67.

INTERPRETATION

It is our opinion that the material recovered from petroleum slops by Sea Horse constitutes crude oil for purposes of § 211.51 and is therefore properly included in the volume of a refiner's crude oil runs to stills under § 211.62 for purposes of § 211.67. Further, to the extent that this material is reclaimed from the tanks of ships which have transported crude oil to the United States from foreign sources, the material would not constitute domestic crude oil, and thus would not give rise to any entitlement obligation under § 211.67(b) by virtue of its inclusion in a refiner's crude oil receipts under § 211.62.

Crude oil is defined in § 211.51 as:

• • • a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

The petroleum slops, at the time of their acquisition by Sea Horse, have large quantities of water and other materials included therein, and are thus classified as waste pursuant to item 793.000 of the Tariff Schedules of the United States (19 U.S.C. Ch. 4, Subtitle 1). However, the presence of these additional quantities of water and other materials would not prevent the petroleum slops from being considered as crude oil under § 211.51, since in many instances crude oil produced at a lease also contains large quantities of these materials.

In your request, you indicated that Sea Horse has established a facility for removing salt water and heavy non-soluble impurities from the petroleum slops. This processing does not involve any operations similar to those performed by a refinery. By the time of delivery to a refinery, the petroleum slops are sufficiently free of water and other impurities that they can be used directly as feedstock in the same manner as other crude oil.

Because the petroleum slops are obtained from ships which transport foreign crude oil, we believe that the crude oil can properly be characterized as non-domestic crude oil. FEA has previously considered the status of crude oil recovered other than from customary production activities, e.g., separated from contaminated or waste crude oil mixtures, in reference to the FEA Mandatory Petroleum Price Regulations.[1] In the interpretations cited, the source of the waste or reclaimed crude oil was either clearly domestic or unascertainable.

It was concluded in these interpretations that firms which recover crude oil from contaminated waste crude oil mixtures are involved in activities analogous to the production of crude oil, even though the production results from reclamation processes. However, it is our opinion that regardless how the crude oil is actually recovered, it can be characterized according to its origin, as domestic or non-domestic, if the origin is clearly ascertainable.

INTERPRETATION 1977-23

To: Beacon Oil Co.

Date: July 27, 1977.

Rules Interpreted: § 212.83(c)(2).

Code: GCW—PI—Refiner Price Formula "H" Factor.

This is in response to your letter of November 5, 1975, on behalf of Beacon Oil Co. (Beacon) requesting an interpretation of 10 CFR 212.83 with respect to the reallocation of increased product costs among categories of covered products.

The issue raised by Beacon in its request for interpretation was previously considered by Federal Energy Administration (FEA) compliance personnel in FEA Region 9, during the course of an audit of Beacon. FEA regional personnel suggested that Beacon had incorrectly construed 10 CFR 212.83; for this reason Beacon seeks this interpretation. The interpretation sought by Beacon will therefore have an effect upon the conduct and outcome of FEA's audit.

FACTS

Beacon is a refiner subject to the refiner price rules, 10 CFR Part 212, Subpart E. In the period August 1973 to March 1975, Beacon recovered, in sales of No. 2 oils and general refinery products, more than its increased product costs attributable to those product categories. Beacon reallocated these overrecoveries of increased product costs from No. 2 oils and general refinery products to gasoline and maintains that this reallocation is proper under applicable FEA regulations. Beacon had recovered less than its increased product costs attributable to gasoline during this period. Reallocation was accomplished through the use of the "H" factor of the refiner formula. The "H" factor allows a refiner, in certain instances, to transfer available amounts of increased product costs from certain types of covered products to certain different types of covered products. Beacon "offset" and eliminated the overrecoveries in sales of No. 2 oils and general refinery products by attributing the excess recovery for No. 2 oils and general refinery products to its deficient recovery for gasoline. Beacon seeks a determination that its actions were in accordance with FEA price regulations.

ISSUE

May Beacon reallocate overrecoveries of increased product costs resulting from sales of No. 2 oils and general refinery products to underrecoveries of increased product costs resulting from sales of gasoline, through the use of the "H" factor in the refiner formula?

INTERPRETATION

The transfer of increased product costs among covered products is accomplished through the operation of the "H" factor in the refiner formula. During most of the time covered by FEA's audit of Beacon, FEA regulations and the prior Cost of Living Council (CLC) regulations defined the "H" factor as follows:

$H^{\prime\prime}$—The sum of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to specific [sic, special] products which pursuant to pargaraph (c)(1)(ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products for the period "u" (the current month).

$H_i^{\prime\prime}$=The portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in prices of covered products other than special products for the period "u" (the current month). (10 CFR 212.83(c); 6 CFR 150.356 (c))

NOTE.—No. 2 oils (i=1) and gasoline (i=2) were treated as "special products" during this period.

In November 1974, the definitions of the "H" factors were amended and the following definitions prevailed until March 1975:

$H_i^{\prime\prime}$=*Where* $H_i^{\prime\prime}$ is negative, the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in prices of covered products other than special products and crude petroleum (i=3) for the period "u" (the current month); or, where $H_i^{\prime\prime}$ is positive (for special products i=2), the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section, the refiner elects to include in prices of special product (i=2) for the period "u" (the current month).

$H^{\prime\prime}$=Where $H^{\prime\prime}$ is positive, the sum of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to special products which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products and crude petroleum for the period "u" (the current month); or, where $H^{\prime\prime}$ is negative, the portion of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section the refiner elects to include in calculating the base prices of special products (i=2) for the period "u" (the current month). (10 CFR 212.83(c))

From the above definitions of the "H" factor, three details relevant to this discussion are evident: (1) the "H" factor only operates where there are 'dollar amounts available for inclusion' in any price adjustments, (2) no costs were permitted to be transferred to gasoline (i=2), by the use of the "H" factor, prior to November 1974; and (3) between November 1974 and March 1975, costs could not be directly transferred from No 2 heating oil and No. 2-D diesel fuel (i=1) to gasoline (i=2), by the use of the "H" factor.

The measurement of those costs that are "available" to a firm begins with that firm's "increased product costs." During the time period in question, August 1973 to March 1975, FEA and CLC regulations defined increased product costs as:

the sum of (1) the difference between the total cost of the crude petroleum during the month of measurement and the total cost of crude petroleum during the month of May, 1973 plus (2) the difference between the total cost of petroleum product during the month of measurement and the total cost of petroleum product during the month of May, 1973. (10 CFR 212.83; 6 CFR 150.356)

The sum of the two cost differentials identified in the quoted definition constitutes the "available" increased product costs referred to in the descriptions of the "H" factors. These two cost differentials are the "A" and "B" factors found in § 212.83, and, to the extent that these costs are not recovered in a month's sales, they may be carried forward for application in a subsequent month. When so carried forward, these costs are reflected in the "G" factor of § 212.83, but consist, nevertheless, of the two fundamental cost elements set forth in the definition. The "H" factor, by itself, has no value unless, and only to the extent that, the refiner "elects" to distribute these "available" increased product costs in accordance with the conditions applicable to the "H" factor.

Where the "H" factor allows the transference of "available" increased product costs, those costs are the increased cost of crude petroleum (the "A" factor in the refiner formulae), the increased cost of purchased petroleum products (the "B" factor) and such amounts of these two cost increases as were not previously recovered (the "G" factor).

Beacon's interpretation request reveals that Beacon did not experience unrecouped increased product costs to reflect in its "G" factor for No. 2 oils and general refinery products. Instead, Beacon experienced excessive recoveries for these products, which are involved in Beacon's purported use of the "H" factor to transfer a negative value from one product category to another. Beacon apparently perceived these overrecoveries as "available" for inclusion in price adjustments.

Between August 1973 and March 1975, CLC and FEA regulations generally provided that

• • • [i]f in any month beginning with October 1973, a firm charges prices for a [covered product] which result in the recoupment of more total revenues than the entire month of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (c)(1)(i) of this section, the amount of excess product costs recouped must be subtracted from the May 15, 1973 selling prices to compute the base price for that [covered product] for the subsequent month. (10 CFR 212.83(d)(1))

According to this provision, the overrecoveries of increased product costs (reflected in the "G" factor), resulting from Beacon's sales of No. 2 oils or general refinery products must be eliminated from the succeeding month's cost computations for that particular respective product type and are not, therefore, "available" for inclusion in price adjustments. This required disposition of the overrecoveries which appear in the "G" factor precludes the reallocation of those overrecoveries under the "H" factor because it removes these amounts from the formulae and because it must be made exclusively for the particular covered product type in which the overrecoveries occurred.

The terms and functions of the "H" factor are simple and direct. They do not allow a refiner to reallocate overrecoveries in sales of a certain type of covered product to underrecoveries in sales of a different type of covered product.

Two additional details pertinent to the proper use of the "H" factor were noted earlier. These pertain to the direction and timing of reallocation of "available" costs. We must note in this regard that, under the description of the "H" factor, even if Beacon had available increased product costs in No. 2 oils and in general refinery products, those costs could not be transferred to gasoline prior to November 1974. After November 1974, increased product costs available in No. 2 oils could have been transferred to gasoline only in months subsequent to the month in which those costs were transferred to general refinery products.

In its Request for Interpretation, Beacon presents an argument that overrecoveries are actually negative increased product costs. Beacon asserts that the transference of increased product costs is not restricted solely to positive amounts and that therefore the transference of negative amounts is permitted. This argument is based upon an incorrect view of FEA regulations. Those regulations give precise instructions on the disposition of overrecoveries, viz., that overrecoveries are to be subtracted from the May 15, 1973 selling prices of the covered product involved to compute base prices for that same covered product for the subsequent month (10 CFR 212.83(d), supra). "Negative" increased product costs are a theoretical construct advanced here by Beacon in a manner that conflicts with the requirements of FEA regulations. To do so would frustrate the purpose of the prohibition against the transfer of increased costs to, for example, No. 2 oils. This is because the transfer of a negative value from No. 2 oils to gasoline obviously would have the same impact as the transfer of a positive value from gasoline to No. 2 oils.

It is our interpretation that the "H" factor of the formulae set forth in § 212.83 does not authorize the reallocation undertaken by Beacon as described herein.

INTERPRETATION 1977-24

To: Beacon Oil Co.

Date: July 27, 1977.

Rules Interpreted: §§ 210.91, 212.91

Code: GCW-PI—Five Percent Rule; Reporting Requirements, Refiner

This is in response to your letter of November 17, 1975 on behalf of Beacon Oil Company (Beacon) requesting an interpretation of 10 CFR 212.91 with respect to those entities of a refiner which may be treated as resellers under the Federal Energy Administration (FEA) Mandatory Petroleum Price Regulations.

The issue raised by Beacon in its request for interpretation was previously considered by FEA compliance personnel in FEA Region 9, during the course of an audit of Beacon. FEA regional personnel suggested that Beacon had incorrectly construed § 212.91; for this reason Beacon seeks this interpretation. The interpretation sought by Beacon will therefore have an effect upon the conduct and outcome of FEA's audit.

FACTS

Beacon is a refiner subject to the refiner price rules, 10 CFR Part 212, Subpart E. In addition to its refining operations, Beacon engages in the purchase and resale of covered products at various terminal facilities owned by it.

Beacon maintains its refinery in Hanford, California from which it sells the covered products that it refines. In addition to the refinery, Beacon owns and operates six separate terminals, at locations other than Hanford, from which it resells covered products that it has purchased from other refiners located outside of Hanford. Beacon states, in its request, that these terminals serve different customers than those served at Hanford and that the terminals have historically maintained different prices from those in effect at Hanford. In addition, Beacon asserts that none of the products sold at the terminals is purchased from the Hanford refinery.

Since August 1973 when petroleum price controls were imposed by the Cost of Living Council, Beacon has treated these six terminals as a separate operation from its refining operation, and has established prices for terminal sales as if those sales were subject to Subpart F of Part 212, Title 10 CFR, the reseller price rules, and not Subpart E, the refiner price rules.

ISSUE

May Beacon treat all of its terminal facility operations together as a single reseller "entity" under 10 CFR Part 212, Subpart F, instead of as part of the Beacon refiner "firm," subject to Subpart E? If it may treat the terminals as a reseller entity, may Beacon nevertheless include the cost of products purchased by its reseller entity as part of the total cost of products purchased by the Beacon refiner "firm" for purposes of Part 212 and in its refiner cost allocation reports (Form FEO-96 and Form-FEA-P110-M-1)?

INTERPRETATION

Beacon, as a refiner, is subject to the refiner price regulations of 10 CFR Part 212, Subpart E. 10 CFR 212.81 provides that Subpart E applies to each sale of a covered product which is purchased or refined by a refiner except as provided in Subparts F and K. Subpart F, FEA Reseller and Retailer regulations, applies:

to each sale of a covered product (other than the first sale of crude oil) by resellers, reseller-retailers, and retailers, and to each sale of crude oil (other than the first sale) by a refiner. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity. (10 CFR 212.91)

Beacon maintains that its six terminal operations qualify for treatment as a reseller "entity" of Beacon, in accordance with the language quoted from § 212.91, because the terminals are properly considered as an "entity of a refiner [Beacon • • •" that does not purchase from that refiner [Beacon] more than 5 percent of the covered products that it resells, and because the terminal facilities have consistently and historically exercised exclusive price authority with respect to their sales. If, as Beacon maintains, the terminals are a separate "entity," cognizable under the quoted language of § 212.91, then Beacon may treat its terminals as a reseller subject to Subpart F, provided that the specific requirements of § 212.91 are met. If the terminals are not an "entity" as so described, then the terminal operations are subject to Subpart E. Thus, the threshold question is whether the six separate terminal facilities can be recognized as an "entity of a refiner" under § 212.91.

Before an "entity of a refiner" can be identified, the "refiner" must be described. FEA regulations define the term "refiner," in part, as follows:

"Refiner" means a firm • • • which refines covered products • • • and sells those products to resellers, retailers, reseller-retailers or ultimate consumers • • •. (10 CFR 212.31)

In determining what the "firm" is, the FEA may:

Treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls. • • • (10 CFR 212.31, definition of "Firm")

FEA has chosen to treat as a refiner "firm" for purposes of Subpart E, the "parent and

[1] Liquid Waste Disposal Co., Interpretation No. 74-11, July 17, 1974; Petro U.S., Inc., Interpretation No. 74-20, November 4, 1974.

the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." (10 CFR 212.82).

Having established the refiner "firm" in Subpart E, FEA regulations provide that an entity of a "refiner" (as so defined in Subpart E) may nevertheless be a "reseller" under Subpart F, § 212.91.

The term "entity" is not separately defined in FEA regulations. That term, however, is used in two contexts relevant to this interpretation. First, it appears in the definition of the "firm," which is described in part, as:

Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized * * * (10 CFR 212.31)

The definition treats corporations, partnerships, sole proprietorships and other business forms as "entities." It also, however, recognizes the existence of separate, unspecified "entities" that may exist irrespective of the manner of organization ("however organized"). Thus a particular type of organization or structure does not per se preclude "entity" status.

In its broad context, therefore, an "entity" can be a business organization structured in a manner different from those business organizations specified in § 212.31. Although the context noted is broad, it is not without limitation. To qualify as an entity, the organization must have the characteristics of being an "entity," i.e., independent of and distinguishable from other operations of the firm. See, e.g., FEA Interpretation 1976-4 (42 FR 7923, February 8, 1977).

To identify necessary characteristics of the entity cognizable under § 212.91, we turn to the second relevant context in which the term "entity" appears: the language of that section. For the purposes of the reseller rule, FEA has determined that an "entity of a refiner" has the requisite characteristics of a reseller where: (1) the entity is engaged in the business of purchase and resale of covered products; (2) it does not purchase more than 5 percent of such covered products from the refiner; and (3) it has consistently and historically exercised exclusive price authority in its sales. If the entity does not meet all of these criteria, its operation cannot be independently recognized under Subpart F. Beacon asserts in its submission that:

The resale operations of Beacon Oil Company are subject to Subpart F since they are entities of a refiner engaged in the business of purchasing and reselling covered products who have consistently and historically exercised the exclusive price authority with respect to their sales, but who do not purchase more than 5 percent of their covered products from the Beacon refinery.

Assuming that Beacon's assertions that its terminal facility operations meet the standards of 10 CFR 212.91 are correct, those operations appear to be an "entity of a refiner" and qualify as a reseller. The burden of proving that reseller status, however, rests with Beacon and this interpretation does not constitute a finding that those operations either meet or fail to meet those standards. Our interpretation states only that if Beacon's terminal operations, taken together, exhibit the necessary characteristics specified in § 212.91, then those operations may be considered a reseller entity of Beacon, subject to Subpart F.

Since Beacon's terminals may, upon a proper showing, be recognized as a "reseller," it is appropriate to consider the second part of Beacon's November 17 request. That request seeks the concurrence of FEA regarding the manner in which Beacon, "[resolved] the apparent conflicts between § 212.93 and (1) the reporting requirements specified in § 212.91 [sic, should be § 210.91] as exercised by FEA in FEO/FEA-96 Forms, and (2) the class of purchaser concept as specified in Rulings 1975-2 and 1974-17."

There are no facts in Beacon's submission which delineates the apparent conflicts that Beacon contends exist in the regulations and rulings it cites. With respect to the "reporting requirements," however, Beacon states that it,

Has reported all sales of covered products on the Form 96, and due to the calculations therein, has applied cost increases equally between the refiner sales and the reseller sales. . . . In performing the calculations pursuant to the instructions [to Form FEO-96], increased costs are rolled-in for both entities.

Beacon claims that this was done pursuant to the instructions to Form FEO-96, which require such data from the parent and all consolidated entities of the refiner be "taken together." Thus, it would appear that although Beacon seeks separate recognition of its terminals under Subpart F, it has, for certain calculations and reports, treated those terminals as an undifferentiated part of the "refiner," subject to Subpart E. This is, indeed, an "apparent inconsistency" between rules and reports, and is addressed in this portion of the interpretation. No other aspect of Beacon's November 17 request is addressed herein, because Beacon's request fails to provide sufficient information upon which any interpretation could be rendered.

The procedure followed by Beacon in preparing "FEO/FEA-96 Forms" is incorrect under FEA regulations, assuming that the terminals are a reseller as discussed above. FEA provides different regulatory structures for refiners and for resellers. The allocation and recovery of increased product costs and increased non-product costs and the determination of other price and cost data are computed differently for refiners than for resellers. It is, therefore, inconsistent to treat an entity as a reseller for some purposes and as a refiner for others. Both Forms FEO-96 and FEA-P110-M-1, its current replacement, are monthly cost allocation reports for "refiners" together with the consolidated and unconsolidated entities of the refiner "firm." Only those consolidated and unconsolidated entities which are part of the refiner "firm" and which are appropriate for inclusion when determining the refiner's product costs and recovery may be used in the refiner's calculations and reported upon those forms. If any entity has been excluded from the refiner "firm" for purposes of FEA regulations, it has been excluded for purposes of reports filed under those regulations. It would be inappropriate to include a reseller in those computations since a reseller is subject to Subpart F for all its calculations and by definition is not a refiner.

Thus, if the terminals are a reseller, its operations are not properly included on Beacon's Forms FEO-96. We, therefore, cannot concur in Beacon's inclusion of any data regarding the resale business of the terminals on its Forms FEO-96.

INTERPRETATION 1977-25

To: Clark Oil & Refining Corp.

Date: July 28, 1977

Rules Interpreted: § 212.85 (c)

Code: GCW-PI—Transportation Costs, Refiner

This is in response to your letter of March 3, 1977, as supplemented by further explanatory data submitted March 10, 1977, requesting on behalf of Clark Oil & Refining Corporation (Clark) an interpretation of the application of 10 CFR 212.85(c)(1) [1] with respect to four factual situations. Upon consideration of all of the information contained in the request, as supplemented, and upon consideration of all the relevant authorities, the Federal Energy Administration ("FEA") has determined that the appropriate interpretation is as follows. The items listed in Question 4 of the March 3, 1977 letter are, in accordance with discussions of March 10, 1977, deemed to be superseded by the items listed in the further supplementary data submitted by Clark on that date.

FACTS

1. Clark Maritime Corp. (CMC) is a wholly-owned subsidiary of Clark, whose marine transportation of crude oil to the United States through CMC is, in accordance with §212.85(a),[2] subject to the accounting procedures specified in § 212.85.

2. Clark has historically accounted for crude oil transportation costs predominantly on the basis of actual costs incurred, and therefore is required by § 212.85(b)(1) [3] to utilize the net cost method specified in § 212.85(c) for determination of its crude oil transportation costs.

3. CMC has term charter agreements for the use of two Very Large Crude Carriers (VLCCs), which were chartered for the primary purpose of transporting purchased foreign crude oil for processing in Clark's domestic refineries. In applying the net cost method, Clark is therefore required to calculate allowed transportation costs in accordance with § 212.85(c)(2)(iii)[4] applicable to charter status vessels.

4. At certain times Clark ships only a small quantity of its own crude oil on the chartered VLCCs, and subcharters some or all of the remaining capacity to other shippers.

5. Clark utilizes transshipment facilities in the Caribbean to offload the VLCCs onto smaller vessels capable of entering U.S. coastal ports, and owns the oil shipped to its own refineries throughout both legs of the trip.

ISSUES

1. Will shipment of a minimum quantity of crude oil owned by Clark for processing in its domestic refinery qualify the costs of a VLCC chartered by Clark for inclusion in "allowed transportation costs" as defined in § 212.85(c)(2)(iii)(A)?

2. Assuming that a chartered VLCC is used primarily in subcharter service to other shippers, would the shipment of a single barrel of crude oil for Clark's own account qualify the costs of the VLCC for inclusion in "allowed transportation costs"?

3. Does the shipment of crude oil by VLCC from a port in the Persian Gulf to a Caribbean port for offloading and transshipment to the United States constitute use of the VLCC in part for shipment of crude oil to the United States?

4. Do the following transshipment expenses qualify as allowed transportation costs under § 212.85(c)(2)(iii)(A): (a) *VLCC leg*—½ percent fee paid in-kind for use of terminal; rental of tanks at terminal; bunkers; cargo, liability, and war risk insurance; port costs, and inspection fees paid on unloading to local authorities; (b) *Transshipment leg*—vessel hire; cargo and liability insurance; inspection fees paid to United States authorities?

INTERPRETATION

1. *Shipment of minimal quantity.* Section 212.85 applies to transportation to the United States of "imported crude oil" (§ 212.85(a)), without any limitation as to threshold quantity. Accordingly, shipments of any amount require that subject firms, historically using accounting methods based predominantly on actual costs, shall calculate allowed transportation costs as provided in § 212.85(c).

2. *Use of Vessel for Subcharter.* In general terms, § 212.85(c)(1) allows the cost of subchartering a vessel to be reflected in the firm's total cost of marine transportation if the subcharter is connected with the use of that vessel for transporting the firm's own crude oil to the United States. It should, however, be noted that shipments of relatively small quantities will be carefully audited by FEA to determine whether such shipments are for the purpose of bona fide crude oil transportation to which subchartering is only incidental, or whether the shipments are designed to facilitate the pass-through of costs (through an increase in costs per ton mile) under § 212.85(c)(1) for shipping not incidental to the importation of a firm's own crude, by nominally incurring "allowed transportation costs" under § 212.85(c)(2). By the latter course, the firm will not be considered to have incurred allowable costs under § 212.85(c)(2), and may possibly raise compliance issues under 10 CFR 210.62(c), which provides that "any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter * * * is a violation of these regulations." In general, FEA will impose certain conditions of reasonableness on subchartering, to avoid abuse through the passthrough of costs not strictly incidental to bona fide crude oil transportation.

Where income is received by Clark from an unaffiliated subcharterer, it must be subtracted from allowed transportation costs, since § 212.85(c)(1) provides that a firm's "net transportation costs" shall be established by subtracting from its allowed costs "any income received by the firm from unaffiliated entities for the use of vessels * * * whose costs are included in the total allowed costs." The expense of the vessel becomes part of the overall pool of net costs for purposes of § 212.85(c)(3),[5] and results in an increase in costs per ton mile distributable as the cost of marine transportation of the crude oil imported by Clark.

For single voyage charters, § 212.85(c)(3) provides that voyage costs incurred under § 212.85(c)(2)(iii)(A), i.e., "payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel plus the cost of any bunker fuel * * *," are not to be allocated on a cost per ton mile basis. Rather, the actual costs are to be reported to FEA in the firm's monthly submission. However, income received from subchartering a portion of the capacity of a single voyage charter is to be treated as "income received by the firm from unaffiliated entities for the use of [the vessel]" under § 212.85(c)(1). The income received will thus serve to decrease the firm's total cost of importing its crude oil.

3. *Shipment in part by VLCC.* Pursuant to § 212.85(c)(2)(i), the calculation of allowed transportation costs applies with regard to "all vessels used in whole or in part by the firm for shipment of its crude oil to the United States." Accordingly, § 212.85 contemplates that vessel costs associated with a particular leg of a trip, which is ultimately completed by other vessels, can be included in allowed transportation costs. Since Clark owns the oil throughout the entire trip, and not merely on the VLCC leg, Clark satisfies the provision in § 212.85(c)(2)(i) that costs (on any leg) will be allowed where a firm ships "its" crude oil to the United States.

4. *Transshipment Costs.*—(a) *VLCC leg.* (1) Under § 212.85(c)(2)(iii)(A), fees paid for use of the terminal and rental of tanks are "payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel," and are therefore allowable costs, since use of the terminal facilities the VLCC leg of the trip. Moreover, such fees are allowable costs under the AFRA method (§ 212.85(d)(1)(iv)), and in the interests of symmetry will be deemed to be payments to unaffiliated entities for the purposes of § 212.85(c)(2)(iii)(A). Fees paid in-kind are allowable based on the f.o.b. purchase price.

(ii) Section 212.85(c)(2)(iii)(A) states specifically that allowed transportation costs include "bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied." The cost of bunker fuel supplied by Clark to its chartered vessels will be allowed on this basis.

(iii) Cargo, liability, and war risk insurance, vessel hire, port costs, and inspection fees are all considered to be costs "incurred in connection with the use and operation of the vessel," and are therefore allowable under § 212.85(c)(2)(iii)(A).

(b) *Transshipment leg.* Vessel hire, cargo and liability insurance, and inspection fees are allowable on the same basis applicable to the VLCC leg.

INTERPRETATION 1977-26

To: Navajo Refining Co.

Date: July 28, 1977

Rules Interpreted: § 210.62, 212.31, Ruling 1977-1

Code: GCW-PI—Posted Price, def., Normal Business Practices.

This is in response to your November 8, 1976 request for interpretation on behalf of Navajo Refining Company ("Navajo") and Holly Corporation seeking an Interpretation of 10 CFR 212.31 (Definition of "Posted Price"). On May 17, 1977, the Regional Administrator of Federal Energy Administration ("FEA") Region VI issued a Notice of Probable Violation ("NOPV") to Navajo based upon prices paid by Navajo in first sales of domestic crude oil. On April 28, 1977, Navajo supplemented its original request for interpretation with additional documents to be used in conjunction with the information previously submitted in order to provide a more complete basis on which FEA could base its response. On May 27, 1977, Navajo submitted its written response to the NOPV, a copy of which was submitted by Navajo in conjunction with the present request for interpretation.

The Interpretation that follows is based upon all the information available to this office at this time and is intended to address only the issue set forth herein. To the extent that other issues may have arisen, or may arise, in the context of the pending compli-

[1] 10 CFR 212.85(c)(1) provides: "A firm using the Net-Cost Method for determination of its transportation costs shall establish its net transportation cost by (i) determining its allowed transportation costs, as specified in subparagraph (2), and (ii) subtracting therefrom, the sum of: (A) Any income received by the firm from unaffiliated entities for the use of vessels (other than 'equity' status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in the total allowed transportation costs, plus (B) the product of that firm's cost per ton mile for the fiscal year, determined according to subparagraph (3) of this paragraph, times the total ton-miles of shipping during the fiscal year which does not produce income from unaffiliated companies, does not involve crude oil imported into the United States, and uses vessels (other than 'equity' status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in its allowed transportation costs. Transportation costs not otherwise allocated to particular shipments shall be allocated according to subparagraph (3) of this paragraph. The cost of general overhead may not be included, except that a firm may include the salaries of land-based personnel directly and solely engaged in marine transportation of crude oil from foreign ports to the United States."

[2] 10 CFR 212.85(a) provides, in pertinent part: "This section prescribes the standards which refiners shall use to establish the cost of transportation by sea to the United States of imported crude oil, for the purpose of determining the landed cost of that crude oil. For purposes of this section 'firm' means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls. * * *"

[3] 10 CFR 212.85(b)(1) provides, in pertinent part: "For the purpose of this section, a firm shall utilize either the Net-Cost Method specified in paragraph (c) of this section, or the AFRA Method specified in paragraph (d) of this section, depending on that firm's historical accounting procedures, for the determination of its crude-oil transportation costs. A firm shall utilize the net-cost method if those procedures, have been based predominantly on actual costs; it shall utilize the AFRA method if they have been based predominantly on a nominal-cost approach such as AFRA-Worldscale."

[4] 10 CFR 212.85(c)(2)(iii)(A) provides: "Allowed transportation costs for a charter-status vessel shall be the sum of all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, plus the cost of any bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied."

[5] 10 CFR 212.85(c)(3) provides: "Non-monthly charges shall be adjusted to a monthly basis. Except for single voyage charters, or when costs for equity status vessels are calculated as provided in 2(iii)(A), allocation of transportation costs to a shipment of crude oil shall be determined as the product of the number of cargo ton-miles of crude oil transported in that shipment times that firm's 'cost per ton mile' (CTM) estimate for that month. The CTM estimate of a firm for a given month shall be the ratio of:

(i) The firm's best estimate of its net transportation cost for the fiscal year, minus the transportation costs the firm has allocated to shipping for all previous months of the fiscal year to:

(ii) The firm's best estimate of its total shipping quantity in ton-miles for the fiscal year using vessels whose costs are included in that firm's gross transportation costs, minus the number of ton-miles of such shipping for which the firm has allocated costs in all previous months of the fiscal year. Upon determination of its actual net transportation cost for a fiscal year, but not later than 60 days beyond the end of that fiscal year, each firm shall report as an adjustment to its cost the difference between the actual value of its net transportation cost for that fiscal year and the total transportation costs allocated by the firm for the fiscal year. The ratio of the firm's net transportation costs for a fiscal year to the total amount of that firm's shipping in ton-miles for that fiscal year, is that firm's CTM for that fiscal year."

ance action, the resolution of such issues is not governed by this Interpretation.

FACTS

As we understand the facts, Navajo is a small refiner which acquires crude oil primarily in the West Texas/New Mexico field. Beginning on February 1, 1973 and continuing to the present time, Navajo has maintained a "flat" price system whereby crude oil purchased by it is paid for at a single price with no adjustments for differences in gravity. (Prior to February 1 Navajo had used a system of gravity differential adjustments whereby the first sale price was adjusted downward to reflect a penalty for crude oil gravities below 40°.) To illustrate, under a pricing system based upon adjustments for gravity differentials, a specified price (e.g., $12.60 per barrel) is set for crude oil of a specified gravity (often 40° API), and the specified price is adjusted downward by a specified increment (often 2 cents per API degree). Under this example, 40° crude oil would be priced at $12.60 per barrel and 36° crude oil would be priced at $12.52 per barrel (i.e., $12.60−(4)(.02)= $12.52). Under a "flat" price system, however, all crude oil regardless of gravity is subject to the same price.

Although your request might be construed to urge that FEA make the determination that Navajo's use of run tickets and solicitation letters constituted a "posted price" on September 30, 1975, that construction is unnecessary in light of (and would be inconsistent with) Navajo's admission that the Permian Corporation posting of $12.60 per barrel for upper tier sour grade crude oil constituted the highest posted price for that grade crude oil on September 30, 1975. Accordingly, and inasmuch as determinations such as what constituted the highest posted price on September 30, 1975 are more appropriately reached in the first instance in the context of the pending compliance action, we assume for purposes of this request that the Permian Corporation posting of $12.60 per barrel for upper tier sour grade crude oil constituted the "highest posted price" for that grade crude oil on September 30, 1975.

Navajo states that although the Permian Corporation posting of $12.60 per barrel is one which requires adjustments for crude oil gravities below 40° API, Navajo has determined ceiling prices in first sales of upper tier domestic crude oil on the basis of its historic "flat" pricing system with no adjustments for gravity differentials. The result, as we understand the facts, is that in determining ceiling prices for upper tier crude oil, Navajo has used the Permian Corporation price of $12.60 per barrel for 40° crude oil, which it has then applied to all crude oil purchases with no adjustment for gravity.

ISSUE

The issue addressed by this Interpretation is whether § 212.74 requires upper tier ceiling price determinations to be made with regard to gravity price differential adjustments, where the reference highest posted price on September 30, 1975 utilized such gravity price differential adjustments, but where a particular purchaser in the field has traditionally utilized a system of flat prices, without regard to gravity price differential adjustments.

INTERPRETATION

Assuming for purposes of this Interpretation that the Permian Corporation posting of $12.60 per barrel, which required gravity price differential adjustments, was the highest posted price in the field on September 30, 1975, upper tier ceiling prices based upon that posting are required also to reflect those gravity price differential adjustments.

Section 212.74 provides: (b) Upper tier ceiling price determination. The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel.

"Posted Price" is defined at § 212.31 as: A written statement of crude oil prices circulated publicly among sellers and buyers of crude oil in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field.

As FEA stated in Ruling 1977–1 (42 FR 3628, January 19, 1977), The posted price concept was selected [by the Cost of Living Council] because the ready availability of price bulletins (which were understood to be in normal circulation in May 1973) provided a mechanism whereby producers and purchasers alike could be able to determine the ceiling price for any grade crude oil in any particular field. Moreover, the use of price bulletins avoided the enormous administrative complexity of having to establish ceiling prices that would maintain traditional gravity and quality price differentials.

In adopting the two tier price system on February 1, 1976, applicable to all first sales of domestic crude oil, FEA made it clear that with respect to the lower tier ceiling prices, the CLC rule was being continued:

So as to avoid the many complications that might be involved were the FEA to prescribe a ceiling price without regard to historical prices, including the necessity of having to prescribe adjustments to reflect price differentials for location and quality. *Existing price differentials for old crude oil will, therefore be maintained as of May 15, 1973.* (Emphasis added, 41 FR 4931 at 4935, February 3, 1976.)

For the same reason, FEA adopted an upper tier ceiling price rule that is also based upon posted prices (which were understood to be prevalent in September 1975). The reference in Ruling 1977–1 to "having to establish ceiling prices that would maintain traditional gravity and quality price differentials" does not mean, as you suggest, that the purpose of selecting the posted price mechanism was to eliminate traditional gravity price differentials. Rather, the purpose was to maintain them without administratively having to establish a complex system of ceiling prices which incorporated those differentials where necessary.

Accordingly, when CLC adopted the two tier pricing system in August 1973, it established the ceiling price rule based on the posted price concept. This concept was chosen because posted price bulletins were easily available, were in normal circulation in May 1973, and provided the means for producers and purchasers to determine the ceiling price for any grade of crude oil in any field, without disturbing the price differentials that had been previously determined. Postings in effect on September 30, 1975 were selected as references for upper tier ceiling prices for the same reasons.

FEA recognizes that the use of posted prices as references may result in ceiling prices in particular fields which are based upon gravity differentials, or which are based upon a flat price or which are based upon both. For example, where (on September 30, 1975) two purchasers posted prices for the same field, one a flat price of $12.40, and one a price of $12.40 with price adjustments of 2 cents per degree for each gravity below 40° API, the highest posted price for all crude oil in the field, regardless of gravity, would be $12.40. This is because for any gravity crude oil produced and sold from that field, a posted price of $12.40 was applicable on September 30, 1975. However, where (on September 30, 1975) one purchaser posted a flat price of $12.30, and a different purchaser posted a price of $12.40 with price adjustments of 2 cents per degree for each gravity below 40° API, the $12.40 posting (adjusted downward) would govern for crude oil with a gravity of 35° and above; the flat price of $12.30 would govern for crude oil with a gravity below 35° API. The result is more clearly shown in the following chart:

Posting "A"	°API	Posting "B"
$12.40	40	$12.30
12.38	39	12.30
12.36	38	12.30
12.34	37	12.30
12.32	36	12.30
12.30	35	12.30
12.28	34	12.30
12.26	33	12.30

Contrary to Navajo's interpretation, 10 CFR 210.62 does not require a different result. That section, which deals with "normal business practices" requires suppliers to deal with purchasers of an allocated product according to normal business practices. References in the definition of "posted price" to written statements of crude oil prices circulated publicly among sellers and buyers of crude oil in a particular field in accordance with historic practices, refer to the requirement that for a document to qualify as a posted price, it must have been circulated in accordance with historic practices. Section 210.62, on the other hand, cannot be interpreted to suggest that ceiling prices are to be determined in accordance with historic practices, where such practices would result in prices in excess of those determined under §§ 212.73 and 212.74. This view was considered and specifically rejected by FEA in the first stage rulemaking to implement the Energy Policy and Conservation Act. (See 41 FR 4931 at 4935–36, February 3, 1976.)

INTERPRETATION 1977–27

To: J. M. Owsley.

Date: July 28, 1977.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCW—AI—Wholesale Purchaser-Reseller, def.; Commission Agents or Consignees.

This is in response to your letter of July 12, 1976, requesting an interpretation of the Federal Energy Administration's (FEA) Mandatory Petroleum Allocation Regulations (10 CFR Part 211), concerning your status as a wholesale purchaser-reseller.

FACTS

According to your letter, you are a Union Oil Co. of California ("Union") commissioned distributor in Pomona, Calif., under the terms of a form contract entitled "Commercial Consignment Agreement," Form 795–CA (Rev. 8–67), (the "Consignment Agreement"). The Consignment Agreement establishes a relationship whereby the distributor receives a commission for selling and delivering products to customers that he selects and title to the products remains with Union until sold. The distributor is prohibited from mixing Union's products for sale with other products. The agreement authorizes the distributor to make credit sales for his own account or for the account of Union when authorized in writing, but provides that sales for his own account, or credit sales made in violation of the written authorization by Union, are made at the distributor's risk. The distributor is fully responsible for Union products and sales revenues in his possession, and Union retains the right to check inventories and inspect and audit the distributor's records and accounts.

Control of the distributor's independent business of selling and distributing Union's products is retained by the distributor. He is required to furnish and bear all expenses connected with necessary facilities and equipment (including his bulk plant and trucks) involved in the storage, handling, and sale of Union's products, and to make provision for, and assume the responsibilities and expenses connected with, all necessary labor. Thus, all expenses incident to the conduct of the distributor's business of selling Union's products are to be paid for by the distributor.

The Consignment Agreement expressly provides that the distributor shall exercise full direction, control, and responsibility over all employees required for the operation of his business, and the distributor is required by the terms of the Consignment Agreement to provide all appropriate employer's liability, workmen's compensation, and public liability insurance for such employees and to indemnify and hold Union harmless for any claims against Union arising therefrom.

ISSUE

The issue presented for interpretation is whether a Union distributor operating pursuant to this agreement qualifies as a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

A wholesale purchaser-reseller is defined in § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 explains that the phrase "as by consignment" is included in the definition of a wholesale purchaser-reseller to make it clear that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition solely on the ground that they fail to take legal title to the product. This phrase explicitly recognizes the fact that consignment relationships, under which the consignees perform essentially the same functions as jobbers, have long existed in the petroleum industry and that such consignees should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers.

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

Thus, according to the ruling, a consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing product solely to customers designated by the supplier.

According to the terms of the Consignment Agreement, you retain a substantial measure of functional autonomy in distributing and selling Union products. Although you must account fully to Union for all products and sales revenues received, and such products must be sold at prices authorized by Union, you are fully responsible for conduct of your business and are expected to exercise independent judgment and discretion in its operation. While Union requires you to sell the products under Union's brands and trademarks, it bears no expenses under the Consignment Agreement for the costs of facilities, equipment, labor, employee benefits, or necessary insurance, and implicitly recognizes your distributorship as an independent business. Accordingly, it is our opinion that you are a wholesale purchaser-reseller as defined in 10 CFR § 211.51, and as clarified in Ruling 1975–8.

[FR Doc.77-23501 Filed 8-12-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14130; Amdts. 1-27 and 45-9]

PART 1—DEFINITIONS AND ABBREVIATIONS

PART 45—IDENTIFICATION AND REGISTRATION MARKING

Nationality and Registration Marks on Fixed-Wing Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows a reduction in the size of the required nationality and registration marks on certain fixed-wing aircraft and requires that each suffix letter used in the marks be a Roman capital letter. It is intended to provide relief requested by operators of the aircraft and to ensure needed uniformity of marks.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Flight Standards Service, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–755–8716.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice No. 74–36) issued on November 12, 1974, and published in the FEDERAL REGISTER on November 21, 1974 (39 FR 40862). Due consideration has been given to all comments received in response to the notice. Except as otherwise discussed in this amendment, the amendment and the reasons for it are identical to the proposal and the reasons set forth in the notice.

Notice 74–36 was issued partly in response to two petitions. The Experimental Aircraft Association (EAA) petitioned for an amendment of § 45.29(b)(1) to allow display of the required nationality and registration marks no more than three inches high either in a horizontal or vertical manner on both sides of the vertical tail surface of fixed-wing small aircraft and 18-inch marks on the underside of the left wing. The Citizens Task Force on Noise Control of Seattle, Wash., petitioned the FAA to provide for under-wing markings, distinguishable by persons with normal vision for a distance of 1,000 feet.

Over 3,000 public comments were received in response to the notice. Almost all of the commentators on the proposed under-wing marks opposed them. The majority of the commentators were concerned about the cost of the under-wing marks. The FAA estimates the minimum total cost to be over 18 million dollars. This cost could be higher due to inflation, since the proposal would allow five years for compliance with the rule.

A number of opposing commentators were of the opinion that the proposed under-wing marks would not be an effective means of positive ground-to-air identification. After further consideration, the FAA agrees with these commentators. In proposing this requirement, the FAA relied on a number of cases in which violators of the Federal Aviation Regulations have been identified by under-wing marks alone or by those marks together with side or tail marks. However, after review of the comments received and all the information available on under-wing marks, it is clear that these marks are useful for identification purposes only under ideal conditions.

For these reasons, the proposed requirement for 18 inch marks on the lower surface of the left wing of fixed-wing aircraft is withdrawn, and the petition of the Citizens Task Force on Noise Control of Seattle, Wash., is denied.

In response to the EAA petition, Notice 74–36 proposed to allow 3 inch marks on the vertical tail surfaces or the sides of the fuselage on small aircraft which cannot exceed 180 knots when using 70 percent of maximum cruising power, if the proposed under-wing marks were displayed. This proposal was consistent with the current position of the Department of Defense that it no longer considers 12 inch marks as necessary for the air-to-air identification of these aircraft when they penetrate or operate in an Air Defense Identification Zone (ADIZ) or Distant Early Warning Identification Zone (DEWIZ).

Over 1,500 comments were directed to this prosopal. The majority of these commentators favored using 3 inch marks without the under-wing marks. In view of the fact that 12 inch marks on the tail or fuselage have proved only minimally successful in ground-to-air identification, the 3 inch marks provision is being adopted without the proposed under-wing requirement.

However, the FAA has determined that the reference to "maximum cruising power" may be confusing, and that it would be more appropriate to use terms used in type certificate data sheets for most small aircraft. Accordingly, the provision, as adopted, references design cruising speed (V_C), maximum structural cruising speed (V_{NO}), and maximum operating limit speed (V_{MO}). When none of these speeds exceeds 180 knots, 3 inch marks may be used on the aircraft. Three inch marks may be used on an aircraft that does not have a V_C, V_{NO}, or V_{MO}, when the maximum cruising speed has been shown to the satisfaction of the Administrator to not exceed 180 knots.

Finally, Notice 74-36 proposed to insert the words "at each location" in the lead-in portion of § 45.29(b), in order to require that the character marks be the same height, width, thickness, and spacing on both sides of the aircraft. For clarity this proposal has been adopted as a new paragraph (g) in § 45.29.

DRAFTING INFORMATION

The principal authors of this document are J. F. Zahringer, Flight Standards Service, and Joseph Dorsey, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Parts 1 and 45 of the Federal Aviation Regulations (14 CFR Parts 1 and 45) are amended, effective September 14, 1977, as follows:

1. By amending § 1.2 by inserting the following symbol after "V_{NE}" and before "V_R":

§ 1.2 Abbreviations and symbols.

* * * * *

V_{NO} means maximum structural cruising speed.

* * * * *

2. By amending § 45.23(a) to read as follows:

§ 45.23 Display of marks; general.

(a) Each operator of an aircraft shall display on that aircraft marks consisting of the Roman capital letter "N" (denoting United States registration) followed by the registration number of the aircraft. Each suffix letter used in the marks displayed must also be a Roman capital letter.

* * * * *

3. By amending § 45.25 to read as follows:

§ 45.25 Location of marks on fixed-wing aircraft.

(a) The operator of a fixed-wing aircraft shall display the required marks on either the vertical tail surfaces or the sides of the fuselage, except as provided in § 45.29(f).

(b) The marks required by paragraph (a) of this section shall be displayed as follows:

(1) If displayed on the vertical tail surfaces, horizontally on both surfaces of a single vertical tail or on the outer surfaces of a multivertical tail. However, on aircraft on which marks at least 3 inches high may be displayed in accordance with § 45.29(b)(1), the marks may be displayed vertically on the vertical tail surfaces.

(2) If displayed on the fuselage surfaces, horizontally on both sides of the fuselage between the trailing edge of the wing and the leading edge of the horizontal stabilizer. However, if engine pods or other appurtenances are located in this area and are an integral part of the fuselage side surfaces, the operator may place the marks on those pods or appurtenances.

4. By amending § 45.29(b)(1) and adding a new § 45.29(g) to read as follows:

§ 45.29 Size of marks.

* * * * *

(b) *Height.* The character marks must be of equal height and on—

(1) Fixed-wing aircraft must be at least 12 inches high, except that marks at least 3 inches high may be displayed on small aircraft when none of the following exceeds 180 knots TAS:

(i) V_C;

(ii) V_{MO};

(iii) V_{NO}; and

(iv) If V_C, V_{MO}, or V_{NO} has not been determined for the aircraft, the speed shown to be the maximum cruising speed of the aircraft;

* * * * *

(g) *Uniformity.* The marks required by this part for fixed-wing aircraft must have the same height, width, thickness, and spacing on both sides of the aircraft.

(Sections 307(c), 313(a), and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348(c), 1354(a), 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 5, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-23308 Filed 8-12-77;8:45 am]

[Docket No. 75-LA-86; Amdt. 39-3007]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Canadair CL-44D4 and CL-44J airplanes. It requires an inspection for cracks and replacement where necessary of the nose landing gear upper radius rods. The inspection is the result of a reported history of fatigue cracks which if left uncorrected could result in a failure of the radius rod, which may cause a collapse of the nose landing gear.

EFFECTIVE DATE: August 18, 1977. Compliance is in accordance with the schedule set forth in the airworthiness directive.

ADDRESSES: Canadair Service Information Circular No. 151-CL44, Issue 3, of October 26, 1976, may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of damaged nose landing gear left hand upper radius rods due to fatigue cracks on aircraft with over 7,000 landings. The rule provides for rework of cracked radius rods within certain limits. A rework to the maximum limit will permit operation for only 3,000 landings or until cracks are detected, whichever occurs first. In view of the effect on air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are L. Lipsius, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Canadair: Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories, that have not been altered in accordance with Canadair Service Information Circular No. 151-CL44, Issue 3, dated October 26, 1976, or with an FAA-approved equivalent alteration.

Compliance required as indicated.

(a) To ensure the structural integrity and prevent failure of the following nose landing gear upper radius rods, accomplish the inspection in (1).

Item:	*Upper Radius Rod Subassembly*	*Upper Radius Rod*
1.	44-85045 LH assembly employs.	44-85084 LH Rod.
2.	44-85045-1 RH assembly employs.	44-85084-1 RH Rod.
3.	44-85045-1000 LH assembly employs.	44-85084-2 LH Rod.

(1) For parts which have accumulated 1,175 or more landings on the effective date of this airworthiness directive, inspect Items 1, 2, and 3 within the next 75 landings by a dye penetrant, eddy current, or ultrasonic method in accordance with the "Inspection Data" and "Inspection Procedure" sections of Canadair Service Information Circular No. 151-CL44, Issue 3, dated October 26, 1976, or with an FAA-approved equivalent inspection.

(2) For parts which have not accumulated 1175 landings on the effective date of this airworthiness directive, accomplish the inspection in (a)(1) before attaining 1250 landings.

(b) Repeat inspections in (a)(1) at intervals not to exceed:

(1) 60 landings for non-reworked parts Item 1 and 3;

(2) 200 landings for non-reworked part Item 2;

(3) 30 landings for reworked parts Item 1, 2, and 3.

(c) Replace cracked parts with new parts of the same part number or with approved equivalent parts, or rework cracked parts to the limitations specified in "Rework Instruction" in Canadair Service Information Circular No. 151-CL44, Issue 3, dated October 26, 1976, or with an approved equivalent procedure.

(d) Replace parts reworked to the maximum limits, specified in "Rework Instruction" in the above Service Information Circular, that have attained an additional 3,000 landings from the time of such rework, or when cracks are again detected, whichever occurs first, with new pats of the same part number or with approved equivalent parts.

(e) Equivalent inspections/procedures and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(f) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection times specified in this AD.

Effective date: This amendment is effective August 18, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on August 4, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-23305 Filed 8-12-77;8:45 am]

[Docket No. 77-NE-11; Amdt. 39-3008]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt and Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, and -17 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive requiring removal of certain number 4½ bearings, P/N 707007, from Pratt and Whitney Aircraft JT8D turbofan engines. Early failure of these bearings has caused serious engine damage.

DATES: Effective date—August 31, 1977. Compliance date—March 31, 1978.

ADDRESSES: Persons affected by this directive desiring copies of Pratt and Whitney Aircraft Alert Service Bulletin Number 4639, titled "Engine-Bearing, Number 4½—removal from service of", may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617-273-7337.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making appeared in the FEDERAL REGISTER on June 9, 1977 (42 FR 29513). The NPRM proposed removal of certain Serial Number 4-1/2 bearing, P/N 707007, by March 31, 1978.

This A.D. is being issued because there have been 23 failures of the JT8D Number 4-1/2 bearing, P/N 707007, of which four permitted contact between the concentric low and high speed shafting with resultant machining action and failure of the low turbine shaft. Three of these shaft failures have resulted in turbine blade and vane debris penetration of the engine casing and cowlings. These bearing failures have been limited to bearing Serial Numbers 800 through 999, and 100A through 214A. Since this condition is likely to exist or develop in other JT8D engines incorporating these suspect bearings, the Airworthiness Directive would require removal of Number 4-1/2 bearings, P/N 707007, Serial Numbers 800 through 999, and Serial Numbers 100A through 214A.

The bearing failures have occurred randomly with respect to operating time, and no specific time interval can be specified for bearing removal. The compliance date of March 31, 1978, is therefore based on availability of replacement bearings and the earliest possible operator removal schedule.

Comments were received from the manufacturer and the Air Transport Association concurring with the NPRM. The final rule is therefore identical to the NPRM and requires removal of certain Serial Number 4-1/2 bearings, P/N 707007, by March 31, 1978.

DRAFTING INFORMATION

The principal authors of this document are Jay J. Pardee, Engineering and Manufacturing Branch, and George L. Thompson, Regional Counsel Office.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

PRATT AND WHITNEY AIRCRAFT. Applies to Pratt and Whitney Aircraft JT8D-1, -1A, -1B, -7, -7B, -9, -9A, -11, -15, and -17 turbofan engine models containing Number 4-1/2 bearing, P/N707007, bearing Serial Numbers 800 through 999, and Serial Numbers 100A through 214A.

Compliance required as indicated. To preclude possible low turbine shaft failure, resulting from failure of the Number 4-1/2 bearing, remove from service, prior to March 31, 1978, Number 4-1/2 bearings, P/N 707007, Serial Numbers 800 through 999, and Serial Numbers 100A through 214A. Replace with an FAA approved, serviceable 4-1/2 bearing.

Affected bearings shipped in engines and shipped as spares are identified by serial number in Tables I and II of Pratt and Whitney Aircraft Alert Service Bulletin Number 4639, dated August 12, 1976, or later revision approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance date specified in this A.D. to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this A.D. which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular 107.

Issued in Burlington, Massachusetts, on August 4, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 16, 1967.

[FR Doc 77-23306 Filed 8-12-77;8:45 am]

[Docket No. 77-EA-43; Amdt. 39-3013]

PART 39—AIRWORTHINESS DIRECTIVES

Lycoming Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 75-08-09 applicable to IO-320 type aircraft engines. The amendment will increase the AD coverage from the IO-320-B1A series to all IO-320 type engines. This results from the manufacturer's determination that the oil pump problem addressed by AD 75-08-09 had greater scope.

EFFECTIVE DATE: August 18, 1977.

ADDRESSES: Lycoming Service Bulletins may be acquired from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, Engineering and Manufacturing Branch, AEA-214, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that additional engines should be covered by AD 75-08-09. The AD was issued originally to preclude failure of the oil pump which resulted from failure of the Woodruff Key in the pump impellers. The AD has been amended twice before to expand its coverage. This rule will include the complete IO-320 series. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 75-08-09, as follows:

1. Revise applicability paragraph to read "Applies to O-235, O-290, O-320, IO-320, LIO-320, O-360, IO-360, HO-360, HIO-360, VO-360-A1A, VO-360-A1B, VO-360-B1A, IVO-360-A1A, LIO-360, TIO-360, AIO-360, AEIO-360, O-540, and IO-540 series Lycoming engines listed below and the same series engines overhauled/remanufactured by Lycoming between December 18, 1972, and December 10, 1974, and the same series engines overhauled after December 10, 1972, at facilities other than the manufacturer, in which the provisions of Lycoming Service Instructions No. 1272 have been incorporated".

2. Revise Applicable Models column to read "IO-320 series" instead of "IO-320-B1A".

3. Revise paragraph 2 to read IO-320 instead of IO-320-B1A.

4. Insert the following paragraph before the last paragraph:

Upon submission of substantiating data thru an FAA maintenance inspector, the Chief, Engineering and Manufacturing Branch, Eastern Region, may adjust the compliance time specified in this A.D.

Effective date: This amendment is effective August 18, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 4, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23307 Filed 8-12-77;8:45 am]

[Airworthiness Docket No. 77-SW-28; Amdt. 39-3002]

PART 39—AIRWORTHINESS DIRECTIVES

Edo-Aire Mitchell (EAM) NSD-360 Navigation Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) is being issued to assure that the NAV flag will appear when a flag signal occurs by requiring installation of a NAV flag adapter in the circuits between the Navigation Situation Display of the NSD-360 Navigation System and any VOR/LOC converter manufactured by companies other than EAM. It has been found that an interface incompatibility results in failure of the NAV flag to appear when the VOR/LOC converter signals for a flag in the display.

DATES: Effective date September 8, 1977. Compliance requires the alteration within the next 50 hours in service after the effective date of this AD.

ADDRESSES: EAM service bulletins, placards, and parts may be acquired from the manufacturer whose address and phone number are listed in the AD.

FOR FURTHER INFORMATION CONTACT:

Tommie S. Plummer, Systems and Equipment Section, ASW-213, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817-624-4911, Extension 518.

SUPPLEMENTARY INFORMATION: The display unit of the NSD-360 Navigation System includes a NAV flag to warn the pilot when the navigation signal is not reliable. This flag circuit is designed for use with VOR/LOC converters having a "gated" To-From capability for the purpose of blocking the To-From display during NAV flag conditions. Operation of the NAV system without a converter having "gated" To-From capability permits unreliable NAV flag operation and therefore could result in a navigational error of unacceptable magnitude. EAM has marketed approximately 1,500 NSD-360 systems that could have been installed without compatible VOR/LOC converters. Some units have been installed based on supplemental type certificate approvals; others have been installed by field approvals. In view of (1) the virtual impossibility of determining which aircraft models have been approved, and (2) the necessity for reliable navigation equipment when being used in the airspace in close proximity to other aircraft, the FAA finds it necessary to issue this AD against NSD-360 Navigation Systems installed in certificated aircraft without specifying the aircraft type. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making this rule effective in less than 30 days.

Since EAM is furnishing the parts and labor to make this modification, the only impact on the aircraft owner is two hours loss of service while the aircraft is being modified, or loss of approved use of the NSD-360 system under IFR conditions until modified. Therefore, the FAA considers the aircraft owner's cost to be minimal to assure reliable navigation.

DRAFTING INFORMATION

The principal authors of this document are Tommie S. Plummer, Flight Standards Division, and Alan G. Sumberg, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective September 8, 1977, by adding the following new Airworthiness Directive:

EDO-AIRE MITCHELL. Applies to Model NSD-360 Navigation Systems containing any of the following Navigation Situation Display instruments: 52D136-0020, 52D136-0120, 52D136-0220, 52D136-1020, 52D136-1120, 52D136-1220, 52D137-1020, 52D137-1120, and 52D137-1220, when used with VOR/LOC converters other than the Edo-Aire Mitchell 1C707 and 1C707-1 converters. Compliance with (a) or (c) is required within the next 50 hours in service after the effective date of this AD, unless already accomplished.

(a) Install a placard stating "NSD-360 Not Approved as Primary VOR Display for IFR Navigation Prior to compliance With EAM MB-13."

(b) The placard described in subparagraph (a) is to be installed as close as practical to the affected navigation situation display and remain there until EAM NAV Flag Adapter P/N 1C775 is installed as in (c) below, at which time the placard is to be removed. EAM placard, P/N 13A895 specified by EAM Service Bulletin MB-13, is to be used to comply with (a).

(c) Install EAM NAV Flag Adapter, P/N 1C775, in accordance with installation instruction items 1 through 5, pages 2 and 3 of EAM Service Bulletin MB-13 revised May 3, 1977.

(d) The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Director, Products and Service, Edo-Aire Mitchell, P.O. Box 610, Municipal Airport, Mineral Wells, Tex. 76067, Telephone No. 817-325-2517. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Tex., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

This amendment becomes effective September 8, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 28, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-23320 Filed 8-12-77;8:45 am]

[Airworthiness Docket No. 77-SW-23; Amdt. 39-3004]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International Models 112, 112TC, and 114 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Rockwell International Models 112, 112TC, and 114 airplanes. The AD requires an increase in strength of the front seats and seat belt attachments.

DATES: Effective date: August 29, 1977. Compliance required within 100 hours or one year in service after the effective date of this AD, whichever occurs first.

ADDRESSES: Rockwell International Service Bulletins No. 112-45A dated April 7, 1977, and No. 114-5A dated April 7, 1977, or later approved revision may be obtained from Rockwell International General Aviation Division Service Center, 5001 N. Rockwell Avenue, Bethany, Okla. 73008.

FOR FURTHER INFORMATION CONTACT:

James L. Patras, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone number 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 31172 to require increasing the strength of the front seat and seat belt attachments in accordance with Rockwell Service Bulletins Nos. 112-45 and 114-5. Compliance time was required within 100 hours' time in service after the effective date of this AD or at the next annual inspection, whichever occurred first.

In response to the proposal, one letter was received. The commentor stated that the compliance time as written would place a burden of immediate compliance on aircraft under the annual inspection option when the annual inspection fell due immediately subsequent to the effective date of the AD.

The FAA feels this is a valid comment, and the compliance time has been rewritten to require compliance within 100 hours or one year in service after the effective date of the AD, whichever occurs first.

DRAFTING INFORMATION

The principal authors of this document are James L. Patras, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of Part 39 of the Federal Aviation Regulations, is amended adding the following new Airworthiness Directive:

ROCKWELL. Applies to Rockwell Model 112, S/N 3 through 499; Model 112TC, S/N 13000 through 13149; and Model 114, S/N 14000 through 14149, certified in all categories.

Compliance required as indicated.

Within 100 hours' time in service or one year in service after the effective date of this AD, whichever occurs first, modify the front seats and belt attachments in accordance with Rockwell Service Bulletins No. 112-45A dated April 7, 1977, and No. 114-5A dated April 7, 1977, or later approved revisions, or in accordance with an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

This amendment becomes effective August 29, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 29, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-23321 Filed 8-12-77;8:45 am]

[Docket No. 77-NW-13-AD; Amdt. 39-3014]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/400/300B/300C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 18, 1977, and May 27, 1977, telegraphic Airworthiness Directives (AD's) were issued and made effective immediately to all known U.S. operators of Boeing 707-300 400 300B 300C series airplanes. The AD's required one-time inspections of the exposed portion of the rear spar upper chord of the right and left hand horizontal stabilizer for cracks. A completely severed upper chord contributed, along with other factors, to a condition which resulted in the recent inflight separation of the right hand horizontal stabilizer from a Boeing 707-321C that subsequently crashed. After evaluating the results of the above inspections, crack growth rates have been noted and repetitive inspection time intervals determined which are presented in the AD. The inspection threshold has been lowered from 10,000 landings, which was specified in the previous AD's, to 8,000 landings.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 97124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Preliminary information from the accident investigation of a Boeing 707-321C which crashed in Zambia, Africa, revealed that the right hand stabilizer separated from the airplane during final approach. Analysis of the fracture surfaces indicates that the upper rear spar chord of the right hand stabilizer experienced a fatigue failure sometime prior to the fatal flight. The closure rib chord also showed evidence of fatigue. On May 18, 1977, an AD was issued which required visual inspections of the stabilizer rear spar upper chord. This action was later found to be insufficient, since further investigations indicated that cracks may exist in the stabilizer rear spar upper chord which are not detectable by visual means but are de-

tectable by nondestructive testing methods (NDT). A superseding AD was issued on May 27, 1977, requiring one-time NDT inspections of the chord. On July 11, 1977, another AD was issued which required an additional one-time NDT inspection. The telegraphic AD's of May 18 and 27, 1977, were published in the FEDERAL REGISTER as AD 77-14-10, Amendment 39-2969. The inspection threshold was given as 10,000 landings in the previous AD's. After a review of many factors including inspection reports, test results, and probability analysis, it was decided that an 8,000-landing threshold would provide a reasonable starting point for future inspections. This AD supersedes the telegraphic AD's issued on May 18 and May 27, 1977, Amendment 39-2969 and constitutes FEDERAL REGISTER publication of the telegraphic AD issued July 11, 1977.

Since this condition is likely to exist in other 707-300/400/300B/300C airplanes, an AD is now issued requiring repetitive high frequency eddy current or low frequency eddy current inspections of the stabilizer rear spar upper chord from the side of the body outboard to station 92.55, in accordance with Boeing Alert Service Bulletin No. 3313, Revision 2.

This rule was coordinated with The Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 707-300/400/300B/300C series airplanes upon the accumulation of, or with more than, 8,000 landings. Inspect the horizontal stabilizer rear spar upper chord, right and left hand, from the side of the body to horizontal stabilizer station 92.55 for cracks at the time intervals specified in paragraph A, in accordance with the methods of paragraph B. Airplanes with chords found cracked are to be reworked prior to further flight in accordance with one of the methods noted in paragraph C.

A. Within the next 175 landings after the effective date of this AD, unless accomplished within the previous 200 landings prior to the effective date of this AD, and thereafter at intervals not to exceed 375 landings.

B. Inspect in accordance with either the low frequency eddy current inspection procedure or high frequency eddy current inspection procedure as described in Boeing Alert Service Bulletin No. 3313, Revision 2.

C. Rework in accordance with one of the following:

1. If the forward flange of the spar chord is found cracked within the limits as described in Boeing Alert Service Bulletin No. 3313, Revision 2, the chord can remain in service after appropriate rework if reinspected in accordance with paragraph B at intervals not to exceed 375 landings.

2. If the crack penetrates the upper radius from the flange to the chord body, the chord must be replaced prior to further flight.

3. A method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Report all cracks in the chord body to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, noting airplane identification, hours time-in-service, number of landings, crack location and length.

E. With permission of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, the airplane may be flown in accordance with FAR 21.197 to a base where the inspection or repair can be accomplished.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1977, and supersedes the telegraphic AD's issued May 18, May 27, and July 11, 1977, and Amendment 39-2969.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Washington, on August 5, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-23418 Filed 8-12-77;8:45 am]

[Docket No. 77-NW-10-AD; Amdt. 39-3012]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/300B/300C/400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to Airworthiness Directive (AD) 77-02-01 provides for additional visual inspections in areas of the upper wing skin. It also provides ultrasonic inspections for certain fastener holes and allows an additional time interval before beginning required inspections for passenger airplanes which have had the fastener hole oversizing described in Boeing Service Bulletins Nos. 2626 and 2892.

DATES: Effective date: As prescribed in the body of the AD.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, Telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: This amendment provides the necessary instructions for visually inspecting the upper wing skin and rear spar chord for cracks which emanate from fastener holes common to the skin and chord. Ultrasonic inspections are also provided for the four fastener holes just outboard of body buttock line 70.5.

Boeing Service Bulletins Nos. 2626 and 2892 provide modifications which include fastener hole oversizing in the skin in the area of the beavertail and the fuel filler cap area. Since the cargo airplanes have experienced more cracks, this amendment provides an increased time interval before inspections are required on passenger airplanes.

This amendment was coordinated with the Boeing Co. and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, 39.13 of the Federal Aviation Regulations (14 CFR 39), Amendment 39-2812, AD 77-02-01, is amended as follows:

§ 39.13 [Amended]

1. Revise paragraph A to read as follows:

A. Within the next 250 landings, unless accomplished within the last 250 landings and at intervals thereafter not to exceed 500 landings, accomplish the following in accordance with Boeing Service Bulletin No. 3168, Revision 1, or later FAA approved revisions.

(1) X-ray inspect the wing skin under the beavertail for cracks from the rear spar forward through stringer number 12 and the rear spar upper chord and the adjacent wing skin from W.S. 129 to W.S. 197.

(2) Visually inspect the upper wing skin for cracks emanating from the fastener holes common to the rear spar upper chord from W.S. 117 to W.S. 197.

(3) Visually inspect the aft edge of the upper wing skin under the doubler for cracks from BBL 70.5 to W.S. 117.

(4) Ultrasonic inspect the upper wing skin for cracks at the four fastener holes common to the rear spar upper chord just outboard of BBL 70.5.

(5) Wing skins and rear spar chords found cracked are to be repaired prior to further flight in accordance with Boeing Service Bulletin No. 2427 or Boeing Service Bulletin No. 2607, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Inspections are to continue until terminating action per paragraph F has been accomplished.

2. Revise paragraph C to read as follows:

C. If rear spar and/or adjacent wing skin repairs or modifications interfere with any of the inspections of paragraph A or B of this AD, inspect for cracks in accordance with (1) and (2) below or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(1) At the intervals specified in paragraph A or B of this AD (as appropriate to the area where repairs interfere with the required inspections):

(a) Eddy current inspect the wing skin for cracks in the area adjacent to the repairs; or

(b) If internal steel doublers are installed on the horizontal leg of the rear spar upper chord, conduct a close visual inspection of the vertical leg of the rear spar upper chord for cracks emanating from the horizontal leg. When doublers on the rear spar vertical leg prohibit a close visual inspection, inspect the exposed lower edge of the vertical leg of the rear spar upper chord for new cracks.

(2) At intervals not to exceed 4,800 landings, visually inspect the exposed wing skin and exposed upper rear spar chord from inside and outside the wing.

3. At the end of paragraph D add the following: "* * * for 707-300C airplanes and 10,000 landings after oversizing for 707 -300, -400, -300B airplanes."

4. At the end of paragraph E add the following: "* * * for 707-300C airplanes and 6,000 landings after oversizing for 707-300, -400, -300B airplanes."

5. Revise the paragraph regarding AD supersedure to read: "This supersedes AD 68-07-03 (Amendment 39-571), AD 68-16-03 (Amendment 39-629), and paragraph (a) of AD 64-11-01 (Amendment 39-763)"

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective August 15, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on August 5, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.77-23424 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area, Albany, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Albany, N.Y., control zone and transition area, to take into consideration the revision to the VOR instrument approach procedure for Albany County Airport.

EFFECTIVE DATE: 0901 G.m.t. October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Albany, N.Y., control zone and transition area. The NPRM was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31805). The proposal resulted from a change to the instrument approach procedure.

Interested parties were given 20 days in which to submit comments. No objections to the proposal had been received.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 6, 1977, as published.

(Sections 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 27, 1977.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the present description of the Albany, N.Y., control zone and by inserting the following in lieu thereof:

"Within a 5-mile radius of the center 42°44'43" N., 73°48'05" W., of Albany County Airport, Albany, N.Y.; within 3 miles each side of the Albany VORTAC 354° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 4 miles each side of the Albany VORTAC 082° radial, extending from the 5-mile radius zone to 15 miles east of the VORTAC; within 2 miles each side of the extended centerline of Albany County Airport Runway 10, extending from the 5-mile radius zone to 5 miles west of the approach end of Runway 10; within 3 miles east of the VORTAC; within 2 miles radial, extending from the 5-mile radius zone to 8.5 miles south of the VORTAC."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Albany, N.Y., 700 foot floor transition area as follows:

Delete "Albany VORTAC 072° radial" and insert, "Albany VORTAC 082° radial" in lieu thereof.

[FR Doc.77-23316 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transiton Area: Indiana, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Indiana, Pa., Transition Area, by chang-

ing the direction of the 091 RBN bearing extension by one degree and widening the extension by approximately 1 mile on each side of the bearing. It also increases the length by 1½ miles. These adjustments result from a change in a beacon instrument approach procedure for Indiana County-Jimmy Stewart Field, Indiana, Pa.

EFFECTIVE DATE: 0901 GMT October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Indiana, Pa., Transition Area. The NPRM was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31808)

Interested parties were given 30 days in which to submit comments. No objections to the proposal had been received.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 6, 1977, as published.

(Sections 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Indiana, Pa transition area by deleting, "and within 3.5 miles each side of the 091° bearing from the Indiana RBN (lat. 40°37'54" N., long. 79°03'51" W.) extending from the 7-mile radius area to 9.5 miles east of the RBN.", and by inserting the following in lieu thereof, "and within 4.5 miles each side of the 090° bearing from the Indiana RBN (lat. 40°37'54" N., long. 79°03'51" W.) extending from the 7-mile radius area to 11 miles east of the RBN."

[FR Doc.77-23317 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Corry, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Corry, Pa., Transition Area, by changing the radial reference of the Tidioute, Pa., VORTAC by 2°, from 319° to 321°. After Docket 76-EA-98 was issued, the new VOR RWY 32 approach procedure was published showing the radial reference as 321° instead of 319° as found in the rule. Thus, the reference must be corrected to conform to the published approach.

EFFECTIVE DATE: 0901 GMT August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone: 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is to alter the Corry, Pa., Transition Area. The rule resulted from a change in the instrument approach procedure.

The change in radial reference of 2° is so minimal as to impose no additional burden on any person and thus notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT August 18, 1977, as follows:

1. Amend the Corry, Pa., Transition Area so as to delete the reference to the 319° radial and insert in lieu thereof "321° radial".

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Issued in Jamaica, N.Y., on July 27, 1977.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-23318 Filed 8-12-77;8:45 am]

[Docket No. 77-SO-4]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Wilson, North Carolina, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Wilson, N.C. This action provides necessary controlled airspace for accommodation of IFR operations at the Wilson Municipal Airport.

EFFECTIVE DATE: 0901 GMT, August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7647.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on February 17, 1977 (42 FR 9683) which proposed the designation of the Wilson, N.C., 700-foot transition area. The transition area is required to provide controlled airspace for aircraft executing a new NDB approach procedure to Runway at the Wilson Municipal Airport.

The Department of the Air Force objected to the proposed designation as it would establish transition area airspace within the perimeter of one of the most heavily used VFR low altitude training routes (TR-48) in the southeast.

The FAA does not consider the objection valid, as aircraft operating VFR on TR-48 must have a ceiling of at least 3,000 feet and visibility of five miles. With these weather minimum, both military and civil aircraft in the vicinity of Wilson will be operating on a "see-and-be-seen" basis, in accordance with Federal Aviation Regulations.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 11, 1977, by adding the following:

WILSON, NORTH CAROLINA, 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wilson Municipal Airport (Lat. 35°-46'00" N., Long. 77°58'00" W.); within 3 miles each side of the 223° bearing from the Wilson RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion that coincides with the Rocky Mount, N.C., transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on August 2, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-23319 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-SO-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends V-441 eastward from St. Petersburg, Fla., via Lakeland, Fla., and an intersection to Melbourne, Fla., reducing the airway distance between Lakeland and Melbourne.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 23, 1977, the FAA published for comment a proposal to extend V-441 eastward from St. Petersburg, Fla., to Melbourne, Fla. (42 FR 31806). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) extends V-441 to begin at Melbourne, Fla., and go via the INT of the Melbourne 269°T (269°M) and the Lakeland, Fla., 080°T (079°M) radials; Lakeland; to St. Petersburg, Fla., thence as it is presently described.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows: In V-441 "From St. Petersburg, Fla.," is deleted and "From Melbourne, Fla., via INT Melbourne 269° and Lakeland, Fla., 080° radials; Lakeland; St. Petersburg, Fla.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23322 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airway V-37 between Morgantown, W. Va., and Ellwood City, Pa. This action is necessary to reduce aircraft radio frequency changes and provide more efficient use of the navigable airspace in and around the Greater Pittsburgh Airport Area.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 16, 1977, the FAA proposed to amend Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-37 between Morgantown, W. Va., and Ellwood City, Pa., (42 30638). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objection was registered in the one comment received. This amendment is that proposed in the notice. § 71.123 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns V-37 between Morgantown, W. Va., and Ellwood City, Pa. The FAA acknowledges that the realignment will add one mile to the overall distance between Morgantown and Ellwood City. However, the FAA believes that the benefits to be gained by reducing the number of radio changes required from three to two and the improved air traffic handling capabilities will offset the extra mile of flying.

DRAFTING INFORMATION

The principal authors of this document are David F. Solomon, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows: In V-37 "INT Morgantown 336 and Ellwood City, Pa., 177° radials" is deleted and "INT Morgantown 331° and Ellwood City, Pa., 185° radials" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc 77-23323 Filed 8-12-77;8 45 am]

[Airspace Docket No. 76-WE-31]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns V-12, V-25, V-27, V-186 and V-485 airways in the southwestern California area. This action will improve traffic

handling capabilities, reduce airway distances between air navigation aids and promote safety by helping to segregate en route and terminal traffic.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 16, 1977, the FAA published for comment a proposal to realign several airways in the southwestern California area (42 FR 30639). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objections. Subsequent to publication of the notice of proposed rule making, it has been determined that the proposed standard west alternate to V-25 between Santa Barbara, Calif., and Paso Robles, Calif., would not improve the traffic handling capabilities as expected, and is therefore omitted from this amendment.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns VOR Federal Airways V-12, V-25, V-27, V-186 and V-485 segments as follows:

1. V-12 from Santa Barbara, Calif., direct to Palmdale, Calif., and V-12 S from Santa Barbara to Palmdale via Fillmore, Calif.

2. V-25 from Ventura, Calif., direct to Santa Barbara, Calif.

3. V-27 from Ventura, Calif., via INT Ventura 326°T(311°M) and Fillmore, Calif., 265°T(250°M) radials; INT Fillmore 265°T(250°M) and Gaviota, Calif., 143°T(127°M) radials; to Gaviota.

4. V-186 from Fillmore, Calif., via INT Fillmore 265°T(250°M) and Santa Barbara, Calif., 123°T(107°M) radials to Santa Barbara.

5. V-485 from Ventura, Calif., direct to Fellows, Calif.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows:

1. In V-12, all before "Hector, Calif.;" is deleted and "From Gaviota, Calif., via Santa Barbara, Calif.; Palmdale, Calif., including a south alternate via Fillmore, Calif.; 38 miles, 6 miles wide," is substituted therefor.

2. In V-25, all between "6 miles wide, Ventura;" and "Paso Robles, Calif.;" is deleted and "Santa Barbara, Calif.;" is substituted therefor.

3. In V-27, "6 miles wide, INT Ventura 331° and Fillmore, Calif., 268° radials; INT Fillmore 268°" is deleted and "INT Ventura 326° and Fillmore, Calif., 265° radials; INT Fillmore 265°" is substituted therefor.

4. In V-186, "From Fillmore, Calif.," is deleted and "From Santa Barbara, Calif., via INT Santa Barbara 123° and Fillmore, Calif., 265° radials; Fillmore;" is substituted therefor.

5. In V-485, all before "Priest, Calif.;" is deleted and "From Ventura, Calif., via Fellows, Calif.;" is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23325 Filed 8-12-77;8:45 am]

[Airspace Docket No. 76-WA-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign a segment of VOR Federal Airway identified as V-2 and V-21 Hawaii and redefine Restricted Area R-3104 Island of Kahoolawe, Hawaii, to provide sufficient distance between V-2/21 Hawaii and R-3104. These actions ameliorate the flow of air traffic by allowing simultaneous use of both areas.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 7, 1976, in the FEDERAL REGISTER (41 CFR 44193), the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to realign a portion of V-2 Hawaii and V-21 Hawaii and to reduce Restricted Area R-3104, Island of Kahoolawe, Hawaii. The present distance of 2.2 NM between the centerline of V-2/21 and the northern boundary of Restricted Area R-3104 is cited in a petition for rule making filed by the Honorable Elmer F. Cravalho, Mayor of Maui, Hawaii, for revocation of Restricted Area R-3104 Kahoolawe, Hawaii, as one of the reasons for his petition. The FAA has reviewed all matters presented in the petition and supplementary memorandum and, with one exception, does not agree with the analysis presented. The FAA agrees with the petitioner regarding the need for a greater distance between the two areas (V-2/21 and R-3104). Therefore, these actions, the realignment of V-2/21 and the reduction of Restricted Area R-3104, are a partial granting of Mayor Elmer F. Cravalho's petition. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. On November 26, 1976, in FEDERAL REGISTER (41 FR 52064) the FAA extended the comment period until December 15, 1976, in order to allow commenters additional time to submit comments. Numerous comments were received and due consideration has been given to all matters presented. Except for editorial changes, and except as specifically discussed below, these amendments are those proposed in the notice. Sections 71.127 and 73.31 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 343 and 674, respectively).

THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (FARs): (1) Align V-2 Hawaii and V-21 Hawaii via the Lanai, Hawaii, 106°T (095°M) radial; (2) establish the segment of V-2/21 Hawaii between the 22 NM fix on the south side of the Lanai, Hawaii, 106°T (095°M) radial and the 28 NM fix to an authorized width of 3 nautical miles; (3) define the northern boundary of Restricted Area R-3104A/B/C, Kahoolawe, Hawaii, via the Kahoolawe shoreline.

DISCUSSION OF COMMENTS

Of the nine written comments received by the FAA on the October 7 proposal, four commenters objected to the proposed rule. Three of the four objectors based their objection to the realignment of V-2 and V-21 on the higher minimum en route altitudes. The FAA agrees that any altitudes higher than those presently authorized for V-2 and V-21, due to terrain shielding of VOR signal as a result of the realignment of V-2/21 from the present Lanai VOR 096° to the 095° radial, would be overly restrictive on operational requirements. The FAA's review of cumulative flight check data gathered from eight flight checks in the past three years indicated that: (1) the alignment remains within 0.3°, (2) there is no scalloping or roughness in the radial, and (3) the overall station alignment runs from 0° to −1.0°, far above the national average. Therefore, the present altitudes being used for the present alignment of V-21 along the Lanai VOR 096° radial will be retained for the realignment of V-21 via the Lanai VOR 095° radial.

The Department of the Navy contended that the northern boundary of R-3104 need not be relocated and that a greater distance between V-2/21 and R-3104 could be provided by realigning V-2/21 via the Lanai VOR 092° radial to the Upolu Point VOR 295° radial thence via the Upolu Point 295° radial to Lanai VOR 096°; for V-21 thence along the presently established V-21 airway; for V-2 thence along the Upolu Point 295° radial to Upolu Point VOR. The FAA agrees that the Navy's proposal would provide the required distance for simultaneous use of both areas. However, the FAA does not find this option (a dogleg in the airway) as desirable as the actions being taken.

There was an objection to the proposed continued application of an airway width of 3 NM on one or both sides of the centerline. A primary concern was that safety would be compromised. However, the area in question is within 27 miles of the Lanai VOR, and the airway has been satisfactorily used since 1953, first with 2 miles separation between V-2/21 and R-3104. In addition, an airway with 3 NM on one or both sides of the centerline conforms to the present criteria for establishing airways.

One commenter stated that due consideration is only being given to the military users of R-3104 and W-324. The FAA does not agree. These actions of reducing the size of Restricted Area R-3104, realigning and increasing the width of V-2/V-21, Hawaii, which pass along the northern boundary of R-3104 will allow simultaneous use of both areas when R-3104 is activated. Therefore, these actions will fulfill the requirement of Section 306 of the Federal Aviation Act of 1958 (49 U.S.C. § 1347) to "give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace."

Mayor Elmer F. Cravalho stated that "the action by FAA in its proposed rule making is perceived as an attempt to moot certain issues contained in the County of Maui's petition while circumventing an appropriate judicial process. Thus, the proposed rule is inappropriate unless viewed as part of the overall issues in the County of Maui's petition and unless treated by FAA in this perspective. Consequently, the proposed rule should not be enacted unless processed in said manner." The FAA agrees with the petitioner that these actions are closely related to the issues contained in the petition which are under the authority conferred to FAA by the Federal Aviation Act of 1958. Therefore, these actions are being viewed as part of the overall issues in the County of Maui's petition and are a partial grant of Mayor Elmer F. Cravalho's petition. In addition, Mayor Cravalho objected to the proposed actions based on the following: (1) The proposed modification of R-3104 is unclear in its geographic identification (via the Kahoolawe shoreline) and does not permit an interested party to comment as to whether the spacing of V-2/V-21 (2.1 NM) from R-3104 will be rectified by the proposed actions; (2) the proposed amendments do not appear to provide the necessary 3 NM spacing as required by law; (3) the minimum en route altitude would be increased by the proposed actions; (4) the notice of proposed rule making does not include the effects of the airway realignment on the airway intersection and reporting points eastward; (5) the proposed actions are inconsistent with the interim actions taken; (6) there is no indication in the notice that there is any contemplated change in Navy bombing or firing runs or patterns, or any indication that the FAA will direct any action to reduce the size of the restricted area; (7) the NPRM does indicate environmental consideration of the proposed actions.

The FAA does not agree with Items 1-4. The closest point between the Lanai 106°T radial and the Kahoolawe shoreline is greater than 3 NM. The minimum en route altitude has been discussed above. No regulatory action concerning reporting points is anticipated as a result of these actions; however, some minor changes tto airway intersections will occur as a result of moving V-2/21 one degree north. The FAA agrees that the interim action taken by FAA (realigning V-2/21 four degrees north) is not the same as the proposed actions because of the considerations of the issues presented in the commenter's petition. Because these are airspace actions and not proposed operational changes, the airspace actions do not address the operational changes such as bombing/firing run patterns. However, this notice of proposed rule making did in fact propose to reduce the size of R-3104 by proposing to redefine the northern boundary of R-3104 by the Kahoolawe shoreline. Generally, notices of proposed rule making do not indicate environmental considerations in their proposed action. However, the environmental impact of these actions have been assessed in accordance with FAA Order 1050.1B.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 307 and 674) are amended, effective October 6, 1977, as follows:

PART 71

1. By amending § 71.127 (42 FR 343) to alter the following VOR Federal Airway: In V-2 Hawaii "Lanai 107°" is deleted and "Lanai 106 " is substituted therefor. In V-21 Hawaii "Lanai 107°" is deleted and "Lanai 106 " is substituted therefor After "FIR Oceanic CTA." "The airspace within R-3104 is excluded." is added.

PART 73

2. By amending § 73.31 (42 FR 674) to alter the following restricted areas: In R-3104A, R-3104B and R-3104C Island of Kahoolawe, Hawaii "20 37'00" N., Longitude 156 35'15" W.; is deleted and "20 36'20" N., Longitude 156 36'30" W.," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348 a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., August 4, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division

[FR Doc.77-23324 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-WE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Orland, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Orland, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Haigh Field, Orland, Calif.

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261; Telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to desig-

nate a transition area at Orland, California.

On June 27, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 32554) stating that the Federal Aviation Administration proposed to designate a transition area at Orland, Calif., to provide controlled airspace for aircraft executing an instrument approach procedure established for Haigh Field.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 6, 1977.

§ 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

ORLAND, CALIF.

That airspace extending upward from 700 feet above the surface within a three mile radius of Haigh Field (latitude 39°43'16" N., longitude 122°08'50" W.); and within three miles each side of the Chico VOR 253° radial, extending from the three mile radius area to twelve miles west of the VOR.

NOTE.—This amendment is issued under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 2, 1977.

FRANK HAPPY,
Acting Deputy Director,
Western Region.

[FR Doc.77-23419 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-SW-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Hobby, Tex., VORTAC will be relocated from one side of the Hobby airport property to the other on October 6, 1977, to permit further airport development. V-15, V-20, V-76 airways and J-37, J-138, J-177 jet routes will automatically move slightly without redesignation in Parts 71 and 75. The description of the Humble waypoint will be changed without changing Part 75 or its geographical location. Alteration of the description of V-198 east of Hobby by one degree is required, however, to retain the present position of the Smith, Tex., intersection.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of V-198, east of Hobby, Tex., one degree from 090° to 091°. This will permit retention of the Smith, Tex., intersection at its present position. Because this action realigns V-198 only one degree, it is considered minor in nature and one on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, §71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 G.m.t. October 6, 1977, as follows:

In V-198 "Hobby, Tex.; INT Hobby 090°" is deleted and "Hobby, Tex.; INT Hobby 091°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.77-23434 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-WA-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Atlanta, Ga., Terminal Control Area (TCA) by adding TCA airspace where required to accommodate revised procedures, and by deleting TCA airspace that is no longer required. This amendment also makes permanent the temporary increase of the Atlanta TCA ceiling from 8,000 feet MSL to 12,500 feet MSL within a 35 mile radius of Atlanta. This amendment provides the appropriate Atlanta TCA configuration to handle current and anticipated operational requirements.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 20, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Atlanta TCA (42 FR 31173). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Four comments were received on the NPRM. The Air Transport Association of America and the Aircraft Owners and Pilots Association concurred with the proposal. The United States Air Force (USAF) and the United States Navy (USN) stated that they objected to the proposal; however, a review of their comments revealed that their objections actually were of a procedural nature and not directly related to the existing or proposed configuration of the Atlanta TCA. The FAA will continue to work with the USAF and USN to solve these procedural problems. This amendment is the same as was proposed in the notice. Section 71.401 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 642), and the Atlanta TCA was amended (41 FR 56789, 42 FR 14861).

THE RULE

This amendment alters the Atlanta TCA by adding TCA airspace where required for revised procedures and deleting TCA airspace no longer required. It also makes permanent the temporary extension of the Atlanta TCA ceiling from 8,000 feet MSL to 12,500 feet MSL within a 35 mile radius of Atlanta. The original Atlanta TCA became operational on June 25, 1970, and has been revised several times to accommodate revised procedures and runway configurations. Profile descent procedures were instituted this year in Atlanta to minimize the amount of time high performance aircraft (turbojet aircraft and turboprop aircraft weighing more than 12,500 pounds) operate in and around terminal areas. The requirements for profile descent procedures are incorporated in the reconfiguration of the Atlanta TCA to assure that the flight paths of high performance aircraft operate at or above the designated floors while within the lateral limits of the TCA.

On April 24, 1975, a temporary test expansion of the Atlanta TCA became effective which added a ring within a 35-mile radius from 8,000 feet MSL to 12,500 feet MSL to permit containment of jet aircraft within protected airspace during transition into and out of Atlanta. The test expansion has provided additional safety for terminal jet operations without unacceptable hindrance to aircraft wishing to bypass Atlanta, and the test expansion is made permanent. Subpart K of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 642), and the Atlanta TCA was amended (41 FR 56789, 42 FR 14861).

DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 642) is amended, effective 0901 GMT, October 6, 1977, as follows:

In § 71.401, the Atlanta, Ga., Terminal Control Area is rewritten as follows:

Primary Airport, Atlanta Airport (Lat. 33°38'31" N., Long. 84°25'34" W.)

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL, bounded on the east and west by a seven-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R 27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08 26 localizer courses; excluding the Charlie Brown County Control Zone.

Area B. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 12-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R 27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08 26 localizer courses; excluding the Charlie Brown County Control Zone and that airspace contained in Area A.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 20-mile radius of the Atlanta VORTAC, on the south by a line eigth miles south of and parallel to the Runway 09R 27L localizer courses, and on the north by a line eight miles north of and parallel to the Runway 08 26 localizer courses; excluding that airspace contained in Areas A and B.

Area D. That airspace extending upward from 6,000 MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC; excluding that airspace clockwise between the Atlanta VORTAC 138 and 218 radials south of a line 12 miles south of and parallel to the Runway 09R 27L localizer courses, that airspace clockwise between the Atlanta VORTAC 323 and 031 radials north of a line 12 miles north of and parallel to the Runway 08 26 localizer courses, and that airspace contained in Areas A, B, and C.

Area E. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 29-mile radius of the Atlanta VORTAC; excluding that airspace contained within Areas A, B, C, and D.

Area F. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta VORTAC; excluding that airspace contained in Areas A, B, C, D, and E.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 9, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.77-23435 Filed 8-12-77;8:45 am]

[Airspace Docket No. 76-AL-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the Eagle River, Alaska, Restricted Areas identified as R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted area in the vicinity of Fort Richardson, Alaska. These actions provide for the safe and efficient use of the navigable airspace and release to the flying public the airspace overlying the water in Knik Arm north of the shoreline.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On February 24, 1977, an advanced notice in the form of a circular was circulated to interested persons stating that the FAA was considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Areas R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted areas in the vicinity of Fort Richardson, Alaska. The notice generated 17 concurrences and no objections. This proposal was republished in the FEDERAL REGISTER on June 16, 1977 (42 FR 30642). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. We received one response to the NPRM in which the commenter posed no objection to the proposal. Sections 71.151 and 73.22 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 345 and 658, respectively). Section 73.22 was amended on February 24, 1977 (41 FR 56790) and Section 71.151 was subsequently amended with an effective date of August 11, 1977 (42 FR 29475).

THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (FARs) alter the Eagle River, Alaska, Restricted Areas R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted area in the vicinity of Fort Richardson, Alaska. Alteration of the Eagle River, Alaska, Restricted Areas releases to the flying public the airspace overlying the water in Knik Arm north of the shoreline. In addition, the action of lowering the ceiling from 18,000 feet MSL to 11,000 feet MSL resulted in the removal of R-2203A and R-2203B from the Continental Control Area which consists of the airspace of the 48 contiguous states and Alaska at and above 14,500 feet MSL. The new Restricted Area R-2203C west of and adjacent to R-2203B, includes that airspace from the surface to 5,000 feet MSL over land area only. This additional restricted area is required to provide needed impact area to properly train field artillery battalions.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 71 and Subpart K of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, effective 0901 GMT, October 6, 1977, as follows:

§ 71.151 (42 FR 345 and 29475) is amended as follows:

"R-2203A Eagle River, Alaska" and "R-2203B Eagle River, Alaska" are deleted.

§ 73.22 (41 FR 56790 and 42 FR 658) is amended as follows:

In R-2203A Eagle River, Alaska, "61°17'20" N., Longitude 149°40'00" W.; to Latitude 61°17'15" N., Longitude 149°40'00" W.;" is deleted and "61°18'00" N., Longitude 149°39'45" W.; to Latitude 61°18'00" N., Longitude 149°44'00" W.; to Latitude 61°17'15" N., Longitude 149°42'25" W.;" is substituted therefor. In addition, "18,000" is deleted and "11,000" is substituted therefor.

In R-2203B Eagle River, Alaska, all between "Boundaries" and "to the point of beginning" is deleted and "Beginning at Latitude 61°24'34" N., Longitude 149°33'48" W.; thence southwesterly along the shoreline to Latitude 61°19'45" N., Longitude 149°44'00" W.; to Latitude 61°18'00" N., Longitude 149°44'00" W.; to Latitude 61°18'00" No., Longitude 149°39'45" W.; thence northeasterly along the Alaska Railroad to Latitude 61°22'00" N., Longitude 149°33'48" W.;" is substituted therefor. In addition, "18,000" is deleted and "11,000" is substituted therefor.

The following is added:

R-2203C Eagle River, Alaska

Boundaries. Beginning at Lat. 61°19'45" N., Long. 149°44'00" W.; thence westerly along the shoreline to Lat. 61°19'38" N., Long. 149°46'36" W.; to Lat. 61°19'12" N., Long. 149°46'36" W.; to Lat. 61°18'00" N., Long. 149°44'00" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency. FAA, Anchorage Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23433 Filed 8-12-77;8:45 am]

[Docket No. 17101; Amdt. No. 1085]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:
1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed weekly, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the ERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 10, Amdt. 11
Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 28, Amdt. 16
Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 33L, Amdt. 1
Baltimore, MD—Baltimore-Washington Int'l, VOR DME Rwy 22, Amdt. 4
Newport News, VA—Patrick Henry Int'l, LOC (BC) Rwy 25, Amdt. 7

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., VOR Rwy 4, Amdt. 6
Tuscaloosa, AL—Tuscaloosa Muni., VOR Rwy 22, Amdt. 8
Bishop, CA—Bishop, VOR-A, Amdt. 2
Newburyport, MA—Plum Island, VOR Rwy 10, Amdt. 2
St. Louis, MO—Lambert-St. Louis Int'l, VOR Rwy 12L, Amdt. 7
St. Louis, MO—Lambert-St. Louis Int'l, VOR Rwy 12R, Amdt. 16
Portsmouth, OH—Greater Portsmouth Regional, VOR DME-A, Amdt. 1

* * * *Effective September 8, 1977.*

Philadelphia, PA—North Philadelphia, VOR Rwy 6, Amdt. 9
Philadelphia, PA—North Philadelphia, VOR Rwy 24, Amdt. 17

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, LOC(BC) Rwy 33L, Amdt. 4
Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 2

* * * *Effective September 22, 1977.*

Columbia, MO—Columbia Regional, LOC (BC) Rwy 20, Amdt. 4
St. Louis, MO—Lambert-St. Louis Int'l, LOC BC Rwy 6, Amdt. 22
Cleveland, OH—Cleveland Hopkins International, LOC Rwy 28R, Originial
Columbia-Mt. Pleasant, TN—Maury County, SDF Rwy 23, Original

* * * *Effective September 8, 177.*

Philadelphia, PA—North Philadelphia, LOC (BC) Rwy 6, Amdt. 2

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Marathon, FL—Marathon Flight Strip, NDB Rwy 7, Original
Newport News, VA—Patrick Henry Int'l, NDB Rwy 7, Admt. 17
Milwaukee, WI—General Mitchell Field, NDB Rwy 1L, Amdt. 1
Milwaukee, WI—General Mitchell Field, NDB Rwy 7R, Amdt. 6
Mineral Point, WI—Iowa County, NDB Rwy 22, Original

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., NDB Rwy 4, Amdt. 4
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 12R, Amdt. 7
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 24, Amdt. 30
Whiteville, NC—Columbus County Municipal, NDB Rwy 5, Original
Athens (Albany), OH—Ohio University, NDB Rwy 24, Amdt. 3
Cleveland, OH—Cleveland Hopkins International, NDB Rwy 5R/L, Amdt. 13
Cleveland, OH—Cleveland Hopkins International, NDB Rwy 23L/R, Amdt. 3
Gallipolis, OH—Gallia-Meigs Regional, NDB Rwy 23, Amdt. 1
Hamilton, OH—Hamilton, NDBA-A, Amdt. 8
Youngstown, OH—Lansdowne, NDB-B, Amdt. 6
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 5, Amdt. 3, cancelled
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 23, Original
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 23, Amdt. 5, cancelled
Lufkin, TX—Angelina County, NDB Rwy 33, Original, cancelled
Juneau, WI—Dodge County, NDB Rwy 2, Amdt. 7
Juneau, WI—Dodge County, NDB Rwy 20, Amdt. 5
Racine, WI—Horlick-Racine, NDB Rwy 22, Amdt. 11

4. By amending § 97.29 ILSM-LMS SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 10, Amdt. 8
Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 15R, Amdt. 8
Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 28, Amdt. 2
Newport News, VA—Patrick Henry Int'l, ILS Rwy 7, Amdt. 21
Milwaukee, WI—General Mitchell Field, ILS Rwy 1L, Amdt. 1
Milwaukee, WI—General Mitchell Field, ILS Rwy 7R, Amdt. 8
Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 3

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., ILS Rwy 4, Amdt. 6
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 5R, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 23L, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 28R, Amdt. 14
St. Louis, MO—Lambert-St. Louis Int'l Rwy 12R, Amdt. 11
St. Louis, MO—Lambert-St. Louis Int'l Rwy 24, Amdt. 34
St. Louis, MO—Lambert-St. Louis Int'l Rwy 30L, Amdt. 2

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, RADAR-1, Amdt. 7
Milwaukee, WI—General Mitchell Field, RADAR-1, Amdt. 20

* * * *Effective September 22, 1977.*

St. Louis, MO—Lambert-St. Louis Int'l, RADAR-1, Amdt. 19
Cleveland, OH—Cleveland Hopkins International, RADAR-1, Amdt. 24

* * * *Effective August 25, 1977*

Champaign-Urbana, IL—University of Illinois-Willard, RADAR-1, Original

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, RNAV Rwy 22, Amdt. 3

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, RNAV Rwy 22, Amdt. 3

* * * *Effective September 22, 1977.*

Palm Springs, CA—Palm Springs Municipal, RNAV-B, Orig, cancelled
St. Louis, MO—Lambert-St. Louis Int'l, RNAV Rwy 30L, Amdt. 4
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 10L, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 18R, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 36L, Amdt. 5
Hamilton, OH—Hamilton, RNAV Rwy 29, Amdt. 2
Portsmouth, OH—Greater Portsmouth Regional, RNAV Rwy 18, Amdt. 1

* * * *Effective September 8, 1977.*

Philadelphia, PA—North Philadelphia, RNAV Rwy 15, Amdt. 2
Philadelphia, PA—North Philadelphia, RNAV Rwy 33, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on August 5, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc.77-23315 Filed 8-12-77;8:45 am]

Title 20—Employees Benefits

CHAPTER VIII—JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

PART 901—REGULATIONS GOVERNING THE PERFORMANCE OF ACTUARIAL SERVICES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

Adoption of Provisions Governing Enrollment of Actuaries and Public Availability of Information; Correction

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Correction of final rule.

SUMMARY: This correction is necessary to eliminate technical mistakes in the summary and supplementary information portions of the statement preceding the final rules adopted by the Joint Board for the Enrollment of Actuaries which appear at 42 FR 39200 (August 3, 1977).

EFFECTIVE DATE: January 14, 1976.

FOR FURTHER INFORMATION:

Forest D. Montgomery, Counselor to the General Counsel, U.S. Department of the Treasury, Washington, D.C. 20220 (202-566-5311).

SUPPLEMENTARY INFORMATION: The following changes are being made in the summary and supplementary information portions of the statement preceding the final rules adopted by the Joint Board for the Enrollment of Actuaries (42 FR 39200).

(1) In the summary, insert "Circuit" following the word "Columbia" in the fifth line .

(2) On page 39200, in the first paragraph immediately following the heading "'Two-tier' Enrollment System", beginning at line 4, strike the words "actuaries working on", plus the remainder of that sentence, and substitute the following words: "persons with a high level of actuarial skills examining the larger pension plans, and a second enrollment standard (or second tier) for actuaries working on smaller and simpler plans who may not possess a high level of actuarial skills." (This change is necessary to make the discussion of the suggested two classes of enrollment in the first paragraph under "'Two-Tier' Enrollment System", which refers to actuaries working on smaller and simpler plans as being in the "first tier," more consistent with the next to last paragraph under

that heading, which refers to such actuaries as being in the "second tier.")

(3) In the last sentence of the same paragraph, change "ERIS" to "ERISA."

Dated: August 10, 1977.

FOREST D. MONTGOMERY,
Acting Chairman, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-23437 Filed 8-12-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 221—OPERATION AND MAINTENANCE

Flathead Irrigation Project

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final publication of amendment.

SUMMARY: The purpose of this amendment is to establish the lump sum assessments against the Flathead, Mission, and Jocko Valley Irrigation Districts within the Flathead Irrigation Project for the season of 1978. This action is necessary to cover the increase in operation and maintenance costs of the Irrigation Project. The notice of intent to modify was published in Volume 42, No. 117, Friday, June 17, 1977, on page 30867. Comments were invited until July 18. No comments were received, therefore, this final publication is in order.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. George L. Moon, Project Engineer, Flathead Irrigation Project, Box 198, St. Ignatius, Mont. 59865. Telephone: 406-745-2661.

SUPPLEMENTARY INFORMATION: The primary author of this document is Mr. George L. Moon. It is hereby certified that the economic and inflationary impacts of this amendment have been carefully evaluated in accordance with Executive Order 11821. The three mentioned Irrigation District Boards of Commissioners have, by resolution, supported this amendment.

Accordingly, §§ 221.24, 221.26 and 221.28 are amended to read as follows:

§ 221.24 Charges.

Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Mont., on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1978 an assessment of $550,607.19 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 88,097.15 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 Charges.

Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Mont., on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 15, 1951, there is hereby fixed, for the season of 1978 an assessment of $97,448.34 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 16,241.39 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 Charges.

Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Mont., on November 13, 1931, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, April 18, 1950, and August 24, 1967, there is hereby fixed for the season of 1978 an assessment of $45,201.30 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 7,471.29 acres, which does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

GEORGE L. MOON,
Project Engineer.

[FR Doc.77-23442 Filed 8-12-77;8:45 am]

Title 27—Alcohol, Tobacco Products, and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-45]

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Ammunition Recordkeeping Requirements

AGENCY: Bureau of Alcohol, Tobacco, and Firearms.

ACTION: Final rule (Treasury decision).

SUMMARY: This document revises ammunition recordkeeping requriements by exempting all Federal licensees from recording retail sales of certain types of ammunition. This amendment is necessary to implement statutory modifications of the Gun Control Act of 1968.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

A. N. Stickney, ATF&E Specialist, Research and Regulations Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION: Pub. L. 91-128 amended the Internal Revenue Code of 1954 by adding section 4182(c) to provide that notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal firearms license shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts of the aforesaid types of ammunition. The amendment did not affect the recordkeeping requirements for pistol and revolver ammunition or ammunition interchangeable between rifles and handguns.

Although existing regulations require all firearms licensees to keep records of the sales of all types of ammunition, the Bureau advised all firearms licensees in Industry Circular No. 69-26, dated December 4, 1969, and Industry Circular No. 70-7, dated February 2, 1970, that they no longer were required to record the name, address, or other information about the retail purchaser of shotgun ammunition, ammunition suitable for use only in rifles, or component parts for these types of ammunition. This Treasury decision updates the present regulations by implementing the provisions of Pub. L. 91-128 (83 Stat. 261).

Consequently, 27 CFR 178.125(c) which requires the maintenance of records on all sales or other dispositions of ammunition is revised to reflect the provisions of 26 U.S.C. 4182(c) and to clarify the recordkeeping requirements of a licensee on sales or other dispositions of ammunition between licensees. Paragraphs in this section are assigned headings to promote readability of the text, and citation of authority is added at the end of the section. Additionally, the title, "Assistant Regional Commissioner", wherever used in § 178.125(g) is replaced by "regional regulatory administrator" (T.D. ATF-32 (41 FR 44038)).

(The originating drafter of this Treasury decision is A. N. Stickney of the Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms. Officials from the Bureau and from the Treasury Department, however, participated in developing the Treasury decision, both on matters of substance and style.)

Because this Treasury decision is liberalizing in nature and requires no public initiative, it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation in 5 U.S.C. 553(d). This Treasury decision is issued under the authority contained in 18 U.S.C. 926 (82 Stat. 1214).

Accordingly, 27 CFR Part 178 is amended as follows:

Section 178.125 is revised to read as follows:

§ 178.125 Record of receipt and disposition.

(a) *Ammunition received by licensed dealers.* * * *

(b) *Ammunition received by licensed collectors.* * * *

* * * * * *

(c) *Ammunition disposition.*—(1) *Sales to nonlicensees.* The sale or other disposition of ammunition, or of an ammunition curio or relic, shall be recorded in a bound record at the time a transaction is made, except that no record need be maintained for the sale of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts of these types of ammunition. Sales or other dispositions of ammunition which are interchangeable between rifles and pistols or revolvers (for example, .22 Rimfire, .45 Pistol and Revolver, and the like) must be recorded. The bound record shall be maintained in chronological order by date of sale or disposition of the ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the ammunition.

The bound record entry shall show:

(i) The date of the transaction;

(ii) The name of the manufacturer;

(iii) The caliber or gauge (or the type of ammunition component);

(iv) The quantity of ammunition (or component);

(v) The name, address, and date of birth of the nonlicensee; and

(vi) The method used to establish the identity of the ammunition purchaser.

The format required for the bound record is as follows:

DISPOSITION RECORD FOR PISTOLS, REVOLVERS, AND INTERCHANGEABLE AMMUNITION

Date	Manufacturer	.22 Caliber Rimfire. Enter only a (✓) if 10 boxes or less. Enter number of boxes if more than 10.	Other		Purchaser				Enter a (✓) in the "Other" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification.
			Caliber, gauge, or type of component	No. of boxes	Name and address	Date of birth	Height	Occupation License	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if he or she complies with provisions of paragraph (d) of this section.

(2) *Sales to licensees.* Sales or other dispositions of all ammunition from a licensee to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers.

(d) *Commercial records of ammunition sales.* * * *

(e) *Firearms receipt and disposition.* * * *

(f) *Commercial records of firearms received.* * * *

(g) *Alternate records.* * * *

(h) *Requirements for importers and manufacturers.* * * *

(Sec. 5, Pub. L. 91-128, 83 Stat. 261 (26 U.S.C. 4182(c)).)

Signed: July 14, 1977.

REX D. DAVIS,
Director.

Approved: August 8, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-23507 Filed 8-12-77;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Representation Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Amendments to rules.

SUMMARY: This document establishes procedures for requests for review of representation cases and for conduct of elections pending review by the Board. The changes are designed to facilitate consideration and disposition of requests for review.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

John C. Truesdale, Esquire, Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

SUPPLEMENTARY INFORMATION: Section 102.67 of the Rules and regulations of the National Labor Relations Board establishes representation case procedures providing for certain actions by the regional director upon petitions for the conduct of elections, and for Board review of such actions. The procedures have provided that when a request for review is filed from the action of the regional director directing an election, that election should not be conducted until the Board has ruled upon the request for review. The amendments to sections 102.67 (b) and (j) promulgated hereby change that procedure. Under those amendments the regional director will now conduct the election, as scheduled, irrespective of the pendency or granting of a request for review. However, all ballots which might be affected by the Board's decision on the request for review shall be segregated in an appropriate manner, and all ballots impounded without opening until the Board's final decision has issued. It is expected that this changed procedure will contribute to the stability of labor relations and the effectiveness of the Board's election process by permitting the parties to plan their election campaigns in confidence that the election will be held as scheduled, and by providing the employees the opportunity to cast their ballots at a time when they are best informed and interested concerning the election issues.

The changes in sections 102.67 (d) and (g) are designed to facilitate consideration and disposition of requests for review of regional directors' decisions, thereby further contributing to the prompt resolution of representation issues. Section 102.67(d) as amended will permit the Board to examine the record in evaluating a request for review, although such requests are still required to be a self-contained document. The amendments to section 102.67(g) will now permit the Board to rule upon the issues on review at the same time it grants the request. Such action will avoid the delay associated with the briefing time after a grant of review, when the issues are clear and readily resolved.

The National Labor Relations Board hereby promulgates amendments to § 102.67 (b), (d), (g), and (j) of its Rules and Regulations, 29 CFR 102.67, and revises those subsections to read as follows:

§ 102.67 Proceedings before the regional director; further hearing; briefs; action by the regional director; appeals from action by the regional director; statement in opposition to appeal; transfer of case to Board; proceedings before the Board; Board action.

* * * * *

(b) A decision by the regional director upon the record shall set forth his findings, conclusions, and order or direction. The decision of the regional director shall be final: *Provided, however,* That within 10 days after service thereof any party may file eight copies of a request for review with the Board in Washington, D.C. Such request shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies shall not be filed and if submitted will not be accepted. Simultaneously therewith, copies thereof shall be served on all other parties to the proceeding and the regional director, and a statement of such service filed with the Board. The regional director shall schedule and conduct any election directed by the decision notwithstanding that a request for review has been filed with or granted by the Board. The filing of such a request shall not, unless otherwise ordered by the Board, operate as a stay of the election or any other action taken or directed by the regional director: *Provided, however,* That if a pending request for review has not been ruled upon or has been granted, ballots whose validity might be affected by the final Board decision shall be segregated in an appropriate manner; and all ballots shall be impounded and remain unopened pending such decision.

* * * * *

(d) Any request for review must be a self-contained document enabling the Board to rule on the basis of its contents without the necessity or recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the request. With respect to ground (2), and other grounds where appropriate, said request must contain a summary of all evidence or rulings bearing on the issues together with page citations from the transcript and a summary of argument. But such request may not raise any issue or allege any facts not timely presented to the regional director.

* * * * *

(g) The granting of a request for review shall not stay the regional director's decision unless otherwise ordered by the Board. Except where the Board rules upon the issues on review in the order granting review, the appellants and other parties may, within 7 days after the issuance of an order granting review, file eight copies of a brief with the Board, which shall be duplicated and served in accordance with the requirements of subsection (b) of this section. A statement of such service shall be filed simultaneously with the Board. Such briefs may be reproductions of those previously filed with the regional director and/or other briefs which shall be limited to the issues raised in the request for review. Where review has been granted, the Board will consider the entire record in the light of the grounds relied on for review. Any request for review may be withdrawn with the permission of the Board at any time prior to the issuance of the decision of the Board thereon.

* * * * *

(j) Upon transfer of the case to the Board, the Board shall proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to decide the issues referred to it or to review the decision of the regional director, and shall direct a secret ballot of the employees or the appropriate action to be taken on impounded ballots of an election already conducted, dismiss the petition, affirm or reverse the regional director's order in whole or in part, or make such other disposition of the matter as it deems appropriate.

[FR Doc.77-23429 Filed 8-12-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

Opportunity for Oral Presentation of Views on CHAMPUS Regulation DOD 6010.8–R

AGENCY: Office of the Secretary of Defense.

ACTION: Public hearing.

SUMMARY: This document announces a public hearing on the recently adopted CHAMPUS Regulation DOD 6010.8–R (42 FR 17972, April 4, 1977). The purpose of the hearing is to provide an opportunity for oral presentation to those who had submitted written comments on the CHAMPUS Regulation during the period April 4 to June 4, 1977, the formal comment period.

DATES: September 7, 8, and 9, 1977, between the hours of 8:30 a.m. to 12 noon, and 1:15 p.m. to 3:45 p.m.

ADDRESSES: Air Force Auditorium, Room GE086, Forrestal Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander James T. Dalton, Room 3E172, Pentagon, Washington, D.C. 20301; Telephone 202–697–2115.

SUPPLEMENTARY INFORMATION: Any changes resulting from these written comments and oral presentations which operate to increase the rights, benefits, or privileges currently provided in the Regulation as published in the FEDERAL REGISTER, Part II, April 4, 1977, pages 17972 through 18032, and to be codified as 32 CFR 199, will be effective retroactively to April 4, 1977, insofar as administratively feasible. Those who submitted written views during the sixty-day comment period and who wish to supplement their views orally may request to make a presentation at the hearing by writing or calling Lieutenant Commander James T. Dalton. A request should include a general description of the subject to be addressed and the names and titles of those who will appear at the hearing to make the oral presentation. Requesters will be notified individually of the hearing schedule as soon after the close of the fourteen day period for requests as practicable.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 8, 1977.

[FR Doc.77-23440 Filed 8-12-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-210]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Niagara River, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the operation regulations for the Canadian National Railway Company drawbridge across the Niagara River, mile 0.6, to allow the draw to remain closed to the passage of vessels. The draw was last opened for the passage of vessels in 1946. The amendment will relieve the owner of the bridge of the burden of maintaining it in operable condition.

EFFECTIVE DATE: This amendment is effective on September 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On November 18, 1976, the Coast Guard published a proposed rule (41 FR 50842) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a public notice dated December 20, 1976. Interested persons were given until January 21, 1977, to submit comments.

DRAFTING INFORMATION

The Principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Two comments were received which objected to the proposal on the grounds that there might be a need in the future for this bridge to be operational. The Coast Guard feels that since no opening for navigation has been required for 31 years, and alternate routes are available, the regulations, as proposed, should be adopted.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.708 to read as follows:

§ 117.708 Niagara River; Canadian National Railway bridge (International Bridge) between Buffalo, N.Y., and Fort Erie, Ontario, Canada.

The draw need not open for the passage of vessels. However, the draw shall be returned to operable condition within six months after notification from the Commandant, U.S. Coast Guard, to take such action.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: August 8, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-23467 Filed 8-12-77;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-413]

PART 274—PEST CONTROL PROGRAM FOR CIVIL WORKS PROJECTS

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The final rule assigns responsibilities and prescribes procedures concerning the use of chemicals in the pest control program at all Civil Works projects. It also presents guidance for the preparation and submission of pest control reports. Under the provisions of Section 4, Pub. L. 92–516, the Environmental Protection Agency is responsible for Federal certification of pesticide applicators through its development of a single Government Agency Plan (GAP). By letter dated 30 December 1976, the Administrator of the Environmental Protection Agency has stated that Federal certification will no longer be undertaken pursuant to a single GAP. Instead, the Environmental Protection Agency will exercise its responsibilities by approving individual Agency Plans which will permit each Federal Agency to certify its own employees. The Department of Defense has developed an Agency Plan for certification of its pesticide applicators which has been approved in principle and concept. It has been determined that the DOD Agency Plan satisfies the training requirement for certification of civil works personnel. Pending final approval of the DOD Agency Plan, Corps of Engineers pesticide supervisors and applicators will be certified in accordance with the criteria described in the regulation. The effect of this action is to make the public aware of the procedures concerning the use of pesticides by Corps of Engineers personnel at all Civil Works projects.

EFFECTIVE DATE: The effective date of this regulation is 15 August 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale Crane, (202–693–7177), Recreation-Resource Management Branch, HQDA (DAEN–CWO–R), WASH DC 20314.

NOTE: The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 4, 1977.

JAMES N. ELLIS,
Colonel, Corps of Engineers, Chief of Staff

Accordingly, 33 CFR is amended by adding Part 274 as follows:

PROJECT OPERATION

Sec.
274.1 Purpose.
274.2 Applicability.
274.3 References.
274.4 Pesticide management.
274.5 Certification.
274.6 Division/district pest control programs.
274.7 Authorization of pesticide use.

AUTHORITY: Pub. L. 92–516, Federal Insecticide, Fungicide and Rodenticide Act of 1972 (86 Stat. 973, 21 Oct 72, 40 CFR Part 171, Federal Certification of Pesticide Applicators

PROJECT OPERATION

§ 274.1 Purpose.

The purpose of this regulation is to assign responsibilities and prescribe procedures concerning the use of chemicals in the Corps pest control program at all civil works projects. It also presents guidance for the preparation and submission of an annual pest control summary report.

§ 274.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 274.3 References.

(a) Public Law 92–516, Federal Insecticide, Fungicide and Rodenticide Act of 1972, (86 Stat 973), 21 October 1972.

(b) Public Law 91–596, Occupational Safety and Health Act of 1970, (84 Stat. 1609, 29 USC 668). 29 December 1970.

(c) Medical Surveillance Guide, U.S. Army Environmental Hygiene Agency, January 1975.

(d) Guide for the Medical Surveillance of Pest Controllers, U.S. Army Environmental Hygiene Agency, March 1976, as amended.

(e) Pesticide Applicator Training Manual, Cornell University, Ithaca, New York, September 1974.

(f) Plan for Certification of Pesticide Applicators, DOD, June 1976.

§ 274.4 Pesticide management.

(a) *Administration.* The Division Engineer is responsible for implementation of the program, and providing for the training of pest control personnel, safe use of highly toxic materials and the proper application of restricted-use pesticides. District programs will be reviewed by the Division Engineer for the selection of suitable pest control agents, up-to-date and economical methods of control, and the proper use and maintenance of pest control equipment. Field Operating Agencies (FOA) will designate a single point of contact for pesticide matters.

(b) *Personnel actions.* Pesticide duties will be identified in applicable job descriptions whether they constitute a major duty or not. Such job descriptions will also note the employees responsibility for using personal protective equipment and clothing provided and for following established health and safety practices and procedures. Standard Form 78 medical examination will be augmented by the specific diagnostic tests for the occupations identified in § 274.4(c). Prescribed preplacement medical examinations will be provided as part of the personnel action process before anyone is permitted to perform pesticide duties

(c) *Medical surveillance.* Preplacement, periodic and pretermination medical examinations of the type and extent set forth in Section III, U.S. Army Environmental Hygiene Agency (USAEHA) "Guide for the Medical Surveillance of Pest Controllers" will be provided for personnel involved in pesticide operations. Additional information is contained in USAEHA "Medical Surveillance Guide (Guide for Job-Related Examinations)." Appropriate medical records will be maintained in official personal folders.

(d) *Personnel training.* All personnel directly involved in pest control must be properly trained in the safe application of herbicides, insecticides, rodenticides, fumigants and fungicides. The current plan for training and certification of pest control personnel requires that all pest control applicators and/or supervisors satisfactorily complete (1) the correspondence course, "Basic Pest Control Technology" NTTC 150, available from NAVFAC Technical Training Command, Norfolk, Virginia 23511 and a three day (20 hr) conference training course conducted by the Army Health Services Command (AHSC) at Fort Sam Houston, Texas 78234, for Civil Works personnel, or a three day (20 hr) special training course conducted by the Division Engineer, to include information presented in the "Pesticide Applicator Training Manual", § 274.3(e) or (2) a B.S. degree in agronomy, entomology, forestry or horticulture from an accredited college or university.

(e) *Restricted-use pesticide training.* For agency certification § 274.3(f) Civil Works supervisors and applicators using the higher toxicity Restricted-Use pesticides are required to complete Restricted-Use Pesticide training as given at Navy facilities at Jacksonville, Florida or Alemeda, California, Wichita Falls Air Base, or the Army Health Services Command, Fort Sam Houston, Texas. College and University programs which are acceptable for State certification of restricted-use pesticide applicators may be used in lieu of the above.

(f) *Coordination with EPA.* The Environmental Protection Agency is expected to publish regulations listing pesticides classified for restricted-use by October 1977. The Division Engineer will be responsible for close coordination with EPA Regional Offices in order to comply with the regulatory requirements for restricted-use pesticides.

(g) *Exposure to and protection from pesticide hazards.* Basic health and safety practices and procedures including personal protective equipment and clothing, work area layouts, storage and application considerations are identified in Appendix A of this regulation. Additional guidance is contained in Section II and Appendix A of the USAEHA "Guide for Medical Surveillance of Pest Controllers."

(h) *Contracting for pest control services.* All contracts for pest control services must receive Technical review and approval from professional pest control management personnel prior to advertisement of the contract and procurement of services. The contractor will be required to submit proof that his supervisory personnel to be employed on the contract are certified in the specific categories for operations being conducted in accordance with an approved state plan in effect in the area concerned.

§ 274.5 Certification.

Under the provisions of Section 4, Pub. L. 92–516, the Environmental Protection Agency is responsible for Federal certification of pesticide applicators through its development of a single Government Agency Plan (GAP). By letter dated December 30, 1976, the Administrator of the Environmental Protection Agency has stated that Federal certification will no longer be undertaken pursuant to a single GAP. The Department of Defense has developed an Agency Plan for certification of its pesticide applicators which has been approved in principle and concept. It has been determined that the DOD Agency Plan satisfies the training requirements for certification of Civil Works personnel. Pending final approval of the DOD Agency Plan, all Corps of Engineers pesticide applicators will be certified in accordance with the criteria described in this regulation by issue of a certificate of training and competency (DA Form 87, 1 Sep 54), signed by the Training Officer and the Division Engineer.

§ 274.6 Division/district pest control programs.

(a) *Guides.* Referenced technical manuals, and Engineer Circulars issued from time to time, will be used as guides in selecting the type of chemicals and the method of application in the control of vegetation and pests at civil works projects.

(b) *Responsibilities and reports (RCS DAEN–CWO–48).* Districts will prepare and submit to the Divisions detailed descriptions or their anticipated use of pesticides for review and approval by the appropriate Division.

§ 274.7 Authorization of pesticide use.

(a) Programs approved in § 274.6(b) must be those as described on the pesticide label. Pesticide uses which are different from the registered use, require amendment of the label, approved by the Environmental Protection Agency. Data requirements for this use must be supplied before an amendment will be made by the Agency. Substantial Time and effort are required for such action.

(b) If an unexpected outbreak of a pest requires control measures which are not according to the registered use, such control effort is viewed as an emergency measure and may be undertaken at the discretion of the Division Engineer. An emergency will be deemed to exist when:

(1) A pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest.

(2) Significant economic or health problems will occur without the use of the pesticide.

(3) The time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. In determining whether an emergency condition exists, the Administrator will also give consideration to such additional facts requiring the use of Section 18 § 274.3(a) as are presented by the applicant.

(c) Emergency operations should be documented by a request for a specific exemption, prepared by the District and forwarded through channels to HQDA (DAEN–CWO–R) WASH DC 20314 for transmittal to EPA.

(1) Each specific exemption must be requested in writing, by the head of the Federal agency or the Governor of the State involved, or other official designee, addressed to the Administrator, setting forth the following information:

(i) The nature, scope and frequency of the emergency.

(ii) A description of the pest known to occur, the places or times it may be likely to occur and the estimated time when treatment must be commenced to be effective.

(iii) Whether a pesticide registered for the particular use, or other method of eradicating or controlling the pest, is available to meet the emergency, and the basis for such determination.

(iv) A listing of the pesticide or pesticides the agency proposes to use in the event of an outbreak.

(v) Description of the nature of the program for eradication or control. Such description should include:

(A) Quantity of the pesticide expected to be applied;

(B) Specific Area or place of application;

(C) Method of application;

(D) Duration of application;

(E) Qualifications of personnel involved in such application.

(vi) Statement of economic benefits and losses anticipated with and without the exemption and under reasonable alternatives.

(vii) Analysis of possible adverse effects on man and the environment. If an Environmental Impact Statement has been prepared by an agency, in accordance with that agency's regulations implementing the National Environmental Policy Act of 1969, and is relevant to the above, it shall be submitted with the application.

(viii) Such exemptions, if granted, are valid only for the specific situation involved and are subject to such restrictions as the Administrator may prescribe in granting the exemption. Such restrictions may include, among others, limitations on the quantity of the pesticide to be used, the conditions under which the pesticide may be applied, restrictions as to the person who may apply the pesticide and the type of monitoring activities which should be conducted. Within one year of the granting of the exemption, a summary report on what action was taken to meet the emergency and on the outcome of such action, must be forwarded to HQDA (DAEN–CWO–R) WASH DC 20314, for forwarding to EPA.

APPENDIX A

PREVENTIVE SAFETY MEASURES IN HANDLING OF PESTICIDES

1. Follow the label on each container before using the contents. The manufacturers are required by law to list recommendations and precautions.

2. Weather conditions are important. Winds could carry toxic sprays and dusts to areas not under your control, causing accidental poisoning to the public or domestic animals.

3. Smoking is not permitted while pesticides are being handled.

4. All pesticides must be handled in well-ventilated areas to minimize inhalation of toxic vapors.

5. Shower and washing facilities must be near pesticide mixing areas.

6. Any contamination of skin, particularly with liquid concentrations or solutions, must be immediately washed off with detergent and water.

7. Protective clothing is used in conjunction with respiratory protective devices to prevent skin contact and inhalation of pesticides. Recommended articles of protective clothing are rubber aprons, coveralls, chemical splash goggles, safety shoes, and hard hats. A lightweight water and chemical resistant throw away type protective clothing that is impervious to herbicides is now available. In warm geographical areas this type of lightweight protective clothing would be beneficial in reducing physical stress to applicators. Additional protection is afforded by protective skin cream.

8. Clothing contaminated by spillage must be removed immediately and thoroughly laundered before wearing. Special care is required to prevent contamination of the inside of gloves.

9. Approved respirators must be worn while pesticides are being mixed, and when dusts or liquids are being handled or sprayed. Care should be exercised when selecting the respirator type to insure that it is designated specifically for the substance to be used. Each respirator must be labeled and approved by the U.S. Department of Agriculture or NIOSH. Filters or canisters must be changed after 8 hours use and more often if odor of the pesticide is detected. (Always have extra cartridges available when needed).

10. Pesticide storage, mixing, and formulation facilities:

(a) All pesticides must be stored in a dry, well ventilated, separate room, building, or covered area not accessible to unauthorized personnel or the public and placed under lock and key.

(b) Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature.

(c) Where applicable, the outside of each storage area should be labeled with "Danger," "Poison," and "Pesticide Storage" signs.

(d) Fire extinguishers must be installed near the door of materiel storage rooms. Diluted oil based pesticides are flammable and must be stored separae from other materials.

(e) All pesticide storage, mixing, and formulation areas must have adequate ventilation in order to reduce inhalation of toxic vapors. Sparkproof lighting fixtures should be installed in closed storage areas to eliminate ignition hazards.

11. Empty pesticide containers must be disposed of properly. Do not burn them. When herbicides or defoliants volatilize the resulting vapors may be poisonous to humans, and they may damage nearby plants, crops, or shrubbery; also, pesticides or defoliants containing chlorates may be a serious fire hazard when heated.

12. Glass pesticide containers should be disposed of by breaking. Chop holes in top, bottom, and sides of metal containers or crush them so they cannot collect water or be reused. After breaking or puncturing them, bury the containers at least 18 inches deep in an isolated area provided for this purpose, away from water supplies or high water tables. Records to locate such buried pesticides within the landfill site should be maintained. Post warning signs.

13. Safety programs developed for the safe handling and mixing of toxic chemicals should be coordinated with the Safety Office prior to implementation.

[FR Doc.77–22872 Filed 8–12–77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 772–3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

California Plan Revision: Ventura County APCD

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Ventura County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111, Attn.: David R. Souten, 415–556–7288.

SUPPLEMENTARY INFORMATION: On April 29, 1977, in 42 FR 21819, EPA published a notice of proposed rulemaking for revisions to the Ventura County Air Pollution Control District Rules and Regulations submitted on December 13, 1972; July 25, 1973; July 19, 1974; October 23, 1974; November 3, 1975; April 21, 1976; and November 10, 1976, by the California Air Resources Board for inclusion in the California SIP. Because the July 25, 1973 submission supersedes the December 13, 1972 submission, the latter submission is not addressed in this notice.

Rules concerning in-stack monitoring, gasoline vapor recovery, emergency episode action, equipment malfunction (Rule 32) and new source review have all been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in these submittals and being acted upon by this notice include the following: changes to incorporate the recodification of the California Health and Safety Code; administrative and procedural changes in fee requirements and in advisory committee and hearing board activities; the deletion of final compliance dates that have already passed; the renumbering of regulations; additions and amendments to the "Definitions" rule; new rules dealing with public records and public availability of emission data; the inclusion of levee and reservoir maintenance, range improvement, and forest management as permissible open fires; a replacement of the emission limitation for disposal of solid and liquid wastes in incinerators with a performance specification; the inclusion of control requirements for dry cleaning, metal surface coating thinners and reducers and surface cleaning and degreasing in the "Organic Solvent" rule; the addition of new source performance standards; and the addition of emission standards for hazardous air pollutants. A list of the Rules being considered by this action was published as part of the notice of proposed rulemaking and can be found in 42 FR 21819 (April 29, 1977).

No comments were received addressing the proposed action.

It is the purpose of this notice to approve all changes contained in the July 25, 1973; July 19, 1974; October 23, 1974; November 3, 1975; April 21, 1976; and November 10, 1976 submittals and incorporate them into the California SIP with the exceptions of those rules not being acted upon and the rules discussed below.

Rule 31, Public Disclosure of Data, has been revised and regulation IX, Public Records (Rule 200–204), has been added; these rules are consistent with the requirements of 40 CFR 51.10(e). These new and revised rules are being approved, and Ventura County is being rescinded from the disapproval notice in 40 CFR 52.224(a) and from the substitute regulation in 40 CFR 52.224(b).

Rule 37, Source Recordkeeping and Reporting, has been added and is consistent with the requirements of 40 CFR 51.19. This rule is being approved, and Ventura County is being rescinded from the disapproval notice in 40 CFR 52.234 (a) and from the substitute regulation in 40 CFR 52.234(d).

Rule 66, Organic Solvents, has been revised by adding three new sections that contain control requirements for dry cleaning, metal surface coating thinners and reducers, and surface cleaning and degreasing. These sections contain control requirements analogous to Federally promulgated regulations, 40 CFR 52.246, 52.253, and 52.252, respectively. These new sections are being approved, and Ventura County is being rescinded from those Federally promulgated regulations. EPA is approving Rules 72 and 73, rules establishing New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. The State of California, on behalf of the Ventura County APCD, has received delegation of authority for Rules 72.1–72.8 and for Rules 73.1–73.4. This approval does not constitute delegation of authority for Rules 72.9 and 72.10, which will be the subject of a separate FEDERAL REGISTER notice.

Regulation VII, Procedures for Variances, is being approved, however, each variance that is granted must satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and County Air Pollution Control Agencies, and therefore pose no further requirements on any affected facility.

(Sections 110 and 301 of the Clean Air Act, as amended, 40 U.S.C. 1857c–5 and 1857(g).)

Dated: August 8, 1977.

DOUGLAS COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

• • • • • •

(c) • • •

• • • • • •

(21) • • •

(xiii) Ventura County APCD.

(A) Rules 2, 37, 56, 59, 60, and 101.

• • • • • •

(24) • • •

(x) Ventura County APCD.

(A) Rules 2, 3, 31, 32, 200, 203, and 204.

• • • • • •

(25) • • •

(v) Ventura County APCD.

(A) Rules 2 and 125.

• • • • • •

(29) • • •

(vi) Ventura County APCD.

(A) Rules 65, 66, 72, and 73.

• • • • • •

(31) • • •

(xiii) Ventura County APCD.

(A) Rules 2, 4, 36, 40, 41, 42, 43, 104, 201, and 202.

• • • • • •

(35) • • •

(iii) • • •

(A) • • •

(B) Rules 2, 57, 72, and 73 and Regulation VII (Rules 110–129).

• • • • • •

2. Section 52.224 is amended as follows:

§ 52.224 General requirements.

(a) * * *

(8) Metropolitan Los Angeles Intrastate:

(i) Ventura County APCD.

* * * * *

3. Section 52.234 is amended as follows:

§ 52.234 Source surveillance.

(a) * * *

(4) Metropolitan Los Angeles Intrastate:

(i) Ventura County APCD.

* * * * *

4. Section 52.246 is amended as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

5. Section 52.252 is amended as follows:

§ 52.252 Control degreasing operations.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

6. Section 52.253 is amended as follows:

§ 52.253 Metal surface coating thinner and reducer.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

7. Section 52.273 is amended as follows:

§ 52.273 Open burning.

(a) * * *

(2) Los Angeles Metropolitan Intrastate Region:

(i) Ventura County APCD.

(A) Paragraph (A) (1) of Rule 56.

* * * * *

[FR Doc.77-23484 Filed 8-12-77;8:45 am]

[FRL 777-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Amendments to Subpart D; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 51397 in the FEDERAL REGISTER of Monday, November 22, 1976 (FR Doc. 76-33966).

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone No. 919-541-5271.

Dated August 8, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator, for Air and Waste Management.

In FR Doc. 76-33966, §§ 60.45(f)(4) and 60.45(f)(5) on page 51399 are corrected as follows:

§ 60.45 [Amended]

1. In § 60.45(f)(4)(iii) "F_c=0.384 scm CO_2/J" in the fourth line is corrected to read "$F_c=0.384\times10^{-7}$ scm CO_2/J."

2. In § 60.45(f)(4)(iv) a left parenthesis is inserted in the second line between "dscm/J" and "8,740."

3. § 60.45(f)(4)(v) is corrected to read as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(f) * * *

(4) * * *

(v) For bark $F=2.589\times10^{-7}$ dscm/J (9,640 dscf/million Btu) and $F_c=0.500\times10^{-7}$ scm CO_2/J (1,860 scf CO_2/million Btu). For wood residue other than bark $F=2.492\times10^{-7}$ dscm/J (9,280 dscf/million Btu) and $F_c=0.494\times10^{-7}$ scm CO_2/J (1,840 scf CO_2/million Btu).

* * * * *

4. In § 60.45(f)(5) the F factor and F_c factor equations in SI units are corrected to read as follows:

$$F=10^{-6}\frac{[227.2\ (\text{pct. H})+95.5\ (\text{pct. C})+35.6\ (\text{pct. S})+8.7\ (\text{pct. N})-28.7\ (\text{pct. O})]}{\text{GCV}}$$

$$F_c=\frac{2.0\times10^{-6}\ (\text{pct. C})}{\text{GCV}}$$

(Sec. 111, 114, 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).)

[FR Doc.77-23402 Filed 8-12-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER I—BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

PART 423—1976-77 DROUGHT LOANS, GRANTS, AND DEFERMENTS

Rules for Emergency Loans, Grants, and Deferments Under the Emergency Drought Act of 1977

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rules.

SUMMARY: These rules amend the rules published on April 14, 1977, in 42 FR 19610 to provide guidelines on the implementation of the Bureau of Reclamation Emergency Drought Act of 1977, approved April 7, 1977. This legislation allows qualified applicants to obtain loans, grants, and deferments to remedy the effects of actual or prospective substantial economic injury resulting from the 1976-77 drought. Areas eligible for assistance may be designated by the President or by the Secretary of the Interior. The program authorizes short-term studies and actions to increase water supplies; makes funds available for loans for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water which can be expected to have an effect in mitigating losses and damages resulting from the 1976-77 drought period, and provides authority to establish a water bank of available water for redistribution.

DATES: These rules are effective on publication and expire on September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Eugene Hinds, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 (202-343-5104).

SUPPLEMENTARY INFORMATION: These amendments bring the rules into conformity with the Memorandum of Understanding between the Bureau of Reclamation, Department of the Interior, and the Farmers Home Administration, Department of Agriculture, entered into on July 15, 1977. That agreement and these rules provide for the aid available under the Act to individual irrigators, as defined in Section 3(b) of the Act. A new § 423.22 has been added to govern applications by individual irrigators.

Section 5 of the Act provides that actions taken pursuant thereto are in response to emergency conditions. To effect their prompt implementation, it has been decided not to publish the rules in proposed form for public comment. However, the public may submit comments for consideration in possible future revisions.

Section 5 further provides that such actions are not a major Federal action significantly affecting the quality of the human environment for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget (OMB) Circular A-107.

The primary author of this document is Kerry McDonald, Attorney Advisor, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240 (202-343-6980).

Under authority of Pub. L. 95-18, it is proposed to amend Subtitle B, Chapter I, Title 43 of the Code of Federal Regulations by amending Part 423, Subpart A, as set forth below.

Section 423.3 (following the caption) is amended to read as follows:

§ 423.3 Applicant eligibility.

(a) Irrigators in an area that has been determined by the President and/or the Secretary of the Interior to be an emergency drought impact area are eligible for loans and/or deferments. An irrigator is any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects or within projects constructed by the Secretary for Indians.

(b) Applications for assistance by individual irrigators shall be governed by § 423.22.

Section 423.4 is further amended by adding subsection (i) and (j) as follows:

§ 423.4 Definitions.

* * * * *

(i) Secretary's designee—Commissioner or whomever the Commissioner designates.

(j) Federal Reclamation Project—Any project constructed or funded under federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended.

Section 423.15 (following the caption) is amended to read as follows:

§ 423.15 Eligibility.

Entities which qualify as irrigators under § 423.3 and which operate and maintain irrigation facilities constructed by the Bureau of Reclamation under contract with the United States are eligible for loans under this section. In addition, projects financed through loans pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended and irrigation projects financed with non-Federal funds are eligible: *Provided, however*, That each non-federally funded project may receive a loan of not more than $1 million, and only 15 percent of the total funds available under this authority may be used for non-federally funded projects.

Section 423.22 is added and reads as follows:

§ 423.22 Procedures for processing applications by individual irrigators for assistance.

Procedures for processing applications for assistance by individual irrigators who are eligible under § 423.3 have been agreed upon in a Memorandum of Understanding between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA), Department of Agriculture, dated July 15, 1977. Those procedures as set forth in the Memorandum are as follows:

(a) "Irrigators" are persons or legal entities who hold a valid existing water right for irrigation purposes within Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

(b) FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

(c) The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instructions 443.2, IV A 1, A 8, B 1, B 2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

(d) Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

(e) Three million dollars shall be transferred to FmHA by Standard Form 1151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

(f) Monthly report: FmHA shall submit a Standard Form 133, Report on Budget Execution, in accordance with OMB Circular A-34, to the Bureau of Reclamation, Washington, D.C. 20240, attention code 370.

(g) Accomplishment: FmHA shall submit to the Bureau of Reclamation, Washington, D.C. 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978.

Dated: August 10, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-23518 Filed 8-12-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20665; RM-2224]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Hay Springs-Scottsbluff, Nebr.

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This Report and Order in Docket 20065 reassigns television Channel 4 in the Table of TV Assignments from Hay Springs, Nebraska, to Hay Springs-Scottsbluff, Nebr. This will permit consideration of an application by the licensee of a station on Channel 4 to change its city of license from Hay Springs to Scottsbluff.

EFFECTIVE DATE: September 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 2, 1977.

Released: August 9, 1977.

By the Chief, Broadcast Bureau:

In the Matter of Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations. (Alliance, Hay Springs, and Scottsbluff, Nebr.).

1. The Commission has before it a "Notice of Proposed Rule Making" (39 FR 19239), in this proceeding proposing to make VHF Channel 4, now assigned to Hay Springs, Nebr., a "hyphenated" assignment. The three alternative forms of hyphenation proposed were:

City	Plan I, channel No.		Plan II, channel No.		Plan III, channel No.	
	Present	Proposed	Present	Proposed	Present	Proposed
Alliance	*13-	*12-	*13-	*13-	*12-	*13-
Hay Springs	4+	-----	4+	-----	4+	-----
Scottsbluff	10-	10-	10-	10-	10-	10-
Scottsbluff-Hay Springs	-----	4+	-----	-----	-----	-----
Alliance-Hay Springs	-----	-----	-----	4+	-----	-----
Scottsbluff-Alliance-Hay Springs	-----	-----	-----	-----	-----	4+

2. Duhamel Broadcasting Enterprises, the licensee of Hay Springs Station KDUH-TV sought (Plan I) to have the channel reassigned on a hyphenated basis to permit a change in city of license from Hay Springs to Scottsbluff and a relocation of the main studio, now near Hay Springs, to Scottsbluff, 120 kilometers (75 miles) southwest of Hay Springs. Wyneco Communications, Inc., licensee of VHF television Station KSTF, Scottsbluff, Nebr., opposed Duhamel's rule making petition and submitted a counterproposal to move it to Alliance, Nebr. Since there is no interest in any such use at Alliance, the two plans (II

and III) involving hyphenated Alliance assignments need not be discussed.

3. Our Notice observed that no change of the Channel 4 transmitter site, now located between Hay Springs and Scottsbluff, was involved and we proposed that any change in the city of license be conditioned on maintaining an auxiliary studio at Hay Springs.[1] Duhamel, in its rule making petition, had agreed to this.

4. Duhamel's Hay Springs station and Wyneco's Scottsbluff station are the only commercial[2] television facilities serving the western Nebraska panhandle, and they occupy the only two commercial television channels assigned in that area. Duhamel's Hay Springs station is a satellite of Station KOTA-TV, Rapid City, South Dakota, approximately 161 kilometers (100 miles) north of Hay Springs. Wyneco's Station KSTF, Scottsbluff, is a satellite of Station KYCU-TV, Cheyenne, Wyo.[3] Hay Springs' 1970 population of 682 represented a 17.1% decrease from the 823 total in 1960 and Sheridan County (1970 population 7,285), also experienced a sharp decline (19.5%) in population between 1960 and 1970. On the other hand, Scottsbluff (1970 population 14,507) and Scotts Bluff County (1970 population 36,432) each gained population between 1960 and 1970, at rates of 8.4% and 7.8%, respectively.

5. Station KDUH-TV moved its transmitter site from the vicinity of Hay Springs to its present location and erected a 610 meter (2,000 foot) "tall tower" so that it could obtain the support of a group of communities and the coverage of a larger population to provide the funds necessary to implement the programming responsive to the needs and interests of the area. With these facilities, for the first time KDUH-TV provided a predicted principal city signal to Scottsbluff. Duhamel sought authority to move the KDUH-TV main studio from Hay Springs to Scottsbluff, but after it was granted waiver to permit it to identify the station with Alliance and Scottsbluff as well as Hay Springs, it requested dismissal of its main studio relocation application.

6. Both Duhamel and Wyneco have adhered to the basic postures they took in their earlier filings, focusing on the economic condition of Station KDUH-TV which was thought to be of "decisional significance." However, we have concluded that this issue does not need to be and, in fact, should not be resolved in this context. Rather, arguments regarding the survival of Channel 4 as a local television outlet for the Nebraska panhandle can be better considered in connection with the application to change station location.[4] Hence, no extensive discussion of the topic is warranted here, but we do observe that the differences of opinion are substantial and have been vociferously pursued. We shall consider the other points which were discussed in the filings of Duhamel and Wyneco which do require discussion.

7. In support of a reassignment, Duhamel points to the fact that the bulk of the population and retail sales in KDUH-TV's service area are located around Scottsbluff. Duhamel argues that it needs better access to this population center and that in small markets advertisers often prefer to appear on the air to show his products live, something which is a problem due to the remoteness of the KDUH-TV studios. Duhamel states that as an "area-wide" station it needs to locate its main studio where the station's main economic support exists, and it contends that its proposal should be accepted as a "logical extension" of the "area-wide" station concepts advanced when changing site.

8. In response, Wyneco contends that Duhamel is trying to abandon Hay Springs for Scottsbluff pointing to KDUH-TV's expansion of facilities, its tri-city ID, and its earlier application for main studio relocation. Wyneco argues that the proposed reassignment and main studio change to Scottsbluff would foreclose Duhamel's continuing to provide a meaningful local service for Hay Springs. It asserts that Duhamel has provided no details regarding programming that an auxiliary Hay Springs studio would provide and asserts that the Hay Springs area would have to look to Scottsbluff for effective service and that the shift would remove the only local television outlet now available to several area communities in northwest Nebraska and southwest South Dakota.

9. The Association of Maximum Service Telecasters, Inc. ("AMST") and the Hilliard Company ("Hilliard"), licensee of AM Station KOLT, Scottsbluff, also filed formal comments. AMST's only concern is with avoiding any infringement of the Commission's mileage separation requirements. No such infringement is involved. Hilliard objects on the ground that a move to Scottsbluff would reduce the revenue raising abilities of stations in the Scottsbluff area. However, a rule making is not the appropriate place to raise what amounts to a Carroll issue—see fn. 4.

10. Duhamel seeks a hyphenated assignment to enable it to select Scottsbluff, Nebraska, as its new city of license. The hyphenated assignment is a separate matter which can be resolved in rule making, but the proposal to change the city of license can be done by application, and we can proceed with hyphenation without resolving the other issue now.[5] If we were inclined toward effecting a change in station location now, there is a serious question about whether such a modification of license to change city would be an appropriate step to take in rule making. See the recent Report and Order in Santa Ana, Calif., Docket No. 20727 (FCC 77-543) where the assignment was changed in rule making but the petitioner was directed to seek the desired change in station location by application.

11. In endeavoring to allocate television assignments in a fair, efficient, and equitable manner, we give recognition to the need for local service. When a change in an assignment could result in a loss of a community's only station, we look to be sure that the proponent has carried its burden to show that the public interest nonetheless would be served. In granting Station KDUH-TV authority to expand its facilities, we recognized that the transmitter site move would extend an alternative television signal to a greater number of people and would enhance the station's economic condition. Much of what Duhamel seeks and Wyneco dislikes has in effect already happened. With this in mind, there is all the more reason to allow consideration of whether a town of less than one thousand, losing considerable population, must remain the city of license. We believe that Duhamel has provided a sufficient basis to permit consideration of such a change, and therefore find that the adoption of Plan I would serve the public interest.

12. Accordingly, *it is ordered*, That Section 73.606(b) of the Commission's Rules IS AMENDED, insofar as the listed community is concerned, as follows, effective September 15, 1977:

	Channel No.
City: Hay Springs-Scottsbluff, Nebr.	4+

13. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

14. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303).

FEDERAL COMMUNICATIONS COMMISSION,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-23458 Filed 8-12-77;8:45 am]

[1] Scottsbluff already receives principal city coverage from Station KDUH-TV, and the Commission, in authorizing the site change, waived the city coverage requirements for Hay Springs, requiring Duhamel to install and maintain sufficient translators to serve those viewers who lost such servce as a result of the transmitter move.

[2] Educational VHF television Stations KTNE-TV, Alliance, and KRNE-TV, Merriman (80 kilometers (50 miles) northeast of Hay Springs) also serve the panhandle area.

[3] Duhamel has another satellite station at Lead, S. Dak., and Wyneco has another satellite at Sterling, Colo.

[4] As with "Carroll" issues, we believe that rule making does not offer the proper setting for resolving such disputes.

[5] Although the point was not emphasized in the Notice, we did point out in paragraph 28 that hyphenation is an assignment tool used "where it seemed best to postpone until the application * * * stage any unresolved * * * questions as to which of the communities warranted the assignment." While Hay Springs may not be the usual example of such a case, it does fit this test.

[Docket No. 20727; RM-2557; FCC 77-543]

PART 73—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS IN RIVERSIDE AND SANTA ANA, CALIFORNIA

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns TV Channel 40 to Santa Ana, California, as a first commercial TV channel in that community. It also deletes the assignment of the same channel from Riverside, California, and its utilization by Station KLXA at Fontana, California, under the 15-mile rule. The licensee of Station KLXA was denied modification of its license on a permanent basis so that other interested persons may apply for this new commercial station at Santa Ana, Calif.

EFFECTIVE DATE: Non/Applicable at this time.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau. (202-632-7792).

SUPPLEMENTARY INFORMATION: A separate Order will be issued upon receipt of Mexican approval.

Adopted: July 27, 1977.

Released: August 9, 1977.

By the Commission: Commissioner Washburn absent.

1. Before the Commission for consideration is the Notice of Proposed Rule Making[1] (41 FR 9568), released February 26, 1976, which proposed the assignment of UHF TV Channel 40 to Santa Ana, Calif., and the deletion of the same channel from Riverside, Calif., but which denied a request by petitioner, International Panorama TV, Inc., licensee of Station KLXA-TV (Channel 40), Fontana, Calif.,[2] to have its license modified to specify the community of Santa Ana. Comments have been filed by petitioner and by Golden Orange Broadcasting Co., Inc., permittee of UHF TV Station KGOF (Channel 56), Anaheim, Calif.

2. Santa Ana (pop. 155,762),[3] the seat of Orange County (pop. 1,420,676) is located approximately 53 kilometers (33 miles) southeast of Los Angeles. It has no local commercial TV service and its only TV assignment, Channel 50, is reserved for noncommercial use and licensed to serve Huntington Beach, Calif., under section 73.607(b) of the Commission's Rules. Orange County has one other TV assignment, Channel 56, Anaheim, Calif. (permit issued to Golden Orange Broadcasting Co., Station KGOF).

3. Riverside (pop. 140,089) is the seat of Riverside County (pop. 459,074). It has two UHF TV channel assignments, 40 and 46. Channel 40, presently licensed to serve Fontana, is the subject of this proceeding. Fontana (pop. 20,673) is located in San Bernardino County (pop. 682,233). It has no TV channel assignments listed in the Table. The other Riverside assignment, Channel 46, is used by Station KBSA, which is licensed to serve Guasti, Calif., under section 73.607(b) of the Commission's Rules.

4. In order to put this case into perspective, we here set out some of the background leading up to the Notice. Petitioner became the licensee of Channel 40 in August 1974.[4] Its predecessor already had been granted permanent authority to operate with the main studio at North Hollywood rather than at Fontana, the city of license.[5] Petitioner later moved its studio from North Hollywood to Santa Ana, but this was done without obtaining prior Commission approval as required by section 73.613(b), and the Commission imposed a forfeiture of $5,000, *International Panorama TV, Inc.*, 52 F.C.C. 2d 258 (1975). Thereafter the Commission, in a letter to petitioner dated March 25, 1975, granted temporary authority for a main studio location at Santa Ana, provided a petition to have Channel 40 reassigned to that community were filed.

5. In the Notice issued in response to this petition, we agreed to consider reassigning Channel 40 to Santa Ana, but we refused to propose a modification of petitioner's license to specify Santa Ana as it also had requested. Instead, we stated that if the channel assignment were made, petitioner, along with any other interested persons, could file applications for the channel. Santa Ana has no commercial television station and Channel 40 would become the first one available to that community. In such cases we concluded that the addition of the channel called for permitting other filings, something all the more important when the channel was the first one to be assigned to the community.

6. In rejecting the license modification approach, the Notice cited four cases[6] which related to what action the Commission should take when a frequency becomes available for the first time to a community. Our view was that the proper procedure to follow in such cases is to allow applications to be filed under section 309(a) of the Communications Act of 1934, as amended, and we found no contrary authority in the cited cases. Petitioner emphasizes that it did not intend any such change in the character of the service rendered to its coverage area as a whole, and therefore, insists that its license should be modified to reflect the change in the Table. Not only does petitioner dispute any view that a reading of these cases would lead us to conclude that modification would be inappropriate here, but it asserts that we overlooked a case, *Henderson, Nev.*, 24 R.R. 1530 (1962), where the licensee requested a change in community designation without a change in facilities and where the Commission did modify the license to specify the larger city of Las Vegas, Nev. Petitioner argues that it also seeks such a change in location to a more desirable community in order to survive against existing competition.[7] Petitioner cites these and several other cases in an effort to demonstrate that the Commission has the authority in a case such as this to modify pursuant to a request under Section 316(a) without issuing a show cause order.

7. One of the key elements in the question of the possible modification of license was the applicability of the *Ashbacker* doctrine to the present case. Petitioner argues that since it is presently occupying Channel 40 and no new service is proposed, there is no rational basis for permitting a competing application to be filed. Petitioner concedes that the *Ashbacker* doctrine ordinarily does have applicability where a new frequency becomes available to a community but argues that the doctrine does not suggest that situations be created so that competing applications can be filed.

8. Petitioner argues that if we modified its license to specify Santa Ana, we would be merely permitting the station to conform to the realities of its existing operation by having the main studio at the city of license, and it notes in passing that other stations designated to Riverside have moved closer to Los Angeles.[8] Petitioner asserts that it would not be entering a new market but would be continuing to meet the needs of its present service area. Moreover, petitioner states that it operates a station with religious programming which serves a special need of the Los Angeles area, an effort which

[1] The Commission previously denied by Memorandum Opinion and Order a petition for reconsideration of the Notice on May 25, 1976, FCC 76-486, Mimeo 40744.

[2] Channel 40 is assigned to Riverside and petitioner's station is licensed to serve Fontana under the "15-mile" rule (section 73.607(b) of the Commission's Rules).

[3] All population data are taken from the 1970 U.S. Census, as corrected.

[4] Petitioner states that the Trinity Broadcasting Network, Inc., purchased the stock of International Panorama TV, Inc., from Angel Lerma Maier on August 2, 1974.

[5] The move of the main studio to North Hollywood from Fontana was approved on November 10, 1972. The transmitter site is located on Mount Wilson, approximately 64 kilometers (40 miles) west of Fontana and 64 kilometers (40 miles) north of Santa Ana. Santa Ana is located approximately 56 kilometers (35 miles) southwest of Fontana.

[6] *Community Telecasting Co.* v. *F.C.C.*, 255 F. 2d 891 (D.C. Cir. 1958), *Community Broadcasting Co.* v. *F.C.C.*, 274 F. 2d 753 (D.C. Cir. 1960), *Rhode Island Telecasting Corp.* v *F.C.C.*, 320 F. 2d 762 (D.C. Cir. 1963) and *Louisiana Television Broadcasting Corp.* v. *F.C.C.*, 347 F. 2d 808 (D.C. Cir. 1965).

[7] Petitioner also referred to *Modesto and Stockton, Calif.*, 4 F.C.C. 2d 839 (1966), but that case only involved a change in channel, not station location as is involved here

[8] Petitioner notes that the licensee of Channel 46, assigned to Riverside and licensed to Guasti, Calif., has permanent authority to locate its studio at Los Angeles and the licensee of Channel 52 assigned and licensed to Corona, Calif., has permanent authority for a Los Angeles studio.

has been well supported by area residents.[9]

9. As to the appropriateness of reassigning the channel from Fontana to Santa Ana, petitioner stated that Fontana has never supported its station even when the main studio was located there. Furthermore, it noted that service to Fontana could be provided through the assignment of Channel 62 which could be made available in accordance with the Commission's minimum mileage separation requirements. Santa Ana is described by petitioner as the 10th largest community in California and the 88th largest in the United States. As stated in the Notice, the community is a major manufacturing, agricultural and retail sales center. Orange County, although contiguous to Los Angeles, is independent economically, socially, and governmentally.

10. In opposition, Golden Orange Broadcasting Co. argues that Channel 40 should not be reassigned to Santa Ana. Although it does not contest the assertion that Station KLXA-TV lost money under its previous operation when located in Fontana, it argues that no showing was made that the reason for the losses were the lack of support for a TV station there. On the contrary, Golden Orange believes that Channel 40's Spanish programming format, which now has been superseded, could have been a factor. Further, it contends that the proposed move only serves the private interest and convenience of petitioner, not that of the public. But, in any event, Golden Orange asserts that its own operation, when inaugurated, would respond to the need for additional local TV service in Orange County, and that the requested Santa Ana station would be merely another Los Angeles metropolitan station. This it said was a fact which specifically concerned the Commission when it assigned Channel 56 to Anaheim and announced that any TV station licensed to Orange County must provide local service and not operate as an additional Los Angeles station. Finally, Golden Orange complains that an additional TV station in Orange County could "provide a substantial economic threat to the ability of Golden Orange to operate its station successfully".

11 We believe that an adequate showing of need for a first local commercial TV station at Santa Ana has been made. The community is large and growing, with interests distinct from the central city of Los Angeles. Allegations regarding the potential economic impact on the proposed Anaheim station can more appropriately be considered in connection with the filing of an application for a station on Channel 40 at Santa Ana. With respect to the issue of the loss of local service at Fontana, we note that no interest has been expressed in the operation of a local TV station there, and that Channel 62 is available for assignment should such an interest arise in the future. As for Riverside, where Channel 40 is presently assigned, a recent proceeding to assign a VHF-TV channel there was dismissed for lack of an expression of interest. See *Riverside and San Bernardino, Calif.*, Docket No. 19742, 40 Fed. Reg. 51038 (1975). However, if an interest does develop, Channel 62 is available for assignment at Riverside. In view of the lack of demonstrated need for local commercial TV service at either Fontana or Riverside and the interest expressed at Santa Ana, we believe the public interest would be served by the assignment of Channel 40 to Santa Ana and the deletion of that channel from Riverside.

12. The answer to the question of whether to modify petitioner's license rather than open the channel to other filings depends on a reading of our authority under section 316 in the context of the *Ashbacker* doctrine. In *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945), the Supreme Court held that the Commission could not grant one application for an available frequency without first giving comparative consideration to other mutually exclusive applications filed for the frequency. The Commission could not, in the Court's opinion, make the requisite public interest finding as to which applicant was the best qualified to render the best service without a hearing in which all mutually exclusive applications are given comparative analysis. Since the case involved the use of an AM frequency, no amendment to the Commission's rules was necessary to establish the availability of the particular frequency. However, in administering the channels set aside for television use, the assignments are made through a Television Table of Assignments which designates those channels which are available to the various communities. Thus, the assignment of a particular TV channel to a community presents the first and only opportunity (other than filing against a renewal application) for those interested in serving that community to apply for the channel. If we were to adopt petitioner's urgings, we would be selecting a Santa Ana licensee without ever having permitted a choice to be made between applicants for that particular community. This opportunity for competing filings is not only required under *Ashbacker* but in policy terms alone is preferable because it allows us to select the applicant which will best serve the public interest. No public interest justification has been offered for adopting an approach which would foreclose the opportunity for such comparative analysis. We believe that the *Ashbacker* case reasoning applies to the instance facts where the petitioner proposes a change in its studio location and has announced its intention to no longer serve Fontana, and in fact to all cases where, in response to a petition, an assignment becomes available for the first time in a community. See, e.g., *Community Broadcasting Co., Inc. v. F.C.C., supra.*

13. Nor, contrary to petitioner's argument, do the cases cited in the Notice support a different conclusion here. Thus, in none of the cases cited on which modification was permitted did the petitioner propose to cease providing a transmission service to its formerly specified community of license. Rather, in each case it was found (either in light of specific representations that the petitioner would continue to be primarily responsible for providing for the needs of that community and/or retention of the main studio in the community) that such service would continue. See *Community Telecasting Co. v. F.C.C., supra; Rhode Island Television Corp. v. F.C.C., supra;* see also *Henderson, Nev.*, 24 R.R. 1530 (1962). The critical distinction, therefore, is whether or not there is a continuation of meaningful service to the community of license and not, as petitioner would urge, of existing facilities or service area.

14. Therefore we believe that our refusal to modify pursuant to delegated authority was not only proper, but was required. We also should point out that we have previously offered guidance on the related point of the implications of the substitution of a Class C FM channel for a Class A channel in the same community.[10] Those cases follow lines parallel to the ones we are following here. In sum, petitioner has not convinced us that there are compelling reasons to permit it to shift its operation to a new community in a manner which would exclude others who may wish to submit an application for the channel now being assigned to Santa Ana. Although twice put on notice as to our view that it would be necessary to allow the filing of competing applications, petitioner did not indicate that it would rather withdraw its proposal if its license were not modified along with the reassignment of Channel 40. Therefore, we are proceeding to reassign the channel as requested even though we are not modifying the station's license.[11]

15. Accordingly, *it is ordered*,[12] That the Television Table of Assignments (section 73.606(b) of the Commission's Rules) is amended with respect to the following communities:

City:	Channel No.
Riverside, Calif.	46
Santa Anna, Calif.	

16. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r) and 407(b) of the Communications Act of 1934, as amended.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23466 Filed 8-12-77;8:45 am]

[Docket No. 20496]

PART 76—CABLE TELEVISION SERVICES

Modifying or Eliminating the Use of Signal Strength Contours for Purposes of Cable Television Systems Regulation; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum to rule change.

SUMMARY: A rule change was adopted on July 7, 1977, which included a change in cable television syndicated program exclusivity rules. The erratum corrects a designation for one paragraph, clarifies that certain material immediately following the amended language remains unchanged, and substitutes correct terminology recently adopted in cable regulation. The erratum has no substantive changes.

EFFECTIVE DATE: August 26, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Tom Hendrickson, Cable Television Bureau (202-632-6468).

Released: August 9, 1977.

In the matter of amendment of Part 76 of the Commission's rules and regulations to modify or eliminate the use of signal strength contours for purposes of cable televisions systems regulation.

In the First Report and Order in the above-entitled matter, FCC 77-480 published in the FEDERAL REGISTER at 42 FR 36831, Instruction 4 of Appendix A should be revised by substituting the phrase "community unit" in paragraphs (a) and (b) in place of the phrase "cable television system"; and redesignating the paragraph following the "NOTE" from (1) to: (i), and paragraph (ii) of the "NOTE" and all of NOTE 2 are retained without change.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23459 Filed 8-12-77;8:45 am]

[9] Petitioner informs us that after taking control in August 1974, it changed the station's programming from all Spanish to religious and at the same time made a series of technical improvements. Petitioner states that its viewers supported this effort by donating over 2.5 million dollars during three fund-raising telethons. In addition, we are told, that over 1 million dollars in revocable trust funds have been committed by its viewers. These figures are set forth to inform us about what could be jeopardized if other applications were accepted.

[10] See *Cheyenne, Wyo.*, 62 F.C.C. 2d 63 (1976); *Mitchell, S. Dak.*, 62 F.C.C. 2d 70 (1976); and *Crestview and Fort Walton Beach, Fla.*, 62 F.C.C. 2d 76 (1976).

[11] Our action here is not intended to grant permanent or interim authority to operate as a Santa Ana station. Those matters are to be considered based on the filing of appropriate applications.

[12] This action is being taken subject to receipt of concurrence from the Mexican government. Upon obtaining the concurrence, an Order will be released announcing the effective date of this action and termination of this proceeding.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Antelope

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Antelope on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 3, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyoming 83101, area code 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special Regulations; big game; for individual wildlife refuge areas.

Public hunting of Antelope is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Antelope.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

AUGUST 5, 1977.

H. J. JOHNSON,
Refuge Manager.

[FR Doc. 77-23468 Filed 8-12-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Cottontail Rabbits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Cottontail Rabbits on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special Regulations; upland game; for individual wildlife refuge areas.

Public hunting of Cottontail Rabbits is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Col. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Cottontail Rabbits.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 3, 1977.

[FR Doc.77-23469 Filed 8-12-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Moose

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Moose on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 24, 1977, through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, Area Code 307–877–6334.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special Regulations; big game; for individual wildlife refuge areas.

Public hunting of Moose is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Moose.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 4, 1977.

[FR Doc.77–23470 Filed 8–12–77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Incidental Taking of Marine Mammals and Importation of Yellowfin Tuna and Tuna Products

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final rulemaking.

SUMMARY: The amendment will establish an increased allowable take and mortality of whitebelly spinner dolphin and finalize portions of the interim final amendments published in the FEDERAL REGISTER on May 16, 1977 (42 FR 24742).

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Comments or questions may be directed to Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

W. P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235 (202–634–7287)

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service published proposed rules in the FEDERAL REGISTER on June 9, 1977 (42 FR 29533), proposing an increase in the quota for whitebelly spinner dolphin from 7,840 to 11,219. The 1977 general permit issued to the American Tunaboat Association on April 15, 1977, was proposed to be amended in a similar fashion. The basis for the increased quota was a revision of the population estimate for whitebelly spinner from 549,000 to 690,000. One comment was received. It opposed the proposed increase, questioning whether the increase complied with the Act's ethical goal to reduce incidental mortality regardless of compliance with the scientific goal of the Act (OSP). The Director's decision published in the FEDERAL REGISTER on March 1, 1977 (42 FR 12015–12020), was to establish a quota at 7,840 based on the mid-point estimates of population and reproductive capacity of the stock. The 11,219 quota is based on the mid-point estimate of the revised population increase. Because the aggregate porpoise mortality limit for 1977 is still far below the 1976 quota, NMFS believes that this amendment is consistent with the purposes of the Act to reduce incidental mortality.

On May 16, 1977 (42 FR 24742), interim final rules were published, effective immediately, to amend the regulations affecting importations of yellowfin tuna, extend the date when an embargo would be effective and to further allow an extension of time for installation of fine mesh webbing on tuna purse seiners. Two comments were received regarding these amendments. One comment was directed toward the importation amendments and embargo date extension, and will be the subject of a separate notice regarding further proposed amendments to the importation regulations. A second comment did not oppose the amendments, but requested that a final limit be placed on allowed time extensions for installation of fine mesh webbing. The amended language provides for the granting of limited time extensions only and this is believed to be sufficient to insure full compliance with the fine mesh webbing requirement. Therefore the amendment set forth on May 16, 1977, regarding the granting of limited time extensions for installation of fine mesh webbing, is herein made final.

Accordingly, § 216.24 of the National Marine Fisheries Service marine mammal regulations (16 U.S.C. 216.24) is hereby amended as follows:

§ 216.24 [Amended]

1. Section 216.24(d)(i)(A) is amended to add, following the second sentence immediately after "in the general permit," the following clause: "except that the quota for spinner dolphin (Whitebelly) which may be taken in 1977 is limited to 2,120,000 taken; 1,402,000 encircled; and 11,219 killed."

2. Section 216.24(d)(2)(iv)(L) is amended by adding the following wording to the last sentence; "* * *, unless the Southwest Regional Director determines that the ordering of fine mesh webbing has been documented in accordance with paragraph (c)(5)(vi) but has not been delivered, or is not otherwise available to the vessel for installation, and that a limited time extension should therefore be granted."

Associate Director, National Marine Fisheries Service.

AUGUST 3, 1977.

[FR Doc.77–23417 Filed 8–12–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PATENTS, DATA AND COPYRIGHTS

Final Regulations

Correction

In FR Doc. 77–19987 appearing at page 36120 in the issue for Wednesday, July 13, 1977, make the following corrections:

A. On page 36121, in the middle column, the paragraph numbered "4" should be changed to indicate that § 9–3.150–5 was removed and that §§9–3.151, 9–3.151–1, 9–3.151–2, 9–3.151–3, and 9–3.152 were added rather than revised. As corrected, paragraph 4 should read:

4. Revise §§ 9–3.150, 9–3,150–1 9–3.–150–2, 9–3.150–3, 9–3.150–4 to read as set forth below. Remove § 9–3.150–5. Add §§ 9–3.151, 9–3.151–1, 9–3.151–2, 9–3.152 to read as set forth below.

B. In § 9–9.102–2 on page 36125, under the heading "Patent Indemnity", in the second line, "$100,000" should read "$10,000".

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G–43]

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Audit of Payments for Transportation Services Furnished for the Account of the United States

Correction

In FR Doc. 77–20074 appearing at page 36671 as a Part IV in the issue for Friday, July 15, 1977 make the following corrections:

(1) On page 36674, the 9th entry under Subpart 101–41.8, change the table of contents entry now reading "101–41.805–3 Vouchers payable in foreign currency" to read "101–41.804–3 Combining payments due a single payee."

(2) On page 36680, first column, the last word in the section heading for § 101–41.208–4 now reading "* * * signed." should have read "* * * assigned."

(3) On page 36682, first column, in the 4th line of § 101–41.214–2(b), the word "access" should have read "excess".

(4) Also on page 36682, second column, in the 8th line of § 101–41.214–5(c), the word "initiated" should read "initialed".

(5) On page 36683, first column, at the end of the first line of paragraph (q) of § 101–41.302–1 insert the word "Transit" after the words "U.S. Government".

(6) On page 36684, third column, the second and third lines of § 101–41.304–1 are reversed and therefore should be switched.

(7) On page 36685, third column, in the section heading for § 101–41.305, the word "transmit" should read "transit".

(8) On page 36690, middle column, the 6th line from the bottom of § 101–41.503 should be deleted entirely.

(9) On page 36691, middle column, in the 7th line of § 101–41.603–2, the words "* * * paid by the carrier * * *" should have read "* * * paid the carrier * * *".

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Proposed Expenses, Rate of Assessment and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on proposed expenses of $140,642, a rate of assessment of eight cents per lug (23 pounds) of grapes for the functioning of the Industry Committee for the 1977–78 fiscal period, and approval to carry over unexpended funds from the previous fiscal period as a reserve. The Committee locally administers a Federal marketing order regulating the handling of Tokay grapes grown in San Joaquin County, Calif. The regulation would enable the Committee to collect assessments from handlers of all assessable grapes handled and to use the resulting funds for its expenses.

DATES: Comments must be received by September 2, 1977. Proposed effective dates: April 1, 1977, through March 31, 1978.

ADDRESS: Comments may be addressed to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposal was submitted by the Industry Committee, established under marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif., under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and conditions.

The proposal would add a new section reading as follows:

§ 926.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1977, through March 31, 1978, will amount to $140,642.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 926.46, is fixed at eight cents ($0.08) per No. 38L grape lug (as specified in § 1380.19 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period which ended March 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 926.47.

Dated: August 10, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23483 Filed 8-12-77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 308, 311]

SUNSHINE ACT AMENDMENTS

Notice of Proposed Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: These provisions (1) amend the FDIC's implementing regulations for the Government in the Sunshine Act, and (2) implement the prohibitions against ex parte communications contained in the Sunshine Act. The amendments to Part 311 are designed to make clear that FDIC's Board considers the public interest before it closes a meeting and that individuals may photograph or record open meetings in a nondisruptive manner. The amendments to Part 308 prohibit ex parte communications between interested parties and individuals involved in the decision-making process during formal "on the record" hearings.

DATES: Written comments must be received on or before September 12, 1977.

ADDRESSES: Direct written comments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

Mark Rosen, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429. 202–389–4422.

SUPPLEMENTARY INFORMATION: On March 12, 1977, the Federal Deposit Insurance Corporation adopted regulations implementing the Government in the Sunshine Act (5 U.S.C. 552b). In light of its experience since that time, the FDIC believes that two provisions of the regulations are unclear. Section 311.2(d) of the regulations currently provides that individuals may witness an opening meeting, but not record, photograph, or otherwise electronically or mechanically reproduce the meeting without prior Corporation approval. The sole purpose of this provision was to prevent disturbance of meetings. It was not intended, as some have interpreted it, to require prior approval for attendance at a meeting or to prevent individuals from taking notes. The proposed amendment is intended to make clear that individuals can record the meeting without any prior notification to the Corporation in any manner they desire, provided that the proceedings are not disturbed.

The proposed amendment also makes clear that closing a meeting or portion of a meeting under the Sunshine Act is a two-step process. First, it must be determined whether the information likely to be disclosed at the meeting comes within one of the Act's exemptions. Second, the agency must decide whether the public interest requires an open meeting, despite the availability of the exemption. Although the FDIC's regulation captures this two-step process in two places (§ 311.3(b) and § 311.6(c)(2)), the proposed amendment makes an additional reference to the public interest determination in § 311.5 (Regular Procedure for Closing Meetings), where it had previously been inadvertently omitted.

Section 4 of the Government in the Sunshine Act prohibits ex parte communications between interested parties from outside the agency and persons involved in the decision-making process during formal, "on the record" hearings. An ex parte communication is an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. Requests for status reports, however, are not ex parte communications under the Act. The only formal hearings conducted by the FDIC to which these prohibitions apply are the administrative enforcement hearings conducted pursuant to Section 8 of the FDI Act (13 U.S.C. 1818). Therefore, the proposed implementing regulation will be added to the FDIC regulations which deal with practice and procedure during administrative hearings (12 CFR § 308).

Section 308.5(c) of the current FDIC regulations prohibits an administrative law judge from consulting any person on a fact in issue without notice to all parties. In one sense, the Sunshine Act prohibition is broader than this since it applies not only to an administrative law judge but also to any person involved in the decisional process. However, the existing regulation would prohibit ex parte communications between an administrative law judge and any person, including a person within the Corporation, while the Sunshine Act deals only with communications between outsiders and decision-makers. The prohibition against an administrative law judge communicating ex parte with a person within the Corporation on a fact in issue (§ 308.5(c) of the current regulations) is integrated into the new paragraph.

Written comments are invited and should be received on or before September 12, 1977, by the Office of the Executive Secretary, Federal Deposit Insurance Cooperation, Washington, D.C. 20429. This proposal may be changed in light of the comments received.

It is proposed that § 311.2(d) and § 311.5(b)(1) be amended, and a new paragraph (b–1) be added to § 308.5 as set forth below.

By Order of the Board of Directors, August 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

1. In § 311.2, paragraph (d) is amended to read as follows:

§ 311.2 Definitions.

* * * * *

(d) "Open to public observation" and "open to the public" mean that individuals may witness the meeting but not participate in the deliberations. The meeting may be recorded, photographed, or otherwise reproduced if the reproduction does not disturb the meeting.

* * * * *

(5 U.S.C. 552b, 12 U.S.C. 1819.)

2. In § 311.5, paragraph (b)(1) is amended by adding the sentence "In deciding whether to close a meeting or portion of a meeting, the Board will consider whether the public interest requires an open meeting" after the word "action."

(5 U.S.C. 552b, 12 U.S.C. 1819.)

3. In § 308.5, a new paragraph (b–1) is added and paragraph (c) is revised to read as follows:

§ 308.5 Conduct of hearings.

* * * * *

(b–1) *Ex parte communications prohibited.*

(1) For purposes of this paragraph, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports. The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions apply from the time of acquisition of such knowledge.

(2) No interested person outside the Corporation shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(3) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the Corporation.

(4) If an ex parte communication is made, or is knowingly caused to be made, the following will be placed on the public record—

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials described in (i) and (ii).

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (2), the responsible party may be required to show cause why his claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, a knowing violation of subparagraph (2) may be grounds for a decision adverse to the responsible party.

(6) Except as authorized by law, the administrative law judge shall not consult any person or party within the Corporation on any fact in issue unless upon notice and opportunity for all parties to participate, and the administrative law judge shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. Except as authorized by law, no officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the administrative law judge except as a witness or counsel in the proceedings.

(c) *Prehearing conference.*

(1) The administrative law judge may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(2) The conference shall, at the request of any party, be recorded and at its conclusion, the administrative law judge shall enter in the record an order which recites the results of the conference. This order shall include the administrative law judge's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any. The order shall control the subsequent course of the proceedings, unless modified to prevent manifest injustice.

* * * * *

(5 U.S.C. 557(d), 12 U.S.C. 1819.)

[FR Doc.77-23416 Filed 8-12-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77–SW–29]

AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Model 47 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to add an Airworthiness Directive (AD) applicable to certain Bell Helicopter Textron helicopters that would require an inspection to the tail rotor drive input pinion shaft for proper size and surface treatment and to replace the supporting duplex bearing with a duplex bearing of an improved type. These inspections and replacements are to insure higher reliability of these components which, if failed in flight, could result in partial loss of control of the helicopter.

DATES: Comments must be received on or before September 4, 1977. Proposed effective date of the Airworthiness Directive will be October 31, 1977.

ADDRESS: Send comments on this Notice of Proposed Rulemaking in triplicate to:

Regional Counsel, ASW–7, Attention: Docket No. 77–SW–29, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section, Engineering and Manufacturing Branch, ASW–214, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101. Telephone number 817–624–4911, extension 525.

SUPPLEMENTARY INFORMATION: A significant failure history has developed with both the part number 47–620–629

-3 or -5 duplex bearing and the input pinion shaft, part number 47-645-205-3. These items are a part of the drive arrangement for the tail rotor (used for directional control) of Bell Helicopter Textron Model 47 series helicopters. Bell Helicopter Textron Service Bulletin No. 47-77-1, dated February 14, 1977, pertains to these inspections and the replacement requirements.

Interested persons are invited to participate in the development of the final rule by submitting written comments as desire. All comments will be recorded and considered by the Director before taking final action, and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, Southwest Region, 4400 Blue Mound Road, Forth Worth, Texas.

DRAFTING INFORMATION

The principal authors of this document are Wilbur F. Wells, Aerospace Engineer, Flight Standards Division, and Alan G. Sumberg, General Attorney, ASW-7, Southwest Region, Federal Aviation Administration.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BELL: Applies to all Model 47 helicopters with tail rotor gear boxes, part number 47-640-075-1 or -7 installed.

NOTE.—Retrofit kits incorporating these gear boxes or the associated internal gears and bearing delivered from Bell Helicopter Textron after December 1, 1976, have been verified to be in compliance with this Airworthiness Directive and will not require inspection and/or further retrofit.

Compliance required within the next 100 hours time in service after the effective date of this Airworthiness Directive unless already accomplished.

To minimize the possibility of loss of directional control of the helicopter resulting from failure of the part number 47-620-629 -3 or -5 bearing, or failure of the part number 47-645-205-3 input pinion shaft located in the part number 47-640-075 -1 or -7 tail rotor gear box, conduct the inspection and replacement activities prescribed by paragraphs 1, 2, 2a, 2b, 3 and 4 of Bell Helicopter Textron Service Bulletin No. 47-77-1, dated February 14, 1977, or later FAA approved revision. Comments in paragraphs 5 and 6 of this bulletin involving warranties, replacement parts sources or reporting activities are not a part of this Airworthiness Directive.

After accomplishment of items 1, 2, 3, and 4 of Service Bulletin No. 47-77-1, reassemble and reinstall the tail rotor gear box in accordance with the Maintenance and Overhaul Instructions for the applicable model helicopters.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Texas 76101. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76101, and at Federal Aviation Administration Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

Equivalent means of compliance with the modifications prescribed by this Airworthiness Directive may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and CFR 11.85).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Forth, Texas on July 27, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

NOTE.—The incorporation by reference in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-23338 Filed 8-12-77;8:45 am]

[14 CFR Part 39]

[Docket No. 77-WE-16-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections of the flap link support fitting on McDonnell Douglas Model DC-8 Series airplanes for stress corrosion/fatigue cracks to preclude failure of the fitting that could result in loss of a flap.

DATES: Comments must be received on or before September 19, 1977. Proposed effective date: September 14, 1977.

ADDRESS: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009; Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: The flap link support fittings on McDonnell Douglas DC-8 airplanes were originally made of 7075-T6 aluminum material. During the production run, however, 7075-T73 aluminum material was substituted. The -T6 and -T73 suffixes designate the heat treat process used to harden the material although the -T6 process gives superior static strength capabilities, the -T73 process gives a much improved stress corrosion threshold stress.

During the operating life of the DC-8, there have been several cases of stress corrosion cracking found in fittings made of 7075-T6 aluminum, some with as few as 3,500 hours time in service. However, there are no known cases of stress corrosion cracks in fittings of 7075-T73 aluminum.

Cracking of the 7075-T6 fitting has occurred primarily at two locations. They are on the top surface, running from and through the spring cover attach bolt holes; and in the area of the side brace attach bolt hole. Cracks in the top surface are in a non-load carrying part of the fitting and are not considered a safety problem. However, cracks in the side brace bolt hole area could cause complete loss of load carrying ability for that fitting. The flap link support fittings at the three inboard wing flap stations on the DC-8 are not failsafe and have a safe life limitation. Consequently, loss of a flap link support fitting's structural integrity could cause loss of the flap segment.

The FAA became concerned that the saw tooth edge caused by a stress corrosion crack in the side brace attach hole area could initiate fatigue cracking which would eventually lead to complete failure of the fitting at the side brace attach hole. McDonnell Douglas obtained a fitting which had been removed from service and initiated a crack in the side brace attach area where cracking has been found. The fitting was then cycled from 0 to 97% of limit load until the crack progressed to the side brace attach bolt hole. The fitting was then loaded statically until failure occurred at 104% of limit load.

Based on the data from these tests, it has been determined that the 7075-T6 fittings should be inspected for cracks in the side brace attach area at intervals not to exceed 1,000 landings in order to assure continued airworthiness of the flap system.

McDonnell Douglas has issued DC-8 Service Bulletin 27-260 containing procedures for determining the heat treat of the fittings and inspection for cracks if the fitting is determined to be the 7075-T6 heat treat condition. If cracking is found, the fitting is to be replaced.

Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the inspection and replacement requirements of DC-8 Service Bulletin 27-260.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received before the closing date will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document, are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS. Applies to Model DC-8 Series airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks and prevent failure of the flap link support fittings, comply with the following:

(a) Within the next 1,000 landings after the effective date of this AD, unless already determined, use the eddy current procedure of McDonnell Douglas DC-8 Service Bulletin 27-260 dated July 12, 1977, or later FAA approved revision, to determine whether the flap link support fittings at stations X_s 97.-906, X_f 219.498, and X_f 339 723 are 7075-T6 or 7075-T73 aluminum. If the fitting is 7075-T73 aluminum, no further action is necessary per this AD. If the fitting is 7075-T6 aluminum, accomplished Paragraph (b).

(b) Within the next 1,000 landings after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 1,000 landings, perform the ultrasonic inspection procedure for cracks per McDonnell Douglas DC-8 Service Bulletin 27-260 dated July 12, 1977, or later FAA approved revision.

(c) Failed or cracked fittings must be replaced with like serviceable parts before further flights.

(d) Spare parts must be examined and identified in accordance with the procedures of Paragraph (a) before installation on an airplane.

(e) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections and repairs required by this AD.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 3, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-23425 Filed 8-12-77;8:45 am]

[14 CFR Part 39]

[Docket No. 17127]

AIRWORTHINESS DIRECTIVES

Rolls-Royce Aero Engines, Inc., Model RB211-22B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require an inspection for proper rigging, and re-rigging, if necessary, and modification of the cold stream reverser on certain Rolls Royce Aero Engines, Inc., Model RB211-22B engines to prevent unwanted deployment of the reverser which could seriously reduce the controllability of the airplane.

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 17127, 800 Independence Avenue SW., Washington, D.C., 20591.

The applicable service bulletins may be obtained from: Rolls Royce Aero Engines, Inc., Aero Engine Division, P.O. Box 31, Derby, England DE 2 8BJ.

A copy of the applicable service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cold stream reverser lock mechanism failures on certain Rolls Royce Model RB211-22B engines, which the FAA believes to have been caused at least in part by misrigging of the cold stream reverser. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require an inspection of the rigging of the cold stream reversers, and re-rigging, if necessary, and modification of the reverser lock indicating system on certain Rolls Royce Model RB211-22B engines.

The principal authors of this document are D. C. Jacobsen, Chief, Europe, Africa, and Middle East Region, T. Loftus, Flight Standards Service, and R. Lane, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

ROLLS-ROYCE AERO ENGINES, INC. (formerly Rolls-Royce (1971) Limited). Applies to Model RB211-22B engines that incorporate Rolls Royce Service Bulletin No. 78-3282, dated January 21, 1974, as revised September 22, 1975.

Compliance is required as indicated.

To prevent unwanted reverser operation, accomplish the following for engines that do not incorporate Rolls Royce RB211 Service Bulletin Nos. 72-4073, dated January 22, 1976, as revised February 27, 1976, 78-3753, dated June 27, 1975, as revised May 26, 1976, and 78-3769, dated June 27, 1975 (hereinafter referred to as the service bulletins), or an FAA-approved equivalent of each:

(a) Except as provided in paragraphs (b), (c), and (d) of this AD, within the next 500 hours engine time in service after the effective date of this AD, unless already accomplished, inspect the engine cold stream reverser locking mechanism rigging and re-

rig, if necessary, in accordance with Rolls Royce RB211 Maintenance Manual, Chapter 78-30-00, block 501, revision dated September 1975, or by an equivalent means approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, FAA, c/o American Embassy, APO New York, N.Y. 09667.

(b) If compliance with paragraph (a) of this AD was accomplished prior to the effective date of this AD, and a cold stream reverser unit that affects reverser locking mechanism rigging has been disturbed or removed subsequent to compliance with paragraph (a) of this AD, but prior to the effective date of this AD, comply with paragraph (d) of this AD before further flight.

(c) If, at any time after the effective date of this AD, a cold stream reverser unit that affects reverser locking mechanism rigging is disturbed or removed, comply with paragraph (d) of this AD before further flight.

NOTE.—Chapter 78-30-00, pages 568 and 578, of the RB211 Maintenance Manual contains information on maintenance that will affect proper rigging.

(d) Re-rig the reverser in accordance with paragraph (a) of this AD or deactivate and secure the reverser mecahnism in accordance with the Rolls Royce RB211 Maintenance Manual, or an FAA-approved equivalent.

(e) Within 3,000 hours engine time in service after the effective date of this AD, unless already accomplished, modify the cold stream thrust reverser translating cowl lock indication system in accordance with the service bulletins or FAA-approved equivalents of each.

NOTE.—A service bulletin which may be helpful is Rolls Royce Service Bulletin 78-A3672, dated January 14, 1975, as revised February 17, 1976.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR § 11.85.)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc 77-23427 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-48]

PINEVILLE, W. VA.

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Pineville, W. Va., Transition Area, over Kee Field, Pineville, W. Va. The 243° radial of the Beckley VORTAC will be a reference radial for a new area extension while the extension on the 243° bearing of the Pineville, W. Va., radio beacon will be eliminated. This results from the development of a new VOR runway 25 approach procedure.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J. F. K. International Airport, Jamaica, New York 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Kee Field, Pineville, W. Va. The area will be altered by establishing an area extension 5 miles each side of the Beckley VORTAC 243° radial extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC and deleting the Pineville, W. Va. radio 243° bearing extension.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Pineville, W. Va. 700-foot floor transition area as follows: Delete, "and within 3 miles each side of a 243° bearing from the Pineville, W. Va. radio beacon (lat. 37°36'11" N., long. 81°33'35" W.) extending from the radio beacon to 8.5 miles southwest of the radio beacon."

Insert the following in lieu thereof, "within 5 miles each side of the Beckley VORTAC 243° radial, extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23309 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-49]

WILLIAMSBURG, VA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Williamsburg, Va., Transition Area, over Williamsburg-Jamestown Airport, Williamsburg, Va. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. Telephone 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedure Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Williamsburg-Jamestown Airport, Williamsburg, Va. The area will commence at 700 feet above the surface extending out to a 6.5-mile radius around the center of the airport.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Williamsburg, Va. transition area as follows:

WILLIAMSBURG, VA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 37°14'20" N., 76°42'28" W., of Williamsburg-Jamestown Airport.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc 77-23310 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-51]

FORT INDIANTOWN GAP, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Fort Indiantown Gap, Pa., Transition Area, over Muir Army Air Field, Fort Indiantown Gap, Pa. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone: 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Muir Army Air Field near Indiantown Gap, Pa. The area will commence at 700 feet above the surface. It will extend out generally to the west through northeast for approximately 14 miles; and then to the east for approximately 12 miles and to the southeast for approximately 8 miles. The southerly portions will already be covered within existing transition areas.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Fort Indiantown Gap, Pa. transition area as follows:

FORT INDIANTOWN GAP, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°26'00" N, 76°34'00"

W. of Muir AAF, Fort Indiantown Gap, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 230° bearing to a 252° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 037° bearing from the airport; within a 12.5-radius of the center of the airport, extending clockwise from a 037° bearing to a 086° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 086° bearing to a 136° bearing from the airport; within 4.5 miles each side of the 097° bearing from the Bellgrove, Pa. RBN, extending from the RBN to 10 miles east of the RBN.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23311 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-57]

SHAMOKIN, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Shamokin, Pa., Transition Area, over Northumberland County Airport, Shamokin, Pa. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone: 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Northumberland County Airport, Shamokin, Pa. The area will commence at 700 feet above the surface extending out to a 6.5-mile radius around the center of the airport and to approximately 11 miles to the east. Due to contiguous transition areas, the remaining portions described in the area will be overlapped.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Shamokin, Pa. transition area as follows:

SHAMOKIN, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°50'15" N., 76°33'00" W., of Northumberland County Airport, Shamokin, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 069° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from 069° bearing to a 110° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 157° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 260° bearing from the airport; within 4.5 miles each side of the Selinsgrove, Pa. VORTAC 080° radial, extending from the 6.5-mile radius area to the Selinsgrove, Pa. VORTAC.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23312 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-AL-16]

ALASKAN REPORTING POINTS

Proposed Designation and Redesignation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate and alter two reporting points southwest of Annette Island, Alaska, for use by both high and low altitude en route air traffic to make position reports to Vancouver and Anchorage air traffic control centers. Reporting at these points will help to expedite the flow of air traffic on routes northwest of Sandspit, British Columbia, Canada.

DATES: Comments must be received on or before September 26, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 76-AL-16, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 26, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the MOCHA Alaska high and low altitude reporting point at Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 331°T (305°M), radials) and the FRIED Alaska high and low altitude reporting point at Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 313°T (287°M) radials). Because the MUZON reporting point is located near the MOCHA reporting point, it is no longer required and its rescission is being considered at this time. Only the supplementary information, and not the description of the Alaskan low altitude reporting points "MOCHA" and "FRIED" would be changed to reflect the correct radials.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to mprove the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) as follows:

In § 71.211 (42 FR 638) FRIED: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, NDB 314° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MOCHA: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, 331° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.211 (42 FR 638 MUZON: title and text is deleted.

In § 71.213 (42 FR 640) "FRIED: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska 237°, Sandspit, British Columbia, Canada, 313° radials)." is added.

In § 71.213 (42 FR 640) "MOCHA: Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is added.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 5, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23313 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-20]

CONTROL AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The FAA is considering an amendment to alter the Barnegat, N.J., Control Area by expanding the boundaries approximately 25 miles northeast and lowering the 2,000 feet MSL floor in the present area to 1,200 feet and to 700 feet in the proposed expanded area. At the present time there are no charted IFR routes between the shoreline and numerous offshore oil exploration sites. This proposed action would support IFR routes to the numerous offshore oil exploration sites and encompass IFR arrival and departure procedures.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-20, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202–426–3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the

ency on foreign energy sources. The lowering of these airspace floors would provide the FAA with some flexibility in establishing off airway routes to the oil exploration sites adjacent to the New Jersey shoreline and encompass planned instrument approach procedures to the various oil rig sites.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in concordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uni-

163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 348) as follows:

In § 71.163 in Barnegat, N.J.: 1. "2,000 feet MSL" would be deleted and "1,200 feet MSL" substituted therefor.

2. Following "Lat. 39°44'00" N." add "that airspace extending upwards from 700 feet MSL beginning at Lat. 39°40'00" N., Long. 73°29'00" W.; to Lat. 39°40'00" N., Long. 72°50'00" W., to Lat. 39°34'00" N., Long. 72°50'00" W.; thence along Lat. 39°34'00" N., to the northeast edge of Control 1147; southeast along the northeast edge of Control 1147 to Lat. 39°19'00" N.; thence to Lat. 38°33'00" N., Long. 73°08'00" W.; west along Lat. 38°33'00" N., to the northeast edge of Control 1148; thence northwest along the northeast edge of Control 1148 to Long. 73°50'00" W.; to Lat. 38°58'00" N., Long 73°50'00" W.; to Lat 38°58'00" N., Long 73°13'00" W.; to Lat 39°09'00" N., Long 73°13'00" W.; to Lat. 39°09'00" N., Long 73°29'00" W., to point of beginning.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854, (24 FR 9565); Sec. 6(c), Department of Transporta-

[17 CFR Parts 239, 270, and 274]

[Release Nos. 33–5849, IC–9882; File No. S7–697]

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Extension of Comment Period for Proposed Revision of Forms, Reports and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments on the notice published May 31, 1977, proposing a new rule and forms intended to create an integrated registration and reporting system designed to reduce both the number of forms and the duplicative information filed by management investment companies. Specifically, the Commission is proposing a revised notification of registration under the Investment Company Act of 1940 ("1940 Act"), new registration statements forms for registration of open and closed-end investment companies under the 1940 Act and of their

sult in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7–697, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary

August 8, 1977.

[FR Doc 77-23498 Filed 8-12-77 8:45 am]

[17 CFR Part 270]

[Release No. IC-9883; File No. S7-698]

INVESTMENT COMPANY ANNUAL REPORTS

Extension of Comment Period for Proposed Revision of Regulations

AGENCY:

cause of the personal commitments and schedules of members of the Association and the large volume of material that must be analyzed, it would not be feasible for it to comment by August 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until September 19, 1977, of the due date for submitting comments with respect to the proposed rule amendment. The Commission believes that this extension is appropriate and will not result in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7–698, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary

W. of Muir AAF, Fort Indiantown Gap, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 230° bearing to a 252° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 037° bearing from the airport; within a 12.5-radius of the center of the airport, extending clockwise from a 037° bearing to a 086° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 086° bearing to a 136° bearing from the airport; within 4.5 miles each side of the 097° bearing from the Bellgrove, Pa. RBN, extending from the RBN to 10 miles east of the RBN.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc 77-23311 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-57]

SHAMOKIN, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Shamokin, Pa., Transition Area, over Northumberland County Airport, Shamokin, Pa. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone: 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Northumberland County Airport, Shamokin, Pa. The area will commence at 700 feet above the surface extending out to a 6.5-mile radius around the center of the airport and to approximately 11 miles to the east. Due to contiguous transition areas, the remaining portions described in the area will be overlapped.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Shamokin, Pa. transition area as follows:

SHAMOKIN, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°50'15" N., 76°33'00" W., of Northumberland County Airport, Shamokin, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 069° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from 069° bearing to a 110° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 157° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 260° bearing from the airport; within 4.5 miles each side of the Selinsgrove, Pa. VORTAC 080° radial, extending from the 6.5-mile radius area to the Selinsgrove, Pa. VORTAC.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23312 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-AL-16]

ALASKAN REPORTING POINTS

Proposed Designation and Redesignation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate and alter two reporting points southwest of Annette Island, Alaska, for use by both high and low altitude en route air traffic to make position reports to Vancouver and Anchorage air traffic control centers. Reporting at these points will help to expedite the flow of air traffic on routes northwest of Sandspit, British Columbia, Canada.

DATES: Comments must be received on or before September 26, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 76-AL-16, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 26, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the MOCHA Alaska high and low altitude reporting point at Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 331°T (305°M), radials) and the FRIED Alaska high and low altitude reporting point at Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 313°T (287°M) radials). Because the MUZON reporting point is located near the MOCHA reporting point, it is no longer required and its rescission is being considered at this time. Only the supplementary information, and not the description of the Alaskan low altitude reporting points "MOCHA" and "FRIED" would be changed to reflect the correct radials.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to mpriove the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) as follows:

In § 71.211 (42 FR 638) FRIED: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, NDB 314° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MOCHA: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, 331° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.211 (42 FR 638 MUZON: title and text is deleted.

In § 71.213 (42 FR 640) "FRIED: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska 237°, Sandspit, British Columbia, Canada, 313° radials)." is added.

In § 71.213 (42 FR 640) "MOCHA: Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is added.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 5, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc 77-23313 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-20]

CONTROL AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The FAA is considering an amendment to alter the Barnegat, N.J., Control Area by expanding the boundaries approximately 25 miles northeast and lowering the 2,000 feet MSL floor in the present area to 1,200 feet and to 700 feet in the proposed expanded area. At the present time there are no charted IFR routes between the shoreline and numerous offshore oil exploration sites. This proposed action would support IFR routes to the numerous offshore oil exploration sites and encompass IFR arrival and departure procedures.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-20, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

This notice proposes to alter the Barnegat, N.J., Control Area by expanding the boundaries approximately 25 miles northeast into the confines of portions of Warning Area W-107 and Control Area 1147 and lowering the 2,000 feet MSL floor in the present area to 1,200 feet and to 700 feet in the proposed expanded area. Warning Area is specified international airspace within which may exist activities constituting a potential danger to aircraft. Warning areas are depicted on aeronautical charts to alert nonparticipants to the existence of possible hazardous conditions. However, no restriction to flight is imposed because flight within international airspace cannot legally be restricted.

The oil industry has advised the FAA that it will require IFR service for helicopters to the numerous offshore drilling sites in the mid-Atlantic Outer Continental Shelf in support of oil exploration. This project is part of the United States Government's effort to reduce dependency on foreign energy sources. The lowering of these airspace floors would provide the FAA with some flexibility in establishing off airway routes to the oil exploration sites adjacent to the New Jersey shoreline and encompass planned instrument approach procedures to the various oil rig sites.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in conconance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 348) as follows:

In § 71.163 in Barnegat, N.J.: 1. "2,000 feet MSL" would be deleted and "1,200 feet MSL" substituted therefor.

2. Following "Lat. 39°44'00" N." add "that airspace extending upwards from 700 feet MSL beginning at Lat. 39°40'00" N., Long. 73°29'00" W.; to Lat. 39°40'00" N., Long. 72°50'00" W., to Lat. 39°34'00" N., Long. 72°50'00" W.; thence along Lat. 39°34'00" N., to the northeast edge of Control 1147; southeast along the northeast edge of Control 1147 to Lat. 39°19'00" N.; thence to Lat. 38°33'00" N., Long. 73°08'00" W.; west along Lat. 38°33'00" N., to the northeast edge of Control 1148; thence northwest along the northeast edge of Control 1148 to Long. 73°50'00" W.; to Lat. 38°58'00" N., Long. 73°50'00" W.; to Lat. 38°58'00" N., Long. 73°13'00" W.; to Lat. 39°09'00" N., Long. 73°13'00" W.; to Lat. 39°09'00" N., Long. 73°29'00" W.; to point of beginning.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23314 Filed 8-12-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release Nos. 34-13661, IC-9824; File No. S7-654]

SECURITIES CONFIRMATIONS

Proposed Rulemaking

Correction

In FR Doc. 77-18681,appearing at page 33348 in the issue of Thursday, June 30, 1977, the following changes should be made:

1. On page 33351, third column, in the third line of § 240.10b-10(a)(6)(ii), after the comma insert the words, "if he is not a market maker in that security and if, after having received".

2. On page 33352, first column, the fifth word in the fourth line should read, "account".

3. On page 33352, second column, the second word in the fifth line of § 240.-10b-10(d)(5)(iii) should read "designated" and the fourth word in the third line of § 240.10b-10(d)(5)(iii)(A) should read, "total".

[17 CFR Parts 239, 270, and 274]

[Release Nos. 33-5849, IC-9882; File No. S7-697]

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Extension of Comment Period for Proposed Revision of Forms, Reports and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments on the notice published May 31, 1977, proposing a new rule and forms intended to create an integrated registration and reporting system designed to reduce both the number of forms and the duplicative information filed by management investment companies. Specifically, the Commission is proposing a revised notification of registration under the Investment Company Act of 1940 ("1940 Act"), new registration statements forms for registration of open and closed-end investment companies under the 1940 Act and of their securities under the Securities Act of 1933 ("1933 Act"), a revised annual report form for annual reports under the 1940 Act, and a new rule under the 1940 Act requiring an annual update of the 1940 Act registration statement.

DATE: Comments must be received on or before September 19, 1977.

ADDRESS: Comments should be sent to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Special Counsel, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0230.

SUPPLEMENTARY INFORMATION: Notice was published on May 31, 1977, 33-5829, IC-9782 [42 FR 29716, June 9, 1977] proposing the adoption of Rule 8b-16 [17 CFR 270.8b-16] under the 1940 Act [15 U.S.C. 80a et seq.] and new and amended forms under the 1933 Act [15 U.S.C. 77a et seq.] and the 1940 Act. A request for an extension of the comment period to September 19, 1977, has been submitted on behalf of the Association of Publicly Traded Investment Funds ("Association"). The Association stated that because of the personal commitments and schedules of members of the Association and the large volume of material that must be analyzed, it would not be feasible for it to comment by August 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until September 19, 1977, of the due date for submitting comments with respect to the proposed rule and forms. The Commission believes that this extension is appropriate and will not result in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7-697, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

August 8, 1977.

[FR Doc.77-23498 Filed 8-12-77;8:45 am]

[17 CFR Part 270]

[Release No. IC-9883; File No. S7-698]

INVESTMENT COMPANY ANNUAL REPORTS

Extension of Comment Period for Proposed Revision of Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Extend of comment period.

SUMMARY: This notice extends the period for comments on the notice published May 31, 1977, proposing a revision of the Commission's regulations on the filing of investment company annual reports to require that such reports be filed within 90 days (rather than the current 120 days) after the end of the fiscal year. This will make available to the staff of the Commission information relating to a company's most recent fiscal year at the time that it reviews a posteffective amendment to that company's registration statement under the Securities Act of 1933. It will also bring the required filing date for annual reports into line with the required filing date for annual reports filed by industrial companies.

DATE: Comments must be received on or before September 19, 1977.

ADDRESS: Comments should be sent to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Special Counsel, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0230.

SUPPLEMENTARY INFORMATION: Notice was published on May 31, 1977, IC-9783 [42 FR 29828, June 9, 1977] proposing the adoption of an amendment to Rule 30a-1 [17 CFR 270.30a-1] under the Investment Company Act of 1940 [15 U.S.C. 80a et seq.]. A request for an extension of the comment period to September 19, 1977, has been submitted on behalf of the Association of Publicly Traded Investment Funds ("Association"). The Association stated that because of the personal commitments and schedules of members of the Association and the large volume of material that must be analyzed, it would not be feasible for it to comment by August 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until September 19, 1977, of the due date for submitting comments with respect to the proposed rule and forms. The Commission believes that this extension is appropriate and will not result in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7-698, and will be available for public inspection at hte Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 8, 1977.

[FR Doc 77-23499 Filed 8-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 777-1]

[40 CFR Part 211]

NOISE LABELING STANDARDS GENERAL PROVISIONS

Public Hearings; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearings; notice of extension of comment period.

SUMMARY: By this notice the Environmental Protection Agency announces that public hearings will be held in Washington, D.C., Cedar Rapids, Iowa, and San Francisco, Calif., concerning the general provisions of its recently proposed product noise labeling regulatory program; and that the public comment period for that proposed regulatory action is being extended from September 20, 1977, to October 28, 1977. The general provisions for the labeling program were proposed in the FEDERAL REGISTER on June 22, 1977, 42 FR 31722. The purpose of the hearings is to help provide the Agency with a complete and broad-based public response to the proposed labeling program, especially from private citizens, and consumer and public interest groups, as well as product manufacturers and retailers. The Agency believes this form of public comment, in addition to written comments, will materially aid it in identifying and addressing all of the public's questions, concerns, and data, and resolving all associated issues; in developing final noise labeling regulatory provisions, and in implementing its product noise labeling program.

DATES:

Hearings

WASHINGTON, D.C.

Date: September 16, 1977.
Place: Capitol Hilton Hotel, 16th and K Street NW., Washington, D.C. 20036.
Time: 9 a.m. to 5 p.m.

CEDAR RAPIDS, IOWA

Date: September 20, 1977.
Place: Kirkwood Community College, 6301 Kirkwood Boulevard SW., Cedar Rapids, Iowa 52406.
Time: 9 a.m. to 9 p.m.

SAN FRANCISCO, CALIF.

Date: September 22, 1977.
Place: San Francisco Hilton Hotel, Mason and O'Farrell Streets, San Francisco, Calif. 94109.
Time: 9 a.m. to 9 p.m.
Scheduling statements by September 9, 1977.

Comment period extension until October 28, 1977.

ADDRESSES: Those persons wishing to make statements at the hearings should notify the EPA at the following address by September 9, 1977, so that presentations may be scheduled: Director, Standards and Regulations Division (AW 471), Office of Noise Abatement and Control, Attn.: Noise Labeling Public Hearings, U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Ted Ricci, Project Officer, Standards and Regulations Division (AW-471), U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-557-2710).

SUPPLEMENTARY INFORMATION: See following text.

In the FEDERAL REGISTER of June 22, 1977, 42 FR 31722, the Environmental Protection Agency proposed to establish the general provisions of a product noise labeling regulatory program. The proposed general provisions concern those aspects of the program which the Agency intends to implement in a uniform manner with respect to the majority of products that will be considered for possible noise labeling action. Product-specific labeling requirements for individual products or product classes will be added to the proposed provisions by future rulemaking actions.

The major purpose of the regulatory program is to provide accurate and understandable information to consumers concerning the noise generating or noise reducing properties of products so that meaningful comparisons can be made by the public concerning such properties as part of purchase or use decisions.

In the FEDERAL REGISTER notice of June 22, 1977, the Agency indicated that it would hold public hearings concerning the general provisions of the proposed noise labeling program if public response during the comment period indicated that they would be in the public interest. Public response to this date has demonstrated widespread interest in the proposed regulations. The EPA, therefore, feels that public hearings would provide a significant opportunity for it to receive a more complete indication of the public's views, questions, concerns, and ideas about the proposed federal program.

Final regulations for the product noise labeling program will be promulgated after the review of all comments received in response to the published proposal. The information gained from the hearings is necessary, therefore, for the Agency to ensure that all issues associated with the regulatory program have been identified and adequately addressed.

The EPA is especially interested in hearing from private citizens, and consumer and public interest groups, in addition to product manufacturers and retailers, during the formal comment period and at the public hearings being scheduled.

Topics appropriate for consideration at the hearings include all aspects of the Agency's product noise labeling program and the proposed general provisions. These may include, but are not limited to, aspects such as: the need for noise labeling for products; possible product candidates for labeling; product selection process; proposed label format and content; methods of displaying relative ratings for products; associated public education and awareness program; costs of the program; and methods for ensuring compliance by those who may be required to label products.

All interested parties are encouraged to attend the hearings which will be held in Washington, D.C., Cedar Rapids, Iowa, and San Francisco, Calif., on the dates and at the places and times indicated above.

All interested persons will be given an opportunity to make a statement at the hearings. Such persons should notify the EPA of their intentions to make a statement at the address and by the date indicated above. Persons who have not given such notice will be heard as time permits following the scheduled statements. If possible, it is requested that speakers submit a copy of their statement no later than the day on which they appear. The hearings will be conducted informally. Technical rules of evidence will not apply. The hearings in Cedar Rapids and San Francisco are scheduled to include some evening hour sessions to facilitate testimony by the general public. Persons wishing to be heard in the evening hours should so specify when notifying the EPA of their desire to make a statement.

The transcript of the hearings and any materials submitted for the record will become part of the official public docket for the Proposed Product Noise Labeling Standards—General Provisions, Docket No. ONAC-77-8.

The official public comment period for the proposed regulatory action is being extended because of the decision to schedule public hearings. The comment period will now extend to October 28, 1977.

Dated: August 8, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator, For Air and Waste Management.

[FR Doc.77-23403 Filed 8-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 11]

CLOSING OF ADVISORY COMMITTEE MEETINGS

Intent To Amend Regulations

AGENCY: Health, Education, and Welfare Department.

ACTION: Notice of intent to amend rule.

SUMMARY: The Secretary of Health, Education, and Welfare has under consideration a proposed amendment to the Department's Committee Management Interim Regulations published Monday, August 23, 1976, 41 FR 35654-8. In particular, the Secretary will propose amendments to 45 CFR 11.5(a)(6) "Closing Advisory Committee Meetings." Changes are required because of the amendment to the Federal Advisory Committee Act by the enactment of the Government in the Sunshine Act (Pub. L. 94-409, § 5). That amendment changed the criteria for the closing of meetings of Federal Advisory Committees. Instead of relying on the exemption under the Freedom of Information Act, agencies now must utilize the criteria of the Government in the Sunshine Act in order to close committee meetings.

While making the technical changes required by the amendment to the Federal Advisory Committee Act, the Secretary wishes to review the Department's overall policy on the closing of advisory committee meetings. He therefore invites comments on policies and procedures regarding the closing of such meetings. In considering changes, the Secretary particularly wants to comply with the Congressional intent that, in general, meetings be open to the public. He recognizes, however, that there will be situations which will dictate that certain meetings or portions of meetings be closed. The proposed amendment to the regulation should establish criteria which must be met before a determination can be made to close a meeting or any portion of a meeting. The Secretary specifically invites comments on how such criteria may be refined in order to assure that meetings which should be closed may be closed, but to assure, to the extent feasible, that meetings which do not need to be closed are open to the public.

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Mail comments to: Department Committee Management Officer, 330 Independence Avenue SW., Washington, D.C. 20201. Comments may be hand delivered to Room 4357, 330 Independence Avenue SW. All comments received may be reviewed in Room 4357, 330 Independence Avenue SW.

FOR FURTHER INFORMATION CONTACT:

Russell M. Roberts. (202-245-7578).

SUPPLEMENTARY INFORMATION: The following issues are presented for comment. In considering these issues, the Secretary will also consider any additional questions raised by the comments.

1. *Protection of personal privacy.* The protection of personal privacy is of great concern to the Secretary. Advisory committee meetings may be closed under present law where an open meeting would "disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552b(c)(6)).

Can guidelines be formulated which would assist a government official in determining whether the right of the public to have access to information concerning a particular individual's background, qualifications, competence, financial situation, or the like, outweigh the right of an individual to personal privacy regarding such factors of his personal life?

Should the criteria for closing meetings of committees such as the Boards of Scientific Counselors, which review in-house research activities of government employees, differ from those for peer review committees which assess the work of non-Federal principal investigators on funded or potential grants and contracts?

Would discussion in an open forum in the nature of performance evaluation or appraisal of Federal employees, whether or not engaged in research, constitute a clearly unwarranted invasion of privacy?

Should the level of position or responsibility of the Federal employee affect what constitutes a clearly unwarranted invasion of privacy?

If a Federal employee is not entitled to privacy protection, is the Department entitled to discuss performance appraisal of employees in evalulating the Department's efficiency in closed sessions because such matters relate to personnel rules and practices?

2. *Trade secrets, commercial, or financial information.* To what extent should a person supplying trade secrets, commercial, or financial information to the Department, knowing that such information will be reviewed by an advisory committee, have a role in determining whether such information is privileged or confidential, thereby participating in the deliberation to close the advisory committee meeting on that basis?

Should the Department notify persons who have submitted trade secrets, commercial, or financial information prior to submitting such information for discussion in open session by an advisory committee?

Will people doing business with the Department submit proprietary information in sufficient detail to be useful to the Department if there is a possibility that such information may be disclosed in an open committee meeting?

What other safeguards should be established to assure that proprietary interests of the providers of information are fully protected, while at the same time assuring the right of the public to attend and participate in the deliberations of advisory committees to the fullest extent possible?

3. *Law enforcement investigations.* What guidelines can be established to determine when disclosure of investigatory information might interfere with enforcement proceedings?

4. *Procedures.* The interim regulations provide that the Executive Secretary of an advisory committee is responsible for justifying why a meeting, or a portion thereof, should be closed when submitting a request to the appropriate official for a determination to close a meeting. The request is to be submitted 60 days prior to the scheduled date of the meeting. Any determination to close the meeting, or any portion thereof, must be in writing and likewise contain specific reasons to support the determination. Any such determination must be reviewed and approved by the Office of General Counsel and the Office of Public Affairs.

Are further procedural requirements appropriate to prevent the improper closing of advisory committee meetings?

5. *Separating open portions of meetings from portions which may be closed under the criteria to be formulated in the regulation.* The Secretary is concerned that any determination to close a meeting, or portion thereof, restrict such closing to the shortest reasonable time. The Secretary recognizes however that under certain circumstances discussions which may fall within the criteria for closing will intertwine with discussions of matters which do not meet such criteria.

What guidelines can be established for the least amount of time consumed in mixed discussion?

Should the determination to close a meeting include a provision that the chairman, or the Federal official required to be in attendance, may open a meeting, or portion thereof, if it appears that the discussions are not intertwined or do not otherwise meet the criteria for closing meetings?

The issues set forth above are those which reflect the special concerns of the Secretary. Interested parties need not confine their comments in response to this notice of intent to the issues set forth in this notice. Any additional issues concerning the closing of advisory committee meetings may be submitted and will be considered by the Secretary in formulating his notice of proposed rule- making.

Dated: August 6, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-23404 Filed 8-12-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21352; RM-1754; FCC 77-564]

[47 CFR Part 73]

PUBLIC NOTICE OF INTENT TO SELL BROADCAST STATION

Inquiry and Memorandum Opinion and Order

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and memorandum opinion and order.

SUMMARY: The Commission proposes a rule requiring owners of broadcast stations to publish notice of intent to sell 45 days before signing a contract of sale. The purpose is to increase minority ownership of stations. Since many station sales are arranged privately, minority investors, who are not socially or professionally close to station owners, do not hear that the stations are for sale in time to offer to buy them. The Commission also denied a petition asking that sellers broadcast notice that they have sold the station and give information concerning the buyer since its rules already provide for this.

DATES: Comments must be filed on or before October 3, 1977, and reply comments on or before November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

ADOPTED: July 27, 1977.

RELEASED: August 9, 1977.

By the Commission: Commissioner Hooks issuing a separate statement.

1. This is an Inquiry into whether it would be desirable to require a licensee to give public notice of its intent to sell a broadcast station as a means of increasing minority ownership of stations.

2. This Notice is the Commission's own proposal, originally suggested by Commissioner Benjamin L. Hooks; it also deals with a petition filed February 22, 1971, by Stephen H. Paul and Howard B. Sandler (hereinafter petitioners), students at the Indiana University School of Law.

COMMISSIONER HOOKS' PROPOSAL

3. At our recent Minority Ownership Conference, minority broadcasters and investors complained that they do not learn that desirable broadcast properties are for sale until it is too late to offer to buy them. They stated that agreements for the sale of the desirable stations are made privately, a process in which they are unlikely to participate since minority investors are likely not to be socially or professionally close to those who already own broadcast stations. To remedy this problem, Commissioner Hooks proposed that a licensee be required to give notice that its station was for sale at least 45 days before signing a contract to sell it,

so that those who are not part of the existing "establishment" can learn of opportunities to acquire stations. We believe that his proposal could ameliorate this situation since it would require broadcasters to give such notice. Correspondingly, the burden involved would be very small and, indeed, there could be a benefit to the seller through receiving a higher price as a result of the larger group of buyers that might bid for the station.

4. The proposed notice requirement should not apply to any pro forma (Form 316) assignments and transfers. Clearly a notice requirement should not apply to involuntary Form 316 applications since they are involuntary and are necessarily followed by a long form transfer or assignment application when the executor, administrator, trustee, etc. disposes of the estate, bankrupt's assets, etc. Also it clearly should not apply in the case of a voluntary Form 316 application where the station is being transferred from a corporation, partnership, joint venture, or sole proprietorship to another entity with the same or similar beneficial ownership.

5. There are some situations in which a Form 316 application may be used but in which control actually passes from one individual to another, as in the case where a minority shareholder who has previously been passed on in a long form application acquires an additional interest sufficient to make him the majority shareholder. Usually these situations involve a small percentage change in ownership, often of a small station owned by a partnership or close corporation with no outsiders, "establishment" or otherwise being involved. For these reasons and for administrative convenience we believe that all Form 316 applications should be exempt from the notice requirement. Any other choice would involve us in a time consuming process of determining which Form 316 applications should be subject to the requirement and which should be exempt.

6. We would also exempt stations which are being transferred by gift, intestacy, or pursuant to the terms of a will or divorce or separation agreement. Since these stations are not being sold, there is no reason to apply a rule applicable to contemplated sales. Of course, notice would be given if the recipient decided to sell the station rather than operate it.

7. We would not apply the notice requirement to the exercise of an option not involving outsiders to purchase a controlling interest in a station. Opinions are often part of an employment agreement, given perhaps to induce a station manager to remain at the station or to accept a lower salary and are also a common part of an agreement among partners or stockholders in a close corporation. If notice were required at the time of giving the option, the notice would be meaningless; if required at the time of exercise, then options would be meaningless since the station owners could not guarantee to sell their stations at any particular price or to the optionee. Although we would anticipate good faith, we emphasize our concern that options must not be used as a means to circumvent the purpose of the notice requirement. An option would appear to be in good faith where it was coupled with some other transaction or previous relationship, such as an employment contract or agreement among partners or shareholders or where a great deal of time had passed since the option was given.

8. We believe that the proposal could enhance minority ownership opportunities. We are interested in receiving comments on any aspect of such a rule and its administration and in particular on whether our basic assumptions, that a rule would increase minority purchases while placing a minimal additional burden on broadcasters, are correct. Some of the issues which should be addressed are as follows: Would the burden on broadcasters be greater than we have assumed, with the additional waiting period causing substantial economic or other difficulties in completing station sales? Would the notice reach minority investors and actually increase the number of offers to buy? Specifically, would local notice, which would be similar to what we require for broadcast applications, be effective in reaching minority buyers throughout the country? The purpose of local notice for transfer, renewal, and other broadcast applications is to enable members of the public whom the station is supposed to serve to comment on the applications, but interested minority buyers, like any other buyers, might well be outside the station's service area. We are inclined to think that this is not really a problem because minority investors interested in broadcasting and their brokers would read the trade press which would doubtless learn of and report stations for sale when notice was given. Assuming that more minority investors learn of stations for sale, because of the notices, would this actually lead to a greater number of offers to buy with resulting purchases by them?

9. Is 45 days the appropriate time period? On the one hand, too long a delay would harm broadcasters, since a station would be operating in an uncertain status for a longer period, with lowered employee morale, employees leaving, and possible decline in revenue. On the other hand, if the time were too short, minority buyers would not be able to investigate the market and assemble the needed capital.

10. As indicated above, we need more than simple arguments pro and con and seek specific discussion of both procedural and substantive facets of a rule and its likely impact on affected parties. In commenting, parties should consider that we suggest a straightforward requirement with uncomplicated exceptions because evaluating requests for exemption from the requirement could cause more delay in the sale of a station than merely waiting 45 days before signing a contract of sale.[1]

11. Section 310(d) of the Communications Act, 47 U.S.C. section 310(d), provides in pertinent part that in acting on a transfer or assignment application "the Commission may not consider whether the public interest * * * might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee."[2] Thus enforcement of any such rule would be limited to ensuring that the seller publishes and files proof of publication of the notice with its transfer or assignment application. In accord with section 310(d), the Commission does not have the authority to interfere with the licensee's choice of a buyer. However, that does not necessarily preclude action designed to potentially increase the number of buyer from which the licensee may choose.

THE PAUL AND SANDLER PETITION

12. The petition urges that the Commission amend its ruels to require a seller to broadcast advance notice of a transfer to the local public and asks that the Commission urge Congress to amend section 310 to permit it to consider a competing transferee. To this end, petitioners propose that 30 days before filing a transfer application, the seller broadcast notice of its intent to transfer the station, announcing that a written statement concerning the transfer is available at the station and inviting interested

[1] For example, while time may be of the essence in some cases which fall within the exceptions to the Three Year Rule (Sec. 1.597(a)(3) of the Rules, 47 CFR sec. 1.597(a)(3)), it is not possible to determine which applications do fall within the exceptions until after examination of the applications. Thus as much time might be required to decide whether to waive the notice requirement as would be consumed by following the notice procedure.

[2] Congress added this language to Section 310 in 1952, because it wished to make sure that the Commission did not reinstate its former "Avco" rule. The Commission had announced the Avco rule in *Powel Crosley, Jr.*, 11 F.C.C. 1 (1945), stating that when a transfer or assignment application was filed, the Commission would give public notice and require the applicant to give public notice locally of the proposed sale and to invite others to apply for the facilities on the same contract terms. The Commission would hold the application for 60 days to allow competing applications to be filed. If no one filed another application, the original application would be considered on its merits. If others filed, all would be considered to determine which was the best qualified. If a competing applicant were preferred, the original transfer application would be denied and consent would be given to transfer to the preferred applicant if the parties made a contract and filed a new application within thirty days. The Commission followed this procedure, garnting waivers in some instances, for a few years but abandoned it in 1949. Congress amended section 310 to add the quoted language to make sure that the Commission did not reinstate the procedure. See S. Rept. No. 142, 82nd Cong. 1st Sess., 8–9 (1951).

persons to comment to the FCC on the merits of the transfer. The written statement would contain information about the buyer, its programming plans, and a statement that any interested party objecting to the transfer can file a petition to deny it. Petitioners state that public participation in the transfer process would help the Commission decide whether a transfer is in the public interest and "[t]he rationale for this proposed rule is the same rationale that underlies allowing petitions to deny renewal of licenses."

13. It appears that petitioners are unaware of our existing rules requiring publication of notice of transfers in almost the same manner they recommend. Further, the type of rule about which we are inquiring in this Notice would provide the public with even more information regarding an impeding transfer than the rules presently require.

14. Section 1.580 (c) and (d) of our Rules, 47 CFR section 1.580 (c) and (d), require a seller to publish in a local newspaper and broadcast over its station notice of the transfer or assignment application and of any major amendment to it after it tenders for filing at the Commission the ayplication or amendment. Section 1.580(f) lists information that the notice must contain, which must include the name of the transferee, the names of the partners if the transferee is a partnership, the names of officers and directors and principal stockholders if the transferee is a corporation, and a statement that a copy of the application and related material is available for public inspection at a specified location. Procedures for objecting to the applicaiton[3] are described in the FCC publication, *The Public and Broadcasting*, 39 F.R. 32288, September 5, 1974, which is required, by section 1.526(a)(6) of the Rules, 47 CFR section 1.526(a)(6), to be kept in a station's public file along with applications.

15. In summary, the present rules provide essentially all the procedures which petitioners request to enable the public to participate in the Commission's decisionmaking process on a transfer application. The seller is required to alert the public to the transfer and to provide information regarding it. Thereafter the public may participate formally or informally in the Commission's deliberations. Therefore we see no need to consider petitioners' proposal, and we will deny this part of the petition.

16. *Proposed amendment of section 310.* Petitioners also ask the Commission to urge Congress to amend section 310 of the Communications Act, 47 U.S.C. section 310, to allow the Commission to consider a competing transferee to a limited extent. Their proposal differs from the former "Avco" procedure described in footnote 3, supra, in that it would give a preference to the buyer proposed by the licensee, require the competing applicant to pay the seller's price in cash, to pay the seller's costs in the hearing and the buyer's costs if the buyer prevails (but not otherwise), and require an expedited hearing process which would take no longer than the time to process a transfer application not involving a hearing.

17. While petitioners' ideas are interesting, we do not believe their suggestions are workable as proposed. In our experience, in most cases where a transfer application is designated for hearing, to determine the transferor's or transferee's qualifications, it is withdrawn because the parties do not wish to go through the time and expense of a hearing. Petitioners' proposal for comparative hearings would not cure this problem. The transferee would still risk bearing the expenses if it lost. Also it is impossible for the Commission to speed up the hearing process to be able to conclude the hearing in the time it takes to process a routine application. As petitioners are undoubtedly aware, hearings often take months or, in many instances, years, while a routine transfer application is processed in about 90 days. The length of time of a hearing is not entirely within the Commission's control as the parties themselves take time for discovery and file various motions which often delay the process. Further, even if the entire record were certified immediately to the Commission after the conclusion of the hearing, the parties still may appeal to the courts, a right which cannot be foreclosed by the FCC. Finally, although under section 310 the Commission cannot consider a competing transferee, such an applicant can always file a competing application against the station's next renewal application and seek comparative consideration at that time.

18. Authority for the institution of this proceeding is contained in section 403 of the Communications Act of 1934, as amended.

19. Pursuant to procedures set forth in section 1.415[4] of the Commission's Rules, interested persons may file comments on or before October 3, 1977, and reply comments on or before November 1, 1977. The Commission will consider all relevant and timely comments and may also consider other relevant information before it before taking further action in this proceeding.

20. In accordance with the provisions of section 1.419 an original and five copies of all comments, replies, briefs, and other documents shall be furnished the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All filings in this proceeding will be available for examination by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

21. *It is ordered*, That the petition filed by Stephen H. Paul and Howard B. Sandler (RM–1754) is denied.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER BENJAMIN L. HOOKS

From a procedural standpoint, I would have desired that this inquiry would have been accompanied by a rule proposal to effectuate the concept should the Commission find it meritorious.

While I freely admit that the notice of intended sale under consideration herein is by itself no panacea for the problem of negligible minority broadcast ownership, such pre-sale notice could open up the marketplace in station properties to those unsophisticated in the assignment process. If nothing else, it would also enlighten the public about the nature of broadcast station acquisition and give citizens in the licensee community an awareness of the availability of a particular station, thereby encouraging both local and minority interest.

[FR Doc 77-23457 Filed 8-12-77;8:45 am]

[3] Petitioners do not appear to be aware that section 309(d) of the Communications Act and section 1.580(i) of the Rules permit interested parties to file petitions to deny transfer applications within 30 days following public notice of their acceptance for filing and that section 1.587 of the Rules permits anyone to file an informal objection to any application, at any time before the application is granted. Moreover, section 309(b) of the Communications Act and section 1.580(b) of the Rules provide that the Commission cannot grant a transfer application earlier than 30 days following public notice of its acceptance for filing, which follows at least several days after its tendering for filing.

[4] Pursuant to section 1.430 of the Commission's Rules the various procedural requirements applicable to rule making proceeding apply to proceedings on a notice of inquiry.

[47 CFR Part 91]

[Docket No. 21342; RM-2792; FCC 77-510]

ALLOWING TRANSMISSION OF PULSED CARRIER EMISSIONS ON THE FREQUENCIES 154.570 AND 154.600 MHZ

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This notice is in response to formal petition requesting amendment of the Commission's rules and regulations to allow "pulsed carrier" emmission on the low power Business Radio Service frequencies 154.570 and 154.600 MHz.

The objective is to permit operation of a vehicle guidance system designed by the petitioner specifically for vehicles which are used to apply fertilizer, pesticides, and herbicides on farm crops. Apparently, there is a significant problem with either skipping over or overlapping areas which this guidance system would eliminate.

A rule amendment is needed because the present rules do not allow the transmission of "pulse" emissions on those frequencies.

DATES: Comments must be received on or before August 29, 1977, and reply comments must be received on or before September 9, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Wood, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-6497).

NOTICE OF PROPOSED RULE MAKING

Adopted: July 14, 1977.

Released: July 22, 1977.

In the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz.

By the Commission:

1. The Commission has before it the above-entitled petition filed by Ag Nav, Inc. (Ag Nav), requesting amendment of section 91.554 of the Commission's rules to permit pulsed carrier type emissions on the frequencies 154.570 and 154.600 MHz.

2. Ag Nav has developed a vehicle guidance system designed to facilitate the more efficient application of fertilizers, herbicides, and other chemicals used in agriculture by permitting more accurate measurement of the distance from the last applied path of chemical and thus eliminate skips and overlaps. It is claimed that there is not an effective vehicle guidance system in agricultural spraying operations, and, Ag Nav claims, this results in substantial crop damage as well as excessive use of chemicals.

3. The Ag Nav system uses a pulsed carrier, low power, narrow channel (5 kHz) VHF radio transmission technique to guide the spraying vehicles. Although only a single, simplex frequency assignment is required for each system, division of the two frequencies into three 5 kHz channels each will facilitate the operation of up to six systems in adjacent fields or within potential interference range of each other.

4. Ag Nav argues that the proposed use of the frequencies 154.570 and 154.600 MHz will have minimal impact on existing users. These frequencies are available in the Business Radio Service for low power (up to 2 watts output) general use. The petitioner's system would use about 1 watt of power and this, Ag Nav believes, would limit its interference potential to less than 2 miles. In addition, Ag Nav points out that this use will be concentrated in rural areas, whereas most existing users are in urban areas. Finally, the petitioner notes that non-voice facilities are already permitted on the subject frequencies and the proposed pulsed carrier transmission would pose no more serious interference potential.

5. Sears, Roebuck and Co. (Sears) was the only party which filed comments. Sears stated that it should be possible to accommodate the needs of Ag Nav without interfering with ordinary Business Radio communications; but, to minimize the possibility of such interference, Sears urged that any proposed rule specifically include the 2 watt power and 25 foot antenna height limits contained in section 91.554(b) (13), and (14) of the Commission's Rules, that this operation be prohibited within 25 miles of urbanized centers with a population of 100,000 or more, and that the operation be authorized on a secondary, non-interference basis to voice operations.

6. We have considered that petition and the comments on it and it appears to us that Ag Nav's proposal could be accommodated on the frequencies mentioned without disruptions or serious interference problems; that the proposal could enhance spectrum utilized; and that it would benefit the public through improved agricultural production. We have considered Sears' suggestions, but we do not believe that the restrictions proposed would be necessary, although parties may want to address this matter further in the comments.

7. In view of the foregoing, we propose to amend section 91.554(b) of the Rules to allow pulsed carrier (P0 or P2) emissions of 5 kHz bandwidth limited to peak power outputs of 1 watt centered on 154.570 and 154.600 MHz or 5 kHz above or below these frequencies. In addition, we ask for comments on whether pulsed carrier emissions should be permitted in the remaining low power frequencies now allocated in the Business Radio Service.

8. The proposed rule amendment is issued under sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before August 29, 1977, and reply comments on or before September 9, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of section 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

It is proposed that the Commission's rules and regulations be amended as follows:

Section 91.554(a) is amended by the addition of a new limitation (51) to the frequencies 154.570 and 154.600 MHz, and paragraph (b) is amended to read as follows:

§ 91.554 Frequencies available.

(a) * * *

Frequency or band	Class of station(s)	General reference	Limitations
* * *	*	*	*
MHz			
* * *	*	*	*
154.570	Mobile.....	Low power general use.	13, 14, 44, 51
154.600	...do.....	...do.....	13, 14, 43, 51
* * *	*	*	*

(b) * * *

(51) This frequency may be used, with the transmitter carrier centered on the designated frequency or 5 kHz above or below the designated frequency, with P0 or P2 emission, using a bandwidth of 5 kHz and a power not to exceed 1 watt peak power output.

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[FR Doc.77-23461 Filed 8-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-88 (Sub-No. 1)]

[49 CFR Part 1307]

FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Detention of Motor Vehicles—Alaska

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding to consider amending a final rule.

SUMMARY: The Interstate Commerce Commission is instituting a proceeding to consider exceptions from the free time allowances and detention charges prescribed in Ex Parte No. MC-88, Detention of Motor Vehicles Nationwide, 126 M.C.C. 803, for origins and destinations within the state of Alaska. The proceeding is being instituted in response to petitions filed pursuant to the Commission's report on reconsideration, 126 M.C.C. 803. The impact of this proceeding will be confined to origins and destinations within Alaska.

DATES: Persons wishing to participate must file statements of intent to participate on or before September 4, 1977.

ADDRESSES: Send statements of intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. 202-275-7963 or 275-7656.

A proceeding is instituted to consider amending 49 CFR 1307.35(e).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23479 Filed 8-12-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Proposed Frameworks for Late Season Migratory Bird Hunting Regulations for Waterfowl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the FEDERAL REGISTER on March 10 and May 25, 1977, and proposes to establish frameworks, that is, the outer limits for dates and times when shooting may begin and end, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations. The Service annually prescribes hunting regulations framework to the States. The effects of this proposed rule are to facilitate the selection of hunting seasons by the States and to establish late season migratory bird hunting regulations for the 1977-78 season.

DATES: Comments due by August, 25, 1977.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-343-8827).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons adn those for "late" seasons. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, lesser sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in early March, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, a supplemental proposed rulemaking is announced in the FEDERAL REGISTER. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the FEDERAL REGISTER, and become effective upon publication.

On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 1331) proposals to amend 50 CFR 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977-78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977-78 season. On July 15, 1977, the Service announced in a fifth document in the FEDERAL REGISTER (42 FR 36495) the availability of a draft environmental assessment on shooting, hours and allowed a 10-day public comment period. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a sixth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977-78 seasons from which States selected early season dates and daily bag and possession limits for the 1977-78 season. On August 9, 1977, the Service published in the FEDERAL REGISTER (42 FR 40211) a seventh document in the series consisting of final rulemaking dealing specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977-78 season. On August 5, 1977, the Service delivered to the FEDERAL REGISTER an eighth document in the series consisting of final rulemaking amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands which will be published on or about August 17, 1977. This document is the ninth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with proposed regulations frameworks for 1977-78 late hunting seasons on certain migratory game birds.

On June 21, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 29325; June 8, 1977) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, lesser sandhill (little brown) cranes in North Dakota and South Dakota, and common (Wilson's) snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and special sea duck seasons in the Atlantic Flyway. Statements or comments were invited. On August 2, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 34897; July 7, 1977), to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; lesser sandhill (little brown) cranes in Colorado, New Mexico Oklahoma, Texas, Montana and Wyoming; common (Wilson's) snipe in the Pacific Flyway; and special falconry

regulations. Statements or comments were invited.

This supplemental proposed rulemaking document identifies a number of changes to the original framework proposals published on March 10, 1977, in the FEDERAL REGISTER, and as supplemented on May 25, 1977. The present supplemental proposals are briefly described as follows.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE'S RESPONSE TO SAME

The public was given several opportunities to comment on regulations being proposed for late seasons during 1977–78. Altogether, 662 written public comments were received by August 4, 1977, and given consideration. The Service advised that interested persons should respond by May 18, 1977, to the initial regulatory proposals shown in the FEDERAL REGISTER dated March 10, 1977, on page 13313. One hundred twenty-eight comments were received. A supplemental proposed rulemaking appeared in the FEDERAL REGISTER on May 25, 1977 (42 FR 26669), and the public was given until July 14, 1977, to submit comments. Twenty-nine comments were submitted. The public was notified in the FEDERAL REGISTER on July 15, 1977, that a draft environmental assessment on shooting hours for migratory game birds was available for review and comment, and that comments would be considered if received by July 25, 1977 (42 FR 36495). Four written comments on the draft environmental assessment were received by July 25, 1977. Five additional written comments were received between July 26 and August 1 after the close of this comment period but were, nevertheless, considered in preparing the final environmental assessment for proposed shooting hours regulations.

Many of the earlier comments dealt with the early season regulations, and these were tabulated and analyzed in the FEDERAL REGISTER dated July 5, 1977, on page 34306, and July 22, 1977, on page 37552. Many letters contained statements on several topics. Some regulatory proposals, such as shooting hours, pertain to both early and late season proposals. Some respondents submitted more than one statement during the overall comment period. Also, some of the comments addressed topics outside the scope of the regulatory proposals, and in this regard, were irrelevant.

The following review of comments includes all those arising from the various comment periods noted above, except for those relating to the draft environmental assessment on shooting hours which were analyzed separately in the FEDERAL REGISTER dated August 9, 1977 (42 FR 40211). In addition to the written comments, four verbal statements were presented at the public hearing in Washington, D.C., on August 2, 1977, at which proposed late season regulations were reviewed and discussed. These statements were offered by the Wildlife Management Institute, the National Audubon Society, the Defenders of Wildlife, and Ducks Unlimited. In addition, two statements were filed by the Wildlife Society and the Ohio League of Sportsmen. The summary of comments and the Service's response are presented with the same numerical identification and sequence as they appeared in the March 10, 1977, FEDERAL REGISTER.

1. *Shooting hours.* Thirty-six comments on shooting hours were reported and evaluated in the FEDERAL REGISTER dated July 22, 1977, on page 37553). That document also described the litigation brought last year by Defenders of Wildlife and the decision rendered by Judge Gerhard A. Gesell of the U.S. District Court, Washington, D.C. The Service subsequently prepared a draft environmental assessment on shooting hours for migratory game birds, solicited and considered comments on it, and issued a final environmental assessment on August 1, 1977, with a declaration that the proposed shooting hours did not constitute a major Federal action which could significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. The Service finalized shooting hours of one-half hour before sunrise to sunset for most migratory game birds included in early season regulations in the FEDERAL REGISTER dated August 9, 1977 (42 FR 40211). In the meantime, a large number of additional communications were received on the subject of shooting hours. Of the 420 additional comments, 401 private individuals, 8 were from organizations, and 11 were from State conservation agencies. These respondents overwhelmingly favored retention of the usual one-half hour before sunrise to sunset shooting hours for migratory game bird hunting. Only 5 adverse comments, including a telegram from Wildlife Preserves, Inc., were received. The wire from Wildlife Preserves, Inc., simply urged consideration of later opening hours.

Response: The Defenders of Wildlife, the plaintiff in last year's suit, offered extensive comments on the shooting hours environmental assessment. The views of Defenders and others on the assessment were considered before the final environmental assessment on shooting hours was prepared. These comments, and the Service's response to them, was given in the FEDERAL REGISTER dated August 9, 1977, on pages 40212–40213. The provisions of the Endangered Species Act of 1973 were also taken into consideration in developing shooting hours proposals for late season regulations. In view of the information presented in the environmental assessment on shooting hours, including Section 7 consultation, and the overwhelming desire expressed by the public to retain the same hunting hours as in the past, the Service proposes to establish shooting hours of one-half hour before sunrise to sunset in the late season regulations. The Service does not believe that the proposed shooting hours jeopardize the continued existence of any endangered or threatened species of designated critical habitats or affect the Service's obligations to enhance the conservation efforts for such listed species.

2. *Framework dates for ducks and geese in the continental United States.* Thirty-four comments on these proposals were received. They were submitted by 2 waterfowl flyway councils, 12 States, 2 organizations, and 18 individuals. Of these, 24 favored the season frameworks as originally proposed. The opposing comments usually involved minor changes in the season framework to allow earlier or later hunting seasons. The latter usually supported by little or no supporting data or substantial rationale. The Atlantic Flyway Council urged that consideration be given to extending the end of the season framework for Canada geese from January 20 to January 31, 1978, to better accommodate a proposed lengthening of the Canada goose season in certain portions of that Flyway.

Response: The Service believes that it is appropriate to extend the season framework for Canada geese in the Atlanta Flyway to January 31, 1977, but that the extension should be confined to the areas where a longer season is contemplated (Delaware, a portion of southeastern Pennsylvania, and the Delmarva portions of Maryland and Virginia). Because of shorter season lengths elsewhere, there does not appear to be need to extend the framework closing date throughout the Flyway.

3. *Black ducks.* Ten comments were received regarding this species. Six favored retention of the same general hunting regulations as in the past. One organization recommended that reduced limits or closed seasons be considered for species such as the black duck which appear to be declining in abundance or for which adequate information is lacking. Another organization urged that the population status of species such as the black duck should be reviewed immediately and hunting regulations be modified as necessary. None of these statements provided new data or substantive information which would support regulatory changes.

Response: The Service in an earlier FEDERAL REGISTER dated March 10, 1977, on page 13315, reviewed black duck research and management programs, including cooperative international activities. An environmental assessment on black duck hunting regulations was prepared in August 1976. This document, which was made available to the public, reviewed the status of the species, and evaluated several management alternatives. The Service notes that recent surveys indicated decreases in black ducks wintering in the Atlantic and Mississippi Flyways. However, because of the unusual severity of the past winter and its effect upon black duck habitats and distribution, the survey results are not believed to be comparable to those from past years. No change in black duck regulations are contemplated at this time.

4. *Wood duck.* The Service announced in the FEDERAL REGISTER dated March 10, 1977, on page 13315, that it had been requested to consider ways of providing for additional harvest of southeastern wood ducks that would not increase the harvest of wood ducks from breeding populations in the North. The request was based on a general increase in eastern wood duck populations in recent years, and a recent study suggesting that southeastern wood ducks are subjected to lower shooting pressures and have higher survival rates than northern wood ducks. After considering various ways of doing this, the Service proposed in the FEDERAL REGISTER dated May 25, 1977, on page 26670, to allow additional harvest of wood ducks for a period not to exceed 9 days during the period October 1–15 in southeastern States provided that the days taken are a part of the regular waterfowl season days and that this special provision for wood ducks be subject to evaluation and reporting of results by participating States. During the October period, wood ducks would be subjected to no special restrictions under conventional regulations. In States selecting the point system, the species would be allocated 25 points during the early October season.

Fifteen comments were received; 2 were from waterfowl flyway councils, 9 from States, and 4 from individuals. Most of the comments related to the merits of a September hunting period versus an early October hunting period. One comment from an individual who conducted research investigations of southern wood duck populations, expressed the view that northern wood ducks being shot in southern areas would likely increase proportionately from September to November.

Response: Little band recovery data are available by which to assess the movement of northern wood ducks into southern areas. The Service notes that the selection of early October hunting seasons for the purpose of additional harvest of southeastern wood ducks would likely result in reduced harvests later in the season when northern wood ducks are abundant in these areas because fewer hunting days would occur then. Also, the Service does not believe that it would be desirable to set a hunting season in September when all species of ducks could be taken. An environmental assessment on wood ducks is being prepared.

5. *See ducks.* Seven comments were received from 5 States, 1 waterfowl flyway council, and 1 private conservation organization. Six of the seven comments favored continuation of special sea duck seasons in the Atlanta Flyway, as in the past. One private organization expressed the view that this and other special seasons should be eliminated in order to simplify regulations and strengthen law enforcement. No data or other supporting information were provided.

Response: The Service is of the view that elimination of this season would significantly reduce the opportunity to hunt sea ducks (scoters, eiders, and oldsquaws) and that this is unnecessary from a management standpoint.

7. *Extra blue-winged teal option.* Of the 8 comments received, 7 favored retention of this option. The dissenting statement was from an organization which provided no data or other supporting information. This organization's views, and the Service's response, are identical to those expressed above for sea ducks.

8. *Special scaup season.* Of the 8 comments received, 6 favored retention of this option. Dissenting comments were submitted by two organizations. One organization suggested elimination of the special season as a means of simplifying regulations, and thus strengthening enforcement programs. The other organization expressed concern about the population status of the goldeneye, a species which may be taken along with scaup in a limited special season with specially restricted bag limits in the Lake Champlain area of New York and Vermont. In addition, the goldeneye may be taken during regular duck hunting seasons. No data or additional information regarding the species were provided.

Response: The Service does not believe that the hunting seasons for scaup or goldeneyes pose any threat to the welfare of the two species, and therefore proposes to allow hunting as in the past. Appropriate action will be taken should harvest or population surveys indicate that it is necessary or desirable.

9. *Extra scaup option.* Eight respondents commented on the proposal to again allow the option for extra scaup during the regular duck season. These included statements from 5 States and 2 waterfowl flyway councils—all of which favored the proposal—and one organization which opposed it. The latter reiterated its opposition to allowing bonus birds in addition to the daily bag limit. No data or additional information were included in the communication.

Response: The Service is of the view that the harvest of scaup that occurs under this option is not excessive. Information from population and harvest surveys are reviewed annually and should it appear that an excessive harvest of scaup is occurring, appropriate action will be taken to modify the regulations.

10. *Mergansers.* Eleven communications were received from 6 States, 2 individuals, 2 organizations, and 1 waterfowl flyway council on this proposal. Opposition was expressed by two organizations. One simply stated its opposition without providing data or other information. The other organization expressed particular concern about the population status of the hooded merganser and the common merganser. One individual suggested that consideration should be given to prohibiting the shooting of any mergansers because they are inedible, and because the status of the hooded merganser is not satisfactory.

Response: The Service notes that the hooded merganser has been accorded special nationwide protection for many years. In States selecting conventional regulations, it is again proposed that only one hooded merganser be allowed daily. A 70-point allocation is again proposed in States selecting the point system means of establishing daily bag limits. The Service does not believe that continuation of the same hunting regulations as in the past poses any jeopardy to the welfare of mergansers. In some locales, mergansers are readily eaten and the hooded merganser especially is considered to be desirable.

11. *Canvasbacks and redheads.* Fourteen comments on one or both of these species were received and considered. Favorable comments originated from 5 States, 4 waterfowl flyway councils, and one individual. Opposing statements were received from 3 organizations and one individual. Two organizations advocated some modification of the closed areas established to protect the species. Another organization expressed concern about population levels of the species. One individual suggested that hunters should be allowed at least one bird daily in the event one were shot accidentally.

Response: The Service conducted an in-depth study of canvasback and redheads management last year in the form of an environmental assessment. Copies were made available to the public. The assessment established criteria for monitoring population levels and setting short- and long-term objectives. According to these standards, the present breeding population index of convasbacks is 12 percent above the short-term objective of 625,000 birds, and 18 percent below the long-term objective of 825,000 birds. The redhead index is 5 percent above the short-term objective of 825,000 birds, and 13 percent below the long-term objective of 1,000,000 birds. A special redhead survey conducted in mid-winter of 1976 indicated the presence of nearly a million birds in the Gulf of Mexico regions of the United States and Mexico. Drought conditions this summer in the prairies suggest that the production of both species probably will be poor. However, the Service anticipates that harvest of both species will be reduced this fall because of reductions in season length in the Mississippi and Central Flyways and the higher than usual proportion of less-vulnerable adult birds in the fall flight. The harvest of both species is restricted substantially under present regulations. Accordingly, no further restrictive measures are proposed at this time.

12. *Point System.* Two waterfowl flyway councils, 8 States, 3 individuals, and 1 organization favored retention of the point system as it is now constituted. Five individuals favored changing the point allocations of certain species, based upon local considerations.

Response: Point system allocations may be modified according to waterfowl abundance and management objectives; however, no changes are contemplated this year, except for wood ducks in southern areas in connection with an early October season option. Other regulatory measures such as season frameworks,

season lengths, and zoning are being utilized to fulfill the needs of the 1977–78 waterfowl regulatory program.

13. *Zoning.* Twenty-seven comments related to zoning proposals were identified in 42 FR 26669; May 25, 1977. These included 2 waterfowl flyway councils, 6 States, 1 organization, and a number of individuals. All were favorable except one which alleged that zoning would unduly complicate regulations.

Response: The Service proposes to allow Illinois, Indiana, Maine, Michigan, Missouri and Ohio the option to establish experimental watefowl seasons by north and south zones. The intention of this provision is to better distribute the waterfowl harvest within each State and not to increase the overall State harvest. Harvests will be monitored for 3 years, and if necessary, regulatory penalties will be imposed. An environmental assessment is being prepared on this management technique.

14. *Goose and brant seasons.* Comments were received from 4 waterfowl flyway councils, 5 States, 5 organizations, and 5 individuals. Eleven statements recommending regulations other than those proposed by the Service generally related to minor changes in season lengths in local areas or to State selections of seasons within framework opening and closing dates. The various proposals and their rationales are summarized by flyways.

Atlantic Flyway. The Atlantic Flyway Council urged that the length of the snow goose season in the Atlantic Flyway be increased to 60 days (30 days last year) and the daily bag limit be increased to 3 (2 last year) because large and concentrated populations are causing habitat destruction, increasing crop depredations, and risk of disease. The Service concurs with the recommendation on season length, and accordingly proposes a 60-day season for 1977, but proposes no change in the daily bag limit at this time. The Service believes that while the Atlantic snow goose population is relatively large, production this summer may be somewhat below average. Under these circumstances, it is believed that regulation changes should be confined to lengthening of the hunting season. The Atlantic Flyway Council recommended, and the Service proposes, that the season length for Canada geese in southeastern Pennsylvania, Delaware, and the Delmarva portions of Maryland and Virginia be increased from 70 to 90 days, and that the daily bag and possession limits be increased to 4 and 8 birds, respectively. These regulatory changes are based on the following considerations: (1) The population is at a record high and is continuing to increase; (2) excessive numbers of geese are concentrating in the above areas during winter; (3) increasing crop depredations; and (4) increasing risk of disease. Two organizations expressed concern about brant, without noting whether the concern was for the Atlantic Flyway brant or for the black brant of the Pacific Flyway. Because of heavy losses among Atlantic Flyway brant from severe habitat conditions the past winter, a closed season is proposed.

Mississippi Flyway. Louisiana requested that it be given authority to set goose seasons by east and west zones as is allowed for duck seasons. The Service concurs with the recommendation, as it is not expected to result in any significant increase in harvests. An earlier FEDERAL REGISTER dated May 25, 1977, on page 26671, proposed a harvest quota of 15,000 Canada geese (Mississippi Valley Population) in Kentucky. This proposal is modified to limit the quota to the Ballard County area only; the few geese harvested elsewhere in Kentucky belong to other management populations. Wisconsin proposed a modification of the Horicon quota zone and the establishment of a second quota zone to facilitate the management of Canada geese. The Service supports these regulatory proposals. A number of other regulatory boundary changes for Canada geese elsewhere in the flyway were recommended by the Mississippi Flyway Council and the Service concurs with these recommendations as means of improving the management of Canada geese.

Central Flyway. The Service proposes to eliminate the two-week season restriction for "dark" (Canada and white-fronted) geese in ten Missouri River counties of South Dakota. This restriction was imposed in 1976 to provide additional control over the harvest of geese in commercial hunting areas. The South Dakota Game, Fish and Parks Commission has adopted State regulations pertaining to commercial hunting (leasing of blinds), the means by which much of the hunting is conducted there.

The Central Flyway Council recommended that the daily bag limit restriction of one Ross' goose be eliminated because the geese are increasing in abundance and the regulation possibly is ineffective. The Service believes that such action should be coordinated with management efforts for the species in Canada, where it is given special protection. Also, the research studies presently underway on the species should be concluded before any such regulatory change is made.

Pacific Flyway. Concern has been expressed about lesser snow geese in the Pacific Flyway, notably the population segment which breeds on Wrangel Island, U.S.S.R. This population has declined in recent years, chiefly because of poor production caused by delayed ice and snow disappearance from the nesting area. The snow goose limit in the Pacific Flyway was reduced several years ago to 3 birds and the Service intends to retain that restriction as one means of providing greater protection to the Wrangel Island population. In addition, further restrictions on season length and bag limits have been imposed in recent years by the State of Washington in the Skagit Flats area where Wrangel Island geese concentrate during fall migration, and by State of Oregon in the area west of the Cascades where these geese may be exposed to hunting. It is expected that these special State restrictions will be continued in 1977. The Wrangel Island geese intermix with other snow geese on the wintering area in the Central Valley of California and it is not practical to apply regulatory restrictions specifically to them in this area. Two organizations expressed concern about the status of lesser snow geese in the northwest but provided no information to support regulatory changes. Several comments related to the closed areas established in California two years ago for Aleutian Canada geese. Because of recent information from field observations and banding, it is proposed to delete Mendocino County, California, from the areas closed to all Canada goose hunting. No observations of wild-produced or breeding Aleutian geese have been reported there the past two years. The lone record was from a captive-reared bird released in Alaska. It is proposed to advance the closure period for the San Joaquin closed area, California, to November 25, 1977, in order to afford more protection to Aleutian Canada geese wintering there. For further discussion about regulatory considerations for this and other endangered or threatened species, see below under "Compliance with Section 7 of Endangered Species Act of 1973." One individual recommended that the black brant season be extended to March 10. Although the black brant population has increased in recent years, the Service does not believe that the framework should be extended into March as most of the harvest would be of brant returning north to the breeding grounds. Also, major regulatory changes should be deferred until a black brant management plan, now in preparation, is completed.

15. *Whistling swans.* The Pacific Flyway Council recommended retention of the regulations as proposed, which represent no change from those of the 1976 hunting season. Two organizations expressed concern about the population status of the species, plus possibility of confusion between the whistling swan and the less abundant trumpeter swan. The hunting of whistling swans is carefully regulated in the three hunting areas (Utah and one county each in Montana and Nevada) by a permit and tag system. Hunting is permitted only in those specified areas where the trumpeter swan seldom if ever occurs. It should be noted that the trumpeter swan is not listed as either an endangered or threatened species under the Endangered Species Act of 1973, and that its population has been increasing gradually. The whistling swan population is increasing steadily. Concern is materializing about crop depredations—swans now feed in croplands of the mid-Atlantic coast, the destruction of natural wetland habitats caused by the feeding of concentrated birds, and increasing risk of disease. Consequently, no further restrictions in hunting regulations seem appropriate.

17. *Migratory game bird seasons for falconers.* This year, for the first time, extended falconry hunting seasons are being offered on a trial basis to States that agree to monitor the resultant harvest and agree to publish the provisions in State regulations, and have special falconry hunting seasons. Falconry is a permitted means of taking migratory game birds during regular hunting seasons. This proposal would allow States to set additional hunting periods, up to 107 days for regular and special seasons combined, for taking migratory game birds by falconry only. This proposal has been described in detail in the FEDERAL REGISTER dated March 10, 1977, on page 13317. Most of the 22 comments summarized in 42 FR 37533 favored the proposal. One organization, while admitting that falconry would probably have little impact upon prey populations of migratory game birds, expressed concern that the provision might increase the popularity of falconry to the detriment of wild raptor populations.

Response: The Service notes that regulations governing the taking of raptors from the wild for falconry purposes have been established and are covered under Sections 21.28 and 21.29. Since these regulations provide strict criteria and controls over the taking of raptors for falconry, the Service believes that the above proposed regulations governing the taking of migratory game birds by falconry will not be detrimental to wild raptor populations.

18. *Lesser sandhill (little brown) cranes.* Four comments were recevied regarding proposed regulations for this species. One organization stated that the crane population is declining or that inadequate population data are available.

Response: The Service is concluding a three-year study of leser sandhill cranes, and although the final report is not yet available, it seems clear that the Central Flyway population is somewhat larger and more productive than was previously believed. Hunting of the species is confined to designated portions of the Central Flyway, where all hunters must obtain special sandhill crane hunting permits. Based on results of the Service's analysis of the 1976–77 season, 7,393 cranes were taken in the Central Flyway by 5,092 active hunters. The species is extremely wary and the average bag is only 1.5 cranes pre hunter per season. The population is best inventoried during spring migration, when the bulk of the population stages in the Plate River area of Central Nebraska. In 1977, 219,000 cranes, the second highest count on record, was tallied. No hunting is allowed on sandhill cranes in other flyways.

19. *Coots.* Four waterfowl flyway councils and 6 States indicated support of the proposed coot regulations which are unchanged from past years. At the public hearing on August 2, one organization alleged that because coots are seldom eaten, and their taking should be curtailed. In some parts of the United States coots are not only taken incidentally by hunters but are specifically sought because of their eating qualities. The Service is of the opinion that there is insufficient reason to alter the hunting regulations for this abundant waterbird.

PUBLIC COMMENT INVITED

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, shooting hours, and bag and possession limits for waterfowl, coots and gallinules; lesser sandhill (little brown) cranes in portions of the Central Flyway; snipe in the Pacific Flyway; and special falconry regulations.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and on the other hand, the unavailability before late July of specific, reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a common period past August 25, 1977, is contrary to the public interests.

COMMENT PROCEDURE

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in this rulemaking by submitting written comments to the Director (FWS MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2243, Department of the Interior, C Street between 18th and 19th Streets NW., Washington, D.C.

All relevant comments received by August 25, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241). The final environmental assessment on shooting hours (42 FR 40211; August 9, 1977) supplements the discussion on shooting hours in FES 75–54. Likewise, an environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplements the discussion on dove hunting in FES 75–54.

COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. This opinion resulted from over 500 man-hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management. Likewise, the biological opinion concluded that the proposed regulations are not contrary to, and do not undermine, the Service's obligation to conserve endangered or threatened species. The proposed late season frameworks were evaluated as to possible impacts upon a number of endangered species, including the Aleutian Canada goose (*Branta canadensis leucopareia*), Mexican duck (*Anas diazi*), whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*), and the Everglade kite (*Rostrhamus sociabilis plumbeus*).

Section 7 consultations are presently under way regarding the late season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this doucment. Any modifications that may be desirable will be reflected in the final rulemaking on regulations frameworks for "late seasons" scheduled for publication in the FEDERAL REGISTER on or about August 30, 1977.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. An example of such consideration is the closure of a specific area in Alaska to all Canada goose hunting for the protection of the Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for public inspection in or available by from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

PROPOSED REGULATIONS FRAMEWORK FOR 1977–78 LATE HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed framework for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, costs, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and special extended falconry seasons. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions. For the guidance of State conservation agencies, these frameworks are summarized below.

GENERAL

States may split their seasons for ducks or geese into two segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset, except that September teal season shooting hours are sunrise until sunset.

States in the Atlantic, Mississippi, and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possesion limits.

States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1977, and January 31, 1978, in the Atlantic, Mississippi, and Central Flyways, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1977.

4. These areas must be described and delineated in State hunting regulations.

Or, as an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck seasor..

Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the upstate zoning option. Maine may not select the point system with the State zoning option.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

ATLANTIC FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 45 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 45 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks. Under either Option (a) or (b), a 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day.

Except in closed areas, the limit on convasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia, and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia, and Florida may split their regular hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1977 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra blue-winged teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. The West Zone will be permitted the full number of days offered under Options (a) or (b), with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the West Zone. The North Zone and the South Zone must take a 5-day reduction in season length under either option, with or without the Wednesday opening, with shooting hours beginning at noon on opening day. The basic daily bag limit on

ducks in each zone and the restrictions applicable to Options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus birds, if offered, shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at a point at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the Intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its Intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine may be divided into two zones (North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework: only conventional regulations may be selected. Both zones will be permitted the full number of days offered under options (a) or (b) with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the South Zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, if offered, shall be applicable, but the 16-day special scaup season will not be allowed.

The Maine zones are defined as follows:

North Zone—Game Management Zones 1, 2 and 3.

South Zone—Game Management Zones 4 through 8.

As an alternative to conventional bag limits for ducks, a 45-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. A 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day. Point values for species and sexes taken are as follows: In Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia, and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia, and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14 sea ducks, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1977, and January 20, 1978, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1978. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina, South Carolina, and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1977, to January 20, 1978, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1977, and January 20, 1978, concurrent with either the regular waterfowl season or the Canada goose season, States in the Atlantic Flyway may select 60 day seasons on snow geese (including blue geese); the daily bag and possession limits are 2 and 4 geese, respectively.

The season is closed on Atlantic brant.

For snow geese (including blue geese) the Director, U.S. Fish and Wildlife Service, shall close the season within 48 hours should such closure be necessary to avoid excessive harvest.

MISSISSIPPI FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select concurrent 45-day seasons on ducks, coots, and mergansers. The daily bag limit for ducks is 5, and may include no more than 2 mallards or 2 black ducks, or one each, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 4 mallards or 4 black ducks, or 4 in the aggregate, and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T. 18 N., R. 7 E. (Arenac County) to Sand Point in Sec. 11, T. 17 N., R. 9 E. (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T. 130 N., R. 31 W. (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 45-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winger teal, cinnamon teal, gadwall, shoveler, scaup, green-winged teal, and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days. Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For the other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens on November 5, 1977. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio and Missouri may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan: *North Zone*—The Upper Peninsula. *South Zone*—The lower Peninsula.

Illinois: *North Zone*—St. Clair, Clinton, Marion, Clay, Richland and Lawrence Counties and all counties to the north. *South Zone*—The remainder of Illinois.

Indiana: *North Zone*—That portion of Indiana north of State Highway 18. *South Zone*—The remainder of Indiana.

Ohio: *North Zone*—That portion of Ohio north of U.S. Highway 30 North. *South Zone*—The remainder of Ohio.

Missouri: *North Zone*—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 39, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau. *South Zone*—The remainder of Missouri.

Within each State: (1) The season must be continuous in both zones; (2) the same bag limit option must be selected for both zones; and (3) if a special scaup season is selected, it shall not begin until after the latest season closing date in the State.

Between October 1, 1977, and January 20, 1978, States in this Flyway, except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 1, 1977, and February 14, 1978, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. The season on Canada geese is closed in Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone—the season on Canada geese closes after 45 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The quota zone is that area encompassed by a boundary described as follows: beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift County, then south on C.S.A.H. 17 and C.S.A.H 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevideo.

(b) Southeastern Zone (same as description in 1971)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Iowa, the season for Canada geese may extend for 45 consecutive days. The daily bag and possession limits are 2 Canada geese.

In Missouri, in the:

(a) Swan Lake Zone (same description as in 1971)—the season on Canada geese closes after 45 days or when 25,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1977, and January 20, 1978, with a daily bag limit of 2 Canada geese or 2 white-fronted geese or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada geese and 2 white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 35,000. The daily bag limit is 1 Canada goose, 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese, except that in the Horicon Zone the possession limit for Canada geese is 1. In the Horicon Zone and the East Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of County Highway N and State Highway 175 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S to its intersection with County Highway E, then northerly on County Highway E to its intersection with County Highway N, then easterly on County Highway N to the point of beginning.

The East Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then northerly on State Highway 175 to its intersection with County Highway N, then westerly on County Highway N to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway S, then westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with U.S. Highway 16, then northwesterly on U.S. Highway 16 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then ortherly on State Highway 49 to its intersection with State Highway 116, then northerly on State Highway 49 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, the harvest of Canada geese is limited to 35,000, with 29,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1978, or until the Zone's quota of 29,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Canada Goose Management Area—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada and 2 white-fronted geese. From November 15 through December 9, the daily bag limit will be 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The Management Area is encompassed by a boundary described as follows: beginning at the junction of State Highway M-21 and State Highway M-53 in Lapeer County, then south on State Highway M-53 to its junction with Interstate Highway 94, then west on Interstate Highway 94 to its junction with Interstate Highway 75, then south on Interstate Highway 75 to its junction with Gilbralter Road, then west on Gibralter Road to Flat Rock, then west on West Carlton, Oakville and Waltz Roads to the junction with Rawsonville Road, then north on Rawsonville Road to Willow Road, then west on Willow Road to U.S. Highway 23, then south on U.S. Highway 23 to State Highway M-50 in Dundee, then west on State Highway M-50 to State Highway M-52, then south on State Highway M-52 to State Highway M-34, then west on State Highway M-34 to U.S. Highway 127, then north on U.S. Highway 127 to Interstate Highway 69, then north and east on Interstate Highway 69 to State Highway M-21 in Flint, then east on State Highway M-21 to the point of beginning.

(c) Remainder of the State—the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada goose and 2 white-fronted geese.

In Ohio, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Indiana, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, except in Posey County where the daily bag limit on Canada geese is 2; the possession limit is 2 Canada and 2 white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone, the harvest of Canada geese is limited to 15,000. This zone is described as follows: a bounday beginning at the northwest city limits of Wickliffe in Ballard County to the middle of the Mississippi River; then north along the Mississippi River to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; then along the county line south to State Road 358; then south along State Road 358 to its junction with U.S. Highway 60 at LaCenter; then southwest along U.S. Highway 60 to the northwest city limits of Wickliffe.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

In Alabama, the season is closed on all geeese in the Counties of Chambers, Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Arkansas, the Canada goose season will be concurrent with, and the same length as, the duck season, with a daily bag limit of 1 Canada goose and a possession limit of 2 Canada geese, except that the Canada goose season is closed in that portion of the State east of a line described as follows: beginning at the junction of State Highway 1 and the Arkansas-Missouri border, then south along State Highway 1 to the junction of U.S. Highway 65 at McGehee, then south along U.S. Highway 65 to the junction of U.S. Highway 165, then south along U.S. Highway 165 to the Arkansas-Louisiana border.

When it has been determined that the quota of Canada geese allotted to Illinois and Wisconsin, to the Swan Lake Zone of Missouri, to the Lac Qui Parle Zone of Minnesota, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky Counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation of shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

CENTER FLYWAY

Seasons on ducks (including mergansers) and coots may be selected between October 1, 1977, and January 22, 1978, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 55 days and bag limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 hooded merganser, 2 wood ducks and 1 female mallard, and the possession limit may include no more than 2 hooded mergansers, 4 wood ducks and 2 female mallards.

The daily bag and possession limits on coots are 15 and 30, respectively.

The daily bag and possession limits, except in closed areas, may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshal County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—the Counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

The season is closed on the Mexican duck.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days *provided*, that the last 23 days of such season must begin on or after December 12, 1977. The High Plains Unit, roughly defined as that portion of the Ceneral Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 55 days.

The point values for species and sexes taken in the Central Flyway are as follows: except in closed areas, canvasbacks count 100 points each; female mallards, wood ducks, redheads (except in closed areas) and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup pintails, gadwalls, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the Counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

Between October 1, 1977, and January 22, 1978, States in this Flyway may select goose seasons as follows:

(a) For the Central Flyway portions of Montana, Wyoming and Colorado, States may select seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

(b) For the Central Flyway portion of New Mexico and that portion of Texas west of U.S. Highway 81, States may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

(c) North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow and blue) geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limit may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 13, 1977.

In South Dakota, the daily bag may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 27, 1977, in the Counties of Buffalo, Brule, Campbell, Charles Mix, Corson, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully and Walworth.

In Nebraska, the season on dark geese may not extend beyond December 18, 1977. The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S. Highway 183, prior to November 21, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas the season on Canada and white-fronted geese may not extend beyond December 25, 1977. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma Counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

or

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese and 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

or

(b) A season of 64 consecutive days commencing no earlier than November 12, 1977, with a daily bag limit of no more than 1 Canada and 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming may select a lesser sandhill (little brown) crane season with daily bag and possession limits of 3 and 6 respectively, within an October 1, 1977–January 31, 1978, framework as follows:

(a) 37 consecutive days from October 1 through November 6, 1977, in the Central Flyway portion of Colorado except the San Luis Valley area.

(b) 93 consecutive days between October 22, 1977, and January 31, 1978, in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 26, 1977, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 coinsecutive days to open with the goose season in Phillips County, Montana.

(e) 30 consecutive days beginning on or after October 8, 1977, in Platte and Goshen Counties, Wyoming.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

PACIFIC FLYWAY

Between October 1, 1977, and January 22, 1978, concurrent 93-day seasons on ducks, mergansers, coots, and gallinules may be selected in Pacific Flyway States and portions of States, except the Columbia Basin Area. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The season is closed on the Mexican duck.

The daily bag and possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

For that portion of California lying south of the Tehachapi Mountains and west of the Colorado River Area (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

Waterfowl season dates for Clark and Lincoln Counties, in Nevada and the Colorado River Area of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Tule Lake Area of California must coincide with season dates selected by Oregon for waterfowl.

In the Columbia Basin Area of Washington, Oregon and Idaho, between October 1, 1977, and January 22, 1978, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently. The daily bag limit is 7 ducks and the possession limit is 14 ducks, to include no more than 2 redheads or 2 canvasbacks or 1 of each daily, and no more than 4 singly or in the aggregate in possession. The bag limit on mergansers is 5 daily and 10 in possession, of which no more than 1 daily and 2 in possession may be hooded mergansers. The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Between October 1, 1977, and January 22, 1978, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except the Columbia Basin Area. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 snow geese and 3 geese of the dark species (Canada and white-fronted); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose for which no hunting is allowed:

(1) In the Counties of Del Norte and Humboldt there will be no open season on Canada geese during the 1977–78 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking Canada geese will not open until December 15, 1977, and will then continue to the end of the 1977–78 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season here for taking Canada geese will close on November 24, 1977, at sunset.

In the Washington Counties of Adams, Franklin, Grant, Walla Walla, Lincoln, Douglas, Yakima, Benton, Klickitat, and Kittitas, and in the Oregon Counties of Morrow, Wasco, Sherman, Gilliam, Umatilla, Union, and Wallowa, the goose season must run concurrently with the Columbia Basin duck season and the bag limits for geese are to be the same as in the general goose season in their respective States.

In that portion of Idaho lying west of U.S. Highway 93 (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho Counties); in the Oregon Counties of Baker and Malheur; in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1977.

In that portion of Idaho lying east of U.S. Highway 93; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the season on Canada geese may be no more than 72 days and may not extend beyond December 18, 1977.

In Arizona; in that portion of New Mexico in the Pacific Flway; in Clark and Lincoln Counties, Nevada; in Washington County, Utah; and in the Tehachapi waterfowl area of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1978.

In that portion of California Fish and Game District 22 for which California selects the open season (that portion of District 22 lying outside the Colorado River area), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canade geese may be no more than 72 days and may not extend beyond January 1, 1978.

In all States in the Flway, the daily bag and possession limits may include no more than 1 Ross' goose.

Between October 22, 1977, and February 22, 1978, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

Open seasons on common (Wilson's) snipe, coinciding with the duck season locally in effect, may be selected for States or portions of States in this Flyway. The daily bag and possession limits are 8 and 16, respectively.

SPECIAL FALCONRY SEASONS FRAMEWORKS

Any State that provides special falconry hunting seasons may select extended falconry seasons for taking certain migratory games birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1–January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hawking hours to be ½ hour before sunrise until sunset.

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) may not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for certain other species (coots, gallinules, rails, snipe, woodcock, doves and pigeons only) may not exceed 4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each falconry hunting season (regular and extended) each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 10, 1977.

KEITH M. SCHREINER,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-23472 Filed 8-12-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 31031; Order 77-8-31]

KLM ROYAL DUTCH AIRLINES

Reduced Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of August, 1977.

By tariffs filed June 17, 1977, and effective July 17, 1977, KLM Royal Dutch Airlines (KLM) reduced the minimum weight requirement for specific commodities shipped loose under 14 commodity descriptions from 10,000 kilograms to 1,000 kilograms.[1] At the 99 cents per kilogram level formerly applicable only to the 10,000 kilogram shipments, the 1,000 kilogram rates are available from New York to Amsterdam and are justified by KLM as necessary in order to serve a larger segment of the cargo market.

In a complaint requesting suspension and investigation of the specific commodity rates (SCR's), Seaboard World Airlines, Inc. (Seaboard) maintains that the rates contravene two Board policies which require justification of the minimum weight reduction on the basis of demonstrable cost savings and admonish the carriers to rely less upon SCR's to move their transatlantic cargo traffic.[2] Furthermore, Seaboard contends that the rates are clearly uneconomic, dilutionary, anticompetitive, and predatory. The carrier argues that the 99 cents per kilogram level, which was reluctantly approved by the Board in Order 76-12-98 as part of an IATA North Atlantic rates package,[3] was based on the demonstrated cost savings of moving large-sized 10,000 kilogram shipments and is patently uneconomic for 1,000 kilogram shipments; and that the rates produce a yield per revenue ton mile (RTM) of only 24.7 cents, almost 20 percent below the average U.S. carrier RTM cost as submitted in their justification in support of the recent IATA North Atlantic rates package. Seaboard asserts that, aside from a statement that the rates would attract small shippers, KLM has made no showing to what extent the rates would generate more traffic and revenue. Rather, Seaboard believes the rates will spread to other destinations in Europe, as other carriers match for competitive reasons, with resultant wholesale revenue dilution, and estimates that its own potential dilution will be over $3.9 million based upon the carrier's 1976 traffic and revenue experience. In addition, mindful of recent Presidential statements on suspension of international fare and rate reductions, Seaboard argues that there are compelling circumstances at hand which require suspension of the rates: the staggering operating losses, estimated at $15 million in 1976, sustained by the three U.S.-flag carriers in their transatlantic freighter operations which clearly demonstrate that continued U.S.-flag freighter operations in the area are in jeopardy. Finally, Seaboard suggests KLM's rates have anticompetitive and predatory effects on all-cargo operations inasmuch as KLM, in addition to enjoying the usual cargo pricing advantage of being able to carry freight in the bellies of passenger aircraft, can carry large volumes of cargo on the main decks of some of its passenger aircraft as well. Thus, in effect, KLM is able to cross-subsidize its limited and generally unprofitable freighter operations with high yield passenger traffic.

Upon full consideration of the tariff filing, the complaint, and all other relevant matters, the Board has concluded that facts sufficient to warrant investigation or suspension of the rates have not been presented and, accordingly, the complaint will be dismissed.

Examination of the most recent data indicates that during the first quarter of 1977, Seaboard's scheduled service freight traffic produced an average yield of 23.62 cents per RTM, 1.06 cents below the 24.7 cents per RTM produced by KLM's specific commodity rate. Data for the same quarter indicate that Seaboard incurred a cost per available ton mile (ATM) of 19.75 cents, 4.93 cents below the expected yield from the rate.[4] Thus, the KLM rate produces a yield that is above Seaboard's own first quarter 1977 average yield and unit ATM costs. Extension of the rate to a larger segment of the cargo market should result in generation of added traffic. Accordingly, the complaint will be dismissed.

Accordingly, *it is ordered*, That the complaint of Seaboard World Airlines, Inc. in Docket 31031 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23490 Filed 8-12-77;8:45 am]

[1] Air Tariffs Corporation, Agent, C.A.B. No. 50, 3rd Revised Page 280. The specific commodity descriptions involved are those for Items 9701 through 9714 inclusive and are set forth elsewhere in the above tariff.

[2] Seaboard also suggests the rates be rejected for technical reasons inasmuch as each KLM specific commodity description includes a number of separate, but related, commodities, for which rates for 1,000 kilograms are published elsewhere in the tariff. Seaboard states that KLM's filing violates section 221.60 of the Board's Economic Regulations prohibiting publication of duplicate rates. However, we do not find that this is a basis for rejection of KLM's tariffs in this instance.

[3] C.A.B. 26095, R-1 through R-12, Docket 27573.

[4] Although the quarterly ATM cost figure includes costs attributable to Seaboard's transatlantic charter operations as well as its schedule transatlantic cargo services, we note Seaboard has argued that cargo charter flights are actually more costly to operate than are scheduled cargo flights.

[5] All Members concurred except Vice Chairman O'Melia who did not participate.

[Docket 31168]

McCULLOCH INTERNATIONAL AIRLINES, ET AL.

Assignment of Proceeding

In the matter of McCulloch International Airlines, Holiday Travel & Tours, Elliott Tours, Inc.: ENFORCEMENT PROCEEDING.

This proceeding is hereby assigned to Administrative Law Judge Janet D. Saxon. Future communications should be addressed to Judge Saxon.

Dated at Washington, D.C., August 8, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-23488 Filed 8-12-77;8:45 am]

[Docket 30744]

J. M. RODGERS CO., INC.

Applications; Proposed Approval

Application of J. M. Rodgers Co., Inc., for international air freight forwarder authority; Application of J. M. Rodgers Co., Inc., for disclaimer of jurisdiction or approval of an acquisition of assets pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 30744.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of fifteen days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., August 10, 1977.

JAMES A. SALTSMAN,
Acting Director, Bureau of Operating Rights.

Issued under delegated authority.

ORDER GRANTING APPROVAL

J. M. Rodgers Co., Inc. (Rodgers) requests a disclaimer of jurisdiction or, alternatively, approval without a hearing pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), with respect to its acquisition of a portion of the assets of P.I.E. Air Freight Forwarding, Inc. (P.I.E.), a currently authorized domestic and international air freight forwarder.

Rodgers, an independent ocean freight forwarder and an applicant for international air freight forwarding authority, has purchased the offices, facilities, goodwill and the services of P.I.E. at J.F.K. International Airport in New York City.

In support of the application, the applicant contends that the acquisition took place when Rodgers was neither an air carrier, a person controlling an air carrier, a common carrier[1] nor a person engaged in any other phase of aeronautics; that the assets acquired are not a substantial part of the properties of P.I.E. since the operations at J.F.K. produced only 6.5 percent of its shipments, 7.5 percent of the weight of its shipments, and 5.3 percent of its consolidations even though they amount to 11.33 percent of P.I.E.'s total assets. The applicant further contends that the acquisition will not create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the purchase agreement. The applicant also contends that if the Board finds that the acquisition is subject to section 408 of the Act, that it should, nevertheless, find that the acquisition does not affect the control of an air carrier directly engaged in the opertion of aircraft in air transportation, and that the public interest does not require a hearing.

No comments or requests for a hearing have been received.

Upon consideration of the foregoing, it is concluded that upon receipt of air freight forwarder authority, Rodgers will be a noncertificated air carrier; that P.I.E. is a noncertificated air carrier; and that Rodgers' acquisition of 11.33 percent of P.I.E.'s assets is subject to section 408(a) (2) of the Act. However, it is further concluded that the transaction will not affect the control of an air carrier directly engaged in the operation of aircraft directly engaged in air transportation, will not tend to restrain competition, and does not result in creating a monopoly. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing.

The transaction for which the approval is sought is similar to others which have been authorized by the Board and does not raise any new substantive issues.[2] Accordingly, it is concluded that the above-described sale transaction is not adverse to the public interest or otherwise in violation of the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.3 and 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act, without a hearing, pursuant to the third proviso thereof, and that to the extent not granted herein, the application should be dismissed.

Accordingly it is ordered that: 1. The subject acquisition of a substantial portion of the assets of P.I.E. Air Freight Forwarding, Inc. by J. M. Rodgers Co., Inc., be approved pursuant to the third proviso of section 408 (b) of the Act; and

2. Except to the extent not specifically granted herein, the application (in Docket 30744) be dismissed.

Jurisdiction in this proceeding is retained for the purpose of amending or revoking the approval granted herein, with or without a hearing, as the public interest may require.

Persons entitled to petition the Board for review or this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon the expiration of the above period unless within such period a petition for review thereof is filed or the Board gives notice that it will revelew this order on its own motion.

JAMES A. SALTSMAN,
Acting Director, Bureau of Operating Rights.

[FR Doc.77-23489 Filed 8-12-77;8:45 am]

[Docket 31161; Order 77-8-32]

TRANS WORLD AIRLINES, INC.

Transatlantic Specific Commodity

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C. on the 9th day of August, 1977.

By tariff revisions[1] scheduled to become effective August 12, 1977, Trans World Airlines, Inc. (TWA), proposes to establish specific commodity container rates consisting of flat charges on essential oils (Item 1716), aromatic substances (Item 6053), and disposable plastic lighters (Item 9617) from Paris to New York; on cotton fabrics (Item 2120) and books and/or magazines (Item 7109) from Milan and Rome to New York; and on cigarette paper (Item 7024) from Barcelona and Madrid to New York. On a per-container basis, the proposed charges are about 5 percent above currently applicable general commodity container minimum charges and are subject to an expiry date of April 15, 1978. The proposed rates are similar to those previously proposed by TWA from London to New York, which became effective on May 15, 1977.

A complaint requesting suspension and investigation of these rates has been filed by Seaboard World Airlines, Inc. (Seaboard). Seaboard asserts that these rates are well below either TWA's or Seaboard's revenue ton-mile (RTM) costs and are therefore predatory since Seaboard, unlike TWA, cannot shift the costs of its cargo operations to other segments of its business. In addition, Seaboard states that TWA's generation claims for the rates are wildly speculative; that in support of its generation estimates, TWA has not even provided the Board with comparative shipping rate data; that the burden of demonstrating any rate's economic character is on its proponent; and that TWA's failure to produce preliminary results of the similar London-New York rates in support of the instant proposal is practically an admission of the uneconomic nature of such rates. Finally, Seaboard questions TWA's "need" to fill unused westbound B-747 belly capacity, since TWA has increased such capacity over last summer's levels. According to Seaboard, the redundant capacity is the direct result of an increase in TWA B-747 service, particularly between Milan and New York, and, hence, the problem is of TWA's own making.

In support of its filing and in answer to the complaint, TWA states that the instant proposal is essentially the same as the London-New York proposal which the Board declined to suspend[2]; that the proposed commodity descriptions are designed to generate new traffic by air while minimizing diversion, and Seaboard has made no specific allegation of diversion; that TWA's generation estimates can not be viewed as extravagant since they represent less than one additional container per day; and that TWA cannot produce data on the London-New York rates because implementation of those rates awaits United Kingdom government approval. TWA also asserts that a proper test of the rates' economic character is not whether revenues meet fully allocated operating costs, but whether there is a meaningful contribution to capacity costs, particularly since the proposed rates are promotional and designed to fill otherwise unused capacity. In this regard, TWA maintains that the proposed rates would recover fully allocated ground handling costs while making a substantial contribution to capacity costs and that, since TWA's added B-747 transatlantic capacity is "at least partially" attributable to passenger scheduling, the carrier should not be prevented from implementing rates designed to make the additional belly capacity productive.

Upon full consideration of the tariff filing, the carrier's justification, the complaint, the answer, and all other relevant matters, the Board has decided to dismiss the complaint and permit the filing to become effective.

The proposal has, according to TWA, the potential of attracting new traffic to air while minimizing dilution of current revenues. In this respect, it is significant that Seaboard has not alleged that the proposed rates will cause diversion from existing traffic, but instead has focused attention on TWA's estimates of generation. TWA has submitted data indicating that the proposed rates would be well above the noncapacity costs associated with handling such traffic and would make a contribution to the capacity costs which TWA will incur in any event. The extent to which these rates will contribute to capacity costs will, of course, be dependent on the rates' generative capability.

Information on file with the Board indicates that during the first quarter of 1977, TWA's westbound tonnage was only 76 percent of eastbound tonnage. Furthermore, the carrier's total transatlantic tonnage during this period represented a 19.7-percent decline from the first quarter of 1976, whereas TWA's transatlantic passenger traffic increased 8.7 percent over these periods. Hence, it appears reasonable to view TWA's capacity increases as being largely responsive to passenger demand. Inasmuch as the proposed rates will exceed noncapacity costs and thus have the potential of improving the financial position of the carrier by generating new revenues to air transport and of utilizing otherwise unused westbound capacity, we will permit them to become effective.

Accordingly, it is ordered that: The complaint of Seaboard World Airlines, Inc., in Docket 31161 is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23491 Filed 8-12-77;8:45 am]

[1] In International Airfreight Forwarder Investigation (27 CAB 658,661 (1958)) it was held that maritime forwarders are not common carriers.

[2] Notice of intent to dispose of this application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

[3] See Interlude International Corporation, Order 69-11-106, November 24, 1969.

[1] Revisions to Tariff CAB No. 314 issued by Trans World Airlines, Inc.

[2] Order 77-4-154 (April 29, 1977), Dockets 30648 and 30653.

[3] All Members concurred except Vice Chairman O'Melia who did not participate.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF MIAMI, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00275. Applicant: University of Miami, School of Medicine, P.O. Box 520875, Miami, Fla. 33152. Article: Flow Cytophotometer, Model ICP 21. Manufacturer: PHYWE A.G., West Germany. Intended use of article: The article is intended to be used for the rapid measurement of cytophysical and biomedical parameters of single cells by flow cytophotometric techniques. A variety of cells will be analyzed by this methodology including mouse primary and metastatic tumor, mouse ascites tumor, and human neoplastic cells. Normal lymphoid cell populations will also be studied. The objectives of these studies are to measure statistically significant changes in tumor cell populations at various times after innoculation and analyze quantitative antigenic differences in cell membranes of various lymphoid cell populations. Application received by Commissioner of Customs: July 20, 1977.

Docket Number: 77-00292. Applicant: University of Wisconsin-Oshkosh, Department of Physics and Astronomy, Oshkosh, Wis. 54901. Article: Plug-in Unit for CPS-II Pulsed NMR Spectrometer. Manufacturer: Spin Lock Ltd., Canada. Intended use of article: The article will be used in a CPS-II pulsed nuclear magnetic resonance spectrometer for the study of slow (<100MHz) molecular motion in biopolymer-water systems, tissues, viscous liquids and liquid crystals, and hydrogen-bonded and other nonmetallic solids. The plug-in unit, for operation at 36 MHz, is required for solids and other samples where the signal-to-noise ratio is relatively poor and or the nuclear resonance is broad, resulting in a short-lived (30$^{\mu}$ sec or less) nuclear free induction decay. In all cases to be studied nuclear relaxation times will be measured to determine the nature of low frequency motion of molecular groups in the material. This article will also be used for educational purposes in the following physics courses:

82-319 Intermediate Laboratory II
82-519 Graduate Laboratory
82-401 and 405 Independent Study
82-792 Research Techniques in Physics
82-795 Thesis

Application received by Commissioner of Customs: July 6, 1977.

Docket Number: 77-00298. Applicant: Naval Medical Research Institute, Bethesda, Md. 20014. Article: Electron Microscope, Model JEM-100CV (Standard Side Entry Type) and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological specimens including bacteria, viruses, parasites, fungi, and other microorganisms. Some of the phenomena to be investigated will include:

a. Infectious disease—ultrastructural evaluation of the biological properties of the cell membrane of rickettsiae; ultrastructural evaluation of septic shock due to *Pseudomonas aeruginosa*.

b. Study of the effects of *in vivo* host immune response on migrating adult schistosomes, particularly alterations in surface membranes.

c. Study of the membrane turnover rates of schistosomes to gain information on shedding of surface antigens and membrane repair.

d. Ultrastructural localization of sporozoite antigens with immunocytochemical markers.

e. Localization and immunochemical study of exoerythrocytic stage antigens and their comparison to sporozoite antigens.

f. Immunological studies in trauma care research.

g. Ultrastructural evaluation of changes in hyperbaric medicine research.

Application received by Commissioner of Customs: July 11, 1977.

Docket Number: 77-00299. Applicant: Baylor College of Medicine, Dept. of Otorhinolaryngology & Communicative Science, Baylor College of Medicine, 6501 Fannin Street, Houston, Tex. 77030. Article: Electron Microscope, Model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the ultrafine structure of normal, pathological and experimentally treated cells and tissue of the inner ear and related (adjacent) structures. In addition to those, the study will include the otologically related neural tissues thus auditory and vestibular phenomena not only in normal status but in diseased and/or experimental conditions, can be analytically studied. The article will also be used for future biological, para-medical (neuroscience) graduate students teaching. In addition, any resident physician (or research trainee) who pursues oto-neurological researches will have access to utilizing the scope. Application received by Commissioner of Customs: July 12, 1977.

Docket Number: 77-00301. Applicant: Methodist Hospital, 1265 Union Avenue, Memphis, Tenn., 38104. Article: Electron Microscope, Model EM 201 and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of human pathological tissues or specimens derived from human material, such as fluids, tissue cultures, and viral or bacterial cultures isolated from human sources with particular emphasis on tumors and immunological diseases.

Experiments will be conducted with the following objectives:

(1) To determine the exact classification or diagnosis in tumors where light microscopic study is inadequate and apply information to selection and evaluation of therapy,

(2) To determine causative agents in various infectious diseases for purposes of diagnosis and treatment,

(3) To establish diagnosis in metabolic disorders as basis for treatment as well as genetic counseling for parents and or patients, and

(4) Identification of immune complexes or other evidence of immunologically induced diseases for diagnostic and treatment purposes.

The article will also be used as an integral part of the residency program in Pathology to provide training essential to pathology residents for pathology board certification and use of technique that has become standard of practice in some areas.

Application received by commissioner of customs: July 14, 1977.

Docket Number: 77-00302. Applicant: Marquette University, Wehr Life Science Building, 530 N. 15th Street, Milwaukee, Wis. 53233. Article: M86 Combined Scanning Microinterferometer and Microdensitometer. Manufacturer: Vickers Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used for the measurement of amounts of DNA and proteins in individual cells in order to gain quantitative data on the behavior of genetic material during the growth and differentiation of fish oocytes, insect embryos, and two kinds of unicellular organisms, *Pediastrum* and *Oxytricha*. The instrument will also be used to measure DNA amounts in Feulgen-stained blood cell nuclei from unisexual and bisexual fishes of the genus *Poecilia* (molly fishes) in order to identify the diploid and triploid forms that comprise a breeding complex in nature with the bisexual Mexican molly fish. The role of polyploidy in speciation and evolution is a prime focus of studies on these fish. Additional studies will be made to develop cytochemical methods for sex identification of juvenile birds that lack obvious sexual dimorphism, for example, endangered species such as the Whooping crane or Puerto Rican parrot.

In addition, the article will be used in the course: Biology 295, Introduction to Cytophotometry and Biology 137 Experimental Cell Biology to provide a basic understanding of quantitative cytochemistry and its application to both basic and applied biomedical research. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00303. Applicant: University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the ultrastructure of cellular and subcellular membranes in heart muscle cells under conditions of interest for the understanding and treatment of heart disease. Various forms of heart disease will be produced in rats and rabbits whose hearts will subsequently be examined by electron microscopy. The article will also be used in the course, "Pharmacological and Physiological Sciences 401," which trains graduate students working for their Ph.D. in the ultrastructural anlysis of heart muscle. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00304. Applicant: National Institutes of Health, NINCDS, Medical Nuerology Branch, Bldg. 10, Room 10D20, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of human muscle biopsies the objective of which is to delineate the diagnosis and ultimate cause of human neuromuscular diseases. In addition, the article will be used in training approximately 6 physician-investigators each year in the newest ultrastructure research of human neuromuscular diseases. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00305. Applicant: Peter Bent Brigham Hospital, Department of Pathology, 721 Huntington Avenue, Boston, Mass. 02115. Article: Electron Microscope, Model JEM-100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructure of biological tissues, including kidney tumor and muscle biopsies for diagnostic purposes. The experiments to be conducted will involve pathogenesis of renal and vascular diseases with the objective of obtaining perfection of these techniques so new information related to renal and vascular diseases, tumors and muscle diseases can be investigated. The article will be used for instruction of residents and fellows in ultrastructure technique. Application received by Commissioner of Customs: July 18, 1977.

Docket Number: 77-00306. Applicant: New York State Department of Health, Division of Laboratories and Research, Empire State Plaza, Albany, N.Y. 12201. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for cutting alternate thin and thick sections of tumor tissues and other pathological tissues which will be investigated to aid diagnosis, typing and grading of disease states. The article will also be used as part of a training program for predoctoral and postdoctoral fellows (collaborative programs with Rennslaer Polytechnic Institute and Albany Medical College). The training program adds advanced ultrastructural analysis training to the training of medical students and research scientists. Application received by Commissioner of Customs: July 19, 1977.

Docket Number: 77-00307. Applicant: University of Wisconsin, 750 University Avenue, Madison, Wis. 53706. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning mammalian cells and microbial specimens of varying density and fragility. Investigations will include ultrastructural studies on normal and cancerous animal tissues, developmental studies on microbial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions of various cell types, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand the distributions of protein in cell surfaces and the mechanisms by which hormones function in their interaction with the cell surface. Graduate students and postdoctoral fellows will learn the techniques of ultrastructure and cytochemistry through their research use. Application received by Commissioner of Customs: July 19, 1977.

Docket Number: 77-00308. Applicant: University of Nebraska, Lincoln, Nebr. 68588. Article: THR-1500 1.5 Meter Double Pass Czerny-Turner Monochromator. Manufacturer: Jobin-Yvon, France. Intended use of article: The article is intended to be used in the development of a stress modulation spectroscopy specifically adapted for the study of molecular crystals. Several problems will be surveyed to demonstrate the capabilities of the method. These will involve experiments to determine the critical points in the joint densities of states for the first singlet systems of napthalene, anthracene and tetracene. Dye crystals having very strong coupling will be studied with the goal of locating the critical points in the metallically reflecting region. Piezomodulated luminescence studies will be made to determine the effect of strain upon the migration and lifetime of triplet excitons, in order to prove the nature of lattice relaxation processes. The effect of strain on the fluorescence polarization ratio will be determined for both piezoemission and piezoaction spectra. To ascertain the effect of stress upon S_0 and S_n the piezoemission and Kramers-Kronig transformed piezoreflection spectra will be obtained and compared. Study on the interaction of strain with surface exciton states will be initiated. The emission studies also will be used to determine the effect of strain on defect emission and excimer emission. Known piezochromic and triboluminescent systems will be studied in an effort to locate the microscopic origin of these effects and to obtain more quantitative data. Application of uniaxial modulated stress to a cubic inorganic crystal in order to make assignment of electronic states by breaking degeneracies will also be undertaken. The dependence of the spectra of hydrogen-bonded crystals upon stress modulation will also be studied. Application received by Commissioner of Customs: July 20, 1977.

Docket Number: 77-00309. Applicant: Edgewater Hospital, 5700 North Ashland Avenue, Chicago, Ill. 60660. Article: Ultramicrotome, Model LKB 2128-010 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to cut ultrathin sections from materials of biopsies collected by the surgeons in the institution. The biopsies are from

various organs such as lymph nodes, lung, eye, uterus, kidney, liver, bone marrow, and blood. Morphological examination of the various malignant and benign tumors and other pathologic lesions in humans will be conducted to help in the diagnosis of various diseases. The electron microscopic study of various human organs will contribute to the education of the medical staff, residents and medical students. Application received by Commissioner of Customs: July 20, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23463 Filed 8-12-77;8:45 am]

NORTHWESTERN UNIVERSITY, ET AL.

Application for Duty-Free Entry of Scientific Articles; Correction

In The Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 27273 in the FEDERAL REGISTER of Friday, May 27, 1977, the next to the last sentence under Docket Number: 77-00222 (Jacksonville Children's Museum) should read as follows:

In addition, the article will be used for teaching purposes in chemical engineering courses.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23462 Filed 8-12-77;8:45 am]

National Bureau of Standards

ADVISORY COMMITTEE FOR INTERNATIONAL LEGAL METROLOGY

Open Meeting

The Advisory Committee for International Legal Metrology will meet from 9:00 a.m. to 5:00 p.m. on Tuesday, September 13, 1977, and from 9:00 a.m. to 5:00 p.m. on Wednesday, September 14, 1977. The meeting will be held in Lecture Room 1107, Radio Building, National Bureau of Standards, Boulder, Colo.

The Committee was established in March, 1974 (39 FR 6136, 2-19-74), and renewed in March, 1976 (41 FR 12915, 3-29-76), to advise the Department through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS's assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, and industry and trade associations.

The Committee meeting is a prelude to United States participation in the OIML Presidential Council Meeting scheduled for September 27-29, 1977, in Paris, France. The agenda for the Advisory Committee meeting in Boulder, Colo., will include the following discussion items:

(1) Planning for the Sixth International Conference of Legal Metrology, tentatively scheduled in Washington, D.C. in 1980;

(2) Problems of quorum and voting procedures at meetings of the OIML International Conference and International Committee;

(3) Improvement in the presentation of OIML's financial documents;

(4) U.S. policy for private industry participation in OIML technical and plenary meetings;

(5) U.S. proposals for technical revision of OIML International Recommendations No. 1-19;

(6) U.S. proposals for amendments to certain OIML working procedures for Pilot and Reporting Secretariats;

(7) USSR proposal for the development of a new program in OIML dealing with the teaching of legal metrology;

(8) OIML proposal for initiation of international intercomparisons of primary standards in selected fields (i.e., mass, temperature, pressure); and,

(9) Establishing U.S. Technical Advisory Groups for important OIML Secretariats not administered by the U.S.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before September 1. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David Edgerly, Office of International Standards, National Bureau of Standards, Washington, D.C. 20234, telephone: 301-921-3662.

Dated: August 9, 1977.

ERNEST AMBLER,
Acting Director, National Bureau of Standards.

[FR Doc 77-23422 Filed 8-12-77;8:45 am]

National Oceanic and Atmospheric Administration

REGIONAL FISHERY MANAGEMENT COUNCIL CHAIRMEN

Meeting

The Director, National Marine Fisheries Service (NMFS) will meet with the Chairman of each of the eight Regional Fishery Management Councils created under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This meeting will be held in the VIP Room of the Rodeway Inn, 7101 NE. 82d Avenue, Portland Oreg., on September 14-15, 1977. On September 14, the meeting is scheduled to begin at 10:00 a.m., and recess at 5:00 p.m. On September 15, the meeting is scheduled to commence at 8:00 a.m. and adjourn at 11:00 a.m. The participants at this meeting will discuss:

1. NMFS budgeting requirements and funding policies relating to Councils.
2. Definition of Council research requirements and potential sources or procedures for accomplishment.
3. Definition of fishery development opportunities and procedures for coordination of implementation between NMFS administrative policy and Council Fishery Management Plans (FMPs).
4. Design and review requirements for Fishery Management Plans (FMPs)
5. Fisheries management in territorial waters and its relation to Fishery Management Plans (FMPs).
6. Council role in regulation of foreign fishing, e.g., status of Preliminary Management Plans (PMPs), fee schedule, 1978 allocations, enforcement problems
7. Inter-Council and Council-NMFS communication.
8. National workshops as a means of resolving issues.
   a. Definition of optimum yield
   b. Concept of limited entry
9. Other appropriate issues.

This meeting will be open to the public on a first come-first serve basis. Seating will be available for approximately 30 members of the public. Public participation will be permitted to the extent time permits.

Dated: August 10, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-23445 Filed 8-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 729-5]

AIR QUALITY

Recommended Policy on Control of Volatile Organic Compounds

Correction

In FR Doc. 77-19385 appearing in the issue of Friday, July 8, 1977 on page 35314.

On page 35315 in the 1st column, under the heading "Discussion", the 2nd paragraph, the 9th and 10th line, the word, "substituton" should read, "substitution".

In the 2nd column, paragraph "1.", the 13th line, the word "new" should read "now".

In the 3rd column, paragraph "6.", the small type, the 1st line should read:

* * *

"* * * selective regulation of CFM uses * * *"

* * *

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70 "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"
Notice of 7th Meeting
Thursday, September 1, 1977—10 a.m. (All-day meeting).
Conference Room (second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, New York.

Technical Specs Working Group—Full-day Meeting, Augst 31, 10:00 a.m. Same location as September 1 meeting.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of possible meeting date.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, New York 11024, Phone: (516) 482-8200

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements ars preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23460 Filed 8-12-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 13 Through June 17, 1977

Notice is hereby given that during the week of June 13 through June 17, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Central Hilight Unit; Campbell, Wyo.; FEA-1029,Crude Oil

The working interest owners of the Central Hilight Unit filed an Appeal of a Decision and Order issued to the firm by the FEA on October 8, 1976. *Central Hilight Unit*, 4 FEA Par. 83,138 (October 8, 1976). In the October 8 Decision, the FEA granted an exception which permitted the firm to charge upper tier ceiling prices for a portion of the crude oil which it would produce from the Central Hilight Unit. In its Appeal, Central Hilight contended that the level of relief calculated in the previous Decision was erroneous because $730,000 of the investment cost for new submersible pumps had been excluded, the level of crude oil production anticipated from a fuel conversion project had been overestimated, and the level of crude oil production from the Unit without any additional enhanced recovery activities had also been overestimated. Central Hilight contended that the level of exception relief should be increased to correct for the effect of these errors. Central Hilight also asserted that it was technically unable to comply with the requirement of the October 8 Order that it identify the incremental quantity of crude oil which would be produced as a result of a polymer waterflood project on the Unit. In considering the Central Hilight Appeal, the FEA concluded that adjustments to the previous level of exception relief should be made to correct for the factual errors which were found in the October 8 Decision. However, the FEA found that as a result of these adjustments and Central Hilight's delay in initiating the enhanced recovery investment program the firm's investment program would not be able to achieve the 15 percent internal rate of return contemplated in the October 8 Decision even if 100 percent of the incremental crude oil produced for the benefit of the working interest owners was permitted to be sold at exempt market price levels. However, in order to ensure that the FEA regulatory requirements would not operate as an impediment to Central Hilight's undertaking of the investment project, the FEA granted the firm exception relief to permit the sale of 100 percent of the incremental crude oil produced as a result of the investment program at market prices. However, since the exception relief approved for the firm was based on estimated production and cost data, the FEA stated that further reviews of the matter would be conducted and the level of exception relief would be adjusted based on actual data in order to permit the firm to obtain a 15 percent internal rate of return on its investment if a sufficient quantity of crude oil was produced. The FEA also simplified the reporting requirements specified in the October 8 Decision. The Central Hilight Appeal was therefore granted.

Gulf Oil Corp.; Tulsa, Okla.; FXA-1260, Crude Oil

Gulf Oil Corp. appealed from a Decision and Order in which the FEA denied the firm's request for exception relief from the provisions of 10 CFR, Part 212, Subpart D. *Gulf Oil Corp.*, 5 FEA Par. 83,083 (March 4, 1977). The Appeal, if granted, would have resulted in the rescission of the previous Order and the issuance of an order permitting Gulf to sell an additional amount of crude oil at upper tier ceiling prices. This amount of crude oil would be equal to the amount of the cumulative deficiency which accrued on five offshore leases in Gulf's South Timbalier Block Field in Louisiana as a result of a pipeline break in February 1976. In considering Gulf's Appeal, the FEA noted that Gulf was, in essence, requesting that the FEA modify the cumulative deficiency rule through the exceptions process so that it would not be applicable to any force majeure situation. The FEA observed that such a request involved a broad issue as to the most desirable means of attaining national energy policy objectives and would be more appropriately resolved in a rulemaking proceeding. Since Gulf failed to challenge the Decision's underlying factual determination that the firm had a sufficient economic incentive to repair the pipeline and to continue oil production from the South Timbalier Block Field even in the absence of exception relief, the FEA found that it had not shown that the March 4 denial of exception relief was erroneous Cf. *Union Oil Co. of California*, 4 FEA Par. 83,039 (August 6, 1976); aff'd 4 FEA Par. 80,592 (December 15, 1976). Accordingly, Gulf's Appeal was denied.

Petrolane, Inc.; Long Beach, Calif.; FXA-1173; Refined Petroleum Products

Petrolane, Inc., filed an Appeal from a Decision and Order which the FEA issued on September 24, 1976. *Class Exception—Retroactive Application of the Separate Inventories Amendment*, 4 FEA Par. 83,099 (September 24, 1976). In the September 24 Order, the FEA concluded that retroactive exception relief was not warranted on a class basis for all resellers of petroleum products which had calculated their cost of product in inventory by utilizing separate inventory computations prior to May 1, 1976. Petrolane's Appeal, if granted would have resulted in the issuance of an order declaring that the FEA Price Regulations permitted resellers to utilize separate inventory computations prior to May 1, 1976. In considering the Appeal, the FEA initially observed that the argument which Petrolane advanced in its Appeal—viz., that the regulations prior to May 1, 1976, were so ambiguous as to permit the use of separate inventory computations—had been discussed at length and rejected in the September 24 Decision. In this regard, the FEA reaffirmed its earlier finding that several elements of the FEA Price Regulations had indicated that firm-wide inventory computations were required. The FEA also found that contrary to Petrolane's contention, none of the Rulings or Decisions cited by the firm in its Appeal had permitted the use of separate inventory computations. The FEA pointed out that the firm-wide inventory rule was one of the principal means which has been used to assure that regional price anomalies are not experienced disproportionately by a small number of a firm's customers. The FEA further found that Petrolane had failed to substantiate its argument that the use of firm-wide inventory

cost calculations by large multi-region propane marketers would have resulted in price reductions which would have undermined the competitive structure of the propane marketing industry. It was also noted that even if firm-wide computations had resulted in some instances in significant price reductions, those instances would not in and of themselves demonstrate that the firm-wide inventory cost requirement was inconsistent with FEA's statutory objectives. Finally, the FEA determined that contrary to the firm's contentions, Petrolane had not received advice from FEA officials that the regulations permitted it to use separate inventory computations. Based on these considerations, the FEA denied the Petrolane Appeal.

Rock Island Refining Corp.; Indianapolis, Ind.; FEA-1153; Crude Oil

Rock Island Refining Corp. (Rock Island) filed an Appeal from a Decision and Order which the FEA issued to it on December 15, 1976. *Rock Island Ref. Corp.*, 4 FEA Par. 83,255 (December 15, 1976). The December 15 Decision denied an Application for Exception from the provisions of 10 CFR 211.67 in which Rock Island had requested that exception relief previously granted to the firm by the FEA be extended for an additional period of time. The Appeal, if granted, would result in the rescission of the December 15, 1976, Order and the issuance of a new Decision and Order granting exception relief to Rock Island. In considering Rock Island's Appeal, the FEA rejected the firm's contention that it be permitted to adjust the historical profitability which Rock Island had previously reported to the FEA to be utilized in evaluating the impact of the Entitlements Program on the firm. In considering the Rock Island Appeal the FEA also rejected the firm's contention that by including the operating results for the months of April and May 1976 in its analysis of Rock Island's request for exception relief the FEA was attempting to recapture benefits which it received as a result of Special Rule No. 6. The FEA also rejected Rock Island's contention that the firm should be permitted to recognize as an expense for its 1976 fiscal year the $2,642,065 of additional entitlements which the firm is required to purchase in order to refund excessive exception relief benefits that the FEA determined the firm received during 1975. The FEA pointed out that the $2,642,065 of additional entitlements which Rock Island is required to purchase is attributable solely to the firm's actual operating results from 1975 and should therefore not be considered as arising from its 1976 operations. The Rock Island Appeal was therefore denied.

Rock Island Refining Corp.; Indianapolis, Ind.; FXA-1072; Crude Oil

Rock Island Refining Corp. appealed from a Decision and Order which the Federal Energy Administration issued to it in November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision and Order, the FEA determined on the basis of financial and operating data which Rock Island submitted that the firm had received an excessive measure of exception relief from its obligations under the Entitlements Program in 1975. Rock Island was accordingly required to purchase entitlements valued at $2,642,065 during the period November 1976 through October 1977 in order to return the excessive benefits which it received. The Appeal, if granted, would result in the rescission of that portion of the November 5 Order which imposes an entitlement obligation on Rock Island. In its Appeal, Rock Island contended that since section 403 of the Energy Policy and Conservation Act (EPCA) exempted small refiners from entitlement purchase obligations beginning with December 1975, the November 5 Order contravenes section 403 of the EPCA and is therefore invalid. In rejecting this claim, the FEA noted that the construction of section 403 of the EPCA which is reflected in the November 5 Decision comports with the terms of the statute, the legislative history underlying its adoption, and previous FEA interpretations. Rock Island also contended that the FEA did not have the authority to recapture exception relief which it previously granted unless a showing could be made that the decision to approve the exception relief was erroneous when it was made. In rejecting this contention, the FEA found that a similar argument had been fully considered and ultimately rejected in *Delta Refining Co.*, 5 FEA Par. 80,530 (January 26, 1977). Rock Island also argued that the manner in which the FEA established the standards which govern the evaluation of exception applications from the Entitlements Program submitted by small refiners violates the Administrative Procedure Act (APA). In this regard, the FEA noted that similar arguments with respect to the FEA's adoption of standards were fully considered and ultimately rejected in *EDG, Inc.*, 5 FEA Par. ------ (June 9, 1977). Since the determination reached in the *EDG* Decision with respect to the promulgation of the small refiner exception standards is equally applicable to Rock Island's case, its contentions were also rejected. Rock Island also requested that the FEA adjust the firm's historical operating results by deleting certain years from the seven year arithmetic average profit margin which the FEA generally utilizes in evaluating exception applications from the Entitlements Program submitted by small refiners. In considering the request, the FEA found that Rock Island had failed in at least one major respect to meet the criteria applied in previous cases where a firm's historical profitability in certain of its previous seven fiscal years had been excluded from the exceptions analysis. In addition, Rock Island objected to the FEA's use of the standards set forth in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975) in determining that the firm was awarded an excessive measure of relief during 1975. In this regard the FEA determined that there was considerable merit to Rock Island's position. Therefore the FEA agreed to evaluate the exception relief granted to Rock Island in 1975 prior to the promulgation of the *Delta* standards. Finally, the FEA found that Rock Island's argument that the FEA had improperly recaptured a portion of the exception relief awarded to the firm in 1975 which actually represented a benefit conferred upon the firm pursuant to Special Rule No. 3 has considerable merit. The FEA therefore reduced the firm's entitlement purchase obligation specified in the November 5 Decision by $314,718. Rock Island's Appeal was denied in all other respects.

Tenneco Oil Co.; Houston, Tex.; FXA-1140; Crude Oil

Tenneco Oil Co. (Tenneco) filed an Appeal from a Decision and Order which the Federal Energy Administration issued to the firm on December 8, 1976. *Tenneco Oil Co.*, 4 FEA Par. 83,229 (December 8, 1976). In the December 8 Order the FEA determined that exception relief was necessary in order to provide Tenneco with an economic incentive to drill a replacement well on its Kopp Lease and thereby recover volumes of crude oil which would not otherwise be produced. The FEA therefore premitted Tenneco to sell a specified number of barrels of crude oil at upper tier prices in order to provide the firm with an economic incentive to make the investment in the replacement well. In its Appeal, Tenneco stated that it had inadvertently omitted state production and ad valorem taxes from the cost projections which it had submitted during the course of the exception proceeding and that the exception relief specified in the December 8 Order would accordingly not produce the 15 percent level rate of return on investment which the December 8 Order intended. Tenneco therefore requested that additional exception relief be granted to account for these costs. The FEA determined that the Tenneco submission did not satisfy the criteria for the granting of an appeal set forth in the FEA regulations and that the Tenneco Appeal should be denied. However, the FEA also determined that the data which Tenneco furnished in connection with its Appeal indicated that an additional amount of exception relief was necessary in order to achieve the objectives of the December 8 Decision. The FEA therefore recalculated the level of exception relief granted to Tenneco to permit the firm to sell a sufficient number of barrels of crude oil at upper tier ceiling prices to obtain a 15 percent internal rate of return on its investment in a replacement well on the Kopp Lease.

Tenneco Oil Co.; Washington, D.C.; FRA-1214; Motor Gasoline

Tenneco Oil Co. filed an Appeal from a Remedial Order which was issued to it by FEA Region VI on February 2, 1977. In that Remedial Order, the FEA found that during six months of the period between June 1974 and January 1976 Tenneco had sold motor gasoline at levels which exceeded the firm's maximum allowable prices calculated in accordance with 10 CFR 212.83. In order to remedy this violation, Tenneco was directed to refund $6,274,780 plus interest to identifiable customers and the refund $5,941,220 plus interest through a price reduction of $0.02 per gallon in its retail sales of gasoline. In its Appeal, Tenneco contended that the Remedial Order was erroneous because it does not take account of an oral interpretation which it allegedly received from Cost of Living Council officials. In considering this contention, the FEA observed that Tenneco previously raised this same argument in two prior submissions and that it had been fully considered and rejected by the FEA. Tenneco submitted no new evidence in support of this argument which warranted reconsideration of this issue. Tenneco also argued that the FEA erred in making its calculations of overcharges by assuming that Tenneco's use of the correct cost and quantity of purchased gasoline in computing its maximum permissible prices for motor gasoline would not change the other factors contained in the refiner's price formula. The FEA found that Tenneco provided no data to support this contention, and that the firm's mere suggestion that it might have been able to reallocate its increased product costs did not provide sufficient evidence to demonstrate that the Remedial Order was in error. Tenneco also contended that the Remedial Order is insufficiently precise to permit the firm to recalculate its base prices for gasoline for prior months, and that the firm should not be required to file revised cost allocation forms with the FEA until all other outstanding issues regarding the firm's pricing practices have been resolved. In rejecting these contentions, the FEA described the type of adjustments which Tenneco must make in recalculating its base prices and noted that Tenneco did not even contend that it would incur a burden in making the recalculations and refiling the required forms. The FEA also determined, however, that the Remedial Order contained certain computational er-

rors which should be corrected, and that the Remedial Order should be amended to expressly state that the 45 day period within which refunds must be made applies only to identifiable customers. Finally, the FEA determined that the Remedial Order should be amended to permit Tenneco to reflect certain product cost increases in its rollback price for gasoline during that period in which refunds were made. Based on these considerations, the FEA amended the Remedial Order accordingly and denied Tenneco's Appeal in all other respects.

Wagner Oils, Inc.; Fairborn, Ohio, FXA-1762, No. 2 Heating Oil

Wagner Oils, Inc. (Wagner Oils), appealed from a Decision and Order which the FEA issued to the firm on March 30, 1977. *Wagner Oils, Inc.*, 5 FEA Par. 83,127 (March 30, 1977). In the March 30 Decision the FEA had denied Wagner Oils' request for an exception from the requirement that it complete and file FEA Form P112-M-1, "No. 2 Heating Oil Supply/Price Monitoring Report" on a monthly basis. In considering the Wagner Oils Appeal, the FEA found that the firm had not submitted any factual data in support of its claim that the determination made in the prior Decision was erroneous. In particular, although Wagner Oils had twice been requested to supply data relating to the amounts of additional time and effort which its employees require to complete Form P112-M-1, the firm did not respond to either of those requests. It was therefore determined that since the Appeal filed by the firm was factually deficient it should be denied.

REQUESTS FOR EXCEPTION

Al Jones Oil Corp.; Jamaica, N.Y.; FEE-3856; Motor Gasoline

Al Jones Oil Corp. (Jones) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the issuance of an order establishing it as the base period supplier of motor gasoline at specified federal installations which it supplies pursuant to contracts awarded under the section 8(a) Program of the Small Business Administration. Jones would also be assigning a new supplier of motor gasoline to enable it to meet the supply requirements of those installations. Pursuant to section 8(a) of the Small Business Act of 1958, as amended, the SBA enters into contracts to supply petroleum products to various federal installations and assigns these contracts to eligible small businesses. In considering the Jone request, the FEA found that the firm had not shown that it was unable to obtain sufficient quantities of motor gasoline to meet its contractual obligations Jones' allegation that it might encounter supply problems in the future was unsupported and purely speculative at this time, and could not alone form an appropriate basis for exception relief. Moreover as a new wholesale purchaser which lacks a base period supplier, Jones may apply to the FEA to be assigned a base period supplier. Since Jones had not utilized this administrative procedure which is available to it, the requested exception relief was found to be premature. In addition, financial and operating data and projections submitted by Jones indicated that the firm expects to earn appreciable profits in 1977 whether or not it received exception relief. In view of these circumstances, Jones had not demonstrated that it would experience any hardship in the absence of exception relief, and its request for exception was denied.

Beacon Oil Co.; Hanford Calif.; FXE-4087; Crude Oil

Beacon Oil Co. (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlement Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Beacon submitted projected financial statements for its current fiscal year ending December 31, 1977, and projected monthly crude oil runs to stills and receipts of old, new, and imported crude oil for the fiscal year. In considering Beacon's exception request the FEA determined that as a result of Beacon's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Beacon would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Beacon's Application for Exception relieving the firm of sufficient entitlement purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Beacon to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Beacon would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Beacon will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Brooks Exploration, Inc.; Denver Colo.; FEE-4114; Crude Oil

Brooks Exploration, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which if granted, would permit Brooks to sell all of the crude oil produced from the Kittelson No. 1 well (the Kittelson well) at upper tier ceiling prices. In considering the exception application, the FEA determined that the Kittelson well generated substantial levels of profits during 1976. The FEA therefore concluded that Brooks has an economic incentive to continue its crude oil production activities at the Kittelson well and therefore is not experiencing a gross inequity at the present time. The exception application was accordingly denied.

Edgington Oil Co., Inc.; Long Beach, Calif.; FXE-4084; Crude Oil

Edgington Oil Co., Inc. (Edgington), filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Edgington submitted projected financial statements for its current fiscal year ending December 31, 1977, and projected monthly crude oil runs to stills and receipts of old, new, and imported crude oil for the fiscal year. In considering Edgington's exception request the FEA determined that as a result of Edgington's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Edgington would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Edgington's Application for Exception and relieved the firm of sufficient entitlements purchase obligations during the six month period June 1977 through November 1977 to permit Edgington to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Edgington would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and as is the case with all Entitlements Program Exception decisions at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Edgington will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Hanover Management Co.; Dallas, Tex.; FXE-4184; Crude Oil

The Hanover Management Co. (Hanover) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted to the firm and would thereby permit Hanover to continue to sell all of the crude oil produced from the Fruin "A" No. 1 Well (the Fruin well) for the benefit of the working interest owners at upper tier ceiling prices. *Hanover Management Co.*, 5 FEA Par. 83,068 (February 18, 1977). In considering the request, the FEA determined that the Fruin well was continuing to experience increasing operating costs and that in the absence of a continuation of exception relief the working interest owners would lack an economic incentive to maintain the production of crude oil from the well. In view of this determination and on the basis of the operating data which the firm submitted for the most recently completed fiscal period, Hanover was permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Fruin well for the benefit of the working interest owners.

B. J. Hickman; Kimball, Nebr.; Fee 4119, Crude Oil

B. J. Hickman filed an Application for Exception which, if granted, would permit him to determine the price of crude oil produced and sold in February 1974 and May 1975 from the J. R. Cross lease located in Banner County, Nebr. without regard to the current cumulative deficiencies which had accrued on that property. According to the Hickman submission those deficiences were the result of snowfalls during the preceding months which had temporarily interrupted the production of crude oil from the lease. In considering Hickman's exception request, the FETA found that the normal production of crude oil from the J. R. Cross lease has continued despit the existence of cumulative deficiencies in February 1974 and May 1975. The FEA therefore concluded that Hickman had not shown that his extraction efforts at the Cross lease would be endangered in any manner in the absence of exception relief. The FEA also concluded that Hickman had failed to demonstrate in this proceeding that the FEA regulatory program imposed burdens upon him which were disproportionate to those generally incurred by other crude oil producers. Hickman's exception request was therefore denied.

Donald Huhn, Louis Gais; Minerva, Ohio, Youngstown, Ohio; FEE-4077, FEE-4078, Motor Gasoline

Louis Gais (Gais) and Donald Huhn (Huhn) filed two separate Applications for Exceptions from the provisions of 10 CFR 211.9. The exception requests, if granted, would result in the issuance of orders by the FEA assigning to both Gais and Huhn a new supplier of motor gasoline to replace their base period supplier, Texaco, Inc. (Texaco). Both Gais and Huhn also requested that the Cross Oil Company (Cross) be designated as the new supplier. Since the Gais and Huhn submissions involved similar factual matters, and requested an identical result; they were consolidated for resolution in a single proceeding. In considering the Gais and Huhn applications, the FEA observed that both Gais and Huhn are currently able to purchase sufficient surplus product from Cross at the present time to satisfy all of their requirements for motor gasoline. The FEA therefore concluded that Gais and Huhn are not presently experiencing a serious hardship or a gross inequity as a result of adherence to their supplier purchaser realtionships with Texaco. Accordingly, the Applications for Exception were denied.

Husky Oil Co. of Delaware; Denver, Colo FXE-4085; Crude Oil

Husky Oil Co. of Delaware (Husky) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Husky submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Husky's exception request the FEA determined that as a result of Husky's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Husky would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Husky's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977. However, the FEA noted that the relief approved to Husky would be reevaluated if the firm requested an extension of execption relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Husky will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Louis Kahan; Tulsa, Okla. FEE-4099, Crude Oil

Louis Kahan (Kahan) filed an Application for Execption from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit him to sell at upper tier prices the crude oil which he produces from the Mose Bean Lease in Seminole County, Okla. According to the Kahan submission, substantial repairs on pumping and tubing equipment must be made at the lease if crude oil production is to continue. In considering the Kahan Application, the FEA found that a substantial investment is necessary in order to repair the one well on the Mose Bean Lease, and that this investment would be uneconomic if the crude oil which would be produced from the property after the completion of the repairs were sold at lower tier ceiling prices. The material presented by Kahan also indicated that if the repairs were not undertaken substantial quantities of crude oil would not be recovered from the reservoir underlying the lease. On the basis of these findings, the FEA concluded that exception relief should be granted to the working interest owners which would provide a sufficient economic incentive to undertake that capital investment necessary to make the repairs. The FEA concluded that if Kahan were permitted to sell 13,382 barrels of crude oil which he produces for the benefit of the working interest at upper tier prices over the remaining two and one-half year life of the property, these objectives would be achieved.

Kalama Chemical, Inc.; Kalama, Wash., EPI 0120; Unfinished Toluene

Kalama Chemical, Inc., filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import 259,925 barrels of unfinished toluene into PAD District V on a license fee-exempt basis during the current allocation period. In considering Kalama's exception request, the FEA determined that the firm is unable to obtain adequate suppliers of domestic toluene at competitive prices because of high land transportation costs and the unavailability of coastal tanker space. Consequently, it was found that the firm will have to import the full amount of toluene for which it has requested fee-exempt authority. The FEA also observed that Kalama is the only U.S. manufacturer of phenol which uses toluene rather than benzene or cumene as a petrochemical feedstock. Since benzene and cumene may be imported on a fee-free basis while toluene may not, the FEA concluded that the requirement that Kalama pay import fees for the toluene which it requires places the firm at a competitive disadvantage and results in an unfair distribution of the regulatory burdens which are imposed on Kalama and similarly situated firms. Accordingly, Kalama's exception request was granted.

Kern County Refinery, Inc.; Bakersfield, Calif.; FXE-4096; Crude Oil

Kern County Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Kern submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipt of old, new and imported crude oil for the fiscal year. In considering Kern's exception request the FEA determined that as a result of Kern's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Kern would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Kern's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Kern to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Kern would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Kern will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Lunday-Thagard Oil Co., South Gate, Calif.; FXE-4086; Crude Oil

Lunday-Thagard Oil Co. (Lunday-Thagard) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Lunday-Thagard submitted projected financial statements for its current fiscal year ending June 30, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Lunday-Thagard's exception request the FEA determined that as a result of Lunday-Thagard's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Lunday-Thagard would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Lunday-Thagard's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Lunday-Thagard to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Lunday-Thagard would be reevaluated if the firm requested an ex-

tension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Lunday-Thagard will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

W. N. McMurry; Casper, Wyo.; FEE-4030; Crude Oil

W. N. McMurry filed an Application for Exception from the provisions of 10 CFR, Part 212, which, if granted, would permit the firm to sell the crude oil produced from the Brabec and the Wagner Fredrickes Wells (the Wells) located on the West Sage Creek property, Park County, Wyo., at upper tier ceiling prices. In considering McMurry's Application, the FEA determined that the cost per barrel of producing crude oil from the Wells has increased significantly and now exceeds the lower tier ceiling price which McMurry is permitted to charge. As a consequence McMurry no longer has an economic incentive to continue to operate the Wells and if the McMurry property is abandoned a considerable amount of otherwise recoverable crude oil will be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to McMurry of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be granted. In previous Decisions, the FEA has granted exception relief which permits a firm to reflect in its selling prices the increased operating costs per barrel incurred between the quarter which includes May 15, 1973 and the firm's most recently completed fiscal quarter. In considering the McMurry application however, the FEA determined that while it appeared that McMurry had no economic incentive to continue to produce crude oil from the Wells, the application of the precedent established in prior Decisions and described above would not provide the firm with a sufficient economic incentive to continue its operations at the Wells. The MEA therefore concluded that an alternative type of exception relief was necessary. Accordingly the FEA granted McMurry exception relief to permit the firm to reflect in its selling prices the difference between the cost of producing a barrel of crude oil during the 1973 calendar year and the projected cost of producing a barrel of oil during the calendar year ending December 31, 1977.

Mohawk Petroleum Corp., Inc.; Los Angeles, Calif.; FXE-4083; Crude Oil

Mohawk Petroleum Corp. (Mohawk) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Mohawk submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Mohawk's exception request the FEA determined that as a result of Mohawk's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Husky would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Mohawk's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Mohawk to achieve its historical return on invested capital during the current fiscal year. However, the FEA noted that the relief approved to Mohawk would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Mohawk will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Mull Drilling Co., Inc.; Wichita, Kans.; FEE-4138; Crude Oil

Mul Drilling Co., Inc. (Mull) filed an Application for Exception which if granted, would permit the firm to sell the crude oil which it produces from the UPRR Roth Lease (Roth Lease) without regard to the ceiling prices specified in 10 CFR, Part 212, Subpart D. In considering the firm's submission, the FEA determined that except for those months in which Mull incurred substantial repair expenses for its Reda pumps, the firm had operated the Roth Lease on a profitable basis and would continue to do so until at least November 1977. Therefore, the FEA determined that Mull had not demonstrated that exception relief was necessary in order to provide the firm with an economic incentive to continue its crude oil production activities at the Roth Lease. The FEA also concluded that the Reda pump repair expenses which Mull periodically incurred are capital expenditures rather than operating costs and that Mull should file another Application for Exception prior to making those expenditures if it can demonstrate that it has no economic incentive to make the repairs.

Navajo Refining Co.; Artesia, No. Mex.; FXE-4098; Crude Oil

Navajo Refining Co. (Navajo) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Navajo submitted projected financial statements for its current fiscal year ending July 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Navajo's exception request the FEA determined that as a result of Navajo's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Navajo would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Navajo's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit San Joaquin to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to San Joaquin would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and San Joaquin will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

San Joaquin Refining Co.; Newport Beach, Calif.; FXE-4102; Crude Oil

San Joaquin Refining Co. (San Joaquin) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, San Joaquin submitted projected financial statements for its current fiscal year ending April 30, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering San Joaquin's exception request the FEA determined that as a result of San Joaquin's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which San Joaquin would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted San Joaquin's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit San Joaquin to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Navajo would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Navajo will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Southland Oil Co.; Jackson, Miss.; FXE-4124; Crude Oil

Southland Oil Co. (Southland) filed an Application for Execption from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Southland submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil

for the fiscal year. In considering Southland's exception request the FEA determined that as a result of Southland's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977 As a result of the projected entitlements cost which Southland would incur during its curent fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Southland's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Southland to achieve its historical profit margin during the current fiscal year However, the FEA noted that the relief approved to Southland would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Southland will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves

Warrior Asphalt Co. of Alabama, Inc.; Tuscaloosa, Ala.; FXE-4139; Crude Oil

Warrior Asphalt Co. of Alabama, Inc. (Warrior) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Warrior submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Warrior's exception request the FEA determined that as a result of Warrior's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Warrior would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Warrior's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Warrior to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Warrior would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Warrior will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves

Whaleco Fuel Corp. Inc.; Brooklyn, N.Y. FPI-0112: Residual Fuel Oil No. 2 Fuel Oil

Whaleco Fuel Corp., Inc., filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import, on a license fee-exempt basis, 500,000 barrels of No. 2 fuel oil and 1,250,000 barrels of residual fuel oil into PAD District I during the current allocation period. In considering Whaleco's exception request, the FEA found that the firm would be unable to obtain sufficient quantities of these fuels from domestic sources at competitive price levels to meet its supply requirements. Based on projections provided by Whaleco, it was found that the firm would have to import approximately 932,540 barrels of residual fuel oil and 260,810 barrels of No. 2 fuel oil during the allocation period. Whaleco's financial and operating data indicated that if the firm were required to absorb the cost of the license fees on these quantities of fuel oil, its already marginal financial position would deteriorate substantially. The FEA also found that the comparative market data provided by Whaleco indicated that the firm would be unable to increase its prices for No. 2 fuel oil and residual fuel oil to reflect the payment of license fees. The FEA concluded that since many of Whaleco's competitors pay no import fees on substantial quantities of the residual fuel oil which they import, in the absence of exception relief, Whaleco could well be forced to reduce or terminate its activities as an independent marketer. In view of these factors, Whaleco was granted an exception which permits it to import on a fee-exempt basis the quantities of residual fuel oil and No. 2 fuel oil which it projected it would have to import during the current allocation period.

Young Refining Corp.; Douglasville, Ga FXE-4103: Crude Oil

Young Refining Corp. (Young) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Young submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Young's exception request the FEA determined that as a result of Young's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977 As a result of the projected entitlements cost which Young would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Young's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977. However, the FEA noted that the relief approved to Young would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Young will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves

PETITION FOR SPECIAL REDRESS

Union Camp Corp., Atlanta, Ga.; FSG 0047: Coal Conversion

Union Camp Corp. (Union Camp) filed a Petition for Special Redress in which it requested that it be afforded an adjudicatory hearing with respect to a Notice of Intent (NOI) issued to the firm by the FEA pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). Union Camp also requested that it be granted an extension of time in which to submit written comments regarding the NOI. In considering Union Camp's first request the FEA found that neither the Administrative Procedure Act nor ESECA required that an adjudicatory hearing be held in connection with the findings required to be made by Section 2 of ESECA. The FEA noted that ESECA merely required the FEA to afford interested persons an opportunity for oral and written presentations of data, views and arguments which the FEA had done. In its analysis of the second issue, the FEA noted that it had recently considered and rejected a similar request in *New England Power Co., Montaup Electric Co.*, 5 FEA Par. —— (May 26, 1977). The FEA determined that Union Camp had not submitted any legal arguments of factual information which distinguished its petition from the submissions filed by the firms in that case, and it noted that those applications had been denied. Accordingly, the Union Camp Petition for Special Redress was denied.

REQUESTS FOR MODIFICATION OR RESCISSION

Arizona Fuels Corp.; Salt Lake City, Utah; FMR-0105, Crude Oil

Arizona Fuels Corp. (Arizona Fuels) filed an Application for Modification of a Decision and Order which the FEA issued to it on January 28, 1977. *Arizona Fuels Corp.*, 5 FEA Par. 80,548 (January 28, 1977). In that determination, the FEA denied two Appeals which Arizona Fuels had filed from Decisions which had been previously issued to the firm on July 16, 1976 and on October 1, 1976. In the July 16 Order, the FEA approved prospective exception relief which relieved Arizona Fuels of a portion of its entitlement purchase obligations during the period May through October 1976. In the October 1 Order, the FEA denied an Application for Exception in which Arizona Fuels had requested that it be retroactively relieved of its obligation to purchase entitlements for the months of August and September 1975. In denying the two Appeals, the FEA observed that the firm could experience severe operating problems if it had to immediately consummate its outstanding entitlement obligations. Consequently, the Arizona Office of Compliance was directed to establish a payment program pursuant to which Arizona Fuels will be required to purchase the full $329,491.50 of its August and September 1975 entitlement purchase obligation by July 28, 1977. In its Application for Modification, Arizona Fuels alleged that certain factual material relating to the financial condition of the firm, which was not in existence at the time of the prior Appeal proceeding, has recently become available and that this material constitutes "significantly

changed circumstances" as that term is defined in 10 CFR 205.135. On the basis of this financial material, Arizona Fuels requested that the January 28 Order be modified to extend from six months to 36 months the period of time within which the firm must complete its purchases of August and September 1975 entitlements. In considering this request, the FEA observed that the new financial data submitted by Arizona Fuels was not significantly different from the data submitted by the firm in the previous Appeal proceeding. Accordingly, the FEA concluded that Arizona Fuels had failed to demonstrate that the circumstances upon which the January 28 determination was based had changed significantly and the Application for Modification which it filed was therefore denied.

Stephens and Cass; Dallas, Tex.; FMR–0108; Crude oil

Stephens and Cass (S&C) filed a request for modification of a May 20, 1977 Decision and Order in which the FEA stayed the provisions of a Remedial Order requiring S&C to implement price reductions on certain crude oil which it produces and sells in order to refund revenues received as a result from prior violations of the FEA Price Regulations. S&C requested in its Application for Modification that the May 20, 1977 Decision and Order be modified to eliminate the requirement that the amount of the price reductions required by the Remedial Order be deposited in an escrow account pending the FEA's determination on an Application for Exception which S&C submitted on April 26, 1977. In considering S&C's petitions, the FEA noted that the May 20 Stay Order had determined that S&C's economic viability would not be threatened if the refunds required by the Remedial Order were placed in escrow during the period of time S&C's Application for Exception is pending. The FEA concluded that the additional financial data which S&C had presented in support of its modification request did not indicate that the circumstances underlying the May 20 determination had changed in any significant respect. S&C's request for modification was accordingly denied.

SUPPLEMENTAL ORDERS

Sabre Refining, Inc.; Bakersfield, Calif.; FEX–0164; Crude oil

On May 20, 1977 the FEA issued a Supplemental Order to Sabre Refining, Inc. (Sabre) which determined that Sabre had received an excess amount of exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program) for the firm's fiscal period ended October 31, 1976. Sabre Refining, Inc., 5 FEA Par. ——— (May 20, 1977). Sabre was therefore required to purchase entitlements equal in value to the excess amount of exception relief. In arriving at the May 20 determination the FEA had intended to review the exception relief granted to Sabre in accordance with the criteria set forth in Beacon Oil Co., 3 FEA Par. 83,209 (June 8, 1976). However, in that May 20 Supplemental Order the FEA reviewed the firm's exception relief for the fiscal period beginning May 1, 1976. Since that period omitted the month of April 1976, and therefore did not include the full portion of the firm's 1976 fiscal year that followed the rescission of Special Rule No. 6, the determination reached in the May 20 Supplemental Order was not in accordance with the criteria set forth in the Beacon Decision and was therefore erroneous. Since Sabre's 1976 fiscal year ended October 31, 1976 the FEA conducted another review of the exception relief which Sabre had been granted for its October 31, 1976 fiscal year. Based on that review the FEA determined that Sabre had received an excess measure of exception relief during the April through October 1976 period. Sabre was therefore required to purchase additional entitlements having a total value of $217,547 during the period June through November 1977.

Suburban Propane Gas Corp.; Whippany, N.J., FRX–0165; Crude oil

On May 25, 1977 the FEA issued a Decision and Order to Suburban Propane Gas Corporation (Suburban) staying the refund provisions of an April 25 Remedial Order. Suburban Propane Gas Corp., 5 FEA Par. ——— (May 25, 1977). The Stay was granted on the express condition that Suburban place the disputed funds into an escrow account pending a final determination on its Appeal of the Remedial Order. On June 10, 1977 Suburban advised the FEA that it did not intend to establish the escrow account specified in the May 25 Order. Since the escrow account was an express condition of the May 25 Stay Order the FEA determined that the Stay should be vacated.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Atlantic Richfield Co.	FEE 4274	Adair	$.0262
	FEE-4275	Camrick	.0026
	FEE-4276	Elmwood	.0051
	FEE-4277	Fairway	.0051
	FEE-4278	Gillette	.0179
	FEE-4279	Headlee	.02144
	FEE-4280	Knox Bromide	.0260
	FEE-4281	Selling	.0009
	FEE-4282	Swanson River	.0323
	FEE-4283	West Seminole	.00974
	FEE-4332	Empire Abo	.0002
Breckinridge Gasoline Co.	FXE-4134	Elissville	.0863
	FXE-4135	Lodi	.13117
Continental Oil Co.	FEE-4285	Elk Basin	.0278
	FEE-4286	Kettlemen Hills	.0106
Gulf Oil Corp.	FXE-4131	Azalea	.0410
	FXE-4132	Milfay	.0758
	FXE-4133	Sand Hills	.0488
Marathon Oil Co.	FEE-3953	Camrick	.0272
	FEE-3954	Cotton Valley	.0274
	FEE-3955	Heyser	.1210
	FEE-3957	Knox	.0624
	FEE-3962	Stephens	.0465
Mobil Oil Corp.	FEE-4214	Bryans Mill	.0327
	FEE-4215	Hagist	.03468
	FEE-4216	Iowa	.0139
	FEE-4217	Levelland	.0068
	FEE-4218	Putnam Oswego	.0073
	FEE-4219	Wilcox	.0127
Phillips Petroleum Co.	FXE-4149	Cimarron	.0929
	FXE-4150	Puckett	.0335
	FXE-4151	Sooner No. 1	.07291
Shell Oil Co.	FEE-4228	Chalkley	.2856
	FEE-4230	Grand Chenier	(1)
	FEE-4231	Sedigson	.0063
	FEE-4232	Timbalier Bay	.0071
	FEE-4233	Tippett-Crossett	.00577
	FEE-4234	TOCA	.0141
Vallery Corp.	FEE-4273	Vallery	.0389
Vickers Energy Corp.	FEE-4115	Calumet	.00564
	FEE-4116	Mayfield	.0414
	FEE-4117	Patterson	.01140
	FEE 4118	Putnam Oswego	.0134

[1] Denied.

SUMMARY DECISION

The Office of Exceptions and Appeals of the FEA issued a Decision and Order to the following company dismissing its Appeal for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Peters Fuel Corp.; Oakland, Md.; FXA–1285

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

San Joaquin Refining Co.; Newport Beach, Calif.; FEA–1284

Stovall Oil Co.; Casper, Wyo.; FEE–4112

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Friendly Neighbors Gas Corp; Henryetta, Okla.; FEE–4125

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Seal's Service Station; Crozet, Va.; FEE—4289

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23502 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 20 Through June 24, 1977

Notice is hereby given that during the week of June 20 through June 24, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

PETITION FOR SPECIAL REDRESS

Crusade for Gubernatorial Responsibility; Francestown, N.H.; FSG–0036; State Energy Offices.

The Crusade for Gubernatorial Responsibility (the Crusade) filed a Petition for Special Redress Relief. The Crusade's submission related to the proper use of federal grant monies which the Governor's Council on Energy (the New Hampshire State Energy Office) received from the FEA pursuant to a Cooperative Agreement executed between the FEA and the State of New Hampshire on May 14, 1976. Under the grant agreement, the FEA agreed to reimburse the State for certain expenses incurred in the operation of a state energy management program. On or about December 15, 1976, the Governor's Council on Energy ordered the printing of petitions which supported the continued construction of the controversial Seabrook nuclear power station by the Public Service Company of New Hampshire, a private corporation. In early 1977, these pro-Seabrook petitions were sent by the Governor's Council on Energy to State liquor stores, city and town offices, and to other locations within New Hampshire for distribution to the public. In its submission, the Crusade alleged that the activities of the Governor's Council on Energy were funded in part by the FEA grant, and that the printing of the pro-Seabrook petition by the State constituted a misuse of federal funds. Based on this allegation, the Crusade requested that the Office of Private Grievances and Redress conduct an investigation pursuant to 10 CFR 205.236(a)(1) and take whatever type of remedial action which it determined to be appropriate. In considering the Crusade's Petition, the FEA analyzed the agreement covering the use of federal grant funds which the agency had executed with the State. The Cooperative Agreement by its terms apparently did not contemplate that the funds which were transferred to the State by the FEA would be used for the advocacy of nuclear power plants such as the proposed Seabrook facility. Furthermore, the record indicated that the Governor of New Hampshire had been advised by the Regional Administrator of FEA Region I that the Congress objected to the direct involvement of the FEA in advocating the development of nuclear power. However, in response to a request for additional information, the Executive Vice Chairman of the Governor's Council on Energy submitted a sworn affidavit in which he stated that no FEA funds had been used to fund the expenses of the pro-Seabrook petition drive, and that, in fact, the entire amount of the FEA grant had been already expended prior to the date when the State was billed for the expenses related to the Seabrook matter. In view of these statements, the FEA concluded that the present record in the proceeding did not establish that any impropriety had occurred in connection with the May 14, 1976 Cooperative Agreement between the FEA and the State. Accordingly, the Petition for Special Redress Relief submitted by the Crusade was dismissed.

REQUESTS FOR EXCEPTION

Minnesota Gas Co.; Minneapolis, Minn.; FEE–3541; FRA–1071; Propane.

The Minnesota Gas Company (Minnegasco) filed an Application for Exception which, if granted, would permit the firm to calculate its increased product costs for purposes of determining its maximum allowable prices in its retail sales of propane by calculating its product and non-product costs on May 15, 1973 and in subsequent periods on a separate inventory basis. Minnegasco also filed an Appeal from a Remedial Order which was issued to the firm on November 24, 1976, by the Regional Administrator of FEA Region V. In the Remedial Order, the FEA determined that, as a retailer of propane, Minnegasco had improperly computed its increased product costs for propane during the period November 1973 through October 1974, and that the firm had therefore overcharged its retail propane customers by $97,397.91. In order to remedy these violations, the Remedial Order directed Minnegasco to refund that amount plus interest to the customers whom it overcharged. Since Minnegasco's two submissions involved similar factual matters, they were consolidated for resolution in a single proceeding.

Minnegasco, a public utility that is primarily engaged in the sale of natural gas, also operates a small retail propane business. In addition to maintaining an inventory of propane for use in its retail propane operations, the firm maintains a large inventory of propane for peak shaving purposes as part of its public utility operations. In its Application for Exception, Minnegasco contended that it would experience a gross inequity if, for purposes of determining its maximum lawful selling price in retail sales of propane, it were required to compute its product costs on a firm-wide basis rather than only with respect to the propane which it purchased and held in inventory for retail sales purposes. In considering the Application for Exception, the FEA noted that since May 1, 1976, Section 212.92 of the FEA Price Regulations has permitted a firm to compute increased product costs on a separate inventory basis, provided the method used is consistent with the firm's historical practices. The FEA determined, however, that exception relief would be required in order for Minnegasco to make this election since it had not historically accounted for its inventories on a separate basis. The FEA further determined, however, that if exception relief were approved in this case, the objective of requiring a consistent and historical treatment of separate inventories would not be undermined since the potential for artificial manipulations of product costs to gain unwarranted benefits did not exist in this case. In this regard, the FEA found that the firm had consistently maintained inventories for two different business operations since the beginning of its retail propane operations and could recalculate its actual costs for propane on a separate inventory basis. The FEA also determined that if exception relief were approved, the firm's retail propane customers would not be adversely affected since the price which they pay for propane would more accurately reflect current purchase costs of that fuel and would, nevertheless, be six cents less than the average retail price of propane in the market area served by Minnegasco. Accordingly, the FEA concluded that exception relief should be approved which will require Minnegasco to calculate the increased product and nonproduct costs which it may reflect in its maximum lawful selling prices of propane by utilizing only the product and non-product cost increases which it experiences in connection with the propane held in inventory for sale in its retail propane operations.

The FEA also determined that compelling reasons existed to justify the approval of retroactive exception relief in this case. The FEA found that the inclusion of the costs associated with the propane held for peak shaving purposes in the cost base that the firm used to determine the prices of the propane which it sold to its retail propane customers would confer uopn that group a financial benefit that properly belongs to the firm's natural gas customers. The FEA also concluded that a failure to approve retroactive relief would produce a situation in which Minnegasco's retail propane customers would receive unwarranted benefits at the unfair expense of its natural gas customers. Accordingly, the FEA concluded that retroactive relief was justified.

In view of the determination reached on Minnegasco's Application for Exception, the FEA rescinded the November 24, 1976 Remedial Order and dismissed the firm's Appeal.

Whitco, Inc.; Dallas, Tex.; FXE–4265 Motor Gasoline.

Whitco, Inc. filed an application for an extension of the exception relief from the provisions of 10 CFR 211.25 which the FEA had previously granted to the firm. *Whitco, Inc.*, 5 FEA Par. 87,022 (March 10, 1977) (Supplemental Order). The March 10 Order directed the Regional Administrator of FEA Region VI to determine whether Whitco would experience a serious hardship or gross inequity in the absence of additional exception relief and to recommend whether the exception relief previously granted to Whitco should be extended. On the basis of the new material submitted by Whitco in this proceeding and the recommendations of the Regional Administrator, the FEA determined that Whitco would continue to experience a serious hardship and a gross inequity in the absence of exception relief. Accordingly, the exception relief previously granted to the firm was extended through September 30, 1977.

REQUESTS FOR MODIFICATION OR RESCISSION

State of Oregon; Salem, Oreg. FMR–0100; Motor Gasoline.

The State of Oregon (the State) filed an Application for Modification of a Decision and Order issued to it by the FEA on October 3, 1975. *State of Oregon*, 2 FEA Par. 83,320 (October 3, 1975). In that Decision, the FEA granted exception relief which permitted refiners, resellers and retailers of motor gasoline doing business in the State to increase their selling prices above the maximum permissible price levels established pursuant to 10 CFR 212.82 and 212.93 in order to reflect an increase in the Oregon license tax enacted

by the State Legislature in its 1975 session which was to have become effective on October 1, 1975. However, that license tax increase did not become law, and the State therefore requested in the instant Application that the FEA's previous decision be modified to permit sellers of motor gasoline in the State to reflect the increase in the license tax which was being considered by the Oregon Legislature in its 1977 session. In considering the Application, the FEA observed that it had found in the October 3, 1975 Decision that although the motor gasoline license tax was not imposed directly on the purchaser, there was no practical difference between the license tax and a sales tax. Furthermore, it had been previously determined that the State intended the financial burden of the tax to be passed on to the ultimate consumer in order to apportion the financial burden on maintaining the state highway system fairly on the basis of relative use. On the basis of these considerations, the FEA had concluded that the application of the FEA Regulations resulted in a gross inequity. With respect to the State's Application for Modification, the FEA found that the same considerations were present in the case of the tax increase currently under consideration. The State's request for modification was therefore granted.

W. E. Shrider Co.; Newark, Ohio; FMR–0110 Crude Oil.

The W. E. Shrider Company (Shrider) filed an Application for Modification of a Decision and Order in which the FEA granted a Stay of the refund provisions of a Remedial Order which FEA Region VI issued to Shrider on May 9, 1977. *W. E. Shrider*, 5 FEA Par. 1 (June 2, 1977). If the Application for Modification were granted, Shrider would not be required to prospectively reduce its prices for crude oil produced from the Mary B. Griggs lease (the Griggs lease) by $12.00 per barrel or to place the amount of the price reductions in an escrow account, as directed by the June 2, 1977 Stay Order. In considering Shrider's Application, the FEA concluded that, although it has on occasion exercised its discretion to supplement a stay order where a strong showing is made that extraordinary circumstances exist which warrant modification of the original order, Shrider had not submitted any material which would justify the modification which it requested. In its Application, Shrider contended that since it has an obligation as the operator of the Griggs lease to obtain the highest possible price for the crude oil which it produces, the firm could be subject to suit by the royalty and working interest owners with an interest in the lease if it were to reduce its prices as directed by the Stay Order. The FEA rejected this contention, concluding that the Remedial Order specifically directed that the maximum price which Shrider may charge for crude oil produced from the Griggs lease is the price which was charged on April 29, 1977, less $12.00 per barrel and that therefore the highest possible price which Shrider may charge is the price specified in the Remedial Order as modified by the June 2 Stay Order. On the basis of these considerations, the FEA denied the Shrider Application for Modification.

REQUEST FOR STAY

Evangeline Refining Co., Inc.; Jennings, La.; FES–0101; Crude oil

Evangeline Refining Company, Inc. requested that its obligation to purchase 27,940 entitlements, valued at $243,357.40, as specified in the Entitlements Notice published on May 23, 1977, be stayed. 42 Fed. Reg. 26352 (May 23, 1977). In considering the Application for Stay, the FEA found that Evangeline had erroneously reported its crude oil receipts and runs to stills for the month of March 1977. As a consequence, Evangeline was required to purchase entitlements having a value of $243,357.40 during the month of May 1977. If Evangeline had not made this reporting error, it would have been entitled to sell entitlements having a value of approximately $400,000. In its Application for Stay, Evangeline asserted that it did not have the financial resources to purchase the May 1977 entitlements obligation. However, Evangeline did not submit any material in support of its claim. Furthermore, Evangeline failed to even allege the existence of any of the grounds on which the FEA may grant a stay, as provided in 10 CFR 205.125(b). Evangeline's Application for Stay was therefore denied.

SUPPLEMENTAL ORDER

Lunday-Thagard Oil Co.; South Gate, Calif.; FEX–0128; Crude oil

On June 18, 1976, the FEA issued a Decision and Order to the Lunday-Thagard Oil Company granting an exception from the provisions of 10 CFR 211.67. This exception relieved the firm of any obligation to purchase entitlements during the period June through November 1976. Lunday-Thagard Oil Company, 3 FEA Par. 83,228 (June 18, 1976). In the June 18 Order, the FEA stated that a review of Lunday-Thagard's actual financial operating results would be conducted following the completion of the firm's fiscal year which ended on June 30, 1976, in order to determine whether the firm had received excessive benefits as a result of the exception relief which had been approved. The Order further stated that if Lunday-Thagard did receive excessive entitlements exception relief during its 1976 fiscal year, an adjustment would be made and the firm would be required to purchase additional entitlements to account for the excessive benefits. In reviewing the entitlements exception relief provided to Lunday-Thagard during its 1976 fiscal year, the FEA determined that the firm did not attain either its historical profit margin or its historical return on invested capital during its 1976 fiscal year. However, since Lunday-Thagard had received 100 percent exception relief from the Entitlements Program and had not exceeded either its historical profit margin or historical return on invested capital, the FEA concluded that no adjustment to the firm's 1976 entitlements exception relief was necessary at this time.

REQUESTS FOR EXCEPTION FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Atlantic Richfield Co.	FXE–4159	Chesterville	$0.0357
	FXE–4160	Crossett	.0231
	FXE–4161	Elk Basin	.0416
	FXE–4162	Halley	.0135
	FXE–4163	Hull	.0493
	FXE–4164	Kermit	.0101
	FXE–4165	Lafeyrouse	.0154
	FXE–4166	Ojai Timber	.1441
	FXE–4167	Pledger	.0216
	FXE–4168	Riverton Dome	.2078
	FXE–4169	Silsbee	.0048
	FXE–4170	South Coles Levee	.0197
	FXE–4171	Taft	.0599
	FXE–4172	West Lake	.0188
	FXE–4173	Worland	.0258
Continental Oil Co.	FXE–4207	Chitlim	.0087
	FXE–4208	Medford	.0706
	FXE–4209	Ramsey	.1000
	FXE–4210	Thomas	.0200
	FXE–4211	O. W. Ward	.0643
Sanford P. Fagadau	FXE–4212	Bluegrove	.1783
	FXE–4213	Maryetta	.1060
Getty Oil Co.	FXE–4185	Buena Vista Hills	.0226
	FXE–4186	Cocodrie	(1)
	FXE–4187	Cymric	.0218
	FXE–4188	Dollarhide	.0125
	FXE–4189	Katy	(1)
	FXE–4190	Kermit	.0137
	FXE–4191	Kettleman Hills	.0117
	FXE–4192	Hew Hope	.0175
	FXE–4193	Normanna	.0405
	FXE–4194	Old Ocean	.0153
	FXE–4195	Palacios	.0265
	FXE–4196	South Pecan Lake	.0078
	FXE–4197	Stevens Calidon	.0089
	FXE–4198	Ventura	.0270
	FXE–4199	West Bernard	.0479
Kerr-McGee Corp.	FXE–4147	Mulfay	.1083
McCulloch Gas Processing Corp.	FXE–4174	Fairview	.0372
	FXE–4175	Hilight	.0218
	FXE–4176	Jamison Prong	.1486
	FXE–4177	Tule Creek	.2807
	FXE–4178	Well Draw	.0477
The Permian Corp.	FXE–4156	Possum Kingdom	.03086
	FXE–4157	Todd Ranch	.0231
Shell Oil Co.	FXE–4220	Elmwood	.0452
	FXE–4221	Goodwater	.1024
	FXE–4222	Indian Basin	.0072
	FXE–4223	Moline	.1659
	FXE–4224	Norco	.0714
	FXE–4225	Person	.0062
	FXE–4226	West Lake Verret	.0205
	FXE–4227	Yates	.0289
	FXE–4228	Fashing	(1)

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Standard Oil Co. (Indiana)	FXE–4201	Lake Boeuf	.0128
	FXE–4202	South Jennings	.0018
	FXE–4203	South Thornwell	.0199
	FXE–4204	TSMA	(1)
	FXE–4307	Prentice	.04332
Standard Oil Co. of California	FXE–4200	Greeley System	.0480
Union Oil Co. of California	FXE–4146	TSMA	.0593
	FXE–4179	Adena	.0264
	FXE–4180	Dominguez	.0893
	FXE–4181	Rio Bravo	.0204

[1] Denied.

DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filings as required by the FEA Procedural Regulations:

W. E. Riley Oil Co.; Richmond, Va.; FRA–1337; FRS–1337

The following submissions were dismissed on the grounds that the request is now moot:

Texaco, Inc.; New York, N.Y.; FEA–1345

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, NW., Washington, D.C 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

AUGUST 10, 1977.

[FR Doc.77–23401 Filed 8–12–77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 27 Through July 1, 1977

Notice is hereby given that during the week of June 27 through July 1, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Braden-Zenith, Inc.; Wichita, Kans.; FRA–1258; Crude Oil.

Braden-Zenith, Inc. (B–Z) filed an Appeal from a Remedial Order which the Director of the Compliance Division of FEA Region VII issued to the firm on March 30, 1977. In the March 30 Remedial Order, the Regional Administrator of FEA Region VII found that during the period November 1973 through December 1975, B–Z had sold the crude oil which it produced fom the Zenith Waterflood Unit (the Unit) at prices which were in excess of the maximum permissible price levels determined in accordance with the provisions of 6 CFR 150.354 and 10 CFR 212.73. The Remedial Order required the firm to refund the full amount of the overcharges within a period of six months. In its Appeal, B–Z contended that FEA Region VII improperly assessed full liability for refunding the overcharges made in sales of crude oil from the Unit only against B–Z instead of against each of the working interest owners of the Unit. In considering this contention, the FEA observed that the agency has the discretion to serve either the operator or the working interest owners of a crude oil producing property with a Remedial Order where a finding has been made that a violation of the crude oil price regulations has occurred. The FEA further observed, however, that this discretion should be exercised in a reasonable manner which will best serve to eliminate the adverse effect of the overcharges. The FEA stated that although it generally should be presumed that a Remedial Order should be issued to the operator of a particular property with respect to all overcharges made in sales of crude oil produced and sold from that property, this presumption may be rebutted by a showing that under the particular factors present in the case under consideration it would be unduly burdensome to require the operator to discharge the full refund obligation. In the present case, however, the FEA noted that it had previously directed FEA Region VII to explicitly consider the desirability of issuing a revised Remedial Order to B–Z which would assess liability for overcharges against all of the working interest owners of the Unit rather than against only B–Z. *Braden-Zenith, Inc.*, 5 FEA Par. 80,522 (January 14, 1977). The FEA found that FEA Region VII failed to make specific findings of fact in the March 30 Remedial Order concerning the proprietary of assessing the overcharges against all of the working interest owners of the Unit. Accordingly, the B–Z Appeal was granted and the March 30 Remedial Order was rescinded.

H&K Oil Co.; Yankton, S. Dak.; FRA–1184; No. 2, Heating Oil

H&K Oil Company (H&K) appealed from a Remedial Order which FEA Region VIII issued to the firm on January 21, 1977. In the Remedial Order, the Deputy Regional Administrator of FEA Region VIII found that during the period November 1, 1973 through December 31, 1974, H&K sold heating oil to the University of South Dakota (the University) at prices which exceeded maximum permissible levels. In considering the H&K Appeal, the FEA concluded that H&K had not furnished any material which would contradict the determination reached in the Remedial Order that price and volume distinctions existed on May 15, 1973 between the University and H&K's other end-user customers and that H&K was therefore required to place the University in a separate class of purchaser. In this respect, the FEA determined that on May 15, 1973, H&K charged significantly different prices to the University and to the other customers which the firm served and that the University purchased substantially greater volumes of product than H&K's other customers. Consequently, the H&K Appeal was denied. The FEA further concluded, however, that if H&K were required to complete the refunds involved within a 180-day time period, as specified in the Remedial Order, the firm's economic viability might well be jeopardized and the Remedial Order was therefore modified to permit H&K to refund the overcharges over a period of two years.

Cecil Leung d. b./a. Imperial Richfield Service Station; Seattle, Wash.; FRA–1268; Motor Gasoline.

Cecil Leung d. b. a. Imperial Richfield Service Station (Imperial) appealed from a Remedial Order which the Director of the Regulations Division of FEA Region X issued to it on April 5, 1977. In the Remedial Order, the FEA found that Imperial had violated the provisions of 10 CFR 210.62 by charging a fee of $.25 to its retail customers who did not purchase a full tank of motor gasoline. The Remedial Order required Imperial to calculate the amount of the overcharges which it had received and to submit that calculation to the FEA for approval. If the FEA approved that calculation, Imperial would then be required to reduce its prices for motor gasoline until the full amount of the overcharges was returned to the marketplace. In considering the Imperial submission, the FEA noted that the firm's Appeal was based upon the assertion that Imperial had never charged the $.25 fee. The FEA determined that this claim was unsupported and that, in fact, the record in the compliance proceeding contained material which clearly contradicted Imperial's claim. The Imperial Appeal was accordingly denied.

Texaco, Inc.; New York, N.Y.; FEA–1352; FMR–0109; Freedom of Information.

Texaco, Inc. (Texaco) appealed from a partial denial by the FEA Information Access Officer of two Requests for Information which the firm had submitted under the Freedom of Information Act (the Act). In its Requests, Texaco sought the disclosure of documents relating to the FEA Price Regulations. In the Order which he issued to Texaco on May 13, 1977, the FEA Information Access Officer withheld in whole or in part 38 documents which he had located which were responsive to Texaco's Requests. In its Appeal, Texaco requested that the FEA reverse the determinations made in the May 13 Order and direct the release of most of the documents which had been withheld by the Information Access Officer in that proceeding.

Texaco also submitted an Application for Modification of a Decision and Order which the FEA issued to the firm on April 29, 1977. *Texaco, Inc.*, 5 FEA Par. 80,617 (April 29, 1977). In that Order, the FEA denied in part an Appeal which Texaco had submitted from an earlier Order which the FEA Information Access Officer had issued to the firm on March 2, 1977. In the March 2, 1977 Order, the Information Access Officer had denied in part specific portions of Texaco's two information requests. Since the Appeal and Application for Modification concerned identical Requests for Information and raised related issues, the two submissions were consolidated for consideration in a single proceeding.

In considering the Texaco Appeal, the FEA determined that four documents which contained materials relating to the audit and investigative practices and procedures of the FEA were correctly withheld by the Information Access Office in the May 13 Order pursuant to the provisions of Section 552(a)(2)(C) and Section 552(b)(2) of the Act. The FEA found that the release of those documents could permit a refiner such as Texaco to discover the most effective method of preventing or obstructing an FEA investigation, and that they would not assist a refiner in complying with the provisions of the FEA Regulations. The FEA also determined that

26 documents were exempt from mandatory public disclosure in whole or in part pursuant to Section 552(b)(5) of the Act because they were intra-agency memoranda which reflected the deliberative, policy-making process of the agency. Since those documents were pre-decisional in nature, reflecting the FEA's group thinking in formulating its effective law and policy, the FEA concluded that they were properly withheld from public disclosure pursuant to the provisions of Section 552(b)(5) of the Act. In its Appeal, Texaco also contended that the FEA Information Access Officer failed to adequately respond to several specific information requests presented in the firm's two Requests for Information. However, the FEA noted that in processing Texaco's two information requests, the FEA Information Access Officer had found more than 250 documents which were responsive to the firm's requests and had released more than half of those documents to the firm. The FEA found that Texaco's general assertion that additional documents responsive to its requests must exist in FEA's files was not supported by any information in its submission and must therefore be rejected. Texaco also contended that disclosure of this material was required pursuant to the "Letter to Heads of All Federal Departments and Agencies" from the Attorney General dated May 5, 1977. That letter directs that information should not be withheld from public disclosure unless it is important to the public interest to do so. The FEA determined that there was no merit to Texaco's contention since the Information Access Officer had made a determination that, in accordance with the provisions of Section 202.1 of the FEA Regulations, the release of the requested documents would not serve the public interest. The FEA also found that neither the Decision of the United States Court of Appeals for the District of Columbia in *Home Box Office, Inc.* v. *Federal Communications Commission*, No. 75-1280, et al. (March 25, 1977), nor the FEA's Decision in *Apco Oil Corp. et al.*, 5 FEA Par. 83,109 (March 23, 1977), warranted a modification of the April 29 Decision and Order which had been issued to Texaco. Based on these considerations, the FEA denied the Texaco Appeal and Application for Modification in their entirety.

Time Oil Co.; Los Angeles, Calif., FEA-1178; Motor Gasoline.

The Time Oil Company filed an Appeal relating to two Orders which the FEA Office of Regulatory Programs had issued to the Gulf Oil Corporation (Gulf) on November 5 and December 30, 1976. In the November 5 Order, the FEA had granted Gulf's request for authority to terminate its entire regulatory obligation to supply motor gasoline to its base period and assigned customers in northern California, northern Nevada, Oregon, and Washington. *See* 10 CFR 211.9 and 10 CFR 211.14(d). In the December 30, 1976 Supplemental Decision and Order, the FEA modified the provisions of the November 5 Order and reimposed approximately 15 percent of Gulf's regulatory supply obligation for motor gasoline with respect to three of its former customers in the western United States, including an obligation to supply Time with 13,235,309 gallons of motor gasoline per year. In its Appeal, Time requested that Gulf be required to supply it with an additional 3,844,764 gallons of motor gasoline per year.

In considering the Time Appeal, the FEA found that during the 1972 base period Gulf delivered 3.8 million gallons of motor gasoline to Time at a terminal in Paramount, California. This terminal, it found, is located outside the marketing area from which Gulf had been permitted to withdraw by the November 5 Order. Since Section 211.14(d) does not explicitly authorize the FEA to approve a request for termination of a firm's regulatory obligations to supply refined petroleum products outside the area of the applicant's reduced marketing or distributing activities, the FEA determined that supplier/purchaser relationships which were based upon deliveries made outside the affected marketing area should not be terminated in accordance with the provisions of Section 211.14(d) unless the applicant demonstrated that it would be unable to supply products to the customers involved. In the present case, the FEA found that Gulf had failed to show that it would be unable to supply Time with the additional 3.8 million gallons per year which it had furnished Time at the Paramount terminal during the 1972 base period. Consequently, the FEA granted the Time Appeal and directed that Gulf should continue to supply Time with the additional quantity of motor gasoline.

REQUESTS FOR EXCEPTION

Northwest Propane, Inc.; Farmington, Mich.: FXE-4300; Propane

On March 17, 1977, the FEA issued a Supplemental Order to Northwest Propane, Inc. (Northwest) which approved an extension of exception relief which had previously been granted to the firm on April 2, 1976. *Northwest Propane, Inc.*, 5 FEA Par. 87,024 (March 17, 1977). The March 17 Order directed the Regional Administrator of FEA Region V to assign to Northwest for the period April 1, 1977 through June 30, 1977, a supplier or suppliers whose wholesale price for propane was within the range of prices paid for that product by its major competitors. The Order also specified that, upon receiving a written request from Northwest, the Regional Administrator of FEA Region V shall make a determination for any month subsequent to June 1977 as to whether Northwest would continue to experience a serious hardship unless further exception relief were approved. In accordance with the terms of that Order, Northwest requested an extension of exception relief. In considering that request, FEA Region V determined that a significant disparity between the prices which Northwest must pay its base period supplier and the prices which Northwest's competitors pay for propane no longer existed. After considering this factor, the material assembled by the Regional Administrator and the prior record in this matter, the FEA concluded that Northwest was no longer experiencing serious financial difficulties as a result of the application to it of the FEA Regulations. The Northwest request for an extension of exception relief was therefore denied.

U.S. Department of the Interior for the Government of the Northern Mariana Islands; Washington, D.C.; Fee-3619; Residual Fuel Oil.

The United States Department of the Interior (the Department) filed, on behalf of the Government of the Northern Mariana Islands (the GNMI), an Application for Exception from the provisions of 10 CFR 211.67(d)(2). If the Department's request were granted, certain sales of residual fuel oil to the GNMI made by the Guam Oil & Refining Company, Inc. (Gorco) would be deemed to be sales made within the United States, thus eliminating the application of Section 211.67(d)(2) to those sales. Section 221.67(d)(2) reduces the financial benefits which a refiner receives under the FEA Entitlements Program in proportion to the volume of refined petroleum products sold by that refiner outside the United States. In considering the Department's request, the FEA determined that the strict application of Section 211.67(d)(2) in the case of residual fuel oil sales to the GNMI produced a result which was not intended by the regulation. The FEA observed that the primary purpose of Section 211.67(d)(2) is to assure that the benefits of the Entitlements Program are retained within the domestic economy. However, the funds which the GNMI uses to operate its electrical power generation facility are provided directly by the United States Government, rather than by a foreign purchaser. Furthermore, the FEA found that the additional costs which the GNMI would incur in the absence of exception relief, representing nearly four percent of its total annual budget, would have a serious adverse impact on the Northern Mariana Islands. The FEA therefore determined that the application of Section 211.67(d)(2) under these circumstances resulted in a gross inequity to the GNMI and granted the Department's Application. In addition, the FEA determined that compelling reasons had been presented for making the exception relief which was approved retroactive to March 31, 1977.

REQUESTS FOR STAY

R. D. Bowerman; d.b.a. Executive Center Gulf; San Antonio, Tex.; FRS-1354; Motor Gasoline.

R. D. Bowerman d.b.a. Executive Center Gulf (Bowerman) requested that a Remedial Order which had been issued to the firm on May 23, 1977 be stayed pending a final determination of the firm's Appeal of that Order. In the May 23 Remedial Order, the FEA found that Bowerman had been charging prices for motor gasoline which exceeded the maximum allowable prices specified in 10 CFR 212.93. The Remedial Order therefore directed Bowerman to refund the overcharges to its customers by implementing price reductions on its sales of motor gasoline until the full amount of the overcharges plus interest had been refunded. In considering Bowerman's contention that the provisions of the Remedial Order should be stayed, the FEA applied the principles previously established in *General Crude Oil Company*, 3 FEA Par. 85,040 (June 25, 1976). On the basis of those principles, the FEA concluded that a Stay was warranted with respect to the refund provisions of the Remedial Order in order to ensure that Bowerman would not incur an irreparable injury while its Appeal was pending. The FEA further determined that it would be inappropriate to require Bowerman to place the disputed funds into an escrow account since the continued operations of the firm could be seriously jeopardized by that requirement.

C&H Refinery, Inc.; Lusk, Wyo.; FES-4318; Crude Oil.

C&H Refinery, Inc. (C&H) filed an Application for Stay of the provisions of 10 CFR 211.67(e)(2) pending a final determination on an Application for Exception which the firm had submitted. If its request were approved, C&H would be issued additional entitlements for the crude oil which had been processed for its account pursuant to agreemetns with other refiners. Under the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program), firms which qualify as small refiners are issued additional entitlements (bias entitlements) during each month based on the level of their reported daily crude oil runs to stills. Until Section 211.67(e)(2) was amended in 42 Fed. Reg. 21269 (April 26, 1977), crude oil which was processed for a small refiner's account by another refiner had been included in the crude oil runs of the small refiner for purposes of the small refiner bias calculation.

Under the new provisions of Section 211.67(e)(2), effective June 1, 1977, bias entitlements are no longer issued for any portion of a small refiner's crude oil runs that is attributable to a processing agreement for its account. These regulations were amended on the basis of the FEA's determination that the prior system had been abused and that a number of processing agreements involving small refiners had no apparent business justification other than to earn bias entitlements. In its submission, C&H claimed that in order to obtain the financing necessary to expand the capacity of a refinery which it owns in Lusk, Wyoming, the firm was required to demonstrate to its potential lenders that it would have an assured source of crude oil for its expanded facilities. C&H claimed however that since it was unable to process in its refinery the crude oil which it presently purchased until the completion of the expansion, it must have its crude oil processed by other refiners. The firm asserted that under the terms of the processing agreements which it executed, it would incur a loss on every barrel of refined products which it sells unless it were permitted to receive the full measure of bias entitlements which it received prior to June 1, 1977. C&H also claimed that unless additional bias entitlements were issued to the firm, it would be forced to breach a crude oil supply contract by refusing to accept delivery for processing by another refinery two cargoes of crude oil which it was already committed to purchase. On the basis of these contentions, C&H asserted that denial of a stay would irreparably injure the firm's commercial reputation C&H also maintained that it had demonstrated a substantial likelihood of success on the merits of its Application for Exception from the provisions of Section 211.67(e)(2). In considering the request for stay, the FEA noted that the amendment to Section 211.67(e)(2) was specifically intended to have the effect of removing economic incentives to continue processing agreements of the type present in this case in order to eliminate economic distortions which frustrated the statutory objectives of the FEA regulatory program. The FEA determined that any injury which C&H would incur as a result of its various contractual commitments resulted from independent business decisions which C&H had made in apparent disregard of the impending elimination of bias entitlements for processing agreements. The FEA further determined that since C&H had failed to make a *prima jacie* showing that it would prevail on the merits of its exception application, it would not be appropriate to approve the affirmative interim exception relief which the firm requested. The Application for Stay was accordingly denied

Industrial Fuel Oils, Inc., Washington D.C.: FRS-1358; Nos. 2, 5 & 6 Fuel Oils

Industrial Fuel Oils, Inc. (IFO) filed an Application for Stay of a Remedial Order which was issued to the firm by FEA Region V on May 17, 1977. In the Remedial Order, the FEA directed IFO to refund the revenues which it had realized from charging prices for Nos. 2, 5 & 6 fuel oils in excess of the maximum permissible prices specified in 6 CFR 150.359 an d10 CFR 212.93. In its Application, IFO requested a stay of the refund requirements of the Remedial Order pending a final determination on an Appeal of the Remedial Order and an Application for Exception which the firm had submitted. In considering the stay request, the FEA determined that IFO had raised significant substantive issues in its submission, and had also demonstrated that it could experience an irreparable injury if it were forced to immediately comply with the refund provisions of the Remedial Order. The FEA therefore found that a stay of the refund provisions of the Remedial order was warranted under the precedent established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 15, 1976). However, the FEA also determined that the firm should be required to place the alleged overcharges into an escrow account pending a final determination of its Appeal and Application for Exception

Jay Oil Co.; Tulsa Okla.: FRS-3097: Refined Petroleum Products

The Jay Oil Co. (Jay) filed an Application for Stay of a Remedial Order which had been issued to the firm by FEA Region VI on May 6, 1977. In the Remedial Order, the Director of Compliance of FEA Region VI found that during the period November 1, 1973 through February 28, 1975, Jay had sold motor gasoline and diesel fuel to its customers at price levels which were in excess of the maximum permissible levels for the products specified in 10 CFR 212.93, and he directed Jay to refund to its customers the overcharges (plus interest) which it had improperly obtained during that period. In considering the stay request, the FEA determined that the firm had satisfied the criteria for a stay set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), *modified* 3 FEA Par. 85,040 (July 8, 1976), by showing that it would raise substantial issues in its Appeal of the Remedial Order and that it would be unduly burdensome for the firm to recover the refunds which it was required to make to its customers if it were to succeed on the merits of its Appeal. Accordingly, its Application was granted. Moreover, in view of the showing which Jay made in its Application regarding its present financial situation, the FEA also waived the generally applicable requirement that an escrow account be established.

W. E. Riley Oil Co.; Petersburg, Va., FRS-1364; Motor Gasoline Middle Distillates

The W. E. Riley Oil Co. (Riley) requested that the provisions of a Remedial Order which the FEA issued to the firm on May 9, 1977, be stayed pending a final determination of its Appeal from that Order. In the Remedial Order, the FEA found that Riley had sold motor gasoline and middle distillates at prices which exceeded the maximum price levels permissible under the FEA Regulations and directed the firm to make refunds to its identifiable customers. The Remedial Order also provided that, in order to make restitution to its unidentifiable customers for these overcharges, Riley must either reduce its maximum allowable selling prices or its current actual selling prices whichever are lower, by two cents per gallon until those overcharges have been returned to the marketplace. In its Application for Stay, Riley stated that it had complied with that portion of the Remedial Order which directed the firm to implement price reductions, but requested that the refund provisions of the Remedial Order be staved. In considering the request for stay, the FEA determined that Riley would experience an irreparable injury if it were required to make refunds to its customers since the firm could experience substantial difficulty in recovering the funds in the event that it prevails on the merits of its appeal. Furthermore, the FEA found that Riley had raised substantial issues which must be considered in making a determination on the merits of the firm's Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Riley establish an escrow account into which it must deposit a portion of the amount of the refunds specified in the Remedial Order.

SUPPLEMENTAL ORDER

Little America Refining Co.; Evansville, Wyo., FEX-0130: Crude Oil

On June 17, 1976, the FEA issued a Decision and Order to the Little America Refining Co. (LARCO) which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) during the months of June through November 1976. *Little America Refining Co.*, 3 FEA Par. 83,227 (June 17, 1976). Based on subsequent events which altered the factual basis of that Order, on August 11, 1976, the FEA issued a Supplemental Order to LARCO which rescinded the exception relief approved in the June 17 Order insofar as it applied to the months of September through November 1976. *Little America Refining Co.* (Supplemental Order), 4 FEA Par. 87,005 (August 11, 1976). Subsequently, on February 4, 1977, the FEA issued a further Supplemental Order to LARCO in which the FEA noted the necessity of conducting a subsequent review of the exception relief which had been granted to LARCO with respect to its crude oil receipts and runs to stills during the months of April through June 1976 *Little America Refining Co.* (Supplemental Order), 5 FEA Par. 87,013 (February 4, 1977) *See also, Beacon Oil Co.*, 3 FEA Part. 83,209 (June 8, 1976). According to the February 4 Order, if the review resulted in the determination that LARCO had received excessive exception relief during the June through August 1976 period, an adjustment would be made and the firm would be required to purchase entitlements to account for the excessive benefits. Based upon a subsequent review which it conducted, the FEA determined that LARCO had received an excessive measure of exception relief during the June through August 1976 period. LARCO was therefore required to purchase additional entitlements having a total value of $879,584 during the period July 1977 through June 1978

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Belridge Oil Co	FXE-4268	Kern County	$0.0090
Champlin Petroleum Co	FXE-4267	East Texas	.0022
	FXE-4268	Gulf Plains	.0077
	FXE-4269	Mayfield	.0579
	FXE-4270	Peoria	.0048
	FXE-4271	South Fullerton	.0280
Cities Service Co	FXE-4247	Bluitt	.0066
	FXE-4248	Citronelle	.0626
	FXE-4249	Garrett	.0420
	FXE-4250	Kimball	.0016
	FXE-4251	May	.0012
	FXE-4252	Midway	.0009
	FXE-4253	Myrtle Springs	.1628
	FXE-4254	Panola	.0033
	FXE-4255	Red Fish Bay	.0072
	FXE-4256	Rio Grande	.0237
	FXE-4257	Robstown	.0708
	FXE-4258	St. Amelia	.0577
	FXE-4259	Star Lacey	(1)
	FXE-4260	West World	.0184
Halliburton Co. Vessels Gas Processing Co	FXE-4341	Irondale	.0083
Kansas-Nebraska Natural Gas Co., Inc	FXE-4301	Yenter	.0195
Mobil Oil Corp	FXE-4235	Union-Adena	.0041
	FXE-4236	Cotton Valley	.0182
	FXE-4237	Cow Island-Riverside	.0117
	FXE-4238	Delhi	.0053
	FXE-4239	Elwood	.0061
	FXE-4240	Greeley	.0042
	FXE-4241	Heyser	.0027
	FXE-4242	Gulf-Knox	.0164
	FXE-4243	Postle Hough	.0102
	FXE-4245	R. M. Stephens	.0244
	FXE-4246	Vanderbilt	.0285
Sun Co., Inc	FXE-4299	Mayfield	.0408
	FXE-4351	Matrice	.0523
	FXE-4376	Carney	.1116
	FXE-4377	Concho	.0428
	FXE-4378	Tonkawa	.1203
Tenneco oil Co	FXE-4287	Pearce	.0226
	FXE-4288	Prentice	.0418
Texaco, Inc	FXE-4308	Apache	.0229
	FXE-4309	Blessing	.0455
	FXE-4310	Lamesa	.0244
	FXE-4311	Lockridge	.0293
	FXE-4312	Mermentau	.0316
	FXE-4313	North Cowden	.0059
	FXE-4314	Old Ocean	.0109
	FXE-4315	Ozona	.0053
	FXE-4316	Pampa	.0147
	FXE-4317	Wilcox	.0071
	FXE-4347	Pegasus	(1)
Upham Oil and Gas Co	FXE-4286	Chico	.0305

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mary E. Griggs; Logan, Ohio; FEE-4335; FRA-1349

House Oil Co.; Clare, Mich.; FEE-4046

The following submissions were dismissed following a determination by the FEA that the relief requested was unnecessary:

Chevron U.S.A.; San Francisco, Calif.; FEA-1332; FEA-1338

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23500 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 5 Through July 8, 1977

Notice is hereby given that during the week of July 5 through July 8, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPENDIX

APPEALS

Ashland Oil Co.; Oakland, Calif.; FXA-1193; Motor Gasoline

Ashland Oil Co. filed an Appeal from a Decision and Order which the FEA issued to the firm on January 14, 1977. *Ashland Oil Co. of California*, 5 FEA Par. 83,038 (January 14, 1977). In the previous determination, the Regional Administrator of FEA Region IX was directed to assign a supplier or suppliers to Ashland whose prices for motor gasoline were within the range of prices charged for that product by major suppliers. During the period from January through July 1977 the assigned suppliers were required to make available to Ashland a portion of the total motor gasoline which Ashland would otherwise be entitled to receive from its principal base period supplier, Coastal States Gas Producing Co. (Coastal States). Ashland's Appeal if granted, would result in the assignment of a lower-cost supplier for its entire base period use of motor gasoline from Coastal States. In considering the Appeal, the FEA found no basis for Ashland's contention that the FEA had erred in concluding that the firm could realize a gross margin of one cent per gallon in resales of motor gasoline purchased from Coastal States. The FEA also found that, contrary to the claim advanced by Ashland, Coastal States was willing to supply it and Ashland had, in fact, purchased significant volumes of motor gasoline from Coastal States during the first four months of 1977. The FEA further determined that Ashland had failed to submit any factual material which substantiated its contention that the approval of additional exception relief would not create any destabilizing effects in the California market area. Finally, the FEA held that the January 14 Decision had set forth a sufficient factual basis for its conclusion that the firm's financial difficulties were attributable in part to its own business decisions. Accordingly, the FEA denied the Appeal.

Johns-Manville Corp.; Denver, Colo.; FXA-1350; Freedom of Information

Johns-Manville Corp. (J-M) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its initial Request, J-M sought access to a document entitled "Summary Evaluation of the Feasibility of Total Conversion of Coal Firing for the Waukegan BM Plant of Johns-Manville Corporation" which was prepared under an FEA contract by PEDCo Environmental, Inc. The report was prepared in order to assist the FEA in determining whether a Notice of Intent (NOI) should be issued to J-M under the Energy Supply and Environmental Coordination Act of 1974 (ESECA) which would require the firm's No. 6 boiler to cease burning natural gas or petroleum products as its primary energy sources. The Information Access Officer denied access to the entire report, with the exception of the title page, on the grounds that the report was exempt from disclosure under the provisions of both the intra-agency memorandum exemption of 5 U.S.C. 552(b)(5) and the exemption for investigatory records of 5 U.S.C. 552(b)(7)(A). In considering J-M's Appeal, the FEA determined that the report did not relate to an existing enforcement proceeding and concluded that the Information Access Officer erred in withholding the document pursuant to the investigatory records exemption. However, the FEA also found that, with the exception of three paragraphs, the report consisted of recommendations and analyses regarding the implementation of the coal conversion program. On the basis of that determination, the FEA held that the intra-agency memoranda exemption of Section 552(b)(5) provided a proper foundation to withhold all but those three paragraphs of the report. Since the three paragraphs contained purely factual information and were easily segregable from the remainder of the report, the FEA held that they should be released to J-M. Finally, the FEA determined that in order to properly serve the public interest, the balance of the report should be released after the FEA either issues an NOI to J-M or makes a determination that an NOI will not be issued.

REQUESTS FOR EXCEPTION

Colonial Oil Co.; Alexandria, Va.; FXE-4345, Motor Gasoline

On June 15, 1977, the Colonial Oil Co. filed an Application for Exception in which it requested an extension of the exception relief which had been approved on a number of previously occasions. See Colonial Oil Co., 5 FEA Par. 83,128 (April 7, 1977); *Colonial Oil Co.*, 2 FEA Par. 83,201 (July 3, 1975). In the prior Decisions, the FEA found that the maintenance of the firm's base period supplier purchaser relationships resulted in a serious hardship to the firm. The FEA therefore granted exception relief which directed the Regional Administrator of FEA Region IV to assign a lower-cost supplier to replace Colonial's principal base period supplier, American Petrofina, Inc. (Fina). However, in the April 7, 1977, Decision, the FEA indicated that if Colonial should request a further extension of exception relief, the FEA would consider the extent to which Colonial had pursued other available administrative remedies, including the submission of an Application for Excepton requesting that Fina place Colonial in a different class of purchaser. In its present Application, Colonial stated that it had not filed that type of exception request. The FEA found that Colonial had failed to adequately explain why it had not pursued that form of relief. Accordingly, the FEA denied the firm's request for an extension of exception relief. In addition, the FEA found that although the firm's prior exception application had been submitted to the FEA nearly two months after the date on which Colonial entered into a settlement agreement with Fina, the previous application contained no indication that the agreement exsted or that the firm had received a substantial cash payment from Fina. The FEA concluded that the existence of the settlement agreement and the financial impact of the cash payment from Fina would certainly have been relevant to the consideration of Colonial's prior exception application. The FEA therefore directed that the prior exception proceeding be reopened.

Gulf Oil Corp., Tulsa, Okla.; FEE-4066; Crude Oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil which it produces from the Northwest Graylin "D" Sand Unit (the Graylin Unit) at upper tier ceiling prices. In considering Gulf's Application, the FEA determined that the costs of producing crude oil from the Graylin Unit had increased significantly since 1973 and that those costs now exceed the prices which Gulf is permitted to charge for the crude oil. Consequently, the FEA determined that Gulf does not have an economic incentive to continue production from the Graylin Unit. The FEA also found that if the Graylin Unit were abandoned, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of previous Decisions involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Gulf. In determining the appropriate measure of exception relief, the FEA observed that, because of the particular manner in which Gulf allocates its administrative overhead expenses, the per barrel costs allocated to the Graylin Unit had increased significantly between the historical base period quarter and the firm's two most recently completed fiscal quarters. However, the FEA found that this increase was a direct result of a decline in the production of crude oil from the property rather than an actual increased expense to Gulf and the other working interests. The FEA concluded that an adjustment should be made with respect to the current administrative overhead cost per barrel which Gulf had allocated to the Graylin Unit. After making this adjustment, the FEA determined that Gulf should be permitted to charge upper tier ceiling prices for 42.66 percent of the crude oil produced from the Graylin Unit for the benefit of the working interest owners.

Linden's Propane Service, Inc., Cleveland Ohio; FEE-3744; Propane

Linden's Propane Service, Inc. (Linden) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of an order which would assign the firm a new supplier of propane to replace its base period supplier, the Union Oil Company of California, and direct the new supplier to furnish Linden with 82.55 percent of its base period use of propane. In considering the Application, the FEA found that Linden had actually obtained more propane and achieved a higher level of profitability during this past winter than the firm experienced during the preceding two winters. The FEA thus concluded that Linden had not experienced any serious adverse consequences as a result of maintaining its supplier purchaser relationship with Union. The Linden Application was therefore denied.

M. J. Mitchell; Dallas, Tex.; FXE 4266, Crude Oil

M. J. Mitchell (Mitchell) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Mitchell to sell the crude oil which it produces from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices. In considering the Application, the FEA found that although the cost of producing crude oil from the Unit had increased since 1973, Mitchell's current production costs per barrel did not exceed the lower tier ceiling price for the crude oil. Moreover, the expenses which Mitchell had incurred for cable replacement and submersible pump repairs were not the type of operating expenses which the FEA considers in the computation of a firm's per barrel production costs. The FEA held that these expenses should be treated as capital expenditures which at the present time have no bearing upon Mitchell's economic incentive to continue production from the Unit. Since Mitchell had failed to demonstrate the absence of an economic incentive to continue production operations, the Application was denied.

Mid-Michigan Truck Service Inc.; Grand Rapids, Mich.; FXE-4334, Motor Gasoline.

On January 6, 1977, the Federal Energy Administration issued a Supplemental Order to Mid-Michigan Truck Service, Inc. in which it approved an extension of the exception relief which had been originally granted to the firm on May 20, 1976. *Mid-Michigan Truck Service, Inc.*, 5 FEA Par. 87,003 (January 6, 1977). In the previous determination, the FEA ordered Gulf Oil Corporation to supply Mid-Michigan directly with its base period use of petroleum products during the January 1 through June 30, 1977 period, rather than through the use of a substitute supplier. In addition, the Regional Administrator of FEA Region V was directed to determine whether Mid-Michigan would continue to experience a serious hardship unless it receive additional relief after June 1977, and recommend to the FEA Office of Exceptions and Appeals whether exception relief should be extended. Based on the data submitted to Region V by Mid-Michigan and the recommendation of the Regional Administrator, the FEA determined that Mid-Michigan would continue to incur operating losses in the absence of continued exception relief. An extension of exception relief was therefore approved for the period July 1 through December 31, 1977.

Sabre Refining, Inc.; Bakersfield Calif.; FXE 4337; Crude Oil.

Sabre Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would result in an extension of the exception relief which the FEA granted to Sabre in a Decision and Order issued on December 23, 1976. *Sabre Refining Co.*, 5 FEA Par. 83,014 (December 23, 1976). The prior determination relieved the firm of its obligation to purchase entitlements during the period November 1976 through April 1977. In support of its request, Sabre submitted projected financial statements for its fiscal year ending October 31, 1977 as well as projections as to its monthly crude oil runs to stills and receipts of old, new and imported crude oil. In considering Sabre's Application, the FEA found that in the absence of exception relief, the firm would be required to purchase entitlements at a substantial cost commencing with the month of July 1977. The FEA also found that as a result of the projected entitlements expense which Sabre would incur during its current fiscal year, the firm's profit margin and return on invested capital would fall to achieve historical levels. The FEA concluded that under the criteria set forth in prior cases, an extension of exception relief was warranted. Accordingly, the FEA granted Sabre an exception relieving the firm of its obligation to purchase entitlements valued at $499,869 per month during the six month period July through December 1977. However, the FEA noted that the exception relief would be reevaluated at the conclusion of the firm's current fiscal year, as well as in the event of a request for a further extension of relief beyond December 1977.

B. W. Whittington; Corpus Christi, Tex.; FEE-3907, Crude Oil.

B. W. Whittington (Whittington) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would relieve Whittington of any obligation to refund revenues which he realized as a result of charging excessive prices for the crude oil produced from the State Tract 180 Lease located in Kleberg County, Texas. Whittington also requested prospective exception relief which would permit him to sell the crude oil produced from the Lease at a price which exceeds the lower tier ceiling price set forth in 10 CFR 212.73. In considering the exception request, the FEA found that Whittington had not made the requisite showing to qualify for retroactive relief since he did not even contend that the possible refund obligation would result in an irreparable injury. With respect to the request for prospective relief, the FEA found that, since the Lease was generating substantial profits, exception relief was unnecessary to provide Whittington with an economic incentive to continue production operations. On the basis of prior Decisions involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule to the State Tract 180 Lease did not result in a gross inequity to Whittington. Accordingly, exception relief was denied.

REQUEST FOR STAY

J. C. and J. H. McClure, d.b.a. McClure Oil Co., et al.; Konawa, Okla.; FRS-1359; Refined Petroleum Products

J. C. and J. H. McClure, d.b.a. McClure Oil Company, et al. (McClure) filed an Application for Stay of a Remedial Order which FEA Region VI issued to the firm on June 2, 1977. In the Remedial Order the FEA found that McClure had sold motor gasoline, No. 2 diesel fuel and propane at prices in excess of those permitted under FEA Regulations. The request for stay, if granted, would relieve McClure of its obligation to comply with the refund provisions of the Remedial Order pending the FEA's determination on an Appeal of that Order. The FEA found that McClure had raised substantial issues in its Appeal. The FEA also found that if the firm were required to make refunds prior to a determination on its Appeal, it might encounter an inordinate degree of difficulty in recovering those funds if its Appeal were granted. Therefore, the FEA concluded that a stay was warranted on the basis of the principles established in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976). However, the FEA concluded that the stay should be conditioned upon the establishment of an escrow account with respect to those refunds which the Remedial Order directed McClure to make to identifiable customers.

SUPPLEMENTAL ORDER

Powerine Oil Co.; Santa Fe Springs, Calif.; FEX-0168; Crude Oil

On April 11, 1977, the FEA granted an Appeal which the Powerine Oil Company had filed from a Decision and Order issued to the firm on November 5, 1976. Powerine Oil Co., 5 FEA Par. 80,603 (April 11, 1977). The April 11 determination had the effect of granting Powerine additional entitlement exception relief amounting to $243,687, in order to provide the firm with appropriate exception relief during its fiscal year ending January 31, 1976. Subsequent to the issuance of the April 11 Decision, Powerine notified the FEA that it believed the determination was based on an erroneous calculation of its return on invested capital (ROIC). The firm contended that the additional exception relief should have been $291,429, rather than $243,687 as specified in the April 14 Order. Based on a review of the financial data submitted by Powerine, the FEA determined that Powerine was correct in its contention that the additional exception relief should have been granted. A Supplemental Order was therefore issued which permitted Powerine to sell additional entitlements equivalent to $47,742 ($291,429 less $243,687) during the month of July 1977.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Florida Gas Co.	FEE-4063	Brooker	$0.226
Gary Operating Co.	FEE-4064	Altonah	0.0755
Superior Oil Co.	FEE-4020	Lowry	[1]
	FEE-4063	Levelland	.0149
	FEE-4064	West Seminole	.0219

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Diamond Shamrock Corp.; Amarillo, Tex.; FEE-4100
Mobil Oil Corp.; New York, N.Y.; FXE-4244
Superior Oil Co.; Houston, Tex.; FEE-4049

The following submissions were dismissed after the applicant repeatedly failed to respond to requests for additional information:

Automotive Sales, Inc.; Gorham, N.H.; FRS-1234
Univar Corp.; Seattle, Wash.; FMR-0101

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

City of Richmond; Richmond, Va.; FEE-4362

The following submissions were dismissed following a determination by the FEA that no regulatory provisions existed under which these Requests for Modification or Rescission could be reviewed:

Amams Oil Co., Inc.; Charlottesville, Va.; FMR-0111
Husky Oil Co. of Delaware; Washington, D.C.; FMR-0113
Petroleum Management, Inc.; Wichita, Kans.; FMR-0112

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23505 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 11 Through July 15, 1977

Notice is hereby given that during the week of July 11 through July 15, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPENDIX

APPEALS

Domind Petroleum Corp., Inc.; Hopewell Junction, N.Y.; FRA-1148; No. 2, Heating Oil

Domind Petroleum Corporation, Inc. appealed from a Remedial Order which was issued to it by FEA Region II on November 29, 1976. In the Remedial Order, the FEA found that Domind sold No. 2 heating oil at prices which exceeded the maximum permissible prices specified in 10 CFR 212.93. The Remedial Order therefore directed Domind to institute a refund program within 60 days of the issuance of the Order. On January 31, 1977, the FEA stayed the refund obligations specified in the Remedial Order pending a determination on the merits of Domind's Appeal of the Order. Domind Petroleum Corp., Inc., 5 FEA Par. 85,025 (January 31, 1977). In considering the Appeal, the FEA first rejected the firm's contention concerning its inclusion of certain storage facility construction costs in its computation of increased product costs. The FEA observed that the costs attributable to those facilities were not expenses incurred in the transport of No. 2 heating oil into Domind's inventory, and were consequently not increased product costs. However, the FEA also determined that the Remedial Order had incorrectly computed the weighted average unit cost of product in Domind's inventory and had therefore overstated the amount of the firm's overcharges. In addition, the FEA further found that since the Remedial Order did not contain the type of factual findings necessary to support the conclusions reached Domind was unable to submit a meaningful response to those determinations on Appeal. Accordingly, the Remedial Order was remanded to the Regional Administrator of FEA Region II for further consideration.

Standard Oil Co. of Calif.; San Francisco, Calif.; FRA-1169, Aviation Jet Fuel

Standard Oil Company of California (SOCAL) filed an Appeal from a Remedial Order which was issued to the firm by the Regional Administrator of FEA Region IX on January 20, 1977. The Remedial Order directed SOCAL to consider the difference in the increased products allocated to the naphtha-base and kerosene base aviation jet fuel during the period May 1, 1974 through February 10, 1975 as recovered under the equal application rule. In its Appeal, SOCAL argued that since the equal application rule was not adopted until September 1, 1974, the subsequent application of that rule to the period May through August 1974 was improper and unlawful. In considering this contention, the FEA observed that the same argument had been thoroughly considered and rejected in a prior Decision and Order which was issued to the Phillips Petroleum Company. Phillips Petroleum Co., 2 FEA Par. 80,599 (May 30, 1975). The FEA also rejected SOCAL's contention that Ruling 1974-12 permitted the unequal application of increased product costs in selling prices for that period of time. The FEA noted that the Ruling only addressed the factual situation in which the unequal application of product costs resulted from contractual price restrictions. The FEA further concluded that the FEA had sufficiently substantiated the necessity for waiving the normal ten day period for comment in promulgating the

equal application rule in accordance with Section 7(1)(1)(B) of the Federal Energy Administration Act of 1974. Accordingly, the SOCAL Appeal was denied.

Tipperary Corp., Corpus Christi, Tex.; FRA-1143; Crude oil

Tipperary Corporation appealed from a Crude Oil Allocation Order issued by the Deputy Assistant Administrator for Operations of the Office of Regulatory Programs of the FEA on December 7, 1976. In that Order, the FEA determined that when a refinery which Tipperary proposes to build at Corpus Christi, Texas becomes operational, the firm will be eligible to purchase 112,317 barrels of crude oil during each allocation quarter pursuant to the Refiner's Buy-Sell Program. In making this determination, the Office of Regulatory Programs evaluated the firm's petition for an allocation of crude oil for future refining capacity in accordance with the standards set forth in Section 211.65(b) and the Appendix to Section 211.65(b) entitled "Evaluation of Applications for Future Refining Capacity Allocations under 10 CFR 211.65(b)," (the Appendix). In its Appeal, Tipperary challenged the validity of the standards that the FEA used to determine the volume of crude oil assigned to the firm. Tipperary asserted that the standards contravened the intent of Congress in its enactment of the Emergency Petroleum Allocation Act of 1973, as amended (the EPAA). In reviewing this assertion, the FEA found that both the statutory provisions of the EPAA and the underlying legislative history supported the application of criteria such as those outlined in Section 211.65(b) for the award of crude oil allocations to future refining capacity. Consequently, the FEA determined that the criteria set forth in Section 211.65(b) not only promoted economic efficiency in the petroleum industry but also fostered the development of a economically sound and competitive refining sector of the industry. In considering the firm's assertions that each of the four standards set forth in Section 211.65(b) were improperly applied to Tipperary's future refining capacity, the FEA determined that the Office of Regulatory Programs had correctly applied the standards concerning the source and volume of crude oil available to future refining capacity and the applicant's efforts to obtain or locate that crude oil to the facts presented by Tipperary. However, the FEA also found that the Office of Regulatory Programs had improperly evaluated Tipperary's application with respect to the standards concerning the economic feasibility of the future refining capacity and the proposed refinery's design. In view of these findings, the FEA remanded these portions of the Order to the Office of Regulatory Programs for additional analysis.

Washington News Services, Inc.; Kensington, Md.; FFA-1361; Freedom of Information

Washington News Services, Inc. (Washington) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which it had submitted under the Freedom of Information Act (the Act). In its initial request, Washington sought the release of mailing lists containing the names and addresses of recipients of various FEA publications. In considering the initial request, the Information Access Officer determined that the FEA did not maintain mailing lists for these publications. According to the Information Access Officer, six of these mailing lists were in the possession of the National Technical Information Service (NTIS) of the Department of Commerce. The Information Access Officer further determined that no mailing lists at all existed with respect to the five remaining publications. In its Appeal, Washington contended that mailing lists must exist and it was the FEA's responsibility to produce them. In considering Washington's Appeal, the FEA found that mailing lists did not in fact exist for five of the publications. Moreover, the FEA observed that mailing lists for the other six publications were maintained by the NTIS, and that the FEA did not have copies of these lists. Finally, the FEA found that nothing in the Act required the FEA to obtain copies of those lists maintained by NTIS as an intermediary for Washington nor to create documents merely to satisfy a request under the Act. The Appeal was accordingly denied.

REQUESTS FOR EXCEPTION

Arizona Fuels Corp.; Salt Lake City, Utah; FXE-4263; Crude Oil

Arizona Fuels Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements beginning with the month of July 1977. In support of its exception request, Arizona submitted projected financial statements for its current fiscal year ending October 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Arizona's exception request, the FEA determined that as a result of Arizona's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of July 1977. As a result of the projected entitlements cost which Arizona would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in previous decisions, the FEA granted Arizona's Application for Exception relieving the firm of sufficient entitlement purchase obligations during the six month period July through December 1977 to permit Arizona to achieve its historical return on invested capital during the current fiscal year. However, the FEA noted in the Decision which it issued that the relief approved to Arizona would be reevaluated if the firm requested an extension of exception relief beyond December 1977 and, as a matter of course at the conclusion of the firm's current fiscal year.

Doss, Inc.; Eupora, Miss.; FEE-3562; Propane

Doss, Inc. filed an Application for Exception from the provisions of 10 CFR 212.92 and 10 CFR 212.93 in which it sought an exception to permit it to retroactively compute its increased product costs for propane on the basis of separate inventory calculations. In considering the Doss request, the FEA found that Doss had stored over 3.1 million gallons of propane in a salt dome facility during the period August 1973 through February 1974. The FEA determined that despite Doss' claim that the firm would suffer a serious hardship and irreparable injury in the absence of retroactive exception relief, no financial data had been furnished in support of this allegation. The FEA concluded that the approval of the Doss request for retroactive relief would have the effect of ratifying non-compliance with FEA regulations and would permit Doss to retain revenues which it had improperly obtained in apparent violation of the applicable provisions of 10 CFR 212.93. Doss's Application for Exception was accordingly denied.

F. J. and F. Oil; Bartlesville, Okla.; FEE-3632; Crude Oil

F. J. and F. Oil (F. J. and F.) filed an Application for Exception from the provisions of 10 CFR 212.131 which, if granted, would permit F. J. and F. to receive exempt prices for the crude oil which it produced and sold from the Okesa Pool in September 1976. In its exception request, F. J. and F. stated that it failed to certify that property to the purchaser, the Atlantic Richfield Company, by November 30, 1976 as required by Section 212.131. As a result, the firm was not able to receive exempt prices for the crude oil which it produced from the property during September 1976. After considering F. J. and F.'s exception request, the FEA determined that although stripper well crude oil is exempt by statute from the FEA Price Regulations, the requirement that F. J. and F. comply with the certification provisions set forth in Section 212.131 does not constitute a gross inequity. The FEA noted in this respect that Section 212.131 is an indispensable part of the monitoring program designed by the FEA to implement the crude oil pricing policy set forth in the Emergency Petroleum Allocation Act of 1973. The FEA also noted that the certification requirement is necessary in order to enable refiners to comply with their reporting obligations under the Entitlements Program and to permit the FEA to administer that Program. On the basis of these considerations, the FEA concluded that the existence of the statutory exemption for stripper well crude oil did not furnish a basis for the exception relief sought by F. J. and F.

J. H. Buhrmaster Co., Inc.; Scotia, N.Y.; FEE-4367; No. 2 Heating Oil

J. H. Buhrmaster Company, Inc. filed an Application for Exception from the requirement that it complete and submit Form P131-S-1 to the FEA. In considering the Buhrmaster Application the FEA reviewed Form P131-S-1 and concluded that the firm should not encounter any particular difficulty in completing the Form. The FEA therefore determined that the firm had failed to support its claim that it cannot complete and submit the Form. Buhrmaster's request for exception relief was therefore denied.

Jamar Oil Co.; Broken Arrow, Okla.; FXE 4291; Motor gasoline

Jamar Oil Company requested an extension of exception relief previously granted to the firm from the provisions of 10 CFR 211.9, Jamar Oil Co., 5 FEA Par. 83,149 (May 6, 1977); Jamar Oil Co., 5 FEA Par. ____ (May 20, 1977). The exception request, if granted, would result in the issuance of an order assigning Jamar a supplier of motor gasoline whose wholesale price is less than the price currently charged by Foremost Petroleum Corporation, Jamar's base period supplier. In considering the request, the FEA determined that the price which Foremost was currently charging for motor gasoline was within the range of prices paid for motor gasoline by other purchasers in Jamar's market area. Therefore, the FEA concluded that any financial difficulties which Jamar might experience were not directly caused by the application of the FEA regulatory provisions to the firm and accordingly denied Jamar's exception request.

OKC Corp.; Washington, D.C.; FEE-4330; Crude oil

On June 14, 1976, the Federal Energy Administration issued a Decision and Order to the OKC Corporation denying an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which the firm had filed. The June 14 determination was based in part on projections submitted by OKC which indicated that the firm would be a net seller of entitlements during the last six months of its fiscal year. Since it appeared that OKC would realize a

net benefit from the operation of the Entitlements Program during its 1976 fiscal year the FEA determined that no proper basis had been established under which exception relief should be granted. The OKC Application was accordingly denied. OKC Corp., 3 FEA Par. 83,231 (June 14, 1976). In its present Application for Exception, OKC stated that contrary to the projections which it had previously submitted to the FEA, during the portion of OKC's 1976 fiscal year which followed the rescission of Special Rule No. 6 the firm's entitlements purchase obligations exceeded the value of entitlements which the firm was required to sell by $49,174. OKC contended that this net entitlement purchase obligation had an adverse impact on the financial position of the firm which prevented it from achieving its historical levels of profitability during its 1976 fiscal year. OKC therefore requested exception relief which would relieve it of the net entitlement purchase obligation. In performing a review of the firm's 1976 fiscal year, the FEA determined that OKC had failed to achieve either its historical profit margin or historical rate of return on invested capital. In accordance with the criteria established in prior decisions, OKC was permitted to sell additional entitlements which are equal in value to the dollar value which the firm previously purchased.

Pennsylvania Petroleum Corp.; Norwalk, Conn.; FEE–3709; Motor gasoline

Pennsylvania Petroleum Corporation (PPC) filed an Application for Exception from the provisions of 10 CFR 212.93. PPC's exception request, if granted, would permit the firm to increase the prices which it may currently charge for motor gasoline above the maximum levels permitted by the provisions of 10 CFR 212.93. PPC also requested that it be granted retroactive exception relief which would permit the firm to retain the revenues which it realized from charging unlawful prices for motor gasoline during the months of November and December 1973. In its exception application, PPC contended that the markup which it applied on May 15, 1973 was unrepresentative of its normal operating position due to unusual supply difficulties which it was experiencing on that date. In considering PPC's exception request, the FEA found that PPC had previously filed two applications for exception during 1974 with FEA Region I. However, Region I did not respond to these requests for exception in a timely manner. The FEA further determined that PPC's initial exception application clearly indicated that the firm's May 15, 1973 financial position was unrepresentative of the firm's historic operating posture and the firm's application should accordingly have been acted upon favorably by the FEA. The FEA therefore granted PPC exception relief retroactively to the date of filing of the firm's initial exception application.

Tenneco Oil Co.; Houston, Tex.; FEE–4059; Crude oil

The Tenneco Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Myrtle E. Cross Lease (the Cross Lease) located in Ellis County, Kansas, at upper tier ceiling prices. In considering the exception request, the FEA found that Tenneco's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Cross Lease. The FEA also determined that if Tenneco abandoned its operations at the Cross Lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the FEA determined that Tenneco should be permitted to sell 84.82 percent of the crude oil produced from the Cross Lease for the benefit of the working interest owners at upper tier ceiling prices.

REQUESTS FOR STAY

Blouin Brothers, Inc.; Enosburg Falls, Vt.; FRS–1384; No. 2 Fuel oil; Kerosene; Diesel fuel; and Gasoline

Blouin Brothers, Inc. filed an Application for Stay of a Remedial Order which was issued to the firm by the FEA Region I Office on June 16, 1977. In the Remedial Order, the FEA directed Blouin to refund through specified price reductions the revenues which the firm realized from charging prices for No. 2 fuel oil, kerosene, diesel fuel and gasoline in excess of the maximum permissible prices for the products. Blouin requested a stay of the refund provisions of the Remedial Order pending a final determination of the firm's Appeal of the Remedial Order. In considering the Application, the FEA determined that a stay was warranted since Blouin had raised significant substantive issues concerning the propriety of the findings contained in the Remedial Order and had also shown that it would experience inordinate difficulty in recovering the refunds which it was directed to make if it were successful on Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted, on the condition that Blouin place a portion of the disputed funds in an escrow account.

DeMartin Truck Lines, Inc.; San Francisco, Calif.; FRS–1373; Propane

DeMartin Truck Lines, Inc. requested that a Remedial Order which was issued to the firm by FEA Region IX on June 10, 1977 be stayed pending a final determination on an Appeal of the Remedial Order which the firm had filed. In the Remedial Order, Region IX determined that DeMartin had sold propane to 12 of its customers at prices in excess of the maximum permissible selling prices permitted by the provisions of 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order therefore directed DeMartin to refund these overcharges. In considering the request for stay, the FEA concluded that the financial data submitted by the firm showed that there was a significant possibility that it would incur an irreparable injury if it were required to make the refunds immediately. The FEA further concluded that DeMartin had raised substantial issues concerning the propriety of the Remedial Order. The FEA therefore held that DeMartin satisfied the criteria set forth in General Crude Oil So., 3 FEA Par 85,040 (June 25, 1976), and stayed the refund requirements specified in the Remedial Order. In addition, the FEA determined that the firm should not be required to deposit the disputed funds in an escrow account as a condition of the stay relief, since the establishment of an escrow account for any portion of the disputed funds would cause a severe and adverse impact on DeMartin's operations.

Tesoro Petroleum Corp.; San Antonio, Tex.; FES–1382; Crude oil

Tesoro Petroleum Corporation filed an Application for Stay of the provisions of 10 CFR 211.63 as they were explained in an Interpretation which the FEA Office of General Counsel issued to Husky Oil Company on May 28, 1977. Interpretation 1977–13, 42 Fed. Reg. 31150 (June 20, 1977). The Tesoro request, if granted, would permit the firm to continue to purchase the crude oil which the Interpretation determined must be sold to Husky pending a final determination of its Appeal of the Interpretation. In considering Tesoro's stay request, the FEA found that Tesoro had failed to provide any data which substantiated the nature and extent of the alleged adverse affect which the firm might experience if Husky purchased the disputed crude oil pursuant to the Interpretation. The FEA also determined that Tesoro had not demonstrated that it would experience a more immediate or severe hardship than Husky if stay relief were denied. The FEA further concluded that the firm had not demonstrated a substantial likelihood of success on the merits of its Appeal since it had failed to make a prima facie showing that the reasoning or the result reached in the Interpretation was erroneous. The Tesoro stay request was therefore denied.

SUPPLEMENTAL ORDERS

EDG, Inc.; Los Angeles, Calif.; FEX–0166; Crude Oil

On September 26, 1976, the Edgington Oil Company, a small refiner which had received exception relief from its obligations under the Entitlements Program during 1975, sold its refining and marketing assets to another firm and changed its name to EDG, Inc. On November 5, 1976, the FEA issued a Decision and Order which reviewed the exception relief granted to small refiners from the Entitlements Program during 1975 on the basis of the actual financial results achieved by each firm for the 1975 fiscal year. Beacon Oil Co., et al., 4 FEA Par. 87,024 (November 5, 1976). Based on the analysis in the Beacon Decision, EDG was required to purchase additional entitlements valued at $1,029,340 during the 12 month period November 1976 through October 1977. On June 23, 1977, EDG notified the FEA Office of Exceptions and Appeals that it intended to formally dissolve the corporation and distribute its assets among the firm's shareholders during the month of August 1977. EDG requested that it be permitted to purchase its remaining obligation by establishment of an interest-bearing escrow account into which it placed sufficient funds. In view of the fact that EDG planned to complete its liquidation during the month of August 1977, the FEA determined that the firm should be permitted to establish an escrow account to satisfy its remaining 1975 entitlement purchase obligations. The EDG request was accordingly approved.

Kern County Refinery, Inc.; Bakersfield, Calif.; FEX–0169; Crude Oil

On December 15, 1976 the Federal Energy Administration issued a Decision and Order to Kern County Refinery, Inc. in which Kern was granted exception relief that relieved it of any obligation to purchase entitlements during the period December through May 1977. Kern County Refinery, Inc., 4 FEA Par. 83,246 (December 15, 1976). However, as a result of an administrative error, the FEA Office of Regulatory Programs did not take into account the exception relief which had previously been granted to Kern, and therefore Kern was listed as a purchaser of entitlements in the May 1977 Entitlement Notice. On May 25, 1977 the FEA stayed Kern's entitlement purchase obligation specified in the May 1977 Notice pending further order of the FEA. Kern County Refinery, Inc., 5 FEA Par. 85,073 (May 25, 1977). On July 5, 1977, representatives of Kern informed the Office of Exceptions and Appeals that the firm had completed the sale of entitlements issued to it on the June Entitlements List, and that the previous administrative error had therefore been rectified. Accordingly, the stay issued to the firm on May 25, 1977 was vacated.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Eason Oil Co	EXE–1456	Cassin	$0.0315
Mustang Fuel Corp	EFE–3671	Calumet	.07590

SUMMARY DECISIONS

The FEA Office of Exceptions and Appeals has issued a Decision and Order vacating the Stay which had been granted to the following firm after a finding was made that the firm had failed to comply with the express conditions of the Stay Order:

Stephens and Cass.; Dallas, Tex.; FRX–0174

The following submission was dismissed in a Summary Decision for failure to correct deficiencies in the applicant's filing as required by the FEA Procedural Regulations:

Automotive Sales, Inc., New York, N.Y.; FEA–1344

TEMPORARY STAY

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Maguire Oil Co.; Dallas, Tex.; FRT–0044

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Kern County Refinery, Inc.; Bakersfield, Calif.; FEA–1331
West End Service Station; Bloomsburg, Pa.; FEE–4016

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Marine Petroleum Co.; Washington, D.C.; FPI–0118

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Crawford's Service Center; Bloomsburg, Pa.; FEE–4019
E & B Sales and Service; Berwick, Pa.; FEE–4018
Walt's Exxon; Bloomsburg, Pa.; FEE–4017
Yogie's Exxon; Bloomsburg, Pa.; FEE–4015

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–23506 Filed 8–12–77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

CARDINAL FEDERAL SAVINGS AND LOAN ASSOCIATION AND FIRST OHIO SERVICE CORP.

[H. C. No. 231]

Receipt of Application for Permission To Acquire Control of Ashtabula County Savings and Loan Co., Ashtabula, Ohio

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Cardinal Federal Savings and Loan Association, Cleveland, Ohio ("Cardinal"), and its wholly owned service corporation, First Ohio Service Corporation ("First Ohio"), for approval of the acquisition of control of Ashtabula County Savings and Loan Company, Astabula, Ohio ("Ashtabula"), an insured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies. The proposal is to be effected through a merger of C.F.A.C. Corp., a wholly owned subsidiary of First Ohio, into Ashtabula. In exchange for their shares, stockholders of Ashtabula would receive certificate or passbook savings accounts of Cardinal which would then transfer all of the stock of Ashtabula to First Ohio. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before September 14, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.77–23471 Filed 8–12–77;8:45 am]

FEDERAL TRADE COMMISSION

Cigarette Testing Results

TAR AND NICOTINE CONTENT

The Federal Trade Commission's laboratory has determined the "tar" (dry particulate matter) and total alkaloid (reported as nicotine) content of 166 varieties of domestic cigarettes. The laboratory utilized the Cambridge filter method with the specifications set forth in the Commission's announcement dated July 31, 1967 (32 FR 11178). The varieties are arranged in alphabetical order with tar values rounded to the nearest whole milligram and nicotine values rounded to the nearest tenth of a milligram.

TAR [1] AND NICOTINE [2] CONTENT OF 166 VARIETIES OF DOMESTIC CIGARETTES

FEDERAL TRADE COMMISSION, JUNE 1977

Brand	Type	Milligram per cigarette of—	
		TPM dry (tar) [1]	Nicotine [2]
Alpine	King size, filter, menthol	14	.8
American Light	120 mm, filter	8	.7
Do	120 mm, filter, menthol	10	.8
American Longs	120 mm, filter	16	1.3
Do	120 mm, filter, menthol	16	1.3
Behar	King size, filter, menthol	15	1.0
Do	100 mm, filter, menthol	18	1.3
Benson & Hedges	Regular size, filter, (hard pack)	10	.6
Do	King size, filter, (hard pack)	16	1.0
Benson & Hedges 100's	100 mm, filter, (hard pack)	17	1.0
Do	100 mm, filter, menthol, (hard pack)	17	1.1
Do	100 mm, filter	17	1.0
Do	100 mm, filter, menthol	17	1.0
Bull Durham	King size, filter	29	1.9
Camel	Regular size, filter	25	1.6
Do	King size, filter, (hard pack)	19	1.2
Do	King size, filter	18	1.2
Carlton 70's	Regular size, filter	<.5	<.05
Carlton	King size, filter	1	.1
Do	King size, filter, menthol	1	.1
Chesterfield	Regular size, non-filter	24	1.4
Do	King size, non-filter	29	1.7
Do	King size, filter	19	1.1
Do	101 mm, filter	18	1.1
Domino	King size, non-filter	33	1.4
Do	King size, filter	21	1.1
Doral	do	12	0.8
Do	King size, filter, menthol	11	0.8
DuMaurier	King size, filter (hard pack),	16	1.1
Eagle 20's	King size, filter	18	1.1
Do	King size, filter, menthol	18	1.1
English Ovals	Regular size, non-filter, (hard pack)	24	1.6
Do	King size, non-filter, (hard pack)	30	2.1
Eve	100 mm, filter	16	1.0
Do	100 mm, filter, menthol	16	1.0
Eve 120's	120 mm, filter, (hard pack)	15	1.0
Do	120 mm, filter, menthol, (hard pack)	14	1.0
Fact	King size, filter	13	0.9
Do	King size, filter, menthol	13	0.9
Fatima	King size, non-filter	29	1.7
Galaxy	King size, filter	15	0.9
Half & Half	do	26	1.8
Hallmark	100 mm, filter, (hard pack)	23	1.9
Do	100 mm, filter, menthol, (hard pack)	23	1.8
Herbert Tareyton	King size, non-filter	28	1.8
Hi-Lite	100 mm, filter, (hard pack)	11	0.7
Home Run	Regular size, non-filter	22	1.5
Iceberg 100's	100 mm, filter, menthol	3	0.3
Kent	King size, filter, (hard pack)	15	1.0
Do	King size, filter	16	1.0
Kent Golden Lights	do	8	0.6
Do	King size, filter, menthol	8	0.7
Kent	100 mm, filter	18	1.2
Do	100 mm, filter, menthol	17	1.2
King Sano	King size, filter	6	0.3
Do	King size, filter, menthol	6	0.3
Kool	Regular size, non-filter, menthol	21	1.3
Do	King size, filter, menthol, (hard pack)	17	1.3
Kool Naturals	King size, filter	14	1.0
Kool	King size, filter, menthol	17	1.3
Kool Milds	do	14	.9
Kool	100 mm, filter, menthol	18	1.3
L & M	King size, filter, (hard pack)	16	.9
L & M	King size, filter	18	1.1
L & M Lights	do	8	.6
L & M	100 mm, filter	17	1.1
L & M	100 mm, filter, menthol	18	1.1
L. T. Brown	120 mm, filter	19	1.5
Do	120 mm, filter, menthol	19	1.4
Lark	King size, filter	18	1.1
Do	100 mm, filter	18	1.1
Long Johns	120 mm, filter	18	1.4
Do	120 mm, filter, menthol	16	1.3
Lucky Strike	Regular size, non-filter	24	1.4
Lucky Ten	King size, filter	9	.6
Lucky 100's	100 mm, filter	3	.3

[1] TPM (tar), milligrams total particulate matter less nicotine and water.
[2] Milligrams total alkaloids reported as nicotine.

TAR [1] AND NICOTINE [2] CONTENT OF 166 VARIETIES OF DOMESTIC CIGARETTES

FEDERAL TRADE COMMISSION, JUNE 1977

Brand	Type	Milligram per cigarette of—	
		TPM dry (tar) [1]	Nicotine [2]
Mapleton	Regular size, non-filter	5	0.3
Do	King size, filter	23	1.4
Marboro	King size, filter, (hard pack)	17	1.0
Do	King size, filter, menthol, (hard pack)	14	.8
Do	King size, filter	17	1.0
Marlboro Lights	do	12	.8
Marlboro	King size, filter, menthol	14	.8
Do	100 mm, filter, (hard pack)	17	1.0
Do	100 mm, filter	17	1.0
Max	120 mm, filter	17	1.2
Do	120 mm, filter, menthol	17	1.3
Merit	King size, filter	8	.6
Do	King size, filter, menthol	8	.5
Montclair	do	8	1.3
More	120 mm, filter	21	1.5
Do	120 mm, filter, menthol	21	1.6
Multifilter	King size, filter	12	.8
Do	King size, filter, menthol	11	.8
Newport	King size, filter, menthol, (hard pack)	17	1.2
Do	King size, filter, menthol	17	1.2
Do	100 mm, filter, menthol	20	1.4
Now	King size, filter, (hard pack)	7	.5
Do	King size, filter, menthol, (hard pack)	7	.5
Ogden	King size, filter, menthol	16	1.1
Old Gold Straights	Regular size, non-filter	29	1.2
Do	King size, non-filter	37	1.5
Old Gold Filters	King size, filter, (hard pack)	17	1.2
Do	King size, filter	18	1.2
Old Gold 100's	100 mm, filter	24	1.4
Pall Mall	King size, non-filter	26	1.6
Do	King size, filter	18	1.2
Pall Mall Extra Mild	King size, filter, (hard pack	6	.5
Do	King size, filter	6	.5
Pall Mall	100 mm, filter	16	1.4
Do	100 mm, filter, menthol	16	1.4
Parliament	King size, filter, (hard pack)	10	.6
Do	King size, filter	10	.7
Parliament 100's	100 mm, filter	12	.7
Philip Morris	Regular size, non-filter	20	1.1
Philip Morris Commander	King size, non-filter	21	1.1
Philip Morris International	100 mm, filter, (hard pack)	16	1.0
Do	100 mm, filter, menthol, (hard pack	16	0.9
Picayune	Regular size, non-filter	21	1.4
Piedmont	do	24	1.5
Players	Regular size, non-filter, (hard pack)	24	1.5
Raleigh	King size, non-filter	23	1.4
Do	King size, filter	16	1.1
Raleigh Lights	do	14	1.0
Raleigh	100 mm, filter	17	1.2
St. Moritz	do	17	1.0
Do	100 mm, filter, menthol	17	1.1
Salem	King size, filter, menthol, (hard pack	19	1.2
Do	King size, filter, menthol	18	1.2
Salem Lights	do	11	.8
Salem	100 mm, filter, menthol	18	1.3
Salem Long Lights	do	6	.5
Sano	Regular size, non-filter	18	.6
Saratoga	120 mm, filter, (hard pack)	18	1.0
Do	120 mm, filter, menthol, (hard pack)	18	1.0
Silva Thins	100 mm, filter	17	1.3
Do	100 mm, filter, menthol	16	1.1
Spring 100's	do	19	1.1
Stratford	King size, non-filter	29	1.1
Do	King size, filter	24	1.1
Taft	120 mm, filter	18	1.4
Do	120 mm, filter, menthol	16	1.3
Tareyton	King size, filter	17	1.2
Do	100 mm, filter	16	1.2
Tempo	King size, filter	7	.5
True	do	7	.4
Do	King size, filter, menthol	7	.4
True 100's	100 mm, filter	13	.8
Do	100 mm, filter, menthol	13	.8
Twist	100 mm, filter, lemon menthol	17	1.3
Vanguard	King size, filter	10	.6
Do	King size, filter, menthol	13	.7
Vantage	King size, filter	11	.7
Do	King size, filter, menthol	11	.8
Vello	King size, filter	20	.7
Do	King size, filter, menthol	20	.7
Viceroy	King size, filter	16	1.0
Viceroy Extra Mild	do	14	1.0
Viceroy	100 mm, filter	18	1.3
Virginia Slims	do	10	.9
Do	100 mm, filter, menthol	10	.9
Winston	King size, filter, (hard pack	19	1.2
Do	King size, filter	19	1.2
Winston Lights	do	12	.9
Winston	100 mm, filter	19	1.3
Do	100 mm, filter, menthol	18	1.2

By direction of the Commission dated July 26, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23362 Filed 8-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–399) and in accordance with 45 CFR 153.8.

Any interested person may, pursuant to 45 CFR 153.9, file comments regarding these applications within 30 calendar days from publication of this notice with the Chief, Educational Broadcasting Facilities Branch, Division of Educational Technology, Bureau of Elementary and Secondary Education, Office of Education, Washington, D.C. 20202.

EDUCATIONAL TELEVISION

Chicago Metropolitan Higher Education Council, P.O. Box 26, Park Forest, Ill. 60466. File No. 575-T/413AH70055 for the establishment of a noncommercial educational television station Channel 20, Chicago, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,269,000. Grant requested: $490,726. Application signed by: Oscar E. Shabat.

Chicago Education Television Association, 5400 North St. Louis Avenue, Chicago, Ill. 60625. File No. 576-T 413AH70098 for the improvement of a noncommercial educational television station Channel 11, Chicago, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $428,985. Grant requested: $321,738. Application signed by: William J. McCarter.

West Central Illinois Educational Telecommunications Corporation, c/o Broadcast Services 2-13, Sangamon State University, Springfield, Ill. 62708. File No. 577-T 413AH70027 for the establishment of a noncommercial educational television station on Channel 24, Moline, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,500,000. Grant requested: $1,125,000. Application signed by: Leslie F. Malpass.

Ball State University, 2000 University Avenue, Muncie, Ind. 47306. File No. 578-T 413AH70085 for the improvement of a noncommercial educational television station on Channel 49, Muncie, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $78,795. Grant requested: $59,096. Application signed by: John J. Pruis.

Michiana Public Broadcasting Corporation, P.O. Box 34, South Bend, Ind. 46624. File No. 579-T 413AH70034 for the improvement of a noncommercial educational television station on Channel 34, South Bend-Elkhart, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $78,718. Grant requested: $74,875. Application signed by: Thomas E. Bumbaker.

Lake Central School Corporation, P.O. Box 336, St. John, Ind. 46373. File No. 580-T 413AH70091 for the improvement of a noncommercial educational television station on Channel 50, St. John, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $293,901. Grant requested: $220,425. Application signed by: George Babich.

Board of Trustees for the Vincennes University, 1002 North First Street, Vincennes, Ind. 47591, File No. 581–T/413AH70052 for the improvement of a noncommercial educational television station on Channel 22, Vincennes Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $286 082 Grant requested: $214,561. Application signed by: Isaac K. Beckes.

Kentucky Authority for ETV, 600 Cooper Drive, Lexington Ky. 40502, File No. 582–T/413AH70048 for the establishment of a noncommercial educational television station on Channel 29, Puducah, Ky. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $833,076. Grant requested: $624 807. Application signed by: O. L. Press.

Central Michigan University, Mt. Pleasant, Mich. 48859, File No. 583–T/413AH70069 for the improvement of a noncommercial educational television station on Channel 14–6, Mt. Pleasant and Alpena, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $763,953. Grant requested: $565,465. Application signed by: E. L. Mineli.

Duluth-Superior Area ETV Corporation, 210 Bradley Bldg., Duluth, Minn. 55802, File No. 584–T 413AH70111 for the improvement of a noncommercial educational television station on Channel 8, Duluth, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $195,635. Grant requested: $146,726. Application signed by: George A. Beck.

St. Louis ETV Commission, 6996 Millbrook Boulevard, St. Louis, Mo. 63130, File No. 585–T 413AH70053 for the improvement of a noncommercial educational television station on Channel 9, St. Louis, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $305,502. Grant requested: $229,126. Application signed by: A. S. Tiano.

Central Missouri State University, Warrensburg, Mo. 64093, File No. 586–T/413AH70094 for the establishment of a noncommercial educational television station on Channel 6, Sedalia, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $592,000. Grant requested: $444,000. Application signed by: W. C. Lovinger.

Public TV 19 Inc., 2100 Stark, Kansas City, Mo. 64126, File No. 587–T/413AH70071 for the improvement of a noncommercial educational television station on Channel 19, Kansas City, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $547,763. Grant requested: $410,822. Application signed by: John H. Kreamer.

Nebraska ETV Commission, P.O. Box 83111, Lincoln, Nebr. 68501, File No. 588–T 413AH-70067 for the improvement of noncommercial educational television stations on Channels 29 and 12, Hastings and Merriman, Nebr. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $367,044. Grant requested: $270,044. Application signed by: Jack McBride.

Northeastern ETV of Ohio Inc., 1640 Franklin Avenue, Kent, Ohio 44240, File No. 589–T 413AH70078 for the establishment of a noncommercial television station on Channel 58, Youngstown and the improvement of the noncommercial television station on Channel 49, Akron, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,598,146. Grant requested $1,198,609. Application signed by: P. C. English.

Bowling Green State University, Bowling Green, Ohio 43403, File No. 590–T 413AH-70064 for the improvement of a noncommercial educational television station on Channel 57, Luna, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $194,000. Grant requested: $145,-500. Application signed by: Kenneth Rothe.

Greater Toledo ETV Foundation, 415 North St. Clair Street, Toledo, Ohio 43604, File No. 591–T/413AH70057 for the improvement of a noncommercial educational television station Channel 30, Toledo, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $207,111. Grant requested: $155,883. Application signed by: Robert D. Smith.

Independent School District I-89, 1801 North Ellison, Oklahoma City, Okla. 73106, File No. 592–T/413AH70070, for the improvement of a noncommercial educational television station on Channel 25, Oklahoma City, Okla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $690,783. Grant requested: $518,072. Application signed by: Thomas J. Smith.

Oklahoma ETV Authority, 7403 N. Kelley Avenue, P.O. Box 14190 Oklahoma City, Okla. 73114, File No. 593–T/413AH70043 for the establishment of a noncommercial educational television station Channel 12, Cheyenne, Okla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,675,308. Grant requested: $720,933. Application signed by: Robert L. Allen.

Hampton Roads Educational Telecommunications Associate, Inc., 5200 Hampton Boulevard, Norfolk, Va. 23508, File No. 594–T 413AH 70103 for the improvement of a noncommercial educational television station on Channel 15, Norfolk, Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $232,400. Grant requested: $174,-900. Application signed by: Robert L. Allen.

University of Washington, Drama TV Building, BH–10, Seattle, Wash. 98195, File No. 595–T/413AH70015 for the improvement of a noncommercial educational television station on Channel 9, Seattle, Wash. Proposal determined acceptable: April 7, 1977. Estimated total project costs: $343,341. Grant requested: $257,505. Application signed by: Donald Baldwin, Director, Grant and Contract Services.

State of Oregon Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oreg. 97403, File No. 596–T 413AH70073 for the improvement of a noncommercial educational television station KOAC–TV, on Channel 7, Corvallis, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $100,000. Grant requested: $75,000. Application signed by: Donald R. Larson, Secretary.

Southern Oregon Education Company, 34 South Fir Street, Medford, Oreg. 97501, File No. 597–T 413AH70101 for the improvement of a noncommercial educational television station KSYS–TV on Channel 8, Medford, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $217,-781. Grant requested: $163,335. Application signed by: Mr. W. Boyce Standard, President.

Charlotte-Mecklenburg Board of Education, 42 Coliseum Drive, Charlotte, N.C., File No. 598–T 413AH70024 for the improvement of a noncommercial educational television station WTVI Channel 42, Charlotte, N.C. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $893,250. Grant requested: $668,250. Application signed by: John W. Phillips, Acting Superintendent.

Mississippi Authority for ETV, P.O. Drawer 1101, Jackson, Miss. 39205, File No. 599–T 413AH70063 for the improvement of a noncommercial educational television station on Channel 19, Biloxi, Miss. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $104,670. Grant requested: $78,502. Application signed by: Forrest L. Morris.

State Board of Education and Board of Regents of the University of Idaho, 650 West State Street, Room 307, Boise, Idaho 83720, File No. 600–T/413AH70046 for the establishment of a noncommercial educational television network operations facility in Idaho consisting of a microwave interconnection for KAID–TV, Channel 4, Boise, operated by Boise State University; KBGL–TV, Channel 10, Pocatello, operated by Idaho State University; and KUID–TV, Channel 12, Moscow, operated by University of Idaho; with program distribution capability from Boise. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $644,860. Grant requested: $483,645. Application signed by: A. L. Alford Jr., President.

Alabama ETV Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 601–T/413AH70031 for the improvement of a regional production center of the Alabama Television Network, Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $562,689. Grant requested: $417,555. Application signed by: Dennis N. Stork, General Manager.

Alabama ETV Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 602–T/413AH70032 for the improvement of the state Network ETV Production Center at University of Alabama, Tuscaloosa, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $596,192. Grant requested: $298,000. Application signed by: Dennis N. Stork, General Manager.

Arkansas ETV Commission, 350 South Donaghey, Conway, Ark. 72032, File No. 603–T/413AH70016 for the establishment of a noncommercial educational television station on Channel 6, Mountain View, Ark. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $742,047. Grant requested: $371,023. Application signed by: Lee Reaves, Director.

Connecticut Educational Telecommunications Corporation, 24 Summit Street, Hartford, Conn. 06106, File No. 604–T 413AH70059 for the improvement of a noncommercial educational television station on Channel 49, Bridgeport, Conn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $611,125. Grant requested $458,344. Application signed by: Paul K. Taff, President.

Connecticut Educational Telecommunications Corporation, 24, Summit Street, Hartford, Conn. 06106, File No. 605–T 413AH70058 for the improvement of the Connecticut ETV Network, Hartford, Conn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $297,079. Grant requested: $212,079. Application signed by: Paul K. Taff, President.

Community Television, Inc., 2037 Main Street, Jacksonville, Fla. 32206, File No. 606–T 413AH70081 for the improvement of a noncommercial educational television station on Channel 7, Jacksonville, Fla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,378,139. Grant requested: $1,033,604. Application signed by: Fred Rebman, President.

Florida Central East Coast ETV, Inc., 2908 West Oak Ridge Road, Orlando, Fla. 32809, File No. 607–T 413AH70065 for the improvement of a noncommercial educational television station on Channel 24, Orlando, Fla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $449,425. Grant requested: $337,068. Application signed by: Stephen M. Steck, Executive Vice President and General Manager.

University of South Florida, Division of Educational Resources, WUSF, Tampa, Fla. 33620, File No. 608–T/413AH70003 for the improvement of a noncommercial educational television station on Channel 16, Tampa, Fla. Proposal determined acceptable: September 24, 1976. Estimated total project costs: $276,-170. Grant requested: $207,127. Application signed by: William H. Taft, Director, Sponsored Research.

Hawaii Public Broadcasting Authority, 2350 Dole Street, Honolulu, Hawaii 96822, File No. 609–T/413AH70082 for the improvement of a noncommercial educational television station on Channel 11, Honolulu, Hawaii. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $497,415. Grant requested: $373,061. Application signed by: Teruo Ihara, Board Chairman.

Colby-Bates-Bowdoin Educational Telecasting Corporation, 1450 Lisbon Street, Lewiston, Me. 04240, File No. 610–413AH70006 for the improvement of a noncommercial educational television station on Channel 10, Augusta, Me. Proposal determined acceptable: Dec. 21, 1976. Estimated total project costs: $543,113. Grant requested: $407,334. Application signed by: Howard O. Skinner, General Manager and Clerk.

University of Maine, Maine Public Broadcasting Network, Alumni Hall, Orono, Me. 04473, File No. 611–T/413AH70045 for the improvement of a noncommercial educational television station on Channels 10, 12, 13 and 26, Presque Isle, Orono, Calais, and Biddeford, Me. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $679,376. Grant Requested: $509,532. Application signed by: Robert B. Binswanger, Vice Chancellor for Academic Affairs.

WGBH Educational Foundation, 125 Western Avenue, Boston, Mass. 02134, File No. 612–T/413AH70114 for the improvement of a noncommercial educational television station on Channel 44, Boston, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $786,525. Grant requested: $589,893. Application signed by: David O. Ives, President.

WGBY–TV (Division of WGBH Educational Foundation), One Armory Square, Springfield, Mass. 01105, File No. 613–T/413AH70113 for the improvement of noncommercial educational television station on Channel 57, Springfield, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $79,050. Grant requested: $59,-287. Application signed by: John T. Caldwell Jr., General Manager.

Southern Tier ETV Associates, Inc., P.O. Box 97, 3311 East Main Street, Endwell, N.Y. 13760, File No. 614–T/413AH70017 for the improvement of a noncommercial educational television station on Channel 46, Binghamton, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $436,460. Grant requested: $327,345. Application signed by: Arthur F. Dees, President and General Manager.

Long Island ETV Council, Inc., Ellington Avenue West, Garden City, N.Y., 11530, File No. 615–T/413AH70074 for the improvement of a noncommercial educational television station on Channel 21, Garden City, N.Y. Proposal determined acceptable: April 25, 1977. Grant requested: $296,725. Application signed by: Charles R. Bell, General Manager.

Rochester Area ETV Association, Inc., P.O. Box 21, Rochester, N.Y. 14601, File No. 616–T 413AH70005 for the improvement of a noncommercial educational television station on Channel 21, Rochester, New York. Proposal determined acceptable: Dec. 21, 1976. Estimated total project costs: $568,000. Grant requested: $439,500. Application signed by: William J. Pearce, President and General Manager.

Public Broadcasting Council of Central New York, 506 Old Liverpool Road, Liverpool, N.Y. 13088, File No. 617–T, 413AH70021 for the improvement of a noncommercial educational television station on Channel 24, Syracuse, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,036,850. Grant requested: $77,638. Application signed by: Richard W. Russell, President and General Manager.

St. Lawrence Valley ETV Council, Inc., P.O. Box 114, Watertown, N.Y. 13601, File No. 618–T, 413AH70025 for the improvement of a noncommercial educational television station on Channel, 16 Watertown, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $101,963. Grant requested: $76,470. Application signed by: Richard A. Jones, President.

Alaska Public TV, Inc., 3211 Providence Drive, Anchorage, Alaska 99504. File No. 619–T, 413AH70100 for the improvement of a noncommercial educational television station on Channel 7, Anchorage, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $334,800. Grant requested: $251,100. Application signed by: Melvin Sather.

University of New Mexico Board of Regents, 1130 University Boulevard, Albuquerque, N. Mex. 87101, File No. 620–T, 413AH70112 for the improvement of a noncommercial educational television station on Channel 5, Albuquerque, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $318,600. Grant requested: $239,700. Application signed by: Robert Gordon.

Santa Clara County Board of Education, San Jose, Calif. 95110, File No. 621–T/413AH70121 for the improvement of a noncommercial educational television station on Channel 54, San Jose, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $323,758. Grant requested: $242,819. Application signed by: Glenn Hoffman.

Central California ETV, P.O. Box 6, Sacramento, Calif. 95801, File No. 622–T/413AH70086 for the improvement of a noncommercial educational television station on Channel 6, Sacramento, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $129,046. Grant requested: $96,784. Application signed by: Stan Atchley.

Capitol Community Broadcasting, Inc., 240 Main Street, Juneau, Alaska 99801, File No. 623–T/413AH70095 for the establishment of a noncommercial educational television station on Channel 3, Juneau, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $1,098,727. Grant requested: $823,812. Application signed by: Charles Northrip.

San Diego State University (KPBS–TV), 5300 Campanile Drive, San Diego, Calif. 92182. File No. 624–T 413AH70061 for the improvement of a noncommercial educational television station on Channel 15, San Diego, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $363,032. Grant requested: $272,274. Application signed by: Dennis Selder.

Redwood Empire TV, Inc., P.O. Box 13, Eureka, Calif. 95501, File No. 625–T, 413AH70092 for the improvement of a noncommercial educational television station on Channel 13, Eureka, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $26,000. Grant requested: $19,500. Application signed by: John Hennessy.

San Mateo Community College Districts, San Mateo, Calif. 94403, File No. 626–T 413AH70029 for the improvement of a noncommercial educational television station on Channel 60, San Mateo, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $876,379. Grant requested: $451,112. Application signed by: Glenn P. Smith.

Texas Consumer Education and Communications Development Committee, Inc., P.O. Box 547, 741 East Bowie Street, Alamo, Tex. 78516, File No. 627–T, 413AH70066 for the establishment of a noncommercial educational television station on Channel 44, Harlingen, Tex. Proposal determined acceptable: Apr. 22, 1977. Estimated total project costs: $1,025,605. Grant requested: $769,204. Application signed by: Mr. Francisco Briones, Chairman of the Board.

Community TV of South California (KCET TV), 4400 Sunset Drive, Los Angeles, Calif. 90027, File No. 628–T/413AH70010 for the improvement of a noncommercial educational television station on Channel 28, Los Angeles, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $421,474. Grant requested: $316,105. Application signed by: William J. Lamb.

New Mexico State University (KRWG–TV) Las Cruces, N. Mex. 88003, File No. 629–T 413AH70122 for the improvement of a noncommercial educational television station on Channel 12, Las Cruces, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $20,000. Grant requested: $15,000. Application signed by: Harold A. Daw.

Kuskokwim Community College, Box 368 Bethel, Alaska 99559, File No. 630–T 413AH-70084 for the improvement of a noncommercial educational television station on Channel 4, Bethel, Alaska. Proposal determined acceptable: Apr. 25 ,1977. Estimated total project costs: $138,342. Grant requested $103,756. Application signed by: Patrick J. O'Rourke.

University of Utah, Salt Lake City, Utah 84112, File No. 631–T 413AH70036 for the improvement of a noncommercial educational television station in Channel 7, Salt Lake City, Utah. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $975,954. Grant requested: $511,-325. Application signed by: William S. Partridge.

University of South Colorado, Pueblo, Colo. 81001, File No. 632–T 413AH70008 for the improvement of a noncommercial educational television station on Channel 8, Pueblo, Colo. Proposal determined acceptable, Apr. 25, 1977. Estimated total project costs $267,855. Grand requested: $200,891. Application signed by: Harry P. Bowes.

Monterey County Board of Education, 901 Blanco Circle, Salinas, Calif. 93901, File No. 633–T 413AH70014 for the establishment of a noncommercial educational television station on Channel 67, Salinas, California. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $367,854. Grant requested: $275,891. Application signed by: Richard Bragg.

Eastern New Mexico University (KENW TV), Portales, N. Mex. 88130. File No. 634–T 413AH70107 for the improvement of a noncommercial educational television station on Channel 3, Portales, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $450,000. Grant requested: $337,500. Application signed by: Duane Ryan.

WHYY, 4548 Market Street, Philadelphia, Pa. 19139, File No. 635–T 413AH70041 for the improvement of a noncommercial educational television station on Channel 12, Wilmington, Del. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $559,073. Grant requested: $499,304. Application signed by: Robert H. Hall, Vice President for Engineering and Technical Services.

State Board of Education of the State of Georgia, 1540 Stewart Avenue, S.W., Atlanta, Ga. 30310, File No. 636–T/413AH70054 for the improvement of a noncommercial educational television station on Channel 8, Waycross, Georgia, and Channel 25, Dawson, Georgia. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $448,560. Grant requested: $275,885. Application signed by: Jack P. Nix, State Superintendent of Schools.

Greater New Orleans Educational Television Foundation, 916 Navarre Avenue, P.O. Box 24026, New Orleans, La. 70184, File No. 637–T/413AH70083 for the improvement of a noncommercial educational television station (WYES) on Channel 12, New Orleans, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $454,210. Grant requested: $340,657. Application signed by: William S. Hart, President.

Louisiana Educational TV Authority, 626 North Fourth Street, P.O. Box 44064, Baton Rouge, La. 70804, File No. 638–T/413AH70110 for the improvement of a noncommercial educational television station on Louisiana Public Broadcasting Network, Baton Rouge, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $355,994. Grant requested: No. 219,544. Application signed by: A. Frey, Executive Director.

Louisiana Educational Television Authority, 626 North Fourth Street, Baton Rouge, La. 70804, File No. 639–T/413AH70018 for the establishment of a noncommercial educational television station on Channel 18, Lake Charles, La. Proposal determined acceptable: April 15, 1977. Estimated total project costs: $2,313,851. Grant requested: $1,735,388. Application signed by: A. Fred Frey, Executive Director.

Broadside Television, Inc., Elm and Millard Streets, Johnson City, Tenn. 37601, File No. 640–T/413AH70079 for the establishment of a noncommercial educational television station on Channel 41, Johnson City, Tenn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $929,627. Grant requested: $500,207. Application signed by: Lynn Bennett, Executive Director.

Memphis Community TV Foundation, P.O. Box 80000, Memphis, Tenn. 38152, File No. 641–T/413AH70096 for the improvement of a noncommercial educational television station WKNG on Channel 10, Memphis, Tenn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $200,000. Grant requested: $150,000. Application signed by: Howard D. Holst, Treasurer.

Puerto Rico Department of Education, Avenue Cesar Gonzalez, Hato Rey, P.R. 00919, File 642–T/413AH70109 for the improvement of a noncommercial education television station WIPM on Channel 3, Mayaguez, P.R. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $400,000. Grant requested: $200,000. Application signed by: Carlos Chardon, Secretary of Education.

Public Broadcasting of Northwest Pennsylvania, Inc., 3425 Peach Street, Erie, Pa. 16509, File No. 644–T/413AH70080 for the improvement of a noncommercial educational television station on Channel 54, Erie, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,078,866. Grant requested: $795,866. Application signed by: Robert Chitester, President.

Pennsylvania State University, 201 Wagner Building, University Park, Pa. 16802, File No. 644–T/413AH70050 for the improvement of a noncommercial educational television station WPSX on Channel 3, Clearfield, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $215,049. Grant requested: $161,286. Application signed by: Floyd B. Fischer, Vice President for Continuing Education.

Metropolitan Pittsburgh Public Broadcasting Inc., 4802 Fifth Avenue, Pittsburgh, Pa. 15213, File No. 645–T/413AH70060 for the improvement of noncommercial educational television stations WQED and WQEX on Channels 13 and 16, Pittsburgh, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $579,600. Grant requested: $412,125. Application signed by: Lloyd Kaiser, President.

Public Communication Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 646–T/413AH-70033 for the establishment of a noncommercial educational television station on Channel 2, Denton, Tex. Proposal determined acceptable: April 19, 1977. Estimated total project costs: $1,688,477. Grant requested: $844,238. Application signed by: E. J. Pfister, President.

South Texas Educational Broadcasting Council (KEDT–TV), P.O. Box 416, Corpus Christi, Tex. 78403, File No. 647–T/413AH-70097 for the improvement of a noncommercial educational television station KEDT on Channel 16, Corpus Christi, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $515,815. Grant requested: $386,861. Application signed by: Don Weber, Chairman of the Board.

Texas Tech University, Box 4359, Lubbock, Tex. 79409, File No. 648–T/413AH70097 for the improvement of a noncommercial educational television station KTXT on Channel 5, Lubbock, Tex. Proposal determined acceptable: April 21, 1977. Estimated total project costs: $202,951. Grant requested: $152,213. Application signed by: J. Knox Jones, Jr.

Texas A&M University, College Station, Tex. 77843, File No. 649–T/413AH70099 for the improvement of a noncommercial educational television station KAMU on Channel 15, College Station, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $455,639. Grant requested: $341,729. Application signed by: Jack K. Williams, President.

Central Texas College, U.S. Highway 190 West, Killen, Tex. 76541, File No. 650–T/413-AH70104 for the improvement of a noncommercial educational television station KNCT on Channel 46, Belton, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,294. Grant requested: $21,970. Application signed by: Phillip R. Swartz, Vice President.

Central Texas College, Highway 190 West, Killen, Tex. 76541, File No. 651–T 413AH70105 for the improvement of a noncommercial educational television station KNCT on Channel 34, Waco, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,040. Grant requested: $21,780. Application signed by: Phillip R. Swartz, Vice President.

Public Communications Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 652–T 413AH-70028 for the improvement of a noncommercial educational television station KERA on Channel 13, Dallas, Tex. Proposal determined acceptable: April 19, 1977. Estimated total project costs: $808,025. Grant requested: $606,018. Application signed by: Edward J. Pfister, President.

Alabama Educational Television Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 529–T/413AH70030 (former applicant was Alabama A&M University) for the improvement of a TV network production center, Normal, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $516,775. Grant requested: $386,775. Application signed by: Dennis N. Stork, General Manager.

EDUCATIONAL RADIO

Sangamon State University, Springfield, Ill. 62708, File No. 289–R/413BH70153, for the improvement of a noncommercial educational radio station on 91.9 MH z, Springfield, Ill. Proposal determined acceptable: April 25, 1977. Estimated project costs: $28,524. Grant requested: $21,393. Application signed by: Robert C. Spencer.

Augustana College, 8½ Avenue and 35th Street, Rock Island, Ill. 61201, File No. 290–R/413BH70034 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Rock Island, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,763. Grant requested: $24,568. Application signed by: Roy E. France.

Board of Regents, North Illinois University, DeKalb, Ill. 60115, File No. 291–R/413BH70050 for the improvement of a noncommercial educational radio station on 89.5 MH/z, Dekalb, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,763. Grant requested: $24,568. Application signed by: Roy E. France.

The University of Notre Dame du Lac, P.O. Box 532, Notre Dame, Ind. 46556, File No. 292–R/413BH70002 for the improvement of a noncommercial educational radio station on 88.9 MH/z, Notre Dame, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $9,384. Grant requested: $7,038. Application signed by: Thomas J. Mason.

Butler University, 46th and Sunset Avenue, Indianapolis, Ind. 46208, File No. 293–R/413BH70025 for the improvement of a noncommercial educational radio station on 104.5 MH/z, Indianapolis, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $159,641. Grant requested: $119,729. Application signed by: Louis F. Chenette.

Indiana State University Board of Trustees, Terre Haute, Ind. 47809, File No. 294–R/413BH70064 for the improvement of a noncommercial educational radio station on 89.7 MH/z, Terre Haute, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,793. Grant requested: $61,345. Application signed by: Paul Siebenmorgen.

Eastern Kentucky University, Richmond, Ky. 40475, File No. 295–R/413BH70106 for the improvement of a noncommercial educational radio station on 88.9 MH/z, Richmond, Ky. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,555. Grant requested: $22,166. Application signed by: J. C. Powell.

National Music Camp, Interlochen, Mich. 49643, File No. 296–R413BH70011 for the improvement of a noncommercial educational radio station on 88.3 MH z, Interlochen, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $110,218. Grant requested: $82,663. Application signed by: Roger E. Jacob.

Flint Board of Education, 601 Crapo Street, Flint, Mich. 48503 File No. 297–R 413BH70113 for the improvement of a noncommercial educational radio station on 95.1 MH z, Flint, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,897. Grant requested $61,423. Application signed by: E. Grice

The Regents of the University of Michigan, 4080 Administration Building, Ann Arbor, Mich. 48109, File No. 298–R 413BH70062 for the improvement of a noncommercial educational radio station on 91.7 MH z, Ann Arbor, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $48,191. Grant requested: $36,143. Application signed by: Charles H. Overberger.

Plymouth-Canton Community Schools, 454 South Harvey Street, Plymouth, Mich. 48170 File No. 299–R 413BH70051 for the improvement of a noncommercial educational radio station on 89.3 MH z, Plymouth, Mich. Proposal determined acceptable: April 25, 1977

Estimated total project costs: $88,324. Grant requested: $66,243. Application signed by: John M. Hoben.

Minnesota Public Radio, Inc., 400 Sibley Street, St. Paul, Minn. 55101, File No. 300–R/413BH70144 for the improvement of a noncommercial educational radio station 92.9 MH/z, Duluth, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $35,454. Grant requested: $26,590. Application signed by: Wm. H. Kling.

Minnesota Public Radio, Inc., 400 Sibley Street, St. Paul, Minn. 55101, File No. 301–R/413BH70145 for the improvement of a noncommercial educational radio station on 91.1 MH/z Minneapolis/St. Paul, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $257,510. Grant requested: $193,132. Application signed by: Wm. H. Kling.

St. Olaf College, Northfield, Minn. 55057, File No. 302–R/413BH70116 for the improvement of a noncommercial educational radio station on 89.3 MH/z, Northfield, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $163,060. Grant requested: $122,245. Application signed by: D. E. Johnson.

Southern Minnesota Corp. for Public Broadcasting, 423 North Front Street, Box 3208, Mankato, Minn. 56001, File No. 303–R/413BH70055 for the establishment of a noncommercial educational radio station on 89.7 MH/z, Mankato, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $206,359. Grant requested: $154,796. Application signed by: Brad Theissen.

School District No. 1, Dallas Co. Ramsey at Commercial, Buffalo, Mo. 65622, File No. 304–R/413BH70026 for the improvement of a noncommercial educational radio station on 90.3 MH/z, Buffalo, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $5,474. Grant requested: $4,105. Application signed by: Jack L. Howard.

University of Missouri, Columbia, Mo. 65201, File No. 305–R/413BH70152 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Columbia, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $108,776. Grant requested: $81,632. Application signed by: R. H. Bezoni.

Curators of the University of Missouri, 8001 Natural Bridge Road, St. Louis, Mo. 63121, File No. 306–R/413BH70101 for the improvement of a noncommercial educational radio station on 90.7 MH/z, St. Louis, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $100,010. Grant requested: $75,000. Application signed by: R. H. Bezoni.

Curators of the University of Missouri, Rolla, Mo. 65401, File No. 307–R/413BH70067 for the improvement of a noncommercial educational radio station on 88.5 MH z, Rolla, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $9,023. Grant requested $7,323. Application signed by: R. H. Bezoni.

University of Cincinnati, 110 Emery Hall, Cincinnati, Ohio 45211, File No. 308–R 413BH70030 for the improvement of a noncommercial educational radio station on 90.9 MH/z, Cincinnati, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $135,167. Grant requested: $101,375. Application signed by: Albert C. Yates.

Miami University, Oxford, Ohio 45056, File No. 309–R/413BH70052 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Oxford, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $145,543. Grant requested: $109,110. Application signed by: Lloyd Goggin.

Antioch College, Yellow Spings, Ohio 45387, File No. 310–R/413BH70140 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Yellow Springs, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,722. Grant requested: $61,291. Application signed by: Janet Hartle.

Hamilton City School District, 332 Dayton Street, Hamilton, Ohio 45012, File No. 311–R/413BH70143 for the improvement of a noncommercial educational radio station on 89.5 MH/z, Hamilton, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $56,335. Grant requested: $42,252. Application signed by: Albert Bruno.

West Virginia Educational Broadcasting Authority, State Building No. 6, Suite B–424, Charleston, W. Va. 25305, File No. 312–R/413BH70083 for the establishment of a noncommercial educational radio station on 90.9 MH/z, Morgantown, W. Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $135,000. Grant requested: $101,250. Application signed by: Francis L. Blake.

West Virginia Educational Broadcasting Authority, State Building No. Suite B–424, Charleston, W. Va. 25305, File No. 313–R/413BH 70084 for the establishment of a noncommercial educational radio station on 89.9 MH/z, Wheeling, W. Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $120,000. Grant requested: $90,000. Application signed by: Francis L. Blake.

Gateway Vocational, Technical and Adult Education District, 3520 30th Avenue, Kenosha, Wis. 53140, File No. 314–R/413BH70070 for the improvement of a noncommercial educational radio station on 91.1 MH z, Kenosha, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,132. Grant requested: $22,599. Application signed by: K. W. Stoehr.

Menominee Indian Tribe, P.O. Box 397, Keshena, Wis. 54135, File No. 315–R/413BH-70009 for the establishment of a noncommercial educational radio station on 88.5 MH/z, Keshena, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,481. Grant requested: $60,000. Application signed by: Mark A. Husby.

University of Wisconsin, LaCrosse, 1725 State Street, LaCrosse, Wis. 54601, File No. 316–R/413BH70115 for the improvement of a noncommercial educational radio station on 88.9 MH/z, LaCrosse, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $76,550. Grant requested: $57,413. Application signed by: K. E. Lindner.

Spokane Public Broadcasting Association, Rt. 3, Box 525C, Spokane, Wash. 99203, File No. 317–R/413BH70007, for the improvement/expansion of a noncommercial educational radio station on 91.1 MH z, Spokane, Wash. Proposal determined acceptable: December 10, 1976. Estimated total project costs: $257,022. Grant requested: $192,766. Application signed by: Susan Wallace, President.

North Carolina Central University, 1801 Fayetteville Street, Durham, N.C. 27707, File No. 318–R/413BH70032, for the establishment of a noncommercial educational radio station on 90.3 MH/z, Durham, N.C. Proposal determined acceptable: April 20, 1977. Estimated total project costs: $83,621. Grant requested: $50,000. Application signed by: Albert N. Whiting, Chancellor.

The KBOO Foundation, 3129 SE Belmont Street, Portland, Oreg. 97214, File No. 319–R/413BH70109 for the improvement of a noncommercial educational radio station on 90.7 MH/z, Portland, Oreg., Proposal determined acceptable: April 25, 1977. Estimated total project costs: $34,585. Grant requested $25,938. Application signed by: John Eccles, President.

State of Oregon, Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oreg. 97403, File No. 320–R/413BH70085 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Ashland, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $91,513. Grant requested: $68,661. Application signed by: D. B. Larson, President.

Washington State University, Pullman, Wash. 99164, File No. 321–R/413BH70121, for the improvement of a noncommercial educational radio station on 1250 KH z, Pullman, Wash. Proposal determined acceptable April 25, 1977. Estimated total project cost: $24,430. Grant requested: $17,447. Application signed by: C. J. Nyman, Dean of the Graduate School.

Seattle School District No. 1, 815 Fourth Avenue, North, Seattle, Wash. 98109, File No. 322–R/413BH70127, for the improvement of a noncommercial educational radio station on 89.5 MH z, Seattle, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $120,183. Grant requested: $90,137. Application signed by: Mr. Hal Reasby, Associate Superintendent.

Jack Straw Memorial Foundation, 1laa Harvard Avenue, Seattle, Wash. 98122, File No. 323–R/413BH70066, for the improvement of a noncommercial educational radio station on 107.7 MH/z, Seattle, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $161,893. Grant requested: $121,419. Application signed by: Douglas H. Ekblade, Station Manager.

The University of North Carolina at Chapel Hill, Swain Hall, Chapel Hill, N.C. 27514, File No. 324–R/413BH70138 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Chapel Hill, N.C. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $69,880. Grant requested: $53,535. Application signed by: George R. Holcomb, Dean for Research Administration.

Pacific Lutheran University, Tacoma, Wash. 98447, File No. 325–R 413BH70100 for the expansion of a noncommercial educational radio station on 88.5 MH z, Tacoma, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $196,251. Grant requested: $146,151. Application signed by: William O. Rieke, President.

The University of Kansas, Lawrence, Kans. 66045, File No. 326–R/413BH70147, for the improvement of a noncommercial educational radio station on 91.5 MH z, Lawrence, Kans. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $33,110. Grant requested: $24,832. Application signed by: Henry L. Snyder, Dean, Research Administration.

The Trustees of Davidson College, Davidson, N.C. 28036, File No. 327–R 413BH70093 for the expansion of a noncommercial educational radio station on 89.9 MH z, Davidson, N.C. Proposal determined acceptable April 25, 1977. Estimated total project costs: $187,522. Grant requested: $140,641. Application signed by: Samuel R. Spencer, Jr., President.

The Library Board (WLRH Public Radio), 222 Holmes Avenue, Huntsville, Ala. 35801, File No. 328–R/413BH70125 for the improvement of a noncommercial educational radio station on 89.3 MH/z, Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $37,187. Grant requested: $29,877. Application signed by: Virginia Tomme, Station Manager.

University of Alabama in Huntsville, P.O. Box 1247, Huntsville, Ala. 35807, c/o Dr. Joseph C. Dowdle, File No. 329–R 413BH70130 for the establishment of a noncommercial educational radio station on 90.9 MH z

Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $110,548. Grant requested: $82,911. Application signed by: Joseph C. Dowdle, V.P. for Administration.

Spring Hill College, 4300 Old Shell Road, Mobile, Ala. 36608, File No. 330–R/413BH70006 for the establishment of a noncommercial educalonal radio station on 91.3 MH/z, Mobile, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $263,521. Grant requested: $197,641. Application signed by: Paul S. Tipton, President.

University of Central Arkansas, Conway, Ark. 70232, File No. 331–R/413BH70021 for the improvement of a noncommercial educational radio station on 91.5 MH z, Conway, Ark. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $21,-194. Grant requested: $15,895. Application signed by: Dr. Jefferson Farris, President.

Public Radio of Southern Connecticut, Inc., Box 323, Saugatuck Station, Westpoint, Conn. 06880. File No. 332–R 413BH70075 for the improvement of a radio station on 89.5 MH/z, Bridgeport, Conn Proposal determined acceptable: April 25, 1977. Estimated total project costs: $284,382. Grant requested: $213,285. Application signed by: Charles E. Robbins, President.

Western Mass Broadcasting Council, Inc., Hampshire House, University of Massachusetts, Amherst, Mass. 01002, File No. 333–R/413BH70054 for the improvement of a noncommercial educational radio station on 88.5 MH z, Amherst, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $60,708. Grant requested: $45,531. Application signed by: Godwin G. Oyewole, General Manager .

WGBH Educational Foundation (WGBH FM), 125 Western Avenue, Boston, Mass. 02134, File No. 334–R 413BH70088 for the improvement of a noncommercial educational radio station on 89.7 MH/z, Boston, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $122,132. Grant requested: $91,599. Application signed by: David O. Ives, President.

WCUW, Inc., 950 Main Street, Worcester, Mass. 01610 File No. 335–R 413BH70118 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Worcester, Mass. Proposal determined acceptable: April 25, 1977 Estimated total project costs: $36,457. Grant requested: $27,343. Application signed by: John Levin, President, Board of Directors.

Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.W. 12208, File No. 336–R/413BH70053 for the improvement of a noncommercial educational radio staiton on 90.3 MH z, Albany, N.Y. Proopsal determined acceptable: April 25, 1977. Estimated total project costs: $199,954. Grant requested: $149,965. Application signed by: Dr. K. T. Lee, Dean, Graduate Studies and Research.

Western New York ETV Association, Inc., P.O. Box 1263, Buffalo, N.Y. 14240, File No. 337–R/413BH70103 for the improvement of WEBR–AM and WNED–FM stations on 970 KH/z and 94.5 MH z respectively, Buffalo, N.Y. Proposal determined acceptable: April 25, 1977 Estimated total project costs: $329,658. Grant requested: $247,243. Application signed by: J. Michael Collins, President

Board of Education of the City of New York, 131 Livingston Street, Brooklyn, N.Y. 11201, File No. 338–R/413BH70023 for the improvement of a noncommercial educational radio station on 91.5 MH/z, New York City, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $68,-949. Grant requested: $51,712. Application signed by: Irving Anker, Chancellor.

State University of New York at Buffalo, 3435 Main Street, Buffalo, N.Y. 14214, File No. 339–R/413BH70111 for the improvement of a noncommercial educational radio station on 88.7 MH/z, Buffalo, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $122,568. Grant requested: $93,525. Application signed by: Marvin P. Granger, General Manager.

Colgate University, Hamilton, N.Y. 13346, File No. 340–R/413BH70123 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Hamilton, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $14,835. Grant requested: $11,125. Application signed by: Bertram S. Ryder, Director of Administrative Operations.

Eastern New Mexico University (KENW–FM), Portales, N. Mex. 88130, File No. 341–R/413BH70087 for the establishment of a noncommercial educational radio station on 89.5 MH/z, Portales, N. Mex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $133,612. Grant requested: $100,209. Application signed by: Dr. Warren Armstrong.

San Diego State University, San Diego, Calif. 92182, File No. 342–R/413BH70057 for the improvement of a noncommercial educational radio station on 89.5 MH/z, San Diego, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $93,668. Grant requested: $70,251. Application signed by: Paul Steen.

Santa Monica College, 1900 Pico Boulevard, Santa Monica, Calif. 90405, File No. 343–R/413BH70130 for the improvement of a noncommercial educational radio station on 89.9 MH/z, Santa Monica, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $164,140. Grant requested: $123,105. Application signed by: Dr. Richard Moore.

New Mexico State University, Box 3–J University Park, Las Cruces, N.M. 88003, File No. 344–R/413BH70061 for the improvement of a noncommercial educational radio station on 90.7 MH/z, Las Cruces, N.M. Proposal determined acceptable: April 25, 1977 Estimated total project costs: $40,000. Grant requested: $30,000. Application signed by: Frank F. Hash.

Capitol Community Broadcasting, Inc., 240 Main Street, Juneau, Alaska 99801, File No. 345–R/413BH70137 for the improvement of a noncommercial educational radio station on 104.3 MH/z, Juneau, Alaska. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $161,499. Grant requested: $115,988. Application signed by: Charles Northrip.

Nevada Public Radio Corporation, P.O. Box 43177, Las Vegas, Nev. 89104, File No. 346–R/431BH70098 for the establishment of a noncommercial educational radio station on 89.5 MH/z, Las Vegas, Nev. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $159,228. Grant requested: $125,819. Application signed by: Lamar Marchese.

Ramah Navajo School Board (KTDB–FM), Ramah, N. Mex. 87321, File No. 347–R/413BH70037 for the improvement of a noncommercial educational radio station on 89.7 MH z, N. Mex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $180,200. Grant requested: $133,000. Application signed by: Laurence Manuelito.

Foundation of California State University, Sacramento, Calif. 95819, File No. 348–R/413BH70082 for the improvement of a noncommercial educational radio station on 88.9 MH/z, Sacramento, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $134,300. Grant requested: $100,725. Application signed by: James Archer.

University of New Mexico, Albuquerque, N. Mex. 87131, File No. 349–R/413BH70096 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Albuquerque, M. Mex. Proposal determined acceptable: April 25, 1977. Estimated total costs: $62,228. Grant requested: $46,671. Application signed by: Edmund B. Kasner.

Saddleback Community College, 28000 Marguerite Parkway, Mission Viejo, Calif. 92657, File No. 350–R/413BH70068 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Mission Viejo, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $147,596. Grant requested: $110,697. Application signed by: Robert Lombardi.

Conejo Public Broadcasting Inc., Thousand Oaks, Calif. 91360, File No. 351–R/413BH70029 for the establishment of a noncommercial educational radio station on 91.1 MH/z, Conejo, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $262,558. Grant requested: $198,688. Application signed by: Alfred James Miller.

Board of Education (KLON–FM), Long Beach School District, Long Beach, Calif. 90813, File No. 352–R/413BH70020 for the improvement of a noncommercial educational radio station on 88.1 MH/z, Long Beach, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $15,700. Grant requested: $11,775. Application signed by: Dr. Francis Laufenberg.

Pacifica Foundation (KPFA–FM), 2207 Shattuck Avenue, Berkeley, Calif. 94704, File No. 353–R/413BH70038 for the improvement of a noncommercial educational radio station on 94.1 MH/z, Berkeley, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $138,400. Grant requested: $103,800. Application signed by: Peter Franck.

University of Arizona, Arizona Board of Regents (KUAT–FM), Tucson, Ariz. 85721, File No. 354–R/413BH70073 for the improvement of a noncommercial educational radio station on 90.5 MH/z, Tucson, Ariz. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,762. Grant requested: $23,075. Application signed by: Sherwood Carr.

KQED–FM Inc., 800–8th Street, San Francisco, Calif. 94103, File No. 355–R/413BH70074 for the improvement of a noncommercial educational radio station on 88.5 MH/z, San Francisco, Calif. Proposal determined acceptable: April 25, 1977 Estimated total project costs: $190,040. Grant requested: $142,530. Application signed by: Arthur Porter.

Boulder Community Broadcasting Association, P.O. Box 1076, Boulder Colo. 80206, File No. 356–R/413BH70142 for the establishment of a noncommercial educational radio station on 88.5 MH/z, Boulder, Colo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $105,498. Grant requested: $79,124. Application signed by: Carla Selby.

University of Northern Colorado, Greeley, Colo. 80639, File No. 357–R/413BH70017 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Greeley, Colo. Proposal determined acceptable: April 25, 1977 Estimated total project costs: $92,-000. Grant requested: $69,000. Application signed by: Dr. Richard R. Bond.

University of Southern California, University Park, Los Angeles, Calif. 90007, File No. 358–R/413BH70107 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Los Angeles, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $437,505. Grant requested: $320,541. Application signed by: Zohrab A. Kapriellan.

Poor People's Radio, Inc. (KPOO–FM), P.O. Box 11008 San Francisco, Calif. 94101, File No. 359–R/413BH70141 for the improvement of a noncommercial educational radio station on 89.5 MH/s, San Francisco, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $103,398. Grant requested: $66,398. Application signed by: George Kelsey.

University of Southern California (KUSC), University Park, Los Angeles, Calif. 90007, File No. 360–R/413BH70108 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Los Angeles, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $2,300. Grant requested: $1,748. Application signed by: Zohrab Kapriellan.

Pacifica Foundation, 1030, 15th Street NW., Washington, D.C. 20005, File No. 361–R/413BH70078 for the improvement of a noncommercial educational radio station on 89.3 MH/z, District of Columbia. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $118,345. Grant requested: $88,759. Application signed by: Gregory B. Millard, General Manager.

Greater Washington Educational Telecommunications Association, Inc., Box 2626, Washington, D.C. 20013, File No. 362–R/413BH70093 for the improvement of a noncommercial educational radio station WETA–FM on 90.9 MH/z, District of Columbia. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $240,190. Grant requested: $180,142. Application signed by: Ward B. Chamberlin, Jr. President.

Radio Free Georgia Broadcasting Foundation, Inc., 1091 Euclid Avenue, Atlanta, Ga. 30307, File No. 367–R/413BH70069 for the improvement of a noncommercial educational radio station WRFG–FM on 89.3 MH/z, Atlanta, Ga. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $21,826. Grant requested: $16,369. Application signed by: Fay Bellamy, President.

Seton Hall University, 400 South Orange Drive, South Orange, N.J., 07079, File No. 368–R/413BH70049 for the improvement of a noncommercial educational radio station WSOU on 89.5 MH/z, South Orange, N.J. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $53,810. Grant requested: $40,357. Application signed by: Ms. Margaret Hoppe, Acting Vice President for Student Affairs.

University of Alaska (KUAC–FM), Fairbanks, Alaska 99701, File No. 369–R/413BH70027 for the improvement of a noncommercial educational radio station on 104.7 MH/z, Fairbanks, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $56,984. Grant requested: $42,738. Application signed by: H. A. Cutler.

Newark Public Radio, Inc., 909 Broad Street, Newark, N.J. 07102, File No. 370–R/413BH70102 for the establishment of a noncommercial educational radio station on 88.3 MH/z, Newark, N.J. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $268,350. Grant requested: $201,262. Application signed by: Richard W. Roper, Secretary-Treasurer.

University of New Orleans, Lakefront, New Orleans, La. 70122, File No. 373–R 413BH70035 for the improvement of a noncommercial educational radio station on 89.9 MH/z, New Orleans, La. Proposal determined acceptable: Apr. 19, 1977. Estimated total project costs: $178,260. Grant requested: $133,696. Application signed by: George D'Aquin, Vice Chancellor for Business Affairs.

Public Radio, Inc., Post Office Box 6614, Baton Rouge, La. 70896, File No. 374–R/413BH70114 for the establishment of a noncommercial educational radio station on 89.3 MH/s, Baton Rouge, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $118,414. Grant requested: $88,811. Application signed by Matthew Pitts, President.

New York University, 566 LaGuardia Place, New York, N.Y. 10012, File No. 375–R/413BH70090 for the improvement of a noncommercial educational radio station on 89.1 MH/z, New York, N.Y. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,000. Grant requested: $37,500. Application signed by: Ann H. Greenberg, Director, Office of Sponsored Programs.

Susquehanna University, University Avenue, Selinsgrove, Pa. 17870, File No. 376–R/413BH70133 for the improvement of a noncommercial educational radio station WQSU–FM on 88.9 MH/z, Selinsgrove, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,676. Grant requested: $38,007. Application signed by: Gustave W. Weber, President.

Duquesne University, 801 Bluff Street, Pittsburgh, Pa. 15219, File No. 377–R/413BH-70046 for the improvement of a noncommercial educational radio station WDUQ on 90.5 MH/z, Pittsburgh, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $167,900. Grant requested: $125,925. Application signed by: Frederick R. Clark, Vice President and Treasurer.

WEVL, Southern Communication Volunteers, 1369 Court Street, Memphis, Tenn. 38101, File 378–R 413BH70120 for the improvement of a noncommercial educational radio station WEVL on 89.9 MH/z, Memphis, Tenn. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $154,-458. Grant requested: $113,843. Application signed by: Percy A. Brown, General Manager.

Tennessee State University, 3500 Centennial Boulevard, Nashville, Tenn. 37203, File No. 379–R 413BH70008 for the establishment of a noncommercial educational radio on 91.7 MH/z, Nashville, Tenn. Proposal determined acceptable: Mar. 1, 1977. Estimated total project costs: $59,141. Grant requested: $44,348. Application signed by: Dr. Frederick S. Humphries, President.

University of Puerto Rico, P.O. Box A U.P.R. Station, San Juan, P.R. 00931, File No. 380–R/413BH70126 for the establishment of a noncommercial educational radio station on 89.7 MH/z, San Juan, P.R. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $150,000. Grant requested: $75,000. Application signed by: Dr. Ismael Rodriguez–Bou, Chancellor

Kings College, 133 North Rivier Street, Wilkes-Barre, Pa. 18711, File No. 381–R 413–BH70063 for the improvement of a non-commercial educational radio station WRKC on 88.5 MH/z, Wilkes-Barre, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $20,000. Grant requested: $15,000. Application signed by: Rev. Charles D. Sherrer, C.S.C., President

Wilkes College, River and South Streets, Wilkes-Barre, Pa. 18703, File No. 382–R - 413BH70080 for the improvement of a noncommercial educational radio station WCLH on 90.7 MH/z, Wilkes-Barre, Pa. Proposal determined acceptable: Apr. 25, 1977 Estimated total project costs: $29,789 Grant requested: $22,341. Application signed by: Teresa B. McDonald, Director of Research

Texas Southern University, 3201 Wheeler Avenue, Houston, Tex. 77004. File No. 383–R 413BH70042 for the expansion of a noncommercial educational radio station KTSU–FM on 90.9 MH/z, Houston, Texas. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $242,483. Grant requested: $181,863. Application signed by: Granville M. Sawyer, President

Vermont Public Radio, 100 Dorset Street, South Burlington, Vt. 05401, File No. 384–R/413BH70151 for the establishment of a noncommercial educational radio station on 107.9 MH/z, Burlington, Vt. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $154,465. Grant requested: $115,848. Application signed by: Ray Dilley, Station Manager

Prairie View A&M University, Prairie View, Tex. 77445, File No. 385–R 413BH70076 for the establishment of an FM noncommercial educational radio station on 91.3 MH z Prairie View, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total cost: $177,403. Grant requested: $133,052. Application signed by: Dr. Alvin I. Thomas, President.

Lamar University, P.O. Box 10050 Beaumont, Tex. 77710, File No. 386–R 413BH70085 for the improvement of a noncommercial educational radio station KVLU on 91.3 MH z, Beaumont, Tex. Proposal determined acceptable: Apr. 20, 1977. Estimated total project costs: $205,390. Grant requested: $125,654 Application signed by: Dr. Robert Kemble, President.

Central Texas College, U.S. Highway 190 West, Killeen, Tex. 76541, File No. 387R 431BH70086 for the improvement of a noncommercial educational radio KNCT–FM on 91.3 MH z, Killeen, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $29,756. Application signed by Phillip R. Schwartz, Vice President

University of Texas at Austin, P.O. Box 7158, Austin, Tex. 78712. File No. 389–R 413BH70095 for the improvement of a noncommercial educational radio station KUT–FM on 90.5 MH z, Austin, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $181,968. Grant requested: $136,468 Application signed by: H Eldon Sutton, Vice President for Research

Alvin Community College, 3110 Mustang Road, Alvin, Tex. 77511, File No. 390–R 413-BH700104 for the establishment of a noncommercial educational radio station KACC on 91.3 MH z, Alvin Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $69,446. Grant requested: $50,585. Application signed by: Dr. Rodney Allbright, President.

Public Communications Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 388–R 413BH-70024 for the improvement of the FCC authorized sub-channel service of station KERA on 90.9 MH/z, Dallas, Tex., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977 Estimated total project costs: $209,760 Grant requested: $157,320. Application signed by: Edward J. Pfister, President

University of Alabama in Birmingham, 1028 7th Avenue South, Birmingham, Ala. 35294, File No. 371–R 413BH70013 for the improvement of the FCC authorized sub-channel service of radio station WBHM, 90.3 MH z Birmingham, Ala., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $112,500. Grant requested $84 375. Application signed by: Dr. Donald E. Kiely, Coordinator, Sponsored Programs

University of South Florida (WUSF–FM) Division of Sponsored Research, Tampa Fla. 33620. File No. 372–R 413BH70129 for the improvement of the FCC authorized sub-channel service of radio station WUSF, 89.7 MH z, Tampa, Fla., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,500. Grant requested: $37 - 875. Application signed by: William H. Taft Director of Research.

Greater Washington Telecommunications Association, Inc., Box 2620 Washington, D.C.

20013, File No. 363–R/413BH70094 for the improvement of the FCC authorized sub-channel service of radio station WETA–FM, 90.9 MH/z, District of Columbia, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $26,756. Grant requested: $20,067. Application signed by: Ward B. Chamberlin, Jr., President.

Board of Trustees for Michigan State University, East Lansing, Mich. 48824, File No. 364–R/413BH70045 for the improvement of the FCC authorized sub-channel service of radio station WKAR–FM, 90.5 MH/z, East Lansing, Mich., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $19,654. Grant requested: $15,729. Application signed by: E. G. Ballard.

Milwaukee Board of School Directors, P.O. Drawer 10–K, Milwaukee, Wis. 53201, File No. 365–R/413BH70056 for the improvement of the FCC authorized sub-channel service of radio station WYMS, 88.9 MH/z, Milwaukee, Wisconsin, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $16,500. Grant requested: $13,000. Application signed by: J. T. Marcussen.

Greater Toledo ETV Foundation, 415 North St. Clair Street, Toledo, Ohio 43604, File No. 366–R/413BH70128 for the improvement of the FCC authorized sub-channel service of radio station WGTE, 91.3 MH/z Toledo, Ohio, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $3,220. Grant requested: $2,965. Application signed by: Robert G. Smith.

Hutchinson Community Junior College, 1300 North Plum, Hutchinson, Kan. 67501, File No. 236–R/413BH70110, accepted as of December 12, 1975 for the expansion of a noncommercial radio station KHCC–FM operating on 90.1 MH/z, Hutchinson, Kansas, is amended to include additional apparatus necessary to distribute programming utilizing sub-carrier authority. Amended estimated total project costs: $223,247. Amended grant requested: $174,935. Application signed by: G. L. Cooper, Academic Dean.

Amistad Productions, Inc., 2400 Cascade Road, S.W., Atlanta, Ga. 30311, File No. 536–T/413AH70012, accepted as of December 12, 1975 for the establishment of a noncommercial educational television station on Channel 57, Atlanta, Georgia, has been amended as of April 25, 1977 for an estimated total project costs: $1,010,819. Grant requested: $758,114. Application signed: Dan P. Young, Chairman.

(47 U.S.C. 390–95; 397–99.)

(Catalog of Federal Domestic Assistance Program No. 13.413, Educational Broadcasting Facilities Program.)

This notice issued in Washington, D.C.

Dated: August 9, 1977.

JOHN ELLIS,
Acting Commissioner of Education.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 16358]

ALABAMA

Proposed Withdrawal and Reservation of Lands; Correction

In 42 FR 17533 of April 1, 1977, paragraph 9 of FR Doc. 77–9692 should read:

8. Youth hostels.
9. Canal barge permit, North Branch.
10. Construction projects, Widewater area and Oldtown.
11. Ferry Hill renovations.
12. Lockhouse 7.
13. Access to town campground at Brunswick.
14. Committee reports.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-23464 Filed 8-12-77;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Wednesday, Septembtr 14, 1977, at 7:30 p.m., at the Great Falls Tavern, C&O Canal National Historical Park, Great Falls, Maryland.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.
Mrs. Bonnie Troxell, Cumberland, Md.
Miss Nancy Long, Glen Echo, Md.
Mrs. Constance Morella, Bethesda, Md.
Mr. Kenneth Rollins, Brookmont, Md.
Mr. Vladimir A. Wahbe, Baltimore, Md.
Mr. Edwin F. Wesely, Jr., Brookmont, Md.
Mr. James B. Coulter, Annapolis, Md.
Mrs. Dorothy Grotos, Arlington, Va.
Mr. James H. Gilford, Frederick, Md.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Dayton C. Casto, Jr., Great Cacapon, W. Va.
Mr. Silas F. Starry, Shepherdstown, W. Va.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.
Mr. John C. Frye, Gapland, Md.
Mrs. Kenneth Pohlmann, Dickerson, Md.

The matters to be discussed at this meeting include:

1. Call to order and roll call.
2. Approval of minutes, April 14, 1977.
3. Committee and functional statements.
4. Liaison between committees.
5. Presentation on developments in Georgetown.
6. Status of FY 1977 and 1978 Land Heritage Program projects.
7. Package No. 222, Land Heritage Program proposals.

The meeting will be open to the public. However facilities and space for accommodating members of the public are limited and it is expected that not more than 20 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, MD 21782, telephone area code 301–432–2231. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 5, 1977.

MANNS J. FISH, JR.,
Regional Director,
National Capital Region.

[FR Doc.77-23446 Filed 8-12-77;8:45 am]

[Order No. 3]

FIRE ISLAND NATIONAL SEASHORE

Administrative Officer, et al.; Delegation of Authority Regarding Execution of Contracts and Purchase Orders for supplies, equipment and services

1. Administrative Officer. The Administrative Officer, Fire Island National Seashore, New York may execute, approve and administer contracts not in excess of $25,000 for supplies, equipment or services in conformity with applicable regulations and stautory authority and subject to the availability of appropriated funds.

2. General Supply Assistant. The General Supply Assistant, Fire Island National Seashore, New York may issue purchase orders not in excess of $10,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

3. This order supersedes Order No. 2 dated April 21, 1972 (37 FR 11735), (National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 2 (42 FR 27687).)

Dated: July 8, 1977.

RICHARD W. MARKS,
Superintendent, Fire Island National Seashore.

[FR Doc.77-23448 Filed 8-12-77;8:45 am]

[Order No. 4]

CHIEF, ADMINISTRATIVE MANAGEMENT, PROCUREMENT AND PROPERTY MANAGEMENT OFFICER AND PURCHASING AGENT, GRAND CANYON NATIONAL PARK, ARIZONA

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, and Services

Section 1. Chief, Administrative Management. The Chief of Administrative Management may execute, approve, and administer contracts and issue purchase orders not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 2. Procurement and Property Management. The Procurement and Property Management Officer may execute, approve, and administer contracts and issue purchase orders not in excess of $50,000, for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 3. Purchasing Agent. The Purchasing Agent may execute, approve, and administer contracts and issue purchase orders not in excess of $10,000, for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 4. This authority may be exercised by the incumbents of the positions in sections 1, 2, and 3 in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds in behalf of any area under the supervision of the Superintendent of Grand Canyon National Park.

Section 5. Redelegation. The authority delegated in this Order No. 4 may not be redelegated.

Section 6. Revocation. This order supersedes Order No. 3, dated September 9, 1972, published in 37 FR 176 [National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended and Order No. 7, Superintendent et al. Western Region (37 FR 6326) as amended.]

Dated: July 29, 1977.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

MERLE E. STITT,
Superintendent.

JUNE 27, 1977.

[FR Doc.77-23451 Filed 8-12-77;8:45 am]

[Order No. 4]

JEFFERSON NATIONAL EXPANSION MEMORIAL; PURCHASING AGENT

Delegation of Authority Regarding Purchasing Authority

Sec. 1. *Purchasing Agent.* The Purchasing Agent may issue purchase orders and enter into contracts not in excess of $10,000 for supplies or equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 2. *Revocation.* This order supersedes Section 2 of Order No. 3, Jefferson National Expansion Memorial, dated May 8, 1972 and published at 37 FR 12733, dated June 28, 1972.

(National Park Service Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: June 28, 1977.

ROBERT S. CHANDLER,
Superintendent, Jefferson National Expansion Memorial.

[FR Doc.77-23450 Filed 8-12-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Pfizer Inc. has filed a plan of operations in support of proposed mining activities on lands embracing its Mammoth Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: July 15, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: August 3, 1977.

JOHN H. DAVIS,
Regional Director,
Western Regional Office.

[FR Doc 77-23453 Filed 8-12-77;8:45 am]

[Order No. 2]

OLYMPIC NATIONAL PARK; ASSISTANT SUPERINTENDENT, ET AL.

Delegation of Authority

Section 1. *Assistant Superintendent.* The Assistant Superintendent is delegated authority as follows:

(a) The Assistant Superintendent may execute and approve contracts not in excess of $100,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

(b) The Assistant Superintendent may approve Area Travel Authorizations and Specific Trip Authorizations.

(c) The Assistant Superintendent may designate who shall wear uniforms and what kind and approve allowances for the same.

Section 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

Section 3. *Procurement Agent.* The Procurement Agent may issue purchase orders not in excess of $10,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 4. *Procurement Clerk (typing).* The Procurement Clerk may issue purchase orders not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 5. *Revocation.* This order supersedes all previous delegations of authority issued by the Superintendent of Olympic National Park.

(National Park Service Order No. 77, 38 FR 7478, published March 22, 1973, as amended; Pacific Northwest Region Order No. 3, 37 FR 6325, published March 28, 1972, as amended.)

Dated: July 28, 1977.

JAMES W. COLEMAN, JR.,
Superintendent,
Olympic National Park.

[FR Doc 77-23449 Filed 8-12-77;8:45 am]

[Order No. 1]

PARK RANGER, PUUKOHOLA HEIAU NATIONAL HISTORIC SITE

Delegations of Authority Regarding Execution of Purchase Orders, Supplies, Equipment, and Services

Section 1. *Park Ranger.* The Park Ranger may issue purchase orders not in excess of $300.00 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 2. Redelegation. The authority delegated in this Order No. 1 may not be redelegated.

(National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended and Order No. 7, Superintendent et al Western Region (37 FR 6326) as amended.)

Dated: July 18, 1977.

JERRY Y. SHIMODA,
Superintendent,
Puukohola Heiau NHS.

Dated: July 29, 1977.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc 77-23447 Filed 8-12-77;8:45 am]

[Order No. 1]

VALLEY FORGE NATIONAL HISTORIC PARK

Delegation of Authority Regarding Purchasing Authority; Administrative Officer, et al.

Section 1. Administrative Officer: The Administrative Officer may issue purchase orders and enter into contracts not in excess of $25,000 for supplies, construction, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 2. General Supply Specialist: The General Supply Specialist may issue purchase orders not in excess of $2,000 for supplies, materials, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Dated: June 14, 1977.

H. GILBERT LUSK,
Superintendent.

FR Doc 77-23452 Filed 8-12-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-169-172]

ANIMAL GLUE AND INEDIBLE GELATIN FROM YUGOSLAVIA, SWEDEN, THE NETHERLANDS, AND WEST GERMANY

Investigation and Hearing

Having received advice from the Department of the Treasury on June 29, 1977, that animal glue and inedible gelatin from Yugoslavia, Sweden, the Netherlands, and West Germany (except that produced and sold by Electro Chemische Fabric Kempen G.m.b.H. of West Germany) are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on August 8, 1977, instituted investigations Nos. AA1921-169, 170, 171, and 172, respectively, under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 10 a.m., e.d.t., on Thursday, September 15, 1977, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. All persons shall have the right to appear by counsel or in person, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d), of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 8, 1977.

By order of the Commission.

Issued: August 10, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc 77-23477 Filed 8-12-77;8:45 am]

MARINE MAMMAL COMMISSION

PRIVACY ACT OF 1974

The purpose of this document is to give notice that the systems of records identified in a notice published in the FEDERAL REGISTER at 41 FR 39731, as amended by a notice published at 41 FR 50875, continue in effect. The only subsequent change is in the location of the systems of records listed as Systems MMC-1 and MMC-3. This notice is published in accordance with Section 3 of the Privacy Act of 1974, 5 U.S.C. Section 552a(e)(4).

AUGUST 8, 1977.

JOHN R. TWISS, Jr.,
Executive Director.

CONTENTS

MMC-1—Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC.
MMC-2—Personnel Files on Current, Past, and Prospective Employees and Members of the Marine Mammal Commission and its Committee of Scientific Advisors—MMC.
MMC-3—Research Proposals and Contracts—MMC.
MMC-4—General Financial Records—MMC.
MMC-5—Payroll records—MMC.
Appendix MMC.

MARINE MAMMAL COMMISSION

PRIVACY ACT OF 1974

Systems of Records

Note: Systems of records for the Marine Mammal Commission are current as of September 15, 1976.

MMC—1

System name:

Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC

System location:

Commission Offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff,
108 Zoology Building,
University of Minnesota,
Minneapolis, Minnesota 55455.

Dr. Douglas G. Chapman,
College of Fisheries,
University of Washington,
Seattle, Washington 98195.

Dr. Richard A. Cooley,
Division of Environmental Studies,
University of California,
Santa Cruz, California 95064.

Committee of Scientific Advisors Members' Offices, presently:

Dr. Robert L. Brownell, Jr.,
National Fish and Wildlife Laboratory,
USNM, Smithsonian Institution,
Washington, D.C. 20560.

Dr. Paul K. Dayton,
Asst. Professor of Oceanography,
Scripps Institution of Oceanography,
La Jolla, California 92037.

Dr. L. Lee Eberhardt,
2528 West Klamath Avenue,
Kennewick, Washington 99336.

Mr. Karl W. Kenyon,
11990 Lakeside Place, N.W.,
Seattle, Washington 98125.

Mr. John H. Prescott,
New England Aquarium,
Central Wharf,
Boston, Massachusetts 02110.

Dr. Clayton E. Ray,
National Museum of Natural History,
Smithsonian Institution,
Washington, D.C. 20560.

Dr. Sam H. Ridgway,
Biomedical Division,
Naval Undersea Center,
San Diego, California 92132.

Dr. Tim D. Smith,
Department of Zoology,
University of Hawaii at Manoa,
Honolulu, Hawaii 96822.

Categories of individuals covered by the system:

Individuals who have submitted applications, as required by the Marine Mammal Protection Act of 1972 and regulations of the Departments of Interior and Commerce, for permits to take or import marine mammals or to import marine mammal products.

Categories of records in the system:

Name, mailing address, telephone number, date of birth, height, weight, color of hair, color of eyes, sex, business or institutional affiliation, education and/or experience of the applicant which qualifies him/her to conduct the proposed activities.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Information contained in permit applications is used by the Commission, its Committee of Scientific Advisors, the Executive Director and his staff for the purpose of reviewing such applications and making recommendations thereon, regarding proper disposition of the application, to the Secretaries of Commerce and Interior in order to carry out the duties assigned to the Commission by the Marine Mammal Protection Act of 1972. Subsequent to final disposition of the application, records are maintained for use in connection with the review of future applications submitted by the same individuals. The records contained in the system also are available for inspection by members of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Maintained in 8½ by 11 inch folders in verticle file.

Retrievability:

Manual—indexed by name of applicant.

Safeguards:

Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal:

Records will be retained in the Commission offices during the life of the Commission. Copies forwarded to the offices of individual Commissioners and Committee members are disposed of after disposition of the permit application, or at such other times as are deemed appropriate by the Commissioners and Committee members.

Method of disposal:

No particular method of disposal is followed.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Part 502.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject applicants.

MMC—2

System name:

Personnel files on current, past and prospective employees and members of the Marine Mammal Commission and its Committee of Scientific Advisors—MMC.

System location:

Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Categories of individuals covered by the system:

Present and past employees, individuals who have submitted solicited or unsolicited applications for employment, members of the Commission and Committee of Scientific Advisors, and individuals who have been invited to submit personal information for consideration as a potential member of the Committee.

Categories of records in the system:

Name, address, telephone number, educational background, employment history, special employment qualifications, honors and awards, research and other activities relating to position, publications, letters of recommendation, and memoranda regarding conversations between Commission staff members and previous employers concerning quality of job performance.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Information contained in the system is used, in conjunction with data supplied on Standard Civil Service Commission forms, for the purpose of assessing the qualification of subject individuals for appointment to the various positions described above. The Chairman of the Commission, the Executive Director, and the Administrative Officer are authorized users of the System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in 8½ by 11 inch folders in a locked vertical file.

Retrievability:

Manual—indexed by name.

Safeguards:

The system is maintained in a locked, metal safe, the access combination to which is known only by the Executive Director, his Administrative Officer, and one member of his support staff. Other members of the staff have been instructed that they are under no circumstances to make any use of the system except in accordance with procedures promulgated by the agency pursuant to Subsection 552a (e)(4) of the Privacy Act.

Retention and disposal:

Records in the system will be retained during the life of the Commission.

Method of disposal:

No particular method of disposal is followed.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him, her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject individuals; former and or present employers of subject individuals; and others familiar with the individual and whom the individual has suggested as a reference.

MMC—3

System name:

Research proposals and contracts—MMC.

System location:

Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

Dr. Douglas G. Chapman, College of Fisheries, University of Washington, Seattle, Washington 98195.

Dr. Richard A. Cooley, Division of Environmental Studies, University of California, Santa Cruz, California 95064.

Committee of Scientific Advisors Members, Offices, presently:

Dr. Robert L. Brownell, Jr. National Fish and Wildlife Laboratory, USNM, Smithsonian Institution, Washington, D.C. 20560.

Dr. Paul K. Dayton, Asst. Professor of Oceanography, Scripps Institution of Oceanography, La Jolla, California 92037.

Dr. L. Lee Eberhardt, 2528 West Klamath Avenue, Kennewick, Washington 99336.

Mr. Karl W. Kenyon, 11990 Lakeside Place, N.W., Seattle, Washington 98125.

Mr. John H. Prescott, New England Aquarium, Central Wharf, Boston, Massachusetts 02110.

Dr. Clayton E. Ray, National Museum of Natural History, Smithsonian Institution, Washington, D.C. 20560.

Dr Sam H. Ridgway, Biomedical Division, Naval Undersea Center, San Diego, California 92132.
Dr. Tim D. Smith, Department of Zoology, University of Hawaii at Manoa, Honolulu, Hawaii 96822.

Categories of individuals covered by the system:

Individuals who have submitted proposals to conduct scientific research, including those to whom research contracts have been awarded.

Categories of records in the system:

Name, address, telephone number, educational background, employment history, honors and awards, part research activities, publications, records of payments made to individuals pursuant to research contracts that have been awarded.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 USC 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Research proposals, containing personal qualifications information, are utilized by the Scientific Program Director and other members of the Commission staff, outside consultants, and Members of the Commission and the Committee for the purpose of determining the merit of such proposals. Records of contract payments are utilized by the Scientific Program Director, the Executive Director and his staff, and members of the Commission and Committee for purposes of budgeting, contract review, and evaluation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in 8½ by 11 inch folders in a vertical file.

Retrievability:

Manual—indexed by name.

Safeguards:

Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal:

Records in the system will be retained during the life of the Commission.
Method of disposal: None.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject individuals, Research Program Director, and other Commission personnel administering contract payments.

MMC—4

System name:

General Financial Records—MMC.

System location:

General Services Administration, Central Office; copies held by the Commission. (GSA holds records for Commission under contract.)

Categories of individuals covered by the system:

Commission employees.

Categories of records in the system:

SF 1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System OAD P 1820.2)/

System manager(s) and address:

Executive Director; Marine Mammal Commission, 1625 I Street NW., Washington D.C. 20006. Room 307.

Notification procedure:

See Commission access regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

See Commission regulations in 50 CFR Part 501.6 through 501.8.

Record source categories:

The subject individual; the Commission.

MMC —5

System name:

Payroll records—MMC.

System location:

General Services Administration, Region 3 Office; copies held by the Commission (GSA holds for Commission under contract.)

Categories of individuals covered by the system:

Past and present Commission employees. 96

Varied payroll records, including among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions, tax forms: W2 forms; overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix. Records also are released to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, Marine Mammal Commission, 1625 I Street NW., Room 307, Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director of the Marine Mammal Commission.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with section 7 of the Privacy Act, Pub. L. 93–579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with HB GSA Records Maintenance and Disposition System (OAD P 1820.2)/

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Washington, D.C. 20006.

Notification procedure:

See Commission access regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

See Commission regulations in 50 CFR Part 501.6 through 501.8.

Record source categories:

The subject individual; the Commission.

APPENDIX MMC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

Disclosure may be made, as a routine use, to a Congressional office from the record of an individual contained in any of the Commission's systems in response to an inquiry from the Congressional office made at the request of that individual.

[FR Doc.77-23465 Filed 8-12-77 8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on September 13–14, 1977, at the Offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9:00 a.m. daily in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. The Board will also discuss share insurance and other aspects of the Administration.

A discussion of legislative activities will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

LORENA C. MATTHEWS,
Acting Administrator.

AUGUST 10, 1977.

FR Doc 77-23478 Filed 8-12-77 8:45 am

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE ATLANTIC GENERATING STATION

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Atlantic Generating Station will hold a meeting on August 31, 1977 at the Colony Resort Motel, Boardwalk at Indiana Avenue, Atlantic City, NJ 08401. The purpose of this meeting is to continue the ACRS review of this project.

The agenda for subject meeting shall be as follows:

WEDNESDAY, AUGUST 31, 1977
8:30 a.m. - Until conclusion of business
(Open)

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Offshore Power Systems and their consultants, and will hold discussions with these groups pertinent to the review.

The technical matters to be discussed at this meeting are related to the following:

1. Selection of the design basis hydrologic events.
2. Selection of the safe shutdown earthquake.
3. Stability of soils.
4. Breakwater design.
5. Mooring system design.

Subsequent meeting(s) will be scheduled to cover the remainder of the matters needed to complete the ACRS review.

At the conclusion of these sessions, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 24, 1977 to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street, NW, Wash., DC 20555, and at the Stockton State College Library, Pomona, NJ 08240.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 29, 1977 to the Office of the Executive Director of the Committee (telephone 022/634-1374, Attn: Mr. Gary R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional informational may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Gary R. Quittschreiber, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 7 and November 30, 1977, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Stockton State College Library, Pomona, NJ 08240.

Copies may be obtained upon payment of appropriate charges.

Dated: August 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23512 Filed 8-12-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS JOINT MEETING OF THE ACRS SUBCOMMITTEES ON THE SAN JOAQUIN NUCLEAR PROJECT, THE SKAGIT NUCLEAR PROJECT AND SEISMIC ACTIVITY

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittees on the San Joaquin Nuclear Project, the Skagit Nuclear Project, and Seismic Activity will hold a joint meeting on September 1 and 2, 1977 at the Sheraton Inn, 1177 Airport Boulevard, San Francisco, CA 94010. The purpose of this meeting is to review matters relating to the geology, seismology, and hydrology of the proposed San Joaquin site; to review matters relating to the evaluation of the 1872 Wenatachee earthquake; and to review matters relating to the geology and seismology of the proposed Skagit site.

The agenda for subject meeting shall be as follows:

THURSDAY, SEPTEMBER 1, AND FRIDAY, SEPTEMBER 2, 1977

8:30 a.m.—Until conclusion of business each day. (Open.)

The Subcommittees will hear presentations by representatives of the Los Angeles Department of Water and Power, the Puget Sound Power and Light Company, the NRC Staff, the U.S. Geological Survey, and their consultants, and will hold discussions with these groups pertinent to the above listed reviews.

The Subcommittees, in connection with the above meeting, may hold one or more open Executive Sessions with their consultants in order to explore their opinions and recommendations.

At the conclusion of these sessions, the Subcommittees may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the projects are ready for review by the full Committee. Upon conclusion of this caucus, the Subcommittees will announce their determination.

In addition, it may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring matters involing proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of this meeting is empowered to conduct it in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACSR meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 20 readily reproducible copies to the Subcommittees at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 25, 1977 to Dr. Andrew L. Bates, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street, NW., Wash., D.C. 20555; at the Kern County Library, 1315 Truxtun Avenue, Bakersfield, CA 93301; and at the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, WA 98294.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittees will receive oral statements on topics relevant to their purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 30, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Atten: Dr. Andrew L. Bates) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittees, their consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Andrew L. Bates, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 9 and December 3, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, at the Kern County Library, 1315 Truxtun Avenue, Bakersfield, CA 93301, and at the Sedro Wooley Library, 802 Bass Avenue, Sedro Wooley, WA 98294.

Copies may be obtained upon payment of appropriate charges.

Dated: August 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23513 Filed 8-12-77;8:45 am]

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.; POWER AUTHORITY OF THE STATE OF NEW YORK

Availability of Draft Environmental Statement on the Preferred Closed Cycle Cooling System for Installation at Indian Point Nuclear Generating Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the preferred closed cycle cooling system for installation at Indian Point Unit No. 3, located in Westchester County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548. The Draft Statement (NUREG-0296) is also being made available at the New York State Division of the Budget, State Capitol, Albany, New York 12224 and the Tri-State Regional Planning Commission, 1 World Trade Center, New York, New York 10048. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Document Control.

The Applicant's Environmental Report, as supplemented, submitted by the Consolidated Edison Company of New York, Inc., is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on March 29, 1976 (41 FR 12933).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report and the Draft Environmental Statement for the Commission's consideration. Federal State, and specified local agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement. Other interested persons or local agencies may obtain these documents upon request. Comments are due by October 3, 1977. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commis-

sion, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland this 4th day of August 1977.

For the Nuclear Regulatory Commission,

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-23514 Filed 8-12-77;8:45 am]

EXECUTIVE DIRECTOR FOR OPERATIONS

Termination of Authority Delegation

On June 30, 1977, the Nuclear Regulatory Commission (NRC) made an expanded delegation of authority to its Executive director for Operations "• • • to take effect on July 1, 1977, and to continue until a Commission quorum is constituted." 42 FEDERAL REGISTER 33390 (June 30, 1977). On August 9, 1977, Dr. Joseph M. Hendrie was sworn in as the Chairman of the NRC. As a result, on that date the statutory quorum of three NRC Commissioners. 42 U.S.C. 5841, was reconstituted. Accordingly, the June 30 delegation of authority terminated as of that date and is no longer in effect. Pursuant to Paragraph 2 of the Delegation, 42 FEDERAL REGISTER 33391, unless hereafter extended by the Commission, the time for consideration of all properly filed petitions for review of decisions of an Atomic Safety and Licensing Appeal Board and for review on its own motion of decisions of a Board began to run on August 9, 1977.

Dated at Washington, D.C. this 12th day of August 1977.

For the Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-23612 Filed 8-12-77;9:48 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 5, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

United States Travel Service, Federal Assistance Application Form, USTS-1, on occasion, State, city and private nonprofit, Lowry, R. L., 395-3772.

National Oceanic and Atmospheric Administration, EDS Programs Benefit-Cost Study Questionnaire, single time, users of EDS services, economics and general Government division, Raynsford, R., 395-3451.

DEPARTMENT OF DEFENSE

Department of the Air Force, Description of Vessels/Description of Operations, Engr. 3931, 3931A, annually, commercial vessel operators, Warren Topelius, 395-5872.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Aviation Automated Observation System (AVAWOS) User Opinion Survey, single time, pilots and other weather users in Newport News vicinity, Raynsford, R., 395-3814.

Federal Highway Administration:

State Motor Vehicle Registration Fees and Other Receipts, initial distribution by collecting agencies, PR-566, annually, 50 States, District of Columbia, Puerto Rico, and Guam, Strasser, A., 395-5867.

State Drivers' Licenses and Fees, PR-562, annually, 50 States, District of Columbia, Puerto Rico, American Samoa, and Guam, Marsha Traynham, 395-4529.

State Motor Fuel Tax Receipts and Initial Distribution by Collection Agencies, PR-556, annually, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

Local Road and Street Finance Report, PR-535, annually, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

State Highway Expenditures Within Standard Metropolitan Statistical Areas, PR-532B, annually 48 States, District of Columbia, and Puerto Rico, Strasser, A., 395-5867.

Driver's Log, MCS-139, 139A, on occasion, drivers of interstate motor carriers of property and passengers, Strasser, A., 395-5867.

Federal Aviation Administration, Aviation Review Conference Questionnaire, FAA-1800OT, single time, aviation community, Strasser, A., 3 -5867.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Report on Current Upward Bound Student, OE-1196, on occasion, colleges and universities, Kathy Wallman, 395-6140.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, (a) establishment information, (b) Wage Data, (c) Quarterly Report, (d) Benefit Document, (e) Benefit Change Document, 3076, refinement survey, 3038A-E 3076, -77, quarterly, private nonfarm establishments excluding households and governments, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Proposed Turnkey Project Description, HUD 5090, other (see SF-83), local public housing agencies, Marsha Traynham, 395-4529.

EXTENSIONS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, contracts awarded—force account construction authorized, PR-525, monthly, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-23528 Filed 8-12-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/08/77 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Distributors' Questionnaire (Bolts, Nuts, and Large screws of Iron or Steel, single time, business firms, Evinger, S. K., 395-3710.

DEPARTMENT OF AGRICULTURE

Forest Service, Economic Importance of Wildland Recreation in Montana, single time, business firms serving wildland recreationists, Gaylord Worden, 395-4730.

Economic Research Service, Request for Proposed Surveys on Control of Cotton and Citrus Pests, singe time, cotton and citrus producers, Gaylord Worden, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Endorsement of Defaulted Notes (National Direct Student Loan Program), on occasion, institutions of postsecondary education, Kathy Wallman, 395-6140.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, LEAA—Standards and Goals National Assessment Report Form, single time, selected LE/CJ agencies in 27 states, George Hall, 395-6140.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Farmers' Questiannaire, single time, farmers in study area, Strasser, A., 395-5867.

Country Grain Elevator Operators Questionnaire, single time, country elevator operators, Strasser, A., 395-5867.

Terminal Grain Elevator Operators Questionnaire, single time, terminal grain elevator operators, Strasser, A., 395-5867.

REVISIONS

RAILROAD RETIREMENT BOARD

Employee Annuitant's Statement Regarding Family and Earnings, G-319, on occasion, employee annuitant, Warren Topelius, 395-5872.

Statement of Spouse of Employee Annuitant, G-318, on occasion, spouse of employee annuitant, Warren Topelius, 395-5872

Statement Regarding Student Age 18-22, G-320, on occasion, employee annuitant, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Agriculture Research Service, 1977-78 Nationwide Survey of Household Food, single time, nonresponse households, Human Resources Division, Gaylord Worden, 395-3532.

Statistical Reporting Service:

Peanut Variety Survey—Virignia, SRSCE 613, annually, peanut growers, Gaylord Worden, 395-4730.

Survey of Flue-Cured Tobacco Varieties (Virginia), annually, tobacco growers, Gaylord Worden, 395-4730.

Tobacco Surveys, other (see SF-83), Tobacco growers, Gaylord Worden, 395-4730.

DEPARTMENT OF COMMERCE

Bureau of Census:

Margarine (Manufacturer's Packaging Operations), M20R, annually, margarine manufacturers, Marsha Traynham, 395-4529.

Carpet and Rugs, MQ-22Q, annually, manufacturers of carpet and rugs, Marsha Traynham, 395-4529.

Cotton, Manmade Fiber Staple and Raw Linters, (consumption and stocks, and spindle activity), MA-22P, annually, manufacturing plants consuming raw cotton and manmade fiber, Peterson, M. O., 395-5631.

DEPARTMENT OF DEFENSE

Department of the Air Force, Defense Small Business Subcontracting Program Quarterly, report, DD1140-1, quarterly, all with Government contracts over $500,000, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, lenders request for payment of interest on student loans, OE-1166 and 1166-2, on occasion, participating lending institutions, Kathy Wallman, 395-6140.

FOOD AND DRUG ADMINISTRATION

Food and Drug Administration, Resource Data for State Food and Drug Programs, FD 2525, on occasion, FDA related State agencies, Richard Eisinger, 395-6140.

Health Care Financing Administration, Hospital Survey Report (Utilization Review), HCFA-1538, on occasion, hospitals participating in medicare or medicaid, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Stone, 6-1220-A, annually, small producers of stone, Warren Topelius, 395-5872.

COMMUNITY SERVICES ADMINISTRATION

Project Progress Review Report, CSA-440, semi-annually, private nonprofits organizations and units of government, Budget Review Division, Lowry, R. L., 395-4775

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:

Marketing and Payment Report (Milk), ASCS-374, on occasion, dairy farmers, Marsha Traynham, 395-4529.

Regulations—Milk Indemnity Payment Program (For farmers who remove milk from the market due to its pesticide content), on occasion, dairy producers, Marsha Traynham, 395-4529.

Application for Milk Indemnity Payment (For farmers who remove milk from the market due to its pesticide content), ASCS-373, on occasion, dairy farmers, Human Resources Division, Gaylord Worden, 395-3532.

DEPARTMENT OF DEFENSE

Department of the Air Force:

Request for Secondary School Transcript, on occasion, candidates for service academies, Marsha Traynham, 395-4529.

Nomination for Appointment, on occasion, Vice President, Members of Congress and other authorized sources, Marsha Traynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Food Canning Establishment and Process Filing for Other Than Still Retort and Agitating Processes, FD 2541 C, on occasion, low-acid canned food processors, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:

Title I Dealer/Contractor Application, FH-13, on occasion, contractors and suppliers, Housing, Veterans and Labor Division, Larry Haber, 395-3532.

Outline Specification, Low-Rent Public Housing, HUD-5087, on occasion, Developers and Public Housing Agencies, Marsha Traynham, 395-4529.

Contractors Certificate of Actual Cost, FHA 2330-A, on occasion, Mortgagors of HUD-insured housing projects, Sunderhauf, M. B., 395-6140.

Mortgagors Certificate of Actual Cost, FHA 2330, on occasion, Mortgagors of HUD-insured housing projects, Sunderhauf, M. B., 395-6140.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-23529 Filed 8-12-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9881; 811-2425]

CONSOLIDATED INVESTORS TRUST

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 8, 1977.

Notice is hereby given that Consolidated Investors Trust, 4601 Ponce de Leon Boulevard, Coral Gables, Florida 33146 (formerly known as Consolidated Investors Real Estate Trust) ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management company, filed an application on June 27, 1977, and an amendment thereto on July 21, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the Act by filing a Form N-8A Notification of Registration on October 29, 1973. Applicant represents that on June 22, 1977, a majority of its shareholders voted for the termination and liquidation of Applicant. Accordingly, Applicant's custodian, First National Bank of Boston, was directed to distribute all assets in cash to the holders of beneficial interest of the Applicant in proportion to their respective rights by no later than June 29, 1977. Applicant further represents that all of the assets have been distributed to the holders of beneficial interest.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an

order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23408 Filed 8-12-77;8:45 am]

[File No. 1-4359]

FALCON SEABOARD INC.

Application to Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the company has concluded that the costs of maintaining listings on both exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before August 25, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23409 Filed 8-12-77;8:45 am]

[File No. 81-268]

INTER-COMM DATA CORP.

Application and Opportunity for Hearing

AUGUST 5, 1977.

Notice is hereby given that Inter-Comm Data Corporation, ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, ("the Exchange Act") for an exemption from filing a Form 10-K required by the provisions of Sections 13 and 15(d) of the Exchange Act.

Section 13 provides that each issuer of a security which is registered pursuant to Section 12 of the Exchange Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current and quarterly reports.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the Exchange Act in respect of a security registered pursuant to Section 12 of the Exchange Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, and proxy solicitations provisions under Sections 12, 13 and 14 of the Exchange Act and to grant exemptions from the insider reporting and trading provisions of Section 16 of the Exchange Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states, in part:

1. At the end of its fiscal year on June 30, 1976, Applicant, a Delaware corporation, had outstanding one class of securities registered pursuant to Section 15(d) of the Exchange Act.

2. On February 14, 1977, the principal shareholders of Applicant's common stock exchanged all of such shares for an equivalent number of shares of HRD, Inc. ("HRD").

3. As a result, HRD became the majority shareholder of Applicant owning 81.3 percent of Applicant's issued and outstanding common stock.

4. On March 31, 1977, Applicant's shareholders approved a merger between HRD, and Applicant pursuant to which each outstanding share of Applicant's common stock (other than those owned by HRD) became entitled to receive $0.15 and was cancelled. Applicant's shares held by HRD were cancelled and the shares of HRD common stock (all of which were held by the principal shareholders) were converted into an equivalent number of shares of Applicant's common stock.

5. As a result of the above-described transactions all of Applicant's outstanding common stock is held by three shareholders.

In the absence of an exemption, Applicant would be required to file an annual report on Form 10-K for the fiscal year ended June 30, 1977.

Applicant argues that no useful purpose would be served in filing said report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than August 30, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should briefly state the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23410 Filed 8-12-77;8:45 am]

[File No. 81-278]

PLUS PRODUCTS

Application and Opportunity for Hearing

AUGUST 5, 1977.

Notice is hereby given that Plus Products ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from Section 15(d) of the 1934 Act.

Section 15(d) provides that each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt in whole or in part, any issuer or class of issuers from Section 15(d) if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. Applicant, a California corporation, merged into MGL Holdings Inc. effective April 25, 1977. MGL Holdings Inc., a California corporation, was a new, wholly-owned subsidiary of The MacDonald Group, Ltd., a privately held Nevada corporation. The public shareholders received cash for their shares. Upon effectiveness of the merger, Plus Products ceased existence as a separate corporate entity and the surviving corporation changed its name to Plus Products.

2. Pursuant to Section 15(d), Applicant is obligated to file all periodic reports with the Commission which may be applicable to its current fiscal year ending approximately December 31, 1977. The duty to file will be suspended as to succeeding years.

3. Applicant has no public shareholders.

4. The stock is not traded.

Accordingly, Applicant believes that the granting of the exemption would not be inconsistent with any public interest or the protection of any investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than August 30, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23411 Filed 8-12-77;8:45 am]

[Release No. 20133; 70-6040]

SOUTHERN CO. ET AL.

Proposed Issuance and Sale of Common Stock Pursuant to the System's Employee Stock Ownership Plan

AUGUST 8, 1977.

Notice is hereby given that The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia, a registered holding company; and its subsidiary companies, the Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Company Services, Inc., and the Southern Electric Generating Company have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), and 10 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are reffered to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to issue and sell from time to time through September 30, 1978, a maximum of $15,000,000 of its authorized but unissued common stock, par value $5 per share, in order to provide common stock to fund The Employee Stock Ownership Plan of the Southern Company System ("Plan"). Southern intends to apply the proceeds from the proposed sale of the common stock for further equity investments as authorized by this Commission (File No. 70-5978) and for other corporate purposes.

The application-declaration states that in order to encourage and assist employees of Southern's subsidiaries to acquire ownership of Southern's common stock and thereby promote in the employees a strong interest in the successful operation of The Southern Company System, Southern Company Services, Inc., Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Electric Generating Company (the "Employing Companies") have adopted the Plan, effective January 1, 1976, in accordance with Section 301(d) of the Tax Reduction Act of 1975, as amended, and Section 401(a) of the Internal Revenue Code of 1954, as amended. The Employing Companies will be entitled to an additional 1% investment tax credit which they otherwise would not be able to claim. Thus, in effect, money that would otherwise be paid in taxes is used, as described below, to provide employees with an ownership interest in Southern.

Under the Plan, the Employing Companies will, in each calendar year, obligate themselves to contribute cash or common stock of Southern having an aggregate value equal to 1 percent of the amount of their qualified investment in property in respect of which investment tax credit has been claimed by the Employing Companies in their consolidated Federal income tax return for the preceding year. The Plan will be administered by the Plan Committee, the members of which are appointed by the Board of Directors of Southern Company Services, Inc. Contributed cash and common stock will be held in trust (the "Trust") under the Employees' Stock Ownership Plan Agreement of Trust for the benefit of participating employees of the Employing Companies. Generally, each employee who has been employed at least one year and who is at least twenty-five years of age automatically participates in the Plan. (Union employees participate in the Plan only if their union representative and the Employing Company so agree.)

Cash contributed under the Plan is to be primarily invested in common stock of Southern. In addition, cash dividends paid on the common stock of Southern held in the Trust will, unless a participant elects to have dividends allocated to his account paid to him currently, be reinvested in additional shares of Southern's common stock. Common stock which the Employing Companies contribute to the Trust, as well as common stock purchased by the Trust, may be purchased on the open market or by private purchase, including purchases directly from Southern; however, it is currently anticipated that such common stock will be primarily purchased directly from Southern. The purchase price per share of common stock purchased by the Employing Companies or by the Trust (with contributed cash) will: (a) if the stock is purchased on the open market, be the market price thereof; (b) if the stock is purchased directly from Southern, be either (1) an amount equal to the closing price of Southern's common stock on the New York Stock Exchange for the trading day immediately preceding the date of purchase, or (2) the 20-Day Average, or (3) such other price, if any, as may be prescribed by the Internal Revenue Code of 1954, as amended, or by the Internal Revenue Service in rules or regulations relating to plans similar to the Plan; and (c) if the stock is purchased privately other than from Southern, be no greater than the highest of the prices specified in (b) above. In reinvesting cash dividends allocated to a participant's account, the Trust may purchase common stock under Southern's Dividend reinvestment and Stock Purchase Plan (at the price provided for in such plan), on the open market, or by private purchase, including purchases directly from Southern (at the prices described above).

All costs of establishment and administration of the Plan and the Trust, in excess of those costs allowed by the Internal Revenue Code of 1954 and the Tax Reduction Act of 1975 to be paid from contributions to the Trust, will be paid by the Employing Companies.

Under the Plan, the number of shares allocated to a participating employee's account with respect to any calendar year will generally be an amount which bears the same relation to the aggregate amount of all shares to be allocated with respect to that year as the amount of compensation (up to $100,000) actually paid to such participating employee during that year bears to the total compensation (up to $100,000 for each participating employee) paid to all participating employees during that year. Amounts credited to the account of a participant under the Plan shall be fully vested and nonforfeitable. Participants in the Plan are not allowed to make contributions thereto on their own behalf. Participants in the Plan (or their beneficiaries) receive the shares held in the Trust for their benefit only in the event that the participant ceases to be an employee or upon the showing by a participant of an unusual or special situation in his financial affairs requiring the withdrawal of shares.

Each employee who is a participant in the Plan will be entitled to direct the manner in which voting rights on shares of common stock credited to his or her account under the Plan are to be exercised. Shares for which voting instructions are not received will not be voted.

Fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 2, 1977, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-23412 Filed 8-12-77;8:45 am]

[File Nos. 2-52263 (22-8125) 2-57682 (22-9055)]

STANDARD OIL CO. AND SOHIO PIPE LINE CO.

Application and Opportunity for Hearing

AUGUST 9, 1977.

Notice is hereby given, That The Standard Oil Company (an Ohio corporation) ("Sohio") and Sohio Pipe Line Company (a Delaware corporation) ("Sohio Pipe Line") have filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York (the "Bank") under certain indentures which are qualified under the Act and under a new indenture which is not qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of such qualified indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

Sohio and Sohio Pipe Line allege that:

1. The Bank, as Trustee, has entered into (i) an Indenture dated as of December 1, 1974 (the "1974 Indenture") with Sohio/BP Trans Alaska Pipeline Finance Inc. (which name has since been changed to Sohio/BP Trans Alaska Pipeline Capital Inc.), a Delaware corporation ("Capital"), pursuant to which there has been issued $250,000,000 principal amount of Capital's 9¾% Debentures Due 1999 (the "Capital Debentures") and (ii) three indentures each dated as of December 1, 1976 (collectively, the "1976 Indentures") with Sohio pursuant to which Sohio issued $75,000,000 principal amount of its 6⅛% Notes due December 1, 1979, $75,000,000 principal amount of its 6½% Notes Due December 1, 1981 and $200,000,00 principal amount of its 7½% Notes Due December 1, 1986, respectively (collectively, the "Notes"). The 1974 Indenture was filed as Exhibit 4 to Registration Statement No. 2-52263 under the Securities Act of 1933 and the 1976 Indentures were filed as Exhibits 2 (a), (b) and (c) to Registration Statement No. 2-57682 under the Securities Act of 1933, and all of such Indentures have been qualified under the Act.

2. Capital is owned 67.8% by Sohio Pipe Line, a wholly-owned subsidiary of Sohio, and 32.2% by BP Pipelines Inc. ("BP Pipelines"), a wholly-owned subsidiary of The British Petroleum Company Limited ("BP"). Simultaneously with the issuance and sale of the Capital Debentures, Capital applied the proceeds thereof to the purchase of a note of Sohio Pipe Line (the "Sohio Pipe Line Note") in a principal amount equal to 67.8% of the Capital Debentures and a note of BP Pipelines in a principal amount equal to 32.2% of the Capital Debentures. The Sohio Pipe Line Note is guaranteed by Sohio and has been pledged to the Bank, as Trustee under the Capital Indenture, to secure payment of the Capital Debentures. The Capital Debentures are also secured by the pledge of rights under the completion agreement and throughout agreement of Sohio referred to below. Sohio is obligated with respect to 67.8% in principal amount of the Capital Debentures pursuant to its unsecured guarantee of the Sohio Pipe Line Note and it is also committed under a completion agreement and a throughput agreement with Sohio Pipe Line to advance funds sufficient to enable Sohio Pipe Line to pay its share of the construction costs of its interest in the Trans Alaska Pipeline System and all of its financial obligations, including those which relate to the Capital Debentures, as they become due. BP is obligated with respect to the remaining 32.2% in principal amount of the Capital Debentures.

3. On July 14, 1977, the City of Valdez, Alaska (the "City") and the Bank, as Trustee, entered into an Indenture dated as of July 1, 1977 (the "1977 Indenture") pursuant to which the City issued $350,000,000 aggregate principal amount of its 6% Marine Terminal Revenue Bonds (Sohio Pipe Line Company and BP Pipelines Inc. Projects) Series A, Due July 1, 2007 (the "Bonds"). The Bonds are being issued to provide funds for the acquisition, construction and equipping of certain docks, wharves and facilities directly related thereto and real property and interests therein constituting a portion of the Trans Alaska Pipeline System Marine Terminal (the "TAPS Marine Terminal") being constructed in Port Valdez in the City. The City has acquired a leasehold interest in a portion of the undivided interest of Sohio Pipe Line in the TAPS Marine Terminal (the "Sohio Pipe Line Project") pursuant to a Lease, dated as of July 1, 1977 (the "Sohio Pipe Line Lease"), between the City and Sohio Pipe Line, and the City has acquired a leasehold interest in a portion of the undivided interest of BP Pipelines in the TAPS Marine Terminal (the "BP Pipelines Project") pursuant to a Lease, dated as of July 1, 1977 (the "BP Pipelines Lease"), between the City and BP Pipelines. The City has subleased the Sohio Pipe Line Project to Sohio Pipe Line pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "Sohio Pipe Line Sublease"), between the City and Sohio Pipe Line, and the City has subleased the BP Pipelines Project to BP Pipelines pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "BP Pipelines Sublease"), between the City and BP Pipelines. The Bonds will be payable from and secured by subrents derived under the Sohio Pipe Line Sublease, which subrents will be sufficient to pay 67.8% of the principal of, premium, if any, and interest on the Bonds, and by subrents derived under the BP Pipelines Sublease, which subrents will be sufficient to pay 32.2% of the principal of, premium, if any, and interest on the Bonds. In addition, pursuant to a Guarantee Agreement, dated as of July 1, 1977 (the "Sohio Guarantee Agreement"), Sohio has guaranteed to the Trustee, for the benefit of the holders of the Bonds and of the coupons appertaining thereto, the payment of 67.8% of the principal of, premium, if any, and interest on the Bonds, and pursuant to a Guarantee Agreement, dated as of July 1, 1977 BP has guaranteed to the Trustee, for the benefit of the holders of the Bonds and of the coupons appertaining thereto, the payment of 32.2% of the principal of, premium, if any, and interest on the Bonds. The obligations of Sohio and BP under the Guarantee Agreements are several and not joint obligations of Sohio and BP, respectively. The Bonds have not been registered under the Securities Act of 1933 on the basis of the exemption provided by Section 3(a)(2) thereof, and the 1977 Indenture has not been qualified under the Act on the basis of the provisions of Section 304(b) thereof.

4. Section 6.08(c)(1) of each of the 1976 Indentures contains the provision permitted by the proviso of Section 310(b)(1) of the Act and specifically permits the Bank to act as Trustee under the 1974 Indenture, as well as under each of the other 1976 Indentures. Accordingly, no conflict is deemed to exist under the 1976 Indentures, each of which has been qualified under the Act, as a result of the Bank's acting as Trustee thereunder and under the 1974 Indenture. Under Section 8.09(c)(1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1976 Indentures and the 1974 Indenture if Sohio shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and the 1976 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under the 1977 Indenture if Sohio shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1976 Indentures and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures. Under Section 8.09(c)(1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1977 Indenture if Sohio and Sohio Pipe Line shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and under the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures.

6. No default has at any time existed under the 1974 Indenture, the 1976 Indentures or the 1977 Indenture. Sohio's Obligations in respect of the Capital Debentures, the Notes and the Bonds are wholly unsecured and rank equally pari passu. Sohio Pipe Line's obligations in respect of the Capital Debentures and the Bonds are wholly unsecured and rank equally pari passu. The 1974 Indenture (including the Sohio Pipe Line Note Purchase Agreement referred to therein) and the 1976 Indentures include covenants of Sohio relating to limitations on liens, sale and lease-back transactions, dividends and distributions on stock and consideration, merger and sale, all of which apply to the future. Except for the covenant relating to consolidation, merger and sale, there are no comparable covenants of Sohio included in the 1977 Indenture (including the Sohio Guarantee Agreement). The 1974 Indenture (including the Sohio Pipe Line Note Purchase Agreement referred to therein) includes covenants of Sohio Pipe Line relating to limitations on liens, sale and lease-back transactions and consolidation, merger and sale, all of which apply to the future. There are no comparable covenants of Sohio Pipe Line included in the 1977 Indenture (including the Sohio Pipe Line Lease and the Sohio Pipe Line Sublease).

7. Such differences as exist among the 1974 Indenture, the 1976 Indentures, and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of the said Indentures.

Sohio and Sohio Pipe Line have waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given, That any interested person may, not later than August 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary

[FR Doc 77-23411 Filed 8-12-77;8:45 am]

Release No. 34-13836; File No. SR-SCCP 77-11

STOCK CLEARING CORPORATION OF PHILADELPHIA

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 22, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Stock Clearing Corporation of Philadelphia (SCCP) proposes a rule change which will change its billing method from that of charging an all inclusive fee for each 100 share unit to a method of billing for individual services rendered. The revised fee schedule is attached hereto as Exhibit No. 1.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide unbundled clearing rates applicable to specific services in place of all inclusive blanket rates.

The proposed rule change provides an equitable allocation of dues, fees, and other charges among its participants in accordance with the standards set forth in Section 17A(b)(3)(D) of the Act.

Formal comments from members were solicited but not received.

Stock Clearing Corporation of Philadelphia believes that no burden on competition will be imposed by the proposed rule change. The proposed rate schedule

does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 5, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 8, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT 1.—TEXT OF PROPOSED RULE CHANGE

SCCP AND PHILADEP RATE SCHEDULE

1. ACCOUNT CHARGES

a. Brokers and dealers:	
Per clearing account, per month	$125.00
Per additional suffix, per month	5.00
Minimum transaction charge, per month	25.00
Per PHILADEP account, per month	None
Dues, non-PHLX member, per year	1,000.00
b. PHILADEP bank participants:	
Per PHILADEP account, per month	100.00
Minimum transaction charge, per month	150.00

2. TRADE RECORDING CHARGES

a. Brokers and dealers:	
Round-lots, per trade—regular	1.00
Odd-lots, per trade—regular	.50
Round-lots per trade-automated execution (note 1)	.25
Odd-lots per trade-automated execution (note 1)	.10
Weekly odd-lot netting	None
b. PHILADEP bank participants	
Odd- or round-lots, per trade	.50

3. SETTLEMENT CHARGES—CNS ITEMS

a. Brokers and dealers:	
DTC deliveries or receives trade-for-trades, with money (including 58 cents pass-through), per MDO	2.00
Physical deliveries or transfers, per item	2.00
Physical receives, per item	1.00
Movements between cash account or between cash accounts and PHILADEP depository	1.00
Weekly odd-lot netting	None
b. PHILADEP bank participants	2

4. SETTLEMENT CHARGES—CNS ACCOUNTS WITH PHILADEP

a. Brokers and dealers:	
CNS settlement with PHILADEP positions	None
b. PHILADEP bank participants	2

5. VALUE CHARGES

a. Brokers and dealers:	
Trade-for-trade—regular, per $1,000 of trade value	.05
CNS and other netted accounts—regular, per $1,000 of trade value	.02
Automated execution	None
Weekly odd-lot netting	None
b. PHILADEP bank participants	None

6. PHILADEP DEPOSITORY CHARGES

a. Brokers and dealers:	
Custody fee, per $1,000 of market value, per month ($600 monthly maximum)	.05
OCC pledge fee, per line item	.70
Bank loan pledge, per line item	1.85
Intra-PHILADEP movement, per line item (without money)	.85
Deposits through DTC interface (58 cents passthrough), per item	1.00
Deposits (physical), per item	.25
Order outs (by certificate, by transfer or to DTC), per item	1.00
b. PHILADEP bank participants:	
Custody fee	None
Deposits (physical), per item	.50
Order outs (by certificate), per item	2.00
Order outs (by transfer), per item	1.00

7. MISCELLANEOUS CHARGES

Member-to-member envelope service (plus carrier costs) for sender, per envelope	2.00
Draft charges (plus additional bank charges, if any), per item	0.50
Correspondent delivery and collection (CDCS):	
Per item	5.00
Per reclamation	6.00
Per item held overnight	6.00
Accommodation transfers, per 100 shares or $10,000 bond par value ($1 minimum)	.25
Legal transfers, per item	25.00
Signature guarantee program, per year	250.00
National transfer service:	
Per envelope for delivery to New York, New Jersey, Boston, Hartford, and Providence	2.50
Per envelope for delivery to all other areas (plus 5 cents per $1,000 of value	1.00
Rates unchanged	
Not applicable.	

NOTE.—Trade recording charges for automated execution trades have been suspended until such time as the trades can be delivered through interfaces without any interface charge being assessed to the member by the receiving clearing corporation.

[FR Doc.77-23414 Filed 8-12-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Book-of-the-Month Club, Inc., File No. 7-4966, Capital Stock—$1.25 Par Value.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23191 Filed 8-12-77;8:45 am]

[Release No. 20134; 3-5270 (54-256)]

BRITISH AMERICAN UTILITIES CORP. AND NORTH EAST HEAT AND LIGHT CO.

Filing of and Order for Hearing

AUGUST 9, 1977.

In the matter of British American Utilities Corp., 718 Ellicott Square Building, Buffalo, N.Y. 14203 and North East Heat & Light Co., 16 North Lake Street, North East, Pa. 16428, notice is hereby given that British American Utilities Corp. ("British American"), a registered holding company, and its sole and wholly-owned subsidiary, North East Heat & Light Co. ("North East"), have filed a plan with this Commission pursuant to Section 11(e) of the Public Utility Holding Company Act of 1935 ("Act") providing for the reorganization of the British American system. Sections 6, 7, 9, 10, 12 and 13 of the Act and Rule 62 promulgated thereunder have also been designated as applicable to the proposed transaction. All interested persons are referred to the plan, which is summarized below, for a complete statement of the proposed transaction.

The general purpose of the proposed plan is to liquidate British American as a corporate entity and exchange shares of North East for the outstanding shares of British American. British American presently has outstanding 620 of the 3,000 authorized shares of its preferred stock, par value $100 per share, and 2,802½ of the 4,500 authorized shares of its no par common stock. British American has 22 preferred shareholders and 20 common shareholders. North East presently has outstanding all of its 240 authorized shares of common stock, par value $100 per share; all of such stock is held by British American. Prior to the closing date, in order to bring its stock authorization into conformity with that of British American, North East will amend its Articles of Incorporation to authorize 3,000 shares of $100 par preferred stock and 4,500 shares of no par common stock.

At the closing North East will issue and deliver to British American, or to such persons as British American may designate, 620 shares of the newly authorized North East preferred stock and 2,802½ shares of the newly authorized North East common stock. British American will direct that the newly issued North East stock be delivered to the existing shareholders of British American to replace, on a share for share basis, the shares held by those shareholders.

At the closing British American will convey all of its properties, rights and assets to North East. At that time North East will assume all of British American's liabilities, contracts and obligations. Upon completion of the above transactions British American, then having no assets, will be liquidated.

British American states that if necessary it will make a request to the Commission, pursuant to the provisions of Section 11(e), that the Commission apply to a court, in accordance with Section 18(f), to enforce and carry out the provisions of the plan.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. All such fees will be paid by North East. The Pennsylvania Public Utilities Commission has jurisdiction over the proposed recapitalization of North East.

It is hereby ordered, That a hearing on this matter be held September 7, 1977, at 10:00 a.m., E.D.T., in Room 2416 of the office of the Securities and Exchange Commission, 1100 L Street, NW., Washington, D.C. 20549. Any person desiring to be heard in connection with this matter or proposing to intervene therein shall file with the Secretary of the Commission, on or before September 2, 1977, a written request relative thereto as provided in Rule 9 of the Commission's Rules of Practice. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of this proceeding.

It is further ordered, That an Administrative Law Judge, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under Section 18(c) of the Act and to a hearing officer under the Commission's Rules of Practice.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition, any issues or questions which may arise in these proceedings and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this notice and order by registered mail to British American and North East, and to the Pennsylvania Public Utilities Commission; that British American mail a copy of this notice and order to all public holders of record of its capital stock at least twenty days prior to the date of hearing; and that notice of said hearing be given to all other interested persons by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

For the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23121 Filed 8-12-77;8:45 am]

WESTERN AMERICA ENERGY CORP.

[File No. 500-1]

Suspension of Trading

AUGUST 8, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Western America Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended for the period from 10:00 a.m. (EDT) on August 8, 1977 through midnight August 17, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23414 Filed 8-12-77;8:45 am]

CONDEC CORP.

Application and Opportunity for Hearing

AUGUST 10, 1977

Notice is hereby given that Condec Corp. has filed an application under (i) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company under two indentures heretofore qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust Company from acting as trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstandstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The company alleges that:

(1) United States Trust Co. of New York ("U.S. Trust") is presently acting as trustee under an Indenture dated as of January 21, 1977 (the "1977 Indenture") between U.S. Trust as trustee and the company pursuant to which $12,069,600 principal amount of 10 percent Subordinated Debentures due April 15, 1977 (the "1977 Debentures") were outstanding as of May 31, 1977.

Bankers Trust Co. ("Bankers Trust") was the trustee under and Indenture dated as of December 1, 1971 ("1971 Indenture") between Bankers Trust and the company, pursuant to which $7,638,010 principal amount of 7¾ percent Con-

vertible Subordinated Debentures due December 1, 1996 (the "1971 Debentures"), were outstanding as of May 31, 1977. By letter dated June 24, 1977, Bankers Trust notified the company of its intention to resign as trustee under the 1971 Indenture pursuant to Section 8.10 thereof upon acceptance of appointment by a successor trustee. By resolution adopted on June 27, 1977, the Board of Directors of the company determined that if Bankers Trust resigns, U.S. Trust is appointed as successor trustee to Bankers Trust under the 1971 Indenture.

(2) The 1971 Indenture and the 1977 Indenture (the 1971 Indenture and the 1977 Indenture being collectively referred to herein as the "Indentures") were qualified under the Trust Indenture Act as No. 22-6807 and No. 22-9076, respectively. Each Indenture contains the provisions permitted by the proviso of Section 310(b)(1) of the Trust Indenture Act.

(3) The obligations of the company under the Indentures are wholly unsecured and each such obligation ranks equally with the other. The company is not in default under either Indenture.

(4) The terms of the Indentures vary as to principal amounts and interest rates, maturity, payment dates of principal, interest and sinking fund, provisions for registration and transfer, redemption procedure, redemption dates and redemption prices, certain grace periods relating to event of default, and in several other respects. The descriptive language in various provisions of each of the Indentures differs occasionally.

(5) Such differences as exist between the Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify U.S. Trust from acting as successor trustee under the 1971 Indenture while continuing to serve as trustee under the 1977 Indenture.

The company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities Exchange Commission in connection with this matter. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 3, 1977, request in writing that a hearing be held on such matter, stating that the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing theron. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc 77-23495 Filed 8-12-77 8:45 am]

[Rel No 34-13845; Filed No SR-TAD-77-2]

TAD DEPOSITORY CORP.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 21, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change consists of the stated policy of TAD not to release its nominee shares, except in an emergency to participants for circulation. The change will reverse this policy and provide for the release of TAD & Co. nominee stock certificates to TAD participants.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is one step toward providing TAD participants with a full complement of depository services prior to and in conjunction with the establishment of a "link" between TAD and the National Securities Clearing Corporation (NSCC) as described in the Securities and Exchange Commission Release No. 13163, dated January 13, 1977.

The proposed rule change relates to TAD's releasing stock certificates registered in its inominee name, TAD & Co., to TAD participants. Presently, TAD is the only depository which does not release its nominee stock as a common practice. In order for TAD to effect the interface with NSCC and DTC, this service will be necesary. This will serve to complement TAD's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions.

Comments on the proposed rule change have not been solicited from our members but we have been advised by them that this service is of need and value to them.

The TAD Depository Corp. believes that the proposed rule change will not impose any burdens on competition.

By September 19, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 10, 1977.

[FR Doc 77-23496 Filed 8-12-77 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT SERVICE STATION AT NEEDLES, CALIFORNIA

Reduction of Hours

Notice is hereby given that on or about October 8, 1977, the Needles Flight Service Station will be closed each day from 4 p.m. to 8 a.m. local time. This information will be reflected in forth-coming issues of the Airman's Information Manual.

Issued in Los Angeles, California on August 1, 1977.

FRANK HAPPY,
Acting Deputy Director, Western Region.

[FR Doc 77-23426 Filed 8-12-77 8:45 am]

Materials Transportation Bureau

ASSOCIATED UNIVERSITIES, INC.

Receipt of Application for Inconsistency Ruling

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Associated Universities, Incorporated (AUI) has applied for an administrative ruling on whether Section 175.111 of the New York City Health Code, which restricts the transportation of radioactive meaterials in and through the City of New York, is inconsistent with and thus preempted by the Hazardous Materials Transportation Act or regulations issued thereunder. Public comment is solicited.

DATES: Comments received on or before September 30, 1977 will be considered before an inconsistency ruling is issued by the Office of Hazardous Materials Operations (OHMO).

ADDRESSES: The AUI application, the City of New York's response, and comments thereon, may be reviewed in the Docket Section, Room 6500, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590 (phone 202-426-2077), both before and after close of the public comment period. Comments on the AUI application should be submitted, preferably five copies, to the Docket Section at the above address. A copy of each comment must also be sent to Mr. N. Peter Rathvon, Jr., Associated Universities, Inc., Upton, N.Y. 11873, and that fact certified to OHMO at the time the comment is submitted to OHMO.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Office of the Assistant General Counsel for Materials Transportation Law, Department of Transportation, Room 6222, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590 (phone 202-755-4972).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Section 112 of the Hazardous Materials Transportation Act (Title I of Pub. L. 93-633; 49 U.S.C. 1801-1812) (HMTA) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or regulations issued under the HMTA. Section 112 also provides that preemption of such inconsistent State and local requirements is terminated if the State or local government can convince the Secretary that its requirement provides a greater level of public safety than Federal requirements and does not unduly burden commerce.

Effective January 3, 1977, the DOT Hazardous Materials Regulations, 49 CFR Parts 171-179, were reissued under the HMTA (41 FR 38175, September 9, 1976), bringing them under the coverage of the express premption provision of Section 112. Additional procedural regulations have also been issued under the HMTA and codified at 49 CFR Parts 102 and 107. They include two separate procedures (49 CFR 107.201-.225; 41 FR 38167 September 9, 1976, effective January 3, 1977) used by the Materials Transportation Bureau (MTB) to provide (1) inconsistency rulings (administrative opinions on whether State or local requirements are inconsistent with Federal hazardous materials transportation requirements); and (2) nonpreemption determinations (findings under Section 112 that determine whether Federal preemption of such inconsistent requirements is terminated).

Briefly, an inconsistency ruling is an administrative opinion on the relationship which exists between a Federal requirement (in the HMTA or regulations thereunder) and a final State or local requirement. An inconsistency ruling clarifies rights and obligations which already exist by virtue of existing law and does not create new or alter existing rights or obligations, except that reliance on a ruling of inconsistency is one of three ways in which a State or locality may establish that its requirement is inconsistent with Federal requirements in order to qualify that requirement for consideration in a nonpreemption determination.

THE AUI INCONSISTENCY RULING APPLICATION AND RESPONSE

The AUI application was received by OHMO on March 1, 1977, and requests an inconsistency ruling that Section 175.111 of the New York City Health Code, as amended January 15, 1976, which regulates the transportation of radioactive materials in and through the City, is inconsistent with the HMTA and regulations issued thereunder. AUI states it is chartered under the New York State Education Law and that it is a "person" affected by the Health Code because Brookhaven National Laboratory, which AUI operates for scientific research, is both a consignee and shipper of radioactive materials. Brookhaven National Laboratory is located in Upton, Long Island, about 70 miles east of the City, and the only land route from Brookhaven to the mainland is through the City.

AUI states that, except for U.S. Government shipments for military or national security purposes or which are related to national defense, Section 175.111 of the Health Code effectively prohibits certain materials from being transported through the City, because the section is devoid of meaningful criteria upon which the Commissioner of Health's determination to issue or not to issue a Certificate of Emergency Transport must be based.

AUI states that regulations issued under the HMTA are permissive in character, authorizing shipment of hazardous materials if certain conditions are met, while Section 175.111, with limited exceptions inapplicable to Brookhaven shipments, is an effective ban obstructing the shipment of radioactive materials. Section 175.111 is said to thwart the DOT regulatory scheme by prohibiting shipments made in full compliance with DOT regulations. AUI states that Congress (in passing the HMTA) intended to regulate commerce by providing strict standards ensuring that risks associated with transportation of hazardous materials are remote, and intended that localities respond only to purely local safety concerns which are not susceptible to uniform Federal regulation.

AUI also states that Section 175.111 is inconsistent with Federal requirements under the HMTA because AUI cannot comply with both and still ship radioactive materials in commerce through the City.

AUI urges that the City's restrictions are unwarranted and unreasonable as the benefit derived from Section 175.111 in reducing a risk made remote by compliance with DOT regulations does not outweigh the benefit to the public from scientific research at Brookhaven and from a free flow of commerce. (A copy of the City's amendment to § 175.111 of the Health Code submitted by AUI as "Exhibit A" to its ruling application, is reproduced as Appendix A to this notice.

A response was received by OHMO on May 3, 1977, from the Corporation Counsel for the City of New York. The City states that AUI has not cited any section of the Code of Federal Regulations with which Section 175.111 conflicts, that no such conflict exists, and that AUI's position amounts to a contention that the Materials Transportation Bureau has so thoroughly regulated the transportation of radioactive materials that any State or local actions in this field are preempted.

The City states that Federal regulation supersedes State regulation only where the intent to do so is clear, and that preemption does not occur where a locality, such as the City, enacts regulations which are vital to local health concerns and which affect a (Federally) unregulated aspect of a (Federally) regulated operation.

The City states that DOT regulations reveal no attempt to preempt local regulations; that to the contrary, 49 CFR 397.3 requires motor vehicles containing hazardous materials to be driven and parked in compliance with local laws, ordinances and regulations; that 49 CFR 397.9 directs that motor vehicles containing hazardous materials must operate over routes that avoid heavily populated areas, unless there is not any other practicable alternative (where the motor carrier's operating convenience is not a basis for determining practicableness); and that in the cited sections of 49 CFR Part 397, the DOT has acknowledged the local jurisdiction of the Board of Health as exercised through Section 175.111 of the Health Code, and has recognized the need to regulate routing to ensure public safety. The City also states that for Brookhaven shipments, transportation by water is a practicable alternative to ground transportation through the City.

III. PUBLIC COMMENT

Comments should be restricted to the question of whether Section 175.111 of the New York City Health Code is inconsistent with the HMTA or regulations issued thereunder. An application for a nonpremption determination regarding Section 175.111 has not been filed and comments pertinent to such a determination will not be considered in this proceeding.

The City, in its response to the AUI application, has asked that MTB schedule a public hearing on the matter, and similar requests have been received from other interested parties. However, MTB is declining to schedule a public hearing because it believes that written comments are fully adequate for the com-

munication of views and are, in fact, better suited to assist consideration of the AUI application than a public hearing. The City has also asserted that an Environmental Impact Statement is a necessary prerequisite to issuance of an inconsistency ruling. The MTB disagrees. Inconsistency rulings, which are opinions as to existing relationships between existing State or local and Federal requirements, are not major Federal actions requiring preparation of an Environmental Impact Statement.

Persons intending to comment on the AUI application should examine the HMTA (49 U.S.C. 1801–1812), the DOT Hazardous Materials Regulations (49 CFR Parts 171–179), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.203–211), as well as Section 175.111 of the New York City Health Code. Each comment is to be accompanied by a certification that a copy of that comment has been sent to AUI.

(49 U.S.C. 1811, 49 CFR 1.53(e), 49 CFR Part 107 Subpart C. Issued in Washington, D.C. on August 4, 1977.)

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

APPENDIX A

HEALTH SERVICES ADMINISTRATION
DEPARTMENT OF HEALTH

RESOLUTIONS ADOPTED

At a meeting of the Board of Health of the Department of Health held January 15, 1976, the following resolution was adopted:

Resolved, that section 175.111 of the New York City Health Code, as repealed and reenacted by resolution adopted on the fifteenth day of November, nineteen hundred seventy-three and filed with the City Clerk on the twentieth day of November, nineteen hundred seventy-three, be and the same hereby is amended by adding a new subsection (1) thereto, to follow subsection (k) thereof, to be printed together with explanatory notes, to read as follows:

(l) Notwithstanding the foregoing provisions of this section, a Certificate of Emergency Transport issued by the Commissioner or his designated representative shall be required for each shipment, to be transported through the City or brought into the City, of any of the following materials

(1) Plutonium isotopes in any quantity and form exceeding two grams or 20 curies, which ever is less;

(2) Uranium enriched in the isotope U-235 exceeding 25 atomic per cent of the total uranium content in quantities where the U-235 content exceeds one kilogram;

(3) Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds 20 curies;

(4) Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies; or

(5) Any quantity of radioactive material specified as a "Large Quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport."

NOTES.—Subsection (1) was added by resolution adopted on January 15, 1976, to require the approval of the Commissioner or his designated representative through the issuance of a Certificate of Emergency Transport for the transport or the bringing into this City of specified large quantities of plutonium, enriched uranium and other actinides and spent reactor fuel elements which would present a great hazard to public health in this densely and highly populated City. It is intended that such Certificate will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns and that economic consideration alone will not be acceptable as justification for the issuance of such Certificate. Such Certificates are also intended to be issued for hectocurie and kilocurie cobalt-60 and cesium-137 teletherapy sources employed in therapeutic radiology and biomedical research or educational purposes and for medical devices designed for individual human application (e.g., cardiac pacemakers) containing plutonium-238, promethium-147 or other radioactive material. This subsection is not intended to apply to small quantities of specified radioactive materials intended for therapeutic radiology and biomedical research or educational purposes.

Resolved, further, that subsection (c) of section 175.111 of the New York City Health Code, as repealed and reenacted by resolution adopted on the fifteenth day of November, nineteen hundred seventy-three and filed with the City Clerk on the twentieth day of November, nineteen hundred seventy-three, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(c) This section shall not apply to radiation sources shipped by or for the United States Government for military or national security purposes or which are related to national defense. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

NOTES: Subsection (c) was amended by resolution adopted on January 15, 1976 to conform its provisions with subsection (1) adopted by the same resolution.

Resolved, further, that this resolution shall take effect immediately.

A true copy.

PATRICIA J. CARUSO,
Acting Secretary.

[FR Doc.77-23454 Filed 8-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 156, Amdt. 2]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This Amendment permits the Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division to disclose, pursuant to Internal Revenue Code section 6103(m)(2), a taxpayer's mailing address to officers and employees of an agency for use in the collection or compromise of a claim against the taxpayer under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953). The text of the Amendment appears below.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Ave., NW., Room 1603, Washington, D.C., 20224, Telephone number 202–566–3908 (not a toll-free telephone number).

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

AUTHORITY TO PERMIT DISCLOSURE OF TAXPAYER MAILING ADRESSES UNDER INTERNAL REVENUE CODE 6103(M)(2)

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, dated March 17, 1955, authority is hereby delegated as follows:

(1) The Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division are authorized to disclose the mailing address of a taxpayer to officers and employees of an agency when needed to prepare for any proceeding (or investigation which may result in such proceeding) pertaining to a Federal claim against such taxpayer, subject to the conditions prescribed in IRC 6103(m)(2). The authority delegated in this paragraph may be redelegated to the Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(2) This Amendment supplements paragraph 9(c) of Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, Number 100, Page 20898.

WILLIAM E. WILLIAMS,
Acting Commissioner.

AUGUST 5, 1977.

[FR Doc 77-23473 Filed 8-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 459]

ASSIGNMENT OF HEARINGS

AUGUST 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111729 (Sub No. 693) Purolator Courier Corp., now being assigned October 3, 1977, at Salem, Oreg. (1 week) in a hearing room to be later designated.

MC 19227 Sub No 227 Leonard Bros. Trucking Co., Inc., MC 32882 Sub No. 77 Mitchell Bros. Truck Lines, MC 60014 Sub No. 43 Aero Trucking, Inc., MC 73165 Sub No. 394 Eagle Motor Lines, Inc., MC 74321 Sub No. 124 B. F. Walker, Inc., MC 83539 Sub No. 449 C & H Transportation Co., Inc., MC 106644 Sub No. 225 Superior Trucking Company, Inc., MC 109397 Sub No. 330 Tri-State Motor Transit Co., MC 111545 Sub No. 232 Home Transportation Company, Inc., MC 112304 Sub No. 108 Ace Doran Hauling & Rigging Co., MC 113855 Sub No. 366 International Transport, Inc., MC 114211 Sub No. 296, Warren Transport, Inc., MC 117574 Sub No. 277 Dailey Express, Inc., MC 124211 Sub No. 286 Hilt Truck Line, Inc., MC 124692 Sub No. 173 Sammons Trucking, MC 123048 Sub No. 355 Diamond Transportation System, Inc., MC 125433 Sub No. 89 F-B Truck Line Company, MC 128762 Sub No. 16 P. L. Lawton, Inc., MC 142059 Sub No. 2 now being assigned November 7, 1977 (1 week) at San Francisco, Calif. and continued to November 14, 1977 (1 week) at Atlanta, Ga. in hearing rooms to be later designated.

MC 114211 (Sub-291), Warren Transport, Inc., now assigned September 20, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128030 (Sub-No. 109), The Stout Trucking Co., Inc., now assigned September 21, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 117815 (Sub-260), Pulley Freight Lines, Inc., now assigned September 26, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 141084 (Sub-5), National Freight Lines, Inc., now assigned September 28, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 105636 (Sub-No. 35), Armellini Express Lines, Inc., now assigned September 8, 1977 at Washington, D.C., hearing canceled, application dismissed.

MC 107295 Sub 697, Pre-Fab Transit Corp. now assigned September 20, 1977 at Nashville, Tenn. and will be held in Room A-761, U.S. Courthouse and Federal Building, 801 Broadway.

MC 142484 Sub 1, Stringfellow Transportation Company now assigned September 13, 1–77 at Birmingham, Ala. and will be held in the GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 73165 Sub 402, Eagle Motor Lines, Inc. now assigned September 14, 1977 at Birmingham, Ala. and will be held in GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 135867 Sub 2, H.T.L., Inc. now assigned September 15, 1977 at Birmingham, Ala. and will be held in GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 121644 Sub 2, S & W Freight Lines, Inc. now assigned September 12, 1977 at Memphis, Tenn. and will be held at the Executive Plaza Inn, 1471 East Brooks Road.

MC 1380 Sub 21, Colonial Motor Freight Line, Inc. now assigned September 12, 1977 at Charlotte, N.C. and will be held at the Charlotte Downtowner East, 301 South McDowell Street.

MC 135288 Sub 7, McGill's Taxi and Bus Lines, Inc., dba Asheboro Coach Co. now assigned September 7, 1977 at Greensboro, N.C. and will be held in Room 127, U.S. Post Office and Federal Courthouse Building, 324 West Market Street.

MC 141848, Yellow Enterprise Systems, Inc. now assigned September 26, 1977 at Louisville, Ky. and will be held in Room 1052A, Federal Building, Federal Plaza, 6th and Chestnut Streets.

MC 121470 Sub 9, Tanksley Transfer Co. now assigned September 22, 1977 at Nashville, Tenn. and will be held in Room A-761, U.S. Courthouse and Federal Building, 801 Broadway.

MC-F 13011, Jack I. Murphee—Continue Control—Jimco, Inc., MC 142586, Jimco, Inc. and MC 96961 Sub 3, West Tennessee Motor Express, Inc. now assigned September 19, 1977 at Nashville, Tenn. and will be held in Room A-410, U.S. Courthouse and Federal Building, 801 Broadway.

MC 114632 Sub No. 92, Apple Lines, Inc. now being assigned November 1, 1977 (1 day) at Denver, Colo. in a hearing room to be later designated.

MC 134286 Sub 17, Hunt Express, Inc. now being assigned November 2, 1977 (1 day) at Denver, Colo. in a hearing room to be later designated.

MC 58035 Sub 11, Trans-Western Express, Ltd. now being assigned November 3, 1977 (2 days) at Denver, Colo. in a hearing room to be later designated

MC 114569 Sub 160, Shaffer Trucking, Inc now being assigned November 7, 1977 (2 days) at Denver, Colo. in a hearing room to be later designated.

MC 111375 Sub No. 85, Pirkle Refrigerated Freight Lines, Inc. now being assigned November 9, 1977 (3 days) at Denver, Colo. in a hearing room to be later designated.

MC 129903 (Sub-7), Emporia Motor Freight, Inc., now being assigned October 17, 1977 (1 week) at Topeka, Kans., in a hearing room to be later designated

MC 126118 (Sub-No. 36), Crete Carrier Corp., MC 128375 (Sub-No 148), Crete Carrier Corp. and MC 128375 (Sub-No 149), Crete Carrier Corp., now being assigned October 12, 1977, (3 days), at Kansas City, Mo., in a hearing room to be later designated

MC 66886 (Sub-No. 54), Belger Cartage Service, Inc., now being assigned October 17, 1977 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 26739 (Sub-No. 91), Crouch Freigth Systems, Inc., now being assigned October 19, 1977 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23474 Filed 8-12-77;8:45 am]

[Notice No. 208]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 15, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77252. By application filed August 8, 1977, Gary D. Allen, an individual, P.O. Box 14, Kirk, CO 80824, seeks temporary authority to transfer the operating rights of John G. Riedesel, an individual, d.b.a. Riedesel Truck Line, P.O. Box 11, Kirk, CO 80824, under section 210a(b). The transfer to Gary D. Allen, an individual, of the operating rights of John G. Riedesel, an individual, d.b.a. Riedesel Truck Line, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77 23475 Filed 8-12-77;8:45 am]

[Notice No. 207]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 14, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77073, filed July 22, 1977. Transferee: GLESS BROS., INC., 534 Geneseo St., P.O. Box 216, Blue Grass, Iowa 52726. Transferor: W W Gless, doing business as Gless Bros., 534 Geneseo St., P.O. Box 216, Blue Grass, Iowa 52726. Applicants' representatives: Larry D. Knox Ronald R. Adams, Attorneys-at-Law, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC-93840, MC-93840 (Sub-No. 6), MC-93840 (Sub-No. 7), MC-93840

(Sub-No. 10), MC-93840 (Sub-No. 12), MC-93840 (Sub-No. 18), MC-93840 (Sub-No. 20), and MC-93840 (Sub-No. 21), issued by the Commission June 6, 1949, August 24, 1950, April 23, 1969, August 3, 1973, Janutry 31, 1974, April 2, 1976, September 8, 1976, and July 15, 1976, respectively, as follows: Tanks, wire, fencing materials, agricultural implements, coal, roofing, iron, steel, and wire products, livestock, poultry, eggs, feed, egg case materials, fertilizer, brick, tile, clay products, meat scraps and tankage, sale, liquid feed, liquid feed supplements, molasses, in bulk, iron and steel articles, and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles, from, to, or between points in Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77193, filed August 8, 1977. Transferee: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03101. Transferor: D & G Transportation, Inc., 20 Cameron St., Clinton, Mass. 01510. Applicants' representative: Frank J. Weiner, Attorney-at-Law, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC-138385 (Sub-No. 1) and MC-138385 (Sub-No. 2), issued September 12, 1974 and November 28, 1975, respectively, as follows: Plastic articles, from Lyndhurst, N.J. to points in New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Ohio, California, and the District of Columbia; cereal, from Clinton, Mass. to Fulton and Rochester, N.Y., Hershey and Reading, Pa., Hackettstown, N.J., Frankfort and Kendallville, Ind., and Salinas, Calif.; plastic pellets (except in bulk), from, Kobuta, Pa. to Lyndhurst, N.J.; cereal, plastic articles, lunch and picnic kits, napkins, salt, pepper, sugar, condiments, and straws (except in bulk), from Clinton, Mass. to points in New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Ohio, California, District of Columbia, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New Jersey; and plastic pellets (except in bulk), from Kobuta, Pa. to Clinton, Mass., restricted to a transportation service to be performed for certian specified shippers. Transferee presently holds authority from this Commission under Permit No. MC-143117, as well as a temporary authority under MC-141921 (Sub-No. 2TA). Application has not been filed for temporary authority under Section 210a (b) of the Act.

No. MC-FC-77121, filed August 4, 1977. Transferee: ITG TRUCKING COMPANY, INC., 249 Copeland Street, Jacksonville, Florida, 32203. Transferor: THE BIG E CORP., 1020 Atlantic Bank Building, Jacksonville, Florida, 32202. Applicants' representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Florida, 32202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-135257 (Sub-No. 1) issued March 29, 1973, as follows: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, except commodities in bulk between the plant sites and warehouses of Jones-Chambliss Co., and Henry's Hickory House at Jacksonville, Fla. on the one hand and, on the other, points in Alabama, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77206, filed July 12, 1977. Transferee: LEONA WILLMOTH AND CHARLES E. WILLMOTH, A Partnership, Doing Business As Willmoth & Son, R.R. # 6, Paris, Illinois, 61944. Transferor: Roy Willmoth (Leona Willmoth—Executor) and Charles E. Willmoth, A Partnership Doing Business As Roy Willmoth and Son, R.R. # 6, Paris, Illinois, 61944. Applicants' representative: Roger Fruin, Fruin, Andrews & Hoff, 129 North Central Avenue, Paris, Illinois, 61944. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-106104, issued October 1, 1946, as follows: Agricultural products, from points and places in Edgar, Douglas, and Vermilion Counties, Ill., and Vermilion and Parke Counties, Ind., to points and places in Kentucky, Tennessee, and Missouri and from points and places in Edgar, Douglas, and Vermilion Counties, Ill. to points and places in Indiana; Coal, from points and places in Sullivan, Clay, Vigo, Vermillion, and Gibson Counties, Ind., and Sand Gap, Ky., and points and places in Kentucky west of a line beginning at the Kentucky-Indiana State line and extending along Kentucky Highway 75 to junction Kentucky Highway 81 at South Carrollton, Ky., and thence along Kentucky Highway 81 to the Kentucky-Tennessee State line, including points and places on the indicated portions of the highways specified, to points and places in Edgar, Douglas, and Vermilion Counties, Ill.; Phosphate, from points and places in Giles and Maury Counties, Tenn., to points and places in Edgar, Vermilion, Douglas, Coles, and Clark Counties, Ill., and Vigo and Vermillion Counties, Ind.; Lumber and fence posts, from points and places in Kentucky and Tennessee, to points and places in Edgar, Douglas, and Vermilion Counties, Ill., and Vigo and Vermillion Counties, Ind.; Livestock, from points and places in Edgar, Douglas, and Vermilion Counties, Ill., to Indianapolis and Terre Haute, Ind.; Emigrant movables, between points and places in Edgar, Douglas, and Vermilion Counties, Ill. on the one hand and, on the other, points and places in Indiana, Kentucky, and Tennessee. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77207, filed July 11, 1977. Transferee: J. SCHRODER CARTAGE, INC., 1330 W. 7th Street, Cincinnati, Ohio, 45203. Transferor: J. ZEMBRODT EXPRESS, INC., Norman I. Barron, trustee in bankruptcy, 920 Central Trust Tower, Cincinnati, Ohio, 45202. Applicant's representative: William P. Whitney, Jr., Suite 708 McClure Building, Frankfort, Kentucky, 40601. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 6695 issued December 22, 1960, as follows: General commodities, with normal exceptions, between Cincinnati, Ohio, on the one hand, and, on the other, Covington, Ludlow, and Newport, Ky. Between Cincinnati, Ohio, on the one hand, and, on the other, points in Kenton and Boone Counties, Ky. within 15 miles of Cincinnati (except Ludlow, Ky., and points on U.S. Highways 42 and 25 in those counties). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77218, filed July 19, 1977. Transferee: GAY TRUCK LINE, INC., P.O. Box 134, Falkner, Mississippi, 38629 Transferor: Ross C. Gay, D.B.A. GAY TRUCK LINE, P.O. Box 134, Falkner, Mississippi 38629. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, 1700 Deposit Guaranty Plaza, Jackson, Mississippi 39211. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 104881 (Sub-No. 2), MC 104881 (Sub-No. 4), and MC 104881 (Sub-No. 6), issued January 10, 1963, May 14, 1969, and November 19, 1969, respectively, as follows: General commodities, with normal exceptions, over specified regular routes, between Memphis, Tenn., and Walnut, Miss., serving the intermediate and off-route points of Ashland, Ripley, Falkner, Tiplersville, Blue Mountain, Brownfield, and Chalybeate, Miss.; Between Memphis, Tenn., and Walnut, Miss., serving all intermediate points between the Mississippi-Tennessee State line, and Walnut, and the off-route point of Michigan City, Miss.; General commodities, with normal exceptions, over specified regular routes, between Walnut, Miss., and Middleton, Tenn., serving all intermediate points; and Reclaimed rubber, rubber compounds, and rubber compounding chemicals, except in bulk, over irregular routes, From Ripley, Miss., to Hohenwald, Tenn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77222, filed July 21, 1977. Transferee: ROBERT N. TOOMEY TRUCKING CO., a corporation, 1516 South George St., York, Pa. 17403. Transferor: Robert N. Toomey, d.b.a. Robert N. Toomey Trucking Co., 1516 South George St., York, Pa. 17403. Applicants' representative: Charles E. Creager, attorney-at-law, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC 124144, MC 124144 (Sub-No. 3), MC 124144 (Sub-No. 6), MC 124144 (Sub-No. 8), MC 124144 (Sub-No. 12), Mc 124144 (Sub-No. 16), and MC 124144 (Sub-No. 18), issued by the Commission August 20, 1964, August 24, 1973, July 25, 1974, July 7, 1975, October 10, 1975, March 19, 1976, and July 11, 1977, respectively, as follows: Wire cloth, from York, Pa., to points in California, Texas, and Oklahoma; fiberglass screening, from the plantsite of Oxford Mills in Compton, Calif., to the plantsite of New York Wire Company in Chicago, Ill. and to York, Pa.; agricultural chemicals (except in bulk), from Hanover, Pa., to points in California, Washington, Nevada, Oregon, and Arizona; foodstuffs, food treating compounds, chemicals and additives, and commodities the transportation of which is exempt or partially exempt from economic regulation under the provisions of section 203 (b)(6) of the Act, from Baltimore, Md., to points in Texas and Louisiana; chain and attachments and hardware therefor, cable, wire rope, and chain manufacturing machinery and equipment (except commodities which by reason of their size or weight require the use of special equipment), from York, Pa., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, Oklahoma, and Texas; chains, cotter pins, hoisting equipment, trolleys, screws, washers and abrasive wheels, from York, Pa., to points in Texas; chains, attachments and hardware for chains, cable, wire rope, and chain manufacturing equipment and machinery, from Denver, Colo., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; and iron and steel (except commodities which because of size and weight require the use of special equipment), from points in California to York, Pa., under continuing contracts with specified shippers. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77223, filed July 18, 1977. Transferee: REILE'S TRANSFER & DELIVERY, INC., 1621 South 14th St., Fargo, N.D. 58102. Transferor: Reinhold Reile, d.b.a. Reile's Transfer, 1621 South 14th St., Fargo, N.D. 58102. Applicant's representative: Richard P. Keller, attorney-at-law, 4744 IDS Center, Minneapolis, Minn. 55402. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 109471, issued March 1, 1974, as follows: Such merchandise as is dealt in by retail chain department stores or mail order houses, between Fargo, N. Dak., on the one hand, and, on the other, points in Minnesota within 100 miles of Moorhead, Minn., subject to specified restrictions. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77234, filed July 28, 1977. Transferee: John M. Rueter and Diane K. Rueter, d.b.a. PRESCOTT TRANSFER AND STORAGE COMPANY, 659 Sixth St., Prescott, Ariz. 86301. Transferor: Charles R. Steger and Susan A. Steger, d.b.a. Prescott Transfer and Storage Co., 659 Sixth Street, Prescott, Ariz. 86301. Applicants' representative: Ronald V. Meeks, 4541 North 12th St., Phoenix, Ariz. 85014. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 98699 Sub-2, issued September 9, 1971, as follows: *Freight and baggage* over the public highways designated as those in Prescott, Ariz. and vicinity. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.
Acting Secretary

[FR Doc. 77-23476 Filed 8-12-77; 8:45 am]

CODIFICATION OF THE INTERSTATE COMMERCE ACT

AUGUST 10, 1977.

The Interstate Commerce Commission is required by section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) to prepare and submit to the Congress, by February 4, 1978, a recodification and revision of the Interstate Commerce Act and related statutes. Most of the statutes involved are now to be found in title 49 of the United States Code beginning at sections 1, 301, 901, and 1001.

The recodification of the Interstate Commerce Act is being carried out as a joint project of the Commission and the Law Revision Counsel of the United States House of Representatives. The Law Revision Counsel has the legal responsibility for the continuing recodification of the entire United States Code.

On or about September 1, 1977, a draft of the proposed recodification will be made publicly available, in the form of a committee print of the House Committee on the Judiciary. The Commission and the Law Revision Counsel seek comments on the draft from interested persons. Comments should be submitted in writing by October 3, 1977. Four copies of the comments should be furnished if possible.

Copies of the draft recodification will be mailed to all interested persons upon request. Requests for copies of the draft and comments should be sent to:

Codification - Project, I.C.C., Washington, D.C. 20423

Copies will also be available for pick-up on or about September 1. The Commission will issue a subsequent notice giving the exact date when the copies will be available and the locations at which they may be picked up.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 77-23509 Filed 8-12-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[MA-22 amending M-43]

AUGUST 9, 1977.

Notice of addition of items to August 16, 1977 meeting agenda.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. Dockets 30058; 28110 and 28342, Rocky Mountain Airways' request to use Dash 7 aircraft in scheduled service in Colorado; Aspen Airways' and Rocky Mountain Airways' requests for Denver-Aspen certificate authority. (Memo No. 4680B, BOR, BLJ, OGC.)

23. Docket 30526, Pan American's request to suspend service at Philadelphia on its transatlantic route. (Memo No. 7079, BOR, OGC, BIA.)

24. Docket 31184, Weekend excursion fares in the Minneapolis/St. Paul-Los Angeles, San Francisco markets proposed by Northwest. (BE.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The original Meeting Notice for August 16, 1977, was issued before it was realized that the above items needed to be discussed at the August 16, 1977, Board Meeting. This Notice still permits a full seven days' notice. The following Board Members have voted that agency business requires the addition of these items to the agenda of its August 16, 1977 meeting and that no earlier announcement of the additions was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Elizabeth E. Bailey
Member Lee R. West did not participate.

[S–1097–77 Filed 8–10–77;4:21 pm]

2

[M–43]

AUGUST 9, 1977.

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of Items Adopted by Notation.[1]

2. Docket 30704, Application of Trans World Airlines, Inc., for approval of an agreement pursuant to section 412 of the Federal Aviation Act of 1958, Agreement #26563. (Memo No. 7206A, BE, BIA.)

3. Docket 31082, Exemption requested by Frontier to deviate from Phase 9 formula fares in certain markets. (Memo No. 7223A, BE.)

4. Docket 30904, Petition for prior approval to hold joint air carrier discussions on matters relating to the transportation of handicapped. (Memo No. 7320, BE, BOR.)

5. Docket 27948, Interline Air Express Agreement between Delta, Ozark, and Southern; Agreements C.A.B. 25188, 25188–A1. (Memo No. 6379–C, BE, BOR.)

6. Docket 30502 and 30651, Adequacy of service complaints. (Memo No. 7117, BOR.)

7. Docket 30236, United's Subpart N Application For Nonstop Cleveland-San Diego Authority. (Memo No. 6817B, BOR, OGC, BLJ.)

8. Docket 26769, Application for prior Board approval of an agreement between Wien Air Alaska and Munz Northern Airlines Agreement CAB 21066. (Memo No. 7322, BOR.)

9. Dockets 21389 and 28985, Suspension/Deletion of Kokomo-Loganspport-Peru, Indiana. (Memo No. 1213J, BOR.)

10. Docket 29873, Daetwyler Airfreight Corp. (Swiss) d/b/a Interamerican Airfreight Corp. (U.S.A.) renewal of foreign indirect air carrier permit. (Memo No. 7321, BOR, BIA, OGC.)

11. Docket 29727, Caraibische Lucht Transport Maatschappij N.V. (Caribbean Air Transport Company, Inc.), order finalizing order to show cause. (Memo No. 6192B, BOR, BIA, OGC.)

12. Docket 30871, Guyana Airways Corporation, Order finalizing order to show cause. (Memo No. 7212A, BOR, BIA, OGC.)

13. Docket 29701, Air-Siam Air Company Limited—Dismissal of Proceeding and Cancellation of Carrier's Foreign Air Carrier Permit. (Memo No. 7182A, BOR, BIA, OGC.)

14. Docket 28898, Trans-Provincial Airlines Ltd., Renewal of a Foreign Air Carrier Permit. (Memo No. 4231A, BIA, BOR, OGC.)

15. Docket 30710, Kinniburgh Spray Service Ltd., Issuance of a Foreign Air Carrier Permit. (Memo No. 7177A, BOR, BIA, OGC.)

16. Report on Passengers Enplaned at Local Service Points by Local Service Carriers—Fiscal Years 1976 and 1975. (Memo No. 4278H, BOR, BAS, OCCR, OI.)

17. Docket 26310, *Rules and Practices Relating to the Acceptance and Carriage of Live Animals in the Domestic Air Freight Transportation*, Opinion and Order on Discretionary Review. (Memo No. 7328, OGC.)

18. Dockets 28848, 28778, 28800, 28961 and 29186, *Improved Authority to Wichita Case, Additional Dallas/Ft. Worth-Kansas City Nonstop Service Case, Phoenix-Des Moines/Milwaukee Route Proceeding, Sacramento-Denver Nonstop Case and Milwaukee/Memphis-Twin Cities Case.* (Memo No. 7324, OGC, BLJ.)

19. Docket 30182, *Iowa/Illinois-Atlanta Route Proceeding*, Order on reconsideration and Consolidation. (Memo No. 6950, BLJ, IGC.)

20. Docket 28196, *California-Alberta Route Proceeding*, Order on Discretionary Review. (Memo No. 7332, OGC, BE.)

21. Docket 30775, Discretionary review on Board initiative of dismissal letter by Director, BOE in *Lufthansa German Airlines* v. *Luftransport Unternehmen GmbH & Co. KG.* (Memo No. 7335, OGC.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

[S–1098–77 Filed 8–10–77;4:21 pm]

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Customer Protection Rules
Status of Associated Persons Affiliated with Unregistered Option Sales Companies

Portion closed to the public:

Enforcement Matter

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1100–77 Filed 8–10–77;4:58 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., August 19, 1977.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1101–77 Filed 8–11–77;9:24 am]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern time), Tuesday, August 16, 1977.

PLACE: Chairman's Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: Proposed Budget Request for Fiscal Year 1979.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This Notice Issued August 9, 1977.

[S–1096–77 Filed 8–10–77;4:21 pm]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–1094–77

PREVIOUSLY ANNOUNCED TIME AND DATE MEETING: 9:30 a.m. August 16, 1977.

STATUS: Closed to the public.

CHANGE IN THE MEETING: Additional matter to be considered:

Litigation Authorization; General Counsel Recommendations. Matters closed to the public under Sec. 1612.13 (a) of the Commission's regulations. (42 FR 13830, March 14, 1977.)

A majority of the entire membership of the Commission determined by recorded vote, on August 10, 1977, that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Vice Chair; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

This Notice issued August 10, 1977.

[S–1099–77 Filed 8–10–77;4:58 pm]

7

FEDERAL POWER COMMISSION

AUGUST 9, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: August 16, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) *Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202–275–4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000

GAS AGENDA 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART I, (2:00 P.M.)

G–1.—Docket No. RP77–108, Algonquin Gas Transmission Company

G–2.—Docket No. RP73–43 (PGA77–3) Mid Louisiana Gas Company

G–3.—Docket No. RP74–100 (PGA76–2), National Fuel Gas Supply Corporation Docket No. RP76–101, National Fuel Gas Supply Corporation

G–4.—Docket No. RP76–38, *Arizona Electric Power Cooperaitve, Inc. and the city of Willcox, Arizona* v. *El Paso Natural Gas Company*

G–5.—Docket No. RP74–50–5, Florida Hydrocarbons Company and Florida Gas Transmission Company.

G–6.—Docket No. RP75–79, *Lehigh Portland Cement Company, Complainant* v. *Florida Gas Transmission Company, Respondent*

G–7.—Docket No. RI77–88, Infill Wells Drilled Pursuant to New Mexico Oil Conservation Commission Order No. R–1670–T.

G–8.—Docket No. RI77–48, Elms Brothers and Company.

G–9.—Docket No. RI77–87, North American Royalties Inc

G–10.—Docket No. RI77–35, Dixie Well Service, Inc.

G–11.—Docket No. AR61–2 and AR69–1, et al., Area Rate Proceeding, et al., (Southern Louisiana Area).

G–12.—Docket No. CI76–743, Ladd Petroleum Corporation

G–13.—Docket No. CP76–85, et al., Algonquin Gas Transmission Company, et al.

G–14.—Docket No. CP76–424, Kentucky West Virginia Gas Company.

C–15.—Docket No. CP75–131 and CP76–129, Mountain Fuel Supply Company, Docket No. CP76–94, Phillips Petroleum Company

G–16.—Docket No. CI77–306, Transco Exploration Company

G–17.—Docket No. CP76–511, Natural Gas Pipeline Company of America

G–18.—Docket No. CP76–517, Natural Gas Pipeline Company of America

G–19.—Docket No. CP77–21, et al., Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company and Southern Natural Gas Company, Docket No. CI76–730, Mobil Oil Corporation, Docket No. CI77–120, Texaco Inc

G–20.—Docket No. CP76–413, United Gas Pipe Line Company and Tennessee Gas Pipeline Company, a division of Tenneco Inc Docket No. CP76–414, Tennessee Gas Pipeline Company, a division of Tenneco Inc and Midwestern Gas Transmission Company, Docket No. C–10632, Northern Illinois Gas Company.

G–21.—Docket No. CP77–216, Distrigas of Massachusetts Corporation, Docket No. CP77–217 and CP77–218, Distrigas Corporation

G–22.—Docket No. CP76–106, Northwest Pipeline Corporation.

G–23.—Docket No. CP77–425, Algonquin Gas Transmission Company

G–24.—Docket No. CP76–52, Northern Natural Gas Company, Docket No. CP76–166, Northern Natural Gas Company operating as Peoples Natural Gas Division, operator

G–25.—Docket No. CP77–440, Sea Robin Pipeline Company

G–26.—Docket No. CP77–448, NGP LNG Inc, Docket No. CP77–449, Natural Gas Pipeline Company of America

G–27.—(A) Docket No. CP77–397, Northern Natural Gas Company, (B) Docket No. CP77–39, Iowa Power and Light Company

G–28.—Docket No. CP77–362, Texas Gas Transmission Corporation

G–29.—Docket No. CP77–13, Transwestern Pipeline Company

G–30.—Section 157.7, Budget facilities

G–31.—Docket No. CP77–193, Northern Natural Gas Company

G–32.—Docket No. CP76–246, Northern Natural Gas Company

G–33.—Docket No. CP77–489, Southern Natural Gas Company, Natural Gas Pipeline Company of America, Columbia Gulf Transmission Company and United Gas Pipeline Company

G–34.—Docket No. CP77–445, Colorado Interstate Gas Company, Docket No. CP77–455 El Paso Natural Gas Company, Docket No. CP77–457, Northwest Pipeline Corporation Docket No. CP77–462, Transwestern Pipeline Company

G–35.—Docket No. CP77–441, Mississippi River Transmission Corporation

G–36.—Docket No. CP73–70, Columbia Gulf Transmission Company

G–37.—Docket No. CP77–504, Transcontinental Gas Pipe Line Corporation, Docket No. CP77–513, Tennessee Gas Pipeline Company

G-38.—Docket No. CP77-478, Panhandle Eastern Pipe Line Company.
G-39.—Docket No. CP77-413, Algonquin LNG Inc., and Algonquin Gas Transmission Company.
G-40.—Docket No. CP77-434, Southwest Gas Corporation.
G-41.—Docket No G-3072, EXXON Corporation.

MISCELLANEOUS AGENDA, 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART I

M-1.—Docket No. RM76-13, The Need for Site Selection and Facility Operation Criteria for Liquified Natural Gas Importation and Storage Terminals.

GAS AGENDA, 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART II

CG-1.—Docket No. RP77-31 and RP73-64 (PGA 77-2a), Southern Natural Gas Company.
CG-2.—Docket No. RP77-110, Alabama-Tennessee Natural Gas Company.
CG-3.—Docket No. RP77-57, National Fuel Gas Supply Corporation.
CG-4.—Docket No. RP77-96, Natural Gas Pipeline Company of America.
CG-5.—Docket Nos. G-2017, et al., Texas Gas Transmission Corporation.
CG-6.—Phillips Petroleum Company, FPC Gas Rate Schedule No. 600, Texas Pacific Oil Company, Inc., FPC Gas Rate Schedule No. 121.
CG-7.—Docket No. CI73-427, Texas Pacific Oil Company, Inc. Docket No. CS75-341, Tricentrol United States, Inc. Docket No. CS71-659, Kilroy Properties Incorporated. Docket No. CS72-266, Harrington & Bibler, Inc., Docket No. CS73-268, Bridger Petroleum Corporation. Docket No. CS75-389, Arden F. Blair.
CG-8.—Pennzoil Company, FPC Gas Rate Schedule No. 10.
CG-9.—Docket No. CP77-382, Transcontinental Gas Pipeline Corporation.
CG-10.—Docket No. CP77-346, Natural Gas Pipeline Company of America, Trunkline Gas Company, Columbia Gulf Transmission Company.
CG-11.—Docket No. CP77-264, Transcontinental Gas Pipe Line Corporation, United Gas Pipe Line Company.
CG-12.—Docket No. CP77-460, Cities Service Gas Company.
CG-13.—Docket No. CP77-375, United Gas Pipe Line Company.
CG-14.—Docket No. CP77-398, Columbia Gas Trasnmission Corporation.
CG-15.—Docket No. CP77-322, United Gas Pipeline Company and Southern Natural Gas Company.
CG-16.—Docket No. CP77-122, Sea Robin Pipeline Company.
CG-17.—Docket No. CP77-408, El Paso Natural Gas Company, Docket No. CP77-411, Southwest Gas Corporation.
CG-18.—Docket Nos. CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corporation.
CG-19.—Docket No. CP77-347, Western Gas Interstate Company.
CG-20.—Docket No. CP77-339, Columbia Gas Transmission Corporation.
CG-21.—Docket No. CP77-230, Florida Gas Transmission Company and United Gas Pipe Line Company.
CG-22.—Docket No. CP77-109, Texas Eastern Transmission Corporation.
CG-23.—Docket No. CP77-403, Texas Gas Transmission Corporation. Docket No. CP77-426, Transcontinental Gas Pipe Line Corporation.
CG-24.—Docket No. CP76-410, El Paso Natural Gas Company.
CG-25.—Docket No. CP77-249, Trunkline Gas Company.
CG-26.—Docket No. CP75-326, Transcontinental Gas Pipe Line Corporation.
CG-27.—Docket No. CI76-407, Columbia Gas Development Corporation. Docket No. CP76-132, Transcontinental Gas Pipe Line Corporation.
CG-28.—Docket No. CP77-11, Northern Natural Gas Company. Docket No. CP77-17, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. Docket No. RP77-92, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. Docket No. CP77-54, Northern Natural Gas Company.
CG-29.—Docket No. CP70-188, Texas Gas Transmission Corporation.
CG-30.—Docket No. CP77-427, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-480, Panhandle Eastern Pipe Line Company and Trunkline Gas Company.
CG-31.—Docket No. CP76-363, Transcontinental Gas Pipe Line Corporation.
CG-32.—Docket No. CP63-177, Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company a division of Tenneco Inc.
CG-33.—Docket No. CP67-381, CP68-166 and CP69-71, Tennessee Gas Pipeline Company a division of Tenneco Inc.
CG-34.—Docket No. CP73-43, Mountain Fuel Supply Company.
CG-35.—Docket No. CP74-126, El Paso Natural Gas Company. Docket No. CP74-162, Natural Gas Pipeline Company of America.
CG-36.—Docket No. CP74-213, Michigan Wisconsin Pipe Line Company.
CG-37.—Docket No. CP76-362, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation and Northern Natural Gas Company.
CG-38.—Docket No. CP75-301, Tennessee Gas Pipeline Company, a division of Tenneco Inc., and Michigan Wisconsin Pipe Line Company.
CG-39.—Docket No. CP76-492, National Fuel Gas Supply Corporation and National Fuel Gas Storage Corporation.
CG-41.—Docket No. CP76-500, United Gas Pipeline Company.
CG-42A.—*H. S. Phillips, et al., v. F.P.C. 5th Cir. No. 77-2324* (Docket No. CS76-64).
CG-42B.—*Blanco Oil Company v. F.P.C.* D.C. Cir. No. 77-1458 (Docket No. AR64-2, et al.).
G-43.—Docket No. CP77-210, Michigan Wisconsin Pipe Line Company, United Gas Pipe Line Company.

KENNETH F. PLUMB,
Secretary.

[S-1094-77 Filed 8-10-77 4:01 pm]

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FEDERAL POWER COMMISSION

AUGUST 10, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B.

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: August 17, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA, 7689TH MEETING, AUGUST 17, 1977, Regular MEETING, PART I, (2:00 P.M.)

P-1.—Docket No. E-8176, Southern California Edison Company.
P-2.—Docket No. E-8264, Maine Public Service Company.
P-3.—Docket Nos. ER77-102 and ER77-277, Pennsylvania Power Company.
P-4.—Docket No. ER76-320, Connecticut Light & Power Company.
P-5.—Docket No. ER77-388, Superior District Power Company.
P-6.—Docket No. ER76-533, Central Vermont Public Service Corporation.
P-7.—Docket No. E-9593, Central Power & Light Company, et al.
P-8.—Project No. 120, Southern California Edison Company.
P-9.—Project No. 2735, Pacific Gas and Electric Company.
P-10.—Project No. 2100, State of California, Department of Water Resources.
P-11.—Project Nos. 233, 2106, 2155, California, Pacific Gas and Electric Company.
P-12.—Project No. 362, Minnesota Ford Motor Company.
P-13.—Project No. 137, California, Pacific Gas and Electric Company.
P-14.—Project No. 137, California, Pacific Gas and Electric Company.
P-15.—Project No. 175, California, Pacific Gas and Electric Company.
P-16.—Potential for Hydroelectric Development in Their Area.

POWER AGENDA, 7668TH MEETING, AUGUST 17, 1977, REGULAR MEETING, PART II

CP-1.—Docket No. ER77-238, Public Service Company of Oklahoma.
CP-2.—Docket No. ER77-223, Bangor Hydro-Electric Company.
CP-3.—Docket No. ER77-292, Kansas Power & Light Company.
CP-4.—State Director, Bureau of Land Management (I-13221), Boise, Idaho.
CP-5.—State Director, Bureau of Land Management (CA-4256), Sacramento, California.
CP-6.—Docket No. ID-1598, Willis S. White, Jr.
CP-7.—Docket No. ID-1682, Frederick Lange.
CP-8.—Docket No. ID-1811, Ernest D. Huggard.
CP-9.—Docket No. ID-1813, S. Hale Lull.
CP-10.—Docket No. DA-506-Colorado, U.S. Geological Survey, Lands Withdrawn in Power Site Classification No. 219 and 357.
CP-11.—Docket No. ER77-427 and ER77-473, Minnesota Power and Light Company, Superior Water, Light and Power Company.
CP-12.—Docket No. ER77-480, Montaup Electric Company.
CP-13.—Docket No. ER77-464, Public Service Company of New Mexico.
CP-14.—Docket No. ER77-9572, *Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc., v. Arizona Public Service Company.*
CP-15.—Docket No. E-9579, Idaho Power Company.

MISCELLANEOUS AGENDA, 7668TH MEETING, AUGUST 17, 1977, REGULAR MEETING, PART II

CM-1.—Central Hudson Gas and Electric Corporation.
CM-2.—Northern States Power Company (Minnesota).
CM-3.—Mississippi Power and Light Company.
CM-4.—Commission Minutes.

KENNETH F. PLUMB,
Secretary.

[S-1095-77 Filed 8-10-77;4:01 pm]

9

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: 9:30 a.m.-3:30 p.m., September 16, 1977.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approve minutes.
2. Adjustment of future calendars and agendas.
3. Director's remarks.
4. Action on proposed policy for fundamental research.
5. Status report on FY 1978 Budget, FY 1979 Budget and alternatives for any necessary replanning.
6. Initial discussion of long-range planning for NIE especially FY 1980 guidance to come from the Council.
7. Report of Review and Reports Committee, Review of Resolution 19.6; Outline for FY 1977 Report: Discussion of External Review Process.

PERSON TO CONTACT FOR INFORMATION:

Ella L. Jones, Administrative Coordinator. Telephone: 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination NCER, National Council on Educational Research.

[S-1103-77 Filed 8-11-77;10 am]

10

THE RENEGOTIATION BOARD.

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Wednesday, September 7, 1977; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Matters 1 through 4 are open to the public. Matter 5 is closed to the public. Status is not applicable to matters 6 and 7.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held August 30, 1977, and other Board meetings, if any.
2. Request for Permission to Make Untimely Filing of Application for Commercial Exemption: Phipps Product Corporation, Fiscal Year Ended September 30, 1975.
3. Recommended Clearances Without Assignment: (List 1882).
A. Arcturus Manufacturing Corporation, Fiscal Year Ended June 30, 1975.
B. American Airlines, Fiscal Year Ended December 31, 1975.
C. Corning Glass Works, Fiscal Years Ended January 2, 1972, December 31, 1972, December 30, 1973 and December 29, 1974.
D. Components Incorporated, Fiscal Year Ended June 18, 1971.
E. Components Incorporated, Fiscal Years Ended December 31, 1971, December 31, 1972, December 30, 1973 and December 30, 1974.
F. Spacetac Incorporated, Fiscal Years Ended June 20, 1971, December 31, 1971, December 31, 1972, December 31, 1973 and December 31, 1974.
G. Zirconium Corporation of America, Fiscal Year Ended December 31, 1971.
H. Signetics Corporation, Fiscal Years Ended January 2, 1972, December 30, 1972, November 7, 1973, December 30, 1973 and December 29, 1974.
I. Schlienger Incorporated, Fiscal Years Ended January 2, 1972, December 31, 1972, December 31, 1973, and December 29, 1974.
J. Cohart Refractories Company, Fiscal Year Ended December 31, 1972.
4. Report of the Chairman concerning: (a) Budget, (b) Personnel Actions, (c) Organization of the Staff, (d) Rulemaking and Regulations.
5. Court of Claims case: Bennett Bros & Pullet Co., Inc., Fiscal Years Ended December 31, 1967, 1968 and 1969.
6. Approval of Agenda for meeting to be held September 20, 1977.
7. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202-254-8277).

Dated: August 10, 1977.

GOODWIN CHASE,
Chairman

[S-1102-77 Filed 8-11-77;9:42 am]

federal register

MONDAY, AUGUST 15, 1977
PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

TRANSPORT CATEGORY AIRPLANE FATIGUE REGULATORY REVIEW PROGRAM

Fatigue Proposals

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

Docket No. 16280; Notice No. 77-15]

TRANSPORT CATEGORY AIRPLANE FATIGUE REGULATORY REVIEW PROGRAM

Fatigue Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the standards applicable to the type certification of transport category airplanes by revising the structural fatigue evaluation requirements and by incorporating related compliance provisions. Adoption of these proposals would improve and update the current standards by taking into account state-of-the-art developments and accumulated service experience. In general, the notice is based on proposals discussed at the Transport Category Airplane Fatigue Regulatory Review Conference during March 15–17, 1977.

DATES: Comments must be received on or before November 14, 1977.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 16280, 800 Independence Avenue SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-755-8714.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before November 14, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of Additional Copies of Notice

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to:

Federal Aviation Administration, Office of Public Affairs, Attn.: Public Information Center (APA-430), 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8058.

Each communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background and Discussion of Proposals

During recent years, there have been significant state-of-the-art and industry-practice developments in the area of structural fatigue and fail-safe-strength evaluation of transport category airplanes. Recognizing that these developments could warrant some revision of existing fatigue requirement contained in §§ 25.571 and 25.573 of Part 25 of the Federal Aviation Regulations, the FAA, on November 18, 1976, gave notice of its Transport Category Airplane Fatigue Regulatory Review Program and invited interested persons to submit proposals to amend those requirements (see 41 FR 50956). Subsequently, the FAA convened a Transport Category Airplane Fatigue Regulatory Review Conference during March 15–17, 1977, in Arlington, Va., to obtain the views of all concerned on the proposals submitted for the review.

Participants in the Review Conference discussed the proposals submitted for the review. These proposals and the related discussions form the basis for the FAA's belief that a comprehensive revision of the structural fatigue evaluation standards of §§ 25.571 and 27.573 is warranted, to that end, it is proposed to substantially revise § 25.571, to delete § 25.573 (but expand the scope of § 25.571 to cover the substance of the deleted section), and to add a new Appendix H to Part 25 containing compliance provisions related to proposed § 25.571. A discussion of significant aspects of the proposed changes follows:

1. *Requirement for damage-tolerance (fail-safe) fatigue evaluation.* Under current §§ 25.571 and 25.573, applicants for a type certificate must show that critical parts of the airplane structure have either adequate fatigue strength (capability to withstand the repeated loads of variable magnitude expected in service) or adequate fail-safe strength (capability to withstand specified loads after fatigue failure of a principal structural element). Service experience has indicated that structure designed to these criteria are nevertheless subject to unpredictable deterioration in service. Fatigue cracks may develop despite exhaustive fatigue analysis and testing; corrosion may weaken the structure; and accidental damage may occur.

Manufacturers of modern transport category airplanes have successfully dealt with this problem by using, wherever practical, the approach known in the industry as "damage-tolerance (fail-safe)" design. The objective of this approach is to design the structure in such a manner that, should damage occur, the structure would retain adequate residual strength until the damage is detected (and repaired) in the course of a manufacturer-developed inspection program. The inspection program is based on analytical predictions, testing of complete structure or subcomponents, and previous operational and design experience. If the damage-tolerance (fail-safe) approach is found to be impractical for particular structure, a conventional fatigue (safe-life) design is used.

The FAA believes that the use, where practical, of structural design based on a damage-tolerance (fail-safe) evaluation would raise the current level of structural reliability and would further reduce the existing extremely low probability of catastrophic failure.

Accordingly, proposed § 25.571(a), in part, would require the use, where practical, of a damage-tolerance (fail-safe) evaluation of critical structure; proposed § 25.571(b) would set forth the basic criteria for that evaluation, including the applicable loading conditions; and proposed § 25.571(c) would allow the use of a fatigue (safe-life) evaluation if the applicant establishes that a damage-tolerance (fail-safe) evaluation under proposed § 25.571(b) would be impractical for specific structure. In addition, proposed §§ 25.571(d) and 25.629(d)(4)(v) would be revised to refer to the loading conditions in proposed § 25.571(b) but would otherwise remain substantively unchanged.

Proposed § 25.571(b) would require, among other things, that multiple site damage be considered during damage-tolerance (fail-safe) evaluation of critical structure. Service experience has shown that when cracks occur, they can propagate in more than one location simultaneously.

It should be noted that the loading conditions set forth in proposed § 25.571(b) are expanded relative to those in current § 25.571(c). The FAA believes that the proposed loading conditions are more representative of actual in-service airplane usage.

Moreover, based on a review of the probability of attaining limit load during actual service, the FAA believes that it is necessary to specify a residual static strength level of 100 percent of limit load in place of the 80 percent of limit load specified in current § 25.571(c) and the 1.15 dynamic effects factor specified in current § 25.571(e). This proposed revision is covered in the loading conditions of proposed § 25.571(b).

In addition, proposed § 25.571(b)(5)(ii) would eliminate the 1.33 factor applied to the pressurized cabin load condition in current § 25.571(e)(2) in favor of a loading condition based on the expected external aerodynamic pressure in 1 g flight combined with a cabin differential pressure equal to 1.1 times the normal operating pressure without any other load. The FAA believes that this is a more realistic loading condition for damage-tolerance (fail-safe) evaluation since the inspection procedures the manufacturer would be required to establish

under proposed § 25.571(a)(3) are keyed to a specified number of cycles at normal operating differential pressure.

2. *New requirement for damage-tolerance (discrete source) evaluation.* The FAA has determined, on the basis of service experience, that there is a need to design transport category airplanes so that the structure can withstand likely structural damage due to the impact of birds or the impact of fragments from failed propellers, engines, or high-energy rotating machinery. Accordingly, proposed § 25.571(e) would require that following such an impact the airplane be capable of successfully completing the flight.

3. *Deletion of current* § 25.573. The FAA believes that there is no longer a need to distinguish between landing gear and other structure with respect to damage-tolerance or fatigue evaluation. Therefore, as proposed, § 25.573 would be deleted, and § 25.571 would apply to all parts of the structure which could contribute to catastrophic failure of the airplane. To avoid possible confusion, the term "landing gear" would be added to the list of parts in proposed § 25.571(a) that would be specifically identified as covered under § 25.571. It should be noted that the term "empennage" would also be added to the list to make it clear that the empennage warrants the same evaluation as the other parts listed.

4. *New Appendix H to Part 25.* To provide detailed guidance for showing compliance with the general requirements set forth in proposed § 25.571, the FAA proposes to add a new Appendix H to Part 25. The compliance provisions in this Appendix would supplement the provisions in proposed § 25.571 dealing with damage-tolerance (fail-safe), fatigue (safe-life), and damage-tolerance (discrete source) evaluations of structure.

Under § H25.2(a) of proposed Appendix H, the type certificatee applicant would be allowed to use probabilistic methods of damage-tolerance evaluation (such as risk analysis) rather than the more commonly used deterministic methods if the applicant shows that the loss of the airplane would be extremely improbable and that the statistical data employed in the analysis is based on operational experience or tests of similar structure. The FAA believes that in certain instances the use of probabilistic methods would enable a more realistic assessment of damage-tolerance, without compromising safety.

Also under § H25.2(a) of proposed Appendix H, the applicant would be allowed to appy the damage-tolerance (fail-safe) evaluation approach to both single load path and multiple load path structure. The FAA believes that the applicant can, by sufficient anlysis and testing, establish that a single load path structure has sufficiently slow crack growth properties so that, if a crack were to develop, it would be discovered during a properly designed inspection program.

5. *Sonic fatigue evaluation for all turbine-engine-powered airplanes.* Under current § 25.571(a) sonic fatigue evaluation of the structure is prescribed for turbojet powered airplanes only. The FAA believes that other turbine-engine-powered airplanes are also subject to sonic fatigue with essentially the same effect on safety. Accordingly, proposed § 25.571(a) would require sonic fatigue evaluation under proposed § 25.571(d) for all turbine-engine-powered airplanes.

6. *Establishment of inspection or other procedures in accordance with § 25.1529.* The FAA believes that a vital and necessary element of both the damage-tolerance evaluation approach and the fatigue evaluation approach is an inspection program aimed at detecting (and permitting repair of) initial damage in sufficient time to prevent catastrophic failure. Accordingly, proposed § 25.571(a)(3) would require the manufacturer to establish inspections or other procedures, based on the evaluation approach selected, as necessary to prevent catastrophic failure.

7. *Consideration of temperatures and humidities expected in service.* The FAA believes that variations in both temperature and humidity in the airplane's operating environment may have a significant effect on the damage-tolerance and fatigue characteristics of conventional metallic materials, and of composite materials, used in critical structures. Accordingly, proposed § 25.571(a)(1)(i) would require consideration of these effects in the required evaluations.

Drafting Information

The principal authors of this document are Irving Fagin, Flight Standards Service, and Samuel Podberesky, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 25 of the Federal Aviation Regulations (14 CFR Part 25) as follows:

1. By revising § 25.571 to read as follows:

§ 25.571 Damage-tolerance and fatigue evaluation of structure.

(a) *General.* The strength, detail design, and fabrication of the airframe structure must be such as to avoid catastrophic failure due to fatigue, corrosion, or accidental damage throughout its operational life. This must be shown by an evaluation conducted in accordance with the provisions of paragraphs (b) and (e) of this section, except as specified in paragraph (c) of this section, for each part of the structure which could contribute to such failure (including wing, empennage, control surfaces and their systems, the fuselage, landing gear, and their related primary attachments). For turbine-engine-powered airplanes, those parts must also be evaluated under paragraph (d) of this section. Appendix H of this part contains compliance provisions related to the requirements of this section. In addition, the following apply:

(1) Each evaluation required by this section must include—

(i) The typical loading spectra, temperatures, and humidities expected in service;

(ii) The identification of principal structural elements and detail design points, the failure of which could cause catastrophic failure of the airplane; and

(iii) An analysis, supported by test evidence, of the principal structural elements and detail design points identified in paragraph (a)(1)(ii) of this section.

(2) The service history of airplanes of similar structural design, taking due account of differences in operating conditions and procedures, may be used in the evaluations required by this section.

(3) Based on the evaluations required by this section, inspections or other procedures must be established as necessary to prevent catastrophic failure, and must be included in the maintenance manual required by § 25.1529.

(b) *Damage-tolerance (fail-safe) evaluation.* The evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. The determination must be by analysis supported by test evidence and service experience. Damage at multiple sites due to prior fatigue exposure must be included where the design is such that this type of damage can be expected to occur. The evaluation must incorporate repeated load and static analyses supported by test evidence. The extent of damage for residual strength evaluation at any time within the operational life must be consistent with the initial detectability and subsequent growth under repeated loads. The residual strength evaluation must show that the remaining structure is able to withstand loads (considered as static ultimate loads) corresponding to the following conditions:

(1) The limit symmetrical maneuvering conditions specified in § 25.337 at V_c and in § 25.345.

(2) The limit gust conditions specified in §§ 25.341 and 25.351(b) at the specified speeds up to V_c, and in § 25.345.

(3) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427, at speeds up to V_c.

(4) The limit yaw maneuvering conditions specified in § 25.351(a) at the specified speeds up to V_c.

(5) For pressurized cabins, the following conditions:

(i) The normal operating pressure combined with the expected external aerodynamic pressures must be applied simultaneously with the flight loading conditions specified in paragraphs (b)(1) through (4) of this section if they have a significant effect.

(ii) The expected external aerodynamic pressures in lg flight combined with a cabin differential pressure equal to 1.1 times the normal operating pressure without any other load.

(6) For landing gear and directly-affected airframe structure, the limit ground loading conditions specified in §§ 25.473, 25.491, and 25.493.

If significant changes in structural stiffness or geometry, or both, follow

from a structural failure, or partial failure, the effect on damage tolerance must be further investigated.

(c) *Fatigue (safe-fail) evaluation.* Compliance with the damage-tolerance requirements of paragraph (b) of this section is not required if the applicant establishes that their application for particular structure is impractical. This structure must be shown by analysis, supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected during its service life. Any cracking must be detectable by standard inspection methods. Appropriate safe-life scatter factors must be applied.

(d) *Sonic fatigue strength.* It must be shown by analysis, supported by test evidence, or by the service history of airplanes of similar structural design and sonic excitation environment, that:

(1) Sonic fatigue cracks are not probable in any part of the flight structure subject to sonic excitation; or

(2) Catastrophic failure caused by sonic cracks is not probable, assuming that the loads prescribed in paragraph (b) of this section are applied to all areas affected by those cracks.

(e) *Damage-tolerance (discrete source) evaluation.* The airplane must be capable of successfully completing a flight during which likely structural damage occurs as a result of:

(1) Impact with a 4-pound bird at likely operational speeds at altitudes up to 8,000 feet;

(2) Propeller and uncontained fan blade impact;

(3) Uncontained engine failure; or

(4) Uncontained high energy rotating machinery failure.

The damaged structure must be able to withstand the static loads (considered as ultimate loads) which are reasonably expected to occur on the flight. Corrective action to be taken by the pilot following the incident, such as limiting maneuvers, avoiding turbulence, and reducing speed must be considered. Dynamic effects on static loads must be considered. However, if significant changes in structural stiffness or geometry, or both, follow from a structural failure, or partial failure, the effect on damage tolerance must be further investigated.

§ 25.573 [Deleted]

2. By deleting § 25.573 and marking it "[Reserved]".

§ 25.629 [Amended]

3. By amending § 25.629(d)(4)(v) by deleting "§ 25.571(c)" and inserting in its place "§ 25.571(b)".

4. By adding a new Appendix H to read as follows:

APPENDIX H—DAMAGE-TOLERANCE AND FATIGUE EVALUATION OF STRUCTURE

H25.1 *Introduction.* The provisions contained in this Appendix are considered by the FAA in determining compliance with the damage-tolerance and fatigue requirements of § 25.571. Although a uniform approach to the evaluation required by § 25.571 is desirable, it is recognized that in such a complex field new design features and methods of fabrication, new approaches to the evaluations, and new configurations may necessitate variations and deviations from the procedures described in this Appendix.

Damage-tolerance design is required, unless it entails such complications that an effective damage-tolerant structure cannot be achieved within the limitations of geometry or inspectability. Under these circumstances, a design that complies with the fatigue evaluation (safe-life) requirements must be used. Typical examples of structure that may not be conducive to damage tolerance design are landing gear and engine mounting attachments.

Experience with the application of methods of fatigue evaluation indicates that a test background must exist in order to achieve the design objective. Even under the damage-tolerance method discussed in § H25.2 of this Appendix, it is the general practice within industry to conduct damage-tolerance tests for design information and guidance purposes. Damage location and growth data must be considered in establishing a recommended inspection program.

Assessing the fatigue characteristics of certain structural elements, such as major fittings, joints, typical skin units, and splices, to ensure that the anticipated service life can reasonably be attained, is required for structure to be evaluated under § 25.571(c).

(a) *Typical loading spectra expected in service.* The loading spectrum must be based on measured statistical data of the type derived from government and industry load history studies and, where insufficient data are available, on a conservative estimate of the anticipated use of the airplane. The principal loads to be considered in establishing a loading spectrum are as follows:

(1) Flight loads, gust and maneuver.

(2) Ground loads, taxiing, landing impact, turning, engine runup, braking, and towing.

(3) Pressurization loads.

The development of the loading spectrum requires the definition of the expected flight plan which involves climb, cruise, descent, flight times, operational speeds and altitudes, and the approximate time to be spent in each of the operating regimes. Operations for crew training, and other pertinent factors, such as the dynamic stress characteristics of any flexible structure excited by turbulence, must also be considered. For pressurized cabins, the loading spectrum must, under § 25.571(b)(5), include the repeated application of the normal operating pressure, and the superimposed effects of flight loads and external aerodynamic pressures.

(b) *Components to be evaluated.* In assessing the possibility of serious fatigue failures, the design must be examined to determine probable points of failure in service. In this examination, consideration must be given, as necessary, to the results of stress analyses, static tests, fatigue tests, strain gage surveys, tests of similar structural configurations, and service experience. Service experience has shown that special attention must be focused on the design details of important discontinuities, main attach fittings, tension joints and splices, and cutouts such as windows, doors, and other openings. Locations prone to accidental damage (such as that due to impact with ground servicing equipment near airplane doors) or to corrosion must also be considered.

(c) *Analyses and tests.* Unless it is determined from the foregoing examination that the normal operating stresses at critical regions in the structure are of such a low order that the probability of serious damage growth is extremely low, repeated load analyses or tests must be conducted on structure representative of components or subcomponents of the wing, control surfaces, empennage, fuselage, landing gear, and their related primary attachments. Test specimens must include structure representative of attachment fittings, major joints, changes in section, tensile area cutouts, and discontinuities. Any method used in the analyses must be supported, as necessary, by test or service experience.

H25.2 *Damage-tolerance (fail-safe) evaluation.*—(a) *General.* The damage-tolerance evaluation of structure is intended to ensure that should serious fatigue, corrosion, or accidental damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure or excessive structural deformation until the damage is detected. Included are the considerations historically associated with fail-safe design. The evaluation encompasses establishing the components which are to be designed as damage-tolerant, defining the loading conditions and extent of damage, conducting structural tests or analyses, or both, to substantiate that the design obective has been achieved, and establishing data for inspection programs to ensure detection of damage. This evaluation applies to either single or multiple load path structure. Design features which must be considered in attaining a damage-tolerant structure include the following:

(1) Multiple load path construction and the use of crack stoppers to limit the growth of cracks.

(2) Duplicate structures designed so that a failure occurring in one-half of the structural member will be confined to the failed half and the remaining structure will still possess adequate load-carrying ability.

(3) Backup structure wherein one member carries all the load, with a second member available and capable of assuming the extra load if the primary member fails.

(4) Materials and stress levels that, after initiation of cracks, provide a controlled slow rate of crack propagation combined with high residual strength.

(5) Arrangement of design details to ensure a sufficiently high probability that a failure in any critical structural element will be detected before the strength has been reduced below the level necessary to withstand the loading conditions specified in § 25.571(b) so as to permit replacement or repair of the failed elements.

(6) Provisions to limit the probability of multiple damage due to fatigue, including the effects of fretting, particularly under high life conditions arising from the following:

(i) A number of small adjacent initial cracks, each of which being less than the minimum detectable length, developing into a long crack.

(ii) Failures, or partial failures, in adjacent areas following an initial failure due to redistribution of loading.

(iii) Simultaneous failure, or partial failure, of multiple load path discrete elements, working at similar stress levels.

Normally, the damage-tolerance assessment consists of a deterministic evaluation of the above design features and this section provides guidelines for this approach. In certain specific instances, however, damage-tolerant design may be more realistically assessed by a probabilistic evaluation employing methods such as risk analysis. They are routinely employed in fail-safe evaluations of airplane systems and have occasionally been used where structure and systems are interrelated. These methods can be of particular value for structure consisting of discrete isolated elements where damage tolerance depends on the ability of the structure to sustain redistributed loads after failures of discrete elements resulting from fatigue, corrosion, or accidental damage. Where considered more appropriate than deterministic analysis, probabilistic analysis may be used if it can be shown that loss of the airplane is extremely improbable and the statistical data employed in the analysis is based on tests or operational experience, or both, of similar structure.

(b) *Identification of principal structural elements.* Principal structural elements are those which contribute significantly to carrying flight, ground, and pressurization loads, and whose failure could result in catastrophic failure of the airplane. Typical examples of such elements are as follows:

(1) *Wing and empennage.* (i) Control surfaces, slats, flaps, and their attachment hinges and fittings.
(ii) Integrally stiffened plates.
(iii) Primary fittings.
(iv) Principal splices.
(v) Skin or reinforcement around cutouts or discontinuities.
(vi) Skin-stringer combinations.
(vii) Spar caps.
(viii) Spar webs.

(2) *Fuselage.* (i) Circumferential frames and adjacent skin.
(ii) Door frames.
(iii) Pilot window posts.
(iv) Pressure bulkheads.
(v) Skin and any single frame or stiffener element around a cutout.
(vi) Skin or skin splices, or both, under circumferential loads.
(vii) Skin or skin splices, or both, under fore-and-aft loads.
(ix) Skin around a cutout.
(x) Skin and stiffener combinations under fore-and-aft loads.
(xi) Window frames.

(c) *Extent of damage.* Each particular design must be assessed to establish appropriate damage criteria in relation to inspectability and damage-extension characteristics. In any damage determination, including those involving multiple cracks, it is possible to establish the extent of damage in terms of detectability with the inspection techniques to be used, the associated initially detectable crack size, the residual strength capabilities of the structure, and the likely damage-extension rate considering the expected stress redistribution under the repeated stress experience expected in service and with the recommended inspection frequency. Thus, an obvious partial failure must be considered to be the extent of the damage for residual strength assessment, provided a positive determination is made that the fatigue cracks will be detectable by the available inspection techniques at a sufficiently early stage of the crack development. In a pressurized fuselage, an obvious partial failure might be detectable through the inability of the cabin to maintain operating pressure or controlled decompression after occurrence of the damage. The following are typical examples of partial failures to be considered in the evaluation:

(1) Detectable skin cracks emanating from the edge of structural openings or cutouts.

(2) A detectable circumferential or longitudinal skin crack in the basic fuselage structure.

(3) Complete severance of interior frame elements or stiffeners in addition to a detectable crack in the adjacent skin.

(4) A detectable failure of one element where dual construction is utilized in components such as spar caps, window posts, window or door frames, and skin structure.

(5) The presence of a detectable fatigue failure in at least the tension portion of the spar web or similar element.

(6) The detectable failure of a primary attachment, including a control surface hinge and fitting.

(d) *Inaccessible areas.* In cases where inaccessible and uninspectable blind areas exist, and suitable damage tolerance cannot practically be provided to allow for extension of damage into detectable areas, the structure must be shown to comply with the fatigue (safe-life) requirements in order to ensure its continued airworthiness. Inspectable structures are generally qualified to the damage-tolerance provisions.

(e) *Testing of principal structural elements.* The nature and extent of tests on complete structures or on portions of the primary structure will depend upon applicable previous design, construction, tests, and service experience, in connection with similar structures. Simulated cracks must be as representative as possible of actual fatigue damage. Where it is not practical to produce actual fatigue cracks, damage may be simulated by cuts made with a fine saw, sharp blade, guillotine, or other suitable means. In those cases where it is necessary to simulate damage at joints or fittings, bolts may be removed to simulate the failure if this condition would be representative of an actual failure.

(f) *Identification of locations to be evaluated.* The locations of damage to structure for damage-tolerance evaluation must be identified as follows:

(1) *Determination of general damage locations.* The location and modes of damage may be determined by analysis or by fatigue tests on complete structures or subcomponents. However, tests may be necessary when the basis for analytical prediction is not reliable, such as for complex components. If less than the complete structure is tested, care must be taken to ensure that the internal loads and boundary conditions are valid. If a determination is made by analysis, factors such as the following are to be taken into account:

(i) Strain data on undamaged structure to establish points of high stress concentration as well as the magnitude of the concentration.

(ii) Locations where permanent deformation occurred in static tests.

(iii) Locations of potential fatigue damage identified by fatigue analysis.

(iv) Design details which service experience of similarly designed components indicate are prone to fatigue or other damage.

In addition, the areas of probable damage from sources such as severe corrosive environment must be determined from a review of the design and past service experience.

(2) *Selection of critical damage areas.* The process of actually locating where damage must be simulated in principal structural elements identified in paragraph (b) of this section requires taking into account factors such as the following:

(i) Review analysis to locate areas of maximum stress and low margin of safety.

(ii) Selecting locations in an element where the stresses in adajcent elements would be the maximum with the damage present.

(iii) Selecting partial fracture locations in an element where high stress concentrations are present in the residual structure.

(iv) Selecting locations where detection would be difficult.

(g) *Damage-tolerance analysis and tests.* It is to be determined by analysis, supported by test evidence, that the structure with the extent of damage established for residual strength evaluation can withstand the specified design limit loads (considered as ultimate loads), and that the damage growth rate under the repeated loads expected in service (between the time at which the damage becomes initially detectable and the time at which the extent of damage reaches the value for residual strength evaluation) provides a practical basis for development of the inspection program and procedures described in paragraph (b) of this section. The repeated loads must be as defined in the loading, temperature, and humidity spectra. The loading conditions must take into account the effects of structural flexibility and rate of loading where they are significant. The damage-tolerance characteristics may be shown analytically by reliable or conservative methods such as the following:

(1) By demonstrating quantitative relationships with structure already verified as damage tolerant.

(2) By demonstrating that the damage would be detected before the damage extent for residual strength evaluation is reached.

(3) By demonstrating that the repeated load stresses do not exceed those of previously verified designs of equivalent materials and inspectability.

The maximum extent of immediately obvious damage from discrete sources must be determined and the remaining structure shown to have static strength for the maximum load (considered as ultimate load) expected during the completion of the flight. Normally this would be an analytical assessment. In the case of uncontained engine failures, the fragments and paths to be considered must be consistent with those used in showing compliance with § 25.903(d)(1) and with typical damage experienced in service.

(h) *Inspection.* Detection of damage before it becomes dangerous is the ultimate control in ensuring the damage-tolerance characteristics of the structure. Therefore, the applicant must provide sufficient guidance information to assist operators in establishing the frequency, extent, and methods of inspection of the critical structure. Due to the inherent complex interactions of the many parameters affecting damage tolerance, such as operating practices, environmental effects, load sequence on crack growth, and variations in inspection methods, related operational experience must be taken into account in establishing inspection procedures. Comparative analysis may be used to guide the changes from successful past practice when necessary. Therefore, maintenance and inspection requirements must recognize the dependency on experience and must be specified in a document that provides for revision as a result of operational experience, such as the one containing the manufacturer's recommended structural inspection program.

H 25.3 *Fatigue (safe-life) evaluation.*—(a) *General.* The evaluation of structure under the following fatigue (safe-life) strength evaluation methods is intended to ensure that the probability of a catastrophic fatigue failure, as a result of the repeated loads of variable magnitude expected in service, is extremely low throughout its operational life. Under these methods, loading spectra are established, the fatigue life of the structure for the spectra is determined, and a scatter factor is applied to the fatigue life to establish the safe-life for the structure. The evaluation must include consideration of the following:

(1) Estimating or measuring the expected loading spectra for the structure.

(2) Conducting a structural analysis including consideration of the stress concentration effects.

(3) Fatigue testing of structure which cannot be related to a test background to establish response to the typical loading spectrum expected in service.

(4) Determining reliable replacement times by interpreting the loading history, variable load analyses, fatigue test data, service experience, and fatigue analyses.

(5) Providing data for inspection and maintenance instructions and guidance information to the operators to prevent catastrophic failure.

In some instances, it may be necessary to correlate the loadings used in the analysis with flight load and strain surveys.

(b) *Safe-life determination: scatter factor.* In the interpretation of fatigue analyses and test data, the effect of variability must be accounted for by an appropriate scatter factor. Relating test results to the recommended safe-life is extremely difficult since there are a number of considerations peculiar to each design and test that require evaluation by the applicant. These considerations will depend on the number of representative test specimens, the material, the type of specimen employed, the type of repeated load test, the load levels, and environmental conditions.

(c) *Replacement times.* Replacement times must be established for parts with established safe-lives and must be included in the information prepared under § 25.1529. These replacement times may be extended only if additional data indicates an extension is warranted. Important factors to be considered for such extensions include, but are not limited to, the following:

(1) *Comparison of original evaluation with service experience.*

(2) *Recorded load and stress data.* Recorded load and stress data entails instrumenting aircraft in service to obtain a representative sampling of actual loads and stresses experienced. The data to be measured includes—airspeed, altitude, and load factor versus time data; or airspeed, altitude and strain ranges versus time date; or similar data. This data obtained by instrumenting airplanes in service provides a basis for correlating the estimated loading spectrum with the actual service experience.

(3) *Additional analyses and tests.* If test data and analyses based on repeated load tests of additional specimens are obtained, a reevaluation of the established safe-life may be made.

(4) *Tests of parts removed from service.* Repeated load tests of replaced parts may be utilized to reevaluate the established safe-life. The tests must closely simulate service loading conditions. Repeated load testing of parts removed from service is especially useful where recorded load data obtained in service are available since the actual loading experience by the part prior to replacement is known.

(5) *Repair or rework of the structure.* In some cases, repair or rework of the structure may gain further life.

(d) *Type design developments and changes.* For design developments, or design changes, involving structural configurations similar to those of a design already shown to comply with the applicable provisions of § 25.571(c), it may be possible to evaluate the variations in critical portions of the structure on a comparative basis. Typical examples would be redesign of the wing structure for increased loads, and the introduction in pressurized cabins of cutouts having different locations or different shapes, or both. This evaluation involves analysis of the predicted stresses of the redesigned primary structure and correlation of the analysis with the analytical and test results used in showing compliance of the original design with § 25.571(c).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 9, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-23420 Filed 8-12-77;8:45 am]

federal register

MONDAY, AUGUST 15, 1977
PART III



FEDERAL ENERGY ADMINISTRATION

ALLOCATION REGULATIONS REVISION FOR PROPANE AND OTHER NATURAL GAS LIQUIDS

Amendments to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil

federal register

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205, 211, and 212]

PROPANE AND OTHER NATURAL GAS LIQUIDS

Allocation Regulations Revision

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposed rulemaking and public hearing for the purpose of revising and consolidating the Mandatory Petroleum Allocation Regulations with respect to propane, butane and the other allocated natural gas liquid products. Also proposed are amendments to the Mandatory Petroleum Price Regulations which would require separate pricing for sales of non-Canadian imported allocated natural gas liquid products designated for industrial, gas utility or gas transmission company use. It is also the purpose of this proceeding to identify and receive comments and (insofar as is feasible) testimony concerning other outstanding issues relating to the allocation of such products and to provide a basis for any necessary further revisions.

DATES: Comments by September 8, 1977, 4:30 p.m.; requests to speak by September 2, 1977, 4:30 p.m.; statements by September 9, 1977, 4:30 p.m.; hearing to be held on September 12, 1977, at 9:30 a.m., and will be continued if necessary at 9:30 a.m. on September 13, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box NL; Washington, D.C. 20461. Statements to Regulations Management, Room 2214, Federal Energy Administration, 2000 M Street NW., Washington, D.C. 20461. Hearing held at: Room 2105, 2000 M Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Gerald P. Emmer (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Bruce Starnes (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461.

Joel M. Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTAL INFORMATION

A. Background

The Federal Energy Administration (FEA) has become increasingly aware of a variety of problems associated with the regulation of propane, butane, and natural gasoline under Subpart D and E of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). Public comment on the need for changes has been received at meetings with industry representatives, public hearings held by FEA, through written requests for rule changes, and general correspondence. The FEA has also encountered difficulties under the current regulations in responding to certain problems which have arisen in day to day operations and also in weather-related emergencies. Particularly, during the severe portion of the 1976-77 winter, FEA found it necessary to adopt a number of emergency amendments pertaining to the allocation of propane and butane in connection with increased natural gas curtailments.

During 1976, FEA was able to make the required statutory findings under Section 12 of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159) to exempt a number of refined products from both the Mandatory Petroleum Allocation and Price Regulations. Although the FEA is currently studying the butane and natural gasoline supply, demand, and price situation in relation to the findings specified in Section 12 of the EPAA for exemption of these products from the regulations, no definite decision has yet been reached on whether to proposed exemption of these products. Moreover, because of the uncertainty surrounding the future propane supply/demand balance, the FEA has no plans for proposing the exemption of propane in the near future. Accordingly, FEA is proposing in this notice a set of allocation regulations for allocated natural gas liquid products which FEA believes will resolve some of the problems with and be more workable than the current regulations.

B. New Subpart D

FEA is proposing to replace Subpart D, pertaining to propane, and Subpart E, pertaining to butane and natural gasoline, of the Mandatory Petroleum Allocation Regulations with a new Subpart D entitled "Natural Gas liquids (NGLs)." FEA believes that all "allocated natural gas liquid products" (a term which would be defined in a proposed amendment to § 211.51 as described herein) should appropriately be allocated in one subpart. The structure of the proposed subpart is similar to the current Subpart D of Part 211 in that it contains separate sections as to "Scope" (§ 211.81), "Definitions" (§ 211.82), "Allocation levels" (§ 211.83), "Supplier/purchaser relationships" (§ 211.85), "Method of Allocation" (§ 211.86), and "Procedures and reporting requirements" (§ 211.89), all of which are subject to the general provisions of Subpart A except where specifically noted. In addition, FEA is proposing a new section "Adjustments and Assignments" (§ 211.84) and to amend and move the use limitations now contained in § 211.10(g)(8) to proposed § 211.87. Furthermore, the provisions relating to imported propane and butane would be shifted from § 211.12(g) to proposed new § 211.88. In proposing the new subpart, FEA has attempted to place most of the allocation regulations specifically relating to allocated natural liquid products in one subpart.

Where appropriate, FEA is proposing conforming amendments to Subpart A of Part 211, and in a few instances, substantive changes to that subpart, all of which will be described herein. The pricing provisions in Part 212 relating to imported allocated natural gas liquid products are also proposed to be amended.

C. Scope and Definitions (§ 211.81 § 211.82 and § 211.51)

The proposed subpart provides for the mandatory allocation as separate products with separate allocation entitlements of all commercial propane, propane HD-5, commercial butane, normal butane, isobutane, commercial B-P mixture, commercial grade natural gasoline, all unfractionated NGL mixtures, and (if greater than 10 percent by weight) the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States. Excluded are (1) bottled propane or butane; and (2) the propane or butane content of refinery gas used for refinery fuel purposes. Such products allocated by FEA would be defined collectively in § 211.51 by the term "allocated natural gas liquid products." The new subpart would be applicable to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source, including both refineries and gas processing plants.

Currently, the regulatory definition of propane in § 211.51 includes mixtures containing 10 percent or more of the chemical C_3H_8 by weight. The definition of butane contains a similar provision. Both of these definitions are inconsistent with industry terminology, have created difficulties in reporting, and do not conform to the definitions in the Mandatory Petroleum Pricing Regulations (10 CFR Part 212).

In this proposal FEA would define each allocated natural gas liquid product in a manner consistent with the specifications of the Gas Processors Association (GPA).

Under the proposal, "propane" would mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet GPA specifications for commercial propane and propane HD-5. Similarly, "butane" would mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutane and mixtures of these two isomers, and all products which meet GPA specifications for commercial butane. The proposal goes on to further define commericial propane, propane HD-5, normal butane, isobutane, commercial butane and commercial natural gasoline. These products, together with "commercial B-P mixture," also defined, are the specification grade NGL products recognized by the industry. FEA believes that the proposed definitions would alleviate many of industry's current difficulties in complying with the allocation regulations for natural gas liquid products. FEA is requesting comments as to whether such new definitions would be the most suitable or whether other definitions would be necessary to further the objectives of the Mandatory Petroleum Allocation Program in allocating the distinct products recognized in the marketplace.

Under FEA's proposal, purchasers of specification grade allocated natural gas liquid products would be entitled to allocations based on their base period use of each such product. The base period would continue to be each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

Purchasers of non-specification grade mixtures of natural gas liquids would receive allocations appropriate to the characteristics of the mixtures purchased during the base period. Unfractionated NGL mixtures, i.e., mixtures the composition of which have not changed since there extraction from "wet" natural gas streams, would be treated as a separate product. It is the FEA's understanding that such mixtures tend to be sold in certain situations to ultimate consumers for use as a distinct product and therefore would be allocated as such, based on the total volume purchased during the base period.

Unlike unfractionated mixtures, the relative proportions of the different allocated NGL products in a fractionated mixture may be subject to determination and control. Under the proposal, suppliers of fractionated NGL mixtures would be required to separately allocate the propane, butane, and natural gasoline components which constitute more than 10 percent by weight of such mixtures. As distinct from the current regulations, the ethane portion of fractionated mixtures would not be allocated.

A comparison of the operation of the current regulations and the proposal should help to clarify the differing treatments. Under the current regulations, a mixture containing fifteen (15) percent of the compound C_3H_8, fifteen (15) percent of the compound C_4H_{10}, and seventy percent ethane would be allocated only as propane and the entire mixture would be so allocated. Under the proposal, the fifteen percent containing C_3H_8 would be allocated as propane, the fifteen percent containing C_4H_{10} would be allocated as butane, and the seventy percent containing ethane would be free from allocation.

Under the proposal, fractionated would be defined to mean separated into components by partial or complete fractional distillation of natural gas liquids mixtures. Once having been so separated, each component would be considered fractionated regardless of subsequent mixing or commingling. For example, if a raw NGL stream would be deethanized and depropanized, the resulting products would be considered to be fractionated. The butane and natural gasoline contained in the remaining stream would be allocated as individual products as would be the propane which has been separated. Any ethane which has been separated would not be subject to allocation.

The definition in § 211.82 of a "producer" would be amended to include a firm which (1) produces an allocated natural gas liquid product in a refinery, (2) maintains an ownership interest in any allocated natural gas liquid product extracted from natural gas in a gas processing plant or separated from an unfractionated natural gas liquid mixture at a fractionating facility or (3) imported into the United States more than 5,000,000 gallons of allocated natural gas liquid products during the immediately preceding four calendar quarters.

In light of FEA's experiences during this past winter when gas utilities were forced to completely curtain industrial users, FEA is also proposing to amend its definition of plant protection fuel. Plant protection fuel would be defined to mean the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. As in the current definition this would include the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of allocated natural gas liquid products required to maintain plant production. Furthermore, allocated natural gas liquid products would not be considered plant protection fuel if an alternate fuel capability is in place for a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis. This last provision is a change from the current definition which excludes from the category of plant protection fuel those situations where an alternate fuel is technically feasible.

The remaining definitions in proposed § 211.82, other than those already referred to, defining bottled propane or butane, dispensing stations, gas service for essential human needs and property protection, merchant storage facility, and process fuel, would be essentially the same as currently provided in § 211.82. Additionally, as discussed herein, in § 211.51, there would be added definitions of gas utility use, gas transmission company use and synthetic natural gas enrichment use.

D. Allocation Levels (§ 211.83)

The allocation levels set forth in proposed § 211.83 would be structured similarly to the current § 211.83 for propane. The proposed paragraphs 211.83(a) and (b), describing the general allocation level scheme and those uses not subject to an allocation fraction, respectively, would be identical to the current regulations except for their applicability to allocated natural gas liquid products instead of propane. Proposed paragraph (c), however, setting forth allocation levels for those end uses subject to an allocation fraction, would differ from current regulations. The following end uses of allocated natural gas liquid products would have an allocation level of 100 percent of current requirements subject to an allocation fraction: emergency services; energy production excluding boiler fuel uses, a change which is intended to be in accord with the President's National Energy Plan; sanitation services; telecommunications services; passenger transportation services; medical and nursing buildings; aviation ground support vehicles and equipment; start-up, testing, and flame stability of electric utility plants; residential use; plant protection fuel use; and petrochemical feedstock use of allocated natural gas liquid products other than propane, commercial B-P mixture and the propane content of fractionated natural gas liquid mixtures.

As indicated, the allocation levels for residential use and plant protection fuel use of allocated natural gas liquid products, which were raised to 100 percent of current requirements for propane, subject to an allocation fraction, in response to emergency needs this past winter, would remain at such levels. FEA believes that plant protection fuel use is a priority use for which 100 percent of current requirements is the appropriate allocation level.

However, FEA is uncertain whether the allocation level for residential use should be at this same level. Although in the emergency situation of this past winter FEA determined that residential users of propane should be protected, there was much criticism of that action by some propane suppliers. Such firms were apprehensive that resellers would actively seek to expand their business by taking on additional residential end user customers, and would then be able to certify such increased requirements to their suppliers pursuant to the procedures set forth in § 211.13(d).

Despite such comments, FEA has tentatively concluded that the allocation level for residential users of allocated natural gas liquid products should remain at 100 percent of current requirements subject to an allocation fraction. FEA believes that this would be the best means of insuring that resellers supplying the residential segment of the allocated natural gas liquid product market will be able to maintain their share with respect to those industrial users which would also be able to receive upward adjustments under proposed § 211.84.

FEA recognizes that since the 1972-73 base period there have been shifts in the residential sector of the propane market. FEA considered returning the allocation level to 100 percent of base period use for residential users but at the same time updating the base period to reflect more recent market conditions. However, FEA was unable to determine a suitable recent base period. Since the peak residential demand is temperature related, FEA examined the most recent winter seasons and concluded that the 1974-75 and 1975-76 winters were above average in temperature and could not be used as a base period to reflect increased growth. The 1976-77 winter, on the other hand, was so severe that many of the transactions and relationships entered into were extraordinary in nature and temporary in duration. Furthermore, because the

propane distribution system was severly strained in certain parts of the country this past winter, using such a period as a base period could result in regional inequities.

However, to prevent excessive upward certifications of increased residential growth at the current allocation level, FEA believes it important to clarify that, under § 211.13(d), certification of increased current requirements is limited to those volumes representing end users' increased requirements since January 1, 1974. Wholesale purchaser-resellers may not certify to their suppliers increased requirements representing volumes of allocated natural gas liquid products which were supplied to end users by another supplier during the year 1973 or earlier. The purpose of the upward certification provision is to allow the base period use for new end users and increased requirements of historical end users to be certified, but not to permit changes in the historical market patterns of wholesale purchaser-resellers.

FEA requests comments as to the appropriate allocation level for residential users, whether an updated base period should be used, and any other suggested resolution of this issue.

Paragraph (c) of proposed § 211.83 also sets forth the end uses which would receive an allocation level of 100 percent of base period use. These would include: petrochemical feedstock use of propane including the propane content of fractionated natural gas liquid mixtures) and commercial B–P mixture; synthetic natural gas (SNG) plant feedstock use; synthetic natural gas enrichment use; other industrial use; gasoline blending and manufacturing use of allocated natural gas liquid products other than propane, governmental use; gas utility use; refinery fuel use; commercial use; transportation service other than passenger transportation service or aviation ground support vehicles, for vehicles equipped to use allocated natural gas liquid products as of December 27, 1973; and schools.

As can be seen, certain of the proposed allocation levels have been combined from the existing subparts D and E. For instance, petrochemical feedstock use of propane, and allocated natural gas liquid products containing propane (except untractionated mixtures) would be given an allocation level of 100 percent of base period use to reflect allocation levels currently contained in § 211.83(c)(2)(i). Petrochemical feedstock use of butane and other allocated natural gas liquid products would be given an allocation level of 100 percent of current requirements subject to an allocation fraction to reflect such levels currently in § 211.-93(c)(1)(ix).

Commercial use and school use, both of which currently have allocation levels for propane and butane of less than one hundred percent of base period use, would be raised to that level for allocated natural gas liquid products. Further, there would be no annual volumetric limitation on commercial use as now exists. The allocation level for other industrial use is also elevated from ninety percent of base period use to one hundred percent of base period use. The word "other" would be included to recognize that certain of the end uses which have individual allocation levels, such as petrochemical feedstock use, are also industrial uses.

A further change from existing subparts would be that allocation levels for "standby volumes" and "where no substitute for propane (or butane) is available" would be eliminated entirely as these considerations would be adequately covered in qualifying statements to other allocation levels.

Additionally, there would be end uses for which allocation levels are expressly provided for the first time. These include synthetic natural gas enrichment use and gas utility use. "Synthetic natural gas enrichment use" would mean usage by a synthetic natural gas producer to enrich or adjust the Btu value of synthetic natural gas so that the resulting mixture will approximate the Btu value, flame characteristics, and other physical properties of natural gas with which it is to be mixed. During the past three years FEA has issued assignment orders for this end use under the allocation level of 90 percent of base period use for other industrial uses. FEA believes that SNG enrichment use should have a separate allocation level so as to permit appropriate assignments to correspond to assignments for SNG feedstock use, which also has an allocation level of 100 percent of base period use.

Currently, in subparts D and E, the only allocation level for direct gas utility use of propane and butane is for peak shaving. Because FEA has narrowly defined peak shaving, there has been insufficient flexibility under the regulations in dealing with emergency needs of gas utilities for propane. Additionally, there is a use limitation with respect to peak shaving contained in § 211.83(c)(2)(v), which in certain respects has been subsumed by the limitation in 10 CFR 211.10(g)(8) and which, by being included with the allocation level, has caused confusion.

Although FEA intends to act with moderation in permitting new gas utility use of allocated natural gas liquid products, FEA is proposing an allocation level for "gas utility use" to provide greater flexibility and to eliminate the current confusion. Gas utility use would mean usage by firms primarily engaged in the distribution of natural gas to ultimate consumers for the purpose of directly supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas. To the extent appropriate, the use of limitations on gas utility use currently contained in § 211.10(g)(8) and in § 211.83(c)(2)(v) would both be moved to proposed § 211.87 as explained herein.

In a similar vein, FEA is also proposing to define "gas transmission company use," which would mean usage by firms primarily enaged in the pipeline transmission and sale of natural gas for resale for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas. No allocation level would be provided for gas transmission company use, but such usage would be subject to the limitations contained in proposed § 211.87.

FEA expects to propose appropriate criteria under which FEA would evaluate applications for assignments and adjustments to base period use for gas utility use and applications for waivers of the special limitations on both gas utility and gas transmission use.

E. Adjustments and Assignments (§ 211.84)

1. Specified industrial uses

Under the current regulations, petrochemical firms which desire to expand operations or open new plants cannot receive adjustments to their base period use of propane for petrochemical feedstock unless they can show serious hardship or gross inequity with respect to the entire firm, in which case they may petition for an exception to the regulations. These existing regulations may have caused difficulties for the petrochemical industry by forcing petrochemical feedstock users of propane in excess of base period volumes to rely on non-Canadian imports or surplus domestic product, which they could be allowed to receive under an FEA waiver of the use limitation contained in § 211.10(g)(8). FEA also believes that process fuel use of allocated natural gas liquid products is also a priority use for which wholesale purchaser-consumers should, in certain instances, be allowed to receive adjustments to their base period use.

FEA is proposing a new § 211.84 pertaining to specified industrial users, gas utility users and gas transmission company users of allocated natural gas liquid products. Paragraph (a) would provide that a wholesale purchaser-consumer could apply (1) to the FEA National Office for adjustments to its base period use for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture, or unfractionated natural gas liquid mixtures, and for gasoline blending and manufacturing use of any allocated natural gas liquid product, except propane, and (2) to the appropriate FEA Regional Office for adjustments to base period use of any allocated natural gas liquid product for process fuel use. Conforming amendments to § 211.13(c) are also proposed to permit upward certifications of such adjustments by wholesale-purchaser resellers. Under the proposal no adjustment mechanism would be proposed for petrochemical users of those allocated natural gas liquid products which would have an allocation level of 100 percent of current requirements subject to an allocation fraction.

FEA will promulgate guidelines for consideration of applications for adjustment to the base period uses of petrochemical feedstock users. Persons commenting are requested to suggest any appropriate criteria in addition to those contained in Subpart B of part 205 to evaluate applications for adjustments for petrochemical feedstock use of propane

and should indicate whether, in their opinion, limits should be set on the size of permissible adjustments.

In connection with the above adjustment procedures, FEA is proposing an amendment in § 211.86(f) which would allow FEA additional flexibility in considering applications for adjustments or assignments of allocated natural gas liquid products. Notwithstanding the provisions of § 211.11(b), which defines a firm as including all parts of the parent and all the entities which it controls, in considering such applications for adjustments or assignments filed pursuant to §§ 211.12(h) or 211.84, under the proposal FEA would be able to consider the requirements for a particular facility separate from the remainder of the firm, and could designate the facility for which such assignments or adjustments may be made. This will allow FEA to act in situations where only part of a firm, such as a particular plant, would be impacted without specific relief and where the remainder of the firm should not appropriately be considered under the application.

2. Gas utility or gas tranmission company use

Paragraph (b) of proposed § 211.84 would be applicable to applications for assignments, adjustments and waivers by gas utilities and gas transmission companies. Under the proposal, wholesale purchaser-consumers would apply to the FEA National Office for all assignments of a base period use of allocated natural gas liquid products for gas utility use, and, nothwithstanding the provisions of § 211.13(e), could apply to the FEA National Office for an adjustment to their base period use, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

Applications for waivers of the limitations on gas utility use or gas transmission company use of allocated natural gas liquid products set forth in § 211.87 (d) would also be filed with the FEA National office. FEA anticipates that in most cases, waivers of the use limitations would be granted gas utilities rather than their receiving assignments which would establish base period uses. By such a procedure FEA would more easily be able to restrict gas utilities to use only non-domestic supplies of such products. On July 26, 1977, FEA established guidelines to evaluate all such applications (42 FR, 38553, July 29, 1977).

Paragraph (b) would also permit gas utilities to act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end-users or wholesale purchaser-consumers separately authorized to purchase such products. Unless otherwise authorized by FEA, such actions would be permitted only in those cases where the wholesale purchaser-consumer or end-user would own the product and bear the entire cost of its storage, gasification, and transmission, where there would be no adverse effects of the gas utility's other customers, and where the user would have no facilities for using a fuel other than pipeline gas. This provision basically would codify a procedure already contemplated by the present guidelines to 10 CFR 211.12(h).

F Supplier Purchaser Relationships (§ 211.85

1. Changes in relationships

Under the proposed section § 211.85, in general, as under current §§ 211.85 and 211.95, supplier/purchaser relationships would be as set forth in §§ 211.9–211.13 unless otherwise specified in the proposed subpart. However, unlike existing regulations, proposed § 211.85 provides a method for allowing wholesale purchasers to change base period suppliers under certain circumstances. This section is designed to permit the mandatory supplier/purchaser relationships to follow more closely current market patterns. Under the proposed regulation, any wholesale purchaser of any allocated natural gas liquid product could terminate a supplier/purchaser relationship or adjust downward its base period use by providing written notice to its base period supplier of its intent to do so, provided that the affected supply obligation would and could be assumed by another supplier without adversely impacting the new supplier's historical purchasers. Under the proposal, wholesale purchasers would specify in the written notice the volume of the supply obligation which would be reduced or terminated, and would include the effective date of termination or downward adjustment, which would have to correspond to the first day of a base period. Upon receipt of such notification, a supplier would subtract the volumes so terminated or covered by the downward adjustment from its base period supply obligations, and would not include such volumes in its base period use from its supplier, unless by the exclusion of such volumes its base period use from that supplier, as adjusted, would fall below its original unadjusted base period use.

Any supplier of allocated natural gas liquid products could establish a supplier/purchaser relationship with a wholesale purchaser to the extent such purchaser would have terminated another supplier/purchaser relationship or adjusted downward its base period use, provided that (1) the new supplier's net obligations for a particular calendar quarter corresponding to a base period would not have reduced the supplier's allocation fraction below one (1.0) in the immediately preceding corresponding calendar quarter, or (2) the supplier could clearly demonstrate that its net adjustments to its base period supply obligations for a particular calendar quarter would not reduce its allocation fraction below 1.0 for that quarter. FEA will not accept the ability of a supplier to certify to its supplier adjustments to its base period use as a sufficient demonstration of the adequacy of its supply. The new supplier and the wholesale purchaser would have to notify FEA and obtain approval from the appropriate FEA Regional Office before a new supplier/purchaser relationship and base period use could be established. Under existing procedures, before FEA could approve the change of supplier, it would have to notify possibly aggrieved parties.

A wholesale purchaser-reseller, which in its capacity as a supplier would establish new supplier purchaser relationships which would increase its base period supply obligations, or which would have excluded certain volumes from its base period use because of terminations or downward adjustments, would receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change to its base period obligations. Certifications of such upward adjustments would be permitted to be made in accordance with the procedures set forth in § 211.13(c)(2) and (3), and certifications of such downward adjustments would have to be so made.

2. Underlifting

One of the problems with the operation of the current regulations is that the regulations do not account for wholesale purchasers which purchased allocated products from their base period supplier in the base period, but which since that time have consistently underlifted or purchased the same product from different suppliers. Allowing wholesale purchasers to change base period suppliers should reduce somewhat the amount of underlifting, in that such purchasers could establish supplier purchaser relationships with the suppliers from which they are currently purchasing product. Furthermore, FEA recognizes that the regulations were designed to deal with possible shortages. To the extent that suppliers must include their entire base period obligation in the calculation of allocable supply for a base period quarter, each base period purchaser is protected with regard to such volumes.

However, FEA is proposing an amendment in § 211.85(c) which should facilitate further the distribution of underlifted supplies. Proposed § 211.85(c) would apply only to wholesale purchasers of allocated natural gas liquid products which have failed to purchase at least eighty (80) percent of their allocation entitlement from their base period suppliers in each of two consecutive calendar quarters. Not less than thirty (30) days before the end of the second such calendar quarter, a base period supplier could notify such purchasers that the supplier intends to exclude the supplier's base period obligations to those purchasers from the supplier's allocable supply for the following calendar quarter, except to the extent such purchasers would inform the supplier of the volumes of such products they intend to purchase from such supplier in the following quarter.

Not less than twenty (20) days before the end of the same calendar quarter, each purchaser which has received such notice from its base period supplier would inform its base period supplier of the portion of its allocation entitlement for the following quarter which it intends to purchase from its base period supplier. A supplier could thereafter exclude from

its allocable supply of allocated natural gas liquid products, for the following calendar quarter only, its entire base period obligations to those wholesale purchasers which received timely notification, except for those portions of the base period volumes which such purchasers informed the supplier in a timely manner that they intended to purchase in said calendar quarter.

Under the proposed procedure, an affected purchaser would still be entitled to its entire base period use, but upon request, it would have to inform its supplier in advance as to the amount of product it would purchase. If a wholesale purchaser purchased eighty percent of its base period use from its base period supplier in a subsequent calendar quarter, it would not be subject to the requirements of the underlifting section unless it again failed to purchase eighty percent of its base period use in two consecutive quarters.

To prevent wholesale purchasers from informing their base period suppliers that they will purchase a certain volume for a particular calendar quarter, and thereafter not actually purchasing such volumes, FEA is proposing a mechanism whereby a wholesale purchaser could be permanently excluded from its base period supplier's supply obligations. The proposal would provide that if, in each of two consecutive calendar quarters for which a wholesale purchaser was required to inform its base period supplier of the volumes of allocated natural gas liquid products it would purchase during such quarter from its base period supplier, the wholesale purchaser did not purchase from its base period supplier at least eighty (80) percent of the amount it informed the supplier that it would purchase, the supplier could thereafter permanently exclude from its allocable supply its base period obligations to said purchaser upon notifying both the wholesale purchaser and the appropriate FEA Regional Office. A notification of such possible permanent exclusion would also have to appear in supplier's original notice to purchasers which solicits the amount which will be purchased. Wholesale purchasers which do not inform their supplier that they will purchase particular volumes of product could not be permanently excluded from the supplier's allocable supply, although they could be excluded for the particular quarter for which they did not inform their supplier.

In the event a supplier's base period obligations to a wholesale purchaser would be permanently excluded from the supplier's allocable supply, the purchaser would be deemed to have a base period use without having a base period supplier. That provision would allow such a purchaser to purchase surplus product up to its base period use without exceeding use limitations. An excluded purchaser could apply to FEA pursuant to **§ 211.12(e) for the assignment of a new supplier, but FEA** could consider the circumstances of the exclusion in granting or denying such an application. Examples are provided below to illustrate the operation of the underlifting section.

EXAMPLES

I. Facts: Firm A is the base period supplier to Firm B of propane HD–5. Firm B purchased from Firm A eighty percent of its allocation entitlement of propane HD–5 in the first calendar quarter of 1977, and did not purchase any portion of its allocation entitlement from Firm A in the second quarter of 1977.

Explanation: Firm B would not be subject to the requirements of the underlifting section, proposed § 211.85(c), because it has not failed to purchase at least eighty percent of its allocation entitlement of an allocated natural gas liquid product, propane HD–5, for two consecutive calendar quarters.

II. Facts: Same as in Example I. In addition, in the third quarter of 1977, Firm B purchases fifty percent of its allocation entitlement of propane HD–5 from Firm A.

Explanation: Since Firm B has failed to purchase at least eighty percent of its allocation entitlement of propane for two consecutive calendar quarters, no less than thirty days before the end of the third quarter, no less than thirty days before the end of the third quarter of 1977 Firm A may notify Firm B that it will exclude Firm B's allocation entitlement from its allocable supply supply of propane HD–5 for the fourth quarter of 1977 except to the extent Firm B informs Firm A that it will purchase such product in the fourth quarter.

III. Facts: Same as Example II. In addition, on August 31, 1977 Firm A has notified Firm B of its possible exclusion for the fourth quarter of 1977. On September 10, 1977 Firm B informs Firm A that it will purchase forty percent of its allocation entitlement for propane HD–5 in the fourth quarter. Firm A thereupon excludes sixty percent of its obligations to Firm B in the calculations of its allocable supply of propane HD–5 for the fourth quarter of 1977. From October 1, 1977 to December 1, 1977, Firm B does not purchase and has made no arrangements to purchase propane HD–5 from Firm A in the fourth quarter of 1977.

Explanation: Firm A was permitted to exclude from its allocable supply for the fourth quarter of 1977 only, the sixty percent of Firm B's entitlement which it did not inform Firm A it would purchase. Since it appears that Firm B will not have purchased eighty percent of its allocation entitlement of propane HD–5 from Firm A in the third and fourth calendar quarters of 1977, Firm A may again inform Firm B that it will exclude its obligations to Firm B from its allocable supply of propane HD–5 for the first quarter of 1978 except as to the amount of propane HD–5 Firm B informs Firm A it will purchase in the first quarter of 1978. (However, if Firm B purchases eighty percent of its allocation entitlement for the fourth quarter of 1977 from Firm A during the last thirty days of the fourth quarter, Firm A may not exclude its obligations to Firm B for the first quarter of 1978 because Firm B will not have failed to purchase eighty percent of its allocation entitlement in the immediately two preceding consecutive calendar quarters.) Firm A may not move to exclude permanently its obligations to Firm B from the calculation of its allocable supply of propane HD–5 because Firm B will not have failed in two consecutive quarters to purchase eighty percent of the amount it was required to inform Firm A that it would purchase. Even if Firm B purchased no propane HD–5 for the remainder of the fourth quarter of 1977, the fourth quarter was the only quarter for which it was required to inform Firm A as to the amount of propane HD–5 it would purchase.

IV. Facts: Same as Example III. In addition, Firm B purchases no propane HD–5 from Firm A during the remainder of the fourth quarter of 1977. On December 1, 1977, Firm A informs Firm B of its possible exclusion for the first quarter of 1978. On December 10, 1977, Firm B informs Firm A it will purchase thirty percent of its allocation entitlement of propane HD–5 during the first quarter of 1978. Firm A excludes seventy percent of its obligation to Firm B from the calculation of its allocable supply of propane HD–5 for the first quarter of 1978. Firm B purchases no propane HD–5 from Firm A during the first quater of 1978.

Explanation: Firm A may permanently exclude its obligations to supply propane HD–5 to firm B because Firm B failed in two consecutive calendar quarters to purchase eighty percent of the amount of propane HD–5 from Firm A which it informed Firm A it would purchase. Alternatively, if Firm A should so choose, it could again propose to exclude Firm B for the second quarter of 1978 only (which would provide Firm B a chance to avoid permanent exclusion by purchasing eighty percent of either its allocation entitlement or the amount it states it will purchase in the second quarter of 1978).

3. GAS PROCESSING PLANTS OR FRACTIONATION FACILITIES

FEA believes that the producer rule for propane as currently set forth in § 211.86 (d) has, in certain respects, been unclear in governing supplier/purchaser relationships between producers of allocated natural gas liquid products. Accordingly FEA is attempting to simplify this rule and is proposing to leave a shortened version in proposed § 211.86(d) and to add paragraph § 211.85(d) dealing with allocation entitlements at gas processing plants.

FEA recognizes that the gas processing industry is quite complex. Quite often firms have ownership interests in many gas processing plants; in individual plants, there can be a web of ownership interests in both the natural gas which is processed and in the allocated natural gas liquid products which are extracted from the natural gas and which may or may not be fractionated. FEA further recognizes the industry practice whereby operators of gas processing plants often take as a processing fee a portion of the allocated natural gas liquid products which are extracted at a gas processing plant. FEA is concerned that unless the interest of the processor in the extracted allocated natural gas liquid products is protected, the historical downstream purchasers of such products from the processor could be adversely affected. As distinct from crude oil processing fees at refineries, which, when in kind, are usually a small percentage of the oil processed, it is not unusual for the in kind processing fees at gas processing plants to be a large percentage of the allocated natural gas liquid products produced.

Accordingly, FEA proposes to provide in § 211.85(d) that a firm which acquired allocated natural gas liquid products through its ownership interest in or operation of a gas processing plant or fractionating facility during the base period would have an allocation entitlement with respect to the volumes of such products acquired during the base period from the firm that supplied the allocated natural gas liquid products in the base period, regardless of whether such products were purchased or acquired under a processing agreement. The historical downstream purchasers of such products would thereby be protected. The regulation would apply to the absolute volumes of such products acquired and not to the percentages of production from a particular natural gas stream. Should available volumes of allocated natural gas liquid products decline in a particular plant, the supplier would remain obligated with respect to its base period volumes subject to an allocation fraction.

By this proposal, FEA is not attempting to allocate natural gas to particular gas processing plants. Owners of natural streams would remain free to send such streams where they choose, in accordance with other applicable law. However, to the extent allocated natural gas liquid products were extracted from a stream in the base period, there remains an obligation to provide to the original processor or purchaser at the processing plant equivalent volumes of allocated natural gas liquid products which were acquired during the base period for the duration of the Mandatory Petroleum Allocation Program.

G. METHOD OF ALLOCATION (§ 211.86)

As currently set forth in §§ 211.86 and 211.96, the allocation of allocated natural gas liquid products under proposed § 211.86 would continue to be as specified in § 211.10 except where otherwise provided and except with respect to the allocation of such products for SNG feedstock use as governed by § 211.29. Adjustments to a wholesale purchaser's base period volume specified in § 211.13 would continue to apply, as would those set forth in §§ 211.84 and 211.85. New wholesale purchasers and end-users would be subject to the requirements of § 211.12, including their mutual arrangements under § 211.12(e)(1) for supplies of butane, which would no longer need FEA approval (as currently required in § 211.96(b)). Also, as currently provided for propane, each supplier or producer which sells allocated natural gas liquid products to a wholesale purchaser-consumer, end-user, or dispensing station would determine the base period volume of those purchasers but would not be required to report that determination to such purchasers except on written request by a purchaser. The state set-aside for propane would also be continued at the three (3) percent level, but there would be separate set asides for commercial propane and propane HD–5. Dispensing stations which sell or fill only bottled propane or butane to end-users would continue to be entitled to receive a volume of propane or butane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction.

The proposed subpart would not permit suppliers to calculate separate allocation fractions for separate distribution systems without FEA action as is currently allowed in §§ 211.86(f) and 211.96(d). Suppliers wishing to establish multiple allocation fractions would be subject to the provisions of § 211.14, which require FEA approval.

The abbreviated version of the producer rule in proposed § 211.86(d) would be directed solely at preventing upward certification by producers to their suppliers which are producers of excessive amounts of product for purchasers whose allocation level is one hundred percent of current requirements. FEA is proposing in this regard that producers allocate their total supply in accordance with § 211.10, except that, if a producer is the base period supplier to wholesale purchaser-resellers which would have certified amounts of propane to be for ultimate use under an allocation level of one hundred percent of current requirements whether or not subject to an allocation fraction, that producer would not be allowed to recertify such amounts to any other producer which would be its base period supplier. This provision basically already exists as part of the current § 211.86(d).

In proposed § 211.86(e), FEA is proposing a new inventory accumulation rule for allocated natural gas liquid products. Except as provided, producers, suppliers, wholesale purchasers and end-users could accumulate allocated natural gas liquid products in inventory in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices. Unless authorized by the FEA, gas utilities, gas transmission companies, and synthetic natural gas plants could not accumulate allocated natural gas liquid products in inventory in excess of one hundred (100) percent of the sum total of their base period uses for the four base period quarters. Currently, such accumulation is permitted up to one hundred twenty (120) percent of their allocation entitlement, which is on the basis of a calendar quarter.

Additionally, unless authorized by FEA, industrial users (for uses other than process fuel and plant protection fuel) of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture and unfractionated natural gas liquid mixtures could accumulate such products in inventory only up to an amount equal to one hundred (100) percent of the sum total of their base period uses for all industrial uses of each such product for the four base period quarters. For process fuel and plant protection fuel use, the 100 percent limitation would not be applicable. For these uses, the general limitation on inventory being normal and reasonable for seasonable usage would apply. Similarly, allocated natural gas liquid products imported other than from Canada for industrial use under § 211.88 would not be subject to the 100 percent inventory accumulation limitation.

If a firm controls greater than the above mentioned inventories of allocated natural gas liquid products, just as currently provided, it could not acquire or accept an allocation of such products from a supplier or producer until its inventories are reduced to conform to the limitations.

Upon application, FEA would have the authority to waive the restrictions on inventory accumulation. FEA recognizes that pressure on the distribution system for allocated natural gas liquid products, especially for propane, during periods of peak demand could be alleviated if such products were placed during non-peak months in storage facilities near the points of use. FEA intends, therefore, to permit the accumulation of inventory in excess of the limitation by firms with on-site storage capability.

H. SPECIAL LIMITATIONS (§ 211.87)

The limitations on propane and butane currently contained in § 211.10(g)(8) would be removed from that section, and placed in proposed § 211.87. Unless otherwise authorized by the FEA upon application pursuant to Subpart G of Part 205, the limitations on industrial use, refinery fuel use, and gas utility or gas transmission company use would apply to the acquisition and use of allocated natural gas liquid products during each twelve month period commencing October 1 and ending September 30 of the following year. By having the use limitations based on a twelve month period commencing October 1 rather than on individual calendar quarters, greater flexibility will be accorded users which need to use volumes of product to meet heavy seasonal demand. However, such users would remain subject to the volumetric use limitation for the entire twelve month period. Of course, if supplies of allocated natural gas were to become low, at any time FEA could redirect surplus product or take other actions as necessary pursuant to subpart A of Part 211.

1. INDUSTRIAL USE

As to the specific limitations proposed in new § 211.87, for all industrial use (including petrochemical feedstock use and gasoline blending and manufacturing use), except for process fuel use, plant protection fuel use, refinery fuel use as specifically provided for, and industrial uses accorded an allocation level of 100 percent of current requirements, no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of propane (including the propane content of fractionated natural gas liquids and refinery gas), commercial B–P mixture, or unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except as provided for non-Canadian imports or except for the purpose of increasing inventories for such industrial uses to permissible levels.

As distinct from the current use limitation, FEA would exempt process fuel

and plant protection fuel use of all allocated natural gas liquid products from the industrial use limitation, as well as all industrial uses of butane. FEA believes that process fuel use and plant protection fuel uses are priority uses and firms should not be precluded from acquiring domestic surplus propane for such uses. With regard to industrial users of butane, FEA believes that inasmuch as no large residential sector exists for butane which would have to be protected, industrial users of butane should be able to compete for available surplus product.

2 REFINERY FUEL USE

In § 211.87, FEA also proposes to continue the limitation on refinery fuel use and proposes that no supplier supply and no end-user or wholesale purchaser-consumer could accept or use quantities of allocated natural gas liquid products for refinery fuel (excluding the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except with respect to non-Canadian imports or except for the purpose of increasing inventories for such use to permissible levels.

FEA intends in the future to deal with other issues related to refinery fuel use of allocated natural gas liquid products. For the present, FEA will let stand the "Statement of Policy Regarding Use of Propane and Butane for Refinery Fuel" which currently follows § 211.10(g). The problems discussed therein still remain and FEA remains aware of them.

3. GAS UTILITY OR GAS TRANSMISSION COMPANY USE

For gas utility use or gas transmission company use, under proposed § 211.87(a)(3)(i) no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except for the purpose of increasing inventories for such uses to permissible levels.

Additionally, as modified from the limitation currently contained in §211.83(c)(2)(v), FEA is proposing in §211.87(a)(3)(ii) that no wholesale purchaser-consumer could use any quantities of an allocated natural gas liquid product for gas utility use or gas transmission company use as long as gas service would be continued to industrial or commercial customers which have an alternate fuel capability in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

Currently, the use limitation prohibits propane or butane from being used for peak shaving whenever gas utilities continue service to "interruptible" industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any non-residential customer which can use a fuel other than natural gas, propane or butane. FEA believes that such a use limitation should properly be directed at customers with installed alternate fuel capability rather than those with interruptible contracts which in some cases (such as hospitals, which may have entered into interruptible contracts to take advantage of lower rates) may be priority customers. This limitation would apply to all gas utility users of allocated natural gas liquid products including historical users, and thus is different in scope from the general limitation of proposed § 211.87(a)(3)(i) which is applicable to all gas utility use in excess of historical levels.

4. SYNTHETIC NATURAL GAS FEEDSTOCK OR ENRICHMENT USE

Paragraph (b) of proposed § 211.87 would contain the use limitation on synthetic natural gas use currently contained in § 211.10(g)(8). It would provide that unless otherwise authorized by FEA upon application pursuant to subpart G of part 205, for synthetic natural gas feedstock use or synthetic natural gas enrichment use, no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the base period use for a base period quarter, except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(e).

The use limitation for users of these products for SNG feedstock is more restrictive than the proposed use limitation for industrial or gas utility users. The current use limitation permits FEA to exercise control over SNG feedstock use during each calendar quarter. To assist FEA's SNG task force, which is currently reevaluating FEA's policy with regard to the allocation of SNG feedstocks, FEA solicits comments as to whether the use limitation for SNG feedstocks should equal the sum of the base period use for the four base period quarters, rather than having separate limitations for each quarter.

I. IMPORTERS OF ALLOCATED NATURAL GAS LIQUID PRODUCTS (§ 211.88)

In an effort to consolidate as many of the regulations pertaining to allocated natural gas liquid products as possible, the regulations pertaining to non-Canadian imported propane and butane currently contained in § 211.12(g) would be moved, in their amended form, to proposed § 211.88. Proposed § 211.88 would apply to all importers of allocated natural gas liquid products (other than from Canada). It separately places provisions relating to end user and wholesale purchaser-consumer importers into paragraph (b) and provisions for supplier importers into paragraph (c). Basically it sets forth the method of allocation for non-Canadian imports and imposes restrictions on imports for industrial use, gas utility and gas transmission company use of allocated natural gas liquid products.

Briefly, FEA believes that non-Canadian imports of allocated natural gas liquid products should be available to industrial users of such products without regard to the use limitation set forth in proposed § 211.87. Such imports should also be available in certain cases, with FEA approval, to gas utilities or gas transmission companies. For all these classes of users, FEA believes the costs of such imports in excess of historical use levels should be fully borne by the user. In this manner, other segments of the allocated natural gas liquid product market, such as direct residential users of propane, would not have to share in such costs. Concomitantly, industrial and gas utility (as permitted by FEA) users which desire such products would be able to make the business judgment whether to purchase such imports. The necessary conforming amendments to the Mandatory Petroleum Price Regulations are also being proposed herein.

Paragraph (b) of proposed paragraph § 211.83 provides that except for gas utility and gas transmission company users, end users and wholesale purchaser-consumers of allocated natural gas liquid products could import (other than from Canada) such products for their own use.

Paragraph (b) then provides that wholesale purchaser-consumers and end-users could acquire and use allocated natural gas liquid products imported other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) without regard to the limitations imposed by proposed § 211.86(e) and § 211.87, but would be subject to the provisions of § 211.88(c) in purchasing imports of such products from domestic suppliers.

Proposed paragraph (b), continuing the provision currently contained in § 211.12(g), also provides that acquisition of imports of allocated natural gas liquid products other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) would not affect a firm's allocation entitlements unless FEA would determine that such imports would be inconsistent with the objectives of the EPAA. Also as currently provided, end-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to proposed § 211.88 would not be considered by reason thereof to be prime suppliers or producers of allocated natural gas liquid products.

As to gas utilities and gas transmission companies, paragraph (b) would also explicitly provide that imports of allocated natural gas liquid products for gas utility use and gas transmission company use would be subject to the limitations set forth in proposed § 211.87 and could not be acquired in excess of those limitations unless expressly waived by FEA. Further, an authorized purchase by a wholesale purchaser-consumer from a domestic supplier of imported allocated natural gas liquid products for gas utility or gas transmission company use would be subject to the requirements of § 211.88(c).

Suppliers could acquire allocated natural gas liquid products imported other

than from Canada for distribution to end-users and wholesale purchasers only in accordance with paragraph (c) of proposed § 211.88. Under paragraph (c), any supplier of allocated natural gas liquid products which would have an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period could import (or acquire from suppliers which have so imported) such products other than from Canada for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 would be allocated in accordance with the provisions of § 211.10. However, FEA could in individual situations require separate inventory records to be maintained for such imports sold for gas utility or gas transmission company use to new wholesale purchaser-consumers which would establish a base period use subsequent to October 1, 1977, or to existing wholesale purchaser-consumers with respect to upward adjustments to their base period use received after that date.

Any supplier of allocated natural gas liquid products which would achieve an allocation fraction of 1.0 or greater for a calender quarter could import (or acquire from suppliers which have so imported) such products other than from Canada to increase further its allocation fraction above 1.0 and would also distribute such imports in accordance with the provisions of § 211.10, except that distribution of such products for industrial, gas utility, or gas transmission company use would be in accordance with further restrictions of paragraph (c).

The proposal contains a new requirement that all non-Canadian imported surplus allocated natural gas liquid product distributed for all industrial, gas utility or gas transmission company uses would have to be accounted for by separate inventory records and would be subject to separate cost computation requirements as described herein. Specifically, suppliers with an allocation fraction of one (1.0) or greater could import (or acquire from suppliers which have so imported) allocated natural gas liquid products other than from Canada for distribution to wholesale purchaser-consumers and end-users which would certify in writing that they would use such imported products for industrial (including petrochemical feedstock or refinery fuel), gas utility, or gas transmission company use or for distribution to any wholesale purchaser-reseller which would certify it would distribute such products for such uses. A mandatory certification requirement is also included requiring all wholesale purchaser-consumers and end users which purchase non-Canadian imported allocated natural gas liquid products for industrial, gas utility and gas transmission company uses and all wholesale purchaser-resellers which purchase such products for distribution for such uses to certify in writing to the suppliers of such products the intended end use of such products.

All suppliers receiving such certifications would have to maintain inventory records for such allocated natural gas liquid products separate from their inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. Suppliers which do not receive such certifications would also be required to determine to the maximum extent practicable whether their non-Canadian imported allocated natural gas liquid products would be distributed for industrial, gas utility or gas transmission company use. To the extent their products were intended to be so distributed, separate inventory records would also have to be maintained.

As currently provided in § 211.12(g), in any situation, should circumstances warrant, FEA could require that imported allocated natural gas liquid products other than from Canada obtained by a firm pursuant to proposed paragraph 211.88 (c) be allocated to other wholesale purchasers, end-users, producers or suppliers, in accordance with the provisions of § 211.14.

J. PROPOSED PRICING AMENDMENTS

FEA is proposing amendments to Subparts E and F of part 212 to incorporate the requirements of proposed § 211.88 pertaining to imported allocated natural gas liquid products into the special price rules relating to imported propane and butane currently contained in § 211.83(h)(2)(iii) and § 212.93(f)(2). Corresponding changes to subpart K are being proposed separately from the proposed general amendments to subpart K of part 212 issued on June 3, 1977 (42 FR 29490, June 9, 1977). The purpose of these amendments is to separate the cost computation for non-Canadian imported allocated natural gas liquid products utilized by industrial, gas utility or gas transmission company users so as to insulate and protect other historical users of such products from the higher costs generally associated with such imports. FEA realizes that there may be differences in treatment between the allocation amendments being proposed herein and the amendments proposed on June 3. Upon final adoption of these amendments, FEA expects to resolve possible inconsistencies.

In § 212.83(h)(2)(iii), currently it is optional for refiners to apply unequal amounts of increased costs to the weighted average May 15, 1973 selling prices of any imported propane or butane other than from Canada designated for industrial use pursuant to the present § 211.12(g)(2)(ii) if such imported propane or butane other than from Canada is maintained in a separate inventory or inventories and never commingled with other inventories of propane or butane. Under the proposed change to § 212.83(h)(2)(iii), a refiner would be required to apply amounts of increased costs unequally to the weighted average May 15, 1973 selling prices of any imported propane, butane, natural gasoline or natural gas liquids other than from Canada, if separate inventory records for such products are kept as would be required pursuant to proposed § 211.88(c). No longer would there be a requirement that there could not be a physical commingling of such products.

The current § 212.93(f)(2) pertaining to resellers of non-Canadian imported propane and butane for industrial use would be extended to all non-Canadian imported propane, butane, natural gasoline or natural gas liquids designated for industrial, gas utility or gas transmission company use. Proposed §212.93(f)(2) provides that any seller of imported propane, butane, natural gasoline or natural gas liquids other than from Canada would determine the price permitted to be charged for such products pursuant to paragraph (a) of § 212.93 by calculating increased product costs as follows:

With respect to the imported propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88(c), for each such separate inventory the seller would make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such products pursuant to paragraphs (a) and (b) of § 212.93, with the selling prices for propane included in such products not, however, subject to paragraph (f)(1) of § 212.93.

With respect to quantities of imported propane, butane, natural gasoline and natural gas liquids for which a separate inventory record would not be required to be maintained pursuant to § 211.88(c), the seller would add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records would not be maintained pursuant to § 211.88(c), in making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other provisions of § 212.93, including paragraph (f)(1).

In subpart K or part 212, a new paragraph (g) would be added to correspond to the proposed changes to subparts E and F for refiners and resellers. Under proposed paragraph (g), separate calculations of increased costs would be required for each volume of non-Canadian imported propane, butane, natural gasoline or natural gas liquids which are subject to subpart K and for which separate inventory records would be required under § 211.88(c).

Increased costs so calculated in each of subparts E, F, and K would not be available for recovery in the prices charged for other propane, butane, natural gasoline or natural gas liquids.

K. PROCEDURES AND REPORTING REQUIREMENTS (§ 211.89)

Reporting requirements and filing procedures which currently are contained in § 211.88 would be included in proposed § 211.89.

L. PROPOSED SUBPART A AMENDMENTS

As already stated in earlier portions of this preamble, FEA is proposing amendments to Subpart A to part 211 to conform that subpart to proposed Subpart D, and a number of other amendments to provide more flexibility to users and suppliers of allocated natural gas liquid products. The substantive changes are briefly described here.

FEA is proposing to amend § 211.10(g)(5) to allow a freer flow of surplus allocated natural gas liquid products during times when it is not necessary to redirect surplus. Specifically with respect to the distribution of surplus allocated natural gas liquid products, suppliers which distribute such product pursuant to § 211.10(g), unless otherwise notified by FEA, may distribute such product upon submission by certified mail of the notification required under subparagraph (3) of § 211.10(g) without waiting ten (10) days for a subsequent FEA notification.

If FEA were to determine that a shortage or other situation exists whereby it could be necessary to redirect surplus allocated natural gas liquid products, FEA may by FEDERAL REGISTER notice notify all suppliers that the ten day waiting period would be reinstated. The FEDERAL REGISTER notice would be deemed sufficient by FEA to serve notice upon all suppliers of the requirement to retain the surplus until released by FEA or until the ten days would expire.

Section 211.10(g)(8) would no longer contain the special limitations on propane and butane which would be moved to proposed § 211.87. Section 211.12 would be amended in paragraph (g) by removing from it the specific regulations dealing with imported propane and butane, which would be moved to proposed § 211.88. Section 211.13 would be amended to account for the new adjustments which would be provided in § 211.84 and § 211.85. The definitions in section 211.51 would be amended as previously discussed.

Section 211.25 would be amended in paragraph (c) to permit borrow-payback of future allocations of allocated natural gas liquid products within total allocations for any twelve month period beginning October 1 and ending September 30 of the following year. The twelve month period for such transactions relating to allocated natural gas liquid products is being changed from a calendar year basis to allow borrowing during the entire winter season of heavy temperature-related demand with paybacks in the following summer when demand should be slackened.

Finally, 10 CFR 205.13 would be amended to (1) remove the requirement that all matters pertaining to the allocation of butane and natural gasoline be handled by the FEA National Office rather than a Regional Office and (2) reflect that requests pertaining to pricing of propane, as well as butane and natural gasoline will be handled by FEA's National Office.

M. COMMENT PROCEDURE

1. WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulations to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number NL. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on Proposed Allocated Natural Gas Liquid Products Regulations." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by September 8, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. PUBLIC HEARING

a. *Request procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., e.d.t., on September 12, 1977, in the Auditorium, Room 2105, 2000 M Street, N.W., Washington, D.C. to receive oral presentations from interested persons, and if necessary will be continued at the same time at the same location on September 13, 1977.

Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box NL, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t. September 2, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 7, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., September 7, 1977, and must submit 100 copies of his or her proposed statement to Allocations Regulations Development Office, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461 before 4:30 p.m., e.d.t., on September 9, 1977.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interestd person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.t., September 8, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11953, 41 FR 36641.)

In consideration of the foregoing, parts 205, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C., August 9, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 205.13 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the FEA pursuant to this part shall be filed with the appropriate FEA Regional Office, except that all documents shall be filed with the FEA National Office that relate to: * * *

(3) The pricing of propane, butane and natural gasoline pursuant to Part 212 of this chapter;

* * * * *

2. Section 211.10 is amended by revising subparagraph (1) of paragraph (b), by revising subparagraph (1) of paragraph (g), by adding a sentence at the end of subparagraph (5) of paragraph (g) and by revising subparagraph (8) of paragraph (g) to read as follows:

§ 211.10 Supplier's method of allocation.

* * * * *

(b) *Allocation fraction.* * * *

(1) *Allocable supply.* Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports (except to the extent imports are excluded pursuant to § 211.88), purchases and any reduction in inventory of that allocated product made pursuant to § 211.22 except as otherwise ordered by FEA; less (i) any amounts designated as a state set-aside for a prime supplier pursuant to § 211.17, (ii) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction, (iii) any amounts supplied to wholesale purchaser-resellers which have certified these amounts to be for ultimate use under an allocation level not subject to an allocation fraction, (iv) any amounts supplied to customers through exchange agreements. Any existing inventory, production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the allocable supply of that product.

* * * * *

(g) *Allocation fractions greater than one*—(1) *General.* In allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction greater than one (1.0) except as provided herein. Allocated natural gas liquid products imported and distributed by suppliers pursuant to § 211.88 shall be subject only to the provisions of that section, except as provided therein.

* * * * *

(5) *Distribution of surplus product.* * * *

With respect to the distribution of surplus allocated natural gas liquid products, suppliers which distribute such product pursuant to this paragraph, unless otherwise notified by FEA, may distribute such product upon submission by certified mail of the notification required under subparagraph (3) of this paragraph (g) without waiting ten (10) days for an FEA notification.

* * * * *

(8) *Limitations on purchaser's rights.* No supplier shall supply and no end-use or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, except as provided for purchasers of allocated natural gas liquid products in § 211.87.

* * * * *

3. Section 211.2 is amended in paragraph (g) by revising subparagraphs (g)(1) and (g)(2) to read as follows:

§ 211.12 Purchasers allocation entitlement.

* * * * *

(g) *End-user and wholesale purchaser consumer importers.* (1) Except with respect to allocated natural gas liquid products as provided in § 211.88, end-users and wholesale purchaser-consumers which import an allocated product in excess of volumes which they imported in the base period, and end-users and wholesale purchaser-consumers which have not previously imported an allocated product may import that product for their own use, provided that should circumstances warrant, FEA may order suppliers of a firm which imports or purchases an imported allocated product to limit or terminate the allocation entitlement of such firm for any period corresponding to a base period or FEA may order that imports made pursuant to this paragraph (g) be allocated to other end-users, wholesale purchasers, producers or suppliers.

(2) End-users and wholesale purchaser-consumers who import allocated products are required to report to both the FEA National and appropriate Regional offices puursuant to § 211.225.

4. Section 211.13 is amended by revising subparagraph (1) of paragraph (a) and paragraph (c) to read as follows:

§ 211.13 Adjustments to base period volume.

(a) *Scope.* (1) The adjustment procedures under this section are applicable to the allocation of allocated natural gas liquid products, motor gasoline, middle distillate, aviation fuels (except allocations to civil air carriers), and residual fuel oil (except allocations to utilities) and other products subject to Subpart K of this part. Except as provided in §§ 211.84 and 211.85, this section describes the means by which wholesale purchasers and end-users may receive adjustments to their base period volumes. All adjustments made pursuant to this section are subject to vertification by FEA audit.

* * * * *

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.* (1) A wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified pursuant to § 205.26(c) of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.84, § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

(2) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to subparagraph (1) above or § 211.85 may certify to and shall receive an upward or downward adjustment to its base period use from its supplier or suppliers in proportion to that part of its base period use received from each supplier.

(3) All suppliers which receive a certification of an adjustment to base period use made pursuant to this paragraph or § 211.85, or which receive a certification from any other supplier of an adjustment to base period use under this paragraph or § 211.85 which has been certified to that other supplier, may in turn certify to their suppliers the amount of the adjustment and shall receive an adjustment in proportion to that part of their base period use received from each supplier to cover the certified increases granted under this paragraph or § 211.85, or the decreases mandated under § 211.85.

5. Section 211.25 is amended by revising subsection (c) to read as follows:

§ 211.25 Supplier substitution.

* * * * *

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume-for-volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other whole purchasers. With respect to allocated natural gas liquid products, such transactions are permitted within the total allocations for any 12 month period beginning October 1 and ending September 30 of the following year.

6. Section 211.51 is amended by deleting the definition of "modified allocation level," and by inserting in the proper alphabetical order the following revised definitions of "butane" and "propane," and the new definitions of "allocated natural gas liquid products," "gas utility use," "gas transmission company use," and "synthetic natural gas enrichment use" to read as follows:

§ 211.51 General definitions.

"Allocated natural gas liquid products" means (regardless of origin) commercial

propane, propane HD–5, commercial butane, normal butane, isobutane, commercial B–P mixture, commercial grade natural gasoline, unfractionated natural gas liquid mixtures and, if greater than 10 percent by weight, the propane, butane, or natural gasoline content of all fractionated mixtures of natural gas liquids.

• • • • •

"Butane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutanes and mixtures of these two isomers, and all products which meet Gas Processors Association (GPA) specifications for commercial butane as revised in 1975 and listed in GPA Publication 2140(75), "GPA LPG Specifications and Test Methods."

• • • • •

"Gas transmission company use" means usage, by firms primarily engaged in the pipeline transmission and sale of natural gas for resale, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

• • • • •

"Gas utility use" means usage, by firms primarily engaged in the distribution of natural gas to ultimate consumers, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

• • • • •

"Propane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet Gas Processors Association (GPA) specifications for commercial propane and propane HD–5 as revised in 1975 and listed in GPA Publication 2140(75), "GPA LPG Specifications and Test Methods."

• • • • •

"Synthetic natural gas enrichment use" means usage by a synthetic natural gas producer to enrich or adjust the Btu value of synthetic natural gas so that the resulting mixture will approximate the Btu value, flame characteristics, and other physical properties of the pipeline natural gas with which it is to be mixed.

• • • • •

7. Subparts D and E of Part 211 are deleted in their entirety and replaced with a new Subpart D to read as follows:

Subpart D—Natural Gas Liquids (NGLs)

§ 211.81 Scope.

(a) This subpart is applicable to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source.

(b) This subpart provides for the mandatory allocation as separate products with separate allocation entitlements of all commercial propane, propane HD–5, commercial butane, normal butane, isobutane, commercial B–P mixture, commercial grade natural gasoline, all unfractionated NGL mixtures, and (if greater than 10 percent by weight) the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States. Excluded are (1) bottled propane or butane; and (2) the propane or butane content of refinery gas used for refinery fuel purposes.

(c) This subpart provides for state set-asides for commercial propane and propane HD–5 only.

§ 211.82 Definitions.

For purposes of this subpart—

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

"Bottled propane or butane" means propane or butane or mixtures of propane and butane bottled in cylinders with a capacity of one hundred (100) pounds or less provided that the cylinders are not manifolded at the time of sale.

"Commercial B–P mixture" means any product which meets Gas Processors Association (GPA) specifications for commercial B–P mixture as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPA Specifications and Test Methods."

"Commercial butane" means all products which meet GPA specifications for commercial butane as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG specifications and Test Methods."

"Commercial grade natural gasoline" means any product which meets Gas Processors Association (GPA) specifications for any of the twenty-four (24) grades of natural gasoline as revised in 1974 and listed in GPA Publication 3132 (74), "GPA Natural Gasoline Specifications and Test Methods."

"Commercial propane" means all products which meet Gas Processors Association (GPA) specifications for commercial propane as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG Specifications and Test Methods."

"Dispensing station" means those retail sales outlets which sell less than 15,000 gallons per year and sell or fill only bottled propane or butane.

"Fractionated" means separated into components by partial or complete fractional distillation of natural gas liquids mixtures. Once having been so separated each component shall be considered fractionated regardless of subsequent mixing or commingling.

"Gas service for essential human needs and property protection" means distribution of natural gas to residential and small commercial users with no alternate fuel capability which use less than 50,000 cubic feet of natural gas on a peak day, to industrial plants for plant protection fuel, and to apartment buildings and medical and nursing buildings with no alternate fuel capability.

"Isobutane" means butane which contains 95 percent or more by volume of the saturated branch chain hydrocarbon isomer known as isobutane.

"Merchant storage facility" means any facility which is utilized to store allocated natural gas liquid products for firms other than the owner or operator of such a facility.

"Normal butane" means butane which contains 95 percent or more by volume of the saturated straight-chain hydrocarbon isomer known as normal butane.

"Plant protection fuel" means the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. This includes the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of allocated natural gas liquid products required to maintain plant production. Allocated natural gas liquid products may not be considered plant protection fuel if an alternate fuel capability is in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

"Process fuel" means allocated natural gas liquid products used to convert a substance from one form to another such as in applications requiring precise temperature controls or precise flame characteristics. Allocated natural gas liquid products may not be considered process fuel if an alternate fuel is available and technically feasible for substitution.

"Producer" means a firm which (1) produces an allocated natural gas liquid product in a refinery, (2) maintains an ownership interest in any allocated natural gas liquid product extracted from natural gas in a gas processing plant or separated from an unfractioned natural gas liquid mixture at a fractionating facility or (3) imported into the United States more than 5,000,000 gallons of allocated natural gas liquid products during the immediately preceding four calendar quarters.

"Propane HD–5" means all products which meet Gas Processors Association (GPA) specifications for propane HD–5 as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG Specifications and Test Methods."

§ 211.83 Allocation levels.

(a) *General.* The allocation levels in this paragraph apply only to allocations made by suppliers or producers to wholesale purchaser-consumers and end-users. Except as otherwise provided in this subpart, suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase allocated natural gas liquid products under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchase consumers which are entitled to purchase allocated natural gas liquid products under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production (excluding boiler fuel uses);

(iii) Sanitation services;

(iv) Telecommunications services;

(v) Passenger transportation services;

(vi) Medical and nursing buildings;

(vii) Aviation ground support vehicles and equipment;

(viii) Start-up, testing, and flame stability of electric utility plants;

(ix) Residential use;

(x) Plant protection fuel use; and

(xi) Petrochemical feedstock use of allocated natural gas liquid products other than propane, commercial B–P mixture and the propane content of fractionated natural gas liquid mixtures.

(2) One hundred (100) percent of base period use for:

(i) Petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures) and commercial B–P mixture.

(ii) Synthetic natural gas plant feedstock use;

(iii) Synthetic natural gas enrichment use;

(iv) Other industrial use;

(v) Gasoline blending and manufacturing use of allocated natural gas liquid products other than propane;

(vi) Governmental use;

(vii) Gas utility use;

(viii) Refinery fuel use;

(ix) Commercial use;

(x) Transportation service other than passenger transportation service or aviation ground support vehicles, for vehicles equipped to use allocated natural gas liquid products as of December 27, 1973; and

(xi) Schools.

§ 211.84 Adjustments and assignments.

(a) *Specified industrial use.* Notwithstanding the provisions of § 211.13(e), a wholesale purchaser-consumer may apply (1) to the FEA National Office for adjustments to its base period use, in accordance with the provisions of Subpart B of Part 205 of this chapter, for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture, or unfractionated natural gas liquid mixtures, and for gasoline blending and manufacturing use of any allocated natural gas liquid product, except propane, and (2) to the appropriate FEA Regional Office for adjustments to base period use of any allocated natural gas liquid product for process fuel.

(b) *Gas utility use and gas transmission company use.* Applications for assignments, adjustments and waivers will be evaluated in a manner consistent with the criteria set forth in Subparts B and C of Part 205 and other regulations or guidelines which FEA may promulgate.

(1) *Adjustments and assignments.* Wholesale purchaser-consumers shall apply to the FEA National Office for all assignments of a base period use of allocated natural gas liquid products for gas utility use, and, notwithstanding the provisions of § 211.13(e), may apply to the FEA National Office for an adjustment to base period use, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(2) *Waivers.* Applications for waivers of the limitations on gas utility use or gas transmission company use of allocated natural gas liquid products set forth in § 211.87(d) shall be filed with the FEA National Office in accordance with the provisions of Subpart G of Part 205 of this chapter.

(3) *Gas utilities as agents for end-users or wholesale purchaser-consumers.* Gas utilities may act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end-users or wholesale purchaser-consumers separately authorized to purchase such products pursuant to this part. Unless otherwise authorized by FEA, such actions are permitted only in those cases (i) where the wholesale purchaser-consumer or end-user owns the product and bears the entire cost of its storage, gasification, and transmission; (ii) where there will be no adverse effects on the gas utility's other customers; (iii) where the user has no facilities for using a fuel other than pipeline gas; and (iv) where this procedure is consistent with all applicable Federal and State laws, regulations, and orders.

§ 211.85 Supplier/purchaser relationships.

(a) *General.* Supplier purchaser relationships shall be as set forth in §§ 211.9–211.13 unless otherwise specified in this subpart.

(b) *Changes in relationships.* (1) Notwithstanding the provisions of subpart A of this part, any wholesale purchaser of any allocated natural gas liquid product may terminate a supplier purchaser relationship or adjust downward its base period use by providing written notice to its base period supplier of its intent to do so provided that the affected supply obligation will be assumed by another supplier pursuant to subparagraph (b)(2) of this section. Wholesale purchasers shall specify in the notice the volume of the supply obligation which shall be reduced or terminated, and shall include the effective date of termination or downward adjustment. Such dates shall correspond to the first day of a base period. Upon receipt of such notification a supplier shall subtract the volumes so terminated or adjusted downward from its base period supply obligations, and shall not include such volumes in its base period use from its supplier unless by the exclusion of such volumes its base period use, as adjusted by this section, would fall below its original unadjusted base period use.

(2) Any supplier of allocated natural gas liquid products may establish a supplier purchaser relationship with a wholesale purchaser to the extent such purchaser has terminated a supplier purchaser relationship or has adjusted downward its base period use pursuant to paragraph (b)(1) of this section, provided that (i) the supplier's net new obligations for a particular calendar quarter corresponding to a base period would not have reduced the supplier's allocation fraction below one (1.0) in the immediately preceding corresponding calendar quarter, or (ii) the supplier can clearly demonstrate that its net adjustments to its base period supply obligations for a particular calendar quarter will not reduce its allocation fraction below 1.0 for that quarter. The mere ability to certify upward such adjustments to its supplier will not be sufficient to constitute a clear demonstration by a wholesale purchaser-reseller that its allocation fraction will not be reduced below 1.0. The supplier and wholesale purchaser must notify FEA and obtain approval from the appropriate FEA Regional Office before a new supplier purchaser relationship and base period use can be established under this section.

(3) A wholesale purchaser-reseller, which in its capacity as a supplier establishes new supplier purchaser relationships under subparagraph (b)(2) of this section which increase its base period supply obligations, or which has excluded certain volumes from its base period use pursuant to subparagraph (b)(1) of this section, shall receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change to its base period obligations. Certifications of such adjustments shall be made in accordance with the procedures set forth in § 211.13(c)(2) and (3).

(c) *Underlifting.* (1) This paragraph (c) applies only to wholesale purchasers of allocated natural gas liquid products whenever such purchasers fails to purchase at least eighty (80) percent of their allocation entitlement of any such product from their base period suppliers in each of two consecutive calendar quarters. If a wholesale purchaser purchases eighty percent of its base period use of such product from its base period supplier in a subsequent calendar quarter, it would not be subject to the requirements of this paragraph (c) unless it again fails to purchase eighty percent of its base period use in two consecutive quarters.

(2) Not less than thirty (30) days before the end of the second such calendar quarter, a base period supplier may notify purchasers which have failed to purchase at least eighty percent of their allocation entitlement in two consecutive quatrers that the supplier intends to exclude the supplier's base period obligations to those purchasers from the supplier's allocable supply for the following calendar quarter, except to the extent such purchasers inform the supplier of the volumes of such products it intends to purchase from such supplier in the following quarter. Such notification shall state that subsequent failure by the purchaser to purchase in two consecutive calendar quarters eighty percent of the amount it informs the supplier that it will purchase for such quarters could result in the purchaser's per-

manent exclusion of its entitlement from the supplier's allocable supply. Not less than twenty (20) days before the end of the same calendar quarter, each purchaser which has received such notification from its base period supplier shall inform its base period supplier of the portion of its allocation entitlement for the following quarter which it intends to purchase from its base period supplier. A supplier may thereupon exclude from its allocable supply of allocated natural gas liquid products, for the following calendar quarter only, its entire base period obligations to those wholesale purchasers which received timely notification, except for those portions of the base period volumes which such purchasers informed the supplier in a timely manner that they intend to purchase in said calendar quarter.

(3) If, in each of two consecutive calendar quarters for which notifications by wholesale purchasers are necessary under subparagraph (c)(2) above, a wholesale purchaser does not purchase from its base period supplier at least eighty (80) percent of the amount it informed the supplier that it would purchase pursuant to subparagraph (c)(2) above, the supplier may thereafter permanently exclude from its allocable supply its base period obligations to said purchaser upon notifying both the wholesale purchaser and the appropriate FEA Regional Office.

(4) In the event a supplier's base period obligations to a wholesale purchaser are excluded from the supplier's allocable supply pursuant to subparagraph (3) of this paragraph, the purchaser shall be deemed to have a base period use without having a base period supplier. Such a purchaser may apply to FEA pursuant to § 211.12(e) for the assignment of a new supplier, but FEA may consider the circumstances of the exclusion in granting or denying such application.

(d) *Gas processing plants or fractionation facilities.* A firm which acquired allocated natural gas liquid products from through its ownership interest in or operation of a gas processing plant or fractionating facility during the base period shall have an allocation entitlement with respect to the volumes of such products acquired during the base period from the firm that supplied the allocated natural gas liquid products in the base period, regardless of whether such products were purchased or acquired under a processing agreement.

§ 211.86 Method of allocation.

(a) *General.* Except as specifically otherwise provided in this subpart and except with respect to the allocation of such products for synthetic natural gas feedstock use as provided in § 211.29, the allocation of allocated natural gas liquid products shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in §§211.13, 211.84, and 211.85 shall apply to this subpart. New wholesale purchasers and end-users are subject to the requirements of § 211.12. Notwithstanding the provisions of § 211.12(c), each supplier or producer which sells allocated natural gas liquid products to a wholesale purchaser-consumer, end-user, or dispensing station shall determine the base period volume of those purchasers but is not required to report that determination to such purchasers except on written request by a purchaser.

(b) *State set-aside.* The initial separate state set-aside levels for commercial propane and propane HD–5 are three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State. Section 211.17 shall control the distribution of propane from the State set-aside.

(c) *Dispensing stations.* Notwithstanding the provisions of § 211.10, dispensing stations which sell or fill only bottled propane or butane to end-users shall be entitled to receive a volume of propane or butane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction.

(d) *Producers.* Producers shall allocate their total supply in accordance with § 211.10 except that if a producer is the base period supplier to wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level of one hundred (100) percent of current requirements whether or not subject to an allocation fraction, that producer may not recertify such amounts to any other producer which may be its base period supplier.

(e) *Inventory accumulation.* (1) Except as otherwise provided in this paragraph (e), producers, suppliers, wholesale purchasers and end-users may accumuate allocated natural gas liquid products in inventory in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices.

(2) Unless authorized by the FEA, gas utilities, gas transmission companies, and synthetic natural gas plants shall not accumulate allocated natural gas liquid products in inventory in excess of one hundred (100) percent of the sum total of their base period uses for the four base period quarters.

(3) Unless authorized by FEA, industrial users (for uses other than process fuel and plant protection fuel) of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture and unfractionated natural gas liquid mixtures may accumuate such products in inventory pursuant to paragraph (e)(1) of this section, but only up to an amount equal to one hundred (100) percent of the sum total of their base period uses for all industrial uses of each such product for the four base period quarters. However, allocated natural gas liquid products imported other than from Canada for industrial use under § 211.88 shall not be subject to the limitations of this subparagraph (e)(3).

(4) If a firm controls greater than the above mentioned inventories of allocated natural gas liquid products, it shall not acquire or accept an allocation of such products from a supplier or producer until its inventories are reduced to conform to the limitations imposed by this subsection (e).

(f) *Separate facilities.* Notwithstanding the provisions of § 211.11(b), in considering applications for adjustments to or assignments of base period use of an allocated natural gas liquid product filed pursuant to §§ 211.12(h) or 211.84, FEA may consider the requirements for a particular facility separate from the remainder of the firm, and may designate the facility for which such assignments or adjustments may be made.

§ 211.87 Special limitations.

(a) Unless otherwise authorized by the FEA upon application pursuant to subpart G of Part 205 of this chapter, the following limitations shall apply to the acquisition and use of allocated natural gas liquid products during each twelve month period commencing October 1 and ending September 30 of the following year:

(1) *Industrial use.* For all industrial use (including petrochemical feedstock use and gasoline blending and manufacturing use), except for process fuel use, plant protection fuel use and industrial uses accorded allocation levels of 100 percent of current requirements (and refinery fuel use separately provided for in subparagraph (2) of this paragraph (a)), no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane (including the propane content of fractionated natural gas liquids and refinery gas), commercial B–P mixture, or unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except as provided in § 211.88 or except for the purpose of increasing inventories for such industrial uses to the levels allowed under § 211.86(e).

(2) *Refinery fuel use.* For refinery fuel use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (excluding the propane and butane content of refinery gas (in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters except as provided in § 211.88 or except for the purpose of increasing inventories for such refinery fuel use to the levels allowed under § 211.86(e).

(3) Gas utility and gas transmission company use. (i) For gas utility use or gas transmission company use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters except for the purpose of increasing inventories for such use to the levels allowed under § 211.86(e).

(ii) No wholesale purchaser-consumer shall use any quantities of an allocated natural gas liquid product for gas utility use as long as gas service is continued to industrial or commercial customers which have an alternate fuel capability in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

(b) *Synthetic gas use.* Unless otherwise authorized by FEA upon application pursuant to subpart G of part 205, for synthetic natural gas feedstock use or synthetic natural gas enrichment use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the base period use for a base period quarter, except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(e).

§ 211.88 Importers of allocated natural gas liquid products.

(a) *General.* This section shall apply to all imports (other than from Canada) of allocated natural gas liquid products by end-users, wholesale purchaser-consumers, or by suppliers of such products.

(b) *End-user and wholesale purchaser-consumer importers of allocated natural gas liquid products*—(1) *Applicability.* Except as specified in subparagraphs (2) and (3) of this paragraph (b), the provisions of § 211.12(g) shall be applicable to all end-users and wholesale purchaser-consumers of imported allocated natural gas liquid products.

(2) *Industrial use.* (i) Wholesale purchaser-consumers and end-users may acquire and use allocated natural gas liquid products imported other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) without regard to the limitations imposed by §§ 211.86(e) and 211.87. Such users shall be subject to the provisions of paragraph (c) of this section in acquiring imports of such products from domestic suppliers.

(ii) Acquisition of imports of allocated natural gas liquid products other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) will not affect a firm's allocation entitlements unless FEA determines that such imports are inconsistent with the objectives of the Emergency Petroleum Allocation Act of 1973 and pursuant to § 211.12(g)(1) orders a firm's supplier to limit or terminate the firm's allocation entitlement.

(3) *Gas utility and gas transmission company use.* Imports of allocated natural gas liquid products other than from Canada for gas utility use and gas transmission company use are subject to the limitations set forth in § 211.87 and may not be acquired under this section in excess of those limitations unless such limitations are expressly waived by FEA. An authorized purchase by a wholesale purchaser-consumer from a domestic supplier of imported allocated natural gas liquid products for gas utility or gas transmission company use shall be subject to paragraph (c) of this section.

(4) End-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to the provisions of this paragraph (b) shall not be considered by reason thereof to be prime suppliers or producers of allocated natural gas liquid products.

(c) *Supplier importers of allocated natural gas liquid products*—(1) *General.* Suppliers may acquire allocated natural gas liquid products imported other than from Canada for distribution to end-users and wholesale purchasers only in accordance with this paragraph. Should circumstances warrant, FEA may require that imported allocated natural gas liquid products other than from Canada obtained by a firm pursuant to this paragraph (c) be allocated to other wholesale purchasers, end users, producers or suppliers, in accordance with the provisions of § 211.14(d).

(2) *Suppliers with allocation fractions less than 1.0.* Any supplier of allocated natural gas liquid products which has an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period may import (or acquire from suppliers which have so imported) such products other than from Canada for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 shall be allocated in accordance with the provisions of § 211.10. However, effective October 1, 1977, FEA may by order require separate inventory records to be maintained for such imports sold for gas utility or gas transmission company use to new wholesale purchaser-consumers which establish a base period use subsequent to that date, or to existing wholesale purchaser-consumers with respect to upward adjustments to their base period use received after that date.

(3) *Suppliers with allocation fractions of 1.0 or greater.* (i) Any supplier of allocated natural gas liquid products which has achieved an allocation fraction of 1.0 or greater for a calendar quarter may import (or acquire from suppliers which have so imported) such products other than from Canada to increase further its allocation fraction above 1.0 and shall distribute such imports in accordance with the provisions of § 211.10, except that distribution of such products for industrial, gas utility, or gas transmission company use shall be in accordance with subparagraph (c)(3)(ii) of this section.

(ii) *Industrial use, gas utility use, and gas transmission company use.* Suppliers with an allocation fraction equal to or greater than 1.0 may import (or acquire from suppliers which have so imported) allocated natural gas liquid products other than from Canada for distribution to wholesale purchaser-consumers and end users which certify in writing that they will use such imported products for industrial (including petrochemical feedstock or refinery fuel), gas utility, or gas transmission company use or for distribution to any wholesale purchaser-reseller which certifies it will distribute such products for such uses under this subparagraph (c)(3)(ii). All wholesale purchaser-consumers and end users which purchase non-Canadian imported allocated natural gas liquid products for industrial, gas utility or gas transmission company use and all wholesale purchaser-resellers which purchase such products for distribution for such users shall certify in writing to the suppliers of such products the intended end use of such products. The certifications for gas utility or gas transmission use must also provide that FEA has expressly waived the § 211.87 use limitations with respect to such volumes. A supplier which has allocated natural gas liquid products to be distributed under a certification received pursuant to this subparagraph shall maintain inventory records for such allocated natural gas liquid products separate from its inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. In the event no certification is received by a supplier pursuant to this subparagraph (c)(3)(ii), a supplier remains obligated to determine to the maximum extent practicable whether its non-Canadian imported allocated natural gas liquid products are to be distributed for industrial, gas utility or gas transmission company use. If the supplier determines that such products are to be so distributed, the supplier shall maintain separate inventory records as if it had received a certification.

§ 211.89 Procedures and reporting requirements.

(a) All owners of storage facilities (or operators thereof) which store allocated natural gas liquid products shall report to the FEA National Office on Form FEA 103B or its successor forms in accordance with the instructions accompanying such form or forms. All owners of allocated natural gas liquid products in a merchant storage facility shall, in accordance with the instructions thereto, file Form FEA 101A with the operator of a merchant storage facility. These reports shall be kept on file by the merchant storage facility operator, and are subject to FEA audit.

(b) Except as provided in § 211.84, all applications for adjustment or assignment of allocated natural gas liquid products shall be filed with the appropriate FEA Regional Office in accordance with the procedures specified in Subparts B and C, respectively, of Part 205 of this chapter.

(c) The general reporting and recordkeeping requirements contained in Subpart L of this part apply to this subpart except that the requirements of § 211.224 shall not apply and the information required to be kept on FEA forms in § 211.223 may be kept by suppliers or producers in accordance with that firm's customary recordkeeping practices.

(d) An application for an assignment of propane from the state set-aside system, as provided in § 211.17, based on hardship or emergency requirements is to be filed with the appropriate State Office in accordance with the procedures stated in Subpart Q of Part 205 of this chapter.

(e) Producers and specified wholesale purchaser-resellers of allocated natural gas liquid products shall report on Form FEA 100–A.

8. Subparagraph (2) of paragraph (h) of § 212.83 is amended by revising subparagraph (2) (iii) to read as follows:

§ 212.83 Price Rule.

* * * * *

(h) *Equal application among classes of purchaser.* * * *

(2) *Special Rules.* * * *

(iii) *Certain imports of propane, butane, natural gasoline and natural gas liquids other than from Canada maintained in a separate inventory.* Notwithstanding the provisions of paragraph (1) above with respect to equal application of costs, a refiner shall apply amounts of increased costs unequally to the weighted average May 15, 1973 selling prices of any imported propane, butane, natural gasoline or natural gas liquids other than from Canada, if separate inventory records for such products are maintained pursuant to § 211.88(c) and provided that the increased costs for such imports are computed pursuant to the following formula and further provided that the increased costs so computed are subtracted from the amount computed in § 212.83(c) (2) (iii) (D) for B, when $\iota=4$:

$$I_{\iota}"=B_{\iota}$$

Where:

$I"$=The total dollar amount that may be applied in the period "ι" (the current month) to the May 15, 1973 selling prices of products "ι" to compute maximum allowable prices for these products.

B=The "B" factor as defined in § 212.83(c) (2) (iii) (D).

ι=Imported propane, butane, natural gasoline or natural gas liquids other than from Canada maintained in a separate inventory pursuant to § 211.88(c).

Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline. * * *

* * * * *

9. Paragraph (f) of § 212.93 is amended by changing its title and revising subparagraph (2) to read as follows:

§ 212.93 Price Rule.

* * * * *

(f) *Special rules for natural gas liquid products.* * * *

(2) *Separate cost of product in inventory for certain imported propane, butane, natural gasoline or natural gas liquids.* Any seller of imported propane, butane, natural gasoline or natural gas liquids other than from Canada, shall determine the price permitted to be charged for such products pursuant to paragraph (a) of this section by calculating increased product costs as follows:

(i) With respect to imported propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88(c), for each such separate inventory the seller shall make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such imports pursuant to paragraphs (a) and (b) of this section, with the selling prices for propane included in such products not, however, subject to paragraph (f) (1) of this section. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

(ii) With respect to any quantity of imported propane, butane, natural gasoline and natural gas liquids for which a separate inventory record is not required to be maintained pursuant to § 211.88(c), the seller shall add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records are not maintained pursuant to § 211.88(c) or pursuant to § 212.92, in making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other provisions of this section, including paragraph (f) (1).

* * * * *

10. A new paragraph (g) is added to § 212.167, to read as follows:

§ 212.167 Allocation of increased product costs.

* * * * *

(g) *Separate aggregation and allocation of increased costs of certain imported natural gas liquids and certain imported propane, butane or natural gasoline.* Anything in this subpart to the contrary notwithstanding, if purchased natural gas liquids, or purchased propane, butane or natural gasoline are or have been imported other than from Canada and for which separate inventory records are required to be maintained under § 211.88(c), increased costs of such purchased natural gas liquids or such purchased propane, butane or natural gasoline shall be separately calculated for each such separate inventory and shall be allocated to the natural gas liquids or the propane, butane or natural gasoline in such inventory. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

[FR Doc 77-23432 Filed 8-12-77;8:45 am]

[10 CFR Part 212]

RESALE OF CRUDE OIL

Amendments to Mandatory Petroleum Price Regulations

AGENCY: Federal Energy Administration.

ACTION: Further notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration ("FEA") hereby gives notice of a proposal to amend the Mandatory Petroleum Price Regulations regarding the pricing of crude oil by resellers. Written comments will be received and a public hearing will be held with respect to this proposal. The purpose of this rulemaking proceeding is to develop a regulatory system that is well suited to the particular operations of crude oil resellers. In this regard, FEA will consider the issuance of a Ruling addressed to the proper application of the existing provisions of 10 CFR Part 212, Subpart F to crude oil resellers, as well as prospective and/or retroactive amendments to the price regulations with respect to crude oil resellers.

DATES: Comments by Thursday, September 15, 1977, 4:30 p.m.,; Requests to speak by Friday, September 9, 1977, 4:30 p.m.; Hearing dates: *Dallas Hearing:* Thursday, September 15, 1977, 9:30 a.m.; *Washington Hearing:* Tuesday, September 20, 1977, 9:30 a.m.

ADDRESSES: All comments to: Executive Communications, Room 3317, Federal Energy Administration, Box NV, Washington, D.C. 20461; Requests to speak:

Dallas Hearing: Federal Energy Administration, Attn. S. Dickey, P.O. Box 3528, 2626 West Mockingbird Lane, Dallas, Texas 75235;
Washington Hearing: Attn. Executive Communications, 12th and Pennsylvania Avenue NW., Room 3317, Box NV, Washington, D.C. 20461;

Hearing locations:

Dallas Hearing: Federal Energy Training Room 2501, 2626 West Mockingbird Lane, Dallas, Texas 75235;
Washington Hearing: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

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I. Background

On October 14, 1976, FEA issued a Notice entitled "Clarifications to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil" (41 FR 47077, October 27, 1976). In the October 14 Notice, FEA recognized that while 10 CFR Part 212, Subpart F is, by its own terms, applicable to

> Each sale of a covered product (other than the first sale of crude oil) by resellers, reseller-retailers, and retailers, to each sale of crude oil (other than the first sale) by a refiner its application to crude oil resellers has raised interpretive questions because of certain significant respects in which the historic business methods of crude oil resellers differ from those generally employed by resellers of other covered products.

Moreover, other questions had arisen because the price regulations applicable to first sales of domestic crude oil (10 CFR Part 212, Subpart D) are significantly different than the regulations applicable to covered products other than crude oil. These factors led FEA to consider whether some modification and/or clarification of Subpart F might be appropriate to recognize the unique aspects of crude oil reselling.

FEA did not in the October 14 Notice propose specific regulatory amendments. Rather FEA set forth in as much detail as possible the issues that have faced crude oil resellers with respect to the proper application of Subpart F to crude oil resales, as well as FEA's tentative conclusions with respect to those issues, indicating that primary consideration would be given to interpretive rulings and regulatory amendments that are both administratively feasible and consistent with the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 ("EPAA").

More than forty comments were received in response to the October 14 Notice, and a public hearing was held on November 19, 1976, at which oral statements were received from eighteen interested persons. After consideration of all the comments received, as well as other information available to FEA at this time, FEA has concluded that, before any final action is taken with respect to resolution of the issues set forth in the October 14 Notice, additional written and oral comments will be requested. For this purpose, FEA has proposed specific regulatory amendments. If adopted, these amendments will become effective prospectively from the date of their adoption. Additionally, at the conclusion of this proceeding, FEA proposes to issue a formal Ruling addressed to the interpretive questions contained in the October 14 Notice. The Ruling would apply the provisions of Subpart F, which were in effect prior to the adoption of any regulatory amendments proposed in this Notice, to resales of crude oil. Alternatively, FEA also solicits comments as to whether all or a part of the proposals set forth herein should be adopted on a retroactive basis.

II. This Proceeding

In this proceeding, FEA sets forth in detail its understanding of the basic nature of crude oil reselling operations, in order to afford interested persons as much of an opportunity as possible to comment on the proposals set forth in this Notice. Inasmuch as the accuracy of the factual basis for these proposals is vital to the ability of resellers generally to adapt to any final amendments that may emerge from this rulemaking proceeding, interested persons are urged to comment to the greatest extent possible on FEA's understanding—as set forth in this Notice—of the nature of crude oil reselling operations. Where the commander believes that FEA's understanding of the nature of this aspect of the industry is not clear, comments should be as specific as possible. In this way, FEA will be able better to develop the most practical regulatory scheme for crude oil resellers.

Also, in this proceeding FEA solicits additional comments addressed to the interpretive questions contained in the October 14 Notice, that will aid FEA in its interpretation of the proper application to crude oil resellers of the provisions of Subpart F in effect prior to the adoption of any of the regulatory amendments proposed in this Notice. Comments addressed to the historical application of Subpart F to crude oil resellers should be clearly identified and separated from comments addressed to the proposed amendments discussed below.

III. The Nature of Crude Oil Reselling Operations

With respect to domestic crude oil, crude oil resellers search for new sources of crude oil production, then gather, collect, and transport the crude oil they find to its ultimate destination, the refinery. The crude oil reseller generally takes title to crude oil at one or more leases from the producer or royalty owner in the "first sale" as that term is defined in 10 CFR 212.72. Crude oil of a particular type is thus "gathered" by the reseller in relatively small volumes from several properties within a geographical area known as a "field" and transported by the reseller in its trucks or through its owned and operated pipelines ("gathering lines") to a "reception station," which acts as a collection and distribution point for crude oil of a similar type gathered from a single field. The reception station is basically comprised of relatively low-volume crude oil holding tanks located at or very near a larger pipeline ("trunk line"). Although a particular crude oil reseller may gather as much as 100,000 barrels of crude oil in a single month to a single reception station, the storage capacity of that station may only be capable of holding 1,000 barrels at any one time. The nature of crude oil reselling is such that the basic purpose is to move the crude oil from the production site to the refinery, rather than to hold it "in inventory" at any particular location.

To a lesser extent the reseller may transport the crude oil from the lease by truck directly to a nearby refinery, or to a still lesser extent may transport crude oil from the lease by truck to a reception station owned by a second reseller for sale or exchange with the second reseller. The latter situation might arise where the first reseller has been successful in obtaining the right to purchase a new source of crude oil in an existing field which is already served by a gathering system owned and operated by the second reseller. Where the crude oil is gathered to a reception station not owned by the reseller who gathered the crude oil, it may be sold, in some cases, to the reseller who owns the reception station. However, inasmuch as control of the crude oil is important to resellers typically the gathering reseller exchanges the crude oil for crude oil owned by the second reseller and located elsewhere.

A reseller may own and operate several different "gathering systems," each with its own gathering lines and reception station serving a particular field. The same reseller may also own and operate a number of trucks for gathering crude oil in other locations. At any particular reception station, the reseller may maintain separate tanks for different grades of crude oil. For example, a station may have one tank for "sweet" crude oil and another tank for "sour" crude oil.

Once the crude oil has been gathered at a reception station it passes into a trunk line. Whereas the gathering lines are small pipelines used to collect crude oil in relatively small volumes from several production sites for collection at a central station, trunk lines are generally larger pipelines which are used to transport the gathered crude oil to the refinery. Trunk lines are owned and operated privately by resellers and refiners, or are owned and operated as common carriers by firms which do not take title to the crude oil. Thus, once the crude oil has been gathered to a reception station, it may be transported to a refinery in one of the following ways:

(1) where the trunk line is owned and operated by the reseller, the reseller retains title to the crude oil and incurs the expenses associated with transporting the crude oil through the pipeline until it reaches the refinery where title passes to a refiner;

(2) where the trunk line is owned and operated by a refiner, title passes to the refiner when the crude oil enters the pipeline, and the refiner incurs the expenses associated with transporting the

crude oil through the pipeline until it reaches the refinery;

(3) where the pipeline is operated as a common carrier, title normally passes to the refiner when the crude oil enters the pipeline, and the refiner pays the common carrier pipeline tariff from that point to the refinery; or

(4) where the pipeline is owned and operated by another reseller of crude oil, title to the crude oil normally passes to the second reseller, who incurs the expenses associated with transporting the crude oil through the pipeline until it reaches the refinery where title passes to a refiner.

Three variations of (3) may also occur: (a) title to the crude oil may be retained by the reseller, who pays the common carrier pipeline tariff from the reception station to the refinery, in which event the refiner is invoiced by the reseller separately for transportation; (b) the reseller may exchange the crude oil with a different reseller for crude oil located elsewhere; or (c) the refiner may take title to the crude oil and exchange it with a different refiner for crude oil located elsewhere. While FEA believes that other variations are also possible, those outlined above are understood to represent the majority of crude oil transactions at the trunk line level.

FEA understands the acquisition, sale, and exchange operations of resellers of imported crude oil to be generally parallel to the operations of resellers of domestic crude oil after the imported crude oil has been landed in the United States. Duties and import fees are paid and adjusted to calculate, as set forth in 10 CFR 212.83 and 212.84, the landed cost of the crude oil. Imported crude oil sales by resellers which occur after the first sale of the imported crude oil into U.S. commerce would be subject to the proposed regulations in the same manner as resales of domestic crude oil.

The foregoing discussion of the operations of crude oil resellers outlines the predominant methods of operation used by crude oil resellers, as currently understood by FEA. FEA welcomes comments addressed to errors or omissions in the foregoing discussion.

IV. Proposed Amendments

Even from the brief discussion set forth above, it is clear that the operations of crude oil resellers generally differ significantly from the operations of resellers of other covered products to the extent that there is sufficient justification for developing a unique regulatory scheme to be applied to this sector of the petroleum industry. Because crude oil resellers provide basically a gathering and transportation service (that of moving the crude oil from its production source to the refinery), it is difficult for the crude oil reseller to calculate its increased costs by reference to a "product in inventory" in the same way as resellers of other covered products. The proposals set forth below are designed to provide resellers with a method for determining maximum permissible prices which is both consistent with the purposes and requirements of the EPAA, and which FEA believes would be adaptable to most resellers of crude oil.

The amendments proposed today represent a significant departure from the regulatory scheme under which resellers and retailers determine maximum permissible selling prices. Subpart F provides generally for maximum lawful prices in sales of covered products by resellers to be determined with reference to lawful prices charged in transactions with each class of purchaser by that seller on May 15, 1973. Under Subpart F increases in the seller's product costs above May 15, 1973 levels may be passed through equally among all classes of purchaser on a dollar-for-dollar basis; increases in certain of the seller's nonproduct costs may be passed through only to the extent permitted by 10 CFR 212.93(b). Increases in a seller's product costs are measured by the difference between the current weighted average unit costs of the product in inventory, and the weighted average unit cost of the same product in inventory on May 15, 1973.

However, the weighted average unit cost of a particular "product in inventory" concept appears to be unnecessarily burdensome to crude oil resellers because "crude oil" is not a product generally held for resale in "inventories" of significant volumes. Accordingly, FEA believes that the "product in inventory" concept is not particularly well suited for determining maximum permissible selling prices for crude oil resellers, either on a firm-wide basis, or on a regional or location-by-location basis. Moreover, FEA believes that in determining a maximum permissible price for any particular resale of crude oil, certain cost elements of that price are appropriately determined on a periodic basis with respect to all crude oil transactions at a particular station, while other cost elements of that price are likely to vary so disparately from transaction to transaction as to make periodic calculations inappropriate. For example, with respect to the price paid for crude oil, FEA believes, as more fully discussed below, that a reseller is able to determine each month the weighted average acquisition cost for all crude oil gathered to a particular station. Likewise, FEA believes that an average per-barrel gathering expense at each station is also easily determined for most crude oil resellers for each month. Further, FEA believes that resellers have customarily used these average costs in the management of each station. The use of such average costs for establishing the current acquisition cost for all crude oil gathered to each station would appear to be equitable, practical, and result in the identification of those costs which may appropriately be passed on to the purchasers of that crude oil. The expense involved in transporting the crude oil from a particular gathering station to the reseller's purchaser, however, is more likely to vary considerably among transactions depending upon the distance that the crude oil must be transported, so that the use of a single monthly average transportation cost for a station would not be appropriate.

Thus, FEA proposes that in any resale of crude oil, the reseller determine its maximum permissible price according to the following three factors:

(1) For each reception station the reseller would determine a per-barrel "cost of gathered crude oil." This cost would be comprised of two elements: the weighted average per-barrel acquisition cost of all crude oil of a similar type purchased and gathered to that reception station in that month, and the weighted average per-barrel expense associated with gathering all of the crude oil acquisitions to that station in that month.

(2) The reseller would determine its "permissible margin" to be the weighted average per-barrel margin applicable to all sales of crude oil by the particular reseller in the month of May 1973.

(3) In each sale, the reseller would be permitted to determine a "transportation allowance" to represent the cost of transportation, if any, associated with moving the "gathered crude oil" to the point of sale.

In any sale, the maximum permissible price would be the sum of the "cost of gathered crude oil" in that particular month, plus the reseller's "permissible margin," plus a "transportation allowance" for any transportation expenses incurred by the reseller after the crude oil is gathered.

Where a sale involves crude oil purchased in the first sale from the producer and transported by truck directly to the point of sale by the reseller, without having passed through any reception station, the maximum permissible price would be the "cost of gathered crude oil" for that month, plus the reseller's "permissible margin," but would not include any "transportation allowance." In such transactions, the reseller would determine a weighted average "cost of gathered crude oil" for all crude oil of a similar grade, purchased and gathered by truck in that month, and delivered directly to the purchaser.

A. "Cost of Gathered Crude Oil"

As indicated above, FEA believes that this element of a reseller's maximum permissible price can be reduced to a single per-barrel cost applicable to all resales of crude oil of a similar type from a particular reception station each month. The two elements of this cost are acquisition cost and gathering expense.

1. *Acquisition cost.* FEA understands that resellers have generally structured gathering systems so that each system is designed to serve a single field. Accordingly, all crude oil purchased for gathering to a particular station is generally of a single grade (e.g., West Texas Intermediate). The exception to this practice is, as noted above, where both "sweet" crude oil and "sour" crude oil are gathered to a single reception station and maintained in separate tanks.

Inasmuch as the reseller typically purchases crude oil in the first sale from the producer or royalty owner, the purchaed price (except for exempt crude oil or crude oil purchased from another reseller) will be no higher than the applicable ceiling price for lower or upper tier crude oil. Furthermore, the cost of crude oil purchased in a first sale from the producer or royalty owner of a single field typically has a constant value, i.e., a single field-wide ceiling price (with appropriate gravity price differential adjustments as discussed below) applicable to all transactions within any particular month.

In the case of stripper well crude oil, FEA understands that mid-month first sale price changes are not prevalent, so that its price in general should also be constant in any month. Inasmuch as crude oil is gathered from a single field over the course of a month, and a single price is paid for that crude oil, the reseller should be able readily to determine an average acquisition cost for that crude oil each month.

The cost of crude oil from a field will vary with the quality of the crude oil and the ceiling price which is applicable to sales of the crude oil. Where a reseller stores a grade of crude oil separate from other crude oil stored at the reception station, the acquisition cost for that type of crude oil would be determined by averaging the costs of gathering all crude oil of that type to the reception station. However, as discussed below, the reseller would compute a single weighted average gathering cost for all crude oil of both types gathered to the reception station each month.

Since all lower tier, upper tier, and exempt crude oil must be "tracked" from the point of acquisition until its ultimate destination, it is necessary for crude oil resellers to determine, with respect to each reception station, per-barrel weighted average acquisition costs each month for lower tier, upper tier, and exempt crude oil purchases.

FEA also understands that it has been, and continues to be the practice of some resellers (as an additional service to the producer) to pay severance or production taxes, and then to make appropriate deductions for such payments in the monthly payment to the producer. Where such a service is rendered, it would be appropriate for the reseller, in determining its crude oil acquisition cost, to include any direct payments to state or local authorities for severance or production taxes as long as such tax payments, combined with the adjusted payments to the producers, do not reflect a price paid in excess of the ceiling prices applicable to such crude oil.

To the extent that resellers for any reason cannot determine single per-barrel weighted average acquisition costs at each reception station for the three categories (lower tier, upper tier, and exempt crude oil), FEA solicits comments addressed to alternative methods for determining acquisition costs. The preceding discussion is premised upon the assumption that most resellers have structured their individual gathering systems so as to handle only crude oil of a particular type. If this is not the case, FEA will consider alternative methods for determining crude oil acquisition costs. It might be necessary, for example, to determine a different weighted average acquisition cost for each grade of crude oil (if a single reception station is the collection point for more than a single grade).

FEA also solicits comments addressed to whether, within a particular gathering system, separate cost determinations need to be made with respect to each grade and quality of crude oil. Under the proposal as set forth above, a reseller would weight-average all purchases of crude oil gathered to a particular reception station each month, without regard to gravity price differentials. For example, assume that a reseller made the following purchases of crude oil in a particular month to be gathered to Reception Station A:

LOWER TIER

500 barrels 34° API at $5.34 = $2,670
1,500 barrels 36° API at $5.38 = $8,070
1,300 barrels 38° API at $5.42 = $7,046

UPPER TIER

1,750 barrels 34° API at $11.30 = $19,775
2,000 barrels 36° API at $11.34 = $22,680
500 barrels 38° API at $11.38 = $5,690

STRIPPER

500 barrels 34° API at $13.00 = $6,500
300 barrels 36° API at $13.04 = $3,912
600 barrels 38° API at $13.08 = $7,848

Under the proposal issued today, the reseller's per-barrel weighted average acquisition costs for each category at the particular reception station that month would be as follows:

LOWER TIER

$5.39

UPPER TIER

$11.33

STRIPPER

$13.04

While FEA believes that the weight averaging of acquisition costs as shown above is consistent with the practice of most crude oil resellers, comments are solicited on whether more flexibility is needed with respect to determining acquisition costs.

For example, in cases where different quantities of crude oil of various grades and qualities are all stored in the same tank, the resulting crude oil will be of a grade and quality which is an average of the types of crude oil which were mixed together in the storage tank. This average quality may not remain the same over the course of a month, however, due to the differing qualities of the crude oil which enters the storage mix. Where the average quality of the mix varies substantially from day to day or from transaction to transaction, more flexibility may be needed in determining acquisition costs which more accurately reflect the value of the mix at any particular time. Thus, FEA solicits comments on the extent to which such mixing occurs, and whether the additional flexibility discussed above is needed by resellers in general.

As an alternative method of determining the acquisition cost of crude oil, FEA solicits comments on a method which would permit acquisition costs to be determined on a transaction basis. Where a reseller operates a single station through which it gathers and resells "sweet" crude oil for the first half of a month and "sour" crude oil for the second half of a month, such a reseller might be unable to determine a per-barrel weighted average acquisition cost for all crude oil gathered to that station during the month because of the disparate price paid for the two grades of crude oil. To require such a reseller to compute a single weighted average acquisition cost for both types of crude oil grade and the undervaluing of the second would result in the overvaluing of one grade. While FEA does not believe that many crude oil resellers would need the flexibility afforded by this method of computing acquisition costs—but would find it unnecessarily cumbersome—FEA solicits comments on whether this alternative might be an appropriate option for certain resellers.

2. *Gathering expenses.* Under today's proposal, gathering expenses are the expenses associated with moving the crude oil from the production site to the reseller's reception station, or, where the crude oil does not enter a reception station, the expenses associated with moving the crude oil from the production site to the purchaser ("direct sales" as discussed below). Gathering expenses would include the expenses associated with owning and operating the trucks and pipelines used to move the crude oil, but would not include any expenses associated with other producer "services," such as the maintenance of lease tanks, and would not include expenses associated with locating or acquiring sources of crude oil, such as the purchase of options to buy lease production.

(a) *Historical practice.* FEA is aware that price bulletins in effect on May 15, 1973 (and on September 30, 1975 for new, released and stripper well crude oil at that time) often specified that services such as the delivery of crude oil to facilities owned and operated by the purchaser were to be borne by the producer. Two examples of such conditions of price bulletins are as follows:

subject to change without notice and subject to the terms and conditions of its division orders and other contracts, (purchaser) will pay the posted prices on the following page per 42-gallon barrel of *marketable crude oil and condensate* not to exceed 7.5 Reid Vapor Pressure of the following types and grades purchased by it and *delivered for its account into the custody of its authorized carrier or receiving agency.* (Emphasis added.)

Subject to change without notice and subject to the terms and conditions of its division orders and other contracts, (purchaser) will pay the following posted prices per barrel of 42 United States gallons for *marketable crude oil and condensate*, not exceeding 7.5 Reid Vapor Pressure * * * *delivered into the facilities designated by (purchaser); provided, however, that any transportation charges from the lease tanks into the facilities designated shall be borne by the seller.* (Emphasis added.)

Where such transportation charges were nevertheless incurred by the purchaser, a corresponding downward adjustment in the posted price was required. For example:

As to crude oil and condensate transported in media other than common carrier pipeline, these (posted) prices may be reduced by an amount not exceeding the per barrel cost of such transportation.

Accordingly, in the interest of uniformity, and in order to ensure against the reduction of services traditionally charged to or performed by the producer as a means to obtain a price in excess of that permitted under the price regulations, FEA has made it clear that

In establishing (ceiling prices) by reference to (May 15, 1973 and September 30, 1975 posted prices), *the price currently charged shall include all services that were included in the reference posted price* * * *. (Emphasis added, 41 FR 4931 at 4935, February 3, 1976.)

Based upon comments received by FEA in response to the October 14 Notice, however, FEA believes that there is no uniform historic practice with respect to the amounts of these deductions from posted prices or the manner in which they have been made where such services have been performed by the purchaser (reseller). According to comments submitted in response to the October 14 Notice, one large crude oil reseller has employed several different practices with respect to deductions from posted prices to reflect transportation, or for a "marketing allowance" as it is sometimes referred to by this particular reseller:

In some cases, the producer was paid the full posted price for the crude oil, and a marketing allowance was deducted, resulting in a net payment to the producer below the posted price. In other cases, the crude oil was purchased * * * at a price below the posted price, and no marketing allowance was separately stated. Of course, in those cases the price to the producer may well have been based upon a deduction from the posted price for a marketing allowance, even though the deduction is not separately stated. In addition, there are cases in which it appears that no marketing allowance deduction, stated or unstated, was made.

FEA understands that the practice of deducting a marketing allowance (whether stated or unstated) from the posted price, which seems to be the most prevalent historic practice, was adopted by most resellers so that sales by the reseller into a major pipeline could be made at the posted price. In this way, posted prices historically reflected a generally understood price for crude oil delivered into the trunk line, and resellers could make various downward adjustments for prices paid in the first sale to reflect transportation and service fees which were likely to vary from property to property, depending primarily upon the accessibility of the particular crude oil in relation to the trunk line. Since many purchases by resellers seem to have been made at the posted price less transportation, with resales made at the posted price, FEA assumes for purposes of the proposals set forth in this Notice that the "marketing allowance" deduction has historically represented the total of the reseller's gross margin, consisting of all expenses associated with gathering and reselling the crude oil (including administrative expenses) and also providing the reseller a margin of profit. FEA solicits comments as to whether this conclusion is accurate, and if not, as to the extent to which it is at variance with actual practice, either generally (if known) or with respect to specific firms.

With the advent of Cost of Living Council ("CLC") Subpart L regulations in August 1973, in which ceiling prices for first sales of domestic crude oil were based upon the highest posted price in the field, a deduction is required to be made from the highest posted price in the event that the reference posting called for such a deduction. (*See Jack W. Grigsby d.b.a. Grigsby Oil and Gas*, 5 FEA ¶ 80,829.) Thus, for example, where on May 15, 1973 a reseller was paying its own posted price of $3.70 per barrel less a "marketing allowance" deduction of $0.25 per barrel as specified in its price bulletin, for a net first sale price of $3.45 per barrel, and where that particular reseller's May 15, 1973, posted price was the highest in the field according to the price regulations, the ceiling price for that grade of crude oil originally permitted under CLC regulations would have been determined as follows, so long as the reseller continued to provide transportation according to the terms of the price bulletin:

Gross bulletin price	$3.70
Less marketing allowance	.25
Highest May 15, 1973 posted price	3.45
Increase permitted by CLC	.35
Ceiling price	3.80

In the event that the producer began to provide the transportation, the marketing allowance deduction would no longer have been appropriate, and the ceiling price would have become $4.05 per barrel.

However, the price paid by a particular reseller may not have been the highest posted price in the field on May 15, 1973. In the example above, a different reseller may have been posting a price of $3.55, where the reseller was to provide the transportation, with no deduction for a marketing allowance. In that case, for crude oil produced and sold from that particular field, the ceiling price originally permitted under CLC regulations would have been determined as follows, where the original reseller continued to provide transportation

Highest posted price	$3.55
Increase permitted by CLC	.35
Ceiling price	3.90

In the event the producer began to provide transportation, the producer could charge a reasonable amount for such transportation.

(b) *Specific proposals.* The foregoing discussion is necessary to an understanding of the amendments proposed in this Notice. Under these amendments, a reseller would be permitted to pass through in the price charged in each sale in any month, the weighted average per-barrel expense associated with gathering all crude oil to a particular reception station. In determining that weighted average unit cost, FEA seeks to ensure that only those expenses which are attributable to gathering the crude oil to the reception station are included, and that those expenses are not recovered twice: once as a deduction from the posted price and again as a separately invoiced charge to the purchaser. Accordingly, "acquisition costs" as described above are to be based upon actual first sale prices, rather than upon ceiling prices. However, comments should address whether this or any other method most effectively accomplishes this objective.

With respect to the specific elements of "gathering expense" FEA proposes the following:

(1) *Trucks.*—All expenses associated with the operation and maintenance of trucks used by the reseller to transport crude oil from the point of purchase to the point of sale. Such expenses would include fuel, repairs and maintenance, interest, and drivers salaries, but would exclude depreciation and amortization of capital expenditures.

(2) *Gathering lines.*—All expenses associated with the operation and maintenance of pipelines used by the reseller to transport crude oil from the point of purchase to the reseller's reception station. Such expenses would include fuel (if any), interest, operators' salaries (if any), and repairs and maintenance, but would exclude depreciation and amortization of capital expenditures.

(3) *Reception stations.*—All expenses associated with the operation and maintenance of reception stations. Such expenses would include interest, fuel (if any), operators' salaries, and repairs and maintenance, but would exclude depreciation and amortization of capital expenditures.

Comments are solicited as to whether other expenses associated with trucking, gathering line and reception station operation and maintenance are also appropriate. FEA also solicits comments on any other factors which the commenter believes to be relevant, such as the time sequence for associating costs and expenses with permissible prices. For example, FEA solicits comments as to whether costs of crude oil acquired in one month may be used to determine prices in that month, or whether such costs are more appropriately passed through in a later month.

B. MAY 1973 MARGINS

FEA proposes that a single firm-wide margin for May 1973 be determined and applied to current resales of crude oil. However, FEA understands that some resellers have traditionally operated on margins which vary from transaction to transaction or from station to station depending upon different levels of service. Accordingly, comments are solicited addressed to the manner for determining whether a firm-wide margin, as discussed below, should be used, or whether individual margins would more appropriately be determined and applied on a station-by-station, or other, basis, and whether FEA should permit resellers the option to select a firm-wide or a station-by-station margin.

In calculating May 1973 margins and their application in determining current selling prices under today's proposals, FEA believes that the same elements of

expenses permitted under the proposals should be used in determining those margins. Accordingly, a firm's May 1973 margin would be determined as the total revenues in all sales of crude oil by the firm in May 1973, less the total May 1973 expenses (as allowed under the proposed amendments), divided by the total number of barrels of crude oil sold in May 1973, less the weighted average unit price paid for all crude oil purchased by the firm in May 1973 for resale.

FEA also solicits comments regarding the manner in which margins might be calculated for application by resellers who had no resales on or before May 15, 1973. One alternative might be for FEA to tabulate a median of all margins for all resellers operating on May 15, 1973, and to permit all resellers, including those that made no sales of crude oil on or before May 15, 1973, to charge a margin not to exceed the FEA-tabulated median.

FEA also solicits comments addressed to an alternative to the single firm-wide or single station-by-station margin. Such an alternative might be to establish a firm-wide average margin for all transactions in each month. Under such an alternative resellers would be permitted to charge margins above the average in individual transactions provided that the firm-wide average margin did not exceed the limit. Should a reseller exceed this allowed average margin in a particular month, a lower margin would have to be used in the following month to return the reseller to, or below, its allowed average margin for the two-month period.

C. TRANSPORTATION ALLOWANCE

FEA understands that in most crude oil resale transactions, title to the crude oil passes from the reseller to its purchaser (usually a refiner) as the crude oil passes from the reception station into the trunk line. However, there are two types of transactions in which the reseller may retain title to the crude oil as it is transported through the pipeline: (1) where the trunk line is owned and operated by the reseller, or (2) where the trunk line is owned and operated by a common carrier, and the reseller pays the common carrier tariff. In such cases, under today's proposals, the reseller would be permitted to include in the maximum permissible price in any particular transaction, a "transportation allowance" to reflect the expense associated with transporting the crude oil from its reception station to the point of sale.

Where such transportation is provided by a common carrier, the reseller would be permitted to include a transportation allowance equal to the tariff actually charged by the common carrier. Where the crude oil is transported through the reseller's pipeline, the transportation allowance would not be permitted to exceed a comparable common carrier tariff. In this regard, FEA recognizes that "comparability" admits of several factors. Therefore, comments are solicited as to the feasibility and manner of determining such "comparable" tariffs. Moreover, FEA understands that common carrier tariffs have been established on a rate of return basis. Accordingly, comments should address whether, when a comparable tariff is used, a deduction should be made so as to permit only the passthrough of operating expenses, without the margin of profit permitted for the common carrier. In such cases the reseller concerned would have the burden of establishing not only that it actually incurred the operating expenses concerned, but also that the operating expenses computed as attributable to the cost of transportation do not exceed the tariff for comparable services.

D. "DIRECT" SALES

As indicated above, FEA understands that resellers are involved in some transactions in which the crude oil that they purchase and resell does not pass through a reception station owned and operated by that reseller. Moreover, FEA understands that some resellers own and operate no reception stations at all. In both cases, crude oil is transported by truck from the lease "directly" to the point of sale.

For the reseller that operates only in the fashion described above, and therefore is unable to determine a "cost of gathered crude oil" on a station-by-station basis for "direct sales," FEA solicits comments as to the most appropriate method for determining maximum permissible selling prices. In this regard FEA will consider all reasonable proposals, including, but not limited to, determining acquisition costs and gathering expenses on a firm-wide or on a field-by-field basis. FEA has preliminarily determined that May 1973 margins in direct sales should, as for all other resellers, be determined on a firm-wide basis.

With respect to resellers who own and operate reception stations and who also make "direct" sales, FEA proposes that a single firm-wide "cost of gathered crude oil" be determined each month for all such sales separately from the station-by-station determinations for all other sales. The reseller's single firm-wide May 1973 margin would apply to all sales, whether made from stations or directly from the lease.

E. RESALES OF IMPORTED CRUDE OIL

FEA believes that although most foreign crude oil is imported into the United States by domestic firms for use in their own refineries, a substantial volume of foreign crude oil is purchased and resold by resellers. While such firms do not provide "gathering" functions in the same manner as other resellers, they do take title to the crude oil and in many cases provide transportation to the refinery. Moreover, FEA understands that such resellers maintain terminal facilities which perform the same functions as the reception stations of other resellers as described above.

Accordingly, with respect to such operations, the general rule proposed for crude oil resellers should operate well for resales of imported crude oil. Resellers would consider each terminal as a reception station and would, at each terminal, determine a weighted average acquisition cost for all crude oil purchased each month for sale from that terminal. Any expense associated with transporting the crude oil to the terminal would be permitted to be passed through in the same manner as gathering expenses by resellers of domestic crude oil, and the same method for determining a firm-wide May 1973 margin would be used. However, comments are solicited as to whether this segment of the crude oil reselling industry is so specialized, or presents problems not encountered by crude oil resellers generally, so as to warrant the adoption of special price rules. FEA specifically solicits comments on the manner in and extent to which acquisition costs and expenses associated with reception stations are similar to acquisition costs and expenses associated with terminals. Comments are also solicited on the need to permit additional flexibility in the determination of margins for such resellers.

F. RESALES OF CRUDE OIL BY REFINERS

In the October 14 Notice FEA indicated its understanding that to the extent that refiners resell crude oil in sales other than those required under the Mandatory Crude Oil Allocation Program, (1) such sales merely divest the refiner of surplus crude oil or accommodate other refiners in return for past or future accommodations, and (2) such sales are commonly made at a price reflecting the weighted average cost of crude oil in inventory when the crude oil is sold. Accordingly, FEA preliminarily determined that a refiner engaged in the resale of crude oil should establish its selling prices to reflect such a weighted average cost of crude oil in inventory.

Comments received by FEA from refiners in response to the preliminary determinations expressed in the October 14 Notice were uniformly opposed to those determinations. Rather, those comments reflect that while some refiners do engage in crude oil gathering and reselling operations, most resales of crude oil by refiners have traditionally and historically been accomplished on an acquisition cost basis, without the addition of a markup or margin to recover administrative costs or for a profit. That is, according to refiners' comments, the prices charged in such sales reflect only the actual acquisition cost of the crude oil involved, plus the cost, if any, involved in transporting the crude oil to the point of sale, and such prices reflect no more than the costs and expenses that would have been incurred by the purchaser had the purchaser acquired the crude oil directly.

However, some refiners have entities that are resellers which gather and transport crude oil in the same manner as independent crude oil resellers. FEA proposes that such entities of refiners that gather and transport crude oil should be treated in the same manner as other crude oil resellers, but that with

respect to the occasional accommodation sale by a refiner, qua refiner, such sales should be permitted to be made on a transaction-by-transaction basis only, and priced accordingly. Crude oil resales by refiners would be priced according to a separate price rule, which would permit the refiner in each sale to determine a maximum permissible selling price to be the sum of the actual price paid for the crude oil involved in the sale, plus any gathering and transportation expenses actually incurred with respect to the crude oil involved in that sale, without regard to any other crude oil resales made by the refiner in that month. Comments are requested to address whether the price treatment described above is the most appropriate for crude oil resales by refiners.

G. CRUDE OIL EXCHANGES

In the October 14 Notice, FEA expressed its understanding that substantial volumes of crude oil are exchanged among crude oil resellers in order to accommodate the needs of resellers and their purchasers. Accordingly, FEA tentatively concluded that such exchanges should be treated in the same manner as is currently provided for in the operation of the Entitlements Program. (Section 211.67(g) of 10 CFR declares in essence that, with respect to exchanges of crude oil as to which only quality and location differentials are given effect in calculating the exchange ratio, or with respect to any matching purchase and sale transactions having the same effect as such an exchange, no volumes of domestic crude oil will be deemed to have been transferred.)

Most of the comments received in response to this aspect of the October 14 Notice expressed general approval of such treatment. Before a final determination is made with respect to this issue, however, FEA solicits comments addressed to the manner in which exchange, or "in place," differentials are calculated and charged, and whether corresponding adjustments in permissible selling prices should be made to reflect such differentials.

H. NON-PRODUCT COST ALLOWANCES

Although FEA requested comments in the October 14 Notice as to the appropriateness of some passthrough of non-product costs for crude oil resellers, FEA believes that under the proposals set forth in this Notice it has provided for a dollar-for-dollar passthrough of all costs and expenses incurred by crude oil resellers, without regard to a "product"/"non-product" distinction. However, comments are solicited as to whether any additional provisions should be provided regarding any expenses not discussed above.

I. BROKERS

The service performed by a broker consists, in general, of finding a seller of and a buyer for crude oil and negotiating a price that is acceptable to both. Additional services (for example, arranging for transportation, or for financing terms of the sale) may also be performed. The fee received by the broker is paid by either the seller or the buyer, or is shared by both parties.

To the extent that a broker does not take title to the crude oil, such activities would not fall within the scope of the proposals set forth in this notice. However, additional comments are solicited as to whether FEA should permit the payment of increased brokerage fees by a refiner to be passed through as a non-product cost increase.

J. "LAYERING"

FEA seeks to ensure that the price regulations do not permit abuses by crude oil resellers. Of particular concern to FEA is the practice commonly known as "layering": the insertion of one or more "resellers" between the producer and refiner and the charging of one or more markups, where the "layering" firm performs no service or other function traditionally and historically associated with the resale of crude oil. To this extent, FEA will consider the adoption of regulatory amendments and interpretive rulings to make it clear that such practices are not permitted under the Mandatory Petroleum Allocation and Price Regulations.

K. RECORDKEEPING AND CERTIFICATIONS

1. *Crude Oil Resellers Worksheet.* In order to ease the administrative burden associated with the implementation and enforcement of the regulations proposed in this notice, FEA proposes to require resellers to complete the two worksheets contained in the form set forth below. The form is designed to collect cost and revenue data used by crude oil resellers to calculate allowable selling prices under the mandatory petroleum price regulations. FEA specifically invites comment upon the suitability of the proposed form to accomplish the desired monitoring of resales of crude oil and the burden which completion of the proposed form might impose on crude oil resellers. Before FEA makes a final determination as to whether to require crude oil resellers to complete this form, FEA will undertake to determine the extent, if any, to which such data is presently available to FEA through other means.

CRUDE OIL RESELLERS WORKSHEET

I. Purpose. This form is designed to document the revenue and cost data used by the crude oil reseller in the calculation of its allowable selling prices under the mandatory petroleum price regulations applicable to the resale of crude oil (10 CFR, Part 212). The form must be completed monthly and maintained at the crude oil reseller's place of business. If the crude oil reseller is selected for audit, all worksheets must be made available to the FEA auditor. This worksheet will assist the crude oil reseller to comply with the regulations by requiring the systematic collection and compilation of data for reporting and record maintenance.

II. Who must complete. This form must be completed by all crude oil resellers.

III. Maintenance. This form must be maintained at the place of business of the crude oil reseller.

IV. Frequency. Monthly.

V. Instructions. Part A must be completed for each gathering line reception station. Part B or a computerized tab run in similar format must be completed for each crude oil sales transaction.

PART A—MONTHLY CRUDE OIL SELLING PRICE WORKSHEET

(Complete a separate worksheet for each reception station and crude oil type)

Firm name _____
Gathering system A _____
Reception station A _____
Crude type _____
Month _____
Number of transactions in reporting period _____, for which a part B is completed.

A. CRUDE OIL ACQUISITION COSTS

1. Total volume of upper-tier crude oil purchased		
2. Total volume of lower-tier crude oil purchased		
3. Total volume of exempt crude oil purchased		
4. Total volume of imported crude oil purchased or landed		
5. Total volume of crude oil purchased landed (1+2+3+4)		
6. Total cost of upper-tire crude oil [1]	$	
7. Total cost of lower-tier crude oil [1]	$	
8. Total cost of exempt crude oil [1]	$	
9. Total cost of imported crude oil purchased/landed [1]	$	
10. Total cost of crude oil (6+7+8+9) [1]	$	
11. Weighted average upper-tier crude oil acquisition cost (6÷1)	$	/bbl.
12. Weighted average lower-tier crude oil acquisition cost (7÷2)	$	/bbl.
13. Weighted average exempt crude oil acquisition cost (8÷3)	$	/bbl.
14. Weighted average imported crude oil acquisition cost (9÷4)	$	/bbl.
15. Weighted average total crude oil acquisition cost (10÷5)	$	/bbl.

[1] Include direct payments to state or local authorities for severance or production taxes.

B. GATHERING EXPENSES

16. Total truck gathering expenses	$	/bbl.
17. Total gathering line expenses	$	/bbl.
18. Total reception station expenses	$	/bbl.
19. Total gathering expenses (16+17+18)	$	/bbl.
20. Weighted average gathering expense (19÷5)	$	/bbl.

C. SALES MARGIN

21. Total crude oil sales revenue, May 1973		
22. Total crude oil gathering expenses, May 1973		
23. Total volume of crude resold, May 1973		
24. Total acquisition cost of crude oil purchased/landed, May 1973		
25. Total volume of crude oil purchased/landed, May 1973		
26. Weighted average margin (21−22÷23)−(24÷25)	$	/bbl.

D. CALCULATION OF IMPUTED TRANSPORTATION COSTS

27. Total volume of crude oil transported to purchaser by common carrier pipeline		
28. Total common carrier tariff costs		

D. CALCULATION OF IMPUTED TRANSPORTATION COSTS—continued

29. Weighted average common carrier transportation costs (28÷27)	$	/bbl.
30. Total volume of crude oil transported to purchaser by reseller's gathering line		
31. Total reseller gathering line transportation expenses		
32. Weighted average reseller gathering line transportation costs	$	/bbl.

If an alternative method is used for calculating imputed transportation costs, show method below:

PART B—CRUDE OIL RESALE TRANSACTION WORKSHEET

(Complete a separate worksheet for each crude oil sales transaction. Computerized tab runs in similar format are acceptable.)

Reseller firm name _____
Crude purchaser _____
Gathering system _____
Reception station _____
Type of crude oil sold _____
Date of sale _____

1. Volume sold		
2. Crude oil sales revenue		
3. Actual weighted selling price (2÷1)	$	/bbl.
4. Reception station weighted average acquisition cost for _____ oil	$	/bbl.
5. Reception station weighter average gathering expense	$	/bbl.
6. Weighted average sales margin	$	/bbl.
7. Transportation costs applied check if:		
a. Imputed		
b. Actual Rate (attach copies of all bills supporting transportation costs)	$	/bbl.
8 Maximum lawful selling price (4+5+6+7)	$	/bbl.

2. *Certifications.* FEA regulations currently require crude oil resellers in 10 CFR 212.131(b) (1) to:

Certify in writing to the purchaser the respective volumes of and respective per barrel prices for the old crude oil, new crude oil, stripper well crude oil, and other domestic crude oils the first sale of which is exempt from the provisions of this part included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

The certifications required under § 212.131(b) (1) are required to be made "with respect to each sale of domestic crude oil * * *."

In this proceeding FEA solicits comments on the feasibility of, as well as the need for, requiring crude oil resellers in each sale to certify to the purchaser the detailed information contained in the Crude Oil Resellers Worksheet as set forth above. FEA believes that there may be a need for refiners to be able to determine, with respect to each purchase of crude oil, the origin of that crude oil as well as to trace the crude oil from the production site through each resale. Accordingly, FEA will consider the adoption of amendments to the certification provisions of § 212.131 so as to require each reseller to certify to the purchaser the detailed information contained in the Crude Oil Resellers Worksheet and to forward to the purchaser copies of any certifications received by the reseller.

V. ADDITIONAL COMMENTS REQUESTED

In addition to requesting comments on the provisions of the proposed rules as discussed above and as set forth below, FEA also requests comments as to whether or to what extent FEA might consider proposing to exempt crude oil resellers from the Mandatory Petroleum Price Regulations. Such an action would, of course, pursuant to the provisions of Section 12 of the EPAA require submission to the Congress for its approval in accordance with the provisions of Section 551 of the EPCA. Therefore, FEA hereby requests only preliminary comments as to whether such an exemption should be studied for possible implementation. Among the considerations in this regard are the extent to which competition, the crude oil price controls, and the entitlements program operate as an effective constraint on crude oil reseller margins.

VI. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Clarifications to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil," Box NV. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARINGS

1. *Request Procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the last working day preceding the date of the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Tuesday, August 9, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C. before 4:30 p.m., on Friday, August 12, 1977.

2. *Conduct of the Hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings, which will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m., Thursday, August 11, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA [illegible]. Accordingly, per-

sons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VII. OTHER MATTERS

The FEA has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107. An Inflation Impact Statement is in preparation and will be available shortly.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790; 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II, title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.91 is amended to read as follows:

§ 212.91 Applicability.

This subpart applies to each sale of a covered product (other than crude oil) by resellers, reseller-retailers, and retailers. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity.

2. A new Subpart L is added to read as follows:

Subpart L—Sales of Crude Oil

Sec.
212.181 Applicability.
212.182 Definitions.
212.183 Price rule.
212.184 Record keeping.

Subpart L—Sales of Crude Oil

§ 212.181 Applicability.

This subpart applies to each sale of crude oil, other than the first sale.

§ 212.182 Definitions.

"Acquisition cost" means, (a) with respect to sales made from a particular reception station in a particular month, the weighted average unit price (not in excess of the applicable price permitted under this part) actually paid in all purchases of crude oil gathered by the seller to that reception station in that month; or (b) with respect to sales of all other crude oil in that month, the weighted average unit price (not in excess of the applicable price permitted under this part) actually paid in all purchases of crude oil in that month and not gathered to a reception station owned and operated by the seller.

"Cost of gathered crude oil" means the acquisition cost of the crude oil, plus the gathering cost of the crude oil.

"Gathering cost" means, (a) with respect to sales made from a particular reception station in a particular month, the weighted average unit expense associated with the operation and maintenance of trucks used by the seller to transport the crude oil from the point of purchase to the reception station, plus the weighted average unit expense associated with the operation and maintenance of pipelines used by the seller to transport the crude oil from the point of purchase to the seller's reception station, plus the weighted average unit expense associated with the operation and maintenance of the reception station; or (b) with respect to all other crude oil sales in a particular month, the weighted average unit expense associated with the operation and maintenance of trucks used by the seller to transport the crude oil from the point of purchase to the point of sale, plus the weighted average unit expense associated with the operation and maintenance of pipelines used by the seller to transport the crude oil from the point of purchase to the point of sale.

"May 1973 margin" means the total lawful revenues in all sales of crude oil (other than the first sale) by the seller in the month of May 1973, less the total expenses associated with sales of crude oil (other than the first sale) in May 1973, divided by the total number of barrels of crude oil sold by the seller (other than in the first sale) in the month of May 1973, less the lawful weighted average unit price actually paid for all crude oil purchased by the seller for resale in the month of May 1973.

"Reception station" means a facility to which crude oil is gathered for resale, generally consisting of storage tanks and associated equipment.

"Transportation allowance" means any common carrier tariff actually paid by the seller to transport the crude oil from the reception station to the point of sale, or any actual expense associated with the transportation of the crude oil from the seller's reception station to the point of sale, but not to exceed any comparable common carrier tariff for comparable services.

§ 212.183 Price rule.

(a) *Sales made from a reception station.* With respect to each sale of crude oil in a particular month which is made from a reception station owned and operated by the seller, a seller may not charge a price which exceeds the cost of gathered crude oil for that station in that month, plus the seller's May 1973 margin, plus a transportation allowance.

(b) *Other sales.* With respect to each sale of crude oil in a particular month in which the crude oil has not been gathered to a reception station owned and operated by the seller, a seller may not charge a price which exceeds the cost of gathered crude oil for that month, plus the seller's May 1973 margin.

(c) *Sales by a refiner.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a refiner (other than an entity of a refiner whose function is the acquisition of crude oil for the refiner, or whose function is the resale of crude oil to third parties) may determine a price in each sale of crude oil other than the first sale) in accordance with the refiner's consistent and historical accounting practice, provided that the price charged in any sale of crude oil subject to this subpart does not exceed the cost of gathered crude oil, determined on a transaction-by-transaction basis.

§ 212.184 Recordkeeping.

Each firm engaged in the resale of crude oil shall prepare and maintain at its principal place of business periodic reports in accordance with forms and instructions issued by the FEA.

[FR Doc. 77-23431 Filed 8-12-77;8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agency for International Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary (Bilingual) to the Assistant Administrator for Latin America is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3368(j)(3) is added as set out below:

§ 213.3368 Agency for International Development.

* * * * * *

(j) *Office of the Assistant Administrator of the Bureau for Latin America.* * * *

(3) One Secretary (Bilingual) to the Assistant Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23585 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The titles of the following positions are changed: Private Secretary to the Deputy for Congressional Affairs to Private Secretary to the Deputy Director for Congressional Affairs; Private Secretary to the Deputy for Public Affairs to Private Secretary to the Deputy Director for Public Affairs; and Deputy for Congressional Affairs to Deputy Director for Congressional Affairs. Changes in the first two positions reflect the current titles of the superiors and the change in the remaining position more appropriately reflects the duties of the position.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(c) (11), (12), and (14) are amended as set out below:

§ 213.3313 Department of Agriculture.

* * * * * *

(c) *Office of the Deputy Secretary.* * * *

(11) One Private Secretary to the Deputy Director for Congressional Affairs.

(12) One Private Secretary to the Deputy Director for Public Affairs. * * *

(14) One Deputy Director for Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23578 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The title of thirteen Confidential Assistants to the Deputy Under Secretary for Congressional and Public Affairs is changed to thirteen Confidential Assistants to the Director, Office of Congressional and Public Affairs. This change reflects the current title of the superior.

EFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(c)(6) is amended as set out below:

§ 213.3313 Department of Agriculture.

* * * * * *

(c) *Office of the Deputy Secretary.* * * *

(6) Thirteen Confidential Assistants to the Director, Office of Congressional and Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23579 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Confidential Assistant to the Administrator, Federal Grain Inspection Service, are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(u)(2) is added as set out below:

§ 213.3313 Department of Agriculture.

* * * * * *

(u) *Federal Grain Inspection Service.* * * *

(2) Two Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 195401-958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23580 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Confidential Assistant to the Administrator (Food Safety and Quality Service) are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(v)(2) is added as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(v) *Food Safety and Quality Service.*

* * *

(2) Two Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23581 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Commerce Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Deputy Assistant Secretary for Field Operations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(m)(21) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.*

* * *

(21) One Confidential Assistant to the Deputy Assistant Secretary (Field Operations).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23582 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Home Loan Bank Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are reestablished under Schedule C because they are confidential in nature: one position of Assistant to the Chairman and one position of Special Assistant to the Chairman.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3354(c) is amended and (g) is added as set out below:

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(c) One Assistant to the Chairman, and one Assistant to a Board Member.

* * * * *

(g) One Special Assistant to the Chairman.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23584 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Director of Public Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 5337(a)(21) is added as set out below:

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.** * *

(21) One Confidential Assistant to the Director of Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23583 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Six positions of Librarian, GS–7, in the National Library of Medicine are excepted under Schedule B because it is not practicable to competitively examine for them. Position incumbents will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed September 30, 1978.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3216(d) is added as set out below:

§ 213.3216 Department of Health, Education, and Welfare.

* * * * *

(d) *National Library of Medicine.*

(1) Six positions of Librarian, GS–7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed September 30, 1978.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23575 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Housing and Urban Development Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Private Secretary to the Assistant Secretary for Policy Development and Research is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(i)(9) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(9) One Private Secretary to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23586 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Interior Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: Two positions of Special Assistants to the Assistant Secretary, Land and Water Resources, and one position of Confidential Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(a)(47) and (48) are added as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(47) Two Special Assistants to the Assistant Secretary, Land and Water Resources.

(48) One Confidential Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23577 Filed 8-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Treasury Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Assistant Secretary (Public Affairs) is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(74) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(74) One Staff Assistant to the Assistant Secretary (Public Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23576 Filed 8-15-77;8:45 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Hawaiian Fruits and Vegetables Rules and Regulations by deleting the requirement that bananas fumigated with ethylene dibromide, pursuant to 7 CFR 318.13–4b, be held for 24 hours at 65° F. or above before they are loaded for movement from the area where they were fumigated, or are chilled to cooler temperatures. The requirement was promulgated because it was thought to be necessary in order to prevent the peels of fumigated bananas from turning black. However, recent tests by the Agricultural Research Service of this Department establish that such procedures are not necessary for such purpose.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782, (301–436–8247).

SUPPLEMENTARY INFORMATION:

§ 318.13–4b [Amended]

Accordingly, § 318.13–4b(e)(2) of the Hawaiian Fruits and Vegetables Rules and Regulations (7 CFR 318.13–4b(e)(2)) is hereby amended by deleting the last sentence thereof.

(Sec. 9, 37 Stat. 318, 7 U.S.C. 162; Sec. 8, 37 Stat. 318, as amended, 7 U.S.C. 161; 37 FR 28464, 28477, as amended, 38 FR 19141.)

This amendment relieves certain restrictions presently imposed, and it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. Also, this amendment is based on research of the Agricultural Research Service of this Department, and it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on this amendment.

Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this revision are unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., this 5th day of August 1977.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77-23721 Filed 8-15-77;8:45 am]

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301–436–8247.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, March 18, 1977 (42 FR 15055), and May 17, 1977 (42 FR 25314), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

The table in § 354.2 is amended as follows:

§ 354.2 [Amended]

1. Deleted the following entries:

Commuted traveltime allowances (in hours)

Location covered	Served from	Metropolitan area	
		Within	Outside
* * * * *			
Kentucky:			
Fort Campbell	Elizabethtown		2
Do	Lexington		4
* * * * *			
Mississippi:			
Greenville	Memphis, Tenn		5
Natchez	Baton Rouge, La		5
Vicksburg	do		6
* * * * *			
North Carolina:			
New River MCAS, Jacksonville	Wilmington		2
* * * * *			
Tennessee:			
Undesignated ports	Atlanta, Ga		5
* * * * *			

2. Add the following entries:

Commuted travel-time allowances (in hours)

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
• • • • •			
Kentucky: Louisville	Lexington		4
• • • • •			
Massachusetts: Undesignated ports	Boston		3
• • • • •			
Michigan: Muskegon	Grand Rapids		2
• • • • •			
North Carolina: Elizabeth City		1	
New River MCAS, Jacksonville	Wilmington		3
• • • • •			
Texas: Sabine Pass	Fort Arthur		1
• • • • •			

(64 Stat. 561; (7 U.S.C. 2260).)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 10th day of August 1977.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77-23544 Filed 8-15-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS, FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Apricot Reg. 17, Amdt. 1]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment to Apricot Regulation 17 specifies grade, maturity and size requirements for Washington apricots from August 16, 1977, through July 31, 1978. It is consistent with the grade, size and maturity composition of the estimated crop of Washington apricots, and is designed to promote orderly marketing conditions in the interest of producers and consumers.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) On July 14, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 36267), regarding a proposed amendment to Apricot Regulation 17 to be made effective pursuant to the marketing agreement and Order No. 922, as amended, (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington. This notice allowed interested persons until July 27, 1977, to file written data, views, or arguments pertaining thereto. None were submitted. The proposed amendment to Apricot Regulation 17 was recommended by the Washington Apricot Marketing Committee established pursuant to the said amended marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

(2) The amendment herein specified is based upon an appraisal of the current and prospective crop and market conditions for Washington apricots. Fresh shipments for the 1977-78 season are expected to be 2,325 tons, with processing taking another 100 tons. These compare with estimated production in 1976 of 2,800 tons, fresh shipments of 2,400 tons and processing of 400 tons. The imposition of the specified grade, maturity and size requirements is necessary to prevent the handling of defective and small apricots, which do not provide consumer satisfaction, in order to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

(3) Apricots of the Moorpark variety shipped in open containers are required to be generally well matured. Provision is made for apricots of the Blenheim, Blenrin and Tilton varieties to be of a smaller size when packed in unlidded containers. These three varieties are of somewhat smaller size than other varieties when mature. There is demand for fruit meeting these specifications in local markets. Due to the nearness to the source of supply shipment of more mature fruit and fruit of the specified varieties of smaller sizes in less expensive unlidded containers is feasible and the disposition of such fruit in such market tends to improve the overall return to growers. Individual shipments, not exceeding 500 pounds of apricots sold for home use and not for resale are exempt from regulation because such shipments will be prevented from entering regulated channels of trade by the requirement that each container therein be stamped with the words "not for resale" in letters at least one-half inch in height.

(4) It is hereby further found that good cause exists for not postponing the effective date of this amended regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which it is based became available and the time when it must become effective in order to effectuate the declared policy of the act is insufficient; and a reasonable time is permitted, under the circumstances, for preparation for such effective time. Shipments of Washington apricots are presently subject to the grade, size and maturity regulation, pursuant to the amended marketing agreement and order. The amended regulation herein specified, except for the new effective dates, is identical with that currently in effect. The recommendation and supporting information for regulation were promptly submitted to the Department after an open meeting of the Washington Apricot Marketing Committee on May 17, 1977; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting and thereafter with respect to the July 14, 1977, notice of proposed rulemaking, the provisions of this amended regulation are identical with the proposed regulation contained in the notice, and information concerning such provisions and effective time has been disseminated among handlers of such apricots; it is necessary in order to effectuate the declared policy of the act, to make this amended regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of Washington apricots, and compliance with the amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of § 922.317 (Apricot Regulation 17; 42 FR 30492) art hereby amended to read as follows:

§ 922.317 Apricot Regulation 17.

(a) During the period June 27, 1977, through July 31, 1978, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color; *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1⅝ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches; *Provided,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement:

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Department of Agriculture Standard Ground Color Chart of Apples and Pears in the Western States.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: August 11, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23595 Filed 8-15-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

MISCELLANEOUS DELETIONS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this document is to delete from the Code of Federal Regulations certain regulations which are obsolete and therefore no longer needed. Commodity Credit Corporation (CCC) needs vary as crop conditions and harvest totals vary from year to year, and administrative policies change.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Adrian Crawford, Box 2415, Washington, D.C. 20013, 202-447-2341.

SUPPLEMENTARY INFORMATION: It is the general policy of CCC to invite comments regarding the development of proposed rules; however, this action consists only of the deletion of outmoded regulations and no purpose would be served in inviting comments.

The following regulations contained in Title 7 CFR are deleted:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. Part 1421: Subpart—1970 and Subsequent Crops Dry Edible Bean Loan and Purchase Program, §§ 1421.120-1421.132.

Subpart—1974 Crop Dry Edible Bean Loan and Purchase Program, §§ 1421.140-1421.143.

Subpart—1970 and Subsequent Crops Flaxseed Loan and Purchase Program, §§ 1421.150-1421.159.

Subpart—1974 Crop Flaxseed Loan and Purchase Program, §§ 1421.175-1421.177.

Subpart—1975 Crop Tung Oil Warehouse Stored Loan Program, §§ 1421.450-1421.453.

Subpart—Farm Storage Reseal Loan Program, §§ 1421.530-1421.545.

Subpart—Farm Storage Reseal Loan Program (1972-73 Storage Period Supplement), §§ 1421.550-1421.556.

Subpart—Provisions of 1961 and Subsequent Crop Texas Flaxseed Purchase Programs, §§ 1421.626-1421.642.

Subpart—1974 Crop Texas Flaxseed Purchase Program, § 1421.643.

Subpart—1966-1970 Payment-in-Kind Regulations—Price Support and Diversion, §§ 1421.3773-1421.3790.

PART 1443—OILSEEDS

2. Part 1443: Subpart—1970 Crop Supplement to Cottonseed Purchase Program Regulations, §§ 1421.50-1421.51.

PART 1473—DISTRESS LOANS

3. Part 1473 is deleted.

PART 1479—CERTIFICATES OF INTEREST IN COMMODITY CREDIT CORPORATION PRICE-SUPPORT LOANS

4. Part 1479 is deleted.

Signed at Washington, D.C., on August 9, 1977.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-23541 Filed 8-15-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 202—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Adoption of Proposed Miscellaneous Amendments to the Regulations Implementing the Freedom of Information Act

AGENCY: Federal Energy Administration (FEA).

ACTION: Final rule.

SUMMARY: Notice is hereby given that the Federal Energy Administration (FEA) adopts as proposed a number of miscellaneous amendments to the Agency's regulations implementing the Freedom of Information Act (5 U.S.C. 552). The purpose of these amendments is (1) to reflect the reassignment of the FEA Freedom of Information function from the Office of Communications and Public Affairs to the Office of Management (2) to modify the rule concerning the time of receipt of Freedom of Information requests and appeals (3) to reflect a revision necessitated by the amendments to the Freedom of Information Act enacted as Pub. L. 93-502 (88 Stat. 1561) and (4) to clarify the regulation governing the processing of administrative appeals from initial denials of Freedom of Information Act requests. FEA has previously published a notice of a proposal to this effect (42 FR 28147, June 2, 1977) and interested persons were invited to submit written views or arguments related to the proposal.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9840; John Treanor (Information Access Office), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9840; William D. Luck (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 6144, Washington, D.C. 20461, 202-566-9296.

SUPPLEMENTARY INFORMATION: One comment was received, from the Sun Company, objecting to the proposal that the FEA change the date when a properly addressed request or appeal made under the Freedom of Information Act is deemed to be received by FEA. The proposal would change the date of receipt in that circumstance from the date of receipt in the FEA mailroom to the date when the request is delivered to the appropriate FEA office (the Information Access Office, which initiates processing of the request, or the Office of Exceptions and Appeals, which processes requests for appeal).

The FEA has considered Sun's comment, but does not agree that the proposed provision is inconsistent with the spirit of the Freedom of Information Act. As was indicated in the proposal, the statutory time limits of that Act are sufficiently stringent that it is imperative that the office processing such requests be accorded in all cases the full time necessary to answer these inquiries. Given, on the one hand, the penalties prescribed by the Act for the arbitrary or capricious withholding of documents and, on the other hand, the concern that information not be released contrary to the provisions of 18 U.S.C. 1905, the Privacy Act of 1974 (5 U.S.C. 552a), and other applicable legal authority, it is important that the FEA be able to act in a carefully considered manner in all such cases.

Accordingly, FEA does not consider it necessary to modify or withdraw any of

the proposed amendments and they are therefore adopted as proposed.

(Freedom of Information Act, 5 U.S.C. 552, as amended; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended; Executive Order 11790, 39 FR 23185.)

Issued in Washington, D.C., August 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

§ 202.1 Purpose and scope.

This subpart contains the regulations of the Federal Energy Administration (FEA) implementing 5 U.S.C. 552 (1970) as amended by Pub. L. 93-502, 88 Stat. 1561. The regulations of this subpart provide information concerning the procedures by which records may be obtained from all divisions within the FEA. Official records of the FEA made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public as prescribed by this subpart. Officers and employees of the FEA may furnish to the public, informally and without compliance with procedures prescribed herein, information and records of types which prior to enactment of 5 U.S.C. 552 were furnished customarily in the regular performance of their duties to the public by other agencies. Persons seeking information or records of the FEA may find it useful to consult with FEA's Information Access Office before invoking the formal procedures set out below. To the extent permitted by other laws, the FEA will make available records which it is authorized to withhold under 5 U.S.C. 552 unless it determines that such disclosure is not in the public interest.

§ 202.2 Public reference facilities.

(a) The National Office, FEA and Regional Offices, FEA will maintain in a public reading room or public reading area, the materials relating to that office which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying.

* * * * *

§ 202.3 Requests for reasonably described records and copies.

(a) *Addressed to the Information Access Officer.* A request for a record of the FEA which is not customarily made available and which is not available in a public reference facility as described in § 202.2 shall be addressed to the Federal Energy Administration, Washington, D.C. 20461, and shall be clearly marked on the envelope "Attention: Information Access Officer." Except as provided in § 202.8(c), a request which is so addressed and marked will be considered to be received by the FEA for purposes of 5 U.S.C. 552(a)(6) upon delivery to the Information Access Office, Room 2107, New Post Office Building at 12th and Pennsylvania Avenue, NW., Washington, D.C. A request under 5 U.S.C. 552 which is not so addressed and marked also shall be considered to be received upon actual receipt by the Information Access Officer. Documents delivered after regular business hours are deemed received on the next regular business day. Regular business hours for the FEA National Office are 8:00 a.m. to 4:30 p.m.

* * * * *

§ 202.4 Time for response to request for records.

(a) An Information Access Officer, appointed by the Associate Administrator for Management, shall be responsible for processing written requests for records submitted pursuant to this part. Upon receiving such a request, the Information Access Officer shall ascertain which division or divisions of the FEA have primary responsibility for, custody of, or concern with the records requested and forward the request to such division or divisions, who shall promptly identify and review the records encompassed by the request. After reviewing the material, the division or divisions concerned shall forward to the Information Access Officer either the requested material, or a recommendation that the request be wholly or partially denied. Any recommendation that a request be denied shall set forth the policy considerations supporting such denial and shall be forwarded, with the information sought or a representative sample thereof, to the Information Access Officer, who shall provide such recommendation and materials to the General Counsel for his review and recommendation.

* * * * *

§ 202.6 Appeals to the Deputy Administrator from initial Denials.

(a) *Appeal to Deputy Administrator.* When the Information Access Officer has denied a request for records in whole in part, the requester may, within 30 days of its receipt, appeal the denial to the Deputy Administrator, FEA. The appeal shall be in writing and shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and any judicial determinations being relied upon to support the appeal. A copy of the order that is the subject of the appeal shall be submitted with the appeal. The appeal shall be addressed to the Deputy Administrator, Federal Energy Administration, Washington, D.C. 20461, and shall be clearly marked on the envelope "Appeal—Freedom of Information Act; Attention: Director, Office of Exceptions and Appeals." A request which is so addressed and marked will be considered to be received by the FEA for purposes of 5 U.S.C. 552(a)(6) upon delivery to the Office of Exceptions and Appeals, Room 8002, 2000 M Street NW., Washington, D.C. An appeal of the denial of a request which is not so addressed and marked also shall be considered to be received upon actual receipt by the Director, Office of Exceptions and Appeals. Documents delivered after regular business hours are deemed received on the next regular business day. Regular business hours for the FEA National Office are 8:00 a.m. to 4:30 p.m.

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[FR Doc.77-23304 Filed 8-15-77;8:45 am]

PART 460—GRANTS FOR OFFICES OF CONSUMER SERVICES

Amendment of Guidelines

AGENCY: Federal Energy Administration.

ACTION: Amendment of final rule.

SUMMARY: The Federal Energy Administration hereby amends its guidelines for a program of discretionary grants for the establishment or operation of States offices of consumer services to assist the representation of consumer interests in electric utility proceedings before utility regulatory commissions. This amendment extends the deadline by which a State must submit an application to FEA from August 26, 1977 to September 6, 1977. This extension is provided to allow a State more time to prepare and submit its application for a grant. Any State, the District of Columbia, any territory or possession of the United States and the Tennessee Valley Authority are eligible to apply for a grant under this program. Grants will be awarded on a competitive basis to a limited number of States.

DATES: The effective date is the date of issuance of this amended rule.

FOR FURTHER INFORMATION CONTACT:

Ms. Nancy Tate Gavin, Office of Conservation, Room 6451, Federal Energy Administration, Washington, D.C. 20461 (202-254-9755).

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended by revising Part 460 as set forth below, effective immediately.

Issued in Washington, D.C., August 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

§ 460.11 [Amended]

Subpart D, Chapter II of Title 10, Code of Federal Regulations, is amended by revising the first sentence of paragraph (a) of § 460.11 by deleting "August 26, 1977" and substituting "September 6, 1977."

(Title II (42 U.S.C. 6801) of the Energy Conservation and Production Act, Pub. L. 94-386, 90 Stat. 1125 et seq.; Federal Energy Administration Act of 1974, Pub. L. 93-275, 15 U.S.C. 761 et seq. as amended by Pub. L. 94-385, supra; E.O. 11790, 39 FR 23185.)

[FR Doc. 77-23535 Filed 8-15-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

PART 27—BRICK AND STRUCTURAL CLAY TILE AND ALLIED PRODUCTS INDUSTRY

Rescission of Obsolete Part

AGENCY: Federal Trade Commission.

ACTION: Final rescission of certain trade practice rules.

SUMMARY: Action taken is rescission of trade practice rules for the brick and structural clay tile and allied products industry. The Commission is reviewing its trade practice rules and other industry guides to rescind those not considered useful in obtaining compliance with laws it administers. After carefully considering trade association comments for and against retention and reconsidering proceedings that produced these rules, the Commission concludes that retention is not in the public interest.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Charles H. Slayman, Jr., Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. (Telephone: 202-724-1193).

SUPPLEMENTARY INFORMATION: The Commission invites interested persons to comment on proposed rescissions. In response to an invitation (41 FR 2398, January 16, 1976) to comment for the public record on proposed rescission of trade practice rules for the brick and structural clay tile and allied products industry, 16 CFR Part 27, the Commission received retention requests from the Brick Institute of America (BIA), formerly the Structural Clay Products Institute (SCPI), and several tile trade associations, and a rescission request from the National Concrete Masonry Association (NCMA). Members of BIA and NCMA make competing building materials.

BIA members make and sell bricks composed primarily of clay or shale or mixtures thereof fused together by high heat. NCMA members make and sell bricks composed of cement, crushed stone or gravel and sand usually hardened by steam. No one asks for retention of general application sections of Part 27 but BIA asks for retention of particularized §§ 27.0, 27.5 and 27.8 and NCMA asks for rescission of these sections which read:

§ 27.0 The industry and its products defined.

(a) Products of the Industry respecting which these rules are promulgated consist of any kind or type of building units or materials which are, or are represented directly or indirectly as being brick or structural tile.[1]

(b) Members of the indstry are persons, firms, corporations, and organizations engaged in the manufacture, sale, offering for sale, or distribution of any such products.

* * * * *

§ 27.5 Deception as to composition.

(a) It is an unfair trade practice to sell, offer for sale, or distribute any product of this industry under any designation or representation which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the composition of said product.

(b) Under this section no products of the industry shall be designated as "brick," "tile," or "structural tile," unless:

(1) The composition thereof is primarily of clay or shale or mixtures thereof; and

(2) The ingredients thereof have been fused together as a result of the application of heat: *Provided, however,* That such designations may be used for products not meeting the requirements in this section when so qualified as to denote the basic composition thereof as to denote the basic composition thereof (as, for example, "concrete brick," "coral brick," "plaster brick," "sand-lime brick," "concrete structural tile," etc.), or when, in immediate conjunction with the designations, disclosure is made of the fact that the products are not ceramic products. (See also note to § 27.8.)

* * * * *

§ 27.8 Deceptive use of trade or corporate names, trade-marks, etc.

The use of any trade names, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false or misleading in any other material respect, is an unfair trade practice.

NOTE.—Nothing in this section is to be construed as prohibiting:

(a) The use of the word "brick" as a part of the name of a corporation or business concern which manufactures or distributes brick of any type or composition, or

(b) The use of the word "tile" or the words "structural tile" as a part of the name of a corporation or business concern which manufactures or distributes structural tile of any type or composition: *Provided, however,* That descriptions or references to any nonceramic industry products contained in advertising, sales promotional literature or invoices of said corporations or concerns are in accord with the requirements of § 27.5.

NCMA members object to the brick definition in subsection (b) of § 27.5 and therefore object to being considered members of this "industry" as defined in § 27.0 and to the name restrictions in the Note to § 27.8.

In considering current trade association comments, the Commission has reconsidered the trade practice conference, public hearing and discussions that resulted in 16 CFR Part 27.

The Commission acted on an SCPI application and convened a trade practice conference October 27, 1954. Considered were proposals to replace general rules for the common brick, face brick and structural clay tile industries adopted in 1931, to extend coverage to "allied structural non-clay products" and to adopt particularized rules concerning use of terms brick, tile and structural tile. A public hearing was held July 14, 1955 on slightly revised proposals. On June 5, 1956 (at 21 FR 3830) the Commission promulgated trade practice rules, 16 CFR Part 27—Brick and Structural Clay Tile and Allied Products Industry.

As these rules were being developed, SCPI insisted its members wanted Subsection (b) of proposed Rule 5 (§ 27.5) and the Note to proposed Rule 8 (§ 27.8) adopted by the Commission or else they did not want any rules. From the beginning in 1954, NCMA members have opposed these particularized provisions. Thus Part 27 differs from other sets of trade practice rules where commercial interests agree on definitions of the industry and industry products.

SCPI quoted selected dictionary definitions and other sources to support its proposed definition rules. NCMA quoted selected dictionary definitions and other sources to support its views that brick and tile are class names and are not confined exclusively to heat-fused clay products. The Commission now concludes that §§ 27.5(b) and 27.8 Note lack a necessary factual foundation.

The Commission has no evidence that consumers or other purchasers have been or are being deceived by use of unqualified terms brick or structural tile in advertising or sales of building materials. Veneer types of tile used for floor or wall surfacing were specifically excluded from Part 27 by footnote to § 27.0. (Deception in advertising and sale of veneer tile had resulted in several cease and desist orders and in an administrative interpretation, 16 CFR 14.2, published November 12, 1950 at 15 FR 7357.)

The Commission concludes that retention of Part 27 is not in the public interest.

PART 27—[REVOKED]

Accordingly the Commission hereby announces its final rescission of trade practice rules published in the following Part of Title 16 of the Code of Federal Regulations:

PART 27—BRICK AND STRUCTURAL CLAY TILE AND ALLIED PRODUCTS INDUSTRY

The Commission notes that rescission of trade practice rules and industry guides does not relieve anyone of duties to comply with Commission administered laws. Therefore rescission is not an invitation to engage in unfair or deceptive or anticompetitive acts or practices in violation of law.

(Secs. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 6, 57a); CFR 1.5, 1.6, 17.1.)

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23521 Filed 8-15-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM76-10; Order No. 556-A]

REGULATIONS UNDER NATURAL GAS ACT

FPC Form No. 108; Order Granting in Part and Denying in Part Rehearing and Reconsideration

AGENCY: Federal Power Commission.

ACTION: Order on rehearing.

SUMMARY: On November 22, 1976, the Commission issued Order No. 556 (41 FR 52441, published November 30, 1976) implementing the Form No. 108 program which sets forth certain reporting requirements for producers that maintain a rate schedule with the FPC. Petitions for rehearing of that order were filed, and the Commission convened a technical conference to discuss the new filing requirements. As a result, the instant or-

[1] As here used, the term "structural tile" does not include the veneer types of tile used for floor or wall surfacing.

der deletes from the Commission's Regulations the requirement to file Form No. 301–A statement of sales and revenues of independent producers which was superseded by schedule 501; amends certain other producer reporting requirements, and changes certain instructions, schedules, and reporting requirements of Form No. 108. The purpose of the revised Form No. 108 program is to provide the Commission with current information on the amount of gas flowing in interstate commerce, give a detailed breakdown of the important provisions of all rate schedules, serve as a data base for estimating the revenue impact of nationwide and/or area ratemaking proposals, and permit the determination of the potential effects of periodic price escalations and indefinite price provisions.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvin Hirsh, Bureau of Natural Gas, 202–275–4557.

SUPPLEMENTARY INFORMATION: On November 22, 1976 the Commission issued Order No. 556 implementing the Form No. 108 program. The purposes of this reporting requirement are set forth at length in that order,[1] but briefly, producers that maintain a rate schedule with this Commission were required as of January 1, 1977 to:

(1) File abstracts on required schedules of all initial service rate schedules and supplemental filings at the same time as the filings themselves are made,

(2) Substitute new, abbreviated forms for existing annual reporting requirements,[2] and

(3) Coordinate rate change filings with information presently on file with the Commission.

Petitions for rehearing or reconsideration were filed by Amoco Production Co. (Amoco), Atlantic Richfield Co. (Atlantic Richfield), Cities Service Oil Co. (Cities Service), Exxon Corp. (Exxon), General American Oil Co. of Texas (General American), Gulf Oil Corp. (Gulf), Kerr-McGee Corp. (Kerr-McGee), Marathon Oil Co. (Marathon), Shell Oil Co. (Shell), Superior Oil Co. (Superior), Tenneco Oil Co. (Tenneco), and Texaco Inc. (Texaco). Rehearing for purposes of further consideration was granted February 14, 1977. Many of these parties, and others, requested that the Commission convene a technical conference to discuss the new filing requirements. By order dated March 11, 1977, (1) a technical conference was convened on March 25, 1977, (2) requested stays for filing schedules of Form 108 other than schedules 501 and 505 were denied and (3) the date for Commission transmission of updated rate schedule analyses on Form 108 schedules to respondents for verification was postponed until June 30, 1977.[3]

[1] Order No. 556, mimeo pp. 1–3.

[2] By order issued February 14, 1977, the initial filing of Schedules 501 and 505 of Form 108, relating to annual reports on volumes sold and revenues received by producers maintaining rate schedules, was delayed until July 1, 1977.

[3] This date was postponed until further notice by order of June 30, 1977.

[4] See Appendix A.

I. Technical Conference

The technical conference involved an on-the-record discussion between the parties participating[4] and staff representatives. The areas of most concern to the attendees were (1) the attestation form (which has been revised), (2) the requirement to report volumes and revenues at the 14.73 psia pressure base required by OMB Circular No. A–46, (3) schedule format and color (now revised), (4) errors and omissions in instructions and related "Register of Data Standards" (now revised), (5) multiple analysis requirements, and (6) "et al." party reporting. The instructions relating to these last two items have been revised to simplify and clarify reporting requirements.

A. Attestation

The attestation form included in Order No. 556 provides that only a company officer may attest to the contents of a filing and the accuracy thereof. This has caused great inconvenience to many respondents because many filings are prepared in regional offices where company officers may be unavailable. Even if available, many company officers are reluctant to attest, under oath, to the contents of documents with which they are unfamiliar.

Accordingly, this form has been reworded to provide that it may be signed, under oath, by a responsible officer, employee, representative or agent of the filing company.

Section 1.16(b) of the Commission's Rules of Practice and Procedure requires that filings are to be verified under oath. However, since the 1960's, producer rate change filings have been accepted by staff if signed by a responsible respondent employee, without requiring the signature to be under oath. In order to ease the transfer from the present system to Form No. 108 and to facilitate the submission and processing of rate change filings, we will continue to allow rate change filings submitted on Schedule 507 of Form 108 to be acceptable if a responsible person's signature is on the schedule, thus eliminating the need for an attached attestation.

B. Pressure Base

Several parties at the technical conference requested that the Commission change the pressure base from the 14.73 psia used on all government forms to 14.65 or 15.025 psia. These persons asserted that the FPC reports forms would be used for other non-Commission purposes, such as reports to state authorities or notifications to purchasers, that required the utilization of a pressure base other than 14.73 psia.

The standard gas pressure base for government-wide use when collecting or publishing information on natural gas is 14.73 psia at 60° Fahrenheit. However, it is feasible to insert on Schedule 507 dual data reporting fields to enable respondents to report rate data on a 14.73 psia pressure basis for Commission purposes and at any other pressure base required for their own internal purposes. The revised Schedule 507 includes these dual reporting fields.

C. Schedule Format and Color

Form No. 108 schedules 502, 503 and 507 have been modified to reflect the knowledge gained both from use and suggestions from the technical conference. Improvements have been in the area of data field arrangement, use of colors, and general appearance. Data fields have been separated, arranged into columns and grouped as tables using single spacing where appropriate. Previous schedule design included a solid dark color with some light shaded areas in combination with white background for data fields. This combination created an impression of contrasting colors and, when reproduced, increased visual harshness. The new schedules do not use a solid dark color. The data fields are arranged on a white background. This design has reduced visual harshness and allows reproduction with clarity.

D. Errors and Omissions in Instructions and Related "Register of Data Standards"

In response to the concerns of numerous parties the instructions for filling out the various Form No. 108 schedules have been revised and clarified. The "Register of Data Standards" has been revised. The "Counties of the U.S." and the State alphabetic abbreviations are now in the Geographic Code book.

Additional abbreviations have been added to (1) the types of charges involved in natural gas transactions, (2) the types of calculations required to adjust prices for Btu content, (3) the basis of gas rate calculations and (4) the types of rate schedule changes.

The data fields requiring information as to the type of multiple analysis are now for staff use only. Accordingly, the related data abbreviations have been deleted from the Register of Data Standards.

E. Multiple Analysis

One of the main concerns of the respondents is the requirement for multiple analysis (more than one rate per rate schedule) on various schedules of Form No. 108. To the extent the form has not been subsequently modified, we adopt herein the explanation in support of multiple analysis offered by our staff representatives at the technical conference (Tr. 29–44). In addition, one of the principal problems of the parties was the necessity to give the reasons for multiple analysis and, upon reconsideration, this has been eliminated. Respondents are now required to indicate whether or not there is a multiple analysis and, if so, to identify each such analysis.

F. Et Al. Parties

As with multiple analysis, the et al. party requirement was fully explained at the technical conference (Tr. 44–50). In response to the questions raised on this point the "General Information" section of the detailed instructions to Schedule 505 has been expanded to clarify what information is required of the reporting producer with respect to reporting annual volumes and revenues of other working interest owners covered under his rate schedule.

In addition to the items of concern just discussed, certain other questions were raised at the technical conference that require Commission response.

G. Quarterly Rate Increase Filings

Cabot Corp. has requested guidance as to whether producers may file for the next four quarterly escalations in the $1.42 base national rate prescribed in Opinion No. 770–A at this time or whether they should file for such periodic escalations as they become due. Similar questions have been informally raised by other producers.

Opinion No. 770–A gave producers the option to originally make a single filing which included several periodic escalations due through July 1, 1977. No further filing instructions were given except for the requirement that future periodic escalations be subject to the thirty (30) day notice requirement.

The computer design requirements of the Form No. 108 data system eliminate any benefits that a producer might receive by being able to make a single filing covering more than one periodic rate escalation. Schedule 507 requires a separate analysis for each proposed rate change, thus resulting in the same amount of filings whether filed separately or all at one time.

There appears little reason to encourage producers to prepare a year's worth of future filings at one time when there is a strong possibility that intervening events may change these rates before they become effective. For example, any future tax changes,[4] changes in rate levels or in the scope of producer regulation either by Congressional or Commission action, would require producers to submit amended filings.

Accordingly, the Commission advises the producers that a separate filing is required for each periodic escalation due on or after October 1, 1977, subject to the thirty (30) day notice requirements but not more than 90 days prior to the proposed effective date, as presently prescribed by the Commission's Regulations.

Several producers have filed for periodic escalations due October 1, 1977, and thereafter. Such premature filings are of no force and effect and should be withdrawn, with timely periodic filings to be made in the future as prescribed by the Regulations.

[4] In this regard, New Mexico has recently changed its tax rate, effective July 1, 1977. This will require producers to amend their previously submitted rate filings. Oklahoma has increased its tax rate effective January 1, 1978.

H. Notice of Intent to File and Weekend Filings

Kerr-McGee suggested that producers be allowed to file a "notice of intent to file" with respect to Schedules 502, 503, 504 and 507. The filing date of such notice would then be considered to be the filing date of the actual schedule, provided that the complete filing is received by the Commission within fifteen days of receipt of the "notice of intent to file".

Similarly, Kerr-McGee also suggested that the Commission set up a procedure where filings can be accepted and date-stamped over the weekend. Although this suggestion may have some merit, implementation does not appear to be administratively feasible. Accordingly, the Commission believes that respondents should allow sufficient time for preparation and mailing of their filings so that they are timely received by the Commission.

The Commission does not believe that Kerr-McGee's proposal to file a "notice of intent" is either practical or permissible under the Natural Gas Act. Section 4 of the Act requires that an actual notice of change in rate be filed with appropriate notice given to interested parties. Both the purchaser and Commission must have sufficient time to analyze a producer's rate filing for content and accuracy. To the extent that the actual rate filing is delayed, pipeline purchasers would have less time to prepare tracking filings. Even if this suggestion were permissible, there is still little reason to implement the request, since it would increase the filings being handled by all parties. Kerr-McGee's purpose could be accomplished by requesting waiver of the statutory notice requirement for sufficient reason.

I. Submittal Date for Annual Reports on Schedules 501 and 505

Amoco suggested that the due dates of the annual reports of volumes sold and revenues received, reported on Schedules 501 and 505, be permanently set back from March 31st to July 1st.

As a result of assertions by Exxon, Shell, Atlantic-Richfield and Tenneco that the March 31st date for submitting the initial reports of volumes and revenues on Schedules 501 and 505 could not be met, the Commission extended the filing date of the initial submittals to July 1, 1977, by order issued February 14, 1977. However, until we have had at least one year of actual experience with the number of respondents unable to comply with the March 31st filing date, it does not appear necessary that such date should be permanently moved back to July 1.[5]

Once producers know that Schedules 501 and 505 will have to be filed by March 31st of each year, they will be able to schedule their workload accordingly. It is not expected that the problems the producers are experiencing this year in completing their initial reports on Schedules 501 and 505 will be repeated.

[5] Extensions of the filing date for this report are granted, where appropriate, to producers on an individual basis when requested.

J. Standardization of Rate Data Fields

Atlantic Richfield requested guidance as to whether or not data fields being completed for rate change data could be expressed to two decimal places rather than to the indicated four decimal places. Atlantic Richfield has historically reflected its rate components to two decimal places.

Any rate figures "rounded off" to two decimal places will result in different total rates, which will be difficult to reconcile in the data base. Accordingly, such data fields should be standardized to report rates to four decimal places.

K. Establishment of Industry—Commission Technical Committee

Phillips proposes that a technical committee be formed to work out existing problems and make certain that the actual data submitted by the producers will work in the data bank.

The Commission is of the opinion that such a technical committee would not be appropriate until such time as (1) the analyses of new contracts and the updated analyses of the older contracts is completed, and (2) the data has been verified by the producers and entered into the data bank. If problems are encountered at that point, a technical committee could be beneficial and formation of such a committee would be appropriate.

II. Other Modifications and Changes

A. Elimination of Requirement to Submit Schedule 504 New Rate Schedule Filings to Gather Billing Statement Data; Use of Schedule 507 for This Purpose; Elimination of Requirement to Submit Billing Statement

Under the current instructions for use of Schedule 504, data fields 16 through 21 are used to gather data found on the billing statement in initial service applications. Most of the other data fields on Schedule 504 are intended to be used for the in-house generation of a historical record of rate changes occurring in the rate schedule.

Inasmuch as the data in data fields 16 through 21 of Schedule 504 could also be gathered on data fields 22 through 30 of Schedule 507, Schedule 507 will be used to provide billing statement data in addition to its use as a vehicle for rate change filings. This will eliminate the need for respondents to submit Schedule 504 with current filings.[7]

[7] Schedule 504 would continue to be used by staff to print-out rate history data. It is also planned to send Schedule 504 to respondents, on a one-time basis, in connection with the verification and entry of pre-1977 rate schedule data into the data bank.

The revised Schedule 507 contains all the data currently provided on the sample billing statement submitted with each initial rate schedule filing. Accordingly, § 154.92(a) of the Regulations, which provides for the sample billing statement, is amended to provide that Schedule 507 of Form No. 108 be submitted in lieu thereof. The amended language would read as follows:

To each rate schedule there shall be attached a Schedule 507 of Commission Form No. 108 showing actual billing for a recent month in sufficient detail to show how the billing amount is determined.

B. REQUIREMENT TO FILE SCHEDULES 502, 503 AND 507 WITH CERTIFICATE APPLICATION

Order No. 556, prescribing Form No. 108, amended Section 157.24(a) of the Regulations by deleting the requirement that producer certificate applications contain, in the form specified in Section 250.5 of the Regulations, a summary of the contract for which the certificate was requested. (*See* Ordering Paragraph (B)(c)).

However, the order inadvertently omitted the requirement that the contract summary would continue to be filed with the certificate application on applicable Form No. 108 Schedules. In this connection, in response to a question by Cabot Corporation's representative at the Technical Conference, staff stated that the applicable schedules should be filed with the certificate application.

In order to correct this inadvertent omission, the first sentence of § 157.24(a) of the Regulations should be amended to read as follows:

(a) Every application for a certificate of public convenience and necessity filed pursuant to § 157.23 shall contain, as the contract summary, Commission Form No. 108 Schedules 502, 503 and the applicable portions of Schedule 507 used for billing statement purposes.

C. USE OF COMMISSION PREPRINTED SCHEDULES 501 AND 505 BY RESPONDENTS AFTER INITIAL REPORTING YEAR

Schedules 501 and 505 of Form No. 108 replace Commission Form Nos. 301–A and 301–B on which producers have submitted annual reports of jurisdictional gas volumes sold and related revenues received. In the past, staff has preprinted the following information, among other things, on Form No. 301–B in order to expedite completion by the producer:

1. Date of Contract.
2. Rate Schedule Number.
3. Location of sale (State, County or Field).
4. Name of Purchaser.

Inasmuch as Schedule 505, which replaces Form 301–B, requires the producer to report each vintage of gas sold under a rate schedule on a separate Schedule 505, continuation of the preprinting practice for all Schedule 505 reports, after the initial report, should be continued. Preprinting would facilitate both the completion of the annual report by the producer and the review process required of our staff. However, final decision on preprinting these documents is deferred until after the initial filing of Schedule 505 has been completed and the data bank updated.

D. DELETION OF FORM 301–A FROM SECTION 3.170(a)(16)

Order No. 556 deleted in its entirety the provision of Section 3.170(a)(17) that provided Form 301–B as an approved form of the Commission. Since the Form No. 108 program also eliminates Form 301–A, § 3.170(a)(16) should also be deleted.

E. NEW DATA FIELD ADDED TO SCHEDULE 503 TO ELIMINATE NEED FOR UNNECESSARY FILING OF SCHUDULE 502

The Form No. 108 instructions require that a Schedule 502 be submitted with every supplemental rate schedule filing except rate change filings. Therefore, Schedule 502 must be submitted with every supplemental filing affecting contract pricing provisions and gas quality which are abstracted on Schedule 503.

In order to eliminate this unnecessary filing of Schedule 502 in instances where only Schedule 503 should be required, a data field identifying the type of filing being submitted will be included in Schedule 503. This will simplify filing requirements by eliminating the need for filing two schedules when only one is actually needed.

F. SUBMISSION TITLE PAGE

Included in the present instructions for completing Form No. 108 filings is a schedule submission title page. This page provides, among other things, boxes to be checked off to indicate the type of filing being made. However, such page fails to provide for all the various types of filings requiring the filing of Form No. 108 Schedules, specifically certificate applications for new service.

Accordingly, the information on the title page has been expanded by additional check boxes to cover all types of producer filings. Further, the title of the page has been changed from "Federal Power Commission Regulatory Information System Schedule Submission Title Page Form 108 Rate Schedule Analysis on a Continuing Basis", to "Federal Power Commission Regulatory Information System Form 108 Schedule Submission Title Page" and a place provided for the identification of the certificate docket and rate schedule number.

In this connection, the certificate docket identification is needed inasmuch as the revision to § 157.24(a) of the Regulations adopted elsewhere in this order provides that Form No. 108 schedules be included as part of the certificate application to replace the contract summary which is no longer required.

G. SMALL PRODUCERS MAINTAINING RATE SCHEDULES ON FILE

Small producers make certain sales under filed rate schedules in addition to the sales covered by their small producer certificates. As long as the rate schedule sales are not covered by a small producer certificate, the producers involved are required to make all Form No. 108 filings applicable thereto.

In the annual reports to be submitted by small producers on Form 314–B for 1974, 1975 and 1976, respondents are given the option of reporting individual sales under filed rate schedules either on Form 314–B or Form No. 108, Schedule 505. This option will be dropped for subsequent years, since to allow such an option to continue once the Form No. 108 system becomes completely computerized could lead to complications with respect to variations in submitting annual reports.

H. CHANGE IN § 154.94(b) FILING REQUIREMENTS

Paragraph (b) of § 154.94 requires, among other things, that rate change filings be submitted in triplicate. Such filings will now be made on Schedule 507 of Form No. 108, and inasmuch as an original and three copies of Form No. 108, Schedule 507 are required to be submitted for a rate change filing, the filing requirements of Paragraph (b) will be changed to an original and three copies.

Therefore, Paragraph (b) of § 154.94 will be amended to read as follows:

(b) Every change in any rate schedule, rate, charge, classification or service effective or applicable to a sale subject to the jurisdiction of the Commission as of June 7, 1954, and on file with the Commission, or required to be filed pursuant to § 154.92, or in any rate schedule, rate, charge, classification or service effective or applicable to a sale subject to the jurisdiction of the Commission initiated subsequent to June 7, 1954 on file with the Commission, or required to be filed with the Commission pursuant to § 154.92 shall be filed with the Commission by an original and three copies not less than 30 days nor more than 90 days prior to the date such change in rate schedule is proposed to be made effective.

III. LEGAL ISSUES

A. PROPRIETARY DATA

Superior contends that Order No. 556 is deficient in that it does not provide for confidentiality of proprietary data, nor is the data submitted afforded the protection of the Freedom of Information Act, 5 U.S.C. § 552. Superior offers, however, no exposition on these points, in particular what data the company asserts to be privileged. This type of broad-brush pleading does not provide the Commission with any basis whatsoever to consider the merits of Superior's position. In addition, since Form No. 108 serves essentially to consolidate information that is now submitted to the Commission under various guises, all of which is public, Superior's claim of privilege and confidentiality for unspecified data has no basis in fact. Accordingly, the company's allegation of lack of confidentiality is rejected.

B. DUPLICATION

Several parties assert that various aspects of the new form are burdensome and should be deleted. The only substantive questions on this point relate to multiple analysis, et al. party reporting, and information assertedly already on file with the Commission. The first two

matters have been discussed and disposed of previously in this order.

As to the last matter, the respondents argue that the Commission is not authorized under the GAO approval noted at mimeo p. 8 of Order No. 556 to require the submission on Form No. 108 of information presently on file with the Commission. This problem was discussed at the March 25, 1977, technical conference and the response that was elicited from a staff representative (Tr. 42) at that time is adopted herein. Therefore, in filling out Form No. 108, except for information necessary for identification purposes, such as company name and address, actual data that has been previously submitted to the Commission need not be filed again on a new Form No. 108 compliance effort.

C. PRODUCER VERIFICATION OF DATA

Order No. 556 provides that the Commission will transmit to holders of rate schedules now on file a completed Form No. 108 for those rate schedules for each individual producer to review and verify. Texaco states that this requirement is unreasonable, burdensome, and outside the scope of the GAO approval. The purposes of Form No. 108 were set forth in Order No. 556, including the need to have all the filed material loaded into the data processing equipment. Furthermore, if this data is not verified by the producers, producers may subsequently contend that future adverse Commission decisions affecting them were based on such unverified data. Also, producer interpretation of certain contractual clauses may differ with our staff's interpretation. If unverified, such possible difference in interpretation could give rise to erroneous conclusions. Additionally, contrary to Texaco's assertion, the GAO clearance letter of October 6, 1976, clearly states that "[the] FPC may also provide completed forms to the respondents for verification of the data." Accordingly, Texaco's application for rehearing on this point is denied.

D. ORDER NO. 539–B DATA

As originally proposed in the Notice of Proposed Rulemaking issued December 17, 1975, Form No. 108 contained a Schedule 506 designed to elicit data necessary to enforce the Commission's Policy Statement set out in Order Nos. 539 and 539–A. Because the focus of that proceeding was altered in Order No. 539–B, Schedule 506 was deleted from Form No. 108 as enacted. In its place the Commission required respondents to provide certain historical sales volumes, plus a projection of deliveries under the rate schedule for the succeeding year. Order No. 556 contained a full and complete explanation of the reason for the change in filing requirements, the concomitant reduction in reporting burden, and the purpose to which the Commission will put the filed data.[8]

Nevertheless, several parties have sought rehearing on this issue, asserting that the inclusion of this filing requirement is a violation of the notice provisions of the Administrative Procedure Act and that the Commission has no right to collect the Order No. 539–B type data because the underlying order is presently pending court review. Neither of the contentions are correct and the applications for rehearing that raised this point are thus denied.

The Commission promulgated Order No. 556 pursuant to its rulemaking authority under Section 16[9] of the Natural Gas Act, which empowers the Commission to prescribe "such rules and regulations as it may find necessary or appropriate to carry out the provisions of this act." With respect to such rulemaking, Section 4 of the Administrative Procedure Act (APA)[10] applies and requires notice of the proposed rulemaking, including reference to the legal authority under which the rule is proposed and the substance of the proposed rule or a description of the subjects and issues involved. That section further requires the agency to provide interested parties the opportunity to submit written comments and, after consideration of the relevant matter presented, the agency must incorporate a concise general statement of the basis of the rule adopted. The Commission has followed each of these procedures in the Docket No. RM76–10 proceeding.

Petitioners assert that the Commission's notice failed to comply with the requirements of Section 4 of the APA insofar as it did not apprise respondents of the specific data requirements incorporated in Form No. 108 to meet the Commission's needs under Order No. 539–B. This demand for specificity is without merit and goes beyond Section 4 of the APA, which requires that the notice include "either the terms or substance of the proposed rule or a description of the subjects and issues involved." Certainly the Commission's notice in the present case complied with this standard. Respondents were informed that the Commission intended to include in Form No. 108 the information needed to enforce Order No. 539 and its delivery obligation standard, and that the comments submitted should address any and all issues related thereto.

Finally, it should be noted that the Commission is not required under the APA to give prior notice as to the exact proposal ultimately adopted.[11] A fair statement of the substance of the issues is sufficient. As the Court stated in *Logansport Broadcasting Corporation* v. *United States*:[12]

> [S]urely every time the Commission decided to take account of some additional factor it was not required to start the proceeding all over again. If such were the rule the proceedings might never be terminated. (Footnote omitted)

In the instant proceeding, notice was given of the nature of the Commission's effort and intentions, the issues posed in the rulemaking were explored in the comments, and the information request adopted is based on the record compiled. Accordingly, the Commission's actions in Docket No. RM76–10 were in compliance with the provisions of APA.

In any event, the Order No. 539–B related information was previously required to be submitted to the Commission. In Form No. 108 respondents were ordered to supply (a) the sales under the rate schedule for the previous year, (b) the same sales for the four years immediately prior to the last year, and (c) an annual projection of sales for the upcoming year. The first two items have been reported to the Commission on forms that were eliminated by the adoption of Form No. 108, and to the extent this information is now on file with the Commission, it need not be resubmitted on a new Form No. 108 filing.

As to the projected sales volume, this estimate of annual sales merely replaces the estimated monthly sales volumes previously reported on the contract summary (item 13 of Section 250.5) that has been incorporated into the new Form No. 108 system. Respondents have not demonstrated that the submittal of a yearly rather than a monthly estimate is unreasonable or burdensome.

The parties asserting this ground for rehearing also assert that requiring the filing of the Order No. 539–B data is premature because the order is presently subject to judicial review in *Shell Oil Company* v. *Federal Power Commission*, Nos. 76–3066 (5th Cir.). This argument is entirely specious. The Commission's final order that was appealed to the court is of full force and effect as of its issuance.[14] No party to this proceeding has sought a stay of the effectiveness of Order No. 539–B from this Commission or the court. Accordingly, respondents cannot be heard to complain about the Commission acting to implement its order. Therefore, the petitions for rehearing on this point are denied.

IV. IMPLEMENTATION OF FORM NO. 108 PROGRAM

A. REJECTION OF RATE CHANGE FILINGS ON SCHEDULE 507 NOT REFLECTING SPECIFIC VALUE OF BTU ADJUSTMENT

Our staff has advised us that some producers are presently reflecting by footnote reference that proposed increased rates are subject to Btu adjustment but without assigning a specific numerical value to such adjustment in the appropriate data fields. While this procedure was previously allowed in the

[8] Order No. 556, mimeo pp. 3–4.

[9] 15 U.S.C. 717o.

[10] 5 U.S.C. 553(b).

[11] See *California Citizens Band Association* v. *U.S.*, 375 F.2d 43 (9th Cir.), cert. denied, 389 U.S. 844 (1967); *Owensboro On the Air, Inc.* v. *United States*, 262 F.2d 702 (D.C. Cir.), cert. denied, 360 U.S. 911 (1958); *Buckeye Cablevision, Inc.* v. *F.C.C.*, 387 F.2d 220 (D.C. Cir. 1967); *Logansport Broadcasting Corp.* v. *United States* 210 F.2d 24 (D.C. Cir. 1954).

[12] 210 F.2d 24 (D.C. Cir. 1954).

[13] Id. at 28.

[14] *See Ecee, Inc.* v. *F.P.C.*, 526 F.2d 1270, 1274 (5th Cir. 1976).

submittal of the superseded notice of rate change form, Form 280, it is not permitted in Schedule 507, which is designed to capture the potential impact of quality adjustments for Commission information and decision. Accordingly, producers must assign and reflect numercial values for proposed Btu adjustments on Schedule 507. Since Btu content of gas varies, producers should calculate the value of the Btu adjustment based upon their estimate of the average Btu content of the gas subject to the contract. Future proposed rate increase filings on Schedule 507 which contain only a footnote reference to possible Btu adjustment are subject to rejection.

B. COMPLIANCE

The Form 108 program became effective on January 1, 1977, but compliance has been only approximately 63 percent. Although from both an equitable and regulatory standpoint it would be desirable that producers who ignored the Order No. 556 requirements that Form 108 schedules be used with all rate schedule filings after January 1, 1977, be made to submit such schedules, the Commission will refrain from so requiring because (a) the producers would be required to duplicate material already accepted, (b) the format of the Form No. 108 schedules has been modified and (c) the staff work required does not justify the need for these "make-up" filings. However, upon the issuance of this order, a full and complete filing of the appropriate schedules of Form No. 108 will be required. Failure to comply will result in an automatic rejection of rate schedule filings, but without prejudice to resubmittal, if the Form No. 108 schedules are not filed concurrently therewith.

C. AVAILABILITY OF FORM NO. 108 MATERIAL

This order will be transmitted to the same persons that received Order No. 556. However, since the material necessary to complete the form includes a large volume of paper, notably the revised schedules, and instructions plus appropriate code books, we will provide this package automatically only to those producers that file the annual schedules 501 and 505, which were due July 1, 1977. Any other person interested in obtaining this material may do so by making a request to the Commission addressed to:

Federal Power Commission, Data Base Control Group, Room 3104, 825 North Capitol Street NE., Washington, D.C. 20426.

A copy of FPC Form No. 1415, entitled Regulatory Information Requisition Sheet, is attached as Appendix B to this order to facilitate such requests.

The Commission orders: (A) The applications for rehearing, reconsideration, or modification of Order No. 556 are granted in part and denied in part, as discussed in the body of this order, and the changes or alterations to the instructions, schedules, or reporting requirements of Form No. 108 set forth above are hereby adopted by the Commission in this proceeding.

(B) The following sections of the Commission's Regulations (18 CFR Chapter I) are amended, modified, or deleted, as follows:

PART 3—ORGANIZATION; OPERATION INFORMATION AND REQUESTS

§ 3.170 [Amended]

(1) Section 3.170(a)(16) is deleted from the Commission's Regulations.

PART 154—RATE SCHEDULES AND TARIFFS

(2) The last sentence of § 154.92(a) of the Regulations is amended as follows:

§ 154.92 Filing of rate schedules by independent producer.

(a) * * * To each rate schedule there shall be attached a Schedule 507 of Commission Form No. 108 showing actual billing for a recent month in sufficient detail to show how the billing amount is determined.

* * * * *

(3) Paragraph (b) of § 154.94 is amended, as follows:

§ 154.94 Changes in rate schedules.

* * * * *

(b) Every change in any rate schedule, rate, charge, classification or service effective or applicable to a sale subject to the jurisdiction of the Commission as of June 7, 1954, and on file with the Commission, or required to be filed pursuant to § 154.92, or in any rate schedule, rate, charge, classification or service effective or applicable to a sale subject to the jurisdiction of the Commission initiated subsequent to June 7, 1954, on file with the Commission, or required to be filed with the Commission pursuant to § 154.92 shall be filed with the Commission by an original and three copies not less than 30 days nor more than 90 days prior to the date such change in rate schedule is proposed to be made effective.

* * * * *

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

(4) The first sentence of § 157.24(a) is amended to read as follows:

§ 157.24 Contents of application.

(a) Every application for a certificate of public convenience and necessity filed pursuant to § 157.23 shall contain, as the contract summary, Commission Form No. 108 Schedules 502, 503 and the applicable portions of Schedule 507.

* * *

* * * * *

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

PARTIES REPRESENTED AT MARCH 25, 1977, FORM 108 TECHNICAL CONFERENCE

Producers and Pipelines

Amoco Production Co.
Aminoil USA, Inc.
Anadarko Production Co.
Atlantic Richfield Co.
Cabot Corp.
Champlin Petroleum Co.
Chevron USA Inc.
Coastal States Gas Producing Co.
Continental Oil Co.
Diamond Shamrock Corp.
El Paso Natural Gas Co.
Enserch Exploration, Inc.
Equitable Gas Co.
Exxon Company, USA.
General American Oil Co.
Getty Oil Co.
Gulf Oil Corp.
Helmerick & Payne, Inc.
Kentucky West Virginia Gas Co.
Kerr-McGee Corp.
Marathon Oil Co.
Mesa Petroleum Co.
Mitchell Energy Co.
Mobil Oil Corp.
NAPECO Inc.
Northwest Pipeline Corp.
Pan Eastern Exploration Co.
Panhandle Eastern Pipe Line Co.
Pennzoil.
Phillips Petroleum Co.
Placid Oil Co.
Shell Oil Co.
Southern Natural Gas Co.
Southland Royalty Co.
Standard Oil of California.
Sun Oil Co.
Tenneco Oil Co.
Terra Resources, Inc.
Texaco, Inc.
Texas Gas Exploration Co.
TransOcean Oil, Inc.
Union Oil of California.
Wewoka Exploration Co.

Law Firms, Consultants and Associations

Baker & Botts.
Chapman, Gadsby, Hannah & Duff.
Foster Associates, Inc.
Interstate Natural Gas Association.
Ross, Marsh & Foster.

Appendix B

Docket No RM76-10

FEDERAL POWER COMMISSION

REGULATORY INFORMATION SYSTEM

REQUISITION SHEET

RESPONDENT CODE: _____

RESPONDENT NAME AND ADDRESS:

_____

_____

_____

_____

_____

SCHEDULE NUMBER	SCHEDULE NAME	QUANTITY REQUEST

NOTE: REQUESTS MUST BE SUBMITTED IN SUFFICIENT TIME TO MEET FILING DATES. EXTENSIONS WILL NOT BE GRANTED DUE TO REQUESTING ADDITIONAL SCHEDULES.

Mail To: Federal Power Commission
Data Base Control Group, Room 3104
825 North Capitol Street, N.E.
Washington, D.C. 20426

[FR Doc.77-23525 Filed 8-15-77;8:45 am]

SUBCHAPTER B—REGULATIONS UNDER THE FEDERAL POWER ACT

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM76-17]

PART 35—FILING OF RATE SCHEDULES

PART 154—RATE SCHEDULES AND TARIFFS

Uniform System of Accounts for Natural Gas Companies

AGENCY: Federal Power Commission.

ACTION: Order Denying Petition for Rehearing of Order No. 566.

SUMMARY: On July 5, 1977 the People and Public Utilities Commission of California (California) filed an application for rehearing of Order No. 566 issued on June 3, 1977 (42 FR 30150; June 13, 1977). Because California's petition for rehearing presented no factual or legal reason for the Commission to modify Order No. 566, the petition was denied. The previous Order No. 566 will remain in full effect.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles F. Reusch, Office of the General Counsel, 202-275-4328.

On July 5, 1977 the People of the State of California and the Public Utilities Commission of the State of California (California) filed an application for rehearing of Order No. 566 issued on June 3, 1977 in Docket No. RM76-17. In Order No. 566, 42 FR 30150, the Commission prescribed changes in accounting and rate treatment for research, development and demonstration expenditures. In its application for rehearing, California alleges the following:

(1) The Commission erred in expanding the definition of research and development, thereby apparently burdening natural gas consumers with all of the financial risks generated by projects intended to verify commercial feasibility, and in doing so has abused its discretion;

(2) The Commission failed to state clearly the extent to which it has expanded the definition of research and development; and

(3) The Commission left uncertain whether Order No. 566 may be applied retroactively.

California's allegation that the Commission abused its discretion in expanding the definition of R&D is without merit. The Commission explained in the Notice of Proposed Rulemaking the necessity for extending to commercial-scale demonstration projects the rate treat-

ment which is currently allowed for small scale research, development and demonstration facilities:

This Commission recognizes the need for a significantly expanded national energy research and development program as part of the solution to the Nation's problem of increasing inbalance between energy supply and demand (mimeo, page 2.)

We are encouraged by the increased emphasis R&D has been given by some elements of the electric power and natural gas industries as demonstrated by the support given to the Electric Power Research Institute by jurisdictional electric power companies and by a number of requests for advanced approval of individual R&D projects by jurisdictional gas companies. *However, we have not seen the level of concentrated and coordinated effort by the natural gas industry that the public interest requires to significantly advance the state of technology to relieve the severe curtailment of service now being experienced by interstate natural gas pipelines* (Mimeo, page 2, emphasis supplied.)

Many of the energy technologies under serious investigation in the nation's R&D are not only known to be technically feasible but are also in operation on a laboratory scale, or on a working scale, as in a pilot plant. However, uncertainty with regard to the economics of commercial-scale operation is, in many cases, so great as to preclude normal methods of financing the construction of the first, or the first several commercial-scale facilities. *Therefore, because of the Nation's need for rapid development of new energy technology, the construction of commercial-scale demonstration facilities must be regarded as a vital part of the national R&D program.* (Mimeo, page 6, emphasis supplied.)

By expanding the definition of R&D to include full-scale demonstration projects, the Commission will achieve the permissible end of encouraging the development of new technology to insure a continuing supply of energy to meet jurisdictional customers' needs.

The Commission has not left ratepayers unprotected. It does not intend to allow RD&D treatment for projects which have been shown to be commercially feasible. If jurisdictional utilities or RD&D organizations request advance approval for a project or plan, it will receive close scrutiny. As the commission said in Order No. 566 (mimeo ed., pages 11 and 12):

• • • each proposed demonstration plant will be considered individually and the process will be reviewed in light of the Commission's definitions of RD&D to ensure that only the portion of any proposal representing true research and development are (sic) financed by gas consumers.

The action the Commission has taken is within its authority. The Commission's discretion is broad; Section 16 of the Natural Gas Act[1] and Section 309 of the Federal Power Act[2] state, in part:

The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the provisions of this a(A)ct • • •

We have discussed the reasons for including full-scale demonstration plants in the June 17 Notice and Order No. 566 and have stated a strong preference for arrangements where high-risk demonstration projects would be supported by a large number of ratepayers.

With respect to California's second allegation, the Commission did not fail to state clearly the extent to which it expanded the definition of R&D. It added two new sentences to Definition 28.B., as follows:

• • • This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and economically feasible operations are verified • • • The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible • • •

California questions how commercial feasibility is to be verified. Commercial feasibility refers to a determination that a technology proved in a pilot plant will be operable on a commercial scale as well. For our purpose, it does not refer to whether the cost of the final product will be low enough to make it competitive with other processes now, but it does refer to an evaluation that the cost of the final product will be reasonable at some future date. It is anticipated that the need for verification will require the construction of at least one demonstration plant. We discussed that problem in Order No. 566 at page 11 (mimeo ed.), where we said:

"We also wish to make clear that we will not tolerate a proliferation of simultaneous large scale demonstration plants in the name of RD&D to be funded by natural gas consumers if there is major duplication of new technology. These plants require enormous sums of capital and we must be cognizant of the impact of each proposal on the public as well as the cumulative impact on the public. We therefore urge the companies we regulate to proceed with caution in proposing the construction of large scale demonstration plants that will be funded by natural gas consumers of this country.

Finally, California points out that the Commission's statement in Order No. 566 (mimeo ed., page 5) that it was "clarifying" the previously existing definition of R&D might result in uncertainty about whether the Commission intended to give retroactive effect to its expansion of the definition to include full-scale demonstration projects. The Commission did not intend Order No. 566 to be applied so as to allow retroactive rate base treatment of amounts which would not be accorded such treatment under prior definitions of R&D. Rate base treatment and tracking of costs associated with commercial-scale demonstration projects are to be prospective from June 3, 1977, the date of issuance of Order No. 566.

The Commission finds: California's petition for rehearing received July 5, 1977 presents no factual or legal reasons for the Commission to modify Order No. 566.

The Commission orders: (A) California's petition for rehearing of Commission Order No. 566 issued June 3, 1977 in Docket No. RM76–17 prescribing changes in accounting and rate treatment for research, development and demonstration expenditures is hereby denied.

(B) The Secretary shall cause prompt publication of this Order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-23554 Filed 8-15-77;8:45 am]

[1] 52 Stat. 829, 15 U.S.C. 717n.
[2] 49 Stat. 858–859, 16 U.S.C. 825h.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOM SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-201]

PART 133—TRADEMARKS, TRADE NAMES AND COPYRIGHTS

Recordation of Copyrights in Sound Recordings

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule changes the procedure for applying to record with Customs a copyright in a sound recording. The procedure is being simplified because sound recordings are easily identifiable by title, author, performing artist, or other identifying names. This change is intended to facilitate Customs protection against the importation of unauthorized copies.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202–566–8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 13, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 54188), which proposed to amend § 133.32 of the Customs Regulations (19 CFR 133.32), to require, in the case of an application to record a copyright in a sound recording, a statement setting forth the name(s) of the performing artist(s) and any other identifying names. The notice further proposed to amend § 133.33(a)(2) of the Customs Regulations (19 CFR 133.33(a)(2)) to extend to sound recordings the same exception from the requirement that one thousand photographic or other likenesses be submitted with an application for recordation of a copyright which now applies to books, magazines, periodicals, or similar copyrighted matter readily identifiable by title and author.

The proposal was made because sound recordings can be readily identified by title, author, performing artist, or other identifying names. While simplifying the procedures that the copyright owner must follow in recording a copyright, Customs will still be able to identify, seize, and forfeit imported articles determined to be unauthorized copies of recorded copyrighted works.

Interested parties were given until January 12, 1977, to submit data, views, or arguments with respect to the proposal. No comments were received in response to the notice. After review of the proposed amendments, they are being adopted as proposed.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

Part 133 of the Customs Regulations (19 CFR Part 133) is amended as set forth below.

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: August 8, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

Section 133.32 is amended by adding a new paragraph (f) to read as follows:

§ 133.32 Application to record copyright.

• • • • •

(f) In the case of an application to record a copyright in a sound recording, a statement setting forth the name(s) of the performing artist(s), and any other identifying names appearing on the surface of reproduction of the sound recording, or on its label or container.

The first two sentences of paragraph (a)(2) of § 133.33 are amended to read as follows:

§ 133.33 Documents and fee to accompany application.

(a) • • •

(2) One thousand photographic or other likenesses reproduced on paper approximately 8" x 10½" in size of any copyrighted work. An application shall be excepted from this requirement if it covers a work such as a book, magazine, periodical, or similar copyrighted matter readily identifiable by title and author, or if it covers a sound recording. • • •

(R.S. 251, am amended, sec. 624 Stat. 759 (19 U.S.C. 66, 1624).)

[FR Doc.77-23565 Filed 8-15-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FRL 272-4; FAP 6H5111/T26A]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEED, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

O-Ethyl O-[4-(methylthio)phenyl] S-Propyl Phosphorodithioate; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 29857 in the FEDERAL REGISTER of Friday, June 10, 1977, (FR Doc. 77–16443).

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Libby Zink, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC 20460 (202–755–4851).

SUPPLEMENTARY INFORMATION: In FR Doc. 77–16443 appearing at page 29857 in the issue of Friday, June 10, 1977, in the second column §§ 193.212 (Amended) and 561.233 (Amended), the date now reading "May 16, 1978" should be corrected to read "June 3, 1978."

Dated: August 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-23497 Filed 8-15-77;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—PAYMENT PROCEDURES

PART 160—STATE FISCAL PROCEDURES AND REPORTS

Transfer of Federal-Aid Highway Funds; Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendment to final rules.

SUMMARY: This document amends procedures of State requests for approval of fund transfers. The amendment will provide a more efficient method of handling these requests.

EFFECTIVE DATE: June 21, 1977.

FOR FURTHER INFORMATION CONTACT:

J. A. McCaffrey, Office of Fiscal Services (202–426–0674); or T. B. Foote, Attorney, Office of the Chief Counsel (202–426–0786), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This amendment to final rules was not issued in proposed form, and no comments were solicited, as the matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), thus general notice of proposed rulemaking was not required.

In consideration of the foregoing, Title 23, Code of Federal Regulations, Chapter I, Subchapter B, Part 160, Subparts A and B are amended as follows:

• • • • •

§ 160.103 [Amended]

1. In paragraph (d) of § 160.103, the first sentence is amended to read as follows: "Transfers are to be approved by the Governor of the State as being in the public interest and submitted by the State highway department to the Division Administrator.";

2. In paragraph (d) of § 160.103, the last sentence is deleted;

• • • • •

§ 160.105 [Amended]

3. In Subpart A, delete from the table of sections the heading "§ 160.105 Submission of requests" and delete the corresponding section within the subpart;

• • • • •

§ 160.203 [Amended]

• • • • •

4. In paragraph (f) of § 160.203, the first sentence is amended to read as follows: "Transfers are to be approved by the Governor of the State as being in the public interest and submitted by the State highway department to the Division Administrator."; and

5. In paragraph (f) of § 160.203, the last sentence is deleted.

§ 160.205 [Amended]

• • • • •

6. In Subpart B, delete from the table of sections the heading "§ 160.205 Submission of requests" and delete the corresponding section within the subpart;

• • • • •

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued on: August 3, 1977.

(23 U.S.C. 315; 49 CFR 1.48(b).)

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-23562 Filed 8-15-77;8:45 am]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

Traffic Control Devices on Federal-Aid and Other Streets and Highways; Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendments to final rules.

SUMMARY: This document deletes the regulation concerning standards for traffic control devices at movable bridges and makes revisions to the regulations concerning the signs and pavement markings to be used for wrong-way traffic control.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert E. Conner, Chief, Traffic Control Systems Division, Office of Traffic Operations (202/426–0411); Mrs. Kathleen Markman, Office of the Chief Counsel (202/426–0790), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday–Friday.

SUPPLEMENTARY INFORMATION: 23 CFR 655.603(c) in its entirety is being deleted. Similar provisions concerning standards for traffic control devices at movable bridges have been added to the Manual on Uniform Traffic Control Devices (MUTCD). In accordance with 23 CFR 625.3, the MUTCD is incorporated by reference into the Code of Federal Regulations. Provisions for standards for traffic control devices at movable bridges similar to those originally included in the regulation may now be found in sections 4E–13, 4E–14, 4E–15, 4E–16, and 4E–17 of the MUTCD. The Office of Traffic Operations has reviewed the revised MUTCD sections pertinent to movable bridges and finds that these standards are not significantly changed from those contained in 23 CFR 655.603(c).

Portions of the regulations on signs and pavement markings concerning wrong-way traffic control are being deleted from 23 CFR 655.607(g) and 655.608(f) since similar provisions have been included in the MUTCD under sections 2A–31 and 2E–44.

In consideration of the foregoing, Title 23 of the Code of Federal Regulations, Part 655, Subpart F is amended as follows:

§ 655.603 [Amended]

1. In § 655.603, paragraph (c) is hereby deleted.

2. In § 655.607, paragraph (g) is revised to read as follows:

§ 655.607 Signs.

* * * * * * *

(f) * * *

(g) *Wrong-way traffic control.* Federal-aid highway funds may be used to provide the improvements considered necessary by the Federal Highway Administration to alleviate the hazard of wrong-way movements. See § 655.608(f) of this part for pavement marking requirements.

* * * * * * *

3. In § 655.608 paragraph (f) is revised to read as follows:

§ 655.608 Pavement markings.

* * * * * * *

(e) * * *

(f) *Wrong-way traffic control.* Federal-aid highway funds may be used to provide the improvements which are considered necessary by the Federal Highway Administration to assist in alleviating wrong-way movements.

* * * * * * *

Issued on: August 5, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77–23563 Filed 8–15–77;8:45 am]

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Subpart E—Candidacy for Office; Reasonable Qualifications

Correction

In FR Doc. 77–22076 appearing at page 39105 in the issue for Tuesday, August 2, 1977, in § 452.38, the paragraph designated (a) should have been designated (a–1). A paragraph (a) already existed prior to the August 2nd amendment at 42 FR 39105. The intent of that amendment was to leave the existing paragraph (a) in effect, to add a paragraph (a–1), and to revise paragraph (b).

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain state and local Federal Employment Practice Agencies so that they may handle employment discrimination charges within their jurisdiction, filed with the Commission.

DATES: Effective August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul K. Lindsay, Desk Officer (202) 634–6040, Equal Employment Opportunity Commission, State and Local Division, Office of Compliance Programs, 2401 E Street NW., Room 4050, Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.12(m) effectuates the designation of the following Agencies as 706 Agencies:

Howard County (*Maryland*) Human Rights Commission,[1] *Orlando* (*Florida*) Human Relations Department, *Prince Georges County* (*Maryland*) Human Relations Commission, and *Hawaii* Department of Labor and Industrial Relations.[2]

Notices of the proposed designation of the foregoing agencies as 706 Agencies were published in the June 20, 1977 and June 29, 1977 issues of the FEDERAL REGISTER, 42 FR 31174 and 42 FR 33043, respectively, with notices that written comments must have been filed with the Commission on or before July 5, 1977 and July 14, 1977, respectively.

With the addition of the foregoing agencies, § 1601.12(m) is amended to read as follows:

§ 1601.12 Deferrals to State and local authorities.

* * * * * * *

(m) The designated 706 Agencies are:

Alaska Commission for Human Rights.
Alexandria Human Rights Office.
Allentown Human Relations Commission.
Arizona Civil Rights Division.
Baltimore Community Relations Commission.
Bloomington Human Rights Commission.
California Fair Employment Practices Commission
Charleston Human Rights Commission.
Colorado Civil Rights Commission.
Connecticut Commission on Human Rights and Opportunities.
Dade County Fair Housing and Employment Commission.
Delaware Department of Labor.
District of Columbia Office of Human Rights.
East Chicago Human Relations Commission.
Evansville (*Indiana*) Human Relations Commission.
Fairfax County Human Rights Commission.
Fort Wayne (*Indiana*) Metropolitan Human Relations Commission.
Gary Human Relations Commission.
Hawaii Department of Labor and Industrial Relations.
Howard County (*Maryland*) Human Rights Commission.
Idaho Commission on Human Rights.
Illinois Fair Employment Practices Commission.
Indiana Civil Rights Commission.
Iowa Commission on Civil Rights.
Kansas Commission on Civil Rights.
Kentucky Commission on Human Rights.
Madison (*Wisconsin*) Equal Opportunities Commission.
Maine Human Relations Commission.
Maryland Commission on Human Relations.
Massachusetts Commission Against Discrimination.
Michigan Civil Rights Commission.
Minneapolis Department of Civil Rights.

[1] The Howard County (Maryland) Human Relations Commission has been granted designation for all charges except those filed against agencies of Howard County in which case it shall be deemed a "Notice Agency."

[2] The Hawaii Department of Labor and Industrial Relations has been granted 706 designation for all charges except those filed against units of the State and local government, in which case it shall be deemed a "Notice Agency."

Minnesota Department on Human Rights.
Missouri Commission on Human Rights.
Montana Commission for Human Rights.
Montgomery County Human Relations Commission.
Nebraska Equal Opportunity Commission.
Nevada Commission on Equal Rights of Citizens.
New Hampshire Commission for Human Rights.
New Jersey Division on Civil Rights, Department of Law and Public Safety.
New York City Commission on Human Rights.
New York State Division of Human Rights.
Ohio Civil Rights Commission.
Oklahoma Human Rights Commission.
Omaha Human Relations Department.
Oregon Bureau of Labor.
Orlando (*Florida*) Human Relations Department.
Pennsylvania Human Relations Commission.
Philadelphia Commission on Human Relations.
Pittsburgh Commission on Human Relations.
Prince Georges County (*Maryland*) Human Relations Commission.
Rhode Island Commission for Human Rights.
Rockville (*Maryland*) Human Rights Commission.
St. Paul Department of Human Rights.
Seattle Human Rights Commission.
Springfield (*Ohio*) Human Relations Department.
South Bend (*Indiana*) Human Rights Commission.
South Carolina Human Affairs Commission.
South Dakota Human Relations Commission.
Tacoma Human Rights Commission.
Utah Industrial Commission.
Vermont Attorney General's Office, Civil Rights Division.
Virgin Islands Department of Labor.
Washington State Human Rights Commission.
West Virginia Human Rights Commission.
Wheeling Human Rights Commission.
Wichita Commission on Civil Rights.
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations.
Wyoming Fair Employment Practices Commission.

The designated Notice Agencies are:

Arkansas Governor's Committee on Human Relations.
Florida Commission on Human Relations.
Georgia Governor's Council on Human Relations.
Montana Department of Labor and Industry.
North Dakota Commission on Labor.
Ohio Director of Industrial Relations.

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. Sec. 2000e–12(a)).)

This amendment is effective on August 9, 1977.

Signed at Washington, D.C. this 5th day of August 1977.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc.77–23543 Filed 8–15–77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Chesapeake Bay; Army Proving Ground Reservation, Aberdeen, Md.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule clarifies the use of restricted waters and entry into the restricted land area of the United States Military Reservation at Aberdeen Proving Ground. The clarification is needed to provide public notice that entry onto the land area and certain water areas of Aberdeen Proving Ground is prohibited or regulated due to artillery testing using water and land areas as impact zones, the presence of highly classified activities adjacent to or in close proximity to the water area of the Proving Ground and the need to prevent entry onto the land area by the public due to the existence of large numbers of potentially dangerous explosive devices. The intended effect is to alert the public to the fact that entry onto land areas of the Proving Ground is prohibited at all times without permission of the Commanding Officer, Aberdeen Proving Ground, and to provide public notice that certain water areas of the Proving Ground are closed to the general public either due to testing, or potentially lethal devices.

EFFECTIVE DATE: August 16, 1977.

Captain Charlie F. Andrus, JAGC, Chief, Criminal Law Division, Office of the Staff Judge Advocate, Building 4701, Aberdeen Proving Ground, Md. 21005, (301–278–2856).

SUPPLEMENTARY INFORMATION: Several portions of the United States Military Reservation at Aberdeen Proving Ground have been used as impact zones for artillery testing since 1917. There is a large number of potentially lethal explosive devices in the water area of the Proving Ground as well as on the land area. In addition, highly classified research and development projects are conducted in close proximity to water areas. There are also storage facilities for toxic chemical agents as well as potentially dangerous explosive devices in the vicinity of the water area of the Proving Ground.

As currently drafted, 33 CFR 204.30 is not clear regarding the existing prohibition of entering the land areas of the Proving Ground or utilizing underwater land within the boundary of the reservation. Due to the urgent requirements, not only to protect the general public from possible injury, but also to accomplish high priority testing missions requiring the use of water and land areas of the Proving Ground as impact zones and further to protect highly classified national defense information, notice and public procedure on this proposed clarification are impracticable and contrary to the public interest. In consideration of the above described urgent need for clarification of existing regulations, 33 CFR 204.30 is amended by revising paragraphs (d) and (e) as follows:

§ 204.30 Chesapeake Bay; United States Army Proving Ground Reservation, Aberdeen, Maryland.

* * * * * * *

(d) *Entrance Into Restricted Waters By The Public.* Entry into the restricted areas will be governed by the following

(1) The following water areas are closed to the public at all times:

(i) Spesutie Narrows—all waters north and east of a line between Bear Point and Black Point;

(ii) All creeks except Lauderick Creek;

(iii) The water adjacent to Carroll Island which lies between Brier Point and Lower Island Point also known as Hawthorne Cove;

(iv) The waters immediately off the mouth of Romney Creek;

(v) The waters adjacent to Abbey Point Recovery Field more accurately described as area number 16; depicted in Aberdeen Proving Ground Regulation 210–10, Appendix A.

(vi) The waters on the north side of the Bush River from Pond Point to Chelsea Chimney are closed for fishing purposes.

(2) The remainder of the restricted areas will normally be open for authorized use (including navigation and fishing) during the following hours:

(i) Monday through Thursday, 5 p.m. to 7:30 a.m.;

(ii) Weekends, 5 p.m. Friday to 7:30 a.m. Monday;

(iii) National (not State) holidays, 5 p.m. the day preceding the holiday to 7:30 a.m. the day following the holiday.

(3) When requirements of tests, as determined by the Commanding Officer, Aberdeen Proving Ground, or his designee, necessitate closing the restricted areas during the aforementioned times and days, the Commanding Officer, Aberdeen Proving Ground, will publish appropriate circulars or cause to be broadcast over local radio stations notices informing the public of the time and days which entrance to the restricted waters of Aberdeen Proving Ground by the general public will be prohibited.

(4) Authorized use as used in this section is defined as fishing from a vessel, navigation using a vessel to transverse a water area, or anchoring a vessel in a water area. Any person who touches any land, or docks or grounds a vessel, within the boundaries of Aberdeen Proving Ground, Maryland, is not using the area for an authorized use and is in violation of this regulation. Further, water skiing in the water area of Aberdeen Proving Ground is permitted as an authorized use

when the water area is open for use by the general public provided that no water skier touches any land either dry land (fast land) or subaqueous land and comes no closer than 200 meters from any shoreline. Further, if any person is in the water area of Aberdeen Proving Ground, Maryland, outside of any vessel (except for the purposes of water skiing as outlined above) including, but not limited to, swimming, scuba diving, or other purpose, that person is not using the water in an authorized manner and is in violation of this regulation.

(e) *Entry Onto Land And Limitation of Firing Over Land.* (1) Entry onto any land, either dry land (fast land) or subaqueous land, within the boundaries of the Aberdeen Proving Ground Reservation as defined in paragraph (a)(1) is prohibited at all times. Provided, the Commander, Aberdeen Proving Ground, is authorized to grant exceptions to this regulation either by written permission or by local regulation. Entry onto the land is punishable as in paragraph (c) of this section.

(2) There are no limitations on test firing by Federal testing facilities at Aberdeen Proving Ground over land belonging to Aberdeen Proving Ground.

* * * * *

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 3)

Dated: July 28, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the Army, (Civil Works).

[FR Doc.77-23557 Filed 8-15-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 775-5]

PART 55—ENERGY-RELATED AUTHORITY

New Hampshire: Revocation of a Compliance Date Extension

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is hereby providing notice of the revocation of a compliance date extension (CDE) granted to Public Service Company of New Hampshire, Schiller Station Units 4 and 5, Portsmouth, New Hampshire ("Schiller Station"). Schiller Station would need 820 days to install air pollution controls necessary to burn coal in compliance with New Hampshire emission regulations. Because the Federal Energy Administration was unable to issue Schiller Station a notice of effectiveness over 820 days before the regulatory compliance date, the plant is no longer eligible for a CDE.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203. (617-223-5609).

SUPPLEMENTARY INFORMATION: Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended by the Energy Policy and Conservation Act, authorized the Administrator of the Federal Energy Administration (FEA) to issue orders to certain power plants and major fuel burning installations prohibiting such facilities from burning natural gas or petroleum products as their primary energy source. Section 3 of ESECA added a new Section 119 to the Clean Air Act which requires the Administrator of the EPA to extend the date by which a source must meet air pollution requirements by issuing a CDE to a source, which has been issued a FEA prohibition order, if certain eligibility criteria are satisfied.

One such eligibility criterion is the requirement of Section 119(c)(2)(C) of the Clean Air Act that facilities receiving a CDE must achieve the most stringent degree of emission reduction required as soon as practicable, but no later than December 31, 1978. In addition, Section 2 of ESECA and Section 119(d)(1)(B) of the Clean Air Act require the EPA Administrator to notify the FEA if a facility that has been issued an FEA prohibition order will be able to burn coal and comply with air pollution requirements without a CDE.

If compliance without CDE is not possible, the prohibition on oil and natural gas use in an FEA prohibition order may not become effective any earlier than either:

(a) The date EPA certifies to FEA as the earliest date that certain conditions and limitations on the EPA CDE can be met, or

(b) For facilities which are ineligible for a CDE, the earliest date on which the facility will be able to burn coal in compliance with all applicable air pollution requirements.

FEA plans to make its prohibition orders effective, after receipt of EPA's notifications or certifications, by service of Notices of Effectiveness which will set forth the dates after which burning of natural gas or petroleum products as a primary energy source will be prohibited.

On June 30, 1975, FEA issued prohibition orders Nos. OFU-050, 051 to Schiller Station. On March 9, 1976 (41 FR 10071) EPA proposed to issue a CDE under Section 119 of the Clean Air Act to this facility. The CDE was promulgated September 1, 1976 (41 FR 36810). Issuance of the CDE reflected EPA's finding that final compliance with the New Hampshire State Implementation Plan requirements for control of particulate matter and sulfur dioxide emissions while burning coal at these Units will take 820 days from the date of service by FEA of the Notices of Effectiveness of its prohibition orders. A schedule based on this time frame was set out as part of the CDE. Under the CDE the Schiller Station was allowed to emit particulate matter over the limit required under the applicable State Implementation Plan for particulate emissions from fossil fuel combustion. However, FEA cannot issue a Notice of Effectiveness 820 days before December 31, 1978. Consequently, the proposed EPA compliance schedule would extend past December 31, 1978, thereby making this facility ineligible for a CDE. Without a CDE the Schiller Station must continue to comply with all portions of the applicable State Implementation Plan.

Therefore, on March 11, 1977 (42 FR 13566) EPA proposed to revoke the CDE promugated for Schiller Station and solicited public comment on this proposed action. During the comment period which ended on April 11, 1977, EPA received no comment on the proposed revocation.

EPA, therefore is revoking the CDE promulgated for Schiller Station. To discharge its responsibilities under Section 119(d)(1)(B) of the Clean Air Act, EPA will certify to FEA the earliest date at which this facility will be able to burn coal and comply with all applicable air pollution requirements and the prohibition contained in FEA's order will not become effective any earlier than the date so certified by EPA. The FEA prohibition orders issued to Schiller Station are not affected by this action except insofar as the projected date of effectiveness of the prohibition contained in the FEA orders may be adjusted to take account of the time needed for achieving compliance with applicable air pollution requirements.

This rulemaking is based upon the authority of Sections 110, 119 and 301 of the Clean Air Act, as amended.

Dated: August 5, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by revoking § 55.1520 of Subpart EE as follows:

Subpart EE—New Hampshire

§ 55.1520 Compliance Date Extension.

[Revoked]

[FR Doc.77-23519 Filed 8-15-77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1015—STANDARDS OF CONDUCT FOR EMPLOYEES

Reports of Non-CSA Interests

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth a new list of CSA employees at the level of GS-13 and above who must file reports of their outside financial interests with the CSA Personnel Division. CSA position titles have changed considerably since 1972 when this list was last revised; consequently, this rule is needed to eliminate obsolete positions and include new ones which should be covered.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Crittenden, Director, Personnel and Manpower Division, Office of Administration, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506, 202-254-6170.

Accordingly, 45 Code of Federal Regulations, Section 1015.735-31(j)(2) is amended as set forth below:

§ 1015.735-31 Reports of non-OEO interests.

* * * * *

(j) * * *

(2) Occupants of the following positions if classified at GS-13 or above:

(i) In the Office of Operations: Associate Director; Chief, Special Programs Division; Chief, Program Operations Division, Chief Policy Development and Review Division; Chief, State and Local Government Division; Chief, Regional Operations Division.

(ii) In the Office of Administration: Associate Director; Contracting Officers.

(iii) In the Office of Economic Development: Associate Director; Deputy Associate Director; Chief, Program Operations Division; Chief, Planning, Design and Evaluation Division.

(iv) In the Office of the Controller: Controller; Deputy Controller; Chief, External Audit Division; Auditors.

(v) In the Office of General Counsel: General Counsel; Deputy General Counsel; Procurement Attorney.

(vi) In the Office of Human Rights: Associate Director.

(vii) In the Regional Offices: Regional Director, Deputy Regional Director; Chief, Administration Division; Administrative Contracting Officers: Chief, Operations Division; Regional Counsel.

AUTHORITY: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942); E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supp.; 5 CFR 735.104.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc.77-23534 Filed 8-15-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20708; RM-2551; RM-2693]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Versailles, Ind., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Corrected report and order.

SUMMARY: Action herein assigns a first Class A FM channel to Versailles, Indiana. Petitioner, James Robert Albritton, states that this action will provide Versailles with an opportunity to acquire its first local aural broadcast service.

EFFECTIVE DATE: September 12, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: July 29, 1977.

Released: August 11, 1977.

In the Matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Versailles, Indiana).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration the "Notice of Proposed Rule Making" in the above-entitled proceeding, adopted February 4, 1976, 41 Fed. Reg. 7120, proposing the assignment of FM Channel 276A to Versailles, Ind. James Robert Albritton ("petitioner") originally proposed Channel 280A for Versailles, but in Docket No. 20121 "Second Report and Order,"[1] the Commission assigned Channel 280A to Batesville, Ind. However, a Commission staff study revealed that Channel 276A could be assigned to Versailles in conformance with the minimum mileage separation requirements, if the transmitter site were to be located approximately 10 kilometers (6 miles) north of Versailles. Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned, and to promptly build the station, if authorized.

2. On April 30, 1976, Mid America Radio, Inc. ("Mid America"), licensee of FM Station WXTZ, Indianapolis, Ind., filed a counterproposal (RM-2693) in which it proposed the assignment of Channel 237A to Versailles in lieu of Channel 276A. Mid America states that it does not take issue with the ostensible desirability of assigning a first Class A channel to Versailles, but because of the existence of certain special and unique circumstances, it believes the public interest would better be served by the substitution of Channel 237A for 276A. Mid America argues that substitution of Channel 237A for 276A would prevent irreparable injury from being caused to the public that WXTZ serves, without materially altering Mr. Albritton's basic proposal. Mid America further states that on April 7, 1972, WXTZ filed a "major change" application with a view toward changing, *inter alia*, its transmitter location (BPH-7867, granted May 22, 1972), and at that time it was thought that WXTZ's proposed 70 dBu contour would cover the entire city limits of Indianapolis. Mid America notes that, around that time, the Indianapolis city limits were expanded so as to be virtually coincident with those of Marion County, and that it was not until the Commission was considering the allocation to Batesville that WXTZ discovered that its 70 dBu contour did not fully cover the revised Indianapolis city limits. Mid America contends that, if the Versailles proposal were to be adopted, WXTZ would be substantially impaired in its ability to move closer to Indianapolis to permit it to serve its city of license in a manner contemplated by the Commission. It adds that the existing WXTZ transmitter location has created a situation of only a marginally sufficient signal existing over the center of the city of Indianapolis where there is an area of interference. Mid America asserts that computer analyses have been undertaken and no feasible solution short of moving the transmitter location has been found and, therefore, the only realistic option is to move its transmitter. It contends that large areas would be made unavailable to WXTZ if Channel 276A were to be assigned to Versailles, but that would not be true if the Commission were to allocate Channel 237A to Versailles. Mid America claims that efforts are already underway and have been underway for some time to secure a new transmitter location for WXTZ.

3. Mid America states that substitution of Channel 237A for Channel 276A would have no adverse effect on Mr. Albritton's proposal, and that the channel may be used in the center of Versailles with concomitant savings in terms of STL's, telephone lines, etc., which would be necessary were Mr. Albritton required to maintain separate transmitter/studio facilities. However, it acknowledges that the availability of Channel 237A to Versailles, Ind., is contingent upon a favorable resolution in a rule making to move Channel 237A from Falmouth, Ky., to Versailles, Ky., in Docket No. 20877.

4. Since the Commission, on May 9, 1977, adopted a "Report and Order" in Docket No. 20877 (42 FR 25505) which, among other things, retained the assignment of Chanel 237A at Falmouth, Ky., Mid America's counterproposal to assign Channel 237A to Versailles is no longer workable and must be denied. However, the counterproposal is also being treated as an objection to the proposed assignment of Channel 237A at Falmouth, Ky., the Commission believes that this objection is not well taken, as will be shown below.

5. Station WXTZ is located in the northern portion of the expanded city of Indianapolis and operates with 13 kW (11.2 dBk) and 850 feet a.a.t. from a tower which extends 312 meters (1,022 feet) above ground. It is noted that the 70 dBu contour encompasses most of the expanded city with the exception of small portions of the southern part of the city, about three percent of the city area.

6. The distance between Station WXTZ and the required Versailles transmitter site, about 10 kilometers (6 miles) north of that community, is approximately 116 kilometers (72.3 miles) which allows about 11.7 kilometers (7.3 miles) leeway in the southeasterly direction. This leaves about fifty percent of the city area in which WXTZ could move its transmitter

[1] 40 FR 19644.

site if it desires. Assuming that WXTZ were to operate with maximum facilities as it now operates, a site 8 kilometers (5 miles) in the southeasterly direction, or 8.5 kilometers (5.3 miles) in the southerly direction, would allow it to completely encompass the city limit with a 70 dBu signal. There is a leeway of about 16 kilometers (10 miles) in the southerly direction in which the transmitter site may be relocated.

7. Mid America has asserted that its station places only a marginally sufficient signal over the center of the city of Indianapolis where it encounters an area of interference. However, it does not indicate the signal level there or the type of interference it alleges it suffers. Without a proper showing, we are unable to conclude that a signal level of 80 dBu (10 mV/m) which is expected in the area would be only "marginally sufficient." There is also a question of whether a change in the transmitter site or an increase in the signal level would alleviate any such interference problem or would just move it to another area. The Commission believes that, although the assignment of Channel 276A to Versailles, Ind., would somewhat limit the flexibility in the choice of an alternate transmitter site for Station WXTZ, a provision for a first local aural broadcast station to a community without such a facility presents a more important public interest consideration. Such a conclusion is consistent with the stated objective of the Commission's allocation priorities. The channel is the only one available for assignment to this area.

8. The Canadian Government has given its concurrence to the proposed assignment of Channel 276A to Versailles, Ind.

9. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communication's Act of 1934, as amended, and § 0.281 of the Commission's Rules.

10. In view of the foregoing, IT IS ORDERED, That effective September 12, 1977, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Versailles, Indiana, is amended as follows:

City:	Channel No.
Versailles, Ind	276A

11. *It is further ordered*, That the counterproposal filed by Mid America Radio, Inc. (RM-2693) is denied.

12. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-23540 Filed 8-15-77;8:45 am]

[Docket No. 21006; FCC 77-541]

PART 76—CABLE TELEVISION SERVICES

Adding Frequency Channelling Requirements and Restrictions and To Require Monitoring for Signal Leakage From Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Restrictions are imposed upon cable television operations in certain frequency bands used for aeronautical radio purposes over the air. Potential interference to safety of life services together with growth of both aeronautical radio and cable television services create the need for restrictions. This action is intended to prevent the occurrence of cable television interference to aeronautical navigation and safety radio services.

EFFECTIVE DATE: January 1, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Research Division, Cable Television Bureau, 202-632-9797.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 76 of the Commission's rules to add Frequency channelling requirements and restrictions and to require monitoring for signal leakage from cable television systems.

REPORT AND ORDER; (PROCEEDING TERMINATED IN PART AND CONTINUED IN PART)

Adopted: July 27, 1977.

Released: August 8, 1977.

By the Commission: Commissioner Washburn absent.

I. BACKGROUND AND SUMMARY OF ACTIONS

1. The Commission has before it the notice of proposed rule making in this proceeding, 41 FR 54512, FCC 76-1092, released December 8, 1976, and the filings in response to the notice. This proceeding was initiated by the Commission to address two questions: (1) How can it be assured that cable television systems operating on frequencies used by air navigation and aeronautical and marine emergency radio services do not cause harmful interference to those safety of life services, and (2) What frequency channelling plan or plans should be used by cable television systems for equipment compatibility, for prevention of interference to over-the-air services, and for other purposes?

2. At the outset we should note that our present concern over the issue of cable television interference to air navigation and aeronautical frequencies does not stem from a plethora of reported incidents involving the effect of cable radiation on aircraft. Indeed we know of only one such case in the last 25 years. That situation arose in Harrisburg, Pennsylvania and, in some quarters, has come to be referred to as the "Harrisburg incident". In Harrisburg an improperly radiating cable television signal caused unwanted noise in aircraft receivers when no desired signal was present. But even in that case we have no reports of actual degradation of desired signals.

3. The issue of potential interference to air navigation and aeronautical frequencies is not a new one. Reacting to the concerns expressed by the Office of Telecommunications Policy in 1971, the Commission in the *Cable Television Report and Order*[1] declined to adopt any special regulatory program, noting that the dangers seemed remote. In large measure the dangers are still remote. What has changed over the last six years, however, is the use of the affected frequencies both by cable systems and aeronautical navigation and communications systems. Cable systems in particular have begun making increasing use of mid-band frequencies for the delivery of both broadcast and non-broadcast services. We expect this trend to continue. At the same time we can expect many more strand miles of coaxial cable to be built. Thus, while not yet a significant problem we can reasonably foresee that totally uncontrolled cable use of aeronautical frequencies might cause difficulties. Where such difficulties involve safety of life we believe it is our responsibility to plan ahead. Just as we have encouraged cable development and attempted to foster its growth into a nationwide broadband communications system, so must we be concerned when the growth itself increases the possibility (however small) of harmful interference on frequencies where life is at stake. The program we are adopting may not be a complete answer to all the potential questions in this area but, in conjunction with a research program, it is amply sufficient for today.

4. In the notice the following proposals were made:

(a) To adopt a frequency channelling plan for the delivery of television signals to cable television subscribers. This frequency channelling plan may include the so-called midband and superband channels as well as the standard television broadcast channels. Alternatively the channelling plan may prohibit operation

[1] Cable Television Report and Order, 36 FCC 2d, 143 (1972).

in whole or in part on frequency bands used for navigation and safety purposes.

(b) To require the use of the proposed frequency channelling plan for all Class I and Class II cable television channels, and for some Class III and Class IV channels as well.

(c) To adopt standard designations for those channels not used in over-the-air service.

(d) To modify our requirements for monitoring cable television systems for possible signal leakage.

(e) To adopt rules specifying the conditions under which a cable television system which is found to be causing harmful interference to authorized radio services may be required to cease operation, and specifying the conditions under which operation may be resumed.

(f) To adopt restrictions on cable carriage of signals within certain air traffic control and safety services bands.

5. The Commission has now received comments and reply comments in this proceeding and has modified its proposed actions, taking into account analysis and suggestions made in those filings. We adopt today Rules designed to eliminate the possibility of interference to air navigation and aeronautical and marine emergency radio services, and close that portion of the Docket. We anticipate that a cooperative research program will be carried out to provide the basis for any further rule making which may be appropriate in this area. It may be that a research program, together with further field experience, will demonstrate that some of the restrictions we adopt today can be lifted or relaxed. Such modifications could relieve burdens imposed on operators of nominally non-radiating communications systems while at the same time protecting critical aeronautical frequencies from interference.

6. In a number of filings it was suggested that the question of a standard frequency channelling plan be addressed separately. Indeed, it does seem prudent to postpone the question of frequency channelling plans until more experience is gained in the operation of cable systems within frequency ranges used for certain aeronautical purposes in the over-the-air services. Therefore, we are not further addressing frequency channelling plans in this Report and Order, but are leaving this Docket open insofar as it concerns frequency channelling plans. Active consideration of frequency channelling will be resumed when the practical feasibility of widespread and extensive use of certain frequency bands by cable television systems is either firmly established or is refuted.

7. Formal comments and other documents were received from more than 25 parties concerned with the questions posed in the Notice. Concerns of the Executive Branch of the federal government for both air traffic safety and the maximum utilization of communications potential of broadband cable systems were offered by the Office of Telecommunications Policy and the Federal Aviation Administration. The cable television industry made its views known through comments of the National Cable Television Association, the Community Antenna Television Association, the New York State Cable Television Association, and through filings of multiple system operators, single cable television systems, and interested individuals. Spectradyne, Inc. filed comments relating to use of certain cable frequencies for pay television in hotels and motels. Manufacturers of cable television equipment—Jerrold Electronics Corporation and GTE Sylvania Incorporated—as well as the Consumer Electronics Group, Electronic Industries Association, participated. Aircraft owners and air carriers were represented by the Air Transport Association of America, Aircraft Owners and Pilots Association, Aeronautical Radio, Inc., and the National Air Transport Associations. The New York State Commission on Cable Television and the Office of Cable Television, State of New Jersey, also presented suggestions. Various concerns of television broadcasters were expressed by American Broadcasting Corporation, the Association of Maximum Service Telecasters, Inc., and the Council for UHF Broadcasting. Certain staff members of the Cable Television Information Center provided comments. Some of these comments were confined to specific implications of possible Rules; others provided analysis of the entire issue and suggested specific regulatory approaches.[2]

Summary of Actions Taken

8. Based on an evaluation of the comments received and our own analysis of interference potential, we have concluded that it is not necessary to impose a blanket prohibition against cable television system operation in the air navigation and safety service frequency bands. We do find, however, that there are special conditions under which it is possible for a cable television system to cause interference to certain critical aeronautical radio services. Therefore, we are adopting today restrictions which will either (1) prevent cable operations on frequencies which could interfere with aeronautical services in the vicinity of the cable system, or (2) assure that the cable television system operator has taken steps adequate to prevent signal leakage that could cause interference. Since aeronautical communication and navigation systems differ from each other in their susceptibility to interference, we treat them somewhat differently throughout this document. See Appendix B for frequency uses of interest. We are confident that the Rules adopted today amply meet the criteria proposed by the Office of Telecommunications Policy and the Federal Aviation Administration for cable television operation within the frequency bands of interest. As stated by the Office of Telecommunications Policy, those criteria are that cable television operations in the critical frequency bands be permitted only when "* * * adequate discipline, standards, enforcement and equipment have been provided to ensure that interference is not caused to safety of life services."[3]

9. Actions taken today may be summarized as follows:

Postpone consideration of frequency channelling plans until the feasibility of widespread (as compared to exceptional) operation of broadband cable systems on some standard set of frequencies used over-the-air by aeronautical radio services is established or refuted.

Require that certain relevant information be kept on file by the cable television operator and be filed with the Commission in case of any use of bands 108–136 and 225–400 MHz by cable television systems.

Require that any cable system using the bands 108–136 and 225–400 MHz provide for regular monitoring of the cable system for signal leakage.

Require that all carrier signals must be offset in frequency from aeronautical navigation and safety services operated within 111 km (60 nautical miles of any portion of the cable television system, unless a specific waiver is obtained from the Commission. Required frequency separation is 50 kHz in the bands 108–118 and 328.6–335.4 MHz and 100 kHz in the bands 118–136, 225–328.6, and 335.4–400 MHz.

Provide for increasing the 111 km radius of protection in cases where low altitude service is actually provided beyond that distance from the aeronautical radio facility.

Provide for reduction or waiver of the frequency separation requirements in individual cases.

Forbid transmission of certain carriers and other signal components within 100 kHz of 121.5 MHz and within 50 kHz of 156.8 and 243.0 MHz.

Require compliance with all of the above requirements by January 1, 1978.

These regulations will apply to all cable television systems making any use of the specified frequency bands, regardless of the size of the cable system and regardless of any other exemption from Rules of this Commission on the basis of system size.

10. In the following two sections of this Report and Order we shall review major points made by various participants in this proceeding and provide our evaluations. In the final section we summarize some of our own analysis and discuss the possibility of waivers to the rules we adopt today.

II. OVERALL PROGRAM RECOMMENDATIONS

11. Some of the parties filing comments in this proceeding proposed overall regulatory programs which in their views would settle the immediate issues involved in preventing interference to

[2] We note that two parties did not make timely filings of reply comments. Since these filings were received only a few days past the stated time for filings, and since we feel it important to take account of every possible analysis of the issues in this instance, we are granting late acceptance of these submissions.

[3] Letter, Director Thomas J. Houser to Chairman Richard E. Wiley, September 16, 1976, cited in the Notice in this proceeding.

aeronautical radio systems without undue disruption of cable television system operations. Other parties addressed only narrow aspects of the notice of proposed rulemaking, or had specific suggestions for certain actions they favored or opposed. In Section II of this Report and Order we summarize the major aspects of three of the proposals for overall regulatory programs. These three are the proposals of the Office of Telecommunications Policy, Executive Office of the President (OTP), the National Cable Television Association (NCTA), and the Federal Aviation Administration (FAA). For comparison, we note some relevant Canadian regulations. In Section III of this document we discuss one by one the major issues on which the various respondents offered views. Since we will consider frequency channelling plans at a later date, comments relating to frequency channelling plans will not be reviewed in this document.

12. By letter dated September 16, 1976, (Note 3, supra) the then Director of OTP, referring to the frequency bands 74.8–75.2, 108–136, and 225–400 MHz, requested "* * * that these frequency bands be excluded from use by cable systems until such time as adequate discipline, standards, enforcement and equipment have been provided to ensure that interference is not caused to safety of life services." In a second letter, dated April 4, 1977, submitted as comment in this proceeding OTP's Acting Director suggested a number of specific steps by which those criteria could be met and cable television systems could continue to operate in those frequency bands, at least under some circumstances. OTP suggested that an interim solution be imposed to assure that no interference occurs in the immediate future, that a cooperative research program be undertaken to explore propagation mechanisms for leakage signals, maintenance and enforcement procedures, and monitoring techniques, and that "permanent" rules be based on that research. The research would identify minimum conditions under which cable systems could make use of the critical bands. Then the relative feasibility of extensive use of the critical VHF bands could be compared with the feasibility of use of UHF frequencies or other transmission techniques.

13. The specific interim rules suggested by OTP, in addition to existing rules, were:

Require the cable operator to maintain a list of carrier frequencies used by his system, in the bands of interest.

Maintain a frequency separation of 50 kHz (nominal) within the service volume (as defined by FAA) of VOR and ILS systems in the bands 108–118 and 328.6–335.4 MHz.

Maintain a frequency separation of 100 kHz (nominal) within the service volume (as defined by FAA) of communications facilities in the bands 118–136 and 225–328.6 and 335.4–400 MHz.

Require that the above two requirements be met by September 1, 1977, and January 1, 1978, respectively.

Require that in no case should the field strength due to single or multiple leakage sources exceed 10 microvolts per meter "* * * in any useable aircraft environment."

Require that cable system operators must change carrier frequencies at their own expense in response to changing spectrum needs of the aeronautical safety services.

Forbid the use of carrier frequencies at 121.5±0.1 MHz, 156.8±0.05 MHz, and 234±0.05 MHz.

Require that cable systems maintain a tolerance of ±5 kHz in the bands 108–136 and 225–400 MHz.

OTP also suggested that the lists of carrier frequencies used by cable operators must be available in the FCC, appropriate FCC field offices, FAA, and OTP. This suggestion could be implemented by requiring that the cable operator supply the lists to this Commission, which would then make the further distributions.

The National Cable Television Association (NCTA)

14. The National Cable Television Association (NCTA) proposes a five-point program which they believe will ensure "* * * compatibility and protection to critical navigational and emergency frequencies without resorting to the drastic remedy of unnecessarily denying huge portions of bandwidth to certain users." This program was fully supported in all comments filed by cable interests in this proceeding. The NCTA program does not specifically address the problem of interference to aeronautical voice communications, other than on the emergency frequencies 121.5, 156.8 and 243.0 MHz. The text of the NCTA filing does note, however, that because of more widespread use and also closer spacing (in frequency) of frequency assignments in the communications bands than in the navigation bands there is no single set of frequency assignments for cable use which would avoid nationwide any conflict with aeronautical frequency assignments. NCTA suggests that the probability of interference by cable to aeronautical communications services is low, and that the danger represented by any such intereference would be minimal in any case. The NCTA five-point program is summarized here:

1. Each cable television system will maintain at its operating office a list of the carrier frequencies currently in use on the cable system.

2. Each cable system which operates carriers in the 108–118 MHz air navigation band will operate with a minimum carrier offset of 25 kHz on those specific frequencies used by air navigation facilities in their area.

3. Each cable television system which operates carriers in the frequency range of 118–174 MHz or 216–300 MHz shall offset appropriate carriers a minimum of 50 kHz from the emergency frequencies of 121.5, 156.8 and 243.0 MHz.

4. NCTA supports the desirability of leakage monitoring, but asserts that further research is necessary to establish what leakage levels are tolerable. NCTA does not feel that adequate standards governing the levels of leakage from cable television systems can be determined at this time. The levels needed to protect voice comunication to aircraft have not yet been established. NCTA supports a program of further research in this area.

5. The limited frequency channelling plan outlined in points 1–3 above is said to be adequate to reduce the probability of interference to an absolute minimum. Hence a comprehensive frequency channelling plan is unnecessary for the purpose of controlling interference and no such plan should be prematurely imposed or considered in this proceeding.

Federal Aviation Administration

15. By letter of May 2, 1977, to the Chairman of this Commission, the Federal Aviation Administration expressed its recommendations for preventing interference by cable television systems. The letter was received after the stated deadline for filing Reply Comments. However, because of FAA's clear interest in the resolution of these issues it is important that its views be examined and made part of the record in this proceeding. The FAA's proposed resolution of the issues is quoted here:

> Remove and ban all CATV operations in the 108–136 MHz and 225–400 MHz radio frequency *bands* until:
>
> Adequate regulations and leakage monitoring devices are developed.
>
> It is demonstrated that such rules and regulations are enforceable.
>
> Assurance is established that faulty CATV systems can be shut down immediately when identified.

(Emphasis in original).

Canadian Regulations

16. For comparison with proposals of parties in this proceeding and with the rules we are adopting, we include here a brief resume of requirements imposed by the Canadian Department of Communications for operation in the band 108–136 MHz by Canadian cable systems. The Canadian regulations were mentioned by several parties filing in this proceeding, and are useful for comparison purposes. The Department of Communications forbids the use of the band 108–118 MHz by cable systems for any purpose. In the band 118–136 MHz (cable channels A, B, and C) a minimum frequency offset of 70 kHz from the frequency of communications facilities operated by the Canadian government "in the same general area" is required. "Frequent" measurements of cable signal frequencies are also required. In the event of future radio assignments that put a cable system in conflict with the frequency offset requirement, the cable operator is required to adjust his frequencies accordingly, at the cable operator's expense. There restrictions apply to narrow band pilot carriers as well as to any other type of signal.

III. DISCUSSION OF ISSUES

Evaluation of Danger

17. A number of respondents gave their views about the degree of danger represented by unrestricted cable television operations within the aeronautical navigation and safety bands. On one hand, Aeronautical Radio, Inc. (ARINC) and The Air Transport Association of America (ATA) assert that "As the Harrisburg incident dramatically demonstrated, cable television systems can render aeronautical communications unusable." NCTA, on the other hand, asserts that "* * * there is virtually no condition under which CATV leakage can disrupt the intelligibility of the communications. It can, however, under certain circumstances cause a temporary annoyance in areas where leakage would cause the squelch of an aircraft receiver to be tripped."

18. To the best of our knowledge, the ARINC/ATA assertion is somewhat exaggerated. We are well aware that in Harrisburg, cable signal leakage caused the opening of squelch circuits in several locations in the airspace when there were no transmissions intended for reception by aircraft.[4] However, we are unaware of any report which indicated that there was any degradation caused by the cable signal leakage to desired signals transmitted from a ground station to aircraft. We also note the unusual practice of using four separate and independent signal sources for the pilot carriers on the cable system, which existed at Harrisburg. This meant that once the squelch circuit was opened by the undesired leakage signal, the aircraft pilots heard annoying whistles which would not have occurred had there been only a single pilot carrier signal generator. We also note that signal leakage from the Harrisburg cable television system was far in excess of leakage which can be expected from modern cable systems maintained in a routine fashion using currently available leak detection technology. Thus it is fair to say that (1) the radiation which occurred in Harrisburg did demonstrate that cable signal leakage can cause "harmful interference", since distracting noises may be considered harmful to the function of aeronautical safety radio services, but (2) the probability of actual degradation of aeronautical communications from a reasonably well maintained cable system is still remote, as we anticipated in our 1972 Cable Television Report and Order,[5] and no such actual degradation has yet been identified in practice.

19. Our own analysis (See Appendix A of this document) suggests that there may be two mechanisms whereby a cable television system could degrade the quality of aeronautical communications services: (1) By gross neglect of signal leakage problems in the cable system, leading to a very large number of typical cable system leakage sources, or (2) by the occurrence of one or more complete breaks in the outer conductor of the cable itself. It is not at all clear that the first of these mechanisms could ever cause fields large enough to degrade communications at aircraft altitudes. But even if such degradation were possible, it would develop over a significant period of time (months or possibly years). Thus, relatively minor forms of interference such as opening squelch circuits would occur well before actual communication degradation developed, and under our Rules the offending cable system would be required to eliminate the interference or cease operations on the aeronautical frequency, immediately upon detection of any interference endangering the functioning of aeronautical safety services.

20. The second mechanism by which degradation could occur causes us more concern. Interference due to this second type of leakage has yet to be observed in practice. Its probability is very likely to be low, but is unknown. However, on the basis of measurements made by the U.S. Department of Commerce, Office of Telecommunications[6] and by the Canadian Department of Communications[7] we estimate that it would indeed be possible to cause degradation to aeronautical communications on the same frequency in the immediate neighborhood of such a major cable break. Therefore, pending further research and experience, we do not find it proper to permit operation of a cable system on the same frequency as a local aeronautical safety service unless the cable television system can demonstrate a reliable mechanism for detecting such complete breaks should they occur, and for immediately terminating cable transmissions on the affected frequency or frequencies.

21. Both Warren L. Braun, a cable television consultant and manufacturer of cable television test equipment, and NCTA have supplied some quantitative analysis of the potential for interference to communications services due to large numbers of cable television leakage sources. These quantitative models, together with measurements made by the Office of Telecommunications and the Canadian Department of Communications, are very helpful in estimating the degree of threat to radio systems under various assumptions and possible regulations. We note that the models and analyses presented by Braun and NCTA have not been challenged by other parties filing in these proceedings, except insofar as the NCTA analysis (in reply comments) builds upon and does differ in some respects from Braun's analysis.

22. Both models are based on calculation of fields produced at aircraft altitudes from numbers of leakage sources producing various magnitudes of radiation fields. Distribution, number, and magnitude of fields produced by leakage sources are assumed. The assumptions seem generally conservative. Braun concludes on the basis of his own field experience that it is realistic to construct cable television trunk and distribution plant (and presumably to maintain same) such that signal leakage is well within radiation limits currently prescribed by this Commission. He further asserts that it is feasible to upgrade most older trunk and distribution plant to the same standards. If so, then there would be no threat of interference from trunk and distribution systems except possibly in the case of accidents which could cause complete breaks in the cable.

23. The same field experience, however, leads Braun to conclude that it may not be possible to make similar statements about subscriber drop portions of the cable television plant. He then proceeds to construct a mathematical model of how multiple leaks in subscriber drops might combine to give interference fields at aircraft altitudes. Based on his assumptions, for which the reader is referred to Braun's filed comments, an aircraft receiver at 1000 meters (approximately 3,300 feet) above a 3.14 square kilometer area containing an assumed collection of 2,000 leakage sources of various magnitudes would experience an interference potential of at most 0.89 microvolts at its input terminals. This is to be compared to a signal potential of at least 2 to 5 or more microvolts required to open the squelch circuits on aircraft receivers.

24. The NCTA analysis provided in reply comments is based on analysis somewhat similar to that of Braun, but using different assumptions and parameters. In NCTA's model a subscriber drop connected to a well matched dipole antenna is estimated to produce a field of 5.8 microvolts per meter at 300 meters (1,000 feet) above the dipole. Such a leakage field from a subscriber drop is unlikely, but could happen in rare instances. To illustrate the effects of multiple leaks, NCTA calculates the combined effect of 1013 similar leaks spread over a model which approximately represents a 200 mile cable plant. The result is an estimate of about 27 microvolts per meter from the 1013 leakage fields combined. We have drawn upon NCTA's model to make some of our own estimates of combined radiation fields, as discussed in Section IV and Appendix A of this document.

25. Evaluation of the threat to the radionavigation services (Instrument Landing System (ILS) and VHF Omnirange (VOR)) is somewhat different. It

[4] In April, 1976 pilots reported extraneous noises on 118.25 MHz, a frequency used for an airport approach control service at Harrisburg. The interference was determined to be due to multiple major leakage sources in the Harrisburg cable television system, which was using the same frequency for separate pilot carriers signals in four separate sections of the cable system. The operator of the cable system (Sammons Communications, Inc.) cooperated fully with Commission and FAA staff to eliminate the interference as soon as it was determined to be originating from the cable system.

[5] Cable Television Report and Order, 36 FCC 2d, 143 (1972).

[6] Electromagnetic compatibility of simulated CATV signals and aircraft navigation receivers, OT Report 74-39 (Tom Harr, Jr., Eldon Haakinson, and Sueki Murahata, 1974); Radiating aerial coaxial cable measurements, OT Report 75-73 (Tom Harr, Jr. and John Juroshek, 1975); Flight tests measuring compatibility of simulated CATV and VOR signals, OT Report 75-75 (John R. Juroshek and T. Harr, Jr., 1975).

[7] A study of potential RF interference to aeronautical radio navigational aids, Canadian Department of Communications Technical Report BTRB-5 (L. Chwedchuk, R. Poirier, and L. Walker, 1974).

is very difficult for an interfering signal to interfere inadvertently with the navigation services. It is necessary for the interfering signal not only to achieve a certain field strength at the aircraft relative to that of the desired signal, but also for the interfering signal to be superposed with an accuracy of a few hertz on certain frequencies critical to the navigation service. The probability of a cable signal having exactly the right frequency and stability to interfere with ILS or VOR operations must be admitted to be banishingly small. However, the consequences of such interference, should it occur, are potentially so great that we feel compelled to forbid cable transmissions on frequencies which conceivably cause such interference to ILS or VOR systems operating in the neighborhood of the cable television system.

26. In trying further to place the threat to aeronautical radio services from cable television leakage in context, NCTA suggests that aeronautical radio services have always operated in an environment of less than perfect reliability. Both NCTA and the Community Antenna Television Association (CATA) quote figures of some 6,000 or more instances of interference to aeronautical radio from non-cable sources over the last twenty-five years, which have produced only the one (Harrisburg) reported instance of cable originated interference. We are unable to verify those figures, but our own records do show 608 complaints of aeronautical radio interference from July 1, 1974 through December of 1976.[8] Of those complaints the sources of which were identified (474 identified), the largest number (182) were due to co-channel interference from other aeronautical service transmitters. Other interference sources included intermodulation of products of high power broadcast signals, citizens band radio, and various electrical equipment.

27. Thus NCTA, CATA, and other respondents making similar arguments are correct in maintaining that cable television has historically been a relatively insignificant source of interference to aeronautical radio. But we would suggest that that historical performance, commendable as it is, may have been partly because at least until recently there have been very few instances of simultaneous use of the same frequency by cable systems and nearby aeronautical radio services. It has only been in the last few years that FAA has been making communications radio frequency assignments at 50 kHz (and even more recently at 25 kHz) intervals, thus placing aeronautical radio services on frequencies traditionally used as carrier frequencies for cable television signals. As far as we know, there has never been coincidence of a cable television carrier frequency with an air navigation frequency.

28. Clearly, the major reason for formulating the rules we adopt today is not to solve an existing problem of crisis proportions. Rather, we adopt these restrictions because we expect that the near future is likely to bring more cable television systems, more extensive use of midband frequencies as pay television and other new services become feasible and marketable, and at the same time more frequent use by FAA of 50 kHz and 25 kHz intervals for assignments in the communications services and perhaps 50 kHz intervals in the navigation services. We are firmly convinced that it is in the best interests of the cable industry itself as well as the public at large to begin serious preparations for these new conditions before large numbers of cable systems desiring to use midband frequencies are built without having the capability to fully protect aeronautical and marine navigation and safety services from harmful interference. We cannot say with certainty whether the ultimate answer will lie principally with superior leak detection techniques, with use of other frequency ranges such as the UHF bands, or with new transmission technologies such as optical waveguides. But we are certain that such interference can be prevented, and we find that long delays in implementing necessary preventative measures would not be in the interest of the public or the cable television industry.

29. With respect to MATV as well as cable television systems not nominally utilizing the critical frequency bands, the comments of Clifford B. Schrock point out a potential problem not addressed in our notice of proposed rule making. He suggests that, particularly in the case of MATV systems operating at higher power levels than are utilized in cable television systems, it is possible that signals may be picked up off the air, amplified and re-radiated. In this manner an aeronautical radio signal could very well interfere with itself through the medium of the MATV/CATV system. Indeed, if this mechanism is real, it is one of the few conceivable ways to cause harmful interference to ILS or VOR radio-navigation systems. U.S. and Canadian studies have shown that VOR and ILS systems are quite insensitive to interference at frequencies even slightly (a few hertz) removed from certain critical frequencies within the signal bandwidth. One of the few ways to obtain an interferring signal having the requisite stability on exactly the right frequency would be to receive the desired signal, amplify it, and re-radiate it without changing its frequency. Since cable television systems generally have to use filters and traps to obtain narrow band signals for processing and transmission on the cable, there seems little likelihood of such re-radiation from cable television systems. We will urge that any cooperative research program to investigate interference mechanism in these bands should address this problem in more detail. In the meantime, since we have not identified such interference in the past, we will rely on our standards and authority under Part 15 and other parts of our Rules to deal with such interference should it occur. Therefore the rules we adopt today will not be considered applicable to MATV and other television delivery systems that do not fall under our definition of cable television systems.

Frequency Offsets

30. Just as in the evaluation of the threat presented by cable television leakage signals, it is necessary to consider the case of navigation services (ILS and VOR) separately from the communications services. First let us examine the navigation case.

31. Based primarily on the studies by the Office of Telecommunications[9] and the Canadian Department of Communications,[10] NCTA suggests a minimum offset of 25 kHz between video carriers and the carrier frequencies of ILS and VOR services. Such a step would not be difficult, since NCTA's investigations uncovered no cable systems operating closer than 150 kHz (nominal) to a presently assigned ILS or VOR frequency in the vicinity of the cable system, and the usual cable video carrier frequencies are 50 kHz (nominal) removed from any frequency that would be assigned under present procedures of FAA. OTP, on the other hand, suggests a frequency offset of a nominal 50 kHz, with a frequency tolerance of ±5 kHz.

32. We agree that Canadian and U.S. measurements indicate that 25 kHz is a safe offset. But there apparentlv is some question at this time about possible interference from a signal offset precisely 19.920 Hz from the carrier frequency of a VOR service. We believe this question should be answered before cable systems are allowed to operate as close as 5.08 kHz to the frequencv in question. Furthermore, there is no clear need at present for such small frequency offsets, since traditional cable frequency usage and FAA's present assignment practices for ILS/VOR services already provide 50 kHz offsets. Therefore, to provide an extra margin of safety we are specifying that the required minimum offset (except in case of waivers) will be 50 kHz, at least until the existence of (1) the need for smaller offsets and (2) research showing that such lesser offsets are safe even without the special precaution of a waiver process.

33. In the case of voice communications services, OTP suggests an offset of 100 kHz nominal, with a tolerance of ±5 kHz. NCTA expresses the view that the use of frequency offsets is not practical as a universal solution in the case of voice communications frequencies, because FAA assignments fall on frequencies used by cable systems and cannot be avoided by any universal choice of cable frequencies. As noted previously, NCTA also asserts that there is no circumstance under which "* * * serious degradation or obliteration of aircraft voice communications (could) occur." Finally, NCTA argues that a frequency separation of 50 kHz would be quite adequate in any case.

[8] A summary of these records is filed as part of the record in this proceeding.

[9] See footnote 6.

[10] See footnote 7.

34. We agree that there is no universal solution based on a particular choice of frequencies for all cable systems. We also would agree that the chance of degradation of communications signals is small, but as pointed out previously we do believe it could occur in a local area in the case of a complete separation of the outer conductor of a cable. Therefore, some offset is desirable. Examination of our own records and current aeronautical maps indicates, however, that there will be only a few cases where the OTP suggested offsets will lead to a conflict between cable and aeronautical use of the same frequencies. We believe that these situations can be handled adequately on an ad hoc basis, either by moving the cable frequency or through a waiver process undertaken after careful examination of the cable system's design and leakage performance. Waiver criteria are discussed in Section IV of this document.

35. NCTA supports the suggestion that 50 kHz offsets would be adequate by two arguments. First, NCTA notes that the Radio Technical Commission for Aeronautics (RCTA) standards for aeronautical communications receivers specify that the response of receivers should be down by 40 dB at ±10 kHz relative to the desired carrier. If such performance were indeed the case in practice, then probably an actual frequency separation of 10 kHz would be adequate. But NCTA further notes that Canadian Department of Communications measurements [11] indicate that actual receiver performance may not be that good. The particular receiver examined by the Canadian laboratory was, however, less sensitive by 30 dB at a frequency ±50 kHz from the desired carrier. Using that date NCTA concludes that it would require a massive leak of 3,000 microvolts per meter at 3 meters from the cable to open the receive squelch circuit at altitude of 100 feet, with a 50 kHz offset. This corresponds to a leak of approximately 30,000 microvolts per meter at 3 meters to open a squelch circuit at 1,000 feet altitude, which is the minimum altitude permitted by FAA over densely populated areas. We note that a more typical "major" leak in a cable is around 400 microvolts per meter at 3 meters. On the basis of power addition it would require about 5,625 such leaks all within 1,000 feet of the aircraft to open the squelch circuit of such a receiver, clearly an unlikely or impossible circumstance for a cable system.

36. Thus we conclude that NCTA is correct that 50 kHz actual separation is sufficient, insofar as the receiver characterized by the Canadian Department of Communications is typical of those in the air today. But we do not know that this is the case. Therefore, we are for the time being adopting the 100 kHz separation suggested by OTP, out of an abundance of caution, until research can fill the gaps in our knowledge. We take this opportunity to note, however, that there do exist standards for aeronautical communication receiver performance. We are concerned about the full and efficient use of the electromagnetic spectrum, and note that full use of cable television and other nominally non-radiating systems can reduce pressures on over-the-air spectrum usage. Therefore, we hope that aeronautical receiver performance will be improved as quickly as possible to meet the RTCA or other appropriate standards. This will not only permit FAA to prescribe lesser frequency separations for aeronautical services themselves, but will reduce the burdens which must be borne by unrelated services in order to protect the integrity of the aeronautical radio services.

37. The OTP suggestions for frequency separation requirements were phrased in terms of nominal separations (50 and 100 kHz) with a frequency tolerance of ±5 kHz. NCTA questions the need for such a small tolerance limit. Since it will be rare (if ever) that a cable operator will have to worry about separation from frequencies both higher and lower than a system carrier frequency, we have chosen to state frequency separation requirements in terms of minimum separations, leaving to the cable operator the choice of whether to operate close to the frequency separation limit with a small tolerance or to operate with less stringent tolerances but at a frequency separation large enough to assure that the minimum separation will always be maintained. We are, however, imposing a maximum tolerance of ±25 kHz, corresponding to the tolerance now imposed on all Class I cable television signals in any band.

38. Finally, we note OTP's suggestion that the criterion for determining whether a cable system is subject to frequency separation requirements should be whether the system is within the "service volume" of the relevant aeronautical radio service, as that term is defined in certain Orders of the Federal Aviation Administration.[12] Although this would be a rational criterion, we find several practical problems with its adoption. First of all, these FAA orders are not readily available to cable operators. Also, the radii of various aeronautical radio services vary over a range of 10 to 150 nautical miles, depending on the type of service and other factors. Thus, it would be difficult for a cable operator to determine whether or not his system was subject to the frequency separation requirements. Such confusion and uncertainties would not add to air traffic safety. There is still another characteristic of the service volume definitions that makes service volume an awkward criterion. That is, the service volumes are generally cylinders of a given radius extending from ground level upward to some maximum altitude. These radii are quite large—up to 150 nautical miles—for services designed to be used at high altitudes. Since any interference from cable television systems would occur primarily at low altitudes such as 300 to 3,000 meters (1,000 to 10,000 feet), there seems no reason to protect the entire service volume for services designed for use at altitude of, say, 5,400 meters (18,000 feet) or more.

39. The radii of FAA service volumes for services designed to be used at low altitudes (up to 1500 meters, or 5,000 feet) range up to 30 nautical miles. Services designed for use up to 7500 meters (25,000 feet) have service volume radii ranging up to 60 nautical miles. We have therefore chosen a figure of 111 kilometers (60 nautical miles) as the criterion for judging whether or not a cable system is close enough to an aeronautical radio station to bring about the imposition of frequency separation requirements. In special cases where FAA service volumes are extended beyond 60 nautical miles for low and moderate altitude services, or in cases where FAA instructs pilots that services designed for high altitude use are in fact to be used at altitudes of less than 4500 meters (15,000 feet) at distances greater than 60 nautical miles, special arrangements may be made with affected cable systems. Such arrangements may be made quickly by formal Order of this Commission, if necessary. On the other hand, a cable system might have unnecessary restrictions imposed upon it by such a criterion (60 nautical miles). For example, the service volume of Instrument Landing System (ILS) services may extend only 10 nautical miles in certain directions. In such cases, which should be very few in number, specific waivers could be issued to the cable operator. In general, however, we believe our criterion of 60 nautical miles separation is both safe and administratively feasible for all users of the affected frequencies.

40. As several of the comments indicated, there are three communication frequencies that should be dealt with separately. They are the three emergency communications frequencies at 121.5, 156.8, and 243.0 MHz. All three of these frequencies carry emergency communications. As a result communications may originate from unusual locations and from very low powered portable units. In view of these special circumstances we feel it is appropriate to completely forbid transmission of certain carriers and other signal components at these frequencies, including appropriate offsets to provide guard bands of 100 kHz about the frequency 121.5 MHz and 50 kHz about the frequencies 156.8 and 243.0 MHz.

Power Limitations

41. Our notice of proposed rule making proposed that limiting the power of cable television signals in the navigation bands might prevent interference should signal leakage occur. Most parties commenting were in agreement that power limitation is not the proper technique for preventing interference. NCTA pointed out, for example, that lower maximum

[11] See footnote 7.

[12] The "service volume" for an aeronautical radio service is a volume in airspace, usually but not always cylindrical, within which it is expected that there will be a usable signal at all points within the limits of intended service. See FAA Order 6050.4A, Chapter 1, paragraph 2.

power levels would require closer spacing of amplifiers. Thus the average power level (averaged over the entire length of cable plant) might not change very much, and multiple leakage sources might produce fields of about the same magnitude as with higher maximum powers. Clifford Schrock, GTE Sylvania Incorporated (GTE), and the New York State Commission on Cable Television did recommend power limitations. But two out of those three recommended limits as high as or higher than powers normally used now in the cable industry. We see three major reasons for our decision to rely on frequency separations and leakage monitoring rather than power limitations: (1) power reduction is not feasible without major rebuilding of most cable television system; (2) power limitations would be difficult if not impossible to effectively enforce, being subject to accidental maladjustments which could go undetected for some time; and above all, (3) power limitations would probably be ineffective in preventing interference if multiple leakage did occur at a critical frequency.

Monitoring

42. In our Notice we proposed the imposition of monitoring procedures to assure that signal leakage would be kept under control, particularly in bands outside the television and FM radio broadcast bands. OTP's proposed procedures do not include monitoring, since exclusion from critical frequency bands is adequate protection. However, we feel that monitoring is an important part of the rules we adopt today for two reasons: (1) We are imposing frequency offsets only out to 111 kilometers (60 nautical miles), corresponding to the service volumes of moderate altitude radio services, rather than out as far as the 150 nautical miles corresponding to certain high altitude services. Thus we believe that some form of monitoring program is appropriate to assure that leakage does not get so far out of control that interfering fields could extend up to the higher altitudes. (2) FAA frequency assignments are subject to change on short notice. To the extent that waivers or reduction of frequency offset requirements are needed and feasible, it would be in the best interests of both the cable system operator and the public served by the cable system to have a pre-existing set of monitoring procedures and a high system integrity. Then, in case of a sudden conflict (or an anticipated conflict) with an aeronautical radio service a decision one way or the other about a waiver could be made much more quickly.

43. NCTA fully supports the concepts of monitoring to keep leakage under control. However, NCTA believes that there is now insufficient knowledge to design an optimum monitoring program, and that a test program to develop such knowledge should be instituted. GTE Sylvania Incorporated assert that the monitoring requirements proposed in the notice would be burdensome to cable operators. We agree that it is not possible at this time to specify any monitoring program which is at the same time fully effective and not unduly burdensome for all cable systems. Therefore, we are imposing at this time only the requirement that all systems using any frequency or frequencies in the aeronautical radio bands must employ some type of routine monitoring system which will assure that all portions of the cable system will be effectively searched for leakage fields of magnitude 20 microvolts per meter at a distance of 3 meters from the cable at least once per year. We do not feel that this requirement will be burdensome for any system large enough to have use for those frequency bands, in view of the apparent effectiveness, low cost, and ease of use of contemporary leak detection technology. Note that we do not require that the search for leakage sources must actually take place 3 meters from the cable at all locations—it is only required that whatever leakage detection method is used, it must be capable of detecting leaks which produce fields of 20 microvolts per meter at the 3 meter distance. We do hope that a research program, together with field experience we hope to gather in the near future, will provide information which will either enable us to make our monitoring requirements more specific or will give guidance as to acceptable variations.

44. We note particularly comments on monitoring filed by the Office of Cable Television, Department of Public Utilities, State of New Jersey (OCT). OCT reports investigation of signal leakage detection methods introduced by two manufacturers of cable television test equipment, Mid State Communications, and Comsonics. OCT concludes that effective "constant" surveillance methods can be devised using either of the two systems. OCT further suggests that the details of the monitoring schemes to be followed should be approved separately for each cable television system, since different cable system configurations may require different approaches. It is further suggested that the cost of monitoring systems is small compared to the potential impact of banning operations completely on certain cable channels. Finally, OCT suggests that all cable television systems should be required to perform monitoring, not just those operating in the critical air navigation and communications bands.

45. There may be many effective monitoring schemes for individual cable television systems. This is good reason for adopting a flexible monitoring requirement as we are doing today. We do not feel, however, that there is sufficient reason to adopt the final OCT suggestion and require continuous monitoring in bands other than those used for air navigation and safety services. Our definition of harmful interference, which is consistent with that of the International Telecommunications Union, recognizes a difference between safety services and non-safety services in evaluating "harm." In the case of safety services, "harm" includes any endangering of the functioning of the radio system. In the non-safety services, serious degradation, obstruction or repeated interruption is a necessary condition for "harm." Therefore, although American Broadcasting Companies, Inc. and the Association of Maximum Service Telecasters, Inc. also would like to see additional protection of broadcast services from interference, we have no evidence at this time that a universal requirement for continuous monitoring is necessary to prevent widespread "harmful interference" to those services.

46. We do note that good system integrity brings to cable system operators benefits beyond prevention of interference to radionavigation and safety services. These benefits include higher system reliability and fewer service calls, and protection of cable signals themselves from interference due to ingress of manmade electrical noise, strong broadcast signals, and other sources of interference. Therefore, we expect that the practice of more or less continuous monitoring will increase. But we do not see the necessity for this agency to mandate such monitoring in all cases at this time.

47. We note here that our approach of relying on frequency separations and monitoring avoids the necessity of detailed examination by the regulatory agency of possible mechanisms for leakage and specific techniques for avoiding and repairing leakage. Thus, the suggestion of Schrock and certain staff members of the Cable Television Information Center (CTIC) that converters or traps be required at all subscriber drops, the suggestion of CTIC that grounding according to the National Electrical Code be required to eliminate at least one source of leakage, and the suggestion of New Jersey's OTC that cable system personnel should be licensed need not be addressed in detail. We have no doubt that traps and converters, and quite possibly grounding of subscriber drops as well, would reduce interference. Licensing may or may not improve the quality of cable television technical staffs. However, we feel that by adopting "performance" standards rather than "design" standards, we can properly leave to the cable television industry and the individual operators the development and application of techniques to meet our performance standards.

Enforcement

48. OTP, FAA, ARINC/ATA, and other respondents rightly point out that enforceability is an important factor in the choice of rules to prevent interference. ARINC/ATA point out the limitations of cease and desist orders as enforcement tools, due to the possibility of long delays in implementing cease and desist orders. ARINC/ATA also suggest that forfeiture authority is needed to enforce the relevant standards, and suggest that the rules we adopt should include explicit authority to require termination of operation of appropriate portions of cable television systems in case harmful interference should occur. NCTA and CATA, on the other hand, oppose the adoption of rules that would give FCC field personnel explicit authority to shut off offending cable television operations and require that operations not be reinstituted without permission of the FCC personnel.

49. We agree that forfeiture authority would be helpful in enforcement of standards to prevent interference. However, in the case that interference to air navigation and safety services does actually occur, this Commission ultimately has the same authority to demand termination of the offending cable television system that it has in the case of other types of interference sources. And we further agree with ARINC/ATA and other respondents making similar comments that such authority should be explicit in our cable television rules and regulations. Therefore, such provisions are included in the Rules we adopt today.

50. We cannot agree with NCTA that such authority in the hands of our field personnel is likely to lead to significant delays in the reinstitution of service and perhaps even delay solution of the interference problem. In the first place, we are confident that conscientious implementation by cable operators of the rules we adopt today will prevent any interference to the aeronautical services. Secondly, on the basis of our experience at Harrisburg we would expect full and complete cooperation between our field personnel and cable operators toward rapid solution of the problem and reinstitution of service. The authority to "order" does not preclude complete cooperation of FCC personnel with a cable operator who is attempting in good faith to solve an interference problem and restore service. Therefore we are writing into the cable television rules authorities similar to those which our field personnel now have relative to certain other potential sources of interference, such as industrial heating equipment.

51. Schrock suggests grandfathering existing operations in these bands, with the proviso that grandfathered systems should later be cleared to continue such operation if appropriate safety criteria are met. Schrock would require immediate notification of FAA and FCC of existing uses in these bands, and would impose some form of monitoring to detect major signal leakage. We prefer not to use a grandfathering approach as such, feeling that prior use in no case entitles a system to operate in a manner which provides a threat to air traffic safety. However, we are allowing a transition period during which existing operations can be brought into conformance with the new rules. We are requiring notification of frequency uses, by means of timely filing of our annual Form 325. But we are assuming for ourselves the responsibility of informing FAA, OTP, our own field offices, and other affected agencies as appropriate about such operations. We go further than Schrock in that we require monitoring capable of detecting electromagnetic radiation at the level of the Commissions standard (20 microvolts per meter at 3 meters from the cable, in the frequency range 54–216 MHz) rather than merely being able to detect "major" breaks.

52. OTP suggests that the "interim" restrictions be effective in September, 1977 in the navigation aid bands and January, 1978 in the voice communications bands. Since we know of no instance of conflict with navigation service frequency usage, and since the frequencies traditionally used for pilot carriers and for television signals in the navigation bands would not produce conflicts with frequencies currently assigned to radio navigation services, we see no compelling reason to set different effective dates for compliance in the two sets of frequency bands. We also note that the required information on frequency usage will be sent to us in the normal course of events, by means of Schedule 2 of FCC Form 325, during the fall of 1977. Therefore, we find it appropriate to allow existing systems until January 1, 1978, to notify the Commission of their use of these bands and to bring their operations in compliance with the new restrictions.

53. OTP also suggests that the Commission "• • • discourage additional use • • •" of the navigation bands by cable systems. In practice, the rules we adopt today may well discourage certain uses of the navigation bands. But our purpose is not to discourage use of the bands. To the extent it is not safe to use those bands, such use should simply be forbidden. To the extent such use is safe, there is no reason to discourage it. We adopt today rules which we believe to be quite amply conservative to prevent harmful interference. We would note, however, that any new uses of the bands in question are initiated at the risk of the cable operator. If future research should in any way identify areas where today's restrictions should be tightened rather than relaxed, cable operators would of course have to conform to appropriate new restrictions without any expectation of any grandfathering on the basis of past use. In this area, restrictions must be made strictly on the basis of safety, not on the basis of precedent.

Research Program

54. We note that both OTP and NCTA discussed the importance of a cooperative research program in this area. While recommending an interim solution, OTP stated that any permanent solution to this problem "will require more information about propagation mechanisms, enforcement and maintenance procedures, and monitoring techniques than is presently available." We agree with OTP about the need for more research in this area. It is our intent to begin, in cooperation with all interested parties, such a research program.

IV. APPLICATION OR WAIVER OF FREQUENCY SEPARATION REQUIREMENTS

55. We have agreed with OTP that the basic regulatory mechanism for preventing interference to aeronautical services should be frequency offsets from aeronautical services in the geographical vicinity of the cable television system, at least for the foreseeable future. However, on the basis of analysis of mechanisms by which interference might occur we find that it may be possible to grant waiver or reduction of the specified frequency offsets in individual cases. We do not propose a rigid set of conditions which, if met, will guarantee a cable system the right to use reduced offsets. If we were aware of a universally applicable set of such conditions we could simply write them into the Rules and there would be no need for a waiver process. In the paragraphs below we summarize the analysis that leads us to these conclusions and discuss the general nature of conditions under which some form of waiver might be appropriate. Our analysis is outlined in more detail in Appendix A.

Analysis of Interference Mechanisms

56. *In the navigation bands (108–118 and 328.6–335.4 MHz).* Investigations by the U.S. Department of Commerce [12] and the Canadian Department of Communications [13] indicate that cable television systems are capable of generating fields high enough to interfere with navigation systems, provided a cable signal carrier frequency coincides precisely with certain critical frequencies and certain other conditions are met. It does not appear possible for a cable television system to interfere with air navigation instruments if the cable television carrier frequency is 20 kHz or more removed from the ILS or VOR navigation system carrier frequency.

57. Complete control over this type of interference is maintained by periodic measurement of cable television carrier frequencies to assure that adequate frequency separation is maintained. Therefore, an important factor in any consideration of waiver (reduction) of our stated 50kHz minimum frequency separation would be the procedures used by the cable operator to monitor his carrier frequency or frequencies and to assure adequate separation from critical aeronautical frequencies. It may be that a combination of thorough monitoring for large numbers of small leakage sources combined with automated detection of complete breaks in the outer sheath of the cable could make it safe to operate cable carrier signals at frequency separations less than 25 kHz. But because of current frequency assignment practice by both FAA and the cable television industry we anticipate no need for frequency separations less than 25 kHz minimum.

58. *In the voice communications bands (118–136, 225–328.6, and 335.4–400 MHz).* Based on a model similar to those described by Braun and by NCTA in their filed comments in this proceeding, we

[12] See footnote 6.
[13] See footnote 7.

have estimated the number of leakage sources producing fields of various magnitudes which could combine to give interference fields of 10 microvolts per meter at an aircraft altitude of 300 meters (1,000 feet).[14] Details of this analysis are given in Appendix A. Results are summarized in Table 1.

59. Table 1 gives the number of leakage sources required to produce an interference field of 10 microvolts per meter at various altitudes, as a function of the field produced by each leakage source at a distance of 3 meters from the cable and the total length of cable distribution plant. Among the assumptions made (see Appendix A) are that the power density at the aircraft is the sum of the power densities due to individual leakage sources, and that the field strength at aircraft altitude is inversely proportional to distance from the leakage source at distances equal to or greater than 3 meters. This does not take into account shielding effects of building and other objects in low angle paths.

TABLE 1.—*Number of leakage sources required to produce an interference field of 10 microvolts per meter*

Height of aircraft in meters (feet)	Kilometers (miles) of cable plant	Leakage field at 3 meters from cable (microvolts per meter)	Total sources required to produce 10 microvolts per meter at aircraft	Leaks per kilometer (mile) required to produce 10 microvolts per meter at aircraft
300 (1,000)	320 (200)	20	108,000	337 (540)
150 (500)	320 (200)	400	82	.26 (.41)
300 (1,000)	320 (200)	400	228	.71 (1.14)
1,500 (5,000)	320 (200)	400	620	1.94 (3.10)
3,000 (10,000)	320 (200)	400	1,206	3.78 (6.04)
3,000 (10,000)	1,280 (800)	400	2,454	1.92 (3.07)
300 (1,000)	320 (200)	600	78	.24 (.39)
300 (1,000)	320 (200)	50,000	(1)	

[1] Less than 1.

60. The important comparison is between the number and magnitudes of leaks shown in Table 1 and the number and magnitudes of leaks which can be expected from a reasonably well monitored and maintained cable television system. We have limited field measurements to draw on at this time, but a recent unannounced visit of our field personnel to a new cable television system which had been checked for leakage during and immediately after its construction found a total of nine leakage sources in approximately 100 kilometers (60 miles) of cable distribution plant, corresponding to about 0.09 leaks per kilometer (0.15 leaks per mile), or about 30 leaks in a 320 kilometer (200 mile) plant. The largest field found in that cable system was 350 microvolts per meter at 3 meters. This is consistent with measurements made in Canada which found that over 92% of leakage field located in 27 cable systems produced fields less than 400 microvolts per meter at 3 meters.[15] These cable systems, examined in 1973, were not using construction techniques and monitoring equipment available today. One would expect somewhat lower leakage levels from modern equipment and monitoring procedures.

61. From these comparisons we conclude that if it proves possible to maintain a cable television system with the integrity of the system we examined, or better, there will be no interference from "large" leakage fields of around 400 microvolts per meter or less, even if there is no frequency offset between the cable television carrier frequency and the aeronautical radio service.

62. There is, however, another class of leakage source which concerns us more, even where the cable television system is well constructed and well maintained. This type of leakage source, represented by the last line in Table 1, may occur in case of a complete break in the outer conductor of a coaxial cable. The field strength figure in the Table (50,000 microvolts per meter at 3 meters) is a high estimate, being based on the assumption of an antenna with a 3 dB gain being well matched to the cable. But the OT studies[16] indicate that such radiation could occur, at least in certain narrowly defined directions from complete breaks in the outer conductor. Even if this estimated field is not obtained in practice, it is clear that complete breaks in the outer conductor may pose a different order of interference threat. The probability of such leakage is very likely quite low, but is unknown. Therefore, we feel that any reduction or waiver of our frequency offset requirements must take into account the possibility of such large radiation fields from single leakage sources.

Applicability of Frequency Separation and Other Restrictions

63. The frequency offset approach to interference prevention, suggested by OTP and others and adopted here as our basic regulatory mechanism, is based on the premise that it is the carrier frequency or frequencies which provide the significant threat to aeronautical radio service. In the conventional cable television carriage of television signals this is true. Our own technical regulations for the carriage of Class I television signals require that the aural carrier be 13–17 dB lower in power than the visual carrier. The Office of Telecommunications found color subcarrier peak power density down 30 dB from the visual carrier, the strongest horizontal synchronizing pulse down 20 dB, and the strongest vertical synchronizing pulse peaks down 35 dB from the visual carrier.[17] But if we look toward the carriage of signals by suppressed carrier, single sideband, pulse code modulation, or other techniques which might be used for special services in the midband frequencies, then we must be more specific about what signal or signal component frequency is to be offset from the aeronautical radio service frequency of interest.

64. In order to include signals or signal components having peak power higher than the sideband levels of the typical television signal, we should specify that our frequency offset requirements are applicable to any signal or signal component having a peak power in excess of a level approximately 20 dB lower than the peak visual carrier level we have been assuming in our analyses in this proceeding. Since we have been assuming a peak power of about 50 dBmV (1.3×10^{-3} watts) for the visual carrier, we are specifying that our frequency offset and other requirements adopted today are applicable to signals or signal components having peak powers equal to or greater than 10^{-5} watts.

65. Our analysis and the comments of respondents in this proceeding lead us to conclude that: (1) frequency offsets should be our basic regulatory mechanism for interference prevention for the near future, but that (2) it seems feasible to maintain at least some cable television systems so that the effect of multiple leakage sources of the magnitudes commonly observed in cable systems will not interfere with either navigation or communications services, and that (3) there is a low but unknown probability of leaks of sufficient severity that a single leakage source could cause harmful interference to either navigation or communications services. Since we are convinced that it is possible under some conditions for cable television systems to operate with lesser offsets than those specified in the Rules we adopt today, and since we believe that the number of cable television systems which would request relaxation of those standards is small enough that we will be able to adequately monitor the leakage performance of those few systems, we are prepared to entertain requests for waiver or reduction of our frequency offset requirements.[18] In any case, we would not expect to grant such relief without consultation with OTP and/or the federal government agency operating the aeronautical radio service involved in the waiver request.

66. Before any relaxation or waiver is granted for cable systems within the service volume of an aeronautical radio service the cable television system operator will be required to show that signal leakage in the cable system is well under control. According to Table 1, it requires at least 228 leaks generating fields of about 400 microvolts per meter at 3 meters to reach 10 microvolts per meter at aircraft altitudes of 300 meters, for a cable system of about 320 strand kilometers (200 strand miles). This corresponds to about 71 leaks per hundred strand kilometers.[19] A cable system having such leakage sources, small in number compared to 71 per hundred strand kilometers and producing leakage fields of about 400 microvolts per meter at 3 meters or less, would have its leakage "under control", even though it might not meet the leakage standards of this Commission at every single point on the cable system. Leakage would be "under control" in the sense that the system would be far removed from the operating point at which any interference could be caused, and it would be unlikely in the extreme that any sudden event would increase the number of leaks enough to cause interference suddenly and without warning. It would appear, for example, that a system showing no more than about 10 or 15 leaks per hundred strand kilometers producing fields of order 400 microvolts per meter at three meters, or smaller, would be well under control.

67. We wish to emphasize here that these statements do not imply that we are condoning the continued existence of any leaks above our limit or 20 microvolts per meter at 3 meters. The operator is fully responsible for eliminating such leakage sources. We merely recognize that in the course of operation leaks larger than our standards permit can occur, and that the criterion for evaluating threat to aeronautical radio services is the total radiation field at the aircraft, whether from a collection of small leakage sources or from a single leak producing fields extremely large compared to our limits.

68. In order to demonstrate that radiation from typical major leaks (400–600 microvolts per meter or less) is under control, we would expect that a cable operator applying for waiver of any kind would supply this Commission with a full report of examination of the system for leakage sources. The examination should have taken place over as short a time period as possible (days), to give a realistic "snapshot" of the system's leakage performance at a given time. We would further expect that in as many instances as possible a quantitative measure of the leakage fields produced would be provided. If quantitative measurement of all leakage sources is not feasible, consistent with making the search in as short a time as practical, then the quantitative measurements should be made on leaks selected by a predetermined random method to avoid any tendency to measure only the less significant leakage sources. A quantitative measurement of field strength should be made for every leakage source located in cables carrying signals with maximum peak power equal to or greater than 30 dBmV (1.3×10^{-6} watts). For statistical and research purposes as well as to aid in evaluating the application for waiver, the report should also include notations as to the nature of each leakage source; for example, whether the leak occurred in a trunk, feeder, or subscriber drop line, and some indication of probable cause of the leakage. Finally, the report should include a record of the repair or elimination of all leakage fields higher than 20 microvolts per meter located during the tests.

69. Any request for waiver should also include a statement of the reasons for requesting waiver rather than using another frequency. The criteria for granting a waiver, however, will be primarily based on safety considerations rather than the operator's stated need for a particular frequency or frequencies.

70. Other factors which would be considered in a waiver request could include, but need not be limited to, significant underground burial of cable plant and extensive or universal use of converters or traps at subscriber locations.

71. As a condition for any waived or reduced frequency offset which might be permitted within the service volume of an aeronautical radio service, the cable television system operator would be required to describe and implement a routine procedure for detection and elimination of leakage fields higher than the limits permitted by our regulations. We do not set at this time any rigid standards for such procedures, except that the methods and instrumentation used for leak detection should be capable of detecting leakage sources which produce electromagnetic fields at least as low as 20 microvolts per meter at a distance of 3 meters from the cable. For example, if measurements were made at a distance of 15 meters, instrument sensitivity would have to be about 4 microvolts per meter.

72. A further condition attached to any waiver we might grant within aeronautical radio service volumes would be the filing of regular reports to this Commission concerning regular measurements of cable system carrier frequencies and results of the system's leak detection and elimination program. These reports might be required monthly, for example, until the results indicated to the Commission that a less frequent reporting schedule would be satisfactory from the point of view of prevention of interference. These reports would serve a two-fold purpose. Not only would they provide some assurance that systems operating in conflict with our normal frequency offset requirements were not endangering aeronautical communications, but they would also provide invaluable statistical information as a partial basis for possible across the board modification of our frequency offset restrictions at a later time.

73. Because of the possibility of large leakage fields associated with complete breaks in the outer sheath of coaxial cables, and because traditional cable carrier frequencies and current FAA frequencies do not coincide, we do not anticipate waivers for operation of carrier signals at offsets less than 25 kHz (actual minimum) within the service volume of any aeronautical navigation service in the bands 108–118 and 328.6–335.4 MHz. Because of the possibility of sudden large leakage fields, any cable system operator requesting to operate a carrier signal with offset less than 35 kHz from an aeronautical communications service will be required to show how a complete break in the outer conductor of a coaxial cable carrying signals of maximum peak power greater than or equal to 10^{-4} watts will be quickly and reliably detected, and how all signals in the bands 108–136 and 225–400 MHz will be terminated immediately upon detection of such cable breaks.

V. CONCLUSIONS

74. Criteria for our actions in this proceeding, consistent with the criteria of OTP and FAA, have been: (1) prevention of harmful interference to aeronautical navigation and safety radio services, while at the same time (2) allowing maximum possible use of broadband cable systems. In view of the analysis performed by various parties, and in view of the current absence of a significant history of interference to aeronautical radio systems by cable communications systems, we feel that today's actions are entirely adequate to meet the first criterion. Even though we realize that today's actions go much further toward prevention of intereference before the fact than do our Rules for most other services such as broadcasting and industrial heating equipment, we feel that these restrictions are not an undue burden on the cable television industry or on individual cable system operators. We anticipate that research and field experience under these Rules may identify appropriate modifications of these Rules, but for the immediate future we are satisfied that both of our criteria are met.

75. Authority for adoption of the rules set forth in Appendix C is contained in 47 U.S.C. 151, 152, 302, 303, 307, 308, and 309. Accordingly, *it is ordered*, That 47

[14] OTP suggests that in no case should cable leakage fields exceed 10 microvolts per meter "* * * in any usable aircraft environment." In our view 10 microvolts per meter at aircraft altitudes is a reasonable upper limit in the vicinity of aeronautical radio systems, being somewhat lower than the field required to open squelch circuits (about 20 microvolts per meter, depending on several factors).

[15] See footnote 7.

[16] See footnote 6.

[17] See footnote 6.

[18] Comparison of our 1975 data on cable system frequency use with current Sectional Aeronautical Charts identified only 22 cases where cable systems were operating visual or aural carrier within 100 kHz of aeronautical communications services within 50 miles of the cable system. We found no cases of exact frequency coincidence. Our 1975 data do not include information on pilot carrier frequencies. For this and other reasons the number of affected systems is probably not accurate today, but it does indicate that there are not a very large number of affected systems.

[19] At low altitudes of a few hundred meters or less, the number of leaks required may actually be considerably larger, because of shielding effects of buildings and other objects along low-angle paths.

CFR Chapter I, Part 76 is amended as set forth below.

76. *It is further ordered*, That the proceedings in Docket 21006 are terminated insofar as the Docket concerns prevention of interference to aeronautical and marine navigation and safety radio services, and are continued insofar as the Docket concerns standard frequency channelling plans for cable television systems.

77. Effective date: This revision of Part 76 becomes effective January 1, 1978.

(Secs. 1, 2, (302), 303, 307, 308, 309; 48 Stat., as amended. 1064. 1064 (82 Stat. 290), 1082, 1083, 1084, 1085; 47 USC 151, 152, 302, 303, 307, 308, 309.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX A—COMBINATION OF CABLE TELEVISION LEAKAGE SOURCES

A.1 The purpose of this Appendix is to examine circumstances under which an improperly radiating cable television system might produce fields as high as 10 microvolts per meter at aircraft altitudes. An understanding of the mechanisms by which such fields might be produced can provide guidance as to how radiation can be kept under control so that interference will not occur even with co-channel operation of cable television and aeronautical radio systems.

A.2 If the signal radiation standards promulgated by this Commission are met at all points in the cable system, it seems clear that no interference to aeronautical radio services will occur. But it is not enough to say that if the rules are met there will be no interference; we must be confident that excursions beyond the limits of the rules will be detected and corrected before air traffic safety is compromised. To say that signal leakage is "under control" is to say that even in the case of failure to comply fully with the rules, either (1) degradation of system performance due to accumulation of small leaks is slow enough that the increasing leakage will be detected and eliminated before air safety is compromised, or (2) high level leakage which appears suddenly will be detected and eliminated quickly, before air safety is compromised.

A.3 If harmful interference could be caused by a small number of cable leaks which are not easily detected, then the threat of unexpected harmful interference would be significant. If, on the other hand (1) the number of leakage sources required to cause interference is large compared to the number existing in the normal condition of the cable television system as maintained by a leak detection and repair program, and (2) the rate of appearance of new and similar leakage sources is low, there will be no sudden and unexpected harmful interference from such leakage sources. The worst possible course of events would be that the maintenance program might not be properly performed, the number of leakage sources might grow, and eventually a "just noticeable" interference might occur. At that time procedures for immediate elimination of interference or suspension of cable system use of the interfering frequency would be initiated. At no point in this process would there be danger to the functioning of aeronautical communications systems, since the first sign of a problem would be "just noticeable" interference rather than a sudden onset of serious degradation of communications.[1]

A.4 We need, then, to determine the number of leakage sources which, distributed over a cable television system, could produce significant interference fields at normal aircraft altitudes. In order to be conservative, we should assume that each leakage source produces an electromagnetic field typical of the larger leaks that are known to occur in cable television systems.

A.5 For most of this analysis we assume that leakage sources produce fields of 400 microvolts per meter at 3 meters, but will also examine a few other cases. In a Canadian study[2] of 27 older cable systems in 15 cities, 92.4 percent of the leaks located produced fields between 6.2 and 400 microvolts per meter, and 7.6 percent between 400 and 1250 microvolts per meter at 3 meters distance from the cable. NCTA estimates, in Reply Comments in this proceeding, that the maximum field which could be produced from a subscriber drop cable is about 580 microvolts per meter at 3 meters, but points out that under this circumstance the subscriber would receive no service at all—all available energy would be radiated. Thus, such radiation would not only be rare, it would not be allowed to persist for long in any significant number of drops in a cable system. In an unannounced visit to one cable television system, our field personnel found that the maximum field radiated in the approximately 100 kilometers (60 miles) of plant they examined was 350 microvolts per meter. Thus we have taken 400 microvolts per meter as representative of "large" leaks which might commonly be found in a cable television system.

A.6 Let us estimate the number of 400 microvolt per meter leaks required to produce a field of 10 microvolts per meter at 300 meters (1000 feet) altitude, when the leakage sources are spread over an area of approximately 25 square miles, corresponding to about 320 kilometers of cable plant. We follow a modification of the model given by NCTA in the Engineering Statement attached to their Reply Comments in this proceeding. The NCTA model assumes a single leak directly below the aircraft plus 4n leaks in the nth ring of a set of concentric rings about the central leak. NCTA assumes 22 such concentric rings, each separated from the next inner ring by 667 feet (203 meters) and assumes 300 meter (1000 foot) altitude. We use the same ring spacing as NCTA, but leave the altitude of the aircraft, the number of rings, and the field strength produced by each leakage source as parameters, with the field strength at the aircraft fixed at 10 microvolts per meter. Then the dependent variable is the total number of leakage sources required to produce 10 microvolts per meter at the specified altitude.

A.7 The distance R from a leak in ring n to the aircraft at altitude A (in meters) is

$$R=[A^2+(203n)^2]^{1/2} \text{ meters.} \quad (1)$$

Assume, with NCTA, that (1) the power density at the aircraft is the sum of the power densities of all the contributing leakage fields, and (2) the field strength due to each leakage source is inversely proportional to the distance from the source. (This assumption neglects the shielding which could occur due to buildings or other objects in low angle paths.) Further assume that the number of leaks in each ring is proportional to the circumference of the ring, and therefore to the ring number n. Then with k n leaks per ring, the power density P_n at the aircraft due to leaks in ring n is

$$P_n=P_o k n \left(\frac{E_n}{E_o}\right)^2 \quad (2)$$

where P_o and E_o are the power density and field strength produced at the aircraft by a single leak directly below the aircraft, and E_n is the field strength produced at the aircraft by a single leak in ring n.

A.8 With field strength inversely proportional to distance,

$$\frac{E_n}{E_o}=\frac{A}{[A^2+(203n)^2]^{1/2}}. \quad (3)$$

Then

$$P_n=P_o k \frac{nA^2}{A^2+(203n)^2} \quad (4)$$

and

$$\frac{P}{P_o}=1+k\sum_{n=1}^{m}\frac{nA^2}{A^2+(203n)^2} \quad (5)$$

where P is the total power density due to the single leak below the aircraft plus the power densities contributed by the leaks in m concentric rings, there being kn leaks in the nth ring.

A.9 The total number of leaks in the entire set of rings is

$$N=1+\sum_{n=1}^{m} kn \quad (6)$$

$$=1+k\frac{m(m+1)}{2}. \quad (7)$$

To find the total number of leaks in the system required to produce a field of $10\mu V/m$ at the aircraft, we note that

$$\frac{P}{P_o}=\left(\frac{10\times10^{-6}}{E_o}\right)^2 \quad (8)$$

where E_o is expressed in volts per meter. With fields inversely proportional to distance, we obtain the field E_o from the assumed field at 3 meters, ^3E, by

$$E_o={}^3E\left(\frac{3}{A}\right). \quad (9)$$

Then from equations (5), (8), and (9),

$$\left[\frac{10^{-5}A}{3(^3E)}\right]^2=1+k\sum_{n=1}^{m}\frac{nA^2}{A^2+(203n)^2} \quad (10)$$

and we need only to evaluate the summation, solve for k, and use equation (7) to find N. The values of N for various assumed values of ^3E, m, and A are given in Table 1 of the body of this Report and Order.

A.10 According to the Reply Comments by NCTA in this Docket, a choice of m=22 and k=4 represents roughly the distribution of amplifiers in a 320 strand kilometer (200 strand mile) cable TV system covering about 64 square kilometers (25 square miles). It is this statement that is the basis for the strand kilometer figures in Table 1. A model with 44 rings (m=44) is used to represent the 1,280 strand kilometer system.

A.11 To estimate the effect of the most extreme possible cable system leaks, let us estimate the field produced at a 3 meter distance by a well matched antenna with a 3 dB gain relative to isotropic in all directions above the horizon.[3] Assume the antenna is conected at a point in the cable where the peak power is 50 dBmV, a typical maximum peak power in a cable TV system. Since the postdetection bandwidth of aircraft receivers is too low to permit the receiver to respond to television signal synchronizing pulses, the power level of interest is the average, not the peak power, of the television signal. We take this to be about 6 dB below peak power.

A.12 Then the equivalent isotropic radiated power is

$$\text{EIRP}=50\text{dBmV}+3\text{dB}-6\text{dB} \quad (11)$$

$$=47\text{dBmV} \quad (12)$$

$$=0.7\times10^{-3}W \quad (13)$$

On a sphere of radius 3 meters the power density becomes

$$^3P=\frac{\text{EIRP}}{4\pi r^2} \quad (14)$$

$$=\frac{0.7\times10^{-3}}{4\pi(3)^2} \quad (15)$$

$$=6.2\times10^{-6}\ W/m^2 \quad (16)$$

and the field strength at 3 meters would be[4]

$$^3E=(120\pi\times6.2\times10^{-6})^{1/2} \quad (17)$$

$$=4.8\times10^{-2}\ V/m$$

or approximately 50,000 microvolts per meter. This estimate is the basis for the 50,000 microvolts per meter parameter in the last line of Table 1.

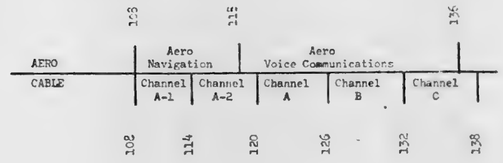
APPENDIX B—FREQUENCY USAGE

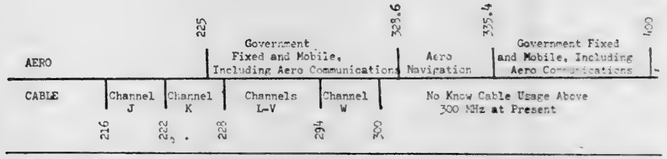
Figure B-1 shows frequency allocations adhered to by aeronautical radio services, and traditional (not mandatory) frequency usage by cable television systems. Visual carriers in cable television channels are 1.25 MHz above channel edges, and aural carrier are 5.75 MHz above channel edges.

FIGURE B-1

AERONAUTICAL RADIO AND CABLE TV FREQUENCY USAGE

The numbers are band edge frequencies, in megahertz.





47 CFR Chapter I, Part 76 is amended as follows:

1. A new § 76.610 is added as follows:

§ 76.610 Operation in the frequency bands 108–136 and 225–400 MHz.

All cable television systems transmitting carriers or other signal components cable of delivering peak power equal to or greater than 10^{-5} watts at any point in the cable system in the frequency bands 108–136 and 225–400 MHz for any purpose are subject to the following requirements:

(a) The operator of the cable system shall notify the Commission annually of all signals carried in these bands, noting the type of information carried by the signal (television, aural, or pilot carrier and system control, etc.). The timely filing of FCC Form 325, Schedule 2, will meet this requirement.

(b) The operator of the cable system shall notify the Commission at least 60 days before initiating use of any new frequency or frequencies in these bands. Notification shall include carrier and subcarrier frequencies, types of modulation, and maximum peak power occurring at any location in the cable distribution system.

(c) The operator of the cable system shall maintain at its local office a current listing of all signals carried in these bands, noting carrier and subcarrier frequencies, types of modulation, and maximum peak power which occurs at any location within the cable distribution system.

(d) The operator of the system shall provide for regular monitoring of the cable system for signal leakage covering all portions of the cable system at least once each calendar year. Monitoring equipment and procedures shall be adequate to detect leakage source which produce field strengths in these bands of 20 microvolts per meter at a distance of 3 meters. The operator shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was eliminated, and the probable cause of the leakage. The log shall be kept on file for a period of two (2) years, and shall be made available to authorized representatives of the Commission on request.

(e) All carrier signals or signal components capable of delivering peak power equal to or greater than 10^{-5} watts must be operated at frequencies offset from aeronautical radio services operated by Commission licensees or by the United States Government or its agencies within 111 km (60 nautical miles) of any portion of the cable system, as given in paragraph (f) of this Section. (The limit of 111 km may be increased by the Commission in cases of "extended service volumes" as defined by the Federal Aviation Administration or other federal government agency for low altitude radio navigation or communication services.) If an operator of a cable system is notified by the Commission that a change in operation of an aeronautical radio service will place the cable system in conflict with any of the offset criteria, the cable system operator is responsible for eliminating such conflict within 30 days of notification.

(f) A minimum frequency offset between the nominal carrier frequency of an aeronautical radio service qualifying under paragraph (e) of this Section and the nominal frequency of any cable system carrier or signal component capable of delivering peak power equal to or greater than 10^{-5} watts shall be maintained or exceeded at all times. The minimum frequency offsets are as follows:

Frequencies:	*Minimum frequency offsets*
108–118 MHz 328.6–335.4 MHz	(50 + |T|) kHz.
118–136 MHz 225–328.6 MHz 335.4–400 MHz	(100 + |T|) kHz.

In this table, |T| is the absolute value of the frequency tolerance of the cable television signal. The actual frequency tolerance will depend on the equipment and operating procedures of the cable system, but in no case shall the frequency tolerance T exceed ±25 kHz in the bands 108–136 and 225–400 MHz.

2. A new § 76.611 is added as follows:

§ 76.611 Operation near certain aeronautical and marine emergency radio frequencies.

The transmission of carriers or other signal components capable of delivering peak power equal to or greater than 10^{-4}

[1] "Danger to the functioning" defines harmful interference, in the case of safety services.

[2] A study of potential RF interference to aeronautical radio navigational aids, Canadian Department of Communications Technical Report BTRB-5 (L. Chwedchuk, R. Poirier, and L. Walker, 1974).

[3] This is impossible in practice, but we make this assumption for the sake of a conservative estimate.

[4] Equation (17) assumes plane waves, which may not be valid at 3 meters. However, by our assumption of isotropic radiation (above the horizon) and the conservation of energy, the results obtained at aircraft altitudes will be valid.

watts at any point in a cable television system is prohibited within 100 kHz of the frequency 121.5 MHz, and is prohibited within 50 kHz of the two frequencies 156.8 MHz and 243.0 MHz.

3. Section 76.613 is revised to read as follows:

§ 76.613 Interference from a cable television system.

(a) Harmful interference is any emission, radiation or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with this chapter.

(b) The operator of a cable television system that causes harmful interference shall promptly take appropriate measures to eliminate the harmful interference.

(c) If harmful interference to radio communications involving the safety of life and protection of property cannot be promptly eliminated by the application of suitable techniques, operation of the offending cable television system or appropriate elements thereof shall immediately be suspended upon notification by the Engineer in Charge (EIC) of the Commission's local field office, and shall not be resumed until the interference has been eliminated to the satisfaction of the EIC. When authorized by the EIC, short test operations may be made during the period of suspended operation to check the efficacy of remedial measures.

(d) The cable television system operator may be required by the EIC to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

[FR Doc.77-23455 Filed 8-15-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 742 3184]

ZAYRE CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent order, among other things, would require a Framingham, Mass. operator of a discount department store chain to cease failing to have, in each store covered by advertisements, all advertised items available for sale at or below advertised price, in reasonably sufficient quantities to meet anticipated demand; to conspicuously post advertisements and prescribed notices at store entrances and checkout counters; maintain business records for a three-year period; and institute a surveillance program to ensure that its stores' business practices conform to the terms of the order.

DATE: Comments must be received on or before October 13, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114, 617-223-6621.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b) (14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

In the matter of *Zayre Corp.*, a corporation.

File No. 742 3184.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Zayre Corp., a corporation, and it now appearing that said corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Zayre Corp., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Zayre Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with a principal office located at 770 Cochituate Road, Framingham, Massachusetts.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. Of this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

Order

It is ordered, That: respondent Zayre Corp., its successors and assigns, and its officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing in any advertisement, by any means, that any product is available for sale to the public at its Zayre department stores at any price unless:

1. Each advertised item is readily available for sale to the public in the selling area of each store covered by the advertisement at or below the advertised price; and

2. Each advertised item, which is usually and customarily individually marked with a price, is individually, clearly, and conspicuously market with a price which is at or below the advertised price; provided, however,

(a) An item shall be deemed readily available for sale to the public, although not in the selling area of each store covered by the advertisement, if a clear and conspicuous notice is posted in the area where the item is regularly displayed stating that the item is in stock or, in the case of an item which is customarily delivered, in the warehouse customarily servicing said store, and may be obtained upon request, and said item is furnished on request;

(b) An item shall not be deemed unavailable if respondent maintains and furnishes or makes available for inspection and copying upon the request of the Federal Trade Commission, such records as will show that: (i) the advertised items were delivered to its stores in quantities sufficient to meet reasonably anticipated demand but were "sold out", or the advertised items were advertised with a limit on the available quantity thereof in each store and said items were delivered to the stores in the advertised quantities but were "sold out", or (ii) the advertised items were ordered but not delivered due to circumstances beyond respondent's reasonable control, and that, upon knowledge of such nondelivery, respondent acted immediately to contact the media to revise the advertisement or proposed advertisement to reflect the limited availability or unavailability of each advertised item and, if revision of the advertisement was not reasonably possible, respondent immediately offered to customers on inquiry a "rain check" for each unavailable item which entitled the holder to purchase the item in the

near future at or below the advertised price. Respondent may immediately offer to a disappointed customer another item or items of equal or better value at a reduced price which is at or below the advertised price, which the customer may elect to accept in lieu of a "rain check."

Respondent shall be deemed to have shown, although not limited to such a showing, that it delivered an item to a store in quantities sufficient to meet "reasonably anticipated demand", for the purposes of this order, in a particular advertisement period if it maintains records showing that it had available that item in its stores during that advertisement period in quantities equal to or greater than the quantities of that item sold by its stores during the last preceding comparable advertisement period.

The phrase, "quantities of that item sold by its stores during the * * * advertisement period," means the sum of the number of units in the closing inventory of the stores after closing hours on the night before the first day of the advertisement period, plus the number of units delivered to the stores druing the advertisement period, plus the number of "rain checks" issued for that item during the advertisement period, and minus the number of units in the closing inventory of the stores after closing hours on the last day of the advertisement period.

The phrase, "last preceding comparable advertisement period" means, for a particular item, the last preceding advertisement period (during which the item was advertised) that is most comparable to the particular advertisement period, considering the time of the year, the week of the month, weather conditions, the nature of the item, the amount of the price reduction, the location of the advertisement for the item with reference to the advertisement as a whole, the type size of the advertisement for the item, the availability of a coupon, the location of the product within the stores, and any other relevant factors affecting a customer's buying habits.

If respondent or any of its employees, agents or representatives are not advised of an alleged instance of unavailability through any source including the Federal Trade Commission within three months of its occurrence, it shall be presumed that the records called for by this proviso were in the possession of respondent showing (i) or (ii), unless clear and convincing evidence establishes the contrary.

(c) If any advertisement includes two or more stores, a product shall not be deemed unavailable or mispriced if such advertisement contains a specific exemption with respect to said product and identifies each store in which the product is not available.

(d) If any advertised item is placed for sale in a large stack, pyramid or other special display containing a great number of such items, all of the items need not be individually marked at or below the advertised price, if the items not marked individually at or below the advertised price are so situated that it would be difficult or impossible for a customer to select an unmarked item.

(e) An advertised item which is usually and customarily individually marked with a price, need not be marked with the advertised price but may remain marked at its regular price if both (i) a conspicuous sign at the site of the display of such item clearly discloses that the item is, "as advertised" or "on sale" or words of similar import as appropriate, clearly discloses the advertised price, and clearly states that the cashiers know the sale price; and (ii) the cashiers do in fact have a written list containing such sale price, have been instructed to charge the sale price for said item, and do in fact charge the customer the sale price.

It is further ordered, That: for a period of two (2) years from the date this order becomes final, during the effective period of each advertisement which represents that any product is available at respondent's department stores, respondent shall post conspicuously (a) at or near each doorway affording entrance to the public a copy of the advertisement and, (b) at or near each door affording entrance to the public and at or near the place where customers pay for merchandise, a notice stating that:

"It is our policy to have all items advertised readily available for sale at or below the advertised price. If any advertised item that you wish to purchase is unavailable, except where quantity limitations are indicated in the advertisement, we will offer you a raincheck which will enable you to purchase the item, or an item of comparable or better value, at or below the advertised price in the near future. We may immediately offer you a similar product of equal or better value which you may purchase at or below the advertised price, but you may choose a raincheck if you wish.

If you have any questions, please speak to the store manager or customer service manager."

It is further ordered, That: for a period of two (2) years from the date this order becomes final respondent shall cause the following statement to be clearly and conspicuously set forth in each written advertisement which represents that items are available for sale at a stated price at any of its department stores.

"It is our policy to have each of these advertised items readily available for sale at or below the advertised price in each Zayre store, except as specifically noted in this ad."

It is further ordered, That:

(1) Respondent shall forthwith deliver a copy of this order to each of its operating divisions and to each of its present and future officers and other personnel in its organizations down to the level of and including assistant store managers who, directly or indirectly, have any supervisory responsibilities as to individual department stores of respondent, or who are engaged in any aspect of preparation, creation, or placing of advertising, and that respondent shall secure a signed statement acknowledging receipt of said order from each such person;

(2) Respondent shall institute and maintain a program of continuing surveillance adequate to reveal whether the business practices of each of its department stores conform to this order, and shall confer with any duly authorized representative of the Commission pertaining to such program when requested to do so by a duly authorized representative of the Commission;

(3) Respondent shall, for a period of three (3) years subsequent to the date of this order:

(a) Maintain business records which show the efforts taken to insure continuing compliance with the terms and provisions of this order;

(b) Grant any duly authorized representative of the Federal Trade Commission access to all such business records;

(c) Furnish to the Federal Trade Commission copies of such records which are requested by any of its duly authorized representatives;

(4) Respondent shall, all other provisions of this order notwithstanding, on or before each of the first three (3) anniversary dates on which this order becomes final file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order in preceding the year.

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent, which may affect compliance obligations arising out of this order.

ZAYRE CORP.

[File No. 742 3148]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Zayre Corp., a Delaware corporation with an office and principal place of business in Framingham, Massachusetts.

The Proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Zayre Corp. is engaged in the operation of discount department stores in 26 states. Its newspaper advertisements and supplements regularly list and depict clothing, hard goods and other general merchandise and state the price at which such items will be offered for sale during a specific period of time.

The complaint accompanying the proposed order alleges that Zayre Corp. failed to have had, in every instance, each of the advertised items listed in its advertisements readily available for sale to customers and readily and conspicuously available for sale at prices which were at or below the advertised prices during the effective period of the advertisements.

The consent order requires Zayre Corp. to make advertised items readily available for sale to the public, to mark each advertised item with a price which is at or below the advertised price and to sell advertised items at the advertised price. Exceptions make provision for unanticipated demand, circumstances beyond Zayre Corp.'s reasonable control, and limitations clearly set forth in the advertisements.

The order also requires Zayre Corp. to post in its stores copies of advertisements, notices of Zayre Corp.'s policy on availability of advertised items, and the availability of "rain checks" for items not available. Other provisions of the order are designed to ensure Zayre Corp.'s compliance with it.

The public's attention is directed to the Commission's statement which accompanied its acceptance of consent agreements from The Kroger Co., Fisher Foods, Inc., Food Fair Stores, Inc. and Shop-Rite Foods, Inc. which were announced on May 9, 1977, wherein the Commission pointed out that, although the orders differed in some respects from one another, it believed that they all provided methods for achieving increased availability and accurate pricing of sale items and for bringing different chains into substantial compliance with the Trade Regulation Rule concerning Retail Food Store Advertising and Marketing Practices.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23526 Filed 8-11-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 184, 186]

[Docket No. 77N-0132]

CALCIUM OXIDE AND CALCIUM HYDROXIDE

Proposed Affirmation of GRAS Status as Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would affirm that calcium oxide and calcium hydroxide are generally recognized as safe (GRAS) as direct human food ingredients. In addition, this proposal would affirm the GRAS status of calcium hydroxide as an indirect human food ingredient.

DATE: Comments by October 17, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of calcium oxide and calcium hydroxide has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35, formerly 21 CFR 121.40 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of these ingredients.

Calcium oxide and calcium hydroxide are closely related chemical substances in that calcium oxide (lime) reacts with water at ambient temperatures to form the slightly water-soluble calcium hydroxide (slaked lime). Calcium hydroxide readily absorbs carbon dioxide to form the water-insoluble calcium carbonate (limestone). When calcium hydroxide or calcium carbonate is heated, it loses water and/or carbon dioxide to reform calcium oxide.

Calcium oxide and calcium hydroxide are used in food for pH control. Calcium oxide is also used in food as a texturizing, firming, and anticaking agent.

Calcium oxide is listed in § 182.5210 (21 CFR 182.5210, formerly 21 CFR 121.101 (d)(5) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as GRAS for use as a nutrient and/or dietary supplement and in § 182.1210 (formerly 21 CFR 121.101 (d)(8) prior to recodification) as a multiple purpose GRAS food substance pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). Calcium hydroxide is listed in § 182.1205 (formerly § 121.101(d)(8) prior to recodification) as a multiple purpose, GRAS food additive, pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). Calcium hydroxide is referred to in § 182.90 (formerly 21 CFR 121.101(h) prior to recodification), pursuant to regulations published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421), as a GRAS substance migrating to food from paper and paperboard products used in food packaging. In addition, calcium hydroxide is regulated in § 176.-210 (formerly 21 CFR 121.2519(d)(2) prior to recodification), pursuant to regulations published in the FEDERAL REGISTER of August 30, 1961 (26 FR 8100), as a substance permitted for use in the formulation of defoaming agents used in the manufacture of paper and paperboard used for packaging, transporting, or holding food.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which calcium oxide and calcium hydroxide were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to these ingredients. The total amounts of calcium oxide and calcium hydroxide used in food in 1970 were reported to be 17,181,000 and 1,454,000 pounds, respectively.

Calcium oxide and calcium hydroxide have been the subjects of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 108 abstracts on calcium oxide and calcium hydroxide was reviewed, and 10 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The Select Committee has found no reports of experiments specifically designed to determine the toxicity, mutagenicity, teratogenicity, or carcinogenicity in relation to short-term feeding of calcium oxide. Similar reports are also unavailable on calcium hydroxide, with the exception of a report on acute toxicity in the rat. In the absence of specific studies, there is no reason to suspect calcium as supplied by these two compounds would be different with respect to absorption and metabolism than calcium from other inorganic calcium compounds used as nutrients.

Because the food uses of calcium hydroxide cannot result in the exposure of animals and man to the caustic action of saturated or unbuffered calcium hydroxide solutions, most reports of the exposure of biological systems to such solutions are not relevant to an evaluation of the health aspects of the use of calcium hydroxide in foods.

The oral LD_{50} in rats for calcium hydroxide has been reported as 7.340 mg per kg body weight (range: 4,830 to 11,140 mg per kg body weight). The calcium hydroxide was administered in water (100 mg per ml) which is greatly in excess of its solubility (1.85 mg per ml water at 0° C). Since calcium oxide forms calcium hydroxide in aqueous solution, its acute toxicity should be similarly low if the pH is controlled as it is when used in food.

Negative results were reported in one test for carcinogenicity of solid calcium hydroxide applied to hamster cheek pouches. Hamster cheek pouches were treated with 250 mg of calcium hydroxide per day for five days a week for two weeks; treatment was reduced to three times a week between the 2nd and 40th weeks of treatment. Six animals were treated for 81 weeks. All of the hamsters developed pouch lesions; three of the lesions progressed to distinct cellular atypia. Small foci of atypical cells in the squamous epithelium showed loss of cellular polarity and cells in the basal layer were hyperchromatic and fusiform. The authors "did not consider that these lesions were preinvasive cancer." The hamsters lived their normal lifespans without developing frank neoplasia.

The use of calcium oxide for the treatment of maize (lime-treated maize) causes some degradation of nicotinic acid, riboflavin, and thiamin, but the proportion of the total nicotinic acid in an available form is increased. This problem was studied in relation to the pellagragenic properties of maize. The nutritive deficiency of the treated maize manifested itself in rats in the form of growth rate depression. The rate depression, when compared to maize-fed controls receiving a vitamin B supplement, was reversed by the addition of riboflavin to the diet, or partially reversed by adding thiamin.

Calcium hydroxide is effective in reducing the growth-depressing activity of two percent tannic acid fed in a basal diet to day-old chicks if the calcium hydroxide (0.087 percent) is first mixed as a slurry with the tannic acid. The authors speculated that under the alkaline conditions tannic acid and naturally present phenolic compounds were oxidized to less toxic compounds.

All the available safety information on calcium oxide and calcium hydroxide has been carefuly evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Calcium oxide and calcium hydroxide as used in foods contribute to the total biologically available dietary calcium. No evidence has been found that demonstrates these compounds have adverse nutritional implications in the overall dietary intake of cations. Thus, normal physiological mechanisms that control calcium metabolism allow man to utilize these sources of calcium.

It is the conclusion of the Select Committee that there is no evidence in the available information on calcium oxide and calcium hydroxide that demonstrates or suggests reasonable grounds to suspect a hazard to the public when they

are used as direct or indirect food ingredients at levels that are now current or that might reasonably be expected in the future. The Commissioner concurs with this conclusion based upon his own evaluation of all available information on calcium oxide and calcium hydroxide (including the results of mutagenic and teratogenic evaluations of calcium oxide, which were not available when the Select Committee formed its conclusions). Copies of the evaluations, as well as all other relevant data, are on file with the Hearing Clerk, Food and Drug Administration. The Commissioner therefore concludes that no change in the current GRAS status of calcium oxide and calcium hydroxide is justified.

Copies of the scientific literature review and the report of the Select Committee on calcium oxide and calcium hydroxide, as well as copies of the mutagenic and teratogenic evaluations of calcium oxide, are available for review at the office of the Hearing Clerk (HFC–20), Food and Drug Administration, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price [1]
Calcium oxide and calcium hydroxide (scientific literature review)	PB–223–851/AS	A02	$3.50
Calcium oxide and calcium hydroxide (report of select committee)	PB–254–540/AS	A02	3.50
Calcium oxide (teratogenic evaluation)	PB–245–537/AS	A03	4.00
Calcium oxide (mutagenic evaluation)	PB–245–480/AS	A03	4.00

[1] Price subject to change.

This proposed action does not affect the present use of calcium oxide and calcium hydroxide for pet food or animal feed, and it does not affect the regulated use of calcium hydroxide as a defoaming agent, or as a component thereof, in the manufacture of paper and paperboard food packaging materials (21 CFR 176.210).

Calcium oxide is listed under § 182.5210 as a nutrient and/or dietary supplement and under § 182.1210 as a multiple purpose GRAS food substance. The Commissioner has determined that such a concurrent listing is duplicative and, therefore, is proposing that § 182.5210 be deleted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.5210 [Revoked]

1. Part 182 is amended by revoking § 182.5210 "Calcium oxide."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding §§ 184.1205 and 184.1210 to read as follows:

§ 184.1205 Calcium hydroxide.

(a) Calcium hydroxide ($Ca(OH)_2$, CAS Register No. 001305–62–0) is commonly referred to as slaked lime or calcium hydrate. It is produced by the hydration of lime.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter, flavor enhancer as defined in § 170.3(o)(11) of this chapter, flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, nutrient supplement as defined in § 170.3(o)(20) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of: 0.01 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter, 1.0 percent for coffee and tea as defined in § 170.3(n)(7) of this chapter, 0.45 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter, 0.9 percent for grain products as pastas as defined in § 170.3(n)(23) of this chapter, 0.5 percent in milk products as defined in § 170.3(n)(31) of this chapter, 0.075 percent for plant protein products as defined in § 170.3(n)(33) of this chapter, 0.9 percent for snack foods as defined in § 170.3(n)(37) of this chapter, 0.004 percent for soft candy as defined in § 170.3(n)(38) of this chapter, 0.2 percent for soups and soup mixes as defined in § 170.3(n)(40) of this chapter, and 0.001 percent or less for all other food categories.

§ 184.1210 Calcium oxide.

(a) Calcium oxide (CaO, CAS Register No. 001305–78–8) is commonly referred to as lime, quick lime, burnt lime, or calx. It is produced from calcium carbonate, limestone, or oyster shells by calcination at temperatures of 1700–2450° F.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The ingredient is used as an anticaking and free-flow agent as defined in § 170.3(o)(1) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, nutritive supplement as defined in § 170.3(o)(20) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of: 0.03 percent for nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter, 0.06 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter, 0.075 percent for milk products as defined in § 170.3(n)(31) of this chapter, 0.03 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.01 percent or less for all other food categories.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 186 is amended by adding § 186.1205 to read as follows:

§ 186.1205 Calcium hydroxide.

(a) Calcium hydroxide ($Ca(OH)_2$, CAS Reg. No. 001305–62–0) is commonly referred to as slaked lime or calcium hydrate. It is produced by the hydration of lime.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The ingredient is used or intended for use as a constituent of paper and paperboard food-contact surfaces.

(d) The ingredient migrantes to the packaged or wrapped food at levels not to exceed good manufacturing practices.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 17, 1977 submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director of the FEDERAL REGISTER on July 10, 1973. Incorporated material is on file at the FEDERAL REGISTER'S library.

[FR Doc.77–23421 Filed 8–15–77;8:45 am]

[21 CFR Part 312]

[Docket No. 77N–0190]

NEW DRUGS FOR INVESTIGATIONAL USE

Availability of Draft of Bioresearch Monitoring Data Collection Form

AGENCY: Food and Drug Administration.

ACTION: Proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is considering revising the investigational new drug regulations to require the submission of certain information on a new bioresearch monitoring data collection form that is amenable to a data processing storage and retrieval system. Before proposing amendments to the regulations, however, FDA is testing a draft of the data collection form with the cooperation of sponsors of investigational new drugs (IND's). The Commissioner of Food and Drugs concludes that since the draft data collection form is being made available to participants in the testing program, it should be made available to all interested persons.

DATES: Comments on the draft form may be submitted by October 17, 1977.

ADDRESS: Written comments on the draft form may be sent (preferably four copies) to the Hearing Clerk (HFC–20), Foor and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Terence A. Sweeney, Bureau of Drugs (HFD–622), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3695.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is considering proposing revisions to the investigational new drug regulations in § 312.1 (21 CFR 312.1) Conditions for exemption of new drugs for investigational use, to require that certain basic information currently required to be submitted to the agency on Form FR–1571, Notice of Claimed Investigational Exemption for a New Drug (IND), be submitted on a bioresearch monitoring data collection form that is amenable to a data processing storage and retrieval system. Before proposing amendments to the regulations to provide for the form, however FDA, with the cooperation of a small number of sponsors of INDs, intends to test a draft of the form. The draft form being tested requests some information not presently required by the regulations, and its adoption may necessitate substantitive changes in the IND regulations.

The Commissioner of Food and Drugs concludes that since the draft bioresearch monitoring data collection form is being made available to some members of the regulated industry, it should be made available to all interested persons. Accordingly, a copy of the draft form and a copy of the cover letter to participants in the test have been placed on display in the office of the Hearing Clerk at the address given above, and may be seen in that office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Copies of the letter and the draft form are available upon request from the Hearing Clerk.

The participants in the test of the draft form are being asked to complete and submit the draft form for a current or recent IND and to comment on the following specific areas:

(1) The time required to complete the form, including research and abstracting of data; (2) The availability of the data requested; (3) The sufficiency and clarity of instructions; (4) The adequacy of space to report relevant information; (5) The data organization and relationships within the body of the form; (6) The duplication of information already submitted to FDA on another form; and (7) The overall design of the form.

Any other person who wishes to submit comments on the draft form in these or other areas should submit them (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) to the Hearing Clerk at the address given above, on or before October 17, 1977. Received comments that do not contain information exempted from public disclosure may be seen in that office at the times given above. Information submitted by test participants on current or recent IND's that is exempt from public disclosure will not be available to the public.

Because the draft form is still undergoing review within FDA, the draft copy on display does not represent the agency's final decision on this matter. All members of the public will be afforded a further opportunity to comment when a notice of proposed rule making on this matter is published in the FEDERAL REGISTER.

Dated: August 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–23508 Filed 8–15–77;8:45 am]

[21 CFR Part 808]

[Docket No. 76P–0344]

MEDICAL DEVICES

Public Hearing on Proposed Action on California Application for Exemption from Preemption of Requirements; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of time for comment.

SUMMARY: This document extends to August 31, 1977 the time for submission of comments on matters discussed at a hearing held on July 19, 1977 by the Food and Drug Administration (FDA). The hearing was on the agency's proposed action on California's application for exemption from preemption of the State's medical device requirements.

DATE: Written comments by August 31, 1977.

ADDRESS: Written comments (four copies) to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Daniel Woloshen, Bureau of Medical Devices (HFK–122), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: On July 19, 1977, a hearing before the Commissioner of Food and Drugs was held at FDA headquarters in Rockville, MD to receive comments and views from interested persons on the proposed action by FDA on the State of California's application for exemption from Federal preemption of the State's medical device requirements. The proposed regulation was published in the FEDERAL REGISTER of February 15, 1977 (42 FR 9186) and the notice of hearing was published on May 20, 1977 (42 FR 25919). The regular comment period for the proposed action ended on April 18, 1977, and the record of the hearing remained open until August 3, 1977 to permit submission of additional comments limited to matters discussed during the hearing.

Because of several written requests for an extension of the August 3 comment date and to allow all interested parties an opportunity to review and analyze the transcript of the proceedings, the Commissioner hereby grants an extension of the comment period until August 31, 1977. This extension is available only for the purpose of allowing comments pertaining to matters discussed at the hearing. A copy of the transcript of the hearing is available at the office of the Hearing Clerk.

Dated: August 15, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–23843 Filed 8–15–77;10:00 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21359; RM-2861]

FM BROADCAST STATION IN OGDEN, UTAH

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: FCC proposes to remove the reservation of Channel *9 at Ogden, Utah, for noncommercial educational use only. This action would bring a first commercial VHF television station to Ogden and results from a petition filed by Ashley L. Robison, d.b.a. KWIC Communications Company.

DATES: Comments must be received on or before September 19, 1977, and reply comments on or before October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1977.

Released: August 10, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Ogden, Utah).

By Acting Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rule making filed by Ashley L. Robison, d.b.a. KWIC Communications Company ("Robison"). The petition seeks amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, by removing the reservation of Channel *9 at Ogden, Utah, for noncommercial educational use only. Robison contemplates offering a commercial service on this channel. KUTV, Inc., KSL, Inc., licensees of Salt Lake City, Utah, VHF commercial television stations, and the National Translator Association opposed the proposal and Robison responded.

2. Ogden (pop. 69,478), seat of Weber County (pop. 126,278),[1] is located approximately 56 kilometers (35 miles) north of Salt Lake City, Utah.[2] Ogden is currently assigned Channels *9+, *18-, 24 and 30. All are vacant, and no applications are pending for any of these channels. Ogden is located within the predicted Grade A contours of all three commercial Salt Lake City stations. It is also located within the predicted Grade A contours of noncommercial educational Stations KUED at Salt Lake City, and KBYU-TV at Provo.

3. Petitioner notes that since 1960, Weber County has grown by 22 percent, although the population of Ogden has remained constant. Weber County is the home of Hill Air Force Base, the Defense Depot Ogden, Weber State College and the Western Service Center of the Internal Revenue Service. Ogden, Utah's second largest city, is a rail center, served by four railroads and fourteen trunk lines. Robison also asserts that Weber County is undergoing a significant residential and industrial expansion. It is said that between 1967 and 1974, the county's annual gross taxable sales rose from $228 million to $417 million, personal income rose from $291 million to $482 million and its nonagricultural payroll rose from $195 million to $297 million.

4. Petitioner contends that to develop viable commercial television service at Ogden, it is necessary to use a VHF channel, thus necessitating the return of Channel 9 to its original status as a commercial channel.[3] He bases his argument on the present and historical status of television in Utah. As to the current situation, the three operating commercial television stations in Salt Lake City are the only commercial stations in Utah. These facilties, as well as the previously mentioned educational stations, all operate in the VHF band. Presently all fifteen UHF television channels assigned to Utah are unoccupied,[4] including three at Ogden, and there are six unoccupied VHF channels in Utah, including Ogden's Channel *9.[5] In the not too distant past, however, Channel 9 at Ogden was utilized by the Board of Education of Ogden City which operated noncommercial educational Station KOET(TV) from 1964, until it went silent in 1973. Upon its failure to file an application for renewal of license, the station's authority terminated and its call sign was deleted by the Commission on January 31, 1975. Similiarly, noncommercial educational Station KWCS-TV, which formerly occupied Channel 18 at Ogden, and had been licensed to the Weber County School District, had its call sign deleted at that time. Channels 24 and 30 have never been occupied. Thus, petitioner contends that the failure of both Ogden noncommercial educational stations, the fact that the only stations in Salt Lake City and the remainder of Utah are VHF, and the fact that commercial operation of a non-network affiliated station (especially UHF) is generally financially unsuccessful when it faces strong competition from VHF network affiliated stations,[6] indicates that a commercial television operation on either available UHF channel at Ogden would not be an economically viable undertaking.

5. Petitioner notes that in 1970 the Commission rejected a proposal, filed by the Ogden Board and the Utah Television Corporation, to remove the reservation of Channel *9 in order to permit a dual commercial-educational use of the facility.[7] He argues, however, that the subsequent silencing of both educational television stations in Ogden indicates that educational broadcasting in Ogden is not feasible. To further support this thesis, Robison submits letters from various Utah educational and governmental leaders declining interest in using the channel and expressing interest in using Channel *9 for a commercial station. This led Robison to argue that Channel *9 is not likely to be operated as a noncommercial educational facility. Petitioner further asserts that its proposal would not be likely to have any adverse impact on UHF development at Ogden, for there is little likelihood that Channel 24 or Channel 30 will in the near future be used as commercial broadcast facilities. More significant, argues Robison, if UHF commercial development is to occur anywhere in the area, it is more likely in Salt Lake City, a substantially larger city.

6. KUTV, Inc. ("KUTV"), licensee of Station KUTV, Channel 2, Salt Lake City, opposes the instant petition, arguing that the proposal is a thinly disguised effort to reallocate Channel *9 from Ogden to Salt Lake City and convert it to commercial use in the latter community. In support of its contention, KUTV attaches a verified copy of the official minutes of proceedings of the Board of City Commissioners of Salt Lake City for January 15, 1976, reflecting that the first item on the Board's agenda for that day was a petition filed by Robison for leave to purchase from the Salt Lake City Corporation certain city-owned property on Ensign Peak, a site wholly within the city limits of Salt Lake City. The minutes indicate that Robison's purpose in acquiring the property was related to his application for a construction permit to build a television station to serve the cities and towns of the Wasatch Front.[8] KUTV asserts that

[1] All population figures are taken from the 1970 U.S. Census.

[2] A proposal to assign VHF Channel 13 to Salt Lake City is presently pending in the VHF Drop-In Proceeding, Docket No. 20418, 42 Fed. Reg. 16782 (March 30, 1977).

[3] The channel was once used commercially as Station KVOG-TV, but was not successful. In 1962, the license was assigned to the Board of Education of Ogden City, Utah, whose requests to change the call letters of the station to KOET, and to reserve Channel 9 for noncommercial educational use were granted.

[4] Five UHF commercial channels and ten UHF noncommercial educational channels are assigned to Utah.

[5] Eleven VHF channels are assigned to Utah, eight commercial channels and three noncommercial educational channels. Three commercial and two educational stations are in operation.

[6] Robison asserts that as Ogden is in the Grade A contours of all three Salt Lake City network affiliates, a network affiliation for a station at Ogden is precluded. He further submits that operation of a non-network affiliate in a city of approximately 70,000 is only practicable in the same band as the network competition.

[7] In the Matter of Ogden, Utah, 26 F.C.C. 2d 142 (1970).

[8] KUTV submits that the Wasatch Front is a geographical term used to describe the western slope of the Wasatch Mountains which run in a north-south direction from the city of Provo, approximately 64 kilometers (40 miles) south of Salt Lake City, to the Utah-Idaho border more than 80 kilometers (50 miles) north of Ogden.

Robison's stated intent to serve Wasatch Front and his choice of a site in Salt Lake City, as well as newspaper articles emphasizing that the proposed facility would serve Salt Lake City,[9] indicate that petitioner intends to provide primarily a service to Salt Lake City and only secondarily a service to Ogden.[10]

7. Opponent further submits that the adverse factors considered by the Commission in its 1970 decision rejecting its earlier proposal regarding Ogden still exist. For instance, the removal of the Channel 9 transmitter site from Ogden to a point near Salt Lake City, alleges KUTV, would have an adverse impact on the extensive network of VHF and UHF television broadcast translator stations[11] upon which the residents of most of the land area of Utah and a significant part of the adjacent states of Nevada, Idaho, Colorado and Wyoming must depend for free over-the-air television service.[12] Opponent also contends that the present educational needs and financial resources of Ogden and Weber County may change and thus the present proposal to end the Channel *9 reservation could be short-sighted.

8. In reply, Robison asserts that he intends to serve Ogden and that his studio would be located in Ogden. However, he asserts that it would be unrealistic to think that Salt Lake City and its audience would not be a factor in determining whether to compete with three nearby VHF network affiliates and initiate independent television service. Petitioner submits that any problem in this regard should be resolved in a licensing context and not as a rulemaking matter. As to the question of interference to translators, petitioner replies that the total number of translators possibly affected by the activation of Channel 9 is 20, not the 118 shown by KUTV or the 59 shown by the National Translator Association. Furthermore, because of terrain factors, Robison contends that some of these 20 translators may not be affected at all. He notes that, in any event, when a decision must be made as to whether a VHF translator station or a VHF television station will operate, the translator station must always accommodate the television station. Petitioner also comments that in reaffirming its 1970 decision, the Commission stated that denial had not been based upon the impact which the proposal was alleged to have on area translator operations—a factor originally mentioned—since only a relatively small number of translators would be affected to the point of needing available replacements and, in any event, translators are purely a secondary use of television facilities.[13]

9. We believe that petitioner's proposal should be considered. However, we have never before removed the reservation for a channel in the manner proposed here and, thus, hesitate to do so unless the public interest considerations are of such consequence as to demand it. It appears that in some respects the facts have changed since 1970, but a number of serious questions remain, as is evident from the comments already filed in this proceeding. Several points must be answered before a determination can be made that removing the reservation on Channel *9 at Ogden would be in the public interest. Comments should be directed to our concerns of whether the use of Channel *9 commercially would prevent any possibility of Ogden's having a noncommercial educational station. Also, we need to consider what impact, if any, the proposal would have on UHF development in the Ogden and Salt Lake City areas; and how the proposal would affect existing translator services in Utah and surrounding states and whether any reimbursement should be provided to any of the translator stations affected by the proposal. We are also interested in obtaining comments on whether the proposal is designed to provide an Ogden or a Salt Lake City facility. If the latter is the case, we note the proposal to assign VHF Channel 13 to Salt Lake City, presently pending in the VHF Drop-In Proceeding. See n. 2, supra. If the former, it needs to be demonstrated that the presently assigned UHF channels could not be used to meet this need. We also invite other comments useful in considering this case of first impression.

[9] Attached to KUTV's opposition are copies of newspaper articles which appeared in the January 20 and March 12, 1976, editions of the Salt Lake Tribune.

[10] The National Translator Association, in its reply filing opposing the petition, noted that Robison's representatives have approached Station KSL-TV in Salt Lake City for the purpose of seeking permission to locate the proposed Channel 9 facility at Farnsworth Peak, the site of the KSL-TV antenna. This site is 29 kilometers (18 miles) southwest of Salt Lake City and over 64 kilometers (40 miles) southwest of Ogden, Utah.

[11] The allegation of interference to translators concerns two separate but related points. First, operation of a station on Channel 9 at a site near Salt Lake City would cause interference to the reception of signals from translator stations operating on Channels 8, 9 and 10. This interference would affect the signal received by the public, as well as the signal received by translators relying on transmissions from translators operating on Channels 8, 9 and 10. Second, and of great significance, is the fact that some of the translators would cause interference to the reception of a television station operating on Channel 9 at Ogden in contravention of Section 74.703(b) and thus would be required to change their channels of operation.

[12] KSL, Inc., licensee of Station KSL-TV, Salt Lake City, Utah, and the National Translator Association joined KUTV in opposing the petition on this basis.

[13] *In the Matter of Ogden, Utah*, 28 F.C.C 2d 705 (1971).

[14] But see In the Matter of Fostering Expanded Use of UHF Television Channels, 2 F.C.C. 2d 527 (1966), in which the Commission, in designing a revised and expanded Television Table of Assignments made numerous changes, including adding and removing reservations from various channels. That case presented a very different factual situation as no net loss in educational reservations was involved.

§ 73.606 [Amended]

10. Accordingly, pursuant to Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) as follows with respect to the community listed below:

City	Channel No.	
	Present	Proposed
Ogden, Utah	*9+, *18-, 24, 30	9+, *18-, 24, 30

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE—A showing of continuing interest is required by paragraph 2 of the Appendix before a Channel will be assigned.

12. Interested parties may file comments on or before September 19, 1977, and reply comments on or before October 11, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
NEAL K. MCNAUGHTEN,
Acting Chief,
Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections (4)(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the set forth in this notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before

the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing this comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

[FR Doc.77-23539 Filed 8-15-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21355; RM-2834]

FM BROADCAST STATION IN CAPE CHARLES, VIRGINIA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of J. Grayson Duer, FFC proposes to assign FM Channel 241 to Cape Charles, Va., as its first FM assignment. If channel is assigned, it would provide Cape Charles with its first local FM service.

DATES: Comments are to be filed on or before September 19, 1977, and reply comments on or before October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1977.

Released: August 10, 1977.

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations (Cape Charles, Va.).

1. *Petitioner, Proposal and Comments:*

(a) Petition for rulemaking[1], filed by J. Grayson Duer ("petitioner"), proposing the assignment of Class B Channel 241 to Cape Charles, Va., as a first FM assignment to that community.

(b) The channel could be assigned in conformity with the minimum distance separation requirements. There were no oppositions to the proposal.

2. *Community Data:*

(a) *Location:* Cape Charles is located on the eastern shore of Virginia about 18 kilometers (11 miles) north of the tip of the Delmarva Peninsula.

(b) *Population:* Cape Charles—1,689; Northampton County—14,442.[2]

(c) *Local Broadcast Service:* There is presently no local service in Cape Charles.

(d) *Economic Data:* Petitioner has furnished sufficient information regarding the social and economic factors which demonstrates Cape Charles' need for an FM channel assignment. It appears that agriculture plays an important role in the area's economy in addition to the seafood industry. Petitioner notes that the Chesapeake Bay and Atlantic Ocean provide the basis for the substantial recreational and tourist industry. It adds that new industry is moving into Cape Charles, such as Brown and Root, Inc., which has been given final authority to commence construction of a plant to fabricate large metal components and structures for outer continental shelf drilling rigs. Petitioner states that this means new jobs and a boost for the Cape Charles economy.

3. *Preclusion Studies:* Preclusion would occur on Channels 240A and 241. One community (Onancock, pop. 1,614) would be precluded as a result of the assignment of Channel 241. Onancock has no FM assignments and no AM station; however, petitioner states that two Class A channels are available for assignment.

4. *Coverage:* Petitioner's engineering study shows that a Class B station operating with 30 kW at 91 meters (300 feet) would provide second FM service as well as second nighttime aural service to 1,374 persons in an area of 62 square kilometers (24 square miles). A Class A assignment would not provide such service. No first FM or nighttime aural service would be provided by the proposed assignment.

5. *Comments:* Petitioner contends that the proposed channel is available for use in only a small area and no other Class B channels are available in that area. It adds that activation of the proposed facility would render service to areas which presently receive inadequate aural service, and only a Class B assignment would be viable because of the competition from two existing Class B stations on the Delmarva Peninsula.[3]

6. Even though Cape Charles is a small community which ordinarily would be assigned a Class A channel, the population distribution of the whole southern portion of the peninsula is such that there are few significant population centers to which Class B channels could be assigned. Other than Cape Charles and Onancock, the channel cannot be utilized at any other community. If Channel 241 were to be assigned to Cape Charles it would preclude its utilization at Onancock, a community of comparable size. However, thus far no expression of interest has been shown for a channel assignment to that community and there are other channels available for assignment to Onancock. In our view this proposal has sufficient merit to warrant exploration in a rule making proceeding. The proposed assignment could provide a first local aural service to Cape Charles and could also provide a second FM service and second nighttime aural service to 1,374 persons in an area of 62 square kilometers (24 square miles).

§73.202 [Amended]

7. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, with regard to Cape Charles, Va., as follows:

City	Channel No.	
	Present	Proposed
Cape Charles, Va.		241

8. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein:

NOTE.—A showing of continuing interest by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 19, 1977, and reply comments on or before October 11, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
NEAL K. MCNAUGTHEN,
Acting Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-23542 Filed 8-15-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21357; RM-2874]

FM BROADCAST STATION IN ANTIGO, WIS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action herein proposes the substitution of a Class C channel for a Class A channel in Antigo, Wis., at the request of Antigo Broadcasting Co. Petitioner states that the service area on its present Class A channel is limited and, beyond its present primary service, lie areas which would be served by the proposed Class C facilities.

DATES: Comments must be received on or before September 19, 1977, and reply comments must be received on or before October 11, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1977.

Released: August 10, 1977.

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations. (Antigo, Wis.).

1. *Petitioner, Proposal and Comments:*

(a) *Notice of proposed rulemaking* is hereby given concerning amendment of the FM Table of Assignments § 73.202 (b) of the Commission's Rules and Regulations) as concerns Antigo, Wis.

(b) A petition for rulemaking[1] was filed on behalf of Antigo Broadcasting Co., licensee of Stations WATK and WATK-FM, Antigo, Wis., proposing the substitution of Class C Channel 287 for Channel 285A, on which it operates, at Antigo, Wis. The petitioner has also submitted an engineering statement.

2. *Demographic Data:*

(a) *Location:* Antigo is located 256 kilometers (160 miles) northwest of Milwaukee, Wis.

(b) *Population:* Antigo—9,005; Langlade County—19,220.[2]

(c) *Local Broadcast Service:* Antigo is served by Stations WATK-FM (Channel 285A), and daytime-only AM Station WATK, both licensed to petitioner.

3. *Preclusion Studies:* The proposed assignment of Channel 287 to Antigo would cause preclusion on Channels 287 and 288A. Twenty-six communities with populations greater than 1,000 are located in the areas of preclusion. Fourteen of these communities have AM stations and FM stations or assignments. The remaining twelve[3] have neither AM nor FM stations or assignments. Petitioner should indicate whether there are any other channels available for assignment to the six communities with populations over 2,500 and which are underlined in footnote 3.

4. *Additional considerations:* Petitioner states that the service area on its present Class A channel (285A) is limited and, beyond its present primary service lie areas which would be served by petitioner's proposed Class C facilities. It points out that parts of this gain area have no FM service and some parts have one FM service. Petitioner notes that Antigo is the only city in Langlade County and has nearly half the county's population. It asserts that the city is the trading center for the area to the north and east where there is a scarcity of service. It adds that Antigo is also the commercial and media center for a wide area, and is relied on by residents of surrounding areas for information and entertainment.

5. *Roanoke Rapids Study:* Although the petitioner has submitted a map generally indicating the area which would receive the proposed service, a more precise showing is necessary. A Roanoke Rapids[4] showing of first and second FM service should be submitted based upon a Class C station's operating at Antigo with petitioner's proposed facilities (100 kW and 153 meters (500 feet) AAT), existing stations' operating with reasonable facilities or greater in the event the stations are already authorized greater facilities, and all unoccupied assignments in the area operating with reasonable facilities. In addition, the petitioner should submit a comparative coverage study showing the areas and the number of people which could receive such first and second FM service from a Class A station located at Antigo. The above showings should also include the extent of nighttime service provided by AM broadcast stations, indicating the extent of aural services available within the proposed service area. Anamosa-Iowa City, Iowa, 40 F.C.C. 2d 520 (1974).

6. Since Antigo is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 287 to Antigo requires coordination with the Canadian Government.

7. Regarding the proposed modification of petitioner's license to specify Channel 287, if it were assigned, our policy, as expressed in Cheyenne, Wyo., 62 F.C.C. 2d 63 (1976), is that the public interest is best served where other interested parties are afforded an opportunity to apply for such a Class C channel when assigned as a substitute for a Class A channel to a community. However, since no person has expressed an interest in the proposed assignment of Channel 287 to Antigo thus far, we are proposing to modify the license of Station WATK-FM to the Class C channel. Should an opposition to the proposed modification together with an expression of interest be submitted in comments, appropriate comparative consideration must be afforded any competing application for the channel, if assigned.

8. An Order to Show Cause to the petitioner will not be necessary since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for rule making.

§ 73.202 [Amended]

9. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, with regard to Antigo, Wis., as follows:

City	Channel No.	
	Present	Proposed
Antigo, Wis.	285A	287

10. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix.

11. Interested parties may file comments on or before September 19, 1977, and reply comments on or before October 11, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
NEAL K MCNAUGHTEN,
Acting Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commis-

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[1] Public Notice of the filing of the petition was given on February 22, 1977 (Report No. 1030).

[2] Population figures are taken from the 1970 U.S. Census.

[3] Station WESR-FM (Channel 277), Tasley, Virginia; Station WEXM-FM (Channel 298), Exmore, Va.

[1] Public Notice of the filing of the petition was issued on April 18, 1977, Report No. 1039.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Wisconsin: Phillips (pop. 1,511); Crandon (1,582), Michigan: Calumet (1,007); Baraga (1,116); Lake Linden (1,214); Crystal Falls (2,000); L'Anse (2,538); Wakefield (2,757); Bessemer (2,805); Laurium (2,868); Norway (3,033); Negaunee (5,248).

[4] Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 2d 672 (1967).

sion's Rules and Regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-23638 Filed 8-15-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 143]

[DoD Directive 1354.1]

RELATIONSHIPS WITH ORGANIZATIONS WHICH SEEK TO REPRESENT MEMBERS OF THE ARMED FORCES IN NEGOTIATION OR COLLECTIVE BARGAINING

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: The proposed rule would establish departmental policies and procedures with respect to organizations whose objective is to organize or represent members of the Armed Forces on active duty, inactive duty training, or members of Reserve components serving in their military capacities, for purposes of negotiating or bargaining about terms or conditions of military service. These policies and regulations are needed to provide uniform direction and guidance to officials in the Department of Defense and members of the Armed Forces, and to ensure consistent and even-handed treatment of members of the Armed Forces and individuals, groups, organizations, and associations seeking or purporting to represent members of the Armed Forces for the purpose of such negotiating or bargaining.

DATES: Written comments must be received on or before September 15, 1977.

ADDRESSES: Written comments should be sent to the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Department of Defense, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Captain Edward Boywid, United States Navy, 202-695-0625

SUPPLEMENTARY INFORMATION: The new rule prohibits commanders and supervisors of the Department of Defense, acting on behalf of the United States, from engaging in negotiation or collective bargaining with members of the Armed Forces or with individuals, groups, organizations, or associations purporting to represent members of the Armed Forces for the purpose of resolving bilaterally terms or conditions of military service. It also prohibits members of the Armed Forces from engaging in strikes, slowdowns, work stoppages, actions which obstruct or interfere with the performance of military assignments, and picketing for the purpose of causing any of the foregoing, when such actions are related to terms or conditions of military service. The rule proscribes efforts on military installations to recruit members of the Armed Forces into certain types of organizations and, in specific circumstances, prohibits membership by members of the Armed Forces in certain organizations. In addition to setting forth supplementary general prohibitions and enumerating activities specifically not prohibited, the rule vests responsibility for assuring compliance in the heads of the various departmental components.

Accordingly, it is proposed to publish 32 CFR Part 143 as follows:

PART 143—RELATIONSHIPS WITH ORGANIZATIONS WHICH SEEK TO REPRESENT MEMBERS OF THE ARMED FORCES IN NEGOTIATION OR COLLECTIVE BARGAINING

Sec.
143.1 Purpose.
143.2 Applicability and Scope.
143.3 Policy.
143.4 Prohibited Activity.
143.5 Permissible Activity.
143.6 Administrative Provisions.
143.7 Definitions.
143.8 Guidelines.

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 133, 3010, 5011, and 8010, and in accordance with 32 CRF 296.

§ 143.1 Purpose.

This Part establishes policies and procedures with respect to organizations whose objective is to organize or represent members of the Armed Forces for purposes of negotiating or bargaining about terms or conditions of military service. The Part does not modify or diminish the existing authority of commanders to control access to, or maintain good order and discipline on, military installations; nor does it modify or diminish the obligations of commanders and supervisors pursuant to Executive Order 11491 with respect to organizations representing Department of Defense civilian employees.

§ 143.2 Applicability and scope.

The provisions of this Part apply to:

(a) The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies.

(b) All military and civilian personnel of the Department of Defense.

(c) Individuals and groups entering, using, or seeking to enter or use military installations.

§ 143.3 Policy.

The mission of the Department of Defense is to safeguard the security of the United States. Discipline, obedience to lawful orders, and loyalty on the part of members of the Armed Forces are essential to the combat readiness required to accomplish this mission. The interposition of collective or concerted action by any organization in the command relationships established by law and regulation for the government of the Armed Forces would:

(a) Erode the discipline of the Armed Forces;

(b) Interfere with the power of the Congress to make rules for the government and regulation of the land, air and naval forces, and interfere with the appropriate delegation of power to the Department of Defense to provide for the national defense;

(c) Impair the authority of the President as Commander in Chief of the Armed Forces and that of officers appointed by him to command the Armed Forces; and

(d) Impair the reliability, operational readiness, and combat effectiveness of the Armed Forces so as to threaten the security of the United States.

§ 143.4 Prohibited activity.

(a) *Negotiation or Collective Bargaining.* No commander or supervisor may engage in negoiation or collective bargaining.

(b) *Strikes and Other Concerted Activity.* No member of the Armed Forces may:

(1) Engage in any strike, slowdown, work stoppage, or other collective job-related action related to terms or conditions of military service; or

(2) Picket for the purpose of causing or coercing other members of the Armed Forces to engage in any strike, slowdown, work stoppage, or other collective job-related action to terms or conditions of military service.

(c) *Recruitment Efforts on Military Installations.*

(1) No person may conduct or attempt to conduct a demonstration, meeting, march, speechmaking, protest, picketing, leafletting or other similar activity on any part of a military installation for the purposes of forming, recruiting members for or soliciting money or services for an organization (or organizations) that:

(i) Engages or is substantially likely to engage in any activity prohibited by this Part; or

(ii) Proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of members of the Armed Forces; or

(iii) Proposes or holds itself out as proposing to represent members of the Armed Forces to the military chain of command with respect to terms or conditions of military service when such representation would interfere with the military chain of command; or

(iv) Solicits or aids and abets a violation of this Part by a member of the Armed Forces.

(2) No person may engage in any activity on any part of a military installation, including but not limited to individual contacts or the posting for public display of any poster, handbill or other writing, if that activity or the material displayed constitutes or includes an invitation to collectively engage in an act prohibited by this Part.

(d) *Membership.* No member of the Armed Forces may become or remain an active member of any organization when:

(1) A determination has been made that the organization presents a clear danger to discipline, loyalty, or obedience to lawful orders because the organization or any person on behalf of the organization,

(i) Engages in any act prohibited by this Part; or

(ii) Violates or conspires to violate, or solicits or aids and abets a violation of articles 82, 85, 86, 87, 89, 90, 91, 92, 94, 108, 109, 115, 116, 117, or 128 of the Uniform Code of Military Justice or of 18 U.S.C. 1382; and

(2) Such member of the Armed Forces knows that the organization, or any person on behalf of the organization, engages in the conduct upon which the determination in § 143.4(d)(1) is based and such member of the Armed Forces intends to promote such conduct.

(e) *General Prohibitions.*

(1) No member of the Armed Forces may solicit the commission of or conspire with or aid and abet any person or organization in the commission of any act prohibited by this Part.

(2) No member of the Armed Forces may attempt to engage in any act prohibited by this Part.

§ 143.5 Permissible activity.

This Part does not prevent, among other things:

(a) Any member of the Armed Forces from presenting complaints or grievances over terms or conditions of military service through established military channels;

(b) Commanders or supervisors from giving due consideration to the views of any member of the Armed Forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees or organizations for the purpose of improving conditions or communications at the military installation involved.

(c) Any member of the Armed Forces from petitioning Congress or communicating with any member of Congress, individually or collectively.

(d) Any member of the Armed Forces from being represented by qualified counsel, whether or not retained by an organization on his or her behalf, in any judicial or administrative proceeding with respect to which there is a right to counsel of choice.

(e) Any member of the Armed Forces from joining or being a member of any organization which engages in representational activities with respect to terms or conditions of off-duty employment.

(f) Any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities with respect to terms or conditions of employment.

§ 143.6 Administrative provisions.

(a) *Responsibility.* Responsibility for assuring compliance with this Part is vested in the Heads of the DOD Components. Guidelines for this purpose are contained in § 143.8.

(b) *Application.* The Heads of the DOD Components (in the case of the Military Departments, the Secretaries of the Military Departments in consultation with their respective Chiefs of Staff) will determine on a case-by-case basis, whether § 143.4(c)(2), §143.4(d) or both of this Part are to be invoked in particular circumstances and will make the specific determinations required.

(c) *Reports.* The Heads of the DOD Components will report directly and expeditiously to the Secretary of Defense significant actions to be taken pursuant to this Part. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) is the administrative point of contact in the Office of the Secretary of Defense for all matters relating to this Part.

§ 143.7 Definitions.

(a) *Aid and Abet.* To be present during the commission of any act prohibited by this Part and to assist, command, counsel, or otherwise encourage the commission of such act.

(b) *Collective Job-Related Action.* Any activity by two or more persons that is intended to and does obstruct or interfere with the performance of a military duty assignment.

(c) *Conspire.* To join or agree with one or more persons to commit any act prohibited by this Part.

(d) *DOD Components.* The Military Departments and the Defense agencies.

(e) *Member of the Armed Forces.* A person who is (1) serving on active duty or inactive duty training, or (2) a member of a Reserve component while serving in his or her military capacity, but not those members or former members who are receiving retired or retainer pay.

(f) *Military Installations.* For the purpose of this Part the term "military installation" includes installations, facilities, ships, aircraft and other property controlled by the Department of Defense.

(g) *Negotiation or Collective Bargaining.* A process whereby a commander or supervisor acting on behalf of the United States engages in discussions with a member or members of the Armed Forces (purporting to represent other such members), or with an individual, group, organization, or association purporting to represent such members, for the purpose of resolving bilaterally terms or conditions of military service.

(h) *Solicit.* To use words or any other means to request, urge, advise, counsel, tempt, or command another to commit any act prohibited by this Part.

(i) *Supervisor.* Any member of the Armed Forces or Department of Defense civilian employee responsible for directing subordinate members of the Armed Forces in the performance of their duties.

(j) *Terms or conditions of military service* means terms or conditions of military compensation or duty including but not limited to wages, rates of pay, duty hours, assignments, grievances, or disputes.

§ 143.8 Guidelines.

(a) The prohibitions in this Part will require that certain factual determinations be made by the Heads of the DOD Components (in the case of the Military Departments by the Secretaries of the Military Departments in consultation with their respective Chief of Staff) on the basis of particular facts that exist at particular installations. The guidelines for making these determinations are as follows:

(1) In making the determination that a person or an organization poses a clear danger to the discipline, loyalty or obedience of lawful orders because such person or organization engages in, solicits, or aids and abets any act prohibited in this Part (or in the statutory provisions identified in § 143.4(d)), the history and operations of the organization (including the constitution and bylaws, if any) or person in question may be evaluated along with evidence with respect to the conduct constituting a pro-

hibited act. In addition, there must be sufficient evidence to support a conclusion that the person or organization is substantially likely to engage in a prohibited act.

(i) In determining whether commission of a prohibited act by individual members can be imputed to the organization, examples of factors which should be considered include: the frequency of such act; the position in the organization of persons committing such act; whether the commission of such act was known by the leadership of the organization; whether the commission of such act was condemned or disavowed by the leadership of the organization.

(ii) Once it is determined by the Head of the DOD Component that an organization engages in any prohibited act, and is likely to do so in the future, the Head of the DOD Component may instruct affected installations to post conspicuously notices which clearly state that

(A) such organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, and

(B) knowing, active membership in any such organization by a member of the Armed Forces with intent to promote such prohibited conduct is not permitted.

(2) In making the determination that a member of the Armed Forces is an "active" member of the organization in question, membership must be more than merely nominal or passive. Normally, a person can be considered an active member if he engages in certain kinds of conduct for the organization. This conduct includes solicitation or collection of dues, membership recruitment, distribution of literature, service as an officer of the organization, or frequent attendance at meetings or activities of the organization.

(3) In determining that a member of the Armed Forces knows about the prohibited conduct engaged in by the organization, such knowledge may be inferred if the clear notice specified above has been posted conspicuously.

(b) Any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this Part shall be gathered in accordance with the provisions of DOD Directive 5200.27.[1]

Dated: August 12, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 301.

[FR Doc.77-23802 Filed 8-15-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

WISCONSIN GRAIN INSPECTION AREA

Grain Standards

Notice is hereby given that the State of Wisconsin Department of Agriculture, which is designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Superior, Milwaukee, and Jefferson, Wisconsin, has changed its name to Wisconsin Department of Agriculture, Trade & Consumer Protection. The change in name does not involve a change in the inspection system of this agency.

Done in Washington, D.C., on August 10, 1977.

D. R. GALLIART,
Acting Administrator.

[FR Doc.77-23531 Filed 8-15-77;8:45 am]

Packers and Stockyards Administration

HOT SPRINGS COUNTY LIVESTOCK COMMISSION CO., INC., MALVERN, ARKANSAS, ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards with the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notices was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	*Date of posting*
ARKANSAS	
AR—157, Hot Springs County Livestock Commission Co., Inc., Malvern	July 11, 1977
MINNESOTA	
MN—170, Speldrich Feeder Pig Market, Belgrade	July 22, 1977
NEW MEXICO	
NM—118, South Valley Coliseum, Albuquerque	June 8, 1977
NORTH CAROLINA	
NC—148, Dedmon's Livestock Yards, Shelby	May 10, 1977
SOUTH CAROLINA	
SC—128, Rock Hill Auction Barn, Catawba	July 28, 1977

Done at Washington, D.C., this 10th day of August, 1977.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch Livestock Marketing Division.

[FR Doc.77-23570 Filed 8-15-77;8:45 am]

NORTHWEST ALABAMA LIVESTOCK AUCTION, RUSSELLVILLE, ALABAMA, ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packagers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	*Date of posting*
AL-147, Northwest Alabama Livestock Auction, Russellville, Alabama.	Aug. 25, 1959.
IA-138, Diagonal Livestock Auction, Diagonal, Iowa.	May 16, 1959.
IA-252, Beemer Livestock Auction, Gravity, Iowa.	Feb. 12, 1976.
IA-164, Indianola Sales Company, Inc., Indianola, Iowa.	June 10, 1959.
IA-193, New Sharon Sales Co., Inc., New Sharon, Iowa.	May 19, 1959.
IA-243, Farmers Livestock Auction, Co., Inc., Oelwein, Iowa.	Jan. 9, 1973.
IA-198, Mahaska Sale Co., Oskaloosa, Iowa.	Aug. 20, 1964.
IA-200, Ossian Livestock Exchange, Ossian, Iowa.	June 6, 1959.
IA-202, Pella Sales Co., Pella, Iowa.	May 20, 1959.
MO-193, M.F.A. Livestock Association, Inc., Salisbury Concentration Point, Salisbury, Missouri.	Jan. 8, 1969.
NB-106, Ashland Sale Barn, Ashland, Nebraska.	Apr. 24, 1959.
NB-151, Nebraska Livestock Sales, Inc., Lincoln, Nebraska.	June 27, 1958.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective August 16, 1977.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C. this 9th day of August, 1977.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-23530 Filed 8-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29160; Order 77-8-30 Amendment, Two to Order 76-12-159]

CLASS RATE VIII

Investigation of Local Service Class Subsidy Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of August, 1977.

On December 30, 1976, the Board adopted Order 76-12-159, which established Class Rate VIII as the fair and reasonable final subsidy rate for the local service carriers (Locals) on and after July 1, 1976.[1] Sections IV.C. and VII.B. of the Rate Formula set forth in Order 76-12-159 provide for the concurrent review of ineligible and eligible services, respectively, on a six-month moving basis for annual periods ending in March and September of each year.

The carriers have submitted the data required for the review of both ineligible and eligible services for the year ended March 31, 1977, in the form and detail specified in Sections IV.C.7. and VII.B.10. Such data have been reviewed in detail and adjustments have been made in accordance with established subsidy ratemaking principles.

Adjusted operating results, adjusted investment, calculations of ineligible and charter profits to be shared and net formula provision changes are contained in the attached appendices.

Two of the Locals—Frontier and Ozark—achieved excess profits on their ineligible services. Frontier's offset increased by nearly twenty percent from the previous review period, while Ozark's decreased by nearly twenty-five percent.

[1] In order 76-11-12, issued Nov. 4, 1976, the Board determined an adjusted subsidy level for each carrier, and proposed a formula for equitable distribution of the subsidy payments among the seven local service carriers in Class Rate VIII. Except as modified, Order 76-12-159 reaffirmed and made final all of the findings and conclusions set forth in Order 76-11-12.

Texas International, which had an offset during the previous review period, did not achieve one this review period. None of the Locals realized a charter profit offset.

Three carriers showed an improvement in their eligible need during the review period in relation to the base period. These carriers—Ozark, Piedmont, and Texas International—had improvements ranging from slightly more than one percent for Ozark to slightly less than sixty-seven percent for Texas International. Conversely, four carriers registered comparative deficiencies, ranging from just under three percent for Frontier to approximately thirteen percent for Southern. For this review period, Frontier was the median carrier in terms of the change in the net formula provision. Therefore, the net formula provision for each of the Locals will be increased by the percentage of Frontier's decline, 2.58 percent.

The level of the computed subsidy for this review period is $70.3 million, a reduction of $3.4 million from the rate established in the base period of Class Rate VIII, but an increase of $1.5 million over the rate established in the first review. The reduction from the base period rate results from larger ineligible excess profits and recent ad hoc adjustments offsetting the effect of the positive percentage change in the median carrier's net formula provision.

In arriving at the median change adjustment for this review, it was necessary to correct for recent suspensions of service at several subsidy eligible points. The median change provision in Class Rate VIII was designed as a mechanism to adjust the Local's subsidy rate to reflect changes in the general economic conditions under which they operate and not changes in eligible operating authority. The percentage change to be applied to each carrier's subsidy rate is determined by comparing review period results with base period results for each carrier. After ranking these results, the median change is applied to each carrier's subsidy rate. Since changes in the total industry subsidy rate are subject to changes in one carrier's operating results, special care must be taken to insure that the results being compared are not distorted by any suspensions or deletions of service at specific points.

The suspension or deletion of service at a point is reflected immediately in the carrier's subsidy payments through an ad hoc adjustment to its net formula provision. This adjustment reflects the entire amount of subsidy associated with service to the suspended point. Since the resulting adjusted net formula provision is used as the basis for the carrier's base periods results in determining its percentage change for median change purposes, the carrier's base period results are immediately adjusted to reflect the change in operating authority. However, employing the Board's established methodology, the full economic savings resulting from the suspension at a point is not reflected in the carrier's annual operating results until two years after the date of suspension. Under this methodology, as explained below, variable-cost savings are achieved during the year following the suspension while fixed-cost savings are not realized until the second year after the date of the suspension.

Thus, for four consecutive review periods, beginning with the review period during which the suspension took place, the carrier's year-ended operating results for subsidy eligible operations will not include the total annual economic savings associated with the suspended point. Since the carrier's base period results already fully reflect the suspension, any comparison of the review period need, without adjustment to recognize the unrealized savings associated with the suspended point, will produce a percentage change which reflects, in part, the change in operating authority. To correct this distortion, we have made economic savings adjustments to the eligible needs of those carriers whose subsidy eligible operating authority has changed.

The amount of each adjustment is based on Board findings during the specific suspension/deletion case with regard to the net economic savings to be realized by the carrier through the discontinuance of service at the point. This amount consists of savings to be realized immediately and savings which will be realized one year after the suspension of the point.[3] These two amounts are determined according to the methodology suggested by Hughes Airwest and Southern in their joint objection to Order 73–10–1, and adopted by the Board for use in making base period adjustments in Class Rates VII and VIII. The adjustment to eligible need resulting from these computations reflects the annual savings not yet realized. (Examples of both base period and review period computations are attached to this order.) For example, the adjustment for a point suspended at the end of the first quarter of a review period reflects one quarter of the immediately realized savings (three quarters of the immediate savings are already reflected in the review period operating results) and all of the long-term savings which will not be realized during the first year of the suspension. In this way the savings not reflected in reported results are included. (See attached Appendix D, Revised, for adjustments related to points already suspended or deleted.)

Based on the attached adjusted operating results and adjusted investment for the year ended March 31, 1977, we find that the fair and reasonable annual subsidy due and payable to the seven carriers in Class Rate VIII, on and after July 1, 1977, is $70.3 million. In addition, it is provided that the subsidy due and payable to each carrier on and after July 1, 1977, shall be computed on the basis of the daily subsidy rate set forth for each carrier in the amended Appendix K attached to this order.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

It is ordered, That: [3]

1. Effective on and after July 1, 1977, the attached Appendices A, B, C, E, K, and L supersede the corresponding appendices attached to Order 77–2–128, dated February 25, 1977;

2. Effective on and after July 1, 1977, the attached Appendix D supersedes the corresponding appendix attached to Order 76–11–12, dated November 4, 1976, and affirmed by Order 76–12–159, dated December 30, 1976;

3. The subsidy due and payable to each carrier on and after July 1, 1977,[4] shall be computed on the basis of the daily subsidy rate set forth for each carrier in the amended Appendix K attached to this order;

4. This order shall become effective on the seventh day after service, unless prior to that date exceptions, together with supporting reasons, have been filed with the Board by any party to this proceeding. If exceptions and supporting reasons are filed by any party within the prescribed time, the effective date of this order shall be stayed, only for the party or parties filing exceptions, pending further action by the Board; and

5. This order will be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[3] The economic savings adjustment for those points suspended since the base period does not include a tax saving since the ad hoc change to the net formula provision involves only break-even need and return.

[3] This order is not intended to disturb the service mail rates established pursuant to other orders of the Board.

[4] The profit offset from ineligible and/or charter services and the change in the net formula provision as determined in this order are effective from July 1, 1977, through Dec. 31, 1977.

Examples of the computationof the economic savings adjustments for class rate VII (in dollars)

Point and service suspension date	Board findings as to total economic savings (subpart K)						Computation of immediate savings						
	Revenue	Direct operating costs	Indirect operating costs	Depreciation return, and tax [1]	Total expenses	Total economic savings	Revenue (1)×(11)	DOC (2)×[2]	IOC (3)×[3]	Total expenses (8)+(9)	Expense ratio (in percent) (10)÷(5)	Immediate savings (10)−(7)	Long-term savings (6)−(12)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Jonesboro, Ark., Feb. 13, 1976..	95,354	216,631	61,396	95,455	373,482	278,128	56,221	190,410	29,789	220,208	58.96	163,987	114,141
Brownwood, Tex., Dec. 1, 1976.	221,674	104,421	121,740	62,187	288,348	66,674	116,312	92,037	59,263	151,300	52.47	34,988	31,686

[1] No tax is included in computations for stations suspended during the actual life of class rate VIII.
[2] Local service industry average of immediately variable direct operating expenses: year ending Mar. 31, 1976—87.9 percent; year ending Mar. 31, 1977—88.14 percent.
[3] Local Service Industry average of immediately variable indirect operating expenses: year ending Mar. 31, 1976—48.52 percent; year ending Mar. 31, 1977—48.68 percent.

NOTE

Immediately variable direct and indirect operating expense ratios applicable to the economic savings adjustment of future suspensions will be computed for each review period. Individual carriers can estimate future adjustments by using the ratios for the year ended Mar. 31, 1977.

Jonesboro example: (base period suspension)

The base period adjustment was $143,329, which reflected the unrealized portion of immediate savings, based on the number of days during the year ended Mar. 31, 1976, the point was served. (319÷365)

The first review adjustment was $61,102, which reflected the unrealized portion of immediate savings for the year ended Sept. 30, 1976. (135÷365)

The second review adjustment is $99,443, which reflects the unrealized portion of long-term savings, and is based on the same pro-rate used in the base period adjustment.

The third review adjustment will be $42,217, which reflects the unrealized portion of long-term savings, and is based on the same pro-rate used in the first review adjustment.

Brownwood example: (review period suspension)

The second review adjustment is $55,075, which reflects the unrealized portion of the total economic savings, and consists of all long-term savings and a portion of the immediate savings pro-rated on the number of days served during the year ended Mar. 31, 1977. (244÷365)

The third review adjustment will be $37,533, which reflects the unrealized portion of the total economic savings, and consists of all long-term savings and a portion of the immediate savings pro-rated on the number of days served during the year ended Sept. 30, 1977. (61÷365)

The fourth review adjustment will be $21,182, which reflects the unrealized portion of long-term savings, and is based on the pro-rate used in the second review adjustment.

The fifth review adjustment will be $5,295, which reflects the unrealized portion of long-term savings, and is based on the pro-rate used in the third review adjustment.

APPENDIX A.—*Local service class subsidy rate computation of excess ineligible* profit, excess charter profit, and 6 mo subsidy rate effective July 1, 1977*

[Dollars in thousands]

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
System:								
Adjusted operating profit or (loss) [1]—app. B	13,145	(742)	1,477	3,787	1,009	(1,711)	436	17,401
Return—app. C	10,565	8,861	14,848	8,838	9,628	6,206	3,886	62,851
Taxes—Federal—app. C	8,000	3,863	8,296	4,971	4,201	3,362		32,733
Taxes—State—app. C	307	367	237	398	124	36	26	1,495
System (need)	(5,727)	(13,833)	(21,904)	(10,440)	(12,944)	(11,344)	(3,476)	(79,668)
Ineligible *:								
Adjusted operating profit or (loss) [1]—app. B	25,937	7,733	10,972	12,393	7,857	1,927	2,415	69,235
Return—app. C	7,761	6,802	10,721	6,623	7,262	4,615	2,966	46,749
Taxes—Federal—app. C	5,877	2,965	5,990	3,748	3,308	2,577		24,456
Taxes—State—app. C	226	282	171	300	98	27	22	1,126
Adjusted operating profit [1] in excess of full return and taxes	12,073	(2,316)	(5,910)	1,722	(2,811)	(5,291)	(572)	(3,105)
Charter:								
Adjusted operating profit or (loss) [1]—app. B	(1)	(406)	(850)	(425)	(6)	391	5	(1,292)
Return—app. C	1	770	543	439	174	441	147	2,515
Taxes—Federal—app. C	2	342	302	248	81	246		1,221
Taxes—State—app. C		32	9	20	2	3	1	67
Adjusted operating profit [1] in excess of full return and taxes	(4)	(1,550)	(1,704)	(1,132)	(263)	(299)	(143)	(5,095)
Eligible:								
Adjusted operating profit or (loss) [1]—app. B	(12,791)	(8,069)	(8,645)	(8,181)	(6,842)	(4,030)	(1,984)	(50,542)
Return—app. C	2,803	1,289	3,584	1,796	2,192	1,149	774	13,587
Taxes—Federal—app. C	2,121	556	2,004	975	812	509		7,037
Taxes—State—app. C	81	53	57	78	24	6	3	302
Adjusted eligible need	17,796	9,967	14,290	11,030	9,870	5,754	2,761	71,498
Base year adjusted net formula provision	15,714	8,894	11,288	9,843	10,373	4,748	8,130	68,990
Adjusted eligible need less Federal tax—year ending March 31, 1977 [2 4]	16,119	9,387	12,379	9,702	8,948	5,362	2,703	64,600
Improvement/deficiency	(405)	(493)	(1,091)	141	1,425	(614)	5,427	4,390
Percent change in adjusted eligible need less Federal tax [2 3]	(2.58)	(5.54)	(9.67)	1.43	13.74	(12.93)	66.75	6.36
Recognized improvement/deficiency based on median percent change [2]	(406)	(229)	(291)	(254)	(268)	(122)	(210)	(1,780)
Subsidy calculation:								
Base year adjusted net formula provision after Federal tax	17,745	9,509	13,026	10,695	11,236	5,204	7,765	75,180
Plus or minus recognized improvement/deficiency based on median percent change [2]	406	229	291	254	268	122	200	1,770
Less 50 percent of ineligible * profits	(6,037)			(861)				(6,898)
Less 50 percent of charter profits								
Computed 6-mo. subsidy rate [4]	12,114	9,738	13,317	10,088	11,504	5,326	7,965	70,052

[1] Reported operating profit or (loss) after subsidy ratemaking adjustments. For detailed adjustments, see app. B.
[2] Applies to 6-mo. reviews only.
[3] As compared to base year adjusted net formula provision after the elimination of ad hoc adjustments relating to suspensions or deletions effective on or before the last day of the applicable review period.
[4] The rate for Hughes Airwest is $9,977,000 while this carrier continues to serve Crescent City.
[4] (Adjusted eligible need—federal taxes) *times net formula provision percent of subsidy need from app. J, p. 2 of 2.

* Consists of hub-to-hub operations and certificate ineligible operations.

APPENDIX B.—*Local service class subsidy rate—Year end Mar 31, 1977* [1]

[In thousands of dollars]

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
Computation of system operating profit (or loss)								
SYSTEM OPERATIONS								
Reported operating profit or (loss) [2]	9,386	(1,570)	1,844	3,361	(173)	(2,484)	(1,597)	8,767
Adjustments:								
Conformance with form 41 reports [3]	(159)						(2)	(161)
Mutual aid payments [4]	753	151	64	63	55		273	1,359
Excess salary expense [5]	502	192	264	110	214	309	279	1,970
Excess legal fees [6]	363	330	253	124	87	187	168	1,512
Developmental and preoperating amortization [7]	18					(1)		17
Nonoperating income offset [8]	1,279	655	464	378	425	239	498	3,938
Net strike revenues [9]	(682)	(32)		(6)			(197)	(917)
Other miscellaneous ratemaking adjustments [10]	189	216	205	162	163	127	138	1,200
Depreciation adjustment [11]	988	(747)	(1,617)	(713)	232	(94)	603	(1,348)
Commuter support payments [12]						6		6
Economic savings adjustment [13]	408	63		308	6		273	1,058
Adjusted operating profit or (loss)	13,145	(742)	1,477	3,787	1,009	(1,711)	436	17,401
Computation of eligible operating profit (or loss)								
ELIGIBLE OPERATIONS								
Reported operating profit or (loss) [2]	(14,236)	(8,381)	(8,731)	(8,587)	(7,159)	(4,248)	(3,210)	(54,552)
Adjustments:								
Conformance with form 41 reports [3]	(57)	5	43	(3)			(40)	(52)
Mutual aid payments [4]	240	33	20	15	16		78	402
Excess salary expense [5]	218	44	86	27	64	85	77	601
Excess legal fees [6]	132	76	82	31	26	51	46	444
Developmental and preoperating amortization [7]	12	29	8	12	7	10	2	80
Nonoperating income offset [8]	408	139	130	84	117	62	136	1,085
Net strike revenues [9]	(217)	(7)		(1)			(56)	(281)
Other miscellaneous ratemaking adjustments [10]	69	50	67	41	49	35	39	350
Depreciation adjustment [11]	232	(120)	(359)	(108)	32	(27)	671	321
Commuter support payments [12]						2		2
Economic savings adjustment [13]	408	63		308	6		273	1,058
Adjusted operating profit or (loss)	(12,791)	(8,069)	(8,645)	(8,181)	(6,842)	(4,030)	(1,984)	(50,542)
Computation of ineligible [14] operating profit (or loss)								
INELIGIBLE OPERATIONS [2]								
Reported operating profit or (loss) [2]	23,623	7,165	11,387	12,351	7,009	1,446	1,732	64,713
Adjustments:								
Conformance with form 41 reports [3]	(102)	(5)	(28)	7			(42)	(170)
Mutual aid payments [4]	513	118	44	48	39		195	957
Excess salary expense [5]	384	143	171	79	147	204	191	1,319
Excess legal fees [6]	231	248	164	89	60	124	115	1,029
Developmental and Pre-operating Amortization [7]	6	(1)	(13)	(12)	(7)	(34)	(3)	(64)
Nonoperating income offset [8]	871	500	313	281	302	161	342	2,770
Net strike revenues [9]	(465)	(25)		(5)			(141)	(636)
Other miscellaneous ratemaking adjustments [10]	120	161	132	115	112	84	94	818
Depreciation adjustment [11]	756	(569)	(1,198)	(560)	195	(61)	(68)	(1,505)
Commuter support payments [12]						4		4
Economic savings adjustment [13]								
Adjusted operating profit or (loss)	25,937	7,733	10,972	12,393	7,857	1,928	2,415	69,235
Computation of charter operating profit (or loss)								
CHARTER OPERATIONS								
Reported operating profit or (loss) [2]	(1)	(354)	(812)	(403)	(23)	318	(119)	(1,394)
Adjustments:								
Conformance with form 41 reports [3]			(15)	(4)			80	61
Mutual aid payments [4]		5	7	4	3	20	11	50
Excess salary expense [5]		8	7	4	1	12	7	39
Excess legal fees [6]								
Developmental and preoperating amortization [7]		(28)	5			23	1	1
Nonoperating income offset [8]		16	12	13	6	16	20	83

See footnotes at end of table.

APPENDIX B.—*Local service class subsidy rate—Year end Mar. 31, 1977* [1]—*Continued*

[In thousands of dollars]

Computation of charter operating profit (or loss)—Continued

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
Net strike revenues [9]								
Other miscellaneous ratemaking adjustments [10]		5	6	6	2	8	5	32
Depreciation adjustment [11]		(58)	(80)	(45)	5	(6)		(164)
Commuter support payments [12]								
Economic savings adjustment [13]								
Adjusted operating profit or (loss)	(1)	(406)	(850)	(425)	(6)	391	5	(1,292)

[1] Based on special reports to the Board reflecting the results of operations for the year ended Mar. 31, 1977.

[2] Each carrier submitted financial and traffic data allocated to eligible operations, ineligible operations, charter operations, and system operations.

[3] Adjustment has been made to the reported results to reconcile differences between that data and form 41 data. An adjustment has also been made to the reported data for each type of service after verification of the prescribed allocation procedures.

[4] 6 of the 7 local service carriers belong to the mutual aid pact. During the reporting period, $1,359,000 of mutual aid payments were made by this group to struck carriers. The amounts were allocated to ineligible and eligible services based on the ratio of each service's revenue (less other revenue) plus each service's expense compared to the total of system revenue (less other revenue) plus system expense, exclusive of charter.

[5] To eliminate officers' salaries in excess of $50,000 for the chief executive officer and $35,000 for all others on an annual basis. Amounts were based on data for the year ended Dec. 31, 1976. The allocation to eligible, ineligible, or charter services is based on the ratio that each carrier's eligible, ineligible, or charter operating cash costs (excluding general and administrative expenses) bear to the system operating cash costs (excluding general and administrative expenses).

[6] Legal expenses charged to account 6640, Legal Fees and Expenses, in excess of the $70,000 maximum limit, have been eliminated. The amounts were allocated to eligible, ineligible, or charter services based on the ratio as discussed in footnote 5 above.

[7] To reflect the difference between the recognized amortization of developmental and preoperating expenses in eligible, ineligible, and charter services and the amounts reported by the carriers in their special reports to the Board. Some of these expenses are directly assignable to the various types of service, while others, not directly assignable, are allocated on an applicable unit rate basis. Aircraft preoperating costs are allocated on the basis of revenue hours by aircraft type. Amortization of expenses related to reservation systems is allocated on the basis of passenger enplanements, excluding charter. All other allocable expenses are allocated on an appropriate operating statistic as closely related as possible to the type of expense involved.

[8] Unapplied cash discounts, interest income, dividend income, miscellaneous credits, and income from subsidiaries and nontransport ventures in excess of a 12.35 pct return plus applicable taxes have been offset against the break-even need for all carriers. The allocation to eligible, ineligible, or charter services was made on the basis as set forth in footnote 4 above, but including charter.

[9] This adjustment excludes the net reporting revenues underlying the computations for the "windfall" payments under the Mutual Aid Agreement which are determined to be atypical to the carriers' financial base for determining the prospective needs of the carriers. The allocation to eligible or ineligible services was made on the basis as set forth in footnote 4 above.

[10] These items include, but are not limited to, contributions, financing expenses, liquor, and entertainment. The total industry disallowance was allocated to each carrier based on the industry expense. The eligible, ineligible, or charter allocation is based on the ratio each carrier's eligible, ineligible, or charter operating expense bears to its system expense. The industry disallowances are based on the same level as in class rate VII. The same disallowances will be used pending an audit that is now in progress. As soon as the results of the present audit are available, the updated data will be used to compute the miscellaneous disallowances.

[11] This adjustment elminates any differences between reported and regulatory depreciation expense for each aircraft type. The amount of depreciation expense reported which is above or below the regulatory amount for each aircraft type is allocated to each type of service in the same proportion as the aircraft types were utilized in each of the services (by revenue aircraft hour). The equity base is adjusted to reflect the change in operating expense.

[12] This adjustment elminates payments to a replacement carrier serving Natchez, Miss. The allocation was made on the basis as set forth in footnote 4 above.

[13] The economic savings adjustment reflects the changes in the need in a specific service resulting from a suspension or deletion of a point by a carrier. See app. D (revised).

[14] Consists of hub-to-hub operations and certificate-ineligible operations.

APPENDIX C.—*Local service class subsidy rate—year ended Mar. 31, 1977*

[In thousands of dollars]

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
Computation of system investment, return and tax provision								
SYSTEM SERVICES								
Investment as allocated: [1]								
Adjusted average investment:								
Debt	30,170	27,470	66,497	47,473	60,860	31,600	28,094	292,164
Equity	55,360	43,546	52,431	24,792	20,249	13,580	5,409	215,367
Total [2]	85,530	71,016	118,928	72,265	81,109	45,180	33,503	507,531
Developmental and preoperating adjustment [3]	12	733	1,298	368	108	603	6	3,128
Adjusted average investment:								
Debt	30,174	27,754	67,222	47,714	60,941	32,022	28,099	293,926
Equity	55,368	43,995	53,004	24,919	20,276	13,761	5,410	216,733
Total	85,542	71,749	120,226	72,633	81,217	45,783	33,509	510,659
Return on adjusted investment:								
Return	10,565	8,861	14,848	8,858	9,628	5,533	3,886	62,179
Added risk return for leased aircraft adjustment [4]						672		672
Adjusted return	10,565	8,861	14,848	8,858	9,628	6,205	3,886	62,851
Tax provision:								
Federal taxes [5]	8,000	3,863	8,296	4,971	4,201	3,392		32,723
State taxes [6]	307	367	237	398	124	36	26	1,495
Total tax provision	8,307	4,230	8,533	5,369	4,325	3,428	26	34,218

See footnotes at end of table.

APPENDIX C.—*Local service class subsidy rate—year ended Mar. 31, 1977—Continued*

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
Computation of system investment, return and tax provision								
ELIGIBLE SERVICES								
Investment as allocated: [1]								
Adjusted average investment:								
Debt	8,006	4,035	16,027	10,111	15,748	6,672	6,973	67,572
Equity	14,689	6,397	12,637	5,280	5,239	2,868	1,342	48,452
Total [2]	22,695	10,432	28,664	15,391	20,987	9,540	8,315	116,024
Developmental and preoperating adjustment [3]	2	2	352	58	19	102		535
Adjusted average investment:								
Debt	8,007	4,036	16,224	10,149	15,762	6,744	6,973	67,895
Equity	14,690	6,398	12,792	5,300	5,244	2,898	1,342	48,664
Total	22,697	10,434	29,016	15,449	21,006	9,642	8,315	116,559
Return on adjusted investment:								
Differentiated return:								
Debt at 7.25 pct	580	292	1,176	736	1,143	499	506	4,922
Equity at 20 pct	2,938	1,280	2,559	1,060	1,049	580	269	9,734
Total	3,518	1,572	3,735	1,796	2,192	1,069	774	14,656
Percent return on adjusted investment	15.50	15.07	12.87	11.62	10.43	11.08	9.31	12.57
Allowable return—minimum of 9 pct and maximum of 12.35 pct	2,803	1,289	3,584	1,796	2,192	1,069	774	13,507
Added risk return for leased aircraft adjustment [4]						80		80
Adjusted return	2,803	1,289	3,584	1,796	2,192	1,149	774	13,587
Tax provision:								
Federal taxes [5]	2,121	556	2,004	975	812	569		7,037
State taxes [6]	81	53	57	78	24	6	3	302
Total tax provision	2,202	609	2,061	1,053	836	575	3	7,339
INELIGIBILE SERVICES [7]								
Investment as allocated: [1]								
Adjusted average investment:								
Debt	22,161	21,086	48,027	35,038	44,058	22,758	20,126	213,254
Equity	40,665	33,426	37,868	18,299	14,659	9,781	3,875	158,573
Total [2]	62,826	54,512	85,895	53,337	58,717	32,539	24,001	371,827
Developmental and preoperating adjustment [3]	10	564	915	292	87	493	6	2,367
Adjusted average investment:								
Debt	22,165	21,304	48,538	35,230	44,124	23,103	20,131	214,595
Equity	40,671	33,772	38,272	18,399	14,680	9,929	3,876	159,599
Total	62,836	55,076	86,810	53,629	58,804	33,032	24,007	374,194
Return on adjusted investment:								
Return at 12.35 pct	7,761	6,802	10,721	6,623	7,262	4,080	2,965	46,214
Added risk return for leased aircraft adjustment [4]						535		535
Adjusted return	7,761	6,802	10,721	6,623	7,262	4,615	2,965	46,749
Tax provision:								
Federal taxes [5]	5,877	2,965	5,990	3,748	3,308	2,577		24,465
State taxes [6]	226	282	171	300	98	27	22	1,126
Total tax provision	6,103	3,247	6,161	4,048	3,406	2,604	22	25,591
CHARTER SERVICES								
Investment as allocated: [1]								
Adjusted average investment:								
Debt	3	2,349	2,443	2,324	1,054	2,170	995	11,338
Equity	6	3,723	1,927	1,213	351	932	192	8,344
Total [2]	9	6,072	4,370	3,537	1,405	3,102	1,187	19,682
Developmental and preoperating adjustment [3]		167	30	18	2	7		224
Adjusted average investment:								
Debt	3	2,413	2,460	2,335	1,056	2,175	995	11,437
Equity	6	3,826	1,940	1,220	351	934	192	8,469
Total	9	6,239	4,440	3,555	1,407	3,109	1,187	19,906
Return on adjusted investment:								
Return at 12.35 pct	1	770	543	439	174	384	147	2,458
Added risk return for leased aircraft adjustment [4]						57		57
Adjusted return	1	770	543	439	174	441	147	2,515

See footnotes at end of table.

APPENDIX C.—*Local service class subsidy rate—year ended Mar. 31, 1977—Continued*

Computation of charter investment, return and tax provision								
Tax provision:								
Federal taxes [5]	2	342	302	248	81	246		1,221
State taxes [6]		32	9	20	2	3	1	67
Total tax provision	2	374	311	268	83	249	1	1,288

[1] Adjusted system average (5-quarter weighted) investment (excluding developmental and preoperating investment) for each carrier is allocated to individual aircraft types on the ratio of each carrier's net flight equipment, adjusted for regulatory depreciation, and to eligible, ineligible, and charter operations based on the ratio that the revenue aircraft hours flown in eligible, ineligible, or charter services bear to the total system aircraft hours. The eligible, ineligible, and charter investment is then allocated to debt and equity on the same ratio as the system adjusted average investment.

[2] The adjustments to investment are as follows:
(a) Current portion of long-term debt. Increases debt portion of investment.
(b) Unamortized discount and expense on debt. Decreases debt portion of investment
(c) Unamortized capital stock expense. Decreases equity portion of investment.
(d) Investments in subsidiary companies. Excluded from investment on a pro rata basis. (See (l) below
(e) Advances to nontransport divisions. Same as (d).
(f) Special funds—other. Same as (d).
(g) Nonoperating property and equipment—net. Same as (d)
(h) Developmental and preoperating cost. Same as (d).
(i) Property acquisition adjustment. Same as (d).
(j) Other intangibles. Same as (d).
(k) Depreciation adjustment. Any depreciation adjustment to operating expense will be applied as a direct adjustment to the equity portion of investment using a cumulative 5-quarter weighted average.
(l) All pro rata allocations are based on the percentage relationship that debt and equity bear to the total investment after the direct adjustments have been made.

[3] Developmental and preoperating investment is recognized on an actual basis, adjusted for subsidy purposes, apportioned to eligible, ineligible, and charter services, and allocated to debt and equity as in footnote 1 above.

[4] To reflect recognition of added risks for levels of leased equipment significantly in excess of the industry average; allocated to charter, ineligible and eligible services based on the percentage of revenue aircraft hours flown in each type of service for each of those aircraft types that are leased.

[5] Represents the amount of system Federal taxes applicable to eligible, ineligible, and charter services. To compute Federal taxes for each service: subtract interest expense from the computed return; multiply the subtotal by the Federal tax rate (.48); eliminate surtax which is allocable on same basis as Federal tax derived at 48 rate, and then divide by the complement of the Federal tax rate (.52) to arrive at the applicable Federal tax.

[6] Represents the amount of system State taxes submitted by the carrier. Allocation to eligible, ineligible, and charter services is made on the basis of the ratio of each service's Federal tax to system Federal tax.

[7] Consists of hub-to-hub operations and certificate-ineligible operations.

APPENDIX D.—*Local service class subsidy rate, economic savings adjustment relating to route suspensions, deletions, and transfers*

[In dollars]

Airline	Point	2d review	3d review	4th review	5th review
Frontier	Stillwater	(15,878)	(4,830)		
	Cortez	70,052	10,148		
	Paris	(72,142)	(46,600)	(24,524)	(10,047)
	Lamar	(74,377)	(32,782)	(6,880)	(2,523)
	Parsons	(235,476)	(143,989)	(72,050)	(26,427)
	Goodland, Garden City, and Hays	(80,656)	(54,992)	(30,907)	(14,024)
	Total	(408,477)	(273,045)	(134,361)	(53,021)
Huges Airwest	Kingman	(2,088)			
	Cresent City [1]	(61,051)	(81,327)	(81,327)	(81,327)
	Total	(63,139)	(81,327)	(82,327)	(81,327)
Ozark	Clinton	(46,782)	(5,623)		
	Kirksville	(127,601)	(63,626)		
	Owensboro	(62,667)			
	Galesburg and Sterling/Rock Falls	(71,021)	(115,485)	(52,744)	
	Total	(308,071)	(184,734)	(52,744)	
Piedmont	Goldsboro	(5,608)			
Texas International	Lufkin	(14,463)			
	Pipe Bluff	(6,008)			
	Jonesboro	(99,443)	(42,217)		
	Temple	(98,274)	(65,524)	(35,223)	(5,242)
	Brownwood	(55,075)	(37,533)	(21,182)	(5,295)
	Total	(273,353)	(145,274)	(56,405)	(10,537)

[1] Assumes Airwest will continue to serve Cresent City.

APPENDIX E.—*Local service class subsidy rate hypothetical application of class rate VII—By carrier[1] for an annual period—based on year ended Mar. 31, 1976*

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry total
Number of stations[2]	90	35	58	34	40	32	34	313
Departures performed[3]	104,463	41,638	87,762	48,023	63,583	45,798	39,959	431,225
Revenue plane-miles flown (in thousands)[4]	12,653	6,434	8,335	5,362	7,880	4,716	5,218	50,598
Revenue passengers[5]	2,211,018	958,104	1,860,516	1,069,184	1,452,833	1,028,817	897,670	9,478,142
Revenue passenger-miles (in thousands)[6]	276,419	150,795	182,921	121,765	186,083	109,638	121,124	1,148,725
Computed subsidy:								
Expense provision:								
Stations	5,930	2,485	4,245	2,515	2,790	2,260	2,340	22,565
Departures	16,868	6,652	14,020	7,672	10,157	7,316	6,383	68,868
Revenue plane-miles	35,036	17,815	23,081	14,846	21,521	13,058	14,449	140,106
Total	57,654	26,952	14,346	25,033	34,768	22,634	23,172	231,559
Required revenues:								
Passengers	23,171	10,041	19,498	11,205	15,226	10,782	9,408	99,331
Revenue passenger-miles	15,010	8,188	9,933	6,612	10,103	5,933	6,577	62,376
Total	38,181	18,229	29,431	17,817	25,329	16,735	15,985	161,707
Gross formula provision	19,473	8,723	11,915	7,216	9,439	5,899[7]	7,187	69,852
Need adjustment	−3,272	171	−627	2,627	644	−1,151	1,354	36
Net formula provision[8]	15,714	8,894	11,288	9,843	10,373	4,748	7,765	68,625
Median percentage change[7]	2.58	2.58	2.58	2.58	2.58	2.58	2.58	2.58
Adjusted net formula provision	16,120	9,123	11,579	10,097	10,641	4,870	7,965	70,395
Federal income taxes	2,031	615	1,738	852	963	456	.....	6,555
Offset	(6,037)	.....	.....	(861)	.....	.....	.....	(6,898)
Computed subsidy	12,114	9,738	13,317	10,088	11,504	5,326	7,965	70,052
Adjustment for prospective suspension[8]	.....	239	.....	.....	.....	.....	.....	239
Computed subsidy	12,114	9,977	13,317	10,088	11,504	5,326	7,965	70,291

[1] For subsidy-eligible nonhub operations per rate formula provisions.
[2] App. E, p. 6 of 6, order 76-11-12.
[3] App. E, p. 4 of 6, of Order 76-11-12.
[4] App. E, p. 5 of 6, of Order 76-11-12.
[5] App. E, p. 3 of 6, of Order 76-11-12.
[6] Base year net formula provision adjusted for ad hocs through June 30, 1977.
[7] App. A, p. 2 of 2, the median percentage change in adjusted eligible need less Federal tax.
[8] The adjustment for Hughes Airwest is for operations conducted at Crescent City, Calif. The formula makes no provision for these operations on the assumption that service at this point will be suspended shortly after the effective date of this subsidy rate. This upward adjustment is necessary to provide subsidy payments for operations at Crescent City, and will remain in effect until operations there have been suspended.

APPENDIX K.—*Local service class subsidy rate, daily rates by carrier[1] effective July 1, 1977, class rate VIII*

[Rate per day in dollars]

Carrier	Eligible operations: Base year Adjusted net formula provision, sec. II[2 4]	Eligible operations: Adjusted net formula provision, sec. II, VII[2 4 5]	Eligible operations: Federal taxes, sec. III[2]	Ineligible[3] profit offset, sec. IV[2 6]	Charter profit offset, sec. IV[2 6]	Total subsidy offset
Frontier	43,052.51	44,163.26	5,564.38	−16,539.73	.....	−16,539.73
Hughes Airwest	[7] 24,367.12	[8] 24,995.79	1,684.03	.....	.....	.....
North Central	30,926.03	31,723.92	4,761.64	.....	.....	.....
Ozark	26,967.12	27,662.87	2,334.25	−2,358.90	.....	−2,358.90
Piedmont	28,419.18	29,152.39	2,364.38	.....	.....	.....
Southern	13,008.22	13,343.83	1,249.32	.....	.....	.....
Texas International	21,274.33	21,832.21	.....	.....	.....	.....

[1] Pursuant to secs. II, III, IV, and VII of the class rate formula.
[2] Consists of hub-to-hub operations and certificate-ineligible operations.
[3] The number of days shall be determined in accordance with the 3rd and 4th provisos of sec. II.D.2. of the class rate formula.
[4] The maximum cumulative subsidy payable under sec. II shall be the product of the applicable daily rate times the number of days in the period to date.
[5] This daily rate is the base year adjusted net formula provision in column 1 adjusted by the median percentage change computed pursuant to sec. VII.
[6] For ineligible services, the rates are effective from July 1, 1977, through Dec. 31, 1977.
[7] This amount shall be increased by $638.33/d until Hughes Airwest suspends service at Crescent City.
[8] This amount shall be increased by $654.80/d until Hughes Airwest suspends service at Crescent City.

APPENDIX L.—*Local service class subsidy rate determination of profit offset and Federal tax allowance under CR VIII, ineligible[1] and charter services*

[In thousands of dollars]

Carrier	Adjusted operating profit (loss)[1]	Return and State tax[2]	Interest expense[3]	Maximum Federal tax provision[4]	Excess earnings: Before Federal tax	Excess earnings: After Federal tax	Profit offset
Ineligible[5] services							
Frontier	25,937	7,987	1,372	5,877(A)	17,950	12,073	6,037
Hughes Airwest	7,733	7,084	3,566	2,965(A)	649	(2,316)	.....
North Central	10,972	10,892	4,211	5,990(A)	80	(5,910)	.....
Ozark	12,393	6,923	2,541	3,748(A)	5,470	1,722	861
Piedmont	7,857	7,360	3,856	3,368(A)	497	(2,811)	.....
Southern	1,928	4,642	1,799	2,577(A)	(2,714)	(5,291)	.....
Texas International	2,415	2,987	1,687	1,155(B)	(572)	(572)	.....
Charter services							
Frontier	(1)	1	.....	2(A)	(2)	(4)	.....
Hughes Airwest	(406)	802	397	342(A)	(1,208)	(1,550)	.....
North Central	(850)	552	213	302(A)	(1,402)	(1,704)	.....
Ozark	(425)	459	168	248(A)	(884)	(1,132)	.....
Piedmont	(6)	176	87	81(A)	(182)	(263)	.....
Southern	391	444	172	246(A)	(53)	(299)	.....
Texas International	5	148	84	58(B)	(143)	(143)	.....

[1] Reported operating profit or (loss) after subsidy ratemaking adjustments. For detailed adjustments, see app. B, p. C.
[2] As reported by carrier on form 41 reports for the year ended Mar. 31, 1977, and allocated to ineligible and charter operations.
[3] Indicates maximum Federal taxes to be provided for ineligible and charter services under the rate when a carrier has excess profits subject to offset after taxes. Amounts suffixed by (A) represent carriers in a current tax status, and (B) represent carriers with current tax loss carryforward credits.
[4] Consists of hub-to-hub operations and certificate ineligible operations.

[FR Doc.77-23492 Filed 8-15-77;8:45 am]

[Docket No. 30570]

SERVICE TO BRUNSWICK AND SAVANNAH CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled matter is assigned to be held on September 27, 1977, at 9:00 a.m., Federal Courtroom, Federal Building, Wright Square, Savannah, Georgia 31401 before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report, served on May 10, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 9, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-23569 Filed 8-15-77;8:45 am]

CIVIL SERVICE COMMISSION

ARMY DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Assistant Secretary of the Army (Research and Development), Office, Assistant Secretary of the Army (Research and Development), Office, Secretary of the Army.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23589 Filed 8-15-77;8:45 am]

COMMERCE DEPARTMENT

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Special Projects, Economic Development Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23588 Filed 8-15-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Administration, Office of Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23587 Filed 8-15-77;8:45 am]

LABOR DEPARTMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Director, National Commission for Manpower Policy.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23592 Filed 8-15-77;8:45 am]

LABOR DEPARTMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23593 Filed 8-15-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

Title Change in Noncareer Executive Assignment

By notice of April 29, 1975, FR Doc. 75-11084 the Civil Service Commission authorized the Small Business Administration to make a change in title for the position of Assistant Administrator for Advocacy, Planning and Research authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Assistant Administrator for Planning, Research, and Data Management.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-23591 Filed 8-15-77;8:45 am]

TRANSPORTATION DEPARTMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), The Civil Service Commission authorizes the Department of Transportation to fill by non-career executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-23590 Filed 8-15-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10 a.m., on September 8, 1977 in Room 3817, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee, which is comprised of 28 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data.
2. Report on Conditions in the export market.
3. Recent Foreign Restrictions Affecting Textiles.
4. Other Business.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: August 10, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc. 77-23586 Filed 8-15-77; 8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

Preliminary Management Plan; Public Hearing Change

Notice is hereby given of a change in the meeting date as published in the FEDERAL REGISTER on August 5, 1977, (42 FR 39694) for a public meeting concerning a draft environmental impact statement for the proposed implementation of a preliminary management plan for the Atlantic Foreign Pelagic Longline Fishery entitled Atlantic Billfishes and Sharks.

The meeting scheduled for August 26, 1977, at the South Carolina Wildlife and Marine Resources Department, 217 Ft. Johnson Road, Charleston, S.C., 7:30 to 10 p.m. will now be held on August 29, 1977. The location and time remain unchanged.

Dated: August 10, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-23556 Filed 8-15-77;8:45 am]

SCIENTIFIC RESEARCH PERMIT

Receipt of Application

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

State of Maine, Department of Marine Resources, State House, Augusta, Maine 04333, requests to take an unspecified number of the following species of marine mammals, that may be taken incidentally in gill nets utilized to sample shortnose sturgeon: Atlantic bottlenosed dolphin (*Tursiops truncatus*); Atlantic white-sided dolphin (*Lagenorhynchus acutus*); harbor porpoise (*Phocoena phocoena*); harbor seal (*Phoca vitulina concolor*); gray seal (*Halichoerus grypus*).

The Applicant is currently authorized to take shortnose sturgeon, an endangered species of fish, under ESA Permit No. 17, in the Kennebec and Sheepscot estuaries. During the course of these studies some marine mammals may become accidentally ensnared.

Those marine mammals taken alive will be released immediately at the capture site; animals which die will be made available to the scientific community.

Documents submitted in connection with this application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: August 5, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-23551 Filed 8-15-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON AND MANMADE FIBER TEXTILE PRODUCTS FROM REPUBLIC OF CHINA

Increasing Import Restraint Levels

AUGUST 12, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint applicable to cotton textile products in Categories 9/10 (sheeting, 18/19 (printcloth), 22/23 (twill and sateen), 43 and part of 62 (knit shirts and tops), 45/46/47 (men's and boys' shirts), 48 (raincoats), 49 (other coats), 50/51 (trousers, slacks and outer shorts), and 60 (nightwear and pajamas), and man-made fiber textile products in Categories 213 (specialty fabrics), 219 (shirts, including blouses), 221 (sweaters and cardigans), 222 (trousers, slacks and outer shorts), 224 (coats and suits), and 234/235 (shirts, not knit) during the agreement year which began on January 1, 1977. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

SUMMARY: Paragraphs 6 and 8 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, provide for designated percentage increases for flexibility and for the carryover of shortfalls from the previous agreement year in certain categories. The purpose of this notice is to advise that the levels of restraint established during the agreement year which began on January 1, 1977 for cotton textile products in Categories 9/10, 18/19, 22/23, 43/62 (pt.), 45/46/47, 48, 49, 50/51, and 60 and man-made fiber textile products in Categories 213, 219, 221, 222, 224, and 234/235 have been increased to account for flexibility, carryover, or both.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Clinton Stack, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-5423).

SUPPLEMENTARY INFORMATION: On December 27, 1976, a letter dated December 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 56213), which established the levels of restraint applicable to certain specific categories of cotton and man-made fiber textile products, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint established for Categories 9/10, 18/19, 22/23, 43/62 (pt), 45/46/47, 48, 49, 50/51, 60, 213, 219, 221, 222, 224 and 234/235 to the designated amounts.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

U.S. DEPARTMENT OF COMMERCE,
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
Washington, D.C., August 12, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On December 20, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1977, in excess of designated levels of restraint. The Chairman further advised you that the levels of restrain are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 6 and 8 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 16, 1977 the levels of restraint established in the directive of December 20, 1976 for cotton textile products in Categories 9 10, 18, 19, 22 23, 43, 62 (pt.), 45 46/47, 48, 49, 50, 51 and 60 and man-made fiber textile products in Categories 213, 219, 221, 222, 224 and 234/235 as follows:

Category:	*Amended 12-mo. level of restraint*[1]
9/10	42,927,144 yd².
18/19	2,309,995 yd².
22/23	4,581,572 yd².
43/62 (pt.)[2]	991,153 yd² equivalent.
45/46 47	14,538,688 yd² equivalent (of which not more than 38,112 doz shall be in category 45)
48	27,010 doz.
49	46,624 doz.
50/51	741,205 doz (of which not more than 365,512 doz shall be in category 50 and not more than 587,212 doz shall be in category 51).
60	45,767 doz.
213	9,500,941 lb.
219	6,296,217 doz.
221	4,217,625 doz
222	4,466,121 doz.
224	10,375,806 lb (of which not more than 241,586 lb shall be in T.S.U.S.A. Nos. 380.0420 and 380.8143 and not more than 724,758 lb shall be in T.S.U.S.A. Nos. 380.0402 and 380.8103).
234 235	82,676,847 yd² equivalent.

[1] The levels of restraint have not been adjusted to reflect any entries made after December 31, 1976.

[2] In Category 62, only T.S.U.S.A. Nos. 382.0002, 382.0605 and 382.0610

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-23639 Filed 8-15-77;8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems.

DEPARTMENT OF DEFENSE

Office of the Secretary

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Change of Address

Notice is hereby given that the new address of the Uniformed Services University of the Health Sciences is 4301 Jones Bridge Road, Bethesda, Md. 20014. All correspondence previously sent to 6017 Arlington Road, Bethesda, Md. should be sent to the above new address. New telephone numbers are as follows:

President's Office, 295-2101; Administrative Affairs, 295-2111; Personnel, 295-2180; Admissions Office, 295-2123

Effective date: August 26, 1977.

P. M. REYNOLDS,
Director, Administrative Affairs, Uniformed Services University of the Health Sciences.

AUGUST 11, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

[FR Doc.77-23545 Filed 8-15-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 778-1]

CENTER FOR DISEASE CONTROL, ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part

172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10350-EUP-1. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 1,432.5 pounds of an insecticide which is a mixture of pyrethrins, piperonyl butoxide, N-octyl bicycloheptenedicarboximide, and petroleum distillate in food handling establishments, dairy and cattle barns, stables, and poultry houses to evaluate control of ants, flies, mosquitoes, fleas, ticks, and other insects. The program is authorized only in the States of California, Florida, Georgia, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Texas, Washington, and Wisconsin. The experimental use permit is effective from July 9, 1977, to July 9, 1978

No. 36765-EUP-1. Center for Disease Control, Atlanta, Georgia 30333. This experimental use permit allows the use of 16.7 pounds of insecticide (5-benzyl-3-furyl) methyl-2,2 - dimethyl - 3 - (2-methylpropenyl) cyclopropanecarboxylate on non-crop land to evaluate control of mosquitoes. A total of 48 acres is involved; the program is authorized only in the State of Georgia. The experimental use permit is effective from June 17, 1977, to October 31, 1977.

No. 36765-EUP-2. Center for Disease Control, Atlanta, Georgia 30333. This experimental use permit allows the use of 5 gallons of the insecticide which is a mixture of pyrethrins and piperoynl butoxide on non-crop land to evaluate control of mosquitoes. A total of 48 acres is involved; the program is authorized only in the State of Georgia. The experimental use permit is effective from June 17, 1977, to October 31, 1977.

No. 275-EUP-18. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 40.96 pounds of the insecticide *Bacillus tiuringiensis* on corn, wheat, sorghum, and alfalfa to evaluate control of the European corn borer, southwestern corn borer, armyworm, cutworm, sorghum webworm, fall armyworm, corn earworm, and alfalfa caterpillar. A total of 1,280 acres is involved; the program is authorized only in the States of Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Texas. The experimental use permit is effective from July 15, 1977, to September 30, 1978. Exemptions from the requirement of a tolerance for residues of the active ingredient in or on raw agricultural commodities have been established (40 CFR 180.1011).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 to 4:00 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-23605 Filed 8-15-77;8:45 am]

[OPP-66034; FRL 778-3]

PESTICIDE PROGRAMS

Voluntary Cancellation of Registrations of Pesticide Products Containing Monuron

On June 7, 1977, E. I. DuPont DeNemours & Co., Wilmington DE 19898, requested that the Environmental Protection Agency (EPA) cancel its registrations of Telvar Monuron Weed Killer, Telvar ML Monuron Weed Killer and Monuron Technical (EPA Registration Numbers 352-246, 352-274 and 352-328). Monuron is a broad-spectrum herbicide used for the nonselective control of grasses and herbaceous weeds on non-crop areas such as rights-of-way, industrial sites, and drainage ditch banks. The compound was formerly registered for control of weeds in several agricultural crops. However, since monuron tolerances were revoked in 1973, it can no longer be used for these purposes.

In an April 1977 letter to the EPA Office of General Counsel, DuPont indicated that in 1975, 70,000 pounds of Telvar Monuron Weed Killer and 11,000 pounds of Monuron Technical were sold. In 1976, 7,000 pounds of Monuron Weed Killer were sold and no Monuron Technical. There were no sales for Telvar ML Monuron Weed Killer in either 1975/1976. DuPont stated in a letter of June 7, 1977, to EPA it does not intend to pursue any further monuron business and has no inventory in stock at this time. Furthermore, in its opinion, there is very little, if any, of these monuron products in the hands of their customers. The registrant requested that the registration be cancelled in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIRRA) Section 6(a)(1).

Cancellation of the registration for these products shall be effective on September 15, 1977, unless the registrant, or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

Further sale, distribution or use of these products after September 15, 1977, is prohibited. Sale, distribution or use of existing stocks of these products beyond the effective date of cancellation constitutes an unlawful act under Section 12(a)(2)(K) and is punishable under Sections 13 and 14 of FIFRA.

Comments concerning this action may be submitted in triplicate to the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Any such submissions should bear a notation indicating both the subject and the OPP document control number "OPP-66034". Any comments or other documents filed regarding this notice of cancellation will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 9, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-23603 Filed 8-15-77;8:45 am]

[OPP-50319; FRL 778-2]

UNION CARBIDE CORP., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1016-EUP-35. Union Carbide Corporation, Washington, D.C. 20006. This experimental use permit allows the use of 560 pounds of the insecticide carbaryl on corn to evaluate control of the southwestern corn borer. A total of 65 acres is involved; the program is authorized only in the States of New Mexico, Oklahoma, and Texas. The experimental use permit is effective from July 1, 1977, to July 1, 1978. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.169).

No. 20954-EUP-6. Zoecon Corporation, Palo Alto, California 94304. This experimental use permit allows the use of 2.800 pounds of the insecticide hexadecyl cyclopropanecarboxylate on apples, pears and citrus to evaluate control of various species of mites. A total of 1,648 acres is involved; the program is authorized only in the States of Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Main, Maryland, Massachusetts, Michigan, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from June 30, 1977, to June 30, 1978. Temporary tolerances for residues of the active ingredient in or on apples, pears and citrus fruits have been established.

No. 4581-EUP-24. Pennwalt Corporation, Tacoma, Washington 98401. This experimental use permit allows the use of 2,510 pounds of the insecticide methyl parathion on almonds, cabbage, conifers, cranberries, cucumbers, squash, melons, peanuts, peppers, potatoes, strawberries, sugar beets, turf and turnips to evaluate control of various insects. A total of 2,884 acres is involved; the program is authorized only in the States of California, Maine, Michigan, Minnesota, Nebraska, New York, North Dakota, Oregon, Texas, Virginia, Washington, and Wisconsin.

The experimental use permit is effective from July 8, 1977, to July 8, 1978. Permanent tolerances for residues of the active ingredient in or on almonds, cabbage, cranberries, cucumbers, squash, melons, peanuts, peppers, potatoes, strawberries, sugar beets and turnips have been established (40 CFR 180.121).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide

Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-23604 Filed 8-15-77;8:45 am]

[FRL 777-3; PP6G1705/T106A]

PESTICIDE PROGRAMS

O-Ethyl O-[4-(methylthio)phenyl] S-propyl phosphorodithioate; Renewal of Temporary Tolerances; Correction

In FR Doc. 77-16444, appearing at page 29956 in the issue of June 10, 1977, in the first column, third paragraph, the date in the second line now reading "May 16, 1978" should be corrected to read "June 3, 1978".

Dated: August 4, 1977.

DOUGLAS D. COMPT,
Acting Director,
Registration Division.

[FR Doc.77-23503 Filed 8-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21356;
File No. 61302/03/04/05-IB-77**]

CERTIFIED SECURITY SERVICES, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 4, 1977.

Released: August 9, 1977.

In re applications of Certified Security Services, Inc., 2230 Michigan Avenue, Santa Monica, California 90404, for authorization to modify the facilities of stations WBM854, KZK628 and KW9328 and for a new station in the business radio service.

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned four applications filed July 15, 1977, by Certified Security Services, Inc. (Certified) which seek to modify the authorizations of its three stations in the Business Radio Service in the Los Angeles metropolitan area and to construct and operate a new mobile relay station. Also before the Bureau in connection with its consideration of the above-captioned applications are applications which were previously filed by Ronald A. Newlin (Newlin), Vice-President of Certified (File Nos. 22175/76, 77-IB-76TV), and correspondence between the Bureau, Newlin, and his attorney concerning Newlin's now-dismissed applications. The Bureau also has before it Certified's applications for consent to assignment of authorizations for other Business Radio Service Stations from the former licensee of those facilities to Certified (Docket No. 21245; File Nos. 34096/97/98-IB-47TV). The applications which were the subject of Docket No. 21245 had been designated by the Bureau on issues to probe the character qualifications of Certified and Newlin to receive the authorizations in question, but the proceeding was terminated by the presiding Administrative Law Judge and the applications dismissed without prejudice at the Bureau's request when the Bureau discovered that the applicant had requested, several days before the date of designation, that the applications be dismissed without prejudice. (FCC 77M-1005, released June 2, 1977).

2. Newlin's applications, filed with the Commission July 13, 1976, in his individual capacity, represented that he was engaged in a commercial activity, i.e., providing electronic security and armed guard services for the general public. Newlin's applications were returned to him as incomplete on September 13, 1976, and resubmitted by him on October 1, 1976. In resubmitting his applications, Newlin stated that he had a need for 90 mobile units and reiterated that "I am a security contractor providing to the general public * * * alarm systems * * *"

3. Subsequently, allegations were made to the Commission by other applicants for Los Angeles area facilities in the Business Radio Service that Newlin was Vice-President of Certified, an existing licensee in the Business Radio Service in the Los Angeles area, and that Newlin's applications were in fact a subterfuge to obtain for Certified a second frequency in violation of § 91.8(c) of the Commission's Rules which precludes assignment of a second frequency absent a conclusive demonstration of essential need therefor. As a result of these allegations, the Bureau's staff reviewed the Business Radio Service license files and discovered that on January 28, 1976, six months prior to the filing of Newlin's individual applications, Certified applied for and was authorized facilities in the Business Radio Service for use in the Los Angeles metropolitan area; that Certified's applications were signed by Newlin as an officer of that corporation; and that the addresses furnished by Newlin in his individual applications were identical to Certified's station locations. These facts, as well as allegations that Newlin might be acting on behalf of still another Commission licensee, were presented to Newlin in a November 24, 1976, letter from the Bureau's staff which also directed him to respond thereto and to supply certain specific information. Newlin was admonished in the staff's letter of the possible consequences of false statements made in response to the letter or in his applications.

4. After reviewing Newlin's response to its letter as well as correspondence from Newlin's counsel, the Bureau dismissed Newlin's applications on February 23, 1977, because it found that Newlin failed to meet the eligibility requirements of the Business Radio Service. In doing so, the Bureau's staff advised Newlin that his admission, in a January 17, 1977, letter that he was not engaged in an individual proprietorship providing security services, but was acting on behalf of Certified of which he was Vice-President, vitiated his claim of eligibility to be an individual licensee in the Business Radio Service.

5. These facts led the Bureau to designate for hearing the applications described above for consent to assignment of license (Docket No. 21245) in order to determine the character qualifications of Certified and its Vice-President, Newlin, to receive the additional authorizations which it sought to acquire by way of assignment. Subsequent to the designation of those applications for hearing and prior to the termination of the proceeding when it was discovered that a timely request for dismissal as a matter of right had in fact been filed by the applicant, an employee of Certified visited the Commission, and, in a conference with members of the Bureau's staff, volunteered that Certified's radio facilities were serving fifty to sixty mobile units. The license which the Commission issued to Certified for its Station KW9328 limits it to serving nine (9) mobile units located in land vehicles. As a result of this voluntary disclosure by Certified the Bureau on June 23, 1977, wrote to Certified and advised it that service to more than the authorized nine mobile units constituted a violation of the Communications Act of 1934, as amended, and of the Commission's Rules. Certified was advised to terminate any unauthorized operation and to inform the Bureau of such termination. In addition, Certified was asked, among other things, to advise the Bureau as to the number of mobile units it had been serving immediately prior to the Bureau's June 1977 letter. Certified, in effect, has declined to furnish the information requested in the Bureau's June 23, 1977, letter. However, Certified filed a request for Special Temporary Authority to serve 50 additional mobile units on Station KW9328, i.e., to authorize for the first time the apparent unauthorized operation. That request was denied by the Bureau on July 19, 1977.

6. The foregoing facts raise a grave question as to the character qualifications of Certified and its Vice President, Newlin, to receive the authorizations which Certified here seeks. In executing his individual applications Newlin certified to the Commission that all statements made therein were true, complete and correct to the best of his knowledge and belief, and were made in good faith. The applications themselves (FCC Form 425) bear on their face the admonition that wilful false statements made thereon are punishable by fine and imprisonment. The Commission must depend on the integrity and representations of its licensees, and a breach of that trust or wilful false statements may be grounds for the revocation of licenses and character disqualification. See *FCC* v. *WOKO, Inc.*, 329 U.S. 223 (1946); *Charles P. B. Pinson, Inc.* v. *FCC*, 321 F. 2d 372 (D.C. Cir. 1963); *Pass Word, Inc.*, FCC 76-904, release October 13, 1976. The Bureau's review of the circumstances surrounding Newlin's individual applications and the applications which were the subject of the Docket No. 21245 designation order called into question the character qualifications of Certified and Newlin to receive additional authorizations. The

gravity of those matters has now been compounded by the recent disclosures that Certified has been for an indeterminate period violating the terms of its existing authorization from the Commission.

7. These facts vitiate, we think, Certified's assertion, in an exhibit to its above-captioned applications, that they should not be designated for hearing, in that the public interest would be served by a grant because the applicant has taken reasonable steps to assure that it will operate in compliance with the Commission's Rules. Certified's claim that Newlin has been disciplined; that prior actions of Certified and Newlin are not so severe; and that the entire matter of Newlin's applications arose from a misunderstanding rather than a wilful intent to deceive are inadequate to resolve the question of Certified's character qualifications without a hearing. Because the Bureau cannot make the requisite finding, pursuant to Section 309 (a) of the Act, that a grant of Certified's applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for evidentiary hearing.

8. Accordingly, *it is ordered*, That in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Certified Security Services, Inc., File Nos. 61302/03/04/05-IB-77**, are, pursuant to authority delegated in §§ 0.131(a) and 0.331 of the Commission's Rules, designated for hearing at a time and place to be specified at a later date, on the following issues:

(a) To determine if there were deliberate and material misrepresentations or a lack of candor by Ronald A. Newlin in his applications as an individual for facilities in the Business Radio Service (File Nos. 221575/76/77-IB-76TV), and if any such misrepresentations or lack of candor were on behalf or for the benefit of Certified Security Services, Inc.

(b) To determine if Certified Security Services, Inc. has wilfully violated the terms of its authorizations from the Commission for facilities in the Business Radio Service by operating more mobile units than authorized by such an authorization.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove whether Certified Security Services, Inc. and its Vice President, Ronald A. Newlin, possess the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications will best serve the public interest, convenience and necessity.

9. *It is further ordered*, That Certified Security Services, Inc., Ronald A. Newlin and the Chief, Safety and Special Radio Services Bureau are made parties in this proceeding.

10. *It is further ordered*, That the burden of proceeding with the evidence and the burden of proof on the issues specified in paragraph 8 (a), (b), (c) and (d) hereinabove are, pursuant to Section 309(e) of the Act and Section 1.254 of the Commission's Rules, upon Certified Security Services, Inc.

11. *It is further ordered*, That each of the parties named in Paragraph 9 hereinabove, in order to avail themselves of the opportunity to be heard, shall within 20 days of the mailing of the notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that he will appear on the date to be fixed for hearing and present evidence on the issues specified in this Order, as prescribed in § 1.221 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION.
CHARLES A. HIGGINBOTHAM,
Chief, Safety, and Special Radio Services Bureau.

[FR Doc.77-23532 Filed 8-45-77;8:45 am]

[Docket No. 21307 etc.; File No. BPH-9035 etc.]

REDING BROADCASTING CO., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 28, 1977.

Released: August 5, 1977.

In re applications of Reding Broadcasting Co., Terrell Hills, Texas, Docket No. 21307, File No. BPH-9035, Requests: 106.3 MHz, #292; 2.9 kW; 300 feet.

The S.S.S. Broadcasting, Inc., Terrell Hills, Texas, Docket No. 21308, File No. BPH-9247, Requests: 106.3 MHz, #292; 3 kW; 300 feet.

The Wholly Owned Corporation, Terrell Hills, Texas, Docket No. 21309, File No. BPH-9637, Requests: 106.3 MHz, #292; 3 kW; 290 feet.

For construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications.

2. Section 73.210 of the Commission's Rules requires that the main studio of an FM broadcast station be located within the corporate boundaries of the principal community to be served unless an applicant makes an adequate showing that good cause exists for locating its main studio elsewhere. The S.S.S. Broadcasting, Inc. [S.S.S.] seeks to locate its proposed studio at the site of its commonly-owned station KAPE(AM) in San Antonio. S.S.S. argues that since the applicant proposes to serve the entire San Antonio metropolitan community, and as Terrell Hills is a small enclave within the city of San Antonio, location of the proposed studio at the readily accessible site of its AM studio in downtown San Antonio would better serve the public interest. In addition, it is stated that Reding Broadcasting Co. [Reding] has acquired the only remaining piece of commercial property for sale in Terrell Hills. In an earlier rulemaking proceeding we were unable to find that the programming needs and interests of Terrell Hills were distinguishable from those of San Antonio.[1] In these circumstances we conclude that the public interest would not be disserved by location of S.S.S.'s main studio in San Antonio, and that an adequate showing under Section 73.210(a) of the Rules has been made for locating the proposed main studio outside of the corporate limits of Terrell Hills.

3. Analysis of S.S.S.'s financial data reveals that $115,166 will be required to construct and operate the proposed station for a period of one year, without revenue, itemized as follows:

Downpayment on equipment	$6,160
Principal and interest payment on equipment	8,256
Building	2,000
Legal costs	25,000
Miscellaneous	18,000
Working capital (first year)	55,750
Total	$115,166

To meet this requirement, applicant relies upon a bank loan of $110,000. However, this sum is insufficient to meet its obligations and a financial issue will be specified.

4. Reding and The Wholly Owned Corporation [Wholly Owned] propose independent programming while S.S.S. proposes to duplicate some of the programming of its commonly owned station, KAPE(AM). Therefore evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 114 (1967).

5. Since S.S.S. proposes predominantly Black-oriented programming while Reding and Wholly Owned propose general market programming, the relative need for these different types of programming will be considered under the standard comparative issue. *Ward L. Jones*, FCC 67-82 (1967); *Policy Statement on Comparative Broadcast Hearing*, 1 FCC 2d 393, 397 (1965).

6. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *Accordingly, it is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of The S.S.S. Broadcasting, Inc.:

(a) The source and availability of funds above and beyond the $110,000 indicated; and,

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicant is financially qualified.

[1] *FM Table of Assignments* (Docket 19534), 38 FCC 2d 528, 26 RR 2d 31 (1972).

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicant's pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance indicating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and manner prescribed in such Rule, and shall advise the Commission of publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-23533 Filed 8-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

DELTA STEAMSHIP LINES INC. AND WESTWIND AFRICA LINE LTD.

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW. Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 6, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler & Sparber, 120 Broadway, New York, N.Y. 10005.

Agreement No. 10307 would authorize Delta Steamship Lines, Inc. (Delta) and Westwind Africa Line, Ltd. (Westwind)—both of whom are members of the American West African Freight Conference—to enter into an agreement with Kaiser Aluminum & Chemical Corp. (Kaiser) and obligate the lines to carry all of Kaiser's proprietary cargo in the trade between Chalmette, La., and Tema, Ghana. Delta and Westwind will share equally in the carriage of aluminum ingots and general cargo moving between Kaiser's private berthing facilities at the aforesaid ports.

By Order of the Federal Maritime Commission.

Dated: August 10, 1977.

JOSEPH C. POLKING,
Acting Secretary

[FR Doc 77-23567 Filed 8-15-77 8:45 am]

MEDITERRANEAN/NORTH PACIFIC COAST FREIGHT CONFERENCE AND JOHNSON SCANSTAR RATE AGREEMENT

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 6, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John R. Attanasio, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 10156-2, among the signatories to the Mediterranean/North Pacific Coast Freight Conference and Johnson Scanstar proposes to extend indefinitely the term of approval of the agreement.

By Order of the Federal Maritime Commission.

Dated: August 10, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23568 Filed 8-15-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP76-159 (See 42 FR 40023, August 8, 1977)]

COLUMBIA GAS TRANSMISSION CORP.

Commissioner's Statement

Attached is Commissioner Smith's statement to the order issued July 29, 1977, in the above matter (42 FR 40023; August 8, 1977).

KENNETH F. PLUMB,
Secretary.

COLUMBIA GAS TRANSMISSION CORP.

[Docket No. RP76-159]

Issued August 8, 1977.

SMITH, Commissioner, *dissenting*:

The majority order would continue to include in Columbia's rate base monies advanced to BP Oil despite the Commission's decision in Opinion No. 674 that the advances were to be removed if repayment had not begun within five years, which has not happened. The explanation for the continuation of consumer financing of this loan shows the decision to be eminently beneficial to Columbia, but it lacks the requisite rationale to support the imposition of this added burden on Columbia's ratepayers.[1] There is no such rationale.

The majority attempts to negate the effect of its action by conditioning their decision here on the outcome of the proceeding in Docket No. RP76-49 where Columbia, among others, has been directed to show cause why the Alaska proceeding commenced December 31, 1975, and there is no resolution in sight. In the meantime, however, the majority has decided, in effect, to continue a program that has already been terminated.

The worth of the Alaska advance payment program should be finally decided in Docket No. RP76-49 rather than determined piece-meal, with conditions, in individual cases. All participants, especially the consumers, are entitled to know now the responsibilities, obligations, and benefits accruing to each. The decision

[1] *See Pub. Serv. Comm. of N.Y. v. F.P.C.*, 511 F.2d 338, 346-51 (D.C. Cir. 1975); *Order On Remand From Court Opinion Terminating Investigation And Terminating Advance Payment Program With Conditions*, Docket No. R-411 and RM74-4 (December 31, 1975).

of the majority to act in an ad hoc manner is not in the public interest. I dissent.

DON S. SMITH,
Commissioner.

[FR Doc.77-23532 Filed 8-15-77;8:45 am]

[Projects 1759, 1980, 2072, 2073, 2074, 2131, 2357, 2394, 2431, 2471, 2486, 2523 and 2550]

WISCONSIN MICHIGAN POWER CO. AND WISCONSIN ELECTRIC POWER CO.

Application for Transfer of Licenses

AUGUST 8, 1977.

Public notice is hereby given that an application for transfer of licenses was filed under the Federal Power Act, 16 U.S.C. 791a–825r, by Wisconsin Michigan Power Co. (Transferor) and Wisconsin Electric Power Co. (Transferee) (Correspondence to: Robert H. Gorske, Esq. Wisconsin Electric Power Co., 231 West Michigan Street., Milwaukee, Wis. 53201; Norris Darrell, Jr., Esq., Sullivan & Cromwell, 48 Wall Street, New York, N.Y. 10005; George F. Bruder, Esq., Bruder & Gentile, 1201 Connecticut Ave. NW., Suite 708, Washington, D.C. 20036) for Project Nos. 1759, 1980, 2072, 2073, 2074, 2131, 2357, 2394, 2431, 2471, 2486, 2523, and 2550. The projects are located on the Michigamme, Menominee, Paint, Brule, Sturgeon, Pine, Oconto, and Waupaca Rivers in Iron, Dickinson, and Menominee Counties, Mich. and Florence, Marinette, Oconto, and Waupaca Counties, Wis.

Wisconsin Electric Power Co., which owns all the outstanding stock of Wisconsin Michigan Power Co., would continue operation of all projects operated by Wisconsin Michigan Power Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR §§ 1.8 or 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23523 Filed 8-15-77;8:45 am]

FEDERAL RESERVE SYSTEM

LINN COUNTY BANCSHARES, INC.

Formation of Bank Holding Company

Linn County Bancshares, Inc., Linneus, Missouri, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Linn County State Bank, Linneus, Missouri. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1977.

Board of Governors of the Federal Reserve System, August 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-23537 Filed 8-15-77; 8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 11, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 6, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202 275-3532.

FEDERAL POWER COMMISSION

The FPC requests an extension no change clearance of old Form 3P, Monthly Residential, Commercial and Industrial Electric Bill Data for United States Bureau of Labor Statistics. There is no change in the current format of the form and an extension of 15 months to December 1978 to allow for the Bureau of Labor Statistics to thoroughly test the new Consumer Price Index (CPI) is requested. The price indexes are the Government's official indicators of price movements in the National economy. This FPC request for an extension is for the old Form 3P which will be used to report separately but parallel with the new Form 3P for an additional 15-month period. The FPC estimates respondents to be approximately 84 utilities and reporting burden to average .8 hours monthly for each response for the old Form 3P.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.77-23555 Filed 8-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77F-0217]

B.F. GOODRICH CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that B. F. Goodrich Co. has filed a petition proposing that the food additive regulations be amended to provide for the use of a certain antioxidant in food-contract articles.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3259) has been filed by B. F. Goodrich Co., 500 S. Main St., Akron, OH 44318, proposing that the food additive regulations be amended to provide for the use of 3,5-di-tert-butyl-4-hydroxy-hydrocinnamic acid triester with 1,3,5-tris (2-hydroxyethyl)-s-triazine 2,4,6 (1*H*, 3*H*, 5*H*)-trione as an antioxidant in food-packaging adhesives and certain polyolefin polymers intended for food-contact use.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md., 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 4, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-23407 Filed 8-15-77;8:45 am]

MICROBIOLOGY DEVICE CLASSIFICATION PANEL; ADVISORY COMMITTEE

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced.

Committee name	Date, time, and place	Type of meeting and contact person
Microbiology Device Classification Panel.	Sept. 26 and 27, 9 a.m., room 6-21, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Sept. 26, 9 a.m. to 10 a.m.; open committee discussion, Sept. 26, 10 a.m. to 5 p.m.; closed committee deliberations, Sept. 27, 9 a.m. to 4:30 p.m.; Thomas M. Tsakeris (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to agenda items to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make a formal presentation should notify the executive secretary by September 12, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their presentation.

Open committee discussion. The panel will review all of their classification recommendations to date. The panel will also begin discussion of the priorities for development of standards for those products recommended for Class II.

Closed committee deliberations. The Bureau of Medical Devices is presently reviewing three transitional new drug applications (N50-494, N770001, and N770002). The reviews of these applications are ready to be presented to the panel for their consideration. The panel will be asked to review and comment on the Bureau's approach to the evaluation of these applications. This portion of the meeting will therefore be closed to protect trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: August 8, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-23406 Filed 8-15-77;8:45 am]

[Docket No. 76F-0219]

MONSANTO CO.

Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (FAP 6B3167) proposing safe use of cupric acetate and potassium bromide with nylon 66 in the production of spunbonded fabric intended for filtration of food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY IINFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 Withdrawal of petition without prejudice of the procedural food additive regulations (21 CFR 171.7, formerly § 121.52, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), Monsanto Co., 800 N. Lindberg Blvd., St. Louis, MO 63166, has withdrawn its petition (FAP 6B3167), notice of which was published in the FEDERAL REGISTER of July 8, 1976 (41 FR 27995), proposing that § 178.2010 be amended to provide for the safe use of cupric acetate and potassium bromide with nylon 66 in the production of spun-bonded fabric intended for filtration of food.

Dated August 4, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.77-23405 Filed 8-15-77;8:45 am]

Office of Education

FOLLOW THROUGH PROGRAM

Closing Date for Receipt of Applications (By Invitation Only) for Additional FY 1977 Funds

Notice is hereby given that, under the authority contained in Title V, Parts B and C of the Economic Opportunity Act, as amended by Section 8(a) Pub. L. 93-644, applications are being accepted for additional Fiscal Year 1977 funds for the purpose of conducting expanded demonstration activities. The regulatory authority for grants of these additional funds and the funding criteria which govern these grants are found in § 158.-15a of the Follow Through final regulations, as amended, published in the FEDERAL REGISTER of Wednesday, June 29, 1977 (42 FR 33149). Applications are by invitation only. Applicants will be invited by letter of invitation from the Commissioner or his authorized representative. The letter of invitation is expected to be mailed by August 31, 1977.

It is anticipated that approximately twelve grants will be awarded from these additional funds. Invitations are being extended to applicants who applied for non-competing continuations for operating Follow Through projects in accordance with the Notice of Closing date which was published in the FEDERAL REGISTER on Thursday, December 30, 1976 (41 FR 56859) and whose applications were judged to be satisfactory according to the funding criteria stated in § 158.-15 (a) through (k), (m), and (n) of the Follow Through final regulations (45 CFR Part 158) and were judged to be outstanding according to the criteria stated in § 158.15 (l) and (o) of the Follow Through final regulations (45 CFR Part 158).

In order to be assured of consideration for funding with these additional Follow Through funds, invited applications should be received in the U.S. Office of Education Application Control Center on or before September 12, 1977. Funds supporting these grants may be awarded for a period not to exceed eighteen months.

A. APPLICATIONS SENT BY MAIL

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.-433D. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than September 12, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. HAND DELIVERED APPLICATIONS

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

C. PROGRAM INFORMATION AND FORMS

Information may be obtained from the Division of Follow Through, Bureau of Elementary and Secondary Education, 400 Maryland Avenue, S.W. (Regional Office Building Three, Room 3624), Washington, D.C. 20202.

D. APPLICABLE REGULATIONS

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Follow Through Regulations (45 CFR Part 158) as amended by 45 CFR Section 158a, published in the FEDERAL REGISTER, June 29, 1977 (42 FR 33149).

(Title V, Parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644. Section 8(a), 42 U.S.C. 2929 et seq.)

(Catalog of Federal Domestic Assistance Number 13.433; Follow Through Program)

Dated: August 5, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-23570 Filed 8-15-77;8:45 am]

GUIDANCE AND COUNSELING

Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that under the authority contained in Section 342(b) of Part D of Title III of the Education Amendments of 1976, Pub. L. 94-482 (20 U.S.C. 2532(b)), grant applications from States are being accepted for programs, projects and leadership activities to expand and strengthen guidance and counseling services in elementary and secondary schools.

In order to be assured of consideration, applications must be received by the U.S. Office of Education on or before September 16, 1977.

Applications sent by mail should be addressed as follows:

Mr. Allen King, Division of State Educational Assistance, U.S. Office of Education, ROB-3, Room 3010, 7th and D Streets SW., Washington, D.C. 20202, 202-245-2692.

An application to be hand delivered must be taken to Mr. Allen King at the above mail address.

Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

Applicants may obtain instructions and application forms from:

Dr. Donald D. Twiford, Division of Education Replication, U.S. Office of Education, ROB-3, Room 3608, 7th and D Streets SW., Washington, D.C. 20202, 202-245-2243.

The application must be submitted by that State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels, as provided in proposed 45 CFR 191.17(b) and 191.18 (a).

Under Section 342(b) of Pub. L. 94-482, available funds are allotted to (1) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance; (2) the Secretary of the Interior and the Secretary of Defense in the amounts necessary for activities for children and teachers in Department of the Interior schools for Indian children and for children and teachers in the overseas dependent schools of the Department of Defense, respectively; and (3) each State according to the ratio of children aged five to seventeen in the State to the number of such children in all the States.

The amount of funds which east State or other recepient may receive under these statutory provisions follows. Applicants should prepare their applications in the light of these allotments.

Allotment of funds under Pub. L. 94-482, Title III, Part D, Guidance and Counseling: fiscal year 1977

	State amounts [1]
Total appropriation	$3,000,000
United States and outlying areas	2,900,000
50 States, District of Columbia, and Puerto Rico	2,892,446
Alabama	49,745
Alaska	5,759
Arizona	35,547
Arkansas	28,006
California	272,777
Colorado	34,274
Connecticut	41,275
Delaware	7,961
Florida	98,699
Georgia	68,321
Hawaii	11,744
Idaho	11,462
Illinois	150,250
Indiana	73,008
Iowa	39,016
Kansas	29,248
Kentucky	45,623
Louisana	56,125
Maine	14,455
Maryland	57,085
Massachusetts	76,452
Michigan	129,189
Minnesota	55,447
Mississippi	34,274
Missouri	61,941
Montana	10,502
Nebraska	20,609
Nevada	8,131
New Hampshire	11,067
New Jersey	97,569
New Mexico	17,334
New York	231,784
North Carolina	72,217
North Dakota	8,978
Ohio	145,677
Oklahoma	34,366
Oregon	29,205
Pennsylvania	151,888
Rhode Island	12,027
South Carolina	39,525
South Dakota	9,429
Tennessee	54,600
Texas	167,246
Utah	17,730
Vermont	6,550
Virginia	66,401
Washington	47,373
West Virginia	23,037
Wisconsin	64,595
Wyoming	5,138
District of Columbia	8,300
Puerto Rico	48,365
American Samoa	[2] 575
Canal Zone	----------
Guam	[2] 1,521
Virgin Islands	[2] 972
Trust Territory	[2] 1,841
BIA	[2] 2,645

[1] Distribution of $3,000,000 with $100,000 reserved for OE administrative activities.

[2] The act provides that funds are distributed to these jurisdictions according to their needs for the funds. As indicated in regulations (Sec. 191.19) for this act, the Commissioner generally bases the determination of need on school-age population. The amounts shown were calculated on that basis. However, an additional amount may be awarded by the Commissioner to Guam, American Samoa, the Virgin Islands, the Trust Territories of the Pacific, and the Department of the Interior (BIA) depending on the needs documented in the application. Although there is no firm limit, it is expected that the amount awarded to any one of these jurisdictions will not exceed $5,000.

The regulations applicable to the Guidance and Counseling program are:

1. The Office of Education's General Provisions Regulations which were published on November 6, 1973, as amended (45 CFR Parts 100, 100a, and appendices), subject to the following: Subpart B of Part 100a shall not apply to applications under this program, except for §§ 100a.28, 100a.29, and 100a.30 which shall apply to this program.

2. The regulation for Guidance and Counseling which was published in proposed form May 20, 1977 (42 FR 25881).

(20 U.S.C. 2532).

Dated: August 10, 1977.

JOHN ELLIS
Acting U.S. Commissioner
of Education.

(Catalog of Federal Domestic Assistance No. 13.577, Guidance and Counseling Program).

[FR Doc.77-23549 Filed 8-15-77;8:45 am]

PINPOINT DISASTER ASSISTANCE

Closing Date for Receipt of Applications

Under the authority contained in section 7(a)(1)(B) of Pub. L. 81-874 (assistance for current school expenditures in cases of certain disasters; 20 U.S.C. 241-1(a)(1)(B)) and section 16(a)(1)(B), of Pub. L. 81-815 (school construction assistance in cases of certain disasters; 20 U.S.C. 646(a)(1)(B)), notice is hereby given that the U.S. Commissioner of Education has established an amended closing date for the receipt of applications for pinpoint disaster assistance under section 7(a)(1)(B) of Pub. L. 81-874 and section 16(a)(1)(B) of Pub. L. 81-815. Furthermore, notice is hereby given that all applications related to pinpoint disasters which occurred on or after January 2, 1968 will be considered.

In the preamble to final regulation for disaster assistance under section 7, Pub. L. 81-874, and section 16, Pub. L. 81-815, published in the FEDERAL REGISTER on November 17, 1976 (41 FR 50776), the Office of Education stated that it would only consider pinpoint disaster applications related to disasters which occurred on or after July 1, 1975. The Office of Education has revised its policy and will now consider applications related to pinpoint disasters which occurred on or after January 2, 1968, the effective date of the "pinpoint" disaster provisions in section 7(a)(1)(B), Pub. L. 81-874 and section 16(a)(1)(B), Pub. L. 81-815. The Office of Education feels that the use of January 2, 1968 as the initial funding eligibility date for pinpoint disaster assistance fulfills better the intent of the authorizing legislation. Where applications are based on expenditures previously made, applicants will have to demonstrate that they were, in fact, eligible for assistance at the time the disaster occurred, and that the expenditures for which they seek reimbursement are those that are authorized for assistance under section 7, Pub. L. 81-874, and section 16, Pub. L. 81-815, and applicable regulations.

The closing date for filing an application for pinpoint disaster assistance under section 7 of Pub. L. 81-874 for a disaster which has occurred between January 2, 1968 and the publication date of this notice (August 16, 1977) is November 14, 1977.

The closing date for filing a preapplication for pinpoint disaster assistance under section 16 of Pub. L. 81-815 for a disaster which has occurred between January 2, 1968 and the publication date of this notice (August 16, 1977) is November 14, 1977.

In the case of a disaster occurring after the publication date of this notice, program regulations at 45 CFR 112.8 and 113.9, which were published in the FEDERAL REGISTER on November 17, 1976, at 41 FR 50776 will determine the appropriate closing date for filing an application.

A. APPLICATIONS SENT BY MAIL

An application sent by mail must be filed through the appropriate State educational agency and sent to the U.S. Office of Education, Division of School Assistance in Federally Affected Areas, Areas, Room 2017A, 400 Maryland Avenue SW., Washington, D.C. 20202. An application sent by mail will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of the mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. HAND DELIVERED APPLICATIONS

An application to be hand delivered must be taken to the U.S. Office of Education, Room 2107A, 400 Maryland Avenue SW., Washington, D.C. 20202. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. PROGRAM INFORMATION AND FORMS

Information and application forms may be obtained from the appropriate State educational agency which serves the applicant local education agency or the U.S. Office of Education, Division of Schools Assistance in Federally Affected Areas, Room 2107A, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

D. APPLICABLE REGULATIONS

The regulations applicable to this program include the Office of Education General Regulations (45 CFR Parts 100

and 100a) published in the FEDERAL REGISTER on November 6, 1973 (38 FR 30654) and Parts 112 and 113 of 45 CFR published in the FEDERAL REGISTER on November 17, 1976 (41 FR 50776).

(Catalog of Federal Domestic Assistance Nos. 13.477, School Assistance in Federally Affected Areas—Construction, and 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation.)

Dated: August 11, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc.77-23547 Filed 8-15-77;8:45 am]

Public Health Service

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1654, January 11, 1974, as amended by 40 FR 36166–67, August 19, 1975, and 41 FR 50074, November 12, 1976) is amended to: (1) Change the functional statement for the Division of Special Mental Health Research, Mental Health Intramural Research Program, National Institute of Mental Health, to more accurately reflect the scope of its research; (2) correct the title and change the functional statement for the Division of Mental Health Services Programs, National Institute of Mental Health, to better reflect the scope of its responsibility in providing technical assistance and consultation in connection with Federally administered health care programs, and (3) change item 2 in the order of succession of officials to act as Administrator during the absence or disability of the Administrator.

Section HM-B, Organization and Functions, is amended as follows: (1) Under the Division of Special Mental Health Research (HMMB3), amend item (1) to read as follows: (1) plans and conducts a program of intramural research on special mental health problems, such as clinical and preclinical psychopharmacology and neuropharmacology.

(2) Correct the title of the Division of Mental Health Services Program (HMM4) to read: Division of Mental Health Service Programs (HMM4) and amend item (4) to read as follows: (4) coordinates Institute activities and consults with other Federal and State agencies on mental health aspects of medical care provided under social security legislation and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) program.

Section HM-C, Order of Succession, is amended to change item (2) to read: Assistant Administrator for Extramural Programs.

Dated: August 9, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-23558 Filed 8-15-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-788]

ACTING SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, neither the Secretary of Housing and Urban Development nor the Under Secretary is available to exercise the powers and perform the duties of the Secretary, appointees to the positions listed below are authorized to act as Secretary and exercise all the powers, functions and duties assigned to or vested in the Secretary. However, no official shall act as Secretary until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability or vacancy in office.

1. General Counsel.
2. Assistant Secretary for Community Planning and Development.
3. Assistant Secretary for Housing—Federal Housing Commissioner.
4. Assistant Secretary for Policy Development and Research.
5. Assistant Secretary for Legislation and Intergovernmental Relations.
6. Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.
7. Assistant Secretary for Fair Housing and Equal Opportunity.
8. Assistant Secretary for Administration.
9. General Manager, New Community Development Corporation.

This designation supersedes the designation effective April 1, 1977 (42 FR 19174, April 12, 1977).

AUTHORITY: (Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 11490, 34 FR 17567).

Effective Date: This order is effective July 11, 1977.

Issued at Washington, D.C. on August 4, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-23550 Filed 8-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3242]

CALIFORNIA

Application

AUGUST 8, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 185), the SOHIO Transportation Corporation of Cleveland, Ohio, has filed an amendment to its right-of-way application CA 3242 to construct a 42" pipeline and related facilities for the purpose of transporting crude oil across the following described public lands:

SAN BERNARDINO MERIDIAN

T. 2 S., R. 8 W.,
Lots 25, 26, 30, 31, and 32 of Lot 37 of Santa Ana Del Chino Grant 477.
T. 1 S., R. 11 W.,
Lot 40 of Potrero De Felipi Lugo Grant 446;
Lot 39 of La Puente Grant 460.
T. 2 S., R. 11 W.,
Sec. 5, Lots 2, 3, and 4;
Within Lot 41 of La Merced Grant 443;
Lot 38 of La Puenta Grant 460;
Lot 48 of Paso De Bartola (Pico) Grant 464.
T. 2 S., R. 12 W.,
Within Lot 41 of Paso De Bartolo Pico Grant 464.
T. 5 S., R. 7 E.,
Sec. 1, SW¼NW¼NW¼, S½SW¼, and S½S½SW¼SE¼;
Sec. 2, NE¼SE¼ and NE¼NW¼SE¼;
Sec. 12, N½NW¼NE¼ and N½NE¼NW¼.
T. 5 S., R. 15 E.,
Sec. 25, W½SW¼NW¼.

The proposed pipeline will transport crude oil from Long Beach, California, to Midland, Texas.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the undersigned at E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77-23559 Filed 8-15-77;8:45 am]

[Colorado 23653]

COLORADO

Proposed Withdrawal and Reservation of Lands; Correction

AUGUST 5, 1977.

The Notice of Proposed Withdrawal and Reservation of Lands under serial number Colorado 23653 dated July 11, 1977, appearing in the July 20, 1977, issue of the FEDERAL REGISTER at pages 37256–37257, is hereby corrected to delete from the fourth paragraph the date "July 5, 1977" and substitute therefor "August 18, 1977."

In connection therewith, the 30-day period provided for the filing of comments concerning this proposed withdrawal is extended to September 10, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-23553 Filed 8-15-77;8:45 am]

[M 10201 (ND)]

NORTH DAKOTA

Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 5, 1977.

Notice of an application filed by the Forest Service, United States Department of Agriculture, M 10201(ND), for withdrawal and reservation of public lands was published as FEDERAL REGISTER Document No. 68–10724, on page 12584 of the issue for September 5, 1968. The Forest Service has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), such lands will be at 10 a.m. on September 19, 1977, relieved of the segregative effect of the above-mentioned application.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23560 Filed 8-15-77;8:45 am]

UTAH STATE OFFICE

Redelegation of Authority by State Director

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management, Division of Management Services, to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows:

(1) Accept and record instruments meeting recording requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods; and

(4) Reject filings and void claims located on lands not available for mineral location on dates of location.

This delegation is effective on August 16, 1977.

PAUL L. HOWARD,
State Director.

AUGUST 8, 1977.

[FR Doc.77-23561 Filed 8-15-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 5, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 26, 1977.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Hale County

Greensboro, *Erwin, John, House*, 705 Erwin Dr.

CALIFORNIA

Sacramento County

Sacramento, *Hubbard-Upson House*, 1010 F St.

COLORADO

Custer County

Westcliffe, *Hope Lutheran Church*, 310 S. 3rd.

Larimer County

Fort Collins, *Fort Collins Post Office*, 201 S. College.

IDAHO

Ada County

Grandview vicinity, *Guffey Butte-Black Butte Archeological District*, NW of Grandview (also in Canyon, Elmore, and Owyhee Counties).

Bear Lake County

Montpelier, *Bagley, John A., House* 155 N. 5th, St.

Kootenai County

Rathdrum, *St. Stanislaus Kostka Mission*, McCartney and 3rd Sts.

Latah County

Moscow, *Ridenbaugh Hall*, University of Idaho campus.

Payette County

Payette, *Whitney, Grant, House*, 1015 7th Ave. N.

Washington County

Weiser, *Drake, Col. C. F., House* 516 E Main St

MAINE

Androscoggin County

Auburn, *Day, Holman, House*, 2 Goff St., Lewiston, *Sarings Bank Block*, 215 Lisbon St

Cumberland County

Portland, *Fifth Maine Regiment Community Center*, Seashore Ave., Peaks Island.
Yarmouth, *Mitchell House*, 40 Main St.

Knox County

Rockland, *Rockland Railroad Station*, Union St.
Rockland, *Security Trust Building* Elm and Main Sts.

Lincoln County

Dresden vicinity, *St. John's Anglican Church and Parsonage Site*, S of Dresden.

Penobscot County

Newburgh vicinity, *Knowlton, Jabez, Store*, W of Newburgh on ME 9.

Washington County

Machias, *Porter Memorial Library*, Court St.

MARYLAND

Baltimore County

Towson, *Villa Anneslie*, 529 Dunkirk Rd.

Carroll County

Union Bridge vicinity, *Hard Lodging*, 1 mi. E of Union Bridge on Ladiesburg Rd.

Howard County

Guilford vicinity, *Christ Church*, 6800 Oakland Mills Rd.

St. Marys County

Great Mills vicinity, *Cecil's Mill Historic District*, N of Great Mills on Indian Bridge Rd.

Talbot County

St. Michaels, *Chesapeake Bay Maritime Museum*, Mill St.

Washington County

Hagerstown vicinity, *Antietam Hall*, 525 Indian Lane.
Hagerstown vicinity, *Paradise Manor*, 2550 Paradise Dr.

MISSISSIPPI

Amite County

Rosetta vicinity, *Sturdivant Fisheries*, E of Rosetta.

NEW MEXICO

Colfax County

Raton vicinity, *St. John's Methodist Episcopal Church*, 17 mi. E of Raton on NM 72.

TENNESSEE

Loudon County

Lenoir City vicinity, *Bussell Island Site*, S of Lenoir City.

Sumner County

Westmoreland, *Westmoreland Tunnel*, off TN 52.

[FR Doc.77-23328 Filed 8-15-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-20129]

CITIZENS BAND (CB) TRANSCEIVERS

Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by the E. F. Johnson Company, the United States International Trade Commission, on August 10, 1977, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether Citizen Band (CB) transceivers provided for in item 685.25 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestice industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investgation will be held beginning at 10 a.m., E.D.T., Tuesday, November 1, 1977, in the Hearing Room, United States International

Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Thursday, October 27, 1977.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, and at the New York City office of the Commission located at 6 World Trade Center.

By order of the Commission.

Issued: August 11, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-23601 Filed 8-15-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FARMWORKER ECONOMIC STIMULUS PROGRAMS

Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: This notice is a correction of the notice announcing the availability of "Solicitation for Grant Applications" (SGA), for the Farmworker Economic Stimulus Programs.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Chief, Division of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: In FR Doc. 22165, appearing at page 39155, Vol. 42, No. 148—Tuesday, August 2, 1977, the sentence which reads: "Proposals in response to the SGA must be received by the Department at the above address by September 8, 1977, or within 30 days of the date SGAs become available, whichever is sooner" should be corrected to read "Proposals in response to the SGA must be received by the Department at the above address by September 8, 1977, or within 30 days of the date SGAs become available, whichever is later."

Signed in Washington, D.C., this 3d day of August 1977.

PAUL A. MAYRAND,
Chief, Division of Farmworker Programs.

[FR Doc 77-23574 Filed 8-15-77;8:45 am]

MASSACHUSETTS

Extended Benefits and Federal Supplemental Benefits; Correction

A notice was published in the FEDERAL REGISTER on August 5, 1977, 42 FR 39727, announcing the ending of the Extended Benefit Period and the Federal Supplemental Benefit Period in Massachusetts effective on August 6, 1977. On the basis of corrected information furnished by the Massachusetts Division of Employment Security, the benefit periods end in that State on August 13, 1977, instead of August 6, 1977.

Signed at Washington, D.C., on August 8, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-23573 Filed 8-15-77;8:45 am]

Office of Federal Contract Compliance Programs

INGERSOLL MILLING MANUFACTURING CO.

Debarment

Notice hereby is given that for violating Executive Order 11246, as amended, Ingersoll Milling Manufacturing Co. is declared ineligible for further contracts and subcontracts with the United States Government.

The debarment also applies to the following Ingersoll divisions and subsidiaries:

Ingersoll Manufacturing Consultants, Inc., Rockford, Ill.;
Ingersoll Manufacturing Consultants, International, S. A., Belgium;
Ingersoll Maschinen und Werkzuege GmbH, West Germany; and,
Waldrich Siegen Werkzeigmashinen GmbH, West Germany.

A copy of my Decision and Order is enclosed for publication in the FEDERAL REGISTER.

Dated: August 1, 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

UNITED STATES DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

In the Matter of Ingersoll Milling Machine Co. and Defense Supply Agency.

Case No. OFCC-4000-1.

DECISION AND ORDER

After a hearing in the above-captioned matter, Administrative Law Judge Salvatore J. Arrigo found that Ingersoll Milling Machine Co. has violated its contractual obligations pursuant to 41 CFR Part 60-2 of the Secretary of Labor's regulations implementing Executive Order 11246, as amended, and recommended debarment of the Company. Subsequently, the Assistant Secretary of Defense for Manpower and Reserve Affairs forwarded a proposed debarment order to the Director of the Office of Federal Contract Compliance Programs.

In accordance with the powers granted to the Director, Office of Federal Contract Compliance Programs by Title 41, Code of Federal Regulations, Section 60-1.27 of the Secretary of Labor's regulations issued pursuant to Executive Order 11246, as amended, I hereby approve the debarment of the Ingersoll Milling Machine Co., and any and all purchasers, successors, assignees, and/or transferees, from the award of any contract or subcontract funded in whole or in part with Federal funds, and from extensions or other modifications of any such existing contracts or subcontracts.

The debarment also includes the following Ingersoll divisions and subsidiaries:

1. Ingersoll Manufacturing Consultants, Inc., Rockford, Ill.;
2. Ingersoll Manufacturing Consultants, International S. A., Belgium;
3. Ingersoll Maschinen and Werkzuege GmbH, West Germany; and,
4. Waldrich Siegen Werkzeigmaschinen GmbH, West Germany.

The debarment will continue in effect until such time as Ingersoll has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause of Executive Order 11246, as amended.

This debarment shall be effective as of this date.

Attached hereto and made a part hereof is the Recommended Decision and Order of Administrative Law Judge, Salvatore J. Arrigo.

Signed at Washington, D.C., this 1st day of August, 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

U.S. DEPARTMENT OF LABOR, OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of Ingersoll Milling Machine Co. and Defense Supply Agency.

Case No. OFCC-4000-1.

George M. Moehlenhof, Esq., McDermott, Will and Emery, 111 West Monroe Street, Chicago, Ill. 60603, for Ingersoll Milling Machine Co.

George H. McEwen, Counsel, Angelo R. Alioto, Assistant Counsel, Defense Contract Administration Services Region, Chicago, O'Hare International Airport, P.O. Box 66475, Chicago, Ill. 60666. Edmund A. Miareckie, Assistant Counsel, Defense Supply Agency, Cameron Station, Alexandria, Va. 22314, for the Defense Supply Agency.

Before: Salvatore J. Arrigo, Administrative Law Judge.

RECOMMENDED DECISION AND ORDER

STATEMENT OF THE CASE

This is a proceeding instituted under the provisions of Executive Order 11246, as amended, (hereinafter called the Order) and the implementing rules, regulations and relevant orders of the Secretary of Labor (41 CFR Chapter 60). In accordance with 41 CFR 60-1.26(b) the Defense Supply Agency (DSA) notified Ingersoll Milling Machine Co. (hereinafter referred to as Ingersoll) that it was in apparent violation with the requirements of the Order, the equal opportunity provisions of its contract, and the applicable rules and regulations, for a failure to develop an acceptable written Affirmative Action Program for the period 30 January 1974 to 29 January 1975. This notice was timely published in the FEDERAL REGISTER. Ingersoll denied these allegations and requested a hearing.

Pursuant to 41 CFR-1.26(b), the undersigned was designated to conduct the hearing. In accordance with a Notice of Hearing, issued by the undersigned and dated October 7, 1975, a hearing was held before the undersigned on October 20 and 21 and November 3, 1975 in Chicago, Ill. Said hearing was conducted pursuant to the appropriate regulations of 41 CFR 60-1.26(b) and DSA Regulation 5500-7 (32 CFR 1281).[1] Evidence was received as to whether Ingersoll was in compliance with the Order and the appropriate regulations. All parties were represented by counsel and afforded full opportunity to be heard, adduce evidence, and examine and cross-examine witnesses. Additionally, all parties were afforded the opportunity to present oral argument at the hearing and to file briefs, findings of fact, conclusions of law and a proposed order. The date for mailing such briefs, findings of fact, conclusions of law and proposed order was set at December 19, 1975.

[1] A prehearing conference was held before the undersigned on May 29, 1975 in Chicago, Ill.

Both parties filed briefs and DSA filed proposed findings etc. all of which have been duly considered by the undersigned.

Upon my observation of all witnesses and their demeanor and the entire record, I recommend the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Ingersoll was awarded a U.S. Government contract, i.e., N00600-74-C-0540, which required it to comply with Executive Order 11246 and the Affirmative Action Program provisions of 41 CFR 60-2.

2. Ingersoll is a manufacturer of machine tools with facilities located in Rockford, Ill.

3. The provisions of 41 CFR Parts 60-1, 33 FR 7804, as amended January 21, 1974, 39 FR 2365 and 41 CFR part 60-2, 36 FR 23152, as amended January 31, 1973, 38 FR 2970, were the regulations in effect on the date of award of Contract N00600-74-C-0540.

4. An initial on-site review of Ingersoll's Rockford, Ill., facility Affirmative Action Program was conducted on December 17, 18, and 19, 1973 by members of the Office of Contracts Compliance, Defense Contracts Administration Services Region, Chicago (OCC, DCASR, Chicago). During said review, members of OCC, DCASR, Chicago were given an unsigned document prepared by Ingersoll and entitled "Affirmative Action Compliance Program 10-1-73 to 9-30-74" (hereinafter referred to as the December 1973 Affirmative Action Program).

5. The December 1973 Affirmative Action Program was the only written program submitted to the Government.

6. The December 1973 Affirmative Action Program improperly combines for analysis various job classes of dissimilar content, wage rates and opportunity under various EEO-1 categories.

7. The utilization analysis contained in the December 1973 Affirmative Action Program contains an analysis of EEO-1 categories rather than an analysis of major job classifications (a job classification herein meaning one or a group of jobs having similar content, wage rate and opportunity). This document fails to contain or reflect separate analysis for minorities and females for each major job classification with consideration of the appropriate availability factors listed in 41 CFR 60-2.11(a) (1) and (2). Additionally, said instrument fails to contain or reflect adequate consideration of the required availability factors contained in 41 CFR 60-2.11(a)(1) (iv), (v), and (vi) and 2) (iii), (iv), and (vi).

8. The December 1973 Affirmative Action Program does not establish any goals in the Officials and Managers, Professional, Technical and Sales Workers categories or any job classification thereunder. While acknowledging female underutilization and indicating anticipated expansion, this document fails to set any female goals in the Craftsmen category or any job classification thereunder. The failure to establish goals in the foregoing areas is not supported by any detailed analysis or explanation. Minority goals in the Office and Clerical, Craftsmen and Operatives categories and female goals in the Operative category are establish by EEO-1 category rather than by the required job classifications. Additionally, this document fails to contain or reflect any consideration of anticipated turnover in establishing goals. Finally, those few goals established in the December 1973 Affirmative Action Program are not based on a proper utilization analysis.

9. The December 1973 Affirmative Action Program does not contain or address the required provisions of 41 CFR 60.2.13(d), Identification of Problem Areas, and 41 CFR 60-2.13(h), Compliance of Personnel policies and practices with the Sex Discrimination Guidelines (41 CFR 60-20)

10. The December 1973 Affirmative Action Program does not contain a current reaffirmation of Ingersoll's policy statement. Additionally, the policy statement contained in such program does not adequately address the implementing provisions of 41 CFR 60-2.20.

11. The foregoing document fails to provide an adequate procedure for the dissemination of policy (41 CFR 50-2.13(b) and 60-2.21). It also fails to assign sufficient line responsibility for the effective implementation of the contractor's Affirmative Action Program (41 CFR 60-2.13(c) and 41 CFR 60-2.22(b)). Additionally, such document does not contain adequate action oriented programs designed to eliminate problems and attain goals and objectives (41 CFR 60-2.13(f) and 41 CFR 60-2.24). Finally, the document does not contain or reflect the design of a proper audit and reporting system to measure the effectiveness of the entire program.

12. The December 1973 Affirmative Action Program bears no signature indicating Ingersoll's adoption of that document as its Affirmative Action Program.

13. The Defense Supply Agency, Defense Contract Administration Services Region, Chicago is responsible for monitoring Ingersoll's compliance with Executive Order 11246, as amended, and the implementing rules and regulations promulgated thereunder.

14. The Defense Supply Agency advised Ingersoll verbally and in writing that the December 1973 Affirmative Action Program did not meet the requirements of 41 CFR 60-2 and explained the reasons therefor. Additionally, the Defense Supply Agency rendered detailed technical assistance and provided Ingersoll ample opportunity to comply with the equal opportunity provisions of its contract.

15. Under the equal opportunity provisions of Contract N00600-74-C-0540 Ingersoll was required to develop a written Affirmative Action Program on or before 30 May 1974 (said date being 120 days after the effective date of such contract). Due to an inability to establish any existing Government contract other than N00600-74-C-0540, enforcement action, with respect to the deficiencies discovered in December 1973, were suspended and Ingersoll was rescheduled for a review in June 1974.

16. Commencing June 1974 the company's chief Executive Officer and Chairman of the Board, Mr. Edson Gaylord, assumed all responsibility and complete control with respect to Ingersoll's Affirmative Action Program. All contracts and communications by officials of DSA during June and July 1974 were made exclusively with Mr. Gaylord.

17. During June and July 1974 Mr. Edson Gaylord informed officials of DSA that the December 1973 Affirmative Action Program did not represent the company's Affirmative Action Program and that the company was unwilling to comply with the requirements of 41 CFR 60-2. Additionally, Mr. Gaylord refused to permit access to personnel and payroll records in connection with the June 11, 1974 compliance review.

18. Since the December 1973 Affirmative Action Program was not subsequently adopted by the company the record establishes that Ingersoll did not have any written Affirmative Action Program for the period of Contract N00600-74-C-0540.

19. Ingersoll failed and refused to permit access to pertinent personnel and payroll records during a June 11, 1974 on-site review.

20. The Defense Supply Agency accepted Ingersoll's Affirmative Action Programs for the years 1971, 1972 and 1973.

21. On June 21, 1974, DSA, Defense Contract Administration Services Region, Chicago, issued a "Show Cause" letter to Ingersoll Milling Machine Co. Said letter advised the company that Ingersoll was in noncompliance for a failure to develop an acceptable written Affirmative Action Program for the period January 30, 1974 to January 29, 1975 and for a failure to permit access to personnel and payroll records.

22. On January 30, 1975, the Director, Defense Supply Agency notified Ingersoll of the proposed cancellation or termination of any existing Government contracts and subcontracts and proposed debarment of Ingersoll from future contracts and subcontracts with the U.S. Government. This letter stated in part that Ingersoll was in violation of Executive Order 11246 and the implementing regulations for a failure to have an acceptable Affirmative Action Program for the period 30 January 1974 to 29 January 1975, a refusal to provide relevant personnel records and refusal of technical assistance.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and the subject matter is proper under the provisions of Executive Order 11246, as amended, and the implementing rules and regulations of the Secretary of Labor.

2. Under the provisions of Part II, Section 201 of Executive Order 11246, as amended, the Secretary of Labor is directed and empowered to adopt "such rules and regulations and issue orders as he deems necessary and appropriate to achieve the purpose * * * of Parts II and III of the Order." Pursuant to such direction and authority the Secretary of Labor has adopted the Affirmative Action Program requirements contained in 41 CFR 60-1.40(a) and 41 CFR Part 60-2.

3. Under delegation of authority by the Office of Federal Contracts Compliance, the Defense Supply Agency has been charged with the responsibility of insuring that Federal contractors and subcontractors comply with the equal opportunity provisions of Government contracts and subcontracts and the implementing rules and regulations of the Secretary of Labor.

4. In accordance with the equal opportunity provisions of Contract N00600-74-C-0540, Ingersoll was required to develop and adopt on or before 30 May 1974 a written Affirmative Action Program which met the requirements of the provisions of 41 CFR 60-2 in effect as the date of award of such contract. Ingersoll failed to so adopt any written Affirmative Action Program during the period of performance of such contract. In reaching this conclusion the following circumstances were considered:

a. The December 1973 Affirmative Action Program contains no signature indicating its adoption.

b. This document was rejected by Ingersoll's Chief Executive Officer as the company's Affirmative Action Program.

c. No other document purporting to be the company's written Affirmative Action Program was submitted to the Government.

5. In any event, even if the December 1973 Affirmative Action Program was considered as the Program for the period of performance of the contract set forth herein, that Affirmative Action Program does not comply

with the requirements of 41 CFR 60–1.40 and 41 CFR 60–2 in the following respect: [2]

a. It does not meet the requirement of 41 CFR 60–1.40 which provides that an Affirmative Action Program must be signed by an executive official of the company.

b. It does not contain or reflect a required analysis by major job classifications (i.e., one or a group of jobs having similar content, wage rate and opportunity). It fails to provide a required separate analysis for minorities and females by job classifications with considerations of the availability factors contained in 41 CFR 60–2.11(a) (1) and (2). Additionally, it fails to contain or reflect any consideration of the availability factors of 41 CFR 60–2.11(a) (1) (iv), (v), and (vi) and (2) (iii), (v), and (vi).

c. It fails to establish goals in areas of acknowledged underutilization and anticipated expansion. Such failure to so establish goals is not supported by a detailed analysis or explanation as required by 41 CFR 60–2.12(j). With respect to the few goals set in the Affirmative Action Program they are not established by job classification or based on a proper identification of deficiencies (i.e., a utilization analysis meeting the provisions of 41 CFR 60–2.11(a)). Additionally, the Affirmative Action Program does not contain or reflect any consideration of projected turnover in establishing goals. In view of the foregoing the December 1973 Affirmative Action Program does not meet the provisions of 41 CFR 60–2.12 and 60–2.13(e).

d. It fails to contain any provisions which address the required terms of 41 CFR 60–2.13(d). Identification of Problem Areas (deficiencies) by Organizational units and Job Classifications and 41 CFR 60–2.13(h), Compliance of Policies and Practices with the Sex Discrimination Guidelines.

e. It does not adequately address the provisions of 41 CFR 60–2.20. As such, this document does not meet the requirements of 41 CFR 60–2.13(a).

f. Subpart C of 41 CFR 60–2 provides various methods of implementing the required ingredients of 41 CFR 60–2.13. In essence, it sets forth methods of insuring the effective operation of an Affirmative Action Program. Therefore, while not necessarily expressed in mandatory terms, such methods may not be ignored, absent the substitution of reasonable alternative methods designed to effectively accomplish the same objectives. The document herein however fails to reflect the applicable implementing regulations of Subpart C of 41 CFR 60–2 or present reasonable alternatives in addressing the provisions of 41 CFR 60–2.13 (b), (c), (f), (g), and (i).

6. Since they are a primary source in determining contractor equal opportunity practices, personnel and payroll records are both relevant and necessary to the conduct of an equal opportunity compliance. Failure to permit access to such records violates the provisions of 41 CFR 60–1.43. Ingersoll is in non-compliance for a failure to provide access to such records during the June 11, 1974 compliance review.

7. Ingersoll was given substantial technical assistance and ample opportunity to comply. Ingersoll rejected such assistance and failed to comply

ORDER

Ingersoll Milling Machine Co. having been found in non-compliance with Executive Order 11246, and its implementing rules and regulations, it is recommended that the following Order be entered:

Ordered, Pursuant to Section 209 of Executive Order 11246, as amended, and 41 CFR 60–1.26(b), that, with respect to Ingersoll Milling Machine Co., any and all existing United States Government contracts and subcontracts are hereby cancelled and terminated and further, that Ingersoll Milling Machine Co. is hereby declared ineligible for further contracts and subcontracts with the United States Government.

Dated at Washington, D.C., January 6, 1976.

SALVATORE J. ARRIGO,
Administrative Law Judge.

[FR Doc.77–23600 Filed 8–15–77;8:45 am]

[2] Approval of an Affirmative Action Program at a prior point of time does not thereafter bind DSA to accept that Program with regard to future contracts. Thus, the prior approval might well have been erroneous or the Program may not have received the in-depth review it warranted.

Occupational Safety and Health Administration

COLORADO STATE STANDARDS

Approval

I. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 12, 1973, notice was published in the FEDERAL REGISTER (38 FR 25172) of the approval of the Colorado plan and the adoption of Subpart M to Part 1952 containing the decision.

The Colorado plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated or revised, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letter dated March 1, 1977, from Gregory M. Rogers, Director, Colorado Occupational Safety and Health, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the Telecommunications standard of 29 CFR 1910.268 which was published in the FEDERAL REGISTER (40 FR 13436) on March 26, 1975. These standards, which are contained in Colorado Occupational Safety and Health Rules and Regulations for General Industry, were promulgated after hearings held on July 10, 1975, and by resolutions adopted by the Colorado Occupational Safety and Health Standards Board on January 15, 1976, and became effective July 31, 1976, prusuant to section 8–11–104, Colorado Revised Statues, 1973.

II. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. In addition, the State standards are more specific in one area and certain electrical utilities are not exempt from the requirements of the standards as they are under § 1910.268(a)(2)(ii) of the Federal standards. The Colorado Telecommunications standards apply to installations under the exclusive control of electric utilities used for the purpose of communications or metering, or for generation, control, transformation, transmission, and distribution of electric energy, which are located in buildings used exclusively by the electric utilities for such purpose, or located outdoors on property owned or leased by the electric utilities or on public highways, streets, roads, etc., or outdoors by established rights on private property. The standards are hereby approved.

III. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, Colorado 80294; Director, Colorado Occupational Safety and Health, 1313 Sherman Street, Room 414, Denver, Colorado 80203; and the Technical Data Center, Room S–6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

IV. *Public participation.* Under 29 CFR 19532(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Colorado State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation and notice would be unnecessary.

The decision is effective August 16, 1977.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Denver, Colorado, this 10th day of June 1977.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc.77–23594 Filed 8–15–77;8:45 am]

KENTUCKY STANDARDS

Approval; Correction

In FR Doc. 77–18866, appearing at page 33814 on Friday, July 1, 1977, the following sentences were inadvertently included and are hereby deleted:

1. The final sentence of the fourth paragraph of Background, which reads "Section 1910.137 was amended by adding specifications for rubber protective equipment for electrical workers."

2. Paragraph 2(c).

Signed at Atlanta, Georgia, this 8th day of August 1977.

DONALD E. MACKENZIE,
Regional Administrator.

[FR Doc.77–23596 Filed 8–15–77;8:45 am]

OREGON STATE STANDARDS

Intent to Reject

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the FEDERAL REGISTER (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The notice of Approval of Revised Developmental Schedule was further published on April 1, 1974, in the FEDERAL REGISTER (38 FR 11881).

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. 29 CFR 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

By letter dated August 2, 1976 from M. Keith Wilson, Chairman, Oregon Workmen's Compensation Board to James W. Lake, Regional Administrator, Occupational Safety and Health Administration, the State submitted a standard in response to Federal standard changes, comparable to 29 CFR 1928.51 Roll-Over Protective Structures (ROPS) for tractors Used in Agricultural Operations. Having reviewed the State submission in comparison with the Federal standard, it appears that the State standard is not at least as effective as the comparable Federal standard. Accordingly, under 29 CFR 1953.23(d)(2) rejection of the standard is currently at issue.

2. *Issues.* The State has adopted an exemption from the roll-over protective structure requirements for track-type agricultural tractors, which does not appear in the corresponding OSHA standard 29 CFR 1928.51 (b)(1) and (b)(5).

The Oregon standard states:

GENERAL REQUIREMENTS

33–29–1 Agricultural tractors manufactured after October 25, 1976, shall meet the following requirements:

(a) Roll-over protective structure. A roll-over protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee;

(b) Except as provided in Rule 33–29–6, ROPS used on wheel type tractors shall meet the test and performance requirements of Rules 33–29–20 through 33–29–54, and ROPS used on track-type tractors shall meet the test and performance requirements of Rules 34–21–8 through 34–21–21.

33–29–6 Exempted uses. Rules 33–29–1 and 33–29–3 do not apply to the following uses:

(a) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein;

(b) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein;

(c) Tractors while used with mounted equipment which is incompatible with ROPS (e.g. cornpickers, cotton strippers, vegetable pickers and fruit harvesters);

(d) Track-type agricultural tractors whose overall width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than 7 mph, when used only for tillage or harvesting operations and while their use is incidental thereto, and which:

(1) Does not involve operating on slopes in excess of 40 degrees from horizontal, and

(2) Does not involve operating on piled crop products or residue, as for example, silage in stacks of pits, and,

(3) Does not involve operating in close proximity to irrigation ditches, or other excavations more than two feet deep which contain slopes more than 40 degrees from the vertical.

The Federal standard states:

§ 1928.51

* * * * *

(b) *General requirements.* Agricultural tractors manufactured after October 25, 1976, shall meet the following requirements:

(1) *Roll-over protective structure.* A roll-over protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in paragraph (b)(5) of this section, ROPS used on wheel type tractors shall meet the test and performance requirements of § 1928.52 or § 1928.53 of this part or § 1926.1002 of Part 1926, and ROPS used on track type tractors shall meet the test and performance requirements of § 1926.1001 of Part 1926.

* * * * *

(5) Exempted uses. Paragraphs (b)(1) and (b)(2) of this section do not apply to the following uses:

(i) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(ii) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(iii) Tractors while used with mounted equipment which is incompatible with ROPS (e.g. cornpickers, cotton strippers, vegetable pickers and fruit harvesters).

One of the issues raised at the public hearings that were held during the promulgation process leading to adoption of the OSHA standard was the exemption of track-type tractors. Evidence presented at that time demonstrated that track-type tractors used in agriculture are, indeed, subject to roll-over. (A more thorough discussion of this issue is found in 40 FR 18256 dated April 25, 1975.) Therefore, an exemption for track-type tractors was not included in the Federal standard.

Based on the foregoing, the exemption of roll-over protective structures from these tractors is not considered to be at least as effective as the OSHA standard in that the absence of this overhead protection exposes the tractor operator to death or serious physical harm in the event of a tractor roll-over.

3. *A copy of the supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workmen's Compensation Board, Labor and Industrial Building Room 204, Salem, Oregon 97310; and the Technical Data Center, Room N–3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Interested persons are hereby given until September 12, 1977, in which to submit written data, views, and arguments concerning whether the supplement should be approved or disapproved. Such submissions are to be addressed to the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Regional Administrator. If the Regional Administrator finds that substantial objections are filed which relate to the proposed rejection, an informal hearing on the subjects and issues shall be held.

The Regional Administrator shall consider all relevant comments, arguments, and requests submitted in accordance with the notice and thereafter initiate further proceedings, if necessary.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608, 29 U.S.C. 667).

Signed at Seattle, Washington this 12th day of April 1977.

RICHARD L. BEESTON,
Acting Regional Administrator, Occupational Safety and Health Administration.

[FR Doc77-23599 Filed 8-15-77;8:45 am]

WASHINGTON STATE STANDARDS

Intent to Reject

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 16, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. 29 CFR 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

By letter dated March 16, 1977 from partment of Labor and Industries, Department of Labor and Industries, to James W. Lake, Regional Administrator, Occupational Safety and Health Administration, the State submitted a standard in response to Federal standard changes, comparable to 29 CFR 1928.51, Roll-Over Protective Structures (ROPS) for Tractors Used in Agricultural Operations. Having reviewed the State submission in comparison with the Federal standard, it appears that the State standard is not at least as effective as the comparable Federal standard; therefore, in accordance with 29 CFR 1953.23 (d)(2) rejection of the standard is currently at issue before the Regional Administrator.

2. *Issues.* The State has adopted an exemption from the roll-over protective structure requirements for track-type agricultural tractors, which does not appear in the corresponding OSHA standard 29 CFR 1928.51(b)(1) and (b)(5).

The Washington standard states:

WAC 296-306-200 ROLL-OVER PROTECTIVE STRUCTURES (ROPS) FOR TRACTORS USED IN AGRICULTURAL OPERATIONS

General Requirements:

(1) Scope. Agricultural tractors manufactured after October 25, 1976, shall meet the requirements in this section.

(2) Roll-over protective structure. A roll-over protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in subsection (6) of this section, ROPS used on wheel-type tractors shall meet the test and performance requirements of WAC 296-306-250 through WAC 296-306-25023 and ROPS used on track-type tractors shall meet the test and performance requirements of WAC 296-306-260 through WAC 296-306-270. (See ROPS Design and Testing Criteria Addendum.)

(6) Exempted uses. Items (2) and (3) of this section do not apply to the following uses:

(a) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(b) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(c) Tractors while used with mounted equipment which is incompatible with ROPS (e.g. cornpickers, cotton strippers, vegetable pickers, and fruit harvesters.)

(d) Tract-type agricultural tractors whose overall width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than 7-miles per hour, when used only for tillage or harvesting operations and while their use is incidental thereto, and which:

(i) Does not involve operating on slopes in excess of 40 degrees from horizontal, and

(ii) Does not involve operating on slopes in excess of 40 degrees from horizontal, and

(iii) Does not involve operating in close proximity to irrigation ditches, streams or other excavations more than two (2) feet deep which contain solpes of more than 40 degrees from horizontal.

The Federal standard states:

§ 1928.51

. . . . . .

(b) General requirements. Agricultural tractors manufactured after October 25, 1976, shall meet the following requirements:

(1) Roll-over protective structure. A roll-over protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in paragraph (b)(5) of this section, ROPS used on wheel type tractors shall meet the test and performance requirements of § 1928.52 or § 1928.53 of this part or § 1926.1002 of Part 1926, and ROPS used on track type tractors shall meet the test and performance requirements of § 1926.1001 of Part 1926.

(5) Exempted uses. Paragraphs (b)(1) and (b)(2) of this section do not apply to the following uses:

(i) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(ii) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(iii) Tractors while used with mounted equipment which is incompatible with ROPS (e.g. cornpickers, cotton strippers, vegetable pickers, and fruit harvesters).

One of the issues raised at the public hearings that were held during the promulgation process leading to adoption of the OSHA standard was the exemption of track-type tractors. Evidence presented at that time demonstrated that track-type tractors used in agriculture are, indeed, subject to roll-over. (A more thorough discussion of this issue is found in 40 FR 18256 dated April 25, 1975.) Therefore, an exemption for track-type tractors was not included in the Federal standard.

Based on the foregoing, the exemption of roll-over protective structures from these tractors is not considered to be at least as effective as the OSHA standard in that the absence of this overhead protection exposes the tractor operator to death or serious physical harm in the event of a tractor roll-over.

3. *A copy of the supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Interested persons are hereby given until September 15, 1977, in which to submit written data, views, and arguments concerning whether the supplement should be approved or disapproved. Such submissions are to be addressed to the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objects with respect thereto within the time allowed for comments with the Regional Administrator. If the Regional Administrator finds that substantial objections are filed which relate to the proposed rejection, an informal hearing on the subjects and issues shall be held.

The Regional Administrator shall consider all relevant comments, arguments, and requests submitted in accordance with the notice and thereafter initiate further proceedings, if necesary.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608, 29 U.S.C. 667.)

Signed at Seattle, Washington this 13th day of May 1977.

JACK R. JONES,
Acting Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77-23597 Filed 8-15-77;8:45 am]

WASHINGTON STATE STANDARDS

Intent to Reject

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated October 7, 1976, from John Hillier, Assistant Director, to James Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1926, as published in the FEDERAL REGISTER (39 FR 22801) dated June 24, 1974. These standards, which are contained in WAC 296 Chapter 155 of the Washington Safety Standards for Construction, were promulgated after public hearing held on February 19, 1976.

Having reviewed the State submission in comparison with Federal standards, it appears that the State standards are not at least as effective as the comparable Federal standards. Therefore, in accordance with 29 CFR Part 1953, rejection of the State standard is currently at issue before the Regional Administrator.

2. *Issues.* (a) The State has adopted in its General Requirements an original standard that is applicable to all types of scaffolds, except needle beam scaffolds and floats. A corresponding standard does not appear in the General Requirements of the OSHA Construction Standards.

The Washington standard reads as follows:

WAC 296-155-485(1)(e) Guardrails and Toeboards. Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beam scaffolds and floats. The guardrail shall not be more than 18 inches from the edge of the outside platform plank on the outside face (opposite the building wall or structure except on plasterer's and lather's scaffolds as permitted by WAC 296-155-485(18)1). On the inside face (next to building or structure) the scaffold shall be as close to the building or structure as possible, but in no case shall the platform planks be more than 18 inches from the building or structure unless a standard guardrail is provided on the inside face of the scaffold. Scaffolds 4 feet to 10 feet in height, having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails and toeboards installed on all open sides and ends of the scaffold platform.

The OSHA standards which apply to the above situation read as follows:

29 CFR 1926.451(a)(4). Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beam scaffold and floats. Scaffolds 4 feet to 10 feet in height, having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

Section 1926.502(b) defines floor opening as—

"An opening measuring 12 inches or more in its least dimension in any floor, roof, or platform through which persons may fall."

Section 1926.500(b)(1) states:

"Floor openings shall be guarded by a standard railing and toeboards or cover." • • •"

A review of the State standard indicates that 18-inch platform openings are permitted before a guardrail is required between the outside vertical scaffold members and the edge of the outside plank of the scaffold platform and between the building wall and the edge of the inner plank of the scaffold platform. The OSHA standards do not allow unguarded openings in the scaffold platform over 12 inches to prevent employees or objects from falling.

The adoption of this original State standard is not considered at least as effective as the OSHA standard in preventing employees or objects from falling through these platform openings which can cause death or serious physical harm to employees engaged in construction employment.

(b) The State has adopted an original scaffold guardrail standard for the plastering and lathing industry that is applicable to plasterers' and lathers' tubular welder frame scaffolds. A corresponding standard does not appear in the OSHA Construction Standards.

The Washington standard reads as follows:

WAC 296-155-485(18)(i) Plasterers' and Lathers' Tubular Welded Frame Scaffolds.

The outside face (opposite the building wall) of the scaffold shall be fully cross-braced with a horizontal continuous guardrail attached to the lower cross-brace lock pins. (See Figure J-1.) (Note: Figure J-1 permits the variable height cross diagonal bracing to act as a guardrail with an added member as a midrail.)

The general OSHA standard which applies to this situation reads as follows:

29 CFR 1926.451(a)(5). Guardrails shall be 2 x 4-inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be a minimum of 4 inches in height.

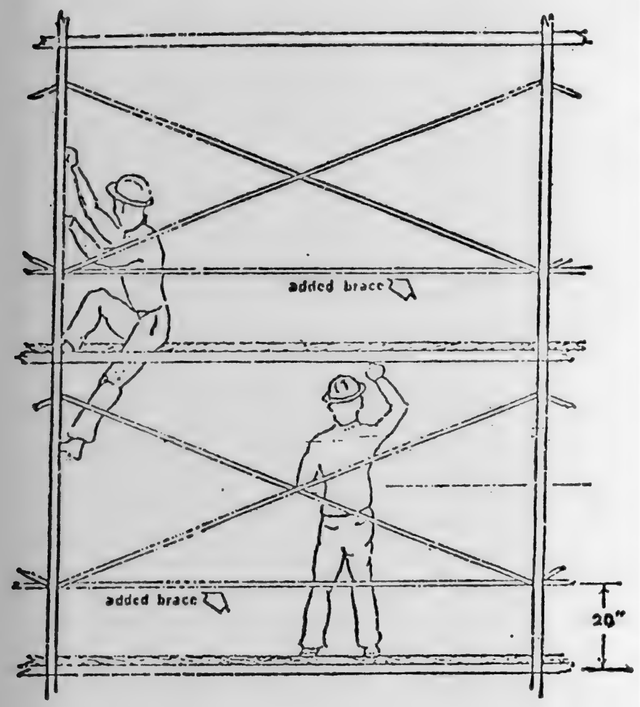
A review of Figure J-1 of the State standard indicates that tubular metal

cross (X) bracing is a permissible substitute for a standard guardrail when augmented with a horizontal continuous midrail (guardrail). Toeboards are not required.

The adoption of this original State standard with its procedure of providing employee protection, as indicated in Figure J-1, by allowing the variable height cross diagonal bracing to act as a guardrail, with an added member as a midrail is considered not at least as effective as the OSHA guardrail standard 29 CFR 1926.451(a)(5) in that the required approximate height of 42 inches for the top rail is not maintained the full distance between the vertical supports and is in fact reduced to approximately 20 inches at the lowest points.

FIGURE J 1

WELDED TUBULAR SCAFFOLD
Plasterers-Lathers



BACK BRACE DETAIL

(c) The State has adopted an original scaffold platform standard for the plastering and lathing industry that is applicable to plasterers' and lathers' tubular welded frame scaffolds. A corresponding standard does not appear in the OSHA Construction Standards.

The Washington standard reads as follows:

WAC 296-155-485(18) (k) and (l) Plasterers' and Lathers' Tubular Welded Frame Scaffolds.

(k) The outrigger plank shall be no more than 18 inches from the finished wall.

(l) The scaffold platform shall be planked to leave no more than a 22 inch maximum opening between the outside plank and the outside vertical member of the scaffold frame. (See Figure J-2.)

The comparable OSHA standard reads as follows:

29 CFR 1926.451(a)(4). Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor.

Section 1926.502(b) defines floor opening as—

"An opening measuring 12 inches or more in its least dimension in any floor, roof, or platform through which persons may fall."

Section 1926.500(b)(1) states:

"Floor openings shall be guarded by a standard railing and toeboards or cover * * *"

A review of the State standard indicates that a platform opening up to 22 inches wide, between the outside vertical scaffold members and the edge of the outside plank of the scaffold platform, and another floor opening up to 18 inches wide, between the building wall and the edge of the inner plank of the scaffold platform, are permitted before a guardrail is required.

The adoption of this original State standard is not considered to be at least as effective as the OSHA standard which limits floor openings to 12 inches in order to prevent employees or objects from falling through these platforms opening which can cause death or serious injury to employees engaged in the plastering or lathing industry.

(d) The State has inserted a "Note" after their standard WAC 296-155-18(1) that is applicable to scaffolds which are three frames high or less. A corresponding note does not appear in the comparable OSHA Construction Standards. The Note reads as follows:

The scaffold frame may be utilized to travel from one working level to another working level, provided the scaffold is of the type typified in Figure J-2.

Comparable OSHA standards read as follows:

29 CFR 1926.451(a)(13). An access ladder or equivalent safe access shall be provided.

29 CFR 1926.450(a)(1). General Requirements: (1) Except where either permanent or temporary stairways or suitable ramps or runways are provided, ladders described in this subpart shall be used to give safe access to all elevations.

29 CFR 1926.450(a)(5). Fixed ladders shall be in accordance with the provisions of the American National Standards Institute. A 14.3-1956 Safety Code for Fixed Ladders.

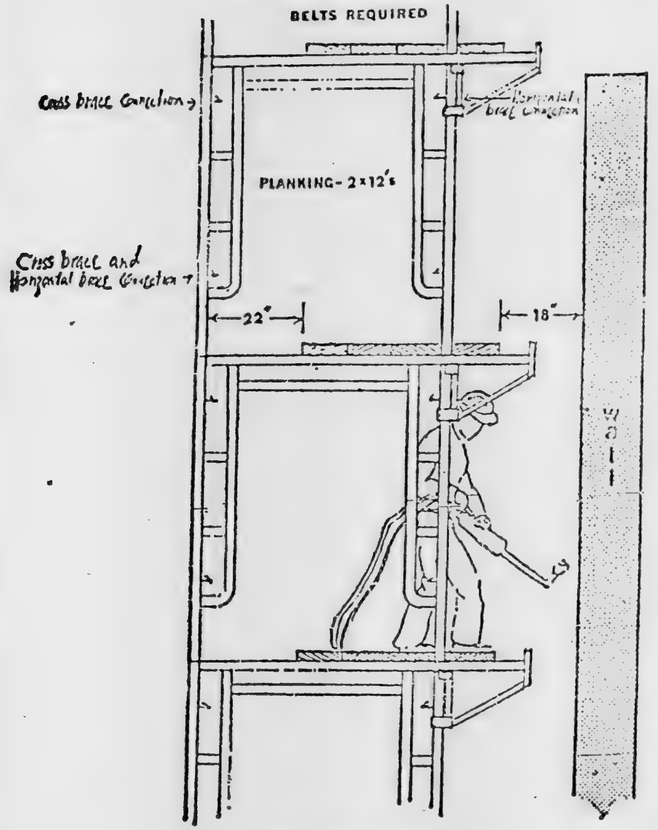
The ANSI standard, A 14.3-1956, Safety Code for Fixed Ladders, requires a minimum distance of 16 inches between the side rails of fixed ladders and a maximum spacing of 12 inches from center line to center line of the ladder rungs.

A review of the State "Note" and Figure J-2 indicates that the scaffold frame, which appears to have a rung spacing of nearly twice that required by the OSHA standards, and a distance between the side rails of approximately one-half of that required by the OSHA standards, provides in its rung design unnaturally high steps and deficient footing which can cause employees to lose their footing resulting in falls.

The adoption of the State "Note" is not considered at least as effective as the OSHA standards in preventing employee falls that could result in death or serious injury.

FIGURE J-2

WELDED TUBULAR SCAFFOLD
Plasters-Lathers



FRAME DETAIL

3. *A copy of the supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174; Department of Labor and Industries, General Administration Building, Olympia, Wash. 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Interested persons are hereby given until September 15, 1977, in which to submit written data, views, and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Wash. 98173, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Regional Administrator. If the Regional Administrator finds that substantial objections are filed which relate to the proposed rejection, an informal hearing on the subjects and issues shall be held.

The Regional Administrator shall consider all relevant comments, arguments, and requests submitted in accordance with the notice and thereafter initiate further proceedings, if necessary.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608, 29 U.S.C. 667).

Signed at Seattle, Wash., this 27th day of April 1977.

JACK R. JONES,
Acting Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77-23598 Filed 8-15-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR MINORITY PROGRAMS IN SCIENCE EDUCATION

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Committee for Minority Programs in Science Education.

DATE: September 1-2, 1977.

TIME: 9:00 a.m. each day.

PLACE: Room 651, 5225 Wisconsin Avenue NW., Washington, D.C.

TYPE OF MEETING: Open.

CONTACT PERSON:

Ms. Fran Watts, Staff Assistant, Science Education Directorate, National Science Foundation, Room W–600, Washington, D.C. 20550.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Room 248, Washington, D.C. 20550.

PURPOSE OF ADVISORY COMMITTEE: To assist in the evaluation and assessment of activities within the Minority Centers for Graduate Education Program and other ethnic minority-focused Foundation programs.

AGENDA:

SEPTEMBER 1

Status of FY 1978 Budget for Science Education.

Plans for New Minorities Fellowship Program.

Resource Center for Science and Engineering Program Development.

Priority areas where New Programs should be developed.

Need to Increase Emphasis on Support of Engineering Projects.

SEPTEMBER 2

Mechanism(s) for Providing Released Time for Minority Faculty.

Results of Study of Fellowships Programs Application Evaluation Process.

Consideration of Recommendations that Address Separate Problems of the Various Minority Groups.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 10, 1977.

[FR Doc.77-23527 Filed 8-15-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 9, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Followup to Holder on Intent to Foreclose—LCS:

26–8801, on occasion, loan holders, Warren Topelius, 395–5872.

DEPARTMENT OF LABOR

Employment and Training Administration:

National Program for Selected Population Segments Study, MT–282, single time, participants in DOL job training programs, Strasser, A., 395–5867.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:

State Motor Vehicle Registration Fees and Other Receipts, Initial Distribution by Collecting agencies, PR–566, annually, 50 States, District of Columbia, Puerto Rico, Guam, American Samoa, Strasser, A., 395–5867.

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration:

National Longitudinal Surveys, Survey of Work Experience of Young Women—1975 Questionnaire and Advance Letter, LGT–481, LGT–483, annually, women between the ages of 14 and 24 in 1968, Strasser, A., 395–5867.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census:

Vending machines (coin operated), MA–35U, annually, manufacturing establishments, Marsha Traynham, 395–4529.

VELMA BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-23625 Filed 8-15-77;8:45 am]

SUSQUEHANNA RIVER BASIN COMMISSION

SOUTH HARRISBURG LOCAL FLOOD PROTECTION PROJECT

Public Meeting

The Susquehanna River Basin Commission and U.S. Army Corps of Engineers, Baltimore District, will hold a joint public meeting to receive public reaction and comment on the proposed local flood protection project for South Harrisburg, Dauphin County, Pa. The meeting will be held on September 6, 1977, beginning at 7:00 p.m. in the College Center, Harrisburg Area Community College, 3300 Cameron Street, Harrisburg, Pa.

Designed to mitigate Agnes flood flows, the proposed project's main features are as follows:

(1) A wall, beginning at high ground just south of Chestnut Street, that would run southward along the north side of Second Street to high ground at the Junction of Paxton and Second Streets. From the high ground at Paxton Street, the wall would run along the riverside of the electrical substation, then south along the railroad passing behind the shipoke area to the southern edge of I–83. Then, the wall would run westward to the riverfront levee.

(2) A levee that would begin where the wall ends and run south along the Susquehanna River to near the southern limits of Harrisburg; then inland to high ground near the intersection of Cameron and Elliot Streets.

(3) Channel improvements to Paxton Creek that would extend from Wildwood Lake to Paxton Street. At Paxton Street, the flows would be diverted from the natural channel to a point south of I–83, crossing under the Penn Central Railroad tracks and then into the Susquehanna River. The existing channel from Paxton Street to Hemlock Street would be upgraded.

(4) A small detention reservoir that would be built at Asylum Run. This dry-dam would reduce flood flows into Paxton Creek.

Recreational improvements would be part of the proposed project. The recreation features include work at the Asylum Run Detention Reservoir and continuation of the riverfront part along the levee south of I–83. Based on current prices, the overall project construction cost is estimated at $129.8 million. The non-Federal share would be $20.2 million.

The project description is available from either the SRBC located at 5012 Lenker Street, Mechanicsburg, Pa. 17055 or the Corps' office at P.O. Box 1715, Baltimore and Charles Streets, Baltimore, Md. 21203.

The SRBC will review the testimony received at this meeting as part of its evaluation of the proposed project for possible inclusion in the Commission's Comprehensive Plan. Additionally, its findings and recommendations will be included in the Corps' report in connection with any request for authorization of the project.

All interested government agencies and citizens are urged to attend.

ROBERT J. BIELO,
Executive Director.

[FR Doc.77-23562 Filed 8-15-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-200; Customs Delegation Order No. 1 (Rev. 1) amended]

PERFORMANCE OF FUNCTIONS IN CUSTOMS SERVICE

Delegation of Authority

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This document amends a Customs delegation order by delegating authority to make certain decisions under the Freedom of Information and Privacy Acts. The Commissioner of Customs is delegating this authority to enable Customs to respond more promptly to requests under these Acts.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief, Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8467).

SUPPLEMENTARY INFORMATION: Under § 103.3 of the Customs Regulations (19 CFR 103.3) and Appendix C, Subpart A, Part 1 of the Treasury Department Regulations (31 CFR Part 1), the Director, Classification and Value Division, may grant requests for records under the Freedom of Information Act (5 U.S.C. 552) that are directed to Customs Service Headquarters. Those regulations also provide that the Assistant Commissioner, Office of Regulations and Rulings, is the official authorized to deny such requests. Due to a reassignment of functions within the Office of Regulations and Rulings and a desire to respond more promptly to requests for information, the Commissioner of Customs has determined that the Director, Entry Procedures and Penalties Division, should be authorized to grant or deny those requests.

Under Appendix C, Subpart C, 31 CFR Part 1, the Director, Entry Procedures and Penalties Division, may grant requests made under the Privacy Act (5 U.S.C. 552a) that are directed to Customs Service Headquarters. That Appendix also provides that the Assistant Commissioner, Office of Regulations and Rulings, is the official authorized to deny such requests. The Commissioner of Customs has determined that authorizing the Director, Entry Procedures and Penalties Division, to both grant and deny requests made under the Privacy Act that are directed to Customs Service Headquarters will enable Customs to respond more promptly to such requests.

Under section 103.5 of the Customs Regulations (19 CFR 103.5) and Appendix C, Subpart A, 31 CFR Part 1, the Commissioner of Customs will decide all appeals of denials of requests under the Freedom of Information Act. Under Appendix C, Subpart C, 31 CFR Part 1, the Commissioner will also decide all appeals of denials of requests to amend records under the Privacy Act. The Commissioner has determined that, to expedite the administrative review of such denials, the authority to decide appeals under the Freedom of Information and Privacy Acts should be delegated to the Assistant Commissioner, Office of Regulations and Rulings.

Inasmuch as this rule relates solely to agency organization, procedure, or practice, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

This delegation is made under the authority given to the Commission of Customs by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended.

Conforming amendments to the regulations that are affected by this delegation will be prepared

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENT TO DELEGATION ORDER

Customs Delegation Order No. 1 (Revision 1) (T.D. 69–126, 34 FR 8208), as amended, is amended as set forth below:

Paragraph A is amended to read as follows:

A. Assistant Commissioner of Customs, Office of Regulations and Rulings:

Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (supra), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

* * * * *

(b) *Director, Entry Procedures and Penalties Division:*

(1) * * *

(2) * * *

(3) Decisions denying or approving requests under 5 U.S.C. 552 and 5 U.S.C. 552a.

(4) All other decisions in matters arising under provisions of law administered in the Entry Procedures and Penalties Division.

* * * * *

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.77-23564 Filed 8-15-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON REFORM OF THE INTERNATIONAL MONETARY SYSTEM

Meeting

Notice is hereby given that the Advisory Committee on Reform of the International Monetary System will meet at the Treasury Department on September 22, 1977.

The meeting is called in order to obtain the opinions of the participants in the Advisory Committee regarding international monetary questions to be discussed at the annual meeting of the Board of Governors of the International Monetary Fund on September 26–30 and the related meeting of the Interim Committee of the Board of Governors.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set for in 5 U.S.C. 552b(c)(1) and that the public interest requires such meeting be closed to public participation.

Any comment or inquiry with respect to this notice can be addressed to Donald Syvrud, Director, Office of International Monetary Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, (202) 566–5365.

Dated: August 9, 1977.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc.77-23520 Filed 8-15-77;8:45 am]

RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

Antidumping Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that railway track maintenance equipment from Austria is being sold at less than fair value under the Antidumping Act. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

David Mueller, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202–566–5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on September 23 and October 1, 1976, from counsels acting on behalf of the Kershaw Manufacturing Company, Inc., Montgomery, Alabama, and Tamper, Inc., Columbia, South Carolina, respectively, indicating that railway track maintenance equipment from Austria was being sold at less than fair value, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of a "Notice of Reopening of Discontinued Investigation" which was published in the FEDERAL REGISTER of November 1, 1976 (41 FR 47970–71).

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of May 10, 1977 (42 FR 23672).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, railway track maintenance equipment is being or is likely to be sold at less than fair value within the meaning of the section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that all imports of the subject merchandise from Austria were manufactured by Plasser and Theurer, Linz, Austria. Therefore, investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between exporter's sales price and the third country price of such or similar merchandise or the constructed value of such merchandise, as appropriate.

Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales are made to a related purchaser in the United States which in turn sells to unrelated purchasers. Third country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is not sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165) was used in those instances where there were no sales of such or similar merchandise in the home market or to third countries.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and to appropriate third countries during the period March 1, through December 31, 1976, as well as appropriate constructed value information.

c. *Exporter's Sales Price.* For the purpose of this determination of sales at less than fair value, exporter's sales price has been calculated on the basis of the price to unrelated United States customers, with deductions for ocean freight, insurance, inland freight, brokerage and handling charges and U.S. customs duties. Deductions have also been made for cash and quantity discounts, and for selling and warranty expenses, as appropriate.

d. *Third Country Prices.* For the purpose of this determination of sales at less than fair value, the third country price has been calculated based upon the ex-works or delivered price to unrelated customers in Italy, Canada and Egypt, as appropriate. Deductions were made for inland and ocean freight, insurance, handling charges and bank and stamp tax fees, as appropriate. Adjustment for quantity discounts were also made, in accordance with § 153.9(b), Customs Regulations (19 CFR 153.9(b)). In accordance with § 153.10, Customs Regulations (19 CFR 153.10), adjustment was also made for warranty expenses applicable to third country sales, as appropriate.

Adjustment was claimed, under § 153.10 (b), Customs Regulations (19 CFR 153.10 (b)), for commissions incurred in connection with sales to third countries. Commissions incurred vis-a-vis unrelated agents have been adjusted. Adjustments for commissions incurred vis-a-vis related persons have been disallowed, as such commissions represent an intra-company transfer.

Claims have been made for adjustment for selling expenses in third country markets, under § 153.10, Customs Regulations (19 CFR 153.10). These claims have been denied because varified information has not been received documenting actual selling expenses related to the sale of the particular merchandise under consideration in individual third countries. Section 153.10(b), Customs Regulations (19 CFR 153.10(b)) permits allowance only for actual selling expenses.

Claims have been made for differences in merchandise sold in the United States and to third countries. These claims have been allowed to the extent that such differences, based upon material and labor cost differentials, have been documented. Section 153.11, Customs Regulations (19 CFR 153.11) provides that in comparing the exporter's sales price with the selling price for exportation to third countries in the case of similar merchandise, due allowance shall be made for differences in the merchandise. Section 153.11 further provides that, in determining the allowance for such differences, the Secretary shall be guided primarily by differences in cost of manufacture. The term "cost of manufacture" does not include general selling and administrative expenses nor profit. That term does include the costs of materials and direct labor, for which adjustments have been made. Since no evidence has been presented in the instant case with respect to direct factory overhead costs, no adjustments for such costs have been made.

(e) *Constructed Value.* For the purposes of this determination, constructed value has been calculated on the basis of the sum of the cost of materials and of fabrication of the merchandise, an amount for general expenses and profit related to the manufacture and sale of merchandise of the same general class or kind as the merchandise under consideration, and the cost of all containers and coverings used to pack the merchandise ready for shipment to the United States.

f. *Results of Fair Value Comparisons.* Using the above criteria, exporter's sales price was found to be lower than the third country price, or constructed value, as appropriate, of such or similar merchandise. Comparisons were made on approximately 83 percent of the merchandise sold to the United States during the investigative period. Margins were found, ranging from 5 to 42 percent on approximately 75 percent of the sales compared. The weighted average margin on those sales on which margins were found was approximately 32 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKELL, JR.,
Acting General Counsel

AUGUST 10, 1977.

[FR Doc.77-23536 Filed 8-15-77;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Veterans Administration Central Office, 811 Vermont Avenue NW., Washington, D.C. on September 23, 1977 at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202-389-2868), prior to September 21, 1977.

Dated: August 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-23546 Filed 8-15-77;8:45 am]

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Notice of Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Cardiovascular studies	Aug. 29, 1977	7:30 to 11 p.m.	Potomac Room, The Lee House.[1]
Do	Aug. 30, 1977	8:30 a.m. to 5 p.m.	Do.
Nephrology	Sept. 12, 1977	do	Do.
Alcoholism and drug dependence (clinical pharmacology).	Sept. 20, 1977	do	Do.
Respiration	do	do	Conference Parlor No. 2s6, Sheraton-O'Hare Motor Hotel.[2]
Basic sciences	Sept. 23, 1977	7 to 11 p.m.	The Lee House.
Do	Sept. 24, 1977	8 a.m. to 5 p.m.	Do.
Oncology	Sept. 26, 1977	8:30 a.m. to 5 p.m.	Do.
Hematology	Sept. 30, 1977	do	Do.
Gastroenterology	Oct. 3, 1977	do	Room 817, VA Central Office.[3]
Behavioral science	do	2 to 11 p.m.	The Lee House.
Do	Oct. 4, 1977	8:30 a.m. to 5 p.m.	Do.
Immunology	do	7:30 to 11 p.m.	Do.
Do	Oct. 5, 1977	8:30 a.m. to 5 p.m.	Do.
Endocrinology	Oct. 6, 1977	do	Do.
Neurobiology	do	6:30 to 11 p.m.	Do.
Do	Oct. 7, 1977	8:30 a.m. to 5 p.m.	Do.
Infectious diseases	Oct. 9, 1977	do	Loire Suite, Americana Hotel.[4]
Surgery	Oct. 19, 1977	7:30 to 11 p.m.	Mustang Room, Dallas Hilton.[5]
Do	Oct. 20, 1977	8 a.m. to 6 p.m.	Do.

[1] The Lee House, 15th and L Sts. NW., Washington, D.C. 20005.
[2] Sheraton-O'Hare Motor Hotel, 6810 North Mannheim Rd., Chicago, Ill. 60018.
[3] VA Central Office, 810 Vermont Ave. NW., Washington, D.C. 20420.
[4] Americana Hotel, 7th Ave. at 52d St., New York City 10019.
[5] Dallas Hilton, 1914 Commerce St., Dallas, Tex. 75201.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552b(c)(6), title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under the interagency memoranda exemption (exemption (6)) to section 552b(c)(6) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Jane S. Schultz, Ph. D., Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, D.C., (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: August 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-23504 Filed 8-15-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 450]

ASSIGNMENT OF HEARINGS

AUGUST 11, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141663, Robert E. Moore Common Carrier Application now being assigned October 12, 1977 (8 days), at Greensboro, N.C., in a hearing room to be later designated.

MC 142712, Jerry Paul, d.b.a. Jerry Paul Trucking, now being assigned October 18, 1977 (4 days), at Santa Fe, N. Mex., in a hearing room to be later designated.

MC 135236 (Sub-No. 17), Logan Trucking, Inc., now being assigned October 3, 1977 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 87730 (Sub-No. 27), R. W. Bozel Transfer, Inc., now being assigned November 16, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 4405 (Sub-No. 555), Dealers Transit, Inc., now being assigned November 30, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 112288 (Sub-No. 14), Yarborough Transfer Co., now being assigned November 16, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 9859 (Sub-No. 4), Kane Transfer Co., now assigned September 26, 1977, at Salisbury, Md., has been postponed to October 3, 1977, (4 days), at the Old Federal Savings and Loan Bank, 306 Carroll Street, Salisbury, Md.

MC 142880, Victor Ismael Marquez, now assigned October 3, 1977, at Miami, Fla., will be held in Tax Court Room, 1524 Federal Building, 51 Southwest First Avenue

MC 107107 (Sub-452), Alterman Transport Lines, Inc., now assigned October 4, 1977, at Miami, Fla., will be held in Tax Court Room, 1524 Federal Building, 51 Southwest First Avenue.

MC121489 (Sub-No. 12), Nebraska-Iowa Express, Inc., now being assigned November 28, 1977 (3 weeks), at Denver, Colo., in a hearing room to be later designated.

MC 119619 (Sub-No. 96), Distributors Service Co., now assigned September 7, 1977, at Chicago, Ill., will be held in room 1319, Everett McKinley Dirksen Bldg., Chicago, Ill.

MC 138469 (Sub-No. 30), Donco Carriers, Inc., now assigned September 7, 1977 at Chicago, Ill., will be held in room 1319, Everett McKinley Dirksen Bldg., Chicago, Ill.

MC 113855 (Sub-No. 364), International Transport, Inc., now assigned September 8, 1977, at Chicago, Ill., will be held in room 1319, Everett McKinley Dirksen Bldg., Chicago, Ill.

MC 51146 (Sub-No. 479), Schneider Transport, Inc., MC 114457 (Sub-No. 276), Dart Transit Co., MC 114457 (Sub-No. 287), Dart Transit Co., MC 126276 (Sub-No. 161), Fast Motor Service, Inc., MC 118989 (Sub-No. 145), Container Transit, Inc., and MC 2860 (Sub-No. 159), National Freight, Inc., now assigned September 12, 1977, at Chicago, Ill., will be held in room 1319, Everett McKinley Dirksen Bldg., Chicago, Ill.

MC 108053 (Sub-No. 135), Little Audrey's Transportation Co., Inc., now assigned September 14, 1977, at Chicago, Ill., will be held in room 1319, Everett McKinley Dirksen Bldg., Chicago, Ill.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23571 Filed 8-15-77;8:45 am]

[No. 36589]

EXPERIMENTAL PIGGYBACK TRAIN SERVICE

Joint Petition; Order

Present: Dale W. Hardin, Commissioner, to whom this matter has been assigned for action thereon.

By petition filed May 12, 1977, the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milwaukee) and Unit-Trainship, Inc., (UTI) seek an order declaring the lawfulness of the proposed innovative service described in their petition or a finding of exemption under section 12(1)(b) of the Interstate Commerce Act. Replies were filed June 9, 1977, by the Burlington Northern, Inc., and June 13, 1977, by the Union Pacific Railroad Co.

The Milwaukee and UTI propose to establish dedicated non-stop piggyback train service on a round-trip basis with established mutually agreed upon schedules and subject to existing railroad rates applicable on Freight, All Kinds, between Chicago, Ill., on the one hand and Seattle/Tacoma, Wash., and Washington/Portland, Oreg., on the other. UTI, acting in the capacity of a broker, contractually undertakes to provide the Milwaukee with a minimum of 60 loaded or empty trailers or containers three times a week in each direction. In return for the guarantee of a minimum fixed amount of revenue for each 60 unit train, UTI receives a commission equal to 10 percent of the applicable tariff rate applying to the revenue traffic carried by the Milwaukee pursuant to the agreement. UTI receives 20 percent of the tariff rate for revenue traffic offered but not accommodated by the Milwaukee, excluding empty units tendered by UTI to satisfy minimum guarantees. In addition to promoting traffic UTI will prepare a comprehensive manifest for the Milwaukee and take over billing and collecting. Each Monday the Milwaukee will submit a statement of charges and UTI will undertake to remit payment within the specified period less its compensation and credit for each unit not accommodated and for failure to accommodate units.

The Milwaukee on its part agrees to provide and control all rail services necessary to accommodate traffic generated by UTI in accordance with the terms of the agreement. It will pay penalties for its failure to accommodate the agreed upon level of generated traffic, and it will retain sole liability for traffic tendered to it through the agreement that is lost, damaged, stolen or delayed.

Because of the novelty of the experimental proposal, interested persons are urged to participate in the development of a record in this proceeding. All statements should address the underlying lawfulness of the proposal with respect to the applicable provisions of the Interstate Commerce Act, 49 U.S.C. 1 et seq., the Elkins Act, 49 U.S.C. 41(1), and such issues as (1) the status of UTI, (2) whether the proposal constitutes a special service such as would require tariff publication, and (3) the penalty aspect of the agreement.

It is ordered: Pursuant to section 5(a) of the Administrative Procedure Act, 5 U.S.C. 554 (e), and in the exercise of the Commission's sound discretion thereunder, this petition for a declaratory order is granted to determine the lawfulness of the proposed arrangement between petitioners.

Petitioners, the Burlington Northern Inc., and the Union Pacific Railroad Co. are made parties to this proceeding. All other persons desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before September 5, 1977. As soon as practicable the Commission will serve a list of the names and addresses of all persons whom service of statements under the Commission's modified procedure shall be made and the schedule to be followed.

A copy of this order shall be served upon petitioners, the Burlington Northern Inc., and the Union Pacific. Copies shall also be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and given to the public along with a copy of the petition and the attached draft agreement by delivery to the Director, Office of the Federal Register for publication.

Dated at Washington, D.C. this 27th day of July 1977.

By the Commission, Commissioner Hardin.

H. G. HOMME, Jr.,
Acting Secretary.

BEFORE THE
INTERSTATE COMMERCE COMMISSION

Petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. and Unit-Trainship, Inc. for an Order declaring the lawfulness of or a finding of exemption for a proposed experimental piggyback train service.

Docket No. 36589.
Filed: May 12, 1977.

PETITION

Come now the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Railroad) and Unit-Trainship, Inc. (UTI) pursuant to Rule 102 of the Interstate Commerce Commission General Rules of Practice and Section 554(e) of the Administrative Procedure Act, 15 U.S.C. § 554(e) and jointly petition your Commission for an Order declaring the lawfulness of the proposed service described herein or for a finding of exemption under Section 12(1)(b) of the Interstate Commerce Act based on the following facts and for the following reasons:

THE PROPOSED SERVICE ARRANGEMENT PRESENTS A UNIQUE OPORTUNITY FOR INNOVATION IN RAIL TRANSPORTATION SERVICES

Petitioner, Chicago, Milwaukee, St. Paul and Pacific Railroad Co., is a common carrier by railroad subject to Part I of the Interstate Commerce Act. Petitioner Unit-Trainship, Inc. is a broker of rail transportation services, not subject to Part I of the Act and holding no Commission authority under any Part of the Act.

Pursuant to a proposed formal Agreement between Petitioners (draft Agreement attached as Appendix A) an innovative experimental transportation service is proposed to be inaugurated between Chicago and the Pacific Northwest. It is contemplated that active operations could commence within 60 days from the receipt of the order requested by this Petition.

Under the basic terms of the proposed Agreement, UTI will employ its expertise to secure to the Railroad, freight traffic moving on the Railroad's Freight All Kinds rates east and westbound in an amount sufficient to load 30 railroad flatcars, each with two loaded or empty trailers or containers, three times a week in each direction between the Railroad's Bensenville Yard, Illinois and the Railroad's Black River Yard, Washington, on mutually agreed upon schedules. For its part, the Railroad will provide such trains, motive power, cars and crews as are necessary to handle the traffic generated by UTI and maintain the agreed terminal-to-terminal schedules. The Railroad agrees to accept for loading, only such traffic as identified and designated by UTI for transportation in such trains. For this service, UTI guarantees to the Railroad, a minimum fixed amount of revenue for each 60 unit shipment. As the sole compensation for its services, UTI will receive a commission from the Railroad equal to ten percent of the applicable tariff rate applying to the revenue traffic carried by the Railroad pursuant to the Agreement with UTI and twenty percent of the tariff rate for revenue traffic offered to the Railroad by UTI which the Railroad is unable to accommodate for transportation. UTI, however, is not entitled to any compensation based on empty trailers or containers tendered by UTI to satisfy UTI's minimum guarantees. In the event that the Railroad on any occasion is unable to fully perform except for causes beyond its control, credits will be allowed to UTI according to a schedule to be specified in the Agreement and such credits may be deducted by UTI in payment of the Railroad's invoices.

As a measure of protection for the Railroad's incurrence of start-up costs in connection with providing this service, UTI will post with the Railroad its performance bond at an amount to be determined which represents the amount of the Railroad's funds that are committed and expended for the exclusive purpose of initiating this service.

The innovativeness of this experimental service is matched by the simplicity of its operation. It is contemplated by Petitioners that the facilities of this service will be available by contract with UTI to the full spectrum of the shipping public, including manufacturers, consolidators, freight forwarders, shipper's agents, over-the-road truckers, steamship lines, individual customers, etc. UTI will provide the Railroad with a list of all such shippers which through contract with UTI are to utilize this service.

Prior to the scheduled departure time, the Railroad will assemble the required number of empty flatcars along with sufficient motive power and crews. The shipper or his designated cartage company delivers the trailer or container and presents the Bills of Lading or waybills prepared by the shipper or his agent, to the Railroad at the piggyback checkpoint. The Railroad's weights and inspection crew will instruct the driver to drop the trailer or container at a location which the Railroad designates. Thereafter, any movement within the railroad yard and the actual loading onto the flatcars will be performed by railroad directed personnel. At or before the time each train is dispatched, UTI will submit to the Railroad a comprehensive manifest which will include: (1) the name and address of the beneficial owner of each trailer or container on the train, (2) the total loading weight of each trailer or container on the train, and (3) the tariff reference including the applicable rates and charges for each shipment on the train, and (4) the name of the entity to which each trailer or container on the train may be released upon the arrival of the train at the opposite terminal.

At the scheduled time, the train departs and proceeds to its destination non-stop except for necessary servicing and crew and equipment changes and in accordance with the agreed operating schedule. Upon arrival at destination, all handling and movement of the trailers or containers is accomplished by railroad personnel. As at origin, the shipper makes his own arrangements for pick-up and delivery service.

UTI will bill its customers within 48 hours after the trailer or container is released at destination. Under the express terms of the proposed Agreement, each Monday the Railroad will submit to UTI a statement of its charges and UTI will remit within a specified number of days, the amount shown on the Railroad's statement less UTI's compensation and less any credits for units not accommodated or for failure to accommodate by the Railroad.

The potential additional revenue generated by this proposed service will assist the Railroad in its continuing efforts to strengthen its financial and competitive position. As the President of the Milwaukee Road recently testified in another proceeding before this Commission:

"Milwaukee Road, as a functioning railroad system is currently adversely affected in its ability to perform due to a lack of generation of sufficient revenue to support its plant. This lack of sufficient income combined with large plant has compelled the imposition of budgetary contraints that hinder accomplishment of necessary maintenance of both track structure and rolling stock. To perform well for the customer, the railroad must provide consistent service, both in providing suitable cars and in getting the shipper's goods over the road to destination or to connections within a timespan suitable to the shipper. In part, this inability to perform consistently to the shipper's satisfaction has caused the Milwaukee Road to be at a disability in the competitive struggle with other railroads where other conditions are equal, and with its truck and barge competition." F.D. No. 21478 (Sub-No. 4) Prepared Testimony of Worthington L. Smith, page 2, volume 1 of prepared testimony to Application, November 30, 1976.

Petitioners believe that operation of the proposed service presents a unique opportunity to generate additional revenue to the Railroad as well as providing a practical means of offering a consistent service to the shipping public. Under the proposed arrangement, the Railroad is guaranteed a minimum amount of revenue but as traffic under the service increases, so will the revenue derived from it. As discussed above, UTI has agreed to collect all charges from shippers who use the service, and then forward the appropriate amount to the Railroad within a specified number of days, thus relieving the Railroad of collecting individually from the shippers and thus improving the Railroad's cash flow. Furthermore, every time a train moves under this service it carries 100% payloads thereby maximizing the Railroad's utilization of its equipment and optimizing productivity. These factors permit the Railroad to guarantee availability of sufficient equipment and operation according to agreed schedules thus providing the consistency of service contemplated by Petitioners.

UNDER THE PROPOSED SERVICE ARRANGEMENT THE USUAL RESPONSIBILITIES BETWEEN RAILROAD AND SHIPPER REMAIN VIRTUALLY UNAFFECTED

As becomes readily apparent from an analysis of the terms of the proposed Agreement and its intended operation described above, the unique limited involvement of UTI permits shippers to benefit from the guaranteed service provided for under the proposed Agreement and yet the usual responsibilities between the Railroad and the shipper remain virtually unaffected. For example, under the proposal, shippers perform their own loading, counting and sealing at their own locations and make their own arrangements with the Railroad or with a local cartage company of their own choosing for pick-up and delivery service at origin and destination. Shippers or their agents have the responsibility of preparing their own Bills of Lading and submitting them directly to the Railroad. All movements of trailers or containers within the railroad yard and all loading and unloading of railroad owned or leased flatcars is performed by railroad personnel. Under the express terms of the proposed Agreement, while the shipments are in the possession of the Railroad, UTI has no liability to the shipper of the traffic tendered to the Railroad for lost, stolen, damaged or delayed shipments or for damage to the trailers or containers. Any claims that may arise are settled between the Railroad and the shipper directly. In short, the Railroad takes full responsibility for the entire shipment. The movement of the train itself throughout the entire length of the trip between terminals is at all times solely under the control, management and operation of the Railroad by its own employees.

Finally, involvement of UTI does not affect or alter any rules or regulations now in effect between shipper and railroad under piggyback plans, II[1]2, III and IV. Most significantly, movement of all traffic encompassed by this service is according to applicable rates and charges on Freight, all kinds between Chicago and Seattle Tacoma, Washington and Portland, Oregon, currently published in tariffs on file with the Commission. Once a shipper has entered a contract with UTI, the only significant difference from the usual shipper/carrier relationship is that such shipper will pay UTI for the service rather than paying the Railroad directly.

UTI AS A BROKER OF RAIL TRANSPORTATION SERVICES IS NOT REGULATED BY THE INTERSTATE COMMERCE ACT

Consideration of the foregoing factors reveals, Petitioners believe, that the status of UTI regarding the proposed rail service is unique to Part I of the Interstate Commerce Act.

For example, the function of UTI is not included in the term "common carrier" in Part I, Section 1(3)(a) of the Act:

"The term 'common carrier' as used in this part shall include all pipe-line companies; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid as common carriers for hire." 49 U.S.C. § 1(3(a).

Under the proposal, UTI does not engage in the transportation of property as a common carrier for hire. UTI does not hold itself out to the public as a common carrier. UTI does not own or operate a common carrier by railroad nor does it own, lease or otherwise control any trains, railroad cars, tracks or other rail transportation equipment. Under the proposed service Agreement, the Railroad performs all the physical acts of transportation and controls the movement of all trains and rail equipment.

Nor is the status of UTI properly that of a shipper or shipper's agent. Under the proposal, UTI will not ship goods under its own name. All shipments tendered to the Railroad pursuant to the Agreement will be owned by others. UTI will not prepare any of the paperwork required for transporting the goods, nor will it give shipping instructions nor sign Bills of Lading. Its customers have the full responsibility for preparing their own Bills of Lading. Furthermore, UTI does not act on behalf of a particular shipper or group of shippers when dealing with the Railroad. All customers of UTI must deal directly with the Railroad when utilizing the guaranteed service, with the exception of payment which is made directly to UTI. In short, at all times UTI deals with both its customers and the Railroad as an independent contractor.

Finally, the status of UTI is clearly not that of a "freight forwarder" as that term is defined in Part IV, Section 402(a)(5) of the Act: "The term 'freight forwarder' means any person which (otherwise than as a carrier subject to part I, II, or III of this Act) holds itself out to the general public as a common carrier to transport or provide transportation of property, or any class or classes of property, for compensation, in interstate commerce, and which, in the ordinary and usual course of its undertaking, (A) assembles and consolidates or provides for assembling and consolidating shipments of such property, and performs or provides for the performance of break-bulk and distributing operations with respect to such consolidated shipments, and (B) assumes responsibility for the transportation of such property from point of receipt to point of destination, and (C) utilizes, for the whole or any part of the transportation of such shipments, the services of a carrier or carriers subject to part I, II, or III of this Act." 49 U.S.C. § 1002(a)(5).

Notably absent from the proposed arrangement is the assumption of responsibility for the transportation of property from point of receipt to point of destination. Under the express terms of the Agreement, full responsibility for the shipment will remain with the Railroad. Of course, UTI holds no freight forwarder authority from this Commission.

Rather, the status of UTI is more akin to that of a "broker" of rail transportation service. It shall be acting as the Railroad's "super salesman." Brokers, as defined in Part II of the Act, require authority to conduct their operations in connection with motor carrier transportation. However, there is no such requirement in Part I of the Act with respect to rail transportation.

Therefore, Petitioners believe that a "broker" of rail transportation service, such as UTI under the proposed arrangement, and its relationship with the Railroad are not regulated by the Interstate Commerce Act and consequently, no authority is in fact required from this Commission to initiate the service contemplated herein.

NO ADDITIONAL TARIFF PUBLICATION IS NECESSARY TO INITIATE THE PROPOSED SERVICE

Petitioners believe that Section 6(7) of the Interstate Commerce Act is inapplicable and no special tariff publication and filing covering the proposed service is necessary.

Although certain types of contracts for special services have in the past been deemed to constitute an undue advantage to a shipper in violation of the Elkins Act and Section 6(7) of the Interstate Commerce Act,

unless the service is published in a tariff and made available to all. *Chicago and Alton RR. Co.* v. *Kirby*, 225 U.S. 155 (1911); *Union Pacific RR. Co.* v. *United States*, 173 F. Supp. 397 (1959) aff'd 362 U.S. 327 (1960), these cases involve a special service being rendered by the Railroad to a shipper without appropriate tariff authority.

The status of UTI under the proposed service arrangement, as an unregulated broker of rail transportation services has an important bearing on the requirement of tariff publication in Section 6 of the Act. Under the proposed service arrangement, shippers will be protected. All shipments will be made at the applicable rate contained in tariffs published and on file with the Commission. The Railroad will not be granting any special service to any individual shipper or any organized industry group of shippers. The proposed service arrangement is not a mere subterfuge to offer a special service to a particular industry group, as for example, potato growers, lumber companies, orange growers, and the like, whether acting through an association or otherwise. The fact is that no single industry group is involved. As stated above (pp. 3–4) Petitioner UTI's service will be available to the full spectrum of the shipping public, including manufacturers, consolidators, freight forwarders, shipper's agents, over-the-road truckers, steamship lines, as well as individual shippers.

Furthermore, there are at least two other significant points differentiating the proposed service arrangement from a prohibited type of special service:

1. Petitioner UTI has guaranteed coverage of the Railroad's start-up costs in initiating the service and has guaranteed use of the Railroad's services; that is, the service must be paid for by Petitioner UTI whether or not used. Moreover, to the extent that train space is not utilized with loaded trailers or containers, no commissions are payable to Broker;

2. Petitioner UTI has undertaken to guarantee a round trip use of the Railroad's facilities. The significant savings to Railroad in such a complete utilization of Railroad's facilities is self-evident. This feature alone results in the elimination of substantial losses incurred in empty movements or idle storage of railroad equipment. In no other comparable situation is the Railroad assured of such round-trip utilization.

It must be emphasized, moreover, that the service aspects of the proposal are strictly a matter of contract between the Railroad and the unregulated broker who is not a shipper, and the assurances provided for under the proposed Agreement run only between the Railroad and Broker. Since the broker and its relationship with the Railroad are not regulated by the Interstate Commerce Act, the service aspects of the proposal should not be subject to the tariff filing requirements of Section 6(7).

PAYMENT OF A COMMISSION TO UTI DOES NOT VIOLATE THE INTERSTATE COMMERCE ACT NOR THE ELKINS ACT

Under the proposed service arrangement, the Railroad will pay to UTI a commission for brokerage services rendered. Payment of such a commission by the Railroad to a transportation broker such as UTI, does not violate section 6(7) of the Interstate Commerce Act nor the Elkins Act. Although the Supreme Court has held that the Elkins Act prohibits even mere solicitation of rebates by any person, no matter for whose benefit the rebate is sought, *United States* v. *Braverman*, 373 U.S. 405 (1963), no rebate, concession or discrimination whereby property would be transported at a rate less than that named in published and filed tariffs would result under the proposed arrangement. As discussed above, all shippers who wish to use the proposed service are subject to the full tariff charges to obtain the transportation service provided by the Railroad. No reduction in lawful tariff charges occurs. There is no advantage or concession given to one shipper over another. UTI's commission is its compensation for the performance of a valid, tangible service for the Railroad. As one court long ago observed:

"The test by this statute (Elkins Act) is whether the carrier has transported the property at a less rate than that named in the tariff. In determining this question no legitimate expense of doing the business by the carrier should be deducted. The carrier has a right to employ persons to solicit business, just as it has a right to employ clerks and employes of all kinds to do the business, and any payments for such a purpose cannot constitute a rebate, concession, or discrimination within the meaning of the act * * *" United States v. Delaware, L.&W. RR, 152 F. 269, 273 (S.D.N.Y. 1907)

The Railroad would use its freight revenues to pay the broker's commission in the same way it uses its freight revenues to pay its other expenses. Reference to the applicable tariff rates in paragraph 2.2 of the proposed Agreement, dealing with Broker's Commission is for the purpose of computing the amount of UTI's Commission and is not intended nor construed by the parties as a discount, rebate or refund of tariff charges to UTI.

Petitioners emphasize that under the proposed service arrangement, at no time will the Railroad "refund" or "remit" any of the rates, fares and charges to anyone. Since all tariff charges are paid through UTI and therefore UTI itself does not pay any tariff charges, there can be no "refund" of any of the charges to UTI. In effect, UTI forwards the full tariff charges to the Railroad and thereafter the Railroad pays UTI its commission for services rendered according to the formula contained in the proposed Agreement. As a practical matter the forwarding of the collected tariff charges to the Railroad and the payment of the appropriate commission to UTI is proposed to be handled as a single transaction to expedite handling and avoid unnecessary, excessive paperwork and transfer of funds.

THE SEPARATE CONTRACTUAL RELATIONSHIP BETWEEN UTI AND ITS CUSTOMERS IS NOT PART OF THE SUBJECT MATTER OF THIS PETITION

Petitioners, by this Petition, seek an Order of this Commission declaring the lawfulness of the proposed service arrangement between the Railroad and UTI as described above. It is not intended by Petitioners to include as part of the subject matter of this Petition, the separate contractual relationship between the unregulated broker (UTI) and its customers, if any exist. Consequently, Petitioners do not seek to include this latter relationship within the coverage of the declaratory Order or exemption sought by this Petition. Nevertheless, in the interest of full disclosure, a copy of a proposed type of Agreement which will be offered by Petitioner UTI to its customers is attached hereto as Appendix B.

THE PROPOSED SERVICE ARRANGEMENT MEETS THE CRITERIA FOR A FINDING OF EXEMPTION UNDER SECTION 12(1)(b) OF THE ACT

As an alternative to the declaratory Order sought by this Petition, Petitioners request that this Commission find that the proposed service arrangement contemplated by Petitioners, be exempt from the provisions of Part I of the Interstate Commerce Act, pursuant to this Commission's authority in Section 12(1)(b) of the Act. Section 12(1)(b) states in relevant part:

"Whenever the Commission determines, upon petition by the Secretary or an interested party or upon its own initiative, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for a hearing, that the application of the provisions of this part (i) to any person or class of persons, or (ii) to any services or transactions by reason of the limited scope of such services or transactions, is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall, by order, exempt such persons, class of persons, services, or transactions from such provisions to the extent and for such period of time as may be specified in such order."

Petitioners believe that application of the provisions of Part I of the Act, by reason of the limited scope of the proposed service, is not necessary to effectuate the national transportation policy declared in the Act. Rather the implementation of the proposed service will, of itself, effectuate the national transportation policy. Petitioners further believe that application of the provisions of Part I would place an undue burden on Petitioners at the critical stage of initiation of this innovative transportation service and would serve little or no useful public purpose since both the shipping public which uses the transportation service and benefits from it, and the Railroad which provides the service to the public are protected. A determination by this Commission that the proposed service arrangement is exempt from the provisions of Part I of the Act, does not constitute a permanent finding since the Commission has the authority under Section 12(1)(b) to revoke previously-granted exemptions.

Furthermore, as discussed above, whereas Congress has specifically included "broker" within the regulatory scheme applicable to common carriers by motor vehicle in Part II of the Act, Congress has made no such provision for "brokers" of rail transportation services under Part I of the Act. This conspicuous Congressional omission to include "brokers" under Part I of the Act, is entirely consistent with a determination by this Commission pursuant to Section 12(1)(b) that the proposed service arrangement contemplated by Petitioners is exempt from the application of the provisions of Part I of the Act.

WHEREFORE, Petitioners respectfully request that this Commission enter an appropriate Order, declaring the lawfulness of the proposed service described herein or alternatively that this Commission, pursuant to Section 12(1)(b) of the Interstate Commerce Act, determine the proposed service arrangement to be exempt from the provisions of Part I of the Act. Petitioners also hereby respectfully request that the Bureau of Investigations and Enforcement be directed to participate in this proceeding and, if the Commission deems it prudent in the public interest, to monitor the implementation of this experimental transportation concept.

Respectfully submitted,

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

By THOMAS H. PLOSS, Attorney for Petitioner, Chicago, Milwaukee, St. Paul and Pacific Railroad Co., 516 West Jackson Boulevard, Chicago, Ill. 60606.

Unit-Trainship, Inc.

By JACOB BLOOM, Attorney for Petitioner, Unit-Trainship, Inc., 221 North LaSalle Street, Chicago, Ill. 60601.

BEFORE THE INTERSTATE COMMERCE COMMISSION

Petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. and Unit-Trainship, Inc. for an Order declaring the lawfulness of or a finding of exemption for a proposed experimental piggyback train service.

AMENDMENT TO PETITION FOR DECLARATORY ORDER REQUEST FOR EXEMPTION

Supplementing the joint Petition for Declaratory Order Request for Exemption filed in this matter on May 5, 1977, Petitioners respectfully represent that this action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, and said petition is amended to request such finding, pursuant to 49 CFR § 1108.10.

Respectfully submitted,

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

By THOMAS H. PLOSS, Attorney for Petitioner, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 516 W. Jackson Blvd., Room 888, Chicago, Illinois 60606.

Unit-Trainship, Inc.

By JACOB BLOOM, Attorney for Petitioner, Unit-Trainship, Inc., 221 North LaSalle Street, Chicago, Illinois 60601

APPENDIX A

DRAFT AGREEMENT

This Agreement, made this ____ day of ----------, 1977, by and between Chicago, Milwaukee, St. Paul and Pacific Railroad Co., a corporation of Wisconsin, hereinafter referred to as "Railroad," and Unit-Trainship, Inc., a corporation of Illinois, hereinafter "Broker";

Witnesseth,

That Broker as an independent contractor, on the terms hereinafter set forth, offers its services to Railroad, for the purpose of securing to Railroad additional freight traffic to its lines; and

That Railroad is desirous of accepting the services of Broker for said purpose;

Wherefore, for and in the consideration of the sum of Ten Dollars ($10), and other good and valuable consideration, Railroad and Broker agree, the one with the other, as follows:

I. BROKER'S UNDERTAKING

1.1. Broker agrees to use its best efforts to secure and provide to Railroad freight traffic moving on Railroad's FAK rates east and westbound in an amount sufficient to load thirty (30) flatcars each with two loaded or empty trailers or containers, thrice weekly commencing with the week following the execution and delivey of this Agreement by Broker, and continuing for 90 days thereafter, to be transported by Railroad westbound between Railroad's Bensenville Yard, Illinois, and Railroad's Black River Yard, Washington, and eastbound between Black River Yard, Washington, and Bensenville Yard, Illinois, on such schedules as shall be mutually agreed upon between Railroad and Broker.

1.2. Broker agrees to guarantee its performance under Paragraph 1.1 hereof by first posting with Railroad its performance bond (or other chose in action assigned to Railroad) in the amount of $------ as a condition precedent to the effectiveness of this Agreement. The amount of the above-stated performance bond required by Railroad above is represented by Railroad to Broker and accepted by Broker as Railroad's conclusive statement of the amount of Railroad's funds that are committed and expended for the exclusive purpose of initiating the service for Broker as contemplated by this Agreement, and said performance bond shall expire with the net revenues (tariff charges less Broker's commission as specified in Section 2.2 of this Agreement) received by Railroad pursuant to this Agreement equal to said amount. Thereafter, Broker agrees to submit to Railroad such evidence of its assurance of payment to Railroad of Railroad's invoices to Broker as shall be acceptable to Railroad.

1.3. In compliance with Sections 1.1 and 1.2 of the agreement broker guarantees to cause to be tendered to Railroad not less than 60 (but not more than ____) loaded or empty trailers/containers for transportation by Railroad three times per week in a westerly direction from Bensenville Yard, Illinois to Black River Junction (Yard), Washington and like volume tendered three times per week for easterly handling by Railroad from Black River Junction (Yard), Washington to Bensenville Yard, Illinois

1.4. For each such volume shipment Broker guarantees Railroad a minimum fixed amount of revenue as shown in Section 1.6 (A) below. For each pair of loaded or empty trailers or containers offered Railroad over 60 units, Railroad will receive, and Broker guarantees, a fixed amount as indicated in Section 1.6(B) below.

1.5. In the event Railroad is unable to furnish Broker an adequate number of freight cars to accommodate 60 loaded or empty trailers or containers tendered by Broker on a given daily departure, the guaranteed minimum specified in Section 1.6(A) below will be reduced by amounts as indicated in Sections 1.6(C) and 1.6(D) below. For the purposes of Sections 1.3 and 1.5 of this Agreement, the words "tender" and "tendered" are agreed to mean Broker's stated willingness to perform its obligations under this Agreement, which Railroad agrees as assumed to be the case during the term of this Agreement except in the event of inability to perform under this Agreement by reason of the existence of a labor dispute (strike), fire, flood, adverse weather conditions, civil unrest, or other *force majeure* effectively preventing the parties hereto, or either of them, from performing their obligations under this Agreement.

1.6. Broker agrees to accept Railroad's statement of its charges to Broker during the term of this Agreement on each Monday following the effectivenes of this Agreement as specified in Section 1.1 above in the following manner: (Note.)

(A) Minimum charge for each volume shipment, based upon 60 units (i.e. trailers or containers gross 40,000 lb per unit, or less)	$
(B) Plus additional charge for each pair (2) of units tendered	
(C) Less credit for each pair of units not accommodated	
(D) Less credit for failure to accommodate	
Net charge to broker	

NOTE.—Charges (A) and (B) are subject to any future increases or decreases in Railroad's published tariff rates or charges and will be reflected therein concurrently with the effective date of such tariff change(s). Credits under (C) and (D) above, will be adjusted proportionately.

II. RAILROAD'S UNDERTAKING

2.1. Railroad agrees to provide, for the use of Broker, its trains, power, crews, and cars sufficient at all times to load, unload and accommodate the traffic generated by Broker, and to adhere to the terminal-to-terminal schedules agreed upon. Railroad agrees not to accept traffic not identified by Broker as generated by Broker for transportation in such trains as are provided for Broker's use. It is further agreed, however, that the concept of Broker's use does not embrace or include any form of control by Broker over the operation of such of Railroad's trains as are provided for the traffic generated by Broker pursuant to this Agreement, and all control over Railroad's operations is specifically reserved exclusively to Railroad. In consideration of the guaranty of performance herein required of Broker, Railroad agrees that failure of full performance on its part, except for cause beyond its control (as outlined in Section 1.5 hereof), shall result in credits to be allowed to Broker upon the following schedule:

Such credits may be deducted by Broker in the payment of Railroad's invoices

2.2. Railroad agrees to pay Broker, as its sole compensation for its services, sums of money equal to Ten Per Centum (10%) of the applicable tariff rate(s) applying to the revenue traffic carried by Railroad pursuant to this Agreement, and Twenty Per Centum (20%) of the tariff rate for revenue traffic offered Railroad by Broker which Railroad is unable to accommodate for transportation, provided however, that Broker shall not be entitled to any compensation based on empty trailers or containers tendered by Broker to satisfy Broker's minimum guarantees hereunder

III MUTUAL COVENANTS AND AGREEMENT

3.1. While shipments are in the possession of Railroad, Broker shall have no liability to the shippers of the traffic tendered Railroad prusuant to Section 1.1 above for lost, damaged, stolen or delayed shipment, and Railroad agrees that it will not look to Broker for subrogation of any claim by a shipper or Railroad for lost, damaged, stolen or delayed shipment.

3.2. Railroad will accept individual bills of lading by persons not parties to this Agreement, and Broker agrees to identify its customers to Railroad and to submit to Railroad one comprehensive listing or manifest for each train of Broker-generated traffic dispatched by Railroad at or before the time each train is dispatched. Such comprehensive listing or manifest shall include at least the following information:

(A) Name and address of beneficial owner of each trailer or container on the train.

(B) Total lading weight of each trailer or container on the train.

(C) Tariff reference including applicable rates and charges for each shipment on the train.

(D) Name of the entity to which each trailer or container on the train may be released upon the arrival of the train at the terminal.

Railroad will then prepare necessary waybill(s) to accompany the transportation of the traffic from origin ramp facility to destination ramp facility.

3.3. Broker agrees to remit to Railroad sums in the amount specified in Section 1.6 above within ____ days of receipt of the Section 1.6 statement, less its compensation as specified in Section 2.2 and less any applicable credits accuring pursuant to Section 2.1.

3.4. This Agreement shall extend for an initial term of Ninety (90) days from the date of its effectiveness as specified in Sections 1.1 and 1.2 above, and may thereafter be renewed at the option of Broker for additional 90-day periods by written notice to Railroad given not less than twenty days prior to the end of each such 90-day period, until the fifth anniversary of the applicable effective date of this Agreement, whereupon this Agreement shall cease, determine, and expire unless further extended by mutual

agreement of the parties hereto. This Agreement may be terminated or renegotiated at the instance of Railroad whether or not extended in the event that the tariff rates and charges, under which traffic contemplated by this Agreement moves, are reduced Fifteen Per Centum (15%) or more from the level existing on the effective-date of this agreement: Railroad shall notify Broker upon the effectiveness of such tariff reduction, and Broker agrees promptly to meet with Railroad to attempt to renegotiate the terms of this Agreement, and the parties agree in such event to bargain in good faith towards a renewal of this Agreement. If the parties hereto cannot agree on mutually satisfactory terms further to extend the term of this Agreement, this Agreement shall cease, determine, and expire with the effective date of the tariff reduction.

3.5. This Agreement spells out the entirety of the understandings and agreements made between the parties hereto and these parties agree that no other agreements or understandings written or oral, survive the execution of this Agreement. It is agreed by the parties hereto that this Agreement is not intended to be a third-party beneficiary Agreement.

3.6. Broker and Railroad each warrant, the one to the other, that the signatures appearing below attesting to the execution of this Agreement are those of their duly authorized officers and each waives any objection to the effectiveness of this Agreement as ultra vires the corporate authority of Broker and Railroad or as improperly executed.

3.7. If Broker fails to arrange for transportation by Railroad of the full amount of traffic specified in Sections 1.1 and 1.3 above, and if within any consecutive 15 day period, the traffic tendered shall aggregate less than 50% of the minimum amount, unless such tender shall be excused pursuant Section 1.5 hereof, Railroad may in its discretion declare this Agreement terminated. In such event, Railroad shall have not further obligation to furnish the service contemplated herein. Should Railroad waive any breach, such waiver shall not act as a waiver of any other provision of this Agreement and shall not be considered precedent for any later breach.

3.8. In the event that Railroad shall fail to provide the services required by Broker to accommodate the traffic tendered by Broker hereunder, and if within any consecutive fifteen day period such failures shall affect an aggregate of ------% or more of the traffic so tendered unless such failure shall be excused pursuant to Section 1.5 hereof, Broker shall have the right, by notice in writing, to declare this Agreement terminated. In such event, Broker shall have no further obligation to tender traffic as contemplated herein.

IV. CONSTRUCTION AND APPLICATION

4.1. The parties hereto agree that this Agreement contemplates and is to be construed as intending volume trailer/container movements of 60 or more units but in no case more than ------ units, to be transported by Railroad subject to existing Railroad rates and charges applicable on Freight. All Kinds, between Chicago and Seattle/Tacoma, Washington, Portland, Oregon, currently published in tariffs lawfully on file with the Interstate Commerce Commission and shippers/receivers of such freight will be governed by all such publications, and nothing in this Agreement shall be construed as abrogating, altering, or changing any existing rate lawfully on file with said Commission, except as may be provided for in this Agreement.

4.2. In the event that on any date scheduled for the departure of a train on any route provided for herein, Broker shall tender more than the maximum number of trailers or containers specified in the preceding Section 4.1 and if Railroad shall be unable to accommodate such excess on the unit train dedicated to Broker hereunder, Railroad agrees that it will use its best efforts to transport such excess trailers or containers, on Railroad's earliest available other regularly scheduled trains to the same destination point, if such other trains shall be scheduled, and do in fact depart, prior to the next scheduled train pursuant to the schedules arranged for Broker under Section 1.3 hereof. Railroad shall compensate Broker for such excess trailers or containers so accommodated, in the same manner provided in Sections 1.6 and 2.2 hereof, provided however, that neither the penalties specified in Sections 2.1 and 2.2, nor the default provisions of Section 3.8 shall be applicable to the handling of such excess trailers or containers.

4.3. This Agreement shall be construed in case of dispute in accordance with Section 4.1 above and the laws of the United States and the State of Illinois.

4.4. In the event this Agreement is found to be unlawful in any respect by the Interstate Commerce Commission or any court of competent jurisdiction, this Agreement shall be considered as terminated and of no further force and effect between the parties hereto and neither party shall have any right against the other hereunder.

4.5. All notices to Railroad required herein shall be addressed to:

Vice President—Traffic, Chicago, Milwaukee, St. Paul and Pacific Railroad Co., 516 West Jackson Boulevard, Chicago, Illinois 60606.

All notices to Broker required herein shall be addressed to:

President, Unit-Trainship, Inc., 500 North Mannheim Road, Hillside, Illinois 60161.

Done at Chicago, Illinois this ------ day of ---------- 1977.

For the Broker:

For Railroad:

APPENDIX B

AGREEMENT

This agreement, made this ---day of ---------- 1977, by and between Unit-Trainship, Inc., an Illinois corporation, hereinafter sometimes referred to as UTI and ----------, hereinafter sometimes referred to as Shipper.

WITNESSETH

Whereas UTI has entered into agreements with the ---------- Railroad, hereinafter referred to as Railroad, and other railroads, pursuant to which such railroad or railroads, have agreed to make available TOFC or COFC train service to UTI, for freight train or trains operating on one or more routes as outlined in the Appendix hereto.

Whereas it is the purpose of the UTI unit train service to be able to provide for shippers a more efficient freight service operating on a stipulated and rigidly maintained schedule with, as near as possible, no stops for drop-off or pick-up, so that a true through train may be operated exclusively for the benefit of Shipper and other shippers who have likewise entered into agreements with UTI for such service; and

Whereas Shipper is engaged in the business of forwarding or consolidating and shipping trailers or containers over one or more of the routes along which UTI may be operating its unit trains, and Shipper is desirous of using UTI's freight trains on one or more of said routes, upon the terms and conditions hereinafter set forth.

Now, therefore, for and in consideration of the sum of Ten Dollars ($10.00) and the mutual promises and undertakings herein provided for, and other good and valuable considerations, UTI and Shipper, agree as follows:

I. UTI'S UNDERTAKING

1.1 Inasmuch as the program for the unit train service is a relatively new one, it is understood and agreed that the initial schedule outlined in the Appendix hereto is on a "trial" nature. After a reasonable test period, appropriate adjustments may be required to reflect actual performance records.

1.2 When UTI is prepared to inaugurate unit train freight service to one or more other routes, appropriate details of schedules will be added to this Agreement by written Appendix executed by UTI and delivered to Shipper.

1.3 UTI represents that its agreements with the railroad or railroads to provide the service contemplated in this Agreement, stipulate that the respective railroads shall provide its trains, power, crews and cars sufficient to load, unload and accommodate the traffic generated by UTI within the limits therein set forth, and to adhere to the terminal-to-terminal schedules agreed upon. The Railroad also agrees not to accept, for shipment on UTI's train, traffic not identified as being traffic concerning which UTI has contracted for with Shipper. However, the furnishing of such unit train for UTI's use as herein contemplated, does not include any form of control by UTI over the operation of the train. All such control over the operation of the train is specifically reserved exclusively to the Railroad. Accordingly, UTI shall have no liability to the Shipper for any traffic tendered to the railroad pursuant hereto, for lost, damaged, stolen or delayed shipments. These claims are handled by Shipper directly with Railroad.

1.4 The undertaking on the part of UTI hereunder to Shipper is limited to a guarantee of a minimum of ------ flat cars on each unit train reserved for UTI. In the event that on any date schedule for the departure of a train on any route provided for herein, Shipper shall tender more than the number of trailers contracted for between Shipper and UTI hereunder, or shall tender more than the maximum number of trailers or containers than can be accommodated on such train, UTI agrees that it will use its best efforts to cause the Railroad to transport such excess trailers or containers, on the Railroad's earliest available other regularly scheduled trains to the same destination point, if such other trains shall be scheduled, and do in fact depart, prior to the next scheduled train pursuant to the schedules arranged for UTI's trains.

1.5 The undertaking on the part of UTI relates to the transportation of trailers or containers, by the applicable Railroad, subject to the Railroad's existing rates and charges applicable on Freight all kinds, published in tariffs lawfully on file from time to time, with the Interstate Commerce Commission. Shipper will be governed by all such publications and nothing in this Agreement shall be construed as abrogating, altering or changing an existing or future rate lawfully on file with said Commission, nor in any way abrogating, altering, or violating any provision of law or any regulation applicable to the transactions contemplated in this Agreement.

II. FORWARDER'S UNDERTAKING

2.1 Shipper hereby guarantees to tender to Railroad not less than ------ containers or trailers on each of the days upon which UTI's unit trains shall operate during the term of this Agreement on the route or routes designated in the Appendix hereto, and pursuant to the provisions of paragraphs 1.3, 1.4, and 1.5 hereof.

2.2 Shipper will prepare its own bills of lading for all shipments tendered to Railroad, as aforesaid, and will further identify each such shipment, in a suitable manner, as being attributed to the UTI unit train.

2.3 Shipper agrees to pay to UTI, an amount equal to Railroad's published tariff for each such trailer or container times the number of trailers or containers tendered, but in no event shall Shipper pay for less than ------ trailers or containers for each UTI unit train which shall operate as provided for in paragraph 1.4 hereof. Such minimum payment shall be paid whether or not Shipper shall tender such minimum number of trailers or containers for each such unit train.

2.4 The payments required pursuant to paragraph 2.3 shall be made by Shipper within three (3) days of the date upon which Shipper shall tender trailers or containers to Railroad; and in the case of the failure to tender the guaranteed number of trailers, within three (3) days from the date that each such unit train shall depart. In the event that UTI shall establish a program at a bank for the purpose of receiving payments from Shipper, as may become payable hereunder, Shipper agrees to establish an appropriate account at such bank and to direct such bank to honor drafts thereon drawn by UTI supported by copies of Shipper's bills of lading evidencing trailers or containers tendered to Railroad for shipment for UTI's account.

2.5 In the event that UTI shall notify Shipper of the inauguration of any additional routes other than as described in this Agreement, and if Shipper shall have trailers or containers for shipment on such route or routes, then Shipper shall tender such shipments to the appropriate Railroad for transportation on UTI's unit trains and all of the provisions of this Agreement shall become applicable to such shipments and such route or routes.

III. MUTUAL COVENANTS AND AGREEMENTS

3.1 This Agreement shall extend for an initial term of ---------- from the effective date of the aforesaid agreement between UTI and Railroad. UTI has the right thereunder to renew its agreement with the Railroad at its sole option for successive periods until the fifth anniversary of the effective date thereof. Each such renewal shall automatically renew this Agreement between UTI and Shipper. In the event of the termination of UTI's agreement with Railroad as therein provided, this Agreement shall automatically terminate.

3.2 In the event that Shipper shall fail:

a. To tender the minimum guaranteed number of trailers or containers as specified in paragraphs 2.1 and 2.3, as may be applicable; and even though Shipper shall make payment for the minimum guaranteed number of units, nevertheless if within any consecutive fifteen day period, Shipper shall fail to tender the minimum number of units; or

b. To extend its guaranteed minimum performance to an increased number of unit trains on the route or routes specified in any appendix hereto, or to use the additional routes as provided in paragraphs 1.2 and 2.5; or

c. To make payment for either the minimum guaranteed units or the actual units shipped over and above the minimum, as provided in paragraphs 1.4, 1.5, 2.3 and 2.4 hereof; or

d. To abide by each of the undertakings herein made by Shipper, then, in each such event, UTI shall have the right in its sole discretion to declare this Agreement terminated by notice to Shipper, in writing, specifying the date of such termination.

3.3 The words "tender" and "tendered" as used herein, are agreed to mean Shipper's performance of its obligations hereunder, except in the event of Shipper's inability to perform by reason of the existence of a strike affecting either Railroad or Shipper, fire, flood, adverse weather conditions rendering performance impossible, civil unrest, or other force majeure effectively preventing either Shipper or Railroad from performing their respective obligations under this Agreement.

IV. CONSTRUCTION AND APPLICATION

4.1 This Agreement spells out the entirety of the understandings and agreements made between the parties hereto and these parties agree that no other agreement or understandings, written or oral, survive the execution of the Agreement.

4.2 UTI and Shipper each warrant that the signatures appearing below attesting the execution of this Agreement are those of their respective fully authorized officers and each waives any objection to the effectiveness of this Agreement as ultra vires the corporate authority of UTI or Shipper, or as improperly executed.

4.3 This Agreement shall be construed in case of dispute in accordance with the laws of the United States and the State of Illinois.

4.4 In the event that this Agreement or any integral provision thereof is found to be unlawful by the Interstate Commerce Commission or by any Court of competent jurisdiction, this Agreement shall be considered as terminated and of no further force and effect between the parties hereto, and neither party shall have any right against the other hereunder.

Dated at Chicago, Illinois, this -- day of ----------, 1977.

UNIT TRAINSHIP, INC. (UTI).

By ----------
President

----------, Shipper.

President

[FR Doc.77-23572 Filed 8-15-77,8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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Civil Service Commission	7

1

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 2:00 p.m., August 23, 1977.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on June 1, 1977.
2. Docket SCP 109a. Amendment 1 re: 1977 gun naval stores purchase program.
3. Docket SCP 31a re: 1977-crop peanut loan and purchase program.
4. Docket HCY 167, Revision 2 re: Program to finance the purchase or construction of farm storage and drying equipment for agricultural commodities.
5. Docket SCO 30 re: Research project—tobacco storage insect control.
6. Memorandum pursuant to Docket CZ 200, Revision 4, as amended, re: Commodities available for sale to foreign governments, international organizations and relief organizations during fiscal year 1977.
7. Docket SNP 307, Amendment 1 re: Fiscal year 1977 commodity purchases and donations.
8. Docket SNP 307, Amendment 2 re: Fiscal year 1977 commodity purchases and donations.
9. Docket CZ 266, Resolution No. 15 re: Commodities available for Public Law 480 during Fiscal year 1978.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Buliding, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1107-77 Filed 8-12-77;9:38 am]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, August 18, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motions to consolidate proceedings on the applications of Wayne J. Franco for renewal of citizen band radio station license and for amateur radio and novice class operator licenses in Des Moines, Iowa (Docket Nos. 21184 and 21306).

General—1—Public Notice relating to deletion of Commission supervised amateur morse code sending tests.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: August 11, 1977.

[S-1104-77 Filed 8-11-77;1:59 pm]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Thursday, August 18, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motion for extension of time to file an amendment in the Bardstown, Kentucky comparative FM broadcast proceeding (Docket No. 21241).

Hearing—2—Appeal from Order of Administrative Law Judge and motion to strike in the Rochester and Cheektowaga, New York, renewal proceeding (Docket Nos. 20791 and 20792).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: August 11, 1977.

[S-1105-77 Filed 8-11-77;1:59 pm]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, August 18, 1977.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

I. Future Meetings.
II. Correction and Approval of Minutes—August 8, 1977.
III. Advisory Opinions—AO 1977-29.
IV. Appropriations and Budget.
V. Pending Legislation.
VI. Liaison with Other Federal Agencies.
VII. Pending Litigation.
VIII. Report on Section 439—State Filings.
IX. Commission Procedures for Responding to Congressional Requests—Commission Memorandum No. 1422.
X. Routine Administrative Matters.

PORTIONS CLOSED TO THE PUBLIC EXECUTIVE SESSION)

Audit Matters, Compliance, Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, press officer, telephone 202–523–4065.

[S-1106-77 Filed 8-11-77;3:36 pm]

5

OCCUPATIONAL SAFETY AND HEALTH.

REVIEW COMMISSION.

TIME AND DATE: 9:00 a.m., August 18, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson, 202–634–7970.

Date: August 12, 1977.

[S-1108-77 Filed 8-12-77;10:41 am]

6

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: August 26, 1977, 8:30 a.m.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014 (Rooms 131 and 265).

STATUS: Open.

MATTERS TO BE CONSIDERED:

8:30 MEETING—EDUCATIONAL AFFAIRS COMMITTEE

(1) Report: Applications Process, Classes of 1981 and 1982; (2) Report: Status of Graduate Education Program; (3) Report: Non-Citizen Participation in Graduate Program; (4) Report: Liaison Committee for Medical Education Visit and Report; (5) Report: Faculty Status; (6) Action: Proposed New Faculty; (7) Action: Salary Approval; (8) Report: Tax Deferred Annuities.

8:30 MEETING—ADMINISTRATIVE AFFAIRS COMMITTEE

(1) Action: USUHS Participation in National Naval Medical Center Retrofit; (2) Report: Naval Facilities Military Engineering Command Construction Report; (3) Report: USUHS Funds Obligation Status FY 77; (4) Action: 1979 Budget.

9:30 MEETING—BOARD OF REGENTS

(1) Report: Educational Affairs Committee; (2) Report: Administrative Affairs Committee; (3) Report: President (Acting) (a) Action: Faculty Appointments, approval; (b) Action: Retrofit of Naval Hospital; (c) Action: 1979 Budget, approval; (d) Action: Salary Approval; (e) Action: General Procedures and Delegations of the Board of Regents; (f) Report: Review of Correspondence. New Business.

SCHEDULED MEETINGS: December 11–12, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Tor Richter, Capt., MC USN, Executive Secretary of the Board, AC 202–227–1990.

[S-1109-77 Filed 8-12-77 10:51 am]

7

CIVIL SERVICE COMMISSION

AGENCY HOLDING MEETING: Civil Service Commission.

TIME AND DATE OF MEETING: 3 p.m., Wednesday, August 17, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Negotiations with insurance carrier under section 890.204 of the Federal Employees Health Benefits Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners (202–632–5556).

CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-1119 Filed 8-15-77;11:00 am]

federal register

TUESDAY, AUGUST 16, 1977

PART II



DEPARTMENT OF JUSTICE

Bureau of Prisons

■

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

DEPARTMENT OF JUSTICE

Bureau of Prisons

[28 CFR, Parts 540, 541, 548, and 551]

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: This document contains proposed rules relating to the control, custody, care, treatment, and instruction of Federal prison inmates. This document represents the Bureau of Prisons' initial publication of these particular rules in the FEDERAL REGISTER and is intended to give the public notice and opportunity to comment on all rules in this area, not just on changes from prior policy.

COMMENT DATES: Comments must be received on or before September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Curtis Sitterson, phone number 202–724–3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 18 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the FEDERAL REGISTER, as proposed rules, those regulations which generally govern the control, custody, care, treatment, and instruction of inmates in Federal correctional institutions administered by the Bureau of Prisons.

The regulations according to which the Bureau of Prisons manages inmates in Federal correctional institutions are presently contained in Policy Statements and Operations Memoranda which have been made available to inmates in each institution's inmate law library and to members of the general public upon request. Most of these regulations have not been published in the Code of Federal Regulations.

While the Bureau of Prisons has frequently received and considered comments from the public relating to Bureau regulations, there has not been a systematic process whereby these comments are solicited and considered before regulations take effect. This publication process will afford interested persons additional notice of Bureau regulations and proposed regulations and will create a formal process for solicitation and consideration of comments.

The Bureau of Prisons does not, however, intend to publish regulations which relate exclusively to the following:

(1) Employment or personnel policies with respect to Bureau of Prisons employees; and

(2) Internal management policies and nonsubstantive interpretations, such as administrative staff manuals, procurement and budget procedures, record keeping and reporting requirements, and instructions issued to implement those regulations which are published.

On May 23, 1977, the Bureau of Prisons published its first group of proposed rules (see 40 FR 26334 et seq.). Comments from the public concerning those proposals are now being considered. In this issue of the FEDERAL REGISTER, the Bureau of Prisons has published proposed regulations which relate most directly to the following:

(1) Telephone Rules and Requirements of Inmates.
(2) Dress and Grooming of Inmates.
(3) Religious Practices and Observances of Inmates.
(4) Controlled Unit Programs.
(5) Inmate Manuscripts.
(6) Inmate Organizations.

In future issues of the FEDERAL REGISTER the Bureau of Prisons will publish (other) regulations which relate to the control, custody, care, treatment, and instruction of inmates.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. Comments received before September 30, 1977, will be considered before final action is taken on these proposals. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. The proposals may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed the following be added to 28 CFR Chapter V: Parts 540, 541, 548, and 551 as set forth below:

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart I—Inmate Telephone Use

Sec.
540.140 Purpose and scope.
540.141 Monitoring of inmate telephone calls.
540.142 Inmate telephone calls to attorneys.
540.143 Responsibility for inmate misuse of telephones.
540.144 Expenses of inmate telephone use.
540.145 Telephone calls for inmates in disciplinary segregation.
540.146 Telephone calls for inmates in admission, holdover status, and for unsentenced inmates.

AUTHORITY: 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509; 28 CFR 0.95–0.99.

Subpart I—Inmate Telephone Use

§ 540.140 Purpose and scope.

An inmate may call a person of his choice outside the institution on a telephone provided for that purpose. Inmate telephone use is subject to limitations and restrictions which the Warden determines are necessary to insure the security, good order, and discipline of the institution and to protect the public. The Warden shall establish procedures and facilities for inmate telephone use. The Warden shall permit an inmate who has not been restricted from telephone use under § 540.143 to make at least one telephone call each three months.

§ 540.141 Monitoring of inmate telephone calls.

The Warden may direct that inmate telephone calls be monitored to provide for the security, good order, and discipline of the institution and to protect the public.

§ 540.142 Inmate telephone calls to attorneys.

The Warden may not apply frequency limitations on inmate telephone calls to attorneys when the inmate demonstrates that communication with attorneys by correspondence, visiting, or normal telephone use is not adequate.

§ 540.143 Responsibility for inmate misuse of telephones.

The inmate is responsible for any misuse of the telephone. The Warden shall refer incidents of unlawful inmate telephone use to law enforcement authorities. If an inmate violates the institution's telephone regulations, the Warden may direct that the inmate's telephone privileges be suspended or that other appropriate disciplinary action be taken.

§ 540.144 Expenses of inmate telephone use.

An inmate is responsible for the expense of inmate telephone use except that the Warden may direct the government to bear the expense of inmate telephone use under compelling circumstances such as when an inmate has lost contact with his family or has a family emergency.

§ 540.145 Telephone calls for inmates in disciplinary segregation.

The Warden shall allow an inmate in disciplinary segregation to make phone calls to the greatest extent practical.

§ 540.146 Telephone calls for inmates in admission, holdover status, and for unsentenced inmates.

To the greatest extent practical each inmate in admission, holdover status, or who is unsentenced shall be permitted to make telephone calls. Normally an inmate in holdover status who is scheduled for transfer may not make a telephone call prior to the transfer. An inmate who is unsentenced shall be allowed to make telephone calls to family members and to his attorney of record when there is evidence that other means of communication are inadequate because of time.

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Subpart D—Control Unit Programs

Sec.
541.50 Purpose and scope.
541.51 Approval.
541.52 Criteria for selection.
541.53 Programs.
541.54 Classification review.
541.55 Release.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–66, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart D—Control Unit Programs

§ 541.50 Purpose and scope.

(a) The Bureau of Prisons establishes Control Unit Programs designed to separate those inmates, whose behavior seriously disrupts the orderly operation of an institution, from inmates who wish to participate in regular institution programs. The Warden shall provide within a control unit humane living conditions and an opportunity to engage in self-improvement activities. An inmate placed in a control unit remains in the unit as long as a definite need for separation is demonstrated.

§ 541.51 Approval.

Recommendations for transfer to Control Unit Programs may be initiated by the appropriate staff or the Institution Discipline Committee, who shall then refer the recommendation to the Warden. Those inmates recommended by the Warden shall be referred to the Regional Director who may approve or disapprove the recommendations for transfer. If approved, the recommendation shall be forwarded to the Assistant Director, Correctional Programs Division, who shall make a final decision approving or disapproving the transfer. The Assistant Director, Correctional Programs Division, shall make all final decisions concerning removal from the Control Unit Program and any change in the Unit's programs.

§ 541.52 Criteria for selection.

(a) An inmate is classified for a control unit if he meets the following criteria:

(1) The inmate poses a serious threat to other inmates or staff if allowed to remain in the general population (e.g., by repeated acts or threats of an assaultive nature, escapes or attempted escapes).

(2) The inmate is ordinarily in segregation.

(3) The inmate shows little or no mental and no major physical disabilities.

(b) A protection case, such as an informant, aggressive homosexual, etc., is not ordinarily considered for a control unit unless he meets all of the general criteria described in paragraphs 1, 2, and 3 of this section.

§ 541.53 Programs.

(a) Minimum guidelines for an inmate program are as follows:

(1) Each program consists of three levels.

(2) Each successive level provides increased privileges and responsibilities, offers some advantage to the participant, and creates an incentive to advance.

(3) Each inmate entering the program shall start on the lowest level and progress through the levels.

(4) Each unit team shall decide, based on the achievement of clearly observable goals, when an inmate is ready to move to another level, subject to review of the Warden.

(5) Standards for all levels may not be less than that of segregation (See § 541.20).

(b) The following are minimum programs acceptable to form a control unit:

(1) *Education.* The Warden shall assign to a member of the education staff the responsibility for developing educational programs in the unit. Staff shall make these education programs available to inmates during evenings and weekends. Staff shall provide study courses for all levels of academic needs in compliance with § 544.30 of this chapter.

(2) *Legal.* The unit shall provide legal materials as required by § 541.54.

(3) *Counseling.* Personnel assigned to the unit are trained in these skills. Unit Managers shall continuously monitor and evaluate counseling efforts.

(4) *Work.* The Warden shall establish an industry or other work program that is custodially suitable.

(5) *Visiting.* In some instances, particularly where an inmate in the unit is a threat to the lives of others, special controlled visiting facilities may be necessary.

(6) *Correspondence.* See § 540.10 of this chapter.

(7) *Religion.* Chaplains shall visit the unit on a regular basis and provide religious programming as provided in Part 548 of the chapter.

(8) *Recreation.* Staff shall arrange a minimum of two hours weekly for recreation and exercise out of the cell. Where group activities are possible, this provision may be extended and become a part of the level rewards system. Various table games and exercise material may be provided which do not disrupt the good order of the institution.

(9) *Leisure activities.* In addition to the regular period of physical exercise, staff shall make available other cultural or leisure activities.

(10) *Commissary.* Purchase of items shall be guided by custodial considerations. Staff shall regulate the degree of commissary participation by level assignments as an incentive for participation in other program areas.

§ 541.54 Classification review.

Staff shall conduct classification review of inmates in the unit in accordance with Part 524 of this chapter. The unit team shall review each case at least monthly and document this by recording any positive and negative changes. Unit staff shall conduct additional personal interviews at specified, frequent intervals, and shall record findings or observations in the inmate's record.

§ 541.55 Release.

An inmate shall be released from the unit when staff find that he no longer poses the degree of threat to others which existed when he was admitted to the unit, and he is ordered released by the Assistant Director, Correctional Program Division, upon the recommendation of the staff. An inmate may be released from the unit in any of the following ways:

(1) An inmate may be returned to the institution from which he was originally transferred.

(2) An inmate may be transferred to another institution which may differ significantly in its degree of controls.

(3) An inmate may be placed directly into the general population of the institution in which the control unit is located.

PART 548—RELIGIOUS PROGRAMS

Subpart B—Religious Beliefs and Practices

Sec.
548.10 Purpose and scope.
548.11 Procedures.
548.12 Diet.
548.13 Rescheduling to observe religious holidays, services, meetings and activities.

AUTHORITY: 18 U.S.C. 4001, 4042; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Religious Beliefs and Practices

§ 548.10 Purpose and scope.

(a) The Bureau of Prisons extends to an inmate the greatest amount of freedom of and opportunity for pursuing individual religious beliefs and practices as is consonant with the maintenance of security and good order of the institution.

(b) When it is considered necessary for security or good order of the institution, the Warden may limit attendance at or discontinue completely a religious activity, service, or meeting. The Warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious activity, service, or meeting on the basis of race, color, nationality, or creed.

(c) All religious services, activities, and meetings must comply with institution regulations.

§ 548.11 Procedures.

(a) Institution Chaplains shall assist in the expansion of an inmate's knowledge and understanding of and commitment to the beliefs and principles of the inmate's religion. The Chaplain shall provide pastoral care, counseling, religious education, and religious instruction to inmates.

(b) Institution Chaplains shall schedule religious services of worship, activities, and meetings. All religious services, meetings, and activities are under the general supervision of the Chaplain, but specific supervision procedures are designated by the Warden. If an institution has no staff Chaplain, a staff member designated by the Warden shall exercise the authority of the Chaplain.

(c) Institution staff may contract with clergy or representatives of faith groups in the community, to help achieve the purposes of the Bureau of Prisons policy regarding religious practices and beliefs of inmates.

(d) No one may disparage the religious beliefs of an inmate, nor deliberately seek to persuade an inmate to change religious affiliation.

(e) An inmate may designate a religious preference. An inmate may change this designation at any time.

(f) Participation in religious activities and attendance at religious services or meetings is voluntary.

(g) An inmate may wear, during a religious service, appropriate personal liturgical apparel. An inmate may retain this apparel in accordance with Part 551 and it may be worn or used only during scheduled religious services or in private devotional observances.

(h) Each inmate who wishes to have religious books, publications, or materials must comply with the general rules of the institution regarding the retention and accumulation of personal property. (See Part 551 of this chapter). Literature, publications, or books about religion or religious teaching are permitted in accordance with Part 551 of this chapter.

§ 548.12 Diet.

(a) An inmate may abstain from eating food items served to the general inmate population which are prohibited by the inmate's religion.

(b) As a once a year accommodation, staff may make arrangements with an inmate religious group to have a special meal which meets liturgical standards of the religion. In most situations, all or most food items to be served are from the main serving line. If the inmates representing the organization request based upon documented necessity, staff may purchase specially prepared food items which meet religious requirements from a food supplier. Funds for the purchase of special food items are provided from—

(1) Funds from Chaplain's budget;
(2) Inmates' commissary accounts; or
(3) Funds provided by the community organization.

§ 548.13 Rescheduling to observe religious holidays, services, meetings, and activities.

(a) The Warden shall endeavor to facilitate the observance of important religious holidays, sacraments, or celebrations that do not coincide with legal holidays, and to facilitate that observance in accordance with specific requirements of a faith group, e.g., fasting, worship, diet, or work proscription. The inmate must initiate a request for specific observance of a religious holiday.

(b) The Warden may relieve an inmate from a work assignment if a religious activity, service, or meeting is also scheduled at that time. The Warden may schedule the inmate to make up work at another time. The Warden shall take into consideration the availability of staff and space within the institution when scheduling religious services, activities or meetings.

(c) The Chapel may be open during the noon meal hour for prayer and worship.

PART 551—MISCELLANEOUS

Subpart A—Inmate Grooming

Sec.
551.1 Policy.
551.2 Mustaches and sideburns.
551.3 Beards.
551.4 Hair pieces.
551.5 Hair length.
551.6 Restrictions and exceptions.
551.7 Bathing and clothing.

Subpart D—Inmate Organizations

Sec.
551.60 Purpose and scope.
551.61 Approval.
551.62 Accountability for funds.
551.63 Dues.
551.64 Meetings.
551.65 Fund raising projects.
551.66 Special activities.

Subpart F—Inmate Manuscripts

551.100 Definition of manuscripts.
551.101 Manuscript preparation.
551.102 Mailing inmate manuscripts.
551.103 Limitations on an inmate's accumulation of manuscript material.

AUTHORITY: 18 U.S.C. 4001, 4042; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A—Grooming

§ 551.1 Policy.

The Bureau of Prisons permits an inmate to select the hair style of personal choice, and expects personal cleanliness and dress in keeping with standards of good grooming and the security, good order, and discipline of the institution.

§ 551.2 Mustaches and sideburns.

An inmate may wear a mustache or sideburns or both.

§ 551.3 Beards.

An inmate may not wear a beard.

§ 551.4 Hair pieces.

An inmate may not wear a hair piece, toupee, or other artificial hair.

§ 551.5 Hair length.

(a) The Warden may not restrict hair length if the inmate keeps it neat and clean.

(b) The Warden shall require an inmate with long hair to wear a cap or hair net when working in food service or where long hair could result in increased likelihood of work injury.

(c) The Warden may require an inmate to wear shorter hair when necessary to wear protective head gear because of a specific job assignment.

§ 551.6 Restrictions and exceptions.

The Warden may impose restrictions or exceptions for documented medical reasons.

§ 551.7 Bathing and clothing.

Each inmate must observe the standards concerning bathing and clothing that exist in the institution as required by standards of 551.1.

Subpart D—Inmate Organizations

§ 551.60 Purpose and scope.

The Bureau of Prisons permits inmate organizations to function for recreational, social, civic, and benevolent purposes.

§ 551.61 Approval.

(a) A Warden may approve an inmate organization when—

(1) The organization has a constitution and bylaws which include its purpose and operation and the duties and responsibilities of the officer; the Warden may amend the constitution and bylaws; and

(2) The organization does not operate in opposition to the security, good order, and discipline of the institution.

(b) Every inmate organization shall be coordinated by a staff sponsor whose duties are performed while in official duty status. Staff may volunteer off-duty time to work with inmate organizations.

§ 551.62 Accountability for funds.

(a) The organization treasurer shall keep financial records to reflect—

(1) Income identified by source; and
(2) Expenditures with applicable receipts.

(b) The treasurer of the inmate organization shall prepare financial statements by April 20, July 20, October 20, and January 20 each year. The treasurer shall present the reports to the membership, the staff sponsor, and the Warden.

(c) The Warden shall require an audit of each inmate organization at least once a year.

(d) The inmate organization may not use its funds to compensate or to furnish gifts to staff or to finance the staff sponsors' activities.

§ 551.63 Dues.

The organization may not make payment of dues a requirement of membership for an inmate who lacks funds. The organization may not collect dues unless the Warden has approved the rate and method of collection.

§ 551.64 Meetings.

All meetings scheduled must be approved by the Warden and supervised by staff. The organization may not hold meetings at times which are competitive with scheduled inmate work and program activities.

§ 551.65 Fund raising projects.

Inmates shall do most of the work in fund raising projects. The Warden may not approve a project that is competitive with the commissary nor one that creates work beyond the resources available to the institution.

§ 551.66 Special activities.

Banquets, community programs, charitable contributions, or the attendance of guests at regular meetings require the Warden's approval. The Warden shall require guests to purchase a meal ticket when attending banquets where the government incurs the cost.

Subpart F—Inmate Manuscripts

§ 551.100 Definition of manuscripts.

"Manuscript" means fiction, nonfiction, poetry, music and lyrics, drawings and cartoons, and other writings of a similar nature.

§ 551.101 Manuscript preparation.

An inmate may prepare a manuscript for private use or for publication while in custody without staff approval. The inmate may use only leisure time to prepare a manuscript.

§ 551.102 Mailing inmate manuscripts.

An inmate may mail a manuscript as general correspondence, in accordance with Part 540, Subpart B of this chapter. An inmate may not circulate his manuscript within the institution.

§ 551.103 Limitations on an inmate's accumulation of manuscript material.

The Warden may limit, for housekeeping, fire-prevention, or security reasons, the amount of accumulated inmate manuscript material.

Dated: August 11, 1977.

SHERMAN R. DAY,
Acting Director,
Bureau of Prisons.

[FR Doc.77-23602 Filed 8-15-77;8:45 am]

federal register

TUESDAY, AUGUST 16, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

AEROSOL DRUG AND COSMETIC PRODUCTS CONTAINING ZIRCONIUM

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75N-0003]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

SUBCHAPTER G—COSMETICS

PART 700—GENERAL

Aerosol Drug and Cosmetic Products Containing Zirconium

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The agency is issuing final regulations declaring that any aerosol drug or cosmetic product containing zirconium is a new drug or an adulterated cosmetic. The Commissioner of Food and Drugs has adopted this position after reviewing an advisory panel report on the use of aerosol antiperspirant products containing zirconium. This regulation will keep these products off the market until safety testing adequate for approval of a new drug application has been done.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 5, 1975 (40 FR 24328), the Commissioner proposed that any aerosol drug or cosmetic product containing zirconium is a new drug or an adulterated cosmetic. Interested persons were given until September 3, 1975, to file written comments regarding this proposal. The Commissioner granted a request by The Procter & Gamble Company for an extension of the comment period to October 3, 1975, by notice published in the FEDERAL REGISTER of August 21, 1975 (40 FR 36574), to permit time for compilation of extensive new data that arguably would resolve the issues of toxicity raised in the proposal. Data and comments filed with the office of the Hearing Clerk, Food and Drug Administration, up to March 26, 1976, have been considered in order to include as much of the complex data as possible in reviewing the issue.

The June 5, 1975 proposal was in response to a report submitted to the Commissioner by the over-the-counter (OTC) Panel on Review of Antiperspirant Drug Products. This panel concluded in their report that zirconium compounds have caused skin granulomas and toxic effects in the lungs and other organs of experimental animals and expressed concern about the potential toxicity of such compounds when used in humans over an extended period of time. Although extensive animal toxicity data were received, these data failed to provide a basis for establishment of a safe level for long-term use. The panel also concluded that the benefit likely to be derived from the use of zirconium-containing aerosol antiperspirants is unsupportable in view of the risks involved. The benefit from the use of zirconium-containing aerosol antiperspirants is available to consumers from other products that are generally recognized as safe.

Therefore, the panel recommended that:

1. All zirconium-containing aerosol antiperspirants be placed in Category II (not generally recognized as safe), and

2. Because conclusive testing to establish the safety might take years to accomplish, the Commissioner should take immediate steps to remove these ingredients from interstate commerce until safety has been demonstrated.

The Commissioner, after an extensive review of the data and conclusions of the panel, adopted their position in the June 5, 1975 proposal. He further concluded that, based on this adverse benefit-to-risk ratio and the recommendation for prompt action, any delay in action regarding the use of these drug and cosmetic products was unjustified and contrary to the public interest. He decided that this action should not await the final report of the OTC Panel on Review of Antiperspirant Drug Products but should be implemented as soon as possible. In fact, companies who submitted data to the panel on zirconium-containing aerosol antiperspirants have already indicated compliance with the panel's recommendation (see below).

The Commissioner reviewed extensively all of the comments to the proposal and all new data submitted through March 26, 1976. Because of the complexity of the data, he further solicited comments from experts in inhalation toxicity specifically for the purpose of reviewing the new data submitted in response to the June 5, 1975 proposal.

The Commissioner is aware that in May 1976 the United States manufacturers of zirconium-containing aerosol antiperspirants announced voluntary cessation of the manufacture of the zirconium complexes discussed in the June 5, 1975 proposal. He also has information that no further manufacturing of OTC products containing this ingredient as an antiperspirant in aerosol form has occurred since that time, although distribution of some previously manufactured products had continued into October 1976.

The agency received 21 comments from consumers supporting the proposed action and 10 from 3 pharmaceutical manufacturers against the proposed action. A summary of the significant comments to the proposal and the Commissioner's conclusions are as follows:

1. *Inhalation toxicity.* One comment stated that zirconium aluminum glycine complex (ZAG) and aluminum chlorhydrate elicited only the effects of a nonspecific irritant. New studies, not available to the Commissioner when he issued his proposal, were submitted by several manufacturers to illustrate this nonspecific irritant effect. They consisted of several short-term, high concentration exposure tests.

The Commissioner recognizes that short-term, acute aerosol animal studies are helpful in establishing a complete toxicity profile. However, he is obliged to assess the toxicity of zirconium compounds in their intended use, i.e., daily application over a period of years, perhaps decades. Acute and subchronic (less than 90 days) toxicity studies, while helpful, cannot be relied upon to extrapolate long-term effects. Granulomatous lung disease is chronic in nature and develops slowly. Long-term studies are particularly important when consideration is given to a large population that may be at special risk by virtue of preexisting impairment of lung function, e.g., asthmatics, individuals with emphysema, or even heavy cigarette smokers. Consequently, the Commissioner concludes that the acute and subchronic studies submitted do not address the considerations needed to resolve the safety problems posed by long-term use.

Some of the studies submitted were 6-month and 1-year interim reports on chronic inhalation studies in monkeys and rats. The submitters stated that the limited results available to date suggest that exposure of monkeys and rats over a 1-year period did not produce obvious pulmonary changes.

While the Commissioner believes that this information is encouraging, the study has not been completed. The Commissioner is unable to make a decision based on such incomplete data. Consequently, the issue of long-term toxicity remains unresolved.

2. *Granuloma formation.* One comment stated that ZAG produced only the effects of foreign body irritants and only after extreme overdosing. A study was submitted in which hamsters were intratracheally infused with ZAG, sodium zirconium lactate, and aluminum chlorhydrate. Lesions were produced in all animals. There were qualitative differences in the lesions produced by ZAG and aluminum chlorhydrate. ZAG tended to produce a lesion with granulomatous inflammation predominating, whereas aluminum chlorhydrate produced, primarily, bronchiolar adenomatoid lesions (a nonspecific microscopic lesion of the terminal bronchioles).

In another study submitted by the same commentor, single intradermal injections of ZAG and sodium zirconium lactate were given to each of nine guinea pigs. All animals were subsequently challenged by intradermal injections of the same compounds. Beryllium sulfate was included as a positive control and elicited the classical exudative skin reaction indicative of delayed hypersensitivity. ZAG was found to produce granulomas in the skin of all animals receiving as little as 1 microgram of zirconium. The lesions were described as a varying combination of necrosis of dermal collagen and giant and epithelial [sic] cells. The Commissioner believes that the presence of epithelioid cells is indicative of a high-turnover granuloma and not the simple deposition of an inert foreign body.

In a third study from the same commentor, sodium zirconium lactate, ZAG, and aluminum chlorhydrate were tested. In this study, ZAG was also shown to cause granulomatous lesions.

The Commissioner concludes that exposure to ZAG and other zirconium salts by the inhalation route still tends to be associated with granuloma formation. Assertions of safety and submissions designed to demonstrate that safety leave this issue unresolved.

3. *Safety versus toxicity testing.* One commentor submitted partially complete long-term inhalation studies to demonstrate safety.

Because toxic effects have been found in animals exposed to one zirconium-containing aerosol antiperspirant, the Commissioner concure with the panel's report that modern toxicological research dictates that the dose-response curve of the material be determined so that safety factors can be estimated under normal usage and potential abuse conditions. The partially complete long-term inhalation studies performed and submitted with the comment contain as insufficient range of dosages to reasonably determine the dose-response relationship. Even with the completion of the long-term inhalation studies, the Food and Drug Administration (FDA) will still lack sufficient data needed to establish such a curve. The Commissioner therefore concludes that the acute, short-term, and chronic toxicity studies submitted by the commentor fail to resolve the long-term toxicity issues raised in the June 5, 1975 proposal, and, even if present chronic inhalation studies were complete, they would still be insufficient to resolve these issues.

4. *Skin irritation and sensitization.* Several comments alleged that no sensitization occurs with ZAG, and studies were submitted to support this contention.

The panel stated that no adequate tests had been submitted to show lack of potential for zirconium to cause irritancy and sensitization. Subsequent to the proposal, studies were presented to assess the potential of zirconium compounds to cause sensitization. In these studies, animals (monkeys, guinea pigs, hamsters, and rabbits) were intradermally administered either a zirconium compound or a control substance (a substance known to produce sensitization: in these experiments, either ovalbumin or beryllium sulfate). From these studies, no evidence was found that ZAG produced sensitization.

The Commissioner reviewed the animal studies designed to produce allergic response or sensitization. Under conditions of the tests, there was no evidence that ZAG produced sensitization. The Commissioner agrees that these animal studies have shown that ZAG does not produce a sensitization reaction under these test conditions and is therefore not considered acutely allergenic. However, he is unable to conclude, on the basis of the data submitted with the comments, that ZAG or other zirconium compounds would not yield sensitizing derivatives if retained for long periods of time in lung tissue. It is not predictable from these tests if there would be sensitization as a result of long-term exposure in humans.

5. *Particle size effets.* Two manufacturers stated that their products have been reformulated such that all zirconium- containing aerosol particles are 10 microns or larger in diameter. According to the Task Group on Lung Dynamics of the International Radiological Protection Commission report (Health Physics 12:173-207. 1966, a copy of which is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857), all inhaled particles larger than 10 microns are deposited in the tracheobronchial and nasopharnygeal regions and will not reach the deep portions of the lung. Particles lodging in the upper respiratory tract would be cleared from the body via natural mucociliary escalator (normal lung clearance mechanism).

The Commissioner agrees that if the production of such a formulation is technically feasible, the possibility of deep lung deposition and the attendant local pulmonary responses discussed in the June 5, 1975 proposal would be substantially reduced. However, the production of aerosols with most of the particles greater than 10 microns does not eliminate all particles that may reach the pulmonary region (respiratory bronchioles and alveoli). Particle size distribution should be determined by impaction (a method for measuring particles) of the macrospherical (larger size) particles with optical or electron microscopy confirmation of the particle size characteristics. Such data have yet to be submitted to FDA.

The change in particle size will change the deposition sites from the deep lung to the upper respiratory tract and nasopharyngeal areas. The Commissioner feels that the anatomical redistribution of deposition sites does not necessarily alter zirconium toxicity, only the possible site of the lesion. Granulomas of the upper respiratory tract and gastrointestinal tract have been reported with other substances.

The Commissioner concludes that further particle sizing data are required and that the potential for zirconium compounds to cause graulomas in the upper respiratory tract or the nasopharyngeal area must also be investigated. In addition, because zirconium-containing aerosol antiperspirants produce relatively insoluble particles, the amount may increase from daily dosing such that the ability of normal lung clearance mechanisms (mucociliary, lymphatic, and circulatory removal) to cope with these particles may be inhibited. Investigation, particularly with respect to the length of time particles remain in the lung, the time required for clearing such particles from the lung, and the specific mechanism of clearance is mandatory.

6. *Cytotoxicity.* Two commentors reported testing in progress to determine the cytotoxic potential of zirconium complexes. These studies were designed to assess the cytotoxic and functional effects on rabbit and human alveolar macrophages (specialized cells in the lung).

The Commissioner has reviewed the limited interim data to date and is aware that the results do not indicate that ZAG or other complexes are directly toxic to replicating cells in vitro. However, the Commissioner believes that the tests to date are not sufficient to allow him to conclude that the complexes, some degradation product thereof, or a catalyzed reaction may not produce toxic cellular effects. Further, these studies have not been completed and the Commissioner concludes that there are insufficient data on which to base a decision.

7. *Allergenicity/hypersensitivity.* Five studies were submitted with two comments to illustrate lack of potential for allergenicity of ZAG. ZAG and other zirconium salts were administered by intratracheal infusion or by means of a skin patch to induce sensitization. The animals were subsequently tested for sensitization with the same material. Although lesions were produced, no sensitization was said to occur.

In all these studies, either the frequency of inoculation was inadequate or the duration was too short. The panel indicated that "single-shot" attempts to induce hypersensitivity were often ineffective. Potent sensitizers like beryllium sulfate have required as long as 16 months to produce sensitivity.

In all these tests, the inoculum was administered either intratracheally or via the skin patch. Inhaled particles possess different characteristics than particles intratracheally infused, insufflated, or injected. They are distributed in a manner completely different from those introduced by other methods. The panel emphasized this point in the proposal. In normal usage, the product would be applied and inhaled daily over a period of years. Inhalation of particles over this period of time could theoretically produce sensitization. Mucosal surfaces provide a uniquely active site for the development of immunologic hypersensitivity. None of the allergenicity/hypersensitivity tests received thus far approximate actual use conditions which allow the Commissioner to make a safety determination.

8. *Chemical identity.* One comment discussed the means of production of the macrospherical material that has an increased average particle size. The comment concluded that the data submitted during the comment period show that ZAG in the macrospherical formulation is chemically identical to the smaller particle size material. Furthermore, a recently developed method for utilizing differential scanning colorimetry to additionally characterize ZAG was reported, thus defining the chemical identity and integrity of ZAG and differentiating it from other zirconium aluminum compounds. However, in contrast,

another comment was received reflecting the opinion of a noted expert on the chemical reactions of zirconium and zirconium complexes. This comment pointed out that the zirconium materials presently used in antiperspirants are complex polymeric compounds. Though chemical analysis has enabled their empirical formulae to be determined, the molecular structures of these materials are still unknown. The polymerization process produces not a single molecular entity, but a range of structures varying in molecular weights. Depending on the solvent system, acidity of the solution, and the time of exposure to that acidity, a variety of polymeric species will form. The polymers can differ not only in molecular weight but can differ topologically (spatial relationship of atoms within the molecule).

The Commissioner agrees that the chemical tests submitted show similarity in chemical identity between the small particle and macrospherical formulation. However, data submitted in the comments show that the identification of ZAG powder by a single analytical technique has not yet been achieved. In addition, in attempting to characterize the regular and macrospherical forms, it was found that both forms of the aerosol antiperspirant material are slightly soluble in human serum albumin. Polymeric zirconium compounds are known to be excellent catalysts for a host of chemical reactions. The Commissioner is concerned that a possible explanation of the different toxic effects reported for zirconium-containing aerosol antiperspirant ingredients may be found in the variety of polymeric species which may form depending on the conditions of chemical reaction.

The Commissioner recognizes that many aspects of zirconium chemistry have not been completely determined and concludes that sufficient data have not been submitted concerning the formation of different polymeric species, the activity of zirconium complexes as catalysts, and the potential interactions of zirconium complexes with cellular constituents.

REGULATORY ACTION

Because it appears that conclusive testing to establish the safety of zirconium-containing aerosol antiperspirants would take years to accomplish, and because during that time millions of consumers would be unnecessarily subjected to risk, the Commissioner has decided to stop movement of these agents in interstate commerce until safety testing adequate for approval of a new drug application has been done, as recommended in the proposed rule making.

Based on the estimates of outstanding stocks of zirconium-containing aerosol antiperspirants currently on the market, and in keeping with the conclusions presented in the proposed rule making that the major safety issue is attributable to prolonged use, the Commissioner does not at this time anticipate that a recall of previously marketed zirconium-containing aerosol drug and cosmetic products is necessary to protect the public health. Upon the effective date of this final order, FDA will conduct an appropriate surveillance program to assure that no substantial stocks of zirconium-containing aerosol drug and cosmetic products remain on the market.

The available toxicological data indicate that zirconium compounds may be responsible for human skin granulomas as well as toxic effects in the lungs and other internal organs of test animals. Accordingly, these ingredients in aerosol formulations are not generally recognized as safe, and the Commissioner considers any drug product containing zirconium in aerosol form to be a new drug. Furthermore, the Commissioner believes that the available information is sufficient to show that aerosol cosmetic products containing zirconium may be injurious to users. The regulation as proposed stated that regulatory action was being taken with respect to cosmetic products "[b]ased upon the lack of toxicological data adequate to establish a safe level for use * * *." The final regulation relating to cosmetic products has been revised to delete this phrase, to identify the risks from zirconium use that are of concern, and to refer to the statutory test for determining when a product is adulterated. This change brings the regulation into conformity with the format used in Part 700, Subpart B, for requirements for specific cosmetic products, which inadvertently was not followed in the proposed regulation. As revised, the regulations states the considerations on which the Commissioner relied in issuing the proposed and final regulations finding that aerosol cosmetic products containing zirconium are adulterated.

This determination does not affect zirconium-containing, nonaerosol antiperspirspants that are being reviewed by the OTC Antiperspirant Panel. Determination of their safety and effectiveness will progress through the normal administrative process of the OTC review (21 CFR 330.10).

The Commissioner has carefully considered the environmental effects of the regulation and, because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact analysis report and environmental impact assessment are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 601(a), 701(a), 52 Stat. 1052-1055, as amended (21 U.S.C. 355, 361(a), 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner is amending Parts 310 and 700 as follows:

1. In Part 310, by adding new § 310.510 to Subpart E to read as follows:

§ 310.510 Use of aerosol drug products containing zirconium.

(a) Aerosol products containing zirconium have been used in over-the-counter drug products as antiperspirants. Based upon the lack of toxicological data adequate to establish a safe level for use and the adverse benefit-to-risk ratio, such aerosol products containing zirconium cannot be considered generally recognized as safe for use in drug products. The benefit from using aerosol drug products containing zirconium is insignificant when compared to the risk. Safer alternative antiperspirant products are available.

(b) Any aerosol drug product containing zirconium is a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act for which an approved new drug application pursuant to section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD-1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that such preparation is safe for the purpose intended.

(d) Any such drug product introduced in interstate commerce after September 15, 1977 that is not in compliance with this section is subject to regulatory action.

2. In Part 700, by adding new § 700.16 to Subpart B to read as follows:

§ 700.16 Use of aerosol cosmetic products containing zirconium.

(a) Zirconium-containing complexes have been used as an ingredient in cosmetics and/or cosmetics that are also drugs, as, for example, aerosol antiperspirants. Evidence indicates that certain zirconium compounds have caused human skin granulomas and toxic effects in the lungs and other organs of experimental animals. When used in aerosol form, some zirconium will reach the deep portions of the lungs of users. The lung is an organ, like skin, subject to the development of granulomas. Unlike the skin, the lung will not reveal the presence of granulomatous changes until they have become advanced and, in some cases, permanent. It is the view of the Commissioner that zirconium is a deleterious substance that may render any cosmetic aerosol product that contains it injurious to users.

(b) Any aerosol cosmetic product containing zirconium is deemed to be adulterated under section 601(a) of the Federal Food, Drug, and Cosmetic Act.

(c) Any such cosmetic product introduced in interstate commerce after September 15, 1977 is subject to regulatory action.

Effective date: This order shall be effective on September 15, 1977.

(Secs. 505, 601(a), 701(a), 52 Stat. 1052-1056, as amended (21 U.S.C. 355, 361(a), 371(a)).)

Dated: August 6, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-23570 Filed 8-15-77;8:45 am]

federal register

TUESDAY, AUGUST 16, 1977

PART IV



DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

WOMEN IN CONSTRUCTION

Proposed Goals and Timetables

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR 60–4]

CONSTRUCTION CONTRACTORS

Affirmative Action Requirements

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION. Proposed rule.

SUMMARY: Specific affirmative action standards for women in construction and the consolidation and standardization of requirements for construction contractors and subcontractors subject to Executive Order 11246 are proposed to promote equal opportunity for minorities and women.

DATE: Comments on this proposal will be received until September 30, 1977.

ADDRESSES: Send comments to the Director, Office of Federal Contract Compliance Programs, Room C3324, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210. Comments received will be available for inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT:

William Raymond, Associate Director, Construction Division, Office of Federal Contract Compliance Programs, Room N3402, Constitution Avenue NW., Washington, D.C., 20210, telephone 202–523–9447.

SUPPLEMENTARY INFORMATION: Executive Order 11246, as amended, prohibits covered Federal contractors and subcontractors from discriminating against any employee or applicant for employment based on race, color, religion, sex or national origin. In addition, contractors and subcontractors are required to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Section 201 of the Order provides that the Secretary of Labor shall adopt rules, regulations and orders as he deems necessary and appropriate to achieve the purposes of the Order. The proposed regulations would apply to Federal and federally assisted construction contractors and subcontractors.

Presently, all nonexempt Federal and federally assisted construction contractors are required to comply with the Equal Opportunity clause. See 41 CFR 60–1.4 (a) and (b). In addition, to implement the affirmative action obligations, Office of Federal Contract Compliance Programs (OFCCP) has developed three different types of affirmative action programs. The programs include Imposed Plans, Hometown Plans, and Special Bid Conditions.

Imposed Plans for the most part cover major metropolitan areas where there is substantial Federal or federally assisted construction, and apply only to those projects which are in excess of $500,000. These areas include Philadelphia, Washington, D.C., San Francisco, St. Louis, Atlanta, Camden, New Jersey, and Chicago. Imposed Plans generally have been published in 41 CFR Chapter 60 but the Philadelphia Imposed Plan has not been codified in the Code of Federal Regulations.

Hometown Plans are tripartite agreements among the contractors and the unions in a local area and the local minority community. The three groups develop a plan for compliance with the Executive Order and present it to the OFCCP for approval. If the plan is approved it constitutes the contractors' obligations under the Executive Order and so long as they comply with the plan they also are in compliance with the Order. Presently, there are 42 Hometown Plans in operation.

Special Bid Conditions apply to contractors working on certain high impact projects which are being constructed in an area which is not covered by a Hometown or Imposed Plan.

These three types of affirmative action plans are not implemented through a regulatory scheme. Rather they are included in the solicitations which precede the award of contracts. One of the problems with this process is that substantial Federal or federally assisted construction is being conducted without benefit of specific affirmative action requirements. Also, contracting officers are confused by the different types of affirmative action plans and sometimes do not know which ones cover what areas or projects. In addition, some contracting agencies do not adhere to the different notices and formats developed by OFCCP. The imposed plans present a special problem because a number of contractors have failed to sign the certification which appears in the appendix of Imposed Plans. Failure to sign the certification frequently has been unrelated to the contractors' commitment to the affirmative action requirements. However, the certification has been held to be a material part of the bid and those bids which have not contained a signed certification have been rejected as nonresponsive. A number of these rejected bids have been the low bids, and the result has been to increase the cost of construction to the Government.

Another deficiency in the present scheme is that no specific affirmative action standards are applicable to women in the construction industry. Although the word minority is defined to include minority women, that definition alone has had little or no impact with respect to women gaining access to the construction industry.

Under present procedures, compliance agencies develop Special Bid Conditions for high impact projects for which they have compliance responsibility. OFCCP approves the Bid conditions which have application only to the project for which they were approved. Accordingly, if a compliance agency fails to develop Special Bid Conditions for a project for which it has compliance responsibility the project is not covered by an affirmative action plan (i.e., if the project is not in an area covered by a Hometown or an Imposed Plan). This would be true even though another project in the same labor market area may be covered by Special Bid Conditions. The Special Bid Conditions do apply, however, to a covered contractor's entire workforce working in the labor market area where the covered project is located although some employees may not work on the project.

To correct these deficiencies, the Department of Labor proposes to delete certain parts in 41 CFR, Chapter 60, to discontinue and terminate the use of certain practices and formats and to promulgate a new 41 CFR Part 60–4. This proposed Part 60–4, however, will not relieve contractors from the obligations it may have under State or local affirmative action or equal employment opportunity programs. Similarly, this proposed Part 60–4 will not relieve the contractor of local resident hiring requirements such as those in the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

Specifically, Parts 60–5 through 60–8 and Parts 60–10 through 60–11 (the published Imposed Plans) are proposed to be deleted. Although Hometown Plans would be continued, signatories to those plans would be required to submit goals and timetables for women to the Director within 45 days from the effective date of the regulations. Or if the Hometown Plan is scheduled to expire prior to or shortly after the effective date of the regulations, signatories to the plan would be required to submit a new Plan which contains goals and timetables for women.

Imposed plans and Special Bid Conditions would be discontinued as a means of complying with the Executive Order. In addition, the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and federally assisted construction (41 FR 32482), commonly known as the Model Federal EEO Bid Conditions, would be discontinued.

The new Part 60–4 would apply to all Federal and federally assisted construction contractors and subcontractors holding Federal or federally assisted construction contracts or subcontracts in excess of $10,000. Procedures also are established which all Federal contracting officers and applicants shall follow in awarding Federal or federally assisted construction contracts. The proposed regulations also would establish procedures administering agencies would follow in making grants which would result in the award of federally assisted construction contracts.

Goals and Timetables

Proposed § 60–4.6 provides that the "Director, from time to time shall issue goals and timetables for minority and female participation" on Federal or federally assisted construction projects. The goals and timetables would cover specific geographical areas and will be based on appropriate workforce, demographic or other relevant data. Each nonexempt construction contract performed in an area in which such goals and timetables

have been issued shall be subject to the goals and timetables. However, a contractor participating in a Hometown Plan covering that same area would comply with the affirmative action requirements and goals and timetables of that plan in lieu of the goals and timetables established pursuant to § 60–4.6. (See proposed § 60–4.5.)

The goals and timetables are proposed to be published in the FEDERAL REGISTER as a notice to the public. Thereafter, all solicitations for Federal or federally assisted construction contracts to be performed in the covered area shall include the goals and timetables as part of the Notice required by proposed § 60–4.2.

As a general rule, the standard geographical unit will be the Standard Metropolitan Statistical Area (SMSA) and where there is no SMSA, a specific county or groups of counties. In some instances it may be necessary to establish goals for an area which may not always coincide with the SMSA, county or groups of counties.

It is not contemplated that goals and timetables will be issued for all areas immediately. It is proposed therefore that if goals are not issued immediately for areas presently covered by a Hometown Plan, Imposed Plan or Special Bid Condition, the goals and timetables contained in those plans or Bid Conditions will be inserted in the solicitations for offers on contracts to be performed in those areas until goals are issued pursuant to § 60–4.6.

New Formats Established

As indicated above, the proposed regulations create a new notice to be included in all solicitations for Federal and federally assisted construction contracts. (See proposed § 60–4.2.) In addition, a new clause is established which will be inserted in all nonexempt construction contracts (see proposed § 60–4.3(a)). The clause is in addition to the standard EEO clauses required by section 202 of the Executive Order and 41 CFR 60–1.4(a) and (b). The new clause contains specific affirmative action standards each construction contractor and subcontractor would be required to undertake as part of its contractual obligation.

These two proposed formats are designed to serve the same purposes which the Bid Conditions now serve. The contract specifications proposed in § 60–4.3(a) would, however, make the most of the present good faith steps of contract requirements. The proposed regulations, for example, require the contractor to implement the standards set forth in paragraph 7 of the contract specifications in § 60–4.3(a) as minimum affirmative action obligations.

This process is expected to eliminate confusion and to bring about greater uniformity in the construction contract compliance program. In addition, it is expected to establish a system by which a contractor's affirmative action efforts can be measured and demonstrated concretely.

Affirmative Action Standards For Women In Construction

The Department's experience with affirmative action has demonstrated that goals and timetables are the most concrete and effective system for implementing the affirmative action obligation in the Executive Order. Since the Executive Order was amended to include sex as a protected class, nonconstruction contractors have been required to take the same types of affirmative action, including goals and timetables, for women as they have for minorities. Construction contractors, however, have not been required to establish goals and timetables for women.

According to the 1970 Census of Population, women constituted 37 percent of the experienced civilian labor force, and 19 percent of all persons 18 years or older with vocational training in trades or crafts. At the same time, however, women constituted only 5 percent of the experienced labor force in craft and kindred occupations, and only 1.2 percent of the experienced construction labor force. The gross disparity between the percentage of women in the labor force and the percentage of women in the construction trades undoubtedly will continue until positive action is taken to ensure that construction jobs are made available to women. A system of goals and timetables for women in construction will, based on prior experience, help to rectify the near total exclusion of female representation in the construction trades.

The interest of women in the construction trades and their availability for employment has been clearly demonstrated. In October, 1975, for example, the OFCCP conducted fact-finding hearings in Baltimore, Maryland, specifically relating to equal employment opportunity in the construction industry. Representatives from EEOC, various women's organizations, and academic institutions testified that discrimination and not the lack of available and interested female applicants is keeping the percentage of women in the construction trades at such a low level. Typical situations described in that testimony involved women trained as construction workers who gained membership in a union local but who were not hired although they stood at the front of the hall or at the top of the referral list, and who were subsequently told at a job site that they would never be hired because they were women. In another typical case a woman gained employment in a craft in which her husband already worked; subsequently both were laid off and after numerous attempts to find work the man was informed that he would not find a job until his wife left the craft.

Further evidence of the interest of and discrimination against women in the construction industry was presented at recent hearings held in California and Washington on the amendments of their State laws to include goals and timetables for women in apprenticeships. The growing number of organizations across the country whose purpose is the placement of women in the construction trades illustrates the high degree of interest and the large number of women interested in pursuing careers in the construction trades.

The longstanding reputation of the trades for excluding women discourages many women from applying for construction jobs. Thus, although many women are inclined toward jobs in the trades, far fewer actually apply. A study by two Stanford University psychologists demonstrates that the number of women applying for jobs in the construction trades would substantially increase were there goals for women. In that study, two groups of female job seekers were given three detailed job descriptions and were asked to rate their interest in the jobs on a scale of 1 to 5, from "not interested" to "extremely interested." Two of the three jobs described were traditionally female jobs and one was a construction job. Half of the booklets contained the following statement under the title of the construction job: "Equal Opportunity for Women. Note: Federal Law Now Requires That Companies Train and Hire a Certain Percentage of Women for the Job of [carpenter] Each Year." The other half of the booklets contained no statement about affirmative action. In the affirmative action group 33 percent of the women indicated a strong interest in the construction job, twice the percentage indicating a strong interest in the other group. Seventy percent of the women in the affirmative action group expressed some degree of positive interest in construction jobs, one and one half as many as the other group. Clearly, there exists an available pool of women interested in applying for construction jobs.

The Maritime Administration which which oversees enforcement of the Executive Order in the shipbuilding industry has provided the Department with some very useful documentation on both the availability of women for construction-related jobs and the positive impact of goals and timetables on the employment of women in those jobs. A number of the jobs in the shipbuilding industry are comparable to jobs in construction; the Maritime experience therefore is particularly useful. In early 1972 the Maritime Administration began requiring goals and timetables for women by shipbuilding contractors. Their experience was that as more women were employed, more women applied. Once women knew that they would be hired without regard to sex, they applied in large numbers. In at least one shipyard the applicant flow is now running at the rate of the normal workforce rate of women in that area. Unquestionably, the key reason for the increase of women in that industry is goals and timetables.

The results achieved in locations where goals for women have been set have been dramatic. In Seattle, Washington, since the imposition of goals for women in city construction, nearly every city construc-

tion project has had at least one women working on the construction site. In California, the imposition of goals has resulted in the placement of 50 percent more women in construction jobs by Women in Apprenticeship, an outreach program operating in San Francisco designed to help place women in the skilled trades. Similarly, although there were only two women on Madison, Wis., construction jobs in 1975, there were, in 1976, after the imposition of goals, 15 women in those jobs.

The exclusion of women from well-paying jobs in the construction industry exists despite persistent efforts among women to break into construction work. Although women have made substantial gains in other nontraditional jobs, the above statistics demonstrate that the exclusion of women from construction work will not be corrected and that the objectives of the Executive Order will not be realized unless positive steps are taken to bring together the female worker and the construction job. Accordingly, it is necessary to establish specific standards of affirmative action for women in the construction industry under Executive Order 11246, a amended. Therefore, the specific affirmative action requirements incorporated into these proposed regulations include specific requirements for ensuring equal employment opportunities for women as well as for minorities.

This document was prepared under the direction and control of William Raymond, Associate Director, OFCCP.

Accordingly, the Department of Labor proposes to revamp the obligations of construction contractors and subcontractors by deleting 41 CFR Parts 60–5, 60–6, 60–7, 60–8, 60–10, and 60–11 and by amending 41 CFR Chapter 60 by adding a new Part 60–4 as set forth below.

Dated: August 8, 1977.

RAY MARSHALL,
Secretary of Labor.

DONALD ELISBURG,
Assistant Secretary, Employment Standards Administration.

WELDON J. ROUGEAU,
Director, OFCCP.

PART 60–4—GENERAL OBLIGATIONS OF CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

Sec.

60–4.1 Scope and application.
60–4.2 Solicitations.
60–4.3 Equal opportunity clauses.
60–4.4 Affirmative action requirements.
60–4.5 Hometown plans.
60–4.6 Goals and timetables.
60–4.7 Effect on other regulations.
60–4.8 Show cause notice.

AUTHORITY: The provisions of this Part 60–4 issued pursuant to sec. 201, E.O. 11246 (30 FR 12319) and E.O. 11375 (32 FR 14303).

§ 60–1.1 Scope and application.

This part applies to all contractors and subcontractors which hold Federal or federally assisted construction contracts or subcontracts in excess of $10,000. The regulations in this part are applicable to a construction contractor's or subcontractor's construction employees who are engaged in performing work at the construction site. This part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts in excess of $10,000. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

§ 60–4.2 Solicitations.

All Federal contracting officers and all applicants shall include the notice set forth below and the specifications set forth in § 60–4.3 of this part in all solicitations for offers involving Federal and federally assisted construction projects, as applicable, designated by the Director pursuant to § 60–4.6 of this part and in all solicitations for offers on Federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part. Administering agencies shall require the inclusion of the notice set forth below and the specifications set forth in § 60–4.3 of this part as a condition of any grant, contract, loan, insurance or guarantee in excess of $10,000 involving federally assisted construction on a project or in a geographical area designated by the Director pursuant to § 60–4.6 of this part.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for each construction trade, are as follows:

Construction trade(s)	Goals for minority participation	Goals for female (minority and nonminority participation)
List individual trades.	Insert ranges for each year.	Insert goals for each year.

These goals shall be used as a measure of the Contractor's efforts to fulfill its specific affirmative action obligations set forth in the specifications for this contract. With respect to women, a single goal without ranges is established and compliance with the goal will be measured against the total work hours performed during each 12-month period.

3. Any successful offeror shall submit the following information to the Contracting Officer or a duly authorized representative within seven (7) calendar days of award of a contract containing these specifications. The Contracting Officer shall provide all such information to the appropriate Executive Order 11246 Compliance Agency in a timely fashion.

(a) A list of the construction trades which will be used, either directly or through subcontractors at any tier, in the performance of the work covered by this solicitation; and

(b) A list of all current construction contracts to which it is a party in any capacity in the covered area or on the project.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" or "project" is (insert description).

§ 60–4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60–1.4(a) of this chapter is required to be included in all nonexempt Federal contracts and subcontracts including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60–1.4(b) is required to be included in all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers and all applicants, as applicable, shall include the specifications set forth below in all Federal and federally assisted construction contracts for projects designated by the Director pursuant to § 60–4.6 of this part and in all Federal or federally assisted construction contracts to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. The "covered area" or "project" means the geographical area or project described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Compliance Agency" means the agency designated by the Director on a contractor, geographical, industry or other basis to conduct compliance reviews and to undertake such other responsibilities in connection with the administration of Executive Order 11246 as the Director may determine to be appropriate.

d. "Minority" includes:

(i) *Black* (All persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) *Hispanic* (All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture of origin, regardless of race);

(iii) *Asian and Pacific Islander* (All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) *American Indian or Alaskan Native* (All persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall (a) notify the responsible compliance agency and (b) physically include in each such subcontract exceeding $10,000 the provisions of these specifications and the Notice setting forth the applicable goals for minority and female participation set forth in the solicitation from which this contract resulted.

3. If the Contractor is participating in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations shall be in accordance with that Plan.

4. The Contractor shall implement the specific affirmative action standards provided in 7 (a) through (o) of these specifications. The goals set forth in the solicitations from which this contract resulted shall be used to measure the Contractor's efforts to meet the affirmative action standards. The goals are expressed as percentages of the total hours of employment and training of minority and female employees the Contractor should achieve in each construction trade on all the Contractor's construction work in the covered area. The percentage of work hours for minority and female employment and training shall be substantially uniform for each craft. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the nonreferral of minorities and women by the union with whom the Contractor has a collective bargaining agreement shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The compliance of the Contractor with these specifications shall be based upon its efforts to achieve maximum results from its actions. The Contractor shall fully document these efforts and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to the construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain records regarding the organizations' response.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant or minority or female referral from a craft union, recruitment source and community organization to the Contractor and make note of what action was taken with respect to each such referred individual. If such individual was sent to the union hiring hall for referral and was not referred back by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reasons, therefore, along with whatever additional actions the Contractor may have undertaken.

d. Provide immediate written notification to the responsible Compliance Agency and OFCCP when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the Contractor, or the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and or participate in training programs for the area which expressly include minorities and women, including upgrading programs, and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7(b) above.

f. Disseminate the Contractor's EEO policy by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; by posting the company's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed; and by providing notice of the policy to unions and training programs for dissemination.

g. Reviewing the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions at least every three months, including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, Foremen, etc., prior to the initiation of construction work at any job site. Minutes shall be recorded identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media; and by providing written notification to and documenting discussions regarding the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, women's and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Three months prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth—both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60–3.

l. Conduct an inventory and evaluation of all minority and female personnel for promotional opportunities on a quarterly basis and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities must be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. To the degree that the efforts of a contractor association, joint contractor-union or contractor-outreach program, or other similar group, of which the Contractor is a member and participant, impacts favorably on the Contractor's obligations under paragraph 7 of these specifications, the compliance agency shall consider such efforts in determining the contractor's compliance with the Order, the regulations and these specifications. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were under utilized even though the Contractor had achieved its standards for women generally.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. If any work under this contract takes place in a period later than the latest period for which goals are provided, the highest goal for that latest period shall apply.

12. The Contractor shall not enter into any subcontract with any person or firm debarred from or known not to be a responsible bidder for Government contracts pursuant to Executive Order 11246, except as provided by regulations in 41 CFR Chapter 60. The Contractor shall have the responsibility to determine whether or not such person or firm has been declared not to be a responsible bidder.

13. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the agency or the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

14. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action, at least as extensive as those standards prescribed in paragraph No. 7 of these specifications, so as to achieve maximum results from its efforts

to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the compliance agency shall proceed in accordance with 41 CFR 60–4–8.

15. The Contractor shall designate a responsible official to (a) monitor all employment related activity to ensure that the company EEO policy is being carried out and (b) to submit reports relating to the provisions hereof as may be required by the Government and (c) to keep records. Records shall at least include for each employee: name, construction trade name, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, and locations at which work was performed. (Clarification of means of displaying these data requirements may be obtained from the responsible Compliance Agency.)

16. Nothing herein provided shall be construed as a limitation upon the application of State or local affirmative action or equal opportunity requirements which establish higher standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program), for work performed pursuant to this contract.

(b) The notice set forth in § 60–4.2 of this part and the specification set forth in § 60–4.3 of this part replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form Shall not be used after the regulations in this part become effective.

§ 60–4.4 Affirmative action requirements.

(a) To implement the affirmative action requirement of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in § 60–4.2 of this part and the specifications in § 60–4.3 of this part in lieu of the Hometown and Imposed Plans (including the Revised Philadelphia Plan (see 41 FR 1578)) and Special Bid Conditions. Until the Director has issued an order pursuant to § 60–4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60–4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved. Except as provided in paragraph (b) of this § 60–4.4, and until further notice, the goals and timetables for women to be inserted in the Notice required by 41 CFR 60–4.2 shall be those goals published this same date in the FEDERAL REGISTER.

(b) Signatories to a Hometown Plan shall have 45 days from the effective date of the regulations in this part to submit goals and timetables for women to the Director for approval. If the Hometown Plan is scheduled to expire prior to or shortly after the expiration of the 45-day period, the signatories should submit for approval a new plan which contains goals and timetables for women. Failure of the signatories to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance Program's approval of the Hometown Plan. At any time the Office of Federal Contract Compliance Programs terminates or withdraws its approval of a Hometown Plan, the Contractors signatory to the Plan shall be covered automatically by the specifications set forth in § 60–4.3 of this part and by the goals and timetables established for that geographical area or project pursuant to § 60–4.6 of this part.

§ 60–4.5 Hometown plans.

A contractor participating, either individually or through an association, in a Hometown Plan shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the Hometown Plan. If a contractor is not participating in a Hometown Plan it shall comply with the specifications set forth in § 60–4.3 of this part and with the goals and timetables for the appropriate area or project as listed in the Notice required by 41 CFR 60–4.2. For the purposes of this part 60–4 a contractor is not participating in a Hometown Plan if it:

(a) Ceases to be signatory to a Hometown Plan;

(b) Is signatory to a Hometown Plan but is not party to a collective bargaining agreement;

(c) Is signatory to a Hometown Plan but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan;

(d) Is signatory to a Hometown Plan and is party to collective bargaining agreements with labor organizations but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan;

(e) Is participating in a Hometown Plan which is no longer acceptable to the Office of Federal Contract Compliance Programs;

(f) Is signatory to a Hometown Plan but is party to collective bargaining agreements with labor organizations which together have failed to make a good faith effort to comply with their obligations under the Hometown Plan.

§ 60–4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover specific construction projects or specific geographical areas. The goals shall be applicable to a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables. Such goals and timetables shall be published as notices in the Federal Register, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60–4.2.

§ 60–4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly 41 CFR 60–1.7, 60–1.8, 60–1.26, 60–1.29, 60–1.30, 60–1.32, 60–1.41, 60–1.42, 60–1.43 and 41 CFR Part 60–3, Part 60–20, Part 60–30, Part 60–40 and Part 60–50.

§ 60–4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive Order, any contract clause, specifications or the regulations in this chapter, the compliance agency shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i)–(iv) of 41 CFR 60–2.2(c)(1). If the contractor does not show good cause within 30 days, it shall take corrective action. If the contractor does neither, the compliance agency shall follow the procedure in subparagraph (2) of 41 CFR 60–2.2(c).

[FR Doc.77–23611 Filed 8–15–77;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

WOMEN IN CONSTRUCTION UNDER EXECUTIVE ORDER 11246, AS AMENDED

Proposed Goals and Timetables Pursuant to Proposed Rule

Regulations (41 CFR Part 60–4) proposed by the Department of Labor in the FEDERAL REGISTER today would authorize the Director of the Office of Federal Contract Compliance Programs (OFCCP) to issue goals and timetables for minority and female participation on Federal or federally assisted construction projects. The goals would be based on workforce, demographic or other relevant data of Standard Metropolitan Statistical Areas, counties, or groups of counties, or some other geographical area in which the construction is being performed.

Under the proposed regulations, the goals and timetables would be published in the FEDERAL REGISTER in a notice of general information to the public but would not be published for public comment. However, because the OFCCP previously had not required goals for women in the construction industry under the Executive Order program, and because of the general interest in this subject, public comment is invited on this proposed notice until September 30, 1977.

A review of statistics relating to the construction industry shows a virtual exclusion of women from employment in the construction industry. Continued reliance by contractors on established hiring practices may reasonably be expected to result in continued exclusion of women. Accordingly, to implement the provisions of Executive Order 11246, as amended by Executive Order 11375, and to achieve a program of equal employment opportunity in the construction industry for women, it is proposed to develop goals and timetables for female participation in the construction industry. OFCCP has examined and considered a number of approaches for developing affirmative action goals for women. Some such methods include the female workforce, different proportions of the female workforce, and female representation in apprenticeship positions. Thought also has been given to establishing a pilot program for the purpose of developing a data base on which female goals could be developed. Each of these methods, however, suffers from certain deficiencies but basically they would establish initial goals either so high or so low that the result would be meaningless. The proposal adopted here considers both the relevant characteristics of the construction industry as they relate to developing goals and timetables for women, and the need to establish an effective implementation of the Executive Order.

Under this proposal, goals for women in construction would be established for a period of three years. The goals would be 3.1 percent, 5.0 percent, and 6.9 percent for the first, second and third years, respectively. These goals were developed using two sets of statistics. First, according to the 1970 census, the female workforce in the construction industry is 1.2 percent. Also, according to the 1970 census, women constitute 5 percent of all craft and kindred workers. This latter group of workers are in occupations which are similar to construction occupations, and possess educational levels, skills and abilities comparable to those possessed by employees working in the construction industry. It is reasonable to expect therefore that within a two-year period the construction industry, with active recruitment, could achieve a 5 percent female participation goal. This same effort would raise the goal to 6.9 percent in the third year. The statistics on which these goals are based, of course, are national in scope and are not presently available in usable form on an SMSA or county basis. It is proposed therefore that a single goal for female participation in the construction industry be adopted. Contractors are advised however, that where higher State, local or other jurisdictional goals for women are in effect, compliance with the goals and timetables proposed herein would not relieve the contractor of its obligation to comply with the higher local goal. Similarly, the proposal does not affect or limit in any way the application of requirements providing for the employment of local residents such as those contained in the Community Development Block Grant and the Public Works Employment Act grant programs.

The goals would be applied in all geographical areas and on all projects which have goals and timetables for minorities. Also, under the proposed regulation governing construction contractors under Executive Order 11246 published today in the FEDERAL REGISTER, Hometown Plans would be allowed to submit goals for women to the Director for approval. It is proposed that no goals lower than the ones proposed herein would be approved. If the Hometown Plans do not submit female affirmative action goals within the specified period and receive approval, it is proposed that the Department's approval of the plan will be automatically withdrawn and the goals proposed herein would be applicable in those Hometown areas.

These initial goals are intended to provide immediate equal employment opportunity for women in the industry until more meaningful goals based on appropriate female workforce figures can be developed and implemented. Toward this latter end and in order to develop goals and timetables for women in construction on a more permanent basis, a working committee is proposed to be established to make recommendations to the Director, OFCCP, on the total involvement of women in the construction industry. The exact structure and composition of the committee has not been determined, and comments specifically are invited on this issue. It is contemplated, however, that the committee would work closely with outreach and community groups and would operate for a period of at least five years. It also would receive input from the general public and examine the progress of women in the construction industry. In addition, at least six months before the expiration of the third year goal proposed herein, the committee would recommend meaningful female goals to the Director of the OFCCP to cover, at the minimum, an additional three-year period. The Director would pursuant to 41 CFR 60–46, proposed in the FEDERAL REGISTER today, issue meaningful goals and timetables based on the committee's recommendations or on other appropriate data.

It is intended that the final Notice which would establish the goals would list those geographical areas and projects for which goals for minorities and women shall be applicable. These areas would include those currently covered by Imposed Plans and those projects covered by Special Bid Conditions. And as indicated in the regulations proposed in the FEDERAL REGISTER today, the goals and timetables contained in those plans and Bid Conditions would constitute the initial goals and timetables for minorities.

Accordingly, it is proposed to establish goals and timetables for women in the construction industry for use on projects and in geographical areas as designated by the Director, Office of Federal Contract Compliance Programs, as follows:

Time frame:	Goals (in percent)
1st year	3.1
2d year	5.0
3d year	6.9

These goals would apply to a covered contractor's or subcontractor's entire workforce which is working on construction projects in an area covered by the goal. Compliance with the goal will be measured against the total work hours performed during each 12-month period. The goal would apply to the contractor's entire workforce in that area notwithstanding that not all employees would be working on the Federal or federally assisted construction project.

Send comments to Weldon J. Rougeau, Director, Office of Federal Contract Compliance Programs, Room C–3324, 200 Constitution Avenue, N.W., Washington, D.C., 20210. Comments received will be available for inspection during regular working hours at the above address.

Dated: August 8, 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

[FR Doc 77–23609 Filed 8–15–77;8:45 am]

federal register

TUESDAY, AUGUST 16, 1977
PART V

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

ON-SITE CONSULTATION AGREEMENTS

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1908—ON-SITE CONSULTATION AGREEMENTS

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The existing regulation is amended by rewording and reorganizing its present provisions, and adding new provisions. The new regulation is designed to further the Agency's objective to provide free on-site consultation to as many employers requesting this service as possible, with priority given to small business employers. The proposal was prepared to implement the policy directive of the Congress. The regulation as amended will: change the level of Federal funding from the present fifty percent to ninety percent for on-site consultation activities; expand the program to include States with approved plans under section 18 of the Occupational Safety and Health Act of 1970; set out new requirements for monitoring and evaluating State performance under the contract; further define the State's obligation to publicize the availability of the program, further define the obligations of the employer and the consultant to protect employees; and prescribe new requirements for consultant qualifications and numbers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

William J. Higgins, Chief, Division of Voluntary Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210 (202-634-4923).

SUPPLEMENTARY INFORMATION:

Background

On April 29, 1977, (42 FR 22060) notice was published in the FEDERAL REGISTER requesting public comment on proposed changes to regulations for on-site consultation contracts at 29 CFR Part 1908. After consideration of more than 50 public comments received, discussions with the States and internal review by the Federal Occupational Safety and Health Administration (hereinafter referred to as the Agency), the proposal has been amended and is published as a final regulation. The new regulation is designed to further the Agency's objective to provide free on-site consultation to as many employers requesting this service as possible, with priority given to small business employers. This program must also be consistent with public policy and the goals of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (the Act will later be referred to as the Federal OSH Act).

The need for a greater understanding by employers of their obligations under the Federal or State OSH Acts has been widely acknowledged. The interpretation of complex standards and the ability to recognize hazards may pose difficulties for employers, but small business employers, who may lack the financial resources to utilize private consultants, are often faced with a greater difficulty in understanding their obligations under the Act.

Under the Federal OSH Act, on-site consultation services by Agency personnel cannot be provided without triggering the normal enforcement provisions of the Federal OSH Act, including citation and possible penalties for any hazards observed. Because of this restriction, Federally funded on-site consultation, prior to the promulgation of this Part, could be conducted only by States with approved plans under section 18 of the Act utilizing State personnel. These States were able to conduct on-site consultation, with fifty percent Federal funding, subject to certain restrictions and conditions similar to those under this Part. At the present time twenty-two State plans provide these services. However, because there is no comparable on-site consultation provided under the Federal program, States were not required to provide these services as part of their plan in order to meet the Federal OSH Act's requirement that they be "at least as effective."

In response to the demand for consultation in other States, regulations were promulgated on May 20, 1975, to extend fifty percent Federal funding, through contracts entered into under the authority of sections 21(c) and 7(c)(1) of the Federal OSH Act, to States without approved State plans. This fifty-percent funding level was established to place the contract States in the same position respecting funding as those States with approved plans. Twelve additional States were participating in this program at the end of fiscal year 1976. Because many States still did not provide on-site consultation, specific funds were provided for on-site consultation in the Labor-HEW Appropriation Act for fiscal year 1977, and the Appropriations Committee Report on the Act (Senate Report No. 94-997) directed the Agency to increase the level of Federal funding to a ratio which would ensure fuller State participation in the program.

The proposal was prepared to implement the policy directive of the Congress. In addition, the regulation was redrafted; provisions that had in the past been subject to misinterpretation were clarified; and, a more precise policy statement of the Agency's position was provided. In the majority of instances, the rewording and revision in many of the provisions was for the purpose of clarification and does not represent a change in intention or effect.

The following are the major issues raised by the proposal:

New Funding Level

In response to the Congressional directive, the Agency proposed to increase the level of Federal funding to ninety percent, a level considered necessary to provide a stronge incentive for States to enter the program, while at the same time requiring some financial commitment on their part. It was recognized, however, that certain States would not participate in an on-site consultation program regardless of the percentage of Federal funding. These States either have legal contraints which prevent their participation, or have indicated a policy or philosophy which would prohibit it.

Several of the public comments received addressed the new funding level. Most were favorable including those from John Wenning, Administrator of the Wisconsin Division of Safety and Buildings, and Robert Palmer of the National Association of Manufacturers. On the other hand, Charles T. Greene, Director of Industrial Safety of the District of Columbia, and Allan Harvey, Deputy Director, Bureau of Safety and Regulations of the Michigan Department of Labor, along with Irving Davis, Chief, Division of Occupational Health of the Michigan Department of Public Health, objected to the new level on the grounds that it would discourage States from developing section 18 plans and encourage States with existing plans to drop their programs. In anticipation of this possible effect, the proposal expanded the eligibility for the program to include all States, including those with approved plans under section 18. Under the existing regulation, States with approved plans were not eligible to enter into on-site consultation contracts. Although some disincentive for State plans may remain, it has been minimized by the expansion of eligibility, because a State can maintain its plan under section 18 and also enter into a contract under this Part, at the increased funding level.

Effect Upon States With Plans Approved Under Section 18

Several public comments including those from Joshua Agsalud, Director of the Hawaii Department of Labor and Industrial Relations, Steven Jablonsky, Program Manager of the Department of Industrial Relations of the California Occupational Safety and Health Administration, John Brooks, Commissioner of the North Carolina Department of Labor, and Charles Daniels, Director of the Arkansas Department of Labor, whose comments were supported by Senator John McClellan, Senator Dale Bumpers, and Congressman Ray Thornton objected to the exclusion of public employers or requested clarification of the language in the proposal. The Agency is aware of the importance of programs to protect the safety and health of employees of State and local governments. At the present time, States with approved section 18 plans must, to the extent permitted under this law, institute "effective and comprehensive" occupational safety and health programs for public employees; these programs, of course, may provide consultation services to public employees. States may also submit for approval under section 18 programs for "public-employees only"

(29 CFR 1956). Finally, States may institute public employer programs with one-hundred percent State funds.

Under the final regulation no provision is made for inclusion of consultation for public employers under these agreements. However, the agency believes that protection of public employees should be expanded to the extent possible, in all States; to this end it will explore possible strategies available to increase the Federal role in this area.

Under the final regulation, if States with approved plans wish to provide on-site consultation to private employers, with Federal funding, they must chose whether to enter into a 7(c)(1) contract under this regulation with ninety percent Federal funding, or to provide such services under their plans, with fifty percent Federal funding. They cannot do both. This restriction was placed in the proposal because of the likelihood of administrative, accounting and monitoring problems associated with dual programs, and remains unchanged in the final regulation.

Limitation of Activities Under the Contract

Several public comments, including those submitted by John J. Horn, Acting Commissioner of the Department of Labor and Industry for the State of New Jersey, Steven Jablonsky of the California Occupational Safety and Health Administration, William Wilkins, Administrator of the Wyoming Occupational Safety and Health Agency, and others, objected to the provisions in the proposal which would limit the authorized activities under the contract to on-site consultation only. The suggestion was made that this restriction, which is unchanged in the final rule, was designed to provide the maximum emphasis on on-site consultation, because under the Federal OSH Act the Agency is able, under section 21(c), to engage in its own Federal training and education activities. Since these services are provided on the Federal level, the prudent use of the limited on-site consultation contract funds dictates their expenditure for the purpose of filling a need to which the Agency is otherwise unable to adequately meet. Under the final regulation, State consultants may participate in seminars and employer conferences, but this participation would be for the purpose of program promotion rather than direct training and education of employers. Federal training and education activities will be concentrated in States without plans approved under section 18, because States with approved plans are required to maintain their own State program of training and education as a condition of plan approval.

Unscheduled Visits to Worksites

Numerous public comments, including those of John J. Horn of the New Jersey Department of Labor and Industry, James McCain, Secretary of the Kansas Department of Human Resources, John Brooks of the North Carolina Department of Labor, Philip Ross, Commissioner of the New York Department of Labor, and others, objected to the provision in § 1908.4(b) of the proposal which specifically prohibited unscheduled visits to employer worksites for the purpose of conducting an on-site consultation, if entry were granted. Many of these comments emphasized the utility of individual contact with employers, and stressed that employers could be more effectively informed of the program in this manner. In consideration of these comments, the final regulation changes the proposal and authorizes visits to employer workplaces for the purpose of explaining the availability of the program. However, because of the necessity for adequate preparation by a consultant before an effective on-site visit may be conducted, the final regulation does not authorize the conduct of on-site consultation on the basis of an unscheduled visit to a workplace.

Informing an Employer of His Obligations Under the Program

New language has been included in the final regulation under § 1908.4(a)(3), Scope of service. This new language requires a State to clearly explain in its program promotion activities and in response to inquiries, the important aspects of the program. It was considered to be essential that employers be clearly informed of the State and Federal partnership in this program and of their responsibilities in the event an on-site visit is conducted, including those safeguards for employee protection which could require employer action. Therefore, under the final regulation, these responsibilities must be explained to an employer before a request can be accepted.

Employee Participation

In the preamble to the proposal for the revision of this Part, public comments were requested on the issue of employee participation in the on-site visit. The proposed regulation was essentially a restatement of the existing regulation, which provided for employee participation only with the employer's express permission. The Agency, however, was interested in receiving comments concerning the expansion of employee participation rights to parallel the employee walkaround rights associated with enforcement inspections under section 8(e) of the Federal OSH Act. It was considered that employees could provide some assistance to a consultant during a consultation visit as they provide to an inspector during an inspection. Further, it was believed that, because employees may have been exposed to hazards the consultant might find, they had a right to be informed of their discovery.

Numerous public comments were received in response to the request. Steven Jablonsky of the California Occupational Safety and Health Administration, and Dr. N. H. Dyer, Director of the West Virginia Department of Health, commented that there were clearly instances where employees must participate in an on-site visit in order to make the visit effective. According to the comment from the California agency, contact would be essential for example, during a health consultation where individual employee exposure levels must be determined or where a firm had an active employee employer in-plant safety committee.

Other comments expressed the opinion that such participation should be permitted only to the extent allowed by the employer and strongly objected to any mandatory walkaround on the grounds that it would greatly discourage employer requests for the program. Consideration has been given to these factors, and the final regulation specifies that employee contact by a consultant is necessary in order to properly identify hazards in the workplace, and that a consultant must explain to an employer the possibility that such contact may have to be initiated. An employer must agree to this form of contact before a visit may proceed. In addition, the regulations require the consultant to encourage employers to permit additional employee participation to the extent practicable, including participation in the walkaround but does not mandate such participation.

Employee Protection Requirements

The discussion under this heading encompasses the provisions in the regulation concerning the requirement that the employer take necessary action to eliminate hazards which present an imminent danger or serious violation. The proposal contained three provisions which affected this requirement, § 1908.4(d)(5)(v), which provided for the classification of hazards, § 1908.4(d)(6), which placed the obligation on the employer to take action if an imminent danger or serious violation was identified, and § 1908.5(b), which required the consultant to notify the appropriate OSHA enforcement authority if the employer refused to cooperate in the elimination of such hazards.

The majority of the public comments received addressed this issue. The comments ranged from strong objections to any action related to enforcement to acceptance of the concept with questions only on the procedure to be followed. Most comments, however, were opposed to the mandatory referral to enforcement authorities where an employer fails to take action to eliminate a serious violation. The terminology utilized was also questioned, with several objections to the use of the definition of a serious violation, and the requirement that the consultant must make a judgment as to how a compliance officer would cite a particular hazard.

This issue has been the subject of careful consideration. The Agency is cognizant of the need for full employer utilization of the consultation program and is aware of the argument that the requirement for referral might deter some employers from requesting on-site consultation. However, other provisions of the regulation are intended to assure the fundamental separation between the consultation program and enforcement, and would minimize this disincentive.

Thus, the regulation requires that the consultation operate independently from OSHA enforcement and that it have its own separate and distinct staff and management. Further, even in the monitoring of a State's performance, the identity of employers receiving on-site consultation is not revealed. In addition, an on-site visit in progress will delay certain types of OSHA inspections, and an employer is not required to make the consultation report available to a compliance officer during a subsequent inspection.

The only situation in which information about a consultation visit is referred to enforcement authorities is if an imminent danger or serious violation is identified and the employer fails to take the necessary action to eliminate the hazard and protect the employees. In the case of a serious violation a reasonable period for the elimination of the hazard is to be provided. Thus, an employer who in good faith seeks consultation advice to identify hazards so that they can be eliminated need have no concern about enforcement action being taken against him or her. It is only in what is likely to be the extremely rare case of an employer who, although aware of the imminent danger or serious violation, fails to act to eliminate them in the workplace that referral will occur. The Agency believes that in these limited circumstances the underlying policies of the Federal OSH Act mandate that the matter be referred for appropriate enforcement action.

Accordingly, the final regulation, although reworded, retains the provision of the present regulation and the proposal requiring referral to enforcement authorities in specified situations.

The use of the definition of a serious violation under the Federal OSH Act was determined to be necessary because, by the use of a currently available and known standard, the characterization of hazards by consultants will be more uniform throughout the program. Consequently, employers will be able to have a better understanding of their obligations, and the monitoring and subsequent evaluation of consultant performance will be facilitated. The final regulation therefore, describes both the employer's and the consultant's obligations in the event that an imminent danger or serious violation is identified, and new provisions in the regulation specify that an employer be clearly informed of these obligations before a request for an on-site consultation visit may be accepted.

A provision is also added to clarify the obligation of the OSHA enforcement authority which receives a referral for a serious violation which an employer has refused to eliminate. The new provision specifies that the OSHA authority is not automatically required to make an immediate inspection, but rather has the flexibility to take whatever action it determines is warranted, given the facts of the case.

In addition, a procedure is created by which an employer, who in good faith disagrees with the period of time established for the elimination of a hazard, may promptly discuss the time period with the program consultation manager, who may amend the time period allowed.

Relationship to Enforcement

Several public comments, including Nicholas Roussos, Commissioner of the Massachusetts Department of Labor and Industries, Larry Swanda of the Jensen Construction Company, Philip Ross of the New York Department of Labor, Charles Daniels of the Arkansas Department of Labor, William Foster, Commissioner of the Oklahoma Department of Labor, and others addressed a delay of an inspection occurring when a consultation visit is in progress. Most of these comments favored broadening this provision to ensure that an employer was given some period of time after a consultation visit before any enforcement activity would be initiated. The rationale advanced for this delay was that the employer should be allowed the opportunity to act upon the consultant's advice. The comments emphasized that this would result in the more efficient use of resources and point to the bad publicity that was likely to ensue if an enforcement inspection occurred shortly after the conduct of an on-site visit. After consideration of these comments, the Agency has decided to adhere to its position that no inspection should be delayed beyond the time necessary for the consultant to complete the on-site visit. The Agency must reserve the option to conduct an inspection immediately after the visit.

Accordingly, this provision, although reworded, remains essentially unchanged in the final regulation. In addition, under the final regulation certain types of inspections may not be delayed, despite the fact that a consultation visit is in progress.

Further, a new provision has been added to clarify the circumstances when an employer may receive an on-site visit subsequent to an enforcement inspection. This new provision, § 1908.5(b)(3), acknowledges the role of consultation in aiding an employer in the abatement of violations, and permits employers to request on-site consultation for the purpose of obtaining abatement advice. A restriction is placed upon this consultative activity in that an on-site consultation visit may not take place subsequent to an enforcement inspection until the employer has been notified that no citation would be issued or, where a citation is issued, until those citation items for which consultation is desired have become final orders. A citation item becomes a final order if, within the number of days specified under the applicable law, the employer does not file a notice of contest or, if a notice of contest is filed, after a final decision by the Occupational Safety and Health Review Commission or corresponding State authority.

Certain provisions of the proposal address the effect of an on-site consultation visit on a subsequent inspection. These provisions, which appeared at § 1908.5(d)(1), resulted in several comments. James McCain, of the Kansas Department of Human Resources, Governor Joseph Teasdale of the State of Missouri, L. W. Murray, Jr., Director of the Governor's Office of Illinois Manpower and Human Development, and others objected to the fact the compliance officer was not bound by the consultant's advice. It is the Agency's view, however, that because conditions in a workplace are constantly changing, the views expressed by the consultant cannot limit the effects of a subsequent inspection or preclude citations and proposed penalties being issued for violations discovered. Further, under the final regulation, a compliance officer would not ordinarily know that a consultation visit has occurred unless the employer volunteers the information or makes the written report available. Under § 1908.6(c)(4), if the report is given to the compliance officer, the advice given by the consultant would be considered and used to determine the employer's good faith. In addition, it will be the Agency's policy to permit, where warranted, a good faith penalty adjustment greater than the thirty percent currently allowed under the Field Operations Manual, thus a employer who, has taken action based on the advice of a consultant, and who was cited for a violation, may not use the advice or opinions of the consultant as a defense to the citation; but the fact that the employer did follow the consultant's advice could result in a substantial reduction of any penalty assessed.

The application of this additional good faith adjustment must, of course, be determined by the Area Director or corresponding State official on a case-by-case basis.

Number of Consultants

In the proposal, a two-year ceiling was placed on the number of consultants which could be funded in a State under an agreement pursuant to this Part, and an exception from this ceiling was allowed for States with current agreements or approved plans under section 18 of the Federal OSH Act. The proposal would have required that exempted States reduce the number of consultants down to the twenty-five percent ratio through attrition. Numerous comments received addressed this limitation on the number of consultants. The comments objected to the apparent inflexibility in the provisions and questioned whether it would be possible for a State exceeding the ratio to hire more qualified consultants or increase the number of industrial hygienists if no staff vacancies could be filled until the State was below the twenty-five percent level. In response to these comments, the final regulation, while retaining the twenty-five percent ratio as a general guideline for one year, provides that those States with current contracts may be exempted from the ration requirement if the current number is justified based on program performance, demand for services, or other factors. The final rule creates a far greater degree of flexibility in the determination of an appropriate number of consultants in all States. The ratio itself is also recast in terms of a "positions" concept rather than in terms of individual consultants.

A new provision has been added requiring the regional administrator to determine the types of consultant expertise necessary to meet the needs of the State. This would include not only the safety/health ratio, but also any particular need present in the State, such as a need for consultants with experience in maritime. After determining the State needs, the regional administrator will negotiate a reasonable response to those needs, and could require specialized training or the assignment of consultants with particular qualifications.

Qualifications of Consultants

The proposal contained explicit details on minimum qualifications for consultants, including specific educational and experience requirements. The provision in the existing regulation requiring regional administrator interview and approval consultants was also retained in the proposal.

Numerous public comments were addressed to these provisions, including comments from officials from the States of California, Oklahoma, Michigan, Oregon, Kansas, Wisconsin, North Carolina, New York, West Virginia, Texas, Missouri, Illinois, Virginia, Massachusetts, Colorado, and Kentucky. One of the objections raised by the comments concerned the requirement for regional administrator interview. States strongly objected to this provision on the grounds that it would interfere with normal State hiring practices.

The comments from Philip Ross of the New York Department of Labor indicate that under the State's Merit System and Civil Service Law, certain persons have an absolute preference to any job opening for which they are qualified under State law. If the regional administrator were to reject such a person, the consultant position could not be filled until another position outside of the program was vacated. A similar concern was raised by Robert Beard, Acting Commissioner of the Virginia Department of Labor and Industry, on the grounds that the regional administrator could reject an applicant certified by the State Merit System as being qualified.

In response to this criticism, the requirement for an regional administrator interview has been removed in the final regulation. However, the requirement that the regional administrator must approve State consultants before assignment to this program is retained, and individual regional administrators may determine that an interview is essential in order to ascertain whether a consultant is, in fact, qualified to do the job. In such a case the regional administrator has the authority to conduct an interview. Other State comments objected to the minimum qualifications as too restrictive or impossible to meet given current State salary levels. On the other hand, several States, along with the Association of Federal Safety Employees and the Iron Casting Society, thought that the qualifications should be raised.

The Agency has concluded that establishment of specific minimum qualifications requirements could be counterproductive and could be a disincentive for States to participate in this program. The final regulation, therefore, provides greater flexibility in this area. This does not imply that the Agency has determined to place a lesser emphasis on consultant qualifications. The opposite is in fact the case. In order to meet the needs of the nation's employers, particularly those in small businesses, the Agency is firmly committed to a program to upgrade the qualifications of State consultants under these programs. It believes that a well-trained, highly qualified cadre of consultants is essential for an effective program. It was apparent from the State comments, however, that the existing consultation staff, as well as the ability to make changes in State hiring practices, differs widely from State to State. In addition, the demand for more qualified consultants will vary from State to State due to the differences in the types of business activities conducted and the types of hazards which may be present. A highly industrialized State would therefore require, as a general rule, a consultant with different qualifications than would an agricultural State, due to the nature of the conditions which the consultant would be likely to encounter. Therefore, it was determined that the most effective program would be a flexible one.

Accordingly, the final regulation does not contain the specific minimum qualifications listed in the proposal; instead, it includes in their place provisions which require the adoption by each State of a plan to upgrade the qualifications which it requires of consultants. These plans must contain specific goals consistent with State needs and must describe and contain the steps which shall be taken by the State to reach these goals and specific timetables for the implementation of changes. The implementation dates for these changes shall be no later than August 1, 1980. The plan must be initially submitted within 120 days of the effective date of these revisions, and thereafter revised annually to reflect the State's progress toward specific goals. The plan will become a part of a contract under this regulation and a State must satisfy the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) that it is taking appropriate action to implement its plan in order to be eligible for continued funding.

Monitoring

Section 1908.7 of the proposal outlined new monitoring provisions for contracts under the regulations. States under contract would be required to establish an effective internal monitoring system, to prepare quarterly reports and to submit various other documents to the regional administrator. The State would be required to conduct a performance evaluation of every consultant annually, and conduct actual on-the-job evaluations. An internal self-monitoring system was determined to be the most viable alternative because except in States with approved plans under section 18, Federal OSHA could not conduct on-the-job evaluations of consultant performance without taking appropriate enforcement action against the employer for any hazards observed at the worksite. Relatively few public comments addressed the monitoring changes. James Gillice, of the American Mutual Insurance Alliance praised the new requirements, and comments from Edward Otterson, Chief of the Wisconsin Department of Health and Social Services, and others were favorable to the new program.

The final regulation is essentially unchanged from the proposal, with the exception that the regional administrator's right to conduct concurrent monitoring activities is clearly described. This Federal monitoring may take any number of forms, including the use of private contractors, or any other methods which may be desirable.

Effective Date

The proposal which, among other things, increased the level of Federal funding under contracts pursuant to these regulations to ninety percent, was published in the Federal Register on April 29, 1977. In the interim period between the proposal and this final regulation, existing contracts with several States expired and were renewed on an interim basis. Some of these States adjusted their budgets in anticipation of prompt modification of the funding provisions. In consideration to these States and due to the delay of the promulgation of the final regulation, the Assistant Secretary finds that good cause exists for making the effective date of these revisions August 1, 1977. Those States with existing contracts as of that day, may, if a contract is renegotiated within 30 days, receive ninety percent funding for allowable costs as of the effective date. Accordingly, 29 CFR Part 1908 is hereby amended as follows:

Those revisions shall be effective August 1, 1977

Sec.
1908.1 Purpose and scope.
1908.2 Definitions.
1908.3 Eligibility and funding.
1908.4 Requests and scheduling.
1908.5 Conduct of a visit.
1908.6 Relationship to enforcement.
1908.7 Consultant specifications.
1908.8 Monitoring and evaluation.
1908.9 Agreements.
1908.10 Exclusions.

Authority: Secs. 7(c)(1), 21(c), 84 Stat. 1598, 1612; 29 U.S.C. 656(c)(1), 670.

§ 1908.1 Purpose and scope.

This part contains requirements for agreements between States and the Federal Occupational Safety and Health Administration (hereinafter referred to as the Agency under Sections 7(c)(1) and 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) under which the Agency will utilize State personnel to provide on-site consultation

services to employers. The service will be made available at no cost to employers to assist them in providing their employees employment and a place of employment which is safe and healthful. Consultants will identify specific hazards in the workplace and provide advice on their elimination. Although on-site consultation will be conducted independent of any OSHA enforcement activity, and the discovery of hazards will not mandate citation or penalties, the employer remains under a statutory obligation to protect his employees, and, in certain instances, will be required to take necessary protective action. States entering into agreements under this Part will receive ninety percent Federal reimbursement for allowable costs and will provide on-site consultation for employers requesting the service, subject to scheduling priorities and available resources, and will offer advice and technical assistance to each requesting employer on job-related safety and health hazards.

§ 1908.2 Definitions.

As used in this part:

"*Act*" means the Federal Occupational Safety and Health Act of 1970.

"*Assistant Secretary*" means the Assistant Secretary of Labor for Occupational Safety and Health.

"*Compliance officer*" means a Federal or State compliance safety and health officer.

"*Employer*" means a person engaged in a business, who has employees, but does not include the United States, or any State or political subdivision of a State.

"*On-site consultation*" means all activities related to the conduct of an on-site consultative visit, including a written report to the employer.

"*OSHA*" means the Federal Occupational Safety and Health Administration or the State agency responsible under a Plan approved under Section 18 of the Act for the enforcement of occupational safety and health standards in that State.

"*State*" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"*RA*" means the Regional Administrator for Occupational Safety and Health of the Region in which the State concerned is located, or his designee.

§ 1908.3 Eligibility and funding.

(a) *State eligibility.* (1) Any State may enter into an agreement with the Assistant Secretary to perform on-site consultation for private-sector employers.

(2) A State having a Plan approved under Section 18 is eligible to participate in the program if that Plan does not include provisions for federally-funded on-site consultation to private-sector employers.

(b) *Reimbursement.* (1) The Assistant Secretary will reimburse 90 percent of the costs incurred under an agreement entered into pursuant to this part. Agreements negotiated within 30 days of the effective date of these revisions will be reimbursed at the level of ninety percent for allowable costs incurred as of that date. Approved training and specified out-of-State travel will be fully reimbursed.

(2) Reimbursement to States under this Part is limited to costs incurred in providing on-site consultation to private-sector employers only.

(i) In all States with Plans approved under Section 18, on-site consultation provided to State and local governments, as well as the remaining range of voluntary compliance activities referred to in 29 CFR 1902.4(c)(2)(xiii), will not be affected by the provisions of this part, with Federal reimbursement for these activities in accordance with the provisions of Section 23(g) of the Act.

(ii) In States without Plans approved under Section 18, no Federal reimbursement for on-site consultation provided to State and local governments will be allowed, although this activity may be conducted independently by a State with 100 percent State funding.

§ 1908.4 Requests and scheduling.

(a) *Encouraging requests.*—(1) *State responsibility.* The State shall be responsible for encouraging employers to request on-site consultative visits, and shall publicize the availability of its on-site consultation service and the scope of the service which will be provided. The Assistant Secretary may also engage in activities to publicize and promote the program.

(2) *Promotional methods.* To inform employers of the availablity of its on-site consultation service and to encourage requests, the State may use methods such as the following:

(i) Paid newspaper advertisements;

(ii) Newspaper, magazine, and trade publication articles;

(iii) Special direct mailings or telephone solicitations to establishments, based on Workers' Compensation data or other appropriate listings;

(iv) In-person visits to workplaces to explain the availability of the service, and participation at employer conferences and seminars;

(v) Solicitation of support from State business and labor organizations and leaders, and public officials;

(vi) Preparation and dissemination of publications, descriptive materials, etc., on on-site consultation services;

(vii) Free public service announcements on radio and television.

(3) *Scope of service.* In its publicity for the program, in response to any inquiry, and before an employer's request for a consultation visit may be accepted, the state shall clearly explain that the service is provided at no cost to an employer through federal and state funds for the purpose of providing the employer with a better understanding of the requirements of the applicable State or Federal law and regulations. The State shall explain that while utilizing this service, an employer remains under a statutory obligation to provide safe and healthful working conditions for employeees. In addition, while the identification of hazards by a consultant will not mandate the issuance of citations or penalties, the employer is required to take action necessary to eliminate a hazard which in the judgment of the consultant, represents an imminent danger to employees, or which would be classified as a serious violation. The State shall emphasize, however, that the discovery of such a hazard will not initiate any enforcement activity, and that referral will not take place unless the employer fails to cooperate in the elimination of the identified hazard.

(b) Employer requests. (1) An on-site consultative visit will be provided only at the request of the employer, and shall not result from the enforcement of any right of entry under State law. A consultant is not authorized to make an unscheduled appearance at the workplace of an employer who has not made a request to conduct an on-site consultative visit at that time.

(2) When making the request, the employer shall describe those specific working conditions, hazards or situations for which on-site consultation is desired; the smaller the employer's business, the less specific the request must be.

(3) Employers may request on-site consultation to assist in the abatement of hazards cited during an OSHA enforcement inspection. However, an on-site consultation visit may not take place after an OSHA inspection until the employer has been notified that no citation will be issued or, if a citation is issued, until those citation items for which consultation is requested have become final orders.

(c) *Scheduling priority.* Priority shall be assigned to requests from smaller businesses, based on their number of employees, with emphasis on those workplaces of a highly hazardous nature.

§ 1908.5 Conduct of a visit.

(a) *Preparation.* An on-site consultative visit shall be made only after appropriate preparation by the consultant. Prior to the visit, the consultant shall become familiar with as many factors concerning the establishment's operation as possible. The consultant shall review all applicable codes and standards. In addition, the consultant shall asssure that all necessary technical and personal protective equipment is available and functioning properly.

(b) *Structured format.* An on-site consultative visit shall follow a structured format, which will consist of an opening conference, a walk through the workplace, and a closing conference. The visit shall be followed by a written report to the employer.

(c) *Employee participation.* (1) The consultant shall retain the right to confer with individual employees during the course of the visit in order to identify and judge the nature and extent of particular hazards. The consultant shall explain the necessity for this contact to the employer during the opening conference, and an employer must agree to this contact before a visit can proceed.

(2) In addition, employees, their representatives, and members of a workplace joint safety and health committee, may participate in the on-site consultative visit, to the extent desired by the employer. In the opening conference, the consultant shall encourage the employer to allow employee participation to the fullest extent practicable.

(d) *Opening conference.* In addition to the requirements of § 1908.5(c), the consultant shall, in the opening conference, explain to the employer the relationship between on-site consultation and OSHA enforcement activity and shall explain the obligation to protect employees in the event that certain hazardous conditions are identified.

(e) *On-site activity.* (1) Activity during the on-site consultative visit will be focused primarily on those conditions, hazards or situations described by the employer when the request was made.

(2) The consultant shall advise the employer as to the employer's obligations and responsibilities under applicable Federal or State law and implementing regulations.

(3) To the extent of their capability and training, consultants shall identify and provide advice on elimination of those hazards included in the employer's request and any other safety or health hazards observed in the workplace during the course of the on-site consultative visit. The consultant shall conduct sampling and testing, with subsequent analyses, as may be necessary to confirm the existence of health hazard.

(4) Advice and technical assistance on the elimination of identified safety and health hazards may be provided to employers during and after the on-site consultative visit. Descriptive materials may be provided on approaches, means, techniques, etc., commonly ultilized for the elimination or control of such hazards. This advice should include basic information indicating the possibility of a solution and describing the general form of this solution. However, the advice and assistance shall not include engineering services or the provision of engineering design solutions. The consultants shall also advise the employers of additional sources of assistance, if known.

(5) When a hazard is identified in the workplace, the consultant shall indicate to the employer his or her best judgement as to whether this situation would be classified as a "serious" or "other-than-serious" violation of applicable Federal or State statutes, regulations or standards, based on criteria contained in the current OSHA Field Operations Manual. (The element of employer knowledge shall not be considered.)

(6) At the time that the consultant determines that an identified hazard which would be classified as a serious violation, the consultant and the employer shall develop a specific plan to eliminate the hazard, affording the employer a reasonable period of time to complete the necessary action. If, within 10 days of the development of this plan, an employer, in good faith, disagrees with the period of time established for the elimination of a hazard, the State shall provide an opportunity for an expeditious informal discussion with the State consultation manager on the time period set by the consultant.

(f) *Employer obligations.* (1) An employer must take immediate actions to eliminate employee exposure to a hazard which, in the judgment of the consultant, presents an imminent danger to employees. If the employer fails to take the necessary action, the consultant must immediately notify the affected employees and the appropriate OSHA enforcement authority and provide the relevant information.

(2) An employer must also take the necessary action in accordance with the plan developed under § 1908.5(e)(6) to eliminate employee exposure to any identified hazard which, in the judgment of the consultant, would be classified as a serious violation. In order to demonstrate that the necessary action is being taken, an employer may be required to submit periodic reports, permit a follow-up visit, or take similar action. If the employer fails to take the action necessary to eliminate a hazard which would be classified as a serious violation, the consultant shall immediately notify the appropriate OSHA enforcement authority and provide the relevant information. The OSHA enforcement authority will make a determination, based on a review of the facts, whether enforcement activity is warranted.

(g) *Written report.* A written report shall be prepared for each visit and sent to the employer. The timing and format for the report shall be approved by the Assistant Secretary. The report shall restate the employer's request and describe the working conditions examined by the consultant; shall identify specific hazards; shall describe their nature, including reference to applicable standards or codes; shall identify the seriousness of the hazard; and, to the extent possible, shall include suggested means or approaches to their elimination or control. Additional sources of assistance should also be indicated, if known, including the possible need to procure specific engineering consultation, medical advice and assistance, etc. The report shall also include references to the completion dates for the situations described in §§ 1908.4(e)(5), (6).

(h) *Confidentiality.* The consultant shall preserve the confidentiality of information obtained as the result of an on-site consultative visit which contains or might reveal a trade secret of the employer.

§ 1908.6 Relationship to enforcement.

(a) *Independence.* (1) On-site consultation activity by a State shall be conducted independently of any Federal or State OSHA enforcement activity.

(2) The consultation activity shall have its own identifiable managerial staff. In States with Plans approved under Section 18, this staff will be separate from the managing compliance inspections and scheduling.

(3) The identity of employers requesting on-site consultation as well as the file of the consultant's visit shall not be forwarded or provided to OSHA for use in any compliance inspection or scheduling activities.

(4) Employers receiving on-site consultative visits shall not be identified to OSH, unless the employer fails to take the necessary action to protect employees from a hazard considered by the consultant to be an imminent danger or serious violation.

(b) *Effect upon scheduling.* (1) An on-site consultative visit already in progress will have priority over OSHA compliance inspections except as provided in 1908.5(b)(2). The consultant and the employer shall notify the compliance officer of the visit in progress and request delay of the inspection until after the visit is completed. A request for on-site consultation shall not be the basis for the delay of a compliance inspection.

(2) The consultant shall terminate an on-site consultative visit already in progress where one of the following kinds of OSHA compliance inspections is about to take place:

(i) Imminent danger investigations.

(ii) Fatality catastrophe investigations.

(iii) Complaint investigations.

(iv) Follow-up inspections.

(v) Other critical inspections as determined by the Assistant Secretary.

(3) An on-site consultation visit shall not take place subsequent to an OSHA enforcement inspection until the employer has been notified that no citation will be issued, or if a citation is issued, on-site consultation shall only take place with regard to those citation items which have become final orders.

(c) *Effect upon enforcement.* (1) The advice of the consultant and the consultant's written report will not be binding on a compliance officer in a subsequent enforcement inspection. In a subsequent inspection, a compliance officer is not precluded from finding hazardous conditions, or violations of standards, rules or regulations, for which citations would be issued and penalties proposed.

(2) The hazard identification and abatement advice given by a State consultant, or the failure of a consultant to point out a specific hazard, or other possible errors or omissions by the consultant shall not be binding upon a compliance officer, and will not affect the regular conduct of a compliance inspection, or preclude the finding of alleged violations and the issuance of citations, or act as a defense to any enforcement action.

(3) In the event of a subsequent inspection, the employer is not required to either inform the compliance officer of the prior visit or provide a copy of the State consultant's written report to the compliance officer.

(4) If, however, the employer chooses to provide a copy of the consultant's report to a compliance officer, it may be used to determine the employer's good faith for purposes of proposing penalties.

§ 1908.7 Consultant specifications.

(a) *Number.* (1) The number of consultant positions which will be funded under an agreement pursuant to this Part for the purpose of providing on-site consultation to private sector employers will be determined by the Assistant Secretary on the basis of program performance, demand for services, resources available, and the recommendation of the RA, and may be adjusted periodically.

(2) For a period of one year from the effective date of this revision, the number of on-site consultant positions funded in a state which does not have an agreement under this Part as of the effective date of these revisions shall not exceed 25 percent of the number of full-time Federal and State compliance officer positions present within that State. The number of "compliance officer positions present" shall be the number of allocated Federal compliance officer positions for that State and, if the State has an approved Plan under Section 18, the number of compliance officer positions provided in the State's 23(g) grant. The Assistant Secretary may exempt a State from this limitation if it is determined that this exemption is warranted and consistent with available resources.

(3) States shall make efforts to utilize consultants with the safety and health expertise necessary to properly meet the demand for consultation by the various industries within a State. The RA will determine and negotiate a reasonable balance with the State on an annual basis.

(b) *Qualifications.* (1) All consultants utilized under agreements pursuant to this Part shall be employees of the State, qualified under State requirements for employment in occupational safety and health. They must demonstrate adequate education and experience to satisfy the RA, before assignment to work under an agreement, and annually thereafter, that they meet the requirements set out in § 1908.6(b)(2) and that they have the ability to perform satisfactorily pursuant to the agreement. All consultants shall be selected in accordance with the provisions of Executive Order 11246 of September 24, 1965, as amended, entitled "Equal Employment Opportunity."

(2) Minimum requirements shall include:

(i) Consultants shall demonstrate the following: the ability to identify hazards; the ability to assess employee exposure and risk; knowledge of OSHA standards; knowledge of abatement techniques and practices; knowledge of workplace safety and health program requirements; and the ability to effectively communicate, both orally and in writing.

(ii) Consultants shall meet any additional degree and/or experience requirements as may be established by the Assistant Secretary.

(3) A specific plan to upgrade the qualifications for all State consultants shall be developed by each participating State according to guidelines established by the Assistant Secretary.

(i) The plan shall include a timetable with final implementation dates for specific actions which the State shall take in order to upgrade the education and experience of State consultants, including revision of job descriptions, establishment of additional qualifications and training and increases in State salary levels.

(ii) The plan must be submitted to the RA within 120 days of the effective date of an agreement under this Part and shall be revised annually to reflect the State's progress toward specific goals.

(iii) The implementation dates in initial plans shall be no later than August 1, 1980.

(c) *Training.* As necessary, the Assistant Secretary will specify immediate and continuing training requirements for consultants. Expenses for training which is required by the Assistant Secretary or approved by the RA will be reimbursed in full.

§ 1908.8 Monitoring and evaluation.

(a) *Regional administrator responsibility* A State's performance under the agreement will be regularly monitored and evaluated by the RA. The RA may direct changes as a result of these evaluations to foster conformance with consultation policy as established by the Assistant Secretary. All aspects of the agreement with the State will be continually monitored and evaluated as part of a systematic Federal regional plan for this activity.

(b) *State performance.* The RA or his designee will periodically meet with State project officials to assess project status and to seek resolution to any operating problems. An appropriate number of State files (without identification of the employer) on individual on-site consultative visits will be audited. Special attention will be given to determine whether the provisions of §§ 1908.5 (e) and (f) are being followed. A written report of these periodic reviews will be forwarded by the RA to the State.

(c) *Consultant performance.* (1) *State activity.* The State shall establish and maintain an organized consultant performance monitoring system under the agreement:

(i) The system shall be established within 60 days of the execution of the contract, or within 60 days from the date the Assistant Secretary publishes a program directive on the design of the performance monitoring system. Whichever occurs later. Operation of the system shall conform to all requirements established by the Assistant Secretary. The system shall be approved by the RA before it is placed in operation.

(ii) A performance evaluation of each individual State consultant performing on-site consultation for employers shall be prepared annually. All aspects of a consultant's performance shall be reviewed at that time. Recommendation for remedial action shall be made and acted upon. The annual evaluation report shall be a confidential State personnel record and may be timed to coincide with regular personnel evaluations.

(iii) Performance of individual consultants shall be measured in terms of their ability to identify hazards in the workplaces which they have visited; their ability to determine employee exposure and risk, and in particular their performance under §§ 1908.5 (e) and (f); their knowledge and application of applicable Federal or State statutes, regulations or standards; their knowledge and application of appropriate abatement techniques and approaches; and their ability to effectively communicate their findings to employers.

(iv) Accompanied visits to observe consultants during on-site consultative visits shall be conducted at least semi-annually for each consultant. The State may also conduct unaccompanied visits to workplaces which received on-site consultation, for the purpose of evaluating consultants. A written report of each visit shall be provided to the consultant. These visits shall be conducted only with the expressed permission of the employer who requested the on-site consultative visit.

(v) The State will report quarterly to the RA on system operations, including copies of accompanied visit reports (without identification of the employer) completed that quarter.

(2) *Federal activity.* State consultant performance monitoring as set out in § 1908.7(c)(1) shall not preclude Federal monitoring activity by methods determined to be appropriate by the Assistant Secretary.

(d) *State reporting.* For Federal monitoring and evaluation purposes, the State shall compile and submit such factual and statistical data in the format and at the frequency required by the Assistant Secretary. The State shall prepare and submit to the RA any narrative reports, including copies of written reports to employers (without identification of the employer) as may be required by the Assistant Secretary.

§ 1908.9 Agreements.

(a) *Who may make agreements.* The Assistant Secretary may make an agreement under this part with the Governor of a State or with any State agency designated for that purpose by the Governor.

(b) *Negotiations.* (1) Procedures for negotiations may be obtained through the RA who will negotiate for the Assistant Secretary and make final recommendations on each agreement to the Assistant Secretary.

(2) States with Plans approved under Section 18 may initiate negotiations in anticipation of the withdrawal of federally funded on-site consultation services to private-sector employers from the Plan.

(3) Renegotiation of existing agreements funded under this Part shall be intiated within 30 days of the effective date of these revisions.

(c) *Contents of agreement.* (1) Any agreement and subsequent modifications shall be in writing and signed by both parties.

(2) Each agreement shall provide that the State will conform its operations under the agreement to:

(i) The requirements contained in this Part 1908;

(ii) Al related formal directives subsequently issued by the Assistant Secretary implementing this regulation.

(3) Each agreement shall contain an explicit written commitment for each major lettered paragraph in §§ 1908.4, 1908.5, 1908.6, 1908.7, and 1908.8, with particular emphasis placed on the following elements:

(i) Consultation management structure separate from enforcement;

(ii) Consultant numerical limitation and safety and health objective;

(iii) Assignment of qualified personnel;

(iv) Submission of a plan for upgrading consultant qualifications;

(v) Advertisement of consultation services;

(vi) Early notification to employers of the scope of services provided and their obligations;

(vii) Employee participation in on-site visits;

(viii) Employee protection requirements;

(ix) Provision of written report to employers; and

(x) Monitoring and evaluation procedures;

(4) Each agreement shall also include a budget of the State's anticipated expenditures under the agreement, in the detail and format required by the Assistant Secretary.

(d) *Location of sample agreement.* A sample agreement is available for inspection at all Regional Offices of the Occupational Safety and Health Administration of the U.S. Department of Labor.

(e) *Action upon requests.* The State will be notified within a reasonable time of any decision concerning its request for an agreement. If a request is denied, the State will be informed in writing of the reasons supporting the decision. If an agreement is negotiated, the initial funding will specify the period for the agreement. Additional funds may be added at a later time provided the activity is satisfactorily carried out and appropriations are available. The State may also be required to amend the agreement for continued support.

(f) *Termination.* Either party may terminate an agreement under this part upon 30 days written notice to the other party.

§ 1908.10 Exclusions.

An agreement under this part will not restrict in any manner the authority and responsibility of the Assistant Secretary under Sections 8, 9, 10, 13, and 17 of the Act, or any corresponding State authority.

Signed at Washington, D.C., this 11th day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-23650 Filed 8-15-77.8:45 am]

federal register

TUESDAY, AUGUST 16, 1977
PART VI



FEDERAL ENERGY ADMINISTRATION

LOWER AND UPPER TIER CRUDE OIL PRICE CEILINGS

Resumption of Adjustments to Reflect Impact of Inflation

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

LOWER AND UPPER TIER CRUDE OIL PRICE CEILINGS

Resumption of Adjustments To Reflect Impact of Inflation

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration ("FEA") proposes in this proceeding to resume in September 1977, price increases to take into account the impact of inflation, which are permitted under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). These price increases were discontinued because during 1976 and part of 1977 actual weighted average prices for domestic crude oil exceeded the statutory maximum weighted average first sale ("composite") price.

Currently, lower tier ceiling prices are frozen at their June 1976 levels, resulting in a projected average first sale price in August 1977 of approximately $5.17 per barrel; upper tier prices have been rolled back to a projected average first sale price in August 1977 of approximately $10.97 per barrel.

Under the proposal set forth in this Notice FEA would, beginning in September 1977, apply the inflation adjustment to the projected August lower tier price (approximately $5.17 per barrel), and would begin to restore over a 3 month period the upper tier price to a level that would represent the $11.28 per barrel price originally intended to be achieved for upper tier crude oil in February 1976 by the Energy Policy and Conservation Act ("EPCA") crude oil pricing policy, plus the $.27 per barrel increase in upper tier prices that was authorized for the months of March through June 1976. Pursuant to this proposal, lower tier prices would be approximately $5.24 per barrel by November 1977, and upper tier prices would be approximately $11.71 per barrel.

Thereafter, lower tier and upper tier prices would be allowed to rise at the rate of inflation, as was proposed in the National Energy Plan issued by the President on April 20, 1977.

DATES: Comments by Friday, August 26, 1977, 4:30 p.m.; Requests to speak by Friday, August 19, 1977, at 4:30 p.m.; Hearing date: Friday, August 26, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OP, Washington, D.C. 20461; Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202–254–5201.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202) 566–9833.

William D. Carson (Office of Regulatory Programs), 2000 M Street NW., Room 2310, Washington, D.C. 20461, 202–254–7477.

Everard A. Marseglia, Jr. (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5140, Washington, D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION:

A. *Background.*
B. *Proposed Amendments.*
C. *Comment Procedures.*

A. Background

Under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA," Pub. L. 93–159), Congress provided FEA with flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976.

Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at the rate of 10 percent annually.

Under FEA price regulations adopted to implement the pricing policy that included the statutory composite price restrictions, domestic crude oil is classified either as lower tier (which accounts currently for about 50 percent of total domestic production), upper tier (which accounts currently for about 36 percent of total domestic production) and crude oil produced from stripper well properties (which accounts currently for about 14 percent of total domestic production).

Stripper well property crude oil, which is production from properties that have declined to a level of 10 barrels or less per well per day for a preceding consecutive 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of determining compliance with the statutory composite price limitation, however, stripper well property crude oil is given by statutory formula an imputed value which approximates the average upper tier price. (Section 121 of the Energy Conservation and Production Act, "ECPA", Pub. L. 94–385.)

Upper tier crude oil generally includes production from properties which first began producing crude oil after 1972 (except those which qualify as stripper well properties or which produce crude oil that is otherwise exempt from first sale price controls), plus incremental production from older properties which exceeds a certain "base production control level." The upper tier price (an average of $11.64 per barrel at the end of 1976) is generally designed to stimulate increased production from older properties and to encourage further exploration and development of domestic crude oil resources. The lower tier price, which averaged about $5.17 per barrel nationally at the end of 1976, applies to all domestic production which is not exempt or which does not qualify as upper tier crude oil.

Effective July 1, 1976, FEA halted further monthly increases in crude oil price ceilings and continued them at their June 1976 levels order to compensate for actual composite prices in excess of adjusted statutory composite price levels. FEA took further corrective action to achieve compliance with statutory composite price restrictions by reducing upper tier price ceilings by 20 cents per barrel effective January 1, 1977, and by an additional 45 cents per barrel effective March 1, 1977. These actions were projected to eliminate all excess crude oil receipts by June 30, 1977 (see 42 FR 13013, March 8, 1977). (Although the ceiling prices for lower tier crude oil have been frozen since June 1976, and the ceiling prices for upper tier crude oil have been frozen—and subsequently rolled back—since June 1976, ceiling prices for lower and upper tier crude oil are determined on a field-by-field basis. As a result, the average actual prices for lower tier and upper tier crude oil vary from month to month as a function of the mix of types of crude oil selling at varying ceiling prices from field to field.)

On March 15, 1977, FEA submitted Energy Action No. 11 to the Congress, pursuant to section 8(f) of the EPAA, to continue in effect that portion of the 10 percent annual increase in the statutory composite price relating to production incentives. That action, having undergone legislative review without disapproval by either house of Congress, permits the statutory composite price to continue to increase at an annual rate of 10 percent.

In congressional hearings relating to Energy Action No. 11, FEA stated that the 10 percent annual adjustment in the statutory composite price was anticipated to be entirely or almost entirely used to reflect the impact of inflation on the ceiling prices for lower and upper tier crude oil (anticipated at between 5.5 and 6.5 percent annually) and to account for the automatic increase in the actual composite price attributable to the continuing decline in the percentage of lower tier crude oil (resulting in an increase in the actual composite price of approximately 3.0 to 3.6 percent annually). Accordingly, FEA stated that it intended in the future to adjust lower tier and upper tier prices by not more

than the amount necessary to reflect the impact of inflation.

Pursuant to Section 8(d) of the EPAA, the impact of inflation is measured for purposes of adjusting the composite price by using the "adjusted GNP deflator." The Act defines the term "adjusted GNP deflator" to mean:

> * * * the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

For purposes of this notice, the inflation adjustment for the months of September, October, and November 1977 has been computed at an annual rate of 5.5 percent. This is the most recent first revision of the GNP deflator, published by the Department of Commerce in late June 1977. Actual adjustments to crude oil price ceilings for the months of September through November 1977, pursuant to the regulations proposed in this rulemaking will be based on the first revision of the GNP deflator to be published on or about August 20, 1977. Beginning in December the first revision of the GNP deflator published on or about November 20, 1977 would be used to adjust ceiling prices for the next three months to reflect the rate of inflation, and so forth.

The purpose of this proceeding is to specify the price levels for lower tier and upper tier crude oil to which such adjustments for inflation should be applied and to implement the provision of the National Energy Plan that calls for allowing lower tier and upper tier ceiling prices to rise at the rate of inflation.

B. Proposed Amendments

As indicated above, monthly increases in both lower tier and upper tier crude oil price ceilings have been deferred and upper tier crude oil price ceilings have been reduced in order to compensate for actual composite price levels in excess of statutory composite price limits. This elimination of excess receipts is projected to be completed by June 30, 1977—final data for a particular month are not available to FEA until the end of the third month following that month—and resumption of monthly price adjustments can therefore be resumed September 1, 1977. As FEA indicated in the notice accompanying Schedule No. 7 of Monthly Price Adjustments (42 FR 38894, August 1, 1977), this more conservative pricing policy is intended to further the EPAA goal of providing a more stable and predictable basis for future pricing actions by decreasing the potential for future price freezes or rollbacks.

FEA proposes to apply such inflation adjustments prospectively to existing lower tier prices and to upper tier prices adjusted to reflect (1) the fact that actual upper tier prices when the upper tier ceiling price was first imposed in February 1976 were higher than the average of $11.28 per barrel that was intended, and (2) the fact that upper tier prices have been reduced by a total of $.65 per barrel in recent months. Because the restoration of upper tier prices will represent a price increase of some significance, it is proposed to be phased in over a 3 month period so as to avoid creating any substantial incentive unnecessarily to withhold production in anticipation of a price increase.

FEA has concluded that it would not be appropriate to seek to restore lower tier and upper tier price levels to the real dollar equivalent of their February 1976 price levels because the overall economic impact of such an action would not, in all likelihood, be counterbalanced by any measurable production response. Domestic crude oil production has been subject to frozen or reduced price levels for more than a year without any measurable effect on production. (FEA has granted price relief on a case-by-case basis in all instances in which those price levels have resulted in a demonstrable threat to continued production.)

Accordingly, FEA has concluded that restoration of crude oil ceiling prices to their February 1976 real dollar equivalent would constitute essentially a windfall to producers, in that it would constitute a form of payment for production that has already taken place under economically advantageous circumstances. In this regard, however, FEA has also concluded that equitable considerations favor the restoration of upper tier prices to a level that recognizes the initial pricing objectives of the EPAA crude oil pricing policy and the fact that the upper tier price has, in fact, been rolled back to compensate for prices in excess of the statutory composite price.

In specifying a composite price of $7.66 per barrel for all domestic crude oil in February 1976, Congress assumed that the existing ceiling price on domestic old crude oil (lower tier) would be continued and that the average price of old crude oil was $5.25 per barrel. The $5.25 per barrel estimate was derived originally by the Cost of Living Council ("CLC") as the average first sale price of controlled domestic crude oil in December 1973. FEA was not required, nor did it have any regulatory need, to monitor actual first sale prices of controlled domestic crude oil until the advent of FPCA. Inasmuch as old crude oil prices had remained frozen from December 1973, the $5.25 figure was thought to be a reasonable estimate of lower tier crude oil prices.

In specifying the $7.66 per barrel composite price, the Congress also assumed that "new," "released," and "stripper well" crude oil (which were not then subject to ceiling price limitations), would not have to be rolled back from the average first sale price of uncontrolled domestic crude oil in January 1975, which was $11.28 per barrel. The January 1975 price was based on the most recent price data available and which was free from the influence of (1) the 1975 supplemental import fees on crude oil, and (2) the effect of the October 1975 price increase by the Oil Producing and Exporting Countries which subsequently affected domestic crude oil prices.

It was also estimated that sixty percent of total domestic crude oil would constitute old crude oil. The $7.66 per barrel composite price figure was therefore calculated as follows:

(.6) ($5.25) + (.4) ($11.28) = $7.66.

(*See generally* S. Rept. No. 94–516, 94th Cong., 1st Sess. 187–191 (1975).)

FEA adopted regulations to implement the composite price limitation of EPCA that were predicated on the same estimates and assumptions that had been used by the Congress. Pursuant to those regulations, which became effective February 1, 1976, comprehensive data on actual first sale prices were obtained for the first time. Those data revealed that the average first sale price for lower tier crude oil was, in fact $5.05 per barrel, rather than the estimated $5.25 per barrel; that lower tier crude oil constituted approximately 56.1 percent of domestic production rather than the estimated 60 percent; and that the upper tier ceiling price of (the September 30, 1975 posted price, less $1.32 per barrel) had resulted, in February 1976, resulted in average upper tier prices of $11.48 per barrel rather than the intended $11.28 per barrel. These factors, among others, led FEA to discontinue price increases in July 1976.

Under the amendment proposed herein, the existing lower tier ceiling price (the May 15, 1973 posted price plus $1.48 per barrel, currently resulting in an average first sale price of approximately $5.17 per barrel), would be adjusted for inflation beginning with September 1977.

Thus, the lower tier ceiling price for lower tier crude oil and the approximate average first sale price pursuant to that price in September, October and November, would be determined as follows:

Month	Ceiling pr...	Ap...
Aug.	[illegible]	[illegible]
	plus $1.48	
Sept.	May 15, 1973 [illegible]	[illegible]
	posted yield price	
	plus $1.51	
	May 15, 1973 [illegible]	
	posted yield pr...	
	plus $1.54	
	[illegible]	[illegible]
	posted yield pr...	
	plus $1.57	

The upper tier ceiling price would be derived as follows. First, as noted above, the upper tier ceiling price is established by reference to September 30, 1975

highest posted field prices. When the ceiling price rule was first promulgated, FEA estimated the average of highest posted field prices on September 30, 1975 to be $12.60 per barrel; hence the price rule provided for a subtraction of $1.32 from that posted price for February 1976, with the intent of achieving an average price of $11.28. Actual upper tier pricing data have varied from month to month (which results from changes in the volumes of the various grades and qualities of upper tier crude oil produced and sold each month).

For the months of June through December 1976, when upper tier prices were frozen at the September 30, 1976 posted prices less $1.05 per barrel, actual average first sale prices ranged from $11.60 to $11.65 per barrel, averaging $11.62 per barrel. These data therefore indicate that the September 30, 1975 reference postings average approximately $12.67 per barrel (i.e., $11.62+$1.05=$12.67), rather than the $12.60 per barrel estimated by FEA when the upper tier price rule was first adopted.

Based on the foregoing actual pricing data, a February 1976 upper tier ceiling price of $11.28 per barrel would best be approximated by a ceiling price of the September 30, 1975 posted price (averaging $12.67 per barrel), less $1.39 per barrel. The adjustments to the upper tier ceiling price provided during March through June totalled $.27 per barrel. Applying this $.27 adjustment to the Congressionally intended February 1976 upper tier price of $11.28 results in a price of $11.55. The ceiling price for September that would be most likely to result in an average first sale price of $11.55 per barrel is, therefore, the September 30, 1977 posted price (approximately $12.67 per barrel), less $1.12 per barrel.

As noted above, however, the restoration of the upper tier ceiling price is proposed to be phased in over a 3-month period. Application of the 5.5 percent annual rate of inflation to the "restored" upper tier price level of $11.55 for September yields an average upper tier price of $11.71 for November 1977.

FEA does not currently have final or preliminary data with respect to actual prices in August 1977. However, assuming that the September 30, 1975 posted price averages $12.67 per barrel in August 1977, applying a $1.70 reduction in that month pursuant to Schedule No. 7 of Monthly Price Adjustments (42 FR 38894, August 1, 1977) results in a projected average upper tier price of $10.97 for August 1977 ($12.67 less 1.70).

In order to provide a smooth transition from the projected August 1977 average upper tier price of $10.97, to the November 1977 target price of $11.71, FEA proposes to add to the projected August 1977 upper tier price approximately $.24 per barrel in September and approximately $.25 per barrel in October and November 1977.

Thus, the upper tier ceiling prices would be determined as follows:

Month	Ceiling price	Estimated average 1st sale price
August	Sept. 30, 1975, highest posted field price less $1.70.	$10.97
September	Sept. 30, 1975, highest posted field price less $1.46.	11.21
October	Sept. 30, 1975, highest posted field price less $1.21.	11.46
November	Sept. 30, 1975, highest posted field price less $0.96.	11.71

Beginning in December, the upper tier ceiling price would be adjusted each month at not more than the rate of inflation as determined by the most recent first revision to the GNP deflator.

The following table summarizes on a monthly basis the projected cumulative excess receipts for the months February 1976 through November 1977.

Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price[1]	Cumulative excess receipts (millions)
1976						
February	$6.12	$5.05	$11.48	$7.66	$7.87	$ 49
March	$6.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	7.88	7.99	123
July	56.58	5.19	11.60	7.93	8.04	152
August	55.68	5.18	11.62	7.98	8.03	164
September	53.41	5.17	11.65	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	228
November	49.94	5.17	11.62	8.17	8.40	282
December	50.07	5.17	11.64	8.24	8.49	322
1977						
January	50.61	5.17	11.44	8.30	8.28	316
February	49.52	5.18	11.39	8.37	8.33	308
March	49.18	5.19	11.03	8.44	8.19	246
April[2]	49.46	5.15	10.97	8.50	8.14	161
May[3]	49.15	5.17	10.99	8.57	8.18	65
June[3]	48.84	5.17	10.99	8.64	8.20	- 39
July[3]	46.22	5.17	10.99	8.71	8.16	-181
August[3]	44.87	5.17	10.97	8.78	8.14	-350
September[3]	43.59	5.20	11.21	8.85	8.24	-509
October[3]	42.36	5.22	11.46	8.92	8.33	-672
November[3]	41.18	5.24	11.71	8.99	8.42	-826

1/ Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with section 121 of the EPA.
2/ Preliminary.
3/ Projected. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, are included.

C. Comment Procedures

1. *Written Comments.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Resumption of Adjustments to Lower and Upper Tier Crude Oil for Inflation," Box OP. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearing.*—a. *Request Procedure.* The time and place for the hearing are indicated in the "Dates" section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Tuesday, August 23, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., on Thursday, August 25, 1977.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., Tuesday, August 23, 1977. Any

person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel the hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearing. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend the hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

NOTE.—This proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular A-107 and has been determined not to be of a nature which requires an evaluation of its economic impact.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., August 11, 1977.

ERIC J. FYGI,
Acting General Counsel
Federal Energy Administration.

1. Section 212.77 is revised in paragraph (c) to read as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

(c) *Application of price adjustments.*

(1) Price adjustment schedules issued pursuant to paragraph (b) of this section shall, beginning with prices for September 1977, adjust the lower tier and the upper tier ceiling prices by not more than the amount necessary to reflect the impact of inflation on the weighted average first sale price for each tier.

(2) Notwithstanding paragraph (c)(1) of this section, FEA may issue price adjustment schedules pursuant to paragraph (b) of this section to: (i) Discontinue or restrict price adjustments or require reductions in ceiling prices to the extent deemed necessary by the FEA to achieve compliance with the Act, or (ii) Restore, in part or in full, to the upper tier ceiling prices for months prior to September 1977.

APPENDIX.—*Schedule No. 7 of monthly price adjustments effective Sept. 1, 1977*

Month	Lower tier, May 15, 1973, posted price[1] (plus)	Upper tier, Sept. 30, 1975, posted price[2] (less)
1976:		
February	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.51	1.46
October	1.53	1.21
November	1.56	.96

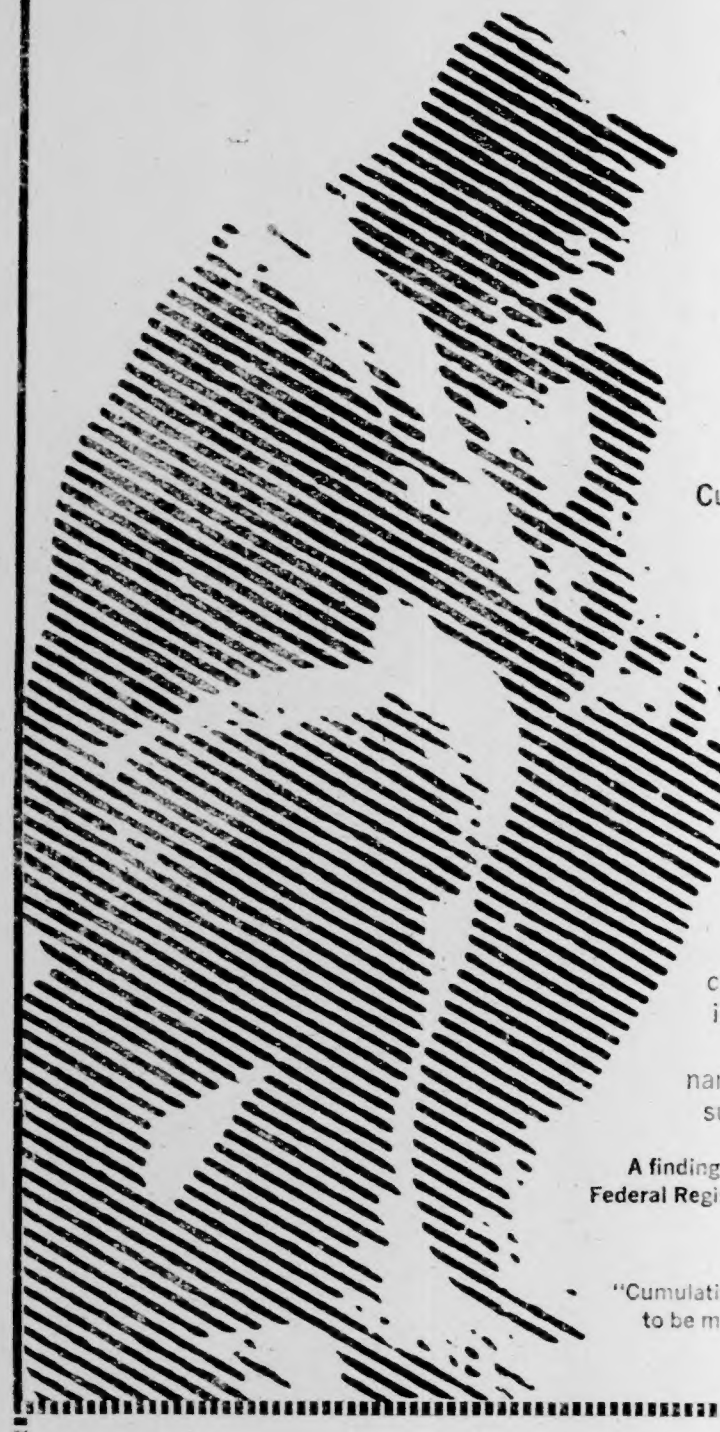
[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(e)(1), 212.73(e)(3), and 212.73(e)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration on September , 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1977, as determined under 10 CFR 212.73, 212.74, and 212.77. Upper tier ceiling prices, which were reduced under Schedule No. 5 effective January 1, and further reduced effective March 1, 1977, are increased as indicated in this schedule. Also, lower tier ceiling prices, which were held at the ceiling price level for the month of June 1976, are increased as indicated in this schedule.

This schedule is effective only through November 30, 1977. Price ceilings for subsequent months will be provided by Schedule No. 8, to be issued on or about November 30, 1977. This schedule may, however, be superseded prior to November 30, 1977, by early issuance of Schedule No. 8 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc.77-23606 Filed 8-12-77;10:46 am]

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